TITLE: FEDERAL REGISTER

REEL NO: 6 of 8 PAGES: 19,693 - 23,794

VOLUME: 48 ISSUES: 85 - 103

DATE: May 2 - May 26, 1983

PUBLICATION NO: 2575

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VOL
48
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5-2-83
Vol. 48 No. 85

federal register

Monday
May 2, 1983

United States
Government
Printing Office
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OF DOCUMENTS
Washington, D.C. 20402

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Federal Register
(ISSN 0097-6326)

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VOL
48
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4-27-83
Vol. 48 No. 85
Pages 19693-19866

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See page 19283 in the **Federal Register** of Thursday, April 28, 1983.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL SERVICE IMPASSES PANEL

5 CFR Parts 2470 and 2471

Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Final rules.

SUMMARY: The Federal Service Impasses Panel (Panel) is amending its regulations with respect to the submission and service of documents as well as hearing procedures. These amendments are designed to: (1) Clarify requirements concerning copies of documents to be submitted to the Federal Service Impasses Panel (Panel) and service of such documents, and (2) delete current unnecessary provisions concerning transcripts of hearings and compliance with Panel decisions. In addition, the Panel is redefining the term "quorum" to clarify that a quorum of the Panel consists of a majority of its members.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382-0981.

SUPPLEMENTARY INFORMATION: Effective January 28, 1981, the Panel published, beginning at 45 FR 3520, final rules and regulations to govern the processing of cases under Chapter 71 of Title 5 of the United States Code. The regulations are required by 5 U.S.C. 7134.

Proposed amendments to the Panel's rules were published on pages 5568 and 5569 of the **Federal Register** of February 7, 1983, inviting written comments by March 10, 1983. Written comments concerning the proposed amendments were received from three parties. One party offered comments concerning the proposed amendment to § 2471.8(c) of the Panel's regulations; another's comments pertained to § 2471.11(e); and the remaining party commented on both sections.

Section 2471.8(c) of the Panel's regulations provides that an official reporter shall make an official transcript of Panel hearings. In view of the Panel's budgetary constraints and the fact that the transcription of Panel hearings is not required by the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71 (Statute), the Panel proposed to delete the regulatory requirement. Although both comments submitted with respect to this section supported the proposed amendment, one party stated that transcripts should continue to be used in certain disputes; the other requested that the final regulations indicate that in the absence of Panel-provided transcription, either party would be permitted to arrange for transcription or mechanically record the proceedings at its own expense. After careful consideration of these comments, the Panel has determined that the amendment should be finalized as proposed. As amended, § 2471.8(c) enables the Panel to determine the necessity for a transcript on a case-by-case basis; a party's request to record the proceedings in the absence of a Panel-provided transcription will be handled on the same basis.

The other comments concerned the Panel's proposed deletion of § 2471.11(e) of its current regulations which requires parties to submit evidence of compliance with Panel decisions. One party objected to the deletion of the provision, arguing that it establishes a clear deadline beyond which compliance is expected and as such, provides a mechanism other than an unfair labor practice charge for determining whether a party intends to comply with a Panel decision. The other party did not oppose the proposed amendment but requested that the final rules provide that Panel decisions are enforceable through the unfair labor practice procedures of the Statute. With respect to the former comment, the Panel lacks enforcement authority over its decisions and, having considered the comment, has determined that the potential benefit to be derived from retention of the requirement is outweighed by the confusion it generates. With respect to the latter comment, the Federal Labor Relations Authority (Authority) has found that failure to comply with a Panel decision constitutes an unfair labor practice. *See e.g., National Guard Bureau, Maine Air National Guard and Local 3013, American Federation of Government Employees, AFL-CIO,* 10 FLRA No. 101 (December 3, 1982), Report No. 176. Accordingly, a party seeking to enforce a Panel decision should do so in accordance with the rules and regulations of the Authority and its General Counsel.

No comments were received regarding the proposed amendments concerning: (1) The definition of the term "quorum," and (2) copies and service. Regarding "quorum," the Panel proposed to amend the definition contained in § 2470.2(h) to clarify that a quorum of the Panel consists of a majority of its members. Regarding copies and service, the amendments require: (1) The submission of an original (or clean copy capable of further reproduction) and one copy of all requests, responses, and other documents filed with the Panel; and (2) service of such documents on all appropriate parties and persons. The amendments also contain specific requirements concerning statements of service, date of service, and paper size. The Panel's current regulations with respect to copies and service are found in Part 2471 of Title 5 of the Code of Federal Regulations, §§ 2471.5, 2471.8(a)(4), 2471.10(c), and 2471.11(f). The amendment replaces § 2471.5 in its entirety and deletes the other provisions.

List of Subjects in 5 CFR Parts 2470 and 2471

Administrative practice and procedure.

Accordingly, Parts 2470 and 2471 are amended as follows:

PART 2470—GENERAL

1. Section 2470.2 is amended by revising paragraph (h) to read as follows:

§ 2470.2 Definitions.

* * * * *

(h) The term "quorum" means a majority of the members of the Panel.

* * * * *

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PART 2471—PROCEDURES OF THE PANEL

2. Section 2471.5 is revised to read as follows:

§ 2471.51 Copies and Service.

(a) Any party submitting a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Panel acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, is any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of the document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½ × 11 inch size paper.

3. Section 2471.7 is amended by revising paragraph (b) to read as follows:

§ 2471.7 Preliminary hearing procedures.

* * * * *

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Panel; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

(4). Section 2471.8 is amended by: (1) Revising paragraph (a)(4) to read as follows; and (2) removing paragraph (c) in its entirety.

§ 2471.8 Conduct of hearing and prehearing conference.

(a)* * *

(4) Designate the date on which posthearing briefs, if any, shall be submitted.

§ 2471.10 [Amended]

5. Section 2471.10 is amended by removing paragraph (c) in its entirety.

§ 2471.11 [Amended]

6. Section 2471.11 is amended by removing paragraphs (e) and (f) in their entirety.

Note.—In according with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel had determined that these proposed amendments do not require preparation of a regulatory flexibility analysis.

(5 U.S.C. 7119, 7134)

Dated: April 27, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-11566 Filed 4-29-83; 8:45 am]

BILLING CODE 6727-01-M

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5 CFR Part 2472

Impasses Arising Pursuant to Agency Determinations Not To Establish or To Terminate Flexible or Compressed Work Schedules; Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Final rules.

SUMMARY: These rules and regulations are designed to implement the provision of the Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6131, which provides that the Federal Service Impasses Panel (Panel) shall resolve impasses between Federal agencies and exclusive representatives of Federal employees arising from agency determinations: (1) Not to establish a flexible or compressed work schedule, or (2) to terminate such a schedule. The rules and regulations describe the procedures by which such impasses shall be presented to and considered by the Panel.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382-0981.

SUPPLEMENTARY INFORMATION: The Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6120 *et seq.*, authorizes the continuation of flexible and compressed work schedules (schedules) established under the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Pub. L. 95-390, and permits the establishment of new programs. The Act provides that notwithstanding the provision of any collective bargaining agreement, the head of an agency may find that a particular schedule has had or would have an adverse agency impact as defined in section 6131(b). In the event of such a finding, the head of the agency shall determine not to: (1) Establish such a schedule, or (2) continue an already-established schedule.

With respect to schedules covering employees in a bargaining unit represented by an exclusive representative, section 6131(c) provides that if an agency and an exclusive representative reach an impasse with respect to an agency determination not to establish a flexible or compressed schedule, the impasse shall be presented to the Panel. It is required to promptly consider such an impasse and to take final action in favor of the agency's determination if the finding on which it it based is supported by evidence that the schedule is likely to cause an adverse agency impact. Similarly, if an agency and an exclusive representative have entered into a collective bargaining agreement providing for the use of a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule if the head of the agency determines that the schedule has caused an adverse agency impact. Impasses arising pursuant to such a determination shall be presented to the Panel which shall: (1) Promptly consider the case and (2) rule on the impasse not later than 60 days after the

date the Panel is presented the impasse. The Panel is required to take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

Effective February 7, 1983, the Panel published, beginning at 48 FR 5529, interim rules and regulations to govern the processing of cases arising under the Act. In addition to a statement of purpose and applicable definitions (Subpart A), the rules and regulations contain the procedures by which requests for Panel consideration of impasses resulting from agency determinations not to establish or to terminate a flexible or compressed work schedule shall be filed with and considered by the Panel (Subpart B). The interim rules and regulations also provided that written comments received by March 10, 1983, would be considered in promulgation of final rules. Three labor organizations submitted comments pertaining to various sections of the interim regulations. Their comments have been carefully considered and in certain instances, changes suggested therein have been adopted.

With respect to the portion of the interim regulations containing definitions, one party suggested that the definition of "impasse" contained in § 2472.2(j) should be revised to require participation by the Federal Mediation and Conciliation Service (FMCS) prior to Panel consideration of a request for assistance. That party also requested that § 2472.4 concerning the content of a request for assistance be revised to require the filing party to identify the number, length, and dates of mediation sessions. No changes in these sections of the interim rules and regulations are deemed necessary inasmuch as the provisions appear to be consistent with the Act and its legislative history.

It was also suggested that § 2472.4 be revised to require an agency which is proposing the termination of an existing schedule to submit the following with a request for assistance: (1) A list of reasons and arguments supporting its assertion of adverse agency impact, (2) copies of all documents upon which the agency relied in making such an assertion, and (3) an outline of the facts to be developed in any later proceedings. In addition to other information, the interim regulations require a party requesting Panel assistance to submit a copy of the agency's written determination (if any) as well as a summary of the position of the requesting party with respect to that determination. In the Panel's view, this information, along with the information required of the responding party under § 2472.6, is sufficient and accordingly, it is unnecessary to modify § 2472.4.

Section 2472.6 of the interim regulations requires a responding party to submit its position with respect to a request within 14 calendar days after the date of receipt. One party asserted that the time period is too long and requested that it be shortened. Consistent with this suggestion, the section has been revised to allow 10 days for the filing of responses to requests. Another party commented that § 2472.7(b) of the interim regulations which requires the service of documents upon both a party and the party's designated counsel or representative is unnecessary. That section is designed to facilitate the consideration of information by parties who are often not in the same location as their representative and accordingly, the requirement has not been deleted.

Finally, three comments were received regarding § 2472.12 of the interim regulations concerning final action of the Panel. One party requested that the section be amended to require the Panel to present detailed reasons for its decisions. Inasmuch as the rationale for any decision will depend upon the facts and circumstances of the case under consideration, that suggestion has not been adopted. Two parties commented that the section should be revised to include a description of the action to be taken by the Panel if an agency determination is not supported by evidence. Consistent with these comments, § 2472.12 has been revised to include a new subsection (b) describing what the Panel would do in such circumstances.

List of Subjects in 5 CFR Part 2472

Administrative practice and procedure.

Accordingly, Chapter XIV, Subchapter D, of Title 5 of the Code of Federal Regulations is amended to add Part 2472 to read as follows:

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

Subpart A—Purpose and Definitions

Sec.
2472.1 Purpose.
2472.2 Definitions.

Subpart B—Procedures of the Panel

2472.3 Requests for Panel consideration.
2472.4 Content of request.
2472.5 Where to file.
2472.6 Agency determinations not to establish or to terminate a flexible or compressed work schedule; responses to requests for Panel consideration.
2472.7 Copies and service; paper size.
2472.8 Investigation of request; Panel assistance.
2472.9 Preliminary hearing procedures.
2472.10 Conduct of hearing and prehearing conference.
2472.11 Reports.
2472.12 Final action by the Panel.

Authority: Pub. L. 97-221, 96 Stat. 227 (5 U.S.C. 6131).

Subpart A—Purpose and Definitions

§ 2472.1 Purpose.

The regulations contained in this Part are intended to implement the provisions of section 6131 of Title 5 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiations impasses arising from agency determinations not to establish or to terminate flexible and compressed work schedules.

§ 2472.2 Definitions.

(a) The term "the Act" means the Federal Employees Flexible and Compressed Work Schedules Act of 1982, Pub. L. 97-221, 5 U.S.C. 6120 *et seq.*

(b) The term "adverse agency impact" shall have the meaning set forth in 5 U.S.C. 6131(b).

(c) The term "agency" shall have the meaning set forth in 5 U.S.C. 6121(1).

(d) The term "agency determination" means a determination: (1) Not to establish a flexible or compressed work schedule under 5 U.S.C. 6131(c)(2); or (2) to terminate such a schedule under 5 U.S.C. 6131(c)(3).

(e) The terms "collective bargaining agreement" and "exclusive representative" shall have the meanings set forth in 5 U.S.C. 6121(8).

(f) The term "Executive Director" means the Executive Director of the Panel.

(g) The terms "designated representative" or "designee" of the Panel means a Panel member, staff member, or other individual designated by the Panel to act on its behalf.

(h) The term "flexible and compressed work schedules" shall have the meaning set forth in 5 U.S.C. 6121 *et seq.*

(i) The term "hearing" means a factfinding hearing, arbitration hearing, or any other hearing procedures deemed necessary to accomplish the purpose of 5 U.S.C. 6131.

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(j) The term "impasse" means that point in the negotiation of flexible and compressed work schedules at which the parties are unable to reach agreement on whether a schedule has had or would have an adverse agency impact.

(k) The term "Panel" means the Federal Service Impasses Panel described in 5 U.S.C. 7119(c) or a quorum thereof.

(l) The term "party" means the agency or the exclusive representative participating in negotiations concerning flexible and compressed work schedules.

(m) The term "quorum" means a majority of the members of the Panel.

(n) The term "schedule(s)" means flexible and compressed work schedules.

§ 2472.3 Request for Panel consideration.

Either party, or the parties jointly, may request the Panel to resolve an impasse resulting from an agency determination not to establish or to terminate flexible or compressed work schedule by filing a request as hereinafter provided.

§ 2472.4 Content of request.

(a) A request from a party or parties to the Panel for consideration of an impasse arising from an agency determination not to establish or to terminate a flexible or compressed work schedule under section 6131 (c)(2) or (c)(3) of the Act must be in writing and shall include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Description of the bargaining unit involved in the dispute and the date recognition was accorded to the exclusive representative;

(3) Number, length, and dates of negotiation sessions held;

(4) A copy of any collective bargaining agreement between the parties and any other agreements concerning flexible and compressed work schedules;

(5) A copy of the schedule or proposed schedule, if any, which is the subject of the agency's determination;

(6) A copy of the agency's written determination, if any; and

(7) A summary of the position of the initiating party or parties with respect to the agency's determination.

§ 2472.5 Where to file.

Requests to the Panel provided for in these rules, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

§ 2472.6 Agency determinations not to establish or to terminate a flexible or compressed work schedule; responses to requests for Panel consideration.

Within 10 calendar days after the date of receipt of a copy of a request for Panel consideration of an impasse arising from an agency determination not to establish or to terminate a flexible or compressed work schedule under sections 6131 (c)(2) or (3) of the Act, the responding party shall file with the Panel a statement of its position with respect to the request.

§ 2472.7 Copies and service; paper size.

(a) Any party submitting a request or other document in connection with a request for Panel consideration of an impasse filed pursuant to § 2472.3 of these rules shall file an original and one copy with the Panel. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original.

(b) Any party filing a document as provided in these rules is responsible for serving a copy upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½ x 11 inch size paper.

(f) The Panel shall not consider an impasse arising pursuant to section 6131(c) (2) or (3) of the Act to have been presented for consideration unless and until the party filing the request has complied with §§ 2472.4, 2472.5, and 2472.7 of these rules.

§ 2472.8 Investigation of request; Panel assistance.

(a) Upon receipt of a request for consideration of an impasse filed in accordance with these rules, the Panel or its designee shall promptly conduct an investigation, consulting when necessary with the parties. After due consideration, the Panel shall determine the procedures by which the impasse shall be resolved and shall notify the parties of its determination.

(b) The procedures utilized by the Panel shall afford the parties an opportunity to present their positions, including supporting evidence and arguments, orally and/or in writing. They include, but are not limited to, informal conferences with the Panel or its designee(s), hearings, written submissions, and Show Cause Orders.

§ 2472.9 Preliminary hearing procedures.

When the Panel determines that a hearing shall be held, it will:

(a) Appoint one or more of its designees to conduct such a hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representative(s) appointed by the Panel; (5) the issue(s) to be resolved; and (6) the method, if any, by which the hearing shall be transcribed.

§ 2472.10 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted; and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§ 2472.11 Reports.

When a report is issued after an informal conference authorized in accordance with § 2472.8, or a hearing conducted pursuant to §§ 2472.9 and 2472.10, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing or informal conference and receipt of briefs, if any.

§ 2472.12 Final action by the Panel.

(a) After due consideration of the parties' positions, evidence, and arguments, including any report submitted in accordance with § 2472.11, the Panel shall take final action in favor of the agency's determination if:

(1) The finding on which a determination under 5 U.S.C. 6131(c)(2) not to establish a flexible or compressed work schedule is based is supported by evidence that the schedule is likely to cause an adverse agency impact; or

(2) The finding on which a determination under 5 U.S.C. 6131(c)(3) to terminate a flexible or compressed work schedule is based is supported by evidence that the schedule has caused an adverse agency impact.

(b) If the finding on which an agency determination under 5 U.S.C. 6131(c)(2) or (c)(3) is based is not supported by evidence that the schedule is likely to cause or has caused an adverse agency impact, the Panel shall take whatever final action is necessary to resolve the impasse.

(c) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas, or it may appoint one or more individuals to exercise such authority on its behalf. Such action may be taken without regard to procedures previously authorized by the Panel.

(d) Notice of any final action of the Panel shall be promptly served upon the parties.

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that these interim rules and regulations do not require preparation of a regulatory flexibility analysis.

Dated: April 27, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-11567 Filed 4-29-83; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect a transfer of the authority to make determinations under 41 CFR 1–2.406–3, relating to mistakes in bids disclosed before award or procurement contracts, from the General Counsel to the Assistant Secretary for Administration and the Director, Office of Operations.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gary W. Butler, Deputy Assistant General Counsel, Office of the General Counsel, United States Department of Agriculture, Washington, D.C. (202) 447–2577.

SUPPLEMENTARY INFORMATION: Under 41 CFR 1–2.406–3 heads of executive agencies are authorized to make certain administrative determinations in connection with mistakes in bids alleged after opening of bids and before award. Further, heads of agencies may delegate to a central authority in their agencies, without power of redelegation, the authority to make determinations under paragraphs (a) (2), (3) and (4) of the section; and may delegate to any purchasing activity having legal counsel available, without power of redelegation, the authority to make determinations to permit withdrawal of bids under paragraphs (a) (1) and (3) of the section.

In the past the Secretary of Agriculture's authority to make all determinations under 41 CFR 1–2.406–3 was delegated to the General Counsel of the Department and all such determinations were made in the General Counsel's Washington, D.C., office. This document transfers the authority to make such determinations to the Assistant Secretary for Administration and the Director, Office of Operations, who may redelegate authority to make withdrawal determinations under paragraphs (a) (1) and (3) of 41 CFR 1–2.406–3 subject to approval by an appropriate legal officer in the Office of the General Counsel in accordance with 41 CFR 1–2.406–3(c). This change will minimize delay in making many contract awards.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus, it is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation in Part 2 reads as follows:

Authority.—5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by adding a new paragraph (c)(3)(viii) to read as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(c) * * *

(3) * * *

(viii) Make determinations under 41 CFR 1–2.406–3 relating to mistakes in bids alleged after opening of bids and before award.

* * * * *

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

3. Section 2.31 is amended by removing and reserving paragraph (e).

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

4. Section 2.76 is amended by adding a new paragraph (a)(3)(viii) to read as follows:

§ 2.76 Director, Office of Operations.

(a) * * *

(3) * * *

(viii) Make determinations under 41 CFR 1–2.406–3 related to mistakes in bids alleged after opening of bids and before award. Except for the authority to permit withdrawal of bids under paragraphs (a) (1) and (3) of 41 CFR 1–2.406–3, this authority may not be redelegated.

* * * * *

For Subparts C and D:

Dated: March 23, 1983.

John R. Block,

Secretary of Agriculture.

For Subpart J:

Dated: March 23, 1983.

John F. Franke,

Assistant Secretary for Administration.

[FR Doc. 83-11887 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 1049

Milk in the Indiana Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of April through December 1983 the seasonal producer payment plan (Louisville plan) under the Indiana Federal milk order that was designed to encourage dairy farmers to maintain relatively level production throughout the year. The action was requested by Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing producers supplying milk to the market. The suspension is needed to maintain an appropriate alignment of producer prices with other markets.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 24, 1983; published March 29, 1983 (48 FR 13050).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures and include April 1983 in the suspension period. The initial request for the action was received on March 15, 1983. A notice of proposed suspension was issued on March 24, 1983, inviting interested parties to comment on the proposed action by April 5, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on dairy farmers and does not affect milk handlers.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Indiana marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 13050) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon. Three comments were received and all were in favor of the suspension.

After consideration of all relevant information, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of April through December 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1049.61, the language in paragraph (f) that reads "For the months of January through March and August," and all of paragraphs (g) through (l).

Statement of Consideration

This action makes inoperative for 1983 the provisions of the Indiana milk order that contain the seasonal producer payment plan, or "Louisville" plan, for the order. Under those provisions, 20 cents per hunderweight of producer milk is deducted from the pooled value of milk in computing the uniform prices to producers during the months of April through July. The monies withheld plus accured interest then are added to the pool funds in computing the uniform prices to producers for each month of September through December. This payment plan is intended to encourage relatively level milk production throughout the year.

Suspension of the Louisville plan for 1983 was requested by Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing most of the producers supplying the market. Without the suspension, a misalignment of producer pay prices could occur as a result of the suspensions of similar plans in the orders for the neighboring Ohio and Louisville-Lexington-Evansville markets. Producers shipping to handlers regulated by the Indiana, Louisville-Lexington-Evensville, and Ohio Valley orders are intermingled. A misalignment of pay prices among them could result in disorderly marketing as producers change markets for temporary gains.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. All comments were in favor of the suspension action. One comment was filed by another cooperative association whose member producers supply milk to plants fully regulated under the order. Two comments were filed by individual producers.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the affected and adjoining marketing areas;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1049

Milk marketing orders, Milk, Dairy products.

PART 1049—[AMENDED]

It is therefore ordered, That the aforesaid provisions in § 1049.61 of the Indiana order are hereby suspended for April through December 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: May 2, 1983.

Signed at Washington, D.C., on: April 27, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-11886 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1131

[Milk Order No. 131]

Milk in the Central Arizona Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of April through July 1983 the performance standard for pooling a cooperative association's manufacturing plant that is located in the Central Arizona marketing area. The suspension was requested by United Dairymen of Arizona, a cooperative association that represents producers who supply the market. The cooperative requested the action to enable the cooperative to efficiently handle an increasing supply of milk that is in excess of fluid milk needs. The suspension is based on evidence presented at a public hearing held in November 1982 to consider amendments to the order including a proposal to lower the pooling standard for the cooperative's manufacturing plant. The suspension will promote the efficient handling of the market's reserve milk supply, and the pooling of milk of producers who have regularly been associated with the market, pending a decision on whether the order should be amended to lower the pooling standard.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., (202) 447–4824.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing—Issued October 20, 1982, published October 25, 1982 (47 FR 47259).

It has been determined that this suspension is not a major action under the criteria set forth in Executive Order 12291.

It has also been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the issuance of the suspension in time to include April 1983 in the suspension period. The request for this action was received on April 18, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and will tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and of the order regulating the handling of milk in the Central Arizona marketing area.

After considering all relevant information, it is hereby found and determined that for the months of April through July 1983, the following provisions of the order do not tend to effectuate the declared policy of the Act.

In § 1131.7(c), the provisions, "65 percent or more of its".

Statement of Consideration

This action suspends the performance standard for pooling a cooperative association's manufacturing plant that is located in the marketing area. The order currently provides for the pooling of such a plant if at least 65 percent of the cooperative associations's member producer milk is received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month. The suspension removes the 65 percent pooling standard for the months of April through July 1983.

The suspension was requested by United Dairymen of Arizona (UDA), a cooperative association that represents a substantial number of the dairy farmers who supply the market. UDA also operates a manufacturing plant that serves as an outlet for the market's reserve milk supplies. Such plant, which had been pooled continuously under the order, failed to qualify as a pool plant in March. As a result, UDA was not able to pool a portion of its member's milk at its manufacturing plant in March and absent the suspension action will also be unable to qualify the plant as a pool plant in April through July.

The issue of the appropriate pooling standard for the plant was the subject of a public hearing held November 9–10, 1982. UDA proposed that the current pooling standard be lowered to 50 percent. Also, proponent testified that in the event amendatory action could not be completed early in 1983, a suspension action would be necessary to avoid uneconomic shipments of milk to pool the milk of its member producers. Proponent requsted that evidence of marketing conditions that was presented at the hearing serve as a basis for any suspension action that the cooperative found necessary to request.

Testimony presented at the hearing indicated that changes in the market's supply-demand situation would make it impossible for UDA to continue to qualify its manufacturing plant as a pool plant under the current provisions of the order. Additional testimony indicated that, although the milk of the cooperative's member producers could continue to be pooled without a lowering of the pooling standards, costly and inefficient changes in milk movements would have to be made in order to do so.

Based on available information concerning the market's supply conditions, the suspension for the months of April through July 1983 is warranted. The suspension will accommodate the pooling and efficient handling of milk supplies for the market pending a decision on whether the order should be amended to lower the pooling standard in the manner proposed. In the absence of a suspension, costly and inefficient movements of producer milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and

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to maintain orderly marketing conditions in the marketing area in that without the suspension costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held on November 9–10, 1982, where all interested parties had an opportunity to be heard on this matter.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**

List of Subjects in 7 CFR Part 1131

Milk marketing orders, Milk, Dairy Products.

It is therefore ordered, That the aforesaid provisions in § 1131.7(c) of the order are hereby suspended for the months of April through July 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: May 2, 1983.

Signed at Washington, D.C. on: April 27, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-11280 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-50-AD; Amdt. 39-4643]

Airworthiness Directives; SIAI-Marchetti Models S205–18, S205–20, S208, S208A, F260 and F260B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SIAI-Marchetti Models S205–18, S205–20, S208, S208A, F260 and F260B airplanes which supersedes AD 77–14–16, Amendment 39–2959 (42 FR 34867). The superseded AD required periodic inspection and replacement, as necessary, of the propeller governor arm on certain serial numbers of the above model airplanes to detect and eliminate cracked arms which could fracture and result in loss of propeller control. Subsequently, the manufacturer has determined that the inspections are no longer required when steel replacement propeller governor arm, Part Number 260–13–274–01, is installed. The manufacturer has also identified certain additional airplanes to which the requirements should apply. This amendment assures that all affected aircraft are inspected and provides relief from these inspections when P/N 260–13–274–01 arm is installed.

DATES: Effective Date: May 9, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: SIAI–Marchetti Service Bulletins S.B. No. 205B43A and S.B. No. 260B18A, dated September 16, 1977, applicable to this AD may be obtained from SIAI–Marchetti S.p.A., V–12070 via Indipendenza, 2, 2108 Sesto Calenda, Italy, whose telephone number is 0331 924842/923598. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Larry Werth, Foreign FAR 23 Section, ACE–100, Central Region, FAA 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: Reports of cracked propeller governor arms on certain Model S205, S208 and F260 airplanes prompted SIAI–Marchetti to issue Service Bulletin Nos. 205B43 and 260B18, both dated April 10, 1976, which called for the inspection and replacement, if necesary, of the propeller governor arm.

The FAA found that the condition addressed by these Service Bulletins was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 77–14–16 which required periodic inspection and replacement, as necessary, of the propeller governor arm on the affected aircraft. Subsequently, the manufacturer determined that the inspections are no longer required when steel replacement propeller governor arm, Part Number 260–13–274–01 is installed. The manufacturer has also identified certain additional airplanes to which the requirements should apply. As a result SIAI–Marchetti has issued Service Bulletins No. 205B43A and No. 260B18A, both dated September 16, 1977, and approved by the Italian Registry of Aeronautics (Registro Aeronautico Italiano—R.A.I.), which set forth the expanded applicability and specify the criteria for terminating the repetitive inspections. The R.A.I. who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy has classified these Service Bulletins and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the R.A.I. combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Service Bulletins No. 205B43A and No. 260B18A and the mandatory classification of these Service Bulletins by the R.A.I.

Based on the foregoing, the FAA has determined that the condition addressed by these Service Bulletins is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD superseding AD 77–14–16 is being issued requiring periodic inspections and replacement, as necessary, of the propeller governor arm on certain serial numbered SIAI–Marchetti Models S205–18, S205–20, S208, S208A, F260 and F260B airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

SIAI-Marchetti: Applies to Models S205–18 and S205–20 (serial numbers 1 through 51, S208 and S208A (serial numbers 1 through 4–64), and F260 and F260B (serial numbers 101 through 125, 2–28 through 2–75, 3–70, 3–77 through 3–81, 3–84, 502, 10–09, 20–01, 235, 237 through 243, 247 through 254, and 266 through 280) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To detect cracks in the propeller governor arm and preclude possible loss of propeller control, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished within the last 25 hours time-in-service, and thereafter at intervals not to exceed 50 hours time-in-service from the last inspection, visually inspect the propeller governor arm with a 5-power magnifier for cracks and breaks in accordance with the following:

(1) For the Model S205 and S208 airplanes, with "Instructions" paragraph (a), steps 1 through 4, of SIAI-Marchetti Service Bulletin No. 205B43A dated September 16, 1977.

(2) For the Model F260 and F260B airplanes, with "Instructions" paragraph (a), steps 1 through 4, of SIAI-Marchetti Service Bulletin No. 260B18A dated September 16, 1977.

(b) If a crack or break is detected as a result of an inspection required by paragraph (a) of this AD, before further flight, replace the propeller governor arm with a serviceable part in accordance with the following:

(1) For the Model S205 and S208 airplanes, with "Instructions" paragraph (c), steps 1 through 10, of the SIAI-Marchetti Service Bulletin No. 205B43A dated September 16, 1977.

(2) For the Model F260 and F260B airplanes, with "Instructions" paragraph (c), steps 1 through 10, of SIAI-Marchetti Service Bulletin No. 260B18A dated September 16, 1977.

(c) When propeller governor arm, Part No. 260–13–274–01 is installed, the inspections in paragraph (a) of this AD are no longer required.

(d) Any equivalent means of complying with this AD must be approved by Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This AD supersedes AD 77–14–16, Amendment 39–2959.

This amendment becomes effective on May 9, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. If is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on April 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-11681 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 11

[Dept. Reg. 108.832]

Appointment of Members of the Foreign Service; Revised Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is revising its regulations governing the appointment of Mid-Level Foreign Service Officer Career Candidates and adding a new § 11.20 governing the appointment of Foreign Service Specialist Career Candidates. These regulations also supplement and implement the Foreign Service Act of 1980.

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT:

Frontis B. Wiggins, Board of Examiners, Department of State, Washington, D.C. 20520, (703) 235–9232.

SUPPLEMENTARY INFORMATION: The Department of State is publishing revised regulations which govern the eligibility criteria for candidates for the Mid-Level Foreign Service Career Candidate Program and for the new Foreign Service Specialist Career Candidate Program; the competitive requirements for these two programs; and the terms and conditions of appointment for successful candidates. Proposed regulations were published in the **Federal Register** on September 1, 1982 (47 CFR 38540–38552).

The Mid-Level Program supplements the competitive Junior Foreign Service Officer Career Candidate Program to meet identified Mid-Level needs which cannot otherwise be met from within the ranks of the career Foreign Service. A limited number of appointments are made annually under the Mid-Level Program on a highly competitive basis.

The Foreign Service Specialist Career Candidate Program applies to professional, technical, and functional occupational categories at all levels, other than those of generalist Foreign Service officers. Appointments under the Specialist Program also are made on a competitive basis to meet identified needs of the Foreign Service.

Analysis of comments. The only comments received by the Department of State during the public comment period concerned the reasons for a stated maximum age for appointment as a Foreign Service Mid-Level or Specialist Career Candidate. Accordingly, the Department has amended and expanded the appropriate sections of these regulations to explain that the maximum age for appointment as a Career Candidate is based on the mandatory retirement age of 65 contained in the Foreign Service Act of 1980, as well as the requirement that such Career Candidates shall be able to complete a minimum period of duty and the requisite eligibility periods for tenure consideration and the receipt of retirement benefits prior to reaching the mandatory retirement age of 65. With this exception, plus certain minor editorial changes, the final rule as published herewith is the same as the proposed rule published in the **Federal Register** of September 1, 1982.

E.O. 12291, Federal Regulation

The Department of State has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

In addition, this rule relates solely to agency personnel and falls under section 1(a)(3) of E.O. 12291.

List of Subjects in 22 CFR Part 11

Foreign service.

PART 11—[AMENDED]

Accordingly, under the authority of sections 206(a) and 301(b) of the Foreign Service Act of 1980 (secs. 206(a) and 301(b), Pub. L. 96–465, 94 Stat. 2079 and 2088 (22 U.S.C. 3926 and 3941)), 22 CFR Part 11 is amended to read as follows:

1. Section 11.11 is revised to read as follows:

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§ 11.11 Mid-level Foreign Service Officer career candidate appointments.

(a) *General considerations.* (1) *Authority.* Pursuant to sections 302 and 306 of the Foreign Service Act of 1980 (hereinafter referred to as the Act), all Foreign Service officers shall be appointed by the President, by and with the advice and consent of the Senate. All appointments shall be made to a class and not to a particular post. No person shall be eligible for appointment as a Foreign Service officer unless that person is a citizen of the United States. Such appointment is initially to career candidate status, with subsequent commissioning to career status governed by Volume 3 (Personnel), Foreign Affairs Manual section 570.

(2) *Veterans' Preference.* Pursuant to section 301 of the Act, and notwithstanding the provisions of section 3320 of title 5 of the United States Code, the fact that an applicant is a veteran or disabled veteran, as defined in section 2108(3A), (3B), and (3C) of such title, shall be considered as an affirmative factor in the selection of candidates for appointment as Foreign Service officer career candidates (22 U.S.C. 1234).

(3) *Purpose and Policy.* The Mid-Level Career Candidate Program of the Department of State supplements the Junior Foreign Service Officer Career Candidate Program to meet total requirements for foreign Service officers at the mid-level. The purposes of the Mid-Level Program are: (i) To provide expanded opportunities and upward mobility for outstanding members of the Foreign Service with high potential who have been serving with particular success in other occupational categories; (ii) to permit the recruitment of a limited number of highly skilled and qualified personnel from outside the Foreign Service to meet specific needs which cannot be met from within the career Service; and (iii) to assist in meeting the Affirmative Action goals of the Department of State. This section governs appointments to generalist occupational categories (that is, administrative, consular, economic and political) at classes FS–3, 2, or 1. All appointments above FS–1, regardless of occupational category, are govern by § 11.30 (to be supplied). Appointments to Specialist occupational categories below the Senior Foreign Service are governed by § 11.20. Successful applicants under the Mid-Level Program will be appointed to career candidate status for a period not to exceed 5 years. Under precepts of the Commissioning and Tenure Board, career candidates may be granted tenure and converted to career Foreign Service officer status. Those who are not granted tenure prior to the expiration of their career candidate appointments will be separated from the Career Candidate Program no later than the expiration date of their appointments. As provided in section 310 of the Act, such separated candidates who had originally been employed by the Department of State with the consent of the head of their agency shall be entitled to reemployment rights in their former agency under section 3597 of title 5, United States Code.

(4) *Sources of candidates.* (i) *Department.* The great majority of mid-level entrants will be career employees of the Department of State and the Foreign Service of proven ability who possess high potential for advancement. On the basis of the needs of the Foreign Service, the Department will approve the mid-level appointment of Foreign Service and Civil Service personnel on its rolls who apply, for whom the Bureau of Personnel issues a certificate of need, and who are found qualified by the Board of Examiners for the Foreign Service.

(ii) *Other Federal Government agencies.* Personnel with similar qualifications from other Federal Government agencies may also apply for the Mid-Level Program based on agreements between the Department and those agencies.

(iii) *Other.* Other candidates may be drawn from non-Government sources, including minority and women applicants for the Department's Mid-Level Affirmative Action Program.

(b) *Eligibility requirements.* (1) *Citizenship.* Each person appointed as a Foreign Service Mid-Level Career Candidate must be a citizen of the United States.

(2) *Service.* (i) On the date of application, a candidate must have completed a minimum of 9 years of professional work experience, including at least 3 years of service in a position of responsibility in a Federal Government agency or agencies. For this purpose, a position of responsibility is defined as one in the Foreign Service at class FS–5, in the Civil Service at GS–9, or in the Armed Forces as first lieutenant or lieutenant junior grade, or higher. Academic studies, particularly those related to Foreign Service work, may be substituted for part of the required experience. The duties and responsibilities of the position occupied by the candidate must have been similar to or closely related to that of a Foreign Service officer in terms of knowledge, skills, abilities, and overseas work experience. In addition, a candidate must currently be in, or have been in, a grade or class comparable to FS–4 or higher.

(ii) Candidates from outside the Department who at the time of application lack 3 years of service in a position of responsibility as defined in the preceding paragraph may, however, be considered if they are found to possess a combination of educational background, employment, experience, and skills needed by the Foreign Service at the mid-level.

(3) *Age.* All career candidate appointments shall be made before the candidate's 60th birthday. The maximum age for appointment under this program is based on the requirement that all career candidates shall be able to (i) complete at least two full tours of duty, exclusive of orientation and training, (ii) complete the requisite eligibility period for tenure consideration, and (iii) complete the requisite eligibility period to receive retirement benefits, prior to reaching the mandatory retirement age of 65 prescribed by the Act.

(4) *Certification of need.* Before the Board of Examiners may process a candidacy, the Director General of the Foreign Service must certify that there is a continuing, long-term requirement, consistent with the projections of personnel flows and needs mandated by section 601(c)(2) of the Act, for a combination of professional work experience, educational background, skills, and capabilities possessed by the applicant which cannot reasonably be met from within the ranks of the career service, including by special training of career personnel and/or limited appointments pending completion of such training, if feasible. No applicant may be appointed in an occupational category or at a class level for which the Director General has not certified a need. Such certifications shall take into full account the latest published skills resources inventory and shall be based on a written assessment of the assignment and promotion effects on career members of the Foreign Service. A separate certification of need is not required for applicants under the Mid-Level Affirmative Action Program, as the hiring goals established by the Secretary constitute the certification for applicants under that Program. The exclusive employee representative will be advised promptly in writing on request of the number, nature, and dates of the certifications of need issued since the last request, including a affirmation that each such issuance has been in accordance with the requirements of this section.

(c) *Recruitment.* (1) *From within the Department.* It is the Department's policy to encourage eligible personnel on its rolls to apply for appointment as Mid-Level Foreign Service officer career candidates including, in particular, the following categories: (i) Members of the Foreign Service whose performance has been consistently of a high caliber, and whose background, experience, and general qualifications indicate that they can compete favorably with Foreign Service officers; and (ii) Civil Service personnel who are serving in positions to which Foreign Service officers are normally assigned, who have superior records, and whose general qualifications indicate that they can compete favorably with Foreign Service officers.

(2) *Other.* The Department also encourages highly qualified applicants from other agencies of the Federal Government, and from outside the Federal Government, who meet the statutory and other eligibility requirements, to apply for the Mid-Level Program. Appointments from these sources for available openngs are made on a highly competitive basis to fill specific needs of the Foreign Service at the Mid-Level.

(d) *Methods of application.* (1) *Forms.* Application is made for a Mid-Level Foreign Service officer career candidate appointment but not for a specific class. Applicants for mid-level entry must complete Standard Form 171, "Personnel Qualifications Statement," and Form DSP–34, "Supplement to Application for Federal Employment," and forward them, together with an autobiography not exceeding four typewritten pages in length, to the Board of Examiners for the Foreign Service for consideration.

(2) *Qualifications evaluation panel.* The Board of Examiners establishes a file for each applicant, placing in it all available documentation of value in evaluating the applicant's potential for service as a Foreign Service officer. A Qualifications Evaluation Panel of deputy examiners of the Board of Examiners reviews the file to determine whether the applicant meets the statutory and other eligibility requirements, to assess the applicant's skills relative to the needs of the Foreign Service, and to recommend whether the applicant should be examined for possible appointment under the Mid-Level Program.

(e) *Examination for mid-level appointment.* The submission of an application to the Board of Examiners does not in itself entitle an applicant to examination. The decision whether to proceed with an examination will be made by the Board of Examiners after a thorough review of the candidate's qualifications and a determination of eligibility for appointment following receipt of a certification of need for that candidate.

(1) *Purpose.* The mid-level examination is designed to enable the Board of Examiners to determine a candidate's aptitude for the work of the Foreign Service at the mid-level and fitness for a Foreign Service career.

(2) *Class.* In determining the Foreign Service officer class for which a candidate will be examined, the Board of Examiner's presumption will be for the class which is equivalent to the candidate's current salary level. In evaluating qualifications and in conducting examinations, the Board of Examiners will determine whether the candidate's qualifications compare favorably with Foreign Service officers at the candidate's current salary level. However, the Board of Examiners, at its discretion, may certify a candidate for appointment as a career candidate at a class other than that equivalent to current salary level in those instances where the Board determines that the candidate's qualifications clearly warrant such action.

(3) *Written examination.* A written examination will not normally be required of candidates for mid-level appointment. However, if the volume of applications for a given class or classes, or a particular functional specialty, is such as to make it infeasible to examine all candidates orally within a reasonable time, such candidates may be required to take an appropriate written examination prescribed by the Board of Examiners. Candidates whose score on the written examination is at or above the passing level set by the Board of Examiners will be eligible for selection for the oral examination.

(4) *Oral examination.* (i) *Purpose.* The oral examination will be designed to enable the Board of Examiners to determine whether candidates are functionally qualified for work in the Foreign Service at the mid-level, whether they have the potential to advance in the Foreign Service, and whether they have the background and experience to make a contribution to the Foreign Service.

(ii) *When and where given.* The oral examination is individually scheduled throughout the year and is normally given in Washington, D.C. At the discretion of the Board of Examiners, it may be given in other American cities, or at Foreign Service posts, selected by the Board.

(iii) *Examining panel.* Candidates recommended by a Qualifications Evaluation Panel for examination will be given an oral examination by a panel of deputy examiners of the Board of Examiners. That panel shall include at least one officer from the functional or professional specialty for which the candidate is being examined. Examining panels shall be chaired by a career officer of the Foreign Service. Determinations of duly constituted panels of deputy examiners are final unless modified by specific action of the Board of Examiners.

(iv) *Content.* The Examining Panel will question the candidate regarding the indicated functional or professional specialty; knowledge of American history, government, and other features of American culture; familiarity with current events and international affairs; and other matters relevant to the candidate's qualifications for appointment.

(v) *Grading.* Candidates taking the oral examination will be graded numerically according to standards established by the Board of Examiners. The candidacy of anyone whose score is at or above the passing level set by the Board will be continued. The candidacy of anyone whose score is below the passing level will be terminated and may not be considered again until 1 year after that date.

(5) *Written essay.* Candidates who take the oral examination will be asked to write an essay during the examination day, on a topic related to Foreign Service work, to enable the Board of Examiners to measure the candidate's effectiveness of written expression.

(6) *Other exercises.* Candidates who take the oral examination also may be asked to complete other exercises during the examination day, to enable the Board of Examiners to measure additional aspects of performance related to Foreign Service work at the mid-level.

(7) *Background investigation.* Candidates who pass the oral examination will be eligible for selection for the background investigation. The background investigation shall be conducted to determine suitability for appointment to the Foreign Service.

(8) *Medical examination.* Candidates who pass the oral examination, and their dependents, will be eligible for selection for the medical examination. The medical examination shall be conducted to determine the candidate's physical fitness to perform the duties of a Foreign Service officer on a world-wide basis and, for candidates and dependents, to determine the presence of any physical, neurological, or mental condition of such a nature as to make it

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unlikely that they would be able to function on a world-wide basis.

(9) *Final review panel.* The entire file of candidates who pass the oral examination will be reviewed and graded by a Final Review Panel, consisting of two or more deputy examiners of the Board of Examiners, after the results of the background investigation and the medical examination are received. The Final Review Panel will take into account the grade assigned by the oral Examining Panel, as well as all other available information concerning the candidate, and decide whether or not to recommend the candidate for appointment. The candidate's file will then be submitted to the Board of Examiners for approval. If approved by the Board, the candidate's name will be entered on the rank-order register for the class and functional specialty for which the candidate has been found qualified. The candidacy of anyone who is not recommended for appointment by the Final Review Panel shall be terminated and the candidate so informed.

(10) *Foreign language requirement.* All candidates who pass the oral examination will be required to take a subsequent test to measure their fluency in foreign languages or their aptitude for learning them. A candidate may be appointed without first having passed an examination in a foreign language, but the appointment will be subject to the condition that the newly appointed career candidate may not be converted to career Foreign Service officer status unless, within a specified period of time, adequate proficiency in a foreign language is achieved. For limitations on promotions see Volume 3 (Personnel), Foreign Affairs Manual, section 874.

(11) *Certification for appointment.* (i) *Departmental employees.* A candidate who is a career employee of the Department, for whom a certification of need has been issued, will be certified by the Board of Examiners for appointment after satisfactorily completing all aspects of the examination process. The appointment certification will specify the class and salary for which the candidate has been found qualified.

(ii) *Others.* Other successful candidates will, after being approved by the board of Examiners, have their names placed on the rank-order register for the class and functional specialty for which they have been found qualified. A separate rank-order register may be established for candidates under the Mid-Level Affirmative Action Program. Appointments to available openings will be made from the registers in rank-order according to the needs of the Foreign Service.

(12) *Termination of eligibility.* Candidates who have qualified but have not been appointed because of lack of openings will be removed from the rank-order register 18 months after the date of placement on the rank-order register. The Board of Examiners may extend the eligibility period when such extension is, in its judgment, justified in the interests of the Foreign Service.

2. By adding a new § 11.20 to read as follows:

§ 11.20 Foreign Service specialist career candidate appointments.

(a) *General considerations.* [1] Section 303 of the Foreign Service Act of 1980 (hereinafter referred to as the Act) authorizes the appointment of members of the Service (other than Presidential appointments).

(2) Section 306 of the Act provides that, before receiving a career appointment in the Foreign Service, an individual shall first serve under a limited appointment for a trial period of service as a career candidate.

(3) This section governs the appointment by the Department of State of Foreign Service specialist career candidates to classes FS–1 and below. Specialist candidates comprise all candidates for career appointment in all occupational categories other than generalists (that is, administrative, consular, economic, political, and program direction), who are governed by the regulations respecting Foreign Service officer career candidates. The appointment of all Senior Foreign Service career candidates regardless of occupational category is governed by § 11.30 (to be supplied). Regulations governing trial service and tenuring of specialist candidates are found in Volume 3 (Personnel), Foreign Affairs Manual, section 580.

(4) Veterans' preference shall apply to the selection and appointment of Foreign Service specialist career candidates.

(b) *Specialist career candidate appointments.* (1) *Certification of need.* Candidates for appointment as specialist career candidates must be world-wide available and must have a professional or a functional skill for which there is a continuing need in the Foreign Service. Before an application can be processed, the Director General of the Foreign Service must certify that there is a need for the applicant as a career candidate in the specialist category at or above the proposed class of appointment. No applicant shall be appointed at a class level for which there is no certified need. This individual certification of need is not required for those specialist occupations which the Director General determines in advance to be shortage or continuous recruitment categories, and for which the Director General has certified the need for a specific number of appointments at given levels. Such appointments, including an appointment of an individual who is the employee of any agency, may not exceed 5 years in duration, and may not be renewed or extended beyond 5 years. A specialist candidate denied tenure under Volume 3 (Personnel), Foreign Affairs Manual, section 580, may not be reappointed as a career candidate in the same occupational category.

(2) *Eligibility.* An applicant must be a citizen of the United States and at least 20 years of age. The minimum age for appointment as a career candidate is 21. All career candidate appointments shall be made before the candidate's 60th birthday. The maximum age for appointment under the program is based on the requirement that all career candidates shall be able to (i) complete at least two full tours of duty, exclusive of orientation and training, (ii) complete the requisite eligibility period for tenure consideration, and (iii) complete the requisite eligibility period to receive retirement benefits, prior to reaching the mandatory retirement age of 65 prescribed by the Act.

(3) *Selection and initial screening.* Specialist career candidates will be selected on the basis of education, experience, suitability, performance potential, and physical fitness for world-wide service. Applicants normally will be given personal interviews and will be subject to such written, oral, physical, foreign language, and other examinations as may be prescribed by the Board of Examiners for the Foreign Service and administered by the Office of Recruitment, Examination, and Employment (PER/REE). The Board of Examiners will identify and/or approve the knowledge, skills, abilities, and personal characteristics required to perform the tasks and duties of Foreign Service specialists in each functional field. PER/REE will screen applications for appointment as Foreign Service specialist career candidates under approved criteria and select those who meet the requirements for further processing under these regulations.

(4) *Oral Examination.* Candidates selected through the initial screening will be eligible for an oral examination unless they are candidates for appointment in occupational categories for which the oral examination may be waived by the Director General. This waiver normally will apply only to continuous-recruitment categories and to appointments below the FS–6 level, and where such waivers occur, a thorough oral interview will be conducted. The oral examination will be given by a panel of deputy examiners, at least one of whom will be a career Foreign Service specialist proficent in the functional field for which the candidate is being tested. The examination may include a writing sample. Candidates taking the oral examination will be graded numerically according to standards set by the Board of Examiners. The candidacy of anyone whose score is at or above the passing level set by the Board will be continued. The candidacy of anyone whose score is below the passing level will be terminated and may not be considered again for 1 year.

(5) *Background investigation.* Candidates who have passed the oral examination, and candidates who have passed the initial screening if the oral examination has been waived, will be eligible for selection for the background investigation to determine their suitability for appointment to the Foreign Service.

(6) *Medical examination.* Such candidates and their dependents will be eligible for selection for the medical examination. The medical examination shall be conducted to determine the candidate's physical fitness to perform the duties of a Foreign Service specialist on a world-wide basis and, for candidates and dependents, to determine the presence of any physical, neurological, or mental condition of such a nature as to make it unlikely that they would be able to function on a world-wide basis.

(7) *Final review panel.* After the results of the medical examination and background investigation have been received, a Final Review Panel, consisting of two or more deputy examiners of the Board of Examiners, or by another appropriate panel appointed for the purpose by the Director of PER/REE, will review and grade the candidate's entire file. Candidates approved by the Final Review Panel will have their names placed on a rank-order register for the functional specialty for which they are qualified. Candidates will remain eligible for appointment for 18 months from the date of placement on the rank-order register. The Board of Examiners may extend this eligibility period when such extension is, in its judgment, justified in the interests of the Foreign Service. The candidacy of anyone who is not recommended for appointment by the Final Review Board shall be terminated and the candidate so informed.

(c) *Limited non-career appointments.* Other Foreign Service specialist appointments may be made on a limited non-career basis. Before an application for a limited non-career appointment can be processed, the Director General of the Foreign Service must certify that there is a need for the applicant. Such limited specialists must serve overseas, and they will be subject to the same conditions as those outlined in these regulations for career candidates, with the exception that the maximum age of 59 does not apply to such appointments. However, because members of the Foreign Service generally are subject to the mandatory retirement age of 65 under section 812 of the Act, limited non-career appointments normally will not extend beyond the appointee's 65th birthday. Applicants for limited non-career appointments will be subject to the same screening, medical examination, background investigation, and final review process required of career candidates, but normally they will not be subject to a written or oral examination. Their appointments will normally be limited to the duration of the specific assignment for which they are to be hired, may not exceed 5 years in duration, and may not be renewed or extended beyond 5 years. Ordinarily, no limited non-career appointee will be reappointed until at least 1 year has elapsed since the expiration of a previous appointment. However, earlier reappointment may be granted in cases of special need, provided the exclusive employee representative is advised in advance and is afforded an opportunity to comment. Prior to the expiration of their limited appointments, if otherwise eligible, non-career appointees may compete for career candidate status by qualifying at that time for and taking the examinations required of career candidates. If successful, their names would be entered on the rank-order register for their functional specialty. If appointed as career candidates, the length of service under their previous limited non-career appointments may be counted as part of the trial period of service prescribed before a candidate can receive a career appointment.

Dated: April 23, 1983.

Clint A. Lauderdale,

Deputy Assistant Secretary for Personnel.

[FR Doc. 83–11629 Filed 4–29–83; 8:45 am]
BILLING CODE 4710–15–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government; Complaints of Discrimination

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is revising its regulations on equal employment in the Federal Government (29 CFR Part 1613).

The purpose of the amendments is to eliminate the duplicative complaint processing by federal agencies occurring with respect to "mixed cases", before the Merit Systems Protection Board (MSPB). Mixed cases are matters related to certain personnel actions which are appealable to the MSPB and which raise allegations of discrimination based on race, color, religion, sex, national origin, handicap, age and/or reprisal. In addition, it is the purpose of these amendments to eliminate the 15 calendar day reprisal charge process, which has proven to be impractical and which has served to eliminate an aggrieved individual's right to administrative due process, while seldom providing for rapid charge processing. Further, these amendments also provide an administrative mechanism for appealing decisions on grievances where (except with respect to the U.S. Postal Service), pursuant to 5 U.S.C. 7121 (which does not apply to the U.S. Postal Service), a grievant has raised an allegation of discrimination in connection with the grievance.

These amendments, in part, complement, and should be read in conjunction with, the regulations of the MSPB concerning appeals which include allegations of discrimination, found at Title 5 CFR Part 1201, Subpart D.

DATES: These interim regulations are effective upon publication and will remain effective until final regulations are issued. Written comments on the interim regulations must be received within 60 calendar days of publication. The Commission proposes to consider any comments received and, thereafter, to adopt final regulations.

ADDRESSES: Interested persons are invited to submit written comments regarding the interim regulations to Treva McCall, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW.,

Washington, D.C. 20506. Copies of the comments submitted by the public will be available for review at the Social Sciences Library, Room 2003, EEOC, 2401 E Street, NW., Washington, D.C. 20506 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Gerald P. Tognetti, Chief, Hearings Program Management Branch, Office of Public Sector Programs, Room 4209, 2401 E Street, NW., Washington, D.C. 20506. (202) 634-7833.

SUPPLEMENTARY INFORMATION:
Commission is revising its regulations pursuant to its responsibilities for administration and enforcement of Sections 205 and 701 of the Civil Service Reform Act of 1978, 5 U.S.C. 7121 and 7702, Section 717 of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-16, Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 and 794a, Section 15 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a, and Section 6(d) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 206(d).

These amendments should be distinguished from several amendments which the Commission will be proposing in the near future in a Notice of Proposed Rulemaking. These interim amendments are intended to correct deficiencies in the current regulations which the Commission does not believe should be delayed. The forthcoming Notice of Proposed Rulemaking will treat with other matters of importance, but of lesser urgency, with respect to appellate processing and duplication of effort. In addition, it will propose amendments to the pre-appellate process, with respect to grievances which raise allegations of discrimination, which complement the appellate amendments at §§ 1613.231 and 1613.233(b).

Pursuant to the Civil Service Reform Act of 1978, 5 U.S.C. § 7702, these amendments establish an administrative process for mixed cases. Mixed cases are matters related to certain personnel actions which are appealable to the MSPB and which raise allegations of discrimination based on race, color, religion, sex, national origin, handicap, age and/or reprisal. These amendments provide that mixed cases may be brought as a complaint before the respondent federal agency, or as an appeal before the MSPB, but not both. The regulations specify that mixed case complaints may be rejected or cancelled by the respondent agency when brought before it, if the aggrieved person has previously appealed the matter which forms the basis of the mixed case complaint to the MSPB. The regulations also require an election between the respondent federal agency EEO process and the MSPB process; specify the procedures to be followed upon election of the respondent federal agency EEO process; explain the administrative and civil action rights of the aggrieved; provide consolidation procedures when complaints are filed on proposals to take an action appealable to the MSPB and subsequent complaints and/or appeals are filed on agency decisions to take that action; and specify the time limits for processing mixed case complaints.

It should be noted that when the complainant has elected the respondent federal agency EEO complaint process, the mixed case complaint will be processed in a manner similar to other federal EEO complaints, except the hearing that may occur at the agency level in the processing of other complaints will not occur at that level in mixed case complaints but at the MSPB instead.

The regulations also contain a section on retroactivity which applies to all mixed case complaints arising on or after January 11, 1979 [the effective date of the Civil Service Reform Act of 1978 (CSRA)] and filed prior to the effective date of the regulations. Such a section is necessary in order to conform to the requirements of the statute, which, among other things, was clearly intended to eliminate duplicative complaint processing on and after January 11, 1979 and which clearly provided that any appeal from certain personnel actions, which also involved allegations of discrimination, was initially to be made to MSPB, with review authority *only* to be vested in EEOC. Without this section, such cases have been and would continue to be improperly processed, with improper advisement of appeal rights to EEOC, even though such appeal rights are precluded by statute. In addition, current regulations provide for 180 calendar day processing, with a right to file a civil action only, if that time limit is not met. The CSRA requires that mixed case complaints be processed in 120 calendar days, with an administrative appeal right the MSPB if that time limit is not met, in addition to a right to file a civil action. All of these differences became effective on January 11, 1979 and, as a consequence, a section on retroactivity is required.

In order to insure that complainant rights are adequately protected, while nevertheless complying with the requirements of the CSRA, the retroactivity amendments contain provisions which allow cancellation of a mixed case complaint filed during the retroactive period only where the complainant has already appealed the matter which forms the basis of the mixed case complaint to the MSPB and raised the allegations of discrimination in connection with the appeal. Such complainants retain their right to petition EEOC to review the discrimination allegations raised on appeal to the MSPB. With respect to those cases where the matter was appealed to the MSPB, but where the allegations of discrimination were not considered by the MSPB, the retroactivity amendments advise complainants that they may petition the MSPB to review their previous appellate decision, to now include the allegations of discrimination and that, thereafter, they may, as a matter of right, petition the EEOC to review the discrimination allegations, regardless of whether the MSPB chooses to review their previous appellate decision. Thus, such complainants will have received a hearing and will have retained their right to petition EEOC, in a manner similar to those complainants who file their complaints on or after the effective date of these regulations.

Further in this regard, the Commission notes that complainants and agencies have had no previous definitive guidance on how to process mixed case complaints and that, as a result, there has been much confusion where complainants have filed both an appeal with the MSPB and a complaint with agency, pursuant to the regular EEO complaint process. As a result of that confusion, some complainants who have raised the issue of discrimination before the MSPB on appeal have not thereafter actively pursued the matter, believing that it would be more fully addressed as part of the agency compliant process. As a consequence, the MSPB, in some instances, did not fully consider the discrimination allegations. In view of this history, the Commission believes it necessary to caution agencies that the retroactive cancellation authority provided at § 1613.404(a) should be invoked only where the agency is prepared to demonstrate that the MSPB fully considered all of the discrimination allegations contained in the mixed case complaint. In any instance where all of the discrimination allegations in the mixed case complaint were not fully considered by the MSPB on appeal, the agency must process the matter pursuant to § 1613.404(b), rather than pursuant to § 1613.404(a).

Additionally, these amendments eliminate the current regulations, found at 29 CFR 1613.282(b)(1), with respect to 15 calendar day reprisal charge processing. The current procedures are designed to circumvent the regular complaint procedures and provide a rapid charge process for complaints of reprisal discrimination. In exchange for this rapid charge process, the complainant waives all procedural due process safeguards provided by the regular complaint process, including the right to file a civil action in federal court. See *Porter* v. *Adams*, 639 F 2d. 273, (5th Cir. 1981). Except for a vaguely-worded provision which allows the Commission "to take whatever action is appropriate" when the time limit has been exceeded, there is no check on federal agencies which do not process the charge within 15 calendar days. It has been the Commission's experience that virtually no federal agency processes such charges within 15 calendar days. Since virtually every federal agency has indicated that the 15 calendar day time limit is unworkable, the Commission sees no benefit to be derived by providing appellate review (which this section was specifically created to circumvent) or other sanction authority to enforce an unworkable section of its regulations. Since complainants lose substantive due process rights when they elect the 15 calendar day process and since the Commission can only act to restore those due process rights by remanding the matter for regular complaint processing when federal agencies do not process the matter in 15 calendar days, and since the regulations otherwise clearly do not intend appellate review by the Commission of such matters, the Commission considers it to be in the public interest to eliminate the process.

These amendments also provide procedures for filing appeals from decisions made in the agency negotiated grievance procedure, where the negotiated grievance procedure provides that allegations of discrimination may be so raised. Such amendments are required, in order to conform to the provisions of 5 U.S.C. 7121, which provides that negotiated grievance procedures may allow allegations of discrimination to be raised therein and which provides for appeals from decisions reached on such grievances to the Commission, with respect to the allegations of employment discrimination.

These regulations have been coordinated with affected federal agencies, pursuant to Executive Order 12067, and have been reviewed by the Office of Management and Budget, pursuant to Executive Order 12291. These regulations have been determined not to be a major rule, as defined in that Order.

Pursuant to 5 U.S.C. 553(d)(3), the Commission finds that good cause exists for making these regulations effective in less than 30 days from publication, in order to eliminate costly and duplicative concurrent processing of complaints on, and appeals from, the same matters, especially since such concurrent processing may result in mutually contradictory conclusions, for which no regulatory resolution mechanism exists. Additionally, with respect to the expedited procedures for charges of reprisal, current regulations provide no right of appeal and no right to file a civil action. Charging parties seldom receive rapid charge processing under these procedures and federal agencies have severely criticized the regulation as confusing and unworkable. Further, with respect to the appellate amendments, the law (5 U.S.C. 7121) requires that the Commission entertain appeals, with respect to issues of discrimination, raised in connection with grievances, but current regulations contain no provisions for doing so. Therefore, the Commission finds good cause for also making these regulations effective in less than 30 days from publication.

Finally, the Commission realizes that issuance of these regulations on an interim basis is a departure from its normal rulemaking practice but, for the reasons stated above, finds there to be a compelling public interest for doing so. The interim regulations appear below.

List of Subjects in 29 CFR Part 1613

Administrative practice and procedure, Aged, Equal employment opportunity, Government employees, Handicapped, Sex discrimination.

By virtue of the authority vested in the Commission under Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-16, Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 and 794a, Section 15 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a, Section 6(d) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 206(d), Reorganization Plan No. 1 of 1978 (43 FR 19807) and Executive Order 12106 (44 FR 1053), the Equal Employment Opportunity Commission hereby publishes the following amendments to its regulations on Equal Employment in the Federal Government.

Signed at Washington, D.C., this 25th day of April 1983. For the Commission.
Clarence Thomas,
Chairman.

PART 1613—[AMENDED]

Accordingly, Chapter XIV, Part 1613 of title 29 of the Code of Federal Regulations is amended as follows:

1. Section 1613.231(a) is revised to read as follows: paragraph (b) is redesignated as paragraph (c); and a new paragraph (b) is added.

§ 1613.231 Entitlement.

(a) Except as provided by paragraph (c) of this section, a complainant may appeal to the Commission the decision of the head of the agency, or his/her designee: (1) To reject his/her complaint, or any portion thereof, for reasons covered by § 1613.215; or (2) To cancel his/her complaint because of the complainant's failure to prosecute the complaint; or (3) On the merits of the complaint, under §§ 1613.217(c) or 1613.221, or on the award of attorney's fees or costs.

(b) Except as provided by paragraph (c) of this section, a complainant may appeal to the Commission on issues of employment discrimination raised in a negotiated grievance procedure, where the agency's negotiated labor-management agreement permits such issues to be raised therein. A complainant may appeal the decision: (1) Of the agency head or his/her designee on the grievance; (2) of the arbitrator on the grievance; or (3) of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award. A complainant may not appeal under this subsection, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration or is before the FLRA. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice.

(c) A complainant may not appeal to the Commission under paragraph (a) of this section, when the issue of discrimination giving rise to the complaint is being considered or has been considered, in connection with any other appeal by the complainant.

2. Section 1613.233 is amended to revise paragaph (a); to redesignate the previous paragraph (b) as paragraph (c) and to add a new paragraph (b) to read as follows:

§ 1613.233 Time limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the

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agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a decision to award attorney's fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next state of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

* * * * *

3. Section 1613.262 is amended by revising paragraph (a), removing paragraph (b)(1), redesignating paragraph (b)(2) as paragraph (b) and revising it to read as follows:

§ 1613.262 Review of allegations of reprisal.

(a) A complainant, his/her representative, or a witness who alleges restraint, interference, coercion, discrimination or reprisal for having filed a complaint or for having participated in the processing of a complaint under this subpart, may, if an employee or applicant, have the allegation reviewed as an individual complaint of discrimination subject to §§ 1613.211 through 1613.283.

(b) When a complainant alleges that (s)he has been subjected to restraint, interference, coercion, discrimination or reprisal in connection with the filing of a prior complaint of discrimination and that prior complaint from which the allegation derives is in process at the agency at the time the allegation is made, the complainant may request the agency to consolidate the allegation with the prior complaint. If the prior complaint is at the hearing stage of the complaint process under § 1613.216, the complainant may request the Complaints Examiner to consolidate the allegation with the complaint at the hearing. The agency or the Complaints Examiner may grant the request, *Provided*, that the request is made within 30 calendar days of occurrence of the act which forms the basis of the allegation, or within 30 calendar days of its effective date, if a personnel action. The agency or the Complaints Examiner may also deny the request, at its/his/her discretion, and require that the allegation be processed in accordance with § 1613.262(a).

Part 1613, Subpart D is amended to add the following section:

Subpart D—Processing Mixed Case Complaints

Sec.
1613.401 Purpose, scope, and applicability.
1613.402 Definitions.
1613.403 Election.
1613.404 Retroactivity.
1613.405 Procedures for agency processing of mixed case complaints.
1613.406 Processing of complaints on proposals.
1613.407 Timely processing.

* * * * *

Subpart D—Processing Mixed Case Complaints

§ 1613.401 Purpose, scope and applicability.

(a) *Purpose.* This subpart sets forth the regulations under which the Equal Employment Opportunity Commission will carry out its responsibilies for the administration and enforcement of Section 205 of the Civil Service Reform Act of 1978, 5 U.S.C. 7702, with respect to matters of alleged employment discrimination prohibited by Section 717 of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16, Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794a, Section 15 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a, and Section 6(d) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 206(d).

(b) *Scope.* This subpart shall govern the treatment of complaints in which allegations of discrimination are raised, in connection with an action appealable to the Merit Systems Protection Board (MSPB), provided that the action which forms the basis of the complaint was initiated on or after January 11, 1979 (the effective date of the Civil Service Reform Act). This subpart governs the procedures applicable: (1) When a complainant elects to bring the matter which forms the basis of the complaint before his/her agency, by filing a complaint of discrimination, pursuant to this part; (2) when an appealable action, pending before the MSPB, is remanded for agency processing, pursuant to 5 CFR 1201.155(c); and (3) when a petition to review the decision of the MSPB on the issues of discrimination is filed with the Commission, pursuant to 5 U.S.C. 7702(b).

(c) *Applicability.* This subpart applies to all persons who have a right of appeal to the MSPB.

§ 1613.402 Definitions.

(a) *Mixed Case Complaint.* A mixed case complaint is: (1) A complaint of employment discrimination filed with a federal agency, based on race, color, religion, sex, national origin, handicap, age, and/or reprisal, related to, or stemming from an action taken by an agency against the complainant, which action may be appealed to the MSPB, pursuant to any law, rule or regulation; or (2) a complaint of sex-based wage discrimination, filed with the Commission, related to or stemming from an action taken by an agency against a complainant, which action may be appealed to the MSPB, pursuant to any law, rule or regulation. The complaint may contain only an allegation of employment discrimination or it may contain additional allegations which the MSPB has jurisdiction to address.

(b) *Mixed Case Appeals.* A mixed case appeal is an appeal filed with the MSPB, which jurisdiction to entertain, and which alleges that the agency action which forms the basis for the appeal was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, handicap, age and/or reprisal, or alleges that such appealable action resulted in sex-based wage discrimination.

(c) *Complaint.* A complaint is a formal complaint of discrimination, filed with the appropriate person designated to receive complaints at the agency, pursuant to § 1613.214 of subpart B of this Part.

(d) *Proposal.* A proposal, as used in this subpart, means any document issued by an agency to an employee, pursuant to any requirements contained in regulations issued by the Office of Personnel Management (OPM), which proposes to take an action against that employee which, if effected, could be appealed by that employee to the MSPB.

(e) *Handicap Definitions.* The definitions set forth at § 1613.702 of subpart G of this Part are hereby incorporated by reference into this subpart and are applicable to any mixed case complaint which contains issues of handicap discrimination.

§ 1613.403 Election.

An aggrieved person may initially file a mixed case complaint with an agency, pursuant to this part, or (s)he may file a mixed case appeal directly with the MSPB, pursuant to 5 CFR 1201.151, but not both. An agency shall inform every employee who is the subject of an action which is appealable to the MSPB and who has raised the issue of discrimination either orally or in writing, during the processing of the action, of his/her right to file a mixed case complaint, if the employee believes the action to be based, in whole or in part, on discrimination, or to file a mixed case appeal with the MSPB. The person shall be advised that (s)he may not initially file both and that whichever is filed first (the mixed case complaint or the appeal) shall be considered an election to proceed in that forum. For purposes of this subsection, filing of a mixed case complaint occurs when the complaint is filed with an appropriate agency official, in accordance with § 1613.214(a)(3) of subpart B of this Part.

§ 1613.404 Retroactivity.

The following shall apply, with respect to mixed case complaints filed prior to the effective date of these regulations, where any issues in such mixed case complaints were also appealed to the MSPB:

(a) *Discrimination Allegations Considered.* If the MSPB considered, or is considering, the allegations of discrimination raised in the mixed case complaint, in connection with any appeal, the mixed case complaint before the agency shall be cancelled, pursuant to § 1613.405(a).

(b) *Discrimination Allegations Not Considered.* If the MSPB was not presented with or did not consider the allegations of discrimination raised in the mixed case complaint in connection with any appeal, the agency shall process such mixed case complaint in accordance with § 1613.405(a). The final agency decision on such complaint shall advise the complainant of his/her right to file a civil action, pursuant to § 1613.417, and that (s)he may petition the MSPB to review his/her previous appellate decision, to include the allegations of discrimination raised with the agency which were not previously decided on appeal by the MSPB. The decision shall further advise the complainant that, whether or not the MSPB chooses to review its previous decision, the complainant may thereafter petition the EEOC to review the matter, pursuant to § 1613.414, provided that the complainant has fullfilled the procedural prerequisite of first petitioning the MSPB.

§ 1613.405 Procedures for agency processing of mixed case complaints.

(a) *Rejections.* Whenever an agency is presented with a mixed case complaint concerning an action that has previously been appealed by the complainant to the MSPB, the agency shall reject the complaint (in writing), citing this subsection as the authority therefor, regardless of whether the allegations of discrimination raised in the mixed case complaint were raised in the previous appeal to the MSPB. The agency shall advise the aggrieved person: no part of the decision rejecting such a complaint, that (s)he must bring the allegations of discrimination contained in the rejected complaint to the attention of the MSPB, pursuant to 5 CFR 1201.155.

(b) *Cancellation.* Whenever the agency learns that a mixed case complaint, which has been filed with and accepted by the agency, contains issues which also form the basis of an appeal which has been filed with the MSPB, the agency shall determine which was filed first (i.e., the mixed case complaint or the appeal). If the appeal to the MSPB was filed first, the agency shall cancel (in writing) that portion of the mixed case complaint related to the action appealed to the MSPB and advise the complainant, as part of the decision which cancels the complaint (in whole or in part), that (s)he must bring the allegations of discrimination to the attention of the MSPB, pursuant to 5 CFR 1201.155. If the mixed case complaint was filed first, the agency shall so advise the MSPB and request that the MSPB dismiss the appeal without prejudice and, thereafter, the agency shall process the complaint, pursuant to § 1613.405(c), and issue an agency decision within 120 calendar days. An agency may also cancel a mixed case complaint when it learns that the complainant has chosen to appeal the matter to the MSPB upon expiration of 120 calendar days from the date that the mixed case complaint was filed with the agency.

(c) *Effect of Rejection or Cancellation.* An agency decision to reject or cancel a mixed case complaint pursuant to §§ 1613.405(a) or (b) is not subject to appeal to the EEOC, except where §§ 1613.405(a) or (b) has been misapplied to a nonmixed case matter (in which case an appeal may be filed pursuant to § 1613.231 of Subpart B).

(d) *MSPB Remands.* The MSPB may remand allegations of discrimination to an agency or, in Equal Pay Act matters, to the EEOC, pursuant to 5 CFR 1201.155(a) or (c). In such cases, the agency or the EEOC shall investigate those allegations, as required by the MSPB or by applicable EEOC regulation.

(e) *Procedures.* When a complainant, pursuant to § 1613.403, elects to proceed initially through the agency, rather than with the MSPB, the procedures set forth in §§ 1613.212 through 1613.221(d) of subpart B of this Part shall govern the processing of the mixed case complaint, with the following exceptions: (1) There shall be no hearing, as provided in § 1613.216 and as referenced in §§ 1613.217(b)(2) and 1613.221(b)(2) and (3); (2) At the time that an agency advises a complainant of the acceptance of a mixed case complaint, pursuant to § 1613.214, the agency shall also advise the complainant of the following: (i) The complaint shall be processed in accordance with this subpart; (ii) if no agency decision is issued within 120 calendar days of the date of filing of the mixed case complaint, the complainant may appeal the matter to the MSPB at any time thereafter, up to, but not later than, one year from the filing of the complaint, or may file a civil action as specified at § 1613.417(g); and (iii) if the complainant is dissatisfied with the agency's decision on the mixed case complaint, (s)he may appeal the matter to the MSPB (not EEOC), within 20 calendar days of receipt of the agency's decision; (3) At the time that an agency issues to the complainant its notice of proposed disposition, pursuant to § 1613.217(b), the agency shall advise the complainant that the complainant: (i) May request a decision (pursuant to § 1613.221 of subpart B of this Part) from the agency, without a hearing and, thereafter, appeal that decision to the MSPB (and, in connection therewith, request a hearing), within 20 calendar days of receipt of that agency decision, or (ii) if no decision is received within 120 calendar days of filing the mixed case complaint, may appeal the matter directly to the MSPB (not EEOC) at any time after expiration of 120 calendar days, up to, but no later than, one year after filing the mixed case complaint and of his/her right to file a civil action, as described at § 1613.417(g). (4) At the time that the agency issues its decision on a mixed case complaint (pursuant to § 1613.221) the agency shall advise the complainant of his/her right to appeal the matter to the MSPB (not EEOC), within 20 calendar days of receipt, and of his/her right to file a civil action, as described at § 1613.417(g).

§ 1613.406 Processing of complaints on proposals.

(a) *Where the Agency Decision is Appealable to the MSPB.* [1] Any complaint which is filed, pursuant to this Part, in connection with an agency proposal to take an action that is

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appealable to the MSPB, shall be consolidated, pursuant to § 1613.251 of subpart B of this Part, with any subsequent mixed case complaint filed in connection with that agency decision to take such an action, either as proposed or as modified during the processing of the proposal, and shall be processed in accordance with this subpart. (2) If, following a complaint on a proposal, the complainant subsequently files an appeal with the MSPB on the subsequent agency decision resulting from that proposal, the agency shall cancel the complaint on the proposal. The complainant shall be advised by the agency that any allegations of discrimination contained in that complaint should be raised with the MSPB, in connection with the pending appeal. (3) If a complaint is filed on a proposal, and no appeal is filed with the MSPB on the subsequent appealable agency decision resulting from that proposal, and no complaint is filed with the agency on that appealable decision, the complaint on the proposal shall be deemed to include the final decision as an issue (as of the effective date of such final decision) and shall be processed as a mixed case complaint, in accordance with § 1613.405.

(b) *Where the Agency Decision is Not Appealable to the MSPB.* Where a proposal does not result in an agency decision which is appealable to the MSPB (e.g., a proposal to remove which is modified by the agency decision to a 5 day suspension), such a complaint shall be processed pursuant to subparts B, E, F and/or G of this Part, as appropriate.

§ 1613.407 Timely processing.

A mixed case complaint shall be processed in a timely manner by the agency, so that the agency's decision (pursuant to § 1613.221 of subpart B of this Part) on such a complaint is issued within 120 calendar days from the date the complaint was filed. When a complaint concerning a proposal to take an action that is appealable to the MSPB is consolidated, pursuant to § 1613.406, with a mixed case complaint concerning an agency decision to take the action as proposed or as modified, and that agency decision is appealable to the MSPB, the 120 calendar day time frame for processing the consolidated mixed case complaint begins to run as of the date the complaint concerning that agency decision is filed. For the purposes of § 1613.406(a)(3), the 120 calendar day time frame for processing the complaint shall begin to run as of the effective date of the final decision.

[FR Doc. 83-11473 Filed 4-29-83; 8:45 am]
BILLING CODE 6570-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2616

Notice of Intent To Terminate for Non-Multiemployer Pension Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correction.

SUMMARY: On January 27, 1983, the Pension Benefit Guaranty Corporation published in the Federal Register at 48 FR 3722, FR Doc. 83-2103, a final rule prescribing a new method of filing the statutory Notice of Intent to Terminate for non-multiemployer pension plans covered under the plan termination insurance program of Title IV of the Employee Retirement Income Security Act of 1974. This document is needed to correct typographical errors in that final rule.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, 2020 K Street, NW., Washington, D.C. 20006, 202-254-6476. (This is not a toll-free number.)

The following corrections are made in FR Doc. 83-2103, appearing at 48 FR 3722 (January 27, 1983):

1. On page 3722, column one, line 16 of the Summary, "nonmultiemployer" is corrected to read "non-multiemployer."

2. On page 3722, column two, line 7 of the last paragraph, "Pub. L. No. 96-264" is corrected to read "Pub. L. No. 96-364."

3. On page 3723, column one, lines 9 and 10 of the fifth full paragraph, "in anticipation or termination" is corrected to read "in anticipation of termination."

4. On page 3723, column two, line 7, "a" is added between "and" and "plan administrator."

5. On page 3723, column three, line 4, a hyphen is added between "120" and "day."

6. On page 3723, column three, lines 31 and 32, "the final rule" is corrected to read "this final rule."

7. On page 3723, column three, line 36, the comma after "Code" is deleted.

8. On page 3724, column one, line 3 in the first full paragraph, "From" is corrected to read "from."

9. On page 3724, column one, lines 3 and 14 of the second full paragraph, a hyphen is added between "12" and "month."

10. On page 3724, column three, line 18 of the third full paragraph, a hyphen is added between "270" and "day."

11. On page 3726, column two, line 9 of § 2616.5(c), a hyphen is added between "270" and "day."

Authority: 29 U.S.C. 1302, 1341.

Issued this 27th day of April, 1983.

Henry Rose,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-11662 Filed 4-29-83; 8:45 am]
BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Approval of the State of Arkansas Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On July 7, 1982, the State of Arkansas submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 47 FR 28574-28604, June 30, 1982). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Arkansas Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Arkansas Plan.

EFFECTIVE DATE: The rule is effective May 2, 1983.

ADDRESSES: Copies of the full text of the Arkansas Plan are available for review during regular business hours at the following locations:

State of Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209

Office of Surface Mining Reclamation and Enforcement, Room 3432, 336 W. 4th Street, Tulsa, Oklahoma 74103

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: James Fary, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-7921

SUPPLEMENTARY INFORMATION: General Background of the Abandoned Mine Land Program Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved Regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 47 FR 28600-28601, June 30, 1982). Under these regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 888.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 953.

Provisions relating to Arkansas are found in 30 CFR Part 904.

Background on the Arkansas Reclamation Plan Submission

A public meeting was held on the Arkansas Plan on June 16, 1982 in Fort Smith, Arkansas. On July 7, 1982, the State of Arkansas submitted its proposed Reclamation Plan to OSM. OSM published a notice of proposed rulemaking and requested public comment on July 23, 1982 (47 FR 30 267).

On October 6, 1982 and on March 22, 1983 representatives of the Arkansas Department of Pollution Control and Ecology and OSM met to discuss amendments and modifications to the proposed Plan. On February 11, 1983 and on April 5, 1983 the Arkansas Department of Pollution Control and Ecology submitted revised pages to the Arkansas Reclamation Plan. These pages contained several amendments and modifications to the original Plan. The OSM has determined that these additions and revisions were insignificant in nature and, accordingly, required no further public comment.

The necessary changes have been incorporated into the Plan. All of the documents mentioned above are available for public inspection at the offices of OSM and at the Arkansas Department of Pollution Control and Ecology listed above under "Addresses."

On April 11, 1983 OSM's Field Office Director and on April 12, 1983, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Arkansas Reclamation Plan.

The administrative record on the Arkansas Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, Room 3432, 336 W. 4th Street, Tulsa, Oklahoma 74103.

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Arkansas has submitted a Plan for reclamation of abandoned mine lands and has determined, pursuant to 30 CFR 884.14, that:

(a) The public has been given adequate notice and opportunity to comment and the record does not reflect any unresolved controversies.

(b) The views of other Federal agencies have been solicited and considered.

(c) The State has the legal authority, policies, and administrative structure to implement the Plan.

(d) The Plan meets all requirements of the OSM, AML Program Provisions except that Arkansas does not have authority to conduct noncoal reclamation activities. Therefore, the OSM will not approve of funds for projects concerned with noncoal reclamation activities until such time as Arkansas demonstrates that it has the authority under its State law to perform noncoal reclamation activities.

(e) The Plan meets OSM's "Guidelines for Submission of Amendment to State Reclamation Plan to Conduct Emergency Reclamation" and therefore Arkansas has the authority to conduct an emergency reclamation program.

(f) The State has an approved Surface Mining Regulatory Program under Title V of the SMCRA.

(g) The Plan is in compliance with all applicable State and Federal laws and regulations.

2. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14. These agencies include: the U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (FWS), the U.S. Bureau of Mines (USBOM), the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (COE), and the Soil Conservation Service (SCS).

Disposition of Comments

The following comments received on the Arkansas Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Arkansas Plan as indicated.

1. The SCS and the USFS asked how does the landowner become eligible for funds or be in compliance with the regulations? OSM's answer is that State AML/R programs approved under Section 405 of the SMCRA are not

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landowner participation programs like the Rural Abandoned Mine Program of the SCS. These State AMLR programs give the States the primary authority to select reclamation projects under their approved Plans and to enter and reclaim abandoned mine lands and water. Funds are not given to landowners nor are landowners bound by 30 CFR Subchapter R or the approved State AMLR programs.

2. The SCS and USFS asked what does an individual reclamation project plan require? OSM's answer is that there are no individual reclamation project plan requirements under an approved State program. Projects must meet the requirements of the National Environmental Policy Act of 1969, as amended, Pub. L. 91–190, 42 U.S.C. 4321 *et seq.* Feasibility and design studies are done as determined by the State. Reclamation work is either done by State agencies or contracted for through State procurement procedures.

3. The SCS and the USFS asked when is an individual mined area considered restored? OSM's answer is that an individual abandoned mined area is considered restored when the site no longer poses a threat to public health, safety, general welfare, or property from the adverse effects of mining practices.

4. The SCS and the USFS asked how does the landowner get his property on or off the State abandoned mine reclamation property inventory? OSM's answer is that Arkansas landowners who want to either be included or excluded from the State's abandoned mine land inventory should contact the Arkansas Department of Pollution Control and Ecology at the address listed above under the "addresses" section.

5. The SCS and USFS asked how will reclamation research and demonstration projects be identifed? OSM's answer is that the State will determine research and demonstration projects under the priorities established by Section 403 of SMCRA and the ranking and selection procedures contained on pp. C.2.1–C.2.3 of the Arkansas Plan.

6. The SCS and the USFS commented that they disagreed with the statement on p. C.3.2 of the Plan that reclamation on Federal lands may "take a back seat" to reclamation on State and private lands. OSM's response is that Arkansas has agreed to change its discussion on "Federal Coal Funds" to indicate that projects will be selected according to their priority as determined by the Plan's selection and ranking procedures and without regard to the ownership of the land on which the project occurs.

7. The SCS and USFS submitted a list of minor non-substantive factual inaccuracies contained in the Plan's data base. Arkansas has agreed to include these corrections in an addendum to the Plan and will incorporate them into the Plan when it is revised.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determfned that the Arkansas Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Arkansas Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation program plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 904 is amended by adding § 904.20 to read as follows:

PART 904—ARKANSAS

§ 904.20 Approval of Arkansas Abandoned Mine Land Reclamation Plan.

The Arkansas Reclamation Plan, as submitted on July 7, 1982, is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, Room 3432, 333 W. 4th Street, Tulsa, Oklahoma 74103

State of Arkansas Department of Pollution Control and Ecology, Division of Surface Mining Reclamation, 8001 National Drive, Little Rock, Arkansas 72209

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Dated: April 13, 1983.

James R. Harris,

Director, Office of Surface Mining.

Dated: April 25, 1983.

William P. Pendley,

Assistant Secretary for Energy and Minerals.

[FR Doc. 83–11660 Filed 4–29–83; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 83–06]

Special Local Regulations; Seattle Opening Day Yacht Parade and Crew Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the areas of Union Bay, Portage Bay and Lake Washington. This event will be held on May 7, 1983 from 0800 to 1500. The regulations are needed to provide for the safety of life on navigable waters during the event. General navigation in the area will be restricted for the safety of the spectators and participants.

EFFECTIVE DATES: These regulations become effective on May 7, 1983 at 0600 and terminate on May 7, 1983 at 1500 (3:00 p.m.).

FOR FURTHER INFORMATION CONTACT: ENS Scott M. POLLOCK, Coast Guard Group Seattle Operations, (206) 442–1874.

SUPPLEMENTARY INFORMATION: On March 10, 1983 the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** (48 FR 10080) for these regulations. Interested persons were requested to submit comments and no comments were received. An erroneous citation of the amended section of the Code of Federal Regulations was made in the Notice of Proposed Rulemaking. The proper citation is included here. Several other editorial changes are incorporated for clarity. These regulations are being made effective in less than 30 days from the date of publication to allow ample time for public comment.

Drafting Information: The drafters of this notice are ENS Scott M. POLLOCK, USCG, Project Officer, USCG Group Seattle, Operations Division, and LT James R. WOEPPEL, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Economic Assessment and Certification: This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since no major shipping industry or trade will be interfered with. Based on this assessment it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Final Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section.

§ 100.35–1307 Lake Washington/Portage Bay/Union Bay/Opening Day Crew Race and Yacht Parade.

(a) *Event.* Lake Washington/Portage Bay/Union Bay/Opening Day Crew Race and Yacht Parade.

(b) *Regulated Area.* (1) The waters of Portage Bay Southeast of a line running from the Western corner of the pier (Showboat) 70 yards South of 47°39′N, 122°18′40″W, 425 yards Southwest across Portage Bay to the Northwest corner of the "L" shaped moorage (at the foot of East Shelby St.) at 47°38′52″N, 122°18′52″W.

(2) All waters of Portage Cut (also known as Montlake Cut) to Union Bay Channel Buoy 27 and Union Bay Channel Buoy 28.

(3) All waters between an East and West line connecting Union Bay Channel Buoy 27, Union Bay Channel Buoy 29, Union Bay Channel Buoy 31, and Webster Point Light 33 and an East and West line connecting Union Bay Channel Buoy 28, Union Bay Channel Buoy 30, and a point 470 yards East of Union Bay Channel Buoy 30 and 80 yards South of Webster Point Light 33.

(4) The waters between the judging and reviewing vessels and the Southern Edge of the channel described above. This area is generally the area South of Union Bay Channel Buoy 28 and North of Foster Island. The judging and reviewing vessels will be identified by appropriate signs showing over their sides.

(c) *Special Local Regulation.* (1) This event will take place on May 7, 1983 between the hours of 0800 P.d.s.t and 1500 P.d.s.t.

(2) The patrol of the described areas will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels on the parade course and in the adjoining water areas immediately prior to, during and after the parade for such time as he finds it necessary for the safe and orderly conduct of the program. Portage Cut will be closed to all traffic except crew shells and vessels in the parade from 1030 P.d.s.t. until the termination of the yacht parade.

(3) All sailing vessels in the restricted zone participating in the parade shall use propelling machinery for maneuvering. Spinnakers may be used, in addition to propelling machinery, to the extent that control of the vessel is not impaired.

(4) Vessels generally may not navigate or anchor in the regulated area from 0800 P.d.s.t. until termination of the yacht parade.

(5) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Commander; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: April 22, 1983.

R. J. Copin,

Acting Commander, 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174.

[FR Doc. 83–11662 Filed 4–29–83; 8:45 am]
BILLING CODE 4910–14–M

33 CFR Part 117

[CGD 82–016]

Drawbridge Operation Regulations; Mitchell River, Chatham, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Town of Chatham the Coast Guard is changing the regulations governing the operation of Mitchell River drawspan to permit advance notice to be required for an opening of the drawspan. The existing regulations require that the draw be opened on call. The change will provide for the reasonable needs of navigation.

EFFECTIVE DATE: May 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA, 02114 (617–223–0645).

SUPPLEMENTARY INFORMATION: On 30 December 1982 the Coast Guard publjshed the proposed rule in the **Federal Register** (47 FR 58306). The First Coast Guard District published the proposal in a Public Notice on 3 December 1982 and as an item in the Local Notice to Mariners on 7 December 1982. Interested persons were given until 14 February 1983 to submit comments.

Drafting Information: The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant Susan M. Krupanski, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Dicsussion of the Proposed Regulation

Three replies to the Public Notices were received. One reply indicated approval of the proposed regulations. The others suggested amendments to the proposal. The first of these requested a

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provision for bridge openings, on one hour advance notice, following official broadcasts of storm warnings. This request is considered reasonable. Stage Harbor provides a safe anchorage during storms. The capacity of the anchorage could be increased if vessels had access to Mitchell River anchorage during storm periods. The other letter requested a change in the proposed length of advance notices. Specifically, the one hour notice would be reduced to one half hour and the 24 hour advance notice would be reduced to 12 hours. The letter states that a one hour notice is unnecessarily long as there is no place for a vessel to stop while waiting for a bridge to open and that a 24 hour notice could not be based on weather conditions for the following day. The purpose of an advance notice is to assure that the drawspan will open at the required time. If the proper signal is given, the approach of a vessel can be controlled so that it arrives at the bridge when the draw is open. This is true no matter how much advance notice is given. A compelling reason for the need for a one half hour advance notice has not been presented. Many of the vessels on Mitchell River are small recreational craft whose use is determined quite often by weather conditions. In the Chatham area it is sometimes very difficult to predict weather a day in advance. A 24 hour advance notice requirement would force a mariner to plan a trip without regard for the weather. A 12 hour advance notice will permit a trip plan to be based on more reliable data.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1167), it is also certified that these rules will not have significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by adding § 117.75b to read as follows:

§ 117.75b Mitchell River, Chatham, Massachusetts.

The draw will be opened on signal provided that:

(a) From 1 May through 31 October, between 8 a.m. and 4 p.m., a one-hour advance notice is given and from 4 p.m. to 8 a.m. a 12 hour notice is given.

(b) From 1 November through 30 April, a 24 hour advance notice is given.

(c) Advance notice is given to the duty officer at the Chatham Police Department Headquarters.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: April 15, 1983.

C. E. Robbins,

Rear Admiral, U.S. Coast Guard, Acting District Commander, First Coast Guard District.

[FR Doc. 83-11569 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 17

Treatment of Veterans in Noncontiguous States, Territories and Possessions

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its medical regulations (38 CFR Part 17) to extend the authority for treating veterans at VA expense in non-VA facilities outside of the United States as authorized by Public Law 97-251, "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982". This amendment will permit continuation of a benefit already available to eligible veterans.

DATE: These amendments are effective April 15, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, Chief, Policies and Procedures Division (136F), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-3785.

SUPPLEMENTARY INFORMATION: Public Law 97-251 extended from September 30, 1982, to September 30, 1983, the authority for treating veterans in Puerto Rico, the Virgin Islands and other territories and possessions through contract services in non-VA facilities. In addition to amending the regulations to reflect the date change, clarification is provided on the determination of the inpatient load and amount of outpatient services to be provided to veterans in noncontiguous States and certain territories and possessions.

The Administrator has determined that this amendment to VA regulations is considered non-major under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The VA finds that advance publication for public notice and comment is unnecessary and not required. These changes are primarily date changes reflecting a one year statutory extension to an already existing benefit. The regulation changes will not have independent effect. Therefore, the changes come within exceptions to the general VA policy of prior publication for public notice and comment, contained in 38 CFR 1.12. Accordingly, the changes are now published as final regulations.

Since a proposed rule will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C 601(2). Therefore, these changes are not subject to that act. In any case, the changes will not have a significant economic impact on a substantial number of small entities because they concern the entitlement of individual veterans and their beneficiaries, and do not have independent effect.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

(Catalog of Federal Domestic Assistance Numbers: 64.009 and 64.011)

Approved: April 15, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended by revising § 17.50b(e) and (f) to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

* * * * *

(e) *For veterans in Puerto Rico and other possessions.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in the Commonwealth of Puerto Rico or other territory, commonwealth or possession of the United States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the VA in Government and private facilities in each such territory, commonwealth or possession (except Puerto Rico and the Virgin Islands) shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the VA within the forty-eight contiguous States, except the authority under this paragraph expires September 30, 1983. (38 U.S.C. 601(4)(C)(v); Pub. L. 93-82; Pub. L. 95-520; Pub. L. 96-22; Pub. L. 97-72; Pub. L. 97-251)

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in Alaska or Hawaii, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the VA in Government and private facilities in Alaska or Hawaii shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the VA within the forty-eight contiguous States. (38 U.S.C. 601(4)(C)(v); Pub. L. 93-82; Pub. L. 95-520)

* * * * *

[FR Doc. 83-11573 Filed 4-29-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL-003; A-4-FRL 2339-3]

Approval and Promulgation of Implementation Plans; Florida; TSP Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves the State Implementation Plan (SIP) revision submitted by the State of Florida Department of Environmental Regulation (DER) for the Hillsborough County (Tampa) and Duval County (Jacksonville) particulate secondary nonattainment areas. This action is based on the State's submittal of a control strategy and regulations as required by Part D of Title I of the Clean Air Act (CAA) of 1977. An improvement in the air quality in Hillsborough and Duval County is expected from this action.

DATE: This action is effective June 1, 1983.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20406

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962 at 8980), a number of areas within the State of Florida were designated as not attaining certain national ambient air quality standards (NAAQS). Hillsborough and Duval County were designated nonattainment for the secondary ambient standard for total suspended particulates (TSP). On September 11, 1978 (FR 40412), the size of these nonattainment areas was reduced. The Florida DER has developed a mix of particulate regulations requiring reasonably available control technology (RACT) and other control limitations in the violating areas so that the TSP secondary standard can be attained and maintained. On September 24, 1982, EPA published a **Federal Register** notice (47 FR 42124) proposing to approve Florida's plan. No comments were received on the proposed action.

General Discussion

The implementation plan revision developed for these areas by the Florida DER under Part D of Title I of the CAA was submitted for EPA's approval on February 27, 1981. Action on this submittal was delayed until control strategies were submitted by Florida DER. The revision has now been reviewed by EPA to determine whether it meets the requirements of the CAA of 1977, EPA regulations, and additional guidance. Section 172(b) of the Clean Air Act contains the minimum requirements for approval of Part D plans for designated nonattainment areas.

The two areas in Florida designated as nonattainment for total suspended particulate are defined as follows: The portion of the downtown Jacksonville area in Duval County located just north and west of the St. Johns River and east of I-95 and just south of Trout River, and the portion of Hillsborough County that falls within the area of the circle having a centerpoint at the intersection of U.S. 41 South and State Road 60 and a radius of 12 kilometers.

Agency personnel investigated the major source categories that represent the type of sources that are located in the two Florida nonattainment areas to assist in determining specific emission limitations. These categories include: (1) Phosphate process operations, (2) portland cement plants, (3) electric arc furnaces, (4) sweat or pot furnaces, and (5) materials handling, sizing, screening, crushing, and grinding operations.

The Florida Environmental Regulation Commission adopted these regulatory and non-regulatory SIP revisions following the required public hearings and participation on January 21, 1981. The control strategies, as approved and adopted for the local program agencies (the Duval County Bio-Environmental Service Division and the Hillsborough County Environmental Protection Commission), were submitted to EPA on March 16 and April 20, 1982, respectively. In preparing the plan, both agencies prepared an extensive inventory of air pollution sources in and impacting the nonattainment areas. Using this data base, the primary source categories were modelled following EPA guidelines to determine their respective contribution to the ambient air concentrations. The agencies then evaluated this information and proposed an attainment plan which, by applying RACT to most traditional point and industrial process fugitive sources, would result in attainment of the TSP secondary standard by July 31, 1986.

The attainment plan for the secondary standard calls for a reduction in ambient TSP concentrations by the implementation of RACT and other control measures on industrial point and process fugitive emission sources.

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primarily in the form of more stringent mass and visible emission limits.

In reference to FAC Section 17–2.13(3)(g)-Electric Arc Furnaces, DER has placed fugitive visible emission limits of 20% opacity for charging and 40% opacity for tapping operations, to be determined by Test Reference Method 9. Where processes and operations are long-term or continuous, Method 9 would be appropriate. In the case of electric arc furnace charging and tapping emissions, a more appropriate time averaging period would be three minutes, consisting of twelve readings taken at fifteen second intervals. Florida DER has agreed to consider the issue of modifying Method 9 for short-term or intermittent processes which discharge emissions for a shorter time period. For this reason, EPA has recommended to Florida DER that they consider the need to modify and allow visible emission determinations for intermittent processes to be based on time periods shorter than six (6) minutes.

Florida DER has certified in writing to EPA that all sources of air pollution subject to this action, are in fact, in compliance with the stipulated compliance schedules where add-on equipment was required.

Any request for redetermination of RACT rules or regulations by an owner or operator shall be submitted to EPA for approval as a SIP revision.

Since submittal of the SIP revision, Florida Administrative Code (FAC) 17–2 was subsequently reformatted, a revision approved by EPA in the Federal Register on March 30, 1982 (47 FR 13336). It should be noted that the Part D rule will be contained in FAC Rules 17–2.400 and 17–2.600.

As required in Section 172(b) of the CAA, the plan also requires preconstruction review of proposed new or modified major sources before the issuance of a permit. Through emissions offsets and the application of Lowest Achievable Emission Rate (LAER), the plan provides for reasonable further progress towards attainment of the standard as new sources construct in the area. The plan also allows growth and expansion of new sources or modification to take place in the nonattainment areas without jeopardizing progress towards attainment.

On September 24, 1982, EPA published a Federal Register notice (47 FR 42124) proposing to approve Florida's plan. No comments were received on the proposed action. The revision submitted by Florida satisfies the requirements of Section 172(b) of the CAA.

Action. Based on the foregoing, EPA is today approving the SIP under Part D of Title I of the CAA as it relates to the attainment of the secondary TSP standards in Hillsborough and Duval Counties, Florida. This action is effective June 1, 1983.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1981.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172, Clean Air Act, as amended, (42 U.S.C. 7410 and 7502))

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

1. Section 52.520 is amended by adding paragraph (c)(21) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the date specified.

* * *

(21) The implementation plan revision developed by the Florida DER for the Jacksonville and Tampa TSP secondary nonattainment areas under Part D of Title I of the CAA was submitted for EPA's approval on February 27, 1981. The control strategies, as approved and adopted for the local program agencies (the Duval County Bio-Environmental Services Division and the Hillsborough County Environmental Protection Commission) were submitted to EPA on March 16 and April 20, 1982, respectively.

§ 52.523 [Amended]

2. In § 52.523, Attainment dates for national standards, the notation "*e*" in the particulate matter, secondary, column of the entries for Duval County and Hillsborough County is replaced with the notation "*g*" and a corresponding line is added to the legend of the table as follows: g. July 31, 1986.

[FR Doc. 83-11634 Filed 4-29-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[KY-004; TN-004; A-4-FRL 2329-3]

Approval and Promulgation of Implementation Plans; Kentucky and Tennessee; Variances and Individual Compliance Schedule for Volatile Organic Compound Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving variances for several dry cleaning establishments in northern Kentucky and an extended compliance schedule for a paper coating establishment in Chattanooga, Tennessee since the affected companies satisfy EPA criteria for such extensions and variances.

DATE: These actions are effective June 1, 1983.

ADDRESSES: Copies of the materials submitted by the States may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408
Air Management Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365
Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Bldg. #2, Ft. Boone Plaza, Frankfort, Kentucky 40601
Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Douglas Cook, Air Management Branch, EPA Region IV, at the above address, telephone 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: Following public hearing, Kentucky adopted and submitted a plan revision involving seven perchloroethylene dry cleaning facilities in northern Kentucky. These variances and the requirement for carbon adsorbers, but good housekeeping and leak prevention requirements are still in force for these plants. EPA has determined that these variances will not hamper the state's "reasonable further progress (RFP)", demonstration in northern Kentucky because the additional uncontrolled emissions from these sources amount to only 16.5 tons. This emission level is less than 1% of the emission inventory in the affected counties.

Following public hearing, Tennessee submitted an extended compliance plan for Knowlton Brothers' paper coating facility in Chattanooga, Tennessee. The extended compliance schedule runs until May 6, 1983 and will allow Knowlton Brothers to install and test an application system for water based resins. EPA has determined that the extended compliance schedule will not hamper Chattanooga's RFP demonstration. EPA proposed approval of these revisions on November 18, 1982. (See 47 FR 51896.)

Comment. The comment period ended on December 20, 1982. One comment was received on the proposal. The commenter disagreed with EPA's finding that $650.00 to $3015.00 per ton of controlled emission placed an undue burden on the perchloroethylene dry cleaning facilities in northern Kentucky. The commenter also felt that the Agency was proposing approval just because the cost of control was higher than the average figure found in the control techniques guideline document (CTG) for this category. The commenter was also concerned about equity in the treatment of sources in different source categories because the Reasonably Available Control Technology (RACT) cost in some categories might be several times higher than in this specific case.

Response. EPA considers RACT to be the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Inherent in this definition is the requirement that economics be considered. What may be economically feasible for one source category may not be economically feasible for another. It is therefore inappropriate to link the cost of RACT for perchloroethylene dry cleaners to any other source category. In this particular RACT determination, the Agency considered not only the calculated cost of control per ton of controlled emissions, but also the effect of the cost on the individual facilities, the amount of actual emissions, and the sources' impact on the area's ability to attain the National Ambient Air Quality Standard for ozone. In conclusion, the Agency considered the individual economic feasibility of RACT for the seven specific dry cleaning facilities in the November proposal and did not waive the carbon adsorber requirements just because the cost of control was higher than the average cost in the CTG.

Action. Based on the foregoing, EPA hereby approves Kentucky's variance for the seven perchloroethylene drycleaning facilities listed in the November 18, 1982, proposal and Tennessee's extended compliance schedule for the Knowlton Brothers facility in Chattanooga.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1983. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the Kentucky and Tennessee State Implementation Plans was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. Section 52.920 is amended by adding paragraph (c)(36) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(36) Variance for seven perchloroethylene dry cleaners, submitted on August 4, 1982, by the Kentucky Department for Environmental Protection.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(52) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(52) VOC compliance schedule extension for Knowlton Brothers, Chattanooga, submitted on August 3, 1982, by the Tennessee Department of Public Health.

[FR Doc. 83-11635 Filed 4-29-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 145

[W-3-FRL 2356-8]

Guam Environmental Protection Agency Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The Territory of Guam has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program. After careful review of the application, the Agency has determined that the State's injection well program meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval is effective June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Doris Lee-Betuel, Office of Territorial Programs, Water Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105. PH (415) 974–7433.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the Federal Register each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The Territory of Guam was listed as needing a UIC program on March 19, 1980 (45 FR 17632). The Territory submitted an application under Section 1422 on June 23, 1982, for a UIC program to be administered by the Guam Environmental Protection Agency (GEPA). On July 21, 1982, EPA published notice of its receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the GEPA (47 FR 31590). Neither requests for public hearing nor requests to offer testimony at such hearing were received. Consequently, the public hearing was not held. The GEPA submitted a final application, including clarifications, on January 20, 1983.

The GEPA application includes a program for Class IV and V wells, and demonstration pursuant to 40 CFR 145.51(d) that there are no Class I, II, or III underground injections in the Territory and such injections cannot legally occur. Therefore, after careful review of the application, I have determined that the Guam UIC program submitted by the GEPA meets the requirements of the SDWA, and hereby approve it.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental Relations, Penalties, Confidential business information.

OMB review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. § 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Guam Environmental Protection Agency will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR Doc. 83-11080 Filed 4-28-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

41 CFR Part 4–2

Amendment of Agriculture Procurement Regulations

AGENCY: Office of Operations, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Agriculture Procurement Regulations by revising the section covering mistakes in bids. It reflects a transfer of the authority to make administrative determinations under 41 CFR 1–2.406–3 from the General Counsel to the Director, Office of Operations; authorizes Contracting Officers to make, subject to pre-approval by an appropriate legal officer, determinations to permit withdrawal of bids; and prescribes the pre-determination procedures for Contracting Officers to follow regarding mistakes in bids disclosed after award.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Schreier, Office of Operations, United States Department of Agriculture, Washington, D.C., (202) 447–8924.

SUPPLEMENTARY INFORMATION: In the past, the Secretary of Agriculture's authority to make administrative determinations under 41 CFR 1–2.406–3 (other mistakes disclosed before award) was delegated to the General Counsel of the Department and all such determinations were made in the General Counsel's Washington, D.C., office. This amendment reflects the transfer of such authority to the Director, Office of Operations, and authorizes Contracting Officers of purchasing activities, that have legal counsel available in the field or Washington, D.C. offices of the General Counsel, authority to make withdrawal determinations under paragraphs (a) (1) and (3) of 41 CFR 1–2.406–3. Each proposed determination by the Director, Office of Operations, will be subject to approval by the Assistant General Counsel, Research and Operations Division. Each determination by a Contracting Officer will be approved by the Assistant General Counsel, Research and Operations Division, or the appropriate Regional Attorney or Attorney-in-Charge, whichever routinely provides legal services to the purchasing activity in accordance with 41 CFR 1–2.406–3(c). This change will minimize delay in awarding many contracts. In addition, this amendment revises the Agriculture Procurement Regulations to prescribe procedures whereby Contracting Officers shall coordinate proposed determinations regarding mistakes in bids disclosed after award with appropriate offices of Office of the General Counsel.

This rule relates to agency contracting. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impracticable and contrary to public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Furthermore, rules relating to agency contracting have been exempted from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus, it is exempt from the provisions of that Act.

List of Subjects in 41 CFR Part 4–2

Government procurement.

PART 4–2—[AMENDED]

Accordingly, Part 4–2, Title 41, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 4–2 reads as follows:

Authority: 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 4–2.4—Opening of Bids and Award of Contract

2. Section 4–2.406 is revised to read as follows:

§ 4–2.406 Mistakes in bids.

§ 4–2.406–3 Other mistakes disclosed before award.

(a) Except as authorized in paragraph (b) of this section, all cases of mistakes in bids, cognizable under § 1–2.406–3 of this title, shall be forwarded through agency channels to the Director, Office of Operations, for administrative determinations. Each proposed determination is subject to the approval of the Assistant General Counsel, Research and Operations Division.

(b) Contracting Officers at purchasing activities that have legal counsel available in the field or the Washington, D.C., offices of the General Counsel are authorized to make determinations to permit withdrawal of bids under paragraph (a) (1) and (3) of § 1–2.406–3 of this title. This authority may not be redelegated. Each proposed determination is subject to the approval of the Assistant General Counsel, Research and Operations Division, or the appropriate Regional Attorney or Attorney-in-Charge, whichever routinely provides legal services for the purchasing activity.

(c) Doubtful cases that are to be submitted to the General Accounting Office for advance decision shall be submitted through the Director, Office of Operations.

§ 4–2.406–4 Disclosure of mistakes after award.

If a mistake in bid is disclosed after award, the Contracting Officer shall make a final determination in accordance with the provisions of § 1–2.406–4 (b) and (c) of this title and shall coordinate each proposed determination with the Assistant General Counsel, Research and Operations Division, or the Regional Attorney or Attorney-in-Charge, whichever routinely provides legal services to the contracting officer. Such coordination shall, at a minimum, consist of the Contracting Officer providing the proposed determination and the case file to the appropriate legal officer for comment.

Dated: March 4, 1983.

Frank Gearde, Jr.,

Director, Office of Operations.

[FR Doc. 83–11380 Filed 4–29–83; 8:45 am]

BILLING CODE 3410–98–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 175

[Docket No. HM–166Q and HM–166F; Amdt. Nos. 172–80, 175–27]

Exceptions for Small Quantities of Hazardous Materials and Limited Quantities of Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The MTB is renewing the exemption found in 49 CFR 172.204(c)(4), 175.10(a)(6), and 175.700(c) for air transport of limited quantity radioactive materials exhibiting low levels of radiation. These materials do not present a significant hazard to passengers and crew on an aircraft. The effect of this action is to permit contined transportation by passenger-carrying aircraft of radioactive materials under existing restrictions.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 426–2075.

SUPPLEMENTARY INFORMATION: The MTB published a notice of proposed rulemaking (NPRM) on November 15, 1982 (47 FR 51430), seeking public comment, in part, on the proposed renewal for two years of the exemption found at 49 CFR 172.204(c)(4), 175.10(a)(6) and 175.700(c) for air transportation of limited quantity radioactive materials exhibiting low levels of radiation. The comment period ended on January 6, 1983. Eight commenters specifically addressed the proposal to renew the limited exemption. Each of these commenters support the renewal of this exemption. There was no opposition to a renewal of the exemption.

Conforming with Section 107 of the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1806) governing exemptions, the exemption in §§ 172.204(c)(4), 175.10(a)(6), and 175.700(c) is limited to a two-year life unless reexamined and renewed. The exemption was last renewed under Docket HM–149C (46 FR 24184), published on April 30, 1981. The legal background and regulatory history of the exemption is discussed in that amendment and preceding amendments dating back to April 17, 1975 (40 FR 17141). The present exemption expires on May 3, 1983. The MTB is renewing the exemption on the finding that renewal is consistent with the public interest and safety.

Two commenters suggested that MTB has gained sufficient experience with this exemption to permit its adoption in the Hazardous Materials Regulations as a permanent rule, or, alternatively, to increase the life of the exemption to a period of 4 years. Neither of the suggested actions are possible through rulemaking. The general prohibition which restricts radioactive material from being transported on passenger-carrying aircraft is contained in § 108 of the HMTA (49 U.S.C. 1807) and, therefore, may be withdrawn only by new legislation. As indicated above, MTB is limited in its authority and may issue exemptions only for a period not exceeding 2 years. Consequently, the commenters suggestions must be denied. It is noted, however, that MTB has included this item in its 1983 legislative package.

This amendment is being handled as an emergency regulation to permit an effective date which is less than 30 days following publication in the **Federal Register**. An interruption of currently authorized practices would adversely affect many shippers of limited quantity radioactive materials and radioactive devices who depend on transportation by passenger-carrying aircraft. Also, a prohibition from passenger-carrying aircraft would not result in an overall increase in the level of safety during transportation.

Other proposals published in the NPRM are to be addressed in subsequent amendments issued under this Docket.

Regulatory Impact: MTB has determined this final rule is not a "major rule" under the terms of Executive Order 12291, and is not "significant" under DOT procedures (44 FR 11034). A regulatory evaluation is available in the Docket at the address shown above. Based on the comments received in response to the NPRM, I certify that this rule change will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Parts 172 and 175

Hazardous materials transportation, Air carriers, Radioactive materials.

In consideration of the foregoing, Parts 172 and 175 of Title 49, Code of Federal Regulations are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.204, paragraph (c)(4) is revised to read as follows:

§ 172.204 Shipper's certification.

* * * * *

(c) * * *

(4) *Radioactive material.* Each person who offers any radioactive material for transportation aboard a passenger-carrying aircraft shall sign (mechanically or manually) a printed certificate stating that the shipment contains radioactive material intended for use in, or incident to, research, or medical diagnosis or treatment. Prior to May 3, 1985, this provision does not apply to materials meeting the

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requirements of § 173.391(a), (b) or (c) of this subchapter in effect on May 3, 1983.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

2. In § 175.10, paragraph (a)(6) is revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(6) Prior to May 3, 1985, radioactive materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1983.

* * * * *

3. In § 175.700, paragraph (c) is revised to read as follows:

§ 175.700 Special limitations and requirements; radioactive materials packages in passenger-carrying aircraft.

* * * * *

(c) Except as provided in this paragraph, no person may carry aboard a passenger-carrying aircraft any radioactive material other than a radioactive material intended for use in, or incident to, research, or medical diagnosis or treatment. Prior to May 3, 1985, this prohibition does not apply to materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1983.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53, Appendix A to Part 1)

Issued in Washington, D.C., on April 27, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-11400 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 48, No. 85
Monday, May 2, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Addition of New Grade Standards for American Upland Cotton

AGENCY: Agricultural Marketing Service, USDA

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to add two new standards to the official cotton standards of the United States for the grade of American Upland cotton. The new standards would be a Strict Good Ordinary Spotted physical standard and a Strict Good Ordinary Light Spotted descriptive standard. These standards would more accurately describe a small amount of cotton now classified as Below Grade.

It is also proposed that references to the size of the boxes used to display standards samples be deleted from the regulations. The twelve sample box would be discontinued and the six-sample box used exclusively to represent the physical standards. The six-sample box is less expensive and more convenient to prepare and handle than the twelve-sample box and its use would not adversely affect the classification of cotton.

DATE: Comments must be received on or before July 1, 1983.

ADDRESS: Written comments may be sent to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith (202) 447–2167.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the industry or others.

William T. Manley, Deputy Administrator, AMS, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Because the proposed changes would affect less than 1 percent of the annual U.S. cotton crop, the proposals would not have the requisite significant economic impact. Further, the proposed changes do not impose any additional duties upon users of the service.

Background: Pursuant to the authority contained in the United States Cotton Standards Act (7 U.S.C. 51), the Secretary of Agriculture has established the official cotton standards of the United States for the grades of American Upland cotton. These standards are used for the classification of American Upland cotton and provide a basis for the determination of value for commercial purposes.

The existing official cotton standards for the grades of American Upland cotton are listed and described in the regulations at 7 CFR 28.402–28.475. Fourteen are physical standards represented by practical forms, and 26 are descriptive standards for which practical forms are not made. Six of the descriptive standards describe the poorest quality cotton and taken together make up the Below Grade classification (7 CFR 28.475). The volume of cotton designated Below Grade in the United States each year amounts to less than one percent of the crop submitted for classification. However, the percentage of Below Grade cotton in certain cotton producing areas is estimated to have been as much as fifteen percent in some years.

New Standards: Cotton producer organizations have urged the establishment of two new grade standards for a number of years. The addition of a physical standard for Strict Good Ordinary Spotted cotton and a Strict Good Ordinary Light spotted cotton descriptive standard would provide a more accurate description of certain cotton which is currently classified as Below Grade.

Below Grade cotton which would be classified in one of the proposed grade standards has been found to have better spinning characteristics than other Below Grade cotton and the more accurate description would contribute to the overall efficiency of the cotton marketing system.

In consideration of the foregoing, the Agency is proposing to add these two standards to the official cotton standards of the United States for the grade of American Upland Cotton.

Furthermore, this proposal would require that the definition of Below Grade cotton be revised. At the present the two lowest spotted cotton grade standards are Low Middling Light Spotted and Low Middling Spotted. All spotted cotton lower in grade than these two standards is now defined as Below Grade cotton. This proposal would create the two new spotted cotton grade standards of Strict Good Ordinary Light Spotted and Strict Good Ordinary Spotted which would become the two lowest spotted cotton grade standards. Spotted cotton lower in grade than the proposed standards would be, by definition, Below Grade cotton.

Standards Boxes: The Agency is also proposing to discontinue production of the 12-sample standards box to represent the physical standards for grade. The six-sample box would become the only size produced for the practical forms of the cotton standards. This would apply to the standards for American Upland cotton and for American Pima cotton.

The present 12-sample standards box contains six color positions each of which is represented by two identical samples. The six-sample box contains only one sample for each of the six color positions.

The six-sample boxes have been produced and used since the mid 1950s and are much less expensive to prepare, store, and ship and have proven to be more convenient to use in day-to-day classing operations. Adoption of a six-sample box as the only size for representing the standards would not affect the classification of cotton in any manner and would greatly improve the efficiency of standards preparation and distribution. Furthermore, the smaller box is widely accepted and used by both domestic and foreign users.

In consideration of the foregoing, the Agency is proposing to delete from the regulations any reference to the size of standards boxes made up to represent the official standards of the United States for the grade of American Upland

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cotton and of American Pima cotton. Therefore § 28.105 would be amended as well as the fee schedule in § 28.123 to delete references to the 12-sample box. The fees for the six-sample boxes and other fees contained in § 28.123 are presently under study and may be revised in the future.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staples, Market news, Testing.

PART 28—[AMENDED]

Accordingly, it is proposed to amend Subparts A and C, Part 28, of Chapter I, Title 7 of the Code of Federal Regulations as shown. The Table of Contents would be amendd accordingly.

1. The authority citation for Part 28, Subparts A and C reads as follows:

Subpart A

Authority: Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted.

Subpart C

Authority: Sec. 28.402 to 28.481 issued under Sec. 10, 42 Stat. 1519, 7 U.S.C. 61. Interpret or apply Sec. 6, 42 Stat. 1518, as amended, 7 U.S.C. 56.

2. 7 CFR Part 28 would be amended by adding new § 28.425 and § 28.435 to read as follows:

§ 28.425 Strict Good Ordinary Light Spotted.

Strict Good Ordinary Light Spotted is American Upland cotton which in leaf and preparation is Strict Good Ordinary, but which in spot or color, or both, is between Strict Good Ordinary and Strict Good Ordinary Spotted.

§ 28.435 Strict Good Ordinary Spotted.

Strict Good Ordinary Spotted is American Upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cottom Standards of the United States, American Upland, Strict Good Ordinary Spotted, effective July 1, 1984."

3. Section 28.475 would be revised to read as follows:

§ 28.475 Below Grade Cotton.

Below Grade cotton is American Upland cotton which is lower in grade than Good Ordinary, or Strict Good Ordinary Light Spotted, or Strict Good Ordinary Spotted, or Low Middling Tinged, or Middling Yellow Stained, or Strict Low Middling Gray. In cotton classification, the official designation for such cotton is Below Grade. The term Below Good Ordinary, or Below Strict Good Ordinary Light Spotted, or Below Strict Good Ordinary Spotted, or Below Low Middling Tinged, or Below Middling Yellow Stained, or Below Strict Low Middling Gray and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

4. Paragraph (b)(1) of § 28.105 would be revised to read as follows:

§ 28.105 Practical forms of cotton standards.

* * * * * * *

(b) * * *

(1) That no practical form of any of the cotton standards for the grade of American upland cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: Provided, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

* * * * *

5. Section 28.123 would be revised to read as follows:

§ 28.123 Costs of practical forms of cotton standards.

The cost of practical forms of the cotton standards of the United States shall be as follows:

	Dollars each box	
	Domestic shipments f.o.b. Memphis, Tenn.	Foreign shipments surface delivery
Grade Standards		
American Upland	80.00	95.00
American Pima	110.00	125.00
Standards for Length of Staple		
American upland (prepared in one pound rolls for each length)	11.00	13.00
American Pima (prepared in one pound rolls for each length)	12.00	14.00

Dated: April 27, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-11686 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 319

[Docket No. 82-012P]

Definitions and Standards of Identity or Composition for Miscellaneous Pork Products and Miscellaneous Beef Products

Correction

In FR Doc. 83-9813, beginning on page 15927, in the issue of Wednesday, April 13, 1983, on page 15929, in the first column, in the third paragraph, in the eighteenth line "are permissible" should read "are not permissible".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

[Docket No. PRM-40-23]

Sierra Club; Receipt of an Amendment to a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petitition for rulemaking; amendment.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a notice of receipt of an amendment to a petition for rulemaking submitted by the Sierra Club. The petitioner, in both the original petition and in this amendment to that petition, requests that the NRC amend its regulations to license the possession of uranium mill tailings at inactive storage sites or take other regulatory action to protect the public health and safety and the environment from the radiological and nonradiological hazards associated with the tailings. The petitioner believes that this action is necessary if NRC is to adequately fulfill its statutory responsibilities.

DATE: Submit comments by June 30, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Hand deliver comments to Room 1121, 1717 H Street, NW., Washington, DC between 8:15 am and 5:00 pm.

For a copy of the amendment to the petition write: Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Inspect and copy comments received on the amendment to the petition at: The NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086 or call toll free (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received an amendment to a petition for rulemaking from the Sierra Club. This amendment to the petition for rulemaking is assigned to the same docket as the original petition for rulemaking (Docket No. PRM-40-23).

On February 25, 1981 (46 FR 14021) the NRC published a notice of receipt of a petition from the Sierra Club. The petitioner requested that the NRC amend its regulations to license the possession of uranium mill tailings at inactive storage sites. The petitioner proposed that the NRC take the following regulatory action to ensure that public health and safety and the environment is adequately protected from the hazards associated with uranium mill tailings.

1. Repeal the licensing exemption for inactive mill tailings sites subject to the Department of Energy's remedial program.

2. Require a license for the possession of byproduct material on any other property in the vicinity of an inactive mill tailings site if the byproduct materials are derived from the inactive mill tailings site.

3. Or alternatively, conduct a rulemaking to determine whether a licensing exemption of these sites or the byproduct material derived from the sites constitutes an unreasonable risk to public health and safety.

On March 21, 1983, the Sierra Club filed an amendment to its earlier petition. In this amendment to the petition, the petitioner requests that, in the event the NRC denies the petitioner's earlier request that NRC repeal the licensing exemption for inactive sites or conduct the requested rulemaking, the NRC take further action. Specifically, the petitioner requests that the NRC ensure that the management of byproduct material located on or derived from inactive uranium processing sites is conducted in a manner that protects the public health and safety and the environment from the radiological and nonradiological hazards associated with uranium mill tailings.

Whether the original petition is granted or not, the petitioner also requests that the NRC establish requirements to govern the management of byproduct material, not subject to licensing under section 61 of the Atomic Energy Act (42 U.S.C. 2111), comparable to the requirements applicable to similar materials under the Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.). In the alternative, the petitioner suggests that NRC extend the coverage of the requirements in 10 CFR Part 40, Appendix A, which are now applicable only to licensed byproduct material, to byproduct material not subject to licensing. In addition, the petitioner requests that NRC issue regulations that would require a person exempt from licensing to conduct monitoring activities, perform remedial work, or take any other action necessary to protect health and safety and the enviroment.

The petitioner stresses that, by filing this amendment to the earlier petition for rulemaking, it has not abandoned the original petition and the legal claims set forth in it. The petitioner, by this amendment to the petition, also seeks an expedited decision on the matters presented in the original petition and this amendment to it.

PRM-40-23 is but one of several issues currently before the NRC concerning the uranium mill tailings regulations. These regulations may also be affected by potential court action, certain legislative requirements directed toward the NRC and other government agencies with jurisdiction in this area, and another petition for rulemaking. The NRC is currently reassesing its uranium mill tailings regulations to determine the changes that may be necessary to satisfy its legal obligations in light of each of these actions. The NRC intends to consider the issues raised by PRM-40-23 and the amendment to it in a single rulemaking action that would make any necessary changes to the uranium mill tailings regulations. The NRC will begin this rulemaking as soon as the full extent of the changes necessary is determined.

The Commission would like to receive public comment on the specific items addressed in this amendment to PRM-40-23. Those who intend to submit comments on the petition may obtain a complete copy of the amendment to the petition from the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Washington, DC this 27th day of April 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-11070 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 563

[No. 83-231]

Acquisition of Non-Cash Assets

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), proposes to amend its regulations pertaining to reserve requirements, to address the treatment afforded an acquisition of a non-cash asset. The proposal would provide that an acquisition of a non-cash asset could only be included in the regulatory net worth and statutory reserve calculations of an institution whose accounts are insured by the FSLIC ("insured institution" or "institution"), where the acquisition: (1) Is an authorized investment of a federally-chartered institution; (2) arises in connection with certain supervisory actions involving an insured institution; (3) is an authorized investment under state law made by a state-chartered insured institution meeting its statutory-reserve and net-worth requirements; (4) is an authorized investment under state and federal law, made by a state-chartered insured institution with a statutory-reserve or net-worth deficiency; or (5) is an authorized investment under state law only, made by a state-chartered insured institution with a statutory-reserve or net-worth deficiency, if after submission of a 30-day notice, the acquisition is not disapproved by the Corporation. The purpose of the amendments is to: clarify when an insured institution's reserve calculations and regulatory net worth may be affected by an acquisition of a non-cash asset, ensure that a non-cash asset is properly valued, and prevent acquisitions which are likely to adversely affect an insured institution's financial condition or operations.

DATE: Comments must be received by: June 30, 1983.

ADDRESS: Send comments to Director, Information Services Division, Office of General Counsel, Federal Home Loan

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Bank Board, 1700 G Street, NW., Washington, D.C., 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, (202-377-6415), Attorney, Division of Securities and Corporate Analysis, Office of General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTAL INFORMATION:

Background

A significant number of transactions have been proposed or consummated in recent months by insured institutions where certain non-cash assets, primarily land, are acquired either in exchange for securities of an insured institution or contributed to an insured institution. The transactions typically involve insured institutions with severe operating problems and reserves that have declined to levels below that required by the Board's regulations. Although the non-cash acquisitions usually involve significant proposed increases in reserves, the Board believes that certain of these acquisitions are not in the best long-term interests of the acquiring institution or the FSLIC.

The Board, therefore, is proposing regulatory amendments directed toward those proposed acquisitions in which: (1) The authority to acquire the non-cash asset is not clear; (2) the actual values of the non-cash asset to be acquired by certain insured institutions appear to be substantially less than the values proposed to be recorded as reserves, and (3) there would be a possible adverse effect on the financial condition or operations of certain insured institutions, due to the servicing of debt associated with the proposed acquisition or to any planned expenditures for development or maintenance of the acquired properties.

In those transactions involving an application requiring prior approval (e.g., holding company acquisition, merger, and certain issuances of mutual capital certificates or subordinated debt), the Board is able to readily obtain as part of the application process acceptable appraisals and other information, in order to ascertain the impact of the proposed non-cash acquisition on the institution. However, some non-cash acquisitions involve no application. For example, a contribution of a non-cash asset, a purchase of a non-cash asset for cash, or an exchange of either an institution's securities or a currently-held non-cash asset for a non-cash asset to be acquired, may not require any application. In such circumstances, the acquired asset could be included in an institution's reserves based on "fair market value" without any prior regulatory review.

Generally, an overvalued non-cash asset would only be reviewed by the Board, after the fact, in connection with an institution's examination. At that time, the Board could order a new appraisal, if a non-cash asset appeared to be overvalued. However, the acquiring institution could be subsequently determined to be insolvent, if the asset were required to be written down by a significant amount. Accordingly, the Board is concerned that due to pressures to increase reserves, certain insured institutions with either a statutory-reserve or a regulatory-net-worth deficiency may enter into non-cash acquisitions without due regard for the long-term effects that could seriously disadvantage the institution or the FSLIC.

Where an institution is likely to enter into certain proposed acquisitions of non-cash assets which may be overvalued, illiquid, and not economically beneficial, the Corporation should have an opportunity to review the proposed acquisition prior to consummation. The Board's experience with non-cash acquisitions has indicated that the Corporation should be furnished with a notice and opportunity to review a proposed non-cash acquisition by a state-chartered insured institution where that institution has a statutory-reserve or regulatory-net-worth deficiency, and the non-cash asset to be acquired is authorized for investment by the institution only under state law and would not be authorized for investment by a federally-chartered institution under federal law.

Regulatory Net Worth

The Board is proposing to amend the definition of regulatory net worth in 12 CFR 561.13 by revising paragraph (a) to separately number the current proviso clauses and to add a new proviso clause as section 561.13(a)(3). The new proviso clause would provide that the regulatory net worth of an insured institution shall only be increased, directly or indirectly, as a result of the acquisition of a non-cash asset, if its acquisition were authorized in certain specific instances, as set forth in proposed new paragraph (d) of the Board's reserve requirement regulation (12 CFR 563.13). This limitation would apply to all non-cash acquisitions, whether as a result of a contribution; purchase for cash; or an exchange for stock, debt, other securities, or another non-cash asset.

Reserve Accounts

The Board is proposing to revise its reserve requirements set forth in section 563.13 by adding a new paragraph (d) to provide that, for purposes of satisfying the Board's reserve requirements and of regulatory financial reports prepared for submission to the Corporation, an insured institution shall only include in its statutory-reserve calculations and reported regulatory net worth an amount attributable to an acquisition of a non-cash asset, if the transaction or series of transactions resulting in the acquisition satisfies any of five specified grounds.

Federally-Chartered Institutions

Under proposed section 563.13(d)(1)(i), an acquisition of a non-cash asset would be authorized, for purposes of an insured institution's statutory-reserve calculations and regulatory net worth, if that institution were federally-chartered and the non-cash asset is of a type authorized for investment under section 5(c) of the Home Owners' Loan Act of 1933 ("HOLA") (12 U.S.C. 1464(c)). The Board believes that, except for certain supervisory cases described below, a federally-chartered institution should only be capitalized with assets which the institution is authorized to invest in by statute. If an institution may not invest in certain non-cash assets for cash, it is the Board's view that the institution should not be able to acquire that same asset either in exchange for a security or another non-cash asset, or in a transaction structured as a contribution.

The non-cash assets authorized for investment under section 5(c) of HOLA are high-quality assets and do not generally include real property and other types of non-cash assets that are likely to be overvalued with concomitant adverse effects on an institution's financial condition or operations. Currently, federally-chartered institutions may directly acquire real property as an investment only if it is to be used for office facilities of the institution or for certain community property purposes. *See* 12 CFR 545.10 and section 5(c)(3)(B) of OLA HOLA.

Supervisory Cases

The acquisition of a non-cash asset, which would not be an authorized investment under section 5(c) of HOLA for a federally-chartered institution or for a state-chartered institution under state law, is proposed to be authorized under section 563.13(d)(1)(ii) for purposes of statutory-reserve calculations and regulatory-net-worth requirements for an insured institution in a supervisory case under either section 5(p) of HOLA (12 U.S.C. 1464(p)) or section 408(m) of the National Housing Act ("NHA") (12 U.S.C. 1730a(m)). Generally, section 5(c) of HOLA (12 U.S.C. 1464(c)) provides the investment authority for federally-chartered institutions and state law provides the investment authority for state-chartered institutions. Sections 121 and 123 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, amended section 5 of HOLA by adding a new paragraph (p) to that section (12 U.S.C. 1464(p)) and amended section 408 of NHA by adding a new paragraph (m) to that section (12 U.S.C. 1730a(m)), respectively, to provide that the Board or Corporation may authorize conversions, mergers, consolidations, transfers, and acquisitions, notwithstanding any provision of federal law or the laws or constitution of any state, under certain specified conditions which generally relate to a receivership or when an institution's financial stability is threatened by severe financial conditions.

When the requirements of either section 5(p) of HOLA or section 408(m) of NHA have been satisfied, the Board or Corporation may authorize any non-cash acquisition in connection with a qualifying supervisory case. In evaluating a proposed non-cash acquisition in connection with a supervisory case where the net worth of an institution could be affected under proposed section 563.13(d)(1)(ii), the Board would generally require for its consideration the information required for a notice under proposed section 563.13(d)(2). If an insured institution acquired a non-cash asset proposed to be authorized for net-worth purposes under section 563.13(d)(1)(ii), which was not authorized as an investment under federal law if federally-chartered or state law, if state-chartered, any subsequent expenditure on the non-cash asset would be limited to maintenance of the asset. An institution would not be permitted to expand or increase its investment in a non-cash asset acquired in a supervisory case above the level authorized by the Corporation, which level will not exceed the value of the non-cash asset at its acquisition.

State-Chartered Insured Institutions

Pursuant to proposed section 563.13(d)(iii), acquisition by a state-chartered insured institution meeting its statutory-reserve and net-worth requirements of a non-cash asset authorized for investment under applicable state law would be recognizable in its statutory-reserve calculations and regulatory net worth. Since such institutions are in the Board's view unlikely to acquire high-risk, over-valued assets for the purpose of increasing their statutory reserves and regulatory net worth, they would be authorized to use for purposes of those reserve calculations any non-cash asset authorized under applicable state law.

If a state-chartered institution had a statutory reserve or regulatory-net-worth deficiency, a non-cash asset could be acquired and would be recognizable under section 563.13(d)(1)(iv) for reserve calculations if the non-cash asset were authorized for investment under applicable state law and under 5(c) of HOLA (12 U.S.C. 1464(c)). Generally, where the non-cash asset is of the type authorized for a federally-chartered institution, the asset will not likely be subject to the degree of overvaluation with which the Board is concerned.

Where a proposed acquisition of a non-cash asset is by a state-chartered institution with a statutory-reserve or regulatory-net-worth deficiency, and the non-cash asset is authorized for investment under applicable state law and not authorized for investment by a federally-chartered institution under section 5(c) of HOLA (12 U.S.C. 1464(c)), any amount attributable to the acquisition could only be used in the institution's reserve calculations if written notice were submitted to the Board 30 days prior to acquisition of the non-cash asset and the acquisition were not disapproved by the Corporation. The Board believes that where a state-chartered insured institution is not satisfying its regulatory-net-worth requirements and the non-cash asset is one which is not authorized for investment under federal law, a higher risk of overvaluation and illiquidity will be involved in the transaction and a prior review will be necessary. Acquisitions by such institutions that involve undeveloped land, apartment buildings, land development programs, and any other assets which may generate a negative cash flow, will be the types of non-cash asset acquisitions which are least likely to satisfy the proposed regulation's standards for an acquisition that will not be disapproved.

The proposed notice would be required to include a description of the property, an appraisal meeting certain specifications, financial information, related agreements and documents, and a legal opinion as to certain matters. The proposed procedures provide that the notice must be filed with the Board's Office of the Secretariat and the Principal Supervisory Agent. The proposed 30-day period for review would only commence with the filing of a sufficient notice acknowledged by a letter from the Corporation. Any information required to be included in a notice may waived by the Corporation upon a showing of good cause. Where a state-chartered insured institution files a notice to acquire a non-cash asset, proposed section 563.13(d)(3)(iii) provides that the Corporation will not disapprove a proposed acquisition of a non-cash asset for purposes of an institution's statutory-reserve calculations and regulatory net worth, where: the valuation of the non-cash asset is supported by an acceptable appraisal; the proposed acquisition is not projected to yield a negative return to the institution; the proposed acquisition is not likely to have a material adverse effect upon the institution's financial condition, business operations, or liquidity; and the institution has filed all required information.

Delegation

The Board is proposing in section 563.13(d)(6) to delegate its authority under proposed section 563.13(d) to the Director of the Office of Examinations and Supervision, or his designee, to act on behalf of the Corporation.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives, and legal basis underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules will apply.* The proposed rules apply to federally-chartered institutions or state-chartered insured institutions that may consider acquisition of a non-cash asset.

3. *Impact of the proposed rules on small institutions.* Since the proposed rules would establish the authority of insured institutions to include proposed acquisitions of non-cash assets in their statutory-reserve calculations and regulatory net worth, institutions that may be considered small entities would be benefited.

4. *Overlapping or conflicting federal rules.* There are no federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* It is not possible to eliminate or significantly modify these requirements for small entities, since the notice

requirements are governed by the nature of the non-cash asset and the institution's net-worth deficiency, rather than by the identity or the size of the affected institution.

List of Subjects in 12 CFR Parts 561 and 563

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561 and 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. Amend § 561.13 by revising paragraph (a), as follows:

§ 561.13 Regulatory net worth.

(a) The term "regulatory net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, common stock, preferred stock, mutual capital certificates (issued pursuant to § 563.7–4 of this Subchapter), subordinated debt securities (issued pursuant to § 563.6–1 of this Subchapter), securities which constitute permanent equity capital in accordance with generally accepted accounting principles (if approved by the Corporation), appraised equity capital) as defined in § 563.13(c) of this Subchapter), and any other nonwithdrawable accounts of an insured institution: *Provided*, that:

(1) For any nonpermanent instrument qualifying as regulatory net worth under this definition, either: (i) The remaining period to maturity or required redemption (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than one year, or (ii) the redemption or prepayment is only at the option of the issuer and such payments would not cause the institution to fail to meet its statutory-reserve or net-worth requirement under § 563.13 of this Subchapter;

(2) Capital stock may be included as net worth without limitation if it would otherwise qualify but for either: (i) A provision permitting redemption in the event of a merger, consolidation, or reorganization approved by the Corporation where the issuing institution is not the survivor, or (ii) a provision permitting a redemption where the funds for redemption are raised by the issuance of permanent stock; and

(3) The regulatory net worth of an insured institution shall only be increased, directly or indirectly, as a result of the acquisition of a non-cash asset, if authorized under § 563.13(d) of this Subchapter.

* * * * *

PART 563—OPERATIONS

2. Amend § 563.13 by redesignating paragraphs (d), (e), and (f) thereof as paragraphs (e), (f), and (g), respectively, and adding a new paragraph (d) thereto, as follows:

§ 563.13 Reserve accounts.

* * * * *

(d) *Acquisition of non-cash assets.*

(1) *General.* For purposes of satisfying the reserve requirements of paragraphs (a) and (b) of this section and for purposes of regulatory financial reports prepared for submission to the Corporation, and insured institution shall only include in its statutory-reserve calculations or reported regulatory net worth an amount attributable to an acquisition of a non-cash asset, if it is:

(i) An acquisition by a Federally-chartered institution of a non-cash asset which is authorized for investment under section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c));

(ii) An acquisition of a non-cash asset which is not an authorized investment under section 5(c) of the Home Owners' Loan Act for a federally-chartered institution or under applicable state law for a state-chartered insured institution, in a supervisory case under either section 5(p) of the Home Owners' Loan Act (12 U.S.C. 1464(p)) or 408(m) of the National Housing Act (12 U.S.C 1730a(m)), where any subsequent expenditure will be limited to maintaining the value of the non-cash asset at a level authorized by the Corporation, which level will not exceed the value of the non-cash assets at its acquisition;

(iii) An acquisition by a state-chartered insured institution meeting its requirements under paragraphs (a) and (b) of this section of a non-cash asset which is authorized for investment under applicable state law;

(iv) an acquisition by a state-chartered insured institution with a statutory-reserve or regulatory-net-worth deficiency of a non-cash asset which is authorized for investment under applicable state law and under section 5(c) of the Home Owners' Loan Act; or

(v) An acquisition by a state-chartered insured institution with a statutory-reserve or regulatory-net-worth deficiency of a non-cash asset which is authorized for investment under applicable state law, but not authorized under section 5(c) of the Home Owners' Loan Act, if notice of the proposed acquisition is provided to the Corporation pursuant to paragraph (d)(2) of this section and the acquisition is not disapproved by the Corporation.

(2) *Notice requirement.* An insured institution seeking approval of an acquisition under paragraph (d)(1)(v) of this section shall file a written notice of intent 30 days prior to the acquisition.

(i) The notice and any amendments to it shall be executed on behalf of the institution by a duly authorized officer on the institution.

(ii) The original and two copies of the notice and any amendments shall be filed with the Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C., 20552, and three copies of the Notice and any amendments shall be filed with the Principal Supervisory Agent of the Federal Home Loan Bank of which the institution is a member.

(iii) The notice shall contain all of the following information:

(*a*) A detailed description of the terms of the proposed transaction, the non-cash assets, and all participants.

(*b*) A current appraisal prepared by an independent professional appraiser, as defined by secton 571.1(a)(2) of this Subchapter, which reflects the market value of any asset acquired or transferred to the institution and which meets current standards established by the Federal Home Loan Bank Board's Office of Examinations and Supervision.

(*c*) A description of any debt or other encumbrances which the institution will incur, assume, or retire in conjunction with the transaction. Information provided should include the terms, required servicing, current payment status, and separate valuation for any such debt, and any contingent liabilities arising from the transaction.

(*d*) A *pro forma* balance sheet and a statement of operations for the institution as of the latest semiannual closing date, reflecting the impact of the proposed transaction, and supported by an opinion from an independent auditor regarding compliance with generally accepted accounting principles.

(*e*) Information about the historical performance of all proposed assets to be acquired or transferred to the institution, including specific information regarding the payment status and underwriting for any loan-type assets, and a balance sheet and a statement of operations (audited if available) for each of the last two years for any income-producing properties.

(*f*) Projected annual revenue, expense, and cashflow statments for a 5-year period for all assets and liabilities proposed to be transferred or incurred by the institution, which include all holding costs, planned expenditures or other cash outlays by the institution.

(*g*) An opinion by legal counsel as to the following:

(*1*) Tax impact on the institution arising from the transaction.

(*2*) A statement that all legal requirements will be met, including the institution's authority to acquire and hold the proposed assets and to assume any related liabilities.

(*3*) A statement that good and marketable title will be received by the institution for any acquired asset.

(*4*) Likelihood of any due-on-sale provision or debt provision being triggered as a result of the transfer of any such debt to the institution.

(*h*) Evidence that any required state regulatory approvals have been obtained.

(*i*) A resolution by the institution's board of directrors authorizing the transaction.

(*j*) A copy of any proposed written agreements and any related documents.

(*k*) Any additional information requested by the Corporation.

(iv) The period for Corporation review of a proposed acquisition will commence upon the filing of a sufficient notice, as determined by the Corporation. The Corporation will send a letter acknowledging the filing of a sufficient notice or specify the reasons for any insufficiency. Following a determination of sufficiency, the Corporation may subsequently determine that additional information is required, and it may then issue a letter indicating the notice is insufficient. Upon the filing of additional information in an amendment to the notice, whether upon the initiative of the institution or at the direction of the Corporation, the period for Corporation review will recommence in its entirety.

(3) *Action by Corporation.* (i) Not later than the expiration of the 30-day review period, the Corporation may issue a letter indicating:

(*a*) Its disapproval of the proposed acquisition on any of the grounds provided in paragraph (d)(3)(iii) of this section; or

(*b*) Its intention not to disapprove the proposed acquisition, provided that it is consummated within one year and there is no material change in circumstances prior to the acquisition.

(ii) If the Corporation fails to issue a letter regarding a proposed acquisition by the expiration of the 30-day review period, the acquisition may be consummated within one year provided that there is no material change in circumstances prior to the acquisition.

(iii) The Corporation will not disapprove a proposed acquisition of non-cash asset for purposes of an institution's statutory-reserve calculations and regulatory net worth, where:

(*a*) The valuation of the non-cash asset is supported by an acceptable appraisal;

(*b*) The proposed acquisition is not projected to yield a negative return to the institution;

(*c*) The proposed acquisition is not likely to have a material adverse effect upon the institution's financial condition, business operations, or liquidity, and

(*d*) The institution has filed all required information.

(4) *Disclosure.* A notice, or any portion thereof, filed pursuant to this paragraph (d) shall be for the information of the Corporation and will not be made available except in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Parts 505 and 505a of this Chapter.

(5) *Waiver.* The Corporation may waive any information required by this paragraph (d) upon a showing of good cause.

(6) *Delegation of authority.*

The Director of the Office of Examinations and Supervision, or his designee, is authorized to act on behalf of the Corporation and the Board with respect to the exercise of any authority pursuant to this paragraph (d).

(e) *Failure to meet net-worth requirements.* * * *

(f) *Charging of losses to statutory reserves.* * * *

(g) Exemption relating to sale of mortgages. * * *

(Sec. 408, 96 Stat. 1469, as amended (12 U.S.C. 1730a); sec. 409, 94 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5, 96 Stat. 1469, as amended (12 U.S.C. 1464); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071)

Dated: April 20, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-11666 Filed 4-29-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM–2; Notice No. SC–83–1–NM]

Special Conditions; Avions Marcel Dassault-Breguet Aviation Model Mystere-Falcon 200

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Avions Marcel Dassault-Breguet Aviation Model Mystere-Falcon 200 airplane. The airplane will have novel or unusual design features associated with the unusually high operating altitude (49,000 feet) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator finds necessary to reduce the likelihood of failures which could lead to cabin altitudes that exceed the protective capability of the oxygen equipment.

DATE: Comments must be received on or before June 16, 1983.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket (ANM–7), Docket No. NM–2, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. MN–2. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Regulations and Policy Office, ANM–110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; telephone (206) 764–7053.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and may be submitted in duplicate to the address specified above. All communications received on or before

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the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket, both before and after the closing date, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–2." The postcard will be date/time stamped and returned to the commenter.

Background

On October 3, 1978, Avions Marcel Dassault-Breguet Aviation (AMD–BA), 33 rue du Professeur Victor Pauchet, 92420 Vaucresson, France, filed an application for a type certificate in the transport category for the airplane now designated as the Avions Marcel Dassault-Breguet Aviation Model Mystere-Falcon 200. The Mystere-Falcon 200 is a derivative version of the AMD–BA Fan Jet Falcon series, for which FAA Type Certificate No. A7EU was issued, with two Garrett Model ATF3–6 engines and associated engine system changes, increased fuel capacity, increased weights, aerodynamic changes, system changes, and installation of an auxiliary power unit. Type certification of the Model Mystere-Falcon 200 was accomplished on July 6, 1982, as an amendment to Type Certificate No. A7EU in accordance with Subpart D of Part 21.

On June 30, 1982, AMD–BA filed an amended application for type certification to operate the Model Mystere-Falcon 200 up to a maximum altitude of 49,000 feet MSL. The June 30 application superseded a November 27, 1981, application relating to operation up to 45,000 feet.

High Altitude Operation

The FAA policy is to apply special conditions to Part 25-type transports when the certificated altitude exceeds the capability of the oxygen system (in this case, the passenger system). This has been the case for the early Learjet, Lockheed Jetstar, Aero Commander, and Cessna 650 (46 FR 35929 dated July 13, 1981). These same special conditions are proposed herein with the following exceptions:

The cabin altitude after failure may exceed the cabin altitude/time curve limits in Figures 3 and 4. Continuous flow passenger oxygen equipment is certificated for use up to 40,000 feet. However, for rapid decompressions above 34,000 feet, reverse diffusion leads to low oxygen partial pressures in the lungs to the extent a small percentage of passengers may lose useful consciousness at 35,000 feet. The percentage increases to an estimated 60 percent at 40,000 feet even with the use of the continuous flow system. To prevent permanent phisiological damage, the cabin altitude is not to exceed 25,000 feet for more than 2 minutes. The maximum cabin altitude has been set at 40,000 feet to agree with past FAA certification. In addition, at these altitudes the other aspects of decompression sickness have a significant, detrimental effect on pilot performance (for example, a pilot can be incapacitated by internal expanding gases). The limitations proposed herein differ from previously issued special conditions and are reflected by the changes to the notes proposed on Figures 3 and 4.

Decompression above the 37,000 foot limit of Figure 4 strains a person's physiological limits; therefore, every effort must be made to provide the pilot with adequate oxygen equipment to withstand these severe decompressions. Reducing the time interval between pressurization failure and the time the pilot receives oxygen will provide a safety margin against being incapacitated and can be accomplished by the use of mask-mounted regulators. Proposed Special Condition E., therefore, requires pressure demand masks with masks-mounted regulators for the flightcrew. This combination of equipment will provide the best practical protection for the failures covered by the special conditions and for improbable failures not covered by the special conditions, provided the cabin altitude is limited.

Type Certification Basis

The original certification basis for the AMD-BA Fan Jet Falcon was CAR 4b, effective December 31, 1953, Amendments 4b–1 through 4b–12; Special Regulation SR–422B; and the provisions of Part 25 of the Federal Aviation Regulations (FAR), Amendment 25–4, in lieu of CAR 4b.350 (e) and (f). For the Mystere-Falcon 200 certification, AMD–BA elected to voluntarily comply with numerous Part 25 requirements. The list of these requirements is contained in an FAA letter dated May 10, 1982. Avions Marcel Dassault-Breguet Aviation has filed an application for certification to operate the Model Mystere-Falcon 200 airplane up to a maximum altitude of 49,000 feet. The applicable airworthiness requirements do not contain adequate or appropriate safety standards for this feature; therefore, the special conditions which may be established as a result of this notice will form an additional part of the type certification basis for the Model Mystere-Falcon 200 airplane.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with §§ 21.17(a)(1) and 21.101(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.101.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

Proposed Special Conditions

PART 21—[AMENDED]

Accordingly, the Federal Aviation Administration proposes the following special conditions for the Avions Marcel Dassault-Brequet Aviation Model Mystere-Falcon 200 airplane to be certificated for high altitude operation:

A. Pressure Vessel Integrity

1. The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with Special Condition D. (Pressurization) must be determined. It must be demonstrated by crack propagation and fail-safe testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

2. Inspection schedules and procedures must be established to assure that cracks and normal fuselage leak rates will not progress or that the pressurization system capability will not deterioriate to the extent that an unsafe condition could exist during normal operation.

3. With regard to the fuselage structural design for cabin pressure capability above 45,000 feet altitude, the following apply:

a. The pressure vessel structure, including doors and windows, must comply with CAR 4b.216(c)(3) using a factor of 1.67 in lieu of the 1.33 factor prescribed therein.

b. In addition to the requirements of CAR 4b.216(c)(3), the fuselage pressure vessel should be capable of withstanding maximum regulated pressure combined with 1 g. flight loads with a frame or stringer failed and two adjacent panels cracked, without total failure of the fuselage of floor collapse.

B. Ventilation

In lieu of the requirements of CAR 4b.371(a), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue and to provide reasonable passenger comfort during normal operating conditions and also in the event of any probable failure of any system on the airplane which could adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person or the equivalent in filtered, recirculated air based on the volume and composition at the corresponding cabin pressure altitude of not more than 8,000 feet.

C. Air Conditioning

In additon to the requirements of CAR 4b.371 (b) through (e), the cabin cooling sustem must be designed to meet the following conditions during flight above 15,000 feet mean sea level (MSL):

1. After any probable failure, the cabin temperature-time history may not exceed the values shown in Figure 1.

2. After any improbable failure, the cabin temperature-tme history may not exceed the values shown in Figure 2.

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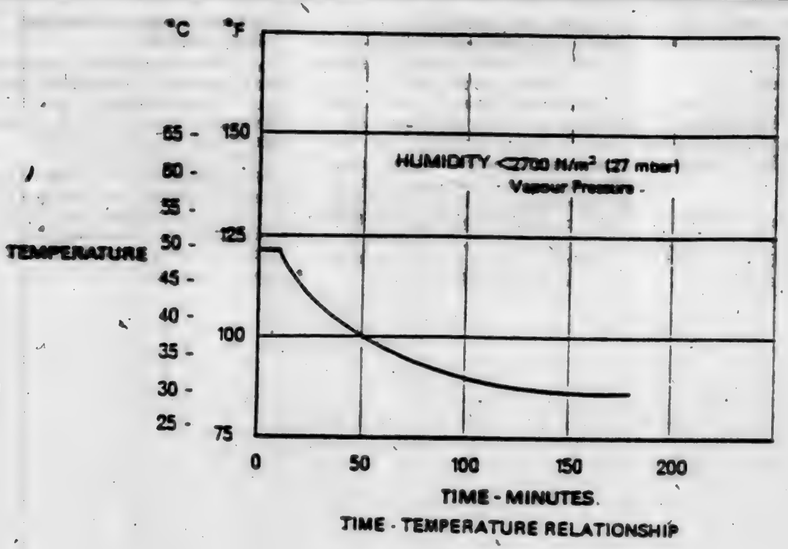

TIME - TEMPERATURE RELATIONSHIP

FIGURE 1

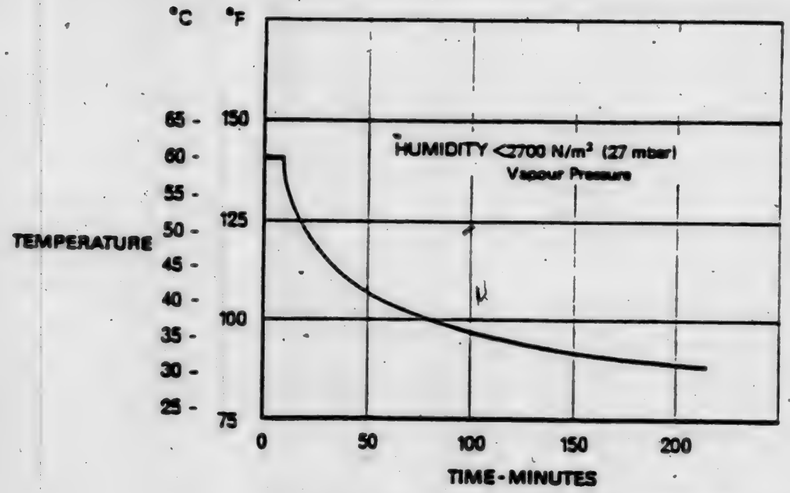

MAXIMUM TIME-TEMPERATURE RELATIONSHIP

FIGURE 2

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D. Pressurization.

In addition to the requirements of CAR 4b.374 and 4b.375, the following apply:

1. The pressurization system must be capable of maintaining the following relationships between specific failure and cabin altitude-time histories:

a. The cabin altitude-time history may not exceed that shown in Figure 3 after each of the following:

(1) Any probable double failure in the pressurization system.

(2) Any single failure in the pressurization system combined with the occurrence of a leak produced by a complete loss of a door seal element, or a fuselage leak through an opening having an effective area 2.0 times the effective area which produces the maximum, permissible fuselage leak rate approved for normal operation, whichever produces a more severe leak.

b. The cabin altitude-time history may not exceed that shown in Figure 4 after each of the following:

(1) The maximum pressure vessel opening resulting from crack propagation for a period encompassing two normal inspection intervals. The initial crack must be at least one-half the local panel width in length. Mid-panel cracks and cracks through skin-stringer and skin-frame combinations must be considered.

(2) The pressure vessel opening resulting from probable damage, while under maximum operating cabin pressure differential, due to a tire burst, engine rotor burst, loss of antennas or stall warning vanes, or any probable equipment failure (bleed air, pressure control, air conditioning, electrical power source(s), etc.) that affects pressurization.

(3) Complete loss of thrust from all engines.

2. In showing compliance with paragraphs D.1.a. and b. of these special conditions, it may be assumed that an emergency descent is made in accordance with an approved emergency procedure. A 17-second crew recognition and reaction time must be applied between cabin altitude warning and the initiation of an emergency descent.

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For Figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. After depressurization, the maximum cabin altitude exceedance is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

FIGURE 3
CABIN ALTITUDE - TIME HISTORY
(Supplemental oxygen available to all passengers.)

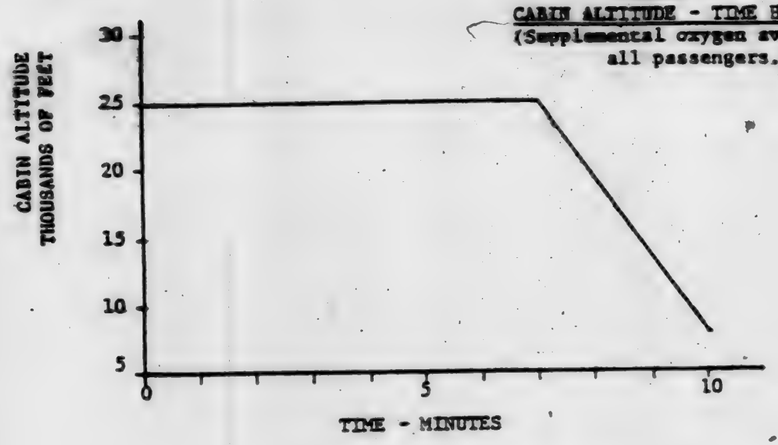

FIGURE 4
CABIN ALTITUDE - TIME HISTORY
(Supplemental oxygen available to all passengers.)

For Figure 4, time starts at the moment cabin pressure exceeds 8,000 feet during depressurization. After depressurization, the maximum cabin altitude exceedence is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

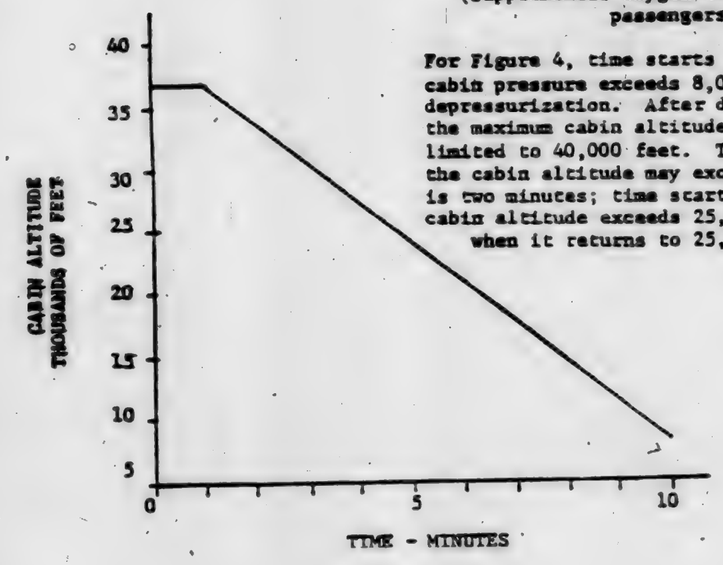

E. Oxygen Equipment and Supply

In addition to the requirements of CAR 4b.651, the following apply: A pressure-demand oxygen system with quick-donning masks with mask-mounted regulators must be provided for the flightcrew. It must be shown that each quick-donning mask can, with one hand and within 5 seconds, be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.28 and 11.29(b))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and is not major as defined in Executive Order 12291. In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities. The regulation affects only certain unusual or novel design features of one model series of airplanes. The regulation is necessary for safety and affects primarily the manufacturer who applied to the FAA for approval of these features on the airplane.

Issued in Seattle, Washington on April 8, 1983.

Wayne J. Barlow,
Acting Director,
Northwest Mountain Region.

[FR Doc. 83-11494 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 21

[Docket No. NM-3; Notice No. SC-83-2-NM]

Special Conditions; Gates Learjet Corporation Model 55 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Gates learjet Corporation Model 55 series airplane. The airplane will have novel or unusual design features associated with an automatic takeoff thrust control system (ATTCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before June 16, 1983.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket (ANM-7), Docket No. NM-3, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivery in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-3. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Walker, Regulations and Policy Office, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 764-7051.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory dockets or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket, both before and after the closing date, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-3." The postcard will be date/time stamped and returned to the commenter.

Background

On November 19, 1982, Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277, filed an application for an amendment to Type Certificate No. A10CE to include an Automatic Performance Reserve System (Automatic Takeoff Thrust Control System (ATTCS)) installation for approval under that type certificate covering the Model 55 series aircraft.

The Model 55 is a low wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 21,000 pounds. The airplane is equipped with two AiResearch TFE-731-3A tubofan engines, each producing 3,700 pounds rated thrust, or, alternatively, TFE-731-3AR engines each rated at 3,880 pounds thrust. The higher rated -3AR engine is used in conjunction with the installation of an ATTCS The airplane has a maximum permissible altitude of 51,000 feet and total occupancy of 10 persons, including the crew.

The modification covered under the proposed amendment to the type certificate is the installation of an ATTCS. Automatic takeoff thrust control system special conditions issued to date for other airplanes require the ATTCS be designed to permit manual decrease or increase in thrust up to the maximum takeoff thrust approved for the airplane under existing conditions through the use of power levers. The ATTCS system installed on the engines of the Model 55 airplane contains an electronic fuel controller and thrust limiters which automatically limit thrust and prevent engine operating limits from being exceeded under conditions with full throttle employed. In the event of an engine failure, a signal from the ATTCS is transmitted to the limiters for the maximum thrust. In the event of an ATTCS failure with engine failure, the crew woud be required to activate an override switch to obtain the maximum thrust. Because of this design feature where the pilot must move his hand off the throttle to activate the maximum thrust available, the agency has determined that the special condition issued under item E.2.b. should provide that such activation is permitted providing that the means to increase thrust is located on or forward of the power levers, is easily operated by either pilot, and meets the requirements of § 25.777.

The type design of the Model 55 series airplane, with the automatic system installed, contains a number of novel or unusual design features for an airplane type certificated under the airworthiness requirements incorporated by reference in Type Certificate No. A10CE or under the applicable airworthiness requirements in effect on the date of application for change to that type certificate. In either case, the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that established by the regulations incorporated by reference in

the type certificate and to support a finding by the Administrator that no feature or characteristic of the airplane with the automatic system installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum thrust increment which may be applied to the operating engines by the ATTCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff thrust approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of maximum takeoff thrust would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

The FAA developed special conditions for an ATTCS for current turbine-powered transport category airplanes and sent the proposal to U.S. user groups and various foreign civil aviation authorities for review and comment in November 1977. Comments were received, reviewed, and the special conditions were revised and sent to the same groups in May 1978. This procedure was repeated again in November 1978. Cooperating with the FAA in this development were the Aerospace Industries Association of America (AIA), Air Transport Association of America (ATA), Air Line Pilots Association (ALPA), Allied Pilots Association (APA), Rolls Royce (RR), Hawker Siddeley Aviation Ltd. (HS), British Civil Aviation Authority (CAA), the civil aviation authorities of Australia and Japan, the French Technical Commission Navigation (FTCN), and the French civil aviation authorities, Lockheed, Boeing, McDonnell Douglas, and Rockwell International.

Based on the comments received and on further review by the FAA, a number of changes were made to the special conditions proposed. These provide for consideration of the following specific matters:

1. For the fail-operational (able to perform its intended function after a single failure or combination of failures not shown to be extremely improbable within the ATTCS system) system proposed, a reduction of the ATTCS failure probability from extremely improbable for the ATTCS alone, the addition of an extremely improbable failure probability for the combined ATTCS and engine failure, and deletion of the all engine performance criteria;

2. For the nonfail-operational system proposed, a reduction in the failure probability from improbable to 10-3 for the ATTCS alone, introduction of a climb gradient for the combined ATTCS and engine failure case, and deletion of an engine failure warning means if the inherent characteristics of the engine failure are clearly made known to the pilot; and

3. Clarifying changes, including a graphical presentation to clarify the definition of the term, "Critical Time Interval."

Type Certification Basis

The type certification basis for the Gates Learjet Model 55 series airplane with the ATTCS installed is Part 25 of the Federal Aviation Regulations (FAR) effective February 1, 1965, as amended by Amendments 25-2 and 25-4. In addition:

Amendments 25-3, 25-7, 25-10, 25-12, 25-18, 25-21, and 25-30; plus § 25.955(b)(2) of Amendment 25-11; § 25.954 of Amendment 25-14; §§ 25.803(e), 25.811(f), 25.853(a), 25.853(b), and 25.855(a) of Amendment 25-15; § 25.1359 of Amendment 25-17; § 25.785(c) of Amendment 25-20; §§ 25.251(c), 25.251(d), 25.251(e), 25.303, 25.305(b), 25.307(d), 25.331(a)(3), 25.335(b), 25.335(f),25.337(b), 25.349(b), 25.351(a), 25.363, 25.395(a), 25.395(b), 25.471(a)(1), 25.471(a)(2), 25.473, 25.493(b), 25.499(b), 25.499(c), 25.499(d), 25.509(a)(3), 25.561(b)(3), 25.581, 25.607, 25.615, 25.619, 25.625, 25.629, 25.677, 25.697, 25.699, 25.701, 25.721, 25.723, 25.725, 25.727, 25.729, 25.733, 25.735, 25.865, 25.867, 25.871, 25.903(d), 25.934, 25.994, 25.1103(d), 25.1143(e), 25.1303, 25.1307, 25.1331, and 25.1585(c) of Amendment 25-23; §§ 25.1013(e), 25.1305(c)(4), and 25.1305(c)(6) of Amendment 25-36; §§ 25.815, 25.1322, and 25.1403 of Amendment 25-38, and §§ 25.903(e), 25.939, and 25.943 of Amendment 25-40; § 25.255 of Amendment 25-42; § 25.1326 of Amendment 25-43; Part 36 effective December 1, 1969, as amended through Amendment 36-10; Special Federal Aviation Regulation (SFAR) 27 effective February 1, 1974, as amended through Amendment SFAR 27-2; Special Conditions 25-99-CE-14; and the special conditions contained herein.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice, in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.101.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

Proposed Special Conditions

PART 21—[AMENDED]

Accordingly, the Federal Aviation Administration proposes the following special conditions for the Gates Learjet Model 55 series airplane equipped with an automatic takeoff thrust control system (ATTCS):

A. *General.* With the ATTCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase thrust.

B. *Definitions.*

1. ATTCS. An ATTCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled thrust increase, and furnish cockpit information on system operation.

2. Critical Time Interval. When conducting an ATTCS takeoff, the critical time interval between V1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATTCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at no less than 400 feet from the takeoff surface. This definition is shown in the following graph:

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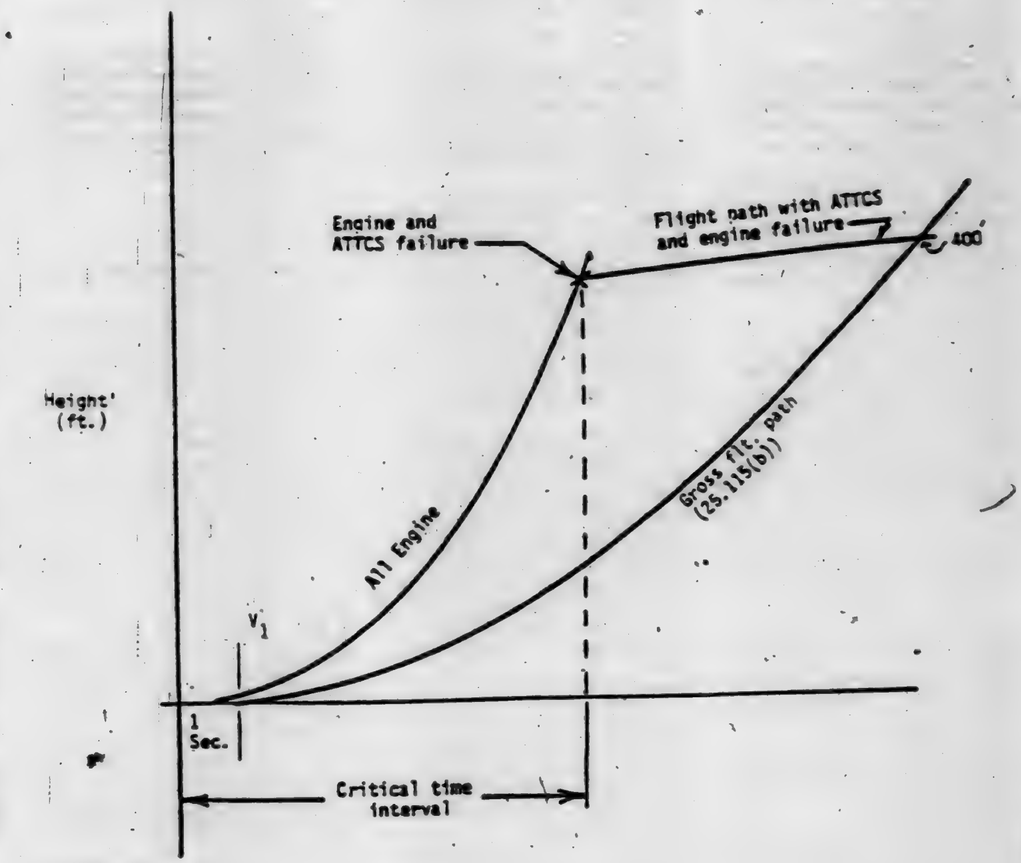

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3. Takeoff Thrust. Notwithstanding the definition of "takeoff thrust" in Part 1 of the Federal Aviation Regulations (FAR), "takeoff thrust" means each thrust obtained from each initial thrust setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant may elect to comply with the performance requirements contained in either paragraph 1. or 2. as follows:

1. The following reliability and performance criteria apply:

a. An ATTCS system failure during the critical time interval must be shown to be improbable.

b. The concurrent existence of an ATTCS failure and engine failure during the critical time interval must be shown to be extremely improbable.

c. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

2. If compliance is not shown with the criteria given in paragraph 1. of this special condition, the following apply:

a. An ATTCS system failure during the critical time interval must be shown to have a probability of failure of 10^{-3} or less.

b. The concurrent existence of an ATTCS failure and engine failure during the critical time interval must be shown to be extremely improbable.

c. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

d. The takeoff runway length required shall be the greater of:

(1) The accelerate-stop distance determined under § 25.109 with initial takeoff thrust setting and with the ATTCS operating;

(2) The horizontal distance along the takeoff path from the start of takeoff to the point at which the airplane is 35 feet above the takeoff surface, determined under § 25.113 with one engine failed and the ATTCS operating at the most critical point during takeoff;

(3) The horizontal distance along the takeoff path from the start of takeoff to the point at which the airplane is 15 feet above the takeoff surface with one engine and the ATTCS failed at the most critical point during takeoff; or

(4) One hundred fifteen (115) percent of the horizontal distance along the takeoff path, with all engines operating at the initial takeoff thrust setting, from the start of takeoff to the point at which the airplane is 35 feet above the takeoff surface as determined by a procedure consistent with § 25.111.

e. With the initial takeoff thrust set as described in Special Condition D. (Thrust Setting), the critical engine inoperative, the ATTCS system failed, and without moving the power lever on the remaining engine, the airplane must:

(1) Have a positive gross climb gradient at all points in the takeoff path (procedures consistent with § 25.111 must be used); and

(2) Have an available gradient of climb of not less than 1.0 percent determined in accordance with § 25.121(b).

f. The gradient of climb used to determine the takeoff path required by § 25.1587 may not be greater than:

(1) The net gradient determined in accordance with § 25.115(b) with the ATTCS functioning; or

(2) The gross gradient available resulting from the configuration of Special Condition C.2.e.

D. *Thrust Setting.* The initial takeoff thrust set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety (90) percent of the thrust level set by the ATTCS (the maximum takeoff thrust approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

3. That shown to be free of hazardous engine response characteristics when thrust is advanced from the initial takeoff thrust level to the maximum approved takeoff thrust.

E. Powerplant Controls

1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATTCS must be designed to:

a. Apply thrust on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff thrust without exceeding engine operating limits;

b. Permit manual decrease or increase in thrust up to the maximum takeoff thrust approved for the airplane under existing conditions through the use of the power lever, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of thrust controlled by the power levers in the event of an ATTCS failure, provided the means is located on or forward of the power levers, is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and meets the requirements of § 25.777, paragraphs (a), (b), and (c).

c. Provide a means to verify to the flightcrew prior to takeoff that the ATTCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. Powerplant Instruments

In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.28 and 11.29(b))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and is not major as defined in Executive Order 12291. In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities. The regulation affects only certain unusual or novel design features of one model series of airplanes. The regulation is necessary for safety and affects primarily the manufacturer who applied to the FAA for approval of these features on the airplane.

Issued in Seattle, Washington, on April 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-11467 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-08]

Transition Area—Lake Winnebago, Missouri Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Lake Winnebago, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Lake Winnebago, Missouri, Airport utilizing the Napoleon, Missouri, VORTAC as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before June 4, 1983.

ADDRESS: Send comments on the proposal to: Federal aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine Hiland, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Lake Winnebago, Missouri. To enhance airport usage, a new instrument approach procedure is being developed for the Lake Winnebago, Missouri, Airport utilizing the Napoleon VORTAC as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Lake Winnebago, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Lake Winnebago, Missouri

That airspace extending upwards from 700 feet above the surface, within a 6-mile radius of the Lake Winnebago Airport (Latitude 34°48'51"N; Longitude 94°16'37"W), and within 3 miles each side of the Napoleon, Missouri VORTAC 207° radial extending from the airport to 6 miles northeast, excluding that portion that overlies Lee's Summit, Missouri, McComas Airport 700-foot Transition Area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on April 18, 1983.

John E. Shaw,

Director, Central Region.

[FR Doc. 83-11468 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-22]

Proposed Designation of Transition Area; Jena, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Jena, LA. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Jena Airport. This action is necessary since a nonfederal nondirectional radio beacon (NDB) will be established approximately 4 nautical miles south of the airport and a SIAP to Runway 35 will be possible. Coincident with the action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before June 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedure Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.161 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Jena, LA, will necessitate an amendment to this subpart. This amendment will be required at Jena, LA, since there is a proposed SIAP to Runway 35 at the Jena Airport, using a nonfederal NDB located approximately 4 nautical miles south of the airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.161 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Jena, LA [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jena Airport (latitude 31°40'15" N., longitude 92°09'30" W.) and within 3.5 miles each side of the 181° bearing of the Hemphill Creek NDB (latitude 31°36'20" N., longitude 92°09'33" W.) extending from the 5-mile radius area to 10.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a regulatory evaulation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 21, 1983.

Richard L. Failor,

Acting Director, Southwest Region.

[FR Doc. 83-11469 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-09]

Control Zone and Transition Area, Columbus, Nebraska; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to alter the control zone and the 700-foot transition area at Columbus, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure being developed for the Columbus Municipal Airport, Columbus, Nebraska, utilizing the Columbus VOR as a navigational aid.

DATES: Comments must be received on or before June 4, 1983.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views of arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering amendments to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, § 71.161 of the Federal Aviation Regulations (14 CFR 71.161), by altering the control zone and 700-foot transition area at Columbus, Nebraska. To enhance airport usage, an instrument approach procedure is being developed to serve Runway 32 at the Municipal Airport, Columbus, Nebraska, utilizing the Columbus VOR as a navigational aid. The establishment of this instrument approach procedure entails alteration of the control zone and 700-foot transition area at Columbia, Nebraska, within which aircraft are provided additional air traffic control service. Control zones are designed to contain IFR operations in controlled airspace to the surface around airports within a specified radius and along the final approach course of the IAPs. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using this approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by altering the following control zone:

Columbus, Nebraska

Within a 5-mile radius of the Columbus Municipal Airport (latitude 41°26'50"N, longitude 97°20'22"W); and within 3 miles each side of the 156° radial of the Columbus VOR extending from the 5-mile radius zone to 10 miles southeast of the VOR; and within 3 miles each side of the 312° radial of the Columbus VOR extending from the 5-mile radius zone to 6.5 miles northwest of the VOR; and within 4 miles each side of the 329° bearing from the Columbus Airport extending from the 5-mile radius zone to 12 miles northwest of the airport. This control zone shall be effective during the times established by a Notice to Airmen or as published in the Airport/Facility Directory.

Additionally, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.161 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by altering the following transition area:

Columbus, Nebraska

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Columbus Municipal Airport (latitude 41°26'50"N, longitude 97°20'22"W); and within 4.75 miles each side of the 156° radial from the Columbus VOR extending from the 6.5 mile radius area to 11 miles southeast of the VOR; and within 3 miles each side of the 312° radial from the Columbus VOR extending from the 6.5-mile radius area to 6.5 miles northwest of the VOR; and within 4.5 miles each side of the 329° bearing from the Columbus Airport extending from the 6.5-mile radius area to 12 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on April 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-11470 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-10]

Proposed Alteration of VOR Federal Airways Minneapolis, MN, Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of VOR Federal Airway V–161, establish a new segment of V–246, renumber V–410 and V–347, and revoke V–418 to enhance the traffic flow within the Minneapolis Air Route Traffic Control Center's area.

DATES: Comments must be received on or before June 13, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–10, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd Archer, Airspace Regulations and Obstructions Branch (AAT–230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, enviromental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V–161 between Gopher, MN, and Rochester, MN; renumber V–410 between Gopher, MN, and Eau Claire, WI, to V–413; renumber V–347 between Ironwood, MI, to Houghton, MI, to V–148; revoke V–418 from Gopher, MN, to Nodine, MN; and establish an airway from Nodine, MN, to FALAR INT to Waukon, IA, to enhance the traffic flow within the Minneapolis Air Route Traffic Control Center's area. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (41 CFR Part 71) as follows:

1. V–161 [Amended]

By deleting the words "INT Rochester 005° and Gopher, MN, 144° radials, Gopher" and substituting for them the words "Farmington, MN; Gopher, MN"

2. V–410, V–418, and V–347 are revoked.

3. V–413 [Amended].

By inserting the words "Eau Claire, WI; INT Eau Claire 269° and Gopher, MN, 109° radials;" after the word "From"

4. V–148 [Amended]

By deleting the words "to Ironwood, MI" and substituting for them the words "Ironwood, MI; to Houghton, MI"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 20, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-11471 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-07]

Transition Area—Stockton, Missouri; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Stockton, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Stockton, Missouri, Airport utilizing the Springfield, Missouri, VORTAC as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before June 4, 1983.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine Hiland, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this notice be may changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Streeet, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Stockton, Missouri. To enhance airport usage, a new instrument approach procedure is being developed for the Stockton, Missouri, Airport utilizing the Springfield VORTAC as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Stockton, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Stockton, Missouri

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Stockton Airport (Latitude 37°39'37"N; Longitude 93°49'07"W) and within 3 miles either side of the Springfield, Missouri VORTAC 308° radial extending from the center of the 5-mile radius area to 5.5 miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 135(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note:—The FAA has determined that this proposed regulation only involves and established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on April 18, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-11469 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD 83-04]

Drawbridge Operation Regulations; Kennebunk River, Kennebunk/Kennebunkport, Maine

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maine Department of Transportation the Coast Guard is considering amending the operating regulations for the drawspan between Kennebunk and Kennebunkport. The number of drawspan openings has decreased significantly during the last few years. There is no commercial activity and no significant recreational use of the river above the drawspan. There are no foreseeable prospects for the development of the upriver area. The proposed amendment may provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 13, 1983.

ADDRESS: Comments should be submitted to and will be availebe for examination at the Office of the Commander, First Coast Guard District (obr), 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA. 02114 (617–223–0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended changes in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed envelope or postcard.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

Drafting Information: The principal persons involved in drafting this proposal are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant Susan M. Krupanski, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

Most marine activity on the Kennebunk River occurs below the drawspan. Upriver there may be an occasional private dock but generally the river is peaceful and undisturbed. This is borne out by the fact that in the past few years there has been a significant decrease in the number of openings of the drawspan. The total yearly openings have decreased from 228 in 1974 to one in 1981. The decrease is due primarily to the closing of the boatyard which was located above the drawbridge. In view of the limited number of openings and the fact that there are no foreseeable prospects for the development of the upper river, the proposed amendment would seem to provide for the reasonable needs of navigation. The proposed amendments have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1167), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by revising paragraph (a) of § 117.28 to read as follows:

§ 117.28 Kennebunk River, Maine Dock Square Highway Bridge between Kennebunk and Kennebunkport, Maine

(a) The draw shall be opened promptly on signal for the passage of vessels between the hours of 7 a.m. and 5 p.m. (local time) from April 15 through October 15. At other hours during this period the draw need not be opened except on advance notice given to the drawtender during hours he is on duty. At dates other than those specified above, the draw need not be opened for the passage of vessels unless 24 hours advance notice is given in person, in writing or by telephone to the Maine Department of Transportation, Division office, Scarborough, Maine.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: April 15, 1983.

C. E. Robbins,

Rear Admiral, U.S. Coast Guard, Acting District Commander, First Coast Guard District.

[FR Doc. 83-11504 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 61

Procedures for Approved State and Local Government Historic Preservation Programs

AGENCY: National Park Service, Interior.

ACTION: Proposed rules with request for comments.

SUMMARY: Proposed rules incorporate the requirements for State and local historic preservation programs as specified in the National Historic Preservation Act as amended in 1980 (the Act). The title and organization of the existing 36 CFR Part 61 are revised to reflect changes required by the 1980 amendments to the Act.

These rules establish regulations for approval of State historic preservation programs. The rules also establish procedures for Historic Preservation Fund (HPF) matching grants-in-aid to approved State programs. The rulemaking will establish, for the first time, a process by which local governments will be certified to participate formally in the national historic preservation program. Proposed rules also set forth procedures for the transfer of a portion of each State's annual HPF grant to certified local governments.

DATES: Comments must be received on or before July 1, 1983.

ADDRESS: Send comments to: Lawrence E. Aten, Chief, Interagency Resource Management Division, U.S. Department of the Interior, National Park Service, Washington, D.C. 20240 (202–272–3706).

FOR FURTHER INFORMATION CONTACT: Steven Sheffield, Interagency Resource Management Division (202–343–9513).

SUPPLEMENTARY INFORMATION: This proposed rulemaking was necessitated by enactment of the National Historic Preservation Act Amendments of 1980, Pub. L. 96–515, on December 12, 1980.

The National Historic Preservation Act, as amended (the Act) specifies basic requirements for approval of State historic preservation programs. The requirements and responsibilities listed in the Act are incorporated into this rulemaking. Procedures also are included in these rules for Historic Preservation Fund (HPF) matching grants-in-aid to approved State programs; matching grants are made in accordance with the HPF Grants Management Manual.

Section 101(b)(2) of the Act requires the Secretary of Interior (the Secretary) to conduct performance evaluations of State historic preservation programs. Procedures and standards for these evaluations will be forthcoming.

Since enactment of the National Historic Preservation Act of 1966, the historic preservation expertise and activities of local governments have significantly increased. The Act, however, provided no opportunity for local governments to be involved formally in the National historic preservation program administered by the Department of the Interior's National Park Service (NPS). Lack of formal participation by local governments often meant that historic preservation issues were not considered until development planning was well underway. This often resulted in preservation/land development conflicts causing project delays and increasing costs. In addition, opportunities frequently were lost for preservation-oriented development that could satisfy both preservation and development goals.

In recognition of the need to involve local governments in historic preservation, the 1980 amendments to the Act provided a specific rule for local governments in the national program. The Secretary is required by the Act to develop regulations for the certification of local governments and for the allocation of Historic Preservation Fund (HPF) monies by States to certified local governments (CLGs). To qualify for certification, the Act specifies that local governments must have certain administrative and legal capacities. The Act directs States with approved State historic preservation programs to develop a mechanism for the certification of qualified local governments. Section 103(c) of the Act directs States to provide for the transfer of at least ten percent of the State's annual HPF grant to certified local governments.

Once certified, a local government will be included in the process of nominating properties to the National Register of Historic Places and will be eligible to apply to the State for a share of the State's annual HPF allocation. The Secretary and/or the States may amplify the requirements set forth in the Act to reflect particular State and local government concerns.

The proposed rules provide States with a framework on which to base development of procedures for local certification and funds transfer. The approach set forth by the Secretary in these rules gives States the primary responsibility to develop these procedures. This approach is consistent with intent of the Act. These rules strengthen the existing historic preservation system by extending to local governments the opportunity to be directly involved in the National program for the identification, evaluation, and protection of historic properties.

The Secretary intends to have the rules for local certification and funds transfer provide flexibility to meet the needs of communities throughout the country. States will be given the primary responsibility for establishing both certification mechanisms and procedures for transferring HPF grant funds as subgrants to certified local governments. The Secretary will exercise his authority through review and approval of the processes for local certification and grant funds transfer developed by each State.

The rules establish the criteria by which the Secretary will review State processes for local certification. These rules are minimum requirements and are derived from the Act to insure the State processes conform to the statutory intent of the Act. States may amplify these requirements to reflect State and local government program concerns. The proposed rules also establish criteria by which the Secretary will review State procedures for the transfer of HPF monies to certified local governments. These criteria insure consistency and accountability in fiscal management and are intended to insure that no local government receives a disproportionate share of the funds available. States will use the Secretary's rules to design and implement certification and funds transfer processes that achieve the purposes of the Act.

More prescriptive regulations were considered; however, the Secretary concluded that the varying preservation needs and capabilities of communities make it inappropriate for the Federal government to dictate a set of procedures to which all local governments must adhere. States have latitude to set priorities for allocating the CLG share of their annual HPF grant.

To insure that the intent of the Act is satisfied, the Secretary's rules will establish minimum requirements and the Secretary will review and approve the certification and funding processes developed by each State to implement local certification and funds transfer.

The Secretary also is required by the Act to issue rules for the certification of local governments in States that do not have an approved historic preservation program. Because all States now operate approved programs and there is no practical need for such rules, they have not yet been prepared.

As required by section 101(c)(1) of the National Historic Preservation Act, States will be required to develop procedures for the certification of local governments and for the transfer of funds to local governments. Because the District of Columbia is an approved State program and there are no subordinate local governments in the District, it is exempted from this local certification requirement. If a territory believes that its political subdivisions lack authorities similar to those of local governments in other States and hence cannot satisfy the requirements for local certification, it may apply to the Secretary for exemption from the local certification requirement.

These rules require States to propose local certification and funds transfer processes and specify schedules for submission of State proposals and for the Secretary's review and approval. In developing their proposals, States are required to analyze local preservation needs and capabilities, consult with local governments, local historic preservation commissions and other interested parties, and assess the capabilities of different types of local governments in the State.

Once its proposal is approved by the Secretary, a State may begin to certify local governments. States will notify the Secretary and forward to the Secretary copies of all certification requests approved according to the State's DOI approved certification process. If the Secretary does not take exception to the request within a specified period, the local government is to be considered certified by the Secretary. In addition, transfer of HPF financial assistance in accordance with the approved process may begin. The Secretary will review the functioning of State certification and funds transfer processes during performance evaluations and audits of approved State programs that are required by section 101(b)(2) of the Act.

Classification: These rules are not substantive and deal with procedural aspects of the State and local historic preservation programs. In accordance with Executive Order 12291, the Department of the Interior has determined that these rules are not major. The rules will not require States to assume significant additional costs. Local government certification under these rules is strictly voluntary. Additional expenses that may be incurred by local governments will be a result of their decision to seek certification. In accordance with the Regulatory Flexibility Act, the Department of the Interior has determined that these rules will not have a significant economic effect on a substantial number of small entities. Small governmental jurisdictions are the only small entities that may be affected by these rules. Additional expenses that may be incurred by small governments will be the result of their decision to seek certification. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*

Regulatory Analysis: Not required for this rulemaking.

Environmental Impact Statement: This regulation does not significantly impact the environment. Because these rules have to do with procedural aspects of State and local historic preservation programs and have no impact on the environment, an Environmental Impact Statement is not required.

The originator of these procedures is Lawrence A. Finfer, Historian, Interagency Resource Management Division (202/272–3708).

(National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*)

List of Subjects in 36 CFR Part 61

Grant programs—natural resources, Historic preservation.

Dated: January 4, 1983.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out above, 36 CFR Part 61 is proposed to be amended as follows:

—The title of Part 61 is changed to "Procedures for Approved State and Local Government Historic Preservation Programs."

—Section 61.1 Definitions is revised and redesignated as §61.2. A new section is added and designated as §61.1 Authorization.

—Section 61.2 Designation and responsibilities of the State Historic Preservation Officer is revised and redesignated as §61.3 Approved State Programs.

—Section 61.3 State Professional Staff is incorporated into §61.3 Approved State Programs.

—Section 61.4 State Review Board is incorporated into §61.3 Approved State Programs. A new section is added and designated as §61.4 Approved Local Programs.

—Section 61.5 Professional Qualifications is redesignated as *Appendix A* Professional Qualifications. A new section is added and designated as §61.5 Grants to Approved State Programs.

—Section 61.6 Comprehensive statewide survey process is deleted. Standards and guidelines on statewide surveys will be forthcoming from the Secretary as an appendix to these rules.

—Section 61.7 State Historic Preservation Plans is deleted. Standards and guidelines on comprehensive historic preservation planning will be forthcoming from the Secretary as an appendix to these rules.

—Section 61.8 Protection of Historic Properties Through the Planning Process is deleted.

36 CFR Part 61 is proposed to be revised to read as set forth below:

PART 61—PROCEDURES FOR APPROVED STATE AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Sec.
61.1 Authorization.
61.2 Definitions.
61.3 Approved State programs.
61.4 Approved local programs.
61.5 Grants to approved State programs.
61.6 Transfer of grants to certified local governments.
61.7 Waiver.
Appendix A—Professional Qualifications Standards
Appendix B—Historic Preservation Planning Standards (Reserved)
Appendix C—Survey Standards (Reserved)
Appendix D—State Program Performance Evaluation Standards (Reserved)

Authority: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

§61.1 Authorization.

The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, as amended:

(a) Requires the Secretary of the Interior (Secretary) to promulgate regulations for:

(1) Approving State historic preservation programs;

(2) Certifying local governments to carry out the purposes of the Act;

(3) The allocation by States of a share of the grants received by the States under the Act to certified local governments (CLGs);

(b) Directs the Secretary to conduct performance evaluations of State programs periodically;

(c) Directs the Secretary to administer a program of matching grants-in-aid to the States for historic preservation projects and programs approved by the Secretary;

(d) Requires the Secretary to establish guidelines for the use and distribution of funds transferred to local governments to insure that no local government receives a disproportionate share of the funds available; and

(e) Requires the Secretary to make information available concerning

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professional methods and techniques for the preservation of historic properties and the administration of historic preservation programs.

§61.2 Definitions.

As used in this part:

(a) "National Park Service" means the bureau of the Department of the Interior to which the Secretary of the Interior has delegated the authority and responsibility for administering the National Historic Preservation Program.

(b) "Historic Preservation Fund" means the program of matching grants-in-aid to the States for historic preservation programs, as authorized by Sec. 101(d)(1) of the National Historic Preservation Act.

(c) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

(d) "State Historic Preservation Officer" is the official within each State who has been designated and appointed by the Governor to administer the State historic preservation program in the State.

(e) "State Program" means the State historic preservation program in the State.

(f) "Approved State program" means a State historic preservation program that has been approved by the Secretary of the Interior in accordance with Sec. 101(b) of the National Historic Preservation Act. All State programs will be treated as approved programs until December 12, 1983, unless specifically disapproved by the Secretary before that time.

(g) "HPF Grants Management Manual" means the manual that sets forth NPS administrative policies, procedures, and guidelines for Historic Preservation Fund grants-in-aid and which serves as a basic reference for those who are engaged in the administrative and financial management of HPF grants.

(h) "Subgrantee" means the agency, institution, organization or individual to which a subgrant is made by the State and which is accountable to the State for use of the funds provided.

(i) "Local government" means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(j) "Certified local government" means a local government that has been certified to carry out the purposes of the National Historic Preservation Act in accordance with section 101(c) of the Act.

(k) "Chief elected local official" means the elected head of a local government.

(l) "National Register of Historic Places" means the national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture, maintained by the Secretary of the Interior under authority of section 101(a)(1)(A) of the National Historic Preservation Act.

(m) "CLG share" means the funding authorized for transfer to local governments in accordance with section 103(c) of the National Historic Preservation Act.

(n) "Comprehensive historic preservation planning" means an ongoing process for resource management that is consistent with technical standards issued by the Department of the Interior and which produces reliable, understandable, and up-to-date information for decisionmaking related to the identification, evaluation, and protection/treatment of historic resources.

(o) "Historic preservation review commission" means a board, council, commission, or other similar collegial body which is established in accordance with § 61.4(c)(2) of these rules.

§ 61.3 Approved State Programs.

(a) A State Historic Preservation Officer (SHPO) shall be appointed by the Governor to administer the State historic preservation program.

(b) It shall be the responsibility of the SHPO to:

(1) Direct and conduct a comprehensive statewide survey of historic properties and maintain an inventory of such properties;

(2) Identify and nominate eligible properties to the National Register of Historic Places and administer other applications for the National Register;

(3) Prepare and implement a comprehensive statewide historic preservation planning process;

(4) Administer the State program of Federal assistance for historic preservation within the State;

(5) Advise and assist Federal, State, and local government agencies in carrying out their historic preservation responsibilities;

(6) Cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal, State and local government agencies to insure that historic properties are taken into consideration at all levels of planning and development;

(7) Provide public information, education, training, and technical assistance relating to the National and State historic preservation programs;

(8) Cooperate with local governments in development of local historic preservation programs and assist local governments in becoming certified.

(c)(1) State programs shall be approved by the Secretary if he determines that the program meets the requirements of paragraphs (a), (d), (e), and (f) of this section. Performance of the responsibilities specified in paragraph (b) of this section and continued compliance with the requirements in paragraphs (a), (d), (e), and (f) of this section shall be evaluated by the Secretary not less than every four years as required by section 101(b)(2) of the National Historic Preservation Act. These evaluations shall determine the State's continued eligibility for approved program status.

(2) Procedures [Reserved]

(d) A professionally qualified staff shall be appointed or employed by the State historic preservation program.

(1) Except as approved pursuant to paragraph (d)(2) of this section, the staff shall include at a minimum, one full-time professional in each of the following disciplines: History, archeology, and architectural history. To be approved for expanded participation, a State must also have on the staff a professional in the discipline of historic architecture. Required professional State staff members shall meet the standards set forth in Appendix A of these rules. Two or more part-time staff members may be substituted for one full-time professional in any of the required disciplines as long as the equivalent of one full-time professional is achieved in each discipline. States shall determine what other professional disciplines, such as planning, law, architecture, historic architecture, historical archeology, accounting, and grants management are needed to carry out the responsibilities of the State historic preservation program. State professional staff members approved by the Secretary prior to September 21, 1977, shall remain approved until such time that they are no longer employed on the State staff.

(2) The Secretary will consider proposals submitted by States for alternative staffing requirements for States with resources and needs which cannot be served or met by the composition outlined in paragraph (d)(1) of this section. Such alternative requirements must insure adequate professional expertise on the staff, comparable to that required in paragraph (d)(1) of this section, to perform the required responsibilities of the State. These proposals will be reviewed and approved by the Secretary in writing on a State-by-State basis. Approved alternatives will remain in effect until they are reviewed, at the Secretary's discretion or at the request of the State.

(3) The State shall annually certify according to procedures provided by the Secretary that the State program meets the minimum staffing requirements. If these requirements are not met for a period exceeding three months, the State shall communicate by letter to the Secretary, the timetable for filling the vacancy, or propose an alternative pursuant to paragraph (d)(2) of this section. During the lapse in minimum staffing requirements the State shall suspend all decisionmaking related to the discipline of the vacant staff position. If the lapse in staffing requirements persists for more than six months, the Secretary may require further restrictions in State program operations of HPF financial assistance that will remain in effect until the staff vacancy has been filled or an alternative has been approved by the Secretary pursuant to paragraph (d)(2) of this section.

(e) An adequate and qualified State historic preservation Review Board shall be designated by the SHPO unless an alternative method of appointment is provided by State law.

(1) The State Review Board shall consist of at least five persons. A majority of Review Board members shall be recognized professionals in the following and related disciplines defined in Appendix A of these rules. Except as approved pursuant to paragraph (e)(4) of this section, the membership shall include a minimum of one professional in each of the following disciplines: history, prehistoric and historic archeology, and architectural history and architecture. All of these professionals shall meet the standards set forth in Appendix A. The State shall determine what other professional disciplines and/or additional members are needed.

(2) The archeologist shall be qualified in both prehistoric and historic archeology, or an additional qualified person shall be appointed to the State Review Board so that expertise in both prehistoric and historic archeology will be represented.

(3) The architectural historian or architect shall be qualified in both architectural history and architecture or an additional qualified person shall be appointed to the State Review Board so that expertise in both architectural history and architecture will be represented.

(4) The Secretary will consider proposals for alternative Review Board requirements for States with historic resources and needs which cannot be served or met by the composition outlined in paragraph (e)(1) of this section. Such alternative requirements must insure adequate professional expertise on the Review Board, comparable to that required in paragraph (e)(1) of this section to perform the responsibilities of the Review Board. Such proposals will be reviewed and approved in writing by the Secretary on a State-by-State basis. Approved alternatives will remain in effect until they are reviewed, at the Secretary's discretion, or at the request of the State.

(5) The State shall annually certify according to procedures provided by the Secretary that the State program meets the minimum Review Board requirements. If these requirements are not met for a period exceeding three months, the State shall communicate by letter to the Secretary, the timetable for filling the vacancy, or propose to NPS an alternative pursuant to paragraph (e)(4) of this section. During the lapse in minimum Review Board requirements, the State shall suspend all decisionmaking related to the discipline of the vacant Review Board position. If the lapse in Review Board requirements persists for more than six months, the Secretary may require further restrictions in State program operations or HPF financial assistance to remain in effect until the Review Board vacancy has been filled or an alternative has been proposed and approved by the Secretary pursuant to paragraph (e)(4) of this section.

(6) The State Review Board shall meet at least three times a year and shall adopt procedures governing its operations consistent with the provisions of this section.

(7) The responsibilities that the State Review Board performs shall include, but need not be limited to, the following:

(i) Reviewing each National Register nomination proposal prior to submission to the National Register to determine whether or not the property meets the National Register criteria for significance, and to make a recommendation that the State nominate or reject the proposed nomination;

(ii) Participating in the review of apeals to National Register nominations and providing written opinions on the significance of the properties;

(iii) Providing advice to the State about documentation submitted in conjunction with the Historic Preservation Fund including but not limited to grant applications, end-of-year reports, and the State comprehensive historic preservation planning process;

(iv) Providing general advice, guidance, and professional recommendations to the SHPO in carrying out the duties and responsibilities listed in § 61.3(b).

(f) Mechanisms shall be provided for adequate public participation in the State historic preservation program. As part of the process of recommending properties to the National Register, the State shall comply with all consultation and notification procedures contained in 36 CFR 60.6.

(g) Any State may carry out all or any part of its responsibilities by contract or cooperative agreement with any qualified nonprofit organization, educational institution or otherwise pursuant to State law. A State may not delegate its responsibility for compliance with grant assistance terms and conditions.

(h) The Secretary may prepare standards and guidelines as an appendix to these rules, in order to facilitate implementation of this section.

§ 61.4 Approved local programs.

(a) All approved State programs shall provide a mechanism for certifying local governments to participate in the National program.

(b) All approved State historic preservation programs shall develop, for approval by the Secretary, procedures for the certification of local governments. States shall indicate specific requirements for certification, specific responsibilities that will be delegated to certified local governments, and the schedule for the certification process. The requirements outlined in paragraph (c) of this section must be incorporated into the State's process for local certification that is submitted to the Secretary for approval. States shall outline performance standards and a procedure by which they will evaluate the performance of CLGs in program operation and administration. Procedures also shall be defined for removal of CLG status for cause.

(c) States shall require local governments to satisfy the following minimum requirements:

(1) *Enforce appropriate State or local legislation for the designation and protection of historic properties.* The State shall define what constitutes appropriate legislation. Where State enabling legislation or home rule authority permits local historic preservation ordinances, a State may require adoption of an ordinance and

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indicate specific provisions that must be included in the ordinance.

(2) *Establish an adequate and qualified historic preservation review commission (Commission) by State or local legislation.* Commission members shall be appointed from among professionals in the disciplines or architecture, history, architectural history, planning archeology, or related disciplines, to the extent that such professionals are available in the community. In addition, Commission membership shall include other persons who have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines.

(i) States shall specify the minimum number and type of professional members required on the Commission and indicate how additional expertise can be obtained. When a discipline is not represented in the Commission membership, the Commission shall be required to seek expertise in this area when considering National Register nominations and other actions that will impact properties which are normally evaluated by a professional in such discipline. This can be accomplished through consulting or by other means that the State determines appropriate.

(ii) States shall specify the role and responsibilities of the Commission in local preservation decisions. These responsibilities must be complementary to and carried out in coordination with those of the State as outlined in § 61.3(b) of these rules. Additional requirements for an adequate and qualified Commission may be established by the State.

(3) *Maintain a system for the survey and inventory of historic properties.* States shall formulate guidelines for local survey and inventory systems which ensure that such systems and the data they produce can be readily integrated into statewide comprehensive historic preservation planning and other appropriate planning processes. Local government survey and inventory efforts shall be coordinated with and complementary to those of the State. The State also shall require that local survey data be in a format that is consistent with the planning processes noted above.

(4) *Provide for adequate public participation in the local historic preservation program, including the process of recommending properties to the National Register.* States shall require adequate public participation in relation to all responsibilities that are delegated to CLGs. States shall outline specific mechanisms to insure adequate public participation in local preservation programs. These may include requirements for open meetings, published minutes, and the publication of procedures by which assessments of potential National Register nominations, design review, etc. will be carried out as well as compliance with appropriate regulations.

(5) *Satisfactorily perform the responsibilities delegated to it under the Act.* States shall monitor and evaluate the performance of CLGs. States shall outline procedures and standards by which the performance of CLGs in program operation and administration will be evaluated. Written records shall be maintained for all State evaluations of CLGs so that results are available for the Secretary's performance evaluations of States. If a State evaluation of a CLG's performance indicates that, in the State's judgment, such performance is inadequate, the State shall suggest ways to improve performance. If, after a period of time stipulated by the State, the State determines that there has not been sufficient improvement, it may recommend decertification of the local government to the Secretary for his concurrence. This recommendation shall cite the specific reasons why decertification is proposed. Appropriately documented State recommendations for decertification ordinarily will be accepted by the Secretary. When a local government is decertified, the State shall conduct suspension and termination of financial assistance procedures as specified in the HPF Grants Management Manual.

(d) Effects of certification:

(1) *Inclusion in the process of nominating properties to the National Register of Historic Places in accordance with section 101 (c)(2)(A) and (c)(2)(B) of the Act.* The State may delegate to a CLG any of the responsibilities of the SHPO and the State Review Board in processing National Register nominations as specified in 36 CFR 60.6, except for the authority to nominate properties directly to the National Register. States shall insure that CLG performance of these responsibilities is consistent and coordinated with the identification, evaluation, and preservation priorities of the comprehensive State historic preservation planning process.

(2) *Eligibility to apply for a portion of the State's annual HPF grant.* At least 10 percent of the State's annual HPF apportionment shall be set aside for transfer to CLGs. All CLGs in the State shall be eligible to receive funds from the designated CLG share of the State's annual HPF grant; no government, however, is automatically entitled to receive funds. Local governments that receive these monies shall be considered subgrantees of the State.

(3) The requirements set forth in paragraph (c) of this section may be amplified by the Secretary and/or the States as necessary to reflect particular State and or local government program concerns.

(e) States shall submit, within 180 days of publication of the final rule for local certification and funds transfer, their proposed local certification processes to the Secretary for review and approval. In developing the submission, the State shall consult with local governments, local historic preservation commissions and other interested parties, consider local preservation needs and capabilities, and invite comments on the proposed process from local governments, commissions and interested parties in the State. The State's proposal shall review the results of this consultation process.

(f) States shall establish procedures to insure that all interested parties are notified and provide a 30-day period for public comment on the proposal before it is submitted to the Secretary. Records of all comments received during the commenting period shall be kept by the State and shall be made available to the Secretary upon request.

(g) The Secretary shall review State proposals and within 90 days of receipt issue an approval of disapproval. This review will be based on compliance with the requirements set forth in this section.

(h) If a State proposal is disapproved, the Secretary will recommend changes that would make the proposed process acceptable and, in consultation with the State, will designate a date by which the revision must be submitted. Final approval by the Secretary must be achieved by October 1, 1984, or States will be ineligible to continue their approved State program status beyond that time.

(i) A State may begin to certify local governments as soon as the State's proposed certification process is approved by the Secretary. The State shall notify the Secretary when a local government certification request has been approved in accordance with the State's approved certification process and forward to the Secretary a copy of the approved request. If the Secretary does not take exception to the request within 15 working days of receipt, the local government shall be regarded as certified by the Secretary.

(j) State administration of its local certification process shall be reviewed by the Secretary during performance evaluations and audits of State programs as required by section 101(b)(2) of the National Historic Preservation Act.

(k) The District of Columbia shall be exempted from the requirements of section 61.4 because there are no subordinate local governments in the District. If a territory believes that its political subdivisions lack authorities similar to those of local governments in other States and hence cannot satisfy the requirements for local certification, it may apply to the Secretary for exemption from the requirements of § 61.4.

(l) Procedures for direct certification by the Secretary where there is no approved State program [Reserved].

(m) The Secretary may prepare standards and guidelines as an appendix to these rules, in order to facilitate implementation of this section.

§ 61.5 Grants to approved State programs.

(a) All States with approved State historic preservation programs shall be eligible for matching grants-in-aid from the Historic Preservation Fund for the purposes of preparing comprehensive statewide historic surveys and plans, and for preserving and protecting properties listed in the National Register of Historic Places.

(b) Administration of HPF matching grants-in-aid shall be in accordance with the HPF Grants Management Manual. States receiving HPF grants shall adhere to the policies, procedures, and guidelines in the Grants Management Manual and its supplements.

(c) States are responsible, through financial audit, for the proper accounting of HPF grants in accordance with OMB Circular A–102, Attachment P, "Audit Requirements," and the HPF Grants Manual.

(d) States are responsible, through the program performance evaluation requirements of § 61.3(c), for administration of HPF grants in accordance with the requirements of this section.

(e) The Secretary may prepare standards and guidelines as an appendix to these regulations, in order to facilitate implementation of this section.

§ 61.6 Transfer of grants to certified local governments.

(a) At least 10 percent of each State's annual Historic Preservation Fund (HPF) allocation shall be designated for transfer by States to CLGs. States may transfer more than 10 percent unless otherwise prohibited. Any year in which the annual HPF State grant appropriation exceeds $65,000,000, one half of the excess shall also be transferred to CLGs according to procedures to be provided by the Secretary.

(b) All CLGs shall be eligible to receive funds from the 10 percent CLG share of the State's total annual HPF grant award. The State is not required to award funds to all governments that are eligible to receive funds.

(c) CLGs receiving HPF grants from the CLG share shall be considered subgrantees of the State. Transferred monies shall not be applied as matching share for any other Federal grant.

(d) States shall require all local governments receiving a portion of the local share of the State's annual HPF grant to satisfy the following minimum requirements:

(1) *Maintain adequate financial management systems.* Local financial management systems shall be in accordance with the standards specified in OMB Circular A–102, Attachment G, "Standards for Grantee Financial Management Systems." Local financial management systems shall be auditable in accordance with the General Accounting Office's *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions.* States shall be responsible, through financial audit, for the proper accounting of HPF CLG share monies in accordance with OMB Circular A–102, Attachment P, "Audit Requirements." The periodic State evaluations of CLG performance shall include an assessment of the fiscal management of HPF monies.

(2) *Adhere to all requirements of the HPF Grants Management Manual.* The HPF Grants Manual sets forth administrative procedures and policies for HPF grants awarded by the Secretary. It serves as a basic reference for the State management of HPF grants. Indirect costs may be charged as part of the CLG grant only if the CLG subgrantee meets the requirements of Chapter 12 of the Grants Manual. Unless the CLG has a current indirect cost rate approved by the cognizant Federal agency, only direct costs may be charged.

(3) *Adhere to any requirements mandated by Congress regarding the use of such funds.* The Secretary will advise States of any directives contained in annual appropriations laws regarding the use of HPF State grants that must be applied to local governments receiving a share of these grants.

(e) The requirements listed in paragraph (d) of this section shall be used by States as minimum requirements for local governments receiving HPF funds; they also shall be included in the State's required written grant agreement with the local government. States may require specific uses of funds as long as such requirements are consistent with the State comprehensive historic preservation planning process and are eligible for HPF assistance.

(f) Each State shall develop, for approval by the Secretary, a procedure for allocating the CLG share of its annual Historic Preservation Fund grant to eligible local governments in the State. States shall articulate a clear rationale on which funding decisions will be based. States may require a matching share for CLG grants. Allocation procedures shall include guidelines for the review of applications and the selection of applicants. At a minimum, these guidelines shall include the following:

(1) The amount awarded to any applicant must be sufficient to produce a specific impact. While no lower limit is prescribed by these rules, States must insure that the funds awarded are sufficient to generate effects directly as a result of the funds transfer. The requirement for measurable results may not be waived even if there are many otherwise eligible applicants for the amount set aside for CLG share; States may use additional funds from their regular HPF annual grant to satisfy competing demands.

(2) In order to promote local preservation activities, States shall make reasonable efforts to distribute these monies among the maximum number of eligible local jurisdictions to the extent that such distribution is consistent with paragraph (f)(1) of this section. States also shall seek to insure a reasonable distribution between urban and rural areas in the State.

(3) States shall make available to the public, upon request, the rationale for the applicants selected and the amounts awarded.

(g) Within 180 days of publication of final rules for local certification and funds transfer, but not before submitting their proposed local certification process, States shall submit to the Secretary for review and approval, their proposed procedure for transfer of funds.

(h) States shall set up notice procedures to insure that all interested parties are notified and provide a 30-day period for public comment on the proposal before it is submitted to the Secretary. Records of all comments received during the commenting period shall be kept by the State and shall be

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made available to the Secretary upon request.

(i) The Secretary shall review State proposals and within 90 days of receipt issue an approval or disapproval. This review will be based on compliance with the requirements set forth in this section.

(j) If a State proposal is disapproved, the Secretary will recommend changes that would make the proposed process acceptable and, in consultation with the State, will designate a date by which the revision must be submitted. Final approval by the Secretary must be achieved by October 1, 1984, or States will be ineligible to continue their approved State program status beyond that time.

(k) Once a State's proposed process for funds transfer has been approved by the Secretary and the Secretary has obligated the State's annual HPF grant, the State shall begin the transfer of HPF monies unless otherwise prohibited as a consequence of actions described in § 61.6(d)(3).

(l) Each State shall insure that its procedure is widely publicized so that all eligible local governments have the opportunity to apply for funding.

(m) States shall be responsible for reviewing requests from CLG subgrantees for grant amendments as required by OMB Circular A–87, and for issuing approval or denial of such requests. If any action by a CLG will result in a change in the overall grant project or budget requiring NPS approval, the State shall obtain such approval prior to granting approval to the CLG subgrantee. A State shall not forward to NPS any action which is inconsistent with the purpose or terms of the grant. CLG subgrantee requests for revisions to the grant are invalid unless they are in writing and signed by an authorized official of the State grantee.

(n) State performance in transferring funds to CLGs shall be reviewed by the Secretary during performance evaluations and audits of State programs as required by Sec. 101(b)(2) of the National Historic Preservation Act.

(o) States may submit grant amendment requests to NPS to reallocate monies set aside for local governments in instances where no certified governments exist, wish to receive funds, or are qualified to receive funds. Such requests will be considered grant reprogramming actions and shall be submitted to NPS not less than one calendar year after the beginning of the fiscal year of the State's HPF appropriation. All such requests shall clearly document the State's attempts to encourage and assist local governments in developing local historic preservation programs pursuant to section 61.4 of these regulations, in being certified, and in applying for funding.

(p) The District of Columbia shall be exempted from the requirements of § 61.6 because there are no subordinate local governments in the District. If a territory believes that its political subdivisions lack authorities similar to those of local governments in other States and hence cannot satisfy the requirements for local certification, it may apply to the Secretary for exemption from the requirements of § 61.6.

(q) The Secretary may prepare standards and guidelines as an appendix to these regulations, in order to facilitate implementation of this section.

§ 61.7 Waiver.

The Secretary may waive any of the requirements of these rules which are not mandated by statute or by government-wide regulations, if, in his opinion, as expressed in writing to the State, the State historic preservation program would benefit from such waiver, and the purposes, conditions, and requirements of the National Historic Preservation Act would not be compromised.

Appendix A—Professional Qualifications Standards

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

(a) *History.* The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

(1) At least two years of full-time experience in research, writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or

(2) substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

(b) *Archeology.* The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

(1) at least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

(2) at least four months of supervised field and analytic experience in general North American archeology; and

(3) demonstrated ability to carry research to completion. In addition, to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

(c) *Architectural history.* The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:

(1) At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

(2) substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

(d) *Architecture.* The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time professional experience in architecture; or a State license to practice architecture.

(e) *Historic Architecture.* The minimum professional qualifications in historic architecture are a professional degree in architecture or State license to practice architecture, plus one of the following:

(1) At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or

(2) At least one year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

[FR Doc. 83-11565 Filed 4-29-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. (AWO34bPA); A–3–FRL 3219–5]

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted a proposed revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble." Pennsylvania has requested that the plan be approved by EPA for the Fairless Works of the United States Steel Corporation (USSC) in Fairless Hills, Bucks County, Pennsylvania. This plan consists of a bubble permit and regulations which apply to sulfur dioxide emissions from the power boilers, coke oven batteries, open hearth furnaces, soaking pits, annealing furnaces, and other miscellaneous heat treating furnaces. The proposed plan would allow sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions would be offset by burning low sulfur oil and natural gas in the other sources listed above. In support of this proposed bubble, an air quality analysis was conducted in accordance with EPA's Emissions Trading Policy of April 7, 1982 (47 FR 15076). EPA has reviewed this analysis and has concluded that no significant air quality impacts will occur on an annual or short-term (24-hour) basis when this bubble is implemented.

DATE: Comments must be submitted on or before June 1, 1983.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106; Attn: Mr. David L. Arnold, or

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120; Attn: Mr. Gary L. Triplett.

All comments on the proposed revision submitted on or before June 1, 1983 will be considered and should be sent to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air and Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Mr. David L. Arnold at the above address, or at (215) 597–7936.

SUPPLEMENTARY INFORMATION: The proposed changes to the Pennsylvania State Implementation Plan (SIP) were submitted by the Pennsylvania Department of Environmental Resources (PADER). The changes will allow the implementation of an alternative emission reduction plan (bubble) in accordance with EPA's Emissions Trading Policy of April 7, 1982 (47 FR 15076). EPA and the PA DER are processing this proposal concurrently. All comments received by the PA DER at the public hearing on June 17, 1982 in Norristown, Pennsylvania, and any written comments received by EPA, will be considered by EPA in making a final determination on the approvability of the plan.

The bubble being proposed involves 96 sulfur dioxide (SO_2) emission sources at the Fairless Works of the United States Steel Corporation (USSC). This plan consists of a bubble permit and regulations which apply to SO_2 emissions from five boilers, two coke oven batteries, nine open hearth furnaces, thirty-six soaking pit furnaces, thirty-one annealing furnaces, and thirteen miscellaneous heat treating furnaces. The proposed plan would allow sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions would be offset by burning low sulfur oil and natural gas in the other sources listed above.

The current Pennsylvania SIP (25 PA. Code Sections 123.21, 123.22(e)(3), and 123.23(b)) prohibits the combustion of coke oven gas that contains hydrogen sulfide in concentrations greater than 50 grains per 100 dry standard cubic feet; requires control of the boilers to a level of 0.6 pounds SO_2 per million Btu and the remaining sources in the bubble to a level of 500 ppm (vol) of SO_2. The proposed bubble regulations establish a short term plant emission limit of 0.8 pounds SO_2 per million Btu applied on a weekly basis. To restrict extreme variations in daily emission levels, the emission limit is calculated using a rolling average. Using the rolling average method, one day's emissions are included in the calculation for compliance seven times instead of once. This technique is also applied to the long term emission limit which is set at 0.6 pounds SO_2 per million Btu (52 week rolling average). This limit was chosen because it was the most restrictive combustion emission limit in the PA DER regulations. In addition, to prevent daily emission levels from increasing because of production increases, a maximum limit of 54,000 pounds SO_2 per day is also proposed in the plan.

The PA DER is also proposing separate emission limits for the plant during times of economic slowdown or lower production. Based upon historical operating data, a total facility heat demand of less than 400 billion Btu per week has been used to define low production activity. During these periods, the PA DER is proposing an emission limit of 0.9 pounds SO_2 per million Btu based on a seven-day rolling average. To prevent daily emission levels from increasing during low production, a maximum limit of 36,000 pounds SO_2 per day is also being proposed.

Table 1 below lists the sources involved in the emissions trade and summarizes the average hourly SO_2 emission rates for each under the base case and the alternate case.

TABLE I.—SULFUR DIOXIDE EMISSIONS FROM USSC—FAIRLESS WORKS

[In pounds per hour]

Facility	Base case	Alternate case
Boilers	1,126	442
Coke batteries	125	700
Open hearth shop	539	308
No. 1 soaking pits	372	112
No. 2 soaking pits	230	67
60" Reheat	978	350
40" Reheat	125	63
10" Reheat	94	35
Batch anneal furnaces	175	50
Sheip reheat	140	40
Weld furnaces	360	91
Galvanize furnace	12	4
Total	4,195	2,344

As illustrated by Table 1, the proposed bubble plan will result in an overall net decrease in SO_2 emissions of 1851 pounds per hour. In addition, the company estimates its savings in capital pollution control costs to be approximately $17,000,000

In accordance with EPA's Emissions Trading Policy and modeling guidelines, a Level II air quality analysis was conducted by USSC to support the proposed plan. A Level II analysis is required when the proposed emissions trade will result in no net increase in baseline emissions and the relevant sources are *not* in the same immediate vicinity. Air dispersion modeling analyses were conducted using the proposed bubble emission rates and the base case emission rates. This plan was evaluated using the ISC model. Results of the modeling predictions indicate that no significant increase in air qualtiy impact will occur on either an annual or short-term (24-hour) basis. In addition, EPA has concluded that the PSD increment for SO_2 will not be violated as a result of this proposed action.

The proposed regulation to implement and enforce this plan will become Section 128.15 of the PA DER Air Resources Regulations. Subsection (a) of the Section identifies the sources affected by this plan.

Subsection (b) and (c) prohibits sulfur dioxide emissions from the identified sources in the bubble in excess of the specified emission limits. Subsection (d) prohibits the use of residual fuel oil which contains sulfur in excess of 0.5% (wt). Subsection (e) prohibits the charging of the coke ovens with blended

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coal containing sulfur in excess of 1.0% (wt). Subsection (f) relieves USSC from compliance with Sections 123.21, 123.22 and 123.23 when in compliance with this Section. Finally, subsection (g) voids the bubble if one or more of the sources identified in subsection (a) is permanently shut down.

In order for the PA DER to determine compliance with these regulations, monitoring, recordkeeping and reporting requirements have been developed as conditions in the operating permit. USSC will be required to monitor and record all natural gas, fuel oil and coke oven gas usage on a daily basis. In addition, the company must analyze all fuel oils for sulfur and heat content; blended coal for sulfur content; and coke oven gas for hydrogen sulfide on a daily basis. The above analyses must be conducted in accordance with approved State/EPA methods. All daily and weekly sulfur dioxide emission calculations must be performed in accordance with the instructions prescribed in the State operating permit.

EPA is today proposing to approve this bubble plan as a SIP revision since it has met the requirements of the April 7, 1982 Emissions Trading Policy (47 FR 15076).

The public is invited to submit, to the address stated above, comments on whether the proposed changes should be approved as a revision to the Pennsylvania SIP. The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51.

The Office of Management and Budget has exempted this rule from requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(42 U.S.C. 7401–7642)

Dated: March 2, 1983.

Stanley L. Laskowski,

Regional Administrator.

[FR Doc. 83-11717 Filed 4-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2356-6]

Approval and Promulgation of Implementation; Ohio

AGENCY: Environmental Protection Agency (EPA)

ACTION: Extension of the public comment period.

SUMMARY: On February 13, 1983, the U.S. Environmental Protection Agency (EPA) proposed rulemaking on a revision in the form of individual variance permits for two coal-fired boilers and three PVC resin storage silos at the B.F. Goodrich Chemical Plant located in Avon Lake (Lorain County), Ohio (48 FR 7211). The State requested that EPA approve an alternate strategy "bubble" which would involve trading emission reductions between the boilers and the silos.

At the time of proposed rulemaking a 30 day comment period was provided. On April 18, 1983 (47 FR 16507), EPA published in the **Federal Register** an extension of the public comment period to April 20, 1983. The Natural Resources Defense Council (NRDC) requested a second extension of the public comment period to May 5, 1983.

On February 3, 1983, EPA proposed rulemaking on a revision to the ozone and carbon monoxide (CO) State Implementation Plan (SIP) for Cincinnati, Ohio to demonstrate attainment of the National Ambient Air Quality Standards (NAAQS) by December 31, 1987. (48 FR 5118).

ON April 18, 1983, (47 FR 16507), EPA published in the **Federal Register** an extension of the public comment period to Apirl 20, 1983. The Tri-State Air Committee, Inc. requested a second extension of the public comment period to May 5, 1983.

DATES: Comments for both notices must be received on or before May 5, 1983.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section (5 AP-26), Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

Dated: April 22, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-11623 Filed 4-29-83; 8:45 am]

BILLING CODE 6560-50-M

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance To Aliens

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The Continuing Resolution under which the Legal Services Corporation is presently operating restricts categories of aliens who may receive legal assistance financed with fiscal year 1983 funds. This proposed rule adds a new Part 1626 to implement these restrictions. It clarifies and interprets them, sets forth procedures for verification of eligibility, requirements for recordkeeping and protection of confidential information, and guidelines for withdrawal from representation when an alien client is found to be ineligible.

DATE: Comments must be received on or before June 1, 1983.

ADDRESS: Comments may be mailed to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, N.W., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

Background

The Second Continuing Resolution (Pub. L. 97-377) prohibits the use of Fiscal Year 1983 funds appropriated to the Legal Services Corporation (the Corporation) for the provision of legal assistance "for or on behalf of" any alien except for aliens in four specific categories (enumerated in Section 1626.4(a) of this Part). All recipients of Corporation funds received with their 1983 grants a copy of this Continuing Resolution language governing legal assistance to aliens and are required by grant condition to comply therewith.

Scope of Eligibility for Legal Assistance

The broad scheme of this legislation is that all aliens not within an eligible category are ineligible. The eligible categories are generally: permanent residents; immediate family members of a citizen who have filed a petition for adjustment of status which has not been rejected; refugees, asylees, and conditional entrants admitted because of persecution or natural calamity; and aliens lawfully present in the United States as a result of the Attorney General's withholding of deportation under Section 243(h) of the Immigration

and Nationality Act. These categories reflect a general division Congress made between aliens who can be expected to remain in the United States permanently or indefinitely and those whose status is expected to be temporary. (Section 1626.4(a) includes a full list of the eligible alien categories.)

In determining the scope of eligibility, two significant questions arose. First, what is the meaning of the prohibition of legal assistance "for or on behalf of" an ineligible alien; second, at what point is an application for adjustment of status deemed "rejected"?

Interpretation of Legal Assistance "For or On Behalf of" an Ineligible Alien

Three alternatives presented themselves in interpreting the scope of the prohibition of legal assistance "for or on behalf of" an ineligible alien. First, it could be interpreted to prohibit any legal assistance to a client which would result in a significant benefit, even if incidental, to an ineligible alien. Second, it could be interpreted to prohibit any legal assistance which directly benefits an ineligible alien. Third, it could be interpreted as simply a precaution against an eligible client seeking legal assistance for the purpose of benefiting an ineligible alien. In the absence of legislative history bearing on the meaning of this phrase, the Corporation has chosen the second alternative. The first interpretation would interfere unduly with representation of eligible clients, while the third would be an unduly narrow interpretation of Congressional intent. The Corporation considers that the requirement of a direct benefit to the eligible client and only an incidental benefit to the ineligible alien is reasonable and feasible to administer. The Corporation has specifically concluded that all immigration cases in which an ineligible alien is a beneficiary fall under this prohibition, because the direct benefit is to the ineligible individual, even if another eligible individual has an interest in that individual's immigration into or continued presence in the United States. The benefit to the ineligible alien is direct and the benefit to the eligible client is consequent on the benefit to the ineligible alien.

Interpretation of Rejection of Application for Adjustment of Status

The Continuing Resolution allows legal assistance to any spouse, parent or child under 21 of a citizen if that individual has filed a petition for adjustment of status to permanent resident and it has not been "rejected." Again, the Corporation considered three interpretations of the term "rejected":

(1) Rejection of the initial application by the Immigration and Naturalization Service (INS);

(2) Exhaustion of administrative appeals;

(3) A final judgment by a court.

INS normally employs a one-step process to adjudicate petitions for adjustment of status; however, INS regulations do allow appeals in certain instances. As the word "rejected" properly applies to any denial of a petition, there is a strong argument for the first alternative. Nevertheless, the Corporation prefers to take the INS administrative process as a whole and interpret the term "rejected" as a denial of a petition not subject to further administrative appeal (see § 1626.2(c)). The third interpretation covers applications denied by INS which are being or could be challenged in court; it would negate the effect of the prohibition.

Verification of Eligibility

The proposed regulation allows recipients to accept self-declarations from United States citizens as to their citizenship, but requires recipients to obtain documentation from aliens claiming to be eligible for legal services before commencing representation. The Corporation considered, as an alternative, requiring recipients to accept self-declaration in every case, but rejected that approach since it could lead to recipients expending scarce resources to provide legal services to ineligible persons rather than to citizens and eligible aliens. Indeed, many aliens may not know whether they are eligible until they seek legal assistance and a recipient makes this determination. On the other hand, the Corporation considered and rejected an approach that would require documentation of citizens and aliens alike, since most legal services clients are citizens and imposing a verification requirement in all cases would be unnecessarily expensive, time-consuming, and a diversion of resources from the provision of legal services. The proposed regulation, which allows self-declarations by citizens but requires documentation as to alien status, recognizes that recipients should not be required to spend unnecessary time and resources verifying citizenship. It also recognizes, however, that the Corporation is obligated to ensure that recipients represent only aliens who are demonstrably eligible for assistance. Hence it allows a recipient to require verification of citizenship if the recipient has good reason to believe that a person is not a citizen. The Corporation expects that recipients will not rely on factors such as a person's appearance, race or national origin, or limited ability to speak English to justify requiring documentation of citizenship, as recipients are required by law to provide legal services in a nondiscriminatory manner. Rather a recipient may require verification of citizenship only when specific circumstances arising either at the outset of or during the representation of an individual indicate that the individual may not be a citizen.

Disposition of Cases Involving Representation of Ineligible Aliens

The Corporation recognizes that recipients may have begun representation of persons who are "ineligible aliens" under proposed § 1626.2(b) prior to the receipt of funds appropriated under Pub. L. 97-377, and that attorneys have certain ethical and professional responsibilities toward those clients. Nevertheless the language of Pub. L. 97-377 does not allow of the use of such funds to complete representation of ineligible aliens. Consequently, proposed § 1626.6 requires the use of funds other than those appropriated by Pub. L. 97-377 to complete legal assistance for or on behalf of an "ineligible alien" where referral or discontinuance of representation is impossible. Should no such funds be available, a recipient and its attorneys may need to make a special effort to seek the assistance of the local bar, solicit other funds, and/or allow its attorneys to complete these cases on an uncompensated basis.

Proposed § 1626.7 requires a recipient to discontinue representation supported by funds appropriated by Pub. L. 97-377 if a client becomes an ineligible alien as defined in proposed § 1626.2(b) due to a change in circumstances, or if representation was commenced due to an erroneous eligibility determination or false information provided by the alien, if discontinuance is not inconsistent with the attorney's professional responsibilities. Immediate discontinuance is required after the discovery of false information provided by the alien relating to eligibility.

Confidentiality and Recordkeeping

There is a clear need to retain records of eligibility documents to allow review by recipients and by the Corporation of the implementation of these restrictions. Consequently, retention of copies of eligibility documents for all persons seeking legal assistance is required. As those who are found ineligible often have no documentation or irrelevant documentation, retention of copies of

said documentation is not required in all instances, but recipients are required to keep a record of what documentation, if any, was given to them.

The Corporation gives high priority to the protection of the confidentiality of eligibility documentation. Therefore, § 1626.9 prohibits release of such documentation except under court order or by Congressional request to any third party except the Corporation for the purpose of reviewing eligibility determinations.

Eligibility of Micronesia

Under Section 1002(8) of the Legal Services Corporation Act (the Act), the term "State" is defined to include " " " the Trust Territory of the Pacific Islands " " " (Micronesia). The Corporation funds recipients in all states, as defined in Section 1002(8), except American Samoa. The authority of the Corporation to fund Micronesia Legal Services is clear under the Act. However, the issue is whether funds appropriated under the Continuing Resolution can be used for provision of legal assistance to citizens and permanent residents of Micronesia, very few of whom are citizens of the United States and who do not fall within the definition of eligible aliens under the Continuing Resolution.

Congress, has, however, expressed no intent to exclude them; they do not come from and neither were or are citizens of any other country, but rather are citizens of a Trust Territory administered under U.N. mandate. It is the interpretation of the Corporation that the scheme of the aliens provision is to exclude all aliens not likely to be permanent or long-term residents of the United States and its territories. Thus the distinctions expressed in the Continuing Resolution are not appropriate to Micronesians. Consequently, the Corporation considers all such permanent residents of Micronesia in a category analogous to permanent alien residents of the United States; as such the Corporation has determined that such permanent residents of Micronesia are eligible to receive legal assistance provided they are otherwise eligible under the Act.

Eligibility of Cross-Border Indian Tribes

Canadian-born American Indians at least 50% Indian by blood have a right to freely "pass and repass" the Canadian-American border under the Jay Treaty of 1794 and 8 U.S.C. 1359. They are not subject to the Immigration Act of 1952, as amended, as held in *Akins* v. *Saxbe*, 380 F. Supp. 1210 (D. Me. 1974). Thus, the Corporation has concluded that because such Canadian-born American Indians are not treated as aliens for immigration purposes, they fall outside of the restrictions of the continuing resolution, and are eligible to receive legal assistance.

Likewise, the Texas Band of Kickapoo who live on both sides of the U.S.-Mexican border were granted rights similar to those of Canadian-born American Indians by Pub. L. 97–684. This statute also requires the Interior Department to make a permanent record of all members of the Kickapoo during 1983 and allows them to apply for United States citizenship at any time within the next 5 years. Although their technical status at present is that of parolees, Congress has thus indicated that their relationship to the United States is of a permanent nature and most of them can be expected to become citizens within the next 5 years. On the basis of this recently passed legislation expressing the intent of Congress to regularize the status of the Kickapoo, they are deemed eligible to receive legal assistance.

List of Subjects in 45 CFR Part 1626

Privacy, Aliens, Legal services, Reporting and recordkeeping requirements.

For the reasons set out above, 45 CFR Chapter XVI is proposed to be amended by adding Part 1626 to read as follows:

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

Sec.

1626.1 Purpose.
1626.2 Definitions.
1626.3 Prohibition of legal assistance "for or on behalf of" an ineligible alien.
1626.4 Alien status and eligibility.
1626.5 Verification of citizenship and eligible alien status.
1626.6 Disposition of cases involving ongoing representation of ineligible aliens.
1626.7 Change in circumstances.
1626.8 Records.
1626.9 Use and confidentiality of records pertaining to determination of eligible alien status.
1626.10 Special eligibility questions.

Authority: Section 1006(e) Pub. L. 93–355, 88 Stat. 378 (42 U.S.C. 2996e(e)); Pub. L. 97–377, 96 Stat. 1874.

§ 1626.1 Purpose.

This Part is designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance, to provide guidelines for referral of ineligible persons, and to protect the confidentiality of information obtained from clients and prospective clients. This Part does not apply to any case or matter in which assistance is not being provided with funds appropriated under Pub. L. 97–377.

§ 1626.2 Definitions.

As used in this Part the term—

(a) "Eligible alien" means an alien who meets the requirements of § 1626.4(a).

(b) "Ineligible alien" means an alien who does not meet the requirements of § 1626.4(a) and who is consequently determined not to be eligible to receive legal assistance under Pub. L. 97–377.

(c) "Rejected" refers to an application for adjustment of status that has been denied by the Immigration and Naturalization Service (INS) and is not subject to further administrative appeal.

§ 1626.3 Prohibition of legal assistance "for or on behalf of" an ineligible alien.

(a) *General.* No funds made available to a recipient by the Corporation under the authority of Pub. L. 97–377 shall be used to provide legal services for or on behalf of any person unless that person is a citizen of the United States or an eligible alien, except as authorized in this part.

(b) *Prohibited legal assistance "for" an ineligible alien.*—(1) To provide legal assistance "for" an ineligible alien is equivalent to furnishing legal assistance to a client and it shall be deemed to be coextensive with accepting an ineligible alien as a client. Consequently, all recipients are prohibited from using fiscal year 1983 Corporation funds to pay any costs connected with furnishing legal assistance to clients who are ineligible aliens.

(2) Normal intake procedures and referral of ineligible alien clients by the same procedures used to refer other classes of ineligible clients are excepted from this prohibition. If a referral is not possible, an ineligible alien client may not be represented if any fiscal year 1983 funds are used in such representation. If such an ineligible alien client is referred, a recipient may not participate further in the case (using fiscal year 1983 funds).

(3) The provisions of Section 1010(c) of the Legal Services Corporation Act do not apply to the expenditure of funds to represent ineligible aliens. Such aliens may be represented if all costs of such representation, including staff time, are funded from non-Corporation sources.

(c) *Prohibited legal assistance "on behalf of" an ineligible alien.*—(1) To provide legal assistance "on behalf of" an ineligible alien is to render legal assistance to an eligible person which directly benefits an ineligible alien. Ineligible aliens may benefit but only as an incidental result of the relief

obtained for eligible clients. As an example, where a group of individuals renting a residence is faced with eviction, and one of the group is an eligible alien or a citizen, representation of that individual is allowed because there is a direct benefit inuring to the client represented which would exist even absent the involvement of ineligible clients. The other aliens may not be named as parties or represented and no relief may be sought for them, but they may receive an incidental benefit if successful representation of the eligible client leads to their not being evicted.

(2) Any case in which an eligible client seeks legal assistance to facilitate immigration of or adjustment of status of an ineligible alien constitutes provision of legal assistance "on behalf of" an ineligible alien, even if there is a benefit to the eligible client. The benefit to the eligible client occurs only as a consequence of the benefit to the ineligible alien. Consequently, the prohibition of assistance on behalf of an ineligible alien extends to all legal assistance wherein the admission of a person into the United States is sought and to any other immigration matter wherein an eligible client is assisted to aid or facilitate the adjustment of the status of an ineligible alien.

§ 1626.4 Alien status and eligibility.

(a) Subject to all other eligibility requirements of the Act, an alien who is a resident of the United States and who is within one of the following categories shall be eligible for legal services:

(1) An alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15) and (20));

(2) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157 relating to refugee admissions) or who has been granted asylum by the Attorney General under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), or who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity; or

(4) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

(b) An alien who is not within one of the eligibility categories defined in § 1626.4(a) shall not be eligible for legal services. Categories of ineligible aliens include but are not limited to:

(1) Aliens present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5) relating to parolee admissions); or

(2) Aliens admitted into the United States as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including:

(i) Ambassadors and other diplomatic officers and employees, embassy attendants and servants, and their immediate families;

(ii) Tourists and temporary business visitors;

(iii) Aliens in transit through the United States or going to and from the United Nations;

(iv) Alien crewmen from foreign vessels and aircraft who enter the United States temporarily and intend to depart on their vessels or aircraft;

(v) Alien traders and investors present in the U.S. pursuant to treaties of commerce and navigation, and their immediate families;

(vi) Foreign students who enter the United States to study at academic institutions, and their spouses and minor children;

(vii) Officials, employees, and representatives of international organizations, and their immediate families;

(viii) Temporary workers, trainees, and persons of distinguished ability and their spouses and minor children;

(ix) Members of the foreign press, radio, film, and other media, and their spouses and children;

(x) Participants in State Department-sponsored exchange programs, and their spouses and minor children;

(xi) Fiances and fiancees of United States citizens who enter the United States solely to conclude valid marriages, and their minor children;

(xii) Employees of United States corporations or businesses based in another country who enter the United States to work for the same employers, and their spouses and minor children;

(xiii) Foreign students who enter the United States to study at vocational or nonacademic institutions, and their spouses and minor children.

§ 1626.5 Verification of citizenship and eligible alien status.

(a) A citizen seeking representation shall attest in writing to the fact of his or her United States citizenship. Verification of citizenship shall not be required unless a recipient has good cause to conclude that a person may not be a United States citizen. A recipient shall accept the original or a certified copy of any of the following documents as proof of citizenship:

(1) United States passport;

(2) Birth certificate;

(3) Naturalization certificate;

(4) United States Citizenship Identification Card; (INS Form I–197);

(5) Commuter Status Card (INS Form I–178).

If a person is unable to produce any of the above documents, he or she may submit a notarized statement signed by a third party, who can produce proof of that party's own United States citizenship that the person seeking legal assistance is a United States citizen.

(b) An alien seeking representation shall submit appropriate documents to verify eligibility. A recipient shall accept originals of any of the following documents as proof of eligibility:

(1) An alien in the category specified in § 1626.4(a)(1) shall present an Alien Registration Receipt Card (INS Forms I–151, I–551, or AR–3a), Temporary Evidence of Lawful Admission for Permanent Residence (INS Form I–181B), or a valid passport and immigrant visa.

(2) An alien in the category specified in § 1626.4(a)(2) shall present the fee receipt issued to the alien by the Immigration and Naturalization Service (INS) at the time that the Application for Status as Permanent Resident (INS Form I–485) was filed; or, if such fee receipt is not available, a copy of the Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa (INS Form I–130) and the Application for Status as Permanent Resident accompanied by a notarized statement, signed by the alien that such forms were filed with INS.

(3) An alien in the category specified in Part 1626.4(a)(3) shall present an Arrival-Departure Record (INS Form I–94) marked "section 207" or "Refugee" (if claiming refugee status), "section 208" or "Asylum" (if claiming asylee

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status), or "section 203(a)(7)" or "Conditional entry" (if claiming conditional entrant status.

(4) An alien in the category specified in Part 1626.4(a)(4) shall present an Arrival-Departure Record (INS form I–94) marked "section 243(h)," or a court order or letter signed by an immigration judge stating that the Attorney General is withholding deportation of the alien.

(c) The following documents shall not be considered evidence of eligible alien status:

(1) Nonimmigrant Visa;

(2) Arrival-Departure Record (INS Form I–94) marked with any code from "A" through "M" for nonimmigrants, or marked "section 212(d)(5)" for parolees;

(3) Crewman's Landing Permit (INS Form I–95A);

(4) Mexican Border Visitors Permit (INS Form I–144);

(5) Nonresident Alien Canadian Border Crossing Card (INS Form I–185);

(6) Nonresident Alien Mexican Border Crossing Card (INS Form I–186);

(7) Nonresident Alien Canadian Border Crossing Identification Card (unnumbered).

(d) A recipient shall upon request furnish each person seeking legal assistance with a list of the domuments described in this section. Persons applying for legal assistance are responsible for producing the appropriate documents to verify eligibility.

§ 1626.6 Disposition of cases involving ongoing representation of ineligible aliens.

(a) A recipient may not use funds available to it under the authority of Pub. L. 97–377 to provide legal assistance to ineligible aliens; other alternatives must be used to dispose of pending cases in which the client is an ineligible alien. Generally, three alternatives are avilable:

(1) Referral to alternative counsel who can provide adequate representation;

(2) Withdrawal from pending judicial or administrative proceedings where permission to withdraw can be obtained under the rules of precedure of the tribunal; or

(3) Continuance of representation supported by funds available to the recipient either from non-Corporation sources or from unexpended carryover balances of prior year Corporation funds. As such other funds will normally be limited, referral or discontinuance of representation should be chosen wherever not inconsistent with an attorney's professional responsibilities.

(b)(1) Where referral or discontinuance of representation are not possible and no other funds are available, the recipient may permit a staff attorney to complete the case (or bring it to a stage where referral or discontinuance is possible) on an uncompensated basis. In such instances, the attorney may use the necessary minimum of recipient overhead support, but direct expenditures of Pub. L. 97–377 funds will not be permitted.

(2) In any such circumstances, a recipient shall maintain documentation clearly differentiating the time the attorney used on an uncompensated basis from his or her paid time and establishing the approximate amont of any overhead services allocable to completion of the case.

§ 1626.7 Change in circumstances.

(a) A recipient shall not use funds made available to it under the authority of Pub. L. 97–377 to provide legal assistance for or on behalf of an alien if:

(1) The alien becomes an ineligible alien due to a change in circumstances after representation has commenced;

(2) Representation of an ineligible alien was commenced due to an erroneous eligibilty determination made by the recipient; or

(3) Representation of an ineligible alien was commenced due to false information provided by the alien to the recipient.

(b) A recipient shall discontinue representation supported by funds authorized by Pub. L. 97–377 under the circumstances described in § 1626.7(a) provided discontinuance is not inconsistent with with attorney's professional responsibilities. In discontinuing representation, a recipient shall follow the procedures set out in § 1626.6. In the event of discovery of false information relating to eligibility as set forth in § 1626.7(a)(3), steps to discontinue representation shall be taken immediately.

§ 1626.8 Records.

Programs shall keep records of whether a client or prospective client claims to be a citizen or an alien. For all individuals seeking legal assistance, recipients shall keep copies of all documents given to them to establish eligibility. Such records shall be kept whether the individual was found to be eligible or ineligible for legal assistance. If an alien is found ineligible, a record of documentation (or lack thereof) may be kept in lieu of copies of said documentation.

§ 1626.9 Use and confidentiality of records pertaining to determination of eligible alien status.

(a) All records pertaining to determination of the eligibility of an alien for legal assistance shall be available (with deletion of names and personal identification) for review by the Corporation of recipients' actions and procedures in determining the eligibility of the alien for legal services. Such records shall not be released by the Corporation or by any recipient to any third party except in statistical form, nor may they be used for any other purpose than that stated in this subsection. This subsection shall not prevent release to Congress of information specifically requested by Congress.

(b) Release of any such record by a recipient, except to the Corporation or under court order, shall subject the recipient to appropriate sanctions by the Corporation.

(c) Such records shall be retained for a minimum of three years or until resolution of all audit questions pertaining thereto, whichever period is longer. Recipients shall keep a statistical record of the number of aliens found eligible and ineligible and the number of persons found eligible who subsequently were discovered to have been ineligible.

§ 1626.10 Special eligibility question.

(a) *Micronesia.* The residents of the Trust Territory of the Pacific Islands (Micronesia) currently receive legal assistance under the Legal Services Corporation Act. As Congress has expressed no intention to exclude them, the Corporation deems all citizens and permanent residents of Micronesia eligible to receive legal assistance provided they are otherwise eligible under the Act.

(b) *Cross-Border Indian Tribes.*—(1) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(2) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

Dated: April 28, 1983.

Alan R. Swendiman,

General Counsel.

[FR Doc. 83-11788 Filed 4-29-83; 8:45 am]

BILLING CODE 6820-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 151, and 153

[CGD 81–078]

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to revise the rules for self-propelled vessels carrying hazardous liquids. The proposed rule revises and adds to the list of cargoes regulated under Parts 30, 151, and 153, and includes carriage requirements for these new cargoes. In Part 153 it will correct editorial errors, clarify provisions that are confusing, delete provisions that are impractical, relax certain provisions, and add a number of new provisions. In general, the changes are in keeping with comparable standards adopted by the International Maritime Organization (IMO, formerly the Inter-Governmental Maritime Consultative Organization or IMCO) in the ninth set of amendments to the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IMO Chemical Code), Resolution A.212.

DATES: Comments must be received on or before July 1, 1983.

ADDRESS: Comments should be submitted to: Commandant (G–CMC/44) (CGD 81–078), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/44), Room 4420, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Query, Office of Merchant Marine Safety (G–MTH–1/12), Room 1206, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–1217).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81–078), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. If an acknowledgment is desired, a stamped addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Robert M. Query, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulation

The proposed rule corrects the present listings of cargoes regulated under 46 CFR Subchapter D and adds several newly classified flammable or combustible cargoes to the listings in the table in § 30.25–1 and Table 151.01–10(d) of Title 46. It adds a number of new hazardous chemical cargoes to table I of Part 153 and modifies some of the requirements applying to cargoes already listed. The proposed modifications to carriage requirements for cargoes presently listed in table I are the result of the Coast Guard's reevaluation of the hazards of some cargoes. The chemical data are in the public docket and are available for review by interested parties. The additions and changes to table I are generally comparable to additions, deletions and changes adopted by IMO in the ninth set of amendments to the IMO Chemical Code and subsequent cargo updates through May 1982. Copies of the ninth set of amendments and the new IMO cargo data have been included in the public docket.

The proposed rule will correct the electrical regulation citation in § 153.8(b)(2) to show the new Subchapter J citation for the submission of electrical plans. To be consistent with the first set of amendments to the 1974 Safety of Life at Sea Convention (SOLAS '74), §§ 153.200 and 153.202 are to be relaxed and incorporated into one section, § 153.201. The proposed rule will clarify §§ 153.372, 153.408, and 153.530(h) and (j), simplify the requirements in § 153.907, and remove §§ 153.200, 153.202, 153.530(q), 153.908, and 153.914.

Finally, the proposed rule will clarify confusing provisions, delete impractical requirements, and make editorial changes.

Comments on Specific Sections

Section 30.25–1 Cargoes carried in vessels certificated under the rules of this subchapter; and Table 151.01–10(d) Cargoes to be regulated by Subchapter D. The table in § 30.25–1 and Table 151.01–10(d) contain identical listings of flammable and combustible cargoes which may be transported in vessels certificated under Subchapter D. The Coast Guard has recently evaluated and classified several new cargoes as flammable or combustible liquids subject to Subchapter D. These cargoes are proposed to be added to the table in § 30.25–1 and Table 151.01–10(d). Also, these tables are proposed to be revised to correct misspellings of cargo names and misprints in the Code of Federal Regulations.

Iso-Propyl ether was removed from the table in § 30.25–1 by a final rule that appeared in the **Federal Register** of May 17, 1982; however, it was not removed from Table 151.01–10(d). This proposal removes "Propyl ether (iso-)" from Table 151.01–10(d).

Section 153.2 Definitions. A cross reference to the existing definition of "control space" in § 30.10–19a would be added. The definition of "Independent" as applied to tank overflow control systems would be moved to § 153.406, the only section in which the term is used.

Section 153.8 U.S. flag vessel endorsement application. The Coast Guard is proposing to amend § 153.8(b)(2) to correct the citation for the submittal of electrical plans required for plan review.

Table I—Table of Minimum Requirements. Since the most recent update of table I, the Coast Guard has evaluated approximately thirty-seven new hazardous cargoes under the IMO Criteria for Hazard Evaluation of Bulk Chemicals (annex to the IMO Chemical Code, 1980 edition). These cargoes have been adopted by IMO and are proposed for incorporation into table I.

IMO is removing chloroprene from Chapter VI of the IMO Chemical Code because of potential problems with cargo stability under the present carriage conditions. Since the Coast Guard is not aware of any company shipping chloroprene in bulk by tankships, chloroprene is proposed to be removed from table I. The Coast Guard will consider reinstating chloroprene, if removed, after reevaluation of data on the cargo.

The cargo names for "Benzene" and "Phenol" are proposed to be amended to read "Benzene, and hydrocarbon mixtures containing 10 per cent or more

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Benzene," and "Phenol/Phenol solutions." These changes would encompass a large number of cargoes that the Coast Guard had previously classified as hazardous (i.e. Petroleum hydrocarbon polymer, Pyrolysis gasoline, Phenol hydrate, etc.). The gauging requirement for "(n-) Butyl ether" is proposed to be relaxed to restricted gauging on the basis of the IMO standard. The "Fire protection system" column entry for a number of cargoes is proposed to be revised to conform with the IMO and industry recommendations.

The carriage requirements for propylene oxide are proposed to be revised to conform to those adopted by the tenth session of the IMO Subcommittee on Bulk Chemicals for insertion into the IMO Chemical Code in May 1982. (See the discussion under §§ 153.530 and 153.1010.)

Cargo pumprooms through which motor fuel anti-knock compounds are transferred present a high risk of personnel exposure to lead or lead alkyls. The Coast Guard is proposing to require that these pumprooms have ventilation rates meeting § 153.316.

Sections 153.200 Portlights, wheelhouse windows, and wheelhouse doors; 153.201 Openings to accommodation, service or control spaces; and 153.202 Location of doors and airports on deckhouses and superstructures. The proposed § 153.201 incorporates the existing §§ 153.200 and 153.202 and relaxes the distance aft of the superstructure's athwartship bulkhead to any opening. The proposed § 153.201 will state that openings to accommodation, service or control spaces must be at least L/25 or 3.00m (approx. 10 ft) from the athwartship bulkhead facing the cargo area, whichever is farther, except that the distance need not exceed 5m (approx. 16.4 ft). This revision will make the proposed § 153.201 consistent with the first set of amendments to SOLAS '74, 46 CFR 154.330 and the IMO Gas Carrier Code, Resolution A.328. Sections 153.200 and 153.202 are proposed to be deleted.

Section 153.370 Minimum relief valve setting for ambient temperature cargo tanks. The proposed rule makes an editorial change to correct the spelling of "ambient".

Section 153.372 Gauges and vapor return for cargo vapor pressures exceeding 100kPa (approx. 14.7 psia). At present cargoes whose vapor pressure exceeds 100kPa at 37.8°C (approx. 14.7 psia at 100°F) are not designated by referencing § 153.372 as suggested by § 153.970(c)(1). These high vapor pressure cargoes would be designated by modifying the section's introductory language and by making a reference to this section from table I.

Sections 153.408 Tank overflow controls; and 153.968 Cargo transfer conference. Section 153.408(d) contains an operational requirement to have the persons in charge of the cargo transfer for the vessel and facility agree to use a certain signal to initiate shutdown procedures on the vessel and facility. The Coast Guard is proposing to move this operational requirement to a more appropriate location, § 153.968(b)(5).

Sections 153.430 Heat transfer systems: general; and 153.436 Heat transfer fluids. The introductory language to § 153.430 would be revised to limit the requirements applying to cargo cooling systems to those cooling systems required by the part. The language was inadvertently changed with an earlier amendment. Section 153.436 would be rewritten to clarify it and to correct the wording of the paragraph limiting the flashpoint of the heat transfer fluid.

Sections 153.530 Special requirements for alkylene oxides; and 153.1010 Alkylene oxides. The carriage requirements for propylene oxide were reconsidered at the tenth session of the IMO Subcommittee on Bulk Chemicals in May 1982. Based on the safety record for propylene oxide carriage in integral gravity tanks, IMO deleted the recommendation that propylene oxide be carried in independent gravity tanks on vessels constructed after 1 January 1982. However, an operational requirement to check an integral gravity tank for cracks before it is loaded with propylene oxide was added. Based on the IMO recommendations, the Coast Guard proposes to delete § 153.530(q) and to add the operational requirement mentioned to § 153.1010(a).

IMO also clarified the void space monitoring requirement for oxygen content to allow the use of portable equipment. Section 153.530(h) is proposed to be revised to allow the use of portable sampling equipment.

The proposed rule clarifies § 153.530(j) by replacing the words "entirely separate" with "independent." The proposed paragraph (j) will conform to the IMO Chemical Code standard.

Section 153.907 Cargo information cards, and § 153.908 Shipping document. Cargo information cards with printing on one side are generally not available. The Coast Guard is proposing to simplify cargo information requirements and consolidate them in § 153.907. Section 153.908 would then be deleted. Section 153.914 would be deleted since it has been viewed as a requirement that the vessel supply cargo information to the shore facility and has not been practical. The shore facility is still required to have cargo information by the requirements applying to such facilities under Title 33.

Section 153.1065 Sodium chlorate solutions. Sodium chlorate solutions are very reactive. Contact with organic substances, sulfur, sulfides, powdered metals, phosphorus or ammonium compounds can cause fire and explosion. When in contact with strong acids, chlorine dioxide may be released. Sodium chlorate solutions, when spilled or mixed with small amounts of impurities, become very sensitive to shock and friction if allowed to dry. They decompose with an exothermic release of oxygen at 300° F. For these reasons, it is essential for vessel safety that tanks be washed prior to loading and spilled solutions be washed away. The proposed rule would make these safety considerations operational requirements.

Regulatory evaluation

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). A draft regulatory evaluation has been included in the public docket. Copies may be obtained from Commandant (G–CMC/44), U.S Coast Guard, 2100 2nd St., S.W., Washington, D.C. 20593. This proposed rulemaking will have a minimal economic impact on the U.S. economy. Currently, there are no U.S. chemical tankships that will have to meet more stringent requirements. It is anticipated that there will be a minor benefit by allowing the carriage of additional cargoes; however, the number of variables in this trade precludes quantifying the result.

Regulatory Flexibility Analysis

The proposed rulemaking has been evaluated under the Regulatory Flexibility Act (94 Stat. 1164) for its impact on small entities. Since there will be no costs imposed on U.S. vessel owners and the anticipated minor benefits will primarily be realized in the bulk shipment of chemicals, the economic impact on small entities will be minimal. Therefore, it is certified that the rule would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Environmental Analysis

The proposed rulemaking has been evaluated in accordance with Commandant Manual Instruction M16475.1A, National Environmental Policy Act Implementing Procedures, and has been found to be categorically excluded from further environmental documentation under Sections 2.B.3.g and 2.B.3.h. A copy of the Categorical Exclusion Determination statement has been placed in the public docket.

List of Subjects

46 CFR Part 30

Administrative practice and procedure, Foreign relations, Hazardous materials transportation, Marine safety, Penalties, Tank vessels, Barges.

46 CFR Part 151

Barges, Flammable material, Hazardous materials transportation, Marine safety.

46 CFR Part 153

Hazardous materials transportation, Marine safety, Tank vessels.

PART 30—GENERAL PROVISIONS

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

§ 30.25–1 [Amended]

The Table in § 30.25–1 is amended by:

1. Revising the following cargo names to read as follows:

Alkyl Benzene Sulfonic Acid (4% or less).
Diethylbenzene.
Diglycidyl Ether of Bisphenol A.
Jet Fuel:
JP–1 (Kerosene)
JP–3.
JP–4.
JP–5 (Kerosene, Heavy).
Nonyl Phenol Sulfide (90% or less).
Xylene (meta-, para-, ortho-).

2. Placing the following cargo names in proper alphabetical order:

Cyclopentadiene Polymers.
Sulfolane.

3. Adding the following new cargoes in proper alphabetical order.

Diisopropyl Naphthalene.
Dimethyl Polysiloxane.
Dipropylene Glycol Dibenzoate.
Tallow Fatty Acid.
Tributyl Phosphate.
Triethylene Glycol Butyl Ether Mixture.
Triethylene Glycol Ether Mixture.

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

§ 151.01–10 [Amended]

The Table in § 151.01–10(d) is amended by:

4. Removing "Propyl ether (iso-)".

5. Revising the following cargo names to read as follows:

Alkyl Benzene Sulfonic Acid (4% or less).
Diethylbenzene.
Diglycidyl Ether of Bisphenol A.
Nonyl Phenol Sulfide (90% or less).
Xylene (meta-, para-, ortho-).

6. Placing the following cargo names in proper alphabetical order:

Cyclopentadiene Polymers.
Sulfolane.

7. Adding the following new cargoes in proper alphabetical order to Table 151.01–10(d):

Diisopropyl Naphthalene.
Dimethyl Polysiloxane.
Dipropylene Glycol Dibenzoate.
Tallow Fatty Acid.
Tributyl Phosphate.
Triethylene Glycol Butyl Ether Mixture.
Triethylene Glycol Ether Mixture.

PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

8. In § 153.2, by removing the definition of "independent" as applied to tank overflow control systems and by adding in alphabetical sequence the following definition:

§ 153.2 Definitions.

* * * * *

"Control space" is defined in § 30.10–19a of this chapter.

* * * * *

9. By revising § 153.8(b)(2) to read as follows:

§ 153.8 U.S. flag vessel endorsement application.

* * * * * * *

(b) * * *

(2) The plans and information listed in §§ 54.01–18, 56.01–10, 91.55–5(a), (b), (d), (g) and (h), and 110.25–1 of this chapter; and

* * * * *

10. By revising in table I to Subpart A the following entries for propylene oxide to read as follows:

Table I—[Amended]

Cargo name * * *	Fire protection system	* * *	Special requirements
* * * * *			

By removing "Chloroprene" from table I.

12. By amending the cargo name entry in table I for "Benzene" to read "Benzene, or hydrocarbon mixtures containing 10 pct or more benzene".

13. By amending the cargo name entry in table I for "Phenol" to read "Phenol or solutions with 5% or more phenol".

14. By amending the table I column entry under "Gauge" to read "Restr." for "(n-) Butyl ether."

15. By adding "D" to the table I column entry under "Fire protection system" for the following cargoes:

(n-) Butyl ether	Coal tar naphtha
Creosote	Cyclohexylamine
(iso-, n-) Decyl acrylate	Dibutylamine
Dichlorobenzene	Diethylethanolamine
Dimethylamine (40 pct or less)	Dimethylethanolamine
Dimethylformamide	Ethylene chlorohydrin
Ethyl methacrylate	2-Methyl-5-ethyl pyridine
(iso-) Propylamine	(n-) Propylamine

16. By amending the table I column entry under "Fire protection system" to read "A,B,C,D" for the following cargoes:

alpha-Methyl styrene	(mono-) Nitrobenzene
Vinyl toluene	

17. By amending the table I column entry under "Fire protection system" to read "A,D" for the following cargoes:

Butyl methacrylate	Naphthalene (liquid)

18. By adding ".236(a),(g)" in proper numerical sequence to the "Special requirements" column of table I for "Tetraethylene pentamine".

19. By adding ".316" in proper numerical sequence to the "Special requirements" column of table I for "Motor fuel antiknock compounds containing lead alkyls."

20. By adding ".372" in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

Ethyl ether	Isoprene
Methyl formate	(iso-) Propylamine
Propylene oxide	Vinyl ethyl ether
Vinylidene chloride	

21. By adding ".440" in proper numerical sequence to the "Special requirements" column of table I for "Naphthalene (liquid)" and "Phenol or solutions with 5% or more phenol".

22. By removing and reserving footnote 9, and revising footnote 8 at the end of table I to read as follows:

For details see these sections:

* * * * *

[8] Dry chemical should not be used because of the possibility of explosion.

[9] (Reserved).

* * * * *

23. By adding the following new cargoes and their corresponding column entries in proper alphabetical order to table I:

TABLE I.—TABLE OF MINIMUM REQUIREMENTS

Cargo name[1]	Cargo containment system[2]	Vent height[3]	Vent[4]	Gauge[5]	Fire protection system[6]	Special requirements	Electrical hazard class and group[7]
Acrylamide solution (50 pct or less)	II	NR	Open	Closed	NSR	.408, .525(a), (c), (d), (e), .912(a)(1), .1002(a), .1004, .1020.	NA.
2-(2-Aminoethoxy) Ethanol	III	NR	Open	Open	A,C,D	.236(b), (c), .409	NA.
Benzenesulfonyl	III	4m	PV	Restr.	B,D	.236(a), (b), (c), (g), .409, .526	I-D.
Cetyl-Eicosyl Methacrylate	III	NR	Open	Open	A,C,D	.912(a)(1), .1002(a), (b), .1004	NA.
(o-, m-, p-)Chlorotoluene	III	4m	PV	Restr.	B,C	.526	I-D.
Cresylate spent caustic (mixtures of cresols and caustic soda solution.	III	NR	Open	Open	NSR	.236(a), (c), 933	NA.
Diammonium salt of zinc ethylenediamine tetraacetic acid solution.	III	NR	Open	Open	NSR	.236(a), .238(a)	I-B.
2,2'-Dichloroisopropyl ether	II	B/3	PV	Restr.	B,C,D	236(a), (b), 316, .408, .525, .526, .1020	I-D.
2,4-Dichlorophenol	III	4m	PV	Restr.	B,C,D	.236(a), (b), (c), (g), .409, .500, .501, .526, .933.	NA.
Dichloropropene/Dichloropropene mixtures	II	B/3	PV	Restr.	B	.316, .336, .408, .409, .526, .527	I-D
2,2-Dichloropropionic acid	III	4m	PV	Restr.	A	.236(a), .238(c), .266, .500, .501, .554	NA.
Diethyl sulfate	II	4m	PV	Closed	A,D	236(a), (c), (d), .409, .526	NA.
Di-n-propylamine	III	4m	PV	Restr.	A	236(b), (c), .409, .525, .526, .1020	I-C.
Dodecyl methcrylate	III	NR	Open	Open	A,C	236(b), (c), .912(a)(1), .1004	I-D.
Dodecyl pentadecyl methacrylate	III	NR	Open	Open	A,C,D	912(a)(1), .1002(a), (b), .1004	NA.
Ethylamine solution (70 pct or less)	II	B/3	PV	Closed	A,C	236(a), (b), (c), .409, .525(a), (c), (d), (e), .526, .527, .1020.	I-D.
N-Ethylbutylamine	III	4m	PV	Restr.	A	236(a), (b), (c), (g), .408, .525(a), (c), (d), (e), .526, .1020.	I-C.
N-Ethylcyclohexylamine	III	4m	PV	Restr.	A,C	236(a), (b), (c), (g), .409, .526	I-C.
Ethylidene norbornene	III	B/3	PV	Restr.	B,C,D	236(b), .409, .526	NA.
Formaldehyde, Methanol mixtures (Formaldehyde greater than 50 pct in Methanol).	III	4m	PV	Closed	A	409, .526, .527	I-C
Glutaraldehyde solution (50 pct or less)	III	NR	Open	Open	NSR	None	NA.
Hexamethylenediamine solution	III	4m	PV	Restr.	A	236(b), (c), .409, .526	I-D.
Maleic anhydride[8]	III	4m	PV	Restr.	A,C	None	NA.
Methylamine solution (42 pct or less)	II	B/3	PV	Restr.	A,C,D	236(a), (b), (c), (g), .316 .408, .409, .525, .526, .527, .1020.	I-D.
2-Methyl-6-ethyl aniline	III	NR	Open	Open	B,C,D	None	NA.
2-Methylpyridine	II	4m	PV	Closed	A,C	236(b), .409, .525(a), (c), (d), (e), .1020	I-D.
(o—) Nitrochlorobenzene	II	B/3	PV	Closed	B,C,D	316, .336, .408, .525, .526, .1020	NA.
Sodium chlorate solution (50 pct or less)	III	NR	Open	Open	NSR	409, .933, .1065	NA.
Sodium borohydride (15 pct or less)/Sodium hydroxide solution.	III	NR	Open	Open	NSR	236(a), (b), (c), (g), .933	NA.
Sodium-2-mercaptobenzothiazol solution	III	NR	Open	Open	NSR	236(a), (b), (c), (g), .933	NA.
Toluenediamine	II	B/3	PV	Closed	B,C,D	236(a), (b), (c), (g), .316, .408, .525, .526, .527, .933, .1020.	NA.
(o—) Toluidine	II	B/3	PV	Closed	A,C	316, .408, .525, .526, .933, .1020	NA.
1,2,4-Trichlorobenzene	III	4m	PV	Restr.	C	409, .526	I-D
1,2,3-Trichloropropane	II	B/3	PV	Closed	B,C,D	316, .408, .525, .526, .1020	I-D.
Trimethylacetic Acid	III	4m	PV	Restr.	A,C	236(a), .266, .554	I-D.
Trimethylhexamethylene diamine (2,2,4- and 2,4,4- isomers).	III	NR	Open	Open	A,C	236(a), (b), (c), (g), .409	NA.
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)[11].	II	B/3	PV	Restr.	A,C	316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA.

§ 153.200 [Removed]

24. By removing § 153.200.

25. By adding § 153.201 to read as follows:

§ 153.201 Openings to accommodation, service or control spaces.

(a) Except as allowed in paragraphs (b) and (c) of this section, entrances, ventilation intakes and exhausts, and other openings to accommodation, service, or control spaces, must be located on a house bulkhead not facing the cargo area as follows:

(1) At least 3m aft of the house bulkhead that faces the cargo area if the vessel length is less than 75 meters.

(2) At least L/25 aft of the house bulkhead that faces the cargo area if the vessel length is between 75 and 125 meters.

(3) At least 5m aft of the house bulkhead that faces the cargo area if the vessel length is more than 125 meters.

(b) Fixed port lights, wheelhouse doors, and windows need not meet the location requirements specified in paragraph (a) if they do not leak when tested with a fire hose at 207 kPa gauge (30 psig).

§ 153.202 [Removed]

26. By removing § 153.202.

27. By revising § 153.370 to read as follows:

§ 153.370 Minimum relief valve setting for ambient temperature cargo tanks.

The relief valve setting for a containment system that carries a cargo at ambient temperature must at least equal the cargo's vapor pressure at 46°C (approx. 115°F).

28. By revising the introductory text of § 153.372 to read as follows:

§ 153.372 Gauges and vapor return for cargo vapor pressures exceeding 100kPa (approx. 17.7 psia).

When table I references this section, the containment system must have a—

* * * * *

29. By revising § 153.408 to read as follows:

§ 153.408 Tank overflow control.

(a) When table I refers to this section, a cargo containment system must have a cargo high level alarm meeting § 153.409 and one of the following:

(1) A second high level (cargo overflow) alarm.

(2) A system that automatically stops cargo flow to the tank (automatic shutdown system).

(b) The high level alarm and the cargo overflow alarm or automatic shutdown system must—

(1) be independent of one-another; and

(2) operate on loss of power.

(c) The cargo overflow alarm or the automatic shutdown system must—

(1) operate at a cargo level that allows shutdown of the loading operation before the cargo tank overflows; and

(2) allows sufficient time to avoid surge pressures exceeding the working pressure specified in § 153.294(b).

(d) A tank overflow alarm must be marked with the legend "Tank Overflow Alarm" in lettering as specified for the warning sign in § 153.955.

(e) The alarm must be audible and visible in that part of the deck where the containment systems are located and at the point where cargo loading is controlled on the tankship.

(f) The automatic shutdown system or tank overflow alarm must be able to be checked for proper operation from the tank (e.g., by generating the alarm signal at the tank gauge connection).

(g) In this section, "independent" as applied to two systems means that one system will operate with a failure of any part of the other system except high level power sources and electrical feeder panels. Independent systems include those having separate signal or low level power runs within the same conduit.

30. By revising the introductory language of § 153.430 to read as follows:

§ 153.430 Heat transfer systems: general.

Each cargo cooling system required by this part and each cargo heating system must—

* * * * *

31. By revising § 153.436 to read as follows:

§ 153.436 Heat transfer fluids: flashpoint and compatibility with cargo.

(a) A cargo heating system must have a control that prevents the temperature of the heat transfer fluid from exceeding its flashpoint.

(b) A heat transfer fluid separated from the cargo by only one wall (for example, the heat transfer fluid in a coil within a tank) must be compatible with the cargo under the standards prescribed for compatibility between two cargoes in part 150 of this chapter.

32. By revising § 153.530(h) and (j) to read as follows:

§ 153.530 Special requirements for alkylene oxides

* * * * *

(h) The cargo containment system and those spaces listed in paragraphs (k) and (l) must have an arrangement to allow sampling the atmosphere of the spaces prescribed by § 153.1010(c).

* * * * *

(j) The venting system must be independent of other containment or tankship systems.

* * * * *

§ 153.530 [Amended]

33. By removing § 153.530(q)

§ 153.900 [Amended]

34. By changing the footnote number in § 153.900 to read "5".

35. By revising §153.907 to read as follows:

§ 153.907 Cargo information.

The master shall ensure that the following information for each cargo carried under this part is readily available to those on the tankship engaged in cargo operations:

(a) The name of the cargo as listed in table I.

(b) A description of the cargo's appearance and odor.

(c) Hazards in handling the cargo.

(d) Any special handling procedures for the cargo, such as inerting.

(e) Procedures to follow if the cargo spills or leaks.

(f) Procedures to follow with a person who is exposed to the cargo.

(g) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(h) Shipper's name.

(i) Loading point.

(j) Approximate quantity of cargo.

(k) Tank in which the cargo is located.

(l) The name of the agent in the United States authorized to accept legal process.

§ 153.908 [Removed]

36. By removing § 153.908.

§ 153.914 [Removed]

37. By removing § 153.914.

38. By revising § 153.968(b)(5) to read as follows:

§ 153.968 Cargo transfer conference.

* * * * *

(b) * * *

(5) If the vessel is equipped with the tank overflow alarm prescribed in § 153.408(c), a procedure for shutdown of shore pumps, shore valves, and ship's valves that prevents piping systems pressures from exceeding those for which the piping system is designed.

40. Section 153.1010 is amended by redesignating paragraphs (a)(1) and (a)(2) as (a)(2) and (a)(3), respectively, and adding a new paragraph (a)(1) to read as follows:

§ 153.1010 Alkylene oxides

(a) * * *

(1) Inspect each integral gravity tank in which alkylene oxides are to be loaded and make sure the tank is free of cracks;

* * * * *

41. By adding a new § 153.1065 to read as follows:

§ 153.1065 Sodium chlorate solutions.

(a) No person may load sodium chlorate solutions into a containment system that previously carried another cargo unless the containment system is thoroughly washed before loading.

(b) The person in charge of cargo transfer shall ensure that spills of sodium chlorate solutions are immediately washed away.

(46 U.S.C. 391a; 49 U.S.C. 1803; 49 CFR 1.46 (n)(4) and (t))

Dated: December 27, 1983.

Clyde T. Luck,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc 83-11372 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 22, 23, 74, 78, 81, 87, 90, 94, and 150

[Gen. Docket No. 82-334]

Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The FCC has granted in part Motions file by Hughes Aircraft Company, Electronic Industries Association, Rockwell International Corporation and M/A-COM, Inc. for extension of time for Reply Comments in General Docket 82-334, establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 GHz. The Motions were granted in part to provide interested parties additional time to adequately and fairly respond to technical analyses and alternative proposals received in the initial Comments; the full amount of time requested could not be granted due to Commission deadlines for future work in the Docket.

DATES: The deadline for Reply Comments is extended to May 23, 1983.

ADDRESS: Federal Communications, Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Donald Draper Campbell, Office of Science and Technology (202) 653–6177.

Order Extending Time for Reply Comments

In the matter of Establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 GHz; Gen Docket 82–334.

Adopted: April 18, 1983.
Released: April 20, 1983.

By the Deputy Chief Scientists.

1. On January 13, 1983, the Commission adopted and released a *Notice of Proposed Rule Making* [FCC 83–2] *(NPRM)* in the above captioned proceeding (February 15, 1983; 48 FR 6730). The *NPRM* imposed Comment and Reply Comment dates of March 25, 1983, and April 25, 1983, respectively. The Commission stated in the *NPRM* that these dates were established because of the need to complete action by September 1983 in providing alternative spectrum for fixed service licensees displaced from 12 HGz. The Commission also stated that it did not expect to grant extensions of the filing dates.

2. On April 12, 1983, the Commission received a Motion for Extension of *Time to File Reply Comments* (*Motion*) from Hughes Aircraft Company, Microwave Communications Products (Hughes-MCP). The petitioner states that it needs an additional sixty (60) days to prepare Reply Comments. It notes that the Commission, through the Acting Chief Scientist, denied all requests for extensions of time of the March 25 Comment date,[1] but states that the circumstances surrounding the instant request are quite different from those previously made. Hughes goes on to state "Interested parties such as Hughes-MCP cannot be expected to digest, analyze and comment intelligently on the many detailed technical issues which have been raised in such voluminous initial comments in such a short period."

[1] *Denial of a Joint Motion for an Extension of Time and Modification of Procedures*, released March 7, 1983, in response to a petition filed by the American Petroleum Institute, Association of American Railroads and Utilities Telecommunications Council; *Denial of Petition of the Los Angeles County Sheriff's Department and Los Angeles County Department of Communications to Extend Time to File Comments*, released March 16, 1983; and *Denial of Request for Extension of Time for Filing Comments*, released March 28, 1983, in response to a petition filed by the County of Orange, California, Communications Division.

3. The Commission also received a *Request for Extension of Time for Filing Reply Comments* from the Fixed Point-to-Point Section of the Telecommunications Group of the Electronic Industries Association (EIA), filed April 14, 1983; a *Plea for Extension of Time for Filing Reply Comments* from Rockwell International Corporation (Rockwell), filed April 15, 1983; and a *Request for Extension of Time* from M/A-COM, Inc. (M/A-COM), filed April 15, 1983. EIA requests that the Reply Comment date be extended to June 30, 1983, Rockwell requests that the date be extended to May 31, 1983, and M/A-COM requests an extension to May 25, 1983. Their justifications parallel that of Hughes-MCP regarding volume, and complexity of the Comments. Rockwell and M/A-COM also note that they had trouble locating and obtaining copies of the Comments in the Commission's public reference room.

4. Comments were received from about 170 parties and total about 1685 pages. Some of these contain complex technical analyses and present alternatives to the Commission's proposals. The Commission believes that there is merit in providing additional time for interested and affected parties to perform responsive analyses leading to thoughtful, well organized comments. Such Reply Comments would be more useful to the Commission in formulating a speedy yet comprehensive decision in this proceeding.

5. The Commission made a commitment in Docket 80–603 to provide replacement spectrum for displaced 12 GHz licenses by September 1983. If the Commission is to meet this deadline, it cannot grant the total additional time requested by the petitioners. However, the Commission feels that an extension of time to May 23, 1983, is reasonable.

6. Accordingly, the requests for Extension of Time to File Reply Comments filed by Hughes Aircraft Company, Electronic Industries Association Rockwell International Corporation, and M/A-COM, Inc. in this proceeding are hereby granted in part pursuant to § 0.241(d) of the Commission's Rules. The date for filing Reply Comments is extended from April 25, 1983 to May 23, 1983.

Majorie S. Reed,
Deputy Chief Scientist.

[FR Doc. 83–11310 Filed 4–29–83; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Rulemaking Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of rulemaking petition.

SUMMARY: This notice denies a petition filed by Mr. Carl Seashore to amend Federal Motor Vehicle Safety Standard (FMVSS) 111 to permit the use of an automated rearview mirror system he has developed for passenger cars. This mirror system would automatically change its alignment depending on vehicle speed and would also change position when the vehicle turn signal is activated. Since the agency lacks information on the safety performance of this system and the petitioner was unable to provide such information, this petition is being denied. However, several aspects of the petitioner's mirror system are currently the subject of ongoing agency research activities. Depending on the results of this research, it is possible that FMVSS 111 could be amended in the future to permit the use of a version of the petitioner's system.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202)–426–2153).

SUPPLEMENTARY INFORMATION: On September 3, 1982, Mr. Carl Seashore petitioned NHTSA to amend FMVSS 111 to permit the use of a mirror system he designed. FMVSS 111 currently requires that exterior mirrors must be planar (flat), except that exterior passenger side spherically convex mirrors may be used in passenger cars and light trucks, multipurpose passenger vehicles, and buses other than school buses with a gross vehicle weight rating of 10,000 pounds or less. The reason for the prohibition against the use of certain non-planar mirror surfaces is that such surfaces may produce distorted images which could mislead drivers as to the location and velocity of objects viewed in the mirror. However, convex mirrors do have the advantage of providing a wider field of view than a plane mirror of similar size.

Mr. Seashore's system involves using exterior convex mirrors on each side of the vehicle. These mirrors would be mounted forward on the vehicle's fenders, rather than the more typical door mounting. The use of convex mirrors on each side of the vehicle is intended to provide a wider field of view than currently used mirrors and to provide equal image sizes in each mirror. The forward mounting is intended to permit the driver to look in the mirrors while still retaining a forward view, rather than having to look far to the side and perhaps lose sight of hazards in the path of the vehicle. The Seashore system is also automated, permitting automatic reorientation of the mirror, and thereby the field of view, as driving speed varies and for turns.

Many of the aspects of the Seashore recommended system are the subject of ongoing agency research and will be further considered by the agency. These aspects include the use of convex mirrors on each side of the vehicle and the forward mirror mounting position. However, the agency is concerned that the automated movement of the mirrors may present safety concerns. For example, the sudden movement of the automated mirror might cause the driver to become confused as to the location and velocity of an overtaking vehicle. Further, the reliability of such a system is unknown, particularly in adverse weather conditions where ice or snow could impede the movement of the mirror. Therefore, the agency is denying this petition. Should the agency's research demonstrate that the use of convex mirrors on each side of the vehicle and forward mirror mounting promote rearward visibility, FMVSS 111 could be amended to permit the use of a version of the Seashore proposed system, albeit one without the automated features.

(Sec. 124, Pub. L. 89–492, 80 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on April 22, 1983.

Courtney M. Price,
Associate Administrator for Rulemaking.

[FR Doc. 83–11309 Filed 4–29–83; 8:45 am]
BILLING CODE 4910–59–M

49 CFR Part 574

[Docket No. 80–20; Notice 2]

Tire Identification and Recordkeeping

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of termination of rulemaking.

SUMMARY: This notice terminates the rulemaking action begun by this agency when it published a notice of proposed rulemaking (NPRM) to require that tire manufacturers mold the tire identification number on the outward-facing sidewalls of all passenger car and light truck tires. The agency has no evidence showing that significant safety benefits would result from the proposed action, or even that there would be any safety benefits at all.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1715)

SUPPLEMENTARY INFORMATION: Two years ago, the NHTSA published an NPRM (45 FR 82293; December 15, 1980) proposing that the tire identification number, which tire manufacturers are required to mold into or onto one of the sidewalls of each tire they manufacture, be required to appear on the whitewall side of whitewall tires and on both sidewalls of blackwall tires for all passenger car and light truck tires. This proposed requirement was intended to make it easier for consumers to check their tire identification numbers. These numbers are used by tire manufacturers to help identify and recall the tires that are found to contain a safety defect or to fail to comply with an applicable Federal motor vehicle safety standard. The agency believed that adoption of the amendment would increase the response to tire recall campaigns. Ultimately, the agency anticipated that this action would reduce the chances of potentially unsafe tires being used on the public roads.

Before making this proposal, NHTSA sent special orders to nine tire manufacturers to determine what technical problems might be posed by such a requirement and to obtain estimates by the manufacturers of the costs associated with such a requirement. Based on its evaluation of these responses, NHTSA determined that such a requirement would impose costs of between $4.25 million and $5.9 million.

The agency was not able to provide a quantified estimate of the benefits to be gained from the proposed requirement. The data relied upon by the agency in issuing the proposal consisted solely of anecdotal comments by 13 consumers on difficulties they experienced in locating tire identification numbers. These 13 comments were among about 9,500 responses received by the agency in response to a survey in which it sent questionnaires to approximately 100,000 consumers. Thus, only 0.013 percent of the questionnaire recipients and 0.14 percent of the respondents reported this type of difficulty. Prior to issuing the proposal, the agency did not have any data or perform any analysis regarding the extent to which the proposed requirement would increase the number of people who find the identification number on their tires, the number of those people who respond to a recall, or the number of potentially defective or noncomplying tires that would be removed from service.

Even after consideration of the comments on the proposal, NHTSA is still unable to provide any estimate of expected benefits. No additional data regarding benefits were obtained by the agency as a result of the comment process.

Accordingly, since the agency is unable to determine that adoption of the proposal would significantly contribute to motor vehicle safety and since the compliance costs would be $4.25 to $5.9 million, the agency has decided to terminate this rulemaking.

List of Subjects in 49 CFR Part 574

Labeling, Motor vehicle safety, Motor vehicles, Reporting requirements, Rubber and rubber products, Tires.

Issued on April 22, 1983.

Courtney M. Price,
Associate Administrator for Rulemaking.

[FR Doc. 83–11482 Filed 4–29–83; 8:45 am]
BILLING CODE 4910–59–M

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Notices

Federal Register
Vol. 48, No. 85
Monday, May 2, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Renewals of Designation of Cedar Rapids Grain Service, Inc. (IA), Champaign-Danville Grain Inspection Departments, Inc. (IL), and Springfield Grain Inspection Department (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Cedar Rapids Grain Service, Inc. (Cedar Rapids), Champaign-Danville Grain Inspection Departments, Inc. (Champaign-Danville), and Springfield Grain Inspection Department (Springfield) as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: June 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The December 1, 1982, issue of the **Federal Register** (47 FR 54128) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Cedar Rapids', Champaign-Danville's, and Springfield's designations would terminate on May 31, 1983, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by January 3, 1983.

Cedar Rapids, Champaign-Danville, and Springfield were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on them in the February 1, 1983, issue of the **Federal Register** (48 FR 4496). Comments were to be postmarked by March 18, 1983.

No comments were received regarding Cedar Rapids' and Champaign-Danville's designation renewal. One comment was received from a grain firm discussing the timeliness of service the firm received from Springfield. This situation has resolved to the mutual satisfaction of both the firm and Springfield.

After evaluating all available information in regard to the designation criteria in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), FGIS has determined that Cedar Rapids, Champaign-Danville, and Springfield are able to provide official services in the geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the December 1 issue of the **Federal Register.**

Effective June 1, 1983, and terminating May 31, 1986, the responsibility for providing official inspection services in each specified geographic area is assigned to Cedar Rapids, Champaign-Danville, and Springfield, respectively.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following addresses:

Cedar Rapids Grain Service, Inc., 1120 2nd Street, SW., Cedar Rapids, IA 52401

Champaign-Danville Grain Inspection Departments, Inc., 527 East Main Street, Danville, IL 61832

Springfield Grain Inspection Department, 1301 North Fifteenth Street, Springfield, IL 62702

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–11027 Filed 4–29–83; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to William F. Christen Grain Inspection (IN), Fremont Grain Inspection Department, Inc. (NE), and Titus Grain Inspection, Inc. (IN)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to William F. Christen Grain Inspection, Fremont Grain Inspection Department, Inc., and Titus Grain Inspection, Inc.

DATE: Comments to be postmarked on or before June 16, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1736.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The March 1, 1983, issue of the **Federal Register** (48 FR 8519), and as corrected, the April 1, 1983, issue of the **Federal Register** (48 FR 14017), contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by April 15, 1983.

William F. Christen Grain Inspection (Christen), the only applicant, requested designation for all of the geographic area currently assigned to that agency. Titus Grain Inspection, Inc. (Titus), the only applicant, requested designation for all of the geographic area currently assigned to that agency. Each agency applied for a renewal of designation for a 3-year period.

There were two applicants for the Fremont Grain Inspection Department, Inc. (Fremont), designation. Fremont requested designation for all of the geographic area currently assigned to that agency and applied for a renewal of designation for a 3-year period. Sioux City Inspection and Weighing Agency, Inc. (Sioux City), an official agency, applied for a portion of Fremont's geographic area, as follows: Clay (west of U.S. Route 71); Dickinson (west of U.S. Route 71); O'Brien (north of B24 and east of U.S. Route 59); and Osceola (east of U.S. Route 59) Counties, Iowa. If designated, this action would result in an amendment to Sioux City's currently assigned geographic area in accordance with Section 800.207 of the regulations under the Act.

In accordance with § 800.208(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than June 16, 1983.

Consideration will be given to comments and to other available information before a final decision is made in this matter. Notice of the final decision will be published in the **Federal Register,** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–11028 Filed 4–29–83; 8:45 am]

BILLING CODE 3410-EN-M

Request for Applicants for Designation To Perform Official Services in the Geographic Area Currently Assigned to Cairo Grain Inspection Agency

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), designations of official agencies shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, who are interested in being designated as an official agency to conduct official services in the geographic area currently assigned to the specified agency. The official agency is Cairo Grain Inspection Agency.

DATE: Applications to be postmarked on or before June 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, D.C. 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide such official services in an assigned geographic area.

Cairo Grain Inspection Agency, 4007 Sycamore Street, Cairo, Illinois 62914, was designated as an official agency under the Act for the performance of inspection functions on August 31, 1978.

The agency's designation will terminate on October 31, 1983. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Cairo, in Illinois, Kentucky, and Tennessee, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following:

In Illinois, the area is bounded on the North by State Route 150 from the Mississippi River north to State Route 3; State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union county. The area also includes the following Counties: Alexander, Johnson, Hardin, Massac, Pope, Pulaski, and Union.

In Kentucky, the area includes the following Counties: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg.

In Tennessee, the area includes the following Counties: Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion, Stewart, and Weakley.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Cairo and are part of the area that may be assigned to the applicant selected for designation: Hopkinsville Elevator Company, Inc., Hopkinsville; and the L&N Railroad siding on Alternate U.S. Route 41 five miles southeast of Hopkinsville, Christian County, Kentucky.

Exceptions to the described geographic area are the following locations situated inside Cairo's area which have been and will continue to be served by Memphis Grain and Hay Association: Continental Grain Co., Tiptonville; West Tennessee Soya, Tiptonville; and Planters Gin, Ridgely, all in Lake County, Tennessee.

Interested parties, including Cairo, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning

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November 1, 1983, and ending October 31, 1986. Parties wishing to apply for this designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than June 1, 1983 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official services in a geographic area, consideration will be given to applications submitted and other available information.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873, (7 U.S.C. 79))

Dated: April 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-11629 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Colville National Forest Grazing Advisory Board; Meeting

The Colville National Forest Grazing Advisory Board will meet at 2 p.m. on May 6 at the Federal Building Conference Room, 695 So. Main Street, Colville, MA, 99114. The purpose of this meeting is to discuss range allotment management planning and to review the projects which will receive funding from Range Betterment Fund monies in 1983.

The meeting is open to the public. Persons who wish to attend should notify Gary Oliverson, Colville National Forest, at the above address. Written statements may be filed with the committee before or after the meeting.

Dated: April 11, 1983.

William D. Sheak,

Forest Supervisor.

[FR Doc. 83-11579 Filed 4-29-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Time and Place: May 17, 1983, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

Agenda: General Session:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of the foreign availability research contract progress—Scientific Applications Staff.

(4) Review of the world computing data base status.

(5) Discussion of foreign availability test cases to be submitted to Commerce on:

(a) Microprocessors;

(b) Floppy disk drives.

(6) Discussion of the legislative activity on the Export Administration Act for 1983.

(7) Discussion of the long term 1983 agenda.

Public Participtation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: April 20, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-11534 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to: (1) Maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

Time and Place: May 17, 1983, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: April 26, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-11533 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Chloropicrin From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether chloropicrin from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of chloropicrin are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before May 23, 1983, and we will make ours on or before September 13, 1983.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–2613 or 377–0167.

Petition

On April 6, 1983, we received a petition filed by counsel on behalf of LCP Chemicals & Plastics, Inc. and Niklor Chemical Company, Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioners allege that imports from the People's Republic of China of chloropicrin are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 732 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

The petitioners further allege that the People's Republic of China is a state-controlled economy country within the meaning of the Act. They allege that sales of chloropicrin in the People's Republic of China do not permit a determination of foreign market value and that the Department of Commerce must choose a non-state-controlled economy country to be used as a surrogate for the purpose of determining the foreign market value of this product. The petition suggests Japan as a possible surrogate country.

The allegation of sales at less than fair value is supported by information on foreign market value and United States price obtained by the petitioners from a trading company in Japan. The petition also includes United States price information obtained from an American firm which unsuccessfully sought to purchase the product from the PRC.

Critical circumstances have also been alleged under section 773(e) of the Act (19 U.S.C. 1673b(e)). We will make a determination regarding this issue on the date of our preliminary determination.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on chloropicrin and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether chloropicrin from the People's Republic of China is being, or is likely to be, sold in the Unites States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by September 13, 1983.

Scope of the Investigation

The merchandise covered by this investigation is chloropicrin, also known as trichloronitromethane. Chloropicrin is currently classified under item number 408.1600, 408.2900 and 425.5290 of the Tariff Schedules of the United States Annotated.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination By ITC

The ITC will determine by May 23, 1983, whether there is a reasonable indication that imports of chloropicrin from the People's Republic of China are materially injuring, or are threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

April 26, 1983.

[FR Doc. 83-11648 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 83–38. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Faraday Rotator Glass Blanks, Type FR–5. Manufacturer: Hoya Corporation, Japan. Intended use of instrument: The instrument is intended to be used in the country's most advanced effort to demonstrate the

feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using the NOVA 10-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10^{14} neutrons per microexplosion. Application received by Commissioner of Customs: November 3, 1982.

Docket No.: 83–141. Applicant: University of Minnesota, Minneapolis, MN 55455. Instrument: Electron Microscope, Model H–600–2 and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of instrument: The instrument is intended to be used in carrying out various research projects involving a wide range of biological materials. In addition, the instrument will be used in the course, Transmission Electron Microscopy Lab to provide the student with sufficient experience in electron microscopy techniques. Application received by Commissioner of Customs: March 10, 1983.

Docket No.: 83–6. Applicant: Associated Universities, Inc., National Radio Astronomy Observatory, Post Office Box 2, Green Bank, West Virginia 24944. Instrument: Electrical Transducer. Manufacturer: ERA Technology Limited, United Kingdom. Intended use of instrument: The instrument is intended to be incorporated into a 3.3 GHz radio astronomy receiver which is to be used to study natural radiation from molecules and electrons in space. Application received by Commissioner of Customs: October 18, 1982.

Docket No.: 83–174. Applicant: Riverside Methodist Hospital, 3535 Olentangy River Road, Columbus, OH 43214. Instrument: Electron Microscope, EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for studies of kidney biopsies with emphasis on pathogenesis of renal diseases, undifferentiated malignant tumors as to their identity, origin and behavior, leukemias and malignant tumors of the lymphoid system. Also included in research will be specimens suitable for establishing and identifying viruses and viral-related disease. The instrument will also be used in various medical conferences and courses for further understanding of the pathogenesis of disease states and relationships of structural alteration to the clinical status of the patient. Application received by Commissioner of Customs: April 15, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11043 Filed 4–29–83; 8:45 am]

BILLING CODE 3510–25–M

Decision on Application for Duty-Free Entry of Scientific Instrument; Department of Agriculture

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–6. Applicant: U.S. Department of Agriculture, Systematic Entomology Laboratory, Room 4, Bldg. 003, Beltsville Agricultural Research Center-West, Beltsville, MD 20705. Instrument: Scanning Electron Microscope, S100T and Accessories. Manufacturer: Cambridge Instruments Ltd., United Kingdom. Intended use of instrument: See Notice on Page 53759 in the **Federal Register** of November 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 20, 1982).

Reasons: The foreign instrument provides X and Y stage movements of 100 millimeters (mm). The most closely comparable domestic instrument is the Model 1700/02 manufactured by AMRAY Incorporated, 160 Middlesex Turnpike, Bedford, MA 01730. The Model 1700/02 provides X stage movement of up to 55 mm and Y movement of up to 80 mm. The Department of Health and Human Services (HHS) advises in its memorandum dated March 2, 1983 that X and Y stage movements up to 100 mm are pertinent to the purposes for which the foreign instrument is intended to be used. HHS further advises that it knows of no domestic instrument of equivalent scientic value to the foreign instrument for its intended uses. We therefore find that the Model 1700/02 is not of equivalent scientific value to the foreign instrument for such purposes as this foreign instrument is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 83–11044 Filed 4–29–83; 8:45 am]

BILLING CODE 3510–25–M

Decision on Application for Duty-Free Entry of Scientific Instrument; Georgia Institute of Technology

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00376. Applicant: Georgia Institute of Technology, Procurement Office, 888 Hemphill Ave., NW., Atlanta, Georgia 30332. Instrument: Untuned Cavity Resonator, Model UR–1. Manufacturer: Ealing Research Ltd., United Kingdom. Intended use of instrument: See Notice on page 51436 in the **Federal Register** of November 15, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures optical properties of irregular shaped materials and provides broad

uniform spectral coverage (millimeter and far infrared). The National Bureau of Standards advises in its memorandum dated March 28, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11045 Filed 4–29–83; 8:45 am]

BILLING CODE 3510–25–M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of California

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–12. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5512, L–630, Livermore, CA 94550. Instrument: Streak Camera, Model C1370. Manufacturer: Hamamatsu Corporation, Japan. Intended use of instrument: See Notice on page 53759 in the **Federal Register** of November 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument has a quantum efficiency greater than or equal to 0.7 percent at 600 nanometers. The National Bureau of Standards advises in its memorandum dated April 4, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11046 Filed 4–29–83; 8:45 am]

BILLING CODE 3510–25–M

Decision on Application for Duty-Free Entry of Scientific Instrument; Utah State University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 83–34. Applicant: Utah State University, Department of Electrical Engineering, UMC 41, Logan, Utah 84322. Instrument: High Energy Excimer Pumped Dye Laser System, TE861S–3. Manufacturer: Lumonics, Inc., Canada. Intended use of instrument: See Notice on page 53088 in the **Federal Register** of November 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (June 29, 1982).

Reasons: The foreign instrument is a system composed of an excimer laser integrated to a dye laser. At the time the foreign instrument was ordered there were domestic manufacturers of excimer lasers who could combine their respective products with a dye laser produced by another manufacturer. However this would not constitute a "reasonable combination of instruments" within the meaning of § 301.5(d)(1)(i) of the regulations unless the domestic manufacture offering to furnish the combination undertakes to: (a) Functionally integrate the instruments as a single operating unit and (b) establish through appropriate test procedures the overall performance specifications of the excimer and dye laser system. [See decisions on Gas Chromatograph/Mass Spectrometer Docket Number 68–00518–01–13000, 33 FR 11097, August 3, 1968 and Docket Number 69–00716–01–41000, 34 FR 13336 and 13337, August 16, 1969.] We note that at the time of order of the foreign instrument there were no such domestic combinations manufactured in the United States. The foreign instrument has: (1) An excimer pump energy of 0.7 joules per pulse on xenon chloride at 20 pulses per second and (2) a dye laser linewidth less than or equal to 0.002 nanometers(nm) at 320 to 730nm and less than or equal to 0.003nm at 730 to 950nm. The National Bureau of Standards advises in its memorandum dated March 17, 1983 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no combination of instruments or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no combination of other instruments or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11047 Filed 4–29–83; 8:45 am]

BILLING CODE 3510–25–M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place: May 18, 1983, at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Agenda: General Session:

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Industry priority issues on export controls.

(4) Report on current work program of the subcommittees:

(a) Foreign Availability;

(b) Hardware; and

(c) Licensing Procedures.

Executive Session:

(6) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuamnt to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: April 26, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-11611 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Time and Place: May 18, 1983, at 10 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., N.W., Washington, D.C.

Agenda: General Session:

1. Minutes of the previous meeting.

2. Presentation of papers or comments by the public.

3. Remarks by the Chairman:

a. Proposal for an all-industry licensing procedures committee;

b. Meridian corporation interview program.

4. U.S. Customs Service: Rule making and quick response procedures.

5. Export Administration Act developments.

6. OEA response to letters on:

a. Procedures for exhibits.

b. Acceleration of post-COCOM procedures.

7. Report on Distribution License policies consideration.

Public Participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, "Washington, D.C. 20230," Telephone: 202-377-2583.

Dated: April 26, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-11612 Filed 4-30-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Change of Review Dates for OMB A-76 Study of Government Versus Contract Operation of the NOAA Logistics Supply Center

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice of intent to extend dates for OMB A-76 study.

SUMMARY: NOAA hereby notifies interested parties of its intent to extend the review period for the Office of Management and Budget Circular A-76 study of the NOAA Logistics Supply Center from 12/01/81—04/04/83 to 12/01/81—10/30/83. Reference Notice of Intent published March 11, 1982 in **Federal Register** Volume 47, Number 48, page 10617.

SUPPLEMENTARY INFORMATION: A contract may or may not result from this review/study. Results of the study will be made available to interested parties.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Director, Administrative and Technical Services, NOAA, Department of Commerce, Washington, DC 20230. Telephone: (202) 377-1919.

Dated: April 26, 1983.

Francis J. Balint,

Chief, Information and Management Services Division.

[FR Doc. 83-11604 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-08-M

Gulf of Mexico Fishery Management Council's ad hoc Shrimp/Stone Crab Advisory Subpanel; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The dates and location for the ad hoc Shrimp/Stone Crab Advisory Subpanel meeting, as published in the **Federal Register** on April 25, 1983, (48 FR 17638), have been amended as follows:

Separate public meetings will be convened for Shrimp and Stone Crab members on Tuesday, May 3, 1983, and Wednesday, May 4, 1983, respectively. Separate public meetings will be convened for Stone Crab and Shrimp members on Tuesday, May 10, 1983, and Wednesday, May 11, 1983, respectively, to define each fishery.

Public meetings of the entire advisory subpanel will be convened on Tuesday, May 24, 1983, and Tuesday, May 31, 1983, respectively, to address a solution to the conflict. All public meetings will convene at 9 a.m., and will adjourn at approximately 4 p.m.

The public meetings on May 3 and 4, will take place at the Holiday Inn, U.S. Highway 19, Weeki Wachee, Florida. The public meetings on May 10 and 11, will take place at the Pasco/Hernando Community College, Building F, 7025 State Road 587, New Port Richey, Florida. The public meetings on May 24 and 31, will take place at the Hernando/Pasco County Community College, Administration Building, U.S. 98, Brooksville, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, telephone: (813) 228-2815.

Dated: April 26, 1983.

Alfred J. Bilik,

Acting Chief, Fees, Permits and Regulations Branch, National Marine Fisheries Service.

[FR Doc. 83-11601 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

President's Private Sector Survey on Cost Control; Meeting

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of open meeting of the Subcommittee of the President's Private Sector Survey on Cost Control (PPSSCC).

SUMMARY: The Subcommittee was established by the Executive Committee of the PPSSCC to: (i) Review the recommendations submitted, including task force reports and public comments, and (ii) determine which recommendations should be made to the President and the Departments and Agencies.

Time and Place: May 17, 1983, begining at 3 p.m. The meeting will be held at the U.S. Department of Commerce Auditorium, First Floor, Herbert C. Hoover Building, 14th St. and Constitution Avenue, N.W., Washington, D. C. 20230.

Agenda:

1. Draft reports from the following Task Forces of the Survey will be discussed by Subcommittee members:

A. Boards/Commissions—Business;

B. Hospital Management;

C. Federal Construction Management;

D. Department of Labor;

E. Real Property Management;

F. Veterans Administration.

2. Comments and recommendations received from public and other interested parties will be discussed by Subcommittee members.

In compliance with Federal Advisory Committee Act and Freedom of Informatiion Act requirements, copies of the draft reports will be available on May 6 at the Department's Central Reference and Records Inspection Facility, Room 6628 Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Please call Ms. Geraldine P. LeBoo on (202) 377-3271 for information concerning fees and procedures for obtaining copies by mail.

SUPPLEMENTARY INFORMATION: The Subcommittee will hold additional public meetings in May and June, 1983. Exact dates will be noticed in the Federal Register. Copies of all materials, including Task Force reports, to be considered at these meetings will be available approximately two weeks prior to each meeting at the Department's Central Reference and Records Inspection Facility, address above.

Public Participation: the May 17 meeting will be open to the public. Seating will be on a first-come, first-served basis, up to the safe capacity of the meeting room. Media representatives are encouraged to call Mr. Malcolm Barr, Director, News Relations, Department of Commerce, 377-4901 to arrange for coverage of the meeting.

The public may file written statements for consideration by the Subcommittee any time before, at, or after the meeting. It is strongly recommended that statements concerning the matters to be considered at each meeting be filed before such meeting to ensure that they are considered by the Subcommittee before adoption of a report. The statements should be filed at the Department of Commerce's Central Reference and Records Inspection Facility, address and phone number as above. Because of the number of recommendations to be discussed, the meeting agenda will not include time for oral statements from public attendees. All public statements received will be available for public review.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Executive Committee of the President's Private Sector Survey on Cost Control, telephone (202) 466-4665.

Dated: April 26, 1983.

Marilyn S. McLennan,

Chief, Information Policy and Management Division, Office of the Secretary.

[FR Doc. 83-11630 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-CW-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, May 10, 1983 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066

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Dated in Washington, DC. April 26, 1983.

Charles H. Atherton,

Secretary.

[FR Doc. 83-11640 Filed 4-29-83; 8:45 am]

BILLING CODE 6630-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Wool Textile Products From the Hungarian People's Republic Under a New Bilateral Agreement

April 27, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for men's and boys' suit-type wool coats in category 433 and wool suits in category 443 and 444, produced or manufactured in Hungary, under a new bilateral agreement.

SUMMARY: On February 15 and 25, 1983, the Governments of the United States and the Hungarian People's Republic signed a new Bilateral Wool Textile Agreement. The new agreement establishes, among other things, levels of restraint for wool textile products in Category 433 during the twelve-month period which began on January 1, 1983 and for Categories 443 and 444 during the fifteen-month period which began on October 1, 1982 and extends through December 31, 1983. In the letter published below, the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in categories 433, 443, and 444, produced or manufactured in Hungary and exported during the periods indicated, in excess of the designated levels. The level of restraint for Category 433 has not been adjusted to account for any imports after December 31, 1982. The levels for Categories 443 and 444 have not been adjusted for any imports after September 30, 1982. Such charges will be made, as applicable, to account for periods which began on October 1, 1982 and January 1, 1983 and extend to the effective date of this action, as well as thereafter. A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4214).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

April 27, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasure, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of February 15 and 25, 1983, between the Governments of the United States and the Hungarian People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 3, 1983 and for the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 433, produced or manufactured in Hungary and exported during 1983, in excess of 7,350 dozen.[1]

You are also directed to prohibit, effective on May 3, 1983 and for the fifteen-month period which began on October 1, 1982 and extends through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 443 and 444, produced or manufactued in Hungary and exported during that fifteen-month period in excess of the following levels of restraint:

[15-month level of restraint] [1]

Category	Dozens
443	8,740
444	8,209

[1] The levels of restraint have not been adjusted to reflect any imports after September 30, 1982.

Wool textile products in Category 433 which have been exported to the United States before January 1, 1983, or, in the case of Categories 443 and 444, before October 1, 1982, shall not be subject to this directive.

Textile products in Categories 433, 443, and 444 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above, except where noted, are subject to adjustment in the future according to the provisions of the bilateral agreement of February 15 and 25, 1983 between the Governments of the United States and the Hungarian People's Republic, which provide, in part, that: (1) Except for Category 433, the levels of restraint may be exceeded by not more than five percent during an agreement year, provided the increase is compensated for by an equivalent decrease in another specific limit, other than Category 433; (2) the levels may be increased for carryforward up to 6 percent of the applicable category limit; and (3) administrative arrangements or adjustment may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Hungarian People's Republic and with respect to imports of wool textile products from Hungary have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-11649 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982.

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, May 17 and 18, 1983.

Times: 0830-1700 hours (closed)—both days.

Place: The Pentagon, Washington, D.C.

Agenda

The Army Science Board 1983 Summer Study on Future Development

Goal will have a meeting of its Equipping the Army Subpanel for classified briefings and discussions of same. Areas to be covered are innovations within ARRADCOM and TRADOC, interfaces between new equipment requirements and Mission Area Analyses (MAA), interface between doctrine and new equipment, and system constructs—the bridge between the technology base and AirLand Battle 2000. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5 U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83-11744 Filed 4-29-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).

Dates of meeting: Tuesday, Wednesday, and Thursday, May 17-19, 1983.

Times: 0830-1700 hours (closed)—all three days.

Place: Various West Coast facilities of private industry sector, all located in the Los Angeles, California area (see below).

Agenda

The Army Science Board Ad Hoc Subgroup on Intelligent Robotics will conduct facility visits of Hughes Research Laboratories (Malibu), Odetics (Anaheim), and the Naval Ocean Systems Command Laboratories (San Diego) for orientation in kicking off this important study effort. The Subgroup is examining applications for the U.S. Army of emerging technologies in the field of intelligent robotics. The Subgroup will also hold an Executive Session to discuss what has been briefed and demonstrated. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and proprietary nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83-11745 Filed 4-29-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: June 12, 1983, 9:00 a.m.-4:30 p.m.

ADDRESS: The Capitol Holiday Inn, 550 C Street SW., Columbia Ballroom North.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the National Advisory Council, as announced, is open to the public, and the proposed Agenda will include presentations regarding:

Guidance and Counseling

Business/Education Cooperation

Recognition of Outstanding Handicapped Student

Committee Reports

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 a.m. to 5:00 p.m., 425 13th Street NW., Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, at above address. Telephone: (202) 376-8873.

Signed at Washington, DC on April 27, 1983.

James W. Griffith,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 83-11577 Filed 4-29-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-83-011; FC Case Nos. 61045-9229-20-24 61045-9229-21-24 61045-9229-22-24]

Petition for Exemption and Availability; Capitol Cogeneration Co., Ltd.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Capitol Cogeneration Company, Ltd.

SUMMARY: On March 9, 1983, Capitol Cogeneration Company, Ltd. (Capitol), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for each of three identical electric powerplants from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Final rules governing the cogeneration exemption were revised on June 25, 1982. (47 FR 29209 (July 6, 1982)).

Capitol seeks exemptions for three 100 megawatt combustion turbine powerplants capable of using natural gas or No. 2 distillate oil to produce

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electricity, each of which will be coupled with a heat recovery steam generator to produce high pressure process steam.

It is expected that all the net annual electric power generation of Capitol's turbine generators will be sold to Houston Lighting & Power Company (HL&P), making each cogeneration facility an electric powerplant pursuant to § 500.2 of the final rules.

Within thirty days of the receipt of the petition, ERA found it to be incomplete due to minor deficiencies and so notified Capitol. On April 18, 1983 additional data and information addressing the deficiencies were received from Capitol. ERA has determined that the amended petition appears to include sufficient evidence to support an ERA determination and it is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and §§ 50.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, 8:00 a.m. to 4:00 p.m., Monday through Friday except Federal holidays.

ERA will issue a final order granting or denying the petition for exemptions from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATE: Written comments are due on or before June 16, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Docket No. ERA–FC–83–011 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–073G, Washington, D.C. 20585, Phone (202) 252–8162, or

Allan Stein, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Capitol proposes to construct and operate a cogeneration plant known as the Bayport Project located in Pasadena Industrial District, Pasadena, Harris County, Texas which will: (1) Generate electrical power for sale to HL&P, and (2) produce process steam for sale to Celanese Chimical Company. The proposed system will consist of three 100 megawatt gas turbine/generators, together with three heat recovery generators, which will utilize exhaust heat from the turbines to produce high pressure steam. The heat recovery generators will not be supplementally fired with additional fuel.

Capitol expects to sell all the net annual electric power generation of the turbine generators to HL&P. The sale of in excess of 50 percent of each facility's net annual electric power generation causes it to be classified as an electric powerplant under FUA, subject to the Title II construction and fuel use prohibitions.

Section 212(c) of the Act and § 503.37 of the final rules provide for permanent cogeneration exemptions from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1) of the final rules, Capitol has certified that:

1. The oil or gas to be consumed by each cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with § 503.37(b) of the final rules; and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in each cogeneration facility for which an exemption under § 503.38 of the final rules would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c), Capitol has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above, and

2. An environmental impact analysis, as required under § 503.13 of the final rules.

In processing these exemptions, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed. Pursuant to § 501.3 of the final rules, ERA hereby accepts the petitioner's requet for permanent cogeneration exemptions for the Bayport Project units, described above. ERA retains the right, however, to request additional relevant information from the petitioner at any time during the pendency of these proceedings. As provided in § 503.3(b)(4) of the final rules, the acceptance of the petition by ERA does not constitute a determination that Capitol is entitled to the exemptions requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on April 25, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–11852 Filed 4–29–83; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Advisory Board; Light Water Reactor Safety R&D Panel; Opening Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB).

Date and time: May 24–25, 1983 from 9 a.m. to 5 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A–110, Washington, DC 20585.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide longrange guidance in these areas to the Department.

Tentative Agenda:

- Discussions on the activities and current status of the subpanels on DOE and Foreign Research, NRC Research, and Private Sector and INPO Research.
- Panel discussions of the working draft chapters prepared by the subpanels.
- Public comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 25, 1983.

J. R. Young,

Director for Management, Office of Energy Research.

[FR Doc. 83–11855 Filed 4–29–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Advisory Board; Materials R&D Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Materials R&D Panel of the Energy Research Advisory Board (ERAB).

Date and Time: May 18, 1983 from 8 a.m. to 4 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A–110, Washington, DC 20585.

Contact: William Woodard, U.S. Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Discussion of Initial Working Outline for Draft Report.
- Reports on laboratory visits.
- Public comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 25, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83–11854 Filed 4–29–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Advisory Board; University Programs Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: University Programs Panel of the Energy Research Advisory Board (ERAB).

Date and Time: May 18–19, 1983 from 9 a.m. to 5 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, DC 20585.

Contact: Joan Snodderly, U.S. Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Discussion of draft report.
- Public comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Joan Snodderly at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 25, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83–11863 Filed 4–29–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. RP72–110–029, et al.]

Algonquin Gas Transmission Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

April 27, 1983

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 11, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date and Company	Docket No.	Type filing
1/20/83 Algonquin Gas Transmission Co.	RP72–110–029	Report.
3/29/83 Trunkline Gas Co.	RP73–35–010	Do.
3/31/83 Natural Gas Pipe Line Co. of America.	RP80–11–011	Do.
4/11/83 Alabama-Tennessee Natural Gas Co.	RP73–77–021	Do.
4/18/83 National Fuel Gas Supply Corp.	RP80–135–026	Do.

[FR Doc. 83–11875 Filed 4–29–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–469–000]

Arizona Public Service Co.; Filing

April 27, 1983.

The filing Company submits the following:

Take notice that on April 19, 1983, Arizona Public Service Company (APS) tendered for filing as an initial rate schedule an Emergency Interruptible Transmission Service Agreement

between Southern California Edison Company and APS dated April 14, 1983. The emergency interruptible transmission service shall expire when the Moenkopi 500 kV line is back in service.

APS requests an effective date of April 3, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 12, 1983. Protests will be considered by the Commission in determining the appropriate action taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11676 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2042-000]

David B. Meeker; Application

April 27, 1983.

The filing individual submits the following:

Take notice that on April 21, 1983, David B. Meeker, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director: The Dayton Power & Light Company
Director: Square D Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11677 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-208-000]

Genstar Gas Recovery Systems, Inc., Marsh Road; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

April 27, 1983.

On March 7, 1983, Genstar Gas Recovery Systems, Inc., 177 Bovet Road, Suite 550, San Mateo, California 94402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On March 31, 1983 supplementary information was filed regarding the facility.

The facility is located at Marsh Road Landfill, Menlo Park, California. The generating capacity of the facility is one megawatt. The primary energy source is landfill gas. the facility is the only small power production facility owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11678 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-207-000]

Genstar Gas Recovery Systems, Inc., Newby Island; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

April 27, 1983.

On March 7, 1983, Genstar Gas Recovery Systems, Inc., of 177 Bovet Road, Suite 550, San Mateo, California 94402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On March 31, 1983 supplementary information was filed regarding the facility.

The facility is located at Newby Island Landfill, San Jose, California. The generating capacity of the facility is 1.5 megawatts. The primary energy source is landfill gas. The facility is the only small power production facility owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11679 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-51-001]

Great Lakes Gas Transmission Co.; Filing

April 27, 1983.

Take notice that on April 13, 1983, Great Lakes Gas Transmission Company (Great Lakes) submitted for filing Substitute Forty-Second-A Revised Sheet No. 57 to its FERC Gas Tariff, First Revised Volume No. 1.

On March 31, 1983, Great Lakes filed Forty-Second-A Revised Sheet No. 57 to its FERC Gas Tariff, First Revised Volume No. 1, containing adjustments to rates to reflect the current cost of gas purchased by Great Lakes from TransCanada Pipelines Limited, and a revised surcharge rate resulting from unrecovered purchased gas cost for the period commencing September 1, 1982 and ending February 28, 1983. The requested effective date of Forth-Second-A Revised Sheet No. 57 was May 1, 1983, which is the next semi-annual purchase gas cost adjustment date for Great Lakes under the Commission's regulations.

On April 11, 1983, the Canadian government announced, effective April 12, 1983, a reduction in the Canadian border price of natural gas to $4.40 U.S. per MMBtu from $4.94 U.S. Per MMBtu.

The instant filing reflects the new border price. Also transmitted with the filing as Exhibit A are the details of the computations of the revised purchased gas cost adjustment. The surcharge and the GRI charge adjustments remain unchanged from those filing on March 31, 1983.

Great Lakes requests that Substitute Forty-Second-A Revised Sheet No. 57 become effective on May 1, 1983, instead of Forth-Second-A Revised Sheet No. 57. The effect of the reduction in the border price between April 12, 1983, and April 30, 1983 will be credited to Great Lakes unrecovered purchased gas adjustment Account No. 191 and will be included in the next surcharge to be effective November 1, 1983.

Great Lakes states that copies of the filing were served on all Great Lakes, customers, and the public service commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11680 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-11-000]

Hamman Oil and Refining Co.; Application for Adjustment

Issued: April 27, 1983.

On April 6, 1983, Hamman Oil and Refining Co. (Hamman) filed with the Commission a "Petition for an Adjustment" under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) 15 U.S.C. 3301 *et seq.* (Supp. V 1982). Specifically, Hamman requests a finding that production from a well within 2.5 miles of the State Tract No. 36 No. 1 Well (State Well) for the 5 month period of January to May 1970 is not "production in commerical quantities" as defined in § 270.102 of the Commission's regulations. Further, Hamman seeks a finding that if such production is not in commercial quantities, the State Well is not within 2.5 miles of a "marker well" as that term is defined in section 2(5)(A) of the NGPA, and therefore may qualify for a section 102(c)(1)(B) well determination under the NGPA.

Hamman is the operator of the State Well, on State Tract No. 36, Lake Anahuac Field, Chambers County, Texas, and wishes to qualify that well for NGPA section 102 rates. Section 102(c)(1)(B)(i) requires that a well must be a "new well," as defined in NGPA section 2(3), and must be at least 2.5 miles from the nearest marker well in order to qualify for section 102 rates. A "marker well" is defined as any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before April 20, 1977. Since the NGPA did not define "produced in commerical quantities" the Commission defined such term in § 270.102 of its regulations as "production of natural gas from a well or reservoir which is either: (A) Sold and delivered to one other than the operator; or (B) (subject to [a rebuttable presumption in] § 271.204(e)) retained by the operator, or any owner of the production at severance, for beneficial economic use."

Hamman asserts that of the 12 wells which are producing or have produced gas within a 2.5 mile radius of the State Well, measured from the surface projection of the bottom hole location, only one, in the Trinity Field, is a possible marker well, that may prevent the State Well from qualifying under section 102(c)(1)(B)(i). Hamman contends that since this Trinity Field well produced only 13,639 Mcf for the period January through May 1970 (the first 5 months of the marker well determination period), which was only 16.63 percent of its set allowable of 62,000 Mcf for the same period, this shows that the well was beginning to play out, and was probably unprofitable in 1970, and maintained only because it could be commingled with the producer's other production from wells in the area. Thus, Hamman alleges that this was "inadvertent" production, and should be disregarded as sufficient production to be designated "production in commerical quantities."

Hamman's request for an adjustment is based on an assertion that it would suffer inequitable treatment if the Commission finds that the alleged marker well's 5 months of production, which "inadvertently" overlapped the first 5 months of the marker well determination period, is production in commercial quantities. The alleged inequity which would result should the State Well be ineligible for section 102 rates, is that the necessary incentives to explore and develop the Lake Anahuac wildcat area, and in particular the sands in which the State Well was completed, would be unavailable. Hamman avers that to dissallow the requested adjustment would contravene the policy of the NGPA to encourage the development and production of natural gas.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101–1117, Subpart K of the Commission's Rules of Practice and Procedure. 18 CFR 385.1107–1117. Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (§ 385.214). All petitions to intervene must be filed within fifteen days after the publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11681 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-61-010]

Michigan Wisconsin Pipe Line Co.; Filing of Post Audit Report

April 27, 1983.

Take notice that on April 12, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), pursuant to Article I of the Stipulation and Agreement dated October 25, 1982, in

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Docket Nos. RP81–61 and RP82–60, which was approved by the Commission on February 10, 1983, submitted for filing its Post Audit Report setting forth the settlement cost of service for the Locked-In Period (twelve months ended October 31, 1982) and settlement base rates for resale, transportation and storage services all computed in accordance with Appendix A of the Stipulation and Agreement.

Michigan Wisconsin states that copies of the report were sent to all of Michigan Wisconsin's jurisdictional customers, interested state commissions and parties to the proceedings in Docket Nos. RP81–61 and RP82–60.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–11682 Filed 4–29–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–77–000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition of Northern Natural Gas Company for Waiver of FERC Gas Tariff

April 27, 1983.

Take notice that on April 25, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), filed a petition requesting a waiver of its FERC Gas Tariff so as to permit the Company a fifteen day extension of the time required to file its Semi-Annual ANGTS Rate Adjustment, reflecting changes in Northern Border transportation rates charged to Northern.

Northern states that granting of the requested waiver will allow it to make the ANGTS Rate Adjustment filing based upon the Commission's disposition of the Stipulation and Agreement resolving Northern's rate case in Docket No. RP82–71. This settlement currently is on the Commission's agenda for its April 27 meeting.

Northern states that the settlement in Docket NO. RP82–71 embodies a new rate design which will substantially affect the ANGTS Rate Adjustment filing and that it desires to make the required filing based upon the rates ultimately approved by the Commission. Furthermore, approval of its request will permit Northern and its customer utilities to forego multiple rate filings with this Commission and/or their respective state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.11, 385.214). All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–11684 Filed 4–29–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP77–62–000, RP80–97–000, RP81–54–000, RP81–56–000, RP82–10–000, and RP82–12–000]

Tennessee Gas Pipeline Co.; Denying Extension of Time

April 26, 1983.

On April 8, 1983, Tennessee Gas Pipeline Company (Tennessee) filed a motion for an extension of time to file Settlement Cost of Service, Settlement Base Tariff Rates and Unit Refund Amounts pursuant to the Stipulation and Agreement which was approved by Commission letter order issued June 23, 1982, in the above-docketed proceeding. In its April 8, 1983, motion, Tennessee requests that the filing date be postponed pending Commission consideration of a second Stipulation and Agreement which was filed by the company on April 6, 1983, in the above-proceeding and other Tennessee proceedings. On April 20, 1983, Commission Staff Counsel filed an answer stating his opposition to Tennessee's request.

Upon consideration, notice is hereby given that the motion is denied.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–11685 Filed 4–29–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–470–000]

Wisconsin Power and Light Co.; Filing

April 27, 1983.

The filing Company submits the following:

Take notice that on April 19, 1983, Wisconsin Power and Light Company (WPL) tendered for filing an Agreement and three rate schedules dated February 14, 1983 between WPL and Wisconsin Public Power Incorporated System (WPPIS). WPL states that the Agreement and associated rate schedules are filed for the purpose of establishing the terms and conditions of sale and purchase of wholesale power and energy and transmission services between WPL and WPPIS.

WPL request an effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been provided to WPPIS and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–11686 Filed 4–29–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM–FRL 2355–1]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 USC 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223); U.S. Environmental Protection Agency; 401 M Street SW.; Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Water Programs

- Title: Survey of Operating and Financial Characteristics of Community Water Systems (EPA ID 0371).

Abstract: EPA is following up its original survey of community water systems to complete unanswered quetions. The Agency will use this information for economic analysis of regulatory and nonregulatory alternatives.

Respondents: Public and privately-owned community water systems.

Pesticides Programs

- Title: Pilot Study: Pesticide Use Survey of Public Outdoor Use Areas (EPA ID 0604).

Abstract: EPA Is conducting a pilot study of local governments' usage of pesticides in outdoor areas. The data collected will ultimately affect regulatory decisions involving registration, data requirements and special studies.

Respondents: Local governments.

Agency Forms Cleared by OMB Between March 31 and April 8, 1983

EPA ID 0094, Recordkeeping of Supporting Date for Permit to Discharge Wastewater, was cleared April 7 (OMB #2000–0448).

EPA ID 0574, Premanufacture Notification Requirements, was cleared April 8 (OMB #2070–0012).

EPA ID 0808, Contingency Plans for Hazardous Waste Management Facilities, was cleared April 7 (OMB #2050–0011).

EPA ID 0809, Operating Record for Hazardous Waste Management Facilities, was cleared April 7 (OMB #2050–0013).

EPA ID 0820, Generator Requirements, was cleared on April 1 (OMB #2000–0412).

EPA ID 0969, Authorization of State Hazardous Waste Management Programs, was cleared April 7 (OMB #2000–0387).

EPA ID 1017, Survey of Nonferrous Metals Forming Industry (resubmission), was cleared March 31 (OMB #2040–0034).

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223) 401 M Street SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: April 22, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83–11344 Filed 4–29–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59048; TSH–FRL 2350–6]

Premanufacture Notices; Monthly Status Report for March 1983

Correction

In FR Doc. 83–10457, beginning on page 17134, in the issue of Thursday, April 21, 1983, make the following changes:

1. On page 17134, in the third column, the fourth line from the bottom should read "Dated: April 13, 1983."

2. On page 17135 in the table, in entry 83–536, "ester" should read "esters".

3. Also on page 17135, an entry should be inserted after 83–546; it should read "83–547 Generic name: Substituted phenolazo, substituted pyrazonlone. 48 FR 11501 (3/18/83) June 7, 1983."

4. On page 17136, in entry 83–473, remove "di-"; in entry 83–474 "di" should read "tri".

5. Also on page 17133, in entry 83–501, "condensation" should read: "condensation product".

BILLING CODE 1505–01–M

[OPTS–59116A; FRL 2356–5]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–83–22, an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: April 22, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–204, 401 M St. SW., Washington, D.C. 20460; (202–382–3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and

disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83–22.

Initial Date of Receipt: February 2, 1983.

Notice of Receipt: February 16, 1983 (48 FR 6900).

Applicant: Confidential.

Chemical: Alkyl co-polyether, (Generic).

Use: Confidential.

Import Volume: 15,000 kg.

Number of Customers: 3.

Exposure Information: There will be low potential for worker exposure to the new chemical substance during manufacture and processing operations. Worker exposure to the new chemical substance is expected to be minimal because of the low vapor pressure, use of protective clothing, and because of the short duration of manufacture (an estimated 5 days during the 1 year test marketing period). Worker exposure at customers' use sites is also expected to be low because of the automated application of the new chemical to an article.

Releases of the new chemical substance from manufacturing sites will be to publically owned treatment works (POTWs) and is expected to be low. The test market substance is expected to be released to water at customer's use sites after end use application.

Test Marketing Period: 1 year.

Commencing on: April 22, 1983.

Risk Assessment: There is some concern for health effects for the new chemical substance. However, concern is mitigated by the very low exposure potential during the test marketing period.

Chemicals analogous to the new chemical substance vary in ecotoxicity potential over a wide range. Based on uncertainty and the expected release of the new chemical substance to water, concerns were raised for possible aquatic toxicity. However, the Agency concludes that the test market substance has a low potential for aquatic toxicity based on results of toxicity tests conducted by the submitter in response to Agency concerns.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: April 22, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-11624 Filed 4-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–59120A/59121A; TSH FRL 2356–4]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–83–31, and TM–83–32, TM–83–33, and TM–83–34, four applications for test marketing exemptions (TME) under section 5 (h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: April 25, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–204, 401 M St. SW., Washington, D.C. 20460; (202–382–3725).

SUPPLEMENTARY INFORMATION: Section 5 (h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83–31.

Date of Receipt: March 15, 1983.

Notice of Receipt: March 25, 1983 (48 FR 12590).

Applicant: Confidential.

Chemical: Sustituted acetamide.

Use: Confidential. The new chemical will be incorporated as a minor constituent in an article for use in commercial production.

Production Volume: 0.2 kg.

Worker Exposure: During manufacture and processing, dermal and inhalation exposure may occur for up to 5 days/year during manual transfer operations.

Test Marketing Period: 3 months.

Commencing on: April 25, 1983.

Risk Assessment: There are moderate health concerns for the new substance. It could also be potentially ecotoxic. However, these concerns are mitigated by the low human exposure and release. There will be no significant human exposure and release during manufacture and processing of the PMN substance. General exhaust, safety glasses and protective clothing will be used. After processing the substance will be contained in an article with no potential for human contact.

Public Comments: None.

TME 83–32.

Date of Receipt: March 15, 1983.

Notice of Receipt: March 25, 1983 (48 FR 12590).

Applicant: Confidential.

Chemical: Polyester polyurethane (Generic).

Use: Confidential.

Production Volume: 11,200 kg.

Number of Customers: 1.

Worker Exposure: Manufacture: dermal and eye, a total of 27 workers, up to 6 hours/day, up to 6 days/year. Processing: dermal and eye, a total of 15 workers, up to 6 hours/day, up to 6 days/year. Use: dermal and eye, 6 workers, 8 hours/day 45, days/year.

Test Marketing Period: 45 days.

Commencing on: April 25, 1983.

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter and other information presently available to the Agency. In addition, the production volume and potential for exposure and release are very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

TME 84–33.

Date of Receipt: March 15, 1983.

Notice of Receipt: March 25, 1983 (48 FR 12590).

Applicant: Confidential.

Chemical: Disubstituted heteromonocycle (Generic).

Use: Confidential.

Production Volume: 4,480 kg.

Worker Exposure: Manufacture: dermal and ocular, a total of 27 workers, up to 6 hours/day, up to 6 days/year. Processing: dermal and ocular, 48 workers, up to 6 hours/day, up to 6 days/year.

Test Marketing Period: 45 days.

Commencing on: April 25, 1983.

Risk Assessment: EPA has established that the new test market substance, submitted under TM–83–33, will not present an unreasonable risk of injury to health or to the environment under the specific conditions set out in the application. There are moderate health concerns for the new substance. The TME substance could also be potentially ecotoxic. However, these concerns are mitigated by the expected low worker exposure and low release to the environment. Furthermore, the TME chemical is expected to be poorly absorbed. Worker exposure to the new sustance during manufacturing and processing will be minimized by use of protective clothing and equipment. Release of the new substance to the environment will be low because of process controls.

Public Comments: None.

TME 83–34

Date of Receipt: March 18, 1983.

Notice of Receipt: April 1, 1983 (48 FR 14036).

Applicant: Confidential.

Chemical: Substituted alkane diols (Generic).

Use: Confidential.

Production Volume: 10,000 kg.

Worker Exposure: Manufacture and processing: dermal and ocular, a total of 25 workers, up to 10 hours/day, up to 22 days/year. Use: dermal, ocular and inhalation, a total of 10 workers, up to 8 hours/day, up to 45 days/year.

Test Marketing Period: 1 year.

Commencing on: April 25, 1983.

Risk Assessment: No significant health effects or significant environmental effects were identified for the TME substance. Furthermore, any concerns would be mitigated because of low worker exposure during manufacture, processing and use of the chemical and because of low releases to the environment. Releases from manufacture and processing are expected to be incinerated. Releases from use are to be landfilled or incinerated. Therefore, the Agency finds that the test marketing activity will not result in an unreasonable risk.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: April 25, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83–11625 Filed 4–29–83; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–2354–8]

Petrocoal Fuel Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments, data, and analyses which can be of help in evaluating a petition and supplementary submission by the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), seeking administrative reconsideration of EPA's grant of a waiver requested by Anafuel Unlimited (Anafuel) [1] for a proprietary fuel known as "Petrocoal."

[1] Subsequent to the grant of the waiver, Anafuel changed its name to American Methyl Corporation. To avoid confusion, this notice will refer to the company as Anafuel, in which name the waiver was granted.

DATE: Comments must be submitted by July 1, 1983.

ADDRESS: Copies of all public information on the waiver application and subsequent submissions, including the MVMA petition and supplementary submission requesting reconsideration of the waiver, are available for inspection in public docket EN–81–8 at the Central Docket Section (LE–131) of the Environmental Protection Agency, Gallery 1, West Tower, 401 M Street, S.W., Washington, D.C. 20460; (202) 382–7548, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Chief, Fuels Section, Field Operations and Support Division, 401 M Street, S.W., Washington, D.C., 20460 at (202) 382–2635.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(1), states that effective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light-duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act, 42 U.S.C. 7545(f)(4), provides that the Administrator of the EPA, upon application of any manufacturer of any fuel or fuel additive, may waive the prohibitions established under section 211(f)(1), if the Administrator determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, or the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of receipt of the application, the waiver authorized by section 211(f)(4) shall be treated as granted.

Anafuel submitted an application for a waiver for a proprietary fuel known as "Petrocoal" on February 20, 1981. A Federal Register notice was published April 13, 1981, 46 FR 21695,

acknowledging receipt of the application and soliciting comments. The 180-day review period provided by section 211(f)(4), scheduled to expire on August 19, 1981, was subsequently extended until September 28, 1981 by the consent of Anafuel and EPA. On September 28, 1981 the Administrator granted a waiver. A Federal Register notice of this decision was published on October 5, 1981, 46 FR 49075.

Under Section 307(b)(1) of the Act, judicial review of this Agency action was available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of the October 5, 1981 publication date. On December 4, 1981, within the required 60 days, MVMA on behalf of its member companies, and General Motors individually, filed petitions for review of the waiver grant in the U.S. Court of Appeals of the District of Columbia Circuit. On that day, MVMA also filed with EPA a petition seeking administrative reconsideration of EPA's decision. MVMA's administrative petition argued that: (1) The Petrocoal waiver was not in the public interest, (2) adverse consequences to vehicle manufacturers and individual car owners would result, and (3) the decision was contrary to applicable provisions of the Act.

Anafuel joined in the litigation, and over the next several months the parties discussed approaches to narrow or resolve the outstanding issues. Those discussions did not lead to an agreement, and on February 22, 1983, MVMA submitted to EPA a supplementary petition for reconsideration, referencing new data on the effects of methanol in gasoline on automotive evaporative emissions. These data were obtained primarily from studies performed for the Department of Energy and the Coordinating Research Council by Systems Control, Inc., and by E.I. duPont (DuPont) in connection with its August 25, 1982 waiver application to EPA, and from comments submitted by the California Air Resources Board in connection with DuPont's waiver application. On the basis of this evidence, MVMA argues that evaporative emissions with methanol gasoline blends are significantly higher than with gasoline, and cannot be controlled by fuel blending, even if their volatility is controlled.

In addition, subsequent information indicates that the fuel tested by the applicant and provided by the applicant to the Agency and to General Motors Corporation for testing, may not have been the fuel described in the waiver request.

Since the control of evaporative emissions by compliance to American Society for Testing and Materials (ASTM) specifications was a key assumption upon which the waiver was granted, and since the composition of the fuel described or tested is integral to the waiver decision, the new information brings into question the validity of the Agency's conclusion in the waiver grant.

EPA is accordingly considering whether administrative action is appropriat to modify or revoke the waiver under section 211(f) or to control or prohibit sale of Petrocoal under section 211(c), or whether the waiver should stand as granted. In order to give full and fair consideration to these issues, EPA is hereby soliciting comments, data, and analyses which bear on the waiver or which can be of help in determining whether Petrocoal either produces any emission product which causes, or contributes to, air pollution which may reasonably be anticipated to endanger the public health or welfare, or which will impair to a significant degree the performance of any emission control device or system which is in general use or which is likely to be in general use in a reasonable time.

EPA will consider holding a public hearing on the MVMA petition and related issues if such hearing is requested and, in the opinion of EPA, is warranted. Any request for a public hearing must be received by (insert date 30 days after date of publication), and is to be submitted to public docket EN-81-8, Central Docket Section (LE-131), Environmental Protection Agency, Gallery 1, West Tower, 401 M Street, S.W., Washington, D.C. 20460. Any other submission in response to this notice must be received by July 1, 1983, and is to be submitted to the above docket.

Commenters desiring to submit proprietary information should segregate that information from other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the Agency contact indicated above, and not to the Docket, to ensure that proprietary information is not inadvertently placed in the public docket.

Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA it may be made available to the public without further notice to the commenter.

With the exception of proprietary information, all additional submissions in response to this notice will be placed in the docket and will be open for public inspection.

Dated: April 22, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-11627 Filed 4-29-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Publishing of Quarterly Report on Travel Reimbursement Experiment

AGENCY: Federal Communications Commission.

ACTION: Notice

SUMMARY: In Public Law 97-259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communication Commission must keep records of such travel by each event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition the Federal Commnications Commission must publish each quarterly report in **Federal Register** until September 30, 1983

DATE: This report is for the period from January 1, 1983 through March 31, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION: The report for the quarter ending March 31, 1983 follows.

William J. Tricarico,

Secretary, Federal Communications Commission.

Federal Communications Commission Quarterly Report of Travel Reimbursement Experiment for Quarter Ending March 31, 1983, in Accordance With Public Law 97-259

Summary Report

Total Number of Sponsored Events: 15.

Total Number of Sponsoring Organizations: 15.

Total Number of Commissioners/Employees Attending: 22.

Total Amount of Reimbursement:

Transportation	$5,934.00
Room	2,043.07
Board	490.38
Other Expenses	866.15
Total	9,033.00

Individual Event Reports Attached.

Individual Event Report

Sponsoring Organization (Name and Address): Washington Analysis Corporation, 1612 K Street NW., Washington, D.C. 20006.

Date of the Event: January 18, 1983.

Description of the Event: Speech before the Washington Analysis Corporation. Location: Kansas City, Mo.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Office of Plans and Policy.

Amount of Reimbursement:

Transportation	$206.00
Room	0
Board	0
Other Expenses	18.00
Total	[1] 224.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): U.S. Council for International Business, 1212 Avenue of the Americas, New York, N.Y. 10036.

Date of the Event: January 11, 1983 to January 12, 1983.

Description of the Event: To speak before the Committee on Transborder Data Flows of the U.S. Council for International Business on recent developments in U.S. International Communications policy. Location: N.Y.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Assistant Bureau Chief, International Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$88.00
Room	—
Board	11.25
Other Expenses	46.00
Total	[1] 145.25

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Communications Networks, Conference Management Group, Box 880, Framingham, Mass. 01701.

Date of the Event: January 30, 1983 to Febraury 1, 1983.

Description of the Event: To participate in Communications Networks Conference. Location: New Orleans, La.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Policy & Program Planning Division, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$312.00
Room	55.00
Board	0
Other Expenses	0
Total	[1] 367.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): California Broadcasters Assn., 918 J. Street, Suite 201, Sacramento, Calif. 95814.

Date of the Event: January 10, 1983 to January 12, 1983.

Description of the Event: To attend the California Broadcasters Association Mid-Winter meeting. Location: Palm Springs, Calif.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Low Power Branch, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$384.00
Room	150.00
Board	75.00
Other Expenses	50.00
Total	[1] 659.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address) March Five, Inc., 30 East 42 Street, New York, N.Y. 10017.

Date of the Event: January 5, 1983.

Description of the Event: To address March Five Inc's annual luncheon for the broadcast press. Location: New York, N.Y.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$88.00
Room	
Board	
Other Expenses	36.00
Total	[1] 124.60

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): NATPE, International, 310 Madison Avenue, Suite 1207, New York, N.Y. 10017.

Date of the Event: March 18, 1983 to March 21, 1983.

Description of the Event: To attend the 20th Annual NATPE Conference.

Location: Las Vegas, Nev.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$584.00
Room	225.00
Board	34.50
Other Expenses	50.00
Total	[1] 893.50

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Association of Independent Television Stations, Inc., 1200 Eighteenth St., NW., Washington, D.C. 20036.

Date of the Event: January 12, 1983 to January 18, 1983.

Description of the Event: To address the Association of Independent Television Stations.

Location: Los Angeles, Calif.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$387.00
Room	150.00
Board	0
Other Expenses	37.40
Total	[1] 574.40

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Association of Independent Television Stations, Inc., 1200 Eighteenth St. NW., Washington, D.C. 20036.

Date of the Event: January 16, 1983 to January 16, 1983.

Description of the Event: To address the Association of Independent

Television Stations. Location: Los Angeles, Calif.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Sharp.

Amount of Reimbursement:

Transportation	$308.00
Room	197.30
Board	0
Other Expenses	17.30
Total	[1]522.60

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Georgia Association of Broadcasters, Northside Tower, Suite 604, 6065 Roswell Rd NE., Atlanta, GA. 30328.
Date of the Event: January 19, 1983.
Description of the Event: To address the 38th Annual Georgia Radio-Television Institute in Macon, GA.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Sharp.

Amount of Reimbursement:

Transportation	$192.00
Room	0
Board	0
Other Expenses	7.00
Total	[1]199.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Association of Independent Television Stations, Inc., 1200 Eighteenth St. NW., Washington, D.C. 20036.
Date of the Event: January 14, 1983 to January 18, 1983.
Description of the Event: To attend the Association of Independent Television Stations, Conference.
Location: Los Angeles, Calif.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Legal Assistant to Chairman, Office of the Chairman.
Amount of Reimbursement:

Transportation	$299.00
Room	0
Board	105.00
Other Expenses	78.40
Total	[1]482.40

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): University of South Florida, Director, Administrative Services, School of Continuing Education, Tampa, Fla. 33620.
Date of the Event: January 24, 1983 to January 28, 1983.
Description of the Event: To participate in the 11th Annual International BICS Conference on Telecommunications Design.
Location: Tampa, Fla.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Attorney Adviser, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$178.00
Room	127.00
Board	41.73
Other Expenses	56.40
Total	[1]403.13

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): NATPE International, 310 Madison Avenue, Suite 1207, New York, N.Y. 10017.
Date of the Event: March 18, 1983 to March 22, 1983.
Description of the Event: To attend, the 20th Annual NATPE Conference.
Location: Las Vegas, Nev.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Quello.

Amount of Reimbursement:

Transportation	$378.00
Room	300.00
Board	
Other Expenses	46.50
Total	[1]724.50

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Texas Association of Broadcasters, 6201 Middle Fiskville Rd., P.O. Box 14767, Austin, Tex. 78761.
Date of the Event: February 15, 1983 to February 16, 1983.
Description of the Event: To address the Texas Association of Broadcasters.
Location: San Antonio, Tex.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Sharp.

Amount of Reimbursement:

Transportation	$258.00
Room	74.90
Board	2.50
Other Expenses	16.08
Total	[1]351.48

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Federal Telecommunications, Inc., P.O. Box 271688, Tampa, Fla. 33688.
Date of the Event: February 22, 1983 to February 23, 1983.
Description of the Event: Participate in Seminar.
Location: Orlando, Fla.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Jones.

Amount of Reimbursement:

Transportation	$258.00
Room	53.50
Board	21.00
Other Expenses	58.00
Total	[1]390.50

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): ENTELEC, 83, c/o Keller and Heckman, 1150 17th St. NW., Suite 1000, Washington, D.C. 20036.
Date of the Event: March 28, 1983 to March 29, 1983.
Description of the Event: To address the 1983 ENTELEC Conference in Dallas, Tex.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Chief, Tariff Division, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$256.00
Room	48.15
Board	32.10
Other Expenses	27.40
Total	[1]363.65

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): NATPE, International, 310 Madison Avenue, Suite 1207, New York, N.Y. 10017.
Date of the Event: March 17, 1983 to March 20, 1983.
Description of the Event: To attend the 20th Annual NATPE Conference.
Location: Las Vegas, Nev.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Sharp.

Amount of Reimbursement:

Transportation	$249.00
Room	225.00
Board	0
Other Expenses	16.00
Total	[1]490.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address) NATPE, International, 310 Madison Avenue, Suite 1207, New York, N.Y. 10017.
Date of the Event: March 18, 1983 to March 22, 1983.
Description of the Event: To attend the 20th Annual NATPE Conference.
Location: Las Vegas, Nev.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Rivera.

Amount of Reimbursement:

Transportation	$278.00
Room	296.80
Board	78.20
Other Expenses	100.00
Total	[1]753.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): NATPE, International, 310 Madison Avenue, Suite 1207, New York, N.Y. 1007.
Date of the Event: March 18, 1983 to March 22, 1983.
Description of the Event: To attend the 20th Annual NATPE Conference.
Location: Las Vegas, Nev.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Attorney Advisor, Office of Commissioner Rivera.

Amount of Reimbursement:

Transportation	$278.00
Room	296.80
Board	78.20
Other Expenses	66.37
Total	[1]739.37

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): NATPE, International, 310 Madison Avenue, Suite 1207, New York, NY 10017.
Date of the Event: March 19, 1983 to March 22, 1983.
Description of the Event: To attend the 20th Annual NATPE Convention.
Location: Las Vegas, Nev.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Jones.

Amount of Reimbursement:

Transportation	$268.00
Room	116.72
Board	0
Other Expenses	12.50
Total	[1]419.22

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): National Burglar & Fire Alarm Association, Inc., 1113 Fifteen St., NW.
Date of the Event: March 18, 1983 to March 19, 1983.
Description of the Event: To address the National Burglar & Fire Alarm Convention in Anaheim, Calif.
Number of Commissioners Attending: 1.
Number and Title of Employees Attending: 1, Commissioner Jones.

Amount of Reimbursement:

Transportation	$170.00
Room	75.00
Board	11.00
Other Expenses	31.00
Total	[1]287.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Illinois Telephone Association, 300 East Monroe Street, Springfield, Ill. 62701.
Date of the Event: March 30, 1983.
Description of the Event: To participate in a meeting on Access Charges (CC Docket 78-72). Location: Chicago, Ill.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Attorney Advisor, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$235.00
Room	75.00
Board	0
Other Expenses	75.00
Total	[1]385.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (Name and Address): The National Institute for Low Power Television, 17 Washington Street, Norwalk, Conn 06854.
Date of the Event: January 23, 1983 to January 25, 1983.
Description of the Event: To participate in the LPTV conference and exposition for the Low Power Industry.
Location: Anaheim, Calif.
Number of Commissioners Attending: 0.
Number and Title of Employees Attending: 1, Attorney Advisor, Mass Media Bureau.
Amount of Reimbursement:

Transportation	$280.00
Room	174.90
Board	0
Other Expenses	0
Total	[1]454.90

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

[FR Doc. 83-11514 Filed 4-29-83; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-235]

Family Federal Savings and Loan Association, Shreveport, Louisiana; Final Action, Approval of Conversion Applications

Dated: April 16, 1983.

Notice is hereby given that on April 8, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Family Federal Savings and Loan Association, Shreveport, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 83-11089 Filed 4-29-83; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1631-R]

K. C. Air Freight Services Inc.; Order of Revocation

On April 18, 1983, K. C. Air Freight Services, Inc., 1633 Old Bayshore Hwy., Burlingame, CA 94010 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1631-R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, That Independent Ocean Freight Forwarder License No. 1631-R

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issued to K. C. Air Freight Services, Inc., be revoked effective April 18, 1983.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1631–R issued to K. C. Air Freight Services, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon K. C. Air Freight Services, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-11690 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1400–R]

Pierce-Byron Inc.; Order of Revocation

On April 18, 1983, Pierce-Byron Inc., Suite 1301 Mall Bldg., 325 Chestnut Street, Philadelphia, PA 19106 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1400–R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, That Independent Ocean Freight Forwarder License No. 1400–R issued to Pierce-Byron Inc., be revoked effective April 18, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1400–R issued to Pierce-Byron Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Pierce-Byron Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-11691 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1625]

San Juan Freight Forwarders, Inc.; Order of Revocation

On April 20, 1983, San Juan Freight Forwarders, Inc., Road No. 836, Km. 0.7, P.O. Box 3356, Cardina, P.R. 00630, surrendered its Independent Ocean Freight Forwarder License No. 1625 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, That Independent Ocean Freight Forwarder Lincens No. 1625 issued to San Juan Freight forwarders, Inc. be revoked effective April 20, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon San Juan Freight Forwarders, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-11618 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 325–R]

Trans-Marine Freight Inc.; Order of Revocation

On April 15, 1983, Trans-Marine Freight Inc., Rm. 712–Whitney Bldg., New Orleans, LA 70130 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 325 effective April 15, 1983.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, That Independent Ocean Freight Forwarder Lincens No. 325–R issued to Trans-Marine Freight Inc., be revoked effective April 15, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 325–R issued to Trans-Marine Freight Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Trans-Marine Freight Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-11616 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2514]

Transport International Inc.; Order of Revocation

On March 14, 1983, Transport International Inc., 3778 N.E. 16th Street, Miami, FL 33160 surrendered its Independent Ocean Freight Forwarder License No. 2514 for revocation effective April 15, 1983.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, That Independent Ocean Freight Forwarder License No. 2514 issued to Transport International Inc. be revoked effective April 15, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Transport International Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-11617 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-23]

Central National Corporation, Nantucket Navigation, Inc. and T. Smith & Son (Texas), Inc. v. Port of Houston Authority; Filing of Complaint and Assignment

Notice is given that a complaint filed by Central National Corporation, Nantucket Navigation, Inc. and T. Smith & Son (Texas), Inc. against Port of Houston Authority was served April 25, 1983. Complainants allege that respondent has violated section 17 of the Shipping Act, 1916, in connection with establishment of rules concerning responsibility for lost and damaged cargo.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-11605 Filed 4-29-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Great Western Financial Services, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Great Western Financial Services, Inc.*, Colorado Springs, Colorado; to acquire 100 percent of the voting shares or assets of The Western National Bank of Colorado, Colorado Springs, Colorado. Comments on this application must be received not later than May 26, 1983.

Board of Governors of the Federal Reserve System, April 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11582 Filed 4-29-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company, Proposed de Novo Nonbank Activities; Citicorp

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested person may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York New York (consumer finance and credit-related insurance activities; Minnesota): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. at a shared location in Edina, Minnesota. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale at retail of money orders and travelers checks, and the sale of consumer oriented finadncial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortagage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Person-to-Person Financial Center, Inc. and the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. Comments on this application must be received not later than May 26, 1983.

Board of Governors of the Federal Reserve System, April 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11583 Filed 4-29-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Columbia Financial Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Columbia Financial Corporation*, Bloomsburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Bloomsburg Bank-Columbia Trust Co., Bloomsburg, Pennsylvania. Comments on this application must be received not later than May 26, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *GenBanc, Inc.*, Genoa, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Genoa Banking Company, Genoa, Ohio. Comments on this application must be received not later than May 25, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *South Suburban Bancorp, Inc.*, Olympia Fields, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of The First Suburban Bank of Olympia Fields, Olympia Fields, Illinois. Comments on this application must be received not later than May 25, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *State Bancorp, Inc.*, Washington, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The State Bank of Washington, Washington, Indiana. Comments on this application must be received not later than May 26, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Byers Bancshares, Inc.*, Byers, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Byers, Byers, Texas. Comments on this application must be received not later than May 26, 1983.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Dairyland Bancshares, Inc.*, Marshfield, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Citizens National Bank & Trust, Marshfield, Wisconsin. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than May 26, 1983.

2. *Pilot Bancorp, Inc.*, Pilot Grove, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Pilot Grove Savings Bank, Pilot Grove, Iowa. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than May 25, 1983.

Board of Governors of the Federal Reserve System, April 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11581 Filed 4-29-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Public Health Conference on Records and Statistics; Meeting

The Assistant Secretary for Health annnounces the dates and other information for the following conference scheduled to assemble during the month of August 1983:

Name: Public Health Comference on Records and Statistics.

Date and Time: August 22–24, 1983, 9:00 a.m.

Place: Capital Hilton Hotel, 16th and K Streets, N.W., Washington, D.C. 20036. Open to the Public (Registration required).

Purpose: The Nineteenth National Meeting of the Public Health Conference on Records and Statistics (PHCRS) is sponsored by the National Center for Health Statistics. This national Conference is recognized as one of the paramount meetings for workers in the field of public health statistics. The theme of the Conference is "Priorities in Health Statistics," and presentations and discussions on the program will include the following subjects: health promotion and disease prevention programs, goals, priorities, and data needs; programs regarding health care costs, such as the cost of cancer care and the National Medical Care Utilization and Expenditure Survey; vital registration and statistics; monitoring and evaluating health programs; statistical perspectives on the U.S. mental health service delivery system; and evaluating Medicare and Medicaid reimbursement eligibility and coverage.

Anyone wishing to obtain an agenda, registration information, or other relevant information concerning the Conference should contact: Program Development Staff, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301–436–7122.

April 16, 1983

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-11607 Filed 4-29-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 36730]

Colorado; Realty Action, Non-competitive Lease of Public Lands in Garfield County

The following described land is being considered for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732) at no less than the appraised fair market rental which is estimated to be approximately $9,000 annually, or $750.00 per month.

Sixth Principal Meridian

T. 5 S., R. 93 W.,
Sec. 13, SE¼SE¼NE¼SW¼, E½E½SE¼SW¼, NE¼SE¼NW¼SE¼, S½S½NW¼SE¼, and SW¼SE¼;
Sec. 24, N½N½NE¼NE¼, and NE¼NE¼NE¼NW¼.

The area described aggregates approximately 75.0 acres in Garfield County.

The land is located five miles north of Rifle, Colorado, adjoining the existing Rifle Golf Course, near Rifle Gap.

Lease of the above described lands has been proposed by Rifle Gap Land Company of Rifle, Colorado to expand the existing nine hole Rifle Golf Course to eighteen holes, using some or all of the public land area described above and adjacent to their privately owned lands. The proposed use is consistent with Bureau of Land Management land use planning and with local planning and zoning.

The Bureau of Land Management is considering a longterm (approximately 10 years) noncompetitive lease to Rifle Gap Land Company dependent upon the company filing an application for lease and including information required by Title 43 Code of Federal Regulations, part 2920.52. The terms and conditions applicable to any lease issued under this notice are those in 43 CFR 2920.7. Special stipulations that would be included in a lease, as well as other information about the proposal, can be reviewed in the Bureau of Land Management Glenwood Springs Resource Area Office, 50629 Hwy. 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81601, telephone (303) 945–2341.

The lessee would be required to reimburse the United States for reasonable administrative and other costs incurred by the United States in processing the lease and for monitoring construction, operation, maintenance, and rehabilitation of the facilities authorized. The reimbursement of costs would be in accordance with the provisions of 43 Code of Federal Regulations 2920.6.

For a period of 45 days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the District manager, Bureau of Land Management, Grand Junction District Office, 764 Horizon Drive, Grand Junction, Colorado 81501. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination.

David A. Jones,

District Manager.

[FR Doc. 83-11632 Filed 4-29-83; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 83-21]

Draft Southern Malheur Grazing Management Environmental Impact Statement; Public Meetings and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Public meeting on Southern Malheur grazing management DEIS.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act or 1969, the Department of the Interior has prepared a Draft Environmental Impact Statement for the Southern Malheur EIS area. The proposal involves implementing a livestock grazing program on public lands within the Southern Malheur EIS area of the Vale District in southeastern Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon;
Bureau of Land Management, Vale District Office, 100 East Oregon Street, Vale, Oregon 97918;
Library, University of Oregon, Eugene, Oregon;
Library, Treasure Valley Community College, Ontario, Oregon;
Library, Portland State University, 727 SW Harrison, Portland, Oregon;
Malheur County Library, Ontario, Oregon; and
Library, Oregon State University, Corvallis, Oregon.

A limited number of copies are available upon request to the BLM Oregon State Office or the Vale District Office.

Informal public information meetings will be held at 7:30 p.m. on June 7, 1983 at the Lions Den in Jordan Valley, Oregon and at 7:30 p.m. on June 9, 1983 at the Bureau of Land Management Office in Vale, Oregon.

Written comments on the draft EIS may be sent to: District Manager, Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918.

Comments should be postmarked on or before June 30, 1983 to be considered in preparation of the Final Southern Malheur EIS.

FOR FURTHER INFORMATION CONTACT: Gerry Fullerton, Oregon State Office, Telephone: (503) 231–6955.

Dated: April 13, 1983.

Stanley D. Butzer,

Deputy State Director for Lands and Renewable Resources.

[FR Doc. 83-11630 Filed 4-29-83; 8:45 am]

BILLING CODE 4310-84-M

Ely District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L 94–579 that a meeting of the Ely District Grazing Advisory Board will be held Wednesday, June 8, 1983.

The meeting will convene at 10:00 a.m. (p.d.s.t.) in the conference room of the BLM District Office in Ely, Nevada. The agenda for the meeting will include: (1) Minutes of the previous meeting, (2) Schell MFP III decisions, (3) Schell Wilderness EIS, (4) status of Egan RMP, (5) allotment categorization, (6) update on wild horse program, (7) new grazing regulations and range management policy, (8) solicitor's opinion on water rights, (9) public comment period, (10) oil and gas exploration, and (11) Advisory Board concerns and recommendations.

The meeting is open to the public. Interested individuals may present oral statements to the Board at approximately 2:00 p.m. (p.d.s.t.). June 8, 1983. Written statements must be submitted to the Ely District Office by close of business June 7, 1983

Summary minutes of the Advisory Board meeting will be maintained at the District Office and available for public inspection and reproduction upon request.

DATE: June 8, 1983.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Kathy Lindsey, 702–289–4865.

Dated: April 25, 1983.

George W. Cropper,

Acting District Manager.

[FR Doc. 83-11588 Filed 4-29-83; 8:45 am]

BILLING CODE 4310-84-M

[C-0102703]

Colorado; Partial Termination of Withdrawal Application and Opening of Lands

April 25, 1983.

Bureau of Reclamation, United States Department of the Interior, filed applications for withdrawal and reservation of additional lands for the Fryingpan-Arkansas Project. Notices were published on March 16, 1967, as FR Doc. 67–2668, November 15, 1968, as FR Doc. 68–13976, June 11, 1969, as FR Doc. 69–6906, and October 7, 1971, as FR Doc. 71–14710. The applicant agency has cancelled these applications insofar as they affect the following described lands:

Sixth Principal Meridian

Paragraph 1.
T. 17 S., R. 86 W.,
Sec. 15, S½.
T. 12 S., R. 79 W.,
Sec. 5, lots 3, 4, S½NW¼, and SW¼;
Sec. 6, lots 1, 2, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼ excluding portion invaded by Patent Nos. 7142, 39730, 1066, and 3104;
Sec. 8, E½NE¼, excluding portion invaded by Patent No. 4581;
Sec. 9, W½W½, excluding portions invaded by Patent Nos. 1158, 4581, and 390409.
T. 9 S., R. 80 W.,
Sec. 19, lots 3, 4, and W½NE¼SW¼, excluding portions invaded by Patent Nos. 27851, 37897, 20726, 22546, 328236, 329245, and 16662;
Sec. 30, lot 1, excluding portions invaded by Patent Nos. 16662, 1000292, and 11144.
T. 10 S., R. 80 W.,
Sec. 7, lot 3.
T. 11 S., R. 80 W.,
Sec. 26, lot 9;
Sec. 36, lot 7.
T. 12 S., R. 80 W.
Sec. 1, E½ of lot 1.
T. 9 S., R. 81 W.,
Sec. 36, N½NE¼NW¼; and SE¼, excluding portions invaded by Patent Nos. 21589, 9474, and 22036.

The area described aggregates approximately 1,656 acres.

San Isabel National Forest

Paragraph 2.
T. 10 S., R. 80 W.,
Sec. 31, lot 3;

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Sec. 32, SE¼SE¼.
T. 11 S., R. 80 W.,
Sec. 7, lot 1, E½NE¼, SW¼NE¼, and N½SE¼;
Sec. 28, W½W½SW¼;
Sec. 29, E½E½SE¼.
T. 9 S., R. 81 W.,
Sec. 10, N½N½, SW¼NE¼, S½NW¼, and SW¼;
Sec. 11, NE¼;
Sec. 15, SW¼;
Sec. 16, SE¼;
Sec. 20, NW¼;
Sec. 21, NE¼.
T. 11 S., R. 81 W.,
Sec. 25 SW¼NW¼, and W½SW¼, excluding portions invaded by Patent No. 22099;
Sec. 35, N½NE¼;
Sec. 36, NW¼NW¼.

The area described aggregates approximately 1,879 acres.

3. Therefore, pursuant to the regulations contained in 43 CFR 2310.1–4, at 10:00 a.m. on June 6, 1983, the public lands in paragraph one shall be open to operation of the public land laws generally, including location and entry under the U.S. mining laws, subject to valid existing rights, the provisions of existing withrawals, and the requirements of applicable law. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possessioin are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. Therefore, at 10:00 a.m. on June 6, 1983, the forest lands in paragraph two shall be open to such forms of disposition as may by law be made of national forest land, subject to valid existing rights.

The lands have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be directed to the Chief, Lands and General Mining Law Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–11603 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–84–M

[C–1262, C–0123847]

Colorado; Order Opening Lands Withdraw for Federal Power Projects 321 and 501

April 25, 1983.

The Federal Energy Regulatory Commission (formerly Federal Power Commission) issued an order dated September 23, 1980, vacating, in their entirety, orders which withdrew lands for transmission line project Nos. 321 and 501. This order affects the following described public and national forest lands:

Project No. 321

New Mexico Principal Meridian

1. All portions of the following described lands lying within 50 feet of the center line of the transmission line crossing these lands:

T. 45 N., R. 7 E.,
secs. 11, 14, 23, 24, 25.
T. 46 N., R. 7 E.,
sec. 1.
T. 47 N., R. 7 E.,
sec. 36.
T. 46 N., R. 8 E.,
secs. 7, 8, 17, 33.

Rio Grande National Forest

2. All portions of the following described lands lying within 50 feet of the center line of the transmission line crossing these lands:

T. 45 N., R. 7 E.,
sec. 12.
T. 47 N., R. 7 E.,
sec. 24.
T. 45 N., R. 8 E.,
secs. 5, 7, 8.
T. 46 N., R. 8 E.,
secs. 6, 20, 29, 32.
T. 47 N., R. 8 E.,
secs. 19, 20, 30.

The areas described aggregate approximately 166 acres which were withdrawn by Power Project 321.

Project 501

Sixth Principal Meridian

3. All portions of the following described lands lying within 50 feet of the center line of the transmission line crossing these lands:

T. 9 S., R. 79 W.,
secs. 1, 13, 14.

Pike National Forest

4. All portions of the following described lands lying within 50 feet of the center line of the transmission line crossing these lands:

T. 8 S., R. 78 W.,
sec. 31.
T. 9 S., R. 78 W.,
secs. 6 through 9, 15, 16, 18.

The areas described aggregate approximately 56 acres which were withdrawn by Power Project 501.

5. Therefore, at 10:00 a.m., on June 6, 1983, the public lands in paragraphs one and three shall be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The State of Colorado has waived its preference right for highway right-of-way or material sites on the public land as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

6. Therefore, at 10:00 a.m., on June 6, 1983, the national forest land described in paragraphs two and four shall be open to such forms of disposition as may by law be made of national forest land.

Any valid applications received prior to the opening time and date shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and remain open to applications and offers under the mineral leasing law and to location and entry under the U.S. mining laws.

Inquiries concerning these lands should be directed to the Chief, Lands and General Mining Law Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Mineral Operations.

[FR Doc. 83–11605 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Mines

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Nonmetallic Minerals Surveys
Bureau Form Number: 6–1151–MA ET AL
Frequency: Monthly, Quarterly, Annual
Description of Respondents: Producers and Consumers of Nonfuel Minerals and Materials
Annual Responses: 19,085
Annual Burden Hours: 23,691
Bureau Clearance Officer: Robert L. Miller, 202–634–1125

Dated: April 1, 1983.
Robert C. Horton,
Director.

[FR Doc. 83–11608 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–53–M

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Gas Well Data-Survey of Helium-Bearing Natural Gas
Bureau Form Number: 6–1579–A
Frequency: Annual
Description of Respondents: Companies and Individuals Involved in Natural Gas Industry
Annual Responses: 200
Annual Burden Hours: 50
Bureau Clearance Officer: Robert L. Miller, 202–634–1125

Dated: April 1, 1983.
Robert C. Horton,
Director.

[FR Doc. 83–11609 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–53–M

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Helium Distribution Contracts
Bureau Form Numbers: 6–1575–A, 6–1580–A, and 6–1581–A
Frequency: Annual
Description of Respondents: Industrial gas suppliers who elect to distribute Bureau of Mines helium
Annual Responses: 48
Annual Burden Hours: 24
Bureau Clearance Officer: Robert L. Miller, 202–634–1125

Dated: April 1, 1983.
Robert C. Horton,
Director.

[FR Doc. 83–11610 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–53–M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals; Bolt Beranek & Newman Inc.

On March 11, 1983 a notice was published in the Federal Register (48 FR 10483), that an application had been filed with the Fish and Wildlife Service by Bolt Beranek and Newman Inc., Cambridge, MA for an amendment to their permit to use an air gun array by a seismic exploration vessel to provide acoustic response data for this type of sound source.

Notice is hereby given that on April 20, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit (PRT 2–9740), to Bolt Beranek and Newman subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

Dated: April 27, 1983.
Larry LaRochelle,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 83–11614 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit, Receipt of Applications; San Diego Zoo et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2–10316
Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import two captive-born male mouse lemurs (*Microcebus murinus*) from the Rotterdam Zoo, Netherlands, for enhancement of propagation.

PRT 2–10315
Applicant: Woodland Park Zoo, Seattle, WA

The applicant requests a permit to import one pair of captive-born mouse lemurs (*Microcebus murinus*) from the Rotterdam Zoo, Netherlands, for enhancement of propagation.

PRT 2–10197
Applicant: Joe Savage, Los Angeles, CA

The applicant requests a permit to export and reimport one captive-bred leopard (*Panthera pardus*) for purposes of conservation exhibition.

PRT 2–10314
Applicant: Woodland Park Zoo, Seattle, WA

The applicant requests a permit to import one captive-born male jaguarundi (*Felis yagouaroundi*) from Blijdorp Zoo, the Netherlands, for enhancement of propagation.

PRT 2–10311
Applicant: Woodland Park Zoo, Seattle, WA

The applicant requests a permit to import one captive-born male gorilla (*Gorilla gorilla*) from Zoo Zurich, Switzerland, for enchancement of propagation.

PRT 2–10276
Applicant: Paul Nelson Seeley, Denver, CO

The applicant requests a permit to take larval fish of Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*) and bonytail chub (*G. elegans*) from Colorado River near DeBeque, CO, for scientific research.

PRT 2–10351
Applicant: Lincoln Park Zoo, Chicago, IL

The applicant requests a permit to import one captive-born mandrill (*Papio sphinx*) from the Ueno Zoo, Tokyo, Japan for enhancement of propagation.

PRT 2–10353
Applicant: Biosphere Educational Films, Monterey, CA

The applicant requests a permit to take (harass) through photography, endangered Hawaiian birds for enhancement of propagation and survival under the definition of Conservation Exhibition.

PRT 2–10341
Applicant: International Animal Exchange, Ferndale, MI

The applicant requests a permit to purchase in interstate commerce one female white-handed gibbon (*Hylobates lar*) from Seneca Park Zoo, Rochester, NY, for enhancement of propagation.

PRT 2–10347
Applicant: UTA Collection of Vertebrates, University of Texas, Arlington, TX

The applicant requests a permit to export and reimport accessioned museum specimens of Endangered and Threatened animals for scientific research.

PRT 2–10049

Applicant: Dr. Joel Friedman, Murray Hill, NJ

The applicant requests a permit to take blood samples from endangered sea turtles for scientific research.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the appropriate PRT 2 # when submitting comments.

Dated: April 27, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–11613 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Pacific Outer Continental Shelf (OCS); Getty Oil Co. et al.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for proposed oil and gas operations on the Pacific OCS Region.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations 40 CFR (§ 1501.4 and § 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the Minerals Management Service for the following oil and gas activities proposed on the Pacific OCS Region. This listing includes all proposals for which environmental documents were prepared by the Pacific OCS Region in the 6-month period preceding this notice.

EXPLORATION PLANS

Operator	Location	FONSI date
Getty Oil Company	OCS–P 0394, 0395 (15 miles N.W. of Point Sal, California).	Oct. 1, 1982.
Conoco, Inc	OCS–P 0320 (8 miles W. of Point Conception, California).	Oct. 19, 1982.
ARCO Oil and Gas Company	OCS–P 0431, 0434, 0437 (6 miles W. of Purisima Point, California).	Nov. 12, 1982.
Penzoil Oil and Gas, Inc	OCS–P 0427, 0432 (3 miles W. of Purisima Point, California).	Do.
Exxon Company, U.S.A	OCS–P 0329, 0461 (5 miles S. of El Capitan, California).	Do.
Phillips Petroleum Company	OCS–P 0436, 0439 (3 miles S.W. of Purisima Point, California).	Nov. 18, 1982.
Chevron U.S.A. Inc	OCS–P 0401, 0407, 0414 (13 miles W. of Point Sal, California).	Dec. 23, 1982.
Getty Oil Company	OCS–P 0449 (16 miles N.W. of Point Conception, California).	Do.
Phillips Petroleum Company	OCS–P 0408 (10 miles W. of Point Sal, California)	Dec. 29, 1982.
Gulf Oil Corporation	OCS–P 0412 (18 miles W. of Point Sal, California)	Feb. 4, 1983.
Chevron U.S.A. Inc	OCS–P 0393 (22 miles N.W. of Point Sal, California)	Feb. 8, 1983.
ARCO Oil and Gas Company	OCS–P 0444 (3 miles W. of Point Arguello, California).	Feb. 9, 1983.
Sun Exploration and Production Company	OCS–P 0231 (11 miles S. of Goleta Point, California).	Do.
Exxon Company, U.S.A	OCS–P 0467 (8 miles S. of Goleta Point, California)	Do.
Exxon Company, U.S.A	OCS–P 0438, 0440 (4 miles N.W. of Point Arguello, California).	Feb. 14, 1983.

The documents are available for inspection in the public information room at the Pacific OCS Region office. Persons interested in obtaining information about EAs and FONSIs proposed for activities on the Pacific OCS are encouraged to contact the Minerals Management Service office in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Field Operations, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Suite 160, Los Angeles, California 90017; (213) 688–7120.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for oil and gas resources on the Pacific OCS Region. The EAs examine the potential environmental effects of activities described in proposals and present Minerals Management Service's conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the Minerals Management Service finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Reid T. Stone,

Regional Manager.

[FR Doc. 83–11607 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Fredericksburg and Spotsylvania County Battlefield Memorial National Military Park; Draft General Management Plan; Meeting

AGENCY: National Park Service—Fredericksburg and Spotsylvania County Battlefield Memorial National Military Park.

ACTION: Notice of preplanning comment period and public meetings on draft general management plan.

SUMMARY: During the next 18 months the National Park Service will be developing a General Management Plan and Land Protection Plan which will guide the future of Fredericksburg and Spotsylvania Battlefields. During this process, the public will be asked to participate during several phases.

The first is the Preplanning Phase where the various management, land acquisition, and development issues are identified. To assist in this phase, the National Park Service has printed a Preplanning Newsletter containing a mail-in Public Response Form which will be available to the public in early May. In addition, two public meetings have been scheduled to solicit the public's views on issues.

Dates and Locations:

Tuesday, May 17, 1983, 7 p.m.
Fredericksburg Battlefield, Visitor Center, 1013 Lafayette Blvd., Fredericksburg, VA. 22404

Thursday, May 19, 1983, 7 p.m.
Spotsylvania Sr. High School, Route 208, Spotsylvania, Va. 22553

Public comment during this phase of the planning process will be accepted until June 3, 1983. Comments should be addressed to: Superintendent, Fredericksburg and Spotsylvania County Battlefield Memorial National Military Park, P.O. Box 679, Fredericksburg, Va. 22404.

Dated: April 21, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83–11584 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–70–M

Martin Luther King, Jr., National Historic Site and Preservation District; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. on Tuesday, May 24, 1983, at the Martin Luther King, Jr., Community Center, Conference Rooms A and B, 450 Auburn Avenue, N.E., Atlanta, Georgia 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr., National Historic Site. The purpose of this meeting will be for the National Park Service to present the alternatives for the General Management Plan to the Commission.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. Howard H. Arnold, III
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex Officio Member
Director, National Park Service, Ex Officio Member

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Janet C. Wolf, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, N.E., Atlanta, Georgia 30312, Telephone 404/221–5190 Minutes of the meeting will be approximately 4 weeks after the meeting.

Dated: April 22, 1983.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 83–11602 Filed 4–29–83; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[No. 39998]

Motor Carriers; Allied Van Lines, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioner's existing operations granted at 47 FR 56424 (December 16, 1982) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioner's future contracts is granted.

DATES: Comments are due on May 17, 1983. The provisional exemption of petitioner's future contracts will become final on June 1, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 39998, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Elaine Dobbins, (202) 275–6272
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosytems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: April 25, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–11586 Filed 4–29–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53309 (November 24, 1982).

DATES: The exemptions will be effective on May 4, 1983. Petitions for reconsideration must be filed by April 25, 1983. Petitions for stay must be filed by April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, D.C. 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Decided: April 22, 1983.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15100]

Pick's Pack Hauler, Inc—Purchase Exemption—Nebraska Carriers, Inc.

Addresses:
Send pleadings to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: A. J. Swanson, Quaintance, Swanson & Johnson, P.O. Box 1103, Sioux Falls, SD 57101.

Pleadings should refer to No. MC–F–15100.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Pick's Pack Hauler of a portion of the operating rights of Nebraska Carriers, Inc. in No.

MC-153207 (Sub-No. 4) X, Part (3) and the corresponding underlying authority.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett.

[No. MC-F-15133]

Algocen Transport Holdings Limited—Continuance in Control Exemption—Thibodeau—Finch Express Limited and Algocen Transport, Inc.

Addresses:
Send pleadings to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.

Pleadings should refer to No. MC-F-15133.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(5), the continuance in control by Algocen Transport Holdings Limited of Thibodeu-Finch Express Limited (No. MC-129573) and Algocen Transport, Inc. (No. MC-166343).

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83-11588 Filed 4-29-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 1, Members: Parker, Chandler and Fortier.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team 4, (202) 275-7669.

Volume No. OP4-FC-251

MC-FC-81361. By decision of April 21, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to CALIFORNIA FREIGHT EXPEDITERS, a corporation, Hayward, CA, of Certificate No. MC-121766 (Sub-No. 2), issued May 5, 1982, to S. ROSS TRUCKING COMPANY, INC., Hayward, CA, authorizing the transportation of (A) over irregular routes, general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, OR, and WA; and (B) over regular routes, transporting general commodities (except classes A and B explosives, household goods, commodities in bulk and those requiring special equipment) (1) between Santa Rosa and Los Angeles, CA, over U.S. Hwy 101, serving all intermediate points and off-route points in Sonoma, Marin, San Francisco, San Mateo, Santa Clara, Monterey, San Louis Obispo, Santa Barbara, Ventura and Los Angeles Counties, CA, (2) between San Francisco and Roseville, CA, over Interstate Hwy 80, serving all intermediate and off-route points in San Francisco, Alameda, Contra Costa, Solano, Yolo, and Sacramento Counties, CA, (3) between junction California Hwy 4 and Interstate Hwy 80 (near Pinole, CA) and Stockton, CA, over California Hwy 4, serving all intermediate and off-route points in Contra Costa and San Joaquin Counties, CA, (4) between Sacramento, CA, and the California-Mexico border, over interstate Hwy 5, serving all intermediate and off-route points in Sacramento, San Joaquin, Stanislaus, Merced, Fresno, Kings, Kern, Ventura, Los Angeles, Orange and San Diego Counties, CA, (5) between San Francisco and San Luis Obispo, CA, over California Hwy 1, serving all intermediate and off-route points in San Francisco, San Mateo, Santa Cruz, Monterey and San Luis Obispo Counties, CA, (6) between Sacramento and Wheeler Ridge, CA, over California Hwy 99, serving all intermediate and off-route points in Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare and Kern Counties, CA, (7) between Los Angeles and Indio, CA, over Interstate Hwy 10, serving all intermediate and off-route points in Los Angeles, San Bernardino and Riverside Counties, CA, (8) between junction Interstate Hwys 15E and 10 (near Colton, CA) and San Diego, CA, over interstate Hwy 15E and Temporary Interstate Hwy 15E, serving all intermediate and off-route points in San Bernardino, Los Angeles, Riverside and San Diego Counties, CA, and (9) between junction Interstate Hwys 580 and 80 and junction Interstate Hwys 580 and 5, over Interstate Hwy 580, serving all intermediate and off-route points in Alameda, Contra Costa and San Joaquin Counties, CA. Transferee holds Certificate No. MC-127434. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104, attorney for applicants.

[FR Doc. 83-11592 Filed 4-29-83; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-F-15321]

Motor Carriers; Grand Trunk Corp.—Control—the Milwaukee Motor Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of application.

SUMMARY: The Grand Trunk Corporation (GTC) seeks authority under 49 U.S.C. 11343 to acquire indirect control of The Milwaukee Motor Transportation Company (MMT) through ownership of the capital stock of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). MMT is wholly-owned by MILW.

This application is directly related to MILW's Amended Plan of Reorganization filed with the Commission under section 77 of the Bankruptcy Act. Notice of the Amended Plan is published in this issue of the **Federal Register** under Finance Docket No. 28640 (Sub-No. 9), *Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Reorganization—Acquisition by Grand Trunk Corporation.*

DATES: The procedural schedule established in Finance Docket No. 28640 (Sub-No. 9) will apply to this proceeding. Comments on the Amended Plan of Reorganization are due May 27, 1983.

ADDRESSES: An original and 20 copies of all pleadings referring to Finance Docket No. 28640 (Sub-No. 9) should be sent to: Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

and one copy to applicants' representatives:

Robert H. Wheeler, Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, IL 60602
and
Basil Cole, Dechert, Price & Rhoads, 1730 Pennsylvania Ave., NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245
or
Joseph C. Levin, (202) 275-7936.

SUPPLEMENTARY INFORMATION: The operating rights sought to be controlled include general commodity authority over regular routes between points in WI, IL, IN, KY, MI, MO, KS, IA, NE, MN, ND, SD, MT, ID, WA and OR, which are in part restricted to service which is auxiliary to, or supplemental to rail service, and are subject to various keypoint restrictions, as authorized in Certificate No. MC-19778 and subnumbers thereunder. The operating authority sought to be controlled also includes irregular route authority for commodities generally used in building construction projects and is generally concentrated in MT, SD and surrounding states.

The complete procedural schedule and additional information are contained in the Commission's decision in Finance Docket No. 28640 (Sub-9). To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: April 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-11594 Filed 4-29-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 to Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C.

10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 5 at (202) 275-7289.

Volume No. OP5-196

Decided: April 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

W-1369, filed April 12, 1983. Applicant: JAMES OTIS PEARCY, d.b.a. PEARCY MARINE, 16128 Bal Harbour Dr., Houston, TX 77058. Representative: James Otis Pearcy, (same address as applicant), (713) 333-5793. Transporting *general commodities* (except classes A and B explosives), between ports in WA and AK (except Anchorage).

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 31389 (Sub-345), filed April 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, (same address as applicant), (919) 721-2433. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Greetings Corporation, of Cleveland, OH.

MC 31389 (Sub-346), filed April 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, (same address as applicant), (919) 721-2433. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Emerson Electric Co., of St. Louis, MO.

MC 31389 (Sub-347), filed April 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, (same address as applicant), (919) 721-2433. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Purolator Products, Inc., of Rahway, NJ.

MC 31389 (Sub-348), filed April 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, (same address as applicant), (919) 721-2433. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dayco Corporation, of Dayton, OH.

MC 35628 (Sub-452), filed April 8, 1983. Applicant: IMFS, INC., d.b.a. INTERSTATE SYSTEM, 110 Ionia Avenue, NW., Grand Rapids, MI 49503. Representative: Michael P. Zell, (same address as applicant), (616) 774-0400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Montery Mills, Inc., of Janesville, WI, Gould Inc., Electric Motor Division of St. Louis, MO, Toastmaster, Inc., of Columbia, MO, Hills Department Stores, Div., of S.C.O.A. Industries, of Canton, MA, Ingersoll-Rand Company, of Piscataway, NJ, The Kroger Co. of Cincinnati, OH, and B. F. Goodrich, of Cleveland, OH.

MC 37248 (Sub-27), filed April 11, 1983. Applicant: VIRGINIA-CAROLINA FREIGHT LINES, INCORPORATED, V-C Drive, P.O. Box 4988, Martinsville, VA 24115-4988. Representative: N. Oakley Lewis (same address as applicant), 703-638-8721. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblin, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN, and DE, GA, MD, NJ, NC, PA, SC, VA, WV and DC.

MC 79656 (Sub-84), filed April 11, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods, furniture and fixtures,* and *medical diagnostic equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Diasonics, Inc., of Milpitas, CA.

MC 79658 (Sub-85), filed April 11, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424-2222. Transporting *medical and scientific instruments and component parts, accessories and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with ADAC Laboratories, Inc., of Sunnyvale, CA.

MC 124579 (Sub-35), filed April 8, 1983. Applicant: WIKEL BULK EXPRESS, INC., 10216 St., Rt. 13, Huron, OH 44839. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889-2531. Transporting *malt beverages,* between points in Erie, Huron, Lorain, Ottawa and Sandusky Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 144678 (Sub-47), filed April 11, 1983. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey, 9393 West 110th St., 5th floor, Overland Park, KS 66210, (913) 648-5540. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Rohm and Haas Company, of Philadelphia, PA.

MC 146257 (Sub-2), filed April 8, 1983. Applicant: BEST WAY TRANSPORT, INC., 1307 S. Elizabeth Street, Kokomo, IN 46901. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220, (317) 257-4066. Transporting *machinery and metal products,* between points in IN, IL, KY, OH, and MI, on the one hand, and, on the other, points in AL, CO, GA, IL, IN, IA, KY, MI, MN, MO, NC, OH, OK, PA, TN, WI, SC, and WI.

MC 143418 (Sub-1), filed April 11, 1983. Applicant: JIM ALLGOOD, d.b.a. ALLGOOD TRUCKING, 9200 Ave. 264, Tulare, CA 93274. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transporting (1) *lumber and wood products,* between points in CA and OR, on the one hand, and, on the other, points in AZ, NM, CO, and TX, (2) *building materials,* between points in AZ, on the one hand, and, on the other, points in CA, UT, TX, and OK, (3) *chemicals and related products,* (a) between points in CA, OR, WA, and AZ, and (b) between points in CA, OR, WA, and AZ, on the one hand, and, on the other, points in NM, NV, UT, ID, MT, WY, CO, TX, MD, GA, AL, and FL, (4) *rubber and plastic products, wax, and ores and minerals,* between points in CA, OR, and WA, on the one hand, and, on the other, points in CA, OR, WA, AZ, NM, NV, UT, ID, MT, WY, and CO, and (5) *metal products* and *farm products,* between points in AZ, on the one hand, and, on the other, points in CA, OR, NM, UT, CO, NV, TX, ID, MD, GA, AL, and FL.

For the following, please direct status calls to Team 1 at 202-275-7992.

Volume No. OP-151

Decided: April 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 97310 (Sub-42), filed April 21, 1983. Applicant: SHARRON MOTOR LINES, INC., 3730 1st Avenue South, Birmingham, AL 35222. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 32501, (205) 254-3880. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, TX, VA and WV.

MC 116791 (Sub-27), filed April 21, 1983. Applicant: FARMERS ELEVATOR OF KENSINGTON, MINNESOTA, INC., P.O. Box 184, Kensington, MN 56343. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424. Transporting *such commodities* as are dealt in by manufacturers and distributors of twine, between Minneapolis, MN, and points in St. Louis County, MN, and Douglas County, WI, on the one hand, and, on the other, points in MN, ND, SD, IA, WI, and MT.

MC 119560 (Sub-25), filed April 15, 1983. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, SC 29448. Representative: John F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave., & 13th St., N.W., Washington, DC 20004, (202) 628-4600. Transporting *fertilizer and fertilizer materials,* between points in DE, GA, MD, NC, NJ, PA, SC, TN and VA.

MC 121631 (Sub-6), filed April 18, 1983. Applicant: MARSHFIELD DRAYAGE COMPANY, P.O. Box 50, George St., Marshfield, MO 65706. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Law Bldg., Harrisonville, MO 64701, (816) 884-3238. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Springfield, MO, and Salem, MO, from Springfield over Interstate Hwy 44 to Rolla, MO, then over MO Hwy 72 to Salem, and return over the same route, (2) between Springfield, MO, and Buffalo, MO, over U.S. Hwy 65, (3) between Lebanon, MO, and Gravois Mills, MO, over MO Hwy 5, and (4) between Camdenton, MO, and Eldon, MO, over U.S. Hwy 54, serving all intermediate points in (1) through (4) above, and the off-route points of Crocker and Richland, MO, in (1) above.

MC 147851 (Sub-17), filed April 18, 1983. Applicant: KWESVA, INC., 2101 South 9th Street, Louisville, KY 40208. Representative: Herbert D. Liebman, 403 West Main Street, P.O. Box 478, Frankfort, KY 40602, (1-502) 875-3493. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 153891 (Sub-1), filed April 18, 1983. Applicant: FLEXIBLE TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159780 (Sub-2), filed April 19, 1983. Applicant: R. W. TINNEY, INC., P.O. Box 151, Freemont-Perrysburg Road, Perrysburg, OH 43551. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212, (614) 481-8821. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, and points in IN, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164221 (Sub-1), filed April 19, 1983. Applicant: J & V, INC., Route 11, Box 465, Lake Charles, LA 70601. Representative: Emray Delafose (same address as applicant), (318) 855-7368. Transporting (1) *lumber and wood products, (2) petroleum, natural gas and their products, and (3) chemicals and related products,* between points in AL, AR, LA, OK, MS, and TX.

MC 166960 (Sub-1), filed April 21, 1983. Applicant: RANGER TRANSFLEET, INC., P.O. Box 19060, Jacksonville, FL 32245. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522-0900. Transporting *classes A and B explosives,* between points in the U.S. (except AK and HI). Condition: Any certificate issued in this proceeding shall expire 5 years from the date of issuance.

MC 167480, filed April 18, 1983. Applicant: D. W. FORD COMPANY, INC., School St., Box 102, Northwood, NH 03261. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting (1) *machinery,* (2) *metal products,* (3) *commodities* which because of their size or weight require the use of special handling or equipment, (4) *transportation equipment,* and (5) *contractors' equipment, materials, and supplies,* between points in the U.S. (except HI).

MC 167500, filed April 18, 1983. Applicant: CH-AN, INC., 424 South Altona Holstein, IA 51025. Representative: Robert R. Rydell, 1020 Midland Financial Bldg., Des Moines, IA 50309, (515) 288-0765. Transporting (1) *chemcials and related products, and (2) fertilizers,* (a) between points in IA, on the one hand, and, on the other, points in MN, NE, ND, SE and WI, (b) between points in NE, on the one hand, and, on the other, points in IA, SD and KS, and (c) between points in MN, on the one hand, and, on the other, points in ND, SD and WI.

MC 167551, filed April 20, 1983. Applicant: DIXIE LINE, INC., 1708 Mt. Zion Ave., Gadsden, AL 35901. Representative: Sandra E. Armstrong (same address as applicant), (205) 546-3388. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, AR, FL, GA, LA, MS, NC, SC, TN, TX, and VA.

[FR Doc. 83-11389 Filed 4-29-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier, Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the

service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–257

The following applications were filed in Region 1. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway St., Room 501, Boston, MA 02114.

MC 158004 (Sub-1–3TA), filed April 19, 1983. Applicant: ADVANCED DELIVERY SYSTEMS, INC., 16 Cross Highway, Westport, CT 06880. Representative: Robert J. Cunningham (same as applicant). *Contract carrier:* irregular routes: *Such merchandise as is dealt in and used by home furnishings and appliance stores* from South Windsor, CT to points in CT, NY, RI, MA, NH, and VT, under continuing contract(s) with Nassau Furniture Co. of South Windsor, CT. Supporting shipper: Nassau Furniture Co., 1315 John Fitch Blvd., South Windsor, CT 06174.

MC 140349 (Sub-1–4TA), filed April 15, 1983. Applicant: COPE/BESTWAY EXPRESS, INC., 2024 Harvey Road, Grand Island, NY 14072. Representative: D. Thomas Cope (same as applicant). *Contract carrier:* irregular routes: *(1) Tires and crude rubber (except in bulk)* between Erie County, NY and points in the U.S. (except AK and HI) under continuing contract(s) with Dunlop Tire and Rubber Corp., Buffalo, NY; *(2) Plastic and plastic materials (except in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Reichhold Chemicals, Inc., Varcum Chemicals Division, Niagara Falls, NY; *(3) Steel wire nails and wire carriers* between points east of the Mississippi River (except AK and HI) under continuing contract(s) with New York Wire Mills, Inc., Tonawanda, NY; *(4) Abrasive grain and abrasive products (except in bulk)* between Niagara Falls, NY, Westfield, MA and various points in the U.S. (except AK and HI) under continuing contract(s) with General Abrasive Division Dresser Industries Inc., Niagara Falls, NY; *(5) Sponges and mop heads* between Erie County, NY and points throughout the U.S. (except AK and HI) under continuing contract(s) with O-Cel-O Division of General Mills, Inc., Tonawanda, NY; *(6) Phenolic polymers and resins (except in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Polymer Applications, Inc., Tonawanda, NY. Supporting shipper(s): There are six statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 167484 (Sub-1–1TA), filed April 19, 1983. Applicant: DAVID & LINDA MERCHANT, d.b.a. D. L. MERCHANT, 6E Royal Parke, 86 Pinecrest Drive, Essex Junction, VT 05452. Representative: Linda Merchant (same as applicant). *Contract carrier:* irregular routes: *Petroleum products,* from Boston, MA, Portland, ME, Albany and Rensselaer, NY and their respective Commercial Zones, to points in Franklin, Chittenden, Washington, Orleans, and Rutland Counties, VT, under continuing contract(s) with S. B. Collins, Inc., of St. Albans, VT. Supporting shipper: S. B. Collins, Inc., P.O. Box 866, 54 Lower Welden, St. Albans, VT 05478.

MC 144839 (Sub-1–1TA), filed April 14, 1983. Applicant: MURRAY'S EXPRESS, INC., Concord Industrial Park, South Main Street, Concord, NJ 03301. Representative: Guy H. Postell, Esq., Suite 675, 3384 Peachtree Road, N.E., Atlanta, GA 30326. *Contract carrier:* irregular routes: *Such merchandise, equipment and supplies used, sold or distributed by a manufacturer of cosmetics* between Concord, NH and Lewiston, ME, on the one hand, and, on the other, Penobscot, Kennebec, Waldo, Androscoggin, Sagadahoc, Cumberland, Oxford, and York Counties, ME under continuing contract(s) with Avon Products, Inc., New York, NY. Supporting shipper: Avon Products, Inc., 2100 Ogletown Road, Newark, DE 19711.

MC 3647 (Sub-1–7TA), filed April 19, 1983. Applicant: NJ TRANSIT BUS OPERATIONS INC., 180 Boyden Avenue, Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Atty. Gen. of NJ, By: John F. Ward, Deputy Atty. Gen., McCarter Highway and Market Street, P.O. Box 10009, Newark, NJ 07101. *Common carrier:* regular routes: *Passengers* between points in Howell Township, NJ serving all intermediate points: From jct U.S. Hwy 9 and access road to Aldrich Road, then over Aldrich Road to jct Pinewood Road, then over Pinewood Road to jct Windeler Road, then over Windeler Road to jct Georgia Tavern Road, then over Georgia Tavern Road to jct U.S. Hwy 9 and return over the same route. Applicant proposes to join above described route with existing authorized route. Supporting shipper(s): There are 26 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 94990 (Sub-1–1TA), filed April 19, 1983. Applicant: NASSAU WORLD WIDE MOVERS, INC., 57 Central Avenue, Farmingdale, NY 11735. Representative: David Earl Tinker, Esq., 1000 Connecticut Avenue, NW. Suite 1112, Washington, DC 20036–5391. *Contract carrier:* irregular routes: *Household goods* between points in the U.S. under continuing contract(s) with the American International Group of New York, NY; the Episcopal Church Center, New York, NY; Estee Lauder, Inc. of New York, NY; the Hertz Corporation of New York, NY; Interconex, Inc. of New York, NY. Supporting shipper(s): The American International Group, 70 Pine Street, New York, NY 10270; The Episcopal Church Center, 815 Second Avenue, New York, NY 10017; Estee Lauder, Inc., 767 Fifth Avenue, New York, NY 10153; The Hertz Corporation, 660 Madison Avenue, New York, NY 10021; Interconex, Inc., 52 Vanderbilt Avenue, New York, NY 10017.

MC 167434 (Sub-1–1TA), filed April 15, 1983. Applicant: R. L. OWENS, INC., Old Homestead Highway, Swanzey Center, NH 03431, Mailing address, P.O. Drawer G, Keene, NH 03431. Representative: Decato and Cirone, P.A., Albert J. Cirone, Jr., 23 Bank Street, Lebanon, NH 03766. *Contract carrier:* irregular routes: *Class A, B and C explosives, blasting materials, blasting supplies and related articles used in connection with explosives* under continuing contract(s) with Hercules Incorporated of Wilmington, DE between points in MA, ME, NH, VT, CT and NY. Supporting shipper: Hercules Incorporated, 910 Market Street, Wilmington, DE 19899.

MC 167407 (Sub-1–1TA), filed April 14, 1983. Applicant: DICK JENNINGS, d.b.a. P & J TRUCKING, 117 Conant Street, Nashua, NH 03062. Representative: Hughan R. H. Smith, 26 Kenwood Street, Lawrence, MA 01841. *Contract carrier:* Irregular routes: *Coal, glass, scrap steel and aluminum products,* between points in MA, CT, RI, VT, NH, ME, NY, NJ, PA and OH, under continuing contract(s) with container recovery corporation of Nashua, NH 03063. Supporting shipper: Container Recovery Corporation, 12 Celina Avenue, Nashua, NH 03063.

MC 167410 (Sub-1–1TA), filed April 14, 1983. Applicant: TRI-STATE TRANSPORT COMPANY, 102 Meadow Street, Rutland, VT 05701. Representative: David W. Patch, 4 Woodland Drive, Rutland, VT 05701. *Contract carrier:* irregular routes: *Petroleum products,* between points in NY, VT, and MA, under continuing contract(s) with Hugh Duffy Coal Co. of Rutland, VT; Patch's Petroleum Co., Inc., of Rutland, VT; Heaslip Fuels Inc. of Manchester, VT; and Owner Services Inc. of Proctor, VT. Supporting shipper(s): Hugh Duffy Coal Co., Box 201, Rutland, VT 05701; Patch's Petroleum Co., Inc., 102 Meadow Street, Rutland, VT 05701; Heaslip Fuels, Inc., P.O. Box 757, Manchester Center, VT 05255; Owner Services Inc., 41 School Street, Proctor, VT 05765.

MC 151583 (Sub-1–7TA), filed April 19, 1983. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *Tires and related materials,* between points in the U.S., except AK and HI, under continuing contract(s) with Dunlop Tire of Buffalo, NY. Supporting shipper: Dunlop Tire, P.O. Box 1109, Buffalo, NY 14240.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, PHILADELPHIA, PA 19106.

MC 167479 (Sub-II–1TA), filed April 19, 1983. Applicant: DARL ALTMAN d.b.a. ALTMAN TRUCKING, 1207 Albon Rd., Holland, OH 43528. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. (1) *Salt* from Detroit, MI, to the facilities of Wabash Alloyds, Inc., located at or near Wabash, IN; (2) *aluminum scrap* from points in IL, KY, MI, OH, TN and WI to the facilities of Wabash Alloyds, Inc., located at or near Wabash, IN; and (3) *cullet and processed glass* from the facilities of Lee Wiggins Trucking, Inc., located at or near Detroit, MI, to points in IL, IN, OH and PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Wabash Alloyds, Inc. U.S. Hgwy. 24 W., Wabash, IN 46992 and Lee Wiggins Trucking, Inc., 14031 Lowdell, Detroit, MI 48217.

MC 166841 (Sub-II–1TA), filed April 18, 1983. Applicant: AREA DISTRIBUTION, INC., 6225 Promler NW., North Canton, OH 44720. Representative: Albert Thompson, P.O. Box 1442, Canton, OH 44706. Contract irregular: Tile, Clay or Earthenware, and Materials, Equipment and Supplies Used in the Manufacture and Distribution of the Above Named Products, (1) Between the facilities of United States Ceramic Tile Co., East Spara and Canton, OH on the one hand and on the other points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NB, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, AND WY; and (2) Between the facilities of Houston Ceramics, Houston, MI on the one hand and on the other points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NB, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, AND WY; Under Continuing Contracts with United States Ceramic Tile, East Sparta, Ohio and Houston Ceramics, Inc., Houston, MI for 270 Days. An Underlying ETA Seeks 120 Days Authority. Supporting shippers: United States Ceramic Tile, 10233 Sandyville Road S.E., East Sparta, OH 44626 and Houston Ceramics, Inc., 506 Jamison St., Houston, MI 48651.

MC 146117 (Sub-II–1TA), filed April 14, 1983. Applicant: D.C., INC., 712 South York St., Mechanicsburg, PA 17055. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE., Atlanta, GA 30326. Contract, irregular, *Merchandise, equipment and supplies used, sold or distributed by a manufacturer of cosmetics,* between York, PA, on the one hand, and on the other, Frederick, Carroll, Washington and Allegheny Counties, MD; Frederick, Clarke and Warren Counties, VA; and, Berkeley, Jefferson, Morgan, Hampshire and Hardy Counties, WV, under continuing contract(s) with Avon Products, Inc., New York, NY. Supporting shipper: Avon Products, Inc., 2100 Ogletown Rd., Newark, DE, 19711.

MC 167312 (Sub-II–1TA), filed April 11, 1983. Applicant: DENNIS G. TENNEY, d.b.a. DENNIS TENNEY TRUCKING CO., Rte. 7, Box 221, Buckhannon, WV 26201. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. Contract, irregular: *General commodities, except household goods and class A & B explosives,* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Coastal Lumber Co. Supporting shipper(s): Coastal Lumber Co., P.O. Box 629, Weldon, NC 27890.

MC 167453 (Sub-II–1TA), filed April 18, 1983. Applicant: EVERGREEN, INC., P.O. Box 138, Berlin Heights, OH 44814. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *General commodities* (except Classes A and B explosives, commodities in bulk and household goods) between points in the U.S. (except AK and HI), for 270 days. Supporting shippers: There are 36 supporting shippers. Their statements may be examined in the Phila. ICC office.

MC 125284 (Sub-II–1TA), filed April 11, 1983. Applicant: HILLDRUP TRANSPER AND STORAGE CO., INC., 300 Central Rd., Fredericksburg, VA 22401. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Household goods as defined by the Commission,* between points in the U.S. (except AK and HI), restricted to the transportation for the U.S. Government. An underlying ETA seeks 120 days authority. There are six statements in support of the application which may be examined at the Philadelphia Regional Office.

MC 166845 (Sub-II–1TA), filed April 7, 1983. Applicant: KUNDLA WESTERN BEEF CO., INC., R.D. 5, Box 149, Moscow, PA 18444. Representative: Thomas J. Foley, Jr., Connell Bldg., 6th Fl., Scranton, PA 18503. *Hides, skins, meat by products, food and related products* between points in the U.S. in and east of KS, ND, NE, OK, SD and TX. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are eight support statements to this application which may be examined at the Philadelphia Regional Office.

MC 167313 (Sub-II–1TA), filed April 11, 1983. Applicant: LAWRENCE F. TOOLEY, JR. d.b.a. L & Y TRUCK LINES, 2770 Freeman Mill Rd., Suffolk, VA 23436. Representative: Frank L. Willard, Suite No. 1001, First & Merchants National Bank Bldg., Norfolk, VA 23510. Contract, irregular: (1) *irrigation and farming equipment and related material,* between points in VA, NC, SC, GA, AL, MS, TN and LA; and (2) *landscape bark products, including horticultural mulches* between points in NC and VA, on the one hand, and, on the other, points in NC, VA, MD, DE, NJ, PA, NY, RI, CT and DC, for 270 days. Supporting shippers: (1) Hobbs-Adams Engineering Co., P.O. Box 1833, Suffolk, VA 23434; (2) Baker Landscape Products, Inc., P.O. Box 404, Winton, NC 27986.

MC 107403 (Sub-II–46TA), filed April 8, 1983. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). Contract, Irregular: *Chemicals, in bulk, in tank vehicles,* from Spokane, WA to points in ID, MT, and WA, under continuing contract(s) with Great Western Chemical Co. An underlying ETA seeks 120 days authority. Supporting shipper: Great Western Chemical Co., N. 1402 Thierman, Spokane, WA 99206.

MC 2202 (Sub-II-35TA), filed April 18, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20814. Contract Irregular: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under contract or contracts with Coronet Industries, Inc., Dalton, GA 30720, for 270 days. Supporting shipper: Coronet Industries, Inc., P.O. Box 1248, Dalton, GA 30720.

MC 165388 (Sub-II-1TA), filed April 8, 1983. Applicant: RONSON LEASING, INC., 1244R Manheim Pk., Lancaster, PA 17602. Representative: John W. Metzger, 49 N. Duke St., Lancaster, PA 17602. (1) *Food and food products* (a) between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) between points in the states of MD, TX, WA, CA, NY and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *School and paper supplies* between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers Bortz Chocolates, Inc., 1411 Moss St., Reading, PA 19604; Universal Foods Corp., 66 Broad St., Carlstadt, NJ 07072; and Prudential Feldco, Inc., 6315 Traffic St., Glendale, NY 11385.

MC 163752 (Sub-II-1TA), filed April 12, 1983. Applicant: TOTAL TRANSPORTATION CORPORATION, 429 Moon-Clinton Rd., Coraopolis, PA 15108. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *General commodities (except Classes A & B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in Allegheny, Westmoreland, Beaver, Armstrong, Washington and Butler Counties, PA, on the one hand, and, on the other, New York, NY; Chicago, IL; Cleveland, OH; Baltimore, MD and Washington, DC, and their respective commercial zones. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pittsburgh Process Equipment Co., 640 Long Rd, Pittsburgh, PA 15235; General Wire Spring Co., Thompson Ave, McKees Rocks, PA 15136; Duquesne Lithographing Co., 720 Second Ave, Pittsburgh, PA 15219; Shandon Southern Instruments, Inc., 515 Broad St, Sewickley, PA 15143; Woodings-Verona Tool Co., E. Railroad Ave, Verona, PA 15147.

The following applications were filed in region 6. Send Protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board (RMBC), 211 Main St., Suite 501, San Francisco, CA 94105.

MC 167545 (Sub-6-1TA), filed April 19, 1983. Applicant: MICHAEL G. GOLDEN d.b.a., BRIAN HEAD RESORTS, One Chalet Village Dr., Brian Head, UT 84719. Representative: Michael J. Golden (same as applicant). *Passengers* in special and charter, between points in NV and UT for 270 days. Supporting shippers: Trans World Air Lines, Las Vegas, NV.; Western Airlines, Las Vegas, NV., United Airlines, Las Vegas, NV.; Brian Head Enterprises, Inc., Brian Head, UT.

MC 163661 (Sub-6-1TA), filed April 18, 1983. Applicant: D G M DISTRIBUTORS, INC., 320 Bolton Hall Rd., San Diego, CA 92073. Representative: Donaciano Gomez Morales, 3605 Arruza St., San Diego, CA 92154. *Oil products in drums and cans, bottled and canned fruit juices, mineral water, food products and metal containers*, between points in Sacramento, Fresno, Los Angeles, Orange and San Diego Counties, CA, and points in between the port of entry on the internatonal boundary between the U.S. and the Republic of Mexico at San Ysidro, CA, for 270 days. Supporting shippers: There are five supporting shippers, their statements may be examined at the Regional office listed.

MC 167546 (Sub-6-1TA), filed April 20, 1983. Applicant: JAMES D. HERBEL d.b.a. EXPRESSIT, 1530 Johnston Ave., Richland, WA 99352. Representative: James D. Herbel, 3405 S. 176th Ave., Suite 117, Seattle, WA 98188. *Air freight and general commodity shipments (except Classes A & B explosives) weighing 100 pounds or less in a motor vehicle in which no one package exceeds 100 pounds* between points in the U.S., for 270 days. Supporting shipper: Horizon Air, Tri-cities Airport, Pasco, WA.

MC 167333 (Sub-6-1TA), filed April 20, 1983. Applicant: DAVID A. MUNNS d.b.a. DAVID A. MUNNS TRUCKING, Rt. 3, Box 361 Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Chemicals and fertilizers* (except hazardous wastes) from points in MT, OR, UT, WA and WY to the facilities utilized by Camas Fertilizer at or near Rexburg, ID, for 270 days. Supporting shipper: Camas Fertilizer, Rt. 3, Box 356, Rexburg, ID 83440.

MC 167544 (Sub-6-1TA), filed April 19, 1983. Applicant: STATEWIDE CONSTRUCTION CO., INC., P.O. Box 178, Rawlins, WY 82301. Representative: David L. Welhouse (same address as applicant). *Stone, precast concrete, and building materials* between WY on the one hand and on the other points in the U.S. (except AK and HI) for 270 days. Supporting shippers: Colorado Lien Company, P.O.B. 1961, Ft. Collins, CO 80522; and Patchen Sheet Metal and Roofing Co., P.O.B. 1002, Rawlins, WY 82301.

MC 167543 (Sub-6-1TA), filed April 18, 1983. Applicant: DORIS M. PAULSRUD, d.b.a. WYOMING TOWING SERVICE, INC., P.O. Box 1017, Rawlings, WY 82301. Representative: (Same as applicant.) *Bulk Petroleum products and wrecker service for disabled and wrecked vehicles*, between points in UT and CO for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed.

MC 138624 (Sub-6-7TA), filed April 22, 1983. Applicant: CLIFF REED, INC., 510 Willow Creek Rd., Corvallis, MT 59828. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Fertilizer*, from points in ID to points in WA and OR, for 270 days. Supporting shipper: Chevron Chemical Co., P.O. Box 6148, Kennewick, WA 99336.

MC 167588 (Sub-6-1TA), filed April 22, 1983. Applicant: D-A-M EXPRESS, INC., 142 No. Lincoln, Shelley, ID 83274. Representative: Dale Ball, (same as applicant). (1) *General Commodities* (except class A and class B, explosives and household goods), between points in WA, OR, CA, NV, ID, UT, AZ, MT, WY, CO, NM, SD, ND, NE, KS, OK and TX, for 270 days. Supporting shippers: Century Enterprises, 123 Cook St., Denver, CO 80206; Roberts Hardware and Roberts Elevator, Roberts, ID 83444.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-11600 Filed 4-29-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 38991]

Rail Carriers; Carolina Freight Carriers Corporation and Red Arrow Freight Lines, Inc.; Interline Division Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of agreement and request for comments.

SUMMARY: A petition has been filed by Carolina Freight Carriers Corporation and Red Arrow Freight Lines, Inc., seeking Commission approval of an agreement concerning interchange of traffic and division of revenues under 49 U.S.C. 10706(b)(2).

The petition may be inspected at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

DATES: Comments on this application should be filed on May 31, 1983.

ADDRESS: Send an original and 10 copies of comments to: No. 38991, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Leonard L. Arnaiz (202) 275-7831, or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: Under the provisions of 49 U.S.C. 10706(b)(2), common carriers subject to the Act may submit to the Commission for approval any agreement between or among two or more such carriers "concerning rates * * * divisions, or rules related to them * * *". If such agreement is approved, the antitrust laws do not apply to parties and other persons with respect to the making and carrying out of the agreement. An agreement will be approved if the Commission finds that the agreement fulfills each statutory requirement under section 10706(b)(3), unless the Commission finds that the agreement is inconsistent with the transportation policy set forth in 49 U.S.C. 10101(a).

Part I of the subject agreement provides that Carolina and Red Arrow will accept from the other all shipments tendered which are consigned to points on their lines, and/or the lines of their connections, subject to the provisions of the carriers' tariffs filed with the Commission. If contains provisions concerning such matters as the handling of extra or accessorial charges and undercharge adjustments.

Part II details the method by which the carriers will divide the revenues, other than accessorial charges, generated by operation of the agreement. It includes provisions governing division of both two-line and three-line revenues.

The Commission is presented with a novel issue since this is the first such agreement to be filed under section 10706(b)(2). While the subject agreement is embraced by the terms of that section, it is not clear that Commission approval is necessary for the operation of the agreement since numerous carriers presently operate under interline agreements similar to the one between Carolina and Red Arrow, and have not submitted those agreements for Commission review. Further, the statute does not require submission of the agreement to the Commission but merely states that carriers "may" submit their agreements to the Commission for approval. We are concerned that to grant unnecessary immunity could be inconsistent with the transportation policy of section 10101(a).

Comments are invited on the proposed agreement with special attention to the following: (1) Does this agreement fulfill each requirement under section 10706(b)(3), (2) Is the agreement consistent with the transportation policy set forth in 49 U.S.C. 10101(a), including whether the requested antitrust immunity is necessary? and (3) What other matters, if any, should be considered by the Commission in deciding whether to approve the agreement?

It does not appear that this action will significantly affect the quality of the human environment or conservation of energy resources. Comments on these issues are, however, invited.

(49 U.S.C. 10706(b)(2), and 10706(g))

Decided: April 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre concurred in the issuance of this notice.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-11587 Filed 4-29-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28640 (Sub-9)]

Rail Carriers; Chicago, Milwaukee, St. Paul and Pacific Railroad Company Reorganization; Acquisition By Grand Trunk Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of amended plan of reorganizaation and scheduling of proceedings.

SUMMARY: The Commission accepts the Amended Plan of Reorganization of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company filed under section 77 of the Bankruptcy Act, and sets a schedule for the proceedings.

DATES: Comments on the Amended Plan of Reorganization are due May 27, 1983. The complete procedural schedule is contained in the Commission's decision.

ADDRESSES: An original and 20 copies of all pleadings referring to Finance Docket No. 28640 (Sub-No. 9) should be sent to: Rail Section, Room 5343, Interstate Commerce Commission, Washington, DC 20423; and a copy to applicants' representatives:

Robert H. Wheeler, Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, IL 60602, and Basil Cole, Dechert, Price & Rhoads, 1730 Pennsylvania Ave., NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245, or Joseph C. Levin (202) 275-7936.

SUPPLEMENTARY INFORMATION: The complete procedural schedule for conduct of this proceeding and additional information are contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Notice of a related transaction in No. MC-F-15231 is published in this issue of the Federal Register. The Grand Trunk Western Company (GTW) also seeks authority under 49 U.S.C. 11103 to use certain terminal facilities. In Finance Docket No. 28640 (Sub-No. 9A), GTW seeks to use terminal facilities of Consolidated Rail Corporation, in connection with this proposal, GTW also seeks an exemption from 49 U.S.C. 10901, pursuant to 49 U.S.C. 10505, for the construction and operation of a connection between GTW and Conrail lines at Hays, IN. In Finance Docket No. 28640 (Sub-No. 9B), GTW seeks authority to use terminal facilities of the Indiana Harbor Belt Railroad and the Baltimore and Ohio Chicago Terminal Railroad Company in Chicago.

Decided: April 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-11593 Filed 4-29-83; 8:45 am]

BILLING CODE 7035-01-M

[Application No. 6]

Rail Carriers; Chlorine Institute Rail Shippers Discussion Group

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of agreement and request for comments.

SUMMARY: An application for approval of an agreement under 49 U.S.C. 10706(a)(5)(A) has been filed by the Chlorine Institute Rail Shippers Discussion Group, on behalf of members who own or lease rail cars. The agreement would allow the members to discuss among themselves the amount of compensation to be charged rail carriers for the use of privately owned cars. The

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Commission is seeking public comment prior to acting on the application.

DATES: An original and 10 copies of comments from interested parties should be filed by May 22, 1983.

ADDRESS: The application may be inspected at the Office of the Secretary, Interstate Commerce Commission, in Washington, D.C.

Comments should be addressed to: Rail Section, Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: On March 16, 1983, the Chlorine Institute Rail Shippers Discussion Group filed an application for approval of an agreement that would permit its members to discuss among themselves the amount of compensation to be charged rail carriers for the use of privately owned cars.

Shippers entering into such agreements and seeking antitrust immunity must apply to the Commission for approval under 49 U.S.C. 10706(a)(5)(A). The Commission will approve an agreement only upon finding that it furthers the rail transportation policy set forth in 49 U.S.C. 10101a. If necessary, the Commission can impose conditions to further that policy. If the agreement is approved, the antitrust laws do not apply to parties and other persons with respect to making and carrying out the agreement.

Comments are invited on the proposed agreement, with special attention to the following subjects:

(1) How will this agreement further the transportation policy set forth in 49 U.S.C. 10101a? (Is the requested antitrust immunity necessary?)

(2) Are there any anti-competitive effects that may result because of the agreement?

(3) What safeguards, if any, are necessary to ensure that the proposed agreement will not have an undesirable anti-competitive effect or suppress competition among members of the organization?

(4) What other matters should the Commission consider in determining whether the agreement should be approved?

While it does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources, comments on these issues are also invited.

(49 U.S.C. 10706(a)(5))

Dated: April 25, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-11388 Filed 4-29-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 13, 1983, McNeilab, Inc., 603 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA **Federal Register** Representative (Room 1203), and must be filed no later than June 1, 1983.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 20, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-11637 Filed 4-29-83; 8:45 am]

BILLING CODE 4410-09-M

Importers of Controlled Substances; Registration

By Notice dated October 5, 1982, and published in the **Federal Register** on October 14, 1982, (47 FR 45999), U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic Acid Diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-Dimethoxy-Amphetamine (7395)	I
Psilocybin (7437)	I
Psilocin (7438)	I
DL-Methyl-2-Brom-LSD (7340)	I

No comments or objections have been received. Therefore, pursuant to Section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: April 20, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 83-11636 Filed 4-29-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 13, 1983, NcNeilab, Inc., 603 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Morphine (9300)	II
Thebaine (9333)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA **Federal Register** Representative (Room 1203), and must be filed no later than June 1, 1983.

Dated: April 20, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 83-11635 Filed 4-29-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at Old Post Office Building, 1100 Pennsylvania Avenue, NW., from 9:00 a.m. to 5:30 p.m. on May 18, 1983.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after July 1, 1983.

Because the proposed meeting will consider commercial and financial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b)(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, National Endowment for the Humanities, Washington, D.C. 20506.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-11580 Filed 4-29-83; 8:45 am]

BILLING CODE 7536-01-M

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will be held on May 13–14, 1983 from 9:00 a.m.–5:30 p.m. in the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW. (Council Room, Room #M–04, first floor, 12th Street entrance), Washington, D.C.

A portion of this meeting will be open to the public on Friday, May 13, 1983 from 9:00 a.m.–5:30 p.m. and Saturday, May 14, 1983 from 1:45–5:30 p.m. Topics for discussion will include Program Reviews & Guidelines discussions for State Programs, Literature, and Music Recording; touring & presenting; cross-cutting program issues; international activities; mission statement and health of the fields.

The remaining sessions of this meeting on Saturday, May 14, 1983 from 9:00 a.m.–12:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **FEDERAL REGISTER** of February 13, 1980 these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: April 21, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-11589 Filed 4-29-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, NSF is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–9421.

OMB Officer: Gwendolyn Pla, (202) 395–7313.

Title: Evaluation study of NSF's *Five-Year Outlook on Science and Technology.*

Affected Public: Individuals on mailing list who receive copies of the *Outlook* report.

Number of Responses: 2,600; total number of hours, 1,300.

Abstract: The Five-Year Outlook on Science and Technology is required in Title II of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Pub. L. 94–282). Three volumes of reports have been prepared since 1979. The present study will measure the effectiveness of reports in meeting the legislative mandate.

Herman G. Fleming,

OMB Clearance Officer.

[FR Doc. 83-11580 Filed 4-29-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on May 18, 1983 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will discuss generic safety issues associated with decay heat removal and a draft Brookhaven National Laboratory Report, "Grouping of LWRs According to their Decay Heat Removal Capability".

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that

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appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, May 18, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: April 27, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-11661 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on May 19, 1983, Room 1046, 1717 H Street, NW., Washington, DC.

In accordance with the procedures outlined in the Federal Register on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings wil be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, May 19, 1983—8:30 a.m. until the conclusion of business.

The Subcommittee will meet:

(a) To review the priorities assigned in NUREG–0933, A Prioritization of Generic Safety Issues, to human factors related safety issues;

(b) To review proposed human factors related modifications to the "General Design Criteria for Nuclear Power Plants," 10 CFR Part 50 Appendix A;

(c) To be briefed by the Office of Inspection and Enforcement on recent activities at the NRC's incident response center;

(d) To review the Human Factors Research Budget for FY 1985 and 1986; and

(e) To discuss Dr. G. Salvendy's proposal for training human factors engineers relative to the safe design and operation of nuclear power plants.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, David Fischer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: April 27, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-11660 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–293]

Boston Edison Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is efffective as of the date of issuance.

The amendment modifies the Technical Specifications (TSs) to incorporate: (1) A clarification to TSs 3.7.A.4.a(3) and 4.7.A.4.a(3), and their associated bases, to reflect the installation of alarm switches on the torus-drywell vacuum breakers and to describe in detail the applicable torus-drywell vacuum breaker alarm (2) corrections of an incorrect reference to a safety limit MCPR of 1.06 and (3) a change to the reporting requirements of TS 6.9.A.2 to reflect the guidance contained in Regulatory Guide 10.1 (Revision 4) regarding the addressee for monthly operating reports.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 14, 1983, (2) Amendment No. 66 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 22nd day of April 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-11662 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–251]

Carolina Power and Light Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises Technical Specifications to change the particle size distribution specified for in-place testing of HEPA filters in the fuel and control room filter systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 22, 1982, (2) Amendment No. 69 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of April 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-11663 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–358]

Cincinnati Gas & Electric Co. and William H. Zimmer Nuclear Power Station; Issuance of Director's Decision

By petition dated August 20, 1982, as supplemented on October 18, 1982, the Miami Valley Power Project (MVPP) requested that, among other things, the Commission order an immediate suspension of construction of the William H. Zimmer Nuclear Power Station. The petition has been considered under the provisions of 10 CFR 2.206.

The petition contains numerous allegations and supporting exhibits concerning deficiencies in construction of the Zimmer project and inadequacies in the quality assurance (QA) program for construction.

On November 12, 1982, the Commission issued an Order to Show Cause and Order Immediately Suspending Construction to Cincinnati Gas & Electric Company (CG&E), pursuant to 10 CFR 2.202. CLI–82–33, 16 NRC——(November 12, 1982), published in 47 FR 51959 (November 18, 1982). The order required an immediate halt to safety-related construction on the Zimmer Station and required the licensee to show cause why the suspension should not continue pending review and implementation of proposals to improve the licensee's management of the project, to verify the quality of construction work, and to ensure that any future construction conforms to the Commission's requirements. Because the Commission's order imposes remedies substantially similar to those requested by MVPP, its petition has been granted in part and denied in part pursuant to 10 CFR 2.206.

The reasons for the denial in part are explained in the "Director's Decision" under 10 CFR 2.206 (DD–83–02) which is available for public inspection in the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C., and at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

A copy of the decision has been filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission Twenty-five (25) days after issuance, unless the commission on its own motion institutes review of the decision within that time. The Commission has extended the time within which to review this decision until May 9, 1983.

Dated at Bethesda, Maryland, this 26th day of April 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-11666 Filed 4-29-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) the following information collection requirements for clearance under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission: New

2. The title of the information collection: 10 CFR 20.402, Theft or Loss of Licensed Material

3. The form number if applicable: NA

4. How often the collection is required: On occasion

5. Who will be required or asked to report: NRC Licensees

6. An estimate of the number of responses: 60

7. An estimate of the total number of hours needed annually to complete the requirement or request: 96

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: NA.

9. Abstract: The proposed rule would require licensees to report the loss or theft of all licensed material above an amount specified in the proposed rule.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

NRC CLearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland this 28th day of April 1983.

For the Nuclear Regulatory Commission.
Patricia G. Norry,
Director, Office of Administration.
[FR Doc. 83-11871 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Granting of Relief From ASME Section XI Inservice Inspection Requirement

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Florida Power and Light Company (the licensee). The relief relates to the inservice inspection examination requirements and the acceptability of alternative methods at the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

The relief permits the licensee to perform inservice inspections in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR Part 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see: (1) The application for relief dated February 25, 1977, as revised April 28, December 9, 1977, April 10, November 15, 1978, March 6, September 18, 1979, October 15, 1980, and June 14, 1982, (2) the Commission's letter dated April 26, 1983,. and (3) Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of April 1983.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Chief, Operating Reactors Branch #1, Division of Licensing.
[FR Doc. 83-11864 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-58 and Amendment No. 54 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee) which revised Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Units Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications for oxygen content in the waste decay tanks and makes several administrative corrections which were inadvertently overlooked in the Technical Specifications issued by Amendment Nos. 69 and 51 dated February 7, 1983 for Units 1 and 2, respectively.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated April 14, 1983, (2) Amendment Nos. 72 and 54 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 25th day of April 1983.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Chief, Operating Reactors Branch #1, Division of Licensing.
[FR Doc. 83-11866 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 88 to facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to incorporate the limiting conditions for operation during fuel cycle 7 by: (1) Adding the Maximum Axial Planar Linear Heat Generation Rate (MAPLHGR) operating limits based on the General Electric (GE) analysis for the two new bundle types (P8DRB299 and P8DRB284H) added to the core; and (2) changing Minimum Critical Power Ratio (MCPR) operating limits based on the GE analysis for both 8x8 and P8x8R fuel types.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 14, 1983, as supplemented April 7, 1983, (2) Amendment No. 88 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of April 1983.

For the Nuclear Regulatory Commission.
Domenic B. Vassallo,
Chief, Operating Reactors Branch #2, Division of Licensing.
[FR Doc. 83-11868 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.15, Revision 1, "Standard Format and Content of License Applications for Storage Only of Unirradiated Power Reactor Fuel and Associated Radioactive Material," describes the detailed information that is needed by the NRC staff in its review of an application for a license to authorize the receipt, possession, and storage of unirradiated fuel assemblies and associated radioactive materials for eventual use in a nuclear power reactor and suggests a format for its presentation.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 25th day of April 1983.

For the Nuclear Regulatory Commission.
Robert B. Minogue,
Director, Office of Nuclear Regulatory Research.
[FR Doc. 83-11869 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric and Gas Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 87 to Facility Operating License No. DPR-32 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit No. 1 (the facility) located in Surry County, Virginia. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to raise the control rod bank insertion limits.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated April 14, 1983, (2) Amendment No. 87 to License No. DPR-32, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. And at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of April 1983.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Chief, Operating Reactors Branch No. 1, Division of Licensing.
[FR Doc. 83-11867 Filed 4-29-83; 8:45 am]
BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: Avnet, Inc. et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of withdrawal of request.

SUMMARY: On November 17, 1982, the Pension Benefit Guaranty Corporation published a notice of pendency in the Federal Register, 47 FR 51635, soliciting public comment on a joint request PBGC had received from Avnet, Inc. and Carol Cable Company, Inc. ("Avnet") for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. The effect of this notice is to advise interested persons

that Avnet has withdrawn this request. Accordingly, PBGC will take no further action on the request.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. (This is not a toll-free number.)

Issued at Washington, D.C. on this 27th day of April 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-11697 Filed 4-29-83; 8:45 am]
BILLING CODE 7708-01-M

Consideration of Blanket Approval of Certain Plan Amendments Requiring PBGC Approval Under Act Section 4220

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Request for public comment.

SUMMARY: This notice advises the public of and seeks comment on the Pension Benefit Guaranty Corporation's proposal to grant blanket approvals for two types of plan amendments that require PBGC approval under section 4220 of the Employee Retirement Income Security Act of 1974, as amended. Under section 4220, certain plan amendments adopted after April 28, 1983 may not be put into effect without PBGC approval. PBGC shall disapprove an amendment if it finds that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to PBGC. PBGC has tentatively determined that two of the amendments subject to its approval can never create an unreasonable risk of loss to participants or to PBGC. Therefore, PBGC is considering granting a blanket approval for these amendments, thus eliminating the need for plan sponsors to request individual approval. The effect of this notice is to solicit the views of the public on these proposed blanket approvals under section 4220.

DATE: Comments must be submitted on or before June 16, 1983.

ADDRESS: All written comments should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Attorney, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION: Under section 4220(a) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act, certain amendments to multiemployer pension plans adopted after April 28, 1983 may only be put into effect with the approval of the Pension Benefit Guaranty Corporation or if the PBGC fails to disapprove the amendment within 90 days after receipt of a copy of the amendment and the request for approval. Under section 4220(c), PBGC shall disapprove an amendment if it determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to PBGC. These rules apply to plan amendments authorized by sections 4201–4219 of the Act.

Contemporaneously with the publication of this notice, PBGC is also publishing a notice listing the amendments covered by section 4220.

In reviewing the covered amendments, PBGC has tentatively determined that two of them can never have the effect of creating an unreasonable risk of loss to plan participants and beneficiaries or to PBGC. Therefore, PBGC is considering granting a blanket approval for these amendments. This would benefit the affected plans by eliminating the need for the plan sponsor to submit the amendment for PBGC approval. It would similarly remove an administrative burden for PBGC. The two amendments under consideration are those authorized by sections 4203(c)(4) and 4205(c) of the Act.

Section 4203(c) provides a special withdrawal rule for plans that primarily cover employees in the entertainment industry ("entertainment plan"). Under the special rule, an employer that is obligated to contribute to such a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, is considered to have withdrawn only if—

(i) The employer ceases to have an obligation to contribute under the plan, and

(ii) Continues (or resumes within 5 years) to perform work in the jurisdiction of the plan of the type for which contributions were previously required without contributing to the plan for such work.

Section 4203(c)(4) permits an entertainment plan to adopt an amendment under which the special withdrawal rule will not apply to a group or class of otherwise eligible employers; instead, the general withdrawal rules of section 4203(a) will apply to that group or class of employers. The effect of a section 4203(c)(4) amendment would be to broaden the circumstances under which certain entertainment industry employers incur liability as a result of a cessation of contributions to the plan. For example, in a plan adopting the section 4203(c)(4) amendment, going out of business would constitute a withdrawal for employers covered by the amendment.

Therefore, because a section 4203(c)(4) amendment broadens the events that give rise to withdrawal liability in an entertainment plan, PBG has tentatively concluded that the adoption of this amendment cannot create an unreasonable risk of loss to plan participants and beneficiaries or to the PBGC. Accordingly, since this amendment would never satisfy the standard for disapproval under section 4220(c), a blanket approval for all such amendments is appropriate.

PBGC notes that this approval would cover a plan's adoption of a section 4203(c)(4) amendment, but not a subsequent repeal of the amendment. If a plan adopted a section 4203(c)(4) amendment under a blanket approval from PBGC and later decided to repeal or limit the application of the amendment, that later action would be subject to PBGC approval under section 4220.

Section 4205(c)(1) of the Act allows a retail food industry plan to be amended to substitute "35 percent" for the "70 percent" partial withdrawal liability rule of section 4205(b)(1)(A). Under the generally applicable 70 percent rule, an employer incurs a partial withdrawal from a plan if the employer's contribution base units in each of 3 consecutive years do not exceed 30 percent of the employer's contribution base units for the high base year. Section 4205(c)(1) permits a retail food industry plan (*i.e.*, a plan in which the majority of the covered employees are employed in the retail food industry) to be amended to provide that an employer incurs a partial withdrawal if in each of 3 consecutive years, its contribution base units do not exceed 65 percent of its contribution base units for the high base year. Thus, this amendment will result in a partial withdrawal for smaller declines in covered work than would result under the statutory rule (a 35 percent decline as compared to a 70 percent decline).

Under section 4205(c)(2), an amendment adopted under paragraph (c)(1) must also include rules for "the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than" the plan's contribution base units immediately after the partial withdrawal. Therefore, the employer's liability for its partial withdrawal is reduced under this amendment only when the plan's overall number of contribution base units has increased by more than the amount necessary to offset the employer's decline in covered work under the plan.

Therefore, the effect of an amendment under section 4205(c) will always be to provide a retail food industry plan with at least as much, and usually greater, protection against declines in covered work than is provided by the statutory rule. Accordingly, PBGC has tentatively determined that such an amendment cannot create an unreasonable risk of loss to plan participants and beneficiaries or to the PBGC and should therefore, be granted a blanket approval by PBGC.

Similar to amendments under section 4203(c)(4), this approval would extend only to the adoption of a section 4205(c) amendment and not to its subsequent repeal. The latter would be subject to PBGC approval under section 4220. Adjustments to the provisions for reduction of liability under section 4205(c)(2) would be covered by the general approval since, given the parameters set forth in section 4205(c)(2), such adjustments cannot negate the overall protective effect of the amendment.

As a final point, PBGC stresses that the blanket approval that would be granted to amendments authorized by sections 4203(c)(4) and 4205(c) would operate only with respect to amendments properly adopted pursuant to those sections. Plan amendments that do not comply with the conditions contained in sections 4203(c)(4) and 4205(c) are not authorized by those sections and are therefore without effect. This result would not be altered by PBGC's decision to grant the proposed blanket approvals discussed herein.

PBGC requests all interested persons to comment on these proposed actions. All comments will be made part of the record. Comments must be submitted by June 16, 1983.

Issued at Washington, D.C. on this 26th day of April 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-11679 Filed 4-29-83; 8:45 am]
BILLING CODE 7708-01-M

Multiemployer Pension Plan Amendments Requiring PBGC Approval After April 28, 1983

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interpretation.

SUMMARY: This notice sets forth a list of those plan amendments by multiemployer pension plans which, if adopted after April 28, 1983, may not be put into effect without the approval of the Pension Benefit Guaranty Corporation. Section 4220 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act, provides that no plan amendment authorized by sections 4201–4219 of the Act that is adopted after April 28, 1983 may be put into effect, unless it is first approved by PBGC or PBGC fails to disapprove the amendment within 90 days after receipt of a copy of the amendment and request for approval. Because sections 4201–4219 authorize the adoption of a large number of plan amendments and rules, some pursuant to PBGC regulations and others not, there is uncertainty as to which of these actions will require PBGC approval after April 28, 1983. The effect of this notice is to provide the public with a listing of the specific amendments that are subject to this requirement.

DATE: The plan amendments listed in this notice must be submitted for PBGC approval if adopted after April 28, 1983.

ADDRESS: Inquiries concerning this notice and requests for approval of plan amendments should be submitted to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Attorney, Office of the Executive Director, Policy and Planning (140), at the above address; (202) 254–4862.

SUPPLEMENTARY INFORMATION: Sections 4201–4219 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act, set forth rules relating to withdrawals from multiemployer pension plans and an employer's liability for a withdrawal. Those sections authorize various modifications to the statutory rules. In some instances, *e.g.* section 4203(f), the Pension Benefit Guaranty Corporation is authorized to promulgate regulations permitting plans to adopt certain amendments to the statutory rules. In other cases, *e.g.* section 4209(b), plans are authorized directly by the statute to adopt certain amendments. Finally, in some instances, *e.g.*, section 4219(c)(7), plans are authorized to vary the statutory requirements by plan rules, rather than by plan amendment.

Section 4220(a) of the Act provides that "if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 30 months after the effective date of this section (April 26, 1980), the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment." Excepted from this rule are amendments permitted by section 4211(c)(5) (dealing with the adoption of certain alternatives to the statutory methods for allocating a plan's unfunded vested benefits), which may be adopted only in accordance with that section (section 4220(b)). PBGC may disapprove an amendment submitted under section 4220(a) only if it determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to PBGC (section 4220(c)).

Because of the multiplicity of plan amendments and rules covered by sections 4201–4219, the purpose of this notice is to clarify which are subject to section 4220.

Since section 4220(a) specifically refers to "an amendment" authorized by sections 4201–4219, it does not apply to plan rules that may be adopted under those sections. Further, if a plan chooses to implement by amendment an action that under sections 4201–4219 may be undertaken through plan rules, that amendment would not be subject to section 4220.

In addition, section 4220 applies only to plan amendments authorized directly by the statute, and not to those which are authorized pursuant to PBGC regulations. In those cases where sections 4201–4219 direct or permit PBGC to issue regulations allowing certain plan amendments, the regulations will contain whatever restrictions or conditions on the plan amendments PBGC deems necessary to protect plan participants and the multiemployer insurance system.

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Accordingly, PBGC has determined that separate approval under section 4220 in that case is unnecessary to achieve such protection and would only create an additional administrative burden on multiemployer plans. Consequently, PBGC has determined that approval under section 4220 of the Act is required only for the following plan amendments:

1. *Section 4203(c)(4).* Allows an entertainment industry plan to amend itself to provide that the special entertainment withdrawal rule would not apply to a group or class of employers under the plan.

2. *Section 4203(b)(1)(B)(ii).* Permits a non-construction industry plan to amend itself to apply the special construction withdrawal rule to construction industry employers participating in the plan.

3. *Section 4205(c)(1).* Allows a retail food industry plan to be amended to substitute "35 percent" for "70 percent" partial withdrawal liability test.

4. *Section 4205(d).* Permits a plan described in section 404(c) of the Internal Revenue Code [1] to amend itself to provide other conditions for partial withdrawal liability.

5. *Section 4209(b).* Permits a plan to adopt by amendment the alternative statutory *de minimis* rule.

6. *Section 4210(b)(2).* Allows a non-construction industry plan to adopt by amendment the six-year "free look" rule.

7. *Section 4211(c)(1).* Permits plans (other than construction industry plans) to adopt by plan amendment one of the three statutory alternatives for determining the employer's share of unfunded vested benefits.

8. *Section 4211(c)(4)(D).* Requires a plan using the direct attribution method to adopt one of three statutory methods for determining the employer's allocable share of plan assets.

9. *Section 4211(d)(1).* Requires a plan described in section 404(c) of the Internal Revenue Code to use the rolling-5 allocation method unless an alternative is adopted by plan amendment.

10. *Section 4211(d)(2).* Sections 4204 (sale of assets), 4209 (*de minimis* rule), 4219(c)(1) (20 year cap on withdrawal liability payments) and 4225 (limitation on dissolution or complete sale of employer) do not apply to a section 404(c) plan unless the plan amends itself to provide otherwise.

11. *Section 4219(c)(1)(C)(ii)(I).* Allows a plan to adopt by amendment the statutory alternative for computing the annual withdrawal liability payment amount for plan years ending before 1986.

12. *Section 4219(c)(1)(C)(iii).* Permits a plan to amend itself to substitute a 5-year period (increasing by one year for each succeeding year up to 10) for the 10-year period used to compute the annual withdrawal liability amount under either the normal statutory formula or the alternative.

If a multiemployer pension plan adopts any of the above amendments after April 28, 1983, the amendment must be submitted for PBGC approval in accordance with section 4220, and may only be put into effect with PBGC's approval or if PBGC fails to disapprove the amendment within 90 days after submission, as provided under section 4220.

Issued at Washington, D.C. on this 26th day of April 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-11079 Filed 4-29-83; 8:45 am]

BILLING CODE 7708-01-M

[1] A plan established prior to January 1, 1964 as a result of an agreement between employer representatives and the United States during a period of government operation, under seizure powers, of the major part of the productive facilities of an industry.

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04-5224]

Ellison Investment Group, Inc.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), has been filed by Ellison Investment Group, Inc. (Applicant), Route 5, Box 999X, Brooksville, Florida 33512, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

The officers, directors and sole shareholder of the Applicant are as follows:

President, Director, sole shareholder
Robert E. Ellison, 5301 Seminole Avenue, Tampa, Florida 33603
Vice President, Director
William G. Premaza, 16007 Hanna Road, Lutz, Florida 33549
Secretary, Treasurer, Director
James R. Ellison, 9404 N. 21st Street, Tampa, Florida 33612

The Applicant, a Florida corporation, will begin operations with $505,000 of paid-in capital derived from the sale of 1,000 shares of common stock.

The Applicant will conduct its activities primarily in the following Florida counties: Pasco, Polk, Pinellas and Hillsbrough.

Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby give that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Brooksville, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: April 26, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-11162 Filed 4-29-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0188]

Mercantile Dallas Corp.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Mercantile Dallas Corporation, 1704 Main Street, Dallas, Texas 75222, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration pursuant to Section 312 of the Act and covered by § 107.1004(b)(1) of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

The Licensee proposes to make a $1,425,000 five year, loan to Boorhem-Fields, Inc. (Boorhem-Fields), P.O. Box 1177, Paris, Texas 75460. Messers. William Boorhem and Joseph Fields, the principals in Boorhem-Fields, are both directors of Merchants and Planters Bank (M & P Bank) Sherman, Texas. M & P Bank is a subsidiary of Mercantile Texas Corporation, an Associate of the Licensee under Section 107.3 of the SBA Regulations, because it owns 10 or more percent of the stock of the Licensee. Because of these affiliations, the Licensee's proposed financing to Boorhem-Fields falls within the purview of § 107.1004 of the Regulations and requires SBA approval.

Notice is hereby given that any interested party may, not later than 15 days from the date of publication of this Notice, submit written comments to the Associate Administrator for Finance & Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Dallas, Texas and Paris, Texas areas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 22, 1983.

Edwin T. Holloway,

Associate Administrator for Finance & Investment.

[FR Doc. 83-11161 Filed 4-29-83; 8:45 am]

BILLING CODE 8025-01-M

Dated: April 25, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-11160 Filed 4-29-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/627]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 9:00 a.m., Tuesday, May 24, 1983, in Room 1408, Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the May 24 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1408.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Monday, May 23, 1983, at the National Academy of Sciences, 2101 Constitution Avenue, NW., in sessions which will not be open to the public. As these sessions will include discussion of classified material, they have been closed pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding Antarctic resources, particularly Antarctic mineral resources. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12356.

Requests for further information on the meetings should be directed to R. Tucker Scully of OES/OPA, Room 5801, Department of State. He may be reached by telephone on (202) 632-3262.

Dated: April 19, 1983.

James L. Malone,

Chairman.

[FR Doc. 83-11000 Filed 4-29-83; 8:45 am]

BILLING CODE 4710-08-M

Region III Advisory Council; Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Pittsburgh, will hold a public meeting at 9:30 a.m. on Wednesday, May 4, 1983, at the William Penn Hotel, Room 1266, 530 William Penn Place, Pittsburgh, Pennsylvania 15230, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Joseph M. Kopp, District Director, U.S. Small Business Administration, 960 Penn Avenue, Convention Tower, Fifth Floor, Pittsburgh, Pennsylvania 15222; (412) 644-4306.

Office of the Secretary

[Public Notice 861]

Privacy Act of 1974; Proposed Amendments to Medical Records System

Notice is hereby given that the Department of State proposes two amendments to the existing medical records system pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)) and the Office of Management and Budget Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 (40 FR 45887, October 3, 1975).

The first amendment provides for maintaining medical records in health units at overseas posts on employees and dependents covered by the Department of State's Medical Program. These records will be composed primarily of medical information acquired at post and supporting information on employees and their dependents when seen in consultation by a Foreign Service Medical Officer or Foreign Service Nurse. The information in these records will ultimately be consolidated in each person's medical record maintained by the Department of State, Washington, D.C.

The second amendment provides for a change in configuration in the medical record system to allow for partial automation in the retrieval of medical information now contained on hard copy and microfilm. This change will assist in the 17,000 Medical Clearance decisions made each year by facilitating information retrieval and matching medical problems of individuals with overseas conditions. In addition, the change will help to improve medical care for overseas employees and their dependents by identifying health problems and facilitating followup. It will also fully support epidemiological health studies and provide the capability to follow health trends in persons assigned overseas.

Any persons interested in commenting on this modified system of medical records may do so by submitting comments in writing to the Information and Privacy Coordinator, Foreign Affairs Information and Management

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Center, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. If no comments are received within 60 days of the publication of this notice, these amendments to the medical records system will go into effect.

The proposed amended Medical Records System, State-24, will read as set forth below.

Dated: April 19, 1983.

Jerome W. Van Gorkom,

Under Secretary of State for Management.

STATE-24

SYSTEM NAME:

Medical Records.

SYSTEM LOCATION:

Department of State, 2201 C Street, N.W., Washington, D.C. 20520 and Health Units at Overseas Posts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and dependents of the Department of State, the Agency for International Development, the U.S. Information Agency, ACTION, and other agencies under the Medical Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of Medical examinations and related documents; reports of treatments and other health services rendered to individuals; narrative summaries of hospital treatments; personal medical histories; reports of on-the-job injuries or illnesses; employee assignment histories; and reports on medical evacuation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 911, 912; 22 U.S.C. 1156–1159; 42 U.S.C. 4561; 21 U.S.C. 1180; 22 U.S.C. 3926; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in these records is used to effectively administer the Department of State's medical program. These records are utilized and reviewed by medical and administrative personnel of the Office of Medical Services on a need-to-know basis in normal day-to-day operations. These . . . Medical Files are not available to other offices in the Department of State, the Agency for International Development, the U.S. Information Agency, ACTION, or other participating agencies. Records are released only with the written permission of the subject individual to private physicians, hospitals, legal representatives, congressional representatives, and others under the premise of the "Prudent Physician Rule." Also see "Routine Uses" paragraphs of Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy, microfiche; and computer media.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State building and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

RETENTION AND DISPOSAL:

Retention of these records varies depending upon the specific kind of record involved. They are retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing the Information and Privacy Coordinator, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer, Medical Services, Room 2909, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

NOTIFICATION PROCEDURE:

Individuals who have cause to believe that the Office of Medical Services might have records pertaining to them should write to the Information and Privacy Coordinator, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The individual must specify that she/he wishes the records of the Office of Medical Services to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; signature; the agency served by the medical program with which the individual was or is an employee or a dependent, and the approximate dates of such employment or dependency.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to them should write to the Information and Privacy Coordinator (Address above).

CONTESTING RECORD PROCEDURES:

(See above).

RECORDS SOURCE CATEGORIES:

The Individual; hospitals; clinics; private physicians, medical professionals employed by the Department of State.

[FR Doc. 83-11560 Filed 4-29-83; 8:45 am]

BILLING CODE 4710-10-M

SYNTHETIC FUELS CORPORATION

Competitive Solicitation For Gulf Province Lignite Gasification Projects

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of competitive solicitation for Gulf Province Lignite Gasification Projects.

SUMMARY: Notice is hereby given that on April 25, 1983, the United States Synthetic Fuels Corporation issued a Competitive Solicitation for Gulf Province Lignite Gasification Projects soliciting proposals for synthetic fuel projects to be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96–294).

EFFECTIVE DATE: April 25, 1983.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Bayrer, Vice President for Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822–6336.

For Copies of the Solicitation, Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822–6336.

Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

[FR Doc. 83-11536 Filed 4-29-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Implementation of Emergency Jobs Legislation

Funds approved under the emergency jobs legislation enacted on March 24, 1983, (referred to in this Notice as the "jobs legislation"), will be administered by the Federal Aviation Administration (FAA) in accordance with the applicable provisions of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424), the emergency jobs legislation itself, as well as the requirements of the Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97–248, 49 U.S.C. 2201 *et seq.*). Notice is hereby given that the FAA is implementing a plan of fund distribution in accordance with the requirements of these statutes.

The STAA added new discretionary authority to the Airport Improvement Program (AIP) by amending section 507(a) of the AAIA. This amendment specifies that these funds are to be used only for construction, reconstruction, or repair begun after enactment of this amendment (January 6, 1983). It further specifies that preference is to be given to projects that increase safety or capacity. FAA field personnel will assist sponsors where necessary in determining project eligibility under this amendment.

The emergency jobs legislation amended section 302 of the Department of Transportation and Related Agencies Appropriation Act of 1983 (Pub. L. 97–369) by increasing the obligational ceiling for airport grants by $150 million, so that the ceiling is now $750 million. This amendment also states that first consideration is to be given to projects where the preappliction is filed with the FAA on or before June 1, 1983.

Section 101(b)(5) of the jobs legislation specifies that grants for airport development (referred to in the legislation as "Rebuilding Aviation Infrastructure") made from the $150 million in jobs legislation funds are to be distributed in accordance with sections 101 (b)(1) or (b)(4). The FAA has determined that section 101(b)(1) is applicable to the Airport Improvement Program.

Section 101(b)(1)(A) of the jobs legislation specifies that one-third of the funds ($50 million) will be distributed for use within the 50 states, the District of Columbia, and Puerto Rico based on the relative number of unemployed individuals in each state. This distribution is to be made as follows:

Alabama	$1,128,686
Alaska	99,535
Arizona	582,728
Arkansas	436,409
California	5,639,800
Colorado	587,795
Connecticut	516,464
Delaware	95,279
District of Columbia	127,547
Florida	1,961,361
Georgia	846,057
Hawaii	100,908
Idaho	220,872
Illinois	2,973,119
Indiana	1,408,138
Iowa	598,534
Kansas	354,103
Kentucky	774,726
Louisiana	802,172
Maine	194,266
Maryland	747,639
Massachusetts	1,014,904
Michigan	2,850,386
Minnesota	857,366
Mississippi	494,632
Missouri	947,724
Montana	158,274
Nebraska	242,397
Nevada	235,029
New Hampshire	162,452
New Jersey	1,284,097
New Mexico	246,882
New York	2,970,365
North Carolina	1,136,005
North Dakota	111,447
Ohio	2,904,279
Oklahoma	429,944
Oregon	697,058
Pennsylvania	3,164,692
Puerto Rico	907,066
Rhode Island	231,772
South Carolina	673,177
South Dakota	94,795
Tennessee	1,134,514
Texas	2,540,015
Utah	254,289
Vermont	82,007
Virginia	943,598
Washinton	1,066,314
West Virginia	619,408
Wisconsin	1,275,817
Wyoming	95,531

In addition, section 101(b)(1)(B) of the jobs legislation specifies that one-sixth of the funds ($25 million) will be distributed for use among "long-term unemployment states" based on the relative number of qualified long-term unemployed individuals in each state. This distribution is to be made as follows:

Alabama	$929,057
Arizona	479,661
Arkansas	359,221
California	4,642,286
District of Columbia	104,988
Illinois	2,447,283
Indiana	1,157,434
Kentucky	637,700
Louisiana	660,292
Michigan	2,346,239
Mississippi	407,147
Nevada	193,459
New Mexico	202,804
Ohio	2,390,590
Oregon	573,770
Pennsylvania	2,604,953
Puerto Rico	746,852
Rhode Island	190,778
South Carolina	554,112
Tennessee	933,852
Washington	877,715
West Virginia	509,852
Wisconsin	1,050,164

Section 101(b)(1)(C) of the jobs legislation specifies that the remaining half of the funds ($75 million) is to be distributed in accordance with the provisions of the AAIA, as amended; that is, treated as discretionary funds.

Finally, section 101(c) of the jobs legislation requires that grantees receiving funds appropriated under this act, the extent practicable, maximize the creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks preceding enactment of the jobs legislation (March 24, 1983). This section also requires obligation and disbursement of funds as rapidly as possible. The AIP job legislation funds will be administered to accomplish these two objectives through appropriate certification from grantees at the time of preapplication submission. The language of this certification will read as follows:

"With respect to the airport development project for which this preapplication is submitted, the sponsor makes the following certifications: (1) The sponsor shall, to the extent practicable, utilize Federal funds received to accomplish this project in a manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks immediately preceding the date of enactment of the "Emergency Jobs Legislation" enacted on March 24, 1983; and (2) The sponsor further certifies that Federal funds received to accomplish this project will be disbursed as rapidly as possible so as to provide prompt assistance for the unemployed.

Date of certification: _____

Signature of representative of airport sponsor: _____

Name of Sponsor: _____

For additional information, contact the FAA Regional Airports Division serving your state. The FAA contacts and the states they serve are as follows:

Vincent Scarano, (617) 273–7233—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Louis DeRose, (212) 917–12145—Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia.

Robert Winsor, (312) 694–7365—Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin.

Arthur Weathers, (404) 763–7756—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee.

Gene Faulkner, (817) 877–2821—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Melvin Fischer, (816) 374–6373—Iowa, Kansas, Missouri, Nebraska.

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George Buley, (206) 767–2833—Colorado, Idaho, Montana, Oregon, Utah, Washington, Wyoming.
Gerald Dallas, (213) 536–6243—Arizona, California, Hawaii, Nevada.
Floyd Pattison, (907) 271–5440—Alaska.

Issued in Washington, D.C., on April 21, 1983.

Paul L. Galis,
Director, Office of Airport Planning and Programming.

[FR Doc. 83-11460 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Waiver Petition Dockets HS–83–1 through HS–83–7]

Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that seven railroads have petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). Each petition requests that the individual railroad be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

Each railroad seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. Each petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, each petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption. The railroads seeking this exemption are as follows:

Dakota Rail, Docket Number HS–83–1
Duluth and Northeastern Railroad, Docket Number HS–83–2
Great Southwest Railroad, Docket Number HS–83–3
Algers, Winslow and Western Railroad, Docket Number HS–83–4
City of Prineville Railway, Docket Number HS–83–5
North Central Oklahoma Railway, Docket Number HS–83–6
Andalusia and Conecuh Railroad, Docket Number HS–83–7

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comments since the facts do not appear to warrant it. Communications concerning these proceedings should identify the appropriate Docket Number (e.g., Docket Number HS–83–1) and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before January 10, 1983, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street. SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on April 26, 1983.

Joseph W. Walsh,
Associate Administrator for Safety.

[FR Doc. 83-11915 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

[Docket No. IP82–15; Notice 2]

B. F. Goodrich Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by B. F. Goodrich Company of Akron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 12, 1982, and an opportunity afforded for comment (47 FR 35062).

Paragraph S6.5(c) of Standard No. 119 requires tires to be marked with the tire size designation as listed by, among other organizations, the Tire and Rim Association (T&RA). Several years ago T&RA added the suffix "LT" denoting light truck application to tire size 8–17–5 load range "D" Extra Miler XL tires. This information was not added to three of petitioner's molds, and consequently since 1979 more than 21,000 tires have been produced lacking the suffix.

Petitioner argued that the noncompliance was inconsequential because the size has been specified and used only for light truck application and it is aware of no problems or complaints arising from the omission.

No comments were received on the petition.

NHTSA's review of the 1982 T&RA yearbook verifies that the tire in question, 8–17.5, has been specified to be used only for light truck applications and service. No passenger car tires of this size are produced by domestic manufacturers, nor do 17.5 inch rims exist for passenger cars. Since no confusion apparently exists in the market place and there have been no reports of accidents or erroneous installations, petitioner is judged to have met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 22, 1983.

Courtney M. Price,
Associate Administrator for Rulemaking.

[FR Doc. 83-11446 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. IP82–14; Notice 2]

B. F. Goodrich Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by B. F. Goodrich Co. of Akron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 3181 et seq.) for a noncompliance with 49 CFR 571.109, *New Pneumatic Tires–Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 12, 1982, and an opportunity afforded for comment (47 FR 35062).

Paragraphs S4.3 (b) and (c) of Standard No. 109 require that the sidewall of each passenger car tire be labeled with the composition of the cord materials used in the plies branded on both sides of the tire. Goodrich produced approximately 325 tires with

ply information appearing on one side only. The tire in question is the P235/75R15 XLM blackwall.

Goodrich argued that the noncompliance is inconsequential because the failure to label has no impact upon safety, and the tires otherwise comply with Standard No. 109.

No comments were received on the petition.

The tires in question are certified as conforming to Standard No. 109. Thus, there is no compromise to safety in the choice of cord materials used in these tires. The absence on one sidewall of information concerning cord materials should not cause any confusion among consumers since they select tires primarily on the basis of method of construction (radial, bias) instead of materials (nylon, rayon, polyester, etc.). Further, although it is important to ensure that tires on the same axle are matched in terms of method of construction, differences in materials do not present the same concerns. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein discussed is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 22, 1983.

Courtney M. Price,
Associate Administrator for Rulemaking.

[FR Doc. 83-11450 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. IP83–3; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance With Vehicle Identification Number Regulation

General Motors Corporation of Warren, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

GM has determined that 61 of its 1982 model Chevrolet C–10 and K–10 trucks, and GMC C–15 and K–15 trucks have an incorrect gross vehicle weight rating designator in the vehicle identification number, required by Motor Vehicle Safety Standard No. 115. The designator incorrectly given is "C", indicating a GVWR of 4001 to 5000 pounds, while the correct letter is "E", as the trucks actually have a GVWR of 6200 pounds.

Petitioner argues that the noncompliance is inconsequential as it relates to motor vehicle safety since it would not result in a potential overloading, nor does it jeopardize traceability of the vehicles in the event of a recall. The trucks are intended to carry a load greater than that indicated in the erroneous character, and the uniqueness of the VIN's assure traceability of the trucks. Nevertheless, GM intends to provide the owners of the 61 trucks with a letter informing them of the error to minimize possible difficulties with State registration. The National Auto Theft Bureau will also be informed.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation, described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson, respectively.

Comment closing date: June 1, 1983.

(Sec. 102, Pub. L. 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 22, 1983.

Courtney M. Price,
Associate Administrator for Rulemaking.

[FR Doc. 83-11447 Filed 4-29-83; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. IP82–17; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequentiality

This notice grants the petition by General Motors Corp. of Warren, Michigan ("GM" herein), to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims for Passenger Cars*. The basis of the petition was that noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of this petition was published on September 16, 1982, and an opportunity afforded for comment (47 FR 40970).

Approximately 23,428 1982 model Oldsmobile Toronado passenger cars equipped with front bench seats may carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the front seating capacity is two persons when the correct capacity is three, that the occupant capacity is five when actually it is six, and that the total vehicle capacity weight is 920 pounds when it is 1070 pounds.

GM argues that the incorrect seating capacity noncompliance is inconsequential because it is obvious to anyone comparing the tire placard to the actual front seating accommodations that the placard must be in error. Further, even if the vehicle were loaded with an additional 150 pounds beyond that specified on the placard, its tire load limits would not be exceeded, because the vehicle would be loaded to the design capacity proper for six-passenger Toronados. The error has now been corrected.

One comment was received on the petition, supporting it.

Petitioner has shown that when the vehicle is loaded with an additional 150 pounds beyond that specified on the placard, the vehicle is at the design capacity specified for six-passenger Toronados, and that the tire load limits will not be exceeded. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are P. L. Moore and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-402, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 40 CFR 1.50 and 49 CFR 501.8)

Issued on April 22, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-11468 Filed 4-25-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section II of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given, therefore, that the applicable rate will change from 13% to 11% for the fourth quarter of FY 1983.

DATES: The rate will be in effect for the period beginning on July 1, 1983 and ending on September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Inquires should be directed to the Cash Management Regulations and Compliance Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, PB-711, Washington, D.C. 20226, Telephone: 202/634-5131.

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal cash management systems and is based on investment rates set for purposes of Pub. L. 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the twelve-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 per centum. The rate in effect for the fourth quarter of FY' 83 reflects the average investment rates for the twelve-month period ended March 31, 1983. The applicable rate will be published on or around the end of the first month of a given quarter for use during the succeeding calendar quarter.

Dated: April 26, 1983.

Russell D. Morris,

Assistant Commissioner.

[FR Doc. 83-11574 Filed 4-29-83; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under 38 U.S.C. 211 that a meeting of the Advisory Committee on Former Prisoners of War will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, June 1 and 2, 1983. The purpose of the Committee is to consult with and advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The session will convene at 9 a.m. each day. The June 1st session will be held in Room 817, and the June 2nd session will be held in the Omar N. Bradley Conference Room. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389-2455) prior to May 20, 1983.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: April 22, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-11572 Filed 4-29-83; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Women Veterans; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and Office of Management and Budget Circular A-63, as revised, and after consultation with the Administrator, General Services Administration, the Administrator of Veterans Affairs has determined that the establishment of the Advisory Committee on Women Veterans is necessary and in the public interest.

The Committee is being established to review existing information, render expert advisory opinions, and make recommendations to the Administrator's staff concerning the needs of women veterans with respect to health care, rehabilitation benefits, compensation, outreach programs and other programs adminstered by the Veterans Administration. The Committee will be composed of persons from within and outside the Federal Government to be broadly representative of the special population and to possess expertise in the diverse areas of concern.

Comments of interested persons concerning the establishment of this committee or recommendations for membership may be submitted to Susan H. Mather, M.D., Medical Service (111), Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, phone (202) 389-2450.

Dated: April 25, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-11571 Filed 4-29-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 85
Monday, May 2, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Consumer Product Safety Commission	1
Federal Mine Safety and Health Review Commission	2
Nuclear Regulatory Commission	3
Securities and Exchange Commission	4

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m. Wednesday, May 4, 1983.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Mid-Year Review: Smoke Detectors; PPPA Data Needs*
   The Commission will consider fiscal year 1983 resource issues relating to (1) Smoke Detector Project, and (2) PPPA data needs.
2. *Hazardous Dyes; Status Report*
   The staff will brief the Commission on the current status of the Hazardous Dyes Project. The purpose of this project is to identify dyes which may be potentially hazardous to consumers.
3. *Gas Heating System Project: Status Report*
   The staff will brief the Commission on document relating to the Gas Heating Systems Year End Report for fiscal year 1982 and provide an update on current activities related to gas heating systems.

For a recorded message containing the latest agenda information, call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[S-618-83 Filed 4-29-83; 3:06 pm]

BILLING CODE 6355-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 27, 1983.

TIME AND DATE: 10 a.m., Wednesday, May 4, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

Emery Mining Corporation, Docket Nos. WEST 82-48, WEST 82-80, and WEST 81-400-R. (Issues include whether the judge erred in concluding that 30 CFR 48.8(a) requires that miners' refresher training be given on a calendar year basis, and, on those grounds, vacating a withdrawal order.)

Freeman United Coal Mining Co., Docket No. LAKE 82-3; Petition for Discretionary Review. (Issues include whether the judge erred in finding violations of 30 CFR 75.316 and 30 CFR 75.301.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-617-83 Filed 4-29-83; 2:25 pm]

BILLING CODE 6735-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Friday, April 29, 1983 and Week of May 2, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Friday, April 29:

2:00 p.m.:
Briefing on Uranium Mill Tailing Standards (Public Meeting)

Wednesday, May 4:

10:30 a.m.:
Briefing on the State of the Nuclear Industry (Public Meeting)

1:30 p.m.:
Discussion of Possible Enforcement Action (Closed—Exemption 5)

3:15 p.m.:
Discussion of Indian Point (Closed—Exemption 10)

Thursday, May 5:

10:00 a.m.:
Discussion of Kerr-McGee v. NRC and Consolidated Cases (Mill Tailings Case) (Closed—Exemption 10)

ADDITIONAL INFORMATION:

Affirmation of Review of ALAB-701; Waste Confidence Order; and Rule on Extended Spent Fuel Storage scheduled for April 21, *postponed.*

On April 21 the Commission voted 4-0 (Commissioner Asselstine not present) to hold Affirmation of 10 CFR Part 50, held that day.

Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule scheduled for April 27, *postponed.*

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

April 27, 1983.

Walter Magee,

Office of the Secretary.

[S-619-83 Filed 4-28-83; 3:42 pm]

BILLING CODE 7590-01-M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of May 2, 1983, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, May 3, 1983, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted

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to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 3, 1983, at 10 a.m., will be:

Litigation matter.
Formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272-2468.

April 28, 1983.

[S-616-83 Filed 4-29-83; 11:17 am]
BILLING CODE 8010-01-M

federal register

Monday
May 2, 1983

Part II

Department of Education

Handicapped Research; Research and Training Centers

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DEPARTMENT OF EDUCATION

Additional Final Funding Priorities for Research and Training Centers for the National Institute of Handicapped Research for Fiscal Year 1983

AGENCY: Education Department.

ACTION: Additional Final Funding Priorities for Research and Training Centers for the National Institute of Handicapped Research For Fiscal Year 1983.

SUMMARY: The Secretary announces final priorities for research to be supported by the National Institute of Handicapped Research (NIHR) in fiscal year 1983. NIHR program regulations authorize the Secretary to establish priorities by reserving funds to support particular research activities (See 34 CFR 352.32). Departmental administrative regulations require that if priorities are not already established within program regulations, they must first be proposed for public comment before they are announced as final. These priorities were published as proposed priorities for fiscal year 1983 in the **Federal Register** on December 1, 1982 (47 FR 54142). These final priorities inform potential grant applicants and others of the additional research priorities in which NIHR intends to hold competitions for Research and Training Centers in fiscal year 1983.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these priorities will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Edythe Glazer, National Institute of Handicapped Research, 330 C Street, SW., Room 3511, Washington, D.C. 20202. Telephone: (202) 245–0555, TTY for deaf individuals (202) 472–4217.

SUPPLEMENTARY INFORMATION: The following two priorities were proposed for fiscal year 1983 in the **Federal Register** (47 FR 54142, December 1, 1982) and public comment was invited. In that Notice, the public was advised that these two priorities had been proposed and finalized, with somewhat different wording, for fiscal year 1982, but that none of the applications received was deemed worthy of funding by the agency's scientific review process. However, because of the importance of these priority areas, the Secretary proposed them again for fiscal year 1983 and received public comments which are discussed under the "Summary of Comments and Responses" section of this Notice, along with the modifications that have been amde as a result of the comments.

Program Information: NIHR is authorized to support research and related activities in a variety of program areas and through several program authorities. The two priorities identified in this announcement are for Research and Training Centers (RTCS), which are described below.

Research and Training Centers (RTCs) conduct coordinated and advanced programs of rehabilitation research, and provide training to rehabilitation personnel engaged in research or the provision of services. RTCs must be operated in collaboration with institutions of higher education and must be associated with a rehabilitation service program. Ideally each Center conducts a program of research, scientific evaluation, and training activities in an area which contributes substantially to the solution of problems in that area, advances the state-of-the-art, and becomes a recognized Center of excellence in a given subject area. Each Center is encouraged to develop practical applications for all of its research findings through a scientific evaluation process which tests and validates its findings, as well as related findings of other Centers. Center training programs generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as development of or contribution to undergraduate and graduate texts and curricula, in-service training, and continuing education.

Funding Priorities

- *Improving Rehabilitation Services for Handicapped Persons in the Pacific Basin, including the U.S. Territories, American Samoa, Guam, and all of the Islands of Hawaii.*

The Center to be funded must investigate, develop and test innovative methods in the delivery of appropriate rehabilitation services in remote geographic locations.

This will require an assessment of need based on the collection and analysis of reliable data on the incidence and prevelence of disability, including an analysis of the characteristics and situational factors associated with disabilities and the demographic distribution of disability among the population and its subgroups, and the development of methods for identifying, locating and gaining access to and for handicapped individuals. Such a Center must also develop methods for the involvement of existing professional and paraprofessional personnel, utilizing innovative training and referral methods to assure that the most appropriate and cost-effective systems are developed for the delivery of rehabilitation services.

The Center must demonstrate through affiliation and involvement with all agencies authorized and required to provide rehabilitation services in these areas that the successful results of research will be adopted and utilized by those agencies in the provision of appropriate and coordinated rehabilitation and related services to meet the unique rehabilitation needs of handicapped individuals in the Pacific Basin.

- *Improving Rehabilitation for Native Americans.*

While the prevalence of disabling conditions among Native Americans is generally acknowledged to be high, it is apparent that Native Americans are often isolated from rehabilitation services by linguistic, cultural, attitudinal, and geographic barriers which may not be evident to either the disabled person or the service agency. Research is needed to assess the need for rehabilitation services and the unique service delivery problems experienced by disabled Native Americans of all ages and by the service delivery system. The proposed Research and Training Center must determine the incidence and prevalence of disability among Native Americans and identify related factors such as demographic characteristics, vocational history, geographic distribution, and type of service system contacts, and analyze rehabilitation service needs. Culturally sensitive methods must be developed to assess client potential and rehabilitation needs and to develop appropriate rehabilitation and training approaches to meet those needs. The Center must also develop methods to evaluate the perceived barriers to appropriate service delivery and design and test improved models of service delivery. Particular attention should be given to solutions to comprehensive needs of disabled Native American children for habilitation and rehabilitation.

Such a Center must involve Native American organizations and individuals in various capacities in all facets of the development and operation of the Center, and applicants must include evidence of the involvement of Native American organizations in policymaking and administration of the RTC. It is also important that such a Center form a network of linkages with the various service delivery systems which relate to Native Americans, including Federal, regional, tribal, State, local, and private agencies in order to demonstrate methods of diffusing findings and utilizing existing resources to improve services.

Such a Center must provide training to rehabilitation service providers, researchers, and managers/policymakers to increase their sensitivity to the unique rehabilitation needs of Native Americans and their awareness of innovative methods to meet these needs. This training should involve collaborative sponsorship with other Research and Training Centers, as well as with public, private, and tribal rehabilitation, health, and human services agencies.

The Center is expected to develop materials to enhance consumer and public education on rehabilitation needs of disabled Native Americans for use by disabled Native Americans and others.

All new research instruments, service delivery models, training packages, and educational materials should be appropriately tested and validated.

Each of these Centers will be funded for a period of up to 60 months and in an amount up to $300,000.

Summary of Comments and Responses

On December 1, 1982, the Secretary published in the **Federal Register** these proposed priorities for public comments. Summaries of the comments received and the Secretary's responses to these comments are printed below.

Comment: Several commenters emphasized the importance of involving Native American organizations in the operation of the RTC. One commenter suggested that competition be restricted to Native American groups, and one suggested that evidence of tribal endorsement be required on every application. Another commenter wanted priority consideration to applications from Native American groups.

Response: Some change has been made. NIHR legislation and regulations specify types of institutions which are eligible applicants for RTC awards and Departmental regulations do not permit NIHR to exclude any statutorily eligible applicants from competition. However, the priority has been modified to state even more emphatically that evidence of Native American involvement in all phases of the RTC, including policymaking and administration, is required if the application is to be considered responsive to the priority.

Comment: Seven commenters urged that the RTC focus in some way on the problems of handicapped Native American children, while one mentioned the elderly as another population for special attention.

Response: Some change has been made. The priority has been modified to state that the RTC should include attention to the habilitation and rehabilitation needs of disabled Native American children. However, the Secretary believes that a comprehensive approach to the unique needs of the Native American population is needed and within the finite resources of the proposed Center, does not intend to specify further conditions requiring focus on subpopulations.

Comment: Several commenters empahsized the need for cultural and linguistic sensitivity, integration of Native American healing practices, and providing cultural support for patients removed from the normal environment.

Response: No change has been made. The priority emphasized culturally sensitive techniques and practices. It is not the Secretary's intention to further limit the responses of applicants as to the best ways to approach culturally suitable practices and research.

Comment: Some commenters suggested focusing on or requiring attention to, specific disabilities such as otitis media, sensory deficits, and fetal alcohol syndrome among Native Americans.

Response: No change has been made. The Secretary is interested in research to meet a full spectrum of rehabilitation needs and does not intend to restrict researchers in their proposed approaches to the problem.

Comment: Several commenters suggested that there be a clear empahsis on vocational rather than medical rehabilitation in the RTC on Native Americans.

Response: No change has been made. The secretary points to the empahsis of the priority on improved models of service delivery for comprehensive rehabilitation services.

Comment: Some commenters emphasized the need for training of rehabilitation professionals, particularly culturally relevant training.

Response: No change has been made. The priority clearly requires that training be culturally sensitive and appropriate.

Comment: One commenter opposed the funding as possibly setting a precedent for establishing RTCs in geographic or ethnic areas, when in the respondent's opinion RTCs should approach rehabilitation problems on a more universal scope.

Response: No change has been made. The Secretary has stated the justification for focusing on unique rehabilitation needs of these two populations to include the unique cultural and geographic isolation; frequency of disabling conditions; poor access to service or inadequate service delivery mechanisms; and the clear guidance of the Congress that NIHR undertake these activities. Further, the Secretary believes that service delivery models developed by these Centers should have broad application to other rural and dispersed populations.

(Catalog of Federal Domestic Assistance No. 84.133—National Institute of Handicapped Research)

(20 U.S.C. 762)

Dated: April 22, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-11610 Filed 4-29-83; 8:45 am]

BILLING CODE 4000-01-M

Application Notice for Transmittal of Applications for Research and Training Centers for Fiscal Year 1983

AGENCY: Education Department.

ACTION: Application notice for transmittal of applications for research and training centers for fiscal year 1983.

SUMMARY: Applications are invited for new Rehabilitation Research and Training Centers for fiscal year 1983 under the National Institute of Handicapped Research in the two priority areas stated below.

Authority for this program is contained in Section 204(b)(1) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762(b)(1)).

Closing Date for Transmittal of Applications: Applications for grant awards must be mailed or hand delivered by June 30, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S., Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: NIHR is authorized to support research and related activities under several program authorities. The priorities identified in this Notice cover research and related activities to be conducted through Rehabilitation Research and Training Centers (RTCs). A description of the RTC program is contained in the Notice of Additional Final Funding Priorities for Fiscal Year 1983 published in this issue of the Federal Register. Awards are made under this program to States and public or private agencies and organizations including institutions of higher education.

NIHR is permitted to make awards for periods up to 60 months. It is the intention of NIHR to provide financial assistance to successful applicants through grants or cooperative agreements. If, at the time of the award, NIHR determines that substantial Federal programmatic involvement is warranted, it will negotiate cooperative agreements with the successful applicants.

The purpose of the awards is to support the establishment and operation of Rehabilitation Research and Training Centers to conduct coordinated and advanced programs of rehabilitation research and to train rehabilitation research personnel and service providers.

Available Funds: NIHR expects to fund new Centers in each of these two priority areas.

- Improving Rehabilitation Services for Handicapped Persons in the Pacific Basin, including the U.S. Territories, American Samoa, Guam, and all of the Islands of Hawaii.
- Improving Rehabilitation for Native Americans

A full description of each priority area is contained in the Notice of Additional Final Funding Priorities for Research and Training Centers for Fiscal Year 1983 which is published in this issue of the Federal Register.

The Secretary intends to fund at least one grant or cooperative agreement in an amount up to $300,000 in each of these two areas, assuming satisfactory applications and continued availability of funds. However, this Notice does not bind the U.S. Department of Education to fund projects in any or all of these areas, or to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Application Forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3511, 330 C Street, S.W., Washington, D.C. 20202. (Attention: Peer Review Unit); 202/245-0555.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

Applicable Regulations: Regulations governing the program include the following:

(a) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78; and

(b) National Institute of Handicapped Research Regulations, 34 CFR Parts 350 and 352; and

(c) The Additional Final Funding Priorities for Research and Training Centers for the National Institute of Handicapped Research for Fiscal Year 1983 which are published in this issue of the Federal Register; and

(d) Applicants for fiscal year 1983 grants should base their applications on Section 204(b)(1) of the Act, applicable NIHR regulations in 34 CFR Parts 350 and 352, and EDGAR.

FOR FURTHER INFORMATION CONTACT:
Ms. Edythe Glazer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3511, 330 C Street, S.W., Washington, D.C. 20202. Telephone: 202/245-0555, TTY for deaf individuals 202/472-4217.

(29 U.S.C. 762)

(Catalog of Federal Domestic Assistance No. 84.133—National Institute of Handicapped Research)

Dated: April 22, 1983.

George A. Conn,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 83-11630 Filed 4-29-83; 8:45 am]
BILLING CODE 4000-01-M

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federal register

Monday
May 2, 1982

Part III

Department of Transportation

Federal Aviation Administration

Motor Vehicles Carrying Passengers for Hire on Washington National Airport

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 159

[Docket No. 23623; Notice No. 83-4]

Motor Vehicles Carrying Passengers for Hire on Washington National Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice proposes the establishment of a permit system for taxicab drivers picking up passengers at Washington National Airport. Taxicab service at National Airport is an important component of ground transportation to the Airport, and taxicab traffic at the Airport is substantial. Existing FAA regulations, and the taxicab regulations of local jurisdictions in the Washington, D.C. area, have proven insufficient to maintain a desirable quality of service to the public and the efficient control of taxicab operations at the Airport. The proposed permit requirement is intended to enhance the quality of taxicab service to Airport patrons and to promote the operational control of taxicab dispatching and traffic on the Airport.

DATES: Comments must be submitted on or before July 11, 1983.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 23623, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 915G, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments must be marked: Docket No. 23623. Comments received may be inspected at Room 915G between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Edward Faggen, Legal Counsel, AMA-7, Hangar 9, Washington National Airport, Washington, D.C. 20001, Telephone: (703) 557-8123.

SUPPLEMENTARY INFORMATION:

Comments Invited

This Advance Notice of Proposed Rulemaking is being issued in accordance with the FAA's policy of encouraging the early public participation in rulemaking proceedings. An ANPRM is issued when FAA finds there is a need to consider rulemaking but the resources of the FAA and reasonable outside inquiry do not yield a sufficient basis to propose a specific course of action. It would be helpful, therefore, to invite public participation in identifying and selecting a course of action before an NPRM is developed and issued.

Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23623." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. If it is determined to be in the public interest to proceed with further rulemaking after considering the available data and comments received in response to this Advance Notice, a Notice of Proposed Rulemaking will be issued.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591 or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on the mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Washington National Airport is owned and operated by the Federal Government. The Secretary of Transportation has control over and responsibility for the care, operation, maintenance, and protection of the Airport, and the authority to promulgate rules and regulations necessary for this purpose. (Act of June 29, 1940, 54 Stat. 686, as amended by 61 Stat. 94; 72 Stat. 731; and 80 Stat. 931). This responsibility has been delegated to the Administrator, Federal Aviation Administration (FAA), and redelegated, in part, to the Director, Metropolitan Washington Airports.

Ground transportation connections at airports are an essential component of air travel. At National Airport, more than 1,200,000 taxicab trips are made from the Airport to area destinations each year, many with multiple passengers, and roughly 25 percent of air passengers at the Airport use taxicabs for the ground transportation segment of their air travel. Transportation by taxicab is especially prominent at National Airport because of the Airport's close proximity to Washington metropolitan area business centers and the high proportion of business travelers using the Airport.

As proprietor of National Airport, FAA has taken an active role in the planning and accommodation of all forms of ground transportation services at the Airport: private auto, limousine, and metrorail as well as taxicab. Efforts to manage taxicab service at the Airport have taken various forms. Taxicabs presently serve National Airport under an "open" cab system by which any locally licensed taxicab driver may pick up passengers at the Airport upon entry into the dispatching system and payment of a $.50 fee. For several years prior to 1974, however, responsibility for the availability of taxicabs for passenger pick-up was delegated by contract to a single concessionaire. The concessionaire employed individual drivers to provide taxi services from the Airport. FAA regulations prohibited non-contract drivers from picking up passengers at the Airport except in response to a pre-arranged request.

This "closed" taxicab system provided FAA with a relatively high degree of control over the number of authorized cabs, the conduct of contract drivers, and the condition of contract taxicab vehicles. The major disadvantage of the closed system was that the supply of the concessionaire's taxicabs was often insufficient to handle passenger demand, resulting in overloading of cabs and the necessity to call in non-concession cabs. Further, the closed system required the uneconomical practice of "dead heading" by the non-concession cabs that were forced to return from the Airport without a fare. Consequently, the system fostered considerable unauthorized soliciting of passengers. Drives who were not associated with the concessionaire often attempted to solicit fares at the Airport without regard to FAA-desgnated pickup areas or concession rights. This resulted in serious obstruction of traffic on the Airport and placed a strain on the Airport police force.

In January, 1974, FAA terminated the closed taxi concession and amended Airport regulations (now 14 CFR 159.2) to provide for an open taxi system. A subsequent amendment to Part 159 in May 1976 (41 FR 19623) established the system that is in effect today. Taxicab pick-up zones were established, and, as part of a roadway improvement program, improved exclusive taxicab feeder lanes were developed to segregate traffic in the terminal area. Under the present open system, any taxi driver who is licensed to operate a taxicab in the City of Alexandria, the City of Falls Church, Arlington County, Fairfax County, Montgomery County, Prince Georges County, or the District of Columbia can pick up passengers for hire at the Airport in the taxicab pick-up zone upon payment of a $.50 fee per trip and compliance with certain regulations. Taxicabs discharging passengers, or picking up a particular passenger outside of the designated pick-up zone in response to a prior call, are not required to enter the dispatching system or to pay the $.50 fee. Dispatching of cabs is performed by a contractor who is reimbursed out of the proceeds of the $.50 fee.

Present Situation

In many respects, the open taxicab system at National Airport has been satisfactory. The system has been especially successful in providing an adequate number of taxicabs to meet passenger demand at all times, including peak and off-peak hours. Moreover, this continuous availability of taxicabs has resulted from prevailing supply and demand conditions, and has not required intervention by FAA. The availability of an adequate supply of taxicabs is a key component of the quality of taxicab service provided to arriving air passengers. Due to the large number of licensed taxi drivers in the area, an open cab system can best meet the extensive demand for cabs at the Airport.

The open cab system in its present configuration is not without problems, however. Most complaints received concern the conduct of individual drivers. Frequent complaints are received about drivers for abusive or inconsiderate behavior toward passengers; for overcharging of passengers; for the refusal to take passengers assigned by the dispatcher, particularly to short-haul destinations with lower fares; for the soliciting of additional passengers after one passenger or group has been loaded; for engaging in arguments with dispatchers and for failure to obey the dispatcher's directions; and for blocking roadways and parking areas while waiting to enter the cab line.

Between January 1979, and December 1981, FAA received more than 200 written complaints relating to the conduct of taxi drivers at the Airport. Of these complaints, the greatest number related to discourteous or abusive conduct by drivers (89) and overcharging (66). The Washington Metropolitan Area Transit Commission, which regulates fares on taxi trips between the Airport, the District, and Maryland, received more than 850 complaints between July 1979 and June 1982 from taxicab passengers relating to National Airport taxi trips, and the number of such complaints has increased each year. The taxicab licensing agencies of the various local jurisdictions whose drivers serve the Airport have also received complaints on their respective drivers, although FAA does not routinely receive copies of such complaints. It can reasonably be assumed that for each formal written complaint received, several other persons with similar grounds to complain did not do so. The substantial number and chronic nature of the complaints received is an indication that service to taxicab passengers at National Airport, while virtually always available, is not being provided at a desirable level of quality.

Soliciting for passengers by drivers is a problem not directly reflected by passenger complaints. Drivers continue to solicit and pick up passengers without entering the system, to avoid waiting in the cab line and paying the fee. In addition to the resulting loss of revenue, and the unfairness to drivers waiting properly in line, soliciting adds to the serious congestion problems at the Airport. The curbside space available for pick-up and discharge of vehicle passengers in front of the passenger terminals at National Airport is extremely limited, and must accommodate private vehicles, limousines, and buses as well as taxicabs. Taxicab drivers who stop to solicit passengers in areas other than FAA-designated taxi loading areas block lanes of roadway and obstruct the flow of traffic past the terminals.

An additional problem brought to FAA's attention by observation and verbal complaint, but not represented by a substantial number of formal complaints, is the lack of knowledge of the local area on the part of some taxi drivers. Licensing tests administered by some local jurisdictions to test the knowledge of new taxi drivers have not adequately addressed this problem, in part because drivers may operate on trips between National Airport and local points which are totally outside of the driver's licensing jurisdiction.

Finally, there are often many more taxicab vehicles on the Airport than the cab system can handle efficiently. The cab lines and loading areas at the Main Terminal, North Terminal, and Commuter Terminal can accommodate a total of approximately 375 vehicles at the present time. Often many more than 375 cabs are on the Airport at one time, with the overflow cabs cruising the roadways or waiting in parking and loading areas until they can enter the cab line. This overflow is a significant cause of traffic congestion on the Airport which results in delays to Airport users and to the cab drivers themselves.

The need to improve the quality of Airport ground transportation service to the traveling public, and to provide more efficient movement and control of vehicle traffic on the Airport, has caused FAA as proprietor of National Airport to issue this ANPRM. By its consideration of rulemaking related to the regulation of driver conduct, FAA is not suggesting that the actions of taxi drivers constitute the only problem with taxi service at National Airport, nor is FAA suggesting that all taxi drivers or even a majority of drivers routinely violate Airport regulations. For example, as a result of heavy private vehicle traffic at the Airport and the limited space available to accommodate that traffic, the vehicle lanes in front of the terminals are extremely congested. This congestion makes traffic control difficult and causes delay for taxi passengers as well as other Airport patrons. Additionally, the Airport taxi dispatching operation can affect the quality of service provided to taxi passengers, independent of the conduct of the taxi drivers. For these reasons, FAA is investigating ways to upgrade taxi facilities and ways to improve the efficiency of the taxi dispatching system at the Airport, as well as considering the revision of driver regulation.

However, driver misconduct has been a sufficient contributing source of the problem to indicate the need for specific regulatory action, in conjunction with related efforts to improve facilities and dispatching operations.

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Present Enforcement

Cab drivers who operate at National Airport are subject to regulation from three sources: first, the authority exercised by the driver's licensing jurisdiction (i.e., city or county); second, the regulation of interstate fares by the Washington Metropolitan Area Transit Commission (WMATC); and third, the FAA Airport police enforcement of the Federal regulations applicable to the Airport, including traffic and dispatching regulations. Despite these controls FAA has not achieved the desired levels of service and traffic management at the Airport. This is apparently due not only to the nature of the problem but also to the unique taxicab jurisdictional situation existing at National Airport.

Each of the seven licensing jurisdictions listed in 14 CFR Part 159, at § 159.2(c)(4), maintains some degree of regulation of taxicab drivers. Regulations typically cover fares, driver qualifications and conduct, insurance, and condition of vehicles. However, there are distinct limitations on the authority of the local jurisdictions to regulate taxi service at National Airport. First, and most basic, the authority of each local jurisdiction is limited to drivers licensed in that jurisdiction. Since drivers from all seven jurisdictions conduct business at the Airport, no one jurisdiction has any overall interest in or authority over the taxicab situation at the Airport.

Second, of the seven licensing jurisdictions only Arlington County has any claim to territorial jurisdiction over taxicab driver conduct on the Airport. The Airport is located within the boundaries of Arlington County, and, presumably, the County can take action (such as suspension or revocation) against Arlington County-licensed taxi drivers for their actions on the Airport. The authority of the other six jurisdictions to take any action against drivers for their conduct at the Airport is less clear. Alexandria, Falls Church, and Fairfax County apparently have such authority under a Virginia State law enacted expressly for that purpose. (Code of Virginia, Title 56, Section 56–291.3:6). By contrast, the District of Columbia and Montgomery County and Prince Georges County, Maryland, apparently have no express jurisdiction over a taxicab operating between their respective jurisdictions and the Airport. All such trips are interstate. Also, acts that are violations of local taxi regulations on Airport trips (such as overcharging or refusal to carry) often occur outside of the boundaries of those licensing jurisdictions. In summary, it is unclear to what extent any or all of the seven licensing jurisdictions have sufficient authority to take enforcement actions against their licensed taxi drivers for conduct associated with National Airport operations. Even where such authority exists, it has rarely resulted in the impositions of sanctions on drivers for Airport-related incidents.

In contrast to the local governments involved, WMATC does have certain express regulatory authority over taxi trips between National Airport and points in the District of Columbia and Montgomery and Prince Georges Counties. WMATC regulation is limited to fares and insurance, however, and the Commission's enforcement actions have been addressed primarily to cases of egregious overcharging on trips between the Airport and the District. Because WMATC does not license taxi drivers or grant interstate taxi operating authority, it has no power to revoke that authority. To enforce its rules, WMATC, under the terms of the Washington Metropolitan Area Transit Regulation Compact, must institute a suit in U.S. District Court to enjoin the violating driver from continuing to violate the regulations, or to have the violator's interstate operating authority revoked by court order. The WMATC has increased its efforts to impose sanctions on drivers who violate Commission regulations, and has been successful in several cases decided to date. However, the number of enforcement actions has been small, and, the Commission's limited power and resources to enforce overcharging violations have not tended to deter other kinds of unacceptable conduct by taxi drivers at the Airport. Also, WMATC has no authority with respect to taxi trips entirely within Virginia, which encompasses many of the taxi trips originating at the Airport.

The third and most direct source of control of taxicab operations on the Airport is through enforcement of Federal laws and regulations by FAA Airport police. FAA regulations pertaining to taxicabs at National and Dulles Airports are set forth at 14 CFR 159.2 and 159.4. The Airport Taxicab regulations are specific in defining prohibited conduct, and there is no question as to the authority of the Airport police to enforce the regulations. However, FAA regulation has not been entirely successful either in controlling excess taxicab traffic or in deterring driver misconduct.

At present, FAA enforcement of Airport regulations is accomplished through the Federal court system. There is no procedure for seeking civil penalties for violation of the Airport taxi regulations. Pursuant to 14 CFR 159.191(a), any person who willfully and knowingly violates any rule in Part 159 is guilty of a misdemeanor, and shall be fined not more than $500.00, or imprisoned for not more than 6 months, or both. (Section 159.191(b), which permits the Airport Manager to exclude such a person from the Airport "when necessary under the circumstances," is not considered by FAA to be sufficient specific authority for the routine suspension or revocation of a violator's Airport operating privileges.) In most cases, suspected violators are ticketed by issuance of a Traffic Violation Notice. Defendants are assigned a hearing date which is usually about six weeks after the violation. The hearing is held before a U.S. Magistrate of the U.S. District Court for the Eastern District of Virginia, Alexandria Division. In accordance with Federal law, the defendant may elect to proceed with hearing before the Magistrate or to have his case heard befoe a judge of the U.S. District Court.

Since violation of the taxicab regulations is a misdemeanor, drivers may be cited (or arrested) only by a police officer who actually witnesses the violation or who has obtained a warrant for the arrest of the driver. The probability that an Airport police officer will witness any particular violation of § 159.2 is rather low, due to the limited number of officers available at any given time for a curbside duty station. In theory, officers acting on a third-party complaint such as the complaint of a taxi passenger could obtain an arrest warrant from the U.S. Magistrate, upon a showing of probable cause. As a practical matter, however, this procedure is not frequently invoked for violations of Airport taxicab regulations.

When a violation is witnessed and the driver cited, the violation must be prosecuted by the office of the United States Attorney for the Eastern District of Virginia, before the U.S. Magistrate or in U.S. District Court, in the same manner as any other misdemeanor. The U.S. Attorney's office is responsible for all of Federal prosecutions in the Eastern District of Virginia (and for many civil matters). While Airport taxicab cases tend to be of relatively less importance than many other Federal criminal cases, the number of Airport taxi cases is extremely large. In the U.S. Magistrate's Court in Alexandria, one day each week is devoted exclusively to cases from National and Dulles Airports, with hearings conducted in two or three courtrooms simultaneously. Approximately 75 percent of these cases involve violations of Part 159 by taxi drivers at National Airport. The number of citations may exceed the capacity of the system, and cases have to be dropped for lack of time and resources to prosecute them.

If a taxicab driver is convicted of a violation of § 159.2, the fine generally imposed is $25.00, and is not of consequence to the violator. A conviction is often not recorded by the local licensing jurisdiction or hack commission, so a taxicab driver may be convicted of violating Airport taxicab regulations without affecting his driver's license or taxicab operating authority. While FAA intends to improve coordination with local jurisdictions on taxi regulation, referral of Part 159 convictions to local licensing agencies would not substantially improve the Airport taxi situation. First, as previously noted, enforcement of Airport-related violations by the local jurisdictions has not been frequent in any case. Second, many Airport regulations are unique to the Airport (e.g., the requirement to obey dispatchers and the prohibition on soliciting). Violations of these rules would not constitute violations of local regulations for which local disciplinary action could be taken. Finally, and such enforcement would vary from jurisdiction to jurisdiction, and would be entirely beyond FAA control or influence.

By FAA's observation there has been no lack of diligence and effort on the part of the law enforcement, prosecuting, or judicial components of the Federal criminal justice system with respect to handling of Airport taxicab cases. However, given the frequency and repetitive nature of the violations of § 159.2, it appears that the existing remedies are too limited and the procedures too cumbersome to assure consistent and adequate redress for violations of the airport taxicab regulations.

Proposed Regulation

In consideration of the above, it is FAA's conclusion that action is necessary to improve the present taxicab situation at National Airport, and that any fine-tuning of present enforcement mechanisms would be insufficient to bring about the improvements desired. Accordingly, FAA is actively considering the establishment of a licensing or permit requirement for taxicab drivers who pick up passengers for hire at National Airport. If a permit system is found not to be feasible, alternative consideration may be given to adopting some form of a "closed" system as existed prior to 1974. As previously noted, FAA does not consider taxi driver regulation to be the only aspect of the Airport taxi situation which needs to be addressed. The taxi permit system would, therefore, be an integral part of a larger program directed toward improvement of taxi facilities and passenger services generally.

The Airport taxi permit would apply only to taxicab drivers who carry passengers for hire from the Airport. The permit requirement would be in addition to all present licensing requirements of local jurisdictions and of WMATC, and would not replace any of those requirements or diminish the responsibility of those bodies for enforcement of their respective laws and regulations. At present, only taxi drivers licensed in one of the seven local jurisdictions listed in § 159.2(c)(4) may pick up passengers at the Airport. This would not be changed, and FAA would not undertake to license drivers or grant permits to drivers who were not already licensed by one of the local jurisictions listed. The permit program would impose the minimum burden possible on Airport taxi drivers consistent with its purpose.

In essence, the Airport taxi permit would represent permission for the individual driver to conduct business on the Airport. By displaying the permit, a taxi driver could continue to pick up passengers within the established dispatching system and otherwise operate as at present, in accordance with Airport taxi regulations. In the event a taxi driver is found, after a hearing of the facts, to have violated Airport taxi regulations, the permission granted by the permit would be temporarily suspended or revoked. During the suspension or revocation, the driver could continue to conduct business as a taxicab driver in accordance with the license issued by his own licensing jurisdiction, but could not pick up passengers at the Airport. Because the issuance of permits and the sanctions imposed under the permit program would be entirely administrative in nature, drivers would enjoy the procedural protections for civil proceedings embodied in administrative law, but not those attendant to the criminal process.

FAA believes the public would benefit from an Airport taxi permit program because the program would improve the ability of FAA to deal effectively with drivers who disregard the Airport's regulations. The sanctions of suspension or revocation of a driver's Airport taxi permit would be a direct and efficient deterrent to misconduct by drivers interested in continuing to serve the Airport. At present, no comparable deterrent exists. Additionally, suspension and revocation will reduce the public's exposure to drivers who violate Airport regulations; the worse a driver's conduct, the greater the duration and frequency of that driver's exclusion from the Airport.

FAA believes there will be a net benefit to taxicab drivers as well as to the general public from an Airport taxi permit program. Each time a driver unlawfully solicits passengers, or double loads a cab, or avoids the cab line and the toll gate, he does so to the detriment of all the drivers who enter the system properly and take the passenger assigned by the dispatcher. A system which removes from the Airport those drivers who disobey Airport regulations effectively rewards those drivers who follow the rules. If all taxi passengers are loaded within the system, one individual or pre-formed group to a cab, a driver in the cab line will move up more quickly and will be able to obtain more fares in a given period of time.

Taxi drivers will not avoid the controls and sanctions exercised by FAA under the permit system simply by attempting to operate without a permit. First, the right to operate within and utilize the Airport taxi dispatching system will be a substantial incentive to obtain a permit, and the number of taxi drivers who refuse to apply for a permit can be expected to be small. Second, the few drivers who do attempt to solicit without permits, or with suspended or revoked permits, will be subject to the enforcement procedures presently in effect with sanctions imposed by the U.S. Magistrate. FAA believes this enforcement will be more effective than at present because fewer violators will be involved, and because the requirement to display a permit will make it relatively easy for police officers to identify individuals who do not have the right to pick up passengers at the Airport.

FAA contemplates that the Airport taxicab permit program would incorporate the following basic features:

1. Airport taxi permits would be issued to persons curtently licensed as taxi operators by Alexandria, Falls Church, Arlington County, Fairfax County, Montgomery County, Prince George's County, or the District of Columbia who apply for the Airport taxi permit and pay an application fee. The fee would cover at a minimum the direct and allocated costs of administering the permit program, and would be payable upon initial application and annually thereafter. It is contemplated that the

fee would be in the vicinity of $100 per year. As an alternative to issuing permits to all applicants, the number of Airport taxi permits may be limited in some manner to help relieve the problems of overcrowding and insufficient space at the Airport for waiting cabs.

2. Permits would consist of an ID card with a photograph of the holder. Permit cards would be issued to individual drivers but would remain the property of the Government. A taxi driver would not be permitted to enter the taxi lanes to pick up passengers at the Airport without displaying a permit to police officers or dispatchers. In the event an electronic gate control system is installed in the cab lanes, the permit cards could be made machine-readable to provide automatic admission of drivers holding current permits. Permits would not be transferrable, and therefore would not constitute a property right which could be bought and sold by drivers, as in the taxi "medallion" systems established by some municipalities.

3. Grounds for suspension or revocation of permits would be the violation of the provisions of § 159.2. Maximum sanctions for violation of Airport taxi regulations would be specified for each particular offense. Sanctions would range from suspension of the driver's Airport taxi permit from 5 days to 6 months to revocation of the permit for one year. Repeat offenses would incur a longer suspension than a first offense. Revocation would be imposed for certain serious violations or for accumulation of a certain number of suspensions. The sanctions which could be imposed under the permit program would apply only to the taxi regulations set forth in § 159.2, and could not be applied for violation of other sections of Part 159, for example Subpart B—Motor Vehicle Rules. The existing criminal enforcement provisions of Part 159 would remain in effect for all sections of this Part, including § 159.2.

4. A licensed taxicab driver who violated § 159.2 would be issued a "hack complaint," similar to a traffic ticket, by an FAA Airport police officer. An officer could issue a hack complaint upon witnessing a violation himself or upon the complaint of a third party, such as a taxi dispatcher or passenger. The hack complaint would specify the charge and hearing date.

5. The driver would be required to appear at a hearing before a designated hearing officer at a location provided by FAA at National Airport. The driver would be entitled to be represented by counsel and to call witnesses. If the driver is found to have violated § 159.2, the appropriate sanction would be imposed by the hearing officer, and the driver's Airport taxi permit would be surrendered to the hearing officer at the hearing.

6. After a permit suspension, a driver could pick up his permit at the Airport immediately upon expiration of the suspension period. After a permit revocation, the driver could reapply for a permit after expiration of the revocation period.

7. A driver whose permit was suspended or revoked could appeal that decision to the Director, Metropolitan Washington Airports, or to an administrative board composed of Airport and/or Department of Transportation officials, within a specified time after the hearing. The decision of the Director or the board would represent final agency action, and would be appealable under Section 10 of the Administrative Procedures Act, 5 U.S.C. 701 *et seq.* Both the hearing and the appeal would be conducted in accordance with the requirements of section 9 of the Administrative Procedures Act, 5 U.S.C. 558, and with the general requirements of administrative law, but not necessarily with the specific provisions of Sections 5, 7, and 8 of the Act, 5 U.S.C. 554, 556, and 557.

List of Subjects in 14 CFR Part 159

Airports, Taxicabs and taxicab licensing.

Regulatory Flexibility Act Consideration

The Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354, 94 Stat. 1164; Chapter 6 of the Administrative Procedure Act, 5 U.S.C. 601 *et seq.*), requires FAA to meet certain requirements with respect to FAA rules which have a "significant economic impact on a substantial number of small entities." Individual taxi drivers, or at least those who own and drive their own cabs, could be considered "small entities" for this purpose. Inasmuch as several thousands of taxi drivers in the Washington, D.C., metropolitan area serve National Airport on a full-time or part-time basis, an Airport taxicab permit program would have an impact on a "substantial number" of drivers.

Whether this impact is a "significant economic impact" on those drivers is less clear. In terms of proportionate costs, the annual fee would probably be less than one percent of a full-time owner/operator's annual costs. In absolute terms, payment of a $100.00 fee (for example) once each year would be a minimal burden on drivers conducting business at National Airport. Equivalent or higher fees for airport taxi licenses are not uncommon: e.g., Baltimore/Washington International Airport, $200.00 per year; New Orleans International Airport, $200.00 per year; San Diego International Airport, $200.00 per year; Spokane International Airport, $250.00 per year. Moreover, the negative economic impact of the annual fee and the time required to obtain the permit (approximately one hour each year) would be offset by any gain realized in operating efficiency as a result of the permit program. For example, if the reduction of unlawful soliciting of fares results in more rapid movement of the taxi line, then drivers using the line will be assigned more fares in a given period of time, and will earn more income.

An alternate impact could be realized by drivers who were unable to obtain an airport taxi permit if the number of permits were limited in some manner. Such drivers could continue to conduct business off the airport and to bring passengers to the airport. Therefore, the impact in each case would be limited to the amount of each driver's income earned by picking up passengers at the airport, less the amount the driver could earn off-airport over the same period of time.

Because it is unclear whether the impacts of an Airport taxi permit program would meet the threshold requirements for a Regulatory Flexibility Analysis, FAA is requesting information on the economic impacts and benefits for individual taxi drivers.

Request for Information

Persons responding to this notice are invited to specifically address the following questions and supply any other information they consider pertinent to FAA's decision on further rule making on this subject:

1. What impact, if any, would an Airport taxi permit system have on the licensing of taxi operators and enforcement of taxi regulations by the Washington Metropolitan Area Transit Commission and the local jurisdictions in the Washington, D.C., area?

2. What would be the economic impact of an annual Airport taxi permit fee on the level of fares set by WMATC and the Washington, D.C., area local jurisdictions which regulate taxi fares?

3. What would be the impacts of an Airport taxi permit requirement on individual taxicab drivers who conduct business at National Airport, including economic, operational, and service impacts?

4. If the number of permits were limited, what would be the economic impact on individual drivers who were unable to obtain permits? Specifically, what portion of total income do local taxi drivers earn picking up passengers at National Airport? How much more income, if any, do drivers earn picking up passengers on the Airport than they could earn off-airport in the same period of time?

5. Should FAA establish an additional permit requirement for taxicab vehicles as well as for taxi drivers?

6. How should the adjudication and appeal of proposed sanctions be conducted? What specific elements of administrative procedure are required and/or desirable for incorporation in the administrative hearing and appeal process?

7. Should a written test on Airport procedures and regulations, and/or knowledge of the metropolitan area be a prerequisite to issuance of an Airport taxi permit?

8. Should the number of Airport taxi permits issued by limited? If so: (a) How should that number be determined? (b) What allocation method should be used (e.g., first-come first-served, an allotment to each local jurisidction, etc.)?

9. Would a closed taxicab system, under which one or more contracts were awarded for exclusive taxicab service from the Airport, be a practical alternative to a permit system if a permit system is determined not to be acceptable?

10. What other improvements should FAA consider implementing to provide better consumer protection of Airport taxi passengers and to permit taxi drivers to operate more efficiently and to better serve Airport patrons? For example, should a short-haul system be established that gives a preference to drivers that have previously waited in line for a lower fare short-haul?

(Secs. 2 and 4 of the Act for the Administration of Washington National Airport, 54 Stat. 686 as amended by 61 Stat. 94; sec. 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354); sec. 6, Department of Transportation Act (49 U.S.C. 1655))

Note.—The FAA has determined that this document involves a regulation which is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory impact of the proposal is judged to be minimal and a detailed evaluation is not required.

Issued in Washington, D.C. on March 24, 1983.

James A. Wilding,

Director, Metropolitan Washington Airports.

[FR Doc. 83-11666 Filed 4-29-83; 8:45 am]

BILLING CODE 4910-13-M

VOL
48
ISS
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federal register

Monday
May 2, 1983

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 881]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PB: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary

NOTICE OF DETERMINATIONS
ISSUED APRIL 26, 1983

VOLUME 881

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP			RECEIVED:	04/06/83	JA: TX				
8330737	F-01-68378	4228330832		103		BAKER "A" 01	ENGINAL (OLMOS 8200')	200.0	VALERO TRANSMISSI
-AMERICAN CRUDE INC			RECEIVED:	04/06/83	JA: TX				
8330956	F-03-065325	4220131344		103		GULF-TAYLOR 01	PIERCE JUNCTION	100.0	LONE STAR GAS CO
8330955	F-03-065323	4220131398		103		INTERNATIONAL DISPOSAL CORP 01	PIERCE JUNCTION	60.0	LONE STAR GAS CO
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	04/06/83	JA: TX				
8330738	F-02-50129	4205731150		103		D W MEEKS "B" 01	SHERIFF EAST (8900-A)	150.0	HOUSTON PIPE LINE
-AMOCO PRODUCTION CO			RECEIVED:	04/06/83	JA: TX				
8330851	F-03-064424	4232131268		103		J E THOMPSON 011	LUCKY (10,250)	140.0	TENNESSEE GAS PIP
8330998	F-06-065496	4220330971		102-4		J G CHAPMAN GAS UNIT "B" 03	WOODLAWN (TRAVIS PEAK	0.1	EAST TEXAS INDUST
8330826	F-06-063512	4220330943		103	107-TF	JONES GAS UNIT 06	WOODLAWN (COTTON VALL	270.0	TEXAS GAS TRANSMI
8330913	F-03-065086	4224331617		103		KEITH & DOWLEN 030	BEAUMONT WEST	27.0	AMOCO GAS CO
8330856	F-8A-064512	4221933683		103		LEVELLAND UNIT 0759	LEVELLAND	0.6	AMOCO PRODUCTION
8330855	F-8A-064508	4221933604		103		LEVELLAND UNIT 0761	LEVELLAND	0.7	AMOCO PRODUCTION
8330854	F-8A-064507	4221933622		103		LEVELLAND UNIT 0812	LEVELLAND	0.8	AMOCO PRODUCTION
8331000	F-08-065508	4208333367		103		UNIVERSITY MCFARLAND QUEEN CON 01-B	MCFARLAND (QUEEN)	0.0	PHILLIPS PETROLEU
8330770	F-02-59952	4246331699		102-4		V H WEBER 01	WEBER	109.0	DELHI GAS PIPELIN
8330919	F-03-065135	4205732289		102-4		WARREN THOMAS UNIT 01	CALDWELL (AUSTIN CHAL	26.0	FERGUSON CROSSING
-ANDERSON PETROLEUM INC			RECEIVED:	04/06/83	JA: TX				
8330752	F-7C-56143	4243532736		103	107-TF	JOE FRIEND ESTATE 3-27A	ALDWELL RANCH (CANYON	200.0	OZONA PIPELINE CO
8330830	F-7C-063752	4210334016		103	107-TF	JOHN MITCHELL ESTATE "A" 3-56A	OZONA (CANYON SAND)	100.0	ANDERSON PIPELINE
8330831	F-7C-063753	4210333823		103	107-TF	JOHN MITCHELL ESTATE "A" 4-56	OZONA (CANYON SAND)	100.0	ANDERSON PIPELINE
-APD CO			RECEIVED:	04/06/83	JA: TX				
8330911	F-03-065068	4229131513		102-4		GRACE BLANCH 01	WOLTE MARSH (NB-2 SD)	548.0	DOW CHEMICAL CO
-APEX PETROLEUM INC			RECEIVED:	04/06/83	JA: TX				
8330858	F-7B-064592	4208333264		102-4		JOHN E WOLF 010	WOLF (SERRATT LOWER)	37.0	EL PASO HYDROCARB
8330775	F-7B-64514	4208332183		102-4		JOHN E WOLF 02-A (19174)	WOLF (SERRATT)	0.0	ODESSA NATURAL CO
8330925	F-7B-065249	4208333263		102-4		JOHN E WOLF 09 (103338)	WOLF (SERRATT LOWER)	14.0	EL PASO HYDROCARB
-ARCADIA REFINING CO			RECEIVED:	04/06/83	JA: TX				
8330732	F-06-42461	4236331378		102-4		MARY B MCLAURIN 01	PANOLA E (TRAVIS PEAK	0.0	UNITED GAS PIPELI
-ARCO OIL AND GAS COMPANY			RECEIVED:	04/06/83	JA: TX				
8330758	F-04-58093	4213133811		102-4		ARCO HUMBLE FEE GAS UNIT 03	SEVEN SISTERS EAST (M	200.0	TEXAS EASTERN TRA
8330907	F-04-065050	4221331292		102-4		FRANK E CHESTNUT GAS UNIT 04	TABASCO (VICKSBURG 10	400.0	TENNESSEE GAS PIP
8330761	F-03-58420	4219931742		103		O W BROOKS 053	BLESSINGER (10,800 FT	350.0	TEXAS EASTERN TRA
-AUSTIN OIL & MINERAL			RECEIVED:	04/06/83	JA: TX				
8330774	F-03-60430	4205100000		102-4		F OWEN 01	HOOKER CREEK NAVARRO	10.6	FERGUSON CROSSING
-CALIX CORP			RECEIVED:	04/06/83	JA: TX				
8330771	F-01-60848	4217731326		102-4		EMILY UNIT 01 RR ID0 W/A	PEACH CREEK	24.0	VALERO TRANSMISSI
-CARTER ENERGY CORP			RECEIVED:	04/06/83	JA: TX				
8330904	F-09-065016	4249732485		103		O W OATES 03	BOONSVILLE (BEND CONG	110.0	NATURAL GAS PIPE
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	04/06/83	JA: TX				
8330876	F-7C-064783	4245130465		108		A H DUFF ESTATE 01	DOVE CREEK (CANYON D)	10.0	NORTHERN NATURAL
8330873	F-7C-064782	4245130522		108		A H DUFF ESTATE "B" 01	DOVE CREEK (CANYON D)	11.0	NORTHERN NATURAL
8330877	F-08-064789	4238331796		108		ESTELLE COUNCIL "76" 03	CONGER SW (PENN)	7.0	NORTHERN NATURAL
8330776	F-04-60644	4235532072		102-4	103	HELEN P AUSTIN 02-L	STRATTON (K-61) PROSP	299.2	TENNESSEE GAS PIP
8330876	F-08-064786	4217331070		108		I W TERRY "A" 05	CONGER SW (PENN)	9.8	NORTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8330862	F-01-064626	4213700000		108		M J SMITH "46" 01	ROCKSPRINGS WEST	12.0	PRODUCER'S GAS CO
8330875	F-01-064784	4213700000		108		ROCKSPRINGS "50" 01	ROCKSPRINGS WEST	6.0	PRODUCER'S GAS CO
8330747	F-03-54267	4205100000		102-2		W O WARD 02	BIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-CHASE-MANN PETROLEUM INC			RECEIVED:	04/06/83	JA: TX				
8330982	F-7B-065422	4213334584		102-4		CHARLES G PENCE - P C 03B 017942	CAMERON P (MARBLE FAL	17.6	EL PASO HYDROCARB
-CHEVRON U S A INC			RECEIVED:	04/06/83	JA: TX				
8330966	F-8A-065388	4241532284		103		SACROC UNIT 032-27	KELLY-SNYDER	83.0	EL PASO NATURAL G
-CHISHOLM OIL INVESTMENTS			RECEIVED:	04/06/83	JA: TX				
8330868	F-01-062739	4217731369		102-2		JIMMIE E 01	CHRISTIAN (6800)	0.0	TIPPERARY CORP
-CITIES SERVICE COMPANY			RECEIVED:	04/06/83	JA: TX				
8330899	F-01-064961	4246530412		102-3		WEST "C" 02	MASSIE (STRAWN)	185.0	
-COASTAL OIL & GAS CORP			RECEIVED:	04/06/83	JA: TX				
8330892	F-10-064928	4237330885		103		MASTERSON "C" 11-10J	PANHANDLE (RED CAVE)	18.0	COLORADO INTERSTA
-CONCHO OPERATING CO			RECEIVED:	04/06/83	JA: TX				
8330914	F-7B-065117	4242935297		102-4		MCCLESKEY 01	MCCLESKEY (BOND)	500.0	WARREN PETROLEUM
8330909	F-7B-065059	4242933452		103		MCCLESKEY 04	STEPHENS COUNTY REGUL	250.0	WARREN PETROLEUM
-CONOCO INC			RECEIVED:	04/06/83	JA: TX				
8330759	F-04-58199	4250531552		103	107-TF	BELIA R BENAVIDES "B" 04	HUNDIDO (LOBO)	0.0	UNITED TEXAS TRAN
8330908	F-08-065055	4213534064		103		J L JOHNSON 028 (01354)	FOSTER	1.1	EL PASO HYDROCARB
8330756	F-04-57411	4250531508		103	107-TF	SANCHEZ-MCMURREY 08	HUNDIDO (LOBO)	0.0	TRANSCONTINENTAL
8330751	F-04-56063	4247933343		102-2	107-TF	VAQUILLAS RANCH "A" 024	VAQUILLAS RANCH (GATO	0.0	E I DUPONT DENEMO
8330773	F-04-60326	4247933409		102-2	107-TF	VAQUILLAS RANCH "A" 027	GATO CREEK (9800')	0.0	E I DUPONT DE NEM
8330949	F-08-065311	4238931350		103		M E BELL "64" 014 (27756)	JESS BURNER (DELAWARE	65.7	EL PASO NATURAL G
-COSTA RESOURCES INC			RECEIVED:	04/06/83	JA: TX				
8330754	F-08-56596	4210330000		102-4		ROGERS 02	COSTA (CLEARFORK UPPE	102.5	PERRY PIPELINE CO
8330755	F-08-56597	4210332939		102-4		ROGERS 07	COSTA (CLEARFORK UPPE	0.0	PERRY PIPELINE CO
-CROMERA OIL & GAS CO			RECEIVED:	04/06/83	JA: TX				
8330898	F-7B-064955	4241734771		102-4		JOHN SEDWICK 011	CROMERA (MORAN)	3.7	WARREN PETROLEUM
8330886	F-7B-064946	4241734869		102-4		JOHN SEDWICK 09	CROMERA (MORAN)	3.6	WARREN PETROLEUM
-DAVID MARTIN PHILLIP			RECEIVED:	04/06/83	JA: TX				
8330926	F-03-065269	4228700000		108		GUTHRIE 01 067544	NOACK CONNERD (SEG B)	0.0	PRODUCERS GAS CO
8330927	F-03-065270	4228700000		108		JAMES G GUTHRIE 02 069549	NOACK CONNERD (SEG B)	5.0	PRODUCERS GAS CO
-DELTA DRILLING CO			RECEIVED:	04/06/83	JA: TX				
8330785	F-06-61846	4242300000		102-4		CALDWELL 01	CHAPEL HILL (TRAVIS P	0.0	ETEXAS PRODUCERS
8330816	F-03-062946	4233900000		102-4	103	CREIGHTON 01	SPLENDORA	0.0	
-DEVON ENERGY CORP			RECEIVED:	04/06/83	JA: TX				
8330828	F-08-063658	4230130362		102-4	103	MRS FRANCES HUBBARD 01	HUBBARD (CHERRY CANYO	348.0	UNITED TEXAS TRAN
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	04/06/83	JA: TX				
8330868	F-10-064693	4229531178		102-4		CLARENCE H PARKER 01-416	LIPSCOMB E	0.0	
8330820	F-10-063210	4235731326		103		DREW ELLIS 03	ELLIS RANCH (CLEVELAN	365.0	NATURAL GAS PIPEL
8330867	F-10-064692	4229531207		102-4		VESTER L SMITH 02	LIPSCOMB E	0.0	
-DRIVER OIL & GAS INC			RECEIVED:	04/06/83	JA: TX				
8330783	F-02-60948	4246931885		103		DRIVER OIL & GAS F H BURNS "A" 02	PRIDHAM LAKE VICTORIA	91.0	SUNBURST ENERGIES
-DSK PRODUCERS			RECEIVED:	04/06/83	JA: TX				
8330924	F-7B-065248	4208332735		108		CLYDE HAYNES 03	COLEMAN COUNTY REGULA	6.0	EL PASO HYDROCARB
-DYCO PETROLEUM CORPORATION			RECEIVED:	04/06/83	JA: TX				
8330790	F-10-61287	4221100000		103		MEADOWS 01-5	BUFFALO MALLOW (GRANI	2.0	WESTAR TRANSMISSI
8330789	F-10-61286	4248330975		103		WALKER 01-30	WILDCAT (UPPER MORROW	69.0	WESTAR TRANSMISSI
-DYNEX OIL & GAS INC			RECEIVED:	04/06/83	JA: TX				
8330797	F-10-61842	4223300000		108		BUSH 02 WELL LEASE NO 03660	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8330798	F-10-61841	4223300000		108		DAVIS 01 LEASE NO 03223	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8330796	F-10-61840	4223300000		108		NOBLE 01 LEASE NO 00995	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8330795	F-10-61839	4223300000		108		NOBLE 03 LEASE NO 00995	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-E ANKLE			RECEIVED:	04/06/83	JA: TX				
8330978	F-09-065416	4250300000		108		MCWILLIAMS 01 07605I	YOUNG COUNTY REGULAR	20.0	LONE STAR GAS CO
-EDWIN H MAGRUDER JR			RECEIVED:	04/06/83	JA: TX				
8330946	F-08-065305	4213533847		103		R B COWDEN 03	GOLDSMITH N (SAN ANDR	10.0	PHILLIPS PETROLEU
-ENERGETICS INC			RECEIVED:	04/06/83	JA: TX				
8330944	F-10-065297	4234130879		103		MASTERSON G-29 (03839)	PANHANDLE (RED CAVE)	1.3	COLORADO INTERSTA
8330943	F-10-065296	4234130880		103		MASTERSON G-30 (03839)	PANHANDLE (RED CAVE)	1.6	COLORADO INTERSTA
8330942	F-10-065295	4234130881		103		MASTERSON G-31	PANHANDLE (RED CAVE)	1.6	COLORADO INTERSTA
8330941	F-10-065294	4234130882		103		MASTERSON G-32 (03839)	PANHANDLE (RED CAVE)	0.2	COLORADO INTERSTA
8330940	F-10-065293	4234130883		103		MASTERSON G-33 (03839)	PANHANDLE (RED CAVE)	1.8	COLORADO INTERSTA
8330939	F-10-065292	4234130884		103		MASTERSON G-34 (03839)	PANHANDLE (RED CAVE)	2.0	COLORADO INTERSTA
8330938	F-10-065291	4234130885		103		MASTERSON G-35	PANHANDLE (RED CAVE)	1.8	COLORADO INTERSTA
8330937	F-10-065290	4234130886		103		MASTERSON G-36 (03839)	PANHANDLE (RED CAVE)	1.8	COLORADO INTERSTA
8330936	F-10-065289	4234130887		103		MASTERSON G-37 (03839)	PANHANDLE (RED CAVE)	6.9	COLORADO INTERSTA
8330935	F-10-065288	4234130888		103		MASTERSON G-38 (03839)	PANHANDLE (RED CAVE)	7.2	COLORADO INTERSTA
8330934	F-10-065287	4234130897		103		MASTERSON G-39 (03839)	PANHANDLE (RED CAVE)	8.7	COLORADO INTERSTA
8330933	F-10-065286	4234130899		103		MASTERSON G-40 (03839)	PANHANDLE (RED CAVE)	7.7	COLORADO INTERSTA
8330932	F-10-065285	4237530898		103		MASTERSON G-42 (03839)	PANHANDLE (RED CAVE)	2.6	COLORADO INTERSTA
-ENERGY RESERVES GROUP INC			RECEIVED:	04/06/83	JA: TX				
8330973	F-7C-065410	4223530798		108		ELA C SUGG "D" 0148	SPRABERRY (TREND AREA	9.2	INTERNORTH INC
8330970	F-7C-065407	4223530527		108		ELA C SUGG 68 04	SPRABERRY (TREND AREA	7.7	INTERNORTH INC
8330975	F-7C-065412	4223530526		108		ELA C SUGG 69 02	SPRABERRY (TREND AREA	6.5	INTERNORTH INC
8330971	F-7C-065408	4223530526		108		ELA C SUGG 69 04	SPRABERRY (TREND AREA	5.6	INTERNORTH INC
8330968	F-7C-065405	4223530588		108		O L GREER "C" 02	CALVIN DEAN	15.3	UNION TEXAS PETRO
8330974	F-7C-065411	4223531783		108		OMA WELLS 03	CALVIN DEAN	12.8	UNION TEXAS PETRO
8330972	F-7C-065409	4223511056		108		RUPERT P RICKER "KO" 05	CALVIN DEAN	5.0	UNION TEXAS PETRO
8330969	F-09-065406	4207700000		108		SCHMITTOU 01	DILLIARD	2.6	CITIES SERVICE OI
-ENSERCH EXPLORATION INC			RECEIVED:	04/06/83	JA: TX				
8330768	F-09-58297	4249732415		103		ANNIE FOXALL 01	BOONSVILLE (BCG)	150.0	LONE STAR GAS CO
8330733	F-06-60643	4220300000		103		DELLA HUGHES 04	WHELAN	722.0	TEXAS EASTERN GAS
8330750	F-05-55341	4228900000		103		G W LEE "A" 09	NORTH BUFFALO FIELD	0.0	LONE STAR GAS CO
8330766	F-03-58979	4221330345		103		H P ADY "B" 04	TRI-CITIES	738.0	LONE STAR GAS CO
8330819	F-09-063181	4219730521		103		HENDRIX 19 03	REPRIEVE	86.0	
8330746	F-09-58975	4249732392		103		J A RISH 01	MORRIS (CONSOLIDATED	0.0	LONE STAR GAS CO
8330762	F-09-58542	4249700000		103		WALTER DEMBRE 02-UT	BOONSVILLE (CADDO COM	44.0	LONE STAR GAS CO
-EXXON CORPORATION			RECEIVED:	04/06/83	JA: TX				
8330948	F-08-065308	4213534052		103		AUGUSTA BARRON 025	HENCE (GRAYBURG)	1.0	
8330884	F-10-064896	4235735408		108		B W SCHWALM 02	DUDE WILSON (MORROW U	13.0	TRANSWESTERN PIPE
8330989	F-10-065452	4211331146		108		CAMPBELL-SANTA FE UNIT 02	MENDOTA	17.0	TRANSWESTERN PIPE
8330931	F-03-065275	4207131364		103		M A GRIPON A/C1 033	ANABUAC	9.0	ARMCO STEEL CORP
8330863	F-08-064630	4210300000		108		J B TUBB A/C 2 07	SAND HILLS	10.0	EL PASO NATURAL G
8330953	F-06-065319	4227331397		103		K R ALAZAN 342 (103503)	MADERO (J-24)	250.0	ARMCO STEEL CORP
8330842	F-7C-064839	4243131177		103		LOU E JOHNSON ESTATE A/C 1 034	JAMESON (STRAWN)	10.0	KOCH HYDROCARBON
8330845	F-04-064912	4242731656		102-4		MCGILL BROS 4&5 (ID PENDING)	KELSEY SE (30-H)	110.0	TRUNKLINE GAS CO
8330895	F-08-064949	4208333268		103		MEANS-QUEEN 01 OIL UNIT 01353	MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8330917	F-06-065130	4226130477		103		MRS S K EAST 105-D (ID PENDING)	RITA (5-P II)	91.0	NATURAL GAS PIPEL
8330996	F-10-065489	4219535179		108		S P & K K JACKSON "D" 01	HANSFORD	20.0	NORTHERN NATURAL
8330912	F-04-065081	4204731144		102-4		SANTA FE RANCH 77 (ID PENDING)	SANTA FE SOUTH (S UPP	456.0	NATURAL GAS PIPEL
8330894	F-08-064944	4208333371		103		STATE UNIVERSITY MUTEX COMS 020	MUTEX (DEVONIAN)	4.0	PHILLIPS PETROLEU
8330990	F-10-065453	4242100000		108		TEXAS-MUGOTON GU 1801	TEXAS-MUGOTON	20.0	TRANSWESTERN PIPE
8330918	F-06-065131	4213135860		103		V KOHLER A-143 009632	KOHLER N E (MIRANDO 0	25.9	TENNESSEE GAS PIP

JD NO	OA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-EZEKIEL ENERGY INC				RECEIVED:	04/06/83	JA: TX
8330889	F-10-064333	4206531269		103		KELLY 01-J
-FAGADAU ENERGY CORP				RECEIVED:	04/06/83	JA: TX
8330930	F-7B-065274	4242933259		102-4		C W WULFJEN 02 RRC 017603
8330928	F-7B-065272	4242933213		102-4		CURRY ESTATE "A" 02 RRC 018103
8330929	F-09-065273	4207732766		102-4		HALSELL RANCH "SP" 01 RRC 022914
-FALCON PETROLEUM COMPANY				RECEIVED:	04/06/83	JA: TX
8330916	F-10-065127	4235731233		103		BRYAN 01 M/A
-FOREST OIL CORPORATION				RECEIVED:	04/06/83	JA: TX
8330882	F-04-064849	4247932670		107-TF		L WINCH ST 04
8330881	F-04-064848	4247932642		107-TF		RUSSELL WINCH ST 03
-FORTUNE & PANCAKE				RECEIVED:	04/06/83	JA: TX
8330701	F-7B-60852	4215306849		103		E L GARRETT 01 (101669)
-FRAC INC				RECEIVED:	04/06/83	JA: TX
8330976	F-08-065413	4200333376		103		UNIVERSITY "10" 04 027312
-GEODYNE RESOURCES INC				RECEIVED:	04/06/83	JA: TX
8330893	F-10-064929	4229500000		102-4		M P CHEM 01
-GETTY OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330823	F-05-063302	4216100000		102-4		FRANKLIN SCRULOCK "F" 01
8330734	F-02-47145	4205700000		103	102-4	TEXAS STATE TRACT 96 02
8330744	F-04-050785	4234500000		108-SR		WERNER-BRELSFORD 01
8330906	F-8A-065438	4207900000		103		XIT UNIT 062-X
-GWR ENERGY CORP				RECEIVED:	04/06/83	JA: TX
8330792	F-04-61449	4250531549		102-4		ASCHE 05
8330767	F-04-59125	4250531534		102-4	107-TF	A R BENAVIDES 03
8330945	F-04-063382	4247932429		102-4		GLORIA BENAVIDES BMT "A" 01 0085346
8330881	F-04-62053	4250531562		102-4	107-TF	LUNDELL 08-2
8330768	F-04-59379	4247932498		102-4	107-TF	LUNDELL 012
8330769	F-04-59492	4247933388		102-4	107-TF	LUNDELL 017
8330882	F-04-62054	4247933458		102-4	107-TF	LUNDELL 019
8330749	F-04-058091	4247933065		102-4	107-TF	MARKS MCLEAN "A" 01 0101294
-GRAND BANKS ENERGY CO				RECEIVED:	04/06/83	JA: TX
8330807	F-08-062729	4217331532		103	107-TF	EDMONDSON 03
8330991	F-08-065461	4213534039		103		PARKER "A" 01
-GRUY MANAGEMENT SERVICE CO				RECEIVED:	04/06/83	JA: TX
8330844	F-04-062727	4242700000		102-4		I GUTIERREZ 01
-HAL FRANKLIN				RECEIVED:	04/06/83	JA: TX
8330866	F-09-064655	4250300000		102-4		EDDLEMAN #7
-HARING ENERGY CO				RECEIVED:	04/06/83	JA: TX
8330964	F-02-065382	4246931954		102-4		EVELYN LANGSTON ET AL UNIT 01
-HENRY PETROLEUM CORP				RECEIVED:	04/06/83	JA: TX
8330815	F-7C-062894	4210500000		102-4	103	SHOUBROUEK 01
-HIMTON PRODUCTION COMPANY				RECEIVED:	04/06/83	JA: TX
8330788	F-03-61187	4237330536		102-4		ANICO 04
-HNG OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330814	F-04-062833	4247900000		103	107-TF	BRUNI MINERAL "B" 07
8330842	F-7C-064249	4243500000		103	107-TF	REINHARDT "6" 05
8330846	F-7C-064139	4243500000		103	107-TF	RICHARDSON "4" 03
8330784	F-7C-60985	4243500000		103	107-TF	SAWYER "144" 04
-HOPKINS & TATE				RECEIVED:	04/06/83	JA: TX
8330896	F-04-064958	4248131552		103	107-TF	E M PEPPER 03
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/06/83	JA: TX
8330903	F-03-065013	4214931261		102-2	103	ALVIN BOEMKER 01
8330757	F-03-57479	4214931296		102-2	103	BARBARA B 01
8330748	F-03-54436	4214998000		102-2	103	JEAN DANIEL 01
-J C WILLIAMSON				RECEIVED:	04/06/83	JA: TX
8330967	F-8A-065400	4250132207		102-4		SHARON STEEL 01
-J M HUBER CORPORATION				RECEIVED:	04/06/83	JA: TX
8330952	F-10-063315	4223300000		108		HERRING 02
8330951	F-10-063314	4223300000		108		JAMIESON "B" 01
8330950	F-10-065313	4234100000		108		OTIS PHILLIPS "B" 01
-JAKE L HAMON				RECEIVED:	04/06/83	JA: TX
8330981	F-7C-065421	4238331674		103		HUGHES 03
8330980	F-7C-065420	4238332384		103		HUGHES 04
-JAMES K ANDERSON INC				RECEIVED:	04/06/83	JA: TX
8330871	F-7B-064752	4244132252		102-4		LAIL 07
-JAY-LIN ENTERPRISES INC				RECEIVED:	04/06/83	JA: TX
8330860	F-02-064566	4217531691		102-4		RAYBURN ET AL GAS UNIT 01
-JOE B BARRETT				RECEIVED:	04/06/83	JA: TX
8330765	F-7B-58737	4242933188		102-4		R O CHAMBERS 03
-JOHN L COX				RECEIVED:	04/06/83	JA: TX
8330772	F-7C-060269	4246131943		103		NEAL "38-C" 01
-KEN PETROLEUM CORP				RECEIVED:	04/06/83	JA: TX
8330787	F-02-61142	4239100000		107-PE		FAGAN #10
-KILLAM & HURD LTD				RECEIVED:	04/06/83	JA: TX
8330857	F-04-064537	4247933360		102-4	107-TF	LILIA BRUNI SLAUGHTER 01
-KIMBALL PRODUCTION COMPANY				RECEIVED:	04/06/83	JA: TX
8330741	F-03-32453	4247730468		102-4		CLAY GAS UNIT 01
-L M YOUNG				RECEIVED:	04/06/83	JA: TX
8330727	F-7B-26196	4204931730		102-4		YOUNG-BERG 01 (14583)
8330728	F-7B-26197	4204932119		102-4		YOUNG-BERG 02 (14583)
8330729	F-7B-26198	4204932238		102-4		YOUNG-BERG 03 (14583)
8330730	F-7B-26199	4204932295		102-4		YOUNG-BERG 06 (14583)
8330999	F-7B-065499	4204935198		102-4		YOUNG-BERG 07 (14583)
-LAMBERT RAILUB DRILLING CO				RECEIVED:	04/06/83	JA: TX
8330987	F-03-065466	4205132380		102-4		AUSLEY 03
-LEONARD BROTHERS OPERATING CO				RECEIVED:	04/06/83	JA: TX
8330868	F-7B-064260	4210330153		108		M D STEWART UNIT "C" 01-A (078154)
-LYONS PETROLEUM INC				RECEIVED:	04/06/83	JA: TX
8330883	F-03-064878	4204130837		102-2	103	ALLEN UNIT 01
-M BRAD BENNETT INC & RKH LTD				RECEIVED:	04/06/83	JA: TX
8330954	F-08-065320	4238931318		102-4		COLLIE "B" 05
-MAC EXPLORATION & DRILLING CORP				RECEIVED:	04/06/83	JA: TX
8330965	F-7B-065384	4204935164		102-4		LOLA HILL 01 (101172)
-MAGRUDER LTD #1				RECEIVED:	04/06/83	JA: TX
8330947	F-08-065306	4213533862		103		R B COWDEN 02
-MARATHON OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330810	F-7C-062788	4238300000		103		UNIVERSITY "L" 09
8330811	F-7C-062781	4210534209		103		UNIVERSITY "M" 09
8330812	F-7C-062782	4210534197		103		UNIVERSITY "M" 010
8330813	F-7C-062783	4238332359		103		UNIVERSITY "M" 011
8330809	F-7C-062779	4238332369		103		UNIVERSITY "M" 09
-MARK PRODUCING INC				RECEIVED:	04/06/83	JA: TX
8330869	F-03-064738	4248132402		102-4		MILLER ILSE ET AL #2 (I D # NOT ASS

FIELD NAME	PROD	PURCHASER
PANHANDLE CARBON	110.0	GETTY OIL CO
FOUR J (CONOL 3650')	48.0	WARREN PETROLEUM
FOUR J (CONOL 3650')	48.0	WARREN PETROLEUM
HENRIETTA S W (SIMPSO	48.0	BLUEGROVE GASOLIN
HERMANN	21.9	PHILLIPS PETROLEU
MUJERES CREEK (LOBO 1	99.0	UNITED TEXAS TRAN
MUJERES CREEK (LOBO 3	185.0	UNITED TEXAS TRAN
BROWN COUNTY REGULAR	61.0	SOUTHWESTERN GAS
GOLDSMITH NORTH (SAN	18.2	PHILLIPS PETROLEU
BARDEN	0.0	PHILLIPS PETROLEU
INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
PANTHER REEF NW (K-3)	360.0	ALUMINUM CO OF AM
CARTHAGE	0.0	TEXAS GAS TRANSMI
LEVELLAND SAN ANDRES	4.0	CITIES SERVICE CO
CHARCO (9200)	458.0	NATURAL GAS PIPEL
BENAVIDES (LOBO)	750.0	VALERO TRANSMISSI
LA ROSITA (LOBO)	150.0	NATURAL GAS PIPEL
MCASMILL (LOBO)	600.0	NATURAL GAS PIPEL
LUNDELL (LOBO 9200) P	700.0	VALERO TRANSMISSI
LUNDELL (LOBO)	750.0	VALERO TRANSMISSI
CARR (LOBO)	700.0	NATURAL GAS PIPEL
MCLEAN (LOBO)	250.0	TRANSCONTINENTAL
CONOCO SW (PENN)	0.0	NORTHERN NATURAL
HARPER	9.4	PHILLIPS PETROLEU
SALINAS (2100')	90.0	ESPERANZA TRANSMI
JOHNSON (800)	54.0	MID-STATE GAS COR
PATRICIA SOUTH (2950	120.0	DELHI GAS PIPELIN
DEMPSTER (STRAWN)	0.0	INTRATEX GAS CO
DAMASCUS (SEAMANS)	500.0	ST REGIS PAPER CO
JUANITA (LOBO)	250.0	HOUSTON PIPE LINE
SAWYER (CANYON)	250.0	INTRATEX GAS CO
SAWYER (CANYON)	60.0	INTRATEX GAS CO
SAWYER (CANYON)	150.0	INTRATEX GAS CO
OAK HILL (COTTON WALL	730.0	TEXAS EASTERN TRA
GIDDINGS	0.0	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (EDWARDS GAS	0.0	PHILLIPS PETROLEU
YOAKUM CENTER (DEVONI	7.3	SHELL OIL CO
WEST PANHANDLE	9.0	COLORADO INTERSTA
WEST PANHANDLE	9.0	COLORADO INTERSTA
WEST PANHANDLE	14.0	COLORADO INTERSTA
SPRABERRY	34.0	PHILLIPS PETROLEU
SPRABERRY	64.0	PHILLIPS PETROLEU
E J NORTH (FRY)	400.0	UNION TEXAS PETRO
ANDER (FRIO 3800)	50.0	HOUSTON PIPELINE
BERKELEY (CROSS PLAIN	40.0	EL PASO HYDROCARB
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
MCFADDIN (2000)	36.0	DELHI GAS PIPELIN
DOLORES CREEK (WILCOX	0.0	TRANSCONTINENTAL
NE CLAY (DEEP)	300.0	
DALE (CADDO)	26.0	SIOUX PIPELINE CO
DALE (CADDO)	26.0	SIOUX PIPELINE CO
DALE (CADDO)	26.0	SIOUX PIPELINE CO
DALE (CADDO)	8.0	SIOUX PIPELINE CO
DALE (CADDO)	20.0	SIOUX PIPELINE CO
HOOKER CREEK (NAVARRO	29.5	FERGUSON CROSSING
STEWART (DUFFER)	1.0	LONE STAR GAS CO
BRYAN (WOODBINE) FIEL	110.0	FERGUSON CROSSING
COLLIE (DELAWARE)	7.2	INTRATEX GAS CO
FROG (FRY)	4.0	LONE STAR GAS CO
GOLDSMITH N (SAN ANDR	10.0	PHILLIPS PETROLEU
FARMER (SAN ANDRES)	10.0	BIG LAKE GAS CORP
FARMER (SAN ANDRES)	10.0	BIG LAKE GAS CORP
FARMER (SAN ANDRES)	10.0	BIG LAKE GAS CORP
FARMER (SAN ANDRES)	10.0	BIG LAKE GAS CORP
PROPOSED BONUS SOUTH	365.0	

JD NO	OA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MASTER DRILLING CO INC				RECEIVED:	04/06/83	JA: TX
8330838	F-7C-063810	4239900000		102-4		DOROTHY GOTTSCHALK 01
8330897	F-7C-064956	4239932649		102-4		DOROTHY GOTTSCHALK 04
-MEADCO PROPERTIES				RECEIVED:	04/06/83	JA: TX
8330800	F-7C-61968	4223531985		102-2		UT-39A- 01
-MESA PETROLEUM CO				RECEIVED:	04/06/83	JA: TX
8330735	F-04-63129	4247933128		102-4	107-TF	SALDIVAR ESTATE 08
-MEWBOURNE OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330853	F-10-064443	4229530716		102-4		ECCLES UNIT 01 RRC I D #085399
8330821	F-10-063218	4229531214		102-4	103	SOUTH BOOKER UNIT 05
-MEYER FARMS INC				RECEIVED:	04/06/83	JA: TX
8330740	F-10-51568	4206531015		103		COFFEE 03
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/06/83	JA: TX
8330786	F-09-61105	4249732408		103		C D SIPES #2
8330835	F-09-063805	4249700000		108		MATTIE B THOMAS 01 079512
8330834	F-09-063803	4249700000		108		J J FRANK 01 052410
8330803	F-7B-62453	4236700000		108		R F LAMINACK 01 0076591
8330837	F-7B-063807	4214300000		108		R T DRAKE 01 080607
8330836	F-09-063806	4223700000		108		VERA HENDERSON 01 092169
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/06/83	JA: TX
8330906	F-08-065833	4230130375		102-4		M D JOHNSON "E" 06
-MORRIS STEPHENS				RECEIVED:	04/06/83	JA: TX
8330870	F-09-064741	4223734726		103		CRAFT 02
-MORRISON DRILLING & PRODUCING CO				RECEIVED:	04/06/83	JA: TX
8330822	F-7C-063284	4239932553		102-4		CLARENCE EAGER 01
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	04/06/83	JA: TX
8330782	F-03-60896	4204130675		102-2		BRIARCREST COUNTRY CLUB 01
8330777	F-03-60791	4204130772		102-2		PERKINS-YAGER UNIT 3 WELL 1 - 15817
8330779	F-03-60793	4204130686		102-2		PERKINS-YAGER UT 1 WELL 1 - 15284
8330778	F-03-60792	4204130743		102-2		PERKINS-YAGER UT 2 WELL 1 - 015751
8330780	F-03-60794	4204130785		102-2		POLLY RANCH ESTATES INC
-OLYMPIA OIL CO INC				RECEIVED:	04/06/83	JA: TX
8330915	F-7B-065119	4244132284		102-4		ALLYN "B" 01
-PARKER & PARSLEY INC				RECEIVED:	04/06/83	JA: TX
8330963	F-08-065380	4231732627		103		WOLCOTT "A" 02
-PEEJAY EXPLORATION INC				RECEIVED:	04/06/83	JA: TX
8330910	F-7B-065063	4213334065		102-4		RATLIFF 01
-PEND OREILLE OIL & GAS CO				RECEIVED:	04/06/83	JA: TX
8330921	F-03-065161	4216730895		102-4		JAMES E CHAPMAN GU 01
8330920	F-02-065160	4229733207		102-4		LENICE E PEEBLES 01-L
8330919	F-02-065163	4229733207		102-4		LENICE E PEEBLES 01-U
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/06/83	JA: TX
8330961	F-04-065372	4235531376		108		MINNIE BROWN 05
8330962	F-02-065374	4239101110		108		W J FOX 029
-PETROLEUM EQUITIES CORP				RECEIVED:	04/06/83	JA: TX
8330833	F-7C-063768	4243532857		103	107-TF	SCHULTZ 05
8330829	F-7C-063730	4243500000		102-4		SHULTZ 01
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/06/83	JA: TX
8330985	F-08-065434	4237133732		108		(27403) STOCKTON-B 01 (27403)
8330891	F-08-064918	4200301752		108		EMBAR-B 037 (19710)
8330984	F-08-065433	4213506425		108		NORTH PENWELL UNIT 0147 (21556)
-POLK & PATTON INC				RECEIVED:	04/06/83	JA: TX
8330739	F-03-50595	4205100000		102-2		GARDNER 02
-PRAIRIE PRODUCING CO				RECEIVED:	04/06/83	JA: TX
8330901	F-05-064987	4237930104		102-4		G C HOPKINS 01 - 100892
-PYRON EXPLORATION & DRILLING CORP				RECEIVED:	04/06/83	JA: TX
8330753	F-09-56293	4250300000		102-2		BLOUNT 02
-Q E D EXPLORATION INC				RECEIVED:	04/06/83	JA: TX
8330902	F-7C-065008	4223532026		102-2	103	FARMAR-SUGG 05
-QUANAH PETROLEUM INC				RECEIVED:	04/06/83	JA: TX
8330988	F-08-065447	4243131159		102-4		BASSHAM 04
-R C HAGENS				RECEIVED:	04/06/83	JA: TX
8330793	F-04-61740	4247933283		102-4		E P LEAL 02 (102976)
-REYNOLDS DRLG CO & ENI EXPL CO				RECEIVED:	04/06/83	JA: TX
8330805	F-06-062696	4240131377		103	107-TF	ARNOLD-RUST 01
-RIDGE OIL CO				RECEIVED:	04/06/83	JA: TX
8330878	F-7B-064829	4213334459		102-4	103	CONNER 01
8330879	F-7B-064830	4242933520		102-4	103	MILLER 01
-SAMSON RESOURCES COMPANY				RECEIVED:	04/06/83	JA: TX
8330736	F-10-48319	4235730955		103		DODSON 03 - CLEVELAND
-SAXON OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330844	F-7C-064109	4238332363		103		SANKEY 01
-SHAR-ALAN OIL CO				RECEIVED:	04/06/83	JA: TX
8330958	F-03-065361	4231300000		102-4		E L MCWHORTER 02
8330957	F-03-065360	4231300000		102-4		LOUISE BARRETT 01
-SHIELD RESOURCES INC				RECEIVED:	04/06/83	JA: TX
8330804	F-03-062458	4247130241		102-4		RICKS 01-A
-SO-TEX PETROLEUM, INC.				RECEIVED:	04/06/83	JA: TX
8330979	F-7B-065417	4244132091		102-4		NORTH CORNETT 01
8330977	F-7B-065414	4244132509		102-4		NORTH CORNETT 06
-SOUTHLAND ROYALTY CO				RECEIVED:	04/06/83	JA: TX
8330959	F-08-065362	4210300000		108		EDWARDS FLD GBG UNIT 09-1
8330960	F-08-065363	4210330125		108		MARY K STOKER 03
-STALLWORTH OIL & GAS INC				RECEIVED:	04/06/83	JA: TX
8330745	F-06-52879	4242330565		102-4	103	D D SHOFNER 02 (10653)
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/06/83	JA: TX
8330825	F-01-063393	4212732592		103		BIG WELLS (SAN MIGUEL) 0713
8330900	F-03-064981	4224531425		103		BROUSSARD & HERBERT 038
8330824	F-08-063390	4249500000		103		BROWN ALTMAN A/C-3 011
8330865	F-06-064642	4236531489		103	107-TF	M LASHLEY GAS UNIT 02
8330868	F-01-063976	4231131660		102-4		OWENS GAS UNIT 01
8330841	F-8A-064031	4250132251		103		WASSON NORTH CLEARFORK UNIT 093
-T R HILL				RECEIVED:	04/06/83	JA: TX
8330864	F-09-064639	4250300000		102-4		HARRISON WELL 01
-TAYLOR OPERATING COMPANY				RECEIVED:	04/06/83	JA: TX
8330888	F-09-064908	4223700000		102-4		CRUM-GAMAGAN OIL UNIT 01 (22198)
8330890	F-09-064910	4223700000		102-4		CRUM-REEVES DIL UNIT 01 (21240)
8330872	F-09-064780	4233700000		102-4		LA ANNA KALLENBACH 01 (22135)
8330889	F-09-064909	4223700000		102-4		P L CRUM OIL UNIT 01 (21353)
-TENNECO OIL COMPANY				RECEIVED:	04/06/83	JA: TX
8330852	F-08-064441	4237133674		102-2		J A GREEN 4-1
-TEXACO INC				RECEIVED:	04/06/83	JA: TX
8330818	F-04-063899	4235531476		103		J D CHAPMAN 0123
8330839	F-8A-063821	4221933667		103		MONTGOMERY ESTATE DAVIES MCT-2 093

FIELD NAME	PROD	PURCHASER
BIG ED M (GARDNER LIM	4.0	LONE STAR GAS CO
BIG ED M (GARDNER LIM	23.0	LONE STAR GAS CO
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
LA ROSITA	750.0	UNITED TEXAS TRAN
LEAR (MORROW UPPER)	61.0	ENDEVCO INC
MARMON (MORROW UPPER)	373.0	DELHI GAS PIPELIN
PANHANDLE	51.0	GETTY OIL CO
BOONSVILLE (BEND CONG	9.5	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
LAKE MINERAL WELLS/40	0.0	NATURAL GAS PIPEL
MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
HENDERSON RANCH (MARB	0.0	SOUTHWESTERN GAS
BIMMIT (CHERRY CANYON	9.0	INTRATEX GAS CO
WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
MORRISON (FRY)	0.0	LONE STAR GAS CO
KURTEN	116.0	FERGUSON CROSSING
KURTEN (WOODBINE)	116.0	FERGUSON CROSSING
KURTEN (WOODBINE)	116.0	FERGUSON CROSSING
KURTEN (WOODBINE)	116.0	FERGUSON-CROSSING
KURTEN	116.0	FERGUSON CROSSING
LAKE ABILENE (4,800)	9.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
FAIR (MARBLE FALLS LO	72.0	NORTHERN GAS PROD
SAN LEON	675.3	
GEORGE WEST WEST	730.0	UNITED TEXAS TRAN
GEORGE WEST WEST	730.0	UNITED TEXAS TRAN
AGUA DULCE (5350')	19.0	UNITED GAS PIPE L
GRETA (G-5)	20.0	UNITED GAS PIPE L
INTERSTATE (CANYON)	73.8	PRODUCERS GAS CO
INTERSTATE (WOLFCAMP)	32.0	PRODUCERS GAS CO
FORT STOCKTON SOUTH (	0.0	
GOLDSMITH NO (SAM AND	0.0	EL PASO NATURAL G
PENWELL	6.0	EL PASO NATURAL G
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
S E GINGER (SHACKOVER	1095.0	
GRAHAM N E (BIG SALIN	68.0	MID-STATE GAS COR
LUCKY-MAG (CLEARFORK	9.0	FARMLAND INDUSTRI
ROSE CREEK N (WOLFCAM	11.0	SUN EXPLORATION &
LEAL (YEGUA)	142.0	ESPERANZA TRANSMI
NORTH TATUM (COTTON V	0.0	UNITED GAS PIPE L
RANGER NW (MARBLE FAL	31.3	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	25.0	COMPRESSOR RENTAL
ELLIS RANCH (CLEVELAN	146.0	TRANSWESTERN PIPE
SPRABERRY (TREND AREA	31.0	PHILLIPS PETROLEU
MADISONVILLE NE (GEOR	0.0	LONE STAR GAS CO
MADISONVILLE NE(GEORG	0.0	LONE STAR GAS CO
HUNTSVILLE NE	1000.0	SOUTH TEXAS GATHE
SO-TEX (FRY)	5.0	UNION TEXAS PETRO
SO-TEX (FRY)	58.0	UNION TEXAS PETRO
EDWARDS	7.4	PHILLIPS PETROLEU
CRANE	18.0	PHILLIPS PETROLEU
CHAPEL HILL (TRAVIS P	35.0	UNITED GAS PIPELI
BIG WELLS (SAN MIGUEL	0.0	HOUSTON PIPELINE
LABELLE SE (M-7520)	11.0	UNITED TEXAS TRAN
KERMIT	3.0	CABOT CORP
CARTHAGE	0.0	DELHI GAS PIPE LI
MOSTETTER NORTH	157.0	TEXAS EASTERN TRA
WASSON N E (CLEAR FOR	2.0	SHELL OIL CO
SAUNDERS (MARBLE FALL	68.0	LONE STAR GAS CO
CRUM (MARBLE FALLS)	28.5	SOUTHWESTERN GAS
CRUM (MARBLE FALLS)	2.9	SOUTHWESTERN GAS
KALLENBACH (CONGL)	21.2	J L DAVIS
CRUM (MARBLE FALLS)	2.6	SOUTHWESTERN GAS
PINON (DIMPLE)	0.0	LONE STAR GAS CO
MOBIL DAVID	365.0	TEXAS EASTERN TRA
LEVELLAND	0.0	AMOCO PRODUCTION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8338827	F-8A-0413538	4221933454		103		MONTGOMERY ESTATE DAVIES OCT-2 997	LEVELLAND	25.4	AMOCO PRODUCTION
8338850	F-8A-0414339	4241532294		108		P L FULLER OCT-1 8350	FULLER E CANYON	0.0	FULLER GASOLINE P
-THOMPSON J CLEO R JAMES CLEO JR				RECEIVED:	04/06/83	JA: TX			
8338794	F-7C-41838	4210534141		103	107-TF	UNIVERSITY 32-11 01	OZONA (CANYON SAND)	160.0	PRODUCERS GAS CO
-TOM L INGRAM				RECEIVED:	04/06/83	JA: TX			
8338923	F-8B-0413238	4208333280		103		SUN 02	FUHRMAN-MASCHO	36.5	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	04/06/83	JA: TX			
8338861	F-8A-0414604	4211531731		102-4		BURKETT 01	R Q S (SPRABERRY)	28.0	TEXACO INC
8338817	F-8B-0412799	4222732954		103		FRYAR 02	BIG SPRING (FUSSELMAN	100.0	GETTY OIL CO
8338859	F-8A-0414396	4208131576		102-4		KANGERGA "B" 01	TALIAFERRO (PETTIT UP	0.0	
-U S OPERATING INC				RECEIVED:	04/06/83	JA: TX			
8338843	F-8B-0414031	4228731303		102-4		TYLER 01 RRC ID# N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/06/83	JA: TX			
8338993	F-8A-0413467	4218532643		103		NORTH RILEY UNIT 034-R	RILEY NORTH	4.0	PHILLIPS PETROLEU
8338992	F-8A-0413466	4216532653		103		NORTH RILEY UNIT 050-R	RILEY NORTH	1.0	PHILLIPS PETROLEU
8338996	F-8B-0413470	4210534265		102-2		PAMELA ACTON 02	MASSIE (STRAWN)	750.0	INTRATEX GAS CO
-VALERA OIL CO				RECEIVED:	04/06/83	JA: TX			
8338867	F-7B-0414986	4208398888		108		N HARGETT 674211	COLEMAN COUNTY REGULA	6.0	UNION TEXAS PETRO
-W A SCHINDLER				RECEIVED:	04/06/83	JA: TX			
8338832	F-8B-0413766	4208132295		102-2		SCHINDLER-HOVDSAD 01	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-W E CARL				RECEIVED:	04/06/83	JA: TX			
8338791	F-8B-41439	4208931322		102-4		ELSIE PENFIELD COOPER 02 8103226	EASTER S (8920)	50.0	TENNESSEE GAS PIP
-W N E S OIL CO				RECEIVED:	04/06/83	JA: TX			
8338859	F-7B-0414537	4205931963		102-4		MCCLURE TR 1 01	NICHOLAS (DUFFER)	7.0	EL PASO HYDROCARB
-WALKER OIL & GAS				RECEIVED:	04/06/83	JA: TX			
8338763	F-7B-58689	4204932335		102-4		M J BYRD 02	WILDCAT	23.0	GOE334 NATURAL CO
-WAYNE HARPER				RECEIVED:	04/06/83	JA: TX			
8338997	F-8B-0413493	4209732138		103		ROBINSON 01	SIVELLS BEND FIELD	25.0	SIVELLS GAS LTD
8338995	F-8B-0413471	4209732150		103		YATES "A" 02	SIVELLS BEND FIELD	30.0	SIVELLS GAS LTD
-WILLIAM PERLMAN				RECEIVED:	04/06/83	JA: TX			
8338731	F-7C-27776	4243500000		108		FIELDS "51" 01	SAWYER (CANYON)	28.0	EL PASO NATURAL G
8338744	F-7C-32682	4243500000		108		GEORGE BROCKMAN 37 01	SAWYER (CANYON)	0.0	EL PASO HYDROCARB
8338745	F-7C-32681	4243532078		108		GEORGE BROCKMAN 44 02	SAWYER (CANYON)	0.0	EL PASO HYDROCARB
8338742	F-7C-32678	4210533844		108		LILLIAN M HUDSPETH MGM HOSP A 62	WHITEHEAD (STRAWN)	0.0	EL PASO NATURAL G
-WILLIAMS PETROLEUM CO				RECEIVED:	04/06/83	JA: TX			
8338983	F-7B-0413438	4236300000		103		LANDAR 012	BELDING (BEND CONGL)	500.0	TEXAS UTILITIES F
-WILSON ENERGY INC				RECEIVED:	04/06/83	JA: TX			
8338849	F-7C-0413322	4210532789		108		MAGGIE NEAL 04	WEGER (NORTH)	0.1	J L DAVIS
-WOOLEY PETROLEUM				RECEIVED:	04/06/83	JA: TX			
8338985	F-8B-0413821	4249732484		103		HALL-BOOTH 01	ALVORD SOUTH (ATOKA)	7.3	TEXAS UTILITIES F
-ZERO CORP OF TEXAS				RECEIVED:	04/06/83	JA: TX			
8338799	F-01-41835	4228300000		102-4		SOUTH TEXAS SYNDICATE 033-1	MULA PASTURE N (4900)	1346.0	ESPERANZA TRANSMI

[FR Doc. 83-11972 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 882]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd. Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 26, 1983

VOLUME 882

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SHELL OIL CO				RECEIVED:	04/06/83	JA: MI			
8331261		2113700000		102-4		STATE CORWITH 2-31	CORWITH 31	133.0	MICHIGAN CONSOLID
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALAN J ANTWEIL				RECEIVED:	04/06/83	JA: NM			
8331001		3002528036		103		MOBY 01 7-D-28S-38E	UNDESIGNATED BRUNKARD	56.3	WARREN PETROLEUM
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/06/83	JA: NM			
8331005		3002500000		108		RHODES GSU 020	RHODES - YATES SEVEN	19.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	04/06/83	JA: NM			
8331004		3002506813		108		J M CARSON (NCT-A) 04	BLINEBRY	20.2	NORTHERN NATURAL
-HARVEY E YATES COMPANY				RECEIVED:	04/06/83	JA: NM			
8331006		3002527444		107-TF		MCDONALD UNIT 01	WILDCAT	0.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	04/06/83	JA: NM			
8331003		3001522789		108		IMORAM JACKSON "BV" 07	EAGLE CREAK ATOKA MAR	0.0	TRANSWESTERN PIPE
8331002		3001522712		108		NILES "KA" COM 01	UND WOLFCAMP	0.0	TRANSWESTERN PIPE
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMTEX OIL AND GAS INC				RECEIVED:	04/05/83	JA: OH			
8331007		3408120416		103		MCDANNELS 01	SALEM	250.0	COLUMBIA GAS TRAN
8331008		3408120443		103		RED OAKS COUNTRY CLUB 02	SALEM	250.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED:	04/05/83	JA: OH			
8331009		3415321136		107-TF		R VAN MYNING 04	NORTON	54.8	
8331010		3415321235		107-TF		TENKE UNIT 01	COPLEY	45.6	
-ATLAS ENERGY GROUP INC				RECEIVED:	04/05/83	JA: OH			
8331011		3415321943		102-2	107-TF	KOVISTO 01	KINSMAN	0.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	04/05/83	JA: OH			
8331012		3415723616		103	107-TF	DONALD LEVENGOOD 01	NEW PHILADELPHIA	15.0	
-BARVAL				RECEIVED:	04/05/83	JA: OH			
8331013		3410322373		103	107-TF	VALENTINE 03	MADSWORTH	0.0	JONES & LAUGHLIN
-BECK OIL & GAS CO				RECEIVED:	04/05/83	JA: OH			
8331014		3415121363		107-RT		TROESCHER 01	PARIS	0.0	COLUMBIA GAS TRAN
-BENNOC INC				RECEIVED:	04/05/83	JA: OH			
8331015		3401320470		103		HOWARD WISCH 01	BELLAIR	1.5	COLUMBIA GAS TRAN
-BERMAN J SHAFER				RECEIVED:	04/05/83	JA: OH			
8331016		3416923214		107-TF		EMANUEL J MILLER 01	SALT CREEK	7.5	COLUMBIA GAS TRAN
-BRALKO ENERGY INC				RECEIVED:	04/05/83	JA: OH			
8331018		3408721423		107-TF		ALBERT V HENDERSON & G P LANNHEIM	SHEFFIELD	0.0	EAST OHIO GAS CO
8331019		3408721753		107-TF		JAMES ANDREGO 01	CHERRY VALLEY	50.0	PARK ONIO
8331017		3408721422		107-TF		JAMES CUSANO 01	SHEFFIELD	0.0	EAST OHIO GAS CO
-BROSK JOINT VENTURE				RECEIVED:	04/05/83	JA: OH			
8331020		3411921815		107-RT		FISHER 03	MALTA	1.6	COLUMBIA GAS TRAN
8331021		3411921833		107-RT		MURPHY 01	MALTA	1.6	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO				RECEIVED:	04/05/83	JA: OH			
8331022		3407523698		108		MILDRED HOOPS 01		12.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA SKY	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
				RECEIVED: 04/05/83	JA: OH				
-CARLTON OIL CORP							GRANDVIEW	50.0	RIVER GAS CO
8331023		34167261S2	D	107-DV		PRYOR #1			
				RECEIVED: 04/05/83	JA: OH				
-CLARENCE SHERMAN							CLARK	4.4	COLUMBIA GAS TRAN
8331024B		34075217I4	D	107-RT		HERSHBERGER #2	CLARK	4.4	COLUMBIA GAS TRAN
8331024A		34075217I4		103		HERSHBERGER #2			
				RECEIVED: 04/05/83	JA: OH				
-CLINTON OIL CO							LAKE	10.0	
8331146B		34131238S8	D	107-TF		ARMITAGE UNIT #1-811	LAKE	10.0	
8331146A		34131238S8		103		ARMITAGE UNIT #1-811			
8331144		34127258S3		103	107-TF	W HOPKINS #1-789	BEARFIELD	10.0	
8331145		34127258S5		103	107-TF	J MAHON #2-794	BEARFIELD	10.0	
				RECEIVED: 04/05/83	JA: OH				
-CONGLETON HAYWARD							CONGLETON FARM LIBERTY	18.5	RIVER GAS CO
8331885		34167219I9		108		CONGLETON #1	CONGLETON FARM LIBERTY	0.1	RIVER GAS CO
8331886		34167220I5		108		CONGLETON #2			
				RECEIVED: 04/05/83	JA: OH				
-CUMBERLAND EXPLORATION INC							BARLOW	36.0	RIVER GAS CO
8331025		34167273I2		103		CARL MCDONALD #1			
				RECEIVED: 04/05/83	JA: OH				
-DERBY OIL & GAS CORP							READING	12.0	FORAKER GAS CO IN
8331028		34127258O1		103		THOMAS WOLFE #2			
				RECEIVED: 04/05/83	JA: OH				
-DOME ENERGY 82-2							COLUMBIA	6.0	COLUMBIA GAS TRAN
8331027		34093211I9		107-TF		HUGHES #3			
				RECEIVED: 04/05/83	JA: OH				
-ENERGY DEVELOPMENT CORP							COLEBROOK	20.0	
8331030		34007228I2		103	107-TF	BEREGSAZY WELL #2	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8331031B		34055202S8	D	107-RT		ERB #1	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8331031A		34055202S8		103		ERB #1	MEM LYME	18.0	
8331029		34007229I6		103	107-TF	FETTERS UNIT #2			
				RECEIVED: 04/05/83	JA: OH				
-ENERGY PRODUCTION INC							CALDWELL	25.0	TEXAS EASTERN TRA
8331032		34121227I9		103	107-TF	ESCHMAN #2	CALDWELL	20.0	TEXAS EASTERN TRA
8331033		34121227I1		103	107-TF	HARRIS #1			
				RECEIVED: 04/05/83	JA: OH				
-ENVIROGAS INC							TRIMBLE	27.3	
8331036		34009227O7		103	107-TF	DRYDOCK COAL #33TR	DOVER	18.2	
8331035		34009227S4		103	107-TF	DRYDOCK COAL #52D			
				RECEIVED: 04/05/83	JA: OH				
-EVERFLOW EASTERN INC							PIKE	0.0	
8331038		34153234I4		108		GARAUX #2	SHALERSVILLE	0.0	EAST OHIO GAS CO
8331036		34133210I7		108		PEPPARD-COLLINS #1	SHALERSVILLE	0.0	EAST OHIO GAS CO
8331037		34133210I8		108		PEPPARD-COLLINS #2	GOSHEN TOWNSHIP	0.0	
8331039		34157238O8		103	107-TF	TUSCARAWAS COUNTY COMMISSIONERS #1			
				RECEIVED: 04/05/83	JA: OH				
-FORAKER PRODUCING COMPANY INC								4.0	
8331040		34007218I5		108		MILLER #2		4.5	
8331041		34009218I5		108		MILLER #4		5.0	
8331043		34119246I5		108		WITTBERGER #1		10.0	
8331042		34009219I1		108		SEEVERS #1			
				RECEIVED: 04/05/83	JA: OH				
-G & W OIL & GAS CO								3.7	RIVER GAS CO
8331044		34167231I1		108		RONSHAUSEN & THOMAS #3			
				RECEIVED: 04/05/83	JA: OH				
-GASEARCH INC							CHERRY VALLEY	20.0	AMERICAN ENERGY S
8331044		34007221S6		103	107-TF	KIRBY #1	HUBBARD	20.0	YANKEE RESOURCES
8331045		34155222I3		103	107-TF	STONEYBROOK #3			
				RECEIVED: 04/05/83	JA: OH				
-GRAHAM-MICHAELIS CORP							RICHFIELD	50.0	
8331066		34069208I8		102-4		BARNES #1-5	DAMASCUS	36.0	
8331075		34069209I4		102-2		BECK #1-28	DAMASCUS	4.0	
8331065		34069208I7		102-2		CONN #1-31 "A"	RICHFIELD	43.0	
8331057		34069208I8		102-4		CRONINGER #1-4	RICHFIELD	4.0	
8331053		34069208I9		102-4		DENNIS 1-15	DAMASCUS	98.0	
8331048		34069208I1		102-4		DIBLING #1-26	DAMASCUS	12.0	
8331074		34069208I3		102-2		EBERLY #1-29	DAMASCUS	33.0	
8331078		34069208I6		102-2		ECKEL #1-25	RICHFIELD	25.0	
8331063		34069208I8		102-4		FOLLETT #1-5	DAMASCUS	25.0	
8331072		34069208I8		102-4		FREY #1-32	RICHFIELD	98.0	
8331061		34069208I5		102-4		GOODMAN #1-8	DAMASCUS	4.0	
8331058		34069208I9		102-2		HOUSER #1-21	DAMASCUS	33.0	
8331069		34069208I3		102-4		JOHNSON #1-33	RICHFIELD	16.0	
8331067		34069208I8		102-4		JONES 1-5	DAMASCUS	16.0	
8331056		34069208I5		102-4		JUNGE #1-27	RICHFIELD	35.0	
8331052		34069208I7		102-4		KIEFFER #1-10	DAMASCUS	8.0	
8331068		34069208I2		102-4		LANZER #1-33	RICHFIELD	16.0	
8331064		34069208I9		102-2		LOVEWELL #1-6	DAMASCUS	28.0	
8331073		34069208I2		102-2		MOTYCKA #1-31	DAMASCUS	58.0	
8331070		34069208I4		102-4		MOWERY #1-32	DAMASCUS	59.0	
8331079		34069201I7		102-2		NICKELS #1-26	RICHFIELD	33.0	
8331071		34069208I6		102-4		NULTON #1-4 "A"	RICHFIELD	148.0	
8331047		34069208I3		102-4		R SHEPARD #1-9	DAMASCUS	10.0	
8331059		34069208I2		102-4		ROHRBAUGH #1-27	DAMASCUS	58.0	
8331076		34069208I9		102-2		RUDOLPH #1-35	RICHFIELD	13.0	
8331054		34069208I1		102-4		SHEPARD #1-3	DAMASCUS	4.0	
8331082		34069201I3		102-2		SHUFELT #1-34	RICHFIELD	41.0	
8331049		34069208I2		102-4		SHULL #1-11	RICHFIELD	82.0	
8331081		34069201I2		102-2		SMITH #1-3	RICHFIELD	10.0	
8331062		34069208I7		102-4		SONNENBERG #1-5	RICHFIELD	10.0	
8331060		34069208I3		102-4		SONNENBERG #1-8	RICHFIELD	2.0	
8331046		34069208I4		102-4		STAUB #1	RICHFIELD	29.0	
8331055		34069208I2		102-4		STEPHENS #1-9	DAMASCUS	33.0	
8331050		34069208I3		102-4		TONJES #1-22	DAMASCUS	4.0	
8331077		34069201I0		102-2		WEASEL #1-35	DAMASCUS	4.0	
8331080		34069201I9		102-2		WELLS #1-34	RICHFIELD	74.0	
8331051		34069208I5		102-4		WENDT #1-10 "A"			
-GREENLAND PARTNERSHIP-82-2				RECEIVED: 04/05/83	JA: OH		MARION	20.0	COLUMBIA GAS TRAN
8331083		34073226I1		103		STIVISON #1			
-HOPCO RESOURCES INC				RECEIVED: 04/05/83	JA: OH		KEENE	5.0	
8331088		34031250I2		103		DOUGHTY #A2	KEENE	5.0	COLUMBIA GAS TRAN
8331087		34031250I1		103		RENFREW #2			
				RECEIVED: 04/05/83	JA: OH				
-J O B INC		34167274I0		103		KRIS-MAR #2 - PW132	WARREN	7.3	RIVER GAS CO
8331089				RECEIVED: 04/05/83	JA: OH				
-K S T OIL & GAS CO INC							NORTHAMPTON	0.0	YANKEE RESOURCES
8331092		34153212I9		103	107-TF	BLOSSOM #9	NORTHAMPTON	0.0	YANKEE RESOURCES
8331090		34153211I4		103	107-TF	CARPER-BLOSSOM #1	NORTHAMPTON	0.0	YANKEE RESOURCES
8331091		34153212I2		103	107-TF	K S U FOUNDATION #1	NORTHAMPTON	0.0	YANKEE RESOURCES
8331093		34153212I8		103	107-TF	WHEATLEY #4			
				RECEIVED: 04/05/83	JA: OH				
-LAKE REGION OIL INC							MIMISHILLEN	30.0	EAST OHIO GAS CO
8331095		34153236I2		107-TF		L & S CARLSON #1	KNOX	10.0	EAST OHIO GAS CO
8331094		34075239I4		103		LUTHER & MADELINE LAHM #2			
				RECEIVED: 04/05/83	JA: OH				
-LEADER EQUITIES INC							MONROE	14.0	
8331096		34119264I9		103	107-TF	MASON #1			
-LESLIE OIL AND GAS CO INC				RECEIVED: 04/05/83	JA: OH				
8331097		34075220I2		103		BOUGHMAN #1	KILLBUCK	20.0	COLUMBIA GAS TRAN
8331098		34075220I3		103		BOUGHMAN #2	KILLBUCK	20.0	COLUMBIA GAS TRAN
8331099		34075220I5		103		BOUGHMAN #4	KILLBUCK	20.0	COLUMBIA GAS TRAN

JD NO	JA SKY	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331101		34157235O3		107-RT		E SIMMERMON #2	WASHINGTON	29.0	EAST OHIO GAS CO
8331103		34157235I1		107-RT		FLAY LYON 1	PERRY	29.0	EAST OHIO GAS CO
8331102		34157235I0		107-RT		R & K GARDNER #1	PERRY	0.0	EAST OHIO GAS CO
8331100		34157235I5		107-RT		TIDRICK-GARDNER #1	PERRY	29.0	EAST OHIO GAS CO
				RECEIVED: 04/05/83	JA: OH				
-LOMAK PETROLEUM INC							BURTON	30.0	YANKEE RESOURCES
8331104		34055241S0		107-TF		DEAN & GRAY #1	BURTON	30.0	YANKEE RESOURCES
8331106		34055241S0		107-TF		G TALCOTT #1	NELSON	24.0	YANKEE RESOURCES
8331107		34133229I1		107-TF		J VISOCAN #1	BURTON	30.0	YANKEE RESOURCES
8331105		34055241S0		107-TF		W REED #1-A			
				RECEIVED: 04/05/83	JA: OH				
-MCCLAIN OIL CO							HOPEWELL	0.6	NATIONAL GAS & OI
8331108		34088246O3		103		GRAFT #3			
				RECEIVED: 04/05/83	JA: OH				
-MID-CON OIL COMPANY							BOWLING GREEN	12.0	NATIONAL GAS & OI
8331109		34089249S9		103		HUPP GORDON #2	BOWLING GREEN	14.0	NATIONAL GAS & OI
8331110		34089246O5		103		W M LAUTENSCHARGER #1			
				RECEIVED: 04/05/83	JA: OH				
-MILLER OIL & GAS CO							PAINT	8.0	COLUMBIA GAS TRAN
8331111		34169234O8		107-TF		I HERSHBERGER #1			
				RECEIVED: 04/05/83	JA: OH				
-NEW FRONTIER EXPLORATION INC							MONROE	14.0	TENNECO OIL CO
8331116		34067205I6		103	107-TF	BOWERS-HUGHES UNIT #1	WASHINGTON	18.0	YANKEE RESOURCES
8331120		34151237S4		103	107-TF	DONALD ROHR #2	WEST	12.0	COLUMBIA GAS TRAN
8331112		34029285I6		103	107-TF	ELIZABETH KREITZER #2	WASHINGTON	18.0	YANKEE RESOURCES
8331122		34151238I4		103	107-TF	GABRIC-ROHR UNIT #1	NOBLE	24.0	YANKEE RESOURCES
8331119		34121229S4		103	107-TF	GEORGE SLATER #3	WEST	12.0	COLUMBIA GAS TRAN
8331113		34029209I7		103	107-TF	HERBERT EGLIE #1	WEST	12.0	COLUMBIA GAS TRAN
8331114		34029209I8		103	107-TF	HERBERT EGLIE #2	ENDON	24.0	COLUMBIA GAS TRAN
8331117		34121225S9		103	107-TF	JOSEPH CROCK #3	WASHINGTON	18.0	YANKEE RESOURCES
8331121		34151237I2		103	107-TF	MAY-JOHNSON UNIT #1	NOBLE	24.0	YANKEE RESOURCES
8331118		34121229S4		103	107-TF	MURL PICKENPAUGH #2	WARWICK	22.0	YANKEE RESOURCES
8331123		34157237I9		103	107-TF	RAYMOND METZGER #1	MONROE	16.0	TENNECO OIL CO
8331115		34067264I9		103	107-TF	SHEEHAN-SADOWSKI #1			
				RECEIVED: 04/05/83	JA: OH				
-NOBLE OIL CORP							BEERFIELD	28.0	GENERAL ELECTRIC
8331125		34133228I4		107-TF		FLICK-CHRISTENSEN #1	NELSON	28.0	EAST OHIO GAS CO
8331124		34133228I0		107-TF		KOHLER #1			
				RECEIVED: 04/05/83	JA: OH				
-ORION ENERGY CORP							CHESTER	15.0	COLUMBIA GAS TRAN
8331126		34169234I3		107-TF		BILLMAN #3			
				RECEIVED: 04/05/83	JA: OH				
-OXFORD OIL CO							SPRINGFIELD	11.0	
8331150 OX-4098		34119264I3		103	107-TF	JAMES TILLEY #1	BETHLEHEM	11.0	
8331149 OX-3677		34031264I4		103	107-TF	PAUL ROBINSON #3			
				RECEIVED: 04/05/83	JA: OH				
-PARADOX OHIO LTD #2							WAYNE	6.0	NATIONAL GAS & OI
8331129		34119265S8		103	107-TF	KARIL C & BARBARA J SAUNDERS #1			
				RECEIVED: 04/05/83	JA: OH				
-PAUL S FLEEMAN								1.4	COLUMBIA GAS TRAN
8331130		34167022I6		108		GEORGE LAUER #1		1.4	COLUMBIA GAS TRAN
8331131		34167022I5		108		HENRY WETZLER #1			
				RECEIVED: 04/05/83	JA: OH				
-POI ENERGY INC							ANDOVER	68.0	
8331124		34007228I2		103	107-TF	HRABAL UNIT #8	ANDOVER	68.0	
8331127		34007228I1		103	107-TF	HRABAL UNIT #9			
				RECEIVED: 04/05/83	JA: OH				
-QUAKER STATE OIL REFINING CORP							WARD	29.2	COLUMBIA GAS TRAN
8331132		34073227S0		103		SUNDAY CREEK COAL CO #77			
				RECEIVED: 04/05/83	JA: OH				
-RELIANCE ENERGY								0.0	COLUMBIA GAS TRAN
8331028		34045205I7		108		WINEGARDNER-MILLER #1			
				RECEIVED: 04/05/83	JA: OH				
-RIMCO OPERATING INC							WOOSTER	12.0	EAST OHIO GAS CO
8331133		34169234S7		103	107-TF	TRIVANOVICH #6			
				RECEIVED: 04/05/83	JA: OH				
-RPJ ENERGY FUND MANAGEMENT INC							UNION	50.0	COLUMBIA GAS TRAN
8331134		34119265O0		103	107-TF	BUNTING-DANIEL #1			
				RECEIVED: 04/05/83	JA: OH				
-SANDHILL ENERGY INC (OH)							MARIETTA	91.3	
8331135		34167251I5		103		PICKERING #1			
				RECEIVED: 04/05/83	JA: OH				
-STOCKER&SITLER INC							OHIO	36.0	
8331138		34111227I5		107-DV		DRUM UNIT #2	OHIO	37.0	
8331136		34111227I8		107-DV		ISALY UNIT #1	CLINTON	22.0	COLUMBIA GAS TRAN
8331140		34163205S6		107-DV		LOCKARD UNIT #4	LEE	37.0	
8331139		34111228S2		107-DV		SCHULTHEISS UNIT #1A	OHIO	36.0	
8331137		34111227I1		107-DV		TISHER UNIT #1			
				RECEIVED: 04/05/83	JA: OH				
-TEXACO INC							HACKNEY POOL	0.0	TEXAS EASTERN TRA
8331141		34115230I4		103		C R PHILLIS UNIT #2	HACKNEY POOL	510.3	TEXAS EASTERN TRA
8331143		34115230I9		103		MURRAY-GANNON UNIT #2	HACKNEY POOL	0.0	TEXAS EASTERN TRA
8331142		34115230I5		103		RALPH MORETZ UNIT #2			
				RECEIVED: 04/05/83	JA: OH				
-THE GOODYEAR TIRE & RUBBER COMPANY							SPRINGFIELD	35.0	EAST OHIO GAS CO
8331148		34153211I1		107-TF		GOODYEAR AKRON #5	SPRINGFIELD	35.0	EAST OHIO GAS CO
8331147		34153211I5		107-TF		GOODYEAR AKRON NO 4			
				RECEIVED: 04/05/83	JA: OH				
-TOWNER PETROLEUM CO							FLUSHING	27.0	TENNESSEE GAS PIP
8331151		34013204I8		103	107-TF	BATES G #1	JEFFERSON	27.0	TENNESSEE GAS PIP
8331152		34059230S8		103	107-TF	MOORE F E #1	OXFORD	27.0	TENNESSEE GAS PIP
8331153		34059234I5		103	107-TF	SELLERS A #2			
				RECEIVED: 04/05/83	JA: OH				
-VICTOR MCKENZIE							MADISON	5.0	NATIONAL GAS & OI
8331154		34127257I8		103	107-TF	C STOESSEL #1			
				RECEIVED: 04/05/83	JA: OH				
-VIKING RESOURCES CORP							PERRY	30.0	
8331157		34085203I0		103	107-TF	BREWSTER #2	PERRY	30.0	
8331156		34085203I8		103	107-TF	COLLINS #1	PERRY	30.0	
8331159		34085204I1		103	107-TF	D LONG UNIT #1	PERRY	30.0	
8331158		34085204I2		103	107-TF	DUGAN/BROCKWAY UNIT #1	PERRY	30.0	
8331155		34085203I8		103	107-TF	LOSELY #2			
				RECEIVED: 04/05/83	JA: OH				
-WILLIAM M TIPKA							HINCKLEY	5.0	COLUMBIA GAS TRAN
8331160		34103229O8		103	107-TF	MAY-DICK #1			

OKLAHOMA CORPORATION COMMISSION

-AHADARKO PRODUCTION COMPANY						RECEIVED: 08/07/81	JA: OK		
8151061 9898		35093000000		103		BANE B #2		0.0	
8151075 11875		35087000000		102-4	103	JUDY B #1		0.0	
-ANDOVER OIL COMPANY						RECEIVED: 08/07/81	JA: OK		
8151068 11838		35017000000		102-2	103	BONEBRAKE #21-1		0.0	
-APOLLO PRODUCTION LTD						RECEIVED: 08/07/81	JA: OK		
8151074 10867		35073000000		102-4	103	GRELLMER #25-14		0.0	
-B R POLK INC						RECEIVED: 08/07/81	JA: OK		
8151052 8680		35083000000		103		SMITH #1		0.0	
-BROCK HYDROCARBONS INC						RECEIVED: 08/07/81	JA: OK		
8151076 8272		35045000000		102-4		THURMOND #1-36		0.0	
-CHASE EXPLORATION CORP						RECEIVED: 08/07/81	JA: OK		
8151056 9800		35071000000		103		HUBBARD #1-19		0.0	
8151059 9805		35071000000		103		KAHLE/WA #4 #2-24		0.0	
8151058 9804		35071000000		103		LEBEDA #2-35		0.0	
8151055 9799		35071000000		103		SCHIEBER #1-21		0.0	
8151057 9803		35071000000		103		SHAFER #2-21		0.0	
-CLIFFORD RESOURCES INC						RECEIVED: 08/07/81	JA: OK		
8151054 9763		35017000000		103		RUTH SMITH #1		0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COBRA OIL AND GAS CORPORATION				RECEIVED:	08/07/81	JA: OK			
8151049	8831	3505900000		102-4	103	AITKEN "A" #1		0.0	
-CROUCH PETROLEUM COMPANY				RECEIVED:	08/07/81	JA: OK			
8151051	8533	3502500000		102-4		CRONE #2-28		0.0	
-GEORGE RODMAN INC				RECEIVED:	08/07/81	JA: OK			
8151079	10054	3508700000		103		SHOBERT #1-23		0.0	
-JOSEPH I ONEILL JR				RECEIVED:	08/07/81	JA: OK			
8151078	10053	3508700000		108		SMITH #1		0.0	
-LONG ROYALTY CO				RECEIVED:	08/07/81	JA: OK			
8151050	8135	3501700000		103		YOUNG #1		0.0	
-M-T DRILLING CO				RECEIVED:	08/07/81	JA: OK			
8151069	11852	3508300000		102-2		EVANS #1		0.0	
-MUSTANG PRODUCTION CO.				RECEIVED:	08/07/81	JA: OK			
8151072	11960	3504500000		102-2		CROSS #1-17		0.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/07/81	JA: OK			
8151077	10049	3507300000		108		OKLAHOMA F #1		0.0	
8151044	10151	3510900000		108		WEDC FLYNN #2 AKA FLYNN A #2		0.0	
8151065	10150	3501700000		108		WIEWEL A #1		0.0	
-S K TUTHILL & B J BARBEE				RECEIVED:	08/07/81	JA: OK			
8151066	11649	3515300000		102-2		HOLIDAY #1-28		0.0	
8151071	11962	3515300000		102-2		SIMPSON WALKER #1-27		0.0	
8151067	11672	3515300000		102-2		WELTY #1-9		0.0	
-SENECA OIL CO				RECEIVED:	08/07/81	JA: OK			
8151070	11889	3509300000		102-2	103	GARNEY #1-26		0.0	
-SERVICE DRILLING CO				RECEIVED:	08/07/81	JA: OK			
8151053	9706	3508300000		103		ORNDORFF #1-4		0.0	
-SUN OIL CO				RECEIVED:	08/07/81	JA: OK			
8151048	4329	3505300000		108-ER		S W WAKITA #4-1 AKA RALPH CONNERY #		0.0	
-TEXAS OIL & GAS CO				RECEIVED:	08/07/81	JA: OK			
8151073	11996	3508700000		102-4		SMYRES #1		0.0	
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	08/07/81	JA: OK			
8151063	10036	3509300000		103		FAITH #1-23		0.0	
8151062	10034	3501700000		103		JUSTIN #1-26		0.0	
-VULCAN ENERGY CORP				RECEIVED:	08/07/81	JA: OK			
8151060	9833	3504700000		103		PRIBYL-CROKA #1		0.0	

[FR Doc. 83-11073 Filed 4-29-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 883]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source date from the Form 121 for this and all previous notices is available on magnetic tape from the National technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservior on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED APRIL 26, 1983

VOLUME 883

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-ADAMS PETROLEUM ENTERPRISES CORP				RECEIVED:	04/06/83	JA: OK			
8331197	18050	3506321186		103		CALL YOUR BANKER #1			
-ANDOVER OIL COMPANY				RECEIVED:	04/06/83	JA: OK			
8331187	20873	3501121687		103		KEPHART #32-1			
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/06/83	JA: OK			
8331199	20770	3504700000		108		WILLIAMSON #1			
-ARTESIAN OIL & GAS CORP				RECEIVED:	04/06/83	JA: OK			
8331205	19579	3504521039		102-4	103	KRIEGER #1-8			
-BEARD OIL COMPANY				RECEIVED:	04/06/83	JA: OK			
8331193	20894	3507325591		103		GILBERT #1			
8331194	20896	3507323661		103		WALKER #1			
-C W SMITH & ASSOCIATES INC				RECEIVED:	04/06/83	JA: OK			
8331189	20878	3508121662		103		MOORE/OLIVER #3			
-CITIES SERVICE COMPANY				RECEIVED:	04/06/83	JA: OK			
8331188	20875	3513921642		103		BUZZARD D #3			
-CORE OIL & GAS CORP				RECEIVED:	04/06/83	JA: OK			
8331198	18326	3513722607		103		MILLER #1-A			
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/06/83	JA: OK			
8331196	23679	3505121339		107-DP		KENNETH #1			
-DAMSON OIL CORPORATION				RECEIVED:	04/06/83	JA: OK			
8331184	20014	3505520446		108		THREADGILL #1			
-DAVIS OIL COMPANY				RECEIVED:	04/06/83	JA: OK			
8331164	19779	3512920721		102-2	103	A CROSS RANCH #1			
8331163	19778	3510521163		102-2		TALKINGTON #1			
-DONALD C SLAWSON				RECEIVED:	04/06/83	JA: OK			
8331182	19538	3506120460		102-4		SNOW #1-13			
-FAY C WOOD				RECEIVED:	04/06/83	JA: OK			
8331201	19992	3508300000		103		MATHESON #1			
-HELMERICH & PAYNE INC				RECEIVED:	04/06/83	JA: OK			
8331165	19785	3503920600		102-2		DEAN #1-29			
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	04/06/83	JA: OK			
8331162	17664	3505300000		103		SCHUERMANN			
-HPC INC				RECEIVED:	04/06/83	JA: OK			
8331200	20638	3503920351		103		MCNEIL #4-15			
-INTERNORTH INC				RECEIVED:	04/06/83	JA: OK			
8331186	20752	3508720830		108		JETT #1-6			
-JOE D DAVIS				RECEIVED:	04/06/83	JA: OK			
8331191	20881	3512120986		103		LIGON #1			
-JOHN P CASTLEMAN JR				RECEIVED:	04/06/83	JA: OK			
8331202	19611	3502520525		102-4		CASTLEMAN-MORELAND #1			
-MOBIL OIL CORP				RECEIVED:	04/06/83	JA: OK			
8331179	20640	3501900000		108		C F ADAMS #19			
-MORAN EXPLORATION INC				RECEIVED:	04/06/83	JA: OK			
8331177	19880	3501721804		102-2		FRY #1			
8331178	19906	3501721572		102-2		H & F REALTY #1			
8331175	19878	3501721805		102-2		LAWSON #1			
							GREASY CREEK	146.0	TRANSOK PIPE LINE
								0.0	OKLAHOMA GAS PIPE
							SOONER TREND	16.4	EXXON CO U S A
								0.0	NORTHERN NATURAL
							SOONER TREND-DOVER EA	27.0	EXXON CO U S A
							SOONER TREND-DOVER WE	68.0	PHILLIPS PETROLEU
							S E DAVENPORT	20.0	MERIDIAN ENERGY I
							SOUTHEAST TRACY	44.6	NORTHERN NATURAL
							SHO-VEL-TUM	0.0	AMINOIL USA INC
							COTTONWOOD SW	0.0	UNITED GAS PIPELI
							MANGUM	2.2	ARKANSAS LOUISIAN
							RED MOON	0.0	EL PASO NATURAL G
							EAKLEY	0.0	PANHANDLE EASTERN
							ARKOMA	600.0	ARKANSAS LOUISIAN
							SOONER TREND	7.0	EASON OIL CO
							NW CARPENTER	700.0	
								0.0	CRA INC
							SOUTH THOMAS	64.5	TRANSOK PIPELINE
							S E LOGAN	4.1	NORTHERN NATURAL
								0.0	ARKANSAS LOUISIAN
							NORTH EAST SAMPSEL	0.0	
							SHO VEL TUM	0.0	LONE STAR GAS CO
							SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
							YUKON	0.0	PHILLIPS PETROLEU
							YUKON	0.0	PHILLIPS PETROLEU

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331176	19879	3501721806		102-2		LAWSON #2	SOUTH YUKON	0.0	PHILLIPS PETROLEU
8331178	19818	3501721576		102-2		MCCONNELL #1	YUKON	0.0	PHILLIPS PETROLEU
8331171	19819	3501721950		102-2		G G & E #1	YUKON	0.0	PHILLIPS PETROLEU
8331168	19816	3501722031		102-2		G G & E #2	WEST OKARCHE	0.0	PHILLIPS PETROLEU
8331206	19575	3501721762		102-2		S&C #3	YUKON	0.0	PHILLIPS PETROLEU
8331173	19821	3501722029		102-2		SMRCKA #1	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8331172	19820	3501722028		102-2		SMRCKA #3	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8331174	19823	3501722030		102-2		SMRCKA #4	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8331167	19815	3501722133		102-2		STEJSKAL #1	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8331169	19817	3501722899		102-2		VANGHT #1	EAST YUKON	0.0	PHILLIPS PETROLEU
-OKLAHOMA PETROLEUM MANAGEMENT CORP		RECEIVED: 04/06/83			JA: OK			0.0	PARKS ENERGY INVE
8331203	19598	3503720179		102-2		QUIER C #2			
-PIONEER PRODUCTION CORPORATION		RECEIVED: 04/06/83			JA: OK				
8331166	19791	3500920455		102-2	103	IKE HALL 01-1	WILDCAT	0.0	EL PASO NATURAL G
-REYNOLDS EXPLORATION CO		RECEIVED: 04/06/83			JA: OK				
8331195	20904	3507323383		103		KATHERINE #1	SOONER TREND	0.0	CONOCO INC
8331180	20645	3507322975		103		SMITH #1	SOONER TREND	0.0	CITIES SERVICE CO
-SIBERT P LAMMERTS		RECEIVED: 04/06/83			JA: OK				
8331181	07742	3501700800		102-3		SCHROEDER 01-21	NORTH CONCHO	0.0	PHILLIPS PETROLEU
-SPECTRA ENERGY CORP		RECEIVED: 04/06/83			JA: OK				
8331204	19581	3500722340		102-4		KASPER #1	MOCANE-LAVERNE GAS AR	1.0	TRANSWESTERN PIPE
-TXO PRODUCTION CORP		RECEIVED: 04/06/83			JA: OK				
8331185	20447	3515100880		108		CASE #1	N W AVARD	66.0	CITIES SERVICE GA
8331192	20887	3504321425		103		WILMEY #1	S MUCMAC	9.0	DELHI GAS PIPELIN
-W J FORREST M D		RECEIVED: 04/06/83			JA: OK				
8331183	19563	3501722140		102-2		FORREST #1	YUKON NORTHWEST	180.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.		RECEIVED: 04/06/83			JA: OK				
8331190	20880	3504725028		103		WINTERS 03-10	SOUTHEAST DOUGLAS	23.4	ARCO OIL & GAS CO

WEST VIRGINIA DEPARTMENT OF MINES

-CABOT OIL & GAS CORP		RECEIVED: 04/06/83			JA: WV				
8331214		4701501046		108		B C EAKLE #1	PLEASANT	10.4	CABOT CORP
8331215		4701501047		108		B C EAKLE #2	PLEASANT	7.0	CABOT CORP
8331218		4701501074		108		B MAHOOD #2	PLEASANT	2.5	CABOT CORP
8331223		4700501361		103		BULL CREEK #19	PEYTON	18.0	TENNESSEE GAS PIP
8331233		4706700340		108		C FOREMAN #2	JEFFERSON	10.3	CABOT CORP
8331213		4701501148		108		CALDWELL-SMELTON #1	PLEASANT	10.0	CABOT CORP
8331212		4701501045		108		COCHRAN #1	PLEASANT	7.3	CABOT CORP
8331237		4701900278		108		DEITZ & LOTTRELL #1	VALLEY	10.0	CABOT CORP
8331207		4701501049		108		FRED G MORTON #3	PLEASANT	7.0	CABOT CORP
8331208		4701501024		108		HENRY A WALKER #1	PLEASANT	10.0	CABOT CORP
8331235		4706700292		108		HILL & LONG B-1	JEFFERSON	7.0	CABOT CORP
8331225		4709901757		103		HOARD BALDWIN A-1	STONEWALL	18.0	TENNESSEE GAS PIP
8331221		4701501129		108		J G MORTON #1	PLEASANT	2.6	CABOT CORP
8331240		4706700319		108		J M TULLY #1	FAYETTEVILLE	13.0	CABOT CORP
8331209		4701501027		108		JAMES JOHNSON #1	PLEASANT	7.0	CABOT CORP
8331236		4701900286		108		KANAWHA - GAULEY A-4	FALLS	7.8	CABOT CORP
8331222		4701900258		108		KANAWHA - GAULEY B-1	VALLEY	15.4	CABOT CORP
8331238		4701900259		108		KANAWHA - GAULEY D-2	FALLS	5.4	CABOT CORP
8331216		4701501063		108		M KEENEY #1	PLEASANT	4.0	CABOT CORP
8331219		4701501081		108		NINA MURPHY #1	PLEASANT	4.0	CABOT CORP
8331220		4701501127		108		NINA MURPHY #2	PLEASANT	3.5	CABOT CORP
8331211		4701501032		108		PAUL D MORTON #1	PLEASANT	11.4	CABOT CORP
8331224		4706700451		103		SECONDO DALPORTO #2	JEFFERSON	18.0	TENNESSEE GAS PIP
8331232		4706700349		108		T M BROUGHMAN #1	JEFFERSON	9.2	CABOT CORP
8331227		4701501064		108		THELMA YODER #1	PLEASANT	6.7	CABOT CORP
8331210		4701501029		108		W B STONE #3	PLEASANT	16.0	CABOT CORP
-CARSON PETROLEUM CORP		RECEIVED: 04/06/83			JA: WV				
8331226		4702103852		103		O R MICK #2	INDIAN FORK	35.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 04/06/83			JA: WV				
8331227		4705900838		108		CHARLES A HAMILL #11910	STAFFORD DISTRICT	18.0	GENERAL SYSTEM PU
8331228		4705900838		108		CHARLES A HAMILL 11800	STAFFORD DISTRICT	20.0	GENERAL SYSTEM PU
8331229		4703301084		108		MATHENY - CALKINS 0 12383	UNION DISTRICT	20.0	GENERAL SYSTEM PU
8331230		4700501070		108		SIDNEY WHITE 12421	WASHINGTON DISTRICT	17.0	GENERAL SYSTEM PU
-ENERGEX OIL & GAS CORP		RECEIVED: 04/06/83			JA: WV				
8331231		4710700951		108		J KETTERMAN #1	WILLIAMS DIST	10.0	CONSOLIDATED GAS

NM DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM

-AMOCO PRODUCTION CO		RECEIVED: 04/06/83			JA: NM 4				
8331283	NM-1839-82	3004511687		108		GALLEGOS CANYON UNIT #241 (4TH)	BASIN DAKOTA	19.0	EL PASO NATURAL G
8331312	NM-1562-82	3004506981		108		GALLEGOS CANYON UNIT #90	BASIN DAKOTA	20.0	EL PASO NATURAL G
8331282	NM-1838-82	3003906341		108		JICARILLA CONTACT 155 #1	SOUTH BLANCO - PICTUR	14.0	NORTHWEST PIPELIN
8331249	NM-1883-82	3003920214		108		JICARILLA CONTRACT 155 #21	SOUTH BLANCO - PICTUR	10.0	NORTHWEST PIPELIN
8331286	NM-1837-82	3003906318		108		JICARILLA CONTRACT 155 #7	SOUTH BLANCO	10.0	NORTHWEST PIPELIN
8331246	NM-1886-82	3003906325		108		JICARILLA CONTRACT 155 #9	SOUTH BLANCO - PICTUR	14.0	NORTHWEST PIPELIN
8331311	NM-1560-82	3004506819		108		M N GALT "M" #1	BASIN DAKOTA	20.0	SOUTHERN UNION GA
8331247	NM-1884-82	3004508926		108		PAN AM FEDERAL GAS COM "B" #1	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8331251	NM-1881-82	3004510918		108		UTE MOUNTAIN TRIBAL GAS COM "D" #1	UTE DOME - PARADOX	20.0	EL PASO NATURAL G
8331250	NM-1882-82	3003921591		108		VALENCIA CANYON UNIT #23	CHOZA MESA - PICTURED	2.0	EL PASO NATURAL G
-BERGE EXPLORATION INC		RECEIVED: 04/06/83			JA: NM 4				
8331257	NM1732-82107	3000561635		102-2	107-TF	DALE-FEDERAL #14	UNDESIGNED ABO	365.0	TRANSWESTERN PIPE
-BLACKWOOD & NICHOLS CO LTD		RECEIVED: 04/06/83			JA: NM 4				
8331241	NM 1878-82	3004525367		103		NORTHEAST BLANCO UNIT #73	BLANCO MESAVERDE	120.0	EL PASO NATURAL G
8331240	NM 1879-82	3004525357		103		NORTHEAST BLANCO UNIT #74	BLANCO MESAVERDE	150.0	EL PASO NATURAL G
-CHACE OIL COMPANY INC		RECEIVED: 04/06/83			JA: NM 4				
8331243	NM 1898-82	3004320651		103		CHACE APACHE 54-10	CHACOM DAKOTA	15.0	EL PASO NATURAL G
-CONSOLIDATED OIL & GAS INC		RECEIVED: 04/06/83			JA: NM 4				
8331300	NM-1847-82	3004508000		108		NANCE #1	BASIN-DAKOTA	19.0	SOUTHERN UNION GA
-DEFCO INC		RECEIVED: 04/06/83			JA: NM 4				
8331284	NM-177982107	3000561756		102-2	107-TF	ROSE FEDERAL #1	PECOS SLOPES ABO	270.0	TRANSWESTERN PIPE
-EL PASO EXPLORATION CO		RECEIVED: 04/06/83			JA: NM 4				
8331310	NM 1411-82	3003922978		103		JICARILLA 115E #14A	BLANCO MESAVERDE	50.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY		RECEIVED: 04/06/83			JA: NM 4				
8331263	NM 1888-82	3004525425		103		ALLISON UNIT COM #60	BLANCO MESAVERDE	300.0	EL PASO NATURAL G
8331304	NM-1685-82	3004523283		108		ATLANTIC #13	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8331290	NM-1156-82	3004520669		108		HEATON #25	AZTEC - PICTURED CLIF	22.0	EL PASO NATURAL G
8331285	NM-1834-82	3004520608		108		NUERFANO UNIT #201	BASIN DAKOTA	20.0	EL PASO NATURAL G
8331289	NM-1186-82	3004512866		108		LACKEY A #6	AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
8331292	NM-1189-82	3003906974		108		SAN JUAN 27-5 UNIT #48 PC & MV	SOUTH BLANCO - PICTUR	17.0	EL PASO NATURAL G
8331275	NM-1817-82	3003921866		108		SAN JUAN 28-5 UNIT #103	BASIN DAKOTA	18.4	EL PASO NATURAL G
8331262	NM 1889-82-A	3003923053		103		SAN JUAN 28-6 UNIT #94A (MV)	BLANCO MESAVERDE	190.0	EL PASO NATURAL G
8331261	NM 1889-82-B	3003923053		103		SAN JUAN 28-6 UNIT #94A (PC)	SOUTH BLANCO PICTURED	50.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331274	NM-1812-82	3003920624		108		SAN JUAN 28-7 UNIT #193	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8331291	NM-1152-82	3003921106		108		SAN JUAN 28-7 UNIT #213	LARGO - CHACRA	20.0	EL PASO NATURAL G
8331301	NM-1855-82	3004508806		108		SUNRAY #2	BLANCO - MESA VERDE	22.0	EL PASO NATURAL G
8331293	NM 1887-82	3004525338		103		SUNRAY #7	BLANCO PICTURED CLIFF	80.0	EL PASO NATURAL G
8331306	NM 1298-82	3004521135		108		SUNRAY M #3	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
-GETTY OIL COMPANY		RECEIVED: 04/06/83			JA: NM 4				
8331268	NM-1858-82	3004506480		108		JOHN CHARLES #2	SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
-GULF OIL CORPORATION		RECEIVED: 04/06/83			JA: NM 4				
8331302	NM-1857-82	3002522326		108		C E LAMUNYON #20	TEAGUE BLINEBRY	10.5	EL PASO NATURAL G
8331244	NM 1903-82	3004525435		103		SAN JUAN "S" FEDERAL COM #2	BISTI FARMINGTON	8.0	EL PASO NATURAL G
-KIMBELL OIL COMPANY		RECEIVED: 04/06/83			JA: NM 4				
8331299	NM-184582107	3003923059		103	107-TF	SALAZAR #5	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
8331298	NM-184482107	3003923060		103	107-TF	SALAZAR #6	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
8331267	NM-1843-107	3003923066		103	107-TF	SALAZAR #7	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
8331296	NM-184282107	3003923061		103	107-TF	WARREN #6	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
8331288	NM-184182107	3003923058		103	107-TF	WARREN #7	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
8331287	NM-184082107	3003923066		103	107-TF	WARREN #8	SOUTH BLANCO PICTURED	100.0	EL PASO NATURAL G
-MESA PETROLEUM CO		RECEIVED: 04/06/83			JA: NM 4				
8331294	NM-1650-82	3001523194		108		ANTELOPE FEDERAL #1	WILDCAT	19.0	NORTHERN NATURAL
8331260	NM1892-82107	3000561657		102-2	107-TF	CHINA FEDERAL #9	UNDESIGNATED ABO	700.0	
8331323	NM-1681-82	3004508000		108		FEDERAL #6	SOUTH BLANCO P C	19.0	EL PASO NATURAL G
8331242	NM1893-82107	3000561518		102-2	107-TF	LODEWICK FEDERAL #5	PECOS SLOPE ABO	700.0	
8331314	NM-1652-82	3001522940		108		RUNYAN FEDERAL #2	WILDCAT	3.1	NORTHERN NATURAL
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED: 04/06/83			JA: NM 4				
8331281	NM-1819-82	3003923037		103		LINDRITH 'B' UNIT #23	CHACON-DAKOTA ASSOCIA	73.0	EL PASO NATURAL G
8331239	NM-1880-82	3004509323		108		STEPHENS GAS UNIT #1	BASIN DAKOTA	20.4	NORTHWEST PIPE LI
-NORTHWEST PIPELINE CORPORATION		RECEIVED: 04/06/83			JA: NM 4				
8331303	NM-0798-82	3003907792		108		SAN JUAN 30-5 027 DK & MV	BASIN MESAVERDE & DAK	0.0	EL PASO NATURAL G
-PREMIER PRODUCTION CO		RECEIVED: 04/06/83			JA: NM 4				
8331253	NM 1911-82	3001524125		103		YATES PREMIER FEDERAL #3	UNDESIGNATED QUEEN-GR	100.0	PHILLIPS PETROLEU
-QUAHAM PETROLEUM INC		RECEIVED: 04/06/83			JA: NM 4				
8331273	NM-1766-82	3001523956		103		HAY 'A' FEDERAL #1	WILDCAT	300.0	EL PASO NATURAL G
-SOUTHERN UNION EXPLORATION COMPANY		RECEIVED: 04/06/83			JA: NM 4				
8331295	NM-1628-82	3004505767		108		FOSTER #2	BALLARD PICTURE CLIFF	14.0	GAS CO OF NEW MEX
8331293	NM-1621-82	3004512072		108		HODGES #11	BASIN DAKOTA	15.4	EL PASO NATURAL G
8331315	NM-1660-82	3003900000		108		JICARILLA "A" #1	TAPACITO PICTURE CLIF	0.8	GAS CO OF NEW MEX
8331266	NM-1673-82	3003921002		108		JICARILLA "A" #16	TAPACITO PICTURE CLIF	15.2	GAS CO OF NEW MEX
8331319	NM-1664-82	3003900000		108		JICARILLA "A" #19	TAPACITO PICTURE CLIF	10.0	GAS CO OF NEW MEX
8331316	NM-1659-82	3003900000		108		JICARILLA "A" #2	TAPACITO PICTURE CLIF	12.5	GAS CO OF NEW MEX
8331321	NM-1665-82	3003921776		108		JICARILLA "A" #20	TAPACITO PICTURE CLIF	8.7	GAS CO OF NEW MEX
8331297	NM-1658-82	3003906419		108		JICARILLA "A" #5	TAPACITO PICTURE CLIF	6.9	GAS CO OF NEW MEX
8331324	NM-1674-82	3003906371		108		JICARILLA "A" #6	TAPACITO PICTURE CLIF	5.0	GAS CO OF NEW MEX
8331313	NM-1661-82	3003921519		108		JICARILLA "A" #10	TAPACITO PICTURE CLIF	1.0	GAS CO OF NEW MEX
8331318	NM-1663-82	3003900000		108		JICARILLA "B" #4	TAPACITO PICTURE CLIF	0.7	GAS CO OF NEW MEX
8331317	NM-1662-82	3003906306		108		JICARILLA "B" #6	TAPACITO PICTURE CLIF	5.1	GAS CO OF NEW MEX
8331322	NM-1667-82	3003900000		108		JICARILLA "C" #2	TAPACITO PICTURE CLIF	11.2	GAS CO OF NEW MEX
8331320	NM-1668-82	3003903546		108		JICARILLA "C" #5	TAPACITO PICTURE CLIF	19.5	GAS CO OF NEW MEX
8331309	NM-1616-82	3004506173		108		NAVAJO INDIAN "C" #1	SOUTH BLANCO PICTURE	8.0	EL PASO NATURAL G
8331308	NM-1615-82	3004511744		108		NEWSOM #15	BASIN DAKOTA	12.0	EL PASO NATURAL G
8331305	NM 0760-82	3004524561		103		NEWSOM "A" #13	BALLARD	105.0	GAS CO OF NEW MEX
8331307	NM-1622-82	3004512140		108		NICKSON #16	BASIN DAKOTA	18.4	EL PASO NATURAL G
-TENNECO OIL COMPANY		RECEIVED: 04/06/83			JA: NM 4				
8331255	NM 1908-82	3003922899		103		JICARILLA B 5E	UNDESIGNATED MESAVERD	90.0	NORTHWEST PIPELIN
8331256	NM 1908-82-B	3003922898		103		JICARILLA B 5E	BASIN DAKOTA	95.0	NORTHWEST PIPELIN
-UNC TEXAS INC		RECEIVED: 04/06/83			JA: NM 4				
8331259	NM 1912-82	3003923089		103		BETTY 'C' 6-31	LYBROOK-GALLUP	0.0	MESA PETROLEUM CO
-UNICOM PRODUCING CO		RECEIVED: 04/06/83			JA: NM 4				
8331252	NM 1914-82	3004525057		103		ALBRIGHT 7-E	BLANCO MESAVERDE	953.0	EL PASO NATURAL G
8331288	NM 1776-82	3003922511		103		JICARILLA 'G' #4-E	BASIN DAKOTA	946.0	GAS CO OF NEW MEX
8331272	NM 1752-82-A	3003900000		103		JICARILLA "F" #6	BLANCO MESAVERDE	226.0	GAS CO OF NEW MEX
8331264	NM-1750-82-B	3003922058		103		JICARILLA "G" 7-M	BASIN DAKOTA	435.0	GAS CO OF NEW MEX
8331258	NM-1750-82	3003922058		103		JICARILLA "G" 7-M	BLANCO MESAVERDE	361.0	GAS CO OF NEW MEX
8331277	NM-1761-82	3004525004		103		MADDOX FEDERAL "D" #1-E	BASIN DAKOTA	667.0	EL PASO NATURAL G
8331279	NM 1774-82	3004525005		103		MCGEE 1-E	BASIN DAKOTA	822.0	EL PASO NATURAL G
8331276	NM 1775-82	3004500000		103		NEWSOM 'B' #1-R	BALLARD PICTURED CLIF	106.0	GAS CO OF NEW MEX
8331278	NM-1758-82	3004525053		103		NEWSOM 'B' #8-E	BASIN DAKOTA	113.7	EL PASO NATURAL G
8331256	NM-1749-82	3004524563		103		NICKSON 11-E	BALLARD PICTURED CLIF	107.0	GAS CO OF NEW MEX
-UNION TEXAS PETROLEUM		RECEIVED: 04/06/83			JA: NM 4				
8331265	NM 1752-82-B	3003902206		103		JICARILLA "F" #6	SOUTH BLANCO PICTURED	486.0	GAS CO OF NEW MEX
-YATES PETROLEUM CORPORATION		RECEIVED: 04/06/83			JA: NM 4				
8331270	NM-186782107	3000561689		102-2	107-TF	ALBITUS "TH" FEDERAL #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8331271	NM-186882107	3000561744		102-2	107-TF	HUCKABY "TJ" FEDERAL #1	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8331248	NM1869-82107	3000561776		102-2	107-TF	MIKE HARVEY "TR" FEDERAL #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8331269	NM-186682107	3000561748		102-2	107-TF	VERBENA "UV" FEDERAL #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

[FR Doc. 83-11674 Filed 4-29-83; 8:45 am]
BILLING CODE 6717-01-C

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Monday
May 2, 1983

Part V

National Science Foundation

Policies and Procedures for Inventions and Patents Resulting From Grants, Cooperative Agreements, and Contracts; Final Rule

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NATIONAL SCIENCE FOUNDATION

45 CFR Part 650

Policies and Procedures for Inventions and Patents Resulting From Grants, Cooperative Agreements, and Contracts

AGENCY: National Science Foundation.

ACTION: Final rule with request for comments.

SUMMARY: This regulation revises the current NSF patent regulation to bring NSF patent policies and procedures into compliance with the Presidential Memorandum entitled "Government Patent Policy" issued on February 18, 1983. The policies and procedures set forth apply to all contracts, grants, and cooperative agreements awarded by the Foundation after April 30, 1983.

DATES: The effective date of this amendment is April 30, 1983. Comments, however, are welcome and will be considered in making future revisions to this regulation.

ADDRESS: All comments should be addressed to: NSF Intellectual Property Attorney Office of the General Counsel, Room 501 National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: John Chester, NSF Intellectual Property Attorney, at (202) 357–9447. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This amendment revises the current NSF patent regulation published in the **Federal Register** on August 30, 1982, at 47 FR 38124 and at 45 CFR Part 650. It brings NSF patent regulations into compliance with the Presidential Memorandum entitled "Government Patent Policy" issued February 18, 1983, by eliminating disparate treatment of those grantees and contractors not covered by Chapter 38 of Title 35 of the United States Code (commonly called the "Bayh-Dole Act"). No significant change is made to the policies or procedures affecting grantees and contractors who are covered by the Bayh-Dole Act.

As stated in the revised § 650.1, this regulation applies to all grants, cooperative agreements, and contracts awarded by the Foundation after April 30, 1983. A separate patent regulation for contracts may be published following the issuance of the Federal Acquisition regulations.

Because it merely implements the direction of the Presidential Memorandum and continues current NSF policies, public comments were not obtained before making this regulation effective.

The Foundation has determined that this regulation is not a major rule as defined in Executive Order 12291 of February 17, 1981 (3 CFR 1981 Comp., p. 127).

List of Subjects in 45 CFR Part 650

Government procurement, Grant programs—science and technology, Inventions and patents, Nonprofit organizations, Small businesses.

Edward A. Knapp,

Director.

Accordingly, Title 45 of the Code of Federal Regulations is amended by revising Part 650 to read as follows:

PART 650—PATENTS

Sec.

650.1 Scope of part.
650.2 National Science Foundation patent policy.
650.3 Source of authority.
650.4 Standard patent rights clause.
650.5 Special patent provisions.
650.6 Awards not primarily for research.
650.7 Awards affected by international agreements.
650.8 Requests for greater rights.
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650.10 Unwanted inventions.
650.11 Inventions also supported by another Federal agency.
650.12 Utilization reports.
650.13 Waivers.
650.14 Exercise of march-in rights.
650.15 Request for conveyance of title to NSF.
650.16 Appeals.
650.17 Background rights.
650.18 Subcontracts.
650.19 Retroactive application.
650.20 Delegation of authority.
Appendix A—Optional format for confirmatory license.

Authority: 35 U.S.C. 200 *et seq.*, commonly called the Bayh-Dole Act, as implemented by Office of Management and Budget Circular A–124; Secs. 11(e) and 12(a) of the National Science Foundation Act, as amended (42 U.S.C. 1870(e) and 1871(a)); and the Presidential Memorandum entitled "Government Patent Policy", issued February 18, 1983.

§ 650.1 Scope of part.

This part contains the policies, procedures, and clauses that govern allocation of rights to inventions made in performance of NSF-assisted research. It applies to all funding agreements entered into by the Foundation after April 30, 1983, that relate to performance of scientific or engineering research. Although not published as part of the Federal Procurement Regulations (Title 41 of the Code of Federal Regulations), this part is consistent with those regulations and its provisions apply to contracts as well as to grants and cooperative agreements.

§ 650.2 National Science Foundation patent policy.

As authorized by the National Science Board at its 230th meeting, October 15–16, 1981, the Director of the National Science Foundation adopted the following statement of NSF patent policy.

(a) As required by the Bayh-Dole Act and the Presidential Memorandum entitled "Government Patent Policy" issued February 18, 1983, the Foundation will use the Patent Rights clause prescribed by the Office of Management and Budget in all its funding agreements for the performance of experimental, developmental, or research work, including contracts for the operation of Government-owned research facilities, *unless* the Foundation determines that some other provision would better serve the purposes of that Act or the interests of the United States and the general public.

(b) In funding agreements covered by a treaty or agreement that provides that an international organization or foreign government, research institute, or inventor will own or share patent rights, the Foundation will acquire such patent rights as are necessary to comply with the applicable treaty or agreement.

(c) The Foundation will claim no rights to inventions in funding agreements made primarily for the support of education or training, such as fellowships and traineeships. A disclaimer of interest in inventions will be included in such awards.

(d) If an awardee elects not to retain rights to an invention, the Foundation will allow the inventor to retain the principal patent rights unless the awardee shows that it would be harmed by that action.

(e) The Foundation will normally allow any patent rights not wanted by the awardee or inventor to be dedicated to the public through publication. However, if another Federal agency is known to be interested in the relevant technology, the Foundation may give it an opportunity to review and patent the invention so long as that does not inhibit the dissemination of the research results to the scientific community.

(f) The Foundation will waive the restrictions imposed by the Bayh-Dole Act on the assignment or exclusive licensing of NSF-supported inventions by a nonprofit organization when that appears to serve the policy and objective of the Act. For identified inventions, the Foundation will waive the restrictions if the nonprofit organization obtains from the prospective assignee or licensee a firm commitment to develop and commercialize the invention. In any industry-university joint research award, the Foundation will waive the restrictions at the time of award if the nonprofit organization shows that they are unfair considering the industrial participant's contribution or that the project will not be undertaken unless they are waived.

(g) In funding agreements not controlled by the Bayh-Dole Act, the Foundation will waive any of the rights or conditions normally reserved or imposed if the grantee or contractor demonstrates (i) that the interests

of the United States and the general public will be better served thereby, or (ii) that it is making a substantial contribution of funds, facilities, or equipment to the work performed under the funding agreement.

(h) As far as practical, the Foundation will apply the intent of this policy to funding agreements entered into before the effective dates of the Bayh-Dole Act and the Presidential Memorandum.

§ 650.3 Source of authority.

(a) 35 U.S.C. 200 *et seq.*, commonly called the Bayh-Dole Act, took effect on July 1, 1981. That law controls the allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, during federally-supported experimentation, research, or development. Government-wide implementing regulations are contained in Office of Management and Budget Circular A–124, dated February 10, 1982.

(b) Section 11 (e) of the National Science Foundation Act of 1950, as amended, (42 U.S.C 1870(e)) provides:

> The Foundation shall have the authority * * * to do all things necessary to carry out the provisions of this Act, including, but without being limited thereto, the authority— * * *(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act.

(c) Section 12(a) of the NSF Act (42 U.S.C. 1871(a)) provides:

> Each contract or other arrangement executed pursuant to this Act which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed * * *.

(d) The Presidential Memorandum entitled "Government Patent Policy" issued February 18, 1983, directs Federal agencies, to the extent permitted by law, to apply to all research performers the policies of the Bayh-Dole Act. Under the provisions of the National Science Foundation Act quoted above, the Foundation is permitted to apply the Bayh-Dole policies without restriction.

§ 650.4 Standard patent rights clause.

(a) The following Patent Rights clause will be used in every funding agreement awarded by the Foundation that relates to scientific or engineering research unless a special patent clause has been negotiated (see § 650.5).

Patent Rights (April 1983)

a. Definitions

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.

(2) "Subject invention" means any invention of the grantee conceived or first actually reduce to practice in the performance of work under this grant.

(3) "Practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small business firm" means a small business concern as defined at section 2 of Pub. L. 85–536 [15 USC 632] and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standard for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

(6) "Nonprofit organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 USC 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

b. Allocation of Principal Rights

The grantee may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the grantee retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world. If the award indicates it is subject to an identified international agreement or treaty, the Foundation also has the right to direct the grantee to convey to any foreign participant such patent rights to subject inventions as are required to comply with that agreement or treaty.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by Grantee

(1) The grantee will disclose each subject invention to the National Science Foundation (NSF) within two months after the inventor discloses it in writing to grantee personnel responsible for the administration of patent matters. The disclosure to NSF shall be in the form of a written report and shall identify the grant under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to NSF, the grantee will promptly notify NSF of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the grantee.

(2) The grantee will elect in writing whether or not to retain title to any such invention by notifying NSF within twelve months of disclosure to the grantee; provided that in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by NSF to a date that is no more than 60 days prior to the end of the statutory period.

(3) The grantee will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale or public use. The grantee will file patent applications in additional countries within either ten months of the corresponding initial patent application, or six months from the date when permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to NSF, election, and filing may, at the discretion of NSF, be granted.

d. Conditions When the Government May Obtain Title

(1) The grantee will convey to NSF, upon writen request, title to any subject invention:

(i) If the grantee fails to disclose or elect the subject invention within the times specified in c. above, or elects not to retain title.

(ii) In those countries in which the grantee fails to file patent applications within the times specified in c. above; provided, however, that if the grantee has filed a patent application in a country after the times specified in c. above but prior to its receipt of the written request of NSF the grantee shall continue to retain title in that country.

(iii) In any country in which the grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Grantee

(1) The grantee will retain a nonexclusive, royalty-free, license throughout the world in each subject invention to which the Government obtains title except if the grantee fails to disclose the subject invention within the times specified in c. above. The grantee's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the grantee is a party and includes the right to grant sublicenses of the same scope to the extent the grantee was legally obligated to do so at

the time the grant was awarded. The license is transferable only with the approval of NSF except when transferred to the successor of that part of the grantee's business to which the invention pertains.

(2) The grantee's domestic license may be revoked or modified by NSF to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the grantee has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NSF to the extent the grantee, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NSF will furnish the grantee a written notice of its intention to revoke or modify the license, and the grantee will be allowed thirty days (or such other time as may be authorized by NSF for good cause shown by the grantee) after the notice to show cause why the license should not be revoked or modified. The grantee has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Grantee Action To Protect Government's Interest

(1) The grantee agrees to execute or to have executed and promptly deliver to NSF all instruments necessary to: (i) establish or confirm the rights the Government has throughout the world in those subject inventions for which the grantee retains title, and (ii) convey title to NSF when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The grantee agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the grantee each subject invention made under this grant in order that the grantee can comply with the disclosure provisions of paragraph c. above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by c.(1) above. The grantee shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The grantee will notify NSF of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The grantee agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the grant) awarded by the National Science Foundation. The Government has certain rights in this invention."

(5) The grantee or its representative will complete, execute, and forward to NSF a confirmation of a License to the United States Government within two months of filing any domestic or foreign patent application.

(6) The grantee or its representative will forward to NSF a copy of any United States patent covering a subject invention within two months after it is issued.

g. Subcontracts

(1) The grantee will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work. The subcontractor will retain all rights provided for the grantee in this clause, and the grantee will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontrator's subject inventions.

(2) In the case of subcontracts, at any tier, when the prime award by the Foundation was a contract (but not a grant or cooperative agreement), NSF, subcontractor, and contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Foundation with respect to those matters covered by this clause.

h. Reporting on Utilization of Subject Inventions

The grantee agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the grantee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the grantee, and such other data and information as NSF may reasonably require. The grantee also agrees to provide additional reports in connection with any march-in proceedings undertaken by NSF in accordance with paragraph j. of this clause. To the extent data or information supplied under this section is considered by the grantee, its licensee or assignee to be privileged and confidential and is so marked, NSF agrees that, to the extent permitted by 35 USC 202(c)(5), it will not disclose such information to persons outside the Government.

i. Preference for United States Industry

Notwithstanding any other provision of this clause, the grantee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by NSF upon a showing by the grantee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

j. March-in Rights

The grantee agrees that with respect to any subject invention in which it has acquired title, NSF has the right in accordance with procedures in OMB Circular A–124 and NSF regulations at 45 CFR 650.13 to require the grantee, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the grantee, assignee, or exclusive licensee refuses such a request, NSF has the right to grant such a license itself if NSF determines that:

(1) Such action is necessary because the grantee or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the grantee, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the grantee, assignee, or licensee; or

(4) Such action is necessary because the agreement required by paragraph i. of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

k. Special Provisions for Grants With Nonprofit Organizations

If the grantee is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of NSF, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee will be subject to the same provisions as the grantee);

(2) The grantee may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention, or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis NSF approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The grantee will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the grantee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

l. Communications

All disclosures, elections, confirmations of the Government license, copies of patents, and other routine communications should be sent to the NSF Patent Paralegal, Office of the General Counsel, National Science Foundation, 20550. Requests for waivers and other exceptional communications with the Foundation regarding this clause should be addressed to the NSF Intellectual Property Attorney, Office of the General Counsel, National Science Foundation, Washington, DC, 20550.

(b) When the above clause is used in a funding agreement other than a grant, "grant" and "grantee" may be replaced by "contract" and "contractor" or other appropriate terms.

§ 650.5 Special patent provisions.

(a) At the request of the prospective awardee or on recommendation from NSF staff, the NSF Intellectual Property Attorney, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, many negotiate special patent provisions:

(1) When the NSF Intellectual Property Attorney determines that restriction or elimination of the right of a prospective awardee to retain title to any subject invention will better promote the policy and objectives of Chapter 38 of Title 35 of the United States Code or the National Science Foundation Act (The NSF Intellectual Property Attorney will prepare the report to the Comptroller General if required by Part 7.b. of OMB Circular A–124.);

(2) When a prospective awardee that is not a small business firm or domestic nonprofit organization shows that any of the rights or conditions normally reserved or imposed by the clause in § 650.4(a) should be waived because:

(i) The interests of the United States and the general public will be better served thereby as, for example, where the prospective awardee is uniquely or highly qualified but cannot or will not accept the standard Patent Rights clause; or

(ii) The prospective awardee is making a substantial contribution of funds, facilities, or equipment to the work performed under the award;

(3) When the research is to be performed outside the United States; or

(4) When other exceptional circumstances exist.

§ 650.6 Awards not primarily for research.

(a) Awards not primarily intended to support scientific or engineering research need contain no patent provision. Examples of such awards are travel and conference grants.

(b) NSF fellowships and traineeships are primarily intended to support education or training, not particular research, and the Foundation claims no rights to inventions made by fellows or trainees. The following provision will be included in each fellowship or traineeship program announcement and made part of the award:

Intellectual Property Rights

The National Science Foundation claims no rights to any inventions or writings that might result from its fellowship or traineeship awards. However, fellows and trainees should be aware that the NSF, another Federal agency, or some private party may acquire such rights through other support for particular research. Also, fellows and trainees should note their obligation to include an Acknowledgement and Disclaimer in any publication.

§ 650.7 Awards affected by international agreements.

(a) Some NSF awards are made as part of international cooperative research programs. The agreements or treaties underlying many of these programs require an allocation of patent rights different from that provided by the Patent Rights clause in § 650.4(a). Therefore, as permitted by part 8.d. of OMB Circular A–124, paragraph b. of the standard Patent Rights clause in § 650.4(a) has been modified to provide that the Foundation may require the grantee to transfer to a foreign government or research performer such rights in any subject invention as are contemplated in the international agreement. The award instrument will identify the applicable agreement or treaty.

(b) After an invention is disclosed to the Patent Paralegal, the recipient of an award subject to an international agreement will be informed as to what rights, if any, it must transfer to foreign participants. Recipients may also ask the Program Manager to provide them with copies of the identified international agreements before or after accepting an award.

§ 650.8 Requests for greater rights.

A "deferred determination" clause was routinely included in NSF awards made on or before March 31, 1983, and may occasionally be used as a special patent rights clause under § 650.5. Recipients of that clause may request that they be allowed to retain the principal patent rights to their subject inventions after those inventions are disclosed to the NSF Patent Paralegal. Such a request should be made as soon as possible after the invention is disclosed and should state the requestor's intention and, to the extent known, plans to commercialize the invention. The NSF Intellectual Property Attorney, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, will normally allow the inventing organization to retain the principal patent rights, subject to the terms and conditions imposed by the Patent Rights clause of § 650.4(a), unless he or she determines that would be inconsistent with the policies of the National Science Foundation Act of 1950, as amended; the 1983 Presidential Memorandum on "Government Patent Policy"; or, if applicable, the Bayh-Dole Act.

§ 650.9 Retention of rights by inventor.

If an awardee elects not to retain rights to an invention, the inventor may request the NSF Intellectual Property Attorney for permission to retain principal patent rights. Such requests should be made as soon as possible after the awardee notifies the NSF Patent Paralegal that it does not want to patent the invention. Such requests will normally be granted unless the awardee shows that it would be harmed by that action. As required by part 11. of OMB Circular A–124, the inventor will be subject to the same conditions that the awardee would have been, except that the special restrictions imposed on nonprofit organizations will not apply to the inventor.

§ 650.10 Unwanted inventions.

(a) The Foundation will normally allow any patent rights not wanted by the awardee of inventor to be dedicated to the public through publication. Except as provided in paragraph (b) of this section, the NSF Patent Paralegal will acknowledge a negative election by encouraging the awardee and inventor

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to promptly publish all the research results.

(b) If the NSF Patent Paralegal or Program Manager believes that another Federal agency is interested in the relevant technology, the Patent Paralegal, after receiving the awardee's election not to patent and after ascertaining that the inventor also does not want to patent, may send a copy of the invention disclosure to that agency to give it an opportunity to review and patent the invention. Unless the agency expresses an interest in the invention within thirty days, the Patent Paralegal will acknowledge the awardee's negative election by encouraging prompt publication of all research results. If the agency does express an interest in patenting the invention, the Patent Paralegal, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, will transfer to it all rights to the invention.

§ 650.11 Inventions also supported by another Federal Agency.

Part 16.c. of OMB Circular A–124 provides that in the event that an invention is made under funding agreements of more than one agency, the agencies involved will, at the request of the grantee or contractor or on their own initiative, designate one agency to be responsible for the administration of the invention. Whenever the NSF Patent Paralegal finds that another Federal agency also supported an NSF subject invention, he or she will consult with the grantee or contractor and the other agency to determine if a single agency should be designated to administer the Government's rights in the invention. With the concurrence of the cognizant Program Manager and Grants or Contracts Officer, the Patent Paralegal may transfer to, or accept from, another Federal agency, all rights in a jointly-supported invention.

§ 650.12 Utilization reports.

Until the form for and frequency of the utilization reports required by paragraph h of the standard Patent Rights clause are established by the Lead Agency overseeing implementation of the Bayh-Dole Act (see part 10.a. of OMB Circular A–124), the Foundation will not normally request such reports. This section will be amended to describe the reporting requirements when they are established.

§ 650.13 Waivers.

(a) Requests for extension of time to disclose to the NSF Patent Paralegal, make an election to retain title to, or file a patent on a subject invention will be granted unless the NSF Intellectual Property Attorney determines that such an extension would either imperil the securing of valid patent protection or unacceptably restrict the publication of the results of the NSF-supported research.

(b) The restrictions on assignment and exclusive licensing by nonprofit organizations imposed by subparagraphs k(1) and k(2) of the Patent Rights clause in § 650.4(a) will be waived when that appears to serve the policy and objective of the Bayh-Dole Act. The NSF Intellectual Property Attorney may waive the restrictions either at the time of award or for an identified invention. Some circumstances under which the restrictions will normally be waived are described in section 6 of the NSF Patent Policy (§ 650.2).

(c) The preference for United States industry imposed by paragraph i of the clause in § 650.4(a) may be waived by the NSF Intellectual Property Attorney as provided in that paragraph.

(d) The NSF Intellectual Property Attorney may waive on behalf of the Foundation and the Government some or all of the rights normally reserved in a subject invention if the award under which the invention was made was not controlled by the Bayh-Dole Act and the inventing organization demonstrates that the NSF made a very limited contribution to the discovery or that the interests of the United States and the general public will be served thereby.

(e) Requests for waiver under this section should be addressed to the NSF Intellectual Property Attorney and should explain why waiver is justified under the stated criteria. The Intellectual Property Attorney will obtain the concurrence of the cognizant Program Manager and Grants or Contracts Officer before taking any action under this section. The requester will be given a written explanation of the reasons for denial of a request covered by this section.

§ 650.14 Exercise of march-in rights.

(a) The procedures established by this section supplement those prescribed by part 13. of OMB Circular A–124 and apply to all march-in rights held by the Foundation including those resulting from funding agreements not covered by the OMB Circular.

(b) Petitions requesting that the NSF exercise a march-in right should be addressed to the NSF Intellectual Property Attorney. Such petitions should:

(1) Identify the patent or patent application involved and the relevant fields of use of the invention;

(2) State the grounds for the proposed march-in;

(3) Supply evidence that one or more of the four conditions creating a march-in right (lack of practical application, unsatisfied health or safety needs, unmet requirements for public use, or failure to prefer United States industry) is present; and

(4) Explain what action by the Foundation is necessary to correct that condition.

(c) If evidence received from a petitioner or from the Foundation's administration of the Patent Rights clauses indicates that one or more of the four conditions creating a march-in right might exist, the NSF Intellectual Property Attorney will informally review the matter as provided in part 13.b. of OMB Circular A–124. If that informal review indicates that one or more of the four conditions creating a march-in right probably exists, the Intellectual Property Attorney will initiate a formal march-in proceeding by issuing a written notice to the patentholder. That notice will provide all the information required by part 13.c. of OMB Circular A–124. The patentholder may submit information and argument in opposition to the proposed march-in in person, in writing, or through a representative.

(d) If the NSF Intellectual Property Attorney determines that a genuine dispute over material facts exists, he or she will identify the disputed facts and notify the NSF General Counsel. The General Counsel will establish a cross-directorate fact-finding panel. The panel will establish its own fact-finding procedures, within the requirements of part 13.e. of OMB Circular A–124, based on the dimensions of the particular dispute. The Intellectual Property Attorney will serve as secretary to the panel, but will not take part in its deliberations. Written findings of facts will be submitted to the General Counsel, sent by certified mail to the patentholder, and made available to all other interested parties.

(e) The NSF General Counsel will determine whether and how the Foundation should exercise a march-in right as provided in part 13.g. of OMB Circular A–124.

§ 650.15 Request for conveyance of title to NSF.

(a) The procedures established by this section apply to the exercise of the Foundation's right under paragraph d. of the Patent Rights clause in § 650.4(a) to request conveyance of title to a subject invention if certain conditions exist.

(b) The NSF Intellectual Property Attorney may request the recipient of an NSF award to convey to the Foundation or a designee title in one or more countries to any invention to which the awardee has elected not to retain title. The Intellectual Property Attorney may also request immediate conveyance of title to a subject invention if the awardee fails (1) to submit a timely invention disclosure, (2) to make a timely election to retain patent rights, or (3) to file a timely patent application; but only if he or she determines that such action is required to preserve patent rights.

(c) The NSF Intellectual Property Attorney will informally review any apparent failure by an awardee to comply with the requirements of paragraph c. of the Patent Rights clause in § 650.4(a). The interested institution, the inventor, the patentholder, and any other interested party will be given an opportunity to explain why a particular invention was not disclosed, why an election was not made, or why a patent application was not filed. If the Intellectual Property Attorney determines that a genuine dispute over material facts exists, a cross-directorate fact-finding panel will be appointed by the General Counsel. The panel will establish its own fact-finding procedures, within the requirements of part 13.e. of OMB Circular A–124, based on the dimensions of the particular dispute. Written findings of facts will be submitted to the Intellectual Property Attorney, sent by certified mail to the patentholder, and made available to all other interested parties.

(e) The NSF Intellectual Property Attorney will determine whether the Foundation should request conveyance of title or if it should retain title obtained under § 650.15(b).

§ 650.16 Appeals.

(a) All actions by the NSF Intellectual Property Attorney under § 650.8 denying a request for greater rights, under § 650.13 denying a request for waiver, under § 650.14(d) denying the existence of a material dispute under § 650.15(e) requesting conveyance of title, or under § 650.19 refusing retroactive application of the Bayh-Dole Act may be appealed to the Director of the Foundation by an affected party within thirty days. A request under § 650.15(b) to immediately convey title to the Foundation may be appealed to the General Counsel by the titleholder within five days.

(b) In reviewing the actions of the NSF Intellectual Property Attorney, the Director, or his or her designee, will consider both the factual and legal basis for the action or determination and its consistency with the policies and objectives of the Foundation and, if applicable, the Bayh-Dole Act (35 U.S.C. 200 to 206) and OMB Circular A–124.

§ 650.17 Background rights.

The Foundation will acquire rights to a research performer's pre-existing technology only in exceptional circumstances where, due to the nature of the research being supported, the Foundation requires greater control over resulting inventions. The NSF Intellectual Property Attorney, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, will negotiate the background rights provision. If the affected awardee is a small business firm or nonprofit organization, the provision will conform to the requirements of the Bayh-Dole Act (35 U.S.C. 202(f)) as implemented by part 15 of OMB Circular A–124.

§ 650.18 Subcontracts.

Awardees should normally use the Patent Rights clause in § 650.4(a) in all subcontracts. At the request of the awardee or on recommendation from NSF staff, the Intellectual Property Attorney, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, may direct the awardee to insert into subcontracts relating to scientific research a patent provision other than that contained in § 650.4(a) of this regulation. Special patent provisions may be negotiated for subcontracts under § 650.5.

§ 650.19 Retroactive application.

The provisions of § 650.8 apply to all inventions disclosed after the effective date of this regulation under funding agreements that contain a deferred determination clause, including those awarded before July 1, 1981, to small business firms and nonprofit organizations. At the request of the awardee, the Intellectual Property Attorney, with the concurrence of the cognizant Program Manager and Grants or Contracts Officer, may also apply those provisions to inventions disclosed under awards which contain special patent clauses or were covered by an Institutional Patent Agreement with the Foundation.

§ 650.20 Delegation of authority.

The General Counsel is responsible for implementing this regulation and is authorized to make any exceptions to or extensions of the NSF Patent Policy as may be required by particular circumstances. The General Counsel will designate persons to serve as the NSF Intellectual Property Attorney and Patent Paralegal. Those individuals are authorized to carry out the functions assigned them by this regulation.

Appendix A to Part 650—Optional Format for Confirmatory License

The following format may be used for the confirmatory license to the Government required by subparagraph f(5) of the Patent Rights clause in § 650.4(a). The form given in 41 CFR 1–9.105(b) or any equivalent instrument may also be used.

License to the United States Government

This instrument confirms to the United States Government, as represented by the National Science Foundation, an irrevocable, nonexclusive, nontransferable, royalty-free license to practice or have practiced on its behalf throughout the world the following subject invention:

(invention title)
(inventor(s) name(s))
(patent application number and filing date)
(country, if other than United States)
(NSF Disclosure No.).

This subject invention was made with NSF support through:

(grant or contract number)
(grantee or contractor).

Principal rights to this subject invention have been left with the licensor.

Signed: _____
Name: _____
Title: _____
Date: _____

Accepted on behalf of the Government:

_____
NSF Patent Paralegal
Date: _____

[FR Doc. 83-11886 Filed 4-29-83; 8:45 am]
BILLING CODE 7555-01-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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CFR CHECKLIST; 1982/83 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1982/83. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $615 domestic, $153.75 additional for foreign mailing.

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CFR Unit (Rev. as of Jan. 1, 1983):

Title	Price
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1-1199	8.50
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46-51	7.50
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8	6.50
9 Parts:	
200-end	7.50
10 Parts:	
200-399	7.50
12 Parts:	
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16 Parts:	
0-149	7.00
150-999	7.00
CFR INDEX	9.50

CFR Unit (Rev. as of Apr. 1, 1982):

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17 Parts:	
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240-end	8.00
18 Parts:	
1-149	8.00
150-399	8.50
400-end	7.50
19	9.50
20 Parts:	
1-399	6.50
400-499	8.00
500-end	8.50
21 Parts:	
1-99	7.00
100-169	7.50
170-199	7.50
200-299	5.50
300-499	8.50
500-599	8.00
600-799	6.00
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22	9.00
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200-499	8.50
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27 Parts:	
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28	8.00
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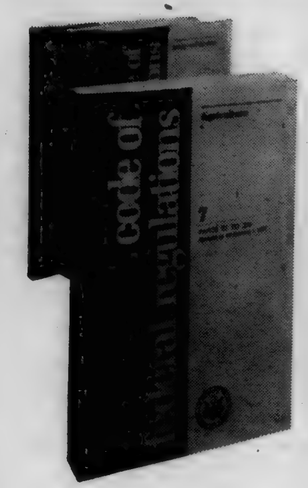

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Two-Day-a-Week Publication Program

The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See page 19283 in the Federal Register of Thursday, April 28, 1983.

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Rules and Regulations

Federal Register
Vol. 48, No. 86
Tuesday, May 3, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes

Correction

In FR Doc. 83–8728 beginning on page 14575, in the issue of Tuesday, April 5, 1983, make the following corrections:

1. On page 14584, column one, § 214.2(f)(6)(i), line one, "postdoctural" should read "postdoctoral".
2. On page 14586, column two, § 214.2(f)(10)(ii)(A), line three from the top, "form" should read "Form".
3. On page 14590, column one, § 214.2(m)(17), line seven, "Number" should read "number".
4. On page 14590, column two, § 214.3(a)(1), line eighteen from the top, "Act:" should read "Act,".
5. On page 14590, column two, § 214.3(a)(2)(i)(A), line one, "and" should read "an".
6. On page 14591, column two, § 214.3(g)(2)(i)(C), line nine, "248.1(b)" should read "248.1(d)".
7. On page 14592, column two, § 214.4(a)(2)(x), line four, "24.2(m)(9)" should read "214.2(m)(9)".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82–070]

9 CFR Part 92

Ports Designated for the Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document, on an emergency basis, amends the regulations concerning ports designated for the importation of animals by designating International Falls, Minnesota, as a port for the importation of horses from Canada. This is necessary in order to eliminate unnecessary administrative activities, and to reflect the fact that a veterinarian is now available on a regular basis at International Falls, for port activities with respect to horses.

DATES: Effective date of this interim rule is May 3, 1983.

Written comments must be received on or before June 27, 1983.

ADDRESS: Written comments concerning this interim rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, Veterinary Services, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Regulations in 9 CFR Part 92 (the regulations), with certain exceptions, require horses to be inspected and to be accompanied by certain documentation as a condition of entry into the United States from Canada. The regulations allow these horses to be imported only through designated ports listed or incorporated by reference in the regulations, or at ports designated for horses in special cases upon approval by the Deputy Administrator, Veterinary Services with the concurrence of the Secretary of the Treasury. This is necessary to ensure that the horses are imported at a place serviced by U.S. Customs, and to ensure that the horses are imported only at ports having qualified personnel for performing Animal and Plant Health Inspection Services (APHIS) inspections and making other APHIS determinations concerning whether horses meet specified requirements for entry into the United States.

This document designates International Falls, Minnesota, as a designated port of entry for horses from Canada.

Even though International Falls has not been listed as a designated port for any animals, upon request APHIS frequently has allowed horses to be imported at International Falls in accordance with the procedures established for allowing the importation of horses in special cases. Importers bringing horses from certain areas in south central Canada have requested that they be allowed to bring their horses into the United States at International Falls because it is more convenient than the nearest designated port of entry. The two nearest designated ports to International Falls are at Pembina, North Dakota, which is 225 miles to the west, and Sault Ste. Marie, Michigan, which is 600 miles to the east.

In the past APHIS has sent people considerable distances to conduct the necessary port activities for horses imported at International Falls. The nearest APHIS personnel have had to travel approximately 300 miles to process the importations. However, APHIS has now made arrangements for International Falls to be serviced on a regular basis by an accredited veterinarian who practices in International Falls and who is to be paid on a fee for service basis. International Falls already has regular U.S. Customs service for importations from Canada. Accordingly, it is necessary to designate International Falls as a designated port of entry for horses from Canada in order to eliminate the requirement that the Deputy Administrator approve each importation with the concurrence of the Secretary of the Treasury, and to reflect the fact that a veterinarian is now available at the port on a regular basis.

It was decided to designate International Falls as a port of entry only for horses because no unloading or holding facilities are available there to the government for handling other animals. Port activities for horses do not require unloading or holding facilities, since they can be easily unloaded and inspected in the open while being tied or hand held. Port activities for other animals require unloading and holding facilities.

Further, it was decided to only allow the importation of horses from Canada

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at International Falls. It does not appear that there is a demand for importing horses from other than Canada at International Falls. Also, any horse from Canada not allowed to be imported could be turned back without the need for the use of facilities. However, it would be necessary to have holding and quarantine facilities for other international traffic in horses and International Falls does not have such facilities.

Emergency Action

Dr. S. T. Wilson, Jr., Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, has determined that an emergency situation exists which warrants publication of this interim rule without opportunity for public comment at this time. This action is necessary to eliminate unnecessary administrative activities and to reflect the fact that a veterinarian is now available at the port on a regular basis.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action are impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will have an annual effect on the economy of less than $2,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Mr. James O. Lee, Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that only approximately 50 importations of horses annually will be offered for entry into the United States from Canada through International Falls, Minnesota, as compared with more than 20,500 horses imported into the United States at all other Canadian ports. In addition, this action will be beneficial to importers by relieving them of unnecessary travel time and expenses.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Transportation.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

§ 92.3 [Amended]

Accordingly, § 92.3 in 9 CFR Part 92 is amended as follows:

1. The material after "Canadian border ports." is designated as paragraph (b)(1).

2. A new paragraph (b)(2) is added to read as follows:

§ 92.3 Parts designated for the importation of animals.

* * * * *

(b) * * *

(1) * * *

(2) International Falls, Minnesota, is designated as a port of entry for horses from Canada.

* * * * *

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134c, and 134f; 7 CFR 2.17, 2.51, and 371.2 (d))

Done at Washington, D.C., this 27th day of April 1983.

K. R. Hook,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 83-11780 Filed 5-2-83; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 83-043]

Restrictions on Importation of Horses From Italy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Italy to the list of countries from which or through which horses are prohibited importation into the United States because of contagious equine metritis (CEM). This action is necessary because CEM has now been found to exist in Italy, and restrictions on the importation of horses from Italy are needed in order to protect the livestock of the United States from the disease.

DATE: Effective date: The foregoing amendment shall become effective April 27, 1983, except for horses then in transit to the United States from Italy (i.e., loaded aboard a commercial carrier and en route to the United States).

Comments must be received on or before June 27, 1983.

ADDRESS: Written comments concerning this action should be submitted to T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 838, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1982, an interim rule was published in the **Federal Register** (47 FR 55368–55369), which amended § 92.2(i)(1) of 9 CFR Part 92 (the regulations) by deleting Italy from this list of countries from which or through which horses are prohibited importation into the United States because of contagious equine metritis (CEM). That interim rule was based on information then available to the Department which indicated that CEM did not exist in Italy.

Written comments were solicited in response to the interim rule, but none were received. However, since the interim rule was published, additional information has been received by the Department which indicates that CEM in fact does exist in Italy. Three Italian mares recently were tested for CEM and found to be positive for the disease. These test results were confirmed on March 28, 1983. Based on these test results, which establish that fact that CEM does exist in Italy, this document amends § 92.2(i)(1) of the regulations by adding Italy to the list of countries from which or through which horses are prohibited importation into the United States. This action is necessary in order to prevent the introduction of CEM into the United States.

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. Saul T. Wilson, Jr., Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment imposes restrictions on the importation of horses into the United States from Italy, and should be made effective immediately in order to protect United States horses from the introduction of CEM.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action are impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. Approximately 50 horses per year were imported from Italy prior to imposition of the CEM restrictions, and only 4 horses from Italy have been imported since the December 9, 1982, interim rule became effective and restrictions were lifted. This compares with approximately 6,000 horses imported into the United States each year from countries where CEM is known to exist and approximately 40,000 horses of all classes imported into the United States in Fiscal Year 1982.

List of Subjects in 9 CFR Part 92

Animal diseases, Contagious Equine Metritis (CEM), Imports, Livestock and livestock products, Quarantine, Transportation.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by revising § 92.2(i)(1) to read as follows:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i)(1) Except as provided in paragraph (i)(2) of this section notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the importation of all horses which have been in any such country within the 12 months immediately preceding their export to the United States is prohibited because of the existence of CEM in such countries: Australia, Austria, Belgium, Denmark, Ireland, Italy, Japan, Federal Republic of Germany, France, Sweden, and the United Kingdom (England, Scotland, Northern Ireland, Wales and the Isle of Man).

* * * * *

(Authority: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 7 CFR 2.17, 2.51, and 371.2(d)).

Done at Washington, D.C., this 27th day of April, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-11781 Filed 5-2-83; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 83-044]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added New York to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that New York has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on February 16, 1982, (47 FR 6609–6610), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding New York to the list of States approved to receive these mares. The addition of New York to the list was based on the finding that it meets certain criteria concerning treatment, testing and handling procedures for these mares.

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The interim rule was made effective on the date it was signed, February 5, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of February 16, 1982, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on February 16, 1982.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for New York can be imported directly into New York. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to New York approved to receive these mares from countries affected with CEM is Virginia. This action should result in a decrease of transportation costs for such horses.

In fiscal yedr 1982, 310 of these mares were imported into New York, and it is anticipated that approximately the same number of these mares will be imported into New York in coming years. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM wil. be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982, 38,983 horses of all classes were imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal disease, Canada, Imports, Livestock—livestock products, Mexico, Poultry—poultry products, Quarantine, Transportation, Wildlife.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 27th day of April 1983.

K. R. Hook,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 83-11782 Filed 5-3-83; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

[Docket No. 83-049]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added South Carolina to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that South Carolina has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 3, 1983

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine matritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on March 17, 1982, (47 FR 11509–11511), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding South Carolina to the list of States approved to receive these mares. The addition of South Carolina to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these mares.

The interim rule was made effective on the date it was signed, March 11, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of March 17, 1982, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on March 17, 1982.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for South Carolina can be imported directly into

South Carolina. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to South Carolina approved to receive these mares from countries affected with CEM is Virginia. This action should result in a decrease of transportation costs for such horses.

It is anticipated that 40 or fewer of these mares will be imported into South Carolina annually. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982, 4 of these mares were imported into South Carolina, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock—livestock products, Mexico, Poultry—poultry products, Quarantine, Transportation, Wildlife.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f, 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 27th day of April, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-11783 Filed 5-3-83; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

[Docket No. 83-050]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Colorado to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that Colorado has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on April 6, 1982, (47 FR 15097–15098), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding Colorado to the list of States approved to receive these mares. The addition of Colorado to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these mares.

The interim rule was made effective on the date it was signed, April 5, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of April 6, 1982, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on April 6, 1982.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for Colorado can be imported directly into Colorado. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to Colorado approved to receive these mares from countries affected with CEM is California. This action should result in a decrease of transportation costs for such horses.

It is anticipated that 40 or fewer of these mares will be imported into Colorado annually. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. Since March 1982, there have been no mares from countries affected with CEM imported into Colorado. However, 38,983 horses of all classes were imported into the United States during fiscal year 1982.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 27th day of April 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-11785 Filed 5-3-83; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 83-052]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added California to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that California has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on August 4, 1982, (47 FR 33671–33673), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding California to the list of States approved to receive these mares. The addition of California to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these mares.

The interim rule was made effective on the date it was signed, July 29, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of August 4, 1982, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on August 4, 1982.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for California can be imported directly into California. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to California approved to receive these mares from countries affected with CEM is Colorado. This action should result in a decrease of transportation costs for such horses.

It is anticipated that 40 or fewer of these mares will be imported into California annually. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982, 40 of these mares were imported into California, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock—livestock products, Mexico, Poultry—poultry products, Quarantine, Transportation, Wildlife.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f, 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 27th day of April 1983

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-11794 Filed 5-2-83; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2—Amdt. 29]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Disaster Program, Part II of 13 CFR 101.3–2, "Delegation of Authority to Conduct Program Activities in Field Offices," has been canceled as a field program. Space formerly used in 13 CFR 101–3–2 by this program is reserved.

The program is not a Central Office activity with disaster authority therein transferred to the Associate Administrator for Finance and Investment in Central Office Delegation of Authority No. 12, Amendment 1 (48 FR 9979), and redelegation documents No. 12–C (48 FR 9980), and 12–D (48 FR 9981), as published in the **Federal Register** on March 9, 1983. This is a technical amendment necessary to implement the above delegations.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

§ 101.3–2 [Amended]

13 CFR 101.3–2, Part II *Disaster Program* is canceled with the space reserved as follows:

* * * * *

Part II—[Reserved]

* * * * *

(Sec. 5(b)(6) of the Small Business Act; 15 U.S.C. 634)

James C. Sanders,

Administrator.

[FR Doc. 83-11775 Filed 5-2-83; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-19698]

Delegation of Authority to Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its rules governing delegation of authority with respect to the Securities Exchange Act of 1934 ("Act") to delegate authority to the Director of the Division of Market Regulation to grant exemptions from certain provisions of the rule governing the dissemination of quotation information.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: William W. Uchimoto, (202) 272–2409, Division of Market Regulation, Securities and Exchange Commission, Room 5193, 450 5th Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules governing delegation of authority to delegate to the Director of the Division of Market Regulation the authority to grant exemptions from Rule 11Ac1–1 ("Rule"), pursuant to paragraph (d) of the Rule.[1] The Commission finds, in accordance with the Administrative Procedure Act ("APA") [5 U.S.C. 553(b)(3)(B)], that this amendment relates solely to agency organization, procedures, or practice and that notice and procedures pursuant to the APA are therefore not necessary, and that such amendment shall be adopted, effectively immediately.

[1] The Director of the Division of Market Regulation currently has delegated authority only to grant exemptions from paragraph (c)(1) of the Rule to responsible brokers or dealers acting in the capacity of third market makers within the meaning of the Rule. *See* 17 CFR 240.200.30–3(a)(28).

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

The Securities and Exchange Commission, pursuant to the Act, and particularly Sections 2, 6, 11A and 23 (15 U.S.C. 78b, 78f, 78k–1 and 78w), thereof, and the Delegation of Functions Act, 15 U.S.C. 78d–1, hereby adopts an amendment to Section 200.30–3(a).

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

The Commission hereby revises paragraph (a)(28) of § 200.30–3, 17 CFR Chapter II to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(28) To grant exemptions from Rule 11Ac1–1 ("Rule") [§ 240.11Ac1–1], pursuant to paragraph (d) of the Rule.

* * * * *

By the Commission.

April 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11809 Filed 5-2-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 229, 230, 239, 240 and 249

[Release Nos. 33-6465; 34-19695; File No. S7-961]

Technical Amendments to Rules, Forms, and Schedules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules

SUMMARY: The Commission today adopted technical amendments to various rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934. These amendments clarify certain language and correct technical omissions and errata.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: V. Gerard Comizio, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 at (202) 272–2589.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for adoption technical amendments relating to various rules, forms and schedules under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq. (1976 and Supp. IV 1980)] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. (1976 and Supp. IV 1980)]. These actions relate primarily to technical omissions and errata in the Integrated Disclosure Release adopted by the Commission on March 3, 1982.[1] The following rules, forms and schedules are affected by these amendments: Items 401, 503 and 601 of Regulation S–K [17 CFR Part 229]; Securities Act Industry Guides 4 and 5 [17 CFR 229.801]; Securities Act Rules 134, 175, 432 and 494 [17 CFR 230]; Securities Act Forms C–2 [17 CFR 239.4], D–1 [17 CFR 239.6], D–1A [17 CFR 239.7], S–1 [17 CFR 239.11], S–2 [17 CFR 239.12], S–3 [17 CFR 239.13], S–8 [17 CFR 239.16], S–14 [17 CFR 139.23] and S–15 [17 CFR 239.29]; Exchange Act Rules 3b–6, 13a–13 and 13e–3 [17 CFR 240]; and Exchange Act Forms 8–K [17 CFR 249.308] and 10–K [17 CFR 249.310].

The amendments are being adopted as proposed with only minor modifications.[2] First, the reference to Part I of Form 10–K in Instruction 3 to Paragraph (b) of Item 401, which relates to the options allowed for presenting required information about directors and officers, is not being revised.

Second, the following additional technical changes are being adopted:

(a) Paragraph (e) of Item 11 of Form S–1, Information with Respect to the Registrant, has been amended to correct the cross-reference to Item 15 of Form S–1.

(b) Paragraphs (a)(i)(A) and (B) of Item 12 (Incorporation of Certain Information by Reference) of Form S–15 have been amended to provide a correct reference to Rule 14a–3(b)(6) under the Exchange Act in subparagraph (A), and Rule 14a–3(b)(1) under the Exchange Act in subparagraph (B).

(c) Instruction G(3) of Form 10–K (Information to be Incorporated by Reference) has been amended to provide a correct reference to

[1] Release No. 33-6383 (March 3, 1982) [47 FR 11380, March 16, 1982].

[2] Pursuant to the Commission's request for comment, three letters of comment were submitted. The comment letters are available for public inspection and copying at the Commission's Public reference Room (*See* File No. S7–961).

Instruction 3 to Item 401(b) of Regulation S–K.

(d) Item 13(d) of Form 10–K (Exhibits, Financial Statement Schedules and Reports on Form 8–K) has been amended to reflect changes made in Accounting Series Release No. 302 ("ASR 302").[1] ASR 302 generally eliminates the filing of separate financial statements by parent companies in certain instances. Consistent with ASR 302, paragraphs (1) and (3) of Item 13(d) have been deleted and the remaining paragraphs renumbered.

The Commission hereby finds pursuant to Section 553(d) of the Administrative Procedure Act [5 U.S.C. 553(d) (1949)] that publication in the Federal Register 30 days prior to effectiveness is not necessary because the amendments are technical and correcting in nature.

List of Subjects in 17 CFR Parts 229, 230, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

1. By revising Instruction 3 to Paragraph (b) in § 229.401 to read as follows:

§ 229.401 (Item 401) Directors and executive officers.

* * * * *

Instructions to Paragraph (b) of Item 401.

* * * * *

3. The information regarding executive officers called for by this Item need not be furnished in proxy or information statements prepared in accordance with Schedule 14A under the Exchange Act (§ 240.14a–101 of this chapter) by those registrants relying on General Instruction G of Form 10–K under the Exchange Act (§ 249.310 of this chapter), *Provided*, That such information is furnished in a separate item captioned "Executive officers of the registrant" and included in Part I of the registrant's annual report on Form 10–K.

* * * * *

2. By revising paragraphs (d)(3)(i), (3)(v), (4)(i) and the first sentence of (4)(ii) and adding a new paragraph (d)(3)(vi) to § 229.503 to read as follows:

§ 229.503 (Item 503) Summary information, risk factors and ratio of earnings to fixed charges.

* * * * *

(d) Ratio of earnings to fixed charges.

* * * * *

(3) * * *

(i) Add to pretax income the amount of fixed charges computed pursuant to paragraph (d)(4) of this section, adjusted to exclude (A) the amount of any interest capitalized during the period and (B) the actual amount of any preferred stock dividend requirements of majority-owned subsidiaries and fifty-percent-owned persons which were included in such fixed charges amount but not deducted in the determination of pretax income.

* * * * *

(v) Registrants other than public utilities may add to earnings the amount of previously capitalized interest amortized during the period.

(vi) A registrant which is a rate-regulated public utility shall not reduce fixed charges (see paragraph (4) below) by any allowance for funds used during construction, but rather, shall include any such allowance in the determination of earnings under this paragraph.

(4)(i) The term "fixed charges" shall mean the total of (A) interest, whether expensed or capitalized; (B) amortization of debt expense and discount or premium relating to any indebtedness, whether expensed or capitalized; (C) such portion of rental expense as can be demonstrated to be representative of the interest factor in the particular case; and (D) preferred stock dividend requirements of majority-owned subsidiaries and fifty-percent-owned persons, excluding in all cases items which would be or are eliminated in consolidation.

(ii) If the registrant is a guarantor of debt of a less than fifty-percent-owned person or of an unaffiliated person (such as a supplier), the amount of fixed charges associated with such debt should not be included in the computation of the ratio unless the registrant has been required to satisfy the guarantee or it is probable that the registrant will be required to honor the guarantee and the amount can reasonably be estimated.

* * * * *

3. By revising the first sentence of paragraph (b)(8) and by adding a period after the word "filed" and capitalizing the word "Where" in paragraph (b)(25) in § 229.601 to read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) *Description of exhibits.*

* * * * *

(8) *Opinion re tax matters*—For filings on Form S–11 under the Securities Act (§ 239.18) or those to which Securities Act Industry Guide 5 applies, an opinion of counsel or of an independent public or certified public accountant or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

* * * * *

(25) *Power of attorney*—If any name is signed to the registration statement or report pursuant to power of attorney, manually signed copies of such power of attorney shall be filed.

* * * * *

§ 229.601 [Amended]

4. By amending Securities Act Industry Guide 4 in § 229.601 to revise subparagraph 1 of Item 1 and Item 11 to read as follows (Securities Act Industry Guide 4 does not appear in the Code of Federal Regulations):

Guide 4. Prospectus Relating to Interests in Oil and Gas Programs.

1. * * *

(1) Terms of Offering: State the title and general nature of the securities being offered; the maximum aggregate amount of the offering; the minimum aggregate amount necessary to initiate the program; the disposition of the funds raised if they are not sufficient for that purpose; the minimum subscription price; the period of the offering; any provisions for additional assessments; and a brief description of the proposed method of distribution, including the amount of any commission to be paid. If funds received from investors are not to be held in trust or in special account pending expenditure in the program, appropriate disclosures should be set forth including when appropriate reference to exposure to claims of creditors of the custodian of the funds.

The tabular presentation specified in item 501(c)(7) of Regulation S–K (§ 229.501(c)(7)) may be omitted;

* * * * *

11. *Management.* Furnish the information required by Items 401 through 403 of Regulation S–K (§§ 229.401 through 403) as to the management and operating companies.

* * * * *

5. By amending Securities Act Industry Guide 5 in § 229.601 to delete

[1] Securities Act Release No. 33-6339 (November 6, 1981) [46 FR 56171, November 16, 1981].

paragraph 18 and to renumber paragraphs 19 through 21 as paragraphs 18 through 20 (Securities Act Industry Guide 5 does not appear in the Code of Federal Regulations).

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

6. By revising paragraph (a)(14)(ii) in § 230.134 to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(a) * * *

(14) * * *

(ii) For the purpose of paragraph (a)(14)(i) of this section, the term "nationally recognized statistical rating organization" shall have the same meaning as used in Rule 15c–3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (17 CFR 240.15c3–1(c)(2)(vi)(F)).

* * * * *

7. By revising paragraph (b)(2) introductory text and paragraph (b)(2)(i) in § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q (§ 249.308a of this chapter) or in an annual report to shareholders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 (§§ 240.14a–3 (b) and (c) or 240.14a–3 (a) and (b) of this chapter) and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F (§ 249.220f of this chapter) "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), or

* * * * *

8. By revising § 230.432 to read as follows:

§ 230.432 Additional information required to be included in prospectuses relating to tender offers.

Notwithstanding the provisions * * * not otherwise required to be included therein, required by Rule 14d–6(e)(1) (§ 240.14d–6(e)(1) of this chapter) to be included in all such tender offers, requests or invitations, published or sent or given to the holders of such securities.

9. By revising paragraph (e) in § 230.494 to read as follows:

§ 230.494 Newspaper prospectuses.

* * * * *

(e) If the registrant or any of the underwriters knows or has reasonable grounds to believe that it is intended to stabilize the price of any security to facilitate the offering of the registered security, there shall be placed in the newspaper prospectus, in capital letters, the statement required by Item 502(d) of Regulation S–K (§ 229.502(d) of this chapter) to be included in the full prospectus.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.4 [Amended]

10. By removing § 239.4, Form C–2, for certain types of certificates of interest in securities.

§ 239.6 [Amended]

11. By removing Form D–1, for certificates of deposit, in § 239.6.

§ 239.7 [Amended]

12. By removing Form D–1A, for certificates of deposit issued by issuer of securities called for deposit in § 239.7.

13. By revising paragraph (e) of Item 11 and paragraph (b) of Item 16 of Form S–1 in § 239.11 to read as follows (Form S–1 does not appear in the Code of Federal Regulations):

§ 239.11 Form S–1 [Amended]

* * * * *

Item 11. Information with respect to the Registrant. Furnish the following information with respect to the Registrant:

* * * * *

(e) Financial statements meeting the requirements of Regulation S–X (17 CFR Part 210) (Schedules required under Regulation S–X shall be filed as "Financial Statement Schedules" pursuant to Item 15, Exhibits and Financial Statement Schedules, of this Form) as well as any Financial information required by Rule 3–05 and Article 11 of Regulation S–X.

* * * * *

Item 16. Exhibits and Financial Statement Schedules.

* * * * *

(b) Furnish the financial statement schedules required by Regulation S–X (17 CFR Part 210) and Item 11(e) of this Form. These schedules shall be lettered or numbered in the manner described for exhibits in paragraph (a).

* * * * *

14. By amending Item 12 of Form S–2 in § 239.12 by revising the introductory paragraph (a) and paragraphs (a)(3)(i) and (b) to read as follows (Form S–2 does not appear in the Code of Federal Regulations):

§ 239.12 Form S–2 [Amended]

* * * * *

Item 12. *Incorporation of Certain Information by Reference.*

(a) The documents listed (1), (2), and, if applicable, the portions of the documents listed in (3) and (4) below, shall be specifically incorporated by reference into the prospectus, by means of a statement to that effect in the prospectus listing all such documents. In lieu of incorporating portions of the documents listed in (3) and (4) below, the registrant may incorporate by reference its entire annual or quarterly report to security holders.

* * * * *

(3) * * *

(i) description of business furnished in accordance with the provisions of Rule 14a–3(b)(6) under the Exchange Act (§ 240.14a–3(b)(6) of this chapter):

* * * * *

(b) The registrant may also state, if it so chooses, that specifically described portions of its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a)(3) and (4) above, are not part of the registration statement. In such case, the description of portions which are not incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

* * * * *

15. By amending Item 11 of Form S–3 in § 239.13 to revise paragraph (b) to read as follows (Form S–3 does not appear in the Code of Federal Regulation):

§ 239.13 Form S–3 [Amended]

Item 11. *Material changes*

* * * * *

(b) Include in the prospectus, if not incorporated by reference therein from the reports filed under the Exchange Act specified in Item 12(a), a proxy or information statement filed pursuant to Section 14 of the Exchange Act, a prospectus previously filed pursuant to Rule 424 (b) or (c) under the Securities Act (§ 230.424 (b) or (c) of this chapter) or a Form 8–K filed during either of the two preceding fiscal years: (i)

Information required by Rule 3-05 and Article 11 of Regulation S-X (17 CFR Part 210); (ii) restated financial statements prepared in accordance with Regulation S-X if there has been a change in accounting principles or a correction in an error where such change or correction requires a material retroactive restatement of financial statements; (iii) restated financial statements prepared in accordance with Regulation S-X where one or more business combinations acounted for by the pooling of interest method of accounting have been consumated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11-01(b), or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

* * * * *

18. By revising Form S-8 in § 239.16 to delete the instruction to Item 5; and to revise subparagraph (1)(a) of General Instruction A; Note 1 to General Instruction C; the introductory paragraph and paragraph (b) of Item 15; and the signature provision; and Instruction 1 to the signature provision to read as follows (Form S-8 does not appear in the Code of Federal Regulations):

§ 239.16 Form S-8 [Amended]

General Instructions

A. Rule as to use of Form S-8.

(1) * * *

(a) Securities of such issuer to be offered to its employees, or to employees of its subsidiaries or parents, pursuant to any employee benefit plan.

(See Rule 405 of Regulation C (§ 230.405 of this chapter) defining "employee benefit plan").

* * * * *

C. Unavailability of the Form S-8 Prospectus for Reoffers or Resales.

* * * * *

Notes.—1. Registered securities may be included in a reoffer prospectus if they have been or will be acquired by the selling security holder pursuant to the plan. If after the effective date the issuer wishes to add any person who has acquired or will acquire any registered securities pursuant to the plan to the list of selling shareholders, the issuer may do so by filing a post-effective amendment or by use of a prospectus filed pursuant to Rule 424(c) under the Securities Act (§ 230.424(c) of this chapter).

* * * * *

PART I—INFORMATION REQUIRED IN THE PROSPECTUS

* * * * *

Item 15. Incorporation of Certain Documents by Reference.

The issuer and, where interests in the plan are being registered, the plan, shall incorporate by reference into the prospectus the documents listed in (a) through (c) below and shall state that all documents subsequently filed by them pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the prospectus and to be a part thereof from the date of filings of such documents. Copies of these documents are not required to be filed with the registration statement.

* * * * *

(b) All other reports filed pursuant to Sections 13(a) or

15(d) of the Securities Exchange Act of 1934 since the end of the fiscal year covered by the annual reports or the prospectus referred to in (a) above.

Signatures

* * * * *

The Plan. Pursuant to the requirements of the Securities Act of 1933, the plan has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on the ——— Day of 19—.

(The Plan)

By ———

(Signature and Title)

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. Where interests in the plan are being registered, the registration statement shall be signed by the plan. If the signing person is a foreign person. * * *

17. By amending the heading of Part II of Form S-14 in § 239.23 to read as follows:

§ 239.23 Form S-14 [Amended]

Part II. Information Not Required in Prospectus

18. By amending Item 12 of Form S-15 in § 239.29 to revise paragraphs (a)(i) (A) and (B) and (b) to read as follows (Form S-15 does not appear in the Code of Federal Regulations):

§ 239.29 Form S-15 [Amended]

* * * * *

Item 12. Incorporation of Certain Information by Reference

(a) * * *

(i) * * *

(A) description of business furnished in accordance with the provisions of Rule 14a-3(b)(6);

(B) certified financial statements furnished in accordance with the provisions of Rule 14a-3(b)(1);

* * * * *

(b) The issuer may also state, if it so chooses, that specifically described portions of its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a)(i) and (iv) above, are not part of the registration statement. In such case, the description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

19. By revising the introductory text to paragraph (b)(2) and paragraph (b)(2)(i) in § 240.3b-6 to read as follows:

§ 240.3b-6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission in Part I of a quarterly report on Form 10-Q (§ 249.308a of this chapter) or in an annual report to shareholders meeting the requirements of Rules 14a-3 (b) and (c) or 14c-3 (a) and (b) under the Securities Exchange Act of 1934 (§§ 240.14a-3 (b) and (c) or 240.14c-3 (a) and (b) of this chapter) and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S-K (§ 229.303 of this chapter) or Item 9 of Form 20-F (§ 249.220f of this chapter), "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S-K (§ 229.302 of this chapter), "Supplementary financial information," or Rule 3-20(c) of this chapter) or

* * * * *

20. By amending paragraph (c)(1) of § 240.13a-13 to read as follows:

§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

* * * * *

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 20, 1983, if they do not meet the test specified in Item 302(a)(5)(i) of Regulation S-K (§ 229.302 of this chapter) or

* * * * *

21. By revising Instruction 2(a) to paragraph (e) of § 240.13e-3 to read as follows:

§ 240.13e-3 Going private transactions by certain issuers or their affiliates.

* * * * *

(e) *Disclosure of certain information.*

* * *

Instructions. * * *

2. * * *

(a) The following summary financial information for (i) the two most recent fiscal years and (ii) the latest year-to-date interim period and corresponding interim period of the preceding year:

Income Statement:
Net sales and operating revenues and other revenues
Income before extraordinary items
Net Income
Balance Sheet (at end of period):
Working capital
Total assets
Total assets less deferred research and development charges and excess of cost of assets acquired over book value.
Shareholder's equity
Per Share:[1]
Income per common share before extraordinary items
Extraordinary items
Net income per common share (and common share equivalents, if applicable)

* * * * *

Net income per share on a fully diluted basis

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

22. By amending Item 7 of Form 8-K in § 249.308 to redesignate paragraph (a)(3) as paragraph (a)(4); to add a new paragraph (a)(3); and to revise paragraph (b)(2) to read as follows (Form 8-K does not appear in the Code of Federal Regulations):

§ 249.308 Form 8-K [Amended]

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

* * *

(a) * * *

(3) With regard to the acquisition of one or more real estate properties, the financial statements and any additional information specified by Rule 3-14 of Regulation S-X shall be filed

(b) * * *

(2) The provisions of (a)(4) above shall also apply to pro forma financial information relative to the acquired business.

* * * * *

23. By revising the last sentence of General Instruction G of Form 10-K in Section 249.310 to read "See Instruction 3 to Item 401(b) of Regulation S-K (Section 229. 401(b) of this Chapter)."

24. By revising General Instruction I of Form 10-K and Item 13(d) in § 249.310 to read as follows (Form 10-K does not appear in the Code of Federal Regulations):

§ 249.310 Form 10-K [Amended]

* * * * *

I. Registrants filing on Form S-18.

If the registrant is subject to the reporting requirements of Section 15(d) of the Exchange Act and such obligation arises solely because the registrant has filed a registration statement on Form S-18 (§ 239.28 of this chapter) which has become effective during the last fiscal year, the registrant may comply with the disclosure requirements of Form S-18 Item 16, Description of Business; Item 18, Interest of Management and Others in Certain Transactions; and Item 20, Remuneration of Directors and Officers, in lieu of complying with the disclosure requirements of Item 1, Business; Item 11, Management Remuneration; and Item 13, Certain relationships and related transactions, herein. Item 6 of this Form, Selected Financial Data, may be omitted at the election of such registrant.

* * * * *

Item 13. Exhibits, Financial Statement Schedules and Reports on Form, 8-K.

* * * * *

(d) Registrants shall file, as financial statement schedules to this Form, the financial statements required by Regulation S-X (17 CFR Part 210) which are excluded from the annual report to shareholders by Rule 14a-3(b) including (1) separate financial statements of subsidiaries not consolidated and fifty percent or less owned persons; (2) separate financial statements of affiliates whose securities are pledged as collateral and (3) schedules.

* * * * *

Statutory Authority

These amendments are being adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec 203(a), 49 Stat. 704; Sec. 202, 68 Stat. 683; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3–5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 208, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a))

By the Commission.

April 22, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11894 Filed 5-2-83; 9:48 am]

BILLING CODE 8010-01-M

[1] Average number of shares of common stock outstanding during each period was ——— (as adjusted to give effect to stock dividends or stock splits).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 233, 234, and 237

[Docket No. R-83-1037]

Mutual Insurance Programs Under the National Housing Act; Direct Endorsement Processing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of announcement of effective date for final rule.

SUMMARY: This notice announces the effective date for the final rule published in the Federal Register on March 22, 1983 (48 FR 11928) that implemented a new program involving direct underwriting of insured single family mortgage loans by approved mortgage lenders. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the Federal Register.

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the final rule published March 22, 1983 (48 FR 11928) is May 3, 1983. Information collection requirements contained in this regulation (sections 200.163 and 200.164)

have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 2502–0274.

FOR FURTHER INFORMATION CONTACT:
Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, SW., Washington, D.C. 20410, telephone No. (202) 755–7055. (This is not a toll-free number.)

Dated: April 27, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83–11779 Filed 5–3–83; 8:45 am]

BILLING CODE 4210–27–M

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24 CFR Part 426

[Docket No. R–82–1006]

Rent Requirements for Section 101 (Rent Supplement) and Section 236 Programs

Correction

In FR Doc. 83–8475 beginning on page 13978 in the issue of Friday, April 1, 1983, make the following correction on page 13982: In the third column, the line designated "16" should read "16. Part 426 is removed."

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 401

[T.D. 7886]

Temporary Procedure and Administration Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982; Certain Requirements for Release of Liens

Correction

In FR Doc. 83–10654 beginning on page 17068 in the issue of Thursday, April 21, 1983, make the following correction to § 401.6325–1(e) on page 17069: In the third column, the paragraph designated "(e)", the fourteenth line, the word "director" should appear immediately following the word "district".

BILLING CODE 1505–01–M

VETERANS ADMINISTRATION

38 CFR Part 17

Dental Benefits; Eligibility Amendments

Correction

In FR Doc. 83–10327 beginning on page 16680 in the issue of Tuesday, April 19, 1983, make the following correction in the **SUMMARY:** In line seven, "39 U.S. Code" should read "38 U.S. Code."

BILLING CODE 1505–01–M

POSTAL RATE COMMISSION

39 CFR Part 3002

[Docket No. RM83–7; Order Nos. 490 and 495]

Order of the Commission Amending Organizational Rules; Correction

Issued: April 26, 1983.

AGENCY: Postal Rate Commission.

ACTION: Final rule; correction.

SUMMARY: On March 30, 1983 (48 FR 13167), the Postal Rate Commission published a final rule which changed some of its organizational rules. The Commission is issuing a correction to that rule. The correction is necessary to make clear the removal of § 3002.8.

FOR FURTHER INFORMATION CONTACT:
David F. Stover, General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3824).

SUPPLEMENTARY INFORMATION:

On March 22, 1983, the Commission issued a Final Rule which changed some of its organizational rules. 48 FR 13167–13168 (March 30, 1983). Among them was the elimination of § 3002.8. We are issuing this correction to make this clearer. Accordingly under "§ 3002.8", at 48 FR at 13168, the first sentence numbered "2." should be corrected to read as follows: "Section 3002.8, Office of Public Information, is removed and § 3002.9 is redesignated § 3002.8."

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83–11746 Filed 5–3–83; 8:45 am]

BILLING CODE 7715–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2186–1]

Approval and Promulgation of Implementation Plans; State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On November 12, 1981, EPA proposed action on draft revisions to the State Implementation Plan (SIP) for Arizona. These draft revisions were later adopted and officially submitted by the State on June 3, 1982, to meet the requirements of Part C, Subpart 1, of the Clean Air Act for preconstruction review of new and modified major stationary sources of those air pollutants regulated under the Act. Today's notice takes final action under the Clean Air Act to approve these revisions.

EFFECTIVE DATE: This action is effective May 3, 1983.

FOR FURTHER INFORMATION CONTACT:
David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn.: Julie A. Rose (415) 974–8236, New Source Section.

ADDRESS: A copy of today's revision to the Arizona SIP is located at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Department of Health Services (ADHS) drafted regulations for New Source Review (NSR) and Prevention of Significant Deterioration (PSD). These regulations contain the preconstruction review requirements for new and modified major stationary sources. On November 12, 1981 (46 FR 55714) EPA proposed to approve these draft revisions if adopted by the ADHS without substantive changes and submitted by the Governor's designee. On June 3, 1982, the Governor's designee for Arizona submitted these regulations as a revision to the Arizona SIP.

Public Comments

During the public comment period, EPA received comments from the Arizona Electric Power Cooperative, Inc., Arizona Public Service Company, and Salt River Project. All comments are specifically identified and responded to in EPA's Public Comment Technical Support Document (contained in Document File NAP–AZ–04–NSR/PSD at the ADHS, EPA Library in Washington, D.C., and the Region 9 Office).

EPA Actions

EPA is taking final action under Section 110 and Part C, Subpart 1, of the Clean Air Act to approve the ADHS regulations for PSD submitted on June 3, 1982. In addition, EPA is not taking action in this notice on Rule R9–307 (Innovative control technology exemption) since revisions to this rule were officially submitted to EPA as a SIP revision after EPA's proposed approval. These revisions are not consistent with the provisions of 40 CFR 51.24(s)(2)(iv)(b).

The definitions of Stationary Source contained in Arizona Rule R9–3–101(146) apply under State law to both Arizona's PSD program and Arizona's NSR program for nonattainment areas. EPA is approving Rule R9–3–101(146) only under Part C, Subpart 1, of the Clean Air Act as providing adequate definitions for an acceptable PSD plan. EPA is taking no action on the definitions under Part D of the Act. Although Rule R9–3–101(146) will be applicable to Arizona's nonattainment NSR program under State law, the definitions will not be approved by EPA as satisfying the requirements of Part D of the Act. EPA is taking no action at this time on any of the recent amendments to Arizona's nonattainment program. The NSR portion of the regulations will be acted upon in a future **Federal Register**, and the regulations approved by EPA on May 5, 1982 will continue to be the approved Part D SIP for Arizona.

The detailed requirements for a PSD program are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality." Presently, EPA is administering the PSD program in the State of Arizona under the federal regulation 40 CFR 52.21, "Prevention of Significant Deterioration of Air Quality." Upon approval of the PSD regulations, federal regulation 40 CFR 52.21 will be rescinded as applicable for most new sources constructing in Arizona after the date of SIP approval and the PSD program will be administered by the ADHS. The State does not have jurisdiction for sources located on Indian lands and for most sources in Maricopa and Pima counties. EPA retains authority for those areas and sources not under State jurisdiction.

EPA has a responsibility to take final action as soon as possible in order to minimize any delays in the processing of permits. Therefore, EPA finds that good cause exists for making this action immediately effective.

Supplementary Issues

With respect to sources potentially impacting Federal Class I areas (i.e., within 100 kilometers of such areas), the State agrees to transmit to the EPA Administrator a copy of each permit application relating to a major stationary source or major modification (with materials supporting the preliminary determination) and provide notice to the Administrator of every action related to the consideration of such permit.

With respect to the exemption of portable sources provided in Rule R9–3–304, the State agrees to restrict the use of the exemption to sources which will be temporary. In order to be eligible for the exemption, sources must provide notice to the State at least 10 days prior to the relocation.

Regulatory Process

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response are available for public inspection at the locations listed in the **ADDRESSES** section of this notice.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1983. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Sec. 110, 129, 160, to 160, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470, to 7479, and 7601(a))

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator

PART 52—[AMENDED]

Subpart D of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120, is amended by adding paragraph (c)(54)(i)(B) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(i) * * *

(B) New or amended rules R9–3–101 (Nos. 3, 7, 8, 17, 18, 19, 20, 21, 29, 34, 35, 37, 56, 61, 62, 63, 68, 69, 75, 77, 78, 79, 88, 89, 90, 91, 98, 99, 101, 117, 122, 129, 133, 136, 146, and 157; 53 and 123 are deleted); R9–3–217; R9–3–301; R9–3–304; R9–3–305; R9–3–306 (paragraph A only); R9–3–320 (Repealed and Reserved); R9–3–1101 (paragraphs A, C, and D); Appendix 1; and Appendix 2.

* * * * *

2. Section 52.144 is revised to read as follows:

§ 52.144 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Act are not met, since the plan as it applies to stationary sources under the jurisdiction of the Pima County Health Department and the Maricopa County Department of Health Services and stationary sources locating on Indian lands does not include approvable procedures for preventing the significant deterioration of air quality.

(b) *Regulation for preventing significant deterioration of air quality.* The provisions of § 52.21 (b) through (w) are hereby incorporated and made a part of the applicable State plan for the State of Arizona for that portion applicable to the Pima County Health Department and the Maricopa County Department of Health Services and sources locating on Indian lands.

* * * * *

[FR Doc. 83–11738 Filed 5–3–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–467; RM–3915; BC Docket No. 81–818; RM–3960; RM–4033; RM–4034]

FM Broadcast Stations in Marco, Florida; Naples and Key West, Florida

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes FM commercial Channel 276A for Channel 249A in Naples, Florida, and modifies the license of Station WSGL, Naples, to specify operation on Channel 276A in response to a proposal by WRMF, Inc. It

also adds Channel 224A to Marco, Florida, and modifies the license of Station WFYN, Key West, Florida, to specify operation on Channel 222 in lieu of Channel 223, in response to a proposal by Sunshine Broadcasting, Inc.

EFFECTIVE DATE: June 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Mass Media Bureau, (202) 632-5414.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Marco, Florida) BC Docket 81-487, RM-3915; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Naples and Key West, Florida) BC Docket No. 81-818, RM-3960, RM-4033, RM-4034.

Adopted: April 8, 1983.

Released: April 26, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration its *Further Notice of Proposed Rule Making and Order to Show Cause* in this proceeding, published in the **Federal Register** on August 19, 1982 (47 FR 36244). The *Further Notice* proposed six options for the assigment of FM channels to Naples, Marco and Key West, Florida. The *Show Cause Order* concerned the proposed modification of licenses for two FM stations in Naples and Key West, Florida, so that certain of the options could be implemented.

2. The communities and channel assignments involved are as follows:

A. Palm Beach, Florida

WRMF, Inc. ("WRMF"), licensee of Station WRFM-FM, Palm Beach, requests the substitution of Channel 276A for Channel 249A at Naples on which Station WSGL(FM) operates. The substitution would enable WRMF to relocate its facilities to a site which would otherwise be short-spaced to WSGL. From the new site, WRMF states that it would serve an additional 864,617 persons. WSGL does not oppose the substitution.

B. Marco, Florida

Sunshine Broadcasting, Inc. ("Sunshine") requested that Channel 276A be assigned to this community as its second FM outlet. The proposal is mutually exclusive with WRMF's request in A above. To resolve the conflict, we proposed the assignment of Channel 221A or 249A to Marco. Sunshine objected on the ground that because of site restrictions neither channel is useable. Sunshine counterproposed the use of Channel 224A with a substitution and modification of license for Station WFYN-FM, Key West, Florida, to operate on Channel 222 instead of 223.

C. Key West, Florida

Florida Keys Broadcasting Corporation ("WFYN") opposed a modification of its license to operate on Channel 222 instead 223 and requested a hearing. Subsequently, in view of WRMF's offer to reimburse WFYN for $25,000 of its expenses in changing frequency, WFYN consented to the modification on the condition that the agreement be more particularized and WFYN promptly obtains authority to operate with improved facilities (application File No. 820222AX) on the new frequency.

D. Naples, Florida

Number 1 Broadcasting, Inc. ("Number One") proposes that Channel 276A be added to Naples as its fifth FM outlet rather than substituted for Channel 249A as proposed by WRMF.

3. The various options, which we proposed, contained combinations of assignments which included Channel 221A, 224A or 276A for Marco; Channel 249A and/or Channel 276A for Naples; and Channel 222 for Key West. Comments were filed by WRMF, Sunshine, Roger's Media Service, Sterling Communications Corporation ("WSGL") and Deltona Broadcasting Company, Inc. Reply comments were filed by WRMF. WFYN filed a request for hearing, a motion to accept a supplement thereto and the supplement itself.

4. WRMF (Palm Beach) contends that the public interest would best be served by adoption of its proposal to substitute Channel 276A for Channel 249A at Naples and modify the license of WSGL (Naples) to operate on Channel 276A. WRMF stresses that the proposal would enable WRMF to change its Palm Beach transmitter location and its antenna height so that it could increase its coverage from 1,595 to 4,080 square miles and serve an additional 864,617 people. WRMF states that for some time it has operated short-spaced to WSGL and has been unable to make better use of its Class C facility. With the short-spacing, WRMF has been limited to 100 kW at 340 feet above average terrain whereas our Rules permit Class C stations to operate with a maximum antenna height of 2,000 feet.

5. WRMF had filed an application (BPH-800720AD) to change transmitter site and to increase antenna height to 1,350 feet above average terrain. That proposed new site would increase the short-spacing to WSGL to 8.13 miles. WRMF had requested a waiver of § 73.213(f) of our Rules regarding separation requirements, which was denied. Thus, WRMF requested the channel substitution of 276A for 249A at Naples to allow the improvements of its facilities as proposed in its application. WRMF states that its proposal would place Palm Beach County and Martin County entirely within the station's proposed 1 mV/m contour and cover most of Broward County and parts of St. Lucie, Hendry and Dade Counties, thereby serving an additional 864,611 people.

6. The assignment of Channel 276A to Naples as its fifth FM assignment, rather than as a substitute for Channel 249A, was proposed originally by Number One. Inasmuch as Number One did not respond to our *Notice*, we concluded that it has no further interest in the proposal. However, comments were filed by Rogers supporting the proposal and stating that it would apply for operation on Channel 276A, if it were assigned as a fifth FM outlet in Naples.

7. In support, Rogers states that the proposal to assign an additional Naples channel would increase the overall diversity of programming rather than maintain the *status quo*. Rogers asserts that the assignment of a fifth FM channel to Naples would reflect the continued and rapid growth of Naples and Collier County over the past ten years. The population of Naples is said to have increased from 12,042 in 1970 to 17,581 in 1980. Rogers reports that employment growth in the manufacturing sector of Collier County increased by 118.6% during that period, ranking it third in growth among Florida's 67 counties. Rogers concludes that the past and continuing population growth and affluent nature of the area indicate that a fifth FM channel assignment in Naples would be desirable.

8. Comments by Sunshine assert that Channel 276A is the better channel for assignment to Marco but it will alternately apply for authority to operate on Channel 249A, as it counterproposed. Sunshine claims that Channel 221A is not suitable for assignment to Marco because of site availability problems. Sunshine contends that if a choice had to be made between Marco and Naples for a new FM assignment, Marco with only one assignment should be preferred over Naples with four assignments. Sunshine states that the provision of a second local FM service to Marco would better fulfill the objectives of section 307(b) of the Communications Act than a fifth local FM service to Naples. Sunshine adds that, although it is not withdrawing its commitment to file an application to operate at Marco, if there is a delay and Channel 276A is made available at Naples, Sunshine might apply at Naples instead of Marco.

9. Deltona, permittee of Channel 226, Marco, contends that Marco is too small a community to support an additional FM station. Deltona argues that the operation of two FM stations in Marco would fragment the market to the point that neither could remain viable.

10. WSGL reiterates its willingness to have its license modified to specify operation on Channel 276A if fully reimbursed by WRMF. Nevertheless, WSGL asserts that the assignment of Channel 276A to Marco, as a second FM assignment, is to be preferred to its use in Naples either as a fifth FM assignment or to replace Channel 249A in order to accommodate the site change for WRMF. WSGL points to Marco's being a growing community which increased from a population of 1,500 in 1970 to an estimated 8,500 in 1980 with a peak winter population of 12,000.

11. WSGL asserts that in the event Channel 276A is assigned to Naples, it should be a replacement for Channel 249A to accommodate the WRMF change. WSGL contends that Naples' four FM assignments already exceed the Commission's former guidelines and that while the guidelines are no longer determinative (BC Docket No. 80-130)[1] the guidelines should be taken into consideration in comparing competing applications.

12. In reply comments, WRMF reiterates its support for the proposals to substitute channels in Naples and to add Channel 221A or 224A to Marco. WRMF opposes the addition of Channel 276A to Naples on the grounds that no showing has been made of special circumstances or need for a fifth FM assignment there; that a new FM assignment (Channel 228A) was made to Naples in 1981 to meet growing needs of the community; that the present facilities in Naples are adequate to meet the needs and diversity of the community; that the addition of Channel 276A would deprive 864,617 people of WRMF's service; and that a fifth FM assignment to Naples clearly does not constitute efficient or equitable distribution of broadcast facilities. WRMF also stated that it would make a financial contribution of up to $25,000 toward the cost of changing WFYN's frequency so Sunshine could operate on Channel 224A in Marco.

13. WRMF filed a motion to accept additional comments. In support thereof, WRMF stated that the comments contain facts which have not previously been submitted for the record but should be considered by the Commission in reaching its judgment in this proceeding. Although WRMF makes no showing as to why these facts could not have been submitted within the specified periods for comments and reply comments, we conclude that the nature of the facts is such as to constitute a fundamental public interest consideration in the assignment of FM channels and that the additional comments should be accepted.[2]

14. The comments include an engineering statement that the WRMF proposal to improve its facilities would provide a first FM service to an area of 329 square miles in the central part of southern Florida. WRMF states that this represents 13.2 percent of the 2,485 square miles of its proposed 1 mV/m coverage area. WRMF submits that the population density in that area is probably small and that an exact population count is not known to be available. On the other hand, WRMF contends that an additional Class A FM station at Naples could not provide a first FM service to any area. WRMF also demonstrates that its proposal would provide a second FM service to an area 88 square miles, which is 3.5 percent of the proposed increase of its 1.0 mV/m coverage.

15. WFYN filed a request for hearing on the matter of modifying its license to specify operation on Channel 222 instead of Channel 223. WFYN states that the proposal presents two substantial problems. The problems are that it would impose significant financial and competitive burdens upon a licensee that is already carrying the burden of operating in a small and highly competitive market with a long-declining population; and that it might constitute a *de facto* downgrading of the WFYN authorization from Class C to Class C-1 status if the Commission adopts certain rule changes proposed in BC Docket No. 80-90. WFYN contends that operation on Channel 222 would limit its future ability to move the transmitter location further up the Keys to obtain a higher tower. WFYN also contends that the useability of Channel 221A in Marco is a matter of dispute between Sunshine and WRMF and that the Commission should first get more data from the parties and resolve the question before looking toward a modification of the WFYN license.[3]

16. WFYN subsequently filed a motion to accept a supplement to its request for hearing, pursuant to §§ 1.3 and 1.415(d) of our Rules. WFYN states that the supplement is needed to respond to the reimbursement offer made by WRMF in its reply comments. We find that good cause has been shown, and the motion is granted.

17. In its supplement, WFYN states that, in view of WRMF's offer to reimburse WFYN for up to $25,000 of the expenses that it might reasonably and prudently incur in voluntarily changing its channel, WFYN would be willing to withdraw its request for hearing if certain conditions are met. The conditions are that the matters at issue in this proceeding can be resolved expeditiously so that WFYN may receive authority to operate on Channel 222 with the improved facilities specified in its pending application for increase in power (File No. 820222AX) by year-end; and that WRMF and WFYN can reach agreement on a specific reimbursement figure. WFYN states that it remains seriously concerned by the fact that the channel change may in the future prove to have been a *de facto* downgrading of its current authorization from Class C to Class C-1. WFYN further states that, however, if this proceeding can be resolved promptly and in a manner that will achieve the noted public and private benefits, WFYN is prepared to leave that problem for resolution in a future proceeding.

Conclusions

18. This case involves the Commission's priorities for conflicting FM channel assignments in accordance with the provisions of Section 307(b) of the Communications Act of 1934, as amended. The *Second Report and Order, Revision of FM Assignment Policies and Procedures*, BC Docket No. 80-130, 90. F.C.C. 2d 88 (1982) set forth the followng priorities:

(1) First-time aural service
(2) Second full-time aural service
(3) First local service
(4) Other public interest considerations

Using these priorities, we are called upon first to compare the need for allowing Station WRMF to change its site by the substitution of Channel 276A

[1] *Second Report and Order, Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

[2] No objections have been raised to acceptance of the additional comments.

[3] WFYN submits that the hearing request should be initiated only if it is determined that neither Channel 221A nor Channel 276A should be assigned to Marco.

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or Channel 249A at Naples against utilizing Channel 276A to provide an additional station at Naples. If the latter request is chosen, the need to compare the desirability of using Channel 276A at Naples with the use of that channel at Marco may also be necessary depending on the resolution of a few preliminary issues with regard to certain suggested alternative channels at Marco.

19. With respect to the first priority, none of the proposals herein would appear to provide a first full-time aural service. However, WRMF makes a showing that it could provide a first FM service to an area of 329 square miles of land area, and we have traditionally placed a very high priority on the provision of such service. Neither the Marco proposal nor the Naples proposal for the addition of Channel 276A could provide a first full-time aural service.

20. Concerning the area in which WRMF would provide a first FM service, we have not been provided with an estimate on the amount of population expected to be served. Our own analysis of the area, after looking at several maps, was inconclusive. However, we did notice the existence of a few small populated areas. On the basis of this finding, we believe the provision of a first FM service to an area of some population, albeit small, is of a greater priority than any of the factors weighing in favor of the Naples request. See *Lockhart, Texas*, 47 R.R. 2d 1598 (1980). The Lockhart case recognized the priority of a first FM service to an area in according qualitative judgments to a comparative proceeding of this type. We have also considered the fact that Naples is, or will be, well served by the four existing and one pending (Channel 288A) stations. As for the unserved area, proposed to be reached by WRMF's site change, we regard the potential for an increase in population in that area as a possibility. Accordingly, we find that the Naples substitution should be preferred to an additional station there. As such, we need not compare the use of Channel 276A at Naples and Marco. Concerning the reimbursement question, WRMF has stated that it would cover the costs of Station WSGL for its frequency change.

21. WRMF has also committed itself to reimburse WFYN for up to $25,000 of its reasonable costs in changing from Channel 223 to Channel 222 so that Channel 224A can be assigned to Marco. Sunshine, the Marco proponent, has argued that it should not be required to reimburse WFYN because the real beneficiary of WFYN's change of channels is WRMF. WFYN has withdrawn its request for a hearing on the modification of its license upon two conditions, that its application for increase in power (File No. 820222AX) is timely granted and that a specific reimbursement figure is agreed upon. In fact, WFYN's application was granted on October 29, 1982. As to the reimbursement of WFYN's expenses, we expect that WRMF and WRYN will reach an agreement on what constitutes a reasonable figure. In view of WRMF's willingness to reimburse WFYN, we do not reach the question of the extent to which Marco has benefitted from the Key West substitution of channels. Therefore, we have not required the ultimate Marco beneficiary to participate in the reimbursement. See, *e.g., Elizabethtown, Kentucky*, 26 F.C.C 2d 162 (1970).

22. As for Deltona's objection to the assignment of Channel 224A to Marco, the issue of economic impact is more appropriately considered at the application stage rather than in a rule making proceeding. See, *e.g. Beaverton, Michigan*, 44 R.R. 2d 55 (1978); and *Grand Junction, Colorado*, 26 R.R. 2d 513 (1973). Finally, as for WFYN's contention that we should seek further data from WRMF and Sunshine to resolve their conflicting views on whether Channel 221A could be used in Marco, we have no showing of site availability. Further, Sunshine has stated that it would not be interested in applying for authority to operate on Channel 221A in Marco. With no interest expressed by Sunshine or others in the use of Channel 221A in Marco, we see no reason to further pursue its assignment here.

23. For the reasons set forth above, we conclude that the public interest would be served by the substitution of Channel 276A for Channel 249A in Naples, Florida, and the assignment of Channel 224A to Marco, Florida.

24. Authority for adoption of the amendments herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

25. Accordingly, *it is ordered*, That effective June 27, 1983, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, *is amended* as follows:

City	Channel No.
Key West, Florida	222, 254, 258, 296A.
Marco, Florida	224A, 266.
Naples, Florida	226A, 233, 276A, 296A.

26. *It is further ordered*, That pursuant to § 316(a) of the Communications Act of 1934, as amended, effective June 27, 1983, the license of Sterling Communications Corporation for Station WSGL, Naples, Florida, *is modified* to specify operation on Channel 276A, in lieu of Channel 249A, with the condition that it will be reimbursed by WRMF, Inc. for the reasonable costs involved in changing frequencies.

27. *It is further ordered*, That the license of Florida Keys Broadcasting Corporation for Station WFYN, Key West, Florida; *is modified* to specify operation on Channel 222 in lieu of Channel 223 with the condition that reimbursement of the reasonable costs incurred in changing frequencies will be provided by WRMF, Inc. The license modifications of Stations WSGL and WFYN are subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

28. *It is further ordered*, That the Secretary shall send a copy of this *Order* by *certified mail, return receipt requested*, to: Sterling Communications Corporation, Box 8899, Naples, Florida, 33941; and Florida Keys Broadcasting Corporation, Box 2515, Key West, Florida, 33040.

29. *It is further ordered*, That this proceeding is terminated.

30. For further information concerning the above, contact Philip S. Cross, Mass Media Bureau, (202) 632–5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–11782 Filed 5–2–83; 8:45 am]

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47 CFR Part 73

Radio Broadcast Services; Amendment of the Commission's Rules To Incorporate Certain Editorial Changes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order revises § 73.3542 of the Commission's Rules relating to radio broadcast services to bring the rule into conformance with revisions to Section 309(f) of the Communications Act, which now allows the Commission to issue special temporary authorizations for 180-day periods when extraordinary circumstances necessitate temporary operations.

EFFECTIVE DATE: April 21, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael E. Teaney, Mass Media Bureau, (202) 632–6485.

List of Subjects in 47 CFR Part 73

Communications equipment.

Order

In the matter of Amendment of § 73.3542 of the Commission's Rules to incorporate certain editorial changes.

Adopted: April 15, 1983.

Released: April 21, 1983.

1. On September 13, 1982, Section 309(f) of the Communications Act of 1934 was amended [1] to expand the Commission's ability to grant special temporary authority (STA). Prior to this amendment, the Commission's authority to grant STA's was limited to a period of ninety days and only in situations involving emergency conditions. Once issued, an STA could be renewed only for one additional period of ninety days. With the amendment of Section 309(f), the Commission may now authorize a radio station to operate under special temporary authority for up to 180 days without prior notice of the application when extraordinary circumstances necessitate temporary operations. The special temporary authority may be renewed for additional periods of 180 days each, at the discretion of the Commission.

2. To implement the Commission's expanded STA authority for broadcast stations, we are amending § 73.3542 of the Rules, as indicated in the Appendix. The amendments adopted herein impose no additional burdens upon licensees or the public. We conclude that adoption of these amendments as shown in the Appendix will serve the public interest. Because the amendments impose no additional burdens and raise no issues upon which public comments would be useful, compliance with the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), is unnecessary. Because the amendments adopted herein are editorial and pertain to agency practice and procedure, compliance with the notice and comment and effective date provisions is not required. 5 U.S.C. 553(b)(A) and 553(d)(3). Authority for the amendments adopted herein is contained in Sections 4(i), 303(r) and 309(f) of the Communications Act of 1934, as amended, and § 0.283 of the Commission's Rules and Regulations, 47 CFR 0.283.

3. In view of the foregoing, it is ordered, effective April 21, 1983, that § 73.3542 of the Commission's Rules and Regulations is amended as set forth in the Appendix hereto.

[1] The Communications Amendments Act of 1982, Pub. L. 97–259, Section 114, amended Section 309(f) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(f).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Laurence E. Harris,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

Section 73.3542 is amended by revising the introductory texts of paragraphs (a) and (b) to read as follows:

§ 73.3542 [Amended]

(a) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 180 days. Requests should be filed with the FCC at least 10 days prior to the date of the proposed operation. Requests should be accompanied by a statement giving full particulars regarding the purpose for the request.

* * * * * * *

(b) Temporary authority may be granted in circumstances requiring emergency operation to serve the public interest. Such situations include: emergencies involving danger to life and property; during a national emergency proclaimed by the President or the Congress of the U.S.A.; and during the continuance of any war in which the United States is engaged, and where such action is necessary for the national defense or security or otherwise in furtherance of the war effort.

* * * * *

[FR Doc. 83–11779 Filed 5–2–83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No.86
Tuesday, May 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 21

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Acquisition and Relocation for Federal and Federally Assisted Programs

AGENCY: Office of Operations, USDA.

ACTION: Notice of model regulations and request for comments.

SUMMARY: The Department of Transportation (DOT), at the request of the Office of Management and Budget, published in the **Federal Register** on April 14, 1983, 48 FR 16198, a notice of proposed rulemaking (NPRM) under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). This proposed DOT rule, developed by an interagency working group, is intended to eventually serve as a model for regulations to be issued by all other Federal agencies with programs covered by the Uniform Act. Those agencies will be requested by OMB to review their existing regulations and to revise them to be substantially identical to the final DOT regulations.

State and local agencies and individuals affected by programs of the United States Department of Agriculture may wish to review and comment on the proposed regulation within the prescribed period. Appropriate DOT officials will be available to respond to any questions which may arise on this matter. To the extent possible, it is intended that all major issues be resolved through the DOT NPRM and that the subsequent rules of this agency will adhere closely to the DOT model. Copies of comments sent to DOT may also be sent to the Director, Office of Operations, in this Department.

DATE: Comments must be received by the Department of Transportation on or before May 31, 1983.

ADDRESS: Send comments to Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th St., SW., Room 10241, Washington, D.C. 20590. Copies of comments sent to DOT may also be sent to Director, Office of Operations, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mrs. Ladelle H. Ray, Office of Operations, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–5113.

Done in Washington, D.C., this 27th day of April 1983.

Frank Gearde, Jr.,

Director, Office of Operations.

[FR Doc. 83–11735 Filed 5–3–83; 8:45 am]

BILLING CODE 3410–HL–M

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Grapefruit Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. Standards for Grades of Grapefruit Juice. The proposed rule was developed by the United States Department of Agriculture (USDA) at the request of major segments of the citrus industry. This proposed rule would: (1) Allow additional dilution ratios in frozen concentrated grapefruit juice; (2) amend the required Brix for grapefruit juice from concentrate to conform to the requirements of the Food the Drug Administration (FDA) Standards of Identity for Grapefruit Juice; and (3) make minor editorial changes. Its effect would be to improve the standards and promote orderly and efficient marketing of grapefruit juice.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been revised under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because this reflects current marketing practices.

The currently effective standards for grades of frozen concentrated grapefruit juice do not allow for dilution ratios other than three parts water to one part concentrate. Some processors of frozen concentrated grapefruit juice market products that have higher concentration than is allowed in the currently effective standards. These products must be graded as concentrated grapefruit juice for manufacturing, which does not represent the intended use of the products. Providing other dilution ratios would promote orderly marketing of these products.

The United States Standards for Grades of Grapefruit Juice, effective September 17, 1981, cited the FDA Standards of Identity for Grapefruit Juice as the minimum requirement for degrees Brix in both grapefruit juice and grapefruit juice from concentrate. The FDA requirement was nine (9) percent soluble solids. On June 4, 1982, the FDA stayed the soluble solids requirement in the Standards of Identity for Grapefruit

Juice. On September 15, 1982, the USDA published in the **Federal Register** a revision of the United States Standards for Grades of Grapefruit Juice to require a minimum of nine (9) percent soluble solids in both grapefruit juice and grapefruit juice from concentrate. On October 1, 1982, the FDA amended the Standards of Identity for Grapefruit Juice to set the minimum soluble solids requirement at ten (10) percent for grapefruit juice from concentrate. The effective date of the FDA minimum solids requirement is July 1, 1983. This proposal would change the soluble solids requirement in the grade standards for grapefruit juice from concentrate from nine (9) percent to ten (10) percent. This proposed action would align the grade standards with the FDA Standards of Identity.

Several editorial changes in the definition of terms and in Tables I through V would promote better understanding and uniformity.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

Accordingly, the United States Standards for Grades of Grapefruit Juice (7 CFR 52.1221–52.1230) would be revised to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

* * * * *

Subpart—United States Standards for Grades of Grapefruit Juice

Sec.

52.1221 Product description.
52.1222 Styles.
52.1223 Color.
52.1224 Definitions of terms.
52.1225 Recommended sample unit size.
52.1226 Grades.
52.1227 Factors of quality and analysis.
52.1228 Requirements for grades.
52.1229 Sample size.
52.1230 Lot requirements.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Grapefruit Juice

§ 52.1221 Product description.

(a) "Grapefruit juice" is the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(b) "Grapefruit juice from concentrate" is the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(c) "Frozen concentrated grapefruit juice" is processed by concentrating and preserving by freezing the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act.

(d) "Concentrated grapefruit juice for manufacturing" is processed by concentrating and preserving by physical means the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal Food, Drug, and Cosmetic Act. The finished product may not contain any additives except cold-pressed oil, to standardize flavor, and chemical preservatives permissible under provisions of the Federal Food, Drug, and Cosmetic Act.

(e) "Dehydrated grapefruit juice" is processed by concentrating and preserving by dehydration the product represented as defined in the Standards of Identity for Grapefruit Juice (21 CFR 146.132), issued under the Federal, Food, Drug, and Cosmetic Act.

§ 52.1222 Styles.

(a) Unsweetened.

(b) Sweetened (Sweetener added).

§ 52.1223 Color.

(a) White or amber.

(b) Pink or red.

§ 52.1224 Definitions of terms.

In these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acid* means the percent, by weight, of total acidity (calculated as anhydrous citric acid).

(b) *Appearance* means the physical properties of grapefruit juice which are evaluated by the human eye.

(c) *Brix* means the total soluble solids as determined when tested with a Brix hydrometer and applying the applicable temperature correction. The Brix may be determined by any other method that gives equivalent results.

(d) *Brix/Acid Ratio* means the ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 grams of the juice.

(e) *Brix value* means the refractometric sucrose value determined in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acid is added. The Brix value is determined in accordance with the refractometric method outlined in the "Official Methods of Analysis of the Association of Offical Analytical Chemists."

(f) *Brix value/Acid Ratio* means the ratio of the Brix value of the concentrate, in degrees Brix, to the grams of anhydrous citric acid per 100 grams of concentrate.

(g) *Coagulation* means curdling of grapefruit juice.

(h) *Color.*—(1) *Good color* means the grapefruit juice is representative of juice expressed from mature, well-ripened grapefruit; and the grapefruit juice may show fading and lack of luster.

(2) *Reasonably good color* means the grapefruit juice may be slightly, but not materially, affected by scorching, oxidation, or caramelization.

(i) *Defects* means juice cells, seeds or portion of seeds, specks, particles of membrane, core, peel, or any other distinctive features that adversely affect the appearance or drinking quality of grapefruit juice.

(1) *Practically free from defects* means defects in excess of that normally expected in grapefruit juice are not present.

(2) *Reasonably free from defects* means the presence of defects does not seriously affect the appearance or drinking quality of grapefruit juice.

(j) *Flavor.*—(1) *Good flavor* means:

(i) *Grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging or storage conditions.

(ii) *Grapefruit juice from concentrate* that is typical of juice from mature, well-ripened grapefruit. The grapefruit juice may be slightly affected by processing, packaging or storage conditions.

(iii) *Frozen concentrated grapefruit juice* that is typical of freshly extracted juice from mature, well-ripened grapefruit; and does not have more than slight trace of bitterness.

(iv) *Concentrated grapefruit juice for manufacturing* that is practically free from traces of scorching, caramelization, oxidation, and terpene.

(v) *Dehydrated grapefruit juice* that is free from terpene, caramelization, oxidation, and rancid flavors.

(2) *Reasonably good flavor* means:

(i) *Grapefruit juice* that is materially but not seriously affected by bitterness, terpene, processing, storage, or container flavors.

(ii) *Grapefruit juice from concentrate* that is materially but not seriously affected by bitterness, terpene, processing, storage, or container flavors.

(iii) *Frozen concentrated grapefruit juice* that is fairly typical of freshly

extracted grapefruit juice, no more than slightly affected by bitterness, and is free from abnormal flavors of any kind.

(iv) *Concentrated grapefruit juice for manufacturing* that is no more than slightly affected by scorching, caramelization, or oxidation. It may have a trace of terpene, but is free from any other abnormal flavors.

(v) *Dehydrated grapefruit juice* that is no more than slightly affected by scorching, caramelization, oxidation, or terpene flavors, but is free from any other abnormal flavors.

(k) *Free and suspended pulp* means the particles of membrane, core, peel, and similar material that separate from suspension by centrifuging.

(l) *Reconstituted juice* means the product obtained by thoroughly mixing the concentrate with the amount of water prescribed on the label or other appropriate directions.

(m) *Reconstitutes properly* means, that upon mixing with water, the concentrate dissolves readily and has no material coagulation or separation.

(n) *Recoverable oil* means the volume of oil that may be recovered from grapefruit juice as determined by the "Official Methods of Analysis of the Association of Official Analytical Chemists."

(o) *Sample unit* means a portion of grapefruit juice used for grading.

(p) *Terpene* means a specific flavor found in oils and resins.

§ 52.1225 Recommended sample unit size.

The requirements for all factors of quality and analysis are based on the following:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more containers; or

(d) A portion of unpacked product.

§ 52.1226 Grades.

(a) *U.S. Grade A* is the quality of grapefruit juice that meets the applicable requirements of Table I through V.

(b) *U.S. Grade B* is the quality of grapefruit juice that meets the applicable requirements of Tables I through V.

(c) *Substandard* is the quality of grapefruit juice that fails to meet the requirements for "U.S. Grade B."

§ 52/1227 Factors of quality and analysis.

The grade for a lot of product is based on observation and analysis of grapefruit juice and reconstituted grapefruit juice for the following quality and analytical factors:

(a) *Quality:*

(1) Appearance;
(2) Coagulation;
(3) Color;
(4) Defects;
(5) Flavor;
(6) Reconstitution; and
(7) Total score points.

(b) *Analytical:*

(1) Brix measurement or Brix value measurement;
(2) Brix/acid ratio or Brix value/acid ratio;
(3) Free and suspended pulp; and
(4) Recoverable oil.

§ 52.1228 Requirements for grades.

TABLE I.—GRAPEFRUIT JUICE

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice.
Coagulation	None	Slight.
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Total Score Points	Minimum —90	Minimum —80

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	9.0°	11.5°	9.0°	11.5°
Brix/acid ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Free and suspended pulp (percent by volume): Maximum	10		15	
Recoverable oil (percent by volume): Maximum	0.020		0.025	

TABLE II.—GRAPEFRUIT JUICE FROM CONCENTRATE

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice.
Coagulation	None	Slight.
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Total Score Points	Minimum —90	Minimum —80

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	10.0°	11.5°	10.0°	11.5°
Soluble grapefruit solids, exclusive of sweeteners (percent by weight): Minimum		10.0		10.0
Brix/Acid ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Free and suspended pulp (percent by volume): Maximum	10		15	
Recoverable oil (percent by volume): Maximum	0.020		0.025	

TABLE III.—FROZEN CONCENTRATED GRAPEFRUIT JUICE

Factors	Grade A	Grade B
Quality:[1]		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice.
Color	Good	Reasonably good.
Score points	18–20	16–17
Defect	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Reconstitution	Reconstitutes properly	Reconstitutes properly.
Total Score Points	minimum —90	Minimum —80.

	Unsweetened	Sweetened	Unsweetened	Sweetened
Concentrate				
Analytical:				
Brix value: Minimum	38.0°	38.0°	38.0°	38.0°
Brix/acid ratio:				
Minimum	9.0:1	10.0:1	7.0:1	8.0:1
Maximum	14.0:1	13.0:1	16.0:1	13.0:1
Reconstituted Juice				
Brix: minimum	10.6°		10.6°	
Minimum soluble grapefruit solids, exclusive of sweeteners (percent by weight)		10.6		10.6
Free and suspended pulp (percent by volume): Maximum	10		15	
Recoverable oil (percent by volume): Maximum	0.020		0.025	
Seeds and portions of seeds that:				
Pass through round perforations 8.2 mm (0.125 in)	No more than slightly defract.		No more than materially defract.	
Fail to pass through round perforations 3.2 mm (0.125 in)	Practically none.			

[1] Reconstituted prior to grading.

TABLE IV.—CONCENTRATED GRAPEFRUIT JUICE FOR MANUFACTURING

Factors	Grade A	Grade B
Quality:		
Color	Good	Reasonably good.
Score Points	18–20	16–17
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17
Flavor	Good	Reasonably good.
Score Points	54–60	48–53
Reconstitution	Reconstitutes properly.	
Total Score Points	Minimum —90	Minimum —80
Analytical		
Brix value/Acid ratio: Minimum	6.0:1	5.5:1
Free and suspended pulp (percent by volume-reconstituted juice):[1] Maximum	10	12
Seeds and portions of seeds that:[1]		
Pass through round perforations 3.2 mm (0.125 in)	No more than slightly defract.	No more than slightly defract.
Fail to pass through round perforations 3.2 mm (0.125 in)	Practically none.	

[1] Reconstituted prior to grading.

TABLE V.—DEHYDRATED GRAPEFRUIT JUICE [1]

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh grapefruit juice	Fresh grapefruit juice
Color	Good	Reasonably good.
Score Points	18–20	16–17.
Defects	Practically free	Reasonably free.
Score Points	18–20	16–17.
Flavor	Good	Reasonably good.
Score Points	54–60	48–53.
Reconstitution	Reconstitutes properly.	
Total Score Points	Minimum —90	Minimum —80.

	Unsweetened	Sweetened	Unsweetened	Sweetened
Analytical:				
Brix: Minimum	10.0°	11.5°	10.0°	11.5°
Brix/Acid Ratio:				
Minimum	8.0:1	9.0:1	7.0:1	9.0:1
Maximum	14.0:1	14.0:1	None	None
Recoverable oil (percent by volume): Maximum	0.020		0.025	

[1] Reconstituted prior to grading.

§ 52.1229 Sample size.

The sample size to determine acceptance with the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.1230 Lot requirements.

A lot of grapefruit juice is considered as meeting the requirements for quality if:

(a) The requirements specified in Tables I, II, III, IV, and V, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1 through 52.83 are met.

Done at Washington, D.C., on April 27, 1983.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-11681 Filed 5-2-83; 8:45 am]
BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13183; File No. S7-973]

Exemption From Section 22(d) To Permit the Sale of Redeemable Securities at Prices That Reflect Different Sales Loads

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is publishing for public comment a rule that would exempt, under certain conditions, registered investment companies and the principal underwriters of and dealers in such companies' shares from section 22(d) of the Investment Company Act of 1940, which generally requires that such shares be sold to the public only at a current public offering price described in the prospectus. The Commission believes that the proposed rule would obviate the necessity for such companies to file applications requesting exemptive relief from section 22(d) in many circumstances where applications must now be filed and would permit greater competition in the pricing of mutual fund shares.

If the proposed rule is adopted, rules 22d–1 through 22d–5 will become superfluous and, therefore, obsolete. Accordingly, the Commission proposed to rescind them should the proposed rule be adopted.

DATE: Comments must be received by August 1, 1983.

ADDRESS: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (Reference to File No. S7–973). All

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comments received will be available for public inspection and copying in the Commission Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Bruce Mendelsohn, Chief, (202) 272–2048 or Jeffrey S. Puretz, (202) 272–3036, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for public comment proposed rule 22d–6 under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a–1 et seq.] which would exempt, under certain conditions, a registered investment company that is the issuer of redeemable securities, a principal underwriter of such securities, or a dealer therein from section 22(d) of the Act [15 U.S.C. 80a–22(d)]. The Commission believes that the proposed rule is consistent with the purposes of the Act, as discussed below. It further believes that the rule would result in no diminution of investor protection while both obviating the necessity for investment companies to file a substantial number of applications requesting exemption from section 22(d) of the Act and permitting greater competition in the pricing of the shares of investment companies.

This release summarizes the legislation and administrative history of section 22(d) of the Act, the reasons for the proposed rule, and the provisions of the proposed rule. The appendix to this release discusses these matters in detail. The appendix will be published in the SEC Docket; a copy of the appendix may be obtained directly from the Commission by contacting the above-mentioned contact persons.

Background

Section 22(d) of the Act prohibits a registered investment company and a principal underwriter [1] of or a dealer [2] in its redeemable securities from selling such securities to "any person" [3] except at a current public offering price described in its prospectus.[4] This section effectively prohibits price competition in sales loads on mutual fund shares at the retail level.

1. Purposes of Section 22(d)

Since there is relatively little in the Act's legislative history to explain the purpose of section 22(d),[5] it is not clear that retail price maintenance was itself the purpose of the section. In the years since the enactment of the Act, arguments have been advanced that section 22(d) was intended as a means to prevent three abuses that existed in the distribution of investment company shares prior to 1940. These arguments are discussed in the appendix to this release and are summarized herein.

The first of the abuses that the Act has been said to address was riskless trading by insiders and the dilution of fund assets that resulted under the system of backward pricing utilized prior to passage of the Act and for many years thereafter. Under the backward pricing system, the price of a mutual fund share was based upon the fund's net asset value per share determined at the close of the market on the previous day. If the market gained, an investor could purchase fund shares near the end of the day at the price based upon the previous day's valuation, knowing that the net asset value of the shares was greater than the price he was paying, thereby diluting the interests of existing shareholders. the transaction could be made riskless by redeeming the shares the following day, before a new (and possibly lower) price reflecting that day's market activity was established. While payment of a sales load made riskless trading impossible, since the sales load would more than offset any profit that could result from one day's increase in the value of a fund's shares, certain insiders and favored customers could often purchase fund shares without paying a sales load. Since the overwhelming majority of open-end funds at the time of the act were load funds, the enactment of section 22(d) greatly reduced the possibility of dilution occurring from such riskless trading practices by requiring all investors to pay the same sales load.

The second purpose which has been suggested for section 22(d) was to avoid disruption in the orderly distribution of mutual fund shares and the development of a secondary market in such shares. Prior to 1940, authorized dealers who distributed a fund's shares were generally bound by contract with the principal underwriter to charge a single price described in the prospectus, and were not given the discretion to lower share prices. Non-contract dealers were able to compete with contractual dealers by paying investors wishing to sell shares a little more than the published redemption price and offering the shares at less than the published sales price. This situation apparently led to a somewhat active secondary market, the so-called "bootleg market," which is said to have resulted in the cancellation of many selling agreements between underwriters and contractual dealers and threatened to undermine the orderly distribution system.[6] Representatives of the industry have contended that an orderly distribution system under the control of the funds facilitates the funds' ability to offer constant redemption of their shares. It has been argued that section 22(d) was intended to preserve such orderly distribution by eliminating competition from non-contract dealers.

The third abuse arguably addressed by section 22(d) was discrimination among investors resulting from a fund charging different prices to different investors. While commentators have differed on whether section 22(d) was intended to address price discrimination,[7] it appears that Congress contemplated that more than one offering price could be charged different investors since it used the phrase "a current public offering price described in the prospectus" rather than "the price." In this regard, the Commission has long viewed volume and group discounts and other specified types of discounts as consistent with the purposes of section 22(d). It has granted a large number of exemptions by rule and by order premised on the theory that discrimination is not unjust, and thus the purpose of the section is not

[1] Section 2(a)(29) of the act [15 U.S.C. 80a–2(a)(29)] defines principal underwriter for an issuer of redeemable securities to be any underwriter who as principal purchases or has the right to purchase from such company securities for distribution, or as agent for such company sells such security to a dealer or the public or both.

Section 2(a)(40) of the Act [15 U.S.C. 80a–2(a)(40)] defines underwriter to be any person who purchases from an issuer with a view to the distribution of any security.

[2] Section 2(a)(11) of the Act [15 U.S.C. 80a–2(a)(11)] defines dealer to be any person engaged in buying and selling securities for his own account as part of a regular business.

[3] Section 2(a)(28) of the Act [15 U.S.C. 80a–2(a)(28)] defines person as a natural person or a company.

[4] Section 22(d) further provides that the prohibition against selling redeemable securities except at a current public offering price described in the prospectus does not apply to sales of such securities to a dealer, a principal underwriter, or the issuer of the securities where the securities are offered to the public by or through an underwriter.

[5] See *Report of the Securities and Exchange Commission on the Public Policy Implications of Investment Company Growth*, H.R. Rep. No. 2337, 89th Cong., 2d Sess. 219 (1966) (hereinafter "PPI").

[6] *See* Greene, *The Uniform Offering Price of Mutual Fund Shares Under the Investment Company Act of 1940*, 37 U. Det. L. J. 369, 372 (1960).

[7] *See* Greene, *supra* n. 6, at 371 (citing prevention of discrimination as a purpose "well known in the industry and to the Commission"). *Cf.* Heffernan and Jordon, *Section 22(d) of the Investment Company Act of 1940—Its Original Purpose and Present Function*, 1973 Duke L. J. 975, 980 (arguing that legislative history does not support prevention of discrimination as a purpose).

violated, if there is a rational basis for the variation in sales load. At the same time, the Commission has expressed concern that retail price maintenance may be unfair when investors requiring different levels of sales efforts must be charged the same sales load.[8]

2. Prior Studies and Recommendations

The effect of section 22(d) on the pricing and distribution of mutual fund shares has been the subject of substantial analyses and numerous reports by the Commission. A history of such matters is presented in the appendix, and the concerns of the Commission are summarized herein. In a report to Congress in 1966, the Commission noted that because section 22(d) prohibits competition among retail dealers, competition among distributors (principal underwriters) had had the effect of raising rather than lowering mutual fund share prices to investors. Underwriters, instead of competing for sales through lower sales loads to investors, had competed for the favor of the retailers who sell the shares by increasing the sales loads and thus the retailers' compensation.[9]

In the 1970 amendments to the Investment Company Act, Congress adopted an amendment to section 22(b) of the Act [15 U.S.C. 80a–22(b)] that gave rulemaking authority with Commission oversight to the National Association of Securities Dealers, Inc. ("NASD") to prevent mutual fund shares from being sold at excessive rates. In its 1971 letter of transmittal accompanying its Institutional Investor Study Report, the Commission stated that "fixed rates on orders (for fund shares) above a given size can no longer be justified" and suggested that ways of reducing costs of acquiring shares be found.[10]

The Commission held hearings in 1973 to obtain the views of interested persons with respect to what changes in mutual fund distribution might be desirable. At those hearings, most industry representatives opposed repeal of section 22(d). After the hearings, the Commission submitted another report to Congress, recommending that it be permitted to pursue a program that would lay the groundwork for a gradual and orderly introduction of price competition in the sales of mutual fund shares through administrative action.[11] Since announcing that program, the Commission has taken a number of steps toward modifying regulation of the mutual fund distribution system, including easing restrictions on mutual fund advertising and approving an NASD rule amendment that set a ceiling on sales loads and tied incremental increases in sales loads to the services offered by a dealer. In addition, the Commission has adopted several additional rules exempting certain transactions from the provisions of section 22(d) and has been receptive to applications for exemptive relief.[12] The staff has also taken no-action positions in numerous situations in which funds have stated their intention to use reduced sales loads.

Discussion

1. Reasons for the Rule

a. Appropriate Business Judgment Determination

Over the last few years, the Commission has implemented a policy of reducing its involvement and that of its staff in regulating the decisions of investment companies to the extent that such reduced involvement is consistent with investor protection. The Commission views the decision to establish a pricing system that permits variations in sales loads to be one that is particularly appropriate for management to make. Since rule 22c–1 [17 CFR 270.22c–1], as discussed hereafter, has eliminated the possibility of dilution resulting from the "riskless trading" practices described earlier, the determination of whether to permit variations in sales loads now involves basically a consideration of marketing factors. Investment companies and their underwriters are in the best position to know and assess such factors.

The Commission further believes that the determination of whether to permit price variations is a business judgment determination in which it is appropriate for the Commission to reduce its involvement because sufficient investor protections are provided elsewhere in the securities laws, as discussed in the appendix and summarized herein. Section 15(c) of the Act [15 U.S.C. 80a–15(c)] requires that the terms of any underwriting contract or of the renewal of any underwriting contract be approved by the vote of a majority of directors who are neither parties to such contract nor interested persons of such parties. Inasmuch as the terms of such a contract would reflect any price variations that an underwriter has determined to permit, the directors would be apprised of such variations and would have an opportunity to consider the effect of such variations on the fund.

Where fund shares are to be sold at negotiated loads, further investor protections against excessive or unjust discriminatory prices are provided by provisions of the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a–1 et seq.], and NASD rules, which provide disclosure requirements and professional standards for brokers-dealers, in addition to limiting the maximum amount of sales loads.

b. Changes in Circumstances

Since enactment of the Act, circumstances have changed so as to diminish substantially several concerns relating to the alleged purposes of section 22(d). These changed circumstances, reflecting both regulatory and marketplace developments, are discussed in the appendix and summarized herein.

As noted above, the concern of dilution of fund assets arising from "riskless trading" by insiders was addressed by the adoption of rule 22c–1 under the Act [17 CFR 270.22c–1], which prohibits "backward pricing" and requires instead "forward pricing" whereby the price of shares is based upon a fund's net asset value per share next determined after receipt of an order for purchase (generally at the close of business on the day of a sale), rather than the previous day. Rule 22c–1, by eliminating the possibility of a purchaser or seller taking advantage of any discrepancy between a fund's current net asset value and a sales price based upon the previous day's net asset value, renders retail price maintenance unnecessary as a method of preventing dilution from riskless insider trading.

The concern of unjust price discrimination among purchasers has been substantially dispelled by the results achieved under Securities Exchange Act rule 19b–3 [17 CFR 240.19b–3], which, since its adoption in 1975, has prohibited the national securities exchanges' prior practice of requiring their members to charge fixed brokerage commissions. Market experience under rule 19b–3 has shown that commission rates have fallen into rational patterns that reflect the sales costs involved and the services provided.

The concern of maintaining an orderly market in mutual fund shares should be considered in light of industry and regulatory developments. It has been argued since before enactment of the

[8] PPI, *supra* n. 5, at 221.

[9] *Id.*, at 221.

[10] House Doc. No. 92–64, 92d Cong., 1st Sess., pt. 6, at xix–xxi (1971).

[11] Division of Investment Management Regulation, *Mutual Fund Distribution and Section 22(d) of the Investment Company Act of 1940*, at v (August 1974); *See* Investment Company Act Release No. 8570 (November 4, 1974) (announcing program).

[12] The Commission receives approximately 30 applications per year requesting exemptive relief from section 22(d) or the rules thereunder.

Act that an ongoing continuous sales effort by contractual dealers is necessary to prevent the funds from experiencing net redemptions of their shares, and that a secondary market would undermine the contractual distribution system. The number and size of no-load funds, however (even excluding money market funds), has grown over the years. In this regard, because of regulatory changes, it is now possible to provide investors with more information through fund advertising. Moreover, as the Commission has relaxed the restrictions against retail price competition by rule and by order, funds have established numerous types of plans whereby fund shares are sold at a greater variety of reduced sales loads. These developments suggest that some mutual funds may find that it is in their best interests either to establish distribution plans that reflect greater price flexibility or to permit the dealers in their shares to negotiate sales loads with investors. In any event, mutual funds and their underwriters would seem to be in a better position than the Commission to make that determination. Under the proposed rule, funds that believe that retail price maintenance is desirable for them could continue it.

c. Cost

In the years since 1974, mutual funds have filed an increasing number of applications seeking exemptive relief from section 22(d) and requests for interpretation thereof.[13] Not only have funds incurred costs in preparing applications for exemption or requests for interpretive advice, but the processing of these applications and inquiries has imposed a substantial burden on the staff. Furthermore, there have undoubtedly been instances in which investment companies have not pursued a system of varied sales loads because of the cost and delay involved in applying for exemptive relief.[14] Accordingly, the Commission believes that it is appropriate to dispense with, or at least minimize, its involvement with decisions of mutual funds concerning the pricing of their shares and to permit investment companies the flexibility to determine what pricing system is best for them and their investors.

[13] In that time, the Division of Investment Management has issued, pursuant to delegated authority, over 100 orders of exemption. In addition, the Division has answered over 100 written interpretive requests and numerous other inquiries concerning the section and the rules adopted thereunder.

[14] The Commission's records show no applications have been submitted for orders permitting negotiated sales loads.

2. The Proposed Rule

The proposed rule provides that a company may adopt a pricing system that includes rates (1) described in a schedule, (2) that are determined by a process of negotiation, or (3) which combine such two methods.[15] This provision is intended to give investment companies maximum flexibility in establishing the pricing of their shares. As state previously, rules 22d–1 through 22d–5 permit companies some flexibility, subject to various conditions, to establish certain scheduled variations in sales loads. Proposed rule 22d–6 would expand this flexibility to permit companies to establish any scheduled variation if the company complies with the conditions of the proposed rule. Rule 22d–6 would also provide that companies may permit negotiated sales loads subject to the same conditions, but only in those situations where the sales load is negotiated and agreed to at the time of purchase and not at the time of redemption.[16]

The conditions under the proposed rule are far more general in their terms than has been the case either in prior rules promulgated under section 22(d) or in individual orders exempting companies from the provisions of section 22(d). This departure reflects the judgment that investment companies should determine what factors are important in determining the best pricing system for their shares. The Commission believes that the proposed rule provides flexibility to registrants without sacrificing appropriate investor protection, and is consistent with the purposes fairly intended by the policy and provisions of the Act, including section 22(d). It does not require mutual funds to sell their shares pursuant to a distribution plan that permits reduced or negotiated sales loads or to change their current distribution system. It is a permissive rule that recognizes that under certain conditions designed to protect investors, mutual funds may unfix the sales loads charged on their redeemable securities. If a fund wishes to introduce new variations or negotiation in its distribution, it would have to comply with the rule's conditions; otherwise, it must continue to sell its securities at uniform prices [17] or seek an order exempting it from section 22(d).

As discussed more fully in the appendix, the proposed rule would require an investment company to set forth in its prospectus specific information concerning the various prices of its securities or the manner in which such amounts can be determined, and where applicable, that the sales load is subject to negotiation. The rule would also require that the prospectus describe the circumstances under which either a scheduled or negotiated sales load would be available.

Several additional disclosures requirements would be imposed where a company's sales load is subject to negotiation. The prospectus would have to disclose the maximum sales load that may be charged. Prior to final agreement on the price, the seller would have to disclose the sales load as a percentage of the total price paid for the shares and as a percentage of the net amount invested. The principal underwriter would be required either to undertake by written agreement to comply with the requirements of this provisions, or, if the company's shares are distributed by the underwriter through independent dealers, to enter into written agreements with such dealers whereby the dealers undertake to comply with such provisions.

As mentioned above, the Commission has adopted in the past rules 22d–1 through 22d–5 exempting certain transactions from the provisions of section 22(d) in limited circumstances. Since proposed rule 22d–6 would exempt a much broader range of transactions, present rules 22d–1 through 22d–5 would become superfluous and, therefore, obsolete. Accordingly, the Commission proposes to rescind those rules if it adopts rule 22d–6 as proposed, effective on the date of adoption.

[15] For instance, a company may sell its shares at sales loads determined by a sliding scale of specific percentages up to a certain break point and by negotiation above that break point. Or, it may decide to set forth specific sales loads for shares purchased directly from the company, principal underwriter, or transfer agent but to permit dealers in the company's shares to negotiate sales loads. In those situations in which a fund decides to allow dealers the flexibility to negotiate sales loads, but sets forth in its prospectus specific sales loads with respect to purchases directly from the company, the transfer agent, or the principal underwriter, it would be the position of the Commission that under general anti-fraud theories, a dealer could not charge a purchaser a higher sales load than is available directly from the fund without adequate disclosure of such fact. *See* Letter to Charles Schwab & Co., Inc., (pub. avail. February 8, 1982), permitting a broker-dealer to charge for services in connection with the purchase of shares of a no-load mutual fund where the fee is reasonable for the services provided, taking into consideration that the investor could acquire shares directly.

[16] An investor who negotiates the sales load at redemption is in an inferior bargaining position and may be subject to overreaching by the company or sales personnel. This situation would arise most often where shares are sold subject to a deferred sales load.

[17] In this regard, section 22(d) would continue to require that investment company shares be sold only at uniform prices described in the prospectus. Since the proposed rule would exempt investment companies, principal underwriters, and dealers only to the extent and under such conditions as determined by the Commission to be consistent with the protection of investors, in the Commission's view, existing antitrust immunity afforded by section 22(d) would not be affected by the proposed rule. See, *United States* v. *National Association of Securities Dealers*, 422 U.S. 694, 699 (1975).

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulation by adding § 270.22d–6 to read as follows:

§ 270.22d–6 Exemption from section 22(d) to permit sales of redeemable securities at prices which reflect varying sales loads.

A registered investment company that is the issuer of redeemable securities, a principal underwriter of such securities or a dealer therein shall be exempt from the provisions of section 22(d) to the extent necessary to permit the sale of such securities at prices that reflect variations in or elimination of the sales load which are established pursuant to a schedule that offers such variations in or elimination of the sales load to particular classes of investors or transactions, or pursuant to negotiation at the time of purchase between the seller and the investor, or pursuant to a combination of such two methods, *Provided* that the following conditions are met:

(a) The prospectus of the company discloses:

(1) The amounts of the sales loads or the method by which such amounts can be readily ascertained; or that the sales load is subject to negotiation; and

(2) The circumstances under which such sales loads or negotiation shall be available; and

(b) If the company's prospectus provides that the sales load is subject to negotiation,

(1) The prospectus of the company discloses the maximum sales load that may be charged; and

(2) The seller discloses, prior to final agreement on a particular price, the sales load, if any, as a percentage of the total price paid and the percentage of the net amount invested to a purchaser of the company's shares; and

(3) The negotiation is permitted pursuant to a written agreement between the company and the principal underwriter of its shares whereby the underwriter undertakes either:

(i) To comply with the requirements of paragraph (b)(2) of this section; or

(ii) If the shares are distributed through independent dealers, to enter into a written agreement with any dealer in the company's shares whereby the dealer undertakes to comply with the requirements of paragraph (b)(2) of this section.

(4) The exemption provided by this section shall be available to the company and the principal underwriter of its shares notwithstanding a failure of a dealer in the company's shares to make the disclosure required by paragraph (b)(2) of this section, *Provided* that:

(i) The company and the principal underwriter have no reason to believe that a dealer is not complying with the requirements of paragraph (b)(2), or where there is reason to believe that a dealer is not so complying, reasonable steps are taken to end such non-compliance; and

(ii) The company and the principal underwriter have complied with all the provisions of this section.

Statutory Basis

Rule 22d–6 would be adopted by the Commission pursuant to the authority granted the Commission in sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding proposed rule 22d–6. The Analysis notes that the proposed rule may have a significant economic impact on small investment companies and small broker-dealers by obviating the need for such entities to file applications for exemptive relief if they wish to employ variations in sales loads other than those permitted under current rules. The Analysis further states that if the proposed rule generates greater retail competition in the sale of mutual fund shares, such competition may have an adverse economic impact on small investment companies and broker-dealers, citing testimony by representatives of independent broker-dealers at Commission hearings in 1973, who argued against repeal of section 22(d). The Analysis submits that it is difficult to assess whether the proposed rule would cause greater competition in the retail sales of fund shares, and that it is difficult to assess whether any such increased competition would affect such entities, and if so, how they would be affected.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Jeffrey S. Puretz, Office of Regulatory Policy, Securities and Exchange Commission, Room 5103, 450 Fifth Street, N.W., Washington, D.C. 20549.

By the Commission.

Dated: April 22, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11302 Filed 5-2-83; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-190 (Texas—6 Addition IV)]

Texas; High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Travis Peak Formation in Nacogdoches County, Texas, be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on June 13, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on May 13, 1983.

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ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas produced from tight formations; notice of proposed rulemaking by Director, OPPR; Docket No. RM79–76–190 (Texas—9 Addition IV).

Issued April 28, 1983.

I. Background

On March 14, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Travis Peak Formation located in Nacogdoches County, Texas, be designated as a tight formation. The Commission previously adopted recommendations that portions of the Travis Peak Formation in the Sym-Jac, West (Hosston) Field (Order No. 154 issued June 10, 1981, in Docket No. RM79–76 (Texas—9)) and the Bear Grass Area of east Texas (Order No. 180 issued October 8, 1981, in Docket No. RM79–76 (Texas—9 Addition)) be designated as tight formations. There are currently under consideration recommendations that additional areas of the Travis Peak Formation be designated as tight formations (all of Texas Railroad Commission Districts 5 and 6 in Docket No. RM79–76 (Texas—9 Addition II) and the Melrose, South (Travis Peak) Field in Docket No. Rm79–76–171 (Texas—9 Addition III). Notices of Proposed Rulemaking issued December 15, 1981 and March 14, 1983, respectively). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Travis Peak be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas' recommended addition to the Travis Peak Formation is located in the Martinsville (Travis Peak) Field immediately south of the town of Martinsville in eastern Nacogdoches County, Texas, Railroad Commission District 6. The recommended area includes all acreage within a 2.5 mile radius of the Getty Oil Company, Manuel Herrera No. 1 well located in the Jose Huerra Survey, A–289, and is on the south flank of the Sabine uplift. The above named well is the only well producing from the formation; however, two other wells in the recommended area penetrated the formation but were abandoned.

The top of the Travis Peak Formation is encountered at subsea depths ranging from approximately 8,100 feet on the north to 8,500 feet on the south, in the recommended area.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on December 9, 1982, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980) notice is hereby given of the proposal submitted by Texas that the Travis Peak Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 13, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–190 (Texas—9 Addition IV), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than May 13, 1983.

Lists of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposed to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18 Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(36)(iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(36) *Travis Peak Formation in Texas. RM79–76 (Texas—9)* * * *

(iv) *Martinsville (Travis Peak) Field.*

(A) *Delineation of formation.* The designated portion of the Travis Peak Formation is located immediately south of the town of Martinsville in eastern Nacogdoches County, Texas, Railroad Commission District 6, and includes all of the area within a 2.5 mile radius around the Getty Oil Company, Manuel Herrera well No. 1 located in the Jose Huerra Survey, A–289.

(B) *Depth.* The designated portion of the Travis Peak is found at sub-sea depths ranging from approximately 8,100 feet on the north to 8,500 feet on the south.

[Doc. 83–11777 Filed 5–3–83; 8:45 am]

BILLING CODE 6717–01–M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Proposed Amendments to Comprehensive Plan

AGENCY: Delaware River Basin Commission.

ACTION: Proposed rules and public hearings.

SUMMARY: Notice is hereby given that the Delaware River Basin Commission will hold three public hearings in accordance with this notice to receive comments on proposed amendments to the Commission's Comprehensive Plan relating to water quality standards; water supply policy; diversions, releases and reservoir management during drought; water conservation policy; and a program of augmented conservation releases.

These proposed amendments stem from recommendations in the Commission's Final Level B Study and from a recent agreement by the Governors of the Commonwealth of Pennsylvania, the States of New York, New Jersey and Delaware, and the Mayor of New York City entitled *Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission Pursuant to Commission Resolution 78–20.* The 1954 Decree had proved to be inadequate in times of drought, exacerbating long-standing conflicts among the down-basin states and New York City over water use.

The proposed amendments are designed to apportion available water during shortages, assure that stream flow levels repel ocean water salt during droughts, institute conservation measures and protect fisheries and recreational uses.

DATES: The public hearings are scheduled as follows: May 25, 1983 at 3:00 p.m.; June 2, 1983 from 1:00 to 5:00 p.m., resuming at 7:00 p.m.; and June 3, 1983 from 1:00 p.m. to 5:00 p.m., resuming at 7:00 p.m.

Written testimony submitted to the Secretary by June 15, 1983 will be included in the hearing record.

ADDRESS: The May 25, 1983 hearing will be held in the Pennsylvania West Room of the Philadelphia Centre Hotel, 1725 Kennedy Boulevard, Philadelphia, Pennsylvania.

The June 2, 1983 hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The June 3, 1983 hearing will be held in the Banquet Hall of the Karsten Inn on Route 6 in Port Jervis, New York.

Written comments should be submitted to Susan M. Weisman, Delaware River Basin Commission, P.O. box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, Telephone 609–883–9500.

SUPPLEMENTARY INFORMATION: Explanatory material relating to these proposed amendments to the Comprehensive Plan may be examined at the Commission's offices. Persons wishing to testify at these hearings are requested to notify the Secretary in advance.

The subjects of the hearings will be as follows:

I. Amendments to the Comprehensive Plan Relating to Water Quality Standards

Article 3 of the Comission's *Basin Regulations—Water Quality* contains the Comprehensive Plan's water quality standards. Within this Article are certain salinity control standards for the Delaware estuary. The Commission is now considering amendments to its Comprehensive Plan and *Basin Regulations—Water Quality* to revise the salinity control standards. Specifically, it is proposed to:

1. Amend the Comprehensive Plan and subsection 3.30.3–C.12 of the *Basin Regulations—Water Quality* to read:

12. *Chlorides.* Maximum 30-day average concentration of 180 mg/l at River Mile 98.

2. Insert new Subsection 3.30.3–C.14 to read:

14. *Sodium.* Maximum 30-day average concentration of 100 mg/l at River Mile 98.

3. Delete Subsection 3.30.4–C.12.

II. Amendments to the Comprehensive Plan Relating to Water Supply Policy

Article 2 of the *Water Code of the Delaware River Basin* includes Commission policy relating to the conservation, development and utilization of Basin water projects. The planning and design of facilities and programs are dependent upon critical conditions during periods of drought. As droughts vary in severity, it is common practice to select, for planning and design of water supply facilities and programs, a drought of sufficient severity to assure the provision of dependable water supplies. Although past DRBC practice has been to assume the most severe drought of record, the Comprehensive Plan does not currently specify a drought criterion for planning and design. The Commission is now considering an amendment to the Comprehensive Plan to add a drought criterion, as recommended in the Final Level B Study and by the parties to the 1954 U.S. Supreme Court Decree. It is proposed to:

1. Amend the Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* by the addition of a new section 2.400 to read as follows:

2.400 *Design Streamflow Criteria*

2.400.1 *Water Supply.* The drought of record, which occurred in the period 1961–1967, shall be the basis for determination and planning of dependable water supply.

2.400.2 *Salinity Control.* The drought of record, which occurred in the period 1961–1967, shall be the basis for planning and development of facilities and programs for control of salinity in the Delaware estuary.

2.400.3 *Waste-Assimilative Capacity.* (See Section 4.30.7.7 of *Basin Regulations—Water Quality*—Administrative Manual—Part III).

III. Amendment to the Comprehensive Plan Relating to Diversions, Releases, and Reservoir Management During Drought

Diversions of water rom the Delaware River Basin to New York City and northeastern New Jersey, as well as downstream releases from the City's upper Basin reservoirs, are controlled by the 1954 amended Decree of the U.S. Supreme Court, except as may be modified during a Commission-declared state of emergency resulting from a drought or catastrophe pursuant to Section 3.3 of the Delaware River Basin Compact. Such a drought emergency has been declared on two occasions, and experience during these emergencies has shown the value of a drought operation formula setting forth diversion rates and streamflow objectives for guidance of reservoir operations. The Commission is now considering an amendment to the Comprehensive Plan to adopt such a drought operation formula. Specifically, it is proposed to:

1. Amend the Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* by the addition of new sections 2.5.3 and 2.5.4 to read as follows:

*2.5.3 *Schedule of Phased Reductions in Diversions, Releases and Flow Objectives During Drought*

A. Criteria Defining Conditions

For purposes of water management pursuant to Section 3.3 and Article 10 of

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the Compact, diversions of water from the Delaware River Basin by the City of New York and State of New Jersey, compensating reservoir releases from the New York City Delaware Basin Reservoirs, Reservoir releases from Beltzville Reservoir, Blue Marsh Reservoir, and Other reservoirs under the jurisdiction and control of the Commission, and streamflow objectives at the USGS gaging stations located at Montague, New Jersey, and Trenton, New Jersey, shall be governed by a schedule based upon a differentiation between "normal", "drought warning", and "drought" conditions defined by the combined storage in the Cannonsville, Pepacton and Neversink Reservoirs as set forth in Figure 1 entitled "Operation Curves for Cannonsville, Pepacton and Neversink Reservoirs". The division of the drought-warning zone into upper and lower halves shall be defined as a physically equal division, or 20 billions of gallons in each zone.

B. Schedule of Reductions

The schedules of phased reductions set forth in Tables 1 and 2 shall govern (1) the maximum allowable rates of diversion of waters from the Delaware River Basin by the City of New York and State of New Jersey; (2) the minimum compensating releases to be made by the City of New York from its reservoirs in the upper Delaware Basin; and the streamflow objectives at the USGS gaging stations located at Montague, New Jersey and Trenton, New Jersey.

During "drought" conditions as defined by the Figure entitled "Operation Curves for Cannonsville, Pepacton and Neversink Reservoirs", the streamflow objectives at the Montague and Trenton gaging stations shall be established as set forth in Table 2, in accordance with the seven-day average location of the 250 mg/l isochlor (the "salt front") in the Delaware Estuary.

C. Diversion Allowances and Release Requirements

(1) The City of New York may divert waters from the Delaware Basin at a maximum rate equivalent to the quantities set forth in Table 1.

(2) The State of New Jersey may divert waters from the Delaware River Basin, from the Delaware River or its tributaries in New Jersey, at a maximum rate equivalent to the quantities set forth in Table 1.

BILLING CODE 6360-01-M

OPERATION CURVES FOR
CANNONSVILLE, PEPACTON AND NEVERSINK RESERVOIRS

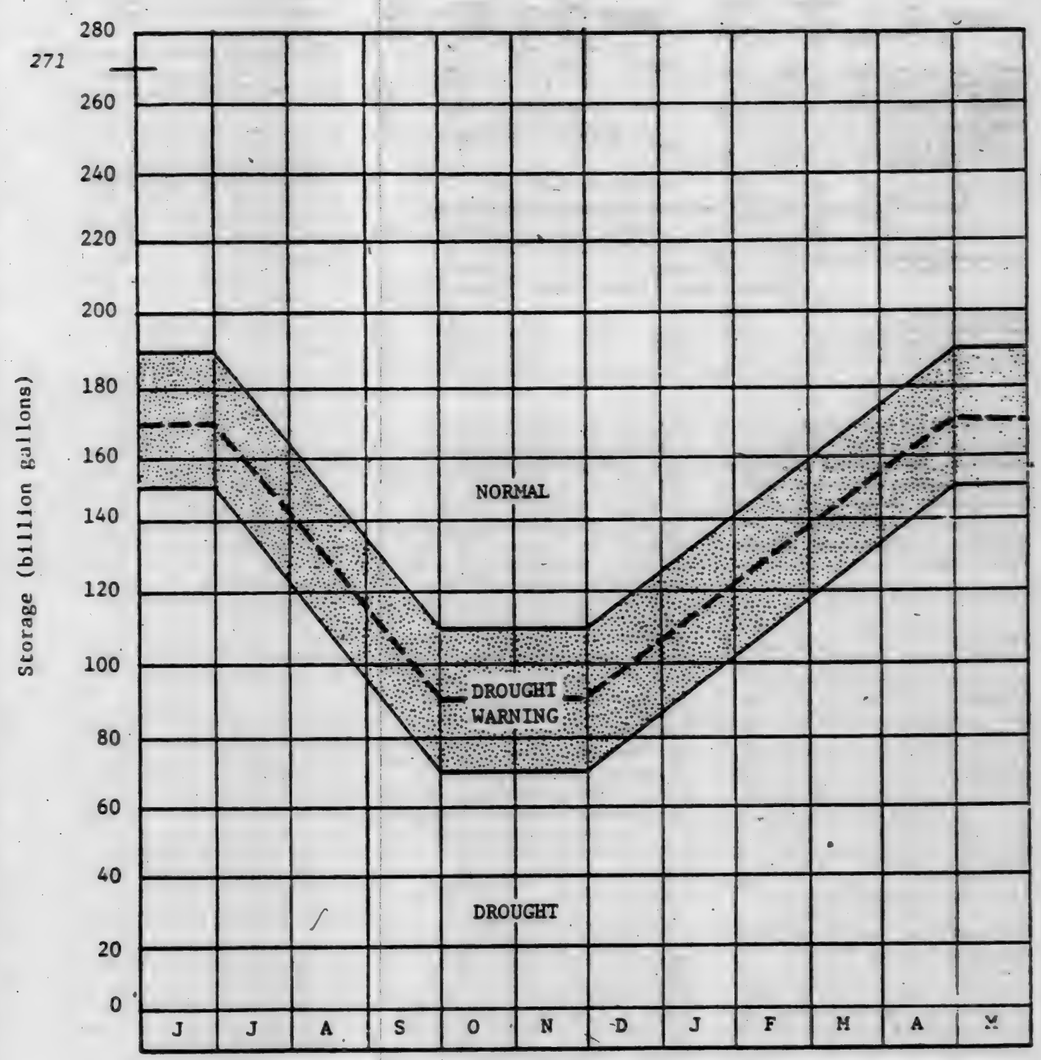

FIGURE 1

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TABLE 1.—INTERSTATE OPERATION FORMULA FOR REDUCTIONS IN DIVERSIONS, RELEASES, AND FLOW OBJECTIVES DURING PERIODS OF DROUGHT/

NYC storage condition	NYC Div. mgd	NJ Div. mgd	Montage flow objective cfs	Trenton flow objective cfs
Normal	800	100	1,750	3,000
Upper Half—Drought Warning	680	85	1,855	2,700
Lower Half—Drought Warning	560	70	1,550	2,700

TABLE 1.—INTERSTATE OPERATION FORMULA FOR REDUCTIONS IN DIVERSIONS, RELEASES, AND FLOW OBJECTIVES DURING PERIODS OF DROUGHT—Continued

NYC storage condition	NYC Div. mgd	NJ Div. mgd	Montage flow objective cfs	Trenton flow objective cfs
Drought	520	65	[1] 1,100–1,850	[1] 2,500–2,900
Severe Drought (to be negotiated based on conditions)				

[1] Varies with time of year and location of salt front as shown on Table 2.

TABLE 2.—FLOW OBJECTIVES FOR SALINITY CONTROL DURING DROUGHT PERIODS

Seven-day average location of "salt front," river-mile [1]	Flow objective, cubic feet per second at—					
	Montague, N.J.			Trenton, N.J.		
	Dec.–Apr.	May–Aug.	Sept.–Nov.	Dec.–Apr.	May–Aug.	Sept.–Nov.
Upstream of R.M. 92.5	1,600	1,650	[1] 1,650	2,700	2,900	2,900
Between R.M. 87.0 and R.M. 92.5	1,350	1,600	1,500	2,700	2,700	2,700
Between R.M. 82.9 and R.M. 87.0	1,350	1,600	1,500	2,500	2,500	2,500
Downstream of R.M. 82.9	1,100	1,100	1,100	2,500	2,500	2,500

[1] Measured in statute miles along the navigation channel from the mouth of Delaware Bay.

(3) The City of New York shall release water from one or more of its storage reservoirs in the upper Delaware Basin in such quantities designed to maintain the minimum basic rates of flow at the USGS gaging station located at Montague, New Jersey, as set forth in Tables 1 and 2.

D. Computation of Diversions

(1) Diversions by the City of New York during "normal" conditions as defined by Figure 1, shall be computed as provided in Section III.A.4. of the Amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954). At no time during a twelve-month period of the Water Year, commencing June 1, shall the aggregate total quantity diverted by the City of New York, divided by the number of days elapsed since the preceding May 31, exceed the maximum permitted rate of diversion.

(2) Diversions by the State of New Jersey during "normal" periods as defined by Figure 1 shall be computed as provided in Section V.3 of the amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954). The total diversion by the State of New Jersey shall not exceed an average of 100 mgd in any calendar year. During the months of July, August, September, and October of any year, diversions by the State of New Jersey shall not exceed 100 mgd as a monthly average, and not more than 120 million gallons in any day shall be withdrawn.

(3) Diversions by the City of New York and State of New Jersey set forth in Table 1 during "drought warning" and "drought" conditions as defined by Figure 1 shall be computed as a daily running average, commencing on the day such drought warning or drought operations become effective, as provided in subsection E of this Section. If the allowable diversion for any condition period following entry into drought warning operations is not fully used, the unused portion may not be credited or used during subsequent periods.

(4) Upon return to normal conditions operations, following a period of drought warning or drought operations, diversions by the City of New York and State of New Jersey shall be computed as averages commencing upon the date of return to normal operations.

E. Effective Period for Drought Operating Schedule

(1) The schedule of diversion, release and streamflow objectives for "drought warning" operations as provided in Subsection B shall go into effect automatically whenever the combined storage in the New York City Delaware Basin Reservoirs declines below the drought warning line defined in Figure 1, and remains below that line for five consecutive days.

(2) The schedule of diversions, releases and streamflow objectives for "drought" operations as provided in Subsection B shall go into effect immediately whenever the combined storage in the New York City Delaware Basin Reservoirs declines below the drought line defined in Figure 1, and remains below that line for five consecutive days.

(3) When the combined storage in the New York City Delaware Basin Reservoirs (including the projected water runoff equivalent of actual snow and ice within the watersheds tributary to the reservoirs) reaches a level 15 billion gallons above the drought warning line as defined in Figure 1, and remains above that level for five consecutive days, the drought warning and drought operations schedules set forth in Subsection B shall automatically terminate, and normal operations shall be resumed as provided in the Amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954).

(4) Pursuant to Section 3.3(a) of the Compact, the Parties to the Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954), have given their unanimous consent to adoption and implementation by the Commission of the drought operation schedules provided in this section. The Parties have agreed that the drought operation formula will go into effect automatically, and be binding on parties for not less than 180 days following the triggering of drought warning operations, unless terminated automatically by improved storage conditions as provided in Subsection E.3. During the 180-day period following triggering of drought warning operations, authorized representatives of the City of New York, States of Delaware, New Jersey, and New York, and Commonwealth of Pennsylvania, as parties to the U.S. Supreme Court Decree, shall convene no less frequently than once each month to review current conditions, and they may extend, modify, or extend as modified the schedules provided in this section. If no unanimous agreement as to a continuing drought operation formula is reached within the 180-day period, all Parties shall be released from the terms of the formula and schedules and may pursue their rights and obligations under the Delaware River Basin Compact and the U.S. Supreme Court Decree.

2.5.4 *Drought Emergency Actions*

A. *Criteria Defining Conditions*

For purposes of water management pursuant to Section 3.3 and Article 10 of the Compact, the determination of drought warning and drought conditions shall be based upon the combined storage in the Cannonsville, Pepacton and Neversink Reservoirs, in accordance with Figure 1, entitled "Operation Curves for Cannonsville, Pepacton and Neversink Reservoirs". The division of the drought-warning zone into upper and lower halves shall be defined as a physically equal division, or 20 billions of gallons in each zone.

B. Drought Emergency Declaration

It is the policy of the Commission that a drought emergency will be declared for purposes of imposing mandatory in-basin conservation measures and other appropriate actions whenever combined storage in the New York City-Delaware Basin Reservoirs falls into the drought zone for five consecutive days as defined in Figure 1. Termination of a drought emergency will be considered by the Commission whenever combined storage in the New York City-Delaware Basin Reservoirs reaches a level of 40 billion gallons above the drought warning line as defined in Figure 1 and remains above that line for 30 consecutive days. The drought emergency will be terminated by the Commission whenever the combined storage in the New York City-Delaware Basin Reservoirs reaches 40 billion gallons above the drought warning line defined in Figure 1 and remains above that line for 60 consecutive days, unless the Commission unanimously agrees to extend the emergency.

C. Effect of Policy

This policy is not intended to extend, impair, or conflict with the Commission's authority under the Compact to declare or terminate a drought emergency or water-shortage emergency in the Basin, or subregion thereof, in other instances as conditions may require.

IV. Amendment to the Comprehensive Plan Relating to Water Conservation Policy

Article 2 of the *Water Code of the Delaware River Basin* includes Commission policy relating to the conservation of water. Current policy focuses on total water use throughout the Basin, emphasizing the importance of overall reduction and maximum efficiency of use. While conservation measures can provide significant benefits at any time, conservation during drought periods is especially critical. The distinction between depletive water uses (i.e., uses which permanently remove water from the Basin by evaporation, exportation and other routes) and water which is used, treated and returned to a watercourse is essential because of flow-salinity relationships in the Delaware Estuary and the need to maintain minimum fresh water flows during drought. The Commission is now considering an amendment to the Comprehensive Plan to add policy relating to depletive use reduction during drought, as recommended in the Final Level B Study Report and by the parties to the 1954 U.S. Supreme Court Decree. It is proposed to:

1. Amend the Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* by the addition of new Section 2.1.4 to read as follows:

2.1.4 *Depletive Use Reduction During Drought.* It shall be the policy of the Commission that conservation measures in the Basin designed for implementation during drought periods shall be based upon the objective of reducing overall depletive use of fresh water by 15 percent.

V. Application for Approval of the Following Project Pursuant to Section 3.8 of the Delaware River Basin Compact

New York State Department of Environmental Conservation (D–77–20 CP REVISED). A program to continue on a permanent basis, as conditioned, augmented conservation releases from the New York City Delaware River Basin Reservoirs. The purpose of the program, in effect since 1977 on an experimental basis, is to augment low streamflows below the Cannonsville, Pepacton and Neversink Reservoirs to protect and enhance the recreational use of waters affected by such releases. The proposed release levels are identical to the schedules contained in Rules and Regulations of the New York State Department of Environmental Conservation (Amended Part 671, Reservoir Releases Regulations: Cannonsville, Pepacton, and Neversink Reservoir adopted May 2, 1980). The release levels have been consented to by the City of New York in reliance upon mutual commitments made by the State and City of New York (Stipulation of Discontinuance in *The City of New York vs. The State of New York Department of Environmental Conservation*, Index No. 5840–80).

Susan M. Weisman,

Secretary.

April 22, 1983.

[FR Doc. 83-11346 Filed 5-2-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 640

[Docket No. 82N–0400]

Additional Standards for Human Blood and Blood Products; Normal Serum Albumin (Human) and Plasma Protein Fraction (Human); Proposed Removal of Requirements for Samples, Protocols, and Official Release

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove the specific lot release requirements for both Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) to provide the agency the flexibility to modify or waive the lot release requirements for these two products when such requirements are unnecessary to assure that the products are safe and effective.

DATES: Comments by July 5, 1983. FDA is proposing that any final rule be effective on its date of publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1308.

SUPPLEMENTARY INFORMATION: Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are injectable biological products regulated under section 351 of the Public Health Service Act (42 U.S.C. 262) and the regulations thereunder (21 CFR Parts 600 through 640). Both products are derived from fractionation of human blood and are similar in nature. Either product may be used in the treatment of a burn patient to overcome loss of fluids and sodium, in the treatment of a shock/trauma patient, or may be used to replace plasma proteins in a patient with a lower than normal level of protein in the blood.

In the **Federal Register** of May 31, 1977 (42 FR 27575), FDA published regulations for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) to safeguard the public health and to reflect changes in manufacturing techniques and testing procedures.

FDA is reviewing its existing regulations to reduce regulatory burdens on manufacturers. As a part of this review, the agency has determined that the specific lot release requirements in §§ 640.85 and 640.95 (21 CFR 640.85 and 640.95) for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human), respectively, are unnecessary to assure a safe, pure, potent, and efficacious product. Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are stable biological preparations, free of the risk of hepatitis, whose manufacture and quality control testing are well understood.

The specific lot release regulations for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) supplement the general lot release regulation in § 610.2(a) (21 CFR 610.2(a)), which is applicable to any biological product. The specific lot release regulations for both products require the submission to FDA of a protocol (i.e., summary of the history of the manufacture of the lot), a specific quantity (sample(s)) of the product for required testing, and prohibit the manufacturer's release of the lot for distribution without notification of FDA's official release.

The general biologics regulation in § 610.2(a) authorizes the agency to require official lot release for any biological product at any time it believes lot release is necessary. Because the agency still has authority under § 610.2(a) to impose lot release requirements, the proposed removal of specific lot release requirements for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) will not affect FDA's authority to require offical lot release for these products when necessary. The agency now believes that it can obtain the same assurances of continued safety, purity, and potency for these products in a less costly and more efficient manner by using instead the authority for lot release in § 610.2(a). This proposal, if adopted, provides the agency the flexibility to modify or waive a manufacturer's lot release requirements when the safety and effectiveness of these products can be assured without such requirements.

The proposal would eliminate rather than impose a requirement and would, therefore, relieve a restriction within the meaning of 5 U.S.C. 553(d)(1) and 21 CFR 10.40(c)(4)(i). Accordingly, FDA intends that, if promulgated, the final rule will be effective upon the date of its publication in the **Federal Register**.

Accordingly, the agency is proposing to remove §§ 640.85 and 640.95 concerning samples, protocols, and official release for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) and would rely instead on the provisions of § 610.2(a), as needed.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a singificant impact on the human evironment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291 and the Regulatory Flexibility Act, the agency has considered the impact of the proposal. FDA believes that the proposed removals will relieve a burden on manufacturers of Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) by allowing more flexibility concerning lot-release requirements. The proposed removals are expected to have a favorable economic impact on the 15 current manufacturers of Normal Serum Albumin (Human) and the 6 current manufacturers of Plasma Protein Fraction (Human). The agency concludes that the proposed removals do not warrant designation as a major role under any of the criteria specified under section 1(b) of Excutive Order 12291. The agency certifies that a regulatory flexibility analysis is not required because the proposed removals would not have a significant impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 640

Biologics, Blood.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

§§ 640.85 and 640.95 [Removed]

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 640 be amended by removing § 640.85 *Samples; protocols; official release* and § 640.95 *Samples; protocols; official release.*

Interested persons may, on or before July 5, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1983.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11570 Filed 5-2-83; 8:45 am]
BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2308-7; TN-009]

Approval and Promulgation of Implementation Plans; Tennessee; Prevention of Significant Deterioration, New Source Review in Nonattainment Areas, and Miscellaneous Regulations for Nashville/Davidson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Tennessee has submitted regulations adopted by the Nashville-Davidson County Metropolitan Health Department (Metro) to meet EPA's requirements for the prevention of significant air quality deterioration (PSD) and New Source Review in nonattainment areas (NSR). In addition, the State has submitted reulations adopted by Metro concerning good engineering practice (GEP) stack height, control of volatile organic compounds (VOC), and an equivlent opacity standard for a source. All these regulations or actions apply to Davidson County, Tennessee or sources located there. EPA proposes to conditionally approve the above revisions with the understanding that changes will be made in the GEP stack height and the NRS regulations.

The effect of this proposed action will be to allow Metro to be responsible for the PSD, NSR, and GEP stack height requirements in Davidson County. In addition, Metro's submitted regulations will control emissions from certain VOC sources, and allow an equivalent opacity standard for a source (Ford Motor Company plant) in Davidson County.

DATE: EPA must receive your comments on or before June 2, 1983.

ADDRESS: Written comments should be addressed to Raymond S. Gregory of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Division of Air Pollution Control
Tennessee Department of Public Health, 150 9th Avenue, North, Nashville, Tennessee 37203
Air Pollution Control Division, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203
Environmental Protection Agency, Region, IV, Air Management Branch, 345 Courtland Street, NE., Atlanta Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory, EPA Region, IV, Air Management Branch, at the address listed above or phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On December 5, 1974, EPA published regulations for PSD under the 1970 amendments to the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). Then, on August 7, 1977, the Clean Air Act Amendments of 1977 became law and changed the 1970 Act, mandating changes in EPA's PSD regulations and, among other things, requiring adoption of NSR regulations. In addition to mandating certain changes to EPA's PSD regulations, the new Clean Air Act, in sections 160–169, contains comprehensive new PDS requirements. These new requirements are to be incorporated by States into their implementation plans. On June 19, 1978 (43 FR 26380); May 13, 1980 (45 FR 31307); and August 7, 1980 (45 FR 52676), EPA promulgated guidance to assist States in preparing state implementation plan (SIP) revisions meeting the requirements for PSD and for NSR in, or near, nonattainment areas. Metro has complied with these requirements by adopting and submitting on October 9, 1981, a revised regulation No. 3. Revisions to this regulation were submitted on June 3 and November 22, 1982. Additional information clarifying portions of the regulation was submitted on September 1, and October 22, 1982.

Metro's PSD revisions do not provide that physical changes or changes in the method of operation of stationary sources that are not subject to PSD review will be subject to PSD review, if the changes themselves would be subject to PSD review if they were new sources, as is required by 40 CFR 51.24(b)(2)(i). EPA believes that this discrepancy is insignificant because Metro's revisions employ a dual source definition for PSD purposes rather than the plantwide definition required by 40 CFR 51.24(b)(6). As a result, any new unit added to an existing source will be subject to PSD review if the unit exceeds the minimum size limitations for new sources. EPA does not anticipate that many individual units will increase their emissions by more than 100% and escape PSD review due to this discrepancy. EPA therefore proposes to approve Metro's revisions despite this discrepancy.

Metro's PSD revisions also fail to require the reviewing authority to give the applicant written notification of its final permit determination and to make such notification available for public inspection. EPA believes that this discrepancy is also insignificant because, given the small size of Nashville-Davidson County, all interested parties should be involved in the permit process so closely that they will be aware of the final determination even without a specific notification provision in the regulations. EPA therefore proposes to approve Metro's provisions despite this discrepancy.

Metro's PSD revisions do not provide any protection for Class I areas. The revisions are currently approvable because there are no Class I areas within 100 km of Nashville-Davidson County. EPA will require Metro to revise its regulations to include Class I area protection at such time as a Class I area is designated within 100 km of Nashville-Davidson County.

The regulation applicable to NSR in or near nonattainment areas applies the "dual source" definition.

During EPA's review of the NSR revisions, an issue surfaced concerning the approvability of allowing offset credits for source shutdowns for other than replacement units.

EPA proposes to conditionally approve Metro's NSR revisions to allow for submittal of conforming amendments within twelve months from the date of conditional approval. If the twelve-month period expires and EPA is in the process of revising the new source review requirements, but has not finalized the changes, the Administrator could extend the deadline specified for corrective submittal.

Also, on June 3, 1982, revisions adopted by Metro concerning control of volatile organic compounds (VOC), GEP stack height and an equivalent opacity standard for two emission points at a Ford Motor Company plant were submitted. The VOC revisions include exempting methylene chloride from the definition of VOCs, inclusion of major sources of VQC as being major sources of ozone, and regulations applicable to surface coating of miscellaneous metal parts and products (aerospace components). The equivalent opacity standards were for emissions point 22 (25%) and 201 (45%) at the Ford Motor Company plant. These opacity standards are based on compliance with the mass emission standard.

The regulation adopted by Metro for GEP stack heights is approvable except for the lack of definition of "nearby" and "excessive concentration," and a provision required (40 CFR 51.18(e)) for notification of the public of the availability of certain fluid model demonstration studies and for providing an opportunity for public hearing for the same. EPA proposes to approve the GEP regulation on the condition that Metro adopt the required definitions and the provision for required public notice and opportunity for public hearing.

Although EPA is proposing conditional approval of Metro's revisions, it should be noted that certain portions of the revisions would require inclusion of vessel emissions in the review of certain stationary sources. In connection with EPA's recent amendments to SIP new source review requirements, 47 FR 27554 (June 25, 1982), several members of the maritime industry raised the claim that States are implicity preempted from requiring such reviews by the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) et seq. EPA is still considering these claims. Accordingly, a final decision on whether to approve the vessel emission provisions of the revised regulations will be deferred until this issue is resolved. It should also be noted, however, that any EPA decision on whether to approve these revisions, in so far as they apply to vessel emissions will not affect the applicability of the rules for purposes of State or local law.

Action: EPA has reviewed the submitted revisions and found them to be equivalent to present EPA requirements except for two areas. The first area is the lack of definitions of "nearby" and "excessive concentrations" and of a provision required in the GEP stack height regulations for notification of the public of the availability of certain fluid model demonstration studies and for providing an opportunity for public hearing for the same. EPA proposes to approve the GEP regulations on condition that Metro adopt the required revisions. The second area concerns the NSR regulations which must limit offset credits for source shutdowns to replacement units. EPA is today conditionally approving these two items based on the State's submitting the necessary conforming amendments by [twelve months from date of publication] and, during the

interim, implementing these regulations in a manner consistent with EPA requirements. Also, EPA is today proposing to approve the revisions by Metro for PSD, control of VOCs, and the equivalent opacity standard and is soliciting public comments on the proposed action.

As previously stated, written comments must be received on or before June 2, 1983. A thirty-day comment period is being used because the SIP submissions and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments before publishing a notice of final rulemaking.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response are available for public inspection at the locations listed in the **ADDRESSES** section of this notice.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, 161, and 172 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: February 8, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 83-11718 Filed 5-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Action MO 999; A-7-FRL-2294-8]

Approval and Promulgation of Implementation Plans State of Missouri; 1982 Ozone and Carbon Monoxide Attainment Plan

Correction

In FR Doc. 83-9250 beginning on page 15493 in the issue of Monday, April 11, 1983, make the following corrections:

1. On page 15497, column one, paragraph designated as "4.", line four, "1978" should read "1987."

2. On page 15497, column one, paragraph designated as "4.", line seven, "plant" should read "plan."

3. On page 15497 column one, paragraph designated as "4", line nine, "contest" should read "context."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation: Bureau of Reclamation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rules.

SUMMARY: The Bureau of Reclamation, Department of the Interior, proposes to issue rules and regulations establishing policies and procedures to meet the responsibilities of the Secretary of the Interior in administering title II of the Reclamation Reform Act of 1982 and other provisions of Federal Reclamation law. The rules and regulations will provide uniform criteria and procedures for all water user entities receiving irrigation water from Federal projects governed by Reclamation law. Public hearings on the proposed rules are being scheduled and will be announced in the Federal Register once dates and places have been established.

DATE: Comment period closes July 5, 1983.

ADDRESS: Comments on the proposed rules should be submited to: Vernon S. Cooper, Chief, Acreage Limitation Branch, Bureau of Reclamation, E&R Center, D-410, P.O. Box 25007, Denver, CO 80225; (303) 234-7195.

FOR FURTHER INFORMATION CONTACT: Vernon S. Cooper, Chief, Acreage Limitation Branch, Bureau of Reclamation, E&R Center, D-410, P.O. Box 25007 Denver, CO 80225; (303) 234-7195.

SUPPLEMENTARY INFORMATION: The Reclamation Reform Act of 1982, title II, Pub. L. 97-293 (96 Stat. 1261) was signed into law by President Reagan on October 12, 1982. The act is the culmination of an effort to modernize Reclamation law that began in the 95th Congress. The act, while retaining the basic principle of limiting the amount of land in the ownership which may receive water deliveries from Reclamation projects, introduces a new concept of full-cost pricing for some water deliveries. The act also makes a number of other changes to Reclamation law.

The Bureau of Reclamation initiated the preparation of rules and regulations shortly after the Reclamation Reform Act of 1982 was signed into law. During the period October 28 through December 14, 1982, comments were solicited on the suggested content of and format for the proposed rules. Toward this end a series of six public hearings were conducted throughout the West and in Washington, D.C., at which testimony form 50 individuals and organizations was presented. Numerous written comments were also received. All of these comments were carefully reviewed and considered in preparing the proposed rules.

The Interior Department requests special attention to the provisions of Section 426.9 Class 1 Equivalency. Interior is considering changing the method described herein for determining equivalency, using instead procedures reflecting physical factors alone. Consequently, Interior invites not only comments on this section but also proposals for a valid method of establishing equivalency based solely on physical factors influencing productivity.

Classification. The Department of the Interior considers these rules to be major rules under Executive Order 12291.

Regulatory Impact Analysis. Because of its potential economic impact, the Department has prepared a Preliminary Regulatory Impact Analysis of this regulation. The Preliminary Regulatory Impact Analysis examines the various alternatives the Department considered in preparing this rule, considers the cost and program implications of the alternatives, and explains the Department's reasons for making the choices resulting in the proposed rule. A copy of the Preliminary Regulatory Impact Analysis has been placed in the docket for this rulemaking and is available for public inspection in the offices of the Bureau of Reclamation in Boise, Sacramento, Boulder City, Salt Lake City, Amarillo, Billings, Denver, and Washington, D.C.

National Environmental Policy Act Compliance. A draft environmental assessment and draft FONSI (finding of no significant impact) which address the environmental impacts of these proposed rules and two other alternatives for administering the Reclamation Reform Act of 1982 have been prepared and are available for public review. Copies will be provided upon request. Comments on the assessment and FONSI may be incorporated with comments on the proposed rules. Decisions on the final disposition of these documents will be made following the public review process.

Small Entity Flexibility Analysis. The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Approximately 34,000 farm operations would come under the proposed rules. Of these, over 33,000 are farms of 960 acres or less and could be considered small entities. According to the Regulatory Impact Analysis prepared on the proposed regulations, the rules will not have a substantial effect on these farms. On the other hand, the rules will have a substantial effect on an estimated 900 farms presently operating more than 960 acres. However, those farms constitute less than 3 percent of all farm operations in Reclamation projects westwide.

Paperwork Reduction Act. The information collection requirements contained in § 426.10 will be submitted to the Office of Management and Budget for approval, as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Authorship. The principal authors of these proposed rules are Phillip T. Doe and Vernon S. Cooper, Acreage Limitation Branch, Engineering and Research Center, Bureau of Reclamation.

List of Subjects in 43 CFR Part 426

Acreage limitation, Irrigation, Water resources.

Dated: April 29, 1983.

James G. Watt,

Secretary.

Part 426 is proposed to be added to read as follows:

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

Sec.

426.1 Objectives.
426.2 Applicability.
426.3 Authority.
426.4 Definitions.
426.5 Contracts.
426.6 Ownership entitlement.
426.7 Leasing and full-cost pricing.
426.8 Operation and maintenance charges.
426.9 Class 1 equivalency.
426.10 Certification and reporting requirements.
426.11 Excess land.
426.12 Excess land appraisals.
426.13 Exemptions.
426.14 Residency.
426.15 Religious and charitable organizations.
426.16 Involuntary acquisition of land.
426.17 Land held by governmental agencies.
426.18 Commingling.
426.19 Water conservation.
426.20 Public participation.
426.21 Small reclamation projects.
426.22 Decisions and appeals.

Authority: Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552; the Reclamation Reform Act of 1982, Pub. L. 97-293, Title II, 96 Stat. 1263, and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, (43 U.S.C. 371 et seq.).

§ 426.1 Objectives.

Reclamation law establishing terms and conditions pursuant to which project water may be supplied is designed:

(a) To provide viable farm opportunities on land receiving Reclamation project water.

(b) To distribute widely the benefits from the Reclamation program.

(c) To preclude the accrual of speculative gain in the disposition of excess land.

(d) To require reimbursement to the Federal Government of the full cost of providing irrigation water to landholdings which exceed established limits.

§ 426.2 Applicability.

(a) These proposed regulations are published for public comment. Subsequent to a review of the public comments, the rules will be modified as appropriate and shall become effective 30 days following publication in the Federal Register as final rulemaking.

(b) These regulations apply to all land subject to the acreage limitation and/or full-cost provisions of Reclamation law capable of receiving an irrigation water supply from a Reclamation project. (Included are excess lands, whether under recordable contract or not, and nonexcess land.)

(c) Sections 426.5 through 426.12 of these regulations apply variously to all districts subject to the acreage limitation and full-cost provisions of Reclamation law. The way in which they apply depends upon whether the district has: (1) A contract which was in force on October 12, 1982, (2) a contract which was amended after October 12, 1982, or (3) a contract which was entered into after October 12, 1982. Application of these sections will also vary depending upon whether an individual or entity subject to Reclamation law has made an irrevocable election to come under title II of the Reclamation Reform Act of 1982.

(d) The remainder of these rules, sections 426.13 through 426.22, may not apply to all districts, but if they do apply, they apply equally.

(e) In many cases, hypothetical examples illustrating the application of a specific rule have been provided. This approach is in direct response to the public's expressed need. The examples provided should not be construed, however, as being exclusive interpretations of a rule. They are provided only as an interpretative tool.

§ 426.3 Authority.

These rules and regulations are written under the authority vested in the Secretary by the Congress in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552, the Reclamation Reform Act of 1982 (Pub. L. 97-293, 965 Stat. 1261), and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, 43 U.S.C. 371, et seq.

§ 426.4 Definitions.

As used in these rules:

(a) The term "arable land" means land which, when farmed in adequate size units for the prevailing climatic and economic setting and provided with essential onfarm improvements, will generate sufficient income under irrigation to pay farm production expenses; provide a return to the farm operation labor, management, and capital; and at least pay the operation, maintenance, and replacement costs of related project irrigation and drainage facilities.

(b) The term "contract" means any repayment or water service contract between the United States and a district providing for the payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal Reclamation law.

(c) The term "dependent" means any natural person within the meaning of the term dependent in the Internal Revenue Code of 1954 (25 U.S.C. 152) as well as the regulations issued thereunder.

(d) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(e) The term "excess land" means land other than exempt land, capable of being served with water from any Federal project under Reclamation law, owned or controlled by any landholder in excess of the maximum allowable acreage under Reclamation law. In determining excess land, all land in all districts capable of receiving irrigation water and held by any landholder shall be considered.

(f) The term "exempt land" means irrigable land in a district to which the acreage limitation and pricing provisions of Reclamation law do not apply.

(g) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the

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expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal Reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment of this act on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982. Operation, maintenance, and replacement charges required under Federal Reclamation law shall be collected in addition to the full-cost payment.

(h) The term "individual" means any natural person, including his or her spouse, and including other dependents as defined and interpreted in the Internal Revenue Code of 1954 (26 U.S.C. 152).

(i) The term "irrevocable election" means the legal instrument which an individual landowner or lessee executes to make his or her land subject to title II of Pub. L. 97–293. This instrument may be executed by the landowner or lessee if the district in which his or her land is situated does not amend its contract to conform with title II.

(j) The term "irrigable land" means arable land under a specific project plan for which a water supply is or can be provided, and which is provided with or planned to be provided with irrigation, drainage, flood protection, and other facilities necessary for sustained irrigation. For the purpose of determining the areas to which acreage limitations are applicable, it is that acreage possessing permanent irrigated crop production potential, after excluding areas occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feedlots, equipment storage yards, and similar facilities, together with dedicated roads open for unrestricted use by the public. Areas used for field roads, farm ditches and drains, tailwater ponds, temporary equipment storage, and other improvements subject to change at will by the landowner, are included in the irrigable acreage.

(k) The term "irrigation water" means water made available for agricutural purposes from the operation of Reclamation project facilities pursuant to a contract with the Secretary.

(l) The term "landholding" means total acreage of one or more tracts of land situated in one or more districts owned and/or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding, the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

(m) The term "legal entity" means any business or property ownership arrangement established under State or Federal law, including, but not limited to, corporations, partnerships, associations, joint tenancies, and tenancies-in-common.

(n) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than 25 natural persons.

(o) The term "prior law" means the Act of June 17, 1902, and acts supplementary thereto and amendatory thereof (43 U.S.C. 371) which were in effect prior to the enactment of the Reclamation Reform Act of 1982, Pub. L. 97–293 (96 Stat. 1263) as that law is amended or supplemented by sections 209 through 230 of the Reclamation Reform Act of 1982 (Pub. L. 97–293).

(p) The term "project" means any Reclamation or irrigation project, including incidental features thereof, authorized by Federal Reclamation law, constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(q) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof, or any legal entity established under State or Federal law which benefits 25 natural persons or less.

(r) The term "Reclamation fund" means a special fund established by the Congress under the Reclamation Act of June 17, 1902, as amended, for the receipts from the sale of public lands and timber, proceeds from the Mineral Leasing Act, and certain other revenues. The Congress makes appropriations from this fund for the investigation, construction, operation, and administration of Bureau of Reclamation projects. Collections from water users for reimbursable costs of these projects are returned to the fund unless Congress has specified otherwise for specific projects.

(s) The term "recordable contracts" means a written contract between the Secretary and a landowner capable of being recorded under State law, providing for the sale or disposition of lands held in excess of the ownership limitations of Federal Reclamation law.

(t) The term "resident alien" means any natural person within the meaning of the term as defined in the Act of June 27, 1952 (66 Stat. 163).

(u) The term "Secretary" means the Secretary of the Interior.

(v) The term "title II" as used herein means sections 203–208 of Pub. L. 97–293. Sections 209–230 of Pub. L. 97–293 apply to all land-holders and irrigation districts receiving water from a Federal irrigation project.

(w) The terms "wastewide" or "Reclamation wide" mean the 17 Western States in which Reclamation projects are located, namely: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

§ 426.5 Contracts.

(a) *In general.* Title II of Pub. L. 97–293 (reference to title II means "all applicable provisions of title II of Pub. L. 97–293") will be applied to repayment and water service contracts (hereafter contracts) by the following rules:

(1) *Contracts in force on October 12, 1982.* Contracts in force on October 12, 1982, shall continue in effect until amended to conform to title II or unless amended by title II (see §§ 426.13 and 426.14). In these rules, individuals or entities subject to the provisions of contracts in existence on October 12, 1982, are termed "parties subject to the 160-acre ownership limitation established by prior law."

(2) *New contracts.* Contracts executed after October 12, 1982, shall be subject to all provisions of title II. Districts which have an existing contract(s) with the United States but enter into a new contract after October 12, 1982, shall be subject to all provisions of title II. The execution dates of the new contract determines the date upon which II applies to the contract. In these rules, individuals and entities subject to the provisions of new contracts are termed either "qualified recipents" or "limited recipients."

(3) *Amended contracts.* (i) Contracts amended for conformance to Pub. L. 97–293. Contracts which are amended at the request of the district to conform with title II need be amended only to the extent required for conformance with that title. A district shall be subject to title II from the date the district's request is submitted to the Secretary. The district's request to the Secretary must be accompanied by a duly adopted resolution dated and signed by the governing board of the district obligating the district to take, in a timely manner, the action required by applicable State law to amend its contract. In these rules, individuals and entities subject to the provisions of these contracts are termed either "qualified recipients" or "limited recipients."

(ii) Contracts amended to provide additional or supplemental benefits. All contracts which are amended after October 12, 1982, to provide a district supplemental or additional benefits, shall be amended at the same time to conform with title II. Moreover, all existing provisions of those contracts become subject to review and amendment. The date that the contract amendment is executed by the Secretary will establish the date for determining the application of title II. All contract actions will be construed as providing supplemental or additional benefits except those actions which do not require the United States to expend significant funds, to commit to significant additional water supplies, or to substantially modify contract payments due the United States. More specifically, the following shall not be considered to provide additional or supplemental benefits: (*a*) The construction of those facilities for conveyance of irrigation water that were contracted for by the district on or before October 12, 1982, (*b*) minor drainage and construction work contracted for under a preexisting repayment or water service contract, (*c*) operation and maintenance payments, (*d*) the deferral of payments, provided the deferral is for a period of 6 months or less, (*e*) a temporary supply of irrigation water as set forth in § 426.13(a)(3), and (*f*) additional contract actions which the Secretary determines do not provide additional or supplemental benefits. In these rules, individuals and entities subject to the provisions of these contracts are termed either "qualified recipients" or "limited recipients."

(b) *Standard article for contract amendments.* New contracts executed after October 12, 1982, or contracts which are amended to conform to title II shall contain the following provision:

> The parties agree that the delivery of irrigation water pursuant to this contract is subject to Reclamation law, as amended and supplemented, including but not limited to the Reclamation Reform Act of 1982 (Pub. L. 97–293) and the regulations promulgated by the Secretary of the Interior under the authority of that act.

(c) *Individual elections to conform to title II.* (1) *Individual election.* Individual landowners or lessees may elect to be subject to title II even if the district does not amend its contract. The individual election is effected by executing an irrevocable election in a form provided by the Secretary. The landholder exercising the election shall be considered a qualified or limited recipient, as appropriate, and all land receiving or capable of receiving irrigation water in the recipient's landholding shall be subject to title II. The election shall be binding on the elector but not on the land listed in the irrevocable election.

(2) *Application to subsequent owner or lessees.* The application of title II to land capable of receiving irrigation water which was owned or leased by a qualified or limited recipient exercising an irrevocable election, but which is subsequently transferred or leased to another, shall be determined by the applicability of Reclamation law to the new landholder.

(3) *Disposition of irrevocable election forms.* The recipient's irrevocable election form shall be retained by the district in which the landholding is situated and a copy forwarded to the Bureau of Reclamation within 30 days. If the recipient is receiving irrigation water in more than one district, the elector must list on the election form the location of all land in the elector's landholding westside as well as the names of all districts in which land receiving irrigation water is situated. Copies of the election form shall be filed with each such district.

(4) *District reliance on election information.* The district shall be entitled to rely on the information contained in the election form without being required to make an independent investigation of the information. However, if the district has reason to believe the information is inaccurate or false, it will be the district's responsibility to report that fact to the Bureau of Reclamation.

(d) *Time limits.* (1) *District amendments.* There are no time limits on when a district may request its contract be amended to conform to title II.

(2) *Individual elections.* There are also no time limits on when an individual landowner or lessee may make an irrevocable election.

(3) *Other provisions.* The provisions of prior law apply to districts and individuals until conformance with title II is effected. Those provisions include westwide application of the 160-acre limitation as provided in § 426.6(d) and payment of full cost after April 12, 1987, on leased land above 160 acres as provided in § 426.7(c)(3).

§ 426.6 Ownership entitlement.

(a) *In general.* Ownership entitlement is determined by whether the landowner is a "qualified recipient," "limited recipient," or "a party subject to the 160-acre ownership limitation established by prior law." All land receiving or capable of receiving irrigation water on a regular basis shall be considered in the entitlement computations except as stipulated in paragraphs (e) and (f).

(b) *Qualified recipient entitlement.* Except as provided in § 426.9, a qualified recipient is entitled to irrigate 960 acres or less of owned land with irrigation water. This entitlement applies on a westwide basis. All individual ownership, multiownership, and trust arrangements are qualified recipients provided they meet the following conditions:

(1) *Individual landowners.* All individual landowners are qualified recipients if they are citizens of the United States or resident aliens thereof, and have met the contract requirements for a qualified recipient as set forth in § 426.5. As such, they are entitled to receive irrigation water for use on 960 acres or less of owned land on a westwide basis and owned land under recordable contract for the term of that contract term.

(i) The application of this rule may be illustrated by the following:

Example (1). Farmer X is a citizen of the United States and receives irrigation water on 160 acres owned in District A. District A amends its contract to conform to title II. Farmer X automatically becomes a qualified recipient by virtue of the district decision and is entitled to receive irrigation water on 960 acres or less of irrigable land in his ownership.

Example (2). Farmer Y is a citizen of Germany, but has taken up permanent residency in the United States. Farmer Y owns 160 acres in District A and desires to purchase an additional 800 acres. District A has not amended its contract to conform with title II. Farmer Y, however, decides to execute an irrevocable election. Farmer Y becomes eligible to receive irrigation water on 960 acres of land owned after the election. This eligibility as a qualified recipient remains in force so long as Farmer Y, as a resident alien, maintains permanent residency in the United States. If Farmer Y were to become a United States citizen, his eligibility as a qualified recipient would, of course, remain in force.

Example (3). Farmer Z is a citizen and resident of Switzerland. Farmer Z owns 160 acres receiving irrigation water in District A. District A amends its contract to conform to title II. Because Farmer Z, as an individual nonresident alien, cannot meet the requirements of either a qualified recipient or limited recipient and because he was receiving irrigation water prior to the district's contract amendment, Farmer Z may,

as set forth in § 426.11(k), place the land under recordable contract and continue to receive irrigation water at the contract rate for 5 years. (If the land were not placed under recordable contract or had Farmer Z not been receiving irrigation water prior to the district's contract amendment, the 160 acres owned would be ineligible for service until such time as it was sold to an eligible buyer or Farmer Z took up permanent residency in the United States.)

(2) *Husband and wife.* A husband and wife, and any other dependents, are considered as one individual landowner. They are considered to be a qualified recipient and are entitled to irrigate 960 acres of owned land on a westwide basis with irrigation water, *provided,* either husband or wife is a citizen of the United States or a resident alien thereof and the contract requirements as set forth in § 426.5 have been met.

(i) The application of this rule may be illustrated by the following:

Example (1). Farmer X and her husband are a qualified recipient by virtue of an irrevocable election. They own in joint tenancy 960 acres of land eligible for irrigation water. Their ownership entitlement has been satisfied and they are not eligible to receive irrigation water on any other land owned.

Example (2). Farmer Y and Farmer Z are a married couple, and each owns 480 acres of irrigated land under separate title in District A. District A has amended its contract to conform to title II. Even though the land is held in separate title, Farmer Y and Farmer Z have reached the limits of eligibility to receive irrigation water as a qualified recipient so long as they remain husband and wife.

(3) *Multiownership arrangement.* All multiownership legal entities are considered to be qualified recipients, provided that: the ownership is a legal entity established under State or Federal law, the entity does not benefit more than 25 natural persons, no member of the entity through this or in combination with any other ownership arrangement owns more than 960 eligible acres receiving irrigation water westwide, and the entity has met the contract requirements for a qualified recipient as set forth in § 426.5. As qualified recipients, they are eligible to receive irrigation water on 960 acres of land owned. The requirements of U.S. citizenship or U.S. residency for aliens does not apply to multiownership legal entities, provided the entity is established under State or Federal law and is authorized to own real property in the United States.

(i) The application of this rule may be illustrated by the following:

Example (1). XYZ Farms is a general partnership comprised of four individuals who own equal and separable interest in the 960-acre partnership. All other requirements as set forth in (3) have also been met. Therefore XYZ Farms satisfies the requirements for a qualified recipient and may receive irrigation water for all 960 acres in ownership. Moreover, the members of the partnership may also be qualified recipents outside their equal interest in XYZ Farms. If so, each may receive irrigation water on 720 acres or less in some ownership or ownerships other than XYZ Farms.

Example (2). Six brothers who are citizens and residents of Canada form a family corporation with each holding equal shares in the corporation. They are able to satisfy all other conditions set forth in (3); therefore, the corporation is a qualified recipient and as such is entitled to receive irrigation water on 960 acres or less of owned land. Then, too, the brothers can be qualified recipients outside their interest in the corporation, and each brother may receive irrigation on 800 acres or less owned in legal entities other than the family corporation, *provided,* none of the brothers has an individual ownership. The brothers cannot meet the requirements of a qualified recipient under individual ownership (1) since none are citizens of the United States or resident aliens thereof.

(4) *Trusts.* An individual or corporate trustee holding land in a fiduciary capacity is not subject to the ownership or pricing limitations imposed by title II nor any other provisions of Federal Reclamation law. However, the interest of each beneficiary (qualified or limited recipients) in trust land in combination with other land he/she may own shall not exceed the ownership entitlement of title II. Moreover, the quantity of land in a trust receiving irrigation water cannot exceed the ownership entitlement of title II.

(i) The application of this rule may be illustrated by the following:

Example (1). Bank X is the trustee for four trusts, each of which has more than one beneficiary. The trusts contain 960, 640, 800, and 400 acres, respectively. The land in the trust is in districts which have amended their contracts to conform to title II. Since the ownership and pricing limitations of title II do not apply to Bank X as trustee for the trusts, all 2,800 acres in the four trusts are eligible to receive irrigation water at the contract rate. However, if a beneficiary owned land or had other trust land which, when combined with his beneficial interest in the subject trust, caused him to exceed the 960-acre ownership limitation, that beneficiary would be required to designate the nonexcess land for which irrigation water could be supplied.

Example (2). Farmer X, a qualified recipient, establishes a testamentary trust by placing 640 acres of his land receiving irrigation water in a trust for his minor child upon his death. Farmer X designates his brother as trustee for the trust. The land is located in a district which has amended its contract to come under the provisions of title II. The brother, who is designated as trustee for the trust, owns 800 acres in the same district which receives an irrigation water supply. Farmer X dies, and the testamentary trust he has established is activated. The brother, as trustee, is entitled to receive irrigation water for the land in trust as well as the land he owns.

Note.—The land placed in the testamentary trust by Farmer X would be counted against his entitlement during his lifetime as long as the land remained in his ownership.

(C) *Limited recipient entitlement.* Except as provided in § 426.9, a limited recipient is entitled to irrigate 640 acres of owned land with irrigation water. This entitlement applies on a westwide basis. All legal entities established under State or Federal law benefiting more than 25 persons are limited recipients provided they have met the contract requirements for a limited recipient as set forth in § 426.5.

(1) The application of this rule may be illustrated by the following:

Example (1). ABC Fertilizer Company is a corporation registered in Nebraska and owns 640 acres in District A. District A has amended its contract to conform to title II. ABC Fertilizer Company benefits more than 25 persons and therefore automatically becomes a limited recipient, with all 640 acres of owned land in the corporation eligible to receive irrigation water.

Example (2). XYZ Land Company, a corporation benefiting more than 25 persons and registered in the State of California, owns 320 acres in District A. In the absence of district action, the company makes an irrevocable election to conform to title II. Thereby XYZ Land Company becomes a limited recipient and is entitled to receive irrigation water on 640 acres or less owned.

Example (3). CDE Development Company is a corporation with more than 25 shareholders which chose to incorporate in the Greater Antilles. CDE Development Company buys 320 acres in a district which has amended its contract to conform to title II. However, until such time as CDE Development Company establishes itself as legal entity under State or Federal law none of its land is eligible for irrigation water. Had CDE Development Company been receiving irrigation water on 160 acres prior to the district's amendment, it could have continued to receive irrigation water for 5 years under the conditions set forth in 426.11.

Example (4). Corporation X owns 640 acres in District A as does Corporation Y. Both are subsidiaries of Corporation Z. District A has amended its contract to conform to title II. The landholdings of Corporation X and Y, since they are subsidiaries of Corporation Z, are counted against the entitlement of the parent corporation, Corporation Z. Corporation Z is a limited recipient; therefore, only 640 acres of the 1,280 acres are eligible to receive irrigation water.

Example (5). Farmer X, a qualified recipient, owns 960 acres of land receiving an irrigation water supply. Farmer X is also a shareholder in the XYZ Corporation, a limited recipient, which receives irrigation water for 640 acres it owns. Farmer X's interest in the land in the XYZ Corporation is not counted against his entitlement because the corporation is a limited recipient, and, in the case of limited recipients, the interest of the individual shareholders is not considered for purposes of determining their entitlement. Thus, Farmer X is entitled to receive irrigation water for the 960 acres he owns, and the XYZ Corporation is entitled to receive irrigation water for the 640 acres it owns.

(d) *Parties subject to the 160-acre ownership limitation established by prior law.* (1) *Individuals.* Individuals are entitled to receive irrigation water on no more than 160 acres owned. The 160-acre entitlement applies on a westwide basis.

(2) *Husband and wife.* A husband and wife are entitled to receive irrigation water on 320 acres or less of land jointly owned westwide.

(3) *Tenants-in-common.* Each individual in a tenancy-in-common is entitled to receive irrigation water on an interest of 160 acres or less provided that no participant in this or any other ownership arrangement receives Federal irrigation water on more than 160 acres owned westwide.

(4) *Partnerships.* Each partner in a partnership is entitled to receive irrigation water on 160 acres or less owned westwide provided: (i) each partner has a separable interest in the partnership and the right to alienate that interest, and (ii) no partner through this or any other ownership arrangement receives Reclamation project water on more than 160 acres westwide.

(5) *Corporations.* All corporations are considered to be individual entities and as such are entitled to receive irrigation water on 160 acres owned westwide.

(6) *Trusts.* Lands held by an individual or corporate trustee in a fiduciary capacity are not subject to the ownership limitations imposed by prior law. However, the interest of each beneficiary in the trust land in combination with other land he/she may own shall not exceed the ownership entitlement of prior law.

(e) *Exemptions from ownership limitation.* Land owned in districts in which the irrigation obligation has been paid out or in which the district has been exempted, will not be counted against ownership entitlement, § 426.13(a) (1) and (2). Neither will isolated tracts, § 426.13(a)(4), be counted against ownership entitlement.

(f) *How ownership entitlement is to be computed.* With the exception of land under recordable contract, § 426.11(e), all designated nonexcess land, § 426.11(b), and all acreage receiving irrigation water on other than a temporary or short-term basis, as defined in § 426.13(a)(3), from a Reclamation project in a district which is subject to acreage limitation shall be counted against the appropriate ownership entitlement, i.e., qualified recipient, limited recipient, etc.

(g) *Multidistrict ownerships.* Landowners may own land in more than one district (multidistrict ownerships). Only one of the districts in which a landowner owns land need amend its contract in order to automatically make the multidistrict landowner subject to the requirements for and the benefits of a qualified or limited recipient. The land owned by that recipient in all districts becomes subject to the acreage entitlement of a qualified or limited recipient. Similarly, if a landower with multidistrict ownership makes an irrevocable election in one district, the land owned in all districts which is capable of receiving irrigation water becomes subject to the recipient's acreage entitlement.

(1) The application of this rule may be illustrated by the following.

Example (1). Landowner X is a U.S. citizen and owns 160 acres in each of Districts A, B, C, and D. All of this land is receiving irrigation water. District A amends its contract to conform to title II. Thereby, landowner X automatically becomes a qualified recipient by virtue of the fact he or she is a U.S. citizen and is entitled to receive irrigation water on 960 acres owned westwide. Since, in this case, Landowner X's total present ownership is 640 acres, he or she would be entitled to receive irrigation water on another 320 acres owned.

Example (2). Landowner Y is a citizen of the United States and owns 160 acres in each of Districts A, B, C, D, E, and F. All of his land is receiving irrigation water. In the absence of district action, Landowner Y makes an irrevocable election in District A. By this action Landowner Y automatically becomes a qualified recipient and all owned land receiving water in Districts B, C, D, E, and F must be included in entitlement considerations. Since in this case the landowner already owns 960 acres receiving irrigation water, he owns the maximum entitlement.

(h) *Loss of eligibility.* (1) An owner who is receiving the benefit of irrigation water, and acquires additional land receiving irrigation water, shall lose eligibility on any newly purchased land that exceeds the owner's entitlement. Eligibility shall be reestablished if the land is redesignated as nonexcess, § 426.11(b), or is sold at a price approved by the Secretary to an eligible owner who does not hold excess land.

(i) The principles of this rule are illustrated by the following:

Example. Farmer X meets all of the criteria for a qualified recipient as set forth in (b)(1). Farmer X irrigates 960 acres of owned land in District A as he is entitled to do. Subsequent to his determination of eligibility, Farmer X buys a 320-acre farm in District B which is also receiving irrigation water. All land purchased by Farmer X in District B thereby becomes ineligible for service until such time as Farmer X sells the farm in District B at a price approved by the Secretary or designates the 320 acres as nonexcess. If Farmers X redesignates the 320 acres in District B as nonexcess eligible to receive irrigation water, Farmer X must declare an equal amount of land in District A as excess. This land then becomes ineligible to receive irrigation water until such time it is sold at a price approved by the Secretary.

§ 426.7 Leasing and full-cost pricing.

(a) *What constitutes a lease.* A lease is a contract by which one party (the landlord or lessor) gives to another (the tenant or lessee) the use and possession of lands (including, in some cases, associated buildings, machinery, etc.) for a specified time and for agreed upon payments (cash or other consideration). The lessee assumes an economic interest in the operation and management of the leased land.

(1) *Exceptions.* Management arrangements or consulting agreements in which the manager or consultant performs a service for the landowner for a fee but assumes no risk in the operation of the land shall not be considered a lease. A contract arrangement for nonreclamation dependent activities which allow for limited use of the land shall also not be considered a lease. Examples of such activities are incidental grazing or use of crop residue from irrigated crops grown on the land. Land which is subleased (the lessee transfers his/her interest to a sublessee) will be attributed to the landholding of the sublessee.

(b) *The form and provisions of a lease.* (1) *Present leases.* All leases must be in writing and made available by the leaseholders to the Secretary for inspection at the Secretary's request. The term of the lease may not exceed 10 years, including any exercisable option, except in the case of a lease of land for the production of perennial crops having an average life of more than 10 years. In that case, the lease may be for a period of time equal to the average life of the prennial crop, as determined by the Secretary, provided the lease does not exceed 25 years.

(2) *Written leases in existence prior to October 12, 1982.* Land under written leases which were in existence prior to October 12, 1982, and which have a remaining term of longer than 10 years will become ineligible to receive irrigation water after October 12, 1992, unless the leased land is used for the production of perennial crops having an average life of more than 10 years. In that case, the lease may be for a period

of time equal to the average life of the perennial crop, as determined by the Secretary, provided the lease does not exceed 25 years.

(c) *Full-cost pricing thresholds on leased land.* Although there is no restriction on the amount of land an eligible lessee may lease, there is a limit on the amount of land for which a lessee may receive irrigation water at the rate applicable under previous contracts if he or she resides in a district which has amended its contract or made an irrevocable election. The lessee must pay the full cost for irrigation water delivered to all leased land that exceeds the lessee's entitlement.

(1) *Full-cost threshold for qualified recipients.* Qualified recipients are entitled to receive irrigation water for landholdings (land owned and/or leased) of 960 acres at the rate specified in the district contract except as provided in § 426.9. The qualified recipient must pay the full cost for irrigation water delivered to all land leased in excess of 960 acres owned and/or leased.

(i) The application of this rule may be illustrated as follows:

Example (1). Farmer X, a qualified recipient, receives irrigation water at the contract rate on 960 acres in his ownership in District A. Farmer X leases another 160 acres in each of Districts A and B. In order to receive irrigation water on the leased land, he must pay the full cost for that water.

Example (2). Farmer Y, a qualified recipient, owns and receives irrigation water on 960 acres in District A. Farmer Y decides to lease all 960 acres to another qualified recipient, Farmer Z. Farmer Z, however, already farms 960 acres receiving irrigation water. Therefore, the full cost would have to be paid for any irrigation water on land leased from Farmer Y by Farmer Z.

(2) *Limited recipients.* Limited recipients who were receiving irrigation water prior to October 1, 1981, are entitled to receive irrigation water for landholdings of 320 acres owned and/or leased at the rate specified in the district contract except as provided in § 426.9. The full cost must be paid for irrigation water delivered to all land in the landholding exceeding 320 acres. Limited recipients who were not receiving irrigation water prior to October 1, 1981, must pay the full cost of irrigation water delivered to *all* land in the landholding.

(i) The application of this rule may be illustrated by the following:

Example (1). ABC Farms is a limited recipient which owns and was receiving irrigation water on 640 acres in District A prior to October 1, 1981. Of the total, 480 acres were and continue to be under recordable contract. ABC Farms may continue to receive irrigation water at the contract water rate on the 640 acres until the end of the recordable contract period. It may also amend the recordable contract to allow it to own and receive irrigation water on 640 acres owned. If it amends the recordable contract, it will be allowed to receive irrigation water at the contract rate on 320 acres in perpetuity, but it must pay full cost on the additional 320 acres owned and on any other eligible land it might lease.

Example (2). XYZ Farms, a limited recipient, owns 640 acres of land eligible to receive irrigation water. The purchase of the land took place after October 1, 1981, and XYZ Farms was not receiving irrigation water on any other land prior to October 1, 1981. Therefore, in order for XYZ Farms to receive irrigation water for any eligible land, it must pay the full cost for that water.

Example (3). FGH Fertilizer Company buys 160 acres of land receiving irrigation water in District A. The purchase of the land is made subsequent to October 1, 1981. However, the company was leasing 160 acres in District B prior to October 1, 1981, and continues to lease and receive irrigation water for that leased land. Therefore, since the company was receiving irrigation water in District B prior to October 1, 1981, and has continued to receive it, the 160 acres recently purchased are eligible to receive irrigation water at the contract water rate. If FGH Fertilizer Company buys or leases additional land, the company would have to pay the full cost for any irrigation water delivered to that additional land since the full-cost threshold for a limited recipient receiving irrigation water prior to October 1, 1981, would be exceeded.

(3) *Lessees subject to the 160-acre ownership limitation established under prior law.* There is no full-cost pricing requirement until April 12, 1987, for individuals or entities which have not become a qualified or limited recipient through a contract amendment or irrevocable election. Therefore, there will be no full-cost pricing on irrigation water made available to land leased by these individuals or entities until April 12, 1987. After April 12, 1987, all leased land in a nonamending district receiving irrigation water in a landholding exceeding 160 acres will be subject to full-cost pricing.

(d) *Exemptions from full-cost pricing.* Leased or owned land which has been exempted will not be subject to full-cost payment except as provided in § 426.13(a)(4).

(e) *Restrictions on designating full-cost land.* An eligible landholder who leases (but does not own) land receiving irrigation water may designate that portion of the leased land which is to receive water at the contract rate. A qualified recipient may only designate leased land for full-cost service. However, a limited recipient which both owns and leases land receiving irrigation water must designate all leased land above the full-cost threshold for full-cost service before the recipient is entitled to designate owned land above the full-cost threshold for full-cost service.

(f) *Multidistrict landholding.* If a landholder has multidistrict landholdings, only one of those districts need amend its contract for the landholder's owned and/or leased land receiving irrigation water in all districts to become subject to full-cost pricing.

(g) *Calculating full cost.* (1) *What constitutes full cost.* As set forth in § 426.4, the term "full cost" means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal Reclamation law or applicable contract provisions, with interest on both accruing from October 12, 1982, on costs outstanding at the date, or from the date incurred in the case of costs arising subsequent to October 12, 1982. Operation, maintenance, and replacement charges required under Federal Reclamation law shall be collected in addition to the full-cost payment.

(i) Amortization period. The amortization period for calculating the full-cost rate shall be the remaining balance of the repayment period for the district as specified in its repayment contract for water supply. However, in those cases, such as in water service contracts, where payment by a district through its existing contract term will not fully discharge its obligation for repayment of allocated construction costs and where, in accordance with the project authorization the district must renew its water service contract, the district may extend the amortization period for the calculation of full costs by renegotiating its current water service contract at the time it amends its contract to conform to title II. The amortization period may extend up to the expiration date of the new contract, and the term of the new contract cannot exceed the payback period authorized by Congress.

(ii) Allocable construction expenditures. For determining full cost, the construction costs properly allocable to irrigation are those Federal project costs which have been assigned to irrigation within the overall allocation of total project construction costs. Total project construction costs include all direct expenditures necessary to install or implement a project, such as planning, design, land, rights-of-way, water-rights acquisitions, construction expenditures, interest during construction, and when appropriate, transfer costs associated with services provided from other projects.

(iii) Facilities in service (irrigation). Facilities in service are those facilities which are in operation and providing irrigation services.

(iv) Operation and maintenance deficits funded. O&M (operation and maintenance) deficits funded are the annual O&M costs including project-use pumping power allocated to irrigation which have been federally funded and which have not been paid by the irrigation contracting entity.

(v) Payments. In calculating the payments which have been received, all receipts and credits applied to repay or reduce allocated irrigation construction costs in accordance with Reclamation law, policy, and applicable contract provisions shall be considered. These may include: (*a*) Direct repayment contract revenues, (*b*) net water service contract income, (*c*) contributions, (*d*) ad valorem taxes, and (*e*) other miscellaneous revenues and credits excluding power revenues.

(vi) Unpaid balance. The unpaid balance is the irrigation allocated construction costs plus cumulative federally funded operation and maintenance deficits, less payments.

(2) *Calculating the full-cost rate.* The Secretary will calculate a district's full-cost rate using accepted accounting procedures. The definition of "full cost" contained in title II does not recover interest charges retroactively before October 12, 1982, but interest charges on the unpaid full cost do accrue from the date of the act. The full-cost rate shall be determined and fixed in equal annual payments extending over the amortization period at the time a contracting entity enters into a contract or amends its existing contract or at the time an individual or entity elects to come under the provisions of title II that require full-cost pricing. The equal annual payments for full cost will be fixed at a higher rate as the period of time between the date of the new or amended contract or irrevocable election and October 12, 1982, lengthens because interest accrues from the date of the act and the amortization period is shortened. If there are additional construction expenditures or the cost allocated to irrigation changes, then a new full-cost rate will be determined.

(i) The application of this rule may be illustrated by the following:

Example (1). District A contains 90,000 irrigable acres. The construction costs allocated to irrigation for the project and assignable to the land in District A amount to $240 million. As of October 12, 1982, the district's accumulated repayments are $174 million, the unpaid obligation on District A's repayment contract is $66 million, and 11 years remain on its contract term. The established annual contract rate is $66.67 per acre. This amount repays the outstanding balance of the contractual obligation in 11 years. As of October 12, 1982, the unpaid balance for full cost is $66 million (allocated cost, less payments) or $733.33 per acre, and the applicable interest rate is determined to be 7.5 percent. Therefore, the equal annual payments for full cost would be $100.24. This payment is calculated using standard amortization tables and is equivalent to the annual payment necessary to retire a debt of $733.33 at a 7½ percent rate of interest over 11 years. Should District A amend its contract on October 12, 1983, the full-cost rate would be set at $105.13 per acre per year for the next 10 years. This increased payment is necessary because $55.00 per acre in interest accumulates on the original $733.33 per acre unpaid balance during the intervening 12 months and because the new unpaid balance (the sum of $733.33 and $55.00, less payments of $66.67 is $721.66) is amoritized over 10 years, instead of 11 years.

Example (2). District B has a water service contract which establishes a rate of $6.50 an acre-foot for 90,000 acre-feet of water delivered to the district, a rate which is fixed over the remaining 10 years of the contract term. Currently, $1.00 of the $6.50 rate is used to pay annual O&M charges. The remainder is credited to the repayment of irrigation construction costs, although inflation over the next 10 years is expected to leave a $5.00 per acre-foot payment to irrigation, averaged over the remaining 10 years. The construction costs to be repaid from irrigation revenues and assignable to the lands in District B are $24 million, and the district has paid $15.5 million of those costs to date. The expected water deliveries to District B of 90,000 per acre-foot per year are expected to yield about $4,500,000 in revenues for repayment of construction charges over the remaining 10 years of the original contract (90,000 x $5.00 x 10). This amount would not discharge the district's ultimate obligation to repay construction costs ($24 million), since total revenues collected by the date are expected to be $20 million.

As of October 12, 1982, the accumulated payments credited to repayment on construction are $15.5 million. The unpaid balance for full cost is $9.5 million ($24 million less $15.5 million), and the applicable interest rate is determined to be 7.5 percent. Amortizing the unpaid balance over the remaining contract term of 10 years results in an annual full-cost rate of $1,384,016, or $15.38 per acre-foot. Normal O&M charges would be collected annually in addition to this rate.

Upon expiration of the current contract, the district expects to enter into a subsequent water service contract in order to expand its water deliveries. If District B desires to amortize its unpaid balance for full cost over a longer period than 10 years, it can choose to renegotiate its existing contract before the current contract expires to bring it into conformance with current Bureau policy. When the district renegotiates its contract, the unpaid balance for full cost could be reamortized, at the district's option, for any period up to the term of the new water service contract, which cannot exceed the repayment period authorized by Congress. For example, suppose the new water service contract runs for 18 years and is executed immediately. If the district chooses to amortize full cost over the longest permissible repayment period (18 years), then the full-cost rate would be $10.86 per acre-foot. If the district chooses to amortize over 15 years, the full-cost rate would be $11.96 per acre-foot, assuming the unpaid costs remain the same.

Example (3). District C contains 90,000 irrigable acres, and the construction costs allocated to irrigation for the project and assignable to the land in District C amount to $240 million. As of October 12, 1982, the accumulated repayments of the district are $174 million. The district's repayment obligation is $200 million. (The $40 million difference between construction costs allocated to irrigation and the repayment obligation is scheduled to be paid from other project revenues.) The unpaid obligation on District C's repayment contract is $26 million, and 11 years remain on its contract term. The annual rate established by the contract is $26.25 per acre. This amount repays the outstanding balance of the contractual obligation in 11 years. As of October 12, 1982, the unpaid balance for full cost is $66 million (allocated cost, less payments) or $733.33 per acre, and the applicable interest rate is determined to be 7.5 percent. Therefore, the equal annual payment for full cost would be $100.24 per acre.

(h) *Interest rate calculations for full cost.* In determining full cost, the interest rates to be used will be determined by the Secretary of the Treasury as follows:

(1) *Qualified recipients and limited recipients receiving water before October 1, 1981.* (i) The interest rates for expenditures made *on or before October 12, 1982,* shall be the greater of 7½ percent per annum or the weighted average yield of all interest-bearing marketable issues sold by the Treasury during the fiscal year in which the expenditures were made by the United States.

(ii) The interest rate for expenditures made *after October 12, 1982,* shall be the arithmetic average of the rate as of the beginning of the fiscal year in which expenditures are made based on: (*a*) The computed average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (*b*) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(2) *Limited recipients not receiving irrigation water on or before October 1,*

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1981. The interest rate shall be the arithmetic average of the rate as of the beginning of the fiscal year in which expenditures are made based on: (i) The computed average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (ii) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made: *provided,* that the interest rate for expenditures made before October 12, 1982, shall be determined as of October 12, 1982.

(3) *Landholdings in excess of 160 acres in districts which do not amend their contracts by April 12, 1987.* The interest rate shall be the arithmetic average of the rate as of the beginning of the fiscal year in which expenditures are made based on: (i) The computed average interest payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance and (ii) the weighted average yield on all interest-bearing marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made: *provided,* that the interest rate for expenditures made before October 12, 1982, shall be determined as of October 12, 1982.

(i) *Proportional charges for full-cost water.* For those water delivery charges levied by a district per acre-foot of irrigation water delivered, as compared to per acre of land, the contract will establish provisions requiring payment of a proportional charge for water delivered to a landholding in that district which reflects the relative amounts of contract and full-cost water rate land in the farm operation. The proportional rate will be equal to the weighted average of the rate applicable under previous contracts and the full-cost rate in proportion, respectively, to the acres of land eligible for irrigation water at the contract rate and the acres of land designated to receive irrigation water at full cost. Use of the proportional rate removes the necessity of separately metering irrigation water deliveries to that portion of a landholding that is designated to receive water at full cost. Water bills will set forth the previous contract rate, the full-cost water rate, and the amount of acreage to which each applies, as well as the proportional rate.

(1) The application of this rule may be illustrated by the following:

Example. District A has a water service contract with a rate of $4.00 per acre-foot for irrigation water delivered. The full-cost rate plus annual O&M costs is determined to be $10.00. If Operator Y has a landholding of 1,000 acres, he or she will pay a proportional rate for water of $4.48 per acre-foot of water delivered anywhere in his landholding (90 percent of $4.00 plus 4 percent of $10.00). This rate is equal to the weighted average of the previous contract rate and the full-cost rate, where the weights are the respective acreages of land eligible to receive water at the contract rate and at full cost. If Operator Y uses 3 acre-feet of water per acre, total water charges will be $13,440 per year (1,000 x 3 x $4.48). If Operator Y reduces the size of his operation by 30 acres, then the proportional water charge will be $4.12 and his total water charges for using 3 acre-feet per acre will be $12,000, or $1,440 less that with the 1,000-acre operation. This reduction in water charges is equal to the full-cost rate of $16.00 x 3 x 30.

(j) *Disposition of revenues obtained through full-cost water pricing.* The interest and full-cost revenues, less the contract water rate, shall be credited to the Reclamation fund. The portion of the full-cost rate, which would have been collected if the land had not been subject to full cost, shall be credited to the annual payments due under contractual obligation from the district.

§ 426.8 Operation and maintenance charges.

(a) *Districts with new or amended contracts.* A district which enters into a new or amended contract will be required to pay annually all O&M costs due the United States. They are to be paid to the United States on a schedule that is acceptable to the Secretary. O&M costs shall include minor replacement costs for facilities funded during the year, but will not include replacement costs which are capitalized under generally accepted accounting practices. Such replacement costs include those caused by disaster, obsolescence, or otherwise. Each year the Secretary shall estimate and advise the district of its O&M charges, and the price of irrigation water will be modified annually to reflect any changes in operation and maintenance costs in a manner that conforms with current Bureau of Reclamation policy. Furthermore, the price of irrigation water shall be at least sufficient to pay the actual O&M costs chargeable to the district for that year. The district's contract shall be amended accordingly to reflect all such changes in costs. The difference between the estimated and actual O&M costs, as determined at the end of the annual period, will be reflected through adjustment of the following year's O&M charges.

(1) The principles of this rule may be illustrated by the following:

Example. The water service contract of a district obligates the district to pay a fixed rate of $8.50 per acre-foot for water for the remaining 10 years of its 30-year contract term. When the district amends its contract to conform to title II, the price of irrigation water will include a component for construction equal to the amount the district was paying for construction at the time its contract was amended. Assuming the current capital component is $3.00 and the O&M component is $3.50, the new rate will be $6.50 with provision for future adjustment. If 1 year after the contract is amended, O&M costs increased by $0.25, then the new rate would be $6.75.

Note.—Had the district amended its contract to gain additional or supplemental benefits, economic studies would have been conducted to determine if its construction charge of $3.00 should be modified.

(b) *Landholders who make irrevocable elections.* Landholders who make an irrevocable election (thereby becoming limited or qualified recipients) must pay their portion of the full O&M costs annually for land in their landholding receiving irrigation water. The district(s) in which the recipient's landholding is situated shall be required to collect from the recipient his or her portion of the full O&M charges due and to forward such collections to the United States.

(c) *Districts which do not amend their contracts.* Districts which do not amend their existing contracts will continue to pay O&M charges under the terms and conditions of their existing contract.

§ 426.9 Class 1 equivalency.

(a) *In general.* Upon the request of any irrigation district having a contract which conforms to the provisions of title II, the Bureau of Reclamation shall make a class 1 equivalency determination for that district. This determination will establish for the district the acreage of land with lower productive potential (classes 2, 3, and 4) that would be necessary to be equivalent in productive potential to the most suitable land in the local agricultural economic setting (class 1). Once these determinations have been made, individual landowners with classes 2, 3, and 4 land will have the right to an increased acreage entitlement equivalent in productive potential to 960 acres of class 1 land, in the case of a qualified recipient, or 640 acres of class 1 land, in the case of a limited recipient.

(b) *Data requirements and use.* Class 1 land and land in lower classes shall be identified on a district basis by the Bureau of Reclamation using a standard approach in which the land classification for the entire district is

considered. Equivalency factors shall then be computed for the district and applied to specific tracts within individual landholdings. If adequate land classification data are not available, they shall be developed using standard procedures as set forth in Reclamation Instructions Series 110, Part 115, Land Resources Investigations, and Series 510, Land Classification Techniques and Standards. Economic data will be developed using procedures found in Reclamation Instructions Series 110, Part 116, Economic Investigations.

(1) *Definition of class 1 land.* Class 1 land is defined and will be classified as that irrigable land within a particular agricultural economic setting which: (i) Most completely meets the various, parameters and specifications established for irrigable land classes; (ii) has the relatively highest level of suitability for continuous, successful irrigation farming; and (iii) is estimated to have the highest relative productive potential measured in terms of net income per acre (reflecting both productivity and costs of production). The objective is to establish the acreage of each of the lower classes of land which is equal in productive potential. (measured in terms of net farm income) to 1 acre of class 1 land. All land that has not been classified will be considered class 1 land for the purposes of determining acreage entitlement under these rules until such time as the land has actually been classified.

(2) *How land classes are determined.* The extent and location of class 1 land and land in lower land classes in a district have been, or will be, determined by the Bureau of Reclamation, taking into account the influence of economic and physical factors upon the productive potential of the land laying within the district. These factors include, but are not limited to: the physical and chemical characteristics of the soil, topography, drainage status, costs of production, land development costs, water quality and adequacy, and length of growing season and their affect on agricultural practices.

(3) *Level of detail.* Acceptable levels of detail for land classification studies to be utilized in making class 1 equivalency determinations for a given district shall be evaluated on the basis of the physical and agricultural economic characteristics of the area. In areas for which no current classification exists or the existing classification is unacceptable, the level of detail of the land classification to be made will never be greater than that required to make class 1 equivalency determinations where the sole purpose of the classification is such a determination.

(4) *Economic studies.* The economic studies related to class 1 equivalency determinations will measure net farm income by land classes within the district. Net farm income shall be determined by the disposable income accruing to the farm operator's labor, management, and equity from the sale of farm crops and livestock produced on irrigated land after all fixed and variable costs of production, including costs of irrigation service, are accounted for. Net farm income will be the measure of productivity to establish equivalency factors reflecting the acreage of each of the lower classes of land which is equal in productive potential to 1 acre of class 1 land.

(5) *Equivalency factors.* Equivalency factors shall be determined by comparing the weighted average farm size required to produce a given level of income on each of the lower classes of land with the farm size required to produce that income level on class 1 land.

(i) The principles of this rule may be illustrated by the following:

Example. Farmer X has a total landholding of 1,300 acres in District A. That acreage includes 800 acres of class 1 land, 300 acres of class 2 land, and 200 acres of class 3 land. The equivalency factors for the district have been determined to be: class 1=1.0, class 2=1.20, and class 3=1.50. Using these equivalency factors the following landholding in terms of class 1 equivalency would apply:

Class 1 800 acres divided by 1.0=800 acres class 1 equivalent
Class 2 300 acres divided by 1.2=250 acres class 1 equivalent
Class 3 200 acres divided by 1.5=133 acres class 1 equivalent

Thus, Farmer X's total landholding of 1,300 acres is equal to 1,183 acres of class 1 land in terms of productive capacity. It will be necessary for him to dispose of the equivalent of 223 acres of class 1 land (1,183 acres minus 960 acres). This can be accomplished in any of several ways. If he should desire to maximize his actual acreage, he would dispose of 223 acres of class 1 land, retaining 577 of class 1, 300 acres (250 acres class 1 equivalent) of class 2, and 200 acres (133 acres class 1 equivalent) of class 3. This would result in a total of 1,077 actual acres which would equal 960 acres of class 1 land in production capacity. Or, he could maximize his holding of class 1 and 2 lands by retaining 800 acres of class 1 land and 192 acres (192 divided by 1.2=160 acres class 1 equivalent) of class 2 land. This total landholding of 992 acres would, again, be equal in productive capacity to 960 acres of class 1 land. In the latter case, he would have to dispose of all 200 acres of his class 3 land and 108 acres of his 2 land.

(6) *Special considerations.* For equivalency purpose, all irrigable land will be classified as either class 1, class 2, or class 3; no other classifications are permissible. Class 4 and special-use land classes will be allocated to one of these three classes on a case-by-case basis.

(c) *Scheduling.* District requests for equivalency determinations will be scheduled by region, with the Regional Director of each of the seven regions of the Bureau of Reclamation having responsibility for such scheduling. Generally, requests will be honored on a first-come-first-served basis. However, if requests exceed the region's ability to fulfill them expeditiously, priority will be given on the basis of greatest immediate need.

(d) *Land classification costs.* The Bureau of Reclamation has provided basic land classification data as party of the profect development process since 1924. Where the Secretary determines that acceptable land classification data are not available for making requested class 1 equivalency determinations and where the provision of these data was the responsibility of the Bureau of Reclamation during the project development process, such data will be made available at Bureau of Reclamation expense. Districts in projects authorized for construction prior to 1924 must pay one-half the costs of new land classification studies required to make accurate equivalency determinations.

(e) *Economic study cost.* The cost of performing new or additional economic studies and computations inherent in the equivalency process shall be the responsibility of the requesting district.

(f) *Appeals.* When basic land classification data are available for a district, but the district does not agree with its accuracy or asserts that the data have become outdated, the district may request, and the Bureau of Reclamation may perform, a reclassification under the authority contained in the Reclamation Project Act of 1939 (Pub. L. 76–260). The requesting district shall pay for one-half of the cost of performing such reclassifications and the full cost of all other studies inherent in the equivalency process.

(g) *Individual requests.* Individual requests for class 1 equivalency determinations will not be accepted even though the individual landowner, in the absence of district action, may have made an irrevocable election to come under the provisions of title II. Requests for equivalency must be made by the district.

(1) The application of this rule may be illustrated by the following:

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Example (1). A district with an existing contract decides not to amend its contract to come under title II. However, an individual landowner within the district may make an irrevocable election to come under the new law. Such an election does not qualify the individual for a class 1 equivalency determination.

Example (2). A district decides to amend its contract to come under title II, but it elects not to request equivalency. Thus, individual landholders within the district are not entitled to equivalency until after the district makes the equivalency request and the Bureau of Reclamation has acted upon that request.

(h) *Excess land.* Until a final determination has been made by the Bureau of Reclamation on the district's request for equivalency, all land exceeding the basic ownership entitlement for qualified or limited recipients must be under recordable contract in order to be eligible for irrigation water. Once the determination has been made, the qualified recipient may withdraw land from the recordable contract in order to reach an acreage equivalent to 960 acres of class 1 land, and the limited recipient may withdraw land from the recordable contract in order to reach an acreage equivalent to 640 acres of class 1 land.

(1) *Protection during classification.* The Bureau of Reclamation will protect the excess landowner's property interests by ensuring that equivalency determinations are completed in advance of maturity dates on recordable contracts provided the district's request for an equivalency determination was made at least 6 months prior to the maturity of the recordable contract and the district fulfills its obligations under § 426.9 of these rules.

(2) *Protection during appeal.* In cases of equivalency determination appeals, the Secretary will not undertake the sale of the reasonable increment of the excess land under matured recordable contract which could be affected by a reclassification as long as that appeal is determined by the Secretary not to be an attempt to thwart the sale of excess land.

(i) *Full-cost charges.* Once the Bureau of Reclamation has acted upon the district's request and made a final equivalency determination, the full-cost water pricing structure would not come into effect until the total landholding westwide exceeds the qualified or limited recipient's landholding entitlement with equivalency. During the time when the determinations were being made, however, the full cost would be assessed on land receiving water in excess of the qualified or limited recipient's basic entitlement without equivalency.

(1) The principles of this paragraph may be illustrated by the following:

Example (1). Landholder X is a qualified recipient who owns no land, but leases 1,100 acres in a district which has requested equivalency. The land leased is a mix of classes 1, 2, and 3 land. During the time the equivalency determination was being made, Landholder X would be required to pay the full-cost water rate on 140 acres (1,100 acres leased minus the 960 acres basic entitlement at the contract water rate) if he or she elected to continue to receive irrigation water on that land. Once the equivalency determinations had been completed, Landowner X would be entitled to lease the equivalent of 960 acres of class 1 land at the contract water rate (something greater than 960 acres).

Example (2). Landholder Y is a limited recipient who owns 700 acres of land and leases another 160 acres in District A. District A has requested and received an equivalency determination. However, Landholder Y was, not receiving project water prior to October 1, 1981. Thus, even with equivalency, he would be required to pay the full-cost water rate for all land served in his landholding. (If Landholder Y had been receiving project water prior to October 1, 1981, he would have been entitled to receive water on the equivalent of 320 acres of class 1 land at the contract water rate. Deliveries on the remainder of something less than 540 acres would be at the full-cost rate.)

(j) *Multidistrict landholdings.* A landholder with holdings in more than one district is entitled to equivalency only in those districts which have requested equivalency (or are already subject to equivalency). That part of the landholding in a district or districts not requesting equivalency will be counted as class 1 land for purposes of overall entitlement.

(1) The application of this rule may be illustrated by the following:

Example (1). Landholder X is a qualified recipient and owns 320 acres in each of three districts. One of those districts, District A, requests and receives an equivalency determination. From the equivalency determination, Landholder X is shown to own the equivalent of 240 acres of class 1 land in District A. Landholder X is therefore entitled to buy an additional 80 acres receiving irrigation water in some other district or he could lease 80 acres in some other district and receive irrigation water for it at the contract rate. In District A itself, Landholder X could buy an additional 80 acres of class 1 land or something greater than 80 acres of class 2 or 3 land. If Landholder X preferred to lease in District A, he could lease 80 acres of class 1 land or something greater than 80 acres of class 2 or 3 land and receive irrigation water for that leased land at the contract water rate.

Example (2). Landholder Y owns 1,200 acres in District A and 160 acres in District B. Landholder Y is a qualified recipient and has designated 800 acres in District A as nonexcess and put the 400 acres of excess land under recordable contract so that it can be irrigated while still in his ownership. Subsequent to this nonexcess land designation, District A requests and receives an equivalency determination. Landholder Y is then free to withdraw excess land from recordable contract to take advantage of the equivalency determination in District A. Landholder Y, when able to show good cause, may even redesignate the nonexcess land under recordable contract [section 426.11(b)] if an appraisal of the excess land has not already been requested and performed. The maturity date as determined in the original contract, however, would not change.

(k) *Existing equivalency determinations.* In districts where equivalency was a provision of project authorization, those equivalency factor determinations will be honored as originally caluclated unless the district requests a reclassificaiton.

§ 426.10 Certification and reporting requirements.

(a) *Certification.* Landowners and lessees within a district which has a contract that conforms to title II shall furnish the district, in a form provided by the Bureau of Reclamation, a certificate that they are in compliance with the ownership and leasing provisions of that law.

(1) *Irrevocable electors.* Individual landowners or lessees who, in the absence of district action, have made an irrevocable election to be subject to title II must also certify through the nonamending district that they are in compliance.

(b) *Reporting.* Landholders who do not come under the expanded ownership entitlement and leasing provisions of title II, but who are subject to the ownership limitations of prior law, must report through the district on the land in their ownership receiving irrigation water and the extent and condition of leases held. They must also certify that they are in compliance with the ownership limitations imposed by the prior law. The reporting form will be provided to the district by the Bureau of Reclamation.

(c) *Data requirements.* Certification and reporting forms will require a full disclosure of land owned in all districts receiving or capable of receiving irrigation water, the identification of the operator or operators of that land, the number of acres leased, the terms of any lease, and certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him a complete copy of any lease.

(d) *Schedule for completing certification and reporting forms.* Certification and reporting forms will be required as a condition for the receipt of irrigation water except as provided in paragraph (e) of this section. They will be required on an annual basis. If, during the course of the year, there is any change in the information submitted on the certification and reporting form, a new declaration must be made and submitted to the district within 15 days of the change.

(e) *Exemptions.* Landholders of small tracts of less than 5 acres or of tracts which produce less than $5,000 of gross annual sales in agricultural commodities are exempt from the certification and reporting requirements.

(f) *District participation.* Each district shall be required to make the certification and/or reporting forms available to district members and to keep all certification and reporting forms on file and available for Bureau of Reclamation inspection. Additionally, each district will be required to summarize the information contained on these documents and submit the summary to the Bureau of Reclamation annually. The summary form to be used by the district will be provided by the Bureau of Reclamation.

(g) *Auditing.* The Bureau of Reclamation may conduct field audits, as necessary, to ensure compliance with title II.

(h) *False statements.* The following statement will be included in all certification and reporting forms.

"Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction."

False statement by the landholder will result also in loss of eligibility. Eligibility could only be regained upon the approval of the Secretary.

(i) *Failure to report.* Failure to submit the required certification or reporting form to the district will result in loss of eligibility by the individual landholder. Eligibility will be regained once the required form is submitted to the district.

§ 426.11 Excess lands.

(a) *In general.* As set forth in § 426.4, "excess land" means irrigable land other than exempt land owned or controlled by any landholder in excess of the maximum allowable acreage under Reclamation law. In determining excess land, all land receiving or capable of receiving irrigation water in all districts held by any landholder shall be considered. Delivery of irrigation water to excess lands is allowed only under the following conditions: (1) The land is exempt from the acreage limitation and full-cost provisions of Reclamation law, (2) the excess land has been placed under recordable contract by the landowner, or (3) the land was involuntarily acquired into excess status through inheritance, foreclosure, or other similar involuntary process.

(b) *Designation of nonexcess land.* The owner of excess land shall designate that portion of his or her land that is to be considered nonexcess. Designation shall be in accordance with provisions in the district's repayment or water service contract, provided designation procedures are specified in the contract and the entire landholding is in one district.

(1) *Designation procedures when not established by contract.* If designation provisions are not specified in the district contract, the landowner must designate that portion of the land in the ownership which is to constitute the nonexcess entitlement within 30 days of Secretarial notification to the district and that landowner. The designation will take into account all land owned by the landowner which is receiving or is capable of receiving irrigation water on a regular basis. If the landowner fails to make the nonexcess designation within 30 days, the district shall make the designation within 30 days thereafter. If the district does not make the required designation, the Secretary shall then make the designation.

(2) *Designation procedures if land is owned in more than one district.* If the land in the ownership is situated in more than one district, the landowner has 60 days from the date of notification to the district and the landowner to make the designation. The Secretary shall make the designation for the landowner if designation is not made within 60 days.

(3) *Status of nonexcess land and redesignation.* The nonexcess designation, whether made by the landowner, the district, or the Secretary, will be binding on the land and will be filed with the district and the Bureau of Reclamation. These regulations governing excess land will apply to the excess land resulting from that designation. A landowner may redesignate his or her nonexcess land from excess land in the ownership with the approval of the Secretary. If the landowner is not eligible for equivalency, he or she must make an equal exchange of acreage through the redesignation. If the landowner is eligible for equivalency the redesignation may be made on the basis of equivalent acres. Furthermore, existing nonexcess land designations made prior to October 12, 1982, can be amended at the request of the landowner to conform with title II: *provided*, the district has a new or amended contract which conforms to title II or the landowner elects to come under title II through an irrevocable election.

(i) The application of this rule may be illustrated by the following:

Example (1). Landowner X is a qualified recipient by virtue of an irrevocable election. He owns 1,200 acres in District A, of which 960 acres have been designated nonexcess and are receiving irrigation water. With the approval of the Secretary, Landowner X may redesignate the 240 acres which are now excess as nonexcess and eligible to receive irrigation water, provided he redesignates 240 acres of presently nonexcess land as excess.

Example (2). Landowner Y is a U.S. citizen and a qualified recipient by virtue of District A's contract amendment to conform to title II. Landowner Y owns 1,400 acres of land of which 960 acres have been designated nonexcess and are receiving irrigation water. Subsequent to this designation the district requests and receives an equivalency determination. All 1,400 acres of Landowner Y's land is class 3 land, and in District A, 1 acre of class 1 land is equal to 1.4 acres of class 3 land. With equivalency, Landowner Y may irrigate 1,344 acres of class 3 land in District A. Thus, he may redesignate everything in his ownership as nonexcess except for 56 acres.

Example (3). Landowner Z is a resident alien and owns 480 acres in District A. Landowner Z has designated 160 acres as nonexcess, and it is receiving irrigation water. Following this designation, District A amends its contract to conform to title II. As a result of the district amendment, Landowner Z satisfies the requirements for a qualified recipient and may designate all 480 acres owned as nonexcess.

(c) *Treatment of land ineligible under prior law.* Land ineligible for irrigation water deliveries because it was acquired from excess status without Secretarial approval prior to October 12, 1982, the period provided for executing recordable contracts under the district repayment or water service contract has expired, or the landowner failed to comply with other requirements of prior law as determined by the Secretary, may be brought into eligible status if prior to April 12, 1987, either the district in which the land is located amends its contract to conform to title II or the present landowner of the ineligible land make an irrevocable election to come under title II.

(1) The principles of this rule may be illustrated by the following:

Example (1). Landowner X bought 160 acres in District A from excess status in 1975. Landowner X, however, failed to get sale approval from the Secretary. That land has

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been ineligible for service since 1975. Prior to April 12, 1987, the district in which the land is located amends its contract to conform to title II. Landowner X's 160 acres thereby become eligible for service provided he or she can meet the requirements of a qualified or limited recipient.

Example (2). Landowner Y and his wife own 1,200 acres in District B. Landowner Y and his wife are receiving irrigation water on 320 acres owned which was their maximum entitlement under prior law. The remaining 880 acres are ineligible for service and cannot ever be brought under recordable contract because the district contract stipulates a 10-year grace period from date of first water delivery to the district for bringing excess land under recordable contract. That period has long since expired.

Landowner Y makes an irrevocable election prior to April 12, 1987, to come under the provisions of title II. By that election Landowner Y, as a qualified recipient, is entitled to receive irrigation water on 960 acres owned. He and his wife may even place the remaining 240 acres in their ownership under a 5-year recordable contract. Had Landowner Y made the election after April 12, 1987, he would have still been entitled to receive irrigation water on 960 acres owned, but he could not have placed the remaining 240 acres under recordable contract.

(d) *Excess land not under recordable contract.* Excess land not under recordable contract must be conveyed to an eligible owner in a sale or transfer at a price and on terms and conditions approved by the Secretary in order to be eligible to receive irrigation water.

(e) *Recordable contracts.* Excess land becomes eligible to receive irrigation water if the owner enters into a recordable contract with the Secretary of the Interior. The excess owner must agree to dispose of the excess land, excluding mineral rights and easements, to an eligible owner under terms and conditions and at a sale price approved by the Secretary. The period allowed for the disposition of excess land under recordable contracts executed after October 12, 1982, may not exceed 5 years from the date the recordable contract is executed by the Secretary (except for the Central Arizona Project where the disposition period provided will be 10 years from the date water becomes available to the land). Water deliveries may begin on the date the secretary receives a written request from the landowner to execute a recordable contract. The landowner has 20 working days from that date to execute the recordable contract unless the Secretary waives the 20-day limitation. Land placed under recordable contract may receive irrigation water at the rate specified in the contract of the district so long as it is in the landholding of the landowner. Land under recordable contract which is leased to another, however, will be subject to the full-cost provisions of title II if the lessee's landholding exceeds the specified limitations.

(1) The principles of this rule may be illustrated by the following:

Example. Landowner X is a qualified recipient and owns 1,400 acres in District A. The landowner places 440 acres under recordable contract so that he may receive irrigation water at the contract water rate on all owned land in the district. Subsequently Landowner X leases the 440 acres under recordable contract to Landholder Y who is a limited recipient. Landholder Y was receiving irrigation water prior to October 1, 1981, and presently owns 320 acres receiving irrigation water. Under the circumstances, Landholder Y has already reached his full entitlement at the contract water rate; therefore, the full cost must be paid for any irrigation water delivered to the 440 leased acres. Leasing the land to Landholder Y does not affect other terms of the recordable contract.

(f) *Restriction on placing excess land under recordable contract.* A landowner who acquires land after October 12, 1982, which is receiving or capable of receiving irrigation water, and by so doing places himself in excess status shall not be permitted to place the land so acquired under recordable contract. In order for the excess land to regain eligible status, the sale would have to be canceled or the excess owner would have to sell the land at a price approved by the Secretary.

(g) *Recordable contracts in effect prior to October 12, 1982.* Recordable contracts executed prior to October 12, 1982, will continue in effect. However, landowners with such existing recordable contracts may request that their contracts be amended to conform to the ownership limitations contained in title II. The Secretary shall amend those contracts accordingly if: (1) The district enters into a new or amended contract which conforms to title II or (2) the excess landowner elects to conform his landholding to title II. The disposition period for such amended recordable contracts shall not be extended except as provided in paragraph (i) of this section.

(h) *Deed covenant.* In order to be eligible for water service, the following covenant shall be placed in all deeds of land acquired from excess status, whether bought under recordable contract or not:

For a period of 10 years from the date of this deed, sale by the landowner and his or her assigns of these lands is prohibited for any value that exceeds the sum of the value of newly added improvements plus the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. This covenant is to satisfy the requirements in section 209(f)(2) of Pub. L. 97-293.

(i) *Extension of disposition periods for recordable contracts.* Owners of excess land under recordable contract who were prevented from selling their excess land because of Secretarial moratorium or court order shall be allowed an additional period of time to sell their excess land under recordable contract:

(1) *Westlands Water District, California.* After the order of the court in *National Land for People* v. *Andrus* is lifted, landowners with recordable contracts in the Westlands Water District, California, will be allowed a period of time equal to the time remaining on that recordable contract on August 13, 1976, to sell land under recordable contract.

(i) The principles of this rule may be illustrated by the following:

Example. A landowner in the Westlands Water District entered into a recordable contract on October 13, 1972. The recordable contract provided for a 10-year disposition period which would end on October 13, 1982. On August 13, 1976 (the date of the court-ordered moratorium on processing sales of excess land in the Westlands District), there were 6 years and 2 months remaining in the disposition period. Assuming the court-ordered moratorium is lifted on January 1, 1984, the disposition period for the recordable contract will be extended for 6 years and 2 months from that date or to March 1, 1990. The contract will mature at that time and the Secretary's power-of-attorney to sell the land will vest.

(2) *All other districts.* A moratorium on processing sales of excess land was issued by the Secretary of the Interior on June 24, 1977. This moratorium applied to all landowners with recordable contracts in all districts other than the Westlands Water District. The Commissioner of Reclamation delayed sales by other directives. Landowners affected by these actions will be given an additional period of time to dispose of their land. The extension shall be calculated from the date that processing sales of excess land is resumed and shall be equal to the time remaining on the recordable contract when the moratorium was imposed. The resumption date shall be determined by the Secretary.

(i) The principle of this rule may be illustrated by the following:

Example. A landowner in District A entered into a recordable contract on June 27, 1975. The recordable contract provided for a 10-year disposition period which would end June 27, 1985. The landowner was prevented from selling the land under recordable contract by the Secretarial moratorium of June 2, 1977. At that date, the recordable contract has a remaining disposition period of 8 years. The disposition period for the recordable contract will be extended 8 years from the date processing sales is resumed. The resumption date shall be determined by the Secretary.

(3) *How extensions of recordable contracts are to be accomplished.* The Secretary shall prepare and execute amendatory agreements to extend recordable contracts for the appropriate period of time. The amendatory agreement will establish the new maturity date for the recordable contract and will be recorded by the Secretary in the official records of the county in which the land covered by the recordable contract is located. A copy of the amendatory agreement will also be sent to the affected landowner by the Secretary.

(4) *Water rates for land under extended recordable contracts.* A landowner who has land under an extended recordable contract may continue to receive irrigation water for that land at the contract water rate for the full term of the original contract. However, the landowner must pay the full-cost rate during the entire extended contract period unless the original contract lapsed during the moratorium or matured within 18 months of the date the moratorium is lifted. If the maturity date under the original contract lapsed during a moratorium or if the original contract matures within 18 months of the date a moratorium is lifted, the landowner may receive irrigation water at the contract rate for no more than 18 months after the processing of excess and is resumes. Thereafter, the landowner must pay the full cost of the irrigation water delivered during the extension period.

(i) The principle of this rule may be illustrated by the following:

Example: A landowner entering into a recordable contract on June 27, 1972. The recordable contract provided for a 10-year disposition period which ended on June 27, 1982. However, the landowner was prevented from selling the land by the Secretarial moratorium of June 27, 1977. Since the landowner had 5 years remaining on the original recordable contract when the moratorium was imposed, the contract will be extended for 5 years from the processing of the sale is resumes. The resumption date will be determined by the Secretary. The landowner must pay the full cost, however, for any irrigation water delivered to the land under recordable contract beginning 18 months from the date the moratorium is lifted.

(j) *Sale of excess land under recordable contract by Secretary.* All recordable contracts shall provide that a power-of-attorney shall vest in the Secretary to sell the land under recordable contract if the landowner does not dispose of the excess land within the period specified. The Secretary shall conduct such excess land sales, once the power-of-attorney has vested. The Secretary shall use the following procedures:

(1) *Surveys.* A qualified surveyor shall make a land survey when determined necessary by the Secretary. The cost of the survey will be paid by the United States and added to the sale price for the land. The cost shall be reimbursed to the United States from the proceeds of the sale.

(2) *Appraisals.* The Secretary shall appraise the excess land to determine the approvable sale price. The cost of the appraisal shall be paid by the United States. Such cost shall be added to the approved sale price and shall be reimbursed to the United States out of the proceeds of the sale.

(3) *Advertising.* The Secretary shall advertise the sale of the property in the newspapers within the county in which the land lies, in farm journals, in other similar publications, and by other public notices he determines advisable. The notices shall state: (i) The minimum acceptable sale price of the property (which equals the appraised price plus the cost of the appraisal, survey, and advertising), (ii) that the land will be sold by auction for cash or on terms acceptable to the landowner to the highest bidder whose bid equals or exceeds the minimum sale price, and (iii), the date for such sale (which shall not exceed 90 days from the date of the advertisement). The advertisement costs for the sale will be added to the sale price for the land and reimbursed to the United States from the sale proceeds.

(4) *Distribution of proceeds.* The proceeds from the sale of the land will be disbursed first, to the United States to pay the cost of the survey, appraisal, and advertising; second, to the landowner in the amount of the appraised value of the land less costs due the United States; and third, to the United States any remaining proceeds, which will be credited to the Reclamation fund.

(5) *Closing.* The sale of the excess land shall be closed by the Secretary when all sale arrangements have been completed. The Secretary shall execute a deed conveying the land to the purchaser. There shall be no requirement for a convenant in the deed (h) restricting the resale of the land.

(6) *Water deliveries.* Excess land under matured recordable contracts will be eligible to continue to receive irrigation water until the land is sold by the Secretary.

(k) *Land with becomes excess because of Westwide application or enforcement of other requirements of law.* Land may become excess through the westwide enforcement of acreage limitation or because of restrictions on delivery of water to nonresident aliens. Owners may place such land under recordable contract as provided in § 426.11(e) of these regulations. The recordable contract in such situations shall be modified to permit the landowner to sell the excess land to an eligible purchaser without price approval by the Secretary. The deed conveying the excess land shall not contain the standard convenant paragraph (h) requiring sale price approval by the Secretary for a period of 10 years following initial sale. The land shall be sold in accordance with the procedures established in paragraph (j) if the Secretary's power-of-attorney to sell land vests.

(1) This rule may be illustrated by the following:

Example. Landowner X and his wife are U.S. citizens and own 320 acres receiving irrigation water in each of Districts A, B, C, and D. District A amends its contract to conform to title II. Landowner X and his wife automatically and without benefit of choice become a qualified recipient and as such as entitled to irrigate no more than 960 acres westwide with irrigation water. Since their present ownership exceeds 960 acres receiving irrigation water, 320 acres would have to be place under recordable contract if it were to remain eligible to receive irrigation water. Landowner X could sell the land at fair market value at any time within 5 years of the contract date.

426.12 Excess land appraisals.

(a) *In general.* The following regulations shall apply to all excess land placed under recordable contract after October 12, 1982. They shall also apply to all recordable contracts and/or repayment contracts entered into by the Secretary prior to October 12, 1982, if consistent with the provisions of those contracts.

(1) All appraisals of excess land will be based on the fair market value of the land at the time of appraisal without reference to the construction of the irrigation works. Standard appraisal procedures including but not limited to the income and comparable sales methods shall be used. Nonproject water supply factors as provided in (3) shall be considered as appropriate.

(2) Improvements shall be appraised on the basis of their contributory fair market value as of the date of appraisal, using standard appraisal procedures.

(3) Nonproject water supply factors such as: (i) ground-water pumping lift, (ii) surface water supply, (iii) water quality, and (iv) trends associated with

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a, b, and c shall be considered where appropriate. The Bureau of Reclamation shall develop the nonproject water supply and trend information and specify how that information is to be used in the appraisal. The district may request to participate. The excess landowner also may submit information relevant to these determinations through the district. The Secretary shall make all final determinations considering the data provided by the Bureau of Reclamation and the district if the Bureau and the district cannot reach agreement on the data and its use within 60 days. The Secretary shall provide available nonproject water data to the appraiser as he determines appropriate.

(4) The date of appraisal shall be the date of last inspection by the appraiser(s) unless there is an existing signed instrument such as an option, contract for sale, agreement for sale, etc., affecting the property, in which case the date of appraisal will be the date of such instrument.

(b) *When appraisals are to be made.* Appraisals of excess lands shall be made upon request of the landowner(s) or when required by the Secretary. If a request for an appaisal is not received from the landowner(s) within 6 months of the maturity date of the recordable contract, the Secretary may initiate the appraisal.

(c) *Appraiser selection and appraisal cost.* Each appraisal of excess land shall be made by a qualified appraiser selected by the Secretary except as provided in paragraph (d) of this section. The cost of the first appraisal of any excess land shall be paid by the United States. When the excess land is sold, the cost of the first appraisal shall be added to the sale price and reimbursed to the United States by the excess-land purchaser. Any costs associated with additional appraisals requested by the excess landowner shall be paid by that landowner provided the value of the land established by a reappraisal does not exceed the value established in the first by more than 10 percent. However, if the difference in the appraisal values exceeds 10 percent, the United States will pay for the reappraisal.

(d) *Appeals.* An excess landowner may request a second apparisal if the excess landowner disagrees with the first appraisal. The second appraisal shall be prepared by a panel of three qualified appraisers, one designated by the United States, one designated by the district, and the third designated jointly by the first two. This appraisal shall be binding on both parties after review and approval as provided in (e). As such it fixes the maximum value of the excess land.

(e) *Review process.* All excess land appraisals shall be reviewed by the Bureau of Reclamation for technical accuracy and compliance with these Rules and Regulations, applicable portions of Uniform Appraisal Standards for Federal Land Acquisition—Interagency Land Acquisition Conference 1973, Reclamation Instructions, and any detailed instructions provided by the Secretary setting conditions applicable to an individual appraisal.

§ 426.13 Exemptions.

(a) *In general.* The following are exempt from the ownership and pricing limitations of title II: Land receiving an agricultural water supply from projects constructed by the U.S. Army Corps of Engineers unless integrated with or made a part of a Federal Reclamation project, projects constructed under Federal Reclamation law for which the construction charge obligation of the district has been discharged, and land receiving a temporary water supply. Land determined to be an isolated tract is exempt from acreage limitation but is subject to full cost.

(1) *Corps of Engineers projects.* Land receiving an agricultural water supply from Corps of Engineers projects is exempt from title II and other provisions of Reclamation law unless it has been designated, made a part of, or integrated by statute with a Federal Reclamation project or the Secretary has provided project works for the control or conveyance of an agricultural water supply from the Corps project to the subject land. This exemption does not relieve district agricultural water users from repaying their share of construction, operation and maintenance, and contract administration costs of the Corps project allocated to conservation or irrigation storage. The Secretary shall determine the exemption status for land receiving an agricultural water supply from Corps of Engineers projects. He shall notify affected districts of the applicablilty of the ownership and pricing limitations of title II to that land. District repayment or water service contracts containing provisions imposing acreage limitation for those lands served from Corps projects which are exempt will be amended to delete those provisions at the request of the district.

(2) *Reclamation projects.* Districts shall be exempt which have repaid all obligated construction costs for project facilities. Payments by periodic installments over the contract repayment term, as well as lumpsum and accelerated payment allowed in the district's contract, shall qualify the district or individual for exemption. An individual landowner will be exempt upon repayment of construction charges allocated to that owner's land, if provided for in a contract with the United States. When a district has discharged its obligation to repay construction costs for project facilities, the Secretary shall notify the district that it is exempt from acreage limitation and the full-cost provisions of law. At the request of an owner of a landholding for which repayment has occurred, the Secretary shall provide a certificate to that owner acknowledging the landholding is free of the ownership and pricing limitations of title II. The continuation of the exemption will be considered on a case-by-case basis if additional construction funds for the project are requested.

(3) *Temporary supplies of water.* Temporary water supplies are water supplies which are not storable for project purposes. They may be infrequent or unmanaged floodflows of short duration. Such water supplies can be made available to land without regard to the acreage limitation and full-cost provisions of Federal Reclamation law for a temporary period not to exceed 1 year in the following manner:

(i) Unusually large water supplies or unmanaged floodflows can be made available by the Secretary as temporary supplies to excess land. The Secretary shall announce the availability of such temporary supplies to districts. Districts desiring deliveries of such temporary water supplies to excess land shall request the Secretary to make such deliveries. Upon approval by the Secretary, the district shall be notified of the availability of the temporary supply and the conditions for its use. The temporary supply of water shall be delivered under contracts not to exceed 1 year in accordance with existing policies and priorities. It may not have any adverse effect on other authorized project purposes or relieve the district from other water supply commitments. The Secretary shall determine the price a district is to be charged for such temporary water deliveries.

(4) *Isolated tracts.* Isolated tracts which can be farmed economically only if included in a larger farming operation shall not be subject to the ownership limitations of Federal Reclamation law. However, the full-cost provisions of title II shall apply to all applicable water deliveries to such isolated tracts that are in excess of the ownership limitation. Isolated tract determinations shall be made by the Secretary at the request of the landowner.

§ 426.14 Residency.

(a) Residency is not a requirement for the delivery of irrigation water from Reclamation project facilities. The residency requirement in section 5 of the Reclamation Act of 1902 was repealed and that portion of Solicitor's Opinion M–36919, dated December 6, 1979, which held that residency continued to be a requirement of Federal Reclamation law was thus nullified. Existing recordable contracts and certificates containing provisions requiring the purchaser of excess land to be a resident or agree to become a resident within a specified time period shall be revised to delete this requirement.

§ 426.15 Religious and charitable organizations.

(a) *Ownership entitlement.* Religious or charitable organizations which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, including parishes, congregations, schools, wards, or similar organizations which own or operate landholdings in Federal Reclamation projects, will be treated as qualified recipients: *provided:* (1) That either the district in which the land is situated enters into a new or amended contract, or the religious or charitable organization or its subdivision owning or operating land in the district elects to come under title II, (2) that the agricultural produce and the proceeds of sales of such produce are used only for charitable purposes, (3) that the land is operated by the individual religious or charitable entity or organization (or subdivisions), and (4) that no part of the net earnings of the religious or charitable entity or organization (or subdivision) shall accrue to the benefit of any private shareholder or individual.

(b) *Ownership entitlement under prior law.* The provisions of the prior law will apply if neither the district nor the religious or charitable organization or its subdivision elects to come under title II. Each parish, ward, congregation, or other subdivision of the organization shall be considered an individual under prior law.

(1) The principles of this rule may be illustrated by the following:

Example (1). A charitable organization which meets the requirements of title II has subdivisions in each of five different districts. Each of these districts amends its contract to comply with title II. Therefore, each subdivision is entitled to own and farm 960 acres receiving irrigation water.

Example (2). A religious organization owns 960 acres in District A which has amended its contract to comply with title II. The religious organization farms 640 acres in its ownership and leases the remaining 320 acres to a private landholder. The 320 acres leased is ineligible for irrigation water until such time as it is farmed by the religious organization.

Example (3). A religious organization which meets the requirements of title II has subdivisions in each of Districts A, B, C, and D. Each subdivision operates 800 acres receiving project water. Districts A and B amend their respective contracts to comply with all provisions of title II; therefore, the subdivisions in Districts A and B are entitled to own or operate 960 acres receiving project water. Districts C and D do not amend their contracts to comply with title II and remain subject to the acreage restrictions contained in the prior law. The subdivisions in Districts C and D, however, make individual elections to come under all provisions of title II and are therefore entitled to own or operate 960 acres receiving Reclamation project water.

(c) *Affiliated farm management.* A religious or charitable organization or its subdivision which elects to come under title II or owns or operates land in a district which enters into a new or amended contract may retain its status as a qualified recipient and still affiliate with a more central organization of the same faith in farm operation and management. Affiliated farm management shall be permitted regardless of whether the subdivision is the owner of record of the land being operated.

(1) The principles of this rule may be illustrated by the following:

Example. A religious organization holds title to 1,280 acres in District A and 1,280 acres in District B. The acreage in District A is operated jointly by two subdivisions and the acreage in District B is operated by three subdivisions in separate farms of 300, 300, and 680 acres. Farm operations are coordinated by the religious organization through managers at each farm. Each subdivision is a qualified recipient and entitled to operate 960 acres receiving irrigation water. The religious organization is entitled to own the acreage being operated by its affiliated subdivisions in each district.

(d) *Leasing.* The full-cost provisions dealing with leased land shall apply to religious or charitable organizations or their subdivisions.

(1) The principles of this rule may be illustrated by the following:

Example. A charitable organization has subdivisions in each of Districts A, B, C, and D. Each of these districts has amended its contract to comply with title II. Each subdivision in Districts A, B, and C owns and operates 800 acres receiving irrigation water. The subdivision in District D owns and operates 960 acres and leases another 160 acres, all of which are receiving irrigation water. The subdivision in District D is obligated to pay the full cost for irrigation water delivered to the 160 acres leased.

§ 426.16 Involuntary acquisition of land.

(a) *Nonexcess land.* Nonexcess land which becomes excess because it is acquired through involuntary foreclosure (or similar involuntary process) in satisfaction of a debt, by gift, or inheritance is eligible to receive irrigation water in the new ownership for a period of 5 years. The new owner will be required during the 5-year period to pay the same price for water as the former owner. The price is established by the district's contract with the United States. Although land acquired from nonexcess status involuntarily may be sold at any time by the new owner without approval by the Secretary, it will become ineligible to receive irrigation water after 5 years and will remain ineligible until it has been sold to an eligible owner. Nonexcess land acquired involuntarily may not be placed under recordable contract by the new owner.

(b) *Excess land.* Excess land which is under recordable contract and which is acquired by involuntary foreclosure or other involuntary process may continue to receive irrigation water under the terms of the recordable contract. However, the new owner must agree to assume the recordable contract and execute an assumption agreement provided by the Secretary. Such land will be eligible to receive irrigation water for 5 years from the date it was acquired involuntarily or for the remainder of the recordable contract period, whichever is longer. The sale of such land shall be under terms and conditions set forth in the recordable contract and must be satisfactory to and at a price approved by the Secretary.

§ 426.17 Land held by governmental agencies.

(a) *Acreage limitation.* Land held by States, political subdivisions, or agencies thereof which are farmed primarily for a nonrevenue producing function, as determined by the Secretary, shall not be subject to the acreage limitation and full-cost provisions of Federal Reclamation law.

(b) *Sales.* Land held by States, political subdivisions, or agencies thereof may be sold without price approval. Once sold, such land will be eligible to receive irrigation water provided the purchaser meets the eligibility requirements to own land and receive irrigation water.

(c) *Leasing.* States, political subdivisions, or agencies thereof and agencies of the Federal Government may lease irrigable land they own or control to an eligible landholder up to that landholder's basic entitlement under Federal Reclamation law (960 acres for a qualified recipient, 640 acres for a limited recipient, or 160 acres for

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landholders in districts where the prior law applies unless otherwise provided by law).

(1) The principles of this rule may be illustrated by the following:

Example. Farmer X is a qualified recipient in the State of Colorado and owns and irrigates 160 acres of land with irrigation water. The State of Colorado may lease Farmer X an additional 800 acres of State-owned land which will make up the balance of Farmer X's basic entitlement. Farmer X is still entitled, however, to lease additional acreage which may be irrigated at full cost provided that additional acreage is not owned by a governmental agency.

§ 426.18 Commingling.

(a) *Existing commingling provisions in contracts.* Provisions in repayment and water service contracts entered into prior to October 1, 1981, which define project and nonproject water or describe the delivery of project water through nonproject facilities or nonproject water through project facilities, shall continue in effect. They shall apply to renewed contracts the district enters into with the United States as well.

(b) *Establishment of commingling provisions in contracts.* New, amended, or renewed contracts may provide that irrigation water can be commingled with or exchanged for water from other sources, whether federally or privately constructed facilities are involved, as determined on a case-by-case basis. When standards can reasonably be established to assure on a volumetric basis that the irrigation or exchange water is delivered only to lands eligible to receive irrigation water, the provisions of Federal Reclamation law and these regulations will not be applicable to the nonirrigation water or irrigation water delivered by exchange as the case may be.

§ 426.19 Water conservation.

(a) *In general.* The Secretary shall encourage the full consideration and incorporation of prudent and responsible water conservation measures in all districts and for the operations of all non-Federal recipients of irrigation water from Federal Reclamation projects.

(b) *Development of a plan.* Districts that have entered into repayment contracts or water service contracts according to Federal Reclamation law including the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which contains definite objectives which are economically feasible and a time schedule for meeting those objectives.

(c) *Federal assistance.* The Bureau of Reclamation will cooperate, to the extent possible, with the district in studies to identify opportunities to augment, utilize, or conserve the available water supply.

§ 426.20 Public participation.

(a) *In general.* The Bureau of Reclamation will publish notice of proposed irrigation or amendatory irrigation contract actions in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Form letters, media news releases, meetings, workshops, and hearings also will be used as appropriate to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district, however, may invite public participation in any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

(1) Each public notice or news release shall include, as appropriate: (i) A brief description of the proposed contract terms and conditions being negotiated; (ii) date, time, and place of meeting or hearings; (iii) the address and telephone number of a Bureau employee to address inquiries and comments; and (iv) the period of time in which comments will be accepted.

(2) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(3) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(4) All written correspondence regarding propose contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(5) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(6) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(7) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

§ 426.21 Small reclamation projects.

(a) *Small reclamation project loans entered into after October 12, 1982.* Qualified or limited recipients are entitled to own and irrigate 960 and 320 acres of land, respectively, in districts entering into contracts for Small Reclamation project loans after October 12, 1982. Irrigation water to these recipients shall be delivered at the repayment rate specified in the district's contract. If a recipient owns and irrigates land in excess of his respective entitlement he must pay the contract rate as well as interest on that portion of the loan attributable to the excess land served. The interest rate to be used in these computations is set forth in the Act of August 6, 1956 (43 U.S.C. 422e).

(b) *Small reclamation project loans entered into prior to October 12, 1982.* Districts with Small Reclamation project loans which were entered into prior to October 12, 1982 must continue to abide by the provisions in that loan contract.

§ 426.22 Decisions and appeals.

Unless otherwise provided by the Secretary, the Regional Director shall make any determination required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The time for appeal may be extended by the Secretary. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision. Pertinent addresses are shown below:

Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;
Regional Director, Pacific Northwest Region, Bureau of Reclamation, 550 West Fort Street, P.O. Box 043, Boise, ID 83724;
Regional Director, Mid-Pacific Region, Bureau of Reclamation, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825;
Regional Director, Lower Colorado Region, Bureau of Reclamation, Nevada Highway and Park Street, P.O. Box 427, Boulder City, NV 89005;
Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City, UT 84147;
Regional Director, Southwest Region, Bureau of Reclamation, 714 South Tyler, Amarillo, TX 79101;
Regional Director, Upper Missouri Region, Bureau of Reclamation, 316 North 26th Street, P.O. Box 2553, Billings, MT 59103; and
Regional Director, Lower Missouri Region, Bureau of Reclamation, Building 20, Denver Federal Center, P.O. Box 25247, Lakewood, CO 80225.

[FR Doc. 83-11948 Filed 5-3-83; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 82-832; RM-4254]

FM Broadcast Stations in Cascade Village, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule (report and order).

SUMMARY: Action taken herein denies a petition to assign FM Channel 297 to Cascade Village, Colorado, filed by Keith E. Lamonica. Petitioner failed to establish Cascade Village's status as a community for assignment purposes.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cascade Village, Colorado) MM Docket No. 82-832; RM-4254.

Adopted: April 8, 1983.
Released: April 26, 1983.
By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making*, 48 FR 1521, published January 13, 1983, proposing the assignment of Class C Channel 297 to Cascade Village, Colorado, as that community's first FM assignment, in response to a petition filed by Keith E. Lamonica ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. Additionally, opposing comments and a counterproposal [1] were filed by KDRW Radio ("KDRW"), licensee of AM Station KDRW, Silverton, Colorado. Comments were also filed by Fordstone, Inc. ("Fordstone"), licensee of Stations KIUP(AM) and KRSJ(FM), Durango, Colorado. Petitioner filed reply comments.

2. KDRW's comments not only address petitioner's proposal but also his relationship with its station. Specifically, KDRW advises that petitioner signed a one-year contract with its station, and, although he is no longer in its employ, the agreement is still effective. KDRW advises that the contract, *inter alia*, forbids petitioner herein from participating in any manner with other radio stations or possible radio stations in its market during the contractual period. Therefore, KDRW concludes that assignment of Channel 297 to Cascade Village would infringe on its market area in direct conflict with the terms of that agreement. KDRW advises that, in light of the above, if Channel 297 is assigned to Cascade Village and petitioner applies for the channel, it will seek a permanent injunction against him for violation of the terms of his contract.

3. Fordstone's comments allege that Cascade Village is not a community within the scope of the Commission's determination and thus urges denial of the proposal. Appended to Fordstone's comments is a brochure describing the recreational nature of Cascade Village. According to Fordstone, as the brochure depicts, Cascade Village is a private ski resort area located north of Durango. Further, Fordstone asserts that Cascade Village has few permanent residents, is unincorporated, and has none of the indicia commonly associated with community status, *i.e.*, civic and charitable organizations, schools, municipal services, post office, or print media.

4. Furthermore, Fordstone notes that the 1980 U.S. Census does not list Cascade Village as a place, much less an incorporated community. Fordstone thus urges that in view of petitioner's failure to reveal any communal characteristics of Cascade Village to justify his proposal, the petition should be denied.

5. Petitioner's reply comments addressed KDRW's counterproposal to assign Channel 297 to Farmington, New Mexico. However in light of our action with respect to that proposal (see footnote 1, *supra*), no discussion thereon is warranted here.

6. Petitioner concedes that although Cascade Village is not incorporated, it did not exist at the time the 1980 Census was taken. Petitioner submits that since opponents were able to precisely identify Cascade Village by location and population, it thereby demonstrates that it is a geographically identifiable population grouping.

7. Petitioner likewise disputes opponent's contention that Cascade Village's size should preclude it from obtaining its own FM allocation, particularly where, as here, a first service is involved, citing *Fruita, Colorado*, 48 RR 2d 1581 (1981), and *Washburn, Missouri*, 48 RR 2d 1783 (1981).

8. Further, petitioner claims that this area of Colorado is rapidly developing as a winter resort and that due to the vastness as well as remoteness of the area, an even greater need exists to provide the region with its first local aural broadcast facility for the essential dissemination of extreme weather and road conditions.

9. In conclusion, petitioner asserts that the basic undertone of opponent's arguments is their private desire to avoid competition, to the detriment of the public interest.

10. Appended to petitioner's reply comments were letters from Mr. Timothy G. Sarmo, Town-County Coordinator of Silverton, San Juan County, Colorado, and Congressman Ray Kogovsek of Colorado. Therein, Mr. Sarmo states that Cascade Village is a planned recreational project that is technically known as a "Planned Unit Development" which eventually will consist of condominium units, lodging facilities and commercial outlets. Further, he reports that although roads leading into the project were built by the developer, they will be maintained by the property owners association. Moreover, Mr. Sarmo advises that an independent security force "has been promised by the development." Additionally, Mr. Sarmo advises that Cascade Village has a ten-year construction plan although many buildings now exist. Overall, Mr. Sarmo concludes that although seasonal recreation appears to be the primary use of condominium purchasers at Cascade Village, in the long run, it will probably evolve into yearly residences, and may actually incorporate in the future.

11. Congressman Kogovsek states that Cascade Village is a viable and growing

[1] KDRW proposed the assignment of Channel 297 to Farmington, New Mexico. Since that proposal conflicted with the proposed assignment of Channel 297 to Cascade Village, the Commission found an alternate channel for Farmington which does not conflict with any other proposed assignment and therefore is being treated separately in another proceeding (see MM Docket No. 83-191; RM-4352).

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area which consists of nearly 500 condominium units at the present time. Moreover, he states that Cascade Village maintains its own sewage and treatment plant and is served by the San Juan County Sheriff's Office. Additionally, it is stated therein that Cascade Village is located one mile from a major ski area that is planning a $250 million expansion. In sum, Congressman Kogovsek asserts that this rapidly expanding area would be effectively served by the proposed station "whose 100,000 watt transmitter would cover an area extending from Farmington, New Mexico to Montrose, Colorado." In light of the fact that Cascade Village is isolated with little or no access to local news, Congressman Kogovsek reiterates petitioner's assertion that the proposed FM station would provide a valuable service reporting on extreme weather and road conditions common to the area.

12. KDRW's dispute with petitioner's proposal stems not only from the proposed assignment *per se*, but appears to also be of a private nature between the individuals. Therefore, the Commission takes no position with respect to KDRW's allegations except to state that this is the sort of matter that is more appropriately considered at the application stage. In any event, KRDW's allegations do not disqualify petitioner from expressing his interest in the proposed assignment to Cascade Village, nor any other proposal in the future. If, in fact, KDRW's underlying fear is that of economic harm, it will have an opportunity to address such issue at the application stage. See, *Medford and Klamath Falls, Oregon*, adopted March 4, 1983, BC Docket No. 82–308.

13. Initially, we must decide whether Cascade Village qualifies as a community for assignment purposes. In the *Second Report and Order* in BC Docket No. 80–130, *Revisions of FM assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), the Commission eliminated many of its assignment requirements. However, it stressed that Section 307(b) necessitates that we continue to require assignments to "communities" as a geographically identifiable population grouping. If the community is incorporated or listed in the U.S. Census, that is generally sufficient to satisfy its status. In the absence of such recognizable community status, petitioner is required to supply the Commission with adequate information to demonstrate that such a place is a geographically identifiable population grouping and thus may qualify as a community for Section 307(b) purposes. See, *Yorktown, Virginia*, 38 Fed. Reg. 6695, released March 12, 1983 (*Notice*).

14. In the *Declaratory Ruling Concerning the Meaning and Effect of § 73.642(a)(3)*, 55 FCC 2d 187, 189 (1975), the Commission held that:

> Although broadly speaking, a community consists of an identifiable population grouping with common local interests, there is not hard and fast rule to apply in deciding whether a particular population grouping constitutes a community and all relevant facts in each case must be weighed. Incorporation is not a prerequisite, and while a community need not have a clearly delineated area and population, it is no doubt correct to state that in most cases a community is a city, town, village or other political subdivision, citing *Mercer Broadcasting Co.*, 22 FCC 1000 (1957); *Musical Heights, Inc.*, 37 FCC 62 (1964); *Holston Broadcasting Corp.*, 1 RR 2d 982; and *Hymen Lake*, 46 FCC 2d 562 (1974).

15. Even though Cascade Village may not have come into existence until after the 1980 U.S. Census was taken, that factor standing alone does not disqualify its status for assignment purposes. As the Commission has traditionally held, " * * * the term community means a specific locality, with defined boundaries, where the residents share common interests." See, *Naples, Florida*, 41 RR 2d 1549 at 1553 (1977). As we held in *Coker, Alabama*, 43 RR 2d 190 at 193 (1978), absent other evidence " * * * which demonstrates that the [local] businesses, organizations or services meet the needs of a recognizable group with common interests, we will not make an FM assignment."

16. Based on the facts presented, it appears that Cascade Village is solely a resort area that has a transitory population which fluctuates as the tourist season changes. Petitioner has not demonstrated that Cascade Village is comprised of any of the components which are traditionally considered under Commission criteria to determine community status for assignment purposes such as a post office, library, schools, shopping centers, churches, social and/or civic organizations, newspapers or other indicia.[2] Here, there are no officially recognizable boundaries, and thus there is no assurance that the requirements of § 73.315 of the Commission's Rules with respect to coverage of the proposed service area could be met.[3]

17. Neither do we find the decisions relied upon by petitioner in *Fruita, Colorado*, or *Washburn, Missouri, supra*, supportive of its position. Even though each of those assignments were made despite their small size, their status as a community was not in question, and therefore, under the Commission's assignment criteria at that time, they were entitled to receive a first local service.

18. In view of the above considerations, *it is ordered*, That the petition of Keith E. Lamonica, requesting the assignment of Channel 297 to Cascade Village, Colorado, *is denied*.

19. *It is further ordered*, That this proceeding *is terminated*.

20. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–11793 Filed 5–3–83; 8:45 am]

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[2] See, *Ansley, Alabama*, BC Docket No. 81–154 (Mimeo No. 30462), adopted November 16, 1981; *Avon and Beaver Creek Colorado*, BC Docket No. 82–65 (Mimeo No. 31538), adopted June 3, 1982.

[3] See, *Naples, Florida, supra*.

Notices

Federal Register
Vol. 48, No. 86
Tuesday, May 3, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Child Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the National Advisory Council on Child Nutrition, established by Section 15 of the National School Lunch Act to make a continuing study of the child nutrition programs of the U.S. Department of Agriculture, has scheduled a meeting for May 16–17, 1983. The meeting will take place from 8:30 a.m. to 5:00 p.m. on Monday, May 16; and from 8:30 a.m. to 3:00 p.m. on Tuesday, May 17 at the Holiday Inn, 480 King Street, Alexandria, Virginia (Old Town-Alexandria) 22314. If time permits, the general public will be allowed to participate in the discussions.

The meeting will be devoted primarily to a discussion of current program issues. The agenda will be available 15 days prior to the meeting. Requests for the agenda should be sent to Mr. George A. Braley, Executive Secretary, National Advisory Council on Child Nutrition, United States Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22303, (703) 756–3052.

Dated: April 26, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–11732 Filed 5–3–83; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on Friday, May 20, 1983, at 1:00 p.m. at the San Juan National Forest Office, Conference Room, 701 Camino del Rio, Durango, Colorado. The Board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of effects of the Draft San Juan National Forest Land and Resource Plan on allotment management plans and utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify N. R. Bond, San Juan National Forest (303–247–4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: April 25, 1983.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 83–11713 Filed 5–3–83; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Washington Electric Cooperative; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Parts 1500–1508), and REA's Bulletin 20–21:320–21, Environmental Policies and Procedures, has prepared a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Washington Electric Cooperative, Inc., (WEC) of East Montpelier, Vermont. This financing assistance will be used by WEC for the purchase of development rights and the construction of a one MW hydroelectric facility at an existing flood control dam located on the North Branch of the Winooski River at Wrightsville, Vermont.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) along with WEC's Borrower's Environmental Report (BER) and other related material can be reviewed in, or requested from, the Office of the Director, Northeast Area—Electric, REA, South Agriculture Building, Room 0243, Washington, D.C. 20250, telephone (202) 382–1420, or the Office of WEC, (Mr. Robert O. Toombs, General Manager) East Montpelier, Vermont 05651, telephone (802) 223–5245.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by WEC and determined that it represents an accurate evaluation of the environmental impacts of the proposed project. REA has also determined that the proposed project will have no affect on threatened and endangered species, or known cultural resources, and no significant adverse affect of prime farmland, floodplains or wetlands. As a result of proposed project, the flood prone area of the Wrightsville Reservoir will rise a maximum of 4.58 meters (15 ft.) and 2.84 hectares (7 acres) of wetlands and 8.1 hectares (20 acres) of prime farmland will be inundated. However, REA has determined there are no practicable alterantives to involing these areas and the construction and operation of the proposed project will have no unacceptable impact to the environment.

The alternatives evaluated by REA included no action, conservation, purchasing other types of generating facilities, and purchasing from other sources. After evaluating these alternatives, REA has determined that construction of the project, as proposed, represents the prefarred alternative when environmental, economic, and technical factors are balanced.

Based upon the BER and other related data, REA prepared an EA and FONSI concerning the proposed construction. It is REA's view that the proposed financing assistance will not be a major Federal action that will significantly affect the quality of the human environment.

This program is listed in the catalog of Federal Domestic assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: April 25, 1983.
Harold V. Hunter,
Administrator.
[FR Doc. 83-11625 Filed 5-2-83; 8:45 am]
BILLING CODE 3410-15-M

Rio Grande Electric Cooperative, Inc.; Construction of Transmission Facilities; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to financing assistance for the construction of 138 kV transmission facilities by Rio Grande Electric Cooperative, Inc., (Rio Grande) in Pecos and Terrell Counties, Texas.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environment Assessment (EA) and Rio Grande's Borrower's Environmental Report (BER) may be reviewed in the office of the Director, Southwest Area-Electric, Room 3862, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1940 or at the office of Rio Grande Electric Cooperative, Inc., (R.D. Gwartney, Manager) P.O. Box 125, Brackettville, Texas 78832, telephone (512) 563–2844 during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from Rio Grande, has reviewed the BER submitted by Rio Grande and has determined that it represents an accurate assessment of the environmental impact of the proposed project. Rio Grande's project consists of a 138 kV transmission line about 34 km (21 mi) long between the proposed Sheffield switching station 6.1 km (3.8 mi) southeast of Sheffield, Texas, and the proposed Terrell distribution substation about 5 km (3 mi) southeast of the intersection of state roads 3166 and 349.

REA determined that the proposed project will have no effect on prime farmland and threatened and endangered species. Rio Grande's 138 kV line will traverse the floodplain and wetland associated with Independence Creek. REA determined that the project will have no effect on the floodplain and wetland. The State Historic Preservation Officer determined that the project will have no effect on cultural resources.

Alternatives examined for the Sheffield-Terrell 138 kV line included: (1) No action, (2) upgrading existing facilities, (3) energy conservation and load management, and (4) alternate station sites and routes.

Based upon the BER and support documents, REA prepared an EA concerning the proposed project and its impacts. REA concluded that the proposed financing assistance for Rio Grande would not be a major Federal action signficantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, Rio Grande adversited and requested comments on the environmental aspects of the proposed project in local newspapers in Pecos, Terrell and Val Verde Counties, Texas. There were no comments.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850–Rural Electrification Loans and Loan Guarantees.

Dated: April 20, 1983.
Harold V. Hunter,
Administrator.
[FR Doc. 83-11730 Filed 5-2-83; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11–83]

Foreign-Trade Zone 70; Application for Subzone at Ford Auto Plant, Dearborn, Michigan

An application has been submitted to the Foreign-Trade Zones Board (The Board) by the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), a Michigan non-profit corporation and grantee of Foreign-Trade Zone 70, requesting authority for a special-purpose subzone at a Ford Motor Corporation auto assembly plant in Dearborn, Michigan, within the Detroit Customs port of entry. It was sumbitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 21, 1983. The applicant is authorized to make this proposal under Chapter 447, Act 154, Michigan Public Acts of 1983 (MSA 21.302(1)).

On July 21, 1981, the Board authorized GDFTZ to establish a foreign trade zone project in the Detroit area (Board Order 176, 46 FR 38941, July 30, 1981). General-purpose zone facilities are located at the Clark Street Port facility in Detroit and at a distribution complex in Dearborn. The project also includes subzones at Ford's tractor plant in Romeo, Michigan, at Chrysler's Jefferson Assembly Plant in Detroit, and at Ford's Wayne auto assembly plant.

GDFTZ now requests subzone status for Ford's Dearborn plant, which covers 72 acres at 3001 Miller Road in Dearborn, Michigan, some 12 miles from downtown Detroit. The facility is used for the assembly of compact automobiles. Although most of the parts and material used at the plant are produced domestically, about 6 percent of the components, such as radios, engines and transmissions, are imported.

Zone procedures will exempt Ford from paying duties on foreign components used for its exports. On its domestic sales, the company will be able to defer duty and to take advantage of the same duty rate available to importers of finished autos. The average duty rate for the foreign components Ford uses at its plant is 4.5 percent whereas the rate for finished autos is 2.8 percent. The savings from zone procedures are expected to contribute to Ford's efforts to reduce plant costs, helping to make it more competitive with auto production facilities offshore. This will encourage Ford to keep the Dearborn facility in operaton and create an environment which could lead to a possible increase in the plant's workforce, currently some 3200 persons.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Louis A. Mezzano, District Director, U.S. Customs Service, North Central Region, 447 Michigan Avenue, Detroit, Michigan 48226; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 3, 1983.

A copy of the application is available for public inspection at each of the following locations:
U.S. Department of Commerce District Office, Federal Building, Room 445, 231 West Lafayette Street, Detroit, Michigan 48226
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, N.W., Washington, D.C. 20230

Dated: April 28, 1983.
John J. Da Ponte, Jr.
Executive Secretary.
[FR Doc. 83-11736 Filed 5-2-83; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Non-Rubber Footwear From Argentina; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On December 15, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Argentina. The review covered the period January 17, 1979, through December 31, 1980. The notice stated that the Department had preliminarily determined the amount of the net subsidy to be 4.11 percent *ad valorem* for 1979 and 3.94 percent *ad valorem* for 1980.

Interested parties were invited to comment on the preliminary results. After review of all comments received, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Larry Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 56162) the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Argentina (44 FR 3474, January 17, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are footwear described in Part 1A of Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000, and imported directly or indirectly from Argentina. The notice of preliminary results of this review erroneously included items 700.5400 and 700.9000, which were not covered by the scope of the order and are not covered by these final results.

The review covers the period January 17, 1979 through December 31, 1980. We reviewed benefits available under an income tax reduction plan and the reembolso, an export rebate program, both found countervailable in the original final determination, and a system of preferential financing for exports, found countervailable in the final countervailing duty determination on leather wearing apparel from Argentina (46 FR 23090).

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. The Department received written comments from the Government of Argentina and from the petitioner, the Footwear Industries of America, Inc.

Comment 1

The Argentine government contends that the benefit attributed to the income tax reduction plan for 1979 is too large, because the Department assumed full use of the allowable tax deductions. Further, because the Argentine government never indexed or adjusted the benefit, the benefit was eroded by inflation. The program did not involve money refunds, could not be applied to other taxes, and was not transferable; therefore, the benefit was insignificant and not considered by footwear companies when pricing exports.

Department's Position

In the absence of any statistical data on the actual use of this program in 1979, the Department assumes full use of the program. Further, the impact of a benefit on an exporter's pricing policy is not relevant in determining whether that benefit constitutes a subsidy.

Comment 2

The Argentine government contends that the Department should verify and consider loan information for 1980 provided after the publication of the preliminary results. The new information indicates that the actual usage rate in 1980 of the preferential loan program was 9.15 percent, rather than the maximum allowable rate of 55 percent assumed by the Department. Multiplying the actual usage rate by the interest rate differential results in a lower benefit than that calculated by the Department.

Department's Position

Although the Department requested information for 1980 in the course of the review, it was not submitted prior to publication of our preliminary results. Therefore, we view the information ultimately submitted as untimely, and we have not considered it in calculating these final results.

Comment 3

The petitioner contends that the Department should verify the information submitted by the Argentine government. The verification should include a reexamination of the reembolso program to confirm that the program continues to meet the linkage test for the rebate of indirect taxes. The Department should not presume that linkage exists on the basis of prior investigations.

Department's Position

Neither section 751 of the Tariff Act of 1930 ("the Tariff Act") nor the Commerce Regulations require verification of information submitted in the course of an administrative review. Verification in section 751 administrative reviews is discretionary. *See, e.g.*, "Termination of Suspension Agreement and Issuance of Countervailing Duty Order" regarding leather wearing apparel from Argentina (48 FR 11480). During this review, we found linkage for this product based on a study of specific taxes used by the Argentine government to set the 1976 reembolso rate and our reviews of specific taxes levied on non-rubber footwear during 1979 and 1980. We did not rely on prior investigations. In the next administrative review of the order, the Department intends to verify the information received.

Comment 4

The petitioner maintains that controls on the export of Argentine hides results in a subsidy to Argentine footwear producers by artificially depressing the domestic price of raw materials.

Department's Position

The Department will consider in the next administrative review of the order any possible subsidies to non-rubber footwear manufacturers resulting from an export tax or other controls on the export of hides.

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Comment 5

The petitioner contends that from 1979 to 1980 a reported 50 percent decline in production capacity and a 25 percent decline in the number of manufacturers of non-rubber footwear suggest a planned reorganization of the industry. Such a reorganization would require government intervention and may imply additional subsidy programs, which the Department should investigate.

Department's Position

In its response to our questionnaire, the Government of Argentina stated that it provided no subsidies, not covered by the questionnaire, to manufacturers or exporters of non-rubber footwear. In the absence of stronger evidence to the contrary, we accept that statement.

Comment 6

The petitioner asserts that documentation supplied by the Argentine government regarding the income tax deduction for export-related income is insufficient to demonstrate its expiration on June 30, 1980. Further, if the program was significant enough to be extended through the first half of 1980, it is inconceivable that it was not used. The Department is therefore obliged to verify the Argentine government's claim that the program was not used during that period.

Department's Position

Decrees No. 138, 1467, 823, 3181 and 1053/80 are in the record of this review. Decree No. 138 of January 20, 1975 (amended by No. 1467), which established the program, contains an automatic expiration date. Decrees 823 of June 14, 1976, 3181 of October 19, 1977 and 1053/80 of May 16, 1980, extended the program for specific periods, the last ending on June 30, 1980. We have no evidence of any additional extension, and are relying on the respondent's statement that the program was not used in 1980. The Department's position with regard to our obligation to verify in section 751 reviews is set out in our response to Comment 3, above.

Final Results of the Review

After consideration of all comments received, the final results of our review are the same as those presented in the preliminary results of the review. We determine the net subsidy to be 4.11 percent *ad valorem* for the period January 17, 1979 through December 31, 1979, and 3.94 percent *ad valorem* for calendar year 1980. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 3.94 percent of the f.o.b. invoice price on all shipments of Argentine non-rubber footwear entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

The provisions of T.D. 79-16 and section 303(a)(5) of the Tariff Act, prior to the enactment of the Trade Agreements Act of 1979, apply to all entries made prior to January 1, 1980. The Department therefore will instruct the Customs Service to assess countervailing duties of 0.86 percent of the f.o.b. invoice price on all shipments of such merchandise entered, or withdrawn from warehouse, for consumption on or after January 17, 1979 and on or before December 31, 1979.

Further, as provided for by section 751(a)(1) of the Tariff Act, we will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.94 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now commencing the next administrative review of the order.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: April 27, 1983.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-11740 Filed 5-2-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Allocation of Duty-Free Quotas for Calendar Year 1983 Among Producers Located in the Virgin Islands and Guam

AGENCY: Import Administration, International Trade Administration, Commerce and Office of the Secretary, Interior.

ACTION: Allocation of duty-free quotas for calendar year 1983 among producers located in the Virgin Islands and Guam.

SUMMARY: Pursuant to Pub. L. 97-446, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of watch quotas among watch assembly firms in the insular possessions. The criteria for the calculation of the 1983 watch quotas among producers in the Virgin Islands and Guam are set forth in the appendix to the regulations (15 CFR Part 303) published in the **Federal Register** dated April 25, 1983 (48 FR 17579 (1983)). The Departments have verified the data submitted on application form ITA-334P by producers in the Virgin Islands and Guam and inspected the current operations of all producers in accordance with § 303.4(b) of the codified rules. The verification established that in calendar year 1982 the Virgin Islands watch assembly firms shipped 1,441,879 watches and watch movements into the customs territory of the United States under General Headnote 3(a) of the Tariff Schedules of the United States. The dollar amount of corporate income taxes paid by all producers during calendar year 1982, less penalty payments and refunds and subsidies, plus the dollar amount of wages, up to a maximum of $28,000 per person, paid by all producers during calendar year 1982 to residents and attributable to the producers' headnote 3(a) watch and watch movement assembly operations totalled $1,667,618. The calendar year 1983 Virgin Islands annual allocations set forth below are based on the data verified by the Departments in the Virgin Islands and are made in accordance with the formula established for allocation of watch quota for calendar year 1983. The allocations include reallocations pursuant to the codified watch quota rules, as more fully explained in the Supplementary Information, below.

The duty-free watch quota allocations for calendar year 1983 in the Virgin Islands are as follows:

Name of firm	Annual allocation
1. Atlantic Time Products	110,625
2. Belair Watch Corp. & Belair Quartz Inc	500,000
3. Hampden Watch Co., Inc	250,000
4. Master Time Co., Inc	200,000
5. Progress Watch Co., Inc	800,000
6. Unitime Ind. Inc	500,000

The Guam allocation is made pursuant to Section 2 of the appendix and is shown below.

Name of firm	Annual allocation
Timewise Ltd.	500,000

FOR ADDITIONAL INFORMATION CONTACT: Frank Creel, who can be reached on 202-377-1660.

SUPPLEMENTARY INFORMATION: Pub. L. 97-446 established a 1983 quota of 4,800,000 units, 3,000,000 of which could be allocated to Virgin Islands producers, 1,200,000 to Guam producers, and 600,000 to American Samoa producers. Section 5(b) of the appendix to Part 303 set aside 500,000 units of the Guam quota for possible new firms. All of the quota for American Samoa, where there have been no watch producers for several years, has been set aside for new entrants.

The above allocation of quota among Virgin Islands producers reflects: (1) Adjustments made in data supplied on the producer's annual application forms (ITA Form-334P) as a result of the Departments' verification (which adjustments were reviewed by officials of the respective companies during the Departments' Virgin Islands verfication of data); and (2) Reallocation of quota which has been voluntarily relinquished by a number of producers pursuant to § 303.5(a)(2) of the codified watch quota rules. A portion of the Guam quota was also voluntarily relinquished.

The above allocation of Virgin Islands quota totals 2,360,625 units. The remaining 639,375 units of unallocated quota will be treated in accordance with § 303.9(b) of Part 303. The remaining 200,000 units of unallocated Guam quota will be treated in accordance with the same provision and with sections 3(b) and 6 of the appendix to Part 303.

The number of watches and watch movements authorized for shipment on or after January 1, 1983, under initial quotas previously allocated by the Departments, will be applied against the allocations above, which are for the full calendar year 1983.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

Richard M. Seppa,

Director, Statutory Import Programs Staff, Department of Commerce.

[FR Doc. 83-11135 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-10-M 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Modification No. 2 to Permit No. 335

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 335 issued to Dr. James R. Gilbert, University of Maine at Orono, Orono, Maine 04469 on May 13, 1981 (46 FR 27514), as modified on February 5, 1982 (47 FR 6317) is further modified as follows:

Section A-1 is changed to read:

Of these, thirty (30) harbor seals of any age may be instrumented with epoxy-attached radio tags, provided that those animals are post-weaning.

This modification becomes effective on April 27, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: April 27, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-11741 Filed 5-2-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Modification

Notice is hereby given that Minerals Management Service, Alaska OCS Region, Anchorage, Alaska requested a modification to Permit No. 283 issued to Bureau of Land Management under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) on May 4, 1979.

Mineral Management Services requests authority to take by harassment up to 150 additional bowhead whales in Alaskan and Canadian waters of the Beaufort Sea and to conduct at sea seismic exploration sounds in the presence of the animals.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: April 27, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-11742 Filed 5-2-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kaldveer,
Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6-034,877 (4,376,211) Tris(N-Carbalkoxylaminomethyl)-Phosphine Oxides and Sulfides
SN 6-223,509 (4,377,686) Method of Purifying Fatty Acid Ester Products
SN 6-272,842 (4,376,833) Zwitterion Compounds as Catalysts in Easy-Care Finishing

Department of the Army

SN 6-213,436 (4,378,559) Radar Antenna System

Department of Health and Human Services

SN 6-250,269 (4,377,956) Remotely Operated Microtome
SN 6-350,221 (4,368,328) Short Total Synthesis of Dihydrothebainone, Dihydrocodeinone, and Nordihydrocodeinone

Department of the Interior

SN 6-152,212 (4,377,728) Selective Paging and Intercommunication System
SN 6-156,131 (4,377,410) Chromium Recovery from Superalloy Scrap by Selective Chlorine Leaching
SN 6-219-704 (4,367,950) Combined Aerosol Monitor and Calibrateable Light Ray Scattering Reference Rod
SN 6-229,698 (4,377,209) Thermally Activated Metal Hydride Sensor/Actuator

National Security Agency

SN 6-276,143 (4,375,626) Precise Linear Tuning Circuit

Tennessee Valley Authority

SN 6-021,879 (4,375,980) Production of Suspension Fertilizers from Orthophorphoric Acid

[FR Doc. 83-11711 Filed 5-2-83; 8:45 am]
BILLING CODE 3510-04-M

Intent To Grant Limited Exclusive Patent License; Celltech Ltd.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Celltech Limited, having a place of business in Berkshire, England, a limited exclusive right in selected European countries and Japan to manufacture, use and sell products embodied in the invention, "Human Growth Hormone Produced by Recombinant DNA in Mouse Cells," U.S. Patent Application 6-452, 783 (filed December 23, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: April 19, 1983.

Douglas J. Campion,
Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 83-11715 Filed 5-2-83; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Change in the Textile Category System

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Additional change in the Textile Category System.

SUMMARY: The Correlation: Textile and Apparel Categories with the Tariff Schedules of the United States Annotated, provides for placement of Tariff Schedules of the United States, Annotated (T.S.U.S.A.) numbers in the Textile Category System. Amendments to the T.S.U.S.A. reflecting certain administrative changes require amendments to the Correlation. This change is cited below.

Category	New T.S.U.S.A. beginning April 1, 1983
659	Change 703.1515 (man-made fiber headwear not in part of braid, net knit) to 703.1600.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: April 28, 1983.

Sincerely,

Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-11736 Filed 5-2-83; 8:45 am]
BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Meeting of Chronic Hazard Advisory Panel on Asbestos

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: A Chronic Hazard Advisory Panel, established by the Commission to provide advice about the potential chronic hazards presented by asbestos in consumer products, has scheduled a meeting which is open to the public.

DATES: The meeting will begin at 9:00 am on May 12, 1983, and will continue until 5:00 pm. The Panel will meet again on May 13, during the same hours.

ADDRESS: The meeting will be at 5401 Westbard Avenue, Bethesda, Maryland, in room 456.

FOR FURTHER INFORMATION CONTACT: Colin B. Church, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6957.

SUPPLEMENTARY INFORMATION: The Chronic Hazard Advisory Panel on Asbestos is a seven-member group which has been established to advise the Commission concerning the potential chronic hazard of cancer associated with the use of consumer products containing asbestos. The Panel, convened in January, 1983, is addressing the concern that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers.

At its meetings on May 12-13 the Panel will be reviewing working papers proposed by Panel members which might be incorporated into a "Report to the Commission" which is expected in July 1983. It is anticipated that the public will have the opportunity to provide written and oral comments regarding the work of the Panel at a public meeting which will be announced in the Federal Register at a later time.

Dated: April 27, 1983.

Sayde E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 83-11719 Filed 5-2-83; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATE: Interested persons are invited to submit comments on or before June 2, 1983.

ADDRESSEES: Written comments or requests should be addressed to Arnold Strasser, Office of Management and Budget, 728 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20222.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addressees named above.

Dated: April 28, 1983.

Charles L. Heatherly,
Deputy Under Secretary for Management.

Office of Postsecondary Education (OPSE)

Revisions

Application and Reporting Forms for Graduate Education Programs
ED 591-1
Annually
State or local governments/businesses or other institutions
SIC: 822
Responses: 350; Burden Hours: 8,400
Two forms submitted for approval

Abstract: These forms will be used by institutions of higher education to (1) apply for funds and (2) to report program performance and financial status, as required by statute and program regulations.

Request for Designation as an Eligible Institution, Title III, HBA
ED 1049-6
Annually
Businesses or other institutions
SIC: 502
Responses: 600; Burden Hours: 600
One form submitted for approval

Abstract: This form will be used to determine if an eligible institution of higher education meets the specific program qualifications to receive Title III funds.

Financial Status and Performance Reports—Discretionary Programs, International Education Programs
ED 1294
Annually
Businesses or other institutions
SIC: 502
Responses: 325; Burden Hours: 3,250
One form submitted for approval

Abstract: These forms will provide program performance and financial status data on the International Education programs as required by Department of Education Regulations.

Office of Educational Research and Improvement (OERI)

New

National Assessment of Educational Progress—1983/84 Reading and Writing Assessment
ED 2371-15A; 15BQ; 15/SOQ; 15TQ; 15SC; 15SPQ; 15SSR; 15SLF; 15PQ; 15QC; 15TEQ
Biennially
Individuals or households/businesses or other institutions
SIC: 821
Responses: 58,835; Burden Hours: 12,227
Eleven forms submitted for approval

Abstract: Achievement data, as well as achievement-related information, will be used to monitor changes in student performance over time in the United States. The data will be useful to the public, researchers, legislators and educators.

Revision

Application for Grants Under Strengthening Research Library Resources Program
ED 592
Annually
State or local governments/businesses or other institutions
SIC: 841/941
Responses: 100; Burden Hours: 1,000
One form submitted for approval

Abstract: This form is needed to enable major research libraries to apply annually on a competitive basis and provide the Secretary with sufficient information to determine adherence to program selection criteria.

Extension

Final Financial Status and Performance Report—Title II-A, II-B (Training) and II-C
ED 606; -1; -2
Annually
State or local governments/businesses or other institutions
SIC: 822/823
Responses: 2,400; Burden Hours: 6,400
Three forms submitted for approval

Abstract: These consolidated report forms are used to determine the utilization of grant funds administered by three discretionary grant programs—(HEA II-A) College Library Resources, (HEA II-B) Library Career Training, and (HEA II-C) Strengthening Research Library Resources. A maintenance of effort analysis sheet for II-A is used to confirm compliance with the fiscal requirement.

[FR Doc. 83-11784 Filed 5-2-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Lakeside Refining Co. and Crystal Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department

of Energy (DOE) announces that it has adopted a Consent Order with Lakeside Refining Company and Crystal Refining Company as a final order of the Department.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT:
David H. Jackson, Director, Kansas City Office, Economic Regulatory Administraiton, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–2092.

SUPPLEMENTARY INFORMATION: On March 1, 1983, 48 FR 8533, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Lakeside Refining Company and Crystal Refining Company of Southfield, Michigan, on February 14, 1983 which would not become effective sooner than 30 days after publication of that notice. The Consent Order settles regulatory violations alleged by the Department of Energy (DOE) against those companies concerning both petroleum product price overcharges and purchases and sales of crude oil entitlements during the period August 19, 1973 through January 27, 1981. Under the terms of the Consent Order, the companies will refund $675,000. The Consent Order provides a direct refund of $475,000 to identified purchasers for settlement of disputed price overcharges. The remaining $200,000 plus installment interest, which settles disputes under the crude oil entitlements regulations, is to be paid to the DOE for ultimate distribution in a just and equitable manner.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Five comments were received from State offices. The commenting States suggested that funds not distributed to direct purchasers should be distributed to the States for use in energy related programs.

ERA has considered these comments and notes that the Consent Order does provide for direct restitution to identified purchasers of the settlement amount representing disputed overcharges. However, because appropriate recipients of the funds to be paid in settlement of the entitlements disputes are not as readily discernable, the ERA believes that depositing the funds into a suitable account for ultimate distribution in a just and equitable manner is an appropriate disposition of the funds at this time.

Issued in Kansas City on the 22d day of April 1983.

Robert J. Wehrle-Einhorn,

Office of Special Counsel, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-11709 Filed 5-2-83; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

[Rate Order SWPA-9]

Order Approving Rates for Submission to the Federal Energy Regulatory Commission

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of power rate order.

SUMMARY: The Assistant Secretary for Conservation and Renewable Energy, under Delegation Order No. 0204–33, as amended, has developed, acting by and through the Administrator, Southwestern Power Administration, increased system power rates and has approved these rates for submission to the Federal Energy Regulatory Commission (FERC) for its confirmation and approval on a final basis.

EFFECTIVE DATE: The increased rate is being submitted to the FERC for confirmation, approval, and placement in effect on a final basis by October 1, 1983.

FOR FURTHER INFORMATION CONTACT:
Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Drawer 1619, Tulsa, Oklahoma 74101, (918) 581–7529
and
John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, Federal Building, 12th Street and Pennsylvania Avenue, NW., Washingotn, DC 20585, (202) 633–8336.

SUPPLEMENTARY INFORMATION: Rate Schedule P–4 for peaking power supersedes Rate Schedule P–2. Rate Schedule F–4A for firm power from the integrated system replaces Rate Schedule F–2. Rate Schedule F–4B (firm power through Oklahoma Utilities Companies) replaces Rate Schedule F–3. Rate Schedule EE–2 (Revised) for excess energy replaces Rate Schedule EE–2. Rate Schedule IC–2 (Revised) for interruptible capacity replaces Rate Schedule IC–2.

Issued in Washington, D.C. April 25, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

April 25, 1983

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (SWPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Federal Energy Regulatory Commission (FERC) confirmation and approval of the following system rate schedules was provided in FERC Docket No. EF79–4011–000 issued January 25, 1982 for the period April 1, 1979 through September 30, 1982:

Rate Schedule P–3, Peaking Power
Rate Schedule F–2, Firm Power
Rate Schedule F–3, Firm Power through Oklahoma Utility Companies
Rate Schedule EE–2, Excess Energy
Rate Schedule IC–2, Interruptible Capacity
Contract No. 14–02–001–864, Section 2, Tex-La Electric Cooperative, Inc.

A request for extension of these rates through September 30, 1983 was filed with the FERC July 27, 1982. Confirmation and approval of the rates was extended by the FERC on September 30, 1982 for the period ending October 30, 1982; extended on October 29, 1982 for the period ending November 29, 1982; extended on November 29, 1982 for the period ending January 28, 1983; extended on January 27, 1983 for the period ending February 28, 1983; and extended on February 25, 1983 for the period ending September 30, 1983.

SWPA's 1982 Current and Revised Power Repayment Studies indicate that the existing rates will not satisfy present financial criteria regarding repayment of investment in a 50-year period. The Power Repayment Studies indicate that an increase in average annual revenue from the Integrated System is necessary beginning in FY 1984 to accomplish System repayment in the required number of years. Accordingly, SWPA developed proposed system rate schedules in the 1982 Rate Design Study based on the additional revenue requirement. The proposed system rate schedules were as follows:

Rate Schedule P–3 (Revised), Peaking Power
Rate Schedule F–2 (Revised), Firm Power
Rate Schedule F–3 (Revised), Firm Power through Oklahoma Utility Companies
Rate Schedule EE–2 (Revised), Excess Energy
Rate Schedule IC–2 (Revised), Interruptible Capacity

The rate under Section 2 of Contract No. 14–02–001–864, for Tex-La Electric Cooperative, Inc., is allowed by contract terms to change no more often than once every five years.

Since the rate was increased April 1, 1979, the next change cannot be made until April 1, 1984. Therefore, SWPA proposes to continue charging the existing rate through the contract five-year period at which time a rate adjustment may be filed.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments," has been followed in connection with the proposed rate adjustment. More specifically, opportunities for public review and comment on proposed system power rates were announced by notice published in the Federal Register, September 30, 1982 (47 FR 43157). A Public Information Forum was held October 26, 1982, and a Public Comment Forum was held December 1, 1982. Written comments were due by December 29, 1982. During the comment period, interested parties reviewed SWPA's studies designed to produce an average annual revenue increase of $24,734,000, or 37.9 percent. In addition and prior to the formal public participation process, SWPA held informal meetings with customer groups during preparation of the September 1982 Current and Revised Power Repayment Studies and Rate Design Study. SWPA personnel met informally with representatives of the Committee on Power for the Southwest (COPSW) on the following dates at SWPA headquarters in Tulsa, Oklahoma, to explain the studies and answer questions concerning development of the proposed system rates: February 26, 1982; March 23, 1982; March 24, 1982; May 13, 1982; June 30, 1982; and August 25, 1982. Also, on April 1, 1982, SWPA personnel met with COPSW representatives and personnel of the U.S. Corps of Engineers (Corps) at the Dallas Division Office to discuss Corps operation and maintenance expense projections and estimates of major project replacement costs.

Following the conclusion of the comment period the Administrator in January 1983 modified the 1982 Power Repayment and Rate Design Studies and the proposed Rate Schedules based on comments received. An Administrator's Record of Decision and Executive Summary also were released. The proposed rate schedules resulting from these changes are designed to produce ultimate average annual revenue of $90.2 million, which is an increase of 38.3 percent over the revenue produced by the existing rates of $65.2 million.

A comparison of the existing rates and the rates proposed by the Administrator is shown below:

	Rates	
	Existing	Proposed
CAPACITY		
a. At Grid includ. 138/161KV [1]	1.40	[2] 2.22
b. At 69 kV [1]	1.60	[2] 2.47
c. At Below 69 kV [1]	1.95	[2] 2.97
d. Interruptible Capacity [3]	0.05	0.075
ENERGY (mills per kilowatt hour):		
a. First 100 hrs/mo	3.5	[4] 3.5
b. Next 340 hrs/mo	7.0	[4] 3.5
c. Over 440 hrs/mo	14.0	[4] 3.5
d. Excess Energy	3.0	3.5
e. Interruptible Capacity	3.5	3.5

[1] Dollars per kilowatt per month.
[2] Until Clarence Cannon becomes operational in FY 85, the proposed capacity rate will be $0.04 lower.
[3] Dollars per kilowatt per day.
[4] Plus purchased power adjustment for peaking (P–3, F–3) 2.0 mills/kWh in average year and from firm (F–2) 4.0 mills/mWh in average year.

On March 30, 1983 the Administrator and I met with representatives of the Committee on Power for the Southwest who restated their principal objections previously expressed in the record to the repayment studies and rate design features.

Disucssion

Purchased Power Expenses and the No-Deficit-Year Objective

Congress has established two basic requirements for judging the adequacy of rates for the sale of Federal power: First, that each increment of investment should be repaid with interest within a reasonable period of years, normally considered to be fifty years; and second, that annual operating costs should be recovered on a pay-as-you-go basis. See DOE Order RA 6120.2, paragraph 12; Solicitor's Opinion M–36874, 61 I.D. 72 (1974).

Over the years the Southwestern Power Administration has not been very successful in meeting either of these criteria. The 1982 Power Repayment Study, page E–6, columns 6 and 10, shows that during the first 36 years of its operations SWPA had a deficit, that is, failed to recover all operating expenses including interest, in 18 of those years; and that at end of the 36th year, 1981, SWPA had repaid only $28.9 million out of a total investment of $655.5 million.

Beginning in 1970 Southwestern has undertaken a number of actions to improve the agency's financial position through the revision of rates and contracts and the reduction of expenses. These actions have produced positive results and would have led to steady financial improvement had it not been for a number of adverse developments including unfavorable litigation, unexpectedly high rates of inflation, operating problems, and two unusually dry years, 1977 and 1981.

The Administrator of Southwestern is properly concerned about the continued inability of the agency to eliminate operating deficits in fact even though rate studies eliminate them in theory. To achieve this objective he has taken a number of worthwhile steps: He is continuing the policy of allowing all firm (load factor) power sales contracts to expire and to replace them with peaking power contracts obligating SWPA to supply only 1200 kilowatthours per kilowatt in a dry year; in his rate design study he has increased the capacity component of the rates relative to the energy component by more accurately assigning fixed and variable expenses, thereby assuring more consistent recovery of costs, particularly in dry years; and he has reevaluated estimates of future revenues and expenses in the power repayment study to assure adequate cost recovery. In addition he proposed to include in the new rates a feature for passing through to the customers on a three-month rolling average basis the actual direct purchased power expenses as they are incurred.

This would remove the fluctuating purchased power costs from impacting the net result shown on the annual financial statement and in column 6 of the historical portion of the current

power repayment study. This impact is illustrated by a comparison of the estimates in the 1978 power repayment study, upon which the 1979 rate increases were based, for the five-year period 1978–1982 with the actual results during this period. These results are shown on page A–11 of the 1982 study. The table shows for this five-year period that gross revenues were overestimated by $11.7 million and that, although Corps O&M expense and Corps and SWPA interest expense were overestimated by $.3 million and $3.4 million respectively, SWPA operating expense was underestimated by $18.4 million. The net result was that amortization was overestimated by $26.4 million (not to mention the adjustment of an additional $18.8 million reduction in amortization shown in column 6, page E–6, and referenced in footnote 1). This is an average overestimation of $5.3 million a year.

A comparison of the direct purchased power expenses forecast in the 1978 repayment study with the actual expenses during the 1978–1982 period set forth in the following table shows that $13.8 million of the $26.4 million shortfall, or about 52 percent, was attributable to higher-than-anticipated purchased power expense. Borderline purchased power costs are not shown in the table because they are billed on a passthrough basis, so revenues increase as costs increase, and the net effect on amortization is zero.

COMPARISON OF PREVIOUS FORECASTS OF PURCHASED POWER EXPENSE TO ACTUAL PERFORMANCE FOR PERIOD FISCAL YEAR 1978–1982

Year	Previous forecast [1]		Actual performance [2]		Total
	Direct	Net adjustment for banking	Direct	Net adjustment for banking	
	(1)	(2)	(3)	(4)	(5)
1978	$2,699,400	0	$3,066,563	($874,254)	$2,192,309
1979	3,248,000	0	7,096,052	0	7,096,052
1980	4,296,800	0	2,300,705	1,337,803	3,638,508
1981	4,950,100	0	15,062,681	4,443,992	19,506,673
1982	5,392,300	0	1,914,852	[3]0	1,914,852
Total	20,586,600	0	29,440,853	4,907,541	34,348,394

Difference: Column 1 minus Column 5: ($13,761,794).

[1] Source: 1978 Revised PRS, pp. 36–49.
[2] Source: SWPA.
[3] Estimate.

The customers have objected to the proposed purchase power passthrough feature of the rate design of substantial fluctuations from month to month and year to year in their bills for SWPA power and because of potential difficulty in revising their resale rates in a timely manner to avoid cash flow problems. The Administrator and I are sympathetic to these complaints. The question is whether SWPA or the preference customers are to bear the large swings in purchased power expense attributable to variable rainfall and streamflow which will continue to cause large fluctuations in the amount of hydro energy that SWPA can generate. We are willing to have the Government absorb these swings in purchased power expense if an appropriate ratemaking policy can be established which will segregate direct purchased power expense and the revenue to pay it from the other elements of the ratemaking process and if an appropriate accounting methodology can be utilized which reflects these principles in the financial statements and power repayment studies.

Fluctuation in annual rainfall is a certainty in the Southwest. Recorded hydrologic history provides a reasonable basis for estimating the frequency of annual run-offs at different levels of magnitude, and therefore the frequency of purchased power expense at different levels of magnitude. This information in turn permits reasonable estimates of the revenues necessary to cover the purchased power expense over a period of years. It therefore is possible and proper, as a ratemaking principle, to match designated purchased power revenues to meet these actual purchased power expenses incurred over an appropriate period of time. The needed revenues can be designated as a separate component of the energy charge in the rate schedule. The 1982 Power Repayment and Rate Design Studies show that this energy charge would be 2 mills per kilowatthour for the Peaking Energy sold under the proposed Rate Schedule P–3 (Revised) and the "Federal energy" component of the Federally generated Firm Energy sold to the Oklahoma Utility customers under the proposed Rate Schedule F–3 (Revised), and 5 mills per kilowatthour for the Firm Energy sold under the proposed Rate Schedule F–2 (Revised). This component would be substituted for the passthrough adjustment now contained in those rate schedules.

We believe that the newly adopted Statement of Financial Accounting Standards No. 71 [1] provides a basis for an accounting which tracks this ratemaking principle. The Statement applies, as noted in paragraph 5, to an enterprise (a) whose rates for regulated services or products provided to its customers are established by or are subject to approval by an independent, third-party regulator or by its own governing board empowered by statute or contract to establish rates that bind customers; (b) whose rates are designed to recover its costs of providing the regulated services or products; and (c) when it is reasonable to assume that rates set at levels that will recover the enterprise's costs can be charged to and collected from customers. SWPA's rates meet each of these tests: They are subject to final approval by the independent, third-party, Federal Energy Regulatory Commission, and they may be put into effect on an interim basis by the Assistant Secretary, who for this purpose is equivalent to the governing board.[2] As provided in Section 5 of the Flood Control Act of 1944, the rates are designed to recover the Government's costs. Lastly, there is not reason to doubt that the rates will not continue to be below the rates for alternative sources of power.

If the actual purchased power expense during the year is less than the revenues attributable to the purchased power component in the rate schedules, paragraph 11.b of the Statement permits crediting the excess to a deferred credit account similar to a liability account or an acccount payable. If the actual expense is greater than the revenues from the component, paragraph 9 and footnote 2 of the Statement permit the

[1] Although Statement 71 is new, the accounting principles it adopts have been recognized for some time. For example, the Accounting Principles Board (APB) adopted a statement in 1962 on "Accounting principles for regulated industries" which stated in part that "if a cost incurred by a regulated business during a given period is treated for rate-making purposes by the regulatory authority having jurisidiction as applicable to future revenues, it may be deferred in the balance sheet at the end of the current period and written off in the future period or periods in which the related revenue accrues. * * *" The Journal of Accountancy, December 1962, at page 67.

[2] The Financial Accounting Standards Board included the reference to the governing board of the enterprise so as not to preclude application by government utilities with rates set by their own governing board. See paragraph 64.

excess to be debited to a deferred or capitalized cost account similar to an asset account or an account receivable (a) where it is probable that future revenue at least equal to the deferred or capitalized cost will result from inclusion of that cost in allowable costs for ratemaking purposes, and (b) where, based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. Both conditions are satisfied here.

Subject to the approval of the FERC, we propose that two accounts be established, the first, a Deferred Credit for Purchased Power Account, the other a Deferred Cost for Purchased Power Account. Whichever account has a balance at the time will be credited with any excess of direct purchased power receipts over direct purchased power expense each year or debited to the extent of any deficit. The appropriate account also will be credited or debited with the net adjustment for banking. Depending on the sequence of low or high purchased power years, either account might at any time show a balance. The annual statement of revenues and expenses will always show that purchased power revenues and expenses are the same amount.

It will be necessary to monitor these accounts carefully. The purchased power component of the rates will be changed as necessary so that these revenues equal purchased power costs over an appropriate period of time. It will be possible to make these changes whenever rates are revised. To protect the financial interests of the Government it may be necessary to adjust the rate component on the basis of recent hydrologic experience rather than on the basis of the entire period over which hydrologic data is available. That is, if the deferred cost balance is high and it appears that SWPA is in an extended dry cycle or period of high depletion, the rate component may be increased; conversely, if the deferred credit balance is high and it appears that SWPA is in an extended wet cycle or period of low depletion, the rate component may be decreased.

We propose that the Deferred Credit account be established for fiscal year 1983. The purchased power component of receipts for this year is that which was the basis for the current rates, namely, $5,392,300, as shown on pages 40 and 41 of the 1978 PRS for direct purchased power expense. We assume that the borderline purchases and expenses are a wash, and therefore would not be included in the account.

The purchased power component will be separately identified in the rate schedules. Attached hereto are Rate Schedules F–4A (firm power, integrated system), F–4B (firm power, Oklahoma Utility Customers) and P–4 (peaking power) including the purchased power components of 5 mills in F–4A and 2 mills in F–4B and P–4. These are approved as substitutes for Rate Schedules F–2 (Revised), F–3 (Revised) and P–3 (Revised).

Estimates of Future Corps O&M Expense

The estimates included in SWPA's Power Repayment Studies for Corps of Engineers Operation and Maintenance (O&M) expenses have been criticized as excessive because they appear to be based on inflation factors exceeding the Government's own projections of inflation, and because they appear to be derived in a manner inconsistent with both SWPA's own GA&O and O&M expense projections and the Bonneville Power Administration's (BPA) O&M expense projections.

SWPA's estimates of Corps O&M expenses for the cost evaluation period are provided by the Corps and are based on a methodology which is intended to predict the total level of costs expected rather than predicting future costs at today's prices and adjusting for inflation. This methodology, while differing slightly in style from that used by SWPA in its estimates and by BPA to project O&M costs, does not appear to produce different results. Inherent in the Corps' estimates are components of both future inflation and anticipated levels of maintenance and operations, as has been documented both by SWPA in its responses to customer comments, and by the Corps in its responses to SWPA regarding justification for its O&M estimates. The Corps' method does not, however, segregate the rates of increase into components of inflation and levels of cost expected, but rather, incorporates both elements into a single rate of change percentage.

The Corps' approach does not appear inconsistent with the BPA method which adjusts increasing levels of O&M costs by anticipated inflation. Thus, the BPA study predicts unescalated total O&M cost increases of some 8.17 percent between FY 1982 and FY 1983 based on FY 1981 price levels. The unescalated figures were then further adjusted by use of the GNP Deflators to account for anticipated inflation. In fact, to adjust the 1981 price levels to 1983 levels the GNP deflators were compounded for both 1982 and 1983. The overall increase including inflation between 1982 and 1983 is some 28.4 percent.

The Corps' approach also is consistent with the SWPA approach. As stated by SWPA in its responses to customer comments, SWPA's estimates of its own system costs, both O&M and purchased power, are not based only on increases resulting from inflation, but also incorporate increasing levels of cost in excess of inflation. For the transmission system O&M, these levels of cost will increase substantially with increasing maintenance of the aging transmission system. As SWPA has pointed out, the actual levels of cost recently experienced are projected in the Power Repayment Study to increase at a rate of some 10 percent through fiscal year 1986, very comparable to the rate of increase predicted by the Corps in its estimates.

Page A–11 of the 1982 Power Repayment Study shows that the previous Corps estimate of O&M expense for the 1978–1982 period was extremely accurate, exceeding the actual by only .42 percent. In view of this recent demonstration of the accuracy of the Corps in predicting its future O&M estimates and the Corps' continued use of the same methodology and criteria upon which it based its previous estimates, it appears the estimates of future Corps O&M costs are reasonable, and there is no rational basis in the record for concluding otherwise.

Other Issues

Other repayment and rate design issues are discussed in the Administrator's Record of Decision.

Availability of Information

Information regarding this rate adjustment including studies, comments, transcripts, and other supporting material are available for public review in the offices of the Southwestern Power Administration, 333 W. 4th, Tulsa, Oklahoma 74101 and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Submission to the FERC; Effective Date

As explained by the Administrator in his Record of Decision, because of the pendency of unresolved litigation in the Claims Court, he proposed that the rates involved in this proceeding not be placed into effect on an interim basis, but that they be placed in effect upon confirmation and approval by the FERC on a final basis. The power repayment study is based upon the assumption that

they will be in effect beginning October 1, 1983.

Accordingly, the rates are not being placed into effect on an interim basis at this time but are approved for submission to the FERC for confirmation, approval and effectuation on a final basis, subject to further review of the matter if action by the FERC is delayed.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby approve the following Rate Schedules and Contract Rate for submission to the Federal Energy Regulatory Commission for confirmation, approval and placement in effect on a final basis to replace the rate schedules and contract rate named:

Service	Rate	Superseded rate
Peaking Power	P-4	P-3.
Firm Power from Integrated System.	F-4A	F-2.
Firm Power through Oklahoma Utility Companies.	F-4B	F-3.
Excess Energy	EE-2 (Revised)	EE-2.
Interruptible Capacity	IC-2 (Revised)	IC-2.
Contract No. 14-02-001-884, Section 2 Tex-La Electric Coop. (through TP&L).	1979 Contract Rate.	1979 Contract Rate.

Issued at Washington, D.C. this 25th day of April, 1983.

Joseph J. Tribble,

Assistant Secretary for Conservation and Renewable Energy.

Rate Schedule P-4 [1]

Wholesale Rates for Hydro Peaking Power and Seasonal Peaking Power

Effective:

During the period extending from October 1, 1983 to September 30, 1986, in accordance with the Order of the Federal Energy Regulatory Commission issued ———, (Docket No. ———).

Available:

In the marketing area of Southwestern Power Administration (SWPA), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:

To wholesale power customers purchasing Hydro and/or Seasonal Peaking Power and Peaking Energy.

Character and Conditions of Service:

Three-phase, alternating current, delivered at approximately 60 hertz, at the nominal voltage and points of delivery, and in such quantities as specified by contract.

Energy Associated with Hydro and/or Seasonal Peaking Power:

Peaking Energy:

A minimum of 1,200 kilowatt-hours of Peaking Energy per kilowatt of Hydro Peaking and/or Seasonal Peaking Power will be furnished during each contract year.

Supplemental Peaking Energy:

Supplemental Peaking Energy (in addition to Peaking Energy) will be furnished if and when determined by SWPA to be available.

A quantity of Hydro and/or Seasonal Peaking Power without associated Peaking Energy may be purchased on a month-to-month basis for use in scheduling Supplemental Peaking Energy, if determined by SWPA to be available.

Monthly Rates:

Capacity Charge:

(a) During the period until the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.10 per kilowatt of Peaking Billing Demand.

(b) Commencing on the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.22 per kilowatt of Peaking Billing Demand.

Energy Charge:

(a) $0.0035 per kilowatt-hour of Peaking Energy and Supplemental Peaking Energy; plus,

(b) A purchased power adjustment of $0.002 per kilowatt-hour of Peaking Energy.

This adjustment does not apply to:

1. Sales under rates specified by contract, where the contract limits the dollar amount of a rate adjustment (Contract Rates); or,

2. Sales to any customer which, by contract, has assumed the obligation to supply energy to fulfill the minimum of 1200 kilowatt-hours of Peaking Energy per kilowatt of Peaking Power during a contract year (Contract Support Arrangements).

Capacity Charge Adjustments for Conditions of Service:

(a) A charge of $0.25 per month per kilowatt of Peaking Billing Demand will be added to the total monthly charge for Hydro and/or Seasonal Peaking Power Service if delivery of such power and energy is made at 69 kilovolts where SWPA has provided for such service from higher voltage, or

(b) A charge of $0.75 per month per kilowatt of Peaking Billing Demand will be added to the total monthly charge for Hydro and/or Seasonal Peaking Power service if delivery of such power and energy is made at low or intermediate voltages (less than 69 kilovolts) where SWPA has provided for such service from higher voltage, and

(c) A customer which receives Hydro and/or Seasonal Peaking Power at two or more delivery voltages will be charged the adjustment associated with the lower voltage, provided, however, that such charge shall not apply to the number of kilowatts of Peaking Billing Demand which exceed the Peaking Actual Demand recorded at the lower voltage for a particular month or for the preceding eleven months.

Billing for Unauthorized Overrun:

For each billing period during which there is a violation involving an unauthorized overrun of SWPA's capacity and/or energy obligation, such capacity overrun shall be billed and paid for at twelve times the above capacity rate adjusted for conditions of service and such energy overrun shall be billed and paid for at eleven times the rate for Peaking Energy set forth in (a), above.

Minimum Bill:

The minimum bill each month is the Peaking Contract Demand times the Capacity charge adjusted for conditions of service, plus minimum contract energy requirements.

Peaking Actual Demand:

The term "Peaking Actual Demand" for any month means the maximum rate in kilowatts that electric energy is delivered by SWPA to the customer during any 60-minute period of such month.

Peaking Contract Demand:

The term "Peaking Contract Demand" means the maximum rate in kilowatts which SWPA is, by contract, obligated to deliver Peaking Energy during any 60-minute period of any month.

Peaking Billing Demand:

Except as otherwise provided by contract, the "Peaking Billing Demand" each month means the "Peaking Contract Demand."

Adjustment for Reduction in Service:

If during any month the quantity of Hydro and/or Seasonal Peaking Power scheduled for delivery is reduced by SWPA for a period or periods of not less than two consecutive hours by reason of an outage caused by either an uncontrollable force, or the installation, maintenance, or replacement of equipment, the customer's capacity charge for such month will be reduced for each such reduction in service by an amount computed under the formula:

$$R = \frac{C \times K \times H}{100}$$

with the factors defined as follows:

R = the amount of reduction in the monthly capacity charge for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction in the capacity charge for any month shall not be greater than the product of the capacity charge times the Peaking Contract Demand.

C = the capacity charge plus applicable adjustment for conditions of service for Hydro and/or Seasonal Peaking Power for such month.

K = the number of kilowatts of such particular reduction in Hydro and/or Seasonal Peaking Power.

H = the number of hours of such particular reduction.

Revised Schedule F-4A [1]

Wholesale Rates for Firm Power (Customers From SWPA Integrated System)

Effective:

During the period extending from October 1, 1983, to September 30, 1986, in accordance with the Order of the Federal Energy Regulatory Commission issued ——— (Docket No ———).

Available:

In the marketing area of Southwestern Power Administration (SWPA), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:

To wholesale power customers purchasing Firm Power and Firm Energy at points of delivery from the transmission lines or facilities owned and operated by SWPA or which are defined by contract with the customer as part of the system of SWPA (SWPA Integrated System).

Character and Conditions of Service:

Three-phase, alternating current, delivered at approximately 60 hertz, at the nominal voltage and points of delivery, and in such quantities as specified by contract (Firm Contract Demand). All power requirements, other than peaking power from SWPA, which exceed the Firm Contract Demand shall be obtained from a source of power supply other than SWPA.

Energy Associated with Firm Power:

1. SWPA will furnish Firm Energy to a customer which has no alternative source of power supply, and which does not purchase peaking power and energy from SWPA, in such quantities as the customer requires to fulfill its system load requirements.

2. SWPA will during each billing period furnish Firm Energy to a customer which has an alternative source of power supply and/or which purchases peaking power and energy from SWPA, in such manner as to parallel the load factor and load pattern of such customer's system load. The quantity of Firm Energy during each billing period shall be computed under the formula

$$FE = \frac{FCD}{MAD} \times E,$$

with the factors defined as follows:

FE = the maximum number of kilowatt-hours of Firm Energy which SWPA is obligated to furnish and deliver to a particular customer during any billing period.

FCD = such customer's Firm Contract Demand.

MAD = such customer's system maximum 30-minute integrated demand during the preceding twelve months.

E = such customer's total system energy use during such billing period.

Monthly Rates:

Capacity Charge:

(a) During the period until the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.18 per kilowatt of Firm Billing Demand.

(b) Commencing on the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.22 per kilowatt of Firm Billing Demand.

Energy Charge:

(a) $0.0035 per kilowatt-hour of Firm Energy; plus,

(b) A purchased power adjustment of $0.005 per kilowatt-hour of Firm Energy.

This adjustment does not apply to:

1. Sales under rates specified by contract where the contract limits the dollar amount of a rate adjustment (Contract Rates); or,

2. Sales to any customer which, by contract, has assumed the obligation to supply energy to fulfill the minimum of 1,200 kilowatt hours of Peaking Energy per kilowatt of Peaking Power during a contract year (Contract Support Arrangements).

Capacity Charge Adjustments for Conditions of Service:

(a) A charge of $0.25 per month per kilowatt of Firm Billing Demand will be added to the total monthly charge for Firm Power service if delivery of such power and energy is made at 69 kilovolts where SWPA has provided for such service from higher voltage, or

(b) A charge of $0.75 per month per kilowatt of Firm Billing Demand will be added to the total monthly charge for Firm Power service if delivery of such power and energy is made at low or intermediate voltages (less than 69 kilovolts) where SWPA has provided for such service from higher voltage, and

(c) A customer which receives Firm Power and Firm Energy at two or more delivery voltages will be charged the adjustment associated with the lower voltage, provided, however, that such charge shall not apply to the number of kilowatts of Firm Billing Demand which exceed the Firm Actual Demand recorded at the lower voltage for a particular month or for the preceding eleven months.

Billing for Unauthorized Overrun:

For each billing period in which there is a violation involving an unauthorized overrun of SWPA's capacity and/or energy obligation, such capacity overrun shall be billed and paid for at eleven times the above capacity rate adjusted for conditions of service, and such energy overrun shall be billed and paid for at eleven times the rate set forth in (a), above.

Adjustment for Power Factor:

The customer will be required to maintain an average power factor at each point of delivery of not less than 95 percent (95%) lagging. Such average power factor will be determined at intervals or continuously at the option of SWPA and will be based upon measured quantities of kilowatt-hours and reactive kilovolt-ampere-hours during the 30-minute period of the customer's maximum rate of use of energy at each particular point of delivery during the month.

The average power factor during any month shall be computed under the formula

$$APF = \frac{KWH \times 100}{\sqrt{KWH^2 + RKVAH^2}}$$

with the factors defined as follows:

APF = the average power factor (in percentage) during any 30-minute period during any particular month.

KWH = the quantity of Energy delivered during the 30-minute period of the customer's maximum rate of use of energy at a particular point of delivery during such month.

RKVAH = the quantity of reactive kilovolt-ampere-hours (lagging) furnished at such particular point of delivery coincidental with factor KWH during the month.

For each 1 percent (1%), or major fraction thereof, by which the customer's average power factor is less than 95 percent, the customer's monthly bill for Firm Power will be increased by 1 percent (1%). Where a customer has more than one point of delivery, the lowest average power factor will determine such increase.

Minimum Bill:

The minimum bill each month shall be the Firm Contract Demand times the Capacity Charge adjusted for conditions of service.

Firm Actual Demand:

The term "Firm Actual Demand" for any month means the maximum coincidental 30-minute integrated demand recorded or computed by contract formula for such month.

Firm Contract Demand:

The term "Firm Contract Demand" means the maximum rate in kilowatts which SWPA is by contract obligated to deliver Firm Energy during any 30-minute period of any billing period.

Firm Billing Demand:

Unless otherwise provided by contract, the term "Firm Billing Demand" for any month means either the "Firm Contract Demand", or the "Firm Actual Demand", whichever is greater.

Adjustment for Reduction in Service:

If during any month SWPA is unable to fulfill its contract commitment to delivery Firm Power and Firm Energy for a period or periods of not less than two consecutive hours by reason of an outage caused by either an uncontrollable force, or the installation, maintenance, or replacement of equipment, the customer's capacity charge for such month will be reduced for each such reduction in service by an amount computed under the formula—

$$R = \frac{C \times K \times H}{TH}$$

with the factors defined as follows:

R = the amount of reduction in the monthly capacity charge for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction in the capacity charge for any month shall not be greater than the product of the capacity charge times the Firm Contract Demand.

C = the capacity charges plus applicable adjustments for conditions of service for Firm Power for such month.

K = the number of kilowatts of such particular reduction in Firm Power.

[1] Supersedes Rate Schedule P-3.

[1] Supersedes Rate Schedule F-3 for customers receiving Firm Power and Firm Energy from the system of SWPA.

H = the number of hours of such particular reduction.
TH = the total number of hours in such month.

Rate Schedule F-4B [1]

Wholesale Rates for Firm Power (Customers thru Oklahoma Utility Companies)

Effective:
During the period extending from October 1, 1983, to September 30, 1988, in accordance with the Order of the Federal Energy Regulatory Commission issued ——— (Docket No. ———).

Available:
In the marketing area of Southwestern Power Administration (SWPA), and the service areas of the Public Service Company of Oklahoma and Oklahoma Gas and Electric Company (Oklahoma Utility Companies), described generally as the States of Arkansas and Oklahoma.

Applicable:
To wholesale power customers purchasing Firm Power and Firm Energy from SWPA (SWPA-Customer Contract) at points of delivery on transmission facilities owned by the Oklahoma Utility Companies which Companies have contracted with SWPA to deliver power and energy for the account of SWPA.

Character and Conditions of Service:
Three-phase, alternating current, delivered at approximately 60 hertz, at the nominal voltage and points of delivery, and in such quantities as specified in the SWPA-Customer Contract (Contract Demand). All power requirements which exceed the Contract Demand shall be obtained from a source of power supply other than SWPA.

Energy Associated with Firm Power:
1. SWPA will furnish Firm Energy to a customer purchasing such energy from SWPA from the system of the Oklahoma Utility Companies in such quantities as may be required to fulfill its system load requirements.

2. Where a customer has an alternative source of power supply, SWPA shall furnish each month the number of kilowatt-hours of Firm Energy as specified in the SWPA-Customer Contract.

Monthly Rates:
Capacity Charge:
(a) During the period until the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.99 per kilowatt of Billing Demand.

(b) Commencing on the first day of the month following the date the first power generating unit at the Clarence Cannon Dam is placed in commercial operation, the capacity charge shall be: $2.97 per kilowatt of Billing Demand.

Energy Charge:
(i) $0.0035 per kilowatt-hour for federally generated Firm Energy; plus,

(ii) A purchased power adjustment of $0.002 per kilowatt-hour of "Federal Energy" (defined as 1200 kilowatt-hours of energy per kilowatt of capacity during each contract year) delivered by SWPA to the Companies during such month; plus,

(iii) An amount in dollars equal to the actual cost to SWPA, of thermal-generated energy purchased by SWPA from the Oklahoma Utility Companies specifically for service to the customer.

Adjustment for Power Factor:
The customer will be required to maintain an average power factor at each point of delivery of not less than 95 percent (95%) lagging. Such average power factor will be that as defined and computed under the SWPA-Customer Contract.

For each 1 percent (1%), or major fraction thereof, by which the customer's average power factor is less than 95 percent (95%), the customer's monthly bill for Firm Power will be increased by 1 percent (1%). Where a customer has more than one point of delivery, the lowest average power factor will determine such increase.

Actual Demand:
The "Actual Demand" will be for any month the number of kilowatts equal to the sum of the highest 30-minute integrated demands recorded during such month at the point or points of delivery.

Contract Demand:
The "Contract Demand" will be for any month the highest 30-minute integrated demand in kilowatts at which SWPA is obligated during such month to cause energy to be delivered to the customer.

Billing Demand:
1. The "Billing Demand" for any month during the period when the system load requirements of the customer are fulfilled by power and energy purchased from SWPA will be either the "Contract Demand" or the "Actual Demand", whichever is greater.

2. The "Billing Demand" for any month during the period on and after the date when the system load requirements of the customer are fulfilled by power and energy from SWPA and from a source of power supply other than SWPA, will be the "Contract Demand".

Adjustment for Reduction in Service:
If during any month SWPA is unable to fulfill its contract requirement to deliver Firm Power and Firm Energy for a period or periods of not less than two consecutive hours by reason of an outage caused by either an uncontrollable force, or the installation, maintenance, or replacement of equipment, the customer's capacity charge for such month will be reduced for each such reduction in service by an amount computed under the formula–

$$R = \frac{C \times K \times H}{TH}$$

with the factors defined as follows:
R = the amount of reduction in the monthly capacity charge for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction in the capacity charge for any month shall not be greater than the product of the capacity charge times the Firm Contract Demand.
C = the capacity charges for such month.
K = the number of kilowatts of such particular reduction in Firm Power.
H = the number of hours of such particular reduction.
TH = the total number of hours in such month.

[1] Supersedes Rate Schedule F-3 for customers receiving Firm Power and Firm Energy from transmission facilities owned by the Oklahoma Utility Companies.

Rate Schedule IC-2 (Revised) [1]

Wholesale Rates for Interruptible Capacity

Effective:
During the period extending from October 1, 1983, to September 30, 1988, in accordance with the Order of the Federal Energy Regulatory Commission issued ——— (Docket No. ———).

Available:
In the marketing area of Southwestern Power Administration (SWPA), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:
To wholesale power customers purchasing Interruptible Capacity which is received by the customer at points of delivery from transmission lines or facilities owned and operated by SWPA.

Character and Conditions of Service:
Three-phase, alternating current, delivered at approximately 60 hertz, at the nominal voltage and points of delivery, and in such quantities as specified by contract.

Energy Associated with Interruptible Capacity:
Energy associated with Interruptible Capacity will be furnished by SWPA at such times and in such amounts as SWPA determines to be available.

Daily Rate:
Capacity Charge: $0.075 per kilowatt of Interruptible Billing Demand.
Energy Charge: $0.0035 per kilowatt-hour.

Interruptible Billing Demand:
The term "Interruptible Billing Demand" for any day means an amount equal to either:
1. the maximum rate in kilowatt which SWPA is obligated to deliver energy associated with interruptible capacity or the greatest 30-minute integrated demand recorded during such day, whichever is greater, if the customer scheduled and received only interruptible capacity from the Government during such day, or
2. the maximum rate in kilowatts for the delivery of energy associated with interruptible capacity scheduled during such day, if the customer scheduled and received firm or peaking power capacity from the Government during such day, or the maximum rate in kilowatts which SWPA is obligated to deliver energy associated with interruptible capacity, whichever is greater.

Energy Sale or Exchange:
At the option of SWPA, energy associated with Interruptible Capacity purchased by a customer shall be either:
(i) Paid for at the energy charge, or
(ii) Returned to SWPA, kilowatt-hour for kilowatt-hour in accordance with agreement of the parties at the time purchase, or in the absence of such an agreement, returned within 12 months after the date of such purchase, as scheduled by SWPA but at a rate of delivery within the excess available capability of the customer's generating facilities.

If a customer, for any reason, fails or refuses to return all or any portion of the energy as scheduled by SWPA under part (ii), above, the number of kilowatt-hours not so returned shall be billed and paid for at eleven times the energy charge.

[1] Supersedes Rate Schedule IC-2

Rate Schedule EE-2 (Revised) [1]

Wholesale Rate for Excess Energy

Effective:
During the period extending from October 1, 1983, to September 30, 1988, in accordance with the Order of the Federal Energy Regulatory Commission issued ——— (Docket No. ———).

Available:
In the marketing area of Southwestern Power Administration (SWPA), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:
To wholesale power customers who by contract may purchase Excess Energy.

Character and Conditions of Service:
Three-phase, alternating current, delivered at approximately 60 hertz, at the nominal voltage and points of delivery specified by contract.

Energy Associated with Rate Schedule EE-2 (Revised):
Excess Energy will be furnished at such times and in such amounts as SWPA determines to be available.

Rate:
Energy Charge: $0.0035 per kilowatt-hour.

Wholesale Rates for Power and Energy Sold to Tex-La Electric Cooperative, Inc. (Contract 14-02-001-864) [2]

Effective:
As of April 1, 1979, and thereafter in accordance with the Order of the Federal Energy Regulatory Commission, dated January 25, 1982, Docket No. EF 79-4011, as extended.

Applicable:
To the power and energy purchased by Tex-La Electric Cooperative, Inc. from the Southwestern Power Administration under the Power Sales Agreement dated October 20, 1958, Contract No. 14-02-001-864, between Southwestern Power Administration (Government) and Tex-La Electric Cooperative, Inc. (Tex-La).

Capacity and Energy Charges:
Section 2, 3, and 35, respectively, of Contract No. 14-02-001-864, are amended to read as follows:

"Section 2. *Compensation by Tex-La to Government.* (a) Tex-La shall compensate the Government each month for firm power capacity and associated energy purchased under Section 1, hereof, at the following rates:

Capacity Charge:
(a) During the period until the twentieth day of the month following the date the first power generating unit at the Harry S Truman Dam is placed in commercial operation in the integrated system of SWPA, the capacity charge shall be: $1.73 per kilowatt per month of 'Billing Demand,' as defined in Section 3, hereof.

(b) Commencing on the twentieth day of the month following the date the first power generating unit at the Harry S Truman Dam is placed in commercial operation in the integrated system of SWPA, the capacity charge shall be: $1.86 per kilowatt per month of 'Billing Demand,' as defined in Section 3, hereof.

Energy Charge:
(i) $0.00309 per kilowatt-hour for the first 100 kilowatt-hours per kilowatt per month of 'Billing Demand.'

(ii) $0.00459 per kilowatt-hour for the next 340 kilowatt-hours per kilowatt per month of 'Billing Demand.'

(iiii) $0.00659 per kilowatt-hour for the each kilowatt-hour delivered to Tex-La during any month in excess of 440 kilowatt-hours per kilowatt per month of 'Billing Demand.'

"Section 3. *Billing Demand.* The 'Billing Demand' for any month for firm power capacity purchased by Tex-La from the Government under Section 1 hereof, shall be the number of kilowatts computed under the formula—

$$BD = \frac{A}{B} \times C,$$

with the factors defined as follows:
BD = Tex-La Billing Demand for any particular month.
A = The sum of the maximum 30-minute integrated demands recorded during such month at the points of delivery to the Tex-La members served from the system of the Company, but not less than 75% of the highest Factor 'A' established during the 12-month period ending with such month.
B = The greatest Factor 'A' established during the 12-month period ending with such month.
C = 15,000 kilowatts."

[FR Doc. 83-11704 Filed 5-2-83; 8:45 am]
BILLING CODE 6450-01-M

[1] Supersedes Rate Schedule EE-2.
[2] Marked "Rate Schedule 14-02-001-864" for reference purposes only; not so designated in proceedings before the Federal Energy Regulatory Commission.

Nevada Operations Office; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Dose Assessment Advisory Group (DAAG).

Date and time: Thursday, May 19, 1983—8:30 a.m.–4:30 p.m.; Friday, May 20, 1983—8:30 a.m.–2:30 p.m.

Place: Fine Arts Center Theater, Dixie College, 225 South 700 East, St. George, UT 84770.

Contact: Marshall Page, Jr., Off-Site Radiation Exposure Review Project, U.S. Department of Energy, Post Office Box 14100, Las Vegas, Nevada 89114, Telephone: 702/734-3194.

Purpose of the group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative Agenda

Briefings and discussions of:
May 19, 1983:
- Welcome and Introduction
- Report of DAAG Subcommittee on Coordination and Information Center
- Response to Prior DAAG Recommendations
- Summary of ORERP Progress
- Fallout Verification Progress Report
- PATHWAY Analysis Progress Report
- Internal Dose Progress Report
- External Dose Progress Report
- Data Analysis Progress Report
- Report of Progress by Environmental Measurements Laboratory (EML)
- Discussion and Comment by DAAG members
- Public Comments and Questions (5 minute rule)

May 20, 1983:
- BOLTZMANN Hot Spot Analysis
- EML Study of Pu Leaching Process
- Soil Sampling Progress Report
- DRI Report on Quality Assurance Program
- Timeline for ORERP
- Format Presentation of Final Report
- Discussion and Recommendations by DAAG to ORERP
- Public Comments and Questions (5 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page, Jr., at the

address or telephone number listed above.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 28, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-11771 Filed 5-2-83; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30226; PH-FRL 2341-8]

Certain Companies; Applications to Register Pesticide Products Containing New Active Ingredients

Correction

In FR Doc. 83-9083 beginning on page 15949 in the issue of Wednesday, April 13, 1983, make the following correction on page 15950: In the first column, sixth line, the word "Quintox" should read "Quintrox".

BILLING CODE 1505-01-M

[AMS-FRL 2360-1]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for Atomized Vapor Injector

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the completion of the EPA evluation of the "Atomized Vapor Injector" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. This notice also announces the findings, conclusions, and availability of the report.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) require that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall published in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducing evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On July 6, 1982 the EPA received a request from Mr. Lewis J. Schneller for an evaluation of a fuel economy retrofit device termed Atomized Vapor Injector. Among other claims, this device is designed to save fuel and increase engine power. The device is a vapor air bleed device which bubbles air through a 50/50 mixture of water and alcohol. The resulting vapor is introduced into the combustion chamber.

Report: "EPA Evaluation of the Atomized Vapor Injector Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report Number EPA-AA-TEB-511-83-4 contains the analysis and conclusions. It consists of 38 pages including all attachments.

III. Availability of Evaluation Reports

Copies of this report may be obtained from the National Technical Information Service by using the above report number. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650

IV. Summary of Evaluation

The evaluation of the Atomized Vapor Injector was based on the information submitted by the applicant, EPA's engineering judgment, and the results of EPA's evaluation of similar products. The overall conclusion from the EPA evaluation is that there is no reason to expect that the device will significantly improve the fuel economy or performance of a vehicle. Any changes in emission levels would be due solely to the air bleed aspect of the device.

FOR FURTHER INFORMATION CONTACT:

Merrill W. Korth, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4298.

Dated: April 25, 1983.

Charles Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-11769 Filed 5-2-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Technical Subgroup of Radio Advisory Committee; Resumed Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Wednesday June 8, 1983 at 10 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the June 8, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-11768 Filed 5-2-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, May 18 and 19, 1983. The meeting will begin on May 18 at 9:30 a.m. in the offices of GTE Service Corporation, Suite 900, 1120 Connecticut Avenue, N.W., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation or Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-11770 Filed 5-2-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed, Port of Seattle and Seacon Terminals, Inc., et al.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-3985-2.

Title: Port of Seattle and Seacon Terminals, Inc. Terminal Lease Agreement Amendment.

Parties: Port of Seattle (Port)/Seacon Terminals, Inc. (Seacon).

Synopsis: Agreement No. T-3985-2 provides for the reduction in the lease area by 7.5302 acres with a corresponding reduction in rental, reduces the number of port-owned container cranes from three to two, and provides for the deletion of three Port-owned gantry cranes.

Filing Party: Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-4107.

Title: Port of Oakland and Malaysian International Shipping Corpn. Berhad. Terminal Use Agreement.

Parties: Port of Oakland (Port) and Malaysian International Shipping Corpn. Berhad. (MISC)

Synopsis: Agreement No. T-4107 provides that MISC shall have the nonexclusive right to assigned premises at the Port's Seventh Street Public Container Terminal for the berthing, loading and discharging of its vessels and related operations in its transpacific container service. MISC agrees that the assigned premises shall be the published regularly scheduled Northern California port of call for its transpacific service. The authority to manage these premises for the Port is vested in Marine Terminals Corporation, as separately provided for under the terms of Agreement No. T-4008. The provisions of the Port of Oakland Tariff No. 2 shall apply to MISC's use of the assigned premises. As a consideration for its regular use of the Port, MISC will pay to Port 90 percent of tariff dockage and wharfage revenues, instead of 100 percent of said charges, and if MISC's usage generates in excess of 31,000 revenue tons per acre in a year, any further wharfage payments in excess of this shall be refunded. The term of the agreement commences on the first of the month following Commission approval and runs for five years.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No.: T-4108.

Title: Port of Oakland and Sea Winds Limited Terminal Use Agreement.

Parties: Port of Oakland (Port) and Sea Winds Limited (Sea Winds)

Synopsis: Agreement No. T-4108 provides that Sea Winds shall have the nonexclusive right to certain assigned premises at the Port's Seventh Street Public Container Terminal for the berthing, loading and discharging of its vessels and related operations in the transpacific service. Sea Winds agrees that the assigned premises shall be the published regularly scheduled Northern California port of call for its transpacific service. The authority to manage these premises for the Port is vested in Marine Terminals Corporation, as separately provided for under the terms of Agreement No. T-4008. The provisions of the Port of Oakland Tariff No. 2 shall apply to Sea Winds' use of the assigned premises. As a consideration for its regular use of the Port, Sea Winds will pay to Port 90 percent of tariff dockage and wharfage revenues, instead of 100 percent of said charges, and if Sea Winds' usage generates in excess of 31,000 revenue tons per acre in a year, any further wharfage payments in excess of this shall be refunded. The term of the agreement commences on the first of the month following Commission approval and concludes on June 30, 1987.

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No. 3668-29

Title: Atlantic & Gulf/Panama Canal Zone, Colon and Panama City Conference.

Parties: Delta Steamship Lines, Inc., Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc. and United States Lines, Inc.

Synopsis: The basic agreement would be amended to require the countersignature of a representative of a member line of the Conference in addition to the signature of the Conference Chairman or Vice Chairman before the security deposit of a member line could be drawn upon.

Filing Party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreements Nos.: 9718-6, 9731-6, 9835-6, 9975-8, 10116-5 and 10274-2.

Titles:

Agreement No. 9718—Japan Line, "K" Line, Mitsui O.S.K. and Y. S. Containership Service Agreement

Agreement No. 9731—NYK and Showa Line Containership Service Agreement

Agreement No. 9835—Japanese Lines' Pacific Northwest Containership Service Agreement

Agreement No. 9975—Japanese Lines' Atlantic Coast Containership Service Agreement

Agreement No. 10116—U.S. Pacific Coast/Japan Revenue Pooling Agreement

Agreement No. 10274—U.S. Atlantic Japan Pooling Agreement

Parties:
Agreement No. 9718—Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Yamashita-Shinnihon Steamship Co., Ltd.
Agreement No. 9731—Nippon Yusen Kaisha and Showa Line Ltd.
Agreement No. 9835—Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Show Line Ltd.; Yamashita-Shinnihon Steamship Co., Ltd.
Agreement No. 9975—Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Yamashita-Shinnihon Steamship Co., Ltd.
Agreement No. 10116—Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Showa Line Ltd.; Yamashita-Shinnihon Steamship Co., Ltd.
Agreement No. 10274—Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: Agreements Nos. 9718–9, 9731–9, 9835–6, 9975–8, 10116–5 and 10274–2 are all proposals to extend the expiration date of the respective basic agreements from August 22, 1983 to August 22, 1988.
Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.
Agreement No.: 7590–34.
Titles: East Coast Colombia Conference.
Parties: Lykes Bros. Steamship Co., Inc., Delta Steamship Lines, Inc., Flota Mercante Grancolombiana, S.A.
Synopsis: The geographic scope of the basic agreement would be amended to include all ports on the Caribbean Coast of Colombia, S.A.
Filing Party: Nathan J. Bayer, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

By Order of the Federal Maritime Commission.
Dated: April 28, 1983.
Francis C. Hurney,
Secretary.
[FR Doc. 83-11737 Filed 5-2-83; 8:45 am]
BILLING CODE 6730-01-M

Section 15 Agreements; Cancellation

The Commission has twice inquired of the parties to a number of seemingly inactive agreements, previously approved under section 15 of the Shipping Act, 1916, asking if these agreements were inactive and should be cancelled. No reply to these inquiries has been received. It is assumed that no good cause exists for the continued approval of these agreements, therefore, the following agreements between the parties designated are cancelled effective May 2, 1983:

Agreement No.	Parties
9694	American Mail Line Ltd., Shipping Corporation of India, Ltd.
9864	Atlantic Lines, Ltd., Pan American Mail Line, Inc.
9878	Hellenic Lines, Limited, Unicorn Shipping Lines (Pty) Limited.
9880	Moore-McCormack Lines, Inc., Durban Lines (Pty) Limited, Lamos Lines (Pty) Limited.
9897	American President Lines, Ltd., Everett Orient Lines.
9913	American Maritime Association, States Marine Lines, Inc., United States Lines, Inc.,

By Order of the Federal Maritime Commission.
Dated: April 28, 1983.
Francis C. Hurney,
Secretary.
[FR Doc. 83-11737 Filed 5-2-83; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; NCB Financial Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *NCB Financial Corporation,* Williamsport, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Northern Central Bank, Williamsport, Pennsylvania. Comments on this application must be received not later than May 27, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *1st Columbia Corp.,* Columbus, Wisonsin; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Columbus, Columbus, Wisconsin. Comments on this application must be received not later than May 27, 1983.

2. *Lakeland Financial Corporation,* Warsaw, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Lake City Bank, Winona Lake, Indiana. Comments on this application must be received not later than May 27, 1983.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southern Bancshares Corp.,* St. Louis, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of Southern Commercial Bank, St. Louis, Missouri. Comments on this application must be received not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 27, 1983.
William W. Wiles,
Secretary of the Board.
[FR Doc. 83-11700 Filed 5-2-83; 8:45 am]
BILLING CODE 6210-01-M

Midlantic Banks, Inc.; Merger of Bank Holding Companies

Midlantic Banks, Inc., Edison, New Jersey, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Greater Jersey Bancorp, West Paterson, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Midlantic Banks, Inc., Edison, New Jersey, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Greater Jersey Mortgage Company, West Paterson, N.J.

Applicant states that the proposed subsidiary would engage in loan servicing activities. The geographic areas to be served by Greater Jersey Mortgage Company is New Jersey, Pennsylvania and Delaware. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Midlantic Banks, Inc., Edison, N.J., is also engaged in the following nonbank activities: factoring and leasing personal property. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1983. Any comment on an applicaiton that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 27, 1983.
William W. Wiles,
Secretary of the Board.
[FR Doc. 83-11699 Filed 5-2-83; 8:45 am]
BILLING CODE 6210-01-M

Zions Utah Bancorporation; Proposed Acquisition of Republic Industrial Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Republic Industrial Bank Widefield, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of industrial banking and selling credit insurance related to extensions of credit. These activities would be performed from offices of Applicant's subsidiary in Widefield, Colorado, and the geographic areas to be served are El Paso County, Colorado and the Colorado Springs, Colorado metropolitan area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 18, 1983.

Board of Governors of the Federal Reserve System, April 27, 1983.
William W. Wiles,
Secretary of the Board.
[FR Doc. 83-11701 Filed 5-2-83; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on May 9, 1983, from 8:00 pm to 9:30 pm, and May 10, from 8:30 am to 4:30 pm, in the Board Room of the One Washington Circle Hotel, located at 1 Washington Circle, Washington, D.C. This session is open to the public and will involve discussions of activities of the Board's subcommittees, development of an agencywide strategic planning process.

Less than fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

For additional information, contact Roger C. Dierman, Deputy Associate Administrator, on (202) 523–1141.

Charles S. Davis III,
Associate Administrator.
[FR Doc. 83-11940 Filed 5-2-83; 8:45 am]
BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Emergency Planning and Action in a Radiation Emergency; Memorandum of Agreement Between the Centers for Disease Control and the Health Resources and Services Administration

Correction

In FR Doc. 83–10226 beginning on page 16541 in the issue of Monday, April 18, 1983, make the following corrections:

1. On page 16541, the heading on the document should have read as set forth above.

2. Also on page 16541, first column, under **SUPPLEMENTARY INFORMATION,** seventh line, "CFC" should have read "CDC".

BILLING CODE 1505-01-M

Food and Drug Administration

Advisory Committee; Notice of Meeting

Correction

In FR Doc. 83–9652 beginning on page 16335 in the issue of Friday, April 15, 1983, make the following correction on page 16336: In the first column, the third complete paragraph, the twelfth line, the word "items" should read "times".

BILLING CODE 1505-01-M

Office of Human Development Services

Additional Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Block Grants to States for Social Services

Correction

In FR Doc. 83–10809, beginning on page 17393, in the issue of Friday, April 22, 1983, make the following changes:

1. On page 17394, in the table, in the entry for "California", the total column should read "27,118,347".

2. The entry reading "North Mariana Islands" should read Northern Mariana Islands".

3. In the entry for "Pennsylvania", the second column should read "3,907,430".

4. In the entry for "Rhode Island", the third column should read "467,927".

5. In the entry for "Tennessee", the first column should read "1,701,770".

BILLING CODE 1505-01-M

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Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is seeking additional responses to an announcement of assessment in Federal Register Volume 47, number 91, p. 20206, May 11, 1982, of what is known of the safety, clinical effectiveness, and current status of liver transplantation. This assessment is intended to address the medical and surgical indications for the procedure as well as the technical aspects of liver transplantation. Specifically, we wish to address that status of organ procurement, harvesting, preservation and transport, as well as issues of rejection and immunosuppression. Information addressing the status of cylosporin-A is also being sought, as are any recent updates or advances in liver transplantation since our previous Federal Register announcement (May 11, 1982).

For the purposes of this announcement, liver transplantation is defined as the surgical replacement of an irreversibly diseased liver in a patient with one obtained from a cadaver. The source of disease may be congenital or acquired and the patients may be pediatric or adult.

This assessment seeks to establish whether liver transplantation has advanced beyond investigational stages of development or remains experimental. We also seek to determine the degree to which this technology has gained widespread acceptance and application in the medical/surgical community, and the present and future demand for the subject technology relative to the ability of providers to deliver it.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than June 1, 1983, or approximately 30 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designated clinical studies since 1980 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is being sought.

Written material should be submitted to: Office of Health Technology Assessment, Enrique Carter, M.D., Park Building, Room 3–10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Enrique D. Carter, M.D., Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: April 25, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83-11718 Filed 5-2-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M-55568]

Montana; Notice of Realty Action—Modified Competitive Sale of Public Land in Carter County, Montana

The following described land has been examined and identified suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($2,500).

Montana Principal Meridian

T. 3 N., R. 58 E.,
Sec. 17, SE¼SW¼.

The area described contains 40 acres. The land will be offered for sale utilizing modified competitive bidding procedures on July 6, 1983. The bidding is limited to the adjoining landowners, Mr. Dave Ness of Ekalaka, Montana, and Mrs. Gladys Mehling of Willard, Montana.

The land is isolated with no public access and has no unique public values. The sale will resolve an unauthorized grazing use that has existed for many years.

Detailed information concerning the sale, including planning documents, environmental assessment and public involvement, is available for review at the Miles City District Office, Box 940, Miles City, Montana 59301.

All minerals will be reserved to the United States together with the right to explore, prospect for, and remove same under applicable law and regulations. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945. The sale will be subject to all valid existing rights and reservations of record.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown above. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Dated: April 25, 1983.

Ray Brubaker,

District Manager.

[FR Doc. 83-11723 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M 496(ND)]

North Dakota; Termination of Classification of Public Lands for Multiple Use Management

April 25, 1983.

1. On February 25, 1967 (FR Vol. 32, No. 32, p. 3304) the public lands described in the notice, aggregating approximately 7914.09 acres in Divide, McHenry, McLean, Mountrail, Sheridan, Ward, Williams, Pierce, Barnes, Burleigh, Emmons, Kidder, Logan, McIntosh and Studsman Counties, were classified for multiple use management under the Act of September 19, 1964 (43 U.S.C. 1411–18). This classification segregated the land from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. 334) and from sales under Section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands remained open to all other applicable forms of appropriations, including the mining and mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification referred to under paragraph 1 above is hereby terminated. At 8 a.m. on June 9, 1983, the lands described in said notice of February 25, 1967, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. June 9, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83-11721 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 83-22]

Proposed Livestock Grazing Management for the Redding Resource Area, Ukiah District, California

Pursuant to section 102(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed grazing management program for the Redding Resource Area in Siskiyou, Modoc, Shasta, Trinity, Tehama, Butte and Glenn Counties in Northern California. The proposed action would continue present management of the approximately 90,000 acres of public land presently grazed by cattle, permitting the consumption of 7,261 AUMs of forage on 89 grazing leases. Alternatives analyzed include reapportioning among leases approximately the same total livestock allocation (7,385 AUMs), increased livestock grazing (11,740 AUMs), and no livestock grazing.

Comments on the Draft Environmental Impact Statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by June 27, 1983 to the Redding Area Manager. Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002.

A limited number of copies of this document are available upon request at the Redding Resource Area Office and the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4701.

In addition to the above offices, copies of this DEIS are available for public reading and review at: Division of Rangeland Management, Bureau of Land Management, Premier Building, 1725 I Street, NW., Room 909–H, Washington, D.C. 20006.

Dated: April 25, 1983.

Ed Hastey,

California State Director.

[FR Doc. 83-11714 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-84-M

[R&PP Lease CA 12990 and CA 13100]

Realty Action—Public Lands in Shasta County, California

Notice is hereby given that the City of Redding has submitted an application to purchase 59.17 acres of public land for expansion of the Buckeye Park.

The following-described land has been examined and classified as suitable for sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.).

Shasta County, California, T. 32 N., R. 5 W., M.D.M.
Section 14, lots 11, 14–17, 20, 21, 23–25, and SW¼NW¼NE¼, SW¼NE¼SW¼NE¼, W½SE¼SW¼NE¼, W½SW¼N E¼SE¼, NE¼NW¼SE¼, S½N½ S½SE¼NW¼SE¼, S½S½SE¼NW¼ SE¼

The land described above will be leased to the city of Redding for a period of twenty (20) years with the option to purchase the land when the planned improvements have been constructed according to the City's approved plan of development.

This decision/notice is based on the following:

1. The lands have been found to be valuable for public purposes and recreational uses.

2. The land is not of national significance and not essential to any Bureau of Land Management program.

3. The proposed action is in conformance with the existing land use plan.

4. The proposed action will have no significant (including controversial) effects on the human and natural environment.

5. Leasing with option to purchase of the above-described lands to the City of Redding will serve an important public objective, i.e., provide badly needed park facilities to the residents of the Buckeye area.

6. The classification and sale of the land to the City of Redding are in conformance with the Secretary of the Interior's "Good Neighbor Program."

Classification of these lands to the City of Redding, California, under the provisions of the above cited authority segregates them from all appropriations including locations under the mining laws, except as to applications under the Mineral Leasing Laws and applications under the Recreation and Public Purposes Act.

Petition for classification CA 12990 and CA 13100 is approved. The petitioner is the City of Redding, California, through the provisions of the Recreation and Public Purposes Act.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination.

Dated: April 25, 1983.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 83-11716 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Montana; Intent To Prepare a Regional Environmental Impact Statement (EIS) for Proposed Leasing of Federal Coal in the Powder River Coal Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an EIS.

SUMMARY: This notice advises the public that the Bureau of Land Management (BLM) intends to prepare an EIS addressing coal leasing in the Powder River Basin Coal Region in 1984. Public involvement to determine the scope and significant issues to be analyzed is invited. Public participation will be sought in public scoping meetings in Gillette, Wyoming, May 24, Sheridan, Wyoming, May 25 and Ashland, Montana, May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Charles F. Wilkie, Special Projects Team Leader, Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601, (307) 261–5566.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the National Environmental Policy Act and the Council on Environmental Quality regualtions (43 CFR 1508.22) that the Bureau of Land Management (BLM) will prepare an EIS to address potential affects of new competitive coal leasing in the Powder River Region of Wyoming and Montana.

This proposed leasing in needed to meet a Department of the Interior Federal coal leasing level, in accordance with the Federal Coal Management Program as announced by the Secretary of the Interior (43 CFR Part 3400).

Potential lease tracts have been delineated by the Minerals Management Service from land found acceptable for further consideration for coal

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development during BLM land-use planning. The Casper District of BLM identified acceptable areas for Wyoming in supplements and amendments to the Eastern Powder River Basin Management Framework Plans for the Western Powder River, Recluse, Gillette and Highlight review areas in Sheridan, Johnson, and Campbell counties. The U.S. Forest Service (USFS) (Supervisor's Office) applied the unsuitability criteria and identified acceptable areas on the Thunder Basin National Grasslands in southern Campbell County. The Miles City District BLM identified acceptable areas in Montana in updates of the South Rosebud, Coalwood, and Decker-Birney Management Framework Plans covering parts of Power River, Big Horn and Rosebud counties.

Preparation of the EIS is scheduled to begin in May 1983. A draft EIS should be available for public review and comment in December 1983. A final EIS is to be filed with the Environmental Protection Agency in April 1983. A final EIS is to be filed with the Environmental Protection Agency in April 1984. The Secretary of the Interior is tentatively scheduled to make the leasing decision in June 1984. A lease sale is scheduled for August 1984.

The proposed action is the leasing of a combination of tracts within the Powder River Region to meet a regional leasing level. Alternatives to the proposed action include leasing different combinations of tracts and no additional Federal coal leasing (No Action). Prior to the preparation of the EIS, the tracts identified in accordance with the Federal coal management regulations (43 CFR 3420.4) will be ranked, selected and scheduled by the Powder River Regional Coal Team.

Public involvement is invited to determine the scope and significant issues to be analyzed in the EIS. Public participation will be sought by direct contact and mailings to interested and affected parties, announcements in local media, and review of the EIS and decision documents.

Public meetings will be held in areas that would be directly affected. These meetings are a part of the overall scoping process and they will be held in the County Building basement—Gillette, Wyoming on May 24, 1983, at 7:00 p.m.; Holiday Inn-Sheridan, Wyoming on May 25, 1983, at 7:00 p.m.; and the Elementary School—Ashland, Montana on May 26, 1983 at 7:00 p.m. Notices of date, time, and location will be published in local newspapers and by direct mailing to interested and affected parties.

Any individual company, group or agency who wishes to be included in the mailing list for notification, to submit information that would be useful in preparing the EIS, or to provide comments and suggestions should contact the BLM District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Telephone inquiries should be directed to Charles F. Wilkie, EIS Team Leader at the following numbers: (307) 261–5598 (commercial phone) or 328–5598 (Federal Telecommunications System).

Maxwell T. Lieurance,

State Director.

[FR Doc. 83-11712 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202–395–7340.

Title: Park Visitation Census
Bureau Form Number: 10–157
Frequency: On occasion
Description of Respondents: Individuals visiting areas of the National Park System
Annual Responses: 9,600
Annual Burden Hours: 800
Bureau clearance officer: Russell K. Olsen 202–523–5133

April 27, 1983.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 83-11747 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 22, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 18, 1983.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Dade County

Miami, *Warner, J. W., House*, 111 SW 5th Ave.
Opa-Locka, *Opa-Locka Bank*, 940 Caliph St.

INDIANA

Marion County

Indianapolis, *Scottish Rite Cathedral*, 650 N. Meridian St.

Randolph County

Union City, *Union City Passenger Depot*, Howard St.

IOWA

Clayton County

Guttenberg, *Bauer House (Guttenberg MRA)*, 418 S. 3rd St.
Guttenberg, *Berns House (Guttenberg MRA)*, 602–606 N. Bluff St.
Guttenberg, *Bluff Street Historic Distict (Guttenberg MRA)*, Bluff St. between Dekalb and Pryam Sts.
Guttenberg, *Bolsinger House (Guttenberg MRA)*, 10 China St.
Guttenberg, *Borrett Stone House (Guttenberg MRA)*, 206 S. 1st St.
Guttenberg, *Breiman House (Guttenberg MRA)*, 109 N. 3rd St.
Guttenberg, *Chicago House (Guttenberg MRA)*, 5 Goethe St.
Guttenberg, *Dubbel's Harness Shop (Guttenberg MRA)*, 512 S. 1st St.
Guttenberg, *Dunker's Winery (Guttenberg MRA)*, 426 Acre St.
Guttenberg, *Eckert House (Guttenberg MRA)*, 411 S. 1st St.
Guttenberg, *Eckert House (Guttenberg MRA)*, 413 S. 1st St.
Guttenberg, *Eglseder House (Guttenberg MRA)*, 121 N. 1st St.
Guttenberg, *Fahlings Boot and Shoe Shop (Guttenberg MRA)*, 11 Herder St.
Guttenberg, *Felder House (Guttenberg MRA)*, 223 S. 2nd St.
Guttenberg, *Fleck Warehouse (Guttenberg MRA)*, 10 Schiller St.
Guttenberg, *Freidline House (Guttenberg MRA)*, 302 S. 1st St.
Guttenberg, *Friedlein Hotel (Guttenberg MRA)*, 310 N. 3rd St.
Guttenberg, *Front Street (River Park Drive) Historic District (Guttenberg MRA)*, River Park Dr. between Lessing and Pearl Sts.
Guttenberg, *Fuerste House (Guttenberg MRA)*, 503 S. 1st St.
Guttenberg, *Guttenberg Corn Canning Co. (Guttenberg MRA)*, 413 N. 3rd St.
Guttenberg, *Guttenberg State Bank (Guttenberg MRA)*, 15 Goethe St.
Guttenberg, *Huene Building (Guttenberg MRA)*, 15 Herder St.
Guttenberg, *Ihm House (Guttenberg MRA)*, 127 N. 1st St.
Guttenberg, *Jefferson-Freidlein (Guttenberg MRA)*, 106 Schiller St.

Guttenberg, *Kann House (Guttenberg MRA)*, 603 S. 2nd St.
Guttenberg, *Kappen House (Guttenberg MRA)*, 1218 S. Bluff St.
Guttenberg, *Kasper House (Guttenberg MRA)*, 1210 S. 4th St.
Guttenberg, *Kolker House (Guttenberg MRA)*, 110 Goethe St.
Guttenberg, *Kottke House (Guttenberg MRA)*, 313 N. 2nd St.
Guttenberg, *Kuempel Stone House (Guttenberg MRA)*, 118 S. 1st St.
Guttenberg, *Luther House (Guttenberg MRA)*, 510 S. 1st St.
Guttenberg, *Matt-Bahls House (Guttenberg MRA)*, 615 S. 3rd St.
Guttenberg, *McClaine House (Guttenberg MRA)*, 300 S. 1st St.
Guttenberg, *Meyer Cigar Factory (Guttenberg MRA)*, 230 S. 1st St.
Guttenberg, *Moser Stone House (Guttenberg MRA)*, 211 S. 1st St.
Guttenberg, *Nieland House (Guttenberg MRA)*, 715 S. 1st St.
Guttenberg, *Parker House (Guttenberg MRA)*, 1015 S. 2nd St.
Guttenberg, *Patzner, Charles, Dairy (Guttenberg MRA)*, Acre St.
Guttenberg, *Pelzer House (Guttenberg MRA)*, Miners Creek Rd.
Guttenberg, *Saeugling House (Guttenberg MRA)*, 710 N. Bluff St.
Guttenberg, *Schrunk House (Guttenberg MRA)*, 1215 S. 4th St.
Guttenberg, *Schute House (Guttenberg MRA)*, 804 S. 2nd St.
Guttenberg, *Schwaller House (Guttenberg MRA)*, 12 Goethe St.
Guttenberg, *Spaeth House (Guttenberg MRA)*, 1014 S. 1st St.
Guttenberg, *Stone Barn (Guttenberg MRA)*, 12 Goethe St.
Guttenberg, *Stuffelmeir House (Guttenberg MRA)*, 11 Schiller St.
Guttenberg, *Ulrich House (Guttenberg MRA)*, 119 S. 2nd St.
Guttenberg, *Union Hotel-Farmers Home Guest House (Guttenberg MRA)*, 310 S. 1st St.
Guttenberg, *Vanstaden Distillery (Guttenberg MRA)*, Cemetery Rd.
Guttenberg, *Weber House (Guttenberg MRA)*, 622 S. River Park Dr.
Guttenberg, *Wehmer House (Guttenberg MRA)*, 910 S. River Park Dr.
Guttenberg, *Wessell House (Guttenberg MRA)*, 306 N. 2nd St.

KENTUCKY

Fayette County

Lexington, *Lexington-Fayette County Government Building Block*, 200–228 E. Main St.

Jefferson County

Louisville, *Clifton Historic District*, Roughly bounded by Brownsboro Rd., William and E. Main Sts., Frankfort and N. Ewing Aves.
Louisville, *First National Bank-Kentucky Title Company Building*, 214 S. 5th St.

MICHIGAN

Kalamazoo County

Kalamazoo, *Appeldorn, Peter B., House (Kalamazoo MRA)*, 532 Village St.
Kalamazoo, *Bronson Park Historic District (Kalamazoo MRA)*, Roughly bounded by S. Rose, S. Park, W. Lovell, and W. Michigan Sts.
Kalamazoo, *Brown, Isaac, House (Kalamazoo MRA)*, 427 S. Burdick St.
Kalamazoo, *Engine House No. 3 (Kalamazoo MRA)*, 607 Charlotte Ave.
Kalamazoo, *Gibbs, John, House (Kalamazoo MRA)*, 3403 Parkview Ave.
Kalamazoo, *Gilbert, Henry, House (Kalamazoo MRA)*, 415 W. Lovell St.
Kalamazoo, *Haymarket Historic District (Kalamazoo MRA)*, Michigan Ave. between Portage St. and Grand Rapids & Indian RR
Kalamazoo, *Illinois Envelope Co. Building (Kalamazoo MRA)*, 400 Bryant St.
Kalamazoo, *Lawrence and Chapin Building (Kalamazoo MRA)*, 201 N. Rose St.
Kalamazoo, *Marlborough*, 471 W. South St.
Kalamazoo, *Montague, Henry, House (Kalamazoo MRA)*, 614 Oakland Dr.
Kalamazoo, *Oaklands (Kalamazoo MRA)*, 1015 W. Michigan Ave.
Kalamazoo, *Old Fire House No. 4 (Kalamazoo MRA)*, 526 N. Burdick St.
Kalamazoo, *Prentice, Alonzo T., House (Kalamazoo MRA)*, 639 W. Lovell St.
Kalamazoo, *Roberts, Martin W., House (Kalamazoo MRA)*, 703 Wheaton Ave.
Kalamazoo, *Rose Place Historic District (Kalamazoo MRA)*, Rose Pl. Douglas Ave.
Kalamazoo, *Shaffer, Enoch, House (Kalamazoo MRA)*, 1437 Douglas Ave.
Kalamazoo, *State Hospital Gatehouse (Kalamazoo MRA)*, 1008 Oakland Dr.
Kalamazoo, *Stevens, Andrew J., House (Kalamazoo MRA)*, 4024 Oakland Dr.
Kalamazoo, *Stewart Neighborhood/ Henderson Park Historic District (Kalamazoo MRA)*, Roughly bounded by Michigan Central RR, Douglas, Forbes, W. Main, North, Elm Sts., Kalamazoo and Grand Aves
Kalamazoo, *Vine Area Historic District (Kalamazoo MRA)*, Roughly bounded by S. Rose, S. Westnedge, W. Walnut, and Ranney Sts.
Kalamazoo, *Welsh, William L., Terrace (Kalamazoo MRA)*, 101–105 W. Dutton St.

MINNESOTA

Blue Earth County

Mankato, *Mankato Second Normal School, Mankato State Teachers College*, 5th St. S. and Jackson St.

Hennepin County

Minneapolis, *Lumber Exchange Building*, 425 Hennepin Ave./10 S. 5th St.
Minneapolis, *Northwestern Knitting Company Factory*, 716 Glenwood Ave.

Nicollett County

Norseland, *Norseland General Store*, CR 3
St. Peter, *Church of the Holy Communion*, 116 N. Minnesota Ave.
St. Peter, *Donahower, Frederick A., House*, 720 S. Minnesota Ave.
St. Peter, *Johnson, John A., House*, 418 N. 3rd St.
St. Peter, *Nicollet County Bank*, 224 S. Minnesota Ave.
St. Peter, *St. Peter Public Library*, 429 S. Minnesota Ave.
St. Peter, *Swift, Henry A., House*, 820 S. Minnesota Ave.
St. Peter, *Union Presbyterian Church*, 311 W. Locust St.

Ramsey County

New Brighton, *Foss House*, 321 Silver Lake Rd.
St. Paul, *Giesen-Hauser House*, 627 Mound St.
White Bear Lake, *Hobe, E.H., House/ Solheim*, 5590 W. Bald Eagle Blvd.

NEW YORK

Kings County

New York, New Lots Reformed Church and Cemetery, 630 New Lots Ave.

New York County

New York, *Studio Apartments*, 44 W. 77th St.

Queens County

New York, *Jamaica Savings Bank*, 161–02 Jamaica Ave.

OREGON

Clatsop County

Astoria, *Clatsop County Jail (Old)*, 732 Duane St.

Coos County

Coos Bay, *Marshfield Elks Temple*, 195 S. 2nd St.

Marion County

Salem, *Robertson, Dr. and Mrs. Charles G., House and Garden*, 460 S. Leffelle St.

Multnomah County

Portland, *Clovelly Garden Apartments*, 6309 NE Union Ave.
Portland, *Lytle, Robert F., House*, 1914 NE 22nd Ave.
Portland, *Mizpah Presbyterian Church of East Portland*, 2456 SE Tamarack Ave.

TENNESSEE

Shelby County

Memphis, *Madison-Monroe Historic District*, Madison and Monroe Aves., Main and 2nd Sts.

Correction

The following property was incorrectly listed on the Pending List for April 19, 1983.

NEW YORK

Essex County

Keeseville, *Tomlinson House (Keeseville Village MRA)*, Kent St.

[FR Doc. 83-11697 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 10:30 a.m. (PST) on Saturday, May 21, 1983, at the West Marin School, Point Reyes Station, California.

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The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Major agenda items for this meeting will be the draft Land Protection Plan for Golden Gate National Recreation Area and Point Reyes National Seashore, and the PG & E easement agreement for work within park boundaries.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556–2920.

Minutes of this meeting will be available for public information by June 21, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: April 21, 1983.

James R. Mills,

Acting Regional Director, Western Region.

[FR Doc. 83-11781 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nomination for the following property being considered for listing in the National Register was received before April 28, 1983. Waiver of the 15-day commenting period following this publication is necessary for the Ohio nomination listed below in order for listing to be accomplished before May 14, 1983. Waiver of the public commenting period will allow timely listing which will aid in the preservation of this property.

Carol D. Shull,

Chief of Registration, National Register Branch.

OHIO

Franklin County

Bexley, *Jeffrey, Malcolm, House*, 356 North Parkview

[FR Doc. 83-11782 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 15, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by May 18, 1983.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Denver County

Denver, *Kistler-Rodriguez House*, 700 E. 9th Ave.

KENTUCKY

Barren County

Austin vicinity, *Hicks, William, House (Barren County MRA)*, Jeff Hicks Rd.
Beckton vicinity, *Edmunds, Charler Penn, House (Barren County MRA)*, E of Beckton
Bristle Town vicinity, *Site Bn–54 (Barren County MRA)*, Rossville Rd.
Cave City, *Cave City Commercial District (Barren County MRA)*, Broadway between 1st and 2nd Sts.
Cave City, *McCoy, Andrew, House (Barren County MRA)*, Railroad Ave.
Finney vicinity, *Martin, Benjamin, House (Barren County MRA)*, Berry Store Rd.
Glasgow vicinity, *Mayfield, John, House (Barren County MRA)*, SW of Glasgow
Glasgow, *First National Bank (Barren County MRA)*, Main St.
Glasgow, *First Presbyterian Church (Barren County MRA)*, Washington and Broadway
Glasgow, *Morris Building (Barren County MRA)*, Washington and Green Sts.
Glasgow, *North Race Street Historic District (Barren County MRA)*, N. Race St. between Front and Cherry Sts.
Glasgow, *Southwest Glasgow Residential District (Barren County MRA)*, Green St. between Cottage and College Sts.; Leslie Ave., Liberty, Brown, and Washington Sts.
Glasgow, *Third National Bank (Barren County MRA)*, N. Green and Main Sts.
Glasgow, *U.S. Post Office/Board of Education Building (Barren County MRA)*, 202 W. Washington St.
Goodnight, *Quigley, G.F., and Son Grocery (Barren County MRA)*, Off U.S. 31–E
Hiseville vicinity, *Wood, William Johnson, House (Barren County MRA)*, E of Hiseville
Lucas vicinity, *White, Jesse and Simon, House (Barren County MRA)*, Off U.S. 31–E
Park City vicinity, *Old Zion Methodist Church (Barren County MRA)*, SR 1297
Park City, *Renfro Hotel (Barren County MRA)*, S. Dixie Ave.
Rocky Hill vicinity, *Octagon Cottage (Barren County MRA)*, Off SR 1297
Rocky Hill, *Settle, Franklin, House (Barren County MRA)*, KY 252 and KY 255
Roseville vicinity, *Landrum (Barren County MRA)*, SR 1316
Tracy vicinity, *Wooten, Joseph, House (Barren County MRA)*, Crabtree Rd.
Tracy vicinity, *Young, Asa E., House (Barren County MRA)*, Off KY 921

MARYLAND

Baltimore County

Owings Mills vicinity, *Plinlimmon Farm*, 9401 Lyons Mill Rd.

Queen Annes County

Church Hill vicinity, *Kennersley*, Clabber Hill Rd.

Talbot County

Easton vicinity, *All Saints' Church*, MD 662

SOUTH CAROLINA

Aiken County

Aiken, *Pickens House*, 101 Gregg Ave.

Bamberg County

Bamberg, *Bamberg Historic District*, E. Railroad Ave., 2nd, Midway, Elm, Cannon, N. Carlisle, and Church Sts.

Beaufort County

Bluffton vicinity, *Rose Hill Plantation House*, Off U.S. 278

Florence County

Florence, *Poynor Junior High School*, 301 S. Dargan St.

Kershaw County

Camden vicinity, *Cantey, Zachariah, House*, CR 92

Orangeburg County

Rowesville vicinity, *Cattle Creek Campground*, Off SC 210

Spartanburg County

Spartanburg, *Spartanburg Historic District*, W. Main, Magnolia, Wall, Ezell, and Spring Sts.

Union County

Union, *South Street Historic District*, Roughly South St. between Church and Boyce Sts.

UTAH

Iron County

Paragonah, *Ensign-Smith House*, 98 N. Main St.

The following property is being removed from the Pending List of April 19, 1983, because of procedural error.

NEW YORK

Dutchess County

Millbrook vicinity, *Lynfeld*, South Rd.

[FR Doc. 83-11699 Filed 5-2-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Privacy Act of 1974; Revision and Update of Systems of Records Notices

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organizational changes and transfers of functions which have occurred since the previous publication of the material in the Federal Register.

Routine uses providing for disclosures to members of Congress in response to inquiries by individuals of record have been added in records system notices for OS–46, OS–47, OS–51, OS–86 and OS–87. The statements describing the categories of individuals covered by the system notices for OS–47 and OS–50 have been clarified. System Number OS–86, Accounts Receivable, is revised to add a compatible disclosure to consumer reporting agencies to facilitate collection of debts owed the Government.

One system notice OS–53 titled "Classified Documents" (previously published at 45 FR 55836) is removed from the inventory of the Department's Privacy Act systems of records. Such records on classified documents are not retrieved by individual name or any identifier or symbol associated with an individual name.

The following system notices are updated and re-published in their entirety below:

1. System Name: Hearings and Appeals Files—Interior, OHA–1 (Published at 46 FR 12149).

2. System Name: Emergency Defense Mobilization Files—Interior, OS–15 (Published at 45 FR 55832).

3. System Name: Discrimination Complaints—Interior, OS–18 (Published at 42 FR 19018).

4. System Name: Secretarial Subject Files—Interior, OS–46 (Published at 45 FR 55834).

5 System Name: Parking Assignment Record—Interior, OS–47 (Published at 45 FR 55834).

6. System Name: Motor Vehicle Operator's Identification Card Applications—Interior, OS–50 (Published at 47 FR 27978).

7. System Name: Property Management Accountability—Interior, OS–51 (Published at 47 FR 27978).

8. System Name: Travel Management Records—Interior, OS–52 (Published at 47 FR 27979).

9. System Name: Safety Management Information System—Interior, OS–60 (Published at 45 FR 55837).

10. System Name: Applicant Files—Interior, OS–70 (Published at 46 FR 28520).

11. System Name: Accounts Receivable—Interior, OS–86 (Published at 42 FR 19033).

12. System Name: Cash Receipts—Interior, OS–87 (Published at 42 FR 19033).

Parts I, III, IV, and V of the Appendix containing addresses of facilities of the Department which pertain to the Office of the Secretary and Other Departmental Offices (published at 45 FR 55831 and 46 FR 12146) are updated and republished. Detailed listings of field facilities have been removed to reduce printing costs and eliminate the publication of obsolescent material.

These changes are being published pursuant to 5 U.S.C. 552a(e) (4). Written comments on this proposal may be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the Federal Register will be considered. The notice shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

Dated: April 26, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Appendix

* * * * *

I. Office of the Secretary.

(All addresses are as follows unless otherwise indicate: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240).

A. Immediate Office of the Secretary
B. Office of the Under Secretary
C. Office of the Assistant Secretary for Fish and Wildlife and Parks
D. Office of the Assistant Secretary—Land and Water Resources
E. Office of the Assistant Secretary—Energy and Minerals
F. Office of the Assistant Secretary—Policy, Budget and Administration.
G. Office of the Assistant Secretary—Indian Affairs
H. Office of the Assistant Secretary—Territorial and International Affairs
I. Office of the Congressional and Legislative Affairs
J. Office for Equal Opportunity
K. Office of Public Affairs
L. Office of the Information Resources Management
M. Office of Administrative Services
N. Office of Financial Management
O. Office of Personnel
P. Office of Acquisition and Property Management
Q. Office of Construction Management
R. Office of Aircraft Services—Headquarters Office, Office of Aircraft Services, 3905 Vista Avenue, Boise, Idaho 83705. Regional Office, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503
S. Office of Budget
T. Office of Policy Analysis
U. Office of Environmental Project Review
V. Office of Minority Institutions Program

* * * * *

III. Office of Hearings and Appeals

Headquarters Office: Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203

IV. Office of Inspector General

Headquarters Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240

V. Other Departmental Offices

(All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C. Streets, NW., Washington, D.C. 20240)

A. Office of Youth Programs
B. Office of Small and Disadvantaged Business Utilization
C. Office of Water Policy.

* * * * *

INTERIOR/OHA–1

SYSTEM NAME:

Hearings and Appeals Files—Interior. OHA–1

SYSTEM LOCATION:

(1) Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203. (2) All field facilities of

the Office of Hearings and Appeals. (Contact the System Manager for a list of addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual persons involved in hearings and appeals proceedings before the Hearings Division, Appeals Boards, and the Director, OHA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information assembled in case files pertaining to hearings proceedings, and to appeals to the Department relating to:

(a) contract disputes arising out of findings of fact or decisions by contracting officers of any bureau or office of the Department, or any field installation thereof, which are considered and decided finally for the Department by the Interior Board of Contract Appeals;

(b) Indian probate matters, including determination of heirs and approval of wills, except as to members of the Five Civilized Tribes and Osage Indians and resolution of appeals to the Department in such matters; proceedings in Indian probate relating to Tribal acquisition of certain interests of decedents in trust and restricted lands; and appeals pertaining to administrative actions of BIA officials in cases involving determinations, findings and orders protested as a violation of a right or privilege of the appellant, which are considered and decided finally for the Department by the Interior Board of Indian Appeals;

(c) appeals from decisions rendered by Departmental officials relating to the use and disposition of public lands and their resources, including land selections arising under the Alaska Native Claims Settlement Act, as amended; and the use and disposition of mineral resources in certain acquire lands of the United States and in the submerged lands of the Outer Continental Shelf, which are considered and decided finally for the Department by the Interior Board of Land Appeals;

(d) appeals from orders and decisions issued by Departmental officials and administrative law judges in proceedings relating to surface coal mining control and reclamation which are considered and decided finally for the Department by the Interior Board of Land Appeals;

(e) wildlife civil penalty assessment hearings before administrative law judges of the OHA and appeals from their orders and decisions which are considered and decided finally for the Department by the Director, OHA, or ad hoc appeals boards appointed by him;

(f) appeals from orders and decisions of Departmental bureaus pertaining to relocation assistance benefits claims, considered and decided finally for the Department by the Director, OHA, or ad hoc appeals boards appointed by him;

(g) grievance proceedings involving employees of the Department, in which hearings are conducted and recommended decisions are prepared by OHA attorneys and administrative law judges under authority delegated by the Director, OHA;

(h) proceedings and decisions by administrative law judges and the Director, OHA, concerning nondiscrimination in Federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by the Department of the Interior Effectuation of Title VI of the Civil Rights Act of 1964;

(i) proceedings and decisions by administrative law judges and the Director, OHA, concerning nondiscrimination in activies conducted under permits, rights-of-way, public land orders, and other Federal authorizations granted or issued under Title II of the Trans-Alaska Pipeline Authorization Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(a) R.S. 2478, as amended 43 U.S.C. sec. 1201: 5 U.S.C. sec. 301; Pub. L. 95–563, 41 U.S.C. 601. (b) 5 U.S.C. sec. 301; secs. 1, 2,, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 50 Stat. 1021, 1022; 25 U.S.C. 372, 373, 374, 373a, 373b; Act of December 31, 1970 (Pub. L. 91–627; 84 Stat 1874; 25 U.S.C. 607), amending sec. 7 of the Act of August 9, 1946 (60 Stat. 966; 25 U.S.C. 607), with respect to trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951); Act of August 10, 1972 Pub. L. 92–377; 86 Stat. 530), with respect to trust or restricted lands within the Warm Springs Reservation or within the area ceded by the Treaty of June 25, 1855 (12 Stat. 37); Act of September 29, 1972 (Pub. L. 92–443; 86 Stat. 744), with respect to trust or restricted land within the Nez Perce Indian Reservation or within the area ceded by the Treaty of June 11, 1855 (12 Stat. 957); R.S. 463, 465, 5 U.S.C. 301, and 25 U.S.C. 2 and 9. (c) R.S. 2478 as amended, 43 U.S.C. 1201; 5 U.S.C. 101; 43 U.S.C. 315a; 43 U.S.C. 1701(a)(5). (d) Sec. 201, Pub. L. 95–87, 91 Stat. 445, 30 U.S.C. 1201. (e) R.S. 2478, as amended, 43 U.S.C. 1201; 5 U.S.C. sec. 301; 43 U.S.C. 1601–1624. (f) Lacey Act, 18 U.S.C. sec. 43; Endangered Species Act of 1973, 16 U.S.C. sec. 1531 et seq.; Endangered Species Conservation Act of 1969 (formerly) 16 U.S.C. sec. 668aa et seq.; Marine Mammal Protection Act of 1972, 16 U.S.C. sec. 1361 et seq.; Bald Eagle Protection Act, 16 U.S.C. 668 et seq.; 5 U.S.C. 301 (g) 42 U.S.C. secs. 4601–4655; 5 U.S.C. 301. (h) 5 U.S.C. 301; 5 CFR Part 771; 5 U.S.C. 1302, 3301, 3302, E.O. 10577; 3 CFR, 1954–1958 Comp., p. 218, E.O. 10987; 3 CFR, 1959–1963 Comp., p. 519. (i) 43 CFR 17.8; 5 U.S.C. sec. 301; Title VI of the Civil Rights Act of 1964 (section 602, 42 U.S.C. 2000d–1); 43 CFR Part 17, including Appendix A thereto. (j) Sec. 403, Pub. L. 93–153, 87 Stat. 576, 5 U.S.C. 301, and 43 CFR Part 27.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for the adjudication and determination of issues in hearing and appeals proceedings. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name of appellant, claimant, etc., and by OHA docket number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Case materials returned to operating bureau or office after completion of OHA functions. Records of decisions not authorized for disposal.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203.

NOTIFICATION PROCEDURE:

System Manager or, with respect to records maintained in a field office for which he is responsible, an administrative law judge or chief administrative law judge in charge. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or, with respect to records maintained in a field office for which he is responsible, an administrative law judge or chief administrative law judge in charge. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Records in the system include information submitted by the appellants, claimants, and other persons involved in the hearings and appeals proceedings, as well as by the Government.

INTERIOR/OS–15

SYSTEM NAME:

Emergency Defense Mobilization Files—Interior, Office of the Secretary—15.

SYSTEM LOCATION:

(1) Office of the Assistant Secretary-Policy, Budget, and Administration. (2) Office of the Assistant Secretary-Energy and Minerals, (3) Office of the Assistant Secretary-Land and Water Resources. Addess for locations: U.S. Department of the Interior, 18th and C Streets, N.W.; Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and related records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer the NDER program. Disclosures outside the Department of the Interior may be made (1) to officials of participating departments and agencies relevant to reservists assigned to their units; (2) to the U.S. Department of justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records held for two years after individual's resignation or death.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records maintained in the Office of the Secretary, the Assistant Secretary-Policy, Budget and Administration. (2) For records maintained in the Office of the Assistant Secretary—Energy and Minerals, the Assistant Secretary—Energy and Minerals. (3) For records maintained in the Office of the Assistant Secretary—Land and Water Resources, the Assistant Secretary—Land and Water Resources.

NOTIFICATION PROCEDURE:

A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. The request shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals.

INTERIOR/OS–16

SYSTEM NAME:

Discrimination Complaints—Interior, Office of the Secretary—16.

SYSTEM LOCATION:

(1) Office for Equal Opportunity, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Bureau of Land Management, Alaska State Office, 701'C' Street, Box 13, Anchorage, Alaska 99513. (3) Bureau/office equal employment opportunity offices. A current listing of such offices may be obtained from System manager "(a)" below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who claim to have been discriminated against on the basis of race, color, sex, religion, or national origin in violation of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), in violation of Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576), or in violation of Executive Order 11246, as amended (3 CFR Part 169 (1974 ed.)).

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains complaints of discrimination; reports of complaints investigations and supplementary documentary evidence; correspondence, including requests for information from other Federal agencies, and from minority, civil rights, women's, and community organizations; documents obtained from recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, and subcontractors, under the Trans-Alaska Pipeline Authorization Act (87 Stat. 576); and miscellaneous statistical data obtained from various sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and its implementing regulations (43 CFR Pt. 17); Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576) and its implementing regulations (43 CFR Part 27); and Executive Order 11246, as amended (3 Part 169 (1974 ed.)) and its implementing regulations (41 CFR Ch. 60).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the investigation and resolution of complaints of discrimination in violation of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D), in violation of Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576), or in violation of Executive Order 11246, as amended (3 CFR Part 169 1974 Ed.)). Disclosures outside the Department of

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the Interior may be made (1) to other Federal agencies charged with the enforcement of equal employment opportunity laws, orders and regulations, on a need-to-know basis to assist these agencies in their enforcement activities; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name of complainant.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Records held for three years after close of case, then sent to storage in Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

(a) For complaints arising under Executive Order 11246, as amended (3 CFR Part 169 (1974 ed.)), and under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d)—Director, Office for Equal Opportunity, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (b) For complaints arising under Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576)—EEO Officer, Bureau of Land Management, Alaska State Office, 701 'C' Street, Box 13, Anchorage, Alaska 99513.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him is required, and shall be addressed to the appropriate System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager, and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Complainants; recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, and subcontractors, under Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576) and their employees; the administrators and recipients of Government funds from programs administered by the Department of the Interior; Federal, State, and local government agencies; community, minority, civil rights, and women's organizations; unions; members of Congress and their staffs; Bureaus and offices of the Department of the Interior; and confidential informats, to the extent they possess data otherwise unavailable.

INTERIOR/OS-46

SYSTEM NAME:

Secretarial Subject Files—Interior, Office of the Secretary—46.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Branch of Office Services, Secretary's Mail and Files Section, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have had correspondence with the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Index cards containing the name, dates, and subject codes for retrieval of subject files, subject files of correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior, Under Secretary, Solicitor, Assistance Secretaries. Disclosures outside the department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3" x 5" index cards correspondence filed in folders.

RETRIEVABILITY:

Indexed by subject.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services (PMO) Office of Adminstrative Services, U.S.Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requestor seeks information concerning records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Correspondence or documents signed at the Secretarial level.

INTERIOR/OS-47

SYSTEM NAME:

Parking Assignment Record—Interior, Office of the Secretary—47

SYSTEM LOCATION:

Office of Administrative Services (PMO), Division of General Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual requesting a parking permit or joining a carpool from both the Federal and private sector.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, social security number, telephone number at work, service computation date, vehicle make and model, state of registration, license tag number, residence address, location of employment, parking space location and number, and number of carpool riders

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471, et seq., FMC 74-1 FPMR Temporary Regulation D-43.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) internal control over the assignment of parking permits (b) assistance to individuals in locating carpools. Disclosures ouside the department are (1) to a Federal agency that has jurisdiction over parking space, (2) to the U.S. Department of justice when related to litigation or anticipated litigation (3) of information indicating a violation of a stature, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing of implementing the statute, rule, regulation, order of license and (4) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer printout.

RETRIEVABILITY:

Indexed by name of individual, social security number, zip code of individual's residence, organization location and license tag number

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL:

Records maintained on a current basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of General Services, Office of Administrative Services (PMO), U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data furnished by the individual.

INTERIOR/OS-50

SYSTEM NAME:

Motor Vehicle Operator's Indentification Card Applications—Interior, Office of the Secretary—50.

SYSTEM LOCATION:

Office of the Secretary—(1) Branch of Office Services, Division of General Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240. (2) Division of Personnel Servies, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or contractors in the Office of the Secretary, Other Depatmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support, who have been issued government driver identification cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, title, sex, date of birth, place of birth, physical characteristics, social security number, past driving record, traffic citations, accidents for past three years, medical history, state driver license number, and road test results, when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491(j); 5 U.S.C. 1302, 3301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is internal control over the issuance of government driver identification cards. Disclosure outside the Department are, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order of license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the status, rule, regulation, order or license (3) to a Federal agency where necessary to obtain information relevant to the issuance of an operator's permit, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on form DI-131-Rev. and Standard Form 47.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Subject to general records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services and Chief, Division of Personnel Services, Office of Administrative Services, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees applying for a government driver identification card.

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INTERIOR/OS-51

SYSTEM NAME:

Property Management Accountability—Interior, Office of the Secretary—51.

SYSTEM LOCATION:

Branch of Office Services, Division of General Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals designated as Responsible Officers in the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support and who are charged with the care, utilization, recordkeeping, etc., for property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains computer identification codes for each Responsible Officer and descriptive data about each piece of property (excluding supplies) assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal control of property assigned to offices. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to respond to General Accounting Office audits, and (4) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

System is indexed by code assigned to each Responsible Officer or by various property system codes.

SAFEGUARDS:

Maintained with safeguards meeting the "Computer Security Guidelines for Implementing the Privacy Act of 1974."

RETENTION AND DISPOSAL:

Destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Responsible Officer who is assigned the property by code.

INTERIOR-OS-52

SYSTEM NAME:

Travel Management Records—Interior, Office of the Secretary—52.

SYSTEM LOCATION:

Branch of Travel Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or individuals who travel on official business on behalf of the Department of the Interior, Mine Safety and Health Administration (MSHA), Department of Labor Regional Solicitor in Philadelphia, Penna., and Independent Agencies, Councils, and Commissions who are provided administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains passports, visas, printouts of airline ticket payment reports, Government transportation requests, and travel tickets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary used of the records are making reservations, generating tickets, and transferring travel tickets to fiscal services for payment. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of and individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printouts and tickets maintained in folders. Government transportation requests, passports, and visas are maintained in a locked safe.

RETRIEVABILITY:

Printouts filed by bureau. Government transportation requests filed by number and name. Passports and visas filed by name.

SAFEGUARDS:

Passports, visas, and Government transportation requests, log books stored in a locked room in manipulation proof three way combination lock steel safes. Printouts stored in a locked office. Access granted only to designated personnel.

RETENTION AND DISPOSAL:

General Records Schedule No. 9, Item No. 4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Travel Services, Office of Administrative Services, Department of the Interior, 18th and C Street, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit request to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees and individuals who travel on behalf of the Department.

INTERIOR/OS-60.

SYSTEM NAME:

Safety Management Information System—Office of the Secretary—60.

SYSTEM LOCATION:

(1) Division of Safety Management, Office of Acquisition & Property Management, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) All field offices and bureau headquarters retain copies of source document.

CATEGORIES OF INDIVIDUALS COVERD BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Interior facilities who have been involved in an accident resulting in personal injury, and/or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employees only), occupation, date and location of accident; data elements about the accident for analytical purposes; and descriptive narrative concerning the reason for the loss producing event.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2671–2680, (3) 31 U.S.C. 240–243, (4) Executive Order 12196 (1980), (5) 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provide summary data of injury, illness and property loss information to bureaus in a number of formats for analytical purposes in establishing program to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to bureaus to insure that accidents occurring are reported through the Safety Management Information System, and (c) adjudicating tort and employee claims. Disclosures outside the Department of the Interior may be made, (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) provide to the Department of Labor quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on magnetic tape, with copies of source document maintained at bureau safety management headquarters, regional, and field offices where accident is reported.

RETRIEVABILITY:

System is indexed by bureau assigned document control number.

SAFEGUARDS:

Maintained with safeguards meeting the 'Computer Security Guidelines for Implementing the Privacy Act of 1974.'

RETENTION AND DISPOSAL:

Data stored on magnetic tape is retained as a permanent record. Source documents are to be retained at the field level for five years following end of the calendar year to which the record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Safety Management, Office of Acquisition & Property Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

System manager or the field office in which the source document pertaining to the individual would be filed. The source document contained in the field office need not be maintained more than five calendar years past the date of the record as indicated in records disposal. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or the field safety office in which the source document for the individual would be filed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisor of employee involved in accident. Investigation conducted by supervisor of employee and may include safety professionals and other management officials of the involved bureau of office.

INTERIOR/OS-70

SYSTEM NAME:

Applicant Files–Interior, Office of the Secretary—70.

SYSTEM LOCATION:

(1) Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OR RECORDS IN THE SYSTEM:

Applicants, recommendations, interview notes and other documents utilized to determine eligibility, suitablility and qualifications for Federal civilian employment maintained subject to applicable Office of Personnel Management requirements, including Office of Personnel Management Rule VI and Chapter 302 of the Federal Personnel Manual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43,U.S.C. 1457, Reorganization Plan 3 of 1950.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the hiring of applicants. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementating the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Current applications retained.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For the Office of the Solicitor: Director of Administration, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. (2) For the Office of Hearings and Appeal: Director, Office of Hearings and Appeals, U.S. Department of the Interior 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate systems manager. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate Systefn Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendments should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation, 43 CFR 2.79(c), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (1) and (f) to the extent that it consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/OS-86

SYSTEM NAME:

Accounts Receivable—Interior, Office of the Secretary—86.

SYSTEM LOCATION:

Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All debtors including employees, former employees, business firms, private citizens and institutions. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations, other business entities and organizations. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, amount and basis including goods, services or overpayments therefor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) U.S.C. 5701–09. (2) FPMR 101–7. (3) Treasury Fiscal Requirements Manual. (4) 31 U.S.C. 952.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for billing and follow-up. Disclosure outside the Department of the Interior may be made (1) to the U.S. Department Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual, and (4) to consumer reporting agencies to facilitate collection of debts owed the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

Indexed by appropriation or fund to be credited.

SAFEGUARDS:

Maintained in locked room when not in use.

RETENTION AND DISPOSAL:

Retained until payment is received and then incorporated in collection records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Debtor, accounting records.

INTERIOR/OS-87

SYSTEM NAME:

Cash Receipts—Interior, Office of the Secretary—87.

SYSTEM LOCATION:

Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons paying for goods or services, returning overpayments or otherwise delivering cash. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations, other business entities and organizations. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, the goods or services purchased, check number, date and treasury deposit number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to account for monies paid to the Office of the Secretary. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order of license, and (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine readable.

RETRIEVABILITY:

Date and name.

SAFEGUARDS:

Maintained in locked room when not in use.

RETENTION AND DISPOSAL:

Retained on site until audited by GAO or transferred to a Federal Records Center in accordance with the fiscal records program approved by GAO, if appropriate, or the applicable GSA General Record Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43–CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual remitters.

[FR Doc. 83-11734 Filed 5-2-83; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: the motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 2, 1983. Petitions for reconsideration must be filed by May 23, 1983. Petitions for stay must be filed by May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood. (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, D.C. 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Decided: April 25, 1983.

Agatha L. Mergenovich,
Secretary.

[No. MC–F–15095]

BRADLEY FREIGHT LINES, INC.—Merger exemption—C & C TRANSPORT, INC. Addresses: Send pleadings to: (1) Motor Section, Room 3139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioners' representative, Henry E. Seaton, 929 Pennsylvania Bldg., 13th and Pennsylvania Ave., N.W., Washington, DC 20004. Pleadings should refer to No. MC–F–15095. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(1), the merger of C & C Transport into Bradley Freight Lines. By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett would not have the exemption authority lapse after one year.

[No. MC–F–15096]

MAKO SERVICES INC.—purchase exemption—A & A TRANSPORT, INC. Addresses: send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioners' representative, Arlyn L. Westergren, Westergren, Hauptman & O'Brien, P.C., Suite 201, 9202 W. Dodge Road, Omaha, NE 68114. Pleadings should refer to No. MC–F–15096. Under 49 U.S.C. 11343(e),

the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(a), the purchase by Mako Services, Inc. (No. MC–157834) of the authorities issued to A & A Transport, Inc., in No. MC–145679 (Sub-Nos. 18, 19, and 22).

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

[FR Doc. 83-11726 Filed 5-2-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–FC–155

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81377. By decision of April 26, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to ALPHA VAN LINES, INC., Springfield, VA, of Certificate No. MC–36900 (Sub-No. 20), issued April 22, 1983, to CONTAINER IN TRANSIT, INC., Alexandria, VA, authorizing the transportation over irregular routes, of household goods, between points in the U.S. (except AK and HI). Representative: Martin R. Martino, 333 So. Glebe Rd., Arlington, VA 22204

MC–FC–81399. By decision of April 26, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to ALBERT N. WATERS, d/b/a/ NEAL'S TRUCKING, of Certificate No. MC–154581, issued April 22, 1982, to SANDPIPER CONTAINER TRUCKING, INC., Seattle, WA, authorizing the transportation of general commodities (except classes A and B explosives and household goods as defined by the Commission), in containers or trailers having a prior or subsequent movement by water, between points in WA and Multnomah County, OR, on the one hand, and, on the other, points in WA, and Multnomah, Washington, and Clackamas Counties, OR. An application for temporary authority has been filed. Representative: Larry C. Leonardson, 3530 Sea-1st Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, WA 98104.

MC–FC–81409. By decision of April 26, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to AAA MOVING SERVICES, INC., Savannah, GA, of Certificate No. MC–1840, issued April 30, 1965, to GIVENS TRANSFER COMPANY, INC., Savannah, GA, authorizing the transportation of household goods, as defined by the Commission, between Savannah, GA, and points in GA within 50 miles of Savannah, on the one hand, and, on the other, points in GA, SC and FL. Applicants' representative: L. T. Givens, Jr., 8 Warner Street, P.O. Box 1965, Savannah, GA 31402.

Volume No. OP1–FC–156

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81395. By decision of April 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to GULF CARRIERS, INC., of Houston, TX, of Certificate No. MC–148101, issued December 22, 1980, to GALENA PARK TRUCKING COMPANY, of Houston, TX, authorizing the transportation of general commodities) except classes A and B explosives), between the commercial zones of (a) Houston, TX, (b) Galveston, TX, (c) Texas City, TX, (d) Baytown, TX, (e) Beaumont, TX, (f) Port Arthur, TX, (g) Orange, TX, (h) La Porte, TX, (i) Port Lavaca, TX, (j) Corpus Christi, TX, (k) Bay City, TX, (l) Port O'Conner, Texas, (m) Brownsville, TX, (n) New Orleans, LA, (o) Baton Rouge, LA, and (p) Lake Charles, LA, restricted to traffic having a prior or subsequent movement by water. Representative: James B. Eaton, 9219 Katy Fwy., Suite 140, Houston, TX, 77024, (713) 461–2430

[FR Doc. 83-11728 Filed 5-2-83; 8:45 am]
BILLING CODE 7035-01-M

[No. 39093 et al.] [1]

Motor Carriers; Joseph Moving & Storage Co.—Petiton for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Three motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisonally granted for future as well as existing contracts.

DATE: Comments are due on May 18, 1983. The sought relief will become final on June 2, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Elaine Dobbins, (202) 275–6272
or
Howell I. Sporn, (202) 275–7691.

[1] This proceeding embraces three petitions for exemption filed by motor contract carriers: No. 39093, Joseph Moving & Storage Co.; No. 39095, Allied Van Lines, Inc.; and No. 39096, Dutra Trucking Co., Inc.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, DC, 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: April 25, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-11727 Filed 5-2-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–185

Decided: April 22, 1983.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 167385, filed April 11, 1983. Applicant: M T S AGENCIES, INC., 63–69 Hook Rd., Bayonne, NJ 07002. Representative: Paul Semack (same address as applicant), (201) 823–4601. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–152

Decided: April 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167531, filed April 19, 1983. Applicant: McGRATH SALES ASSOCIATES, 23 Biscayne Parkway, Nashua, NH 03060. Representative: Edward F. McGrath (same address as applicant) (603) 889–1708. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167550, filed April 20, 1983. Applicant: CHARLES J. JOHNSON, d.b.a. CHASER FREIGHT BROKER COMPANY, 9233 S. Bishop, Chicago, IL 60620. Representative: Charles J. Johnson (same address as applicant), (312) 233–3840. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP1–154

Decided: April 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167510, filed April 18, 1983. Applicant: GENERAL COMMODITIES BROKERAGE CO., 1525 NW 78th, Clive, IA 50013. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-11731 Filed 5-2-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Fowarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed

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by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–189

Decided: April 26, 1983.

MC 166874, filed March 18, 1983, previously noticed in the **Federal Register** on April 7, 1983. Applicant: RIDDLE TRUCKING, INC., RR 2, Box 256, Montgomery City, MO 63361. Representative: Herman W. Huber, 101 East High St., Jefferson City, MO 65101, (314) 636–9131. Transporting *soybean oil, soybean meal and related products,* between points in Audrain County, MO, on the one hand, and, on the other, points in AR IL, IA, and MO.

Note.—This republication corrects the commodity description.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–153

Decided: April 26, 1983.

MC 38591 (Sub-4), filed April 18, 1983. Applicant: NATIONWIDE MOVING & STORAGE CO., INC., P.O. Box 498, Bloomfield, CT 06002. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods and furniture and fixtures,* between points in the U.S. (except AK and HI).

MC 115651 (Sub-109), filed April 18, 1983. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 134501 (Sub-95), filed April 14, 1983. Applicant: INCORPORATED CARRIERS, LTD., a Division of MICROTON INDUSTRIES, INC., P.O. Box 3128, Irving, TX 75061. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102, (405) 232–9990. Transporting *general commodities,* between points in the U.S. (including AK and HI). Condition: To the extent that the certificate issued in this proceeding will authorize the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 150951 (Sub-21), filed April 15, 1983. Applicant: CRANSTON TRUCKING COMPANY (Division of Cranston Print Works Co.), 1381 Cranston St., Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile mill products,* between points in the U.S., under continuing contract(s) with Eastern Sportswear Manufacturing Co., of New Bedford, MA.

MC 157421 (Sub-2), filed April 15, 1983. Applicant: JESSE ROBERTS, d.b.a. POWER TRANSPORT, East 6607 Broadway, Spokane, WA 99206. Representative: Andrew D. Shafer, Suite 1200, IBM Building, Seattle, WA 98101, (206) 624–7373. Transporting *lumber and building materials,* between points in the U.S. (except AK and HI).

MC 160661 (Sub-2), filed April 15, 1983. MARVIN WARD, d.b.a. MARVIN WARD TRUCKING, 2807 Shenandoah, Tyler, TX 75701. Applicant: Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, NM, and TX, on the one hand, and, on the other, points the U.S. (except AK and HI).

MC 167320, filed April 18, 1983. Applicant: PHILIP R. DYCKOWSKI, d.b.a. DYCKOWSKI TRUCKING, 7770 Kiszonas Lane, Armstrong Creek, WI 54103. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–9119. Transporting *lumber and wood products,* between points in Forest County, WI, on the one hand, and, on the other, points in IL, IN, IA, MI, and MN.

MC 167460, filed April 15, 1983. Applicant: HOFFMAN GRAIN & STEEL, INC., P.O. Box 145, Route 1, Chickasha, OK 73108. Representative: Charles E. Munson, 500 West Sixteenth, P. O. Box 1945, Austin, TX, 78767, (512) 478–9808. Transporting *metal products,* between points in TX, LA, OK, KS, CO, NE, MO, and IL.

For the following, please direct status calls to Team 2 at 202–275–7990.

Volume No. OP2–195

Decided: April 26, 1983.

MC 118288 (Sub–2), filed April 13,1983. Applicant: COLDWAY CARRIERS, INC. P.O., Box 2038, Clarksville, IN 47130. Representative: George M. Catlett, Suite 700–702, McClure Bldg. Frankfort, KY 40601, 502–227–7384. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 145313(Sub–2), filed April 11, 1983. Applicant: CODE THREE AVIATION, INC., 22845 Mariano St., Woodland Hills, Ca 91367. Representative: Alexander Adams (same address as applicant), 213–780–0727. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses, between points in CA, OR, WA, ID, NV, UT, CO, AZ, NM, TX, WY, and MT.

MC 146313 (Sub-5), filed April 12, 1983. Applicant: WILLIAM E. MULLENAX, d.b.a. MULLENAX REFRIGERATED TRANSPORT, Route 220 S., Petersburg, WV 26847. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *food and related products,* between points in OH, KY, WV, VA, IN, and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167143, filed March 31, 1983. Applicant: SIKES TRANSPORTATION COMPANY, a Division of SIKES CORPORATION, U.S. Highway 127, and State Rd. 512, Lawrenceburg, KY 40342. Representative: M. Craig Massey, 1701 South Florida Ave., P.O. Drawer 2787, Dixieland Station, Lakeland, FL 33806–2787, 813–682–1178. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 167332, filed April 11, 1983. Applicant: EDDIE CRUZ, d/b./a. E & C FREIGHTLINES, 1350 S. Manhattan Ave., Fullerton, CA 92631. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, 213–655–3573.Transporting *furniture and fixtures,* between Los Angeles, CA, and Points in Tarrant County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167342, filed April 11, 1983. Applicant: CENTERVILLE MOVING & STORAGE CO., INC., 7825 Congress Park Dr., Centerville, OH 45459. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting *household goods and furniture and fixtures,* between points in the U.S. (except AK, HI, WA, OR, CA, NV, ID, UT, AZ, NM, WY, MT, ND, and SD).

MC 167422, filed April 15, 1983. Applicant: CENTRAN, INC., 1450 Dewey Ave., P.O. Box 3150, Williamsport, PA 17701. Representative: J. G. Dail, Jr., P.O. Box 11, McLean, VA 22101, (703) 893–3050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cenpro, Inc., of Williamsport, PA.

MC 167432, filed April 15, 1983. Applicant: RALPH R. BLUM, 2913 N. Kidder Creek Rd., Greenview, CA 96037. Representative: Ralph R. Blum (same address as applicant), 916–468–5435.Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R&R Truck Brokers, Inc., of Medford, OR.

[FR Doc. 83-11732 Filed 5-2-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2–194]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating right authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register.**

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 152183 (Sub-4) (Republication) filed April 28, 1982, published in the **Federal Register** issue of June 2, 1982, and republished this issue. Applicant: FLAMINGO TRANSPORT, INC., P.O. Box 890, Adairsville, GA 30103. Representative: Frank Linn (same address as applicant). A decision of the Commission, *Division 2,* Acting as an Appellate Division, Commissioners Andre, Gilliam and Taylor, decided December 21, 1982, and served December 28, 1982, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities,* between Blanche and Blue Pond, AL., Bartlett, Cartago, Cosco, Inyokern, Little Lake, Lone Pine, Olancha, Pencilwood, and Swanston, CA, Dundee, Lake Hamilton, and Waverly, FL, Chelsea and Menlo, GA, Corral and Hill City, ID, Addison, Grand Tower, Mooseheart, and Sand Ridge, IL, LaOtto, IN, Orange City, IA, Viola and Wier, KS, Benton and Hardin, KY, Amesbury and Salisbury, MA, Alden, Bellaire, Bendon, Central Lake, Chief Lake, Interlochen, Kaleva, Norwalk, and Rapid City, MI, Key West, MN, Fairfax and Tarkio, MO, Huntley and Ragan, NE, Pactolus, Stokes, and Whichard, NC, Dunseith, ND, and Ehrhardt and Lodge, SC, on the one hand, and, on the other, points in the United States; that applicant is fit, willing, and able properly to perform the service authorized and to conform to statutory and administrative requirements. The purpose of this republication is to broaden commodity and territorial description.

MC 154782 (Sub-1) (Republication) filed March 23, 1981, published in the **Federal Register** issue of April 9, 1981.

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and republished this issue. Applicant: M.C.H. TRUCKING CORP., 494 Howe St., Prattsburg, NY 14873. Representative: Kenneth M. Piken, Queens Office Tower, 96–25 Queens Boulevard, Rego Park, NY 11374. A Decision of the Commission, *Review Board 1*, decided February 2, 1983 and served February 14, 1983, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *contract carrier*, by motor vehicle, transporting *dairy products and such commodities* as are dealt in by dairies, between points in the United States, under continuing contract(s) with Kellogg Company, of Battle Creek, MI, and Elmhurst Milk & Cream Co., Inc., and subsidiaries, Worcester Creameries Corp., and Honeywell Farms, Inc., of Jamaica, NY; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this is to include the phase "and its subsidiaries".

MC 164532 (Republication) filed November 2, 1982, published in the **Federal Register** issue of November 18, 1982, and republished this issue. Applicant: H & J TRANSPORTATION, INC., 801 East St., Memphis, TN 38104. Representative: Michael E. Doyle (same as applicant). A Decision of the Commission, *Review Board 2*, decided March 8, 1983 and served March 14, 1983, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common-carrier*, by motor vehicle, transporting (2) *chemicals and related products*, between points in the United States (except Alaska and Hawaii), that applicant is fit, willing, and able properly to perform the service authorized and to conform to statutory and administrative requirements. The purpose of this republication is to show broadening of authority.

[FR Doc. 83–11730 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–196]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: April 27, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was publised in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, at (202) 275–7030.

MC 133403 (Sub-6X), filed April 11, 1983. Applicant: HUDSON TRANSIT CORPORATION, P.O. Box 386, Montgomery, NY 12549. Representative: Samuel B. Jamieson, Jr. (same address as applicant), 201–529–3666. Lead: (A) remove restrictions (1) "No passenger shall be discharged at Corning, NY, on westbound trips or picked up at Corning, NY, on eastbound trips." (2) "Service at Vestal, NY shall be limited to that of tacking and/or joinder." (3) "No service shall be provided at any point intermediate to Binghamton NY, and Corning, NY, except Vestal, NY as stated immediately above," and (B) authorize service at all intermediate points over described regular route extending between junction NY Hwys 17(C) and 26 at Endicott, NY, and junction NY Hwys 17 and 26 at Vestal, NY.

[FR Doc. 83–11723 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 ICC 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: April 26, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume OP4–F–252

[No. MC–F–15245]

Trailer Transit, Inc.—Purchase Exemption—Sawyer Transport, Inc. (Nathan Yorke, Trustee-in-Bankruptcy)

Trailer Transit, Inc. (Trailer) (MC–160088) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of those operating rights of Sawyer Transport, Inc. (Sawyer) (MC–123407 and 15075) found (a) in paragraphs (5) (a) and (b), (17), (43), (48), (53), (131), (142) (a) and (b), (174), (200), (219), (222), (236), (240), (315), (63), (12) (a) and (b), (20), (27), (59), (73), (88), (38), (109), (8), (139) (a), (b), (c), (d), (e), (f), and (g), and (324) of its Sub-No. 868X certificate, including the underlying authorities in paragraph (6) of its lead certificate and in its Sub-Nos. 22, 44, 82, 98, 107, 272, 283, 340, 396, 430, 434, 460F, 466F, 628F, 125, 29, 52, 61, 118, 139, 171, 72, 219, 20, and 643F certificates, (b) in its Sub-Nos. 660FF, 672, 655F, 658F, 41, 85, 87, 140, 381, 407, 441F, 450F, 462F, 519F, 522, 541F, 549, 613, 640F, 641F, 648F, 654F, 657F, 659F, and 671 certificates and (c) in its Sub-Nos. 2F, 3F, 4F, 5F, and 6 permits. These certificates and permits authorize the transportation of numerous commodities between numerous points throughout the country. In addition, temporary authority is sought for Trailer to lease Sawyer's operating rights pending disposition of the petition for exemption.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423.
and
(2) Petitioner's representative: Carl L. Steiner, 135 S. LaSalle St., Chicago, IL 60603.

Comments should refer to No. MC–F–15245.

[FR Doc. 83–11724 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

[No. 36887 (Sub-1) et al.[1]]

Motor Carriers; RTC Transportation, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Eight motor contract carriers have each requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due on May 18, 1983. The sought relief will become final on June 2, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing the relief.

ADDRESS: Send an original and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Elaine Dobbins (202) 275–6272
or
Howell I. Sporn (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: April 25, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–11730 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

[1] This proceeding embraces eight petitions for exemption filed by motor contract carriers:
No. 36887 (Sub-No. 1) RTC Transportation, Inc.
No. 39161 Buffalo Wood, Inc.
No. 39162 market Support Services, Inc.
No. 39163 K.L.T. Motor Express, Inc.
No. 39164 Dash Transportation, Inc.
No 39170 Central Transport, Inc.
No. 39171 Graebel Van Lines, Inc.
No. 39173 I.W. Transport, Inc.

[Finance Docket No. 30134]

Rail Carriers; Andalusia and Conecuh Railway Company, Inc.-Exemption From Various Provisions of 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Andalusia and Conecuh Railroad Co., Inc., from the provisions of 49 U.S.C. Chapters 107, 109 (except for 49 U.S.C. 10905(f)(4) for two years), and 111, and from the securitites provisions of 49 U.S.C. 11301, for its proposed service between Gantt and Andalusia, AL.

DATES: This exemption will be effective on June 2, 1983. Petitions for stay must be filed May 13, 1983, and petitions for reconsideration must be filed by May 23, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30134 to:
(1) Rail Section, Room 5340, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Charles J. Streiff, 1610 Two Chatham Center, Pittsburgh, PA 15219

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained n the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc. Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan Area) or toll free (800) 424–5403.

Decided: April 20, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–11729 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30102]

Continental Group, Inc.—Control Exemption—Motor Carrier

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts the acquisition of control of an as yet to be formed motor carrier by the Continental Group, Inc. from the requirements of prior approval under 49 U.S.C. 11343 *et seq.*

DATES: The exemption will be effective June 3, 1983. Petitions for stay must be filed by May 16, 1983, and petitions for reconsideration must be filed by May 25, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30102 to:
Rail Section, Room 5340, Interstate Commerce Commission, Washington, DC 20423
Petitioner's representative: Daniel C. Sullivan, 180 North Michigan Ave., Chicago, IL 60601

FOR FURTHER INFORMATION CONTACT: Louise E. Gitomer, (202) 275–7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: April 26, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–11687 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 83–7968 beginning on page 13107 in the issue of Tuesday, March 29, 1983, make the following corrections:

1. On page 13110, column one, paragraph one, "MC 166453," line thirteen, "ND," should appear between "MT" and "NE".

2. On page 13110, column one, paragraph one, "MC 166453," line fourteen, "VA" should read "WA".

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DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation; Development of National Baseline Information on Offender Processing Costs

The National Institute of Justice announces a competitive solicitation for a cooperative research agreement entitled, Development of National Baseline Information on Offender Processing Costs. It is anticipated that approximately $750,000 will be allocated for a single award with a 21-month study period. Funding recommendations will be made to the Director of the National Institute of Justice by a Peer Review Panel composed of internal staff and outside experts. To be eligible for consideration, proposals must be received by Friday, July 1, 1983.

Copies of this solicitation can be obtained by writing the Director, Office of Research and Evaluation Methods, National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531 or by calling the Project Manager, Dr. Edwin Zedlewski, at (202) 724–8265.

James K. Stewart,
Director.

[FR Doc. 83-11770 Filed 5-3-83; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 18, 1983–April 22, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,784; Hawera Tool Manufacturing Co., Jackson, MS
TA–W–13,786; L.F. Fales Machine Co., Walpole, MA
TA–W–13,594; Republic Steel Corp., Central Alloy District, Basic Steel Plant Canton, OH
TA–W–13,596; Republic Steel Corp., Central Alloy District, Massillon Works, Massillon, OH
TA–W–13,690; W.T. Armstrong Co., Elkhart, IN
TA–W–13,624; Wheeling-Pittsburgh Steel Corp., Yorkville, OH
TA–W–13,666; Reynolds Metals Co., Plant #1, #3, #15, Louisville, KY
TA–W–13,667; Roma Printing & Finishing Corp., Paterson, NJ
TA–W–13,718; Monarch Machine Tool Co., Cortland, NY
TA–W–13,746; Shieldalloy Corp., Newfield, NJ
TA–W–13,793; Superior Electric Products Corp., Cape Girardeau, MO
TA–W–13,623; Wheeling-Pittsburgh Steel Corp., Beech-Bottom, WV
TA–W–13,792; Republic Street Corp., Southern District, Gadsden, AL
TA–W–13,816; Boris Smoler & Sons, Inc., Elkhart, IN
TA–W–13,379; Cleveland Pneumatic Co., Cleveland OH
TA–W–13,881; Metals Applied Co., Cleveland, OH

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,828; Opelika Manufacturing Corp., Whitehouse Manufacturing Co. Div., Miami, FL
TA–W–13,747; AFA Corp., Miami Lakes, FL

In the following cases the investigation revealed that criterion (3) had not been met for the reasons specified.

TA–W–13,932; Ames Coal Co., Logan County, WV

Aggregate U.S. imports of coke did not increase as required for certification.

TA–W–13,934; Calgon Corp., South San Francisco, CA

Aggregate U.S. imports of magnesium oxide are negligible.

TA–W–13,988; Badger Coal Co., Grand Badger #1, Sago, WV

Aggregate U.S. imports of cola or coke did not increase as required for certification.

Affirmative Determinations

TA–W–13,661; Levi Strauss & Co., Laredo, TX

A certification was issued covering all workers of the firm separated on or after September 1, 1981 and before April 15, 1982.

TA–W–13,888; Friend Manufacturing Corp., Gasport, NY

A certification was issued in response to a petition received on October 2, 1982 covering all workers separated on or after October 15, 1981.

TA–W–13,861; U.S. Steel Corp., Clairton Works, Clairton, PA

A certification was issued covering all workers engaged in employment related to the production of hot rolled carbon steel bars, coke, & coal chemical by-products of the firm separated on or after October 15, 1981.

TA–W–13,556; Carpenter Technology, Steel Div., Reading, PA—Plant and Headquarters

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,557; Carpenter Technology, Steel Div., Bridgeport, CT

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,558; Carpenter Technology, Steel Div., Hapeville, GA

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,559; Carpenter Technology, Steel Div., Mansfield, MA

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,560; Carpenter Technology, Steel Div., Charlotte, NC

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,561; Carpenter Technology, Steel Div., Melrose Park, IL

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,562; Carpenter Technology, Steel Div., Cincinnati OH

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,563; Carpenter Technology, Steel Div., Cleveland, OH

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,564; Carpenter Technology, Steel Div., Dallas, TX

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,565; Carpenter Technology, Steel Div., Troy, MI

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,566; Carpenter Technology, Steel Div., Hartford, CT

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,567; Carpenter Technology, Steel Div., Houston, TX

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,568; Carpenter Technology, Steel Div., Indianapolis, IN

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,569; Carpenter Technology, Steel Div., Los Angeles, CA

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,570; Carpenter Technology, Steel Div., Memphis, TN

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,571; Carpenter Technology, Steel Div., Milwaukee, WI

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,572; Carpenter Technology, Steel Div., Minneapolis, MN

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,573; Carpenter Technology, Steel Div., W. Caldwell, NJ

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,574; Carpenter Technology, Steel Div., Fort Washington, PA

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,575; Carpenter Technology, Steel Div., Rochester, NY

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,576; Carpenter Technology, Steel Div., St. Louis, MO

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,577; Carpenter Technology, Steel Div., Belmont, CA

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,578; Carpenter Technology, Steel Div., So. Bend, IN

A certification was issued in response to a petition received on June 11, 1982 covering all workers engaged in employment related to the production of alloy steel, stainless steel wire or stainless steel bar separated on or after August 28, 1981.

TA–W–13,937; Publicker Industries, Inc., Ethylene & Stillhouse Operations, Philadelphia, PA

A certification was issued in response to a petition received on November 10, 1982 covering all workers separated on or after January 1, 1982 and before June 30, 1982.

TA–W–13,655; Babcock & Wilcox Co., Tubular Products Group, Milwaukee Works, Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after July 16, 1981.

TA–W–13,654; Babcock & Wilcox Co., Tubular Products Group, Beaver Falls Works, Beaver Falls, Koppel, and Ambridge, PA

A certification was issued covering all workers of the firm separated on or after July 16, 1981.

TA–W–13,538; Jones & Laughlin Steel Corp., Pittsburgh Works, Pittsburgh, PA

A certification was issued covering all workers of the firm separated on or after May 11, 1981.

TA–W–13,675; Crane Co., Chattanooga Valve Plant, Chattanooga, TN

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A certification was issued covering all workers of the firm separated on or after October 1, 1981.

TA–W–14,166; Double Talk, Inc., Miami, FL

A certification was issued covering all workers of the firm separated on or after April 2, 1982 and before November 5, 1982.

TA–W–13,751; Coronet Casuals, Inc., Portsmouth, VA

A certification was issued in response to a petition received on August 25, 1982 covering all workers separated on or after February 27, 1982.

TA–W–13,862; Union Carbide Corp., Carbon Products Div., Fostoria, OH

A certification was issued in response to a petition received on October 18, 1982 covering all workers separated on or after May 1, 1982 and before March 1, 1983.

TA–W–13,833; U.S. Steel Mining Corp., Inc., Decota Mining District, Carbon Div., Carbon, WV

A certification was issued covering all workers of the firm separated on or after August 31, 1982.

TA–W–13,634; U.S. Steel Mining Corp., Inc., Decota Mining District, Crimson Div., Winifrede, WV

A certification was issued covering all workers of the firm separated on or after August 31, 1982.

TA–W–13,896; U.S. Steel Mining Corp., Inc., Decota Mining District, Eagle Div., Chesapeake, WV

A certification was issued covering all workers of the firm separated on or after August 31, 1982.

I hereby certify that the aforementioned determinations were issued during the period April 18, 1983–April 22, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 26, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1176 Filed 5-2-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: May 23–24, 1983.

Time: 8:00 a.m. to 5:30 p.m.

Room: 315

Program: This meeting will review applications submitted to the General Research: State, Local and Regional Studies Panel, Division of Research Programs, for projects beginning after January 1, 1984.

Date: May 26–27, 1983.

Time: 9:00 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications submitted by state humanities committees, Division of State Programs, for activity beginning after November 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged of confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-11706 Filed 5-2-83; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgram Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to incorporate revisions to reflect organizational changes at Boston Edison related to nuclear activities both at Pilgrim Station and offsite.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated October 25, 1982 as revised March 2, 1983 (2) Amendment No. 69 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 28th day of April 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-11704 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-146]

General Public Utilities System; Establishment of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has officially established a local public doument room (LPDR) for General Public Utilities System's Saxton Nuclear Experimental Facility at the Saxton Community Library, Saxton, Pennsylvania.

Members of the public may now inspect and copy documents and correspondence related to the decommissioning of the Saxton Nuclear Experimental Facility at the Saxton Community Library, 911 Church Street, Saxton, PA 16678. The hours of operation of the Saxton Community Library are Monday, Tuesday, and Wednesday, 7:00 pm–9:00 pm, Thursday, 12:00 noon–4:00 pm and 7:00 pm–8:30 pm, and Sunday, 2:00 pm–4:00 pm.

For further information interested parties in the Saxton area may contact the LPDR directly through Ms. Lila Pennell, Librarian, telephone number (814) 635–3533. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 1717 H Street, N.W., Washington, DC 20555, telephone number (202) 634–3273. The cost of ordering records from the NRC Public Document Room is 5¢ per page, plus postage and handling.

Questions concerning the availability of documents at the Saxton LPDR and the NRC's local public document room program in general should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number, toll-free (800) 638–8081.

Dated at Bethesda, Maryland, this 26th day of April, 1983.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 83-11705 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Exemption

I

Iowa Electric Light and Power Company, et al. (the licensee) is the holder of Facility Operating License No. DPR–49 which authorizes the operation of the Duane Arnold Energy Center at steady state reactor power levels not in excess of 1658 megawatts thermal. The facility consists of a boiling water reactor located at the licensee's site near Palo in Linn County, Iowa. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.48 of 10 CFR Part 50 requires that licensed operating reactors be subject to the requirements of Appendix R of 10 CFR Part 50. Appendix R contains the general and specific requirements for fire protection programs at licensed nuclear facilities. On February 17, 1981, the fire protection rule for nuclear power plants, 10 CFR 50.48 and Appendix R, became effective. This rule required all licensees of plants licensed prior to January 1, 1979, to submit by March 19, 1981: (1) plans and schedules for meeting the applicable requirements of Appendix R, (2) a design description of any modifications proposed to provide alternative safe shutdown capability pursuant to Paragraph II.G.3 of Appendix R, and (3) exemption requests for which the tolling provision of § 50.48(c)(6) was to be invoked.

The licensee responded to these requirements by letter dated March 19, 1981, and supplemented its response by information contained in letters dated July 3, 1981, and June 22, 1982.

In these submittals, the licensee requested certain exemptions from the requirements of Section III.G of Appendix R to 10 CFR Part 50. Section III.G of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires alternative shutdown capability independent of the fire area of concern.

1. The licensee requested an exemption from the provisions of Section III.G of Appendix R for the reactor building torus area (fire zone 1–A) to the extent that it requires automatic fire detection and fire suppression throughout the fire area to protect redundant trains of safe shutdown related cables and equipment.

The licensee justified the exemption by stating that, with the exception of the redundant cables in the northwest half of the area, the separation distance between all other division one and division two cables in conjunction with the low combustible loading in the area reduces the probability of a fire causing damage to both trains. The licensee further contends that due to the low quantity of combustibles in the area, a potential fire could not be expected to propagate beyond the area of ignition.

Where redundant cables are located in close proximity, one-hour rated fire barriers, fire detections, and automatic suppression will be installed to provide the level of safety mandated by Appendix R.

We have reviewed the licensee's submittal and agree with the licensee's evaluation that the area does not comply with Section III.G because automatic fire detection and fire suppression is not available throughout the area. However, we find that the proposed means of protection and low quantity of combustibles in the area and the space between redundant components provides reasonable assurance that safe shutdown related cables will be maintained free of fire damage.

Therefore, we conclude that with the proposed modifications, the level of safety provided in the torus area will be equivalent to the technical requirements of Section III.G.2 of Appendix R and the licensee's request should be granted.

2. The licensee has requested an exemption from the provisions of Section III.G of Appendix R for the

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reactor building north and south CRD module areas (fire zones 2A and 2B).

The licensee has justified the exemption request by stating that, because of the design of the scram system, any power interruption to the electrical solenoid controlling control rod motion after fire exposure will be an open or short circuit and will activate the scram signal and de-energize the solenoid, thus effecting a safe shutdown.

We have reviewed the licensee's submittals and agree with the licensee's evaluation that the area does not comply with Section III.G of Appendix R because the scram solenoid cables do not have one of the three specified fire protection measures. We find, however, that a fire which causes an open or short ciruit will not adversely affect safe shutdown and although individual scram solenoids could remain energized from a hot short, the probability of a significant number of control rods being affected in this way is low.

Therefore, we conclude that the alternate form of protection provided by the design of the scram solenoid system ensures a level of safety equivalent to the technical requirements of Section III.G of Appendix R and that the licensee's request for exemption should be granted.

3. The licensee has requested an exemption from the provisions of Section III.G of Appendix R for the reactor building RHR valve rooms (fire zone 2–D) to the extent that it requires 20 feet of separation without intervening combustibles between redundant trains.

The licensee has justified the exemption by stating that the area contains the RHR system injection valves and redundant trains of cables to the valves will be enclosed in a one-hour rated fire barrier and protected by fire detection and automatic suppression. The redundant injection valves will also be protected by fire detection and automatic suppression but will be enclosed in one-hour rated fire barriers. It is not considered practical to enclose the valves inside a fire rated barrier.

We have reviewed the licensee's submittals and agree with its evaluation that the area does not comply with Section III.G because it is not provided with protection for the RHR injection valves. However, the fire load in the area is low (425 BTU/sq. ft.). The fire load, if totally consumed, would correspond to a fire severity less than one minute on the ASTM E–119 standard time temperature curve. Due to the considerable heat sink provided by the concrete floor and walls, the probability is low that a fire could damage the injection valves before the actuation of the detection and suppression systems. One-hour rated barriers enclosing the cables to the equipment provide added margin of safety.

Therefore, we conclude that with the proposed modifications listed above the level of safety for this area will be equivalent to the technical requirements of Section III.G of Appendix R and the request for exemption should therefore be granted.

4. The licensee has requested an exemption from the provisions of Section III.G of Appendix R for the control room (fire zone 12A) to the extent that it requires a fixed fire suppression system in the area.

The licensee has justified the exemption by stating that the control room has a fire detection system, hose station, and fire extinquisher. In addition, an alternate safe shutdown system is also available independent of control room. The control room is continuously manned and the fire load is low.

We have reviewed the licensee's submittals and agree with the licensee's evaluation that this area does not comply with Section III.G because it is not provided with a fixed fire suppression system. However, since the fire hazard is light and the control room continuously manned, there is reasonable assurance that a fire would be promptly extinquished.

Therefore, we conclude that the installation of a fixed fire suppression will not significantly increase the level of fire protection in the control room and the request for exemption should therefore be granted.

5. The licensee has requested an exemption from the provision of Section III.G of Appendix R for the boundaries of fire areas to be separated by three-hour rated barriers.

The licensee has justified the exemption by stating that the 1979 fire hazard analysis was accepted as meeting staff guidelines and divisional boundaries of less than three hours were accepted on the basis of the combustible loading in the adjacent areas.

We have reviewed the licensee's submittal and agree with the licensee's evaluation that the areas do not comply with Section III.G because five of the fire boundaries contain ventilation duct penetration protected by one and a half-hour rated fire dampers.

However, the equivalent fire severity based on the combustible loading in the lower switchgear room (area 7B) is 0.35 hours, in the battery rooms (areas 10B and 10D) 0.52 hour, in the essential switchgear rooms (areas 10E and 10F) 0.18 and 0.23 hours, respectively. A fire in any of these areas would be comfortably less than the rating of the damper and therefore, the one and a half-hour rated fire dampers will provide adequate protection.

We conclude, therefore, that the level of fire protection provided by the fire area boundaries for the lower switchgear room (fire area 7B), the battery rooms (fire areas 10B and 10D) and the essential switchgear rooms (fire areas 10E and 10F) provide a level of safety equivalent to the technical requirements of Appendix R and the licensee's request for an exemption should be granted in these areas.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

Therefore, the Commission hereby approves the following exemption requests:

Exemption is granted from the requirements of Section III.G of Appendix R of 10 CFR Part 50 for the following areas to the extent described in Section II of this exemption:

1. Reactor building torus area (fire zone 1A)
2. North and south CRD module areas (fire zones 2A and 2B)
3. Reactor building RHR valve rooms (fire zone 2D)
4. Control room (fire zone 12A)
5. Lower switchgear room (fire area 7B), battery rooms (fire areas 10B and 10D), and essential switchgear rooms (fire areas 10E and 10F)

The NRC staff has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 26th day of April 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-11798 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR–59 which authorizes the licensee to operate the James A. FitzPatrick Nuclear Power Plant (the facility) at power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.48 of 10 CFR Part 50 requires that licensed operating reactors be subject to the requirements of Appendix R of 10 CFR Part 50. Appendix R contains the general and some of the specific requirements for fire protection programs at licensed nuclear facilities. On February 17, 1981, the fire protection rule for nuclear power plants, 10 CFR 50.48 and Appendix R, became effective. This rule required all licensees of plants licensed prior to January 1, 1979, to submit by March 19, 1981: (1) Plans and schedules for meeting applicable requirements of Appendix R, (2) a design description of any modifications proposed to provide alternative safe shutdown capability pursuant to Paragraph III.G.3 of Appendix R, and (3) exemption requests for which the tolling provision of § 50.48(c)(6) was to be invoked.

The licensee responded to these requirements by letter dated March 19, 1981, and supplemented its response by information contained in letters dated June 22, 1981, February 26, 1982, and November 23, 1982.

In these submittals, the licensee requested certain exemptions from the requirements of Section III.G and III.L of Appendix R to 10 CFR Part 50. Section III.G of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of three means described in that section. If the conditions of Section III.G are not met, the section requires an alternate shutdown capability independent of the fire area of concern. Section III.L states the requirements for alternative and dedicated shutdown capability.

The exemption requests we found to be acceptable are as follows:

1. The licensee requested an exemption from the provisions of Section III.G.2 of Appendix R for three-phase AC and two-wire DC circuits "to the extent that this would require further analysis and modifications to provide protection against the extremely unlikely occurrence of a two conductor (DC) or three conductor (three phase AC) power cable being severed by a fire and then reconnecting to cause maloperation of systems or equipment."

The licensee justified the exemption by stating the following: for the case of the three-phase AC circuits, the licensee indicated that two circuits—one energized, one deenergized—would need to be damaged by the fire such that power would be supplied to the nonenergized circuit. The licensee indicated that this event was not considered credible because of the extreme unlikelihood of fire-damaged cables reconnecting in the proper sequence.

For the case of the two-wire DC circuits, the licensee indicated that two circuits—one energized, one deenergized—would both need to be damaged by the fire and reconnect such that power would be supplied to the non-energized circuit. Since the DC power system is a non-grounded system, the short of the two circuits would have to occur prior to one of the circuits being shorted to ground. This event is considered highly unlikely.

We have reviewed the licensee's submittals and agree with the licensee's evaluatin that the AC and DC circuits described above do not meet the requirements of Section III.G.2 of Appendix R. However, based on the extremely unlikely occurrence of a three phase circuit short or a two-wire DC power circuit short before grounding, we conclude that the licensee's exemption request is accceptable and should be granted.

2. The licensee has requested an exemption from Sections III.G.1.a, III.G.2, III.G.3, and III.L of Appendix R to the extent that repairs are considered to include low voltage fuse pulling, lifting of leads, and cable cutting.

The licensee justified the exemption by stating that: procedures would identify the necessary corrective actions; that the actions can be accomplished in a timely manner (i.e., before unrecoverable plant conditions exist); and that the electrical connections are low voltage.

We have reviewed the licensee's submittals and have identified two areas for which this exemption request is justified: Fire Area CT–3, Cable Tunnel, and Fire Area Cr–4, Cable Tunnel. For Fire Area CT–3, a RCIC logic control power fuse must be removed to prevent spurious signals from affecting the use of RCIC. For Fire Area CT–4, a HPCI logic control must be removed to prevent spurious signals from affecting the use of HPCI. In each case, the repair is limited to the removal of a single fuse located in a panel in the relay room.

Based on the licensee's commitment to provide procedures detailing these repairs and the licensee's statement that the repairs can be accomplished in a timely manner, and that the repairs are performed on low voltage circuits, we conclude that the licensee's exemption request for Fire Area CT–3 and CT–4 is acceptable and should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request:

1. Exemption is granted from the provisions of Section III.G.2 of Appendix R for three-phase AC and DC circuits such that no further analysis or modifications are required to provide protection for these circuits to prevent maloperation of systems or equipment.

2. Exemption is granted from Section III.G and III.L of Appendix R to 10 CFR Part 50 to the extent that repairs are considered to include low voltage fuse pulling in Fire Area CT–3 and Fire Area CT–4.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact appraisal need not be prepared in connection with this action.

(Dated at Bethesda, Maryland this 26th day of April 1983)

For the Nuclea Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-11797 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-546 and 50-547 (ASLBP No. 83-487-02 OL)]

Public Service Company of Indiana, Inc. and Wabash Valley Power Association, Inc.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.711, 2.714a, 1.717, and 2.721 of the Commission's Regulations, all amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and requests for hearing and to conduct the proceeding in the event that a hearing is ordered.

Public Service Company of Indiana, Inc.

Wabash Valley Power Association, Inc.

Marble Hill Nuclear Generating Station, Units 1 and 2

Construction Permit Nos. CPPR-170 and CPPR-171

This Board is being constituted pursuant to a notice published by the Commission on March 25, 1983 in the Federal Register (48 FR 12806-09) entitled, "Public Service Company of Indiana, Inc. and Wabash Valley Power Association, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2); Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing."

The Board is comprised of the following administrative judges:

Ivan W. Smith, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Mr. Gustave A. Linenberger, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland this 26th day of April 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-11780 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 88 to Facility Operating License No. DPR-32 and Amendment No. 86 to Facility Operating License No. DPR-37 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively, (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to change the schedule requirements for functional testing of the 50 KIPS and above category snubbers. The functional testing is rescheduled when an engineering evaluation determines the failure mode to be non-generic.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 8, 1983, (2) Amendment Nos. 88 and 88 to License Nos. DPR-32 and DPR-37, and (3) the Commissions related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of April, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-11779 Filed 5-2-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22920; (70-6858)]

Arkansas Power Light Co.; Proposed Issuance and Sale of First Mortgage Bonds

April 25, 1983.

Arkansas Power & Light Company ("AP&L"), (First National Building, Little Rock, Arkansas 72201), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("ACT") and Rule 50 promulgated thersunder.

AP&L proposes to issue and sell at competitive bidding not more than $100 million in principal amount of its first mortgage bonds ("Bonds") to be issued in one or more series from time to time through May 31, 1984. The interest rate of each series of the Bonds will be a multiple of ⅛ of 1%. The price, exclusive of accrued interest, specified by AP&L in soliciting bids shall be in a range of not more than 5 percentage points, but shall not exceed 5 percentage points above or below 100% of the principal amount of the Bonds. The Bonds will be issued under a supplemental indenture to AP&L's Mortgage and Deed of Trust. Each series of Bonds will mature on a date from five to thirty years from date of issuance. The supplemental indenture will prohibit, for not more than five years, the refunding of the Bonds, directly or indirectly, with funds borrowed at a lower effective interest cost than the respective series of Bonds.

AP&L will issue and sell the Bonds by competitive bidding using alternative procedures authorized in the Commission's Statement of Policy Concerning Application of Rule 50 (HCAR No. 22623; September 2, 1982).

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 19, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of

service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11780 Filed 5-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13184; (812-5405)(812-5406)]

Templeton Funds, Inc., et al.; Filing of Application

April 22, 1983.

In the Matter of Templeton Funds, Inc. (formerly, Templeton World Fund, Inc.), 405 Central Avenue, P.O. Box 3942, St. Petersburg, Florida 33731; Templeton Growth Fund, Ltd., 44 Victoria Street, Suite 800, Toronto, Ontario M5C 1Y2; and Securities Fund Investors, Inc., 405 Central Avenue, P.O. Box 3942, St. Petersburg, Florida 33731.

Notice is hereby given that Templeton Funds, Inc. (formerly named, "Templeton World Fund, Inc.")(hereinafter referred to as "Templeton Funds"), a Maryland corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management company; Templeton Growth Fund, Ltd., ("Growth Fund"), a Canadian corporation registered as an open-end, diversified management investment company under the Act; and Securities Fund Investors, Inc. ("SFI"), the principal underwriter for Growth Fund and Templeton Funds (Templeton Funds, Growth Fund, and SFI are hereinafter referred to collectively as "Applicants"), filed applications on December 21, 1982 requesting that the Commission issue an order amending, thereby affirming and clarifying, certain orders which the Commission issued in 1978 which have permitted, respectively, Templeton Funds to offer its shares for certain shares of The Reserve Fund, Inc. ("Reserve"), and Growth Fund and Templeton Funds each to offer its shares in exchange for shares of the other, all such exchanges to be effectuated on the basis of the relative net asset values of the securities so exchanged, with the addition of a $5.00 exchange fee. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that on March 22, 1978, the Commission issued an order [Investment Company Act Release No. 10172] pursuant to Section 11(a) of the Act which permitted shareholders of Templeton Funds [then operating under the name of "Templeton World Fund, Inc."] to exchange their shares for shares of Reserve on the basis of the relative net asset values of the shares at the time of the exchange, subject to a $5.00 service charge, and, pursuant to Section 6(c) of the Act, exempted Templeton Funds and SFI from the provisions of Section 22(d) of the Act to permit the sale of shares of Templeton Funds in accordance with such no-load exchange privilege. Applicants further state that on September 30, 1982, shareholders of Templeton Funds approved Articles of Amendment to the fund's Articles of Incorporation, changing the name of the company from "Templeton World Fund, Inc." to "Templeton Funds, Inc.", and authorizing the fund's board of directors to reclassify the common shares of the fund into separate classes having separate portfolios and investment policies so as to constitute Templeton Funds a "series" investment company. Applicants further represent that the Articles of Amendment were duly filed in the State Department of Assessments of Maryland and that, by appropriate action of the board of directors, all of the previously outstanding shares of the company, plus additional authorized shares, were classified as "Templeton World Fund" (hereinafter referred to as "World Fund"), being in all respects a continuation of the former Templeton World Fund, Inc. In addition, it is stated, a new series of shares was classified and authorized for issue as "Templeton Foreign Fund" (hereinafter referred to as "Foreign Fund").

Applicants further state that the investment policy and investment restrictions of World Fund provide for investment in stock and debt obligations of companies and governments of any nation with the objective of long-term capital growth. Foreign Fund, Applicants state, has substantially the same investment policy and restrictions as World Fund, except that its policy excludes investments in United States companies for other than "defensive" purposes. It is further stated that the two classes of Templeton Funds have affiliated investment managers, owned and operated under the direction of John M. Templeton, Director and President of Templeton Funds and Growth Fund, and that they have the same principal underwriter (SFI), the same custodian (Bank of New England), and the same transfer agent (Securities Fund Services, Inc.).

Applicants represent that SFI, as principal underwriter, maintains a continuous public offering of the shares of World Fund and Foreign Fund at their net asset value plus a sales charge. On purchases of less than 10,000, it is stated, the maximum sales charge for shares of each of the funds is 8.5% of the public offering price, with the sales charge reduced on larger purchases at the same breakpoints for each series. Applicants state that there is no sales charge imposed on the reinvestment of dividends and capital gains from shares of World Fund or Foreign Fund.

Under the exchange privilege which Templeton Funds presently offers, Applicants state, shares of either series of the company—shares of World Fund or of Foreign Fund—may be exchanged for shares of Reserve without sales charge, on the basis of their relative net asset values at the time of exchange, subject to a $5.00 fee payable to Securities Fund Services, Inc. Applicants' purpose in filing the instant application is to obtain a Commission order extending the application and effect of the order of March 22, 1978 to the privilege Templeton Funds now offers to investors in World Fund and Foreign Fund to exchange their interests for shares of Reserve without the payment of additional sales charge.

Applicants submit that all of the material facts upon which the Commission's order of March 22, 1978 was based remain in existence, and should apply to the same extent with respect to Templeton Funds in its present form as a series company. Applicants further represent that the same facts and conditions would continue to apply with regard to any such additional classes of Templeton Funds shares as the board of directors of that company may in the future decide to authorize. Accordingly, Applicants assert that a continuation of the order of March 22, 1978 with respect to World Fund and Foreign Fund and to any future classes of shares of Templeton Funds is appropriate, and that the issuance of an order amending the prior order to affirm its continuing effectiveness with regard to Templeton Funds is in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants also request that the Commission issue an order amending its

order of April 6, 1978 (Investment Company Act Release No. 10192), pursuant to which shareholders of Growth Fund have been permitted to exchange their shares for shares of Templeton Funds (formerly named "Templeton World Fund, Inc.") and shareholders of Templeton Funds have been permitted to exchange their holdings for shares of Growth Fund. As described above, on September 29, 1982 Templeton World Fund, Inc. became "Templeton Funds, Inc.", a series fund having two separate classes of common shares, i.e., World Fund and Foreign Fund.

Pursuant to the exchange privilege presently offered by Templeton Funds, shares of either series of the company—i.e., shares of World Fund or shares of Foreign Fund—may be exchanged for shares of the other, or for shares of Growth Fund on the basis of their relative net asset values at the time of exchange, without sales charge but subject to a $5.00 fee payable to Securities Fund Services, Inc. as transfer agent. Applicants express purpose in filing the instant application is to obtain an order of the Commission amending the order of April 6, 1978 to extend the application and effect of the prior order to the no-load exchange privilege currently being offered by Templeton Funds, and to make such exemptive relief applicable with respect to any future series or class of shares that Templeton Funds may hereafter authorize and issue.

Applicants represent that Growth Fund and World Fund have substantially the same investment policy and investment restrictions, namely, a flexible policy of investing in stock and debt obligations of companies and governments of any nation with the objective of long-term capital growth. Foreign Fund, it is stated, has substantially the same investment policy and restrictions, except that its policy excludes investments in United States companies for other than "defensive" purposes. Applicants also state that the two classes of Templeton Funds have affiliated investment managers that are owned by and operated under the direction of John M. Templeton, Director and President of Templeton Funds and Growth Fund, and that they have the same principal underwriter, SFI, and the same custodian, Bank of New England. It is also stated that the shares of all United States shareholders of Growth Fund, and all shares of World Fund and Foreign Fund, have the same transfer agent, i.e., Securities Fund Services, Inc.

Applicants further state that SFI, as principal underwriter, maintains a continuous public offering of the shares of Growth Fund, World Fund and Foreign Fund at their net asset value plus a sales charge. On purchases of less than $10,000, it is stated, the maximum sales charge for shares of each of the funds is 8.5% of the public offering price, with the sales charge reduced on larger purchases at the same breakpoints for each fund. Applicants state that there is no sales charge imposed on the reinvestment of dividends and capital gains from shares of Growth Fund, World Fund, or Foreign Fund.

Lastly, Applicants submit that all of the material facts upon which the order of April 6, 1978, was granted remain in existence, and should provide a basis upon which the amended order sought herein can be issued, applying in all respects to Templeton Funds in its present status as a series fund, and to World Fund and Foreign Fund as separate classes thereof. Applicants represent, in addition that the same facts and conditions will continue to apply to the same extent with respect to any future series or classes of Templeton Funds which hereafter may be authorized. Thus, Applicants assert that the extension of the Commission's order of April 6, 1978 with respect to the exchange privilege presently available to Templeton Funds shareholders, and which would be offered to investors in any future series of Templeton Funds, is appropriate, and that the issuance of an order amending the existing order to affirm its continuing effectiveness with regard to Templeton Funds is in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 17, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11787 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review By Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash, 202–272–2700. Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Amendment

Item 404 of Regulation S–K, No. 270–2.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance final amendments to Item 404 of Regulation S–K under the Securities Act of 1933 and the Securities Exchange Act of 1934, which sets forth requirements with respect to disclosure of management transactions and relationships. The amendments were intended to provide uniform disclosure requirements with respect to registration statements, periodic reports and proxy statements and to streamline and simplify the disclosure of transactions and relationships in a manner consistent with investor protection.

Submit comments to OMB Desk Officer: Robert Veeder, 202–395–4814, Office of Information and Regulatory Affairs, Room 3235, NEOB, Washington, D.C. 20509.

George A. Fitzsimmons,

Secretary.

April 27, 1983.

[FR Doc. 83-11788 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500–1]

Great American Financial, Inc.; Suspension of Trading

April 26, 1983.

In the matter of trading in the Securities of; Great American Financial, Inc.; File No. 500–1; Securities Exchange Act of 1934 Section 12(k) Order of Suspension of Trading.

It appearing to the Securities and Exchange Commission that because of recent unusual market activity, possible improper sale of restricted shares and

because of the apparent lack of adequate and accurate financial information relating to the company's valuation of its assets, the protection of investors require a summary suspension of trading in the securities of Great American Financial, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:00 p.m. on April 26, 1983, through midnight May 5, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11781 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19700; File No. SR–MSTC–83–3]

Proposed Rule Change by Midwest Securities Trust Company; Notice of Filing and Immediate Effectiveness of

April 25, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 6, 1983, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this otice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would increase MSTC's fee for the automatic Depository Delivery Instruction ("DDI") service from $50.00 per month to $100.00 per month. MSTC states tht this price increase would bring the fees for the DDI service up to the same level charged by MSTC for other similar services. MSTC believes that the proposal is consistent with Section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of dues, fees and other changes among its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagaph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–83–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentined self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11786 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–19699; File No. SR–MSRB–83–3]

Self-Regulatory Organizations; Proposed Rule Change; Municipal Securities Rulemaking Board; Relating to Syndicate Practices

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 29, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith certain amendments to rule G–11, on syndicate practices (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:

Rule G–11 [1] Sales of New Issue Municipal Securities During the Underwriting Period

(a) No change.

(i)-(ix) No change.

(x) *The term "qualified note syndicate" means any syndicate formed for the purpose of purchasing and distributing a new issue of municipal securities that matures in less than two years where:*

(A) the new issue is to be purchased by the syndicate on other than an "all or none" basis; or

(B) the syndicate has provided that:

(1) there is to be no order period;

(2) only group orders will be accepted; and,

(3) the syndicate may purchase and sell the municipal securities for its own account.

(b)-(c) No change.

(d) Disclosure of Group Orders. Every municipal securities dealer that submits a group order to a syndicate or to a member of a syndicate, shall disclose at the time of submission of such order the identity of the person for whom the order is submitted. *This section shall not apply to a qualified note syndicate as defined in paragraph (a)(x) above.*

(e)-(f) No change.

(g) No change.

(i) No change.

(ii) the identity of each person submitting a group order to which securities have been allocated as well as the aggregate par value and maturity date of each maturity allocated *except that this paragraph shall not apply to the senior syndicate manager of a qualified not syndicate as defined in paragraph (a)(x) above;* and

(iii) No change.

(h) No change.

(i) No change.

(ii) a summary statement showing the aggregate par values and prices (expressed in terms of dollar prices or yields) of all securities sold from the syndicate account. *This paragraph shall not apply to a qualified note syndicate as defined in paragraph (a)(x) above.*

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of, and Statutory Basis for, the Proposed Rule Change

(1) Rule G–11 governs activities of underwriters in connection with sales of new issue municipal securities during the underwriting period. While the rule

[1] Italics indicate new language; [brackets] indicate deletions.

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accords syndicate members great flexibility in structuring their syndicate agreements and practices, the rule does place certain requirements on underwriting syndicates. Generally, the rule requires syndicates to establish different categories of orders and to make certain disclosures within the syndicate to assure that allocations are made in accordance with those priorities. The rule also requires a syndicate manager to make an accounting of syndicate expenses and allocations of securities at final settlement of the syndicate account.

The Board recently examined the application of rule G–11 to tax-exempt notes and has determined that certain disclosure requirements, as noted below, should not be required of note syndicates that meet the definition of a "qualified note syndicate." A "qualified note syndicate" as defined by the proposed rule change is one formed to distribute municipal securities that mature in less than two years. In addition to the new issue either must be purchased on an other than all or none basis, *or* the syndicate's agreement must provide that there is to be on order period, that only group orders will be accepted and that the syndicate may purchase and sell the municipal securities for its own account. The Board has concluded that syndicates meeting these criteria are inherently different from other syndicates formed to distribute new issue municipal securities and are more analogous to secondary market trading accounts which are not subject to rule G–11. It further concluded that due to the relatively small number of note dealers and other special features of the new issue note market certain disclosures were not appropriate and were unduly burdensome.[2]

[2] These features include the fact that prices in the note market tend to be more sensitive to Treasury bill, money market, and federal funds rates than they are to price changes in the municipal bond market, and, as a result, prices in the note market fluctuate constantly. In addition, the methods of distributing new issue municipal notes can differ substantially from their bond counterparts. Note syndicates tend to be smaller than bond syndicatesin terms of the number of underwriters and typically are composed of one to three dealers. Note issues usually are not sold by the issuer on an "all or none" basis, and several different syndicates each may purchase portions of a new issue. These syndicates frequently run "two-way" or "trading accounts," that is, the syndicate will purchase notes in the secondary market and resell them at the same time is is distributing the newly-issued notes. For example, one syndicate might swap maturities with another syndicate in order to accommodate a customer. Moreover, note prices frequently will fluctuate within a syndicate.

In addition, newly-issued notes often are sold on a "first-come, first-served" basis and order periods may not be utilized.

The proposed rule change would exempt qualified note syndicate from the provisions of rule G–11 (d) and (g)(ii) which require the disclosure of the identity of customers placing group orders and the allocation of securities to customers who placed group orders. The current requirement that the identity of group orders be disclosed was adopted to assure that syndicates are run in a fair and open manner and, in particular, to minimize any advantage a syndicate manager might obtain over other syndicate members by virtue of its receipt of this information. The Board has concluded that these concerns do not exist in the case of qualified note syndicates since newly-issued notes frequently are not sold on an all or none basis. Such issue typically is sold to several syndicates and is resold to the public on a "first-come, first-served" basis; order periods are rarely established, particularly in competitive sales. In other qualified note syndicates all trades are done at group net. In these syndicates, except for presale orders, ordinarily there are no order priorities, and syndicate members do not receive a concession or take down. Nevertheless, compliance with the existing provisions of rule G–11(d) requires the disclosure of the identity of every order. And, under existing rule G–11(g)(ii), a manager must disclose within 10 days from the date of sale the identity of every order to which notes were allocated. The Board believes that since there are no priority concerns, these disclosure requirements do not seem to provide useful information to syndicate members and, therefore, are unduly burdensome.

The proposed rule change also would exempt qualified note syndicates from rule G–11(h)(ii) which requires at or before final settlement, delivery of a summary statement showing the aggregate par values and prices of all securities sold. This provision was intended to augment the requirement in subsection (h)(i) that syndicate expenses be disclosed. The Board has concluded that the proposed exemption is appropriate because in larger note offerings, such as an issue of project notes, the allocation disclosures required by the rule would be difficult to produce, would be many pages long, and would be of little practical value to syndicate members. Even in smaller issues, the required disclosures may be unduly burdensome because the prices at which new issue notes are sold by the syndicate typically are subject to numerous changes over an extended period of time.

(2) The proposed rule change has been adopted under section 15B(b)(2)(K) which provides that the Board shall adopt rules that, among other things,

"Establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period."

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board has concluded that the proposed rule change will impose no burdens on competition since the proposed exemptions would apply only to a discrete category of syndicates that distribute a discrete category of municipal securities, and would apply uniformly within all qualified note syndicates.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change was adopted pursuant to the recommendation of the Board's Advisory Committee on Tax-Exempt Notes.[3] The Board otherwise has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With in 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[3] That Committee, which is no longer active, was asked by the Board to report on the application of present Board rules to tax-exempt notes and on industry compliance therewith. The Board also asked for the Committee's recommendations concerning any compliance problems that might be cured by the adjustment of Board rules to better accommodate the mechanics of note trading. Based on that Committee's recommendations, the Board has issued a general notice regarding the applicability of Board rules to tax-exempt notes and has amended rule G–12, on uniform practice, to require acceptance of deliveries of notes in smaller denominations that those specified on the confirmation of the transaction.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11780 Filed 5-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19701; File No. SR-MSRB-82-16, Amendment No. 1]

Self-Regulatory Organizations; Proposed Rule Changes; Municipal Securities Rulemaking Board: Relating to Uniform Practice

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1982, as amended by the filing on March 7, 1983, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith certain amendments (the "proposed rule changes") to rule G–12 relating to uniform practice. The proposed rule changes are as follows:

Rule G–12. Uniform Practice.[1]

(a) through (g) No change.

(h) Close-Out. Transactions which have been confirmed or otherwise agreed upon by both parties but which have not been completed may be closed out in accordance with this section, or as otherwise agreed by the parties.

(i) Close-Out by Purchaser. With respect to a transaction which has not been completed by the seller according to its terms and the requirements of this rule, the purchaser may close out the transaction in accordance with the following procedures:

(a) Notice of Close-Out. If the purchaser elects to close out a transaction in accordance with this paragraph (i), the purchaser shall, not earlier than the fifth business day following the settlement date, notify the seller by telephone of the purchaser's intention to close out the transaction. The purchaser shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the tenth business day following the date the telephonic notice is given (the fifth business day, in the case of a second or subsequent notice), the transaction may be closed out in accordance with this section at any time during the period of time, which shall not be more than five business days, specified by the purchaser for such purpose. The purchaser shall immediately thereafter send, return receipt requested, a written notice of close-out to the seller. Such notice shall contain the information specified in item (1) of subparagraph (C) below [, and shall be accompanied by a copy of the seller's confirmation of the transaction to be closed out or other written evidence of the contract between the parties.]

B. *(1)* Retransmittal. [as in current rule—no substantive change.]

(2) Transfer of Securities. If a selling dealer receiving an initial notice of close-out which has not been retransmitted has submitted the securities owed on the transaction to the registrar or transfer agent for transfer, the selling dealer may, upon notice to the purchaser, extend the dates for close-out by ten business days. The selling dealer must provide such notice by telephone, not later than the first businesd day following its receipt of the telephone notice of close-out, and must immediately thereafter send, return receipt requested, a written confirmation of such notice, stating the dates for close-out as extended due to such notice. The provisions of this item (2) of subparagraph (B) shall not apply to any notice of close-out initiated on or after January 1, 1985.

(C) and (D) No change.

(E) Close-Out Not Completed. If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire. Additional close-out notices may be issued, provided that a close-out procedure with respect to a transaction may not be initiated later than the ninetieth business day following the settlement date of such transaction, regardless of the number of close-out notices issued. *Notwithstanding the foregoing, in the case of a transaction on which a delivery of securities has been reclaimed pursuant to the provisions of subparagraphs (g)(iii)(C) or (g)(iii)(D) of this rule and which remains uncompleted, the purchaser may initiate one or more close-out procedures with respect to such transaction at any time during a period of fifteen business days following the date of reclamation. The first such procedure shall be considered an initial procedure for purposes of subparagraph (A) above.*

(F) and (G) No change.

(i) through (l) No change.

[1] Italics indicate new language; [brackets] indicate deletion.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board has recently received suggestions from members of the municipal securities industry as to several improvements in the application of the close-out provisions of rule G–12(h) to special circumstances; the proposed rule changes would amend the rule in accordance with certain of these suggestions. The proposed rule changes would also amend the rule to reflect the likely increase in the number of transfer items and related fails that may result from the impending requirement for issuance of most new issue municipal securities in registered form.

The specific provisions of the proposed rule changes are as follows:

1. *The proposed rule changes would permit the initiation of a close-out procedure on certain transactions reclaimed after the ninetieth business*

day following the original settlement date.

The Board is aware that, in certain instances in the past, the availability of the close-out procedure would have promoted more expeditious resolution of reclaimed transactions. Accordingly, the proposed rule changes would make the close-out procedure available, for a short period of time, in the event that a transaction is reopened due to a reclamation of securities, for certain specified reasons, after the ninetieth business day following the settlement date (the last date on which the rule would otherwise permit initiation of a close-out). The proposed rule changes would permit the purchaser to initiate one or more close-out procedures with respect to such a transaction, in accordance with the provisions of the rule, for a period of fifteen business days following the date of reclamation.

2. *The proposed rule changes would delete the requirement that a copy of the contra-dealer's confirmation be attached to close-out notices.*

The Board is of the view that this requirement is no longer necessary. Since the relevant information regarding the transaction is required to be specified on the written close-out notice, and since a dealer receiving a telephone notice of close-out must proceed based on such telephone notice, not awaiting receipt of the written notice, the requirement to attach the contra-confirmation to the written notice no longer appears to provide significant assistance in identifying the related transactions to the dealer receiving the notice.

3. *The proposed rule changes would permit the selling dealer receiving a close-out notice which it does not retransmit to obtain an extension of time if the securities owed on the transaction are in transfer.*

In August 1982 the Congress passed, as part of the Tax Equity and Financial Responsibility Act of 1982, a requirement that most new issues of municipal securities issued after December 31, 1982 must be made available solely in registered form; recent Congressional action defers the effectiveness of this requirement to June 30, 1983. As a result of this requirement an increasing number of transactions will involve registered securities, and dealers will be required to submit securities for transfer more frequently. Delays in the transfer process may become a more significant factor affecting the municipal clearance process, and more close-out procedures may be initiated on transactions on which the failure to deliver is caused by the need to transfer the securities. The Board therefore believes that it may be appropriate to alter the close-out process to take into account this substantial change in the manner in which the industry will be clearing securities and to provide additional time to permit the transfer process to be accomplished.

Accordingly, the proposed rule changes would provide that, if the selling dealer receiving an initial notice of close-out from the originating purchaser has submitted the securities which it is failing to deliver to be transferred, the selling dealer may delay the delivery deadline and the execution period specified on the notice for ten business days by advising the purchaser of the reason for its failure to deliver. The selling dealer must advise the purchaser of the reason for its failure to deliver by telephone not later than the close of business on the business day following its receipt of the telephone notice of close-out from the purchaser; the selling dealer must confirm this notice in writing, sent return receipt requested not later than the following business day, including in such notice a statement of the dates of the new delivery deadline and the new execution period, as extended by the seller's action. This time extension, however, would be available only to the selling dealer first receiving the notice of close-out from the originating purchaser. If the notice of close-out is retransmitted to another dealer, and this third dealer is the party which has submitted the securities for transfer, the third dealer would not be able to invoke an additional time extension attributable to the fact that the securities are being transferred.

The proposed rule changes provide that this time extension for securities in transfer shall be available only on close-outs initiated prior to January 1, 1985. The Board believes that, as more efficient transfer mechanisms become available on a wider range of municipal issues, there will be less need for additional time on a close-out procedure.

(b) The proposed rule changes have been adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are:

"Designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities * * * and, in general, to protect investors and the public interest * * *."

The Board is of the view that the proposed rule changes will facilitate the settlement of reclaimed transactions, permit more efficient use of the close-out procedure, and protect the public interest by providing for an appropriate period of time to complete transfer processes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule changes will have no effect on competition inasmuch as they make certain technical and procedural changes to the closeout provisions that apply equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others

On September 29, 1982 the Board released an exposure draft of several amendments to rule G–12(h), including amendments substantially similar to the proposed rule changes; the Board received seven letters of comment on the exposure draft.

The letters were generally supportive of the concepts reflected in the proposed rule changes. Certain of the commentators expressed the view that certain time periods were too short; the Board has addressed part of their concern in the proposed rule changes, and believes that any remaining concern may be attributable to misunderstanding of the manner in which the time periods would function.

With respect to the extension of time for securities in transfer, several commentators expressed the view that such an extension of time should also be available in the event that the close-out notice was retransmitted. While the Board is not unsympathetic to these commentators' concerns, the Board believes that making the extension also available in the event of a retransmittal would significantly hamper the efficient handling of a closeout procedure by including complicated requirements for determining such time extensions and notifying all parties to the retransmittal of changes in dates.

On balance, the Board believes that it is necessary to preserve a relatively simple and efficient close-out procedure, and not to complicate the procedure to provide for an extension for transfer on retransmitted notices.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11800 Filed 5-2-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2078; Amdt. #6]

California; Declaration of Disaster Loan Area

The above numbered Declaration (48 FR 8167), Amendment #1 (48 FR 9810), Amendment #2 (48 FR 12881), Amendment #3 (48 FR 15207), Amendment #4 (48 FR 16565), and Amendment #5 (48 FR 18989) are amended to include the County of San Joaquin and the adjacent Counties of Yuba, Sacramento and Fresno to the previously declared disaster area in the State of California as a result of damage caused by severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on April 11, 1983, and for economic injury until the close of business on November 9, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: April 1, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-11790 Filed 5-2-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #081]

Louisiana; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Parishes of Ascension, East Baton Rouge, East Feliciana, Jefferson, Livingston, Orleans, Pointe Coupee, St. Bernard, St. Tammany, Tangipahoa and Washington, Louisiana, constitute a disaster area because of damage resulting from severe storms and flooding beginning on April 1, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 20, 1983, and for economic injury until the close of business on January 20, 1984, at: U.S. Small Business Administration, Ford-Fisk Building, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70112, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere—11½%

Homeowners without credit available elsewhere—5⅜%

Businesses with credit available elsewhere—10½%

Businesses without credit available elsewhere—8%

Businesses (EIDL) without credit available elsewhere—8%

Other (non-profit organizations including charitable and religious organizations)—11⅜%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: April 25, 1983

James C. Sanders,

Administrator.

[FR Doc. 83-11749 Filed 5-2-83; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments; Certain Silica-Coated Lead Chromate Pigments

The United States International Trade Commission (the Commission) has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, and in the sale, of certain silica-coated lead chromate pigments that were found to infringe the claims of U.S. Letters Patent 3,639,133, causing substantial injury to an efficiently and economically operated U.S. industry. The Commission ordered the product involved, when produced by those found to be in violation of section 337, excluded from entry into the United States.

Under section 337(g), the President may disapprove the determination of the Commission for policy reasons within sixty days following receipt of the determination and record. Disapproval by the President would cause the determination, and any order issued under its authority, to be without force or effect. The President also may approve the determination, making the determination, and any order issued under its authority, final on the date the Commission receives notice. The determination, and any related order, will become final automatically following the sixty day review period if the President has not disapproved it.

Interested parties are invited to submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding the case. Parties submitting comments regarding domestic policy issues should refer to the portion of the Commission record in which information or comment concerning that issue was presented. If no presentation of the domestic policy issue being raised was made to the Commission, the party submitting the comment should include the reason for the lack of such presentation. The Trade Representative will be reluctant to

review comments concerning domestic policy issues not addressed in the record developed before the Commission. Interested parties need not refer to the Commission record in comments based upon foreign policy issues.

Comments submitted should not exceed 15 letter-sized pages, including attachments. The original and 19 copies of the submission must be delivered by the close of business, Friday, May 20, 1983, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW., Washington, D.C. 20506. Copies of comments received will be made available upon request and additional comments will be accepted through the close of business, Friday, May 27, 1983. For further information, call Alice Zalik (202) 395-3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83-11274 Filed 5-2-83; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series—No. 12-83]

Treasury Notes of May 15, 1986; Series M-1986

April 28, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of May 15, 1986, Series M-1986 (CUSIP No. 912827 PL 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated May 16, 1983, and will bear interest from that date, payable on a semiannual basis on November 15, 1983, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature May 15, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered-or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 3, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 2, 1983, and received no later than Monday, May 16, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal reserve banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average a yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determination of the Secretary of the Treasury shall be final. If the amount of non-competitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject a any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, May 16, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 12, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Cassie J. Dixon,

Fiscal Assistant Secretary.

[FR Doc. 83-11280 Filed 5-2-83; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series—No. 13-83]

Treasury Notes of May 15, 1993; Series B-1993

April 28, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,750,000,000 of United States securities, designated Treasury Notes of May 15, 1993, Series B-1993 (CUSIP No. 912827 PM 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated May 16, 1983, and will bear interest from that date, payable on a semiannual basis on November 15, 1983, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature May 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

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2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 4, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 3, 1983, and received no later than Monday, May 16, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, or allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, May 16, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 12, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2 In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this cirular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-11909 Filed 4-29-83; 3:00 pm]

BILLING CODE 4810-40-M

[Department Circular, Public Debt Series—No. 14-83]

10¾ Percent Treasury Bonds of 2007-2012

April 28, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $3,750,000,000 of United States Securities, designated 10¾% Treasury Bonds of 2007–2012 (CUSIP No 912810 DB 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued May 16, 1983, and are offered as an additional amount of 10¾% Treasury Bonds of 2007–2012 (CUSIP No. 912810 DB 1) dated November 15, 1982. Payment for the securities will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from May 15, 1983, to May 16, 1983. Interest on the securities offered as an additional issue is payable on a semiannual basis on November 15, 1983, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature November 15, 2012, but may be redeemed at the option of the United States on and after November 15, 2007, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determine by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, May 5, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no late than Wednesday, May 4, 1983, and received no later than Monday, May 16, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and

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loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commerical bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 11.22% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from May 15, 1983, to May 16, 1983, in the amount of $.28193 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, May 16, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 12, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-11910 Filed 4-29-83; 3:00 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Lucas Van Leyden and His Contemporaries" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about June 5, 1983, to on or about August 14, 1983; and at the Museum of Fine Arts, Boston, Massachusetts, beginning on or about September 14, 1983, to on or about November 20, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: April 29, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 83-11805 Filed 5-2-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Advisory Committee on Health-Related Effects of Herbicides has been renewed by the Administrator of Veterans Affairs for a two year period beginning April 20, 1983 through April 20, 1985.

Dated: April 27, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-11707 Filed 5-2-83; 8:45 am]

BILLING CODE 8320-01-M

Career Development Committee; Availability of Annual Report

Under section 10(d) of Pub. L. 92-4363 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report for the calendar year 1981 has been issued for the Veterans Administration, Medical Research Service, Career Development Committee.

The report summarizes the activities of the committee on matters related to the review and evaluation of Career Development applications. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications, Reading Room LM 133, Madison Building, Washington, D.C. 20540,

and

Veterans Administration, Medical Research Service, Career Development Program, Room 757, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: April 25, 1983.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-11709 Filed 5-2-83; 8:45 am]

BILLING CODE 8320-01-M

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in the Thomas Room, Washington Marriott Hotel, 1221 22nd Street, N.W., Washington, D.C. 20037, on June 27, 1983. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on June 27, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-3702), prior to June 17, 1983.

The meeting will be closed from 8:30 a.m. to 4:30 p.m. on June 27, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsections (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: April 22, 1983.

By direction of the Administrator.

Rosa Maria Fontanez

Committee Management Officer.

[FR Doc. 83-11710 Filed 5-2-83; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Advisory Committee on Rehabilitation; Meeting

The Veterans Administration gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C., 1521, will be held in Room 1010 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420, May 25, 1983, at 9 a.m. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and provide recommendations to the Administrator as the Committee determines appropriate.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Dr. Carole J. Westerman, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202-389-2886) prior to May 16, 1983.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after meeting. Oral statements will be heard at 2:30 p.m. on May 25, 1983.

Dated: April 26, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-11708 Filed 5-2-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 86
Tuesday, May 3, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 10, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Arbitration—Final Rules

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-624-83 Filed 4-29-83; 12:36 pm]

BILLING CODE 6351-01-M

2

COPYRIGHT ROYALTY TRIBUNAL

DATE AND TIME: Thursday, May 12, 1983, 2:30 p.m.

PLACE: Copyright Royalty Tribunal, 1111 20th Street NW., #450, Washington, D.C. 20036.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. 1982 Adjustment of Rates for Use of Certain Copyrighted Works by Non-Commercial Broadcasting: Proposed amendment to § 304.0.

CONTACT PERSON FOR FURTHER INFORMATION: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., #450, Washington, D.C. 20036; (202) 653–5175.

Edward W. Ray,
Chairman.
April 20, 1983.

[S-620-83 Filed 4-29-83; 4:11 pm]

BILLING CODE 1410-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From April 27th Open Meeting

April 27, 1983.

The following items have been deleted at the request of the Office of Commissioner Jones from the list of agenda items scheduled for consideration at the April 27, 1983 Open Meeting and previously listed in the Commission's Notice of April 20, 1983.

Agenda, Item No., and Subject

Common Carrier—6—*Title:* National Association of Regulatory Utility Commissioners Petition for Declaratory Ruling that State Commissions Have Authority to Require Exchange Carriers to Provide and Maintain Basic Telephone Instruments and Associated Inside Wiring. *Summary:* The Commission will consider whether it is consistent with the *Second Computer Inquiry* for states to require telephone companies to provide customer premises equipment and related installation and maintenance services to their subscribers on a detariffed basis under a specific alternative regulatory scheme proposed by NARUC.

Common Carrier—7—*Title:* Adoption of Rules Relating to the Provision of CPE by the Florida Public Service Commission. *Summary:* In response to a petition for declaratory ruling filed by the Florida Telephone Association, the Commission will consider whether the *Second Computer Inquiry* has preempted the Florida PSC's requirements relating to the provision of customer premises equipment by carriers.

Deletion of Agenda Item From April 27th Closed Meeting

The following item has been deleted at the request of the Office of Commissioner Rivera from the list of agenda items scheduled for consideration at the April 27, 1983 Closed Meeting and previously listed in the Commission's Notice of April 20, 1983.

Agenda, Item No., and Subject

Hearing—4—Application for Review in the TV–8, Inc., Somerset, Kentucky UHF television comparative proceeding (BC Docket Nos. 80–454 and 455).

Issued: April 27, 1983.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-623-83 Filed 4-29-83; 4:33 pm]

BILLING CODE 6712-01-M

4

FEDERAL RESERVE SYSTEM
Board of Governors

TIME AND DATE: 10 a.m., Monday, May 9, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: April 28, 1983.

James McAfee,
Associate Secretary of the Board.

[S-626-83 Filed 4-29-83; 2:42 pm]

BILLING CODE 6210-01-M

5

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10 A.M., WEDNESDAY, MAY 4, 1983.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices), (c)(9)(B) (disclose information the premature disclosure of which would * * * be likely to significantly frustrate implementation of a proposed agency action * * *) and (c)(10) (specifically concern * * * the agency's participation in a civil action or proceeding, * * *)

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254–9430.

Dated: Washington, D.C., April 28, 1983.

By direction of the Board.

John C. Truesdale,
Executive Secretary, National Labor Relations Board.

[S-625-83 Filed 4-29-83; 4:16 pm]

BILLING CODE 7545-01-M

6

PAROLE COMMISSION

[3P0401]

U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

DATE: Wednesday, May 4, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S-625-83 Filed 4-29-83; 2:17 pm]

BILLING CODE 4410-01-M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 17433, April 22, 1983.

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 19, 1983.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, April 28, 1983, following the 10 a.m. open meeting:

Institution of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institution.
Litigation matter.

Chairman Shad and Commissioners Evans, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Steven Boehm at (202) 272–2467.

April 28, 1983.

[S-623-83; 4-29-83 10:50 am]

BILLING CODE 8010-01-M

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federal register

Tuesday
May 3, 1983

Part II

Department of Energy

Western Area Power Administration

Colorado River Storage Project; Order Confirming, Approving, and Placing Increased Power and Transmission Rates in Effect on an Interim Basis

DEPARTMENT OF ENERGY

Western Area Power Administration

[Rate Order No. WAPA-19]

Colorado River Storage Project; Order Confirming, Approving, and Placing Increased Power and Transmission Rates in Effect on an Interim Basis

AGENCY: Western Area Power Administration, Energy.

ACTION: Notice of Rate Order—Colorado River Storage Project.

SUMMARY: Notice is given of Rate Order No. WAPA-19 of the Assistant Secretary for Conservation and Renewable Energy placing power and transmission rates into effect with the June 1983 billing period on an interim basis for power marketed by the Western Area Power Administration (Western) from the Colorado River Storage Project (CRSP), Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming.

The wholesale firm power rate consists of a capacity charge of $2.09 per kW-month and an energy charge of 5.0 mills per kWh. At a 58.2-percent seasonal load factor, the composite rate is 9.92 mills per kWh. This is a 2.03 mills per kWh increase over the previous firm power rate. The new firm transmission rate is $10.27 per kW-year, which is a $3.67 per kW-year increase over the previous rate. The nonfirm transmission rate has been increased by 1 mill per kWh to a charge 2 mills per kWh.

The rate order discusses the principal factors leading to the decisions made and responds to the comments, criticisms, and alternatives offered during the public adjustment proceedings.

ADDRESSES: FOR FURTHER INFORMATION CONTACT:

Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84148, (801) 524-5493

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1535

Mr. Fred Sheap, Office of Power Marketing Coordination, CE-90, Department of Energy, Mail Code 3353, Federal Building, Washington, DC 20461, (202) 633-8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrators, and to confirm, approve, and place in effect such rates on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204-33 was amended, effective March 19, 1981 (46 FR 25426, May 7, 1981), to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

Rate adjustments on the CRSP are conducted consistent with the procedural rules applicable to Western. Final procedures for public participation in general adjustments were published in the **Federal Register** on March 23, 1978 (43 FR 12076), April 5, 1978 (43 FR 14359), and February 7, 1979 (44 FR 7796).

Proceeding on the new rates were initiated in April 1982, with an advance announcement that a power rate adjustment was being considered at a CRSP customer meeting in Salt Lake City, Utah. A **Federal Register** notice (47 FR 46369, October 18, 1982) officially announced the proposed rate adjustments. A public information forum was held on November 16, 1982, in Salt Lake City, Utah; and a public comment forum was held on December 16, 1982, in Salt Lake City, Utah. A 90-day consultation and comment period extended from October 18, 1982, to January 16, 1983. During this period, interested parties consulted with and made comments to Western concerning the proposed rate adjustments.

Customer comments received at the forums and during the consultation and comment period primarily related to the power repayment study (PRS). There were no rate design issues raised. After reviewing and considering the comments received, the records of the forums, and reevaluating the August 1982 PRS, a number of changes were made and a revised PRS prepared in April 1983. The public comments and Western's reevaluation addressed the following major issues:

1. Operation and maintenance (O&M) expense.
2. Repayment of the irrigation allocation of the storage units.
3. Projections of capacity sales.
4. Water depletions.
5. Revenue projections.
6. Stepped rates/participating project costs.
7. Replacement costs.
8. Interest expense.

Comments pertaining to O&M expenses, along with the inclusion of actual FY 1982 data, and the recalculation of the Central Utah Project and Seedskadee Project power revenues were the basis for the revised PRS of April 1983. The new rates will provide the revenues required as determined by this revised PRS. A discussion of the issues is in the rate order.

Therefore, Rate Order No. WAPA-19 confirming and approving increased power and transmission rates on an interim basis is hereby issued, and the rates will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued in Washington, DC, April 25, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act of August 4, 1977 (42 U.S.C. 7101 et seq.), the power marketing functions of the Secretary of the Interior for the Bureau of Reclamation (BuRec) under the Reclamation act of 1902 (43 U.S.C. 372 et seq.), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485th (c)) and acts specifically applicable to the Colorado River Storage Project (CRSP), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, as amended March 19, 1981 (46 FR 25426, May 7, 1981), the Secretary of Energy delegated to the Assistant Secretary for Conservation and Renewable Energy, the authority to develop power and transmission rates, acting by and through the Administrator of the Western Area Power Administration (Western), and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary and the rate adjustment procedures at 45 FR 86983 (December 31, 1980) as corrected at 46 FR 6864 (January 22, 1981) and amended at 46 FR 25426 (May 7, 1981).

Background

Existing and Increased Rates

The increased rates which are the subject of this order supersede the existing rates as follows:

	Existing rates	Increased rates
Firm Power		
Demand charge $/kW-month	1.955	2.09
Energy charge mills/kWh	4.00	5.00
Composite rate @58.2 percent seasonal load factor-mills/kWh	7.89	9.92
Effective date	Jan. 23, 1981	June 1983 billing period.
Rate schedule	SP-PF1	SP-PF2.
Peaking Power		
$/kW-month	1.955	2.09
Effective date	Jan. 23, 1981	June 1983 billing period.
Rate schedule	SP-PP1	SP-PP2.
Firm Transmission		
$/kW year	6.60	10.27.
Effective date	May 1974	June 1983 billing period.
Rate schedule		SP-FT1.
Nonfirm Transmission		
Mills/kWh	1.00	2.00
Effective date	October 1985	June 1983 billing period.
Rate schedule		SP-NFT1.

Project History

On April 11, 1956, the CRSP, including some participating projects, were authorized by Pub. L. 84-485. Subsequently, 10 additional participating projects have been authorized. By means of the four authorized storage units, the flow of the Colorado River is regulated in such a way that irrigation, municipal, industrial, and other water use developments in the Upper Colorado River Basin can be made while still maintaining water flows into the lower basin as required by the Colorado River Compact. Facilities have also been provided at the storage units for flood control, for recreation, and for other beneficial purposes. In order to maximize the use of water and to obtain revenues to assist in the repayment of the irrigation developments, power generating plants have been installed at three of the four storage units. A power generating plant has been installed on one of the participating projects, and generating plants will be included on other participating projects where such developments are found to be feasible. The table below lists the existing powerplants with their nameplate capacities and dates of initial service.

	Nameplate capacity MW	Inservice date
CRSP:		
Glen Canyon	1021	Sept. 1964.
Flaming Gorge Powerplant	108	Nov. 1963.
Wayne N. Aspinall unit:		
Blue Mesa Powerplant	90	Sept. 1967.
Morrow Point Powerplant	120	Dec. 1970.
Crystal Powerplant	28	Aug. 1978.
Subtotal	1,367	
Participating Projects:		
Seedskadee Project—Fontenelle Powerplant	10	May 1969.
Total	1,347	

Transmission facilities include a high-voltage transmission grid to deliver power to wheeling agents and to established delivery points in the market area, to provide interconnections among the plants of the CRSP units and participating projects, and to interconnect with other existing Federal and utility systems within the market area.

Power Repayment Studies

A power repayment study (PRS) for the CRSP storage units and authorized participating projects is prepared annually by Western with the cooperation of the BuRec to ensure that revenues will be adequate to repay costs. Basic river basin hydrology, water depletions, power generation, and project development data are provided by the BuRec. A PRS is prepared in accordance with CRSP authorizing legislation, the Reclamation Project Act of 1939, other applicable statutes, and with DOE Order No. RA 6120.2 on power marketing administration financial reporting.

The studies array historic income, expense, and investment to be repaid from power revenues, along with estimates for future years, and schedule the annual repayment of power production and transmission costs of a power system, as well as nonpower costs assigned to power for repayment, through the application of revenues over the repayment period of the project. The studies show, among other items, estimated revenues and expenses year-by-year over the remainder of the study period, the estimated amount of Federal investment repaid during each year, and the total estimated amount of Federal investment remaining to be repaid at the end of each year. The studies determine revenue requirements but do not deal with rate design.

Western is required to transmit and dispose of CRSP power and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. This rate increase is consistent with that requirement.

Public Notice and Comments

Published "Procedures for Public Participation in Power and Transmission Rate Adjustments" for power marketed by Western and other power marketing administrations have been followed in the development of this rate. The following discussion summarizes the steps Western took to assure involvement of interested parties in the rate process.

1. On April 30, 1982, an advance announcement was made at a CRSP customer meeting in Salt Lake City, Utah, that a power rate adjustment was being considered, and that a preliminary study indicated the firm power rate would need to be increased from the present composite rate of 7.89 to about 10 mills per kWh at 58.2 percent seasonal load factor.

2. A **Federal Register** notice (47 FR 46369, October 18, 1982) announced the proposed power and transmission rate adjustments and the public information and comment forums.

3. A press release was issued on October 18, 1982, announcing the proposed rate adjustments and the public information and comment forums.

4. Letters were sent to customers and other interested parties which announced the proposed rate adjustments and forums and transmitted copies of the rate brochure dated October 1982; the October 18, 1982, press release; and the October 19, 1982, **Federal Register** notice.

5. A public information forum was held on November 16, 1982, in Salt Lake City, Utah. Western explained the need for the rate increase and presented the results of the October 1982 PRS upon which proposed rate increases were based. The rates proposed were $2.15/kW-month for firm and peaking capacity and 5 mills/kWh for firm energy. The transmission rates were $10.27/kW-year for firm transmission and 2 mills/kWh for nonfirm transmission service. Questions were answered at this forum or later in writing by the Western and/or BuRec representatives.

6. A public comment forum was held on December 16, 1982, in Salt Lake City, Utah, to allow interested parties an opportunity to comment. Oral and written comments were accepted at this forum. Upon request, Western met with customer representatives during the comment period to answer their questions.

7. Written comments were accepted through the comment period ending January 16, 1983.

After reviewing and considering the comments received, the records of the forums, and reevaluating the October 1982 PRS, a number of changes were made and a revised PRS prepared in April 1983.

Discussion

Most of the issues discussed below relate to the PRS. There were no rate design issues raised during the public comment period. The issues that resulted in PRS modifications are discussed first.

Issues Resulting in PRS Modifications

Operation and Maintenance Expense. Comments received about operation and maintenance (O&M) expenses centered on: (1) Including the cost of construction of the Ault and Archer Substations as an O&M cost; (2) projecting too much for extraordinary or nonrecurring O&M expenses through the FY 1982-86 period and continuing the FY 1986 amount for the years thereafter; (3) including movable equipment such as an airplane as an O&M expense in the year such equipment is purchased instead of amortizing it over its service life; and (4) including unidentified replacements as an O&M cost.

Some commentors misunderstood information Western provided and thought that the construction costs of the Ault and Archer Substation additions were included as an O&M expense in the PRS. Actually, the PRS treated the aforementioned construction costs as part of the power investment cost and not as an O&M expense. At the time the two substation additions were expected to be placed in service, the estimated O&M costs in the PRS were increased for the additional labor and material costs associated with operating and maintaining the additional equipment. The estimated costs included in the PRS for O&M expenses that were identified as being associated with additions at the Archer and Ault Substations also included other CRSP substation O&M costs in the Loveland-Fort Collins Area. O&M program, it has been necessary to perform some special items of maintenance; i.e., items that are out of the ordinary. On program documents since FY 1977, expenses associated with such items have been termed "extraordinary maintenance" by the BuRec and "nonrecurring maintenance" by Western. Since there have been actual expenditures of this type each year, at least since FY 1977, it is logical to program funds for such expenditures for all future years. The specific item to be maintained is identified whenever possible, and this is normally possible for several future years. Beyond that period of specific plans, an estimated amount of money is programmed for extraordinary or nonrecurring maintenance based on general experience. In the program documents used for the FY 1981 PRS, expenses programmed for extraordinary or nonrecurring maintenance were based on specific items for the years through FY 1984 (for such maintenance work as road repairs, spillway repairs, rock bolting canyon walls, vibration dampers on transmission lines, and penstock repairs) and were based on general estimates for FY 1985 and FY 1986. The amount for FY 1986 was assumed to continue for the remainder of the study period. Following is a tabulation of the total expenses used in the FY 1981 PRS for extraordinary and nonrecurring maintenance (millions of dollars):

FY 1981	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986 & after
2.170	1.079	2.494	3.445	0.634	0.510

Since there are identifiable items to be maintained associated with the FY 1981–84 amounts and the nonspecific estimates for FY 1985 and thereafter are relatively small, the expenses projected in the FY 1981 PRS for extraordinary or nonrecurring maintenance are consistent with reasonable forecasting techniques and were not reduced.

A close examination of the way movable equipment is treated in the PRS as compared to the way it is handled in the financial records revealed inconsistencies. The PRS included capitalized movable equipment historically as plant inservice to be repaid the same as any other plant investment while movable equipment projected in the future was treated as an O&M cost and repaid the same year the equipment was acquired. Financial records treat movable equipment as an O&M expense to be repaid over its service life. For consistency, Western is now treating future movable equipment as an O&M expense and repaying it over its service life in the CRSP PRS. The historical movable equipment was removed from the plant inservice and was amortized over its service life as an O&M cost. Subsequent to the October 1982 PRS, Western has learned that the BuRec airplane will be used only about 25 percent of the time on activities associated with CRSP power operations. In the revised PRS, only 25 percent of the the airplane's cost was included as a CRSP O&M expense; and all movable equipment, including the airplane, is scheduled for repayment over the service life of the property.

In the October 1982 PRS, about $5.2 million of cumulative miscellaneous unidentified replacements were treated as O&M expenses from FY 1983 through FY 1986; and the FY 1986 cost of $1.8 million was projected through the end of the repayment period. These replacements have been removed from the O&M expenses and included as capitalized replacements with an assumed service life of 20 years.

By making the aforementioned changes in movable equipment and unidentified replacement costs, the revenue requirements from firm energy and capacity sales were reduced by about 2.5 percent.

Central Utah project and Seedskadee Project Power Revenues. In accordance with the CRSP authorizing legislation, after the storage units irrigation allocation and all interest-bearing investments are repaid, the remaining net revenue available for repayment, plus any surplus CRSP municipal and industrial (M&I) revenue, is used to repay that part of the irrigation allocation of participating projects which is beyond the irrigators' ability to repay. The above legislation requires that power revenues of participating projects which are part of the aforementioned net revenue available for repayment be credited directly to that participating project for irrigation assistance.

In the October 1982 PRS, the power revenues attributed to the Central Utah Project (CUP) and to Seedskadee Project were in the same proportion to the total revenue as their projected energy and capacity are to the total projected CRSP energy and capacity that is used in the PRS. This method of determining the revenues that should be assigned to these participating projects was established when nearly all the revenue in the PRS was derived from firm energy and capacity sales. The method has continued to be used without reexamination. A significant amount of revenue is now derived from sources other than firm energy and capacity sales, such as from fuel replacement energy sales. Because the power facilities of participating projects are not required to make these other sales, Western decided that the power revenue attributable to the CUP and Seedskadee Project should be proportional to the revenue from firm energy and capacity sales, and not to the total revenue. By making this change, the revenue requirements from firm energy and capacity sales were increased slightly.

Inclusion of FY 1982 Actual Revenue and Expense. The October 1982 PRS was based on conditions as of the end of FY 1981. As stated on page 2 of the October 1982 rate brochure, Western planned to use actual costs and revenues for FY 1982 in a revised PRS if feasible. In addition, the October 1982 PRS assumed that the effective date of the proposed rate increases would be the April 1983 billing period. The substitution of actual in lieu of estimated FY 1982 costs and revenues, plus changing the effective date of the rate increases to the June 1983 billing period, increased the revenue requirements from firm energy and capacity sales by less than 1 percent.

Summary of Changes

A summary of the effect of the changes made in the April 1983 PRS are tabulated below:

Item	Change in proposed rate adjustment	
	(percent)	(mills/kWh
Changes in movable equipment and unidentified replacements	−2.5	−0.25
Changes in power revenues attributable to CUP and seedskadee Project	+0.5	+0.05
Inclusion of FY 1982 actual costs and revenues	+0.6	+0.06
Total	−1.4	−0.14

The net result of the above changes is to reduce the composite rate at 58.2-percent seasonal load factor from 10.06 mills/kWh to 9.92 mills/kWh for a reduction of 0.14 mills/kWh.

Other Repayment Issues

Repayment of the Irrigation Allocation of the Storage Units. Customers had two areas of concern about the repayment of the irrigation allocation of the storage units as follows:

1. The FY 1977 PRS which was the basis for the last rate adjustment showed that the ultimate allocation to storage units irrigation was $106,656,000 while the FY 1981 PRS, which is the basis for the current rate adjustment, shows $111,135,000. Since the storage units have been completed for some time, this increase in allocated costs was questioned.

2. In addition to the increased allocation to irrigation between the two studies, there is a decrease in the suballocation to M&I water users and a decrease in surplus M&I revenues available for repaying the irrigation allocation. This appeared to be inconsistent.

The actual plant investment allocated to irrigation for the storage units as of FY 1981 was $106,290,000. Multipurpose investments which are currently underway or scheduled include about $5,200,000 for grouting and drainage at the Navajo Dam and Reservoir, about $1,800,000 for the water system at the Dutch John Government Camp (Flaming Gorge), and about $700,000 for general property at Glen Canyon. Of this $7,700,00, slightly over $4,800,000 is allocated to irrigation which, when added to the present irrigation allocation, brings the total to $111,135,000.

The FY 1977 PRS recognized M&I water sales contracts which were in effect at that time. It included a contract for 102,000 acre-feet annually with the Resources Company for water to be used in a large coal-fired powerplant on the Kaiparowits Plateau near Glen Canyon. The plans for the plant have been cancelled and the contract is no longer in effect. The FY 1981 study does not include revenue from this contract, but it does still take into account all water sales contracts which are in effect, including a contract for the sale of 3,000 acre feet annually to the city of Page, Arizona, which was executed subsequent to the FY 1977 PRS. These changes reduced the M&I water use by 99,000 acre-feet annually. This, in turn, reduced the suballocation to M&I and the surplus M&I revenue available for repaying the storage unit's irrigation allocation. The rational basis for the changes in the irrigation allocation of the storage units since the FY 1977 PRS was prepared precluded the necessity for modifying these forecasts in the FY 1981 PRS.

Projections of Capacity Sales. Some customers expressed the view that Western's projections of capacity sales were too low. They noted that the comparison of the projected capacity shown in the FY 1977 PRS with actual capacity sales for the FY 1978–1981 period are within 0.8 percent of each other, but they claimed that such a comparison is misleading. They stated that the comparison should be between projected "saleable" capacity and actual "saleable" capacity (not actual sales) and that such a comparison shows the actual "saleable" exceeds the projected "saleable" by 7.8 percent for the above FY 1978–1981 period. They believe that this comparison demonstrates that the capacity projections are too low. No other support for a change in the projections of capacity sales was offered. In fact, the average capacity projection would be the most accurate projection to use for "saleable" capacity. However, projections of capacity sales in the PRS are meant to project the amount of capacity that can reasonably be expected to be sold at firm capacity rates not what is available for sale.

The long-term capacity commitments in the CRSP contracts, which terminate in FY 1989, were derived from the amount of capacity which hydrologic studies projected would be available 100 percent of the time. Some additional capacity is therefore available for sale most of the time. Historically, all of the available short-term capacity has not been sold. As shown on exhibit A, during the 16 seasons between FY 1975 and FY 1982, there were 2 seasons when no additional capacity was offered, and 8 seasons during which available capacity was offered sale but was not all sold. This means that for 50 percent of the time during the last 8 years, Western was unable to market all of its offered capacity. Assuming that the conditions of the last 8 years are representative of the future and that the 279,462 kilowatts that were offered but unsold during that period are valued at the monthly capacity charge of $2.00 (Rate Schedules SP–F2 and SP–FP2), the unrealized revenues from offered firm capacity can be expected to exceed $3,500,000 every 8 years. Revenues would be overstated for the study period by over $47,000,000 if the study assumed all offered capacity would be sold and actual results were similar to the past 8 years of experience.

Capacity projections in the PRS are used to project the amount of capacity that can reasonably be expected to be sold at firm rates, not what is available. In addition to not always selling all of the firm capacity offered, some available capacity is utilized to deliver such things as fuel replacement energy, interchange energy, and scheduled or emergency outage assistance. The benefits and revenues resulting from these transactions are reflected elsewhere in the PRS. It therefore would be inappropriate to assume that all available capacity will be sold as firm capacity, and that a comparison of projected capacity with actual firm capacity sales is a valid comparison.

In making projections of capacity sales, consideration is give to several factors among which are: (1) The amount of capacity which hydrologic studies indicate will be available, (2) the amount of capacity which is under contract, (3) the apparent market for short-term firm capacity sales as opposed to other services, and (4) the expected availability of the generating units. The following tabulation gives a comparison of the projected capacity sales with the acutal historical capacity sales for the FY 1976–82 period.

Fiscal year	Projected capacity sales		Actual[1] sales (kW)	Amount (projected sales exceeds actual sales (percent))
	Taken from	Sales (kW)		
1976	FY 1974 PRS	1,199,000	1,237,866	−3.3
1977	FY 1974 PRS	1,240,000	1,217,916	1.8
1978	FY 1977 PRS	1,237,000	1,214,009	1.8
1979	FY 1977 PRS	1,285,000	1,221,224	5.0
1980	FY 1977 PRS	1,305,000	1,328,961	−1.7
1981	FY 1977 PRS	1,309,000	1,351,296	−2.7
1982	FY 1981 PRS	1,393,500	1,354,312	2.8
Total		8,981,500	8,923,588	0.4

[1] The actual sales displayed here are taken from operating reports and are a refinement of those shown on page 23 of the October 1982 rate brochure.

Future capacity projections, based on past hydrologic conditions, are not precise, and Western has no conclusive evidence as to which capacity level would best approximate firm capacity sales over the study period. The relative impact on the rates of several alternatives is shown below:

Hydrologic capacity projection based on[1]	Average composite firm rate (at a 56.2 percent seasonal load factor) (mills/kWh)
Lower Envelope of Adverse	10.76
Lower Envelope of Lower Quartile	9.92
Smoothed Lower Quartile	9.77
Smoothed Average	9.60

[1] See exhibit D to CRSP substitute rate filing of March 21, 1983.

The October 1982 PRS utilized a hydrologic capacity projection based on the lower envelope of the lower quartile—the same level of sales anticipated in the FY 1977 PRS. The base hydrologic projection was adjusted for the period through 1986 to reflect expected unit outages at Glen Canyon to uprate the units. In the revised PRS (April 1983), the 1982 projection of 1,393,500 kW was reduced to the actual sale of 1,354,214 kW, and other minor adjustments were made such as revising the estimate of capacity sales for FY 1983 upward to 1,316,070 kW.

Western continued to use the lower envelope of the lower quartile hydrologic capacity as the base for its capacity sales projections for the following reasons:

1. About 980 to 1,580 megawatts of surplus thermal capacity are estimated to be available in the CRSP market area during the next 5 years, making it more difficult to market any available short-term capacity. In addition, the unit outages at Glen Canyon will substantially reduce the available capacity for the next 4 years.

2. During the 16 seasons between FY 1975 and FY 1982, there were 8 seasons during which all offered seasonal firm capacity was not sold and 2 seasons during which no short-term capacity was offered. Over the long term, it is reasonable to assume that there will continue to be periods when all offered capacity will not be sold.

3. While a comparison of the accumulated record of projected and actual capacity sales is short in hydrological terms and is not yet conclusive, it indicates that estimates have been anticipated in the very reasonable (within +5-percent accuracy). The projected sales exceeded actual sales by an average of 0.4 percent from 1976–1982.

4. Some available capacity is utilized to deliver fuel replacement energy and interchange energy, which are reflected elsewhere in the study.

Water Depletions. Some customers suggested that the water depletion schedule which affects projected revenues in the PRS is too high. They particularly questioned the inclusion of depletions for future participating projects whose status is questionable and depletions for unidentified developments. Including these depletions reduces the projected energy and capacity sales thereby increasing the revenue requirements in the PRS.

The State of Wyoming urged Western to continue using the water depletion schedule prepared by the BuRec with input from the four upper basin States of Colorado, New Mexico, Utah, and Wyoming.

The water depletion schedule that has been developed by the BuRec with input from the four upper basin States incorporates the assumption that the pressures of a growing population will eventually result in water developments utilizing each State's entitlement of the flow of the Colorado River. These developments may not necessarily be Federal projects, but anticipated water demands indicate that the water will be used. In fact, the four upper basin States do not accept the 5.8 million acre-feet limitation on upper basin depletions used by the BuRec in developing the depletion schedule. The States maintain that it is too low. The BuRec's depletion schedule, including a total of 5.8 million acre-feet of consumptive use by FY 2040, appears to be reasonable and Western has no basis for making any changes.

Revenue Projections. Some customers thought that Western's revenue projections were too conservative and that such understatement of projected revenues raises the rate needlessly high They pointed out that the projection in the FY 1977 PRS for FY 1978 through FY 1981 was nearly 32 percent lower than the actual revenue realized for the same period and that the projected revenues in the FY 1981 PRS for FY 1982 and FY 1983 were 23.0 and 16.4 percent, respectively, lower than the actual revenues in FY 1981.

A comparison of historical and projected revenues is meaningless unless an adjustment is made to account for the following differences: (1) Historical revenues are gross revenues, and (2) some projected revenues are gross revenues, but the projected fuel replacement energy revenues are net revenues (i.e., net of associated purchased power costs).

Therefore, an easier and more meaningful comparison is on the basis of the net revenues available for repayment. The term "net revenue available for repayment" means the gross revenue less operating expenses; i.e., the expenses associated with operation and maintenance, energy purchases, interest, wheeling, and salinity control. A comparison of projected net revenues in the FY 1977 PRS (November 1980 revision) and the FY 1981 PRS with the actual values for FY 1976–FY 1982 period is as follows:

NET REVENUES AVAILABLE FOR REPAYMENT
PROJECTED REVENUES

FY	As projected in	Amount ($1000)	Actual revenues ($1000)
1978	FY 1977 PRS	3,922	7,046
1979	FY 1977 PRS	9,234	−2,540
1980	FY 1977 PRS	20,983	35,561
1981	FY 1977 PRS	18,162	9,675
1982	FY 1981 PRS	19,481	10,034
Total		71,782	59,776
Average annual		14,356	11,955

% Projected Exceeds Actual=20%

As can be seen from this tabulation, the actual net revenue available for repayment has been less than the projected amount. For the last 5 years the projected net revenues exceeded the actual by an average of 20 percent. While revenue estimates were higher, in large part because of netting, than

actual revenues in some years, if is clear that actual annual expenses also have been higher than estimated expenses so that, overall, the net revenues have been lower than the projected repayment requirements. Western is endeavoring to improve the accuracy of all of its estimates. However, it is obvious that any increase in projected revenues as a result of the elimination of netting must be accompanied by an even greater increase in costs (including the cost of purchased power for fuel replacement sales) to improve forcasting accuracy.

Stepped Rates/Participating Project Costs. Some customers stated that since many of the authorized participating projects will not be completed until well into the future and some projects will quite likely never be completed, it is improper to include all authorized participating projects in the PRS to determine the power rate needed at the present time. These customers proposed instead that the presently needed power rate be based on a PRS which includes only those participating projects which will be completed within 5 years beyond the current fiscal year; i.e., with an initial water service before FY 1987. They base their argument on the clause in DOE Order No. RA 6120.2, specifying the use of a 5-year evaluation period in the PRS. These customers proposed further that if it is necessary to prepare an annual report showing full repayment of all participating projects to comply with section 6 of Pub. L. 84–485, additional studies be prepared to include the costs of all participating projects and to show stepped increases in the power rate at various times in the future.

The benefits claimed for stepping the rates are as follows: (1) Power repayment studies would show repayment of all authorized projects, (2) present rates would not be influenced by the cost of future projects which may not be built, and (3) current ratepayers would not be required to pay higher rates caused by future projects to be completed beyond the 5-year cost evaluation period.

Representatives of the four upper basin States urged Western to continue to set rates based upon the criteria which have been used historically. They pointed out that a major purpose of the CRSP power systems was to provide for a timely implementation of plans to develop the water resources of the Upper Colorado River Basin.

Paragraph 10k of DOE Order No. 6120.2 directs that a PRS should include all power investment costs for existing systems and for all authorized power system facilities which will be inservice within the cost evaluation period. The cost evaluation period is defined in paragraph 7b of the order as "a period of time during which estimates of future costs and revenues may be modified to reflect changing conditions, normally 5 years." Paragraph 12b of the order directs that revenues should also be sufficient to recover the assisted irrigation investment or payments to basin funds, participating projects, or States; but no time period is specified for the inservice dates of the irrigation investments or participating projects. More significantly, Pub. L. 84–485 sanctions the inclusion of participating project costs beyond a 5-year period in the future. The Assistant Secretary has approved rates with such participating project costs included, and with the execution of this rate order will continue their inclusion. The FERC recognized that the 5-year cost evaluation period does not apply to participating project costs in its order dated October 1, 1982.

The imposition of a limit on the inclusion of future construction costs in determining power rates for investor-owned utilities is evaluated on fairness. That is, there is a point of view that future construction costs should not be borne by present ratepayers until the benefits from these costs are available to them. While a limit on including future costs may be reasonable for utilities whose only costs are those associated with providing power for their customers, the same is not true for a Federal multipurpose project such as the CRSP. For such projects, the irrigation assistance to participating projects does not provide any power benefits to present or future ratepayers. Under these conditions, stepping the rates would unfairly benefit current ratepayers at the expense of future ratepayers.

The method for treating participating project costs referred to in the March 8, 1983, letter to the Administrator of Western from the Commissioner of the BuRec (exhibit A to the CRSP substitute power rate filing of March 21, 1983) was used in the FY 1981 PRS for the first time. This jointly developed method is consistent with both Western and BuRec policies. BuRec policies reflect an interpretation of their statutory responsibilities and are understood by Western to require that costs for all authorized participating projects be included in the PRS. The BuRec is considering alternate policies for determining how participating project costs should be included in the PRS. If adopted, these policies would refine the method that was used in the FY 1981 PRS which is described here:

1. Inservice dates for projects that are not in an active planning status and for which no satisfactory plan has been developed are scheduled by BuRec so that they do not affect PRS revenue requirements. The LaBarge, Fruitland-Mesa, San Miguel, Savery-Pot Hook, and West Divide Projects are in this category.

2. For project features that definitely will not be built, such as the Seedskadee irrigation feature, only costs already spent are included in the PRS.

3. Inservice dates for projects that are in the active planning process or have met the required conditions for construction are scheduled by the BuRec without considering their effect upon PRS revenue requirements. Exhibit B shows that status of these projects.

The PRS methodology permits these future participating project costs to be included without increasing revenue requirements to an excessive level.[1] This is possible because the investments in facilities that are already inservice do not have fixed annual repayment schedules. Within the constraints specified by statute, repayment schedules for the various features and units of a project are established in the PRS to minimize annual revenue requirements. This repayment flexibility also accommodates fluctuating net revenues of a hydroelectric system without requiring similarly fluctuating rate adjustments. Thus, rate stability—one objective of Federal ratemaking—has traditionally been achieved with the use of a PRS. The concept of a stepped rate undermines a basic raison d'etre of the PRS and is philosophically incompatible with the averaging that is fundamental to the PRS. A PRS was at one time called an average rate and repayment study. The introduction of a stepped-rate concept into the PRS would jeopardize the timely recovery of existing investment costs.

There are, therefore, two compelling reasons for rejecting the stepped-rate concept: (1) It would jeopardize the timely recovery of existing investment costs, and (2) it would unfairly benefit current customers at the expense of future customers.

Replacement Costs. The customers expressed the view that the large cyclic variation in replacement costs should be spread out, thereby shifting costs past the "ratesetting" year so that the revenue requirements would be reduced. They further noted that replacements do not appear to be capitalized after FY

[1] As long as rates return revenues that are not greater than would be required to amortize facilities already in service on a straight-line basis (a method commonly used by electric utilities), they could not reasonably be considered excessive. (See exhibit C to CRSP substitute rate filing of March 21, 1983.)

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2006 except for FY 2014 and that had they been capitalized, the power rate could be reduced.

The replacements used in the PRS are based on the service lives of the items being replaced, and the projected cost of such items is shown in the year they are expected to be placed inservice. Western is taking the customers' suggestions under advisement and will consider some modifications in the projection of replacements in the next PRS. Western's effort will continue to be to estimate replacement investments as closely as possible to the manner in which the investments actually will occur. It may be possible to mitigate the large cyclic variations in the projected replacements, but it is questionable whether the power rates will be reduced as a result. The ratesetting year of 2057 had a very modest projection of $1,577,000 for replacements, as compared to over $28,000,000 in some years. It is just as likely that a redistribution of replacement costs would increase the revenue requirements as decrease them.

Replacements have been treated as capitalized investments in the PRS for about 10 years. During 1972, the BuRec adopted two PRS policies—that replacements would be capitalized and that the highest interest-bearing investments would be repaid first to the extent that this is possible while repaying all investments within their repayment periods. Since replacements often are the highest interest-bearing investments, they are normally repaid within a short period of time. The question of whether CRSP replacements must be paid as an annual expense or whether it is permissible to capitalize them has recently been evaluated. Western's Office of the General Counsel concluded that section 5(c) of the Colorado River Storage Act does not mandate annual repayment of replacements and does not prohibit the capitalization of replacement costs. Therefore, the administrative practice of amortizing CRSP replacements is lawful.

The historical interpretation of the CRSP Act has been that section 5(c) requires repayment of all CRSP costs, including replacements, prior to apportioning revenues in excess of the amounts needed to meet the requirements of the CRSP. The April 1983 CRSP adheres to that historical interpretation.

In the April 1983 PRS, the repayment of the storage units' costs allocated to power was completed in FY 2013 and costs allocated to irrigation was completed in FY 2014. Thereafter, replacement costs are paid each year before any revenue is made available for participating projects. Since the annual revenues are adequate to repay the costs of replacements at the time replacements are made, the effect of capitalizing replacements is the same as if replacements had been treated as an annual expense.

Interest Expense. The interest expense for the CRSP is determined by applying the interest rate to the unpaid investment which is inservice at the beginning of the year. In the CRSP PRS, no interest charges are made for the year in which investments are placed into service. This policy is a deviation from paragraph 10j(2) of Order No. RA 6120.2, but it is a continuation of the established practice for the CRSP. That practice was orginally established because the Department of the Interior's Solicitor advised the BuRec that using an interest credit (to recognize that CRSP power revenues are received monthly, rather than at the end of the year) would be inconsistent with the availability of CRSP revenues without further appropriation for the operation of CRSP (section 5(c) of the CRSP act). Consequently, these revenues could be spent for operations within a short period of time and would not be accruing interest. Since an interest credit was not used, the same concept was extended to interest charges on investments for the year they are placed in service. Recently, interest during construction has been included in the financial records through the fiscal year during which facilities are placed in service.

Western will be considering new interest rate policy in conjunction with its next CRSP rate adjustment and at that time will consider whether a charge of one-half year's interest should be made on investments placed inservice during the year as required by paragraph 10j(2) of Order No. RA 6120.2.

Other Comments. Some customers in southern Utah stated that the Secretary of the Interior's decision in the early 1980's to deliver power to them over existing transmission lines of others, instead of buidling Federal lines to deliver CRSP power, has not been fair to them. They also state that the existing system is not adequate and suggest that a line be built from Glen Canyon to St. George to solve the problem.

Western is studying the need for and feasibility of constructing additional transmission lines as needed for marketing CRSP power, but then need and feasibility of constructing transmission lines are outside the scope of this proposed rate adjustment.

Environmental Evaluation. As discussed on page 46 of the October 1982 rate brochure, section D of the DOE Regulations which were published in the February 23, 1983, Federal Register (47 FR 7976) state that the level of documentation for rate increases of power marketing administrations required under the National Environmental Policy Act of 1969 depends on the rate increase as it relates to the rate of inflation since the last rate increase.

Using the Consumer Price Index prepared by the Department of Labor as a measure of inflation, the estimated inflation from the date of the last rate increase to the planned date of the proposed rate increase is 22 percent. The power rate increase is 28 percent. From analyses of residential power rates of CRSP customers and of the effect of "passing through" the CRSP rate increase, it was determined that the effect on the ultimate consumer will be less than 11 percent.

The proposed rate increase would have no effect on the hydrologic operation of the Colorado River; consequently, there would be no change in reservoir fluctuations and river flows. Air quality, flora, and fauna will not be affected, nor will there be any effect on the cultural and/or recreational resources of the Colorado River Basin. Since the CRSP rate is below the cost of wholesale or self-generated firm capacity and energy in the CRSP market area or any other alternative sources of energy, it is unlikely that any CRSP customers will switch to another source of energy.

The proposed rate increase was discussed with the DOE Office of Environmental Compliance. They agree with Western's conclusion that the proposed rate increase will clearly have no significant environmental impacts. Therefore, neither an environmental impact statement nor an environmental assessment will be prepared. A memorandum addressing the environmental evaluation is on file in Western's offices.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts, and other supporting material, is available for public review in the Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; in the office of the Director, Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of Power Marketing Coordination, Department of Energy, Room 5318, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20461.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective for the June 1983 billing period, Rate Schedules SP–F2, SP–FP2, SP–FT1, and SP–NFT1. These rates shall remain in effect pending the FERC confirmation and approval of them or substitute rates, on a final basis, or until they are superseded.

Issued in Washington, DC, April 25, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[Rate Schedule SP–F2 (Supersedes Schedule SP–F1)]

Schedule of Rates for Wholesale Firm Power Service

Effective:
At the beginning of the June 1983 billing period.

Available:
In the area served by the Colorado River Storage Project.

Applicable:
To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service:
Alternating current, sixty (60) Hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:
Capacity Charge: $2.09/kW of billing demand.

Energy Charge: 5.0 mills/kWh for all energy use up to, but not in excess of, the energy obligation under the power sales contract.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Billing for Unauthorized Overruns:
For each billing period in which there is contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at ten (10) times the above rate.

Adjustments:
For transformer losses:
If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For power factor:
None. The customer will normally be required to maintain a power factor at the point of delivery of between 95-percent lagging and 95-percent leading.

[Rate Schedule SP–FP2 (Supersedes Schedule SP–FP1)]

Schedule of Rates for Wholesale Peaking Power Service

Effective:
At the beginning of the June 1983 billing period.

Available:
Within and adjacent to the marketing area of the Colorado River Storage Project.

Applicable:
To wholesale power customers purchasing such service uner long-term contract. Because of he nature of this class of service, it is applicable only to customers with other resources enabling them fo utilize it.

Character and Conditions of Service:
As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltage, and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate:
Capacity Charge: $2.00/kW of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy Charge: 5.0 mills/kWh for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns:
For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at ten (10) times the above rate.

Adjustments:
For power factor:
None. The customer will normally be required to maintain a power factor at the point of delivery of between 95-percent lagging and 95-percent leading.

[Rate Schedule SP–FT1]

Schedule of Rates for Firm Transmission Service

Effective:
At the beginning of the June 1983 billing peiod.

Available:
In the area served by the Colorado River Storage Project transmission facilities.

Applicable:
To firm transmission service customers where power and energy are supplied to the Colorado River Storage Project system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the Colorado River Storage Project system specified in the service contract.

Character and Conditions of Service:
Transmission service for three-phase alternating current at sixty (60) Hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate:
Transmission Service Charge: $10.27 per kilowatt per year for each kilowatt contracted for as specified in the service contract; payable monthly at the rate of $0.8558 per kilowatt.

Adjustments:
For reactive power:
None. There shall be no entitlement ot transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the Contractor and the contracting officer or their authorized representatives.

For losses:
Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[Rate Schedule SP–NFT1]

Schedule of Rates for Nonfirm Transmission Service

Effective:
At the beginning of the June 1983 billing period.

Available:
In the area served by the Colorado River Storage Project transmission facilities.

Applicable:
To nonfirm transmission service customers where power and energy are supplied to the Colorado River Storage Project system at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity, less losses, to points of delivery on the Colorado River Storage Project system specified in the service contract.

Character and Conditions of Service:
Transmission service on an intermittent basis for three-phase alternating current at sixty (60) Hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate:
Transmission Service Charge: 2.0 mills per kilowatthour for each kilowatthour scheduled; payable montly.

Adjustments:
For reactive power:
None. There shall be no entitlement to transfer of reative kilovolt-amperes at delivey points, except when such transfers may be mutually agreed upon by the Contractor and the Contracting Officer or their auhrorized representatives.

For losses:
Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

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EXHIBIT B.—STATUS OF CRSP PARTICIPATING PROJECTS WHICH WERE UNDER CONSTRUCTION OR ACTIVELY BEING PLANNED AS OF FISCAL YEAR 1981

Project	Benefits-cost ratio	Repayment contracts signed or date scheduled to be signed	Fiscal year 1982 budget request
Animas-La Plata	1.5	April 1983 [1]	$0
Bonneville Unit-CUP	1.5	Yes	70,700,000
Dallas Creek	1.5	Yes	6,976,000
Dolores	1.1	Yes	46,586,000
Jensen Unit-CUP	1.3	Yes	8,752,000
San Juan Chama	2.6	Yes	208,000
Uintah (CUP)	1.2	June 1983	800,000
Upalco (CUP)	1.1	Yes	1,846,000

[1] As of April 1983, the repayment contract is scheduled to be signed by May 1984.

EXHIBIT A.—FIRM CAPACITY OFFERED BUT UNSOLD [1]

Season	Amount offered kW	Amount offered but not purchased kW
Winter, FY 1975	72,800	0
Summer, FY 1975	50,000	12,833
Winter, FY 1976	170,000	0
Summer, FY 1976	100,000	34,400
Winter, FY 1977	195,000	53,955
Summer, FY 1977	80,000	0
Winter, FY 1978	200,000	17,550
Summer, FY 1978	90,000	0
Winter, FY 1979	150,000	0
Summer, FY 1979	122,019	36,069
Winter, FY 1980	200,000	18,115
Summer, FY 1980	0	0

EXHIBIT A.—FIRM CAPACITY OFFERED BUT UNSOLD [2]—Continued

Season	Amount offered kW	Amount offered but not purchased kW
Winter, FY 1981	0	0
Summer, FY 1981	100,000	0
Winter, FY 1982	144,000	67,990
Summer, FY 1982	120,000	38,550
Total		279,462

[1] All numbers have been "seasonal-averaged"; i.e., the total KW-months each season were added and then divided by the number of months in the season (6).

[FR Doc. 83-11999 Filed 5-2-83; 8:45 am]
BILLING CODE 6450-01-M

federal register

Tuesday
May 3, 1983

Part III

Department of Energy

Office of Conservation and Renewable Energy

Federal Loan Guaranties for Geothermal Energy Utilization; Final Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 790

[Docket No. CE-RM-82-701]

Federal Loan Guaranties for Geothermal Energy Utilization

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues final program rules which revise the Geothermal Loan Guaranty Program in accordance with amendments to Title II of the Geothermal Research, Development, and Demonstration Act of 1974, Pub. L. 93-410, which are set forth in Title VI of the Energy Security Act, Pub. L. 96-294.

EFFECTIVE DATE: June 2, 1983.

FOR FURTHER INFORMATION CONTACT:
As to geothermal loan guaranty matters: Pauline Labrie, Office of Conservation and Renewable Energy, Geothermal and Hydropower Division, 1000 Independence Avenue, S.W., Room 5G-030, Washington, D.C. 20585, (202) 252-5343.
As to legal matters: Diane Stubbs, Office of General Counsel, GC-44, 1000 Independence Avenue, S.W., Room 6B-158, Washington, D.C. 20585, (202) 252-2440.

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comments
III. Review Under Executive Order 12291
IV. Review Under Regulatory Flexibility Act
V. Review Under National Environmental Policy Act
VI. List of Subjects in 10 CFR Part 790

I. Background

The rules being issued today were published in a notice of proposed rule making which appeared in the January 12, 1982 **Federal Register** (47 FR 1302). During the public comment period, the DOE received one written comment. A public hearing was not held because no substantial issue of fact or law exists with respect to these rules and such rules are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

The rules DOE adopts today provide generally that: (1) The loan guaranty ceiling be increased to 90 percent of project costs for municipalities and cooperatives; (2) the program be extended to the end of FY 1990; [1] (3) final decisions on loan guaranty applications be reached within four months of the date of filing; (4) project costs exclude the cost of constructing electric transmission lines to the extent that such costs exceed 25 percent of the estimated total aggregate cost of the project; and (5) duplication of actions taken pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 be minimized. These amendments are being issued in order to comply with section 644 of the Energy Security Act (Pub. L. 96-294).

II. Public Comments

In response to the notice of proposed rulemaking, DOE received one written comment from Pacific Power and Light Company (PPLC).

PPLC expressed support for and urged adoption of the proposed amendments, primarily because the commenter believes that the geothermal potential of the western United States has not been fully utilized and that the amendments constitute an extension of a program which has been instrumental in aiding in the identification and development of this potential without direct Federal funding.

III. Review Under Executive Order 12291

Today's rules were reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that they are not "major rules" because, if implemented, they will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

IV. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) requires that a final regulatory flexibility analysis be prepared with respect to final rules unless the agency certifies that the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. DOE believes that these rules, if implemented, would not have the requisite economic impact on small entities to necessitate a final regulatory flexibility analysis.

V. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these regulations does not require preparation of an environmental assessment or of an environmental impact statement under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* (1970)), the Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and the DOE guidelines (45 FR 20694, March 28, 1980). Issuance of these rules is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA. In the event that loans are guarantied under the Geothermal Loam Guaranty Program, DOE would complete any appropriate NEPA site specific documentation that may be required.

VI. List of Subjects in 10 CFR Part 790

Geothermal energy, Loan programs.

(Title II of the Geothermal Energy Research, Development, and Demonstration Act of 1974, Pub. L. 93-410, 88 Stat. 1088 (30 U.S.C. 1141 *et seq.*), as amended; Title VI of the Energy Security Act, Pub. L. 96-294, 94 Stat. 763 (30 U.S.C. 1501 *et seq.*); Department of Energy Organization Act, Pub. L. 96-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*))

In consideration of the foregoing, 10 CFR Part 790 is amended as shown below.

Issued in Washington, D.C., April 27, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 790—THE GEOTHERMAL LOAN GUARANTY PROGRAM

For the reasons set out in the preamble, Part 790 of Chapter III, Title 10 of the Code of Federal Regulation is amended as shown.

1. In § 790.6, paragraph (e) is revised to read as follows:

§ 790.6 Loan guaranty criteria.

* * * * *

(e) The maximum guaranty shall apply only to that amount of a loan that does not exceed 75 percent of the estimated aggregate cost of the project. However, any guaranty made for a loan to an electric, housing, or other cooperative, or to a municipality (as defined in section 3(7), Part I, of the Federal Power Act), may apply to that amount of the loan that does not exceed 90 percent of the estimated aggregate cost of the project.

[1] This extension of program authority is mandated by statute and does not affect DOE's decision, reflected in a notice published on March 1, 1982 (47 FR 8553), to accept no further applications for new projects at this time.

§ 790.9 [Amended]

2. Section 790.9 is amended by removing the words "September 3, 1984" wherever they appear and inserting, in their place, the words "September 30, 1990."

3. In § 790.20, paragraph (b)(1) is revised to read as follows:

§ 790.20 Filing.

* * * * *

(b)(1) Prior to receipt of an application, the Manager is authorized to conduct preliminary discussions with prospective lenders, borrowers or other interested parties wishing to obtain information or advice regarding eligibility for a loan guaranty and compliance with this regulation, and whether a lender should be obtained by the borrower prior to the submission of an application. To the maximum extent practical, and applicant should be advised (prior to the submission of an application) of all information which will be required by the Manager in processing the application. The date of filing shall be the date, as determined by the Manager, when all such required information has been submitted by the applicant. A final decision on the application shall be made by the Secretary within no more than four months of the date of filing established by the Manager.

4. Section 790.22 is amended by adding paragraphs (g) and (h) to read as follows:

§ 790.22 Project costs.

* * * * *

(g) The estimated total aggregate cost of a project shall exclude the estimated cost of constructing electric transmission lines to the extent that such construction cost exceeds 25 percent of the estimated total aggregate cost of the project. In determining this 25 percent limitation, the amount used in the denominator shall be the estimated total aggregate cost of the project including the estimated total cost of constructing the electric transmission line.

(h) The Secretary may waive or limit the 25 percent limitation imposed by paragraph (g) above for projects located in the State of Hawaii upon finding that the project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the transmission line will be used for more than the plant which is the subject of the loan guaranty.

5. In § 790.23, paragraph (a) is revised to read as follows:

§ 790.23 Environmental considerations.

(a) The issuance of a Federal guaranty for a loan under these regulations is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 *et seq.* Pub. L. 91-190) and applicable regulations, rules and guidelines implementing NEPA. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of NEPA which is associated with the granting of a loan guaranty under this regulation takes maximum cognizance allowable under law of any other action previously undertaken pursuant to NEPA section 102(2)(C) with respect to the project which is the subject of such loan guaranty. No action associated with the loan guaranty shall duplicate any action previously undertaken under NEPA section 102(2)(C) in connection with the project, so long as all requirements which are applicable to the project under NEPA section 102(2)(C) have been or will be satisfied.

* * * * *

[FR Doc. 83-11702 Filed 5-2-83; 8:45 am]
BILLING CODE 6450-01-M

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federal register

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May 3, 1983

Part IV

Department of the Interior

Bureau of Land Management

National Conservation and Recreation Areas in Alaska; Description of Boundaries

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

National Conservation and Recreation Areas in Alaska; Description of Boundaries

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Legal Descriptions of the Steese National Conservation Area and the White Mountains National Recreation Area Boundaries.

SUMMARY: This notice sets out the legal descriptions of the exterior boundaries of the Steese National Conservation Area and the White Mountains National Recreation Area established in Alaska under Sections 401 and 403 of the Alaska National Interest Lands Conservation Act (ANILA). Limited descriptions are included for Wild and Scenic Rivers established under Section 603 and rivers designated for study under Section 604. Publication of these legal descriptions is required by Section 103 of the ANILCA. Generalized location maps are included also.

EFFECTIVE DATE: Pursuant to Section 103(b) of ANILCA these boundaries were effective as of December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Beaumont C. McClure, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240 (phone: (202) 343–6511) or Jules V. Tileston, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 (phone: (907) 271–5069).

SUPPLEMENTARY INFORMATION: Under Subsection 103(b) of the Alaska National Interest Lands Conservation Act (ANILCA, Pub. L. 96–487 (94 Stat. 2371)), the Secretary of the Interior is directed to publish legal descriptions and boundary maps for land status changes effected by the ANILCA. The official legal descriptions for the Steese National Conservation Area and the White Mountains National Recreation Area are included in this notice. While generalized location maps for these areas also are included in this notices, the 1:250,000 scale maps developed for public use under Subsection 103(b) are incorporated by this notice and are available for inspection at the Office of the Federal Register Information Center (Room 8301, 1100 "L" Street, N.W., Washington, D.C. 20408), U.S. Geological Survey map reference libraries in Alaska, and at the Bureau of Land Management Offices in Washington, D.C. and Anchorage, Alaska. The maps are also available for sale from the U.S. Geological Survey. Limited descriptions of Wild and Scenic Rivers under the Bureau of Land Management's (BLM) jurisdiction are also included, although they are not depicted on the 1:250,000 scale maps at this time.

The ANILCA established one National conservation area and one National recreation area.

Use of National Conservation and National Recreation Areas

The legal descriptions that follow are those of the external boundaries of the above listed units. State, Native, and other private landholdings within these boundaries cannot be accurately described at this time and thus have not been identified on the available maps. Inclusion of these nonpublic lands within the described boundaries should not be interpreted as authorizing public use of such lands. Uses of the public lands within the described boundaries are controlled by the provisions of the ANILCA, the Federal Land Policy and Management Act of 1976, other appropriate laws, and regulations governing land administered by the BLM. Persons desiring information on land status or use of land within the described areas may contact the Alaska State Director, BLM, 701 C Street, Box 13, Anchorage, Alaska 99513.

Note.—The term "public lands" as used throughout this notice is defined by the ANILCA as those lands, waters, and interests therein, the title to which is in the United States after December 2, 1980, except:

A. Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

B. Land selections of a Native corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native corporation, unless any such selection is determined to be invalid or is relinquished; and

C. Lands referred to in Subsection 19(b) of the Alaska Native Claims Settlement Act.

Those lands selected by the State or a Native corporation within the exterior boundaries of a National conservation area or a National recreation area are to be administered by the Bureau of Land Management under applicable laws until conveyed.

Those lands validly selected by, but not ultimately conveyed to, the State or a Native corporation within the exterior boundaries of a National conservation area or a National recreation are become a part of that conservation or recreation area.

National Wild and Scenic Rivers

The ANILCA designated the following National wild rivers in Alaska: Alagnak, Beaver Creek, Birch Creek, Delta (a portion), Fortymile (a portion), Gulkana, and Unalakleet.

A portion of the Delta and Fortymile Rivers has been classified as a scenic river. Another portion of the Fortymile River has been classified as a recreation river.

The following rivers are designated for a 3–year study for possible addition to the National Wild and Scenic Rivers System: Colville, Etivluk-Nigu Utukok, Melositna, Yukon (Ramparts section), Squirrel, and Koyuk.

The ANILCA descriptions of National wild and scenic rivers are included in this notice but they are not depicted on the 1:250,000 scale maps at this time. These limited descriptions can be found following the description of the Steese National Conservation and the White Mountains National Recreation Areas.

Corridors for rivers designated for study include the public lands within the bed or bank of the river and the area extending 2 miles outward from each bank of the river channel. These corridors will be in effect for varying periods in accordance with Subsection 7(b) of the Wild and Scenic Rivers Act. Beginning and ending points of these study rivers have been included in this notice. At such time as management corridors are finalized for the designated Wild and Scenic Rivers, they will be described on the 1:250,000 scale maps. Use of these river areas is governed by the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287), as amended by the ANILCA.

Availability of maps: The maps of the Steese National Conservation Area and the White Mountains National Recreation Area included in this notice are generalized depictions of the lands described. Maps at this scale cannot accurately depict the actual boundaries and should be used only as general location references. Persons desiring more detailed information on the National conservation and recreation area boundaries are directed to the maps at the scale of 1:250,000 which are available for review at U.S. Geological Survey map reference libraries in Alaska and at the following locations:

Department of the Interior Library, Room 1140, 18th and C Streets, N.W., Washington, D.C. 20240

Bureau of Land Management, 701 C Street, Anchorage, Alaska 99513

Additionally, the 1:250,000 scale maps are available for sale by the U.S. Geological Survey at the following locations:

U.S. Geological Survey, Alaska, Distribution Section, 101 12th Avenue, Fairbanks, Alaska 99701

U.S. Geological Survey, Public Inquiries Office, 503 National Center, Reston, Virginia 22092

U.S. Geological Survey, Western Distribution Branch, Box 25286—Mail Stop 306, Denver, Colorado 80226

Note.—The legal description in this notice were written from maps at the 1:63,300 scale, where available, and reflect greater detail and accuracy then that depicted on the 1:250,000 scale maps prepared for public use.

The large number of maps necessary to depict the conservation and recreation areas in Alaska at the 1:63,300 scale precludes their reproduction for public use. However, as the U.S. Geological Survey revises individual maps at this scale, the new boundary lines will be depicted. These revised maps will eventually be available through normal USGS sales outlets.

Dated: April 26, 1983.

Robert F. Burford,

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STEESE NATIONAL CONSERVATION AREA

Subsection 401(b):

"The Steese National Conservation Area shall include approximately one million two hundred twenty thousand acres of public lands, as generally depicted on the map entitled 'Steese National Conservation Area - Proposed' and dated October 1978."

The Steese National Conservation Area consists of the public lands, as defined by the ANILCA within the following boundary:

NORTH UNIT

Beginning at a point between sections 1 and 12, T. 10 N., R. 6 E., Fairbanks Meridian; Thence easterly, between sections 1 and 12, approximately 3,000 feet to the corner of sections 1, 6, 7, and 12, T. 10 N., Rs. 6 and 7 E., Fairbanks Meridian; Thence northerly, between Rs. 6 and 7 E., approximately 1,800 feet to a point on the summit of a ridge between sections 1 and 6, T. 10 N., Rs. 6 and 7 E., Fairbanks Meridian; Thence northeasterly, easterly and southeasterly, along the divide between Beaver Creek, Discovery Creek, North Fork Preacher Creek, and Preacher Creek, approximately 26 miles to the summit of a mountain in the southeasterly portion of section 4, T. 11 N., R. 10 E., Fairbanks Meridian, approximate elevation 3,338 feet; Thence northeasterly and southeasterly, along a ravine and the centerline of an unnamed creek, approximately 4-1/2 miles to the centerline of Preacher Creek in the northwesterly portion of section 18, T. 11 N., R. 11 E., Fairbanks Meridian; Thence northeasterly, along the centerline of Preacher Creek, approximately 10-1/2 miles to the centerline of Rock Creek, located in section 35, T. 12 N., R. 11 E., Fairbanks Meridian; Thence southerly, along the centerline of Rock Creek, approximately 4 miles to a point between sections 14 and 23, T. 11 N., R. 11 E., Fairbanks Meridian; Thence easterly, between sections 14 and 23, 13 and 24, approximately 1-3/4 miles to the corner of sections 13, 18, 19 and 24, T. 11 N., Rs. 11 and 12 E., Fairbanks Meridian; Thence southerly, between Rs. 11 and 12 E., approximately 1/2 mile to the 1/4 section corner of sections 19 and 24, T. 11 N., Rs. 11 and 12 E. Fairbanks Meridian; Thence easterly, along the east and west centerlines of section 19, 20 and 21, approximately 3 miles to the 1/4 section corner of sections 21 and 22, T. 11 N., R. 12 E., Fairbanks Meridian; Thence southerly, between sections 21 and 22, approximately 1/2 mile to the corner of sections 21, 22, 27 and 28, T. 11 N., R. 12 E., Fairbanks Meridian; Thence easterly, between sections 22 and 27, approximately 1/2 mile to the 1/4 section corner of sections 22 and 27, T. 11 N., R. 12 E., Fairbanks Meridian; Thence southerly, along the north and south centerline of section 27, approximately 1/2 mile to the center 1/4 section corner of section 27, T. 11 N., R. 12 E., Fairbanks Meridian; Thence easterly, along the east and west centerlines of sections 27, 26, 25, 30 and 29, approximately 4-1/2 miles to the 1/4 section corner of sections 28 and 29, T. 11 N., R. 13 E., Fairbanks Meridian; Thence southerly between sections 28 and 29, 32 and 33, approximately 1 mile to the 1/4 section corner of sections 32 and 33, T. 11 N., R. 13 E., Fairbanks Meridian; Thence westerly, along the east and west centerline of section 32, approximately 1 mile to the 1/4 section corner of sections 31 and 32, T. 11 N., R. 13 E., Fairbanks Meridian; Thence southerly, between sections 31 and 32, T. 11 N., R. 13 E., 5 and 6, 7 and 8, 17 and 18, 19 and 20, T. 10 N., R. 13 E., approximately 4-1/2 miles to the corner of sections 19, 20, 29 and 30, T. 10 N., R. 13 E., Fairbanks Meridian; Thence westerly, between sections 19 and 30, approximately 1 mile to the corner of sections 19, 24, 25 and 30, T. 10 N., Rs. 12 and 13 E., and T. 9 N., Rs. 12 and 13 E., Fairbanks Meridian; Thence southerly, between T. 10 N., Rs. 12 and 13 E., approximately 8 miles to the standard corner of T. 9 N., Rs. 12 and 13 E., Fairbanks Meridian; Thence westerly, along the Second Standard Parallel North, approximately 2 miles to the standard corner of sections 34 and 35, T. 9 N., R. 12 E., Fairbanks Meridian; Thence northerly, between sections 34 and 35, approximately 3/4 mile to the summit of a ridge, between sections 34 and 35, T. 9 N., R. 12 E., Fairbanks Meridian; Thence westerly, southwesterly, northwesterly, southwesterly, northeasterly, northwesterly and northeasterly, along the divide between the drainages of Preacher Creek, Porcupine Creek, Birch Creek, Faith Creek, Champion Creek, Bear Creek and Beaver Creek, approximately 80 miles to a point between sections 1 and 12, T. 10 N., R. 6 E., Fairbanks Meridian, the place of beginning.

SOUTH UNIT

Beginning at the corner of Tps. 5 and 6 N., Rs. 17 and 18 E., Fairbanks Meridian; Thence northerly between Rs. 17 and 18 E., approximately 6 miles to the corner of Tps. 6 and 7 N., Rs. 17 and 18 E., Fairbanks Meridian; Thence westerly, between Tps. 6 and 7 N., approximately 48 miles to the corner of Tps. 6 and 7 N., Rs. 9 and 10 E., Fairbanks Meridian; Thence southerly, between Rs. 9 and 10 E., approximately 6 miles to the corner of Tps. 5 and 6 N., Rs. 9 and 10 E., Fairbanks Meridian; Thence westerly, between Tps. 5 and 6 N., approximately 6 miles to the corner of Tps. 5 and 6 N., Rs. 8 and 9 E., Fairbanks Meridian; Thence southerly, between Rs. 8 and 9 E., approximately 6 miles to the standard corner of T. 5 N., Rs. 8 and 9 E., Fairbanks Meridian; Thence easterly, along the First Standard Parallel North, approximately 11-1/4 miles to the closing corner of T. 4 N., Rs. 10 and 11 E., Fairbanks Meridian; Thence southerly, between Rs. 10 and 11 E., approximately 11-3/4 miles to the top of a ridge located between sections 31 and 36, T. 3 N., Rs. 10 and 11 E., Fairbanks Meridian, approximate elevation 2,900 feet; Thence easterly, northeasterly, southeasterly and northwesterly, along the crest of a ridge encompassing the southerly watershed of Birch Creek, approximately 86 miles to the point between sections 1 and 6, T. 5 N., Rs. 17 and 18 E., Fairbanks Meridian, approximate elevation 3,400 feet; Thence northerly, between Rs. 17 and 18 E., approximately 1/2 mile to the corner of Tps. 5 and 6 N., Rs. 17 and 18 E., Fairbanks Meridian, the place of beginning.

The above description was determined from the following U.S. Geological Survey 1:63,360 scale topographic maps:

Circle (A-1), Alaska, 1955. Minor Revisions 1966.
Circle (A-2), Alaska, 1955. Minor Revisions 1962.
Circle (A-3), Alaska, 1955. Minor Revisions 1973.
Circle (A-4), Alaska, 1952. Minor Revisions 1964.
Charley River (A-6), Alaska, 1956. Minor Revisions 1972.
Circle (B-1), Alaska, 1955. Minor Revisions 1968.
Circle (B-2), Alaska, 1955. Minor Revisions 1971.
Circle (B-3), Alaska, 1955. Minor Revisions 1974.
Circle (B-4), Alaska, 1952. Minor Revisions 1964 and 1976.
Circle (B-5), Alaska, 1954. Minor Revisions 1972.
Circle (C-3), Alaska, 1955. Minor Revisions 1963.
Circle (C-4), Alaska, 1952. Minor Revisions 1967.
Circle (C-5), Alaska, 1954.
Circle (C-6), Alaska, 1951. Minor Revisions 1971.
Circle (D-3), Alaska, 1952. Minor Revisions 1964.
Circle (D-4), Alaska, 1952. Minor Revisions 1963.
Circle (D-5), Alaska, 1952. Minor Revisions 1971.

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WHITE MOUNTAINS NATIONAL RECREATION AREA

Section 403:

"There is hereby established the White Mountains National Recreation Area containing approximately one million acres of public land, as generally depicted on the map entitled 'White Mountains National Recreation Area-Proposed,' and dated October 1978."

The White Mountains National Recreation Area consists of public lands, as defined by the ANILCA, within the following boundary:

Beginning at the corner of sections 25, 26, 35 and 36, T. 12 N., R. 1 W., Fairbanks Meridian; Thence easterly, between sections 25 and 36, approximately 1 mile to the corner of sections 25, 30, 31 and 36, T. 12 N., Rs. 1 E. and 1 W., Fairbanks Meridian; Thence northerly, between T. 12 N., Rs. 1 E. and 1 W., approximately 3,000 feet to a point on the summit of a ridge between sections 25 and 30, T. 12 N., Rs. 1 E. and 1 W., Fairbanks Meridian; Thence northeasterly and easterly, along the divide between the Yukon River and Victoria Creek drainages approximately 31 miles to the summit of a mountain located in the easterly portion of section 7, T. 12 N., R. 5 E., Fairbanks Meridian, approximate elevation 2,905 feet; Thence on an approximate forward bearing of N. 72° E., approximately 1/2 mile to the headwaters of Glacier Creek located near the center of section 8, T. 12 N., R. 5 E., Fairbanks Meridian; Thence southeasterly, along the centerline of Glacier Creek approximately 6-1/2 miles to a point on the right bank of Victoria Creek at the line of mean high water located in the northwesterly portion of section 2, T. 11 N., R. 5 E., Fairbanks Meridian; Thence southeasterly, along the right bank of Victoria Creek, approximately 1/2 mile to a point on the right bank of Beaver Creek at the line of mean high water located in the southerly portion of section 2, T. 11 N., R. 5 E., Fairbanks Meridian; Thence northeasterly, along the right bank of Beaver Creek approximately 3 miles to the centerline of Moose Creek located in section 31, T. 12 N., R. 6 E., Fairbanks Meridian; Thence southeasterly, along the centerline of Moose Creek, approximately 9 miles to a point between sections 2 and 11, T. 10 N., R. 6 E., Fairbanks Meridian; Thence easterly, between sections 2 and 11, 1 and 12, approximately 1/2 mile to the summit of a ridge between sections 1 and 12, T. 10 N., R. 6 E., Fairbanks Meridian; Thence southwesterly, southeasterly, southerly, westerly, and southwesterly along the ridge line between the Preacher Creek, Chatanika River and Beaver Creek drainages, approximately 79 miles to a point between sections 4 and 33, Tps. 4 and 5 N., R. 1 E., Fairbanks Meridian; Thence westerly, along the First Standard Parallel North, approximately 14-1/2 miles to the summit of a ridge on the south boundary of section 36, T. 5 N., R. 3 W., Fairbanks Meridian; Thence northerly, along the ridge line, between the Tolovana River and Wickersham Creek, Colorado Creek drainages, approximately 35 miles to a point between sections 16 and 17, T. 9 N., R. 1 W., Fairbanks Meridian; Thence northerly, between sections 16 and 17, 8 and 9, 4 and 5, T. 9 N., R. 1 W., and sections 32 and 33, 28 and 29, 20 and 21, 16 and 17, 8 and 9, approximately 7-1/2 miles to the 1/4 section corner of sections 8 and 9, T. 10 N., R. 1 W., Fairbanks Meridian; Thence easterly, on the east and west centerline of section 9, approximately 1 mile to the 1/4 section corner of sections 9 and 10, T. 10 N., R. 1 W., Fairbanks Meridian; Thence northerly, between sections 9 and 10, 3 and 4, approximately 1-1/2 miles to the corner of sections 3, 4, 33 and 34, Tps. 10 and 11 N., R. 1 W., Fairbanks Meridian; Thence easterly, between Tps. 10 and 11 N., approximately 1-1/2 miles to the 1/4 section corner of sections 2 and 35, Tps. 10 and 11 N., R. 1 W., Fairbanks Meridian; Thence northerly, on the northand south centerlines of sections 35 and 26, approximately 2 miles to the 1/4 section corner of sections 23 and 26, T. 11 N., R. 1 W., Fairbanks Meridian; Thence easterly between sections 23 and 26, approximately 1/2 mile to the corner of sections 23, 24, 25 and 26, T. 11 N., R. 1 W., Fairbanks Meridian; Thence northerly between sections 23 and 24, 13 and 14, 11 and 12, 1 and 2, T. 11 N., R. 1 W., sections 35 and 36, approximately 5 miles to the corner of sections 25, 26, 35 and 36, T. 12 N., R. 1 W., Fairbanks Meridian, the place of beginning.

The above description was determined from the following U.S. Geological Survey 1:63,360 scale topographic maps:

Livengood (A-1), Alaska, 1952. Minor Revisions 1972.

Livengood (A-2), Alaska, 1952. Photorevised 1975.

Livengood (A-3), Alaska, 1953

Livengood (B-1), Alaska, 1954.

Livengood (B-2), Alaska, 1954.

Livengood (B-3), Alaska, 1954.

Circle (B-5), Alaska, 1954. Minor Revisions 1963.

Circle (B-6), Alaska, 1954. Minor Revisions 1963 and 1975

Circle (C-3), Alaska 1954.

Livengood (C-2), Alaska, 1951. Minor Revisions 1969.

Circle (C-6), Alaska, 1951. Minor Revisions 1971.

Livengood (D-1), Alaska, 1952. Minor Revisions 1967.

Livengood (D-2), Alaska, 1952. Minor Revisions 1965.

Circle (D-6), Alaska, 1951. Minor Revisions 1963.

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Units of the National Wild and Scenic Rivers System

Section 603

"Alagnak, Alaska.—Those segments or portions of the main stem and Nonvianuk tributary lying outside and westward of the Katmai National Park/Preserve and running to the west boundary of Township 13 South, Range 43 West."

"Beaver Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of Township 12 North, Range 6 East, Fairbanks Meridian, within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge."

"Birch Creek, Alaska.—The segment of the main stem from the south side of Steese Highway in Township 7 North, Range 10 East, Fairbanks Meridian, downstream to the south side of the Steese Highway in Township 10 North, Range 16 East."

"Delta, Alaska.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids."

"Fortymile, Alaska.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of the West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek."

"Gulkana, Alaska.—The main stem from the outlet of Paxson Lake in Township 12 North, Range 2 West, Copper River Meridian, to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, Township 10 North, Range 7 West, Copper River Meridian, to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, Township 11 North, Range 8 West, Copper River Meridian, to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in Township 13 North, Range 5 West, Copper River Meridian, to the confluence with the main stem."

"Unalakleet, Alaska.—The segment of the main stem from the headwaters in township 13 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west."

Wild Rivers: Subsection 605(b)

"The Alagnak, Beaver Creek, Birch Creek, Gulkana, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechemstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek and Joseph Creek segments of the Fortymile component are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segements as the Secretary determines to be necessary to permit commercial development in an environmentally sound manner, of asbestos deposits in the North Fork drainage."

Scenic Rivers: Subsection 605(c)

"The following segments of the Fortymile River component are hereby classified and shall be administered as scenic river areas pursuant to such Act: the main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; and Hutchinson Creek."

Recreation Rivers: Subsection 605(c)

"The Wade Creek unit of the Fortymile component and the segment of the Delta River from opposite Milepost 212 on the Richardson Highway to a point one-half mile north of Black Rapids are classified and shall be administered as recreational river areas pursuant to such Act."

Note.—The boundaries of designated wild and scenic river corridors are to be identified and described by December 2, 1983.

Designated Study Rivers

The corridors withdrawn during the course of the study and consideration by Congress consist of those public lands which constitute the bed or bank or are within an area extending two miles from the bank of the river channel on both sides of the following rivers:

Subsection 604(a)

Colville, Alaska:—From the confluence of Storm and Thunder Creeks in T. 7 S., R. 35 W., Umiat Meridian to its outlet into the Arctic Ocean in T. 13 N., R. 6 E., Umiat Meridian.

Etiviluk-Nigu, Alaska:—The Etiviluk from its headwaters in T. 33 N., R. 9 E., Kateel River Meridian, to its confluence with the Colville River in T. 6 S., R. 17 W., Umiat Meridian; the Nigu from where it crosses the boundary of Gates of the Arctic National Park in T. 30 N., R. 14 E., Kateel River Meridian, to its confluence with the Etiviluk River in T. 10 S., R. 19 W., Umiat Meridian.

Utukok, Alaska:—From the confluence of Tupik and Kogruk Creeks in T. 10 S., R. 39 W., Umiat Meridian to its outlet into Kasegaluk Lagoon in T. 8 N., R. 42 W., Umiat Meridian.

Melozitna, Alaska:—From its headwaters in T. 14 N., R. 25 W., Fairbanks Meridian to its confluence with the Yukon River in T. 8 S., R. 17 E., Kateel River Meridian.

Yukon, Alaska:—From the east boundary of T. 12 N., R. 11 W., Fairbanks Meridian, to the west boundary of T. 4 N., R. 19 W., Fairbanks Meridian.

Squirrel, Alaska:—From its headwaters at the north boundary of sections 22 and 23, T. 23 N., R. 14 W., Kateel River Meridian, to its confluence with the Kobuk River in T. 18 N., R. 8 W., Kateel River Meridian.

Koyuk, Alaska:—From where it crosses the east boundary of Bering Land Bridge National Preserve in T. 1 S., R. 20 W., Kateel River Meridian, to its outlet into Norton Bay in T. 6 S., R. 12 W., Kateel River Meridian.

BILLING CODE 4310-84-M

STEESE NATIONAL CONSERVATION AREAS

PUBLIC LAW 96-487

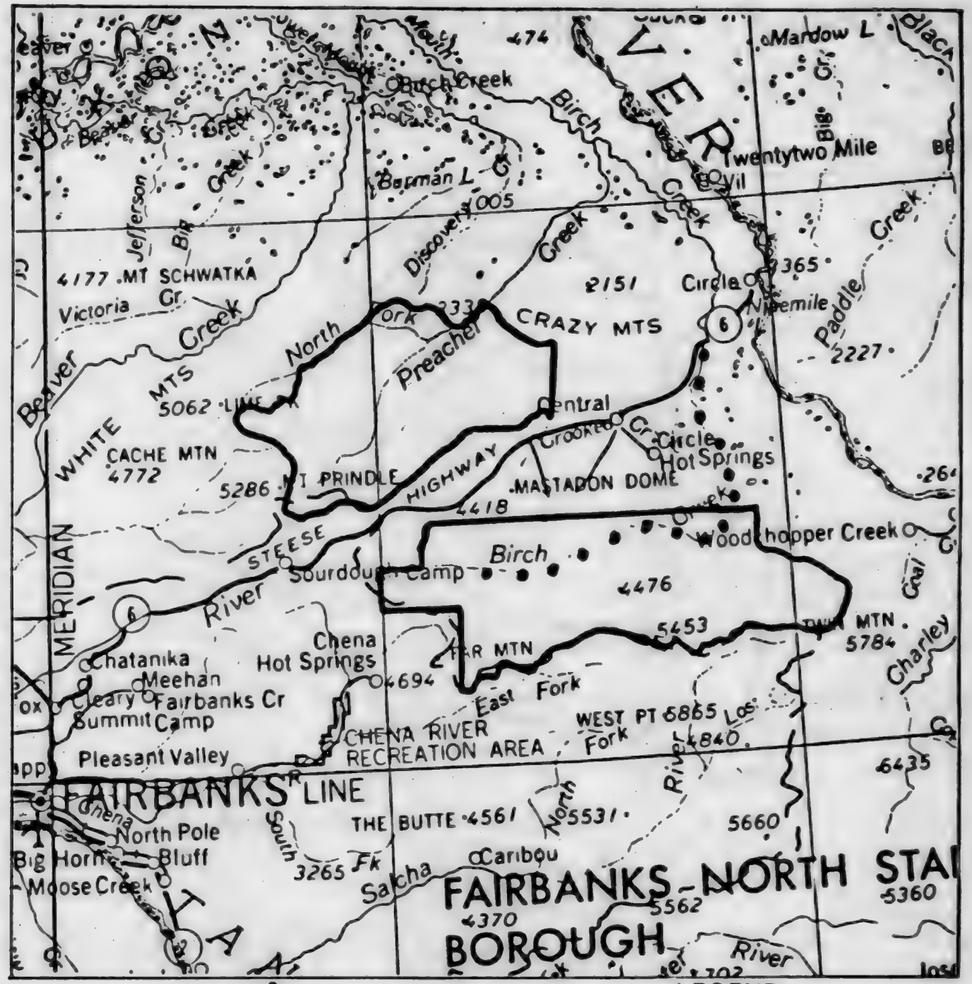

WHITE MOUNTAINS NATIONAL RECREATION AREA

PUBLIC LAW 96-487

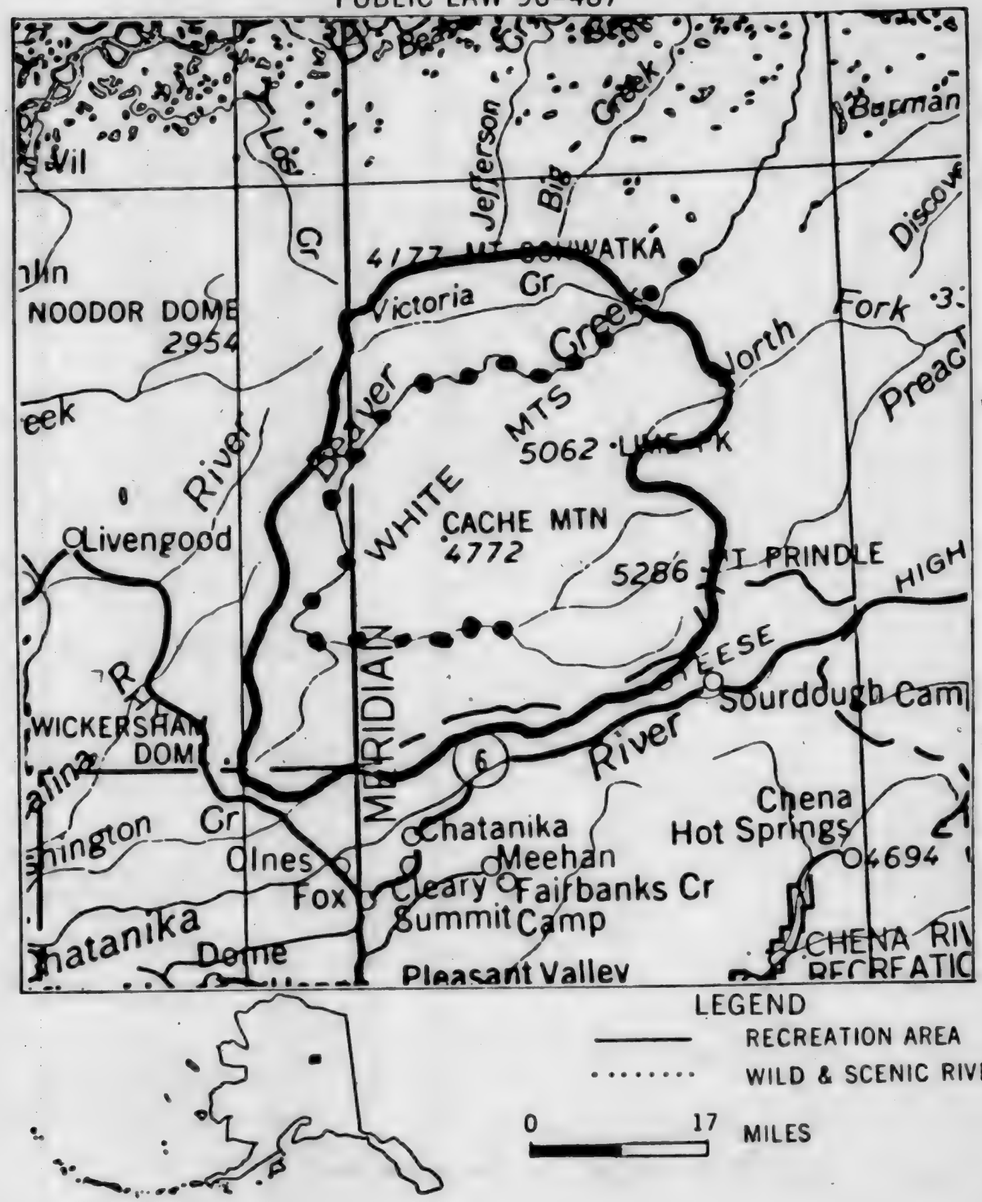

[FR Doc. 83-11748 Filed 5-2-83; 8:45 am]
BILLING CODE 4310-84-C

federal register

Tuesday
May 3, 1983

Part V

Federal Emergency Management Agency

Plan for Carrying Out Emergency Food and Shelter Program

FEDERAL EMERGENCY MANAGEMENT AGENCY

Plan for Carrying Out Emergency Food and Shelter Program

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice sets out the text of a plan by which the National Board, created by Pub. L. 98–8, will conduct a program for distributing $50,000,000 to local private voluntary organizations for the purpose of delivering emergency food and shelter to needy individuals.

The initial grant to the National Board was made April 20, 1983.

DATED: April 20, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Keefer, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0567.

Dennis H. Kwiatkowski,

Chairman, National Board.

Foreword

In accordance with Pub. L. 98–8, the Jobs Stimulus Bill, a National Board has been formed to distribute $50 million to local private voluntary organizations for the purpose of delivering emergency food and shelter to needy individuals. The National Board is composed of representatives of the United Way of America, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross and the Federal Emergency Management Agency (FEMA).

This Plan has been developed by the National Board to outline the procedures, eligibility, roles and responsibilities in receiving the $50 million grant from FEMA and distributing it to local service providers.

A separate plan was prepared for the distribution of another $50 million awarded by FEMA in grants to States, for distribution to local entities involved in the delivery of emergency food and shelter to needy individuals.

1.0. Introduction

Public Law 98–8, signed by the President on March 24, 1983, provides for emergency expenditures that will meet urgent needs and protect and add to the national wealth by providing productive jobs, not make-work, for women and men; providing for the indigent and homeless through fiscal year 1983; and accomplishing other purposes. Under this law, the Federal Emergency Management Agency (FEMA) is responsible for carrying out an Emergency Food and Shelter Program.

A total of $100 million has been appropriated for this program. Half of this appropriation ($50 million) is to be provided as a grant for use by a National Board, which will be chaired by FEMA and consist of representatives of the United Way of America; the Salvation Army; the National Council of Churches; the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross and FEMA. The remaining half ($50 million) will be used to provide food and shelter through grants to the States which will distribute funds to local recipients. All grants are to be awarded within 30 days after enactment of Pub. L. 98–8; all funds are to be expended by September 30, 1983.

1.1. Purpose

This plan details the National Board's roles, responsibilities and implementation procedures in regard to the $50 million grant award from FEMA. The funds will be used to provide emergency food and shelter to needy individuals through local boards and private voluntary organizations.

1.2. Scope

The program is nationwide in scope and will provide emergency food and shelter assistance to needy individuals in areas that are in highest-need.

Due to the emergency nature of this program, Congress designated the agencies named on this National Board because of their past longstanding service in this area. Since there are a number of local agencies that have the ability to deliver services and which are not associated with a national organization, local participation in the program is not limited to private voluntary organizations that are part of a national organization.

1.3. Objectives

A. National Board—To identify areas having the highest need for food and shelter assistance, to determine the amount and distribution of funds to these areas, and to ensure that funds are used to supplement existing programs, not replace them.

B. Local Board—To determine which private voluntary organizations in an area receive grants and recommend amount of the grants, based on the award by the National Board.

C. Local Private Voluntary Organizations—To expend all funds by September 30, 1983, on emergency food and shelter for needy individuals.

1.4. Lead Agency Responsibilities

A. The Director of the Federal Emergency Management Agency (FEMA) constituted a National Board consisting of seven members. The United Way of America, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., The American Red Cross and the Federal Emergency Management Agency have each designated a representative to sit on the National Board. The representative of FEMA chairs the National Board, using parliamentary procedures as the mode of operation and consensus by the National Board.

B. The FEMA Director shall award a grant for $50 million to the National Board no later than April 23, 1983, for the purpose of providing emerency food and shelter to needy individuals through private voluntary organizations.

C. FEMA will conduct an audit of fund utilization after September 30, 1983, at which time all funds shall have been expended.

2.0. Concept of Operations

A. Funds distributed by the National Board will be to areas of greatest need. The formula for distribution is in section 2.1.B.

B. National Board funds will be distributed directly to local private voluntary organizations certified eligible by local boards. (Refer to section 2.1.D.)

C. There is an administrative cost limitation of 2% on the $50 million. The National Board and its member national agencies will not charge for administrative costs incurred, except for audit costs. The remainder of the $50 million will go directly to local private voluntary organizations, which will be advised of the amount available for administrative costs associated directly with their emergency food and shelter program. The National Board encourages local boards and service providers to waive administrative costs, where possible.

None of these monies may be used as reimbursement for administrative costs any of their parent organizations (or its chapters) might incur as a result of this additional funding. (See item 2.1.F.—Eligibility Costs.)

D. FEMA will award a $50 million grant to the National Board no later than April 23, 1983, which is thirty days after enactment of Pub. L. 98–8.

E. The National Board will begin to distribute funds to local private voluntary organizations no later then May 31, 1983. Unused or recaptured funds will be reallocated among the original communities of highest need by July 1, 1983.

F. All funds shall be expended by recipient entities by September 30, 1983.

2.1. General Guidelines

A. *Grant Award Process:* United Way of America has been designated by the National Board as fiscal agent of the Board. The grant awarded to the National Board will provide for an advance for checks to be written to local private voluntary organizations.

Funds distributed directly to local private voluntary organizations will be in accordance with terms and conditions established by the National Board.

B. *Designation of Target Areas:* Local areas of highest need will be selected to receive funds from the National Board based upon a series of considerations including the most recent available unemployment statistics by the Department of Labor and such other data as the National Board deems appropriate. A notice will be placed in the **Federal Register** listing the civil jurisdictions that are selected and the dollar amount each has been awarded.

The calculation for distributing funds to an area will be based on the number of unemployed expressed as a percentage of the total unemployed within the civil jurisdiction selected.

C. *Formation of Local Boards:* As provided in Pub. L. 98–8, each area designated by the National Board to receive funds shall constitute a local board with representatives, to the extent practicable, including, but not limited to, the same organizations represented on the National Board, except that the mayor or appropriate head of government will replace the FEMA member. The National Board has designated the local United Way to constitute and convene a local board as described above. In the event the local United Way does not convene the board, the local American Red Cross will be responsible for convening the initial meeting of the local board. The members of each local board will elect its chair.

Local boards will have 15 days after notification of selection by the National Board to receive funds in which to certify the capability of selected local private voluntary organizations. After 30 days, if a local board is unable to satisfy the National Board as to the local area's capability to utilize funds in accordance with this Plan, the National Board may reallocate the funds to areas of greatest need.

The chair of the local board will be the central point of contact between the National Board and the local private voluntary organizations selected to receive monetary assistance for the emergency food and shelter programs. To ensure program coordination, the chair of the local board will contact the State agencies through which surplus food is being distributed by the U.S. Department of Agriculture pursuant to authorities under Pub. L. 98–8 and other applicable authorities, and the chair will likewise contact the Governor's agency designated to distribute funds through FEMA's State Grant program for Emergency Food and Shelter authorized by Pub. L. 98–8.

The local boards also will be responsible for monitoring programs carried out by the local private voluntary organizations they have selected to receive funds. By October 31, 1983, local boards must provide the National Board with a detailed program report of accomplishments and accounting of all funds expended in that area.

D. *Selection of Recipient Organizations:* Due to the emergency nature of this program, Congress designated the agencies named on this National Board because of their past longstanding service in providing emergency food and shelter. In selecting local recipient organizations to receive funds distributed by the National Board, the local boards must consider the demonstrated capability of the organization to provide food and shelter assistance. The local board has the authority to determine which local organizations will receive and provide the assistance. For a local organization to be eligible for consideration it must: (1) Be non-profit, (2) have a voluntary board, (3) have an accounting system, conduct an annual audit and (4) practice nondiscrimination.

In case there is a local religious or service organization or agency with the capacity to deliver food or shelter, but which does not have an adequate accounting system but meets all the other criteria, the local board may authorize funds to be channeled through an agency which does have an adequate accounting system and meets all the criteria.

Each local board will complete a certification for the use of funding for food and sheltering purposes. A suggested certification form for local board use will be sent to the chair of the local board in care of the local United Way (or American Red Cross) when notified that the area has been selected as a target area for assistance.

E. *Program Funds:* FEMA will award $50 million to the National Board no later than April 23, 1983. The National Board has agreed that the United Way of Americal shall act as the Board's fiscal agent of the funds awarded to the Board. The Board has also agreed that the United Way of America shall act as the Board's secretariat and perform the necessary administrative duties that the Board must accomplish. The United Way of America has volunteered to provide these administrative services without reimbursement to ensure the maximum dollars available for local programs.

The calculation the National Board uses in determining its fund distribution to designated local areas is based on a ratio calculated as follows: Number of unemployed within an eligible area *divided by* the number of unemployed covered by the national program *equals* the area's percentage of $50 million (less audit costs).

$$\frac{\text{Number unemployed in area}}{\text{Number unemployed in all designated areas}} = \text{Area's \% of \$50 million less audit costs}$$

F. *Eligibility of Costs:* This appropriation is intended for the purchase of food and provision of shelter, to supplement and extend current available resources and not for substitution or reimbursement for ongoing programs and services. However, in supplementing current available resources, the following guidance is provided.

1. Eligible program costs include, but are not limited to—

a. Purchase of food and/or transportation expenses for mass feeding;

b. Purchase of supplies incidental to feeding (e.g., utensils or pots and pans);

c. Direct expenses associated with mass shelter (e.g., rent, cots, blankets and other supplies);

d. Emergency lodging or shelter costs (e.g., hotel or motel expenses, only if the local recipient organization provides emergency shelter by using a voucher or cash payment system and only where extreme need arises); and

e. Once only, limited, emergency rent or mortgage assistance (one-month maximum) to avoid immediate eviction when no other resources or assistance exists.

2. Eligible administration costs (limited to 2% of total finds received) include, but are not limited to,

a. Audit expenses;

b. Printing and reproduction costs (to advertise/publicize program availability); and

c. Overhead expenses associated with expanded services (e.g., utilities or leasing costs).

3. Ineligible costs include, but are not limited to,

a. Rent or mortgage subsidies, cash payments (except for emergency lodging costs as noted above), and real property and equipment purchases (land, building, vehicles, or major equipment); and

b. Indirect administrative costs, e.g., procurement services, travel, personnel services (salaries, overtime, fringe benefits), budgeting and payroll preparation.

4. No expenditures will be accepted as eligible costs if they are made prior to the date of the award (i.e., the date the National Board signs the award) to the local recipient organization.

5. In extreme cases, exemptions to the above may be requested in advance from the National Board.

2.2. Roles and Responsibilities

A. *FEMA's Responsibilities:*

1. Constitute a National Board.

2. Chair the National Board.

3. Provide guidance, coordination and staff assistance to Board.

4. Award $50 million to the National Board no later than April 23, 1983.

5. Conduct an audit of funds in accordance with the audit plan submitted by the National Board.

B. *National Board Responsibilities:*

1. Determine how funds are to be distributed to individual localities.

2. Develop this operational plan for distributing funds and establishing criteria for expenditure of funds.

3. Notify local United Way in areas selected for funding and send copies of the notification to local agencies which are represented on the National Board and to heads of government of areas selected to receive funds. Secure certification from local boards that funds will be used in accordance with established criteria.

4. Distribute funds to selected local private voluntary organizations.

5. Within 60 days following the grant award, submit to FEMA an audit plan.

6. Submit end-of-program report on localities' uses of funds to FEMA by November 30, 1983.

C. *Responsibility of Local United Way (or American Red Cross):*

1. Constitute a local board.

2. Convene initial meeting.

D. *Local Board's Responsibilities:*

1. Elect a chair.

2. Determine which local private voluntary organizations should receive grants and the amount of the grants.

3. Certify eligibility of local private voluntary organizations.

4. Provide technical assistance to potential service providers.

5. Monitor expenditures of funds at local level.

6. Coordinate local food distribution with state agencies which already administer the U.S. Department of Agriculture's surplus food distribution programs.

7. Coordinate any State grant allocations in the local area with the state agency designated to distribute those funds.

8. Submit reports to the National Board on expenditures and local private voluntary organizations' programs by August 15 (for period through July 31), September 15 (through August 31), and October 31 (through end-of-program, September 30).

9. Return any funds unexpended by September 30, 1983 to the National Board.

10. Advertise/publicize program and consider all private voluntary organizations providing emergency food and shelter assistance, not just those represented on the local board.

3.0. Reporting Requirements

Local boards will monitor local private voluntary organizations' expenditures of funds and submit interim reports on August 15 and September 15, and a detailed accounting of these expenditures in the form of an end-of-program report to the National Board by October 31, 1983.

The National Board will compile the reports it receives from the local boards and submit a detailed accounting of areas' use of monies in the form of a report to FEMA by November 30, 1983.

FEMA's Inspector General will conduct an audit of the expenditure of funds used under the appropriation for the food distribution and emergency shelter program. The SL/DA/IA program office in FEMA will prepare a report for the FEMA Director. The FEMA Director will prepare a report to Congress.

4.0. Amendments to Plan

The National Board reserves the right to amend this Plan at any time.

Annex 2.1—Financial Terms and Conditions

General Provisions for Assistance (Grant) Agreements

Provisions Applicable to the United Way of America Acting as Agent of the National Board

1. *Parties:* This instrument is entered into by the Federal Emergency Management Agency (FEMA), the National Board authorized by Pub. L. 98-8 to distribute money for the provision of food and shelter assistance, and the United Way of America, which is acting as the fiscal agent of the National Board in distributing these funds.

2. *Amendments:* This instrument may be amended at any time by a written modification. Amendments which reflect the rights and obligations of any of the parties shall be executed by FEMA, the National Board, and the United Way of America, acting as the fiscal agent for the National Board. Administrative amendments such as changes in appropriation data may be issued unilaterally by the Federal Emergency Management Agency (FEMA).

3. *Cash Depositories:*

a. Any money advanced to the United Way of America under the terms of this instrument must be deposited in an interest bearing account which will be segregated from all other accounts which the United Way of America maintains. In addition, such money must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage, and the balance exceeding FDIC coverage must be collaterally secured.

b. Consistent with the national goal of expanding the opportunities for minority business enterprises, the United Way of America and the local private voluntary organizations to which it distributes funds are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, D.C. 20230.

4. *Retention and Custodial Requirements for Records:*

a. Financial records, supporting documents, statistical records, and all other records pertinent to this instrument shall be retained for a period of three years, with the following exceptions:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property, if any, acquired with Federal funds shall be retained for three years after its final disposition.

(3) When records are transferred to or maintained by FEMA, the three-year retention requirement is not applicable to the United Way of America.

b. The retention period starts from the date of the submission of the United Way of America of the final expenditure report.

c. FEMA will request transfer of certain records to its custody from the United Way of America when it determines that the records possess long-term retention value. The United Way of America shall make such transfers as are requested. However, in order to avoid duplicate recordkeeping, FEMA may make arrangements with the United Way of America to retain records at the point of use, for those that are continuously needed during the progress of work.

d. The Director of FEMA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, and its subgrantees, to make audits, examinations, excerpts and transcripts.

5. *Financial Management Systems:* The National Board and the United Way of America shall maintain a financial management system that provides for the following:

a. Accurate, current and complete disclosures of the financial results of this instrument.

b. Records that identify adequately the source and application of funds for Federally supported activities. These reports shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays and incomes.

c. Effective control over and accountability for all funds, property and other assets.

d. A comparison of actual outlays with budgeted amounts and the relationship of specific performance and costs incurred.

e. Procedures to minimize the time elapsing between the transfer of funds to the United Way of America and disbursement by the United Way of America when advances are used.

f. Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of the National Board's Emergency Food and Shelter Plan.

g. Accounting records that are supported by source documentation.

h. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

6. *Audit Requirements:*

a. The National Board shall use its own procedures to arrange for independent audits, and to prescribe the scope of audits.

b. The provisions hereunder do not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent auditors arranged for by the National Board meet the General Accounting Office (GAO) principles and standards, the FEMA Inspector General shall rely on them, and any additional audit work shall build upon the work already done.

c. Audits shall be made in accordance with the GAO Standards for Audits of Governmental Organizations, Programs, Activities and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

d. The National Board shall complete an audit of the program to coincide with the next scheduled audit of the National Board's Fiscal Agent.

e. The auditor shall promptly notify FEMA and the National Board of any irregularities discovered. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

f. Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by FEMA of the need to extend the retention period. The audit workpapers shall be made available upon request to FEMA or its designees and the General Accounting Office or its designees.

g. Within 60 days of receipt of the award the National Board will submit to FEMA for its approval a plan for auditing the program.

7. *Payment:* Payment shall be made to the United Way of America, acting as agent for the National Board, through an advance by Treasury check. Cash advances shall be limited to the amounts necessary for the immediate disbursement needs and shall be timed to be in accord with the cash requirements of the United Way of America in carrying out the purposes of the program. The United Way of America shall initiate the cash advance by submitting Standard Form 270, Request for Advance or Reimbursement.

8. *Financial Reporting Requirements:* The United Way of America, acting as agent for the National Board, shall submit an original and two copies of a Financial Status Report (Standard Form 269) on the following dates:

a. June 10, 1983. This report will cover the period ending May 30, 1983.

b. Ninety (90) calendar days after the end date of the grant.

9. *Closeout Procedures:*

a. The following definitions shall apply:

(1) Closeout—the closeout of this instrument is the process by which FEMA determines that all applicable administrative actions and all required work of the instrument have been completed by the United Way of America and FEMA.

(2) Date of completion—the date on which all work under the instrument is completed or the date in the award document, or any supplement or amendment thereto (including termination notices subject to the clause entitled Suspension and Termination Procedures), on which Federal assistance ends.

(3) Disallowed costs—disallowed costs are those charges to the instrument that FEMA determines to be unallowable in accordance with the applicable Federal cost principles or other conditions contained in the instrument. The applicable cost principles are contained in OMB Circular A-122, "Cost Principles for Non-Profit Oganizations."

b. The parties shall close out this instrument in accordance with the following procedures:

(1) The United Way of America, acting as agent for the National Board, shall immediately refund any balance of unobligated (unencumbered) funds that FEMA has advanced or paid and that is not authorized by FEMA to be retained by the United Way of America for use in other instruments.

(2) The United Way of America, acting as agent for the National Board, shall submit to FEMA within 90 days after completion of this instrument all financial and other data required by FEMA to close out the instrument. FEMA may grant extensions when requested by the National Board.

(3) In the event a final audit has not been performed prior to the close out of the instrument, FEMA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

10. *Suspension and Termination Procedures:*

a. The following definitions shall apply:

(1) Termination—termination of this instrument means the cancellation of Federal assistance, in whole or in part, under the instrument at any time prior to the date of completion.

(2) Suspension—the suspension of this instrument is an action by FEMA that temporarily suspends Federal assistance under the instrument pending corrective action by the National Board or pending a decision to terminate the instrument by FEMA.

Annex 2.2—Financial Terms and Conditions

Provisions Applicable to Local Private Voluntary Organizations

1. *Definitions:*

a. The term "Recipient" refers to the Local Private Voluntary Organization that will receive any award of funds from the National Board.

b. The term "Award" refers to the award of funds made by the National Board to a Local Private Voluntary Organization.

2. *Amendments:* An award may be amended at any time by a written modification. Amendments which reflect the rights and obligations of either party shall be executed by both the National Board and the recipient. Administrative amendments such as changes in accounting data may be issued unilaterally by the National Board.

3. *Cash Depositories:*

a. Any money advanced to the recipient under the terms of this award must be deposited in a bank account which will be segregated from all other accounts which the recipient maintains. Such account must be in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage, and the balance exceeding the FDIC coverage must be collaterally secured.

b. The recipient is encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, D.C. 20230.

4. *Retention and Custodial Requirements for Records:*

a. Financial records, supporting documents, statistical records, and all other records pertinent to the award shall be retained for a period of three years, with the following exceptions:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property, if any, acquired with Federal funds shall be retained for three years after submission of a final Financial Report. Non-expendable property is defined as tangible property having a useful life of more than one year and an acquisition cost of more than $300 per unit.

(3) When records are transferred to or maintained by the National Board, the three-year retention requirement is not applicable to the recipient.

b. The retention period starts from the date of the submission by the recipient of the final expenditure report.

c. The National Board may request transfer of certain records to its custody from the recipient when it determines that the records possess long-term retention value. The recipient shall make such transfers as are requested. However, in order to avoid duplicate recordkeeping, the National Board may make arrangements with the recipient to retain records at the point of use, for those that are continuously needed during the progress of work.

d. The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, and its subgrantees, to make audits, examinations, excerpts and transcripts.

5. *Financial Management Systems:* The recipient shall maintain a financial management system that provides for the following:

a. Accurate, current and complete disclosures of the financial results of this instrument.

b. Records that identify adequately the source and application of funds for Federally supported activities. These reports shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays and incomes.

c. Effective control over and accountability for all funds, property and other assets.

d. Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of the National Board's Emergency Food and Shelter Plan.

e. Accounting records that are supported by source documentation. As a minimum, the PVO's must maintain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, cancelled checks and whatever other documentation is necessary to support their cost under the program.

f. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

6. *Audit Requirements:* The Local Private Voluntary Organization shall arrange for an audit of funds of coincide with the next scheduled annual audit of its financial affairs. An original and 2 copies of this audit will be provided to the National Board upon its requests.

7. *Payment:* Payment shall be made to the Private Voluntary Organization by the United Way of America, acting as the fiscal agent of the National Board, through issuance of a check drawn on funds advanced by FEMA.

8. *Financial Reporting Requirements:* Recipient shall submit a final Financial Status Report within 30 calendar days after the end date of the award. The National Board shall provide the recipient with the necessary forms.

9. *Closeout Procedures:*

a. The following definitions shall apply:

(1) Closeout—is the process by which the National Board determines that all applicable administrative actions and all required work of the award have been completed by the recipient and the National Board.

(2) Date of completion—the date on which all work under the award is completed or the date in the award document, or any supplement or amendment thereto (including termination notices subject to the clause entitled Suspension and Termination Procedures), on which Federal assistance ends.

(3) Disallowed costs—disallowed costs are those charges that the National Board determines to be unallowable in accordance with the National Board Plan and applicable Federal cost principles or other conditions contained in the award. The applicable cost principles are contained in OMB Circular A–122, "Cost Principles Applicable for Non-Profit Agencies." A copy of this document can be obtained from the Government Printing Office, Washington, D.C. 20401.

b. The parties shall close out this award in accordance with the following procedures:

(1) The recipient shall immediately refund any balance of unobligated (unencumbered) funds that the National Board has advanced or paid and that is not authorized by the National Board to be retained by the recipient for use in other award.

(2) The recipient shall submit to the National Board (NB) within 30 days after completion of the award all financial and other data required by the NB to closeout the award. The NB may grant extensions when requested by the recipient.

(3) In the event a final audit has not been performed prior to the close out of the award, the NB shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

10. *Suspension and Termination Procedures:*

a. The following definitions shall apply:

(1) Termination—termination of this award means the cancellation of Federal assistance, in whole or in part, under the award at any time prior to the date of completion.

(2) Suspension—the suspension of this award is an action by the National Board that temporarily suspends Federal assistance under the award pending corrective action by the recipient or pending a decision to terminate the award by the National Board.

[FR Doc. 83-11894 Filed 5-2-83; 8:45 am]
BILLING CODE 6718-01-M

VOL
48
ISS
86
MY
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1983
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federal register

Tuesday
May 3, 1983

Part VI

Department of Transportation

Federal Highway Administration

Truck Size Policy Statement

VOL
48
ISS
86
MAY
3
1983
UMI

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. 1

[FHWA Docket No. 83-4, Notice No. 5]

Truck Size Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of modifications to certain interim designated highway networks.

SUMMARY: The Federal Highway Administration (FHWA) made an interim designation of each State's Federal-aid Primary System highways on April 5, 1983. These roads were to be made available to certain size trucks from April 6 until issuance of the final regulation pursuant to the requirements of the Surface Transportation Assistance Act of 1982 (STAA). By this notice the FHWA provides modifications to the interim designated highway networks for the States of California, Delaware, Illinois, Iowa, Maine, Missouri, Nebraska, New York, Puerto Rico, South Carolina, West Virginia, and Wisconsin.

EFFECTIVE DATE: The modifications are effective May 3, 1983, and will expire upon designation of the final network.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426—0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On April 5, 1983, FHWA issued a policy statement (48 FR 14844) that provided an interim designation of highways on which commercial motor vehicles with dimensions authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424, as amended by Pub. L. 98–17) may be permitted to operate from April 6, 1983, until issuance of final regulations. The policy statement also provided that modifications to the interim designated network would be made under certain circumstances.

The designated routes in the Appendix to this notice supersede those routes designated in the April 5, 1983, policy statement. Puerto Rico's network is also listed because it was inadvertently omitted from the April 5, 1983, designations. Highlights of the State-by-State modifications follow:

—California—Routes US 199, CA 197, and portions of US 50 are removed from the interim system.
—Delaware—State Road 299 is replaced by State Truck Route 896 between Mt. Pleasant and Boyds Corner.
—Illinois—Routes US 136, US 52, and IL 26 are removed.
—Iowa—A large number of routes have been added at the State's request.
—Maine—Portions of US 1 and US 302 are removed from the interim system.
—Missouri—Portions of US 136, US 71, US 54, and US 60 are removed from the interim system. However, at the State's request, approximately 100 miles are added, including portions of US 136, US 59, US 24, US 60, and MO 37.
—Nebraska—At the State's request, the interim designated system will include all U.S. and State numbered highways with the four exceptions listed in the Appendix.
—New York—Routes US 20, US Alt. 20, NY 5, NY 78, NY 104, NY 13, and NY 278 have been removed from the interim system.
—Puerto Rico—Puerto Rico's designated system was inadvertently omitted from the April 5, 1983, Policy Statement.
—South Carolina—SC 18, US 176, US 1, and SC 557 have been deleted from the interim system and portions of US 78, US 378, US 76, US 321, US 52, and US 17 have also been deleted. SC 576 has been added to the system. Some other minor corrections are made.
—West Virginia—Routes US 250, US 50, and US 60 have been removed. Routes US 35 and WV 34 have been added.
—Wisconsin—US 151 through Madison has been removed from the interim system.

In the April 5, 1983, Policy Statement, we indicated that a notice of proposed rulemaking (NPRM) for the final system would be published later in April. The continuing discussions with several States concerning modifications of the interim system, and the legal challenges brought by several States have necessitated a delay in our anticipated schedule. The NPRM will be published in the near future, but at this time we are unable to estimate a publishing date. In the interim, we would again call attention to the Docket established in the February 3 Policy Statement, and we would encourage interested parties to continue to forward comments to that Docket.

Issued: April 29, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

BILLING CODE 4910-22-M

APPENDIX - MODIFIED LIST FOR CERTAIN STATES

DELAWARE

Posted Route No.	From	To
DE 141	I-95	Jct. with DE 2
US 13	Jct. with I-495 South of Wilmington	Maryland St. Line
US 301	US 13 near Tybouts Corner	Maryland St. Line
US 202	I-95 Wilmington	Pennsylvania St. Line
DE Truck RT. 896	US 301 Mt. Pleasant	US 13 Boyds Corner

CALIFORNIA

Posted Route No.	From	To
CA 2	I-5	I-210 in Los Angeles
CA 7	I-405	I-10
I-10	US 101	I-5 in Los Angeles
CA 11	I-10	US 101
CA 15	I-5	I-805 in San Diego
CA 17	I-280 in San Jose	I-80 in Oakland
CA 22	I-405 in Seal Beach	CA 55 in Orange
CA 24	I-580 in Oakland	I-680 in Walnut Creek
CA 52	I-5	I-805 in San Diego
CA 55	I-405 in Costa Mesa	CA 91 in Anaheim
CA 57	I-5 in Santa Ana	I-210 in Pomona
CA 60	I-5/10 in Los Angeles	I-10 in Beaumont
CA 71	I-10	CA 60 in Pomona
CA 78	I-5 in Carlsbad	I-15 in Escondido
Bus I-80	US 50/CA 99 in Sacramento	I-80 Near Watt Ave.
CA 85	I-280	CA 101 in San Jose
CA 91	I-110 in Los Angeles	CA 60/I-215 in Riverside
CA 92	I-280 Near San Mateo	CA 17 in Hayward
CA 94	I-5	CA 125 in San Diego
CA 99	I-5 Near Wheeler Ridge	US 50 in Sacramento
US 101	I-5/10 in Los Angeles	I-80 in San Francisco
CA 117	I-5	I-805 in San Diego
CA 118	I-405 in Los Angeles	I-210 in San Fernando
CA 125	CA 94	I-8 in La Mesa
CA 133	I-405	I-5 Near El Toro
CA 134	US 101 in Los Angeles	I-210 in Pasadena
CA 163	I-8	I-15 in San Diego
CA 170	US 101	I-5 in Los Angeles
CA 215	I-15 Near Temecula	CA 60 Near Riverside
CA 238	I-580 in Castro Valley	CA 17 in San Leandro
CA 14	I-5 Near San Fernando	US 395 Near Ridgecrest
CA 46/41	US 101 in Paso Robles	CA 99 in Fresno
CA 58	CA 99 in Bakersfield	I-15 in Barstow
CA 97	I-5 Weed	Oregon St. Line, Doris
US 101	CA 17 (I-180) San Rafael	Oregon St. Line
CA 198	I-5 Coalinga	CA 99 Visalia
US 395	I-15 Near Victorville	Nevada St. Line
US 395	Nevada St. Line	Oregon St. Line
CA 95	I-40 Near Needles	Nevada St. Line
US 6	US 395 Bishop	Nevada St. Line
US 50	Sacramento	Sly Park Rd. Interchange

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ILLINOIS

Posted Route No.	From	To
IL 5	I-80	US 30 Sterling
IL 6	I-74	IL 88 Peoria
US 20	I-90	East Dubuque
US 50	Indiana St. Line	I-64 East St. Louis
US 51	US 20	Anna IL 146
IL 53	I-90	IL 68
IL 53	I-290	Army Trail Road
IL 394	I-80	IL 1 Crete
IL 3	Cairo	East St. Louis
US 50	Missouri St. Line	IL 3
IL 13	Murphysboro	US 45 Harrisburg
IL 149	IL 3	Murphysboro
IL 146	Ware	I-57
US 45	I-24 at Vienna	I-70
US 67	Alton	Moline
IL 130	Greyville	Newton
IL 33	Newton	I-70
IL 29	Pana	Springfield
IL 125-97	Springfield	US 67 Beardstown
US 54	Missouri St. Line	US 36 near Pittsfield
US 36	Missouri St. Line	I-55
US 36	Decatur	Indiana St. Line
US 30	Iowa St. Line Clinton	IL 5 Sterling
US 24	Quincy	Indiana St. Line
US 34	Iowa St. Line near Gulfport	IL 88
IL 88	US 12	I-94
IL 31	I-90	US 12
US 45	IL 173	Wisconsin St. Line
IL 173	US 45	I-94
US 34	Oswego	Illinois Toll Road
IL 88	US 34	I-80
IL 141	US 45 Gossett	Indiana St. Line
US 12	IL 31	Wisconsin St. Line
IL 92	I-280	US 67 Rock Island

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IOWA

Posted Route No.	From	To
IA 1	North Jct. IA 16	West Jct. IA 78
IA 1	North Jct. IA 92	IA 22
IA 1	North Jct. US 6 & US 218	I-80
IA 1	SCL Martelle	Jct. US 151
IA 2	Missouri River Bridge	Jct. IA 25
IA 2	Decatur Co. Line	Mississippi River Bridge
IA 3	South Dakota	North Jct. IA 12
IA 3	Jct. US 75	Jct. IA 7
IA 3	East Jct. IA 17	West Jct. IA 13
IA 4	Jct. IA 3	East Jct. US 18
IA 4	SCL Wallingford	Minnesota
IA 5	Missouri	ECL Cincinnati
IA 5	Jct. IA 2	Jct. I-35
US 6	Nebraska	Jct. I-80
US 6	Jct. IA 48	South Jct. US 71
US 6	I-80 (Dexter)	I-80 (Altoona)
US 6	IA 14	I-80 (Cedar Co.)
US 6	Jct. IA 130	Jct. I-74
IA 7	Jct. IA 3	North Jct. US 71
IA 7	Barnum Road	US 20
IA 8	US 63	US 218
IA 9	IA 60	North Jct. US 69
IA 9	South Jct. US 69	I-35
IA 9	East Jct. US 218	ECL Riceville
IA 9	US 63	Wisconsin
IA 10	East Jct. US 59	ECL Sutherland
IA 12	US 20	NCL Sioux City
IA 13	US 30	NCL Manchester
IA 13	West Jct. IA 3	US 52
IA 14	IA 163	NCL Newton
IA 14	US 30	West Jct. IA 175
IA 14	East Jct. IA 175	IA 57
IA 15	East Jct. US 18	West Jct. IA 9
IA 16	NCL Eldon	North Jct. IA 1
IA 16	Denmark	US 61
IA 17	IA 141	East Jct. US 20
IA 17	West Jct. US 20	East Jct. IA 3
US 18	WCL Rock Valley	North Jct. US 71
US 18	South Jct. US 71	North Jct. US 218
US 18	South Jct. US 218	ECL Bassett
US 18	South Jct. US 63	Wisconsin
US 20	I-29	Illinois
IA 21	SCL What Cheer	West Jct. US 6
IA 21	East Jct. US 6	East Jct. IA 8
IA 21	West Jct. IA 8	IA 412
IA 22	WCL Wellman	West Jct. IA 70
IA 23	Jct. US 63	Jct. IA 137
IA 25	IA 2	IA 92

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Posted Route No.	From	To
IA 25	West Jct. IA 925	IA 44
IA 26	IA 9	Minnesota
IA 28	IA 92	East Jct. IA 5
IA 28	West Jct. IA 5	US 6
US 30	Missouri River Bridge	Illinois
IA 31	SCL Corectionville	US 59
US 34	Missouri River Bridge	South Jct. IA 25
US 34	North Jct. IA 25	Illinois
IA 37	WCL Earling	US 59
IA 38	US 61	I-80
IA 38	SCL Tipton	East Jct. US 30
IA 39	US 59	Deloit
IA 40	Begin Route	IA 2
IA 44	US 71	IA 141
IA 46	IA 5	IA 163
IA 48	US 59	NCL Essex
IA 48	US 34	US 6
IA 49	SCL Lenox	US 34
IA 51	US 18	IA 9
US 52	North Jct. US 61	North Jct. IA 386
US 52	West Jct. IA 3	East Jct. US 13
US 52	ECL Calmer	Minnesota
IA 55	Begin Route	IA 2
IA 57	IA 14	US 20
US 59	Missouri	IA 184
US 59	IA 92	North Jct. US 6
US 59	IA 83	South Jct. US 30
US 59	West Jct. US 20	IA 3
US 59	East Jct. IA 10	East Jct. US 18
IA 60	US 75	Minnesota
US 61	Des Moines River Bridge	South Jct. IA 2
US 61	East Jct. IA 2	Wisconsin
IA 62	US 61	US 52
US 63	Missouri	West Jct. IA 2
US 63	East Jct. IA 2	East Jct. US 34
US 53	West Jct. US 34	IA 146
US 63	I-80	East Jct. US 6
US 63	West Jct. US 6	Minnesota
IA 64	US 151	US 61
US 65	North Jct. US 34	West Jct. US 6
US 65	I-80	IA 117
US 65	US 30	South Jct. US 20
US 65	North Jct. US 20	Sheffield
US 65	SCL Mason City	Minnesota
US 67	Mississippi River	South Jct. US 80
US 67	East Jct. US 30	4.64 miles North of Clinton
US 69	SCL Lamoni	I-35
US 69	North Jct. US 65	Minnesota
IA 70	Begin Route	West Jct. IA 22

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Posted Route No.	From	To
US 71	Missouri	West Jct. IA 2
US 71	East Jct. IA 2	IA 196
US 71	North Jct. US 20	West Jct. IA 9
US 71	East Jct. IA 9	Minnesota
US 75	North Jct. I-29	Minnesota
US 77	Nebraska	I-29
IA 77	IA 92	Keota
IA 78	IA 149	North Jct. US 218
IA 78	South Jct. US 218	IA 249
IA 78	WCL Morning Sun	US 61
IA 83	US 59	West Jct. US 6
IA 85	US 63	IA 21
IA 86	US 71	IA 9
IA 87	US 69	I-35
IA 92	Nebraska	IA 48
IA 92	WCL Fontanelle	West Jct. IA 5
IA 92	East Jct. IA 5	North Jct. IA 1
IA 92	South Jct. IA 1	Cotter
IA 93	WCL Summer	IA 150
IA 94	Pelo	I-380
IA 95	Carbon	IA 148
IA 96	Gladbrook	US 63
IA 99	Toolesboro	Wapello
IA 101	US 218	IA 150
IA 103	US 218	US 61
IA 105	US 65	US 218
IA 107	SCL Thornton	US 18
IA 110	US 20	IA 7
IA 111	US 18	Woden
IA 117	IA 163	US 65
IA 127	South Jct. IA 183	US 30
IA 130	US 67	I-80
IA 133	US 30	Nevada
US 136	East Jct. US 61	Mississippi River Bridge
IA 136	ECL Delmar	WCL Lost Nation
IA 136	SCL Worthington	IA 3
IA 137	IA 5	IA 23
IA 141	I-29	North Jct. US 30
IA 141	WCL Manning	West Jct. US 71
IA 141	East Jct. US 71	West Jct. IA 161
IA 141	IA 141	US 169
IA 141	IA 210	I-35
IA 144	IA 141	NCL Dana
IA 145	I-35	ECL Thurman
IA 146	US 63	Dunbar
IA 148	West Jct. IA 2	US 34
IA 148	IA 95	I-80
IA 149	US 63	IA 78
IA 149	SCL Williamsburg	West Jct. US 6
IA 149	East Jct. US 6	US 30

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Posted Route No.	From	To
IA 150	IA 151	IA 283
IA 150	North Jct. US 20	South Jct. IA 3
IA 150	North Jct. IA 3	US 18
US 151	US 30	South Jct. US 61
IA 157	US 63	Lime Springs
IA 160	IA 415	I-35
IA 161	West Jct. IA 141	SCL Dedham
IA 163	US 65	IA 92
US 169	Missouri	NCL Mt. Ayr
US 169	SCL Arispe	West Jct. US 34
US 169	East Jct. US 34	South Jct. IA 92
US 169	SCL DeSoto	I-80
US 169	US 6	IA 141
US 169	West Jct. US 30	IA 3
US 169	US 18	West Jct. IA 9
IA 173	IA 83	I-80
IA 175	Nebraska	ECL Onawa
IA 175	South Jct. US 71	ECL Lake City
IA 175	Gowrie	West Jct. US 169
IA 175	East Jct. US 169	ECL Dayton
IA 175	WCL Stratford	South Jct. IA 17
IA 175	North Jct. IA 17	South Jct. US 69
IA 175	North Jct. US 69	ECL Radcliffe
IA 175	North Jct. US 65	US 63
IA 181	Dallas	IA 5
IA 183	North Jct. IA 127	NCL Pisgeh
IA 184	WCL Randolph	US 59
IA 188	SCL Clarksville	US 63
IA 191	NCL Council Bluffs	NCL Neola
IA 192	I-29	East Jct. US 6
IA 192	West Jct. US 6	I-29
IA 196	US 71	US 20
IA 205	US 65	Milo
IA 210	IA 141	NCL Woodward
IA 210	North Jct. IA 17	ECL Slater
IA 214	IA 175	Wellsburg
IA 215	Union	IA 175
US 218	US 136	South Jct. US 61
US 218	North Jct. US 61	IA 92
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US 218	I-80	East Jct. US 30
US 218	West Jct. US 30	IA 227
IA 220	US 6	IA 149
IA 221	I-35	Roland
IA 227	US 218	Stacyville
IA 236	IA 141	Templeton
IA 244	I-80	IA 191
IA 249	IA 78	Winfield
IA 272	Elma	US 63
IA 273	WCL Drakesville	US 63

Posted Route No.	From	To
US 275	Missouri	NCL Hamburg
IA 276	US 71	Minnesota
IA 279	US 30	Atkins
IA 281	WCL Fairbank	IA 150
IA 283	Brandon	IA 150
IA 287	US 30	Newhall
IA 299	New Providence	IA 175
IA 300	Modale	I-29
IA 301	I-29	Little Sioux
IA 316	IA 5	NCL Runnells
IA 325	Spillville	US 52
IA 330	US 65	US 30
IA 363	IA 101	Urbana
IA 383	US 69	Randall
IA 386	South Jct. US 52	North Jct. US 52
IA 394	Missouri	US 218
IA 401	US 6	Johnston
IA 404	US 61	Montrose
IA 405	Lone Tree	IA 22
IA 406	US 34	US 61
IA 412	US 63	US 218
IA 415	US 6	NCL Polk City
IA 927	IA 38	I-280
IA 928	West Jct. US 20	East Jct. US 20
IA 930	US 30	Ames
IA 939	IA 150	IA 187
IA 964	IA 5	IA 975
IA 967	US 20	Farley
IA 970	Monona Co.	US 75
IA 975	IA 5	IA 964

MAINE

Posted Route No.	From	To
Scarboro Connector	I-295 South Portland	US 1 South Portland
South Portland Spur	I-95 South Portland	US 1 South Portland
US 302	New Hampshire St. Line	I-295 Portland
Maine Turnpike	I-95 Portland	I-95 near Gardiner
US 1	I-95 Yarmouth	I-95 Freeport
US 1	I-95 Brunswick	Old US 1 (vicinity of Congress St.) Bath
US 1	I-95 Houlton	Canada Border, Fort Kent

MISSOURI

Posted Route No.	From	To
US 36	Kansas St. Line	Illinois St. Line
US 40	I-70 St. Charles County	I-55/70 St.Louis
US 169	I-29 at Kansas City	MO 152 at Kansas City
MO 725	US 40 at St. Louis	St. Louis Co. Route D
US 67	Arkansas St. Line	Exit 174 on I-55
US 61	I-70 St. Charles County	Iowa St. Line
US 63	Arkansas St. Line	Iowa St. Line
US 65	Arkansas St. Line	Iowa St. Line
US 71	Arkansas St. Line	I-435 Kansas City
US 71	Exit 53 on I-29	US 136 Maryville
Alt. US 71	I-44	US 71 Carthage
US 136	Nebraska St. Line	Exit 110 on I-29
US 54	South Junction US BR 54 at Lake Ozark	Illinois St. Line
US 60	MO 37 Monett	US 63 Cabool
US 24	I-435 Kansas City	US 65 Waverly
MO 7	US 71 Harrisonville	MO 13 Clinton
MO 13	I-44 Springfield	US 24 Lexington
US 50	Exit 7 I-470 Kansas City	Exit 247 on I-44
US 60	Oklahoma St. Line	US 71
US 67	MO 367	Illinois St. Line
US 412	Arkansas St. Line	Exit 19 on I-55
MO 84	Arkansas St. Line	US 412 near Kennett
MO 25	US 412 near Kennett	US 60 at Dexter
MO 5	Arkansas St. Line	US 60
MO 47	US 50 at Union	MO 100 at Washington
MO 100	MO 47 at Washington	I-44
MO 367	I-270	US 67
US 166	Kansas St. Line	I-44
MO 171	Kansas St. Line at KS 57	US 71 at Webb City
US 60	US 67 Poplar Bluff	I-55/57 near Sikeston
US 24	US 61 Taylor	Illinois St. Line
MO 37	MO 76 Cassville	US 60 Monett
US 59	Kansas St. Line	I-229 St. Joseph
US 24	East Junction US 24 and US 36 in Marion County	South Junction of US 24 and US 61 west of Hannibal

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NEBRASKA

All U.S. and State numbered routes are designated, with the following exceptions:

- US 159 from the junction with US 73 in Falls City east to Missouri
- State Highway 2 from the junction with US 73/75 in Nebraska City east to Iowa
- US 34 from the junction with L-13G in Plattsmouth east to Iowa
- US 30 from the east junction with US 73 in the City of Blair east to Iowa

NEW YORK

Posted Route No.	From	To
NY 430	Pennsylvania St. Line	NY 426 Findley Lake
NY 426	NY 430 Findley Lake	NY 17 Findley Lake
NY 17	NY 426 Findley Lake	I-87 Thruway Exit 16
US 219	Pennsylvania St. Line	NY 17 Carrollton
US 219	NY 17 Kill Buck	I-90 Thruway Exit 55
NY 400	I-90 Thruway Exit 54	NY 16 South Wales
NY 198	I-190 Thruway Exit N11	NY 33 Buffalo
NY 33	Michigan Avenue Buffalo	NY 78 Williamsville
NY 179	NY 5 Windom	I-90 Windom
NY 75	NY 5 Mount Vernon	US 20 Mount Vernon
Walden Avenue	I-90 Thruway Exit 52	NY 277
NY 277	Near NY 130	Walden Avenue
NY 266	Buffalo City Limit	NY 325 Tonawanda
NY 325	NY 266 Tonwanda	Kenmore Avenue Tonwanda
NY 390	I-490 Rochester	NY 18 North Greece
NY 590	I-490 Rochester	NY 104 Irondequoit
Inner Loop	I-490 Rochester	I-490 Rochester
NY 15	Commerce Drive Rochester	NY 252 Rochester
NY 15A	NY 252 Rochester	I-390 Rochester
NY 204	NY 33A Gates	I-490 Gates
NY 252	NY 15 Rochester	NY 15A Rochester
NY 441	I-490 East Rochester	NY 253 East Rochester
NY 690	I-90 Lakeland	NY 370 Baldwinsville
NY 481	I-81 North Syracuse	NY 104 Oswego
NY 695	NY 5 Fairmont	I-690 Solvay
NY 5	Maple Avenue Camillus	West Genessee Fairmont
NY 298	I-690 Syracuse	I-81 Syracuse
US 15	Pennsylvania St. Line	NY 17 Corning
NY 7	I-81 Binghamton	I-88 Port Dickinson
NY 12	I-81 Glen Castle	I-790 Utica
NY 12	I-790 near I-90 Utica	US 11 Watertown
NY 12F	US 11 Watertown	I-81 Watertown
NY 8	County Road 9 Seuguoit	NY 12 Utica
NY 26	NY 365 Rome	NY 46 Rome
NY 365	I-90 Thruway Exit 33	NY 49 Rome
NY 49	NY 365 Rome	NY 12 Utica

Posted Route No.	From	To
North Genesee Arterial	NY 55 Utica	NY 5 Utica
US 11	NY 12 Watertown	Canada Border
NY 56	US 11 Potsdam	NY 37 Massena
NY 37	NY 56 Massena	US 11 Malone
Spur	NY 37 Rooseveltown	Canada Border
US 2	US 11 Rouses Point	Vermont St. Line
NY 254	I-87 Glen Falls	US 4 Hudson Falls
US 4	NY 254 Hudson Falls	Vermont St. Line
NY 7	I-787 Troy	Vermont St. Line
NY 2	NY 278 Clums Corner	Massachusetts St. Line
Berkshire Thruway	I-87 Thruway Exit 21A	I-90 Thruway Exit B1
US 9	Near NY 254 Glens Falls	Near County Road 34 Glens Falls
NY 7	I-890 Schenectady	West City Line of Watervilliet
NY 5	NY 7 Schenectady	North City Line of Albany
Wolf Road	NY 5 at I-87 Colonie	I-87 at NY 155 Colonie
NY 440	New Jersey St. Line	I-278 Staten Island Expressway
NY 495	I-278 Brooklyn-Queens Expressway	I-678 Van Wyuk Expressway
NY 495	I-295 Clearview Expressway	NY 25 Riverhead Suffolk
NY 17	New Jersey St. Line	I-87 Suffern

PUERTO RICO

Posted Route No.	From	To
PR 1	Ponce	Salinas
PR 2	San Juan	Ponce
PR 3	Salinas	San Juan

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SOUTH CAROLINA

Posted Route No.	From	To
US 78	Georgia St. Line	I-95 near St. George
US 378	Georgia St. Line	SC 121 Saluda
US 378	SC 262 Columbia	US 501 Conway
SC 72	Georgia St. Line	I-77 Rockhill
US 123	Georgia St. Line	US 25 Greenville
US 76	US 52 Florence	SC 576 near Marion
US 25	North Carolina St. Line	Georgia St. Line
SC 121	SC 72 Whitmire	US 25 Trenton
US 321	I-26 South of Columbia	I-95 near Hardeeville
US 601	North Carolina St. Line	SC 9 Pageland
SC 151	SC 9 Pageland	US 52 Darlington
US 52	US 15 Society Hill	US 52/I-26 Connector at Goose Creek
US 17	I-95 near Pocotaligo	US 21 Gardens Corner
US 17	I-26 Charleston	North Carolina St. Line
US 501	SC 576 Marion	US 17 Myrtle Beach
SC 576	US 76 near Marion	US 501 near Marion
US 21	US 17 Gardens Corner	SC 170 Beaufort
US 276	I-85 Greenville	I-26 near Laurens
US 521	I-20 Camden	North Carolina St. Line
US 15	US 52 Society Hill	North Carolina St. Line
US 301	Georgia St. Line	US 321 Ulmer
SC 277	I-77 near Columbia	I-126 near Columbia

WEST VIRGINIA

Posted Route No.	From	To
US 19	Jct. I-77 Bradley	Jct. I-79 Gassaway
US 22	Ohio St. Line	Pennsylvania St. Line
US 48	I-79 Morgantown	Maryland St. Line
US 50	I-77 Parkersburg	I-79 Clarksburg
US 119	Kentucky St. Line	I-77 Charleston
US 219	US 460 Rich Creek	Maryland St. Line
US 220	Virginia St. Line	Maryland St. Line
WV 2	I-70 Wheeling	US 250 Moundsville
US 522	Virginia St. Line	Maryland St. Line
US 460	US 52 Bluefield	219 Rich Creek
US 119	US 48 Morgantown	Pennsylvania St. Line
US 340	Virginia St. Line	Maryland St. Line
WV 34	I-64 Putram County	Jct. US 35 Winfield
US 35	Jct. WV 34 Winfield	Ohio St. Line
US 52	I-64 Huntington	Ohio St. Line

WISCONSIN

Posted Route No.	From	To
US 2	Superior	Michigan St. Line at Hurley
US 2	Michigan St. Line west of Florence	Michigan St. Line east of Florence
US 8	Minnesota St. Line	Michigan St. Line
US 10	Minnesota St. Line	I-43 north of Manitowoc
WI 11	US 61 near Dubuque	WI 50 in Delavan
WI 11	WI 15 near Elkhorn	WI 31 in Racine
US 12	I-94 and County Hwy "EE" west of Eau Claire	WI 27 in Augusta
US 12	US 14 in Madison	Illinois St. Line
WI 13	WI 21 north of Friendship	US 2 in Ashland
US 14	Minnesota St. Line	I-90 at Janesville
WI 15	I-90 at Beloit	US 45 in Greenfield
WI 16	WI 78 at Portage	I-94 north of Waukesha
WI 17	US 8 in Rhinelander	US 45 in Eagle River
US 18	Iowa St. Line	US 14 west of Madison
WI 20	I-94 west of Racine	WI 31 in Racine
WI 21	WI 27 in Sparta	Oshkosh
WI 23	WI 32 north of Sheboygan Falls	Taylor Drive in Sheboygan
WI 26	I-94 at Johnson Creek	WI 16 at Watertown
WI 26	US 151 at Waupun	US 41 south-west of Oshkosh
WI 27	US 14 at Westby	WI 70 at Ojibwa
WI 29	I-94 west of Elk Mound	US 41 in Green Bay
WI 30	Madison	I-90 & 94 east of Madison
WI 31	WI 11 in Racine	WI 20 in Racine
WI 32	WI 29 west of Green Bay	US 8 in Laona
WI 34	WI 13 in Wisconsin Rapids	US 51 north-east of Knowlton
WI 35	I-94 in Hudson	WI 64 at Houlton
US 41	National Ave. in Milwaukee	Garfield Ave. in Milwaukee
US 41	107th St. in Milwaukee	Michigan St. Line
WI 42	I-43 west of Manitowoc	WI 57 south-west of Sturgeon Bay
US 45	Illinois St. Line	Michigan St. Line
WI 50	WI 11 in Delavan	WI 15 south of Delavan
WI 50	I-94 west of Kenosha	45th Ave. in Kenosha
US 51	US 16 in Portage	US 2 near Hurley
US 53	US 14 in La Crosse	US 10 in Osseo
US 53	I-94 south-east of Eau Claire	I-535 in Superior
WI 54	WI 13 in Wisconsin Rapids	US 51 near Plover
WI 57	I-43 in Green Bay	Sturgeon Bay
WI 58	US 14 in Richland Center	WI 82 in Mauston
US 61	Iowa St. Line	WI 129 south-east of Lancaster
US 61	WI 129 north-east of Lancaster	Minnesota St. Line
US 63	Minnesota St. Line	US 2 west of Ashland
WI 64	Minnesota St. Line	WI 35 at Houlton
WI 69	WI 11 at Monroe	County Hwy "PB" at Paoli
WI 70	Minnesota St. Line	US 2 & 141 at Florence
WI 77	WI 13 in Mellon	US 51 at Hurley
WI 78	I-90 & 94 south of Portage	US 51 north of Portage
WI 80	I-90 & 94 north of New Lisbon	WI 13 near Pittsville
WI 82	Iowa St. Line	US 14 south of Viroqua
WI 82	WI 58 in Mauston	I-90 & 94 east of Mauston
WI 119	I-94 in Milwaukee	WI 38 in Milwaukee
WI 124	US 53 north of Eau Claire	WI 29 in Chippewa Falls
WI 129	US 61 south-east of Lancaster	US 61 north-east of Lancaster
WI 139	US 8 near Cavour	WI 70 near Tipler
US 141	US 41 at Abrams	Michigan St. Line
WI 145	Broadway in Milwaukee	Milwaukee-Waukesha Co. Line
US 151	Iowa St. Line	US 18 east of Dodgeville
US 151	I-90-94 in Madison	Manitowoc
WI 172	US 41 in Ashwaubenon	County Hwy "X" south of Green Bay
County Hwy "PB"	WI 69 at Paoli	US 18 east of Verona

[FR Doc. 83-11936 Filed 5-3-83; 8:45 am]
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/MA	LABOR		DOT/MA	LABOR
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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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New Publication

List of CFR Sections Affected
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A Research Guide

These two volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1964 through 1972. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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(ISSN 0097-6326)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Proclamation 5057 of April 29, 1983

National Year of Voluntarism

By the President of the United States of America

A Proclamation

Voluntarism is a cornerstone of the American way of life and a fundamental characteristic of our American heritage. The generosity and civic-mindedness of the American people has long been a noted aspect of our Nation. Since its inception, this has been a country in which neighbor has lent a hand to neighbor, and families have banded together to help one another in times of adversity.

Voluntary service remains as important today as it was in earlier decades. We cannot rely solely on institutions of government to provide remedies for our problems. Many of the solutions must be devised and supported by other individuals and private groups. Greater emphasis must be placed on developing increased community commitment to voluntary service and on developing more volunteer leaders.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the vital contributions volunteers make to our society, do hereby designate the period beginning on May 1, 1983 until April 30, 1984 as the National Year of Voluntarism, and I call upon the people of the United States and interested groups and organizations to observe this celebration with appropriate activities of voluntary service and efforts to attract additional persons to this valuable and rewarding tradition.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of April, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-12024
Filed 5-2-83; 12:38 pm]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12417 of May 2, 1983

Strategic and Critical Materials

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), and in order to provide for the performance of certain reporting functions, it is hereby ordered that Executive Order No. 12155 of September 10, 1979, is amended by adding the following new section:

"1–107. The functions vested in the President by section 5(a)(2) of the Act, as amended (50 U.S.C. 98d), are delegated to the Director of the Federal Emergency Management Agency.".

Ronald Reagan

THE WHITE HOUSE,
May 2, 1983.

[FR Doc. 83-12128
Filed 5-3-83; 10:36 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 360

[Docket No. 83-304]

Noxious Weeds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the noxious weed regulations in 7 CFR Part 360 by adding certain aquatic weeds, parasitic weeds, and terrestrial weeds to the list of noxious weeds. Listed noxious weeds may be moved into or through the United States only pursuant to a written permit and in accordance with conditions that would not involve a danger of dissemination of the weeds. This action is warranted in order to update the regulations and prevent the artificial spread of the weeds into noninfested areas of the United States.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: James Lackey, Staff Specialist, Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6805.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*), a document was published in the **Federal Register** on October 2, 1981 (46 FR 48688-48692), proposing to amend the noxious weed regulations in 7 CFR Part 360 by adding certain aquatic weeds, parasitic weeds, and terrestrial weeds to the list of noxious weeds. Under the noxious weed regulations a listed noxious weed may be moved into or through the United States only pursuant to a written permit. The regulations provide for the issuance of a written permit only upon a determination that the movement of the noxious weed would not involve a danger of dissemination of the noxious weed in the United States.

The document of October 2, 1981, provided that a public hearing would be held if a request were received on or before November 2, 1981. Such a timely request was received and, pursuant to notification in a document published January 20, 1982, a public hearing was held in Miami, Florida, on February 4, 1982. The document of October 2, 1981, also invited the submission of written comments on or before December 1, 1981. However, after a public hearing was requested and scheduled, it was determined that the comment period should be extended for a period sufficient to allow responses to any statements presented at the public hearing. Accordingly, in the document of January 20, 1982, interested persons were invited to submit written comments on or before February 18, 1982.

Eighteen written comments were received in response to the proposal, and seven persons presented comments at the public hearing. Two of those who commented at the public hearing also submitted written comments.

Based on the reasons set forth in this document and in the proposal, the provisions of the proposal have been adopted in the final rule as proposed. Further, all of the comments submitted concerning the proposal have been carefully considered and are discussed below.

The document of October 2, 1981, proposed to add numerous weeds to the list of noxious weeds. Comments concerned the proposed addition of the aquatic weeds *Hygrophila polysperma* T. Anderson (Miramar weed) (referred to below as *Hygrophila polysperma*), and *Limnophila sessiliflora*) (Vahl) Blume (ambulia) (referred to below as *Limnophila sessiliflora*). Comments also concerned the proposed addition of the terrestrial weeds *Alternanthera sessilis* (Linnaeus) R. Brown ex de Candolle (sessile joyweed) (referred to below as *Alternanthera sessilis*); *Avena sterilis* Linnaeus (including *Avena ludoviciana* Durieu) (animated oat, wild oat) (referred to below as *Avena sterilis*); *Imperata cylindrica* (Linnaeus) Raeuschel (cogongrass) (referred to below as *Imperata cylindrica*); and twenty-five species of *Prosopis* which are listed in the text portion of this document (referred to below as the twenty-five listed species of *Prosopis*).

Four of the commenters stated that they were in favor of adding *Hygrophila polysperma* to the list of noxious weeds. The remainder of the comments, which are discussed below, expressed opposition to the addition of certain weeds to the list of noxious weeds.

Two commenters incorrectly assumed that the proposed rule, if adopted, would prohibit the interstate movement of *Hygrophila polysperma*. As stated in the proposal, the noxious weed regulations regulate the movement of listed noxious weeds into or through the United States, but do not affect the movement of listed noxious weeds that are moved solely interstate.

Three commenters asserted that because of geographical considerations *Hygrophila polysperma* should not be listed as a noxious weed. Two of the commenters asserted that *Hygrophila polysperma* is provided with natural geographical control because it grows only below the freeze line. The other commenter asserted that *Hygrophila polysperma* is not known to occur north of the 30th parallel of latitude, and based on this assertion, concluded that any laws regarding *Hygrophila polysperma* should be enacted by Florida, Louisiana, Texas, or Hawaii (States with areas below the 30th parallel) rather than by the federal government. It has been determined that it is necessary to list *Hygrophila polysperma* as a noxious weed. Based on field observation, it has been established, as indicated in the proposal (46 FR 48689), that this aquatic weed forms dense mats which impede water flow, inhibit passage, and clog irrigation pumps. Currently, within the United States, *Hygrophila polysperma* is known to occur only in Florida and there is no evidence to conclude that *Hygrophila polysperma* could become established above the 30th parallel of latitude or the freeze line. However, it appears that it is necessary to take action to prevent its spread into areas in the United States where it could become established. This includes areas in Florida, Louisiana,

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Texas, Hawaii, and certain Territories of the United States. Further, it is necessary to establish federal regulations since States and Territories do not have authority to regulate the movement of the weed into or throughout the United States. In addition, it appears that the most effective means of keeping the weed out of areas where it could become established would be to restrict its importation into any area in the United States.

Another commenter opposed the addition of *Hygrophila polysperma* to the list of noxious weeds based on the assertion that *Hygrophila polysperma* has been present in Florida for thirty years and has never presented an environmental problem. The Department does not agree with the assertion that *Hygrophila polysperma* has not presented an environmental problem in Florida. As noted above, it has been established that *Hygrophila polysperma* is an aquatic weed which forms dense mats which impede water flow, inhibit passage, and clog irrigation pumps. Further, these findings were confirmed at the public hearing by comments based on personal observations of representatives of three Florida water districts.

One commenter also raised questions concerning the rationale for listing *Limnophila sessiliflora* as a noxious weed. It was proposed to list *Limnophila sessiliflora* as a noxious weed on the basis that it is an aquatic weed that forms dense mats which impede water flow, inhibit passage, and clog irrigation pumps; and that it is toxic to fish (46 FR 48689). The commenter indicated that a recent test conducted by a retired chemist and another recent test conducted by a trade association indicate that *Limnophila sessiliflora* is not toxic to fish. The Department has conducted a general review of all of the available information, including the scientific literature,[1] and it does not appear that there are published reports or other information sufficient to confirm or deny whether *Limnophila sessiliflora* is toxic to fish. However, it has been determined based on field observations that it is necessary to list *Limnophila sessiliflora* as a noxious weed because it forms dense mats which impede water flow, inhibit passage and clog irrigation pumps.

[1] A list of this literature and any of the other literature referred to in this document may be obtained from the Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, USDA, Room 628 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

With respect to *Alternanthera sessilis*, one commenter asserted that it does not grow in Hawaii, as indicated in the proposal, but is only grown in Florida in greenhouse conditions. Based on a review of the scientific literature,[1] it has been established that *Alternanthera sessilis*, is found in damp, shady regions of cultivated areas and wastelands in Hawaii.

Commenters also asserted that *Hygrophila polysperma, Limnophila sessiliflora, Avena sterilis, Imperata cylindrica*, and the twenty-five listed species of *Prosopis* should not be listed as noxious weeds because they have or may have beneficial uses. In this connection:

(1) It was asserted that *Hygrophila polysperma* and *Limnophila sessiliflora* are important plants in the aquatic plant industry,

(2) It was asserted that *Avena sterilis* represents a significant source of germplasm for expanding the gene pool and many crops, including oats,

(3) It was asserted that *Imperata cylindrica* may be useful for preventing erosion, and

(4) It was asserted that the twenty-five listed species of *Prosopis* may be shown by applied research to have beneficial uses.

The Department does not disagree with any of the assertions that these weeds have the beneficial uses stated or that these weeds may have beneficial uses. However, it has been determined in accordance with the rationale stated in the proposal (46 FR 48689–48690) that it is necessary to list all of these weeds as noxious weeds. As noted above, it is necessary to list *Hygrophila polysperma* and *Limnophila sessiliflora* as noxious weeds because these aquatic weeds form dense mats which impede water flow, inhibit passage, and clog irrigation pumps. It is necessary to list *Avena sterilis* as a noxious weed because it competes with and reduces yield of small grains. Further, it is necessary to list *Imperata cylindrica* as a noxious weed because it competes with and reduces yield of forage plants. In addition, it is necessary to list the twenty-five listed species of *Prosopis* as noxious weeds because they form spiny thickets that prevent use of rangeland for grazing. The conclusion that these weeds cause such damage is based on field observations and a review of the scientific literature. (See footnote 1 concerning the availability of this literature.)

However, it should be noted that listing these weeds as noxious weeds would not necessarily prohibit them from being imported for beneficial purposes. As noted above, a noxious weed may be moved into the United States pursuant to a written permit. The regulations provide for the issuance of a written permit upon a determination that the movement of the noxious weed would not involve a danger of dissemination of the noxious weed in the United States. Further, it appears that the listing of these weeds as noxious weeds would have almost no effect on the availability of these weeds for the stated beneficial uses. These weeds are available in the United States for these purposes and, as noted above, the listing of the weeds as noxious weeds only provides for regulation of the weeds into or through the United States.

With respect to the twenty-five listed species of *Prosopis*, one commenter asserted that the comment period should be extended in order to allow additional input from botanists who have worked with species of *Prosopis* in the field. A review of the scientific literature (see footnote 1 concerning the availability of this literature), including reports of field work of Argentine botanists, establishes that these weeds form spiny thickets that prevent use of rangeland for grazing. Accordingly, it is necessary to list them as noxious weeds. Therefore, it does not appear that a reopening of the comment period is warranted.

With respect to *Avena sterilis*, it was asserted that there is no evidence to establish that it has the characteristics of escape and survival that would make it become a nuisance to agriculture in the United States. The Department does not agree with this assertion. Based on departmental expertise and a review of the scientific literature (see footnote 1 concerning the availability of this literature), it has been established that *Avena sterilis* is a pest which occurs in at least nineteen countries, including Australia, Israel, Portugal, Spain, and Tunisia. In these countries, field observations indicate that *Avena sterilis* has spread as a serious weed under ecological conditions which are similar to those in Mediterranean areas of California and adjacent states. Further, based on departmental expertise it appears that if the weed were to become established in such areas in the United States, it would likely spread and cause damage by competing with and reducing the yield of small grains.

Executive Order 12291 and Regulatory Flexibility Act

This document amends the noxious weed regulations by adding certain aquatic weeds, parasitic weeds, and terrestrial weeds to the list of noxious weeds. A listed noxious weed may be moved into or through the United States only pursuant to a written permit. The regulations provide for the issuance of a written permit only upon a determination that the movement of the noxious weed would not involve a danger of dissemination of the noxious weed in the United States. It appears that the dissemination of any of the noxious weeds proposed to be added to the list could cause significant damage to interests of agriculture and that it is necessary to list them as noxious weeds in order to take action to prevent them from being disseminated in the United States.

Based on information compiled by the Department, it has been determined that this action would not have a significant effect on any small entity because currently there is almost no movement of these weeds as such, and these weeds are rarely carried by other articles offered for importation into the United States. Further, it appears that there is no feasible alternative to consider concerning the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Under the circumstances explained above, James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 360

Imports, Plants (Agriculture), Quarantine, Transportation, Weeds.

PART 360—NOXIOUS WEED REGULATIONS

Accordingly, § 360.200 of the noxious weed regulations (7 CFR 360.200) is revised to read as follows:

§ 360.200 Designation of noxious weeds.[1]

Pursuant to the provisions of section 10 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2809) the Secretary of Agriculture, after publication of the required notice of proposal and after public hearing on the proposal when requested by any interested person, has determined based upon the information received at any such hearing and other information available to the Secretary, that the following plants are within the definition of a "noxious weed" in section 3(c) of the Act (7 U.S.C. 2802(c)) and that their dissemination in the United States may reasonably be expected to have, to a serious degree, an effect specified in said section 3(c) of the Act:

(a) *Aquatic Weeds:*

Azolla pinnata R. Brown (mosquito fern, water velvet)
Eichornia azurea (Swartz) Kunth (anchored waterhyacinth, rooted waterhyacinth)
Hydrilla verticillata (Linnaeus f.) Royle (hydrilla)
Hygrophila polysperma T. Anderson (Miramar weed)
Ipomoea aquatica Forsskal (water-spinach, swamp morning-glory)
Limnophila sessiliflora (Vahl) Blume (ambulia)
Monochoria hastata (Linnaeus) Solms-Laubach
Monochoria vaginalis (Burman f.) C. Presl
Sagittaria sagittifolia Linnaeus (arrowhead)
Salvinia auriculata Aublet (giant salvinia)
Salvinia biloba Raddi (giant salvinia)
Salvinia herzogii de la Sota (giant salvinia)
Salvinia molesta D.S. Mitchell (giant salvinia)
Sparganium erectum Linnaeus (exotic bur-reed)
Stratiotes aloides Linnaeus (water-aloe)

(b) *Parasitic Weeds:*

Cuscuta spp. (dodders), other than following species:
Cuscuta americana Linnaeus
Cuscuta applanata Engelmann
Cuscuta approximata Babington
Cuscuta attenuata Waterfall
Cuscuta boldinghii Urban
Cuscuta brachycalyx (Yuncker) Yuncker
Cuscuta californica Hooker & Arnott
Cuscuta campestris Yuncker
Cuscuta cassytoides Nees ex Engelmann
Cuscuta ceanothii Behr
Cuscuta cephalanthii Engelmann
Cuscuta compacta Jussieu
Cuscuta corylii Engelmann
Cuscuta cuspidata Engelmann
Cuscuta decipiens Yuncker
Cuscuta dentatasquamata Yuncker
Cuscuta denticulata Engelmann
Cuscuta epilinum Weihe
Cuscuta epithymum (Linnaeus) Linnaeus
Cuscuta erosa Yuncker
Cuscuta europaea Linnaeus
Cuscuta exalta Engelmann
Cuscuta fasciculata Yuncker
Cuscuta glabrior (Engelmann) Yuncker
Cuscuta globulosa Bentham
Cuscuta glomerata Choisy
Cuscuta gronovii Willdenow
Cuscuta harperi Small
Cuscuta howelliana Rubtzoff
Cuscuta indecora Choisy
Cuscuta jepsonii Yuncker
Cuscuta leptantha Engelmann
Cuscuta mitriformis Engelmann
Cuscuta nevadensis I. M. Johnston
Cuscuta obtusiflora Humboldt, Bonpland, & Kunth
Cuscuta occidentalis Millspaugh ex Mill & Nuttall
Cuscuta odontolepis Engelmann
Cuscuta pentagona Engelmann
Cuscuta planiflora Tenore
Cuscuta plattensis A. Nelson
Cuscuta polygonorum Engelmann
Cuscuta rostrata Shuttleworth ex Engelmann
Cuscuta runyonii Yuncker
Cuscuta salina Engelmann
Cuscuta sandwichiana Choisy
Cuscuta squamata Engelmann
Cuscuta suaveolens Seringe
Cuscuta suksdorfii Yuncker
Cuscuta tuberculata Brandegee
Cuscuta umbellata Humboldt, Bonpland, & Kunth
Cuscuta umbrosa Beyrich ex Hooker
Cuscuta vetchii Brandegee
Cuscuta warneri Yuncker
Orobanche spp. (broomrapes), other than the following species:
Orobanche bulbosa (Gray) G. Beck
Orobanche californica Schlechtendal & Chamisso
Orobanche cooperi (Gray) Heller
Orobanche corymbosa (Rydberg) Ferris
Orobanche dugesii (S. Watson) Munz
Orobanche fasciculata Nuttall
Orobanche ludoviciana Nuttall
Orobanche multicaulis Brandegee
Orobanche parishii (Jepson) Heckard
Orobanche pinorum Geyer ex Hooker
Orobanche uniflora Linnaeus
Orobanche valida Jepson
Orobanche vallicola (Jepson) Heckard
Striga spp. (witchweeds)

(c) *Terrestrial Weeds:*

Ageratina adenophora (Sprengel) King & Robinson (crofton weed)
Alternanthera sessilis (Linnaeus) R. Brown ex de Candolle (sessile joyweed)
Avena sterilis Linnaeus (including *Avena ludoviciana* Durieu) (animated oat, wild oat)
Borreria alata (Aublet) de Candolle
Carthamus oxyacantha M. Bieberstein (wild safflower)
Chrysopogon aciculatus (Retzius) Trinius (pilipiliula)
Commelina benghalensis Linnaeus (Benghal dayflower)
Crupina vulgaris Cassini (common crupina)
Digitaria scalarum (Schweinfurth) Chiovenda (African couchgrass, fingergrass)
Digitaria velutina (Forsskal) Palisot de Beauvois (velvet fingergrass, annual conchgrass)
Drymaria arenarioides Humboldt & Bonpland ex Roemer & Schultes (lightning weed)
Euphorbia prunifolia Jacquin (painted euphorbia)
Galega officinalis Linnaeus (goatsrue)
Heracleum mantegazzianum Sommier & Levier (giant hogweed)
Imperata brasiliensis Trinius (Brazilian satintail)
Imperata cylindrica (Linnaeus) Raeuschel (cogongrass)

[1] One or more common names of weeds are given in parentheses after most scientific names to help identify the weeds represented by such scientific names; however, a scientific name is intended to include all weeds within the genus or species represented by the scientific name, regardless of whether the common name or names are as comprehensive in scope as the scientific name.

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Ipomoea triloba Linnaeus (little bell, aiea morning-glory)
Ischaemum rugosum Salisbury (murainograss)
Leptochloa chinensis (Linnaeus) Nees (Asian sprangletop)
Mikania cordata (Burman f.) B. L. Robinson (mile-a-minute)
Mikania micrantha Humboldt, Bonpland, & Kunth
Mimosa invisa Martius (giant sensitive plant)
Oryza longistaminata A. Chevalier & Roehrich (red rice)
Oryza punctata Kotschy ex Steudel (red rice)
Oryza rufipogon Griffith (red rice)
Pennisetum clandestinum Hochstetter ex Chiovenda (kikuyugrass)
Pennisetum pedicellatum Trinius (kyasumagrass)
Pennisetum polystachion (Linnaeus) Schultes (missiongrass, thin napiergrass)
Prosopis alpataco R. A. Philippi
Prosopis argentina Burkart
Prosopis articulata S. Watson
Prosopis burkartii Munoz
Prosopis caldenia Burkart
Prosopis calingastana Burkart
Prosopis campestris Griseback
Prosopis castellanosii Burkart
Prosopis denudans Bentham
Prosopis elata (Burkart) Burkart
Prosopis farcta (Solander ex Russell) Macbride
Prosopis ferox Grisebach
Prosopis fiebrigii Harms
Prosopis hassleri Harms
Prosopis humilis Gillies ex Hooker & Arnott
Prosopis kuntzei Harms
Prosopis pallida (Humboldt & Bonpland ex Willdenow) Humboldt, Bonpland, & Kunth
Prosopis palmeri S. Watson
Prosopis reptans Bentham var. *reptans*
Prosopis rojasiana Burkart
Prosopis ruizlealii Burkart
Prosopis ruscifolia Grisebach
Prosopis sericantha Gillies ex Hooker & Arnott
Prosopis strombulifera (Lamarck) Bentham
Prosopis torquata (Cavanilles ex Lagasca y Segura) de Candolle
Rottboellia exaltata Linnaeus f. (itchgrass, raoulgrass)
Saccharum spontaneum Linnaeus (wild sugarcane)
Salsola vermiculata Linnaeus (wormleaf salsola)
Solanum torvum Swartz (turkeyberry)
Tridax procumbens Linnaeus (coat buttons)

(Secs. 4, 10; 88 Stat. 2149, 2151; 7 U.S.C. 2803, 2809; 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C., this 25th day of April 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-11909 Filed 5-3-83; 8:45 am]
BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4a

[Docket No. 304 27-68]

Classification, Declassification, and Public Availability of National Security Information

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule.

SUMMARY: U.S. Department of Commerce, Department Administrative Order (DAO) 207-2, signed by the Secretary of Commerce effective September 14, 1982, provides for the issuance of a Department of Commerce National Security Information Manual. The Manual comprises a complete set of guidelines and instructions for implementing Executive Order 12356, "National Security Information," and implementing directives. The guidelines and instructions will enable Department of Commerce employees to adequately safeguard national security information and to make available to the public that information which is releasable under these regulations.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Alan F. Brown, 202-377-1722.

SUPPLEMENTARY INFORMATION:

Authority: This regulation shall be published in the **Federal Register** pursuant to Section 5.3(b), E.O. 12356.

Purpose: The National Security Information Manual, hereinafter called the "Manual," prescribes the Department of Commerce security policies, procedures and minimum requirements for safeguarding national security information. The Manual takes precedence over all supplemental regulations which prescribe additional or more stringent safeguards. It establishes throughout the Department of Commerce uniform policies, standards, criteria, and procedures for the classification, downgrading, declassification, and safeguarding of national security information.

Responsibility: The Director, Office of Security, has overall responsibility for security matters throughout the Department of Commerce. The Director is responsible for implementing within the Department the provisions of E.O. 12356. All Department of Commerce employees, components, offices, and contractors are bound by these regulations, unless specifically excepted in writing.

List of Subjects in 15 CFR Part 4a

Classified information.

Words of Issuance. For the reasons set forth in the preamble, 15 CFR Part 4a is revised as follows.

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Authority: Sec. 5.3(b), E.O. 12356, 47 FR 14874, April 6, 1982, 47 FR 15557, April 12, 1982.

Subpart A—Classification of National Security Information

§ 4a.1 General.

Executive Order 12356 provides the only basis for classifying information within the Department of Commerce, except as provided in the Atomic Energy Act of 1954. The policy of the Department of Commerce is to make information concerning its activities available to the public consistent with the need to protect the national defense or foreign relations as required by the interests of the United States and its citizens. Accordingly, security classification shall be applied only to protect the national security.

§ 4a.2 Director, Office of Security.

The Director is responsible for (a) acting on all suggestions, complaints, and appeals not otherwise resolved, concerning the implementation and administration of E.O. 12356 and implementing directives, and (b) deciding all appeals from denials of requests for national security information under the Mandatory Review provision of E.O. 12356, when the initial denial was based on continued classification under the Order. When acting on such appeals the Director shall confer, as necessary, with the Offices of the General Counsel, Information Management, and Personnel. The Director may solicit advise from various operating units as required. All suggestions, complaints, or appeals should be addressed to the Director, Office of Security, Room 5044, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

§ 4a.3 Classification levels.

Information may be classified as national security information by a designated original classifier of the Department when it is determined that the information concerns one or more of the categories prescribed in E.O. 12356 and when the unauthorized disclosure of the information, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security. The levels established by E.O. 12356 (Top Secret, Secret, and Confidential) are the only terms which may be applied to national security information. Except as provided by statute, no other terms shall be used within the Department of Commerce in conjunction with any of the three classification levels.

§ 4a.4 Classification authority.

Authority to originally classify information as Secret or Confidential may be exercised only by the Secretary of Commerce and by officials to whom such authority is specifically delegated. No official of the Department of Commerce is authorized to originally classify information as Top Secret.

§ 4a.5 Duration of classification.

Information shall remain classified as long as its unauthorized disclosure would result in damage to the national security. When it can be determined a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified. Automatic declassification markings applied under predecessor executive orders shall remain valid unless the classification is extended by an authorized declassification authority. Information classified under predecessor orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of E.O. 12356 governing systematic review or mandatory review for declassification.

Subpart B—Declassification

§ 4a.6 General.

Information that continues to meet the classification requirements prescribed in E.O. 12356 despite the passage of time will continue to be safeguarded. However, information which is properly classified at the time it is developed may not necessarily require protection indefinitely. National security information over which the Department of Commerce exercises final classification jurisdiction shall be declassified or downgraded as soon as national security considerations permit. When information is determined to be no longer damaging to the national security, it may continue to be exempt from public disclosure by law. If so, when the information is declassified the declassification authority shall indicate that all or portions of the information become FOR OFFICIAL USE ONLY and shall cite the authority which permits nondisclosure.

§ 4a.7 Systematic review for declassification.

Classified information constituting permanently valuable records of the Government, as defined by U.S.C. 2103, that is in the possession and control of the Department of Commerce or of the Archivist of the United States, shall be systematically reviewed for declassification. This review shall be in accordance with systematic review guidelines authorized by the Secretary of Commerce.

§ 4a.8 Mandatory review for declassification.

(a) *Requests.* Classified information under the jurisdiction of the Department of Commerce shall be reviewed for declassification upon receipt of a request by a United States citizen or permanent resident alien, a Federal agency, or a state or local government. A request for mandatory review of classified information shall be submitted in writing and describe the information with sufficient specificity to locate it with a reasonable amount of effort. Request shall be submitted to the Director, Office of Security, U.S. Department of Commerce, Room 5044, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

(b) *Processing requirements.* (1) The Director, Office of Security, shall acknowledge receipt of the request directly to the requester. When a request does not satisfy the conditions of paragraph (a) of this section, the requester shall be notified that unless additional identifying information is provided, no further action will be taken. The request shall be forwarded to the operating unit or office which originated the information or which has primary interest in the subject matter. The unit or office assigned action shall review the information within twenty working days as prescribed below.

(2) The action office shall determine whether, under the declassification provisions of the Department of Commerce National Security Information Manual, the entire document or portions thereof may be declassified. The action office shall also determine whether, if the document or portions are declassified, withholding the information is otherwise warranted under applicable statutes. Declassification of the information shall be accomplished by a designated declassification authority. Upon declassification the information shall be remarked. If the information may not be released in whole or in part, the reviewing official shall provide the reasons for denial by citing the applicable provision of section 1.3 of E.O. 12356. When the classification is a derivative decision based on classified source material of another Federal agency, the action office shall provide the information to the originator for review.

(3) The action office shall also determine if declassified information is otherwise available for public release under the Freedom of Information Act. If the information is not releasable, the reviewing official shall advise the Director, Office of Security, that the information has been declassified but that it is exempt from disclosure, citing the appropriate exemption of the Freedom of Information Act and applicable regulations.

(4) If the request for declassification is denied in whole or in part, the requester shall be notified of the right to appeal the determination within sixty days and of the procedures for such an appeal. If declassified information remains exempt from disclosure under the Freedom of Information Act, the requester shall be advised of those appellate procedures. All denials of information under the Freedom of Information Act must be approved by the Office of the Assistant General Counsel for Administration.

(c) *Fees.* If the request requires the rendering of services for which fees may be charged, the unit assigned action may calculate the anticipated amount of fees to be charged and ascertain the requester's willingness to pay the allowable charges as a precondition to taking further action on the request in accordance with § 4.9 of Department of Commerce Freedom of Information Act

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rules and § 4b.11 of the Department's Privacy Act rules.

(d) *Right of Appeal.* (1) A requester may appeal to the Director, Office of Security, when the requested information is not declassified and released in whole. The Director shall determine, within thirty days after receipt of an appeal, whether continued classification of the requested information is required in whole or in part, notify the requester of his determination, and make available to the requester any information determined to be releasable. If continued classification is required under the provisions of this manual, the requester shall be notified of the final determination and of the reasons for denial.

(2) During the declassification review of information under appeal the Director, Office of Security, may overrule previous determinations in whole or in part when, in his judgment, continued protection in the interest of national security is no longer required. If the Director determines that the information no longer requires classification, it shall be declassified and, unless it is otherwise exempt from disclosure, released to the requester. The Director shall advise the original reviewing Commerce office or unit of his decision.

§ 4a.9 Requests Under the Privacy Act and the Freedom of Information Act involving records.

(a) The Freedom of Information Act (FOIA), Title 5 U.S.C., Section 552(b)(1) and the Privacy Act of 1974 (PA), Title 5 U.S.C., Section 552a(k)(1), authorize withholding of records from public availability which are "(1) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (2) are in fact properly classified pursuant to such Executive order."

(b) Under the FOIA a determination on an initial request must be made within ten working days after receipt of the request. A determination on an appeal to an initial denial must be made within twenty working days after receipt of an FOIA appeal; or for a PA appeal, within thirty working days. Time limits are mandatory for an FOIA request, but are permissive for a PA request. Except for unusual circumstances, failure to make a determination within the stated time limits means that a requester has exhausted the administrative remedies and may bring suit immediately.

(c) Persons who request information under the provisions of these Acts, and whose requests are denied on appeal, may petition the courts to enjoin the Department of Commerce from withholding the record and, in this event, burden is on the Department of Commerce to sustain its actions.

(d) To assure that PA/FOIA requests involving classified records are subjected to a thorough classification review and that a response is made within the specified time limits, the procedures in paragraphs (e) and (f) shall apply as well as those of DAO 205–12 "Public Information," DAO 205–14 "Processing Requests Under the Freedom of Information Act," and DAO 205–15 "Implementing the Privacy Act of 1974."

(e) Initial requests involving classified records:

(1) The office determined to have primary interest shall conduct a declassification review of the information as prescribed in § 4a.8(b)(2), (3), and (4).

(2) If the information is subsequently declassified, the action office shall consult with the Office of the Assistant General Counsel for Administration to determine releasibility with consideration only for the legality of release within the purview of PA/FOIA.

(3) If the record warrants continued classification, the action office shall coordinate with the Office of the Assistant General Counsel for Administration and so advise the requester, and further advise the requester of the right of appeal.

(4) If the classification review cannot be completed within the prescribed time limit, due to unusual circumstances, the action office shall advise the requester. An extension of time shall be arranged in accordance with the FOIA and implementing Commerce PA/FOIA rules.

(f) Receipt of an appeal for reconsideration of denial of a classified record under PA/FOIA: Appeals under this section shall be addressed to the General Counsel who shall refer the record(s) to the Director, Office of Security, for a declassification review. The Director may overrule previous determinations in whole or in part when, in his judgment, continued protection in the interest of national security is no longer required. If the information under review no longer requires classification, it shall be declassified. The Director shall advise the General Counsel of his decision.

§ 4a.10 Presidential information.

Information originated by the President, by the White House Staff, by committees, commissions, or boards appointed by the President, or by others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the provisions of mandatory review for declassification, except as consistent with applicable laws that pertain to presidential papers or records.

§ 4a.11 Foreign government information.

Requests for mandatory review for declassification of foreign government information shall be processed as prescribed in § 4a.8(b). Consultation with the foreign source of the information through appropriate channels may be required prior to final action on the request.

§ 4a.12 Public availability of declassified information.

A fundamental policy of the Department of Commerce is to make information available to the public to the maximum extent permitted by law. Information which is declassified, for any reason, loses its protective status in the interest of national security. Accordingly, declassified information shall be handled in every respect on the same basis as all other unclassified information.

Subpart C—Access to Classified Information

§ 4a.13 Access by persons outside the Executive branch.

Department of Commerce classified information may be made available to persons outside the Executive Branch provided that (a) they are engaged in historical research projects or previously have occupied policy-making positions to which they were appointed by the President, or (b) the information is necessary for their performance of a function related to a contract or other agreement with the U.S. Government. The Director, Office of Security, shall determine, prior to the release of classified information under this provision, the propriety of such action in the interest of national security and obtain assurance of the recipient's trustworthiness and need to know.

§ 4a.14 Access by industrial, educational and commercial entities.

Bidders, contractors, grantees, educational, scientific or industrial organizations may receive classified information under the procedures prescribed in the Department of Defense Industrial Security Manual.

§ 4a.15 Access by historical researchers and former Presidential appointees.

(a) Persons who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President may be authorized access to classified information provided that the head of the component with classification jurisdiction over the information:

(1) Makes a written determination that access is consistent with the interests of national security;

(2) Is assured by the Director, Office of Security, that the requestors have an appropriate determination of trustworthiness as a precondition to access;

(3) Obtains written agreements from requestors to safeguard the information to which they are given access in accordance with these regulations;

(4) Obtains written consent to a review by the Department of Commerce of their resultant notes and manuscripts for the purpose of determining that no classified information is contained therein; and

(5) Limits access granted to former Presidential appointees to items that the person originated, reviewed, signed, or received while serving as a Presidential appointee.

(b) The material requested should be clearly identified so that it can be located and compiled with a reasonable amount of effort. If the access requested by historical researchers or former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged, the requestor shall be notified.

(c) The provisions of this section apply only to classified information, or any part of it, originated by the Department of Commerce or information that is now in the sole custody of the Department. Otherwise, the researcher shall be referred to the classifying agency. Operating units providing information under this section shall maintain custody of classified information at a Commerce facility.

§ 4a.16 Access by foreign nationals, foreign governments, international organizations and immigrant aliens.

Foreign nationals employed by the Department of Commerce may be granted access to classified information originated within the Department only for the specific classified project to which they are assigned and only after they have met those requirements set forth in DAO 207–3, "Security Requirements for Research Associates, Guest Workers and Trainees," and Appendix B of DAO 207–4, "Security and Suitability Investigations of Personnel." If a need for access by foreign nationals (other than employees) is indicated, the Director, Office of Security, shall be consulted for decision on a case-by-case basis.

Michael N. Cassetta,

Director, Office of Security, U.S. Department of Commerce.

[FR Doc. 83–11191 Filed 5–3–83; 8:45 am]

BILLING CODE 3510–BX–M

International Trade Administration

[Docket No. 30331–49]

15 CFR Parts 369, 370, 375, 388 and 390

Export Administration Regulations; Editorial Amendments

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes minor editorial amendments to the Regulations. These amendments make the following changes: Insert new mailing addresses and room numbers; remove revision dates for forms used by the Office of Export Administration; insert the name changes of a licensing division; and correct typographical errors.

DATE: This rule is effective May 4, 1983. Although there is no formal comment period, public comments are welcome on a continuing basis.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. App. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 369

Boycotts, Reporting requirements, Trade practices.

15 CFR Part 370

Administrative practice and procedure.

15 CFR Part 375

Exports.

15 CFR Part 388

Administrative practice and procedure, Boycotts, Exports, Penalties.

15 CFR Part 390

Advisory committees, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 369—[AMENDED]

§ 369.6 [Amended]

1. Paragraph (b)(5) of § 369.6 is amended by removing the phrase "(revised 8–78)" wherever it appears.

2. Paragraph (c)(3) of § 369.6 is amended by revising the phrase "Room 3012" to read "Room 4001B".

PART 370—[AMENDED]

3. The first sentence of § 370.12 is revised to read as follows:

§ 370.12 Where to obtain Export Administration forms.

Exporters may obtain the forms required to conduct their business in accordance with the Export Administration Regulations from all U.S. Department of Commerce District Offices (see list on page ii under District Office Addresses) or from:

Exporters' Service Staff, Office of Export Administration, Room 1099, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230.

or by writing

Office of Export Administration, P.O. Box 273, Washington, D.C. 20044. * * *

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§ 370.13 [Amended]

4. The first sentence of paragraph (d)(2) of § 370.13 is amended by inserting the phrase "OEA will" between the phrase "If requested by the applicant,"and the phrase "provide the applicant".

5. Paragraph (m)(2) of § 370.13 is amended by revising the phrase "Room 3810" to read "Room 3886D".

PART 375—[AMENDED]

Supplement 1—[Amended]

6. Footnote 1 to Supplement No. 1 to Part 375, "Authorities Administering Import Certificate/Delivery Verification System in Foreign Countries," is amended by revising the phrase "Room 1623, U.S. Department of Commerce, 14th and "E" Streets" to read "Room 1099, U.S. Department of Commerce, 14th and Pennsylvania Avenue".

PART 388—[AMENDED]

§ 388.6 [Amended]

7. The first sentence of paragraph (a) of § 388.6 is amended by revising the phrase "Room 3810, 14th Street and Constitution Avenue" to read "Room 3898B, 14th Street and Pennsylvania Avenue".

§ 388.20 [Amended]

8. The first sentence of paragraph (c)(1)(i) of § 388.20 is amended by revising the phrase "Room 3102" ro read "Room 4001B.

§ 388.22 [Amended]

9. The first sentence of paragraph (b) of § 388.22 is amended by revising the phrase "14th Street and Constitution Avenue, N.W., Room 3826" to read "14th Street and Pennsylvania Avenue, N.W., Room 3898B".

PART 390—[AMENDED]

§ 390.1 [Amended]

10. Paragraph (h)(3) of § 390.1 is amended by revising the phrase "Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue" to read "Room 4001B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue".

§ 390.6 [Amended]

11. The first sentence of paragraph (c) of § 390.6 is amended by revising the phrase "Room 1617M" to read "Room 2626".

Authority: Sections 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980).

Dated: March 3, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83–11904 Filed 5–3–83; 8:45 am]

BILLING CODE 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 5

Amendments to Commission Standards of Conduct

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission has delegated to the General Counsel or his designee most of the duties currently assigned to the Executive Director under the Commission's Standards of Conduct, 16 CFR Part 5. This document amends 16 CFR Part 5 to reflect that transfer of duties and certain other organizational changes which the Commission has recently adopted. It also amends 16 CFR Part 5 to reflect the public financial disclosure reporting requirements of Title II of the Ethics in Government Act of 1978, Pub. L. 95–521, as amended.

DATE: Effective on May 4, 1983.

FOR FURTHER INFORMATION CONTACT: Jerome A. Tintle, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3487.

SUPPLEMENTARY INFORMATION: The Commission has designated the General Counsel or his designee to perform all of the duties of the Executive Director under the Commission's Standards of Conduct, 16 CFR Part 5, except as follows: (1) The Executive Director will continue to make the determinations required by § 5.8 with respect to employees classified at Grade GS–15 or below; and (2) the Executive Director will continue to receive and review the statements of employment and financial interests required by Executive Order 11222 with respect to those employees within the Office of the Executive Director who are under his immediate supervision.

In addition, § 5.32 is amended to reflect: (1) The creation of a Deputy Executive Director for Management, responsible for the Divisions of Administrative Services, Budget and Finance, Personnel, and Procurement and Contracting; a Deputy Executive Director for Planning and Information, responsible for the Divisions of Data Processing and Information Systems, Library, and Information Analysis; and an Executive Assistant to the Executive Director; (2) the abolishment of the position of Director of the Office of Policy Planning; and (3) the redesignation of the Office of Public Information as the Office of Public Affairs.

Finally, Subpart D of 16 CFR Part 5 is amended to reflect the public financial disclosure reporting requirements imposed on commissioners and certain employees of the Commission by Title II of the Ethics in Government Act of 1978, Pub. L. 95–521, as amended. These requirements are embodied in revised § 5.31. Conforming changes are also made to Subpart D's remaining provisions, all of which concern statements of employment and financial interests required of certain employees by Executive Order 11222, Sections 402–406 (May 8, 1965).

Since these amendments relate solely to matters involving agency management and personnel, they are not subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 553(a)(2). For the same reason, the requirements of the Regulatory Flexibility Act do not apply. 5 U.S.C. 601(2) (Supp. V 1981).

Lists of Subjects in 16 CFR Part 5

Administrative practice and procedure, Conflict of interests.

PART 5—[AMENDED]

Accordingly, the Commission amends 16 CFR Part 5 as follows:

1. A new paragraph (f) is added to 16 CFR 5.4 to read as follows:

§ 5.4 Definitions.

In this part:

* * * * *

(f) "General Counsel" means the General Counsel or the General Counsel's designee.

2. The final sentence of 16 CFR 5.5 is revised to read as follows:

§ 5.5 Interpretation and advisory service.

* * * Deputy counselors may seek advice or guidance concerning the interpretation of the regulations of this part from the General Counsel.

3. Paragraphs (c) and (d) of 16 CFR 5.6 are revised to read as follows:

§ 5.6 Procedures for reporting and resolving conflicts of interest.

* * * * *

(c) Except for determinations by the Executive Director pursuant to § 5.8, the General Counsel may resolve a conflict of interest or the appearance of a conflict of interest by such remedial action as is within the authority of the General Counsel.

(d) Where there is substantial doubt concerning the existence of a conflict of interest or the appearance of a conflict of interest, the type of remedial action which is required, or any other matter involving the interpretation of the regulations in this part, the matter may be referred to the General Counsel for advice and recommendations.

§ 5.19 [Amended]

4. Paragraph (b) of 16 CFR 5.19 is amended by removing the words "the Executive Director or".

5. The headings and table of contents of Subpart D of 16 CFR Part 5 are revised to read as follows:

PART 5—STANDARDS OF CONDUCT

* * * * *

Subpart D—Financial Disclosures

Sec.

5.31 Public financial disclosure reports under the Ethics in Government Act.
5.32 Statements of employment and financial interests under Executive Order 11222.
5.33 Time for submission of statements.
5.34 Supplementary statements.
5.35 Interests of employees' relatives.
5.36 Information not known by employees.
5.37 Information prohibited.
5.38 Review of employee's statements.
5.39 Confidentiality of employees' statements.
5.40 Effect of employees' statements on other requirements.
5.41 Specific provisions for special Government employees.
5.42 Reviewing statements of special Government employees.

6. 16 CFR 5.31 is revised to read as follows:

§ 5.31 Public financial disclosure reports under the Ethics in Government Act.

(a) The provisions of this section apply only to public financial disclosure reports required by Title II of the Ethics in Government Act of 1978, Pub. L. 95–521, as amended. Commission members and employees required to file under this section need not file statements of employment and financial interests under § 5.32 and they are not subject to the provisions of §§ 5.33–5.42.

(b) For purposes of this section, the Designated Agency Ethics Official is the Assistant General Counsel.

(c) The following Commission members and employees must file public financial disclosure reports pursuant to Title II of the Ethics in Government Act:

(1) The Chairman;

(2) Each Commissioner;

(3) Each employee (i) who is a member of the Senior Executive Service, or (ii) whose position is classified at GS–16 or above of the General Schedule, or (iii) whose rate of basic pay is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS–16 (Step 1);

(4) Each employee who is an administrative law judge appointed pursuant to 5 U.S.C. 3105;

(5) Each employee, regardless of grade or pay level, who is in a position which is excepted from competitive service by reason of being of a confidential or policymaking character (except individuals or groups excluded by action of the Director of the Office of Government Ethics); and

(6) The Designated Agency Ethics Official.

(d) Reports under this section must be filed on the form prescribed by the Office of Government Ethics and in accordance with the regulations promulgated, and from time to time amended, by the Office of Government Ethics as set forth in 5 CFR Part 734. Copies of the form are available from the Designated Agency Ethics Official.

(e) Reports under this section must be filed according to the time schedules set forth in 5 CFR Part 734.

(f) Reports under this section, except those filed by the Designated Agency Ethics Official, must be filed with the Designated Agency Ethics Official. The Designated Agency Ethics Official must file his report with the Chairman.

(g) The Designated Agency Ethics Official shall administer the public financial disclosure reports program under this section, shall receive the reports as indicated in § 5.31(f), shall review them, and shall provide advice and counsel regarding matters relating to Part II of the Ethics in Government Act and its implementing regulations. His duties and responsibilities are set forth in more detail in 5 CFR Part 738 which is promulgated, and from time to time amended, by the Office of Government Ethics.

7. 16 CFR 5.32 is revised to read as follows:

§ 5.32 Statements of employment and financial interests under Executive Order 11222.

(a) The provisions of this section and §§ 5.33–5.42 apply only to individuals required to file statements of employment and financial interests under Executive Order 11222, sections 402–406 (May 8, 1965) and its implementing regulations as set forth in 5 CFR Part 735, Subpart D.

(b) Individuals required to file financial disclosure reports under § 5.31 need not file statements under this section and are not subject to the provisions of §§ 5.33–5.42.

(c) If not required to file under § 5.31, the following employees, whether or not serving in an acting capacity, shall submit statements to the Executive Director:

(1) The Executive Assistant to the Executive Director;

(2) The Attorney Advisor to the Executive Director; and

(3) The Director of Equal Employment Opportunity.

(d) If not required to file under § 5.31, the following employees, whether or not serving in an acting capacity, shall submit statements to the General Counsel:

(1) The Director and Deputy Director of the Office of Public Affairs;

(2) The Chief Presiding Officer;

(3) The Director of the Office of Congressional Relations;

(4) Directors of the Regional Offices;

(5) Advisors to the Commissioners, except that each Commissioner in the Commissioner's discretion may direct otherwise;

(6) Deputy Assistant General Counsels; and

(7) Assistants to the General Counsel.

(e) If not required to file under § 5.31, the following employees of the Bureaus of Competition, Consumer Protection, and Economics, whether or not serving in an acting capacity, shall submit statements to their Bureau Director:

(1) Assistant Directors;

(2) Deputy Assistant Directors;

(3) Executive Assistants to the Director and Assistants to the Director; and

(4) Assistants to the Deputy Director.

(f) If not required to file under § 5.31, the following employees, whether or not serving in an acting capacity, shall submit statements to the Deputy Executive Director for Management:

(1) The Director of the Division of Administrative Services;

(2) The Director of the Division of Budget and Finance;

(3) The Director of the Division of Personnel; and

(4) The Director of the Division of Procurement and Contracting.

(g) If not required to file under § 5.31, the following employees, whether or not serving in an acting capacity, shall submit statements to the Deputy Executive Director for Planning and Information:

(1) The Director of the Division of Data Processing and Information Systems;

(2) The Director of the Library; and

(3) The Director of the Division of Information Analysis.

(h) Presiding Officers designated under § 1.13(c) of Part 1 shall submit

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statements to the Chief Presiding Officer.

(i) Assistant Directors of the Regional Offices, whether or not serving in an acting capacity, shall submit statements to their Regional Office Director.

(j) The following persons may require employees subject to their supervision, in addition to those designated in paragraphs (c)–(i) of this section, to submit statements: The Executive Director, the General Counsel, and the Directors of the Bureaus of Competition, Consumer Protection, and Economics. Additional employees designated pursuant to this paragraph must be ranked at GS–13 or above, or at a comparable pay level under another authority, and must meet the requirements established by the Office of Personnel Management (5 CFR 735.403). The names of additional employees so designated must be reported to the General Counsel.

(k) An employee who feels that his or her position has been improperly designated as one requiring submission of a statement of employment and financial interests has recourse to the Commission's grievance procedures set forth in chapter 5–771 of the Commission's Administrative Manual.

§ 5.33 [Removed]

8. 16 CFR 5.33, entitled *Presidential appointees*, is removed.

§§ 5.34 through 5.43 Redesignated as §§ 5.33 through 5.42.

9. 16 CFR 5.34–16 CFR 5.43 are redesignated 16 CFR 5.33–16 CFR 5.42, respectively.

10. Paragraph (a) of newly designated 16 CFR 5.38, entitled *Review of employee's statements*, is amended by removing the final sentence thereof.

11. Paragraph (b) of newly designated 16 CFR 5.38, entitled *Review of employee's statements*, is revised to read as follows:

§ 5.38 Review of employees' statements.

* * * * *

(b) Upon completion of review, all statements received by the Executive Director, the Directors of the Bureaus of Competition, Consumer Protection, and Economics, the Deputy Executive Directors, the Chief Presiding Officer, and the Regional Office Directors shall be forwarded to the General Counsel for safekeeping.

12. Paragraph (a) of newly designated 16 CFR 5.39, entitled *Confidentiality of employee's statements*, is revised to read as follows:

§ 5.39 Confidentiality of employees' statements.

(a) Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence. During the course of review, only the person to whom the statement is submitted or properly referred, the Chairman (or the Chairman's designee), the Executive Director (or the Executive Director's designee), and the General Counsel shall be permitted to view the statements.

* * * * *

13. In addition to the amendments set forth above, 16 CFR Part 5 is amended by removing the words "the Executive Director", "the Executive Director (or the Executive Director's designee)", or "the Executive Director, with the assistance of persons designated by the Executive Director," and inserting, in their place, the words "the General Counsel" in the following places:

(a) 16 CFR 5.5
(b) 16 CFR 5.6(b)
(c) 16 CFR 5.7(a)
(d) 16 CFR 5.9
(e) 16 CFR 5.12(f)
(f) Newly designated 16 CFR 5.38(a)
(g) Newly designated 16 CFR 5.38(c)
(h) Newly designated 16 CFR 5.39(b)
(i) Newly designated 16 CFR 5.41(c)
(j) Newly designated 16 CFR 5.42(a)

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. § 46(g)); 80 Stat. 383, as amended; 81 Stat. 54 (5 U.S.C. § 552); 92 Stat. 1824, as amended; EO 11222 of May 8, 1965, (30 FR 6469; 3 CFR, 1964–1965 Comp., p. 306); 5 CFR 734.103; 5 CFR 735.104)

By direction of the Commission, dated April 7, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83–11826 Filed 5–3–83; 8:45 am]

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16 CFR Part 13

[Docket No. 8929]

Dahlberg Electronics, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: The Federal Trade Commission has reopened this matter and modified its order issued on August 6, 1974 (39 FR 36325), to permit the company to suggest resale prices to its dealers. The modified order leaves intact the prohibition against resale price maintenance.

DATES: Final Order issued Aug. 6, 1974. Modifying Order issued April 11, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580, (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of Dahlberg Electronics, Inc., a corporation. Codification appearing at 39 FR 36325 is rescinded and replaced with the following: Subpart—Maintaining resale prices: §13.1160 Refusal to sell.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Modifying Decision and Order is as follows:

In the matter of Dahlberg Electronics, Inc. a corporation: Docket No. 8929; Order Modifying Decision and Order.

On November 24, 1982, respondent Dahlberg, Inc., formerly known as Dahlberg Electronics, Inc., filed a Request to Reopen Proceeding and to Set Aside Consent Order. The request was filed pursuant to Section 2.51 of the Commission's Rules of Practice. It was placed on the public record for comments. No comments were received.

Respondent asks the Commission to reopen this proceeding and to set aside the order to cease and desist entered on August 6, 1974. The order generally prohibits respondent in the sale of its own brand name hearing aids from, among other things, employing exclusive dealerships and dealer territorial and customer restrictions and from engaging in resale price maintenance and requires respondent to deal with all persons competing with its dealers.

Respondent relies on changed conditions of fact and law and the public interest in seeking to have the proceeding reopened and the order set aside. It relies principally on the Commission's recent opinion and decision in *Beltone Electronics Corp.*, Docket No. 8928 (July 6, 1982). In that matter, the Commission dismissed a complaint against another manufacturer of hearing aids that the Commission had issued on May 6, 1973, simultaneously with the complaint issued in this matter.

The Commission has considered respondent's request and other relevant information and determined that respondent has demonstrated that it would be in the public interest to reopen the proceeding to set aside Subparagraph Nos. 1, 2, 3, 4, 6, 7, 8, and 9 of Paragraph I of the order. However, the Commission will not be precluded from taking enforcement action concerning such practices when the Commission has reason to believe that they violate the law.

The Commission has further considered whether to modify as requested by respondent Subparagraph No. 5 of Paragraph I, the prohibition against resale price maintenance. In this regard, the Commission has determined it would be in the public interest to modify the paragraph to terminate the prohibition against suggested resale prices.

Accordingly,

It is ordered that this matter be, and it hereby is, reopened and that Subparagraph Nos. 1, 2, 3, 4, 6, 7, 8, and 9 of Paragraph I shall be set aside as of the effective date of this order.

It is further ordered that Subparagraph No. 5 of Paragraph I be modified as of the effective date of this order by striking "5" and "or suggesting" and inserting "or" after "stabilizing,".

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83–11825 Filed 5–3–83; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket 9153]

Gulf & Western Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a New York City corporation engaged in the burial casket industry, among other things, to timely divest to a Commission-approved buyer, Alabama-Indiana Metal Products, Inc., located in Anniston, Alabama. The order also requires the corporation to permit prospective purchasers to inspect the Anniston facility and supply them with information concerning the facility's operation. Further, the corporation is barred from acquiring any stock or interest in any concern engaged in the manufacture or sale of burial caskets or their compenents, without prior Commission approval for a period of ten years.

DATES: Complaint issued March 25, 1981 Decision and Order issued April 14, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS–2, Robert W. Doyle, Jr., Washington, D.C. 20580 (202) 254–8577.

SUPPLEMENTARY INFORMATION: On Monday, Jan. 17, 1983, there was published in the **Federal Register**, 48 FR 1982, a proposed consent agreement with analysis In the Matter of Gulf & Western Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stocks or Assets: § 13.5 Acquiring corporate stocks or assets; 13.5–20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements.

List of Subjects in 16 CFR Part 13

Burial caskets.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Emily H. Rock,

Secretary.

[FR Doc. 83–11824 Filed 5–3–83; 8:45 am]

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[1] Copies of the Complaint and the Decision and Order filed with the original document.

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16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

Correction

In FR Doc. 83–8483, beginning on page 13972 in the issue of Friday, April 1, 1983, the first complete paragraph in the third column of page 13972 should be removed.

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7891]

Income Tax; Taxable Years Beginning After December 31, 1953; Treatment of Organization and Syndication Fees

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the treatment of partnership organization and syndication fees. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide necessary guidance to partnerships and partners for compliance with the law.

DATES: The regulations are effective for partnership taxable years beginning after December 31, 1975, with the exception of the rule allowing the amortization of organization expenses which is effective in the case of amounts paid or incurred in partnership taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459).

SUPPLEMENTARY INFORMATION:

Background

On January 11, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 707 and 709 of the Internal Revenue Code of 1954 (45 FR 2349). The amendments were proposed to conform the regulations to section 213(b) of the Tax Reform Act of 1976 (90 Stat. 1547). A number of comments on the proposed amendments were received, and a public hearing was held on May 21, 1980. After consideration of all comments regarding the proposed amendments, the attached Treasury decision is adopted.

Treatment of Organization and Syndication Costs

The regulations provide rules reflecting the general rule that no deduction is allowed under chapter 1 of the Code to the partnership or to any partner for any amounts paid or incurred, directly or indirectly, in partnership taxable years beginning after December 31, 1975, to organize a partnership or to promote the sale of (or to sell) an interest in the partnership. However, an exception is provided under which a partnership may elect to amortize its "organizational expenses" paid or incurred in partnership taxable years beginning after December 31, 1976. In the notice of proposed rulemaking the election could be made in connection with the partnership's return of income, including an amended return, for the taxable year the partnership began business. This Treasury decision provides that, for partnerships which begin business in taxable years that end after March 31, 1983, the election must be made in connection with the partnership's return of income for that taxable year filed not later than the date prescribed by law (including any

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extension of time). The Treasury decision also clarifies the method of making the election. In response to a comment received on the notice of proposed rulemaking the regulations provide that expenses less than $10 need not be separately listed on the statement describing organizational expenses which is attached to the partnership return.

Definitions

The notice of proposed rulemaking generally limited organizational expenses to those expenses incurred before the end of the taxable year in which the partnership began business. Several comments were received suggesting that the time limitation be expanded to include expenses incurred after the end of the taxable year in which the partnership begins business to take into account the fact that partnerships are restricted in the choice of partnership taxable year. In response to these comments the regulations adopted by this Treasury decision limit organizational expenses to those expenses incurred during the period beginning at a point which is a reasonable time before the partnership begins business and ending with the date prescribed by law for filing the partnership return (determined without regard to any extensions of time) for the taxable year the partnership begins business. The Treasury decision clarifies the rule for cash basis taxpayers who do not pay those expenses until a later time.

Another change from the notice of proposed rulemaking is an amendment making it clear that expenses connected with the addition or removal of partners are not organizational expenses for purposes of section 709.

In response to a number of comments received, the reference to "tax advice pertaining to the adequacy of tax disclosures in the prospectus" as a syndication expense is changed to clarify that the expense relates to advice on the securities law, not the tax laws.

Guaranteed Payments

The regulations provide rules reflecting the statutory language added to section 707 of the Code by the Tax Reform Act of 1976. The new language makes it clear that, for a guranteed payment to be a partnership deduction, it must meet the same tests under section 162(a) as it would if the payment had been made to a person who is not a member of the partnership and the rules of section 263 must be taken into account.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Because the notice of proposed rulemaking relating to this final rule was published prior to January 1, 1981, the provisions of the Regulatory Flexibility Act do not apply to this final rule.

Drafting Information

The principal author of these regulations is David R. Haglund of the Legislation and Regulations Division, Office of the Chief Council, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.701–1—1.771–1

Income taxes, Partnerships.

PART 1—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are hereby adopted as set out below:

Paragraph 1. New §§ 1.709–1 and 1.709–2 are added immediately after § 1.708–1. These new sections read as follows:

§ 1.709–1 Treatment of organization and syndication costs.

(a) *General rule.* Except as provided in paragraph (b) of this section, no deduction shall be allowed under chapter 1 of the Code to a partnership or to any partner for any amounts paid or incurred, directly or indirectly, in partnership taxable years beginning after December 31, 1975, to organize a partnership, or to promote the sale of, or to sell, an interest in the partnership.

(b) *Amortization of organization expenses.* (1) Under section 709(b) of the Code, a partnership may elect to treat its organizational expenses (as defined in section 709(b)(2) and in § 1.709–2(a)) paid or incurred in partnership taxable years beginning after December 31, 1976, as deferred expenses. If a partnership elects to amortize organizational expenses, it must select a period of not less than 60 months, over which the partnership will amortize all such expenses on a straight line basis. This period must begin with the month in which the partnership begins business (as determined under § 1.709–2(c)). However, in the case of a partnership on the cash receipts and disbursements method of accounting, no deduction shall be allowed for a taxable year with respect to any such expenses that have not been paid by the end of that taxable year. Portions of such expenses which would have been deductible under section 709(b) in a prior taxable year if the expenses had been paid are deductible in the year of payment. The election is irrevocable and the period selected by the partnership in making its election may not be subsequently changed.

(2) If there is a winding up and complete liquidation of the partnership prior to the end of the amortization period, the unamortized amount of organizational expenses is a partnership deduction in its final taxable year to the extent provided under section 165 (relating to losses). However, there is no partnership deduction with respect to its capitalized syndication expenses.

(c) *Time and manner of making election.* The election to amortize organizational expenses provided by section 709(b) shall be made by attaching a statement to the partnership's return of income for the taxable year in which the partnership begins business. The statement shall set forth a description of each organizational expense incurred (whether or not paid) with the amount of the expense, the date each expense was incurred, the month in which the partnership began business, and the number of months (not less than 60) over which the expenses are to be amortized. A taxpayer on the cash receipts and disbursements method of accounting shall also indicate the amount paid before the end of the taxable year with respect to each such expense. Expenses less than $10 need not be separately listed, provided the total amount of these expenses is listed with the dates on which the first and last of such expenses were incurred, and, in the case of a taxpayer on the cash receipts and disbursements method of accounting, the aggregate amount of such expenses that was paid by the end of the taxable year is stated. In the case of a partnership which begins business in a taxable year that ends after March 31, 1983, the original return and statement must be filed (and the election made) not later than the date prescribed by law for filing the return (including any extensions of time) for that taxable year. Once an election has been made, an amended return (or returns) and statement (or statements) may be filed to include any organizational expenses not included in the partnership's original return and statement.

§ 1.709–2 Definitions.

(a) *Organizational expenses.* Section 709(b)(2) of the Internal Revenue Code defines organizational expenses as expenses which:

(1) Are incident to the creation of the partnership;

(2) Are chargeable to capital account; and

(3) Are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would (but for section 709(a)) be amortized over such life.

An expenditure which fails to meet one or more of these three tests does not qualify as an organizational expense for purposes of section 709(b) and this section. To satisfy the statutory requirement described in paragraph (a)(1) of this section, the expense must be incurred during the period beginning at a point which is a reasonable time before the partnership begins business and ending with the date prescribed by law for filing the partnership return (determined without regard to any extensions of time) for the taxable year the partnership begins business. In addition, the expenses must be for creation of the partnership and not for operation or starting operation of the partnership trade or business. To satisfy the statutory requirement described in paragraph (a)(3) of this section, the expense must be for an item of a nature normally expected to benefit the partnership throughout the entire life of the partnership. The following are examples of organizational expenses within the meaning of section 709 and this section: Legal fees for services incident to the organization of the partnership, such as negotiation and preparation of a partnership agreement; accounting fees for services incident to the organization of the partnership; and filing fees. The following are examples of expenses that are not organizational expenses within the meaning of section 709 and this section (regardless of how the partnership characterizes them): Expenses connected with acquiring assets for the partnership or transferring assets to the partnership; expenses connected with the admission or removal of partners other than at the time the partnership is first organized; expenses connected with a contract relating to the operation of the partnership trade or business (even where the contract is between the partnership and one of its members); and syndication expenses.

(b) *Syndication expenses.* Syndication expenses are expenses connected with the issuing and marketing of interests in the partnership. Examples of syndication expenses are brokerage fees; registration fees; legal fees of the underwriter or placement agent and the issuer (the general partner or the partnership) for securities advice and for advice pertaining to the adequacy of tax disclosures in the prospectus or placement memorandum for securities law purposes; accounting fees for preparation of representations to be included in the offering materials; and printing costs of the prospectus, placement memorandum, and other selling and promotional material. These expenses are not subject to the election under section 709(b) and must be capitalized.

(c) *Beginning business.* The determination of the date a partnership begins business for purposes of section 709 presents a question of fact that must be determined in each case in light of all the circumstances of the particular case. Ordinarily, a partnership begins business when it starts the business operations for which it was organized. The mere signing of a partnership agreement is not alone sufficient to show the beginning of business. If the activities of the partnership have advanced to the extent necessary to establish the nature of its business operations, it will be deemed to have begun business. Accordingly, the acquisition of operating assets which are necessary to the type of business contemplated may constitute beginning business for these purposes. The term "operating assets", as used herein, means assets that are in a state of readiness to be placed in service within a reasonable period following their acquisition.

Par. 2. Paragraph (c) of § 1.707–1 is amended by inserting a period after the phrase "accrued under its method of accounting" and by striking out the sentence immediately following the phrase "section 162(a) (relating to trade or business expenses)." and inserting in lieu of that sentence the following three sentences:

§ 1.707–1 Transactions between partner and partnership.

* * * * *

(c) *Guaranteed payments.* * * * For a guaranteed payment to be a partnership deduction, it must meet the same tests under section 162(a) as it would if the payment had been made to a person who is not a member of the partnership, and the rules of section 263 (relating to capital expenditures) must be taken into account. This rule does not affect the deductibility to the partnership of a payment described in section 736(a)(2) to a retiring partner or to a deceased partner's successor in interest. Guaranteed payments do not constitute an interest in partnership profits for purposes of sections 706(b)(3), 707(b), and 708(b).

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 15, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 83–11983 Filed 5–3–83; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Approval of an Amendment to the Oklahoma State Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing its approval of a program amendment to Oklahoma's program to control surface coal mining and reclamation operations. The amendment consists of changes to the State's rules regarding effluent limitations for surface and underground coal mining activities and was submitted to meet the requirements of similar revisions that were made by OSM to the Federal rules.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma State Program

Information regarding the general background on the Oklahoma State program can be found at 46 FR 4910 (January 19, 1981), 47 FR 14152 (April 2, 1982), and 47 FR 37060 (August 25, 1982).

II. Discussion of the Amendment

On October 21, 1982, OSM promulgated changes to 30 CFR 816.42 (a)(7) and (b), and 817.42 (a)(7) and (b),

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the Federal provisions governing water discharge standards (See 47 FR 47216 for further information on the changes made to those Federal rules). Under the revised Federal rules, discharges of water from areas disturbed by surface or underground mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434. Further, the original provisions of 30 CFR 816.42(b) and 817.42(b), which set forth the conditions when a discharge from the disturbed area would not be subject to the effluent limitations, were removed.

On February 22, 1983, OSM received a proposed program amendment from the Oklahoma Department of Mines intended to modify the State's rules to reflect the changes made to 30 CFR 816.42 (a)(7) and (b), and 817.42 (a)(7) and (b). See OK–451. The Department of Mines indicated in its transmittal letter that it had adopted the new water discharge standards by emergency declaration and that it was presently proceeding to promulgate these changes on a permanent basis through the State's formal rulemaking process. The final rules are expected to be promulgated by July 1983.

The full text of Oklahoma's proposed amendment to its regulations is as follows:

Section 816.42(a)(7) is hereby repealed.

Section 816.42(b) is hereby repealed, and the following substituted:

Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434.

Section 817.42(a)(7) is hereby repealed.

Section 817.42(b) is hereby repealed, and the following substituted:

Discharges of water from areas disturbed by underground mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434.

On March 18, 1983, OSM published a notice in the **Federal Register**, announcing receipt of the amendment and inviting public comment on the adequacy of the amendment (48 FR 11465–11466). The public comment period ended on April 4, 1983.

On April 19, 1983, the Acting Administrator of the Environmental Protection Agency provided written concurrence on Oklahoma's amendment.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15(b)(1), that the program amendment provides for effluent limitations for surface and underground coal mining and reclamation operations and that the revised Oklahoma rules at §§ 816.42(b) and 817.42(b) are no less effective than 30 CFR 816.42(b) and 817.42(b).

IV. Public Comments

While public comments were requested, no substantive comments were received. Acknowledgements were received from the following government agencies:

U.S. Department of Agriculture, Soil Conservation Service

U.S. Environmental Protection Agency

The disclosure of government agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

Accordingly, the Director, based on the above finding, is approving the February 22, 1983, program amendment to §§ 816.42(b) and 817.42(b) of the Oklahoma rules.

VI. Other Information

The Federal rules at 30 CFR 936.15 are being amended to reflect the action being taken today. Further, OSM is adding additional language to that Section to describe more clearly a previously approved amendment to the Oklahoma program. No substantive change to the Federal rule is intended.

VII. Procedural Matters

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovermental relations, Surface mining, Underground mining.

Dated: April 28, 1983.

Carson W. Culp,

Acting Director, Office of Surface Mining.

PART 936—OKLAHOMA

1. The authority citation for Part 936 is:

Authority: Sec. 503, Pub. L. 95–87, 91 Stat. 407 (30 U.S.C. 1253).

2. 30 CFR 936.15 is revised by designating the existing paragraph as paragraph (a), and by adding a new paragraph (b). Further, paragraph (a) has been clarified by including a brief description of the amendment to the Oklahoma permanent regulatory program that was approved on April 2, 1982. Revised § 936.15 reads as follows:

§ 936.15 Approval of regulatory program amendments.

(a) The Oklahoma permanent regulatory program amendment consisting of a set of new permanent rules, received by OSM on January 22, 1982, as corrected by Oklahoma on March 18, 1982, is approved effective April 2, 1982.

(b) The Oklahoma program amendment to §§ 816.42(b) and 817.42(b) of the Oklahoma rules governing effluent limitations, received by OSM on February 22, 1983, is approved effective May 4, 1983.

[FR Doc. 83–11912 Filed 5–3–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2317-7]

Approval and Promulgation of Implementation Plans; Sulfur-in-Fuel Regulations; Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut under its State Energy Trade (SET) program. The intended effect of the rulemaking is to promulgate a change in the sulfur-in-oil SIP limit for Lydall, Inc., in Manchester, Connecticut, so it may burn 1.9% sulfur oil.

EFFECTIVE DATE: May 4, 1983.

ADDRESSES: Copies of the Connecticut submittals are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2312, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; the Office of the Federal Register, 1100 L Street, N.W., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06106.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, Room 2312, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5633.

SUPPLEMENTARY INFORMATION: The Connecticut Department of Environmental Protection (DEP) has requested approval of a sulfur-in-oil relaxation for Lydall & Foulds Division, Lydall, Inc., in Manchester, Connecticut. The State's revision is based on an approval under its State Energy Trade (SET) Program. The revision will allow Lydall to burn oil containing 1.9% sulfur.

As detailed in the SIP, the SET program provides a method for calculating a new, allowable sulfur limit each year based on oil conversation at the facility (premise) and establishes a well-defined procedure to ensure that these limits comply with the Clean Air Act requirements. EPA proposed to approve the generic procedures of the SET program on May 1, 1981 (46 FR 24597). At that time, we also proposed to approve revised sulfur-in-oil limitations for all Connecticut sources under 250 Million British Thermal Units per hour (MBTU/hr.) which would later be approved by the DEP Commissioner under the SET program. EPA approved the SET program on August 28, 1981 (46 FR 43418) and set up a stream-lined procedure for final federal approval of most of the individual source revisions. We also approved a regulation directly governing this program [Connecticut Regulation 19–508–19(a)(3)(i)] on November 18, 1981 (46 FR 56612).

Although Lydall only has one 30 MBTU/hr boiler, this revision will make Lydall a major sulfur dioxide (SO_2) source (capable of emitting more than 100 tons per year), and the DEP reviewed the impacts of the revision by using the conservative, screening analysis metholodology spelled out in the Connecticut Ambient Impact Analysis Guideline (approved at 46 FR 43418). The full record of the modeling review is on file at the DEP Office.

To summarize briefly, the modeling used DEP's PMTPTA-Conn. model with appropriate background levels and indicated that the revision will not cause any violation of the sulfur dioxide or total suspended particulate National Ambient Air Quality Standards (NAAQS). In addition, the source is more than 20 kilometers from any Prevention of Significant Deterioration (PSD) baseline areas. EPA has determined that the revision will not violate any PSD increments.

The State has complied with all procedures required by State Regulation 19–508–19(a)(3)(i) and the SIP narrative for sources such as Lydall that have no boilers greater than 250 MBTU/hr. The DEP has reviewed this premise's application and determined what sulfur limit is allowable under the SET program. DEP has notified the public of Lydall's application and DEP's proposed decision, has held a hearing, and has submitted the documents and determinations required by the SET program and federal SIP approval.

There was only one comment received by the State on this SET action proposal. This comment raised concerns about the potential adverse effect of burning higher sulfur oil and alleged that the State's public notice of Lydall's application was inadequate and misleading. The State responded to this administrative concern when it completed its review, gave notice of its proposed findings, and held a hearing. The same concerns about burning higher sulfur oil had also been raised in litigation related to the general SET program and recent statewide sulfur-in-oil revision. These concerns were resolved in favor of EPA's original determination that our revision approval actions were acceptable. (See *CFE* v. *EPA*, 696 F. 2d 179 (2d Cir., 1982), *CFE* v. *EPA*, F. 2d 169 (2d Cir., 1982).)

The public has had full opportunity to review the DEP action for these relatively small sources in accordance with the procedures spelled out in EPA's SET program approval. Thus, we are not publishing an additional Notice of Proposed Rulemaking for this individual source action.

EPA concurs in the State's assessment that this revision is an enforceable SIP revision that will not violate NAAQS. Therefore, EPA is approving Lydall's sulfur-in-oil revision, which raises Lydall's sulfur limit to 1.9%.

EPA finds good cause for making this action effective immediately, because the new sulfur limit is already in effect under State law and imposes no additional regulatory burden. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court for the appropriate circuit by (60 days from today). This action may not be challeged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: April 24, 1983.

Lee L. Verstandig,

Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding subparagraph (27) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(27) Revision for Lydall & Foulds Division of Lydall, Inc., submitted by the Commissioner of the Connecticut Department of Environmental Protection on December 17, 1982 and January 5, 1983, allowing the facility to burn higher

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sulfur oil under the State Energy Trade Program.

[FR Doc. 83-11620 Filed 5-3-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2654/R549; PH-FRL 2357-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agriculture Commodities; Inorganic Bromides Resulting From Fumigation With Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of inorganic bromides, resulting from post-harvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity strawberries. This regulation to establish a maximum permissible level for residues of inorganic bromides in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of March 16, 1983 (48 FR 11134) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2654 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose (1) amending the existing tolerance in 40 CFR 180.123 for residues of inorganic bromides (resulting from fumigation with the pesticide methyl bromide) in or on the raw agricultural commodity strawberries to reflect a post-harvest fumigation use as well as the current pre-harvest use, and (2) increasing the existing tolerance for inorganic bromides in or on strawberries (from use before harvest) from 30 parts per million (ppm) to 60 ppm.

There were no comments or request for referral to an advisory committee received in response to the proposed rule.

The date submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.123 is revised to read as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

Tolerances are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities which have been fumigated with the antimicrobial agent and insecticide methyl bromide after harvest (with the exception of strawberries):

Commodities	Parts per million
Alfalfa, hay (Post-H)	50.0
Almonds (Post-H)	200.0
Apples (Post-H)	5.0
Apricots (Post-H)	20.0
Artichokes, Jerusalem (Post-H)	30.0
Asparagus (Post-H)	100.0
Avocados (Post-H)	75.0
Barley (Post-H)	50.0
Beans (Post-H)	50.0
Beans, green (Post-H)	50.0
Beans, lima (Post-H)	50.0
Beans, snap (Post-H)	50.0
Beets, garden, roots (Post-H)	30.0
Beets, sugar, roots (Post-H)	30.0
Brazil nuts (Post-H)	200.0
Bush nuts (Post-H)	200.0
Butternuts (Post-H)	200.0
Cabbage (Post-H)	50.0
Cantaloupes (Post-H)	20.0
Carrots (Post-H)	30.0
Cashews (Post-H)	200.0
Cherries (Post-H)	20.0
Chestnuts (Post-H)	200.0
Cippolini, bulbs (Post-H)	50.0
Citrus citron (Post-H)	30.0
Cocoa beans (Post-H)	50.0
Coffee beans (Post-H)	75.0
Copra (Post-H)	100.0
Corn (Post-H)	50.0
Corn (pop) (Post-H)	240.0
Corn, sweet (K+CWHR) (Post-H)	50.0
Cottonseed (Post-H)	200.0
Cucumbers (Post-H)	30.0
Cumin, seed (Post-H)	100.0
Eggplants (Post-H)	20.0
Filberts (Hazelnuts) (Post-H)	200.0
Garlic (Post-H)	50.0
Ginger, roots (Post-H)	100.0
Grapefruit (Post-H)	30.0
Grapes (Post-H)	20.0
Hickory nuts (Post-H)	200.0
Honeydew melons (Post-H)	20.0
Horseradish (Post-H)	30.0
Kumquats (Post-H)	30.0
Lemons (Post-H)	30.0
Limes (Post-H)	30.0
Mangoes (Post-H)	20.0
Muskmelons (Post-H)	20.0
Nectarines (Post-H)	20.0
Oats (Post-H)	50.0
Okra (Post-H)	30.0
Onions (Post-H)	20.0
Oranges (Post-H)	30.0
Papayas (Post-H)	20.0
Parsnips, roots (Post-H)	30.0
Peaches (Post-H)	20.0
Peanuts (Post-H)	200.0
Pears (Post-H)	5.0
Peas (Post-H)	50.0
Peas, blackeyed (Post-H)	50.0
Pecans (Post-H)	200.0
Peppers (Post-H)	30.0
Pimentos (Post-H)	30.0
Pineapples (Post-H)	20.0
Pistachio nuts (Post-H)	200.0
Plums (Post-H)	20.0
Pomegranates (Post-H)	100.0
Potatoes (Post-H)	75.0
Pumpkins (Post-H)	20.0
Quinces (Post-H)	5.0
Radishes (Post-H)	30.0
Rice (Post-H)	50.0
Rutabagas (Post-H)	30.0
Rye (Post-H)	50.0
Salsify, roots (Post-H)	30.0
Sorghum, grain (Post-H)	50.0
Soybeans (Post-H)	200.0
Squash, summer (Post-H)	30.0
Squash, winter (Post-H)	20.0
Squash, zucchini (Post-H)	20.0
Strawberries (Pre- and Post-H)	60.0
Sweet potatoes (Post-H)	75.0
Tangerines (Post-H)	30.0
Timothy, hay (Post-H)	50.0
Tomatoes (Post-H)	20.0
Turnips, roots (Post-H)	30.0
Walnuts (Post-H)	200.0
Watermelons (Post-H)	20.0

[FR Doc. 83-11763 Filed 5-3-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300072A; (PH-FRL 2357-5)]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Sorbitan Fatty Acid Ester Ethoxylates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for sorbitan fatty acid ester ethoxylates with 5 moles of ethoxylation when used as an inert ingredient quality control agent in pesticide formulations. This regulation was requested by the Shield-Brite Corporation.

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arthur Donner, Registration Support and Emergency Response Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of February 16, 1982 (48 FR 6899) that announced that at the request of the Shield-Brite Corporation, P.O. Box 519, Kirkland, WA 98033, the Administrator proposed to amend 40 CFR 180.1001(c) by broadening the exemption from the requirement of a tolerance for sorbitan fatty acid ester ethoxylates (fatty acids limited to C_{12}, C_{14}, C_{26}, and C_{18}) and their poly(oxyethylene) (POE) derivatives where the POE content averages 16–20 moles. The POE content will be expanded from 16–20 moles to 5–20 moles.

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The bases for approval of the exemption were discussed in the proposed rule. The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient sorbitan fatty acid ester ethoxylates with five moles of ethoxylation to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Sorbitan fatty acid esters (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} containing minor amounts of associated fatty acids) and their derivatives; the poly (oxyethylene) content averages 5-20 moles.		Surfactants, related adjuvants or surfactants
* * * * * * *		

[FR Doc. 83-11757 Filed 5-3-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2760/R547; PH-FRL 2357-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-Naphthaleneacetic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commodity sweet cherries. The regulation to establish a maximum permissible level for residues of NAA in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of March 16, 1983 (48 FR 11133) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2760 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commodity sweet cherries at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if

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the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.155(a) is amended by adding and alphabetically inserting the raw agricultural commodity sweet cherries to read as follows:

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * * *	
Cherries, sweet	0.1
* * * * * *	

[FR Doc. 83-11761 Filed 5-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2670/R556; PH-FRL 2357-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-[1-(Ethoxyimino) Butyl]-5-[2-Ethylthio) Propyl]-3-Hydroxy-2-Cyclohexene-1-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the herbicide was requested, pursuant to a petition, by BASF Wyandotte Corporation.

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division, Office of Pesticide Programs, Rm. 243, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 16, 1982 (47 FR 26019), which announced that BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054, had filed pesticide petition 2F2670 with the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodities soybeans at 20 parts per million (ppm); meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; milk at 0.05 ppm; and eggs at 0.05 ppm.

The petitioner subsequently amended the petition to decrease the tolerance levels for soybeans to 10.0 ppm, and increase the tolerance levels for fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep to 0.2 ppm and eggs to 0.5 ppm.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances included several acute studies, a skin sensitization study (guinea pig) which was negative; a teratology study (rat) with no observed teratogenic effects at 250 milligrams (mg)/kilogram (kg)/day (highest dose tested) and a no-observed-effect level (NOEL) of 40 mg/kg/day for maternal toxicity; and a teratology study (rabbit) with no observed teratogenic effects of 160 mg/kg/day. Effects observed at 480 mg/kg/day in this study (random effects including skeletal and visceral abnormalities, reduced fetal weight and changes in male/female ratios) are considered to be due to extreme toxicity in dams and not to test material. Other toxicology data considered included a 2-generation reproduction study (rat) with a NOEL of 360 mg/kg/day; a 2-year chronic feeding/oncogenicity study (mice) with a NOEL of 120 ppm and no observed oncogenic effects at 1,080 ppm (highest dose tested); a 2-year chronic feeding/oncogenicity study (rats) with a NOEL of > 360 ppm (18 mg/kg/day, highest dose tested) and no observed oncogenic effects; a 6-month dog feeding study with a NOEL of 20 mg/kg/day; a 14-week feeding study (mouse) with a NOEL of 300 ppm; a 14-week feeding study (rat) with a NOEL of 300 ppm; mutagenicity studies including recombinant assays and forward mutations on *B. subtilis, E. coli* and *S. typhimurium* (negative at concentrations of chemical to 100 percent), and a mouse host/mediated assay on *S. typhimurium* (negative at 2.5 grams (gm)/kg/day of chemical); and a metabolism study (rats).

The acceptable daily intake (ADI), based on the 2-year rat chronic feeding/oncogenicity study (NOEL of 360 ppm, 18 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.18 mg/kg/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 10.8 mg/day.

The theoretical maximal residue contribution (TMRC) resulting from these tolerances for a 1.5 kg daily diet is calculated to be 0.2215 mg/day, which utilizes 2.05 percent of the maximum permissible intake (MPI).

Data lacking include a goat feeding study, with hydroxymetabolites and additional toxicity studies (including a subchronic feeding study and a teratology study) all using hydroxymetabolites as test material. The registrant has agreed to perform and submit these studies in the near future.

There are no regulatory actions pending against the registration of the pesticide. The nature of the residues in plants and animals is adequately understood. Adequate analytical method, gas chromatography using a sulfur specific flame photometric detector, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities.

A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 20, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended by adding a new § 180.412 to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one; tolerances for residues.

Tolerances are established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the following raw agricultural commodities.

Commodities	Parts per million
Cattle, fat	0.2
Cattle, mbyp	0.2
Cattle, meat	0.2
Eggs	0.5
Goats, fat	0.2
Goats, mbyp	0.2
Goats, meat	0.2
Hogs, fat	0.2
Hogs, mbyp	0.2
Hogs, meat	0.2
Horses, fat	0.2
Horses, mbyp	0.2
Horses, meat	0.2
Milk	0.05 (N)
Poultry, fat	0.2
Poultry, mbyp	0.2
Poultry, meat	0.2
Sheep, fat	0.2
Sheep, mbyp	0.2
Sheep, meat	0.2
Soybeans	10.0

[FR Doc. 83-11759 Filed 5-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300071A; PH-FRL 2357-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; [2,2'(2,5-Thiophenediyl) Bis (5-Tert-Butylbenzoxazole)]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for [2,2'(2,5-thiopehenediyl) bis [5-*tert*-butylbenzoxazole)] when used as an inert ingredient quality control agent in pesticide formulations. This regulation was requested by the Ciba-Geigy Corporation.

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arthur Donner, Registration Support and Emergency Response Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of February 16, 1983 (48 FR 6898) which announced that at the request of the Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, NC 27409, the Administrator proposed to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for [2,2'(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole)], a fluorescent quality control agent that would be used in the continuous monitoring of the quantity of surfactant in pesticide formulations to be applied to growing crops only.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The bases for the approval and certain toxicity studies were discussed in the proposed rulemaking. The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption would protect the public health and is established as set forth below.

Any person adversely affected by the regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient [2,2'(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole)] to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
[2,2'(2,5-Thiophenediyl) bis (5-*tert*-butylbenzoxazole)] (CAS Registry Number 7128-64-5).	10 ppm in pesticide formulations.	Quality control agent.
* * * * *		

[FR Doc. 83-11782 Filed 5-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2753/R560; PH-FRL 2358-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Bromoxynil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide bromoxynil in or on certain commodities. This regulation to establish maximum permissible levels for residues of the pesticide was

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requested, pursuant to a petition, by the Union Carbide Agricultural Products Co., Inc.

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of November 3, 1982 (47 FR 49892) which announced that the Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709, had submitted pesticide petition 2F2753 proposing to amend 40 CFR 180.324 by establishing tolerances for residues of the herbicide bromoxynil in or on the fodder (dry), forage (green), and grain of corn and the fodder, forage, and grain of sorghum at 0.1 part per million (ppm). The tolerance expression in the notice of filing is corrected to reflect residues of the herbicide bromoxynil resulting from the application of its butyric and octanoic acid esters in or on sorghum grain, fodder, and forage and residues of bromoxynil in corn grain, fodder, and forage resulting from the application of its butyric acid ester.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated for bromoxynil octanoate (Technical) included an acute oral study (rat) with a lethal dose (LD_{50}) equal to 270 milligrams (mg)/kilograms (kg); an acute oral study (rabbit) with an LD_{50} equal to 335 mg/kg, an acute oral study (dog) with an LD_{50} greater than 50 and less than 150 mg/kg; a 13-week feeding study (dog) with a NOEL of 5 mg/kg/day (200 ppm); and a 13-week feeding study (rat) with a NOEL of 312 ppm. The studies evaluated for bromoxynil technical include a teratology study (rats) with a teratogenicity NOEL of greater than 15 mg/kg and a fetal toxicity NOEL equal to 5 mg/kg; a microbial mutagenicity assay, nonmutagenic to *S. typhimurium* tester strains; and a 3-generation reproduction (rat) with a NOEL of 300 ppm.

Data currently lacking include oncogenicity studies in two mammalian species and a chronic toxicity study. One oncogenicity study is currently under review and the company has agreed to perform the required studies and to remove the use from the label should the results of the studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

The current provisional acceptable daily intake (PADI) is 0.0025 mg/kg/day based on the 13-week dog feeding study noted above and using a 2000-fold safety factor. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0351 mg/day. The current action will utilize 0.03 percent of the PADI. Published tolerances utilize 23.43 percent of the PADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography with 63 Ni electron capture detector, is available for enforcement purposes. Since no detectable residues are expected in corn grain, fodder, and forage, or sorghum grain, forage, or fodder, no detectable residues would be expected in meat, milk, poultry, and eggs. Even if residues do occur in corn, the established meat tolerances will cover any secondary residues resulting from this use. There are presently no actions pending against the continued registration of the chemical.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 22, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.324 is amended by adding and alphabetically inserting the following commodities to read as follows:

§180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Corn, fodder (dry)	0.1
Corn, forage (green)	0.1
Corn, grain	0.1
* * * * *	
Sorghum, fodder	0.1
Sorghum, forage	0.1
Sorghum, grain	0.1
* * * * *	

[FR Doc. 83–11822 Filed 5–3–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101

[FPMR Temp. Reg. H–24]

Utilization of Abandoned and Forfeited Motor Vehicles

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: To accelerate disposal actions and make more effective use of available resources, the GSA utilization functions for abandoned and forfeited motor vehicles are being decentralized. This regulation reflects the decentralization of these functions by requiring agencies to report all abandoned and forfeited motor vehicles to the GSA personal property region in which the vehicles are located rather than to the National Capital Region. This regulation also introduces a 6 year reportable standard to coincide with current motor vehicle replacement standards.

DATES:

Effective date: May 4, 1983.

Expiration date: December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Utilization Division, (703–557–0807).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule, has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter H to read as follows:

Ray Kline,

Acting Administrator of General Services.

April 11, 1983.

Federal Property Management Regulations; Temporary Regulation H–24

To: Heads of Federal agencies

Subject: Utilization of abandoned and forfeited motor vehicles

1. *Purpose.* This regulation changes the requirements for reporting abandoned and forfeited motor vehicles to GSA.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires December 31, 1983, unless revised or superseded sooner.

4. *Applicability.* The provisions of this regulation apply to Federal agencies having custody of abandoned and forfeited vehicles.

5. *Background.* Section 101–48.101–5 requires agencies to report abandoned and forfeited motor vehicles that are less than 4 years old and in their custody to the GSA National Capital Region (NCR). A decision has been made to change this requirement to provide that motor vehicles less than 6 years old shall be reported to the GSA region in which the vehicles are located. Vehicles 6 or more years old will continue to be screened as nonreportable. This will enable GSA to more effectively make use of available resources in providing for the utilization of motor vehicles. In addition, the 6 year reportable criterion is adopted to reflect motor vehicle replacement standards prescribed by Subpart 101–38.9.

6. *Explanation of changes.*

a. Section 101–48.101–5(c)(14) is revised as follows: Motor vehicles which are 6 or more years old (see § 101–48.101–5(d)(7)).

b. Section 101–48.101–5(d)(7) is added as follows: Reports of abandoned and forfeited motor vehicles less than 6 years old shall be reported to the headquarters office of the GSA region in which the vehicles are located. Motor vehicles 6 or more years old shall be screened as nonreportable.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–11880 Filed 5–3–83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No. 87
Wednesday, May 4, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1125 and 1133

[Docket Nos. AO-226-A29 and AO-275-A32]

Milk in the Puget Sound, Washington, and Inland Empire Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreements and to Orders.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a merger of the Puget Sound and Inland Empire Federal milk orders, based on industry proposals considered at a public hearing held in September 1981. In addition to the presently regulated marketing areas, the proposed "Puget Sound-Inland" marketing area would include eight additional north-central Washington counties and portions of two other Washington counties. The provisions of the proposed single order are patterned largely after those of the Puget Sound order. The proposed order does not provide, however, for a Class I base plan, which is now contained in the Puget Sound order. The merger is needed to reflect changes in market structure in that the two separately regulated areas have become, in effect, one common market.

DATE: Comments are due by June 3, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The merged order will promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued June 11, 1981; published June 16, 1981 (46 FR 31424).

Notice of Postponement of Hearing: Issued June 30, 1981; published July 6, 1981 (46 FR 34805).

Notice of Rescheduling of Hearing: Issued July 23, 1981; published July 28, 1981 (46 FR 38524).

Notice of Proposed Suspension: Issued November 6, 1981; published November 12, 1981 (46 FR 55707).

Notice of Suspension: Issued December 7, 1981; published December 10, 1981 (46 FR 60412).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Puget Sound, Washington and Inland Empire marketing areas, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 30th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements, and to the orders as amended, were formulated, was conducted at Seattle, Washington on September 15–19, 1981, and at Spokane, Washington on September 21, 1981, pursuant to notices issued June 11, 1981 (46 FR 31424), July 6, 1981, (46 FR 34805), and July 28, 1981 (46 FR 38524).

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present Puget Sound, Washington and Inland Empire orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in the State of Washington;

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk;

(C) Class prices, location adjustments and butterfat differentials;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Character of commerce.* The handling of milk in the proposed and expanded marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Puget Sound-Inland marketing area", includes 29 contiguous counties, of which 23 are in Washington and six are in Idaho. The principal cities in this marketing area are Seattle, Spokane, and Tacoma in Washington. The specific territory included in the proposed marketing area is set forth in the marketing area discussion.

Handlers located in the Puget Sound area have route sales in Idaho, Oregon, Washington, and Alaska. Fluid milk

products are disposed of in the proposed marketing area by handlers located in Oregon. Handlers located in that part of the Inland Empire area that is in Washington have route sales in Montana, Idaho, and Oregon. Additionally, a handler located at Missoula, Montana, has fluid milk sales in that part of Idaho that is in the present Inland Empire marketing area. Several California fluid milk plants dispose of fluid milk products in Washington.

Similarly, milk procurement for the proposed merged area crosses state boundaries. Handlers regulated by the Inland Empire order procure milk in Washington, Idaho, and Montana. Milk procurement for the Puget Sound market is confined to Washington.

There are numerous manufacturing plants located within the proposed marketing area that manufacture dairy products. These products are sold in California, Oregon, and other states. Manufactured products produced in many states are offered for sale in Washington and Idaho.

2. *Need for merger of orders.* Marketing conditions in the two separately regulated marketing areas under consideration justify the issuance of a single order regulating the handling of milk in these areas. This single order is the most appropriate means of effectuating the declared policy of the Act.

Federal regulation of milk marketing in the Washington area was first initiated on June 1, 1951, with the issuance of the Puget Sound order. The marketing area was expanded on December 1, 1952, when a portion of King County, Washington, was added. It was further expanded effective July 1, 1966, when portions of Whatcom, Skagit, Snohomish, King, Pierce, and Lewis Counties and all of Island and San Juan Counties in Washington were added.

The Inland Empire order became effective on April 1, 1956. The marketing area was expanded effective October 1, 1957, when two Idaho counties were added. It was further expanded on March 1, 1962 to include the Washington county of Whitman and the Idaho counties of Latah and Shoshone and the remaining portions of Bonner and Kootenai Counties in Idaho.

The merger of the Puget Sound and Inland Empire orders was proposed by Northwest Dairymen's Association (NDA). This producer cooperative association represents a major proportion of the producers supplying milk to handlers regulated by these two orders. Dari-Marketing Service, Inc. (DMS), a federation of three cooperative associations that supply handlers regulated by the Puget Sound order, testified that it did not object to merging the two orders. Several handler witnesses also supported the merger of the two marketing areas under a single order.

The Producers' Base Committee (PBC), which represented nearly 400 Class I based holding producers under the Puget Sound order, also supported combining the two orders. It proposed, however, that technically the present Puget Sound order be amended to include the present Inland Empire marketing area rather than merging the two orders as NDA proposed. PBC took this position on the belief that if NDA's proposed merger were adopted, it would remove the legal authority to continue the existing Puget Sound Class I base plan until the end of 1984, when such authority expires. (A further discussion of this position is set forth under issue 4(d) entitled, "Distribution of proceeds to producers".)

The merger proponent claimed that the order should be merged because the two separately regulated markets, have now become one single market. The principal reasons given by the proponent for merging the orders include the following:

(a) There is substantial competition for sales by handlers regulated under the separate orders;

(b) some of the regulatory provisions of the separate orders cause unnecessary difficulties for handlers operating in both markets;

(c) There have been changes in the structure and operations of producer marketing organizations; and

(d) Separate orders are not encouraging or facilitating the most efficient handling of the reserve milk supplies associated with the separate markets.

When the two orders were promulgated, they regulated the handling of milk in areas that were clearly distinguishable as separate markets for particular handlers and producer groups. Changes in marketing practices and market structure since that time, however, have caused these separately regulated areas to become substantially interrelated in both distribution and producer marketing supply arrangements. It is reasonable to expect that the interrelationship of these present areas will become even more pronounced over time.

At the time the separate marketing area boundaries for each order were established, they reflected the limits of competition among handlers in the respective areas and there was no overlapping of the sales territory of handlers from one order to another. Since then, however, the range of route distribution by regulated handlers in the two markets has greatly expanded. While the reasons for such expansion are varied, they generally can be attributed to better highways, improved transportation and refrigeration facilities, the advent of single service containers, economies of large scale operations, and reciprocity of health standards.

Over the years, there has been extensive consolidation of distribution operations in these respective markets. since the two orders were promulated, the number of regulated handlers has declined significantly. When the Puget Sound order was promulgated, there were 76 handlers regulated under the orders.[1] Presently, there are only 11. In the Inland Empire market, the number of regulated handlers has declined from 11 in 1956 to five in 1981. The fluid milk distribution previously made the now discontinued operations has been absorbed through existing and expanded plant facilities and routes of remaining handlers. Consequently, the distribution areas of some of the large plants, particularly the Puget Sound Plants, have been substantially expanded, resulting in the development of significant intermarket competition among handlers operating under the respective orders.

At the time of the hearing, fluid milk sales were being made on a regular basis in the Inland Empire market by three Puget Sound handlers. Prior to 1976, one of these handlers, the Safeway grocery chain, relied on Inland Empire regulated handlers to serve its stores in that market. Since then and up until the time of the hearing these stores were being supplied from Safeway's own plant at Bellevue, Washington. This plant is a pool plant under the Puget Sound order.

Another Puget Sound pool plant with route distribution in the Inland Empire market is the Seattle Plant of Consolidated Dairy Products Company (CDP), the marketing agent for NDA. In addition to this plant, CDP also operated at the time of the hearing, two Inland Empire order pool distributing plants at Moses Lake and Spokane, Washington, from which there was fluid milk disposition in the Inland Empire and Columbia River Basin areas. CDP has operated the Spokane plant only since September 1981. Prior to that time, the plant was operated by another

[1] Official notice is taken of Federal Milk Order Market Statistics, 1947–56, Statistical Bulletin, No. 248, Issued May 1958, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C.

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cooperative association, the former Mayflower Farms.

Since the hearing, another change has occurred in the ownership of a processing plant, which further illustrates that the two regulated areas have lost their indentity as distinct separate markets and actually constitute a single market. Official notice is taken of the commercial fact that recently the Safeway grocery chain acquired the Moses Lake plant from CDP and is now serving its store outlets in the Inland Empire and north-central Washington areas from this plant rather than from its Bellevue Plant. the fluid milk distribution previously made by CDP from the Moses Lake plant has been absorbed at its Spokane and Yakima, Washington plant facilities. This latter plant is a pool distributing plant under the Oregon-Washington order.

Such shifts in plant operations have substantially altered the relative volumes of Class I sales originating from the two respective markets and this situation is likely to continue. As Class I sales shift among the two markets, the Class I utilization percentages of the respective markets change, and as a result the relationship of producer returns as between the two markets also change. this situation does not provide orderly marketing since it tends to promote confusion and discontent among producers.

Unlike the situation with respect to Puget Sound handlers, Inland Empire handlers are not distributing packaged fluid milk products in the Puget Sound marketing area. However, the record indicates that as small dairies in the unregulated area of north-central Washington have gone out of business both Inland Empire and Puget Sound regulated handlers have increased their route disposition in this area. In January 1981, three of the five distributing plants regulated by the Inland Empire order had route disposition in this unregulated area. In the same month, four of the 13 distributing plants regulated by the Puget Sound order had route disposition in this same north-central unregulated area.

Data placed in the record show that Puget Sound distributing plants' out-of-area sales in eastern Washington between November 1970 and November 1980 nearly tripled (from 2.7 million to 6.9 million pounds).[2] In November 1980, nearly 37 percent of the total route disposition by Inland Empire distributing plants was made outside of the marketing area, most of which was made in competition with Puget Sound handlers in north-central Washington.

The above data indicate not only an expansion in the range of distribution but also a substantial overlap of Class I route disposition by handlers regulated by each of the two orders here being considered. Moreover, such distribution patterns illustrate that the two are regulated areas are rapidly losing their identity as separate and distinct markets for particular groups of producers. Under this marketing situation, continuation of a separate regulatory plan for each of these areas is no longer practical or desirable.

The need for a single order to achieve greater stability and a more equitable distribution of returns to producers is accentuated by the impact on particular producer groups by shifts in Class I sales and supplies between the two regulated areas. In the smaller Inland Empire market, particularly, a major loss of Class I sales to the Puget Sound market can have a significant adverse effect on the returns to producers supplying Inland Empire distributors. This situation actually occurred when Safeway decided to serve its stores in the Inland Empire market from its Puget Sound pool distributing plant. Also, multi-market plant operators have caused and continue to represent a potential cause of intermarket shifts of sales. At the time of the hearing, there were three handlers operating distributing plants in each of the two areas that would be regulated by the proposed Puget Sound-Inland order. The gain or loss of a large chain store account by a handler also can have a major impact on producer returns in any one regulated area.

The local nature of the two markets has greatly diminished also in terms of producer marketing organizations. When the individual orders were promulgated, many of the producers in each market were members of separate cooperative associations that confined their marketing activities to the local market. Each producer organization not only marketed the bulk of the milk associated with the market but also handled and disposed of the milk not needed by local handlers.

Through the process of merging and acquisition, the vast majority of the producers supplying each of the separately regulated markets are no longer associated with local market producer groups but are members of the "regional" cooperative association proposing the two-market merger. This multi-market producer group was formed in 1961 through the merger of several cooperatives associated with the Puget Sound market. Since then, the cooperative has merged with other cooperatives in Washington, Idaho, Montana, and Oregon. Its latest merger occurred on September 1, 1981, when Mayflower Farms merged with NDA. Prior to this merger, Mayflower Farms had producer members associated with the Inland Empire market and the nearby Oregon-Washington Federal order market and operated distributing plants in both markets.

The primary reponsibility for marketing and balancing milk supplies in both markets under consideration has been assumed by NDA. In addition to supplying other fluid milk handlers in both markets, NDA's marketing agent, CDP, operates three pool distributing plants and four nonpool manufacturing plants. Most of the reserve milk supplies handled by NDA is channeled to these four manufacturing plants.

It is the practice of NDA to direct the movements of its members' milk and to enter into "full-supply" agreements with many fluid milk handlers in both markets. The cooperative also supplies other handlers on a partial basis, balancing such handlers' requirements that are not met by the handlers' producers. However, in performing these marketing activities and the attendant function of disposing the associated reserve supplies, returns from the member milk sold are distributed to its members on the market with which their milk is regularly associated.

While the present individual orders were designated to implement the development of efficient milk handling arrangements for each market based on local marketing conditions, the separate regulations are not now encouraging or promoting such efficiencies where handlers and cooperative associations are marketing milk in both markets. This is particularly true with respect to the handling of reserve milk supplies by NDA in the Inland Empire market. For example, milk from members of the cooperative that is in excess of the market's fluid requirements and exceeds the capacity of its Spokane manufacturing plant, and which is produced in the Columbia River Basin and Yakima, Washington, area; is moved on a regular basis to the distant CDP's Lynden, Washington, plant. Although this milk en route to the plant moves past nearer fluid milk plant outlets in the Seattle area that NDA supplies, the cooperative makes such inefficient movements solely to avoid pooling milk associated with the Inland Empire market under the Puget Sound order and thus eliminating any adverse

[2] All areas east of Cascade Mountains including Idaho and the Inland Empire marketing area.

effect that such milk would have on the latter market's Class I utilization.

Additionally, several major differences in provisions of the two orders were cited which limit the ability of the proponent cooperative to develop a flexible and efficient milk handling arrangement for the two markets on an integrated basis. These provisions involve pooling and methods of distributing to producers the proceeds from the sale of their milk. Accordingly, the proposed merger would assist the merger proponent in marketing the milk of its members in a more effective and efficient manner without the encumbraces that the separate orders exert on the cooperative's marketing system.

The sanitary requirements relative to the production, processing, and sale of Grade A fluid milk products throughout the proposed marketing area are vitually the same and thus are not an impeding factor in the adoption of a single order for the proposed Puget Sound-Inland marketing area. The State of Washington has reciprocal arrangements on sanitary requirements with the neighboring States of Idaho, Montana, and Oregon, and there is full reciprocity among all political subdivisions within Washington and Idaho. Therefore, sanitary requirements present no limitation on the movements of milk throughout the proposed marketing area.

In view of these circumstances, separate orders for the two areas under consideration are no longer compatible with the current marketing practices in these regulated areas. The adoption of a single regulation for an area that has become a common market will insure more orderly marketing through the application of the same regulatory provisions to all handlers and producers associated with the common market.

There was no opposition testimony presented at the hearing to the proposal to combine the two orders. However, Dari-Marketing Service and the Producers' Base Committee in their post-hearing briefs, stated that the record evidence does not support the need for combining the two markets. The briefs were general in nature on this particular point and did not indicate with any specificity in terms of the marketing evidence why a single order for the area should not be adopted.

The proponent cooperative proposed that the order for the Puget Sound-Inland marketing area continue the provisions of the present Puget Sound order except for certain modifications considered necessary with the merger of the orders. The order proposed herein essentially carries out this concept. The Puget Sound order provisions have been appropriate in achieving the objectives sought by the regulatory plan for the Puget Sound area. Also, many of the order's provisions are essentially the same as corresponding provisions in the Inland Empire order. Accordingly, on the basis of the record evidence, it is found and determined that the Puget Sound order provisions, with certain modifications, will be appropriate for achieving orderly marketing conditions in the proposed Puget Sound-Inland marketing area. Only the significant modifications or specific provisions that were at issue will be dealt with in the decision.

The order adopted herein would continue the use of the part number for the present Puget Sound order, Part 1125. The amended Part 1125, upon issuance, would supersede Part 1133.

Although the present two orders would no longer exist upon effectuation of the Puget Sound-Inland order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures which would need to be completed after the effective date of the merger include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obligations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

3. *Merged and expanded marketing area.* The marketing area of the proposed merged order should include all of the territory in the presently designated marketing areas of the Inland Empire and Puget Sound orders. Certain additional territory in Washington not now included in any Federal order marketing area also should be a part of the proposed Puget Sound-Inland marketing area. This additional territory includes Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, and Okanogan Counties and the presently unregulated portions of Pend Oreille and Stevens Counties. All territory within the boundaries of the designated marketing area which is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other establishments, likewise should be a part of the marketing area.

The adopted marketing area consists of 23 Washington counties (only certain portions of Lewis, Pacific, and Pierce Counties) and six Idaho counties. The total population of this area is slightly more than 3.3 million (based on April 1, 1980, U.S. Census data). Of this total, about 10 percent is within the unregulated territory proposed herein to be added to the combined marketing areas of the Inland Empire and Puget Sound orders.[3]

As proposed by the merger proponent, the merged marketing area should include the presently unregulated portions of the Washington counties of Pend Oreille and Stevens. The record indicates that regulated handlers distribute milk to available outlets throughout these unregulated areas rather than just in the regulated portions of the counties. There are no plants located in the unregulated areas. The addition of the unregulated portions of the two counties to the marketing area will simplify the reporting of in-area and out-of-area sales as required by the order.

As previously indicated, the merged marketing area should include eight additional north-central Washington counties that are presently unregulated. The inclusion of this area in the proposed marketing area was proposed by the merger proponent. Proponent's witness testified that the majority of fluid milk sales in each of these counties were made by handlers regulated presently under the Inland Empire and Puget Sound orders. He indicated that the inclusion of this area in the marketing area would insure that the Moses Lake plant would maintain continuous pool plant status under the merged order and avoid the possibility of it becoming pooled under the Oregon-Washington order. In this connection, proponent's spokesman stated that the eight-county area in question contains a significant segment of the market served by the Moses Lake plant. He added that CDP, as marketing agent for NDA, must operate its Moses Lake plant in such a way as to avoid the possibility of the plant shifting regulation between the Inland Empire and Oregon-Washington orders. According to the witness, this is because the pricing and other provisions of the Oregon-Washington order "are not currently in the best interest of members of the Northwest Dairymen's Association".

The president of the Independent Milk Producers Distributor Association (a Washington State producer-handler organization) testified in opposition to the inclusion of the eight-county area in

[3] Official notice is taken of "Federal Milk Order Market Statistics, 1980 Annual Summary," Statistical Bulletin Number 670, Agricultural Marketing Service, U.S. Department of Agriculture, issued July 1981.

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the merged marketing area. He believed that regulation of the area would have an adverse effect on the four producer-distributor type operations that are located within the proposed eight-county area and who have route distribution in parts of this area. However, he stated that he would not be opposed to the area expansion if a producer-handler would be permitted to purchase without restriction fluid milk products from pool plants as is presently provided under the Inland Empire order. (A discussion of this matter is set forth under the producer-handler definition issue).

At the time of the hearing, there were seven handlers who would be regulated by the merged order that distributed milk in the eight-county area. Four of these handlers were regulated under the Puget Sound order and three under the Inland Empire order. In addition, three handlers regulated by the Oregon-Washington order have route distribution in the areas. Four producer-distributor type operations also have route disposition in four (Douglas, Ferry, Grant and Kittitas) of the eight counties proposed to be included in the merged marketing area.

Estimates of the percentage of fluid milk sales for January 1981 in each of the eight counties were made by the merger proponent and received into evidence. It is apparent from this tabulation that regulated handlers under the two orders proposed herein to be merged have 70 percent or more of the total sales in each of these counties. In four of the eight counties—Adams, Chelan, Lincoln and Okanogan—handlers now regulated under Federal milk orders have 100 percent of the fluid milk sales.

The only unregulated milk that is distributed in the eight-county area comes from four producer-distributor type operations. Their sales represent slightly more than two percent of the total route distribution in the eight-county area. Although none of them testified at the hearing, based on the record evidence, it is expected that these four producer-distributors would be exempt from the pooling and pricing provisions of the proposed order.

The inclusion of this eight-county area in the Puget Sound-Inland marketing area will more appropriately represent the basic sales areas of the handlers who would be subject to the proposed order. It is an area which is contiguous to both the present Puget Sound and Inland Empire marketing areas and is a vital segment of what has now become a single integrated regional marketing area.

The unregulated Washington counties of Clallam, Jefferson, Kitsap and Mason should not be included in the proposed marketing area. These counties are located on the Olympic Peninsula of Washington.

Two relatively small producer-distributor type operations, one at Sequim and the other at Port Orchard, have about three percent of the route disposition in this area. The remainder of the sales in the area are made by six Puget Sound handlers and one Oregon-Washington handler.

The inclusion of these four counties in the proposed marketing area was proposed by the merger proponent. Proponent claimed that regulated handlers are at a disadvantage in competing with the Sequim unregulated handler in certain areas of the four counties because of the retail pricing practices of the unregulated handler. The spokesman for the proponent testified that while regulated handlers are required to pay the order's Class I price for all milk for fluid use distributed in competition with the Sequim unregulated handler, there is no assurance that the costs of such milk are comparable between regulated handlers and the unregulated handler. The witness indicated that without this four-county area being regulated there is no way for the market administrator to audit the books and records of the Sequim handler to determine whether he is relying on his own farm production as his only source of milk for distribution in the area. Proponent's witness also testified that expanding the marketing area in the manner prescribed would simplify CDP's recordkeeping and reporting of route disposition.

The Sequim unregulated handler opposed extending the marketing area to include the four-county area. Opponent claimed that the order would work a hardship on his operation because the production and marketing conditions in the area are significantly different from those that prevail in the remainder of the proposed marketing area. He asserted further that regulation under an order is not necessary to maintain orderly marketing in this relatively sparsely populated area wherein he operates.

The record evidence indicates that the only entities who would be directly affected by this marketing area expansion are the two unregulated milk handlers who rely primarily on their own farm production for their supply. Based on the available information concerning the operations of these two unregulated handlers, it was not shown that the inclusion of the four-county area was necessary for the maintenance of orderly marketing. Moreover, except for NDA's testimony, regulated handlers distribution in these four counties presented no testimony for or against extending the marketing area to include such additional territory. In the absence of any compelling need for regulation of these counties, their inclusion in the proposed marketing area is denied.

4. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants and milk to which the applicable provisions of the order relate.

The following definitions included in the proposed order will serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "plant," "pool plant" and "nonpool plant". Definitions of persons include "producer," "handler," "producer-handler" and "cooperative association". Definitions relating to milk and milk products include "producer milk," "fluid milk products," "filled milk" and "other source milk". A number of these definitions were of particular issue at the hearing and are discussed below. Also, some of the definitions adopted herein are substantially different than presently contained in the Puget Sound and Inland Empire orders and for that reason are discussed below.

Route disposition. A definition of "route disposition" is a convenience for specifying the various kinds of fluid milk sales outlets that will be considered in determining whether a distributing plant would be regulated under the order. Both of the orders that are proposed to be merged include a route disposition definition.

As proposed by the merger proponent and as adopted herein, route disposition would mean any delivery of fluid milk products from a plant to a retail or wholesale outlet, either directly or through any distribution facility or vendor, including any disposition from a plant store or through a vending machine. It would also include packaged fluid milk products transferred to other pool distributing plants. A delivery of bulk fluid milk products to other plants, or a delivery to a military or other ocean transport vessel leaving the marketing area of fluid milk products which originated from a plant located outside the marketing area and were not

received or processed at any pool plant, would not be considered a route disposition.

Such a definition is now contained in essentially this form in both the Puget Sound and Inland Empire orders. Under both orders, conceptually, a fluid milk product is considered disposed of on a route when it leaves the plant (except bulk fluid milk products transferred to other plants). Merger proponent proposed that this route disposition concept be continued under the merged order. Proponent claimed that this is necessary to coordinate the provisions of the merged order with those of the nearby Oregon-Washington order, which provides for the same route disposition concept.

The present Puget Sound order, however, provides in the definition of a "plant" that a handler under certain conditions may elect to account for route disposition from a distribution point rather than from the plant. The conditions under which a handler may exercise this option are: (1) Such distribution is located west of the Cascade Mountain Range; (2) fluid milk products are not received during the month at such distribution point from more one plant; and (3) the handler operating such distribution point notifies the market administrator of his intent to report regularly on the basis of disposition from such distribution point.

The cooperative advocating the merger proposed that this option not be included in the merged order. Proponent claimed that administratively it is more desirable and appropriate to have route disposition occur at one location (the distributing plant) rather than at both a handler's distributing plant and distribution point.

At the hearing, no one opposed the proposal. However, in its post-hearing brief, the Carnation Company (Carnation) opposed the removal of the option on the basis that it would require the handler to keep two sets of sales records—one for the market administrator and the other for the company's records.

It is not possible to determine from the handler's brief how the removal of the option in question would burden the company's recordkeeping. Even if the option were included in the merged order, the record evidence suggests that the handler could not meet the conditions to be ineligible to use the option because of the nature of its operation. Accordingly, it is concluded that the route disposition proposal advocated by the merger proponent is appropriate for the merged order.

Plant. The purpose of a "plant definition" is to designate the type of handling facilities to which the order provisions would apply. As proposed by the merger proponent, the merged order should essentially continue the "plant" definition now contained in the Puget Sound order but with one additional change that was not previously discussed in connection with the "route disposition" definition. This change would remove the words "land and surroundings".

As defined under the merged order, a plant would be the buildings, facilities and equipment that constitute a single operating unit or establishment at which milk or milk products are received, processed or packaged. Separate facilities used solely as intermediary distribution points in the disposition of packaged fluid milk products would not be plants. Similarly, separate facilities at which milk is only reloaded from one tank truck to another would not be a plant as defined herein.

This modified "plant" definition would not change in any way the present concept of what constitutes a plant. It merely makes it clear that the surrounding land on which a plant is located is not a factor to consider in determining whether a facility is a plant or not under the merged order.

Pool plant. It is essential to the operation of a marketwide pool, as discussed later, that minimum performance requirements be established to distinguish between those plants engaged in serving the fluid needs of the regulated market and those that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants and supply plants that are provided for in the attached order carry out this concept under present marketing coonditions.

Essentially, the present pooling provisions of the Puget Sound order should be used for the merged order. However, certain features of the pooling standards for a distributing plant should be revised to be in harmony with current marketing conditions existing in the proposed combined and expanded area.

Although is was not included in its initial proposal as listed in the hearing notice, the merger proponent proposed at the hearing that milk diverted from a distribution plant be included as part of such plant's total supply in determining its qualification as a pool plant. In support of this change, the proponent's witness pointed out that if a distributing plant diverted milk at the maximum level permitted under the present Puget Sound order's diversion provisions, a distributing plant could qualify as a pool plant with as little as 2 percent of its total supply distributed in the marketing area and diverted to nonpool plants. He claimed that this was not the cooperative's intent to have a plant qualify as a pool plant at such level. In addition, the witness indicated that since other provisions of the order include milk diverted from a pool supply plant as part of such plant's total supply, it is only appropriate to include diverted milk as a receipt in determining the pool status of a distributing plant. The proposal should be adopted. A distributing plant's required association with the merged market should be measured in terms of the proportion of its total receipts that is disposed of from the plant as route distribution of fluid milk products in the marketing area. Such receipts should include any producer milk that is diverted from the plant. While it is recognized that diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of that plant's supply of milk and, thus, acquires pool status because of its association with such plant. Therefore, diverted milk should be included as a receipt for purposes of establishing a distributing plant's qualification for pooling.

The Puget Sound order now exempts from the provisions of the order any distributing plant whose route disposition in the marketing area during the month averages 110 pounds or less per day. NDA proposed that this threshold limit be increased from 110 pounds to 300 pounds daily. The witness for the proponent cooperative stated that this change will make the merged order consistent with a similar provision that is now contained in the Oregon-Washington order. He also testified that the proposed 300 pounds per day exemption comports with current marketing conditions and such exemption "will not affect the stability of marketing of milk in the proposed area."

The 300 pounds per day exemption proposal should be adopted. It is not expected that this provision would result in exemption from the order any handler now operating in the proposed marketing area. Such limited route disposition in the marketing area is not considered sufficient to justify imposing the burden of full regulation on a plant that has so little association with the regulated market.

The provisions of the merged order that relate to a distributing plant that simultaneously qualifies as a pool plant under this order and another order should be essentially the same as those that are now provided in the Puget

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Sound order. However, the "lock-in" period that a distributing plant remains regulated under the order after it has greater route diposition in another maket should be four months rather than three months. The merger proponent proposed this change, which is identical to the lock-in period now containted in the Inland Empire order.

Under the marketing situation that is anticipated to exist when the two orders are consolidated, the four-month lock-in period is appropriate. It will eliminate temporary adverse effects of shifting between orders on a month-by-month basis that can occur when intermarket distributions results in qualifying a distributing plant for pooling under more than one order. Otherwise, the switching of the regulatory status of a distributing plant between orders creates uncertainty and abrupt changes in prices for producers and handlers alike.

As proposed by NDA, the order should specify that in applying the pool plant provisions, that portion of a plant which does not have Grade A approval for the receiving, processing, or packaging of fluid milk products and which is operted separately from the Grade A portion should not be considered a part of a pool plant. Such separation of operations permits a handler to limit his accounting for milk under the order to just the Grade A portion of the plant. As indicated previously, CDP operated a nonfat dry milk plant on the same premises as its Spokane distributing plant. Under the present Inland Empire order, these two plants were treated as separate operations and, thus, only the distributing plant was considered a pool plant under the order. In view of this marketing situation, such exemption should be continued under the merged order.

Nonpool plant. The "nonpool plant" definition of the merged order should specify those categories of plants which are associated with the market but not to the degree that they should be fully regulated by the order. As used herein, a nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. A description of the specific categories of nonpool plants included in the "nonpool plant" defmition follows:

An "other order plant" would be a plant that is fully regulated under another Federal order. As such, it cannot be a pool plant under this order.

A plant of a "producer-handler" would be considered a nonpool plant since, by the nature of the operation, as discussed later, the plant is specificallly exempt from pool status.

A "partially regulated distributing plant" would also be considered to be a nonpool plant.

A partially regulated distributing plant would be a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant. Such a plant would be one from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing areas. Also, such a plant would have less than 10 percent of its route disposition in the defined marketing areas of the order.

An "unregulated supply plant means a supply plant that does not qualify as a pool supply plant, an other order plant, a producer-handler plant, or an exempt distributing plant. In essence, it is a plant which transfers milk to a pool distributing plant, but not to an extent that would qualify it for pool status under the order. As proposed by the merger proponent and adopted herein, an "exempt distributing plant" means a distributing plant with an average route disposition in the marketing area of less than 300 pounds per day. This type of plant should also be included among the nonpool plants specified in the order.

Handler. The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and/or making payments for milk under the merged order. As herein provided, the following persons are defined as handlers under the order.

(1) The operator of one or more pool plants;

(2) A cooperative association with respect to bulk tank milk that is picked up at the farm and delivered to a pool plant or diverted for its account from pool plant to a nonpool plant;

(3) The operator of a partially regulated distributing plant;

(4) A producer-handler;

(5) The operator of an other order plant from which milk is disposed of in the area;

(6) The operator of an unregulated supply plant; and

(7) The operator of an exempt distributing plant.

Such persons are now defined as handlers under the two individual orders with the exception of the operator of an unregulated supply plant and the operator of an exempt distributing plant. Each person that may incur an obligation (reporting and/or financial) under the order should be designated a handler. This will assure that all information necessary to determine their regulatory status under the order can be readily determined by the market administrator.

The handler who receives milk from producers at a pool plant should be responsible for reporting in detail the quantities of milk received from each producer and each other source. Such handler also should be responsible for reporting the necessary information to determine the utilization of such milk, and for making payments to producers, cooperative associations, and the producer-settlement fund in accordance with the terms of the order. The merged order should include the present cooperative bulk tank handler definition of the Inland Empire order rather than that of the Puget Sound order. The adopted definition requires a cooperative to be the handler on bulk tank milk under its control, unless the buying handler agrees to buy such milk on the basis of with and tests determined from measurements at the farm. The Puget Sound definition, which the merger proponent proposed, gives a cooperative the option of not being the handler on bulk tank milk under its control.

A large proportion of the milk received by plants that would be fully regulated by the merged order is picked up at the farms of producers in tank trucks owned and operated by, or under contract to cooperatives. In such circumstances, it is only the cooperative tha has the opportunity to measure and sample the milk of individual producers that is received at a plant. In the absence of any agreement by the plant operator to be the handler on such milk, the cooperative must be the responsible handler for the milk as it leaves the farm.

Requiring a cooperative to be the handler on milk picked up for its account at the farm of a producer and delivered to a pool plant provides a practicable basis for the complete accounting of such milk. It also recognizes the current handling arrangements used by the cooperatives operating in the individual markets in allocating their members' milk among distributing plants.

As is the case under the individual orders, the merged order should continue to provide that the milk delivered to a pool plant by the cooperative as a "bulk tank handler" would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. Under this arrangement, the pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative assessment fund, and to the cooperative would be the same as

for producer milk received directly from the farm of an individual producer. The cooperative would be obligated to the producer-settlement and administrative assessment funds on only that portion of the milk picked up for its account that exceeds the quantity delivered to pool plants.

As proposed by NDA and herein adopted, a cooperative association also should be the handler on the milk of a producer which it diverts for its account from a pool plant to a nonpool plant that is not a producer-handler plant. Both of the two orders proposed to be merged provide that a cooperative may act as a handler for diverted milk. Continuation of this handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing.

The merged order should permit a cooperative association to submit a single report that includes all of its receipts of milk from producers and all of its diverted milk, irrespective of whether the milk is associated with plants of other handlers or a cooperative's own plant. This is now provided under the Inland Empire order. However, the present Puget Sound order provides that producer milk diverted from a pool plant operated by a cooperative association shall be reported on an individual plant basis. Specifying that a cooperative association shall be the handler on the producer milk it diverts from pool plants of other handlers to nonpool plants as well as from its own pool plants will simplify the cooperative's accounting for skim milk and butterfat under the merged order.

Producer-handler. The merged order should continue the exemption now contained in each of the two individual orders of a "producer-handler" from the pooling and pricing provisions of the order. Under the merged order, the definition of a producer-handler should be essentially the same as that now contained in the Puget Sound order. However, the type of supplemental fluid milk products that a producer-handler may purchase from pool plants should be modified. In this respect, a producer-handler should be permitted to purchase from pool plants fluid milk products in any form. Such purchases should continue to be limited to a daily average during the month of 100 pounds.

The producer-handler definitions of the Puget Sound and Inland Empire orders differ basically in only one respect. The Puget Sound order limits a producer-handler's supplemental purchases during the month from pool plants to an average of 100 pounds per day of packaged fluid milk products other than whole milk. The Inland Empire order places no restriction on the amount of fluid milk products a producer-handler may purchase from pool plants.

The merger proponent supported a continuation of the Puget Sound producer-handler provisions as modified to coincide with other proposed changes in the provisions of the merged order. It contended that these provisions will permit all persons now designated as producer-handlers under the individual orders to maintain their present exempt status. The witness for the proponent testified his organization was opposed to any relaxation of the producer-handler provisions because it was the proponent's belief that producer-handlers already have an unfair competitive advantage over regulated plants.

Two proprietary handlers and two producer organizations—Producer's Base Committee and Dairy Marketing Services—testified in support of a continuation of the Puget Sound producer-handler definition. They were concerned primarily with any relaxation of the present Puget Sound producer-handler provisions as they relate to the tolerance for purchasing fluid milk products from pool plants. Although it did not testify at the hearing, the Washington State Dairymen's Federation filed a post-hearing brief in support of NDA's producer-handler definition proposal.

As initially included in the notice of hearing, the Sequim, Washington producer-handler proposed that producer-handlers be permitted to purchase fluid milk products from pool plants in an amount not to exceed their own farm production. At the hearing, however, he modified his proposal and supported the position taken by a number of other Puget Sound producer-handlers, including the representative of the Independent Milk Producers Distributor's Association. Their position was that the merged order should include the present Inland Empire order's provision that permits a producer-handler to purchase unlimited quantities of fluid milk products by transfer from pool plants. They claimed that the present Puget Sound order's 100-pound per day limitation on supplemental purchases is too restrictive and does not provide the balancing flexibility needed to cope with seasonal changes in their fluid milk sales. In addition, they all testified in support of being able to purchase fluid milk products in any form, including bulk as well as packaged fluid milk products. Finally, these parties contended that producer-handlers are not causing disorderly marketing conditions in the Puget Sound area.

A primary basis for exempting a producer-handler from the pricing and pooling provisions of the order is that such a person operating customarily has a relatively small operation and is operating in a self-sufficient manner. The milk that is processed, packaged and distributed by a producer-handler is obtained from his own production. Any fluctuations in a producer-handler's daily and seasonal milk needs is met through his own farm production, and any excess milk supplies are disposed of at his own expense. Under this arrangement, a producer-handler seldom can be a major competitive factor in the market for regulated handlers, nor can such a person have a preferred market for his milk relative to producers who supply the regulated handlers and share in the proceeds of the marketwide pool.

If a producer-handler processes milk from his own farm and but also relies on pool plants for substantial supplies, either in bulk or packaged form, his operation's are not significantly different than the operations conducted by a pool handler. However, since his operation is not fully regulated, the pool does not receive the benefits of the producer-handler's Class I sales. Yet, the other producers in the market are bearing the cost of balancing his operation by carrying such operator's necessary reserve milk supplies. Such an operator should not have producer-handler status under the merged order, but should be accorded pool status similar to that of any other handler receiving milk directly from dairy farms.

The only issue that was developed on the record with respect to producer-handlers concerned the extent to which they should be permitted to purchase supplemental supplies of Class I milk from pool plants under the merged order. In considering this issue, particular attention must focus on the specific marketing conditions that existed in the individual markets that led to the development of the current provisions for the respective markets. For instance, in the Puget Sound market, there historically has been a large number of producer-handlers, including some of very substantial size. Moreover, producer-handlers in the Puget Sound market account for the largest proportion of in-area Class I disposition of any of the Federal order markets in the country—nearly 12 percent in October 1980. In view of this marketing situation, it is appropriate to require producer-handlers to rely almost totally on their own milk production to balance their fluid sales. Only in this way can

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there be any reasonable assurance that their exemption would not have an adverse impact on the market. The record evidence indicates that the present Puget Sound order's producer-handler provisions have accommodated producer-handler operations in a manner consistent with the needs of the regulatory program.

Conversely, in the Inland Empire market producer-handlers have not been a major competitive factor. At the time of the hearing, there were only two relatively small producer-handlers operating in a portion of the Idaho segment of the marketing area, compared to 18 such operations in the Puget Sound market. Under these conditions, it has not been necessary under the Inland Empire order to impose stringent limitations on the amount of milk that producer-handlers may purchase from pool plants.

As indicated previously, the present Puget Sound marketing area will represent a very substantial portion of the merged marketing area in terms of population, producer receipts, Class I sales, and producer-handler operations. In view of these considerations, the concept of self-sufficiency with respect to the operations of producer-handlers must be preserved in the merged order in the interest of equity and continuing orderly marketing. To accomplish this, the merged order should continue to limit a producer-handler's purchases from pool plants essentially in the same manner as now provided in the present Puget Sound order. This will insure that producer-handlers under the merged order will continue to be basically self-sufficient operations.

As adopted herein, a producer-handler would be allowed within the limitations on supplemental purchases, to purchase fluid milk products in bulk or packaged form. This change would not undermine the concept of self-sufficiency, but rather would provide a producer-handler with the flexibility to purchase supplemental fluid milk products in the form that fits his needs.

Also, with the adopted reclassification of fluid cream products from Class I to Class II, as discussed later, supplemental purchases of such products from pool plants by producer-handlers no longer should be considered in determining whether a handler's operation meets the producer-handler exemption requirements of the order. There is no reason to believe, in view of the declining importance of the sales of fluid cream products in the respective markets, that this change will provide the opportunity for producer-handlers to become a serious competitive factor for other handlers in the combined market on whom full regulation is imposed.

Definition of dairy farmer for other markets. As proposed by the merger proponent, the merged order should continue the "dairy farmer for other markets" provision now contained in the Puget Sound order. Such provision is designed to preclude any reserve milk supplies associated with non-Federal order fluid markets from being pooled under the order. Without such a provision, it would be possible for any handler who also supplies milk for Class I use to an unregulated plant to handle such milk as nonpool milk when so disposed of and receive such milk at his pool plant as producer milk when not needed for such Class I use. In such event, the pool would be carrying the burden of balancing the unregulated plant's fluid milk requirements without sharing in the higher-valued Class I sales associated with such unregulated plant.

As was pointed out by the spokesman for the proponent cooperative, this situation has occurred in the Inland Empire market in recent years since this order does not contain a "dairy farmer for other markets" provision. In elaborating on this point, he indicated that some dairy farmers who regularly deliver their milk to unregulated fluid milk plants in nearby markets have on occasion delivered their milk to a pool plant during the flush months and acquired producer status and shared in the regulated market's Class I utilization on that portion of milk that was not delivered to unregulated plants. According to the witness, this handling arrangement could be used under the merged order in the absence of the dairy farmer for other markets provision.

Based on the evidence contained in the record, there is a continuing need for the dairy farmer for other markets provision under the merged order because of the existence of nearby non-federally regulated fluid markets, particularly in parts of Idaho and Montana. Continuation of these provisions under the merged order would mean, of course, that producers will not have the economic burden of carrying the reserve milk supplies for any unregulated market.

The dairy farmer for other markets provision, however, should not apply to milk received at a pool plant as diverted milk from an other order plant if such diverted milk is considered producer milk under the other order. Such milk would be classified and priced under the other order. Both of the individual orders proposed to be merged and the nearby Oregon-Washington order specifically prescribe the treatment of such milk that is diverted by regulated plants.

Basis of computing allowable diversions for two or more cooperative associations. The merged order should permit two or more cooperative associations to have their allowable diversions computed on the basis of their combined deliveries of producer milk to pool plants. However, this arrangement should not be permitted unless each association involved has filed a request to this effect with the market administrator prior to the first day of the month the agreement is effective. The request should specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative in the event the cooperatives in a unit exceed the diversion limits specified in the order. Also, the method for assigning over-diverted milk must be approved by the market administrator.

This pooling arrangement is now provided only under the Inland Empire order. Dari Marketing Service proposed that this arrangement be used under the merged order. The federation claimed that as the marketing agent for three separate cooperative associations, adoption of the proposal would provide the cooperatives with the opportunity to mutually arrange for the efficient disposition of milk not needed for fluid use.

The merged order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve milk supplies to nonpool manufacturing plants. To this end, two or more cooperatives should be allowed to have the amount of their allowable diversions computed on the basis of the combined deliveries of milk by their member producers. Such an arrangement will facilitate the orderly and efficient disposition of the reserve supplies on the market.

4. (b) *Classification of milk.* The merged order should use essentially the same uniform classification plan that is commonly provided in most other Federal milk orders. However, the plan should be modified in several respects to conform to local market conditions and to coordinate certain classification provisions with those of the nearby Oregon-Washington order. Basically, the plan adopted herein provides, as is the case under the individual orders, for the classification of milk according to use, including rules for determining the classification of milk moved from one plant to another and the classification of shrinkage. The plan also sets forth a procedure for allocating a handler's

receipts of milk and milk products from various sources to his utilization in each class in order to determine the classification of producer milk.

Under the classification plan here adopted, Class I milk would include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milkshakes and ice milk mixes containing less than 20 percent total solids and mixtures of cream and milk or skim milk containing less than 18 percent butterfat. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should appy whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content. The remaining volume of the product, which represents the skim mild equivalent of added nonfat milk solids, would be classified as Class III.

Each product designated herein as a Class I product would be considered a "fluid milk product" as defined in the order. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or III, other than shrinkage permitted in a Class III classification.

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed milk (plain or sweetened) in a consumer-type package. Additionally, Class III milk should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form or a "fluid cream product," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the order, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 18 percent or more butterfat, with or without the addition of other ingredients.

Class II milk would also include bulk fluid milk products and bulk cream products disposed of to any commercial food processing establishment or in producer milk diverted to a commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it would include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, milk or milk products sterilized and packaged in hermetically sealed metal or glass containers, and certain other products as specified in the order.

The classification plan adopted herein was proposed by the merger proponent and embraces the basic features of the uniform classification plan contained in many other Federal orders. This plan was developed from exhaustive hearings held on the broad issue of classification in 1971 for 39 markets. A full discussion and appropriate order language on the uniform classification plan is contained in a final decision issued February 19, 1974 (34 FR 8202, 8452, 8712, 9012). This decision was duly noted on the record of this proceeding. Proponent testified that this classification system, with certain minor revisions, would be fully appropriate for the merged order and would comport with the need for greater uniformity among those essential provisions of marketing orders that should be uniform.

The minor revisions to the uniform classification plan applicable to most orders, which were proposed by the merger proponent and adopted herein, concern the classification of certain fluid cream products and ending inventories of packaged fluid milk products. Under the adopted classification plan, any mixtures of cream and milk or skim milk containing less than 18 percent butterfat would continue to be Class I. Such products are Class II under the 39-market uniform classification plan. Although they are included in Class III in most other Federal orders, inventories of fluid milk products in packaged form on hand at the end of the month should be classified in Class I under the merged order. Such inventories in bulk form, however, should be classified in Class III. This procedure for handling fluid milk product inventories is identical with that provided under the present Puget Sound order and the nearby Oregon-Washington order. Under the Inland Empire order, however, closing inventories of fluid milk products in both bulk and packaged form are classified as Class III.

Such revisions to the 39-market uniform classification plan that are herein adopted recognize the widespread competition for sales in the region by Oregon-Washington order handlers and handlers that would be regulated under the merged order. Under this marketing situation, it is appropriate and necessary that essentially the same system of classification apply under both the merged order and the Oregon-Washington order. Otherwise, such differences in the classification and pricing of milk could be disruptive to the competitive relationships of handlers in the region.

Certain transitional provisions relating to inventories of packaged fluid milk products should apply during the first month of operation of the merged order to those handlers who have been regulated under the Inland Empire order and for any plant in the month in which it first becomes regulated. In these circumstances, it is provided that inventories that had been held over in the form of packaged fluid milk products at such plants would be allocated to available Class III utilization during the month. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply. This procedure will assure that all handlers under the merged order will be subject to the same pricing for milk used in packaged fluid milk products whether such products enter into the month's accounting as beginning inventory or are made directly from current producer milk receipts.

Foremost-McKesson's Foods Group (Foremost) proposed that the Class II classification in the merged order specify that creaming mixtures used in the production of cottage cheese be classified as Class II milk. The handler's witness stated that he was asking for this variation from the merger proponent's proposed Class II classification provisions to insure that

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cottage cheese creaming mixtures be classified on a used-to-produce basis. He perceived that this change in order language would correct a problem that the handler is currently encountering under the Puget Sound order whereby at the time of audit the market administrator is having to convert the quantity of creamed cottage cheese that the plant disposes of back to the amount of milk product used to produce such products. According to the witness, the work-back method that starts from a disposition basis never equals the handler's plant records in terms of the creaming mixtures used in the production of cottage cheese. Consequently, the handler must make continuing adjustments in his plant production records to reconcile with the market administrator's audit adjustments.

The handler's proposal should not be adopted. The present provisions in the two orders proposed to be merged classify any milk ingredient (including creaming mixtures) used to produce cottage cheese as Class II. Continuation of this classification concept was proposed by the merger proponent and which is adopted herein. The issue raised by the handler is not one of classification, per se, but rather the accounting method that is to be used in determining how much milk was used in the manufacture of cottage cheese.

It should be noted in this regard that if a handler does not maintain proper plant manufacturing records for any product that is accounted for on a used-to-produce basis, the market administrator may have to determine at the time of audit the quantities of milk ingredients used in such a product through a work-back method. The record establishes that this procedure is used by the market administrator in determining the milk ingredients used in the production of cottage cheese by Foremost. Thus, if the handler has problems with this accounting procedure, it is a matter to be dealt with through the market administrator rather than through changing the order.

Allocation of receipts to utilization. Under the merged order, a system of allocating handlers' receipts to the various classes should be similar to that adopted in the Assistant Secretary's June 19, 1964 (29 FR 9002), decision for 76 milk orders (including the Inland Empire and Puget Sound orders). This decision dealt with the issue of integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at a pool plant from other order plants. The decision provides a procedure for allocating over a handler's total utilization his receipts from all sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Since the aforementioned decision sets forth the procedures for dealing with unregulated milk under Federal orders, it is appropriate and necessary that the same system of allocation apply under the proposed merged order. Likewise, the appropriate treatment of other order milk received at pool plants under the merged order should conform with the plan included in the aforesaid decision that is used for coordinating the applicable regulations on all movements of milk between and among Federal order markets. Merger proponent recognized the necessity for such coordination and proposed allocation provisions that would be essentially the same as those now provided in the separate orders proposed to be merged.

Under the uniform classification plan, herein adopted, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the production of Class II products would be permitted to have such other source milk allocated directly to their Class II uses. Direct allocation of such other source milk, however, would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products. Neither of the two orders proposed to be merged now provide for the direct allocation to a handler's Class II utilization of nonfluid other source milk receipts.

Handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products and to skim milk being used for the manufacture of cottage cheese. On occasion, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in Class II products. Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfact dry milk, it would not be unusual for a handler to commingle receipts of fluid other source milk with receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating the actual use of fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk to Class III.

4. (c) *Class I price and location adjustments.* The Class I price for the Puget Sound-Inland market should be the basic formula price for the second preceding month plus a Class I differential of $1.85. This price should apply to plants located in the base pricing zone (Seattle-Tacoma-Everett area) with prices applicable at plants in other areas to be determined through the use of location adjustments. Also, the same location adjustment rates should apply to the uniform blend price for milk received at such plants.

For the purpose of applying location adjustments, the marketing area should be divided into six pricing zones with certain of these zones extending to other specified areas outside the marketing area. The location adjustment for each zone, the resulting Class I differential (shown parenthetically), and the territory that should be included in each zone area are as follows:

Zone 1—No adjustment ($1.85)

Washington Counties

King	Pierce
Kitsap	Snohomish

Zone 2—Plus 10 cents ($1.95)

Idaho Counties

Benewah	Kootenai
Bonner	Latah
Boundary	Shoshone

Oregon Counties

Benton	Multnomah
Clackamas	Polk
Columbia	Wasco
Hood River	Washington
Linn	Yamhill
Marion	

Washington Counties

Clark	Skamania
Cowlitz	Spokane
Ferry	Stevens
Lincoln	Wahkiakum
Pend Oreille	Whitman

Zone 3—minus 4 cents ($1.81)

Washington Counties

Island	Skagit
Mason	Thurston

Zone 4—minus 6 cents ($1.79)

Washington Counties

Grays Harbor	Pacific
Lewis	Whatcom

Zone 5—minus 10 cents ($1.75

Idaho Counties

Lewis	Nez Perce

Oregon Counties

Gilliam	Sherman
Morrow	Umatilla

Washington Counties

Adams	Garfield
Asotin	Grant
Benton	Kittitas
Chelan	Klickitat
Columbia	Okanogen
Douglas	Walla Walla
Franklin	Yakima

Zone 6—minus 16 cents ($1.69)

Washington Counties

Clallam	San Juan
Jefferson	

Presently, the Puget Sound marketing area is divided into four pricing districts (zones), with certain districts extending to other areas outside the marketing area. The Class I differential in District 1 is $1.85. In the remaining three districts, it is adjusted to $1.75, $1.70, and $1.45, respectively. At other locations outside of the pricing districts, the Class I price is reduced 1.5 cents for each 10 miles that a plant is located from Seattle.

The Class I differential under the Inland Empire order is $1.95. For plants located between 90 and 200 miles from Spokane, the Class I price is reduced by two cents per each 10 miles; and beyond 200 miles, the price is reduced an additional 1.0 cent for each additional 10 miles.

NDA proposed that the basic formula price now used under the separate orders be continued as an appropriate basis for Class I pricing under the merged order. There was no opposition to this proposal.

The present basic formula price of the Puget Sound and Inland Empire orders is based on pay prices for manufacturing grade milk at plants in the heavy production States of Minnesota and Wisconsin. This price is used as a basis in establishing Class I prices under all Federal orders. Its continued use under the merged order will implement interorder price alignment by insuring that Class I price changes under this order will remain coordinated with those under all other orders. Additionally, because the Minnesota-Wisconsin manufacturing pay price is a competitive pay price reflecting supply-demand conditions for milk produced by dairy farmers who incur about the same changes in production costs as producers for this market, the use of this price will tend to insure an appropriate price level necessary to an adequate supply of milk.

The proponent cooperative also proposed that the Class I price for the Puget Sound-Inland order be established at $1.95 over the basic formula price for the second preceding month. Under its proposal, this price would apply at all plants located in the proposed marketing area and also at plants located in the nearby Washington counties of Benton, Franklin, Walla Walla, and Yakima and in the Idaho county of Nez Perce.

The principal reason cited by NDA in support of its Class I price proposal was that the 10-cent lower Class I price under the present Puget Sound order relative to the Class I price in the major population areas of the Inland Empire and Oregon-Washington markets is no longer needed to provide an incentive for the movement of supplemental milk supplies by Puget Sound handlers to plants under the two higher priced order markets. In support of its position, the cooperative's witness claimed that marketing conditions have changed since the Inland Empire and the Oregon-Washington orders were first promulgated. In this regard, he testified that in the early years of the operation of both orders, bulk milk moved regularly from the Puget Sound area during the fall and winter months to Spokane and Portland distributing plants to supplement local supplies. According to the witness, such milk movements have not occurred in recent years since milk supplies for the Inland Empire and Oregon-Washington markets have become adequate to satisfy the requirements for Class I uses. As a result of this changed marketing situation, he reasoned that the level of the Class I price in the Puget Sound area of the merged and expanded order should now be the same as the Class I price in the nearby Spokane and Portland markets.

Proponent cooperative also contended that the present 10-cent lower Class I price in the Puget Sound area is not needed to facilitate movements of packaged fluid milk to the higher priced Spokane or Portland markets. He claimed that because packaged fluid milk products are distributed in all directions from distributing plants located in the region, "the concept of using location adjustments to move packaged products toward a 'market center' is inappropriate, and it is desirable that the plants all have the same cost for Class I milk under the provisions of the Federal order for the area."

Additionally, NDA's witness testified that the proposed 10-cent per hundredweight increase in the Class I price at plants located in the Puget Sound area would partially offset the other proposed changes in the merged order that would tend to reduce returns to producers. These proposed changes relate to the reclassification of fluid cream items from Class I to Class II and the elimination of location adjustments at plants located within the proposed marketing area.

In further support of its proposal that no location adjustment apply at any plant located within the proposed marketing area and adjacent nearby

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territory, the proponent cooperative claimed that milk production data indicate that ample supplies of milk are produced within short distances of each of the distributing plants located in the area. Under this supply situation, according to proponent's spokesman, there is no need to assemble milk at a supply plant and transship it great distances in order to meet handlers' Class I requirements. In view of this, the witness concluded that no location adjustments are needed under the merged order to compensate for hauling milk from distant supply plants to distributing plants located in the proposed marketing area.

Foremost originally proposed a Class I differential of $1.88 that would apply to the areas that are now the "base zones" of the present Puget Sound and Inland Empire orders. At the hearing and in its post-hearing brief, the handler did not support the proposal. Instead, the handler urged that the present $1.85 and $1.95 Class I differentials that now apply in the base zones to the Puget Sound and Inland Empire orders, respectively, be retained under a combined and expanded order. Under its revised proposal, a location adjustment would apply to plants located outside of the base zones at the rate of 1.5 cents per 10 miles from the nearest of Spokane or Seattle. The handler stated that its alternative recommendations were intended to maintain the same general historcial competitive price relationships among Seattle, Spokane, and Portland handlers that now exist under the present Class I price stuctures of the separated orders.

At the hearing, a spokesman for Vitamilk Dairy, a pool distributing plant in Seattle, opposed any change in the Class I price structure for a combined and expanded order that would have the effect of increasing prices at any plant location. The witness for the handler held that location adjustments are needed for the maintenance of adequate milk supplies at distributing plants in the Seattle areas. He also maintained that any change in the price structure would distrupt the competitive relationship between handlers serving the region.

The president of a group of independent producers supplying Vitamilk Dairy supported the handler's position regarding the price structure for the proposed merged and expanded order.

A proposal of Dairy-Marketing Service, as set forth in the hearing notice, would modify NDA's pricing proposal to provide for location adjustments under the combined and expanded order. As proposed, a minus location adjustment would apply at plants located more than 75 miles from the nearer of Seattle or Spokane at a rate of 1.5 cents per each 10 miles. At the hearing, however, the federation of cooperatives strongly urged the adoption of a 2.5 cents per 10-mile distance rate.

In support of its location adjustment proposal, DMS indicated that NDA's pricing proposal would not encourage the movement of milk when needed from outlying reserve milk supply areas to the market centers of the proposed marketing areas. It claimed that its location pricing proposal would provide more attractive prices to producers supplying distributing plants in the Seattle area of the proposed marketing area relative to reserve milk supply areas north of the Seattle area.

DMS, in recommending a rate of 2.5 cents per 10 miles, contended that the present 1.5-cent location adjustment rate, which has been in use a number of years, does not reflect the present cost of transporting milk from distant areas to the populated centers of the marketing area. In support of this position, data were introduced into the record by DMS's witness showing the average variable costs incurred by DMS and NDA to transport bulk milk from Whatcom County, Washington farms to the Seattle areas. These data showed hauling rates varying from 3.7 cents to 4.4 cents for each 10-mile distance. While conceding that its proposed 2.5-cent location adjustment rate is still less than the actual cost of hauling milk from farms to the market center, DMS's witness held that its proposed rate is more equitable than the present location adjustment rate of 1.5 cents for each 10 miles. He also maintained that unless location adjustment rates are increased, proper alignment of producer prices at various locations cannot be achieved.

The hearing notice included a proposal by Carnation which would retain the present pricing districts of the Puget Sound order. In addition, the proposal would modify the location adjustment applicable to each district to more properly reflect the current cost of moving milk to the market center. The proposal also would apply a location adjustment to any plant located outside of a pricing district based on mileage from the nearer of Seattle or Spokane.

The handler at the hearing, however, abandoned his proposal. Instead, the handler recommended that the location pricing proposal, as amended, by DMS be adopted for the merged order.

In considering an appropriate price structure for the proposed merged market, the Class I price must be established at a level which, in conjunction with other class prices, results in returns to producers sufficient to assure an adequate supply of quality milk to meet the fluid requirements at various locations throughout the combined and expanded market. Additionally, the Class I price structure under the merged order must be properly aligned with prices under the neighboring Oregon-Washington order.

Concerning the adequacy of milk supplies in the region, the record clearly demonstrates that the proposed marketing area is in a heavy milk-producing area. In 1980, more than 2.3 billion pounds of producer milk were pooled under the two orders proposed to be merged. Of this total, only 956 million pounds, or 41 percent, were used in Class I products. Moreover, the percentage of Class I utilization for the two markets involved has declined over the years.[4] In 1970, the weighted average Class I utilization for the markets was over 49 percent compared to 41 percent in 1980. Hence, the amount of milk available in this area relative to demand has been increasing.

Under this supply-demand situation, there is no basis for increasing the Class I level in the combined and expanded marketing area. The adopted $1.85 Class I differential, in conjunction with the location adjustments as described, will provide essentially the same Class I returns under the merged market as presently exists for the two separate markets. This price level can be expected to assure adequate supplies to meet the fluid requirements for the combined marketing area.

Neither is there any basis for establishing a price level in the Puget Sound area of the proposed marketing area above that which now exists under the present Puget Sound order. As noted elsewhere, this area is by far the largest segment of the combined market, both in terms of producer receipts and Class I sales. The amount of milk available for this area has been increasing relative to demand, as indicated by the market's declining Class I utilization. In fact, the major supply of reserve milk for the proposed marketing area as well as for the entire northwest region is in the Puget Sound area. Hence, there is no justification for increasing the Class I differential in this area above its present level since the area has ample supplies to meet the demands of the fluid market.

To assure an adequate milk supply throughout the combined and expanded market, it is essential that Class I prices under the Puget Sound-Inland order be closely aligned with Class I prices of the nearby Oregon-Washington order which represents an alternative source of supply. Also, it is necessary that milk for Class I use in this market be competitively priced with milk supplies for the Oregon-Washington market that are distributed in the Puget Sound-Inland area in competition with local producer milk.

[4] Official notice is taken of Federal Milk Market Statistics, Annual Summaries for 1971, 1973, 1975, and 1977, Agricultural Marketing Service, U. S. Department of Agriculture.

The proposed Puget Sound-Inland marketing area borders the Oregon-Washington order's marketing area. As indicated previously, the distribution areas of handlers that would be regulated by the merged order overlap with those of Oregon-Washington handlers distributing in the Puget Sound-Inland area. Additionally, various segments of the area from which handlers under the proposed merged order obtain milk supplies overlap extensively with the area from which the Oregon-Washington market draws milk supplies. Under such circumstances, it is essential for orderly marketing that Class I prices in the Puget Sound-Inland area be closely aligned with such prices in the nearby market.

It is quite apparent that Class I prices under the present two markets here under consideration and the adjacent Oregon-Washington market were established to reflect such intermarket relationships. The Class I price structure herein adopted will continue essentially the same historical interorder price relationships.

The following table shows a comparison of the Class I price differential at various locations for the proposed Puget Sound-Inland order and the Oregon-Washington order:

Order	Class I price differential
Proposed Puget Sound-Inland:	
Seattle (zone 1)	$1.85
Spokane (zone 2)	1.95
Moses Lake (zone 5)	1.75
Oregon-Washington:	
Portland	$1.95
Sunnyside-Toppenish-Yakima	1.75

Except for the testimony of NDA who proposed that the same Class I price apply throughout the proposed marketing area, the testimony presented at the hearing supported the continuance and need for a location pricing scheme under the combined and expanded order. The cooperative's proposal for a single Class I price throughout the proposed marketing area would have the effect of increasing Class I prices at several plant locations. It would also disrupt the historical price relationship between the Puget Sound and Inland Empire markets and the nearby Oregon-Washington market.

Under the proponent cooperative's proposed flat pricing scheme, producers would want to deliver their milk only to the plants located nearest their farms. This is because they would not be reimbursed through higher prices for the higher hauling costs involved in moving milk greater distances to plants at the market centers where milk is needed for fluid processing. The likely result of this would be to increase the total handling and transportation costs for some handlers as opposed to others in obtaining adequate supplies. Accordingly, a single uniform Class I price applicable throughout the proposed expansive marketing area would be inappropriate and could contribute to disorderly marketing conditions.

The present location pricing structures of the two orders proposed to be combined were designed to encourage the movement of milk from supply areas to the principal population centers where it is processed for fluid use. Additionally, they were developed to maintain a reasonable price alignment with nearby markets, which is essential to the attraction of milk supplies to various locations where needed.

The record evidence does not demonstrate that the present location pricing structures for the Puget Sound and Inland empire markets are inappropriate or are contributing to disorderly marketing conditions. To the contrary, it appears that the present location pricing structure under each order involved is providing adequate milk supplies at all locations at which milk is delivered by producers. It also is providing a reasonable alignment of prices not only with other markets but also among the various segments within each market. Accordingly, the Class I location price structure now applicable under the separate orders should be retained insofar as possible under the combined and expanded area.

In view of this conclusion, it is necessary then to provide under the merged order a pricing structure that will essentially retain the same interplant price relationships which have existed under the separate orders. The most feasible method of accomplishing this is to establish six pricing zones. These zones would apply to the entire combined and expanded marketing area with two of them extending into the neighboring Oregon-Washington marketing area. The territory to be included in each zone was set forth at the outset of this discussion on the Class I and location adjustment issue.

Aside from retaining essentially the same price structure that now exists under the separate orders, the zone pricing structure adopted herein reflects several other considerations. With the exception of the prices that would be applicable in the Columbia River Basin area, the adopted zone pricing scheme provides a minimum of price differences among the various segments of the market to encourage only the movement of milk from the closest sources of production. This recognizes the availability of ample milk supplies within a short distance from the principal population centers of the proposed marketing area. Under this situation, there is no need to encourage the movements of milk from more distant areas.

Each of the zones adopted herein includes additional territory that might reasonably be considered a part of a pricing zone even though at present no plants are located there. This will assure that the same price that would apply to an existing plant would also apply to any new plant in the same general area. This is necessary since it would be expected that such plants (established or new plants) would be in substantial competition with each other.

Most of the southern border of the proposed marketing area abuts the Oregon-Washington marketing area. As herein adopted, the applicable Class I prices established for Zones 2 and 5 are coordinated and closely aligned with the Class I price structure that applies to these areas under the Oregon-Washington order. This will tend to insure Puget Sound-Inland handler equal access to the milk supply in the region in competition with Portland and Yakima County, Washington handlers and vice versa. It will also assure that all plants similarly located will have similar minimum order prices irrespective of the order under which a plant is regulated. Finally, a coordinated zone pricing structure would reflect the historical pricing relationship among competing plants that now exists in this area under the separate orders.

Under the location pricing structure adopted herein for the Puget Sound segment of the proposed marketing areas, Class I prices at the Mt. Vernon and Raymond, Washington, pool plants would be increased by six cents and nine cents per hundredweight, respectively. The basis for these increases were to obtain essentially the same return to producers for milk under

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the merged order that they now receive under the Puget Sound order, after giving consideration to the effect that would result from applying location adjustments to total producer milk rather than to only base milk. In this regard and as discussed later in the decision, the proposed merged order does not provide for continuing the Class I base plan now contained in the Puget Sound order.

Another change that should be made in Class I prices that now apply at regulated plants under the separate order is a two-cent increase in the price at Moses Lake. At the time of the hearing, a plant at this location was regulated under the Inland Empire order and had a Class I differential of $1.73. As a result of the zone pricing structure adopted herein, the Class I differential at the Moses Lake Plant would be increased to $1.75.

The record evidence shows that the Moses Lake plant has substantial distribution in the Oregon-Washington marketing area in competition with nearby Yakima County plants that are regulated under the Oregon-Washington order. Moreover, this plant, because of its extensive distribution in the nearby Oregon-Washington marketing area, has been a pool plant at times under the Oregon-Washington order. When this occurs, the applicable, Class I differential at the Moses Lake plant is $1.75, which is identical to the prices applicable at the nearby Yakima County pool plants under the Oregon-Washington order. Hence, the adopted two-cent higher price for this portion of the marketing area would provide the same Class I prices at plants located in Moses Lake and Yakima County.

At a plant located outside of any area included in a zone as described above, the location adjustment should be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the County-City Building in Seattle or the County Courthouse in Spokane. Such distance should be based on the shortest hard-surfaced highway distance as determined by the market administrator. Essentially, intermarket price relationships are based on this transportation rate. The use of this rate under the merged order will assure the continuance of interorder price alignment.

Plants that would be subject to such adjustment generally will be located east and south of the marketing area in Idaho, Montana, California, and southern Oregon. Location adjustments at this rate for plants so situated will reflect the lesser location value of milk for this market at more distant plants relative to plants nearer the marketing area. Further, such location adjustments will implement uniformity of pricing among handlers for both milk received at the market centers from distant plant locations and milk received at the market centers direct from farms.

DMS's proposal to apply a location adjustment at plants located beyond 70 miles from the nearer of Seattle or Spokane at a rate of 2.5 cents per 10 miles should not be adopted. Any greater location adjustment rate for plants located outside of the market centers would not maintain the satisfactory alignment of prices that now exists in various segments of the proposed marketing area with prices in the nearby Oregon-Washington market. As indicated earlier in this decision, a series of price zones are established that essentially retain the same interplant and interorder price relationships which existed under the separate orders. The adoption of DMS's proposal would unduly distort interplant and interorder price relationships, particularly in the major areas of competition.

Application of location adjustment credits. Both of the orders proposed to be merged contain provisions that limit the amount of Class I location adjustment credits that may be allowed on bulk transfers between pool plants. The basic concept of this limitation should be continued under the merged order.

The basic intent of this limitation on location adjustment credits is to insure that producers on the market do not have their returns lowered by bearing the costs of unnecessary movements of milk to the market centers for other than Class I use. Under the present Puget Sound order, this is done through the allocation procedure in the assignment of milk receipts to classes of utilization. In the Inland Empire market, the limitation is determined through the application of location adjustments, which is the procedure used under most Federal orders.

For purposes of clarity and simplicity, the present technique used under the Inland Empire order is adopted as the appropriate procedure under the merged order in limiting location credits on transfers between pool plants. However, to fully integrate this procedure with the zone pricing structure adopted herein (which includes an announced Class I price for Zone 1 with a plus or minus price adjustment for other locations), it is necessary that the present Inland Empire location adjustment credit provisions be revised.

In this regard, location adjustment credits should not apply to Class I transfers of bulk milk shipped by pool plants to lower-priced zones. Under normal circumstances, this would not be an usual movement of milk. However, it could occur, for instance, in situations where a plant in Seattle or Spokane received milk in excess of its fluid requirements and marketed such excess to a plant in Mt. Vernon or Moses Lake. As indicated elsewhere, the higher Class I price levels provided in Seattle and Spokane were determined to be necessary to attract milk to these areas for Class I use and not for reshipment to lower-price zones. The latter should not be encouraged through the granting of a location adjustment credit on such milk movements, which would have the effect of requiring the pool to bear the cost of such movements.

The location pricing structure adopted herein requires a further modification in the application of Class I location adjustments. The merged order should specifically provide that when a location adjustment credit is not allowed on transferred milk, the transferor-handler should only be required to account for such milk at the Class I price at the transferee-plant. Absent this modification, a disallowed location adjustment credit could result in a Class I price to a transferor-handler that is higher than the value of the milk at the transferee-plant.

Additionally, the location adjustment credit provisions as adopted herein provide greater specificity in computing location adjustment credits as they apply to transfers between pool plants. As provided, Class I location adjustment credits would be determined by first subtracting receipts from unregulated supply plants and other order plants that are assigned a Class I classification and then subtracting from the remaining Class I use at the transferee-plant receipts from producers and cooperative associations as handlers on bulk tank milk. Location adjustment credits would then be assigned to the remaining Class I milk received from the transferor plants at which the least location adjustment applies and then in sequence to plants having the next least location adjustments, etc.

Class II and Class III prices. The Class II price under the merged order should be the Class III price for the month plus 25 cents. The Class III price should be the lower of either the Minnesota-Wisconsin price for the month or a butter-nonfat dry milk formula price (commonly referred to as the butter-powder "snubber" price).

These forumlas are now used in pricing milk not needed for Class I use under each of the orders to be merged.

They are also presently used under the Oregon-Washington order.

The merger proponent proposed that Class II and Class III prices for the merged order be established on the same basis that is applicable under the separate orders. The cooperative contended that the retention of this pricing scheme in determining Class II and Class III prices under the merged order is essential for the maintenance of appropriate price alignment with the Oregon-Washington market. Also, it held that continuing the use of the "butter-powder snubber formula price" as part of the Class III price formula provides handlers with assurance against undue reductions in their operating margins when butter values are abnormally low relative to prevailing pay prices for manufacturing grade milk. In further support of this position, the cooperative stated that the use of the snubber in the Class III price foumula is particularly suited for this area since a large percentage of the reserve milk supplies in the region in utilized in the production of butter and nonfat dry milk.

Foremost proposed that the Class III price under the merged order be based only on the Minnesota-Wisconsin price each month. The basis of the handler's proposal was that because the butter-powder snubber formula has not had an effect for a number of years in determining class prices under the separate orders, there is no longer a basis for continuing its use. The handler's witness, however, testified that if the butter-powder snubber is retained, then the present "make allowance" of 48 cents contained in the butter-powder formula should be adjusted to reflect the increase in costs of receiving and processing reserve milk that has occured since its adoption. He conceded, however, that either the removal of the butter-powder price formula or retaining it with a higher "make allowance" under the merged order could result in significant competitive inequities among handlers in the several markets involved.

The testimony given by the handler witness raises some questions regarding the appropriateness of continuing the use of the present butter-powder snubber in conjuction with the Minnesota-Wisconsin price. It might well be that the Class II and Class III prices should be based entirely on the Minnesota-Wisconsin price. However, in view of the close relationship of the Puget Sound and Inland Empire markets with the adjacent Oregon-Washington market, it appears that the Class III price formula should not be changed without a similar change in the Oregon-Washington order. This would be so whether the snubber were eliminated or whether the snubber's make-allowance were changed.

As proposed by the merger proponent, no location adjustments should apply on Class II milk under the merged order. Presently, the Inland Empire order does not provide location adjustments for Class II milk. However, the present Puget Sound order provides a Class II location adjustment of one-half of the rate specified in Class I milk, but not to exceed 20 cents per hundredweight.

The original purpose of such adjustments under the Puget Sound order was to compensate distant supply plant operators for the delivery of milk to plants in the base zone (Seattle-Tacoma-Everett area) where it was used in Class II products. On the basis of the present record, there is no reason under current marketing conditions to maintain such incentive to encourage the delivery of milk from distant plants to the Seattle area for use in Class II. There was no indication on the record that the supply of milk for Class II uses in the Puget Sound market will be jeopardized if no location adjustments on Class II milk apply under the merged order.

The attached proposed order adopts the procedure now applicable under each of the two orders for announcing Class II prices. This procedure is based on a proceeding, which was initiated after the close of this hearing, that considered industry proposals with respect to the issue of advance Class II price notice for 14 orders, including the two orders proposed to be merged. The hearing, which was held on February 3, 1982, was a reopening of this proceeding as it related to the Class II pricing issue. Each of the two orders have subsequently been amended on the basis of this 14-market hearing. It is concluded that the Class II pricing procedure under each of the two orders is equally appropriate for the merged order for the identical reasons as set forth in the Assistant Secretary's decision of August 17, 1982 (47 FR 37178). The findings, conclusions and proposed provisions of that decision are adopted as part of this decision as if set forth in full herein.

Butterfat differential. The merged order should provide for a single butterfat differential for adjusting order prices to the butterfat content of the milk being priced. The differential should be the Chicago 92-score butter price for the month multiplied by a factor of 0.115, rounded to the nearest 0.1 cent. Such differential should be announced on the fifth day after the end of the month to which it applies.

This differential is now used under the present Puget Sound order. However, the Inland Empire order provides for three separate butterfat differentials. The Class I butterfat differential for handlers is determined by multiplying the Chicago butter price for the preceding month by 0.123, while the handler Class II and III differentials are determined by multiplying the butter price for the current month by 0.115. The butterfat differential applicable in adjusting the uniform price to producers is the average of the Class I, and Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk in each class.

Presently, the Class I, Class II, and Class III differentials for the Inland Empire order are announced on the fifth day of the month. The Class I differential applies to the month in which announced, while the Class II and Class III differentials apply to the preceding month. The producer butterfat differential is announced on the 14th day of each month and applies to milk received during the preceding month.

The merger proponent proposed that all class prices and uniform prices under the merged order be subject to an adjustment by a butterfat differential based on the Chicago butter price times the factor of 0.115. No opposition to the use of this single factor was presented at the hearing.

As proposed and as herein adopted, using a single factor of 0.115 for computing class butterfat differentials will change the relationship of Class I skim milk and butterfat values of those handlers that are presently regulated by the Inland Empire order. The impact of this change will increase such handlers' cost of skim milk since less value will be assigned to the butterfat component of Class I milk. However, the absolute effect on a handler's cost for Class I milk is dependent on the average test of his Class I products.

Nevertheless, adopting a lower Class I butterfat differential for the Inland Empire segment of the proposed merged marketing area gives recognition to the reduce demand and the related lower market value of butterfat in fluid milk products in Class I. This lower value for Class I butterfat will be reflected in returns to producers which, in turn, should provide less incentive to produce high-test milk that consumers do not want.

Proposals of Carnation and Foremost providing for the advance announcement of Class I and Class II butterfat differentials and corollary

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separate Class III and producer butterfat differentials are denied. Proponent handlers contended that under the present Puget Sound order's announcement procedure they are often at a disadvantage in not knowing the costs of the component parts of producer milk for Class I and Class II uses until five days after the end of the month in which the milk is processed. They claimed that when there is a significant change in butter values, as reflected in Chicago butter prices, the present delayed notice of such increases in butter values prevents them from making corresponding adjustments in their resale prices on a timely basis.

Although NDA did not oppose the proposals at the hearing for the advance announcement of Class I and Class II butterfat differentials, it argued in its post-hearing brief, that handlers can "quite accurately predict the level of butterfat differential under the current supply-demand situation for butterfat." It concluded that there is no need to announce separate class butterfat differentials or to announce them in advance of the date that it proposed for announcing the producer butterfat differential.

The record did not provide a compelling basis for adopting an advance announcement procedure for Class I and Class II butterfat differentials. There was no indication by proponent handlers that disorderly marketing conditions have occurred as a result of the present procedure of announcing a single butterfat differential after the end of the month based on the butter prices for that month. Moreover, and contrary to proponent handlers' contention, month to month changes in average monthly butter quotations that normally do occur have not usually resulted in significant changes in the value of differential butterfat used in Class I and Class II. Finally, the practical effect of the need for advance Class I and Class II butterfat differentials is negated to a large extent by the frequency in which butter prices are announced. In this connection, such prices are available on a three-times per week basis which appears adequate for handlers to determine trends in butter prices and thus adjust their resale price structure accordingly. The proposal is, therefore, denied.

4. (d) *Distribution of proceeds to producers.* Marketwide pooling of producer returns should be provided under the merged order as the basis of distributing among producers the proceeds from the sale of their milk. This type of pooling is now being used in each of the individual markets to be merged and was supported by all parties of interest for use under the merged order.

A single marketwide uniform price, adjusted for butterfat content and for location of the plant to which the milk is delivered, should be the basis of distributing total pool proceeds from producer milk in making payments to individual producers. Under this payment arrangement, each producer would share equally in the higher-valued Class I milk of the market as well as in the lower-valued Class II and Class III uses of milk. A single uniform price to producers is now applicable under the Inland Empire order.

The present Puget Sound order provides for a Class I base plan, which is another method of distributing the total proceeds from handlers to producers. This plan provides for an allotment system under which a producer supplying the market is assigned a proportion of the higher-valued Class I sales within the market on the basis of his past deliveries of milk. For deliveries within his base, a producer receives a "base" price that is substantially higher than the market's weighted average value of all producer milk in the pool. For marketings in excess of his base, the producer receives an "excess" price which is comparable to the lower manufacturing price (Class III price). This method of distributing pool proceeds to producers has been in use under the order since September 1, 1967.

The proponent cooperative proposed through its merger proposal included in the hearing notice that a single marketwide uniform price be paid to producers under the merged order. The president of NDA testified though, that his cooperative really was neither a proponent or opponent of the Class I base plan. He indicated that NDA nevertheless submitted a proposed merged order without a Class I base plan because the cooperative had concluded on the basis of a survey that a majority of the market's producers no longer supported the Class I base plan and that it would not be approved in producer referendum of individual producers. The witness testified that this was supported by the fact that its Inland Empire member producers continue to reject a Class I base plan, which producers in that market initially disapproved in 1972. The witness stated, however, that the cooperative has no objection to including a Class I base plan under the proposed merged order so that individual producers would have the opportunity to vote on whether or not they favor the continuance of the present plan under the merged order.

The Producer Base Committee and Dari-Marketing Service proposed that the present Puget Sound Class I base plan be continued under any amended order which would combine and expand the marketing areas of the two orders. In this connection, the proponents strongly urged that producers be given the opportunity through a referendum to vote on whether they desire a Class I base plan under a combined order. A limited number of individual producers who are now covered by the plan testified in support of this position.

Proponents of continuing the Class I base plan testified that the base plan is popular among producers in the Puget Sound market. They reasoned that absent a Class I based plan in a combined order, Puget Sound producers would be denied the benefits that the Class I base plan has provided for many years. In this connection, it was proponents' position that a blend price system fails to tailor production to the Class I requirements of the market. They argued that the present disproportionate increase in milk receipts in relation to Class I sales under the Inland Empire order is a result of the absence of a Class I base plan in that market.

This issue primarily concerns producers in that it involves how pool proceeds would be divided among producers supplying the combined and expanded market. In such case, the views of producers are an important consideration.

The preseqt Class I base in the Puget Sound market was based on evidence received at a public hearing and was placed into effect after a referendum in which the required two-thirds of the producers on the market, voting individually, approved the plan. The record in this proceeding indicates that the majority of the producers (largely Puget Sound producers) who would be associated with the merged market have changed their view in this matter. In this regard, the merger proponent's testimony shows that a majority of producers perfer a uniform blend price system to a Class I base plan in distributing pool proceeds among producers associated with the merged market. In view of this situation, no useful purpose would be served in providing affected producers the opportunity to decide through a referendum whether or not they desire a Class I base plan under the merged order.

Moreover, the hearing did not deal in any way with how producers currently delivering to the Inland Empire market

should be integrated into the present Puget Sound Class I base plan. Without special consideration given to this block of producers, bases that would be assigned to them for the first time under the present base plan would not necessarily promote uniformity of regulation or price equity among all producers that would be associated with the merged market. For example, under the terms of the present Puget Sound Class I base program, the most that an Inland Empire producer could receive would be a base computed on his production history during the last three-year period. Moreover, if an Inland Empire producer was on the market for less than three years from the effective date of the merged order, he would have a production history equal to 60 percent of his shipments after one year and equal to 80 percent of his shipment after the second year. In contrast, an established Puget Sound producer has had the opportunity to develop a base reflecting his production history over a period of years in order to maximize the benefits accruing from the Class I base plan.

It should be noted that the Class I base committee, in its post-hearing brief, did suggest that certain provisions of the present Puget Sound Class I base plan be revised to remove certain inequities to the Inland Empire producers during the transition from a blend price system to a Class I base plan. However, this would be a very complex undertaking and the record of this hearing does not provide an adequate basis for such action.

Under the Agriculture and Food Act of 1981, the authority for Class I base plans in Federal order markets was not extended and it expired on December 31, 1981.[8] However, the Act provided that any Class I base plan in operation at the end of the present Puget Sound Class I base plan to continue to operate under the merged order until the end of 1984.

The limited time that the plan is authorized to operate before its termination raises a serious question about the practical effect that the plan would have in encouraging all producers under the merged order to adjust their production to the Class I utilization of the combined markets. Adjustments in milk production by producers, to realize the benefits of the Class I plan, require long-range economic planning which cannot be achieved within the limited time period that the plan could legally be effective. Hence, if the Class I base plan were extended to the current Inland Empire producers, such producers could not earn bases comparable to those of other producers who have been under the plan over a period of years.

Contrary to the base proponents' contention, the record evidence and current available data indicate that in recent years the plan has had little effect in encouraging producers to tailor their production to the market's Class I usage. During the past several years, producers under the base plan have increased their production history bases at a faster rate than the market's increase in Class I usage. Consequently, the average Class I base percentage has declined (45.7 percent for the year beginning February 1, 1982) to its lowest percentage level since the base plan became effective.[9] These trends suggest that Puget Sound producers are gearing their production to a blend of the prices that they receive for all milk rather than adjusting their production to take advantage of the higher base prices. This may be the principal factor contributing to the declining support of the plan that was indicated on the record.

In view of the foregoing considerations, it is concluded that the proposed merged order should not provide for a Class I base plan.

As an adjunct to its base proposal, the Class I base committee proposed and supported combining and expanding the marketing areas of the two orders by amending the present Puget Sound order rather than a merger and expansion of the two orders as NDA proposed. The committee took this position on the belief that if NDA's proposed merged order were adopted, it would be considered a new order and thus remove the legal authority to continue the present Puget Sound Class I base plan until the end of 1984. Since the Class I base plan is not being continued, this point is a moot issue in terms of the committee's concerns.

Payments to producers and cooperative associations. The merged order should provide for a partial payment to producers on or before the last day of the month and for a final payment on or before the 19th of the following month. The partial payment should be for milk received during the first 15 days of the month and should be at not less than the Class III price for the preceding month. The final payment to each producer should be the applicable uniform price for milk received in the preceding month less any partial payment made and any proper deductions authorized by the producer. When payments are made to a cooperative association in lieu of payments to individual producers, both the partial and final payments should be made at least two days prior to the date payments are due to individual producers.

As adopted herein, the payment schedule is the same as now provided in the Inland Empire order. This was proposed by the merger proponent. The Puget Sound order also provides for final payment at the same time here provided. However, this order provides for a partial payment on the 25th day of the month rather than at the end of the month, which would apply under the merged order.

The proponent cooperative states that the intent of its proposal to delay partial payments by 5–6 days to the present Puget Sound producers is to narrow the time intervals between partial and final payments. According to the spokeman for the cooperative, this would improve the cash flow position of handlers since it relieves them of the burden of making a partial payment and a final payment that is now only one week apart. Also, he said, its proposed payment schedule to producers and cooperatives is identical to the payment schedule that now exists under the nearby Oregon-Washington order. In this regard, he argued that since some of the handlers operate plants that are now regulated by the separate orders herein considered and by the Oregon-Washington order, it is desirable to have the same payment dates under both orders to accommodate for centralized accounting practices used by the handlers involved.

At the hearing, Dari-Marketing Service opposed any modifications in the payment schedule to producers and cooperative associations that would result in payment dates later than exist under the present Puget Sound order. The federation argued that it would not be reasonable to further delay the date when producers receive payments for their milk in view of the rising cost of interest and other costs associated with producing milk.

While the payment schedule adopted herein changes only the date when partial payments would be due to those producers whose milk is currently priced under the Puget Sound order, such change should present no substantial problems. In fact, the impact of this change would delay partial payments to the present Puget Soung producers only during the initial month that the merged order would become effective. Thereafter, all producers would be due a

[8] Official notice is taken of the Agriculture and Food Act of 1981, Public Law 97–98, 97th Congress.

[9] Official notice is taken on the monthly Market Administrator's Report for Federal Orders 124, 125, 133, and 135, Vol. 7 No. 2, issued for February 1982.

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partial payment on the same date of each month. In view of this, it is not apparent what advantage would accrue to producers under the merged order of continuing a partial payment schedule that would be only one week apart from the final payment date which is now the case under the Puget Sound order. It should be noted that the attached order would not prevent a handler from paying producers or cooperative associations a partial payment before the due date specified so long as he has paid at least the Class III price for the previous month.

The merger proponent also proposed that the date for payment to a cooperative association for milk received by a pool handler from a pool plant operated by the cooperative be advanced two days (from 17th to 15th). The proponent argued that this change is necessary because a cooperative thus involved should have the monies due it from the handler prior to when the cooperative must make payment to the producer settlement fund. As herein provided, the cooperative would be required to make payment to the producer settlement fund on or before the 16th day of the month on any milk for which it is accountable to the producer settlement fund.

It was not established that this proposal would have any value under the proposed order. As indicated previously, there are no cooperative associations operating pool plants under either of the present orders that is proposed to be merged. In view of this, the proposal is not necessary or warranted under present marketing conditions.

4(e) *Administrative provisions—Administrative assessment.* The maximum rate of payment by handlers for the cost of administering the merged order should be 4 cents per hundredweight. Such payments are required if the market administrator is to perform the necessary function of administering the merged order.

Currently, the maximum rates under the separate orders are 4 cents under the Puget Sound order and 5 cents under the Inland Empire order. A 4-cent rate, which was proposed at the hearing without objection, should enable the market administrator to effectively administer the merged order. If experience indicates that the merged order can be administered at a lesser rate, the order provides that the Secretary may adjust the rate downward without the necessity of a hearing.

Order format. The uniform format of order provisions that was incorporated into the 39 other Federal milk orders in 1974 also should be adopted for the merged order. Except for those specific changes in several provisions of the merged order that were specifically discussed above, the adoption of this order format does not affect the scope or substance of the Puget Sound order, renamed the Puget Sound-Inland order, or its application to any handler subject thereto.

Merger of the administrative expense, marketing service, and producer-settlement funds. To accomplish the merger of the two orders effectively and equitably, the reserves in the administrative expense funds that have resulted under the individual orders should be combined. Similar procedures should be followed with respect to the marketing service and producer-settlement fund reserves of the individual orders. Any liabilities of such funds under the individual orders should be paid from the appropriate new funds established under the merged order. Similarly, obligations that are due the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the two orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the individual orders and then accumulate an adequate reserve for the merged order. It is equally equitable and more efficient to combine the administrative monies accumulated under the individual orders and to pay any liabilities against such funds from the consolidated fund of the merged order.

The money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrator is performing services. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the Puget Sound-Inland market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement fund balances in the two orders should be combined so that the producer-settlement fund under the merged order may be continued without interruption. The producers currently supplying the individual markets are expected to continue to supply milk for the merged Puget Sound-Inland market. Thus, monies now in the producer-settlement funds of the individual orders would be reflected in the uniform prices of the producers who will benefit from the merged order. The combined fund would also serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) accruing under one or the other of the separate funds.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement, the Puget Sound-Inland order which amends and merges the Puget Sound, Washington, and Inland Empire orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the Puget Sound-Inland marketing area and the minimum prices specified in the tentative marketing agreement and the Puget Sound-Inland order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the Puget Sound-Inland order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the Puget Sound-Inland order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1125.85 of the tentative marketing agreement and the Puget Sound-Inland order.

Recommended Marketing Agreement and Order Amending the Orders

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the merged Puget Sound-Inland order. The following order regulating the handling of milk in the Puget Sound-Inland marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Parts 1125 and 1133

Milk marketing orders, Milk, Dairy products.

In Title 7 of the Code of Federal Regulations, it is proposed that Part 1125 be revised to read as follows:

PART 1125—MILK IN THE PUGET SOUND–INLAND MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1125.1 General provisions.

Definitions

1125.2 Puget Sound-Inland marketing area.
1125.3 Route disposition.
1125.4 Plant.
1125.5 Distributing plant.
1125.6 Supply plant.
1125.7 Pool plant.
1125.8 Nonpool plant.
1125.9 Handler.
1125.10 Producer-Handler.
1125.11 [Reserved].
1125.12 Producer.
1125.13 Producer milk.
1125.14 Other source milk.
1125.15 Fluid milk product.
1125.16 Fluid cream product.
1125.17 Filled milk.
1125.18 Cooperative association.
1125.19 Product prices.

Handler Reports

1125.30 Reports of receipts and utilization.
1125.31 Payroll reports.
1125.32 Other reports.

Classification of Milk

1125.40 Classes of utilization.
1125.41 Shrinkage.
1125.42 Classification of transfers and diversions.
1125.43 General classification rules.
1125.44 Classification of producer milk.
1125.45 Market administrator's reports and announcements concerning classification.

Class Prices

1125.50 Class prices.
1125.51 Basic formula price.
1125.51a Basis Class II formula price.
1125.52 Plant location adjustment for handlers.
1125.53 Announcement of class prices.
1125.54 Equivalent price.

Uniform Price

1125.60 Handler's value of milk for computing uniform price.
1125.61 Computation of uniform price.
1125.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1125.70 Producer-settlement fund.
1125.71 Payments to the producer-settlement fund.
1125.72 Payments from the producer-settlement fund.
1125.73 Payments to producers and to cooperative associations.
1125.74 Producer butterfat differential.
1125.75 Plant location adjustments for producers and on nonpool milk.
1125.76 Payments by a handler operating a partially regulated distributing plant.
1125.77 Adjustments of accounts.

Administrative Assessment and Marketing Service Deduction

1125.85 Assessment for order administration.
1125.86 Deduction for marketing services.

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1125.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1125.2 Puget Sound-Inland marketing area.

"Puget Sound-Inland marketing area" (hereinafter called the "marketing area") means all territory geographically within the places listed below, including all territory wholly or partly therein occupied by government (Municipal, State or Federal) reservations, facilities, installations, or institutions:

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, Shoshone.

Washington Counties

Adams, Chelan, Douglas, Ferry, Grant, Grays Harbor, Island, King, Kittitas, Lewis (except the town of Vader), Lincoln, Okanogan, that portion of Pacific county north of township 11N (except Long Island and North Beach Peninsula) Pend Orielle, Pierce (except Fox, McNeil, and Anderson Islands and the peninsulas adjacent to Kitsap County), San Juan, Skagit, Snohomish, Spokane, Stevens, Thurston, Whatcom, and Whitman.

§ 1125.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point as provided by this section, by a vendor, from a plant store or through a vending machine). The term "route disposition" does not include:

(a) A delivery to a plant. However, packaged fluid milk products that are transferred to a pool distributing plant from pool distributing plant, and classified as Class I under § 1125.42(a), shall be considered route disposition from the transferor-plant for the sole purpose of qualifying it as a pool distributing plant under § 1125.7(a), and the transferor-plant shall be assigned in-area dispositions but not in excess of the in-area dispositions of the transferee plant;

(b) A delivery in bulk to a commercial food processing establishment pursuant to § 1125.40(b)(3); or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area, of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1125.4 Plant.

"Plant" means the building, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving,

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handling and/or processing of milk or milk products (including filled milk). Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

§ 1125.5 Distributing plant.

"Distributing plant" means a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and that has route disposition in the marketing area during the month.

§ 1125.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1125.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is route disposition (except filled milk) in the marketing area during the month equal to not less than 10 percent of Grade A milk at such plant (exclusive of transfers of packaged fluid milk products from plants qualifying as pool plants pursuant to this paragraph) or diverted therefrom pursuant to § 1125.13.

(b) A supply plant from which there is transferred to a pool distributing plant fluid mild products that represent not less than the following percentages of the total quantity of Grade A milk that is physically received at such plant directly from dairy farmers, or a cooperative association pursuant to § 1125.9(c) or diverted therefrom as producer milk pursuant to § 1125.13:

Months and Applicable Percentage

January, February, or September—40
March through August—30
October through December—50

Any such plant that has transferred the applicable percentage of its receipts during the entire September through February period shall be a pool plant for the months of March through August immediately following. Any plant which otherwise meets the requirements of this paragraph may withdraw from pool supply plant status in the March through August period if the operator of the plant files with the market administrator prior to the first day of such month a written request for such withdrawal. The plant may regain pool status during such period only by meeting the applicable qualifying percentage.

(c) The term "pool plant" shall not apply to the following plants;

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month it shall continue to be subject to all the provisions of this part until the fourth consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in this marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order; or

(4) A plant pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order;

(5) A distributing plant from which total route disposition (except filled milk) in the marketing area during the month averages 300 pounds or less per day; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk products for Grade A disposition.

§ 1125.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant, during the month.

(e) "Exempt distributing plant" means a plant, other than a pool supply plant or regulated plant under another Federal order that meets all the requirements for status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed an average of 300 pounds daily and is also less than 10 percent of receipts of Grade A milk at such plant. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1125.3(a).

§ 1125.9 Handler.

"Handler" means:

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association from a pool plant to a nonpool plant, or pursuant to § 1125.40(b)(3);

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative assocation, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) The operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(g) The operator of an unregulated supply plant; and

(h) The operator of an exempt distributing plant.

§ 1125.10 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 300 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section. Any state institution shall be a producer-handler exempt from the provisions of this section and §§ 1125.30 and 1125.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.*—(1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) his designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with paragraphs (a) (1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the product-handlers;

(ii) In which the producer-handler in any way has an interst including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of his milk prodcution resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractural arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraphs (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraphs (a) (1), (2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which do not exceed in the aggregate a daily average during the month of 100 pounds.

(d) *Public Announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled and the effective dates of producer-handler status or loss of producer-handler status for each. Such annoucements shall be controlling with respect to the accounting at plants of other handlers for fluids milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handlers who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1125.11 [Reserved]

§ 1125.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1125.9(c); or

(3) Diverted from a pool plant in accordance with § 1125.13;

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk producer by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1125.44(a)(9)(iii)

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and the corresponding step of § 1125.44(b);

(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such order;

(4) Any person who during the month has disposed of as route disposition or to consumers at the farm an average of more than 110 pounds daily of fluid milk or fluid cream products; and

(5) Any person (to known as a dairy farmer for other markets) who during the month deliveries milk to a nonpool plant (except an other order plant) other than by diversion from a pool plant of this or another order.

§ 1125.13 Producer milk.

"Producer milk" or "milk received from producers" means skim milk and butterfat in milk produced by produced which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producer;

(2) Milk diverted from such pool plant to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the operator of the pool plant, subject to the conditions set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1125.9(c) for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk shall include:

(1) Milk diverted from a pool plant to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the cooperative association, subject to the conditions set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1125.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1125.30(c) and 1125.31(a) and making payments to producers pursuant to § 1125.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler;

(c) With respect to diversions to nonpool plants or pursuant to § 1125.40(b)(3):

(1) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool distributing plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the producer milk which the association or its agent causes to be delivered to pool distributing plans, or diverted therefrom. No percentage limit shall apply during the months of May through August;

(2) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool supply plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the producer milk which the association or its agent causes to be delivered to all such pool supply plants or diverted therefrom during the month;

(3) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply during the months of May through August;

(4) A handler, other than a cooperative association, operating a pool supply plant may divert thereform for his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month;

(5) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(7) For purposes of location adjustments pursuant to §§ 1125.52 and 1125.75, milk diverted to a nonpool plant or pursuant to § 1125.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

§ 1125.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1125.40(b)(1) from any source other than producers, handlers described in § 1125.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1125.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1125.40(b)(1), and products produced at the plant during the same month) from any source wihich are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1125.40(b)(1)) for which the handler fails to establish a disposition.

§ 1125.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 18 percent butterfat (including those which are sterilized or aseptically packaged), filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1125.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 18 percent or more butterfat, with or without the addition of other ingredients.

§ 1125.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1125.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act".

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

§ 1125.19 Product prices

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

Handler Reports

§ 1125.30 Reports of receipts and utilization.

On or before the 9th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1125.9(c);

(iii) Fluid milk products and bulk fluid cream products received from other pool plants showing filled milk separately;

(iv) Other source milk showing filled milk separately; and

(v) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1125.40(b)(1).

(2) The utilization of all skim milk and butterfat required to be reported, including separate statements of quantities in route disposition inside and outside the marketing area.

(b) Each producer-handler shall report:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products and fluid cream products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer.

(2) As specified in paragraph (a)(2) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1125.9 (b) or (c):

(1) The quantities of skim milk and butterfat received from producers;

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(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1125.9(b); and

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1125.9(c).

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraphs (a) (1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include separate statements, respectively, showing the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area as Class I milk and the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area.

(e) Each handler who operates an other order plant with route disposition of fluid milk products in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

§ 1125.31 Payroll reports.

On or before the 22nd day of each month handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to §1125.9 (b) or (c) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deduction or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1125.76(a) to be considered in the computation of his obligation pursuant to § 1125.76 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1125.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under §§ 1125.30 and 1125.31 as may be requested by the market administrator with respect to milk and milk products (including filled milk) handled by him.

Classification of Milk

§ 1125.40 Classes of utilization.

Except as provided in § 1125.42 all skim milk and butterfat required to be reported by a handler pursuant to § 1125.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged inventory of fluid milk products at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more non-milk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In all bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment, or in producer milk diverted to a commercial food processing establishment in Pacific County, Washington, subject to the conditions of § 1125.42(e), (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section.

(iv) Plastic cream, frozen cream and anhydrous milkfat.

(v) Custards, puddings, and pancake mixes;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers; and

(vii) Any milk or milk products sterilized and packaged in hermetically sealed metal or glass containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated of condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1125.15; and

(6) In shrinkage assigned pursuant to § 1125.41(a) to the receipts specified in § 1125.41(a)(2) and in shrinkage specified in §§ 1125.41 (b) and (c).

§ 1125.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1125.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to a nonpool plant and milk received from a handler described in § 1125.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described § 1125.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3), except that if the operator of the plant or establishment to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operator of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section.

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1125.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of a plant or a commercial food processing establishment pursuant to § 1125.40(b)(3) to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1125.42 Classification of transfers and diversions.

(a) *Transfer to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1125.44(a)(13) and the corresponding step of § 1125.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1125.44(a)(8) or the corresponding step § 1125.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1125.44(a) (12) or (13) or the corresponding steps of § 1125.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and buld fluid cream products, respectively, that are in the same category as described in paragraphs (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk from shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1125.40.

(c) *Transfers and diversions of producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat,

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respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the condition described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1125.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence;

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers and diversions to a commercial food processing establishment.* Skim milk and butterfat transferred or diverted to a commercial food processing establishment shall be classified:

(1) Subject to the provisions of § 1125.13(c) and, except as provided in paragraph (e)(2) of this section, as Class II milk if diverted pursuant to § 1125.40(b)(3); or

(2) Transfers or diversions shall be classified as Class I milk unless the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification.

§ 1125.43 General classification rules.

In determining the classification of producer milk pursuant to § 1125.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to §1125.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1125.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1125.40, 1125.41, and 1125.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equvalent to the nonfat milk solids contained in such product plus all of the water originally associated with solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1125.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1125.40 through 1125.45, butterfat in skim milk, either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.060 percent unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1125.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1125.9(a) for each of his pool plants separately and of each handler described in § 1125.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1125.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(8)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(5) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1125.40(b)(1) that were received in packaged from other plants (other than from a producer-handler plant), but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1125.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1125.40(b) but not in excess of the pounds of skim milk remaining in Class II;

(8) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1125.40(b)(1) that was not subtracted pursuant to paragraphs (a)(5), (6), and (7) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1125.12(b)(5);

(9) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (8)(v) of this section for which the handler requests a classification other than Class I, but not in excess of pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), and (9)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(9)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(8)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentages that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(8)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(10) Subtract from the pounds of skim milk remaining in each class, in series, beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1125.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a) (4), (6), and (8)(i) of this section;

(11) Add the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(12) Subject to the provisions of paragraphs (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler, with the quantity pro rated, to Class II and Class III combined being subtracted first from Class III and then

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from Class II, the pounds of skim milk receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), (9)(i), and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this paragraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtacted pursuant to paragraphs (a) (8)(vi) and (9)(iii) of this section;

(i) Subject to the provisions of paragraphs(a)(13) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1125.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(13)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(13)(ii) of this section should the computations pursuant to paragraph (a)(13) (i) and (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(13) (ii) of this section, should the computations pursuant to paragraph (a)(13) (i) and (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1125.42(a); and

(15) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(15) of this section and the corresponding step of paragraph (b) of this section.

§ 1125.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1125.44(a)(13) and the corresponding step of § 1125.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1125.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1125.50 Class prices.

Subject to the provisions of § 1125.52, the class prices for the month, per hundredweight of milk containing 3.5 percent butterfat, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraphs (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1125.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price pursuant to § 1125.51 by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraphs (c) (1) and (2) of this section subtract 48 cents, and round to the nearest cent.

§ 1125.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent— per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92–score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1125.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1125.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Mulitply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1125.52 Plant location adjustment for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include the Washington counties of King, Kitsap, Pierce, and Snohomish;

(2) Zone 2 shall include:

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(i) The Idaho counties of Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone;

(ii) The Oregon counties of Benton, Clackamas, Columbia, Hood River, Linn, Marion, Multnomah, Polk, Wasco, Washington, and Yamhill; and

(iii) The Washington counties of Clark, Cowlitz, Ferry, Lincoln, Pend Oreille, Skamania, Spokane, Stevens, Wahkiakum, and Whitman;

(3) Zone 3 shall include the Washington counties of Island, Mason, Skagit, and Thurston.

(4) Zone 4 shall include the Washington counties of Grays Harbor, Lewis, Pacific, and Whatcom; and

(5) Zone 5 shall include:

(i) The Idaho counties of Lewis and Nez Perce;

(ii) The Oregon counties of Gilliam, Morrow, Sherman, and Umatilla; and

(iii) The Washington counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Okanogan, Walla Walla, and Yakima;

(6) Zone 6 shall include the Washington counties of Clallam, Jefferson, and San Juan.

(b) For milk received at a plant from producers and which is classified as Class I milk, the price specified in § 1125.50(a) shall be adjusted by the amount stated in paragraphs (b) (1) and (2) of this section for the location of such plant:

(1) For a plant located within one of the zones described in paragraphs (a) (1) through (6) of this section, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	Plus 10 cents.
Zone 3	Minus 4 cents.
Zone 4	Minus 6 cents.
Zone 5	Minus 10 cents.
Zone 6	Minus 16 cents.

(2) For a plant located outside of one of the zones described in paragraph (a) (1) through (6) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof by shortest hard-surfaced highway distance that the plant is located from the nearer of the County Courthouse in Spokane or the County-City Building in Seattle;

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the price when adjusted for location shall not be less than the Class III price.

(d) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I, the price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant determined by the market administrator as follows:

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computation pursuant to § 1125.44 (a)(13) and (b) the pounds of packaged fluid milk products from other pool plants;

(2) Subtract the pounds of bulk fluid milk products received at the transferee-plant from the following sources:

(i) Producers;

(ii) Handlers described in § 1125.9(c); and

(iii) Pool plants at which the same or a higher Class I price applies.

(3) Assign any pounds remaining to transferor-plants in sequence beginning with the plant at which the least adjustment would apply; and

(4) Multiply the pounds so computed for each transferor-plant by the difference in the Class I prices applicable at the transferee-plant and transferor-plant.

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1125.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the pricing constituent that is required.

Uniform Price

§ 1125.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1125.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1125.44(c), by the applicable class prices (adjusted pursuant to § 1125.52) and add together the resulting amount;

(b) Add the amount obtained from multiplying the pounds of coverage deducted from each class pursuant to § 1125.44(a)(15) and the corresponding step of § 1125.44(b) by the class prices applicable at the location of the pool plants, as adjusted by the butterfat differential specified in § 1125.74. In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, add an amount equal to the value of overage allocated to the transferred quantity at the class price applicable at the pool plant;

(c) Add the amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1125.44(a)(8) (i) through (iv) and (vii) and the corresponding step of § 1125.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1125.44(a)(8) (v) and (vi) and the corresponding step of § 1125.44(b);

(e) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price adjusted pursuant to § 1125.52, or the Class II price as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1125.44(a)(10) and the corresponding step of § 1125.44(b); and

(f) Add the amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1125.44(a)(12) and the corresponding step of § 1125.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order; and

(g) Add or subtract as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1125.61 Computation of uniform price.

For each month the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1125.60 for all handlers who filed the reports prescribed by § 1125.30 for the month and who made the payments pursuant to § 1125.71 for the preceding month;

(b) Add the amount equal to the sum of the deductions for location adjustments computed pursuant to § 1125.75;

(c) Add the amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1125.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1125.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

Payments for milk

§ 1125.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1125.71 and 1125.76 and out of which he shall make all payments to handlers pursuant to § 1125.72. However, the market administrator shall offset the payment due to a handler for such fund against payments due from such handler.

§ 1125.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of month during which the skim milk and butterfat were received each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the total amount specified in paragraph (a)(2) of this section:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1125.60; and

(ii) For a cooperative association handler, the amount due from other handlers pursuant to § 1125.73(d) but without adjustment for butterfat;

(2) The sum of:

(i) The value of milk received by such handler from producers at the applicable uniform price pursuant to § 1125.73(a)(2) but without adjustment for butterfat;

(ii) The amount to be paid to cooperative associations pursuant to § 1125.73(d) but without adjustment for butterfat; and

(iii) The value at the uniform price for all skim milk and butterfat applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1125.60(f); and

(b) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1125.7(c) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (b)(1) of this section of Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1125.72 Payments from the producer-settlement fund.

On or before the 18th day after the end of the month during which the skim milk and butterfat were received, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1125.71(a)(2) exceeds the amount computed pursuant to § 1125.71(a)(1), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1125.71(a), 1125.77, 1125.85, and 1125.86. However, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1125.73 Payments to producers and to cooperative associations.

(a) Each handler shall make payment to each producer for milk received from such producer during the month:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, at not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer; and

(2) On or before the 19th day after the end of each month for milk received from such producers during such month:

(i) At not less than the uniform price for the quantity of milk received, adjusted by the butterfat differential computed pursuant to § 1125.74 and by any location adjustments applicable under § 1125.75;

(ii) Minus payments made pursuant to paragraph (a)(1) of this section. However, if by such date such handler has not received full payment for such month pursuant to § 1125.72, he shall not be deemed to be in violation of this paragraph if he reduced uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator, however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative

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association qualified under § 1125.16, or its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph shall be made on or before 2 days prior to the dates specified in paragraph (a) of this section.

(c) Each handler shall pay to each cooperative association or its duly authorized agent which operates a pool plant for skim milk and butterfat received from such plant:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for skim milk and butterfat received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class pursuant to § 1125.42(a) by the class price adjusted by the butterfat differential and taking into account any location adjustments as provided by § 1125.52 applicable at the pool plant of the cooperative association or its agent, minus payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler who received milk for which a cooperative association is the handler pursuant to § 1125.9(c) shall pay such cooperative association for such milk received:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for such milk received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for the milk received at not less than the uniform price for all milk adjusted pursuant to §§1125.74 and 1125.75(b), minus payments made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler, on or before the 19th day of each month shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate at which payment to the producer is required under the provisions of this section;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum price provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) In making payments to a cooperative association in aggregate pursuant to this section, each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (f) of this section.

§ 1125.74 Producer butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month.

§ 1125.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1125.73(a) subject to the application of § 1125.13(c)(6) deduction may be made per hundredweight of milk received from producers at respective plant locations at the same rate as specified for Class I milk set forth in § 1125.52.

(b) In making payments to a cooperative association pursuant to § 1125.73(d) deductions may be made at the rates specified for Class I milk in § 1125.52 for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1125.71(a) and 1125.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1125.52 for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1125.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1125.30(d) and 11.2531(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1125.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant, or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order is so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or another order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which an equivalent amount of milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1125.60(f) and a credit in the amount specified in § 1125.71(a)(2)(iii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in paragraph (a)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1125.30(d) and 1125.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1125.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1125.74, and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(a) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition of Class I milk within the marketing area;

(2) Deduct the respective amount of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) [Reserved]

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price applicable at the location of the nonpool plant (but not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1125.77 Adjustments of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

Administrative Assessment and Marketing Service Deduction

§ 1125.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1125.44(a) (8) and (12) and the corresponding steps of § 1125.44(b), except such other source milk on which no handler obligation applies pursuant to § 1125.60(f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1125.76(b)(2(ii).

§ 1125.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1125.73(a)(2), shall make a deduction of 5 cents per hundredweight of milk or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association.

(2) [Reserved]

(3) All milk received at a plant operated by a cooperative association from producers for whom the marketing services set forth below in this subparagraph are not being performed by the cooperative association as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 16th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers, and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer;

(1) Who is a member of, or who has given written authorization for the rendering of marketing service and the taking of deduction therefore to, a cooperative association;

(2) Whose milk is received at a plant not operated by such association; and

(3) For whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1125.73(a)(2) the amount per hundredweight on milk authorized by such producer and shall pay, on or before the 18th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

Signed at Washington, D.C., on April 28, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-11787 Filed 5-3-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 1017

Identification and Protection of Unclassified Controlled Nuclear Information

AGENCY: Department of Energy.

ACTION: Proposed rule; Extension of the comment period.

SUMMARY: The Department of Energy (DOE) hereby extends the comment period thirty days from the date of this publication on proposed rules regarding

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identification and protection of unclassified controlled nuclear information. This action is in response to a number of requests that an extension be granted to provide additional time to review the proposed rule of April 1, 1983 (48 FR 13988), and to develop comments for admission to DOE.

DATE: Comments in connection with the proposed rule must be received on or before June 3, 1983.

ADDRESSES: Written comments should be sent to the Assistant Secretary for Defense Programs, U.S. Department of Energy, Room 4A–038, Washington, DC 20585, Attention: Ms. Trisha Dedik Chico. Six copies should be submitted. Copies of comments received may be examined at the DOE Reading Room, 1E–190, James Forrestal Building, 1000 Independence Ave., S.W., Washington, DC 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Ms. Trisha Dedik Chico, Office of Policy, Planning, and Coordination, DP–3, Office of the Assistant Secretary for Defense Programs, Room 4B–014, U.S. Department of Energy, Washington, DC 20585, (202) 252–1870;

Ms. Amy Shimamura, Office of the Assistant General Counsel for International Development and Defense Programs, GC–32, Room 6B–256, U.S. Department of Energy, Washington, DC 20585, (202) 252–6975.

Issued in Washington, DC, May 2, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83–12131 Filed 5–3–83; 10:53 am]

BILLING CODE 6450–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 304 and 309

Disclosure of Deposit Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation (the "FDIC") invites comment on a proposal to discontinue confidential treatment of information filed by insured banks with the FDIC on the size and number of the banks' deposit accounts. The FDIC has withheld such information from public access on the belief that the reporting bank could possibly suffer financial harm from the disclosure of such information to an existing or potential competing institution. It appears that confidential treatment is no longer needed to protect the reporting banks, because the general and highly summarized data which is now reported no longer contains the degree of detail that a competitor could act on.

The FDIC would also make several related technical changes which would not effect the substance of the regulations.

DATE: Comments should be submitted by June 3, 1983.

ADDRESSES: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: William P. Carley, Planning and Program Development Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; telephone 202/389–4141.

SUPPLEMENTARY INFORMATION: Section 309.4 of the FDIC's regulations identifies information available to the public upon request. Paragraph (e)(2) of § 309.4 states that the Summary of Accounts and Deposits filed by insured banks will be made available at the discretion of the FDIC, except that information on the size and number of accounts is not available. The confidentiality afforded the number and size of accounts was added to the regulations at a time when total balances and number of accounts were reported by two size breaks for six classifications of deposit accounts held by commercial banks and three classifications by mutual savings banks. The FDIC was of the opinion that the information on the size and number on these several deposit classifications was sufficiently detailed to constitute proprietary information of the reporting banks. Accordingly, the FDIC decided to withhold this information from public disclosure.

In 1982, the FDIC greatly reduced the required information pertaining to size and number of accounts by eliminating the requirement to provide such information for each of the several types of deposit accounts. Instead, beginning in 1982, each June 30 the banks report a single aggregate total for all deposit accounts within the banking entity with balances exceeding $100,000 and the number of such accounts and a single aggregate total of deposit accounts with balances of less than $100,000. By replacing the requirement for detailed information on the various deposit categories with the requirement to report highly summarized data, it now appears that the reported information no longer represents proprietary financial data. Accordingly, the FDIC proposes to remove from paragraph (e)(2) of § 309.4 the provision that the size and number of accounts are not available.

Several technical amendments to the FDIC's regulations are also proposed. Detailed information on the number and size of accounts had been collected as part of the Summary of Accounts and Deposits reports filed by banks. Beginning in 1982, the information on size and number of accounts was removed from the Summary of Accounts and Deposits report and replaced by a collection of the more generalized information described in the preceding paragraph as part of the June Report of Condition filed by each insured bank. In connection with this change in the way information is collected, the separate Summary of Accounts and Deposits forms that had been used to collect information from mutual banks and commercial banks were combined into a single form beginning with June 1982, at which time the form was retitled Summary of Deposits. These changes have not been reflected in the descriptive material contained in the FDIC's regulations. Accordingly, several technical changes would be made to the regulations as follows:

Paragraph (q) of § 304.3, which defines the contents of the Summary of Accounts and Deposits reporting form used by commercial banks, would be changed to remove statements to the effect that the report contains information pertaining to the number and size of accounts. Also, this paragraph would be changed to make it applicable to the single report that is now used by both commercial and mutual savings banks. Additionally, paragraph (r) to § 304.3, which describes the contents of the Summary of Accounts and Deposits form filed by mutual banks, would be removed.

Paragraphs (e) and (e)(2) of § 309.4, which describe how to obtain information contained in the Summary of Accounts and Deposits, would be changed to reflect recent organizational changes within the FDIC and the change in the title from Summary of Accounts and Deposits to Summary of Deposits.

Regulatory Analysis

For the reasons stated in the preamble, the Board of Directors of the FDIC hereby certifies that if this proposed regulation were to be promulgated in final form, it would not have a significant economic impact on a substantial number of small entities. For the same reasons, the Board has determined that a small bank impact statement, as otherwise required by the FDIC's statement of policy entitled "Development and Review of FDIC Rules and Regulations," is not appropriate in these circumstances.

List of Subjects

12 CFR Part 304

Administrative practices and procedure, Bank deposit insurance, Banks, Banking, Foreign banks, Banking, Reporting and recordkeeping requirements.

12 CFR Part 309

Authority delegations, Disclosure requirements, Freedom of information, Privacy.

For the reasons stated in this preamble, the FDIC proposes to amend chapter III, title 12 of the Code of Federal Regulations as follows:

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

1. The authority citation for Part 304 reads as follows:

Authority: 12 U.S.C. 1819.

2. Section 304.3 is amended by removing paragraph (r), redesignating paragraphs (s) through (aa) as paragraphs (r) through (z), and revising paragraph (q) to read as follows:

§ 304.3 Forms and instructions.

* * * * *

(q) *Form 8020/05: Summary of Deposits (Commercial and Mutual Savings Banks).* Form 8020/05 is a report on the amount of deposits in various types of categories for each authorized office of an insured bank with branches; unit banks do not report. Reports as of June 30 of each year must be submitted no later than the immediately succeeding August 1. Upon written request to the Assistant Director, Division of Accounting and Corporate Services, Management Information Services Branch, the Assistant Director may extend the deadline of the reporting bank for submitting the forms to no later than the immediately succeeding September 30.

* * * * *

PART 309—DISCLOSURE OF INFORMATION

3. The authority citation for Part 309 reads as follows:

Authority: Section 2 (9 "Seventh" and "Tenth"), Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); 5 U.S.C 552.

4. Section 309.4 is amended by revising paragraphs (e) introductory text, (e)(2) and footnote 2 to read as follows:

§ 309.4 Publicly available information.

* * * * *

(e) At the Data Base Section, Management Information Services Branch, Division of Accounting and Corporate Services, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429:

* * * * *

(2) At the FDIC's discretion, Summary of Deposits filed by insured banks.[2]

* * * * *

[2] Summary of Deposits reports are described at 12 CFR 304.3(q).

By order of the Board of Directors, May 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–12061 Filed 5–3–83; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 821 0100]

The Coca-Cola Co.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a major soft drink manufacturer to timely divest to a Commission-approved buyer, Doric Foods Corporation. The company would be barred from acquiring any concern engaged in the manufacture of drinks, punches and ades, without prior Commission approval for a period of ten years.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS–6, Paul R. Zamolo, Washington, D.C. 20580. (202) 724–1256.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Soft drinks.

In the matter of The Coca-Cola Company, a corporation; file No. 821 0100; Agreement containing consent order to divest and other relief.

The Federal Trade Commission, having initiated an investigation of the proposed acquisition by The Coca-Cola Company, a corporation, of Associated Coca-Cola Bottling Co., Inc. ("Associated"), a corporation, and its subsidiaries, including Doric Foods Corporation, and it now appearing that The Coca-Cola Company, hereinafter sometimes referred to as Coca-Cola, is willing to enter into an agreement containing an Order to Divest and Other Relief:

It is hereby agreed by and between The Coca-Cola Company, a corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent The Coca-Cola Company is a Delaware corporation with its principal offices located at 310 North Avenue, Atlanta, Georgia 30313.

2. Coca-Cola admits all of the jurisdictional facts set forth in the draft of the complaint here attached.

3. Coca-Cola waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Coca-Cola in which event it will take such action as it

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may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Coca-Cola that the law has been violated as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Coca-Cola, (1) issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following Order to Divest and Other Relief in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to Divest and Other Relief shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Coca-Cola's address as stated in this agreement shall constitute service. Coca-Cola waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order as been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. This agreement is conditioned in its entirety on the consummation of the acquisition by Coca-Cola of Associated Coca-Cola Bottling Co., Inc. If for any reason such acquisition shall be cancelled and not occur this agreement shall thereafter be of no effect.

9. Coca-Cola agrees that nothing contained in this agreement shall in any way limit the Commission's ability to investigate and, if appropriate, challenge any other aspects of Coca-Cola's acquisition of Associated, including but not limited to Coca-Cola's acquisition of Associated's carbonated soft drink bottling business.

Order to Divest and Other Relief

I

As used in this order:

(A) "Coca-Cola" means The Coca-Cola Company, a Delaware corporation with its principal offices located at 310 North Avenue, Atlanta, Georgia 30313, as well as its directors, officers, agents and employees, and its divisions, subsidiaries, controlled affiliates, successors and assigns.

(B) "Doric" means Doric Foods Corporation, a Florida corporation and wholly owned subsidiary of Associated Coca-Cola Bottling Co., Inc., with its principal offices at Robie Avenue, P.O. Box 986, Mount Dora, Florida 32757, as well as its directors, officers, agents and employees, and its divisions, subsidiaries, successors and assigns.

(C) "Drinks, punches and ades" means non-carbonated, ready to serve, naturally or artificially flavored fruit drinks, fruit punches or fruit ades which contain 50% or less fruit juice and are customarily sold under refrigeration to the consumer.

II

It is ordered, That within one year from the date on which this Order becomes final, Coca-Cola shall divest itself absolutely and in good faith of all of its right, title and interest in Doric including any additions to Doric that may have occurred since its acquisition by Coca-Cola. Divestiture shall be made only to an acquiror approved in advance by the Federal Trade Commission. The purpose of the divestiture required by this paragraph is to assure the continued operation of Doric as a drink, punch and ade manufacturer. Pending divestiture, Coca-Cola shall take all measures necessary to maintain Doric in its present condition and prevent any deterioration except for normal wear and tear of any of the assets to be divested which may impair their present operating abilities or market value.

III

It is further ordered, That for a period of ten (10) years from the date on which this Order becomes final, Coca-Cola shall not acquire, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock or assets of, or any other interest in, any individual, firm, partnership, corporation or other legal or business entity which is engaged directly or indirectly in the manufacture and sale of drinks, punches and ades.

IV

It is further ordered, That within ninety (90) days from the date on which this Order becomes final and every ninety (90) days thereafter until the divestiture required by paragraph II of this Order is completed, Coca-Cola shall submit to the Federal Trade Commission a written report setting forth in detail the manner and form in which Coca-Cola intends to comply, is complying, and has complied with the terms of this Order and such additional information relating thereto as may from time to time be required. All compliance reports shall include, among other things that may be required, a summary of all contacts and negotiations with potential acquirors, the identity of all such potential acquirors and copies of all documents reflecting communications to and from such potential acquirors. In addition, upon written request of the staff of the Federal Trade Commission, Coca-Cola shall submit such reports in writing with respect to the other requirements of this Order.

V

It is further ordered, That Coca-Cola notify the Federal Trade Commission at least thirty (30) days prior to any proposed corporate changes, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance with the obligations arising out of this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement containing a proposed consent order from The Coca-Cola Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation in this matter concerned the May 28, 1982, tender offer by The Coca-Cola Company ("Coca-Cola") for all of the shares of Associated Coca-Cola Bottling Co., Inc., and its wholly-owned subsidiary, Doric Foods Corporation ("Doric"). Coca-Cola and Doric are the two leading competitors in the chilled fruit drink business.

Since the proposed consent order was negotiated early during the investigational stage of the proceedings, the complaint proposed by Commission attorneys was not issued. That complaint charges that Coca-Cola's acquisition of Doric violates Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act because the acquisition may substantially lessen competition between the two former competitors or tend to create a monopoly.

The proposed complaint does not identify any single product market as the appropriate unit of analysis for antitrust purposes. While the Commission's normal practice is to identify the relevant market in the complaint, in some cases an early settlement may preclude the investigation that would be required to finally resolve questions of market definition. In this case, there were sufficient competitive concerns to raise questions about the acquisition however the relevant market was defined. Thus, while the remedial provisions of the proposed order are narrowly tailored ones applying only to future acquisitions of makers of "drinks, punches and ades" (as those terms are defined in the order), in examining the acquisition in this case the Commission also considered the possible effects on broader product markets.

The proposed order provides that Coca-Cola must: (1) divest Doric to a purchaser approved by the Commission within one year; (2) refrain for ten years from acquiring any manufacturer of drinks, punches, and ades without prior Commission approval; (3) file periodic verified written compliance reports setting forth its compliance with the provisions of the order; and (4) provide the Commission at least 30 days notice of any changes in the corporation which may affect its compliance obligations arising from the order.

The proposed order, by requiring Coca-Cola to divest Doric to a Commission-approved purchaser, should ameliorate any possible anticompetitive effects resulting from the acquisition of Doric. Before the acquisition, Doric and Coca-Cola were the two largest competitors in the chilled fruit drink business. The proposed order is intended to assure that Doric remains a viable, independent competitor, and to restore competition to its pre-acquisition level.

The proposed order also prohibits Coca-Cola from acquiring, without prior Commission approval, any manufacturer of drinks, punches and ades. For the reasons given above, this should not be construed as taking any position as to whether "drinks, punches and ades" (as defined in the order) would constitute a relevant product market for purposes of antitrust analysis. The purpose of this definition is simply to identify those acquisitions which require prior approval by the Commission. This prior approval requirement will expire ten years after the order becomes final.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

Separate Statement of Commissioner George W. Douglas in the Matter of Coca-Cola, File No. 821 0100 [1]

In resolving this matter the Commission faced three choices: request the staff to complete its investigation and only then assess the competitive effects of the acquisition, reject the prior approval provision in the consent because of a lack of evidence and close the investigation following divestiture of Doric, or enter the existing complaint and consent agreement. I would have preferred either of the first two alternatives. Unfortunately, a majority of the Commission has chosen the one course that is likely to create serious problems while solving none.

While I do not question the preferred divestiture, I have three reservations concerning the wisdom of accepting the existing complaint and consent agreement. First, the complaint states only that the respondent's acquisition of Associated Coca-Cola Bottling Co. "may have had the effect of substantially lessening competition or tending to create a monopoly in a line of commerce in a section of the country." This approach, which does not define a relevant market or specify the precise violation, represents a significant and inappropriate departure from Commission procedures and suggests that the Commission will hold itself to a separate standard, divorced from legal or economic justification, for drawing up complaints that accompany consent agreements.

The only apparent reason for relying on the statutory language of Section 7 of the Clayton Act in this complaint is that the Commission has neither a sufficient reason to believe the respondent violated the antitrust laws in any market, however defined, nor the necessary evidence to support such a charge. Here, prior to issuance of a second request for information, the respondent offered to divest the subsidiary that posed the most obvious antitrust concern and to sign a consent agreement if the staff would end its investigation. Both the staff and respondent sought to avoid the costs associated with a lengthy investigation, and so the consent was accepted. While the staff has an obligation to conduct its investigations expeditiously so as to conserve Commission resources and avoid undue costs for respondents, this concern does not relieve the staff of its obligation to provide legal and economic justification for the agreed-upon relief.[2]

Attempting to issue a complaint without this sound legal and economic basis, as is being done in this case, raises a number of troubling issues that the Commission simply need not face.[3] If divestiture would resolve the antitrust concerns posed by this acquisition, the Commission should direct the staff to close its investigation following respondent's divestiture of Doric. On the other hand, if the Commission has reason to believe that completion of the investigation would support a specific complaint and associated relief, the staff should be instructed to complete its investigation.[4]

A second concern with the decision taken today involves the inherent inconsistency of the majority's approach. Although the complaint lacks any market definition, the prior approval provision in the consent order is limited to acquisitions of firms engaged in the manufacture of "drinks, punches and ades," defined as chilled, ready-to-serve, non-carbonated, naturally or artificially flavored drinks with between 20–50 percent fruit juice content. This product grouping is so contrived and devoid of empirical content that the Commission found it necessary to explain in its "Analysis to Aid Public Comment" that it did not represent a relevant market finding and should not be so construed. The "Analysis," however, does not attempt to reconcile the obvious inconsistency between the extremely narrow product group specified in the consent order and the extraordinarily broad violation detailed in the complaint.

The third and perhaps most serious concern raised by the majority's decision involves the relationship between the ancillary relief provision and the nature of the purported violation. The preliminary evidence gathered in this matter provides no justification or support for the prior approval provision. Normally, relief provisions are imposed to correct the violations identified in the complaint. Here, however, the complaint is silent, making it impossible to evaluate either relevant public interest considerations or the appropriateness of the relief. Based on the available evidence, there is nothing to suggest that the respondent engaged in, attempted to engage in, or intended to engage in any anticompetitive activity in the identified market. When one asks, "What did respondent do that requires the prior

[1] Chairman James C. Miller III joins this dissenting statement.

[2] The Commission's unease with its ultimate choice is suggested by the amount of time consumed in the consideration of this matter.

[3] In deciding whether to accept a consent, the Commission need not fully answer every possible question that could arise in litigation. At the least, however, we need a coherent theory of the violation (including a plausible market definition), and significant evidence that a violation has occurred and that the remedy is appropriate. This case does not meet these minimum requirements.

[4] Indeed, the limited evidence gathered in this and other related matters suggests that the relief provisions in the existing consent order may not go far enough if, in fact, there is a violation.

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approval provision?", neither the complaint nor staff's investigation provides an answer.

Because antitrust enforcement under Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act is intended to be remedied rather than punitive,[1] I find the tandem combination of a vague complaint and an unsupported prior approval provision to be extremely troubling in its ramifications both for the public and the Commission in its future actions. The majority's decision would seem to establish a dangerous precedent by allowing the Commission to draw up vague, overly-broad charges and then permit or coerce respondents to agree to unrelated and unjustified relief. Clearly, no matter how a consent order is obtained, the Commission should not be relieved of its duties to specify the actual nature of the violation and to gather sufficient evidence to support a finding that there is reason to believe that a violation occurred. Without this foundation, the Commission would be unable to fulfill its obligation to impose the appropriate relief.

Thus, I strongly dissent from the majority's decision. The Commission engaged in a lengthy and protracted debate in bringing this matter to a conclusion, and the unfortunate outcome has all the appearances of a product of compromise and accommodation that is devoid of sound legal or economic theory. Ironically, by taking this purported path of least resistance, the majority has succeeded only in arriving at a decision that is internally inconsistent, unsupported by the evidence, and at odds with established and respected policies and procedures. Unless quickly repudiated, this decision may haunt us for years to come.

[FR Doc. 83-11874 Filed 5-3-83; 8:45 am]
BILLING CODE 6750-01-M

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16 CFR Part 444

Credit Practices Trade Regulation Rule; Oral Presentation and Availability of Staff Documents

AGENCY: Federal Trade Commission.

ACTION: Oral presentation and availability of staff documents.

SUMMARY: The Federal Trade Commission has decided to afford interested parties the opportunity to make oral presentations before the Commission. Twelve prior participants have been invited to appear before the Commission and other prior participants are invited to request an opportunity to address the Commission. The participants in this meeting will be limited to persons who have participated in earlier stages of this proceeding.

The Federal Trade Commission has placed on the rulemaking record for the proposed Trade Regulation Rule concerning Credit Practices the final recommendations of the rulemaking staff and the Director of the Bureau of Consumer Protection and the final recommendations of the Bureau of Economics. A staff summary of the comments filed by the public on the reports of the staff and the presiding officer is also on the rulemaking record.

DATES: Oral presentations before the Commission will be heard at the Commission's open meeting on June 7, 1983, at 10 a.m. Requests to appear at the Commission's open meeting must be received by May 6, 1983. Summaries of presentations must be received no later than May 27, 1983.

ADDRESSES: Requests to make oral presentations and written summaries of oral presentations should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

The meeting will be held in Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christopher Keller, (202) 724–1580, or Norman Oliver, (202) 724–1183; Division of Credit Practices, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(h) of the Commission's Rules of Practice, comments were invited from the public on the final reports of the staff and the presiding officer in the rulemaking proceeding concerning the proposed Trade Regulation Rule on Credit Practices, and interested parties who had previously participated in the proceeding were invited to submit requests to participate in oral presentations (45 FR 56070; August 22, 1980). Comments and requests were received until January 16, 1981 (45 FR 85076; December 24, 1980).

All comments received were placed on the rulemaking record and the rulemaking staff prepared a summary of those comments. That summary is available for public inspection on the rulemaking record in this proceeding.

The Federal Trade Commission has directed that the final recommendations of the rulemaking staff and the Director of the Bureau of Consumer Protection submitted to the Commission after the conclusion of the post-record comment period specified in §1.13(h) of the Commission's Rules of Practice be placed on the rulemaking record in this proceeding for public inspection.

The Federal Trade Commission has also placed on the rulemaking record memoranda incorporating the final recommendations of the Bureau of Economics.

The Federal Trade Commission has decided to allow interested parties to make oral presentations and to invite further requests to make oral presentations. Participation in this meeting before the Commission shall be restricted to persons who have participated in the proceeding to date. Participants will be permitted no more than thirty minutes to address comments to the Commission. The Commission reserves the right to limit the number of persons who may participate, as well as the amount of time allotted for comments, should such a need develop.

The prior participants in the proceeding who have been invited to appear include: (1) the American Bankers Association, Consumer Bankers Association, California Bankers Association, and Independent Bankers Association of America; (2) American Financial Service Association; (3) National Consumer Law Center; (4) National Automobile Dealers Association; (5) Professor George J. Wallace, Rutgers School of law; (6) Credit Union National Association; (7) The Legal Aid Society of Cleveland; (8) New Orleans Legal Assistance Corp.; (9) Consumer Protection Division, Department of the Attorney General, Commonwealth of Massachusetts; (10) Professor Steven Lubet, Northwestern School of Law; (11) American Retail Federation and National Home Furnishing Association; and (12) California Consumer Finance Association.

The Commission has also decided to further extend an opportunity for prior participants to request to participate in the open meeting for oral presentations. Any party who has participated in this proceeding may submit to the Secretary, no later than May 6, 1983, a request to appear before the Commission and make an oral presentation.

Persons who make oral presentations to the Commission should submit a written summary of their presentation, not to exceed 25 pages, to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580 not later than May 27, 1983. If feasible and not burdensome, persons filing such summaries should submit 8 copies.

No additional written comments may be submitted to the Commission. Oral presentations at the meeting must be restricted to the evidence already in the rulemaking record in this proceeding.

The meeting before the Commission will commence at 10 a.m., on June 7, 1983, in Room 432, Federal Trade Commission, 6th Street and

[1] *See United States v. E.I. du Pont de Nemours & Co.*, 366 U.S. 316, 326 (1961).

Pennsylvania Avenue, NW., Washington, D.C. 20580.

Emily H. Rock,
Secretary.

[FR Doc. 83-11987 Filed 5-3-83; 8:45 am]
BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations Under Commodity Exchange Act; Request for Public Comment in Conjunction With Similar Action by Securities Exchange Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for Comments.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is seeking public comment on ways to streamline or simplify operational requirements prescribed by the Commission for commodity professionals that are also registered with the Securities and Exchange Commission ("SEC") and, as such, must meet similar requirements imposed by the SEC. In addition, the Commission is seeking comment on ways to improve the coordination of commodity self-regulatory organizations with securities industry self-regulators.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Attention: Office of the Secretariat. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Jeri E. Ruscoll, Esquire, Office of the General Counsel. Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Commission and SEC have cooperated in the past to develop programs designed to reduce the burdens imposed on those industry professionals registered with both agencies. For example, in 1979, the Commission allowed futures commission merchants, which are also registered with the SEC as securities brokers or dealers, to comply with the Commission's financial reporting requirements by filing copies of the SEC's FOCUS Report, Part II, in lieu of the Commission's Form 1–FR. [17 CFR 1.10, 1.12, 1.16, 1.18, 1.52].

Continuing dialogue beween the Commission and SEC has led to an effort to consider ways to streamline or simplify other requirements imposed by each agency that may be overlapping or redundant.

The Commission hereby invites interested persons, particularly those futures commission merchants, associated persons, commodity trading advisors and commodity pool operators that are also registered with the SEC in connection with their securities activities, to submit comments and suggestions on suitable ways to achieve this objective. The Commission is especially interested in receiving comments concerning testing programs, disclosure rules, recordkeeping requirements, reporting duties, registration procedures, and financial (e.g., capital, segregation) requirements.

List of Subjects in 17 CFR Part 1

Commodities exchanges, Reporting and recordkeeping requirements.

Issued in Washington, D.C. on April 28, 1983.

Jane K. Stuckey,
Secretary to the Commission.

[FR Doc. 83-11871 Filed 5-3-83; 8:45 am]
BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-19706, File No. 4-254]

Coordination of Securities and Commodities Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: The SEC, in conjunction with similar action by the CFTC, is seeking public comment on how regulatory obligations imposed by either the SEC or the CFTC upon persons and organizations subject to regulation by both Commissions might, through cooperative action by the Commissions, be coordinated or streamlined to eliminate wasteful overlap, duplication of effort or unnecessary burden on regulated entities. Suggestions for coordinating the efforts of securities and commodities self-regulatory organizations are also requested.

DATE: Comments should be submitted on or before July 5, 1983.

ADDRESSES: Interested persons should submit three copies of their written data, views and arguments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and shall refer to File No. 4–254. All submissions will be available for public inspection at the SEC's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kevin Fogarty, Esq. (202) 272–2416 or Thomas Lovett, Esq. (202) 272–2913, Division of Market Regulation, SEC, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The SEC and CFTC are seeking to expand their regulatory coordination in order to minimize the compliance burden borne by regulated entities without compromising regulatory standards or effectiveness. Accordingly, the SEC is soliciting comments regarding how regulatory or self-regulatory requirements as to registration, reporting, recordkeeping, disclosure, testing, financial or other matters which may result in regulatory overlaps or inefficiency can be simplified or integrated. The SEC particularly welcomes the comments of broker-dealers, self-regulatory organizations with extensive day-to-day experience with dual or multiple regulation.

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written comments should submit three copies thereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than July 5, 1983. Reference should be made to File No. 4–254. All submissions will be made available for public inspection at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

List of Subjects in 17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements.

Dated: April 28, 1983.

By the Commission.

[FR Doc. 83-11873 Filed 5-3-83; 8:45 am]
BILLING CODE 8010-01-M

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Marine Fisheries Service, NOAA

50 CFR Parts 17 and 227

Endangered and Threatened Wildlife and Plants

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, Commerce.

ACTION: Proposed rule.

SUMMARY: The Services propose to amend the Special Rules for Sea Turtles under the Endangered Species Act to allow transshipment of certain green sea turtle products through the port of Miami.

The Special Rules currently prohibit import and export of commercial shipments of green sea turtle products, regardless of final destination. An exemption under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), however, allows transshipment of listed specimens through a country that is a Party to CITES provided the specimens remain in Customs control. The Cayman Islands Government has requested that the Secretary of the Interior and the Secretary of Commerce amend the Special Rules to allow shipments of green sea turtle products to transit the United States according to the CITES exemption. As proposed, these rules would grant that request under certain restrictions that would enable the Services to monitor traffic in such shipments.

DATE: Comments on this proposal must be received by June 3, 1983.

ADDRESS: Please address correspondence to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203, or the National Marine Fisheries Service, Office of Marine Mammals and Endangered Species, U.S. Department of Commerce, Washington, D.C. 20235. Comments received on this proposed rule will be available for review during the hours of 7:45 a.m. to 4:15 p.m., Monday through Friday except holidays at the Federal Wildlife Permit Office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard K. Robinson, Acting Chief, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203 (703/235–1938) or Mr. Charles Karnella, National Marine Fisheries Service, Office of Marine Mammals and Endangered Species, U.S. Department of Commerce, Washington, D.C. 20235 (202/634–7471).

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) share responsibility for sea turtles listed under the Endangered Species Act (ESA). The loggerhead (*Caretta caretta*) and certain populations of green (*Chelonia mydas*) and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as Threatened species under the ESA. The Services have adopted Special Rules, 50 CFR 17.42(b) and 50 CFR 227 Subpart D (43 FR 32800, July 28, 1978), for the conservation of these species. These rules currently allow the Services to issue permits to take, import and export such species only for scientific research, zoological exhibition or educational purposes or to enhance the propagation or survival of these species. The rules currently prohibit trade in these species, including importation, for commercial purposes. As described below, the Services are proposing to amend the Special Rules to allow transshipment, but not general commercial trade or importation, of green sea turtle products.

Under Section 3(10) of the ESA and 50 CFR 10.12, any entry into the United States is defined as an import regardless of the final destination of the shipment and regardless of the issue of Customs control. Consequently, transshipment, shipment between a named importer and a named exporter outside the United States but made through the United States because of shipping arrangements, is prohibited by the current Special Rules.

Commercial imports of sea turtles are also generally prohibited under CITES. All species of sea turtles (family Cheloniidae) are listed in Appendix I of CITES. According to CITES, Appendix I species cannot be imported for commercial purposes unless the specimens qualify under one of the following exemptions: (1) Article VII.1 of CITES allows transshipment of specimens listed on any Appendix through a Party country provided the specimens remain in Customs control. No CITES documents are required in the country where transshipment occurs; (2) Article VII.2 of CITES provides that Pre-Convention specimens may be traded when the Management Authority of the country of export or reexport issues a certificate to support the Pre-Convention status of those specimens; (3) Conference Resolution 3.15 provides that those populations deemed by the Parties to be no longer endangered and to benefit by ranching (rearing in a controlled environment specimens taken from the wild) with the intention of trade could be transferred to Appendix II; and (4) Article VII.4 of CITES provides that those animals which are "bred in captivity" (as further defined in Conference Resolution 2.12) for commercial purposes are to be treated as if listed in Appendix II. Appendix II specimens can be traded internationally when the Management Authority of the country of export or reexport issues a proper CITES document.

On January 3, 1983, the Services published a Notice of Intent to review the Special Rules on sea turtles with particular attention to whether or not to allow U.S. trade in certain sea turtle products according to CITES (48 FR 42). The Services requested comments on possible changes to the Special Rules, information on environmental and economic impacts on small entities and information on possible alternative actions. The Services decided to review the rules because:

(1) Suriname and France (on behalf of Reunion) have submitted proposals to ranch green sea turtles for consideration at the fourth regular meeting of the Conference of the Parties to CITES to be held in Botswana during April 1983 (47 FR 34043, August 5, 1982). These populations might be transferred to Appendix II, making them eligible for international trade under permits.

(2) The definition of "bred in captivity" as it applies to sea turtles will be discussed at the CITES Conference. Appendix I animal specimens which are "bred in captivity" for commercial purposes are to be treated as if listed in Appendix II, making them eligible for international trade under permit.

(3) On January 22, 1982, the Pacific Legal Foundation and the Association for Rational Environmental Alternatives filed a petition with the Services (47 FR 13917, April 1, 1982) to exempt mariculture products from the trade prohibition provisions of the Special Rules.

(4) The Cayman Islands Government has requested the Services to amend their rules to lift the import restrictions. On November 10, 1982, Mr. John B. McLean, member of the Cayman Islands Agriculture and Natural Resources agency, wrote letters to the Secretaries of Interior and Commerce regarding the Special Rules on Sea Turtles. He wrote, in part:

"• • • As you are no doubt aware, this rule has adversely affected the Cayman Turtle Farm and been a hardship to the Cayman Islands ever since it took effect in 1979. At present, the Farm's survival hinges on reestablishment of access for its products to the U.S. market, which previously represented about 75% of its total sales.

"Although to remain commercially viable, the Farm will require access to the U.S. market for all its products, the most acute and immediate need for relief is in the areas of • • • transshipment (CITES Article VII(1) exemption) • • •."

This request has the full support of the British Government, of which the Cayman Islands are a Crown Colony.

Approximately 250 commenters submitted letters to the Services. Many believed the 30-day comment period originally announced (January 3 to February 2) was too short. The comment period subsequently was extended to February 17 by FWS (48 FR 5284, February 4, 1983), to February 22 by NMFS (48 FR 5285, February 4, 1983) and finally to March 9 by both NMFS (48 FR 8096, February 25, 1983) and FWS (48 FR 8514, March 1, 1983).

Most of the substantive comments addressed the issues of ranching and captive-breeding, which could result in both commercial shipments and tourist items entering the United States, and the potential impacts on law enforcement, education programs for the general public and shrimping industry, stimulation of trade in sea turtle products both within the United States and internationally, international cooperation in protecting sea turtles in the wild and effects on the U.S. economy.

The issues of ranching and captive-breeding will be discussed during the CITES Conference during April 1983. Information from those discussions will be necessary to make a decision on whether to allow either commercial shipments or tourist items of sea turtle products to be imported into the United States. Therefore, no regulatory action that would allow import of sea turtle products, where the United States is the final destination, will be taken by the Services until after the CITES Conference. Comments received on those issues will be considered during development of the United States' position on them (48 FR 9545).

Transshipment

Section 4(d) of the ESA requires the Secretary to adopt, with respect to any threatened species, regulations that are "necessary and advisable to provide for the conservation of such species." There are two primary reasons why this proposal is necessary and advisable to provide for the conservation of green sea turtles:

(1) The current U.S. regulatory stance on transshipment of green sea turtle products under the ESA is stricter than that taken by the Parties to CITES. Although this is technically permissible under Article XIV of CITES, the U.S. regulatory scheme is inconsistent with the judgment of the Parties to CITES that transshipment of species protected under CITES should be allowed and that the prohibition of transshipments is not necessary for the conservation of listed species. By lifting its ban on transshipment, the U.S. would come into conformance with CITES standards, thus allowing more uniform world trade regulations regarding transshipment of green sea turtle products. From a conservation standpoint, this is important because the United States has taken a consistent and strong position in favor of conservation measures like "ranching" and captive bred "farming" operations under CITES. In the case of the green sea turtle, the current ban on transshipments effectively cuts off the Grand Cayman green sea turtle breeding operation from most of the potential market for its products. A continuation of this situation will seriously impair the ability of the Grand Cayman turtle operation from continuing its breeding program. Cessation of an operation like the one of Grand Cayman will discourage others from developing captive breeding and ranching operations for sea turtles, thereby continuing commercial pressures on populations of the turtles in the wild. If transshipment were allowed, products from the Grand Cayman Islands could displace demand for products from wild green sea turtles. Data available to FWS from comments and other sources indicate that there is presently both legal and illegal international trade in wild sea turtle products, indicating a continuing demand for sea turtle products. Any demand for green sea turtle products that can be met from captive stocks could reduce pressures on wild stocks.

(2) Research necessary to enhance the survival of green sea turtles would continue. The Grand Cayman operation has invited scientists from many different specialty fields to use its facilities to work with sea turtles. Much has been learned about the physiology of sea turtles; techniques have been developed that may allow the species from which sea turtle products are derived to be identified, thus providing an important law enforcement tool; tagging techniques have been developed which may prove useful to studies of wild sea turtle populations. The Grand Cayman Turtle Farm (CTF) has stated its willingness to continue to make its facilities available to the scientific community for as long as the mariculture operation remains viable. By increasing the ability of CTF to market its products by transshipment through the United States, the proposed amendment would enable CTF to continue to work cooperatively with the scientific community on sea turtle research, all to the betterment of the species.

No one commented specifically on the issue of transshipment of sea turtle products. The Aviation Department of Metropolitan Dade County did offer that "Miami airport is ready and willing to handle the processing that is required to permit the importation of these products again."

The Services believe that the issues relating to transshipment are sufficiently different from those involving importation (both commercial shipments and tourist items) where the United States is the final destination to warrant its separation from those other issues. In an effort to focus the public's attention on the issue of transshipment, the Services propose to amend the Special Rules for sea turtles to allow transshipment through the United States under strict control at the port of Miami of green sea turtle products from the Cayman Islands. Consideration of this amendment has been limited to the Cayman Islands because the Cayman Islands Government has indicated willingness to accept restrictions that will avoid abuses of the exception.

Representatives of CTF and the British Government have given assurances to U.S. Government representatives that sea turtles will not be taken from wild stock and that any need for additional breeding stock could be filled by sea turtle ranches, such as that being developed in Suriname. Moreover, any wild stock that Suriname made available would only be used as breeding stock; products from those green sea turtles could not be transshipped through the United States.

During direct discussions between officials of the Cayman Islands and U.S. Government officials, and at hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries of the House of Representatives, the Cayman Islands Government gave assurances that it would impose a numbering and documentation system on traded items. All packages of sea turtle products being shipped from the Cayman Turtle Farm would be serially numbered. Each shipment would be specifically identified on a CITES document issued by the Cayman Islands Government. All transshipments would have to proceed directly from the Cayman Islands to Miami. This eliminates the opportunity to tamper with shipments in foreign countries before they enter the United States. In addition, while in the United States, any transshipment of green sea

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turtle products would have to remain in Customs custody at the port of Miami.

The exemption for transshipment is intended only for shipments proceeding from the Cayman Islands to a previously specified importer in a foreign country where the completed shipping arrangements necessitate transit through the United States. The proposed regulations would not allow any point in the United States to be used as a warehouse where green sea turtle products from the Cayman Islands could be stored while awaiting future shipping arrangements to be made. Before a transshipment could leave Miami, an agent of the shipper would have to file the following with the U.S. Fish and Wildlife Service: (1) a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) which includes serial numbers assigned by the Cayman Islands Management Authority, (2) a copy of the Cayman Islands CITES document, and (3) a copy of the invoice which includes the name and address of the consignee. Federal law enforcement officers would use this information to verify and monitor shipments of turtle products from the Cayman Islands. Entry of the names and addresses of foreign consignees into the law enforcement data bank should act as a deterrent to anyone who might consider disguising the nature of such products for attempted shipment back into the United States.

The proposed amendment would also allow soup or other products made from green sea turtles from CTF to be served on aircraft leaving from and returning to the Cayman Islands. All loading and unloading of meals would have to be done outside the United States. All turtle products would have to remain on the aircraft under Customs control while in the United States for the transshipment exemption to apply.

Required Determinations

The Services have prepared a draft Environmental Assessment according to the National Environmental Policy Act for this proposed rule. It is on file at the Federal Wildlife Permit Office (see address section) and may be examined during normal business hours. This assessment will form the basis for a decision at the time of any final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (implemented by 40 CFR Parts 1500–1508).

The Department of the Interior and the Department of Commerce have determined that this is not a major rule under Executive Order 12291, nor does it have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The Determination of Effects on this proposed rule is available from the individuals identified under the section: "For further information contact."

Information Collection

The information collection requirements contained in Parts 17 and 227 have been approved by the Office of Management and Budget (OMB) under U.S.C. 3507 and assigned clearance number 1018–0012. This information will be used to monitor transshipment traffic in green sea turtle parts and products and is required to obtain transshipment benefits.

List of Subjects

50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

50 CFR Part 227

Threatened fish and wildlife.

Regulation Promulgation—

Accordingly, under the authority of 16 U.S.C. 1538–9, it is hereby proposed to amend Part 17 and Part 227 Title 50 of the Code of Federal Regulations, as set forth below:

CHAPTER I—[AMENDED]

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. A new paragraph (vii) is added to § 17.42(b)(1) to read as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(b) * * *

(1) * * *

(vii) The prohibitions against import and export shall not apply to green sea turtles (*Chelonia mydas*) that are being transshipped from the Cayman Islands through the United States PROVIDED THAT (A) the turtles were hatched at the Cayman Turtle Farm from eggs produced by turtles which mated at the Cayman Turtle Farm, (B) shipments proceed directly from the Cayman Turtle Farm to the port of Miami, Florida, (C) a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) which includes serial numbers assigned by the Cayman Islands Management Authority, a copy of the accompanying Cayman Islands CITES document, and a copy of the invoice which includes the name and address of the consignee is filed with the Service upon arrival of the shipment at Miami, and (D) such wildlife remains in Customs custody at the port of Miami while in the United States.

* * * * *

CHAPTER II—[AMENDED]

PART 227—[AMENDED]

2. A new paragraph (g) is added to 50 CFR 227.72 to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(g) The prohibitions against import and export shall not apply to green sea turtles (*Chelonia mydas*) that are being transshipped from the Cayman Islands through the United States PROVIDED THAT (1) the turtles were hatched at the Cayman Turtle Farm from eggs produced by turtles which mated at the Cayman Turtle Farm, (2) shipments proceed directly from the Cayman Turtle Farm to the port of Miami, Florida, (3) a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177) which includes serial numbers assigned by the Cayman Islands Management Authority, a copy of the accompanying Cayman Islands CITES document, and a copy of the invoice which includes the name and address of the consignee if filed with the Service upon arrival of the shipment at Miami, and, (4) such wildlife remained in Customs custody at the port of Miami while in the United States.

This proposed rule was prepared by Robert J. Batky, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: April 8, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: April 13, 1983.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 83–11984 Filed 5–3–83; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Washita National Wildlife Refuge; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special regulations; request for comment.

SUMMARY: This document proposes special hunting regulations for certain migratory birds on the Washita National Wildlife Refuge, Oklahoma, to insure that the activities permitted are consistent with refuge purposes. These regulations are necessary to supplement the existing regulations in Title 50 which are general in nature. The intended effect is to implement a regulatory framework for the waterfowl hunt.

DATES: Comments on this proposed rule must be submitted on or before July 5, 1983.

ADDRESSES: Send comments to Associate Director, Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, DC 20240. The addresses and telephone numbers of the Regional Director and Refuge Manager can be found in the Supplementary Information section of this document.

FOR FURTHER INFORMATION CONTACT: Michael J. Spear, Regional Director, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, NM 87103 (Telephone 505–766–2321); or James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (Telephone 202–343–4311).

SUPPLEMENTARY INFORMATION: The addresses and telephone numbers of the Regional Director and Refuge Manager are as follows: Mr. Michael J. Spear, Regional Director, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, NM 87103 (Telephone 505–766–2321); Mr. Kenneth O. Butts, Refuge Manager, Washita National Wildlife Refuge, Route 1, Box 68, Butler, OK 73625 (Telephone 405–473–2205). Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240 (Telephone 202–343–4306), is the primary author of this document.

General

In 50 CFR 32.11 the Service has established lists fo refuges which have been opened to the hunting of migratory game birds. In a final rulemaking issued on November 19, 1982 (47 FR 52178), the Washita National Wildlife Refuge was added to the list of open areas; migratory game birds. Special hunting regulations are issued only after determination and publication of the opening of an area. This rule proposes special hunting regulations which are more restrictive than those set by the State of Oklahoma. The Fish and Wildlife Service solicits public comment on these proposed waterfowl hunting regulations for the Washita National Wildlife Refuge. Comments received will be taken into consideration before a final rule is issued.

Special regulations are limited to one season. However, the Service also proposes to issue revisions to Title 50, Code of Federal Regulations, later this year which would make the regulations permanent in nature. Permanent regulations will be a part of 50 CFR 32.12

Conformance With Statutory Authorities

The opening of any refuge to hunting requires compliance with two laws, the National Wildlife Refuge System Administration Act (NWRSAA) and the Refuge Recreation Act. Section 4(d)(1)(A) of NWRSAA authorizes the Secretary, under such regulations as he may prescribe, to permit the use of any area within the System for any purpose, including but not limited to hunting, whenever he determines that uses are compatible with the major purposes for which such areas were established.

The Washita National Wildlife Refuge was established on April 15, 1961 by Cooperative Agreement with the Bureau of Reclamation for the conservation, maintenance, and development of the area for public use in accordance with a Fish and Wildlife Service approved plan of operation. The General Plan specifies that the lands, comprising about 8,000 acres, shall be made available for wildlife conservation and management by the U.S. Fish and Wildlife Service. The primary objective of the Refuge is to provide protection and food for migratory populations of geese and ducks.

Restrictions are being proposed to insure that the waterfowl hunting will be consistent with the purposes for which the refuge was established. The hunting area is limited to 300 acres and the remainder of the 8,084–acre refuge will provide food and protection for waterfowl. The regulations also provide for hunting from specified blinds, limited shooting hours, hunting only on Saturdays and Sundays during the last half of the season, and limitations on the number of shells permitted to be carried into the area.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer areas within the National Wildlife Refuge System for public recreation as an appropriate use to the extent that it is feasible and not inconsistent with the primary objectives for which the area was established. In additions, the Act requires "that such recreational use(s) will not interfere with the primary purposes for which the areas were established, and that funds are available for the development, operation, and maintenance of these permitted forms of recreation." Time and space restrictions on hunting are being instituted to insure that the permitted activities will not interfere with refuge purposes.

In 1983, $24,000 has been allocated in the Interpretation and Recreation Program for the Washita Refuge, a portion of which will be used to administer this hunting program. It is also the policy of the Service that "special hunting regulations will not liberalize existing State laws or regulations." The regulations contained in this rulemaking are either concurrent with or more restrictive than State hunting laws and regulations.

Information Collection Requirements

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96–511). These requirements are presently approved by the Office of Management and Budget under the OMB approval number cited below and codified at 50 CFR 32.41.

Type of information collection	OMB approval No.
Hunter reservation/application/blind assignment	1018–0047

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget. The information is being collected to assist the Service in administering drawings for blind assignments. The information will be used to award blind assignments. Response is mandatory to obtain a blind assignment.

NEPA Consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976, and a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). An environmental assessment was prepared for this proposed action and is available for public inspection and copying in room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240 or my mail, addressing the Director at the address above.

Statement of Effects and Certification of Effects on Small Entities

This regulation will have a positive secondary economic effect on local filling stations, sporting goods stores, providers of meals, and overnight

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accommodations. It is estimated that the annual gross effect of the rule on the local economy will be $5,400. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown, but the fact that the positive effects will be seasonal in nature and limited in area indicates that they will not be significant.

Because of the foregoing, the Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13192), and that the rulemaking would not have a "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (Pub. L. 96–354).

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

PART 32—HUNTING

A list of special conditions applying to the individual refuge hunt and a map of the hunt area(s) are available at refuge headquarters. In instances where permits may be required or additional restrictions may be in effect, prospective hunters should contact the refuge manager for further information. Generally, portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Hunting is permitted on the Washita National Wildlife Refuge in accordance with 50 CFT Part 32, State regulations, and the following special regulations. Accordingly, it is proposed to amend 50 CFR Part 32 by adding the following to §32.12 as follows:

§32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Oklahoma

Washita National Wildlife Refuge

Waterfowl hunting is permitted only on a 300-acre area designated by signs as being open to hunting. Waterfowl hunting shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(a) A refuge permit will be required to participate in the goose hunt. Permit application, selection and issuance will be administered by the Oklahoma Department of Wildlife Conservation, P.O. Box 53465, Oklahoma City, OK 73105.

(b) Interested individuals should submit their applications as a group, not to include more than three names. Applications will be accepted from single individuals as well as groups of two or three. If only one individual from a selected group is able to make the hunt, he will be assigned a blind. Ten blinds will be available. No more than three hunters will be allowed in a blind.

(c) To insure that all applicants will have a chance to hunt on the refuge, no applicant or group of applicants will be awarded more than one hunting date.

(d) Permits will not be transferable.

(e) Hunters are required to be present at the check station at the entrance to the hunt area one and one-half hours before sunrise. Blind assignments will be drawn at that time.

(f) Shooting hours will be from official sunrise until 11:30 a.m. All hunters must be in the hunt area by 7:00 a.m. Late hunters will not be permitted to enter. Hunters must be out of the area by 12:00 noon.

(g) Admission to the hunt will require each hunter to have in their possession: (1) A valid Oklahoma hunting license; (2) a valid Migratory Bird Hunting and Conservation Stamp; (3) a valid Oklahoma Waterfowl Hunting Stamp; and (4) a special refuge goose hunting permit for that day.

(h) Hunting will be restricted to Saturdays and Sundays during the last half of the established Oklahoma Canada goose hunting season.

(i) Each hunter will be allowed to take no more than 10 shotgun shells into the hunt area per day.

(j) Hunters may not leave the assigned blinds except to reposition decoys, if they brought them, to retrieve dead or wounded geese, or to leave the area at the end of the day's hunting.

(k) Dogs will be allowed in the hunt area if they are kept under control and are not allowed to roam.

(l) A "Special Hunter Services Recreation Fee" of $3.00 will be collected from each hunter for each hunting trip. Holders of "Golden Age Permits" will pay only $1.50.

(m) Information collection. The Service has received approval from the Office of Management and Budget for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96–511). These requirements have been approved by the Office of Management and Budget under OMB Approval No. 1018–0047. Information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information will be used to award benefits. Response is mandatory to obtain a benefit.

16 U.S.C. 460k, 668dd; 44 U.S.C. 3501 *et seq.*

Dated: March 26, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–11827 Filed 5–3–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 628

Bluefish Fishery Management Plan; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings for input on the Bluefish Fishery Management Plan.

DATES: Written comments will be accepted until June 24, 1983. See Supplementary Information for times and locations of hearings.

ADDRESS: Send comments to: John C. Bryson, Executive Director of the Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901. See Supplementary Information for times and locations of hearings.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, (302–674–2331) Executive Director of the Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901.

SUPPLEMENTARY INFORMATION: The hearings will deal with a fishery management plan which establishes a management regime for the bluefish fishery in the fishery conservation zone (from 3 to 200 miles offshore) in the western Atlantic Ocean, excluding the Gulf of Mexico.

The Mid-Atlantic Council has adopted two specific objectives for this plan:

1. Increase understanding of the condition of the stock and fishery.

2. Provide the highest availability of bluefish to U.S. recreational fishermen while maintaining, within limits, traditional uses of bluefish recognizing some natural stock fluctuations are inevitable.

The preferred alternative would restrict the use of all gear except hook and line, conventional gill nets, traps, haul seines, and pound nets to conduct a directed fishery for bluefish in the fishery conservation zone.

The U.S. fishermen using hook and line, conventional gill nets, traps, haul seines, and pound nets to conduct a directed fishery for bluefish in the fishery conservation zone would be allowed to harvest bluefish without limit. To conduct a directed fishery for bluefish in the fishery conservation zone, the use of all other gear would be prohibited unless a waiver of the prohibition were granted by the National Marine Fisheries Service.

The National Marine Fisheries Service could grant waivers to the gear prohibition if the granting of waivers was consistent with the objectives of the plan. Specifically, the National Marine Fisheries Service would be required to attempt to maintain the historical catch distribution in granting such waivers, both between sectors (8 percent of the total catch for the fishery conservation zone commercial fishery) and geographically (11 percent of the fishery conservation zone commercial catch landed in New England, 37 percent of the fishery conservation zone commercial catch landed in the Mid-Atlantic, and 52 percent of the fishery conservation zone commercial catch landed in the South Atlantic). It is recognized that these relationships cannot be maintained absolutely, but it is the Council's intent that the National Marine Fisheries Service grant waivers for the use of the restricted gear types so as to minimize the chances of major changes in these relationships. The National Marine Fisheries Service would be allowed to specify the amount of bluefish that could be caught with permits granted through waivers.

The catch distribution was arrived at by examining historical data. The distribution between the recreational and commercial fisheries has been about 88 percent and 12 percent, respectively. In order to provide some growth for the commercial fishery while still protecting the recreational fishery, it was determined to use a distribution of 80 percent recreational and 20 percent commercial. In 1981, the fishery conservation zone commercial fishery accounted for 37 percent of the total commercial catch. This was adjusted to 40 percent. If that 40 percent is applied to the overall 20 percent commercial share, the result is that the fishery conservation zone commercial fishery share is 8 percent of the total catch. The geographical distribution of the fishery conservation zone commercial catch (11 percent New England, 37 percent Mid-Atlantic, and 52 percent South Atlantic) is the average distribution for 1976–1981.

To provide a basis for granting any waivers to the gear prohibition, it would be necessry to estimate annually landings. Before the start of each fishing year (January 1) the National Marine Fisheries Service, in consultation with the Council, would be required to project the total bluefish catch: recreational catch, commercial catch by the permitted gear types, and incidental catch in fisheries using prohibited gear types. From these projections, the amount of bluefish available for catch by the prohibited gear types could be estimated, thus providing a basis for granting waivers from the gear prohibition.

The National Marine Fisheries Service would be required to establish the procedures for the waiver system. The Council suggests that persons desiring to obtain waivers from the gear prohibition file their applications by a particular date prior to the beginning of the fishing year. All of those applications could be evaluated together relative to the specified criteria with appropriate decisions made prior to the beginning of the fishing year. Fishermen could be required to specify the amount of bluefish they caught in the most recent year using the gear for which a waiver is being sought and the amount of bluefish requested to be harvested with the waiver. The National Marine Fisheries Service could evaluate these applications against the amount of bluefish available for harvest by the prohibited gear types. This would be done through a series of iterations, initially giving all fishermen what they caught in the most recent year. If there is not enough bluefish available, all fishermen would be reduced a proportional amount. If there is more than last year's catch, the excess could be granted to those fishermen who want an increase. If after those requests are filled, there is any remaining amount, it would be saved for applications submitted later in the year. Applications could be considered after that date, i.e., any time during the year, but such applications would necessarily be evaluated in light of waivers previously granted.

Bluefish can be an incidental catch in other fisheries. Therefore, this alternative provides that incidental catches of bluefish in directed fisheries for other species by fishermen without waivers using other than permitted gear types would be limited to 10 percent of the total catch on board a vessel at the end of a fishing trip.

Foreign fishermen would not be permitted to retain bluefish.

Operators of party and charter boats and persons selling bluefish would be required to have permits and submit reports, but the National Marine Fisheries Service could eliminate the reporting requirement as soon as an alternative method of obtaining the required data has been implemented. Vessels are exempt from this requirement if they catch no more than 100 pounds of bluefish per trip.

Other alternatives considered by the Council are:

- Take no action at this time.
- Allow U.S. fishermen unrestricted catches of bluefish.
- Allow U.S. fishermen unrestricted catches of bluefish, but impose a 14 inch size limit.
- Restrict bluefish catches by commercial and recreational fishermen.
- Allow U.S. recreational fishermen unrestricted catches of bluefish and restrict commercial landings.
- Prohibit the use of purse seines and pair trawls in the directed commercial fishery for bluefish.

Public Hearing

The scheduled public hearings are as follows:

May 9—Sheraton Salisbury Inn, 300 S. Salisbury Blvd., Salisbury, MD (7:00 p.m.)

May 12—Golden Eagle Inn, Beach Drive, Cape May, NJ (7:00 p.m.)

May 16—Quality Inn Lake Wright, 6280 Northhampton Blvd., Norfolk, VA (7:00 p.m.)

May 16—City Council Chambers, Stuart City Hall, 121 S. Flagler Street, Stuart, FL (7:30 p.m.)

May 17—Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, GA (7:30 p.m.)

May 18—National Marine Fisheries Service Laboratory, 217 Ft. Johnson Rd., Charleston, SC (7:30 p.m.)

May 18—Travel Lodge—Route 73 at NJ Turnpike—Exit 4, Mt. Laurel, NJ (7:00 p.m.)

May 19—University of North Carolina, 601 S. College Rd., Wilmington, NC (7:30 p.m.)

May 19—Holiday Inn, Route 36, West Long Branch, NJ (7:00 p.m.)

May 20—Marine Resources Center, Bogue Banks, Morehead City/Atlantic Beach, NC (7:30 p.m.)

May 21—North Carolina Marine Resources Center, Manteo, NC (1:00 p.m.)

May 24—Legislative Services Building, 90 State Circle, Annapolis, MD (7:00 p.m.)

May 24—Room 100, Lecture Center, State University of New York at Stony

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Brook, Long Island Expressway, Exit 62, Stony Brook, NY (7:00 p.m.)
May 25—Amityville Senior High School, Montauk Highway—Route 27A, Southern State Parkway, Exit 32, Amityville, NY (7:00 p.m.)
May 26—Valley Stream Senior High School, Fletcher Ave., Southern State Parkway—Exit 14, Valley Stream, NY (7:00 p.m.)
June 6—Ramada Inn, 1230 Congress St., Portland, ME (7:00 p.m.)
June 7—Howard Johnson, Interstate Traffic Circle, Portsmouth, NH (7:00 p.m.)
June 8—Sawyer Free Library, 2 Dale Ave., Gloucester, MA (7:00 p.m.)
June 9—Sheraton Regal Inn—Route 132, Hyannis, MA (7:00 p.m.)
June 13—Dutch Inn, Great Island Road, Galilee, RI (7:00 p.m.)
June 14—Sheraton, 815 Lafayette Blvd., Bridgeport, CT (7:00 p.m.)
June 15—Old Saybrook High School, 1111 Boston Post Rd., Saybrook, CT (7:00 p.m.)

All hearings will begin at the times noted and will be tape recorded with the tapes filed as the official transcript of the hearing.

Dated: April 28, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-11876 Filed 5-3-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 87
Wednesday, May 4, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 29, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Office, USDA, OIRM, Room 108-W Admin. Bldg., Washington, D.C. 20250 (202) 447-6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Agricultural Research Service
Feeder Calf Management Epidemiological Study
Nonrecurring
Farms and Businesses or other institutions: 2,700 responses; 1,350 hours; not applicable under 3504(h)
Jim Dancy (301) 344-4600

• Food and Nutrition Service
Evaluation of Methods to Prevent Fraud and Error in the Food Stamp Program
Nonrecurring
State or local governments: 10,320 responses; 4,324 hours; not applicable under 3504(h)
Ted Macaluso (703) 756-3115

• Food and Nutrition Service
National Commodity Processing System
FNS-519, FNS-516, FNS-513
On occasion and monthly
Businesses or other institutions: 51,350 responses; 6,425 hours; not applicable under 3504(h)
Gwena Kay Tibbits (703) 756-3660

Revised

• Agricultural Marketing Service
Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida—Marketing Order 905
On occasion, annually, biennially
Business: 30,157 responses; 260,420 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

• Agricultural Marketing Service
Grapefruit Grown in a Designated Area of California—Marketing Order 904
Weekly, monthly, annually, biennially
Farms, businesses: 7,072 responses; 2,681 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

• Agricultural Marketing Service
Cranberries Grown in States of MA, RI, CT, NJ, WI, MI, MN, OR, WA and Long Island, N.Y.—Marketing Order 929
On occasion, annually, biennially
Farms, businesses: 3,101 responses; 804 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

Extension

• Economic Research Service
Quarterly Summary of Farm Mortgage Loan Experience of Life Insurance Companies
Quarterly
Businesses: 76 responses; 152 hours; not applicable under 3504(h)
Wilson Kaiser (202) 447-7340

• Food and Nutrition Service
Receipt and Distribution of Donated Commodities
FNS-155
Monthly
State or local governments: 1,164 responses; 2,328 hours; not applicable under 3504(h)
Barbara Batts (703) 756-3660

• Food and Nutrition Service
Affidavit of Return/Exchange of Food Coupons
FNS-135
On occasion
State or local governments: 90,000 responses; 24,000 hours; not applicable under 3504(h)
Mildred Kriegel (703) 756-3453

• Agricultural Cooperative Service
Compliance Review (Farmer Cooperatives)
On occasion
Business: 30 responses; 15 hours; not applicable under 3504(h)
Charles A. Kraenzle (202) 447-8411

Marshall L. Dantzler,

Acting Department Clearance Officer.

[FR Doc. 83-11883 Filed 5-3-83; 8:45 am]

BILLING CODE 3410-01-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: May 19 and 20, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of advisory committee: To advise the Director of U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to

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advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda

Will include the following discussions and presentations:

May 19

A.M. Status of the START Negotiations
P.M. Status of U.S. Strategic Modernization Programs

May 20

A.M. Chemical and Biological Weapons Issues
P.M. Discussions of the foregoing and possibly other similar matters.

REASON FOR CLOSING: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

AUTHORITY TO CLOSE MEETING: The closing of this meeting is in accordance with a determination by the Acting Director of the U.S. Arms Control and Disarmament Agency dated April 11, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,
Committee Management Officer.

[FR Doc. 83-11720 Filed 5-3-83; 8:45 am]
BILLING CODE 6820-32-M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3:30 pm and will end at 6:30 pm, on May 20, 1983, at the Atlanta Marriott Hotel Downtown, in the Plantation Room, Courtland and International Boulevard, Atlanta, Georgia, 30043. The purpose of this meeting is to conduct orientation for new Advisory Committee members, and receive a progress report on Women and Minorities in the Media.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Clayton Sinclair, Jr., 301 Equitable Building, 100 Peachtree Street, Atlanta, Georgia, 30303, (404) 681-0797 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Roiom 362, Atlanta, Georgia, 30303, (404) 221-4301.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 25, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-11882 Filed 5-3-83; 8:45 am]
BILLING CODE 6335-01-M

North Carolina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 10:00am and will end at 1:00pm, on May 26, 1983, at the Sheraton Center Hotel, in the Caucus Room, 551 McDowell Street, Charlotte, North Carolina, 28204. The purpose of this meeting is to discuss project proposals for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Tommie Young, 5303 King Arthur Place, Greensboro, North Carolina, 27404, (919) 379-7803 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 25, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-11883 Filed 5-3-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Income and Program Participation—Wave 1
Form Numbers: Agency—4100, 4001, 4103, 4105, OMB-0607-0425
Type of Request: Revision
Burden: 300 respondents; 150 reporting hours
Needs and Uses: This survey is needed to improve and expand the data that are currently available on the income and general economic and financial situation of the U.S. population.
Affected Public: Individuals and households
Frequency: Three times a year
Respondent's obligation: Voluntary
OMB desk officer: Tim Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,
Department Clearance Officer.

[FR Doc. 83-11853 Filed 5-3-83; 8:45 am]
BILLING CODE 3510-CW-M

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value: Carbon Steel Wire Rod From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value: Carbon Steel Wire Rod from Brazil.

SUMMARY: We preliminarily determine that carbon steel wire rod from Bazil is being sold, or is likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend liquidation of all entries of the subject merchandise. We have directed the U.S. Customs Service to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by July 12, 1983.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Jr., Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4929.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that there is a reasonable basis to believe or suspect that carbon steel wire rod from Brazil is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

We found that the foreign market value of carbon steel wire rod from Brazil exceeded the United States price on 100 percent of sales. These margins ranged from 51.50 percent to 79.57 percent. The overall weighted-average margin on all sales compared is 65.67 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

Case History

On September 30, 1982, we received a petition from counsel for Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, and Raritan River Steel Company on behalf of the domestic wire rod industry. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of carbon steel wire rod from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threaten to injure, a United States industry. Petitioners also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on October 20, 1982 (47 FR 47452). On November 15, 1982, the ITC found that there is a reasonable indication that imports of carbon steel wire rod are materially injuring a United States industry. Questionnaires were presented to the Companhia Siderurgica Da Guanabara (COSIGUA) and Companhia Siderurgica Belgo-Mineira (Belgo-Mineira) on October 27, 1982. The responses were received in December, 1982.

The preliminary determination in this investigation was originally due by March 9, 1983. We subsequently determined that this investigation was "extraordinarily complicated" as defined in section 733(c)(1)(B) of the Act, and we extended the deadline for making our preliminary determination to April 28, 1983 (48 Fed. Reg. 7610).

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled, carbon steel product to approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States (TSUS)*.

This investigation covers the period from February 1 to July 31, 1982. COSIGUA and Belgo-Mineira are the only known Brazilian producers who export the subject merchandise to the United States. We examined 100 percent of United States sales made during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

Since we found that the Brazilian home market prices were constantly adjusted upward to reflect the high rate of inflation in Brazil during the period of investigation, we calculated, for each United States sale, a foreign market value based on home market sales which occurred immediately prior to and subsequent to the date of the United States sale. For 4 of the 5 United States sales, foreign market value was based on a weighted-average of home market sales occurring 15 days before and 15 days after the appropriate United States sale. The remaining United States sale occurred on February 2, the second day of the period of investigation. For that sale, we calculated foreign market value based on home market sales occurring February 1 through 15. We then made our fair value comparisons utilizing the appropriate foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into United States. We calculated the purchase price for GOSIGUA based on the f.o.b., unpacked Brazilian port price from a company related to COSIGUA to an unrelated European company which acts as a distributor for resale to United States purchasers. In each of COSIGUA's United States sales transactions COSIGUA knew at the time of sale to the unrelated European company that the merchandise had been sold to, and was scheduled for direct shipment to, a United States company. We made deductions for COSIGUA for Brazilian inland freight, port costs, and commissions to an unrelated Brazilian agent and an unrelated United States company.

COSIGUA also claimed a circumstance of sale adjustment for subsidies which the Department of Commerce preliminarily determined existed in an earlier countervailing duty investigation of carbon steel wire rod from Brazil (47 Fed. Reg. 30550). We have not allowed this adjustment. The applicability of adjusting for export subsidies is discussed in the "Foreign Market Value" section of this notice.

We calculated the purchase price for Belgo-Mineira based on the f.o.b., packed, Brazilian port price from Belgo-Mineira to an unrelated European company, who in turn sold the merchandise to a United States trading company. We made deductions for Belgo-Mineira for Brazilian inland freight and port costs. In each of Belgo-Mineira's United States sales transactions, Belgo-Mineira knew at the time of the sale that the merchandise had been sold to, and was scheduled for direct shipment to, a United States company.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we calculated foreign market value based on home market sales of COSIGUA and Belgo-Mineira. In calculating foreign market value, we made currency conversions from Brazilian cruzieros to United States dollars in accordance with section 353.56(a)(1) of the Commerce Regulations using the certified daily exchange rates.

COSIGUA

The home market sales reported by COSIGUA and used in our calculation of foreign market value were of AISI category identical to the AISI category sold by COSIGUA in the United States. All home market sales reported by COSIGUA were to unrelated companies. We calculated the foreign market value for COSIGUA by deducting freight costs from the unpacked C & F prices. Deductions were also made for indirect selling expenses in the home market to offset the commissions paid on its United States sales. An adjustment was made, where appropriate, for differences in credit costs in accordance with

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section 353.15 of the Commerce Regulations.

COSIGUA requested that we make additional allowances for the cost of warranty service, bad debt, technical services, level of trade differences and an "economic correlation adjustment" for net inflation. We have preliminarily determined that warranty service, bad debt and technical services are not allowable under section 353.15 of the Commerce Regulations, as we did not consider these items to be circumstances of sale bearing a direct relationship to sales of the wire rod in the home market.

The level of trade adjustment claimed by COSIGUA was to compensate for differences in levels of trade existing between the United States market and the home market for sales of wire rod. Pursuant to section 353.19 of the Commerce Regulations, the deduction was disallowed because COSIGUA was not able to demonstrate differences in pricing arising out of sales of such or similar merchandise at different levels of trade in the home market.

COSIGUA claimed we should make the "economic correlation" adjustment to home market prices to compensate for the high Brazilian inflation rate and for the alleged failure of the government of Brazil to devalue the Brazilian cruziero at rates consistent with domestic inflation. They further alleged that the combination of these circumstances creates an artificially high foreign market value when the cruziero based foreign market value is converted to U.S. dollars at the official rate of exchange. We do not consider the "economic correlation" adjustment to be the type of circumstance of sale expense allowable under section 353.15 of the Commerce Regulations. COSIGUA has not demonstrated that the alleged circumstance of sale is a cost of selling wire rod.

Belgo-Mineira

Belgo-Mineira had no home market sales of wire rod which were identical in physical characteristics to the AISI category wire rod sold to the United States. Accordingly, the home market sales used in our calculation of Belgo-Mineira's foreign market value were of "similar" merchandise as defined in section 771(16)(B) of the Act. The home market sales reported by Belgo-Mineira were to both related and unrelated customers. Pursuant to section 353.22(b) of the Commerce Regulations, we found that sales to Belgo-Mineira's related customers to be at prices comparable to those at which such or similar merchandise was sold to customers unrelated to Belgo-Mineira. Therefore, we used sales to both related and unrelated customers in our calculation for foreign market value.

We calculated the foreign market value for Belgo-Mineira based on the net ex-factory packed prices to both related and unrelated home market customers. Adjustments were made for differences in credit costs, directly related warranty expenses, and packing costs. A quantity discount adjustment claimed by Belgo-Mineira under § 353.14 of the Commerce Regulations was not allowed because Belgo-Mineira was not able to demonstrate that the discounts were justified based on cost savings or that they had been granted with respect to 20 percent or more of sales of such or similar merchandise in the home market. We have further determined that adjustments claimed by Belgo-Mineira for technical services are not allowable under §353.15 of the Commerce Regulations, as Belgo-Mineira could not demonstrate that these adjustments had a direct relationship to the sales of wire rod in the home market.

Both COSIGUA and Belgo-Mineira claim adjustments for the subsidies which the Department of Commerce preliminarily determined existed in an earlier countervailing duty investigation of carbon steel wire rod from Brazil (47 FR 30550). The estimated net subsidy in that preliminary determination, dated July 8, 1982, was 14.31 percent *ad valorem*. On September 21, 1982, the Department of Commerce (the Department) and the government of Brazil concluded a suspension agreement pursuant to section 704 of the Act under which the government of Brazil has agreed to impose an export tax equal to the net subsidy amount on all shipments of carbon steel wire rod shipped from Brazil to the United States on or after October 20, 1982 (47 FR 42399).

Both Belgo-Mineira and COSIGUA contend that the claimed adjustments are necessary to account for the subsidies. COSIGUA claims this adjustment is consistent with adjustments to United States price required under Section 772(d) of the Act, since export subsidies increase the ex-factory price on export sales in the same way that rebates or forgiveness of internal taxes or import duties increase net return on export sales, or that export taxes and U.S. import duties reduce net return. COSIGUA further claims that the Department should not reject the adjustment for subsidies on the grounds that an export tax offsetting the subsidies has been imposed, since the base period price being used in the present antidumping calculations precedes the imposition of the export tax.

We do not consider subsidies received by respondents to be a circumstance of sale allowable under § 353.15 of the Commerce Regulations. The Act does provide for export subsidies but not as a circumstance of sale adjustment. Rather, section 772(d)(1) of the statute takes into account the recipt of export subsidies by a foreign producer when a countervailing duty has been imposed, by increasing the purchase price. Section 772(d)(2) requires that the purchase price not be reduced for export taxes levied on the export of merchandise to the United States specifically intended to offset the subsidies received. The fact that section 772(d) specifically addresses those situations when the Department should make an adjustment for export subsidies in its antidumping calculations indicates that Congress did not intend that a circumstance of sale adjustment be made for export subsidies.

Affirmative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of carbon steel wire rod from Brazil present "critical circumstances." Under Section 733(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) there have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determination of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over the several years (1980–1982); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we preliminarily determine that imports of the products covered by this investigation do appear massive over a relatively short period (November, 1982 through February, 1983).

We therefore proceeded to consider whether there is a history of dumping of carbon steel wire rod from Brazil in the U.S. or elsewhere. We reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping orders. There have been no past United States antidumping determinations on carbon steel wire rod from Brazil. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. We found no history of dumping of this product form Brazil.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was selling this product at less than its fair value. It is the Department's position that a reasonable basis to believe or suspect that the importer knew or should have known that a product was being sold at less than its fair value exists where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market sales prices. In this case, the margin calculate on the basis of responses to the Department's questionnaire is sufficiently large, even though there is no corporate relationship between the exporters and importers, that there is a reasonable basis to believe or suspect that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value.

For the reasons described above, we preliminarily determine that critical circumstances do exist with respect to carbon steel wire rod from Brazil.

Verification

For purposes of this preliminary determination, we verified sales data and information relative to adjustments claimed by COSIGUA and Belgo-Mineira using standard verification procedures, including examination of accounting records and selected documents containing relevant information. As provided in section 776(a) of the Act, all data used in reaching the final determination will be verified.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of carbon steel wire rod. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margin (percent)
COSIGUA	54.12
Belgo-Mineria	75.54
All Other Manufacturers/Producers/Exporters	65.87

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes a final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on May 20, 1983, at the United States Department of Commerce, conference room D, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who with to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 13, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

April 27, 1983.

[FR Doc. 83-11808 Filed 5-3-83; 8:45 am]
BILLING CODE 3510-25-M

Preliminary Determination of Sales at Less Than Fair Value; Carbon Steel Wire Rod From Trinidad and Tobago

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value; Carbon Steel Wire Rod from Trinidad and Tobago.

SUMMARY: We preliminarily determine that carbon steel wire rod from Trinidad and Tobago is being sold, or is likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend liquidation of all entries of the subject merchandise which is entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin of 14.2 percent.

If this investigation proceedings normally, we will make our final determination by July 12, 1983.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Jr. or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–4929 or 377–4136.

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SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that there is a reasonable basis to believe or suspect that carbon steel wire rod from Trinidad and Tobago is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

We found that the foreign market value of carbon steel wire rod exceeded the United States price on 97.3 percent of sales. These margins ranged from 3.7 percent to 125.3 percent. The overall weighted-average margin on all sales compared is 14.2 percent.

Case History

On September 30, 1982, we received a petition from counsel for Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, and Raritan River Steel Company on behalf of the domestic carbon steel wire rod industry. In accordance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of carbon steel wire rod from Trinidad and Tobago are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are threatening to materially injure a United States industry. Counsel for petitioners also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and started the investigation on October 20, 1982 (47 FR 47453). On November 15, 1982, the ITC found that there is a reasonable indication that imports of carbon steel wire rod are materially injuring a United States industry.

A questionnaire was presented to the Iron and Steel Company of Trinidad and Tobago (ISCOTT) on November 1, 1982. The response was received on December 15, 1982. The preliminary determination in this investigation was originally due by March 9, 1983. Pursuant to section 733(c)(1)(A) of the Act, we subsequently postponed the preliminary determination to not later than April 28, 1983 (48 FR 7610).

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States (TSUS).*

This investigation covers the period from April 1 to September 30, 1982. ISCOTT is the only known producer and exporter of carbon steel wire rod exported to the United States. We examined 100 percent of ISCOTT's sales of the subject product to the United States.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the c.i.f., duty-paid, delivered price to unrelated U.S. customers. We made deductions on all United States prices for United States and foreign inland freight, ocean freight, insurance, commissions to an unrelated agent, United States duty and United States port costs. We made additional deductions, where appropriate, for U.S. warehousing. ISCOTT claimed an adjustment to serveral United States sales for differences between ISCOTT's mill weight and the certified scale weight at discharge port. In their response, ISCOTT adjusted the unit prices for the value of such differences but did not make similar adjustments to the quantity of each United States sale. This adjustment is not allowable because scale weight adjustments constitute nothing more than a recalculation of quantity sold and the total selling price.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we calculated foreign market value based on home market sales by ISCOTT. For purposes of determining such of similar merchandise according to section 771(16) of the Act, we have made comparisons based on grade categories selected by Commerce Department industry experts.

We calculated the foreign market value for ISCOTT on the basis of ex-mill, unpacked prices to unrelated home market purchasers. In instances where ISCOTT's U.S. sales involved commissions to unrelated sellers, adjustments were made for indirect selling expenses in the home market to offset the U.S. commissions. Where appropriate, an adjustment was made for differences in credit costs.

ISCOTT requested that we deduct the cost of technical services, post-sale warehousing and advertising from the home market prices. Pursuant to Commerce Regulations 353.15 we disallowed the technical services and advertising adjustments claimed by ISCOTT as they were not directly related to specific sales of carbon steel wire rod in the home market. The warehousing adjustment claimed by ISCOTT has also been disallowed under § 353.15. While ISCOTT did allocate wire rod to specific customer orders in its production and inventory control records, the merchandise was never set aside as "sold" and therefore remained available to meet the general inventory needs and sales commitments of ISCOTT. We have determined that the merchandise is a part of ISCOTT's standing inventory, rather than merchandise that is warehoused for a specific customer.

Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of carbon steel wire rod from Trinidad and Tobago present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when there is a reasonable basis to believe or suspect that: (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and that (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relative short period.

We reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping orders to determine whether there is a history of dumping of carbon steel wire rod from Trinidad and Tobago in the United States or elsewhere. There have been no past United States antidumping determinations on carbon steel wire rod from Trinidad and Tobago. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. We found no history of dumping of this product from Trinidad and Tobago.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have known that it was being sold at less than it fair value. We have no evidence that importers had such knowledge. Nor is the preliminary margin sufficiently large in and of itself to warrant a reasonable belief or suspicion that importers should have known that this product was being sold at less than fair value—particularly where, as here, importers and exporters are unrelated companies.

For the reasons described above, we preliminarily determine that critical circumstances do not exist with respect to carbon steel wire rod from Trinidad and Tobago.

Verification

For purposes of this preliminary examination, we verified sales data and information relative to adjustments claimed by ISCOTT by using standard verification procedures, including examination of accounting records and selected documents containing relevant information. As provided in section 776(a) of the Act, all data used in reaching the final determination will be verified.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of carbon steel wire rod as described in the "Scope of Investigation" section of this notice. This suspension of liquidation applies to all of the subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. the weighted-average margin is 14.2 percent.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition,we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. we will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicy or under an administrative protective order, without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes a final affirmative determination.

Public Comment

In accordance with section 353.47 Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2 p.m. on May 20, 1983, at the United States Department of Commerce, Conference Room D, 14th Street and Constitution Avenue, N.W, Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the deputy (for Policy) to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy (for Policy) to the Deputy Assistant Secretary by May 13, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

April 27, 1983.

Judith H. Bello

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration

[FR Doc. 83-11609 Filed 5-3-83; 8:45am]

BILLING CODE 3510-25-M

[A-588-091]

Certain Electric Motors From Japan; Correction to Notice of Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Correction to Notice of Final Results of Administrative Review of Antidumping Duty Order.

SUMMARY: On April 5, 1983, the Department of Commerce published the final results of its administrative review of the antidumping duty order on certain electric motors from Japan (48 FR 14719–14722).

Due to a clerical error, that notice incorrectly gave 6.3% as the margin and estimated antidumping duty cash deposit rate for Toshiba Corporation. The correct rate for Toshiba is 4.3%. Therefore, the hightest current rate for responding firms is also 4.3%, not 6.3%

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: F. Patrick Pope or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923/5255.

Dated: April 28, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-11854 Filed 5-3-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Solicitation of Applications Under Minority Business Development Program

AGENCY: Department of Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning October 1, 1983 in the Vallejo SMSA. The minimum total program cost will be $198,000. The maximum Federal participation amount is $168,300. The minimum amount required for non-Federal participation is $29,700. The award No. is 09–10–83018–01.

Applicants shall be required to contribute at least 15% of the total program cost through non-Federal funds.

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Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: May 20, 1983.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Mikel Cook at 415/556-6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm.

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort —i.e., Chambers of Commerce, trade association, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff.

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporaed into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be full explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms. This program is subject to OMB Circular A-95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the above address on May 3, 1983 at 10:00 A.M. Room 13029 (13th floor).

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Dated April 29, 1983.

Powell M. Daniel,

Acting Regional Director.

[FR Doc. 83-11924 Filed 5-3-83; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Intent To Prepare a Draft Management Plan and Environmental Impact Statement for the Proposed Hawaii Humpback Whale National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as national marine sanctuaries for the purpose of preserving or restoring their distinctive conservation, recreational, ecological, and aesthetic values. A nomination for establishing a Humpback Whale National Marine Sanctuary in Hawaiian waters was included on the List of Recommended Areas published in the **Federal Register** on October 31, 1979 (44 FR 62552) and, following interagency consultation, NOAA declared the site an Active Candidate on March 17, 1982 (47 FR 11544). The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA) intends to prepare with the assistance of the State of Hawaii, a Draft Sanctuary Management Plan (DMP) and complementary Draft Environmental Impact Statement (DEIS) for the proposed Humpback Whale National Marine Sanctuary in Hawaii. The views and comments received during this phase in the countinuing evaluation of the proposal will aid NOAA in determining: (1) The purposes for and objectives in managing the sanctuary in Hawaii: (2) the scope and content of the management plan for achieving them; and (3) the alternatives to the proposed action including the degree to which the alternatives may affect the natural and human environments.

FOR FURTHER INFORMATION CONTACT: Mr. Kelvin Char, Regional Sanctuary Projects Manager, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634-4236.

SUPPLEMENTARY INFORMATION: In December 1977, NOAA received a proposal from a private researcher calling for the establishment of a humpback whale marine sanctuary in Maui County waters. In December 1979, NOAA convened in Hawaii a panel of whale experts to discuss and evaluate alternatives for protecting the endangered humpback whale. The panelists concluded, among their other findings, that the designation of a marine sanctuary was the most certain route for assuring the continued protection of the whale in Hawaiian waters. A series of public information meetings were conducted in Hawaii during October 1981 to further discuss the proposal and the panel's recommendations, and receive comment on the feasibility and desirability of proceeding with the nomination. Following these discussions, an Issue Paper was prepared and meetings held in Hawaii to receive public comment and recommendations on the management alternatives for the proposed 784 square nautical mile marine sanctuary. All of these discussions have assisted NOAA in its cooperative evaluation, with the State of Hawaii, of the issues surrounding the sanctury proposal.

NOAA now intends to proceed, still with the full cooperation of the State and other relevant interests in Hawaii, with the preparation of the DMP for the sanctuary and its companion DEIS. Should they be required, additional scoping meetings will be held in Hawaii during May 1983 in accordance with Section 1501.7 of the regulations for implementing the National Environmental Policy Act (42 U.S.C. 4321 et seq.), as amended.

Interested parties who wish to submit suggestions, comments, or substantive information on the sanctuary proposal are invited to contact the Federal contact listed above or Richard Poirier, the Department of Planning and Economic Development, State of Hawaii, P.O. Box 2359, Honolulu, Hawaii, 96804, (808) 548-4609.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: April 29, 1983.

Peter L. Tweedt,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 83-11931 Filed 5-3-83; 8:45 am]

BILLING CODE 3510-08-M

CONSUMER PRODUCT SAFETY COMMISION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval, through May 1, 1986, of information collection requirements in a regulation applicable to mattresses and

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mattress pads. The regulation, published at 16 CFR Part 1632, is intended to reduce the unreasonable risk of burn injuries and deaths from fires associated with mattresses and mattress pads. The regulation prescribes a test to assure that a mattress and mattress pad will resist ignition from a smoldering cigarette and bans from sale and distribution noncomplying mattresses and mattress pads, under provisions of the Flammable Fabrics Act (15 U.S.C. 1193). Additionally, the regulation and an enforcement rule issued under section 5 of the Flammable Fabrics Act require manufacturers to perform prototype and sampling tests and to maintain a record of required tests, plus certain other records for a least three years.

Information about the Proposed Collection of Information.

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR 1632.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, tested, or sold.

General description of respondents: Manufacturers of mattresses and mattress pads.

Estimated number of respondents: 800

Estimated average number of hours per response: ¼-hour for records and 3 for tests.

Comment: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395–7313. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: April 29, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–11929 Filed 5–3–83; 8:45 am]

BILLING CODE 6355–01–M

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval, through June 30, 1984, of information collection associated with a contract study on structural entrapment. In its regulatory and enforcement work, the Commission uses data on various body measurements of children to evaluate whether certain consumer products present a risk of entrapment to children. Such information must be representative of the U.S. population. The Commission therefore plans to have a contractor collect from parents, through day care centers and other institutions, information on race, demographics, and socio-economic factors. The information will be collected by means of a questionnaire and will be used to define a sample of subjects that is as representative as possible.

Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Structural Entrapment.

Type of request: Initial approval.

Frequency of collection: Nonrecurring.

General description of respondents: Parents of children, 0 to 48 months of age in one or two large metropolitan areas.

Estimated number of respondents: 250.

Estimated average number of hours per response: 1/30.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395–7313. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated; April 29, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–11930 Filed 5–3–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Close Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Thursday, 2 June 1983, Plaza West, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on imagery requirements.

Dated: April 29, 1983.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 83–11874 Filed 5–3–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Summer Study Panel on Joint Service Acquisition Programs: Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Joint Service Acquisition Programs scheduled for 5–6 May 1983 as published in the **Federal Register** (Vol. 48, No. 72, Wednesday, April 13, 1983, FR Doc. 83–9760) has been postponed to 19–20 May 1983. In all other respects the original notice remains the same.

Dated: April 29, 1983.

M. S. Healy,

ODS Federal Register Liaison Officer Washington Headquarters Services Department of Defense.

[FR Doc. 83–11875 Filed 5–3–83; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Financial Report of Government Property.

The DD Form 1662 is used by defense contractors to prepare annual reports for DoD-owned facilities in their possession. Information is compiled into reports which serve as aids in the evaluation of DoD policies for providing facilities to contractors for the performance of defense contracts. Estimated responses: 1,000 Estimated burden hours: 2,250.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and Mr. John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washinton, D.C. 20301, telephone (202) 697–1195.

A copy of DD Form 1662 and instructions may be obtained from Mr. George M. Miller, Defense Industrial Resources Support Office, Two Skyline Place, Suite 1406, 5203 Leesburg Pike, Falls Church, Virginia 22041, (202) 756–2310.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1983.

[FR Doc. 83–11930 Filed 5–3–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for Commission or Warrant Rank, USN or USNR (NAVCRUIT 1100/11).

Used to collect information by which to make a determination as to an applicant's qualifications for naval service as a commissioned officer.

All applicants for commission: 20,000/responses, 10,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3234, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from YN1 John A. Young, Navy Recruiting Command (Code 141), 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone (202) 696–4775.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1983.

[FR Doc. 83–11950 Filed 5–3–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Guaranteed Student Loan Program

AGENCY: Department of Education

ACTION: Notice of Redesignation of the Guaranteed Student Loan Program as a Credit Assistance Program Authorized by Law for an Economically Disadvantaged Class of Persons Under the Equal Credit Opportunity Act.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the redesignation of the Guaranteed Student Loan (GSL) Program as a "special purpose credit program" within the meaning of Section 202.8(a)(1) of Regulation B, Equal Credit Opportunity. The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, amended Title IV–B of the Higher Education Act of 1965, as amended to reinstate the limitation on eligibility for Federal interest benefits to those borrowers under the GSL Program who demonstrate financial need for a subsidized loan. The amendment thereby reconstituted the GSL Program as a credit assistance program authorized by law for an economically disadvantaged class. As such a special purpose credit program, the GSL Program is exempted from certain restrictions of the Equal Credit Opportunity Act (ECOA), and Regulation B, which implements the ECOA.

SUPPLEMENTARY INFORMATION: The ECOA prohibits discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), receipt of income from a public assistance program or the exercise of any right under the Consumer Credit Protection Act. However, a creditor does not discriminate if it refuses to extend credit offered pursuant to any credit assistance program expressly authorized by law for an economically disadvantaged class of persons if that refusal is made pursuant to the requirements of that program. 15 U.S.C. 1691(c)(1). This exemption is incorporated in § 202.8 of Regulation B, 12 CFR 202.8, which was promulgated by the Federal Reserve Board pursuant to its statutory mandate to promulgate regulations to implement the ECOA 15 U.S.C. 1691b.

The Board of Governors of the Federal Reserve System has issued a formal interpretation of § 202.8 in which it stated that a credit program is considered to be "expressly authorized by Federal or State law" if it is authorized by the terms of a Federal or State statute or by a regulation lawfully promulgated by the administering agency (42 FR 40424, August 10, 1977). The Board stated that "a creditor participating in a loan program expressly authorized by Federal or State law will not violate Regulation B by complying in good faith with the law authorizing a program or with a regulation promulgated by an administering agency to implement a program that the agency has determined to be a special purpose credit program under § 202.8(a)(1) of Regulation B." The Board declared that the determination as to whether a particular program benefits an "economically disadvantaged class of persons" is properly made by the agency charged with the administration of the loan program.

Background

The GSL Program was established under Title IV Part B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071 et seq., to provide the benefits of higher education to borrowers with modest means. The legislative history shows Congress' determination that the "heavy concentration of expenses" incurred for higher education costs placed low and even middle-income families at a

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significant economic disadvantage, and unduly limited their access to higher education. H.R. Rep. No. 621, 89th Congress 1st Session (1965), p.29. To ease that burden, under section 428 of that Act Congress expressly authorized Federal interest subsidies on loans made to borrowers with family incomes below $15,000.

In a November 1, 1977 bulletin to participating lenders, the Office of Education (OE), the agency administering the GSL Program determined that the GSL Program was a "credit assistance program expressly authorized by Federal or State law for the benefit of an economically disadvantaged class of persons," within the meaning of section 202.8(a)(1) of Regulation B.

On November 1, 1978, Congress enacted the Middle Income Student Assistance Act (Pub. L. 95–566), which amended section 428 of the Higher Education Act to eliminate the limitations on family income as an eligibility requirement for Federal interest benefits under the GSL Program. Because Pub. L. 95–566 made Federal interest benefits available to all borrowers without regard to family income, it removed the GSL Program from the category of special purpose credit programs "for the benefit of an economically disadvantaged class of persons." Participating lenders were so notified by OE in a March 27, 1979 bulletin, and advised to comply with the terms of Regulation B. That directive was then incorporated into GSL Program regulations (45 CFR 177.104, 44 FR 53868, September 17, 1979, redesignated 34 CFR 682.104, 45 FR 77369, November 21, 1980).

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) further amended section 428 of the Higher Education Act to reinstate the requirement that borrowers prove financial need for a loan in order to qualify for Federal interest benefits. The statute deems all borrowers with family incomes below $30,000 to have financial need for a subsidized loan to meet that portion of their cost of education not met by other student assistance. The law requires borrowers with family incomes in excess of $30,000 to prove actual financial need for a subsidized loan after deducting from that cost both available aid and a family contribution from disposable income. The legislative history demonstrates the same Congressional awareness of the need for subsidized loans as that shown in enacting the program legislation in 1965. *See* Sen. Rep. No. 139, 97th Congress, 1st Session (1981), pp. 893, 894. This change reconstituted the GSL Program as one authorized by law for an economically disadvantaged class; on the effective date of those statutory changes, the GSL program became, once again, a special purpose credit program under section 202.8(a)(1) of Regulation B. This notice of redesignation as a special credit program merely articulates the consequences under the ECOA of those statutory changes to the Higher Education Act.

Current GSL Program regulations, which were promulgated September 17, 1979 when the GSL Program was not a special purpose credit program, state that the GSL Program is subject to the ECOA and Regulation B (34 CFR 682.104). Although the GSL Program, because of the changes made by Pub. L. 97–35, has been a special purpose credit program since October 1, 1981, no changes are necessary to those GSL Program regulations. Pursuant to § 202.8(b)(1) of Regulation B, GSL Program lenders remain subject to Regulation B where its requirements are not inconsistent with GSL Program regulations.

FOR FURTHER INFORMATION CONTACT:
Roxanne Flanagan, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education, 400 Maryland Ave., S.W., Washington, D.C. 20202. The telephone number is (202) 245–2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program)

Dated: April 29, 1983.

James W. Moore,
Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 83–11900 Filed 5–3–83; 8:45 am]
BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Arbitration Panel Decision Under the Randolph-Sheppard Act; Illinois Department of Rehabilitation Services, State Licensing Agency

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on October 31, 1980, an arbitration panel rendered a decision in the matter of Illinois Department of Rehabilitation Services, State Licensing Agency (R-S/79–5). This panel was convened by the Secretary of the Department of Health, Education, and Welfare (HEW) pursuant to 20 U.S.C. 107d–1(b), upon receipt of a complaint filed by Illinois in May, 1979. Under this section of the Act, a State licensing agency which determines that a Federal property managing agency is failing to comply with the Act or implementing regulations may request the Secretary to convene an arbitration panel to resolve the dispute.

Note.—Subsequent to the issuance of the panel decision, the Illinois licensing agency petitioned the Department of Education to reconsider the decision. On May 28, 1982, the Commissioner of the Rehabilitation Services Administration advised the parties of his disagreement with certain portions of the decision and of his view that the dispute should be resolved by the Secretary of Education pursuant to 20 U.S.C. Section 107(b). This Section of the Act provides in pertinent part that "(a)ny limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified."

FOR FURTHER INFORMATION CONTACT:
Frederick Sachs, Acting Director, Division for Blind and Visually Impaired, Rehabilitation Services, Room 3030, Mary E. Switzer Building, Department of Education, 330 C Street S.W., Washington, D.C. 20201, Area Code (202) 245–0212 or TTY (202) 245–0591. The full text of the arbitration panel decision (including the chairman's opinion and two opinions concurring in part and dissenting in part) can be obtained from Mr. Sachs.

Dated: April 28, 1983.

T. H. Bell,
Secretary of Education.

Arbitration Panel Decision

The Randolph-Sheppard Act, under which this decision was rendered, was enacted for the express purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. 20 U.S.C. 107. This legislation authorizes blind persons, who are licensed by the State, to operate vending facilities on Federal property, and provides generally that priority should be given to licensed blind persons to operate vending facilities on such property. A State licensing agency is designated by the Secretary to carry out a program for licensing blind vendors, and to train, place and supervise those persons. These licensing agencies are also authorized to bring to the attention of the Secretary Federal agency actions such licensing agencies feel are violative of the Act.

The critial events giving rise to this case occurred in the fall of 1978 when the Illinois licensing agency submitted permit applications to the U.S. Postal Service to operate approximately 100 vending machines at the main post office in Chicago, Illinois. The Postal Service disapproved all but a few of the applications on the grounds that the vending machines in question were scattered about on employee workroom floors and were not "satisfactory sites where it would be feasible for a blind vendor to operate a vending facility." The record indicates that the Postal Service expressed concern for the safety of vendors in these locations and concern for its own employees association whose activities were supported by vending machine profits. The licensing agency declined to accept the individual sites offered by the Postal Service on the grounds that they would not provide a livelihood for blind vendors, and, instead, filed the above referenced complaint to convene a panel.

The licensing agency argued before the panel that the Postal Service violated the priority requirements of the Act by refusing to authorize blind vendors to operate all the disputed machines and by failing to justify its decision to the Secretary of HEW under 20 U.S.C. 107(b) cited earlier. The Postal Service, on the other hand, took the position that it complied with the Act by offering the licensing agency one or more feasible vending machine locations and by sharing income from the remaining machines pursuant to the income distribution provisions of the statute. These provisions generally provide that income from non-blind operated vending machines of Federal property must be shared with blind vendors, and/or licensing agencies, in varying amounts depending on the degree of competition. 20 U.S.C. 107d–3.

Based in large part on its reading of the income sharing provisions, the panel first held that "priority does not mean exclusivity", determining, therefore, that the Postal Service was not required to designate the licensing agency as the sole operator of all the vending machines at the Chicago post office. The panel, however, concluded that the record did not support the Postal Service view that all the disapproved locations were unsafe and further disagreed with the Postal Service position that each vending machine location (regardless of the number of machines) had to be attended by a licensed vendor. The panel remanded the case to the licensing agency and the Postal Service for a reassessment of the permit applications, directing the parties to consider the feasibility of the locations in terms of safety and profitability.

[FR Doc. 83–11898 Filed 5–3–83; 8:45 am]
BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act; Patrick J. Bedard and the Iowa State Commission for the Blind

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on December 10, 1980, an arbitration panel rendered a decision in the matter of Patrick J. Bedard and the Iowa State Commission for the Blind, State Licensing Agency (R–S/79–3). This panel was convened by the Secretary of the Department of Health, Education, and Welfare (HEW) pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner Bedard on May 19, 1979. Under this section of the Act, a blind licensee dissatisfied with the State's operation or administration of the vending facility program may request a full evidentiary hearing from the State licensing agency. If the licensee is dissatisfied with the State agency decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT:
Frederick Sachs, Acting Director, Division for Blind and Visually Impaired, Rehabilitation Services, Room 3030, Mary E. Switzer Building, Department of Education, 330 C Street SW., Washington, D.C. 20201, Area Code (202) 245–0212 or TTY (202) 245–0591. The full text of the arbitration panel decision can be obtained from Mr. Sachs.

Dated: April 28, 1983.

T. H. Bell,
Secretary of Education.

Arbitration Panel Decision

The Randolph-Sheppard Act, under which this decision was rendered, was enacted for the express purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. 20 U.S.C. 107. This legislation authorizes blind persons, who are licensed by the State, to operate vending facilities on Federal property, and provides generally that priority should be given to licensed blind persons to operate vending facilities on such property. A State licensing agency is designed by the Secretary to carry out a program for licensing blind vendors, and to train, place and supervise those persons. A State licensing agency is also required to provide certain grievance procedures to dissatisfied blind licensees, including the hearing and arbitration procedures stated in 20 U.S.C. 107d-1 (a).

The facts giving rise to this case are as follows. In January of 1978, the State licensing agency notified Bedard that his license to participate in the vending facility program would be terminated at a date certain in the future for unsatisfactory performance over a fifteen year period. The State agency made this decision in accordance with 20 U.S.C. 107a(b) which provides that a license issued to a blind vendor may be terminated by the State"... if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency." Federal regulations implementing the Randolph-Sheppard Act add that the State must afford vendors the opportunity for a full evidentiary hearing before taking such an action. 34 Code of Federal Regulations (CFR), section 395.7(b). After holding such a hearing, a State hearing officer, in May of 1979, affirmed the decision to terminate Bedard's license at a future date, at which point the petitioner filed the above referenced complaint to convene an arbitration panel.

The panel, however, determined that the State licensing agency did not have sufficient cause to remove Bedard from the program, in light of the remedial purposes of the statute, and the corresponding obligations imposed on licensing agencies to provide support and on-going training to assist vendors in managing their facilities. The panel further found that the licensing agency violated the Federal regulations cited above by making its decision to terminate Bedard's license before providing him a hearing, and determined that the hearing itself was flawed because the State hearing officer was not an "impartial presiding official" within the meaning of unpublished HEW guidelines.

The panel, therefore, reversed the hearing decision and directed the licensing agency to continue Bedard in its Randolph-Sheppard program. It declined, however, to award the vendor attorneys fees or compensatory damages for alleged loss of earnings, based on its conclusion that neither the Randolph-Sheppard Act nor the Administrative Procedure Act gives panels the authority to impose these sanctions.

The opinions expressed by this panel do not necessarily represent the views and opinions of the Department of Education.

[FR Doc. 83–11899 Filed 5–3–83; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Notice of Intent To Develop Policies and Procedures for Compensating Costs and Power Losses at Non-Federal Electric Power Projects

AGENCY: Bonneville Power Administration (BPA), Department of Energy.

ACTION: Notice of intent.

SUMMARY: BPA solicits suggestions and recommendations regarding the development of policies and procedures to guide BPA in exercising its authority under the Pacific Northwest Electric Power Planning and Conservation Act to compensate costs and power losses at non-Federal electric power projects. Compensable costs and power losses must result from measures to protect, mitigate, and enhance fish and wildlife affected by hydroelectric facilities located on the Columbia River and its tributaries and must not be attributable to the development or operation of the

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power projects incurring the costs or power losses. BPA seeks information and views on the magnitude of expected costs and power losses, the nature of compensable costs and losses, appropriate procedures for responding to claims for compensation, and other related issues. Once adopted, the policies and procedures will govern all subsequent requests for compensation. Compensation for costs and power losses may affect BPA electric power rates.

DATE: Suggestions and recommendations will be accepted through June 17, 1983.

ADDRESS: Suggestions and recommnedations should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Manager, at the above address or 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048;

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232; 503–230–4551;

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401; 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201; 509–456–2518;

Mr. George Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801; 406–329–3860;

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801; 509–662–4377, extension 379;

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109; 206–442–4130;

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362; 509–525–5500, extension 701;

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401; 208–523–2706.

SUPPLEMENTARY INFORMATION:

I. Background

The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (Regional Act), directs Federal agencies to implement measures to "protect, mitigate, and enhance" fish and wildlife affected by the development and operation of hydroelectric facilities on the Columbia River and its tributaries. In doing so, Federal agencies must take into account, to the maximum extent practicable, the Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council in November 1982. The Fish and Wildlife Program calls for a comprehensive range of measures, including flow levels to aid the spring downstream migration of salmon and steelhead. Implementation of these measures will require releases of water from both Federal and non-Federal reservoirs and will result in monetary costs and power losses.

The Regional Act may oblige BPA to bear some of these costs and power losses at non-Federal electric power projects. To be eligible for BPA compensation, section 4(h)(11)(A)(ii) of the Regional Act requires that: (1) The cost or power loss must result from a measure to protect, mitigate, or enhance fish and wildlife imposed under the authority of section 4(h)(11)(A; (2) the measure must have been imposed by a Federal agency other than BPA which manages, operates, or regulates hydroelectric facilites located on the Columbia River or its tributaries; and (3) the measure must not be attributable to the development and operation of the non-Federal electric power project incurring the cost or power loss. Section 4(h)(11)(A) reads:

> The Administrator (of the Bonneville Power Administration) and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—
>
> (i) Exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and hibitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with other purposes for which such system and facilities are managed and operated;
>
> (ii) Exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the (Columbia River Basin Fish and Wildlife Program) adopted by the (Northwest Power Planning) Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

Section 4(h)(10)(A) of the Regional Act also provides authority to compensate costs and power losses at non-Federal electric power projects. Section 4(h)(10)(A) authorizes BPA to use BPA funds and BPA authorities under other provisions of law to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries. Such uses of BPA funds must be in addition to, not in lieu of, expenditures authorized or required from other entities under other agreements or laws. When determined by the Administrator to be necessary and appropriate to meet BPA's responsibilities pursuant to section 4(h)(10)(A), BPA may compensate a non-Federal electric power project for costs and power losses resulting from measures not attributable to the non-Federal project. To be compensable by BPA under section 4(h)(10)(A), costs or power losses need not result from measures imposed by another Federal agency.

BPA has received several requests to develop policies and procedures for implementing the compensation provision of section 4(h)(11)(A)(ii) of the Act. BPA intends to develop and adopt policies and procedures for both: (1) Implementing the non-Federal electric power project cost and power loss compensation provision of section 4(h)(11)(A)(ii) of the Regional Act; and (2) using the authority of section 4(h)(10)(A) of the Act to compensate non-Federal electric power project costs and power losses. In addition to other issues, the policies and procedures will address releases of water from non-Federal projects for fish and wildlife and the effects on non-Federal facilities of releases at Federal facilities. Once adopted, BPA will follow the policies and procedures in responding to all subsequent requests for compensation pursuant to section 4(h)(11)(A)(ii) of the Regional Act and in providing compensation pursuant to section 4(h)(10)(A) of the Act.

Compensation for monetary costs and power losses at non-Federal electric power projects may affect BPA's electric power rates. BPA recovers all of its revenue requirements through the marketing of electric power and related services. BPA compensation of costs and power losses at non-Federal electric power projects could affect both BPA's revenues requirements and the amount of power available to sell, which have a direct effect on BPA's electric power rates.

BPA solicits from interested parties suggestions and recommendations regarding policies and procedures for compensating monetary costs and power losses at non-Federal electric power projects. BPA then intends to develop draft policies and procedures. BPA will provide opportunity for additional public comment prior to the adoption of final policies and procedures.

II. Issues Identified by BPA

A. What costs and power losses are anticipated at non-Federal electric power projects from measures for the protection, mitigation, and enhancement of fish and wildlife?

B. Which of these costs and power losses are compensable?

1. What actions are included within the scope of the requirement that a measure must have been imposed by a Federal agency other than BPA which manages, operates, or regulates hydroelectric facilities on the Columbia River or its tributaries?

2. Of the costs and power losses resulting from such actions, which should be attributable to the development and operation of non-Federal hydroelectric projects and therefore would not be compensable?

3. In the case of non-Federal reservoirs, are releases compensable only to the extent that the water released is in excess of the amount that would have been discharged in the course of normal operation of the project?

C. Under what conditions should BPA use its section 4(h)(10)(A) authority to compensate a non-Federal project for measures not attributable to the development and operation of what project when a Federal agency has not imposed a fish and wildlife measure on the project?

D. How should BPA quantify compensable monetary costs and power losses?

E. Should BPA compensation for monetary costs and power losses take the form of replacement power or monetary reimbursement?

F. What procedures should BPA establish?

1. What procedures are appropriate to determine whether a cost or power loss at a non-Federal electric power project is compensable, the amount of such compensation, and the form of such compensation?

2. What demonstration should be required of a non-Federal project operator to substantiate that a cost or power loss is not attributable to the development and operation of a non-Federal facility?

3. Is a procedure needed to permit interested parties to periodically review compensable monetary costs and power losses for individual projects?

G. Do other sections of the Regional Act or other laws bear on BPA policies and procedures for compensating monetary costs and power losses pursuant to sections 4(h)(10)(A) and 4(h)(11)(A)(ii) of the Regional Act?

Issued in Portland, Oregon, April 26, 1983.

Peter T. Johnson,

Administrator, Bonneville Power Administration.

[FR Doc. 83-12082 Filed 5-3-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5715–000]

Alaska Power Authority; Granting Extension of Time To Comment on Staff Draft Environmental Impact Statement

April 28, 1983.

The Cities of Craig and Thorne Bay, Alaska, have requested an extension of time to comment on the Staff Draft Environmental Impact Statement (DEIS) for the Black Bear Lake Project, FERC Project No. 5715–000. Comments on the DEIS were due April 18, 1983. Craig, which is an intervenor in the proceeding, has requested a two week extension. Thorne Bay has requested a 45 day extension.

Craig states that a delay in receiving the DEIS prevents it from completing its comments in a timely manner. Craig states that it received the DEIS on approximately March 24, 1983. Commission staff has confirmed that other DEIS recipients in the project area received the DEIS at about the same time.

Thorne Bay states that it did not receive the DEIS until March 31, 1983. Thorne Bay adds that its possible inclusion as a recipient of project power requires that it spend additional time reviewing the DEIS.

The April 18, 1983 DEIS comment deadline assumed that interested parties in the project area would receive the DEIS in early March. The approximately three week delay in receipt warrants extending the DEIS comment deadline by a similar period. In addition, the City of Thorne Bay has justified a short extension beyond this period. Accordingly, the deadline is extended to May 23, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11832 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83–248–000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Request Under Blanket Authorization

April 29, 1983.

Take notice that on March 24, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83–248–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate four sales taps on its jurisdictional facilities in Louisiana and Oklahoma to permit direct sales of gas under the authorization issued in Docket Nos. CP82–394–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla states that the estimated annual volume to be delivered by the proposed facilities is 420 Mcf which Arkla further states is *de minimis* in comparison to Arkla's 1982 annual deliveries of 394,607,813 Mcf. Arkla states that said volumes would be billed at the retail rates applicable under Arkla's effective rates as filed with either the Louisiana Public Service Commission or the Oklahoma Corporation Commission, as appropriate. It is asserted that three taps would be used to sell and delivery gas volumes for domestic purposes in Stephens and Beckham Counties, Oklahoma, and Ouachita Parish, Louisiana, and for commercial purposes in Union Parish, Louisiana. The total estimated construction cost of the proposed facilities is $5,120.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

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Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11833 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-459-000]

Cleveland Electric Illuminating Co.; Filing

April 29, 1983.

The filing Company submits the following:

Take notice that on April 14, 1983, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI approximately 20 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action on be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11834 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL83-19-000]

Cliffs Electric Service Co. and Upper Peninsula Generating Co.; Filing

April 29, 1983.

Take notice that on April 15, 1983, Cliffs Electric Service Company ("Cliffs") and Upper Peninsula Generating Company ("Generating Company") (collectively, "Applicants") filed a joint application for a declaratory order for waiver of certain regulations by the Commission. Cliffs and Generating Company state that they jointly and severally seek a partial waiver of the Commission's regulations. Specifically, Applicants request a waiver of the Commission's Uniform System of Accounts, the statements and reports governed by Parts 41, 50, and 141 of the regulations, and the requirements of Parts 45 and 46 relating to interlocking directorates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1983. Protests will be considered by the Commission in determining the appropriate action on be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11835 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-577-001]

Consolidated Edison Co. of New York, Inc.; Compliance Filing

April 29, 1983.

The filing Company submits the following:

Take notice that on April 7, 1983, Consolidated Edison Company of New York, Inc., submitted for filing revised rates pursuant to the Commission's letter order issued August 26, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 17, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11836 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP81-188-003]

Consolidated Gas Supply Corp.; Petition To Amend

April 28, 1983.

Take notice that on April 22, 1983, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP81-188-003 a petition to amend further the order issued August 19, 1981 in Docket No. CP81-188-000 pursuant to Section 7(c) of the Natural Gas Act, so as to authorize the transportation and delivery of natural gas to Niagara Mohawk Power Corporation (Niagara Mohawk) of up to 102,000 dt equivalent of gas per day, all as more fully set forth in the petition to amend which is on file with the Commission and open to the public inspection.

Petitioner states that by order issued August 19, 1981, the Commission granted it a certificate of public convenience and necessity authorizing the transportation and delivery of up to 65,000 dt equivalent of natural gas per day to Niagara Mohawk for use in the generation of electric power in Niagara Mohawk's Albany, New York, steam plant. It is asserted that the authorization was for a limited term expiring on July 31, 1982. Petitioner further states that the Commission by orders issued July 30, 1982 and January 28, 1983, extended the authorization to January 30, 1983 and October 31, 1983, respectively.

Petitioner now seeks to amend its existing certificate to increase the daily deliverability to Niagara Mohawk from 65,000 dt to 102,000 dt. Petitioner claims that the present limitation on deliveries of 65,000 dt per day does not provide Niagara Mohawk with the operational flexibility it needs to meet the demand for electric power on its system. According to Petitioner, when the present limitation on gas deliveries is reached, Niagara Mohawk must switch to the use of fuel oil for electric power generation, and then must switch back to gas use the next day. It is asserted that the frequent switching of fuels is causing operational problems in the firing Niagara Mohawk's boilers and, in turn, the production of power.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11837 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP76-265-002]

Consolidated Gas Supply Corp.; Petition To Clarify or, In the Alternative, To Amend

April 29, 1983.

Take notice that on March 23, 1983, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Charleston, West Virginia 26301, filed in Docket No. CP76-265-002 a petition to clarify the order issued September 3, 1981, in Docket No. CP76-265 or in the alternative pursuant to Section 7(c) of the Natural Gas Act to amend such order so as to authorize the transportation for The Brooklyn Union Gas Company (BUG) gas previously purchased by Consolidated from Fuel Resources, Inc. (FRI), BUG's affiliate, but now to be purchased by BUG, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

The September 3, 1981, order, among other things, permitted Consolidated to transport self-help gas purchased by BUG from FRI but also provided that Consolidated would purchase a one-fourth share of the gas deliveries. Consolidated now indicates that it no longer needs or wants to purchase the one-fourth share because of its improving gas supply situation. As a result, Consolidated proposes to relinquish its right to purchase the gas, subject to its right to renew, and instead to transport the gas for BUG.

Consolidated asserts that amendment of the September 3, 1981, order is not necessary because

(1) The additional volumes to be transported, when added to the volumes already being transported under the certificate and 1975 transportation agreement, would not exceed the maximum volume authorized by the Commission;

(2) The Commission did not expressly condition its September 3, 1981, order on the purchase of the gas by Consolidated, and

(3) In any event, transportation of gas could alternatively be accomplished under the self-implementing regulations found at 18 CFR 284.102.

Consolidated also states that, if in the Commission's view, such amendment is necessary, Consolidated requests that the Commission amend the order of September 3, 1981, in Docket No. CP76-265 to provide the additional transportation service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11838 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-39-000]

El Paso Electric Co.; Application

April 28, 1983.

Take notice that on April 20, 1983, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission, seeking authority pursuant to Section 204 of the Federal Power Act to assume the obligation of payment of up to $50,000,000 principal amount of Pollution Control Revenue Refunding Bonds proposed to be issued by the City of Farmington, New Mexico, in mid to late June 1983, for pollution control facilities at the Four Corners Generating Station.

Any person desiring to be heard or to make any protest with reference to the application should, on or before May 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with th

Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11839 Filed 5-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-509-001]

Esperanza Transmission Co.; Amendment to Application

April 29, 1983

Take notice that on March 11, 1983, Esperanza Transmission Company (Applicant), P.O. Box 2447, Corpus Christi, Texas 78403, filed in Docket No. CP82-509-001 an amendment to its application filed on August 23, 1982, in Docket No. CP82-509-000 pursuant to section 311(a) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations (18 CFR 284.127) so as to reflect an increase in the proposed initial transportation rate to be charged to Natural Gas Pipeline Company of America (NGPL), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that on August 23, 1982, it filed an application with the Commission in Docket No. CP82-509-000 for authorization to transport natural gas through its intrastate facilities on behalf of NGPL for a period ending December 31, 1988, in connection with NGPL's proposed direct sale of gas to Southwestern Electric Power Company (SWEPCO) for use in SWEPCO's Wilkes Plant located in Marion County, Texas.

Applicant states that it has had to adjust its cost estimates for the transportation due to the time delays which have occurred. Such adjustments have resulted in the necessity to increase its proposed initial rate from 15 cents to 18.2 cents per million Btu, it is asserted.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in

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accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11840 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-12-001]

Faustina Pipe Line Co.; Amendment to Application

April 29, 1983.

Take notice that on March 14, 1983, Faustina Pipe Line Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. CP83-12-001, an amendment to its pending application filed in Docket No. CP83-12-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a change in the transportation service to be provided United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement dated September 12, 1982, Applicant states that it proposes to transport up to 100 billion Btu's of natural gas per day for United from various points on Applicant's contiguous mainline facilities located in southern Louisiana to any other points located on those same facilities. Applicant states that the amendment dated March 7, 1983, changes the service to be authorized by (1) reducing the quantity of the gas to be transported from 100 billion Btu's to 50 billion Btu's of natural gas per day; (2) changing the character of the service to be rendered from firm to interruptible; (3) deleting the minimum annual charge as an element of the rate and charge assessed United for the transportation service; and (4) deleting the right of United to "make up" any defieiencies which may be incurred.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 20 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 285.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11841 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-10-M

[Docket No. CP83-227-000]

Florida Gas Transmission Co.; Application

April 29, 1983.

Take notice that on March 14, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83-227-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Southern Natural Gas Company (SNG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that SNG has contracted to purchase certain supplies of natural gas to be produced from Block 3, Sabine Pass area, offshore Louisiana. Pursuant to the terms of an October 8, 1982, transportation agreement, Applicant proposes to receive up to 20 billion Btu of gas per day for the account of SNG at an existing point of interconnection between the facilities of Louisiana Resources Company and Applicant in Vermilion Parish, Louisiana. Applicant states that it would transport and deliver these quantities of gas to SNG on a best-efforts basis at existing points of interconnection between the facilities of Applicant and SNG in Washington Parish, Louisiana or at the interconnection of the facilities of Applicant and Trunkline Gas Company in Calcasieu Parish, Louisiana.

It is asserted that Applicant proposes to charge SNG 14.8 cents per million Btu delivered at the existing point of interconnection in Washington Parish, Louisiana, and 12.7 cents per million Btu delivered at Calcasieu Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11842 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-478-003]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Petition To Amend

April 29, 1983.

Take notice that on April 4, 1983, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-478-003 a joint petition to amend the order issued April 2, 1980, in Docket No. CP77-478 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase during the winter period in the daily volumes of natural gas that are transported for Central Illinois Public Service Company (CIPSCO), all as more set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is asserted that pursuant to a transportation and exchange contact dated April 1, 1977, Petitioners agreed to transport gas for CIPSCO to and from CIPSCO's storage fields. It is stated that during the summer period Petitioners transport up to 10,000 Mcf of gas per day from CIPSCO's Southern Service Area to its Northern Service Area for injection into CIPSCO's storage fields. It is further stated that during the winter period gas is withdrawn from the storage fields and Petitioners transport up to 20,000 Mcf of gas per day back to CIPSCO's Southern Service Area.

Petitioners stated that during the summer period (April 1-October 31) Trunkline receives gas for CIPSCO's account in Williamson County, Illinois, and transports it to Panhandle and Panhandle redelivers CIPSCO's gas at Pike or Edgar or Fulton Counties, Illinois. It is explained that during the winter period (November 1-March 31) the gas flows in the opposite direction.

Petitioners propose herein to increase the maximum daily transportation volume for the winter period from 20,000 Mcf per day to 25,000 Mcf per day. It is asserted that the total winter period—summer period volume of gas to be transported, 500,000 Mcf, would not change; therefore, the transportation charge would not change.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F Plumb,

Secretary

[FR Doc. 83-11843 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-473-000]

Public Service Co. of Oklahoma; Filing

April 29, 1983.

The filing Company submits the following:

Take notice that on April 21, 1983, Public Service Company of Oklahoma ("PSO") tendered for filing a Letter Agreement ("Agreement") dated January 21, 1983, between PSO and West Texas Utilities Company ("WTU"). The Agreement provides for the sale of five (5) megawatts of capacity, without reserves, from PSO to WTU during the calendar year 1983.

PSO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to WTU, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Revised Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F Plumb,

Secretary.

[FR Doc. 83-11846 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-472-000]

Public Service Co. of Oklahoma; Filing

April 29, 1983.

The filing Company submits the following:

Take notice that on April 21, 1983, Public Service Company of Oklahoma ("PSO") tendered for filing a Letter Agreement ("Agreement") dated March 14, 1983, between PSO and Arkansas Power and Light Company ("AP&L"). The Agreement provides for the transfer of 133,900 MWh of PSO's entitlement to the Tennessee Valley Authority ("TVA")-South Central Electric Companies ("SCEC") Diversity exchange for the 1983 summer exchange period. This entitlement is provided for in an agreement between TVA and the Mississippi Power and Light Company for the delivery of the allocated diversity within the SCEC agreement. PSO states that it desires to transfer its diversity entitlement to lower its reserves in 1983 and that AP&L desires to purchase the diversity entitlement to meet its system requirements.

PSO requests an effective date of May 29, 1983, and therefore requests waiver of the Commission's notice requirements.

According to PSO, AP&L, Southwestern Electric Power Company, the Oklahoma Corporation Commission and the Arkansas Public Service Commission have been served a copy of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Revised Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F Plumb,

Secretary.

[FR Doc. 83-11845 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-471-000]

Public Service Co. of Oklahoma; Filing

April 29, 1983.

The filing Company submits the following:

Take notice that on April 21, 1983, Public Service Company of Oklahoma ("PSO") tendered for filing Schedules RE and PRA ("Schedules") to be made a part of the Interconnection Agreement between PSO and Western Farmers Electric Cooperative ("WF"). The Schedules are industry standard schedules that will enable PSO and WF to make more full use of their respective generation facilities and will help ensure the reliability of their respective electric systems.

PSO requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to WF and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rules 211

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and 214 of the Commission's Revised Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11844 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-402-004]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

April 29, 1983.

Take notice that on April 6, 1983, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP77-402-004 a petition to amend the order issued June 18, 1981, in Docket No. CP77-402 pursuant to Section 7(c) of the Natural Gas Act to authorize the Transportation of natural gas for Southern Natural Gas Company (Southern) from two additional sources and to establish a new point of receipt offshore, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued June 18, 1981, Petitioner was authorized to transport for Southern up to 90,000 Mcf of natural gas per day produced in Vermilion Area Block 22, offshore Louisiana, and received by Petitioner onshore in the Pecan Island area on Petitioner's Central Louisiana Gathering System in Vermilion Parish. Petitioner states that it transports and delivers equivalent quantities to Florida Gas Transmission Company (Florida) for the account of Southern at the interconnection of Florida's East White Lake Lateral and Petitioner's Central Louisiana Gathering System in Vermilion Parish.

Petitioner now proposes to transport for Southern within the 90,000 Mcf per day quantity gas from two new sources: (1) Vermilion Area Block 40, which gas would be received by Petitioner onshore in the Pecan Island area as under the present arrangement, and (2) Vermilion Area Block 37, which gas would be received by Petitioner at the interconnection of its Central Louisiana Gathering System and existing jointly-owned facilities of Petitioner, Southern and United Gas Pipe Line Company (United) in Vermilion Area Block 25.

It is further stated that the transportation rates would be 3.5 cents per million Btu received by petitioner onshore in the Pecan Island area and 10.0 cents per million Btu received by Petitioner offshore in Vermilion Area Block 25. These rates are identical to those rates authorized by order issued March 18, 1982, in Docket No. CP77-435-003 in which Petitioner was authorized to transport gas for United, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11830 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF80-5011-005 and EF83-5011-000]

Western Area Power Administration; Filing

April 29, 1983.

The Western Area Power Administration submits the following:

Take notice that on April 19, 1983, the Assistant Secretary for conservation and Renewable Energy of the Department of Energy, by Rate Order No. WAPA-17, did confirm and approve, on an interim basis, effective May 25, 1983, applicable the first full billing period thereafter, new rate schedules CV-F5 (schedule of Rates for Wholesale Firm Power Service), CV-T1 (Schedule of Rates for Firm Transmission Service), and CV-T2 (Schedule for Rates for Nonfirm Transmission Service) for the Western Area Power Administration's Central Valley Project. In FR 1987, the new rates for wholesale firm power (rate schedule CV-F5) are expected to provide about $187 million more in annual revenue than would be yielded by the current rates.

The new rates will be in effect pending the Commission's approval of them, or substitute rates, on a final basis, or until they are superseded. The Assistant Secretary states that the rate schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204-33.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such petitions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-11831 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PL83-2-000]

Off-System Sales by Interstate Pipelines; Statement of Policy

April 25, 1983.

The Federal Energy Regulatory Commission (Commission) announces a general policy regarding off-system sales by interstate pipelines. The term "off-system sale" connotes a sale of natural gas that is excess to the pipeline's current demand, that is of a short-term, interruptible nature, and that is made to a customer outside or away from the pipeline's traditional or historic market area.

The purpose of this policy statement is to provide guidance for the efficient disposition of pending or future cases which propose off-system sales. The Commission is mindful that a general policy statement does not have the force and effect of law. Instead, it is an articulation of the Commission's tentative intention, which will be followed unless particular circumstances demonstrate the policy to be inappropriate. In individual cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

Background

This policy statement is intended to deal with the major issues identified in the November conference [1] and related comments that are common to all the off-system sale proposals. It is not exhaustive, which is to say that for a particular proposal there may be issues or concerns influencing the Commission's decision that are not discussed in this policy statement. As a general matter, however, the Commission expects that applications for off-system sales that are consistent with this policy statement will be processed on an expedited basis.

When the Commission first began authorizing the current round of off-system sales (in late 1980), such sales served the purpose of allowing pipelines and distributors that were short of gas supplies to purchase gas from pipelines that had a surplus.

In the summer of 1981 the Commission again considered off-system sales, but with a somewhat different emphasis. The gas surplus was becoming more prevalent, and some pipelines began to project significant levels of prepayments for gas not taken. Off-system sales were thought to be a way of ameliorating the take-or-pay problem while at the same time permitting pipelines to continue to contract for long-term reserves, even though they did not need the short-term deliverability increases that accompanied such contracts. From the buyer's standpoint, off-system sales served not only to ease physical shortages, but also gave the buyer access to less expensive gas.

During the past two years, the Commission has authorized off-system sales involving approximately 1 Tcf of gas. Something less than 240 Bf has actually been sold. Despite the relatively small portion of authorized volumes sold, off-system sales have had a significant impact in the States of California and Louisiana. However, no off-system gas has been sold in California since August 1982, and more recently, only two pipelines—Northern Natural Gas Company and Natural Gas Pipeline Company of America—could be described as making substantial off-system sales. Both pipelines have relatively low 100% load factor rates enabling them to find markets off their systems, primarily in Louisiana.

Now virtually all interstate pipelines have a supply surplus. For 1982, there existed something over 2 Tcf of excess annual deliverability. According to American Gas Association estimates, it appears that the comparable number for 1983 will be closer to 3 Tcf. The surplus is still short-term, but nonetheless it is a present reality.

There has been one other change over the past two years, not unrelated to the gas surplus, and that is the dramatic shift in the relative prices of gas and oil. In 1980, oil prices were well above gas prices. Today, gas prices are equal to or exceed the cost of high sulfur No. 6 fuel oil at many places in the country.

Although off-system sales have not been as successful as the selling pipelines had projected, some gas has been sold through off-system sales that otherwise would not have been, take-or-pay levels have been reduced to some degree, some fuel oil has been displaced, and buyers were able to purchase gas at prices lower than they otherwise would have to pay.

Not everyone has been in favor of off-system sales. As the Commission heard at the November 1982 conference (and as it has read in the adverse interventions filed in particular dockets), a number of traditional customers of selling pipelines have opposed the sales. They have objected because they consider the sales prices to be too low and not available to on-system customers on the same basis, because the pipeline should be husbanding its gas supplies instead of selling off-system, because the pipelines are buying high cost gas to replace the lower cost gas that is being sold off-system, and because they see off-system sales as relieving the pressure to make more fundamental changes in gas purchasing practices and gas supply contracts.

Certain intrastate pipelines (and the producers who sell to them) have also opposed off-system sales. They claim to be facing the same marketing problems as the interstate pipelines—softening demand, excess deliverability, take-or-pay exposure, shut-in-wells, and competition from oil—and object to interstate pipelines with regulated gas cushions being able to undercut their prices in the intrastates' traditional markets. In effect, they claim that off-system sales will simply shift the problems of the interstate pipelines to the intrastate market.

Some commenters urged that off-system sales be prohibited, others urged that opportunities for off-system sales be opened up to increase the volumes of gas that might be sold. our review of the transcript of the November conference and the comments that were filed in connection with the conference convince us that off-system sales do have a role to play in the current circumstances of the natural gas markets although that role may be more limited than some would hope.

II. Objectives

In our view, an appropriate off-system sales policy should serve the following objectives:

(1) Permit pipelines with excess gas supplies to sell to pipelines (interstate, Hinshaw, or intrastate) and local distribution companies experiencing a physical gas shortage.

(2) Permit pipelines with excess gas to sell to pipelines, local distribution companies, and end-uses who would otherwise purchase more expensive gas.

(3) Ameliorate take-or-pay problems.

(4) Accomplish the first three objectives without unduly burdening the selling pipeline's traditional customers and without simply transferring problems of the interstate pipelines to the intrastate market.

This last objective will require the Commission to give careful scrutiny to certain kinds of transactions. Data have been presented to the Commission demonstrating that the problems of excess supplies, mounting take-or-pay obligations, and competition from alternative fuels that have compelled interstate pipelines to seek off-system sales are also plaguing the intrastate market. Certain intrastate pipelines claim that off-system sales by interstate pipelines have caused and will cause the intrastate pipelines to lose portions of their market to the interstate pieplines. The intrastate pipelines claim that such market loss is made possible solely because of the cushion of price-regulated interstate gas [2] that is not available to the intrastate market. It is not immediately obvious that market loss of this sort is appropriate or desirable. It appears only to solve a problem in the interstate market by creating or exacerbating a problem in the intrastate market. Accordingly, where an interstate pipeline proposes an off-system sale that would cause a direct loss of market by an established supplier, our review of the public convenience and necessity will include an examination of the market impact of the proposed transaction on existing suppliers of the intended buyer.[3]

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[1] Convened in Docket No. GP82-47, "Review of Off-System Sales Program," pursuant to a notice issued August 6, 1982.

[2] See Sections 104 and 106(a) of the Natural Gas Policy Act.

[3] Such an inquiry might also be appropriate where established suppliers other than intrastate pipelines raise the objection.

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III. Criteria

The issue of price drew the most attention in the comments and at the conference. We conclude that where the proposed sale is between two interstate pipelines, the transaction should be priced at the higher of the selling pipeline's system average load factor rate (based upon the rates in effect at the time the transaction is proposed) or its average Section 102 gas acquisition cost (based upon its most recent purchased gas adjustment filing). Where the purchaser is not another interstate pipeline, the selling pipeline would be free to negotiate a higher rate.

Such a rate would ensure, as a general matter, that the sales off-system would not be made at a price lower than is available to on-system customers. Thus the rate can be said to be non-discriminatory. The off-system sale price should also be compensatory. The compensatory requirement would ensure that on-system customers would be no worse off than if the sale had not been made. In choosing this rate methodology, it is our assumption that the pipeline could replace any gas it sold off-system through additional purchases of Section 102 gas.

We have previously stated that allegations of market loss by an established supplier of the buyer identified in a specific transaction raise serious questions that require case-specific analysis and close scrutiny. As one part of our examination into whether or under what circumstances such a transaction should be authorized, we intend to inquire into the relative competitive positions of the two suppliers and whether the interstate pipeline may be able to compete at the marginal cost of making the sale (while recovering its fixed costs elsewhere) against an intrastate pipeline that would be recovering its fixed costs in the rates for the intrastate's traditional market area involved in the proposed sale. In such a case, it may be appropriate to require that the basic price discussed above be increased by an amount to reflect some portion of the interstate pipeline's fixed costs.

An issue related to price is the treatment of revenues derived from the off-system sale. In the past we have generally required that revenues from off-system sales be credited to Account No. 191. In two instances, the pipelines have established representative volume levels for off-system sales in their general rate cases. We conclude that pipelines should have the option to choose either to credit revenues or to establish representative levels of off-system sales or revenues in their rates. Thus, a pipeline may establish representative volumes or revenues in its general rate proceeding and avoid the crediting of revenues in excess of costs. Alternatively, the pipeline would credit to Account No. 191 all revenues from off-system sales in excess of one cent per MMBtu (as representative of out-of-pocket costs). The pipeline could also demonstrate and retain an amount of actual out-of-pocket costs in excess of one cent per MMBtu.

To be eligible to make an off-system sale, the selling pipeline must demonstrate a sufficient surplus that service to existing customers will not be impaired and must also demonstrate at least potential take-or-pay liability. The reason for the surplus requirement is obvious. The whole premise of off-system sales is that there is a surplus. If it appears that the pipeline's supplies are marginal, or will be so within a short space of time, the pipeline should not be selling off-system. The requirement that the pipeline show at least potential take-or-pay liability is based on the assumption the on-system customers incur a detriment when the sale is made, at least in the sense of having contracted reserves being sold away. The off-system sale may also have the effect of increasing their average cost of gas. The requirement that the pipeline demonstrate at least potential take-or-pay exposure would give some measure of an offsetting benefit in the form of avoided take-or-pay liability.

In past cases, the Commission has inquired as to the potential buyer's need for the additional supplies. In some cases that need has been a physical one, in the sense that without the off-system purchase the buyer would have had to curtail deliveries to its customers. In other cases, the buyer has demonstrated a need for less expensive gas supplies by alleging either potential load loss if costs are not reduced or discriminatory prices on various parts of its system due to differences in the rates of its pipeline suppliers. Based on our review of the record, we believe that the buyer's need for the gas should not be an issue in the proceeding, beyond a demonstrated willingness on the part of the buyer to purchase (in the form of an executed contract). Requiring more introduces issues that do not appear to be central to the decisions we must make with respect to off-system sales.

As a corollary, however, there must be specific identification of the buyer (either an end-user, or a pipeline or local distribution company with an established market). Specific identification of the buyer will enable the Commission to identify all of the factors relevant to making a determination as to the public convenience and necessity of the proposed sale. In particular, it will enable the Commission and interested parties to determine whether the proposed transaction presents the potential for market loss described above.

The one exception to the requirement to identify the buyer specifically will be for transactions between two interstate pipelines. The notice of proposed rulemaking in Docket No. RM81–29 (phase II of the blanket certificate rulemaking proceeding) included a provision authorizing off-system sales between two interstate pipelines. The Commission intends to adopt a final rule in Docket No. RM81–29 which will include a provision authorizing off-system sale transactions between two interstate pipelines subject to the prior notice provisions adopted in Docket No. RM81–19 and included in the regulations as Sections 157.201, *et seq.* (18 CFR 157.201, *et seq.*), so long as the transaction is otherwise consistent with this policy statement. The authorizations applied for under the blanket certificate could be either for a specified transaction or for specified volumes within a one-year period to be sold to unspecified interstate pipelines. Applications for blanket certificate authority outside the parameters adopted in Docket No. RM81–29 will generally be denied.

The Commission does not see a need to impose end-use restrictions on the off-system sales. This position is consistent with Commission policy expressed, for example, in Opinon No. 10–B with respect to producer reservations. The principal market for off-system sales has been the boiler fuel market where fuel oil is the alternative to natural gas. We see no reason to place restrictions on the use of off-system sale gas, at least under present circumstances.

As to curtailment status, the off-system sales previously authorized were made on a "best efforts" basis, with a requirement that the sale be interrupted prior to interruption of on-system customers. We believe that policy should be continued. The fundamental predicate for making off-system sales is that the gas is surplus to the requirements of the pipeline's historic market. *A fortiori*, that historic market has a service preference over transactions that are made possible only when and to the extent that a surplus exists. While questions may arise with respect to the relative priority to be accorded more than one off-system sale by the same pipeline, we express no view on that subject here. Where it develops as a genuine issue, we will pursue the matter on the basis of the record developed in a particular proceeding.

In the past we have authorized off-system sales for a one-year term, without prejudice to the seller seeking to extend the sale. We will continue to limit off-system sales to a one-year period. The rapid changes in the nature of the gas markets that have occurred in the last year have convinced us, more than ever, that all participants in decisions concerning future transactions need to remain flexible. We cannot now discern whether the considerations that lead us to authorize off-system sales now will continue to exist a year or more from now.

IV. Procedural Matters

A number of pipelines urged that we expedite the process of deciding cases concerning off-system sales. We believe that this policy statement should expedite case dispositions by serving to narrow the scope of the issues involved, and by providing guidelines for the industry and the Staff as to the nature of transactions the Commission is prepared to authorize on more or less a routine basis. Where applications propose off-system sales that are consistent with the policy statement, we expect such applications to be processed expeditiously.

We are also taking two other steps. First, as stated above, we expect to include in the final rule issued in Docket No. RM81–29 a provision authorizing off-system sales between interstate pipelines. Second, we will delegate to the Director of the Office of Pipeline and Producer Regulation the authority to issue a certificate of public convenience and necessity authorizing an off-system sale where the application is uncontested and consistent with the terms of this policy statement.

Finally, with respect to cases where there is a specific allegation of market loss made by an established supplier of the potential buyer, we believe that an evidentiary hearing to explore the various issues discussed above with respect to market loss is likely to be the only way of developing a record sufficient for the Commission to decide whether the proposed transaction is required by the public convenience and necessity. In this connection, the pipeline or distributor raising the objection must allege with specificity, and be prepared to prove, that the potential buyer is a current customer on the objector's system and that the selling pipeline's sales advantage is due to the statutory framework of the Natural Gas Act and the NGPA, which subject the nation's gas supplies to disparate price ceilings.

By the Commission. Chairman Butler concurred and will have a separate statement. Commissioner Sheldon dissented with a separate statement attached. Commissioner Richard concurred with a separate statement attached.

Lois D. Cashell,

Acting Secretary.

Separate Statement of Commissioner Sheldon

Issued: April 25, 1983.

I disagree with my colleagues in this matter because I believe implementation of the policy will prevent surplus gas from being made available to many prospective purchasers. Further, I believe the least cost gas mix will not be available to consumers.

Industry data indicates that there is presently a deliverability surplus in excess of 3Tcf. Current market demand forecasts demonstrate that the amount of the present surplus may grow even larger. Given OPEC's most recent developments, it is not unreasonable to assume that No. 6 fuel oil may further erode additional industrial markets served currently by natural gas. Notwithstanding the fact that natural gas has at best a tenuous hold on some industrial markets, there is ample evidence that certain areas of the country contain industries that are unable to shift, for pragmatic reasons, to fuel oil or are supplied by expensive sources of natural gas. If it is possible to move some of the surplus to markets efficiently and without undue harm to on-system customers, it is my belief the Commission should facilitate such movement.

While the policy statement issued today seeks to deal with this surplus situation, I believe the policy adopted by the Commission does not achieve its stated objectives.

I am particularly concerned with the pricing scheme established by the policy statement. While it is intended to preclude off-system sales made at discriminatory or preferential prices to the detriment of on-system customers, it is in my view both unnecessary as a protective measure and inimical to the majority's stated objective of moving less expensive gas to off-system markets.

The past 1½ years has indicated that gas will move if it is appropriately priced. Clearly the 100 percent load factor rate resulted in the movement of several billion cubic feet of gas. When the 100 percent load factor was adopted as a policy matter to be in the public convenience and necessity, the Commission believed such a rate was a fair and just pricing scheme. However, we have seen several on-system customers object to the 100 percent load factor because it was not a rate under which the on-system customers could purchase gas for their own use.

I would generally prefer to see this Commission give the selling pipeline and its on-system customers the freedom to determine what off-system sales rate would adequately protect these customers. A system average load factor rate is one which would reflect the average cost of serving all on-system customers and would be a rate under which all on-system customers could make purchases. Such a rate is clearly not unjust, unreasonable nor unduly discriminatory or preferential with regard to on-system customers. In my view, a system average load factor rate would be presumptively in the public convenience and necessity. Further, a system average load factor rate would recover more revenues for on-system customers than the 100 percent load factor rate. Moreover, the record indicates that virtually all of the Louisiana intrastates could continue to purchase vast quantities of the surplus at significant savings to their customers if the selling interstates are authorized to sell gas off their traditional system at the system average load factor rate.

The majority appears to have de-emphasized the off-system sales policy's original goal of reversing a dangerous trend of discouraging producers from continuing their aggressive exploration and development program initiated subsequent to the passage of the NGPA. The system average load factor rate would allow some of the interstates with the largest surpluses to continue their off-system sale efforts. The point is, gas will move off-system without undue harm to on-system customers if it is appropriately priced. The majority's action today will do nothing to ameliorate the current dilemma.

I am concerned also with that part of the policy statement which requires case-specific analysis of situations where a proposed off-system sale is alleged to cause market loss by an established supplier. The mere specter of prolonged litigation will discourage potential sellers from attempting to negotiate an off-system sale.

Another aspect of the policy statement with which I have problems is the requirement that the selling pipeline have actual or potential take or pay obligations. Such a requirement penalizes a well managed company which may have surplus supply not necessarily coupled with take or pay potential. A perhaps less efficient company with take or pay problems would be rewarded by this requirement but an efficient company would be penalized.

The majority appears to imply that there is something ominous about interstates displacing pre-existing intrastate suppliers because of the "cushion" afforded interstates by virtue of the NGPA.

Let me set the record straight by making the following observations: From the onset of interstate curtailments in 1971 to as recently as two years ago, certain intrastate pipelines have enjoyed significant supply advantages to the detriment of the interstate market. A major ingredient which spawned the intrastate surplus was the absence of any price control. However, this absence of controls enabled intrastate suppliers to offer firm, reliable supplies to the intrastate industrial and boiler fuel markets. Moreover, countless industrial customers of interstate pipelines faced with the option of no gas willingly relocated their plants to the gas rich intrastate arena. Further, immediately upon passage of NGPA, these same intrastate

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pipelines, who today the majority seeks to insulate from the rigors of the marketplace, capitalized considerably under Sections 311 (b) and 312 of the NGPA. Enormous volumes of surplus intrastate gas moved into the gas-starved interstate market without a mention of market raiding or anticompetitiveness.

It is shortsighted to assume that today's interstate surplus is any more permanent than was the intrastate surplus of several years ago. Given the severe supply decline curves forecast for the Gulf of Mexico as early as 1985, it is unfortunately not unreasonable to assume that a new era of curtailment is lurking beyond the horizon. Off-system sales are only a temporary and short-term response to the myriad factors which have caused the current deliverability surplus. To deny appropriate market responses for parochial reasons is a policy I cannot support. Further, to suggest that the cushion is a creature of the statute flies in the face of the history of contractual and regulatory practices in the intrastate market. It has been next to impossible for intrastates to acquire low-cost gas on a permanent basis since virtually every intrastate contract contains favored nations clauses which cause all intrastate prices to rise according to the highest price which any intrastate buyer is willing to pay. Interstates today might be facing the same prospect had not the Commission explicitly acted to prohibit the operation of these clauses in interstate contracts.

I favor an off-system sales policy which has the Nation's best interests at heart, not a policy which has the peculiar, if not odious effect of safeguarding parochial concerns. The majority should state simply that it has decided to discontinue the off-system sales program. In effect, it has.

Georgiana H. Sheldon,

Commissioner.

Statement of Commissioner Richard, Concurring

Issued: April 25, 1983.

The Commission, like poor Pilgrim on the way to the Celestial City, has been seeking light in the instant review of its off-system sales policy since the Informal Conference held in November of 1982. Our problems with on-systems sales are enough, yet we now must consider those that are off-system.

Our rules on off-system sales emerged from two policy objectives: to allow supply-rich pipelines to sell gas to supply-poor pipelines to correct regional supply imbalances and to offer interstate pipelines relief from take-or-pay obligations. Regional supply imbalances largely occurred during the curtailments of the 70's with some occurring after enactment of the Natural Gas Policy Act of 1978. The take-or-pay factor in our policy has largely been brought about in the last two years by rising prices during a time of decreased demand.[1] Both reasons for the need for off-system sales can be explained by regulatory policy.[2] Certainly they are not inherently evil.

The picture of our natural gas market from shortage to current surplus has changed considerably since the Central Intelligence Agency in 1977 projected such gas shortages worldwide that the Soviet Union would be a net importer of both oil and gas.[3]

Since the public conference, concern about the supply-demand imbalance has been mounting. Pipelines, both interstate and intrastate as well as distribution companies have fervently expressed their concern about maintaining existing sales levels in their conventional market areas.[4] Markets have been deteriorating. According to the most recent American Gas Association data estimates in the calendar year 1982, the amount of excess gas production capability ranged from 1.9 Tcf to 2.7 Tcf. Estimates of our own Staff note that a further drop in the OPEC oil price to a range of $25, could in turn, increase the surplus even greater.[5] The increasing deliverability surplus issue must be addressed by the Commission.

No one knows how long this supply-demand imbalance will last.[6] We all might agree, however, that the dissipation of surplus is linked to such factors as the interaction between natural gas and fuel oil prices as well as a strengthening of the current soft demand in our automobile and steel industries. In the meantime, there still could be a significant number of willing sellers and willing buyers, who for a number of reasons will be in a position to ameliorate the present and possibly enormous short term market imbalance.

Thus, I concur with the majority that off-system sales are an acceptable response to a difficult, albeit what may be a short term problem. The first place where I differ with my colleagues is in their choice of the pricing mechanism which, in my view, may do very little to facilitate the movement of gas. Nor have we, I think, given enough thought to what chaos might be created if the price of oil drops too precipitously.[7]

Price Restricitons on Gas Movement

The off-system sales conference was replete with criticism of the inadequacies of the 100% load factor rate. When this Commission adopted it in August 1981, it was under enormous pressure to do something with the mounting take-or-pay exposure projected by interstate pipelines. On-system customers were willing to wait and see what their posture would be after the experience of the initial year of the off-system sales. By August of 1982, it became apparent that the 100% load factor rate was being seriously questioned. Since most on-system customers were generally unable to purchase at the lower 100% load factor, our review invited comments on what might be a more appropriate benchmark.

Numerous participants at the November conference encouraged the Commission to adopt the system average load factor rate since in theory it reflected the average cost of serving the typical on-system customer on a particular system. Since this average load factor is one which is designed to accommodate all on-system customers, it is safe to conclude that such a rate is neither unjust, unreasonable, nor unduly discriminatory insofar as those customers are concerned.

A system average load factor rate more fully compensates traditional customers for the volumes sold off-system. It offers a further advantage to on-system customers if the selling pipeline elects to credit off-system revenues to Account 191. The customers will receive significantly more credited revenue under such a plan compared with the 100% load factor rate. An off-system customer, on the other hand, should benefit by averaging down its higher cost supplies with lower cost off-system amounts.

Even this compensatory policy, by itself, could be satified and off-system sales allowed, so long as the selling price is greater than the selling pipeline's avoided or incremental cost. That price could still be lower than any comparable on-system price. It does not have to be the higher of system average load factor or the average Section 102 price.

I am afraid our policy may dampen pipeline flexibility to the ultimate detriment of all consumers. These times call for new policies here at the Commission. Surviving the natural gas industry transistion will be rocky at best. The review of off-system sales have raised a number of questions of an institutional nature along these lines.

It has been argued that interstate pipelines that have operated efficiently and prudently with regard to gas acquisition strategies should be rewarded by being placed in a position to make off-system sales of a short-term surplus.

However, whenever a commodity has been vintaged such as has happened in the wellhead control of natural gas, existing customers of a pipeline may argue that the low cost supplies financed in effect by them, especially if interest free loans by ratepayers such as advance payments are involved, should be "husbanded" for their use.[8] the use of his grandfather idea advanced by lawyers, legislators, or expressed by physicists in who gets to say when time will start, evidenced by the equation, time = 0 will be an issue here at the Commission.

This is where the battle is joined. At what price should off-system sales be set in order to be compensatory to on-system sales? [9] Set too high none will be made; set too low and on-system customers might argue their cushion being eaten up.

As to the husbanding issue, one pipeline executive noted in his testimony that as to the:

". . .perceived low cost advantage at a later date. . . . The gas may not be recovered as a result of drainage or the limited time frame available for make-up or take-or-pay volumes in Natural's gas purchase contracts.[10]

The perceived benefits of husbanding may be illusory. [Pipelines] have continued to add reserves. We feel that that's important to the future viability of all of our markets.

". . .This is not the kind of business dealing with a depreciable asset where you can turn it off and turn it back on when you need it. It requires lead time. . . .[11]

As the band of commodity prices developed under existing statutory authority or (under changed authority) moves toward a much more narrow one, the off-system sales policy has the potential to become a useful tool. Similar to any commodity spot market, it could enable our maturing system of pipelines to move a supply of gas around the country where it is needed much like the idea of a national electrical grid. At the same time it could offer *all* producers the flexibility for continued exploration and production through an expanded market access.

This purpose will be served as long as the on-system customers are adequately protected on the price issue. The supply issue is one that takes care of itself in that off-system sales would, of course, be interruptible.

As to the implication in the policy statement that there appears to be a competitive problem between interstate pipelines and intrastate pipelines, I would suggest that the problem in the future will not be limited between these two entities alone. The potential or disruption caused by vintaging could be between some interstates against other interstates.

As the witness for Northern Natural Gas Company noted:

Since . . . we have lost a lot of sales during the off-peak period, we are trying to find the markets for our long-term gas supply, that we can't market in our traditional area.[12]

Market Raiding

The fact is that any static pricing standard adopted today may soon be irrelevant. The growing surplus of natural gas can become so large that, with rare exceptions, there could be no buyers.[13] Even if the price were set at the "reasonably anticipated average variable cost" [14] (a standard recommended by antitrust experts to avoid predatory pricing) the prices would still approximate the prices of recent sales. The majority has gone farther to consider not only antitrust policies and the need to encourage natural gas sales,[15] but also to take into account the price which does not discriminate against the customer of the selling pipeline and compensates for the loss of the gas. It is true, as the dissent points out, that these steps lessen the likelihood that off-system sales will be made. However it bears reiteration that the crucial battle relating to the regulatory treatment of surplus natural gas in the long term is not likely to be joined between intrastate and interstate pipelines as envisioned by the majority. That is merely a skirmish. The Commission is about to become the arena for the interstate pipeline systems as they challenge each other for shares in what may become a rapidly *contracting* natural gas market, absent market pricing comparable to its fuel competition and an upturn in the economy.

In the public discussion of this policy statement held on March 10, 1983, some members of the majority defended their choice to protect the intrastate pipelines from market intrustion on the ground that the Natural Gas Policy Act of 1978 had conveyed an unintended, competitive advantage upon some interstate pipelines. I agree that, under that statute, several interstate pipelines possess large reserves of low-cost gas which remain under price controls. Thus, their average prices are lower than others less fortunately situated.[16] In my opinion, however, the effects of "price cushions," dropping demand due to conservation, and market loss to alternative fuels have far more serious implications in the interstate market.

The front lines of impending combat have already reached the doorsteps of the Commission. On November 24, 1982, we set for hearing a compliant by Central Illinois Light Company that they be permitted to add a new supplier, displacing some high-priced Panhandled Eastern supplies with volumes from Natural Gas Pipeline Company of

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[1] An economic recovery and concomitant increase in demand could bring the first reason back to the limelight. Conversely, even lower oil prices or a failure of the economy to revive would continue to emphasize reason two.

[2] *See* Office of Regulatory Analysis, FERC, Off-System Sales: A Preliminary Outline of the Policy Issues, 8–13 (Oct. 12, 1982).

[3] Central Intelligence Agency, *The International Energy Situation: Outlook to 1985* (1977). The report predicted the Soviet bloc by 1985 ". . . would require a minimum of 3.5 million barrels of imported oil" daily. Soviet production is more than 400,000 above the CIA's estimate for 1983. This estimate was part of the impetus behind President Carter's National Energy Plan.

[4] This Commission is too. *See* Tennessee Gas Pipeline Company, 21 FERC ¶ 61,004 (Oct. 1, 1982).

[5] Staff suggests markets for gas could fall further below the 1982 levels with a projection of an oversupply for 1983 to be in excess of 3 Tcf, an amount equal to approximately 15% of the total marketable natural gas production. Working and total storage inventories for 37 interstate pipelines are now 45.5 percent (470 Bcf) and 17.5 percent (594 Bcf) higher, respectively than last year at this time. Office of Pipeline and Producer Regulation, FERC, Preliminary Interstate Form 8 Underground Storage Report (April 1, 1983).

[6] A study by Merrill Lynch suggests up to 1984. *See Oil & Gas J.*, Feb. 21, 1983, at 66–60.

[7] We are seeing some evidence of this now in the form of refusals to honor minimum bills, or take-or-pays. In a non-regulated market all segments of the national production/delivery system would bear the brunt of a drop in demand to the overall benefit of consumers. Due to the nature of our system, however, in a falling market, we are likely to see requests for rate increases to reallocate fixed costs based on lower demand absent falling prices or reduced take-or-pays.

[8] For example, Joesph P. Thomas of Peoples Gas Lighting Company and North Shore Company said, "The question of the old gas prices—which given Natural Gas Pipe substantial advantage—came about because it had fantastic support from the customer in the early '70s in advance payment programs. Also, the customers made direct personal investments with producers to commit gas to Natural Gas Pipe.

Natural Gas Pipe, therefore, today is in a very enviable position in terms of cost of gas, but they are there because they had the support of their customers. And most of it was financial support." Review of Off-System Sales Program, Public Conference Transcript 263 (Nov. 4, 1982).

As Donald Carlson of Interstate Power Company noted, "Curtailment and restriction of growth by Interstate's pipeline suppliers has only ended in the last few years, and these suppliers have offered additional contract quantities to their jurisdictional customers for the first time in approximately 10 to 12 years.

Both Northern and Natural have participated very actively in the off-system sales of their reserves and have applied for authorizations to make additional sales on the future. Interstate believes that these applications should be evaluated in the light of the effect that these authorizations might have on the availability of firm and interruptible service to historic customers on these pipeline systems in the future, and the impact of authorizing such sales on curtailments in the future." Id. at 232.

[9] The interests of traditional system customers in off-system sales raise a multiplicity of difficulties. Some of these are broad issues such as the extent to which a price should compensate them for depletion of the pipeline's cushion. Other issues are linked to the characteristics of the customer class. For example, in Docket No. CP82–544, customers of Tennessee Gas Pipeline have voiced their displeasure at the proposed off-system sale of 129 Bcf of surplus gas at a 100% load factor rate when many small customers are constrained from purchasing the cheap surplus by their annual volumetric limitation imposed under Tennessee's 1974 curtailment plan. Review of Off-System Sales Program, Supplemental Comments of Am. Pub. Assoc. at 7 (Dec. 2, 1982). Resolution of issues of this sort may range from removal of annual volmetric limitation to rate design adjustments.

[10] Review of Off-System Sales Program, Public Conference Transcript at 7 (Nov. 4, 1982) (Comments by Charles Eberst, Natural Gas Pipeline Company).

[11] *Id.* at 63. Lead times are not limited to pipelines—neither acquisition nor production comes, like Athene, full blown from the head of Zeus. This Commissioner, and others, still worry about deliverability in the long term:

"Transco believes that the excess deliverability situation is necessarily a temporary phenomenon because reserves dedicated to pipelines have not increased substantially in recent years. For example, today Transco reserves/annual production ratio is approximately 6 compared to 10 in 1977. During that same period, Transco's pipeline reserves increased 12 percent, whereas, annual deliverability from these reserves increased 90 percent." *id.* at 328 (comments of Alford White of Transco); or,

"[W]e do not believe that there is any magic in maintaining a certain level of gas reserves or a high reserve to production ratio. As a matter of fact, [Lone Star Gas Company doesn't] think that it is reasonable nor practical in today's business environment to maintain the high reserve to production ratios that we were able to maintain 10 to 15 years ago," *id.* at 361 (comments of H. H. Merritt).

[12] *Id.* at 120 (Comments of Othol White of Northern Natural Gas Company). *See infra* note 27.

[13] For the two week period ending February 19, 1983, only 96,000 Mcf/d moved under the off-system sales program. Office of Pipeline and Producer Regulation, FERC, Volumes of Self-Implemented Purchases, Off-System Sales and Curtailments by 28 Major Interstate Pipelines, App. IV (March 3, 1983). It is worth noting that the prices for these transactions were lower than the standard adopted by the majority today.

[14] Areeda and Turner, *Predatory Pricing and Related Practices under Section 2 of the Sherman Act*, 88 Harv. L. Rev. 697, 716–720 (1975). *See* Pacific Eng. & Prod. Co. of Nevada v. Kerr-McGee Corp., 551 F.2d 790 (10th Cir.), *cert. denied*, 434 U.S. 879, *reh. denied*, 434 U.S. 977 (1977); Zoslaw v. MCA Distrib. Corp., 693 F.2d 870, 887–888 (9th Cir. 1982); Northeastern Tel. Co. v. Am. Tel. & Tel. Co., 651 F.2d 76, 88 (2d Cir. 1981); Chillicothe Sand & Gravel v. Martin Marietta Corp., 615 F.2d 427, 431–432 (7th Cir. 1980).

[15] As the current surplus builds, it continues to depress drilling and exploration activities. Lawrence, Office of Regulatory Analysis, FERC, Monthly Gas Industry Activity Rep. No. 29, 1–2 and Charts 1–3 (Feb. 28, 1983).

[16] *See* FERC, Impact of the NGPA on the Current and Projected Natural Gas Markets, 47 FR 19,157 (May 4, 1982).

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America [17] which enjoys the lowest system average acquisition cost in the country. On February 3, 1983, the Illinois Commerce Commission passed a resolution directing Central Illinois Light Company, Illinois Power Company, and Central Illinois Public Service Company to inquire into the feasibility of obtaining natural gas supplies less costly than that available from their current suppliers.[18] In addition, the Illinois Commerce Commission has proposed legislation to the National Association of Regulatory Utility Commissioners that many current natural gas supply contracts be voided or subjected to renegotiation and that would make pipelines common carriers. Under such a scheme, the traditional service obligations of the pipelines and their role as sole suppliers would be seriously diminished.[19]

Now it appears that it is to be the burden of the Commission to referee the territorial struggles over shrinking territory.[20] In the past, the fights have largely involved opportunities for market growth. In the near future we may be forced to decide who is to be the shrinking pipeline. The Commission has never grappled with the ramifications of market intrusion on an industry-wide basis.

The cushion debate again raises its head, not between intrastates and interstates, but between interstates with low versus high cushions. The differential in price that may lead to a competitive advantage on price alone, absent legislative changes may last until the 1990's.[21]

A review of some of the leading cases reveals some of the factors which the Commission will have to consider when confronted with the issue of market intrusion. Based upon the Natural Gas Act's directive that certification and abandonment authority are not to "be construed as a limitation upon the power of the Commission to grant certificates of public convenience and necessity for service of an area already being served by another natural gas company," [22] the policy of the Commission has been held to favor competiton.[23]

Under that rubric, however, the Commission has generally sought to balance the benefits of the intrusion against its detriments from the point of view of the affected customers.[24] The chief benefit is generally a lower price, at least in the short-term for some customers.[25] The detriments have received more attention, focusing upon the effect of market loss.[26] Whether this Commission wants to pay attention, to any or which of these cases when gas market priced, no longer sells itself against competing fuels will be our task.

Conclusion

None of these factors are dispositive in the circumstances I believe the natural gas industry will soon face. On the one hand, widespread market-shifting undermines the planning efforts of management and the confidence of investors. It may also injure customers who, when their numbers are reduced, must shoulder a larger share of the fixed costs. On the other hand, protectionist policies may deprive customers of the lowest prices they might receive and remove the discipline of competition.

Naturally the penetration of one's historic market, whether its interstate or intrastate, is a concern.[27] Until the wide band of prices

[17] 21 FERC ¶61,147. The first market entry case decided by the Commission originated in Illinois. In *Central Illinois Public Service Company*, 4 FPC 1043 (1945), the distribution company sought to purchase additional supply from a source other than its traditional supplier, Kentucky Natural Gas Corporation. The distributor, in effect, sought to eliminate the middleman and to purchase directly from Kentucky's supplier, Panhandle Eastern Pipe Line Company.

[18] Illinois Commerce Commission, Inquiry into Feasibility of Obtaining Alternative Sources of Gas Supply (Feb. 3, 1983) (attached here).

[19] *Illinois Commerce Commission Pushing Common-Carriage Plan, Greater Competition*, Inside FERC 3 (Mar 14, 1983).

[20] I harbor reservations about the wisdom of protecting market segments, as I have discussed earlier, especially when the protection is grounded in an attempt to compensate for advantages conveyed by a statute which was intended to unify the interstate and intrastate market. However, I view the "tentative" statement issued today as applicable only to off-system sales, not to the broader issues of market competition among long-term suppliers.

[21] The natural gas cushion is derived from the relationship of decontrolled or to be decontrolled gas and the gas which remains subject to price controls. According to the Department of Energy, approximately 60% of all intrastate gas is decontrolled by 1985, rising to 76% in 1987, and 86% by 1990. In the interstate market, 46% of domestic interstate gas supplies will retain price controls by 1985, 36% in 1987, and 25% in 1990. Office of Policy, Planning and Analysis, U.S. Dept. of Energy, *A Study of Alternatives to the Natural Gas Policy Act of 1978?* (Nov. 1981) (DOE/PE-0031); Energy Information Administration, U.S. Dept. Energy, *Intrastate and Interstate Supply Markets under the Natural Gas Policy Act* 12-13 and 27 (Oct. 1981) (DOE/EIA-0039).

[22] 15 U.S.C. 717f(g) (1976).

[23] Lynchburg Gas Co. v. FPC, 336 F.2d 942, 949-950 (D.C. Cir. 1964) (Washington concurring: "Investors in the natural gas industry, although granted an opportunity for a 'fair return', are by no means guaranteed freedom from risk or competition. Such assurance would, in a case such as this, deprive competitors of the right to compete, inhibit efficient allocation of resources and deny ultimate consumers the lowest prices to which they are entitled."). Panhandle Eastern Pipe Line Co. v. FPC, 169 F.2d 881, 884 (D.C. Cir.), *cert. denied*, 335 U.S. 854 (1948); Columbia Gulf Transmission Co., 37 FPC 118, 131 (1967), *off'd*, Atlantic Seaboard Corp. v. F.P.C., 397 F.2d 753 (4th Cir. 1968).

[24] Lynchburg Gas Co. v. FPC, 336 F.2d 942, 950 (D.C. Cir. 1964) (washington, concurring).

[25] *E.g.*, Texas Eastern Transmission Co., 14 FPC 116, 120 (1955) (Low cost was found to be outweighed by the effects of load loss on the established supplier.); Central Illinois Pub. Serv. Co., 4 FPC 1043 (1945). Other benefits have included the extent to which a second supplier can furnish more satisfactory service. Michigan-Wisconsin Pipe Line Co., 5 FPC 953 (1946), *amplified*, 6 FPC 1 and 6 FPC 56 (1947). *See* Michigan Consolidated Gas Co. v. FPC, 283 F.2d 204 (D.C. Cir.), *cert. denied*, 364 U.S. 913 (1960) (remanded related proceedings for consideration of the overall needs of the competing companies). A second physical source of supply which enhances the operational flexibility and safety of the purchaser. Texas Eastern Transmission Co., 14 FPC 116, 120 (1955). Occasionally, when a customer sought to eliminate its "middleman supplier," this has been viewed as a benefit *per se*. Cincinnati Gas & Elec. Co. v. FPC, 389 F.2d 272, 276 (6th Cir. 1968). *Cf.* Shrewsbury Mun. Light Department v. New England Power Co., 32 FPC 373, 377. (1964), *aff'd sub nom.*, New England Power Co. v. FPC, 349 F.2d 258 (1st Cir. 1965) (displacement of original supplier of electric power).

[26] In *Tennessee Gas Transmission Company*, 14 FPC 544 (1955), for example, the Commission permitted the introduction of a second supplier where the impact on the traditional one would "not be material." *Id.* at 548. On the other hand, it has denied intrusion where the savings to the customers were "relatively small." Texas Eastern Transmission Co., 14 FPC 116, 120 (1955). It also denied intrusion in *Transcontinental Gas Pipe Line Corporation*, 21 FPC 130 (1959), relying upon the potential harm to the orginal supplier who had "pioneered" the area. The Third Circuit criticized the reliance of the Commission upon "assertions of possibilities" of economic injury. Lynchburg Gas Co. v. FPC, 275 F.2d 847, 848 (3rd Cir. 1960). (The Commission responded to the court by later granting the intrusion based upon price benefits.) Lynchburg Gas Co., 24 FPC 955, 958 (1960). The Commission has also refused to permit an additional supplier to skim the cream of the industrial load off the original pipeline system. Transwestern Pipeline Co., 36 FPC 176, 20 (1966); Natural Gas Pipe Line Co., 34 FPC 771, 782-783 (1965). We have demanded that the supplier seeking entry show independent economic feasibility for the proposed project. Natural Gas Pipe Line Co., 34 FPC 771, 778 (1965). In two cases the Commission attempted to formulate a mechanical test for balancing these interests. Called the "net market loss test," the theory was first developed by Judge Fahy in his remarks setting forth his reasons for the *per curiam* remand in *Lynchburg Gas Co. v. FPC*, 336 F.2d 942, 947 (1964). It measured the specific potential market loss that intrusion would impose upon the original pipeline in terms of its impact on revenues or growth, but considering whether the historical supplier may increase its sales elsewhere. Alabama-Tennessee Natural Gas Co., 38 FPC 1069, 1073-1078 (1967), *aff'd*, Alabama-Tennessee Natural Gas Co. v. FPC, 417 F.2d 511, 514-518 (5th Cir. 1969); City of Hamilton, Ohio 37 FPC 209, 214 (1967), *off'd* Cincinnatti Gas & Elec. Co. v. FPC 389 F.2d, 272, 276 (6th Cir. 1968); Columbia Gulf Transmission Co., 37 FPC 162, 125-126 (1967). These decisions were severely criticized in Smith, *The Federal Power Commission and Pipeline Markets: How Much Competition?* 68 Colum. L. Rev. 664, 681-687 (1968) (argued that the Commission should also protect the original supplier's right to growth in the contested market, *id.* at 666). The courts have since held that this test is not mechanical, but is a factor which the Commission "may" consider. Atlantic Seaboard Corp. v. FPC, 397 F.2d 753, 760 (4th Cir. 1968). However, the courts have upheld the Commission's reliance on this test even when the result was to completely supplant the original supplier with a competitor new to the service area. Alabama-Tennessee Natural Gas Co. v. FPC, 417 F.2d 511 (5th Cir. 1969); Cincinnati Gas & Elec. Co. v. FPC, 389 F.2d 272 (6th Cir. 1968).

[27] "Mr. Solters: To the extent that people would want blanket transactions, . . . for off-system sales which would permit the selling interstate pipeline to sell gas in somebody else's market, because there aren't any new plants, basically, they are all pretty much tied up—would you be willing to, as a part of that package, look at accepting a condition under which you would transport other people's gas into *your* markets at a particular point in time?"

"Mr. Davidson: I can answer that for Consolidated Mr. Solters . . . . We wouldn't reject it out of hand. We would want to look at what impact it has on our system and on our fixed cost recovery by moving that gas. But again, it would have to be a cooperative effort. Just as when we go out and find off-system markets, we have to also get cooperation from intrastate companies to move that gas to those markets." Review of Off-System Sales Program, Public Conference Transcript, 128 and 132 (Nov. 4, 1982). Plenty of concern by intrastate pipelines is contained in the transcripts.

[28] A reconstruction of contract prices in graph form would also show the price beginning to break downward.

[29] 15 U.S.C. 3371 (Supp. IV 1980).

caused by vintaging becomes a much more narrow one, rather than the 27-type (or 24 but who's counting?) structure we have today, this Commission will have to concern itself with charges of market raiding. When the band is tight it would seem reasonable that surplus gas will move freely on a price basis. The notion that you are either a low cushion intrastate or high or low cushion interstate would be meaningless—efficiency, not vintaging, would win markets and bring the lowest prices to consumers. The Natural Gas Policy Act, among other things, established movement towards a nationwide wellhead price rather than one that differs because it is either intrastate or interstate. In this vein, it is well to remember that although the price unregulated intrastate market brought on increased supplies before the passage of NGPA the intrastate market began to saturate.[28] The validity of this statement flows from the fact that over 2 Tcf of gas flowed into the supply short interstate market through section 311 transactions [29] immediately after passage of the NGPA in 1978. The reasons that were incentives to move gas from intrastate to interstate are the ones that would encourage interstate pipelines to sell a short term surplus. A national debating society could be formed stocked with spirited members on both sides on whether or not the intrastate markets unregulated price kept the reserves forthcoming while the interstate markets regulated price discouraged the exploration and development of gas. The NGPA by unifying the wellhead price supposedly did away with that internecine battle. We should, as a national objective, encourage the free flow of gas across our state and national borders at the price that a free competitive market would produce.

In my view, tentative attempts to resolve these conflicts and contain the struggle to isolated situations, such as today's policy statement, should be avoided until the Commission or Congress has analyzed the larger ramifications and is prepared to address them—the quicker the better. Hopefully any policy developed will rely less on historic regulatory expertise and rely more on hard bargaining where market signals do get sent *up and down* the line.

Oliver G. Richard, III,

Commissioner.

Attachment.—State of Illinois; Illinois Commerce Commission; Inquiry Into Feasibility of Obtaining Alternative Sources of Gas Supply; 83-0061; Order

By the Commission:

Whereas, certain natural gas pipelines serving gas distribution companies in Illinois are purchasing significant quantities of high-priced gas; and

Whereas, the average purchase gas cost of these pipelines with high-priced gas is now far above the price of new domestic gas and the price of gas on other pipeline systems; and

Whereas, information available to the Illinois Commerce Commission indicates that ample supplies of less costly gas are available; and

Whereas, these high-cost gas purchases by certain natural gas pipelines are imposing and will continue to impose severe and unnecessary financial burdens on natural gas customers in Illinois; and

Whereas, Central Illinois Light Company, Illinois Power Company and Central Illinois Public Service Company are particularly affected by pipeline purchases of high-cost gas;

Accordingly, the Commission, pursuant to Sections 8, 9, 36 and 41 of the Public Utilities Act, directs an inquiry into the feasibility of obtaining alternative sources of gas supply. Central Illinois Light Company, Illinois Power Company, and Central Illinois Public Service Company should each file a written report with the Commission on the feasibility of obtaining alternative sources of gas supply. In such reports the companies shall address at a minimum, the technical, regulatory, and economic feasibility of the following alternatives: (1) direct interconnection with pipelines other those that presently serve them; (2) increased purchases of gas from pipelines with lower cost gas that are presently serving them; (3) direct purchase of gas supplies from producers or other sources of supply; and (4) coordination of gas purchases among distribution companies in Illinois.

It is therefore ordered by the Illinois Commerce Commission that Central Illinois Light Company, Illinois Power Company and Central Illinois Public Service Company, be, and they are hereby, directed to each file a written report on the feasibility of obtaining alternative sources of gas supply, as described hereinabove, with the Chief Clerk of the Commission thirty (30) days from the service date of this order.

By Order of the Commission this 3d day of February 1983.

Philip R. O'Connor,

Chairman.

[FR Doc. 83-11627 Filed 5-3-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-324; PH-FRL 2358-5]

Pesticide, Food, and Feed Additive Petitions; Certain Companies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-324] and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues where required, is given in each petition.

I. Initial Filing

PP 3F2859. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 40 CFR 180.381 by establishing tolerances for the combined residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene] and its metabolites containing the diphenyl ether linkage in or on the commodity onions (dry bulb) at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas chromatography using electron capture detector. (PM-23, Richard Mountfort, 703-557-1830).

II. Amended Petitions

Ciba Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, submitted the following pesticide, food, and feed additive petitions published in the **Federal Register** as follows:

Petitions	CFR sections	Publication date
PP 3F2786	40 CFR 180.408	Dec. 22, 1982 (47 FR 57127).
FAP 3H5376	21 CFR 193.277	Do.
FAP 3H5378	21 CFR 561.273	Do.
FAP 3H5377	21 CFR 193.277	Feb. 2, 1983 (48 FR 4717).
FAP 3H5377	21 CFR 561.273	Do.
FAP 3H5382	21 CFR 561.273	March 16, 1983 (48 FR 11155).

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Petitions	CFR sections	Publication date
PP 3F2819	40 CFR 180.408	Do.

The above petitions proposed the establishment of tolerances for the combined residues of the fungicide metalaxyl and its metabolites in or on certain raw agricultural, and/or food and feed commodities. The tolerance expression for all the above petitions are amended and should read as "metalaxyl [*N*-2,6-dimethylphenyl)-*N*-(Methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)*N*-(methoxyacetyl) alanine, methyl ester each expressed as metalaxyl.

Additional amendments to the petitions were proposed as follows:

1. *FAP 3H5377.* Increased the proposed tolerance levels for the combined residues of metalaxyl and its metabolites in or on dried citrus pulp from 6.0 ppm, and citrus molasses from 5.0 ppm to 7.0 ppm, (21 CFR 561.273), in connection with an experimental use program.

2. *FAP 3H5376.* Increased the proposed tolerance levels for the combined residues of metalaxyl and its metabolites in or on dried citrus pulp from 6.0 ppm, and citrus molasses from 5.0 ppm to 7.0 ppm (21 CFR 561.273).

3. *FAP 3H5382.* Added a proposed tolerance for the combined residues of metalaxyl and its metabolites in or on the commodity cotton soapstock at 2.0 ppm (21 CFR 561.273).

The proposed analytical method for determining residues in gas chromatography with a flame ionization detector or mass spectrometry. (PM–21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: April 22, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–11817 Filed 5–3–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–44002A; BH–Fri 2358–4]

4-Chlorobenzotrifluoride, 2-Chlorotoluene and Chlorinated Paraffins; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions from negotiated testing programs under section 4 of the Toxic Substances Control Act received during the first quarter of 1983. These submissions include: (1) A report on a basic metabolism study of 4-chlorobenzotrifluoride, (2) a draft of a report on the effect of 2-chlorotoluene vapor on pregnancy of the rat, a consultant's letter of evaluation of this test, a preliminary report on an inhalation study on 2-chlorotoluene in the rat and rabbit, and a preliminary draft report on the effect of 2-chlorotoluene on pregnancy in the rabbit, (3) a report on 2-chlorotoluene metabolism in rats, and (4) one teratology study and three range-finding studies on chlorinated paraffins.

ADDRESS: The studies described in the notice, and others previously submitted to the Agency, are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The material may be copied for a nominal fee. TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–107, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS–769), Office of Toxic Substances, Environmental Protection Agency, Room E–511, 401 M Street, S.W., Washington, D.C. 10460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator-202–554–1404).

SUPPLEMENTARY INFORMATION:

I. 4-Chlorobenzothrfluoride

Occidental Chemical Corporation has proposed a testing program for 4-chlorobenzotrifluoride (4–CBTF), a chemical used in the production of dinitroaniline herbicides. The testing scheme is a multi-level approach to both health and environmental effects testing with the EPA participating at a number of program review and decision points. In addition to the acute toxicity information currently available, Occidental has proposed a base set of health effects studies on 4–CBTF which includes subchronic effects, metabolism, mutagenicity and cell tranformation. Decisions on additional testing are to be made when the base set tests are completed and have been reviewed. The environmental effects base set tests proposed by Occidental include: *Daphnia* life cycle, fathead minnow partial life cycle, bluegill flow-through bioaccumulation, soil adsorption/desorption, volatilization from water, photolysis in water and anaerobic aquatic metabolism. Because of these health and environmental effects testing schemes, the EPA has made a tentative decision, published in the **Federal Register** of November 8, 1982, (47 FR 50555), not to propose a test rule for 4–CBTF under section 4 of TSCA.

Occidental has submitted a report on "Metabolism of *p*-Chlorobenzotrifluoride by Rats" which was conducted for it by the Zoecon Corporation. Rats were given a single oral dose of radio-labeled 4–CBTF at 1mg/kg, and the excretion and tissue distribution patterns of the compound and the identity of its principal metabolites were studied.

The Agency is reviewing and evaluating the data and conclusions from this study. The study has been place in the public file on 4–CBTF (OPTS–42026).

II. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene, a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. The testing scheme is multi-level in approach, with the EPA participating at a number of decision points. The toxicological areas being addressed by this program are metabolism, teratology, mutagenicity, chronic toxicity, and environmental toxicity. Because of Occidental's commitment to this testing scheme the EPA decided that it would not propose a 2-chlorotoluene test rule under section 4 TSCA, as detailed in the **Federal Register** of April 28, 1982 (47 FR 18172). Occidental has submitted the following:

1. A draft report: "Effect of 2-Chlorotoluene Vapor on Preganancy of the Rat" which was conducted by Huntingdon Research Centre for Occidental. The report indicates that several fetuses exposed to the highest dose (9 mg/1) of 2-chlorotoluene had sketetal abnormalities. The report also concluded that in rats exposed to 1 and 3 mg/1 doses of 2-Chlorotoluene "there was no conclusive indication of a treatment-related effect".

2. A report: "2-Chlorotoluene, a Preliminary Inhalation Study in the Rat and Rabbit" by Huntingdon Research Centre for Occidental. This preliminary draft presents data only for the effect of 2-chlorotoluene inhalation in rats at the lowest (4 mg/1) and highest (16 mg/1) doses and for controls. The pareliminary draft reports statistically significant changes in a number of blood and urine parameters and organ weights. Other increases in blood chemistry levels which did not reach statistical signficance were also noted in this preliminary draft.

3. An evaluation of the report: "Effect of 2-Chlorotoluene Vapor on Pregancy of the Rat" submitted by Wilson Consulting Service, Inc. to Occidental. Wilson's report concludes that 2-chlorotoluene appears to have no adverse effect on pregnancy or the condition of the fetuses at the 1 or 3 mg/1 doses. At the 9 mg/1 dose some non-statistically significant sketetal abnormalities were noted which Wilson suggests may be "indirect effects secondary to maternal physiologic reactions to this dose".

4. A report on: "2-Chlorotoluene Metabolism by Rats", a study conducted by Zoecon Corporation for Occidental. Rats were given a single 1 mg/kg oral dose of ^{14}C-labeled 2-chlorotoluene and the excretion and tissue distribution patterns of the radiolabel were studied. Principal metabolites were also identified.

5. A preliminary report on: "Effect of 2-Chlorotoluene Vapor on Pregnancy of the New Zealand White Rabbit". The preliminary report indicates that at the two highest doeses (4 mg/1 and 10 mg/1) clinical signs of maternal stress were observed. 2-Chlorotoluene was reported to have no significant effect upon reproductive performance of female New Zealand white rabbits or upon fetal development.

The Agency is evaluating the data and the conclusions which can be drawn from the data in regard go further testing under the negotiated program. These studies have been inserted in the public file on 2-Chlorotoluene (OPTS-42011A).

III. Chlorinated Paraffins

The Consortium of Chlorinated Paraffins Manufacturers is conducting a negotiated testing program on chlorinated paraffins, substances used primarily as flame retardants and plasticizers. The testing program, decribed in in full in the **Federal Register** of January 8, 1982 (47 FR 1071), was accepted by the EPA in lieu of a chlorinated paraffins test rule under section 4 TSCA. The negotiated testing program is a two-level testing scheme on four chlorinated paraffins of differing chain length and degree of chlorination. All four of the substances are being tested in some of the lower-level tests while other studies will test fewer. These lower-level tests include metabolism, teratology and mutagenicity tests in mammals, and subchronic toxicity tests in both mammals and aquatic organisms. The upper-level tests will use the compound considered the most toxic in the lower-level tests, and will include a two-generation reproduction study in rats and a number of specialized aquatic studies. The American members of the Consortium also will be performing an avian reproductive study on a chlorinated paraffin yet to be selected.

The Consortium recently submitted four studies conducted under contract by International Research and Development Corporation (IRDC).

1. One study examined the teratogenic potential of Cereclor S52® (52 percent chlorination of intermediate chain length) in rabbits. The investigators reported that this chlorinated paraffin did not induce a teratogenic response at any of the three treatment doses (10, 30, and 100 mg/kg/day).

2. Two of the studies consisted of range-finding experiments for a future teratology study with Electrofine S70® (70 percent chlorination of long chain length) in rabbits. As a result of these studies, IRDC concluded that doses of 100, 300, and 1,000 mg/kg/day of Electrofine S70® would be appropriate for the teratology study in rabbits.

3. The fourth study submitted by the Consortium was a 5-day oral range-finding test in rats designed to determine the appropriate doses of Electrofine S70® for a future cytogenetic evaluation in that species. The results led IRDC to select doses of 500, 1,500, and 5,000 mg/kg/day for the cytogenic study.

The Agency is evaluating these data and the conclusions that can be drawn from the data in regard to further testing under this program. The studies have been inserted in the public file on chlorinated paraffins [OPTS–44004] for the notice published in the **Federal Register** of January 8, 1982 (47 FR 1017).

In a January 21, 1983 letter, the Consortium informed the Agency of significant delays in the progress of the testing program. The Agency responded to the Consortium with an expression of substantial concern over these delays. At the Agency's request, representatives of the Consortium met with EPA personnel on March 24, 1983 to discuss the reasons for the delays and corrective actions to be taken by the Consortium. The Consortium's and EPA's letters have been placed in the public file for chlorinated paraffins [OTS–44004] along with a summary of the March 24, 1983 meeting.

EPA has requested that all remaining tests or testing sequences be initiated no later than May 15, 1983. The Consortium has agreed to this deadline and has subsequently submitted, at EPA's request, a detailed revised schedule for the testing program. The schedule shows dates for the following milestones for each study for which a final report has not been submitted:

1. When the test was started (or will start),

2. When the collection of experimental data will be completed,

3. When the final report will be submitted to EPA. A copy of the revised schedule has been placed in the public file.

The Consortium has also agreed to supply the Agency with monthly written status reports detailing progress in the testing program and any further problems that may arise. These reports also will be placed in the public file.

In view of the delays in this negotiated testing program, the Agency has strongly considered initiating rulemaking to require the performance of the negotiated tests. However, in view of the Consortium's agreement to the rapid initiation of the remaining tests and the strengthened reporting procedures that have been adopted, EPA has concluded that continuation of the negotiated testing program will achieve development of the needed test data in the most rapid manner. Therefore, EPA will continue to accept the negotiated testing of chlorinated paraffins so long as the revised schedule is faithfully adhered to.

Dated: April 25, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83–11818 Filed 5–3–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2358–2]

Science Advisory Board Executive Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board (SAB). The meeting will be held on May 23–24, 1983, beginning at 9:15 a.m. on May 23 and May 24, in Rooms 3906–08 Mall, EPA, 401 M Street, S.W., Washington, D.C. The agenda for the meeting includes the following issues: reports of SAB Committees and Subcommittees; status report on SAB review of regulations; briefing on the research and development budget for EPA in fiscal year 1984; status report on the SAB's Laboratory Organization Review Group; and other issues of member interest.

The meeting is open to the public. Any member of the public wishing to attend or receive further information should contact Terry F. Yosie or Cheryl B. Bentley on (202) 382–4126 by the close of business on May 18, 1983.

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Dated: April 27, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 83-11819 Filed 5-3-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2441/T408; PH-FRL 2357-8]

American Hoechst Corp.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the insecticide [IR[1(S*) 3 (RS*)]]-2,2-dimethyl-3-(1,2,2,2-(tetrabromoethyl) cyclopropanecarboxylic acid alphacyano-3(3-phenoxyphenyl) methyl ester, and its metabolite in or on the raw agricultural commodity cottonseed.

DATE: This temporary tolerance expires July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of December 16, 1981 (46 FR 61319), announcing the establishment of a temporary tolerance for the combined residues of the insecticide [IR[1(S*) 3(RS*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-3(3-phenoxyphenyl) methyl ester, and its metabolite (1R, 3R) 3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S) alpha-cyano-(3-phenoxyphenyl) methyl eater in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). Most recently, this tolerance was extended, as published in the **Federal Register** of June 16, 1982 (47 FR 26020). This temporary tolerance was issued in response to pesticide petition (PP 1G2441), submitted by American Hoechst Corporation, Agricultural Division, Route 202–206 North, Somerville, NJ 08876. At the request of the company, this termporary tolerance is being extended again.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 8340–EUP–6, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determinded that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 1, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the persticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be arevoked if the experimental use permit is revoked or it any scientific date or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements fo not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981. (46 FR 24950).

(Sec. 408(j), 68 Stat. 516. (21 U.S.C. 346a(j)))

Dated: April 25, 1983

Douglas D. Campt,

Director, Registration Division, Office of pesticide Programs.

[FR Doc. 83-11772 Filed 5-3-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50593; PH-FRL 2357-2]

Pesticides; Issuance of Experimental Use Permits; Abbott Laboratories, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275–EUP–36. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 128,000 BIUs of the biological insecticide *Bacillus thruingiensis*, Berliner on shade and sugar maple trees and shrubs to evaluate the control of caterpillars. A total of 11,000 acres are involved; the program is authorized only in the States of Connecticut, Maine, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Vermont. The experimental use permit is effective from May 1, 1983 to May 1, 1985. An exemption from the requirement of a tolerance for residues of the active ingredient in or on all growing crops has been established (40 CFR 180.1011). (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690)).

241–EUP–102. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 28.4 pounds of the insecticide (±) cyano(3-phenoxyphenyl) methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethy1)benzene-acetate in ear tags on cattle to evaluate the control of face flies, horn flies, houseflies, lice, stable flies, and ticks. A total of 5,400 head of cattle are involved; the program is authorized only in the States of Arkansas, California, Florida, Georgia, Indiana, Kansas, Kentucky, Nevada, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Wisconsin, and Wyoming. The experimental use permit

is effective from March 15, 1983 to March 15, 1984. A temporary tolerance for residues of the active ingredient in or on the milk, meat, fat, and meat byproducts of cattle has been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690)).

8340–EUP–6. Extension. American Hoechst Corporation, Rt. 202–206 North, Somerville, NJ 08876. This experimental use permit allows the use of 1,406 pounds of the insecticide [1R[1(S*) 3(RS*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid-alpha-cyano-3(3-phenoxyphenyl)methyl ester on cotton to evaluate the control of the boll weevil, cotton bollworms, cotton leafperforators, pink bollworms, and tobacco budworms. A total of 5,000 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from July 1, 1983 to July 1, 1984. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690)).

45639–EUP–9. Issuance. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2876, Wilmington, DE 19808. This experimental use permit allows the use of 22.9 pounds of the insecticide amitraz on beef cattle and hogs to evaluate the control of lice, mange mites, ticks, and scabies. A total of 3,400 animals are involved; the program is authorized only in the States of Arkansas, California, Colorado, Indiana, Iowa, Kentucky, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Wyoming and the Territory of Puerto Rico. The experimental use permit is effective from March 21, 1983 to March 21, 1984. Temporary tolerances for residues of the active ingredient in or on beef cattle and hogs have been established. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

1471–EUP–50. Extension. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 7,500 pounds of the fungicide fenarimol on turfgrasses to evaluate the control of various diseases. A total of 2,993 acres are involved; the program is authorized in all 50 States except Alabama, Alaska, Hawaii, Michigan, Mississippi, Vermont, Virginia, and Wisconsin. The experimental use permit is effective from March 31, 1983 to March 31, 1984. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

1471–EUP–51. Extension. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 86.25 pounds of the fungicide fenarimol on commercially grown roses to evaluate the control of powdery mildew. A total of 138 acres are involved; the program is authorized in the States of Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Maryland, Mississippi, New York, Oregon, Pennsylvania, Texas, and Wisconsin. The experimental use permit is effective from March 31, 1983 to March 31, 1984. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

2139–EUP–26. Extension. NOR–AM Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566. This experimental use permit allows the use of 167,628 pounds of insecticide chlordimeform in a tank mix with synthetic pyrethroids and vegetable oil on cotton to evaluate the control of various cotton insects. A total of 162,628 acres are involved; the program is authorized only in the States of Arizona, Georgia, Louisiana, Mississippi, and Texas. The experimental use permit is effective from March 17, 1983 to March 17, 1984. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.285, 180.378, and 180.379). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

359–EUP–60. Extension. Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852. This experimental use permit allows the use of 2,000 pounds of the herbicide acifluorfen on soybeans to evaluate the control of weeds. A total of 4,000 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 1, 1983 to December 31, 1983. A permanent tolerance for residues of the active ingredient is or on soybeans has been established (40 CFR 180.383). (Richard Mountfort, PM 23, Rm. 253, CM#2, (703–557–1830))

359–EUP–62. Issuance. Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852. This experimental use permit allows the use of 1,728 pounds of insecticide ethoprop on tobacco to evaluate the control of nematodes. A total of 72 acres are involved; the program is authorized only in the States of Florida, Georgia, North Carolina, and South Carolina. The experimental use permit is effective from March 11, 1983 to March 11, 1985. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

284–EUP–66. Issuance. Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, T. W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 1,620 pounds of the insecticide aldoxycarb on tobacco to evaluate the control of nematodes and various insects. A total of 540 acres are involved; the program is authorized only in the States of Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from March 23, 1983 to August 23, 1984. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

1023–EUP–45. Issuance. The Upjohn Company, 7171 Portage Rd., Kalamazoo, MI 49001. This experimental use permit allows the use of 189 pounds of the insecticide methyl N-(((((1,1-dimethylethyl)(5,5-dimethyl-2-thioxo-1,3,2-dioxaphosphorinan-2-yl)amino)thio)methylamino)carbonyl) oxy)ethanimidothioate on alfalfa, cirtrus fruits, corn, cotton, leafy vegetables, nuts, peanuts, pome fruits, small fruits, soybeans, tobacco, and turf to evaluate the control of various insects. A total of 37 acres are involved; the program is authorized in States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from March 11, 1983 to March 11, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

2724–EUP–29. Extension. Zoecon Industries, 12200 Denton Dr., Dallas TX 75234. This experimental use permit allows the use of 16 pounds of the Insecticide hydroprene in homes and apartments to evaluate the control of cockroaches. A total of 100,000 sq. ft. are involved. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

2724–EUP–30. Extension. Zoecon Industries, 12200 Denton Dr., Dallas TX 75234. This experimental use permit allows the use of 20.4 pounds of the insecticide hydroprene in homes and apartments to evaluate the control of cockroaches. A total of 100,000 sq. ft. are

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involved; this program and the one above are authorized in all 50 States, the District of Columbia, and the Territory of Puerto Rico. Both permits are effective from April 23, 1983 to April 23, 1984. The permits will use the same active ingredient but different formulations. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended. (7 U.S.C. 136))

Dated: April 22, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–11773 Filed 5–3–83; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Senior Executive Service Performance Awards

The Equal Employment Opportunity Commission hereby gives notice that it has scheduled payment of Senior Executive Service performance awards for May 19, 1983, or as soon thereafter as practicable. For further information contact Beverly A. Gary, Director, Personnel Management Services, at 634–7000.

Clarence Thomas,

Chairman.

[FR Doc. 83–11914 Filed 5–3–83; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL ELECTION COMMISSION

[Notice 1983–13]

Filing Dates for California Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for California special election.

SUMMARY: Committees required to file reports in connection with the special election to be held in the 5th Congressional District of California on June 21, 1983, must file a 12-day pre-election report on June 9, 1983, and a 30-day post-election report due on July 21, 1983.

After filing these reports, committees should resume filing reports on a nonelection year schedule for 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523–4068; Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Election, 5th Congressional District, California

The State of California has scheduled a special election in the 5th Congressional District for June 21, 1983. If no candidate receives a majority of the vote in that election, a special runoff election will be held on August 16, 1983.

All principal campaign committees of candidates in the special election and all other political committees not filing monthly that support candidates in this special election shall file a 12-day pre-election report due on June 9, 1983. The coverage dates for this report begin with the date of candidacy, or the closing date of the last report filed, whichever date is later. The closing coverage date for the June 9, 1983, report is June 1, 1983. Also required is a 30-day post-election report due on July 21, 1983, with coverage dates from June 2, 1983, through July 11, 1983. Committees required to file reports in connection with the special election need not file the semiannual report.

In the event a special runoff election is held, those committees not involved in the special runoff election must file the semiannual report. Further published notice will be given promptly after the June 21, 1983, special election with respect to changes in the reporting schedule if the special runoff election is to be held.

After filing the June 9, 1983, and July 21, 1983 reports, committees should resume filing reports on a non-election year schedule.

Dated: April 29, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83–11928 Filed 5–3–83; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–677–DR]

Amendment to Major-Disaster Declaration; California

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–677–DR), dated February 9, 1983, and related determinations.

DATE: April 26, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: The notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983:

In addition to Individual Assistance under Public Law 93–288, Fresno, Madera and Tulare counties are also designated eligible for Federal assistance to disaster-damaged public schools under Public Law 81–815 and Public Law 81–874, as appropriate.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–11865 Filed 5–3–83; 8:45 am]

BILLING CODE 6718–02–M

[FEMA REP–NH–1]

New Hampshire Radiological Emergency Response Plan for Vermont Yankee

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Amendment to Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and state and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the state and local government off-site plans, the State of New Hampshire, by letters of transmittal dated March 3, March 17, and April 12, 1983, has formally submitted amended radiological emergency plans to the FEMA Region I Office. These plans support the Vermont Yankee Nuclear Power Station in Vernon, VT.

DATE AMENDED PLAN RECEIVED: March 17, 1983 and April 20, 1983

FOR FURTHER INFORMATION CONTACT: Mr. David M. Sparks, Regional Director, FEMA Region I, Room 442, John W. McCormack Post Office and Courthouse Building, Boston, MA 02109, 617/223–4741.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for emergency response plans, FEMA has proposed a rule describing its procedures for review and approval of amended state and local governments' radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR 350.14), "Amendments to State Plans" 45 FR 4341, the amended State Radiological Emergency Plan for the State of New Hampshire was received by the Federal Emergency Management Agency Region I Office.

Included as annexes are the following plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zone for the Vermont Yankee Nuclear Power Station: Chesterfield, Richmond, Hinsdale, Swanzey, and Winchester. The plan for the host community Keene was also submitted.

Copies of the amended plan are available from the State of New Hampshire Civil Defense Agency, New Hampshire Military Reservation, One Airport Road, Concord, New Hampshire 03301.

Copies of the amended plan are also available for review at the FEMA Region I Technological Hazards Office, Room 462, John W. McCormack Post Office and Courthouse Building, Boston, MA 02109. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5.

Comments on the amended plan may be submitted in writing to David M. Sparks, Regional Director, at the above address within 30 days of the **Federal Register** Notice.

Dated: April 20, 1983.

David M. Sparks,

Regional Director.

[FR Doc. 83–11866 Filed 5–3–83; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL MARITIME COMMISSION

Trans-Pacific Freight Conference of Japan/Korea; Withdrawal

Filing Party: George A. Quadrino, Esq., Warren & Associates, P.C., Attorneys for Trans-Pacific Freight Conference of Japan/Korea, 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 150 DR–7.

Summary: The Commission has received notice that at a senior level meeting held on April 18, 1983, the Trans-Pacific Freight Conference of Japan/Korea voted unanimously to withdraw the Conference's unused intermodal dual rate authority.

Dated: April 29, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR doc. 83–11870 Filed 5–3–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Commercial Bancshares, Inc. and Montana Bancsystem, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

a. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commercial Bancshares, Inc.*, Jersey City, New Jersey; to acquire 100 percent of the voting shares or assets of Fidelity Bank & Trust Company of New Jersey, Pennsauken, New Jersey. Comments on this application must be received not later than May 27, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Montana Bansystem, Inc.*, Billings, Montana; to acquire at least 80 percent of the voting shares or assets of Montana Bank of Forsyth, Forsyth, Montana. Comments on this application must be received not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 29, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–11812 Filed 5–3–83; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies; Grant S. Clark Investment Co. and New City Bancorp

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Grant S. Clark Investment Company*, Salt Lake City, Utah, has applied to acquire 100 percent of the voting shares of Davis County Bancorporation, Salt Lake City, Utah, and Davis County Bancorporation, Salt Lake City, Utah, has applied to become a bank holding company by acquiring 80 percent or more of the voting shares of Davis County Bank, Farmington, Utah. Comments on this application must be received not later than May 20, 1983.

2. *New City Bancorp*, Orange, California; to become a bank holding company by acquiring 100 percent of the voting shares of New City Bank (In Organization), Orange, California. Comments on this application must be received not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–11815 Filed 5–3–83; 8:45 am]

BILLING CODE 6210–01–M

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Atlantic Bancorporation, et al.; Proposed Acquisition of Florida Interchange Group, Inc.

Atlantic Bancorporation, Jacksonville, Florida; Barnett Banks of Florida, Inc., Jacksonville, Florida; First Florida Banks, Inc., Tampa, Florida; Florida National Banks of Florida, Inc., Jacksonville, Florida; Landmark Banking Corporation of Florida, Ft. Lauderdale, Florida; Southeast Banking Corporation, Miami, Florida; Southwest Florida Banks, Inc., Ft. Meyers, Florida; and Sun Banks of Florida, Inc., Orlando, Florida, have jointly applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire 10 percent each of the voting shares of Florida Interchange Group, Inc., (in organization) ("FIGS"), Orlando, Florida, a proposed joint venture.

Applicants state that the proposed joint venture would provide data processing and transmission services to insured depository institutions located in Florida. FIG will operate a shared EFT switching system for financial transactions interchange between participating financial institutions.

This application is related to, and is being processed concurrently with, an application by NCNB Corporation, Charlotte, North Carolina, to acquire a 10 percent voting interest in FIG. Salco One, Inc., a wholly-owned subsidiary of Amerifirst Federal Savings and Loan Association, Miami, Florida, will constitute the remaining 10 percent owner of FIG.

These activities would be performed from offices of Applicants' joint venture in Orlando, Florida, and the geographic area to be served is the State of Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question of whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11811 Filed 5-3-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Florida Interchange Group, Inc.; NCNB Corporation

NCNB Corporation, Charlotte, North Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Florida Interchange Group, Inc., (in organization) ("FIG"), Orlando, Florida, a proposed joint venture.

Applicants state that the proposed joint venture would provide data processing and transmission services to insured depository institutions located in Florida. FIG will operate a shared EFT switching system for financial transactions interchange between participating financial institutions.

This application is related to, and is being processed concurrently with, the joint application of Atlantic Bancorporation, Jacksonville, Florida; Barnett Banks of Florida, Inc., Jacksonville, Florida, First Florida Banks, Inc., Tampa, Florida; Florida National Banks of Florida, Inc., Jacksonville, Florida; Landmark Banking Corporation of Florida, Ft. Lauderdale, Florida; Southeast Banking Corporation, Miami, Florida; Southwest Florida Banks, Inc., Ft. Myers, Florida; and Sun Banks of Florida, Inc., Orlando, Florida; for each to acquire 10 percent voting interest in FIG. The remaining 10 percent owner of FIG will be Salco One, Inc., a wholly-owned subsidiary of Amerifirst Federal Savings and Loan Association, Miami, Florida. These activities would be performed from offices of Applicants' joint venture in Orlando, Florida, and the geographic area to be served is the State of Florida. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11811 Filed 5-3-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Miller & Boyd Insurance Agency, Incorporated; Slater Bancshares, Inc.

Slater Bancshares, Inc., Slater, Missouri, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Miller & Boyd Insurance Agency, Incorporated, Slater, Missouri.

Applicant states that the proposed subsidiary would engage in general insurance activities in a community with a population of less than 5,000 and the sale of credit life and credit accident and health insurance related to extensions of credit by Applicant's subsidiary bank in accordance with Title VI of the Garn- St Germain Act of 1982. These activities would be performed from offices of Applicant's subsidiary in Slater, Missouri and the geographic area to be served is the town of Slater, Missouri and the surrounding area within a 12 mile radius. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11814 Filed 5-3-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of F.I. Futures Corporation; First Interstate Bancorp

First Interstate Bancorp, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of F.I. Future Corporation, Los Angeles, California.

Applicant states that the proposed subsidiary would engage *de novo* in the activities of acting as a futures commission merchant with respect to futures in U.S. Government and Government National Mortgage Association Securties, negotiable money market instruments and foreign exchange. These activities would be performed from offices of Applicant's subsidiary in Los Angeles, California, and the geographic areas to be served are all fifty states, the District of Columbia and abroad.

Interested persons may express their views on the question whether consummation of the proposal can "reasonable be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than May 27, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11813 Filed 5-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de novo Nonbank Activities; Citicorp and Kasco Mortgage Corp.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Georgia, Alabama, Mississippi, Tennessee, Kentucky, Arkansas): To expand the activities of an existing office of Citicorp Acceptance Company, Inc., located in Chattanooga, Tennessee. The new activities in which the office proposes to engage *de novo* are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities of the extension of loans to mobile home dealers for the financing of inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts relating to mobile homes, to engage in such activities with regard to all types of dealers and all types of consumer installment paper. The proposed service area, for the proposed *de novo* activities and expanded activities, shall be comprised of the entire States of Georgia, Alabama, Mississippi, Tennessee, Kentucky and Arkansas. Comments on this application must be received not later than May 27, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Kasco Mortgage Corporation,* Warren, Michigan (mortgage banking; Michigan, Arizona): To engage in making or acquiring loans and other extensions of credit secured by real estate such as would be made by a mortgage banking company, including commercial and residential loans secured by the borrower's real estate and, in some cases, mortgage insurance provided by private or government sources; servicing such loans for others; and selling such loans, in some cases, to investors such as Federal National Mortgage Association and Government National Mortgage Association. Kasco Mortgage Corporation will service the States of Michigan and Arizona from its office in Warren, Michigan. Comments on this application must be received not later than May 19, 1983.

Board of Governors of the Federal Reserve System, April 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-11810 Filed 5-3-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General Antitrust advance notice and to wait designated periods before consummation of such plans. Section 7A (b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Divisions of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0226, 83-0227 and 83-0228—Margaret Hunt Trust Estate's proposed acquisition of voting securities of Louisiana-Hunt Trust Estate (Placid Oil Company, UPE); (2)Haroldson L. Hunt, Jr. Trust Estate's proposed acquisition of voting securities of Louisiana Hunt Petroleum Corporation (Placid Oil Company, UPE); and (3) Caroline Hunt Trust Estate's proposed acquisition of voting securities of Rosewood Resources (POC), Incorporated (Placid Oil Company, UPE).	Apr. 11, 1983.
(4) 83-0232-83-0233—Caroline Hunt Trust Estate's proposed acquisition of voting securities of Rosewood Resources (HPC), Inc. (Hunt Petroleum Corporation, UPE); and (5) Hunt Trust Estate's proposed acquisition of voting securities of Rosewood Resources (PROS), Inc. (Prosper Energy Corporation).	Do.
(6) 83-0230, 83-0231 and 83-0234—William Herbert Hunt Trust Estate's proposed acquisition of voting securities of Petro-Hunt Corporation, (Hunt Petroleum Corporation, UPE), (7) Lamar Hunt Trust Estate's proposed acquisition of voting securities of Petro-Hunt Corporation, (Hunt Petroleum Corporation, UPE); and (8) Nelson Bunker Hunt Trust Estate's proposed acquisition of voting securities of Petro-Hunt Corporation, (Hunt Petroleum Corporation, UPE.	Do.
(9) 83-0172—Alexian Brothers of Americas, Inc.'s proposed acquisition of assets of Lutheran Medical Center (Lutheran Charities Association, UPE).	Apr. 12, 1983.
(10) Transaction Number 83-0214—The General Tire and Rubber Company's proposed acquisition of all voting securities of Marion Bottling Company, Inc.	Apr. 7, 1983.
(11) Transaction Number 83-0223—Warburg, Pincus & Company of Motel assets of Herrick and Campbell and voting securities of Western 6 motels, Inc. (Herrick and Campbell, William J. Herrick, UPE'S).	Do.
(12) Transaction Number 83-0225—Grand Metropolitan Public Limited Company's proposed acquisition of all assets of The Mark Hopkins Hotel Joint Venture No. 326135.	Apr. 8, 1983.
(13) 83-0217—MCO Holding, Inc.'s proposed acquisition of assets of Ensource, Inc.	Apr. 18, 1983.
(14) 83-0246—Lear Siegler, Inc.'s proposed acquisition of voting securities of Aviquipo, Inc. (Tiger International, Inc., UPE).	Apr. 19, 1983.
(15) 83-0237—People Express Airlines, Incorporated's proposed acquisition of certain assets of Braniff International Corporation.	Apr. 14, 1983.
(16) 83-0221—The Pulitzer Publishing Company's proposed acquisition of assets of Combined Communications Corporation of Kentucky, Incorporated (Gannett Company, Incorporated, UPE).	Apr. 19, 1983.
(17) 83-0251—John W. Kludge's proposed acquisition of voting securities of Metromedia, Incorporated.	Apr. 15, 1983.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3694.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-11821 Filed 5-3-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Meeting of Aging Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on June 22, 23, and 24, 1983, in Building 31, Conference Room 4 (A wing), National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 22 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 22 from 10:00 a.m. to adjournment on June 24, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2005, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: April 26, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83-11687 Filed 5-3-83; 8:45 am]

BILLING CODE 4140-01-M

Meeting of National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the national Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 23–24, 1983, at the National Institutes of Health, Building 31C, Confercence Room 10. Bethesda Maryland 20205.

The meeting will be open to the public on May 23 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary discussions will be on Transplantaton. On May 24 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the report of the director of the Immunology, Allergic and Immunologic Diseases Program and the director of the Microbiology and Infectious Disease Program. Attendance by the public at all open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meetings of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on May 23, 1983. The meeting of the full Council will be closed from approximately 10:00 a.m. until adjournment on May 24 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concernig individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Nancy Brun, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH Westwood Building, Room 703, telephone (303) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Deseases Research, National Institutes of Health)

Dated: April 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-11683 Filed 5-3-83; 8:45 am]

BILLING CODE 4140-01-M

Meeting of Subcommittee on Animal Resources of the Animal Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources on May 24, 1983 from 1:00 p.m. to recess and on May 25, 1983 from 8:00 a.m. to adjournment in Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland, 20205.

The meeting will be open to the public on May 24 from 1:00 p.m. to approximately 3:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 24 from approximately 3:00 p.m. to recess and on May 25 from 8:00 a.m. to approximately 12:00 noon for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health).

Dated: April 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-11681 Filed 5-3-83; 8:45 am]

BILLING CODE 4140-01-M

Meeting of National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on June 9–10, 1983, in Conference Room 8, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on June 10, for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(b) of Pub. L. 92–463, the meeting of the Council will be closed to the public on June 9 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31–C, Room 2C39, Bethesda, MD 20205, (phone 301 496–6621) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840–Caries Research, 13.841–Periodontal Diseases Research, 13.842–Craniofacial Anomalies Research, 13.843–Restorative Materials Research, 13.844–Pain Control and Behavioral Studies, 13.845–Dental Research Institutes, 13.878–Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: April 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-11680 Filed 5-3-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the ad

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hoc group for review of the Biometry and Risk Assessment Program (BRAP), NIEHS, June 1–3, 1983, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, N.C.

This meeting will be open to the public 9 to 10 a.m. on June 1, for the purpose of presenting an overview of the organization of the Statistics and Biomathematics Branch and the Epidemiology branch of BRAP. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public June 1 from 10:00 to adjournment on June 3, for the evaluation of the Statistics and Biomathematics Branch and the Epidemiology Branch, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. David G. Hoel, Director, BRAP, NIEHS, Research Triangle Park, N.C. 27709, telephone (919) 541–3441, FTS 639–3441 will furnish summaries of the meeting.

Dated: April 15, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–11885 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the General Clinical Research Centers Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), June 20–22, 1983, Conference Room 7, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will be open to the public on June 21, 1983, from 9:00 a.m. to approximately 12:00 noon during which time there will be comments by the Director, DRR; an update on the GCRC Program; and reports on the Clinical Associate Physician Program, the diffusion of the CLINFO System, a proposed award for established investigators, possible new technologies for GCRCs, and Clinical Research Data Management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 20, 1983, from 6:00 p.m. to recess; on June 21, from approximately 12:00 p.m. to recess; and on June 22, 1983 from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Exective Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: April 26, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–11886 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 23–24, 1983, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on June 23, 1983 from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 522b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 23, from approximately 9:30 a.m. until adjournment on June 24, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.836, Lung Diseases Research; National Institutes of Health)

Dated: April 15, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–11884 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on June 23–24, 1983, in Building 31, Conference Room 9.

This meeting will be open to the public on June 23, 1983, from 8:30 AM to approximately 10:00 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 23, 1983, from approximately 10:00 AM to adjournment on June 24, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 26, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–11880 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meetings for the Review of Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Cancer Research Manpower Review Committee.

Dates: May 26–27, 1983.

Place: Mission Valley Inn, 875 Hotel Circle South, P.O. Box 80097, San Diego, CA 92138.

Times:

Open: May 26, 8:30 a.m.–9:00 a.m.

Closed: May 26, 9:00 a.m.—recess. May 27, 8:30 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Leon J. Niemiec, Ph. D., Westwood Building, Room 809D, National Institutes of Health, Bethesda, MD 20205, Phone: 301/496–7978.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health.)

Name of Committee: Cancer Control Grant Review Committee.

Dates: June 6–7, 1983.

Place: Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Times:

Open: June 6, 8:30 a.m.–9:00 a.m.

Closed: June 6, 9:00 a.m.—recess. June 7, 8:30 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Robert F. Browning, Ph. D., Westwood Building, Room 806, National Institutes of Health, Bethesda, MD 20205, Phone: 301/496–7413.

(Catalog of Federal Domestic Assistance Number 13.398, project grants and contracts in cancer, control National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).

Dates: June 13–14, 1983.

Place: Logan Airport Hilton/Boston, Room 320, Logan International Airport, East Boston, MA 02128.

Times:

Open: June 13, 8:30 a.m.—recess. June 14, 8:30 a.m.—adjournment.

Agenda: Review of Bladder Program and discussion on program priorities.

Executive Secretary: William E. Straile, Ph. D., Blair Building, Room 3A01, National Institutes of Health, Bethesda, MD 20205, Phone: 301/427–8818.

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, project grants in cancer cause and prevention; detection and diagnosis; and cancer treatment research, National Institutes of Health.)

Dated: April 26, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–11869 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Board of Scientific Counselors, NEI

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 6–7, 1983, Building 31, Room 6A–35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 6 from 8:30 a.m. until approximately 4:00 p.m. for general remarks by the Institute's Scientific director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 6 from approximately 4:00 p.m. until adjournment on June 7 for review, discussion, and evaluation of individual projects conducted by the Retinal Metabolism and Cell Biology Sections of the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure. Ms. Mary Carter, Committee Management Officer, National Eye Institute Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Substantive program information may be obtained from Dr. Jin Kinoshita, Scientific Director, National Eye Institute, Building 31, Room 6A04, National Institutes of Health, Bethesda, Maryland 20205 (telephone (301) 496–7483.

Dated: April 20, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–11879 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Board of Scientific Counselors, NICHD

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, June 24, 1983, in Building 31, Room 2A52. This meeting will be open to the public from 10:00 a.m. to 2:00 p.m. on June 24 for an annual review of the intramural research program, and for scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 2:30 to 4:00 p.m. on June 24, for the review, discussion, and evaluation of individual programs and projects conducted by the Endocrinology and Reproduction Research Branch, National Institutes of Health, NICHD, including consideration of personnel

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qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Office, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members. Dr. Arthur S. Levine, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code, 301, 496–2133, will furnish substantive program information.

Dated: April 20, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–11877 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Conference

Notice is hereby given of an open meeting of the Panel on Diagnostic Ultrasound Imaging in Pregnancy. The meeting will be held from 9 a.m. to noon on June 23, 1983 in the NMAC classroom (B1N30B), Building 38A, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The purpose of the meeting will be to receive testimony from various experts on subjects relating to the use of diagnostic ultrasound imaging in pregnancy. Members of the public also may attend and make presentations limited to five minutes. Those members of the public wishing to attend should contact: Mr. Peter Murphy, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852, phone: 468–6555. An abstract or full statement of remarks should be submitted to Mr. Murphy in advance of the meeting.

Dated: April 20, 1983.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 83–11886 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for May through July 1983, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which which constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	May–July 1983 Meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301–496–7380	June 13–15	8:30	Wellington Hotel, Washington, DC.
Bacteriology & Mycology–1, Dr. Milton Gordon, Rm. 304, Tel. 301–496–7340	June 1–3	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology–2, Dr. William Branche, Jr., Rm. 306, Tel. 301–496–7681	June 9–10	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 323, Tel. 301–496–7109	June 15–17	9:00	Linden Hill Hotel, Bethesda, MD.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 226, Tel. 301–496–7430	June 22–25	8:00	Room 6, Bldg. 31C, Bethesda, MD.
Biochemistry–A, Dr. Adolphus P. Toliver, Rm. 318A, Tel. 301–496–7516	June 22–25	9:00	Georgetown Hotel, Washington, DC.
Biochemistry–B, Dr. Alex Liacouras, Rm. 318A, Tel. 301–496–7516	June 16–18	8:30	Wellington Hotel, Washington, DC.
Bio-Organic & Natural Products Chemistry, Dr. Michael Rogers, Rm. A–27, Tel. 301–496–7107.	June 16–18	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301–496–7070	June 16–18	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220 Tel. 301–496–7058	May 31–June 3	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular & Pulmonary, Dr. Anthony C. Chung, Rm. 2A–04, Tel. 301–496–7316	June 1–3	8:00	Linden Hill Hotel, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301–496–7901	June 13–15	8:00	Westpark Hotel, Rosslyn, VA.
Cell Biology, Dr. Gerald Greenhouse, Rm. 336, Tel. 301–496–7396	June 1–3	8:30	Room A, Landow Bldg. Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7078	June 6–8	8:00	Holiday Inn, Bethesda, MD.
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 219B, Tel. 301–496–7650	June 20–22	8:30	Shoreham Hotel, Washington, DC.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346	May 31–June 2	3:00 p.m.	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control–1, Dr. Michael Alavanja, Rm. 203C, Tel. 301–496–7246.	June 7–9	8:30	Wellington Hotel, Washington, DC.
Epidemiology & Disease Control–2, Dr. Ann Schluederberg, Rm. 203B, Tel. 301–496–7246.	June 7–9	8:30	Wellington Hotel Washington, DC.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301–496–7940.	June 14–16	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Experimental Immunology, Dr. David Lawrin, Rm. 222B, Tel. 301–496–7236	June 1–3	8:30	Hyatt Hotel, Arlington, VA.
Experimental Therapeutics, Dr. Ira Kline, Rm. 319A, Tel. 301–496–7836	June 6–11	8:00	Holiday Inn, Bethesda, MD.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301–496–7474	June 6–8	8:30	Room 8, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold Davidson, Rm. 354A, Tel. 301–496–7797	June 22–24	8:30	Room 8, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Antonia Novello, Rm. 322, Tel. 301–496–7730	June 1–3	8:30	Holiday Inn, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301–496–7271	June 9–11	9:00	Room 7, Bldg. 31C, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 225, Tel. 301–496–7550	June 6–8	8:30	Capitol Holiday Inn, Washington, DC.
Hematology–1, Dr. Clark Lum, Rm. 355A, Tel. 301–496–7506	June 2–4	8:00	Linden Hill Hotel, Bethesda, MD.
Hematology–2, Dr. M. Wayne Hurst, Rm. 355B, Tel. 301–496–7506	June 1–3	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Human Development & Aging–1, Dr. Teresa Levitin, Rm. 303, Tel. 301–496–7025	June 9–10	8:30	Georgetown Hotel, Washington, DC.
Human Development & Aging–2, Dr. Samuel Rawlings, Rm. 305, Tel. 301–496–7840	June 9–10	9:00	Georgetown Hotel, Washington, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	June 1–3	8:00	Westpark Hotel, Rosslyn, VA.
Immunobiology, Dr. William Styles, Rm. 222A, Tel. 301–496–7780	June 1–3	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 233A, Tel. 301–496–7179	June 14–16	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301–496–7271	June 9–11	8:30	U.S. Uniform Univ. of Health Sciences, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. A–27, Tel. 301–496–7107	June 16–17	9:00	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Robert Leonard, Rm. 338A, Tel. 301–496–7091	June 2–4	8:30	Room 10, Bldg. 31C, Bethesda, MD.

Study section	May–July 1983 Meetings	Time	Location
Metalloblochemistry, Dr. Marjam Behar, Rm. 310, Tel. 301–496–7733	June 2–4	9:00	Georgetown Hotel, Washington, DC.
Microbial Physiology, & Genetics–A, Dr. Martin Slater, Rm. 238, Tel. 301–496–7183	June 1–3	8:30	Sheraton Potomac Hotel, Bethesda, MD.
Microbial Physiology & Genetics–B, Dr. Gerald Liddel, Rm. 357, Tel. 301–496–7130	June 1–3	8:30	Marriott Hotel, Tyson's Corner, VA.
Molecular & Cellular Biophysics, Dr. Patricia Strasl, Rm. 236A, Tel. 301–496–7000	June 20–22	8:30	Holiday Inn, Georgetown, DC.
Molecular Biology, Dr. Donald Disque, Rm. 328, Tel. 301–496–7830	June 16–18	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301–496–7149	May 31–June 2	8:30	Marriott Hotel, Washington, D.C.
Neurology Sciences, Dr. Edwin Bartos, Rm. 439B, Tel. 301–496–7260	June 9–11	8:30	Holiday Inn, Georgetown, DC.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301–496–7095	June 1–4	9:00	Wellington Hotel, Washington, DC.
Neurology B–1, Dr. Willard McFarland, Rm. 2A03, Tel. 301–496–7422	June 26–July 1	8:30	Wellington Hotel, Washington, DC.
Neurology B–2, Dr. Herman Teitelbaum, Rm. 2A05, Tel. 301–496–7422	June 13–15	9:00	Linden Hill Hotel, Washington, DC.
Nutrition, Dr. John Schubert, Rm. 204, Tel. 301–496–7178	June 1–3	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301–496–7818	June 7–10	8:30	Linden Hill Hotel, Bethesda, MD.
Orthopedics & Musculoskeletal, Ms. Ilsen Stewart, Rm. 350, Tel. 301–496–7681	July 7–9	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Pathobiochemistry, Dr. Clarice Gaylord, Rm. A–26, Tel. 301–496–7820	June 11–13	8:30	Holiday Inn, Financial District, San Francisco, CA
Pathology A, Dr. Robert M. Conant, Rm. 337, Tel. 301–496–7305	June 1–4	8:00	Holiday Inn, Bethesda, MD.
Pathology B, Dr. Martin Paderathsingh, Rm. 352, Tel. 301–496–7244	June 15–17	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 208, Tel. 301–496–7408	June 21–23	8:30	Holiday Inn, Bethesda, MD.
Physical Biochemistry, Dr. Jeanne Ketley, Rm. 218B, Tel. 301–496–7120	June 22–24	9:00	Holiday Inn, Georgetown, DC.
Physiological Chemistry, Dr. Harry Brodie, Rm. 339B, Tel. 301–496–7837	June 22–24	8:30	Holiday Inn, Arlington, VA.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301–496–7878	June 1–4	9:00	Wellington Hotel, Washington, DC.
Radiation, Dr. Robert Straube, Rm. 219A, Tel. 301–496–7073	June 13–15	8:30	Room 3, Bldg. 31A, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301–496–7318	June 4–7	8:30	Manger Hotel, San Antonio, TX.
Respiratory & Applied Physiology, Dr. Nathan Watzman, Rm. 218A, Tel. 301–496–7320.	June 22–24	8:30	Linden Hill Hotel, Bethesda, MD.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 225, Tel. 301–496–7550	June 8–10	8:30	Capitol Holiday Inn, Washington, DC.
Social Sciences & Population, Ms. Carol Campbell, Rm. 210, Tel. 301–496–7906	June 13–15	8:30	Wellington Hotel, Washington, DC.
Surgery & Bioengineering, Dr. Samuel Abramson, Rm. 303A, Tel. 301–496–7506	June 9–10	8:30	Wellington Hotel, Washington, DC.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301–496–7771	June 6–7	8:30	Westpark Hotel, Rosslyn, VA.
Toxicology, Ms. Faye J. Calhoun, Rm. 205, Tel. 301–496–7570	June 15–17	8:00	Holiday Inn, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Betty June Myers, Rm. 110, Tel. 301–496–7846	June 6–8	8:00	Room 6, Bldg. 31C, Bethesda, MD.
Virology, Dr. Claire Winestock, Rm. 309, Tel. 301–496–7605	June 9–11	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Visual Sciences A–1, Dr. Orvil Bolduan, Rm. 207, Tel. 301–496–7000	June 8–10	9:00	Shoreham Hotel, Washington, DC.
Visual Sciences A–2, Dr. Jane Hu, Rm. 439A, Tel. 301–496–7310	June 15–17	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301–496–7251	June 8–11	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Demestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: April 15, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–11882 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Research Manpower Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on June 7–8, 1983, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on June 7, 1983, from 8:00 p.m. to approximately 10:00 p.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 8, 1983, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of meetings and rosters of the committee members.

Dr. Carol H. Letendre, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20205, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 26, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–11881 Filed 5–3–83; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Vision Research Program Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, June 23 and 24, 1983, Conference Room 3, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 23 from 8:30 a.m. to 9:00 a.m. for opening remarks and discussion of proper guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. on June 23 until adjournment on June 24 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidental trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will flurnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and

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Motor Disorders of Visual Research; National Institutes of Health)

Dated: April 15, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-11879 Filed 5-3-83; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Proposed Availability of Funding for Refugee Health Professional/ Paraprofessional Retraining Projects

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of Availability of Funding for Refugee Health Professional/Paraprofessional Retraining Projects.

SUMMARY: This announcement governs the award of grants to public entities and non-profit organizations for the establishment of an educational program leading to licensure/certification for refugee health professionals/paraprofessionals, and the placement of graduates in health care facilities serving large numbers of refugees. These projects include the provision for the dissemination of the training curriculum to appropriate academic institutions with existing health professionals/paraprofessional training and/or continuing education components.

CLOSING DATE: An application must be mailed or hand delivered by the closing date, July 5, 1983. The Director invites application for demonstration projects to retrain refugee health professionals.

Authorization

Authority for this activity is contained in the Immigration and Nationality Act (8 U.S.C. 1522) as amended by the Refugee Act of 1980, Section 412, Pub. L. 96–212. No catalogue of Federal Domestic Assistance Number has been issued.

Application Delivered by Mail

Available Funds: It is expected that approximately $225,000.00 will be available for new grants in fiscal year 1983. The Director estimates that these funds could support three (3) projects. The anticipated award for a project is between $60,000 and $100,000. However, these estimates do not bind the Office of Refugee Resettlement to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Awards will be for 18 months with no further funding anticipated.

An application sent by mail must be addressed to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, DC 20201. An applicant must show proof of mailing on or before the closing date, July 5, 1983 and consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label invoice or receipt from a commercial carrier.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method the applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail. Each late applicant will be notified that the application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, DC 20201.

The Grants Management Branch will accept a hand-delivered application between the hours of 8:30 am and 5:00 pm Eastern Standard time daily except Saturday, Sunday or Federal Holidays. Hand delivered applications will not be accepted after 5:00 pm on the closing date, July 5, 1983.

SUPPLEMENTARY INFORMATION: The announcement describes the availability of funding for demonstrarion projects to establish a refresher program for refugees who are health professionals/paraprofessionals but are not licensed or certified to practice in any state. These programs are designed to assist the refugees in obtaining state licensure or certification and provide placement for employment in health care facilities which serve large numbers of refugees. Grant awards under this announcement will be for an eighteen month period following the date of award.

I. Program Purpose

The purpose of this program is to improve the capacity of health care facilities serving a large number of refugees by assuring the availability of culturally sensitive professionals/paraprofessionals who do not need interpreting services to communicate with this target group. The availability of refugee professionals/paraprofessionals will minimize language and cultural barriers between the refugee population and local health providers.

The objectives of these projects are to:

- Identify refugee health professionals and paraprofessionals [e.g. nurses, nurse-midwives, physicians, physician's assistants and paramedics] in need of additional training or review in preparation for licensure or certification to serve as registered nurses, licensed practical nurses, physician's assistants and paramedics;
- Provide a one year educational program, including didactic and clinical experience, to prepare refugee health professionals and paraprofessionals for licensure or certification;
- Find employment for these professionals/paraprofessionals who complete the programs in health care facilities, public health agencies or in other programs serving a large number of refugees located in the target areas listed below.

Studies have found many highly skilled refugee health professionals working in low skills occupations due to language barriers and the lack of understanding of the licensing process. At the same time, culturally appropriate and effective health care services are not available to refugees in various localities including so called "impacted areas".

In addition, an increased number of refugee health professionals can be expected to increase the efficiency of agencies providing social services to refugees by freeing their bilingual work force for other than health activities. For instance, many bilingual job counselors and employment specialists are currently providing interpretation services to hospitals and clinics. Communication between English-speaking health professionals and refugees through an interpreter is a slow and sometimes inexact process as most interpreters are not trained in the health field. Furthermore, interpreters, usually supplied by social services and voluntary agencies, are often not readily available.

Increasing the accessibility of medical services and providing more effective

treatment by increasing the pool of licensed or certified refugee health professionals and paraprofessionals [e.g. registered nurses, licensed practical nurses, physician's assistants and paramedics) responds to two of the most important service requirements mandated by the Refugee Act of 1980, namely employment and health services for refugees.

Finally, as refugees tend to settle in lower income neighborhoods or communities, strengthening health care services to the refugee population may also alleviate the shortage of health services in these areas.

Projects funded under this grant announcement will identify and screen potential trainees to ascertain knowledge and skills levels and training needs, develop educational programs to provide didactic and supervised clinical experiences, assist trainees in preparing for their licensure/certification, identify health care facilities serving large numbers of refugees and obtain a commitment from each graduate to serve at these facilities for a minimum of one year.

II. Target Areas

The following are areas targeted for these demonstration projects. Graduates must be placed in agencies or facilities located in the following counties:

Alameda CA	Orleans LA
Los Angeles CA	Suffolk MA
Orange CA	Hennepin MN
Sacramento CA	Ramsey MN
San Diego CA	New York NY
San Francisco CA	Multnomah OR
San Joaquin CA	Philadelphia PA
Santa Clara CA	Providence RI
Merced CA	Harris TX
Fresno CA	Salt LakeUT
Denver CO	Arlington VA
Honolulu HI	Fairfax VA
Cook IL	King WA
Sedgwick KA	

Preference will be given to projects located in the same locations. However, ORR is willing to consider alternative sites for graduates' placement if demonstrable evidence is provided which documents a significant service need.

III. Eligible Grantees

Eligible grantees are public entities and organizations incorporated as non-profits under the laws of their State. Preference will be given to educational institutions with existing health professional/paraprofessional training programs. Private for profit agencies or firms are not eligible. Special consideration will be given to those projects that are proposed as part of a community's or state's plan/program to make health services more effective and accessible to refugees.

IV. Activities

Grantees shall be required to carry ou the following:

1. Create an advisory board of five to seven members. Board membership should include but not be limited to representatives from the refugee community, health care providers, professional nurse education and refugee social service providers.

2. Provide an assessment of needs for the proposed activities:

- Identify refugee health care service and personnel need in proposed area(s) of service for categories proposed for educational activities in the application;
- Identify number and types of refugee professionals/paraprofessionals, in the proposed area(s) of service, who are not employed or are underemployed in health fields because of a lack of appropriate credentials;
- Identify and specify categories of refugee professionals/paraprofessionals (e.g. nurses, nurse-midwives, physicians, physician's assistants and paramedics) to be retained in order to be licensed/certified as registered nurse, licensed practical nurse, physician's assistants and paramedics and justify this decisions.
- Recruit a minimum of thirty participatns for each training project. Candidated for retaining must have the minimum English language proficiency and an educational background—either in the United States or in their home countries—to enable them to be licensed/certified in the categories listed above within the grant award period.
- Identify knowledge and skill learning needs (e.g). vocational ESL, psycho-social content, basis sciences, nursing and medical subjects) of refugee professionals/paraprofessionals which will be addressed in programs supported by the project.

3. Design and provide a flexible training program without tuition and related costs to the trainees, to provide the opportunity for each trainee to obtain the knowledge and skills to meet state requirements for licensure/certification, thereby enabling the trainees to past the required examinations.

4. Provide any placemnt services for clinical experience/residency required for licensure/certification with health care providers serving large numbers of refugees;

5. Assist trainees in meeting state licensure requirements, as appropriate, including provision for evaluating and/or reconstituting trainees' educational credentials from their home country.

6. Provide placement services for all graduates with a minimum of 90% serving in health care facilities serving large numbers of refugees in any of the twenty-five designated areas for at least one year.

7. Provide trainees with financial assistance arrangements and/or information. The payment of a stipend is not an allowable cost under this grant; however, provision of text books and other training materials up to $250.00 per recipient is allowable.

8. Provide a means to ensure program graduates' commitment to serve in health care facilities/agencies serving a large number of refugees located in the designated areas for at least one year, or that graduates will repay the costs of their training to the program and that those repayments will be refunded to the Department.

Cooperation with state and local governments, refugee resettlement and social service agencies, foundations and health care facilities and institutions is strongly encouraged.

V. Eligible Trainees

All refugee health professionals/paraprofessionals not meeting licensure/certification requirements are potential eligibles. However, preference should be given to those who are currently underemployed in the health field and those who are unemployed and/or receiving cash assistance. Participants receiving cash assistance must comply with ORR's program instructions (SRS–AT–76–160 and ORR–AT–82–2) on employment or training requirements which specify as follows:

A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a full-time training program which is part of an employability plan approved by the welfare office agency or its designee—that is, training intended to have a definite short term (less than one year) employement objective.

No person shall be exempt from excepting employment because of part-time participation in training under an approved employability plan.

VI. Application Submission and Approval Procedures.

Applicants may request grant applications from the Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W. Washington, D.C. 20201, 202–245–0403. Prospective grantees must submit an original application and two copies to the Grants Mangement Branch. An independent panel will be convened to evaluate and rate applications. Final funding decisions will be made by the

Director of the Office of Refugee Resettlement. Criteria for panel evaluation are listed in Section VIII below. It is estimated that grant awards will be issued on or about July 29, 1983.

VIII. Applicable Regulations

The following HHS regulations apply to grants under this Notice:

45 CFR Part 16—Department Grant Appeals Process;

45 CFR Part 74—Administration of Grants;

45 CFR Part 75—Informal Grant Appeals Process;

45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81—Practice and Procedures for Hearings Under Part 80 of this Title.

45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Benefitting from Federal Financial Assistance.

45 CFR Part 90—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

VIII. Criteria for Evaluating Applications

All competing applications received in response to this announcement will receive a technical review by qualified experts. Applications are evaluated against the following criteria:

	Points
A. Completeness and feasibility of the proposed project design and implementation plan	35
• Extent to which proposal provides documentation for a training site if at a location other than those listed in the announcement	
• Extent to which the applicant has identified health care providers within the target service areas for potential placement of trainees	
• Feasibility of trainee recruitment and selection plan including methodology for identification and selection of trainees who have the minimum necessary domestic and/or foreign education and credentials to benefit from this program	
• Adequacy of training program design including the proposed curriculum and methodology	
• Adequacy of proposed methods to assist trainees to obtain state licensure/certification	
• Adequacy of methodology to provide job placement services for all graduates in one or more of the target areas listed in Section II	
• Adequacy of methodology and plan to assure graduates commitment to serve in health care facilities/agencies serving a large number of refugees located in the designated areas for at least one year	
B. The extent to which the applicant makes maximum utilization of existing resources through establishing linkages, cooperative agreements, referral processes, etc. . . ., with appropriate public and private agencies, foundations and health care institutions serving refugees. Documentation of linkages with a community's or state's plan in making health services more effective and accessible to refugees	10
C. Qualifications, roles and responsibilities of proposed staff. Appointment of Project Director is subject to ORR's approval	15
D. Experience of applicant organization in conducting proposed activities or related experience	15
E. Adequacy of facilities and resources	5
F. Potential for replication of the model training program and plan for dissemination of results of the project, in particular the training curriculum	5
G. Feasibility of proposed budget, justification of costs, and cost sharing by the applicant or other organizations, if applicable	10
H. Adequacy of plans for data gathering and project evaluation	5

IX. Application Content

All applicants will use Standard Form SSA–96, "Federal Assistance" in submitting project proposals. Grant applications must also include the following:

1. Identification of the refugee health providers' personnel needs for program graduates in the proposed areas of service;

2. A work plan to meet the project objectives including identification of all services and materials to be developed and the dissemination plan. The work plan should describe in detail the implementation and the evaluation of the required activities indicated in Section IV above;

3. A management plan for fiscal and program administration to accomplish the grant objectives including a project management chart, time line and staff assignments;

4. Detailed program budget;

5. Description of the applicant organization. If other than a public agency, description of its organizational mandate, funding sources, key staff and principal officers, organization address and telephone number;

6. Documentation of applicant's experience with the training services proposed including description of other projects similar to the proposed activities; and

7. Documentation on non-profit status-IRS form 501 C3 or other proof of non-profit status.

XI. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for federal monitoring and auditing of the grants. This record keeping shall include but not be limited to:

1. All materials to be disseminated; and

2. Quarterly fiscal and program progress reports due 30 days after the first calendar day of each quarter following the effective date of the grant award. Final reports are due 90 days after end date of the grant.

Dated: April 28, 1983.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 83–11937 Filed 5–3–83; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Yuma District Resource Management Plan; Arizona

AGENCY: Bureau of Land Management (BLM), Interior

ACTION: Notice of Intent to Prepare a Resource Management Plan/EIS and Invitation for Public Participation.

SUMMARY: Preparation of the Yuma District Resource Management Plan (RMP), began on March 1, 1983. This plan will include the Havasu Resource Management Plan which was announced in the **Federal Register**, Vol. 46, No. 237 dated Thursday, December 10, 1981. The plan will consider various multiple-use alternatives ranging from resource production to resource preservation and will guide long-term land uses on approximately 1.2 million acres of public lands along the Lower Colorado River in southwest Arizona and California. The public scoping process will be used for identifying issues and formulating alternatives.

The planning area is located in portions of La Paz, Mohave, and Yuma Counties in Arizona and Imperial, Riverside, and San Bernardino Counties California. The area extends along the Colorado River from Davis Dam on the north to the International Border with Mexico on the south, in a strip generally from 5 to 35 miles wide, except where the Yuma District extends approximately 45 miles eastward up the Gila River in the Arizona desert. Major Communites within the area are: Bullhead City, Lake Havasu City, Parker, Yuma, Somerton, Wellton, and San Luis in Arizona, and Needles and Blythe in California.

Public scoping meetings will be held to collect public input into planning issues on May 18 and 24, 1983, from 7:00 to 10:00 p.m. The meeting locations are:

May 18, 1983, H. L. Suverkrup School Cafeteria, 1590 South Avenue C, Yuma, Arizona

May 24, 1983, Palo Verde High School Cafeteria, 667 North Lovekin Blvd., Blythe, California.

FOR FURTHER INFORMATION CONTACT:

Dennis Turowski, Planning Coordinator or

J. Darwin Snell, District Manager, Bureau Of Land Management, 2450 Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364; Telephone FTS 764–6612 Commercial (602) 762–6300.

SUPPLEMENTARY INFORMATION: Among the significant issues expected to be addressed in the plan are: designation of public lands for protection of special natural, cultural or recreational resources; vegetation allocations to livestock, wildlife, and other demands; location of utility corridors and communication sites; making public land available for community expansion and development purposes; public sale of excess public lands; recreational resource development/management; and recommendations for wilderness designation.

An interdisciplinary planning team will develop the Resource Management Plan. Disciplines represented will include: recreation, land use planning, wildlife biology, economics, and sociology.

Public participation will be encouraged and utilized throughout plan development. Federal, State and local governmental entities, Indian Tribal Councils, and other interested publics will be contacted and provided opportunity to participate via public meetings, workshops, and written comment. Opportunities for public involvement will be announced in the news media, and by direct mailings.

A formal record of all public participation and planning activities, decisions, and documents will be maintained in the Yuma District Office and will be made available for public review upon request.

Dated: April 27, 1983.

J. Darwin Snell, District Manager.

[FR Doc. 83–11868 Filed 5–3–83; 8:45 am]

BILLING CODE 4310–84–M

[INT DEIS 83–26]

Big Lost—Mackay Grazing Draft Environmental Impact Statement; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability and invitation for public comments on the Draft Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement (DEIS) for a proposed grazing management program for the Big Lost and Mackay planning units of the Idaho Falls and Salmon districts in southeastern Idaho. The preferred alternative includes changes in stocking rates, implementing improved grazing systems and installing range improvements on about 311,000 acres of public land. The DEIS describes the environmental consequences of 4 alternative grazing management programs. Copies of the DEIS are available for review at the following locations:

Idaho Falls District Office, Bureau of Land Management 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone (208) 529–1020

Salmon District Office, Bureau of Land Management, U.S. Highway 93, Salmon, Idaho 83467. Telephone (208) 756–2201.

Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706. Telephone (208) 334–1401

Public Affairs, Bureau of Land Management, Interior Building 18th and C. Streets, NW., Washington, D.C. 20240.

DATE: Written comments on the draft statement are invited and must be submitted by July 9, 1983. Two open houses will be held to gather comments on the proposal on June 1 and June 2, 1983, from 2:00 p.m. to 8:00 p.m. MDT. These Open Houses were originally scheduled for May 9 and May 10, but were rescheduled to allow more time to examine the DEIS.

ADDRESSES: Written comments should be submitted to District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

The open houses will be held at the Arco Memorial Building, Arco, Idaho, on June 1, 1983, and at the American Legion Hall, Mackay, Idaho, on June 2, 1983.

FOR FURTHER INFORMATION CONTACT:

O'dell Frandsen or Don Watson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho. Telephone (208) 529–1020.

Dated: April 26, 1983.

Clair M. Whitlock,

State Director, Idaho.

[FR Doc. 83–11894 Filed 5–3–83; 8:45 am]

BILLING CODE 4310–84–M

[3500 (U–060)]

Bureau of Land Management

Emergency Leasing; Notice of Public Comment Period and Public Meeting

April 26, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public comment period and public meeting.

SUMMARY: The Bureau of Land Management intends to hold a public meeting concerning two applications for coal leasing under the "Emergency Leasing" provisions. The meeting will provide the opportunity for the public to comment on and discuss the potential effects of mining the proposed leases, including impacts to the environment, other land uses, other economic activities, and community or regional services. This notice also requests comment on the Fair Market Value and the Maximum Economic Recovery of the coal on the tracts under application.

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DATES: A public meeting on the draft environmental assessments which addresses the lease applications will be held at 7 p.m. on May 25, 1983, in the main building, College of Eastern Utah, Gomer Peacock Room, Price, Utah. Public comments received within 30 days of this Notice will be evaluated prior to writing the final environmental assessments.

SUPPLEMENTARY INFORMATION: A draft environmental assessment has been prepared by the Manti-LaSal National Forest to address the impacts of issuing an emergency coal lease applied for by United States Fuel Company. The 160-acre tract (U–51923) described below, is located on the Manti-LaSal National Forest in Carbon County approximately 14 miles southeast of Price, Utah. The coal would be mined from the existing underground King 4 Mine of United States Fuel Company.

T. 15 S., R. 8 E., SLM,
Sec. 20, NW¼.

A draft environmental assessment has been prepared by the Bureau of Land Management to address the impacts of issuing an emergency coal lease applied for by Tower Resources, Inc. The 120-acre tract (U–52341) described below, is located in Carbon County approximately 10 miles northeast of Price, Utah. The coal would be mined from the existing underground Pinnacle Mine of Tower Resources, Inc.

T. 13 S., R. 11 E., SLM,
Sec. 9, E½SW¼, SW¼SE¼.

Comments concerning the fair market value of the coal resource and the maximum economic recovery of the coal on the tracts are also solicited. Comments should address specific factors including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return and mining method. Documentation or similar market transactions, including location, terms and conditions, may also be submitted. Public comments will be utilized in establishing fair market value for the coal resources in the described lands as prescribed in 30 CFR 211.63 and 43 CFR 3422.1–2. Any proprietary information labeled as such and so stated on the first page of the submission will not be available to the public, if it meets exemptions in the Freedom of Information Act. Comments on fair market value or maximum economic recovery should be sent to the Utah State Director, at the third address listed below.

FOR FURTHER INFORMATION CONTACT: (1) Forest Service Environmental Assessment—Ira W. Hatch, Price District Ranger, Manti-LaSal National Forest, 10 North Carbon Avenue, Price, Utah 84501, (801) 637–2817. (2) Bureau of Land Management Environmental Assessment—Leon E. Berggren, Price River Resource Area Manager, P.O. Drawer AB, 900 North 700 East, Price, Utah 84501, (801) 637–4584. (3) Fair Market Value and Maximum Economic Recovery—R. Max Nielson, Coal Program Leader, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, (801) 524–5326.

Gene Nodine,
District Manager.

[FR Doc. 83–11925 Filed 5–3–83; 8:45 am]
BILLING CODE 4310–84–M

[M 55150]

Montana; Conveyance of Public Land Carter County

April 25, 1983.

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described land was sold by noncompetitive sale to F and R Ranches, Inc., of Ekalaka, Montana:

Principal Meridian, Montana

T. 2 N., R. 56 E.,
Sec. 13, Lot 3.
Containing 32.99 acres.

The purpose of this notice is to inform the public and interested state and local government officials of the issuance of the conveyance document to F and R Ranches, Inc.

Edgar D. Stark,
Chief, Lands Adjudication Section.

[FR Doc. 83–11928 Filed 5–3–83; 8:45 am]
BILLING CODE 4310–84–M

Land Resource Management; Filing of Plat Survey

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plats of survey of the lands described below accepted March 24, 1983, will be officially filed in the Montana State Office effective 8 a.m. on July 5, 1983.

Principal Meridian, Montana

T. 35 N., R. 21 W.

The plat represents the dependent resurvey of a portion of the Flathead Guide Meridian, a portion of the south boundary, a portion of the subdivisional lines, and a portion of the adjusted original meanders of the North Fork of Flathead River; and the survey of the subdivision of Sections 5, 6, 8, 17, 18, 20, 21, 22, 27, 28, 29, 34, and 35, the medial line of an abandoned channel of the North Fork of Flathead River and a portion of the meanders of the North Fork of Flathead River, T. 35 N., R. 21 W., Principal Meridian, Montana. The area described is in Flathead County.

Principal Meridian, Montana

T. 36 N., R. 21 W.

The plat represents the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and a portion of the adjusted original meanders of the North Fork of Flathead River; and the survey of the subdivision of sections 19 and 31, the medial line of an abandoned channel of the North Fork of Flathead River, and a portion of the meanders of the North Fork of Flathead River, T. 36 N., R. 21 W., Principal Meridian, Montana. The area described is in Flathead County.

Principal Meridian, Montana

T. 35 N., R. 22 W.

The plat represents the dependent resurvey of a portion of the subdivisional lines, T. 35 N., R. 22 W., Principal Meridian, Montana. The area described is in Flathead County.

Principal Meridian, Montana

T. 36 N., R. 22 W.

The plat represents the dependent resurvey of a portion of the Ninth Standard Parallel North, through Ranges 21 and 22 West, a portion of the south boundary, a portion of the subdivisional lines, a portion of the adjusted original meanders of the North Fork of Flathead River, and a portion of the adjusted original meanders of Tepee Lake; and the survey of the subdivision of Sections 1, 2, 3, 4, 10, 11, 12, 13, 24, 25, 33, 34, and 35, a portion of the meanders of the North Fork of Flathead River, and the medial line of an abandoned channel of the North Fork of Flathead River, T. 36 N., R. 22 W., Principal Meridian, Montana. The area described is in Flathead County.

Principal Meridian, Montana

T. 37 N., R. 22 W.

The plat represents the retracements of the International Boundary between the United States and Canada from Boundary Monument No. 262 to 260; the dependent resurvey of a portion of the subdivisional lines and a portion of the adjusted original meanders of the North Fork of Flathead River; and the survey of Parcels B and C, the subdivision of Sections 5, 8, 9, 21, 22, 23, 27, 28, 29, 33, and 34, the medial line of an abandoned channel of the North Fork of Flathead River, and a portion of the meanders of the North Fork of Flathead River, T. 37 N., R. 22 W., Principal Meridian, Montana. The area described is in Flathead County.

These surveys were executed at the request of the U.S. Forest Service.

If protest(s) against any of these surveys, as shown on these plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). These particular plat(s) will not be officially filed until the day after all the protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Mangement, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

Dated: April 25, 1983.

Delores M. Heser,
Chief, Branch of Records.

[FR Doc. 83–11913 Filed 5–3–83; 8:45 am]
BILLING CODE 4310–84–M

Leasing of Federal Coal, Fort Union Coal Region; Request for Public Comment on Fair Market Value and Maximum Economic Recovery

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has delineated federal coal tracts located in the Fort Union region of eastern Montana and west-central North Dakota. Twenty-two of these tracts are currently under consideration for public lease sale by the Department of the Interior. Leasing of federal coal in the Fort Union Coal Region is the result of the Secretary of the Interior's decision to offer coal in specific federal coal regions. Descriptions of the tracts are in Table I. The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tracts.

DATES: Comments must be received on or before May 23 1983.

ADDRESSES: for more complete date on these tracts please contact Lloyd Emmons or Jeanette Bejot (telephone 406–657–6291), Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59101.

SUPPLEMENTARY INFORMATION: In accordance with Federal Coal Management regulations 43 CFR Part 3422, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery of the tracts proposed to be offered shown on Table I, and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A final secretarial decision for leasing in the Fort Union Region is expected in May 1983. Information regarding any changes of acreages or tonnages on the final selected tracts may be obtained from the Montana State Office as set out above.

Comments should be sent to Bureau of Land Management, Economic Evaluation Section, 100 East "B" Street, Room B005, Casper, Wyoming 82601, Attention: Tim MacGillvray, (telephone: 307–261–5735), and should address, but not necessarily be limited to the following information:

1. The quality and quantity of the coal resources for each tract;

2. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined on each tract and the most desirable timing and rate of production;

3. The quantity of coal by seam on each tract;

4. Which of the tracts, if any, should be evaluated as part of a larger mining unit (i.e., those tracts which do not in themselves form a logical mining unit);

5. The configuration of any larger mining unit of which the tract may be a part;

6. Restrictions to mining which may affect coal recovery;

7. The price that the mined coal would bring in the market place;

8. Costs, including mining and reclamation, of producing the coal;

9. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given;

10. Depreciation and other accounting factors;

11. The value of any surface estate where held privately;

12. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and

13. Any comparable sales data of similar coal lands.

This request for comments should not be interpreted as a firm commitment by the Federal Government to lease any of the tracts. A decision to offer any of the tracts for lease sale will be made in a public notice of sale issued by Bureau of Land Management not less than three weeks prior to the date of sale.

TABLE I.—DESCRIPTION OF POSSIBLE LEASE TRACTS IN FORT UNION COAL REGION

Tract name	County	Township and range	Acres	Estimated recovery reserves (MM tons)
Antelope	Mercer	T145N, R87–88W	638	12.5
Center	Oliver	T142N, R83W, T141–142N, R84W.	872	19.1
Glenharold	Oliver/Mercer	T143N, R83–84–85W, T144N, R84N.	3212	36.3
North Beulah	Mercer	T144N, R88W	720	5.8
Renner	Mercer	T145N, R87–88W, T144N, R88–89W.	6262	80.0
Schoolhouse	Oliver/Mercer	T142–143N, R87, T143N, R88W	2871	36.7
Underwood	McLean	T146N, R81–82W	1159	6.8
Bloomfield	Dawson	T20–21N, R53E	3040	67.9
Circle West III	McCone	T19–20N, R44–45E	7782	174.8
South Wilbaux-Beach	Wilbaux/Golden Valley	T13–14N, R60E, T13N, R61E, T139–140N, R106W	3341	135.4
Dunn Center	Dunn	T144N, R93–94W, T145N, R93W, T143N, R94W.	8443	270.5
Garrison	McLean	T149N, R84–85W	1400	17.4
Sakakawea	McLean	T148N, R84W	280	2.0
Traux	Mercer	T145–146N, R86W	2233	26.2
Werner	Dunn	T145N, R92–93W	3349	77.0
Circle West I	McCone	T20N, R44–45E, T19N, R45E	3589	86.5

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TABLE I.—DESCRIPTION OF POSSIBLE LEASE TRACTS IN FORT UNION COAL REGION—Continued

Tract name	County	Township and range	Acres	Estimated recovery reserves (MM tons)
Circle West II	McCone	T19–20N, R44E, T19N, R45E	4183	89.1
North Wibaux-Beach	Wibaux/Golden Valley	T14–15N, R60–61E, T141N, R105W, T140N, R106W.	6758	189.5
Redwater I	McCone	T19–20N, R48–49E	9473	201.6
Redwater II	McCone	T21N, R48E, T20–21N, R49E	7935	111.2
Southwest-Glendive	Dawson	T15–16N, R53E, T14–15–16N, R54E.	7463	172.2
Zenith	Stark	T139N, R98–99W	4563	130.1

It should be noted that the above values are current estimates. The values may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

Dated: April 26, 1983

Kannon Richards,

Acting State Director.

[FR Doc. 83-11897 Filed 5-3-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Final Outer Continental Shelf Orders Governing Oil and Gas Lease Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice approving final interim requirements.

SUMMARY: Final interim requirements to incorporate by reference certain standards in Subparagraphs 3.2, *Specification for Subsurface-Safety Valves;* 3.3, *Design, Installation, and Operation;* 3.4.1, *Testing of Surface-Controlled Subsurface-Safety Valves;* and 4.2, *Specification for Wellhead Surface-Safety Valves;* and Paragraph 7, *Crane Operations,* of the Alaska Outer Continental Shelf (OCS) Order No. 5, "Production Safety Systems," were published with the final Alaska OCS Orders on October 22, 1982 (47 FR 47180). Comments and recommendations on these final interim requirements were requested. After reviewing the comments, the Associate Director for Offshore Minerals Management has reaffirmed the need for these requirements and has approved them as final requirements of OCS Order No. 5 for the Alaska OCS Region.

DATE: The effective date of November 22, 1982, for the requirements incorporated by reference in subparagraphs 3.2, 3.3, 3.4.1, and 4.2 and paragraph 7 of the Alaska OCS Order No. 5 is reaffirmed.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Schuenke, Chief, Branch of Offshore Rules, Orders, and Standards, Mail Stop 646, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (703) 860–7916 or FTS 928–7916.

SUPPLEMENTARY INFORMATION: The final Alaska OCS Orders published on October 22, 1982 (47 FR 47180), contained final interim requirements (as noted below) to incorporate by reference certain standards in subparagraphs 3.2, 3.3, 3.4.1, and 4.2 and paragraph 7 of OCS Order No. 5, "Production Safety Systems." Because the specific editions and supplements identified as interim requirements in the final Orders were different from those published in the proposed Orders on February 10, 1982 (47 FR 6162), comments and recommendations were requested on the final interim requirements.

One commenter responded to the request and agrees with the interim requirements. The Associate Director for Offshore Minerals Management has approved the final interim requirements for subparagraphs 3.2, 3.3, 3.4.1, and 4.2 and paragraph 7 as final requirements of Alaska OCS Order No. 5 as they were published on October 22, 1982 (47 FR 47180). The effective date for these final requirements is reaffirmed as November 22, 1982.

In subparagraphs 3.3 and 3.4.1, "API Recommended Practice for Design, Installation, and Operation of Subsurface Safety Valve Systems," API RP 14B, Second Edition, November 1981, has been approved as a final requirement to replace language of a general nature as to the same subject which appeared in the proposed Alaska OCS Order No. 5 (47 FR 6162, February 10, 1982).

In subparagraph 3.2, Supplement 1, February 1982, to "API Specification for Subsurface Safety Valve Equipment," API Spec 14A, Fifth Edition, April 1981, has been approved as a final requirement.

In subparagraph 4.2, "API Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service," API Spec 14D, fourth Edition, February 1982, has been approved as a final requirement.

In paragraph 7, Supplement 1, November 1977, to "API Recommended Practice for Operation and Maintenance of Offshore Cranes," API RP 2D, First Edition, October 1972, has been approved as a final requirement; and Supplement 2, January 1975, to "API Specification for Offshore Cranes," API Spec 2C, Second Edition, February 1972, has been approved as a final requirement.

(43 U.S.C. 1334)

Dated: April 26, 1983.

Harold Doley,

Director.

Proposed Order No. 11 Governing Oil and Gas Operations on the Gulf of Mexico and Pacific Region Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Proposed Revision of OCS Order No. 11 for the Gulf of Mexico and Pacific OCS Regions.

SUMMARY: The Minerals Management Service (MMS) proposes to revise the currently effective Gulf of Mexico and Pacific Regions Outer Continental Shelf (OCS) Order No. 11. Discussions of the revisions are presented in Part I and the proposed Order is presented in Part II. A proposed revision of Form 9–1866, "Reservoir Data-Request for MER," is presented in Part III. Comments and recommendations are solicited on the proposed Order and the proposed form. Comments timely received on the proposed Order and form will be considered by the MMS before a decision is made to issue a final Order. Comments received will be discussed in a **Federal Register** notice for the final Orders.

OCS Order No. 11 is necessary to implement the waste prevention, conservation, and correlative rights protection measures contained in 30 CFR 250.

The intended effect of this proposed revision of OCS Order No. 11 is to eliminate unnecessary reporting and recordkeeping by lessees and operators of producing OCS leases while maintaining the current level of protection of the United States' interests and to prevent the waste of oil and gas.

DATES: Written comments and recommendations on the proposed revision of OCS Order No. 11 must be received on or before July 5, 1983.

ADDRESSES: Comments should be addressed to: David A. Schuenke, Chief, Branch of Rules, Orders, and Standards, Mail Stop 646, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Bill Dockery, Petroleum Engineer, Branch of Development and Production, Mail Stop 646, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091; telephone (703) 860–7916 or FTS 928–7916.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the authority prescribed in the OCS Lands Act, 43 U.S.C. section 1334, as amended, 92 Stat. 629; under Title 30 of the Code of Federal Regulations, §§ 250.10 and 250.11, and in accordance with the Delegation of Authority Published March 14, 1980 (45 FR 16570); and under the authority published February 2, 1982 (47 FR 4751), the Deputy Associate Director for Offshore Operations has proposed a revision of OCS Order No. 11 to be retitled "Oil and Gas Production Rates." The existing Gulf of Mexico Region OCS Order No. 11, "Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights," became effective on May 1, 1974 (39 FR 15885, May 6, 1974), and the Pacific Region OCS Order No. 11, same title, became effective on May 1, 1975 (40 FR 15411, April 7, 1975).

The proposed revision, if adopted, will be applicable to those lands subject to Federal OCS leasing in the Gulf of Mexico OCS Region and the Pacific OCS Region and will supersede the existing OCS Order No. 11 in those Regions.

The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

This proposed revised Order incorporates appropriate suggestions which were received in response to the USGS (now MMS) **Federal Register** Notice of intent to revise the Order for the Gulf of Mexico and Pacific OCS Regions (42 FR 8232, February 9, 1977).

Information Collection and Recordkeeping Requirements

Information collection and recordkeeping requirements are contained in various paragraphs and subparagraphs of the proposed OCS Order No. 11 as set forth below. These requirements are separated into the following three categories:

1. *Information collected on forms which have been approved by the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507.* The information collection and recordkeeping requirements in this category are contained in the following paragraphs and subparagraphs which require the submittal of information on the listed forms:

Paragraph	Form title	Form No.	OMB clearance No.
3.2.1 *Submittal of Initial MPR.* 3.2.2 *Revision of MPR Increase* and 3.2.3 *Revision of MPR Decrease*	Request for Well Maximum Production Rate (MPR).	9–1957	1010–0010
5.3 *Quarterly Test.*	Quarterly Oil-Well Test Report.	9–1869	1010–0016
6.3 *Semiannual Test.*	Semiannual Gas-Well Test Report.	9–1870	1010–0017
11 *Disposition of Gas;* and, 16 *Shut-in Wells*	Monthly Report of Operations—Outer Continental Shelf.	9–152	1010–0012

2. *Information collected on a form which has not been approved by the OMB in accordance with 44 U.S.C. 3507 or on a form with an expired OMB approval.*

The information collection and recordkeeping requirements in subparagraphs 2.1, 2.2, 2.3, 3.1.1, 3.1.2, and 3.1.3 of OCS Order No. 11 are required to be reported on revised Form 9–1866, "Reservoir Data-Request for Reservoir MER." In the current OCS Order No. 11, this form is entitled "Request for Reservoir MER" and carries OMB Clearance No. 1010–0018.

Comments are solicited on the revised Form 9–1866 as presented in Part III. The new form includes a space for indicating whether or not the reservoir is rate sensitive in addition to the information included on the old form. The revised form will be submitted to the OMB for approval.

The information collection and recordkeeping requirements in subparagraphs 3.2.1, 3.2.2, 5.2, and 6.2 of OCS Order No. 11 are required to be reported on Form 9–1868, "Well Potential Test Report." OMB clearance for this form has expired. A request for OMB approval with a new expiration date will be submitted. There will be no change in title, format, or content between the expired and the new form.

3. *Information collected by submittal of plans, programs, procedures, and other narrative formats which have not been approved by the OMB.* The information collection requirements in this category will be sumitted to the OMB for approval as required by 44 U.S.C. 3507. These information collection requirements are contained in the following paragraphs and subparagraphs:

Paragraph	Information required
6.4 Back Pressure Tests	Multipoint back-pressure test results, together with all basic data used, to determine the theoretical open-flow potential of gas wells upon request by the Regional Supervisor (RS). Results to be submitted within 30 days of receipt of request.
7 Witnessing Well Tests	Notification of time and date of any gas- or oil-well test upon request of RS.
9 Bottom-Hole Pressure Tests	Results of bottom-hole pressure tests. Results must be submitted within 45 days of the test. Tests must be conducted in all new reservoirs within 3 months of first continuous production and thereafter annually in sufficient key wells to establish average reservoir pressure. Also requires submittal of results of tests conducted which are not required by this Order.
10.2 Approval of Flaring	Request for approval of flaring of gas for period longer than 24 hours.
10.4Oil-Well Gas	Application for the flaring of oil-well gas including: (1) evidence that the operator has initiated action which will eliminate flaring, and (2) evaluation supported by engineering, geologic, and economic data indicating that it is not economically feasible to save or market the gas.
10.5 Flaring Records	Records detailing flare occurrences to be maintained at the flare site and to be available for inspection.
11 Disposition of Gas	Quantity of oil- and gas-well gas sold, used for fuel, injected, flared, vented, or otherwise used. (To be submitted with Form 9–152, "Monthly Report of Operations," OMB Clearance No. 1010–0012.)
12.4 Commingling	Application to commingle hydrocarbons from multiple reservoirs within a common wellbore, including pertinent well information, geologic and reservoir engineering data, a schematic diagram of well equipment, estimated recoverable reserves, and any alternate drainage points.
14.2 Distance from Property Line	Request for approval to produce a well within 500 feet (200 feet in the Pacific OCS Region) of a property line including letters expressing acceptance or rejection from operators of offset properties.
16 Enhanced Oil and Gas Recovery Operations	Plan of enhanced recovery operations showing that such operations would result in increased ultimate recovery of oil or gas.

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Paragraph	Information required
17.1 Competitive Reservoir Determination	Request that RS make a determination that a reservoir is competitive. Advises RS of concurrence or nonconcurrence with RS's determination.
17.2, 17.2.1, 17.2.2 Development and Production Plans.	Plan governing development and production of competitive reservoir, to include proposed MER for sensitive reservoir, proposed MPR for each completion in the reservoir, percentage allocation of reservoir MER for each lease involved and any plans for secondary recovery or pressure maintenance operations.
17.3 Unitization	Plan of unitization when it is determined by the RS that conservation would best be served by unitization (in conjuction with 30 CFR 250.51-2).

Drafting Information

The primary authors of this document are: J. Rogers Pearcy, Acting Deputy Manager, Minerals Management Service, Gulf of Mexico OCS Region; and Bill Dockery, Branch of Development and Production, Minerals Management Service.

Statement of Significance

The Department of the Interior has determined that the proposed revision of OCS Order No. 11 does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, preparation of an environmental impact statement is not required.

The Department has determined that the proposed revision of OCS Order No. 11 is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291.

The Department has determined that the proposed revision of OCS Order No. 11 does not have a significant economic effect on a substantial number of small entities and does not require a small entity flexibility analysis under the Regulatory Flexibility Act.

Richard B. Krahl,

Deputy Associate Director for Offshore Operations.

I. Discussion of Revisions of OCS Order No. 11, "Oil and Gas Production Rates"

A. Paragraph 1, Definition of Terms

Revision. The definition of "correlative rights" was revised.

Discussion. The definition given in 30 CFR 250.2(i) was used in the interest of consistency.

Revision. The definition of "enhanced recovery operations" was added.

Discussion. The definition was formerly contained in the definition of "waste of oil and gas."

Revision. The definition of "lessee" and "operator" were added.

Discussion. Subparagraph 17.3 of the Order imposes requirements on "operators" and "lessees;" therefore, it is appropriate to define the terms.

Revision. The definition of "maximum efficient rate (MER)" was revised.

Discussion. The definition was revised to make it applicable only to reservoirs which are determined to be sensitive to production rates.

Revision. Definitions of "sensitive reservoir" and "nonsensitive reservoir" were added.

Discussion. These definitions were needed since MER's will pertain only to reservoirs that are sensitive to production rates.

Revision. The definition of "property line" was revised.

Discussion. The reference to portions of leases was deleted because the Office of the Solicitor, U.S. Department of the Interior, has determined that leases cannot be segregated.

B. Paragraph 2, Classification of Reservoirs

Revisions. The entire paragraph has been revised so that each subparagraph addresses classification as to sensitive/nonsensitive reservoir in addition to classification as to reservior fluid type.

In subparagraph 2.1, *Initial Classification,* all reservoirs classified as "oil reservoir with an associated gas cap" shall also be classified as "sensitive."

A third subparagraph entitled "Review of Reservior Classification" has been added. It requires an annual review of each reservoir by the RS, using the reservoir data submitted on revised Form 9–1866, "Reservoir Data-Request for Reservior MER."

Discussion. The MER concept is meaningful only when applied to rate-sensitive reservoirs, in which case the rate at which the reservoir is produced has an affect on ultimate recovery, the MER being the rate at which ultimate recovery is optimized. However, for nonrate-sensitive reservoirs, ultimate recovery is unrelated to rate of production. Studies have shown that ultimate recovery for solution gas and full water-drive reservoirs is independent of the production rate of the reservoir and the individual wells. Moreover, the majority of reservoirs in the Gulf of Mexico contain only one or two wells, and the engineering evidence indicates that ultimate recovery from these small reservoirs is insignificantly affected by rates of production. The majority of oil reservoirs with associated gas caps have been shown to be sensitive to the rate of withdrawal from the reservoir such that a meaningful MER exists which should not be exceeded in the interest of optimizing ultimate recovery. Less than 10 percent of the oil reservoirs on the OCS have original gas caps. Studies have also shown that essentially all gas reservoirs located on OCS leases in the Gulf of Mexico are nonsensitive to the rate of withdrawal. Consequently, it is feasible to initially classify all gas reserviors and all oil reservoirs (except those with an associated gas cap) to be nonsensitive, with occasional exceptions to be handled on an individual-basis as evidence develops that a particular reservoir should be reclassified as sensitive. Conversely, all reservoirs with associated gas caps may initially be considered sensitive with occasional exceptions handled individually as evidence develops that a particular reservoir should be reclassified as nonsensitive.

C. Paragraph 3, Oil and Gas Production Rates

Revision. Subparagraph 3.1 and all subparagraphs thereunder have been revised to pertain only to sensitive reservoirs.

Discussion. As discussed above, the MER concept is only meaningful when applied to rate-sensitive reservoirs.

Revision. In subparagraph 3.1.1, the deadline for submission of Form 9–1866 for sensitive reservoirs was changed from "Within 45 days after the date of first production * * *," to "Within 15 days after the initital 30-day test period * * *."

Discussion. The initial 30 days that a reservoir is on production is usually considered the "inititial 30-day test period," so in actuality the requirement has not changed.

Revision. In subparagraph 3.2 (formerly 3B), the sentence "When an MPR has been approved for a well completion, that rate shall not be exceeded, except as provided in paragraph 4 of this Order," has been deleted.

Discussion. The introduction of balancing of production, paragraph 4 of the Order, at this stage, was premature. Balancing of production follows the approval process for MPR's, and the allowance for exceeding an MPR is covered in paragraph 4.

Revision. In subparagraph 3.2.1, the reference to an extension of the 30-day test period was deleted.

Discussion. We believe that extensions need not be mentioned in the Order, but they would be granted upon valid requests in the same manner as departures.

Revision. In paragraph 3.2.2 (formerly 3B2), the requirement to notify the RS (formerly DMC or Supervisor) of intent to test a well at rates higher than the approved MPR has been deleted.

Discussion. At no time has the requirement existed that lease operators obtain the approval of the Supervisor before testing wells at rates above the approved MPR; only that the Supervisor be notified of the intent to conduct such tests. Experience has shown that it is of little value to receive advance notice of plans to test a well for purposes of increasing the MPR, since the production of wells for short periods in excess of approved rates usually causes no problem in the balancing of production. In any event, the clearance of produced volumes in excess of approved MPR's can be effectively approved at the time the request for MPR increase is received and approved.

Revision. In subparagraph 3.2.3 (formerly 3B3), a phrase requiring that the date of the quarterly or semiannual test be more recent than the effective date of the approved MPR has been added.

Discussion. This phrase was added so that older quarterly or semiannual test data could not be used to decrease an MPR.

Revision. Subparagraph 3B5, *Cancellation of MPR,* of the current OCS Order No. 11 has been deleted.

Discussion. MPR's are monitored by the Well Status and Production System (WSPS) which compares the approved MPR for each well with the latest quarterly (for oil) or semiannual (for gas) well test and reduces or zeros MPR's as appropriate to maintain an MPR not in excess of 110 percent of the latest quarterly or monthly well test. Therefore, MPR's are automatically cancelled quarterly in instances where the well is no longer on production and/or no well test is submitted, thus negating the necessity for a notice of cancellation. Therefore, no reliance has been made upon such notices.

D. Paragraph 4, Balancing of Production

Revision. In subparagraph 4.1 (formerly 4A), *Production Variances,* the requirement to advise the Supervisor of overproduction on Form 2–152 has been deleted.

Discussion. The RS detects overproduction and underproduction through the WSPS mentioned above. This requirement has never been enforced since it is not needed, hence the deletion.

Revision. In subparagraph 4.2 (formerly 4B), *Balancing Periods,* the sentence "As of the first day of the month following the month in which this Order becomes effective, all reservoirs shall be considered in balance," has been deleted.

Discussion. This sentence was necessary when OCS Order No. 11 first became effective for the Gulf of Mexico Region in 1974 and the Pacific Region in 1975 because a beginning point was needed. Since the Order has been in effect continuously since these dates, the sentence is not needed in the revision of OCS Order No. 11.

Revision. The sentence pertaining to overproduction in subparagraph 4.2 (formerly 4B) has been revised.

Discussion. The revision makes the definition clearer and compatible with the remaining text of the subparagraph.

Revision. The sentence requiring notification of balancing of production in subparagraph 4.2 has been deleted.

Discussion. Verification of balanced production is obtained by the RS through the WSPS so the notification by the operator is duplicative and, therefore, not needed.

E. Paragraph 6, Gas-Well Testing Procedures

Revisions. In subparagraph 6.1 (formerly 6A), the requirement for a multipoint back-pressure test has been deleted.

In subparagraph 6.4 (formerly 6D), the requirement of conducting multipoint back-pressure tests "within thirty days after connection to a pipeline" has been changed to "at the request of the RS."

Discussion. Multipoint back-pressure tests have previously been required as a measure of the theoretical open-flow potential of gas wells. However, recent experience has shown that little routine use is being made of this data. Consequently, it appears that in instances where such data is needed for a particular study or analysis, it can be obtained on the basis of a specific request from the RS while eliminating the routine requirement that a multipoint back-pressure test be conducted in each new gas well.

Revision. In subparagraph 6.2 (formerly 6B), a sentence was added requiring that the total production obtained from all tests during the test period shall be reported on Form 9–1868, "Well Potential Test Report."

Discussion. Form 9–1868 has always required this information; therefore, this is not a new information collection requirement. The sentence was added to emphasize this requirement.

F. Paragraph 9, Bottom-Hole Pressure Tests.

Revisions. This paragraph has been revised so that static bottom-hole pressure tests will be required annually on sufficient key wells in each producing reservoirs with three or more producing completions instead of all producing reservoirs.

The deadline for submitting the results of such tests has been cut to "within 45 days" after the date of the test instead of "within 60 days."

Operators will be required to submit the results of tests which are not required by this Order.

Discussion. Static bottom-hole pressure tests have previously been required annually in sufficient key wells to establish an average pressure in each producing reservoir. However, for smaller reservoir with less than three producing completions, experience has shown that the reserves are generally of such limited extent that development and ultimate recovery cannot be controlled or affected to any advantage by the application of extensive reservoir studies and analyses. Therefore, beyond an initial static bottom-hole pressure reading in sufficient key wells, little benefit is accrued from taking subsequent bottom-hole pressure readings. Consequently, the annual bottom-hole pressure test requirement has been deleted, except for reservoirs with three or more producing completions or unless a special request is made by the RS. Submittal of static bottom-hole pressure test data is now required within 45 days rather than 60 days after the date of the test since experience has shown that 45 days is an adequate time period for submittal. Submittal of the results of any bottom-hole pressure test which the lease operators run at their own volition is also required.

G. Paragraph 10, Flaring and Venting of Gas

Revisions. Subparagraph 10.1b (formerly 10A(2)) has been revised so that the time limitations on emergency flaring of gas are specified.

The application requirements for approval of flaring have been moved, unchanged, to subparagraph 10.4.

A new subparagraph 10.5, *Flaring Records,* has been added requiring that records detailing flare occurrences be maintained at each flare point.

Discussion. Time limitations for the approval of emergency oil-well flaring previously contained in the Gulf of

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Mexico OCS Region's Notice to Lessees and Operators (NTL) No. 75–9 have now been incorporated in OCS Order No. 11, and the time limitations on emergency gas-well flaring have been added to permit such flaring only until the emergency can be eliminated or until contributing gas wells can be shut in. As a distinction, it should be noted that OCS Order No. 11 allows for the approval of oil-well flaring under controlled circumstances, such as a gas compressor being down for repairs, whereas emergency gas-well flaring is permitted only until the emergency can be brought under control and eliminated. In the interest of verification of volumes flared and the circumstances involved, records of flare occurrences must henceforth be maintained for inspection at each flare point as previously required by NTL No. 75–9. No new requirements have been added which were not being required already by NTL No. 75–9 or which were not being done in accordance with prudent operating practices.

H. Paragraph 12, Multiple and Selective completions

Revision. Subparagraph 12.2 (formerly 12B) and Appendix A have been revised to require well numbering in accordance with American Petroleum Institute (API) Bulletin D12A dated January 1979.

Discussion. Appendix A previously required that each well completion within a wellbore be assigned a unique well-completion number which was to remain unchanged throughout the life of the wellbore. However, this numbering system proved unacceptable to many lease operators who wished, in the course of workover or recompletion operations, to change or adjust well names to designate the relative depth or elevation of a particular completion within the wellbore at any given point in time. Therefore, Appendix A has been revised to require identification of well completions and producing intervals on the basis of a 2-character completion symbol added to the API well-completion numbering system. The first of the two characters is an alphabetical designation which indicates the total number of tubing strings installed within the wellbore while the second character is a permanent unique numerical designation assigned to each producing interval completion within the wellbore. Once this unique numerical designation is assigned to a particular producing interval (reservoir sand) within a wellbore, it remains unchanged throughout the life of the wellbore.

Revision. Subparagraph 12C (old Order) which requires a packer test in multiple and selective completions in the current Order has been deleted.

Subparagraph 12.4, *commingling,* has been revised to consider economic factors and also to require the submittal of estimated recoverable reserves and any alternate drainage points.

Discussion. Experience has shown that, while packer tests, in some situations, are useful in confirming the presence of intercommunication within a wellbore, such communication between zones is usually detected initially on the basis of observed changes or similarities in flowing pressures, shut-in pressures, bottom-hole pressures, and/or other producing characteristics of the individual well completions, long before a packer leakage test is conducted. Other producing characteristics which are frequently indicators of communication between zones relate to observed changes or similiarities in liquid hydrocarbon gravity, produced water contents, specific gravity of gas or liquids, and/or the gas/oil ratio of one or more of the well completions within a wellbore. Such intercommunication is usually the result of either packer failure or tubing leaks. Once discovered, the question of whether repairs will be required in order to eliminate such communication between zones, or whether continued commingled production will be approved from such zones in communication, is decided on the basis fof whether or not such communication will result in a loss in ultimate recovery and on the basis of what is economically feasible and/or physically possible to accomplish in the way of workover or repair efforts. In any event, there have been few, if any, instances in which packer leakage tests have proven to be the decisive factor in the detection and/or elimination of communication between zones. Therefore, it is proposed that the requirement for such tests be deleted from OCS Order No. 11.

In making application for approval to commingle, the lease operator will now be required to provide a figure for estimated recoverable reserves and to identify any alternate drainage points which might be used to produce the reservoirs separately since experience has shown this information is needed in evaluating such commingling applications.

I. Paragraph 15, Shut-In Wells

Revision. This paragraph has been added to OCS No. 11. It requires the reporting of the status of all wells not permanently plugged and abandoned. Appendix B to OCS Order No. 11 has also been added. It contains the reporting codes for well status.

Discussion. The annual reporting of shut-in wells to the Congress, along with a statement as to whether such wells will be required to produce, is required by the OCS Lands Act Amendments of 1978. In accordance with letters of instruction, lease operators have previously been required to report the status of shut-in wells on Form 9–152, "Monthly Report of Operations-Outer Continental Shelf" for the Gulf of Mexico OCS Region. However, it is now proposed that this requirement and related instructions be incorporated in OCS Order No. 11.

J. Paragraph 17, Competitive Reservoir Operations

Revision. Subparagraph 17.3, *Unitization,* has been revised by adding language that forced unitization shall not be required until the operators and lessees are provided reasonable notice and an opportunity for a hearing in accordance with 30 CFR 250.51–2.

Discussion. This section of the revised Order provides that unitization of competitive reservoirs or any reservoir reasonably delineated shall not be required until the operators and lessees are provided reasonable notice and an opportunity for a hearing. The semiformal hearings are designed to give operators and lessees an opportunity to present their arguments either for or against unitization on the record and have such arguments and supporting technical data maintained as part of the official record. The proposed revision should result in fewer appeals since much of the controversy surrounding a forced unitization matter can be resolved by the hearing.

K. Paragraph 18, Conferences, Decisions, Appeals

Revision. The penultimate and the last sentence of paragraph 18 (formerly 17) were editorially revised.

Discussion. The revision of the penultimate sentence makes it clear that copies of the RS's decision will be provided to the parties involved. The last sentence was revised to follow the langauge of 30 CFR 250.81.

L. Paragraph 19, Departures

Revision. This paragraph, which allows for departures from the requirements specified in OCS Order No. 11, subject to approval pursuant to 30 CFR 250.11(b), has been added.

Discussion. Past experience has shown the necessity for approving certain exceptions or departures to OCS Order No. 11 in the interest of applying

the Order in a reasonable, realistic manner. Also, most other OCS Orders include a provision for departures, and previous failures to include such a provision in OCS Order No. 11 were probably due to an oversight.

II. Proposed Revision of OCS Order No. 11, "Oil and Gas Production Rates"

Gulf of Mexico OCS Region/Pacific OCS Region; OCS Orders

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Information Collection

The information collection requirements contained in OCS Order No. 11, as listed below, have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507. The information is collected to obtain definite and firsthand knowledge of the information collection requirements listed below under "Information Collection." This information is used to evaluate, approve, or verify compliance with these requirements as listed below under "Used to." The obligation to respond is mandatory.

Paragraph No.	Information collection/OMB clearance No.	Used to
3.2.1 Submittal of Initial MPR	The operator's requested maximum production rate (MPR) for each well, including operator's name and address, field, lease number, well identification, reservoir, reservoir MER, present MPR, and date on Form 9–1867/1010–0019.	Evaluate and approve operator's requested maximum production rate for each well completion.
3.2.2 Revision of MPR Increase; and 3.2.3 Revision of MPR Decrease		
5.3 Quarterly Test	Results of quarterly oil-well tests conducted by the operator, including identification data, production rate, choke size, bottom sediment and water content, tubing pressure, gas-oil ratio, production method, date of test, and current MPR on Form 9–1869/1010–0016.	Evaluate and verify operator's currently approved maximum production rate for each oil-well completion.
6.3 Semiannual Test	Results of semiannual gas-well tests conducted by the operator, including identification data, production data, wellhead pressure, line pressure, date of test, and current MPR on Form 9–1870/1010–0017.	Evaluate and verify operator's currently approved maximum production rate for each gas-well completion.
11. Disposition of Gas	Amounts of gas sold, used for fuel, injected, flared, vented, or otherwise disposed of by each operator on Form 9–152/1010–0012.	Verify the disposition of all gas produced for conservation and royalty purposes.
15. Shut-In Wells	Status of all wells not producing and not abandoned on Form 9–152/1010–0012	Verify the status of nonproducing wells.

United States Department of The Interior, Minerals Management Service

Gulf of Mexico OCS Region/Pacific OCS Region

OCS Order No. 11

Effective ———

Oil and Gas Production Rates

This Order is issued pursuant to the authority prescribed in the OCS Lands Act, 43 U.S.C. section 1334 et seq., as amended, 92 Stat. 629; 30 CFR 250.10 and 250.11 and in accordance with the Delegation of Authority published March 14, 1980 (45 FR 16570); and under the authority published February 2, 1982 (47 FR 4751). This Order implements the requirements of 30 CFR 250.11, 250.16, 250.17, 250.30, 250.33, 250.34, 250.39, 250.50, 250.51, 250.52, 250.55, 250.60, 250.61, 250.68, 250.81, 250.93, and 250.96. References in this Order to approvals, determinations, and requirements for submittal of information or applications for approval are to those granted, made, or required by the appropriate Regional Supervisor (RS) or delegated representative, unless otherwise noted.

1. *Definition of Terms.* For the purpose of this Order, the term—

"Competitive Reservoir" means a reservoir containing one or more producible or producing well completions on each of two or more leases, or portions thereof, in which the lease or operating interests are not the same.

"Correlative Rights," When used with respect to lessees of adjacent tracts, means the right of each lessee to be afforded an equal opportunity to explore for, develop, and produce, without waste, oil or gas, or both, from a common source. (See 30 CFR 250.2(i).)

"Enhanced Recovery Operations" means pressure maintenance operations, secondary and tertiary recovery, cycling, and similar recovery operations which alter the natural forces in a reservoir to increase the ultimate recovery of oil or gas.

"Gas Reservoir" means a reservoir that contains hydrocarbons predominantly in a gaseous (single-phase) state.

"Gas-Well Completion" means a well completed in a gas reservoir or in the gas cap of an oil reservoir with an associated gas cap.

"Interested party" means the lessees and operators, as defined herein, of the lease or leases involved in any proceeding initiated under this Order.

"Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for and develop and produce the leased deposits in accordance with the regulations in 30 CFR 250. The term includes all parties holding that authority by or through the lessee.

"Maximum Efficient Rate (MER)" means the maximum sustainable daily oil or gas withdrawal rate from a reservoir classified as sensitive which will permit economic development and depletion of that reservoir without detriment to ultimate recovery.

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"Maximum Production Rate (MPR)" means the approved maximum daily rate at which oil may be produced from a specified oil-well completion or the maximum approved daily rate at which gas may be produced from a specified gas-well completion.

"Nonsensitive Reservoir" means a reservoir in which ultimate recovery is not affected by total reservoir production rates and individual well rates.

"Oil Reservoir" means a reservoir that contains hydrocarbons predominantly in a liquid (single-phase) state.

"Oil Reservoir with an Associated Gas Cap" means a reservoir that contains hydrocarbons in both a liquid and a gaseous state (two-phase).

"Oil-Well Completion" means a well completed in an oil reservoir or in the oil accumulation of an oil reservoir with an associated gas cap.

"Operator" means the individual, partnership, firm, or corporation having control or management of operations on the leased area or a portion thereof. The operator may be a lessee, designated agent of the lessee, or holder of rights under an approved operating agreement.

"Producible Well Completion" means a well which is physically capable of producing and which is shut in at the wellhead or at the surface, but not necessarily connected to production facilities, and from which the operator plans future production.

"Property Line" means boundaries dividing leases and/or federally approved unit areas. Boundaries between leased and unleased acreage shall be considered property lines for the purpose of this Order.

"Reservoir" means an oil and/or gas accumulation which is separated from and not in oil or gas communication with any other such accumulation.

"Sensitive Reservoir" means a reservoir in which ultimate recovery is affected by total reservoir production rates or individual well rates.

"Waste of oil and gas" means: (1) The physical waste of oil and gas; (2) the inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy; (3) the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and (4) the inefficient storage of oil. It includes the failure to timely initiate enhanced recovery operations where such methods would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles.

2. *Classification of Reservoirs.* Each producing reservoir shall be classified as oil, oil with an associated gas cap, or gas; and as sensitive or nonsensitive, subject to the approval of the RS.

2.1 *Initial Classification.*

2.1.1 *Reservoir Fluid Type.* Within 15 days after the initial 30-day test period, the operator shall file revised Form 9–1866, "Reservoir Data-Request for Reservoir MER," classifying the reservoir as an oil reservoir, an oil reservoir with an associated gas cap, or a gas reservoir.

2.1.2 *Sensitive/Nonsensitive.* All oil reservoirs with associated gas caps shall be initially classified as sensitive and shall require the balancing of production in accordance with subparagraph 4.2 of this Order. All other oil reservoirs and all gas reservoirs shall be initially classified as nonsensitive and shall not require the balancing of production. As of the effective date of this Order, these requirements are applicable to all currently producing reservoirs.

2.2 *Reclassification.*

2.2.1 *Reservoir Fluid Type.* After a minimum of 1 year of production history, a reservoir may be reclassified as to fluid type during its productive life by the RS on the RS's initiative or upon application of an operator when information available shows that such reclassification is warranted.

2.2.2 *Sensitive to Nonsensitive.* The operator may request that a reservoir be reclassified from sensitive to nonsensitive after a minimum of 1 year of production history and upon submittal of relevant engineering and geological data indicating that the ultimate recovery is not sensitive to the rate of production. A reservoir may be reclassified from sensitive to nonsensitive by the RS at any time on the basis of evidence showing that ultimate recovery is not sensitive to the rate of production.

2.2.3 *Nonsensitive to Sensitive.* Either the operator or the RS may at any time initiate the reclassification of oil and gas reservoirs from nonsensitive to sensitive on the basis of reservoir history showing that the ultimate recovery is sensitive to the rate of production.

2.3 *Review of Reservoir Classification.* The classification of each producing reservoir shall be reviewed annually on the basis of reservoir data furnished on revised Form 9–1866, including the current revised reservoir information for both sensitive and nonsensitive reservoirs, accompanied by any requested changes in classification.

3. *Oil and Gas Production Rates.*

3.1 *Maximum Efficient Rate (MER).* In order to conserve reservoir energy and maximize oil and gas recovery, the operator shall propose an MER for each producing sensitive reservoir based on sound engineering and economic principles. When approved, such rates shall not be exceeded, except as provided in paragraph 4 of this Order. An MER shall not be required for a reservoir classified as nonsensitive.

3.1.1 *Submittal of Initial MER.* Within 15 days after the initial 30-day test period, the operator shall file revised Form 9–1866 with appropriate supporting information for a proposed MER for all sensitive reservoirs.

3.1.2 *Revision of MER.* The operator may request a revision of an MER by submitting the proposed revision to the RS on Form 9–1866 with appropriate supporting information. The operator shall obtain approval to produce at test rates which exceed an approved MER when such testing is necessary to substantiate an increase in the MER.

3.1.3 *Review of MER.* The MER for each sensitive reservoir will be reviewed by the operator annually, or at such other required or approved interval of time, in conjunction with the review of classification under subparagraph 2.3 of this Order. The results of the review, with all current supporting information, shall be submitted on revised Form 9–1866.

3.1.4 *Effective Date of MER.* The effective date of an MER, or revision thereof, will be determined by the RS and shown on Form 9–1866 when the MER is approved. The effective date for an initial MER shall be the first day following an approved testing period. The effective date for a revised MER shall be the first day following the completion of an approved testing period, or if testing is not conducted, the date the revision is approved.

3.2 *Maximum Production Rate (MPR).* The operator shall propose an MPR for each producing well completion in a reservoir together with full information on the method used in its determination. The MPR shall be based on well tests and any limitations imposed by—

(1) Well tubing, safety equiment, artifical lift equipment, surface back-pressure, and equipment capacity;

(2) Sand-producing problems;

(3) Producing gas-oil and water-oil ratios;

(4) Relative structural position of the well with respect to gas-or water-oil contacts;

(5) Position of perforated interval within total production zone; and

(6) Prudent operating practices.

The MPR established for each well completion shall not exceed 110 percent of the rate demonstrated by a well test unless jsutified by supporting information.

3.2.1 *Submittal of Initial MPR.* The operator shall have 30 days from the date of first continuous production within which to conduct a potential test, as specified under subparagraphs 6.2 and 7.2 of this Order, on all new, recompleted, and reworked well completions. No later than 15 days after the last day of the test period, the operator shall submit a proposed MPR for the individual well completion on Form 9–1867, "Request for Well Maximum Production Rate (MPR)," with the results of the potential test on Form 9–1866, "Well Potential Test Report." The effective date for any approved initial MPR shall be the first day following the test period. During the 30-day period allowed for testing, the operator may produce a new, recompleted, or reworked well completion at rates necessary to establish the MPR. The operator shall report the total production obtained during the test period on Form 9–1868.

3.2.2 *Revision of MPR Increase.* If an operator determines that the MPR should be increased, the operator shall submit, within 15 days after a specified 30-day test period, a proposed increased MPR on Form 9–1867. Data supporting the requested revision, including the results of the potential test and the total production obtained during the test period, shall be submitted on Form 9–1866. Prior to approval of the proposed increased MPR, the operator may produce the well completion at a rate not to exceed the proposed increased MPR of the well. The effective date for any approved increased MPR shall be the first day following the test period. If testing rates or increased MPR rates result in production from a sensitive reservoir in excess of the approved MER, this excess production shall be balanced by underproduction from the reservoir under the provisions of subparagraph 4.2 of this Order.

3.2.3 *Revision of MPR Decrease.* When the quarterly test rate for an oil-well completion or the semiannual test rate for a gas-well completion, as required under subparagraphs 5.3 and 6.3 of this Order, is less than 90 percent of the approved MPR, and the date of this test is more recent than the effective date of the approved MPR, a new reduced MPR will be established automatically for that well completion equal to 110 percent of the test rate submitted. The effective date for the new MPR for such well completion shall be the first day of the calendar quarter following the required date of submittal of periodic well-test results. The operator may notify the RS on Form 9–1867 of, or the RS may require, a downward revision of a well MPR at any time when the well is no longer capable of producing its approved MPR on a sustained basis. The effective date for such reduced MPR for a well completion shall be the first day of the month following the date of notification.

3.2.4 *Continuation of MPR.* When the results of a quarterly well test for an oil completion or a semiannual well test for a gas completion as required by subparagraphs 5.3 and 6.3, respectively, cannot be timely submitted, production at the last approved MPR for the well may be continued, provided prior approval of an extension of time in which to submit the test results is obtained.

3.3 *MER and MPR Relationship.* The withdrawal rate from a sensitive reservoir shall not exceed the approved MER. The reservoir may be produced from any combination of well completions subject to any limitations imposed by the MPR established for each well completion. The rate of production from the reservoir shall not exceed the MER, although the summation of individual well MPR's may be greater than the MER.

4. *Balancing of Production from Reservoirs Classified Sensitive.*

4.1 *Production Variances.* Temporary well production rates resulting from normal variations and fluctuations exceeding a well MPR or reservoir MER shall not be considered a violation of this Order, and such production may be sold or transferred pursuant to paragraph 8 of this Order. However, when normal variations and fluctuations result in production in excess of a reservoir MER, each operator who is overproduced shall balance such production in accordance with subparagraph 4.2. below.

4.2 *Balancing Periods.* Balancing periods for overproduction of a reservoir MER shall end on January 1, April 1, July 1, and October 1 of each year. A reservoir shall be considered overproduced when total production for a balancing period exceeds total MER for that corresponding balancing period. All overproduction shall be balanced by the end of the next succeeding quarter following the quarter in which the overproduction occurred.

4.3 *Shut In for Overproduction.* Each operator in an overproduction status for two successive quarters in any sensitive reservoir which has not been brought into balance within the balancing period shall shut in that reservoir until the actual production equals that which would have occurred under the approved MER.

4.4 *Temporary Shut In.* If, as a result of storms, hurricanes, emergencies, or other condition speculiar to offshore operations, an operator is forced to curtail or shut in production from a reservoir, the DMM may, upon request, approve makeup of all or part of this production loss.

5. *Oil-Well Testing Procedures.*

5.1 *General.* A test shall be conducted for not less than 4 consecutive hours. Immediately prior to the 4-hour test period, the well completions shall have produced under stabilized conditions for a period of not less than 6 consecutive hours. The 6-hour pretest period shall not begin until after recovery of a volume of fluid equivalent to the amount of fluids introduced into the formation for any purpose. Measured gas volumes shall be adjusted to the standard conditions of 15.025 pounds per square inch absolute (psia) (14.73 psia in Pacific OCS Region) and 60° F for all tests. When orifice meters are used, a specific gravity shall be obtained or estimated for the gas and a specific gravity correction factor applied to the orifice coefficient. The RS may required a prolonged test or retest of a well completion if such test is determined to be necessary for the establishment of a well MPR or a reservoir MER. The RS may approve test periods of less than 4 hours and pretest stabilization periods of less than 6 hours for well completions, provided that test reliability can be demonstrated under such procedures.

5.2 *Potential Test.* Test data to establish or to increase an oil-well MPR shall be submitted on Form 9–1868. The total production obtained from all tests during the test period shall be reported on such form.

5.3 *Quarterly Test.* A quarterly test shall be conducted on each producing oil-well completion, and test results shall be submitted on Form 9–1869, "Quarterly Oil-Well Test Report." Test periods and submittal dates shall be as follows:

Testing period	Latest date for submittal of test results	For quarter beginning
Sept. 11 to Dec. 10	Dec. 10	Jan. 1.
Dec. 11 to Mar. 10	Mar. 10	Apr. 1.
Mar. 11 to June 10	June 10	July 1.
June 11 to Sept. 10	Sept. 10	Oct. 1.

To satisfy the requirements of this subparagraph, there shall be a minimum of 45 days between quarterly tests for an oil-well completion.

6. *Gas-Well Testing Procedures.*

6.1 *General.* Testing procedures for gas-well completions shall be the same as those specified for oil-well completions in subparagraph 5.1.

6.2 *Potential Test.* Test data to establish or to increase a gas-well MPR shall be submitted on Form 9–1868. The total production obtained from all tests during the test period shall be reported on such form.

6.3 *Semiannual Test.* A test shall be conducted on each producing gas-well completion semiannually, and test results shall be submitted on a Form 9–1870, "Semiannual Gas-Well Test Report." Testing periods and submittal dates shall be as follows:

Testing period	Latest date for submittal of test results	For semi-annual period beginning
June 11 to Dec. 10	Dec. 10	Jan. 1.
Dec. 11 to June 10	June 10	July 1.

To satisfy the requirements of this subparagraph, there shall be a minimum of 90 days between semiannual tests for a gas-well completion.

6.4 *Back-Pressure Tests.* Multipoint back-pressure tests to determine the theoretical open-flow potential of gas wells shall be conducted on an individual well basis at the request of the RS in instances where a need for this information develops or exists. Upon the specific request of the RS, the lease operator shall conduct all identified multipoint back-pressure tests within 30 days following receipt of such request or within such other time period specifically requested by the RS. The results of all requested back-pressure tests shall be submitted together with all basic data used in determining the test results.

7. *Witnessing Well Tests.* The RS may have a representative witness any potential or periodic well tests on oil- and gas-well completions. Upon request, an operator shall notify the appropriate office of the time and date of well tests.

8. *Sale or Transfer of Production.* Oil and gas produced pursuant to the provisions of this Order, including test production, may be sold to purchasers or transferred as production authorized for disposal hereunder.

9. *Bottom-Hole Pressure Tests.* Static bottom-hole pressure tests shall be conducted in all new reservoirs within 3 months after the date of first continuous production. Thereafter, bottom-hole pressure tests shall be conducted annually in sufficient key wells to establish an average reservoir pressure in each producing reservoir with three or more producing completions. Results of bottom-hole pressure tests shall be submitted within 45 days after the date of the test. Operators may be required to test specific wells and/or specific reservoirs. In the event bottom-hole pressure tests not required by this Order are conducted in any well or reservoir, the results of such tests shall be filed with the RS (District Supervisor in Pacific OCS Region) within 45 days after the date of the test.

10. *Flaring and Venting of Gas.* Oil-well and gas-well gas shall not be flared or vented except as provided herein.

10.1 *Small Volume or Short-Term Flaring or Venting.* Gas may be flared or vented in small volumes without the approval of the RS (District Supervisor in Pacific OCS Region) in the following situations:

a. *Gas Vapors.* When gas vapors are released from storage and other low-pressure

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production vessels if such gas vapors cannot be economically recovered.

b. *Emergencies.* During temporary situations, such as compressor or other equipment failure, or the relief of abnormal system pressures:

(1) The flaring of oil-well gas need not be reported for periods less than 24 hours; however, it may not be flared for more than 24 hours without the approval of the RS. Also, flaring at a flare point shall not continue beyond a cumulative time of 144 hours during any calendar month without the approval of the RS (District Supervisor in Pacific OCS Region).

(2) The flaring of gas-well gas shall not be permitted beyond the time required to eliminate the emergency or until the gas wells contributing to the flare can be shut in.

c. *Well Purging and Evaluation Tests.* During the unloading or cleaning up of a well and during drill-stem tests, producing or other well evaluation tests for periods not to exceed 24 hours.

10.2 *Approval of Flaring.* Any flaring of a longer duration than the time specified in 10.1 b and c above will require prior approval of the RS (District Supervisor in Pacific OCS Region).

10.3 *Gas-Well Gas.* Except as provided in 10.1 and 10.2 above, gas-well gas shall not be flared.

10.4 *Oil-well Gas.* Except as provided in 10.1 and 10.2 above, oil-well gas shall not be flared unless approved by the RS. An application for the flaring of oil-well gas may be approved by the RS for 1-year periods if: (1) the operator has initiated a positive action which, when completed, will eliminate flaring or venting, or (2) the operator has submitted an evaluation supported by engineering, geologic, and economic data indicating that the oil and gas produced from the well(s) will not economically support the facilities necessary to save and sell the gas or that sufficient quantities of gas are not available for marketing.

10.5 *Flaring Records.* Records detailing flare occurrences shall be maintained for each flare point and shall be available for inspection by a representative of the RS (District Supervisor in Pacific OCS Region).

11. *Disposition of Gas.* The disposition of all gas produced from each lease shall be reported monthly on, or attached to, Form 9–152, "Monthly Report of Operations—Outer Continental Shelf." The report shall be submitted in the following manner:

	Oil-well gas (MCF)	Gas-well gas (MCF)
Sales		
Fuel		
Injected		
Flared		
Vented		
Other (Specify)		
Total		

12. *Multiple and Selective Completions.*

12.1 *Number of Completions.* A wellbore may contain any number of producible completions when justified and approved.

12.2 *Numbering Well Completions.* Well completions shall be numbered using an alphanumeric nomenclature. Once designated as a reservoir completion, the well completion number shall not change. Appendix A contains a detailed explanation of procedures for naming well completion.

12.3 *Selective Completions.* Completions equipment may be installed to permit selective reservoir isolation or exposure in a wellbore through wireline or other operations. All selective completions shall be designated in accordance with subparagraph 12.2 when the application for approval of such completions is filed.

12.4 *Commingling.* Commingling of production from two or more separate reservoirs within a common wellbore may be permitted if it is determined that, collectively, the ultimate recovery will not be decreased and that commingling is the most feasible method, considering the existing mechanical and economic factors. An application to commingle hydrocarbons from multiple reservoirs within a common wellbore shall be submitted for approval and shall include all pertinent well information, geologic and reservoir engineering data, and a schematic diagram of well equipment. The application shall provide the estimated recoverable reserves as well as any available alternate drainage points which might be used to produce the separate reservoirs. For all competitive reservoirs, notice of the application shall be sent by the applicant to all other operators of interest in the reservoirs prior to submitting the application to the RS. The application shall specify the well completion number to be used for subsequent reporting purposes.

13. *Gas-Cap Well Completions.* All existing and future wells completd in the gas cap of a reservoir which has been classified and approved as an oil reservoir with an associated gas cap shall be shut in until such time as the oil is depleted or the reservoir is reclassified as a gas reservoir, provided, however, that production from such wells may be approved when (1) it can be shown that such gas-cap production would not lead to waste of oil and gas, or (2) when necessary to protect correlative rights unless it can be shown that this production will lead to waste of oil and gas.

14. *Location of Wells.*

14.1 *General.* The location and spacing of all exploratory and development wells shall be in accordance with approved programs and plans required in 30 CFR 250.17 and 250.34. Such location and spacing shall be determined independently for each lease or reservoir in a manner which will locate wells in the optimum structural position for the most effective production of reservoir fluids and to avoid the drilling of unnecessary wells.

14.2 *Distance from Property Line.* An operator may drill exploratory or development wells at any location on a lease in accordance with approved plans, provided that no well directionally or vertically drilled and completed in which the completed interval is less than 500 feet from a property line shall be produced unless approved by the RS. An operator requesting approval to produce a directionally drilled well in which the completed interval is located closer than 500 feet (200 feet in Pacific OCS Region) from a property line, or approval to produce a vertically drilled well with a surface location closer than 500 feet (200 feet in Pacific OCS Region) from a property line, shall furnish the RS with letters expressing acceptance or objection from operators of offset properties.

15. *Shut-In Wells.* The status of drilling wells and well completions, except as stated below, shall be reported in the "Remarks" column on form 9–152, "Monthly Report of Operations," using the appropriate code shown in Appendix B of this Order. Wells (boreholes) permanently plugged and abandoned, including those which have met all permanent abandonment requirements of OCS Order No. 3, except paragraph 2.9., relating to clearance of the location, need not be reported after the month the actual abandonment operations occurred. Well completions permanently abandoned need not be reported after the month the actual abandonment occurred. Alternate completions shall not be reported until the primary completion has been abandoned and the alternate completion commences production.

16. *Enhanced Oil and Gas Recovery Operations.* Operators shall initiate enhanced oil and gas recovery operations in a timely manner by submission of a plan for reservoirs where such operations would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles.

17. *Competitive Reservoir Operations.* Development and production operations in a competitive reservoir may be required to be conducted under either pooling and drilling agreements or unitization agreements when the Regional Manager determines, pursuant to 30 CFR 250.50, 250.51, and 250.52, and delegated authority, that such agreements are practicable, necessary, and in the interest of conservation.

17.1 *Competitive Reservoir Determination.* The RS shall notify the operators when the RS has made a preliminary determination that a reservoir is competitive as defined in this Order. An operator may request at any time that the RS make a preliminary determination as to whether a reservoir is competitive. The operators, within 30 days of such preliminary notification or such extension of time as approved by the RS, shall advise of their concurrence with such determination or submit objections with supporting evidence. The RS will make a final determination and notify the operators.

17.2 *Development and Production Plans.* When drilling and/or producing operations are conducted in a competitive reservoir, the operators shall submit for approval a plan governing the applicable operations. The plan shall be submitted within 90 days after the determination by the RS that a reservoir is competitive or within such extended period of time as approved by the RS. The plan shall provide for the development and/or production of the reservoir and may provide for the submittal of supplemental plans for approval by the RS.

17.2.1 *Development Plan.* When a competitive reservoir is still being developed or future development is contemplated, a development plan may be required in addition to a production plan. If agreement to a joint development plan cannot be reached by the operators, each shall submit a separate plan, and any differences may be resolved in accordance with paragraph 18 of this Order.

17.2.2 *Production Plan.* A joint production plan is required for each competitive reservoir. This plan shall include (a) the proposed MER for any sensitive reservoir, (b) the proposed MPR for each completion in the reservoir, (c) the percentage allocation of reservoir MER (if applicable) for each lease involved, and (d) any plans for secondary recovery or pressure maintenance operations. If agreement to a joint production plan cannot be reached by the operators, each shall submit a separate plan, and any differences may be resolved in accordance with paragraph 18 of this Order.

17.3 *Unitization.* The Regional Manager (RM) shall determine when conservation will be best served by unitization of a competitive reservoir, or any reservoir reasonably delineated and determined to be productive, in lieu of a development and/or production plan or when the operators and lessees involved have been unable to voluntarily effect unitization. In such cases, the RM may require that development and/or production operations be conducted under an approved unitization plan, provided, however, that unitization shall not be required until the operators and lessees are provided reasonable notice and an opportunity for a hearing in accordance with 30 CFR 250.51–2. Within 6 months after notification by the RM that such a unit plan is required or within such extended period of time as approved by the RM, the lessees and operators shall submit a proposed plan of unitization for approval pursuant to 30 CFR 250.51.

18. *Conferences, Decisions, and Appeals.* Conferences with interested parties may be held to discuss matters relating to applications and statements of position filed by the parties relating to operations conducted pursuant to this Order. The RS may call a conference with one or more, or all, interested parties on the RS's own initiative or at the request of any interested party. Copies of the RS's decisions shall be provided to the parties involved. Any interested party may appeal decisions of the RS or the RM pursuant to 30 CFR 250.81. The filing of an appeal shall not suspend the requirement for compliance with an Order or decision of the RS or the RM.

19. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Louis E. McBee,

Acting Regional Supervisor, Offshore Reserves and Development, Gulf of Mexico OCS Region.

Harry T. Cypher,

Regional Supervisor, Offshore Field Operations, Pacific OCS Region.

Approved:

Richard B. Krahl,

Deputy Associate Director for Offshore Operations.

Appendix A

Subparagraph 12.2, *Numbering Well Completions.* Well completions shall be designated using a two-character completion symbol (CP) as a supplement to the twelve-character American Petroleum Institute (API) well completion numbering system established by API Bulletin D12A, "The API Well Number and Standard State and County Codes Including Offshore Waters," January 1979. This fourteen-character number shall be associated with each well completion (perforated zone) referenced or listed in required correspondence, reports, and forms submitted by lease operators.

The first of the two characters in the CP is alphabetical and is to be revised as necessary to reflect the number of tubing strings, i.e., zone completions existing in the wellbore at any given point in time (disregarding selective completions). The characters to be used are defined as follows:

S Single Completion

D Dual Completion

T Triple Completion

Q Quadruple Completion

V Quintuple Completion

Example No. 1: If a wellbore is initially dually completed, the first character of the CP for each of the two well completions would be designated as the letter "D."

Example No. 2: If a wellbore is reworked and recompleted from a dual completion to a triple completion, the first character of each of the three well CP's would be designated (or redesignated) as the letter "T."

The second of the two characters in the CP is numerical, and once assigned, this number is to be uniquely and permanently related to a specific reservoir (perforated zone), beginning with the number "1" for the first reservoir perforated and produced followed by consecutively higher numbers assigned to successively perforated and produced reservoirs (well completions).

Example No. 3: If a wellbore is initially dually completed, the second character of each CP would be designated by the numbers "1" and "2," respectively. In the event a third reservoir in the same wellbore is then completed (perforated), the second character of the CP for this new well completion would be designated by the number "3." In the event yet a fourth reservoir is completed (perforated) in this wellbore, the second character of the CP for this well completion would be designated by the number "4." To reiterate, once a numerical designation is assigned to a reservoir completion, this unique number is permanently associated with that reservoir completion even if the reservoir completion is subsequently abandoned.

Example No. 4: In the event a wellbore is initially dually completed, the two-character CP's for each of these two reservoir completions would be designated as D1 and D2, respectively. In the event the reservoir completion designated D2 then becomes depleted and is abandoned, following which a third reservoir is completed (perforated), the existing active well completions at that time would be designated by the CP's D1 and D3, respectively. Then, in the event a fourth reservoir is completed in the wellbore while well completions D1 and D3 still exist, i.e., have not been abandoned, the wellbore would become triply completed with perforated well completions designated by CP's T1, T3, and T4, respectively.

Appendix B

Well Codes

COMPABND—Completed Well Abandoned
DRLGACTI—Actively Drilling
DRLGINAC—Inactive Drilling
G—Nonproducing Gas Completion
O—Nonproducing Oil Completion
PLUGABND—Plugged and Abandoned
PRODGAS—Producing Gas Completion
PRODOIL—Producing Oil Completion
SERVGINJ—Gas Injection
SERVGSTO—Gas Storage
SERVINAC—Inactive Service
SERVOTHR—Other Service
SERVWDIS—Water Disposal
SERVWINJ—Water Injection

Reason Codes

Pipelines, Flowlines, and Headers

PHF 1—Pipeline or Flowline Leaks
PFH 2—Pipeline, Flowline, or Header Tie-Ins
PHF 3—No Pipeline—No Market
PHF 4—Pipeline or Flowline Maintenance
PHF 5—Pipeline Curtailment
PFH 6—Check Valve Problems

Platform

PLA 1—Drilling, Major Workover, or Wireline Operations on Platform
PLA 2—Damage to Platform
PLA 3—Platform-related Construction

Regulatory

REG 1—Elimination Flaring of Oil-Well Gas
REG 2—MMS Inspection Enforcement Action
REG 3—Balancing MER Overproduction
REG 4—Awaiting Federal Energy Regulatory Commission (FERC) Approvals

Reservoir

RES 1—Gas Cap Completion (Gas)
RES 2—Depleted
RES 3—High Gas-Oil Ratio (Oil)
RES 4—Watered Out
RES 5—Reservoir or Well Study
RES 6—Testing
RES 7—Waiting on Reservoir Response
RES 8—Low Reservoir Pressure

Surface

SUR 1—Compressor Problems
SUR 2—Production Equipment Problems, (separator, heater-treater, dehydrator, etc.)

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SUR 3—Electrical
SUR 4—Surface Safety Valve Problems
SUR 5—Safety Equipment Problems

Weather

WEA 1—Hurricane or Storm
WEA 2—Freezing Problems

Wellbore

WEB 1—Hole in Tubing or Casing
WEB 2—Sanded Up
WEB 3—Communication with Another Zone
WEB 4—Loaded Up with Water
WEB 5—Collapsed Casing, Tubing, or Liner
WEB 6—Subsurface Safety Valve Problems
WEB 7—Junked Equipment in Hole
WEB 8—Paraffin Problems
WEB 9—Tubing Hanger Leak
WEB 10—Gas-Lift Equipment Problems
WEB 11—Pump Failure

Action Codes

ACT 1—Minor Workover
ACT 2—Major Rig Workover
ACT 3—Opening Master Valve
ACT 4—Surface Maintenance, Repairs, Construction, or Safety Restrictions
ACT 5—No future Utility—To Be Abandoned

Expected Action Codes

CORRACT—Corrective Action
NOFUT—No future Action
RECOMP—Recompletion

Acronym Examples

Example No. 1: DRLGACTI
A borehold which is presently being drilled.
Example No. 2: SERVWINJ
A service completion currently being used as a water injection well for a secondary recovery project.
Example No. 3: PRODGAS
A gas-well completion which produced 30 days.
Example No. 4: G, RESIACT, 8001, CORRACT, 8302
A well completed in the gas cap of a reservoir which is not currently producing because it is necessary to conserve reservoir energy. Never produced, initially completed January 1980. Production is anticipated in February 1983.
Example No. 5: G, WEB2ACT1, 8012, CORRACT, 8304
A gas completion which is sanded up and a wireline operation is anticipated in April 1983. Last date of production was December 7, 1980.
Example No. 6: O, WEB1ACT2, 8007, CORRACT, 8303
An oil completion which has a hole in the tubing string and a major workover is anticipated in March 1983. Date of last production was July 20, 1980.
Example No. 7: G, SUR1ACT4, 8002, CORRACT, 8303
A gas completion which is shut in due to mechanical problems with a compressor. Compressor down February 15, 1980, and is expected to be repaired in March 1983.
Example No. 8: O, PFH1ACT4, 8006, CORRACT, 8307
An oil completion which is shut in because of pipeline or flowline leaks requiring repair. Date of last production was June 9, 1980. Pipeline repairs are expected to be complete in July 1983.
Example No. 9: O, PLA1ACT4, 8008, CORRACT, 8310
An oil-well completion shut in for safety reasons because of major workover operations being conducted on the platform. Date of last production was August 19, 1980, and production is expected to be restored in October 1983.
Example No. 10: G, WEA2ACT4, 8001, CORRACT, 8303
Gas completions shut in because of freezing problems associated with surface production facilities. Date of last production was January 29, 1980, and production is expected to be restored in March 1983.
Example No. 11: O, REG1ACT4, 8004, CORRACT, 8309
Because of inadequate compression facilities, an oil completion producing a sufficient quantity of associated gas is shut in to eliminate flaring of that gas. Date of last production was April 15, 1980, and production is expected to be restored in September 1983.
Example No. 12: PLUGBND
A well (borehole) which was plugged and abandoned during the reporting month.
Example No. 13: COMPABND
A well completion which was permanently abandoned by squeezing cement into the perforations in February 16, 1980.
Example No. 14: PRODOIL
An oil-well completion which produced 1 day.
Example No. 15: O, RES2ACT5, 8002, RECOMP, 8310
An oil-well completion ceased producing on February 12, 1980, and the reservoir it produced from is considered depleted. A recompletion is anticipated for October 1983.

III. Proposed Revision of Form 9–1866, "Reservoir Data—Request for MER".

United States
Department of The Interior

Minerals Management Service

Reservoir Data—Request for Reservoir MER

Operator _____
Field _____
Reservoir _____
Drive Mechanism[1] _____
Discovery Year _____
Present MER _____
Nature of Approval:
Initial submittal _____
MER Request _____
Reservoir Classification _____
Annual Review _____
Other (Specify in Remarks) _____
Reservoir Classification:
_____ Sensitive
_____ Nonsensitive
_____ Oil
_____ Oil w/Assoc. Gas Cap
_____ Gas

[1] Where more than one recovery mechanism is operating in a reservoir, a summary sheet is to be provided with estimated water influx rates, gas cap expansion rates, etc.

The United States Criminal Code, 18 U.S.C. 1001, makes it a criminal offense to make a willfully false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction.

Basic Data Required

1. Cut offs ϕ Upper Lower	0.	0.
K Upper Lower = md		
2. G/O Interface		
3. W/O Interface		
4. Area @ G/O		
5. Area used to det'n Rock Vol		
6. Oil Zone Rock Volume		
7. Gas Zone Rock Volume		
8. H_o, h_o		
9. H_g, h_g		
10.	0.	
11. Sw	O.	
12. Sg	O.	
13. So	0.	
14. Boi, Bgi		
15. N, G		
16. Ri	0.	
17. RiN, RiG		
18. Np/N (Gp/G)	0.	
19. Average Well Depth		
20. Kh		
21. Kv		
22. °API @ 60°F		
23. SG		
24. Rsi	0.	
25. ¶		
26. ¶		
27. Tavg		
28. Pi		
29. Pws		
30. Pb		
31. Datum Depth		
32. GOR		
33. WOR		
34. Injection Completions		
35. Abandoned Completions		
36. No. of active Completions		
37. Np(1) (Date)		
38. Np(2) (Date)		
39. Gp(1) (Date)		
40. Gp(2) (Date)		
41. Wp(1) (Date)		
42. Wp(2) (Date)		

Active Completions
Lease No. _____
Completion No. _____
API No. _____
Attachments:
☐ Request for Well Maximum Production Rate
☐ Multi-Point Back-Pressure Test
☐ Well Potential Test Report
☐ Reservoir Structure Map
☐ Other (Specify)
_____
Test Period:
From _____
to _____
Cumulative Production during entire approved testing period:
Oil _____ bbls
Gas _____ MCF
Water _____ bbl
Remarks: _____
Signed: _____
Date: _____
Adddress _____
_____
Approved: _____
Regional Supervisor
Effective Date: _____

Definitions of Basic Data Required

Requested MER: MER determined from a plot of ultimate recovery versus rate
Present MER: Previously approved MER
1. ϕ cut-offs—Upper and lower porosity cut-offs (fractions)
K cut-offs—Upper and lower cut-offs to air permeability (md)
2. G/O interface—initial gas-oil interface (feet subsea)
3. W/O interface—initial water-oil interface (feet subsea)
4. Area @ G/O—Area of gas-oil contact (acres)
5. Area used to Det'n Rock Vol.—Area @ W/O contact or area of reserve isopach (acres)
6. Oil zone rock vol.—Rock volumes used to determine N. (acre-feet)
7. Gas zone rock vol.—Rock volume of gas cap (acre-feet)
8. H_o, h_o—Average gross, average net pay thickness (feet, oil zone)
9. H_g, h_g—Average gross, average net pay thickness (feet gas zone)
10. ϕ—Effective porosity (fraction)
11. Sw—Connate water saturation (fraction)
12. Sg—Initial gas saturation (fraction)
13. So—Initial liquid hydrocarbon saturation (fraction)
14. Boi—Initial flash formation volume factor (fraction)
Bgi—Initial formation volume factor (fraction—Res. Vol/ST Vol.)
15. N—7758 Ah0 (So)(1/Boi) Stock barrels of oil in place
G—43,560 Ah0(Sg)(1/Bgi) Std. Cu. ft. of gas in place
16. Ri—Estimated recovery for drive mechanism (fraction)
17. RiN—Ultimate recoverable oil for drive mechanism (stocktank barrels)
RiG—Ultimate recoverable gas for drive mechanism (MCF)
18. Np/N—Depletion of initial oil-in-place (fraction)
19. Average well depth

$$\frac{\Sigma(T+B)}{2N}$$

Σ = the sum of
T = vertical depth from KB elevation to top of productive oil pay
B = vertical depth from KB elevation to base of productive oil pay
N = number of completions

20. Kh—Average horizontal air permeability (md)
21. Kv—Average vertical air permeability (md)
22. °API—Average API gravity of stock tank oil (degrees @ 60° F)
23. SG—Specific gravity of gas (air = 1.00)
24. Rsi—Initial solution gas-oil ratio (SCF-STB)
25. μ—Initial reservoir oil viscosity (cp)
26. μ—Reservoir oil viscosity at current reservoir pressure (cp)
27. Tavg—Average reservoir temperature (°F)
28. Pi—Initial static reservoir pressue at datum (PSIG)
29. Pws—Current static reservoir pressure at datum (PSIG)
30. Pb—Bubble point pressure (PSIG)
31. Datum Depth—Reference depth for static pressure (feet subsea)
32. GOR—Producing gas-oil ratio for specified month, scf/stb
33. WOR—Producing water-oil ratio for specified month, bbl/stb
34. Injection Completions—Number of completions injecting fluid related to drive mechanism
35. Abandoned Completions—Number of producing completions abandoned
36. No. of active Completions—Number of well completions for requested MER
37. Np(1)—Cumulative oil production, STB at last submission
38. Np(2)—Cumulative production, STB this submission
39. GP(1)Cumulative gas production, MSCF at last submission
40. GP(2)—Cumulative gas production, MSCF this submission
41. Wp(1)—Cumulative water production, BBL at last submission
42. WP(2)—Cumulative water production, BBL this submission

This form is to be filed with the Regional Supervisor as required by paragraphs 2 and 3 of OCS Order No. 11 and shall contain all information required unless such information is not available at the time of submittal because of the stage of development of the reservoir.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.) requires us to inform you that: This information is being collected to obtain definite and firsthand knowledge of reservoir characteristics and parameters. This information will be used to classify the reservoir as sensitive or nonsensitive and to evaluate the lessee's request for approval of a Maximum Efficient Rate of production. Response to this request is mandatory.

[FR Doc. 83-11855 Filed 5-3-83; 8:45 am]
BILLING CODE 4310-MR-M

Bureau of Reclamation

[INT-DES 83-27]

Regulatory Storage Division, Central Arizona Project, Arizona; Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement for the Regulatory Storage Division, a feature of the Central Arizona Project (CAP).

This statement analyzes the environmental consequences of the construction and operation of the Regulatory Storage Division of the CAP; and concurrent and coincident aspects of the Bureau of Reclamation's Safety of Dams program for the Salt and Verde Rivers. Construction of a regulatory unit for CAP water will increase the operating efficiency of the CAP through the conservation of flows of the Salt, Verde, and Agua Fria Rivers, and through regulation of Colorado River water deliveries from the Granite Reef Aqueduct. Modification of existing dams or the construction of new dams will partially solve the dam safety problems of existing Bureau of Reclamation dams on the Salt and Verde Rivers and provide facilities and the means to meet flood control needs on the Salt and Gila Rivers through the Phoenix metropolitan area.

Written comments on the draft environmental impact statement may be submitted to the Regional Director (address below) on or before July 26, 1983.

Copies of the statement are available for inspection at the following locations:

Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, (202) 343–4991
Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, (303) 234–3019
Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, NV 89005, (702) 293–8560
Arizona Projects Office, Bureau of Reclamation, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, (602) 261–3577

Libraries

Phoenix City Library, 12 East McDowell Road, Phoenix, AZ 85004
Tucson City Library, 200 South 6th Avenue, Tucson, AZ 85701.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director at the addresses listed above, at no charge. Please refer to the statement number above.

Dated: April 29, 1983.

Bruce Blanchard,
Director, Environmental Project Review.

[FR Doc. 83-11902 Filed 5-3-83; 8:45 am]
BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-146]

Certain Canape Makers; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: April 25, 1983.

Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 83-11917 Filed 5-3-83; 8:45 am]
BILLING CODE 7020-02-M

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[Investigation No. 337-TA-132]

Certain Hand-Operated, Gas-Operated Welding, Cutting and Heating Equipment and Component Parts Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminaing the following respondent on the basis of a settlement agreement: I. Ling Industry Co., Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 29, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this invesigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: April 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–11916 Filed 5–3–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-136]

Certain Marine Hardware and Accessories; Commission Decision Not To Review Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 6) granting a joint motion by complainant, respondent, and the Commission investigative attorney to terminate the above-captioned investigation based on a settlement agreement.

SUPPLEMENTARY INFORMATION:

Authority: The authority for the Commission's disposition of this matter is contained in sections 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.53(c) and (h)).

On April 15, 1983, the presiding officer issued an initial determination granting the joint motion of complainant Attwood Corp., respondent L.S. Brown Co., and the Commission investigative attorney to terminate the investigation on the basis of a written settlement agreement. Under § 210.54(b) of the Commission's rules, the deadline for filing petitions for review expired on April 15, 1983. No petitions were filed.

Copies of the nonconfidential version of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0486.

By order of the Commission.

Issued April 26, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–11918 Filed 5–3–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731-TA-131 and 132 (Preliminary)]

Certain Welded Carbon Steel Pipes and Tubes From the Republic of Korea and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea and Taiwan of certain welded carbon steel pipes and tubes,[1] which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: April 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Carpenter, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0399.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on April 21, 1983, on behalf of the Committee on Pipe and Tube Imports, an association of domestic manufacturers of welded carbon steel pipes and tubes. The Commission must make its determinations in the investigations within 45 days after the date of the filing of the petition, or by June 6, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents

The Secretary will compile a service list from the entries of appearance filed in the investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of the nonconfidential version of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 21.16(b)), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certification of service will not be accepted by the Secretary.

Written submissions.

Any person may submit to the Commission on or before May 18, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.8 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on May 16, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. Robert Carpenter (202–523–0399), not later than May 12, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Carpenter.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: April 25, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–11915 Filed 5–3–83; 8:45 am]

BILLING CODE 7020–02–M

[1] For purposes of these investigations, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3232, 610.3241, and 610.3244 of the Tariff Schedules of the United States Annotated (1983) (TSUSA) or of rectangular (including square) cross section, provided for in TSUSA items 610.3955 and 610.4975.

INTERSTATE COMMERCE COMMISSION

[Volume No. 29]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and request for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission

Agatha L. Mergenovich.

Secretary

New York Docket No. T–9453, filed April 5, 1983. Applicant: EAST SIDE MOVERS, INC. 180 Varick Ave., Brooklyn, NY 11237. Representative: Nicholas Guagliardo, Jr., 189 Wykagl Terrance, New Rochelle, NY. Certificate of Public Convenience and Necessity – sought to operate a freight service, as follows: Transportation of: *Household goods and new furniture:* Between the Counties of Nassau, Suffolk, Westchester, Rockland, Putnam, and New York City. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–9816, filed April 13, 1983. Applicant: RONALD INCE, d.b.a. INCE MOTOR FREIGHT, 7287 Ladeshore Road, Clay, NY 13041. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities:* Between the Counties of Onondaga, Cortland, Oswego, Cayuga, Madison, and Tompkins. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83–11850 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the

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Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1161.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–MCFC–188

Decided: April 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC–81223. By decision of April 26, 1983, issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR 1161, Review Board Number 1 approved the transfer to QUICKSILVER TRANSPORTATION, INC., of Smyrna, TN, of Certificate No. MC–127834 and subs thereunder, issued to LIGON TRANSPORTATION COMPANY, of Madisonville, KY, authorizing the transportation of numerous commodities, between virtually all points in the U.S. (except HI). Representative: Carl U. Hurst, P.O. Box 691, Madisonville, KY 42431.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–253

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81323, filed March 21, 1983. By decision of 4–26–83 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, Review Board Number 1 approved the transfer to Southern Minnesota Grocery Transport, Inc., Waseca, MN, of Certificate No. MC–160827, issued July 9, 1982, to Gary Isker, doing business as Prairie Dray Lines, Waseca, MN, authorizing the transportation of salt, from Hutchinson, KS, to points in Iowa, Minnesota, Wisconsin and Missouri. An application for temporary authority has been filed. Transferee is a carrier holding authority under MC–146837. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402.

Volume No. OP4–FC–254

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC 81159, filed December 30, 1982. By decision of February 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 2 approved the transfer to VHR Enterprises, Inc., of Fredonia, NY, of Certificate No. MC–65626 and Sub-Nos. 1, 3, 5, 8, 10, 11, 12, 14, 15, 17, 20, 21, 22, 23, 24, 26, 28, 29, 31, 32, 34, 35, 37, 38, 39, 40, 42X, 43X and 44X to FREDONIA EXPRESS, INC., of Fredonia, NY, MC–65626 (Sub-No. 1) issued September 27, 1940, authorizing the transportation of *seed and seed display cases,* between Fredonia, NY and points in PA; (Sub-No. 3), issued May 23, 1942, *macaroni, spaghetti, vegetables, fruits, jellies and canned goods, and empty jars,* between named points in NY and points in PA; (Sub-No 5), issued December 22, 1941, *foundry and core equipment,* between West Newton, PA and Dunkirk, NY; (Sub-No. 8), issued November 20, 1945, *iron and steel products, sulphate of alumina, fresh fruits, and empty containers,* between named points in NY and PA; (Sub-No. 11), issued October 7, 1964, *malt beverages,* between Dunkirk, NY and points in NJ and PA; (Sub-No. 28), issued December 11, 1975, *foodstuffs,* between the facilities of Kraftco Corp. near Kendallville, IN and points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC; (Sub-No. 32), issued October 26, 1977, *food and related products,* between the facilities of Beatrice Foods Co., at named points in PA, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC; (Sub-No. 38), issued January 2, 1981, (1) *glass products, metal products, and clay products,* (2) *molds* and *machinery,* (3) *bottle coating systems,* and (4) *feldspar products and talc products,* between the facilities of Wheaton Industries, at Springfield, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI); (Sub-No. 40), issued February 5, 1981, general commodities (with the usual exceptions), between points in the U.S. (except AK and HI); (Sub-No. 42)X, issued June 29, 1981 which superseded MC–65626 (Sub- No. 37), *various commodities* between named Counties in NJ, on the one hand, and, on the other, points in the U.S.; (Sub-No. 43)X, issued August 21, 1981 which superseded (Sub-Nos. 34, 35, and 39), *such commodities* as are dealt in or used by grocery and food business houses, between points in NY, on the one hand, and, on the other, points in MD, NJ, OH, PA, WV, CT, MA, ME, NH, RI, VT, VA, NC, SC, GA, FL and AL; (Sub-No. 44)X which superseded MC–65626 and Sub-Nos. 10, 12, 14, 15, 17, 20, 21, 22, 23, 24, 26, 29, 31, 35, and E–1 letter notice, (1) *food and related products,* between named points in NY, CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT and WV, (2) *clay, concrete, glass or stone product metal products machinery, transportation equipment* and *instrument* and *photogranphic goods,* between named points in NJ, NY, and IN and points in MA, CT, DE, PA, and RI, (3) *textile mill products, lumber* furniture and fixtures, between named points in PA, on the one hand, and on the other, points in MA, CT, and RI, (4) *chemicals* and *related products,* between points in Erie County, PA, and Chautauqua County, NY, and (5) *rubber and plastic products,* between Chautauqua County, NY and points in PA. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Washington, DC 20006, (202) 828–5082, for transferee.

[FR Doc. 83–11859 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–198

Decided: April 27, 1983.

MC 1002 (Sub-25), filed March 7, 1983. Applicant: ASBURY PARK-NEW YORK TRANSIT CORPORATION, 401 Lake Ave., Asbury Park, NJ 07712. Representative: Edward F. Bowes, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, 201–992–2200. Transporting *passengers,* (I) in charter and special operations, between points in the U.S. (except HI), and (II) over *regular routes* (1) between New York, NY, and Point Pleasant Beach, NJ: (a) from New York through the Lincoln Tunnel to junction NJ Hwy 3, then over NJ Hwy 3 to Interstate Hwy 95, (b) from New York over the George Washington Bridge to junction NJ Hwy 4, then over NJ Hwy 4 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction Interstate Hwy 95, (c) from the New York over the Goethals Bridge to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Garden State Parkway, (d) from the New York over the Outerbridge Crossing to junction NJ Hwy 440, then over NJ Hwy 440 to Garden State Parkway, then over Garden State Parkway to junction Burnt Tavern Rd in Brick Township, then over Burnt Tavern Rd to junction NJ Hwy 70, then over NJ Hwy 70 to junction Herbertville Rd., then over Herbertville Rd. to junction NJ Hwy 88, then over NJ 88 to junction NJ Hwy 35, then over HJ Hwy 35 to Point Pleasant Beach, (e) from Garden State Parkway to junction Interchange No. 109 and County Hwy 520, then over County Hwy 520 to Red Bank, then over city streets and connecting roads thru Red Bank, Little Silver, Oceanport, Long Branch, West End, Elberon, Deal, Allenhurst, Asbury Park, Ocean Grove, Neptune City, Bradley Beach, Avon by the Sea, Belmar, West Belmar, Spring Lake and Sea Girt, NJ to NJ Hwy 71, then over NJ Hwy 71 thru Manasquan and Brielle, NJ to junction NJ Hwy 35, then over NJ Hwy 35 to junction Ocean Ave., and (f) from junction NJ Hwy 35 and Broadway in Point Pleasant Beach over Broadway to junction Ocean Ave., Then over Ocean Ave. to junction NJ Hwy 35 in Point Pleasant Beach, (2) between Brick Township and Atlantic City, NJ: from junction Garden State Parkway and Burnt Tavern Rd. in Brick Township over Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, (3) between Asbury Park and Red Bank, NJ: from junction Lake Ave. and Heck St in Asbury Park over Heck St to junction Summerfield Ave, then over Summerfield Ave to junction Main St, then over Main St. to junction Asbury Ave., then over Asbury Ave. to junction NJ Hwy 35, then over NJ Hwy 35 to junction County Hwy 13 in Eatontown, then over County Hwy 13 to junction NJ Hwy 35 in Red Bank, (4) between Manasquan and Wall Township, NJ: from junction NJ Hwy 71 and Main St. in Manasquan over Main St. to junction County Hwy 20, then over County Hwy 20 to junction NJ Hwy 34 in Wall Township, (5) between Spring Lake and Wall Township NJ: from Spring Lake over city Streets thru Spring Lake Heights to County Hwy 47, then over County Hwy 47 to junction County Hwy 524, then over County Hwy 524 to junction NJ Hwy 34 in Wall Township, NJ, (6) between Brielle and South Amboy, NJ: from junction NJ Hwy 71 and NJ Hwy 35 in Brielle over NJ Hwy 35 to junction U.S. Hwy 9, then over U.S. Hwy 9 to junction NJ Hwy 35 in South Amboy, (7) between West Long Branch and Red Bank, NJ: from junction Oceanport Ave and County Hwy 537 in West Long Branch over County Hwy 537 to junction NJ Hwy 35, then over NJ Hwy 35 to junction NJ Hwy 13 in Red Bank, NJ, (8) between Ocean Township and Oceanport, NJ: from junction Poplar Ave and NJ Hwy 71 in Ocean Township over NJ Hwy 71 to junction County Hwy 537 in Oceanport, NJ, (9) between Garden State Parkway Interchange 109 and Red Bank, NJ: from Garden State Parkway Interchange 109 over County Hwy 520 to junction NJ Hwy 35 in Red Bank, NJ, (10) between Garden State Parkway Interchange 105 and Eatontown, NJ: from Garden State

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Parkway Interchange 105 over NJ Hwy 36 to junction NJ Hwy 35 in Eatontown, NJ, (11) between junction Garden State Parkway Interchange 102, NJ Hwy 66 and Asbury Park, NJ over NJ Hwy 66, (12) between junction Garden State Parkway Interchange 100 and NJ Hwy 33, and Ocean Grove, NJ over NJ Hwy 33, (13) between junction Garden State Parkway Interchange 97, NJ Hwy 38 and Belmar, NJ over NJ Hwy 38, (14) between junction Garden State Parkway Interchange 96, NJ Hwy 34 and Brielle, NJ over NJ Hwy 34, (15) (a) between Garden State Parkway Interchange 127 and Woodbridge, NJ: from Garden State Parkway Interchange 127 over NJ Hwy 440 to junction U.S. Hwy 9 in Woodbridge, (b) over access roads from Garden State Parkway Interchange 127 to Interstate Hwy 95, (16) between Red Bank and Shrewsbury and Lincroft, NJ: from junction NJ Hwy 35 and County Hwy 520 in Red Bank and Shrewsbury over County Hwy 520 to junction Lincroft Road in Lincroft, NJ, (17) between Eatontown and Oceanport, NJ: from junction NJ Hwy 35 and NJ Hwy 36 in Eatontown over NJ Hwy 36 to junction Oceanport Ave, then over Oceanport Ave to Oceanport, NJ, (18) between Little Silver and Red Bank, NJ: from junction County Hwy 520 and Branch Ave in Little Silver over County Hwy 520 to junction County Hwy 34 in Rumson, then over County Hwy 34 to NJ Hwy 35 in Red Bank, (19) between Rumson and Fair Haven, NJ: from junction County Hwy 520 and Fair Haven Rd in Rumson over Fair Haven Rd to junction County Hwy 10 in Fair Haven, (20) between Rumson and Middletown, NJ: from junction Bingham Ave and County Hwy 10 in Rumson over Oceanic Bridge to Middletown, and (21) return over the same routes, serving all intermediate points.

Note.—(1) In Part (I) applicant seeks to provide privatley-funded charter or special transportation.

(2) In Part (II) Applicant seeks to provide regualar-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

(3) Part (I) is published in the **Federal Register**, this issue, under the preface with "fitness applications".

MC 167223, filed April 4, 1983. Applicant: PROGRESSIVE COACHES, INC., 920 West Belle Plaine Ave., Chicago, IL 60613. Representative: Charles R. Gryll, 180 North Michigan Ave., Suite 2210, Chicago, IL 60601, 312–332–1422. Transporting *passengers* in charter and special operation, beginning and ending at Chicago, IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167373, filed April 11, 1983. Applicant: HOWARD E. WHITFIELD, INC., d.b.a. DALE CHANEY TRUCKING SERVICE, 3100 Produce Row, Room 10A, Houston, TX 77023. Representative: Howard E. Whitfield (same address as applicant), (713) 923–2157. As a *broker of general commodities* (except household goods, between points in the U.S. (except AK and HI).

MC 167502, filed April 18, 1983. Applicant: GANG-A-FUN TOURS, INC., 7440 S. Clyde St., Chicago, IL 60649. Representative: Arthur Clay (same address as applicant), 312–363–3699. Transporting *passengers*, in charter and special operations, beginning and ending at points in Cook County, IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167503, filed April 18, 1983. Applicant: H & M TRUCKING, INC., 702 E. 21st. St.-Suite #5, Wichita, KS 67214. Representative: M.E. Taylor, 9301 Hardtner, Wichita, KS 67212, 316–722–1930. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–158

Decided: April 27, 1983.

MC 167390, filed April 13, 1983. Applicant: SAMUEL T. WATSON, d.b.a. WATSON TRANSPORTATION, 6115 South Prairie, Chicago, IL 60637. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, (312)–332–5106. Transporting *passenges*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167411, filed April 14, 1983. Applicant: R.W. TRANSPORTATION, INC., d.b.a. ROADS WEST, 3750 W. McDowell Rd., Phoenix, AZ 85009. Representative: Andrew. V. Baylor, 337 East Elm St., Phonenix, AZ 85012, (602)–274–5146. Transportation for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167421, filed April 14, 1983. Applicant: U.S. OVERDRIVE, INC., P.O. Box 17184, Montgomery, AL 36117. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104, (205)–262–2756. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167441, filed April 15, 1983. Applicant: SEE THE WORLD TOURS, INC., Route 1, Box 143–A, Seneca, SC 29678. Representative: Ralph A. Bagwell, (same address as applicant), (803)–882–6494. Transporting *passengers*, in special operations, beginning and ending at points in Oconee, Pickins, Anderson and Greenwood Counties, SC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded special transportation.

MC 167451, filed April 15, 1983. Applicant: CROSS ROADS, INC., 1700 Highview Ave., Akron, OH 44301. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614)–228–1541. Transporting *passengers*, in charter and special operations, between points in OH, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167511, filed April 18, 1983. Applicant: DM RESOURCES, INC., d.b.a. AMERICATRUCK BROKERS, 2730 Carl Rd., Irving, TX 75062. Representative: B.W. Huie (same address as applicant), (214) 438–0550. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167521, filed April 18, 1983. Applicant: F. AND R. VAN DOREN, d.b.a. F. AND R. VAN DOREN, Rt. 1, Box 203, Touchet, WA 99360. Representative: Frank M. Van Doren (same address as applicant), (509)–394–2379. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167561, filed April 20, 1983. Applicant: JERRY D. TODD, 4800 Palisade Lane, Godfrey, IL 62035. Representative: Jerry D. Todd (same address as applicant), (618)–466–3734. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 83-11880 Filed 5-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An orignial and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
906	Burlington Northern Railroad Co., Exemption for Contract Tariff ICC–BN–C–0263 (Wheat)	3	04–27–83
909	Burlington Northern Railroad Co., Exemption for Contract Tariff ICC–BN–C–0241 (Coal)	3	04–27–83
912	Norfolk and Western Railway C., Exemption for Contract Tariff ICC–NW–C–0058, Supplement 1 (Motor Vehicles)	2	04–27–83
913	Consolidated Rail Corporation Exemption for Contract Tariff ICC–CR–C–0405 (Wines, Brandy, or Brandy Spirits)	3	04–27–83
918	The Pittsburgh and Lake Erie Railroad Company Exemption for Contract Tariff ICC–PLE–C–0031 (Pipe, Iron or Steel)	3	04–27–83

[1] Review Board No. 2, Members Carleton, Williams, and Ewing. (Board Member Carleton not participating.)

[1] Note tariff supplements advancing contract's effective date shall refer to these decisions for authority.

Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

By the Commission.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-11859 Filed 5-3-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an interstate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from the date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

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construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applicants are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 4 at (202) 275–7669.

Volume No. OP4–255

Decided: April 27, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–30787 (Sub-8), filed March 10, 1983, noticed in the **Federal Register** issue of March 28, 1983, and republished this issue. Applicant: NIAGARA SCENIC BUS LINES, INC., 5700 S. Maelou Drive, Hamburg, NY 14075. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St. NW., Washington, DC 20005 (202) 783–3525. Over regular routes, transporting *passengers*, (1) between Niagara Falls, NY and the Buffalo International Airport at Cheektowaga, NY: from Niagara Falls, NY over the Robert Moses Parkway to junction Interstate Hwy 190, then over Interstate Hwy 190 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction Interstate Hwy 290, then over Interstate Hwy 290 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Kensington Expressway (NY Hwy 33), then over Kensington Expressway to junction Genesee St., then over Genesee St., to Buffalo International Airport at Cheektowaga, NY, and return over the same route, serving all intermediate points, and (2) between Niagara Falls, NY and the Buffalo International Airport at Cheektowaga, NY: from Niagara Falls over Robert Moses Parkway to Junction Interstate Hwy 190, then over Interstate Hwy 190 to junction Interstate 290, then over Interstate Hwy 290 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Kensington Expressway (NY Hwy 33), then over Kensington Expressway to junction Genesee St., then over Genesee St. to Buffalo International Airport at Cheektowaga, NY, and return over the same rotue, serving all intermediate points.

Note:—(a) The purpose of this republication is to indicate the type service to be performed by applicant. (b) Applicant seeks in (1) above to provide regular-route service in interstate or foreign commerce, and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route, and in (2) above regualr-route service in interstate of foreign commerce.

MC 167187, filed March 31, 1983. Applicant: NICKEL CITY TRANSPORT (Sudbury) LTD., 2240 Long Lake Rd., Sudbury, Ontario, Canada P3E 5H4. Representative: Salvatore N. Artuso, 2 Robert Speck Parkway, Suite 750, Mississauga, Ontario, Canada L4Z 1H8 (416) 272–1800. In foreign commerce only, transporting *general commodities* (except classes A and B explosives, household goods, and commodites in bulk), between Detroit, MI, and points in St. Clair and Chippewa Counties, MI, on, the one hand, and, on the other, points in MI.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–157

Decided: April 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 47171 (Sub—233), filed April 18, 1983. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant) (803)–879–2101. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanta Company, of St. Louis, MO.

MC 117201(Sub—60), Filed April 11, 1983. Applicant: INTERSTATE DISTRIBUTION CO., 8311 Duranago S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206)–228–3807. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Washington-Oregon Shippers Cooperative Association, Inc., of Seattle, WA.

MC 121821 (Sub-21), filed April 19, 1983. Applicant: TENNESSEE MOTOR LINES, INC., P.O. Box 100363, Nashville, TN 37210. Representative: K. Edward Wolcott, Atlanta Gas Light Towers, Suite 1200, 235 Peachtree St., NE., Atlanta, GA 30303, (404)–522–2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in McMinn County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack the authority in this proceeding with its existing regular route authority.

MC 128761 (Sub-11), filed April 21, 1983. Applicant: RICHARD M. GODFREY, 8530 Kings Cove Dr., Salt Lake City, UT 84121. Representative: Richard M. Godfrey (same address as applicant), (801)–250–4472. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, NV, UT and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 129631 (Sub-86), filed April 14, 1983. Applicant: PACK TRANSPORT, INC., 3975 S. 300 W., Salt Lake City, UT 84107–1487. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701, (208)–343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Pack Transport, Inc., of Salt Lake City, UT.

MC 151411 (Sub-2), filed April 11, 1983. Applicant: DON HOLLAND & ASSOCIATED, INC., P.O. Box 1228, Lexington, NC 27292. Representative: Virgil H. Smith, 74 Highway N., Box 245, Tyrone, GA 30290, (404)–969–1980. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NC, SC and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152950 (Sub-7), filed April 20, 1983. Applicant: CENTURY TRANSPORTATION CORPORATION, P.O. Box 207, Columbus, MS 39703–0207. Representative: Lloyd R. Pate (same address as applicant), (601)–329–2121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 155510 (Sub-1), filed April 13, 1983. Applicant: ORANGE DISTRIBUTION, INC., Main St., P.O. Box 729. Representative: David L. Bolyard, 112 South Pitt St., P.O. Box 453 Alexandria, VA 22313 (703)-548–3301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 156361 (Sub-10), filed April 14, 1983. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Richard W. LaPointe (same address as applicant) (203)–552–2366. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) National Steel Service Center, Inc., of Parsippany, NJ, (2) International Automated Machines, of Ferrsburg, OH, and (3) Hunt-Wesson Foods, Inc., of Fullerton, CA.

MC 163041, filed April 18, 1983. Applicant: MONROE LEASING & TRANSPORTATION COMPANY, R.R. 1, Box 28, Columbia, IL 62236. Representative: Joseph A. Christ (same address as applicant) (618)–476–1337. Transportating *general commodities* (except classes A and B explosives and household goods), between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163080 (Sub-1), filed April 20, 1983. Applicant: SUN TRUCKING, INC., P.O. Box G, Sellersburg, IN 47172. Representative: Thomas L. Salvate, 1814 Gillette Ave., Louisville, KY 40216, (502)–447–2847. Transporting *rubber and plastic products*, between points in the U.S. (except AK and HI).

MC 166310 (Sub-1), filed April 11, 1983. Applicant: PIONEER EXPRESS, INC., 3359 Cazassa St., P.O. Box 16489, Memphis, TN 38186–0489. Representative: William J. Monheim P.O. Box 1756, Whittier, CA 90609, (213)–945–2745. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 167261, filed April 12, 1983. Applicant: GLENDALE CORPORATION, 7606 Westover Industrial Airpark, Chicopee, MA 01020. Representative: Roger L. Desrosier (same address as applicant) (413)–593–6710. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, ME, NH, RI, and VT.

MC 167360, filed April 11, 1983. Applicant: KIRBY ELDER TRUCKING, CO., P.O. Box 241, Lineville, AL 36266. Representative: Kirby Elder (same address as applicant), (205)–354–2105. Transporting *chemicals and related products*, between points in U.S., under continuing contract(s) with Cargill, Inc., Salt Division, of Minneapolis, MN.

MC 167490, filed April 18, 1983. Applicant: BIG DIAMOND TRUCK SERVICE, INC., P.O. Box 5846, Lake Charles, LA 70606. Representative: Robert L. Hackett, 307 Exchange Alley, New Orleans, LA 70130, (504) 529–7666. Transporting *drilling fluids, oil based mud, water based mud, salt water and fresh water*, between points in LA, AR and those points in TX, on and east of U.S. Highway 83.

MC 167541, filed April 20, 1983. Applicant: AULICK LEASING CORPORATION, 809 West Railroad Ave., Scottsbluff, NE 69361. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402)–475–6761. Transporting (1) *clay, concrete, glass or stone products*, and, (2) *nonmetallic minerals*, between points in MT, SD, WY, CO, KS, and those points in NE, on and west of U.S. Highway 183.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–197

Decided: April 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–683, filed April 15, 1983. Applicant: AMERICAN HOME FORWARDERS, INC., 4221 Via Nivel, Palos Verdes Estates, CA 90274. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *freight forwarder*, in connection with the transportation of household goods, baggage, and used automobiles, between points in the U.S.

MC 1002 (Sub-25), filed March 7, 1983. Applicant: ASBURY PARK-NEW YORK TRANSIT CORPORATION, 401 Lake Ave., Asbury Park, NJ 07712. Representative: Edward F. Bowes, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, 201–992–2200. Transporting *passengers*, (I) in charter and special operations, between points in the U.S. (except HI), and (II) over *regular routes* (1) between New York, NY, and Point Pleasant Beach, NJ: (a) from New York through the Lincoln Tunnel to junction NJ Hwy 3, then over NJ Hwy 3 to Interstate Hwy 95, (b) from New York over the George Washington Bridge to junction NJ Hwy 4, then over NJ Hwy 4 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction Interstate Hwy 95, (c) from the New York over the Goethals Bridge to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Garden State Parkway, (d) from the New York over the Outerbridge Crossing to junction NJ Hwy 440, then over NJ Hwy 440 to Garden State Parkway, then over Garden State Parkway to junction Burnt Tavern Rd in Brick Township, then over Burnt Tavern Rd to junction NJ Hwy 70, then over NJ Hwy 70 to junction Herbertville Rd., then over Herbertville Rd. to junction NJ Hwy 88, then over NJ 88 to junction NJ Hwy 35, then over NJ Hwy 35 to Point Pleasant Beach, (e) from Garden State Parkway to junction Interchange No. 109 and County Hwy 520, then over County Hwy 520 to Red Bank, then over city streets and connecting roads thru Red Bank, Little Silver, Oceanport, Long Branch, West End, Elberon, Deal, Allenhurst, Asbury Park, Ocean Grove, Neptune City, Bradley Beach, Avon by the Sea, Belmar, West Belmar, Spring Lake and Sea Girt, NJ to NJ Hwy 71, then over NJ Hwy 71 thru Manasquan and Brielle, NJ to NJ to junction NJ Hwy 35, then over NJ Hwy 35 to junction Ocean Ave., and (f) from junction NJ Hwy 35 and Broadway in Point Pleasant Beach over Broadway to junction Ocean Ave., then over Ocean Ave. to junction NJ Hwy 35 in Point Pleasant Beach, (2) between Brick Township and Atlantic City NJ: from junction Garden State Parkway and Burnt Tavern Rd. in Brick Townships over Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City (3) between Asbury Park and Red Bank NJ: from junction Lake Ave. and Heck St in Asbury Park over Heck St to junction Summerfield Ave, then over Summerfield Ave to junction Main St, then over Main St. to junction Asbury Ave., then over Asbury Ave. to junction NJ Hwy 35, then over NJ Hwy 35 to junction County Hwy 13 in Eatontown, then over County Hwy 13 to junction NJ Hwy 35 in Red Bank, (4) between Manasquan and Wall Township NJ: from junction NJ Hwy 71 and Main St. in Manasquan over Main St. to junction County Hwy 20, then over County Hwy 20 to junction NJ Hwy 34 in Wall Township, (5) between Spring Lake and Wall Township NJ: from Spring Lake over city Streets thru Spring Lake Heights to County Hwy 47, then over County Hwy 47 to junction County Hwy 524, then over County Hwy 524 to junction NJ Hwy 34 in Wall Township NJ, (6) between Brielle and South Amboy, NJ: from junction NJ Hwy 71 and NJ Hwy 35 in Brielle over NJ Hwy 35 to junction U.S. Hwy 9, then over U.S. Hwy 9 to junction NJ Hwy 35 in South Amboy, (7) between West Long Branch and Red Bank, NJ: from junction Oceanport Ave and County Hwy 537 in West Long Branch over County Hwy 537 to junction NJ Hwy 35, then over NJ Hwy 35 to junction NJ Hwy 13 in Red Bank, NJ, (8) between Ocean Township and Oceanport, NJ: from junction Poplar Ave and NJ Hwy 71 Ocean Township over NJ Hwy 71 to junction County Hwy 537 in Oceanport, NJ, (9) between Garden State Parkway Interchange 109

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and Red Bank, NJ: from Garden State Parkway Interchange 109 over County Hwy 520 to junction NJ Hwy 35 in Red Bank, NJ, (10) between Garden State Parkway Interchange 105 and Eatontown, NJ: from Garden State Parkway Interchange 105 over NJ Hwy 36 to junction NJ Hwy 35 in Eatontown, NJ, (11) between junction Garden State Parkway Interchange 102, NJ Hwy 66 and Asbury Park, NJ over NJ Hwy 66, (12) between junction Garden State Parkway Interchange 100 and NJ Hwy 33, and Ocean Grove, NJ over NJ Hwy 33, (13) between junction Garden State Parkway Interchange 97, NJ Hwy 38 and Belmar, NJ over NJ Hwy 38, (14) between junction Garden State Parkway Interchange 96, NJ Hwy 34 and Brielle, NJ over NJ Hwy 34, (15)(a) between Garden State Parkway Interchage 127 and Woodbridge, NJ: from Garden State Parkway Interchange 127 over NJ Hwy 440 to junction U.S. Hwy 9 in Woodbridge, (b) over access roads from Garden State Parkway Interchange 127 to Interstate Hwy 95, (16) between Red Bank and Shrewsbury and Lincroft, NJ: from junction NJ Hwy 35 and County Hwy 520 in Red Bank and Shrewsbury over County Hwy 520 to junction Lincroft Road in Lincroft, NJ, (17) between Eatontown and Oceanport, NJ: from junction NJ Hwy 35 and NJ Hwy 36 in Eatontown over NJ Hwy 36 to junction Oceanport Ave, then over Oceanport Ave to Oceanport, NJ, (18) between Little Silver and Red Bank, NJ: from junction County Hwy 520 and Branch Ave in Little Silver over County Hwy 520 to junction County Hwy 34 in Rumson, then over County Hwy 34 to NJ Hwy 35 in Red Bank, (19) between Rumson and Fair Haven, NJ: from junction County Hwy 520 and Fair Haven Rd in Rumson over Fair Haven Rd to junction County Hwy 10 in Fair Haven, (20) between Rumson and Middletown, NJ: from junction Bingham Ave and County Hwy 10 in Rumson over Oceanic Bridge to Middletown, and (21) return over the same routes, serving all intermediate points. Note: (1) In Part (I) applicant seeks to provide privately-funded charter or special transportation. (2) In Part (II) Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route. (3) Part (II) is published in the **Federal Register**, this issue, under the preface with "regular applications".

MC 2202 (Sub-689), filed April 15, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Coronet Industries, Inc., of Dalton, GA.

MC 7523 (Sub-19), filed April 18, 1983. Applicant: VENTURA TRANSFER COMPANY, 2418 East 223rd, Long Beach, CA 90810. Representative: Warren Goodman (same address as applicant), (213) 549–1660. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 52793 (Sub-128), filed April 15, 1983. Applicant: BEKINS VAN LINES CO., 33 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *semi-conductor processing equipment, and parts, supplies, and accessories*, between points in the U.S. (except AK and HI), under continuing contract(s) with Santa Clara Plastics and Manufacturing Co., of Boise, ID.

MC 97932 (Sub-10),filed April 4, 1983. Applicant: WREN, INC., d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101, 612–224–9454. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between St. Paul, MN, and points in WI.

MC 99882 (Sub-6), filed April 15, 1983. Applicant: Y. G. TRUCKING, INC., 105 Jackson St., Oak Hill, OH 45656. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 150412 (Sub-3), filed April 14, 1983. Applicant: VERNON EQUIPMENT, INC., 725 Brea Canyon Rd., Ste. 4, P.O. Box 701, Walnut, CA 91789. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114 (216) 566–5639. Transporting *electrical appliances*, between points in the U.S., under continuing contract(s) with Appliance TV–City, of Phoenix, AZ.

MC 164753 (Sub-1), filed April 11, 1983. Applicant: MERIT TRUCKING, INC., P.O. Box 2851, Grand Junction, CO 81502. Representative: Manuel Andrade, Jr., Suite 228, 770 Grant St., Denver, CO 80203, (303) 861–4273. Transporting *petroleum and petroleum products*, between points in Mesa County, CO, on the one hand, and, on the other, points in CO, UT, and WY, under continuing contract(s) with Southland Corporation, of Altanta, GA.

MC 167382, filed April 13, 1983. Applicant: FEDERAL TRANSPORT, INC., 142 Clinton St., Hopkington, MA 01748. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Seacoast Shipper's Association, Inc., of Allston, MA.

MC 167512, filed April 18, 1983. Applicant: THOMAS C. DEES TRUCKING COMPANY, INC., 504–D North Hillcrest Drive, Goldsboro, NC 27530. Representative: John N. Fountain, 336 Fayetteville St. Mall, P.O. Box 2246, Raleigh, NC 27602, 919–828–0731. Transporting *leather, rubber, and plastic products*, between points in NM, NY, NC, SC, and WI.

MC 167513, filed April 18, 1983. Applicant: ROY'S TRANSFER, INC., P.O. Box 317, East Cherry Ave., Rochelle, IL 61068. Representative: Edward D. McNamara, Jr., 907 South 4th St., P.O. Box 5089, Springfield, IL 62705, 217–528–8476. Transporting *general commodites* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 167522, filed April 19, 1983. Applicant: PAUL J. ROCCO, INC., d.b.a. PAUL's TRUCKING, 605 5th Ave., Pelham, NY 10803. Representative: Paul Rocco (same address as applicant) 914–738–3830. Transporting *household goods and office furniture*, between points in Westchester, Putnam, Rockland, Suffolk, Dutchess, Orange, Nassau, and New York Counties, NY, and points in RI, NJ, DE, PA, MD, VA, CT, and DC.

MC 167523, filed April 20, 1983. Applicant: REID TRANSPORTATION, INC., Rt. 2, Box 208, Mitchell, IN 47446. Representative: Thomas P. Reid (same address as applicant), 812–849–3559. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 167532, filed April 18, 1983. Applicant: R.J. ATKINSON, INC., Rt. 3, Box 132 , Colbert, WA 99005. Representative: Boyd Hartman, 1750 112th Ave. NE-Suite B–223, P.O. Box 3641, Bellevue, WA 98004, 206–453–0312. Transporting *commodities in bulk*, between points in WA, OR, ID, CA, AZ, NV, CO, MT, UT, NM, and WY.

MC 167533, filed April 20 1983. Applicant: MBI-ROZIER TRANSPORT, INC., 11 E. Prescott Ave., Colonia, NJ 07067. Representative: A. Dayton Schell. 6 Eileen Way, Edison, NJ 08837, 201–4994–8765. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167563, filed April 21 1983. Applicant: FORREST C. ROSE AND SAMUEL J. ROSE d.b.a. ROSE & SON TOWING, 2011 West Michigan St., Sidney, OH 45365. Representative: Frank L. Calvary, 3066 North Star Rd., Columbus, OH 43221, 614–457–6952. Transporting *transportation equipment*, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

[FR Doc. 83–11661 Filed 5–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Agatha L. Mergenovich,

Secretary.

Notice No. F–258

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 157204 (Sub 3–5TA), filed April 4, 1983. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Road, Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Chemicals, not in bulk*, from Boron, CA; Green River, WY; Marcus Hook, PA; and Lawrence, KS to Tulsa, OK. Supporting shipper: Brainerd Chemical Co., Inc., 6507 East 42nd Street, Tulsa, OK 75145.

MC 151789 (Sub-3–3TA), filed April 5, 1983. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract*, irregular: *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Franklin Steel Co., of Franklin, PA. Supporting shipper(s): Franklin Steel Co., P.O. Box 671, 600 Atlantic Avenue, Franklin, PA 16323.

MC 114848 (Sub-3–10TA), filed April 22, 1983 Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, Post Office Box 13068, Riverside Branch, Memphis, Tennessee 38113. Representative: Robert T. Wharton (same address as applicant). Aluminum Pellets from Plano and Oyster Creek, TX to New Johnsonville, TN. Supporting shipper: E. I. DuPont de Nemours & Co., Inc., D–3062, Wilmington, DE 19898.

MC 167360 (Sub-3–1TA), filed April 19, 1983. Applicant: KIRBY ELDER TRUCKING CO., P.O. Box 241, Lineville, AL 36266. Representative: Kirby Elder (same as above). *Salt and salt products*, in packages, from Breaux Bridge, LA to points in AL, GA, MS. Supporting shipper: Cargill, Incorporated, P.O. Box 5621, Minneapolis, MN 55440.

MC 154781 (Sub-3–2TA), filed April 18, 1983. Applicant: K & K WAREHOUSE CO., INC., 2704 Hodge Road, Knoxville, TN 37921. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier*; irregular: (1) *Paper and related products* under continuing contract(s) with Bowater Southern Paper Company of Calhoun, TN, (2) *Insulating materials* under continuing contract(s) with C–E Refractories (Division of Combustion Engineering, Inc.) of Erwin, TN, and (3) *Materials, supplies and equipment used in the manufacture and distribution* of (1) and (2) above, between points in the U.S. Supporting shippers: Bowater Southern Paper Company, U.S. Hwy. 11, Calhoun, TN 37309, and C–E Refractories (Division of Combustion Engineering, Inc.), Jonesboro Hwy., Erwin, TN 37650.

MC 2900 (Sub-3–42TA), filed April 21, 1983. Applicant: RYDER TRUCK LINE, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as above). *Contract carrier*: irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with International Telephone & Telegraph Corporation & its subsidiaries. Supporting shipper: International Telephone & Telegraph Corporation, 320 Park Avenue, New York, NY 10022.

The following protests were filed in region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–73TA), filed April 13, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. Contract irregular: *Household Goods* between points in the U.S. under a continuing contract with A. C. Nielsen Company and its subsidiaries of Northbrook, IL. Supporting shipper: A. C. Nielsen Company, Nielsen Plaza, Northbrook, IL 60062.

MC 135154 (Sub-4–7TA), filed April 14, 1983. Applicant: BADGER LINES, INC., 2460 South 5th Street, Milwaukee, WI 53207. Representative: William P. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203 (414) 273–7410. Contract; Irregular; *Such commodities as are used by or dealt in by a manufacturer and distributor of rubber products* between points in the U.S. (except AK and HI) under a continuing contract(s) with The Hercules Tire & Rubber Company of Findlay, OH. Supporting shipper: The Hercules Tire & Rubber Company, 1300 Morrical Blvd., Findlay, OH 45840.

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MC 147011 (Sub-4-2TA), filed April 14, 1983. Applicant: STEVE SHAFFER TRUCKING, 633 N. Locust, Arcola, IL 61910. Representative: Steve Shaffer (same as applicant). *General commodities;* between IL and IN on the one hand and on the other hand, TX. Supporting shipper: Harry E. Hills & Associates, 1 Shafer Dr., Forsyth, IL 62535.

MC 148993 (Sub-4-2TA), filed April 13, 1983. Applicant: TILMON YEARWOOD (an individual), 16220 South Crawford Avenue, Tinley Park, IL 70477. Representative: Anthony E. Young, Ltd., 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Toilet preparations and health and beauty aides between Chicago, IL, Atlanta, GA, and points in NC SC, NJ, AL, TN, FL, CT, PA, KS, MO, TX, VA, KY, AR, LA, and MS. Supporting shipper: Johnson Products Company, 8522 South LaFayette Avenue, Chicago, IL 60620.

MC 149361 (Sub-4-2TA), filed April 14, 1983. Applicant: EAGLE VALLEY, INC., P.O. Box 620, Shawneetown, IL 62984. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Coal,* from Union County, KY to Humphreys County, TN. Supporting shipper: Jader Fuel, Inc., P.O. Box 620, Shawneetown, IL 62984.

MC 150886 (Sub-4-2TA), filed April 14, 1983. Applicant: KID GLOVE SERVICE, INC., 6060 East Hanna Street, Indianapolis, IN 46203. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities* (except Classes A and B explosives and commodities in bulk), between Marion County, IN, on the one hand, and, on the other, points in PA, MI, MO, IL, KY, OH, IA, WV, WI, and TN. Applicant has filed a corresponding application for ETA. Supporting shippers: R & W Warehouse, 6060 East Hanna Street, Indianapolis, IN 46203; The Eureka Company, 6062 East Hanna Street, Indianapolis, IN 46203; Robco Distributing, Inc., 6050 East Hanna Street, Indianapolis, IN 46203; and, Rodefeld Company, Inc., 8641 East 30th Street, Indianapolis, IN 46219.

MC 158651 (Sub-4-3TA), filed April 14, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: John E. Koci (address same as applicant). Contract; irregular: *Household Goods,* as defined by the Commission, Between all points in the U.S., under continuing contract(s) with Texas Air Corporation. Supporting shipper: Texas Air Corporation, 7300 World Way West, Los Angeles, CA 90009.

MC 161585 (Sub-4-1TA), filed April 13, 1983. Applicant: DENNIS R. REVIS, d.b.a. KODIAK TRANSPORT CO., 255 W. 105th Street, Chicago, IL 60628. Representative: Martin J. Kennedy, 120 W. Madison St., Suite 1306, Chicago, IL 60602. *Freight all kinds (except Classes A & B explosives, household goods and commodities in bulk)* between points in the Chicago, IL Commercial Zone and points in the Milwaukee, WI Commercial Zone. Supporting Shipper: The Milwaukee Road Railroad, P.O. Box 781, Milwaukee, WI 53201.

MC 167112 (Sub-4-2), filed April 14, 1983. Applicant: KIERAN F. POWERS d.b.a. POWERS TRUCKING, Box 239, Lyndon Station, WI 53944. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Iron valves, and materials, equipment and supplies used or useful in the manufacture, sale or distribution of iron valves,* between Mauston, WI and Chicago, IL and points in the Chicago, IL commercial zone. Underlying ETA seeks 120 days authority. Supporting shipper: Parker Hannefin Corporation, Refrigerating Specialties Division, 1040 Parker Drive, Mauston, WI 53948.

MC 167316 (Sub-4-1), filed April 13, 1983. Applicant: BANNER TRANSPORTATION, INC., 1951 East Ferry, Detroit, MI 48211. Representative: Alex J. Miller, 555 South Woodward Ave., Suite 512, Birmingham, MI 48011. Contract; Irregular: *liquid commodities* in bulk between Detroit, MI on the one hand, and, on the other, MI and OH. Supporting shipper: Kieserling America Corp., Ft. Lee Executive Park, One Executive Dr., Ft. Lee, NJ 07024.

MC 167392 (Sub-4-1TA), April 13, 1983. Applicant: RUBLE ENTERPRISES INC., d.b.a. ABLE TRANSPORT, 1314 Pelham Dr., Fort Wayne, IN 46825. Representative: James L. Ruble (same address as applicant). *Transport mobile homes* between Fort Wayne, IN and AL, AR, FL, GA, IL, IA, KS, KY, LA, MI, MN, MS, MO, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI. An underlying ETA seeks 90 day authority. Supporting shipper: Ben-Mar Mobile Homes, P.O. Box 222, Garrett, IN 46738. Fleurdale Mobile Homes, RR 1, Decatur, IN 46733.

MC 167429 (Sub-4-1TA), filed April 14, 1983. Applicant: RUSSEL E. BRAWNER, W151 N11109 HY145, Germantown, WI 53022. Representative: Wiliam C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53233, (414) 273-7410. *Meats, meat products and meat by-products and articles distributed by meat packing houses,* as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except those in bulk in tank vehicle) from Milwaukee, WI to points in Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, Waukesha, Rock, Dane, Sheboygan, Fond du Lac, Green Lake, Marquette, Waushara, Winnebago, Calumet, Manitowoc, Brown, Outagamie, Marathon, Langlade, Sauk, Columbia and Green Counties, Wisconsin. An underlying ETA seeks 120 days authority. Supporting shipper: Swift and Company, 5235 N. Hopkins, Milwaukee, WI. 53209.

MC 167427 (Sub-4-1TA), filed April 14, 1983. Applicant: KICKAPOO FREIGHT LINES, 2902 Green Bay St., La Crosse, WI 54601. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601. *General commodities,* between points in La Crosse, Monroe, Vernon, Crawford, Richland, Grant, Lafayette, Jackson Counties, WI, and Hennipin, Ramsey, Washington, Carver, Scott, Dakota, Goodhue, La Sueur, Rice, Waseca, Blue Earth, Faribault, Freebaum, Morver, Fillmore, Houston, Winona, Olmsted, Wabasha, Dodge, Nicollett Counties, MN, and Worth, Mitchell, Howard, Winneshiek, Allamakee, Clayton, Fayette, Bremer, Chickasaw, Cerro Gardo, Franklin, Butler, Black Hawk, Dubuque, Jackson, Clinton, Muscatine, Linn, Cedar, Jones, Benton, Buchanan, Warren Counties, IA, and Rock Island, Henry, Whiteside, Carroll, Jo Davies Counties, IL. Supporting shippers: Heileman Brewing Co., 100 Harborview Plaza, La Crosse, WI 54601; Pischke Motors, 143 S. Leonard St., West Salem, WI 54669; Coulee Ford, Inc. 1701 Commercial St., Bangor, WI 54614; L. B. White Co., 1825 Thomas Road, Onalaska, WI 54650; W. A. Roosevelt Co., 2727 Commerce St., La Crosse, WI 54601.

MC 15735 (Sub-4-74TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S., under a continuing contract(s) with Eastman Kodak Co., of Rochester, N.Y. Supporting shipper: Eastman Kodak Co. Mt. Read Blvd., Rochester, N.Y. 14650.

MC 15735 (Sub-4-75TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI) under a continuing contract(s) with Thiokol Corporation, Wasatch Division of Brigham City, UT. Supporting shipper: Thiokol Corporation, Wasatch Division, Box 524, Brigham City, UT 84302.

MC 15735 (Sub-4-76TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI) under continuing contract(s) with American Greetings Corp., of Cleveland, OH., and its subsidiaries. Supporting shipper: American Greetings Corp., 10500 American Rd. Cleveland, OH 44144.

MC 15735 (Sub-4-77TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household goods,* between points in the U.S. under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN. Supporting shipper: Land O'Lakes, Inc., 4001 Lexington Ave. N. Arden Hills, MN 55440.

MC 15735 (Sub-4-78TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under a continuing contract(s) with R T E Corporation and its subsidiaries of Waukesha, WI. Supporting shipper: RTE Corporation 1900 E. North St., Waukesha, WI 53186.

MC 15735 (Sub-4-79TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403. Chicago, IL 60680. Contract irregular: *Household Goods,* between points in the U.S., under a continuing contract with ARMCO, INC., and its subsidiaries of Middletown, OH. Supporting shipper: Armco, Inc., 703 Curtis Street Middletown, OH 45043.

MC 15735 (Sub-4-80TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. under a continuing contract(s) with Bemis Company, Inc. of Chicago, IL. and its subsidiaries. Supporting shipper: Bemis Company, Inc. 20 N. Wacker Dr. Chicago, IL 60606.

MC 15735 (Sub-4-81TA), filed April 18, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. Contract irregular: *Household Goods,* between points in the U.S. (except AK and HI) under a continuing contract(s) with Tandy Corporation Del of Fort Worth, TX., and its subsidiaries. Supporting shipper: Tandy Corporation Del., One Tandy Center, Fort Worth, TX 76102.

MC 20992 (Sub-4-4TA), filed April 18, 1983. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749; Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501-2028, (402) 475-6761. *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between Douglas and Eau Claire Counties, WI, on the one hand, and, on the other, points in the U.S. in and east of MT, WY, CO and NM. Supporting shipper: W. H. Hobbs Supply Co., P.O. Box 188, Eau Claire, WI 54702.

MC 109141 (Sub-4-3TA), filed April 3, 1983. Applicant: AUSTADS, INC., Box 389, Hettinger, ND 58639. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. Irregular, transporting: *(1) dry commodities in bulk and in bags and (2) petroleum products* between points in ND, SD, MN, MT, NE and WY. ETA seeks 120 day authority. Application is supported by 6 shippers whose statements can be examined at the regional office.

MC 146525 (Sub-4-1TA), filed April 18, 1983. Applicant: SAFE TRANSPORT INC., 610 Cooper Street, Hamilton, IL 62341. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis MO 63102, (314) 421-0845. Contract irregular: *Fertilizer, in bulk,* between Hamilton, IL, on the one hand, and on the other, points in Davis, Van Buren, Jefferson, Henry, Des Moines and Lee Counties, IA; Schuyle, Adair, Macon, Monroe, Ralls, Pike Clark, Lewis, Marion, Shelby, Scotland, and Knox Counties, MO, and Grant, Lafayette, Green, Brock, Iowa and Dane Counties, WI. Shipper: AMAX Chemical Corporation. 35 Mason St., Greenwich, CT 06830.

MC 153757 (Sub-4-3TA), filed April 18, 1983. Applicant: THOMAS R. HUSTON, d.b.a. HUSTON TRUCK LINE, RFD 3, Airport Road, Benson, MN 56215. Representative: Kurt M. Anderson, Box 831, 200 W. 4th Street Suite 24, Willmar, MN 56201. *Contract, irregular: Containerized or packaged petroleum products.* From Toledo, OH, Karns City and Bradford, PA, Oil City and Warren, PA, Hammond, IN, Chicago, IL, Milwaukee, WI and their respective commercial zones on the one hand and on the other points in the U.S. for the account of the Gopher Oil Company.

MC 160574 (Sub-4-3TA), filed April 18, 1983. Applicant: A. BRANDWEIN & CO, 3190 Doolittle Drive, Northbrook, IL 60062. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Contract irregular (1) *Microwave oven cavities* from Watertown, WI to Franklin Park, IL; (2) *coiled steel* from points in the Chicago, IL commercial zone to Watertown, WI, and (3) *wooden skids* from Holland, MI to Watertown, WI, under continuing contract(s) with Watertown Metal Products, Division of Western Industries, Inc. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Watertown Metal Products, Division of Western Industries, Inc., 1141 10th Street, Watertown, WI 53094.

MC 165858 (4-2TA), filed April 18, 1983. Applicant: CHARLES MOELLER, d.b.a. MOELLER TRUCK SERVICE, Box 103, Highway 28, Bryant, SD 57221. Representative: Charles Moeller (same address as above), 1-605-828-2331. Contract; Irregular: *Lumber, lumber products, and wood products,* from points in SD and WY to points in IA, MN, NE, ND, SD, and WI, under contract with Forest Commodities, Inc. of Minneapolis, MN. An underlying ETA seeks 120 days. Supporting shipper: Forest Commodities, Inc., 7317 Cahill Road, Room 260, Minneapolis, MN 55435.

MC 166848 (Sub-4-1TA), filed April 18, 1983. Applicant: MIDSTATE CONTAINER EXPRESS, INC., 2507 Jordan Drive, Champaign, IL 61820. Representative: Robert M. O'Donnell, P.O. Box 368, Neenah, WI 54956. *Plastic articles, and items used in the manufacture of plastic articles* between the facilities of Plastipak Packaging, Inc. at Champaign, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MO, OH, PA, TN, and WI. Supporting shipper: Plastipak Packaging, 49 E. Washington St., Champaign, IL 61820.

MC 167066 (Sub-4-1), filed April 18, 1983. Applicant: CONSOLIDATED DISTRIBUTION SERVICES COMPANY, 703 Foster Avenue, Bensenville, IL 60106. Representative: Gerald F. Rozek, 703 Foster Avenue, Bensenville, IL 60106. *General commodities (except classes A and B explosives, household goods and commodities in bulk)* between points in IL, IN, IA, WI, MI, OH, KY, MO and MN. SS: Metropolitan Warehouse Corp., Bensenville, IL. SS: Glas Pak Co., Chicago, IL; SS: Field Container Corp., Elk Grove, IL.

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MC 167498 (Sub-4-1TA), filed April 18, 1983. Applicant: WILLIAM J. RANDS, d.b.a. RANDS TRUCKING, P.O. Box 127, Ladysmith, WI 54848. Representative: Robert S. Lee, 121 South Eighth Street, 1600 TCF Tower, Minneapolis, MN 55402. *Caskets, casket components and materials, equipment and supplies used in the manufacture thereof,* between Franklin County, IL; Kalamazoo County, MI; Rusk County, WI and the commercial zones of Denver, CO; Chicago, IL; Indianapolis, IN; Minneapolis, MN; Missoula, MT and Omaha, NE on the one hand, and, on the other, points in CO, IA, IL, IN, MI, MN, MT, ND, NE, OH, PA, SD, WI, and WY. Supporting shippers: Mastercraft Casket Co., Inc., Box 127, Ladysmith, WI 54848.

MC 167489 (Sub-4-1TA), filed April 18, 1983. Applicant: J. WALLACE, INC., 439 Montrose, Romeoville, IL 60441. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Food and related products,* between South Holland, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Carl Buddig & Co., 50 West Taft, South Holland, IL 60472.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 2095 (Sub-5-7TA), filed April 21, 1983. Applicant: KEIM TRANSPORTATION, INC., 14th & Roosevelt, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612. *Pollution contol systems and material handling equipment* between points and places in Brown County, KS, on the one hand, and points and places in the U.S. (except AK & HI), on the other hand. Supporting shipper: Mac Equipment, Inc., Sabetha, KS.

MC 79658 (Sub-5-15TA), filed April 22, 1983. Applicant: Atlas Van Lines, Inc., Post Office Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (same address as applicant). Household goods, electronic equipment, aircraft parts of a fragile nature and display material between points in the U.S. (except AK and HI) under continuing contract(s) with Lockheed Corp., Burbank, CA.

MC 135061 (Sub-5-1TA), filed April 20, 1983. Applicant: MIDLAND TRANSPORTATION COMPANY, 1706 E. Main St., Marshalltown, IA 50158. Representative: Jack H. Blanshan, 203 Cedar St., Boone, IA 50036. *Machinery and household appliances, parts for machinery and household appliances, and materials and supplies used in the production of parts for machinery and household appliances,* between points in Jasper County, IA, on the one hand, and, on the other, Jefferson City, MO. Supporting shipper: The Maytag Company, Newton, IA.

MC 142857 (Sub-5-5TA), filed April 21, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107-B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036. *Contract* irregular *bakery products* between points in AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, and VA, under continuing contract(s) with Dixie Darling Bakers, Inc., of Jacksonville, FL.

MC 152068 (Sub-5-9TA), filed April 21, 1983. Applicant: HOC-EXPRESS, INC., 125 North Elizabeth, Wichita, KS 67203. Representative: Mark F. Anderson, 1100 Broadway Plaza, 105 South Broadway Street, Wichita, KS 67202. *(1) air conditioning units and refrigeration units, (2) components for the commodities in (1) and (3) materials, equipment, and supplies used in the repair of the commodities in (1) and (2),* between points in Sedgwick County, KS, on the one hand, and, on the other, points in TX, IA, and NM. Applicant intends to tack to existing authority. Supporting shipper: Copeland Corporation, Wichita, KS.

MC 160753 (Sub-5-4TA), filed April 22, 1983. Applicant: ROLAND ACOSTA, d.b.a. Acosta Fruit and Vegetable Co., P.O. Box 986, Edinburg, TX 78539. Representative: Roland Acosta, Rt 1, Box 129-A, Mission, TX 78572. Contract, Irregular; *Paper and Paper Products,* between points in the U.S., (ex AK and HI) under continuing contract wtih Crown Zellerbach Corp.

MC 167315 (Sub-5TA), filed April 22, 1983. Applicant: RICHARD C. SMITH, d.b.a. R S LUMBER & GRAIN SALES, Route 2, Box 154AB, Drexel, MO. 64742. Representative: ARTHUR J. CERRA, P.O. Box 19251, Kansas City, MO 64141. *Lumber, Wood Products, Plywood and Pallets,* between the Commercial Zones of Hatfield, Plumerville, and Amity, AR, and New Brighton, MN, on the one hand, and, on the other, points in CO, IL, IA, KS, LA, MI, MN, MO, NE, OK, SD, TX and WI. Supporting shippers: Hixson Lumber Sales, Inc., Plumerville, A; Hatfield Lumber Company, Hatfield, AR; Smith Pallet Company, Hatfield, AR; Curt Bean Lumber Co., Amity, AR.

MC 167500 (Sub-5-1TA), filed April 21, 1983. Applicant: CH-AN, INC., 424 South Altona, Holstein, IA 51025. Representative: Robert R. Rydell, 1020 Midland Financial Bldg., Des Moines, IA 50309. *Anhydrous ammonia and liquid and dry fertilizers, in bulk,* from points in IA to points in MN, NE, ND, SD and WI; from points in NE to points in IA, SD and KS; from points MN to points in ND, SD and WI. Supporting shipper: Land O'Lakes, Inc., Agricultural Services Div., Fort Dodge, IA.

MC 167582 (Sub-5-1TA), filed April 22, 1983. Applicant: CHUCK ELLIS TRUCKING CO., INC., d.b.a. Ellis Trucking Company, Inc., P.O. Box 445, Gainesville, MO 65655. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. (1) *such commodities as are dealt in or used by wholesale and retail grocery houses* (except commodities in bulk) between points in Blue Earth, Dakota, Goodhue, Ottertail, Ramsey, Sibley and Todd Counties, MN; Barry, Cedar, Greene, Jasper, Laclede and Lawrence Counties, MO; Madison County, NE; Oklahoma County, OK; Bonneville County, UT; and Chippewa and Rusk Counties, WI on the one hand, and the other hand, points in the U.S (except AK and HI); (2) *cedar closet lining and cedar shavings* between Ozark County, MO on the one hand and points in CA, CO, IL, MI, MN, NJ, OR, TX and WI on the other hand; (3) *meal, flour, mixes, pastas, and yeast* between Ozark County, MO on the one hand, and on the other hand, points in CA, CO, and OR. Supporting shippers: Mid-America Farms, Inc., a division of Mid-America Dairymen, Inc., Springfield, MO; Aromatic Cedar Products, Inc., Gainesville, MO; Hodgson Mill Ent., Inc., Gainesville, MO.

[FR Doc. 83-11862 Filed 5-3-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Pollution Control; Consent Judgments; Coastal States Petroleum Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on March 25, 1983, a proposed consent decree in *United States of America* v. *Coastal States Petroleum Company,* Civil No. C-81-129, was lodged with the United States District Court for the Southern District of Texas.

The proposed decree will establish interim limits with which Coastal States must comply until issuance of a new NPDES permit, and will require the company to pay a penalty of $20,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice written comments related to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States of America* v. *Coastal States Petroleum Company,* D.J. Ref. No. 90-5-1-1-1624.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, 521 Star Street, Corpus Christi, Texas, at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-11921 Filed 5-3-83; 8:45 am]
BILLING CODE 4410-01-M

Pollution Control; Consent Judgments; Connecticut Charcoal Co.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree (amended) in *United States* v. *The Connecticut Charcoal Co.,* Civil Action No. H-78-680, has been lodged with the United States District Court for the District of Connecticut. The consent decree (amended) requires the Connecticut Charcoal Company to complete fabrication and installation of air pollution control equipment at its Union, Connecticut facility by June 1, 1983; to cease operations of its kilns should it fail to achieve compliance with air pollution regulations by that date, except insofar as is necessary to test air pollution control equipment; and pay a penalty of $16,000.

The consent decree (amended) may be examined at (1) the office of the United States Attorney, District of Connecticut, Room 310, Bullard Building, 270 Orange Street, New Haven, Connecticut 06510, (2) the office of the Environmental Protection Agency, Region I, Office of Regional Counsel, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and (3) the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree (amended) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice.

The Department of Justice will receive comments relating to the consent decree (amended) for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States* v. *The Connecticut Charcoal Co., DOJ Reference #90-5-2-169.*

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-11920 Filed 5-3-83; 8:45 am]
BILLING CODE 4410-01-M

Pollution Control; Consent Judgments; Paul Carville, Peter Retkevicz, and Hudson Plating Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 19, 1983, a proposed consent decree in *United States of America* v. *Paul Carville d/b/a Hudson Plating Company et al.,* Civil Action No. 80-479-L, was lodged with the United States District Court for the District of New Hampshire. The proposed consent decree enjoins the defendants from discharging any pollutants from a former electroplating facility located at Clement industrial Park, Hudson, New Hampshire, into Beaver Brook except in compliance with all terms and conditions of an effective national pollutant discharge elimination system permit. The proposed consent decree also requires defendant Paul Carville to pay a civil penalty of $500.00.

The proposed consent decree may be examined at the office of the United States Attorney, District of New Hampshire, Federal Building, 55 Pleasant Street, Concord, New Hampshire 03301; at the Region I office of the United States Environmental Protection Agency, Office of Regional Counsel, 22nd Floor, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, N.W. Washington, D. C. 20530. A copy of the proposed consent decree may be otained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D. C. 20530, and should refer to *United States of America* v. *Paul Carville d/b/a Hudson Plating Company,* D. New Hampshire, Civil Action No. 80-479-L, DJ Ref. 90-5-1-1-1430.

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resouces Division.

[FR Doc. 83-11919 Filed 5-3-83; 8:45 am]
BILLING CODE 4410-01-M

Pollution Control; Consent Judgments; Gail F. Sohler

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 22, 1983, a proposed Consent Decree in *United States of America* v. *Gail F. Sohler,* Civil No. 83-4064, was lodged with the United States District Court for the District of South Dakota.

The defendent, Gail F. Sohler, owns and operates a cattle feedlot operation which discharged agricultural waste into an intermittent tributary of Dry Choteau Creek in Bon Homme County near Avon, South Dakota. The proposed Consent Decree requires Gail F. Sohler to achive compliance with its National Pollutant Discharge Elimination System Permit, to construct a containment dam including monitoring and recording all discharges in accordance with a specified schedule of compliance, and to pay stipulated penalties if she fails to meet the compliance schedule. In addition, the consent decree requires Gail H. Sohler to pay a civil penalty of $1,000.00.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America* v. *Gail F. Sohler* D.J. Ref. 905-1-1-1866.

The proposed consent decree may be examined at the Office of the United States Attorney, 400 South Phillips Avenue, Sioux Falls, South Dakota 57102; at the Region VIII office of the Environmental Protection Agency, 1860

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Lincoln Street, Denver, Colorado 80295; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-11922 Filed 5-3-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.

Date and Time: May 17, 1983; 9:00 a.m.-4:30 p.m. May 18, 1983; 9:00 a.m.-5:00 p.m.

Place: National Science Foundation, 1800 G St., N.W., Room 540, Washington, DC.

Type of Meeting: Open.

Contact Person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, DC 20550.

Summary Minutes: Contact Dr. Richard S. Nicholson at the above address.

Purpose of Commission Meeting and Agenda: May 17: The Commission will discuss issues and recommendations in preparation for its final report May 18: The Commission will continue the discussions of the prior day with special emphasis on the Federal role in precollege education. A combined meeting with the National Science Board will take place from 3:00 to 5:00 p.m.

Reason for Late Notice: Difficulty in arranging acceptable meeting date.

Dated: April 29, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-11907 Filed 5-3-83; 8:45 am]

BILLING CODE 7555-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish Propagation Panel; Regular Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Columbia River Basin Fish Propagation Panel.

DATE: Thursday, May 5, 1983. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Curt Marshall, (503) 222-5161.

(Federal Advisory Committee Act, Pub. L. 92-463)

Edward Sheets,

Executive Director.

[FR Doc. 83-12089 Filed 5-3-83; 8:45 am]

BILLING CODE 0000-00-M

POSTAL RATE COMMISSION

[Docket No. R83-1; Order No. 496]

ECOM Rate and Classification Changes, 1983; Filing of Proposed ECOM Rate and Classification Changes and Order Designating Officer of the Commission and Fixing Dates for Responses to Motion for Waiver

April 28, 1983.

Notice is hereby given that on April 25, 1983, the United States Postal Service, pursuant to Sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 3622, 3623), filed a request with the Postal Rate Commission for a Recommended Decision on proposed changes in rates of postage and certain classification provisions for electronic computer originated mail (ECOM). This filing has been assigned Docket No. R83-1.

The Postal Service's filing indicates that at the current ECOM rate of 26 cents for the first page and 5 cents for the second page, ECOM costs exceeded revenues by $16.7 million, or $5.21 per message in FY 1982. It states that at those rates costs will continue to exceed revenues through FY 1985. The filing states that in FY 1987, which is the test year that the Postal Service proposes to use, current ECOM rates would generate a surplus of $24.5 million, or $.07 per message. At current rates, the cumulative deficit from 1982 through the proposed test year would be $27 million, according to the filing.

The Postal Service's filing proposes to increase ECOM rates for the first page to 31 cents, and to increase the rate for the second page to 9 cents. It also proposes a classification change that would eliminate the minimum volume of 200 messages required per transmission, and another classification change that would make reply envelopes available at a rate of 4 cents per envelope. Under the rate and classification changes proposed, the Postal Service estimates that ECOM volume, which was 3.5 million in FY 1982, will rise to 380 million in the FY 1987. The filing estimates that at proposed rates ECOM will break even during FY 1985, and generate a surplus of $56.4 million, or 15 cents per message, in the FY 1987 test year. The filing estimates that proposed rates will generate a cumulative surplus of $32 million from 1982 through the FY 1987 test year.

I. Intervention

Hearings will be held on the proposal submitted by the Postal Service in Docket R83-1. The Commission will sit en banc. Persons desiring to participate as a party in the proceeding should file a notice of intervention with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before May 31, 1983, in accordance with Rule 20 of the Commission's Rules of Practice (39 CFR 3001.20). Notices of intervention shall affirmatively state whether or not petitioners request a hearing or, in lieu thereof, a conference; whether the petitioner intends to participate actively in a hearing; and set forth the nature of the petitioner's interest in the issues to be decided, to the extent that that position is known. Persons who seek limited participation but do not wish to become parties may, on or before May 31, 1983, file a written notice of intervention as a "limited participator," pursuant to Rule 20a of our rules of Practice (39 CFR 3001.20a). In addition, persons who wish to express their views informally, and do not wish to become a party or a limited participant, may file comments pursuant to Rule 20b of our Rules (39 CFR 3001.20b).

We direct specific attention to the amendments to Rule 20 adopted by the Commission on April 4, 1983 [48 FR 15626-27 (Tuesday, April 12, 1983)]. Those amendments enable an interested person to file a notice of intervention indicating whether he wishes the status of a full party or a limited participator. Under the amended rule, those filing such a notice will immediately acquire status as full or limited participants, allowing them to commence discovery from the date of their notice. Parties retain the right to oppose such notices, and the Commission retains the authority to determine that participation by a party filing notice is not consistent with the Act.

II. Appointment of the Officer of the Commission

The Officer of the Commission (OOC), who is charged with representing the interests of the public in this proceeding [see 39 U.S.C. 3624(a)], is Stephen A. Gold. During this proceeding the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in nor advise as to any Commission decision in the case (see 39 CFR 3001.8). The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by Rule 10(c) of our Rules of Practice [39 CFR 10(c)].

III. Prehearing Conference

Proposed special rules of practice, and the setting of a date for a prehearing conference, will be addressed in a subsequent Commisson notice.

IV. Motion for Waiver

The Postal Service's filing is accompanied by a motion for waiver, requesting that the Commission waiver portions of Rules 54 and 64 of our rules of practice (39 CFR 3001.54, 3001.64). Most prominently, the Postal Service seeks waiver of Rules 54(f)(2) and 54(j)(1)-(5) to allow it to employ FY 1987 as the test year in this proceeding. These rules require that the Postal Service employ a test year that is a fiscal year that begins not more than twelve months after the request for changes in rates is filed—which in this instance would be fiscal 1984.

The motion for waiver purports to make this request pursuant to Rule 22 of our rules of practice. That rule, however, states that a request for waiver "shall not be entertained unless it is timely filed so as to permit Commission disposition of the request prior to the date specified for the requirement for which waiver is requested." Since our test year rules specify the form and content of the Postal Service formal request, the date specified for complying with them is, clearly, the date of filing of that formal request. It is self-evident that a motion to waive rules that specify the form and content of formal requests cannot be timely unless it precedes the filing of that request. How far in advance a motion for waiver must be made is not yet a matter specified by our rules, but it must be fare enough in advance for the Commission to solicit and weigh public comment where the ruels to be waived have a substantial impact on the course that the proceeding will take.

This is especially true with respect to a waiver of our test year rule. The period chosen for forecasting the costs and revenues upon which our rate recommendations will be based can determine to a substantial degree whether those forecasts will be reliable or unacceptably speculative, and whether they will fairly reflect the period during which the recommended rates are actually in effect. Except in unusual circumstances, proposing a test year that does not comply with our rules should be assumed to have a substantial impact on the course of any proceeding under section 3622. Therefore it should be assumed to call for the kind of advance notice we were afforded in past general rate cases. In Docket R80-1, for example, the waiver request was made on Feruary 20, 1980, and granted on March 31, 1980; and the Service filed its request on April 21, 1980. Similar advance notice was given in Docket No. R77-1. Thus the Commission could entertain and weigh public comment on the proposed waiver.

The need for adequate advance notice of a proposal to waive our test year rule is clearly demonstrated in the instant request. It proposes an unprecedentedly distant test year be used in a context where volumes and costs are forecast to change dramatically in the interim period. Whether or not this proposed test year is conceptually sound, it undeniably is pivotal to the course that the requested proceeding will take. As with all proceedings brought under section 3622, this proceeding must be concluded in 10 months. Under these circumstances notice of the proposed waiver of the test year rule should have been given to the Commission and the public well in advance of the formal request, in order to allow an informed and thoroughly considered disposition of this critical issue.

The Commission solicits responses of interested persons to the Postal Service's Motion for Waiver, filed April 25, 1983, including their views with respect to substantive merit of the motion and the effect upon their interests of its failure to comply with Rule 22. Responses to the Service's Motion are due on or before May 31, 1983, and replies on or before June 7, 1983.

The Commission orders:

(A) The Commission will sit en banc in the above-captioned proceeding.

(B) Notices of intervention as full or limited participators in this docket must be sent to Cyril J. Pittack, Acting Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268, on or before May 31, 1983.

(C) Stephen A. Gold is designated Officer of the Commission in this docket to represent the public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(D) Responses to the Postal Service's Motion for Waiver, filed April 25, 1983, must be sent to Cyril J. Pittack, acting secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268, on or before May 31, 1983, and replies thereto on or before June 7, 1983.

(E) The Secretary shall cause this Notice and Order to be published in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83-11823 Filed 5-3-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19709; SR-Amex-82-22]

American Stock Exchange, Inc.; Filing and Order Partially Approving Amended Proposed Rule Change

April 27, 1983.

The American Stock Exchange, Inc. ("Amex" or "Exchange") 86 Trinity Place, New York, NY 10006, submitted on March 15, 1983, copies of an amendment to a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to provide for the listing and trading of options based on an index comprised of 20 stocks from various industries and designated as the Amex Major Market Index ("MMI").[1] On April 15, 1983, the Exchange submitted copies of a second amendment to the proposed rule providing for a January expiration cycle and position and exercise limits for MMI stock index options.

In the second amendment, the Exchange proposes that the MMI option be traded on a January-April-July-October expiration cycle, rather than on the March-June-September-December

[1] The initial filing of SR-Amex-82-22 provides for the listing and trading of options on eleven specific narrow-based stock indices and set forth position and exercise limits of 30,000 contracts which would apply to positions in these narrowly-based index options. *See* Securities Exchange Act Release No. 19344 (December 16, 1982), 47 FR 57374 (December 23, 1982). As noted below, the Commission is taking no action in this release on those portions of the proposed rule change that deal solely with these narrow-based index options.

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cycle previously proposed. Amendment No. 2 also provides that with respect to the MMI option contract, the Exchange may establish position limits up to and including positions valued at $200 million.[2] For the purpose of compliance, however, the Exchange will establish position and exercise limits in terms of number of contracts ("contract limits"), which may be adjusted at the Exchange's discretion so long as the underlying monetary value [3] of the position in MMI options does not exceed $200 million. The Amex intends to establish position and exercise limits of 15,000 contracts initially.

Notice of the first amendment to the proposed rule change together with the terms of substance of the first amendment to the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19610, March 17, 1983) and by publication in the **Federal Register** (48 FR 12486, March 24, 1983). No comments were received on the first amendment to the proposed rule change.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 of the proposed rule change within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–22.

In order to facilitate Commission approval of options on the MMI, Amex has consented to sever those sections of the proposed rule change relating to MMI options from the initial filing.[4] Thus, the Commisison is approving only Amendment No. 1 and Amendment No. 2 of the proposed rule change, which relate to options on the MMI. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the second amendment prior to the thirtieth day after the date of publication of notice of filing thereof in order to facilitate the commencement of trading in the MMI option [5] and because the Commission believes that the amended position and exercise limits, which were filed at the Commission's request, are more desirable than larger position and exercise limits that otherwise would apply. The Commission believes that the $200 million position and exercise limits are more appropriate for a new index option reflecting a smaller number of stocks than the position and exercise limits previously approved for the CBOE–100 stock index.[6]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned amendment to the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–11956 Filed 5–3–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19710; SR–Amex–83–9]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

April 27, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 11, 1983, the American Stock Exchange, Inc. ("Amex" or "Exchange") 86 Trinity Place, New York, NY 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Amex proposes to amend Rules 900C 902C, 909C, and 918C, and to adopt a new Rule 980C. First, the Amex would amend Rule 900C to define the "reporting authority" in Rule 900C(b)(3) that is responsible for determining the "numerical index value," as defined in the proposed amended Rule 900C(b)(4). The reporting authority would be "the institution or reporting service designated by the Exchange as the official source for calculating and reporting the current levels of [a] stock index." The Amex is currently the reporting authority for the Major Market Index ("MMI").

The amendment to Rule 902C would limit the liability of the exchange as a result of errors, omissions or delays in calculating or disseminating the current index value resulting from an act, condition or cause beyond the reasonable control of the Exchange. The amended Rule 902C would clarify that Amex shall not be liable for damages resulting from an error, omission or delay in calculating or disseminating the current index value if the act is beyond its control.

In order to address the particular problems relating to cash-settled options based on the changing values of a number of securities, the Exchange has proposed trading halt, suspension, opening rotation and option exercise rules specific to stock index options. Rule 918C as amended provides that a specified number or percentage of the stocks underlying an index must have opened for trading before opening rotation for the index option may commence. In the case of options on the MMI, the Exchange proposes that the opening rotation may commence after more than 50 percent of the stocks comprising the MMI have opened for trading in the primary market for such stocks.

Proposed Rule 918C also provides that trading in an index option shall be halted one and one half hours after the opening rotation or at any other time during the day if (i) in the case of an index option reflecting an index of 50 or more stocks, trading has been halted in any combination of stocks comprising 20 percent or more of the current index value; or, (ii) in the case of an index option reflecting an index of less than 50 stocks, trading has been halted in any combination of stocks that reflects a value or percentage greater than the pre-existing standard set by the exchange with respect to that index. With respect to the proposed MMI options, the Amex has provided that MMI options trading will be halted if trading has been halted or suspended in the primary markets for any combination of stocks reflecting 20 percent or more of the current index value. The Exchange believes that the 20 percent standard is appropriate for the MMI because of the large number of market sectors represented, but recognizes that a lesser percentage may be appropriate in the case of an index which reflects a small number of stocks and is narrower in scope.

The purpose of the proposed amendments to Rule 918C is to more clearly define the procedures which will be followed in the trading of stock index options and to assure that index option trading commences and continues only while investors have index value information that is based on current trading information concerning the stocks included in the index. It should be noted that the rule allowing the opening and continuation of index options trading for one and one half hours based on the openings of more than 50 percent of the stocks (in the case of the MMI option), like Amex Rule 917, is permissive; the exchange retains the discretion to halt trading even if the conditions of the 50 percent standard are met if it deems such action appropriate in the interest of a fair and orderly market.

Proposed Rule 980C provides supplemental procedures for the exercise of stock index options. Specifically, member organizations must accept from all customers and market makers exercise instructions for stock index options up until, but no later than 4:10 p.m. Eastern Standard Time ("EST"). The notice of exercise must be time-stamped at the time it is received or prepared. Second, a memorandum to exercise a stock index option contract issued or to be issued in a firm account must be prepared no later than 4:10 p.m. The above provisions, however, would not be applicable to expiring series on the last day of trading prior to expiration.

The proposed rule change will enable persons holding long positions to tender exercise notices on a given day knowing the value of the index at the close of trading. Conversely, in order to protect holders of short positions in index options from unanticipated events occurring after the close of the market, no exercise notice may be issued in a firm account after 4:10 p.m. EST.

Finally, the Amex proposes to amend Rule 909C to provide that restrictions on the exercise of index options imposed by the Exchange may remain in effect until the opening of business on the last day of trading prior to the expiration day. Currently, the Exchange's authority to prohibit the exercise of an option ceases ten days prior to expiration. The proposal to extend the exchange's authority with respect to index option exercises for nine additional day would allow the exchange to respond to the problems arising from the trading and exercise of cash-settlement index options. In particular, the Exchange's extended authority to prohibit exercises appears necessary to protect writers during index options trading halts from being unfairly disadvantaged.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-Amex-83-9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The proposed rule change consists of a number of technical changes from the Exchange's rules for individual stock options made necessary by virtue of the nature of stock indices and the use of cash settlement. The proposed amendments are largely the same as rule changes previously filed by the Chicago Board Options Exchange, Incorporated ("CBOE") in connection with its proposal to trade options on the COBE–100 stock index option.[1] The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule changes would enhance the fairness and liquidity of the stock index option market which is scheduled to commence in the near future.[2] As noted above, the proposed rules are substantially similar to those filed by the CBOE for which notice and the opportunity to comment has been given. The Commission finds that the proposed rules are critical to the fair and efficient commencement of index options trading and had requested previously that the Exchange consider the proposed rules that are the subject of the rule change. Because the trading of the MMI option is imminent, the Commission believes accelerated approval of these rules to ensure fair and efficient index reporting and procedures relating to opening rotation, trading suspensions and exercise and settlement are appropriate. While the Commission believes that subsequent review of the rules governing the trading of index options will be desirable as more trading information becomes available, the Commisson's initial determination is that the special CBOE and Amex rules relating to index options appear to be fair and to protect investors. Thus, the Commission finds it is in the public interest to approve the proposed rule changes on an accelerated basis because the public has been apprised of the issues previously, the public comment has been considered and the proposed rules will provide for a fairer, more efficient and more liquid options market.

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[2] Proposed amendment to Rule 904C. Because Amendment No. 1 provides in proposed Rule 905C that exercise limits for stock index options be identical to positions limits, a proposed change in position limits would change exercise limits as well.

[3] The monetary value of a position will be the product of the current index value times the index multiplier times the number of MMI option contracts on the same side of the market.

[4] The initial filing (SR–Amex–82–22) relating to options on eleven narrowly-based indices is still pending. *See* letter to Thomas G. Lovett, Chief, Branch of Options Regulation, Division of Market Regulation, SEC, from Nathan Most, Vice President, Amex, dated April 14, 1983.

[5] The Amex has indicated, in discussions with the Commission's staff and in public announcements, that it hopes to commence trading options on the MMI on Apirl 29, 1983.

[6] While the Commission believes that position limits for options on diversified, well-capitalized stock indices may be appropriately set at substantially higher levels than those for options on individual equity securities, it has made no determination regarding the appropriate position limits or margin levels for non-diversified indices composed of a small number of stocks.

[1] The Commission, approved, on an accelerated basis, several rule changes filed by the CBOE. *See* Securities Exchange Act Release Nos. 19588, 19589, 19590, dated March 10, 1983, published at 48 FR 11195, 11196, and 11197, dated March 16, 1983. *See* File, Nos. SR–CBOE–83–2, SR–CBOE–83–3 and SR–CBOE–83–6. The Amex rule governing the opening of trading, Rule 918C, differs slightly from its CBOE counterpart in that it provides that more that 50 precent of the MMI have opened for trading before options trading may commence, while CBOE Rule 24.13 provides that options trading commence only after securities representing 50 percent of the aggregate market value of the CBOE–100 index have opened. This variation reflects both a difference in the number of stocks comprising the two indices and the fact that the MMI is a price-weighted, not market value weighted, index. The Commission notes that questions have arisen regarding the rules in effect with respect to openings. *See* comment letter to Douglas Scarff, Director, Division of Market Regulation, from Charles J. Henry, President, CBOE, dated April 11, 1983 urging reconsideration of CBOE Rule 24.13. The Commission continues to believe that the 50 percent requirement sets an appropriate balance between the need to ensure that index options are opened accurately, that the public understands the basis on which the index value is being calculated, and that the index value is fairly based on current pricing information on the underlying stocks, and the need to ensure fast and efficient openings of the index option market. After the Commission and the exchanges have gained more experience with the trading of stock index options, however, the Commission believes that it may be appropriate to reconsider the present thresholds set in both the Amex and COBE rules governing the commencement of trading.

[2] The Amex has indicated, in discussions with the Commission's staff and in public announcements, that it hopes to commence trading options on the MMI on April 29, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rules change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11907 Filed 5-3-83; 8:45am]

BILLING CODE 8010-01-M

[Release No. 13196; 812-5495]

Liberty Cash Management Fund, Inc., et al.; Application Filing

April 27, 1983.

In the Matter of Liberty Cash Management Fund, Inc., Seligman Capital Fund, Inc., Seligman Cash Management Fund, Inc., Seligman Common Stock Fund, Inc., Seligman Communications and Information Fund, Inc., Seligman Growth Fund, Inc., Seligman Income Fund, Inc., Tri-Continental Corporation, One Bankers Trust Plaza, New York, New York 10006, [812-5495] Filing of Application for an Order Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Sections 13(a)(2), 18 (a), (c) and (f)(1), 22 (f) and (g) and 23(a) of the Act and Pursuant to Section 17(d) of the Act and Rule 17d–1 Thereunder.

Notice is hereby given that Liberty Cash Management Fund, Inc. ("Liberty"), Seligman Capital Fund, Inc. ("Capital"), Seligman Cash Management Fund, Inc. ("Cash"), Seligman Common Stock Fund, Inc. ("Common"), Seligman Communications and Information Fund, Inc. ("Communications"), Seligman Growth Fund, Inc. ("Growth"), Seligman Income Fund, Inc. ("Income"), and Tri-Continental Corporation ("Tri-Continental") (collectively "the Applicants"), all open-end diversified management investment companies registered under the Investment Company Act of 1940 (the "Act") other than Tri-Continental, which is a closed-end registered diversified management investment company, filed an application on March 18, 1983, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Sections 13(a)(2), 18 (a), (c) and (f)(1), 22 (f) and (g), and 23(a) of the Act in connection with certain proposed deferred compensation plans for directors ("Plans") to be adopted by Applicants and by other investment companies that may be added to the group of investment companies having the same adviser of which the Applicants are a part, and pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder to permit certain joint transactions relating to the Plans. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of the provisions thereof from which an exemption is being sought.

According to the application, Capital and Communications have as their investment objective capital appreciation, with Communications focusing on long-term capital gain through investment in securities of companies in the communications, and information industries; Cash and Liberty are money market funds which seek to preserve capital and maximum liquidity and current income; Common invests to produce favorable current income and longer-term growth of both income and capital value, without undue risk; Growth emphasizes longer-term growth in capital value and an increase in future income; Income seeks a high level of current income as well as the possibility of future growth of income and capital value; and Tri-Continental's objective is to produce future growth of both capital and income while providing reasonable current income.

The application states that each Applicant's board of directors consists of from eight to eleven persons, a majority of whom is each instance are not "interested persons" of each Applicant within the meaning of Section 2(a)(19) of the Act. Each of the directors of each Applicant who is not an employee of J. & W. Seligman & Co. Incorporated, the manager of the Applicants, or its affiliates receives from that Applicant an annual retainer fee for serving as a director, an annual retainer fee for each board committee membership and for each committee chairmanship and a meeting attendance fee for each day on which he attends board or committee meetings. Applicants assert that the amounts paid to the directors are, and are expected to continue to be, insignificant in comparison to the total net assets of each Applicant.

According to the application, the purpose of the Plans is to permit individual directors to elect to defer receipt of their fees in order to avoid diminution or loss of social security benefits to which directors may otherwise be entitled, to enable directors to defer payment of income taxes on such fees, or for other reasons. Applicants state that they believe the availability of such deferred fee arrangements will enhance their ability to attract and retain directors of high caliber.

Applicants state that each Plan will allow an individual director to elect to defer receipt of fees which otherwise would become payable to him for services performed after the date of the election. The election shall continue in effect until terminated in writing, such termination to take effect on the first day of the calendar year beginning after receipt of the notice of termination. An election shall be irrevocable as to payments deferred in conformity with that election. Each deferred fee will be credited at the time when it otherwise would have been payable to an account on the investment company's books that will be established for each electing director. All amounts in such an account (including interest credited to the account) will bear interest at a rate equivalent to the rate applicable to 90-day U.S. Treasury Bills at the beginning of each calendar quarter. Interest will be credited to the account quarterly at the end of each calendar quarter. Amounts in the account will not be evidenced by any note or other security or secured in any way.

According to the application, all amounts credited to the account pursuant to an election by a director shall be paid after the director ceases to be a director or reaches age 70 in a lump sum or in ten or fewer annual installments all as the director specifies in making the election. In the event of the director's death, amounts payable to him under a Plan will thereafter be payable to his estate. No deferred amount or unpaid portion thereof may be transferred or assigned by a director except by will or the laws of descent and distribution.

Applicants represent that deferral of directors' fees in accordance with the Plans will have a negligible effect on the Applicants' assets, liabilities, net assets and net income per share. Further, the application states that the Plans will not obligate an Applicant to retain a director in such capacity, nor will they obligate an Applicant to pay any (or any particular level of) director's fees to any director.

Applicants state that participation in the deferred fee arangement will be available to all directors who receive director's fees from the Applicants and that Plans will be made available to directors of other investment companies that may be added to the group of investment companies having the same

investment adviser of which the Applicants are a part.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Rule 17d–1 under the Act provides that the Commission may, by order upon application, grant exemptions from the prohibitions of Section 17(d) and Rule 17d–1 regarding certain joint enterprises or arrangements and profit-sharing plans involving a registered investment company. Rule 17d–1(b) further provides that in passing upon such an application the Commission will consider whether the participation of the registered investment company in such enterprise, arrangement, or plan is consistent with the policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that the Plans are in the best interests of each of the Applicants and their shareholders and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, Applicants submit that the grant of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors.

With respect to the requested exemptions from Sections 18 (a), (c) and (f)(1) and 13(a)(2) of the Act, Applicants contend that the Plans possess none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in these sections of the Act. Applicants submit that they would not be "borrowing" from their directors in the sense which concerned Congress and that all liabilities created by credits to the deferred fee accounts under the Plans would be offset by equal assets of the Applicants which would not otherwise exist if the directors' fees were paid on a current basis. Applicants further argue that the Plans would not induce speculative investments by Applicants or provide opportunity for manipulative allocations of Applicants' expenses and profits; that control of the Applicants would not be affected; and, given the common existence of deferred compensation agreements today, the Plans would not confuse investors, make it difficult for them to value the Applicants' shares or convey a false impression of safety.

With respect to the requested exemption from Section 22(f) of the Act, Applicants argue that this section was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security or expressly prohibited by Commission rule or regulation, neither of which circumstances would apply here. Applicants assert that the restriction on transferability of a director's benefits would be clearly set forth in the Plans and would not adversely affect the interests of the director or of any shareholder of Applicants.

As to Sections 22(g) and 23(a) of the Act, Applicants contend that the legislative history of the Act indicates that Congress was primarily concerned with the dilutive effect on the equity and voting power of the common stock of, or units of beneficial interest in, an investment company if securities were issued for consideration not readily valued. Applicants submit that the Plans would not have this effect in view of current disclosure requirements applicable to director compensation. Applicants also contend that their obligation to make payments under the Plans need not be viewed as being "issued" for services or for property other than cash or securities, because, while any director's fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the Plans. Thus, according to the Applicants, the Plans would merely provide for deferral of payment of such fees and thus may be viewed as being "issued" not in return for services but in return for Applicants not being required to pay such fees on a current basis.

Applicants assert that Section 17(d) of the Act and Rule 17d–1 thereunder are designed to limit or prevent a registered investment company's joint or joint and several participation with an affiliated person in a transaction "on a basis different from or less advantageous than that of" the affiliated person. Applicants submit that none of the Plans is a joint transaction between an Applicant and its directors within the meaning of these provisions as the interest to be accrued on the deferred amounts is to be based upon the rate paid on 90-day U.S. Treasury Bills, so that no Plan possesses the profit-sharing characteristics required for a joint transaction. Applicants argue that the effect of the Plans would merely be to defer the payment of fees that the Applicants would otherwise be obligated to pay on a current basis as services are performed by the directors. Liabilities created by the credits to the accounts under the Plans would thus be offset by assets in an equal amount that would not otherwise exist if the director's fees were paid on a current basis (that is, the fees otherwise payable to the director would remain as part of the Applicants' general assets and property). Applicants contend that deferral of a director's fees in accordance with the Plans would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis. Applicants state that, on a comparative basis, deferral would have a negligible effect on each Applicant's assets, liabilities, net assets and net income per share.

Applicants emphasize their view that their ability to recruit and retain highly qualified directors would be enhanced if they were able to offer their director the option of deferred payment of their director's fees. Applicants submit that this benefit to the Applicants and their shareholders outweighs any tax, social security or other benefit that may be realized by an individual director under the proposed Plans.

Notice is Further Given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11908 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 19714; SR-NYSE-83-5]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 27, 1983.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, submitted on January 31, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, that would permit a specialist to disclose the names of the parties to orders he holds for execution, he is in the process of executing, or he has executed, unless he is specifically instructed not to do so by the parties involved at the point of order entry. Historically, NYSE specialists have been required to obtain permission to disclose the names of the parties to a trade before doing so.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19495, February 9, 1983) and by publication in the **Federal Register** (48 FR 7343, February 18, 1983). No comments were received with respect to the proposed rule change.

The Commission feels that the proposed rule change will assist the specialist in his task of bringing together buyers and sellers, and that the revised NYSE Information Memorandum makes it clear that the specialist will not be free to discriminate arbitrarily in making either the initial or subsequent disclosure. The Commission finds, therefore, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11963 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19713; SR-NYSE-83-16]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

April 27, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the New York Stock exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would extend the operation of the NYSE's Registered Representative Rapid Response Service ("R4") until June 1, 1983. R4 is currently a pilot program scheduled to terminate on May 1, 1983.[1] According to the Exchange, the purpose of the proposed rule change is to give the Commission time to consider the Exchange's recent proposal for a one-year extension of R4 and an expansion of its use. That rule filing (SR–NYSE–83–8) has been published for public comment [2] and currently is being reviewed by the Commission. The exchange in its filing states that the statutory basis of the proposed rule change is Section 11A(a)(1) and 17A(a)(1) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–83–16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other then those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change, in light of its limited purpose and experimental nature, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder. In particular, the Commission believes it is appropriate to extend the R4 pilot program to afford the Commission an opportunity to consider fully the issues raised by NYSE's proposal to extend R4 for another year and to expand its use.[3]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the NYSE R4 experiment is scheduled to expire on May 1, 1983, and an extension is necessary to allow the pilot to continue in its present form while the Commission considers the NYSE's proposal for a one-year extension and expansion of the system. The Commission expects to take action on that proposal before June 1, 1983. For this reason, the Commission believes it is appropriate to extend the R4 pilot program to June 1, 1983. In so finding, the Commission does not, however, reach any conclusion as to the consistency with the Act of a continuation of the R4 experiment beyond June 1, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11965 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19712; SR-NYSE-82-13]

New York Stock Exchange, Inc.; Order Granting Partial Approval of Proposed Rule Change

April 27, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, NY 10005, submitted on August 9, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to rescind Rule 349, which prohibits the employment of press representatives by member organizations for the purpose of obtaining advance or confidential information; rescind Rule 403, which prohibits engaging in or being associated with a "bucket shop" or certain other types of securities businesses; combine Rule 404 into Rule 415, both of which deal with Exchange approval for carrying customers' accounts and holding customers' securities; amend Rule 422 to delete the requirement of Board approval of certain loans to (or from) Exchange committee members from (or to) members or member organizations; modify and consolidate Rule 423 and Rule 93, both of which deal with joint accounts; and amend Rule 432 to clarify the intent of certain Exchange requirements dealing with daily records of margin calls.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18984, August 19, 1982) and publication in the **Federal Register** (47 FR 37732, August 26, 1982). No comments were received with respect to the proper rule change.

On October 7, 1982 the Commission approved the portions of the proposed rule change relating to Rules 349, 403, 404, 415, and 432, and reserved decision on the remainder of the proposed rule change.[1] With respect to that portion of the proposed rule change that relates to Rule 422, the NYSE has again consented to a thirty-day extension of time for Commission action pursuant to Section 19(b)(2) of the Act.[2] The Commission, therefore, takes no action in this order with respect to that portion of the proposed rule change relating to Rule 422.

With respect to the proposed modification and consolidation of Rules 93 and 423, the NYSE proposal would have the effect of requiring that only members able to initiate transactions on the floor and their member organizations report their participation in join accounts. Currently, all member firms participating in joint accounts must report to the Exchange. The NYSE has indicated that the proposed rule would eliminate reporting requirements for approximately 75 percent of the joint accounts currently reporting to the Exchange. Nevertheless, the NYSE believes that the proposal will continue to allow the Exchange adequately to monitor joint accounts. To the extent joint accounts raise conflict of interest concerns arising from any different treatment being accorded to customer and joint account orders, NYSE contends that the retention of an approval requirement only for any joint account including a member able to initiate transactions on the floor will permit the Exchange to continue to monitor potential conflicts of interest in connection with joint account arrangements directly related to the Exchange trading floor. To the extent that the existence of joint accounts raises financial responsibility concerns, NYSE maintains that the existence of net capital, margin and recordkeeping requirements will allow the Exchange adequately to monitor joint account members, whether or not they are subject to Rule 93.[3]

Because the NYSE rule proposal will permit the NYSE to continue to monitor those accounts that raise manipulation, conflict of interest or other trading concerns, and given the existence of other regulatory tools for monitoring the joint accounts that will no longer be subject to reporting requirements under the NYSE's proposed modifications, the Commission finds that the portion of the proposed rule change relating to rules 93 and 423 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned portion of the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11955 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22921; 70-6865]

American Electric Power Service Corp. et al.; Sale of Mortgage Notes

April 27, 1983.

In the matter of American Electric Power Service Corp.; American Electric Power Company, Inc., 180 East Broad Street, Columbus, Ohio 43215, (70–6865); proposed issuance and sale of mortgage notes by Service Corporation and gurarnty by holding company.

American Electric Power Company, Inc. ("American"), a registered holding company, and its subsidiary service company, American Electric Power Service Corporation ("Service Corporation"), have filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(b) of the public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

Service Corporation is currently completing construction of a 31-story office building consisting of approximately 75,000 square feet, with parking facilities for approximately 1,000 cars, which is located on a site of approximately 5.3 acres of land near downtown Columbus, Ohio. This office building will become the corporate headquarters for Service Corporation and American commencing with its initial occupancy, now scheduled in June 1983. By orders dated June 28, 1982, and November 17, 1982 (HCAR Nos. 22104 and 22714), the Commission authorized Service Corporation to issue up to $130 million principal amount of its notes to Irving Trust Company under a Building Loan Agreement, as modified, to finance construction of the office building and related facilities and the land acquisition costs. The notes issued to Irving Trust Company are secured by a mortgage and security agreement on the building and the building site, bear interest to maturity at Irving Trust Company's publicly announced prime rate, and mature December 31, 1987. The building loan notes are prepayable at any time without penalty.

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[1] On February 9, 1983, the Exchange in a clarifying letter explained that the parties to the order whose names the specialists may disclose under the proposed rule change are not public customers but the specialist's customers, *i.e.,* member organizations' brokers entering orders with the specialist. *See* letter dated February 9, 1983, from James E. Buck, Secretary, NYSE, to Alden Adkins, Division of Market Regulation, SEC. As part of its proposed rule change, the NYSE included Exhibit A (Information Memorandum to NYSE members concerning the proposed rule change), indicating that disclosure would be required to all who request it once the specialist discloses initially. On April 20, 1983, the Exchange submitted a revised Exhibit A to the filing in which it is made clear that the specialist "should normally" make the disclosure allowed upon initial request.

[1] On September 14, 1982, the Commission approved R4 as a 6-month pilot program. Securities Exchange Act Release No. 19047, September 14, 1982; 47 FR 41896, September 22, 1982. On March 11, 1983, the Commission approved an extension of the operation of the R4 pilot through May 1, 1983. Securities Exchange Act Release No. 19593, March 11, 1983; 48 FR 11544, March 18, 1983.

[2] Securities Exchange Act Release No 19573, March 8, 1983; 48 FR 10786, March 14, 1983. The NYSE has recently agreed to an extension of time for Commission action on this filing to June 1, 1983. *See* letter dated April 22, 1983 from James E. Buck, Secretary, NYSE, to Michael Cavalier, Division of Market Regulation, SEC.

[3] For a complete discussion of these issues, see the release providing notice of File No. SR–NYSE–83–6, note 2, *supra.*

[1] Securities Exchange Act Release No. 19111, October 7, 1982; 47 FR 46031, October 14, 1982.

[2] See letter dated April 18, 1983, from James F. Swartz, Jr., NYSE, to Michael Cavalier, Division of Market Regulation.

[3] See letter dated February 7, 1983, from Donald van Weezel, NYSE, to Michael Cavalier, Division of Market Regulation.

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Service Corporation now proposes to issue and sell up to $125 million of Mortgage Notes to one or more insurance companies, pension funds, or other financial institutions, and to apply the proceeds thereof to prepay the building loan notes outstanding to Irving Trust Company. In this connection, Service Corporation proposes to distribute a "term sheet" to a limited number of financial institutions believed to have an interest in this kind of investment. Although all terms will be subject to further negotiations, Service Corporation will initially request proposals for a loan secured by a first mortgage lien on Service Corporation's office building, the land on which it is located, and related improvements. It is contemplated that such loan may be evidenced by Mortgage Notes issued in one or more series, each series maturing not less than 5 nor more than 25 years from the date thereof, and bearing interest to maturity at a fixed rate.

As an inducement to a prospective lender to make the loan to Service Corporation, it may be necessary for American to guaranty the obligations of Service Corporation to pay principal and interest on the mortgage Notes. The form of such guaranty, and American's obligations thereunder, would be subject to negotiations with the lender or lenders offering the best terms to the Service Corporation. In this connection, American has guaranteed the performance of Service Corporation's obligations under the Building Loan Agreement and the notes previously issued thereunder, and it is anticipated that the proposed guarantee hereunder would be substantially identical to American's existing guarantee.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 23, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11940 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19711; SR-Amex-82-14]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 27, 1983.

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, NY 10006 submitted on October 7, 1982, with amendments on October 13, 1982 and February 2, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to amend Amex rules with respect to Registered Options Traders ("ROTs") and floor traders. The proposed rule change would eliminate a restriction which automatically limits to three the number of Registered Options Traders in a trading crowd who may establish or increase options positions without the written approval of a Floor Official. The proposed rule change would replace this with a new provision which would remove the restriction but would allow for a temporary limitation by two floor officials of the number of ROTs in a trading crowd if such a limitation would serve the interests of a fair and orderly market.[1]

The proposed rule change would also establish a procedure under which a member organization's propriety "facilitation order" could be crossed with a public customer order after the latter's exposure to other market participants.[2] The Commission has previously approved a facilitation order rule submitted by the Chicago Board Options Exchange, Incorporated ("CBOE").[3] The Amex rule differs from the CBOE rule principally in that, under the Amex rule but not the CBOE rule, bids or offers for the customer's order must be sought prior to disclosure of the member's intention to facilitate or of any "contingency" to which the order may be subject, such as an instruction that stock be purchased or sold at the same time the option transaction is made. The Amex procedure conforms to the procedure followed for other customer orders and is based on the belief that quotes more favorable to the customer may be obtained if quotes are requested prior to disclosure of the particulars of the order.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19601, March 15, 1983) and by publication in the **Federal Register** (48 FR 12026, March 22, 1983).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11941 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 28, 1983.

In the matter of Applications of the Boston Stock Exchange, Inc., for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

EECO, Inc.
Common Stock, $1 Par Value (File No. 7-6613)

Empire of Carolina, Inc.
Common Stock, $.10 Par Value (File No. 7-6614)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

[1] The Commission has approved a similar proposal by the Philadelphia Stock Exchange, Inc. (SR-Phlx-82-6). *See.* Securities Exchange Act Release No. 18870 (July 6, 1982).

[2] A "facilitation" order is a firm proprietary order that is sent to an exchange floor for execution at the same time as a customer order on the other side of the market. Unless an equal or better execution of the customer order can be obtained on the exchange floor, the firm's order can be crossed with the customer's order to facilitate its execution.

[3] *See* Securities Exchange Act Release No. 18881 (April 20, 1982) (File No. SR-CBOE-82-8).

Interested persons are invited to submit on or before May 19, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11942 filed 5-3-83; 8:45am]

BILLING CODE 8010-10-M

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

April 28, 1983.

In the matter of Application of the Boston Stock Exchange, Inc., for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Imperial Chemical Industries, Ltd.
American Depository Receipts, 1 Pound Par Value (File No. 7-6615)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 19, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11943 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13200; 812-5478]

Capital Housing Partners—CL et al.; Application Filing

April 28, 1983.

In the matter of Capital Housing Partners—CL, C.R.I., Inc., William B. Dockser, Martin C. Schwartzberg, and H. William Willoughby, One Central Plaza, 11300 Rockville Pike, Rockville, MD 20852, filing of application for an order pursuant to section 6(c) of the Act granting an exemption from all provisions of the Act.

Notice is hereby given that Capital Housing Partners—CL (the "Partnership"), a District of Columbia limited partnership, and its general partners, C.R.I., Inc., which is the Managing General Partner of the Partnership, William B. Dockser, Martin C. Schwartzberg and H. William Willoughby ("General Partners" and, together with the Partnership, collectively referred to hereinafter as "Applicant"), filed an application on March 7, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the District of Columbia Uniform Limited Partnership Act as of January 1, 1981, as a vehicle for equity investment in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as limited partner, will invest in three other limited partnerships ("Local Limited Partnerships"): (i) two Illinois limited partnerships, each of which owns and is developing a government-assisted project for individuals and families of low and moderate income in Westhaven, Cook County, Illinois, and (ii) a California limited partnership which owns and is rehabilitating a government-assisted apartment project for elderly persons of low and moderate income in San Francisco, California. All such investments are represented to be in accordance with the purposes and criteria set forth in the last paragraph of Investment Company Act Release No. 8456 (August 9, 1974), which release states the views of the Commission's Division of Investment Management regarding the applicability of the Act to two-tier real estate limited partnerships. It is also stated that an affiliate of CRI, Inc., will be a general partner in each Local Limited Partnership.

Applicants state that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investments and the ability to claim on their individual tax returns the deduction, losses, credits, and other tax items that originate from the Partnership's interests in the Local Limited Partnerships. Through its investment in the Local Limited Partnerships, the Partnership intends to realize (i) a potential increase in its equity in the projects through amortization of the projects' mortgage indebtedness, (ii) cash flow from operations, (iii) a potential increase in the value of the projects, and (v) certain current tax benefits. Although the Partnership's direct control over the management of each apartment complex is represented to be limited, the Partnership's ownership of interests in Local Limited Partnerships shall, in an economic sense, it is argued, be tantamount to direct ownership of the apartment complexes themselves. The interests in Local Limited Partnerships will have no substantial value other than their pro rata share of the value of the apartment complexes. No Local Limited Partnership will generate a substantial amount of income or expense other than as directly related to the development, ownership and operation of its apartment complex.

The Partnership, in reliance upon Rule 506 under Section 4(2) of the Securities Act of 1933, will offer $4,979,000 of limited partnership interests in 90 units at $53,300 per unit (the "Units"). Subscriptions for half units may be accepted by the General Partners, and accordingly, the Partnership's securities could be held by more than 100 persons. According to the application, Prudential-Bache Securities and CRICO Securities Corporation and other selected broker-dealers will act as selling agents for the offering of Units. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership.

Applicants state that the partnership will be controlled by the General

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Partners, and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. However, Limited Partners owning a majority of Partnership interests will have the right to amend the Partnership Agreement, remove any General Partner and elect a replacement therefor, and to dissolve the Partnership, provided that such rights will not adversely affect the tax or limited partner status of the Limited Partners. It is stated that the Partnership will receive an opinion of counsel to the effect that the Partnership's liability in respect to each Local Limited Partnership will be limited to the Partnership's capital contribution to the Local Limited Partnership. Applicants represent, in addition, that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides, as herein pertinent, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from the provisions of the Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants argue that the Partnership is not an "investment company" under the Act; that it will be in the business of investing in and being the beneficial owner of apartment complexes which are not securities, and that the limited partnership interests it will own should not constitute "investment securities" within the meaning of Section 3(a)(3) of the Act. Applicants further state that the interests in Local Limited Partnerships, by their nature, are not readily marketable, and will have no value apart from the value of the apartment complexes owned by the Local Limited Partnerships. No separate market is alleged to exist for such interests and their sale could involve severe adverse tax consequences.

Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. According to the application, that form of organization provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater risk than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants state that despite the advantages it affords investors in government-assisted housing, the limited partnership form of organization is incompatible with several fundamental provisions of the Act. Applicants contend that it is appropriate that an exemption from those provisions be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy established by the housing laws.

Applicants state that the substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated through arm's length negotiations. They represent, however, that terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Further, the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribed such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc., with respect to real estate programs.

According to the application, interests in the Partnership will be sold only to relatively sophisticated investors who must meet specified suitability standards which the Partnership believes are consistent with the securities laws of all states where the Units will be sold, and these investors will receive extensive reports concerning the Partnership's business and operations. Among the suitability requirements are ones specifying that investors have a net worth (exclusive of home, furnishings and automobiles) of at least $150,000 and have some part of their income subject to federal income tax at the rate of 45% or more. Although the interests of the General Partners and their affiliates may conflict in various ways with the interests of Limited Partners, the Applicants claim that the prospectus contains various provisions designed to eliminate or significantly reduce such conflicts of interest. Further protection for the interests of Limited Partners is provided, Applicants assert, by the numerous provisions of the Partnership Agreement designed to prevent overreaching by the General Partners and to assure fair dealing by the General Partners vis-a-vis the Limited Partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11944 Filed 5-3-83; 8:45 am]

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Midwest Stock Exchange, Inc.; For Unlisted Trading Privileges in Certain Securities; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 27, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

AMR Corporation—$2.1875 Cumulative Preferred, No Par Value (File No. 7-6593)

BankAmerica Corporation—Cumulative Adjustable Preferred Series A, No Par Value (File No. 7-6594)

Barnett Banks of Florida, Inc.—$2.375 Cumulative Convertible Preferred Series A, $10 Par Value (File No. 7-6595)

Bethlehem Steel Corporation—$5 Preferred, $1 Par Value (File No. 7-6596)

Boise Cascade Corporation—$5 Series A Cumulative Convertible Preferred, No Par Value (File No. 7-6597)

Champion International Corporation—$4.60 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6598)

Continental Group Inc.—$2 Cumulative Convertible Preferred Series A, $1 Par Value (File No. 7-6599)

$4.50 Cumulative Preferred Series C, $1 Par Value (File No. 7-6600)

Eastern Air Lines Inc.—$2.69 Cumulative Preferred, $1 Par Value (File No. 7-6601)

Fruehauf Corporation—$2 Cumulative Convertible Preferred, No Par Value (File No. 7-6602)

Great Northern Nekoosa Corporation—$4.75 Convertible Preferred, No Par Value (File No. 7-6603)

Martin Marietta Corporation—$4.875 Convertible Exchangeable Preferred, No Par Value (File No. 7-6604)

McDermott Incorporated—$2.60 Cumulative Preferred Series B, $1 Par Value (File No. 7-6605)

National Steel Corporation—$5 Cumulative Convertible Preferred Stock, $5 Par Value (File No. 7-6606)

Penn Central Corporation—$5.27 Convertible Preferred 1st Series, No Par Value (File No. 7-6607)

Republic Steel Corporation—$5.25 Cumulative Convertible Preferred Stock, No Par Value (File No. 7-6608)

Signal Companies Inc.—8.25% Cumulative Convertible Preferred Series A, $1 Par Value (File No. 7-6609)

UAL, Inc.—$2.40 Cumulative Convertible Preferred Series B, No Par Value (File No. 7-6610)

Trans World Corporation—$2.66 Preferred C, No Par Value (File No. 7-6611)

United States Steel Corporation—$12.75 Convertible Cumulative Preferred Stock, No Par Value (File No. 6-6612)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11961 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19705; File No. SR-NSCC-82-28]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

April 26, 1983.

On November 29, 1982, NSCC filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would permit NSCC to consolidate into a single processing stream the clearance and settlement of exchange-listed and over-the-counter ("OTC") securities transactions in New York City. NSCC currently processes these transactions separately. As discussed in detail below, by approving this proposal, the Commission would allow NSCC to enter "Phase II" of its operations. Notice of the proposed rule change, together with its terms of substance, was given by publication in Securities Exchange Act Release No. 19361 (December 21, 1982), 47 FR 58419 (December 30, 1982). No letters of comment were received.

I. Summary of Events [1]

A. Procedural History

In 1976, NSCC applied for temporary registration as a clearing agency pursuant to Sections 17A(b) and 19(a)(1)[2] of the Act and Rule 17Ab2-1 (17 CFR 240.17Ab2-1) thereunder, and requested that the Commission exempt NSCC from one or more of the determinations that the Commission is directed to make pursuant to Section 17A(b)(3)(A)-(I) of the Act.[3] NSCC's application for registration proposed the merger of three clearing corporations, The American Stock Exchange Clearing Corporation ("ASECC"), The National Clearing Corporation ("NCC"), and Stock Clearing Corporation ("SCC").[4] NSCC suggested that the merger occur in two phases. In Phase I, which was intended to last approximately 120 days, NSCC would operate the three clearing agencies separately and would develop a plan to merge the systems. Once the Commission approved the merger plan, SIAC would become NSCC's facilities manager to process all transactions. "Phase II" was to begin when the merger plan was approved. In accordance with Section 19(a)(1) of the Act, the Commission published notice of the

[1] This Order merely highlights certain events concerning NSCC's registration and does not represent a complete record.

[2] Section 17A(b)(1) of the Act requires each clearing agency to be registered with the Commission. Section 17A(b)(3) of the Act states that a clearing agency may not be registered unless the Commission determines that the clearing agency satisfies the requirements of Section 17A(b)(3)(A)-(I) (the "Requirements"). The Commission, however, has the authority under Section 17A(b)(1) of the Act to grant a registered clearing agency an exemption from one or more of the Requirements. Pursuant to this authority, the Commission has adopted Rule 17Ab2-1(c)(1) (17 CFR 240.17Ab2-1(c)(1)). Securities Exchange Act Release No. 11767 (November 3, 1975), 40 FR 52356 (November 10, 1975), which provides that a clearing agency may request the Commission to grant it registration but to exempt it from one or more of the Requirements. Registration granted in that form is effective only for eighteen months, or such longer period as the Commission may order ("temporary registration"). Following NSCC's application for temporary registration under Rule 17Ab2-1(c)(1), the Commission determined that NSCC satisfied, or was exempt from satisfying, a number of the Requirements and, as discussed in more detail below, granted NSCC temporary registration. *See* 42 FR at 3922, discussed at note 7, *infra*. The Commission has extended by order NSCC's and other applicant clearing agencies' temporary registrations until September 30, 1983 (*see* Securities Exchange Act Release No. 16584 (March 22, 1982), 47 FR 13286 (March 29, 1982)), and is currently concluding proceedings to determine whether all applicant clearing agencies should be fully registered. *See also* note 11, *infra*.

[3] In general, ASECC was owned by, and cleared transactions executed on, the American Stock Exchange, Inc. ("Amex"); NCC was owned by the National Association of Securities Dealers ("NASD") and cleared OTC transactions; and SCC was owned by, and cleared transactions executed on, the New York Stock Exchange, Inc. ("NYSE"). Under the merger plan, NSCC was to be owned equally by the Amex, NASD, and NYSE. The facilities manager for ASECC and SCC was the Securities Industry Automation Corporation ("SIAC"), owned ⅔ by the NYSE and ⅓ by the Amex. The facilities manager for NCC was Bradford National Clearing Corporation ("BNCC"), a subsidiary of Bradford National Corporation ("Bradford").

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application in the Federal Register, requesting that interested persons submit pertinent written data, views, and arguments.[4]

Because of the importance of NSCC's registration to the Commission's efforts to foster the development of a national market system [5] and a national system for the safe and efficient clearance and settlement of securities transactions (the "National System"),[6] and because of the extensive written data, views, and arguments submitted in response to the Commission's request for comments, the Commission instituted proceedings to explore further the issues raised by NSCC's application. Toward that end, the Commission provided an opportunity for oral presentation of data, views, and arguments regarding NSCC's application on June 16–18, 1976. At the conclusion of those hearings and in accordance with the requirements of the Act, the Commission temporarily registered NSCC, subject to several terms, conditions, and directives.[7]

B. The Registration Order

The Registration Order reviewed NSCC's application in light of the requirements of the Securities Acts Amendments of 1975 ("1975 Amendments"), in which Congress directed the Commission to foster the development of a National System.[8] The Commission determined that granting NSCC's application for temporary registration was critical to the establishment of the National System and accordingly approved NSCC's application, including the two phase merger proposal. In accordance with Section 17A(b)(3) and Rule 17Ab2–1(c)(1), the Commission determined that (i) NSCC was so organized and had the capacity to safeguard securities and funds in its control or for which it was responsible; (ii) NSCC's rules did not impose any schedule of prices or fix rates for services rendered by participants; and (iii) NSCC's rules assure the safeguarding of securities and funds which were in its custody or control or for which it was responsible.[9] The Commission stated its intention, however, to monitor carefully the effect of NSCC's registration on the National System and the securities industry and reserved the right during Phase I to reverse or to modify substantially its decision to register NSCC temporarily. Furthermore, the Registration Order provided that NSCC could not begin Phase II until NSCC met certain substantial conditions summarized below:[10]

1. NSCC was required to establish full interfaces with the Midwest Clearing Corporation ("MCC"), the Pacific Clearing Corporation ("PCC"), and the Stock Clearing Corporation of Philadelphia ("SCCP") without charging a fee to those clearing corporations, their participants, or to NSCC's participants for using the interfaces (the "Free Interface Condition"); [11]

2. NSCC was required to provide, at cost, efficient facilities through which a broker or dealer located outside of New York City, either directly or through an agent, including a registered clearing corporation, could compare Amex, NYSE, and OTC transactions eligible for comparison at NSCC (the "Remote Comparison Condition");

3. NSCC was required to permit competing clearing corporations to use NSCC's branch network, provided they agreed to pay a proportionate share of the network's operating costs (the "Common Branch Facility Condition"); and

4. NSCC was required to furnish to any requesting clearing corporation, without charge, computer programs for OTC trade comparison. In addition, the comparison of all OTC transactions between participants in two different clearing agencies was required to be performed by one clearing agency at no charge to the other clearing agency. If no other clearing agency was willing to operate the "national" OTC comparison service, NSCC was required to compare all OTC transactions between participants in different clearing agencies without separate charge to participating clearing agencies (the "OTC Comparison Condition").[12]

C. Modifications of the Registration Order

After the Commission issued the Registration Order, NSCC began its Phase I operations and developed plans for Phase II. The Commission, pursuant to its general oversight authority under the Act and in accordance with the specific directives of the Registration Order, monitored NSCC's operations and services, as well as NSCC's effects on other clearing agencies and on the securities industry as a whole. This oversight was accomplished, among other things, through the Commission's review of numerous proposed rule changes filed by NSCC and other clearing agencies, pursuant to Section 19(b) of the Act and Rule 19b–4 (17 CFR 240.19b–4) thereunder, the review of notices sent by the clearing agencies to their participants and filed with the Commission according to Rule 17a–22 (17 CFR 240.17a–22), and the inspection of NSCC's activities.

In September 1978, then Chairman Williams told NSCC in a letter than NSCC could terminate its contract with BNCC for facilities management of the OTC processing stream, and instead, could process OTC trades through SIAC. The letter stipulated, however, that exchange-traded and OTC processing streams would have to remain separate.[13] The letter further stated that, based on the Commission's monitoring of NSCC, other clearing agencies and the securities industry, the Commission concluded that NSCC "ha[d] satisfied all of the conditions to its registration except for the installation of listed clearing in its branch offices, which ha[d] been delayed by request of the staff."[14] The letter also cautioned NSCC not to proceed further toward Phase II pending a resolution of *Bradford National Clearing Corporation et al.* v. *Securities and Exchange Commission et al., supra.*

Six days after the Chairman's letter was sent, the Court of Appeals for the District of Columbia affirmed the Registration Order.[15] The court, however, criticized the Commission's reasoning on two issues and remanded both "for further study and explication."[16] To assist the Commission's study, the Commission issued a release requesting public comment on a list of questions and published a letter to NSCC, asking NSCC to comment on the questions. The letter also provided that NSCC had to observe the conditions in the Registration Order but was released from any other conditions, such as those included in the Chairman's letter of September 13, 1978. Because of this release, NSCC developed and offered to its participants through the branch network merged exchange-listed and OTC clearance and settlement services. The letter, however, also imposed several additional restrictions on NSCC, including a provision that precluded NSCC from offering exchange-listed and OTC processing through a single account in New York City.[17]

The Commission issued the Remand Order when it finished its study.[18] The Remand Order reaffirmed NSCC's temporary registration and explained in greater detail the Commission's approval of NSCC's use of Geographic Price Mutualization and NSCC's choice of SIAC as facilities manager. The Remand Order also imposed two additional requirements on NSCC.[19]

NSCC's Rationale for the Proposed Rule Change

As noted above, the proposed rule change would permit NSCC to consolidate the clearance and settlement of exchange-listed and OTC transactions in New York City and would signify that NSCC's operational consolidation has reached Phase II. In its filing, NSCC states that, for several reasons, the proposal would facilitate the prompt and accurate clearance and settlement of securities transactions and would reduce direct and indirect processing costs for NSCC's participants.

First, under the current scheme, if a New York participant has an open long position in an exchange-listed security issue and an open short position in the same issue that was established by the participant in the third market, the participant is required to (i) arrange for two separate securities movements to settle these trades, one for the exchange-listed obligation and another for the off-board obligation; and (ii) pay two separate fees for these two movements. Under the proposed rule change, these positions would be netted, and, in general, would result in the complete elimination of the positions or in a single smaller net long or short position. Consequently, any net position could be satisfied by a smaller movement of securities for one fee, rather than two larger movements for two fees. Second, the proposal also may reduce the size of NSCC participants' clearing fund contributions because that contribution is calculated by reference to each participant's open long and short positions.[20] Third, whenever the netting process eliminates a participant's short position under the proposed rule change, that participant cannot be subject to any potential buy-in liability.[21]

III. Discussion

The Commission stated in the Registration Order that the National System, among other things, should provide participants with the ability "to compare, account for, and settle through one entity all trades in securities included in the [National] System, regardless of the location of the other party to the trade or the market in which the trade is executed ('one account processing')." [22] The Commission continues to believe that one account processing, which would be enhanced for NSCC's participants by the proposed rule change, is an important element of the National System.[23]

In addition, the Commission believes that NSCC correctly has identified significant operational reasons for approving this proposal.[24] Accordingly, we believe the proposed rule change is consistent with, and in furtherance of, the purposes of the Act because it would reduce costs and improve efficiencies for NSCC and its participants.

Approval of the proposal would permit NSCC to enter Phase II of its temporary registration. As discussed above, the Commission's continuous and close monitoring of NSCC and its effects on the securities industry has led the Commission to conclude that NSCC has satisfied, or with approval of this proposal, will be in compliance with the

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[4] Securities Exchange Act Release No. 12274 (March 29, 1976), 41 FR 14455 (April 5, 1976).

[5] Section 11A(a)(2) of the Act.

[6] Section 17A(a) of the Act.

[7] Securities Exchange Act Release No. 13163 (January 13, 1977), 42 FR 3916 (January 21, 1977), National Securities Clearing Corporation, Order Granting Registration and Statement of Reasons, File No. 600–15 (the "Registration Order"). Two subsidiaries of Bradford subsequently petitioned the United States Court of Appeals for the District of Columbia Circuit for a review of the Commission's decision granting temporary registration to NSCC. The court affirmed the Commission's decision, but remanded certain issues for fuller explanation by the Commission. *Bradford National Clearing Corporation et al. v. Securities and Exchange Commission et al.*, 590 F.2d 1085, 1111 (D.C. Cir., 1978). In response to the remand, the Commission issued a final order addressing the issues remanded by the court. Securities Exchange Act Release No. 17662 (February 20, 1981), 22 SEC Docket 129 (1981), as referenced by 46 FR 14244 (February 26, 1981) ("Remand Order").

[8] *See supra*, note 6.

[9] The Registration Order provides at 42 FR 3927 that the Commission would review these determinations with respect to the consolidated system before permitting NSCC to begin Phase II. As discussed *infra*, the Commission has carefully monitored NSCC and expressly reaffirms its findings that NSCC and its rules insure the safeguarding of securities and funds, and that NSCC does not fix participants' prices. *See* note 19 *infra* for discussions of NSCC's price schedule and choice of facilities manager. *See also* File No. SR–NSCC–82–5, Securities Exchange Act Release No. 18744 (May 17, 1982), 47 FR 22285 (May 21, 1982) (financial protections and applicant and participant standards for broker-dealers) modified by File No. SR–NSCC–82–10, Securities Exchange Act Release No. 18417 (August 23, 1982), 47 FR 37990 (September 16, 1982); File No. SR–NSCC–82–13, Securities Exchange Act Release No. 19191 (October 29, 1982), 47 FR 50597 (November 8, 1982) (applicant and participant standards for banks); File No. SR–NSCC–81–7, Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969 (November 18, 1982) (clearing fund requirements for bank participants).

As discussed *supra* at note 2, the Commission currently is determining whether NSCC satisfies all of the Act's Requirements and should be granted full registration in accordance with Rule 17Ab2–1(c)(2) (17 CFR 240.17Ab2–1(c)(2)).

[10] 42 FR 3929–3935 and 3938. A number of minor conditions contained in the Registration Order have been omitted from this summary.

[11] NSCC also was directed to establish appropriate free links with the Boston Stock Exchange Clearing Corporation ("BSECC") and the now-deregistered TAD Depository Corporation ("TAD") BSECC is now linked with, and is a participant in, NSCC. TAD's deregistration was ordered by the Commission in Securities Exchange Act Release No. 18583 (March 22, 1982), 47 FR 13282 (March 29, 1982).

[12] The OTC Comparison Condition further provided that a clearing agency that did not wish to compare OTC transactions executed between its participants could contract with another clearing agency for those services to be performed for a fee. Registration Order at note 175. SIAC, as NSCC's facilities manager, now performs all OTC trade comparison services for MCC, PCC, and SCCP. Securities Exchange Act Release No. 18277 (November 30, 1981), 45 FR 58239 (November 30, 1981), approving File Nos. SR–MCC–81–7, SR–PCC–81–2, and SR–SCCP–81–6. We understand that, in connection with operating NSCC's national OTC comparison system, NSCC does not charge a fee beyond the facilities management costs it incurs for operating that program for the participating clearing agencies. Those arrangements, negotiated by the participating clearing agencies, appear to be consistent with the Registration Order.

[13] Letter from the Honorable Harold M. Williams, former Chairman, Securities and Exchange Commission, to Mr. Jack Nelson, President, NSCC, September 13, 1978, at 1.

[14] *id.*, at 4.

[15] 590 F.2d at 1111.

[16] *Id.* The issues remanded were the Commission's approval of: (i) NSCC's pricing policy under which NSCC charges participants the same basic fees for transactions compared, cleared, and settled through its branch network as for transactions compared, cleared, and settled through its New York City facility ("Geographic Price Mutualization" or "GPM"); and (ii) NSCC's selection, without competitive bidding, of SIAC as facilities manager of NSCC's system.

[17] Securities Exchange Act Relase No. 15640 (March 14, 1979), 44 FR 17636 (March 23, 1979), including a letter from the Honorable Philip A. Loomis, Jr., Commissioner, to Mr. Jack P. Nelson, President NSCC, March 15, 1979. *See also* File No. SR–NSCC–79–11 approved by Securities Exchange Act Release No. 16213 (September 21, 1979), 44 FR 56062 (September 28, 1979).

[18] *See* note 7 *supra*.

[19] NSCC was required to submit a new fee schedule supporting NSCC's representation that it would operate each branch office only as long as that office produced revenues sufficient to cover operating costs. NSCC submitted such a fee schedule to the Commission pursuant to section 19(b)(3)(A) of the Act. File No. SR–NSCC–81–10, Securities Exchange Act Release No. 18327 (December 11, 1981), 46 FR 61379 (December 16, 1981).

NSCC also was required to submit a report explaining how NSCC had decided to conduct its clearing operations. NSCC filed this report, as prepared by NSCC's independent public accountants, and the Commission published notice of the report's contents as "Notice of Submission of Report Evaluating Facilities Management Alternatives By NSCC," File No. S7–916, Securites Exchange Act Release No. 18298 (December 1, 1981), 46 FR 60062 (December 8, 1981).

[20] *See* NSCC Rule 4 and NSCC Procedures, XIV.

[21] Notwithstanding those benefits, the proposal also would permit NSCC to maintain separate exchange-traded and third market processing streams for participants that so desired.

[22] 42 FR at 3920 (footnotes omitted).

[23] The Commission also continues to believe that: while a participant should be able to obtain one account processing through one clearing entity, the participant should be able also " " " to compare trades through the clearing entity affiliated with the marketplace in which the trade was executed and direct delivery of the compared trade to the clearing entity the participant selects to perform the accounting (*i.e.*, clearing) operation.

Id. at 3921.

[24] *See supra* at Section II of this Order.

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conditions precedent to Phase II.[25] Moreover, the Commission is not aware of any reason for delaying further the beginning of Phase II. The non-New York clearing agencies currently offer their participants the consolidated clearance and settlement processing that NSCC seeks to provide. Thus, this Order will not provide NSCC with a unique service, but merely will permit it to experience the efficiencies already enjoyed by competing non-New York clearing agencies. At the same time, because the proposed rule change is only applicable to consolidated processing at NSCC's New York City office,[26] it will enable NSCC's New York City participants to realize the economies associated with consolidated secondary trade clearance and settlement processing. Finally, based on the Commission's experience, the Commission believes that the non-New York clearing agencies generally find it uneconomical to compete directly for the secondary trade clearance and settlement business of New York broker-dealers [27] and that, as a result, clearing agency competition should not be affected by the rule change.

Although the Commission is allowing NSCC to enter Phase II, the Commission emphasizes that, under this Order, the terms, conditions, and directives of the Registration Order, as modified by the Remand Order and other Commission letters, releases, or actions, remain in effect to the extent practicable.[28]

The Commission continues to believe that these terms, conditions, and directives are beneficial to the development of the National System and intends (i) to continue to monitor NSCC and its impact on broker-dealers, banks, other clearing agencies and the securities markets; and (ii) to amend, modify, or expand the terms, conditions, and directives in NSCC's registration whenever the Commission deems such modifications necessary or appropriate, in accordance with the requirements of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–NSCC–82–28) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–11989 Filed 5–3–83; 8:45 am]

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[25] Pursuant to the Remand Order, NSCC is permitted to operate its branch offices only to the extent that each office produces revenues sufficient to cover the cost of that branch's operation. The Commission continues to monitor, in a proceeding separate from this order, the relationship between branch office costs and branch office revenues, and in that setting will take whatever steps are necessary to ensure the continued fulfillment of that condition to NSCC's registration.

[26] As noted, NSCC has offered merged processing in its branch facilities at Geographically Mutualized Prices for several years. *See supra* at notes 16 and 17.

[27] *See* discussion in the Remand Order.

[28] For example, NASCC continues to be required to provide free interfaces to other registered clearing agencies in accordance with the terms of the Registration Order. *See also* Securities Exchange Act Release No. 18823 (June 23, 1982), 47 FR 26512 (June 30, 1982), approving File No. SR–MCC–82–8 and SR–MSTC–82–11, which indicated at note 7 that the "Commission generally has required that the interface costs incurred by each interfacing clearing member * * * be absorbed by that interfacing clearing agency and mutualized across its own participant base." The Registration Order, as supplemented by Release No. 18823, thus contemplated that the free interface requirement for clearing corporations would be a central characteristic of the National System.

Of course, the Commission recognizes that some requirements imposed on NSCC during the course of NSCC's temporary registration have become obsolete. For example, NSCC no longer can establish appropriate links with TAD since TAD has been dissolved and is not registered with the Commission as a clearing agency. *See supra* at note 11.

[Release No. 13198; 812–5480]

New York Localities Legal Cash Access Trust; Filing of Application for an Order of Exemption

April 28, 1983.

Notice is hereby given that New York Localities Legal Cash ACCESS Trust ("Applicant") 200 Park Avenue, Suite 2522, New York, NY 10017, a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 7, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its price per unit to the nearest one cent on a unit value of one dollar. In all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977). All interested person are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below and to the Rules under the Act for the text of Rules 2a–4 and 22c–1.

Applicant states that it is a "money market" fund whose investment objective is to provide high current income consistent with stability, safety and liquidity of principal. The application states that Applicant seeks to meet this objective by investing in a portfolio of "money-market" securities meeting specified quality standards and which are legal investments for "public corporations" as that term is defined in Section 66 of the New York State General Construction Law.

Applicant states that the maintenance of a constant net asset value per unit is a crucial factor in the purchase and holding of its units. Applicant asserts that by meeting the conditions set forth below and by valuing its units to the nearest one cent on a unit value of one dollar, it can maintain a constant value for its unitholders along with full liquidity and a satisfactory yield. In addition, Applicant states that its adherence to the conditions set forth below will substantially reduce the likelihood of significant variations from a constant unit price and the likelihood of any dilution of the assets and returns of incoming or outgoing unitholders.

Section 6(c) of the Act provides, in pertinent part, that the Commission may by order upon application, conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to permit Applicant to compute its price per unit to the nearest one cent on a unit value of one dollar.

In support of this request, Applicant submits that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that unitholders who purchase its units with the expectation of receiving high current income and preservation of principal would be unfairly treated should there be a deviation from $1.00 per unit. Applicant agrees that the following conditions may be imposed in any order granting the exemptive relief requested:

1. Applicant's board of trustees shall have determined, in good faith based upon a full consideration of all material factors, that, absent unusual circumstances, the pricing method hereby applied for will fairly reflect the value of each unitholder's interest in Applicant and that Applicant will continue to use such method only so long as the board of trustees believes that it fairly reflects the value of each unitholder's interest.

2. Applicant's board of trustees, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to Applicant's unitholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that Applicant's price per unit as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per unit. Applicant will not purchase any instrument with a remaining maturity [1] of more than one year; nor will it maintain a dollar-weighted average portfolio maturity [2] in excess of 120 days.

4. Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which are denominated in United States dollars and which the board of trustees of Applicant determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personnally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filled with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 83–11947 Filed 5–3–83; 8:45 am]

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[1] In determining dollar-weighted average portfolio maturity and the maturity of any instrument, Applicant states that it will use the definition of "maturity of an instrument" contained in proposed Rule 2a–7, Investment Company Act Release No. IC–12206 (January 29, 1982), whether or not the proposed rule is withdrawn, or, on the effectiveness of a final rule, the definition contained in such final rule. Applicant will also treat instruments which, at the time of purchase by Applicant, have been called for redemption in one year or less, as maturing within one year.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity of 120 days or less as soon as reasonably practicable.

[Release No. 13197; 812–5453]

Paine Webber/CMJ Properties, LP et al.; Application Filing

April 28, 1983.

In the matter of: Paine Webber/CMJ Properties, LP and PW Shelter Fund, Inc., c/o Paine Webber Properties Incorporated, 100 Federal Street, Boston, MA 02110, Filing of an application for an order pursuant to section 6(c) of the act exempting applicant from all provisions of the act.

Notice is hereby given that Paine Webber/CMJ Properties, LP ("Partnership"), a Delaware limited partnership, and PW Shelter Fund, Inc. ("Managing General Partner" and together with the Partnership, collectively referred to herein as "Applicants"), filed an application on February 10, 1983, and an amendment thereto on April 6, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that the Partnership was formed under the Delaware Uniform Limited Partnership Act in December, 1982, as a vehicle for private investment in government-assisted apartment complex projects in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968. To this end, the Partnership proposes to operate as a "two-tier" partnership; i.e., the Partnership will invest in other limited partnerships ("Local Limited Partnerships"), that in turn, will be engaged in the development, rehabilitation, ownership and operation of housing for low and moderate income persons ("Projects"). According to the application, the General Partners of the Partnership are the Managing General Partner and Properties Associates. Applicants further expect that Corcoran, Mullins, Jennison, Inc., or affiliates thereof ("Local General Partners") will serve as the general partners of most of the Local Limited Partnerships. Applicants also expect the Local General Partners to enter into a consulting agreement with Paine Webber Properties Incorporated ("Paine Webber Properties"), under which, Paine Webber Properties will furnish to the Local General Partners investment analysis and general financial advice in connection with the operation of the Local Limited Partnerships. Applicants state that the Local General Partners are not related to or affiliated with the General Partners of the Partnership in any way.

Applicants represent that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investment and the ability to claim on their individual tax returns the deductions, losses, credits and other tax items arising from the Partnership's interests in Local Limited Partnerships which develop, rehabilitate, own and operate the Projects. Applicants further represent that legal counsel to the Partnership have advised that the Partnership should be classified as a partnership for federal income tax purposes and not as an association taxable as a corporation. Applicants assert that counsel will also render an opinion to the effect that the liability of each person who becomes a limited partner of the Partnership, as well as the liability of the Partnership as a limited partner of each Local Limited Partnership, will be limited to the amount of his or its capital contribution to such partnership, subject to certain exceptions under applicable laws.

According to the application, the Partnership's investment objectives are to provide tax benefits on a current basis, to obtain reasonable protection for invested capital, to provide potential for appreciation, subject to considerations of capital preservation, and to provide potential for future cash distributions from operations (on a limited basis), or from the refinancing or

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sale of Projects owned by Local Limited Partnerships, or from the sale of interests in Local Limited Partnerships.

Applicants state that on December 21, 1982, the Partnership filed a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to which the Partnership intends to offer publicly 10,000 units of limited partnership interest ("Units") at $1,000 per Unit with a minimum investment of $5,000 per investor. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership. In the event that subscriptions for more than 10,000 Units are received, the Partnership has registered 15,000 Units and has granted its sales agent, Paine, Webber Jackson & Curtis Incorporated ("Sales Agent") that it will have net proceeds of such offering a minimum of $1,740,000 and a maximum of $8,900,000 ($13,350,000 if the Sales Agent exercises its right to increase the number of Units offered and sold to 15,000) available for investment after deduction of sales commissions and other expenses of the offering. Applicants represent that such net offering proceeds will be used primarly to invest in Local Limited Partnerships and also to fund various contingency and working capital reserves. Applicants state that the Partnership intends to invest only in Local Limited Partnerships in which CMJ or another experienced real estate developer will agree to serve as the local general partner.

Applicants further state that subscriptions for Units must be approved by the Managing General Partner, and that such aprpoval will be made conditional upon representations as to suitability of the investment for each subscriber, including (a) compliance with certain standards in regard to net worth and/or taxable income imposed by various states in which Units are expected to be offered and (b) the investor's capacity to evaluate the suitability for him of an investment in Units, based upon his investment objectives, financial situations and needs.

Applicants state that the Partnership will be controlled by the General Partners, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. It is represented that Limited Partners owning a majority of Partnership interests will have the right to amend the Partnership Agreement, to remove any General Partner and elect a replacement therefor, to sell or otherwise dispose of all or substantially all of the Partnership's assets and to dissolve the Partnership. Applicant further represents, however, that such rights may not be exercised in the absence of an opinion of counsel or other specified authority to the effect that such exercise will not adversely affect the limited liability of the Limited Partners or the tax status of the Partnership. Applicants state that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants state that the substantial fees and other forms of compensation that will be paid to the Managing General Partner and its affiliates have not been negotiated through arm's length neogtiations. They assert, however, that the terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Applicants also state that the Local General Partner will receive from the Local Limited Partnerships nonrecurring acquisition fees, in substantial amounts, which have been negotiated at arm's length by the General Partners and the Local General Partners.

Applicants represent that all proceeds of the public offering of Units will initially be placed in an escrow account with The First National Bank of Boston (the "Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will have the right, at the direction of the Partnership, to invest escrowed funds in short-term debt securities such as United States government securities, securities issued by states or political subdivisions thereof (including, but not limited to, industrial revenue bonds), bank obligations, prime commercial paper and other short-term corporate obligations of comparable investment quality, repurchase agreements covering any of the foregoing securities or registered investment companies holding such securities. When subscriptions for at least 2,000 Units have been received and certain other conditions have been satisfied, funds in escrow will be released to the Partnership and held in trust pending investment in Local Limited Partnerships. Applicants further state that after the Partnership has made an initial capital contribution to a Local Limited Partnership, other funds allocated for subsequent investment in that Local Limited Partnership will be temporarily invested by the Partnership in investments referred to above.

Applicants state that the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"), all required annual reports, quarterly reports and current reports on Forms 10–K, 10–Q and 8–K, respectively, as well as any other reports required by that act. In addition to those reporting requirements, Applicants state that the Partnership will, under the terms of the Partnership Agreement, be required to provide comprehensive reports to Limited Partners on a periodic basis.

Applicants state that the Partnership Agreement provides that the Partnership shall indemnify the General Partners for losses sustained by them or their affiliates in connection with the business of the Partnership. Applicants further state, however, that insofar as indemnification for liabilities under the Securities Act may be permitted to the General Partners, the Partnership has been advised that in the opinion of the Commission, such indemnification is contrary to public policy as expressed in said Act and is therefore unenforceable. Therefore, the Partnership Agreement further provides that there shall be no indemnification in connection with any claim or settlement involving the Securities Act unless (a) the persons seeking indemnification are successful in defending such action and (b) such indemnification is specifically approved by a court that has been advised as to the current position of the Commission regarding such indemnification.

Without conceding that the Partnership is an investment company defined in the Act, Applicants request that the Partnership be exempted from the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides, as herein pertinent, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the provision of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of their request, Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants assert that the limited partnership structure provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and moderate housing programs as involving greater risk than real estate investment generally. Applicants state that the limited partnership form insulates each Limited Partner from personal liability and limits financial risk incurred by the Limited Partner to the amount he has invested in the program, while also allowing the Limited Partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants assert that despite the advantage it affords investors in government-assisted housing, the limited partnership form of organization is incompatible with fundamental provisions of the Act. Thus, an exemption from these basic provisions is needed, and, Applicants contend, it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy established by the housing laws.

Applicants further argue that interests in the Partnership will be sold only to relatively sophisticated investors who must meet specified suitability standards which the Partnership believes are consistent with the security laws of all states where the Units will be sold, and these investors will receive extensive reports concerning the Partnership's business and operations. Among the suitability standards is a requirement that investors either have a net worth (exclusive of home, furnishings and automobile) of at least $200,000 or have a net worth of $50,000 and some portion of their income subject to a federal income tax rate of 39%.

According to the application, the Partnership believes that all potential conflicts of interest between the General Partners and the Limited Partners are disclosed in its prospectus, including the receipt of commissions, fees and other compensation by the General Partners and their affiliates, competition by Local Limited Partnerships with affiliates of the General Partners for properties, and the participation by an affiliate of the General Partners as the Sales Agent for the offering.

Applicants further assert that the Partnership Agreement and prospectus contain various provisions designed to eliminate or significantly reduce these and other conflicts of interest. For example, in connection with investment opportunities which might be available to more than one entity which the General Partners or one of their affiliates advise or manage, the decision as to the suitability of the investment for a particular entity will be based upon a review of the investment objectives of each entity and upon such factors as available cash, maximum investment limit for acquisition, estimated income tax effects, leverage policies, any regulatory restrictions on investment policies and the length of time funds have been available for investment. If a particular investment is determined to be suitable for more than one entity, Applicants represent that priority will be given to the entity having had uninvested funds for the longest period of time.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11940 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; for Unlisted Trading Privileges in Certain Securities; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

April 27, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Carling O'Keefe Limited
Common Stock, No Par Value (File No. 7–6585)

Data General Corporation
Common Stock, $.01 Par Value (File No. 7–6586)

Diebold, Inc.
Common Stock, $1.25 Par Value (File No. 7–6587)

Emery Air Freight Corporation
Common Stock, $.20 Par Value (File No. 7–6588)

Mary Kay Cosmetics, Inc.
Common Stock, $.10 Par Value (File No. 7–6589)

Numac Oil & Gas Ltd.
Common Stock, No Par Value (File No. 7–6590)

Shaklee Corporation
Common Stock, No Par Value (File No. 7–6591)

Trans World Airlines, Inc.
Common Stock, $.01 Par Value (File No. 7–6592)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11992 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13199; 811-3132]

Prime Money Market Trust; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

April 28, 1983.

Notice is hereby given that Prime Money Market Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on February 28, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an

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investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that on January 26, 1983, Applicant's board of trustees recommended to shareholders that Applicant's affairs be wound-up and terminated. According to the application, a Unanimous Consent of Shareholders approving Applicant's termination was executed on January 26, 1983. On the same day, Applicant was dissolved pursuant to its Declaration of Trust and applicable state law. The application further states that Articles of Dissolution were filed with the Secretary of State of the Commonwealth of Massachusetts on February 8, 1983, pursuant to applicable state law.

The application states that, prior to January 26, 1983, security holders' shares were voluntarily redeemed by Applicant at their net asset value. Finally, Applicant states that it is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by Order, and, upon the effectiveness of such Order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11946 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13194, 812-5419]

Prudential-Bache Option Growth Fund, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Sections 18(f)(1) and 17(f) of the Act

April 26, 1983.

Notice is hereby given that Prudential-Bache Option Growth Fund, Inc. (formerly Chancellor Option Growth Fund, Inc.) ("Applicant"), 100 Gold Street, New York, NY 10292, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 27, 1982, and an amendment thereto on March 18, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 18(f)(1) and 17(f) of the Act to the extent necessary to permit Applicant to invest in stock index futures and related options. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the sections from which exemption is requested.

The application states that Applicant's investment objective is to seek a high total return, consistent with reasonable risk. Applicant represents that it is permitted to hedge its portfolio, which will be comprised of common stocks and warrants to purchase common stocks, through the use of stock index futures contracts and related options. Applicant is advised by The Prudential Insurance Company of America ("Prudential"). Prudential-Bache Securities Inc. ("Prudential-Bache") is Applicant's administrator and is also distributor of Applicant's shares. Prudential-Bache is an indirect, wholly owned subsidiary of Prudential.

Applicant states that a stock index assigns relative weightings to the common stocks included in the index, and the index fluctuates with changes in the market values of the common stocks so included. A stock index futures contract is a bilateral agreement pursuant to which two parties agree to take or make delivery of an amount of cash equal to a specified dollar amount times the difference between the stock index value at the close of the last trading day of the contract and the price at which the futures contract is originally struck. No physical delivery of the underlying stocks in the index is made. Stock index futures contracts, and the commodities exchanges on which they are traded, are subject to regulation by the Commodity Futures Trading Commision ("CFTC") under the Commodity Exchange Act ("CEA").

Applicant represents that, unlike when Applicant purchases or sells a security, no consideration is paid or received by Applicant upon the purchase or sale of a futures contract. Initially, Applicant will be required to deposit, for the account and in the name of the broker, in a segregated account with its custodian an amount of cash or United States Treasury bills equal to approximately 5% of the contract amount. This amount is known as initial margin. Applicant represents that the nature of initial margin in futures transactions is different from that of margin in security transactions in that futures contract margin does not involve the borrowing of funds by the customer to finance the transactions. Rather, Applicant asserts that the initial margin is in the nature of a performance bond or good faith deposit on the contract which is returned to Applicant upon termination of the futures contract assuming all contractual obligations have been satisfied. The amount of initial margin on deposit may be retained by the broker if, among other things, Applicant defaults in making payment upon termination of the contract or of the variation margin discussed below. Subsequent payments, called variation margin, to and from the broker, a process known "as marking to market," will be made on a daily basis as the price of the underlying stock index fluctuates, thereby making the long and short positions in the futures contract more or less valuable. Applicant further states that variation margin does not represent a borrowing of or loan by Applicant but is instead the daily settlement between Applicant and the broker of the amount one would owe the other if on such day the contract expired.

Applicant represents that it has undertaken that, on the occasions that it has the right to receive variation margin payments from the broker, it will promptly demand payment by the broker of such amounts upon notification by the broker that such amounts are payable. Any such funds received by Applicant will be held by the Fund's custodian. At any time prior to expiration of the futures contract, Applicant may elect to close the position by taking an opposite position, which will operate to terminate Applicant's position in the futures contract. A final determination of variation margin is then made, additional cash is required to be paid by or released to Applicant and Applicant realizes a loss or a gain. Applicant further states that it intends to purchase call and put options on stock index futures which are traded on a United States exchange or board of trade and may sell such options to terminate an existing position.

Applicant states that its stock index futures contracts are governed by the terms and conditions of such contracts determined by the exchanges on which such contracts are traded, and that its futures positions are evidenced by confirmations of transactions received from the executing broker. Applicant undertakes that its custodian will have copies of such exchange terms and conditions and that the custodian will have possession of such confirmations.

Applicant represents that in connection with its request to the CFTC that such agency confirm its opinion that Applicant is not within the definition of "commodity pool" under the CEA, Applicant has agreed that it will not engage in transactions in stock index futures contracts or related options for speculation but only as a hedge against changes in the values of securities held in Applicant's portfolio or which it intends to purchase and where the transactions are economically appropriate to the reduction of risks inherent in the ongoing management of Applicant. Applicant also represents that it may not purchase or sell stock index futures contracts or purchase related options if immediately thereafter more than one-third of its portfolio would be hedged. In addition, Applicant states that it may not purchase stock index futures contracts or purchase related options if immediately thereafter the sum of the amount of initial margin deposits on Applicant's existing futures positions and premium paid for related options would exceed 5 percent of the market value of Applicant's total assets. In instances involving the purchase of stock index futures contracts by Applicant, an amount of cash and cash equivalents, equal to the market value of the futures contracts, will be deposited in a segregated account with Applicant's custodian to collateralize the position and thereby insure that the use of such futures is unleveraged. According to the application, the full collateralization of a long stock index futures contract makes the use of such futures consistent with reverse repurchase agreements, standby commitments and other similar arrangements discussed in Investment Company Act Release No. 10666 (April 18, 1979) ("Release 10666").

Applicant states that if, as assumed in previous interpretive releases, the Commission has jurisdiction over leveraged investments of registered investment companies generally pursuant to Section 18 of the Act, a stock index futures contract may, because of Applicant's contingent obligation to pay variation margin during the life of the contract, constitute a "senior security" (as that term is defined in Section 18(g) of the Act), for the purpose of Section 18(f). Since such an obligation would not run to a bank, the purchase of a stock index futures contract and of a put or call option thereon by Applicant may constitute the issuance of a senior security by Applicant in violation of Section 18(f)(1) of the Act. In addition, to the extent that variation margin payments to Applicant in connection with a stock index futures contract are held overnight by a broker, Applicant may be unable to comply with the provisions of Section 17(f) of the Act.

Applicant therefore requests an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 18(f)(1) and 17(f) of the Act to the extent necessary to permit Applicant to invest in stock index futures contracts and related options.

In support of the relief requested, Applicant states that it believes that commodities future contracts, including stock index futures contracts, are not "securities" for the purpose of the Act, and, thus, such contracts cannot constitute "senior securities" under Section 18(g) or be subject to regulation under Section 18(f)(1). Furthermore, Applicant states that even if such contracts are considered to be senior securities under the Act, the proposed use by and limitations on Applicant with respect to such contracts do not give rise to the speculative abuses which Section 18(f)(1) was designed to prevent. With respect to this point, Applicant asserts that the limitations on Applicant's use of such contracts and the requirement, in connection with the purchase of a stock index futures contract, that Applicant deposit in a segregated account cash or cash equivalents equal to the market value of such contracts are, in fact, consistent with the procedures set forth in Release 10666 to minimize the speculative aspects of the leveraged investments which were the subject of Release 10666.

Applicant further states that it does not believe that stock index futures contracts and related options are "securities" or that the legislative intent of the term "similar investments" reaches such contracts and options. In addition, Applicant states that it believes a separate custodian agreement among Applicant, its custodian bank and the futures commission merchant, pursuant to which Applicant's margin deposits are held by the custodian subject to disposition by the futures commission merchant in accordance with the CFTC Rules and the rules of the applicable commodities exchange, will be consistent with the provisions of Section 17(f).

Section 6(c) of the Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from many provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its proposed use of stock index futures contracts and related options, subject to the limitations set forth above as to the percentage of the portfolio which may be hedged, the percentage of its net assets which may be deposited as margin and the collateralization of the market value of the futures contracts, is in the best interests of Applicant and its shareholders and consistent with the policy and provisions of the Act. In addition, to the extent that Sections 18(f)(1) and 17(f) of the Act may be deemed to apply to Applicant's proposed use of stock index futures contracts and related options, Applicant submits that the requested exemption from such sections is appropriate in the public interest and consistent with the protection of investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing

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will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-11980 Filed 5-3-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Proposed Information Collections Submitted for OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Proposed Information Collections Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before June 1, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible. COPIES: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Forms Submitted for Review

Title: Study of Significant New Products in U.S. Manufacturing
Form No.: ——
Frequency: Non-recurring
Description of Respondents: U.S. Manufacturing Firms
Annual Responses: 500
Annual Burden Hours: 250
Type of Request: New

Title: Sample Survey and Analysis of Minority and Women-Owned Businesses
Form No.: ——
Frequency: Non-recurring
Description of Respondents: Minority and Women Owners of Small Businesses
Annual Responses: 150,000
Annual Burden Hours: 15,000
Type of Request: New

Dated: April 28, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-11932 Filed 5-3-83; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 9:30 a.m., on Tuesday, May 24, 1983, at One Hartford Square West, Suite 201, (2nd floor), Hartford, Connecticut, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For Further information, write or call John P. Burke, Acting District Director, U.S. Small Business Administration, One Hartford Square West, Suite 201, Hartford, Connecticut, 06106, (203) 722-2511.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

April 28, 1983.

[FR Doc. 83-11833 Filed 5-3-83; 8:45 am]

BILLING CODE 8025-01-M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee; Meeting

The Book and Library Advisory Committee meeting, scheduled for May 19, 1983, will be held at the new headquarters of the United States Information Agency, 400 C Street, SW., Washington, D.C. 20547 in Room 325 from 1:00 p.m. to 5:00 p.m. Agenda topics will include library enhancement proposals and a report on the donated book program.

Charles Canestro,

Management Analyst, Management Plans and Analysis Staff.

[FR Doc. 83-11852 Filed 5-3-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

April 28, 1983.

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "The Precious Legacy: Judaic Treasures from the Czechoslovak State Collections", (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Ministry of Culture of the Czech Socialist Republic representing the State Jewish Museum in Prague and the Smithsonian Institution. I also determine that the temporary exhibition or display of the listed exhibit objections at several museums in the United States, beginning on or about November 8, 1983, to on or about July 29, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: April 29, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-11890 Filed 5-3-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit titled: "Henri Fantin-Latour: A Retrospective Exhibition" (included in the list [1] filed as a part of this determination), imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to agreements among The Fine Arts Museums of San Francisco, La Reunion des Musees Nationaux (France), National Museums of Canada (Ottawa) and the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The Fine Arts Museums of San Francisco, California Palace of the Legion of Honor, San Francisco, California, beginning on or about June 18, 1983, to on or about September 6, 1983, is in the national interest.

[1] An itemized list of objects included in the exhibit if filed as part of the original document.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: April 28, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-11897 Filed 5-3-83; 8:45 am]

BILLING CODE 8230-01-M

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on Wednesday, May 11, 1983, in Room 600, 400 C Street, SW. From 10 a.m. to 12 the Commission will meet with the USIA Area Director for Africa to discuss the Agency's programs and policies in Africa. At 2:30 p.m., the Commission will meet with Ambassador Peter H. Dailey to discuss U.S. information programs in Europe. At 3:30 p.m., the Commission will meet with the USIA's Director of Press and Publications Services to discuss program policies.

Since space is limited, please call Elizabeth Fahl, (202) 485-2457, if you are interested in attending the meeting.

Eileen Binns,

Management Analyst.

[FR Doc. 83-11851 Filed 5-3-83; 8:45 am]

BILLING CODE 8230-01-M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 87
Wednesday, May 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Federal Deposit Insurance Corporation	1

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Time and Subject Matter of Agency Meetings

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the open and closed meetings of the Board of Directors of the Federal Deposit Insurance Corporation scheduled for 2:00 p.m. and 2:30 p.m. on Monday, May 2, 1983, have been rescheduled for 11:00 a.m. and 11:30 a.m., respectively, that same day.

The Board of Directors is expected to withdraw the following matters from the agenda for consideration at the open meeting and to reschedule them for consideration at the Board's open meeting to be held at 2:00 p.m. on Monday, May 9, 1983:

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," to add a new section which would, with reference to the FDIC's "Statement of Policy on the Applicability of the Glass-Steagall Act to Securities Activities of Subsidiaries of Insured Nonmember Banks" issued by the Board of Directors on August 23, 1982, (1) define bona fide subsidiary; (2) limit a bank's permissible investment in a securities subsidiary; (3) require notice of intent to invest in such a subsidiary; (4) limit the permissible securities activities of nonmember bank subsidiaries; and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities.

Memorandum and Resolution re: Uniform Interagency Community Reinvestment Act Assessment Rating System.

No earlier notice of these changes was practicable.

Dated: April 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–627–83 Filed 4–29–83; 5:09 pm]

BILLING CODE 6714–01–M

federal register

Wednesday
May 4, 1983

Part II

Department of Health and Human Services

Public Health Service

Grants for Establishment of Departments of Family Medicine; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Establishment of Departments of Family Medicine

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations govern the award of grants to schools of medicine and osteopathy to assist in meeting the costs of projects to establish, maintain, or improve academic administrative units to provide clinical instruction in family medicine. These grants are authorized by section 780 of the Public Health Service Act.

DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Room 3–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782; Telephone (301) 436–6418.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 16, 1980 (42 FR 68902), the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposed to add a new Subpart R to Part 57 of Title 42 of the Code of Federal Regulations to implement section 780 of the Public Health Service Act. Section 780 authorizes Federal grant support to schools of medicine or osteopathy to assist in establishing, maintaining, or improving academic administrative units to provide clinical instruction in family medicine.

Although the primary purpose of these grants is to promote the adequate supply of primary care practitioners by assisting family medicine units in medical and osteopathic schools to achieve academic parity with other comparable medical specialty units, the Department recognizes that the achievement of this objective may necessitate support of activities carried out by the units. Therefore, project support is also provided to assist with planning and developing model family medical programs and other academic and clinical activities relevant to the field of family medicine as part of the function of the unit. This support complements the grant program for predoctoral, graduate, and faculty development projects in family medicine authorized by section 786(a) of the PHS Act and implemented by 42 CFR Part 57, Subpart Q.

The public comment period on the proposed regulations closed on December 15, 1980. No comments were received during that time. Subsequently, a comment was received concerning the definition of "residency training program" in § 57.1702. This definition states that a "residency training program means a three-year residency program in family practice * * * or *the equivalent of such a program* as determined by the Secretary." (Emphasis added.) The writer suggested that the Secretary specify his determination of equivalency in the case of osteopathic medicine.

The Department believes the definition should be changed to accommodate the differences in structure between osteopathic and allopathic programs. Most postgraduate training programs leading to board certification in osteopathic medicine are two years in duration rather than three, which is the norm for allopathic residency programs in family practice. Since the authorizing statute specifically includes schools of osteopathy as eligible applicants, it seems consistent with the intention of Congress in its use of the "equivalent" language that these differences be accommodated. Therefore, the Secretary has determined only for the purposes of this regulation, that for osteopathic medicine a two-year postgraduate program, appropriately approved, will be considered "the equivalent of" a three-year residency program in family practice. Accordingly, the Department has revised the definition in § 57.1702 in response to this suggestion. This change is also reflected in the program requirements of § 57.1704(e). In addition, the following three technical revisions have been included in the final regulation. In the definition of "residency training program" in § 57.1702, the name of the family medicine residency program accrediting body has been changed from the Liaison Committee on Graduate Medical Education to the name of its successor organization, the Accreditation Council for Graduate Medical Education. In § 57.1705, the funding preference for Fiscal Year 1980 for proposed projects containing an educational program in the prevention, recognition, and treatment of alcoholism has been deleted. While the Department continues to be concerned about alcoholism, it believes that funding for grants establishing family medicine units should be based on all aspects of health care delivery in this field. Finally, the wording of the footnote in § 57.1708 has been revised.

Since the publication of the Notice of Proposed Rulemaking in October 1980, the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) was passed. This legislation impacted heavily on the health professions programs. It amended the existing authority for section 780 accordingly:

—The existing authority for grants to schools of medicine and osteopathy to meet costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine is amended to make it clear that funds could be used to improve an existing department (§ 57.1701).

—The existing requirement that to be eligible for a grant an institution must "have control over" an approved residency program in family medicine is amended to require "have control over (or, in the case of a school of osteopathy, have control over or be closely affiliated with)" such a program (§ 57.1704).

—The existing requirement that the residency program have the capacity to enroll no less than 12 interns or residents per year is amended to require a minimum enrollment capacity of 9 (§ 57.1704).

—Other changes of a technical and conforming nature have been made to the definitions (§ 57.1702).

The respective sections of this regulation have been amended to reflect these statutory changes. Additionally, the Department has determined that the language in the Notice of Proposed Rulemaking (§ 57.1704) contains more prescriptive detail regarding requirements than is necessary for projects to be in legal compliance with this section. Accordingly, we have rewritten certain portions to delete such detail.

Paperwork Reduction Act

The recordkeeping and reporting requirements in § 57.1704 and § 57.1708 and the application forms and instructions for this grant program have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (OMB Approval Numbers are 0935–0065 for the competing application form and 0935–0066 for the continuation application form).

E.O. 12291, Federal Regulation and Regulatory Flexibility Act

These regulations govern a small financial assistance program in which participation is voluntary, and have no other impact. Therefore, the Secretary has determined that this rule does not meet any of the criteria for a major rule as described by Executive Order 12291. Further, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) does not apply to these rules, since the Notice of Proposed Rulemaking was published prior to January 1, 1981.

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

Accordingly, Subpart R is added to Part 57 of Title 42 of the Code of Federal Regulations as set forth below.

(Catalog of Federal Domestic Assistance, No. 13.984, Departments of Family Medicine)

Dated: March 4, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved April 19, 1983.

Margaret M. Heckler,

Secretary.

Subpart R—Grants for the Establishment of Departments of Family Medicine

Sec.

57.1701 To what programs do these regulations apply?
57.1702 Definitions.
57.1703 Who is eligible to apply for a grant?
57.1704 Program requirements.
57.1705 How will applications be evaluated?
57.1706 How long does grant support last?
57.1707 For what purposes may grant funds be spent?
57.1708 What additional Department regulations apply to grantees?
57.1709 What other audit and inspection requirements apply to grantees?
57.1710 Additional conditions.

Authority: Sec. 215 Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); Section 780, Public Health Service Act, 90 Stat. 2311 (42 U.S.C. 295g), as amended by 95 Stat. 221 (42 U.S.C. 295g).

§ 57.1701 To what programs do these regulations apply?

These regulations apply to the award of grants under section 780 of the Public Health Service Act (42 U.S.C. 295g) to schools of medicine and osteopathy to meet the costs of projects to establish, maintain, or improve academic administrative units to provide clinical instruction in family medicine. These projects may include: (a) The planning and development of model predoctoral, faculty development, and graduate medical education programs; and (b) academic and clinical activities relevant to the field of family medicine.

§ 57.1702 Definitions.

"Academic administrative unit" or "unit" means a department, division, or other formal academic unit of a school of medicine or osteopathy that provides clinical instruction in family medicine.

"Act" means the Public Health Service Act, as amended.

"Family medicine" includes "osteopathic general practice" and means the field of medicine in which the physician:

(a) Serves as a physician of first contact with families and patients of all ages and provides a means of entry into the health care system;

(b) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of care;

(c) Assumes responsibility with the patient for comprehensive and continuous health care and acts as a leader or coordinator of others providing health services; and

(d) Considers the patient's total health care within the context of his or her environment, including the community and the family or comparable social units.

"Nonprofit", as applied to any school means one which no part of the net earnings inures, or may lawfully inure to the benefit of any private shareholder or individual.

"Other major clinical units" means formal academic units at the applicant school that offer clinical instruction in internal medicine, obstetrics and gynecology, pediatrics, psychiatry, or surgery.

"Residency training program" means a three-year residency program in family practice that is fully or provisionally accredited by the Accreditation Council for Graduate Medical Education, or the equivalent of such a program as determined by the Secretary. In the case of osteopathic medicine, a postgraduate program of no less than two years' duration, including the osteopathic internship, as approved or provisionally approved by the American Osteopathic Association will be deemed such an equivalent.

"School of medicine or osteopathy" means a public or nonprofit private school in a State that provides training leading respectively, to a degree of medicine or to a degree of doctor of osteopathy and which is accredited as provided in Section 701(5) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means any one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 57.1703 Who is eligible to apply for a grant?

Any school of medicine or osteopathy located in a State is eligible to apply for a grant.

§ 57.1704 Program requirements.

Existing units supported under this subpart must meet all the requirements of this section no later than 12 months after initial award of the grant. Units which are being established with the aid of grants under this subpart must meet the requirement of paragraph (a) of this section no later than 12 months after initial award, and the remaining requirements of this section no later than 24 months after initial award of the grant. However, within the first 12 months of grant support, units which are being established must submit a continuation application. This application is expected to include a plan which details, in a format determined by the applicant, how the remaining project requirements will be met by the end of the second year of grant support. In addition to units that are initially establishing under this subpart, those that change organizational status (i.e., from division to department) are also considered establishing units for the purpose of this subpart. Those that maintain organizational status are considered existing units.

(a) Each project must have a project director, who works at the grantee institution on an appointment consistent with other major departments, heads or will head the unit, and has relevant training and experience in family medicine.

(b) The unit must have academic status comparable to that of one of the other major clinical units at the institution.

(c) The unit must have administrative autonomy comparable to that of other academic units.

(d) The unit must have control over (or in the case of a school of osteopathy, have control over or be closely affiliated with) a residency training program. The program must have the capacity to enroll a total of at least 9 interns or residents annually. A unit whose applicant school does not have a residency program accredited under its

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direct authority will be considered as meeting this requirement if it has a written affiliation agreement with a hospital which conducts a residency program as described.

(e) The unit must have responsibility for providing instruction to each member of the student body who is engaged in an education program leading to a degree in doctor of medicine or doctor of osteopathy. The amount of mandatory and elective curriculum must be comparable to the amount of mandatory and elective curriculum time required for other major clinical units at the school.

(f) The unit must have, in the judgment of the Secretary, a sufficient number of full-time faculty to conduct the instruction required in § 57.1704(f). The number of family medicine faculty in the unit must be comparable to that of full-time faculty responsible for conducting the instruction of one of the other major clinical units at the school.

(g) Each project must evaluate the program of instruction required in § 57.1704(f) of this section, including evaluation of faculty competence, the administration of the program, and the degree to which program objectives are met.

(h) Where projects include the planning and development of model predoctoral, faculty development, or graduate medical education programs, those programs must be designed to eventually meet the requirements of the regulations implementing section 786(a) of the Act, 42 CFR Part 57, Subpart Q.

§ 57.1705 How will applications be evaluated?

After consulting with the National Advisory Council on Health Professions Education established under section 702 of the Act, the Secretary will award grants to applicants whose projects will best promote the purposes of section 780 of the Act and these regulations. The Secretary will consider, among other factors:

(a) The degree to which the proposed project adequately provides for the project requirements in § 57.1704;

(b) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

(c) The qualifications of the proposed staff and faculty of the unit; and

(d) The potential of the project to continue on a self-sustaining basis.

§ 57.1706 How long does grant support last?

(a) The notice of grant award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed five years.

(b) Generally, the grant will initially be funded for one year and subsequent noncompeting continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding noncompeting continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, noncompeting continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application, nor the award of any grant, commits or obligates the Federal Government in any way to make any additional, supplemental, noncompeting continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a noncompeting continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.1707 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, the terms and conditions of the grant award, and the applicable cost principles in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

§ 57.1708 What additional Department regulations apply to grantees?

Several other regulations apply to grants under the subpart. These include, but are not limited to:

42 CFR Part 50	PHS grant appeals process.
45 CFR Part 16	Department grant appeals process.
45 CFR Part 46	Protection of human subjects.
45 CFR Part 74	Administration of grants.
45 CFR Part 75	Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80	Nondiscrimination under programs receiving Federal assistance through the Department—Implements Title VI of the Civil Rights Act of 1964.
45 CFR Part 81	Practice and procedure for hearings under Part 80.
45 CFR Part 83	Nondiscrimination on the basis of sex in the admission of individuals to training programs.
45 CFR Part 84	Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR Part 86	Nondiscrimination on the basis of sex in federally assisted education programs.
45 CFR Part 91	Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 57.1709 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

§ 57.1710 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of an award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 83-11938 Filed 5-3-83; 8:45 am]
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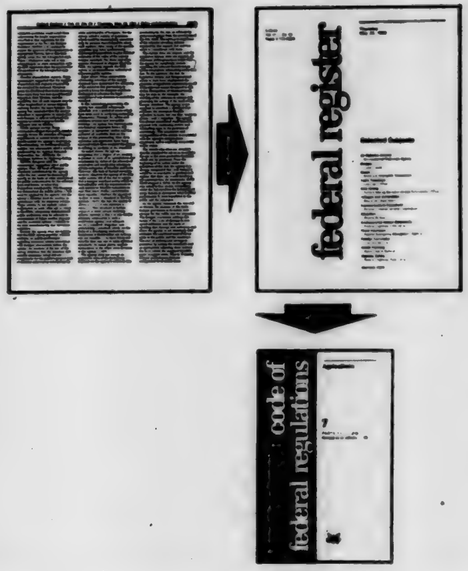

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 577]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 6–May 12, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on May 3, 1983 at Lindsay, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

Section 907.877 is added as follows:

§ 907.877 Navel orange regulation 577.

The quantities of navel oranges grown in California and Arizona which may be handled during the period May 6, 1983 through May 12, 1983, are established as follows:[1]

(1) District 1: 1,500,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 4, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–12247 Filed 5–4–83; 11:31 am]
BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1942

Emergency Jobs Bill; Additional Appropriation for Rural Water and Waste Disposal Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This action implements regulations for making Rural Water and Waste Disposal Grants with funds appropriated under Pub. L. 98–8 (Emergency Jobs Bill). The intended effect of this action is to create employment and initiate Federal projects and construction of lasting value to the Nation and its citizens. This action is being taken as a result of legislation.

EFFECTIVE DATE: Effective May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Laurence G. Bowman, Loan Officer, Farmers Home Administration, Water and Waste Disposal Division, Room 6328–S, 14th and Independence Avenue, SW., Washington, D.C. 20250 (202/382–9642).

SUPPLEMENTARY INFORMATION: This action has been reviewed under the procedures prescribed in E.O. 12291 and has been determined to be a major regulation. The regulation is likely to result in an annual effect on the economy of $100 million or more. It has been determined that an emergency situation exists, therefore, compliance with E.O. 12291 and the Secretary of Agriculture's Memorandum 1512–1 is impractical. The legislation under which these regulations are being issued was recognized by Congress as emergency legislation to alleviate critically high unemployment levels in as expeditious a manner as possible. An exception has been granted by the Office of Management and Budget (OMB) under

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E.O. 12291 to respond to and meet the intent of the emergency jobs appropriations.

It is the policy of this Department that rules relating to loans, grants, benefits, or contracts shall be published for prior public comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not being published for proposed rulemaking because to do so would delay expenditure of the appropriated funds with a resultant delay in the creation of additional employment which would be contrary to the public interest. Since Congress specified which regulations were to be used, comments on these regulations would be superfluous and unnecessary.

Public Law 98–8, "Making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent" for rural water and waste disposal grants administered by the FmHA. The Act requires that these funds be administered "under the 1981 formula and regulations for 'Rural Water and Waste Disposal Grants'." FmHA regulations currently in effect for rural water and waste disposal grants do not allow such grants to applicants where the median family income of the service area exceeds eighty-five (85) percent of the State nonmetropolitan median family income. The 1981 regulations do not have such an income limitation.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB #0575–0074.

Charles W. Shuman, Administrator, has determined that this action will not have a significant economic impact on a substantial number of small entities. This is an administrative action to implement regulations mandated by Pub. L. 98–8.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Imapct Statement is not required.

The Catalog of Federal Domestic Assistance (CFDA) No. is 10.418, "Water and Waste Disposal Systems for Rural Communities."

List of Subjects in 7 CFR Part 1942

Community development, Grant programs—housing and community development, Rural areas, Waste treatment and disposal—domestic, Water supply—domestic.

Accordingly, FmHA places in effect the regulations contained in Subpart H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations (CFR) as published in the 7 CFR volume revised as of January 1, 1981, for making grants under Pub. L. 98–8.

In addition, the letter of conditions and the Supplemental General Conditions of construction contract documents will be revised. It is the Congressional intent of Pub. L. 98–8, that to the extent practicable, funds will be used to maximize immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks prior to March 24, 1983.

Therefore, FmHA amends Subpart A and H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

1. Section 1942.17 is amended by adding paragraph (s) to read as follows:

§ 1942.17 Appendix A—Community Facilities

* * * * *

(s) *Loans under Pub. L. 98–8 (Emergency Jobs Bill).* Each FmHA project that is funded utilizing FmHA loan funds authorized by Pub. L. 98–8 (Emergency Jobs Bill), will also comply with § 1942.372 (b) and (c) of Subpart H of Part 1942 of this chapter.

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

2. Section 1942.372 is added to read as follows:

§ 1942.372 Special Conditions under Public Law (Pub. L.) 98–8 (Emergency Jobs Bill).

Each project to be funded utilizing grant funds authorized by Pub. L. 98–8 (Emergency Jobs Bill) will be processed in accordance with Exhibit D of this Subpart. In Exhibit D of this subpart (1981 regulations), all references to other FmHA regulations and Forms will be construed to mean the most current version of the other regulations and forms, and the following:

(a) Grant funds shall be made available for projects and activities in civil jurisdictions with high unemployment, or in labor surplus areas, or in political units or in pockets of poverty that are currently or should meet the criteria to be eligible under the Urban Development Grant Action (UDAG program administered by the Department of Housing and Urban Development).

(b) Each letter of conditions that is issued utilizing FmHA loan and/or grant funds authorized by Pub. L. 98–8 will contain the following:

(1) Standard paragraphs in accordance with § 1942.5(a)(1)(ii) of Subpart A of Part 1942 of this chapter, and

(2) "The (i.e. town, district, authority) shall to the extent practicable utilize FmHA funds in a manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks prior to March 24, 1983. Such a condition will be made part of any construction contract awarded in support of FmHA funds."

(c) The following should be added to the Supplemental General Conditions of construction contracts involving Pub. L. 98–8 funds:

To the extent practicable, the contractor shall hire needed new employees in a manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks prior to March 24, 1983.

Exhibit D [Added]

3. Exhibit D is added to read as follows:

Regulations for Grant Approvals Utilizing Funds Made Available Under Pub. L. 98–8

I. General

(a) This Exhibit outlines the policies and authorizations and sets forth the procedures for making and processing grants to assist in financing the development cost of domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users. Farmers Home Administration (FmHA) will maintain continuous liaison and coordination with State and substate planning district officials. FmHA shall cooperate fully with appropriate State agencies in making grants in a manner which will assure maximum support of the State's strategies for development of rural areas. State and substate A–95 agencies may recommend priorities for applications. FmHA will give due consideration to all A–95 agency review comments and priority recommendations in selecting applications for funding. FmHA State Directors are reminded that funds allocated for use as prescribed in this subpart are to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. It

is essential that Indians residing on such reservations have equal opportunity to participate in the benefits of these programs on as equal a basis as other residents of the State. This is intended to include an equal application of the outreach activities of FmHA County and District Offices.

(b) It is the policy that the County Office will normally be the entry point for preapplications and serve as the local contact point. However, applications will be filed and grants will be processed to the maximum extent possible by the District Office staff. The State Office staff will monitor grant making and servicing and will provide assistance to District Office personnel to the extent necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on grant activity within the County Office service area to the County Supervisor at key points throughout the grant making process.

(c) It is the policy of FmHA to extend its financial program without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (possess capacity to enter into legal contract.)

II. Processing Applications and Docket Preparation

(a) Preapplications and applications for water and waste disposal development grants will be processed in accordance with § 1942.2 of Subpart A of Part 1942 of this chapter.

(b) Grant dockets will be prepared in accordance with this Subpart and applicable portions of §§ 1942.17, 1942.18 and 1942.19 of Subpart A of Part 1942 of this chapter.

III. Applicant Eligibility and Priority

(a) *Eligibility.* Applicant eligibility shall be determined in accordance with § 1942.17(b) of Subpart A of Part 1942. Also grants shall not be made in connection with any project unless the project:

(1) Will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed.

(2) Is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area. Also, water systems must have sufficient capacity to provide for reasonable fire protection.

(3) Is necessary for orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area in which the project is located.

(b) *Applicant priorities.* Preference for grant funds will be given to applicants and projects in accordance with § 1942.17(c) (1) and (2) of Subpart A of Part 1942 of this chapter.

IV. Use of Grant Funds

Funds may be used only for the following purposes:

"(a) Domestic and water waste facilities—install and improve community domestic water and waste disposal facilities including:

(1) Facilities for the development, storage, treatment, purification and distribution of water.

(2) Sanitary sewer facilities including collection lines, treatment plants, outfall lines, disposal fields, and stabilization ponds.

(3) Storm sewers for the collection and disposal of surface drainage.

(4) Solid waste disposal projects including facilities for the collection, treatment, or disposal of human, animal, agricultural and other wastes. Items such as garbage trucks and equipment, sanitary landfills, and incinerators are included.

(b) Purchase or rent equipment necessary to extend, protect, develop or utilize facilities. Such purchases or rentals must be necessary to provide efficient service, to enable the facility to remain in operation, and to fulfill the purposes and intent of the loan and/or grant. However, funds may not be used to pay any annually recurring costs, including purchases or rentals, that are normally considered to be operation and maintenance expenses.

(c) Acquire land and rights. Acquiring land, interest in land, and rights such as water rights, leases, permits, right-of-way, and other evidence of land or water control which are necessary for development of the facility.

(d) Buildings, fences, secondary facilities, and relocation.

(1) Construct buildings of modest design, size, and cost, and fences essential to the successful operation or protection of authorized facilities and to provide storage for tools and supplies needed to operate the facility.

(2) Construct secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(3) Construct or relocate roads, bridges, utilities, fences, and other public improvements or relocate roads, bridges, utilities, fences, and other private improvements.

(e) Services and fees. Pay costs incidental to establishment of such facilities or for services necessary to accomplish any of the above purposes, including, but not limited to:

(1) Paying fees or other legal expenses of establishing water rights through appropriation, agreement, permit, or court decree.

(2) Paying for other services necessary in planning and completing the facilities to be financed.

(3) Acquiring a water supply by purchasing of water stock or membership in a water users association.

(f) FmHA grant funds may be used on projects where other types of financial assistance are available on all or part of the project, provided the other assistance is on reasonable rates and terms. In such cases the maximum percentages allowed under other agencies' authorities will apply to their participation in the project. However, the FmHA grant may not exceed seventy-five percent (75%) of the eligible project development cost. The need for FmHA grant funds must meet the requirement of paragraph VI of this Exhibit after considering all project financing.

V. Grant Limitations

(a) Grant funds may not be used to:

(1) Pay for the construction of any new combined storm and sanitary sewer facilities.

(2) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses.

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale.

(4) Purchase fire trucks, hoses, and other firefighting equipment or construct housing for such equipment.

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Pay for saleserooms or other purposes not directly related to operation and maintenance of the facility being installed or improved.

(7) Purchase existing systems.

(8) Refinance existing indebtedness.

(9) Pay any portion of the cost of a facility when the annual reserve based on a typical year exceeds one-tenth of the average annual debt service requirement unless State regulatory agencies require a larger reserve, or when it is anticipated that facility replacement costs on a relatively short-term basis will require a higher reserve.

(10) Pay interest.

(11) Pay any portion of the cost of a facility which is not located in a rural area.

(b) An FmHA development grant may not be made in excess of seventy-five percent (75%) of the eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

VI. Determining the Need for Development Grants

(a) FmHA District Directors are responsible for determining applicant eligibility for grants and the amount of such grants. Form FmHA 1942–51, "Water and Waste Disposal Development Grant Summary," will be used to determine the amount of FmHA grant assistance for which the applicant qualifies. A separate form will be used to record the determination of FmHA grant assistance for each water, sewer collection and treatment, solid waste, and storm drainage project. A copy of each such form along with the letter of conditions and Form FmHA 1942–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects," will be submitted to the National Office, Attention: Water and Waste Disposal Loan Division by the State Director not later than the time of issuance of the letter of conditions.

(b) Grants will be used for water and waste disposal projects serving the most financially needy communities to reduce user costs to a reasonable level for farmers, ranchers, and rural residents. Other rural users whose needs are met or, if there is no meter, could be met by a single residential-size water meter may also be considered eligible. For example, a user on a waste system may be considered for a grant when the water needs of the waste user are met or could be met by such residential-size meter. This method of computing grants will be used for all water and waste disposal projects. Reasonable user rate is defined as that which is not less than

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existing prevailing rates in communities being served by an established system constructed at similar cost per user and having similar economic conditions. User costs shall include charges, taxes, and assessments attributable to the project. An exception to the reasonable user rate may be granted by the FmHA National Office in justifiable cases for areas of extremely low income when it is necessary to meet the needs of a particular community. Such an exception will only be considered when comparable systems are not available or the user rates from the comparable systems appear to be too high for the average user of the applicant, and the median income in the applicant service area is less than $4,000. When it is determined that such an exception should be considered, the FmHA State Director will submit information to the National Office concerning health conditions of the area, median income of the service area, and user rates and median incomes of other like or most similar communities in the region, employment conditions, and any other information to justify the recommendation for the exception.

(1) Grants may not exceed seventy-five percent (75%) of the eligible project development costs listed in paragraph IV of this Exhibit.

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average annual user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentages of median incomes:

(i) .75 percent when the median income is under $6,000.

(ii) 1.00 percent when the median income is $6,000 to $10,000.

(iii) 1.25 percent when the median income is over $10,000.

Median income will be determined in accordance with paragraph VI(b)(6). Except as provided for in paragraphs VI(b) and (b)(4), the grant will be limited to an amount necessary to reduce the debt service portion of the user cost to the applicable percent level listed above. If the median income is not available, the average income may be used. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph VI(b). However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph VI(b).

(3) When the applicant will be furnishing bulk service to rural residents served by another system, a grant to such applicant may also be considered for an amount to reduce the user costs on a similar basis as provided in this paragraph for users of such other system. An agreement between the applicant and the other system (entity) will be obtained that clearly shows that the benefit of the grant will accrue only to the users intended to be benefited by the grant. For purposes of grant determination, all other systems which will receive bulk service may either:

(i) Be considered as part of the total by averaging the median incomes of the systems involved and averaging the debt service portion for the particular service of the other systems; or

(ii) Consider the median income and the debt service portion for the particular service for each entity separately.

(4) If, after applying the formula described in paragraph (VI)(b)(2), FmHA determines that a reasonable user cost has not been achieved due to unusually high operation and maintenance costs, construction or water acquisition costs, or other factors, FmHA may proceed with a grant in an amount necessary to reduce the user cost to not below a reasonable level as defined in paragraph VI(b). However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph VI(b).

(5) If, after applying the formula described in paragraph (VI)(b)(2), FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (VI)(b) provided this option is only available to an applicant that imposes uniform user charges for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less then existing prevailing costs in communities, being served by an established system, having similar economic conditions.

(6) The median income in the applicant community or those reference communities used in comparing the proposed system with similar systems will be determined by the FmHA District Director as follows:

(i) The median income will be determined from the U.S. Department of Commerce, Bureau of Census, Publication PC (1)–C series or from reliably extracted unpublished Bureau of Census data for individual enumeration Districts; or

(ii) For those projects where the FmHA District Director has reason to believe that the census data is not an accurate representation of the median income within the area to be served, the District Director may determine the median income taking into consideration the following:

(A) Data from responsible public or private sources.

(B) The District Director's knowledge of the community based on availability FmHA data gained through individual loans.

(C) The results of a survey conducted by the applicant.

(D) By using a combination of the above.

(7) Preliminary engineering reports and suggested operating budgets included herein will be prepared without taking a grant into consideration.

VII. Application Review and Approval

(a) When an FmHA loan and grant are being processed simultaneously, the application review and approval procedures outlined in § 1942.5 of Subpart A of Part 1942 will be followed. Grants will be approved in accordance with this Exhibit and FmHA Instruction 1901–A which is available in any FmHA Office. When a grant only (no FmHA loan) is being made, only those provisions will apply which are necessary to assure:

(1) That the proposed development is completed in accordance with approved plans and specifications.

(2) That grant funds are expended for authorized purposes.

(3) That the terms of the grant agreement are complied with.

(b) Each letter of conditions involving a grant will contain the following:

(1) An item which reads:

"You shall execute the attached Form FmHA 1942–31, 'Association Water or Sewer System Grant Agreement.'"

(2) All items contained in § 1942.5(a)(1) of Subpart A of Part 1942 of this chapter applicable to the grant funding.

(3) Other relative requirements.

VIII. Preparation of Appraisal Reports

When the grant approval official requires an appraisal, Form FmHA 442–10, "Appraisal Report—Water and Waste Disposal System," with appropriate supplements may be used. Appraisal reports will be prepared by the FmHA engineer or, if desired by the grant approval official, another qualified appraiser.

IX. Borrower Contracts

The requirements of § 1942.17 (1) and (3) of Subpart A of Part 1942 of this chapter will be followed when concurring in agreements between grantees and third parties.

X. Grant Approval and Obligating Funds

(a) FmHA State Directors are authorized to approve grants being made in accordance with this Exhibit and Exhibit B of FmHA Instruction 1901–A which is available in any FmHA Office.

(b) State Directors may obligate funds including Regional Commission grant funds when they are available, in accordance with § 1942.5(d) of Subpart A of Part 1942 of this chapter.

XI. Preparation for Grant Closing

Section 1942.6 of Subpart A of Part 1942 of this chapter will be followed when preparing for grant closing.

XII. Grant Closing and Delivery of Funds

(a) Grants will be closed in accordance with instructions received from the Office of the General Counsel (OGC). FmHA policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Borrower funds will be disbursed before the disbursal of any FmHA grant funds.

(1) FmHA loan funds will be disbursed before the disbursal of any FmHA grant funds except when:

(i) Interim financing of the total FmHA loan amount is arranged,

(ii) All interim funds have been disbursed, and

(iii) FmHA grant funds are needed before the FmHA loan can be closed.

(2) The FmHA loan should be closed as soon as possible after the disbursal of all interim funds; however, the loan should be closed no later than construction completion. If grant funds are available from other agencies and are transferred to the Finance Office for disbursement by FmHA, these grant funds shall be disbursed in accordance with the agreement governing such agencies' participation in the grant. Any grant funds remaining will be handled in accordance with § 1942.17(p)(6) of Appendix A of Subpart A of Part 1942.

(b) FmHA grant funds will be disbursed b using multiple advances in accordance with § 1942.17(p)(2) of Subpart A of Part 1942.

(c) Form FmHA 1942–31 will be completed and executed in accordance with the requirements of approval and closing instructions. Both District Directors and State Directors are authorized to sign the grant agreement on behalf of FmHA. For grants that supplement FmHA loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing as provided for in paragraph XII(a)(1) the grant will be closed not later than the delivery date of the first advance of grant funds. The grant will be considered closed when Form FmHA 1942–31 has been properly executed. Incorporated as a part of this regulation is Form FmHA 1942–31 which appears as Exhibit C to Subpart H of Part 1942 in the **Federal Register.**

XIII. Planning and Performing Development

Planning and performing development will be handled in accordance with §§ 1942.9 and 1942.18 of Subpart A of Part 1942 of this chapter.

XIV. Actions Subsequent to Loan Closing

Section 1942.8 of Subpart A of Part 1942 of this chapter will be followed for water and waste disposal development grants.

XV. Grant Servicing

Grants will be serviced in accordance with Subpart E of Part 1951 of this Chapter.

XVI. Grant Cancellation

The District Director or State Director may prepare and execute Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," in accordance with the Forms Manual Insert. If the docket has been forwarded to OGC, that office will be notified of the cancellation by a copy of Form FmHA 1940–10. The borrower's attorney and engineer, if any, should be notified of the cancellation. The borrower's attorney and engineer may be provided with a copy of the notification to the applicant.

XVII. Subsequent Grants

Subsequent grants will be processed in accordance with this Exhibit.

XVIII. Regional Commission Grants

Grants are sometimes made by regional commissions for projects eligible for FmHA assistance. FmHA has agreed to administer such funds in a manner similar to FmHA assistance.

(a) When FmHA has funds in the project, no charge will be made for administering commission funds.

(b) When FmHA has neither loan nor grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932 (31 U.S.C. 686). A fee of five percent (5 percent) of the first $50,000 of a regional commission grant and one percent (1 percent) of any amount over $50,000 will be paid FmHA by the commission.

(1) Appalachian Regional Commission. Exhibit A of Subpart of H of Part 1942 will be followed in determining the responsibilities of FmHA. The Federal Cochairman and the State Director will provide each other with the necessary notification and certification.

(2) Other regional commissions. Title V of the Pubic Works and Economic Development Act of 1965 authorizes other commissions similar to the Appalachian Regional Commission. Exhibit B of Subpart H of Part 1942 of this chapter will be used to develop a project management agreement between FmHA and the commission separately for each project. The agreement should be prepared by the FmHA State Director as soon as notification is received that a commission grant will be made and the amount is confirmed.

(c) Regional commission grants should be obligated as soon as possible in accordance with § 1942.5(d) of Subpart A of Part 1942 of this chapter, except that the announcement procedure refered to in § 1942.5(d)(8) is not applicable. Regional commission grants will be obtained from the Finance Office in the same manner as FmHA funds are obtained.

XIX. Management Assistance

Grant recipients will be supervised to the extent necessary to assure that facilities are constructed in accordance with approved plans and specifications and to assure that funds are expended for approved purposes.

XX. State Supplements and Guides

This Exhibit may be supplemented by State Supplements and guides in accordance with § 1942.16 of Subpart A of 1942 of this chapter.

XXI. Delegation of Authority

The State Director is responsible for implementing the authorities contained in this Exhibit and may redelegate such authority to appropriate FmHA employees.

(7 U.S.C. 1989; Title I of Pub. L. 98–8; 7 CFR 2.23; 7 CFR 2.70)

Dated: April 25, 1983.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83–12091 Filed 5–4–83; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 204, 205, 212 and 214

Powers and Duties of Service Officers; Availability of Service Records; Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revocation of Approval of Petitions; Documentary Requirements: Nonimmigrants, Waivers, Admission of Certain Inadmissible Aliens, Parole; and Nonimmigrant Classes; Certain Amerasians Fathered by United States Citizens

Correction

In FR Doc. 83–11280 beginning on page 19153 in the issue of Thursday, April 28, 1983, make the following correction:

On page 19153, third column, second complete paragraph, 19th line, "Form I–139" should read "Form I–130"; in the 22d line, "Form I–130" should read "Form I–134".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 318

[Docket Number 83–004N]

Analyses of Pumped Bacon for Nitrosamine Content, Change in Methodology

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Rule related notice.

SUMMARY: This notice announces the Food Safety and Inspection Service's implementation of a new analytical procedure for confirming the presence of volatile nitrosamines in pumped bacon. The new procedure is a gas chromatography mass spectrometry method and will replace the gas chromatography mass spectrometry method currently used.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Ellis, Director, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7623.

SUPPLEMENTARY INFORMATION:

Background

Section 318.7(b)(2) of the Federal meat inspection regulations (9 CFR 318.7(b)(2)) sets forth the Department's procedures for collecting and analyzing

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samples of pumped bacon to determine nitrosamine levels. An initial sample is collected and then analyzed using a Thermal Energy Analyzer. Should the analysis indicate that a confirmable level of nitrosamines might be present in the product, then the Department is required to collect and analyze additional samples. The second analysis is conducted using a gas chromatography mass spectrometry (GC/MS) testing method. Presumptive positive results are not considered truly positive unless they have been confirmed as such by a GC/MS testing method.

The Department hereby announces that confirmatory analyses of presumptive positives will be conducted using a new procedure known as the Low Temperature Vacuum Distillation Method. This procedure utilizes GC/MS confirmation and provides the Agency with several advantages over the procedure currently used for nitrosamine confirmation. The new procedure provides comparable analytical results and more rapid analytical turnaround, and is transferable to FSIS field laboratories. The use of the new procedure will provide the Agency with significant savings in both time and cost.

Department savings are best evidenced by the fact that under the current testing procedure, the time required to obtain confirmed test results is approximately eight (8) working days from the time analysis begins. With the new test procedure, confirmed test results are generally available in four (4) working days from the time analysis begins. As is now the case, confirmation analysis will not be started until twenty-one (21) days after sliced bacon samples are collected from an establishment for confirmation analysis. These samples will still be collected only when presumptive results from regular monitoring samples indicate non-compliance.

The Department will commence using the new procedure for confirming volatile nitrosamine content in the cooked pumped bacon monitoring program. Copies of the method are available upon request from the Chemistry Division, Science Program, FSIS, USDA, Washington, DC 20250.

Done at Washington, D.C. on April 28, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-12009 Filed 5-4-83; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASO-5]

Designation of Transition Area, St. Marys, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at St. Marys, Georgia, to accommodate Instrument Flight Rule (IFR) operations at St. Marys Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the Jacksonville Airport Surveillance Radar (ASR) system, has been developed to serve the airport and this additional controlled airspace is required for protection of IFR operations.

EFFECTIVE DATE: 0901 G.m.t., June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, February 10, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a transition area at St. Marys, Georgia, to provide controlled airspace for containment of aeronautical operations in the vicinity of St. Marys Airport (48 FR 6125). The operating status of St. Marys Airport is changed from VFR to IFR and this transition area will provide the controlled airspace for accommodation of IFR operations. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received in response to publication. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the St. Marys, Georgia, transition area to accommodate aeronautical operations at St. Marys Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., June 9, 1983, as follows:

St. Marys Airport, GA—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of St. Marys Airport (Lat. 30°45'16" N., Long. 81°33'27" W.), excluding that portion that coincides with the Fernandina Beach Airport transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on April 26, 1983.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 83-11806 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23616; Amdt. No. 1241]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Index

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

. . . Effective June 9, 1983

Northway, AK—Northway, VOR-B, Amdt. 3
Northway, AK—Northway, VOR/DME-A, Original
Colusa, CA—Colusa County, VOR-A, Amdt. 3
Oroville, CA—Oroville Muni, VOR-A, Amdt. 2
Willows, CA—Willows-Glenn County, VOR/DME, Rwy 34, Amdt. 4
Willows, CA—Willows-Glenn County, VOR Rwy 34, Amdt. 4
Durango, CO—Durango-LaPlata County, VOR-A, Amdt. 5
Durango, CO—Durango-LaPlata County, VOR/DME Rwy 2, Amdt. 3
Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 19, Amdt. 2
Gainesville, FL—Gainesville Regional, VOR-A, Amdt. 9
Melbourne, FL—Melbourne Regional, VOR Rwy 27L, Amdt. 9
Melbourne, FL—Melbourne Regional, VOR Rwy 9R, Amdt. 16
Eastman, GA—Eastman-Dodge County, VOR/DME-A, Amdt. 4
Savannah, GA—Savannah Muni, VOR Rwy 27, Amdt. 12
Mattoon-Charleston, IL—Coles County Memorial, VOR Rwy 6, Amdt. 10
Mattoon-Charleston, IL—Coles County Memorial, VOR Rwy 24, Amdt. 8
Evansville, IN—Evansville Dress Regional, VOR Rwy 4, Amdt. 4
Eagle Grove, IA—Eagle Grove Muni, VOR/DME-A, Original
Frankfort, KY—Capital City, VOR Rwy 6, Amdt. 5
Frankfort, KY—Capital City, VOR Rwy 24, Amdt. 6
Plymouth, MA—Plymounth Muni, VOR-A, Amdt. 1, cancelled
Plymouth, MA—Plymouth Muni, VOR Rwy 15, Amdt. 2
Grand Ledge, MI—Abrams Muni, VOR-A, Amdt. 2
Hillsdale, MI—Hillsdale Muni, VOR-A, Amdt. 5
Lexington, MS—C. A. Moore, VOR/DME-A, Original
St. Louis, MO—Creve Coeur, VOR-A, Amdt. 2
Kearney, NE—Kearney Muni, VOR Rwy 18, Amdt. 8
Kearney, NE—Kearney Muni, VOR Rwy 36, Amdt. 5
Tekamah, NE—Tekamah Muni, VOR Rwy 32, Amdt. 1
Thedford, NE—Thomas County, VOR Rwy 8, Amdt. 2
Newark, NJ—Newark Intl, VOR/DME-B, Original
Poughkeepsie, NY—Dutchess County, VOR/DME Rwy 6, Amdt. 4
Lima, OH—Lima Allen County, VOR Rwy 27, Amdt. 12

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East Stroudsburg, PA—Stroudsburg-Pocono Airpark, VOR/DME–A, Amdt. 3
East Stroudsburg, PA—Birchwood-Pocono Airpark, VOR/DME Rwy 31, Amdt. 1
Ebensburg, PA—Ebensburg, VOR–A, Amdt. 5
Elkins, WV—Elkins-Randolph County-Jennings Randolph Field, VOR/DME–B, Amdt. 1
Baraboo, WI—Baraboo Wisconsin Dells, VOR–A, Amdt. 9
Worland, WY—Worland Muni, VOR Rwy 16, Amdt. 3

. . . *Effective May 12, 1983*

Jefferson City, MO—Jefferson City Memorial, VOR Rwy 12, Amdt. 13
Jefferson City, MO—Jefferson City Memorial, VOR Rwy 30, Amdt. 10
Sand Springs, OK—William R. Pogue Muni, VOR–A, Original
Tulsa, OK—Richard Lloyd Jones, Jr., VOR Rwy 36L, Original

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

. . . *Effective June 9, 1983*

Gainesville, FL—Gainesville Regional, LOC BC Rwy 10, Amdt. 5
Melbourne, FL—Melbourne Regional, LOC BC Rwy 27L, Amdt. 6
Indianapolis, IN—Eagle Creek Airpark, LOC Rwy 21, Amdt. 1
Wichita, KS—Wichita Mid-Continent, LOC BC Rwy 1L, Original, cancelled
Cumberland, MD—Cumberland Muni, LOC/DME Rwy 23, Amdt. 2
Kearney, NE—Kearney Muni, LOC Rwy 36, Amdt. 1
Belmar-Farmingdale, NJ—Monmouth County, SDF Rwy 14, Amdt. 1
Indiana, PA—Indiana County/Jimmy Stewart Field, LOC–B, Amdt. 1
Reedsville, PA—Mifflin County, LOC Rwy 6, Amdt. 5
Elkins, WV—Elkins-Randolph County-Jennings Randolph Field, LDA–C, Amdt. 3
Marshfield, WI—Marshfield Muni, SDF Rwy 34, Amdt. 1

. . . *Effective May 12, 1983*

Jefferson City, MO—Jefferson City Memorial, LOC Rwy 30, Amdt. 3
Milwaukee, WI—Lawrence J. Temmerman, LOC Rwy 15L, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . *Effective June 9, 1983*

Shishmaref, AK—Shishmaref, NDB Rwy 15, Original
Shishmaref, AK—Shishmaref, NDB Rwy 33, Original
El Monte, CA—El Monte, NDB–C, Original
Gainesville, FL—Gainesville Regional, NDB Rwy 28, Amdt. 7
Melbourne, FL—Melbourne Regional, NDB Rwy 9R, Amdt. 11
Savannah, GA—Savannah Muni, NDB Rwy 9, Amdt. 16
Mattoon-Charleston, IL—Coles County Memorial, NDB Rwy 29, Amdt. 3
Evansville, IN—Evansville Dress Regional, NDB Rwy 18, Amdt. 1
Evansville, IN—Evansville Dress Regional, NDB Rwy 22, Amdt. 12
Evansville, IN—Evansville Dress Regional, NDB Rwy 36, Amdt. 1
Indianapolis, IN—Eagle Creek Airpark, NDB Rwy 21, Amdt. 1
Portland, IN—Portland Muni, NDB Rwy 9, Amdt. 1
Portland, IN—Portland Muni, NDB Rwy 27, Amdt. 6
Knoxville, IA—Knoxville Muni, NDB Rwy 15, Amdt. 4
Knoxville, IA—Knoxville Muni, NDB Rwy 33, Amdt. 3
Frankfort, KY—Capital City, NDB Rwy 24, Amdt. 7
Paducah, KY—Barkley Regional, NDB Rwy 4, Amdt. 9, cancelled
Paducah, KY—Barkley Regional, NDB Rwy 22, Original
New Roads, LA—False River Airpark, NDB Rwy 36, Original
Plymouth, MA—Plymouth Muni, NDB Rwy 6, Amdt. 5
Ludington, MI—Mason County, NDB Rwy 25, Amdt. 6
West Yellowstone, MT—Yellowstone, NDB Rwy 1, Amdt. 3
Kearney, NE—Kearney Muni, NDB Rwy 36, Amdt. 1
Gastonia, NC—Gastonia Muni, NDB Rwy 3, Original
Gallipolis, OH—Gallia-Meigs Regional, NDB Rwy 23, Amdt. 4
Lima, OH—Lima Allen County, NDB–A, Amdt. 2, cancelled
Lima, OH—Lima Allen County, NDB Rwy 9, Original
Indiana, PA—Indiana County/Jimmy Stewart Field, NDB–A, Amdt. 4
Latrobe, PA—Westmoreland County, NDB Rwy 23, Amdt. 9
Blackstone, VA—Blackstone AAF-Allen C. Perkinson Muni, NDB–A, Amdt. 9
Emporia, VA—Emporia-Muni, NDB Rwy 33, Amdt. 5
Elkins, WV—Elkins-Randolph County-Jennings Randolph Field, NDB–A, Amdt. 2

. . . *Effective May 12, 1983*

Jefferson City, MO—Jefferson City Memorial, NDB Rwy 30, Amdt. 6
Tulsa, OK—Richard Lloyd Jones Jr., NDB Rwy 36L, Original, cancelled

Note.—The FAA published an amendment in Docket No. 23604, Amdt. No. 1240 to Part 97 of the Federal Aviation Regulations (Vol. 48 FR No. 75 Page 16482; Dated April 18, 1983) Under § 97.27 effective March 30, 1983, which is hereby amended as follows:

Hutchinson, MN—Hutchinson Muni, NDB Rwy 33, Amdt. 12 is changed to read as follows:
Hutchinson, MN—Hutchinson Muni, NDB Rwy 15, Amdt. 1, effec. 30 MAR 83

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective June 9, 1983*

Durango, CO—Durango-LaPlata County, ILS/DME Rwy 2, Amdt. 1
Oakland, CA—Metropolitan Oakland Int'l, ILS Rwy 27R, Amdt. 30
Gainesville, FL—Gainesville Regional, ILS Rwy 28, Amdt. 9
Melbourne, FL—Melbourne Regional, ILS Rwy 9R, Amdt. 6
Savannah, GA—Savannah Muni, ILS Rwy 9, Amdt. 21
Mattoon-Charleston, IL—Coles County Memorial, ILS Rwy 29, Amdt. 3
Evansville, IN—Evansville Dress Regional, ILS Rwy 22, Amdt. 20
Evansville, IN—Evansville Dress Regional, ILS Rwy 4, Amdt. 1
West Yellowstone, MT—Yellowstone, ILS Rwy 1, Amdt. 3
Poughkeepsie, NY—Dutchess County, ILS Rwy 6, Amdt. 3
Akron, OH—Akron-Canton Regional, ILS Rwy 1, Amdt. 31
Akron, OH—Akron-Canton Regional, ILS Rwy 19, Amdt. 1
Akron, OH—Akron-Canton Regional, ILS Rwy 23, Amdt. 4
Altoona, PA—Altoona-Blair County, ILS Rwy 20, Amdt. 2
Latrobe, PA—Westmoreland County, ILS Rwy 23, Amdt. 10
Crossville, TN—Crossville Memorial, ILS Rwy 25, Amdt. 7

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . *Effective June 9, 1983*

Evansville, IN—Evansville Dress Regional, RADAR–1, Amdt. 5
Des Moines, IA—Des Moines Muni, RADAR–1, Amdt. 15
Mandan, ND—Mandan Muni, RADAR–1, Original
Akron, OH—Akron-Canton Regional, RADAR–1, Amdt. 15
Burlington, VT—Burlington Intl, RADAR–1, Amdt. 3

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective June 9, 1983*

Eastman, GA—Eastman-Dodge County, RNAV Rwy 2, Original
Savannah, GA—Savannah Muni, RNAV Rwy 18, Amdt. 4
Savannah, GA—Savannah Muni, RNAV Rwy 27, Amdt. 3
Aurora, IL—Aurora Muni, RNAV Rwy 27, Amdt. 2
Evansville, IN—Evansville Dress Regional, RNAV Rwy 4, Amdt. 7
Detroit, MI—Detroit Metropolitan-Wayne County, RNAV Rwy 21R, Original
Detroit, MI—Detroit Metropolitan-Wayne County, RNAV Rwy 21C, Amdt. 4, cancelled
Poughkeepsie, NY—Dutchess County, RNAV Rwy 6, Amdt. 4
Wise, VA—Lonesome Pine, RNAV Rwy 24, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on April 29, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 83-11805 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 390

[Docket No. 30422–62]

General Order Suspending Validated Licenses and Other Authorization for Exports to the U.S.S.R.

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes § 390.6, General Order Suspending Validated License and Other Authorizations for Exports to the U.S.S.R. This order was issued on January 11, 1980, 45 FR 3027, January 16, 1980 in reaction to the Soviet invasion of Afghanistan and was superseded by the order of December 30, 1981 (§ 390.8) 47 FR 144, January 5, 1982 which suspended all licensing for exports to the U.S.S.R. On November 18, 1982, the President rescinded the controls which lead to the December 30, 1981 order, and § 390.8 was removed. Section 390.6 should also have been removed at that time.

EFFECTIVE DATE: This rule is effective May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters Staff, Telephone: (202) 377–4811.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 390

Advisory committees, Exports.

PART 390—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

§ 390.6 [Removed and Reserved]

Section 390.6 is removed and reserved.

(Sec. 4, 13, 15, 16 and 21, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. section 2401 *et seq.*; E.O. No. 12214 (45 FR 29783, May 6, 1980))

Dated: April 28, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-11905 Filed 5-4-83; 8:45 am]

BILLING CODE 3510-25-M

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201, 210 and 211

Procedures in Unfair Import Trade Practice Investigations

AGENCY: International Trade Commission.

ACTION: Final rules; amendment and clarification.

SUMMARY: On June 10, 1982, the Commission published amendments to Part 210 of its Rules of Practice and Procedure (19 CFR Part 210) providing procedures in unfair import trade practice investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) for initial determinations by the presiding officer and discretionary Commission review. (47 FR 25134, June 10, 1982). On March 4, 1983, the Commission issued further amendments in the form of interim rules designed to clarify certain provisions and effectuate the smooth functioning of the new procedures. (48 FR 9242, April 4, 1983). The interim rules were to remain in effect pending the receipt of public comment and the issuance of final rules. No public comments were received by the Commission during the 30-day comment period.

EFFECTIVE DATE: May 5, 1983. The procedures amended by these rules are applicable only to section 337 investigations instituted subsequent to June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202–523–0486.

SUPPLEMENTARY INFORMATION:

List of Subjects

19 CFR Part 201

Administrative practice and procedure, Classified information, Confidential business information, Freedom of information, Investigations, Lawyers, Privacy, Seals and insignia, Sunshine Act.

19 CFR Parts 210 and 211

Business and industry, Customs duties and inspection, Imports, Investigations.

Authority for adoption of these amendments is contained in 19 U.S.C. 1335 and the Administrative Procedure Act, 5 U.S.C. 551, et seq. Complete explanation of the purpose of the amendments may be had by reference to the Commission's prior notice of March 4, 1983 (48 FR 9242).

PART 201—[AMENDED]

19 CFR Part 201 is amended as set forth below.

1. In § 201.16, paragraph (d) is revised to read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(d) *Additional time after service by mail.* Whenever a party or Federal agency or department has the right or is required to do some act or take some proceedings within a prescribed period after the service of a document upon it and the document is served upon it by mail, three (3) days shall be added to the prescribed period, except that when mailing is to a person located in a foreign country, ten (10) days shall be added to the prescribed period.

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PART 210—[AMENDED]

19 CFR Part 210 is amended as set forth below.

1. In § 210.14, paragraph (b) is revised to read as follows:

§ 210.14 Commission action, public interest factor, and bonding.

* * * * *

(b) Unless otherwise ordered by the Commission, the presiding officer shall not take evidence or other information or hear arguments from the parties and other interested persons with respect to the subject matter of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section. However, with regard to settlements by agreement or consent order under § 210.51 (c) and (d), the parties may file statements regarding the impact of the proposed settlement on the public interest, and the presiding officer may in his discretion hear argument, although no discovery may be taken with respect to issues relating solely to the public interest. Thereafter, the presiding officer shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

2. In § 210.51, paragraphs (c)(1) and (c)(2) are revised to read as follows:

§ 210.51 Termination of investigation.

* * * * *

(c) *Settlement by licensing or other agreement.* (1) An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a licensing or other agreement entered into between the complainant (all of the complainants if there is more than one) and one or more of the respondents. A motion for termination by such parties shall contain copies of the licensing or other agreement and any agreements supplemental thereto and an affidavit executed by the parties stating that there are no other agreements, written or oral, expressed or implied, between such parties concerning the subject matter of the investigation. If the licensing or other agreement contain confidential business information within the meaning of § 201.6 of the Commission's rules, a copy of the agreement with such information deleted shall accompany the motion.

(2) The motion, licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with an initial determination regarding the motion for termination. If the licensing or other agreement or the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission simultaneously with the confidential versions of such documents. The Commission shall promptly publish a notice in the **Federal Register** stating that an initial determination has been received terminating the respondent or respondents in question on the basis of a licensing or other agreement, that nonconfidential versions of the initial determination and the agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within ten (10) days of the date of publication of the notice in the **Federal Register.** An order of termination based upon such licensing or other agreement shall not constitute a determination as to violation of section 337.

* * * * *

3. In § 210.53, paragraph (h) is revised to read as follows:

§ 210.53 Initial determination.

* * * * *

(h) *Effect.* An initial determination shall become the determination of the Commission thirty (30) days after the service thereof, unless the Commission, within thirty (30) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55, or by order shall have changed the effective date of the initial determination.

* * * * *

4. In § 210.54, paragraph (b)(1) is revised to read as follows:

§ 210.54 Petition for review.

* * * * *

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review within thirty (30) days of the filing of the initial determination, or by such other time as the Commission may order.

* * * * *

5. § 210.55 is revised to read as follows:

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(h), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. The standards for granting review of an initial determination are set forth in § 210.54(a)(2). In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has directed review on its own initiative shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

PART 211—[AMENDED]

19 CFR Part 211 is amended as set forth below.

1. In § 211.20, paragraph (b) is revised to read as follows:

§ 211.20 Opportunity to submit proposed consent order.

* * * * *

(b) *Subsequent to institution of an investigation.* In investigations under section 337, a proposal to settle a matter by consent shall be submitted as a motion to the presiding officer to terminate an investigation under § 210.51 together with a consent order agreement which incorporates a proposed consent order. If the consent order agreement contains confidential business information within the meaning of § 201.6 of the Commission's rules, a copy of the agreement with such information deleted shall accompany the motion. The proposed agreement shall comply with the requirements of § 211.22. At any time prior to commencement of a hearing as provided in § 210.41(a)(1), the motion may be filed jointly by all of the following: (1) All private complainants, (2) the commission investigative attorney, and (3) one or more respondents. However, upon request and for good cause shown, the presiding officer may consider such a motion during or after a hearing. The filing of the motion shall not stay proceedings before the presiding officer unless the presiding officer so orders. The presiding officer shall promptly file with the Commission an initial determination regarding the motion for termination. If the initial determination contains confidential business information, a copy of the initial determination with such information deleted shall be filed with the Commission simultaneously with the filing of the confidential version of the

initial determination. The Commission shall promptly publish a notice in the **Federal Register** stating that an initial determination has been received terminating the respondent or respondents in question on the basis of a consent order agreement, that nonconfidential versions of the initial determination and consent order agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within ten (10) days of the date of publication of the notice in the **Federal Register.** Pending disposition by the Commission of a consent order agreement, a party may not, absent good cause shown, withdraw from the agreement once it has been submitted pursuant to this section.

2. Section 211.21 is revised to read as follows:

§ 211.21 Settlement by consent.

(a) After the initial determination on the motion for termination based on a consent order agreement has been filed with the Commission, the Commission shall promptly serve copies of the nonconfidential version of the initial determination and the proposed consent order agreement on the Department of Health and Human Services, the Department of Justice, and the Federal Trade Commission, and such other departments and agencies as the commission deems appropriate.

(b) The Commission, after considering the effect of the consent order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers in the manner provided by § 210.14(a)(4), shall dispose of the initial determination according to the procedures of §§ 210.54–210.56. An order of termination based upon a consent order agreement shall not consititute a determination as to violation of section 337. The Commission shall publish in the **Federal Register** and serve on all parties notice of its action together with a statement of reasons in support thereof. Should the Commission reject the proposed agreement and deny the motion, the parties are in no way bound by their proposal in later actions before the Commission.

Issued: April 28, 1983.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-11911 Filed 5-4-83; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 880, 881, 883, 884, and 886

[Docket No. R-83-1040]

Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of announcement of effective date for interim rule.

SUMMARY: This notice announces the effective date for the interim rule published in the **Federal Register** on March 28, 1983 (48 FR 12698) that implemented certain provisions in the Housing and Community Development Amendments of 1981 which changed the Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.**

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the interim rule published March 28, 1983 (48 FR 12698), is May 4, 1983.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Director, Office of Multifamily Housing Development, Telephone: (202) 755-5720 or (with respect to Part 883) Steven Silvert, Acting Director, Office of State Agency and Bond Financed Programs, Telephone: (202) 755-8135. (These are not toll-free numbers.)

Dated: May 2, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-12070 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Outer Continental Shelf; Notice of Interpretation of Rules Concerning Extension of a Lease Beyond its Primary Term

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of interpretation.

SUMMARY: In accordance with the Outer Continental Shelf Lands Act (OCSLA), an oil and gas lease shall be for an initial period and for as long thereafter as the lease is producing in paying quantities or approved drilling or well reworking operations are being conducted on the lease. This notice sets out the policy of the Department of the Interior (DOI) with regard to the circumstances under which a lease may be extended beyond its primary term.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, (703) 860-7916 or FTS: 928-7916.

SUPPLEMENTARY INFORMATION: Section 8(b) of the OCSLA requires that an oil and gas lease be for an initial period "and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon * * *." The section also entitles the lessee to explore, develop, and produce subject to due diligence requirements. Section 5(a) (7) requires the Secretary to promulgate regulations requiring the "prompt and efficient exploration and development of a lease area * * *."

To meet these responsibilities, DOI promulgated the regulations at 30 CFR 250.35. In that rule, DOI established a requirement that a lease could be continued beyond its primary term either by production or by the conduct of approved drilling or well reworking operations at no greater time intervals than every 90 days. By allowing no greater time lapse than 90 days, the activities would be deemed prompt and efficient.

Questions have arisen concerning leases that are near the end of or beyond their primary term, and on

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which a discovery has been made, but for various reasons production is not feasible at that time. Is the lessee required to conduct drilling or well reworking operations at least every 90 days in order to keep the lease alive?

Section 250.35(a) contains a caveat that no time lapse of greater than 90 days will be deemed prompt and efficient "unless operations on the lease have been suspended pursuant to § 250.12 of this part." Section 250.2 sets out the circumstances under which lease operations may be suspended, thereby extending the term of the lease for a period of time equivalent to the time period of the suspension. These regulations implement section 5(a)(1) of the OCSLA.

Under § 250.12(b), the Director of the Minerals Management Service may suspend operations upon the request of the lessee if the Director determines that the suspension is in the national interest and will * * *

(i) Facilitate proper development of a lease; (ii) allow for the construction of, or for the negotiation for the use of, transportation facilities; (iii) facilitate the installation of equipment the Director determines is necessary for safety or environmental reasons; or (iv) allow for inordinate delays encountered by the lessee in obtaining any required permit or consent from Federal, State, or local government authority, including administrative or judicial challenges or appeals.

In order for the Government to evaluate a request for a suspension, the lessee must provide the reasons for the request, a schedule leading to the initiation or restoration of operations, and any other information as required. It is DOI's policy that leases which are near the end of or beyond their primary term, and on which a discovery has been made but are not yet in production, will be considered for a suspension of production or other operations if sufficient exploration to delineate areas of production has been completed and development has commenced. Commencement of development must be evidenced by a discovery of minerals in paying quantities and by submission of a schedule reasonably designed to lead to commencement of production. In determining the reasonableness of a schedule, due consideration shall be given to circumstances such as water depth, distance from shore, and availability of transportation and storage facilities. The times projected in the schedule must be reasonable for the conditions under which the lease is being developed. Such schedule shall also provide for the development of all known significant accumulations of hydrocarbons on the lease. If the Director determines that the criteria have been met, a suspension may be granted, and the lessee would not be required to meet the 90-day requirements of § 250.35 during the period of the suspension.

Therefore, the DOI believes that the suspension provisions of 30 CFR 250.12 answer the question asked above. Every lease past its primary term and not in production is not necessarily required to conduct approved drilling or well reworking operations every 90 days in order to continue the term of the lease. Under appropriate circumstances, a lease term can be extended by the granting of a suspension of production or other operations. If the request is based on circumstances that meet the requirements of § 250.12 and the lessee has a work schedule that is reflective, under the circumstances, of prompt and efficient measures to develop and produce a lease, then it is the DOI's policy that a suspension is in order.

In keeping with the spirit of Executive Order 12291 and the DOI's policy to avoid proliferation of regulations, amendments to § 250.35 are considered unnecessary under these circumstances. The flexibility to extend or continue a lease term without burdensome, counterproductive, or expensive drilling or well reworking operations at least every 90 days already resides in the suspension provisions of 30 CFR 250.12.

Dated: April 26, 1983.

Harold Doley,

Director.

[FR Doc. 83-11023 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 294

[DOD Directive 5400.12]

Obtaining Information From Financial Institutions

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The change to this part specifically recognizes the statutorily mandated authority of the Inspector General, Department of Defense, to issue administrative subpoenas for access to financial records held by financial institutions.

EFFECTIVE DATE: April 15, 1983.

FOR FURTHER INFORMATION CONTACT: Lt. Col. William C. Goforth, USAF, Staff Executive (Attorney), Defense Privacy Board, c/o OSD Mail Room, Rm: 3A948, The Pentagon, Washington, D.C. 20301. Telephone: 202/694-3027.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-8380 appearing in the **Federal Register** on March 19, 1980 (45 FR 17575) the Office of the Secretary of Defense (OSD) published a final rule establishing procedures for the Department of Defense Components to follow in obtaining information from financial institutions under the "Right to Financial Privacy Act of 1978", Title 12, United States Code, Section 3401, *et seq.* Subsequently in FR Doc. 81-16451 published in the **Federal Register** on June 3, 1981 (46 FR 29705) OSD published as a final rule certain changes to the basic rules including suggested procedures to be followed by Components when obtaining financial records from U.S. financial institutions overseas. This new rule modifies further the basic rule by recognizing the fact that under the provisions of the Inspector Generals Act of 1978 as amended (Pub. L. 95-452 as amended by Pub. L. 97-252) the new Inspector General, DOD, has the authority to issue administrative subpoenas for access to financial records under the Right to Financial Privacy Act. No DOD Component had this authority before.

List of Subjects in 32 CFR Part 294

Banks, banking, Credit, Privacy.

PART 294—[AMENDED]

Accordingly, 32 CFR Chapter I, Part 294, is amended by revising paragraphs (a)(1) and (d) of § 294.9 to read as follows:

§ 294.9 Other access procedures.

(a) *Access by compulsory legal process.*—(1) *Administrative summons or subpoena.*

(i) Within the Department of Defense, the Inspector General, DOD, has the authority under Pub. L. 95-452 (The Inspector General Act of 1978, as amended by Pub. L. 97-252) to issue administrative subpoenas for access to financial records. No other DOD Component official may issue summons or subpoenas for access to these records.

(ii) The Inspector General, DOD, shall issue administraive procedures for access to financial records in accordance with established procedures.

* * * * *

(d) Annual Report. The annual reporting requirements of § 294.14 shall apply to access procedures under § 294.9 (a) and (b).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1983.

[FR Doc. 83-11872 Filed 5-4-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-83-01]

Drawbridge Operation Regulations; Kent Island Narrows, Md.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maryland Department of Transportation, the Coast Guard is changing the regulations that govern the operation of the Kent Island Narrows Drawbridge at Grasonville, Maryland which will change the number and times of openings during summer weekend peak traffic periods. This change is being made because some summer weekend draw openings have contributed to large vehicular traffic back-ups in the vicinity of the drawbridge. This action will better balance the needs of vehicular and marine traffic.

EFFECTIVE DATE: This rule becomes effective on May 27, 1983.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Portsmouth, Virginia 23705 (804) 398-6222.

SUPPLEMENTARY INFORMATION: On February 22, 1983, the Coast Guard published a proposed rule (48 FR 7476) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal as a Public Notice dated February 24, 1983. In each notice, interested persons were given until April 9, 1983 to submit comments. A public hearing was also held on March 24, 1983 at Chesapeake College, Queen Anne's County, Maryland, in which the public was invited to make oral comment.

Due to the expected heavy holiday traffic for the upcoming Memorial Day weekend, and the fact that this final rule will be widely disseminated by various means, this amendment is being made effective less than 30 days from its publication.

Drafting Information

The drafter of this rule is Commander David J. Kantor, project attorney.

Discussion of Comments

At the public hearing, 21 individuals spoke in favor of the proposed operating schedule change and 13 individuals spoke in opposition.

All 21 proponents of the change indicated they favored the change as written, feeling that it would help alleviate the traffic problems now being experienced in the vicinity of the drawbridge. Public safety officials, supported by comments of local residents, expressed concern that the ability of emergency vehicles to respond during periods of heavy traffic back-up was seriously jeopardized. Two individuals expressed concern about opening the draw to navigation on Fridays and Sundays at 8:00 p.m. when average hourly directional vehicular traffic exceeds 2000 vehicles. However, both individuals endorsed the proposed change as written and did not request a change be made at these times.

All of the opponents felt the increased opening restrictions unduly burdened navigation. Concerns over safety and negative economic impact were also voiced, although no substantive data was offered in support. Four individuals recommended that the bridge be opened every other hour. Based upon surveys and the testimony of state highway officials from Maryland, it is apparent that large vehicle back-ups currently occur when directional traffic exceeds 2000 vehicles per hour. However, 2000 vehicle per hour conditions are reached only during certain portions of Fridays, Saturdays and Sundays. A schedule which takes into account the differing conditions, both vehicular and marine, will better balance the equities and be responsive to the needs of both user groups. With respect to the suggestion of an opening every other hour, a 2-hour opening schedule has previously been tried and found to have only aggravated the problem. One of these four individuals also recommended shortening the summer schedule to the period from Memorial Day to Labor Day. Because of heavy vehicle traffic extending from early May until at least mid October, opening on signal at these times would only serve to increase existing problems. For this reason, it is felt a summer schedule running from May 1 to October 31 will better address the situation.

Another person recommended adding to the proposed schedule a 7:00 p.m. Friday opening, a 10:00 a.m. Saturday opening and a 4:00 p.m. Sunday opening. Similarly, another person proposed deleting from the proposed schedule the 3:00 p.m. Friday opening and adding a 4:00 p.m. and 6:00 p.m. Friday opening, deleting the 7:00 a.m. Saturday opening and adding openings at 8:00 a.m., 10:00 a.m. and 2:00 p.m. on Saturdays, and adding openings at 2:00 p.m., 4:00 p.m. and 6:00 p.m. on Sunday. Since these suggestions are similar to some written comments, they will be responded to below.

In addition to the statements made at the public hearing, 122 written comments and 1 petition were submitted to the Coast Guard. Of the 122 comments, 64 were in favor of the proposed change and 58 (22 of which were identical form letters stating general opposition) were in opposition. The petition, which contained 30 signatures, favored more restrictive openings. Of the 64 comments favoring the change, 62 either indicated their support for the change as written or the need to simply limit current draw openings because of excessive vehicular traffic congestion. One letter requested that the drawbridge be permanently closed to navigation. This suggestion must be rejected as it obviously calls for a total restriction of navigation. Another comment suggested the addition of a 4:00 p.m. or 5:00 p.m. Sunday opening but deleting the 8:00 p.m. openings on both those days. Since the 8:00 p.m. openings on Friday and Sunday are the only late evening openings permitted by the proposed schedule, elimination of this opening would unfairly restrict navigation.

The 58 comments submitted in opposition to the proposed change in draw operations generally contended that it unreasonably restricted navigation. Many of the comments contained suggested modifications to the proposed schedule. Without detailing each suggested modification, their basic tenor was that either an additional opening be permitted Saturday morning or a time change be made to the Saturday morning proposed schedule. In addition, they requested additional openings between the 1:00 p.m. and 8:00 p.m. openings on Sunday. There were also requests for additional Friday afternoon openings, retention of the present schedule, openings every two hours, and openings every half-hour.

Based upon prior studies and the information gathered at the public hearing and through written comments, the Coast Guard is making one change to the proposed schedule by changing the Saturday 7:00 a.m. opening to a 9:00 a.m. opening. This change will better accommodate the needs of the boater

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and motorist by providing the much requested mid-Saturday morning opening while keeping the bridge closed to navigation at a time (7:00 a.m.) when eastbound traffic is heaviest. Although many comments requested additional openings between the Sunday 1:00 p.m. opening and the 8:00 p.m. opening, statistics have shown that westbound traffic between these hours is at its highest volume. Considering the major disruption to vehicular traffic a bridge opening would cause during this period, additional draw openings cannot be justified. Based on a large compilation of data, as well as all comments received, it is felt the final rule will best temper the existing traffic problem and yet provide for the reasonable needs of navigation.

Many comments submitted by those opposing the change expressed some concerns about potential safety problems and a need to better facilitate the passage of vessels through the draw. While the Coast Guard is not convinced that there is a water safety problem, other than the normal hazards related to negotiating a draw, it does feel that the second concern merits consideration. In addressing this latter concern, some commenters have suggested the establishment of vertical clearance and tidal guage signs to permit boaters to know whether they can clear the bridge in a closed position, either under the main or adjacent spans. In addition, it's been suggested that a system be established, such as large digital clocks, to notify boaters of the time of the next opening. This, combined with a 5 minute warning whistle prior to each opening, may help reduce waiting time. Also suggested was the use of red and green traffic lights for vessels, under the control of the bridgetender, to provide a more rapid and orderly passage by vessels. Finally, it may be helpful to the motorist if permanent signs were displayed at or near approaches to the Kent Narrows corridor informing all motorists of bridge opening times. The Coast Guard believes these suggestions are meritorious and has strongly encouraged the State of Maryland, as bridge owner, to adopt and implement these measures to enhance the flow of marine traffic.

Finally, many of the comments and statements received on this matter suggested construction of a high level bridge. The Coast Guard must agree that any permanent solution to the traffic problems in the Kent Narrows corridor necessitates either an expansion of the present bridge or construction of a new high level bridge or tunnel. In the interim, it is expected that this final rule will achieve a better balance between the motorist and boater. It is not anticipated that any further adjustments will be made to this rule. The permanent solution remains in the hands of the State of Maryland.

This rule has been reviewed for its potential economic impact. It should carry a positive economic impact for those business interests, including resort areas, on the Eastern Shore that have expressed a concern that the heavy traffic back-ups hamper business. Although there are on file several letters which express a concern based on negative economic impact, this final rule is based upon all available evidence. It is designed to preserve numerous bridge openings, especially at most of the times where statistics have shown concentrated vessel traffic. Based on this, it is the Coast Guard's position that there should be no significant reduction of recreational boating in the area. Therefore, the economic impact in the immediate area should be minimal.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

PART 117—[AMENDED]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.290 (b) and (c) to read as follows:

§ 117.290 Kent Island Narrows, Md., Highway bridge at Grasonville, Md.

* * * * *

(b) From May 1 through October 31:

(1) On Monday (except Monday holidays) through Thursday, the drawbridge shall open for the passage of vessel traffic on the hour from 7 a.m. to 7 p.m., but need not open at any other time.

(2) On Friday, the drawbridge shall open for the passage of vessel traffic on the hour from 6 a.m. to 3 p.m. and at 8 p.m., but need not open at any other time.

(3) On Saturday, the drawbridge shall open for the passage of vessel traffic at 6 a.m., 9 a.m., and 12 noon, and on the hour from 3 p.m. to 8 p.m., but need not open at any other time.

(4) On Sunday and legal holidays falling on Monday, the drawbridge shall open for the passage of vessel traffic on the hour from 6 a.m. to 1 p.m., and at 8 p.m., but need not open at any other time.

(5) The draw shall open at scheduled opening times only if vessels are waiting to pass, and at each opening the draw shall remain open for a sufficient period of time to allow passage of all waiting vessels.

(6) If a vessel is approaching the drawbridge and cannot reach the draw exactly on the hour, the drawtender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(c) All public vessels of the United States, and those State or local vessels on public safety missions, shall be passed at any time. The opening signal from these vessels is five or more blasts of a whistle or horn. The opening signal from all other vessels is one long blast followed by one short blast.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: April 27, 1983.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 83-12087 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[Reg. 83-01]

COTP Hampton Roads, VA; Safety Zone Regulations; Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Elizabeth River, Norfolk, Virginia to be effective whenever a naval aircraft carrier transits the river either to or from the Norfolk Naval Shipyard, Portsmouth, Virginia. The circumstances creating the need for this action are the restricted nature of the Elizabeth River and the reduced amount of maneuverability of aircraft carriers which, in turn, pose a threat to other watercraft in the area. Excluding vessels moored prior to transit and which remain so moored, waterborne traffic will be prohibited from entering or remaining in the safety zone when in effect.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. Six, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441–3296.

SUPPLEMENTARY INFORMATION: On January 27, 1983, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (48 FR 3783). Interested persons were requested to submit comments and one written comment was received.

Drafting Information

The drafters of this regulation are Lieutenant Commander W. K. Six, project officer for the Captain of the Port and Commander D. J. Kantor, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Comment

One written comment was received on the proposed regulation. The comment supported the concept of restricting the movement of marine traffic in the vicinity of naval aircraft carriers, and further suggested that the area in which this safety zone would be effective be extended out into Chesapeake Bay. This extension of the area is not considered necessary because of the greater maneuvering room in the Chesapeake Bay area for these vessels. Further, U.S. Navy representatives indicate the area they are concerned with is only that portion of the Elizabeth River from the Norfolk Naval Station, Norfolk, Virginia to the Norfolk Naval Shipyard, Norfolk, Virginia.

Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the safety zone will be implemented on an average of only ten to twelve times per year and will generally be in effect for a few hours each time. Further, the safety zone is a moving zone around the transitory vessel, and will not significantly impede the movement of other vessels. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Act (94 Stat. 1164) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.503 to read as follows:

§ 165.503 Elizabeth River, Norfolk, Virginia.

(a) The waters and waterfront facilities located within the following boundaries are a safety zone when a naval aircraft carrier is transiting the Elizabeth River to or from the Norfolk Naval Shipyard, Portsmouth, Virginia: a circle with a radius of 500 yards with the transiting vessel as its center.

(b) The Captain of the Port will notify the maritime community of periods which this safety zone will be effective through Notice to Mariners and other normal means of notification.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: April 25, 1983.

J. D. Webb,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, U.S. Coast Guard.

[FR Doc. 83-12084 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 2323-2]

Approval and Promulgation of State Implementation Plans—Revision to the Montana Prevention of Significant Deterioration Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving a revision to the Montana State Implementation Plan (SIP) submitted by the Governor on January 19, 1983. This SIP revision relates to requirements for the permitting of new major sources and major modifications to existing sources, in areas of the State which are in attainment of the National Ambient Air Quality Standards. Montana has revised its SIP in accordance with the requirements for the Prevention of Significant Deterioration (PSD) of air quality (40 CFR 51.24), as those sections were amended on August 7, 1980 (45 FR 52729–52735). In conjunction with the approval of this plan revision, the application of the Federal PSD program to lands under State jurisdiction is being suspended.

EPA's review of this SIP revision was conducted concurrently with the public review of the same revisions at the State level. This concurrent review, which EPA refers to as "parallel processing", is designed to reduce the time necessary for EPA approval of SIP revisions.

EFFECTIVE DATE: This action will be effective June 6, 1983.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Montana Office, 301 S. Park, Helena, Montana 59626

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Kenneth L. Alkema, Environmental Protection Agency, 301 S. Park, Drawer 10096, Helena, Montana 59626, Phone: (406) 449–5414.

SUPPLEMENTARY INFORMATION: On May 20, 1982 (47 FR 21880), EPA proposed to approve Montana's SIP revision for PSD. EPA proposed approval of the State's PSD regulations prior to final State adoption of the SIP revision. EPA refers to this new procedure as "parallel processing." It is designed to shorten the time needed to act on SIP Revisions. EPA indicated in the proposed rulemaking notice that if the regulations adopted by the State did not differ substantially from the version EPA proposed to approve, EPA would issue a final rule shortly after State adoption.

On November 19, 1982, the Montana State Board of Health and Environmental Sciences adopted the SIP revision on PSD. The revision which

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was adopted did not differ substantially from the version which EPA proposed to approve in its May 20, 1982, Federal Register notice. The only changes made by the State were in the definition of baseline area. Under the initial proposal, baseline area was defined on a county basis. This definition was changed to "statewide" for sulfur dioxide and to "impact area" for total suspended particulates. Since all of these alternatives are discretionary to the State, they do not constitute a significant change relative to EPA's review authority. These rules were submitted to EPA on January 19, 1983.

The Montana PSD regulation does not explicitly require that any redesignation approved by the State be submitted to EPA for its approval. Although it is clear from a reading of the regulation that the State did not intend to exclude EPA from the process, EPA wishes to emphasize that any redesignation approved by the State must be submitted to EPA as a State Implementation Plan revision, and must be approved by EPA in order for the redesignation to take effect.

In developing its regulations, the State was unclear about who would take responsibility for interacting with the Federal Land Managers (FLMs). The State wishes to assume responsibility for notifying the FLMs of all sources wishing to locate with 100 km of any Class I areas. The State will also transmit the permit applications at the time they are declared complete, as well as all other relevant material. The State has committed to amend its regulations to clarify this responsibility. In the interim, the State has committed, as a policy measure, to comply with this responsibility.

As adopted, the portion of the State's regulation dealing with source impact analysis does not specifically address sources which have permits, but which have not begun construction. However, the State has agreed that, as a matter of policy, in making such analyses it will include allowable emissions from sources which have permits, but have not begun construction.

In the notice EPA published on May 20, 1982 (47 FR 21880), comments were requested on EPA's proposal to approve Montana's SIP revision on PSD. Only one set of comments was received. That came from the Western Energy Company in Butte, Montana. The comments concerned the manner in which the Montana PSD regulation treated fugitive emissions, increment consumption, baseline area, and baseline date. The comments consisted of a copy of the written testimony that Western Energy presented at the public hearing held by the Montana State Board of Health and Environmental Sciences on March 13, 1982. In the following paragraphs the Company's testimony is summarized and EPA's response to each of the comments is provided.

Comment: The company expressed a concern over the way in which emissions from mines, primarily "fugitive emissions," are treated.

The company asserted that the entire increment could be consumed by fugitive emissions, thereby precluding any future development.

EPA Response: The PSD regulation adopted by the State of Montana, treats fugitive emissions in a manner identical to EPA's PSD regulations (e.g., fugitive emissions from mines do not count in determining a "net emissions increase" or in determining "potential to emit" unless the source belongs to specified source categories, but fugitive emissions do consume increment). However, as a result of a recent settlement agreement nogotiated in response to litigation challenging EPA's August 7, 1980, final rules *(Chemical Manufacturers' Association, et al., v. EPA* (D.C. Cir., No. 79–1112)), EPA has agreed to propose certain changes to the federal PSD regulations which may alter some of the existing regulatory provisions. In his testimony at the hearing, the Chief of the Montana Air Quality Bureau (the agency responsible for drafting the regulation) stated that as soon as EPA modified its PSD regulation regarding increment consumption by fugitive dust, the State would propose to do likewise.

Inasmuch as the State designed its regulation to be consistent with EPA's existing regulation, EPA concludes that the State has dealt with this issue adequately.

Comment: The company contended that either a county-by-county or statewide baseline area was unduly restrictive. Many of the counties in Montana are quite large. To place this in perspective, the company's testimony pointed to the fact that Rosebud County in eastern Montana is larger than the states of Rhode Island, Delaware or Connecticut. The company, therefore, proposed as an alternative the use of an "impact area". The impact area "would be defined by measurable increases of SO_2 or particulate matter of one microgram per cubic meter or more on an annual basis."

EPA Response: The State made a concerted effort to involve the public in the development of the PSD regulation. A total of six drafts of the regulation were produced. These were widely circulated to industry, environmental groups, EPA and the public at large. Prior to the public hearing on March 13, 1982, numerous informal meetings were held with all persons interested in participating. Subsequent to the public hearing in Helena, three additional public meetings were held in Billings, Great Falls and Missoula, to gather additional public testimony on the proposal.

At its meeting on November 19, 1982, the Board of Health and Environmental Sciences voted to adopt the PSD regulation, including a provision which, in effect, establishes a statewide baseline area for sulfur dioxide and an impact baseline area for total suspended particulates. This decision is also consistent with EPA regulations, which allow States considerable discretion to establish a statewide baseline area provided the area established is no smaller than the impact area.

Action

EPA today is approving this revision to the Montana State Implementation Plan with the following understandings.

1. The State will submit a regulation which does not allow credit for other than GEP (Good Engineering Practice) stack height for sources constructed after December 31, 1970.

2. The State will add to its definition of "Potential to Emit" a provision to indicate that fugitive emissions do not count in determining net emissions for all source types not listed in NSPS (New Source Performance Standards) (40 CFR Part 60), or NESHAPS (National Emissions Standards for Hazardous Air Pollutants) (40 CFR Part 61).

3. The State will delete from its definition of "Actual Emissions" the phrase "as of the baseline date."

The State has committed, as a policy measure, to comply with these provisions in the interim.

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This rulemaking is issued under the authority of Part C, Subpart 1, and Section 110 of the Clean Air Act.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Montana was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

1. In § 52.1370 paragraph (c)(12) is added as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(12) On January 19, 1983, Montana submitted revisions to the State Implementation Plan to meet the requirements of Part C, Subpart 1, and Section 110 of the Clean Air Act.

2. In § 52.1382 paragraphs (a) and (b) are revised to read as follows:

§ 52.1382 Prevention of significant deterioration of air quality.

(a) The Montana plan, as submitted, is approved as meeting the requirements of Part C, Subpart 1 of the Clean Air Act, except that it does not apply to sources proposing to construct on Indian Reservations.

(b) Regulation for preventing of significant deterioration of air quality. The provisions of § 52.21 (b) through (w) are hereby incorporated by reference and made a part of the Montana State Implementation Plan and are applicable to proposed major stationary sources or major modifications to be located on Indian Reservations.

* * * * *

[FR Doc. 83-12081 Filed 5-4-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[KY-014; A-4-FRL 2331-7]

Approval and Promulgation of Implementation Plans; Kentucky: Variances for Volatile Organic Compound Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving variances for two dry cleaning establishments in Covington, Kentucky. The two variances are for volatile organic compounds (VOC), specifically for two perchloroethylene dry cleaning establishments. The affected companies satisfy EPA criteria for such variances.

EFFECTIVE DATE: This action will be effective on July 5, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Waymond Blackmon of EPA Region IV, Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Library, Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20408

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Management Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Kentucky Department for Environmental Protection, 18 Reilly Road, Building 2, Fort Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Waymond Blackmon, EPA Region IV, Air Management Branch, 404/881–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: Following public hearing, Kentucky adopted and submitted plan revisions involving sources of volatile organic compounds (VOCs). In connection with Kentucky regulation 401 KAR 61:160, "Existing Perchloroethylene Dry Cleaners," and Commonwealth of Kentucky has approved variances for two perchloroethylene dry cleaning establishments in Covington, Kentucky. The variances are for Community Cleaners and Perfect Cleaners and are based upon economic and/or technological justification. These variances end the requirement for carbon adsorbers, but good housekeeping and leak prevention requirements are still in force for these plants.

Discussion

The Community Cleaners is a small family operation. The Kentucky Division of Air Pollution Control granted an economic variance based upon an economic evaluation as set forth in the applicable Control Techniques Guideline (CTG) document (EPA–450/2–78–050). This particular document is related to the control of VOCs, specifically perchloroethylene, from all dry cleaning systems, which use this solvent. The methodology described in this document represents the presumptive norm or reasonably available control technology (RACT) that can be applied to existing perchloroethylene dry cleaning systems. RACT is defined as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The CTG developed average or typical costs for each of four (4) capacity ratings of cleaning equipment, based upon 1978 first quarter costs.

The analysis used by the Division was based upon Community Cleaners' 25-pound capacity machines. The average costs for that equipment, as reported in the CTG and ajusted to reflect 1981 costs, was $0.49/kg ($447.97/ton) of controlled VOC. Applying the CTG method of economic analysis to the information submitted by Community Cleaners, a cost of $2.38/kg ($2,160.74/ton) of controlled VOC was obtained using current installation costs as of June 29, 1982 (which includes capital and direct operating costs, capital charges, and solvent cost, etc.). This figure is much larger than the average cost because the average is based upon an assumed 1600 kg/yr (1.76 TPY) of controlled emissions whereas Community Cleaners is so small it generates only 636 kg/yr (0.70 TPY) that can be controlled by RACT. The additional kilograms per year of emissions of VOC resulting from this action would be 1,235 kg/yr (1.36 TPY) uncontrolled emissions compared to 617 kg/yr (0.68 TPY) had this variance not been granted. This amount of uncontrolled emissions is less than one percent (.002%) of the total VOC emissions reported in the designated nonattainment area for 1981. In addition to the above RACT determination, the Agency also considered the effect of the cost on the individual facility, the amount of actual emissions and the source impact on the area's ability to

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attain the National Ambient Air Quality Standard for ozone. Taking into consideration all the information submitted, EPA is approving the economic variance granted by the Kentucky Division of Air Pollution Control to Community Cleaners.

The Kentucky Division of Air Pollution Control granted Perfect Cleaners a variance because it is physically impossible to locate the required control equipment at the establishment without extensive renovation to the building. Under the provisions of Regulation 401 KAR 61:160, "Existing Perchloroethylene Dry Cleaning Plants," Perfect Cleaners applied for a technological variance.

Section 7 of this regulation provides for variances based on adequate technical information, that will be considered by the department on a case-by-case basis, to allow for technological or economic circumstances which are unique to a source. The applicable CTG document (EPA–450/2–78–050) defines technological variance, in part, as a variance granted because the source has inadequate space available to install a carbon adsorber. On September 23, 1981, the Kentucky Division of Air Pollution Control performed a field inspection of Perfect Cleaners to evaluate their request. It was found that their claim of inadequate space was correct. The building at 801 Highway would require extensive renovation to accommodate a carbon adsorption unit. This technological variance waives the requirements of Section 3 (2) and (3) of Regulation 401 KAR 61:160, "Existing Perchloroethylene Dry Cleaning Plants." All other requirements in Section 3 shall be adhered to. The additional emissions resulting from the granting of this variance will be 3,614 kg/yr (3.98 TPY) VOC. This amount of uncontrolled emissions is less than one percent (.008%) of the total VOC emissions reported for the designated nonattainment area for 1981. EPA is approving the technological variance granted by the Kentucky Division of Air Pollution Control to Perfect Cleaners because it meets Agency guidance for approving such a variance (Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems, EPA–450/2–78–050).

Action

EPA has reviewed the submitted material and found it to be consistent with present EPA requirements and policies. The total uncontrolled tonnage from these two variances amounts to 4,849 kg/yr (5.34 TPY) of perchloroethylene, which is less than one percent (.008%) of the total VOC emissions reported for the designated nonattainment area for 1981. Further, the variances will not interfere with attainment or maintenance of the ozone standard or with Reasonable Further Progress towards attainment. Therefore, EPA is today announcing full approval of the State's submittal.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air Pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. In Section 52.920 is amended by adding paragraph (c)(37) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(37) Variances for two dry cleaners, submitted on January 27, 1983, by the Kentucky Department for Environmental Protection.

[FR Doc. 83–12086 Filed 5–4–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6511]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified
Arkansas: Howard	Unincorporated areas	050438A	Mar. 17, 1983, emergency	June 7, 1977.
Wyoming: Park	do	560085A	Mar. 24, 1983, emergency	Apr. 25, 1978.
California: Butte	do	060017	Mar. 21, 1983, emergency	Sept. 6, 1974 and Dec. 27, 1977.
Wisconsin: Barron	Rice Lake, city of	550018C	July 10, 1975, emergency, Oct. 15, 1982, regular, Oct. 15, 1982, suspended, Mar. 28, 1983, reinstated.	Mar. 18, 1978, Dec. 7, 1973 and July 30, 1976.
New York: Oneida	Marshall, town of	3605348	July 17, 1975, emergency, Sept. 30, 1982, regular, Sept. 30, 1982, suspended, Mar. 31, 1983, reinstated.	Aug. 2, 1974 and July 9, 1976.
North Dakota: Richland	Wyndmere, township of	380867–New	Mar. 31, 1983, emergency	
North Carolina: Madison	Hot Springs, town of	370153A	Nov. 17, 1977, emergency, July 5, 1982, regular, July 5, 1982, suspended, Mar. 31, 1983, reinstated.	Sept. 17, 1976.
Illinois: Clinton	Germantown, village of	170049A	Mar. 31, 1983, emergency	Mar. 29, 1974.
Missouri: Warren	Warrenton, city of	290648	do	Feb. 7, 1975.
Arkansas: Miller	Unincorporated areas	050451A	do	Jan. 10, 1983.
Colorado: Delta	Paonia, town of	080045B	Mar. 16, 1983, suspension withdrawn	May 24, 1974 and Oct. 31, 1975.
Connecticut: New Haven	East Haven, town of	090076	do	
Florida: Pinellas	Largo, city of	125122D	do	May 28, 1971 and June 18, 1971.
Indiana: Ceder	West Branch, city of	190058B	do	Mar. 1, 1974 and Jan. 23, 1976.
Kansas: McPherson	McPherson, city of	200217D	do	Mar. 15, 1974 and Apr. 11, 1975.
Maryland	Baltimore, city of	240087B	do	June 28, 1974 and Mar. 15, 1976.
New York:				
Steuben	Bath, village of	360767E	do	Aug. 15, 1977.
Suffolk	East Hampton, town of	360794B	do	Aug. 29, 1975.
Do	Belle Terre, village of	361532B	do	Dec. 27, 1974 and June 18, 1976
Herkimer & Fulton	Dolgeville, village of	360301B	do	Dec. 13, 1974 and Sept. 26, 1975.
Wayne	Lyons, village of	360891B	do	May 3, 1974 and Sept. 24, 1976.
Niagara	Niagara Falls, city of	360506B	do	Mar. 29, 1974 and Nov. 14, 1975.
Westchester	Ossining, town of	361241B	do	Oct. 25, 1974 and Feb. 25, 1977.
Nassau	Oyster Bay, town of	360483C	do	Nov. 29, 1974, Sept. 12, 1975 and Aug. 1, 1978.
Suffolk	Shoreham, village of	361506B	do	
Montgomery	St. Johnsville, town of	360456	do	Aug. 16, 1974 and June 4, 1976.
Tioga	Waverly, village of	361343B	do	Nov. 1, 1974 and June 11, 1976.
New Jersey: Mercer	East Windsor, township of	340244B	do	Feb. 15, 1974 and Sept. 12, 1975.
Ohio: Lucas	Unincorporated areas	390359B	do	May 20, 1977.
Pennsylvania: York	Warrington, township of	422232B	do	Dec. 27, 1974 and Dec. 26, 1980.
South Carolina: Horry	North Myrtle Beach, town of	450110C	do	Aug. 23, 1974 and July 5, 1975.
Vermont: Franklin	Swanton, village of	500060	do	Nov. 26, 1976.
Virginia: Chesterfield	Unincorporated areas	510035	do	Jan. 10, 1975 and June 2, 1976.
Michigan: Monroe	Milan, township of	260152B	do	May 24, 1974 and June 25, 1976.
Minnesota: Marshall	Stephen, city of	270273B	do	June 4, 1976 and May 17, 1974.
Michigan: Oakland	West Bloomfield, township of	260182B	do	June 28, 1974 and Jan. 30, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12097 Filed 5–4–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 64

[Docket No. FEMA 6513]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency. FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6 month, 90 days, and 30 days notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C., 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood loses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
California: Alameda	Fremont, city of	065026	Jan. 29, 1971, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Feb. 14, 1975, June 21, 1977 and Oct. 9, 1973.	May 2, 1983.
Colorado: Eagle	Vail, town of	080054B	Aug. 13, 1976, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Sept. 19, 1978	Do.
Connecticut: New Haven.	New Haven, city of	090084C	Oct. 25, 1973, emergency, July 16, 1980, regular, May 2, 1983, suspended.	June 7, 1974 and July 16, 1980	Do.
Louisiana: St. Charles Parish.	Unincorp. areas	220160B	Feb. 8, 1974, emergency, May 2, 19, 1983, regular, May 2, 1983, suspended.	Nov. 1, 1974 and June 28, 1977	Do.
Maryland: Anne Arundel.	Unincorp. areas	240008C	Mar. 3, 1972, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Nov. 15, 1974, Nov. 9, 1979 and Aug. 4, 1978.	Do.
Massachusetts: Worcester	Grafton, town of	250306C	July 29, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Apr. 5, 1974, Mar. 14, 1980 and Oct. 15, 1976.	Do.
Plymouth	Hull, town of	250269B	Dec. 29, 1972, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Dec. 10, 1976 and Feb. 22, 1980	Do.
Michigan: Wayne	Dearborn Heights, city of	260221B	Jan. 12, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	July 19, 1974 and Oct. 17, 1975	Do.
Monroe	South Rockwood, village of	260320B	Sept. 5, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Feb. 1, 1974 and June 27, 1975	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Minnesota: Houston	LaCrescent, city of	275237B	Feb. 11, 1973, emergency, July 20, 1973, regular, May 2, 1983, suspended.	July 20, 1973, July 1, 1974 and Nov. 28, 1975.	Do.
Nebraska: Red Willow	McCook, city of	310181A	Feb. 6, 1978, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Nov. 19, 1976	Do.
New Jersey: Atlantic	Galloway, township of	340008B	Mar. 26, 1974, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Jan. 3, 1975 and Apr. 30, 1976	Do.
Ocean	Manchester, township of	340382B	Oct. 10, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Oct. 18, 1974 and June 4, 1976	Do.
Ocean	Tuckerton, borough of	340395B	Aug. 9, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Mar. 1, 1974 and June 25, 1976	Do.
New York: Steuben	Bath, town of	360766B	Mar. 31, 1976, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Aug. 20, 1974 and Oct. 1, 1976	Do.
Suffolk	Westhampton Beach, village of	365345D	Feb. 26, 1971, emergency, June 30, 1972, regular, May 2, 1983, suspended.	July 1, 1972, July 1, 1974 and Feb. 6, 1976.	Do.
Ohio: Wood	Grand Rapids, village of	390585B	Feb. 19, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Mar. 1, 1974 and Jan. 30, 1976	Do.
Wood	Perrysburg, city of	390589B	Aug. 27, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Aug. 22, 1975	Do.
Oklahoma: Washita	New Cordell, city of	400224B	July 7, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	June 28, 1974 and Feb. 11, 1977	Do.
Pennsylvania: Cumberland	Silver Spring, township of	420370B	Mar. 2, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Mar. 15, 1974 and Nov. 12, 1976	Do.
Blair	Tyrone, borough of	420164B	July 9, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Dec. 28, 1973 and June 4, 1976	Do.
Texas: Galveston	Crystal Beach, township of	420164	Oct. 8, 1971, emergency, Sept. 30, 1976, regular, May 2, 1983, suspended.	Sept. 30, 1976	Do.
Galveston	Unincorp. areas	485470C	Apr. 8, 1971, emergency, Apr. 9, 1971, regular, May 2, 1983, suspended.	Apr. 8, 1971, June 24, 1977 and July 1, 1974.	Do.
Jim Wells	Unincorp. areas	481258C	July 21, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	June 10, 1977 and June 17, 1980	Do.
Washington: Yakima	Union Gap, city of	530229B	Apr. 30, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Jan. 9, 1974 and Jan. 30, 1976	Do.
Wisconsin: Rock	Beloit, city of	555544B	Nov. 27, 1970, emergency, July 9, 1971, regular, May 1, 1983, suspended.	July 10, 1971 and Apr. 23, 1976	Do.
Illinois: Scott	Naples, village of	170609B	Mar. 6, 1974, emergency, May 17, 1982, regular, May 2, 1983, suspended.	Jan. 9, 1974 and Apr. 2, 1976	Do.
Michigan: Oakland	Troy, city of	260180C	Feb. 23, 1973, emergency, May 2, 1983, regular, May 2, 1983, suspended.	June 28, 1974 and May 7, 1976	Do.
Ohio: Wood	Rossford, city of	390569B	Aug. 27, 1975, emergency, May 2, 1983, regular, May 2, 1983, suspended.	Mar. 1, 1974 and May 28, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended. 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12008 Filed 5–4–83; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

Collection of Past-Due Support From Federal Tax Refunds

Correction

In FR Doc. 83–1498, beginning on page 2534, in the issue of Thursday, January 20, 1983, on page 2538, in the first column, in § 303.72 (e)(1), in the fifth line "offset when" should read "offset and when".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–07; Notice 2]

Federal Motor Vehicle Safety Standards; Power-Operated Window Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard (FMVSS) No. 118, *Power-Operated Window Systems*, to permit the operation of a vehicle's power windows and partitions during the interval between the shutting off of the engine and the opening of a front door on the vehicle. This amendment, which was proposed in response to a petition from General Motors Corporation (GM), would permit the manufacturers to offer power window systems which are more convenient than current systems. The agency believes the amendment would increase design flexibility without adversely affecting safety.

EFFECTIVE DATE: This amendment is effective on May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Erickson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: In 1970,

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NHTSA issued FMVSS 118 in response to numerous cases of injury and death resulting from accidental operation of power windows. The standard sought to address the main source of these accidents, the unsupervised use of power windows by children, which could result in the child being caught between the closing window or partition and the window or partition frame.

The standard provides that power-operated window and partition systems may be operable only in certain specified circumstances. First, operation is permitted when the vehicle's ignition switch is in the "ON," "START," or "ACCESSORY" position. The rationale for permitting operation in that situation is that the driver would presumably still be in the vehicle to supervise the operation of the windows by any children who are passengers. Second, the standard permits operation of the systems by "muscular force." Third, the systems may also be operated by a key-locking system on the exterior of the vehicle. Here again, the driver would presumably be able to observe the window or partition being closed to assure that the closing track is clear. Fourth, the standard permitted operation of the systems when the key is in the "off" position or removed from the vehicle and the door is opened a specified amount. This provision, which applies only to vehicles having doors with no frame meeting the upper edge of the closed window, was added to the standard in 1975 in response to a petition from GM. However, neither GM nor any other manufacturer ever produced the system which this provision was intended to permit, and it appears that no manufacturer plans to offer such a system in the future.

On April 1, 1982, in 47 FR 13845, the agency proposed to permit operation of power windows and partitions in a fifth circumstance, in response to another petition from GM. Under this proposal, these systems would be operable during the interval between the time the vehicle's ignition key is shut off to the time one of the vehicle's doors is opened. This provision would permit windows to be operable in situations such as refueling stops at service stations, an added convenience for the driver. However, it would also assure, except in rare circumstances, that the driver is still in the vehicle and able to supervise the operation of the windows. The provision was proposed as a method of increasing driver convenience and was anticipated to have no impact on safety.

The agency received 28 comments on the proposal. Comments from the vehicle manufacturers favored the proposal, with some having proposals for slight refinements of the proposed regulatory language. Comments were also received from a number of individuals, most of whom opposed the amendment. After careful consideration of these comments, the agency has determined to promulgate the proposed amendment.

The individuals who opposed the proposed amendment generally argued that the change would permit the operation of power windows by unsupervised children and therefore would be a detriment to safety. Based on the agency's review of the comments and conversations with several of these individuals, it appears that they were unaware that the window systems would cease being operational as soon as the engine is shut off and a door is opened and would remain nonoperational even if the door were again closed. Thus, the proposal would tend to assure that the driver is in the car when the windows can move. Once this aspect of the proposal was explained to the individuals, they no longer opposed the amendment.

While there is a possibility under the new option for power windows to be operational without the driver being present in the vehicle, that possibility could arise only in rare circumstances. Further, similar possibilities exist under one of the existing options. For example, under the new option, a driver could get out of a vehicle, leaving the engine running and close the door. The windows would still be operational. Then, if the driver's window were open so that he or she could reach through the open window instead of opening the door to shut the engine off, the windows would continue to be operational. Similarly, under one of the current options, power windows would be operable in the same circumstances, at least until the driver reached into the vehicle and shut off the engine. The agency believes that these circumstances would rarely occur and would be even less likely to occur when children were in the car. Accordingly, the agency believes that this potential detriment would, if it occurs at all, be very small. Even if it does occur, it could be offset by a small benefit suggested by other commenters. They felt that the amendment would provide a security advantage, by permitting drivers to quickly close the vehicle's windows for protection without first having to turn on the ignition switch. Overall, the agency does not anticipate that the proposal would result in any increase in injuries or deaths.

Several manufacturers argued for certain modifications to the proposed rule. Mercedes-Benz argued that the interval after engine shut-off during which the windows are operable should end when one of the front doors is opened. American Motors made a similar suggestion. The agency agrees that, in the case of four door automobiles, it is unlikely that the driver would exit from one of the rear doors and entry to or exit from rear seats should not impede the ability of the driver to supervise children in the vehicle. Therefore, the agency has adopted this suggestion.

Fiat Motors suggested that the agency permit the use of systems incorporating a 20 second time delay, i.e., windows would be operable for 20 seconds after the engine is shut off regardless of whether a door had been opened. Such a system could provide a brief interval during which children in a vehicle would be unsupervised and the power window system would be operational, possibly increasing the risk of the types of accidents FMVSS 118 was designed to prevent. The agency believes, on the basis of current information, that adoption of the proposal is not appropriate. If Fiat or any other commenter wishes to present data or arguments with regard to the safety impacts of such a system, the agency will reconsider permitting the use of this type of system.

American Motors Corporation (AM) also suggested several clarifications to the proposed rule. First, AM suggested that the rule explicitly state that power window and partition systems may be operable when the ignition switch is in the "ACCESSORY" position after a door is opened. Since the standard always permitted systems to be operable whenever the ignition key is in the "ACCESSORY" position, no substantive change would be involved. The agency has attempted to clarify this point. AM further suggested that references in the standard to the "key that controls activation of the vehicle's engine" be replaced by "ignition switch." However, the standard would apply to any systems used in electric vehicles or other motor vehicles which operate by energy produced by means other than ignition. Therefore, the latter suggestion has not been adopted.

AM also favored the deletion of the provision permitting the operation of power windows in certain vehicles when a door is opened a specified amount, since that provision never has and likely never would be used. Since this provision is apparently obsolete, it has been deleted.

The agency is making this amendment effective immediately upon publication, since the amendment "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), by permitting the use of certain systems which were previously unauthorized. The agency also finds that making this amendment effective immediately is in the public interest, in accordance with section 103(e) of the National Traffic and Motor Vehicle Safety Act, since doing so will permit the use of more convenient power window systems at an early date. Also, since the amendment relieves a restriction in FMVSS 118, providing 180 days lead time is unnecessary.

NHTSA has determined that this proceeding does not involve a "major rule" within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet foreign competition. Similarly, this action is not deemed "significant" for purposes of Department of Transportation procedures for internal review of regulatory actions. The economic impacts of this amendment are so minimal as to not warrant preparation of a full regulatory evaluation, since the amendment merely permits the use of certain systems which were previously prohibited.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities, including small organizations or governmental units.

Therefore, a regulatory flexibility analysis is not required for this action. The agency has concluded that few, if any, manufacturers of power window systems are small entities and that the impacts of this rule on those companies which decide to take advantage of the new alternative method of compliance should be minimal. There would be no significant impact on the cost of new vehicles manufactured in accordance with the new provision. Therefore, there should be no significant impact on small entities which purchase vehicles with power windows.

NHTSA has concluded that the environmental consequences of this action will be of such limited scope that they will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.118 [Amended]

In consideration of the foregoing, 49 CFR 571.118 is amended as follows:

1. Section 3 is revised to read as follows:

* * * * *

S3. *Power window or partition systems may be operable only in the following circumstances.* (a) When the key that controls activation of the vehicle's engine is in the "ON", "START", or "ACCESSORY" position;

(b) By muscular force unassisted by a vehicle power source;

(c) Upon activation by a key-locking system on the exterior of the vehicle; or

(d) During the interval between the time a running engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on April 29, 1983.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-12025 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-59-M

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Proposed Rules

Federal Register
Vol. 48, No. 88
Thursday, May 5, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing an amendment to § 337.3(b) of its regulations that would (1) eliminate the current requirement for prior approval by a majority of a bank's board of directors of all extensions of credit exceeding in the aggregate $25,000 that are made to one of the bank's directors, executive officers, principal shareholders, or any related interest of any such person, and (2) substitute a prior approval formula whereby extensions of credit in excess of five percent of capital and unimpaired surplus or $25,000, whichever is larger, must receive prior approval but in no event may any extension of credit exceeding the aggregate $500,000 be made without prior board approval.

DATE: Comments must be received no later than July 5, 1983.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550–17th Street, NW., Washington, D.C. 20429.

Comments may be hand-delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division, (202–389–4171), Room 4126E, 550–17th Street, NW., Washington, D.C. 20429, or Ken A. Quincy, Examination Specialist, Division of Bank Supervision, (202–389–4141), Room 760–F, 1709 New York Avenue, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) places certain restrictions on extensions of credit to "insiders" of member banks (directors, executive officers, principal shareholders and related interests of such persons) and is made applicable to nonmember banks to the same extent and in the same manner as if they were member banks by section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)). Section 22(h) was recently amended by the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469) so as to delete the express requirement in section 22(h) that a majority of a bank's board of directors give its prior approval for all extensions of credit to a bank insider that exceed in the aggregate $25,000. Substituted in its place was the requirement that prior approval be obtained for all extensions of credit that exceed in the aggregate an amount fixed by regulation of the appropriate Federal banking agency. Effective October 22, 1982, the FDIC amended Part 337 of its regulations concerning unsafe and unsound banking practices so as to (1) clarify the extent to which nonmember banks are subject to the requirements of Federal Reserve Board Regulations O (12 CFR Part 215) which implements section 22(h) of the Federal Reserve Act, and (2) to continue the $25,000 threshold prior approval figure on an interim basis. (See 47 FR 47002).

The FDIC is hereby proposing to amend Part 337 to provide that a majority of the board of directors of an insured nonmember bank must give prior approval for all extensions of credit to its directors, executive officers, principal shareholders, or any related interest of any such person if the extension of credit exceeds, in the aggregate, five percent of the bank's capital and unimpaired surplus or $25,000, whichever is greater, but in no event may an insured nonmember bank grant any extension of credit exceeding in the aggregate $500,000 unless prior board approval is obtained. The formula thus sets $25,000 as the floor for prior approval and $500,000 as the ceiling in excess of which all extensions of credit must be approved.

Any insured nonmember bank that has total capital in excess of $500,000 would have higher prior approval trigger under the proposed formula than under the existing regulations. As 96 percent of the total number of insured nonmember banks have total capital in excess of $500,000, the proposal would reduce the existing prior approval burden for the majority of such banks. Only the very smallest state nonmember bank would still be subject to a $25,000 prior approval requirement. Not only does this not change the status quo for such banks, setting a $25,000 floor avoids setting and unrealistically low threshold figure in the case of small banks that would otherwise kick in if a straight percentage test were used. The $500,000 cap serves as a check for the very largest of banks. This sliding scale that would operate for all other banks has the advantage of more closely aligning the prior approval requirement with the potential threat posed to any particular banks's capital position by insider lending.

The proposal does not establish any additional recordkeeping or reporting requirements and will not affect the competitive positions of banks. As the Comptroller of the Currency and the Board of Governors of the Federal Reserve System are expected to adopt a similar proposal respecting prior approval of extensions of credit to insiders of national banks and member banks, insured nonmember banks would be under the same restrictions regarding prior approval of insider transactions as national and member banks.

Regulatory Flexibility Analysis

The Board of Directors hereby certifies that, if adopted, the proposal would not have a significant economic impact on a substantial number of small entities. The Board bases its conclusion in part on the fact that, for the very smallest of insured nonmember banks, the proposal would not affect the status quo. For the large majority of nonmember banks that would be affected by the change, the proposal would reduce some of their existing prior approval burden. The Board does not associate any economic impact with raising the prior approval trigger as it only relates to the oversight function of a bank's board of directors and neither increases nor decreases a bank's ability to make extensions of credit.

List of Subjects in 12 CFR Part 337

Banks, banking, State nonmember banks.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 337 of title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 is as follows:

Authority: Sec. 9, 64 Stat. 881–882, 12 U.S.C. 1819; sec. 18(j)(2), 92 Stat. 3664, 12 U.S.C. 1828(j)(2); sec. 422, 96 Stat. 1469, Pub. L. No. 97–320.

§ 337.3 [Amended]

2. It is proposed that Part 337 be amended by revising § 337.3(b) by removing "$25,000" where it appears and inserting in lieu thereof the following:

"the greater of $25,000 or five percent of the bank's capital and unimpaired surplus,[a] or $500,00"

By Order of the Board of the Directors, May 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–12062 Filed 5–4–83; 8:45 am]

BILLING CODE 6714–01–M

[a] For the purposes of § 337.3 an insured nonmember bank's capital and unimpaired surplus shall have the same meaning as found in § 215.2(f) of Federal Reserve Board Regulation O (12 CFR 215.2(f)).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–ASW–19]

Proposed Alteration of Transition Area; Granbury, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Granbury, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Granbury Municipal Airport. This action is necessary since there is a proposed change to the SIAP which approaches the airport from the west using the Acton VORTAC.

DATE: Comments must be received on or before June 16, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Granbury, TX, will necessitate an amendment to this subpart. This amendment will be required at Granbury, TX, since there is a proposed change in IFR procedures to the Granbury Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Granbury, TX Revised

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Granbury Municipal Airport (latitude 32°23'33" N., longitude 97°49'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 26, 1983.

Richard L. Failor,

Acting Director, Southwest Region.

[FR Doc. 83–12036 Filed 5–4–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 83–AWA–9]

Proposed Alteration of VOR Federal Airways and Jet Routes, Minneapolis, MN, Area

AGENCY: Federal Aviation Administration (FAA), DOT.

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ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke segments of VOR Federal Airways V–13E, V–414, and V–416; Jet Routes J–30 and J–113, and to realign V–510 to enhance the traffic flow within the Minneapolis Air Route Traffic Control Center's area.

DATE: Comments must be received on or before June 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–9, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd Archer, Airspace Regulations and Obstructions Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposals

The FAA is considering amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to: (1) Revoke V–13E between Duluth, MN, and Grantsburg, MN; (2) revoke V–414 and EXARC intersection between Alexandria, MN, and Gopher, MN; (3) revoke V–416 between Alexandria, MN, and Gopher, MN; (4) revoke J–30 between Farmington, MN, and Nodine, MN; (5) revoke J–113 between Gopher, MN, and Dubuque, IA; and (6) realign V–510 between Alexandria, MN, DAYLE intersection and Gopher, MN, to enhance the traffic flow within the Minneapolis Air Route Traffic Control Center's area. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Parts 71 and 75

Airways, Jet routes, Aviation safety.

PARTS 71 AND 75—[Amended]

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulation (14 CFR Parts 71 and 75) as follows:

1. V–13 [Amended]

By deleting the words, "Duluth, MN, including an E alternate; 36 miles, 35 MSL, Thunder Bay, ON, Canada" and substituting for them the words "Duluth, MN; to Thunder Bay, ON, Canada"

2. V–414 and V–416 are revoked.

3. J–30 [Amended]

By deleting the words "Farmington, MN, via Nodine, MN; Joliet, IL," and substituting for then the words "Joliet, IL, via"

4. J–113 [Amended]

By deleting the words, "via Dubuque, IA, INT Dubuque 308° and Gopher 155° radials, to Gopher, MN" and substituting for them the words "to Dubuque, IA"

5. V–510 [Amended]

By inserting the words, "MN; INT Alexandria, MN, 110° and Gopher, MN, 321° radials" between the words; "Alexandria" and the words; "Gopher, MN"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 25, 1983.

S. Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83–11807 Filed 5–4–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

Proposed Customs Regulations Amendments Relating to Requirements for Entry and Release of Imported Electronic Products

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to requirements for the entry and release of imported electronic products. The changes are being proposed to update and conform the regulations to current procedures and the statuory and regulatory requirements administered by Customs for the National Center for Devices and Radiological Health of the Food and Drug Administration.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Darrell D. Kast, Entry Procedures and Penalties Division, (202–566–5765); Operational Aspects: Harrison C. Feese, Duty Assessment Division (202–566–8651), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Electronic products offered for importation into the United States are subject to standards prescribed by the Food and Drug Administration (FDA) under section 358 of the Public Health Service Act (42 U.S.C. 201 *et seq.)*, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.)*. Based upon these standards, sections 12.90 and 12.91, Customs Regulations (19 CFR 12.90, 12.91), set forth the requirements for entry and release of imported electronic products.

Pursuant to statutory changes which necessitated regulatory changes, by notice published in the **Federal Register** on September 5, 1975 (40 FR 41118), Customs proposed to amend §§ 12.90 and 12.91. However, no final action was taken on the proposal. Subsequently, other statutory changes have resulted in the need for additional regulation changes.

Because of the redesignation of the Department of Health, Education, and Welfare, as the Department of Health and Human Services, pursuant to section 509(b) of Pub. L. 96–88, (section 2508(b) of title 20, United States Code), it is necessary to change the references to the "Department of Health, Education, and Welfare," and the "Secretary of Health, Education, and Welfare," in §§ 12.90 and 12.91.

It is proposed to amend §12.90 to provide that "the Act" as referred to in §12.91, refers to the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.)*, and not to the Radiation Control for Health and Safety Act of 1968 (42 U.S.C 263b–263n). It also is proposed to amend §12.91 concerning the declarations required to be made by the importer of record for the entry and release of electronic products subject to the performance standards in effect under section 358 of the Public Health Service Act, as amended (42 U.S.C. 263f).

Present §12.91 requires a declaration by the importer or consignee of electronic products that the products either (1) conform to the standards of section 358 of the Public Health Service Act, as amended (42 U.S.C. 263(f), or (2) will be brought into compliance with these standards, unless intended solely for export.

To conform with FDA requirements, the proposed amendment to § 12.91 would add two alternative declarations, whereby the importer of record may affirm that the products either (1) were manufactured before the date the standards became effective, or (2) are being imported for the purpose of research, investigations, studies, demonstrations, or training. The proposed amendment to § 12.91 also would modify the language of the two existing declarations presently contained in that section to bring them into conformity with current Customs procedures.

The cross-reference in § 12.91 to the provisions of 42 CFR Part 78, pertaining to the administration and enforcement of the provisions of the Public health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b–263n), would be changed to reflect that the current appropriate regulatory citation is 21 CFR, Chapter I, Subpart J.

This proposal also would set forth the current citation of authority for § 12.91, as well as correct the statutory reference in § 12.90 to the Radiation Control for Health and Safety Act of 1968.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Imports, Importers.

Proposed Regulations Amendments

It is proposed to amend Part 12, Customs Regulations (19 CFR Part 12), in the following manner:

PART 12—SPECIAL CLASSES OF MERCHANDISE

Sections 12.90 and 12.91, Customs Regulations, would be revised to read as follows:

§ 12.90 Definitions

As used in §§ 12.90 and 12.91, the term "the Act" shall mean the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*), and as further amended from time to time.

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health and Human Services.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f) unless intended solely for export. Prescribed standards shall not apply to any electronic product intended solely for export if:

(1) Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that it is intended for export, and

(2) Such product meets all the applicable requirements of the country to which it is intended for export.

(See 21 CFR, Chapter I, Subchapter J.)

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f), when offered for importation into the customs territory of the United States, shall be refused entry unless there is filed with the entry, in duplicate, a declaration (FDA Form fd 2877) verified by the importer of record which identifies the products and affirms:

(1) That the electronic products were manufactured before the date of any applicable electronic product performance standard (the date of manufacture shall be specified); or

(2) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag is attached to the product; or

(3)(i) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but are being imported for the purpose of research, investigations, studies, demonstrations, or training, (ii) that the products will not be introduced into commerce and when the use for which they were imported is completed they will be destroyed or exported under Customs supervision, and (iii) that an exemption for these products has been or will be requested from the National Center for Devices and Radiological Health, Food and Drug Administration, in accordance with section 360B(b) of the Act (42 U.S.C. 263j); or

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(4) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and Chapter I, Subchapter J, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but that a timely and adequate petition for permission to bring the products into compliance with applicable standards has been or will be filed with the Secretary of Health and Human Services in accordance with section 360 of the Public Health Service Act, as amended, and as implemented by 21 CFR 1005.21.

(c) *Notice of sampling.* When a sampling of a product offered for importation has been requested by the Secretary of Health and Human Services, as provided for in 21 CFR 1005.10, the district director of Customs having jurisdiction over the shipment from which the sample is procured shall give to its owner or importer of record prompt notice of delivery of, or intention to deliver, the sample. If the notice so requires, the owner or importer of record shall hold the shipment of which the sample is typical and not release the shipment until notice of the results of the tests of the sample from the Secretary of Health and Human Services stating the product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry shall be accepted only if the owner or importer of record gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond shall be in the amount required under § 113.14 of this chapter. Within 180 days after the entry of such additional period as the district director may allow for good cause shown, the importer of record shall take any action necessary to insure delivery to the district director of the notification described in this paragraph. If the notification is not delivered to the district director for the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer of record shall deliver or cause to be delivered to the district director those electronic products which were released. In the event that any electronic products are not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery (Customs Form 4647), liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded if the merchandise had been released under a bond given on Customs Form 7551.

(e) *Release without bond—special exemptions.* For certain electronic products the Director, National Center for Devices and Radiological Health, has granted special exemptions from the otherwise applicable standards under the Act. Such exempted products may be imported and released without bond if they meet all the criteria of the special exemption. A bond, once posted, may also be returned if a special exemption is granted after the product has been imported under bond.

(f) *Merchandise refused entry.* If electronic products are denied entry under any provision of this section, the district director shall refuse to release the merchandise for entry into the United States.

(g) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Electronic products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (d) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of an electronic product in violation of the Act (42 U.S.C. 263f, 263h).

Authority

The amendments are proposed under the authority of R.S. 251, as amended, section 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section. 1(b) of E.O. 12291, a regulatory impact analysis and review as precribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed amendments will not have a significant economic impact on a substantial number of small entities.

The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention through comments, either formal or informal.

Accordingly, it is certified under the provision of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments, if promulgated, will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: April 19, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-12067 Filed 5-4-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-57-81]

Source of Income From Certain Leased Aircraft, Vessels, and Spacecraft

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations under section 861(e) of the Internal Revenue Code of 1954, relating to the source of income with respect to certain aircraft, vessels, and spacecraft that are or have been leased to a United States person. This amendment will affect owners of such crafts that are used outside the United States.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 5, 1983. This amendment is proposed to be effective for income with respect to crafts that are first leased after December 28, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-57-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 861 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes made to section 861(e) by section 104 of the Miscellaneous Revenue Act of 1980 (84 Stat. 3523). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Section 861(e), as amended, provides that income with respect to aircraft, vessels, and spacecraft that are section 38 property (as defined in section 48) and that are manufactured or constructed in the United States will be treated as income from sources within the United States after the craft is leased to a United States person. Income with respect to a craft includes payments for use of the craft and gain on the sale or exchange of the craft. Section 861(e) alters the general statutory rules that (1) payments under a lease of personal property are considered to be from sources within the United States only if the leased property is used within the United States and (2) gain or loss on the sale or exchange of personal property is treated as from sources within the country in which the transfer of titles takes place. Thus, this provision modifies the rules for determining the source of income with respect to certain crafts that are used or sold outside the United States.

Section 861(e) does not apply if the lessor and the lessee are members of the same controlled group of corporations. For purposes of this section, if either the lessor or the lessee is a partnership at least 80 percent of which is owned by members of a controlled group of corporations, that partnership is considered to be a member of the controlled group.

Prior law applies to the income with respect to aircraft and vessels first leased on or before December 28, 1980. Those rules allowed taxpayers to elect to treat the subject income as from sources within the United States. The miscellaneous Revenue Act of 1980 changed this treatment from elective to mandatory and expanded the scope of the provision to include spacecraft. The statutory source rule was made mandatory to insure that the lease payments from a United States person to the lessor were subject to income taxation by some country. In this regard, see H.R. Rep. No. 96-1278, 96th Cong., 2d Sess. 24 (1980); S. Rep. No. 96-1036, 96th Cong., 2d Sess. 16-17 (1980).

The proposed regulations describe the crafts covered by section 861 (e) and § 1.861-9A (b). The crafts must be section 38 property, that is, property for which an investment tax credit is available. The proposed regulations treat a craft as manufactured or constructed within the United States if at least 50 percent of the basis of the craft on the date it is leased to a United States person is attributable to value added within the United States.

The proposed regulations would require that later income with respect to a craft be treated as U.S. source income even after the craft is no longer leased to a United States person or the property ceases to be section 38 property. This treatment as U.S. source income also continues under proposed §1.861-9A (c) when the craft is transferred or distributed if the basis of the craft in the hands of the recipient is determined by reference to its basis in the hands of the transferor or distributor.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public comment procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of this regulation is Martha E. Kadue of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

List of Subjects in 26 CFR Parts 1.861-1 through 1.997-1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

Adoption of amendments to the regulations. The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.861-1(a)(4) is revised to read as follows:

§ 1.861-1 Income from sources within the United States.

(a) *Categories of income.* * * *

(4) *Exceptions.* An owner of certain aircraft or vessels first leased on or before December 28, 1980, may elect to treat income in respect of these aircraft or vessels as income from sources within the United States for purposes of sections 861(a) and 862(a). See § 1.861-9. An owner of certain aircraft, vessels, or spacecraft first leased after December 28, 1980, must treat income in respect of these craft as income from sources within the United States for purposes of sections 861(a) and 862(a). See § 1.861-9A.

* * * * *

Par. 2. Section 1.861-9 is amended as follows:

1. The title of the section is revised to read "Income from certain aircraft or

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vessels first leased on or before December 28, 1980.".

2. The second sentence of paragraph (a) is amended by adding after the word "date", the phrase "of aircraft or vessels first leased by the taxpayer on or before December 28, 1980".

3. A new paragraph (g)(6) is added immediately after paragraph (g)(5), the new paragraph to read as follows:

* * * * *

(g) * * *

(6) *Revocation or termination after December 28, 1980.* The rules in paragraph (g)(1) through (g)(5) continue to apply with respect to any election made pursuant to this section even though the revocation or termination may occur after December 28, 1980.

Par. 3. Section 1.861–9A is added immediately after § 1.861–9, to read as follows:

§ 1.861–9A. Income from certain crafts first leased after December 28, 1980.

(a) *General rule.* If a taxpayer—

(1) Owns a qualified craft (as defined in paragraph (b) of this section),

(2) Leases such qualified craft after December 28, 1980, to a United States person that is not a member of the same controlled group of corporations as the taxpayer, and

(3) The lease is the taxpayer's first lease of the craft and the taxpayer is not considered to have made an election with respect to the craft under § 1.861–9(e)(2),

then the taxpayer shall treat all amounts includible in gross income with respect to the qualified craft as income from sources within the United States for each taxable year ending after commencement of the lease. If this section applies to income with respect to a craft, it applies to all such amounts that are includible in the taxpayer's gross income, whether or not includible during or after the period of a lease to a United States person. Amounts derived by the taxpayer with respect to the qualified craft include any gain from the sale, exchange, or other disposition of the qualified craft. If this section applies to income with respect to a craft and there is a loss with respect to that craft (either due to the allowance of expenses and other deductions or due to a sale, exchange, or other disposition of the qualified craft), such loss is treated as allocable or apportionable to sources within the United States. The fact that a craft ceases to be section 38 property, ceases to be leased by the taxpayer to a United States person, or is leased or subleased for any period of time to a person who is not a United States person will not terminate the application of this section.

(b) *Qualified craft*—(1) *In general.* A qualified craft is a vessel, aircraft, or spacecraft that—

(i) Is section 38 property (or would be section 38 property but for section 48 (a)(5), relating to use by governmental units), and

(ii) Is manufactured or constructed in the United States.

(2) *Vessel.* The term "vessel" includes every type of watercraft capable of being used as a means of transportation on water, and any items of property that are affixed in a permanent fashion or are integral to the vessel. A vessel that is used predominantly outside the United States must be described in section 48(a)(2)(B)(iii) and § 1.48–1(g)(2)(iii), relating to vessels documented for use in the foreign or domestic commerce of the United States, to be a qualified craft.

(3) *Aircraft.* An aircraft used predominantly outside the United States must be described in section 48(a)(2)(B)(i) and § 1.48–1(g)(2)(i), relating to aircraft registered by the Administrator of the Federal Aviation Agency, and operated to and from the United States or operated under contract with the United States, to be a qualified craft.

(4) *Spacecraft.* A spacecraft must be described in section 48(a)(2)(B)(viii) and § 1.48–1(g)(2)(viii), relating to communications satellites, or any interest therein, of a United States person, to be a qualified craft.

(5) *United States manufacture or construction.* A craft will be considered to be manufactured or constructed in the United States if 50 percent or more of the basis of the craft on the date of the lease to a United States person is attributable to value added within the United States.

(c) *United States person.* For purposes of this section, the term "United States person" includes those persons described in section 7701(a)(30) and individuals with respect to whom an election under section 6013 (g) or (h) (relating to nonresident alien individuals married to United States citizens or residents) is in effect.

(d) *Controlled group.* For purposes of paragraph (a)(2) of this section, whether a taxpayer and a United States person are members of the same controlled group of corporations is determined under section 1563. Solely for purposes of this section, a partnership at least 80 percent of the interests in which are owned, directly or indirectly, by one or more corporations that are members of the same controlled group of corporations shall be considered to be a member of that same controlled group of corporations.

(e) *Certain transfers involving carryover of basis*—(1) *In general.* If—

(i) The income with respect to a craft is subject to this section,

(ii) The taxpayer transfers or distributes such craft, and

(iii) The basis of such craft in the hands of the transferee or distributee is determined by reference to its basis in the hands of the transferor or distributor, then this section will apply to the income with respect to the craft includible in the gross income of the transferee or distributee. This paragraph (c) applies even though the transferor or distributor recognizes an amount of gain that increases basis in the hands of the transferee or distributee and even though the transferee or distributee is a nonresident alien or foreign corporation. For example, if a corporation distributes a craft the income of which is subject to this section to its parent corporation in a complete liquidation described in section 332(b), the parent corporation will be treated as if it satisfied the requirements of paragraph (a) of this section with respect to such craft if the basis of the property in the hands of the parent corporation is determined under section 334(b) (relating to the general rule on carryover of basis in liquidations). In further illustration, if a corporation distributes a craft the income of which is subject to this section, in a distribution to which section 301(a) applies, the distributee will be treated as if it satisfied the requirements of paragraph (a) of this section with respect to such craft if its basis is determined under section 301 (d)(2) (relating to basis of corporate distributees) even though the basis may be the fair market value of the craft under section 301(d)(2)(A).

(2) *Partnerships.* If a partnership satisfies the requirements of paragraph (a) (1), (2), and (3) of this section, each partner shall treat all amounts includible in gross income with respect to the craft as income from sources within the United States for any taxable year of the partnership ending after commencement of the lease. In addition, if a partnership distributes a craft the income of which is subject to this section, to a partner, the partner will be treated as if he or she satisfied the requirements of paragraph (a) of this section with respect to such craft.

(3) *Affiliated groups.* If a member of a controlled group of corporations (as defined in section 1563(a)) that files a consolidated return for the year during which the member transfers a craft, the income of which is subject to this section, to another member of that same group, the transferee will be treated as if it satisfied the requirements of paragraph (a) of this section with respect to the craft.

Par. 4. Section 1.862–1(c) is revised to read as follows:

§ 1.862–1 Income specifically from sources without the United States.

* * * * *

(c) *Income from certain property.* For provisions permitting a taxpayer to elect to treat amounts of gross income attributable to certain aircraft or vessels first leased on or before December 28, 1980, as income from sources within the United States which would otherwise be treated as income from sources without the United States under paragraph (a) of this section, see § 1.861–9. For provisions requiring amounts of gross income attributable to certain aircraft, vessels, or spacecraft first leased by the taxpayer after December 28, 1980, to be treated as income from sources within the United States which would otherwise be treated as income from sources without the United States under paragraph (a) of this section, see § 1.861–9A.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–12110 Filed 5–4–83; 8:45 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Regulatory Flexibility Act; Ten Year Schedule for Review of Rules

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Regulatory Flexibility Act; Ten Year Schedule for Review of Rules.

SUMMARY: This document sets forth the PBGC'S ten year schedule for review of existing regulations, pursuant to requirements of the Regulatory Flexibility Act.

DATE: The schedule includes all regulations which are expected to be under review between June 30, 1981, and June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Melanie Franco Nussdorf, Special Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Suite 7200, Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires that each agency publish a 10 year schedule for the review of all agency rules that are in existence on the effective date of the Act (January 1, 1981), and that have or will have a significant economic impact upon a substantial number of small entities. The Act further requires that such rules adopted after the effective date of the Act be reviewed within 10 years of their publication as final rules.

In the review of rules, agencies are required by the Regulatory Flexibility Act to endeavor to minimize any significant economic impact of the rules on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes. During the course of such review, agencies are to consider the following factors: (1) The continued need for the rules; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and, (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The Regulatory Flexibility Act also requires that each year agencies publish in the **Federal Register** list of the rules which have a significant economic impact on a substantial number of small entities which are to be reviewed during the succeeding twelve months. The list must include a brief description of each rule, the need for and legal basis of such rule, and must invite public comment. It is anticipated that the PBGC will publish its list of such, if any, in the **Federal Register** as an adjunct to its next semiannual agenda, which will be compiled to meet the requirements of both the Regulatory Flexibility Act and Executive Order 12291.

The PBGC issues regulations under Title IV of the Employee Retirement Income Security Act, as amended, for single-employer defined benefit pension plans and multiemployer defined benefit pension plans. As of January 1, 1981 the effective date of enactment of the Regulatory Flexibility Act, no regulations had been issued relating to multiemployer plans, since the Multiemployer Amendments Act of 1980, which established an entirely new regulatory scheme for multiemployer plans, was enacted on September 26, 1980. None of the multiemployer plan regulations promulgated since the enactment of the Regulatory Flexibility Act has a significant economic impact on a substantial number of small entities. If future rules are subject to the Act, PBGC will schedule a review of such regulations at a later date.

On the date of enactment of the Regulatory Flexibility Act, the PBGC has issued six regulations relating to internal administrative or general administrative law matters and eight single-employer plan regulations. Of those regulations, PBGC has determined that none has a significant economic impact on a substantial number of small entities. Since that time, PBGC has issued four final rules: Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617; Allocation of Assets in Non-multiemployer Plans, 29 CFR Part 2618; Valuation of Plan Benefits in Non-multiemployer Plans, 29 CFR Part 2619; and Employer Liability for Single-employer Plan Terminations, 29 CFR Part 2622. While PBGC has not determined that these regulations have a significant economic impact on a substantial number of small entities, it expects to review these regulations in the next five years to update them as necessary and will, regardless of whether they are covered by the Act, ensure the needs of small entities have been taken into account, and the reporting burdens for these entities have been minimized. In this connection, PBGC has just completed a review and amendment of its regulation on Notice of Intent to Terminate, 29 CFR Part 2616. In the course of that process, the agency introduced a joint reporting form with the Internal Revenue Service to minimize duplicative reporting to the PBGC and the IRS on plan termination. In addition, PBGC is currently reviewing Reporting and Notification Requirements for Reportable Events, 29 CFR Part 2615 and Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617 to ensure that these regulations require the minimum paperwork necessary, consistent with the requirements of ERISA.

PBGC welcomes comments from any interested member of the public on its regulations.

Issued this 2nd day of May, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83–12090 Filed 5–4–83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD80-119]

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Termination of rulemaking.

SUMMARY: The Coast Guard is withdrawing its Advance Notice of Proposed Rulemaking published in the Federal Register of April 16, 1981 (46 FR 22207) regarding the issuing or the amending of regulations governing the operation of vessels on the waters of Northwestern Washington (including the Puget Sound Vessel Traffic Service Area). Since the time of that notice, the Coast Guard has hosted an Open Conference of Puget Sound maritime users and interested parties. As a result of that Conference, a number of recommendations were made to the Coast Guard—some of which have already been implemented by other rulemakings. In addition, several non-regulatory proposals have been implemented. Consequently, there does not appear to be any further need for that notice. Accordingly, a determination has been made to terminate the rulemaking.

ADDRESS: The rulemaking docket is available for examination and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays, at the Office of the Commander (mps), Thirteenth Coast Guard District, Room 3506, 915 Second Avenue, Seattle, WA 98174. (206) 442–1711.

FOR FURTHER INFORMATION CONTACT: Commander T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174. (206) 442–5537.

Drafting Information

The drafters of this notice are Commander T. Roger Pike, USCGR, project officer, Marine Safety Division, Thirteenth Coast Guard District and Lieutenant Commander Richard R. Clark, USCG, project attorney, Thirteenth Coast Guard District Legal Office.

SUPPLEMENTARY INFORMATION: 1. On April 16, 1981 an Advance Notice of Proposed Rulemaking was published in the Federal Register (46 FR 22207) to address user conflicts for the navigable waters of Northwestern Washington, including the Puget Sound Vessel Traffic Service Area. Of particular concern was conflicts between the gillnet fishermen and deep-draft vessels.

2. The April 16, 1981 Advance Notice of Proposed Rulemaking, among other things, announced a public hearing in Seattle, Washington, on June 3, 1981 to receive public comments regarding regulatory or non-regulatory approaches to resolving the conflicts among Puget Sound users. This hearing was well attended and a wide spectrum of maritime and public interests was represented. Although a number of viewpoints were represented, the hearing produced no clear consensus on the direction the Coast Guard should take. However, most participants indicated they would be willing to take part in a subsequent "Open Conference" to jointly develop possible solutions.

3. An Open Conference was held on October 13–14, 1981 at the Seattle Center. This Conference was widely advertised in the press and by direct mail, and was well attended. The attendees were divided into four Working Groups, each of which elected its own chairperson, to address specific elements of the problem. On the second day of the conference, the Working Groups' recommendations for regulatory and non-regulatory solutions were presented to and voted upon by the full conference. Those that were approved became conference recommendations.

4. Three recommendations—or groups of recommendations—were considered "major" and received immediate action, as follows:

a. The Conference recommended that the COLREGS Demarcation Line in Puget Sound be eliminated and that all waters in Northwestern Washington be governed by the '72 COLREGS. This change meant that a single set of navigation rules would apply throughout the region so that mariners operating in the Strait of Juan de Fuca, Puget Sound and adjacent waters, and in Canadian waters, would be governed by rules of the road which are identical or very similar. An Interim Final Rule was published on December 17, 1981 (46 FR 61456) and this change became effective December 24, 1981.

b. A second recommendation—advanced by two Working Groups and adopted by the full Conference—was for periodic waterways users' meetings to discuss problems in a setting similar to the Open Conference. Many of the interested groups represented at the Open Conference recognized that they had never before had an opportunity to discuss mutual concerns in a face-to-face meeting, and felt that regular meetings of this nature could be constructive. Consequently, in early 1982 the Sea Use Council agreed to become the sponsoring organization for the "Puget Sound Users' Forum". An organizational meeting was held on June 23, 1982 and the first regular meeting was held on September 24, 1982.

c. Seven specific recommendations were received concerning the manner in which the Washington State Department of Fisheries establishes periods for gillnet fishing. Several participants at the Open Conference indicated that the Department of Fisheries publishes its regulations without regard for their impact on safety of navigation or vessel traffic management. It was proposed that a dialogue be established between the Coast Guard and the Department of Fisheries, and that Coast Guard input be provided and considered in the scheduling of each year's gillnet season. This dialogue was established in March of 1983 and appears to have increased cooperation between the two agencies.

5. In addition to these three "major" recommendations, a number of "minor" or "supplemental" proposals came from the Open Conference. These are summarized below:

a. Several recommendations called for establishing buoys to mark ferry routes, fishing areas, etc. These were evaluated by the Coast Guard but have not been adopted because they were considered either impractical to establish or too expensive in relation to expected benefit.

b. Other recommendations involved proposed actions by the Coast Guard Captain of the Port or the Puget Sound Vessel Traffic Service. These included:

(1) Directing deep-draft vessels to favor left/right side of the Traffic Lane to avoid concentrations of fishing vessels;

(2) Making special safety broadcasts during periods of heavy fishing vessel concentrations;

(3) Establishing special communication arrangements with fleets of fishing boats; and

(4) Establishing special Captain of the Port orders to manage vessel traffic when conditions reached the point of being clearly unsafe.

The above actions are already within the legal and technical capabilities of the Captain of the Port and the Puget Sound Vessel Traffic Service and can be implemented when the situation requires. No further rulemaking seems necessary or appropriate.

6. Based upon specific recommendations received from the Puget Sound Users' Forum, as well as from the Open Conference, the Coast Guard established "temporary special traffic lanes" during the 1982 gillnet season. One such lane was a one-half mile wide corridor centered on the traffic separation buoys extending from Point No Point to Browns Point. During periods of heavy gillnet fishing, deep-draft vessels are granted deviations by the Puget Sound Vessel Traffic Service to use the temporary special traffic lane in lieu of the normal lanes prescribed by the Puget Sound Traffic Separation Scheme. Gillnet fishermen have agreed to avoid this relatively narrow corridor. They remain free to fish in all other areas of the channel, including the usual traffic lanes. In addition, the Coast Guard established the route normally followed by the Edmonds-Kingston ferry as a temporary special traffic lane. These actions are considered to have made a significant contribution to making the 1982 gillnet season relatively conflict-free.

7. Based upon the apparent effectiveness of these temporary special traffic lanes, the Coast Guard is considering undertaking a rulemaking project to make them a permanent part of the regulations enforced by the Coast Guard and to enhance their usefulness. However, that rulemaking would most probably occur in a part of the regulations not covered by this docket.

8. In view of the above, it appears that no rulemaking will be required under CGD80–119, and that this docket may be closed. The comments received on this rulemaking are available for examination and copying at the address listed above.

Dated: April 20, 1983

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83–12088 Filed 5–4–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 207

San Diego Bay, California, Naval Restricted Area

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Navy has requested the Corps of Engineers establish a naval restricted area in the Pacific Ocean in North San Diego Bay, California. The proposed restricted area surrounds an existing ammunition pier where extensive loading and handling of ammunition and explosives take place. The restricted area would protect persons and property from the dangers associated with the ammunition pier.

DATE: Written comments must be received on or before June 20, 1983.

ADDRESS: HQDA, DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn C. Lukos at (213) 688–5606 or Mr. Ralph T. Eppard at (202) 272–0200.

SUPPLEMENTARY INFORMATION: This proposed restricted area surrounds an existing ammunition pier at the Naval Air Station, North Island, San Diego County, California. Extensive loading and handling of ammunition and explosives takes place in this area. In order to provide maximum protection to lives and property, an area extending 100 feet from the ammunition pier (Bravo Pier) will be closed to all persons and vessels except those owned by, under hire to, or performing work for the Naval Air Station or Naval Weapons Station. The remainder of the restricted area will be open to vessels provided transit is made by the most direct route and without unnecessary delay. No fishing, swimming, mooring or anchoring will be allowed within the restricted area.

List of Subjects in 33 CFR Part 207

Navigation (water), Waterways.

The Corps of Engineers proposes to establish a restricted area under 33 CFR 207.612 as set forth below.

Note.— This proposed regulation is not a major regulation and is issued with respect to a military function of the Defense Department. Accordingly, the provisions of Executive Order 12291 do not apply. The Corps of Engineers has also determined that this regulation will not have a significant economic impact on a substantial number of entities and thus does not require preparation of a regulatory flexibility analysis.

Dated: March 11, 1983.

Approved:

Paul F. Kavanaugh,

Colonel, Corps of Engineers, Executive Director of Civil Works.

PART 207—[AMENDED]

Accordingly, Part 207 of title 33 of the Code of Federal Regulations is proposed to be amended by adding paragraph (a) to § 207.612 to read as follows:

§ 207.612 San Diego Harbor, California; restricted areas.

(a) Restricted area at Bravo Pier, Naval Air Station.

(1) The area. The water of the Pacific Ocean in North San Diego Bay in an area extending from the western boundary of North Island about 0.2 nautical mile bayward and basically outlined as follows:

Station	Latitude	Longitude
1	32°41'51.3" N	117°13'34.0" W.
2	32°41'51.3" N	117°13'46.6" W.
3	32°41'43.3" N	117°13'50.0" W.
4	32°41'35.8" N	117°13'46.0" W.
5	32°41'35.8" N	117°13'35.0" W.

(2) The regulations. (i) The restricted area shall not be open to swimming, fishing, mooring, or anchorage. (ii) Transit will be allowed through the restricted area except that no transit will be allowed within 100 feet of the ammunition pier (Bravo Pier). All unauthorized vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay. Only vessels owned by, under hire to, or performing work for the Naval Air Station or the Naval Weapons Station may operate within 100 feet of the ammunition pier.

* * * * *

(33 U.S.C. 1)

[FR Doc. 83–12090 Filed 5–4–83; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

46 CFR Part 67

[CGD 82–085]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend 46 CFR 67.09–3, the portion of the vessel documentation regulations which prescribes which vessels will be considered "built in the United States" for purposes of the Vessel Documentation Act. New vessel documentation regulations were published in the Federal Register on June 24, 1982 (47 FR 27490) and became effective on July 1, 1982. On the basis of comments received prior to the publication of those regulations, the Coast Guard recognized there might be some potential problems in prospective administration of § 67.09–3 due to lack of definition of some of the words used and because it placed into the Code of Federal Regulations a "rule of thumb" concerning allowable use of foreign items in U.S. built vessels which the Coast Guard had used in the past but had not widely publicized. A decision was made to publish the final regulations without changing the section and to use a separate rulemaking project, an Advance Notice of Proposed Rulemaking (ANPRM), to decide whether a change was appropriate. As a result of the comments received in response to that ANPRM, the Coast Guard has decided to propose a change

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to the vessel documentation regulations. The revision of § 67.09–3 now being proposed will change the factors to be considered in determining whether a vessel is "built in the United States" within the meaning of the Vessel Documentation Act.

DATE: Comments must be received on or before July 5, 1983.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/24), (CGD 82–085), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–1477 between the hours of 7 a.m. and 5 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis D. Carnilla (Project Manager) or Lieutenant Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, (202) 426–1492, or (202) 426–1493. Normal office hours are between 7 a.m. and 5 p.m Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this proposal are Mrs. Phyllis D. Carnilla (Project Manager) and Lieutenant Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety; and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

Comments Invited

The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, and identify this notice (CGD 82–085). Persons desiring acknowledgment that their comment has been received should enclose a stamped, self addressed postcard or envelope. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned.

Background

The regulations governing documentations of vessels contained in Part 67 of Title 46, Code of Federal Regulations, were extensively revised in a final rule published on June 24, 1982. That rulemaking project was undertaken primarily to simplify documentation procedures and was in implementation of the Vessel Documentation Act (Pub. L. 96–594). Comments received during the pendency of that rulemaking were critical of § 67.09–3 which pertains to U.S. build determinations. That section now reads:

> A vessel is considered built in the United States if:
>
> (a) All major components of its hull and superstructure are fabricated in the United States: and
>
> (b) The vessel is assembled entirely in the United States; and
>
> (c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.
>
> (d) For the purposes of this section, United States includes America Samoa.

The comments received concerning that section before it became final said the words "procured," "components," and "superstructure" as used there were vague. Other commenters said the "fifty percent of cost rule" in paragraph (c) had no basis in law, conflicted with past agency practice, was more restrictive than industry practice, would present great difficulties in terms of proof where older vessels are involved, and would be ineffective due to practical problems relative to enforcement. One commenter also said the regulation constitutes a non-tariff customs barrier. In the supplementary information published with the final rule on June 24, 1982, the Coast Guard recognized that the regulations were deficient in treating some of the issues raised by the comments, but did not attempt to address that in the final rule. Instead, the Coast Guard stated in the supplementary information that a further rulemaking to address those issues would be initiated with an Advance Notice of Proposed Rulemaking. The ANPRM was published in October 14, 1982 (47 FR 45888) and the public was given until December 13, 1932 to comment. The following summarizes the comments received and indicates that action proposed by the Coast Guard.

Discussion of Comments and Action

A total of 28 comments were received in response to the ANPRM. Shipping companies, shipbuilders, equipment manufacturers, admiralty law firms, members of Congress, trade associations, fishing companies, current and former customhouse brokers, and others provided comments and analyses which were extremely useful to the Coast Guard. After careful review of all comments, the Coast Guard has determined that further rulemaking is necessary. It appears that the most appropriate way to clarify the rule for determining when a vessel should be considered "built in the United States" is to delete 46 CFR 67.09–3(c) from the regulations. That subsection contains the "fifty percent of cost rule" and the word "procured" which were the cause of most of the uncertainty and criticism reflected in the comments received prior to the publication of the final documentation regulations and repeated during the pendency of the ANPRM. This proposal contains the necessary amendment to delete paragraph (c) and redesignated paragraph (d) to compensate for the deletion.

The Coast Guard proposal is based on consideration of a variety of factors brought out by the comments. For example, 20 of the 28 commenters objected to the so-called "fifty percent of cost rule" in 46 CFR 67.09–3(c). Their objections were stated in a variety of forms, but in general they felt there was no legal foundation for it, that it would be ineffective, and that it was contrary to the intent of Congress as reflected in other laws. The Coast Guard has decided that there is considerable validity to those criticisms. Where the rule is without any legal foundation may be debated, but it is clear that no statute exists which either requires or specifically authorizes it. While the Coast Guard has in the past referred to the language of paragraph (c) as a "rule of thumb" for making U.S. build determinations, it did not publish it as a regulation and has not vigorously enforced it as a requirement. Three commenters noted that H.R. 5020, introduced in Congress during 1982, contained language closely resembling that found in the regulation and that the proposed legislation was not reported out of committee. They inferred that Congress was not inclined toward the approach reflected by the regulation. Regardless of the validity of that inference, the Coast Guard agrees that any need for a "Buy American" rule of this type ought to be more clearly established by Congress and that until it has been it should not be left in regulations which have the force and effect of law.

Eight commenters expressed opposition to any lessening of the "fifty percent of cost rule." Some of them suggested it ought to be tightened to insure that most or all components would be of United States manufacture. The Coast Guard is not inclined to adopt that approach. We belive Congress used the phrase "built in the United States" primarily to protect the United States shipbuilding industry rather than manufacturers. There are tariffs and trade barriers in place to protect U.S. manufacturers of items which may be used by shipbuilders in the United States. The Coast Guard believes that forcing the shipyards in the United States or vessel owners to use less satisfactory or more costly equipment of U.S. manufacture in order to insure that vessels will qualify for use in the domestic trades or the fisheries, or to do without items because they are not available from domestic manufacturers, adds an element of cost to shipbuilders, ship owners, and the public generally which is not required or justified by the Vessel Documentation Act. Therefore, the Coast Guard intends to eliminate the "fifty percent of cost rule" from the regulation and discontinue its use as a "rule of thumb."

One commenter suggested that the sole criterion for determining whether a vessel was built in the United States should be whether the vessel was assembled entirely in the United States. The Coast Guard is not willing to adopt that suggestion. To adopt such a rule would suggest that vessels which are largely the product of foreign shipyards may qualify as U.S. built if they are shipped to the United States in sections and assembled here. That is not an acceptable construction of the phrase "built in the United States" because it is contrary to what the Coast Guard believes is the intent of Congress, that is, to protect the vitality of shipyards in the United States.

Several commenters noted that 46 CFR 67.09–3(c) is unclear as to whether the word "procured" as used there means purchased. Those engaged in fishing or familiar with the fishing industries also indicated that fishing companies would experience serious competitive disadvantages if they are forced to use items of U.S. manufacture or risk having their vessels not be considered U.S. built. They point out that much of the equipment used by the industry is either not avilable from domestic sources or, if it is available, it is not as efficient or advanced as that available from foreign sources where the fishing industry has expanded more rapidly. They suggested that "procured" be defined so that they could use engines and other items of equipment of foreign manufacture or, alternatively, that they be exempt from the regulation. It was also suggested that the regulations provide for a waiver under certain circumstances. The Coast Guard agrees that the word "procured" may have several meanings and that the regulation is unclear in that regard. Although it would be possible to remove the uncertainty by defining the word for purposes of the documentation regulations, for the reasons already discussed the Coast Guard does not feel that is the best way to proceed. Instead, we propose to delete paragraph (c) completely and in doing so will eliminate the word "procured." The Coast Guard believes that the question of whether a vessel should or should not be considered "built in the United States" can be adequately addressed by using the criteria now contained in paragraphs (a) and (b) as quoted above. It is not necessary for the Coast Guard to become involved in questions of where items which are not an integral part of the hull or superstructure were procured in order to answer the basic question of whether a vessel can reasonably be considered the product of United States shipyards. Moreover, acquiring the kinds of evidence which many of the commenters suggested would be appropriate to deal with such issues, that is, bills of sale, invoices, purchase agreements, sworn statements by builders or suppliers, or similar materials, would impose an added burden on the public and the Coast Guard which detracts from our goal of simplification announced in promulgating the vessel documentation regulations. It would also be contrary to the intent of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Regulatory Analysis

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. It is considered non-significant within the guidelines of the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). A determination has been made that the expected impact of changing the regulation is so minimal that the proposal does not warrant a full Evaluation. That determination is based on the nature of the change and the following circumstances relative to the need for change.

When the new vessel documentation regulations were proposed in 1981 an effort was made to include various longstanding agency practices. The "fifty percent of cost" rule, paragraph (c) as quoted above, was included on that basis. However, before the regulation was published in final form in June, 1982 it became apparent that paragraph (c), whatever its value or history as a "rule of thumb", would be impossible to implement as a regulation. Rather than change the final regulations, action to deal with § 67.09–3 was deferred to a subsequent rulemaking project. This proposal is part of the follow-up regulatory action which the public was advised would occur.

From the comments received before publication of the final vessel documentation regulations and in response to the ANPRM which preceded this proposal, it is apparent that the existence of a "fifty percent of cost" rule as a Coast Guard guideline or "rule of thumb" for U.S. build determinations was not widely publicized and that it was not well known either within the Coast Guard or the shipbuilding industry. It is also apparent that it was not vigorously enforced. Therefore, it is reasonable to conclude that it has not been a significant factor in decisions by those who might have been affected by it. It is highly unlikely that that situation changed when the final regulations were published, since the Coast Guard advised the public that § 67.09–3 would be subjected to further rulemaking action. No doubt those who have factored paragraph (c) into their decisions since 1 July 1982 have protected themselves against the obvious risk that the subsection might be changed or removed. Thus, the proposed change should produce no more than a minimal impact on anyone. For the same reasons, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) that this rule, if promulgated, would not have a significant impact on a substantial number of small entities.

Proposed Regulatory Change

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

PART 67—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend 46 CFR Part 67 as follows:

1. The authority citation for Part 67 reads as follows:

> **Authority:** 94 Stat. 3453 (46 U.S.C. 65 a, c, d, e, t, v); 65 Stat 290 (31 U.S.C. 483a); 41 Stat. 1002, 80 Stat. 795 (46 U.S.C. 927); 41 Stat. 1006 (46 U.S.C. 983); 94 Stat. 978 (42 U.S.C. 9101).

2. Revise 46 CFR 67.09–3 to read as follows:

§ 67.09–3 United States built.

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States.

(c) For the purposes of this section United States includes American Samoa.

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Dated:April 11, 1983.

Clyde T. Lusk, Jr.

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-12086 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-1-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-373; FCC 83-151]

Revision of the Commission's Rules With Respect to the Assignment of New and Modified Call Letters to AM, FM and TV Broadcast Stations

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This Notice proposes to revise § 73.3550 of the Commission's Rules with respect to the assignment of new and modified call letters to AM, FM and TV broadcast stations. This action is taken because the present rules appear to be burdensome and unnecessary.

DATE: Comments are due by May 23, 1983 and replies by June 7, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert A. Hayne, Mass Media Bureau, (202) 632-6485.

List of Subjects in 47 CFR Part 73

Radio broadcast, Television.

Notice of Proposed Rulemaking

In re matter of revision of § 73.3550 of the Commission's rules with respect to the Assignment of New and Modified Call Letters to AM, FM and TV Broadcast Stations; MM Docket No. 83-373.

Adopted: April 7, 1983.

Released: April 14, 1983.

By the Commission: Commissioner Fogarty absent.

1. The Commission, on its own motion, has under consideration the above-captioned matter concerning the processing of broadcast station call letter requests, and the Commission's underlying policies with respect to the assignment of call letters to broadcast stations.

Background

2. This proceeding is part of an overall effort to expedite the processing of all applications and requests which come before this Commission. Over the past two years, we have revised FCC Form 301-Application for construction Permit for Commercial Broadcast Station and released a *Second Report and Order* in General Docket No. 79-137 involving application processing procedures. We are also in the process of revising FCC Form 340-Application for Construction Permit for Noncommercial Educational Broadcast Station and FCC Form 302-Application for New Broadcast Station License. All of these efforts represent significant progress in meeting our objective. Against this background, we believe that significant improvements can likewise be made in regard to our rules and policies regarding the assignment of call letters.

3. The present call letter rules are the result of our 1973 action codifying existing Commission policies which were scattered throughout various decisions and public notices, and, at the same time, addressing processing problems not previously considered by the Commission. *Assignment of Call Signs*, 41 FCC 2d 481 (1973). In essence, that proceeding provided that a station, may, in most situations, request call letters of its choice (except the initial letter) if the desired call letters are available, are in good taste, and are sufficiently dissimilar phonetically and rhythmically from existing call letters of stations in the same service area so that there will be no significant likelihood of public confusion. That proceeding also dealt with such matters as the procedure for requesting call letters and filing of objections to a proposed set of call letters, requests by a proposed assignee, reassignment of relinquished call letters and conforming basic call letters. After nearly ten years of experience, we are persuaded that our present procedures warrant an in-depth review to determine whether they should be retained, modified or eliminated.

4. The current procedure first requires an applicant to notify all broadcast station within 35 miles. After a staff review, the request is placed upon a Commission public notice for 30 days during which objections may be filed. In the absence of any objection, the call letters are made effective shortly affter the 30-day public notice period. In the event an objection is received, it is resolved at staff level. An aggrieved party may then seek reconsideration by the staff and/or file an application for review which will be considered by the Commission.

Proposed Changes Regarding Objections

5. In considering our current rules, the most obvious problem concerns the filing of objections to requests for call letters. For the most part, these objections allege phonetic and rhythmic similarity between call signs. In this connection, we are confronted with both administrative and substantive problems. Administratively, we have been, at times, overburdened with objections. Even though these objections may be disposed of by delegated authority, aggrieved parties do, on occasion, file an application for review requiring consideration by the full Commission. Considering the demands upon the limited administrative resources of the Commission and the staff, we do not feel that disposing of call letter objections represents an optimum utilization of these resources. In both an administrative and substantive context, it must be noted that in excess of 90% of the objections are denied. In fact, we consider a significant proportion of these objections to be frivolous. In any event, we find ourselves disposing of objections which are, for the most part, not valid. In addition, based upon our past experience, we question whether any valid public interest benefits mandate our continued involvement in this area.

6. Our first proposal is that the Commission not continue to be the forum to resolve call letter disputes. The Commission's role has been to determine whether there is sufficient similarity between call letters that would give rise to a significant likelihood of public confusion as to the identity of a particular station. The discharge of this public interest responsiblity has also had the ancillary benefit to stations of avoiding confusion involving advertisers and ratings. But, as we observed in a recent call letter dispute case: "In the early days of the development of broadcast stations, this Commission may have been properly concerned with protecting one station from possibly trading on another's good will, by adopting similar call letters. However, today broadcast is a mature and healthily competitive industry, and there is less need for protectionist rules." *Classsical Broadcasting Society of San Antonio, Inc.*, 53 RR 2d 87, 88 (1983). When a station does select confusingly similar call letters in order to misappropriate the good will of an established station in the market, the action may be a justicable wrong and constitute unfair competition under common law and state law. *See* 87 C.J.S. *Trade-Marks, Trade-Names, and Unfair Competition* 13, 87 (1954), 74 Am. Jur. 2d *Trademarks and Tradenames* 87 (1974); *Cf. Thompson v. Alpine Motor Lodge, Inc.*, 296 F2d 497 (5th Cir. 1961). The issue in the local forum would be, in essence, the same "Likelihood of public confusion" issue which we now resolve in a call letter dispute.[1] Thus, instead of purporting to resolve call letter disputes, we propose, consistent with remaining rules and policies, to process and grant all call letter requests. In the event that a local court determines that a station should not use a particular set of call letters, we would take cognizance of that determination and assign a different set of call letters. *Cf. Shamrock Development Corp.*, 32 FCC 2d 82 (1971).

7. In the event it is determined that the Commission should continue to resolve this type of call letter dispute, we should, at the very least, revisit the criteria used to resolve these disputes. We have previously stated that when considering a call letter objection, an objector is not required to show that public confusion is bound to result. Rather, the objector is only required to show that a significant likelihood of public confusion exists. *John Poole Broadcasting Co., Inc.*, 25 RR 335 (1963). Section 73.3550(j) of the Commission's Rules now embodies this principle. Over the ensuing years, we have received numerous objections but have found over 90% of these objections not to be valid. While we believe that most of these objection were filed in good faith, there does seem to be a problem of perception on the part of the objecting stations as to what constitutes a "significant likelihood of public confusion." In this connection, there is considerable precedent on the issue of public confusion, including a recent decision announcing more of a common sense approach to call letter objections.[2] Nevertheless, we realize the misperceptions can easily exist when each case involves a subjective determination beased on the particular call letters involved. If we determine that the public interest requires us to continue to resolve call letter disputes, we propose to modify the language contained in §73.3550(j) of the Rules. Specifically, we would substitute a phrase such as "clear and convincing likelihood of public confusion" in lieu of "significant likelihood of public confusion."

8. Many objections refer to the fact that proposed call letters could be promoted in a manner which could be confused with either existing call letters and/or existing promotional uses. An example of this could be a station requesting call letters with an "EZ" combination when an existing station promotes itself as "easy listening." We have repeatedly stated that promotional announcements and materials used by broadcast stations are influenced by competitive factors which, by their very nature, are subject to frequent changes. For this reason, among others, the manner in which call letters are, or could be, promoted is not taken into consideration by the Commission in resolving a call letter dispute. *PSA Broadcasting, Inc.*, 42 FCC 2d 772 (1973). Nevertheless, this policy does not hamper any party from asserting such rights as it may have under local law in a local forum. Should it be determined by an appropriate authority that a licensee should not use a particular set of call letters for some reason outside the Commission's purview, the initial assignment of call letters would not serve as a bar to the making of a different call letter assignment. *Shamrock Development Corp., supra.* Even though our procedures are clear, we continue to receive objections premised on potentially confusing promotional uses. Therefore, should we decide that the public interest requires us to continue to resolve call letter disputes, we propose to add specific language to §73.3550 of the Rules to advise stations that objections premised on potential promotional use will not be entertained at the Commission.

Notification

9. Section 73.3550(e)(1) of the Rules requires an applicant requesting a new or modified call sign assignment to notify each broadcast station within 35 miles of the community of license. Upon reflection, it appears that the Commission's Public Notice concerning the request for call letters affords any interested station adequate notice. Our primary goal in this proceeding is to streamline a process that we believe to be outmoded and therefore, in many instances, unnecessarily burdensome to our licensees and the Commission. Accordingly, we propose to eliminate § 73.3550(e)(1), whether or not this rulemaking results in elimination or modification of § 73.3550(j).

30-Day Holding Period

10. Section 73.3550(g) of the Rules provides for a 30-day holding period following the issuance of public notice, during which objections may be filed. In the event we were to defer all objections alleging public confusion to local forums for a determination under local law, it would not be necessary to continue with a 30-day holding period. We would merely process and grant all call letter requests as they arrive. If we were to continue to entertain objections, we do not feel that a full 30-day holding period is, in fact, necessary. Therefore, we propose to shorten this period to 15 days. This would not appear to be a hardship to an objecting party and would expedite the processing of these requests.

Conforming Call Signs

11. Section 73.3550(1) of the Rules provides that only commonly owned stations assigned to the "same or adjoining" communities may request conforming the basic call sign. The reason for the above requirement is the avoidance of public confusion as to community of license. See *Eastern Oklahoma Television Company*, 28 FCC 2d 31 (1971). Subsequently, in *Doubleday Broadcasting Co., Inc.* v. *FCC*, 655 F 2d 417 (D.C. Cir. 1981), the Court of Appeals reversed our action denying a request for waiver of § 73.3550(1) of the Rules involving communities less than 2 miles apart. Following *Doubleday*, we have routinely waived this rule with respect to communities 2 or 3 miles apart. At this juncture, we must consider the continuing efficacy of this rule as well as its underlying rationale. In a waiver context, it is exceedingly difficult to "draw a line" at a certain mileage separation between communities, e.g., there is little justification to deny a waiver involving a 4-mile separation when we routinely waive a 3-mile separation. Furthermore, we are unaware of any instance of public confusion emanating from conforming call signs of stations assigned to different communities, which has compromised any cognizable public interest objective. Indeed, to the extent there may be public confusion, we believe that the further the communities are apart, the *less* the likelihood of public confusion as to a particular station's community of license. Accordingly, we are proposing to eliminate the requirement that the requesting stations be assigned to the same or adjoining communities.

Reassignment of Relinquished Call Letters

12. For the most part, call letter requests are processed on a "first-come-first-served" basis, with the first request blocking the acceptance of a subsequent request for the same call letters. In our 1973 proceeding, we considered the matter of "trafficking" in call letters. Specifically, trafficking involves a licensee relinquishing call letters and

[1] In this connection, we must concede that the Commission has no particular expertise in this area vis-a-vis other available forums.

[2] In *Classical Broadcasting Society of San Antonio, Inc. supra*, we stated that the controlling question is simply whether the letters in the call signs, apart of in combination, would sound sufficiently alike to the average listener so that a listener would confuse one station for another.

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another licensee wishing to acquire them, by prearrangement, controlling the "availability" date by appropriate timing of their respective requests. We viewed this practice as being unfair to other parties having a legitimate interest in the relinquished call letters and bordering upon an abuse of process. In response to this purported problem, we adopted § 73.3550(k) of the Rules which provides for the Commission announcing the availability of relinquished call letters. All requests for the relinquished call letters received within a subsequent 15-day period are considered on an equal footing, with the call letters being awarded to the applicant having the longest continuous period of broadcast service. After careful consideration of this matter, we are not persuaded that private agreements between licensees harm other parties or the public interest to the extent of justifying the ongoing burden the above rule places upon our processing staff. In arriving at this determination, we would like to emphasize that any potential applicant for a set of call letters in the process of being relinquished may simply inquire as to the effective date of the proposed change in call letters. Since this date constitutes the date of relinquishement, the interested party may then submit its request on that date. Therefore, we are proposing to eliminate the 15-day procedure and process all call letter requests on a "first-come-first-served" basis. In the event we receive requests for the same call letters on the same day, we would only then select the applicant with the longest continuous period of broadcast service.

13. Section 73.3550(q) of the Rules proscribes reassignment of call letters in the same community within 180 days of relinquishment, except to the same licensee or its successor-in-interest. The purpose of this rule is to avoid the erroneous impression among listeners and viewers that the same principals are involved in the new operation. We are skeptical whether this rule furthers a tangible public interest objective. The purpose of call letters is to permit the identification of a station and not the principals of the licensee. Furthermore, this rule, in effect, draws a dichotomy between a licensee assigning its license (and call letters) to a new party and a new party merely requesting reassignment of relinquished call letters in the same community. Both situations would appear to involve an equally erroneous impression concerning the ownership of the station. We are not convinced that considering one situation to be in the public interest and the other to be contrary to the public interest is a valid distinction. Accordingly, we are proposing to eliminate this proscription concerning assignment of relinquished call letters.

"Suitable Clearance" for Certain Call Letters

14. Section 73.3550(s) of the Rules proscribes the assignment of call letters using the initials of the President, a living former President, the United States of America or any of its agencies or departments, unless "suitable clearance" is obtained. This requires the applicant to undertake efforts to gain suitable clearance and requires us to make *ad hoc* determinations that these efforts represent compliance with this rule. We question whether assignment of such call letters without suitable clearance harms the public interest. In this connection, it should be noted that with the plethora of federal agencies, we have, on occasion, inadvertently assigned call letters representing the initials of a federal agency without any suitable clearance (e.g., Station WEPA, Eupora, Mississippi). In a somewhat similar vein, as individuals become President of the United States, their initials can easily conflict with existing call letters (e.g., Station WRMN, Elgin, Illinois). Such instances do not appear to have caused public confusion or otherwise harmed the public interest. Therefore, we propose to delete this rule and routinely assign such call letters, if requested.

Other Matters

15. There are other matters involving call letters which appear to warrant comment in this proceeding. The first concerns the actual need for call letters. In this connection, we must evaluate our international treaty obligations to assign call letters. We would welcome comments on this subject. We also seek comment on the necessity for and usefulness of call signs with regard to enforcement activity of the Field Operations Bureau. The second matter concerns the requirement of § 73.3550(j) that call letters be "in good taste." In this regard, we would consider comments on whether there should be specific Commission criteria on what is, or is not, in "good taste," and/or whether we should eliminate § 73.3550(j) altogether. Finally, as indicated in paragraph 6, above, we are proposing to have issue of confusingly similar call letters arbitrated in local forums. In such situations, we believe that relief could be afforded regardless of whether or not the confusingly similar call letters are valid technical service marks. *Cf. American Shops v. American Fashion Shops*, 13 N.J. Super. 416, 80 A. 2d 575 (1951). However, it appears that a proceeding in a local forum could be facilitated if the call letters were a valid service mark. For this reason, we would also welcome comments concerning this matter and whether a Commission action conferring a proprietary or ownership right to call letters would be legally sufficient for the licensee to obtain a valid service mark.

16. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IKRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall cause a copy of this Notice, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

17. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

I. Reason for Action

Requiring applicants for call letters to notify all broadcast stations within 35 miles and comply with other rules of questionable public interest value unnecessarily restricts broadcast licenses, imposes a burden on applicants and delays the processing of these requests.

II. The Objective

The Commission proposes to delete such requirements.

III. Legal Basis

Section 303(r) of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations, not inconsistent with law, as may be necessary to carry out the provisions of this Act.

IV. Description, Potential Impact and Number of Small Entities Affected

Many broadcast stations can be classified as small businesses. These stations will benefit by lessening the requirements imposed upon them.

V. Recording, Record Keeping and Other Compliance Requirements

None.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Proceeding.

None.

VII. Significant Alternatives Minimizing Impact on Small Entities

The alternative would be to maintain the status quo and thus continue to require compliance with these rules. This would not accomplish the beneficial objective sought in this rulemaking.

18. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is a written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See Generally.* § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

19. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to the procedures set forth in § 1.415 of the Rules, 47 CFR 1.415, interested parties may file comments on or before May 23, 1983 and reply comments on or before June 7, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order.*

20. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interests by participating informally, may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

21. For further information concerning this document, contact Robert Hayne, (202) 632-6485.

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-11983 Filed 5-4-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 100-179, Ch. I

[Docket No. HM-188]

Transportation of Hazardous Materials Between Canada and the United States

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau, DOT.

ACTION: Advance notice of proposed rulemaking; notice of public hearing.

SUMMARY: The Materials Transportation Bureau (MTB) solicits public comments relative to any future action it should take concerning the provisions of § 173.8 of the Department's Hazardous Materials Regulations (HMR). This section allows, with certain exceptions, shipments of hazardous materials to be transported by railroad into or through the United States in conformance with the regulations of the Canadian Transport Commission (CTC). MTB will consider oral comments at a public hearing as well as written comments. Commenters may also address matters related to proposed requirements of Canada's Ministry of Transport (Transport Canada) even though such comments would only be relevant to § 173.8 if they are adopted as final requirements under Canada's Transportation of Dangerous Goods Act at a future date.

DATE: hearing June 2, 1983, beginning at 9:30 a.m.

ADDRESS: The Hearing will be held in room 2230, Nassif Building, DOT Headquarters, 400 Seventh Street, SW., Washington, D.C.

Written comments: Submit written comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202) 426-0656.

SUPPLEMENTARY INFORMATION: Until the mid 1970's, the regulations of the CTC (formerly the Board of Transport Commissioners for Canada) were, with few exceptions, identical to those found in the HMR. It was due to this regulatory compability that trans-border shipments of hazardous materials moved without confusion on the part of shippers and carriers as to the applicability of regulatory requirements of each country. This may not be the present situation since CTC's and DOT's regulations for the safe transportation of hazardous materials differ in a number of significant ways.

The CTC regulations are entitled "Regulations for the Transportation of Dangerous Commodities by Rail" (TDCR) and are prescribed by "General Order No. 1974-1-Rail" of the Canadian Transport Commission dated July 31, 1974. The following is stated in general notice as a forward to the TDCR:

> These regulations are applicable to dangerous commodities transported over railways subject to the jurisdiction of the Commission.

Paragraph 9(a) of § 173.8 of the HMR reads as follows:

> Except for hazardous wastes and hazardous substances, shipments of hazardous materials which conform to the regulations of the Canadian Transport

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Commission (formerly the Board of Transport Commissioners for Canada), may be transported from the point of entry in the United States to their destination in the United States, or through the United States en route to a point in Canada. Empty rail tank cars may be transported in conformity with Canadian Transport Commission regulations from point of origin in the United States to a point of entry into Canada.

Considering the applicability of CTC's TDCR and the paragraph from the HMR quoted above, so-called reciprocity in regulations exist at the present time only in regard to transportation of hazardous materials (dangerous commodities) by railroad and only to materials that are subject to both CTC and DOT regulations (e.g., there is no CTC regulation presently applicable to combustible liquids; therefore, the provisions of § 173.8 do not apply and combustible liquids must be transported in conformance with the HMR).

Most recent major revisions to CTC's regulations became effective on May 1, 1982. Many of the revisions reflect conformance to international standards based on recommendations issued by the United Nations Committee of Experts on the Transport of Dangerous Goods. The following discussions do not constitute a comprehensive analysis of CTC's regulations; they are provided only to illustrate some of the differences between CTC and DOT regulations (two numbers before a decimal in a section citation denote a CTC rule, e.g., § 71.1, whereas three numbers before a decimal denote a DOT rule contained in 49 CFR, e.g., § 171.1):

1. The list of dangerous commodities in § 72.5 most closely aligns with the list of the International Maritime Dangerous Goods Code (IMDG Code) and differs in many respects from the list in § 172.101. For example, numerous explosives descriptions not given in § 172.101 are listed in § 72.5. The list is virtually identical to DOT's optional hazardous materials table in § 172.102 and quite similar to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, use of which is permitted by § 171.11.

2. A number of materials are classed differently in § 72.5 than they are in § 172.101. Also, the international class numbering system is used in § 72.5 rather than the class words in § 172.101 Examples are: (1) Aluminum hydride bears class number 4.2 which, according to § 72.1, means a substance "liable to spontaneous combustion" whereas, in § 172.101, it is classed as a Flammable solid; (2) Ammonia, anhydrous and Hydrogen chloride bear class number 2.3 which, according to § 72.1, means "Poison gases" whereas, in § 172.101, each of these materials is classed as a nonflammable gas; and (3) according to § 72.1, high-strength nitric acid, e.g., a 72% concentration, bears class number 8 for corrosives, and according to § 172.101, nitric acid at this concentration is classed as an oxidizer.

3. Section 73.427 sets forth CTC's requirements for shipping papers. Included is a provision that the class number of a material be used rather than a class word(s) required by § 172.202 in referencing § 172.101. Use of class numbers alone is not generally permitted by the HMR for imported shipments moving by rail or highway; therefore, for basic descriptions of hazardous materials on shipping papers appearing in the United States, only shipments by rail coming from Canada are presently permitted (by § 173.8) to have classes identified on shipping papers by numbers in place of class words.

4. Except for placards for Explosives and Poison Gas, placards for railcars specified in § 74.548 are wordless enlarged UN labels bearing class numbers in the bottom corner. For example, the only distinction between a FLAMMABLE GAS and a FLAMMABLE LIQUID placard is class number 2 or 3, respectively, in the bottom corner. DOT requires class words on placards except when identification numbers are permitted and displayed. In § 74.548a, CTC not only requires identification numbers to be displayed on bulk packagings, as is required by DOT, but on every carload, container load, or trailer load of hazardous materials requiring a placard. Except for division 2.3 (poison gas), which is addressed in § 74.548b, § 74.548a requires identification numbers to be displayed only on placards and does not permit optional use of orange panels.

5. The CTC regulations contain no provisions for the transport of consumer commodities as provided by the HMR.

6. Paragraph 73.9(c) permits, with certain exceptions, the transport into the United States of hazardous materials prepared in accordance with the IMDG Code, provided they are transported in closed freight containers and that the DOT certification statement appears on the shipping papers. The HMR do not generally permit the transport by rail of hazardous materials packaged or placarded in accordance with the IMDG Code without regard to the corresponding requirements in the HMR.

7. The CTC regulations contain no listing of forbidden materials, as listed in § 172.101, and certain provisions appear in § 173.21 for which there is no corresponding provision in § 73.21. For example, § 173.21(d) forbids "* * * materials (other than those classed as explosives) which will detonate in a fire". The CTC regulations contain no such general prohibition. Other examples of materials forbidden for transport under the HMR, but permitted by the CTC regulations, include "new" explosives not approved in accordance with § 173.86 and Methyl ethyl ketone peroxide containing more than 9 per cent active oxgen.

MTB believes that it should make every reasonable effort to recognize shipments coming into the United States in conformance with CTC regulations (and future Transport Canada regulations) in consideration of the fact that (1) CTC fully recognizes shipments moving into Canada under DOT regulations (§ 73.8), and (2) more than $3 billion worth of hazardous materials (dangerous commodities) move annually between our countries.

Commenters are invited to address any potential safety impacts being encountered or contemplated as a result of the present "reciprocal" regulatory provisions of § 73.8 and § 173.8 or that may result from Transport Canada requirements (a number of which, if adopted as proposed in the *Canada Gazette* on June 19, 1982, would be the same as those of CTC). Of particular concern to MTB are those potential safety impacts that may be related to emergency response actions because of several fundamental differences in communications requirements. This concern may be offset by the fact that both regulatory systems use identification numbers assigned to materials based on the worldwide UN System. It is these identification numbers which provide rapid access to emergency response information in the U.S. Emergency Response Guidebook and Canada's Emergency Response Guide for Dangerous Goods. Commenters are encouraged to discuss the value of this matrials identification numbering commonality in offsetting other differences in light of the wide dissemination of the Guidebook and its growing use by fire, police, and other emergency response entities in the United States.

MTB wishes to emphasize that the purpose of this Advance Notice of Proposed Rulemaking is to solicit comments concerning safety impacts due to differences in regulations pertaining to the safe transportation of hazardous materials. It is not intended to address the mertis of CTC's regulations (or those proposed by Transport Canada); nor is it intended to serve as a forum for such a purpose.

It is requested that persons desiring to provide oral comments at the hearing advise Mr. Altemos before June 2, 1983.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1 and paragraph (a)(4) of Appendix A to Part 106)

Issued in Washington, D.C. on April 28, 1983.

Alan L. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-11849 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-60-M

Federal Railroad Administration

49 CFR Part 229

[Docket No. RSGC-2, Notice 4]

Display of Alerting Lights by Locomotives at Public Rail-Highway Crossings; Termination of Rulemaking

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates rulemaking action in FRA Docket No. RSGC-2. The last notice of proposed rulemaking (47 FR 44791) involved a proposal to require railroad locomotives to display flashing lights at public rail-highway grade crossings. The underlying assumption of the proposal was that such lights would alert motorists of an approaching train and thereby reduce the likelihood of an accident at the crossing. Termination of this rulemaking is based on public comments and FRA's determination that there is no justification for a Federal regulatory requirement that railroads equip their locomotives with an alerting light.

FOR FURTHER INFORMATION CONTACT: John Leeds, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426-4345.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1978, the FRA published an advance notice of proposed rulemaking (ANPRM). The purpose of the ANPRM was to determine whether Federal regulations should require locomotives to be equipped with lighted devices, beyond the standard headlight, intended to alert motorists that a train is approaching a rail-highway crossing at grade (43 FR 9324).

Although the comments were largely negative, FRA determined that the alerting light concept warranted further exploration. Hence, FRA issued a notice of proposed rulemaking (NPRM) on June 18, 1979 (44 FR 34982). This NPRM proposed to require the display by railroad locomotives of dual alternating electronic flash tube lights (strobe lights) at public rail-highway crossings at grade.

The response to the strobe light NPRM was overwhelmingly negative. Substantial questions were raised about the effectiveness of the strobe light (and alerting lights generally), the costs involved, and the operational reliability of the strobe devices. As a result, the FRA withdrew the strobe light NPRM on April 15, 1982 (47 FR 16189).

On October 12, 1982, FRA issued a second NPRM (47 FR 44791). This notice proposed the installation of a single alerting light on railroad locomotives, with a wide variety of light types qualifying as an alerting light. By removing the concerns expressed by the commenters to the earlier NPRM that related solely to the strobe type light, FRA sought to focus attention on the critical question whether alerting lights were effective at all.

Once again, the comments were largely negative. In view of the practical experience of the commenters with alerting lights and the depth of the technical analysis, the working hypothesis of the proposed rule was substantially undermined.

Substantial data and analyses have now been developed as a consequence of this extended rulemaking proceeding. FRA believes that the current information is more than sufficient to permit a determination whether a requirement that locomotives be equipped with alerting lights is justified. Having conducted a thorough review of the data and analyses, FRA has concluded that the information in the Docket does not support the proposition that alerting lights are effective in reducing the incidence of grade-crossing accidents. Without that support, a Federal regulatory requirement that railroads equip their locomotives with an alerting light is not justified.

Alerting Light Effectiveness

The notion that the installation of a lighted flashing device on a railroad locomotive (in addition to the standard headlight) might make the locomotive more conspicuous is not a new one. Decades before FRA began its proceeding in this docket, some railroads were utilizing an oscillating headlight (Mars light) on locomotives used in high speed passenger service to attract the attention of persons along the right-of-way. More recently, other lighted devices (strobe lights and revolving dome lights, for example) have been utilized by various railroads for a variety of purposes.

Against this backdrop, FRA approached its inquiry with a working assumption or hypothesis that an alerting light would increase the conspicuousness of a railroad locomotive, and thereby reduce the number of rail-highway accidents at grade.

As set forth below, however, this assumption has not been validated by the analysis and data in the docket that has been developed as part of this rulemaking.

The most important study in support of the first proposed rule is entitled "Analysis for NPRM: Strobe Lights on Locomotives". It was prepared for FRA by Dr. W. Curtiss Priest and Mr. Karl Knoblauch of IOCS, Inc. The study includes an evaluation of the effectiveness of dual strobe lights, an analysis of the benefits and an estimation of the costs of a regulation requiring strobe lights, and a measure of the economic impact of such a regulation on the railroad industry. This study, which concluded that strobe lights are cost beneficial, formed the basis for FRA's cost/benefit analysis for the second NPRM.

The IOCS study, however, is not based on empirical data. It is instead a theoretical analysis of the possible impacts of requiring alerting (strobe) lights on railroad locomotives. On both aspects of the effectiveness issue—the degree of increased conspicuity alerting lights provide and whether that increased conspicuity will actually reduce the number of accidents—the authors, in the absence of any data, were compelled to speculate. The authors could conclude only that "[i]t is judged that between 25 and 75 percent of the motorists would react favorably."

The IOCS study, therefore, is of no real assistance on the issue of whether and to what extent alerting lights on railroad locomotives are effective.

The second study involves the FRA strobe light test program and is entitled "Operational Testing of Locomotive-Mounted Strobe Lights." The study was prepared for FRA by John B. Hopkins of the Transportation Systems Center of DOT. The testing, conducted in cooperation with four railroads, sought to assure compatibility with normal operations, validate previous cost estimates, and obtain a measure of safety effectiveness.

The major finding of the study was that the strobe light device used in the test program did not have adequate reliability in the rail environment, a concern voiced by the many railroad commenters in response to the first NPRM. As a result, the FRA withdrew

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the strobe light NPRM and subsequently issued the second NPRM that would have permitted a wide variety of light types.

The operational tests did not provide an objective measure of the effectiveness of alerting lights. Compared on the basis of rail-highway crossing accidents per locomotive mile, the locomotives equipped with strobe lights fared slightly better than those without them. The authors of the study noted, however, that so few accidents occurred on each participating railroad that one more or one less accident involving either the equipped or the unequipped locomotives would produce substantially different comparative results. Accordingly, the study found (page viii) that "the sample was too small to draw valid conclusions on a wider basis." The study concluded that, insofar as effectiveness was a criterion, the limited operational test data did not provide justification for a universal requirement for alerting lights.

FRA likewise concludes that this test report does little to illuminate the issue of effectiveness. Moreover, FRA believes that no test program of any reasonable cost and scope can be devised to generate objective, statistically valid data from which the actual effectiveness of alerting lights can be determined. A host of factors are intertwined in the causal circumstances underlying public rail-highway crossing accidents, many of which are impossible to isolate or quantify for purposes of achieving valid test conclusions. The relative infrequency of such accidents on a per locomotive mile basis inhibits the accumulation of a proper data base. The wide differences in railroad environments and operating conditions preclude generalizing from limited testing in a few environments.

The third study relating to the effectiveness issue is the study included in the comments of the Association of American Railroads (AAR).

The AAR study analyzed the 1980 and 1981 accident rates at public rail-highway crossings at grade not protected by active warning devices. It compared the accident rates for railroads that have equipped their locomotives with alerting lights to the rates for railroads whose locomotives are not so equipped. The railroads included in the study accounted for approximately 70 percent of road locomotives, 60 percent of all public rail-highway crossings at grade, and 63 percent of all public rail-highway crossing accidents.

A summary of the conclusions of the study is found on page A–1 of the AAR comments:

> The results of the analysis indicate that there is no statistically significant relationship between the number of accidents per crossing and whether or not the locomotives were equipped with altering lights. There is no evidence in the available data that alerting lights are effective in reducing grade crossing accidents.

Having carefully reviewed the underlying study, FRA agrees that the conclusions drawn by the AAR are consistent with the data analyzed. As in the case with any complex statistical analysis, reasonable minds might differ with certain of the assumptions that were made by the AAR in comparing and analyzing the data. Nevertheless, FRA believes that such differences would not materially affect the validity of the AAR's conclusions.

Indeed, as a result of the approach taken by the AAR study, FRA developed a fourth study. This study also compares a group of railroads with locomotives equipped with alerting lights to a group whose locomotives were not so equipped to determine if the effectiveness of alerting lights on railroads locomotives can be demonstrated. The FRA study, which has been included in the docket, approaches the selection of the relevant rail-highway crossing accidents in a different manner. It attempts to isolate more specifically the altering light component in the overall accident rate of the two groups—an extremely difficult task since that component is only one of many, more significant factors.

The FRA analysis, at the very least, supports the identical conclusion reached by the AAR: there is no evidence that alerting lights are effective in reducing grade crossing accidents. In fact, the group of equipped railroads that were examined in the FRA study had a slightly higher grade-crossing accident rate. To the extent any affirmative conclusion could be drawn from the FRA study, it is that alerting lights have no discernible effect on the incidence of grade-crossing accidents.

Finally, FRA was presented with the statements of railroads commenters that their actual experience with altering lights on railroad locomotives does not indicate any discernible safety benefit. These statements are notably consistent with the negative and inconclusive results of the studies discussed above. At the public hearing held in conjunction with the last NPRM, the witness for Amtrak, which is a carrier whose locomotives are equipped with strobe lights, testified as follows:

> Although Amtrak now has extensive experience with the operation of trains in all parts of the country with warning lights on its locomotives, we do not feel there is any evidence in our experience that could justify the conclusion that these lights produce a significant safety benefit * * * Amtrak believes that enhanced visibility of trains, which we have sought to achieve through the use of warning lights, is not a significant factor in eliminating grade crossing accidents * * * Amtrak cannot specifically demonstrate that there have been no safety benefits from such lights; however, we have not found any positive evidence that these lights produce a significant safety benefit.

Not only is there no evidence warranting a finding that alerting lights are effective in reducing accidents, the data do not provide any adequate basis for comparing the relative effectiveness of alerting lights with other grade crossing safety efforts, *e.g.*, Operation Lifesaver, an industry-State cooperative public education program. Information in the docket indicates that States having Operation Lifesaver programs have a rail-highway crossing accident rate declining at a faster pace than States that do not have such programs. Thus, even assuming that alerting lights were effective to some degree, that alone would not warrant Federal regulation to require them as opposed to other alternatives.

Obtaining data to make comparisons between various rail-highway grade crossing protection programs is extremely difficult, if not impossible. The difficulties in isolating and measuring the effectiveness of alerting lights are also present in determining the effectiveness of other grade crossing protection programs. Accordingly, FRA has no basis upon which to mandate a universal rule for all railroad operations. An individual railroad is in the best position to determine the optimum grade crossing program or programs for its particular situation. The steady decline over the past decade in the number of rail-highway accidents, fatalities, and injuries indicates that the choices have been successful overall.

Accordingly, rulemaking action in Docket No. RSGC–2 is terminated.

(Secs. 2, 7, 8, 9, and 13, Locomotive Inspection Act (45 U.S.C. 23, 28, 29, 30 and 34); sec. 6 (e) and (f), Department of Transportation Act (49 U.S.C. 1655 (e) and (f)))

Issued in Washington, D.C., on April 26, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83-11952 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–09; Notice 12]

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Standard No. 213, *Child Restraint Systems*, which would modify the buckle force requirements of the standard. The proposed amendment would reduce the minumum force requirement in the pre-impact test of the belt buckle from 12 to 9 pounds. It would also establish a new 12-pound maximum force requirement for the pre-impact test. The current maximum permitted force in the post-impact test would be reduced from 20 to 16 pounds. In addition, the notice proposed adding buckle size and buckle latching requirements to the standard. The effect of these requirements will be to ensure that child restraint belt buckles are easier for adults to operate, while also ensuring that children will not be able to open the buckles by themselves.

DATES: Comments must be received by June 20, 1983. The proposed effective date of the amendment is 35 days after publication of the final rule.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Systems, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2064).

SUPPLEMENTARY INFORMATION: On December 13, 1979 (44 FR 72131), the agency adopted Safety Standard No. 213, *Child Restraint Systems* (49 CFR 571.213). That standard substantially upgraded the performance requirements for child restraints. One section of the standard sets a limit on the amount of force necessary to open a child restraint belt buckle and release a child. The purpose of the requirement is to prevent young children from unbuckling the restraint, while still allowing adults to do so easily. Based on research done by Peter Arnberg for the National Swedish Road and Traffic Research Institute, the agency adopted a force of 12 pounds as the minimum force required to open a buckle and limited the maximum force to 20 pounds. (A copy of that research, "Handling Performance of Buckles on Child Seats with Regard to Opening Force Requirements," as well as the other research and information provided by manufacturers that is cited in this notice have been placed in the general reference section of this docket.)

Buckle Force Limits

Since adoption of the standard, the agency has received information indicating that the minimum force level found in belt buckles meeting the standard may be too high, thus making the buckles difficult to open. One manufacturer, Questor Juvenile Manufacturing Co., has provided the agency with letters from owners of its restraints commenting on the difficulty of opening the belt buckles. In addition, a study conducted for the agency by the University of Michigan's Highway Safety Research Institute (HSRI) has indicated that the operating force found in some buckles may be too high. The study, "Factors Affecting Consumer Acceptance and Use of Child Restraint Systems," examined the cause of consumer satisfaction and dissatisfaction with child restraint systems. Although the researchers did not conduct formal buckle force compliance tests, they did make measurements of the forces needed to open the buckle. They found that some buckles required as much as 21 pounds of pressure to release, a force which is difficult for most adult women to produce.

The researchers suggested that manufacturing variations were one reason for the high force level (i.e., to ensure that all their buckles do not open when a force of less than 12 pounds is applied to them, manufacturers may have to design their buckle to open at 14 pounds to account for expected variations in the manufacturing process).

To reduce potential problems in opening child restraint belt buckles, the agency has decided to reduce the minimum and maximum buckle release force limits. In addition, the agency is proposing to modify the buckle force measurement test procedures. Both of these changes will facilitate the use of belt buckles that require approximately 10.5 pounds of force to release.

At present, the buckle force test procedure specifies that a buckle is to be tested both before and after the impact testing of the child restraint. In both the pre-and post-impact tests, tension is applied to the buckle prior to measuring the buckle release force. The purpose of applying tension is to simulate the force that would be applied to the buckle by a child that is hanging upside down in the restraint.

The agency is proposing to make several changes to the pre-impact tests. The first change would eliminate the use of tension in the pre-impact test. While the application of tension is appropriate in the post-impact test, to simulate the buckle force that would be encountered by an adult who is releasing a child from a restraint after a rollover crash, the application of tension is not needed in the pre-impact test. Thus, in the pre-impact test, buckle force would be measured with no load applied to the belt buckle, except the load exerted by properly adjusting the belt system around a child.

The agency is also proposing the minimum buckle force permitted in the pre-impact test be reduced by 3 pounds, from 12 to 9 pounds. According to the Arnberg study, a minimum buckle force level of 9 pounds is sufficient to prevent children up to the age of approximately 4 from opening the buckle by themselves. In addition, the agency is proposing to set a force of 12 pounds as the maximum permitted in the pre-impact test. Setting a minimum level of 9 pounds will mean that even if the amount of manufacturing variation in buckle force is 3 pounds, the force required to open the buckle under normal conditions need not be more than 12 pounds. The agency specifically requests comments and test data from manufacturers about whether a difference of 3 pounds between the minimum and maximum buckle force is sufficient to account for the amount of buckle force variation that they are currently experiencing.

In the post-impact test, the agency would still apply tension to the buckle before the release force is measured. However, the maximum permitted release force would be reduced from 20 to 16 pounds. The agency is permitting a slightly higher maximum release force in the post-impact test to account for damage that might occur to the buckle during the impact test. According to Arnberg's research almost all of the adult women in the study were able to open a buckle with a maximum release force of 16 pounds using one hand.

Buckle Latching

The agency has received several letters concerning instances where parents have fastened a child restraint belt buckle, the buckle felt secured, but subsequently popped open. Such a design problem, referred to as false

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latching, is easily correctable. To prevent further problems, the agency is proposing to require child restraint buckles to meet the latching requirement of S4.3(g) of Standard No. 209, *Seat Belt Assemblies*. That requirement prohibits the material used in the buckle from wearing so that it impairs the normal latching and unlatching of the buckle.

Buckle Size

A portion of the difficulty parents have experienced in opening some child restraint belt buckles may be attributable to the size of the buckle release mechanism (i.e., the size of the push button or other type of release mechanism). For example, the smaller the area of the push button release mechanism, the larger the amount of pressure per square inch the parent must exert to open the buckle. The agency has eliminated such problems for adult seat belt buckles by specifying a minimum area for the buckle release mechanism. To ensure that child restraint belt buckles are as easy to operate as adult belts, the agency is proposing to require child restraint buckles to have a minimum release area. For example, a push button would have to have a minimum area of 0.6 square inch. Most child restraints currently have minimum buckle release areas that comply with this requirement.

Belt Length/Shell Width

The HSRI report on child restraints also raised questions about the length of the harness webbing used in child restraints and the width of child restraints. The researchers noted that the use of winter clothing significantly increases the amount of harness webbing needed to accommodate a fully clothed and diapered child. They reported that a snowsuit can add six inches to the length required for a harness lap belt to accommodate a child. In addition, the researchers said that nearly all child restraints are too narrow for the size children they claim to accommodate.

The researchers attribute these design problems to a failure to use anthropometric data in determining needed width and harness webbing length and the failure to take into consideration the use of heavy clothing. They also commented that the design problems result in part from the use of the Part 572 three-year-old test dummy, which is used in the dynamic sled test to measure the crash performance of the restraint, as the exclusive design guide in developing restraints.

One long-range solution is for the standard to be amended to use additional test dummies to simulate larger children. However, because of the long time and expense needed for research, development and testing such dummies, such a solution would be several years away. Another possible solution is to conduct the crash tests with a test dummy dressed in a typical snowsuit. At present, child restraints are tested with the dummy dressed in summer-type clothing.

The agency requests comments from all interested parties on those and other regulatory and non-regulatory ways to address the issues of belt length and shell width.

Economic Effects

The agency has considered the economic and other effects of this proposal and has determined that the proposed rule is not a major rule within the meaning of Executive Order 12291. The agency has further determined that the proposal is not significant within the meaning of the Department of Transportation's regulatory procedures. The basis for those determinations is that the proposed rule reduces the current overly stringent buckle force requirements. The expected effects of the buckle force, latching and minimum size proposals are so minimal that the proposal does not warrant a full Regulatory Evaluation.

The agency has also considered the effect of this proposal in relation to the Regulatory Flexibility Act. I certify that the proposal would not have a significant economic impact on a substantial number of small entities. As explained previously, the effect of the proposal is to modify the buckle release requirements to make it easier for adults to open the buckle. The proposed requirements should not significantly increase the testing and design costs for child restraint manufacturers.

The proposed amendments would not have a significant effect on a substantial number of small government jurisdictions and small organizations. Some of those entities are affected because they are purchasers of child restraints. However, the cost effect of the proposed changes are minimal. Accordingly, no initial regulatory flexibility analysis has been prepared.

Finally, the agency has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All coments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestion for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects In 49 CFR Part 571

Imports Motor vehicle safety Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.213 [Amended]

In consideration of the foregoing, the following amendment is proposed to § 571.213, *Child Restraint Systems*, of Title 49 of the Code of Federal Regulations:

1. Section 5.4.3.5 would be revised to read as follows:

* * * * *

S5.4.3.5 *Buckle Release.* Any buckle in a child restraint system belt assembly designed to restrain a child using the system shall:

(a) When tested in accordance with S6.2.2 prior to the dynamic test of S6.1, not release when a force less than 9 pounds is applied and shall release when a force of not more than 12 pounds is applied;

(b) After the dynamic test of S6.1, when tested in accordance with S6.2.3, release when a force of not more than 16 pounds is applied;

(c) Meet the requirements of S4.3(d)(2) of FMVSS No. 209 (§571.209), except that the minimum surface area for child restraint buckles designed for push button application shall be 0.6 square inch;

(d) Meet the requirements of S4.3(g) of FMVSS No. 209 (§571.209) when tested in accordance with S5.2(g) of FMVSS No. 209; and

(e) Not release during the testing specified in S6.1.

* * * * *

2. Section 6.2 would be revised to read as follows:

* * * * *

S6.2 *Buckle release test procedure.* Any belt assembly buckle used in each child restraint system shall be tested in accordance with S6.2.1 through S6.2.4.

* * * * *

3. Section 6.2.1 would be revised to read as follows:

* * * * *

S6.2.1 Prior to testing specified in S6.1 place the locked buckle on a hard, horizontal, flat surface with each belt end loaded to 2 pounds. For pushbutton-release buckles the force shall be applied by a conical surface (cone angle not exceeding 90°) at the centerline of the push button 0.125 inches from a movable edge and in the direction that produces maximum releasing effect. For lever release or sliding type buckles, the force shall be applied on the centerline of the buckle lever or finger tab in a direction that produces maximum release. Measure the force required to release the buckle.

* * * * *

4. Section 6.2.2 would be revised to read as follows:

* * * * *

S6.2.2 After completion of the testing specified in S6.1, and before the buckle is unbuckled, tie a self-adjusting sling to each ankle of the test dummy in the manner illustrated in figure 4.

* * * * *

5. Section 6.2.4 would be revised to read as follows:

* * * * *

S6.2.4 While applying the force specified in S6.2.3, measure the force reqired to release the buckle as follows: For push button release buckles, apply a force with a conical surface (cone angle not exceeding 90°) at the centerline of the pushbutton 0.125 inches from a movable edge and in the direction that will produce maximum releasing effect. For lever release or sliding type buckles, the force is applied on the centerline of the buckle lever or finger tab in a direction that produces maximum release effect.

* * * * *

6. Section 6.2.5 would be removed.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on April 29, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-12026 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

Request To Grade Imported Fishery Products

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for comment.

SUMMARY: The National Marine Fisheries Service (NMFS) seeks comments on the effect on consumers and the U.S. seafood industry of grading imported finished fishery products for sale in the United States. Comments will be used to determine if seafood product inspection regulations should be changed in response to requests from U.S. corporations for grading services for imported finished products.

DATE: Comments should be received by June 30, 1983.

ADDRESS: Comments should be addressed to Thomas J. Billy, Acting Director, Office of Utilization Reseach, F/S3, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano (Acting Program Manager, National Seafood Inspection Program), 202-634-7458.

SUPPLEMENTARY INFORMATION: NMFS has been requested by a U.S. corporation to grade foreign-processed, finished seafood products and mark them with the appropriate U.S. grade designation for sale in the United States. Similar inquiries have been received in the past from other interested parties in the United States and from U.S. companies with interests in foreign countries. The U.S. Department of Agriculture grades certain imported commodities (other than fish) under requirements of marketing orders. It also has bilateral arrangements with certain foreign inspection agencies to accept foreign certification of hygienic processing conditions and wholesomeness of certain commodities, in some cases for subsequent U.S. grading.

It has been determined that NMFS is not prohibited by statute from grading foreign finished seafood products so long as such grading will further the purposes of both the Fish and Wildlife Act of 1956, as amended, and the Agricultural Marketing Act of 1946, as amended. The Fish and Wildlife Act state that the fishing industry can prosper only if certain fundamental needs are satisfied, including:

- Maintenance of an economic atmosphere in which domestic production and processing can prosper;
- Protection from subsidized competing products; [and,] * * *
- Assistance consistent with that provided by the Government for industry generally, such as is involved in promoting * * * fair trade standards * * * [or] better health standards and sanitation * * *.

The Agricultural Marketing Act states the intent of Congress to provide:

* * * an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products [including fish] * * * to the end that marketing methods and facilities may be improved, that * * * the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner.

Existing NMFS regulations do not permit the grading and subsequent marking of imported finished product. For such services to be provided, 50 CFR Part 260 would have to be amended to create a category of "approved foreign establishment" and to provide for an agreement with a foreign country to recognize its fishery products inspection program, if that program is determined to be at least the equivalent of the NMFS program.

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In order to assess whether the regulations should be changed, NMFS needs the views of interested parties on the possible short or long term impacts, whether positive or negative, of grading foreign, finished product for sale in the United States with the appropriate U.S. grade designation on the product label.

Comments are solicited from all segments of the seafood industry, including fishermen, processors, brokers and distributors. Comments are also encouraged from consumers, food stores, and food service establishments. Comments, if possible, should address the supply of fishery products in the U.S. market, competition, product quality, production costs, prices, expected impacts on individual firms and the seafood industry in general, and consumer preferences.

List of Subjects in 50 CFR Part 260

Food grades and standards, Food labeling, Seafood.

Dated: April 29, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 83-11935 Filed 5-4-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 88
Thursday, May 5, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at noon on May 26, 1983 and will end at noon on May 27, 1983, at the Ala Moana Hotel, in the Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purposes of this meeting are for the Subcommittee on Native Issues to discuss recent developments regarding Hawaiian homelands (from noon to 2:30p on May 26); for the full Committee to engage in program planning (from 3:00p to 8:00p on May 26); and to conduct a press conference on the Committee's statement on Affirmative Action in the Hawaii State Department of Education (from 10:00a to noon on May 27).

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Helen R. Nagtalon-Miller, 3201 Beaumont Woods Place, Honolulu, Hawaii 96822, (808) 948-7183 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 2, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-12097 Filed 5-4-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00p and will end at 9:00p, on May 24, 1983, at the Michigan State University, Kellogg Center, Harrison Road, East Lansing, Michigan, 48824. The purposes of this meeting is to discuss the tuition tax credit and equality in commercial lending projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 2, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-12096 Filed 5-4-83; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7 p.m. and will end at 9 p.m. on May 25, 1983, at the University of Wisconsin Union Building, 800 Langdon Street, Madison, Wisconsin, 53706. The purpose of this meeting is to conduct orientation for the new members of the Committee and discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Herbert Hill, 2127 Van Hise Avenue, Madison, Wisconsin, 53705 (608) 263-2330 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604 (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-12098 Filed 5-4-83; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvaina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 6:30 p.m., on May 23, 1983, at the U.S. Post Office and Court House Building, in Courtroom 2, Washington Avenue and Linden Street, Scranton, Pennsylvania, 18501. The purposes of this meeting are to discuss designing a project on Federal Block Grant funding; review the Lewisburg Prison study; and provide a briefing on the status of ratification in Pennsylvania of the proposed U.S. Constitutional amendment for voting representation for District of Columbia residents.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph Fisher, 35 South Fourth Street, Philadelphia, Pennsylvania, 19106; (215) 351-0776 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C., 20037; (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 25, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-11906 Filed 5-4-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Colorado State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff,

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U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–56. Applicant: Colorado State University, Department of Physics, Fort Collins, Colorado 80523. Instrument: Synchronouly Scanned Tandem Mechanical Stage for a Fabry Perot Interferometer, Control Unit for Same, and Segmented Ramp Control Unit. Manufacturer: John Sandercock, Switzerland. Intended use of instrument: See Notice on page 54990 in the **Federal Register** of December 7, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a large free spectral range (FSR) up to 1000 gigahertz and a narrow bandwidth of approximately one megahertz. The National Bureau of Standards advises in its memorandum dated March 28, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11999 Filed 5–4–83; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–126. Applicant: Texas A&M University, College of Medicine, College Station, TX 77843. Instrument: Electron Microscope Model EM 420 and Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherhlands. Intended use of Instrument: See Notice on page 5578 in the **Federal Register** of February 7, 1983. Instrument ordered: November 23, 1982.

Docket No.: 83–127. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Electron Microscope, EM 410 with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of Instrument: See Notice on page 5578 in the **Federal Register** of February 7, 1983. Instrument ordered: September 27, 1982.

Docket No.: 83–132. Applicant: University of North Carolina School of Medicine, Department of Anatomy, 108 Swing Building 217H, Chapel Hill, NC 27514. Instrument: Electron Microscope, JEM 200–CX SEG. Manufacturer: JEOL, Japan. Intended use of Instrument: See Notice on page 8320 in the **Federal Register** of February 28, 1983. Instrument Ordered: September 23, 1982.

Docket No.: 83–135. Applicant: Cook County Department of Purchase (Cook County Hospital), 118 North Clark Street, Chicago, IL 60602. Instrument: Electron Microscope, Model JEM–100CX/II and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Instrument: See Notice on page 9550 in the **Federal Register** of March 7, 1983. Instrument ordered: December 1, 1982.

Docket No.: 83–136. Applicant: Centers for Disease Control, 1600 Clifton Rd., NE., Atlanta, GA 30333. Instrument: Electron Microscope, EM 410G with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of Instrument: See Notice on page 9550 in the **Federal Register** of March 7, 1983. Instrument ordered: February 14, 1983.

Docket No.: 83–137. Applicant: University of Michigan Hospitals, 1405 E. Ann Street, Ann Arbor, MI 48109. Instrument: Electron Microscope, EM 400 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: See Notice on page 9950 in the **Federal Register** of March 7, 1983. Instrument ordered: December 7, 1982.

Docket No.: 83–138. Applicant: The University of Texas System Cancer Center, M.D. Anderson Hospital and Tumor Institute, 6723 Bertner, Texas Medical Center, Houston, Texas 77030. Instrument: Electron Microscope, EM 410G and Accessories. Manufacturer: Nederlandse Philips Bedrijven B.V., The Netherlands. Intended use of Instrument: See Notice on page 9550 in the **Federal Register** of March 7, 1983. Application received by Commissioner of Customs: February 16, 1983.

Docket No.: 83–140. Applicant: University of Alabama in Birmingham, Department of Biochemistry, University Station, Birmingham, AL 35294. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of Instrument: See Notice on page 13214 in the **Federal Register** of March 30, 1983. Instrument ordered: August 10, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Services.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–11998 Filed 5–4–83; 8:45 am]

BILLING CODE 3510–25–M

Geological Survey; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No: 82–00097. Applicant: U.S. Geological Survey, Water Quality Laboratory, 5293 Ward Road, Arvada, CO 80002. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, Model MM707GDS. Manufacturer: VC Micromass Ltd., United Kingdom. Intended use of instrument: See Notice on Page 13394 in the **Federal Register** of March 30, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 26, 1980).

Reasons: This application is a resubmission of Docket Number 81–00075 which was denied without prejudice to resubmission on September 15, 1981 for informational deficiencies. The foreign instrument can scan from mass 500 to 25 including reset to 500 in 0.6 second. The Department of Health and Human Services advises in its memorandum dated April 4, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–12000 Filed 5–4–83; 8:45 am]

BILLING CODE 3510–25–M

University of California; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 879) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–83. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Camera, X-Ray, Ultra-Fast Streak, Model IMACON 500/X-Ray with Accessories. Manufacturer: John Hadland, Limited, United Kingdom. Intended use of instrument: See Notice on page 56534 in the **Federal Register** of December 17, 1982.

Comments: No comments have been received with respect to this application.

Decisions: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument operates in the visible ultraviolet x-ray range of 20 electron volts to 10 kilo electron volts. The National Bureau of standards advises in its memorandum dated March 29, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–12001 Filed 5–4–83; 8:45 am]

BILLING CODE 3510–25–M

National Bureau of Standards

Invitation to Participate in International Laboratory Accreditation Conference (ILAC) 1983

AGENCY: National Bureau of Standards, Commerce.

ACTION: Invitation to participate in ILAC 83 Conference.

SUMMARY: The Seventh International Laboratory Accreditation Conference (ILAC) will be held in Prague, Czechoslovakia, October 31–November 4, 1983. ILAC is an informal organization of approximately 42 nations and 12 international organizations whose overall purpose and objective is to promote: (1) The development of national programs for accrediting testing laboratories; (2) the employment of harmonized accreditation criteria; and (3) the development of bilateral or multilateral arrangements which would encourage importers to accept the results of tests and data made by laboratories that have been accredited under a recognized laboratory accreditation program in exporting nations.

Annual conferences in support of ILAC's stated purpose have been held to develop information about laboratory accreditation systems, to provide a forum for discussing differences among such systems, to describe basic principles and criteria for operating such systems, and to develop bilateral or other arrangements which would establish mutual recognition of such systems or of test reports issued by laboratories accredited under such systems. These bilateral arrangements are intended to minimize technical barriers to trade.

The United States Delegation is chaired by the Director of the Office of Product Standards Policy. Anyone interested in attending this meeting in

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Prague as a member of the U.S. Delegation, using his or her own financial resources, for registration fees, hotel accommodations, food, and travel expenses, is invited to submit a request by June 30, 1983, to Dr. Stanley Warshaw, Chairman, U.S. ILAC Delegation, National Bureau of Standards, TECH B154, Washington, DC 20234. Such persons should have a background in standards development, laboratory accreditation, product testing or product certification activities.

The U.S. Delegation will have an open pre-conference meeting at 10:00 a.m. on Friday, October 7, 1983, in Lecture Room A of the administration Building at the National Bureau of standards, Gaithersburg, Maryland to prepare for the conference. The meeting attendees and delegates will: (1) Review ILAC Task Force reports; (2) consider the position that the U.S. Delegation should take in response to those reports; (3) prepare any proposed resolution for introduction at ILAC 83; and (4) consider any additional matters of interest. The pre-conference meeting will be chaired by Dr. Stanley Warshaw, Director, Office of Product Standards Policy, National Bureau of Standards.

Anyone wishing to attend this meeting, which is open to the public or provide information on proposals for consideration by the delegation, should notify Mr. John W. Locke, National Bureau of Standards, TECH B141, Washington, DC 20234, telephone: 301–921–3431.

Dated: May 2, 1983.

Ernest Ambler,

Director, National Bureau of Standards, Department of Commerce.

[FR Doc. 83–12011 Filed 5–4–83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Scientific and Statistical Committee; and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and AP will hold separate public meetings.

DATES: The Council meeting will convene on Wednesday, May 25, 1983, at approximately 9 a.m., in the Old Federal Building, 605 West Fourth Avenue, Anchorage, Alaska, and will meet until approximately 5 p.m., on Thursday, May 26, 1983, or until Council business is completed. The SSC meeting will convene on Monday, May 23, 1983, at approximately 9:30 a.m., and will adjourn at approximately 5 p.m., on Tuesday, May 24, in the Old Federal Building. The AP will convene its meeting on Tuesday, May 24, at aproximately 9:30 a.m., and will adjourn at approximately 5 p.m., in the Old Federal Building. The meetings may be lengthened or shortened depending upon progress on the agenda.

Proposed Agenda: Council—A detailed agenda will be sent to the public approximately May 13, 1983. The Council will review its Herring Fishery Management Plan (FMP) for final submission to the Secretary of Commerce. This review will include considering changing herring from an allowable incidental catch by the foreign trawl fleets to a prohibited species. The Council will also be informed of the latest developments of the United States/Canada salmon negotiations. Crab fisheries regulations adopted by the Alaska Board of Fisheries will be reviewed along with two proposed amendments to the Tanner Crab FMP. The Council will give final consideration to Amendment #8 of the Bering Sea/Aleutian Islands Groundfish FMP, which will decrease the prohibited species catch limit for salmon in 1984 and 1985. The Council will hear a progress report of the Council's working group on prohibited species in the Gulf of Alaska. For both the Bering Sea and the Gulf, the Council will discuss the status of groundfish resources and management alternatives for both domestic and foreign fleets, including evaluation of present optimum yield levels for pollock and other species in both areas. The Council will also discuss objectives for future halibut limited entry sytem and will review a summary of a report submitted by Northwest Resource Analysis, and will set a schedule for public presentations of the report. Finally, the Council will review budget matters and may also have foreign fishing permits to review.

The SSC and AP agenda items will be the same as that of the Council.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: April 29, 1983.

Alfred J. Bilik,

Acting Chief, Fees, Permits and Regulations Division, National Marine Fisheries Service.

[FR Doc. 83–11980 Filed 5–4–83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Notice of Receipt of Application for Permit; College of the Atlantic

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: College of the Atlantic (P322).

b. Address: Bar Harbor, Maine 04609.

2. Type of Permit: Scientific Research/Scientific Purposes.

3. Name and Number of Animals:

Unspecified number of various species of marine mammals of Western North Atlantic Canadian and United States waters for deposit and exchange in U.S. and Canadian scientific collections.

4. Type of Take:

Collection, importation and export of specimens found dead.

5. Location of Activity: Eastern coast of Canada and United States.

6. Period of Activity: 5 years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: April 28, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–12124 Filed 5–4–83; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

Policy Regarding Exchange Agreements Under the Authority of 35 U.S.C. Section 6(a)

Background

The Patent and Trademark Office (PTO), by virtue of Section 6(a) of Title 35, United States Code, is empowered to enter into exchange agreements with other organizations to further the use of patent and trademark information, and to facilitate the use and availablity of that information. In recognition of these objectives, the PTO establishes the following guidelines and principles which shall apply when evaluating and entering into exchange agreements with other public, private, domestic and foreign agencies, firms and companies.

Nature of Exchange Agreements

Exchange agreements by the PTO will generally be for the purpose of : (1) Acquiring goods and services which will assist the PTO in accomplishing its mission and achieving its goals; (2) reducing the cost to the government of processing activities associated with the examination of applications for patent and trademark registration; (3) fostering the dissemination of information contained in patent and trademark documents; and (4) furthering the general goal of automating patent and trademark examination process.

In exchange agreements, the PTO and the industrial or commercial concerns will share in the cost and risks of the endeavor. Terms and conditions of each agreement, including the business arrangements, are negotiable within the limits of prevailing statutes and regulations and will be commensurate with the risks, involvement, and investment of the parties to the agreements. The PTO's intent is to offer as much latitude as practical in the agreement.

Each agreement will be negotiated on a case-by-case basis. Agreements will vary in size, complexity, scope and the nature of the materials, services, and/or products being exchanged by the parties. All exchange agreements will be subject to the availability of funds.

Incentives

Incentives provided by the PTO for the purpose of entering into exchange agreements may include, but are not limited to (1) Providing copies of PTO documents; (2) providing computer processable data obtained from patents, trademark applications, trademark registrations, and other data sources developed by the PTO; (3) providing government furnished equipment necessary for the other party to fulfill the agreement; and (4) entering into joint programs where each party funds its own participation.

Considerations

The factors to be considered by the PTO prior to entering into an exchange agreement or providing incentives shall include, but will not be limited to the following considerations: (1) public or social need for the product(s) of the agreement; (2) enhanced dissemination of technological information; (3) benefits accruing to the public or the U.S. Government from the endeavor; (4) the desirability of private sector involvement in PTO programs; (5) the merit of the research, development or application proposed; (6) the degree of risk and financial participation by the other party; (7) the amount of proprietary data or other information to be furnished by the concern; (8) the rights in data to be granted to the PTO and the concern as a result of their contributions; (9) the willingness and ability of the concern to market and sell any resulting new or enhanced products on a reasonable basis; and (10) the impact of PTO sponsorship upon a given industry or area of commercial endeavor.

Administration

The Administrator for Automation is delegated the authority to enter into negotiations. The Commissioner of Patents and Trademarks will approve exchange agreements on behalf of the PTO. Before proceeding into comprehensive evaluation of a joint endeavor, a preliminary assessment will be made of the merits of the offer. Exchange agreement proposals which are too sketchy or ill-defined to: (1) Establish the merit in the basic idea, (2) establish that the proposal is in accordance with PTO program objectives, or (3) establish that the proposing organization is willing to make significant contribution to the endeavor, will not be evaluated in depth and will be treated as correspondence or advertising. This preliminary assessment will be conducted by the Administrator for Automation or his or her designee to determine if the proposal warrants further consideration. If this determination is positive and if the parties agree to proceed with a joint endeavor, the Administrator for Automation will enter into detailed discussions and negotiations with the offeror regarding the technical and business aspects of the offer. Upon reaching a mutually satisfactory arrangement, the agreement will be submitted to the Commissioner of Patents and Trademarks for approval. Administration of the exchange agreement program will be performed by the Administrator for Automation.

Due to resource limitations and the necessity for diversity in the program, only one offer will normally be accepted for a given PTO incentive. If substantially similar offers are received within any 45-day period, they will be evaluated and/or negotiated together. The offer which provides the best total consideration for the Government will be accepted. Special consideration shall be given to small and minority businesses, as appropriate.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

May 2, 1983.

[FR Doc. 83–12111 Filed 5–4–83; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF EDUCATION

List of Accrediting and State Approval Agencies for Review Under Special Procedure

AGENCY: Office of Postsecondary Education, Education.

ACTION: Notice—List of accrediting and State approval agencies to be reviewed under a special procedure.

SUMMARY: The Secretary lists nationally recognized accrediting agencies and State approval agencies that the National Advisory Committee on Accreditation and Institutional Eligibility recommends to the Secretary under a special review procedure. The list of agencies to which the Advisory Committee has applied this procedure is composed of (1) agencies that were awarded the full four-year recognition period in their last review and (2) agencies that have submitted interim reports.

DATE: Comments on these analyses must be received no later than June 3, 1983.

ADDRESS: Comments may be submitted to Richard J. Rowe, Director, Eligibility

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and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3) U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Telephone: (202) 245–9873.

SUPPLEMENTARY INFORMATION: This document is intended to advise the public that the National Advisory Committee,on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies and State approval agencies as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and petition and each staff analysis and hears oral presentations from the petitioning agencies and interested third parties before formulating the recommendations to the Secretary regarding the accrediting or State approval agencies.

The Special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee of agencies that were awarded the full four-year recognition period in their last review, and of agencies which have submitted interim reports. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the list of these agencies under 34 CFR Part 603.

This notice provides the names of the agencies being reviewed under this special procedure. The Department's Eligibility and Agency Evaluation Staff has prepared analyses of the petitions and reports of these agencies according to the criteria in 34 CFR 603.6, and 34 CFR 603.23 and has prepared recommendations on them.

The public is offered an opportunity to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are being reviewed:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. *Petitions for Continuation of Recognition*—National agencies.

American Veterinary Medical Association, Committee on Animal Technician Activities and Training (for accreditation of two-year programs of animal technicians).

Proposed Recommendation: Continue recognition for a period of four years. Request the agency to submit an interim report in one year on training and selection of visiting teams [(a)(3)(iii)(B) and (d)(2)] and assessment of the validity and reliability of standards (b)(5).

American Veterinary Medical Association, Council on Education (for accreditation of colleges of veterinary medicine offering programs leading to a professional degree in veterinary medicine and for the preaccreditation status of "Reasonable Assurance").

Proposed Recommendation: Continue recognition for a period of four years.

Association of Theological Schools in the United States and Canada (for accreditation of free-standing schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology).

Proposed Recommendation: Continue recognition for a period of four years.

B. *Petitions for Continuation of Recognition*—Regional Commission.

North Central Association of Colleges and Schools, Commission on Institutions of Higher Education (for accreditation, and preaccreditation as Candidate for Accreditation of postsecondary institutions that offer a program of at least one academic year (or equivalent) in length and that require general education as an essential part, of or a prerequisite to, the principal programs in the States of Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming).

Proposed Recommendation: Continue recognition for a period of four years.

Petitions for Recognition as State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

A. *Petitions for Continuation of Recognition.*

Arkansas State Board for Vocational Education (for recognition as the State agency for the approval of public postsecondary vocational education in Arkansas).

Proposed Recommendation: Continue recognition for a period of four years.

Kansas State Board of Education (for recognition of the Kansas State Board of Education as the agency for approval of public postsecondary vocational education in Kansas).

Proposed Recommendation: Continue recognition for a period of four years.

Petitions for Recognition as a State Agency Recognized for the Approval of Nurse Education

A. *Petitions for Continuation of Recognition.*

Montana State Board of Nursing (for recognition as a State agency for approval of nurse education in Montana).

Proposed Recommendation: Continue recognition for a period of four years.

Invitation to comment: A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this Notice may be obtained from Richard J. Rowe.

Dated: May 2, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-12012 Filed 5-4-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Energy Program; Approval By the Secretary of Energy Pursuant To Section 5 of the Voluntary Agreement and Plan of Action

AGENCY: Department of Energy.

ACTION: Publication of Approval of Participation by U.S. Oil Companies in the International Energy Agency's Fourth Allocation Systems Test.

SUMMARY: On April 22, 1983, the Secretary of Energy issued letters of approval with respect to U.S. oil company participation in the International Energy Agency's Fourth Oil Allocation Systems Test. The text of the letter and related documents are appended to this notice.

FOR FURTHER INFORMATION CONTACT: Craig S. Bamberger, Assistant General Counsel for International Trade and Emergency Preparedness, Room 6A–141, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585: (202) 252–2900.

SUPPLEMENTARY INFORMATION: Pursuant to section 252 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6272, the Secretary of Energy monitors the carrying out of voluntary agreements to implement the Agreement on an International Energy Program (TIAS 8278, November 18, 1974) by U.S. oil companies and issues certain approvals with respect thereto. U.S. oil companies which are members of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, 2 CCH Federal Energy Guidelines, para. 15,845, are afforded an antitrust defense under EPCA section 252 for activities in connection with the preparation or testing of the International Energy Agency's (IEA's) emergency sharing system.[1] Pursuant to section 5(b) of the Voluntary Agreement, specific approval of the Secretary of Energy is required if these U.S. oil companies are to provide or exchange confidential or proprietary information or data in the test.

The IEA's Fourth Emergency Allocation Systems Test (AST–4) began on April 22, 1983, with the transmission by the IEA of a disruption telex to IEA member governments and participating companies. To facilitate the test activities of U.S. oil companies which participate in the Voluntary Agreement, written approval has been given by the Secretary of Energy pursuant to section 5(b) of the Voluntary Agreement for these companies' submission or exchange in AST–4 of confidential or proprietary information or data which is necessary to the conduct of the test.

The documents published herewith are the text of the letter of approval sent to the 20 U.S. oil companies participating in the Voluntary Agreement, the operating procedures and requirements for recordkeeping in connection with such participation (which apply and elaborate existing DOE regulations contaned in 10 CFR Part 209), and correspondence among the Department of Energy, the Department of Justice, the Department of State and the Federal Trade Commission evidencing consultation among those agencies and the required concurrence of the Department of Justice in the issuance of the letter of approval by the Secretary of Energy.

A draft of this approval letter with its operating procedures/recordkeeping requirements was published in the **Federal Register** for public comment, 48 FR 11760 (March 21, 1983). No public comments were received. The only substantive changes made in the letter published on March 21 concern its provisions with respect to the "Group of Experts," a subject discussed below.

The approval letter and operating procedures/recordkeeping requirements are similar to those which were provided for the IEA's Third Allocation Systems Test (AST–3) held in 1980, *see* 45 FR 71314 (October 27, 1980). Several improvements have been made in those documents based on experience of the U.S. Government in monitoring AST–3, and operating procedures and recordkeeping requirements have been simplified and made less burdensome.

The most significant new feature of the antitrust approval letter for this systems test is paragraph 9(n), dealing with approval of company disclosures of their confidential or proprietary information or data in the test. In previous tests, the clearance letters enumerated the types of confidential or proprietary information or data which could be disclosed by the companies, and required further Government approval before other types of such information or data could be communicated. Paragraph 9 of the letter similarly enumerates specific types of covered information, but under paragraph 9(n), it also would be permissible to disclose "such additional * * * types of information or data as may be needed on a timely basis in implementing the (IEA's) oil allocation procedures" if a request for advance approval of such disclosure were not feasible. However, prompt notice of any such additional disclosure must be given to U.S. Government test monitors along with an explanation of why advance approval could not be obtained, and approval for the continued submission or exchange of such information or data can be terminated prospectively by U.S. Government observers if that proves warranted.

Most of the data base for the test—consisting principally of historical import, export, indigenous production and stock level data for March through August of 1981—actually will be altered to reflect the effects of an hypothesized emergency oil disruption scenario. Also, companies are free to deliberately "mask" their data if they so wish. Thus the age of the data, their distortion to reflect the disruption scenario and their potential masking by the companies, combined with the projections built into the approval letter, should significantly reduce any risk of anticompetitive behavior as a result of the disclosure of proprietary company information during AST–4.

The pricing of oil transactions is not being tested in AST–4. The antitrust approval letter therefore expressly excludes permission for the U.S. oil companies to disclose or exchange confidential or proprietary crude oil or petroleum product prices or other commercial terms.

One unique feature of AST–4 is the role of a "Group of Experts," consisting of three consultants to the IEA Secretariat who are to witness the test and participate in appraising it.[2] The antitrust approval letter provides the participating U.S. companies with antitrust protection when they give these Experts access to the confidential or proprietary information or data which they will disclose while participating in AST–4. None of the three people who have been selected to serve as Experts currently is an employee of an IEA Reporting Company. However, because the Experts do have various kinds of consulting, investment or other relationships to the energy industry, the approval letter previously published in draft form has been revised to reflect the expectation that, in the absence of a further, specific approval by the U.S. Government, the Experts will not have access to any disaggregated confidential or proprietary information or data of the U.S. oil companies other than the information or data made available by them in AST–4 to the Industry Supply Advisory Group, the industry group serving at IEA headquarters as part of the IEA Emergency Management Organization.

Issued in Washington, D.C., April 28, 1983.

Craig S. Bamberger,

Assistant General Counsel for International Trade and Emergency Preparedness.

Appendices

A. Letter of Approval from the Secretary of Energy to U.S. Reporting Companies.

B. Operating Procedures and Recordkeeping Requirements.

C. Letter from the Secretary of Energy to the Assistant Attorney General, Antitrust Division, Department of Justice.

D. Letter from the Secretary of Energy to the Secretary of State.

E. Letter from the Assistant Secretary of State, Economic and Business Affairs, to the Secretary of Energy.

F. Letter from the Assistant Attorney General, Antitrust Division, Department of Justice, to the Secretary of Energy.

G. Letter from the Chairman of the Federal Trade Commission to the Assistant Attorney General, Antitrust Division, Department of Justice.

Appendix A

April 22, 1983.

Dear ————: 1. The International Energy Agency (IEA) will conduct in the near future a fourth test of the emergency allocation systems (AST–4). The Department of Energy (DOE) considers AST–4 an important part of our preparedness efforts. We hope your company will participate and

[1] The U.S. oil companies which participate in the Voluntary Agreement are: Amerada Hess Corporation, ARCO Petroleum Products Company, Ashland Oil, Inc., Caltex Petroleum Corporation, Champlin Petroleum Company, Cities Service Company, Conoco, Inc., Exxon International Corporation, Gulf Oil Trading Co., Mobil Oil Corporation, Murphy Oil Corporation, Occidental Oil and Gas Company, Phillips Petroleum Company, Shell Oil Company, Standard Oil Company of California, Standard Oil Company of Indiana, Standard Oil Company of Ohio, Sun Company, Inc., Texaco, Inc., and Union Oil Company of California.

[2] The Experts are James D. Hughes of the United States, Robert Belgrave of the United Kingdom and Enno Schubert of the Federal Republic of Germany.

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provide full cooperation to the IEA in this undertaking.

2. This letter sets out guidelines for participation in AST–4 by U.S. oil companies and personnel of the U.S. oil companies and provides required approvals for the disclosure or exchange of confidential or proprietary information or data in connection with AST–4, as required by the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), 2 CCH Federal Energy Guidelines, Paragraph 15,845. Participation by U.S. companies is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations at 10 CFR Part 209, and the Voluntary Agreement.

3. The primary objectives of AST–4 are: (a) To continue the program of periodic training of personnel of participating IEA governments, oil companies and the IEA Secretariat in the data systems and emergency oil allocation procedures developed to implement the provisions of the Agreement on an International Energy Program (IEP) (TIAS 8278, November 18, 1974), which are delineated in the Emergency Management Manual (EMM) and the Industry Supply Advisory Group/Secretariat Operations Manual (ISOM); (b) to exercise all elements of the National Emergency Sharing Organization (NESO) in each participating IEA country that are essential to the efficient and successful operation of the IEA emergency oil sharing systems, including national emergency procedures; and (c) to test modifications and improvements made to the systems and procedures since the last test (AST–3) held in the autumn of 1980. The scope of AST–4, as detailed in the AST–4 Test Guide, is to be broadly similar to that of AST–3 as far as the IEA Secretariat, the Industry Supply Advisory Group (ISAG), Reporting Company and NESO activities are concerned.

4. AST–4 will begin with the sending of a disruption telex on April 22, 1983, and will continue for approximately eight weeks. It will consist of one full and one curtailed allocation cycle. Prior to the completion of the full regular cycle commencing May 2, 1983, a second disruption telex will be released by the IEA Secretariat. Questionnaire A (QA) and Questionnaire B (QB) data will be submitted and allocation rights and allocation obligations will be calculated by the Secretariat and relayed to countries and companies for each cycle. Following communication of allocation rights and allocation obligations for the second cycle, the test will cease as far as IEA-directed activity is concerned. Thus the large majority of ISAG representatives will be involved for less than four weeks, although a few ISAG representatives may remain until the completion of the test.

5. An Experts Group of three persons engaged as consultants to the IEA Secretariat will witness the test, have access to any information or data to which the ISAG has access, and study the voluntary offer process. The Experts Group will contribute to the test appraisal, and for this purpose is expected to discuss the test with individuals participating in the test. For purposes of this letter, the activities of the Experts Group shall be considered to be part of the carrying out of AST–4. We understand that none of the members of the Experts Group will be an employee of an IEA Reporting Company.

6. Industry will participate in several ways. First, industry representatives will staff the ISAG; the ISAG, with the IEA's Allocation Coordinator, Secretariat and a Standing Group on Emergency Questions Emergency Group composed of representatives of IEA member countries, will comprise the IEA Emergency Management Organization at IEA headquarters in Paris, France, which will conduct the test. Second, Reporting Companies will submit QA and other data to the IEA Secretariat and the ISAG, and individually will discuss these data with the IEA Secretariat and with the ISAG to the extent required for the test; their affiliates will make similar data submissions and have similar individual discussions with the NESOs of the participating countries in which they operate. Third, Reporting Companies will propose and simulate the carrying out of the certain hypothetical supply reallocation measures called "Type 2" allocation by the IEA; in this connection, Reporting Companies may communicate with other Reporting Companies: (a) For the purpose of identifying suitable suppliers or receivers of oil to formulate "closed loop" Type 2 offers, (b) to enable Reporting Companies to work out logistics needed to implement Type 2 offers, or (c) to undertake needed subsequent modification of Type 2 offers which have previously been accepted by the Allocation Coordinator. Finally, it is our understanding that some NESOs may have employees of Reporting or Non-Reporting Companies or their affiliates as members or advisors.

7. In Paris, the test will be conducted, for notice purposes under the Voluntary Agreement, as a single meeting of ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks and contacts with the Secretariat by ISAG members, working sessions will include meetings of all ISAG members and smaller group meetings of several ISAG members, as well as joint working sessions of a few ISAG members assigned to solve particular problems. The ISAG Manager or his designee may meet with members of the AST–4 Control Group, consisting of the Chairman of the Industry Advisory Board, the Chairman of the Standing Group on Emergency Questions and the IEA Executive Director, with the AST–4 Design Group Chairman, or with members of the Standing Group on Emergency Questions Emergency Group. A verbatim transcript of certain sessions will be made under the supervision of U.S. Government observers; such transcripts will be available for review by participants in the sessions so transcribed, or their counsel, either during the test or later. For some ISAG sessions, a full and complete record will be prepared by U.S. Government observers who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed recordkeeping requirements, including operating procedures, are set out in the attachment to this letter. These recordkeeping requirements have been prepared in cooperation with the Department of State, the Department of Justice and the Federal Trade Commission, and are to be considered an integral part of this letter of approval.

8. In order to carry out the test, it will be necessary for Reporting Companies to provide the IEA Secretariat and the ISAG with certain information or data on IEA questionnaire forms and formats, and to submit voluntary offers to supply or receive reallocated oil, and they may have to engage in other communications with the IEA Secretariat or ISAG to clarify, amplify, correct, or supplement such data submissions and voluntary offers. Further, ISAG members may have to exchange this and other information or data among themselves, with members of the IEA Secretariat, with IEA Reporting Companies, and with NESOs. Access to such information or data and to ISAG discussions and work sessions will be open to official observers from the European Communities and IEA member countries authorized by the IEA to be present at the test, and to the Experts Group. Aside from the IEA questionnaire and format data and information as to voluntary offers, much of the data or information will be available from public sources. Some such information or data, while actually public information, may not be definitely known to be publicly available by those exchanging it or it may be considered confidential by some companies. Some of the data or information needed to be provided or exchanged clearly will be confidential or proprietary.

9. Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST–4 to submit and exchange the types of information or data listed below which involve or might involve disclosure of confidential or proprietary information or data. However, this approval is granted only to the extent that the submission or exchange of these types of confidential or proprietary information or data is necessary during the first cycle, and until allocation rights and allocation obligations have been determined and communicated by the IEA Secretariat in the second cycle, in order to implement the oil allocation procedures of the IEP as guided by the EMM, the ISOM, and the AST–4 Test Guide, and to meet specific problems as they arise during AST–4. Approval is further limited to information or data covering the historical period March 1981 through August 1981. This letter neither approves nor disapproves the activities of company employees serving on NESOs or any communication between a Reporting Company or its affiliate and a NESO. Under these limitations, and those set forth in paragraphs 10, 11, 12, 13 and 14, the submission and exchange of the following types of information or data is approved:

(a) Disaggregated March thru August 1981 QA or QB data submitted during AST–4, *i.e.*, data as required by the QA and QB reporting instructions in effect for AST–4 as further defined in the AST–4 Test Guide, and ISAG work formats derived from such data, including:

—Indigenous production of crude oil and natural gas liquids (NGLs) and feedstocks;
—Imports and exports of crude oil, NGLs and feedstock;
—Petroleum product imports and exports (in crude oil equivalents);
—International marine bunkers;
—Inventory levels and changes; and
—Stocks at sea.

This data base will be amended by Reporting Companies, coordinating with their affiliates as required, and by NESOs for Non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle, and as elaborated during each cycle by updating telexes from the Secretariat. Reporting Companies may mask data if they so choose in accordance with the procedures established in the AST–4 Test Guide. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and updating telexes and will report the new supply plan on QA submitted to the Secretariat. In addition, each NESO will compile QB from information or data received from Reporting Companies or their affiliates operating within its country and from Non-Reporting Companies operating within its country and will submit QB to the Secretariat. Some of the data submitted by companies will be unaffected by the assumed supply disruption and will therefore be actual data. Such actual data are likely to include the following:

—Inventory level changes in March 1981 and inventories at the end of March 1981, from which inventories as of March 1, 1981 can be derived (see paragraph 10(b) with respect to provision of this data to the ISAG);
—Indigenous crude/NGL production through all six months in the data base; and
—International marine bunkers.

(b) Capability of a refinery to process crude oil or specific crude oils, and the capability of a pipeline, dock or terminal or other storage or transit facility to receive, store, or throughput crude oils or specific crude oils or petroleum products or specific petroleum products.

(c) Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

(d) The availability of tankers, including their location, routing, size, specifications and operating characteristics.

(e) Main characteristics of crude grades and product specifications (excluding individual company crude yields and product specifications).

(f) Actual and estimated historical production data on crude oils and NGLs for individual countries.

(g) Aggregated historical country supply patterns for crude oil, NGLs and petroleum products, *e.g.*, imports by country of origin, exports to country of destination, and inventory profiles.

(h) Specific refinery considerations that prevent acceptance or release of certain crudes, *e.g.*, the inability of a refinery to process specific types of crude oil or to make certain specialty products for which the crude oil is particularly suited; the inability of a type of crude oil to meet product specifications; hazards to refinery operations which processing of a particular type of crude oil might cause; or the need for a refinery to operate at a minimum throughput level.

(i) Identification of supply logistics problems relating to certain countries or regions of countries.

(j) Identification, without disclosure of specific costs, prices or financial information, or other underlying facts, of the existence of certain individual company considerations which would preclude or make impracticable a proposed movement of oil, involving:

(i) Commercial policy;

(ii) Supply or transportation factors;

(iii) Affiliate, third-party, concessional or other contractual arrangements; or

(iv) Constraints relating to actions or policies of governments.

(k) Identification of differences between the crude oil and pretroleum product supply mix and demand for products in certain countries or regions of countries.

(l) Information or data concerning voluntary offers made by Reporting Companies to supply or receive, and information or data concerning the implementation of voluntary offers which have been accepted by the Allocation Coordinator.

(m) Clarification, amplification, correction, explanation or supplementation of the types of information enumerated in (a)–(l), privided that this subparagraph (m) does not supersede any specific prohibition contained in this approval letter.

(n) Such additional information or data or types of information or data as may be needed on a timely basis in implementing the oil allocation procedures of the IEP as guided by the EMM, the ISOM and the AST–4 Test Guide, if a request for advance approval under paragrah 17 is not feasible; provided, that prompt written notice of such submission or exchange together with a description of the circumstances necessitating such submission or exchange without a request for advance approval must be given to the representatives of the Secretary of Energy, the Attorney General and the Federal Trade Commission attending the test. Approval for the continued submission or exchange of such information or data can be terminated prospectively by the Department of Energy representative or the Department of Justice representative.

10. In order to carry out the test, these information and data must be provided and exchanged on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made, with the following limitations:

(a) During the first test cycle, U.S. ISAG personnel will examine QAs and QBs to detect supply or logistical anomalies that might indicate that an error had been made by a Reporting Company or NESO in preparing or transmitting the data. After detecting a potential supply or logistical anomaly, a U.S. ISAG member may discuss such anomaly with Secretariat personnel, members of ISAG, the Reporting Company or NESO which transmitted the anomalous QA or QB data and the Reporting Company whose data is included in a QB and which data is thought to be such an anomaly. U.S. ISAG personnel may not discuss suspected anomalies with any other persons. All discussions of anomalies among U.S. ISAG personnel and other members of ISAG must be conducted in the presence of a U.S. Government observer at AST–4. When responding to an inquiry from the ISAG member regarding such anomalies, a U.S. Reporting Company may only confirm the accuracy of the reported data, provide corrected data, or discuss with ISAG members whether the reported data accurately reflect the cycle's reallocation and the cycle's disruption scenario. Any further explanation of such anomalies may only be provided to personnel of the IEA Secretariat.

(b) Company-specific opening inventory data as of March 1, 1981, data showing inventory level changes in March 1981 and the "check total" for march 1981 as reflected in QAs and QBs shall not be made available to ISAG personnel on a routine basis, but only as necessary to solve specific supply problems when they arise. A U.S. Government observer present at the AST–4 test site may give written approval for disclosure of such data, upon receipt and consideration of a written request from the ISAG Manager or his delegate stating that access to such data is necessary.

(c) It is understood that the IEA Secretariat will not permit any disaggregated QA data of a Reporting Company, other than data submitted by the Reporting Company in AST–4, to be made available to any other Reporting Company or ISAG representative thereof, or to the Experts Group.

(d) The Experts Group will witness the provision and exchange of these disaggregated information and data, in AST–4. The Voluntary Agreement participants and their representatives serving on the ISAG, however, may not disclose to the Experts Group any additional confidential or proprietary information or data. Section 5(b)(1) of the Voluntary Agreement may apply to certain other communications (not involving confidential or proprietary information or data) with the Experts Group by U.S. Reporting Companies or their representatives serving on the ISAG.

(e) The Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the Federal Trade Commission representative at AST–4, may terminate this approval as it applies to the conduct of any supply analysis by U.S. ISAG personnel if such analysis may lead to unwarranted disclosure of competitively sensitive supply or logistical information, or have any other unwarranted anticompetitive effect.

11. This approval does not extend to provisions or exchange of:

(a) Confidential or proprietary crude oil or petroleum product prices;

(b) Costs or market shares of crude oil or petroleum products (other than those which can be derived from the QA or QB data submitted during AST–4); or

(c) Individual company information regarding overall long-term investment.

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divestment, refining, operating, transportation or marketing programs.

12. A U.S. Reporting Company will be permitted to communicate confidential or proprietary information or data with another Reporting Company only after first cycle allocation rights and allocation obligations have been determined and communicated, and continuing until its second cycle QA has been submitted to the IEA Secretariat, and only to enable it to formulate "closed-loop" voluntary offers, to arrange the logistics needed to implement Type 2 offers, and to modify previously approved voluntary offers if necessary, for the purpose of carrying out first cycle supply reallocation measures. Type 2 transactions are those intended to balance allocation rights and allocation obligations and to alleviate differences between product demand and the available supply mix. These communications will be limited to discussions of the quality and volumes of oil that would be involved in a voluntary offer and the timing or logistics involved in effecting the physical transfer of such oil. No other confidential or proprietary information or data shall be discussed or exchanged. Prices or values of the oil shall not be discussed. Type 1 transactions are transactions made by a company to satisfy its own commercial supply, distribution or logistics needs in response to an oil supply emergency situation. Type 1 transactions will be assumed to have occurred without inter-company communications during AST–4.

13. Participation in AST–4 does not create an obligation on U.S. ISAG members or U.S. Reporting Companies to provide or exchange any information or data which may be confidential or proprietary.

14. In no case shall an employee or representative of a U.S. company participant in the Voluntary Agreement or any affiliate of a U.S. Company, which affiliate is listed as a participant in the Voluntary Agreement, supply to his company or to any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG or participation in any NESO, except such information or data as is necessary to be supplied in the course of carrying out AST–4 or related NESO activities. No U.S. ISAG member may remove any documents related to the test from the IEA premises, except as authorized in writing by a U.S. Government representative attending the test.

15. Copies of all QA data shall be provided on QA formats, as distinguished from telex form, to:

Ms. Catherine Monzel, Voluntary Agreement Coordinator, International Affairs, IA–11, Department of Energy, Forrestal Building, Room 7G–078, 1000 Independence Avenue, SW., Washington, D.C. 20585; Telex No. 710–822–0176, TWX No. 710–822–0001.

Ms. Melanie Stewart Cutler, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044; Telex No. 710–822–1907, TWX No. 710–822–1907.

16. Any confidential or proprietary information or data exchanged or furnished pursuant to the test to or by a U.S. Reporting Company or its representative serving on the ISAG shall be supplied by them, upon request, to U.S. Government observers from the Department of Energy, Department of State, Department of Justice or Federal Trade Commission. During AST–4 U.S. Government observers may obtain access to the offices of U.S. participants at the test site in Paris for the purpose of observing AST–4 elated activities, reviewing records kept in connection with AST–4 or interviewing U.S. Reporting Company employees participating in AST–4.

17. This approval may be modified or revoked in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative, if developments during AST–4 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and conveyed to all participants in the Voluntary Agreement and the ISAG Manager or his designee. No modification or revocation shall have retroactive effect.

18. This approval of U.S. company participation in the test and of the provision of certain data and information (including the need to provide it in disaggregated form) has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are annexed.

Sincerely,

Donald Paul Hodel.

Appendix B

Operating Procedures and Requirements for Recordkeeping by U.S. Companies in the Fourth Allocation Systems Test (AST–4)

1. *Introduction.* The following operating procedures and requirements are in further implementation of the existing U.S. recordkeeping requirements in Section 252 of EPCA and 10 CFR Part 209 and apply to the fourth IEA Allocation Systems Test (AST–4). These operating procedures and requirements apply to U.S. Reporting Companies and to U.S. Reporting Company representatives serving on the ISAG who will be participating in the test at the Test Site.

If experience indicates the need, the U.S. Government observers at the Test Site will have discretion to allow alternative operating procedures and recordkeeping requirements consistent with Section 252 of EPCA and existing regulations.

2. *Definitions.* For purposes of these requirements the following definitions apply:

(a) "Communication" means any written or unwritten disclosure, provision or exchange of data or information (excluding administrative, procedural, or ministerial data or information), not subject to attorney-client privilege, in or relating to the carrying out of AST–4.

(b) "Test Site" means that space in IEA headquarters designated by the Allocation Coordinator as the work area in which AST–4 shall be conducted.

(c) "Test Site Communication" means any unwritten face-to-face Communication occurring on the Test Site, other than in a Test Meeting.

(d) "Test Site Telephone Communication" means any telephonic Communication received at or sent from the Test Site.

(e) "Off-Site Communication" means any unwritten face-to-face or telephonic Communication which does not occur on the Test Site.

(f) "Test Meeting" means the following group meetings held on the Test Site (with or without IEA Secretariat participation):

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG's Country Supply, Supply Coordination or Supply Analysis subgroups; or

(iii) Meetings of the ISAG Manager and/or Deputy Manager with ISAG subgroup heads.

3. *U.S. Government Monitoring and Recordkeeping at the Test Site.* (a) A U.S. Government observer shall be present throughout all Test Meetings, and may be present at the Test Site during any other Communications. It is intended that a U.S. Government observer will be present continuously at the Test Site to monitor Test Meetings, Communications, work sessions and individual work by Reporting Company representatives serving on the ISAG: (i) During such regular work hours as ISAG adopts; and (ii) at any extraordinary hours if given reasonable advance notice. U.S. Reporting Company representatives serving on the ISAG may: (i) Engage in individual work or in Communications other than Test Site Communications or Communications in Test Meetings, even if no U.S. Government observer is present at the Test Site; or (ii) engage in Test Site Communications despite the absence of a U.S. Government observer at the Test Site if reasonable advance notice of such Communications has been given to the U.S. Government observers, or if reasonable advance notice cannot be given; provided, that adequate records of such Communications and, with respect to (ii), of the circumstances concerning notice given or of the circumstances which necessitated such Communications without reasonable advance notice, are made by the U.S. Reporting Company representatives serving on the ISAG.

(b) Test Meetings shall be monitored by a U.S. Government observer, who shall be responsible for keeping a written record of each session, or for ensuring that a verbatim transcript is made. Failure of the U.S. Government to maintain a full and complete written record shall not vitiate the antitrust defense accorded by Section 252 of EPCA unless such failure is due to the willful act of a U.S. Reporting Company representative serving of the ISAG or of a U.S. Reporting Company.

(c) U.S. Government observers shall be permitted to be present during any test activities, including Communications, involving a U.S. Reporting Company representative serving on the ISAG, except Communications between an individual U.S. Reporting Company representative serving on the ISAG and his legal counsel.

4. *Unwritten Communications Involving U.S. Reporting Company Representatives Serving on the ISAG.* (a) These recordkeeping requirements for unwritten Communications apply to Test Site Communications, Test Site Telephone Communications, and Off-Site Communications by or to U.S. Reporting Company representatives serving on the ISAG, including communications with members of the Industry Advisory Board or the Experts Group, but excluding Communications with the IEA Secretariat, members of the SEQ Emergency Group, or the U.S. NESO.

(b) All unwritten Communications of U.S. Reporting Company representatives serving on the ISAG which relate to AST–4 shall occur on the Test Site except when circumstances make an Off-Site Communication necessary, *i.e.*, when a need for an immediate Communication arises unexpectedly or after normal working hours or otherwise makes a return to the Test Site impracticable or unreasonable, or when time zone differences involved in necessary Communications otherwise would require early morning arrival or late night stay at the Test Site.

(c) Except when a U.S. Government observer present agrees to make the record, a U.S. Reporting Company representative serving on the ISAG shall make a full and complete record of any Test Site Communication, Test Site Telephone Communication or Off-Site Communication, by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the transaction or information or data discussed, including identification of any problem involved and any conclusions reached or recommendations made. In the case of an Off-Site Communication, he also shall state the special circumstances necessitating this Communication; and in the case of a Test Site Communication occurring in the absence of a U.S. Government observer from the Test Site, he also shall state the circumstances concerning reasonable advance notice given to the U.S. Government observers, or the circumstances which necessitated such Communication without reasonable advance notice.

(d) When a U.S. Reporting Company representative serving on the ISAG has been assigned to a joint work session to solve a specific identified problem, the overall subject matter of which already is contained in a full and complete record of a Test Meeting, the result of which work session will be reported at a meeting where a full and complete record will be maintained, then notwithstanding subsection (c), the record of such session to be kept by the U.S. ISAG representative need only include the date, time and identity of the parties and a brief indication of the substance of the discussion during the work session, with a reference to the Test Meeting where it was more fully discussed.

(e) When a U.S. Reporting Company representative serving on the ISAG communicates with an individual in a NESO, he shall ascertain whether the NESO individual normally is employed by an oil company, and if so, the identity of that company should be recorded in the log kept pursuant to Section 4(c).

(f) When more than one U.S. Reporting Company representative serving on the ISAG is involved in a Communication, the representatives may designate who shall make and supply the record. Non-U.S. Reporting Company representatives serving on the ISAG may agree to furnish the records of Communications with U.S. Reporting Companies and with U.S. Reporting Company representatives serving on the ISAG which are otherwise required to be furnished by the U.S. Reporting Companies or their representatives on the ISAG, if such records are kept in the required form and supplied to a U.S. Government observer in accordance with these requirements, and if the U.S. Reporting Companies or their representatives involved so agree.

5. *Disposition of Records Made and Documents Prepared or Received at the Test Site by U.S. Reporting Company Representatives Serving on the ISAG.* (a) Each U.S. Reporting Company representative serving on the ISAG shall provide to a U.S. Government observer at the Test Site, within three working days of the first day it covers, a copy of any log kept pursuant to Section 4(c), and within one working day of the occurrence, a copy of any other written Communication which he prepares or receives that relates to the carrying out of AST–4.

(b) The requirement imposed by paragraph (a) of this Section may be waived by the U.S. Government observers at the Test Site, to the extent that the IEA Secretariat agrees to provide copies of such Communications to the U.S. Government observers in accordance with these requirements.

6. *U.S. Government Monitoring at U.S. Reporting Company Offices.* (a) U.S. Government observers shall be permitted to interview all U.S. Reporting Company employees engaged in AST–4 activities at Reporting Company offices upon reasonable advance notice to the U.S. Reporting Company involved. Any interviewed employee may have counsel present.

(b) U.S. Government observers shall be permitted to examine and copy, at company headquarters during normal business hours and upon reasonable notice to the Reporting Company involved, any Communication, or any document or other information source not subject to attorney-client privilege, in the possession of a U.S. Reporting Company, concerning the carrying out of AST–4 activities.

7. *Recordkeeping Requirements for U.S. Reporting Companies.* (a) A U.S. Reporting Company promptly shall make a full and complete record of the following Communications or documents (excluding documents which are administrative, procedural or ministerial in nature) and shall maintain such records and records of any other of the following documents (other than those which are administrative, procedural or ministerial in nature) which relate to the carrying out of AST–4:

(i) Intra-corporate documents, not subject to attorney-client privilege, including telexes received and sent, memoranda concerning intra-company discussions of hypothetical sales or exchanges, documentation concerning actions requested by the ISAG or proposed by a Reporting Company, and any other documents generated by the test;

(ii) Communications with Reporting Company representatives serving on the ISAG, including any of its own representatives serving on the ISAG, except when the Reporting Company has agreed with the ISAG or with a Reporting Company representative serving on the ISAG that the record of the Communication will be made and provided to U.S. Government observers at the Test Site, by ISAG or by the Reporting Company representative;

(iii) Communications with another company or with the IEA Secretariat, including Communications with respect to developing or implementing a voluntary offer; and

(iv) Communications with the Experts Group.

(b) Records of unwritten Communications should be made by U.S. Reporting Companies in the manner described in Section 4 for U.S. Reporting Company representatives serving on the ISAG.

8. *Disposition of Records by Reporting Companies.* (a) Each U.S. Reporting Company within two weeks of preparation shall forward copies of all records required by Section 7 to an appropriate office at company headquarters, where they shall be maintained for five years separately from other company records. These records may be subject to U.S. Government examination during and after AST–4.

(b) Each U.S. Reporting Company shall send to the Department of Energy, the Department of Justice and the Federal Trade Commission, within seven days after the close of the week (ending Saturday) of the Communications recorded thereunder, records required to be made and maintained under Sections 7(a) (ii), (iii) and (iv), except that records of unwritten Communications with another company shall be sent no later than the close of the week (ending Saturday) of the Communications recorded. Any portions of such records which are believed not to be subject to public disclosure should be specified. If possible, copies of Communications by U.S. Reporting Companies shall be sent to the U.S. Government simultaneously with and by the same means of transmission used to send the original. In the case of a voluntary offer a "clear" rather than a coded copy should be sent.

9. *Reports of Actions Taken.* (a) Under the Voluntary Agreement, U.S. Reporting Companies must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, for the purposes of AST–4, each U.S. Reporting Company shall report to the Departments of Energy and Justice and the Federal Trade Commission, actions and hypothetical actions taken as part of the test, such as voluntary offers accepted, and reallocations of supply in response to accepted voluntary offers. Communications with respect to developing or implementing a voluntary offer are to be reported under Section 8(b).

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(b) A report shall be submitted within seven days of the end of the week (ending Saturday) in which the action was taken.

(c) The style and content of a report are left to the discretion of the individual U.S. Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done. In the case of voluntary offers, the record should include substantially all of the material terms contained in the voluntary offer itself.

10. *Reporting Addressees.* Reports and records required hereunder to be sent to U.S. Government agencies should be addressed to:

Ms. Catherine Monzel, Voluntary Agreement Coordinator, International Affairs, IA–11, Department of Energy, Forrestal Building, Room 7G–076, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Telex No. 710–822–0176, TWX No. 710–822–0001;

Ms. Melanie Stewart Cutler, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044; Telex No. 710–822–1907, TWX No. 710–822–1907; or

Mr. Harvey Blumenthal, Federal Trade Commission/CS–4, Washington, D.C. 20580.

Appendix C

April 19, 1983.

Mr. William F. Baxter,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Baxter: The International Energy Agency (IEA) is making final preparations for the fourth test of its emergency allocation systems. The test, known as AST–4, will commence with the IEA's distribution on April 22 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test.

The conduct of AST–4 will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 CFR Part 209, and the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15,845, an antitrust defense is made available to U.S. oil companies to facilitate their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data, which may be necessary in AST–4, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission. A draft of this letter was published for public comment in the **Federal Register** on March 21, 1983 (48 FR 11760).

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission. A draft of this letter was published for public comment in the **Federal Register** on March 21, 1983 (48 FR 11760).

In our view the participation of U.S. oil companies and U.S. oil company personnel and in that connection the disclosure and exchange of confidential or proprietary information and data as specifically set forth in the proposed approval letter, are essential to the conduct of AST–4. Therefore, I request your concurrence in our intended approval.

Sincerely,

Donald Paul Hodel.

Appendix D

April 19, 1983.

Honorable George P. Shultz,
Secretary of State, Washington, D.C. 20620

Dear Mr. Secretary: The International Energy Agency (IEA) is making final preparations for the fourth test of its emergency allocation systems. The test, known as AST–4, will commence with the IEA's distribution on April 22 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test.

The conduct of AST–4 will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 CFR Part 209, and the "Voluntary Agreement and Plan of Action To Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15,845, an antitrust defense is made available to U.S. oil companies to facilitate their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data, which may be necessary in AST–4, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission.

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission. A draft of this letter was published for public comment in the **Federal Register** on March 21, 1983 (48 FR 11760).

In our view the participation of U.S. oil companies and U.S. oil company personnel and in that connection the disclosure and exchange of confidential or proprietary information and data as specifically set forth in the proposed approval letter, are essential to the conduct of AST–4. Therefore, I request your concurrence in our intended approval.

Sincerely,

Donald Paul Hodel.

Appendix E

April 20, 1983.

Dear Mr. Secretary: Secretary Shultz has asked me to reply to your letter requesting the views of the Department of State regarding approval of the exchange and disclosure of confidential or proprietary information or data by U.S. oil companies during the fourth test of the International Energy Agency emergency oil allocation system (AST–4). It is important that the U.S. Government and U.S. companies participate fully in AST–4 so as to provide tangible evidence of the continued U.S. commitment to the IEA and its oil crisis response system. Since such participation may entail exchange or disclosure of confidential or proprietary information or data by the U.S. oil companies involved, the Department of State strongly supports your proposed approval of this activity.

Sincerely,

Richard T. McCormack,
Assistant Secretary of State.

Appendix F

April 22, 1983.

Honorable Donald Paul Hodel,
Secretary, Department of Energy, Washington, D.C. 20461

Dear Secretary Hodel: I am writing in response to your recent letter in which you seek the concurrence of the Department of Justice in your intended approval for designated U.S. oil companies, participating in the International Energy Program (IEP) as Reporting Companies, to provide and exchange certain confidential and proprietary information in the course of assisting the International Energy Agency (IEA) in carrying out a fourth test of its emergency oil-sharing system (AST–4). Your approval, conditioned on compliance with annexed recordkeeping requirements and other limitations and antitrust safeguards, is set forth in the letter that you propose to send to these companies, a draft of which you have provided me. Our concurrence in this action is sought pursuant to Section 5(b)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, which is authorized by Section 252 of the Energy Policy and Conservation Act (EPCA), as amended, and which governs the conduct of participating oil companies in the IEA.

As you note, the Antitrust Division participated in the development of the approval letter. The conditions and procedures outlined in the letter, supplemented by U.S. Government monitoring of the required recordkeeping, exchanges of data and other company activities during the test, will minimize risks to competition and fulfill statutory requirements without imposing overly burdensome requirements on test participants. Accordingly, pursuant to Section 5(b)(2) of the Voluntary Agreement, I hereby concur in your approval of the proposed letter on submission and exchange of confidential and proprietary information and data by U.S. oil company participants in AST–4 and the annexed recordkeeping requirements for the test. This approval is effective as of the commencement of the test on April 22, 1983 and will terminate when allocation rights and obligations have been determined and communicated in the second cycle of the test. I enclose a copy of a letter from the Federal Trade Commission evidencing the consultations we have held with that agency on this matter, as required by Section 5(b) of the Voluntary Agreement.

Sincerely yours,

William F. Baxter,
Assistant Attorney General, Antitrust Division.

Appendix G

April 21, 1983.

Honorable William F. Baxter,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Baxter: The Honorable Donald P. Hodel, Secretary of Energy and Administrator of the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), has requested your concurrence on the attached clearance letter. The letter provides clearance for the oil company signatories of the Voluntary Agreement to exchange confidential and proprietary information among themselves and to provide such information and data to the International Energy Agency ("IEA") during the IEA's fourth test of the emergency oil allocation system ("AST–4"), beginning April 22, 1983. Under the Voluntary Agreement, the Attorney General must consult with the Commission before concurring in this exchange of information.

Section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, directs the Attorney General and the Federal Trade Commission to monitor the carrying out of the Voluntary Agreement to ensure that the purposes of the International Energy Program ("IEP") are substantially achieved in the least anticompetitive manner practicable. The Commission has examined the types of data and information proposed to be exchanged during AST–4. The data to be used during AST–4 will be almost two years old, likely to be distorted due to the hypothetical supply disruption, and subject to masking by the submitting company. Additionally, U.S. Government monitors will be at the IEA site during the conduct of the test and will have access to the offices of reporting companies during the test to interview company employees engaged in AST–4 related activities. A full and complete record will be made of all communications among U.S. oil company personnel, including a verbatim transcript of most group meetings. Finally, removal of documents from the test site without written U.S. Government approval will be prohibited, as will be communication of confidential information learned at the test to persons not involved in the test.

The safeguards employed and the limited competitive significance of the data appear to strike the appropriate balance between achieving the objectives of the IEP and ensuring that the test is conducted in the least anticompetitive manner practicable. Accordingly, the Commission does not object to your approval of the exchange of information and data needed to carry out AST–4.

By direction of the Commission.

James C. Miller III,
Chairman, Federal Trade Commission.

[FR Doc. 83–11970 Filed 5–4–83; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Final Action of Short-Term Sale of Nonfirm Energy to Direct-Service Industrial Customers

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of final action.

SUMMARY: BPA has offered to sell nonfirm energy to its direct-service industrial (DSI) customers through October 31, 1983, for loads incremental to those operating on March 8, 1983. This sale is designed to stimulate the Northwest's economy, increase employment in the Northwest, and increase BPA revenues.

Eight of BPA's 15 industrial customers have accepted BPA's short-term offer, including five of six operating aluminum company customers. The industries have agreed to buy more than 430 megawatts of nonfirm energy under the short-term contract, and may purchase up to an additional 200 megawatts.

DATE: The short-term sales of nonfirm energy to the DSIs is effective through October 31, 1983.

ADDRESS: Copies of the short-term DSI contract are available from the BPA Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Copies of comments received from the public on this subject and a summary of those comments are also available from the Public Involvement Office.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington, Washington 98109, 206–442–4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706

SUPPLEMENTARY INFORMATION:

Background

In the March 15, 1983 (48 FR 10903), **Federal Register**, BPA announced a proposal to offer nonfirm energy to the DSIs for increases in their loads through October 31, 1983. The offer was intended to encourage industries to restart idle production lines, to increase Northwest employment, to increase BPA revenues, and to make use of energy that might otherwise be wasted.

BPA proposed to sell nonfirm energy to the industries at 11.2 mills per kilowatthour under its current nonfirm energy (NF–2) rate schedule. Nonfirm energy purchases would be limited to loads above those operating on March 8, 1983. Other DSI purchases would continue to be made under BPA's current industrial firm (IP–2) rate at 24.5 mills per kilowatthour.

BPA requested comments from the public on the proposed sale. Comments were accepted through March 21, 1983. BPA received comments from 34 parties. The comments were analyzed and addressed, as appropriate, in revising the offer to the DSIs. Many comments led directly to contract revisions.

BPA offered short-term nonfirm energy to the DSIs on March 22, 1983. The offer closed on April 8, 1983. Eight of BPA's 15 industrial customers accepted the offer, including five or six aluminum company customers. Together, the industries have agreed to increase their loads by buying 430 megawatts (MW) under the short-term contract, and have expressed interest in buying up to another 200 MW during the later months of the contract. Some 600 persons will be hired by the industries as a result of the sale. The sale will increase BPA fiscal year 1983 revenues by $20 million to $29 million.

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The short-term nonfirm energy sale to the DSIs ends on October 31, 1983, the day before BPA's wholesale power rate schedules are to go into effect. Sales of energy to the DSIs after the date will be governed by the 1983 rates, which are now being developed through BPA ratemaking proceedings.

Issues Addressed in Final Offer to DSIs

Most comments BPA received from the public supported the concept of selling nonfirm and surplus energy to increase Northwest industrial production. Commenters expressed concern that (1) BPA not establish ratemaking precedents through the short-term sale, (2) preference and other rights of all BPA customers be protected, (3) BPA assure that nonfirm energy sales to the DSIs would not decrease power availability to other Northwest customer classes, and (4) benefits be conferred equitably on all participating DSIs. BPA believes that the final offer to the DSIs addresses these concerns.

Surplus Energy Available

BPA's offer of nonfirm energy to its DSI customers was made after review of BPA studies which confirmed that BPA had substantially more surplus energy available for sale during the period of the DSI nonfirm energy contract than it was likely to be able to sell. Current studies project that BPA has an energy supply through July 1983 which exceeds available markets by more than 3,000 average megawatts. Preliminary planning studies based on adverse streamflow conditions indicate that this surplus will exceed 1,800 average megawatts for the period July through October 1983.

This supply situation is to be contrasted with anticipated BPA sales. Priority firm loads excluding exchange sales are less than projected. These sales for Fiscal Year 1983, excluding exchange sales, were anticipated to be 4,898 average megawatts. Due to a variety of factors including consumer reaction to increased rates, warm weather, reduced economic activity, and above anticipated water flows for generating customers, the projection for 1983 sales has been reduced to 4,477 average megawatts. Sales of surplus firm to the Southwest have also been adversely affected. In the 1982 rate case, BPA had anticipated sales of surplus firm energy to the Southwest totaling 548 average megawatts. To date, BPA has sold approximately 73 average megawatts.

Terms of BPD-DSI Contract

Copies of the BPA-DSI contract are available from the BPA Public Involvement Office. BPA believes that some of the key terms of the agreement are the following:

—Nonfirm energy is available at a contract rate of 11.2 mills from March 21, 1983, to October 31, 1983, subject to availability and the rights of BPA's preference customers.

—Requests for nonfirm energy are met to the extent that the request exceeds the DSI level of operation on the effective date of the nonfirm contract.

—DSIs that were already operating at or near their contract demand (maximum level of operation) prior to the short-term offer are able to take some nonfirm energy in lieu of their industrial firm energy based upon the amount of nonfirm energy purchased by other DSIs. This "mitigation feature" provides equity to those companies which have continued to operate at a high level notwithstanding a depressed economy.

—The amount of nonfirm energy for all DSIs is reduced in relation to the price of aluminum, once the price of aluminum exceeds 70 cents per pound. Nonfirm energy deliveries under these contracts cease entirely once the price of aluminum reaches 85 cents per pound, and the load is converted to a firm purchase at the 24.5–mill IP–2 rate.

—During the term of the agreement, the demand used to calculate curtailment charges is reduced by the demand associated with the nonfirm energy contract. Curtailment charges are fees that BPA assesses an industrial customer when it elects to operate its facilities below the level of the firm portion of its load.

—No commitment is made to continue nonfirm energy sales after October 31, 1983, and no commitment is made regarding the allocation of revenues that BPA anticipates to receive from the nonfirm sales.

—The nonfirm energy is sold pursuant to the authority of the Bonneville Project Act, the Federal Columbia River Transmission System Act, and Section 5(f) of the Pacific Northwest Electric Power Planning and Conservation Act.

DSI Plans of Service

Each participating DSI submitted a plan of service to BPA, showing the amount of nonfirm energy it planned to purchase and the speed with which it would bring loads on line. Industries also indicated further increases in loads they may make in addition to their committed plans of service.

Each of the industries will increase loads over a period of 1 to 3 months. Following are the summarized plans of services submitted by each participating industrial customer. Once brought up, all loads continue for the term of the agreement unless otherwise specified. All nonfirm additions to load described in these plans of service and October 31, 1983.

Pacific Carbide will increase its load 2.3 MW from March 24 to June 30, 1983, only. Its load prior to the short-term offer was 6.97 MW.

Georgia Pacific, with a pre-offer load of 11.25 MW, added 7 MW. to its loads by March 30, 1983, and may buy another 15 MW beginning May 1.

Pennwalt had a pre-offer load of 55.5 MW. It will purchase an additional 4.35 MW between April 4 and May 31, 1983. Its increase in load will decline to 2.1 MW thereafter.

Aluminum Company of America (ALCOA) had a pre-offer load of 196 MW. It is increasing its loads by 216.9 MW by May 1, 1983, and may buy another 26 MW beginning September 1

Intalco Aluminum was running very close to its capacity prior to the short-term offer, with a load of 432 MW. It is bringing on an additional 5 or 6 MW from late April through June 1983.

Kaiser Aluminum started with a pre-offer load of 349 MW. It is bringing on one 57–MW potline in May and a second 58–MW potline in June. It may bring on a third 58–MW potline in July 1983.

Martin Marietta Aluminum was also operating close to capacity prior to the short-term offer with a load of 366.3 MW. It will add another 40 MW of load gradually from April through August 1983 and may add another 40 MW of load.

Reynolds Aluminum has a pre-offer load of 334.6 MW. It is adding a 50–MW potline by May 15. It may add a second 50–MW potline in July, and a third 50–MW potline in August 1983. Pending negotiation with a third party, an additional two potlines could also be added.

Materials Available

Copies of the short-term DSI sale contract, public comments received by BPA on this issue, a summary of public comments, and the plans of service submitted by each participating DSI are available from the BPA Public Involvement Office.

Issued in Portland, Oregon, April 28, 1983.

Peter T. Johnson,

Administrator, Bonneville Power Administration.

[FR Doc. 83-12080 Filed 5-4-83; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case Nos. 51825-3630-01,02,03-82]

Acceptance of Certification and Issuance of Proposed Prohibition Orders for Medina Electric Co-op., Inc., Pearsall Powerplant Units 1, 2, and 3

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Acceptance of Certification and Issuance of Proposed Prohibition Orders for Medina Electric Cooperative, Inc., Pearsall Powerplant Units 1, 2, and 3.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is giving notice of its acceptance of a certification filed with it on April 7, 1983 by the Medina Electric Cooperative, Inc. (Medina) concerning its Pearsall Powerplant Units 1, 2, and 3, Pearsall, Texas (hereafter referred to as Pearsall 1, 2, and 3) pursuant to section 301 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or "the Act"). The certification addresses the technical capability and financial feasibility of Pearsall 1, 2, and 3 to use a mixture of petroleum or natural gas and coal as a primary energy source. ERA has reviewed and accepted the certification and its supporting documents and proposes to concur thereon. Accordingly, on the basis of the certification, ERA is issuing proposed prohibition orders to Pearsall 1, 2, and 3 which, if finalized, will prohibit the use of petroleum and natural gas in the powerplants in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units, consistent with maintaining reasonable fuel efficiency of the mixture.

DATE: Written comments and requests for a public hearing are due on or before June 20, 1983.

ADDRESS: All comments and requests for a public hearing on this matter should be directed to the Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Correspondence should clearly indicate the ERA case number for this proceeding.

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Deputy Director, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, S.W., Room GA–007–D, Washington, D.C. 20585, (202) 252–9357

Marya Rowan, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B–222, Washington, D.C. 20585, (202) 252–2967

SUPPLEMENTARY INFORMATION: As provided in section 301(c) of FUA and 10 CFR 504.5, 504.6, and 504.8, the Medina Electric Cooperative, Inc. (Medina), on April 7, 1983, certified to ERA that its Pearsall Powerplant Units 1, 2, and 3 (Pearsall 1, 2, and 3) are technically capable of using a mixture of petroleum or natural gas and coal as their primary energy source, and that it is financially feasible to do so. Having received Medina's certification, ERA is authorized by FUA to prohibit the excessive use of petroleum and natural gas in the fuel mixture used by Pearsall 1, 2, and 3 as their primary energy source, if, after examining the basis for the certification and complying with the applicable procedural requirements described below, it is able to concur upon the certification. The amounts of petroleum and natural gas which would be prohibited by any final FUA order would be such amounts of those fuels used in the mixture which would exceed the minimum amounts necessary to maintain the reliability of the unit's operation, consistent with maintaining reasonable fuel efficiency of the mixture. Medina has certified that the minimum amounts of either petroleum or natural gas that would be required for use in the mixture proposed for Pearsall 1, 2, and 3 will constitute 30% of each unit's primary energy source.

As a result of its examination of Medina's certification and the documentation submitted in support thereof, ERA has accepted the certification as filed and proposes to concur thereon. Final concurrence on the certification would permit ERA to issue final prohibition orders to Pearsall 1, 2, and 3. Accordingly, ERA is commencing a proceeding that may result in the issuance of final prohibition orders by issuing the proposed prohibition orders set out below, to Pearsall 1, 2, and 3. The regulations governing the proceeding which the publication of this Notice of Acceptance of Certification and Issuance of Proposed Prohibition Orders commences are 10 CFR Parts 500, 5001 and 504. In accordance with the provisions of 10 CFR 501.52, the following procedures will be followed prior to the issuance of any final prohibition orders:

(1) Section 701(b) of FUA and 10 CFR 501.52(b)(2) require that ERA issue proposed prohibition orders which contain a statement of the reasons that form the basis for ERA's proposed actions. ERA's proposed orders to Pearsall 1, 2, and 3, containing a discussion of the basis for ERA's proposed technical capability and financial feasibility findings, are published below, in compliance with this requirement.

(2) 10 CFR 501.31(b) and 501.52(b)(3) provide that the publication of a Notice of Acceptance shall commence a public comment period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed orders and any other interested persons may submit evidence that they have available relating to the proposed orders, the certification, or the concurrence that ERA must make before final orders can be issued. A request for an extension of the 45 day period may be granted at ERA's discretion. This Notice of Acceptance, accordingly, commences the required public comment period (see "DATES" and "ADDRESS" sections, above for detailed information submissions).

(3) If a hearing is requested during the period provided for such requests, ERA shall provide interested persons with an opportunity to present oral data, views, and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501. The hearing may consider, among other matters, the sufficiency of the Medina certification, upon which ERA must concur prior to the issuance of any final prohibition orders to Pearsall 1, 2, and 3.

(4) 10 CFR 501.52(b)(3) provides that no final prohibition orders may be issued until any necessary environmental review conducted pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. ERA will complete this review and will address its results at the time of the issuance of any final orders to Pearsall 1, 2, and 3.

Upon completion of the NEPA review, and unless ERA determines on the basis of information contained in the record of the proceeding, as a whole, that the certification fails to meet the requirements of 10 CFR 504.5, 504.6 and 504.8, ERA proposes to issue final prohibition orders to Pearsall 1, 2, and 3.

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PROPOSED PROHIBITION ORDERS

ERA case No.	Generating station	Powerplant No.	Megawatt capacity	Location
51825-3630-01-82	Pearsall	1	22	Pearsall, TX.
51825-3630-02-82	Pearsall	2	22	Pearsall, TX.
51825-3630-03-82	Pearsall	3	22	Pearsall, TX.

In accordance with section 301 of FUA and 10 CFR 504.5, 504.6, and 504.8, ERA hereby proposes to concur in Medina's certification of technical capability and financial feasibility and to prohibit the powerplant units identified above, from burning either petroleum or natural gas in a mixture with coal, in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units, consistent with maintaining reasonable fuel efficiency of such mixture.

These proposed prohibition orders are based on the following ERA proposed findings:

Proposed Finding of Technical Capability

ERA proposes to find that Pearsall 1, 2, and 3 have the technical capability to use a mixture of petroleum or natural gas and coal as their primary energy source while maintaining the ability, from the point of fuel intake, to physically sustain combustion of a given fuel and to maintain heat transfer. ERA bases this proposed finding on the certification and supporting materials submitted by Medina which indicate that Pearsall 1, 2, and 3 were originally designed and constructed in anticipation of the future use of coal as their primary energy source. Accordingly, it will be technically feasible to convert these units to the use of a mixture of petroleum or natural gas and coal as their primary energy source without substantial physical modifications. No reduction in rated capacity of the units is expected as the conversions were anticipated in the powerplants' original design. (Letter/Certification of Medina Cooperative, Inc. to the Office of Fuels Programs, April 7, 1983; Study by Alexander Utility Engineering, Inc.)

Proposed Finding of Financial Feasibility

ERA proposes to find that it is financially feasible to use a mixture of petroleum or natural gas and coal as the primary energy source for Pearsall 1, 2, and 3. This proposed finding is based upon information contained in Medina's certification and supporting materials which satisfactorily demonstrate that Medina will have the ability to obtain sufficient capital to finance the proposed conversions and to operate the units on the proposed mixture. As an electric cooperative formed under the Rural Electrification Act of 1936, Medina indicated in its certification that approval to proceed with the proposed conversions is the responsibility of the Rural Electric Administration (REA), the lienholder on Pearsall 1, 2, and 3, and that the REA will thereafter make the necessary financial arrangements for the conversions. Medina certified that it expects to receive REA's approval by June 1, 1983. Medina further certified that, based upon the Alexander Utility Engineering, Inc. report (March 1982) entitled "Pearsall Plant Coal Conversion Feasibility Study" and Supplement I thereto (October 1982), it estimates that the proposed conversions will cost $47.9 million in 1983 dollars and will result in a net reduction in power costs of $57.9–$163.9 million during the first ten years of post-conversion operations. (Letter/Certification from Medina Electric Cooperative, Inc. to the Office of Fuels Conversion, April 7, 1983).

As required by 10 CFR 504.5(d), Medina has submitted, as part of its certification, a proposed compliance schedule setting forth a progressive schedule of events and dates applicable to the accomplishment of the proposed conversions. As provided by 10 CFR 501.2(c), the prohibition orders, if issued, will be final as stated therein for purposes of judicial review under section 702 of FUA, but the prohibitions contained therein will not become effective for purposes of amendment under section 301(d) of FUA and 10 CFR 501.52(d) until all conditions subsequent (if any) listed in the prohibition order compliance schedule are met.

The public file containing the record of this proceeding is available for inspection at the Freedom of Information Reading Room, DOE, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m., (202)252–6020.

Issued in Washington, D.C. April 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-12079 Filed 5-4-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-Cert-027]

Ferro Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On April 21, 1983, Ferro Corporation (FERRO), One Erieview Plaza, Cleveland, Ohio 44114, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 400 Mcf per day of natural gas which is expected to displace the use of approximately 2,900 gallons per day of No. 2 fuel oil (0.35 percent sulfur) at its Electro Plant located in Buffalo, New York.

The eligible sellers of the natural gas are Douglas Drilling, Ltd., and Trison Petroleum Corporation, both c/o Western Petroleum Corporation, 717 17th Street, Denver, Colorado 80202. The gas will be transported by interstate pipeline by National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203. The local distribution company is National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203.

Because the natural gas involved in this application may only be available on a monthly basis for 90 delivery days commencing May 1, 1983, FERRO has requested that the certification be issued expeditiously in order that it may be in a position to purchase all of the natural gas possible to displace the maximum volume of fuel oil.

The ERA has carefully reviewed FERRO's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that FERRO's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10-day public comment period because the natural gas to be purchased may only be available for a limited period of time commencing on May 1, 1983. Given this limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.06), it is not in the public interest to permanently lose this opportunity to displace fuel oil while public comments are being solicited.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to FERRO and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C. on April 29, 1983.

Robert Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-12080 Filed 5-4-83; 8:45 am]

BILLING CODE 6450-01-M

Rice Oil Company and Rice-Lindquist, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Rice Oil Company and Rice-Lindquist, Inc. at 3010 South Broadway, Minot, North Dakota 58701. This Proposed Remedial Order alleges pricing violations in the amount of $209,033 plus interest in connection with the sale of refined petroleum products at prices in excess of those permitted by 10 CFR Part 212 during the time period November 1, 1973 through April 30, 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7407. Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 21th day of April 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-11989 Filed 5-4-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, April 21, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, April 21, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., NW., Washington, D.C. 20585, (202) 252–2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–7340

Vartkes Broussalian, Federal Energy Regulatory Commission, Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviwer of your intent as early as possible.

Issued in Washington, D.C., May 2, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

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DOE Forms Under Review by OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
CE-434	Weatherization Assistance Progress Report.	Revision	Monthly	Mandatory	States, District of Columbia, and Indian Tribes.	75	4,500	The CE-434 form is a monthly report which collects state level data on the progress of the weatherization assistance program. The form collects information on expenditures and other financial data, labor, number of units serviced, and number of people assisted. The information will be used by DOE for monitoring purposes and to improve management of the program.
DP-1	Personal Security Questionnaire.	Revision	On occasion	Required to obtain benefit.	Individuals seeking DOE building access or DOE employees seeking Secret clearance.	27,500	27,500	The information supplied on the DOE Form DP-1 assists the DOE in evaluating the individual's trustworthiness, which benefits the DOE security program, the U.S. government, and the public at large, by assuring that only trustworthy individuals have access to classified information or special nuclear material.
MA-843	DOE Management and Procurement Assistance Reporting and Recordkeeping Requirements.	New	Other: As Specified.	Mandatory	DOE Contractors and Grantees.	10,000	200,000	Data are used by DOE to fulfill management accountability requirements and to oversee utilization of Federal resources for all management procurement and assistance reporting and recordkeeping requirements not previously cleared as part of the Uniform Reporting System for Contractors or the Uniform Reporting System for Federal Assistance-Grants and Cooperative Agreements.

[FR Doc. 83-12078 Filed 5-4-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5908-001]

City of Ocean Shores, Washington; Notice of Surrender of Preliminary Permit

April 29, 1983.

Take notice that City of Ocean Shores, Washington, Permittee for the proposed West Fork Humptulips River Project No. 5908, has requested that its preliminary permit be terminated. The permit was issued on August 25, 1982, and would have expired on February 28, 1984. The project would have been located on the West Fork Humptulips River, in Grays Harbor County, Washington.

The Permittee filed its request on March 1, 1983, and the surrender of the preliminary permit for Project No. 5908 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11988 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5711-001]

Colville Confederated Tribes; Notice of Surrender of Preliminary Permit

April 29, 1983.

Take notice that Colville Confederated Tribes, Permittee for the proposed Nespelem River Project No. 5711, has requested that its preliminary permit be terminated. The permit was issued on June 7, 1982, and would have expired on December 31, 1983. The project would have been located on the Nespelem River, in Okanogan County, Washington.

The Permittee filed its request on February 24, 1983, and the surrender of the preliminary permit for Project No. 5711 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11992 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5851-001]

Emerald Peoples Utility District; Notice of Surrender of Preliminary Permit

April 29, 1983.

Take notice that Emerald Peoples Utility District, Permittee for the Black Creek Water Power Project, FERC No. 5851, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5851 was issued on June 4, 1982, and would have expired on June 30, 1984. The project would have been located on Waldo Lake using the waters of North Fork of Middle Fork of Willamette River, Black, and Salmon Creeks in Lane County, near Oakridge, Oregon.

Emerald Peoples Utility District filed the request on March 15, 1983, and the surrender of the preliminary permit for Project No. 5851 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11990 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5406-001]

Maintenance Consultants, Inc.; Notice of Surrender of Preliminary Permit

April 29, 1983

Take notice that Maintenance Consultants, Inc., Permittee for the proposed Falls Dam Hydro Project No. 5406, has requested that its preliminary permit be terminated. The permit was issued on March 31, 1982, and would have expired on August 31, 1983. The project would have been located on the Willow River in St. Croix County, Wisconsin.

The Permittee filed its request on September 22, 1982, and the surrender of the preliminary permit for Project No. 5406 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11991 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5070-001]

Sunnyside Valley Irrigation District; Surrender of Preliminary Permit

April 29, 1983.

Take notice that Sunnyside Valley Irrigation District Permittee for the proposed Little Naches Hydroelectric Project No. 5070, has requested that its preliminary permit be terminated. The permit was issued on January 11, 1982, and would have expired December 31, 1984. The project would have been located on the Little Naches River in Yakima and Kittitas Counties, Washington.

The Permittee filed its request on March 25, 1983, and the surrender of the preliminary permit for Project No. 5070 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-11991 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59121B; TSH-FRL 2359-6]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-36, and TM-83-37 and TM-83-38, three applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: April 28, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC. 20460; (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemeical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restricitions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-36.

Date of Receipt: March 21, 1983.
Notice of Receipt: April 1, 1983 (48 FR 14036).
Applicant: Confidential.
Chemical: Ester of gluco-heptonic acid (Generic).
Use: Confidential.
Production Volume: Confidential.
Test Marketing Period: 6 months.
Risk Assessment: The Agency identified no significant health or environmental concerns for the test market substance. The gluco-heptonic acid is expected to be poorly absorbed by all routes and rapid biodegradation is expected. During manufacturing, processing and use, human exposure and environmental release is expected to be low and the percentage of new substance in the final product is very low.
Public Comments: None.

TME 83-37.

Date of Receipt: March 22, 1983.
Notice of Receipt: April 1, 1983 (48 FR 14036).
Applicant: Confidential.
Chemical: Substituted amine-boron compound (Generic).
Use: Confidential.
Production Volume: Confidential.
Test Marketing Period: 1 Year.
Commencing on: April 28, 1983.
Risk Assessment: The Agency identified no significant health or environmental concerns for the test market substance. Furthermore, the manufacturing process is designed to prevent worker contact with the new material.
Public Comments: None.

TME 83-38.

Date of Receipt: March 22, 1983.
Notice of Receipt: April 1, 1983 (48 FR 14036).
Applicant: Allied Chemical Corporation.
Chemical: Substituted borazole polymer (Generic).
Use: Industrial boron dopant for semiconductor fabrication.
Production Volume: Confidential.
Test Marketing Period: 1 Year.
Commencing on: April 28, 1983.
Risk Assessment: No significant health or environmental effects were identified. The test market substance is not expected to be absorbed to any extent, nor to be bioavailable if released to the environment.
Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: April 28, 1983.

Marcia E. Williams,
Acting Director, Office of Toxic Substances.

[FR. Doc. 83-12043 Filed 5-4-83 8:45 am]
BILLING CODE 6560-50-M

[ORD-FRL 2358-8]

Draft Health Assessment Documents for Nickel, Manganese and Chromium; Notice of Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: A number of metals and associated compounds which are emitted to the ambient air are currently being studied by the Environmental Protection Agency to determine whether they should be regulated as hazardous air pollutants under the Clean Air Act. One of the factors in the Agency's study of these compounds is the evaluation of available information pertaining to human health effects. The evaluations for the compounds listed below are contained in draft health assessment documents prepared by the Office of Health and Environmental Assessment

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of the Office of Research and Development. In order to have a thorough review of the scientific aspects of these documents, external review drafts of each one will be transmitted to the Agency's Science Advisory Board (SAB) for review, and simultaneously, will be made available for public review and comment.

The titles and publication numbers of the draft health assessment documents are:

Title	EPA No.
Health Assessment Document for Nickel.	EPA-600/8-83-012
Health Assessment Document for Manganese.	EPA-600/8-83-013
Health Assessment Document for Chromium.	EPA-600/8-83-014

The draft document on Nickel will be available for public review on or about May 16 and the Agency will accept public comments until July 15. The draft documents on Chromium and Manganese will tentatively be available in mid June, to be followed by a 60-day public comment period. There will be further announcements in the **Federal Register** specifying the exact dates for release of the Chromium and Manganese documents.

After receipt of all public comments on the three documents, the SAB will hold public meetings to review the documents. Advance notices announcing the time and place for the SAB public meetings and document agenda will be made in the **Federal Register**.

Those persons interested in commenting on the scientific merit of the draft documents will be able to obtain copies as follows:

(1) The draft documents will be available in single copy quantity from EPA at the following address: ORD Publications—CERI–FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, Tel. (513) 684–7565

Requesters should be sure to cite the EPA number(s) assigned to the document(s). To receive these documents, requesters should send their names and addresses to CERI at this time. The Nickel document will be available on or about May 16; the Chromium and Manganese documents are expected to be available in mid June.

(2) The draft documents will also be available for public inspection and copying at the EPA library at Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Commenters are requested to submit separate comments for each document rather than making a combined submission. Comments must be in writing and should be addressed in the manner below:

For nickel: Send comments to Project Officer, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Information on where to send comments on Chromium and Manganese will be provided in the **Federal Register** notice(s) announcing the availability of these documents.

For nickel, comments must be received by close of business, July 15, in order to be considered. Closing dates for receipt of comments on Chromium and Manganese will be indicated in the specific **Federal Register** Notices for these documents.

FOR FURTHER INFORMATION CONTACT: For nickel—Diane Chappell, Tel (919) 541–3637.

Dated: April 29,1983.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-12077 Filed 5-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-24]

Bob Akin Motor Racing, Inc. v. Cosmos Shipping Company, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Bob Akin Motor Racing, Inc. against Cosmos Shipping Company was served April 27, 1983. Complainant alleges that respondent has breached its duties and responsibilities as a freight forwarder in violation of section 44 of the Shipping Act, 1916 in connection with the shipment of a truck, racing car and related parts.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-12110 Filed 5-4-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

May 2, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For further information contact:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for approval of revisions to existing reports.

1. Report title: Advance Report of Deposits from Large Banks; Advance Report of Deposits from Small Banks
Agency form number: FR 2000, FR 2001
Frequency: Daily, Weekly
Reporters: Commercial banks
SIC Code: 602, 603, 605, 612, 614
Small businesses are affected.
General description of report:
Respondent's obligation to reply is mandatory [12 U.S.C. 248, 461, 3105]; a pledge of confidentiality is promised [5 U.S.C. 52 (b)(4) and (b)(8)].

Package of reports collects information on deposit data for depository institutions that have transaction accounts, or nonpersonal time deposits (FR 2900), Eurocurrency deposits from depository institutions that obtain funds from foreign (non-U.S.) sources or that maintain foreign branches (FR 2950, 2951); and selected items on the FR 2900 in advance from large commercial banks and a sample of small commercial banks (FR 2000, 2001) to ensure compliance and for construction of the monetary aggregates.

Board of Governors of the Federal Reserve System, May 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12108 Filed 5-4-83; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

May 2, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For further information contact:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for extension with minor revision.

1. Report title: Reports of Selected Borrowings
Agency form number: FR 2415, FR 2415a
Frequency: Weekly, daily depending on which report is filed
Reporters: Large member banks
SIC Code: 602
Small businesses are not affected
General description of report:
Respondent's obligation to reply is voluntary [12 U.S.C. 248(a) and 353 *et seq.*]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

Report collects information on the outstanding balances of selected borrowings in immediately available funds of large member banks (i.e., those with total assets of $1 billion or more as of December 31, 1977. This report, which provides information mainly on federal funds and repurchase agreements, is used in the analysis and formulation of monetary policy. Limited advance information is collected daily by telephone (FR 2415a) from the fifteen largest respondents.

2. Report title: Government Securities Dealers Reports
Agency form number: FR 2004a,b,c,d
Frequency: Daily, weekly, bimonthly depending on which schedule is filed
Reporters: Primary dealers in U.S. government securities
SIC Code: 602, 621
Small businesses are not affected
General description of report:
Respondent's obligation to reply is voluntary [12 U.S.C. 248(a)(2) and 353–359a]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

These groups of reports submitted by government securities dealers are used to collect daily positions, daily transactions, weekly financings, and semimonthly futures, forwards, and options data from the primary dealers in U.S. Treasury securities.

Board of Governors of the Federal Reserve System, May 2, 1983.

James McAfee,

Associate Secretary of the Board.

FR Doc. 83-12109 Filed 5-4-83; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0464]

Federal Reserve Bank Check Collection Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: The Board of Governors is requesting public comment on proposed criteria for selecting depository institutions located outside Federal Reserve office cities for inclusion in a program to accelerate the collection of checks that was approved in December 1982.

DATE: Comments must be received by June 17, 1983.

ADDRESS: Comments, which should refer to Docket No. R–0464, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m.,

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except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Eliott C. McEntee, Assistant Director (202/452-2231) or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452-3711), Robert G. Ballen, Attorney (202/452-3265), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On December 17, 1982, the Board approved a program to accelerate the collection of checks by Reserve Banks and thereby improve the efficiency of the nation's payments mechanism. 48 FR 79 (January 3, 1983). The major elements of the program included extending deadlines for depositing checks at Federal Reserve offices and moving to a later, uniform time for the presentment [1] or dispatch of checks to paying institutions.

The first phase of this program was implemented on February 24. New later deposit deadlines were implemented for checks drawn on city and RCPC institutions along with a uniform presentment or dispatch time of 11:00 a.m. for checks drawn on city institutions. Under this first phase of the program, checks with a value of approximately $2 billion are now being collected one day earlier than they were being collected previously. The second phase of the program calls for the presentment or dispatch of checks drawn on city institutions to be moved to 12:00 noon on May 2.

In addition, the program provides that new later deposit deadlines for checks drawn on certain non-city institutions,[2] as well as later presentment or dispatch times for the selected institutions, would be implemented on July 1. Criteria for selecting non-city institutions to be included in this aspect of the program, called the high-dollar group sort (HDGS),[3] were to be developed. There are two primary reasons for including non-city institutions in the accelerated check collection program. First, an analysis of check clearing patterns indicated that there was a substantial increase in the dollar value of checks presented by the Federal Reserve to non-city institutions over the period May 1981 through November 1982. By expanding the program to include certain non-city institutions, it is anticipated that checks with a value of $1 billion could be collected one day earlier than at present. Second, in commenting on the proposal to accelerate the collection of checks, commenters indicated that moving presentment or dispatch times to 12:00 noon for city institutions only would put such institutions at a disadvantage vis-a-vis non-city institutions in competing for corporate cash management business.

Several factors are to be considered in developing criteria for the selection of non-city institutions to be included in the HDGS. The selection criteria should consider the value of improved funds availability in relation to the costs incurred in collecting the funds faster, that is, the value of funds cleared one day earlier versus the additional processing and transportation costs that would be required to achieve this improvement. Finally, the selection criteria should be sufficiently flexible to address changing economic trends and disbursement patterns.

Three principal approaches have been considered for selecting non-city institutions for the HDGS: (1) The value of check presentments by the Reserve Banks; (2) the location of non-city institutions; and (3) market demand. Each of these approaches offers varying degrees of improved availability and responsiveness to changing disbursement patterns. Additionally, the costs associated with servicing and administering each approach would differ.

Value of Check Presentments—Under this approach, the selection process could be developed in two ways. First, non-city institutions could be included in the program on the basis of the daily average dollar value of checks presented to them by the Federal Reserve. All non-city institutions at or above some specific dollar level would be included in the program. Second, non-city institutions could be included on the basis of some measure of average check size and/or the number of large dollar items presented to them by the Federal Reserve. A determination of the appropriate average check size or number of high-dollar checks would be developed through an analysis of Reserve Bank check clearings over a specified time period.

An analysis of daily average presentments to non-city institutions indicated that nearly 30 percent of the total $22 billion daily average presentments by the Federal Reserve to non-city institutions were made to institutions whose daily presentments averaged $20 million or more. The proportion rises to only 37 percent when institutions with daily presentments averaging $10 million or more are included and to 44 percent when institutions with daily presentments averaging $5 million or more are included. However, the number of institutions that would be included in the HDGS would increase 150 percent, from 97 to 249 institutions, between the $20 million and $10 million cutoff points and increase 350 percent, from 97 to 463 institutions, between the $20 million and $5 million cutoff points. These data suggest that, at least initially, a $20 million cutoff point may be preferable in light of the relationship between potential dollars collected and the cost of providing the service.

A selection criterion based on total dollars presented would be uniform and objective as well as simple to implement and administer. This criterion would not, however, allow for accelerating the collection of checks on smaller institutions where it may be cost-effective to do so. There may be opportunities to improve funds availability at a small marginal cost by including institutions whose dollar value of presentments is below the established cutoff. Conversely, this criterion would call for including certain institutions where it may not be cost-effective to do so because transportation costs may be prohibitive.

Using selection criteria based on average check size and/or the number of large dollar checks presented by the Federal Reserve could include institutions on which large dollar checks are frequently drawn but that might not be included in the HDGS under a total dollar value presentment approach. Additionally, this approach would ensure that the checks presented to selected institutions would have a sufficiently high dollar value to make their inclusion in the HDGS cost-effective for collecting institutions. Finally, this approach may offer greater adaptability to changes in market conditions than the pure dollar-based approach. On the other hand, determining the optimal average check size or appropriate number of large dollar checks would require complex analysis.

Geographic Location—A geographic approach has been recommended by some members of the banking community. It has been suggested that all institutions located in specific geographic areas, such as, Ranally Metropolitan Areas, would be included in the HDGS without regard to the value of checks presented to them.

Such an approach would be predictable and objective, since it clearly specifies the groups of depository institutions that would be included in the HDGS. Also, it would treat depository institutions located in Federal Reserve cities and those located in large non-Federal Reserve cities comparably. Nonetheless, this approach appears to have some disadvantages. There may be little benefit from including very small institutions in the HDGS, since the costs of doing so would likely be higher than the potential marginal benefits that may be realized. The inclusion of many small institutions could add significantly to transportation and processing costs while contributing very little to incremental dollars collected. Further, it might be cost effective to serve many institutions that receive large dollar presentments that may not be in the geographic areas specified. Therefore, a pure geographic approach might not maximize improvements in funds availability.

Market Demand—Under this approach, depository institutions could request that certain non-city institutions be included in the HDGS in order to obtain improved funds availability. In administering the market demand approach, the benefits to be obtained through improved funds availability versus the cost of including such non-city institutions in the HDGS would be evaluated. Only when clear net benefits could be achieved would a particular institution be included.

This approach has the advantage of ensuring that the HDGS is responsive to the changing needs of depository institutions. It also provides that institutions would be included in the HDGS only if depository institutions were willing to pay a price that would cover the Federal Reserve's costs of collecting checks on the selected non-city institutions. However, several potential drawbacks are associated with this approach. Improvements in funds availability and in the payments mechanism generally may not be fully realized since the success of the program would be wholly dependent upon the requests of depository institutions. Additionally, this approach may not result in the most efficient allocation of resources since greater or comparable improvements in funds availability may be achieved at costs lower than those associated with limiting selection to depository institutions' requests. Finally, it could be more costly to administer this approach then either the pure total dollar value or geographic approaches because of the continuing necessity to evaluate depository institutions' requests.

Price Determination and Deposit Deadlines—It is proposed that a two-part fee structure be used for the HDGS: a cash letter fee and a per item fee. The cash letter fee would consist of each office's existing intra- or interterritory cash letter fees plus a charge to recover the fixed costs of outgoing transportation. The per item fee will be set to recover processing costs plus the expected value of any holdover or intraterritory transportation float.

Proposed fees for the HDGS have been developed by each Federal Reserve office based upon the costs associated with a high-dollar group sort consisting of non-city institutions with daily average presentments of $20 million or more. A schedule of these proposed fees is attached to this notice. The deposit deadlines for the HDGS would be comparable to the current deadlines for checks drawn on city institutions. It is proposed that the HDGS deposit deadlines would range from 8:00 a.m. to 9:30 a.m. The proposed deposit deadlines also appear in the attachment. Some Federal Reserve offices are considering an optional service that permits institutions to deposit one cash letter for checks drawn on institutions included in the HDGS. Deposit deadlines would be earlier and fees may be slightly higher for this local option.

Presentment—Institutions included in the HDGS will continue to receive a large proportion of the checks presented or dispatched to them in the same manner as at present. It is anticipated that only a small proportion of the checks drawn on these institutions will be presented or dispatched to the banks by 12:00 noon.

Payor Bank Service—The accelerated check collection program, approved by the Board in December, specifically addressed the impact of later presentment on depository institutions' ability to offer cash management services to their customers. As announced by the Board in December, each Reserve Bank will be required to offer a minimum level of service that provides presentment totals by selected account or facilitates the paying institutions' ability to extract such totals. Information concerning the details of each Reserve Bank's service is available from the Reserve Bank.

Implementation—The Board will establish an implementation date when final action on this matter is taken after comments are analyzed.

Combining Selection Criteria—It appears that no one criterion will be fully satisfactory. However, the Board believes that the daily average presentment value approach provides an objective basis for initiating the HDGS. By initially including all institutions with average daily presentments amounting to $20 million or more, the number of selected institutions would be manageable. Meaningful improvements in funds availability could be realized while information is gained regarding depository institutions' use of the HDGS and the cost-effectiveness of including all institutions defined by this criterion.

Further improvements in funds availability could be achieved at a reasonable cost by including additional non-city institutions in the HDGS. Lowering the dollar cutoff, however, may not be the most cost effective approach because improvements in funds availability may not exceed the increased costs that would be incurred to include additional institutions in the HDGS. Therefore, other criteria may be needed for selecting institutions whose average daily presentments are below the $20 million cutoff. All depository institutions that fall within the selection criteria chosen will be included within the HDGS.

Accordingly, the Board requests public comment on the following selection criteria:

1. Initially include all non-city institutions in the HDGS whose daily average presentments by the Federal Reserve amount to $20 million or more.

2. Select additional non-city institutions with total daily average presentments by the Federal Reserve under $20 million for inclusion in the HDGS:

a. Using standards based on the average check size and/or the number of large-dollar checks presented to an institution; or

b. Based on analysis of requests received from depository institutions.

In addition to providing comments on the selection criteria proposed above, the Board asks that commenters also address the following questions:

1. Should a minimum ratio of costs to value of improved funds availability be set for inclusion in the program? If so, what ratio is appropriate?

2. Should the $20 million cutoff be set at a higher or lower level? If so, what should the appropriate level be?

3. Should institutions with average presentments of less than $20 million be

[1] Presentment indicates the time that Reserve offices will present checks at clearinghouse or make them available for pickup for pickup at the Reserve offices.

[2] Non-city institutions are depository institutions that are located outside cities where there are Federal reserve Chick processing offices.

[3] A group sort is a service that Reserve Banks provide to collecting institutions. Under this service, institutions that sort checks drawn on a defined group of institutions may deposit those checks at later deadlines than unsorted deposits.

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added to the program based on criteria using average check size and/or the number of large dollar checks presented?

(a) If so, how should the appropriate average check size be determined?

(b) How should the number and size of the large dollar check criterion be determined?

(c) Which would be a better criterion—the average check size or the number of large dollar checks presented? Should both factors be used?

(d) What timeframe should be used to analyze average check size and/or the number of large dollar checks?

4. If a market demand criterion were used:

(a) How would this best be administered?

ATTACHMENT.—PROPOSED HDGS PRICES AND DEPOSIT DEADLINES [1]

Office and group number	Per item (cents)		Intraterritory C/L fee (dollars)	Interterritory C/L fee (dollars)	Proposed deadline
	Group	Fine			
Boston	5.0		$.00	$10.00	0830
Lewiston [2]	NA		NA	NA	NA
Windsor Locks	5.0		9.00	10.00	0800
New York [2]	NA		NA	NA	NA
Buffalo	8.0		3.25	5.25	0830
Jericho	8.0		8.00	10.00	0830
Cranford	8.0		9.00	11.00	0830
Utica	8.0		16.00	18.00	0830
Philadelphia	9.0		8.00	9.00	0800
Cleveland	10.0		5.00	7.00	0930
Cincinnati	10.0		9.50	11.50	0930
Pittsburgh		5.0	7.00	7.00	0930
Columbus		5.0	7.00	7.00	0800
Richmond	11.0		21.50	22.50	0900
Baltimore	8.0		15.50	16.50	0830
Charlotte	12.0		20.00	21.00	0800
Columbia	14.0		13.50	14.50	0900
Charleston [2]	NA		NA	NA	NA
Atlanta	8.0		3.00	4.50	0800
Birmingham [2]	NA		NA	NA	NA
Jacksonville	15.0		50.00	51.50	0800
Nashville [2]	NA		NA	NA	NA
New Orleans		15.0	29.00	29.00	0900
Miami		5.0	14.50	14.50	0830
Chicago		15.0	13.75	13.75	0830
Detroit 1	10.0		10.00	10.00	0900
Detroit 2	10.0		17.00	17.00	0900
Des Moines [2]	NA		NA	NA	NA
Indianapolis [2]	NA		NA	NA	NA
Milwaukee		15.0	12.50	12.50	0830
St. Louis		12.0	9.00	9.00	0900
Little Rock [2]	NA		NA	NA	NA
Louisville		7.0	14.00	14.00	0930
Memphis		9.0	51.50	51.50	0930
Minneapolis	6.0		7.00	8.00	0800
Helena		9.8	19.50	19.50	0900
Kansas City [2]	NA		NA	NA	NA
Denver [2]	AA	15.0	51.75	51.75	0900
Oklahoma City	10.0		30.00	31.00	0900
Omaha [2]	NA		NA	NA	NA
Dallas	7.0		8.00	8.00	0900
Houston [2]	NA		NA	NA	NA
San Antonio		3.0	30.50	30.50	0930
El Paso		3.0	14.50	14.50	0915
San Francisco		5.0	29.00	29.00	0800
Los Angeles 1	7.8		10.00	12.00	0800
Los Angeles 2		5.0	38.00	38.00	0800
Los Angeles 3	11.0		29.00	31.00	0800
Portland [2]	NA		NA	NA	NA
Salt Lake City [2]	NA		NA	NA	NA
Seattle [2]	NA		NA	NA	NA

[1] Fees are based on: (1) Including only institutions with daily average presentments of $20 million and above, and (2) Reserve Bank estimates of the number of checks and the number of deposits that will be received for this HDGS.

[2] There are no institutions with daily average presentments of $20 million and above in the territory served by this office.

A—Act applicable.

(b) When an institution requests that a payor institution be added, how long should the requesting institution be obligated to utilize the service?

5. Would a geographic approach be preferable in determining which additional institutions should be included?

(a) If so, how should the geographic area be selected?

(b) Should all institutions within the geographic area be included in the program? If not, on what basis should institutions be included? Average dollar presentments? Average check size? Number of large dollar checks? Any other criteria?

(c) What criteria should be used for including institutions outside the specified geographic area?

6. How often should the institutions in the HDGS be reviewed by the Federal Reserve System for continued cost efficiency?

7. Are there any other objective criteria that should be considered as a basis for selecting institutions for inclusion in the HDGS program?

By order of the Board of Governors of the Federal Reserve System, May 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12107 Filed 5-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1238]

Certification of a State Land Sales Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commisssioner, Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of Certification of the Land Sales Program of the State of Georgia, Secretary of State, Securities Division.

SUMMARY: The Secretary gives public notice that a determination has been made to accept the application and certify the land sales program of the State of Georgia, Secretary of State, Securities Division. A formal agreement was entered into on February 24, 1983, commencing the effect of the certification. The State of Georgia applied for certification of its land sales program under 24 CFR 1710.502, and notice of its application was published in the **Federal Register** on December 13, 1982. The purpose of this public notice of Georgia's certification is to advise the public, and particularly Georgia land developers and other state agencies with land sales regulatory responsibilities, of the terms of the agreement and the agreement's effect upon land sales businesses.

EFFECTIVE DATE: February 24, 1983.

ADDRESSES:

HUD, Office of Interstate Land Sales Registration, Room 4130, 451 7th Street, SW. Washington, D.C. 20410

Secretary of State, Securities Division, 216 State Capitol, Atlanta, Georgia 30334

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, U.S. Department of Housing and Urban Development, (202) 755-6314. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The agreement between the Commissioner of Securities for the State of Georgia (Commissioner) and the HUD Office of Interstate Land Sales Registration (OILSR) affects those land subdivisions located in Georgia for which both a Georgia Property Report and Federal Statement of Record (a Federal registration) are required.

The Federal requirements will be satisfied and a registration for the particular subdivision automatically effective upon receipt of a certified copy of the Georgia Property Report in proper form and a Federal registration fee in the amount set out in existing regulations governing administration and enforcement of the Interstate Land Sales Full Disclosure Act. No other documentation will be required.

Federal rescission language will be incorporated into the body of the Georgia Property Report, as appropriate, and in sales contracts. No separate Federal disclaimer page or Federal effective date will appear in the Georgia Property Report.

Background:

Congress, in order to eliminate duplicative reporting requirements, amended the Interstate Land Sales Full Disclosure Act in 1979 to give HUD expanded authority in the certification of states with equivalent land sales protection. Rules were adopted in June 1980 setting out the procedures and criteria for certifying a state land sales program. States can be certified by the Federal government if their land sales program gives purchasers protection either through disclosure requirements or substantive regulation or a combination of the two that is substantially equivalent to that provided by administration of the Federal law. Once a state is certified, HUD may accept a state's disclosure materials, and any documentation required, and declare these effective as a Federal registration.

California was certified on January 6, 1981, Minnesota on October 2, 1981, Florida on January 18, 1982 and Arizona on February 3, 1982. An affirmative decision has been made regarding the Georgia application, and a formal agreement was signed on February 24, 1983, following the close of a 30-day public comment period announced in the **Federal Register** on December 13, 1982. Only two comments were from the California Department of Real Estate and the Arizona Department of Real Estate. The differences stated in those comments have been resolved to the satisfaction of California and Arizona.

The formal agreement is as follows: (insert attachment)

Dated: April 28, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Be It Known That the Commissioner of Securities for the State of Georgia (Commissioner) and the United States Department of Housing and Urban Development (HUD), Office of Interstate Land Sales Registration (OILSR)

Agree as follows:

1. That the State of Georgia has adopted and is effectively administering a land sales program pursuant to the Georgia Land Sales Act of 1982, Code Section 44-3-1, *et seq.*, of the Official Code of Georgia, as amended, and Chapter 590-4 of the Rules and Regulations of the State of Georgia. This statute and the rules and regulations promulgated thereunder, administered in accordance with this Agreement, provide lot purchasers and lessees protection that is substantially equivalent to that given them by the Interstate Land Sales Full Disclosure Act (ILSFDA).

2. That the State of Georgia's land sales program is certified by the U.S. Department of Housing and Urban Development pursuant to 24 CFR 1710.501(b). A developer or subdivider who has properly registered with the Commissioner a subdivision located in Georgia may satisfy the registration requirements of the ILSFDA by filing or having filed with the Secretary of HUD, the final Property Report (which was previously filed with Commissioner) with fee, in lieu of the Federal Statement of Record provided that the Commissioner has determined that the Property Report is in compliance with all the substantive and disclosure requirements set forth in the aforementioned Georgia statutory and regulatory provisions and this Agreement. All Property Reports certified by the Commissioner will be prepared pursuant to the format and general instructions set forth in 24 CFR 1710.100 through 1710.118, except that §§ 1710.105 and 1710.118 are modified to substitute the Commissioner for references made to the Federal Government and/or OILSR and to include the requirements of OCGA § 44-3-3)(4)(A). Accordingly, a subdivision located in Georgia will be considered registered with HUD upon HUD's receipt of a certified current Property Report and a fee in the amount specified in OILSR Regulations.

3. That the Commissioner will adopt a rule which, in conjunction with OCGA § 44-3-3(4)(B) and (13) (B), requires developers to file an amendment to the Property Report within 15 days of the date on which the developer knows, or should have known, that there has been a change in any representation of material fact required to be stated in the Property Report.

4. That each agency agrees to notify the other within 30 days of any modification or amendment to its law, regulations or administrative procedures, or of any substantial changes in its administrative capabilities, and to send copies of the pertinent documents, if any, affecting the modifications or amendments, including legal opinions relative to the aforementioned statutory and regulatory provisions and this Agreement.

5. That each agency agrees to notify the other of any action taken to suspend sales in a subdivision covered by this Agreement and to send to the other copies of any administrative orders including Cease and Desist Orders, Suspension Orders and copies of injuctions obtained.

6. That the Commissioner will certify as true and currently in effect all Property Reports in compliance with Georgia's statutory and regulatory provisions and this Agreement, including amended and renewed

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statements, as required by subdividers to comply with the ILSFDA.

7. That while additional documents will not be required to be certified and sent as a matter of course, the Commissioner will cooperate with OILSR by sending copies of any additional documents that are specifically requested.

8. That the Commissioner will cooperate with any other states obtaining HUD certification of its land sales programs by providing copies of documents that are specifically requested.

9. That the Commissioner will accept a disclosure document covering land located in another state but offered for sale in Georgia if the disclosure document has been approved by the other state, provided the other state's land sales program has been certified by OILSR, and that such disclosure document will be the only disclosure document required by the Commissioner with respect to the offer, sale or lease of the subdivided lands. However, the Commissioner is not required to accept disclosure documents covering offerings located in another certified state if that offering is not subject to the registration requirements of the ILSFDA.

10. That this Agreement is limited to disclosure documents required by both agencies and is not intended as a substitute for substantive requirements of the State of Georgia or of the enforcement authority of either agency. Thus, the Commissioner is not required to accept a disclosure document from another certified state when the subdivision in question and its operation do not meet the substantive requirements of Georgia law. In addition, neither OILSR nor the Commissioner are precluded from initiating administrative, civil or criminal proceedings.

11. That OILSR will not certify another state unless that state's Land Sales program offers to purchasers and lessees protection which is substantially equivalent (either in terms of required disclosure or substantive protection or some combination of the two) to that offered through administration of the ILSFDA.

12. That the Commissioner will exert its best efforts to maintain the level of administration upon which certification is based.

13. That for all subdivisions certified to HUD, the Commissioner will assure that pursuant to 15 U.S.C. 1703, as interpreted at 24 CFR 1710.209(f)(3), purchasers are advised in both Property Reports and in all forms of contracts or agreements and promissory notes used in selling or leasing lots of rescission rights accruing to them under Federal law and that no representations will be made by subdividers that they will install or complete roads, sewers, water, gas, or electric service, or recreational amenities unless the subdividers stipulate in their contract of sale or lease that they will provide or complete such services or amenities.

14. That complaints received by OILSR from Georgia residents concerning subdivisions in Georgia will be sent to the Commissioner for investigation; however, they may also be investigated by OILSR. The Commissioner will advise OILSR of any action taken or resolution of each complaint and send OILSR a copy of the Commissioner's reply to the complainant. Where such complaints clearly address only Federal requirements, OILSR will handle the complaint directly. Complaints received by the Commissioner from Georgia residents concerning subdivisions located outside of Georgia will be sent to OILSR for investigation; however, they may also be investigated by the Commissioner. The Commissioner and OILSR will cooperate where both have a direct interest in the subdivision.

15. That the agencies agree to cooperate with each other to the maximum extent possible and legally feasible in enforcement matters. OILSR and the Commissioner will, upon request, exchange copies of inspections of subdivisions located in Georgia performed by its field representatives. The Commissioner will exert its best efforts to make inspections of subdivisions prior to issuing a Certificate of Registration.

16. That each agency agrees to notify the other of any investigation it conducts which affects subdivisions located in Georgia or developers, subdividers, or their agents involved with these subdivisions.

17. That this Agreement does not affect the authority of either agency to assess or collect fees, particularly for filing and registration purposes.

18. That the Secretary of HUD is required periodically to review the laws and regulations and administration thereof of any state whose land sales program is certified; that the Secretary may withdraw certification upon a determination that the state's program no longer offers purchasers protection equivalent to that offered by the ILSFDA; and that prior to withdrawal of certification, the Secretary must issue to the state a notice of intent to withdraw certification, which notice shall afford the state an opportunity for hearing prior to withdrawal.

19. That the Commissioner may withdraw from certification by notice to the Secretary.

20. That this Agreement may be amended or supplemented at a later date by written agreement of both parties.

This agreement is entered into on the 24th day of February, 1983.

Max Cleland,

Secretary of State, Commissioner of Securities, State of Georgia.

H. Wayne Howell,

Director, Securities Division, Assistant Securities Commissioner.

Philip Abrams,

Assistant Secretary for Housing-Federal Housing Commissioner for the U.S. Department of Housing and Urban Development.

[FR Doc. 83-12075 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-27-M

Office of the Secretary

[Docket No. N-83-1237]

Submission of Proposed Information Collection to OMB

AGENCY: Ofice of Administration, HUD.

ACTION: Notice

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Record of Employee Interview
Office: Labor Relations
Form No.: HUD-11
Frequency of submission: On Occasion
Affected public: Individuals or Households
Estimated burden hours: 5,000
Status: Extension
Contact: Richard S. Allen, HUD, (202) 755-5370; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 25, 1983.

Albert J. Kliman,

Director, Budget, Office of Administration.

[FR Doc. 83-12071 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1236]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Low Rent Public Housing Construction Report
Office: Housing
Form No. HUD-5378
Frequency of submission: On Occasion
Affected public: State and Local Governments
Estimated Burden hours: 30,000
Status: Extension
Contact: Dominic Eng, HUD, (202) 755-6460; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 16, 1983.

Judith L. Tardy,

Assistant Secretary for Administration

[FR Doc. 83-12072 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1234]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Previous Participation Certificate
Office: Housing
Form No.: HUD-2530
Frequency of submission: On Occasion
Affected public: Individuals or Households and Businesses or Other Institutions (except farms)
Estimated burden hours: 5,400
Status: Extension
Contact: Jon Will Pitts, HUD, (202) 755-6776; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

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Dated: April 11, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-12073 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1235]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice:

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Personal Financial and Credit Statement
Office: Housing
Form No.: HUD-92417
Frequency of submission: On Occasion
Affected public: Businesses or Other Institution (except farms)
Estimated burden hours: 64,000
Status: Extension
Contact: William C. Howell, HUD, (202) 426-0730; Robert Neal, OMB (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 22, 1983.

Albert J. Kliman,

Director, Budget, Office of the Assistant Secretary for Administration.

[FR Doc. 83-12074 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. AZAZ025000001]

The Bureau of Land Management proposes to offer for sale the following described lands at public auction on August 11, 1983, at 11:00 a.m., at Yavapai County Courthouse, 255 East Gurley, Prescott, Arizona 86301.

Gila and Salt River Meridian, Arizona

	Acres	Value
Parcel G: Legal Description: T. 11N., R. 2 E., sec. 9, NE¼SE¼	40	$50,000

Through the development of land use plans, it has been determined that the sale of the tract is consistent with the Federal Land Policy and Management Act. Surface disposal will be according to Section 203(a) (90 Stat. 2750, 43 U.S.C. 1713) and minerals may be conveyed per Section 209(b) (90 Stat. 2757, 43 U.S.C. 1719). The successful bidder may apply for the reserved mineral estate, except oil and gas, and pay an administrative fee of $50.00 for conveyance.

Unless modified through mutual agreement by the range user and the purchaser, the grazing lessee may continue existing grazing use until February 28, 1992 by honoring the terms and conditions of the current grazing use authorization.

Terms and conditions of the grazing use which must be honored by the purchaser are stated in the "subject to" provisions of the patent.

This notice of realty action will serve as the two year notification of cancellation to the grazing lessee required by 43 CFR 4110.42(b).

If not sold on August 11, 1983 the parcel will be re-offered in the Phoenix District Office at 10:00 a.m., on October 5, 1983. The land will be offered for sale at no less than the appraised fair-market value.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of non-discretionary appropriation under the public land laws, including the mining laws but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two year period.

The land will be subject to the following reservations when patented:

Excepting and reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All oil and gas, with the right to explore, prospect for, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

And subject to:

1. A right-of-way thereon described under Serial Number PHX 085903 for a road granted under Section 17 of the Act of November 9, 1921 (42 Stat. 216).

2. The right of the grazing lessee to continue the current grazing use until February 28, 1992, per the terms and conditions of the existing grazing authorization. Charges for the use will be no more than the BLM grazing fee scheduled for a given year. This grazing use authorization may be modified only by mutual agreement between the range user and the purchaser.

3. The Federal Emergency Management Agency (FEMA) 100-year floodplain maps developed for this area, and the Yavapai County planning and zoning regarding any flood hazard potential of the land.

Additional information concerning this land, terms and conditions of the sale and bidding instructions may be obtained by calling Arthur Tower, Area Manager, at 602 241-2854 or by writing to the District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: April 29, 1983.

William K. Barker,

District Manager.

[FR Doc. 83-12008 Filed 5-4-83; 8:45 am]

BILLING CODE 4210-84-M

[Serial No. AZAZ025000003]

Arizona: Realty Action Competitive Sale of Public Land in Pinal County

The Bureau of Land Management proposes to offer for sale the following described lands at public auction on July 27, 1983, at 11:00 a.m., in Administration Building No. 1, at Pinal County Courthouse, 1301 Pinal, Florence, Arizona, 85232. Through the development of land use plans, it has been determined that sale of the parcels is consistent with the Federal Land Policy and Management Act of 1976:

Gila and Salt River Meridian, Arizona

	Acres	Value
Parcel No. 1: Legal Description: T. 10 S., R. 11 E., G&SRM, sec. 21: N½	320	$288,000
Parcel No. 2: Legal Description: T. 10 S., R. 11 E., G&SRM, sec. 28: W½, SE¼	480	480,000
The above aggregates 800 acres in Pinal County		

Surface Disposal will be per Section 203(a) (90 Stat. 2750, 43 U.S.C. 1713). Mineral Conveyance (except reserving oil and gas to the Federal government) may be made to the successful bidder, per Section 209(b) (90 Stat. 2757, 43 U.S.C. 1719), if he/she applies and pays an administrative fee of $50.00 for conveyance. Unless modified through mutual agreement by the range user and the purchaser, the grazing lessee may continue existing grazing use until February 28, 1990, by honoring the terms and conditions of the current grazing use authorization. Terms and conditions of the grazing use which must be honored by the purchaser are stated in the "subject to" provisions of the patents.

This notice of realty action will serve as the two year notification of cancellation to the grazing lessee required by 43 CFR 4110.4-2(b).

Lands not sold on July 27, 1983 will be re-offered in the Phoenix District Office at 10:00 a.m., on October 5, 1983. The lands will be offered for sale at no less than the appraised fair-market value.

Upon publication of the Notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including the mining laws but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two year period.

The lands will be subject to the following reservations when patented:

Parcel No. 1

Excepting and reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All oil and gas, with the right to explore, prospect for, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

And subject to:

1. Those rights granted by Oil and Gas Lease A-10915, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. This patent will be subject to the right of the permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations without compensation, resulting from proper oil and gas operations, for the duration of the Lease A-10915, and any authorized extension of the lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

2. The Federal Emergency Management Agency (FEMA) 100-year floodplain maps developed for this area, and the Pinal County planning and zoning regarding any flood hazard potential of the land.

3. The right of the grazing lessee to continue the current grazing use until February 28, 1990, per the terms and conditions of the existing grazing authorization. Charges for the use will be no more than the BLM grazing fee scheduled for a given year. This grazing use authorization may be modified only by mutual agreement between the range user and the purchaser.

Parcel No. 2

Excepting and reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All oil and gas, with the right to explore, prospect for, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. A right of way thereon described under Serial No. AR-08324, for gas pipeline purposes under the Act of February 25, 1920 (41 Stat. 449).

And subject to:

1. Those rights granted by Oil and Gas Lease A-11119 made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. This patent will be subject to the right of the permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations without compensation, resulting from proper oil and gas operations, for the duration of the Lease A-11119, and any authorized extension of the lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

2. The Federal Emergency Management Agency (FEMA) 100-year floodplain maps developed for this area, and the Pinal County planning and zoning regarding any flood hazard potential of the land.

3. The right of the grazing lessee to continue the current grazing use until February 28, 1990, per the terms and conditions of the existing grazing authorization. Charges for the use will be no more than the BLM grazing fee scheduled for a given year. This grazing use authorization may be modified only by mutual agreement between the range user and the purchaser.

Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained by writing to William K. Barker, District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, or by calling Arthur E. Tower, Area Manager, 602 241-2854.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any

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action by the District Manager this realty action will become the final determination of the Department of the Interior.

Dated: April 29, 1983.

William K. Barker,

District Manager.

[FR Doc. 83-12029 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Newcastle Resource Area, Casper District, Wyoming; Final Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of the Final Newcastle Grazing Environmental Impact Statement.

SUMMARY: The final Grazing Environmental Impact Statement for the Newcastle Resource Area in Wyoming will be available on May 1, 1983. The Final EIS has been completely reprinted in response to comments on the draft document.

FOR FURTHER INFORMATION CONTACT: Darrell Short, Area Manager, Newcastle Resource Area, Bureau of Land Management, P.O. Box 757, Newcastle, Wyoming 82701; (307) 746–4453.

Leslie A. Olver,

Acting District Manager.

[FR Doc. 83-11985 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Availability of the Proposed Grazing Management Program for the Divide Environmental Impact Statement Area

AGENCY: Rawlins District Office, Rawlins, Wyoming, Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared the Proposed Grazing Management Program for the Divide Environmental Impact Statement Area (Divide EIS) in the Divide and Medicine Bow Resource areas of Wyoming. Copies of the document are available for public review and comment.

In addition, notice is also given that a public hearing will be held in Rawlins, Wyoming, on June 8, 1983, at 7 p.m., at the Rawlins District Office, BLM. Written and oral comments on the Divide EIS will be received at that time.

DATE: Written comments on the proposed action and alternatives contained in the draft EIS will be accepted through June 30, 1983.

ADDRESSES: Written comments on the draft EIS should be sent to: District Manager, Bureau of Land Management, Rawlins District Office, Box 670, Rawlins, Wyoming 82301. The draft EIS is available for inspection at the Rawlins District Office, 1300 N. Third Street, Rawlins, Wyoming 83201.

SUPPLEMENTARY INFORMATION: Environmental impacts that will result from the implementation of the grazing management proposal and the three alternatives to the proposal have been analyzed in the draft EIS. These alternatives are: Enhance watershed, wildlife and soil resources, enhanced livestock grazing, and no action.

All comments will be considered. Those that raise questions or issues concerning the effects of the proposed action, present new data, or question facts or analyses will be responded to in the final EIS.

FOR FURTHER INFORMATION CONTACT: Bob Tigner, Rawlins District Office, Box 670, Rawlins, Wyoming 82301, Telephone (307) 324–7171.

David J. Walter,

District Manager.

[FR Doc. 83-12030 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Newcastle Resource Area, Casper District, Wyoming; Intent To Prepare Planning Analyses for BLM-Administered Public Lands in Nebraska

AGENCY: Bureau of Land Management, Interior. .

ACTION: Initiation of planning analyses for land disposal in Nebraska on a county by county basis.

SUMMARY: The Newcastle Resource Area is preparing planning analyses in Nebraska according to the procedures outlined in 43 CFR 1601.6–3(b). This consists of an environmental assessment, public participation, interagency coordination and consistency determination. The analyses will address the possible disposal of or retention of BLM-administered public lands in Nebraska on a county by county basis. The location of the lands and the sequence of the analyses is presented in the Supplementary Information section of this notice.

Public Participation: The public is invited to comment on the advisability of disposing or retaining tracts of BLM-administered public lands in Nebraska. During the planning analyses, BLM will contact appropriate State and county officials, adjacent landowners and lessees. Public meetings will be held if the need is identified through public input.

FOR FURTHER INFORMATION CONTACT: Darrell Short, Area Manager, Newcastle Resource Area, Bureau of Land Management, P.O. Box 757, Newcastle, Wyoming 82701, (307) 746–4453.

SUPPLEMENTARY INFORMATION: Tracts of land will be analyzed site-specifically within each county to determine manageability. Manageability would be based on resources present to justify retention in federal ownership. If no resources are present that justifies retention, disposal would be proposed. The following is a sequential list of public lands by county which the planning analyses will be prepared for.

To be completed in fiscal year 1984*:

Cedar County

T. 32 N., R. 2 E.: Section 2, NE¼SE¼	40.00
Total	40.00

Knox County

T. 32 N., R. 6 W.: Section 31, lot 2	2.10
T. 31 N., R. 7 W.: Section 4, lot 1	43.00
T. 32 N., R. 8 W.: Section 17, lot 3	10.15
Total	55.25

Keya Paha County

T. 32 N., R. 18 W.: Section 17, lot 5	6.70
T. 35 N., R. 23 W.:	
Section 15, lot 1	3.20
Section 15, lot 2	3.13
Section 15, lot 3	3.06
Section 15, lot 4	2.99
Total	19.08

Holt County

T. 28 N., R. 14 W.: Section 24, SE¼SE¼	40.00
T. 32 N., R. 14 W.:	
Section 1, lot 3	49.01
Section 1, lot 4	48.86
Section 1, S½NW¼	80.00
T. 33 N., R. 14 W.:	
Section 15, NW¼SW¼	40.00
Section 15, SE¼SW¼	40.00
Section 22, NE¼NE¼	40.00
T. 28 N., R. 16 W.: Section 19, lot 3	22.50
T. 33 N., R. 16 W.: Section 15, lot 5	0.48
Total	360.85

Boyd County

T. 32 N., R. 10 W.: Section 1, lot 4	14.00
T. 33 N., R. 10 W.: Section 13, lot 1	1.60
T. 34 N., R. 15 W.:	
Section 22, lot 7	17.10
Section 23, lot 1	5.65
Section 24, lot 1	0.86
Total	39.21

Brown County

T. 27 N., R. 20 W.: Section 19, E½NE¼	80.00
T. 25 N., R. 21 W.:	
Section 1, S½SE¼	80.00
Section 3, S½SW¼	80.00
Section 9, W½NW¼	80.00
T. 27 N., R. 21 W.:	
Section 22, NW¼SE¼	40.00
Section 27, SE¼NW¼	40.00
T. 28 N., R. 21 W.: Section 9, W½SE¼	80.00
T. 25 N., R. 22 W.:	
Section 1, SW¼SW¼	40.00
Section 30, NE¼SW¼	40.00
T. 26 N., R. 22 W.:	
Section 5, NW¼SE¼	40.00
Section 8, NE¼NE¼	40.00
Section 33, SW¼SE¼	40.00

T. 25 N., R. 23 W.:	
Section 21, E½SE¼	80.00
Section 22, S½SW¼	80.00
T. 32 N., R. 23 W.:	
Section 23, N½S½	160.00
Section 27, SE¼NE¼	40.00
Section 27, NW¼SW¼	40.00
T. 31 N., R. 24 W.:	
Section 4, NW¼SW¼	40.00
Section 14, SW¼SW¼	40.00
Total	1,160.00

Rock County

T. 25 N., R. 20 W.: Section 9, W½NW¼	80.00
T. 27 N., R. 20 W.: Section 21, NW¼	160.00
Total	240.00

Loup County

T. 22 N., R. 20 W.:	
Section 2, SE¼NE¼	40.00
Section 2, NE¼SE¼	40.00
Total	80.00

Blaine County

T. 22 N., R. 21 W.: Section 2, lot 3	40.10
T. 23 N., R. 21 W.:	
Section 1, lot 1	39.92
Section 1, SE¼NE¼	40.00
Section 1, E½SE¼	80.00
T. 24 N., R. 21 W.: Section 35, NE¼SE¼	40.00
T. 21 N., R. 22 W.: Section 13, NE¼SE¼	40.00
T. 23 N., R. 22 W.:	
Section 19, S½SE¼	80.00
Section 30, lot 2	36.40
Section 30, SE¼NW¼	40.00
Section 34, SE¼NW¼	40.00
T. 24 N., R. 22 W.:	
Section 28, SE¼SE¼	40.00
Section 29, NW¼SW¼	40.00
T. 21 N., R. 23 W.:	
Section 6, lot 5	36.57
Section 6, SE¼NW¼	40.00
T. 23 N., R. 23 W.: Section 23, S½SW¼	80.00
T. 24 N., R. 23 W.: Section 27, SE¼NE¼	40.00
T. 23 N., R. 25 W.: Section 5, S½NW¼	80.00
T. 24 N., R. 25 W.: Section 32, NW¼SW¼	40.00
Total	874.99

To be completed in Fiscal Year 1985*:

Custer County

T. 19 N., R. 18 W.: Section 8, lot 3	24.00
T. 19 N., R. 19 W.: Section 6, lot 6	25.96
Total	49.96

Wheeler County

T. 24 N., R. 12 W.:	
Section 30, lot 1	35.98
Section 30, lot 2	35.93
Total	71.91

Howard County

T. 15 N., R. 9 W.: Section 18, lot 1	0.63
T. 13 N., R. 12 W.: Section 26, lot 11	1.84
Total	2.47

Hall County

T. 11 N., R. 9 W.: Section 31, lot 1	1.00
Total	1.00

Buffalo County

T. 9 N., R. 13 W.: Section 32, lot 1	0.70
Total	0.70

Franklin County

T. 1 N., R. 18 W.: Section 17, lot 1	0.40
Total	0.40

Red Willow County

T. 3 N., R. 28 W.: Section 21, lot 1	7.60
T. 3 N., R. 29 W.: Section 25, lot	1.21
T. 4 N., R. 30 W.:	
Section 4, lot 3	38.20
Section 4, lot 4	38.31
Section 5, lot 1	38.13
Section 5, lot 5	38.69
Total	161.54

Dundy County

T. 1 N., R. 39 W.: Section 30, lot 1	1.57
T. 1 N., R. 40 W.: Section 26, lot 1	0.18
Total	1.75

Hitchcock County

T. 4 N., R. 34 W.: Section 19, lot 2	38.98
Total	38.98

Hayes County

T. 6 N., R. 35 W.: Section 17, NE¼NE¼	40.00
Total	40.00

Lincoln County

T. 12 N., R. 28 W.: Section 9, Tract 39	4.32
T. 13 N., R. 34 W.: Section 8, lot 1	0.03
Total	4.35

McPherson County

T. 17 N., R. 30 W.: Section 24, SW¼SW¼	40.00
T. 19 N., R. 33 W.:	
Section 15, SW¼SE¼	40.00
Section 26, SW¼NW¼	40.00
Total	120.00

Thomas County

T. 22 N., R. 29 W.:	
Section 4, lot 1	40.81
Section 4, lot 2	40.80
Section 31, NW¼SE¼	40.00
T. 21 N., R. 30 W.:	
Section 8, E½SW¼	80.00
Section 28, SW¼NW¼	40.00
T. 23 N., R. 29 W.: Section 34, SE¼SW¼	40.00
Total	281.61

Hooker County

T. 21, N., R. 31 W.:	
Section 1, lot 5	4.37
Section 1, lot 6	3.44
T. 22 N., R 31 w.: Section 36, lot 1 and 2	14.76
T. 23 N., R. 31 W.:	
Section 2, lot 7	1.33
Section 1, lot 8	3.99
Section 12, lot 5	7.02
Section 12, lot 6	9.81
Section 13, lot 5	12.53
Section 13, lot 6	15.65
Section 24, lot 5	18.11
Section 24, lot 6	21.50
Section 25, lot 5	24.52
Section 25, lot 6	27.58
T. 24 N., R 31 W.: Section 23, lot 1	13.73
T. 24 N., R. 32 W.: Section 6, lot 11	9.38
T. 24 N., R. 32 W.:	
Section 7, lot 1	15.49
Section 13, lot 7	6.24
Section 32, lot 7	8.23
Section 33, lot 5	1.07
T. 22 N., R. 33 W.:	
Section 2, lot 3	36.91
Section 2, lot 4	36.73
T. 23 N., R. 33 W.: Section 34, SW¼NE¼	40.00
T. 21 N., R. 34.: Section 18, lot 1	36.08
Total	362.36

Cherry County

T. 33 N., R. 27 W.: Section 8, lot 8	57.50
T. 26 N., R. 29 W.: Section 6, lot 7	39.24
T. 35 N., R. 29 W.:	
Section 14, lot 1	4.48
Section 14, lot 2	4.15
Section 14, lot 3	3.85
Section 14, lot 4	3.55
Section 15, lot 1	3.06
Section 15, lot 2	2.36
Section 15, lot 3	1.65
Section 15, lot 4	0.95
T. 33 N., R. 29 W.:	
Section 3, NE¼SW¼	40.00
Section 28, NE¼NE¼	40.00
Section 31, lot 2	39.71
Section 31, lot 3	39.63
T. 25 N., R. 30 W.:	
Section 11, N½NE¼	80.00
Section 12, W½ NW¼	80.00
T. 31 N., R. 30 W.: Section 33, NE¼SW¼	40.00
T. 32 N., R. 30 W.: Section 28, N½SW¼	80.00
T. 33 N., R. 30 W.:	
Section 31, SW¼SE¼	40.00
Section 33, SE¼SE¼	40.00
17. 27 N., R. 32 W.: Section 25, NE¼NE¼	40.00
T. 33 N., R. 32 W.:	
Section 31, lot 1	39.26
Section 31, lot 3	39.68
Section 31, lot 4	39.89
T. 29 N., R. 34 W.:	
Section 22, SE¼NW¼	40.00
Section 22, NE¼SW¼	40.00
T. 38 N., R. 37 W.: Section 21, SE¼SW¼	40.00
T. 31 N., R. 37 W.: Section 30, lot 2	41.20
T. 33 N., R. 37 W.: Section 13, SE¼NW¼	40.00
T. 33 N., R. 38 W.: Section 26, E½SW¼	80.00
Total	1,080.39

Garden County

T. 21 N., R. 45 W.: Section 21, N½NW¼	80.00
Total	80.00

Garfield County

T. 21 N., R. 16 W.: Section 19, lot 11	2.26
Total	2.26

Grant County

T. 24 N., R. 36 W.: Section 8, W½NW¼	80.00
T. 32 N., R. 37 W.: Section 29, lot 6	5.40
T. 23 N., R. 39 W.:	
Section 25, lot 8	19.41
Section 25, lot 9	9.10
T. 24 N., R. 39 W.: Section 3, lot 8	7.70
Total	112.61

Sheridan County

T. 35 N., R. 44 W.: Section 24, SW¼SE¼	40.00
T. 33 N., R. 45 W.: Section 20, SE¼SW¼	40.00
T. 35 N., R. 45 W.: Section 32, lot 1	
T. 25 N., R. 48 W.:	
Section 25, NW¼SE¼	40.00
Section 25, W½NE¼SW¼	20.00
Section 25, NW¼SE¼SW¼	10.00
T. 34 N., R. 46 W.:	
Section 7, SE¼NW¼	40.00
Section 7, E½SW¼	80.00
Total	297.75

To be completed in Fiscal Year 1986*:

Morrill County

T. 22 N., R. 48 W.: Section 8, lot 1	3.86
T. 22 N., R. 47 W.:	
Section 1, lot 10	42.10
Section 1, lot 11	17.19
Section 1, lot 12	12.46
Section 1, lot 13	22.93
Section 1, lot 14	36.92
Section 12, lot 1	14.27
T. 19 N., R. 49 W.: Section 21, NW¼SW¼	40.00
T. 21 N., R. 49 W.:	
Section 20, W½NW¼	80.00
Section 29, SE¼SW¼	40.00
T. 20 N., R. 50 W.:	
Section 2, S½NW¼	80.00
Section 5, N½SE¼NW¼	20.00
Section 5, SW¼SE¼NW¼	10.00
Section 5, SW¼NW¼SW¼	10.00
Section 5, NW¼SW¼SW¼	10.00
Section 5, SW¼SE¼SW¼	10.00
Section 7, SE¼NW¼	40.00
T. 20 N., R. 51 W.: Section 17, lot 5	0.50
T. 21 N., R. 51 W.: Section 32, E½SE¼	80.00
T. 20 N., R. 52 W.:	
Section 29, SW¼SE¼	40.00
Section 27, E½NW¼	80.00
T. 22 N., R. 52 W.:	
Section 35, E½NE¼	80.00
Section 36, SW¼NE¼	40.00
Section 36, NE¼SE¼	40.00
Total	960.28

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Scotts Bluff County	
T. 23 N., R. 54 W.: Section 14, N½NW¼SW¼	20.00
T. 23 N., R. 56 W.:	
Section 27 (island), lot 6	19.40
Section 34 (island), lot 7	1.57
Total	40.97
Dawes County	
T. 32 N., R. 47 W.: Section 30, SE¼SE¼	40.00
T. 35 N., R. 50 W.: Section 31, SW¼NE¼	40.00
Total	80.00
Sioux County	
T. 39 N., R. 54 W.:	
Section 2, NE¼SW¼	40.00
Section 11, SW¼SE¼	40.00
Section 11, E½SE¼	80.00
Section 12, NE¼SE¼	40.00
Section 13, NE¼NW¼	40.00
Section 34, NE¼NW¼	40.00
T. 34 N., R. 54 W.: Section 36, SW¼SW¼	40.00
T. 24 N., R. 55 W.:	
Section 19, lot 7	10.35
Section 30, lot 7	19.72
T. 33 N., R. 55 W.: Section 33, NW¼NE¼	40.00
T. 24 N., R. 56 W.: Section 13, NE¼NE¼	40.00
T. 32 N., R. 56 W.:	
Section 2, NW¼SE¼	40.00
Section 12, SE¼NW¼	40.00
Section 12, NE¼SW¼	40.00
Section 24, NW¼NE¼	40.00
T. 32 N., R. 56 W.: Section 24, NE¼NW¼	40.00
T. 33 N., R. 56 W.:	
Section 35, SW¼NW¼	40.00
Section 35, NW¼SW¼	40.00
T. 32 N., R. 57 W.:	
Section 1, lot 3	40.27
Section 1, lot 6	6.37
Section 1, SW¼NW¼	40.00
Section 2, lot 4	41.86
Section 2, SW¼NE¼	40.00
Section 2, SE¼NW¼	40.00
Section 29, SE¼NW¼	40.00
T. 33 N., R. 57 W.:	
Section 15, SW¼NE¼	40.00
Section 15, NE¼SW¼	40.00
Section 15, NW¼SE¼	40.00
Section 22, E½NE¼	80.00
Section 22, NE¼SE¼	40.00
Section 23, W½SW¼	80.00
T. 34 N., R. 57 W.: Section 22, SW¼	160.00
Total	1,438.50

*If finding is available this schedule will be accelerated.

Paul Arrasmith,

District Manager.

[FR Doc. 83-12031 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-6690-A through AA-6690-L]

Alaska Native Claims Selection; Modification of Decision To Issue Conveyance

Correction

In FR Doc. 83-0110 beginning on page 15192 in the issue of Thursday, April 7, 1983, make the following corrections:

1. On page 15192, second column, 17th line, "Sec. T. 5 S., R." should read "Sec. 4, T. 5 S., R.".

2. On the same page, third column, sixth complete paragraph, seventh line, "710 C Street" should read "701 C Street".

BILLING CODE 1505-01-M

[M 16435 (ND)]

Montana; Termination of Classification of Public Lands for Multiple Use Management

April 27, 1983.

1. On September 24, 1970 (FR Vol. 35 No. 186 p. 14857) the public lands described as:

Fifth Principal, Meridian

T. 157 N., R. 91 W.,
Sec. 13: SE¼NW¼.

Aggregating 40 acres in Mountrail County.

Were classified for multiple use management under the Act of September 19, 1964 (43 U.S.C. 1411–18). This classification segregated the land from appropriation under the agricultural land laws (43 U.S.C., parts 7 and 9; 25 U.S.C., Sec. 334) and from sales (under Section 2455 of the Revised Statutes 43 U.S.C. 1171). The lands remained open to all other applicable forms of appropriations, including the mining and mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification referred to under paragraph one is hereby terminated. At 8 a.m. on May 27, 1983, the lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on May 27, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83-12039 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Buffalo Resource Area, Casper District, Wyoming; Availability of Draft Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice that the Draft Resource Management Plan and Environmental Impact Statement for the Buffalo Resource Area, Casper District,Wyoming is available for public review and comment.

SUMMARY: The draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS) presents a range of resource management alternatives and the consequences of implementing each alternative for the public lands in the Buffalo Resource Area. The preferred alternative in the draft proposes a balanced use of resources.

Location of documents: The draft RMP and EIS plus associated background and source material is available for public review at the Buffalo Resource Area Office; 300 Spruce; Buffalo, Wyoming.

Additional information on the RMP or requests to be placed on the mailing list should be addressed to Glenn Bessinger, Area Manager, Buffalo Resource Area; 300 Spruce; P.O. Box 670; Buffalo, Wyoming 82834; telephone (307) 684–5586.

Public participation: Public comments on the draft RMP and EIS should be submitted to the person and address noted above. A ninety (90) day comment period is allowed on the draft plan. The comment period extends from May 13, 1983 to August 15, 1983. A public hearing will be held on June 21, 1983, to accept oral or written comment on the RMP. The hearing will begin at 7:00 p.m. in the Meadowlark School, 550 South Barrett; Buffalo, Wyoming.

Public comments on this draft RMP and EIS will be evaluated and a final RMP and EIS will be published about September 30, 1983. A resource management plan will be selected in a record of decision that will be published after this final EIS.

SUPPLEMENTARY INFORMATION: The Casper District is proposing a Resource Management Plan (RMP) to guide future management actions on the public lands within the Buffalo Resource Area which includes Johnson, Campbell, and Sheridan counties. Within these three counties, BLM manages 11.3 percent of the surface, approximately .8 million acres, and about 65.6 percent of the mineral estate, approximately 4.8 million acres.

The RMP will be a 10-year comprehensive land use plan. The planning process included identifying significant issues, establishing plan criteria for those issues, assessing resource capability to respond to the issues and formulating reasonable alternatives that address the issues. Alternatives range from favoring resource production to resource protection. The consequences of implementing each alternative is presented in the environmental statement. Resource management plans are authorized under the Federal Land Management Policy Act of 1976. Standards, guidelines, and procedures for RMP preparation are contained in 43 CFR Part 1600.

An interdisciplinary team was used to develop the RMP. Disciplines included were geology, range, realty, forestry, archeology, economics, hydrology, wildlife, recreation, soils, and air quality.

Major issues identified during the scoping process and addressed in the RMP are rangeland management and wilderness. Other issues addressed in the RMP are: forest products on noncommercial forestland, land disposal, off-road vehicle designations, fire management and fencing reservoirs.

The RMP contains a proposed recommendation on the wilderness suitability of three Wilderness Study Areas (WSA). These WSAs are Fortification Creek, containing 12,419 acres in Johnson and Campbell counties, Gardner Mountain, containing 6,423 acres, and North Fork, 10,089 acres, in Johnson County. After the 90 day comment period on the Draft RMP and EIS, a Wilderness Study Report and final wilderness EIS will be submitted to the Secretary of the Interior.

Dated: May 13, 1983

Paul W. Arrasmith,

District Manager.

[FR Doc. 83-12038 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Management Framework Plan; New Mexico, San Augustine Coal Area—Notice of Availability; Issues and Planning Criteria

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of issues and planning criteria.

SUMMARY: The purpose of this notice is to announce the availability for public review of issues and planning criteria to be used in the development of the Management Framework Plan Amendment within the San Augustine Coal Area.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management Las Cruces District, Socorro Resource Area has prepared planning criteria to direct the coal planning process to determine the potential of offering certain lands in Catron and Cibola Counties, New Mexico for competitive Federal coal leasing during the second-round San Juan River Coal Region lease sale scheduled for August 1986. The process will consist of, in part, amending the Divide Planning Area Management Framework Plan within the San Augustine Coal Area, applying the unsuitability criteria described in 43 CFR Part 3460, as amended, and preparing a subsequent Environmental Impact Statement.

As additional issues are identified and new information becomes available during the planning process, and/or from public participation, additional criteria may be developed for future guidance of this planning effort. These planning criteria are available for public review at the Socorro Resource Area Office.

FOR FURTHER INFORMATION CONTACT: Glen B. Sekavec, Team Leader, at 198 Neel Avenue, Socorro, New Mexico, or phone (505) 835–0412.

Dated: April 27, 1983.

Dan C. B. Rathbun

District Manager.

[FR Doc. 83-12040 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20193 and I-20200]

Idaho; Realty Action; Competitive Sale of Public Lands in Blaine County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–20193 and I–20200, Competitive Sale of public lands in Blaine County, Idaho.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of these tracts is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976. The lands will be offered for sale at public auction for no less than the appraised fair market value. Both sealed and oral bids will be accepted.

File	Parcel No.	Acreage	Appraised value
West Magic: T. 2 S., R. 17 East, Boise Meridian, Blaine County, Idaho Section 1:			
I–20193	Lot 48	.078	$3,000
	Lot 49	.078	3,000
	Lot 50	.095	3,300
	Lot 51	.078	2,800
	Lot 52	.048	3,000
	Lots 74 and 75	.344	4,000
	Lot 77	.313	3,300
	Lot 78	.393	3,800
	Lot 79	.534	5,000
East Magic: T. 1 S., R. 18 East, Boise Meridian, Blaine County, Idaho Section 31:			
I–20200	Lot 15	.400	$6,000

The above aggregates 2.359 acres.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two year period.

A patent for the land, when issued, shall be subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals including Gas & Oil shall be reserved to the United States, as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

The sale will be held at the Shoshone District Office, Bureau of Land Management, 400 West F Street, Shoshone, Idaho at 10:00 A.M., Friday, July 1, 1983. Additional information concerning this land, terms and conditions of sale, and bidding instructions may be obtained from the Shoshone District Manager at the above address, or by calling 886–2206.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Charles J. Haszier, District Manager.

Dated: April 28, 1983

Charles J. Haszier,

District Manager.

[FR Doc. 83-12037 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

[M57660]

Montana; Realty Action; Competitive Sale of Public Land in Madison County

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of Realty Action M57660, Competitive sale of public land in Madison County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federl Land Policy and Management Act

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(FLPMA) of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian Montana

T. 5 S., R. 3 W., Sec. 30, S½NE¼

The area described contains 80 acres. The land will be offered for sale by a combination of sealed and oral bids utilizing competitive bidding procedures on July 7, 1983.

The subject land is located in the southwestern part of Montana, approximately 6½ miles northwest of Virginia City, the county seat of Madison County. The land has limited resource values and no unique values. Management opportunities are limited by residential development occurring on the private lands surrounding the tract. There are no rare, endangered, or threatened plants and animals. It is not within a potential wilderness area or an area of critical environmental concern.

Public access to the land is via the Ruby-Beebe Park Road (#140) maintained by Madison County.

The proposed sale meets the criteria for Section 203 of FLPMA. Disposal would allow residential development to occur on a tract of land, in an area that is currently being subdivided. The proposed sale is consistent with the Bureau's planning system and Madison County government officials have been notified of the sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and Conditions

The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, or remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

The purchaser upon BLM acceptance of the offered bid shall have the opportunity to obtain all of the mineral interests except the oil and gas interests. Disposal of the mineral interests will be made in accordance with Section 209 of FLPMA.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

The sale will be held at the Madison County Courthouse, Virginia City, Montana on Wednesday, July 7, 1983, at 2:00 p.m.

SUPPLEMENTARY INFORMATION: *Bidder Qualifications:* The bidder must be U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $34,000, and bids must include all of the land identified in this notice.

Method of Bidding: The land will be sold by a combination of sealed and oral bids. Sealed bids delivered or sent by mail will only be considered if received by the Bureau of Land Management, Butte District Office, 106 N. Parkmont, Butte, Montana 59702, prior to 4:00 p.m., Mountain Standard Time, Tuesday, July 5, 1983. Each sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid.

Sealed bids must be in a separate sealed envelope, within the transmittal envelope. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Sealed Bid
Public Land Sale M57660
July 6, 1983

All sealed bids will be opened at 2:00 p.m. on the day of sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid announced. The highest sealed bid will be the base for the oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these. Each oral bid must be in increments not less than fifty dollars.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within 30 days of notification of bid acceptance by the authorized officer. Failure to submit the required amount within the allotted time will result in rejection of the highest bid and the deposit will be forfeited. The land shall then be offered to the second highest bidder, subject to the same terms and conditions. All bids will be either returned, accepted or rejected within 60 days of the sale date.

If no bids, either sealed or oral, are received on the sale date, the land may be offered for sale at a later date.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

Dated: April 27, 1983.

Jack McIntosh,

District Manager.

[FR Doc. 83-12041 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Recreation Management; Establishment of Camping Stay Limits; Eugene District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of camping stay limit for campgrounds and undeveloped public lands in the Eugene District, Oregon.

SUMMARY: Persons may camp within designated campgrounds or on public lands not closed to camping within the Eugene District for a total period of not more than fourteen days during any calendar year. The fourteen day limit may be reached either through a number of separate visits or through a period of continuous occupation of the public lands. Under special circumstances and upon request, the authorized officer may give written permission for extensions to the fourteen day limit.

Additionally no person may leave personal property unattended in designated campgrounds or recreation developments for a period of more than 24 hours, or elsewhere on public lands within the Eugene District for a period of more than 5 days without written permission from the authorized officer.

DATE: This camping stay limit will be effective May 10, 1983.

FOR FURTHER INFORMATION CONTACT: C. Bradley Krueger, Assistant District Manager, Operations, Bureau of Land Management, Eugene District Office, 1255 Pearl Street, Eugene, Oregon 97401, Telephone: (503) 687-6657.

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping, both within campgrounds and on undeveloped public lands in the Eugene District.

Authority for this stay limit is contained in CFR Title 43, Chapter II. Part 8363, Subparts 8363.1-3(b) and 8363.3.

Dwight L. Patton,

District Manager.

[FR Doc. 83-12042 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Boise District, Idaho, Advisory Council Meeting

ACTION: Boise District, Idaho, Advisory Council Meeting.

SUMMARY: In accordance with Pub. L. 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Advisory Council will meet on May 23, 1983, from 9:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. in the lower conference room at the Bureau of Land Management, Boise District Office, at 3948 Development Avenue in Boise, Idaho. The topic of discussion for this meeting will be the Jack's Creek and Owyhee Canyonlands Wilderness Study Areas (WSAs). A public comment period is scheduled from 1:00 p.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334-1582. Minutes of the meeting will be available for public inspection at the District Office.

Martin J. Zimmer,

District Manager.

April 22, 1983.

[FR Doc. 83-12051 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Competitive Sale of Public Lands in Bannock County, Idaho; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-20086, Competitive Sale of Public Lands in Bannock County, Idaho, commonly known as the Buckskin Tract.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of the tract is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976. The lands will be offered for sale at public auction for no less that the appraised fair market value indicated below. Both sealed and oral bids will be accepted.

	Acres	Value
T. 6 S., R. 35 E., Boise Meridian		
Sec. 29: SW¼NW¼, NW¼SW¼...	140	$98,000.00
Sec. 30: S½SW¼NE¼, SE¼NE¼		

Upon publication of the Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The land will be subject to the following reservations when patented:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All valid existing rights and reservations of record.

3. All minerals will be reserved to the United States as required by Sec. 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

4. A 50 foot wide road right-of-way reserved to the United States.

The public auction will be held on July 20, 1983 at 1:00 P.M.

ADDRESSES: The public auction will be held at the Federal Building, 250 S. 4th, Pocatello, Idaho, Room B43. Additional information concerning the land, terms, and conditions of the sale, and bidding instructions may be obtained from Nick James Cozakos, District Manager at the Burley District Office, Route 3, Box 1, Burley, ID 83318 or by calling (208) 678-5514.

SUPPLEMENTARY INFORMATION: For a period 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: April 27, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83-12089 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

Idaho Falls District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Idaho Falls District Grazing Advisory Board will meet June 14, 1983.

Grazing Advisory Board members will meet at 8:00 a.m. at the Bureau of Land Management Office, 940 Lincoln Road, Idaho Falls, ID 83401, for a field tour. The tour is open to the public. Public comment will be accepted at any time during the tour. Anyone wishing to go on the tour is asked to notify the Idaho Falls BLM District Manager at the above address by June 7, 1983. Visitors must provide their own transportation.

The purpose of the field tour is to observe and discuss range improvement projects constructed with Advisory Board funds, future prescribed burn areas, mining claim patent application areas, wildfire recovery areas, noxious weed infestations and general rangeland management. The tour will take place in Clark County in the Crooked Creek/Deep Creek Bench, Medicine Lodge Canyon and Edie Bench areas. The Grazing Advisory Board also will make arrangements for their next meeting.

Summary minutes of the meeting will be kept in the District Office and be available for public inspection and reproduction during regular business hours 7:45 a.m.-4:30 p.m. within 30 days of the meeting.

Dated: April 27, 1983.

O'dell A. Fandsen,

District Manager.

[FR Doc. 83-12032 Filed 5-4-83; 8:45 am]

BILLING CODE 4310-84-M

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Montana and North Dakota; Fort Union Regional Coal Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Fort Union Regional Coal Team Meeting

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(B), the Montana State Office of BLM is issuing this notice to announce a Fort Union Regional Coal Team Meeting at 8:30 A.M. on June 1, 1983, in the Sixty Floor conference Room of Granite Tower, 222 North 32nd Street, Billings, Montana.

Some of the topics on the agenda are as follows:

Preliminary approval of a Project Management Plan and schedules for the 1985 sale.

RCT guidance on tract delineation for the 1985 sale.

RCT guidance on the Site Specific Analyses for the 1985 sale.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Emmons, Project Manager, Fort Union Project, Bureau of Land Management, Montana State Office, P.O. Box 30157, Billings, Montana 59107. Telephone: (406) 657–6291.

Dated: April 28, 1983.

Bill D. Noble,

Acting State Director.

[FR Doc. 83–12063 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–84–M

[N–37906]

Nevada; Realty Action Sale of Public Lands in White Pine County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.. 1713), at no less than fair market value:

Parcel No.	Legal description	Acreage
T. 16N., R. 63 E., MDM, Section 23,		
N–37906	N½NW¼SW¼	20
N–37907	S½NW¼SW¼	20
N–37908	N½SW¼SW¼	20
N–37909	S½SW¼SW¼	20
Section 27		
N–37910	N½NE¼NE¼	20
N–37911	S½NE¼NE¼	20
N–37912	W½SE¼NE¼	20
N–37913	SW¼NE¼	40
N–37914	Lots 1, 2, 3, and 4	152.98
N–37915	Lots 5 and 8	76.92
N–37916	W½SE¼	80
Total		469.90

The sale will be made on approximately the 29th day of September, 1983. The exact date, time, and place of the sale will be announced in general news releases and legal notices. Particulars for this public auction sale, including minimum bids, reservations, and other specific items, will be made available to the public at least 30 days before the scheduled sale date.

The land is being offered for sale in order to facilitate land use planning in the area and to accommodate growth occurring in and around the area of White Pine County adjacent to the City of Ely.

There will be no adjustment in the grazing permittee's active grazing preference because the AUMs affected are considered insignificant in relation to the total active preference in the allotment.

The land meets the first and third disposal criteria of Section 203(a) of the aforementioned sale authority. It has potential for suburban residential development. The sale is consistent with the Bureau's planning for the land and has been discussed with the White Pine County Regional Planning Commission. The public interest would be served by offering the land for sale.

The terms and conditions applicable to the sale:

1. Reservations for road rights-of-way will be incorporated into each patent in conjunction with the State of Nevada Department of Transportation and the White Pine County road network.

2. The sale of these lands will be subject to all valid existing rights, including those rights granted by oil and gas lease N–13514.

3. No preference right will be given to adjoining landowners. No bids will be considered for less than the minimum bid and bids for a parcel must include all the lands in the parcel. Federal law requires that bidders be U.S. citizens or, in the case of corporation, subject to the laws of any State of the United States. Proof of citizenship shall accompany the bid.

4. Upon disqualification of the apparent high bidder, the next high bid will be honored if it represents fair market value.

5. A right-of-way is reserved for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

6. Leasable minerals will also be reserved to the United States. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the apparent high bidder. The apparent high bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately at the sale.

Within three days the apparent high bidder will be confirmed, or rejected if the bid does not represent fair market value. The remainder of the full bid price shall be paid within 30 days of the sale if the apparent high bidder is confirmed. Failure to pay the full price within 30 days shall disqualify the confirmed high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the State Director, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83–12068 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–84–M

Record of Decision on the National Petroleum Reserve in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Record of Decision (ROD) of the Alaska State Director, BLM, affecting the National Petroleum Reserve in Alaska.

SUMMARY: The Bureau of Land Management has issued a ROD based on the Final Environmental Impact Statement (FEIS) for Oil and Gas Leasing in the National Petroleum Reserve in Alaska. The Alaska State Director, BLM, has adopted an alternative from the ROD which lies within the range of alternatives identified in the FEIS. This decision consists of:

Land Allocation

—Deletion from leasing of approximately 1,416,000 acres in the Utukok caribou calving area and the Teshekpuk Lake highest density black brant molting area.

—Special management leasing of approximately 4,350,000 acres in four zones.

—Special and standard stipulations for leasing in the remaining approximately 17,787,000 acres of the Reserve.

Leasing Schedule

A 5–Year leasing program for these areas not deleted or deferred that will offer approximately 2,000,000 acres annually.

Stipulations

The stipulations identified in the FEIS are generally adequate for all future leases and will be assigned to individual tracts as deemed necessary. The ROD specifically identifies stipulations that will be assigned to tracts and those which would be permit stipulations.

Studies and Monitoring

The BLM will cooperate closely with the State and Borough, monitoring activity on the Reserve, gathering priority resource data and identifying specific study and research needs.

Subsistence

The lease schedule, lease stipulations, sale rate, development likelihood and future site-specific coordination with the North Slope Borough adequately mitigate subsistence impacts.

ADDRESSES: Copies of the final ROD can be obtained from the Alaska State Office, Public Room, 701 C Street, Box 13, Anchorage, AK 99513; Fairbanks District Office, Public Room, North Post, Fort Wainwright, Box 1150, Fairbanks, AK 99707; and the Office of Public Affairs, Bureau of Land Management (130), 1800 C Street, N.W., Washington, D.C. 20240.

Copies will also be available for review at the following locations: Alaska Federation of Natives, 1577 O Street, Suite 304, Anchorage, AK 99501; Department of the Interior, Resources Library, 701 C Street, Box 36, Anchorage, AK 99513; North Slope Borough, Department of Planning, P.O. Box 69, Barrow, AK 99723; North Star Borough Library, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Z.J. Loussac Public Library, 524 W. 6th Avenue, Anchorage, AK 99801; Juneau Memorial Library, 114 W 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; U.S. Army Corps of Engineers Library, P.O. Box 7002 Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; University of Alaska, Juneau Library, P.O. Box 1447, Juneau, AK 99447; University of Alaska, Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; and University of Alaska, Elmer E. Rasmuson Library, Fairbanks, AK 99701. Copies are also available through village coordinators at the following locations: Anaktuvuk Pass, AK 99721; Nuiqsut, AK 99723; Point Hope, AK 99766; Point Lay, AK 99790; Wainwright, AK 99782; and Atqasuk, AK 99790.

FOR FURTHER INFORMATION CONTACT: The U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Deputy State Director for Minerals, 701 C Street, Box 13, Anchorage, AK 99513 or telephone (907) 271–3775

Curtis V. McVee,

Alaska State Director

[FR Doc. 83–12050 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–84–M

Salt Lake District, Utah; Grazing Advisory Board Tour

AGENCY: Bureau of Land Management, Salt Lake District, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463, that a tour and meeting of the Salt Lake District Grazing Advisory Board will be held on May 24 and 25, 1983.

The Public Tour will begin at 9:30 a.m. on May 24th at the Salt Lake District office, 2370 South 2300 West, Salt Lake City, Utah 84119. A tour of the Tintic Pastures Research Area will be held for the remainder of the day. On May 25th, the Board will tour selected allotments in the Tooele ES Area with the respective permittees and BLM personnel.

The meeting is open to the public. Interested persons may make oral statements between 7:30 to 8:30 a.m. June 25th or file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, UT 84119, by May 15, 1983. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the Board will be maintained at the District Office and will be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Frank W. Snell,

District Manager.

[FR Doc. 83–12056 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Availability of the Draft Environmental Impact Statement on the Cache River Basin: A Waterfowl Habitat Preservation Proposal

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a draft environmental impact statement (DEIS) on the Cache River Basin: A Waterfowl Habitat Preservation Proposal will be available for public review by May 9.

The draft environmental impact statement (DEIS) considers environmental and socio-economic effects of protecting and preserving internationally significant waterfowl habitat within the ten-year floodplain of the lower and middle Cache River Basin. The DEIS evaluates impacts of alternative actions and determines the degree to which each would accomplish habitat preservation goals.

The eight alternatives being considered by the Fish and Wildlife Service (FWS) are:

Alternative No. 1, (Preferred Alternative)—Through Combined Fee Title, Easement Acquistion and Other Means, the FWS, AGF, Other Agencies, Groups, and Individuals Propose to Preserve All Privately Owned Valuable Waterfowl Habitat within the 133,000-Acre Ten-Year Floodplain;

Alternative No. 2—Combined Fee Title and Easement Acquisition by the FWS of Up to 72,000 Acres of Natural Waterfowl Habitat within the Ten-Year Floodplain;

Alternative No. 3—Combined Fee Title and Easement Acquisition by the FWS of Up to 92,000 Acres of Natural Waterfowl Habitat within the Ten-Year Floodplain;

Alternative No. 4— Easement Acquisition by the FWS of Up to 72,000 Acres of Natural Waterfowl Habitat within the Ten-Year Floodplain;

Alternative No. 5—Fee Title Acquisition by the FWS of Up to 92,000 Acres of Natural Waterfowl Habitat within the Ten-Year Floodplain;

Alternative No. 6—Fee Title Acquisition by the Arkansas Game and Fish Commission of Up to 92,000 Acres of Valuable Waterfowl Habitat within the Ten-Year Floodplain;

Alternative No. 7—Combined Fee Title and Easement Acquisition of Up to 70,000 Acres by the U.S. Army Corps of Engineers as Mitigation for the Construction of the Authorized Cache River Flood Control (Channelization) Project; and,

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Alternative No. 8—No Action.

A public meeting will be held at 7:00 p.m. on June 9, 1983 in the Clarendon High School Auditorium, Clarendon, Arkansas, to provide information, answer questions, and receive formal written statements.

Written comments on the DEIS from persons who do not attend the Clarendon meeting must be received no later than July 15, 1983 to be considered in the final environmental impact statement. Comments should be sent to: Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303. Attention: Chief Ascertainment Biologist.

FOR FURTHER INFORMATION CONTACT: Ken Quackenbush, U.S. Fish and Wildlife Service, 409 Merchants National Bank Building, Vicksburg, Mississipi 39180. Telephone: Commercial—(AC 601) 638–1891; FTS—542–5995.

Dated: April 27, 1983.

James W. Pulliam, Jr.,

Regional Director, Fish and Wildlife Service.

[FR Doc. 83–12060 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–55–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3383, Block 459, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685, September 14, 1979). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: April 27, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–11998 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Placid Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1523, Block 207, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

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Dated: April 27, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–11997 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Boundary Map; William Howard Taft National Historic Site, Ohio

AGENCY: National Park Service, Interior.

ACTION: Notice of revised boundary map, William Howard Taft National Historic Site.

The boundary map of William Howard Taft National Historic Site has been revised to show more clearly the existing boundary of the park.

Copies of the revised map (map no. 448–40, 021B, August, 1981) are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240

Regional Director, Midwest Region, National Park Service, 1709 Jackson, Omaha, Nebraska 68102

Superintendent, William Howard Taft National Historic Site, 2038 Auburn Avenue, Cincinnati, Ohio 45219.

Dated: March 4, 1983.

J. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83–12006 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: May 27, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159 (717) 729–7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and program authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: April 29, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83–12064 Filed 5–4–83; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Applications; Decision-Notice

[OP 5MCF–199]

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 1134. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirement of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: April 18, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

MC–F–15220, filed March 30, 1983. Applicant MICHIGAN TRAILWAYS, INC. (MICHIGAN TRAILWAYS) (12154 N. Saginaw Rd., P.O. Box 98, Clio, MI 48420)—CONTROL—WHITE PINE TRANSIT CO., INC., (WHITE PINE) (400 E. Leonard St., P.O. Box 681, Ironwood, MI 49938). Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036. Michigan Trailways seeks authority to acquire control of White Pine, a motor common carrier of passengers. Stanley L. Cupp, president and majority stockholder of Michigan, also seeks authority to acquire control of White Pine. By certificate issued March 13, 1969, in MC–129948 (Sub-2), White Pine was granted authority to operate as a motor common carrier transporting passengers and their baggage, in the same vehicle with passengers, over regular routes, between (a) Iron Belt, WI, and White Pine, MI; (b) Mercer, WI, and Wakefield, MI, and (c) Ashland, WI, and Ironwood, MI, serving all intermediate points, with restrictions. Michigan Trailways acquired all of the issued and outstanding stock of White Pine through an agreement dated April 21, 1982, at which time applicant was unaware that White Pine was a motor common carrier and that Commission approval was necessary pursuant to 49 U.S.C. 11343(a). Michigan Trailways is a motor common carrier of passengers pursuant to Certificate No. MC 109173 and sub-numbers thereunder.

Notes.—(A) A directly related extension application has been filed in No. MC 109173 (Sub-No. 7), which was published in the **Federal Register** on January 14, 1983, for authority to transport passengers, (1) over regular routes, between Flint and Detroit, MI: from Flint over U.S. Hwy 23 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Detroit, and return over the same route, serving all intermediate points and the off-route point of Pontiac, MI; (2) over irregular-routes, in charter and special operations, between points in the United States. (B) As a condition to a grant of that authority, Michigan Trailways was required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary. (C) It was through the above-mentioned **Federal Register** publication and subsequent investigation by Michigan Trailways that White Pine's motor carrier status was ascertained.

[FR Doc. 83–12016 Filed 5–4–83; 8:45 am]

BILLING CODE 7035–01–M

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Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10928, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275–7289.

Volume No. OP5–FC–198

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81414. By decision of April 26, 1983 issued under U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, Review Board number 3 approved the transfer to LES ENTREPRISES ROLAND BERGERON, INC., OF STE–THERESE, P.Q., CANADA, of Certificate No. MC–143928 issued December 1, 1978, to TRANSPORT BLAINVILLE, INC., OF ST. EUSTACHE, P.Q., CANADA, authorizing the transportation over irregular routes of passengers and their baggage in round-trip charter operations beginning and ending at ports of entry on the International Boundary line between the United States and Canada, at points in New York, Vermont, New Hampshire, and Maine, and extending to points in the United States (except AK and HI). Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–258

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81410. By decision of April 28, 1983 issued under 49 U.S.C. 10924 and 10926 and the transfer rules at 49 CFR Parts 1045B and 1161, Review Board Number 2 approved the transfer to REVIS TRUCK BROKERAGE, INC., Cumming, GA, of Certificate No. MC–159636 (A) and License No. MC–159636 (B), both issued June 14, 1982, to JERRY YORK, doing business as YORK TRUCK BROKERAGE, Cumming, GA, authorizing the transportation of (1) general commodities (except classes A and B explosives, household goods and commodities in bulk), between Cumming Alpharetta, Roswell, Marietta, Dawsonville, and Gainesville, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) as a broker, arranging for the transportation of general commodities (except household goods), between points in the U.S. (except AK and HI). Representative: Barbara R. Turner, 100 Tower Rd., Cumming, GA 30130, 404–889–0110, for applicants.

[FR Doc. 83–12013 Filed 5–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: April 26, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP–5–F–200

MC–F–15238 CENTRE, LTD.—control exemption—CARTWRIGHT VAN LINES, INC., and CARTWRIGHT MOVING & STORAGE CO., INC. Centre, Ltd., a non-carrier holding company, seeks an exemption from the requirements under section 11343 of prior regulatory approval to acquire control of 100 percent of the issued and outstanding stock of Cartwright Van Lines, Inc. (MC–88368) and its wholly owned subsidiary Cartwright International Van Lines, Inc. (FF–360), and 80 percent of the issued and outstanding stock of Cartwright Moving & Storage Co., Inc. (MC–152324). Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; (2) Petitioner's representative, Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. Comments should refer to No. MC–F–15238.

MC–F–15243 LAMBE'S TRUCKING LTD.—purchase exemption—NICOLL TRUCKING (MEDICINE HAT) LTD. Lambe's Trucking Ltd. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the authority of Nicoll Trucking (Medicine Hat) Ltd. contained in Certificates No. MC–140686 (Sub-Nos. 2, 3, and 4) authorizing transportation of Mercer commodities, lumber and wood products, building materials, and chemicals and related products between ports of entry in Washington, Idaho, Montana, and North Dakota, on the one hand, and, on the other, described points in the United States. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, John T. Wirth, Nelson & Harding, 2800 Petro-Lewis Tower, 717 Seventeenth Street, Denver, CO 80202, (303) 892–6700. Comments should refer to No. MC–F–15243.

[FR Doc. 83–12017 Filed 5–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisified before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate of foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team Five at 202–275–7289.

Volume No. OP5–203

Decided: April 25, 1983.

MC 67306 (Sub-9), filed April 8, 1983. Applicant: COLONIAL TRAILWAYS, P.O. Box 2712, Mobile, AL 36601. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting (1) *shipments* weighing 100 pounds or less when transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to perform privately funded charter and special transportation.

MC 108099 (Sub-5), filed April 6, 1983. Applicant: NORTHWESTERN STAGE LINES, INC., 1105 LaPointe St., Boise, ID 83706. Representative: Dan L. Poole, P.O. Box 1559, Boise, ID 83701, (208) 343–5454. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI, and transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 158439 (Sub-1), filed April 11, 1983. Applicant: POINTS WEST, INC., R.R. 2, Box 360, Sioux Falls, SD 57101. Representative: Norwin Bittner (same address as applicant), 605–332–1671. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166859 (Sub-1), filed April 13, 1983. Applicant: S & S TRUCK LINES, INC., 1410 Intercity Trafficway, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167299, filed April 8, 1983. Applicant: CONNIE M. FRY, d.b.a. CMF FREIGHT SERVICES, Six Moonshadow, Irvine, CA 92715. Representative: Connie M. Fry (same address as applicant), 714–553–0593. As a *Broker of general commodities* (except household goods), between points in the U.S.

MC 167358, filed April 11, 1983. Applicant: ROBINSON CHARTER LINES, INC., 2266 Colmena St., La Canada, CA 91011. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers* in charter and special operations, beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

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Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167379 (B), filed April 12, 1983. Applicant: ROBERT W. DIEFENDERFER R.D. 5 Coatsville, PA 19320. Representative: Steven T. Blombert Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. (1) Transporting for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–167379 (A) published in the same issue.

MC 167388, filed April 12, 1983. Applicant: UNICORN CHARTER SERVICE, INCORPORATED, 2616 112th Avenue, Tampa, FL 33612. Representative: Charles White (same address as applicant), (813) 971–0352. Transporting *passengers*, in charter and special operations, between points in the United States (except AK and HI).

Note.—Applicant seek to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–257

Decided: April 28, 1983.

MC 167486, filed April 18, 1983. Applicant: MILLER & ASSOCIATES, 2728 Brown, Kansas City, KS 66104. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167497, filed April 18, 1983. Applicant: JUNIOR EARL MOORE, 112 Dona Dr., Carthage, MS 39051. Representative: Junior Earl Moore (same address as applicant), (601) 267–8492. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167506, filed April 18, 1983. Applicant: AIRMAIN LIMITED, INC., d.b.a. UNITED FREIGHT LINES, 1364 35th NW., Salem, OR 97304. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 167516, filed April 19, 1983. Applicant: DAVID D. YANTIS, 14 Iola Ct., Box 231, Bethany, IL 61914. Representative: David D. Yantis (same address as applicant), (217) 665–3677. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167526, filed April 20, 1983. Applicant: THE J. J. R. CORPORATION, 2622 Jefferds, Fort Wayne, IN 46803. Representative: Ivonne Zimmer (same address as applicant), (219) 423–2486. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83–12018 Filed 5–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to the public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–259

Decided: April 28, 1983.

MC 167486, filed April 18, 1983. Applicant: ARKOMA HOTSHOT SERVICE, INC., Route 2, Box 14BR, Greenwood, AR 72936. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902, (501) 782–1001. Transporting *Mercer commodities*, between points in AR and OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–256

Decided: April 28, 1983.

MC 48386 (Sub-23), filed April 18, 1983. Applicant: GRAVER TRUCKING, INC., R.D. #7, Box 7655, Stroudsburg, PA 18360. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *coal and coal products*, between points in Northumberland, Schuylkill, Lackawanna and Luzerne Counties, PA, on the one hand, and, on the other, points in NY, NJ, RI, CT, and MA.

MC 51146 (Sub-868), filed April 18, 1983. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant), (414) 498–7623. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of food and related products.

MC 105636 (Sub-49), filed April 19, 1983. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St. NW., Washington, DC 20005, (202) 296–5188. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Merchants Shipping Association, of Jersey City, NJ.

MC 118806 (Sub-83), filed April 21, 1983. Applicant: ARNOLD BROS. TRANSPORT, LTD., Suite 200, 851 Lagimodiere Blvd., Winnipeg, Manitoba Canada R2J 3K4. Representative: Daniel C. Sullivan, Suite 1700 180 N. Michigan Ave., Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except HI).

MC 123297 (Sub-4), filed April 19, 1983. Applicant: RELIABLE TRANSFER CORPORATION, 489 S. Franklin St., Juneau, AK 99801. Representative: Dan Leaf (same address as applicant), (907) 586–1490. Transporting *general commodities* (except classes A and B explosives), between points in AK.

MC 126987 (Sub-2), filed April 18, 1983. Applicant: VINCENT FISTER, INC., P.O. Box 5063, Lexington, KY 40555. Representative: George M. Catlett, Suite 700–702, McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Fayette County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133367 (Sub-2), filed April 21, 1983. Applicant: WATSONTOWN TRUCKING COMPANY, P.O. Box 187, Watsontown, PA 17777. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St. NW., Washington, DC 20005, (202) 296–5188. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 142875 (Sub-12), filed April 20, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, suite 1100, 1660 L St., NW., Washington, DC 20036 (202) 452–7438. Transporting *bakery products*, between points in the U.S., under continuing contract(s) with Dixie Darling Bakers, Inc., of Jacksonville, FL.

MC 143267 (Sub-121), filed April 4, 1983. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., NW., Washington, DC 20005, (202) 223–6680. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with ITOFCA, Inc., and ITOFCA Consolidators, Inc., both of Grove, IL.

MC 143267 (Sub-122), filed April 6, 1983. Applicant: CARLTON ENTERPRISES, INC. P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., Washington, DC 20005, (202) 223–6680. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146676 (Sub-10), filed April 21, 1983. Applicant: BURKS TRUCKING, INC., P.O. Box 235, Green Springs, OH 44836. Representative: E. H. van Deusen, 2455 North Star Rd., Columbus, OH 43221, (614) 486–0448. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 157187 (Sub-1), filed April 21, 1983. Applicant: SUNRISE EXPRESS, INC., 454 Herman, Crete, IL 60417. Representative: Donald B. Levine, 180 N. LaSalle St., Chicago, IL 60601, (312) 368–0100. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Sonnett Transportation Consultants, Inc., of Lansing, IL.

MC 166447, filed April 21, 1983. Applicant: KENNETH K. KIEFER, 234 9th St , Box 254, Kanawha, IA 50447. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *livestock trailers*, between points in Hancock County, IA, on the one hand, and, on the other, points in IL, IN, KS, MO, MT, NE, ND, OK, SD, WI, and WY.

MC 167487, filed April 19, 1983. Applicant: FALCON RIDGE TRANSPORTATION, 95 Hayes Rd., Rocky Hill, CT 06067. Representative: James F. Ripper, 2264 Silas Deane Hwy, Rocky Hill, CT 06067, (203) 563–8265.

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Transporting *horses*, other than ordinary, between points in AZ, CA, CO, CT, KY, MA, NY, OH, TX.

MC 167507, filed April 18, 1983. Applicant: GIL AYERS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Yankee Express, Inc., of Perry, IA.

MC 167517, filed April 19, 1983. Applicant: JOACHIN GIRARD, 64 Rue Lajoie, Repentigny, Quebec, Canada J6A 4K4. Representative: Jacques Bujold, 2680 Chambly #6, Montreal, Quebec, Canada H1W 3J7, (514) 524–7934. Transporting *glass, lumber* and *wood products*, between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in FL, GA, KY, MA, ME, MI, NC, NH, NJ, NY, OH, PA, SC, TN, VA, VT, and WV.

MC 167527, filed April 19, 1983. Applicant: MARVIN LUMBER AND CEDAR COMPANY, Hwy 11, Warroad, MN 56763. Representative: Terrance M. Cullen, W. 1060 1st National Bank, Saint Paul, MN 55101, (612) 222–6321. Transporting *building materials and supplies*, between points in MN, MI, NJ, CT, OK, TN, OH, IL, KY, WV, TX, IA, and WI, on the one hand, and, on the other, points in MN, IA, ND and WI.

For the following, please direct status calls to Team 5 (202) 275–7269.

Volume No. OP5–202

Decided: April 25, 1983.

MC 26739 (Sub-116), filed April 7, 1983. Applicant: ALFARM TRUCKLINES, P.O. Box 386, Elwood, KS 66024. Representative: Gene Penn (same address as applicant), 913–365–0488. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in Buchanan County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 105269 (Sub-113), filed April 12, 1983. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Guardian Industries Corporation, of Albion, MI.

MC 143479 (Sub-19), filed March 30, 1983. Applicant: ASSOCIATED FURNITURE FREIGHTWAYS COMPANY, 99 Stoddard Ave., North Haven, CT 06473. Representative: William J. Meuser, 86 Cherry St., P.O. Box 507, Milford, CT 06460, 203–878–1747. Transporting *furniture and fixtures*, and *metal products*, between points in ME, VT, NH, MA, RI, CT, NY, NJ, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148538 (Sub-4), filed April 11, 1983. Applicant: JOMAR TRUCK LINE, INC., 7547 W. Ponderosa Court, Orland Park, IL 60462. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *metal products, lumber and building materials*, between points in the U.S. (except AK and HI).

MC 151878 (Sub-13), filed April 8, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St. NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Tandem Computers, Inc., of Cupertino, CA.

MC 158389 (Sub-2), filed April 7, 1983. Applicant: JAMES C. CHILSON, d.b.a. INLAND DISTRIBUTORS, N. 4215 Willow Rd., Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98004, (206) 453–0312. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164389, filed April 11, 1983. Applicant: DALE R. SEVERNS, JR., 10062 Chase St., Broomfield, CO 80020. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357, 303–892–6700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Fagersta, Inc. of Northglenn, CO; General Cable Company of Westminister, CO; O. G. Valentine, Inc., Click Lumber Company, John Clark, Inc., American Mine Services, Inc., and Geddes Lumber Company all of Denver, CO.

MC 167288, filed April 8, 1983. Applicant: LONG LINE TRUCKING CO., INC., 505 Norwich Ave., Taftville, CT 06380. Representative: James M. Kirker, 120 Broadway, Norwich, CT 06360, 203–889–2361. Transporting *malt beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Levine Distributing Company, Inc., of Taftville, CT.

MC 167308, filed April 11, 1983. Applicant: DAVEY WILKETT and MARY WILKETT, d.b.a. MM&K TRUCK LINES, Route 2, Box 507, Stigler, OK 74462. Representative: June E. Edmondson, 1101 Connecticut Ave. NW., Suite 500, Washington, DC 20036, (202) 659–8201. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cabinets, between points in the U.S., under continuing contract(s) with Dunkin & Dunkin Enterprises, Inc., of Stigler, OK. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e), seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unneccessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

MC 167359, filed April 11, 1983. Applicant: BAZAAR CORPORATION OF BROWNSVILLE, 805 North Cage, Pharr, TX 78577. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, 817–457–0804. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167379(A), filed April 12, 1983. Applicant: ROBERT W. DIEFENDERFER, R.D. 5, Coatsville, PA 19320. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *metal and metal products, machinery*, and *such commodities* as are dealt in or used by manufacturers of precious metals, between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC 167379(B) published in the same issue.

MC 167398, filed April 12, 1983. Applicant: NORTHWEST HAULER'S, INC., P.O. Box 74648, Fairbanks, AK 99707. Representative: Thomas E. Holcomb (same address as applicant), 907–456–8765. Transporting *general commodities* (except classes A and B explosives, household goods), between points in AK.

MC 167408, filed April 14, 1983. Applicant: UNITED DELIVERY SERVICE, LTD., 5320 Otto Ave., Rosemont, IL 60018. Representative: Themis N. Anastos, 120 West Madison St., Chicago, IL 60602, 312–782–8668. Transporting *printed matter, instruments and photographic goods*, between points in IL and WI.

[FR Doc. 83–12019 Filed 5–4–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket Nos. 30156 and 30165]

Rail Carriers; Better Materials Corp. and J.C. McHugh—Control Exemption—the Shore Fast Line, Inc. and the Shore Fast Line Inc.—Operation and Commodities Clause Exemption; James C. McHuges, Edward L. McHugh, Gerald J. McHugh and A.M. McHugh—Interlocking Directors Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under: (1) 49 U.S.C. 11343 the acquisition of control by Better Materials Corporation, Rudolph and Eleanor Kraus and J.C. McHugh of the Shore Fast Line Inc.; (2) 49 U.S.C. 10901 the operation by the Shore Fast Line, Inc. of the Atlantic City Branch line; (3) 49 U.S.C. 10746 the transportation by the Shore Fast Line, Inc. of commodities shipped by Better Materials Corporation; and (4) 49 U.S.C. 11322 the holding of interlocking directorships by E.L. McHugh, G.J. McHugh, and A.M. McHugh.

DATES: This exemption will be effective on May 2, 1983. Petitions to reopen must be filed by May 22, 1983.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 30156 and 30165 to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: William P. Quinn, Rubin, Quinn & Moss, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC, 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: April 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13015 Filed 5–4–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 29518 (Sub-Nos. 1 and 5)]

Rail Carriers Midwestern Rail Properties, Inc., and Soo Line Railroad Co.; Inconsistent Application Accepted for Consideration

AGENCY: Interstate Commerce Commission.

ACTION: Inconsistent application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the inconsistent application of Soo Line Railroad Company to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located in MN, IA, and MO. The Commission will adhere to the existing schedule for the proceeding, and will issue a final decision by June 20, 1983. Related requests have also been filed and will be considered with the purchase application.

DATE: Sworn statements in response must be filed by May 6, 1983.

ADDRESS: An original and 10 copies of all statements referring to Finance Docket No. 29518 (Sub-No. 5) should be sent to: Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423, Attention: Soo Line Railroad Company.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in Finance Docket No. 29518 (Sub-No. 1), served April 1, 1983. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (D.C. Metropolitan area) toll free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12014 Filed 5–4–83; 8:45 am]
BILLING CODE 7035–01–M

[I.C.C. Order No. P–52]

Rail Carriers; Western Railroad Co.; Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks near Dunsmuir, California (M.P. 327.6) are temporarily out of service because of a derailment. An alternative route is available via the Western Pacific Railroad Company between Sacramento and Bieber, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Western Pacific Railroad Company (WP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Sacramento, California and Bieber, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

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(d) *Effective date.* This order shall become effective at 1:50 a.m. (EST), April 23, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 25, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Western Pacific Railroad Company, and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 23, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-12021 Filed 5-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Activation of the Former Air Force Station at Mt. Laguna, Cleveland National Forest, San Diego County, California

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. *Proposed Action:* The Bureau of Prisons proposes to activate the former Air Force Station at Mt. Laguna, California for use as a Federal Prison Camp for minimum custody inmates. The 140-acre property consists of 66 structures containing approximately 172,000 square feet.

The Bureau of Prisons has been, and continues to be, actively investigating surplus military facilities which can be converted to camp facilities housing inmates with minimum custody classifications. Also, the Bureau of Prisons is committed to using existing facilities whenever possible to avoid costly new construction.

The proposed Federal Prison Camp would be used to house 250 inmates, and approximately 50 full-time staff would provide 24-hour supervision.

The Bureau of Prisons would be required to obtain a Special Use Permit from the Forest Service in order to operate the Federal Prison Camp.

2. *Alternatives:* Alternative courses of action considered will include but not be limited to (1) activation of the facility by other State and Federal agencies, (2) the use of other surplus facilities for a Federal Prison Camp, (3) contracting for correctional services at State or County facilities, and (4) no action taken.

3. *Scoping Process:* The Bureau of Prisons prepared an Environmental Assessment for circulation and comments in October, 1982. On November 15, 1982, the San Diego Association of Governments reviewed the proposal and generated several questions which required further study.

On December 12, 1982, the Bureau of Prisons and the Forest Service jointly held a public meeting at Mt. Laguna, at which time the public was afforded the opportunity to learn more about the proposed Federal Prison Camp. Subsequently, the Bureau of Prisons decided that a complete EIS was needed.

4. *Availability:* The Draft EIS is currently scheduled to be available in June, 1983. This schedule is subject to change without notice.

5. *Responsible Official:* Loy S. Hayes, Chief, Facilities Development and Operations, Bureau of Prisons, 320 First St., NW., Washington, D.C. 20534.

Dated: May 2, 1983.

Loy Hayes,

Chief Facilities Development and Operations.

[FR Doc. 83-12114 Filed 5-4-83; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL CAPITAL PLANNING COMMISSION

Revised Procedures for Public Participation

AGENCY: National Capital Planning Commission (NCPC).

ACTION: Notice of proposed amendment.

SUMMARY: The proposed amendment to the Commission's Revised Procedures for Public Participation (48 FR 9095, March 3, 1983) sets forth guidelines for oral presentations at Commission meetings by members of the public.

DATE: Comments must be received on or before June 6, 1983.

ADDRESS: Interested persons should submit comments to Daniel H. Shear, Secretary to the Commission, National Capital Planning Commission, 1325 G Street NW., Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Samuel K. Frazier, Public Affairs Officer, National Capital Planning Commission, 1325 G Street NW., Washington, D.C. 20576, (202) 724-0174.

SUPPLEMENTARY INFORMATION: Add at end of the section entitled *"How do you express your views to the Commission?":*

The following guidelines are applicable to oral presentations:

(a) *Length of presentation:* Presentations of individuals who are representing themselves are ordinarily limited to 5 minutes. Presentations of representatives of organizations are ordinarily limited to 10 minutes. Organizations may use one or more participants in making their presentation. However, the Chairman may set different time limits for both individuals and organizations, depending on the nature of the item, the number of speakers who have registered, and the total time available.

(b) *Copies of written statements:* Written statements are not required of those who make oral presentations. However, they are preferred if at all possible. If a speaker desires to submit a written statement or other materials to each member of the Commission, they must be submitted to the Secretary to the Commission by noon of the day preceding the day of the meeting, and copies will be reproduced by the Secretary and distributed to each member of the Commission prior to the beginning of the meeting. Otherwise, materials must be delivered in twenty-five copies to the Public Affairs Officer prior to the beginning of the meeting.

(c) *Representatives of organizations:* Speakers representing organizations should preface their remarks by identifying the organization, its purpose, and the number of members, indicating their position or title in the organization, and stating the date on which the organization met and took a position on the matter before the Commission.

(d) *Nature of comments:* Comments are solicited on all matters before the Commission. However, comments on non-Federal plans and projects should be limited to their effect on Federal interests in the National Capital Region. For more detailed information, please refer to the section below entitled: "What should your statement contain?"

(e) *Order of speakers:* Ordinarily the order of speakers is determined by the date and time on which they registered. However, the Chairman may adjust the order of speakers.

Daniel H. Shear,

Secretary to the Commission.

April 19, 1983.

[FR Doc. 83-12057 Filed 5-4-83; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, NSF is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming (202) 357-9421.

OMB Officer: Gwendolyn Pla, (202) 395-7313.

Title: Request for Proposals.

Affected Public: Individuals or Households; State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions; Small Businesses or Organizations.

Number of Responses: 32 responses; total number of hours, 3,870.

Abstract: Request for Proposal used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Dated: May 2, 1983.

Herman G. Fleming,

OMB Clearance Officer.

[FR Doc. 83-11097 Filed 5-4-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on May 12-14, 1983, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published in the **Federal Register** on April 27, 1983.

The agenda for the subject meeting will be as follows:

Thursday, May 12, 1983

8:30 A.M.-8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.-12:30 P.M.: LaCrosse Boiling Water Reactor (Open)—The members will hear and discuss the report of the ACRS project subcommittee and consultants who may be present regarding the SEP/IPSAR review of this facility.

Members of the NRC Staff and representatives of the Licensee will make presentations and respond to questions regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary information related to this project.

1:30 P.M.-2:30 P.M. Regionalization of NRC Activities (Closed)—The members of the Committee will discuss proposed NRC plans to regionalize staff activities.

This portion of the meeting will be closed to discuss matters which relate solely to the internal personnel rules and practices of the agency.

2:30 P.M.-3:30 P.M.: Licensee Event Reporting (Open)—The members of the Committee will discuss proposed changes in NRC rules on Licensee Event Reports (10 CFR 50.75) and Immediate Notification Requirements (10 CFR 50.73). Representatives of the NRC Staff will participate as appropriate.

3:30 P.M.-4:40 P.M.: Proposed Regulatory Guide on Instrument Sensing Lines (Task No. IC 126-5) (Open)—The Committee members will discuss the proposed NRC Regulatory Guide On Instrument Sensing Lines. Members of the NRC Staff will participate as appropriate.

4:30 P.M.-5:30 P.M.: Evaluation of Operating Experience (Open)—The members of the Committee will discuss proposed ACRS comments regarding the NRC sponsored report (NUREG/CR-2497), "Precursors to Potential Severe Core Damage Accidents."

Friday, May 13, 1983

8:30 A.M.-9:00 A.M.: Future ACRS Activities (Open)—The Committee members will discuss anticipated ACRS Subcommittee and full Committee activities including proposed procedures for ACRS participation in NRC rulemaking and policy making activities.

9:00 A.M.-10:00 A.M.: Preparation for ACRS Meeting with NRC Commissioners (Open)—The members of the Committee will review ACRS positions and discuss proposed comments regarding the NRC Safety Research Program on Severe Accident Research, the NRC Accident Source Term Program.

10:00 A.M.-11:30 A.M.: Meeting with NRC Commissioners (Open)—The Committee will meet with members of the Commission to discuss topics noted above.

11:30 A.M.-12:30 P.M. and 1:30 P.M.-3:30 P.M.: Haddam Neck Nuclear Plant (Open)—The Committee members will hear the report of its Subcommittee and consultants who are present regarding the SEP/IPSAR for this project.

Representatives of the NRC Staff and the Licensee will make presentations and respond to questions regarding this matter.

3:30 P.M. -6:30 P.M.: Standardized Nuclear Power Plant (GESSAR-II) (Open)—The members will hear and discuss the report of the ACRS Subcommittee and consultants who are present regarding the request for an FDA for this standardized nuclear island concept.

Representatives of the NRC Staff and the Applicant (General Electric Company) will make presentations and respond to questions regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this project.

Saturday, May 14, 1983

8:30 A.M.-12:00 Noon: Preparation of ACRS Reports to NRC (Open/Closed) The Committee members will discuss proposed reports to NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed, and information that will be involved in an adjudicatory proceeding.

1:00 P.M.-3:30 P.M.: Reports of ACRS Subcommittees (Open)—The Committee will hear and discuss the reports of designated Subcommittees regarding safety-related matters including the proposed DOE Site Characterization Report on The Basalt Waste Isolation Project for the Hanford Reservation as a site for high level waste disposal, proposed changes in ECCS evaluation models and associated analysis methods for boiling water reactors, use of PRA in the safety evaluation of nuclear facilities, and developments in the consideration of extreme environmental phenomena (seismic events).

3:30 P.M.-4:00 P.M.: Miscellaneous (Open/Closed)—This session will be used to complete discussion of items considered during this meeting. A portion will be closed as necessary to discuss activities of members that would represent an undue invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during

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this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that is is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)) and information that relates solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: April 29, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–11977 Filed 5–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 82 and 65 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. The amendments were effective as of the date of issuance.

The amendments revise the Technical Specifications to correct typographical errors, establish procedures limiting overtime for personnel involved in safety related activities, increase the steam generator minimum pressurization temperature, delete a requirement on the pressurizer safety valve acoustic monitor, and change administrative requirements to provide for yearly audit and review of the safeguards contingency plan and emergency plan.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has make appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated February 24, 1983, (2) Amendment Nos. 82 and 65 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of April, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–11971 Filed 5–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 50–318]

Baltimore Gas & Electric Co. (Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2); Exemption

I

The Baltimore Gas and Electric Company (the licensee) is the holder of Facility Operating License Nos. DPR–53 and DPR–69 which authorize operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Calvert County, Maryland.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised §50.48 and Appendix R became effective on February 7, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant.

Subsection III.G.2 requires that fire detectors and an automatic fire suppression system be installed in areas of the plant where cables or equipment of redundant trains of systems, necessary to achieve and maintain hot shutdown conditions, are located in the same fire area outside containment and are separated by 20 feet free of intervening combustibles. By application dated March 4, 1983, the licensee requested relief from the above requirement as it applies to automatic fire suppression systems for the Units 1 and 2 intake structure.

Subsection III.G.3 requires that fixed fire suppression be provided in areas where alternative shutdown capability has also been provided. Although the March 4, 1983 application requests relief from the requirement to provide fixed/automatic fire suppression in the control room complex pursuant to Subsection III.G.2, we interpret this as a request for relief pursuant to Subsection III.G.3. This is appropriate since an alternative shutdown means is provided for the control room complex.

The fire protection features of the control room complex (areas 400, 401, 402, 403, 404, 405, 406, 415, 431, 432, 434, 435, and 436) were addressed in the Calvert Cliffs Fire Protection Safety Evaluation Report (FPSER) which the NRC issued on September 14, 1979. The FPSER indicates that the control room complex fire protection features include smoke detectors installed in (1) HVAC ducts, (2) control room ceiling, (3) the log and instrument room (presently the Technical Support Center), (4) supervisor's office, and (5) computer rooms. The Computer rooms have, in addition, heat detectors located within cabinets and under the floor which actuate Halon 1301 systems protecting these cabinets and subfloor area. A manual hose and portable extinguishers are available for manual fire suppression.

As indicated in the March 4, 1983 application, improvements have been made in the control room complex fire protection features since issuance of the FPSER. These improvements include: (1) Providing nozzles for manual hose protection compatible with the hazards and equipment in the control room; (2) removal of all wooden furniture and shelves from the control room complex and (3) metal partitions to separate adjoining panels from the computer terminal. The existing control room bullet-proof doors, which had not previously been shown to be "3-hour rated", have been tested and approved as indicated in the NRC letter dated August 16, 1982 and the accompanying Exemption. In addition to the above fire protection features, a review of Calvert Cliffs Technical Specification 6.2.2.a indicates that the control room must be continuously manned during all modes of reactor operation. Based upon the fire protection features provided and the existence of a continuous fire watch we conclude that any fire in the control room complex would be promptly detected and extinguished. Therefore, the addition of a fixed fire suppression system would not significantly enhance the fire protection features of the control room complex.

The second area addressed in the March 4, 1983 application is the intake structure. This area is important to safety since it contains the salt water pumps which provide cooling water for safety-related equipment. The intake structure is an enclosed concrete structure having a three hour fire rating. This area contains the circulating water pumps (six per unit) each of which is in a pit in the floor of the structure to contain any oil which may leak from the pump. Each pit is surrounded by a curb to prevent external flammable liquids from entering the pit. The circulating water pumps are separated from the salt water pumps by approximately 20 feet and from each other by over 30 feet.

Salt water pumps (three per unit) are located in separate concrete-lined pits below the floor level of the structure and are separated from each other by approximately 61 feet. The curbs for these pits have openings to allow access to equipment ladders. The licensee has indicated that these openings will be closed within six months to restore the integrity of the curbs. Each pump's motor is mounted approximately 14 feet above floor level directly above the pump. Power cables from each salt water pump are routed in conduit to the west wall of the intake structure and are separated by a minimum of 45 feet horizontally from those of the adjacent salt water pumps. The intake structure is provided with fire (smoke) detection and with portable fire extinguishers. The hose stations have sufficient hose to reach any fire with at least one effective water stream.

In summary, the intake structure can be characterized as having a low fire loading (approximately 16,000 BTU/ft²) and a large separation between redundant components of safety-related equipment. Because of the low fire loading, large volume and ceiling height, reasonable assurance is provided that a fire in the intake structure would be detected and efficiently extinguished prior to damaging the redundant salt water pumps in this area. Based on the above, we conclude that the installation of an automatic fire suppression system in the intake structure would not significantly improve the level of fire protection in this area.

III

Based on the consideration of the fire protection features of the control room complex and the intake structure, we conclude that the existing fire protection features provide fire protection that is equivalent to the technical requirements of Subsections III.G.2 and III.G.3, respectively. On this basis, the staff concludes that the installation of fixed fire suppression systems in the control room complex and intake structure would not significantly improve the fire suppression capability in these areas. Accordingly, relief from the technical requirements of Section III.G. of Appendix R to 10 CFR Part 50, as these requirements relate to installation of fixed fire suppression systems for the control room complex and the intake structure, should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of Sections III.G.2 and III.G.3 of Appendix R to 10 CFR Part 50:

The installation of fixed/automatic fire suppression systems for the control room complex and the intake structure is not required for Calvert Cliffs Units 1 and 2.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 21st day of April, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83–11972 Filed 5–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–447]

Gessar II BWR/6 Nuclear Island Design; Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed Final Design Approval for the GESSAR II BWR/6 Nuclear Island Design. The application for a Final Design Approval was docketed on February 22, 1982.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 for inspection and copying. The report (Document No. NUREG–0979) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention Sales Manager, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 28th day of April 1983.

For the Nuclear Regulatory Commission.

Donald S. Brinkman,

Acting Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 83–11973 Filed 5–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–352–OL & 50–353–OL]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to substitute Gary J. Edles for Stephen F. Eilperin. As reconsitituted, the Appeal

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Board for this operating license proceeding will consist of the following members:
Christine N. Kohl, Chairman
Gary J. Edles
Dr. Reginald L. Gotchy.

Dated: April 28, 1983.

Barbara A. Tompkins,
Secretary to the Appeal Board.

[FR Doc. 83-11074 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Facility Operating License Nos. NPF-10 and NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. NPF-10, and Amendment No. 6 to Facility Operating License No. NPF-15 to Southern California Edison Company (SCE), San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility) located in San Diego County, California. These amendments are effective April 27, 1983.

The amendments modify the Emergency Preparedness license conditions to require further efforts to assemble and keep current a list of housebound people within the Plume Exposure Emergency Planning Zone, and to develop and initiate a training program to assist Orange County Transit District bus drivers in the event of a radiological emergency at San Onofre. These amendments were authorized by the Atomic Safety and Licensing Appeal Board's Decision of March 4, 1983, ALAB-717.

Issuance of these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of these amendments is subsumed by the prior public notice of the overall action regarding issuance of operating licenses for these facilities, published in the Federal Register on April 7, 1977 (42 FR 18460).

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the Atomic Safety and Licensing Appeal Board's Decision, ALAB-717, dated March 4, 1983 (2) Amendment No. 18 to Facility Operating License No. NPF-10, and (3) Amendment No. 6 to Facility Operating License No. NPF-15.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of April, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,
Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-11075 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 46 and 29 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) which revised Technical Specifications for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments were effective as of the date of issuance.

The amendments revise the partial power multiplier from 0.2 to 0.3 for $F^{N}_{\Delta H}$. In addition, an administrative change has been made to the NA-2 TS 4.2.2.2.g. to provide consistency between the North Anna Power Station, Units No. 1 and No. 2 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 8, 1982, (2) Amendment No. 46 and No. 29 to Facility Operating Licenses No. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 22d day of April, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,
Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-11076 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Requirements Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee) for the Surry Power Station, Unit No. 1 located in Surry County, Virginia. The ASME Code requirments are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.

The relief allows the licensee to replace three 1½-inch drain valves and one 2-inch manual isolation valve in the main steam system without performing

hydrostatic tests for the entire steam generators and a considerable portion of the main steam piping. A leakage test will be performed instead. This relief is the same as that provided in NRC letter dated October 1, 1982, for Unit 1 and the Evaluation of Relief Request attached to that letter applies to this relief request. In this instance, three steam generators are affected instead of one previously.

The request for this granting of relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the Evaluation of Relief Request dated October 1, 1982.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated March 16, 1983; (2) the letter to the licensee dated April 27, 1983; and (3) the letter to the licensee dated October 1, 1982, transmitting the Commission's related Evaluation of Relief Request. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 27th day of April 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-12100 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License and Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications relating to inservice inspection requirements of safety class components.

By letter dated April 18, 1983, as supported by the related Safety Evaluation, the Commission has also granted to the licensee relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components". The relief relates to the inservice inspection program for ANO-1. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The application for the amendment and request for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment and letter granting relief. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment and request for relief dated October 19, 1977, as supplemented December 15, 1978, (2) Amendment No. 77 to License No. DPR-51, (3) the Commission's related Safety Evaluation and (4) the Commission's letter to the licensee dated April 18, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of April 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-12100 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co. (Zion Station, Unit Nos. 1 and 2); Revised Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Commonwealth Edison Company (the licensee) is the holder of Facility Operating License Nos. DPR-39 and DPR-48 which authorizes the operation of the Zion Station, Unit Nos. 1 and 2 (the facilities) at power levels not in excess of 3250 megawatts thermal. The facilities are pressurized reactors (PWRs) located at the licensee's site in Zion, Illinios.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby

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incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) for items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

Commonwealth Edison Company responded to Generic Letter 82–05 by letters dated April 15, 1982, November 29, 1982 and January 14, 1983; the licensee responded to Generic Letter 82–10 by letter dated July 24, 1982. On March 14, 1983, the Commission issued an Order Confirming the Licensee's commitments to implement certain post-TMI related items set forth in NUREG 0737. By letter of March 30, 1983, further clarified by letter of April 8, 1983, the Commonwealth Edison Company informed the staff of technical difficulties and delays in hardware delivery and requested revision of completion dates for three items, II.B.2, II.B.3, II.F.1(2). The staff's evaluation of the licensee's proposed delays for these items is provided herein:

II.B.2 Plant Shielding

As part of the plant shielding task, the radiation monitor which controls the control room air intake is being replaced with a new monitor that is part of the SPING computerized monitoring system. The new monitor has been installed, calibrated, and tested. However, a new operator for the control room air intake damper is needed to make the system fully operational. The manufacturer's delivery date for this item has been extended beyond licensee's original estimate.

In the interim, the damper has been placed in the accident mode, which isolates the outside air intake and routes the air flow through charcoal filters. Operation in this mode will provide the necessary protection until the new damper operator can be installed. In addition, in the interim, there is an existing monitor that is serving the air control function until the SPING problem can be fixed. This interim operation using the existing monitor is acceptable. All other immediate requirements for this task item have been completed.

II.B.3 Post Accident Sampling

The containment air sample radiation monitor is also being upgraded with the SPING monitoring system discussed above. The installation for Unit 1 is complete. For Unit 2 completion is expected in April 1983. There is an existing radiation monitor providing containment air sampling measurements and its operation during the interim period is aceptable. All other immediate requirements for this task have been completed.

II.F.1.2 Accident Monitoring Instrumentation

The existing vent stack radiation monitors are being replaced with new monitors that are part of the SPING monitoring system. The electronics-related problems previously identified have recently been resolved, and final calibration is in progress at this time on both units. In addition, the Unit 2 sample vacuum pump has failed and must be replaced. The actions are expected to be completed by the end of April 1983. In the interim, the existing monitors will continue to provide the necessary monitoring functions. The interim operation of the existing vent stack monitor is acceptable. All other immediate requirements for this task have been completed.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted: (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that the licensee shall:

Implement and maintain items II.B.2, II.B.3, and II.F.1(2) described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may requrest a hearing on this order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon expiration of the time within which a hearing may be requested.

For the Nuclear Regulatory commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Marland this 26th day of April 1983.

PLANT NAME: ZION UNIT 1 AND 2

ATTACHMENT 1.— LICENSEE COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–95

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.3.1	Simulator exams	Oct. 1, 1981	Include simulator exams in licensing examination	Complete.
II.B.2	Plant shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions	June 1983.
II.B.3	Post-accident sampling	...do	Install upgrade post-accident sampling capability	Unit 1 complete, unit 2 April 1983.
II.B.4	Training for mitigating core damage	Oct. 1, 1981	Complete training program	Complete.
II.E.1.2	Aux FW indication and flow indicator	July 1, 1981	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment isolation dependability	...do	Part 6—lower containment pressure setpoint to level compatible with normal operation.	Do.

PLANT NAME: ZION UNIT 1 AND 2—Continued

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
II.E.4.2	...do	...do	Part 7—isolate purge and vent valves on radiation signal	Do.
II.F.1	Accident monitoring	Jan 1, 1982	(1) Install noble gas effluent monitors	July 3, 1983.
		...do	(2) Provide capability for effluent monitoring of iodine	April 1983.
		...do	(3) Install in-containment radiation-level monitor	Complete.
		...do	(4) Provide continuous indication of containment pressure	Do.
		...do	(5) Provide continuous indication of containmwet water level	Do.
		...do	(6) Provide continuous indication of hydrogen concentration in containment	Do.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit overtime	Oct. 1, 1982 per Gen. Ltr. 82–12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy statement issued by Gen. Ltr. No. 82–12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	Minimum shift crew [2]	To be superseded by Proposed Rule.	To be addressed in the final rule on licensed operator staffing at nuclear power units.	To be addressed when final rule is issued.
I.C.1	Revised emergency procedures [2]	Superseded by SECY 82–111.	Reference SECY 82–111, requirements for emergency response capability	To be determined.
II.D.1.2	RV and SV test programs	July 1, 1982	Submit plant specific reports on relief and safety valve program	Complete.
II.D.1.3	Block valve test program	...do	Submit report of results of test program	Do.
II.K.3.30 & 31.	SBLOCA analysis [2]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing levels for emergency situations [2]	Superseded by SECY 82–111.	Reference SECY 82–111, requirements for emergency response capability	To be determined.
III.A.1.2	Upgrade Emergency support facilities	...do	...do	Do.
III.A.2.2	Meteorological data [2]	...do	...do	Do.
III.D.3.4	Control room habitability	To be determined by licensee.	Modify facility as identified by licensee study	During refueling to occur before January 1984.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

[FR Doc. 83-12101 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–409]

Dairyland Power Cooperative; Availability of Draft Integrated Plant Safety Assessment Report for the LaCrosse Boiling Water Reactor

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Draft Integrated Plant Safety Assessment Report related to Dairyland Power Cooperative's LaCrosse Boiling Water Reactor, located in Vernon County, Wisconsin.

The report documents the review completed under the Systematic Evaluation Program (SEP). The SEP was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. The review has provided for: (1) An assessment of the significance of differences between current technical positions on selected safety issues and those that existed when LaCrosse was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety. Equipment and procedural changes have been identified as a result of the review.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601 for inspection and copying. Single copies of this report (Document No. NUREG–0827) may be requested from the U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland this 18th day of April 1983.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-12102 Filed 5-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 120, 120 and 117 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

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These amendments revise the TS withdrawal schedule for the reactor vessel surveillance capsules.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated February 23, 1983, (2) Amendments Nos. 120, 120, and 117 to Licenses Nos. DPR–36, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of April 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-12103 Filed 5-4-83; 8:45 am]

BILLING CODE 7590-01-M

[ASLBP Docket No. 82-468-01 OL (NRC Docket Nos. 50-458-OL 50-459-OL)]

Gulf States Utilities Co., et al. (River Bend Station, Units 1 and 2); Prehearing Conference Order

April 29, 1983.

Pursuant to 10 CFR 2.751a, and upon consideration of a conflict in the schedule of the Board Chairman with the prehearing conference date, the oral representation of the parties that they have no objection to a change in the date, and upon consideration of the entire record in this matter, it is this 29th day of April, 1983 ordered:

1. That the prehearing conference shall commence at 9:30 A.M. on Tuesday, June 14, 1983 in Courtroom 801 of the State District Court, 19th Judical District, Governmental Bldg., 222 St. Louis Street, Baton Rouge, LA 70801, and continue from day to day until completed; and

2. That paragraphs 2 and 3 of this Board's Order dated April 5, 1983 shall remain in full force and effect.

For The Board.

B. Paul Cotter, Jr.,

Administrative Judge.

[FR Doc. 83-12104 Filed 5-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station (Unit No. 1); Notice of Issuance of Amendment to Facility Operating License No. NPF-12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. The amendment changes the Technical Specifications to reflect the additional fire protection equipment that has been installed, the actual location and number of fire detectors in the plant, and the location of water spray and sprinkler systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) South Carolina Electric & Gas Company letter, dated October 8, 1982, (2) Amendment No. 15 to Facility Operating License No. NPF–12 with Appendix A Technical Specifications page changes, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 15 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of April 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-12105 Filed 5-4-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on May 19 and 20, 1983, in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 7:00 p.m. on May 19, recess and reconvene at 8:00 a.m. on May 20. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The May 19 session and a portion of the May 20 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Acordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552 b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building persons wishing to attend the open portion of the meeting should contact Jerry Jennings, Executive Director of the Office of Science and Technology Policy at (202) 456–7740, prior to 3:00 p.m. on May 18. Mr. Jennings is also available to provide further information regarding this meeting.

Dated: April 28, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83-11988 Filed 5-4-83; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13203; 811-1618]

American Option & Equity Fund, Inc.; Proposal To Terminate Registration

April 28, 1983.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that American Option & Equity Fund, Inc. ("Fund"), 3301 Van Buren Street, Topeka, KS 66611, registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized by National Investment Corporation, Inc., a Topeka, Kansas-based holding company, under the laws of the State of Delaware on February 26, 1968, as American Equity Fund, Inc. The Fund registered under the Act on March 1, 1968, and on August 5, 1968, it filed a registration statement (File No. 2–29797) under the Security Act of 1933 ("1933 Act") in connection with a proposed public offering of its shares of capital stock. That registration statement was declared effective by the Commission on January 24, 1969.

On July 21, 1977, the Fund's shareholders voted to change its name from American Equity Fund, Inc., to American Option and Equity Fund, Inc. Financial statements contained in post-effective amendment number 18 to the fund's registration statement under the 1933 Act, filed with the Commission on April 3, 1978, disclosed that as of December 31, 1977, the Fund had 609,036 shares outstanding having an equivalent net asset value per share of $4.96, or total net assets of $3,022,729.

On October 25, 1978, the Fund's board of directors unanimously adopted resolutions declaring that it was advisable that the Fund be voluntarily dissolved in accordance with Delaware law and that it be deregistered as an investment company under the Act. At a meeting of the Fund's shareholders on December 18, 1978, shareholders approved the board of directors' resolutions providing for the liquidation and dissolution of the Fund. B. C. Christopher & Co., was selected as the Fund's agent to liquidate its portfolio at a cost to the Fund of 15 cents per share. A reserve in the amount of $37,000 to cover liquidation and dissolution expenses was established by the Fund's board of directors. The plan of liquidation provided that a certificate of dissolution was to be filed with the State of Delaware after the Fund's assets were distributed to shareholders. The distribution to shareholders in the amount of $4.56 per share was made on December 27, 1978, and since that date the Fund has done no business.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of that investment company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the aplication may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12120 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13205; 812-5518]

Capital Housing Partners—CLIII et al.; Filing of Application for Exemption

April 28, 1983.

Notice is hereby given that Capital Housing Partners—CLIII (the "Partnership"), a District of Columbia limited partnership, and its general partners, C.R.I., Inc. ("CRI"), William B. Dockser, Martin C. Schwartzberg and H. William Willoughby (collectively with CRI and the Partnership, "Applicants"), One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852, filed an application on March 28, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order exempting the Partnership from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was organized to invest in four other limited partnerships (the "Local Limited Partnerships") which will own and operate government-assisted apartment complexes. Applicants state that the Partnership will operate as a "two-tier" partnership, that is, the Partnership, as a limited partner, will invest in the Local Limited Partnerships. The Local Limited Partnerships consist of: (1) An Illinois limited partnership and a Minnesota limited partnership, each of which owns and is developing a government-assisted apartment project for elderly and handicapped persons of low and moderate income and (2) a California limited partnership and an Arizona limited partnership, each of which owns and is developing a government-assisted apartment project for individuals and families of low and moderate income (the "Projects"). Applicants state that the managing general partner of the Partnership is CRI and that an affiliate of CRI will be a general partner in each Local Limited Partnership.

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Applicants represent that the Partnership, in reliance upon Rule 506 under Section 4(2) of the Securities Act of 1933, will offer $6,110,000 of limited partnership interests in 100 units (the "Units") of $61,100 each, subject to increase or decrease in certain circumstances. Applicants state further that subscriptions for half Units may be accepted by the general partners, and accordingly, the Partnership's securities could be held by more than 100 persons. Applicants state that Merrill Lynch, Pierce, Fenner & Smith Incorporated and CRICO Securities Corporation, an affiliate of the general partners, and other selected broker dealers will act as selling agents for the offering of Units. Applicants state further that purchasers of Units will become limited partners ("Limited Partners") of the Partnership.

Applicants state that, although the Partnership's direct control over the management of each apartment complex is limited, the Partnership's ownership of interests in Local Limited Partnerships shall, in an economic sense, be tantamount to direct ownership of the apartment complexes themselves. According to the application, the interests in Local Limited Partnerships will have no substantial value other than their pro rata share of the value of the apartment complexes, and no Local Limited Partnership will generate a substantial amount of income or expense other than as directly related to the development, ownership and operation of its apartment complex. Applicants represent that, through its investment in the Local Limited Partnerships, the Partnership intends to realize (1) a potential increase in its equity in the Projects through amortization of the Projects' mortgage indebtedness, (2) cash flow from operations, (3) a potential increase in the value of the Projects, (4) cash distributions through potential refinancing of the Projects, and (5) certain current tax benefits.

Applicants state that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual tax returns the deductions, losses, credits and other tax items arising from the Partnership's interests in Local Limited Partnerships which own and operate the Projects, and (2) liability limited to their capital investment. Applicants maintain that the purpose of the Partnership is to provide a vehicle for private investment in government-assisted apartment complexes in accordance with the determination made by Congress in the legislation creating the National Housing Partnership.

Applicants state that the Partnership will be controlled by its general partners pursuant to the Limited Partnership Agreement and Second Amended Certificate of Limited Partnership of the Partnership (the "Partnership Agreement"). Applicants maintain that the Limited Partners will not be entitled to participate in the control of the Partnership's business. Applicants further maintain that, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Section 6(c) of the act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456") lists two conditions which must be satisfied by two-tier partnerships which invest in limited partnerships engaged in the development and building of housing for low and moderate income persons to obtain an exemption from the Act, pursuant to section 6(c) of the Act: (1) "interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable," and (2) "requirements for fair dealing by the general partners of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company." The Partnership believes that the suitability standards applicable to the sale of the Units are consistent with the requirements of Release No. 8456. According to the application, each subscriber will represent, among other things, that (1) some part of the subscriber's income (without regard to the investment) through 1988 will be subject to federal income tax at the rate of 45% or more, and (2) the subscriber has either (a) a net worth, or joint net worth with his or her spouse, in excess of $1,000,000 as of the date of the subscription agreement, or (b) had individual gross income (exclusive of gross income of his or her spouse) in excess of $200,000 in 1981 and 1982, and reasonably expects to have individual gross income (exclusive of gross income of his or her spouse) in excess of $200,000 in 1983.

Applicants also state that the Partnership Agreement and Private Placement Memorandum contain numerous provisions designed to insure fair dealing by the general partners with the Limited Partners. Applicants represent that all compensation to be paid to the general partners and their affiliates is specified in the Private Placement Memorandum and no compensation will be payable to the general partners or any of their affiliates not so specified. Applicants maintain that all such compensation is fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Further, the application states that the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. With respect to real estate programs.

Applicants assert that the Partnership's exemption from the Act is both necessary and appropriate in the public interest. Applicants assert that, by investing in Local Limited Partnership interests, the Partnership is implementing the national policy enunciated by Congress in Section 901 of Title IX of the Housing and Urban Development Act of 1968: "to encourage the widest possible participation by private enterprise in the provision of housing for low or moderate income families." Applicants maintain that the requested exemption would be consistent with the protection of investors and the purposes and policies underlying the Act. Applicants assert that the general purpose of the Act is to prevent the abuses that can occur when management has discretion to invest the public's money. Applicants assert that, in this case, management's discretion to invest the public's money is limited by the Partnership agreement, and the investment policies stated therein, as well as by identification and description to investors, before they decide to invest, of the Local Limited Partnerships.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commisssion, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12122 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

April 29, 1983.

In the matter of application of the Cincinnati Stock Exchange for Unlisted Trading Privileges in Certain Securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Continental Airlines Corporation
Common Stock, $.01 Par Value (File No. 7-6616)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 20, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12119 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13204; 812-5413]

DBL Tax-Free Cash Fund Inc.; Filing of Application for an Order Exempting Applicant

April 28, 1983.

Notice is hereby given that DBL Tax-Free Cash Fund Inc. ("Applicant"), 60 Broad Street, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 23, 1982, and amendments thereto on April 11 and 21, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant to the extent necessary: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation and to value in the manner described in the application certain rights to sell its portfolio securities to brokers, dealers, and banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire from brokers and dealers the aforesaid rights to sell portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemptions apply.

Applicant seeks high current income exempt from federal income taxes to the extent consistent with liquidity and the preservation of capital. Applicant pursues this objective by investing principally in a portfolio of high quality, tax-exempt securities with short-term remaining maturities issued by state or municipal governments and by public authorities. Applicant's investment policies allow it to invest in the widest range of securities providing income exempt from federal income taxes that meet its quality standards. Such securities include floating rate industrial development bonds and securities issued by state or municipal governments and by public authorities as interim financing in anticipation of tax collections, revenue receipts, bond sales, or project notes. Applicant's policies also allow it to purchase floating and variable rate obligations, with remaining maturities in excess of one year, so long as the interest rate on such obligations is adjusted at least annually and the obligations carry demand features permitting Applicant to redeem principal and accrued interest upon notice of seven days or less.

Variable rate demand instruments that Applicant may purchase include participation interests sold by banks in tax-exempt municipal obligations. Applicant expects banks offering these interests to concentrate them in industrial development bonds ("IDBs"). Applicant represents that a participation interest gives it an undivided interest in the municipal obligation in the proportion that Applicant's participation interest bears to the total principal amount of the obligation. Each participation interest is backed by an irrevocable letter of credit or bank guarantee found by Applicant to meet prescribed quality standards. Applicant has the right to sell the instrument back to the bank and draw on the letter of credit on demand, after seven days' notice, for all or any part of the full principal amount of Applicant's participation interest in the IDB, plus accrued interest. In determining maturity and dollar-weighted average portfolio maturity, a variable rate demand note's maturity will be deemed the longer of: (1) The notice period required before Applicant is entitled to prepayment under the note, or (2) the period remaining until the note's next interest rate adjustment. Applicant agrees to comply with Rule 2a-7, as proposed or as adopted, whenever it purchases variable rate demand instruments (including participation interests sold by banks in industrial development bonds).

Applicant may also acquire participations in privately negotiated loans to municipal borrowers, provided it obtains an opinion of counsel that interest payable by such municipal borrowers is exempt from federal income tax. Applicant recognizes that to the extent such loan participations are considered to be illiquid securities, they will be subject to its internal restrictions as well as the Commission's restrictions on investing in illiquid securities. Under those restrictions Applicant could not invest more than an aggregate of ten percent of its assets in illiquid securities. Applicant represents that any loan participations it acquires will conform

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with all the conditions imposed as a prerequisite to obtaining amortized cost relief, especially those involving high quality and remaining maturity. Applicant may also purchase "when-issued" securities so long as it commits no more than twenty percent of its net assets to such instruments and intends to actually acquire such instruments.

In support of the relief requested, Applicant asserts that amortized cost valuation would be in its shareholders' best interests. Applicant represents that maintenance of a constant net asset value per share affords shareholders the convenience of determining the value of their holdings simply by knowing the number of shares they own. Applicant declares that amortized cost valuation, absent unusual circumstances, represents the fair value of its portfolio securities. Applicant submits that the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly agrees that the following conditions may be imposed in any order of the Commission granting the exemption requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors undertakes—as a particular responsibility within its overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption, and repurchase, at $1.00 per share.

2. Included among the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value. Such quotations or estimates may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant agrees that, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instruments that are not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Applicant also requests exemptive relief to the extent necessary to enable it to acquire "stand-by" commitments. Applicant intends to acquire stand-by commitments solely to facilitate portfolio liquidity. Applicant describes a stand-by commitment as the equivalent of a "put" option acquired by Applicant with respect to a particular municipal obligation it holds. Applicant states that stand-by commitments acquired by it will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they will be exercisable by Applicant at any time prior to the maturity of the underlying securities; (3) they will be entered into only with brokers, dealers, and banks which, in the opinion of Applicant's investment adviser, present minimal risks of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal obligations purchased subject to such a commitment could be sold to a third party at any time, even though the commitment is outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations subject to a commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period it owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant.

Applicant expects stand-by commitments will be generally available without the payment of any direct or indirect consideration. However, if necessary and advisable, Applicant states that it will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities acquired subject to a commitment (thus reducing the yield to maturity otherwise available for the same securities). As stated by Applicant, as a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in its portfolio will not exceed ½ of 1 percent of the value of its total assets calculated immediately after the acquisition of any such commitment.

Applicant states that it will value each stand-by commitment at zero in determining net asset value. Should Applicant pay directly or indirectly for a stand-by commitment, its costs will be reflected as unrealized loss for the period it holds the commitment and as realized gain or loss when the commitment is exercised or expires. Applicant asserts that the acquisition of a stand-by commitment would not affect the valuation of the underlying obligation which Applicant will continue to value in accordance with the amortized cost method for which it now seeks exemption. Nor would the maturity of a municipal obligation be shortened by any stand-by commitment attached to it, and Applicant thus claims that stand-by commitments will not affect its dollar-weighted average maturity. Applicant does not intend to exercise stand-by commitments for trading purposes.

Applicant states that it may apply to the Internal Revenue Service for a ruling, or seek from its counsel an opinion, that interest on municipal obligations subject to stand-by commitments will be exempt from federal income taxation. In the absence of a favorable tax ruling or opinion of counsel, Applicant will not purchase securities subject to stand-by commitments.

Section 6(c) of the Act permits the Commission, among other things, to grant an exemption by order upon application from any provision or provisions of the Act, or from any rule or regulation thereunder, provided such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the above requested relief is appropriate, in the public interest, and consistent with the protection of investors. Applicant submits that the proposed acquisition of stand-by commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds expeditiously. Applicant will enter into stand-by commitments only with brokers, dealers, and banks that, in its investment adviser's opinion, possess a satisfactory credit rating. In addition to the credit of these institutions, Applicant's rights under the stand-by commitments will be secured to the extent of the value of the underlying securities subject to the commitments. In the event of a default under a stand-by commitment, Applicant assumes that it would be an unsecured creditor ony to the extent, if any, that the amount due under the stand-by commitment exceeds the value of the underlying securities it owns. Applicant therefore asserts that its risk of loss is not qualitatively different from the risk of loss faced by any investment company holding securities pending settlement after having agreed to sell the securities in the ordinary course of business.

Applicant represents that its investment adviser intends to periodically evaluate the credit of institutions issuing stand-by commitments in accordance with current procedures used to evaluate the quality of the institution's short-term debt securities, including periodic review of the institution's assets, liabilities, contingent claims, and other relevant financial information. Accordingly, Applicant believes that its acquisition of stand-by commitments will not meaningfully expose its assets to substantial risk, nor require Applicant to evaluate the credit of dealers in determining its net asset value. Applicant will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12121 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22925; 70-6864]

New England Electric Transmission Corporation; Proposed Issuance and Sale of Notes to Bank and Commercial Paper

April 29, 1983.

New England Electric Transmission Corporation ("NEET"), 25 Research Drive, Westborough, Massachusetts 01581, an electric utility subsidiary of New England Electric System ("NEES"), a registered holding Company, has filed a declaration with this Commission pursuant to Sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

By order dated November 10, 1981 (HCAR No. 22268), NEES was authorized to acquire the common stock of a new subsidiary, NEET, organized for the purpose of constructing, owning, and operating certain transmission facilities to constitute part of a major transmission interconnection between New England and the province of Quebec. In order to provide an interconnection between the electric systems of the New England Power Poo. and Hydro-Quebec, a 450 kV direct current transmission line is to be built from a new terminal facility at the Des Cantons substation near Sherbrooke, Quebec, to a similar terminal facility in Monroe, New Hampshire near the Comerford hydro electric station of New England Power Company ("NEP"), the generation and transmission subsidiary of NEES. The Canadian portion of the facilities will be built by Hydro-Quebec. The transmission line from the Canadian border to Comerford will extend down through Vermont, cross the Connecticut River near Littleton, New Hampshire, and extend through New Hampshire to NEP's Comerford Station. The portion of the line located in Vermont (about 53 miles) will be constructed by Vermont Electric Transmission Company. The remaining six miles of transmission line and the terminal facility at Comerford ("NEET project") will be constructed by NEET.

Pursuant to a letter of intent with The First National Bank of Boston (the "Bank"), NEET proposes to enter into a credit agreement ("Credit Agreement") with the Bank under which NEET may

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obtain up to $120 million for construction of the NEET Project through the issuance of commercial paper backed by the Bank's letter of credit or directly from the Bank pursuant to a revolving credit agreement. In addition, the Credit Agreement will provide that NEET may elect to convert up to the entire $120 million of construction loans to a five-year term loan. Annual commitment amounts will be made available under the construction loan over the estimated construction period. For support of the commercial paper borrowings, NEET will pay a total of ⅝% per annum on the amount of commercial paper outstanding. NEET will pay the Bank $20,000 annually as an administrative fee. Additional fees will be payable by NEET to the dealer marketing the commercial paper and to the paying agent who will also act as depository. NEET may borrow directly from the Bank, acting for itself and as agent for participating banks, on the following terms: (1) at the Bank's Base Rate in effect from time to time; (2) at the Bank's one, two, three, or six-month CD Rate plus ½%; (3) at the Bank's nine-month CD Rate plus ¾%; or (4) at the one, two, three, or six-month LIBOR plus ⅜%. Commitment amounts will be set for each year during construction on the basis of NEET's prior estimates of construction expenditures for that year. During each commitment period, a commitment fee of ¼% per year will be payable on the unused portion of the annual commitment amount, and a fee of ⅛% per year will be payable on the difference between the commitment amount in effect and the total commitment of $120 million.

All construction loans will mature on November 1, 1987, or the earlier commercial operation of the NEET Project. At the time, NEET may elect to borrow under the Credit Agreement on a term-loan basis amounts up to the full amount of construction loans then outstanding. The Term Loan will be for a term of 5 years. Amounts borrowed under the Term Loan will bear interest at increasing rates with a maximum in the fifth year equivalent to one of the following chosen by NEET: (i) ½% plus the Bank's Base Rate in effect from time to time; or (ii) 1% plus the Bank's CD Rate for the selected CD-Rate interest period if such period is 30, 60, 90, or 180 days; or 1¼% plus CD Rate if the selected CD Rate interest period is 270 days; or (iii) ⅞% plus LIBOR for the selected LIBOR period.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 26, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12118 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19717; File No. SR-MSE-83-5]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Stock Exchange, Inc.; Relating to an Increase in the Members of the Board of Governors

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the Medwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed constitutional amendments will increase the number of governors on the Board of Governors from 26 to 27 by adding a position for another Chicago area member governor. The change will also provide for an increase in the minimum number of floor representatives on the Board from two to three.

II. Self-Regulatory Organization's Statement of the Purpose of, and Staturory Basis for, the Proposed Rule Change

In its filing with Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-regulatory organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The responsibilities of the Floor Governors have increased dramatically in recent years with increased volumes, the advent of ITS and their involvement in the development and operation of new floor systems. The Constitution now provides for a minimum of two governors who shall be active on the Floor of the Exchange. The Exchange proposes to increase the required number of Floor representatives on the Board at this time from two to three. Nominating Committees have, in recent years, determined that four Floor Governors has been an appropriate number. The Board has determined, and will so recommend to the Nominating Committe, that five Floor representatives on the Board is now appropriate. By not changing the Constitution to require five Floor Governors, Nominating Committees of the future can retain the flexibility to change the number of Floor Governors if the need for Floor representation of the Board becomes less significant than it clearly is now. By adding a new position for a Chicago area Governor to accommodate a new Floor Governor rather than decreasing the number of Chicago area non-floor or out-or-town member Governors, the Board can retain the invaluable contributions made by such member Governor groups.

The proposed rule change is consistent with Section 6 (b) (3) of the Securities Exchange Act of 1934 in that it assures a fair representation of the Exchange's members in the selection of its directors and the administration of its affairs.

(B) Self-Regulatory Organization's Statement on Burden on Completition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on completition as a result of the proposed amendments.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 29, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12123 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13202; 812-5529]

UBF North America, Inc. et al.; Application Filing

April 28, 1983.

In the Matter of: UBF North America, Inc., 100 West Tenth Street, Wilmington, Delaware; c/o Charles J. Johnson, Jr., Esq., Brown, Wood, Ivey, Mitchell & Petty, One World Trade Center, 58th Floor, New York, New York 10048; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of the Act.

Notice is hereby given that UBF North America, Inc. ("Applicant") filed an application on April 14, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a Delaware corporation with its principal office located at UBF International Center, Aleksanterinkatu 36, Helsinki 10, Finland, and that all of its issued and outstanding capital stock will be owned by Union Bank of Finland Ltd. ("UBF"), a bank organized and existing under the laws of Finland, which has been exempted from the provisions of the Act pursuant to Section 6(c) enabling it to sell commercial paper in the United States. Applicant was organized in 1983 for the purpose of obtaining funds in the commercial paper market to be used by UBF and its other subsidiaries.

According to the application the Commission granted UBF an order, pursuant to Section 6(c) of the Act, exempting UBF from all provisions of the Act (Investment Company Act Release No. 10858 (September 5, 1979)) (the "1979 Order"). Information with respect to UBF, including a description of its business and Finland banking regulation to which UBF is subject, is included in UBF's application requesting the 1979 Order. Applicant affirms that there have been no material changes in the information set forth in the application for the 1979 Order, which application is on file with the Commission (File No. 812-4744).

Applicant presently proposes to issue and sell unsecured negotiable promissory notes of the type generally referred to as commercial paper notes (the "Notes") to be unconditionally guaranteed by UBF with maturities not to exceed 270 days in bearer form and denominated in United States dollars, the proceeds form which (except for amounts needed to repay maturing Notes of Applicant) will be made available solely to UBF and its other subsidiaries in the form of loans or deposits for use in repaying maturing UBF commercial paper in funding current transactions of UBF and its other subsidiaries. The reason for selling commercial paper through Applicant, rather than by UBF directly, is that the Commercial paper would thereby be a legal investment for a wider range of institutional investors. The application states that to the extent the guarantee of the Notes by UBF constitutes a separate security for purposes of applying the provisions of the Act, the offer and sale of such security is covered by the exemption heretofore granted to UBF in the 1979 Order.

Applicant represents that the Notes will be issued in the minimum denomination of $100,000; that it presently intends that not in excess of $350,000,000 of the Notes will be outstanding at any one time; and that the Notes will not have any provisions for renewal at the option of Applicant or the holders thereof or for automatic rollover. The Notes will be direct liabilities of Applicant and will rank *pari passu* among themselves and prior to Applicant's capital stock and equally with any other unsecured indebtedness of Applicant, other than any subordinated indebtedness which will rank inferior to the Notes. As a result of the Notes being unconditionally guranteed by UBF, holders of the Notes will be holders of obligations of UBF. The grarantee of UBF will rank *pari passu* with all other unsecured unsubordinated indebteness of UBF, including UBF's deposit liabilities, and prior to any subordinated indebtedness of UBF and UBF's share capital.

Applicant plans to sell the Notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance upon an opinion of its special legal counsel in the United States that the Notes and the related grarantee will qualify for the exemption from the registration requirements of the 1933 Act provided by Section 3(a)(3) thereof. Applicant represents that it will not proceed with its proposed offering until it has received such an opinion. Applicant does not request the Commission's review or approval of such opinion. Applicant represents that the proposed issue of the Notes and any future issue of Applicant's securities in the United States will have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized

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statistical rating organizations, and Applicant's special legal counsel in the United States shall certify the receipt of such rating; provided, however, that no such rating need be obtained with respect to any such issue if, in the opinion of Applicant's special legal counsel, such counsel having taken into account for the purpose thereof the doctrine of "integration" referred to in Rule 502 under the 1933 Act and various releases and relevant no-action letters made public by the Commission, an exemption from registration is available under section 4(2) of the 1933 Act. The Applicant is not subject to the reporting requirements of the Securities Exchange Act of 1934 and will not become subject to such requirements as a result of the issuance and sale of the Notes.

The Application states that the Notes will be sold by Applicant to a commercial paper dealer in the United States which, as principal, will reoffer them to investors in the United States. In certain cases, however, the commercial paper dealer may offer the Notes as agent. Applicant states that this dealer has advised it that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors, wealthy individuals and other purchasers of the type that normally participate in the commercial paper market. Applicant undertakes to ensure that the dealer will provide each offeree prior to any sale of the Notes with a memorandum describing the business of the Applicant and UBF and containing the most recent publicly available fiscal year-end audited balance sheet and income statements of UBF. Applicant represents that such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States and will include a brief paragraph highlightling material differences between Finnish and United States generally accepted accounting principles applicable to commercial banks such as UBF. Such memoranda will be updated periodically to reflect material changes in the financial status of UBF and its subsidiaries.

Applicant represents that, although it has no present intention of doing so, it may in the future offer other securities (other than shares of its capital stock) for sale in the United States and that such future offerings will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Any such offering will be made on the basis of a disclosure document appropriate for such registration or exemption, as the case may be, and in any event at least as comprehensive as that used in the presently proposed offering. Applicant undertakes to ensure that such a disclosure document will be provided to each offeree who has indicated an interest in such securities, prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act such a disclosure document will be provided to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with is undertaking regarding disclosure memoranda.

Applicant has appointed The Corporation Trust Company, 100 West Tenth Street, Wilmington, Delaware, as its agent for service of process and Applicant represents that UBF will appoint the Consul general of Finland in New York as agent in the United States to accept service of process in any action based on UBF's guarantees of the Notes and instituted in any state or Federal court by a holder of any of the Notes. Applicant further represents that UBF will expressly accept the jurisdiction of an appropriate state or Federal court in the City and State of New York in respect of any such action and that such appointment of an authorized agent and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes have been paid.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that Applicant will carry on the normal business of a financing subsidiary of a foreign commercial bank, and accordingly it does not believe that it should be treated as an "investment company" within the meaning of the Act. However, recognizing the uncertainty that has been expressed as to whether foreign commercial banks and, by logical extension, their financing subsidiaries organized in the United States are "investment companies" under the Act, the Applicant is making this application under Section 6(c) of the Act. Applicant states that approval of the application would be consistent with the requirements of Section 6(c) of the Act for the same reasons set forth in the application for the 1979 Order and that the exemption is necessary or appropriate in the public interest, is consistent with the protection of investors and is consistent with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12117 Filed 5-4-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 05/05-0175]

United Venture Capital, Inc.; Notice of Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), by United Venture Capital, Inc., 15901 West Nine Mile Road, Suite 618, Southfield, Michigan 48075 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors, and stockholders are:

Name and address, Title and relationship and Percent of ownership

Irving Meklir, 15901 West Nine Mile Road, Suite 618, Southfield, Michigan 48075; President, Treasurer, Director, 100

Rose Meklir, 15901 West Nine Mile Road, Suite 618, Southfield, Michigan 48075; Vice President, Director

Gary Meklir, 15901 West Nine Mile Road, Suite 618, Southfield, Michigan 48075; Vice President, Secretary, Director

The applicant proposes to begin operations with a capitalization of $504,000 and will be a source of equity capital and long term funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under this management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Southfield, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12113 Filed 5-4-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5429]

Yang Capital Corp.; Issuance of License

On April 17, 1981, a Notice was published in the **Federal Register** (74 FR 22525), stating that Yang Capital Corporation located at 41-40 Kissena Blvd., Flushing, New York 11355, has filed an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1983) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business May 4, 1981, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 02/02-5429 to Yank Capital Corporation on April 12, 1983.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 29, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12112 Filed 5-4-83; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C Chapter 35).

Requests for information, including copies of the form proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523.

Type of Request: Revision.

Title of Information Collection: TVA 6254A, TVA 6254B, TVA 6254C, TVA 6254D, TVA 6254E, TVA 6254F, TVA Revised Home Insulation Program (Energy Package).

Frequency of Use: Nonrecurring.

Type of Affected Public: Residential consumers of TVA electrical energy.

Standard Industrial Classification: N/A.

Small Business or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 840,000.

Estimated Total Annual Burden Hours: 42,000.

Estimated Annual Cost from Federal Government Appropriated Funds: 0.

Need For and Uses of Information: Information is needed to determine applicable energy improvements for residences in the Tennessee Valley Region. Data obtained will be composed to establish standards of various residential conservation programs and recommendations to consumers outlining the methods and actions necessary to conserve and/or manage electrical energy.

Dated: April 27, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-12068 Filed 5-4-83; 8:45 am]

BILLING CODE 8120-01-M

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523.

Type of Request: Extension (no change).

Title of Information Collection: Prevailing Wage Survey for TVA Regular Operating and Maintenance Work.

Frequency of Use: Annually.

Type of Affected Public: State and local governments and businesses or other institutions (except farms).

Standard Industrial Classification: Multiple.

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Small Business or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 80.

Estimated Total Annual Burden Hours: 40.

Estimated Annual Cost to TVA: $4,000.

Need For and Uses of Information: TVA conducts survey of industrial firms whose employees perform work similar to that work performed by TVA's operating and maintenance employees. The data collected is used in negotiations to determine prevailing rates of pay and benefits in the vicinity as required by the TVA Act.

Type of Request: Extension (no change).

Title of Information Collection: Prevailing Wage Survey for TVA Construction Work (3522 and 3523).

Frequency of Use: Annually.

Type of Affected Public: Business or other institutions (except farms).

Standard Industrial Classification: Multiple.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 400.

Estimated Total Annual Burden Hours: 200.

Estimated Annual Cost to TVA: $5,000.

Need For and Uses of Information: TVA conducts survey of local unions, construction contractors and their associations to collect prevailing wage and benefit practices to be used in negotiations to set pay rates for TVA employees performing construction work.

Dated: April 28, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-12047 Filed 5-4-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-10]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 25, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 29, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23581	Susan L. Swiatek	14 CFR 121.311(b)	To permit petitioner's son Bryan, who has a severe case of cerebral palsy, to be held in the arms of an adult who is occupying a seat, even though Bryan has already reached his second birthday. Bryan is 2¼ years old and weighs 25 pounds (which is comparable to the weight of a normal 1-year old).
23560	U.S. Parachute Assn., (USPA)	14 CFR 91.47 and 105.43	To permit petitioner to use its Douglas DC-3/C-47 and Lockheed L-18 aircraft to carry parachutists for hire at the 1983 National Parachuting Championships to be held in Muskogee, Oklahoma. It would also permit foreign parachutists to use parachutes that do not meet certain equipment and packing requirements.
21980	Florida Aircraft Leasing Corp	14 CFR 91.31	Amendment to Exemption 3458 to allow petitioner to operate certain of its aircraft without complying with the zero fuel and landing weight requirements of the operating limitations prescribed for these aircraft in the FAA-approved flight manual, subject to certain conditions and limitations. The amendment would delete Douglas DC-8, S/N 44884 from, and add Douglas DC-8, S/N 52-3231 to, the exemption.
23596	Arthur J. Spence	14 CFR 103.1(b)	To permit petitioner to operate his ultralight vehicle for purposes other than sport or recreation.
23558	Air Logistics	14 CFR 135.165(b)(5)	Supplemental petition to allow petitioner to operate its aircraft under instrument flight rules or in extended overwater operations without two independent receivers for navigation.
23607	Herman Miller, Inc.	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate and maintain its Learjet 35A aircraft using a FAA-approved minimum equipment list.
23600	Mid Pacific Airlines, Inc. (Mid Pacific)	14 CFR Portions of Part 121	To permit petitioner, a commuter air carrier, to continue to operate without licensed dispatchers when it begins operating as a flag air carrier.
23603	Delta Air Lines, Inc	14 CFR 91.32 and 121.333	To permit petitioner to operate its L-1011 and L-767 aircraft up to and including flight level 430 (43,000 feet) without one pilot at the controls being required to wear and use an oxygen mask.
23524	Catalina Air Freight, Inc	14 CFR 103.1(b)	To allow petitioner to operate an ultralight vehicle for purposes other than sport or recreation.
23518	Atlantic Richfield Co	14 CFR 21.181	Supplemental petition to permit petitioner to operate two leased U.S.-registered Boeing Vertol 234 helicopters using a FAA-approved minimum equipment list.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23612	Rotor-Aire, Inc	14 CFR 135.261	To permit petitioner to perform helicopter emergency medical evacuation service without complying with flight and duty time requirements of this section.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23216	McMahen Aviation, Inc	14 CFR 91.79(b)(c) and 93.113	To permit petitioner's pipeline patrol aircraft to fly as low as 500 feet vertically from persons, 200 feet laterally from property; and also to permit transit through certain high density control zones under Special VFR. *Partial grant 4/13/83.*
21987	Texas Department of Public Safety	14 CFR 91.70(b), 91.79(c), 91.85(b), and 91.109(a).	To permit petitioner to conduct certain law enforcement flight operations in close proximity to suspect aircraft; in airport traffic areas at speeds greater than the authorized limits; without operating the aircraft's position lights; at less than 500 feet above the surface over other than congested areas; in airport traffic areas other than to land at or takeoff from an airport in that area; and/or in deviation from prescribed VFR cruising altitudes. *Partial grant §§ 91.70(b), 91.79(c), 91.85(b), and 91.109(a) 4/18/83.*
22450	Georgia State Patrol	14 CFR 91.79(c) and 91.109(a)	To permit petitioner to conduct law enforcement aircraft operations in formation with suspect aircraft; without lights at night; below 500 feet other than to land or takeoff; and/or at other than appropriate cruising altitudes. *Partial grant §§ 91.79(c) and 91.109(a) 4/18/83.*
22473	Henson Aviation, Inc. and Ransome Airlines, Inc	14 CFR 93.123, 93.125 and 93.129	To permit the petitioners to operate area navigation system-equipped DeHavilland DHC-7 aircraft in RNAV and MLS operations in test proving flights at Washington National Airport outside of the FAR reservation restrictions. *Partial grant 4/26/83.*
23617	Pacific Southwest Airlines	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified Stage-1 airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 4 DC-9-30: N705PS, N706PS, N707PS, and N708PS. *Granted 4/25/83.*
23490	Air Midwest, Inc., (AMI)	14 CFR 61.31	To allow the petitioner's pilots, without possessing the required type rating, to operate its Fairchild-Swearingen Metro IIA aircraft which have been manufactured in accordance with SFAR-41 until the next scheduled instrument proficiency check. *Granted 4/19/83.*
23483	Reeder Air, Inc	14 CFR 43.3(g)	To permit petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in the Allison 250C series turbine engine, aircraft transmission engine, aircraft transmission, and tail rotor gearbox installed on Bell 206B helicopters operated by petitioner. *Granted 4/22/83.*
23447	Amway Corp	14 CFR 21.181	To permit petitioner to operate a Boeing 727 aircraft, N529AC, using an FAA-approved minimum equipment list. *Granted 4/21/83.*
23462	Amway Corp	14 CFR 21.181	To permit petitioner to operate two BAC 1-11 aircraft, N523AC and N524AC, using an FAA-approved minimum equipment list. *Granted 4/21/83.*
23499	Lifeline, Inc	14 CFR 61.118	To allow petitioner's volunteer pilots to be reimbursed for fuel when serving on official Lifeline missions. *Granted 4/27/83.*
23459	Aero Union Corp	14 CFR 125.11(b)	To permit petitioner to advertise Boeing 377MG (Mini Guppy) aircraft for transportation of outsized cargo in Part 125 operations. *Denied 4/25/83.*
23430	McDonnell Douglas Corp	14 CFR 61.57	To permit petitioner's employees to act as pilot in command of certain aircraft without having made three takeoffs and landings within the preceding 90 days in an aircraft of the same type. *Granted 4/27/83.*
23036	Icelandair S.A. and Overseas Nat'l Airways, Inc	14 CFR Portions of Parts 21 and 91	To allow petitioner to operate one U.S.-registered DC-8-50 aircraft, N816R, leased from ONA, and to maintain the aircraft in accordance with ONA's continuous airworthiness maintenance and inspection program and to use the FAA-approved Master Minimum Equipment List Granted 4/28/83.
23505	Cameron Balloons, Ltd	14 CFR 91.42(c) and 21.191	To permit petitioner to operate hot air balloons over populated areas for the purpose of advertising. *Denied 4/25/83.*
23461	Flying Carpet Marketing Company	14 CFR 103.1	To permit petitioner to operate ultralight aircraft for purposes other than sport or recreation, specifically banner towing. *Denied 4/27/83.*
22279	Apollo Airways, Inc	14 CFR 61.31(a)(1)	To allow petitioner's presently qualified HP-137 pilots in command to operate the HP-137 aircraft recertificated in accordance with SFAR 41 without possessing a type rating for the recertificated airplane. *Cancelled 2/22/83.*
16299	Kenmore Air Harbor, Inc	14 CFR 141.37(e), and para. 3(b)(4) of Appendix D of Part 141.	To extend Exemption 2376B which permits petitioner to use a seadrome without permanent runway lights for night training flights involving seaplanes. In addition, it permits credit toward flight instruction for cross-country night flights in seaplanes with a landing in a body of water less than 100 miles from the point of departure, provided that those flights include a landing at a point other than the point of departure and the flights are round-trip night cross-country flights to a point more than 100 miles from the point of departure. *Granted 4/27/83.*

[FR Doc. 83-12033 Filed 5-4-83; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, March 23-April 25, 1983

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between March 23, 1983 and April 25, 1983 to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or

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Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between March 23, 1983, and April 25, 1983

DOT No: 2139
OMB No: 2120–0044
By: Federal Aviation Administration
Title: Rotocraft External-Load Operator Certificate Application-FAR 133
Forms: FAA Form 8710–4
Frequency: On Occasion
Respondents: Helicopter operators carrying external (suspended) loads
Need/Use: As a part of air safety, certification is required of all Rotorcraft operators carrying suspended loads and currently certified operators must file amendments when additional aircraft or equipment is added to their operations.

DOT No: 2140
OMB No: 2137–0022
By: Research and Special Programs Administration
Title: Recordkeeping Requirements for Cylinder Retesting and Reinspection
Forms: None
Frequency: Triennially, Quinquennially, or Decennially
Respondents: Owners of high pressure cylinders
Need/Use: To verify that cylinders have not been damaged by handling or corroded by the materials with which they have been charged and are safe to recharge and transport on the public highways, waterways and airways.

DOT No: 2141
OMB No: 2125–0037
By: Federal Highway Administration
Title: Inspection, Repair and Maintenance and Driver Vehicle Inspection Report
Forms: None
Frequency: On occasion
Respondents: Drivers and Motor Carriers
Need/Use: Used to identify defects likely to affect safety of operation and to record inspection.

DOT No: 2142
OMB No: None
By: Federal Highway Administration
Title: Annual Relocation Assistance and Payment Statistics
Forms: PR–1226
Frequency: Annually
Respondents: State highway agencies
Need/Use: Information is needed by the Federal Highway Administration in order to provide relocation statistics required by Congress, and to make management decisions in areas of: defining the role of the Federal Government in fulfilling its oversight responsibilities, determining the acceptable level of review of State operations to be consistent with the Federal role, assessing the impact of the relocation program, identifying waste and abuses, and in recommending legislative, regulatory and administrative changes in the relocation assistance program.

DOT No: 2143
OMB No: 2127–0045
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 556, Petitions for Inconsequentiality
Forms: None
Frequency: On occasion
Respondents: Manufacturers of motor vehicles/equipment
Need/Use: The regulation establishes procedures for petitioning the agency for an exemption from the notice and remedy requirements of the Act due to an Inconsequential Defect or Noncompliance.

DOT No: 2144
OMB No: 2127–0046
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 552, Petitions for Rulemaking
Forms: None
Frequency: On Occasion
Respondents: Individuals/businesses
Need/Use: This regulation establishes procedures for filing petitions with the agency to commence a rulemaking or to make a defect or noncompliance determination.

DOT No: 2145
OMB No: None
By: Office of the Secretary of Transportation
Title: Airport Questionnaire
Forms: One Questionnaire
Frequency: Once
Respondents: Fully certificated airports
Need/Use: The Department of Transportation is conducting a congressional-mandated study of airport defederalization. As part of that study, the views of the 528 certificated airports are required, and we plan to obtain those views by circulating a questionnaire.

DOT No: 2146
OMB No: 2133–0005, 2133–0009, 2133–0022
By: Maritime Administration
Title: Uniform Financial Reporting Requirements
Forms: MA–172 (2133–0005)
Frequency: Semiannually, annually, ongoing recordkeeping
Respondents: Contractors with Maritime Administration under financial assistance programs administered pursuant to Titles II, V–VIII, and XI MM Act 1936
Need/Use: The Maritime Administration requires uniform financial reporting in order to assure compliance with certain legal and regulatory requirements and to assure uniformity in analysis of the industry, subsegments, and individual company performance.

DOT No: 2147
OMB No: None
By: Maritime Administration
Title: Records Retention Schedule for Subsidized Operators
Forms: None
Frequency: 2–3 years
Respondents: Operators with construction-differential subsidy or operating-differential subsidy
Need/Use: Required to obtain benefit. CDS and ODS operators participating within the Maritime Administration financial assistance programs must keep certain business and financial records for settlement and audit.

DOT No: 2148
OMB No: 2115–0034
By: U.S. Coast Guard
Title: Survivor Debriefing Form (Marine Casualty)
Forms: Prescribed Format
Frequency: On Occasion
Respondents: Survivors of civilian marine casualties
Need/Use: Information collected by the Coast Guard via the Survivor Debriefing Form is authorized under 14 U.S.C. 88 and 14 U.S.C. 93. The Coast Guard uses this information to assist in the search for, and rescue of other victims of a marine casualty incident. Analysis of information collected from survivors may provide knowledge of casuality and help prevent similar incidents in the future.

DOT No: 2149
OMB No: 2137–0015
By: Research and Special Programs Administration
Title: Tank Car Record Requirements
Forms: None
Frequency: On Occasion
Respondents: Tank car tank owners
Need/Use: To show results of periodic tests and inspections of tank car tanks so that compliance with standards can be ascertained and integrity of the tank cars assured.

Issued in Washington, D.C., on April 27, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–11601 Filed 5–4–83; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods

AGENCY: Materials Transportation Bureau (MTB) Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice set forth the venue and proposed agenda for a public meeting which will review the recent activities of the MTB relating to the development of international standards for the transport of dangerous goods.

DATE: June 1, 1983, 9:30 a.m. to 4:00 p.m.

ADDRESS: Room 4234, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. (202) 426–0656.

SUPPLEMENTARY INFORMATION:

Particular topics to be reviewed at this meeting will include:

1. Result of the December 1983 meeting of the United Nations' Committee of Experts on the Transport of Dangerous Goods.

2. Status of the development of the International Civil Aviation Organization's (ICAO) dangerous goods regulations and results of the seventh meeting of the ICAO Dangerous Goods Panel.

3. Recent decisions of the RID/ADR Joint Meeting with respect to the transport of dangerous goods by rail and road in Europe. Interested persons are invited to attend and participate in this meeting. Persons planning to attend the meeting are cautioned that this meeting is intended only to review the most recent activities and decisions of international organizations governing the transport of dangerous goods. Therefore, it is recommended attendees be familiar with these organizations, their functions and the standards issued by them.

Issued in Washington, D.C. on April 28, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83–11680 Filed 5–4–83; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83–103]

Revocation of Landing Rights Designation of Melbourne, Florida, Regional Airport

AGENCY: Customs Service, Treasury.

ACTION: Notice of revocation of landing rights designation.

SUMMARY: This notice announces that Customs is revoking the landing rights designation of Melbourne Regional Airport in Melbourne, Florida, in view of the low level of international aircraft arrivals there, the significant expense involved in processing those arrivals and the proximity of two other landing rights airports to the Melbourne area. This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources.

EFFECTIVE DATE: The landing rights designation of Melbourne Regional Airport is revoked effective June 6, 1983.

FOR FURTHER INFORMATION CONTACT: C. Duane Oveson, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5607).

SUPPLEMENTARY INFORMATION:

Background

Under section 1109(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United states and for merchandise carried on the aircraft. These airports are referred to as "international airports," and the location and name of each are listed in 6.13, Customs Regulations (19 CFR 6.13).

In accordance with § 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the United States must be at an "international airport" unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries

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of merchandise, collect duties, and enforce Customs laws and regulations.

A "landing rights airport" is an airport, not designated an as international airport, at which civil aircraft arriving in the United States from any place outside of the United States may land upon being granted permission by Customs to do so. In such a case, Customs assigns its personnel to that airport for that aircraft.

The Melbourne Regional Airport (Melbourne) at Melbourne, Florida, has been a "landing rights airport" since July 1971.

Arrivals of aircraft from outside the United States at Melbourne are handled by a small staff of Customs officers from Port Canaveral, Florida, which is 30 miles from Melbourne. There are two other landing rights airports in the general area that process international arrivals: the St. Lucie County International Airport (St. Lucie) in Fort Pierce, Florida, which is approximately 50 miles south of Melbourne, and the Orlando International Airport (Orlando) in Orlando, Florida, which is approximately 50 miles northwest of Melbourne.

Since 1971, there has been a low level of international aircraft arrivals at Melbourne. The costs to Customs to process these arrivals have been significant. The excessive time spent by Customs officers in traveling to and from Melbourne for the limited number of arrivals is a nonproductive expenditure of scarce resources. In addition, Customs has recently implemented an intensified enforcement program in South and Central Florida, to combat the influx of narcotics into the United States by air. That program has necessitated a concentration of Customs resources into eight Florida airports.

Accordingly, in a notice published in the **Federal Register** on October 19, 1982 (47 FR 46611), Customs proposed to revoke the landing rights designation of Melbourne Regional Airport, and solicited public comment on the proposal.

Discussion of Comments

Fifty seven comments were received in response to the notice. All of the comments except for one were opposed to the revocation of the landing rights designation. The commenters in opposition state that: (1) The revocation will adversely affect the economic growth and development of the Melbourne area; (2) the level of international aircraft activity at Melbourne justifies the landing rights designation; (3) the amount which the Government will save by a revocation of landing rights is relatively insignificant; (4) the revocation will inconvenience importers, passengers, and aircraft pilots; and (5) St. Lucie, one of the facilities which will pick up many of the landings which won't occur at Melbourne, has poor facilities compared to Melbourne.

One commenter is in favor of the revocation and resultant decrease in traffic for safety reasons because Melbourne is the home of a large aviation training college and the air is constantly filled with small training planes.

For fiscal years 1978–1980, there was an average of 649 international aircraft arrivals at Melbourne, compared with an average of 5,057 at St. Lucie and 1,525 at Orlando. In fiscal year 1981, 893 international aircraft arrivals were made at Melbourne, as opposed to 5,249 at St. Lucie and 2,084 at Orlando. It is not appropriate to consider fiscal year 1982 figures since landings at Melbourne have been greatly limited by an interim amendment to § 6.14, Customs Regulations (19 CFR 6.14), effective April 1, 1982.

The estimated annual savings to the Government as a result of the revocation will be $28,000. Customs considers this to be a significant savings.

With respect to the commenters' statement about the facilities at St. Lucie, Customs notes that St. Lucie has received a $3 million grant to improve its facilities. St. Lucie uses the Federal Aviation Administration tower and visual ommirange approach from Vero Beach Municipal Airport in Vero Beach, Florida, 12 miles north of St. Lucie. When the weather is such that an aircraft cannot land at St. Lucie, the pilot has a choice of landing at several other airports south of St. Lucie which have full instrument landing system capabilities.

Customs Determination

After a consideration of the proposal and the comments received thereon, Customs has made a determination to revoke the landing rights designation of Melbourne Regional Airport in Melbourne, Florida.

This determination is based upon the low level of international aircraft arrivals at Melbourne, the significant expense in processing those arrivals, and the proximity of two other landing rights airports to the Melbourne area.

Authority

This action is undertaken pursuant to the authority of R.S. 251, as amended, section 624, 46 Stat. 759, section 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509).

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 25, 1983.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 83-12115 Filed 5-4-83; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

Organization and Functional Statements; U.S. Savings Bonds Division

1. Office of the National Director

Provides the overall management of the Department of the Treasury's U.S. Savings Bonds Program; establishes policies; directs the development and execution of a national marketing program for U.S. Savings Bonds; carries out the policies to attain the overall objectives established by the Secretary of the Treasury; and provides leadership and direction to the paid staff and the volunteers indentified with the program.

2. Office of the Executive Director and Deputy Executive Director

Provides the day-to-day management of the Department of the Treasury's U.S. Savings Bonds Program and participates fully with the National Director in providing the overall management of the Division, establishing policies, directing the development and evaluation of a national marketing program for U.S. Savings Bonds, carrying out the policies to attain the overall objectives established by the Secretary of the Treasury, and providing leadership and direction to the paid staff and to the volunteers identified with the Program. Provides overall management and direction to the Division's field staff.

a. Management Analysis Staff

The Management Analysis Staff is assigned to the Office of the Executive Director with the Deputy Executive Director serving as the first line supervisor over the staff.

The Management Analysis Staff's responsibilities include performing management analysis and evaluations of the performance of field and Headquarter's operational functions and identifying areas for improvement. The Management Analysis staff may be called upon to participate in other audits

the Division conducts including PME's and financial management reviews.

b. Program Control Staff

Assures a satisfactory and efficient flow of information between branches, offices, and the executive levels; collects, analyzes, and reports on a wide variety of performance and program information gathered from the field; monitors progress of various Division management plans and provides analytical evaluations periodically to the Executive Director and Deputy Executive Director; monitors ongoing implementation of Division strategies and policies, analyzing and evaluating the relationships involved; provides staff assistance to the Division's Executive Committee in its program planning and evaluation activities.

3. Administration Branch

Plans, develops and administers administrative policies and procedures for the U.S. Savings Bonds Division. Formulates budget policies, develops, promotes, and executes the budget and fiscal operations of the Division; develops, oversees and administers the personnel management programs and operations; develops, oversees, and administers the resource management and related programs; develops and administers the Division's physical security, paperwork management, employee assistance, EEO, and other related programs.

a. Office of Financial Management

Develops and executes a complete financial management program for the Division, including budget management, design and administration of internal funding and expenditure controls, financial analysis, cost benefit A–76 studies, payroll and other financial services.

b. Office of Personnel

Provides a complete program of advice, support, development evaluation, policy direction and services for personnel management, organizations, position and manpower management and pay administration programs in the U.S. Savings Bonds Division, including comprehensive Employee Relations, Employee Development, Staffing and Placement, Position Classification and Training/Career Development programs. Coordinates with and advises management officials, employee committees, special interest groups and provides liaison between the services organization and other Treasury organizations and the Office of Personnel on personnel management matters. Has responsibility for the Division's personnel security and Equal Employment Opportunity special emphasis programs.

c. Office of Resource Management

Plans and directs Division-wide procurement and property management, supply, space acquisition and utilization programs and furnishes special services, equipment and supplies. Administers service functions involving the purchasing of supplies, receipt and distribution of mail, printing procurement, distribution of all printed promotional material for the Division and provides other related support services for the Division.

4. Market and Product Development Branch

Reviews and develops the Division's short-term and long-term nationwide sales and marketing plans and strategies; develops and manages a nationwide volunteer network and provides support to key volunteers.

a. Office of National Marketing Programs

Provides analytical, planning and project management services in support of the National Marketing Program. Performs on-going market research and analysis; prepares detailed regional/national market evaluations and plans; prepares and monitors a variety of operating policies for the Division relating to marketing programs; forecasts demands and sales; designs, initiates and manages a variety of special marketing programs which are nation-wide in scope (direct mail, telemarketing, etc.); issues reports on its activities.

5. Sales Operations Branch

Develop, coordinate, and execute the marketing plans throughout the Division's field offices. Ensure that Division sales policies and directives are communicated to and carried out by subordinate field offices. Has the overall resposibility for the nomination and development of the field volunteer network.

a. District Offices

Directs, plan, and administers the Savings Bonds Program on a district-wide basis, negotiating goals and the means to achieve these goals. Assures the effective execution of an annual distric-wide sales plan for promoting the sales and retention of Savings Bonds throughout the assigned sales territory. Directs the recruitment, organization, and training of volunteers for committees at state and local levels; plans and organizes special meetings and conferences. Maintains contacts with top executives and leaders in business and industry, banking, labor, education, and the press, radio, TV and other media to secure and maintain their assistance and cooperation in the program. Recommends changes in the operations and organization of the Districts and methods of improving the Division's sales program as necessary

b. Area Offices

Ensures the effective and efficient execution of the Division's annual marketing plan throughout the assigned sales territory.

6. Public Communications Branch

Plans, develops and executes national advertising, promotion and publicity programs by various means, i.e., maintains working relationships with the Advertising Council and the national advertising media; organizes, leads and services national committees for advertising, promotion and publicity programs; provides layout and design of promotional materials and technical services necessary in the presentation of graphic and dramatic material; encourages active support by the motion picture and entertainment industries, newspaper cartoonists and syndicates and other promotional groups; and administers the Division's Public Information Program.

a. Office of Public Affairs

Plans and implements the Public Affairs activities which includes working with the press and media, business, and trade and professional journals. Provides technical advice, guidance and support to the Treasurer of the United States on Public Affairs.

b. Office of Advertising

Develops national advertising programs and campaigns for print media; recruits and maintains the support of newspapers, magazines and the outdoor and transit advertising industries. Serves as liaison between the Division and the task force agencies of the Advertising Council. Develops and prepares artwork layout and designs in the planning, creation and preparation of editorial, technical and consumer materials. Develops and implements a program for securing cooperation in using and developing advertisement with various national adavertising, promotion and medial groups such as the Magazines Publishers Association and the Cartoonist Society.

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U.S. Savings Bonds Division—1111 20th Street NW., Washington, D.C. 20226

Headquarters

	(Area Code 202)
Office of the National Director	
National Director Angela Marie (Bay) Buchanan 4328 TREAS	566-2843
Office of the Executive Director	
Executive Director Steven R. Mead 317	634-5350
Deputy Executive Director Edward J. Guss (Acting) 317	634-5040
Management Analysis Staff	
Head Ken Knapp 345	634-5362
Program Control Staff	
Head Shirley A. Rayner 355	634-5366
Administration Branch	
Director William L. McCarney 219	634-5295
Special Assistant Gregory Koch 205	634-5646
Office of Financial Management	
Financial Manager Rebecca D. Brown 255	634-5295
Assistant Financial Manager (Vacant) 239	634-5295
Office of Personnel	
Personnel Officer Larry W. McCullen Sr. 225	634-5295
Office of Resource Management	
Support Services Supervisor Achie C. Smith 217	634-5295
Market & Product Development Branch	
Director George Wilkes 310	634-5391
Volunteer Affairs Staff	
Rep. Arthur Maxwell 343	634-5067
Rep. Mary Ann Brooking 310	634-5391
Office of National Marketing Programs	
Head William F. Falls 339	634-5347
Sales Branch	
Director James R. Wynn 308	634-5361
Program Manager Howard Patton 306	634-5053
Program Manager Barton L. Amsberry 306	634-5054
Federal Program Rep. Robert Sweeney 339	634-5365
Public Communications Branch	
Director James Gianlagna 305	634-5353
Office of Public Affairs	
Head Steven Meyerhardt 257	634-5389
Office of Advertising	
Head Gary R. Garner 309	634-5372
New York, New York Rep. Fredrick Edwards	FTS/(212) 264-1187

William L. McCarney,

Director, Administration Branch, U.S. Savings Bond Division.

BILLING CODE 4810-25-M

U.S. Savings Bonds Division Department of the Treasury Organizational Chart

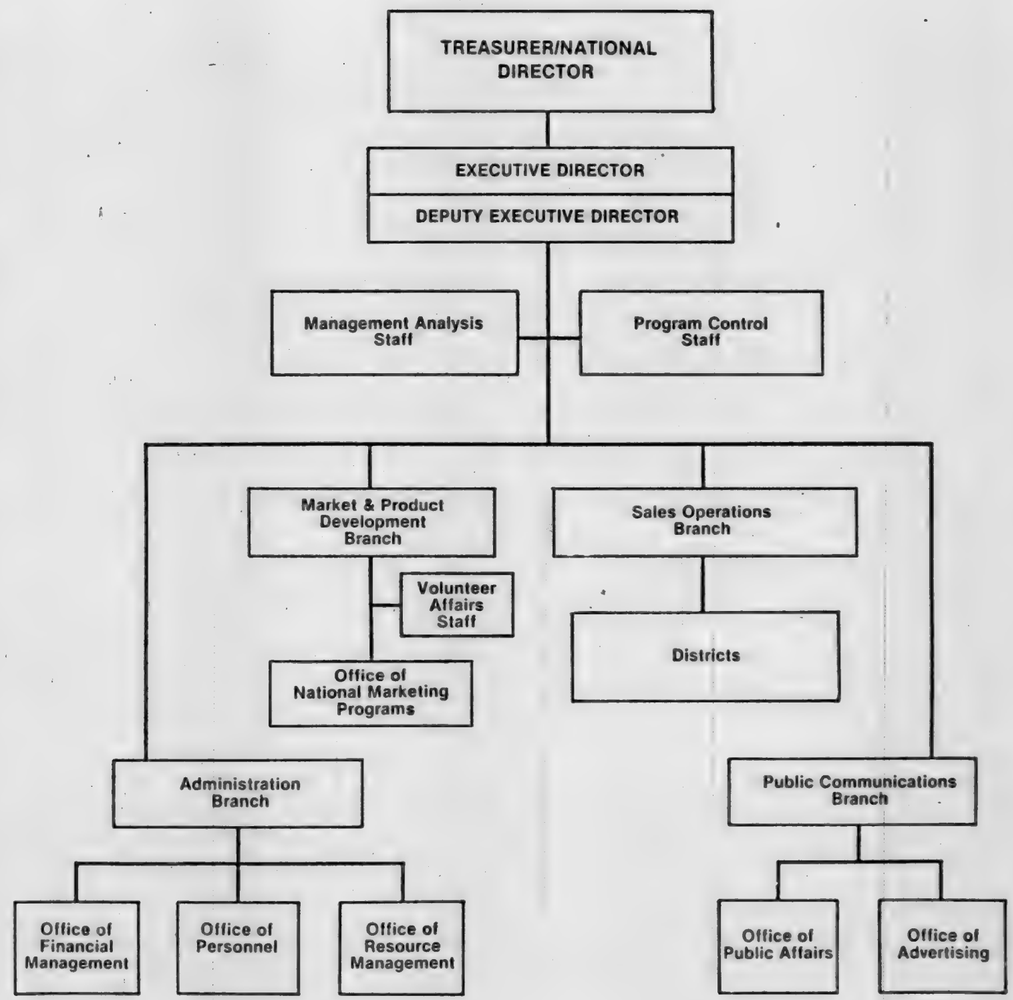

Although the Savings Bonds Division operates as a Bureau at the primary organization level of the Department, the designation of Division was continued as being more acceptable to the extensive corps of volunteers who help carry out the objectives of the program. As a result, the Bureau level is omitted and the organization breakdown begins with the Division level.

[FR Doc. 83-12059 Filed 5-4-83; 8:45 am]
BILLING CODE 4810-25-C

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 88
Thursday, May 5, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-380, Amdt 1, Apr. 28, 1983]

Addition To the May 3, 1983 Meeting.

TIME AND DATE: 9:30 a.m., May 3, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

3a. Docket 39992, Interim compensation for provision of essential air service by Sky West Airlines at Elko and Ely, Nevada. (Memo 1064-B, BDA, OCCCA, OC)

STATUS: Open.

PERSON TO CONTACT FOR INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-630-83 Filed 5-3-83; 3:36 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-380, Amdt 2, May 2, 1983]

Additions to the May 3, 1983 Meeting.

TIME AND DATE: 9:30 a.m., May 3, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

10a. Docket 41255, Air Kentucky's 90-day notice to suspend service at Mt. Vernon, Illinois. (Memo 1825, BDA, OCCCA)

23. Negotiations with ECAC. (BIA)

STATUS: 10a open, 23 closed.

PERSON TO CONTACT FOR INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-627-83 Filed 5-3-83; 3:37 pm]

BILLING CODE 6320-01-M

3

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C., Baltimore, Maryland.

DATE AND TIME: Monday, May 9, 1983, 9:30 a.m.-12:00 noon; Tuesday, May 10, 10 a.m. (Baltimore).

STATUS OF MEETING: Part closed/part open to the public.

MATTERS TO BE CONSIDERED: Monday, May 9:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Personnel Issue (closed session)
IV. Immigration Followup
V. State Advisory Committee Recharters
  A. Kentucky
  B. Missouri
  C. Tennessee
  D. Washington
VI. Action re: New Hampshire Advisory Committee Report Entitled *Shortchanging Language Minority Students: An Evaluation of the Manchester, New Hampshire School Department's Title VI Civil Rights Compliance Program*
VII. Joint State Advisory Committee (Iowa, Kansas, Missouri and Nebraska) Report entitled *Federal Affirmative Action Efforts in Mid-America*
VIII. Missouri Advisory Committee Report Entitled *Local Government Affirmative Action Efforts-Missouri*
IX. Civil Rights Developments in the Southwest Region
X. Staff Director's Report
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports

Tuesday, May 10:

10 a.m., press conference to release Baltimore report entitled *Greater Baltimore Commitment* (held in Baltimore).

FOR FURTHER INFORMATION PLEASE CONTACT: Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-628-83 Filed 5-2-83; 4:17 pm]

BILLING CODE 6335-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:05 p.m. on Friday, April 29, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Heritage Bank, Ashland, Oregon, which was closed by the Superintendent of Banks for the State of Oregon on Friday, April 29, 1983; (2) accept the bid for the transaction submitted by Valley of the Rogue Bank, Rogue River, Oregon, an insured State nonmember bank; (3) approve the applications of Valley of the Rogue Bank, Rogue River, Oregon for consent to purchase the assets of and to assume the liability to pay deposits made in Heritage Bank, Ashland, Oregon, and for consent to establish the sole office of Heritage Bank as a branch of Valley of the Rogue Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First National Bank of Oak Lawn, Oak Lawn, Illinois, which was closed by the Acting Comptroller of the Currency on April 29, 1983; (2) accepted the bid for the transaction submitted by Oak Lawn National Bank, Oak Lawn, Illinois, a newly-chartered national bank; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-630-83 Filed 5-3-83; 12:48 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 9, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings, (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-631-83 Filed 5-3-83; 12:48 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, May 9, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge, establish three branches and redesignate the main office location:

Farmers and Mechanics Savings Bank, Middletown, Connecticut, an insured mutual savings bank, for consent to merge, under its charter and title with The City Saving Bank of Middletown, Middletown, Connecticut, to establish three of the offices of The City Savings Bank of Middletown as branches of the resultant bank, and to redesignate the main office of The City Savings Bank of Middletown as the main office of the resultant bank.

Request for an exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks:"

The Boston Bank of Commerce, Boston, Massachusetts.

Momorandum and Resolution re: Semiannual Agenda of Regulations.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Liquidation Audits (Wilcox County Bank and Watkins Banking Company Liquidation Site Audits) (dated November 16, 1982)

Audit Report re: Liquidation Budget Process (dated November 30, 1982)

Audit Report re: Aquia Bank and Trust Company Liquidation Site, Stafford, Virginia—Report of Internal Accounting Controls for the Period Ended October 31, 1982 (dated January 7, 1983)

Audit Report re: The American Bank and Trust Company New York, New York (dated April 8, 1983)

Discussion Agenda:

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," to add a new section which would, with reference to the FDIC's "Statement of Policy on the Applicability of the Glass-Steagall Act to Securities Activities of Subsidiaries of Insured Nonmember Banks" issued by the Board of Directors on August 23, 1982: (1) Define bona fide subsidiary; (2) limit a bank's permissible investment in a securities subsidiary; (3) require notice of intent to invest in such a subsidiary; (4) limit the permissible securities activities of nonmember bank subsidiaries; and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities.

Memorandum and Resolution re: Uniform Interagency Community Reinvestment Act Assessment Rating System.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-632-83 Filed 5-3-83; 12:48 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Wednesday, April 27,

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1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider applications for assistance under section 13(c) of the Federal Deposit Insurance Act (names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: April 28, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-629-83 Filed 5-3-83; 11:42 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meetings

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(b)(e)(2)), notice is hereby given that at its closed meeting held at 11:30 a.m. on Monday, May 2, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendations regarding the Corporation's investments

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, the following matter:

Discussion of the granting of assistance to two banks under section 13(c) of the Federal Deposit Insurance Act: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii).

The Board further determined, by the same majority vote, that no earlier, notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter added to the agenda in a meeting open to public observation; and that the matter added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 3, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-634-83 Filed 5-3-83; 3:03 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 11:00 a.m. on Monday, May 2, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C.T. Conover, (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," to add a new section which would, with reference to the FDIC's "Statement of Policy on the Applicability of the Glass-Steagall Act to Securities Activies of Subsidiaries of Insured Nonmember Banks" issued by the Board of Directors on August 23, 1982: (1) Define bona fide subsidiary; (2) limit a bank's permissible investment in a securities subsidiary; (3) require notice of intent to invest in such a subsidiary; (4) limit the permissible securities activities of nonmember bank subsidiaries; and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities.

Memorandum and Resolution re: Uniform Interagency Community Reinvestment Act Assessment Rating System.

On motion of Chairman Issac, seconded by Director Sprague, concurred in by Director Conover, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter.

Memorandum and Resolution re: Proposed amendments to Parts 304 and 309 of the Corporation's rules and regulations, entitled "Forms, Instructions, and Reports" and Disclosure of Information," respectively, which would discontinue confidential treatment of information filed by insured banks with the Corporation on the size and number of the bank's deposit accounts and make several related technical changes.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: May 3, 1983

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[S-635-83 Filed 5-3-83; 3:30 pm]

BILLING CODE 6714-01-M

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FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 10, 1983, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, May 12, 1983, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive presidential primary matching payments
Advisory opinions:

Draft AO 1983-10: J. Curtis Herge, Counsel to National Conservative Political Action Committee
Draft AO 1983-11: J. Curtis Herge, Counsel to Fund for a Conservative Majority
Personnel instructions (continued from May 5 meeting)
Revision to the invitation policy
Finance Committee report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Majorie W. Emmons,

Secretary of the Commission.

[S-633-83 Filed 5-3-83; 1:52 pm]

BILLING CODE 6715-01-M

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FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday May 11, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[S-638-83 Filed 5-3-83; 4:09 pm]

BILLING CODE 6210-01-M

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federal register

Thursday
May 5, 1983

Part II

Department of the Interior

Bureau of Land Management

Planning, Programming, Budgeting; Amendments to the Planning Regulations; Elimination of Unneeded Provisions

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2524]

43 CFR Part 1600

Planning, Programming, Budgeting; Amendments to the Planning Regulations; Elimination of Unneeded Provisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking enhances and clarifies the planning process and eliminates burdensome, outdated and unneeded provisions in the existing planning regulations. The decision as to which provisions should be eliminated or clarified was arrived at after review of public comments received in response to a request by the Secretary of the Interior, review of the existing regulations by Bureau of Land Management personnel and consideration of comments submitted in response to the proposed rulemaking. The final rulemaking also renumbers the sections of the existing regulations. The effective date of the final rulemaking is 60 days from the date of publication in the **Federal Register**. This will provide the public with an opportunity to identify any comments that they feel have not been addressed by the Department of the Interior in this final rulemaking, as well as any significant concerns they might have with the final rulemaking.

EFFECTIVE DATE: July 5, 1983. Comments should be submitted by June 6, 1983. Any comments postmarked or received after the above date may not be considered.

ADDRESS: Any suggestions, inquiries or comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David C. Williams, (202) 653–8842.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published in the **Federal Register** on November 23, 1981 (46 FR 57448). Comments were invited for 60 days ending on January 22, 1982. Comments were received from 304 different sources, 65 from conservation, civic, industry, and other associations, 23 from State governments, 22 from companies, 20 from various Federal agencies, 3 from local government associations and 171 from individuals. In general, the comments were favorable to the planning system used by the Bureau of Land Management. Many of the proposed changes were favorably received, but the majority of unfavorable comments protested proposed changes in the public participation provisions of the existing regulations. While the final rulemaking adopts many of the changes made by the proposed rulemaking in the area of public participation, the final rulemaking has been amended to assure meaningful public participation in keeping with the strong support in the Department of the Interior and the Bureau of Land Management for public participation in the planning process. The specific changes made in the public participation section and other provisions of the final rulemaking will be discussed later in the preamble as part of the discussion on those specific sections. Other specific comments will be discussed in connection with the sections they concern.

Section 1601.0–1 Purpose.

The few comments on this section interpreted the language of the proposed rulemaking as indicating that the Bureau of Land Management was going to continue to rely on existing plans for an indefinite period rather than preparing resource management plans. The Bureau of Land Management intends to use plans that were in existence prior to the passage of the Federal Land Policy and Management Act of 1976, if they comply with standards established in these regulations and provide an adequate basis for resource management decisions, but intends to use them only until time and funds permit completion of resource management plans. Therefore, the final rulemaking adopts the language of the proposed rulemaking.

Section 1601.0–2 Objectives.

Section 1601.0–2 of the proposed rulemaking was the focal point of a large number of comments that objected to the perceived emphasis of the proposed rulemaking on economic values (maximizing resource values) and for the failure to recognize public participation mandated by the Federal Land Policy and Management Act, as opposed to mere consultation. As a result of the comments, the section was studied and has been changed in the final rulemaking to ensure public participation in the planning process. The final rulemaking retains the emphasis on maximizing resource values, consistent with the concept of multiple use management, and adds the definition of the term "multiple use" to clarify previous misconceptions.

Section 1601.0–3 Authorities.

There were no comments on the proposed changes in § 1601.0–3 and the proposed changes have been adopted in the final rulemaking.

Section 1601.0–4 Responsibilities.

Many of the comments supported the change made in § 1601.0–4 by the proposed rulemaking. A few comments raised questions about the ability of an Area Office and its staff to handle the land use planning responsibility. The final rulemaking adopts the proposed change with clarification. Also, the described responsibilities of State Directors and District Managers in plan preparation and approval are refined. This makes clear the responsibility of the State Director to approve resource management plans, consistent with the authority delegated to State Directors to file environmental impact statements associated with plans. In addition, the final rulemaking contains changes that were made to eliminate duplicative provisions and redundant language.

Section 1601.0–5 Definitions.

Several comments on § 1601.0–5 of the proposed rulemaking recommended reinstating many of the definitions deleted in the proposed rulemaking. A careful restudy of the existing regulations in light of the comments led to changes in some of the definitions in the final rulemaking. In response to specific comments, changes have been made by the final rulemaking in the definition of the terms "consistent," "resource management plan" and "officially approved and adopted resource related plans," and the term "multiple use" is added to the definition section. In order to clarify the existing regulations and make them less burdensome, the final rulemaking has deleted several terms from the existing regulations.

Section 1601.0–6 Policy.

The comments on § 1601.0–6 of the proposed rulemaking expressed opposing views, with some charging that the change made by the proposed rulemaking would be contrary to the aim of making the regulations more efficient, while others expressed the view that the planning process might need two documents, a resource management plan and an environmental impact statement. After careful consideration of the comments, the final rulemaking amends the language of the proposed rulemaking and provides that the planning decision

should be issued in a single document, if possible. However, the issuing officer still retains discretion as to the form of the decision document(s).

Section 1601.0–7 Scope.

Only a few comments were directed to § 1601.0–7 of the proposed rulemaking. During the decisionmaking process on the final rulemaking, a careful review was made of this section and it was decided that it could be rewritten to express the intent of the section in substantially fewer words. As a result, the final rulemaking contains a substantially revised scope section.

Section 1601.0–8 Principles.

Some of the comments on this section objected to the change made by the proposed rulemaking, while other comments supported the shortening of the section. The objection to the change made by the proposed rulemaking was on the basis that the items dropped from the existing regulations were needed as guidance for the land use planning process. The final rulemaking adopts the language of the proposed rulemaking, with an amendment clarifying the point that public involvement, local economies and consideration of impacts on non-Federal lands are fundamental components of the planning process.

Section 1611 Guidance for planning—Section 1610.1 in Final.

Numerous comments addressed this section. Some questioned the use of guidance documents. Many expressed concern about the changes made in the sections of the existing regulations covering planning guidance, while others supported the concept that the existing regulations could be shortened by removing parts of the existing guidance language and putting them in the Bureau Manual. The final rulemaking contains a revision of the section of the proposed rulemaking, including the title, for further clarity and refinement. The revision retains the essential elements of the existing regulations, including the provision for public review of State Director guidance when the guidance is applied during the planning process.

The final rulemaking adopts as paragraph (b) of revised § 1610.1 the proposed rulemaking language for § 1611.2. A couple of comments expressed the view that State Directors should be furnished guidance for use in the decisionmaking process on whether to deviate from established resource area boundaries. This guidance will be furnished through the Bureau Manual and is not needed in the regulations.

Finally, paragraph (c) of § 1610.1 of the final rulemaking incorporates § 1611.3 of the proposed rulemaking. Language is added from the existing regulations allowing the District or Area Manager the discretion of supplementing his/her staff with outside assistance as necessary to achieve an interdisciplinary approach. The addition made to this paragraph meets the principal objection raised by those who commented on this section of the proposed rulemaking.

Section 1614 Public participation—Section 1610.2 in Final.

The proposed changes to the public participation provisions in section 1614 were the subject of the largest number of comments. The majority of the comments were critical of the proposed changes because they felt the proposed revisions weakened the regulations. Many suggested that the original language of § 1601.3 should be retained as the new § 1610.2 in the final rulemaking. The comments resulted in a total review of the public participation provisions and the modification in the final rulemaking to reflect recommendations in the comments. In addition to the changes made in the final rulemaking, the Bureau Manual will incorporate specific procedural standards to ensure that public participation is sought and used throughout the planning process.

One specific change made by the final rulemaking is retention of the 90-day review period for a draft resource management plan and draft environmental impact statement as a minimum instead of the 45 days called for in the proposed rulemaking and required by the Council on Environmental Quality regulations.

Many of the comments objected to the proposed rulemaking's removal from this section of the specific points in the preparation of the resource management plan where the public is notified of opportunity for participation in the process. These specific opportunities have been added by the final rulemaking to highlight and make clear important opportunities for public participation. The final rulemaking also adds requirements for conducting public hearings.

Several of the comments questioned the dedication of the Bureau of Land Management to the policy of public participation in its land-use planning process. The Bureau believes that meaningful public participation is essential to the planning process and that early consultation with the public and public involvement throughout the process leads to better decisionmaking. The Bureau will continue its efforts to seek and obtain public participation in its land use planning process.

Section 1615 Coordination with other Federal agencies, State and local governments and Indian tribes—Section 1610.3 in Final.

This section in the final rulemaking is a rewrite of several sections of the proposed rulemaking. The coordination sections of the proposed rulemaking received a number of comments. Some complained that the changes made by the proposed rulemaking lessened the coordination opportunities of those outside the Bureau of Land Management. Some objected to the definition of consistency that was contained in the proposed rulemaking. Other comments supported the thrust of the changes made by the proposed rulemaking. The diversity of the comments on these sections resulted in a careful review of the coordination sections, with the aim of retaining the basic elements of coordination and clarifying, while eliminating the detail that was considered unnecessary, or more appropriate to the Bureau Manual. The coordination section in final rulemaking provides the essential elements of coordination while eliminating unneeded provisions.

The final rulemaking retains the specific provisions for coordination of Bureau planning activities and guidance as a basis for achieving plan consistency with existing officially adopted and approved plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected by Bureau of Land Management planning. As part of this requirement, the final rulemaking provides that the State Director should seek the policy advice of the affected Governor(s) early in the planning process.

The final rulemaking retains language making it clear that where there is a conflict between State and local governmental policies, plans and programs, the higher authority will normally be followed. This aids development of consistent resource management plans by adopting an established standard to which Bureau consistency efforts may be related.

Several comments expressed the view that the consistency requirements of the final rulemaking should give State governments greater control of the Bureau of Land Management planning process, while other comments wanted the final rulemaking to give State and local governments less influence on resource management planning. After

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careful study of this question, the final rulemaking amends the consistency requirements language of the proposed rulemaking to give State Governments authority to review the resource management plan and plan amendments and to identify inconsistencies and provide recommendations on those inconsistencies. The final rulemaking requires the review of those recommendations and a procedure for appeal of the failure to accept them.

Section 1616.1 Identification of issues—Section 1610.4–1 in Final.

This section of the proposed rulemaking was the subject of only minor comments. The comments suggested that a change be made to allow issues to be added to the planning process without repeating issue identification. This suggestion was adopted by the final rulemaking, along with some language that clarifies the roles of the Area and District Manager in this action.

Section 1616.2 Development of Planning criteria—Section 1610.4–2 in Final.

Many of the numerous comments on § 1616.2 of the proposed rulemaking urged that the planning criteria be published for review and comment. Use of planning criteria throughout the planning process was generally viewed as an essential ingredient to substantive public participation in the planning process and a key to compliance with section 309(e) of the Federal Land Policy and Management Act. The final rulemaking adopts some of the language of the proposed rulemaking. However, the final rulemaking provides that proposed planning criteria be made available for public comment prior to being approved by the District Manager for use in the planning process. The final rulemaking also contains a commitment that only approved planning criteria shall be used in the planning process. Finally, the final rulemaking adds language to the proposed rulemaking describing the basis of the planning criteria. The Bureau Manual will require the use of approved planning criteria in each of the subsequent actions in the resource management planning process.

Section 1616.3 Inventory data and information collection—Section 1610.4–3 in Final.

The comments on § 1616.3 of the proposed rulemaking raised questions about the extent of the inventories that are conducted in connection with the land use planning activity. The land use planning inventories are supplemental to the basic resource inventories that are conducted by the various programs in connection with their basic needs. The requirements for the basic resource inventories are established by the programs in their respective sections of the Bureau of Land Management Manual. These manual sections are available for public inspection at any time. In response to the comments, the section has been amended to clarify the issues raised and to remove aspects repetitive of requirements in the National Environmental Policy Act and associated procedures.

Section 1616.4 Analysis of the management situation—Section 1610.4–4 in Final.

The comments on this section expressed a range of views, some supporting the changes made by the proposed rulemaking and others supporting retention of the language of the existing regulations. After careful reviews of the comments, the section has been expanded in the final rulemaking to clearly express its intent. The final rulemaking retains the list of factors which may be considered at this stage of the planning process. However, the methodologies for determining capabilities require substantial development work, and continued updating of guidance on capability and use of the concept will be incorporated in Bureau of Land Management Manual instruction. The provisions for Areas of Critical Environmental Concern have been moved to § 1610.7–2 in the final rulemaking.

Section 1616.5 Formulation of alternatives—Section 1610.4–5 in Final.

Section 1616.5 was the focus of numerous comments that were critical of the changes made by the proposed rulemaking, particularly the removal of the existing requirement for a range of choices for alternatives favoring resource protection. The final rulemaking, consistent with regulations implementing the National Environmental Policy Act, requires that all reasonable alternatives be considered during the planning process. The requirement in the existing regulations for noting alternatives that were identified and eliminated from the study, with the reasons for the elimination, has been adopted in this final rulemaking.

Section 1616.6 Estimation of the effects of alternatives—Section 1610.4–6 in Final.

The comments on this section of the proposed rulemaking felt the proposed deletion of the data reliability phrase weakened the regulations. The final rulemaking adopts the language of the proposed rulemaking and also adopts language which provides for the planning process to be guided by the data reliability provisions of the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act.

Section 1616.7 Selection of preferred alternatives—Section 1610.4–7 in Final.

The comments on § 1616.7 were nearly universal in their objection to the deletion of the requirement that the selection of the preferred alternative be based on the planning criteria as well as guidance. The intent was not to avoid consideration of the criteria and the final rulemaking adopts language which clarifies the intent of the proposed rulemaking.

After considering the comments on the question of referral of the draft plan and draft environmental impact statement to the Governor(s) of the affected State(s), the final rulemaking had been amended to make it clear that all draft plans and draft environmental impact statements, not just plans involving coal resources, will be referred to the Governor(s) of the affected State(s) as well as other governmental entities for comments. The section has also been amended to clarify what documents are furnished to the State Director and to provide for subsequent State Director approval of the plan.

Section 1616.8 Selection of resource management plan—Section 1610.4–8 in Final.

The comments on § 1616.8 generally opposed the changes in the proposed rulemaking. Apparently, the public had the misunderstanding that this provision constitutes final adoption of the plan. This is not the case, and since the principal provision deleted by the proposed rulemaking is covered by provisions of the Council on Environmental Quality regulations on the National Environmental Policy Act, it is not repeated in the final rulemaking. However, the section has been amended in the final rulemaking to clarify the intent of this provision. The amendment also makes clear the supervisory responsibility of the State Director.

Section 1616.9 Monitoring and evaluation—Section 1610.4–9 in Final.

There were few comments on this section. The final rulemaking has been further clarified while retaining the provision for established intervals for monitoring but removes the "not more than 5 years" since each resource management plan must explicitly provide for monitoring at specific intervals. The final sentence in the proposed rulemaking is not needed since monitoring reports and records is part of the documentation relevant to the planning process and are available for public review.

Section 1617.1 Resource management plan approval and administrative review—Section 1610.5–1 in Final.

The final rulemaking amends § 1617.1 of the proposed rulemaking by rewriting paragraph (a) to condense it, and reflect the basic requirement for the State Director to approve and take action on the resource management documents. The procedural requirements for the approval process will be set out in the Bureau Manual section on planning. Further, the final rulemaking deletes the sentence in paragraph (b) dealing with the designation of Areas of Critical Environmental Concern. This sentence is no longer needed because the regulations contain a specific section on designation of Areas of Critical Environmental Concern.

Section 1617.2 Protest Procedures—Section 1610.5–2 in Final.

There were several objections to the change in the protest provision made by § 1617.1(d) of the proposed rulemaking. After careful analysis of the comments, it was determined that the public misunderstood the proposed change, which was designed to clarify the protest provision. In addition, changes have been made in this provision in the final rulemaking to provide for a one-stage protest process to correspond with the delegation of plan approval and environmental impact statement filing authority to the State Director level. A specific subsection is established for protest procedures and subsequent subsections in § 1611.5 are renumbered in the final rulemaking.

Section 1617.3 Conformity and implementation—Section 1610.5–3 in Final.

After a careful review of the few comments received on § 1617.3 of the proposed rulemaking, the final rulemaking makes only minor changes in the content of the section, but rewrites it for clarity and brevity, including the addition of a new paragraph that makes it clear that more detailed plans for coal, oil shale and tar sand must not only conform to the provisions of their applicable regulations, but must also conform to the requirements of this part.

Section 1617.4 Changing the resource management plan—Section 1610.5–4, 1610.5–6 in Final.

In response to concerns raised in the comments on the section of the proposed rulemaking that the provision on maintenance appeared to allow a minor change in the scope of resource use in a plan, the final rulemaking amends the maintenance provision and the amendment provision to make clear the distinct difference between the two concepts and their impacts on an existing plan. The final rulemaking makes it clear that maintenance cannot make a change in the scope of resource use in a plan, while an amendment can make a change in the scope of resource use.

Even though a large number of comments on the revision provision of the proposed rulemaking questioned the deletion of the 10-year update requirement, none of those comments made a convincing argument for restoring the 10-year requirement to replace the "as necessary" provision in the proposed regulations.

Section 1617.7 Designation of areas unsuitable for surface mining—Section 1610.7–1 in Final.

This section has been revised by the final rulemaking in order to bring the planning regulations into conformance with the Federal Coal Management regulations in Group 3400 of Title 43 of the Code of Federal Regulations and to clarify the use of plans in the management of Federal coal resources. Therefore, to be consistent with the Federal Coal Management regulations, this amendment allows the application of the unsuitability criteria to areas already under lease during mine plan review, rather than during the preparation of resource management plan.

Section 1617.8 Designation of Areas of Critical Environmental Concern—Section 1610.7–2 in Final.

A great number of comments were concerned about the changes the proposed rulemaking would make in the provisions for Areas of Critical Environmental Concern. After restudy in light of the comments, most of the provisions of the existing regulations covering Areas of Critical Environmental Concern have been restored by the final rulemaking and consolidated in this section to show how they are provided for in the planning process and in the regulations. Many comments recommended restudying the identification criteria that are in the existing regulations. After careful consideration of the comments and the regulations, the final rulemaking restores two of the four identification criteria that are presently in the existing regulations. The criteria that are being restored are those that are considered most germane to the identification process. The decision on this section of the final rulemaking was based in part on the comments received on the proposed rulemaking published in the **Federal Register** on December 16, 1980 (45 FR 82679).

Language has been added by the final rulemaking that requires the State Director to publish a notice in the **Federal Register** for public comment when a draft resource management plan involves the potential designation of an Area of Critical Environmental Concern.

The final rulemaking does not adopt the suggestion made by a few of the comments to restore existing § 1601.7–1 dealing with the maintenance of records of the planning and environmental analysis process. These requirements can be handled by the planning process guidance in the Bureau manual.

Three comments objected to the deletion of §1601.7–2 of the existing regulations concerning authority annotations. After a careful review of the comments and the regulations, it was decided that there was no need to retain that section and the final rulemaking does not restore it.

Deletion of § 1601.7–3 from the existing regulations was also objected to by several of the comments. The final rulemaking does not change the proposed rulemaking with reference to this section because of the belief that document content is more appropriate for Bureau Manuals than for regulations.

Section 1618 Transition period—Section 1610.8 in the Final.

The comments on section 1618 were concerned about the language of the proposed rulemaking that was read to mean that existing management framework plans would be retained rather than going forward with the completion of resource management plans. The final rulemaking makes clear the intention of the Bureau of Land Management to complete resource management plans for lands under its jurisdiction as rapidly as possible, on a priority basis, within fiscal and manpower constraints. The final rulemaking adopts the title of this section in the existing regulations

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because it more accurately reflects the function of the section.

Several of the comments questioned the lack of an environmental impact statement for this rulemaking. An environmental assessment was prepared and has been reviewed in light of the changes in the final rulemaking. The environmental assessment indicates that the changes in the existing regulations made by the final rulemaking would have no significant impact on the human environment. A Finding of No Significant Impact was also prepared. Further, an environmental impact statement is prepared with each resource management plan. The planning process also provides for each plan amendment to be subject to the preparation of an environmental impact statement.

Editorial and grammatical changes, as needed, have been made.

The principal author of this final rulemaking is David C. Williams, Office of Planning and Environmental Coordination, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

These amendments to the existing planning regulations will not have any significant impact on the economy. The changes made by this amendment will reduce the regulatory burden imposed on the public by the existing planning regulations.

The planning regulations that are being amended by this final rulemaking have an impact on all public lands under the jurisdiction of the Bureau of Land Management. The planning process is required for all actions taken by the Bureau on the public lands and affects all entities equally.

List of Subjects in 43 CFR Part 1600

Administrative practice and procedures, Environmental impact statements, Indians, Intergovernmental relations, Public lands, Public lands—classification.

Under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), Part 1600, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is revised to read as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 2, 1983.

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

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Authority: 43 U.S.C. 1711–1712.

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

§ 1601.0–1 Purpose.

The purpose of this subpart is to establish in regulations a process for the development, approval, maintenance, amendment and revision of resource management plans, and the use of existing plans for public lands administered by the Bureau of Land Management.

§ 1601.0–2 Objective.

The objective of resource management planning by the Bureau of Land Management is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management and ensure participation by the public, state and local governments, Indian tribes and appropriate Federal agencies. Resource management plans are designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.

§ 1601.0–3 Authority.

These regulations are issued under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712); the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901); section 3 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(a)); sections 522, 601, and 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1601.0–4 Responsibilities.

(a) National level policy and procedure guidance for planning shall be provided by the Secretary and the Director.

(b) State Directors shall provide quality control and supervisory review, including plan approval; for plans and related environmental impact statements and shall provide additional guidance, as necessary, for use by District and Area managers. State Directors shall file draft and final environmental impact statements associated with resource management plans and amendments.

(c) Resource management plans, amendments, revisions and related environmental impact statements shall be prepared by District or Area Managers, and approved by State Directors. In general, Area Managers will be responsible for directly supervising the preparation of the plan, and the District Manager for providing general direction and guidance to the planning effort.

§ 1601.0–5 Definitions.

As used in this part, the term:

(a) "Areas of Critical Environmental Concern" or "ACEC" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.

(b) "Conformity or conformance" means that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(c) "Consistent" means that the Bureau of Land Management plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in § 1615.2 of this title.

(d) "Guidance" means any type of written communication or instruction that transmits objectives, goals, constraints, or any other direction that helps the District and Area Managers and staff know how to prepare a specific resource management plan.

(e) "Local government" means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

(f) "Multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the lands for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the lands and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(g) "Officially approved and adopted resource related plans" means plans, policies, programs and processes prepared and approved pursuant to and in accordance with authorization provided by Federal, State or local constitutions, legislation, or charters which have the force and effect of State law.

(h) "Public" means affected or interested individuals, including consumer organizations, public land resource users, corporations and other business entities, environmental organizations and other special interest groups and officials of State, local, and Indian tribal governments.

(i) "Public lands" means any lands or interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(j) "Resource area" means a geographic portion of a Bureau of Land Management district. It is the administrative subdivision whose manager has primary responsibility for day-to-day resource management activities and resource use allocations and is, in most instances, the area for which resource management plans are prepared and maintained.

(k) "Resource management plan" means a land use plan as described by the Federal Land Policy and Management Act. The resource management plan generally establishes in a written document:

(1) Land areas for limited, restricted or exclusive use; designation, including ACEC designation; and transfer from Bureau of Land Management Administration;

(2) Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained;

(3) Resource condition goals and objectives to be attained;

(4) Program constraints and general management practices needed to achieve the above items;

(5) Need for an area to be covered by more detailed and specific plans;

(6) Support action, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above;

(7) General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and

(8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

It is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations.

§ 1601.0–6 Environmental impact statement policy.

Approval of a resource management plan is considered a major Federal action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed plan shall be accomplished as part of the resource management planning process and, wherever possible, the proposed plan and related environmental impact statement shall be published in a single document.

§1601.0–7 Scope.

(a) These regulations apply to all public lands.

(b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate.

§1601.0–8 Principles.

The development, approval, maintenance, amendment and revision of resource management plans will provide for public involvement and shall be consistent with the principles described in section 202 of the Federal Land Policy and Management Act of 1976. Additionally, the impact on local economies and uses of adjacent or nearby non-Federal lands and on non-public land surface over Federally-owned mineral interests shall be considered.

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Subpart 1610—Resource Management Planning

§1610.1 Resource management planning guidance.

(a) Guidance for preparation and amendment of resource management plans may be provided by the Director and State Director, as needed, to help the District and Area Manager and staff prepare a specific plan. Such guidance may include the following:

(1) National level policy which has been established through legislation, regulations, executive orders or other Presidential, Secretarial or Director approved documents. This policy may include appropriately developed resource management commitments, suct as a right-of-way corridor crossing several resource areas, which are not required to be reexamined as part of the planning process.

(2) Analysis requirements, planning procedures and other written information and instructions required to be considered in the planning process.

(3) Guidance developed at the State Director level, with necessary and appropriate governmental coordination as prescribed by § 1610.3 of this title. Such guidance shall be reconsidered by the State Director at any time during the planning process that the State Director level guidance is found, through public involvement or other means, to be inappropriate when applied to a specific area being planned.

(b) A resource management plan shall be prepared and maintained on a resource area basis, unless the State Director authorizes a more appropriate area.

(c) An interdisciplinary approach shall be used in the preparation, amendment and revision of resource management plans as provided in 40 CFR 1502.6. The disciplines of the preparers shall be appropriate to the values involved and the issues identified during the issue identification and environmental impact statement scoping stage of the planning process. The District or Area Manager may use any necessary combination of Bureau of Land Management staff, consultants, contractors, other governmental personnel, and advisors to achieve an interdisciplinary approach.

§ 1610.2 Public Participation.

(a) The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations.

(b) The Director shall, early in each fiscal year, publish a planning schedule advising the public of the status of each plan in process of preparation or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the 3 succeeding fiscal years. The notice shall call for public comments on projected new planning starts so that such comments can be considered in refining priorities for those years.

(c) Upon starting the preparation, amendment or revision of resource management plans, public participation shall be initiated by a notice published in the **Federal Register** and appropriate media, including newspapers of general circulation in the State, adjoining States where the District Manager deems it appropriate, and the District. This notice may also constitute the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7). This notice shall include the following:

(1) Description of the proposed planning action;

(2) Identification of the geographic area for which the plan is to be prepared;

(3) The general types of issues anticipated;

(4) The disciplines to be represented and used to prepare the plan;

(5) The kind and extent of public participation opportunities to be provided;

(6) The times, dates and locations scheduled or anticipated for any public meetings, hearings, conferences or other gatherings, as known at the time;

(7) The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information; and

(8) The location and availability of documents relevant to the planning process.

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the District Manager and those on the list shall be notified of public participation activities. Individuals or groups may ask to be placed on this list. Public participation activities conducted by the Bureau of Land Management shall be documented by a record or summary of the principal issues discussed and comments made.

The documentation together with a list of attendees shall be available to the public and open for 30 days to any participant who wishes to clarify the views he/she expressed.

(e) At least 15 days' public notice shall be given for public participation activities where the public is invited to attend. Any notice requesting written comments shall provide for at least 30 calendar days for response. Ninety days shall be provided for review of the draft plan and draft environmental impact statement. The 90-day period shall begin when the Environmental Protection Agency publishes a notice of the filing of the draft environmental impact statement in the **Federal Register.**

(f) Public notice and opportunity for participation in resource mangement plan preparation shall be appropriate to the areas and people involved and shall be provided at the following specific points in the planning process:

(1) General notice at the outset of the process inviting participation in the identification of issues (See §§ 1610.2(c) and 1610.4–1);

(2) Review of the proposed planning criteria (See § 1610.4–2);

(3) Publication of the draft resource management plan and draft environmental impact statement (See § 1610.4–7);

(4) Publication of the proposed resource management plan and final environmental impact statement which triggers the opportunity for protest (See §§ 1610.4–8 and 1610.5–1(b)); and

(5) Public notice and comment on any significant change made to the plan as a result of action on a protest (See § 1610.5–1(b)).

(g) Copies of an approved resource management plan and amendments shall be reasonably available for public review. This includes copies at the State Office for the District, the District Manager's Office, the Area Office for lands directly involved and additional locations determined by the District Manager. Plans, amendments and revisions shall be published and single copies shall be available to the public upon request during the public participation process. After approval, a fee may be charged for additional copies at a rate established by the Director.

(h) Supporting documents to a resource management plan shall be available for public review at the office where the plan was prepared.

(i) Fees for reproducing requested documents beyond those used as part of the public participation activities and other than single copies of the printed plan amendment or revision may be charged according to the Department of the Interior schedule for Freedom of Information Act requests in 43 CFR Part 2.

(j) When resource management plans involve areas of potential mining for coal by means other than underground mining, and the surface is privately owned, the Bureau of Land Management shall consult with all surface owners who meet the criteria in § 3400.0–5 of this title. Contact shall be made in accordance with Subpart 3427 of this title and shall provide time to fully consider surface owner views. This contact may be made by mail or in person by the District or Area Manager or his/her appropriate representative. A period of at least 30 days from the time of contact shall be provided for surface owners to convey their preference to the Area or District Manager.

(k) If the plan involves potential for coal leasing, a public hearing shall be provided prior to the approval of the plan, if requested by any person having an interest which is, or may be, adversely affected by implementation of such plan. The hearing shall be conducted as prescribed in § 3420.1–5 of this title and may be combined with a regularly scheduled public meeting. The authorized officer conducting the hearing shall:

(1) Publish a notice of the hearing in a newspaper of general circulation in the affected geographical area at least once e week for 2 consecutive weeks;

(2) Provide an opportunity for testimony by anyone who so desires; and

(3) Prepare a record of the proceedings of the hearing.

§ 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.

§1610.3–1 Coordination of planning efforts.

(a) In addition to the public involvement prescribed by § 1610.2 of this title the following coordination is to be accomplished with other Federal agencies, State and local governments, and Indian tribes. The objectives of the coordination are for the State Directors and District and Area Managers to keep apprised of non-Bureau of Land Management plans; assure that consideration is given to those plans that are germane in the development of resource management plans for public lands; assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans; and provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes in the development of resource management plans, including early pubic notice of proposed decisions which may have a significant impact on non-Federal lands.

(b) State Directors and District and Area Managers shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands. State Directors may seek written agreements with Governors or their designated representatives on processes and procedural topics such as exchanging information, providing advice and participation, and timeframes for receiving State government participation and review in a timely fashion. If an agreement is not reached, the State Director shall provide opportunity for Governor and State agency review, advice and suggestions on issues and topics that the State Director has reason to believe could affect or influence State government programs.

(c) In developing guidance to District Managers, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected, as prescribed by § 1610.3–2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, State agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.

(d) A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the public notices required under § 1610.2(b) of this title.

(e) Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under § 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the District or Area Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.

(f) When an Advisory Council has been formed under section 309 of the Federal Land Policy and Management Act for the district in which the resource area is located, that council shall be informed and their views sought and considered throughout the resource management planning process.

§ 1610.3–2 Consistency requirements.

(a) Guidance and resource management plans and amendments to management framework plans shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise, and other pollution standards or implementation plans.

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, State and local governments and Indian tribes, guidance and resource management plans shall, to the maximum extent practical, be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes. Such consistency will be accomplished so long as the guidance and resource management plans are consistent with the policies, programs and provisions of Federal laws and regulations applicable to public lands, including, but not limited to, Federal and State pollution control laws as implemented by applicable Federal and State air, water,

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noise and other pollution standards or implementation plans.

(c) State Directors and District and Area Managers shall, to the extent practicable, keep apprised of State and local governmental and Indian tribal policies, plans, and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(d) Where State and local government policies, plans, and programs differ, those of the higher authority will normally be followed.

(e) Prior to the approval of a proposed resource management plan, or amendment to a management framework plan or resource management plan, the State Director shall submit to the Governor of the State(s) involved, the proposed plan or amendment and shall identify any known inconsistencies with State or local plans, policies or programs. The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director. If the Governor(s) does not respond within the 60-day period, the plan or amendment shall be presumed to be consistent. If the written recommendation(s) of the Governor(s) recommend changes in the proposed plan or amendment which were not raised during the public participation process on that plan or amendment, the State Director shall provide the public with an opportunity to comment on the recommendation(s). If the State Director does not accept the recommendations of the Governor(s), The State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the National interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his/her determination to accept or reject such Governor's recommendations.

§ 1610.4 Resource management planning process.

§ 1610.4–1 Identification of issues.

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs, and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The District and Area Manager shall analyze those suggestions, plus available district records of resource conditions, trends, needs and problems, and select topics and determine the issues to be addressed during the planning process. Issues may be modified during the planning process to incorporate new information. The identification of issues shall also comply with the scoping process required by regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

§ 1610.4–2 Development of planning criteria.

The District or Area Manager shall prepare criteria to guide development of the resource management plan or revision, to ensure that it is tailored to the issues previously identified and to ensure that unnecessary data collection and analyses are avoided. Planning criteria shall generally be based upon applicable law, Director and State Director guidance, the results of public participation and coordination with other Federal agencies, State and local governments and Indian tribes. Proposed planning criteria, including any significant changes, shall be made available for public comment prior to being approved by the District manager for use in the planning process. Planning criteria may be changed as planning proceeds, based on public suggestions and the findings of the various studies and assessments.

§ 1610.4–3 Inventory data and information collection.

(a) The District or Area Manager shall arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. New information and inventory data collection will emphasize significant issues and decisions with the greatest potential impact. Inventory data and information shall be collected in a manner that aids application in the planning process, including subsequent monitoring requirements.

§ 1610.4–4 Analysis of the management situation.

The District or Area Manager shall analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. The analysis of the management situation shall provide, consistent with multiple use principles, the basis for formulating reasonable alternatives, including the types of resources for development or protection. Factors to be considered may include, but are not limited to:

(a) The types of resource use and protection authorized by the Federal Land Policy and Management Act and other relevant legislation;

(b) Opportunities to meet goals and objectives defined in national and State Director guidance;

(c) Resource demand forecasts and analyses relevant to the resource area;

(d) The estimated sustained levels of the various goods, services and uses that may be attained under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director guidance;

(e) Specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes;

(f) Opportunities to resolve public issues and management concerns;

(g) Degree of local dependence on resources from public lands;

(h) The extent of coal lands which may be further considered under provisions of § 3420.2–3(a) of this title; and

(i) Critical threshold levels which should be considered in the formulation of planned alternatives.

§ 1610.4–5 Formulation of alternatives.

All reasonable resource management alternatives shall be considered and several complete alternatives developed for detailed study. The alternatives developed shall reflect the variety of issues and guidance applicable to the resource uses. In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, all reasonable variations shall be treated as subalternatives. One alternative shall be for no action, which means continuation of present level or systems of resource use. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

§ 1610.4–6 Estimation of effects of alternatives.

The District or Area Manager shall estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. The estimation of effects shall be guided by the planning criteria and procedures implementing the National Environmental Policy Act. The estimate may be stated in terms of probable ranges where effects cannot be precisely determined.

§ 1610.4–7 Selection of preferred alternative.

The District or Area Manager shall evaluate the alternatives and the estimation of their effects according to the planning criteria, and develop a preferred alternative which shall best meet Director and State Director guidance. The preferred alternative shall be incorporated into the draft resource management plan and draft environmental impact statement. The resulting draft resource management plan and draft environmental impact statement shall be forwarded to the State Director for approval, publication, and filing with the Environmental Protection Agency. This draft plan and environmental impact statement shall be provided for comment to the Governor of the State involved, and to officials of other Federal agencies, State and local governments and Indian tribes that the State Director has reason to believe would be concerned. This action shall constitute compliance with the requirements of § 3420.1–7 of this title.

§1610.4–8 Selection of resource management plan.

After publication of the draft resource management plan and draft environmental impact statement, the District Manager shall evaluate the comments received and select and recommend to the State Director, for supervisory review and publication, a proposed resource management plan and final environmental impact statement. After supervisory review of the proposed resource management plan, the State Director shall publish the plan and file the related environmental impact statement.

1610.4–9 Monitoring and evaluation.

The proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures are satisfactory, whether there has been significant change in the related plans of other Federal agencies, State or local governments, or Indian tribes, or whether there is new data of significance to the plan.

The District Manager shall be responsible for monitoring and evaluating the plan in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan.

§ 1610.5 Resource management plan approval, use and modification.

§1610.5–1 Resource management plan approval and administrative review.

(a) The proposed resource management plan or revision shall be submitted by the District Manager to the State Director for supervisory review and approval. When the review is completed the State Director shall either publish the proposed plan and file the related environmental impact statement or return the plan to the District Manager with a written statement of the problems to be resolved before the proposed plan can be published.

(b) No earlier than 30 days after the Environmental Protection Agency publishes a notice of the filing of the final environmental impact statement in the **Federal Register**, and pending final action on any protest that may be filed, the State Director shall approve the plan. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act of 1969 (40 CFR 1505.2).

§ 1610.5–2 Protest procedures.

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(1) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or amendment in the **Federal Register**. For an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A concise statement explaining why the State Director's decision is believed to be wrong.

(3) The Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(b) The decision of the Director shall be the final decision of the Department of the Interior.

§ 1610.5–3 Conformity and implementation.

(a) All future resource management authorizations and actions, as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department, and subsequent more detailed or specific planning, shall conform to the approved plan.

(b) After a plan is approved or amended, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement or other instrument of occupancy and use, the District and Area Manager shall take appropriate measures, subject to valid existing rights, to make operations and activities under existing permits, contracts, cooperative agreements or other instruments for occupancy and use, conform to the approved plan or amendment within a reasonable period of time. Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.400 at the time the action is proposed for implementation.

(c) If a proposed action is not in conformance, and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment in accordance with the provisions of § 1610.5–5 of this title.

(d) More detailed and site specific plans for coal, oil shale and tar sand resources shall be prepared in accordance with specific regulations for those resources: group 3400 of this title for coal; group 3900 of this title for oil shale; and part 3140 of this title for tar sand. These activity plans shall be in

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conformance with land use plans prepared and approved under the provisions of this part.

§ 1610.5–4 Maintenance.

Resource management plans and supporting components shall be maintained as necessary to reflect minor changes in data. Such maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan. Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3 of this title or the preparation of an environmental assessment or environmental impact statement. Maintenance shall be documented in plans and supporting records.

§ 1610.5–5 Amendment.

A resource management plan may be changed through amendment. An amendment shall be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan. An amendment shall be made through an environmental assessment of the proposed change, or an environmental impact statement, if necessary, public involvement as prescribed in § 1610.2 of this title, interagency coordination and consistency determination as prescribed in § 1610.3 of this title and any other data or analysis that may be appropriate. In all cases, the effect of the amendment on the plan shall be evaluated. If the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously.

(a) If the environmental assessment does not disclose significant impact, a finding of no significant impact may be made by the District Manager. The District Manager shall then make a recommendation on the amendment to the State Director for approval, and upon approval, the District Manager shall issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(b) If a decision is made to prepare an environmental impact statement, the amending process shall follow the same procedure required for the preparation and approval of the plan, but consideration shall be limited to that portion of the plan being considered for amendment. If several plans are being amended simultaneously, a single environmental impact statement may be prepared to cover all amendments.

§ 1610.5–6 Revision.

A resource management plan shall be revised as necessary, based on monitoring and evaluation findings (§ 1610.4–9), new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan. Revisions shall comply with all of the requirements of these regulations for preparing and approving an original resource management plan.

§ 1610.5–7 Situations where action can be taken based on another agency's plan, or a land use analysis.

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area. There are situations of mixed ownership where the public land estate is under non-Federal surface, or administration of the land is shared by the Bureau of Land Management with another Federal agency. The District and Area Manager may use the plans or the land use analysis of other agencies when split or shared estate conditions exist in any of the following situations:

(a) Another agency's plan (Federal, State, or local) may be used as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public participation.

(b) After evaluation and review, the Bureau of Land Management may adopt another agency's plan for continued use as a resource management plan if an agreement is reached between the Bureau of Land Management and the other agency to provide for maintenance and amendment of the plan, as necessary, to comply with law and policy applicable to public lands.

(c) A land use analysis may be used to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act, consists of an environmental assessment or impact statement, public participation as required by § 1610.2 of this title, the consultation and consistency determinations required by § 1610.3 of this title, the protest procedure prescribed by § 1610.5–2 of this title and a decision on the coal lease proposal. A land use analysis meets the planning requirements of section 202 of the Federal Land Policy and Management Act. The decision to approve the land use analysis and to lease coal is made by the Departmental official who has been delegated the authority to issue coal leases.

§ 1610.6 Management decision review by Congress.

The Federal Land Policy and Management Act requires that any Bureau of Land Management management decision or action pursuant to a management decision which totally eliminates one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more, shall be reported by the Secretary to Congress before it can be implemented. This report shall not be required prior to approval of a resource management plan which, if fully or partially implemented, would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

§ 1610.7 Designation of areas.

§ 1610.7–1 Designation of areas unsuitable for surface mining.

(a)(1) The planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for all or certain types of surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. The unsuitability criteria to be applied during the planning process are found in § 3461.1 of this title.

(2) When petitions to designate land unsuitable under section 522(c) of the Surface Mining Control and Reclamation Act are referred to the Bureau of Land Management for comment, the resource management plan, or plan amendment if available, shall be the basis for review.

(3) After a resource management plan or plan amendment is approved in which lands are assessed as unsuitable, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to all or certain types of coal mining.

(b)(1) The resource management planning process is the chief process by which public lands are reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate lands unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the Bureau of Land Management, the resource management plan, if available, shall be the basis for determinations for designation.

(3) After a resource management plan or plan amendment in which lands are designated unsuitable is approved, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to minerals or materials other than coal.

§ 1610.7–2 Designation of areas of critical environmental concern.

Areas having potential for Areas of Critical Environmental Concern (ACEC) designation and protection management shall be identified and considered throughout the resource management planning process (see §§ 1610.4–1 through 1610.4–9).

(a) The inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC. In order to be a potential ACEC, both of the following criteria shall be met:

(1) *Relevance.* There shall be present a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) *Importance.* The above described value, resource, system, process, or hazard shall have substantial significance and values. This generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(b) The State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs, shall publish a notice in the **Federal Register** listing each ACEC proposed and specifying the resource use limitations, if any, which would occur if it were formally designated. The notice shall provide a 60-day period for public comment on the proposed ACEC designation. The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of any ACEC involved. The approved plan shall include the general management practices and uses, including mitigating measures, identified to protect designated ACEC.

§ 1610.8 Transition period.

(a) Until superseded by resource management plans, management framework plans may be the basis for considering proposed actions as follows:

(1) The management framework plan shall be in compliance with the principle of multiple use and sustained yield and shall have been developed with public participation and governmental coordination, but not necessarily precisely as prescribed in §§ 1610.2 and 1610.3 of this title.

(2) No sooner than 30 days after the Environmental Protection Agency publishes a notice of the filing of a final court-ordered environmental impact statement—which is based on a management framework plan—proposed actions may be initiated without any further analysis or processes included in this subpart.

(3) For proposed actions other than those described in paragraph (a)(2) of this section, determination shall be made by the District or Area Manager whether the proposed action is in conformance with the management framework plan. Such determination shall be in writing and shall explain the reasons for the determination.

(i) If the proposed action is in conformance, it may be further considered for decision under procedures applicable to that type of action, including requirements of regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR Parts 1500–1508.

(ii) If the proposed action is not in conformance with the management framework plan, and if the proposed action warrants further favorable consideration before a resource management plan is scheduled for preparation, such consideration shall be through a management framework plan amendment using the provisions of § 1610.5–5 of this title.

(b)(1) If an action is proposed where public lands are not covered by a management framework plan or a resource management plan, an environmental assessment and an environmental impact statement, if necessary, plus any other data and analysis necessary to make an informed decision, shall be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

(2) A land disposal action may be considered before a resource management plan is scheduled for preparation, through a planning analysis, using the process described in § 1610.5–5 of this title for amending a plan.

[FR Doc. 83–11981 Filed 5–4–83; 8:45 am]
BILLING CODE 4310–84–M

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federal register

Thursday
May 5, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

VOL 48 ISS 88 MAY 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 884]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 29, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease.

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 29, 1983
VOLUME 884

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CRESCENT PETROLEUM CORP				RECEIVED:	04/11/83	JA: MT			
8331463	2-82-46	2510122021		103		BERG #1 T33N R14 SEC 29	OLD SHELBY	91.3	OPTEK INC
-SOUTHLAND ROYALTY CO				RECEIVED:	04/11/83	JA: MT			
8331462	2-82-44	2508521311		102-2		ALEX PANASUK #1-5	WILDCAT	150.0	DOME PETROLEUM CO
8331460	2-82-43	2508521306		102-2		ANDERSON #1-8	MCCABE	35.0	PHILLIPS PETROLEU
8331464	2-82-45	2508521264		102-2		RUDOLPH #1-36	NORTH BAINVILLE	25.0	PHILLIPS PETROLEU
8331461	2-82-42	2507121776		103		STATE 1632 #2	BONDOIN	200.0	KN ENERGY INC
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC				RECEIVED:	04/08/83	JA: NY			
8331397	3594	3102915916		107-TF		G CARR #2 (12762)	WILDCAT	10.0	NATIONAL FUEL GAS
-ENERGY OIL INC				RECEIVED:	04/08/83	JA: NY			
8331405	3871	3102917636		107-TF		BUTLER #1	BUFFALO CREEK	10.5	TENNESSEE GAS PIP
8331407	2332	3102914849		107-TF		KLINGENMEIR #1	BUFFALO CREEK	25.0	NATIONAL FUEL GAS
8331406	1370	3103714574		107-TF		SILLIMAN #1	MEDINA	10.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	04/08/83	JA: NY			
8331402	3822	3105117305		107-TF		A E SCOTT #1 LRC #100	WILDCAT	20.0	NEW JERSEY NATURA
8331362	3819	3105117300		107-TF		B S DONNAN #1 LRC #97	WILDCAT	20.0	NEW JERSEY NATURA
8331363	3821	3105117302		107-TF		D MUSSHAFEN #1 LRC #99	WILDCAT	20.0	NEW JERSEY NATURA
8331368	3817	3105116178		107-TF		M M RAYMOND UNIT #1 LRC #95	WILDCAT	20.0	NEW JERSEY NATURA
8331358	3815	3105116197		107-TF		K E ROGERS UNIT #1 LRC #93	WILDCAT	20.0	NEW JERSEY NATURA
8331403	3823	3105117309		107-TF		K M NOBLE UNIT #1 LRC #101	WILDCAT	20.0	NEW JERSEY NATURA
8331401	3807	3112117088		107-TF		L WOLFGANG #1 LRC #114	WILDCAT	20.0	NEW JERSEY NATURA
8331399	3816	3105117304		107-TF		LRC #94 - D D ROGERS #1 LRC #94	WILDCAT	20.0	NEW JERSEY NATURA
8331361	3818	3105116199		107-TF		P STURM & M WILSON #1 LRC #96	WILDCAT	20.0	NEW JERSEY NATURA
8331400	3806	3112117049		107-TF		R L HALMA #5 LRC #110	WILDCAT	20.0	NEW JERSEY NATURA
8331404	3824	3105117307		107-TF		S R POWELL UNIT #1 LRC #102			
-MAYNARD OIL COMPANY				RECEIVED:	04/08/83	JA: NY			
8331372	3631	3102915985		107-TF		DELIONTE #1	WILDCAT	0.0	NATIONAL FUEL GAS
8331370	3635	3102915657		107-TF		NEWTON #2	WILDCAT	15.0	NATIONAL FUEL GAS
8331365	3636	3102916337		107-TF		NORDBLUM #1	EVANS	15.0	NATIONAL FUEL GAS
8331366	3639	3102915919		107-TF		PHILLIPS #1	WILDCAT	18.0	NATIONAL FUEL GAS
8331373	3634	3102916056		107-TF		PINKER #1	EVANS	14.0	NATIONAL FUEL GAS
8331368	3638	3102915736		107-TF		SCHICHTEL #1	WILDCAT	0.0	NATIONAL FUEL GAS
8331369	3633	3102916013		107-TF		SICURELLA #1	EVANS	15.0	NATIONAL FUEL GAS
8331371	3632	3102916014		107-TF		SICURELLA #2	EVANS	20.0	NATIONAL FUEL GAS
8331364	3637	3102916452		107-TF		SICURELLA #3	EVANS	0.0	NATIONAL FUEL GAS
-MIDWEST DRILLING PROGRAM 81-1				RECEIVED:	04/08/83	JA: NY			
8331326	3657	3102917848		107-TF		AGLE #1	EDEN VALLEY	25.0	NATIONAL FUEL GAS
8331327	3656	3102916603		107-TF		ALBRECHT #1	ALDEN-LANCASTER	15.0	NATIONAL FUEL GAS
8331328	3655	3102916605		107-TF		ARNDT #1	BUFFALO CREEK	25.0	NATIONAL FUEL GAS
8331329	3654	3102917069		107-TF		CLARK #1	BUFFALO CREEK	25.0	NATIONAL FUEL GAS
8331330	3653	3103716183		107-TF		HEREC #1	ALDEN-LANCASTER	25.0	NATIONAL FUEL GAS
8331333	3652	3103716175		107-TF		MENDOLA #1	ALDEN-LANCASTER	25.0	NATIONAL FUEL GAS
8331332	3651	3103716185		107-TF		MORABITO #1	ALDEN-LANCASTER	25.0	NATIONAL FUEL GAS

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331331	3650	3102916587		107-TF		NEUBERT #1	WEST SENECA	25.0	NATIONAL FUEL GAS
8331374	3649	3102917129		107-TF		NIEFERGOLD #1	NORTH COLLINS	25.0	NATIONAL FUEL GAS
-MYRON M COSS GAS ENERGY CO				RECEIVED:	04/08/83	JA: NY			
8331386	3113	3102915271		107-TF		DECARLO #1	NORTH COLLINS	5.0	MYRON M COSS GAS
8331387	3114	3102915301		107-TF		DECARLO #3	NORTH COLLINS	5.0	MYRON M COSS GAS
-P & S DRILLING INC				RECEIVED:	04/08/83	JA: NY			
8331352	3750	3102915490		107-TF		BUFFALO CREEK #1	BUFFALO CREEK	4.4	NATIONAL FUEL GAS
8331350	3751	3102915825		107-TF		BUFFALO CREEK #2	BUFFALO CREEK	5.1	NATIONAL FUEL GAS
8331392	3560	3102915046		107-TF		BUFFALO CREEK #4	BUFFALO CREEK	23.0	NATIONAL FUEL GAS
8331395	3557	3102915600		107-TF		CLARK #1	BUFFALO CREEK	7.9	NATIONAL FUEL GAS
8331396	3564	3102913913		107-TF		DUDZIC #1	ELMA	1.0	NATIONAL FUEL GAS
8331389	3563	3102913723		107-TF		ELLS #1	BUFFALO CREEK	20.0	NATIONAL FUEL GAS
8331391	3561	3102914258		107-TF		ELLS #2	BUFFALO CREEK	20.4	NATIONAL FUEL GAS
8331394	3558	3102915378		107-TF		HICKEY #1A	ALDEN-LANCASTER	6.4	NATIONAL FUEL GAS
8331351	3752	3102915249		107-TF		MARR-SERENA #1	BUFFALO CREEK	5.1	NATIONAL FUEL GAS
8331390	3562	3102914434		107-TF		REBILAS #1	BUFFALO CREEK	1.4	NATIONAL FUEL GAS
8331393	3559	3102915045		107-TF		STODDARD #1	BUFFALO CREEK	3.7	NATIONAL FUEL GAS
-SCG GAS QUEST INC				RECEIVED:	04/08/83	JA: NY			
8331379	1684	3102914268		107-TF		KASINSKI #1	EDEN-EVANS	40.0	TENNESSEE GAS PIP
8331375	1690	3102914269		107-TF		LARDO "B" #1	EDEN-EVANS MEDINA	14.0	TENNESSEE GAS PIP
8331378	1685	3102914306		107-TF		TEMPLE #1	EDEN-EVANS MEDINA	12.0	TENNESSEE GAS PIP
8331380	1687	3102913952		107-TF		TIW ENTERPRISES INC #1	EDEN-EVANS MEDINA	6.0	TENNESSEE GAS PIP
8331381	1688	3102913954		107-TF		TIW ENTERPRISES INC #3	EDEN-EVANS MEDINA	7.0	TENNESSEE GAS PIP
8331382	1689	3102914271		107-TF		VEREERSTRAETEN #1	EDEN-EVANS MEDINA	28.0	TENNESSEE GAS PIP
8331376	1683	3102914260		107-TF		WILLIAM A BLAKELY #1	EDEN-EVANS MEDINA	11.0	TENNESSEE GAS PIP
8331377	1686	3102914270		107-TF		WILLIAMS #1	EDEN-EVANS MEDINA	12.0	TENNESSEE GAS PIP
-SHARON RESOURCES INC				RECEIVED:	04/08/83	JA: NY			
8331340	3001	3112115783		107-TF		A CODD #1 (31-121-15783)	WILDCAT	10.5	COLUMBIA GAS TRAN
8331335	3006	3112115383		107-TF		BERNARD KERWIN #1 (31-121-15383)	STRYKERSVILLE	13.5	COLUMBIA GAS TRAN
8331336	3005	3112116076		107-TF		EARL BARTZ #1 (31-121-16076)	STRYKERSVILLE	10.5	COLUMBIA GAS TRAN
8331334	3007	3112116273		107-TF		EDWARD FONTAINE #1 (31-121-16273)	STRYKERSVILLE	10.5	COLUMBIA GAS TRAN
8331343	3012	3112116343		107-TF		HIDSCH/KIRSCH #1 (31-121-16343)	STRYKERSVILLE	10.5	COLUMBIA GAS TRAN
8331344	3011	3112116272		107-TF		JOHN KERWIN #2 (31-121-16272)	STRYKERSVILLE	14.0	COLUMBIA GAS TRAN
8331385	3009	3112115386		107-TF		JOSEPH OCHAL #1 (31-121-15386)	STRYKERSVILLE	17.5	COLUMBIA GAS TRAN
8331339	3002	3112115387		107-TF		LEO BARTZ #1 (31-121-15387)	STRYKERSVILLE	18.5	COLUMBIA GAS TRAN
8331341	3014	3112116072		107-TF		LEO SCHILTZ #1 (31-121-16072)	STRYKERSVILLE	28.0	COLUMBIA GAS TRAN
8331384	3008	3112115735		107-TF		N PERRY #1 (31-121-15735)	WILDCAT	15.8	COLUMBIA GAS TRAN
8331338	3003	3112115691		107-TF		RAYMOND KIRSCH #1 (31-121-15691)	STRYKERSVILLE	10.5	COLUMBIA GAS TRAN
8331337	3004	3112116266		107-TF		RICHARD FONTAINE #1 (31-121-16266)	STRYKERSVILLE	11.0	COLUMBIA GAS TRAN
8331342	3013	3112115385		107-TF		WILLIAM E KIRSCH #1 (31-121-15335)	STRYKERSVILLE		
-SHAWNEE EXPLORATION INC				RECEIVED:	04/08/83	JA: NY			
8331325	3659	3102917270		107-TF		CHAMBERS UNIT #1	BRANT	18.0	SCG GAS QUEST INC
-SINCLAIRVILLE PETROLEUM CORP				RECEIVED:	04/08/83	JA: NY			
8331358	3754	3102915388		107-TF		BARTZ #2	E AURORA	5.0	NATIONAL FUEL GAS
8331355	3760	3102914456		107-TF		BOHMAN #1	AURORA	5.0	NATIONAL FUEL GAS
8331359	3753	3102915844		107-TF		COLBY #1	AURORA	5.0	NATIONAL FUEL GAS
8331357	3758	3102915402		107-TF		COLARUSSO #3	AURORA	5.0	NATIONAL FUEL GAS
8331356	3757	3102914530		107-TF		DICK #1	AURORA	5.0	NATIONAL FUEL GAS
8331346	3675	3102915234		107-TF		FISHER PRICE #7	AURORA	5.0	NATIONAL FUEL GAS
8331354	3756	3102915274		107-TF		KRULL #1	AURORA	5.0	NATIONAL FUEL GAS
8331345	3674	3102914408		107-TF		MCNEIL #2	E AURORA	20.0	NATIONAL FUEL GAS
8331349	3683	3102914407		107-TF		MCNIEL #1	AURORA	5.0	NATIONAL FUEL GAS
8331353	3755	3102914423		107-TF		MILL #1	AURORA	5.0	NATL FUEL GAS SUP
8331367	3673	3102914424		107-TF		MILL #2	E AURORA	20.0	NATIONAL FUEL GAS
8331347	3682	3102915895		107-TF		ROBINSON #1	E AURORA	10.0	NATIONAL FUEL GAS
8331348	3681	3102914455		107-TF		VIGNERONE #1	AURORA	10.0	NATIONAL FUEL GAS
-TIMBERLAY PETROLEUM CO				RECEIVED:	04/08/83	JA: NY			
8331398	3586	3102916952		107-TF		HEINTZ #1	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
8331383	3587	3102916201		107-TF		MEAHL #1	ALDEN-LANCASTER	30.0	TENNESSEE GAS PIP
OKLAHOMA CORPORATION COMMISSION									
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	04/11/83	JA: OK			
8331494	23699	3501521241		107-DP		IRENE #1-15	GRACEMONT	178.0	TRANSOK PIPELINE
-CONOCO INC				RECEIVED:	04/11/83	JA: OK			
8331500	19776	3503920497		102-2		SNIDER "35" #1	EAST CLINTON	0.7	PRODUCERS GAS CO
-DAMIN ENERGY CO				RECEIVED:	04/11/83	JA: OK			
8331487	21003	3505921145		103		COTTER #1-33	E CLARK CREEK	612.0	
8331488	21006	3504722985		103		KROLL #1-23	EAST BARNES	58.0	
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/11/83	JA: OK		180.0	
8331486	21001	3500900000		103		HESTER #1			
-EAGLE PETROLEUM CORP				RECEIVED:	04/11/83	JA: OK		35.0	UNION TEXAS PETRO
8331490	21025	3509322519		103		NEIMAN #2-5			
-EARL COX				RECEIVED:	04/11/83	JA: OK			
8331491	21026	3511121826		103		STAUFFACHER #1	SCHULTER	10.9	SCHULTER GATHERIN
-F HOWARD WALSH JR				RECEIVED:	04/11/83	JA: OK			
8331495	23860	3501521222		107-DP		WILLIAMS #1		160.0	TENNESSEE GAS PIP
8331496	23861	3501521206		107-DP		WUNDERLICH #1		110.0	TENNESSEE GAS PIP
-H G & G INC				RECEIVED:	04/11/83	JA: OK			
8331501	19847	3507323368		103		MATTI #1-6	SE ALPHA	0.0	PHILLIPS PETROLEU
-HADSON PETROLEUM CORP				RECEIVED:	04/11/83	JA: OK			
8331502	19289	3506120543		102-2 103		ALTUS #1-16	NW UNION CITY	185.0	ARKANSAS LOUISIAN
-HAWKINS OIL & GAS INC				RECEIVED:	04/11/83	JA: OK			
8331489	21018	3504521090		103		MCCLEERY #1-9	S E ARNETT	360.0	
-JOHN A KIENZLE				RECEIVED:	04/11/83	JA: OK			
8331493	21028	3511100000		103		TEDLOCK #1	HOFFMAN	17.0	PHILLIPS PETROLEU
-MACK OIL CO				RECEIVED:	04/11/83	JA: OK			
8331482	20991	3505300000		103		BRATCHER #1		10.0	UNION TEXAS PETRO
8331481	20990	3505300000		103		DAVIES #1	WILDCAT	25.0	UNION TEXAS PETRO
8331480	20989	3505320698		103		DAVIES #2	N E HILLSDALE	25.0	UNION TEXAS PETRO
8331485	20994	3505320732		103		EDNA #1	N HILLSDALE	100.0	UNION TEXAS PETRO
8331484	20993	3505320716		103		MALCOMB #1		10.0	UNION TEXAS PETRO
8331483	20992	3505320803		103		MAY #1	N E HILLSDALE	20.0	UNION TEXAS PETRO
8331509	20936	3505300000		103		PANKEY #1	SOUTH NASH	10.0	UNION TEXAS PETRO
8331508	20937	3505320765		103		PANKEY #2		5.0	UNION TEXAS PETRO
8331507	20936	3505320794		103		PANKEY #3		10.0	UNION TEXAS PETRO
8331505	20934	3505320799		103		PANKEY #4		10.0	UNION TEXAS PETRO
8331506	20985	3505320852		103		PANKEY #5	N E HILLSDALE	15.0	UNION TEXAS PETRO
-OKLAND OIL CO				RECEIVED:	04/11/83	JA: OK			
8331504	20982	3505320702		103		MORRIS #1-30	E MAKITA	0.0	SUN EXPLORATION &
8331503	20981	3505320637		103		PLAIN #1-30	MAKITA	0.0	SUN EXPLORATION &
-SAMEDAN OIL CORPORATION				RECEIVED:	04/11/83	JA: OK			
8331499	19751	3501722159		102-2		MEYER #1-23		839.0	DELHI GAS PIPELIN
-SENECA OIL COMPANY				RECEIVED:	04/11/83	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331498	18079	3512174638		102-2		ECHELLE #1-9		1050.1	DELHI GAS PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	04/11/83	JA: OK			
8331497	17841	3508722172		102-4		CATES MASON #1	PLAINVIEW	0.0	PHILLIPS PETROLEU
-WARD PETROLEUM CORP				RECEIVED:	04/11/83	JA: OK			
8331492	21027	3505121206		103		MARTIN #1	S W NORGE	200.0	PHILLIPS PETROLEU
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	04/11/83	JA: WV			
8331473		4708703548		107-DV		A SMITH #1	WALTON DISTRICT	18.0	COLUMBIA GAS TRAN
8331470		4708703553		107-DV		J R DANIELL #1	SPENCER DISTRICT	18.0	
8331472		4708703578		107-DV		R ASBURY #1	SPENCER DISTRICT	18.0	COLUMBIA GAS TRAN
8331471		4703903303		107-DV		R F JARRETT #1	UNION DISTRICT	18.0	
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	04/08/83	JA: WV	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8331466		4704103166		103		A-1056			
-AMERICAN PETROEL INC				RECEIVED:	04/11/83	JA: WV			
8331476		4707301359		107-DV		COCHRANE #2	UNION	75.0	
8331474		4707321377		107-DV		MCCULLOUGH #1	NORTH	40.0	
8331479		4707321360		107-DV		STEWART #1	UNION	50.0	
8331477		4707321272		107-DV		WHITE #1	UNION	7.2	
-AMOCO PRODUCTION CO				RECEIVED:	04/08/83	JA: WV			
8331411		4701900468		102-2		NORTH HILLS GROUP INC #1	NEW HAVEN	94.0	ROARING FORK GAS
-ASHLAND EXPLORATION INC				RECEIVED:	04/08/83	JA: WV			
8331456		4701900468		107-DV		CHRISTIAN COLLIERY CO #3 - 093042	PAINT CREEK	57.0	COLUMBIA GAS TRAN
-BADGER OIL & GAS CO INC				RECEIVED:	04/08/83	JA: WV			
8331445		4703903776		103		KFS #2	KANAWHA STATE FOREST	0.0	COLUMBIA GAS TRAN
8331446		4703903777		103		KSF #1	KANAWHA STATE FOREST	0.0	COLUMBIA GAS TRAN
-BEAR RUN DEVELOPMENT CO				RECEIVED:	04/08/83	JA: WV			
8331436		4704101549		108		PENNINGTON #1 (POSEY SURFACE)	BEAR RUN OF OIL CREEK	1.4	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/08/83	JA: WV			
8331443		4700121642		103		DURNAL #1	VALLEY	14.5	CONSOLIDATED GAS
8331442		4709320054		103		PENNINGTON STATE UNIT #1	CANAAN VALLEY	70.0	BROOKLYN UNION GA
8331441		4709320056		103		RUTH ALLMAN UNIT #1	CANAAN VALLEY	275.0	BROOKLYN UNION GA
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/11/83	JA: WV			
8331465		4700121779		107-DV		L TENNEY #1	VALLEY DISTRICT	19.7	CONSOLIDATED GAS
8331466		4700121645		107-DV		MARE #1	VALLEY	24.0	CONSOLIDATED GAS
-BISON INC				RECEIVED:	04/08/83	JA: WV			
8331457		4707301419		107-DV		ADAMS #1	ST MARYS	20.0	COLUMBIA GAS TRAN
8331459		4709500964		107-DV		HERMAN JEMISON #2	MIDDLEBOURNE	18.0	CARNEGIE NATURAL
8331458		4709500965		107-DV		RUSSELL JEMISON #1	MIDDLEBOURNE	25.0	CARNEGIE NATURAL
-BOW VALLEY PETROLEUM INC				RECEIVED:	04/08/83	JA: WV			
8331420		4710500948		103		MCCAULEY 972	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
8331419		4710500940		103		MCGEE 8963	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
8331417		4710500946		103		MCGEE 8969	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
8331418		4710500961		103		WELCH 8964	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
-BURNS & ELIKAN DRILLING CO				RECEIVED:	04/08/83	JA: WV			
8331438		4702102930		108		LEON STUMP #2	CENTER	3.7	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	04/08/83	JA: WV			
8331452		4708501361		107-DV		BULL CREEK #10	PEYTONA	18.0	TENNESSEE GAS PIP
8331413		4701500997		108		E R MORRIS #1	PLEASANT	7.8	CABOT CORP
8331414		4701500993		108		HILL & LONG B-4	PLEASANT	11.5	CABOT CORP
8331412		4701500998		108		HILL & LONG B-5	PLEASANT	11.5	CABOT CORP
8331458		4705901757		107-DV		HOARD-BALDWIN #1	STONEWALL	18.0	TENNESSEE GAS PIP
8331451		4708501341		107-DV		LITTLE COAL LAND CO C-9	WASHINGTON	35.0	TENNESSEE GAS PIP
8331439		4701501022		108		MARK SIZEMORE #1	PLEASANT	9.3	CABOT CORP
-CARL L MILHOAN				RECEIVED:	04/08/83	JA: WV			
8331435		4703500867		103		J O BOGGS FARM #1	BELLEVILLE	2.2	GAS TRANSPORT INC
-CARSON PETROLEUM CORP				RECEIVED:	04/08/83	JA: WV			
8331447		4701702828		103		BROOKS GUM #2-B	ST CLAIR	4.0	COLUMBIA GAS TRAN
8331449		4701702931		108		KREEN #1	ST CLAIR	16.0	CONSOLIDATED GAS
8331448		4701702869		103		WYSONG #3	ST CLAIR	9.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/08/83	JA: WV			
8331416		4704103164		103		D'NA S BLAKE 12764	COLLINS SETTLEMENT DI	68.0	GENERAL SYSTEM PU
8331415		4700101704		102-4		UILMA J LANTZ 012773	PHILLIPPI DISTRICT	10.0	GENERAL SYSTEM PU
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	04/11/83	JA: WV			
8331479		4702103551		103		ASPINALL #2	GLENVILLE	0.0	COLUMBIA GAS TRAN
8331478		4702103851		107-DV		ASPINALL #2	GLENVILLE	200.0	COLUMBIA GAS TRAN
-FIVE STAR GAS CO				RECEIVED:	04/08/83	JA: WV			
8331425		4708703553		103		LLOYD LEE #1	LOONEYVILLE GAS FIELD	0.0	COLUMBIA GAS TRAN
-MAXINE MOATS GAS CO M-690				RECEIVED:	04/08/83	JA: WV			
8331408		4708504184		108		MAXINE MOATS M-698	GRANT DISTRICT	15.0	CONSOLIDATED GAS
-MERT DEVELOPMENT INC				RECEIVED:	04/08/83	JA: WV			
8331429		4700101667		103		BECKLER #1	COVE	25.0	CONSOLIDATED GAS
8331428		4700101674		103		BECKLER #2	COVE DISTRICT	50.0	CONSOLIDATED GAS
8331426		4700101624		103		CARR #4	GLADE	30.0	COLUMBIA GAS TRAN
8331430		4703302709		103		COCHRAN #1	TEMPLE DISTRICT	25.0	PENNZOIL CO
8331427		4700701726		103		LLOYD #2	OTTER DISTRICT	23.0	COLUMBIA GAS TRAN
8331431		4700101666		103		SUDER #1	VALLEY DISTRICT	40.0	PETRO-LEWIS CORP
8331432		4700101756		103		SUDER #3	VALLEY DISTRICT	45.0	PETRO-LEWIS CORP
-MOUNTAINEER 1979-B				RECEIVED:	04/08/83	JA: WV			
8331410		4708701488		103		E W GUMP HEIRS M-951	BIRCH DISTRICT	18.0	COLUMBIA GAS TRAN
-PARK HEIRS GAS CO				RECEIVED:	04/08/83	JA: WV			
8331409		4708504145		108		PARKS HEIRS M-672	MURPHY DISTRICT	8.0	CONSOLIDATED GAS
-PETRO-LEWIS CORPORATION				RECEIVED:	04/08/83	JA: WV			
8331436		4709701197		103		SHIPMAN #1 C H	WASHINGTON DISTRICT	8.0	COLUMBIA GAS TRAN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/08/83	JA: WV			
8331437		4706100303		108		PERRY A #1	SOUTH BURNS CHAPEL	17.0	CONSOLIDATED GAS
-PREMCO				RECEIVED:	04/08/83	JA: WV			
8331421		4707301407		103		POWELL HRS #1 - SER #3	BRUSHY FORK	15.0	CONSOLIDATED GAS
-R & B PETROLEUM INC				RECEIVED:	04/08/83	JA: WV			
8331456		4708300235		107-DV		MORRIS #1	ROARING CREEK	36.0	COLUMBIA GAS TRAN
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	04/08/83	JA: WV			
8331453		4705900958		107-DV		C-3	HARDEE	35.0	COLUMBIA GAS TRAN
-SWIFT ENERGY CO				RECEIVED:	04/08/83	JA: WV			
8331440		4702103819		103		CLARK #1	GLENVILLE NORTH	50.0	
-UNION DRILLING INC				RECEIVED:	04/08/83	JA: WV			
8331433		4709702415		102-3		L F SIMONS #2 (1770)	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8331424		4709702435		103		LUCILE W MEARNS AGENT #1 1561	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8331423		4709702433		103		WILSON-MYER #1 1563	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
-UNITED PETRO LTD				RECEIVED:	04/08/83	JA: WV			
8331422		4701303323		103		HOWARD DYE #1	MINNORA GAS	7.0	CONSOLIDATED GAS
-W C MURTT DRILLING CO				RECEIVED:	04/08/83	JA: WV			
8331455		4704302307		107-DV		R B DAVIDSON #3	FALLS CREEK - BRANCHL	15.0	COLUMBIA GAS TRAN
-WAYMAN W BUCHANAN				RECEIVED:	04/11/83	JA: WV			
8331469		4708505298		107-DV		BOSTON #1	GRANT	0.0	CONSOLIDATED GAS
8331467		4708505337		107-DV		CHANCELLOR #1	GRANT	0.0	CONSOLIDATED GAS
8331468		4708505298		107-DV		WHITE #1	GRANT	0.0	CONSOLIDATED GAS

[FR Doc. 83-11986 Filed 5-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 885]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 29, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within 15 days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd. Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease.

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 29, 1983
VOLUME 885

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABCO ENERGY CORP				RECEIVED:	04/11/83	JA: TX			
8331587	F-7C-063837	4210533780		103		107-TF PIE PIERCE-WINCHESTER "A" #1-81	HUDSPETH (CANYON)	33:1	TEXAS INTRA-MARK
8331628	F-7C-064966	4210533778		103		107-TF PIE PIERCE-WINCHESTER "A" #3-81	HUDSPETH (CANYON)	38.9	TEXAS INTRA-MARK
8331627	F-7C-064965	4210533781		103		107-TF PIE PIERCE-WINCHESTER "A" #6-81	HUDSPETH (CANYON)	22.7	TEXAS INTRA-MARK
-AKERS AND FULTZ INC				RECEIVED:	04/11/83	JA: TX			
8331611	F-09-064478	4223700000		108		ROY CHERRYHOMES C WELL #13	JACK COUNTY REGULAR	5.8	CITIES SERVICE CO
8331609	F-09-064472	4223700000		108		ROY CHERRYHOMES C WELL #3	JACK COUNTY REGULAR	7.8	CITIES SERVICE CO
8331610	F-09-064474	4223700000		108		ROY CHERRYHOMES C WELL #8	JACK COUNTY REGULAR	9.5	CITIES SERVICE CO
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/11/83	JA: TX			
8331593	F-09-064028	4218130897		102-4		MARY #1	W F CHAFFIN SURVEY A-	0.0	LONE STAR G+S CO
8331579	F-09-063235	4218130897		103		MARY #1	W F CHAFFIN SURVEY A-	0.0	LONE STAR GAS CO
8331605	F-09-064385	4218130921		102-4	103	MYRON #1	B M SHEARIN SURVEY A-	0.0	LONE STAR GAS CO
8331592	F-09-064027	4218130895		102-4		O F K #1-U	HENRY KEITH SURVEY A-	0.0	LONE STAR GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	04/11/83	JA: TX			
8331638	F-03-065087	4204130845		102-2		FRANK L PATRANELLA UNIT A #2	BRYAN (WOODBINE)	100.0	FERGUSON CROSSING
8331698	F-7C-065577	4245131095		103		HOBLIT-JACOBS RANCH CO "A" #16	H-J (STRAWN)	0.1	ARCO OIL & GAS CO
8331728	F-08-065698	4249531547		103		IDA HENDRICK T-88GX #7	HENDERSON YATES/SEVEN	0.2	CABOT PIPELINE CO
8331729	F-8A-065699	4221933677		103		M R BARRY #10	SLAUGHTER	0.0	EL PASO NATURAL G
8331667	F-05-065512	4229330577		102-4	107-TF	NELSON REYNOLDS #1	POKEY E/COTTON VALLEY	3.7	LONE STAR GAS CO
8331625	F-10-064903	4242130242		108		W N PRICE #2	TEXAS - HUGOTON	13.9	PHILLIPS PETROLEU
-BILL FORNEY INC				RECEIVED:	04/11/83	JA: TX			
8331578	F-02-063186	4229731876		102-4		ERNIN HOLLE ET AL UNIT I WELL #1	HOUDMAN (PETTUS "B")	10.0	TRANSCONTINENTAL
-BONRAY ENERGY CORP				RECEIVED:	04/11/83	JA: TX			
8331574	F-08-062804	4222732907		103		READ 20-2	COAHOMA N (FUSSEL)	0.0	GETTY OIL CO
-BRACKEN EXPLORATION CO				RECEIVED:	04/11/83	JA: TX			
8331511	F-10-030376	4221131254		107-DP		FILLINGIM #1-20	BUFFALO WALLOW DEEP	365.0	TENNESSEE GAS PIP
-BRONCO ENERGY				RECEIVED:	04/11/83	JA: TX			
8331591	F-03-063914	4218530331		102-4		A M JAMES #1	IOLA (SUB-CLARKSVILLE	0.0	PRODUCERS GAS CO
-BTA OIL PRODUCERS				RECEIVED:	04/11/83	JA: TX			
8331647	F-7C-065196	4238332411		103		COATES #9	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
8331626	F-7C-064958	4238332420		103		JACKSON "B" #16	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
8331648	F-7C-065199	4238332422		103		JACKSON "B" #19	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
-CENERGY EXPLORATION CO				RECEIVED:	04/11/83	JA: TX			
8331555	F-03-06189	4270830223		102-4		STATE TRACT 10-L SW/4 #3	HIGH ISLAND BLOCK 10-	0.0	TRANSCONTINENTAL
-CHAPMAN EXPLORATION INC				RECEIVED:	04/11/83	JA: TX			
8331535	F-09-059261	4223733866		103		CHERRYHOMES "H" #1	LUNA-MAG (BEND CONGLO	60.0	LONE STAR GAS CO
-CHEVRON U S A INC				RECEIVED:	04/11/83	JA: TX			
8331525	F-04-055868	4250531390		103	107-TF	STANLEY G MARSHALL #3	J C MARTIN (LOBO)	1095.0	
-CLAYTON W WILLIAMS JR				RECEIVED:	04/11/83	JA: TX			
8331560	F-03-061305	4205100000		102-2		JOSEPHINE #1	GIDDINGS AUSTIN CHALK	0.0	VALERO TRANSMISSI
-CONOCO INC				RECEIVED:	04/11/83	JA: TX			
8331731	F-10-065707	4206500000		108		BURNETT #74A	PANHANDLE WEST	21.0	NORTHWEST CENTRAL
8331730	F-10-065706	4206500000		108		BURNETT #83A	PANHANDLE WEST	19.0	NORTHWEST CENTRAL
8331732	F-10-065709	4206500000		108		BURNETT NO 41A	PANHANDLE WEST	19.0	NORTHWEST CENTRAL
8331612	F-04-064503	4247933385		103		CARLOS BENAVIDES B #3	PICOSO (WILCOX 11,800	365.0	HOUSTON PIPELINE
8331537	F-04-060328	4247933385		102-4		CARLOS BENAVIDES B #3	PICOSO (WILCOX 11,800	365.0	HOUSTON PIPELINE

BILLING CODE 6717-01-M

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
				RECEIVED:	04/11/83	JA: TX			
8331666	F-09-065504	4223790000		108		MADEWELL #1	JACK COUNTY REGULAR (	7.0	TEXAS UTILITIES F
8331665	F-7B-065502	4236730886		108		RISCKY #2	TOTO (CADDO CONGLOMER	7.0	TEXAS UTILITIES F
				RECEIVED:	04/11/83	JA: TX			
8331538	F-01-060436	4216332188		103		RIGGS "C" 4	PEARSALL (AUSTIN CHAL	22.0	TIPPERARY CORP
				RECEIVED:	04/11/83	JA: TX			
8331599	F-7C-064115	4239931849		102-4		ALFON JANSA #2 RRC #08802	JANSA (GARDNER)	80.0	UNION TEXAS PETRO
8331608	F-7C-064114	4239932485		102-4		ALFON JANSA #3 RRC #08802	JANSA (GARDNER)	85.0	UNION TEXAS PETRO
8331597	F-7C-064113	4239932099		102-4		ALFON JANSA "A" RCC #09473	JANSA (GARDNER)	290.0	UNION TEXAS PETRO
8331598	F-7C-064114	4239932531		102-4		ALFON JANSA "A" RRC #09473	JANSA (GARDNER)	75.0	UNION TEXAS PETRO
				RECEIVED:	04/11/83	JA: TX			
				RECEIVED:	04/11/83	JA: TX	RATCLIFF (STRAWN 4575	5.5	FAGADAU ENERGY CO
				RECEIVED:	04/11/83	JA: TX			
8331414	F-09-064919	4207700000		103		PHILLIPS #1			
				RECEIVED:	04/11/83	JA: TX	CHAPEL HILL (TRAVIS P	0.0	ETEXAS PRODUCERS
8331517	F-06-051606	4242300000		102-4	103	SALLIE YANCY #1	CHAPEL HILL (TRAVIS P	0.0	TEXAS PRODUCERS G
8331512	F-06-043154	4242300000		102-4	103	WILLIAMS #1			
				RECEIVED:	04/11/83	JA: TX			
				RECEIVED:	04/11/83	JA: TX	ELLIS RANCH	0.0	NATURAL GAS PIPEL
8331754	F-10-065757	4235700000		108		CARL ELLIS "F" #2			
				RECEIVED:	04/11/83	JA: TX			
8331651	F-7B-065280	4208300000		108		IRENE WELLS #1 ID #018251	SANTA ANNA (MARBLE FA	3.0	LONE STAR GAS CO
8331659	F-7B-065378	4208300000		108		SMITH HOWARD B2 RRC #102805	SANTA ANNA (MARBLE FA	0.0	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
				RECEIVED:	04/11/83	JA: TX			
8331544	F-04-060700	4224931607		103		PEEBES #1	ORANGE GROVE (2950)	55.0	VALERO TRANSMISSI
				RECEIVED:	04/11/83	JA: TX			
8331703	F-10-065591	4217900000		108		BELL #1 (024327)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8331702	F-10-065590	4217900000		108		BELL #3 (024329)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8331699	F-10-065587	4217900000		108		FRASMIER #1 (024369)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8331700	F-10-065588	4206500000		103		KALKA #1 (024359)	PANHANDLE WEST	12.0	NORTHERN NATURAL
8331701	F-10-065589	4206500000		108		MCCONNELL #5 (024368)	PANHANDLE WEST	20.0	KORTHERN NATURAL
				RECEIVED:	04/11/83	JA: TX			
8331585	F-04-063597	4224900000		102-4		W R ANDERSON TR GONZALES HEIRS #1	MILLER AND FOX (5210)	157.0	UNITED GAS PIPELI
				RECEIVED:	04/11/83	JA: TX			
8331637	F-08-065077	4238931132		103		H & M #1	KEN REGAN (DELAWARE)	7.0	UNITED TEXAS TRAN
8331636	F-08-065076	4238931163		103		H & M "B" #2	KEN REGAN (DELAWARE)	7.0	UNITED TEXAS TRAN
8331635	F-08-065075	4238931185		103		H & M "B" #3	KEN REGAN (DELAWARE)	2.0	UNITED TEXAS TRAN
8331634	F-08-065074	4238931220		103		H & M "B" #4	KEN REGAN (DELAWARE)	4.0	UNITED TEXAS TRAN
8331632	F-08-065037	4238931261		103		H & M "B" #5	KEN REGAN (DELAWARE)	100.0	UNITED TEXAS TRAN
8331633	F-08-065073	4238931305		103		H & M "B" #6	KEN REGAN (DELAWARE)	110.0	UNITED TEXAS TRAN
				RECEIVED:	04/11/83	JA: TX			
8331661	F-7B-065431	4236732360		102-2		ANDIE HARRISON "A" #1 103522	DENNIS WEST (STRAWN)	75.0	PARKER GAS INC
8331662	F-7B-065432	4236732369		102-2		J J WRIGHT #2 103521	DENNIS WEST (STRAWN)	125.0	PARKER GAS INC
				RECEIVED:	04/11/83	JA: TX			
				102-4		EL GATITA #1	MUJERES CREEK	365.0	TRANSCONTINENTAL
8331713	F-04-065669	4247933150		102-4		OLMITOS RANCH #1	MUJERES CREEK	730.0	EL PASO NATURAL G
8331714	F-04-065670	4247933239		102-4		OLMITOS RANCH #2	MUJERES CREEK	700.0	EL PASO NATURAL G
8331715	F-04-065671	4247933295		102-4		OLMITOS RANCH #5	MUJERES CREEK	360.0	EL PASO NATURAL G
8331716	F-04-065672	4247933461		102-4		OLMITOS RANCH #6	MUJERES CREEK	500.0	EL PASO NATURAL G
8331577	F-04-063097	4247933461		103	107-TF	OLMITOS RANCH #4	MUJERES CREEK (LOBO &	500.0	EL PASO NATURAL G
8331717	F-04-065673	4247933403		102-4		OLMITOS RANCH #5	MUJERES CREEK	360.0	EL PASO NATURAL G
				RECEIVED:	04/11/83	JA: TX			
8331669	F-01-065515	4217926644		108		MCKINNON #6	PANHANDLE EAST	13.0	EL PASO NATURAL G
8331528	F-10-057621	4208730165		108		WISCHKAEMPER I #1	PANHANDLE - EAST	25.0	EL PASO NATURAL G
				RECEIVED:	04/11/83	JA: TX			
8331660	F-7C-065494	4223530791		108		ELA C SUGG 67 #1	SPRABERRY (TREND AREA	6.1	INTERNORTH INC
				RECEIVED:	04/11/83	JA: TX			
8331786	F-7B-065828	4205933325		102-4		JANE CLINTON #2 (17504)	SCRANTON NW (DUFFER)	8.0	BENGAL GAS TRANSM
8331785	F-7B-065826	4205933488		102-4		JOHNSON #2 (17624)	SCRANTON NW (DUFFER)	6.0	BENGAL GAS TRANSM
8331784	F-7B-065825	4213333548		102-4		MARIE COTE A-1 #1 (18870)	TEE JAY (3900)	14.0	BENGAL GAS TRANSM
8331787	F-7B-065830	4213334231		102-4		MITCHAM "G" #2 (16301)	D R S (CONGL)	34.0	BENGAL GAS TRANSM
8331782	F-7B-065822	4213334387		102-4		MITCHAM ESTATE "H" #3 (18195)	D R S (CONGL)	37.0	BENGAL GAS TRANSM
8331783	F-7B-065824	4213334386		102-4		ROY PIPPEN #1 (19112)	D R S SE (CONGL)	105.0	BENGAL GAS TRANSM
				RECEIVED:	04/11/83	JA: TX			
8331710	F-7C-065636	4239932534		102-4		TOM POE #1 (009755)	WINTERS W (GARDNER SD	88.0	UNIÓN TEXAS PETRO
				RECEIVED:	04/11/83	JA: TX			
8331688	F-09-065545	4218300000		108		L D KELLY #1	WILLOW SPRINGS	18.0	WESTERN GAS CORP
8331565	F-06-060763	4220300000		103		LEDBETTER JONES #3	WHELAN	456.0	TEXAS EASTERN TRA
				RECEIVED:	04/11/83	JA: TX			
8331788	F-04-065819	4204730808		102-4		D J SULLIVAN "B" 46 (10013)	PITA (C-10,E. SEG II)	8.0	TENNESSEE GAS PIP
8331696	F-04-065559	4235533402		102-4		K R CHILTIPIN 68 (103364)	ARNOLD-DAVID (L-20)	1.0	ARICO STEEL CORP
8331742	F-04-065740	4227331723		103		KING RANCH ALAZAN 390 (103504)	MADERO E (J-92)	548.0	ARICO STEEL CORP
8331740	F-04-065738	4227331626		102-0		KING RANCH BORREGOS 566 (103362)	BORREGOS (P-6 ME)	703.0	ARICO STEEL CORP
8331739	F-04-065737	4227331703		102-4		KING RANCH BORREGOS 582 (103365)	BORREGOS (R-19 MU)	807.0	ARMCO STEEL CORP
8331738	F-04-065736	4227331702		102-4		KING RANCH BORREGOS 583-D (103361)	CORREGOS (R-9 S)	1278.0	ARMCO STEEL CORP
8331741	F-04-065739	4227331721		103		KING RANCH VISHAGA 25 (10162)	YEARY (I-89 E)	130.0	ARMCO STEEL CORP
8331781	F-04-065828	4224700000		108		MARCOS JUAREZ 5 (880636)	KELSEY DEEP (21-X WES	3.0	TRUNKLINE GAS CO
8331559	F-05-061285	4246700000		108		R S BLAKE #1	VAN	6.0	UNITED GAS PIPELI
8331646	F-8A-065194	4216532469		103		ROBERTSON CLEARFORK UNIT #4203	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8331645	F-8A-064527	4216532386		103		ROBERTSON CLEARFORK UNIT #6103	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8331558	F-05-061190	4208931329		103		SADIE M SHAVER #1	SOUTH DUBINA (9080)	144.0	UNITED GAS PIPELI
8331743	F-04-065741	4226130755		103		SANTA FE RANCH-HULA PAST 37 103656	STILLMAN (SHALLOW)	258.0	ARMCO STEEL CORP
8331548	F-03-060827	4208931304		103		SOUTH DUBINA OIL UNIT 4 #1	DUBINA SOUTH (9080)	78.0	UNITED GAS PIPELI
8331649	F-08-065215	4249531538		103		YARBROUGH & ALLEN #98	ARENOSO (STRAIN DETRI	26.0	
				RECEIVED:	04/11/83	JA: TX			
8331753	F-08-065753	4217300000		108		HUBBARD #1	SPRABERRY (TREND AREA	8.3	PHILLIPS PETROLEU
				RECEIVED:	04/11/83	JA: TX			
8331546	F-7B-060790	4219338231		108		PAT DISCHER #1	POTTSVILLE	0.0	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331720	F-7C-065685	4223532853		103		MURPHEY "1221" #6	CAL SOUTH (CANYON)	62.0	FARMLAND INDUSTRI
				RECEIVED:	04/11/83	JA: TX			
8331619	F-08-064618	4210333055		103		CENTRAL DUEN SAN ANDRES 9907	DUNE	0.0	WARREN PETROLEUM
8331601	F-08-064185	4210333054		103		CENTRAL DUNE #3022	DUNE	0.0	WARREN PETROLEUM
				RECEIVED:	04/11/83	JA: TX			
8331516	F-06-049925	4236500000		103	107-TF	SHIVERS UNIT #4	CARTHAGE COTTON VALLE	0.0	UNITED GAS PIPELI
8331788	F-06-065844	4236500000		108		WERNER "E" #1	CARTHAGE (U PETTIT)	18.0	TEXAS GAS TRANSMI
8331789	F-06-065845	4236500000		108		WERNER-LEFOY #1	CARTHAGE (U PETTIT)	360.0	TEXAS GAS TRANSMI
8331737	F-8A-065733	4207900000		103		XIT UNIT #178-X	LEVELLAND SAN ANDRES	2.5	CITIES SERVICE CO
				RECEIVED:	04/11/83	JA: TX			
8331536	F-04-059118	4247933389		102-4	107-TF	B M T #13	LA ROSITA (11,600)	400.0	VALERO TRANSMISSI
8331562	F-04-061647	4247933055		102-4	107-TF	NORDAN TRUST #1 #103184	NORDAN (LOBO)	73.0	TRANSCONTINENTAL
8331606	F-04-064414	4247933657		102-4	107-TF	YATES #3	VAQUILLAS RANCH (WILC	700.0	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331719	F-06-065682	4241930316		103		C M BEARD #1	GARRISON (PETTIT LO)	0.0	UNITED GAS PIPELI
				RECEIVED:	04/11/83	JA: TX			
8331757	F-09-065768	4249732478		103		I G YATES #19	BOONSVILLE (CADDO CON	7.7	NATURAL GAS PIPEL
8331549	F-10-060849	4239330923		102-4		MARIAN OSBORNE #5-26	PED DEER	572.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331733	F-10-065710	4239330923		102-4		OSBORNE #5-36	RED DEER (WOLFCAMP LI	850.0	TRANSWESTERN PIPE
8331755	F-03-065761	4204130524		102-2		RICHARD SMITH UNIT II #1	KURTEN (WOODBINE)	16.0	PRODUCER'S GAS CO
8331686	F-03-065540	4204130471		102-2		RICHARD SMITH UNIT I #1	KURTEN (BUDA)	56.9	
8331759	F-7C-065770	4210534177		103		STATE "WP" #4	ANIGO (SAN ANDRES)	21.7	NORTHERN NATURAL
8331758	F-7C-065769	4210534193		103		STATE "YP" #2	FARMER (SAN ANDRES)	30.0	J L DAVIS
8331696	F-10-065570	4221130916		108		W CAMPBELL #3-56	RED DEER CREEK/MORROW	16.0	TRANSWESTERN PIPE
				RECEIVED:	04/11/83	JA: TX			
8331581	F-06-063612	4240131551		102-3	107-TF	ALICE CHRISTIAN ESTATE WELL #2	HENDERSON M (COTTON V	750.0	D & A PIPE LINE C
				RECEIVED:	04/11/83	JA: TX			
8331576	F-04-062917	4235532019		102-4	103	STATE TRACT 18 #1	CORPUS CHANNEL EAST (	65.7	HOUSTON PIPE LINE
8331539	F-04-060441	4235531780		102-4	103	STATE TRACT 20 WELL #2		100.0	HOUSTON PIPE LINE
				RECEIVED:	04/11/83	JA: TX			
8331558	F-7C-060875	4243532698		103	107-TF	HILL-MAY M RAY "A-1"	ALDWELL RANCH (CANYON	55.5	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331552	F-7C-060955	4243500000		103	107-TF	FIELDS "17" #5	SALYER (CANYON)	100.0	INTRATEX GAS CO
8331563	F-04-061558	4247900000		102-2	103	HIRSCH ESTATE "2094" #1	EL GATO (HIRSCH 8480)	0.0	HOUSTON PIPELINE
8331563	F-04-061558	4247900000		107-TF		HIRSCH ESTATE "2094" #1	EL GATO (HIRSCH 8480)	0.0	HOUSTON PIPELINE
				RECEIVED:	04/11/83	JA: TX			
8331652	F-03-065299	4248100000		108		STEHNO-TUCKER #1 081399	MENEFEE (FRIO 4500)	20.5	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331532	F-04-058431	4213135854		102-4	103	T W HORN #1	EAST 7-6	180.0	TECO PIPELINE COR
				RECEIVED:	04/11/83	JA: TX			
8331630	F-03-065012	4228731367		102-2	103	JUNO #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
				RECEIVED:	04/11/83	JA: TX			
8331582	F-08-063485	4237132676		103		COATES 64 #1	COATES (STRAWN)	10.9	
				RECEIVED:	04/11/83	JA: TX			
8331555	F-7C-061042	4210533981		102-4		L B COX "B" #3	DUDLEY EAST (DEVONIAN	0.0	INTRASTATE GATHER
				RECEIVED:	04/11/83	JA: TX			
8331644	F-7B-065120	4208333320		102-4		ROBERT S SEE-FEE #1	TRICKHAM (CROSSCUT)	37.0	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331565	F-02-061873	4246931902		103		C K MCCAM #2	HELDER RANCH (5300)	100.0	
				RECEIVED:	04/11/83	JA: TX			
8331658	F-7C-065367	4239931941		102-4		MICHAELIS UNIT #1	FRITZESS (GRAY SAND)	200.0	LONE STAR GAS CO
8331620	F-7C-064753	4239932555		103		MICHAELIS-CRAIG UNIT #1	ANDERGRAM (PALO PINTO	300.0	UNION TEXAS PETRO
				RECEIVED:	04/11/83	JA: TX			
8331618	F-02-064565	4217531687		103		RENFRO #1	BOMBA (YEGUA 2ND)	50.0	HOUSTON PIPELINE
				RECEIVED:	04/11/83	JA: TX			
8331595	F-03-064055	4248132352		102-4		LANIER FORGASON #1	WEST SPANISH CAMP	300.0	ESPERANZA TRANSMI
				RECEIVED:	04/11/83	JA: TX			
8331588	F-02-063871	4246900000		102-4		R S WILLIAMS #4 (ID NOT ASSIGNED)	ANAQUA (5600 FRIO) (P	50.0	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331711	F-10-065641	4206531314		103		HAIDUK "C" 82-14 (ID #05296)	PANHANDLE CARSON	50.0	GETTY OIL CO
				RECEIVED:	04/11/83	JA: TX			
8331556	F-02-061140	4217500000		107-PE		PITTMAN #1	WEST GOLIAD (2650')	11.5	DELHI GAS PIPELIN
				RECEIVED:	04/11/83	JA: TX			
8331514	F-09-048332	4223733937		102-4	103	MCCLURE #1	JACKSBORO E (CONGLOME	183.0	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331668	F-7B-065514	4204916368		102-4		YOUNG-BERG #8 (14583)	DALE (CADDO)	20.0	SIOUX PIPELINE CO
				RECEIVED:	04/11/83	JA: TX			
8331622	F-03-064777	4205132379		103		BALLSINGER #2	HOOKER CREEK (NAVARRO	0.3	
				RECEIVED:	04/11/83	JA: TX			
8331518	F-03-051668	4205180000		102-2		JACKSON BLAKE #1	CALDWELL (AUSTIN CHAL	0.0	FERGUSON CROSSING
				RECEIVED:	04/11/83	JA: TX			
8331670	F-7B-065516	4205933930		102-4		WINDHAM #3	LAURA MAE HILL (ELLEN	550.0	
				RECEIVED:	04/11/83	JA: TX			
8331692	F-7B-065551	4213333344		102-4		KINCAID #1 (17832)	REBECCA (MARBLE FALLS	11.0	LONE STAR GAS CO
8331691	F-7B-065550	4213333331		102-4		KINCAID "A" #1 (17833)	REDBECA (MARBLE FALLS	14.0	LONE STAR GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331712	F-08-065650	4237134092		103		PUCKETT #4	BELDING (YATES)	40.0	APACHE GAS CORP
				RECEIVED:	04/11/83	JA: TX			
8331568	F-7C-062000	4241331207		103	107-TF	W O ENOCHS #1 ID #02303	ELDORADO (CANYON)	182.5	PRODUCER'S GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331631	F-7B-065032	4213331671		103		WILSON #1 (15196)	FOSTER (MARBLE FALLS)	30.0	EL PASO HYDROCARB
				RECEIVED:	04/11/83	JA: TX			
8331760	F-10-065777	4206500000		103		REINART #1	PANHANDLE	91.1	GETTY OIL CO
				RECEIVED:	04/11/83	JA: TX			
8331540	F-09-060552	4250335023		103		RAMSOURS "D" #1 RRC #096128	BOROCK (MARBLE FALLS)	25.0	SUN GAS GATHERING
				RECEIVED:	04/11/83	JA: TX			
8331659	F-10-065322	4221131528		103		DIXIE "A" #1	CANADIAN SW (MORROW U	0.0	WESTAR TRANSMISSI
				RECEIVED:	04/11/83	JA: TX			
8331515	F-06-049174	4207330430		102-4		TRANSIER #1	LONE OAK (TRAVIS PEAK	36.5	
				RECEIVED:	04/11/83	JA: TX			
8331522	F-10-054361	4221100000		102		MATHERS RANCH #1	MATHERS RANCH - HUNTO	20.0	ARKANSAS LOUISIAN
8331561	F-10-061334	4221131495		103		MATHERS RANCH #43	CANADIAN S E (DOUGLAS	150.0	ARKANSAS LOUISIAN
				RECEIVED:	04/11/83	JA: TX			
8331629	F-09-065000	4249700000		108		J E PARSONS #1 #031231	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331554	F-06-061067	4224900000		108		C F H BLUCHER #33	TIJERINA-CANALES-BLUC	18.6	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331705	F-06-065594	4200131331		102-4		SKIPPER #1	TENNESSEE COLONY S W	180.0	CHAPARRAL GAS PIP
				RECEIVED:	04/11/83	JA: TX			
8331693	F-08-065553	4247532722		103		CONTINENTAL HAWKINS #12 #26866	PAYTON	5.0	WARREN PETROLEUM
8331734	F-08-065714	4247532724		103		JOHNSON -B- #12	WARD-ESTES NORTH	22.0	WESTERN COUNTIES
				RECEIVED:	04/11/83	JA: TX			
8331590	F-02-063873	4217500000		108		FLOWERS #1	SARCO CREEK WEST (420	0.0	TENNESSEE GAS PIP
8331589	F-02-063872	4217500000		108		MEARD #1	SARCO CREEK (4280)	0.0	TENNESSEE GAS PIP
				RECEIVED:	04/11/83	JA: TX			
8331541	F-09-060560	4223700000		102-4		E C MYERS #1	LESTER	180.0	SOUTHWESTERN GAS
				RECEIVED:	04/11/83	JA: TX			
8331542	F-10-060610	4221131363		103		ANVIL PARK "A" 82-182 (101631)	CANADIAN SE (DOUGLAS)	343.0	WESTAR TRANSMISSI
				RECEIVED:	04/11/83	JA: TX			
8331653	F-09-065307	4207732863		103		BORDMAN #1	BLUEGROVE CADDO	180.0	FAGADAU ENERGY CO
				RECEIVED:	04/11/83	JA: TX			
8331690	F-7B-065549	4208331934		102-4		MILLER RANCH ONE "B" #1 ID #103331	DAY RANCH (GARDNER) F	70.0	STRIGINE GAS CO
8331689	F-7B-065547	4208332951		102-4		MILLER RANCH ONE "B" #4 102158	DAY RANCH (GARDNER) F	70.0	STRIGINE GAS CO
				RECEIVED:	04/11/83	JA: TX			
8331665	F-04-065162	4235531707		102-4		ST TR 94-1	DIMMITS ISLAND	1806.8	HOUSTON PIPELINE
				RECEIVED:	04/11/83	JA: TX			
8331624	F-04-064840	4250531145		102-4		JENNINGS #43	JENNINGS W (800')	73.0	NATURAL GAS PIPEL
				RECEIVED:	04/11/83	JA: TX			
8331613	F-7C-064506	4245131011		102-2	103	TARA TURNER #1	WILDCAT	172.8	ESPERANZA PIPELIN
8331723	F-7C-065691	4245131105		102-2	103	TARA TURNER #2	TURNER RANCH (6575')	108.0	ESPERANZA PIPELIN
				RECEIVED:	04/11/83	JA: TX			
8331697	F-10-065575	4235700000		108		BANNER-GREGG #1	SHARE S E (MORROW LOW	164.5	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331527	F-10-057393	4248338994		107-DP		DENOLF #2	KEY (MORROW UP)	900.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/11/83	JA: TX			
8331709	F-10-065599	4217900000		108		ANNIE #12	PANHANDLE GRAY	0.0	
8331749	F-08-065748	4200300542		108		GS ANDECTOR UNIT L-02 (21193)	GOLDSMITH (CLEAR FORK	7.0	EL PASO NATURAL G
8331533	F-10-058644	4217931222		108		HAL #2	HAMNAS DRAW (DOUGLAS)	0.0	
8331663	F-10-065479	4242100000		108		JASPER A #1	STRAIFORD - CISCO &UM	0.0	DIAMOND SHAMROCK
8331707	F-10-065597	4217900000		108		KEAHEY A #1	PANHANDLE GRAY	0.0	
8331706	F-10-065596	4217900000		108		MCCRACKEN #2	PANHANDLE GRAY	0.0	
8331750	F-08-065749	4213500000		108		SLAT #3 (07002)	TXL (CLEURIAN)	1.0	SHELL OIL CO
8331708	F-10-065598	4235700000		108		SUINK D #3	HORIZON - CLEVELAND	0.0	
8331751	F-08-065750	4238931257		103		TXL U #4	FINSTILL	8.0	
8331752	F-7C-065751	4239133027		108		WEATHERBY-B #3 (06286)	SPRABERRY (TREND AREA	4.0	INTRATEX GAS CO
8331664	F-10-065480	4223300000		103		YAKE G #8	PANHANDLE WEST	0.0	EL PASO NATURAL G
-PINEWOOD EXPLORATION INC				RECEIVED:	04/11/83	JA: TX			
8331533	F-06-057928	4236531513		102-4		HOLLAND #2	J G S (TRAVIS PK B)	156.0	NATURAL GAS PIPEL
-PONTOTOC OIL CORP				RECEIVED:	04/11/83	JA: TX			
8331520	F-7C-054072	4208100000		108		HILL & HARRIS 4-76	BLOXOMORTH S (5600' S	0.0	SUN EXPLORATION &
-PYRON EXPLORATION & DRILLING CORP				RECEIVED:	04/11/83	JA: TX			
8331523	F-09-055362	4250300000		102-4		PRIDEAUX #5	MARKLEY SOUTH MARBLE	182.5	SOUTHWESTERN GAS
-QUINTANA PETROLEUM CORP				RECEIVED:	04/11/83	JA: TX			
8331643	F-02-065114	4239131589		103		ANNIE REILLY ET VIR NO 17	TOM O CONNOR (5900' S	73.0	UNITED TEXAS TRAN
8331639	F-02-065109	4239131558		103		MAUDE WILLIAMS "A" B-120	TOM O CONNOR (5700' S	23.4	UNITED TEXAS TRAN
8331642	F-02-065113	4239131578		103		MRS FANNIE V W HEARD 0101	TOM O CONNOR (5900' S	75.0	UNITED TEXAS TRAN
8331640	F-02-065110	4239131575		103		MRS FANNIE V W HEARD 0?3	TOM O CONNOR (5900' S	44.0	UNITED TEXAS TRAN
8331641	F-02-065111	4239131576		103		MRS FANNIE V W HEARD 099	TOM O CONNOR (5900' S	11.0	UNITED TEXAS TRAN
-R C SLACK				RECEIVED:	04/11/83	JA: TX			
8331672	F-08-065520	4249500000		103		SUN HALLEY #5	WEINER (COLBY SAND)	0.0	WEST TEXAS GATHER
-R K O ENGINEERING INC				RECEIVED:	04/11/83	JA: TX			
8331736	F-08-065730	4200300000		105		N J CRADDOCK LEASE 027454	SHAFTER LAKE (SAN AND	50.0	PHILLIPS PETROLEU
-RAINBOW RESOURCES INC				RECEIVED:	04/11/83	JA: TX			
8331529	F-06-057661	4240131448		102-4 103		BETTY GRAY ESTATE #1	LAMEVILLE N E (TRAVIS	350.0	TEXAS UTILITIES F
-RICHEY & CO INC				RECEIVED:	04/11/83	JA: TX			
8331584	F-09-063585	4249732679		103		J L SULLIVAN #4	BOONSVILLE (BEND CONG	325.0	DELMI GAS PIPELIN
-RIDGE OIL CO				RECEIVED:	04/11/83	JA: TX			
8331557	F-7B-062145	4213334149		102-4 103		CHAMPAGNE UNIT #1	RANGER NW (MARBLE FAL	41.4	COMPRESSOR RENTAL
-ROBERT P LAMBERTS				RECEIVED:	04/11/83	JA: TX			
8331602	F-03-064189	4204104800		102-2		SIELLY UNIT #1	KURTEN (GEORGETOWN)	0.0	FERGUSON CROSSING
-S K TUTHILL & B J BARBEE				RECEIVED:	04/11/83	JA: TX			
8331596	F-7C-064118	4223531989		102-4		WINTERBOTHAM "D" 3-3	DUTTES NORTH FIELD	109.0	NORTHERN NATURAL
-SAGE ENERGY CO				RECEIVED:	04/11/83	JA: TX			
8331526	F-03-056827	4214900000		102-2		CATLETT #1 RRC #	GIDDINGS (EDWARDS GAS	0.0	PHILLIPS PETROLEU
8331580	F-03-063362	4214900000		102-2		LOOMIS #1 RRC #	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-SANCHEZ-O'BRIEN OIL & GAS CORP				RECEIVED:	04/11/83	JA: TX			
8331567	F-04-061995	4235500000		102-4		EDGAR RENKEN #1	MINUTE ROCK N (7900)	500.0	UNITED TEXAS TRAN
-SAXON OIL COMPANY				RECEIVED:	04/11/83	JA: TX			
8331572	F-08-062166	4231700000		103		GAY MADE "M" #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
8331571	F-08-062163	4231700000		103		KOEHLER #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
-SHAR-ALAN OIL CO				RECEIVED:	04/11/83	JA: TX			
8331573	F-03-062473	4231330347		102-4		JESSE HEINE #1	MADISONVILLE N E (GEO	0.0	LONE STAR GAS CO
-SHELL OIL CO				RECEIVED:	04/11/83	JA: TX			
8331790	F-08-065848	4213900000		108		EAST HARPER UNIT #324	HARPER	0.8	PHILLIPS PETROLEU
8331799	F-08-065857	4213500000		108		EAST HARPER UNIT #455	HARPER	0.8	PHILLIPS PETROLEU
8331791	F-8A-065749	4216500000		108		GAINES WASSON CLEARFORK UNIT #6102G	WASSON 72	12.5	SHELL OIL CO
8331792	F-8A-065850	4216500000		108		GAINES WASSON CLEARFORK UNIT #6610G	WASSON 72	1.7	SHELL OIL CO
8331794	F-8A-065852	4216500000		108		GAINES WASSON CLEARFORK UNIT #6402G	WASSON 72	9.7	SHELL OIL CO
8331793	F-8A-065851	4216500000		108		GAINES WASSON CLEARFORK UNIT #6407G	WASSON 72	2.4	SHELL OIL CO
8331795	F-8A-065853	4216500000		103		GAINES WASSON CLEARFORK UNIT #6411G	WASSON 72	3.9	SHELL OIL CO
8331608	F-02-064429	4202531892		107-DP		ROESSLER GAS UNIT #2	PANNILE (SLICO)	300.0	LONE STAR GAS CO
8331828	F-08-065858	4213500000		108		TXL NORTH UNIT 0825-L	TXL (TUBB)	8.1	SHELL OIL CO
8331798	F-8A-065856	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #5601Y	WASSON 72	1.0	SHELL OIL CO
8331796	F-8A-065854	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #5602Y	WASSON 72	4.0	SHELL OIL CO
8331797	F-8A-065855	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #5606Y	WASSON 72	8.7	SHELL OIL CO
-SHORTES V M & MABEL P G				RECEIVED:	04/11/83	JA: TX			
8331671	F-7B-065518	4208300000		102-4		R M TOBIN #2	GRIEF (FRY)	30.0	EL PASO HYDROCARB
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/11/83	JA: TX			
8331747	F-8A-065745	4250100000		108		BENNETT RANCH UNIT #153	WASSON	0.7	SHELL OIL CO
8331745	F-03-065743	4230100000		108		BRAMAN "C" #21	SUGAR VALLEY W (HURLO	10.0	HOUSTON PIP LINE
8331748	F-08-065746	4213500000		108		FOSTER-JOHNSON UNIT #3-20	FOSTER	0.5	EL PASO HYDROCARB
8331746	F-02-065744	4239100000		108		J F B HEARD #5	GUSTA (7100)	17.0	UNITED TEXAS TRAN
8331763	F-09-065785	4227931234		102-4		JOHN P CALLAHAN #3	KENT	1.0	SUN GAS TRANSMISS
8331744	F-02-065742	4246900000		108		MCFADDIN "A" #20-G	MCFADDIN NORTH (5400-	5.0	UNITED GAS PIPELI
8331604	F-08-064318	4213532953		103		O B HOLT A/C-1 #23	CORNELIA NORTH	18.0	AMOCO PRODUCTION
8331510	F-10-062506	4238300000		108-ER		RUPERT P RICKER #1	SPRABERRY	0.0	EL PASO NATURAL G
8331704	F-8A-065592	4221900000		108		SOUTHEAST LEVELLAND UNIT #520	LEVELLAND	9.0	AMOCO PRODUCTION
8331762	F-09-065784	4249700000		103		T D LESTER #1	BOONSVILLE (BEND CONG	18.0	NATURAL GAS PIPEL
8331530	F-08-057671	4236532168		103		V T MCCABE #43	JAMESON N (STRAWN GRE	119.0	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED:	04/11/83	JA: TX			
8331551	F-03-060925	4228731287		102-2 103		MARBURGER O & A #1	GIDDINGS (AUSTIN CHAL	0.0	
-TEMPLETON ENERGY INC				RECEIVED:	04/11/83	JA: TX			
8331617	F-04-064539	4224931529		102-4		FITZSIMMONS #3		110.0	VALERO TRANSMISSI
8331623	F-7B-064538	4250531448		102-4		SINGER #1		88.0	INTRASTATE GATHER
TENNECO OIL COMPANY				RECEIVED:	04/11/83	JA: TX			
8331524	F-08-055385	4230130283		107-DP		BRUNSON 48-2	BRUNSON RANCH	0.0	TENNESSEE GAS PIP
TEXACO INC				RECEIVED:	04/11/83	JA: TX			
8331774	F-08-065798	4213900000		108		ECTOR "AM" FEE #1	DOUBLE M (GRAYBURG)	1.7	PHILLIPS PETROLEU
8331775	F-08-065799	4213500000		108		ECTOR "AM" FEE #2	DOUBLE M (GRAYBURG)	1.8	PHILLIPS PETROLEU
8331779	F-08-065803	4213500000		108		ECTOR "AM" FEE #4	DOUBLE M (GRAYBURG)	0.9	PHILLIPS PETROLEU
8331778	F-08-065802	4213500000		108		ECTOR "AM" FEE #5	DOUBLE M (GRAYBURG)	1.8	PHILLIPS PETROLEU
8331777	F-065801	4213500000		108		ECTOR "AM" FEE #6	DOUBLE M (GRAYBURG)	0.9	PHILLIPS PETROLEU
8331776	F-08-065800	4213500000		108		ECTOR "AM" FEE #7	DOUBLE M (GRAYBURG)	0.9	PHILLIPS PETROLEU
8331773	F-08-065797	4213500000		108		ECTOR "CM" FEE NCT-1 #2	MOSS (GRAYBURG)	4.9	WESTAR TRANSMISSI
8331725	F-08-065695	4213500000		108		ECTOR "GM" FEE #1	TXL (SAN ANDRES)	4.3	SHELL OIL CO
8331726	F-08-065696	4213500000		108		ECTOR "GM" FEE #3	TXL (SAN ANDRES)	4.2	SHELL OIL CO
8331767	F-08-065791	4213500000		108		ECTOR "TM" FEE #10	HARPER	12.2	SHELL OIL CO
8331768	F-08-065792	4213500000		108		ECTOR "TM" FEE #13	HARPER	0.4	SHELL OIL CO
8331769	F-08-065793	4213500000		108		ECTOR "TM" FEE #14	HARPER	0.7	SHELL OIL CO
8331770	F-08-065794	4213500000		108		ECTOR "TM" FEE #16	HARPER	0.5	SHELL OIL CO
8331771	F-08-065795	4213500000		108		ECTOR "TM" FEE #17	HARPER	0.6	SHELL OIL CO
8331765	F-08-065789	4213500000		108		ECTOR "TM" FEE #23	HARPER	0.5	SHELL OIL CO
8331764	F-08-065788	4213500000		108		ECTOR "TM" FEE #30	HARPER	0.5	SHELL OIL CO
8331766	F-08-065790	4213500000		108		ECTOR "TM" FEE #7	MOSS (GRAYBURG)	2.8	WESTAR TRANSMISSI
8331761	F-08-065783	4213500000		108		ECTOR C FEE NCT-2 #5	TXL (SAN ANDRES)	0.5	SHELL OIL CO
8331724	F-08-065694	4213500000		108		ECTOR G FEE #2	HARPER	1.4	SHELL OIL CO
8331772	F-08-065796	4213500000		108		ECTOR Y FEE #20			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331727	F-08-065697	4213500000		108		ECTOR T FEE #25	HARPER	0.4	SHELL OIL CO
8331570	F-08-062118	4217331367		102-4		GLASSCOCK "K" FEE #1	WILDCAT	0.0	
8331583	F-8A-063532	4250132270		103		ROBERTS UNIT # 4548	WASSON	0.0	SHELL OIL CO
8331586	F-8A-063822	4216532474		103		WHARTON UNIT #105	HARRIS	0.0	PHILLIPS PETROLEU
8331621	F-8A-064774	4216532488		103		WHARTON UNIT #107	HARRIS	0.0	PHILLIPS PETROLEU
-TEXAS CRUDE INC				RECEIVED:	04/11/83	JA: TX			
8331515	F-06-048190	4207330393		102-4		WHITEMAN DECKER GU 01 89883	WHITE OAK CREEK (TRAV	338.0	DELMI GAS PIPELIN
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	04/11/83	JA: TX			
8331519	F-03-053922	4205100000		102-2		WEICHERT #1	GIDDINGS (BUDA FORMAT	0.0	CLAJON GAS CO
-THE ANSCHUTZ CORPORATION				RECEIVED:	04/11/83	JA: TX			
8331575	F-08-062835	4249531505		102-4		WHEELER 16-22 (ID NOT YET ASSIGNED)	GPM (8200)	123.0	TRANSWESTERN PIPE
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	04/11/83	JA: TX			
8331566	F-7C-061976	4210532044		103	107-TF	BAILEY "A" #13	OZONA NE (CANYON 7520	100.0	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	04/11/83	JA: TX			
8331521	F-7B-054286	4244732936		102-2		PUTHAM "C" #19 (17929)	RICHARDS RANCH (MISSI	0.0	WARREN PETROLEUM
-TOM MCGEE CORP				RECEIVED:	04/11/83	JA: TX			
8331564	F-10-061563	4235731297		103		DICKINSON #1	FEERY (CLEVELAND)	365.0	DIAMOND SHAMROCK
-TOWNSEND CO				RECEIVED:	04/11/83	JA: TX			
8331594	F-7C-064037	4229900000		102-4		DICKINSON #3 (103221)	BALLINGER WEST (JENNI	183.0	LONE STAR GAS CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	04/11/83	JA: TX			
8331695	F-7C-065569	4223532008		103		LINDLEY "40" #5	ROCK PEN (CANYON)	90.0	NORTHERN NATURAL
-TXO PRODUCTION CORP				RECEIVED:	04/11/83	JA: TX			
8331543	F-03-060683	4248132330		102-4		FENNAR E-3	GOLDENROD WILDCAT	0.0	TRUNKLINE GAS CO
8331536	F-02-060316	4223931804		102-4		WATSON B-3	MORALES	0.0	DELMI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/11/83	JA: TX			
8331721	F-10-065687	4221131544		103		MARGARET HODGSON #2-34	FELDMAN (TONKAWA)	26.0	
8331722	F-08-065690	4213534080		103		MOSS UNIT #18-9	COWDEN SOUTH	1.0	ODESSA NATURAL CO
-WATCO ENERGY INC				RECEIVED:	04/11/83	JA: TX			
8331607	F-7C-064422	4239931431		102-4		GEORGE W PRUSER #1	KORNEGAY (GARDNER)	12.0	UNION TEXAS PETRO
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	04/11/83	JA: TX			
8331650	F-09-065254	4223734886		102-4		DUNLAP 2-B P #179348	TJN STRAWN	4000.0	SOUTHWESTERN GAS
-WESTERN MILLS OIL & GAS CO INC				RECEIVED:	04/11/83	JA: TX			
8331616	F-04-064538	4236732373		102-4		EDWARDS #1-A	DICEY (CONGL)	16.0	TEXAS UTILITIES F
-WESTWIND EXPLORATION INC				RECEIVED:	04/11/83	JA: TX			
8331756	F-7B-065763	4244132201		102-4		ALLYN #1 18785	ALLYN (GRAY)	0.0	LONE STAR GAS CO
-WILBROOK EXPLORATION INC				RECEIVED:	04/11/83	JA: TX			
8331569	F-7B-062096	4242933470		102-4		P NALL #4	NALL (3500)	292.0	LONE STAR GAS CO
-WILLIAM MOSS PROPERTIES INC				RECEIVED:	04/11/83	JA: TX			
8331735	F-08-065723	4231732630		103		B C TOM "4" #1	SPRABERRY/TREND AREA	109.5	
-WOOD MCSHANE & THANIS				RECEIVED:	04/11/83	JA: TX			
8331603	F-08-064279	4249531543		103		KEYSTONE CATTLE #10-H RRC NO NOT YE	KEYSTONE (HOLT)	12.3	WESTAR TRANSMISSI
-WOOLF & MAGEE INC				RECEIVED:	04/11/83	JA: TX			
8331567	F-03-060805	4200530142		102-4		CARTER BROS GAS UNIT #5 WELL #5	DAMASCUS (SEAMANS)	270.0	EASTEX GAS TRANSM
-WORLD PRODUCERS INC				RECEIVED:	04/11/83	JA: TX			
8331656	F-7B-065365	4236731412		108		ELLIS #1	MOBY DICK (CONGL)	7.3	NATURAL GAS PIPEL
8331657	F-7B-065366	4236331874		108		WELLS-HENDERSON #1	VAN DYKE (STRAWN)	10.6	NATURAL GAS PIPEL
8331655	F-7B-065364	4236730962		108		WOODS #1	WOODS (STRAWN 2800)	13.5	NATURAL GAS PIPEL
-WY-VEL CORP				RECEIVED:	04/11/83	JA: TX			
8331687	F-10-065543	4206531305		103		AEBERSOLD (04906) #6 A	PANHANDLE	48.1	GETTY OIL CO
-3-B OIL				RECEIVED:	04/11/83	JA: TX			
8331676	F-7B-065527	4213333879		102-4		TARVER #1 (18474)	HAWK-EYE (ADAMS BRANC	7.0	SOUTHWESTERN GAS
8331675	F-7B-065526	4213333945		102-4		TARVER #11 (18474)	HAWK-EYE (ADAMS BRANC	5.0	SOUTHWESTERN GAS
8331685	F-7B-065536	4213333944		102-4		TARVER #12 (18474)	HAWK-EYE (ADAMS BRANC	7.0	SOUTHWESTERN GAS
8331674	F-7B-065525	4213333943		102-4		TARVER #13 (18474)	HAWK-EYE (ADAMS BRANC	6.0	SOUTHWESTERN GAS
8331673	F-7B-065524	4213333963		102-4		TARVER #16 (18474)	HAWK-EYE (ADAMS BRANC	6.0	SOUTHWESTERN GAS
8331677	F-7B-065528	4213300000		102-4		TARVER #2 (18474)	HAWK-EYE (ADAMS BRANC	4.0	SOUTHWESTERN GAS
8331678	F-7B-065529	4213300000		102-4		TARVER #3 (18474)	HAWK-EYE (ADAMS BRANC	4.0	SOUTHWESTERN GAS
8331679	F-7B-065530	4213333966		102-4		TARVER #4 (18474)	HAWK-EYE (ADAMS BRANC	6.0	SOUTHWESTERN GAS
8331680	F-7B-065531	4213333965		102-4		TARVER #5 (18474)	HAWK-EYE (ADAMS BRANC	2.0	SOUTHWESTERN GAS
8331681	F-7B-065532	4213333950		102-4		TARVER #6 (18474)	HAWK-EYE (ADAMS BRANC	7.0	SOUTHWESTERN GAS
8331682	F-7B-065533	4213333949		102-4		TARVER #7 (18474)	HAWK-EYE (ADAMS BRANC	7.0	SOUTHWESTERN GAS
8331683	F-7B-065534	4213333948		102-4		TARVER #8 (18474)	HAWK-EYE (ADAMS BRANC	6.0	SOUTHWESTERN GAS
8331684	F-7B-065535	4213333947		102-4		TARVER #9 (18474)	HAWK-EYE (ADAMS BRANC	5.0	SOUTHWESTERN GAS

[FR Doc. 83-11905 Filed 5-4-83; 8:45 am]
BILLING CODE 6717-01-C

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federal register

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Part IV

Department of Health and Human Service

Public Health Service

Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects

VOL
48
ISS
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for the Adolescent Family Life Demonstration Grants Program for the states and territories listed below. These grants are for demonstration projects which test new approaches to providing care services for pregnant adolescents and adolescent parents, prevention services to reach adolescents before they become sexually active, or a combination of care and prevention services as authorized by Title XX of the Public Health Service Act (42 U.S.C. 300z, *et seq.*).

DATE: Applications must be postmarked or received at the above address on June 6, 1983 by 4:30 p.m.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Adolescent Pregnancy Programs, Room 702, 300 7th Street, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Donald Underwood (202) 472–5588 or (202) 245–7473.

SUPPLEMENTARY INFORMATION: Title XX of the Public Health Service Act, 42 U.S.C. 300z, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. This notice announces the availability of approximately $500,000 in funding for such projects, which will be made available for projects in certain designated states and areas, as set forth below. It is anticipated that five or six projects will be funded pursuant to this announcement. We summarize below the statutory background of the grant program and describe the procedures for applying for grants pursuant to this notice.

Statutory Background

Title XX authorizes grants for three types of demonstration projects: (1) Projects which provide "care services" only (i.e., services for the provision of care to pregnant adolescents and adolescent parents); (2) projects which provide "prevention services" only (i.e., services to prevent adolescent sexual relations), and (3) projects which provide a combination of care and prevention services. The specific services (termed "necessary services") which may be funded under Title XX are the following:

(1) Pregnancy testing and maternity counseling;

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(3) Primary and preventive health services including prenatal and postnatal care;

(4) Nutrition information and counseling;

(5) Referral for screening and treatment of veneral disease;

(6) Referral to appropriate pediatric care;

(7) Educational services relating to family life and problems associated with adolescent premarital sexual relations, including:

(a) Information about adopting;

(b) Education on the responsibilities of sexuality and parenting;

(c) The development of material to support the role of parents as the provider of sex education; and

(d) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(8) Appropriate educational and vocational services and referral to such services;

(9) Referral to licensed residential care or maternity home services;

(10) Mental health services and referral to mental health services and to other appropriate physical health services;

(11) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(12) Consumer education and homemaking;

(13) Counseling for the immediate and extended family members of the eligible person;

(14) Transportation;

(15) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors; (and)

(16) Family planning services * * * (Sec. 2002(a)(4))[1]

[1] Statutory citations are to Title XX of the Public Health Service Act.

Under the statute, the services described in subparagraphs (1), (4), (5), (7), (8), (13), (14), and (15) above are "prevention services". (Sec. 2002(a)(8)). Grantees which provide "care services" must provide those "necessary services" which are "core services". (Sec. 2002(a)(5)). In accordance with sec. 2002(b), the regulations promulgated under Title VI of the Health Services and Centers Amendments of 1978 must presently be used to determine which of the above services are core services. Accordingly, the services described in subparagraphs (1), (2), (3), (4), (5), (6), and (7) above are core services. In addition, the referrals described by subparagraphs (8) and (10) are also core services. The services described in subparagraph (16) are core services when suitable and appropriate family planning services are not otherwise available in the community.

Eligible Applicants

Any public or private nonprofit organization or agency is eligible to apply for a grant if the organization or agency demonstrates "in the case of an organization which will provide care services, the capability of providing all core services in a single setting or the capability or creating a network through which all core services would be provided; or * * * in the case of an organization which will provide prevention services, the capability of providing such services" (Sec. 2002(a)(3)). However, the July 21, 1981 report of the Senate Committee on Labor and Human Resources, which accompanied the Senate Bill (S. 1090) proposing the Adolescent Family Life Demonstration Grants Program, stated that one of the reasons the new legislation was necessary was to provide the states with workable models of comprehensive programs. The report further states that "without a functioning demonstration project operating within a state, public officials will not have the opportunity to examine this innovative approach to a serious problem confronting State and local governments." S. Rep. No. 97–161, at 9. Accordingly, only those states which will not have an Adolescent Family Life Demonstration project operating after September 30, 1983 will be eligible to apply under this announcement. The states are Alaska, Arkansas, Delaware, Georgia, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota and Wyoming. Organizations from Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands are also eligible to apply under this announcement.

Application Requirements

Applications must be submitted on the forms supplied in the application kits available from the Office of Adolescent Pregnancy Programs (OAPP). Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of the legislation governing this program will be sent to applicants as part of the application kit package. Program regulations are presently being developed, and applicants will be expected to revise their applications to comply with any regulations issued. In the interim, applicants should use the legislation, and the proposed regulations which it is expected will be published shortly, to guide them in developing their applications. All applicants should review and must comply with the requirements for applications in 2006(a). Awards will be made only to those applicants who have met all applicable statutory requirements.

Applicants may submit proposals that provide for care services only, prevention services only or a combination of care and prevention services. Applicants proposing to provide a combination of care and prevention services should submit budget requests that provide a clear delineation between funds allocated for prevention services and funds allocated for care services. Applicants should also in particular provide the following:

(1) A description of the objectives, models and strategies for delivering services and expected results. (Care and combination programs should describe services to be delivered before and after the baby's birth and should delineate the length of time after the baby's birth that clients will participate in program services.)

(2) A description of innovative approaches, as appropriate, for encouraging and supporting the involvement of families, religious and charitable organizations and voluntary associations in the provision of services.

(3) A description of the target groups to be served, client recruitment methods, selection criteria, case management and follow-up procedures.

(4) The numbers and types of clients expected to be served.

(5) Provision for the statutory evaluation requirements. Each grantee receiving funds for a services demonstration project is required to expend between one and five percent of the grant award on program evaluation. (See sec. 2006(b)). Applicants must provide a plan for meeting this requirement, describing in detail measures of program performance, data collection methods, and a plan for analyzing the data. Applicants should provide evidence of consultation or other arrangements with a college or university located in the applicant's State. Applicants for combination grants should include provision for evaluating both prevention and care components.

In addition to the above, applicants for grants must meet the following requirements:

(1) *Requirements for Review of an Application by the Governor.*

Section 2006(e) of the Public Health Service Act requires that—

> Each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this Title. The Governor shall submit to the applicant comments on any such application within the period of sixty days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

An applicant may comply with this requirement by submitting a copy of the application to the Governor of the State in which the applicant is located at the same time the application is submitted to OAPP. To inform the Governor's office of the reason for the submission, a copy of this notice should be attached to the application. The Governor has sixty days in which to provide comments to the applicant.

The applicant must provide a copy of the comments or verification that there were no comments to the above address by August 19, 1983.

(2) *Circular A–95 Notification Process.*

In order to comply with the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to OAPP, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Areawide Clearinghouses provide their own forms on which this information is to be submitted.

Applicants are advised to contact the appropriate State Clearinghouse (listed at 42 FR 210, January 10, 1977) for detailed information on meeting the A–95 requirements. It is strongly recommended that the Clearinghouse be notified as soon as a decision is made to apply for a grant. The application can be submitted to the Clearinghouse concurrently with the submission to OAPP. Clearinghouse comments or verification that no comments were made within the period available can be submitted to OAPP no later than August 19, 1983.

(3) *Health Systems Agency (HSA) Review.*

In order to comply with the HSA review requirements under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001–2(e), as amended, applicants must contact the HSA responsible for the area to be served by the proposed project to determine whether or not the HSA desires to review the application. If so, a copy of the application must be submitted to the HSA for review no later than June 6, 1983. Applicants are advised to contact the local HSA as soon as a decision is made to apply for a grant for detailed information on meeting this review requirement.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the applicable statutory requirements will not be accepted for review in this grant cycle. Applicants will be so notified, and the applications will be returned. All other applications will be subjected to competitive review and assessment.

Eligible applications will be reviewed and assessed to determine which applications best meet the applicable statutory requirements, come within the statutory priorities, and promote the purposes of the act. When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications.

Dated: May 2, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83–12095 Filed 5–4–83; 8:45 am]

BILLING CODE 4160–17–M

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federal register

Thursday
May 5, 1983

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Support Facilities and Coal Preparation Plants; Final Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 785, 816, 817, and 827

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Support Facilities and Coal Preparation Plants

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its regulations applicable to support facilities and coal preparation plants. New definitions of surface coal mining operations, coal preparation or coal processing, coal preparation plants, and support facilities are adopted. The revised regulations: (1) Establish a single set of regulations applicable to all coal preparation plants, (2) clarify rules applicable to support facilities and utility installations, and (3) clarify the applicability of OSM's regulations to coal preparation plants and support facilities. These rule changes are necessary in order to clarify OSM's jurisdiction and to establish a clear set of regulatory requirements.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5245.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Responses to Comments and Rules Adopted
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act) sets forth general regulatory requirements governing surface coal mining operations and the surface impacts of underground coal mining. OSM has by regulation implemented or clarified many of the general requirements of the Act and set performance standards to be achieved by different operations. See 30 CFR Part 700 *et seq.*

One area of ambiguity under the Act has been OSM's jurisdiction over certain operations related to coal mines. Initially, OSM adopted a definition of the term "surface coal mining operations" only slightly different from the statutory definition. However, that definition left intact a statutory ambiguity with regard to OSM's jurisdiction over certain coal-mine-related activities. These final rules are intended to clarify OSM's jurisdiction, to set out clearer and simpler performance standards, and to specify permitting requirements for these facilities.

The rules adopted herein were proposed on June 25, 1982 (47 FR 27688). Because of an error in printing, portions of the proposed rule were published on June 29, 1982 (47 FR 28359). The comment period opened on June 25, 1982, and continued until August 25, 1982. It was reopened until September 10, 1982, to allow the admission into the record of comments received at congressional hearings on September 9–10, 1982.

II. Discussion of Responses to Comments and Rules Adopted

A. Changes to the Definition of "Surface Coal Mining Operations"

Section 701(28) of the Act defines "surface coal mining operations" as follows:

> (A) *Activities* conducted on the surface of lands *in connection with* a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, *and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however,* that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act; and
>
> (B) The *areas* upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incidents to such activities. [Emphasis added.]

The definition thus incudes not only activities conducted on the surface of land in connection with a surface coal mine or an underground mine with surface effects, but also the areas upon which such activities occur or disturb the natural land surface.

Through the use of examples, the statutory definition offers some guidance as to the scope of activities included in the definition. It is unclear from the syntax alone, however, whether the phrase "at or near the mine site" at the end of the examples in Paragraph (A), modifies only the phrase immediately preceding it, *i.e.*, "loading of coal for interstate commerce," or whether it also modifies "the cleaning, concentrating or other processing or preparation."

The definition of a "surface coal mining operation" in Section 701(28) of the Act therefore is subject to two differing interpretations: (1) That cleaning, concentrating, other processing or preparation and loading of coal must be both "in connection with" a surface coal mine and "at or near the mine site" to be regulated; or (2) that such activities, other than the loading of coal, are regulated if they are in connection with a mine, without regard to proximity to the mine.

In interpreting the initial regulatory program, which adopted in § 700.5 the statutory definition of surface coal mining operations almost directly from the Act, the Interior Board of Surface Mining and Reclamation Appeals (the Board) generally applied the first test and required proximity as well as connection to a mine. See *Western Engineering*, 1 IBSMA 202 (1979); *Reitz Coal Co.*, 3 IBSMA 260 (1981); *Thoroughfare Coal Co.*, 2 IBSMA 72 (1981); *The Hoke Co.*, 2 IBSMA 7 (1981); *Falcon Coal Co.*, 2 IBSMA 406 (1980); *Wolverine Coal Corp.*, 2 IBSMA 325 (1980); *Roberts Bros. Coal Co.*, 2 IBSMA 284 (1980). This interpretation, however, was due at least in part to the ambiguity of the definition, and the Board's unwillingness to resolve the ambiguity against operators who could not infer from the regulatory language that their facility was to be regulated.

In the development of the regulations for the permanent regulatory program, OSM attempted to clarify its intent to exercise the most complete jurisdiction available by applying the phrase "at or near the mine site" only to the "loading of coal for interstate commerce." OSM included preamble language clarifying the applicability of the phrase. (See 44 FR 14914–15 and 14928, March 13, 1979.)

However, since the OSM interpretation was contained only in the preamble to the permanent program – regulations and not in the regulation itself, the ambiguity was not fully resolved, and the Board continued to apply the "at or near" test to all the above-listed activities. U.S. District Judge Flannery, on the other hand, in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (Slip op. at 51–53), (D.D.C., May 16, 1980), upheld the OSM interpretation and found that the "at or near" language only modified "the loading of coal." Judge Flannery also recognized that Section 701(28)(B) of the Act provided a second, and independent, basis for OSM's jurisdiction over offsite facilities and processing plants (*id.* at 52–53).[1] More recently, another district court overturned the decision of the Interior Board of Surface Mining Appeals that OSM had no jurisdiction over a coal processing facility because it was not at or near the mine site. *Debord v. Watt*, No. 82–89. (E.D. Ky., Sept. 29, 1982) reversing *Dinco Coal Sales, Inc.*, 4 IBSMA 35 (Mar. 26, 1982). Also see *Shawnee Coal Co. v. Andrus*, 661 F2d 1083 (6th Cir. 1981).

The definition adopted today is substantially the same as the one proposed. Under the definition adopted, "surface coal mining operations" means—

> (a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the uses of explosives and blasting; in-situ distillation, retorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. These activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Act; and *provided further*, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and
>
> (b) The areas upon which the activities described in Paragraph (a) of this definition occur or where such activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface resulting from or incident to those activities.

[1] In its February 1, 1983 order remanding the case to the district court, the U.S. Court of Appeals required OSM to consider all issues raised in the briefs of the parties, Civ. No. 80–1810 (D.C. Cir.). This preamble addresses those issues.

As noted in the preamble to the March 13, 1979, rules, a clarification has been made of the statutory definition: Extraction of coal from coal refuse piles has been stated in an express provision in addition to the activities listed in the Act. The reasons for this provision are set out in the preamble to the March 13, 1979, rules at 44 FR 14917.

In addition, OSM has amended the punctuation slightly, and separated the phrase "loading of coal for interstate commerce at or near the mine site" in order to clearly reflect OSM's interpretation that the phrase "at or near the mine site" modifies only "loading of coal for interstate commerce" and does not modify "cleaning, concentrating, or other processing or preparation" or any other part of the definition.

Thus, the following distinct types of activities are included within the meaning of the term surface coal mining operations:

Contour mining;
Strip mining;
Auger mining;
Mountaintop mining;
Box cut mining;
Open pit mining;
Area mining;
Use of explosives and blasting in relation to coal mining;
In-situ distillation, retorting, leaching, or other chemical or physical processing;
Cleaning, concentrating or other processing or preparation of coal;
Loading of coal for interstate commerce at or near the mine site; and
Extraction of coal from coal refuse piles.

OSM belives the phrase in Section 701(28)(A) of the Act and 30 CFR 700.5 "in connection with" should be interpreted broadly. Some examples of that relationship include facilities which receive a significant portion of their coal from a mine; facilities which receive a significant portion of the output from a mine; facilities which have an economic relationship with a mine; or any other type of integration that exists between a facility and a mine. A facility need not be owned by a mine owner to be in connection with a mine.

OSM does not believe that its jurisdiction extends to facilities which are operated solely in connection with the end user of the coal product. A facility will not be deemed to be operated in connection with a mine if it is located at the point of ultimate coal use unless it is also located at the site of the mine. OSM will treat all facilities which handle coal as either "in connection with" a mine or "in connection with" an end user.

In addition, OSM recognizes that Section 701(28)(B) of the Act (and the identical portion of the definition in 30 CFR 700.5(b) as adopted) provides a supporting basis for regulating certain areas. These areas include those on which the activities identified in Paragraph (A) of the definition occur or where they disturb the natural land surface, as well as those areas on which other activities take place if the use of these areas results from or is "incident to" the specified activities. It is from this portion of the statutory definition that OSM derives its authority to regulate support facilities.

Commenters were concerned that the proposed phrase "in connection with" was ambiguous with regard to an "independent contract coal handler." Generally, an independent handler or other person would function "in connecton with" a coal mine if he or she is associated with a mine in any of the ways described above.

Commenters asserted that OSM could not change the statutory definition of "surface coal mining operations" by adopting a regulation. Rather, they observed, OSM should propose such a change to Congress.

In adopting these regulatory amendments OSM is not changing the statutory definition. Through several years of regulation using a regulatory definition nearly identical to the statutory one, OSM identified the ambiguities which prompt the regulatory changes adopted today. OSM is attempting to resolve those ambiguities by interpreting the statutory definition through regulation. These interpretations are consistent with the statutory definition.

Some commenters supported the proposal to put the phrase "loading of coal for interstate commerce at or near the mine site" in a separate sentence. Other commenters opposed OSM's proposal to apply the modifier "at or near the mine site" only to the "loading of coal" and not to other listed activities. These commenters felt either that the regulatory definition should be adopted exactly as the statutory definition or that language should be

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adopted which reflected that the "at or near" teat should apply to cleaning, concentrating, processing, or preparation facilities, as well as to loading facilities. Commenters felt that the statutory language was insufficient to allow OSM to adopt rules which would require States to regulate offsite facilities. Some commenters relied upon the language in Senate Report 95–128, 95th Cong., 1st Sess. (1977) for support of this position. Others referenced several decisions of the Board of Surface Mining Appeals.

OSM disagrees with such comments. Both the Senate and House Reports which accompany the Act are consistent with the interpretation adopted, which applies the "at or near" test only to loading facilities. OSM believes that the statutory language and accompanying legislative reports establish that the test applies only to loading facilities. Accordingly, it would be impermissible to narrow OSM's jurisdiction by applying that test to other activities listed in the statutory language. Furthermore, as noted earlier, Judge Flannery in *In re: Permanent Surface Mining Regulation Litigation*, interpreted the phrase "at or near the mine site" as modifying only "the loading of coal." *Id.; accord, Debord v. Watt, supra;* and *Shawnee Coal Co. v. Andrus, supra; but see Drummond Coal Co. v. Watt,*[3] Civ. No. CV–80–M–0829–S (N.D. Ala., April 20, 1982).

Commenters suggested that it was unnecessary for OSM to exercise its jurisdiction over offsite facilities because these facilities have historically been regulated by State zoning laws and more recently some have been regulated under the Federal Water Pollution Control Act, as Amended, 33 U.S.C. 1857 *et seq.*, or by the Clean Air Act, 42 U.S.C. 7401 *et seq.*

In enacting the Act, Congress intended to establish a comprehensive statute to regulate surface impacts of coal mining, including offsite processing facilities and certain support facilities. Although some facilities may be regulated by several laws, each governing different facets of the operation, this is consistent with congressional intent.

Some commenters recommended that OSM delete from its regulatory definition the second proviso at the end of paragraph (a) of the definition, which deals with the extraction of coal from coal refuse piles because the regulation would more closely track the statutory language if it were deleted. OSM has decided to retain this language. OSM did not propose to amend this portion of the definition which is authorized under the Act. It is important to list this activity in order to clearly delineate OSM's jurisdiction. As noted earlier, a discussion of this issue was included in the preamble to the March 13, 1979, rules (44 FR 14917).

Commenters suggested replacing the words "incidental to" in paragraph (b) of the definition with "related to" and rewording the end of the last sentence of Paragraph (b) in order to connote the requirement for close physical proximity to the coal mine. OSM agrees that the Act implies a proximate relationship between a regulated facility and regulated support facilities. OSM does not agree that substitution of the words "related to" for "incident to" is warranted. The language at the end of the second sentence of paragraph (b) includes the term "incident to." In this context, the "incident to" phrase defines the relationship which must exist in order for the lands and activities thereupon to be regulated. In response to the commenters' concern, however, the final rule adds language to the definition of support facility indicating that the phrase "resulting from or incident to" connotes an element of proximity.

OSM had proposed to delete the word "surface" from the phrase "surface coal mining operations" in order to clarify that OSM regulates many aspects of coal mines that are not on the surface, or related to surface mines. Many commenters opposed such a change, some suggesting that it would be illegal, and others saying that it would detract from the usefulness of the definition. These commenters felt that the change would not help to clarify the perceived ambiguity. In response to these comments, OSM has adopted the definition with the word "surface" retained. OSM intends to continue to exercise jurisdiction over both surface mines and the surface effects of underground mining and certain activities related to both surface and underground mines. A corresponding change has been included in the definition of support facilities.

B. New Definitions of "Coal Processing" and "Coal Preparation Plant"

OSM proposed a new definition of the term "coal processing" and a revised definition of the term "coal processing plants" in 30 CFR 701.5 which would limit these definitions to plants which process coal by separating it from its impurities. The rule has been adopted substantially as proposed, with the exception that the term "coal preparation plant" is used instead of "coal processing plant" to follow more closely definitions used by the Environmental Protection Agency (EPA) in recent amendments to 40 CFR 434.11 (47 FR 45382, October 13, 1982). The definition of "coal processing" has been revised to define also the term "coal preparation" to reflect the common usage and identical meaning of both "coal processing" and "coal preparation."

"Coal preparation" or "coal processing" has been defined to mean the cleaning, concentrating, or other processing or preparation of coal in order to separate coal from its impurities. Under this definition, coal loading, crushing, sizing and other such activities do not constitute coal processing or preparation unless they result in the separation of coal from its impurities. By clarifying that coal processing includes only those activities where coal is separated from its impurities, the definition provides for the regulation of those activities most likely to be associated with the potential for adverse environmental impacts on the surface.

The definition of coal preparation plant has been revised to parallel the definitions of "coal processing" and "coal preparation." The phrase "coal preparation plant" is defined to mean those facilities where coal is subject to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities. The rule provides a noninclusive listing of some of the types of facilities that are expected to be included within the overall scope of a coal preparation plant and associated areas. Individually, many of the described facilities would not necessarily constitute a coal preparation plant, because some of these facilities might not be used in connection with the cleaning, concentrating, or other processing or preparation of coal to separate coal from its impurities. Loading and crushing facilities would be considered part of a coal preparation plant when conducted in conjunction with coal preparation operations. The listed examples are not intended to be exhaustive.

OSM received many comments on this part of the proposal. Some commenters supported the amendments, others did not.

Commenters were concerned about OSM's proposal to limit the definitions to those facilities where "run of the mine coal" is processed. These commenters noted that the term should include the extraction of coal from gob or slurry piles as well as the processing or preparation of run-of-the-mine coal. OSM agrees. Under the definition adopted, any separation of coal from its impurities must be construed as coal processing. A corresponding change has been made to the definition of coal preparation plant.

Commenters suggested that the definition of coal preparation plant (as well as the definition of support facilities) include the requirements that it be "substantially and operationally connected with the mining operations" and be operated "such that the mine operator has or could have control of the facilities." OSM has not adopted the suggestion. A plant which separates coal from its impurities is a coal preparation plant without regard to its relationship to a mine. Under the Act, OSM must regulate those coal preparation plants which are operated in connection with a coal mine. OSM has not adopted either the phrase "substantially and operationally connected" or "such that the mine operator has or could have control of the facilities" because it believes it would be impermissibly limiting its jurisdiction and avoiding OSM's statutory responsibility. A plant may be operated in connection with a mine without the mine operator having any control over it.

Commenters suggested deleting some of the proposed examples of the types of facilities included in the definition of coal preparation plant. Specifically, the commenters recommended deletion of roads, railroads, surface conveyer systems, chutes, aerial tramways, or other transportation facilities. These commenters suggested that OSM did not have jurisdiction over the transportation facilities associated with preparation plants. Other commenters noted that those transportation facilities regulated by OSM's previous 30 CFR 816.180 and 817.180 were proposed to be amended by two rulemakings, the proposals governing coal preparation plants and governing roads.

In the final definition of coal preparation plant, OSM has not adopted the proposed examples listed, but not for the reason suggested. Although those transportation facilities which are operated as part of or incident to coal preparation plants will be governed by the rules for preparation plants, such transportation facilities, when operated independently of preparation plants, are correctly the subject of other performance standards. Therefore, they have been deleted from the definition of coal preparation plant and will be included in final rules for support facilities (see below) and roads.

Some commenters felt that the proposed definition of coal processing, which included any separation of coal from its impurities, was too inclusive because it included screening operations which produce only small quantities of waste materials. These commenters felt that such operations should not be regulated. Other commenters felt that the proposed amendments were inappropriate because facilities should be regulated without regard to whether they produce a waste product. They noted that some environmental problems result from crushing and sizing operations that do not involve the separation of coal from waste products. Some commenters suggested that OSM's proposed definition turned the phrase "cleaning, concentrating, or other processing or preparation" in the statutory definition into a string of words with identical meanings.

OSM disagrees with these comments. The first paragraph of the definition of surface coal mining operations (discussed more fully above) establishes by the use of examples several categories of activities which are regulated. The first category is coal excavation operations for which several examples are listed; the second is the use of explosives and blasting. The third category lists a series of methods of utilizing coal in situ: distillation, retorting, leaching, or other chemical or physical processing. Each of these is one method of using coal in situ. Congress could have eliminated the apparent redundancy by saying "any" in situ utilization of coal. Similarly, when the statute lists "cleaning, concentrating or other processing or preparation," Congress set forth various means of separating coal from its impurities. OSM believes Congress intended to encompass the entire range of activities for removing the impurities from coal. However, there is no reason to believe that Congress intended to reach those activities which only had the effect of separating large pieces of coal from smaller ones or to remove small quantities of rock material that may otherwise cause damage to a crusher or sizer. Indeed, by its omission OSM believes that Congress specifically excluded mere crushing and sizing.

Accordingly, by its definition of coal preparation, OSM intends to reach only those activites that actually clean, concentrate, process, or prepare coal; that is, operations which separate coal from its impurities.

Commenters expressed concern that OSM's revised definition of coal processing plant would have the effect of reading the phrases "physical processing" and "or other processing or preparation" out of the definition of surface coal mining operations. Commenters pointed out that OSM's proposed definition of coal processing plant conflicts with its prior interpretation of the statutory definition of surface coal mining opertions in that screening and crushing operations, at one time believed to be included in the statutory language, would not be regulated under the new rules.

OSM has not ignored the statutory phrases. As explained above, OSM has read these phrases in the fuller context in which they appear. Thus, while the phrases "physical processing" and "other processing or preparation" do appear in the statutory language, they are not intended to stand on their own. The words "physical processing" appear at the end of the phrase "in situ distillation or retorting, leaching or other chemical or physical processing." They are modified by "in situ" and provide language parallel and equivalent to "retorting" or "leaching." OSM believes that Congress included these in order to demonstrate that retorting, leaching, or any other chemical or physical processing when conducted in situ would be a surface coal mining operation. Similarly, the phrase "other processing or preparation" must also be read in the context of the listed operations immediately preceding it.

Commenters pointed out that OSM's proposed definition of the term "coal processing plant" would not be entirely consistent with the EPA definition of the term "coal preparation plant" or its definition of the term "coal processing and conveying equipment."

EPA may adopt definitions that vary from those adopted by OSM because the EPA derives its jurisdiction from statutes other than the Act. OSM's jurisdiction in this regard is limited to "cleaning, concentrating, or other processing or preparation" of coal, and it has defined its terms accordingly. However, the commenter is incorrect in asserting that OSM's and EPA's definitions differ substantively in this regard. See EPA's definition at 47 FR 45382, October 13, 1982. The final OSM rule has been revised to include terminology similar to that used by EPA to avoid confusion between the two sets of rules.

Commenters were concerned that the proposed change would allow activities with significant water, air, or noise pollution impacts to go unregulated. In enacting the legislation, and setting OSM's jurisdiction, Congress specifically identified activities and areas to be regulated. OSM agrees that

[3] *Drummond*, however, was only interpreting OSM's regulations under the initial regulatory program.

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in some circumstances crushing and screening operations may have adverse water, air, and noise impacts. However, as commenters noted, these may be subject to the jurisdiction of other agencies such as EPA. A discussion of environmental impacts related to these revisions and reasonable alternatives is included in OSM's recently issued "Final Environmental Impact Statement OSM–EIS–1: Supplement."

Commenters called OSM's attention to two Federal court cases which they apparently felt compelled the interpretation that coal crushing and screening operations were included within the definition of surface coal mining operations. In one, *Shawnee Coal Co. v. Andrus, supra,* the court held that a tipple operator was precluded from seeking judicial relief from a Notice of Violation without exhausting available administrative remedies. In addressing the issue of OSM's jurisdiction over tipple operations, the court noted that the Act encompassed offsite tipple operations. Presumably, it is to that portion of the court's opinion which the commenters refer. In the *Shawnee Coal* case, the court was determining whether OSM's asserted jurisdiction was "so conspicuously lacking" as to constitute a usurpation of power. In determining that it was not a usurpation, the court determined that OSM is properly the first judge of its jurisdiction. In *In Re: Permanent Surface Mining Regulation Litigation, supra,* Judge Flannery determined that the phrase "at or near the mine site" does not apply to activities beyond the loading of coal. Judge Flannery did not, however, discuss what activities are included in the phrase "cleaning, concentrating or other processing or preparation."

A more recent case also relates to this issue. In *Debord v. Watt, supra,* the court determined that OSM could not avoid jurisdiction over a plant that crushed and loaded coal because it was not at or near the mine site. There, as in the two other cases, the court did not address the issue of whether the activity was in fact coal processing or preparation.

C. New Definition of Support Facilities

OSM is adopting a new definition of the term "support facilities" in 30 CFR 701.5 much like the one proposed.

"Support facilities" is defined to mean those facilities resulting from, or incident to, surface coal mining operations and the areas upon which such facilities are located. Support facilities may consist of, but need not be limited to, the following facilities: mine buildings; bath houses; coal loading facilities; coal crushing and sizing facilities; coal storage facilities; equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; water treatment and water-storage facilities; and railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities, but not including roads.

The new definition clarifies the types of facilities regulated under §§ 816.180 and 817.180, which contain the performance standards applicable to support facilities. It also specifically incorporates a proximity element.

Commenters objected to OSM's proposal to include other transportation facilities, such as railroads, conveyers, chutes, and aerial tramways, in the definition of support facilities. Some noted that these same facilities (which were formerly regulated under §§ 816.180 and 817.180) were the subject of another rulemaking (47 FR 16592, April 16, 1982). Other commenters did not like the proposal because it would have required the consent of the owner of certain types of facilities before the disruption of those facilities by transportation facilities. OSM has decided to continue to include railroads, conveyers, chutes, aerial tramways, and other transportation facilities in the definition of support facilities, but not to include roads which are subject to regulation under other sections and are covered in another rulemaking. OSM considered regulating these support facilities under the regulation for roads but has decided that it is more logical to apply the support facilities standards rather than the more specialized road standards.

Commenters suggested that OSM should not adopt a definition of support facilities because those facilities are included within the definition of surface coal mining operations. These commenters felt that to the extent that clarification is necessary, it should be left to the States. OSM has adopted the proposed regulatory definition to clarify which regulations are applicable to different types of operations.

Commenters suggested that OSM did not have jurisdiction over some of the activities listed, such as bath houses and mine buildings, because they were not listed in Section 701(28)(A) of the Act. OSM's regulatory jurisdiction extends to "any adjacent land, the use of which is incidental to" any activity listed in Section 701(28)(A), as well as to "other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities." It is on these bases that OSM relies for its jurisdiction over support facilities.

Some commenters were confused by OSM's treatment of coal loading facilities. They observed that coal loading facilities were specifically listed as regulated activities under the Act, but that OSM had included coal loading as an activity in the proposed definitions of coal processing plant and support facilities. OSM's regulation of these facilities is neither unintentional nor duplicative. When a loading plant is operated at or near a coal mine, it will be regulated under the permit for that mine. Statutory authority for this situation is provided in Sections 701(28)(A) and 701(28)(B) of the Act. In that context, it will be subject to the same performance standards as other support facilities. When not at or near a mine, a coal loading facility will only be regulated if it is part of or results from or is incident to a regulated coal preparation plant or other regulated activity under Section 701(28)(A). Coal loading plants at coal preparation plant sites will be regulated under the permit requirements of § 785.21 and the performance standards of 30 CFR Part 827.

Commenters suggested that phrase "coal loading facilities," in the definition of support facilities should be modified by the addition of the phrase "at or near the mine site" to reinforce the fact that coal loading has a geographical limitation. This comment has been rejected. Although Section 701(28)(A) of the Act provides an independent basis for regulating loading facilities at or near the mine site, Section 701(28)(B) also provides authority for regulating such facilities. However, to be regulated under Section 701(28)(B) a facility must result from or be incident to an activity regulated under Section 701(28)(A). Thus, regulated support facilities will naturally occur in proximity to the site of a Section 701(28)(A) operation.

Other commenters suggested that language be changed in the definition of support facilities to indicate more clearly that support facilities would not be regulated unless they were "at or near the mine site." While OSM recognizes that in fact all support facilities which OSM regulates are located in proximity to a surface mining and reclamation operation, OSM declines to adopt the suggested language. OSM believes its language "resulting from or incident to" accurately reflects its authority.

The final regulations leave the case-by-case determination of the limitations of the applicability of the support facilities regulation to the individual regulatory authorities. Some commenters were concerned that this flexibility would be confusing and leave too much ambiguity in the regulations. OSM recognizes the desire to provide clear guidance in the regulations but feels that providing flexibility to the regulatory authorities will allow them to consider the myriad site specific situations that cannot be fully anticipated in writing a Federal regulation. To help clarify the definition, however, the final rule specifies that facilities regulated as support facilities will be those in proximity to a regulated activity. Although a proximity relationship is not specifically referenced in Section 701(28)(B) of the Act, it is a logical and practical means of implementing the statutory standard. Regulated support facilities, then, will encompass those facilities that are identified as "resulting from or incident to" a regulated activity by their proximity and relation to the mining operation. Under this interpretation, the proximity to the regulated activity is a guiding principle for applicability of the regulation.

Facilities included within the scope of the applicability of this section would be determined by the regulatory authority based upon the guidance contained in the individual State program and that provided by this final regulation. As an example, OSM would interpret the regulation to include all facilities located up to the point of loadout of coal for interstate transport. For coal transported by rail line, this would extend to the loadout facility located at or near the mine site from which run of mine coal is conveyed or trucked to the rail line and loaded. For operations that use road transportation, this would include all facilities located up to public roads beyond the boundary of the affected area.

OSM believes that the general principle discussed above could be extended in most situations to evaluate whether a facility was located such that it should be considered to be resulting from or incident to a mining operation. Thus, it would be anticipated that similar principles could be applied to such facilities as barge loadouts, conveyor loadouts directly to power plants, and other such facilities.

Commenters were also concerned because, under their reading of OSM's proposal, OSM had proposed to treat crushing and sizing activities in the same category as the loading of coal. These commenters misunderstand the thrust of OSM's proposal. Under the new rules, crushing and sizing operations are not considered loading facilities. However, because the statutory bases for jurisdiction are similar, they will be regulated in like situations. Crushing and sizing operations will be regulated in the context of the operation with which they are associated. Because crushing and sizing operations do not necessarily involve the cleaning, concentrating, or other processing or preparation of coal, they are not regulated unless they can be classified as a support facility resulting from or incident to a regulated activity or as part of a regulated activity, such as a loading operation at or near a mine site or a coal preparation plant.

Commenters suggested that OSM define the term "loading facilities" and include in that definition crushing and sizing facilities. OSM has elected not to define loading facilities, because it believes that the meaning is self-evident. As described above, OSM recognizes that loading facilities may include crushing and sizing operations, but that not all crushing and sizing operations are part of loading facilities.

All regulated support facilities must be permitted. Generally, support facilities will be permitted under the permit for the mine or preparation plant with which they are connected.

Commenters suggested adding language which would clarify that support facilities would be regulated when they are associated with a coal preparation plant as well as with a mine. OSM believes that additional regulatory language is not necessary. Where support facilities are incidental to a particular mine, they will be subject to the performance standards in §§ 816.181 and 817.181. In other situations, a support facility may be part of a regulated coal preparation plant. These operations would be regulated under the permitting requirements of § 785.21 and the performance standards of Part 827.

Commenters were concerned about OSM's proposal to include as support facilities water-treatment and water-storage facilities, particularly those facilities subject to regulation under § 816.49 or § 817.49. OSM did not intend to apply its support facilities regulations to impoundments or sedimentation ponds for which separate performance standards exist. The regulation is intended to reach only treatment and storage facilities used for water preparation for mine consumption. Appropriate clarifying language has been added to the regulation.

Commenters suggested that in Section 701(28)(B) of the Act the statutory language "other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities" does not provide sufficient basis for a proximity test for support facilities. Some commenters felt that a proximity test was undesirable. Others felt that the proposed definition was confusing in this regard. In Section 701(28)(B), the words "other areas" in the last clause are modified by, among other words, "resulting from or incident to [mining] activities." OSM believes that such modification implies a proximity test since areas which result from or are incident to activities must be near those activities. To emphasize this requirement, OSM has modified the final definition of support facilities to use the statutory phrase "resulting from or incident to."

Commenters noted that OSM used the term "coal mining operations" in the proposed definition of support facilities, which could imply that support facilities are not "coal mining operations." OSM recognizes that in fact they are surface coal mining operations and has adopted language to denote that it is the activities listed in Paragraph (a) of the definition of surface coal mining operations in § 700.5 to which support facilities must be incident or from which they must result.

D. Amendments to § 785.21: Permitting Rules for Coal Preparation Plants

The permitting rules for coal preparation plants are adopted substantially as proposed.

Section 785.21 complements the coal preparation plant definition discussed above by setting permitting requirements for coal preparation plants. Coal preparation plants not within the permit area for a specific mine, other than those located at the site of ultimate use, will be subject to the requirements for such plants as a special category of mining. Section 785.21 contains the permit requirements for regulation of such facilities. Performance standards are set out in Part 827.

Section 785.21 requires any person who operates or intends to operate a coal preparation plant outside the permit area for a specific mine, other than such plants when they are located at the site of ultimate use, to obtain a permit. To obtain the permit, an applicant must supply an operation and reclamation plan which demonstrates that the plant and support facilities associated with it will comply with Part 827 and must describe their construction, operation, maintenance, and planned removal. Preparation plants located in the permit area for a specific mine will not be required to

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have a separate permit and will be regulated regardless of the location of the ultimate use of the coal.

Some commenters felt that OSM has no jurisdiction over offsite facilities, and therefore that no rules in Part 785 are necessary. As discussed above, OSM believes it has such authority.

Several commenters indicated that OSM's proposed language "directly associated with the ultimate user" presented a confusing test. Commenters pointed out that a more appropriate and more useful test would be whether the plants were at the point of ultimate use. OSM agrees and has adopted language to indicate that only plants situated at the point of ultimate coal use will be deemed to be not "in connection with" a mine.

Commenters were concerned that OSM, in proposing to delete support facilities from the coverage of § 785.21, would leave many facilities free to operate without a permit. These commenters felt that facilities should not be excluded from coverage.

Support facilities will not be free to operate without a permit. Generally, support facilities will be regulated under the permit for the mine from which they result or to which they are incident. Section 785.21 provides the means for permitting support facilities that are incident to or result from coal preparation plants that are located outside the permit area for the mine.

E. Protection of Utility Installations

Existing §§ 816.181(b) and 817.181(b), which provide standards for the protection of utility installations, are being redesignated as §§ 816.180 and 817.180. OSM had proposed language which would have had the effect of applying the standards for the protection of utility installations only to damage caused by support facilities. Instead, OSM has elected to continue to apply those standards to all surface coal mining operations.

Many commenters were concerned about the owner-approval requirement in the proposed rule, which would have expressly required owner approval of support and transportation facilities when they would disrupt utility installations. Apparently these commenters felt that this was a new requirement and that it would affect existing contractual relations. The requirement of owner approval before the disruption of utility installations is not a new one. Accordingly, the rule, which has not been amended, should not affect existing contractual relations.

Commenters requested clarification of the phrase "unless otherwise approved by the owner of those facilities and the regulatory authority." The provision is not intended to prohibit or prevent mining operations or to adjust the relative rights of owners of utilities and mineral grants. See the discussion of § 816.181(b) at 44 FR 15262 (March 13, 1979).

F. Performance Standards for Support Facilities

Sections 816.181 and 817.181 are parallel sections which set performance standards for support facilities. The two sections are identical, except that §816.181 applies to support facilities for surface mines, and § 817.181 applies to support facilities for underground mines. These two sections were proposed §§ 816.180 and 817.180.

The performance standards for support facilities are adopted as proposed, with minor changes as noted below. Support facilities must be located, maintained, and used in a manner to prevent or control erosion, siltation, water pollution, and damage to public or private property; and must, to the extent possible using the best technology currently available, be located, maintained, and used in a manner that minimizes damage to fish, wildlife, and related environmental values; and must minimize additional contributions of suspended solids to streamflow or runoff outside the permit area. No contribution to runoff is permitted in excess of that allowable under State or Federal law.

Commenters suggested that the proposed support facilities performance standards were unnecessary, because support facilities should not be separately regulated. OSM has adopted special performance standards for support facilities because it believes that these facilities, while permitted in the context or other regulated activities, are sufficiently distinct from other aspects of a mine to be most properly regulated by specifically identified standards.

Some commenters objected to the lack of design criteria in the performance standards for support facilities. These commenters felt that if specific design criteria were not set, then OSM should at least require the regulatory authority to require such information in the context of permitting. The commenters noted limits on some State regulatory authorities which prohibited them from taking steps which would make their regulations more stringent than OSM's.

OSM disagrees. Before issuing a permit, a regulatory authority must have sufficient information to support a finding that a proposed operation will comply with the Act and appropriate regulatory program. So long as the operator meets the performance requirements for these facilities, the requirements of the Act will be met. Should the operator of a support facility fail to meet the performance standards, the regulatory authority must proceed with remedial steps, including issuance of notices of violation and cessation orders. Accordingly, operators will have to design facilities in order to ensure compliance. Regulatory authorities are generally free to solicit additional information. Where State statute prohibits such regulations, the regulatory authority may seek statutory relief.

Commenters suggested that a requirement be added that support areas be stabilized to prevent air pollution from fugitive dust and from wind erosion. Erosion and its attendant air quality impacts are the subject of recently promulgated amendments to §§ 816.95 and 817.95 (48 FR 1160, January 10, 1983). These rules are applicable to support facilities as are the other provisions of Parts 816 and 817.

Commenters suggested adding language to §§ 816.181(a) and 817.181(a) which would require specific consideration of water quality and quantity. As adopted, §§ 816.181(b)(1) and 817.181(b)(1) require the prevention or control of water pollution. The term "water pollution" may include disruption of water quality or quantity; accordingly, the suggested change is unnecessary.

Commenters suggested that OSM's use of the word "minimize" in place of "prevention" in §§ 816.181(b)(2)(ii) and 817.181(b)(2)(ii) was inconsistent with the statutory intent because "prevent" implies a goal of total elimination and minimize suggests a less stringent standard. OSM disagrees. In Sections 515(b)(10)(B)(i) and 516(b)(9)(B) of the Act, the word "prevent" is modified with the phrase "to the extent possible using the best technology currently available." OSM believes that in some cases, using the best technology currently available will result in the minimization but not the prevention of increases in suspended solids in streamflow. In those cases, the word "minimize" more accurately captures congressional intent. In others, absolute prevention will result from minimization to the extent possible. In those cases, congressional intent will also be served by this regulation.

G. Amendments to Part 827: Performance Standards for Coal Preparation Plants

Section 827.1 will serve as both the scope and applicability section for Part 827. It has been shortened to remove unnecessary wording, and the phrase "other than those plants which are located at the site of ultimate coal use" has been added for the reasons described in the next paragraph.

Commenters requested that OSM modify the language in § 827.11 to read "other than those plants situated at the point of ultimate coal use" in order to clarify that only those plants at the site of ultimate use would be considered not to be "in connection with" a mine. OSM has accepted this suggestion and has modified § 827.1 accordingly. The title of § 827.11 has been changed to "General requirements" because that is a more accurate description of the section. The remainder of the section is unchanged.

Section 827.12 contains the performance standards required for coal preparation plants operated outside the permit area for a mine, but not at the site of ultimate coal use. The relevant requirements of Part 816 are specifically referenced in this section in order to minimize unnecessary verbiage and simplify the regulatory requirements. The sections referenced in the following discussions and in § 827.12 are the preferred alternatives in Volume III of OSM's "Final Environmental Impact Statement OSM–EIS–1: Supplement." Several other rulemakings currently pending at OSM would change some of the sections referenced, and, for convenience, OSM has adopted the section numbers anticipated to be used. If such sections are not adopted as proposed, conforming technical amendments will be issued.

Signs and markers for coal preparation plants, coal processing waste disposal areas, and water-treatment facilities must comply with § 816.11. Any stream channel diversion must comply with § 816.43. Drainage from any disturbed area related to the coal preparation plant must comply with §§ 816.45–816.47, and all discharges from these areas must meet the requirements of §§ 816.41 and 816.42 and any other applicable State or Federal law. Permanent impoundments associated with coal preparation plants must meet the requirements of §§ 816.49 and 816.56. Dams constructed of, or impounding, coal processing waste must comply with § 816.84. Disposal of coal processing waste, noncoal mine waste, and excess spoil must comply with §§ 816.81, 816.83, 816.84, 816.87, 816.89, and 816.71–816.74. Fish, wildlife, and related environmental values must be protected in accordance with § 816.97. Support facilities related to the coal preparation plant must comply with § 816.181. Roads and other transportation facilities must comply with §§ 816.150 and 816.151. Cessation of operations must be in accordance with §§ 816.131 and 816.132. Erosion and its attendant air pollution must be controlled in accordance with § 816.95. Adverse effects upon, or resulting from, nearby underground coal mining activities must be minimized by appropriate measures including, but not limited to, compliance with § 816.79. Reclamation in general must comply with §§ 816.22, 816.100–816.106, 816.111–816.117, and 816.133.

Commenters were confused about the regulation of support facilities associated with coal preparation plants. Although OSM is deleting the specific reference to support facilities in § 827.1, support facilities will continue to be regulated in association with the facilities that they support. If a facility is incident to a coal mine, it is bound by the performance standards in §§ 816.181 and 817.181. If it supports a coal preparation plant, it is subject to the general standards for support facilities as well as the standards of § 827.12.

Commenters felt that OSM should not delete the topsoil handling requirements in previous § 827.12(m). OSM agrees. The final rule includes the requirement that coal preparation plants should comply with the topsoil handling procedures in § 816.22.

Commenters objected to the deletion of the requirements that preparation plants comply with §§ 816.53 and 816.54, dealing with wells and the replacement of water rights. OSM believes that use of wells will only infrequently be associated with coal preparation plants. If water rights are affected by coal preparation plants, remedies may be available under State law.

Commenters objected to OSM's proposed deletion of the requirement that a coal preparation plant comply with performance standards for prime farmland. To the degree that coal preparation plants will affect only a minimal amount of land and will be operated over an extended period of time, they fall within an exemption provided for under Judge Flannery's ruling regarding prime farmland requirements. *In Re: Permanent Surface Mining Regulation Litigation,* Civ. Action No. 79–1144, at 3, (D.D.C. May 16, 1980). This exemption will be incorporated into the revised prime farmland requirements.

Commenters felt that OSM should retain previous § 827.12(k), the performance requirements governing slides, because slides may result from road embankments and coal processing waste areas. OSM believes that its rules governing roads and coal wastes provide sufficient guidance for the construction of these structures to prevent slides.

Commenters felt that OSM should add a requirement for stream buffer zones associated with coal processing plants. OSM had not proposed such a requirement, and has not adopted one in the final rule. Stream buffer zones may be added in a separate rulemaking if experience under this rule indicates that such buffer zones are necessary to meet the Act's objectives.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

The reasons underlying this determination are as follows:

This rule will impose only minor costs on the coal industry and coal consumers. This rule will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Paperwork Reduction Act

The information collection requirements contained in 30 CFR 785.21 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0040. This approval is codified under 30 CFR 785.10.

The information required by 30 CFR Part 785 will be used by the regulatory authority in implementing the permanent regulatory program.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in its "Final Environmental Impact Statement, OSM–EIS–1: Supplement" according to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, DC 20240.

This preamble serves as a record of decision under NEPA.

The rule as adopted differs from the preferred alternative in several ways:

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Several editorial changes have been made which do not change the meaning or intent of the rule, nor the analysis in the discussion of the preferred alternative.

The definition of "coal preparation" contained in the preferred alternative has been revised to serve both as the definition of "coal processing" and of "coal preparation." The environmental impacts of defining "coal processing" are discussed in the discussion of Alternative C of the EIS.

Language has been added to the definition of "coal preparation plant" which clarifies that coal preparation plants may include other facilities which by themselves might not constitute coal preparation. This regulation is substantively the same as that contemplated by the preferred alternative.

The definition of "support facilities" has also been amended to reference explicitly a proximity relationship to a regulated activity. This relationship was contemplated by the preferred alternative. In addition the term "utility installations" has been deleted, and a listing of certain transportation facilities has been added to the examples listed. Utility installations will nonetheless be regulated when they are otherwise subject to the Act; thus, the final rule will have no impacts different from the preferred alternative. The impacts of regulating other transportation facilities as support facilities are contemplated in the discussion of Alternative C.

For clarity, OSM has adopted language exempting certain facilities located at the site of ultimate coal use rather than at the point of ultimate coal use. Both terms are considered in the preferred alternative.

Language in the "utility installations" regulations (§ 816.180) requires the regulatory authority and the installation owner to approve disruption of utility installations rather than allowing regulatory authority approval of a plan for such disruptions without owner approval. This is the same as the no-action alternative in the EIS.

Several changes to the performance standards for coal preparation plants have been made. Section numbers have been amended to reflect anticipated regulatory changes, with no impacts different from the preferred alternative. The word "diversion" has been substituted for "realignment" for clarity. OSM has determined to cross-reference the topsoil handling, backfilling and grading, postmining land use, and revegetation regulations. Such references were contemplated in the discussion of Alternative B.

Agency Approval

Section 516(a) requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Coal mining, Surface mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 827

Coal mining, Environmental protection, Surface mining, Underground mining.

For the reasons stated above, 30 CFR Parts 700, 701, 785, 816, 817, and 827 are amended as follows.

Dated: April 7, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 700—GENERAL

1. Section 700.5 is amended by revising the definition of "surface coal mining operations" to read as follows:

§ 700.5 Definitions.

* * * * *

Surface coal mining operations means—

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in-situ distillation, retorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. *Provided,* these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Act; and, *Provided further,* That excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) The areas upon which the activities described in paragraph (a) of this definition occur or where such activities distrub the natural land surface. These areas shall also include any adjacent land the use of which is incidential to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

* * * * *

PART 701—PERMANENT REGULATORY PROGRAM

2. Section 701.5 is amended by removing the definition of "coal processing plant" and by adding, in alphabetical order, definitions for "coal preparation" or "coal processing," "coal preparation plant," and "support facilities."

§ 701.5 Definitions.

* * * * *

Coal preparation or *coal processing* means the cleaning, concentrating, or other processing or preparation of coal in order to separate coal from its impurities.

Coal preparation plant means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities. When associated with a facility that separates coal from its impurities, a preparation plant may include, but need not be limited to, the following facilities: loading facilities; storage and stockpile facilities; sheds, shops, and other buildings; water-treatment and water-storage facilities; settling basins and impoundments; and coal processing and other waste disposal areas.

* * * * *

Support facilities means those facilities resulting from, or incident to, an activity identified in Paragraph (a) of the definition of "surface coal mining operations" in § 700.5 of this chapter and the areas upon which such facilities are located. Support facilities may consist of, but need not be limited to, the following facilities: mine buildings; bath houses; coal loading facilities; coal crushing and sizing facilities; coal storage facilities; equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; facilities used to treat and store water for mine consumption; and railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities, but not including roads. "Resulting from or incident to" an activity connotes an element of proximity to that activity.

* * * * *

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

3. Section 785.21 is revised to read as follows:

§ 785.21 Coal preparation plants not located within the permit area of a mine.

(a) This section applies to any person who operates or intends to operate a coal preparation plant outside the permit area of any mine, other than such plants which are located at the site of ultimate coal use. Any person who operates such a preparation plant shall obtain a permit from the regulatory authority in accordance with the requirements of this section.

(b) Any application for a permit for operations covered by this section shall contain an operation and reclamation plan which specifies plans, including descriptions, maps, and cross sections, of the construction, operation, maintenance, and removal of the preparation plant and support facilities operated incident thereto or resulting therefrom. The plan shall demonstrate that those operations will be conducted in compliance with Part 827 of this chapter.

(c) No permit shall be issued for any operation covered by this section, unless the regulatory authority finds in writing that, in addition to meeting all other applicable requirements of this subchapter, the operations will be conducted in compliance with the requirements of Part 827 of this chapter.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

4. Section 816.180 is revised to read as follows:

§ 816.180 Utility installations.

All surface coal mining operations shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the regulatory authority.

5. Section 816.181 is revised to read as follows:

§ 816.181 Support facilities.

(a) Support facilities shall be operated in accordance with a permit issued for the mine or coal preparation operation to which it is incident or from which its operation results.

(b) In addition to the other provisions of this part, support facilities shall be located, maintained, and used in a manner that—

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property; and

(2) To the extent possible using the best technology currently available—

(i) Minimizes damage to fish, wildlife, and related environmental values; and

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

6. Section 817.180 is revised to read as follows:

§ 817.180 Utility installations.

All underground mining activities shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines, railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the regulatory authority.

7. Section 817.181 is revised to read as follows:

§ 817.181 Support facilities.

(a) Support facilities shall be operated in accordance with a permit issued for the mine or coal preparation plant to which it is incident or from which its operation results.

(b) In addition to the other provisions of this part, support facilities shall be located, maintained, and used in a manner that—

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property; and

(2) To the extent possible using the best technology currently available—

(i) Minimizes damage to fish, wildlife, and related environmental values; and

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

8. Part 827 is revised to read as follows:

PART 827—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PREPARATION PLANTS NOT LOCATED WITHIN THE PERMIT AREA OF A MINE

Sec.

827.1 Scope.

827.11 General requirements.

827.12 Coal preparation plants: Performance standards.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 827.1 Scope.

This part sets forth requirements for coal preparation plants not within the permit area for a specific mine other than those plants which are located at the site of ultimate coal use.

§ 827.11 General requirements.

Each person who operates a coal preparation plant subject to this part shall obtain a permit in accordance with § 785.21 of this chapter, obtain a bond in accordance with Subchapter J of this chapter, and operate that plant in accordance with the requirements of this part.

§ 827.12 Coal preparation plants: Performance standards.

Construction, operation, maintenance, modification, reclamation, and removal activities at coal preparation plants shall comply with the following:

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(a) Signs and markers for the coal preparation plant, coal processing waste disposal area, and water-treatment facilities shall comply with § 816.11 of this chapter.

(b) Any stream channel diversion shall comply with § 816.43 of this chapter.

(c) Drainage from any disturbed area related to the coal preparation plant shall comply with §§ 816.45–816.47 of this chapter, and all discharges from these areas shall meet the requirements of §§ 816.41 and 816.42 of this chapter and any other applicable State or Federal law.

(d) Permanent impoundments associated with coal preparation plants shall meet the requirements of §§ 816.49 and 816.56 of this chapter. Dams constructed of, or impounding, coal processing waste shall comply with § 816.84 of this chapter.

(e) Disposal of coal processing waste, noncoal mine waste, and excess spoil shall comply with §§ 816.81, 816.83, 816.84, 816.87, 816.89, and 816.71–816.74 of this chapter, respectively.

(f) Fish, wildlife, and related environmental values shall be protection in accordance with § 816.97 of this chapter.

(g) Support facilities related to the coal preparation plant shall comply with § 816.181 of this chapter.

(h) Roads shall comply with §§ 816.150 and 816.151 of this chapter.

(i) Cessation of operations shall be in accordance with §§ 816.131 and 816.132 of this chapter.

(j) Erosion and air pollution attendant to erosion shall be controlled in accordance with § 816.95 of this chapter.

(k) Adverse effects upon, or resulting from, nearby underground coal mining activities shall be minimized by appropriate measures including, but not limited to, compliance with § 816.79 of this chapter.

(l) Reclamation shall follow proper topsoil handling, backfilling and grading, revegetation, and postmining land use procedures in accordance with §§ 816.22, 816.100, 816.102, 816.104, 816.106, 816.111, 816.113, 816.114, 816.116, and 816.133 of this chapter, respectively.

[FR Doc. 83-12082 Filed 5-4-83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents. U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 304/Pub. L. 98–25 To hold a parcel of land in trust for the Burns Paiute Tribe. (May 2, 1983; 97 Stat. 185) Price: $1.75

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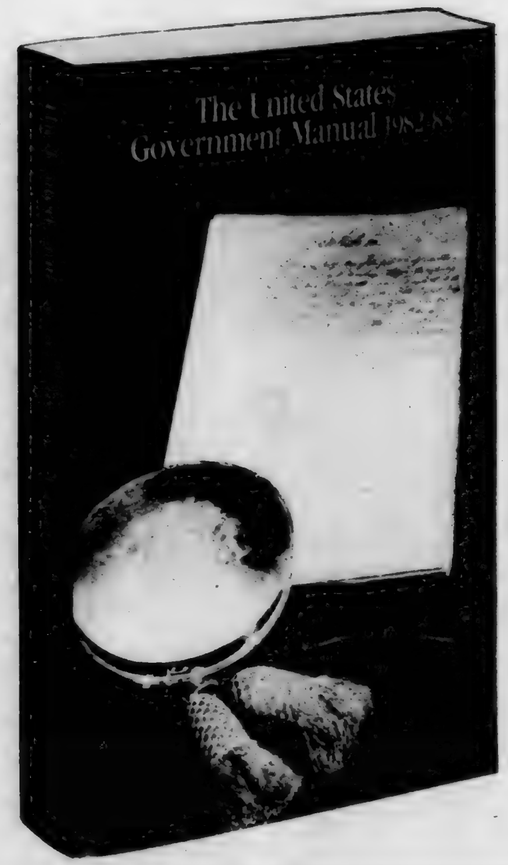

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Federal Register
Vol. 48, No. 89
Friday, May 6, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority

Correction

In FR Doc. 83-11587 beginning on page 19697, in the issue of Monday, May 2, 1983 the following correction should be made in the second column.

The "EFFECTIVE DATE" should read "May 2, 1983."

BILLING CODE 1505-01-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 83-320]

Cut Flowers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of Interim Rule; Correction.

SUMMARY: This document corrects an affirmation of interim rule which was published in the Federal Register on April 20, 1983 (48 FR 16875-16877). The previous document amended the cut flower regulations to require certain cut flowers found upon inspection at the port of entry to be infested with agromyzids (insects of the family Agromyzidae) to be fumigated with methyl bromide. On page 16877, in the second paragraph the phrase "1000 cu. ft." should be corrected to read "per 1000 cu. ft.". The omission of the word "per" in the Federal Register document of April 20, 1983 was an editorial error.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5533.

Murray T. Pender,
Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-12232 Filed 5-5-83; 8:45 am]
BILLING CODE 3410-34-M

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 244]

Food Stamp Program: Joint Food Stamp/Public Assistance Case Processing

Correction

In FR Doc. 83-8294, beginning on page 13955, in the issue of Friday, April 1, 1983, on page 13957 in the second column, in the third paragraph, in the seventh line "will not drop" should read "will drop".

BILLING CODE 1505-01-M

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota and Marketing Regulations for the 1983 Through 1985 Crops of Peanuts

Correction

In FR Doc. 83-5408 beginning on page 9214 in the issue of Friday, March 4, 1983, make the following correction.

On page 9231, second column, first line of § 729.301 (c)(5) "Net weight" should have read" Quantity".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 410]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 8-14, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 8, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendations and information

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submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on May 3, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.710 is added as follows:

§ 910.710 Lemon regulation 410.

The quantity of lemons grown in California and Arizona which may be handled during the period May 8, 1983, through May 14, 1983, is established at 300,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 5, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-12390 Filed 5-5-83; 1:50 pm]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

[Amdt. to REA Bulletin 20–14]

Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends Appendix A—REA Bulletins by revising Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. Currently, in order to meet program needs more effectively and conserve available loan funds, REA requires qualified borrowers to obtain a portion of their long-term loans from a supplemental lender, on terms and conditions approved by REA, as a prerequisite for obtaining REA loans. The final rule generally requires both REA and supplemental loans to have the same terms with regard to final maturity and methods of computation of interest and principal payments, such terms to be agreed upon by the borrower, REA and the supplemental lender. REA insured long-term loans will be available along with appropriate supplemental loans for periods of 20, 25, 30 and 35 years. In addition, REA will reduce the deferment period for repayment of principal from the present 3 years to 2 years for an REA loan. A 2-year deferment period is consistent with the majority of REA loans in that the facilities financed result from a 2-year construction work plan. Except for a small proportion of instances, the facilities will be in service and producing revenues within 2 years. No requirement will be imposed regarding deferment periods for supplemental lenders.

REA has been advised that there is interest among REA borrowers and supplemental lenders in reducing the length of the supplemental loans and in having levelized principal payments.

EFFECTIVE DATE: Loan applications received on or after June 1, 1983.

ADDRESS: Submit written comments to the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, at the above address, telephone number (202) 382–1900. The Final Impact Analysis describing the options considered in developing and implementing this final rule is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 *et seq.*) (Act), REA hereby amends REA bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. This final action has been reviewed in conformance with Executive Order 12291, Federal Regulation. It will not (1) have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

Background

In general, REA loans made concurrently with supplemental lenders have a 35-year amortization period which is the maximum permitted by the Act. Currently, REA Bulletin 20–14 does not require concurrent loans made by supplemental lenders to have the same maturity date and repayment schedule as the REA loan. REA has been advised that there is interest among REA borrowers and supplemental lenders in reducing the length of the supplemental loans and in having levelized principal payments. A widespread change in the terms of the supplemental loans without a change by REA would have a significant impact on the REA loan program. Without a change in the current REA practice, there would be an increase in demand for REA loans in order to meet the capital needs of borrowers making shorter term repayments to supplemental lenders.

REA considered various options including retaining the current practice which would permit supplemental loans with a 20- to 35-year payback period and levelized principal plus interest or levelized principal and interest payments along with the standard 35-year levelized principal and interest REA loan.

This option could result in borrowers needing to raise from REA, the supplemental lenders or through retail rates, additional funds to cover increased debt service requirements if borrowers selected shorter term supplemental loans. This would have a corresponding effect on the REA loan program as borrowers financed a larger percentage of their capital needs with REA funds and paid off their supplemental debt earlier.

Another option considered by REA would be to require coterminous loan amortization periods which would significantly lessen the impact on the REA Revolving Fund. However, if borrowers were not also required to use the same repayment method, i.e., levelized principal plus interest or level payments including both principal and interest to both REA and the supplemental lender, REA's proportionate outstanding indebtedness would tend to increase. REA borrowers would make level principal payments to supplemental lenders and continue to pay levelized principal and interest to REA, thus putting increased burdens on the Revolving Fund.

REA has decided to amend Bulletin 20–14 in a manner which will include (1) equitable and flexible loan terms and conditions, (2) permit borrowers to evaluate and choose loan maturity dates and repayment schedules to fit their needs, and (3) maintain the resources of the Revolving Fund.

Public Comment

A notice of Proposed Rulemaking was published in the **Federal Register** on January 14, 1983, Volume 48, Number 10, page 1731. Ten letters were received with comments on the proposed action. One letter from the National Rural Utilities Cooperative Finance Corporation (CFC), a supplemental lender, was favorable to the proposal. Another letter from the Rural Utility Lending Task Force, a group representing the Farm Credit Banks for Cooperatives, indicated that it expressed no opposition nor did it endorse the proposal. The task force pointed out that because REA loans have a fixed interest rate and the Banks offer variable interest rates subject to change during the life of the loan, precise matching of repayment terms between REA and supplemental lenders would be difficult to achieve. This policy change will certainly permit variable interest rates in loans offered by supplemental lenders. REA expects that in accordance with appropriate loan agreements, as interest rates change, supplemental lenders may recalculate the amounts of the installments either for level principal loans or level payment (principal and interest) loans, to adjust for the interest component so long as the common maturity date and agreed schedule of principal payments are maintained. The Banks for Cooperatives task force also indicated that it strongly supported all measures designed to preserve the assets and the integrity of REA's Revolving Fund and suggested closer working relationships, flexibility and coordination between REA and the Banks for Cooperatives.

Another respondent expressed concern on the effect of the new rule on certain borrowers which are public bodies with statutory limits on the length of long-term supplemental financing arrangements. The rule, however, would not impair the REA Administrator's discretion to deal with these types of situations on a case-by-case basis.

Seven letters were received from borrowers which opposed the reduction of prinicpal deferment for REA loans from the former 3 years to 2 years under this rule. It was noted that it could take a full 3 years to complete scheduled construction and receive revenue from the facilities constructed, and that in these cases, making principal payments after only 2 years could cause hardships. However, REA policy is to provide financing for the 2-year distribution construction needs of all borrowers to assure equitable distribution of available loan funds. Except for a small proportion of instances, the facilities financed will be in service and producing revenues within 2 years. In addition, the amortization of principal over a 33-year period rather than a 32-year period would make principal payments begin 1 year earlier but regular annual payments would in fact be slightly less.

These borrowers also expressed their preference to retain the present policy which permits borrowers to repay supplemental loans with higher interest rates over a shorter period. However, if a large number of borrowers did so, it would place increased burdens on the REA Revolving Fund as discussed above. The possibility of this increased burden on REA's limited resources is a major reason for the implementation of this new loan policy.

The policy set forth above supersedes all previous policies and requirements regarding deferments, loan maturity dates amd amortization schedules including but not limited to those set forth in REA Bulletin 20–2, Electric Loan Policies and Application Procedures, paragraph VIII B, and applicable sections of Bulletin 20–9, Loan Payment and Statements.

List of Subjects in 7 CFR Part 1701

Electric utilities, Loan programs—energy.

Dated: April 13, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-11256 Filed 5-5-83; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 660

[Docket No. 82N–0217]

Additional Standards for Diagnostic Substances for Laboratory Tests; Antibody to Hepatitis B Surface Antigen and Hepatitis B Surface Antigen; Samples, Protocols, and Official Release

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologic regulations to moderate the requirements concerning submission of samples and official release of nonradiolabeled Antibody to Hepatitis B Surface Antigen (Anti-HBsAg) and Hepatitis B Surface Antigen (HBsAg). This rule will eliminate requirements that are not essential for the protection of public health.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1981 (46 FR 36134), FDA amended Part 660 by adding new § 660.6 (21 CFR 660.6) to reduce the number of samples of diagnostic test kits containing Anti-HBsAg iodinated with ^{125}I that must be submitted to the National Center for Drugs and Biologics for testing and lot release before issuance of the test kits by the manufacturer. Manufacturers had been required to submit a sample and protocol for each lot of the diagnostic test kit marketed. The new § 660.6(b) requires manufacturers of Anti-HBsAg iodinated with ^{125}I to submit one finished package of each lot until written notification of official release by the agency is received for each of at least five consecutive lots. Thereafter, sample submission is required only at

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90-day intervals, and written notification of official release is not applicable. The new § 660.6(b) eliminates unnecessary burdens on manufacturers concerning the loss of product and cost of mailing samples, and on the agency in the cost of storing, testing, and disposing of sample diagnostic test kits.

Since the new § 660.6 was promulgated, FDA has received a request from a manufacturer to extend the provisions of § 660.6(b) concerning the reduction in the number of samples to be submitted to both § 660.6(a) concerning Anti-HBsAg not iodinated with ^{125}I and § 660.46 (21 CFR 660.46) concerning HBsAg. Both §§ 660.6(a) and 660.46 now prohibit these final products from being issued by the manufacturer until samples of each lot of product have been submitted to FDA for testing and FDA provides written notification of official release to the manufacturer. A sample of each lot of antibody to Anti-HBsAg not iodinated with ^{125}I and HBsAg has been tested and release of each lot has been provided by FDA since 1971 and 1975, respectively, to ensure the continued quality and reliability of the finished test kits.

FDA's data concerning the testing of samples of both of these products demonstrate consistency in the potency, quality, and reliability of the products. Therefore, FDA believes that the present sample testing requirements of §§ 660.6(a) and 660.46 are unnecessary and that the less stringent provisions of § 660.6(b) should be extended as requested. Accordingly, in the **Federal Register** of August 17, 1982 (47 FR 35780), FDA proposed to amend §§ 660.6 and 660.46 to reduce the required quantity of sample to be submitted to the agency and to eliminate the requirement of official release of nonradiolabeled Anti-HBsAg and HBsAg (including nonradiolabeled and radiolabeled products and unlyophilized HBsAg-coated red blood cells) after consistency in manufacturing has been established following licensure. For clarity, FDA proposed to eliminate the distinction in each section between the different forms of the affected products.

In addition, FDA believes that the regulations should provide the agency the flexibility to require fewer samples than that prescribed by the current regulations, or no samples, when FDA determines that as a result of testing efficiency or technological changes, fewer or no samples are sufficient to ensure the potency, quality, and reliability of the finished product. Therefore, FDA proposed amendments to authorize the Director, Office of Biologics, National Center for Drugs and Biologics, to request a smaller quantity of sample of these products than specified now in the regulations or no samples.

Interested persons were given until October 18, 1982, to submit comments on the August 17, 1982 proposal. In response, two comments were received. Both comments supported the proposed changes; however, one recommended two revisions. A summary of the comments and FDA's responses follows. In addition, FDA made editorial revisions in the final rule that are intended to clarify the regulations.

1. One comment on proposed §§ 660.6(a)(1) and 660.46(a)(1) (redesignated as §§ 660.6(a)(2) and 660.46(a)(2) in the final rule) concerned the submission of samples to FDA within 1 working day after the manufacturer has completed all tests on the samples. The comment stated that preparation for submission of samples may require more than 1 working day and suggested that the regulation be changed to allow at least 5 working days to submit samples.

FDA agrees with the comment. FDA acknowledges that the proposed time limit of 1 working day to submit samples and protocols to FDA may create a burden on manufacturers for the preparation of the samples and protocols for submission. However, a certain time limit is necessary to ensure that a sample of a product is stable and potent when it arrives at FDA for testing to enable FDA to compare properly its results of tests on the sample with a manufacturer's test results. FDA believes that the suggested time limit of 5 working days will not be burdensome on manufacturers and will ensure that a sample will possess an acceptable stability and potency when it arrives for testing at the Office of Biologics. FDA notes that the dating period for iodinated products is 45 days from the day of labeling the product with the radionuclide. Therefore, for iodinated products with a dating period of only 45 days that must receive official release from FDA before distribution, it is to the manufacturer's advantage that samples and protocols be submitted to FDA as soon as possible following satisfactory completion of all tests.

2. One comment on proposed §§ 660.6(a)(1)(ii) and 660.46(a)(1)(ii) (redesignated as §§ 660.6(a)(2)(ii) and 660.46(a)(2)(ii) in the final rule) concerned the identification of submitted surveillance samples. The comment recommended that the container label not be required to include the date of manufacture and the words "surveillance sample" because the container label may be too small to accommodate that additional information. The comment noted that the date of manufacture and the words "surveillance test results" will appear on the protocol accompanying the samples, as required under §§ 660.6(b) and 660.46(b).

FDA disagrees with the comment. The proposed regulation requires only that the sample be identified as a "surveillance sample" and include the date of manufacture. FDA did not intend to require that such identification be on the container label. Identification of the sample could be accomplished by various methods, such as using a supplemental label or identifying the package or test kit with an ink pad stamp using indelible ink. FDA is requiring that both the surveillance sample and the protocol for the sample be identified because a sample and protocol may be received and reviewed independently at the Office of Biologics.

Accordingly, FDA is amending the additional standards for nonradiolabeled Anti-HBsAg and HBsAg to permit FDA to reduce the number and size of the samples to be submitted to obtain official release of the products when such requirements are not necessary to protect public health. The final rule is different from the proposal in that samples and protocols are to be submitted to FDA within 5 days after the manufacturer completes all testing of the products, instead of within 1 day, and minor clarifying changes were made.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has reexamined the economic impact of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The regulation will reduce the burden on industry under the current regulations by reducing the quantity of product samples required to be submitted and/or the requirements for official release by FDA of each manufactured lot of product. There are currently only three manufacturers of HBsAg and nine manufacturers of Anti-HBsAg products. Therefore, the agency concludes that the final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 660

Biologics, Labeling.

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 660 is amended as follows:

1. By revising § 660.6, to read as follows:

§ 660.6 Samples; protocols; official release.

(a) *Samples.* (1) For the purposes of this section, a sample of product not iodinated with ^{125}I means a sample from each filling of each lot packaged as for distribution, including all ancillary reagents and materials; and a sample of product iodinated with ^{125}I means a sample from each lot of diagnostic test kits in a finished package, including all ancillary reagents and materials.

(2) Unless the Director, Office of Biologics, determines that the reliability and consistency of the finished product can be assured with a smaller quantity of sample or no sample and specifically reduces or eliminates the required quantity of sample, each manufacturer shall submit the following samples to the Director, Office of Biologics (HFN-800), 8800 Rockville Pike, Bethesda, MD 20205, within 5 working days after the manufacturer has satisfactorily completed all tests on the samples:

(i) One sample until written notification of official release is no longer required under paragraph (c)(2) of this section.

(ii) One sample at periodic intervals of 90 days, beginning after written notification of official release is no longer required under paragraph (c)(2) of this section. The sample submitted at the 90-day interval shall be from the first lot or filling, as applicable, released by manufacturer, under the requirements of § 610.1 of this chapter, after the end of the previous 90-day interval. The sample shall be identified as "surveillance sample" and shall include the date of manufacture.

(iii) Samples may at any time be required to be submitted to the Director, Office of Biologics, if the Director finds that continued evaluation is necessary to ensure the potency, quality, and reliability of the product.

(b) *Protocols.* For each sample submitted as required in paragraph (a)(1) of this section, the manufacturer shall send a protocol that consists of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by the Director, Office of Biologics. The protocols submitted with the samples at periodic intervals as provided in paragraph (a)(2)(ii) of this section shall be identified by the manufacturer as "surveillance test results."

(c) *Offical release.* (1) The manufacturer shall not distribute the product until written notification of official release is received from the Director, Office of Biologics, except as provided in paragraph (c)(2) of this section. Official release is required for samples from at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product.

(2) After written notification of official release is received from the Director, Office of Biologics, for at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product, and after the manufacturer receives from the Director, Office of Biologics, written notification that official release is no longer required, subsequent lots or fillings may be released by the manufacturer under the requirements of § 610.1 of this chapter.

(3) The manufacturer shall not distribute lots or fillings, as applicable, of products that required sample submission under paragraph (a)(2)(iii) of this section until written notification of official release or notification that official release is no longer required is received from the Director, Office of Biologics.

2. By revising § 660.46, to read as follows:

§ 660.46 Samples; protocols; official release.

(a) *Samples.* (1) For the purposes of this section, a sample of product not iodinated with ^{125}I means a sample from each filling of each lot packaged as for distribution, including all ancillary reagents and materials; and a sample of product iodinated with ^{125}I or unlyophilized HBsAg-coated red blood cells means a sample from each lot of diagnostic test kits in a finished package, including all ancillary reagents and materials.

(2) Unless the Director, Office of Biologics, determines that the reliability and consistency of the finished product can be assured with a smaller quantity of sample or no sample and specifically reduces or eliminates the required quantity of sample, each manufacturer shall submit the following samples to the Director, Office of Biologics (HFN-800), 8800 Rockville Pike, Bethesda, MD 20205, within 5 working days after the manufacturer has satisfactorily completed all tests on the samples:

(i) One sample until written notification of official release is no longer required under paragraph (c)(2) of this section.

(ii) One sample of product at periodic intervals of 90 days, beginning after written notification of official release is no longer required under paragraph (c)(2) of this section. The sample submitted at the 90-day interval shall be from the first lot or filling, as applicable, released by the manufacturer, under the requirements of § 610.1 of this chapter, after the end of the previous 90-day interval. The sample shall be identified as "surveillance sample" and shall include the date of manufacture.

(iii) Samples may at any time be required to be submitted to the Director, Office of Biologics, if the Director finds that continued evaluation is necessary to ensure the potency, quality, and reliability of the product.

(b) *Protocols.* For each sample submitted as required in paragraph (a)(1) of this section, the manufacturer shall send a protocol that consists of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by the Director, Office of Biologics. The protocols submitted with the samples at periodic intervals as provided in paragraph (a)(2)(ii) of this section shall be identified by the manufacturer as "surveillance test results."

(c) *Official release.* (1) The manufacturer shall not distribute the product until written notification of official release is received from the Director, Office of Biologics, except as provided in paragraph (c)(2) of this section. Official release is required for at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product.

(2) After written notification of official release is received from the Director, Office of Biologics, for at least five consecutive lots or fillings manufactured after licensure of the products, and after the manufacturer receives from the Director, Office of Biologics, written notification that official release is no longer required, subsequent lots or fillings may be released by the

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manufacturer under the requirements of § 610.1 of this chapter.

(3) The manufacturer shall not distribute lots or fillings, as applicable, of products that require sample submission under paragraph (a)(2)(iii) of this section until written notification of official release or notification that official release is no longer required is received from the Director, Office of Biologics.

Effective date. This regulation is effective on June 6, 1983.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: April 13, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11979 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Office of the Secretary

29 CFR Part 1

Procedures for Predetermination of Wage Rates

Correction

In FR Doc. 83-11198 beginning on page 19532 in the issue of Friday, April 29, 1983, make the following correction. On page 19536, second column, the title of Appendix A to 29 CFR Part 1 is corrected to read: "Statutes Related to the Davis-Bacon Act Requiring Payment of Wages at Rates Predetermined by the Secretary of Labor."

BILLING CODE 1505-01-M

Employment Standards Administration, Wage and Hour Division

Office of the Secretary

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Correction

In FR Doc. 83-11199, beginning on page 19540 in the issue of Friday, April 29, 1983, make the following correction. On page 19541, first column, second paragraph, the fourth line is corrected to read: "sections: Table of Contents at § 5.11; §§".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 983

Recreation Activities and Service Program

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 983–Recreation Activities and Service Program of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 215–1, Vol. 13, has been revised and redesignated. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the CFR.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon West, HQ Air Force Military Personnel Center, MPCSOC, Randolph AFB, TX 78150, telephone (512) 652–2855.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 983

Federal buildings and facilities, Military personnel, Recreation and recreation areas.

Accordingly, 32 CFR is amended by removing Part 983.

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-12160 Filed 5-5-83; 8:45 am]

BILLING CODE 3910-01-M

32 CFR Part 984

Air Force Aero Club

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 984—Air Force Aero Club of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 215–1, Vol. 2, has been revised and redesignated. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: Date of publication.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon West, HQ Air Force Military Personnel Center, MPCSOC, Randolph AFB, TX 78150, telephone (512) 652–2855.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 984

Aircraft, Airmen, Military personnel, Government employees, Recreation and recreation areas.

Accordingly, 32 CFR is amended by removing Part 984.

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-12161 Filed 5-5-83; 8:45 am]

BILLING CODE 3910-01-M

POSTAL SERVICE

39 CFR 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to the Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is revising the Postal Contracting Manual to increase by 35% the rates for procurement of international mail transportation by water to reflect current marine operating costs. Certain minor editorial changes were also made to some of the language of the section changed.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 601.100), has been amended by the issuance of PCM Circular 83–4, dated May 5, 1983.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement.

PART 39—[AMENDED]

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

Section 19–504 is revised to increase by 35% the rates for procurement of international mail transportation by water to reflect current marine operating costs.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-12170 Filed 5-5-83; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Illinois

Correction

In FR Doc. 83–323 beginning on page 1061, in the issue of Monday, January 10, 1983, make the following correction:

On page 1063, in the table, under column "#Depth in feet above ground. *Elevation in feet (NGVD)," entry on line three "*501" should read "*463"

BILLING CODE 1505-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Missouri

Correction

In FR Doc. 83–5532 beginning on page 10655, in the issue of Monday, March 14, 1983, make the following correction.

On page 10664, in the table, under "Location", line two, "About 100 feet downstream *949" was incorrectly printed and nine entries were omitted. The following material should appear beneath the first entry reading "Just upstream of Mound Street".

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—CONTINUED

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		City Branch	Just upstream of Mound Street	*947
			About 100 feet downstream of Olive Street	*949
			Just upstream of Olive Street	*955
			About 100 feet downstream of Oak Street	*956
			Just upstream of Francis Street	*960
			Just downstream of Missouri Pacific Railway	*973
			Just upstream of Missouri Pacific Railway	*982
			About 420 feet upstream of Missouri Pacific Railway	*986
		Carter Branch	Mouth at Mill Race	*989
			Just upstream of State Highway 96	*943
				*946

BILLING CODE 1505-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Michigan and Nebraska

Correction

In FR Doc. 82–29169 beginning on page 47581, in the issue of Wednesday, October 27, 1982, make the following corrections

1. On page 47585, in the table, under column "#Depth in feet above ground. *Elevation in feet (NGVD)," entry on line thirty-one from the bottom, "*745" should read "*754."

2. On page 47587, in the table, under column "#Depth in feet above ground. *Elevation in feet (NGVD)," entry on line five, "*1336" should read "*1346"

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[49th Rev. S.O. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Ninth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., May 3, 1983, and continuing in effect until 11:59 p.m., July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840 or 275–1559.

Decided April 29, 1983.

SUPPLEMENTARY INFORMATION:

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

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In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 8., the authority for the Cadillac and Lake City Railway Company (CLK) to operate between Colorado Springs, Colorado and Limon, Colorado, as this trackage has been leased to the Colorado and Eastern Railway Company (COE). Appendix A is further revised by deleting at Item 6., the authority for the CLK to operate at Denver, Colorado, as this trackage has been sold to COE. Remaining segments in Item 8 are redesignated accordingly in this appendix.

Appendix A is further revised in this order, by adding at Item 25., the authority for COE to operate between Colorado Springs, Colorado and Limon, Colorado. COE has a Lease/Purchase option on this property with the Trustee.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedures are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

PART 1033—[AMENDED]

It is ordered, that

§ 1033.1473 Forty-Ninth Revised Service Order 1473.

(a) *Various Railroads Authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 98–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Govenment.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., May 3, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Public Law 98–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*
   - A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).
2. *Union Pacific Railroad Company (UP):*
   - A. Beatrice, Nebraska.
   - B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
3. *Toledo, Peoria and Western Railroad Company (TPW):*
   - A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
4. *Chicago and North Western Transportation Company (CNW):*
   - A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
   - B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
   - C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.
   - D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
   - E. From East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).
   - F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
   - G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
   - H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
   - I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
   - J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
   - K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
   - L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
   - M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
   - N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
   - O. At Sibley, Iowa.
   - P. At Hartley, Iowa.
   - Q. From Carlisle to Indianola, Iowa.
   - R. At Omaha, Nebraska (between milepost 502 to milepost 504).
5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*
   - A. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
   - B. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).
6. *Missouri Pacific Railroad Company (MP):*
   - A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
   - B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).
   - C. From Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.
7. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District Track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.
8. *Cadillac and Lake City Railway Company (CLK):*
   - *A. From Limon, Colorado (milepost 530.75) to Caruso, Kansas (milepost 430.0) a distance of 100.75 miles.
   - *B. Over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.
9. *Baltimore and Ohio Railroad Company (BO):*
   - A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
   - B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.
10. *Keota Washington Transportation Company (KWTR):*
    - A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
    - B. At Vinton, Iowa (milepost 120.0 to 123.0).
    - C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).
11. *The La Salle and Bureau County Railroad Company (LSBC):*
    - A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.
    - B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.6), at Blue Island, Illinois.
    - C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
    - D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yards.
12. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*
    - A. At Alva, Oklahoma.
    - B. At St. Joseph, Missouri.
13. *Iowa Northern Railroad Company (IANR):*
    - A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)
    - B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.
14. *Iowa Railroad Company (IRRC):*
    - A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.
    - B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
    - C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
    - D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)
    - E. From East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.
    - F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)
    - G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)
    - H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
    - I. At Rock Island, Illinois including 26th Street Yard.
    - J. From Altoona to Pella, Iowa.
15. *Missouri-Kansas-Texas Railroad Company (MKT):*
    - A. From Oklahoma City, Oklahoma (milepost 498.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.
16. *Chicago Short Line Railway Company (CSL):*
    - A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
    - B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.
17. *Kyle Railroad Company (Kyle):*
    - A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon wtih CLK, and for coordinating operations.
    - B. From Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.
    - C. From Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.
18. *North Central Oklahoma Railway, Inc. (NCOK)*
    - A. From Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).
    - B. From El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.
    - C. From Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.
    - D. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (Milepost 54.8) a distance of approximately 54.5 miles.

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19. *South Central Arkansas Railway, Inc. (SCAR)*
A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).
20. *Burlington Northern Railroad Company (BN):*
A. At Burlington, Iowa (milepost O to milepost 2.06).
21. *Fort Worth and Denver Railway Company (FWD):*
A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.
B. At North Fort Worth, Texas (mileposts 603.0 to 611.4).
22. *Omaha, Lincoln and Beatrice Railway Company (OLB):*
A. At Lincoln, Nebraska (milepost 559.16) to (milepost 561.37).
23. *Enid Central Railway Company, Inc. (ENIC):*
A. From North Enid, Oklahoma (Milepost 0.12) to Ponca City, Oklahoma (Milepost 54.6).
24. *Texas North Western Railway Company (TNW):*
A. From Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.
+25. *Colorado and Eastern Railway Company (COE):*
A. From Colorado Springs, Colorado (milepost 602.7) to Limon, Colorado (milepost 530.75) a distance of approximately 72 miles.

*Changed.
+Added.

[FR Doc. 83-12039 Filed 5-5-83; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1039

[Ex Parte No. 346 (Sub-6)]

Rail Carriers; Exemption From Regulation—Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules (exemption).

SUMMARY: The Commission is exempting, with certain exceptions (see Appendix), the rail transportation of all commodities in boxcars from 49 U.S.C. Subtitle IV. The Commission retains jurisdiction in the area of car hire and car service, except that it allows railroads to impose charges for storage or return of empty boxcars and to negotiate bilateral care hire agreements. The Commission also retains jurisdiction over rates for the transportation of nonferrous recyclable materials. The exemption is based on findings that regulation is not necessary to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from the abuse of market power by railroads. The Commission also finds under 49 U.S.C. 11122 that the permitted actions affecting car charges will encourage efficient boxcar use.

DATE: The exemption is effective on November 7, 1983.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245;
or
Thomas Gire, (202) 275–7759.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

Authority: 49 U.S.C. 10321(a), 10505, and 11122.

Decided: April 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison. Chairman Taylor and Commissioner Simmons dissented with separate expressions.

Agatha L. Mergenovich,
Secretary.

Chairman Taylor dissenting:

A thoughtful review of this decision, wherein the exemption of rail traffic moving in boxcars is approved, can only lead to the conclusion that the grant of such exemption is based upon wishful thinking and unverifiable predictions and assumptions, all of which rely more on theory than fact. This Commission has been charged by Congress with the duty of rationally deregulating the railroad industry in a manner consistent with the National Rail Transportation Policy. To this end, we have been given standards to consider, but reasonable conclusions predicated upon such standards cannot be drawn in the absence of adequate supporting evidence.

Advocates of the exemption in this proceeding consist of one railroad,[1] two government agencies, and a handful of shippers, most of whom do not even use boxcars. On the other hand, a multitude of parties opposed the exemption by the submittal of an enormous body of evidence demonstrating the fallacies inherent in the proposal. These parties included the railroads themselves (except for the Southern Pacific on the rate issue) and the general thrust of their opposition was that the boxcar exemption will radically alter both financial and operational relationships throughout the entire railroad industry. Accordingly, those opposing the exemption comprise virtually every group which participates in or depends upon our national railway system.[2]

Moreover, this exemption is totally unlike any other proposed by either the Commission or the railroad industry. It cannot be compared with a commodity exemption which deals with individual products moving in specific markets, thereby allowing for a rational analysis of the probable effects of the exemption.[3] Nor can the TOFC/COFC exemption serve as precedent, since that exemption was specifically supported by the Staggers Act, 49 U.S.C. 10505(f), and its legislative history.[4]

To grant the exemption, the Commission must make certain findings in accordance with the statutory criteria set forth in 49 U.S.C. 10505 based upon the evidence of record. The almost complete lack of positive response to this exemption, coupled with the embarrassing paucity of supporting evidence, should have led to the conclusion that the proposal under consideration fails to satisfy any of the criteria of Section 10505. Consequently, a denial was clearly mandated, because the Commission cannot make the requisite findings to grant the exemption.

[1] The Southern Pacific and its subsidiary the St. Louis Southwestern support only the rate exemption.

[2] It bears repeating here that denial of this proposed exemption was supported by: (1) Two branches of the government, the Departments of Defense and Agriculture, which, as large shippers, have legitimate commercial interests in the rail transportation business; (2) The Association of Western Railways (including the Chicago & North Western Transportation Company, Burlington Northern Railroad Company, Denver & Rio Grande Western Railroad Company, Green Bay & Western Railroad Company, Illinois Central Gulf Railroad Company, Atchison, Topeka & Santa Fe Railway Company, Elgin, Joliet & Eastern Railway Company, Missouri-Kansas-Texas Railroad Company, Soo Line Railroad Company, Missouri Pacific Railroad Company, Western Pacific Railroad Company, Kansas City Southern Railway Company, and Union Pacific Railroad Company), one-third of the individual Class I railroads and about 20 short line railroads. (The American Association of Railroads also opposes the car service/car hire portion of the exemption.); (3) Eleven state and local agencies; (4) Nine private car owners; (5) Over 70 shippers, associations, and nonrail carriers; and (6) numerous members of Congress.

[3] The railroads themselves have stated that the most logical and reasonable approach to exemptions is by commodity and not car type.

[4] See H.R. Rep. No. 1035, 96th Cong., 2nd Sess. 60 (1980). Further, the special nature of TOFC traffic makes it highly competitive and versatile. TOFC/COFC operations are from a limited number of ramp origins to a limited number of ramp point destinations. In 1980, the number of boxcar loads shipped was about 200% of the TOFC car loadings. The predominant rate form for TOFC is FAK (Freight all kinds) and the commodity is the trailer—usually a 40 foot van. There is generally no rate differential on different kinds of goods sealed in the trailer. This enables shippers to switch modes at whim, and provides built-in controls against abuses and excessive rates.

The Statutory Criteria of 49 U.S.C. 10505(a)(2)

Limited Scope:

No one has made a serious effort to argue that a proposal affecting 40 percent of the total car miles in the U.S. is of limited scope. Various parties have noted that the exemption would encompass 25 percent of the national rail car fleet, 22 percent of the country's rail traffic, 25 percent of Conrail's total traffic, and 90 percent of the major commodity groups. Of the 35 major commodity classifications, 34 have boxcar movements. Of these 34, 14 move by boxcar at least 50 percent of the time. In 1981, there were 3,237,676 boxcar shipments in this country, and boxcar traffic accounted for 42 percent of total rail movements into and out of the Eastern Territory. Conrail originates and terminates more boxcars than any other railroad and has control over one out of every six boxcar shipments. Conrail serves 2,690 stations in the Northeast. These stations serve industrial areas which turn out 84 percent of the manufactured goods produced in that section of the country. Conrail also loads and unloads 54.1 percent of all boxcar traffic in that section. In light of these figures, a limited scope argument is clearly not available.

Abuse of market power: Nor can an appropriate finding be made with regard to the abuse of market power criterion. To determine whether market power is likely to be abused, an adequate definition of the market is necessary. But product markets are defined by commodities not car types, and it is the contents of a car, not the car type, that competes on the open market. The fundamental premise of the exemption proposed herein is that all commodities (except nonferrous recyclables), when transported in boxcars, move competitively. This assumption requires an enormous leap of faith, as boxcar freight is exceptionally diverse. It covers a wide range of commodities, rates, competitive situations, characteristics, locations, and destinations, all of which go into the definition of a market. Because of the lack of focus of this proposal, it is not possible for the Commission to make a finding that the application of every rate provision of the Interstate Commerce Act is no longer necessary for all boxcar transportation.

Even were such a finding possible, the complete inadequacy of the record precludes the Commission from drawing the necessary conclusions.[5] The evidence presented by Conrail does not reflect or represent the rest of the country outside the Northeast.[6] The Northeast differs from the rest of the country in number of cars terminated, manufacturing output, level of consumption, population, length of haul of shipments, and efficency of rail carriers. The nationwide statistics on which the majority relies to fill the gaps are well over six years old.[7] Moreover, the majority decision doesn't even attempt to show that these studies, conducted during the restrictive era of rail regulation, bear any relationship to the current railroad industry, which has changed so remarkably in the last few years, especially since enactment of the Staggers Act.

Also, much traffic that now moves in boxcars tends to be inherently rail oriented. But the broad brush methods of support used here ignore all but the most general figures. In spite of the fact that the Commission specifically requested disaggregated data to determine which markets were competitive, Conrail chose to rely on the Reebie study which is not broken down further than the three digit Standard Transportation Commodity Code (STCC). At this level, the data are too generic and not specific enough to enable an adequate analysis of the competition in any particular market.[8]

Another major objection to this proposal is that many commodities, which can be regarded as "boxcar traffic", also move in other types of railroad equipment, and such commodities will not compete in the same markets when moving in different types of railroad equipment. This situation presents the substantial likelihood that the deregulation of those commodities, when moving in boxcars, will affect their marketing merely because of an anomaly of regulatory policy.

A perfect example is the movement of grain, soybeans, and sunflowers seeds. In our recent decision in Ex Parte 346 (Sub-No. 14), *Rail General Exemption Authority-Miscellaneous Agricultural Commodities* (not printed), decided Feb. 17, 1983, we specifically declined to include grain and soybeans. After considerable analysis, however, we also concluded that sunflower seeds should not be exempted. Now, with only a brief reference by the majority to grain generally, all these commodities will be exempt when transported in boxcars. Such an obvious undoing with the left hand of what the right hand has done is nonsensical to say the least.

Different rules and rates for different types of equipment surely will lead to a distortion in the demand for certain cars, because equipment choices will be influenced by the boxcar exemption rather than the efficiencies and benefits of particular equipment relative to any given movement. This is a special concern of shippers, because even though they may request a specific type of equipment, if they receive an unregulated boxcar, their choice may be to accept it or face unacceptable delays in receiving the requested equipment. It is ironic that this so-called "deregulatory" proposal will, in actuality, interfere with decisions based on natural market forces and perhaps even encourage the continued use of equipment which many in the railroad industry believe is eventually destined to become obsolete.

Thus, the proposed exemption fails the tests of both 10505(a)(2) (A) and (B). It is not of limited scope, and the record cannot support a finding that there will not be an abuse of market power, because there is no evidence to determine what the market is.

The Modified Car Hire/Car Service Proposal

To fully consider the relationship of this exemption to the statutory criteria and the National Rail Transportation Policy, it is first necessary to discuss the serious problems raised by the grant of the modified car hire and service proposal.

If the car hire and car service issues occupy such a prominent place in the record, it is with good cause, as they lie at the heart of this Conrail-initiated proceeding, which is really concerned with how the car hire and distribution system has worked and how it should work. Under the current system, both the provider and user of cars are restricted in their decisionmaking. The owner has no control when the car is off line, and users are restricted in terms of

[5] Compare the aggregated data for the Northeast supplied by Conrail in this proceeding with No. 38678, *Changes in Routing Provisions—Conrail—July 1981*, 365 ICC 753 (1982) (remanded, *Chesapeake and Ohio Railway Co. et al.* v. *United States of America*, 7th Cir. Nos. 81–2286, 82–1625, and 82–1693 (April 4, 1983). The court held that there was not substantial evidence to support the conclusion that certain joint rate cancellations were consistent with the public interest because, among other things, the Conrail study on which the Commission relied heavily was deficient since (i) it considered only some of the traffic, i.e. that on which Conrail was a terminating carrier, and (ii) it was in grossly aggregated form.).

[6] See Appendix A, n.1 of majority decision.

[7] See Appendix B, n.1,2 and Appendix C, n.1 of majority decision.

[8] For example, STCC 331 covers steel works, rolling mill or other reduction plant products. The STCC is then further divided into 245 separate commodity groups. Another example is STCC 204, grain mill products, which, as Conrail has shown, travels 41.5% in boxcars. However, when this is expanded to the four digit level, there are six separate subgroups with boxcar shares of from 11.5 to 97.2 percent!

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car supply availability. Therefore, it has been properly argued that some effort should be made to move toward a more market-based system.

The problem with the modified Conrail proposal,* as I see it, is that while the individual steps proposed, taken in isolation, seem to be key ingredients of a market based system, when superimposed over the current system, they turn out to be logically incompatible.

Consider first the imposition of empty mileage charges and reclaim per diem after 3 days. This puts using roads in a position to make car use decisions that affect a third party's costs. Using roads will control whether the owning road incurs empty movement charges, on excess cars to remote points, by deciding what cars to load for given shipments.

This is the key to the objections registered by both large and small carriers. As the majority recognizes, shortline railroads will be severly affected by Conrail's modified proposal. For instance, a shortline could purchase cars for the use of its shippers and then load these cars for termination on another line in the same region. But that latter line could then send the reloaded cars thousands of miles away. If the original road needed the cars for its shippers, it would have to pay the empty mileage charge to secure return.

Another problem of even greater magnitude for the shortlines is that their share of the freight revenues may not even equal the empty mileage charges assessed. The long haul road, on the other hand, will receive the benefit of both the greater share of the revenue plus all the empty mileage charges. In many instances, it would even be to the holding road's advantage to move this equipment the longest route possible in order to maximize the mileage charges. Moreover, it certainly seems peculiar to allow a terminating carrier to assess demurrage on shippers who do not timely release cars, and then allow such terminating carrier to also assess charges on the carrier that owns the cars once they are empty. Whether the shortlines can survive until they reach the majority's nirvanha of having equal bargaining power with Conrail is indeed problematical.

Keeping in mind the Commission's retention of reciprocal switching obligations, the majority's effort to graft a little "free market" onto regulation can be expected to produce some serious difficulties. Regardless of whether there is an agreement between the parties, compulsory interchange will require Conrail and other roads to accept whatever car is tendered for further movements—no matter what its expense. The receiving road cannot refuse to accept a car.

Equally shaky are the majority's predictions regarding the incentive to own boxcars. 49 U.S.C. 11122(a) requires the Commission to encourage the purchase, acquisition, and efficient use of freight cars. However, the investment risk that owners would be subject to by virtue of Conrail's modified proposal is clearly unwarranted, especially as control of the cars has not been offered as a quid pro quo. One does not move in and out of the freight car business on short notice. Any disincentive to invest in freight cars can result in later shortages, since there is a built in time lag of many months between the time a car is ordered and the time it is delivered.

High car costs and empty car miles are an important concern, not only to Conrail, but also to many other railroads. The solution is not to reward one at the expense of all the others. Clearly, a process which penalizes owners, be they shippers, railroads, or third parties (who after all are largely supplying the debtor roads such as Conrail with car capacity) is not what Congress envisioned. The Commission, the AAR, and all other interested parties should be directing their efforts toward finding an overall solution, not a makeshift one.

The Rail Transportation Policy of 49 U.S.C. 10101a

After considering all the individual issues in an exemption proposal, the Commission must then bring them together for a balancing of the many goals set forth in the National Rail Transportation Policy.

The broad policy arguments used to support the exemption herein proposed are the same ones that are generally relied upon to support every deregulatory action, e.g., less paperwork and pricing flexibility. However, the necessity of individual agreements with every shipper and car owner should more than offset the reduced amount of paperwork that must be filed with the Commission, and without resort to the exemption, an abundance of price flexibility is already available under the current statutory system. With particular reference to pricing flexibility, one need only review the many protests and complaints filed in the last year by shippers and carriers regarding cancellations of joint rates and routes to understand that existing flexibility is already producing serious shipper and carrier concern.[10] Thus, the majority is correct that the exemption will eliminate, at least with respect to boxcar movements, "litigation and other expensive procedural obstacles" placed in a railroad's way by Congress. In any event, such general "benefits," even if balancing allows them to be characterized as such, cannot outweigh the needs of our national rail system as a whole.

The goal of the National Rail Transportation Policy is to promote and ensure the continuation of a healthy railroad system. To this end, regulation is recognized as a legitimate function of the Federal government to (i) prevent discrimination against shippers or connecting carriers, (ii) facilitate the establishment of single factor through rates, (iii) publicize rail rates, (iv) assure shippers that traffic will move efficiently, and (v) provide incentives for investment.

49 U.S.C. 10101a, subparagraphs (1), (3), (4), (5), and (6), emphasize the importance of competition, stress the need for reasonable rates and adequate revenues, and accentuate the necessity of maintaining a financially sound and integrated rail system. However, the very nature of the boxcar exemption is inapposite to all these goals. True competition relies on a rational system of decision making based upon market realities—not on whether a commodity moves in a boxcar. Reasonable rates and adequate revenues should go together to benefit both shipper and carrier—and not just Conrail. Ratemaking decisions should be based on more than the type of equipment used. In addition, it cannot be said that the proposed exemption will encourage equipment investment or the efficient movement of traffic. What can be predicted is that boxcars will simply become the joker in the deck, with their own special compensation rules grafted onto the current system.

* I would like to point out that the notice of this proposal was made under the auspices of 49 U.S.C. 10505, which authorizes exemptions from regulation. This proposal, which will authorize the authority to assess charges at certain levels and to store empty cars while reclaiming car rental charges, is a regulation—not an exemption. Certainly 49 U.S.C. 11122 would permit such regulations, but only after proper notice. Respondents who commented on this proposal, as noticed by the Commission under 10505, were clearly denied the opportunity to address it under 11122. These sections have different purposes and different standards. The courts have consistently found procedural defects of this nature to be fatal for lack of proper notice.

[10] See, for example, No. 36176, *The Chlorine Institute, Inc. v. Atchison, Topeka & Santa Fe Railway Co., et al.*; No. 36676, *Changes in Routing Provisions, supra, n.5.*

The National Rail Transportation Policy also instructs the Commission to cooperate with the States on transportation matters. 49 U.S.C. 10101a(9). In spite of having recently forced the States to accede to federal exemptions as the price for certification of intrastate railroad jurisdiction, the majority has not even attempted an analysis of the effect of this massive boxcar exemption on intrastate rail transportation.

Certainly the proposed exemption will not encourage (per 49 U.S.C. 10101a(10)), the elimination of noncompensatory rates, as many smaller carriers will be forced to that level to retain any traffic at all. Nor can it be argued (per 49 U.S.C. 10101a(13)) that the proposed exemption will prohibit predatory pricing and practices, avoid undue concentrations of market power, and prohibit unlawful discrimination, because there will be no forum to which a carrier or shipper may bring a complaint. Lastly, contrary to 49 U.S.C. 10101a(4), the proposed exemption will seriously endanger our rail transportation system, whose healthy continuation Congress, through its stated policy, wishes to maintain.

Summary

I have strongly supported and openly invited resort to the Commission's exemption authority as a means of leading, perhaps even pushing the railroad industry toward more reliance on themselves and the marketplace. To date, I believe such efforts have been crowned with success, in that the industry's requests for exemptions, together with the Commission's responses, have been genuinely responsible in every instance that comes to mind. Today, however, the majority has mandated a step backward by allowing deregulatory zeal to impose an unworkable system on an unwilling public. This is the kind of irresponsibility which can only serve the interests of those who are patiently searching for reasons to justify reregulation. I deeply regret the ammunition provided by the majority's decision in this proceeding.

Commissioner Simmons, dissenting:

A grant of Conrail's exemption from regulation of rates on boxcar traffic flies in the face of the evidence of record and the criteria of section 10505.

Of particular concern to me is that no persuasive arguments have been raised which demonstrate that we can state for certain that there is absolutely *no* potential for abuse of market power. The Commission is required to make an affirmative finding that continued regulation is not needed to protect shippers from the abuse of market power. A number of shippers have presented persuasive data to demonstrate that the likelihood of market power abuse is great on a significant amount of traffic. Conrail and other supporters of the exemption have not amply contradicted those assertions. Instead, Conrail has submitted evidence limited to the Northeast and fails to present any picture of the country as a whole or of specific classes or types of commodities.

An exemption of boxcars from car hire and car service regulation would not be consistent with the national rail transportation policy. The evidence suggests that such an exemption would only serve the parochial interest of Conrail at the expense of the shippers, the other railroads, and the public.

Appendix

PART 1039—[AMENDED]

Part 1039 of Chapter X of Title 49 of the Code of Federal Regulations is amended by the addition of a new § 1039.14 as follows:

§ 1039.14 Boxcar transportation exemption.

(a) The Rail transportation of all commodities in boxcars is exempt from the provisions of 49 U.S.C. Subtitle IV except as otherwise provided in this section.

(b) The Commission retains jurisdiction in the following areas:

(1) Car hire and car service.

(2) Mandatory interchange of equipment.

(3) Reciprocal switching or joint use of terminal facilities.

(4) Car supply.

(5) Rates for the transportation of recyclable or recycled materials other than iron and steel.

(6) Freight car pooling agreements.

(c) Rail carriers are authorized to take the following actions with respect to boxcar equipment use:

(1) Assess charges for empty movement of cars where movements are made at the request of the car owner, the Association of American Railroads, or the Commission. The empty mileage charge is subject to a maximum of 35 cents per mile, as adjusted for inflation or deflation using the rail cost adjustment factors published periodically by the Commission in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. In applying those factors, the figure of 35 cents shall be treated as having been in effect on October 1, 1982.

(2) Store empty cars and reclaim car hire payments beginning at the expiration of a 72-hour grace period after the car is made empty.

(3) Negotiate bilateral agreements governing car hire rates, empty movements, and storage.

(d) Carriers must continue to comply with Commission accounting and reporting requirements. Railroad tariffs pertaining to the exempted transportation of commodities in boxcars will no longer apply. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Commission.

(49 U.S.C. 10321(a), 10505 and 11122)

[FR Doc. 83-12023 Filed 5-5-83; 8:45 am]
BILLING CODE 7305-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 30503-74]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: The Secretary of Commerce issues this notice to close the commercial fishery for king mackerel conducted by vessels fishing hook-and-line gear in the fishery conservation zone in the South Atlantic and Gulf of Mexico on May 6, 1983. The Director, Southeast Region, National Marine Fisheries Service has determined that the commercial hook-and-line quota of 3,877,200 pounds of king mackerel has already been reached. This action will ensure that the quotas for king mackerel are not exceeded during the current fishing year.

EFFECTIVE DATE: Closure is effective from 2400 hours, Eastern Daylight Time, on May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner (Director, Southeast Region, National Marine Fisheries Service), 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-893-3141.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) was developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under authority of the Magnuson Fishery

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Conservation and Management Act, as amended. Rules to implement the FMP were promulgated on February 4, 1983 (48 FR 5270). The Secretary is required under § 642.22(a) of these regulations to close any segment of the king or Spanish mackerel fishery when its annual quota has been harvested, by publishing a notice in the **Federal Register**. The regulations at § 642.21(a)(1)(ii) specify an annual commercial hook-and-line quota of 3,677,200 pounds of king mackerel.

The Regional Director has determined, based on the most recently reported catch figures, that commercial fishermen using hook-and-line gear have already harvested 3,990,000 pounds of king mackerel. Hence, commercial fishing for king mackerel with hook-and-line gear must cease at 2400 hours on May 6, 1983.

This action is required by 50 CFR § 642.22(a), and complies with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 642

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 3, 1983.

Joseph W. Angelovic,

Acting Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 83-12236 Filed 5-4-83; 10:08 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 89
Friday, May 6, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Exceptions Processes, Reopening of Comment Period

AGENCY: Administrative Conference of the United States; Committee on Regulation.

ACTION: Reopening of comment period.

SUMMARY: The Administrative Conference Committee on Regulation is considering a proposed recommendation on the subject of "administrative exceptions processes". This topic includes agency procedures involved in the granting of waivers, exemptions, variances, or other individualized exceptions to rules of general applicability. Views and supporting factual material are requested to be submitted to aid the Committee in its consideration. The original request for comments (48 FR 14910) is hereby extended for an additional 60 days.

DATE: *Comment Deadline:* July 6, 1983. One copy is sufficient. Comments received after the deadline will be considered to the extent feasible.

ADDRESS: *Send Comments To:* William C. Bush, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037; telephone (202) 254-7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference Committee on Regulation is working toward development of a recommendation concerning agency procedures and practices in the operation of federal agency exceptions processes. The Committee's proposed recommendation, reproduced below, is based largely on a report by our consultant, Professor Peter Schuck of Yale Law School. Copies of Professor Schuck's report, When the Exception Becomes the Rule: Regulatory Equity, the Exceptions Process, and the Formulation of Energy Policy (February 16, 1983), are available on request.

Although the consultant's report deals mainly with a study of the Office of Hearings and Appeals at the Department of Energy, the Committee has attempted to derive from the study such recommendations as appear to be useful government-wide. The Committee is particularly interested in the views of those who have had direct experience with exceptions processes in other regulatory agencies.

The Committee decided that the original 21-day comment period did not allow sufficient time for a full public airing of the issues treated in the proposed recommendation. All comments received during the initial period will receive full consideration.

The Committee will meet shortly after the extended comment deadline to consider all comments received and to determine whether and in what form to propose a final recommendation to the full Administrative Conference in December. Notice of that meeting will appear in the **Federal Register**.

All comments submitted to the Committee will be placed in a file available for public inspection during normal business hours (9:00 a.m. to 5:30 p.m. Monday through Friday, excluding federal holidays) at the Office of the Chairman of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037.

Activities of the Committee on Regulation are subject to the Federal Advisory Committee Act (Pub. L. 92-463).

Proposal on Which Comments Are Requested

Proposed Recommendation

Administrative Exceptions Processes

A. Congressional Oversight

1. Congress should review the effectiveness, procedural fairness, and political accountability of the administrative exceptions processes established under existing legislation, including the adequacy of legislative, administrative, and judicial controls over those processes. This may be accomplished during the course of periodic congressional oversight of agency programs.

2. Congress should prescribe the equitable or other criteria that shall govern an agency exceptions process. Congress should also require that agencies issue regulations further defining those criteria and prescribing the procedures to be used in exceptions proceedings.

3. Congress should determine whether and to what extent agencies are circumventing rulemaking requirements by excessive reliance upon exceptions processes. If an exceptions process is being used by an agency to resolve questions of broad policy significance, Congress should consider requiring that the official in charge of that process be subject to Senate confirmation.

4. Where an exceptions process is part of what was originally an emergency program, Congress should determine whether and to what extent the courts should continue to take the emergency into account in reviewing the legal validity of exceptions decisions.

B. Agency Procedures

1. Each agency with an exceptions program should establish procedures governing exceptions cases that reflect an analysis of the need for particularized regulatory equity in the applicable program. The procedures provided for relatively routine "hardship" applications and for those cases of broader policy significance should differ to take account of the differing demands for information, fairness, and legitimacy.

2. The procedures should provide for adequate notice to all interested members of the public of an application for exceptions relief. Relief should be granted or denied only after an opportunity for the development of relevant factual and policy issues. The degree of formality of the adjudicatory procedures used should depend upon the magnitude of the public and private interests at stake, the need for expeditious decision, the number of interested parties, the kinds of issues to be resolved, and the kinds of procedures that were originally employed to generate the "rule" from which relief is being sought. The agency should assume responsibility for ensuring that all significantly affected interests are in fact represented in the exceptions proceedings.

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3. Where the program allows for emergency, interim relief, the procedures should include suitable mechanisms—such as an escrow fund, interest obligation, or expiration date for interim orders—to restore the *status quo ante* insofar as possible in the event that such relief is subsequently determined to be inappropriate.

4. The form and independence of the tribunal that is to decide exceptions cases should depend chiefly upon the regulatory policy significance of the exceptions decision and the value of exceptions relief to applicants. The greater the precedential and policy significance of an exceptions decision and the greater the advantage (competitive or otherwise) that the decision confers upon an applicant, the more closely the tribunal should be integrated into the policy-sensitive and politically-accountable decision processes of the agency. The more the exceptions decision is routine, without precedential significance, and purely equitable or "hardship" in nature, the more readily it may be delegated to other decision processes.

C. Coordination With Rulemaking

1. Where there is a relatively high degree of organizational independence between an agency's exceptions process and its rulemaking process, the two should be closely coordinated to ensure that important policy decisions and situation-specific equitable decisions are made using the procedures most appropriate to each.

2. When it appears to the exceptions tribunal that a decision under consideration is likely to have broad policy significance, it should promptly inform the agency office with primary rulemaking responsibility in order to give the rulemakers an opportunity to supplement or supplant the exceptions proceeding. Ordinarily, the exceptions tribunal should not decide such a case until the rulemaking office indicates that it does not intend to proceed.

3. If the exceptions tribunal proceeds to decide a case with broad policy significance, it should conduct the proceeding much as a rulemaker would, broadening participation in the pending adjudication and inviting public comments on all significant policy, factual, and remedial issues in the case. In addition, the exceptions tribunal should be expanded to include additional members drawn from the agency's policymaking organs, and the politically responsible agency head should review and sign personally the orders in such cases.

Richard K. Berg,
General Counsel.
May 2, 1983.

[FR Doc. 83-12184 Filed 5-5-83; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

[Docket No. AO-225-A35]

Milk in the Southern Michigan Marketing Area; Emergency Decision on Proposed Amendment to Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis a proposed amendment to the Southern Michigan milk marketing order. The order change would provide handlers with limited transportation credits from the marketwide pool for certain Class III milk transferred to unusually distant outlets for surplus disposal. The change, which would apply only through August 31, 1983, was considered at a public hearing on April 7, 1983, in Romulus, Michigan (Detroit). The order change was requested by a cooperative association that represents a substantial proportion of the dairy farmers who supply milk to the Southern Michigan market.

The adopted order change is necessary to reflect current marketing conditions and to insure that all producers in the market share more equitably the costs of disposing of unusually large supplies of surplus milk that are expected during the months of May through August 1983. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto have been omitted. The adopted amendment must be approved by at least two-thirds of the producers in the market before it can become effective.

FOR FURTHER INFORMATION CONTACT: Martin Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendment will promote more orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding: Notice of Hearing: Issued March 22, 1983; published March 28, 1983 (48 FR 12721).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Romulus, Michigan (Detroit), on April 7, 1983. Notice of such hearing was issued March 22, 1983 (48 FR 12721).

Interested parties were given until April 14, 1983, to file post-hearing briefs on the proposals as published in the notice of hearing and on whether these proposals should be considered on an expedited basis.

The material issues on the record of the hearing relate to:

1. Whether the order should be amended to provide handlers with transportation credits from the marketwide pool on certain shipments of surplus milk during May, June, July and August 1983.

2. Whether emergency marketing conditions in the regulated area warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Transportation credits on surplus milk shipments.* The Southern Michigan milk order should be amended to provide handlers with limited transportation credits from the pool on certian movements of bulk fluid milk and condensed milk (whole or skim) to distant manufacturing plants. The credits should be made available as soon as possible and should continue through August 1983. Such credits are not now operative in the order.

Michigan Milk Producers Association (MMPA), a dairy farmer cooperative association, proposed that the order be amended. The cooperative represents more than two-thirds of the producers whose milk is pooled under the order. MMPA's proposal would provide transportation credits of 3.6 cents per hundredweight per 10 miles to handlers for Class III milk moved to certain nonpool plants outside the State of Michigan and more than 150 miles from the pool plant from which transferred. The total of such credits would be deducted from the value of milk in the monthly marketwide pool. The proposed credits would be applicable only for the months of May, June, July and August 1983. The cooperative had proposed in the notice of hearing to include certain Class II and Class III milk that was transferred as eligible for the temporary transportation credit. At the hearing MMPA modified its proposal to include only Class III transfers of bulk fluid milk and condensed milk products.

A spokesmen for MMPA said that the proposed credits would help ensure that all producers suppying the market would share in the cost of handling unusually large surplus milk supplies during the May through August period this year. According to the witness, increases in milk production and a decline in Class I sales will result in greater than normal quantities of milk having to be moved to distant manufacturing outlets this year than were moved last year during those months. The witness said that the increase in milk production is due to a general increase in milk output as dairy farmers attempt to maintain their cash flow during a time of economic difficulties in Michigan.

Three proprietary handlers supported MMPA's proposal. One handler urged the Secretary to adopt it as proposed. Two other handlers proposed that the pounds of bulk fluid cream be added to the products eligible for the credit. Additionally, these handlers urged that the temporary nature of the credits be eliminated, so that the proposed amendment would become a permanent part of the order.

The National Farmers Organization (NFO) opposed any change in the order. The NFO witness said that the proposed credits could have unsettling adverse effects on other milk markets. The witness contended that the transportation credits would subsidize the price of milk transferred from the Southern Michigam market to manufacturing outlets in Ohio and would displace local Ohio milk from those plants.

The Independent Cooperative Milk Producers Association (ICMPA), opposed the proposed amendment. However the ICMPA witness said if the Secretary adopted MMPA's proposal, the 150 minimum mileage zone with no credit should start at the boundary of the marketing area and not at the transferor plant. Also, the witness said that no credit should be allowed on any milk going to a pool supply plant which is not located in Michigan.

A proprietary handler expressed reservations about the proposed amendement. He suported ICMPA's modification that the 150-mile no-credit zone start at the boundary of the marketing area. As further alternatives, the witness suggested measuring the mileage from the the State Captiol at Lansing and increasing the no-credit zone to 200 miles.

The witness for MMPA stated that the Southern Michigan market had experienced a 2.5 percent increase in milk production in 1982 over 1981. He also said milk production had increased at an accelerated rate during recent months; in November and December 1982, milk production had averaged 2.1 percent more than in the same months in 1981, whereas milk production in January and February 1983 had averaged 4.1 percent more than in January and February 1982. The witness said that packaged Class I sales within the marketing area had declined 4 percent in 1982 as compared to 1981. He indicated that these sales during January and February 1983 had declined by 6.5 percent as compared to January and February 1982. The witness stated that the increased supply of milk and decreased packaged Class I sales would cause an increased amount of milk to be moved to manufacturing outlets this year as compared to last year.

The MMPA witness said that in the months of May through August 1982 the cooperative had disposed of 105,000,000 pounds of surplus milk either in the form of bulk milk or condensed skim. The witness said that the cooperative had transferred 31,000,000 pounds of milk to plants outside its normal marketing area during that period. He said that the cooperative had hoped that the problem would not recur in 1983. However, the improvements that were anticipated did not materialize and it became clear that an unusually large volume of surplus milk would have to be disposed of during May through August 1983. The cooperative estimated that it will move 150,000,000 pounds of milk product, either in the form of bulk milk or condensed milk, in order to clear the market of surplus production in these four months. He said that the cooperative, after analyzing the January and February production increases, then decided that it should propose the change in the order.

The witness said that absent the proposed change some handlers (primarily MMPA) would carry the full burden of disposing of the larger than normal milk supplies for the market during the May through August period this year. The cooperative's witness said that MMPA is a major supplier of milk to fluid milk plants in the market and is handling a very large share of the market's surplus milk dispositions. He noted that MMPA balances the daily, weekly and seasonal fluid milk needs of many plants that receive a portion of their supplies from independent producers. He said that such plants generally rely on the cooperative to dispose of any surplus milk associated with their operations. Also, he indicated that some plants call on the cooperative for "spot"loads of milk when they need it in addition to their regular supplies.

MMPA maintained that a substantial quantity of the extra milk supplies that will need to be handled this year will have to be moved to outlets that are more distant from the market than those that normally can accommodate the market's surplus dispositions. These would include outlets in Wisconsin, Ohio, Indiana, Illinois and Minnesota.

The cooperative proposed the transportation credits to help offset some of the costs MMPA expects to incur in moving these excess milk supplies to distant outlets to clear the market. The cooperative's spokesman presented data showing that during May through August 1982 MMPA paid an average of 3.6 cents per hundredweight per 10 loaded miles to contract haulers to move approximately 500 loads of milk out of the State of Michigan. He also presented rate quotations from haulers located outside of Michigan and these rates ranged from 3.3 cents to 4.7 cents per hundredweight per 10 loaded miles. Based on these data, the spokesmen claimed that 3.6 cents per hundredweight per 10 loaded miles is a reasonable reflection of the actual costs incurred to haul excess milk to distant plants and thus would be an appropriate rate for the proposed credit. The MMPA witness noted that if milk were shipped to a plant located outside of the State of Michigan and more than 150 miles from the transferor plant and if any part of the milk were used as Class I products, then no transportation credit would be available on any milk transferred to that plant during that month.

The MMPA spokesman identified the manufacturing plants and their locations that normally are used as outlets for surplus milk by fully regulated handlers

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in the market. The locations of these plants provided the basis for the proposed provisions that would allow handlers a pool credit for transportation of milk to manufacturing plants more distant than those regarded as normal outlets.

In essence, MMPA contends that due to a severe imbalance between the supply and demand for milk, the order needs to be amended for a limited time so that all producers supplying the market will share equitably in the costs of disposing of the unusually large surplus milk supplies that will be associated with the Southern Michigan market during the May through August period this year. The credit would be available to any handler that incurred such costs. MMPA contends also that because of the unusual supply-demand situation, the current marketwide pooling arrangement is unable to provide such equity during this 4-month period.

MMPA claimed that absent the proposed amendment disorderly marketing conditions would develop. The burden of disposing of milk normally associated with the market would be more unevenly distributed than usually is the case. Unusually large milk supplies immediately adjacent to the market, as in Ohio, may preclude the use of manufacturing outlets there. MMPA believes that the proposed credit would provide a mechanism for handling the surplus milk and thus minimize the anticipated disorderly marketing conditions. MMPA urged the Department to adopt the proposal on an emergency basis in order that it can be made applicable to surplus milk handled during the months of May through August 1983.

A spokesman for a handler expressed full support for MMPA's proposal to amend the order. The spokesman urged the immediate adoption of the proposed amendment by the Secretary.

Two other handlers, supported MMPA's proposal and offered two modifications. Both spokesmen urged that bulk cream products be added to the products eligible for the transportation credit. Each stated that handlers receive more butterfat from producers than some handlers can profitably use in their bottling operations. They maintained that some handlers must dispose of the extra butterfat at a cost to the handlers. They claimed this handling of the unneeded butterfat was in fact a subsidy paid to producers by some handlers. They urged that the order be amended to allow a handler to recover some of the cost of disposing of his surplus butterfat.

The second modification offered by the two handlers was to eliminate the temporary nature of the proposed transportation credit. The spokesmen stated that the problem that some handlers had in disposing of the extra butterfat was a year-round problem. Thus, the spokesmen maintained, any transportation credit for the disposal of the surplus butterfat should not be limited to just the four months this summer.

The National Farmers' Organization (NFO), a cooperative that markets milk for its members in the Southern Michigan market, opposed the adoption of MMPA's proposal. The NFO spokesman noted that members' milk also is marketed on the Ohio Valley, Eastern Ohio-Western Pennsylvania, Indiana and Chicago Regional Federal order markets, which are contiguous with or nearby the Southern Michigan order market.

The NFO spokesman stated several reasons for opposing MMPA's proposal. One was that NFO members would have their returns from the sale of milk lowered if the proposed credits are provided. Also, it was NFO's view that subsidizing Class III shipments would have unsettling and adverse impacts on markets not included in this hearing but geographically adjacent to the Southern Michigan order. The concern was that surplus milk from the Southern Michigan market would be made available to manufacturing plants in Ohio at prices below those normally prevailing in Ohio. NFO held that such milk would displace local milk at Ohio manufacturing plants and that the Ohio milk then would have to be moved to distant outlets without the benefit of a transportation credit.

The witness contended that such a situation could domino into other markets, thus creating disorderly marketing conditions. NFO's witness also claimed that the proposed amendment departs from traditional Federal order pricing methods and may not be in accord with the Agricultural Marketing Agreement Act. He also stated that such provisions should not be adopted on an expedited basis because, in his view, there had not been sufficient time to fully analyze the impact of the proposal, if it were to be adopted.

The Independent Cooperative Milk Producers Association (ICMPA), a dairy farmer cooperative association located in Grand Rapids, Michigan, opposed MMPA's proposal. The ICMPA spokesman said that MMPA had acquired the two bottling plants and one manufacturing plant of the former McDonald Cooperative in November 1979 and later had sold the manufacturing operation to non-dairy interests. He said that in 1980 surplus milk supplies were moved off the Southern Michigan market and that MMPA should have operated the manufacturing plant to handle the surplus milk supplies. The spokesman said it was a cooperative's responsibility to market the milk of its members and that the cost of marketing should be borne by the cooperative and not by the entire market. The ICMPA spokesman said that his cooperative balanced its members' surplus milk at its plant in Kalamazoo, Michigan. He stated that ICMPA had continually expanded and updated its equipment as its supply of milk increased.

The ICMPA spokesman stated that if the Secretary adopted MMPA's proposal, ICMPA proposed that the no-credit 150 mileage zone start at the boundary of the order area and not at the transferor plant. He also states that no credit should be available on milk transferred to a Southern Michigan pool supply plant that is located outside of Michigan. The spokesman stated that the possibility of a back-haul might lower the cost of transporting surplus milk form the Southern Michigan market to manufacturing plants located in Wisconsin. The spokesman said that Wisconsin produced milk is moved by truck to Michigan and is pooled on the Southern Michigan market. He claimed that these trucks could be loaded with surplus milk which would be sent to manufacturing plants in Wisconsin. In this manner, he said the transportation cost of getting milk form Wisconsin to Michigan could be used to lower the cost of transporting surplus milk from Michigan to Wisconsin.

One handler expressed his reservations concerning MMPA's proposal. The spokesman supported the concept that the temporary transportation credit be provided to compensate a handler partially for the cost of clearing the market of unusually large volumes of surplus milk. He stated he was concerned about the possible displacement of local milk which might occur in other markets when milk and condensed products, in particular, from the Southern Michigan market might be offered for sale with a subsidized transportation credit. The spokesman said his company in Wisconsin disposed of surplus milk to Wisconsin manufacturing plants that MMPA identified as possible outlets for Michigan produced surplus milk. He was concerned that milk handled by his company might be displaced with

Michigan milk. He also indicated that his company operates a plant in Florida that uses condensed skim milk to make cottage cheese. He said he could get condensed skim from Michigan and possibly displace his normal Florida supplier for four months. He said he was concerned with the stability of the various milk markets in which his company operated plants and whether other markets could be disrupted by surplus Michigan milk.

The handler supported the ICMPA alternative proposal that the 150 mile no-credit zone start at the order boundary rather than at the transferor plant. As a further alternative, the spokesman said all mileage should be measured from Lansing, Michigan, the State Capital. The spokesman also proposed that the no-credit zone should be increased to at least 200 miles. He said the Secretary had used a 250 mile no-credit zone in the 1982 Louisville-Lexington-Evansville Federal milk order's temporary transportation credit decision and the 250 minimum mileage should be used here to maintain uniformity in all Federal milk orders.

Most of the participants who testified at the hearing, whether the supported the proposed order amendment or opposed it, generally conceded that surplus milk supplies will be much larger this spring than last year. This common perception is supported by data presented at the hearing.

Total producer milk pooled in the Southern Michigan market increased 3.3 percent in 1981 over the 1980 total and increased an additional 2.5 percent in 1982 over the 1981 total. At the same time, sales of Class I milk (fluid milk products) for the Southern Michigan market declined 6.0 percent in 1981 from 1980 and further declined another 5.4 percent in 1982 from 1981. The annual average Class I utilization percentage of the total producer receipts in the market was 50.4 percent in 1980. In 1981 and 1982 the annual Class I utilization percentage fell to 45.8 percent and 42.2 percent, respectively.

These data established that for the Southern Michigan market milk production is increasing and Class I milk sales are declining. It is concluded that there will be greater quantities of milk not needed for fluid use than a year ago. Further, the milk will need to be disposed of to manufacturing outlets during the months of May through August 1983, which includes months of seasonally high milk production. Accordingly, it is necessary to determine whether the over-supply situation will cause marketing problems that should be dealt with through changes in the Southern Michigan milk order, as proposed by MMPA.

Based on the evidence presented at the hearing, the most likely marketing problem will be the disposition in the next few months of additional surplus milk to manufacturing outlets. If local manufacturing capacities are adequate to handle the milk, on unusual problems would be expected. However, the record indicates that there is not likely to be adequate manufacturing capacity in the normal surplus disposal area, particularly on weekends.

The best available approach to establish whether surplus milk must be moved unusually long distances to manufacturing plants from the Southern Michigan market is to look at what has happened in the past. During the months of May through August 1982 MMPA disposed of more than 105,000,000 pounds of surplus milk either in the form of bulk milk or condensed skim to plants outside the southern Michigan marketing area. The distant plants included plants in Wisconsin, Ohio, Indiana, Illinois, Minnesota, Kansas and New York.

Surplus milk disposal for the market is handled by cooperative associations and primarily by MMPA. This results because cooperatives are the major suppliers of milk in the market. MMPA represents more than 70 percent of the producers in the market and ICMPA represents more than 13 percent of them. Together these two cooperatives supply more than 85 percent of all milk pooled in the Southern Michigan market.

The evidence supports the MMPA claim that it is not only the major balancer of milk supplies for the market but that indirectly it is balancing the surplus milk of nonmember producers as well. The record establishes that there are pool distributing plants that receive only part of their supplies from MMPA.

The handling of a market's surplus milk can fall unevenly on different groups of producers. As indicated, MMPA supplies a number of distributing plants only on a partial basis. A handler may have a group of independent producers, or perhaps a particular group of producers who are members of a cooperative, from which milk is received on a regular basis throughout the year. As the milk production of these producers declines during the seasonal short-production months, the handler may need supplemental supplies and will buy milk from a cooperative such as MMPA. Then, during the spring, when milk production increases, the milk from the handler's regular producers may be sufficient, or nearly so, to cover his needs and he cuts back the supplemental purchases from MMPA. In this situation, the producers who are the handler's regular suppliers do not share in the costs of balancing the handler's fluid needs. Instead, the costs fall, as in this example, solely on MMPA. If the surplus milk must be hauled unusually long distances, the cost burden can be particularly heavy on the cooperative.

Although the cost impact of handling surplus milk normally falls largely on members of cooperatives, nonmember producers are not immune to adverse impacts of the heavy supply situation. Proprietary handlers who do their own balancing may experience difficulties in disposing of the excess milk supplies of their independent producers. Any long-distance milk shipments must be borne by the handlers since they are required to pay producers the minimum Class III price of the milk. Their alternative is to refuse to accept all the milk produced by these dairy farmers. If the latter situation occurred, the impact would fall entirely on those dairy farmers. Any widespread occurrence of this situation could lead to disorderly marketing conditions.

Under normal conditions of supply and demand for fluid milk, the Federal order marketwide pools serve to assure that all producers supplying each market share in both the Class I and surplus values of the milk that is pooled in their market. Such pooling normally is adequate to achieve reasonable equity among all the market's producers. However, in the unusual circumstances that currently exist in the Southern Michigan area, the order may not provide a mechanism for ensuring that unusually high costs incurred in handling the market's surplus are shared equitably by all producers supplying the market. Accordingly, the Southern Michigan milk order should be amended along the lines proposed to maintain the degree of producer equity that otherwise is obtained through the operation of the marketwide pool for the market.

Two cooperative associations objected to the adoption of pool credits on surplus milk movements. Three handlers and one of the cooperatives offered modifications to MMPA's proposal. The points discussed below were raised at the hearing and/or in their post-hearing briefs.

NFO, in its post-hearing brief, contended that the proposed amendment is not necessary to preserve producer equity. Also, NFO said that the question of producer equity is so important that it should not be resolved without the Secretary first issuing a recommended decision and giving interested parties an opportunity to

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comment. Such an approach would preclude any action by the Secretary in time to deal with the problem at hand. Timeliness is an issue here because the proposed remedy would be applicable for only a limited period this year.

NFO also expressed concern that the pool credit proposed by MMPA could disrupt the marketing of milk in areas such as Ohio and Indiana. Their brief indicated the Southern Michigan surplus milk could displace local milk in Ohio or Indiana. This local milk would then need to be transported to areas such as Wisconsin for its surplus disposal. NFO claimed, however, that this milk would not have any transportation credit available and its normal marketing would be disrupted.

It is recognized that with the pool credit on long-distance milk shipments there could possibly be a limited displacement of local milk at manufacturing plants. At least two factors, however, would tend to cause this not to happen. The pool credits adopted herein would not cover all of the costs of hauling the milk. Milk would have to be moved more than 150 miles from the transferor plant before a credit would start to apply. Thus, handlers moving the milk would have a strong incentive to find the highest possible price for their surplus milk.

Additionally, once milk moved beyond the no-credit zone, the incentive to move the milk to the nearest manufacturing plant would tend to be minimal since the 3.6-cent credit rate would cover most of the hauling to any point beyond the no-credit zone. This would tend to lessen the likelihood of handlers under the Southern Michigan order offering surplus milk at distress prices for the purpose of finding a closer outlet.

In this regard, it might be argued that the pool credit arrangement should provide some kind of incentive to move milk to the closest plant. However, in view of the concerns expressed about the possibility of "displaced" milk, it is concluded that this should not be done so that handlers will have more flexibility in seeking surplus milk outlets in other markets.

NFO disputed MMPA's contention that the pool credits were authorized by the Agricultural Marketing Agreement Act. NFO claimed that the pool credits would be, in effect, an adjustment to the Class III price. In this regard, they pointed out that the credits could vary form handler to handler, by virtue of different points of origin, even though all the handlers may have delivered the surplus milk to the same distant plant. It was argued that under this circumstance the credits would result in Class III prices that are not uniform among all handlers.

The pool credits adopted herein do not represent adjustments to the Class III price for the location of the receiving plant. Instead, such credits represent an additional mechanism in the order for maintaining a reasonable degree of equity among all producers whose milk is pooled and priced under the order. The authority for such a provision is section 608c(7)(D) of the Act, which provides that the order may contain terms and conditions incidental to, and not inconsistent with, other provisions of the Act is such terms and conditions are necessary to effectuate the other provisions of the order.

The proposal to begin the no-credit transportation zone at the boundary of the order area, rather than at the transferor plant, should not be adopted. ICMPA's witness proposed this modification but offered no evidence to support it. Accordingly, the proposal to begin the no-credit transportation zone at the boundary of the defined marketing area is denied.

The proposals to increase the no-credit transportation zone from 150 miles to 200 miles and to use the State Capitol at Lansing as the origination point should not be adopted. A handler proposed that the no-credit zone be increased to 200 miles and all distances to nonpool plants be measured from Lansing, Michigan. The spokesman for the handler said that the Secretary had used a no-credit zone of 250 miles in the 1982 temporary transportation credit amendments to the Louisville-Lexington-Evansville Federal milk order and had used Lexington and Louisville as measuring points. The spokesman said that the Secretary should use a similar basis for determining the no-credit zone for the Southern Michigan market.

The spokesman did not offer any persuasive evidence concerning a no-credit zone. In determining what this zone should be, it must be recognized that each milk market has it own local arrangements and normal marketing practices. For the Southern Michigan market, recognition is given to the distance that milk normally moves for surplus disposition from the Southern Michigan market. Accordingly, the proposal to increase the no-credit mileage zone or to use Lansing, Michigan, as the basing point is denied.

The proposals to add bulk fluid cream products to the products eligible for a transportation credit should not be adopted. No persuasive evidence was presented that showed the handling of excess cream is a particularly burdensome problem for the market. The handling of any excess butterfat is a normal part of a handler's business operation. A handler may choose to operate a butter churn to utilize his excess butterfat or sell the butterfat to another handler. Other handlers may choose to purchase skim milk to balance their total milk needs. The proposal to include fluid cream products for any temporary or permanent transportation credit is denied.

Kraft, Inc., in a post-hearing brief, supported the concept that a transportation credit was appropriate to mitigate the disproportionate cost some handlers incur in disposing of surplus milk from the Southern Michigan market. Kraft, however, noted that ice cream is classified as a Class III product in the Souther Michigan order while it is typically classified as Class II in most Federal milk orders. Kraft's spokesman said the proposal might result in competitive inequities and in the displacement of milk supplies associated with other areas if transportation credits are allowed for milk or condensed milk used to produce ice cream.

Ice cream has been classified as a Class III product in the Southern Michigan order for many years. There was no evidence introduced at the hearing to support Kraft's assertion that the difference in the classification of ice cream might result in any competitive inequities between the Southern Michigan market and other Federal order markets, either distant or nearby.

One of the underlying purposes of the Act is to establish orderly marketing conditions for dairy farmers. The Act authorizes a number of specific means for achieving this, including the pooling of milk on a marketwide basis. Through this pooling procedure, all producers in the market share equitably in both the market's higher-valued fluid sales and the reserve milk supplies that necessarily must be available in the fluid market but which return only the lower manufacturing use value.

The pool credit adopted herein is a reasonable extension of this marketwide sharing concept. As already discussed, unusual supply-demand conditions are resulting in certain producers bearing a burdensome share of the costs of handling excess milk supplies associated with the fluid market. The temporary pool transportation credit represents a reasonable means of maintaining order market conditions for producers.

The order for the Southern Michigan market should specify that bulk fluid milk and condensed products must move more than 150 miles from the transferor plant before a transportation credit would be allowed. This distance is sufficient to cover regular surplus milk and condensed dispositions from this market to outlets in northern Indiana and northwestern Ohio. Thus, no credit would be received for any milk or condensed products that moved 150 miles or less from the transferor plant. As proposed, no credit would be provided on any milk transferred to a plant located more than 150 miles from the transferor plant if any part of the milk were used as Class I products during the month.

2. *Omission of a recommended decision and the opportunity to file exceptions thereto.*

The evidence in the record of this proceeding strongly indicates that surplus milk supplies in the Southern Michigan milk market will be substantially larger than usual during May, June, July and August of this year. The amendment adopted herein is in response to these marketing conditions and is for the purpose of accommodating the handling of surplus milk under unusual circumstances. Unless amendatory action is taken on an emergency basis, the opportunity to assure producer equity in these markets will be lost. The normal procedure of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendment in time for it to serve the intended purpose.

It is therefore found that due and timely execution of the Secretary's function in this proceeding imperatively and unavoidably requires omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Southern Michigan milk order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk and an Order amending the order regulating the handling of milk in the Southern Michigan marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

February 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southern Michigan marketing area is approved or favored by producers as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on April 29, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[2] *amending the order, regulating the handling of milk in the Southern Michigan marketing area.*

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon a proposed amendment to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held.

[1] Filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. In § 1040.60, add paragraph (h) to read as follows:

§ 1040.60 Handler's value of milk for computing uniform price.

* * * * *

(h) With respect to milk marketed on or after the effective date hereof through August 1983, deduct the amount obtained by multiplying the pounds of bulk fluid milk and the pounds of condensed milk (whole or skim) which were classified as Class III and were transferred to another order plant pursuant to § 1040.42(b)(3) or to a nonpool plant pursuant to § 1040.42(d)(2), both of which are located outside the State of Michigan, by a per hundredweight rate equal to 3.6 cents for each 10 miles or fraction thereof that such other order plant or nonpool plant is located more than 150 miles, as determined by the market administrator, from the pool plant from which the milk was transferred. No credit shall apply to the total quantity of milk so transferred by a handler if any portion of the milk is assigned to Class I.

[FR Doc. 83-12090 Filed 5-5-83; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Temporary Revision of Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily a pooling provision of the Nebraska-Western Iowa Federal milk order. The proposed action would relax for May through August 1983 the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due not later than May 13, 1983.

ADDRESS: Comments (two copies) should be filed with Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that any need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required procedures in time to give interested parties timely notice that the limit on allowable diversions of producer milk to nonpool manufacturing plants would be modified for May 1983. The initial request for the action was received on April 27, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of May through August 1983.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include May 1983 in the temporary revision period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the diversion limitation percentages as set forth in § 1065.13(d) that are applicable during the months of May through August 1983. The specific revision would increase the diversion limitation percentages 10 percentage points from the present 50 percent to 60 percent during each respective month.

Pursuant to the provisions of § 1065.13(d)(4), the diversion limitation percentages as set forth in § 1065.13(d) may be increased or decreased by up to 20 percentage points during any month to encourage additional needed milk shipments or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

National Farmers Organization, a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that the percentage of allowable diversions be increased 10 percentage points for the months of May through August 1983. The cooperative cites Class I utilization percentages of 34–36 percent for May through August 1982 and states that because of increasing producer receipts and decreased Class I disposition the percentage of producer milk needed to satisfy the fluid milk requirements of the market during the months of May through August 1983 will be somewhat less than the Class I percentages for last year. Without increased diversion limits, the cooperative states that it will be forced to deliver milk to a pool distributing plant and then pump it back out and deliver it to a manufacturing plant if the milk of its members regularly associated with the market is to remain a part of the marketwide pool.

Therefore, it may be appropriate to reduce the aforementioned pooling provisions for the months of May through August 1983 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 2, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-12191 Filed 5-5-83; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1099

Milk in the Paducah, Kentucky Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for May through August 1983 some of the diverted milk provisions of the Paducah Federal milk order. The action was requested by Associated Milk Producers, Inc., Southern Region, a cooperative association representing producers supplying milk to the market. The cooperative states that the suspension is needed to assure the continued association with the marketwide pool of producers who have historically served the market.

DATE: Comments are due on or before May 13, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of May 1983 in the suspension period if this is found necessary. The initial request for the action was received on April 27, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on dairy farmers and would not affect milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisons of the order regulating the handling of milk in the Paducah, Kentucky marketing area is being considered for May through August 1983:

In § 1099.13(c), paragraphs (2) and (3) in their entirety.

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include May 1983 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove the limits on the amount of milk that may be diverted from pool plants to nonpool plants during the months of May thorugh August 1983. The order now provides that during each of those months, 33 percent of the milk received at a pool plant may be diverted to nonpool plants.

The suspension was requested by a cooperative association that supplies milk to a handler regulated by the order. The cooperative states that due to the relatively large increase in milk supplies for the market, it will be necessary to suspend the diversion provisions of the order for May through August 1983. Otherwise, producers who have regularly supplied the market will be prevented from sharing in the Class I sales of the market.

List of Subjects in 7 CFR Part 1099

Milk marketing orders, Milk , Dairy products.

Signed at Washington, D.C., on May 2, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-12231 Filed 5-5-83; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Ch. XVIII

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Acquisition and Relocation for Federal and Federally Assisted Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of model regulations and request for comments.

SUMMARY: The Department of Transportation (DOT) at the request of the Office of Management and Budget (OMB), published in the **Federal Register** on April 14, 1983, 48 FR 16198, a notice of proposed rulemaking (NPRM) under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). This proposed DOT rule, developed by an interagency working group, is intended to eventually serve as a model for regulations to be issued by all other Federal agencies with programs covered by the Uniform Act. Those agencies will be requested by OMB to review their existing regulations and to revise them to be substantially identical to the final DOT regulations.

State and local agencies and individuals affected by programs of the Farmers Home Administration may wish to review and comment on the proposed regulation within the prescribed period. Appropriate DOT officials will be available to respond to any questions which may arise on this matter. To the extent possible, it is intended that all major issues be resolved through the DOT NPRM and that subsequent rules of this agency will adhere closely to the DOT model. Copies of comments sent to DOT may also be sent to the Farmers Home Administration.

DATE: Comments must be received by the Department of Transportation on or before May 31, 1983.

ADDRESSES: Send comments to Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th St., SW., Room 10241, Washington, D.C. 20590. Interested persons may also submit comments in duplicate to the Directives Management Branch, Farmers Home Administration, U.S. Department of

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Agriculture, Room 6348, Washington, D.C. 20250, telephone (202) 382–9745.

FOR FURTHER INFORMATION CONTACT: Glendon D. Deel, Program Support Staff, Farmers Home Administration, U.S. Department of Agriculture, Room 6308, Washington, D.C. 20250, telephone (202) 382–0854.

Dated April 29, 1983.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 83-12090 Filed 5-5-83; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

NRC Requirements for Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Rule; Notice of meeting.

SUMMARY: The NRC will hold a meeting to discuss § 50.60, which deals with NRC requirements for anticipated transients without scram (ATWS). An ATWS occurs at a nuclear power plant if an abnormal operating condition that should cause the plant's reactor protection system to initiate a rapid shutdown (scram) of the reactor, fails to function. The primary purpose of this meeting is to exchange information on two aspects of possible NRC requirements for ATWS, which has been the subject of rulemaking since 1980.

DATE: May 19, 1983.

ADDRESS: The Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland 20014, Room 118.

FOR FURTHER INFORMATION CONTACT: David W. Pyatt, Office of Nuclear Regulatory Research, (301) 443–5980.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to exchange information on two aspects of possible NRC requirements for ATWS, which has been the subject of rulemaking since September, 1980. A final rule for ATWS requirements will be submitted to the Commission and to the ACRS within the next several months. The meeting will serve as a mechanism to address details of a reliability assurance program for the reactor trip system and the meaning of the word diversity as applied to certain of the possible requirements (see letter from M. L. Ernst to D. F. Knuth dated April 28, 1983—available in the NRC's Public Document Room located at 1717 H Street, Washington, D. C.).

The meeting will be divided into a session for the NRC presentation and a session for licensee responses. The meeting will begin at 1:00 p.m. Members of the public are invited to attend and participate, to the extent practical.

Dated at Rockville, MD this 28th day of April, 1983.

For the Nuclear Regulatory Commission.

Malcolm L. Ernst,

Acting Director, Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 83-12089 Filed 5-5-83; 8:45 am]

BILLING CODE 7590-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 614, 615, and 619

Loan Policies and Operations; Funding and Fiscal Affairs; Definitions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration ("FCA"), by its Federal Farm Credit Board, publishes for comment proposed amendments and new regulations concerning general loan policies and operations to allow loan participations among banks and associations of the Farm Credit System ("System"). These amendments and new regulations implement various provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96–592) ("1980 Amendments").

DATE: Written comments must be received on or before July 6, 1983.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald R. Wilkinson, Governor, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578. Copies of all correspondence will be available for inspection by interested persons in the Office of the Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Beltramo, Projects and Planning Division, (202) 755–6255, or Rose M. Ferguson, Bank Services Division, (202) 755–5943, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

SUPPLEMENTARY INFORMATION:

Background

The 1980 Amendments authorize System banks and associations to participate loans among System institutions operating under different titles of the Farm Credit Act of 1971, as amended ("1971 Act"), so long as the basic framework of the 1971 Act with respect to eligibility, term, membership, and other factors remains the same. A System task force established in 1981 identified the opportunities for loan participations made available by the 1980 Amendments in a detailed report issued in mid-1982. The FCA studied the report and promptly issued definitive guidelines setting forth the conditions for loan participations among Federal land banks ("FLBs") and production credit associations ("PCAs") noting that the complexity of issues relating to participations required additional examination before regulations could be promulgated. After further study of the report and the particular benefits and problems associated with loan participations, the FCA has developed regulations covering all aspects of loan participations among all System institutions operating under different titles of the 1971 Act. The previously issued guidelines governing loan participations among FLBs and PCAs remain effective until the issuance of final regulations.

Summary of Changes

The following discussion explains the proposed amendments and new regulations and gives the reasons therefor. In addition to changes relating to loan participations, technical, grammatical, and syntactical changes have been made to improve the regulations. These latter changes are not discussed, except where significant.

Section 614.4090

This section is amended to authorize FLBs to participate in loans with System institutions, Federal intermediate credit banks ("FICBs"), PCAs, banks for cooperatives ("BCs"), and other lenders which are not System institutions. FLB loan participations must follow the general requirements for System loan participations set forth in § 614.4330 and the specific requirements of § 614.4331.

Section 614.4100

This section is changed to authorize the FICBs to participate in loans with FLBs and BCs by following the general loan participation requirements of § 614.4330. The 1971 Act does not authorize FICBs to participate in loans to non-System financial institutions.

Section 614.4110

Amendments to this section permit PCAs to participate in loans with both System and non-System institutions.

Where the PCA originates the loan being participated, the PCA originates the loan being participated, the PCA must follow the requirements of § 614.4200. Other loan participations with PCAs must follow the general requirements of § 614.4330 and the specific requirements of § 614.4333.

Section 614.4120

This section is amended to reference that BC loan participations with System and non-System institutions must follow the general loan participation requirements of § 614.4330 and the specific requirements of § 614.4334. In addition, the term "eligible cooperative" has been changed to "voting stockholder" to be consistent with the 1971 Act.

Section 614.4180

This change references that the terms and conditions of FLB loan participations must comply with §§ 614.4330 and 614.4331.

Section 614.4190

This change references that the terms and conditions of FICB loan participation must comply with §§ 614.4330 and 614.4332.

Section 614.4230

This change references that security requirements for FLB loan participations must comply with §§ 614.4330 and 614.4331.

Section 614.4240

This section is amended to require that security requirements for FICB loan participations must follow § 614.4330.

Section 614.4330

This section is substantially revised to set forth the basic purposes for loan participations, the matters that must be covered in loan participation agreements, the portfolio limits on loan participations, and the bank policies necessary to implement a loan participation program. The 1980 Amendments require that loan participations with System institutions must follow eligibility, stock purchase, loan security, and other specified basic requirements of the institution originating the loan. This section reflects the 1980 Amendments by requiring System institutions originating loans being participated to follow their own lending requirements.

Section 614.4331

This section is substantially revised to set forth specific requirements and conditions in addition to § 614.4330 under which FLBs may participate loans with System and non-System institutions. The amendment authorizes FLBs to participate in loans originated by non-System institutions in those cases where the farmer, rancher, or harvester or producer of aquatic products receives better financial terms than those available with a direct FLB loan.

Section 614.4332

This change references that FICBs may participate with System insitutions in accordance with § 614.4330

Section 614.4333

This section is amended to provide specific requirements and conditions in addition to § 614.4330 under which PCAs may participate loans with System and non-System institutions. As part of their overall supervision over the PCAs, FICBs are given specific supervisory responsibilities over PCA loan participations.

Section 614.4334

This section is amended to provide specific requirements and conditions in addition to § 614.4330 under which BCs may participate with System and non-System institutions. Only participation agreements between the Central Bank for Cooperatives and the district BCs shall be subject to FCA approval.

Section 614.4350

This section is amended to require inclusion of loan participations in calculation of lending limits of a System institution to a single borrower.

Section 614.4351

This section is amended to make clear that the total amount of funds, including loan participations, that an FLB may extend to a single borrower shall not exceed 20 percent of its capital and surplus.

Section 614.4352

This section is amended to allow an FICB to extend funds in participation with other System institutions, in addition to other FICBs and PCAs, to a single borrower up to 20 percent of its capital and surplus.

Section 614.4353

This section is amended to make clear that in the absence of an FCA-approved loss-sharing agreement, the total amount of funds, including loan participations, that a PCA may extend to a single borrower shall not exceed 50 percent of the PCA's capital and surplus.

Section 614.4354

The BC lending limits to a single borrower shall not change due to additional authority to participate loans with other System institutions. The regulation is amended to reflect this.

Section 614.4510

Loan servicing requirements are revised to reference the new § 614.4330 requirements for servicing of loans that are participated. In addition, loan participation agreements between System institutions may, to the extent permitted by § 614.4330, assign certain loan servicing functions to the participating institution.

Section 615.5050

The FLB carrying value requirements for collateral of Systemwide bonds are amended to apply to loan participations only where the loan is originated by an FLB or a non-System financial institution.

Section 615.5060

A subsection is added to the special collateral requirements to allow FLBs to use participation agreements covering loans originated by other System institutions to meet the collateral requirements of § 615.5050.

Section 619.9135

This new regulation defines System institutions.

Section 619.9195

This new regulation defines loan participants.

List of Subjects in 12 CFR Parts 614, 615, and 619

Accounting, Agriculture, Banks, Banking, Credit, Government securities, Investments, Rural areas.

For the reasons set out in the preamble, Parts 614, 615, and 619 of Chapter VI, Title 12 of the Code of Federal Regulations are amended as shown.

PART 614—LOAN POLICIES AND OPERATIONS

Subpart C—Lending Authorities

1. Section 614.4090 is revised to read as follows:

§ 614.4090 Federal land banks.

The banks are authorized to make long-term real estate mortgage loans in rural areas as specified by the Farm Credit Administration, or to producers or harvesters of aquatic products, for a term of not less than 5 years nor more than 40 years. Federal land banks may participate in loans with Farm Credit System institutions and other lenders which are not Farm Credit System

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institutions as set forth in §§ 614.4330 and 614.4331. Subject to limitations applicable to making long-term real estate mortgage loans, the banks are authorized to make continuing commitments to make loans and to extend financial assistance of a similar nature. Policies as prescribed by the bank's board shall be followed in making loans, in continuing commitments for loans, and in extending other financial assistance. Borrowers shall be permitted to make advance payments on their loans or, under agreement with the banks, to make advance conditional payments to be applied to future maturities or to be available for return to the borrowers for purposes for which the bank would increase their existing loans. Banks may pay interest or advance conditionally payments for the time the funds are held unapplied at a rate not to exceed the rate charged on the related loan(s).

2. Section 614.4100 is amended by revising paragraph (a) to read as follows:

§ 614.4100 Federal intermediate credit banks.

(a) The banks are authorized to make loans and extend other similar financial assistance to, and to discount for or purchase from, production credit association, with their endorsement or guaranty, any note, draft, and other obligation presented by such association. In addition, the banks may participate in loans with other Farm Credit System institutions, as set forth in §§ 614.4330 and 614.4332.

* * * * *

3. Section 614.4110 is revised to read as follows:

§ 614.4110 Production credit associations.

Each production credit association, under policies established by the bank board and procedures prescribed by the bank, may make, guarantee, or participate with other Farm Credit System institutions or other lenders that are not Farm Credit System institutions in short- and intermediate-term loans and other similar financial assistance to eligible borrowers. Short- and intermediate-term loans may be made for a term not exceeding 7 years, or such longer periods, not to exceed 10 years as provided in § 614.4200. Loans to eligible producers or harvesters of aquatic products for the purposes enumerated in § 614.4200(d) may be for a term not exceeding 15 years. In addition, production credit associations may participate in loans with other Farm Credit System institutions or with other lenders that are not Farm Credit System institutions as set forth in §§ 614.4330 and 614.433.

4. Section 614.4120 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 614.4120 Banks for cooperatives.

(a) The banks are authorized to make loans and commitments to eligible cooperatives and to extend to them other financial assistance, including, but not limited to, discounting notes and other obligations, guarantees, and collateral custody, or the banks may participate with other financial institutions in loans to eligible cooperatives. The banks are authorized to make or participate in loans, commitments, and extend other technical and financial assistance to a domestic or foreign party with respect to its transactions with a voting stockholder of the bank and to a domestic or foreign party in which such stockholder has at least a minimum ownership interest for the export or import of agricultural commodities, farm supplies, or aquatic products through purchases, sales, or exchanges. The voting stockholder must substantially benefit as a result of such loan, commitment, or assistance for the purpose of facilitating the cooperative's export or import operations. This type of activity shall be made under policies determined by the bank's board of directors and approved by the Farm Credit Administration.

* * * * *

(c) Loan participations, as authorized in this section, shall be made as set forth in §§ 614.4330 and 614.4334.

Subpart E—Loan Terms and Conditions

5. Section 614.4180 is amended by revising paragraph (a) to read as follows:

§ 614.4180 Federal land banks.

(a) Loans may be made for not less than 5 years nor more than 40 years. The basis of approval shall set out the terms and conditions under which a loan is approved. When necessary to assure proper understanding, provide needed controls, and protect the lender, a formal written loan agreement shall be developed between the borrower and the bank. In addition, the banks may participate in loans with other lenders as set forth in §§ 614.4330 and 614.4331.

* * * * *

6. Section 614.4190 is amended by revising paragraph (a) to read as follows:

§ 614.4190 Federal intermediate credit banks.

(a) Loan participations between Federal intermediate credit banks and production credit associations shall be made under the same terms and conditions prescribed in § 614.4200 for production credit associations. Loan participations with Federal land banks and banks for cooperatives and other Federal intermediate credit banks shall be made as set forth in §§ 614.4430 and 614.4332.

* * * * *

Subpart F—Security Requirements

* * * * *

7. Section 614.4230 is amended by revising paragraphs (a) and (c) and by adding a new paragraph (d) to read as follows:

§ 614.4230 Federal land banks.

(a) Primary security for a Federal land bank loan shall consist of a first lien on an interest in real estate comprising agricultural property, an eligible farm-related business, an eligible rural residence, or real estate used as an integral part of an eligible aquatic operation, whichever is most appropriate for the type of loan being made. The real estate interest must be mortgageable under deeds or leases which reasonably may be considered adequate to allow the bank to have the security of a first lien upon such interest. Collateral closely aligned with, an integral part of, and normally sold with real estate may be included in the appraised value of the primary security upon which a loan is based. Values shall be determined according to the appraisal standards approved by the bank.

* * * * *

(c) Personal property used in farming or aquatic operations and considered as collateral for short- and intermediate-term credit will normally not be included as additional security. Before taking such personal property as additional security, the Federal land bank and Federal land bank associations shall consider whether all or a portion of the credit needs might be met more satisfactorily by a short- or intermediate-term loan such as may be obtained through a production credit association in accordance with district board policies established under § 616.6020.

(d) Security requirements for loan participations shall be as set forth in §§ 614.4330 and 614.4331.

8. Section 614.4240 is amended by revising paragraph (a) to read as follows:

§ 614.4240 Federal intermediate credit banks.

(a) Participation loans. Loans made by a Federal intermediate credit bank in participation with a production credit association or another Federal intermediate credit bank shall adhere to the same security requirements as prescribed in § 614.4250 for production credit association. Security requirements for loan participations with Federal land banks or banks for cooperatives shall be as set forth in § 614.4330.

* * * * *

Subpart H—Loan Participations

9. Section 614.4330 is revised to read as follows:

§ 614.4330 General.

(a) Under policies approved by the boards of directors of the respective banks and the Farm Credit Administration, Farm Credit System banks and production credit asssociations may enter into loan participation agreements, as set forth in this Subpart H, to enable joint financing of individuals or legal entities authorized by the Act and the FCA Regulations to borrow from Farm Credit System institutions. Loan participation arrangements shall accomplish one or more of the following objectives:

(1) Facilitate the sharing of credit expertise on specific loans;

(2) Provide servicing arrangements that are advantageous to Farm Credit System institutions in accommodating borrowers having special needs;

(3) Prudently meet the financing needs of larger borrowers; and

(4) Generally improve the quality of credit service to the agricultural sector.

Loan participation arrangements between Farm Credit System institutions shall be consistent with the purposes for which each institution was established and shall not operate to circumvent the operations or financial requirement of any Farm Credit System institution.

(b) Loan participation agreements shall define the duties and responsibilities of both the originating institution and participating institution(s) consistent with the aforementioned objectives and sound business practices. At a minimum, loan participation agreements shall:

(1) Identify the particular loan or loans to be covered by the agreement;

(2) Provide for disbursement and repayment of loan funds;

(3) Provide for sharing, dividing, or assigning collateral;

(4) Provide a loan service plan;

(5) Provide collection procedures;

(6) Set forth authorization and conditions for action in the event of borrower distress or default;

(7) Provide for loss sharing;

(8) Set forth conditions for acceptance and termination of the agreement;

(9) Provide for capitalization requirements between participating institutions; and

(10) Provide for arbitration of controversies or disagreements between Farm Credit System institutions arising under the agreement.

In addition, participation agreements shall contain any other terms necessary for the appropriate administration of the loan and the protection of the interests of Farm Credit System institutions. Each participating bank or association shall analyze each loan independently. Any Farm Credit System institution shall have the option to accept or reject a loan participation. Participating institutions, except in the case of two or more banks for cooperatives, shall be issued certificates evidencing part of an undivided interest in the loan. The amount of any loan retained or purchased by an individual Farm Credit bank or association shall be subject to any prior approval requirement for that bank or association and shall be in accordance with the lending limits of Part 614, Subpart J, of the FCA Regulations.

(c) In addition to the requirements of paragraphs (a) and (b), loan participations between Farm Credit institutions shall meet the following criteria:

(1) Borrowers eligibility, membership, loan term, loan amount, loan security, and the requirement for the purchase of stock or participation certificates by the borrower shall be in accordance with the statutory and regulatory provisions under which the institution that originates the loan operates.

(2) All other terms shall be by agreement of the institutions consistent with the intent of these regulations for loan participations between Farm Credit System institutions. All terms agreed upon shall be consistent with the Act, FCA Regulations, and bylaws applicable to the respective institutions.

(3) Banks originating loan participations and desiring to utilize differential interest rates to the borrower shall submit differential interest rate policies to the Farm Credit Administration in accordance with § 614.4280. Production credit associations originating loan participations shall obtain approvals for the use of differential interest rates to the borrower from the supervising Federal intermediate credit bank.

(4) No Farm Credit System bank or association, other than the Central Bank for Cooperatives, shall have loan participations which have been purchased from other Farm Credit System banks or associations in excess of 15 percent of its total loan value.

(5) District boards desiring to implement a loan participation program shall effect such policy approvals and modify existing policies as necessary. These policies shall be submitted to the Farm Credit Administration for approval prior to implementation of the program in the district. These policies shall address:

(i) The basis under which district banks may enter into interdistrict bank and association participations or intradistrict participations.

(ii) Capitalization guidelines with respect to the portion of loans purchased.

(iii) Criteria regarding the quality of loans that one Farm Credit System institution may purchase from another Farm Credit System institution.

(iv) Identification and reporting of loans which are participated.

(v) Credit, financial, and administrative reviews of loans which are participated.

(vi) Any limitations or conditions to the district program that the board deems appropriate.

10. Section 614.4331 is revised to read as follows:

§ 614.4331 Federal land banks.

(a) The banks may enter into loan participation agreemnts with one or more other Federal land banks under terms established by the participating banks. Federal land banks may enter into loan participation agreements with one or more Federal intermediate credit banks, production credit associations, and banks for cooperatives, as set forth in § 614.4330. Federal land banks may also participate, in accordance with § 614.4330, with lenders that are not Farm Credit System institutions in loans that Federal land banks are authorized to make under the Act and FCA Regulations.

(b) Federal land banks may enter into loan participations with lenders which are not Farm Credit System institutions where the loan participation results in loan terms to the borrower which could not be obtained from a direct Federal land bank loan.

(c) A Federal land bank shall only enter into loan participation agreements

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with production credit associations and lenders that are not Farm Credit System institutions on loans financing operations located wholly within the Federal land bank's chartered territory, or outside the Federal land bank's chartered territory in accordance with § 614.4070.

(d) In addition to the provisions contained in § 614.4330, participation agreements between Federal land banks and commercial banks or other lenders which are not Farm Credit System institutions shall be subject to the following limitations.

(1) To assure that such participation agreement does not result in a commercial bank's substantially shifting its lending away from agriculture, the participating commercial bank shall fulfill one of the following:

(i) Retain at least 50 percent of the total of each participated loan; or

(ii) Retain at least 10 percent of the total of each participated loan provided that the commercial bank does not materially reduce its ratio of agricultural loans to total loans from the ratio maintained during the preceding 3 years; or

(iii) Retain the maximum amount of the participated loan permitted by banking regulations to which the bank is subject.

(2) A lender other than a commercial bank shall provide evidence of financial responsibility and capability to service and control loans being made as a prerequisite to bank approval of a loan participation agreement.

11. Section 614.4332 is revised to read as follows:

§ 614.4332 Federal intermediate credit banks.

The banks may enter into loan participation agreements with one or more other Federal intermediate credit banks or with production credit associations under terms established by participating institutions. Federal intermediate credit banks may enter into loan participation agreements with one or more Federal land banks or banks for cooperatives as set forth § 614.4330.

12. Section 614.4333 is revised to read as follows:

§ 614.4333 Production credit associations.

(a) The associations may enter into participation agreements with one or more other production credit associations, Federal intermediate credit banks, Federal land banks, banks for cooperatives, commercial banks, or other lenders. All such agreements shall be subject to the prior approval of the supervising Federal intermediate credit bank and shall be in accordance with § 614.4330. When the production credit association is the participant, the Federal intermediate credit bank shall evaluate, in addition to the overall terms of the proposed loan participation, the adequacy of the association's risk funds, the capability of the association to administer the loan properly in accordance with the loan participation agreement, and any other factors relating to the ability of the production credit association to carry out the terms of the agreement within the intent of § 614.4330.

(b) A production credit association shall only enter into loan participation agreements with lenders other than production credit associations on loans financing operations located wholly within its chartered territory, or outside its chartered territory in accordance with § 614.4070.

(c) In addition to the provisions contained in § 614.4330, participation agreements between production credit associations and commercial banks or other lenders which are not Farm Credit System institutions shall be subject to the following limitations.

(1) To assure that such a participation agreement does not result in a commercial bank's substantially shifting its lending away from agriculture, the participating commercial bank shall fulfill one of the following:

(i) Retain at least 50 percent of the total of each participated loan; or

(ii) Retain at least 10 percent of the total of each participated loan provided that the commercial bank does not materially reduce its ratio of agricultural loans to total loans from the ratio maintained during the preceding 3 years; or

(iii) Retain the maximum amount of the participated loan permitted by banking regulations to which the bank is subject.

(2) A lender other than a commercial bank shall provide evidence of financial responsibility and capability to service and control loans being made as a prerequisite to bank approval of a loan participation agreement.

13. Section 614.4334 is revised to read as follows:

§ 614.4334 Bank for cooperatives.

A district bank for cooperatives shall first offer to the Central Bank for Cooperatives a participation in loans to a borrower when such loans exceed the lending limit of the bank. With the concurrence of the Central Bank, participations in loans in excess of a bank's lending limit may be offered initially to other district banks for cooperatives, Federal land banks, Federal intermediate credit banks, production credit associations, commercial banks, or other financial institutions. A bank for cooperatives may offer a participation to other district banks for cooperatives, Federal land banks, Federal intermediate credit banks, or production credit associations in loans which are less than its lending limit; however, when total loans, to such borrowers exceed the lending limit of the originating bank for cooperatives, further loans must be offered first to the Central Bank for Cooperatives. Loans in excess of the lending limit established by the Fram Credit Administration for banks for cooperatives on a consolidated basis may be made only when such excess amounts are sold as participations to commercial banks, or other financial institutions that are not Farm Credit System institutions. The form and terms of each participation agreement between the Central Bank for Cooperatives and a district bank for cooperatives shall be subject to Farm Credit Administration approval. In addition, supplemental agreements and modifications to existing agreements which directly affect capitalization, interest, and other items identified by the Farm Credit Administration shall be subject to Farm Credit Administration approval. Pro rata loss-sharing arrangements which extend loan risk beyond established lending limits shall also require Farm Credit Administration approval. The names of participants, amounts, and dates shall not require approval.

Subpart J—Lending Limits

14. Section § 614.4350 is revised to read as follows:

§ 614.4350 General.

No Farm Credit System bank or association shall make a loan, advance, commitment, or provide finacial assistance which will result in any one borrower being obligated to such bank or association in excess of limits stated in this Subpart J. When these limitations are approached, banks or associations should consider the feasibility of arranging participation in large loans with other banks or associations to properly serve the credit needs of deserving large credit worthy borrowers. Included in the calculation of lending limits to any one borrower shall be the amount of any participation in a loan(s) to that borrower purchased by the Farm Credit System bank or association.

15. Section 614.4351 is revised to read as follows:

§ 614.4351 Federal land banks.

The total amount of loans, advances, commitments, financial assistance, and funds through the purchase of loan participation(s) that a Federal land bank may extend to any one borrow shall not exceed 20 percent of the capital and surplus of the bank.

16. Section 614.4352 is revised to read as follows:

§ 614.4352 Federal intermediate credit banks.

The total amount of funds that a Federal intermediate credit bank may extend in participation with a production credit association, another Federal intermediate credit bank, a Federal land bank, or a bank for cooperatives, to any one borrower shall not exceed 20 percent of its capital and surplus.

17. Section 614.4353 is revised to read as follows:

§ 614.4353 Production credit associations.

The total amount of loans, advances, commitments, financial assistance, and funds through the purchase of a loan participation(s) that an association may extend to any one borrower shall not exceed 50 percent of the capital and surplus of the association. A lending limit of 100 percent of the capital and surplus of the association shall apply whenever and approved loss-sharing ageeement is in force.

18. Section 614.4354 is amended by revising paragraphs (b), (c)(1) and (c)(2) to read as follows:

§ 614.4354 Banks for cooperatives.

* * * * *

(b) Total system. Loans outstanding at any one time to any one borrower from one or more district banks and the Central Bank for Cooperatives, exclusive of participations sold to lenders that are not farm Credit System institutions, shall not exceed the percentages specified in paragraph (a)(1) applied to the combined net worth of he 13 banks for cooperatives and determined by the Farm Credit Administration. Loans made within previously established limits that become excessive because of changes in lending limits prescribed herein may be held and liquidated in accordance with terms individually specified by the Farm Credit Administration.

(c) * * *

(1) Direct loans outstanding at any one time to any one borrower as defined by these regulations, exclusive of participations sold to others, shall not exeed the same lending limit percentages prescribed in paragraph (a)(1) for district banks.

(2) Participations in loans at any one time to any one borrower as defined by these regualtions, exclusive of participations resold to institutions other than Farm Credit System institutions, shall not exceed amounts greater than the lending limit described in paragraph (b) less amounts held by Farm Credit System institutions.

* * * * *

Subpart N—Loan Service Requirements

19. Section 614.4510 is amended by revising the introductory paragraph and paragraphs (b), (c), and the introductory text of paragraph (d) to read as follows:

§ 614.4510 General.

The banks and associations that are originating lenders shall be responsible for the servicing of the loans which they make. However, loan participation agreements may designate specific loan servicing effort to be accomplished by a participating institution. The banks' boards of directors shall direct the banks and associations to adopt loan servicing policies and procedures to assure that loans will be serviced fairly and equitably for the borrower while minimizing the risk for the banks and associations. Procedures shall include specific plans which help preserve the quality of sound loans and which help correct credit deficiencies as they develop.

* * * * *

(b) The supervisory Federal intermediate credit bank shall provide guidelines for the production credit associations to use in establishing their loan servicing policies and procedures plus any limitations requiring the approval of the bank. Bank policies shall govern the servicing of loan participations with a production credit association.

(c) The servicing of loans which are participated in by Farm Credit System instititutions shall be in accordance with § 614.4330.

(d) In the development of the bank and association loan servicing policies and procedures, the follwing criteria shall be included:

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS

* * * * *

Subpart B—Collateral

20. Section 615.5050 is amended by revising paragraph (d) to read as follows:

§ 615.5050 Policy.

* * * * *

(d) When there is loan servicing, such as reamortization, extension, deferment, or partial release, the new unpaid balance may be used as the collateral carrying value. In loans originated by a Federal land bank or in which it participates with a lender which is not a Farm Credit System institution, the carrying value shall not exceed 85 percent (97 percent if guaranteed by Federal, State, or other governmental agencies) of the appraised value established by the most recent appraisal report of the primary security.

* * * * *

21. Section 615.5060 is amended by adding a new paragraph (c) to read as follows:

§ 615.5060 Special collateral requirement—Federal land banks.

* * * * *

(c) A loan participation agreement with a Federal land bank involving a loan originated by a Farm Credit System institution, other than a Federal land bank, shall constitute an obligation meeting the collateral requirements of § 615.5050(a).

* * * * *

PART 619—DEFINITIONS

22. CFR, Part 619 is amended by adding § 619.9135 to read as follows:

§ 619.9135 Farm Credit System institutions.

All institutions chartered and supervised by the Farm Credit Administration, including the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, the banks for cooperatives, and service organizations chartered under Title IV, Part D, of the act.

23. 12 CFR, Part 619 is amended by adding § 619.9155 to read as follows:

§ 619.9195 Loan participation.

A loan having two or more banks or associations as lenders. The originating bank or association makes the loan and sells part of an undivided interest in the loan to one or more banks or associations pursuant to a participation agreement.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246 and 2252))

Donald E. Wilkinson,

Governor, Farm Credit Administration.

[FR Doc. 83-12155 Filed 5-5-83; 8:45 am]
BILLING CODE 6705-01-M

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DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

[Docket No. 30324-45]

Commerce and Foreign Trade; Special Services and Studies by the Bureau of the Census; Proposed Changes

AGENCY: Bureau of the Census, Commerce.

ACTION: Proposed rule.

SUMMARY: The Department of Commerce is authorized to conduct special statistical surveys and studies and to perform other specified services upon payment of the cost thereof. The Bureau of the Census proposes to amend the regulation to remove those special services and studies that are no longer available, to revise the cost of conducting a preliminary investigation and for providing the final report for foreign trade and shipping statistics, and to delete references to unpublished data from the 1960 Population and Housing Census.

DATE: Comments on the proposed rule must be received by June 6, 1983.

ADDRESS: Send all comments to the Program and Policy Development Office, Room 2419, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: Sherry Courtland, Program and Policy Development Office, Room 2419, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, (301) 763-2758.

SUPPLEMENTARY INFORMATION: The Bureau of the Census announced the review of 15 CFR Part 50, Special Services and Studies by the Census Bureau, in the Department of Commerce's Semi-Annual Agenda of Regulations, published on October 28, 1982, at 47 FR 48314. Based on the review, it was determined that various services under Part 50 were no longer available from the Census Bureau. The purpose of this proposed rule is to eliminate those services that are no longer available and to revise the fee, where appropriate, for services that are still available.

The Director, Bureau of the Census, has determined that this is not a "major rule" under the requirements of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more and will not, if promulgated, have a significant economic effect on a substantial number of small entities, pursuant to the Regulatory Flexibility Act.

The provisions of this Part 50 are issued under 15 U.S.C. 1526 and 13 U.S.C. 8.

List of Subjects in 15 CFR Part 50

Special census services and studies, Statistical and personal census data.

PART 50—[AMENDED]

Based on the review of 15 CFR Part 50 and the reasons set out in the preamble, it is proposed to amend 15 CFR Part 50 as follows:

1. *Section 50.1—General.* This section would be amended to remove references in "(a)," to unpublished data from the 1969 Population and Housing Census, enumeration district maps, and housing data from the 1960 Census of Housing. Section 50.1 would be amended by revising paragraph (a) to read:

§ 50.1 General.

(a) Fee structure for age search and citizenship service, special population census, and for foreign trade and shipping statistics.

* * * * *

§ 50.15 [Removed]

2. *Section 50.15 Fee structure for unpublished data from the 1960 Population and Housing Census.* This section would be removed. There is no fee structure for these unpublished decennial census data since this service is no longer required. The information is available in standard Bureau products that may be purchased through the Government Printing Office (GPO).

§ 50.20 [Removed]

3. *Section 50.20—Fee structure for enumeration district maps.* This section would be removed. This service is no longer available. Census Bureau maps are sold as a standard data product and may be purchased through the Data User Services Division. Maps that are part of a publication package may be purchased through GPO.

§ 50.25 [Removed]

4. *Section 50.25—Fee structure for housing data from the 1960 Census of Housing.* This section would be removed. General data on housing characteristics and plumbing facilities are part of the basis decennial census tabulations that may be purchased.

§ 50.30 [Amended]

5. *Section 50.30—Fee structure for foreign trade and shipping statistics.* In paragraph "(b)," the fee for a preliminary investigation "$125" would be changed to read "$250". The total cost of the final report should be changed from "$200 to several thousand dollars" to "$500 to several thousand dollars."

§ 50.35 [Removed]

6. Section 50.35—Fee structure for seasonal adjustments of time series. This section would be removed. The service is no longer provided by the Bureau.

Dated: March 24, 1983.

Bruce Chapman,

Director, Bureau of the Census.

M. Kendall Fleeharty,

Assistant General Counsel for Regulation. U.S. Department of Commerce.

[FR Doc. 83-12134 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-185 (New Mexico-21)]

New Mexico; High-Cost Gas Produced From Tight Formations; Notice of Amendment

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of amendement.

SUMMARY: This notice amends the area described in the Notice of Proposed Rulemaking issued by the Director of the Office of Pipeline and Producer Regulation, containing the recommendation of the State of New Mexico that the Abo Formation be designated as a tight formation under § 271.703(d).

DATE: Comments are due May 13, 1983.

ADDRESS: Comments must be filed with the Office of the Secretary, 825 North Capitol Street, NE. Washington, D.C., 20426

FOR FURTHER INFORMATION CONTACT:

Randall S. Rich, (202) 357-5447

or

Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced From Tight Formations; Docket No. RM79-76-185 (New Mexico-21); Nunc Pro Tunc Amendment of Jurisdictional Agency Determination.

Issued: May 2, 1983.

On April 14, 1983, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) filed with the Federal Energy Regulatory Commission (Commission) a *Nunc Pro Tunc* Order which had been issued April 5, 1983, to correct the description of the Abo Formation located in San Miguel.

Torrance, Guadalupe, DeBaca, Lincoln and Chaves Counties, New Mexico. In accordance with New Mexico's recommendation, filed with the Commission on January 23, 1983, the Director, Office of Pipeline and Producer Regulation issued a Notice of Proposed Rulemaking in Docket No. RM79-76-185 (New Mexico-21) on February 28, 1983, 48 FR 9291 (March 4, 1983), including the description of the proposed tight formation as originally filed by New Mexico.

The correct delineation of the fromation described in § 271.703(d) (168) (i) should include areas in Chaves County: Townships 6 through 1 South, Range 21 East, Township 12 South, Range 21 and 21½ East, and Township 13 South, Range 21 East.

Any interested persons may comment on the proposed rulemaking, as corrected in this notice by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, D.C. 20426 on or before May 13, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12234 Filed 5-5-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 83N-0010]

Butter and Whey Butter; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard of Indentity

Correction

In FR Doc. 83-4197, beginning on page 7200, in the issue of Friday, February 18, 1983, on page 7201, in the third column, in paragraph's 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5, "pE" should read "pH".

BILLING CODE 1505-01-M

21 CFR Parts 610 and 660

[Docket No. 82N-0358]

General Biological Products Standards—Sterility; Additional Standards for Diagnostic Substances for Laboratory Tests—Amendment of Final Container Requirements for Certain In Vitro Diagnostic Products

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the requirements concerning the sterility, transparency, and color of final containers used in packaging certain hepatitis in vitro diagnostic products. FDA is proposing that the Director, Office of Biologics, be authorized to exempt certain final containers from the sterility requirement and require instead that the contents of the final container meet certain microbial load specifications. FDA also is proposing that the requirements that the final container be both colorless and transparent be replaced with a requirement that such containers be sufficiently transparent to permit visual inspection of the contents. The proposal, if adopted, would reduce manufacturing costs and allow use of plastic containers.

DATES: Comments by July 5, 1983. FDA is proposing that the effective date of the final rule be 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION:

Antibody to Hepatitis B Surface Antigen and Hepatitis B Surface Antigen are in vitro diagnostic products used for the detection of antibody to hepatitis B surface antigen or hepatitis B surface antigen in blood and blood products. Under section 351 of the Public Health Service Act (42 U.S.C. 262), biological products, including hepatitis in vitro diagnostic products, offered for sale in interstate commerce are required to be licensed and meet certain standards that ensure that continued safety, purity, potency, and efficacy. Section 610.12 of the general biologics regulations (21 CFR 610.12) requires that each lot of each biological product be sterile and that sterility be demonstrated by testing the contents of both bulk and final containers. In addition, § 660.2(d) concerning Antibody to Hepatitis B Surface Antigen and § 660.41(c) concerning Hepatitis B Surface Antigen (21 CFR 660.2(d) and 660.41(c)) require that the final container for these products be sterile, colorless, and transparent.

A manufacturer has requested that the agency amend the sterility test requirements of § 610.12 and the final container requirements of §§ 660.2(d) and 660.41(c) to allow the manufacture of final containers of hepatitis in vitro diagnostic products which are not absolutely sterile, because absolute sterility is unnecessary. The manufacturer stated that the in vitro products contain preservatives, such as sodium azide or thimerosal, to prevent the growth of microorganisms and that the safety and effectiveness of these products that are intended for use in the clinical laboratory would be assured with less stringent means of product control, such as microbial load specifications, rather than sterility of the final container.

To establish the least burdensome means of accomplishing agency regulatory objectives, the agency proposes to amend the sterility requirements of § 610.12 for in vitro diagnostics to allow for alternatives to sterility of contents of a final container for certain in vitro diagnostics when scientific evidence supports such a change and the change is approved by the Director, Office of Biologics. To ensure satisfactory product performance, the agency proposes to amend §§ 660.2(d) and 660.41(c) to require that the effectiveness of the contents of a final container of hepatitis in vitro diagnostics be maintained throughout the dating period, regardless of whether or not the contents of the final containers are sterile.

The agency is also aware that plastic containers are being used as an alternative to glass containers. The agency has no objection to use of such containers, provided that the containers are sufficiently transparent to permit observation of the contents. To allow for use of plastic containers, the agency proposes to amend §§ 660.2(d) and 640.41(c) by removing the words "colorless and transparent" and substituting the phrase "sufficiently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity".

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance, with Executive Order

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12291 and the Regulatory Flexibility Act, the agency has considered the impact of the proposed regulations. FDA believes that the proposal will relieve a burden on manufacturers of certain in vitro diagnostic products by allowing more flexibility concerning final container requirements. There are currently 4 manufacturers of Hepatitis B Surface Antigen and 7 manufacturers of Antibody to Heptatis B Surface Antigen. The proposed rule is expected to have a favorable economic impact on these establishments. Therefore, the agency concludes that the proposed regulations do not warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. The agency certifies that a regulatory flexibility analysis is not required because the proposed rule would not have a significant impact on a substantial number of small entities.

List of Subjects 21 CFR Parts 610 and 660

Biologics, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 610 and 660 be amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. In Part 610 by revising § 610.12(g)(4). to read as follows:

§ 610.12 Sterility.

* * * * *

(g) * * *

(4) *Test precluded or not required.* (i) The tests prescribed in this section need not be performed for whole Blood (Human), Cryoprecipitated Antihemophilic Factor (Human), Platelet Concentrate (Human), Leukocyte Typing Serum, Red Blood Cells (Human), Single Donor Plasma (Human), Source Plasma (Human), Smallpox Vaccine, or Reagent Red Blood Cells.

(ii) Where a manfacturer submits data which the Director, Office of Biologics, finds adequate to establish that the mode of administration, the method of preparation, or the special nature of the product precludes or does not require a sterility test or that the sterility of the lot is not necessary to assure the safety, purity and potency of the product, the Director may exempt a product from the sterility requirements of this section subject to any conditions necessary to assure the safety, purity, and potency of the product.

* * * * *

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

2. In Part 660:

a. By revising § 660.2(d), to read as follows:

§ 660.2 General requirements.

* * * * *

(d) *Final container.* A final container shall be sufficiently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity. The effectiveness of the contents of a final container shall be maintained throughout its dating period.

* * * * *

b. By revising § 660.41(c), to read as follows:

§ 660.41 Processing.

* * * * *

(c) *Final container.* A final container shall be sufficiently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity. The effectiveness of the contents of a final container shall be maintained throughout its dating period.

* * * * *

Interested persons may, on or before July 5, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 25, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11976 Filed 5-5-83; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–2]

Virgin Islands State Plan: Notice of Eligibility for Final Approval Determination; Notice of Comment Period; Notice of Informal Public Hearing

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; request for written comments.

SUMMARY: This document gives notice that the Virgin Islands State plan is eligible for a determination under Section 18(e) of the Occupational Safety and Health Act of 1970 as to whether final approval of the plan should be granted. If an affirmative determination under Section 18(e) is made, Federal standards and enforcement authority will no longer apply to issues covered by the Virgin Islands plan. This notice also announces that OSHA is soliciting public comment and has scheduled an informal public hearing in the Virgin Islands to allow interested persons to present their views regarding whether or not final approval should be granted.

DATES: Written comments must be received by June 15, 1983. Notices of intention to appear at the informal public hearing, testimony which exceeds 15 minutes, and all evidence which will be introduced into the hearing record must also be received by June 15, 1983.

The hearing will begin at 9:30 a.m. on June 29, 1983.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. T–2, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523–7894.

Notices of intention to appear at the hearings, testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The hearing will be held at the following location: Federal Building, U.S. Courthouse, Room 110, Veteran's Drive, Number 26, St. Thomas, Virgin Islands.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in Section 18(c) of the Act and 29 CFR 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective as" Federal standards and enforcement, "initial approval" is granted. A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial-approval period as provided by Section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in §§ 1902.3 and .4 if it includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b) The Assistant Secretary publishes a "certification of completion of developmental steps" when all of a State's developmental commitments have been met. 29 CFR 1902.34

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in Section 18(c) of the Act and 29 CFR 1902.37 are being applied. An affirmative determination under Section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the withdrawal of Federal standards authority and enforcement jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e) Procedures for 18(e) determinations are found at 29 CFR Part 1902, Subpart D.

History of the Virgin Islands Plan

On November 28, 1972, the Virgin Islands submitted an occupational safety and health plan in accordance with these procedures, and on March 20, 1973, a notice was published in the Federal Register (38 FR 7388) concerning the submission of the plan, announcing that initial Federal approval of the plan was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan.

On September 11, 1973, the Assistant Secretary published a notice granting initial approval of the Virgin Islands plan as a developmental plan under Section 18(b) of the Act (38 FR 24896). (Section 3(7) of the Act includes the Virgin Islands among the jurisdictions eligible for a "State" plan. In accordance with this designation, the occupational safety and health program of the Territory of the Virgin Islands is hereafter referred to as a State plan.) The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Virgin Islands Department of Labor is designated as having responsibility for administering the plan throughout the State. The plan provides for the adoption of Federal occupational safety and health standards by the Virgin Islands. The plan requires employers to furnish employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated by the agency. The plan contains provisions similar to Federal procedures for emergency temporary standards; imminent danger proceedings; variances; safeguards to protect trade secrets; and employer and employee rights to participate in inspection and review proceedings.

The notice of initial approval noted a few important distinctions between the Federal and Virgin Islands program. The State plan does not include coverage of occupational health except in the public sector nor does the Virgin Islands plan cover safety and health in private sector maritime employment. Unlike the Federal Act, citations and penalties under the Virgin Islands plan are reviewed by the agency with overall responsibility for administering the plan rather than by an independent agency. However, these agency decisions are subject to review by the District Court. Finally, in addition to employers who are responsible for providing safe and healthful workplaces under the Federal program, owners, lessors, agents and managers who control premises used as places of employment in the Virgin Islands are subject to the enforcement provisions of the Virgin Islands Occupational Safety and Health Act. The Assistant Secretary's initial approval of the developmental plan for the Virgin Islands, a general description of the plan, a schedule of required developmental steps, and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart S; 38 FR 24897 (September 11, 1973)).

In accordance with the State's developmental schedule all major structural components of the plan were put in place and submitted for OSHA approval during the period ending August 31, 1976. These "developmental steps" included amendments to the Virgin Islands Occupational Safety and Health Act, promulgation of State occupational safety and health standards and program regulations, and the recruitment and training of agency staff. The developmental schedule required the Virgin Islands enforcement program to be fully operational by July 1, 1975. In completing this developmental step, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, a Field Operations Manual, management information system, agency organizational chart, merit staffing system, public information system and safety and health posters for private and public employees. These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of Section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Virgin Islands subpart of 29 CFR was amended to reflect each of these approval determinations (see 29 CFR 1952.254). On September 22, 1981, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that the Virgin Islands had satisfactorily completed all developmental steps (46 FR 46807). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the Virgin Islands plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequacy of performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of

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State activity to determine in accordance with Section 18(e) of the Act whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Determination of Eligibility

This **Federal Register** notice announces the eligibility of the Virgin Islands plan for an 18(e) determination. (29 CFR 102.39(c) requires that this preliminary determination of eligibility be made before 18(e) procedures begin.) The determination of eligibility is based upon OSHA's findings that:

(1) The Virgin Islands plan has been monitored in actual operation for at least one year following certification. The results of OSHA monitoring of the plan since the commencement of plan operations are contained in written evaluation reports which are prepared annually and made available to the State and to the public. The results of OSHA's post-certification monitoring (September 1981 to October 1982) are set forth in an *18(e) Evaluation Report of the Virgin Islands Plan,* which has been made part of the record of the present proceedings.

(2) The plan meets the State's benchmarks for enforcement staffing. In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall,* C.A. No. 74–406) to calculate for each State plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program; States must meet these staffing levels or 'benchmarks' in order to qualify for final approval. In 1980, OSHA submitted a *Report to the Court* containing the benchmarks and requiring the Virgin Islands to allocate three safety compliance officers and one industrial hygienist (public sector only) to conduct inspections under the plan. The Virgin Islands has allocated these positions, as evidenced by the FY 1983 *Application for Federal Assistance* (as amended) in which the State has committed itself to funding the State share of salaries for three safety inspectors and the equivalent of one full-time health compliance officer. The FY 1983 application has been made part of the record in the present proceeding.

The formula used to establish "fully effective" safety benchmarks for all State plan States assumed a need for a frequent inspection of large manufacturing establishments with high injury/illness rates. Because the Virgin Islands' economy consists predominantly of small entities and includes very little manufacturing, application of the 1980 benchmark formula resulted in achievable safety staffing levels for the Virgin Islands plan. In addition, the exclusion of health coverage from the State's program relieved the State of the extremely high health compliance staffing obligations imposed in many other States by the 1980 formula.

(3) The Virgin Islands participates and has assured its continued participation in the unified management information system presently being developed by OSHA.

Issues for Determination in the 18(e) Proceedings

The Virgin Islands plan is now in issue before the Assistant Secretary for determination as to whether the criteria of Section 18(c) of the Act are being applied in actual operation. 29 CFR 1902.37(a) requires the Assistant Secretary as part of the final approval process to determine if the State has applied and implemented all the specific criteria and indices of effectiveness of §§ 1902.3 and 1902.4. The Assistant Secretary must make this determination by considering the factors set forth in § 1902.37(b). OSHA believes that the results of its evaluation of the Virgin Islands plan, contained in the 18(e) Evaluation Report, considered in light of these regulatory criteria and the criteria in Section 18(c) of the Act, indicate that the regulatory indices and criteria are being met and the Assistant Secretary accordingly has determined that the Virgin Islands plan is eligible for an affirmative 18(e) determination. In order to encourage the submission of informed and specific public comment, a summary of current evaluation findings with respect to these criteria is set forth below.

(a) *Standards and Variances.* Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. A State is required to adopt, in a timely manner, all Federal standards and amendments or to develop and promulgate standards and amendments at least as effective as the Federal standards. See §§ 1902.37(b)(3); 1902.3(c); 1902.4 (a) and (b). The Virgin Islands plan provides for adoption of standards identical to Federal standards and the State had always been prompt in doing so. However, for OSHA standards issued in 1980 and 1981, the Virgin Islands' adoption process averaged ten months after the Federal promulgation. 29 CFR Part 1953 requires response by plan States to new Federal standards within six months. At the close of the FY 1982 evaluation, Virgin Islands had adopted all Federal standards and instituted administrative procedures to assure timely adoption in the future (18(e) Evaluation Report pp. 1–2). Response to Federal standards action since the end of FY 1982 has been promptly initiated and the State has given an assurance of timely adoption in the future.

Where a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. Where a State develops and promulgates its own standards, interpretation and application must ensure coverage at least as effective as comparable Federal standards. While acknowledging prior approval of individual standards by the Assistant Secretary, this requirement stresses that State standards, in actual operation, must be at least as effective as the Federal standards. See §§ 1902.37(b)(4), 1902.3(c)(1), 1902.3(d)(1), 1902.4(a), and 1902.4(b)(2). As already noted, the Virgin Islands plan provides for adoption of standards identical to the Federal standards. The Virgin Islands likewise adopts standards interpretations, which are identical to Federal. Although delays in adopting these changes are noted in the evaluation (18(e) Evaluation Report pp. 1–2, 23–24), appropriate corrective action has now been taken and effectively demonstrated subsequent to the close of the evaluation period.

The State is required to take the necessary administrative, judicial or legislative action to correct any deficiency in its program caused by an administrative or judicial challenge to any State standard, whether the standard is adopted from Federal standards or developed by the State. See §1902.37(b)(5). No such challenges to State standards have occurred in the Virgin Islands.

When granting permanent variances from standards, the state is required to ensure that the employer provides as safe and healthful working conditions as would have been provided if a permanent variance had not been granted. See §§ 1902.37(b)(6) and 1902.4(b)(2)(iv). Although sections 36 (e) and (f) of the Virgin Islands Occupational Safety and Health Act provide for variances, no variances have been requested under the Virgin Islands plan during the 18(e) evaluation period.

Where a temporary variance is granted, the State must ensure that the employer complies with the standard as soon as possible. See §§ 1902.37(b)(7) and 1902.4(b)(2)(iv). Section 36(e)(1) of the Virgin Islands Occupational Safety and Health Act requires that any employer or owner granted a temporary variance must have an effective program for coming into compliance with the standard as soon as possible. As noted above, no variance requests have been received.

(b) *Enforcement.* Section 18(c)(2) of the Act requires State plans to maintain an enforcement program which is at least as effective as that conducted by Federal OSHA; Section 18(c)(3) requires the State plan to provide for right of entry and inspection of all workplaces at least as effective as that in Section 8 of the Act.

The State inspection program must provide that sufficient resources be directed to designated target industries while providing adequate protection to all other workplaces covered under the plan. See §§ 1902.37(b)(8), 1902.3(d)(1), and 1902.4(c). Data contained in the 18(e) evaluation indicates that 95.2% of State programmed (general schedule—safety) inspections are conducted in high hazard industries. (18(e) Evaluation Report p. 8) It should be noted that the method for compiling the high hazard inspection list used in scheduling State inspections differs from that used federally, due in part to the special nature of the Virgin Islands economy.

In cases of refusal of entry, the State must exercise its authority, through appropriate means, to enforce the right of entry and inspection. See §§ 1902.37(b)(9), 1902.3 (e) and (f), and 1902.4(c)(2) (i) and (ix). The Virgin Islands Occupational Safety and Health Act authorizes the Commissioner to petition any municipal court for an order to permit entry into such establishment that has refused entry for the purpose of inspection or investigation. The Virgin Islands had no denials of entry in FY 82. (18(e) Evaluation Report, p. 13)

Inspections must be conducted in a competent manner following approved enforcement procedures which include the requirement that inspectors acquire information adequate to support any citation issued. See §§ 1902.37(b)(10), 1902.(d)(1), and 1902.4(c)(2). The Virgin Islands has adopted the Federal OSHA Field Operations Manual, and thus follows inspection procedures, including documentation procedures, which are substantially identical to Federal. The Evaluation Report notes adherence by the Virgin Islands to these procedures (p. 13). Comparison of Federal and State data shows a lower rate of violations per not-in-compliance inspection in the Virgin Islands (average of 2) and a lower percentage of serious violations (10.9%). However, on-site monitoring of State inspections by OSHA confirms the ability of State inspectors to recognize and classify violations. (18(e) Evaluation Report p. 14–17.) State plans must include a prohibition on advance notice, and exceptions must be no broader than those allowed by Federal OSHA procedure. See § 1902.3(f). The Virgin Islands has adopted Federal procedures including procedures for advance notice. There were no instances of advance notice during the current evaluation period. (18(e) Evaluation Report p. 13.)

State plans must provide for inspections in response to employee complaints, and must provide opportunity for employee participation in State inspections. See §§ 1902.4(c)(2)(i) through (iii). The Virgin Islands follows a policy of responding to all employee complaints by conducting an inspection. All State inspections during the current evaluation period included an employee representative on the walkaround or interviews with employees. (18(e) Evaluation Report p. 12–13) State plans must also provide protection for employees against discrimination similar to that found in Section 11(c) of the Federal Act. See § 1902.4(c)(2)(v). The Virgin Islands Act, approved as part of the initial approval and certification process, contains such protection. No complaints of discrimination that merited investigation were received during the evaluation period. (18(e) Evaluation Report p. 22)

The State is required to issue, in a timely manner, citations, proposed penalties, and notices of failure to abate. See §§ 1902.37(b)(11), 1902.3(d), and 1902.4(c)(2) (x) and (xi). The State's lapse time from inspection to issuance of citation has averaged 12 days (18(e) Evaluation Report p. 23)

The State must propose penalties in a manner that is at least as effective as the penalties under the Federal program, which includes first instance violation penalties and consideration of comparable factors required in the Federal program. See §§ 1902.37(b)(12), 1902.3(d), and 1902.4(c)(2) (x) and (xi). The 18(e) evaluation indicates that the Virgin Islands proposes appropriate penalties (average penalty for serious violation is $194) and notes that Virgin Islands final penalties were the same as proposed penalties, because there were few informal conferences and contests. (18(e) Evaluation Report, p. 21)

The State must ensure abatement of hazards cited including issuance of notices of failure to abate and appropriate penalties. See §§ 1902.37(b)(13), 1902.3(d), and 1902.4(c)(2) (vii) and (xi). The Virgin Islands conducts a proportionately greater number of follow-up inspections than does Federal OSHA (18.9% of total inspections). The results of these follow-ups indicate that abatement is being achieved. (18(e) Evaluation Report pp. 19–20)

Wherever appropriate, the State must seek administrative and judicial review of adverse adjudications. Additionally, the State must take necessary and appropriate action to correct any deficiencies in its program which may be caused by an adverse administrative or judicial determination. See §§ 1902.37(b)(14) and 1902.3 (d) and (g). The 18(e) Evaluation Report for the Virgin Islands found no adverse adjudications which could result in program deficiencies.

(c) *Staffing and Resources.* State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. See Section 18(c)(4) of the Act; 29 CFR 1902.37(b)(1); 1902.3(d) and 1902.3(h). A State must also direct adequate resources to administration and enforcement of the plan. See Section 18(c)(5) of the Act and § 1902.3(i). The Virgin Islands plan now provides for three safety compliance officers and for cross-traininng to provide the equivalent of one health professional for public sector coverage, as set forth in the Virgin Islands FY 1983 grant. This staffing level meets the "fully effective" benchmarks established for the Virgin Islands for health and safety staffing. Because of the small size of the program, administrative overhead is somewhat higher than Federal OSHA and the proportion of time spent on enforcement (53.7%) as opposed to administrative and other duties is lower for State compliance officer. (18(e) Evaluation Report, pp. 25–26.)

(d) *Other Requirements.* States which have approved plans must maintain a safety and health program for State and local employees which must be as effective as the State's plan for the private sector. See § 1902.3(k). The Virgin Islands plan provides a program in the public sector which is identical to that in the private sector with the exception that a system of follow-up inspections and administrative sanctions is used in lieu of penalties. Additionally, occupational health protection is provided. Injury rates are somewhat higher in the public sector that in the private. (5.5 all case rate; 3.2 lost workday case rate.) (18(e) Evaluation Report pp. 5–7)

As a factor in its 18(e) determination, OSHA must consider whether the Bureau of Labor Statistics annual occupational safety and health survey and other available Federal and State measurements of program impact on worker safety and health, indicate a

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favorable comparison of worker safety and health, injury and illness rates between the State and Federal program. See § 1902.37(b)(15). The 1979, 1980, and 1981 BLS rates (all case rate and lost workday case rates) were lower than rates in States where Federal OSHA provides enforcement coverage in all areas analyzed except for construction. (Private sector all case rate 1979—5.2, 1980—4.6, 1981—5.1, private sector lost workday case rate 1979—3.1, 1980—2.6, 1981—2.6.) The Virgin Islands' lost workday injury rate in construction (8.0) significantly exceeds the Federal rate. This rate fluctuates rather widely annually which may be due to the wide variation of the amount of construction work performed each year and the use of transient workers who are unfamiliar with the environment. The change in lost workday injury rates between 1979 and 1980 in three of the most hazardous industries in the State, Construction—general, Special Trades Contractors, and Petroleum Refining, likewise exceeded comparable Federal data. These differences may be attributed to random statistical fluctuation. The 18(e) Evaluation Report concludes that the rate changes in these industries are explained in terms of local conditions and statistical anomalies. (18(e) Evaluation Report pp. 28–29.)

State plans must assure that employers in the state submit reports to the Secretary in the same manner as if the plan were not in effect. See Section 18(c)(7) of the Act; 29 CFR 1902.3(k). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require. Section 18(c)(8) of the Act; 29 CFR 1902.4(l). Virgin Islands employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illness and Injuries. As noted above, the State participates and has assured its continuing participation with OSHA in the unified management information system as a means of providing reports on its activities to OSHA.

Section 1902.4(c)(2)(xiii) requires States to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees. The evaluation report notes that a training and consultation program has been established and although the staff position responsible for this program was vacant during some of FY 1982 a consultant/educator was employed in March 1982. No requests for training were received during the current evaluation period. Requests for technical assistance were responded to by administrative staff. Training, education, and consultative services are now fully available to Virgin Islands' employees and employers. (18(e) Evaluation Report, pp. 3–4.)

Effect of 18(e) Determination

If the Assistant Secretary, after completion of the proceedings described in this notice, determines that the statutory and regulatory criteria for State plans are being applied in actual operations, final approval will be granted and Federal standards and enforcement authority will cease to be in effect with respect to issues covered by the Virgin Islands plan, as provided by Section 18(e) of the Act and 29 CFR 1902.42(c). Because the issues of occupational health and maritime safety and health are not within the scope of the Virgin Islands plan, Federal coverage of these issues would be unaffected by an affirmative 18(e) determination. In the event an affirmative 18(e) determination is made by the Assistant Secretary following the proceedings described in the present notice, a notice will be published in the Federal Register in accordance with 29 CFR 1902.43; the notice will specify the issues as to which Federal authority is withdrawn, will state that Federal authority with respect to discrimination complaints under Section 11(c) of the Act remains in effect, and will state that Federal enforcement may be reinstated if continuing evaluations show that the State has failed to maintain a program which is at least as effective as the Federal, or that the State has failed to submit program change supplements as required by 29 CFR Part 1953. At the same time, Subpart S of 29 CFR Part 1952, which codifies OSHA decisions regarding approval of the Virgin Islands plan, would be amended to reflect the 18(e) determination if an affirmative determination is made.

Documents of Record

All information and data presently available to OSHA relating to the Virgin Islands 18(e) proceeding have been made a part of the record in this proceeding and placed in the OSHA Docket Office. The contents of the record are available for inspection and copying at the following locations:

Docket Office, Room S–6212, Docket No. T–2, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Regional Administrator, U.S. Department of Labor, OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

Area Director, U.S. Department of Labor—OSHA, U.S. Court House and FOB, Carlos Chardon Avenue, Room 555, Hato Rey, Puerto Rico 00918

Office of the Commissioner, Virgin Islands Department of Labor, Division of Occupational Safety and Health, Hospital Street, Christiansted, St. Croix Virgin Islands 00820

To date, the record includes copies of all **Federal Register** documents regarding the plan including notices of plan submission, initial Federal approval, certification of completion of developmental steps, and codification of the State's operational Status agreements, and approval of various standards, developmental steps, and other plan supplements. The record also includes the State plan document which includes a plan narrative, the State legislation, regulations and procedures, an organization chart for State staffing; the State's FY 1983 Federal grant; and the 18(e) Evaluation Report.

Public Participation

Request for Public Comment: In order to solicit information and encourage public participation as an essential part of its process to evaluate the Virgin Islands State plan and make a decision on the appropriateness of an affirmative 18(e) determination, OHSA invites interested members of the public to submit written comment.

The Assistant Secretary is directed under § 1902.41 to make a decision whether an affirmative 18(e) determination is warranted or not. As part of the Assistant Secretary's decision-making process, consideration must be given to the application and implementation by the Virgin Islands of the requirements of Section 18(c) of the Act and all the specified criteria and indices of effectiveness as presented in 29 CFR 1902.3 and 1902.4. These criteria and indices must be considered in light of the 15 factors in 29 CFR 1902.37(b)(1)–(15). However, this action will be taken only after all the information contained in the record, including OSHA's evaluation of the actual operations of the State plan, and information presented in written submissions and during the informal public hearing is reviewed and analyzed. OSHA is soliciting public participation in this process so as to assure that all relevant information, views, data and arguments related to the indices, criteria and factors presented in 29 CFR Part 1902, as they apply to the Virgin Islands State plan, are available to the Assistant Secretary during this administrative proceeding.

Interested persons are invited to submit written data, views, and arguments with respect to this 18(e) determination. These comments must be postmarked on or before June 15, 1983, and submitted in quadruplicate to the Docket Officer, Docket No. T–2, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Written submission must clearly identify the issues which are addressed and the position taken with respect to each issue.

Public Participation in Hearing: A hearing has been scheduled for Wednesday, June 29, 1983, commencing at 9:30 a.m. in the Federal Building, U.S. Courthouse, Room 110, Veteran's; Drive, No. 26, St. Thomas, Virgin Islands.

The purpose of this informal, legislative type hearing is to present an opportunity to the public and particularly employers and employees in the Virgin Islands affected by the State program to participate fully in OSHA's process of deciding whether or not to make an affirmative 18(e) determination for the Virgin Islands State plan. The public is encouraged to submit written comments and to appear in person at the informal public hearing. The conditions set forth below for the public hearing are meant to give the Administrative Law Judge and OSHA the flexibility needed to assure an orderly and complete hearing. OSHA seeks to elicit from the public varied written comments and oral testimony. Every attempt will be made to accommodate all interested persons.

Notices of Intention to Appear: OSHA's informal hearings are open to the public and the media. An interested party need not submit prior notice to attend the hearing. However, in order to assure participation (that is, to present oral or written testimony, to ask questions of witnesses, or to submit posthearing submissions) an interested party must file a notice of intention to appear. Persons desiring to participate at the hearing must file a notice of intention to appear by June 15, 1983. The notice of intention to appear must contain the following:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing: Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence must provide, in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs by June 15, 1983.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirements may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Notices of intention to appear, testimony, and evidence will be available for inspection and copying at the Docket Office, Docket No. T–2, U.S. Department of Labor, Occupational Safety and Health Administration, Room S–6212, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–7894.

The hearing will commence at 9:30 a.m. at the scheduled location with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by the Administrative Law Judge who will have the powers necessary or appropriate to conduct a full and fair information hearing as provided in 29 CFR Part 1902, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections, and comparable matters;
3. To confine the presentation to the issues specified in this notice of hearing;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. To provide an opportunity for cross examination on pertinent issues;
6. To provide for a verbatim transcript of the hearing which shall be available to any interested person on such terms as the judge shall establish;
7. To take official notice of material facts not appearing in the evidence in the record provided the parties are afforded an opportunity to show evidence to the contrary; and
8. In the Judge's discretion, to keep the record open for a reasonable and specified time to receive additional recommendations, with supporting reasons and any additional data, views, and arguments from any person who has participated in the oral proceeding.

Conduct of the Hearing: Upon the completion of the oral presentations the transcripts thereof, together with written submissions on the proceedings, exhibits filed during the hearing, and all post hearing comments, recommendations, and supporting reasons shall be certified by the Administrative Law Judge presiding at the hearing to the Assistant Secretary.

The Assistant Secretary will, within a reasonable time after the certification of the record of the hearing, publish his decision in the **Federal Register.** All written and oral submissions, as well as other information gathered by OSHA will be considered in any action taken. The record of this proceeding, including written comments and materials submitted in response to this notice and notices of intention to appear at the public hearing, will be available for inspection and copying in the Docket Office, Room S6212, at the above address, between the hours of 8:15 a.m. and 4:45 p.m.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval would not place small employers in the Virgin Islands under any new or different requirements nor would any additional burden be placed upon the Territorial government beyond the responsibilities already assumed as part of the approved plan. A copy of this certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

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(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C., this 2d day of May 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-12208 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2630-3]

Ocean Dumping; Change of Starting Time for Public Hearing on 106-Mile Ocean Dump Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of change of starting time for public hearing.

SUMMARY: EPA today announces a revised starting time for the public hearing to be held in Rehoboth Beach, Delaware, on May 10, 1983, to receive public comment on the proposed designation of the 106-Mile Ocean Dump Site as an EPA approved ocean dumping site.

DATE: The public hearing will be held on May 10, 1983.

ADDRESSES: Send comments or statements to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, D.C. 20460.

The hearing will be held in the Rehoboth Beach Convention and Civic Center, 73 Rehoboth Avenue, Rehoboth Beach, Delaware.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: On April 18, 1983, EPA published in the **Federal Register** a Notice of Public Hearing on the 106-Mile Ocean Dump Site. 48 FR 16508. That notice stated that the morning session would start at 10 a.m. Instead, the morning session will start at 9 a.m. The balance of the information contained in that notice is correct.

Dated: April 27, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83-12180 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 264, 265, and 267

[SWH-FRL 2360-2]

Hazardous Waste Disposal Facilities; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: On December 17, 1980 (45 FR 82964), and May 28, 1981, (46 FR 28680), the Environmental Protection Agency announced in the **Federal Register** the availability of drafts of eight Technical Resource Documents providing design and evaluation information related to hazardous waste disposal facilities. These drafts had undergone previous review and revision by recognized experts from various industries, universities, professional organizations, environmental and community groups, State agencies, and other Federal offices with related responsibilities. Public comment on the accuracy and usefulness of the information presented in the documents was solicited. Comments received were evaluated by the Agency and the publications were revised by incorporating the suggestions for improvements. Today's notice announces the availability of eight revised Technical Resource Documents. These latest editions supersede earlier draft versions.

DATES: Comments on these reports will be accepted at any time. The reports will be revised as needed from comments received and/or as new information becomes available.

ADDRESS: Comments should be addressed to Docket Clerk, Room S-269(c), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Communications should identify the document title (e.g., *Closure of Hazardous Waste Surface Impoundments*, SW-873).

Copies of these reports are available for reading at the EPA Library and Subtitle C Docket Room (Room S-269(c)), both located at 401 M Street, S.W., Washington, D.C., during the hours of 9:00 a.m. to 4:30 p.m., Monday through Friday.

Copies of the Technical Resource Documents are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, (202) 783-3238. The following is a list of all eight Technical Resource Documents with GPO stock number and price for those currently available.

	GPO Stock No.	GPO price
1. Evaluating Cover Systems for Solid and Hazardous Waste (SW-867)	055-000-00228-2	$4.75
2. Hydrologic Simulation on Solid Waste Disposal Sites (SW-868)	055-000-00225-8	6.00
3. Landfill and Surface Impoundments Performance Evaluation (SW-869)	055-000-00233-9	5.00
4. Lining of Waste Impoundment and Disposal Facilities (SW-870)	055-000-00231-2	11.00
5. Management of Hazardous Waste Leachate (SW-871)	055-000-00224-0	11.00
6. Guide to the Disposal of Chemically Stabilized and Solidified Waste (SW-872)	055-000-00226-6	6.00
7. Closure of Hazardous Waste Surface Impoundments (SW-873)	055-000-00227-4	5.50
8. Hazardous Waste Land Treatment (SW-874)	055-000-00232-1	

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 424-9346 (toll free or at (202) 382-3000. For technical information contact Art Day at (202) 382-4460.

SUPPLEMENTARY INFORMATION:

Historical Perspective: EPA has issued a number of regulations for hazardous waste management facilities under the authority of Section 3004 of the Resource Conservation and Recovery Act (RCRA). Regulations addressing land disposal of hazardous waste were issued in 40 CFR Parts 264, 265, and 267. The major pieces of the land disposal regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33154-33285), February 13, 1981 (46 FR 12414), and July 26, 1982 (47 FR 32274).

These regulations contain many environmental and design performance requirements needing specific technical (design and operation) implementation on a case-by-case basis. Technical information is needed by both the regulated facility owner or operator and by the State or Federal official making permit decisions. To help provide this information, the Agency is developing three types of guidance documents: (1) Permit Guidance Manuals, (2) RCRA Technical Guidance Documents, and (3) Technical Resource Documents (TRDs). The Permit Guidance Manuals and RCRA Technical Guidance Documents are directly related to the regulations. The TRDs describe current technologies for designing and operating hazardous waste disposal facilities, or for evaluating the performance of a facility design. Some of this information is useful in meeting the requirements of the regulations. However, not all the information in the TRDs is directly related to the regulations, because their intent is to summarize useful state-of-the-art information. The TRDs should not be used for interpreting regulatory requirements.

The RCRA Technical Guidance Documents present design and operating specifications or design evaluation techniques that generally comply with or demonstrate compliance with the Design and Operating Requirements and the Closure and Post-Closure Requirements of Part 264. Parts of the TRDs are referenced in, and therefore support, the RCRA Technical Guidance Documents and Permit Guidance Manuals by describing current technologies to meet or evaluate these design and operating specifications.

The Permit Guidance Manuals will provide guidance to applicants and permit writers in preparing and reviewing permit applications for hazardous waste land treatment, storage and disposal facilities. These manuals will include discussions of the permitting process and the specifications that must be considered for inclusion in the permit.

Review Process: Initial drafts of the eight TRDs went through the standard Agency Peer Review process. The Review Committee was composed of experts and representatives from industry, the academic community, professional organizations, State agencies, environmental and community groups, and various Federal offices. The drafts were revised after this extensive review process, and were printed and made available (announcements of December 17, 1980, and May 28, 1981) to the public for comment and use. Public comments on these drafts were evaluated by the Agency's professional staff, and feasible suggestions along with new technical information have been incorporated into the publications being announced today. All public comments and a summary of their disposition and rationale for action are on file in the Docket, Room S269(c).

Current Status: The Agency is today making available revised editions of the eight TRDs. These revised documents supersede earlier draft versions. As new information is developed, the Agency intends to update each of the TRDs so that it reflects state-of-the-art information. Additional TRDs will also be developed and made available to the public for comment. EPA welcomes comments on other technical subjects that the public thinks should be developed into Technical Resource Documents.

Drafts of the RCRA Technical Guidance Documents are in the EPA regional and headquarters libraries and the Subtitle C Docket room. These drafts are currently being revised and are scheduled for printing in early 1983. Draft Permit Guidance Manuals are scheduled for early to mid 1983. Availability of both sets of guidance manuals will be announced to the public in the **Federal Register.**

Under Executive Order 12291, EPA must judge whether a regulation or rule, including any implementation guidance, is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This notification is not of a regulatory nature. It simply announces to the public the availability of the latest technical information on designing, operating, and evaluating solid and hazardous waste disposal facilities. This notice and the eight technical resource documents, however, were submitted for review and cleared for publication by the Office of Management and Budget.

Dated: April 22, 1983.

Jack McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 83-12078 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

41 CFR Part 44-17

Extraordinary Contractual Adjustment Procedures

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This rule establishes standards and procedures for disposition of requests for extraordinary contractual action pursuant to Pub. L. 85-804 and Executive Order 10789. The regulation is needed to implement the statute and Order, and to supplement that part of the Federal Procurement Regulations dealing with extraordinary actions to facilitate the national defense (41 CFR 1-17).

DATE: Comments are due on or before July 5, 1983.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Room 835, 500 C Street, SW, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Watson, Associate General Counsel, Telephone (202) 287-0376.

SUPPLEMENTARY INFORMATION: FEMA has been delegated authority to take certain extraordinary contractual actions to facilitate the national defense under the terms of Pub. L. 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789. General regulations applicable to all agencies to whom the authority has been delegated have been issued by General Services Administration, 41 CFR Par 1-17. FEMA needs to supplement these regulations with provisions applicable to it only. This regulation does that but must be read with the GSA regulation.

An environmental assessment is not necessary as this rule is procedural and has no effect on the quality of the human environment. The rule is not a major rule as defined in section 1(b) of Executive Order 12291, nor will it have a significant, economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary. The regulation does not contain any information requirements subject to the provisions of 44 U.S.C. 3504(h).

List of Subjects in 41 CFR Part 44-17.

Government procurement.

Accordingly, Title 41 CFR Chapter 44 is proposed to be amended by adding a new part as follows:

PART 44-17—EXTRAORDINARY CONTRACTUAL ADJUSTMENT PROCEDURES

Sec.
44-17.000 Scope of part.

Subpart 44-17.1—General

44-17.101 Authority.
44-17.102 General policy.
44-17.103 Types of action.

Subpart 44-17.2—Procedures

44-17.201 Procedures for filing requests.
44-17.202 Records.
44-17.203 Investigation.
44-17.204 Action by the Contract Adjustment Board.
44-17.205 Action by Office of Acquisition Management.

Subpart 44-17.3—Contract Adjustments

44-17.301 General.
44-17.302 Amendments without consideration.
44-17.303 Correction of mistakes.
44-17.304 Formalization of informal commitments.
44-17.305 Advance payments.
44-17.306 Residual powers.
44-17.306-1 Indemnification of contractors for unusually hazardous or nuclear risks.

Subpart 44-17.4—Administration

44-17.401 Reports.
44-17.402 Interagency coordination.

Authority: 50 U.S.C. 1431-1435; E.O. 10789; E.O. 12148.

§ 44-17.000 Scope of part.

This part establishes standards and procedures for the disposition of requests for extraordinary contractual action by contractors of the Federal

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Emergency Management Agency (herein after referred to as "FEMA") pursuant to Pub. L. 85–804 (found at 50 U.S.C. 1431 through 1436 and hereinafter referred to as "the Act") and Executive Order 10789, as amended (hereinafter referred to as the "Executive Order") and Executive Order 12148. This part supplements the extraordinary contractual actions to facilitate the national defense portion of the Federal Procurement Regulations (41 CFR Part 1–17). The reader of this part should refer to the Federal Procurement Regulation when processing requests for extraordinary contractual actions.

Subpart 44–17.1—General

§ 44–17.101 Authority.

(a) All authority granted by 41 CFR 1–17.101 may be exercised by the Director of the Federal Emergency Management Agency (hereinafter referred to as "the Director"). However, such authority to approve actions under the Act which do not obligate the United States in excess of $50,000 are delegated to the Chief, Acquisition Management. The limitations contained in 41 CFR 1–17.205–2 apply to said Chief. Where 41 CFR Part 17 requires action or approval at "secretarial level," such action shall be taken by the Director.

(b) As cases arise under the Act, the Director of FEMA shall appoint, as needed, a FEMA Contract Adjustment Board consisting of one senior staff member, not otherwise involved with the action under consideration, from each of the following offices:

(1) Acquistion Management
(2) General Counsel
(3) Comptroller

The Board shall prescribe its own procedures and has power to do all acts and things necessary or appropriate for the conduct of their functions. The decisions of the Board shall be final but each Board may reconsider, modify, correct or reverse any of its previous decisions.

§ 44–17.102 General policy.

The general policies of 41 CFR 1–17.102 apply. If it is at all practicable, other authority shall be used to settle claims by contractors before using authority of the Act and this Part.

§ 44–17.103 Types of action.

FEMA may take any type of action authorized under 41 CFR 1–17.103. However, any action taken under this Part shall be subject to the limitations contained in 41 CFR 1–17.205–1.

Subpart 44–17.2—Procedures

§ 44–17.201 Procedures for filing requests.

Any person seeking an adjustment under these regulations may file a request. Persons filing requests for extraordinary contractual actions with FEMA should file the request in duplicate with the cognizant contracting officer, the Director or with:

Chief, Office of Acquistion Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472.

The form of the request and the facts and evidence required are described at 41 CFR 1–17.207–2 and 1–17.207–4.

§ 44–17.202 Records.

The cognizant contracting officer or, if none exists, a person appointed by the Chief, Office of Acquistion Management, shall maintain records relating to each request under the Act and shall be responsible for presentation of such record to the FEMA Contract Adjustment Board. Records shall be complied in accordance with 41 CFR 1–17.207–3, 1–17.208–4, 1–17.401, and 1–17.402. Also see 41 CFR 1–17.400.

§ 44–17.203 Investigation.

The cognizant contracting officer or person appointed in accordance with section 44–17.202 above shall fully investigate in accordance with 41 CFR 1–17.208–1 all aspects of the request including, but not limited to audit reports, documentary evidence, knowledge of individuals connected with the action involved and signed statements of material facts. Upon completion of the investigation, the investigator shall forward the report of the investigation with all exhibits and evidence to the Office of General Counsel with a letter stating:

(a) The nature of the case,
(b) The recommended disposition of the case, and
(c) If extraordinary contractual relief is recommended, the opinion of the cognizant contracting officer that such relief will facilitate the national defense.

The General Counsel or his designee shall review the investigation, the record and other relevant factors and shall forward them to the FEMA Contract Adjustment Board for further action.

§ 44–17.204 Action by the Contract Adjustment Board.

(a) The Board, upon receiving the file from the Office of General Counsel, may make further investigation as deemed necessary and will solicit the views of the contractor, the Board then acting in accordance with its own procedures, will render its decision as expeditiously as possible and shall prepare a Memorandum of Decision, which shall meet the requirements of 41 CFR 1–17.208–3.

(b) Copies of the Board's decision will be transmitted to the cognizant contracting officer or, if none exists, the Chief of the Office of Acquisition Management for implementation. A copy of the decision and any evidence not previously sent will be forwarded to the contractor.

(c) Any adjustment involving expenditure in excess of $50,000 must be approved by the Director before being implemented.

§ 44–17.205 Action by Office of Acquisition Management.

The Office of Acquisition Management shall implement the decision of the Board. Any contract entered into under this Part is subject to the requirements of 41 CFR 1–17.206, and to any applicable limitations of 41 CFR 1–17.205–2. The Memorandum of Decision shall be incorporated (as required by 41 CFR 1–17.304) in the record of the case.

Subpart 44–17.3—Contract Adjustments

§ 44–17.301 General.

This subpart described adjustments which may be made to existing contracts or arrangements which may be made where a contract should have been made. The remedies prescribed herein are only representative of those which the Contract Adjustment Board may fashion. Wherever possible, normal contracting procedures including, but not limited to, settlements under the Contract Disputes Act, should be utilized

§ 44–17.302 Amendments without consideration.

Standards for this remedy are set forth at 41 CFR 1–17.204–2. The evidence required to support a claim for this remedy as set forth at 41 CFR 1–17.207–4 (b) and (c).

§ 44–17.303 Correction of mistakes.

Standards for this remedy are set forth at 41 CFR 1–17.204–3. The evidence required to support a claim for this remedy as set forth at 41 CFR 1–17.207–4(d).

§ 44–17.304 Formalization of informal commitments.

Broad authority for contracting officers to ratify informal commitments, after the fact, has been granted under the Contract Disputes Act of 1978. For any cases not falling under the authority of that Act or other statutes or regulation, standards for informal commitments are set forth in 41 CFR 1–17.20–4. The evidence required to support a claim for this remedy is set forth at 41 CFR 1–17.207–4(e).

§ 44–17.305 Advance payments.

Standards and procedures for use of advance payments is set forth at 41 CFR Subpart 1–30.4.

§ 44–17.306 Residual powers.

Standards and procedures for use of residual powers under the Act are set forth in 41 CFR Subpart 1–17.3. Authority to approve actions obligating the United States in excess of $50,000 shall be exercised only be the Director of FEMA.

§ 44–17.306–1 Indemnification of contractors for unusually hazardous or nuclear risks.

When entering into contracts requiring indemnification of contractors for unusually hazardous or nuclear risks, FEMA shall use procedures set forth in Defense Acquisition Regulation 17–303.2 (32 CFR 17–303.2). Where that regulation requires exercise of secretarial authority, such authority shall be exercised by the Director of FEMA.

Subpart 44–17.4—Administration

§ 44–17.401 Reports.

Reports required under 41 CFR 1–17.105 shall be prepared by the Office of Acquisition Management for approval and forwarding by the Director.

§ 44–17.402 Interagency/Coordination.

Where a case involves matters of interest to agencies other than FEMA, interagnecy coordination as prescribed by 41 CFR 1–17.208–2 shall be effectuated by the Office of Acquisition Management in consultation with the Office of General Counsel.

Dated: April 29, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83–12129 Filed 5–5–83; 8:45 am]

BILLING CODE 6718–01–M

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244 CFR Part 67

[Docket No. FEMA–6465]

Proposed Flood Elevation Determinations for City of Sunnyvale, Santa Clara County, California Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 47 FR 56668 of the Federal Register of December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Brain R. Mrazik, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The notice published on December 20, 1982 at 47 FR 56668 Page 72165, showing the following:

Bulter County, Kansas

Should be corrected to read:

City of Sunnyvale, Santa Clara County, California.

Pursuant to the provisions at 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 6, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12309 Filed 5–5–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6508]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain mangement requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new

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local ordinances, which if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Colorado	City of Fort Collins (Larimer County)	Dry Creek	25 feet upstream from centerline of North Lemay Avenue.	*4,948	*4,950
			Centerline of College Avenue	*4,973	*4,974
		Cache La Poudre River	500 Feet north of the intersection of Riverside avenue and Smith Street.	(1)	*4,946
Maps available for inspection at City, Drafting Department, Fort Collins, Colorado 80522.					
Send comments to the Honorable Gary Cassell, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, Colorado. 80522.					
Florida	(Unincorporated) Clay County	North Prong Double Branch	At confluence with Double Branch	*32	*32
			About 2.0 miles upstream of confluence with Double Branch.	*61	*59
Idaho	Latah County (unincorporated areas)	Paradise Creek	Confluence with an unnamed stream approximately 2,000 feet north of the Burlington Northern Railroad.	(1)	*2,587
			At D Street	(1)	*2,606
Maps available for review at the Office of the Auditor, Latah County Courthouse, 520 South Adam, Moscow, Idaho 83843.					
Send comments to Mr. Jay Nelson, Chairman, Board of County Commissioners, Latah County Courthouse, 520 South Adam, Moscow, Idaho 83843.					
Ohio	(V) Whitehouse, Lucas County	Lone Oak Ditch	Downstream corporate limits	*643	*644
			Approximately 900 feet upstream of downstream corporate limits.	*644	*644
		Blue Creek	Downstream corporate limits	*639	*641
		Swan Creek	Downstream corporate limits	*639	*641
			Upstream corporate limits	*640	*642
Oregon	Lebanon (city of), Linn County	South Santiam River	Approximately 1,200 feet upstream of the Southern Pacific Railroad.	*344	*344
			Approximately 2,500 feet upstream of the Southern Pacific Railroad.	*346	*346
			At eastern corporate limits	*355	*355
Maps available for review at City Hall, 925 Main Street, Lebanon, Oregon 97356.					
Send comments to the Honorable Robert G. Smith, Mayor, City of Lebanon, 925 Main Street, P.O. Box 247, Lebanon, Oregon 97355.					
Wisconsin	(C) Richland Center, Richland County	Pine River	About 6,200 feet downstream Bohmann Drive		*720
			At upstream corporate limits	*740	*739
		Center Creek	Mouth at Pine River	*734	*733
		Brush Creek	Mouth at Pine River	*737	*736

[1] Area between limits of base flood and 500-year flood.
[2] Not published.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 6, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12002 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6509]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below

FOR FURTHER INFORMATION CONTACT:
Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) floor elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR, Part 67.

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Thatcher (town), Graham County	Frye Creek	At the intersection of Frye Creek Road and Sage Trail	*3,080
		Frye Creek Tributary	At the intersection of Dry Gulch Drive and Pinalerno Mountain Drive.	*3,088
Maps available for inspection at the Engineer's Office, 230 College Avenue, Thatcher, Arizona.				
Send comments to Honorable Ladd Muttenaux, P.O. Box 670, Thatcher, Arizona 85552.				
Florida	Ft. Pierce (city), St. Lucie County	Atlantic Ocean	At the center of intersection of Porpoise Avenue and Granada Street.	*7
			At the center of intersection of Melody Lane and Atlantic Avenue.	*8
			At the center of intersection of North 2nd Street and Port Ave.	*9
			100 feet east from the center of intersection of Port Avenue and Harbor Street.	*10
Maps available for inspection at City Hall, Ft. Pierce, Florida.				
Send comments to Honorable Frank Blackwell, P.O. Box 1480, Ft. Pierce, Florida 33454.				
Florida	Jupiter Island (town), Martin County	Atlantic Ocean	200 feet west from the center of intersection of Linx Road and Grassy Trail.	*6
			400 feet east from the center of intersection of Allen Trail and North Beach Road.	*11
Maps available for inspection at Town Hall, Town of Jupiter Island, Hobe Sound, Florida.				
Send comments to Honorable Robert F. Vande Weghe, P.O. Box 7, Hobe Sound, Florida 33455.				
Florida	Martin County (unincorporated areas)	Atlantic Ocean	At the center of the intersection of Laurel Lane and Bridge Road.	*6
			At the center of the intersection of Palmetto Terrace and Pine Lake Drive.	*7
			At the center of the intersection of Williams Way and Leonard Lane.	
			At the center of the intersection Skyline Drive and Indian River Drive.	*8
		Lake Okeechobee	At the confluence of St. Lucie Canal with Lake Okeechobee.	*23
Maps available for inspection at Engineering Department, 50 Kindred Street, 3rd Floor, Stuart, Florida.				
Send comments to the Honorable Robert H. Oldland, P.O. Box 626, Stuart, Florida 33495.				

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Proposed Base (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Florida	Ocean Breeze Park (town), Martin County	Atlantic Ocean—Indian River	At the center of intersection of Hibiscus Drive and Circle Drive.	*8
			At the center of intersection of Little Bit Lane and Indian River Drive.	*9
Maps available for inspection at Town Hall, Jensen Beach, Florida.				
Send comments to Honorable Carl E. Hoke, P.O. Box 846, Jensen Beach, Florida 33457.				
Florida	St. Lucie County (unincorporated areas)	Atlantic Ocean	At the center of the intersection of Las Olas Drive North and Elmar Drive.	*7
			At the center of the intersection of Osceola Boulevard and Banyan Road.	*9
Maps available for inspection at Development Coordinator's Office, 2300 Virginia Avenue, Ft. Pierce, Florida.				
Send comments to Honorable William Palmer, 2300 Virginia Avenue, Room 104, Ft. Pierce, Florida 33450.				
Illinois	(C), Clinton, De Witt County	Coon Creek	About 2,760 feet downstream of Madison Street	*696
			About 180 feet downstream of Illinois Central Gulf Railroad.	*709
			Just upstream of Illinois Central Gulf Railroad	*714
			About 2,290 feet upstream of Alexander Street	*716
		Goose Creek	At mouth	*714
			Just downstream of Illinois Central Gulf Railroad	*722
		Tennile Creek	Just downstream of Old Lincoln Road	*700
			About 400 feet upstream of Woodlawn Avenue	*706
Maps available for inspection at City Hall, Zoning, Building and Public Safety Office, 118-120 West Washington, Clinton, Illinois.				
Send comments to Honorable Stanley J. Slipes, Mayor, City of Clinton, City Hall, 118-120 West Washington, Clinton, Illinois 61727.				
Illinois	(Unincorporated), Carroll County	Mississippi River	At downstream County Boundary	*594
			At upstream County Boundary	*600
Maps available for inspection at the Clerk's Office, Carroll County Courthouse, Mt. Carroll, Illinois.				
Send comments to Honorable Donald Swanson, Chairman, Carroll County Board, Carroll County Courthouse, Mt. Carroll, Illinois 61053.				
Illinois	(V), Union, McHenry County	Railroad Creek	About 400 feet downstream of Chicago and North Western Railroad.	*835
			Just upstream of Prairie Street	*840
			About 1,100 feet upstream of Main Street	*850
Maps available for inspection at the Village Hall, Union, Illinois.				
Send comments to Honorable Ron Miller, Village President, Village of Union, 17909 O-Cock, Union, Illinois 60180.				
Illinois	(V), Wonder Lake, McHenry County	Nippersink Creek	About 1,800 feet downstream of Thompson Road	*808
			About 1,000 feet upstream of Thompson Road	*814
Maps available for inspection at the Village Hall, 8808 Burton Road, Wonder Lake, Illinois.				
Send comments to Honorable William P. Andrea, Acting Village President, Village of Wonder Lake, P.O. Box 238, Wonder Lake, Illinois 60097.				
Kentucky	Unincorporated Areas of Lawrence County	Big Sandy River	At the confluence of Big Sandy River and Blaine Creek.	*566
		Blaine Creek	Approximately 130 feet downstream of State Highway 3.	*582
			Just downstream of the Covered Bridge	*591
			Approximately 100 feet downstream of State Highway 32.	*654
		Left Fork Blaine Creek	Approximately 530 feet upstream of State Highway 469.	*692
		Levisa Fork	Just upstream of Unnamed Bridge (approximately 1,800 feet northwest of Borders Chapel).	*592
		Right Fork Blaine Creek	Approximately 2,000 feet upstream of State Highway 469.	*681
		Tug Fork	Approximately 1,000 feet upstream of the confluence of Baker Branch (approximately 1,400 feet northwest of Concord Church).	*598
			Approximately 550 feet downstream of the Lawrence County-Martin County boundary.	*606
Maps available for inspection at County Judge's Office, Lawrence County Courthouse, 230 Main Cross Street, Louisa, Kentucky 41230.				
Send comments to Judge Ray Williams or Mr. Theddus Miller, Administrative Assistant, County Courthouse, P.O. Box 38, Louisa, Kentucky 41230.				
Kentucky	City of Martin, Floyd County	Beaver Creek	At Chessie System Railroad	*659
		Right Fork Beaver Creek	Approximately 500 feet downstream of State Highways 80 and 122.	*662
Maps available for inspection at the City of Martin Fire Station, Martin, Kentucky 41649.				
Send comments to Mayor Larry Hall, City of Martin Fire Station, Martin, Kentucky 41649.				
Maine	Biddeford, City, York County	Atlantic Ocean	Shoreline at Horseshoe Cove	*14
			Shoreline at East Point	*20
			Shoreline approximately 500 feet northeast of Main Street (extended).	*25
		Saco River	Upstream Cataract Dam	*48
			Upstream Springs Dam	*57
			Upstream Interstate Route 95	*61
			Approximately 2 miles downstream State Route 5	*65
			Upstream corporate limits	*70

Proposed Base (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Little River	Approximately 0.6 mile downstream of Pool Street	*9
			Upstream Pool Street	*16
			Upstream Oak Ridge Road	*27
		Moors Brook	Downstream Meetinghouse Road	*9
			Approximately 1.54 miles upstream Meetinghouse Road.	*44
		Thatcher Brook	At confluence with Saco River	*58
			At South Street	*59
Maps available for inspection at the City Clerk's Office, City Hall, 205 Main Street, Biddeford, Maine.				
Send comments to Honorable Martin J. Reilly, Mayor of Biddeford, City Hall, 205 Main Street, Biddeford, Maine 04005.				
Maine	Kittery, Town, York County	Atlantic Ocean	Shoreline of community northwest of Horn Island	*16
			Inland of Wood Island	*14
		Spruce Creek	Wilson Road (downstream)	*9
			Approximately 0.4 mile upstream of Wilson Road	*19
		Spinney Creek	Approximately 370 feet downstream of Leach Road	*9
			Dennett Road (upstream)	*30
Maps available for inspection at the Town Municipal Building, Kittery, Maine.				
Send comments to Honorable John R. Kennedy, Kittery Town Manager, Town Hall, P.O. Box 303, Kittery, Maine 03903.				
Maine	Old Orchard Beach, Town, York County	Atlantic Ocean	Shoreline at Atlantic Avenue (extended)	*13
			Shoreline at York Street (extended)	*14
			Shoreline at Odessa Avenue (extended)	*15
		Goosefare Brook	At mouth	*9
			Downstream of Boston and Maine Railroad Bridge	*10
			Downstream of Ocean Park Road	*17
			Downstream of Ross Road	*20
			Upstream corporate limits	*29
		Mill Brook	Upstream of Ross Road	*9
			430' Downstream of Portland Road	*19
Maps available for inspection at the Planner's Office in the Town Hall, Old Orchard Beach, Maine.				
Send comments to Honorable Jerome Plante, Town Manager of Old Orchard Beach, Town Hall, Old Orchard Beach, Maine 04063.				
Massachusetts	Chester, Town, Hampden County	West Branch of the Westfield River.	Downstream corporate limits	*420
			Upstream Old State Highway	*462
			Upstream First Private Road	*532
			Upstream CONRAIL fourth crossing	*636
			Upstream Middlefield Road	*670
			Upstream sixth CONRAIL crossing	*723
			Upstream corporate limits	*746
		Middle Branch of the Westfield River.	Downstream Kinnebrook Road	*568
			Upstream Smith Road	*680
			Upstream of Herring Road	*737
			Upstream corporate limits	*775
		Walker Brook	Confluence with West Branch of the Westfield River	*596
			Upstream Hampden Street	*650
			Upstream Walker Island Road	*767
			Upstream corporate limits	*798
		Austin Brook	Confluence with Walker Brook	*654
			Approximately 1,300' upstream of West Main Street	*733
		Otis-Walt Brook	Confluence with West Branch of the Westfield River	*644
			Approximately 2,750' upstream of confluence with West Branch of the Westfield River.	*705
Maps available for inspection at the Town Hall, Middlefield Street, Chester, Massachusetts.				
Send comments to Honorable Albert Holland, Chairman of the Chester Board of Selectmen, Town Hall, Middlefield Street, Chester, Massachusetts 01011.				
Massachusetts	Fall River, City, Bristol County	Mount Hope Bay	Shoreline at I-195 bridge	*21
			Shoreline at Middle Street extended	*20
			Shoreline at Mount Hope Avenue extended	*20
		Taunton River	At shoreline south of Brightman Street bridge	*21
			Shoreline north of Brightman Street bridge	*15
Maps available for inspection at the City Hall, 1 Government Center, Fall River, Massachusetts.				
Send comments to Honorable Carlton M. Viveros, Mayor of Fall River, 1 Government Center, Fall River, Massachusetts 02722.				
Massachusetts	New Bedford, City, Bristol County	Buzzards Bay	Shoreline at Norman Street extended	*19
			Shoreline at Lucas Street extended	*18
			Shoreline at Osborn Street extended	*18
			Shoreline at Brook Avenue Extended	*25
		Acushnet River	Entire shoreline within community	*8
Maps available for inspection at the Planning Office in the City Hall, New Bedford, Massachusetts.				
Send comments to Honorable Nelson Macedo, Acting Mayor of the City of New Bedford, 133 Williams Street, New Bedford, Massachusetts 02740.				
Michigan	(Twp), Eaton Rapids, Eaton County	Grand River	About 0.5 mile downstream of Columbia Highway	*857
			About 0.4 mile upstream of Confluence of Spicer Creek.	*867
Maps available for inspection at the Township Office, 1114 North Gunnell, Eaton Rapids, Michigan.				
Send comments to Honorable Reg. L. Smith, Supervisor, Township of Eaton Rapids, Eaton Rapids Township, 1114 North Gunnell, Eaton Rapids, Michigan 48827.				

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Nevada	Carlin (city), Elko County	Humboldt River	75 feet upstream from the center of Western Pacific Railroad.	*4,869
Maps available for inspection at the City Clerk's Office, City Hall, Carlin, Nevada.				
Send comments to Honorable Clarence Jones, P.O. Box 737, Carlin, Nevada 89822.				
Nevada	Elko (city), Elko County	Humboldt River	Intersection of Wilson Avenue and Lamoille Road	*5,048
			100 feet upstream of 12th Street	*5,060
Maps available for inspection at City Engineer's Office, 1751 College Avenue, Elko, Nevada.				
Send comments to the Honorable D. George Corner, 1751 College Avenue, Elko, Nevada 89801.				
Nevada	Elko County (unincorporated areas)	Kittridge Creek	150 feet upstream of Interstate Highway 80 (U.S. Highway 40) Westbound.	*5,127
			200 feet north of the intersection of 7th Street and Seminole Road.	*5,238
		North Fork Humboldt River (Main Channel).	100 feet upstream of the Southern Pacific Railroad	*5,178
			100 feet downstream of Old U.S. Highway 40	*5,190
		North Fork Humboldt River Auxiliary Channel.	150 feet upstream of Interstate Highway 80 (U.S. Highway 40) Westbound.	*5,193
		Humboldt River (at Carlin)	500 feet north of the intersection of State Highway 51 and the Western Pacific Railroad.	*4,864
		Humboldt River (at Elko)	50 feet downstream of the Western Pacific Railroad	*5,046
		Humboldt River Overflow	50 feet upstream of Western Pacific Railroad	*5,048
		Shallow Flooding	500 feet southwest along Western Pacific Railroad from the Western Pacific Railroad crossing of Humboldt River Overflow.	#2
Maps available at the Department of Engineering, Elko County Courthouse, Elko, Nevada.				
Send comments to Honorable Emie Hall, Elko County Courthouse, Elko, Nevada 89801.				
New Jersey	Bay Head, borough, Ocean County	Atlantic Ocean	Entire shoreline within community	*13
Maps available for inspection at the Municipal Building, 81 Bridge Avenue, Bay Head, New Jersey.				
Send comments to Honorable William M. Robertson, Mayor of the Borough of Bay Head, P.O. Box 248, Bay Head, New Jersey 08742.				
New Jersey	Byram, Township, Sussex County	Musconetcong River	Downstream corporate limits	*642
			Downstream Access Road between CONRAIL and Lubbers Run.	*655
			Corporate Limits upstream of Chestnut Road (extended).	*711
			Corporate limits at CONRAIL bridge upstream of Lake Musconetcong.	*870
		Lubbers Run	Confluence with Musconetcong River	*651
			Upstream of U.S. Route 206	*685
			Upstream of Mansfield Drive	*714
			Upstream of Dam at Lake Lackawanna	*722
			Downstream of Lake Drive	*723
			Upstream of Spillway which is upstream of Lackawanna Drive.	*786
			Upstream of Old Stanhope Road	*609
Maps available for inspection at the Municipal Building, 10 Mansfield Drive, Byram, New Jersey.				
Send comments to Honorable Catherine M. Tomey, Mayor of Byram Township, Municipal Building, 10 Mansfield Drive, Stanhope, New Jersey 07874.				
New Jersey	Deal, Borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11
Maps available for inspection at the Municipal Building, Durant Square, Deal, New Jersey.				
Send comments to Honorable Stanley Katz, Mayor of Deal Borough, P.O. Box 56, Deal, New Jersey 07723.				
New Jersey	Long Branch, city, Monmouth County	Atlantic Ocean	Atlantic Avenue (extended)	*14
			Sea View Avenue (extended)	*14
			Avery Avenue (extended)	*13
			Lincoln Avenue (extended)	*13
		Manhassett Creek	Narragansett Avenue (extended)	*11
		Branchport Creek	Seventh Avenue (extended)	*10
			Grand Avenue (extended)	*9
Maps available for inspection at the Office of the Planning Department, City Hall Annex, 344 Broadway, Long Branch, New Jersey.				
Send comments to Honorable Philip O. Huhm, Mayor of the City of Long Branch, City Hall, 344 Broadway, Long Branch, New Jersey 07740.				
New Jersey	Manasquan, borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
Maps available for inspection at the Municipal Building, 15 Taylor Avenue, Manasquan, New Jersey.				
Send comments to Honorable William W. Donovan, Mayor of the Borough of Manasquan, 15 Taylor Avenue, Manasquan, New Jersey 08736.				
New Jersey	Mantoloking, borough, Ocean County	Atlantic Ocean	Entire shoreline within community	*13
		Barnegat Bay	Entire shoreline of Barnegat Bay within community	*7
Maps available for inspection at the Municipal Building, Downer and Bay Avenues, Mantoloking, New Jersey.				
Send comments to Honorable Donald D. Tubbs, Mayor of the Borough of Mantoloking, P.O. Box 247, Mantoloking, New Jersey 08763.				
New Jersey	Seaside Park, borough, Ocean County	Atlantic Ocean	Entire Atlantic Ocean shoreline within community	*13
		Barnegat Bay	Entire Barnegat Bay shoreline within community	*7
Maps available for inspection at the Municipal Building, Sixth and Central Avenues, Seaside Park, New Jersey.				
Send comments to Honorable Joseph J. Delaney, Mayor of the Borough of Seaside Park, Municipal Building, Sixth and Central Avenues, Seaside Park, New Jersey 8752.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	White, township, Warren County	Delaware River	Most downstream corporate limits	*229
			Shoreline at Foul Rift Road (extended)	*232
			Confluence Pophandusing Brook	*252
			Approximately 0.95 mile upstream of upstream Belvidere corporate limits (area not included).	*260
			Approximate center of Macks Island	*268
			Most upstream corporate limits	*273
		Pequest River	Downstream corporate limits	*285
			Upstream Farm Road bridge	*305
			100 feet upstream Broken Dam	*330
			Upstream first CONRAIL crossing	*363
			Upstream Buttzville Road	*375
			Upstream third CONRAIL crossing	*405
			Upstream corporate limits	*429
		Beaver Brook	Confluence with Pequest River	*300
			Upstream CONRAIL crossing	*327
			Upstream corporate limits	*352
Maps available for inspection at Route 46 and Bridgeville Road, New Jersey 07823.				
Send comments to Honorable Fred W. Fuchs, Mayor of White, R.D. 1, Box 475A, Route 46 and Bridgeville Road, Belvidere, New Jersey 07823				
New York	Mechanicville, city, Saratoga County	Anthony Kill	Confluence with Hudson River	*63
			Upstream of Frances Street	*74
			Upstream of U.S. Route 4	*87
			Upstream corporate limits	*106
		Hudson River	Downstream corporate limits	*61
			Upstream of Mechanicville bridge	*63
			Upstream corporate limits	*69
Maps available for inspection at the City Hall, 32 North Main Street, Mechanicville, New York.				
Send comments to Honorable John Fascia, Mayor of Mechanicville, City Hall, 32 North Main Street, Mechanicville, New York 12118.				
New York	Poughkeepsie, city, Dutchess County	Hudson River	Entire shoreline within community	*9
		Fall Kill Creek	Howard Street	*162
			Upstream corporate limits	*162
		Casper Kill Creek	Downstream corporate limits	*129
			Upstream corporate limits	*127
Maps available for inspection at the City Clerk's Office, Municipal Building, Poughkeepsie, New York.				
Send comments to Honorable Thomas Apostoros, Mayor of the City of Poughkeepsie, Municipal Building, Poughkeepsie, New York 12601.				
New York	Rotterdam, town Schenectady County	Mohawk River	Downstream corporate limits	*232
			Upstream of State Route 103	*251
			Upstream corporate limits	*256
		Sandsea Kill	Confluence with Mohawk River	*256
			Upstream of Interstate Route 90	*274
			Upstream corporate limits	*318
		Normans Kill	Downstream corporate limits	*276
			Upstream Giffords Church Road	*278
			Upstream corporate limits	*292
Maps available for inspection at the Town Hall, 1100 Vinewood Avenue, Rotterdam, New York.				
Send comments to Honorable John Kirvin, Supervisor of the Town of Rotterdam, Town Hall, 1100 Vinewood Avenue, Rotterdam, New York 12308.				
New York	Round Lake, village, Saratoga County	Ballston Creek	Confluence with Round Lake	*160
			Upstream of Goldfoot Road	*163
			Upstream corporate limits	*164
		Round Lake	Entire shoreline within community	*160
Maps available for inspection at the Village Hall, Burling Avenue, Round Lake, New York.				
Send comments to Honorable William Ryan, Mayor of Round Lake, Village Hall, Burling Avenue, P.O. Box 85, Round Lake, New York 12151.				
New York	Stillwater, village, Saratoga County	Schuyler Creek	Confluence with Hudson River	*83
			Upstream corporate limits	*94
		Hudson River	Downstream corporate limits	*82
			Upstream of dam	*92
			Upstream corporate limits	*94
Maps available for inspection at the Village Hall, School Street, Stillwater, New York.				
Send comments to Honorable David L. Rathbun, Mayor of the Village of Stillwater, 5 Neilson Avenue, Stillwater, New York 12170.				
Ohio	(V) Newtown, Hamilton County	Little Miami River	Within the corporate limits	*501
		Fork of McCullough Run	About 2,700 feet upstream of confluence with McCullough Run.	*502
			About 3,950 feet upstream of confluence with McCullough Run.	*508
Maps available for inspection at the Village Hall, 3536 Church Street, Newtown, Ohio.				
Send comments to Honorable John Russell, Mayor, Village of Newtown, Village Hall, 3536 Church Street, Newtown, Ohio 45244				
Ohio	(V) Plain City, Union and Madison Counties	Big Darby Creek	About 0.22 mile downstream of Conrail	*919
			Just downstream of State Route 23	*924
Maps available for inspection at the Village Hall, 213 South Chillicothe Street, Plain City, Ohio.				
Send comments to Honorable Robert Lombard, Mayor, Village of Plain City, Village Hall, 213 South Chillicothe Street, Plain City, Ohio 43064				

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Proposed Base (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Silverdale, borough, Bucks County	Pleasant Spring Tributary	Downstream corporate limits	*402
			Upstream of State Route 152/Walnut Street	*416
			Downstream of State Route 113/East Main Street	*432
			Upstream corporate limits	*441

Maps available for inspection at the Borough Building, Silverdale, Pennsylvania.
Send comments to Honorable Franklin Benner, President of the Silverdale Borough Council, 112 East Main Street, Silverdale, Pennsylvania 18962.

Virginia	Bridgewater, town, Rockingham County	North River	Downstream corporate limits	*1,171
			Downstream of State Route 42	*1,176
			Confluence of Dry River	*1,200
		Dry River	Confluence with North River	*1,200
			Upstream corporate limits	*1,206

Maps available for inspection at the Municipal Building, 112 North Main Street, Bridgewater, Virginia.
Send comments to Honorable Roland Arey, Mayor of the Town of Bridgewater, P.O. Box 72, Bridgewater, Virginia 22812.

(National Flood Insurance Act of 1968) (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued April 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12004 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Public Hearing and Reopening of Comment Period on the Proposed Endangered Status and Critical Habitats for the Ash Meadows Amargosa Pupfish and the Ash Meadows Speckled Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearing and reopening of comment period on proposed rule.

SUMMARY: Notice is given that a public hearing will be held and the comment period reopened on a proposal of Endangered status and Critical Habitats for the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace. This additional public hearing and comment period are to allow the acceptance of additional comments from local officials and the public.

DATES: The public hearing will be held at the Amargosa Community Center, Star Route 15, Amargosa, Nevada, at 7:00 p.m. on May 26, 1983. The comment period is reopened effective with the publication of this notice and closes on June 2, 1983.

ADDRESSES: The Amargosa Community Center is on Star Route 15 in Amargosa, Nye County, Nevada. Comments should be addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232 (phone 503/231–6131) or, Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (Phone 703/235–1975).

SUPPLEMENTARY INFORMATION: Emergency rules published in the **Federal Register** (47 FR 1995–1999) on May 10, 1982, listed the Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and the Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*), which occur in Ash Meadows, Nevada, as Endangered for a period lasting 240 days. That emergency rule expired on January 5, 1983. A second emergency listing and a proposal of Endangered status and Critical Habitats for these two fish species under normal listing procedures were published concurrently on January 5, 1983 (48 FR 608–614). A public hearing on this proposal was held in Las Vegas, Nevada, on February 11, 1983. The comment period closed on February 22, 1983.

A second public hearing on the proposal will be held at the Amargosa Community Center, Star Route 15, Amargosa, Nevada, at 7:00 p.m. on May 26, 1983. The Service is also reopening the comment period, effective with the publication of this notice, on the proposal. The reopened comment period will close on June 2, 1983. This hearing and reopening of the comment period are intended to allow additional comment on the proposal.

The primary author of this notice is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (phone 703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture), Wildlife.

Dated: May 2, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-12169 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 89
Friday, May 6, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1984 Wheat Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed Determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1984 crop of wheat: (a) The loan and purchase level; (b) the established (target) price; (c) the national program acreage (NPA); (d) whether a voluntary reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (e) whether an Acreage Reduction Program (ARP) should be established and, if so, the percentage of such reduction and the method to be used in establishing the acreage bases; (f) whether a set-aside program should be established and, if so, the percentage of such set-aside, (g) whether a Payment In Kind (PIK) Program should be established and, if so, the percentage of acreage reduction under the program; (h) whether to permit haying and grazing of conservation use acreage if an acreage reduction, set-aside or Payment In Kind Program is established; (i) whether advance deficiency payments should be made and, if so, what percentage; (j) whether a land diversion program should be established and, if so, the extent of such diversion and the level of payment; (k) provisions of the farmer-owned reserve (FOR) program; (l) whether to require offsetting compliance if an Acreage Reduction Program is established; and (m) other provisions. These determinations are to be made pursuant to the provisions of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act") and the Commodity Credit Corporation Charter Act.

EFFECTIVE DATE: Comments must be received on or before June 6, 1983 in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4146. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance programs to which this notice applies are: Title—Wheat Production Stabilization: Number 10.058 and Title—Commodity Loans and Purchases: Number 10.051, as found in the catalog of Federal Domestic Assistance.

Certain determinations set forth in this notice are required to be made by the Secretary for 1984 crop program purposes by August 15, 1983. In addition, it is necessary that the determinations for the 1984 crop be made in sufficient time to permit wheat producers to make adequate plans for the production of their crop. Therefore, it has been determined that the public comment period should be limited to a period of 30 days from the date of publication of this notice in the **Federal Register**. This will allow the Secretary sufficient time to properly consider the comments received before the final program determinations are made.

The following proposed program determinations with respect to the 1984 crop of wheat are to be made by the Secretary:

Proposed Determinations

a. *The Loan and Purchase Level for the 1984 Crop of Wheat.* Section 107B(a) the 1949 act provides that the Secretary shall make available to producers loans and purchases for the 1984 crop of wheat at such level, not less than $3.55 per bushel, as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat. If the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for the next marketing year by the amount the Secretary determines necessary to maintain domestic and purchases export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $3.00 per bushel. Loan and purchase levels being considered for the 1984 crop of wheat range from $3.20 per bushel to $3.55 per bushel.

Comments on the level of loans and purchase rate for the 1984 crop of wheat, along with supporting data, are requested from interested persons.

b. *The Established (Target) Price Level for the 1984 Crop of Wheat.* Section 107B(b)(1)(C) of the 1949 Act provides that the established price for wheat shall not be less than $4.45 per bushel for the 1984 crop. Any such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable cost, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

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In addition, the Department of Agriculture has proposed that Section 107B(b)(i)(c) of the 1949 Act be amended to provide that the minimum level for the established price for wheat will not be less then $4.30 per bushel for the 1984 crop of wheat rather than the current statutory minimum of $4.45 per bushel. This amendment to the 1949 Act has been requested because of the low rate of inflation for the past year. The established (target) price level under consideration for the 1984 wheat crop is the minimum statutory level—whether that level is $4.45 per bushel or a lower statutory minimum level such as $4.30 per bushel.

Comments are requested from interested persons as to the amount of the established (target) price for the 1984 crop of wheat along with supporting data.

c. *The National Program Acreage (NPA).* Section 107B(c)(1) of the 1949 Act provides that the Secretary shall proclaim a NPA for the 1984 crop of wheat not later than August 15, 1983. The NPA shall be the number of harvested acres of wheat the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1984 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1984/85 marketing year. If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the NPA by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks. The Secretary may later revise the NPA first proclaimed if the Secretary determines it[1] is necessary based upon the latest information. If an acreage reduction program is implemented for the 1984 crop of wheat, the NPA shall not be applicable to such crop.

The U.S. wheat stock objective, an amount judged to be our "fair" share of world wheat stocks, has been determined to be equal to approximately 6.2 percent of the world consumption of wheat (this represents the aproximate 10-year average of the ratio of U.S. stocks to world consumption) or approximately 1,044 million bushels for the 1983/84 marketing year.

If required, the likely NPA for the 1984 crop of wheat would be:

a. Estimated Domestic Use, 1984/85—900 mil. bu.

b. Plus Estimated Exports, 1984/85—1500 mil. bu.

c. Minus Imports——3 mil. bu.

d. Minus Stock Adjustment [1]——396 mil. bu

e. Divided by National Weighted Average Farm Program Payment Yield—34.3 bu/ac.

f. Equals 1984–Crop NPA—58.3 mil. ac.

No NPA was announced for the 1983 crop of wheat because the NPA provisions do not apply when an acreage reduction program is in effect. Comments on the NPA and the appropriate stocks level for the 1984 crop of wheat from interested persons, along with appropriate supporting data, are requested.

d. *Whether a Voluntary Reduction Percentage should be proclaimed and, if so, the Level of such Voluntary Reduction Percentage.* Section 107B(c)(3) of the 1949 Act provides that the 1984 individual farm program acreage of wheat eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of wheat planted for harvest on the farm from the 1984-crop established wheat acreage base by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1984 crop.

If an acreage reduction program is implemented for the 1984 crop of wheat, the voluntary reduction percentage shall not be applicable to such crop.

If required, the likely national recommended reduction percentage for the 1984-crop of wheat would be:

a. 1984 Established Wheat Acreage Base—92.2 mil. ac.

b. Minus 1984 Preliminary NPA—58.3 mil. ac.

c. Equals Acreage Reduction Needed from Acreage Base—33.9 mil. ac.

d. Divided by 1984 Wheat Acreage Base—92.2 mil. ac.

e. Equals 1984-Crop Recommended Reduction Percentage—37 percent.

Comments from interested persons with respect to the reduction percentage, if any, are requested.

e. *Whether an Acreage Reduction Program (ARP) should be established and, if so the Percentage of such reduction and the method of establishing Acreage Bases.* Sections 107B(e) (1) and (2) of the 1949 Act provides that the Secretary may establish an acreage reduction program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such wheat acreage reduction program not later than August 15 prior to the calendar year in which the crop is harvested. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each wheat-producing farm. Producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. In addition, a number of acres on the farm determined by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of wheat times the number of acres actually planted to wheat by (2) the number of acres authorized to be planted to wheat under a limitation established by the Secretary, shall be devoted to conservation uses in accordance with regulations issued by the Secretary.

The need for an acreage reduction program for wheat in 1984 will depend on the outcome of the 1983 crop of wheat. It is estimated that the 1983-crop plantings of wheat may be reduced by 20 to 25 percent from the previous year. Total production is projected to be 226.5 million bushels, down approximately 19 percent from the record 1982 wheat crop.

It is estimated that domestic use of wheat for 1983/84 will increase from 1982/83 (905 million bushels) to about 945 million bushels. The increase in the domestic use of wheat will be attributable to the increase in the use of wheat for feed since the wheat/feed grain ratio will likely favor wheat more than it did for the 1982-crop. Domestic food use of wheat is projected to increase by a small amount.

[1] a. Estimated 1984/85 Beginning Stocks—1440 mil. bu.

b. Minus 6.2 percent of 1983/84 World Consumption of Wheat—1044 mil. bu.

c. Equals Desired Stock Adjustment——396 mil. bu.

World wheat trade in 1982/83 is projected to decline modestly from the 1981/82 record levels of about 102 million metric tons as financial constraints and improved crops limit many countries' imports. U.S. wheat exports are projected to suffer a significant decline, not only reflecting the lower level of world trade but also increased competition from the other major wheat suppliers. The 1983/84 marketing year is not expected to see much increase in world wheat trade from this year's level. Many of the factors that inhibited growth in world wheat trade this year are expected to continue to influence 1983/84 trade. Since the competition from other exporters is likely to continue to be intense in 1983/84, U.S. wheat exports may remain at about the 1982/83 levels of 1500 million bushels. U.S. exports for 1983/84 may vary considerably depending on world wheat production, as well as the 1983-crop wheat outturn in the Soviet Union, China and India.

Given the 1983/84 outlook, ending carryover stocks of wheat may decrease by about 9 percent to just over 1.4 billion bushels. This amount is considered to be excessive.

With a program for the 1984 crop providing for a 20 percent ARP combined with a 10 percent to 30 percent PIK, the planted and harvested acreage for the 1984 crop of wheat are estimated to decrease from the acreage for the 1983 crop. With the decreased acreage and the use of trend yield estimates, production for the 1984 crop of wheat is estimated at just over 2.1 billion bushels. With this level of production and estimated beginning stocks of about 1.4 billion bushels, the total supply of wheat for 1984/85 is projected to decrease to 3.5 billion bushels from the level applicable to the 1983 crop, which is projected to be over 3.8 billion bushels. Domestic use in 1984/85 is projected to decrease slightly. This decrease will be largely due to decreased use of wheat as feed. Domestic food use is expected to increase, although only slightly.

World trade for 1984/85 is expected to remain similar to 1983/84. U.S. exports are estimated at 1500 million bushels, the same as for 1983/84 but less than the record exports in 1981/82.

Therefore, total demand for the 1984/85 marketing year is projected at 2.4 billion bushels. This would result in an ending carryover level of 1.1 billion bushels, about 23 percent lower than the previous year.

This outlook reflects the implementation of an acreage reduction program in conjunction with a PIK Program for the 1984 crop of wheat. However, later crop developments throughout the world could materially change this outlook. The only ARP option under consideration at this time is a 20 percent ARP.

Interested persons are encouraged to comment on the need for an acreage reduction program for the 1984-crop of wheat, and the appropriate percentage of any such reduction. Interested persons are also encouraged to comment on the method for establishing wheat acreage bases for the 1984 crop of wheat.

f. *Whether a Set-Aside Program should be established and, if so, What Percentage of such set-aside.* Sections 107B(e) (1) and (3) of the 1949 Act provide that the Secretary may establish a Set-Aside Program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such Wheat Set-Aside Program not later than August 15 of the year prior to the calendar year in which the crop is harvested. If a set-aside program is announced, the producers on a farm must, as a condition of eligibility for loans, purchases, and payments, set-aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest of the crop for which the set-aside is in effect. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary. If a Set-Aside Program is established, the Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms. The Secretary may make such adjustments in individual set-aside acreages as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, topography, and such other factors as the Secretary deems necessary.

Interested persons are encouraged to comment on the need for a 1984 Wheat Set-Aside program and, if so, the appropriate percentage of acreage to be reduced.

g. *Whether to Allow Haying and Grazing of Conservation Use Acreage If an Acreage Reduction Program, Set-Aside Program, or Payment In Kind Program is established.* Section 107B(e)(4) of the 1949 Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

With respect to the 1983-crop Wheat Acreage Reduction Program, producers were permitted to graze the conservation use acreage except during the six principal growing months, but were not permitted to harvest their wheat acreage for hay.

Under the Payment In Kind Program, producers who had planted acreages, which were later designated as conservation use acreage, to wheat before the program was announced on January 11, 1983 were permitted to cut such acreage for hay or to graze such acreage. Producers participating in the Payment In Kind Program who did not plant acreages to wheat before January 11, 1983, are permitted to graze the designated conservation use acreage, except during the six principal growing months.

If an Acreage Reduction, Set-Aside or Payment In Kind Program is announced for the 1984 crop of wheat, the only option under consideration would permit grazing of the conservation use acreage, except during the six principal growing months.

Interested persons are invited to comment on the provisions concerning the grazing and haying of conservation use acreage.

h. *Whether a Land Diversion Program should be established and, if so, the Extent of Such Diversion and the level of Payments:* Section 107B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of wheat, whether or not an acreage reduction or set-side program for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The amount payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary deems appropriate. In the past, land diversion payments have been made based upon an offer rate system (i.e. a specific rate per bushel multiplied by the farm program payment yield).

Interested persons are encouraged to address the need for a land diversion program either in lieu of, or in conjunction with, an acreage reduction or set-aside program and the

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appropriate terms and conditions of any such land diversion program.

i. *Advance Deficiency Payments.* Section 107C of the 1949 Act provides that if the Secretary establishes an acreage reduction or acreage set-aside program for wheat and determines that deficiency payments will likely be made for such crop, the Secretary may make available advance deficiency payments to producers who agree to participate in such program. Payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in the 1984 wheat program, except that the payments shall not exceed an amount determined by multiplying (i) the estimated farm program acreage, by (ii) the farm program yield, by (iii) 50 percent of the projected payment rate, as determined by the Secretary.

In any case in which the deficiency payment which is to be made to a producer for a crop, as finally determined by the Secretary, is less than the advance deficiency amount paid to the producer, the producer shall refund the difference. If no deficiency payments are to be made to producers, the producers who received advance payments shall refund such advance payments. any refund shall be due at the end of the marketing year.

If a producer fails to comply with the requirements under the acreage reduction or set-aside program involved after obtaining any available advance deficiency payment, the producer shall repay immediately the amount of the advance plus interest thereon as determined by the Secretary.

For the 1984 wheat program, the option under consideration is to make available to producers advance deficiency payments at 50 percent of the projected payment rate. Interested persons are requested to comment with respect to the need for, and the amount of, advance deficiency payments.

j. *Whether a Payment In Kind Program should be authorized and, if so, what percentage.* Sections 101(c), 103(g), 105B and 107B of the 1949 Act, as amended, authorize the Secretary to make land diversion payments to producers of wheat if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

Although acreage reduction and land diversion programs announced for the 1983 crop of wheat required a producer to reduce the farm acreage base by 20 percent, the supply of wheat still greatly exceeded demand thus creating an undesirable surplus. Accordingly, the Department determined that the diversion of additional acreage from the production of 1983-crop wheat was necessary and that participating producers would receive payment in kind compensation. This acreage which was diverted under the payment in kind program was in addition to that acreage which the producer agreed to take out of production in accordance with the previously announced acreage reduction and cash land diversion programs for the 1983 crops.

With respect to the 1983 payment in kind program for wheat, a producer could enter into a contract with the Commodity Credit Corporation to divert not less than 10 percent nor more than 30 percent of the wheat acreage base established for the farm. In addition, producers could submit whole base bids for a contract to divert 100 percent of the farm acreage base. The bids which were submitted were based upon the percentage of the farm's wheat yield which the producer was willing to accept as payment in kind compensation. The number of whole base bids which were accepted for the 1983 wheat crop in each county was limited so that the total wheat acreage taken out of production under the payment in kind, acreage reduction, and land diversion program would not exceed 45 percent of the combined wheat acreage bases in that county.

With respect to contracts which were entered into by producers under the payment in kind program for the diversion of between 10 and 30 percent of the wheat acreage base established for the farm, the quantity of wheat which the producer was eligible to receive as payment in kind compensation was equal to the acreage which was diverted multiplied by the farm's wheat yield multiplied by 95 percent. With regard to contracts which were entered into by producers under the program involving whole base bids, the quantity wheat received as payment in kind compensation was determined in the same manner as the 10–30 percent contracts, except that the bid percentage was substituted for the 95 percent factor.

If the producer elected to participate in the payment in kind program for wheat and the producer had an outstanding quantity of wheat pledged as collateral for a farmer-owned reserve loan which was obtained before January 12, 1983, or for a regular price support loan, the producer was required to redeem a quantity of such loan collateral equal to that quantity of wheat which the producer was entitled to receive as payment in kind. The producer would then sell that quantity of wheat which has been redeemed to CCC for payment in kind purposes. In the case of farmer-owned reserve loans, the price at which CCC purchased the wheat from the producer was reduced by the amount of any unearned advance storage payments. Further, in the case of farm stored farmer-owned reserve loans, the purchase price included additional compensation to take account of long-term, storage-related commitments the producers may have undertaken. The quantity of wheat purchased by CCC in this manner would be made available to the producer as payment in kind. To the extent that a producer has no price support loan collateral which could be made available to CCC for payment in kind purposes, the producer would receive payment in kind compensation from warehouses designated by CCC.

The Department is considering implementing a payment in kind program for the 1984 crop of wheat which would be similar to the one that which was established for the 1983 crop. Any such program would be in addition to a 20 percent ARP. The percentages of the farm's production history which would be made available as payment in kind under such a program would range from 50 percent to 90 percent.

Interested parties are invited to comment on the need for a PIK Program in 1984 as well as the various program provisions. Comments should include supporting data.

k. *Provisions of the Farmer-Owned Reserve (FOR).* Section 110 of the 1949 Act provides that the Secretary shall formulate and administer a program under which producers of wheat will be able to store such wheat when it is in abundant supply and extend the time for its orderly marketing. The Secretary shall provide for original or extended price support loans at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the current level of price support provided for under the wheat program established in accordance with Section 107B of the 1949 Act. The program may provide for: (1) Repayment of such loans in not less than three years nor more than five years; (2) payments to producers for storage in such amounts and under such conditions as are determined to be appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate of interest charged CCC by the United States Treasury, except that the Secretary may waive or adjust such interest as the Secretary deems appropriate; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges if such loans are repaid by producers before the market price for wheat has reached the trigger release level; and (5) conditions designed to induce producers to redeem and market the wheat securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for the Commodity has attained a specified level (i.e., the "trigger release level"), as determined by the Secretary. The Secretary shall announce the terms and conditions of the producer storage program as far in adavance of making loans as practicable. In such announcements, the Secretary shall specify the quantity of wheat to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of wheat. The Secretary may place an upper limit on the amount of wheat placed in the reserve but such upper limit may not be less than seven hundred million bushels of wheat.

The following options are under consideration with respect to the FOR for the 1984 crop of wheat: (a) Providing for an extended price support loan with a loan rate which is equal to the loan rate which is applicable to regular price support loans for the 1984 crop of wheat; (b) providing for a storage payment rate of 26.5 cents per bushel; (c) charging producers who have pledged wheat as collateral for a loan under the FOR interest for the first year at the prevailing rate the United States Treasury charges CCC for its borrowings and waiving interest for the second and third years; (d) providing for a trigger release level of $4.65 per bushel or a trigger release level at the same level as the target price level for wheat; (e) providing that a producer may not place wheat into the FOR until after maturity of the nine-month regular price support loan; and (f) placing no upper limit on the quantity of wheat entering the reserve program.

Interested persons are encouraged to comment on these or other options dealing with the provisions of the farmer-owned wheat reserve program for the 1984 crop of wheat.

l. Whether to require Offsetting Compliance if an Acreage Reduction Program is established. Section 107B(g) of the 1949 Act provides that the Secretary may issue such regulations as the Secretary determines to be necessary to carry out the wheat program. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, operators and owners of farms would have to ensure that all of the farms in which they had an interest were either in compliance with the program requirements or the acreages of wheat planted to harvest on each of such farms did not exceed the wheat acreage bases which were established for such farms.

Offsetting compliance was not in effect for the 1983 crop. Interested persons are encouraged to comment on the need for offsetting compliance for the 1984-crop of wheat if an acreage reduction program is established.

m. *Other Related Provisions.* A number of other determinations must be made in carrying out the wheat loan and purchase programs such as: (a) commodity eligibility; (b) premiums and discounts for grades, classes, and other qualities; (c) establishment of county loan and purchase rates; and (d) such other provisions as may be necessary to carry out the programs.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

Signed at Washington, D.C. on May 3, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-12167 Filed 5-5-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Lewis and Clark National Forest Grazing Advisory Board; Meeting

The Lewis and Clark National Forest Grazing Advisory Board will meet in Great Falls, Montana, at 6:00 p.m. on Wednesday, June 1, 1983, at the Black Angus (basement). The meeting will start with a no-host dinner followed by a guest speaker and business meeting.

The purpose of the meeting is to review the Lewis and Clark National Forest's range management program for fiscal year 1983 and proposals for 1984. Guest speaker will be Jim Story, Research Associate in Entomology at the Western Agricultural Research center at Corvallis, Montana. Mr. Story will present an update of the state of the art in biological weed control in Montana.

An open discussion will also be held on topics of interest to the Advisory Board, and followup discussion in topics raised in the December 16 meeting.

The meeting will be open to the public. Persons who wish to attend should notify George P. Raths, Chairman of the Board, P.O. Box 478, Roundup, Montana 59072, Phone 323–1084, or Wayne Phillips, Acting Secretary, Lewis and Clark National Forest, Box 871, Great Falls, Montana 59403, Phone 727–0901. Written statements may be filed with the Board before or after the meeting.

Dated: April 28, 1983.

John D. Gorman,

Forest Supervisor, Lewis and Clark National Forest.

[FR Doc. 83-12165 Filed 5-5-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Custer County Roadside Erosion Control CAT RC&D Measure; Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Custer County Roadside Erosion Control Critical Area Treatment (CAT) RC&D Measure, Custer County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, State Office, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone 405–624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns stabilizing eroding areas along county roadsides. The planned works of improvement

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include construction of a concrete channel liner, grassed waterway and concrete lined outlet along the roadway to protect the borrow ditch from erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Billy R. Littlefield,

Assistant State Conservationist.

April 28, 1983.

[FR Doc. 83-12159 Filed 5-5-83; 8:45 am]

BILLING CODE 3410-16-M

Pemberton Historical Park; Public Water Based Recreation RC&D Measure, Maryland

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pemberton Hisorical Park Public Water Based Recreation RC&D Measure, Wicomico County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301-344-4180.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and reveiw of an environmental impact statement are not needed for this project.

The measure concerns a plan to develop approximately one-half of a 61 acre site for recreational and educational purposes. The planned works of improvement include establishment of an access road into the park and installation of a nature trail, contact building, picnic area, pond, ford, landing, parking lot, and landscaping.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Dated: April 28, 1983.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Gerald R. Calhoun,

State Conservationist.

[FR Doc. 83-12055 Filed 5-5-83; 8:45 a.m.]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 p.m. to 5:00 p.m. Tuesday, May 10, 1983, to take place in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative headquarters, 807 Maine Avenue, S.W., Washington, D.C. 20024.

Items to be considered are as follows: election of the ATBCB Chairperson and Vice-Chairperson: ATBCB Organization and Procedures and ATBCB Delegatons and Authorities; status report on ATBCB retreat; safe transport of disabled air travelers; and discussion on Telecommunication Devices for the Deaf (TDDs) in transit facilities.

DATE: May 10, 1983-1:00 p.m.-5:00 p.m.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245-1591 (voice or TDD).

SUPPLEMENTARY INFORMATION: Committee meetings of the ATBCB will be held on Monday, May 9, and Tuesday morning, May 10, in the Hubert Humphrey Building. Contact Larry Allison, Director of Public Information (202) 245-1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,

Chairperson.

[FR Doc. 83-12027 Filed 5-5-83; 8:45 am]

BILLING CODE 4000-07-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.) Week Ended April 29, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a Show-Cause order, a tentative order, or in appropriate cases a final order without futher proceedings.

Date filed	Docket no.	Description
April 27, 1983	41441	Denham Aircraft Services Corp. II, c/o Stephen A. Alterman, 1050 Seventeenth Street, NW., Suite 1201, Washington, D.C. 20036. Application of Denham Aircraft Services Corp. II pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to engage in the overseas and foreign charter air transportation of: a. Persons, property and mail between any point in any state or the District of Columbia or any territory or possession of the United States; and (i) Points in Canada; (ii) Points in Mexico; (iii) Points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place in the Gulf of Mexico or the Caribbean Sea; (iv) Points in Central and South America; (v) Points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; (vi) Points in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India. b. Persons and property pursuant to contracts with the Department of Defense. The aircraft to be used in the Denham charter operation will be DC 8-62s. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 25, 1983.
Apr. 27, 1983	41442	Jet Way, Inc., c/o Michael J. Mills, Fraser, Heckett & Durkin, 505 North Woodward Avenue, Suite 3000, Bloomfield Hills, Michigan 48013. Application of Jet Way, Inc., pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign air transportation of persons, property and mail as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island, and points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 25, 1983.
Apr. 28, 1983	41321	British American Air, Inc., c/o Jerry W. Ellinghouse, Potter, Ellinghouse & Miner, 5900 Sepulveda Boulevard, Suite 550, Van Nuys, California 91411. Amended Application of British American Air, Inc. pursuant to Section 401, (d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled foreign air transportation of passengers, property and mail, as follows: Between points with the United States of America including, but not limited to, the following co-terminal points: Washington, D.C., Baltimore, Md., Philadephia, Pa., Reno, Nevada, Las Vegas, Nevada, Atlantic City, New Jersey, Burbank, California, Hilo, Hawaii, Boston, Ma., Los Angeles, Ca., Long Beach, Ca., San Francisco, Ca., Ontario, Ca., and points in the following countries: United Kingdom, including Hong Kong; The Benelux countries: The Netherlands, including Luxembourg; Belgium, including Brussels. Answers may be filed by May 26, 1983.
Apr. 29, 1983	41233	Simmons Airlines, Inc., c/o Michael R. Fournier, 11 East Goethe Street, Chicago, Illinois 60610. Second Amendment to the Application of Simmons Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations. (Additional Information) Answers may be filed by May 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12216 Filed 5-5-83; 8:45 a.m.]

BILLING CODE 6320-01-M

CIVIL AERONAUTICS BOARD

[Docket No. 41077]

American International Airways, Inc.; Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on May 24, 1983, at 10:00 a.m. (local time) in Room 540, 2120 L Street, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., May 3, 1983.

John N. Vittone,

Administrative Law Judge.

[FR Doc. 83-12214 Filed 5-5-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41244]

First American Bank of Virginia; Enforcement Proceeding; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on July 12, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1925 Connecticut Ave., N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., April 29, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-12215 Filed 5-5-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41422]

Tower Air Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on June 7, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., N.W., Washington, D.C. before the undersigned chief Administrative Law Judge.

Dated at Washington, D.C. April 29, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-12216 Filed 5-5-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Delaware Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m., on June 2, 1983, at the J. Caleb Boggs Federal Office Building, Ninth and King Street, in Room 3207, Wilmington, Delaware 19801. The purpose of this meeting is to receive reports and instruct subcommittees on program planning, and discuss plans for a statewide civil rights conference.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Louise T. Conner, 1214 Faun Road, Graylyn Crest, Wilmington, Delaware 19803, (302) 738-2923 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

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Dated at Washington, D.C., May 2, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-12132 Filed 5-5-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 12-83]

Proposed Foreign-Trade Zone—Raleigh/Durham, North Carolina; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Triangle J Council of Governments, a six-county inter-governmental association and a North Carolina public corporation, requesting authority to establish a general-purpose foreign-trade zone at sites in Durham County, Granville County and Raleigh, North Carolina, adjacent to the Durham Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 29, 1983. The applicant is authorized to make this proposal under Chapter 55C of the General Statutes of North Carolina.

The proposed zone covers 387 acres at three sites in the Raleigh/Durham metropolitan area. All sites would be operated by International Ventures Limited, a subsidiary of Davidson and Jones Development Company. The primary site (Site 1) involves the Imperial Center, a planned industrial park of 250 acres at New Page Road and I–40, adjoining the Research Triangle Park in Durham County. This facility is 4 miles from Raleigh/Durham Airport.

Site 2 involves the Northside Distribution Center Industrial Park, covering 27 acres at Front Street and Industrial Drive, near U.S. 1/U.S. 64, in Raleigh. Existing warehouse facilities are available at this site for initial zone operations. Site 3 is at the Woodland Industrial Park, covering 110 acres at Highway 56 and I–85, Granville County.

The application contains evidence of the need for zone procedures in the Raleigh/Durham area. A number of firms have expressed an interest in using the proposed zone for warehousing, packaging and assembly of power tools, industrial supplies, furniture, electronic and telecommunication products, musical instruments, pharmaceuticals, and copper frames. No approvals are being requested for manufacturing at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Charles W. Winwood, Director (Inspection and Control), U.S. Customs Service, Southeast Region, 55 S.E. 5th Street, Miami, FL 33131; and Colonel Robert K. Hughes, District Engineer, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, N.C. 28402.

As part of its investigation, the examiners committee will hold a public hearing on June 2, 1983, beginning at 8:45 a.m., in the Conference Room of the Raleigh/Durham Airport Authority Building, adjacent to the terminal at the Raleigh/Durham Airport, Morrisville, North Carolina.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by May 27. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 2, 1983.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Raleigh/Durham Airport, Rt. 1, Box 508, Morrisville, NC 27560

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsyvania, N.W., Washington, D.C. 20230.

Dated: May 2, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-12189 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Sugar Content of Certain Articles From Australia; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On March 17, 1983, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia. The review covered the period January 1, 1982 through December 31, 1982.

Interested parties were invited to comment on the preliminary results. We received no comments. Based upon our analysis, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 11308) the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541, March 24, 1923). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: jams, canned fruits, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian fruit juice. This list of "other approved products" currently incudes: Alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionary, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

The review covers the period January 1, 1982 through December 31, 1982 and is limited to the program of rebate payments made through the Export Sugar Rebate System.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties of Aus. $63.98 per metric ton of sugar content for approved fruit products and Aus. $74.15 for other approved products on shipments exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before September 9, 1982. On September 10, 1982, the International Trade Commission ("the ITC") notified the Department that the Australian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties at the prevailing deposit rates at the time of entry on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982, and on or before the ITC's notification of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, of Aus. $63.98 per metric ton of sugar content on approved fruit products and Aus. $74.15 on other approved products on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department is now beginning the next administrative review of the order. The suspension of liquidation previously ordered will continue for all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: April 29, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-12192 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany; Final Determinations of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determinations of sales at less than fair value.

SUMMARY:

We have determined that certain stainless steel and strip products from the Federal Republic of Germany (FRG) are being sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Wilson or David Layton, Office of Investigations, Import Administration, United States Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230 (202–377–5288) or (202–377–0160).

SUPPLEMENTARY INFORMATION:

Case History

On April 26, 1982, we received a petition filed by counsel on behalf of eleven United States specialty steel producers and on behalf of the United Steel Workers of America. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports from the FRG of certain stainless steel sheet and strip products are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined it contained sufficient grounds to inititate antidumping investigations. We notified the ITC of our action and initiated the investigations on May 17, 1982 (47 FR 22132). On June 10, 1982, the ITC found that there is a reasonable indication that imports of stainless steel sheet and strip products are materially injuring, or are threatening to materially injure, a United States industry.

We determined these cases to be "extraordinarily complicated", as defined in section 733(c) of the Act. Therefore, we extended the period for making our preliminary determinations by 50 days until November 22, 1982 (47 FR 41800).

Questionnaires were presented to Krupp and Thyssen on June 3, 1982. Their initial responses were received on August 9 and 13, 1982. VDM requested a questionnaire on June 25, 1982, and submitted its response on August 13, 1982. Our review of the responses revealed numerous deficiencies, and we requested additional information and non-confidential summaries which were submitted in part on various dates from October 4 through November 18, 1982.

Some deficiencies were not corrected for us to use the responses in our preliminary determinations. Therefore, we based our preliminary determinations of November 22, 1983 on the best information available, which was contained in the petition.

On December 2, 1982, Krupp commenced an action in the Court of International Trade to enjoin the Department from publishing its preliminary determinations. The Court issued an order temporarily suspending publication of this notice. The Court dismissed Krupp's action on December 13, 1982, and the notice was published in the **Federal Register** on December 17, 1982.

Our notice of preliminary determinations provided interested parties an opportunity to submit views orally and in writing. We did not hold a public hearing, because the only interested party requesting a hearing later withdrew its request.

On February 3, 1983, we published a notice extending the period for making our final determinations by 60 days until May 2, 1983, at the request of exporters who accounted for a significant proportion of exports of this merchandise, in accordance with section 735(a)(2) of the Act (48 FR 4864).

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On January 17, 18, and 21, 1983, we verified the response of VDM. On January 19 and 20, 1983, we verified the response of Krupp. On January 24 through 26, 1983, we verified the response of Thyssen. Our verification revealed further deficiencies in the responses of all three companies, and we requested clarifying information from VDM and Krupp. We also requested additional and corrected information from Thyssen. We received the information requested from VDM on February 1, 1983, from Krupp on February 25, 1983, and from Thyssen on February 28, 1983.

We verified Thyssen's exporter's sales price portion of the response on February 14 and 15, 1983, at Thyssen Specialty Steel, Inc., in Chicago. We verified Krupp's exporter's sales price portion of the response on February 16 and 17, 1983, at Krupp Specialty Steel, Inc., in Chicago. VDM does not have exporter's sales price sales. We verified a portion of its response on February 23, 1983, at VDM Technologies Corporation in Rye, New York.

In addition we again verified from March 28 through 31, 1983, in the FRG, the material resubmitted by Thyssen in response to our request.

On April 6 and 7, 1983, we requested additional information from Thyssen, which we received before the April 13 deadline. We verified this information on April 14, 1983, at Thyssen Specialty Steel, Inc., in Chicago.

Scope of Investigations

The certain stainless steel sheet and strip products covered by these investigations are:

- Cold-rolled stainless steel sheet.
- Cold-rolled stainless steel strip.
- Hot-rolled stainless steel sheet.
- Hot-rolled stainless steel strip.

For a further description of these products see the appendix appearing with this notice.

Since Krupp, Thyssen and VDM manufacture and export virtually all the certain stainless steel sheet and strip products exported from the FRG to the United States, we limited our investigations to them.

These investigations cover the period from July 1 to December 31, 1981, for purchase price sales and from October 1, 1981 to March 31, 1982, for exporter's sales price transactions.

None of the manufacturers have had sales of hot-rolled stainless steel sheet and strip during the period of investigation. In absence of assurances that they will not sell hot-rolled stainless steel sheet and strip, we conclude that there is a likelihood of sales at less than fair value. Therefore, we are applying the same weighted-average margin for hot-rolled stainless steel sheet as we did for cold-rolled stainless steel sheet and the same weighted-average margin for hot-rolled stainless steel strip as we did for cold rolled stainless steel strip.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared United States price with the foreign market value.

United States Price

For Thyssen and Krupp, we used purchase price to represent United States price for sales made to unrelated purchasers prior to importation into the United States, and exporter's sales price for sales made to unrelated purchasers after importation into the United States in accordance with section 772 of the Act. In the case of VDM, we used purchase price to represent United States price, because the merchandise was sold to unrelated purchasers prior to importation into the United States.

We calculated the purchase price based on the f.o.b., c. & f., c.i.f., and c.i.f., delivered, duty paid, packed price to unrelated purchasers. Where appropriate, we made deductions for foreign inland freight, foreign inland insurance, ocean freight and marine insurance, United States duty, customs brokerage, United States inland freight, and United States inland insurance.

Where we used exporter's sales price, we deducted, where appropriate, credit, warranty, quality control inspection and works certificate expenses, cutting costs, commissions, and other selling expenses incurred in the United States. We also deducted, where appropriate, the value of a cutting process incurred in the United States.

We did not deduct an amount erroneously reported by Krupp as commissions.

Regarding sales by Thyssen to an unrelated firm in Switzerland, we have concluded from the information submitted by Thyssen that it knew or should have known that all or part of the merchandise was destined for the United States at the time of purchase by the Swiss firm. Therefore, we are calculating the United States price of these sales based on the purchase price of the Swiss firm.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market sales. For purposes of determining similar merchandise under section 771(16) of the Act, we made comparisons based on dimensional categories selected by a Commerce Department industry expert.

The home market prices for all three manufacturers were based on delivered, packed prices to unrelated purchasers. From these prices we deducted, where appropriate, inland freight, inland insurance, discounts and rebates. We made adjustments, where appropriate, for credit, warranty, quality control inspection and works certificate expenses, cutting costs, and costs of materials, labor, and directly related factory overhead associated with differences in the merchandise.

Where we used exporter's sales price, we treated credit, warranty, quality control inspection, and works certificate expenses, and cutting costs as deductions, where appropriate, and also deducted indirect selling expenses to offset United States selling expenses.

Krupp: Krupp made a claim for an adjustment for physical differences in the merchandise related to extra specification costs. This adjustment relates to extra specifications—e.g. higher finish cost and greater tensile strength cost—required by purchasers in the home market for the same grades of steel. We did not allow the following portions of this claim: conventional casting versus continous casting cost, visual inspection costs, or technical services element costs, because they are not directly related to differences in the physical characteristics of the merchandise as required by § 353.16 of the Commerce Regulations.

We allowed the remainder of this claimed adjustment for the period through October 1, 1981, the effective date of new pricing regulations of the European Economic Communities which prevented Krupp from charging for specification differences on the same grades of steel.

We did not allow as a circumstance of sale adjustment an expense for technical services, because Krupp did not demonstrate that this claim was directly related to the sales of the merchandise covered by these investigations as required by § 353.15 of the Commerce Regulations.

Thyssen: We allowed a claim for after-sale warehousing expenses, because Thyssen demonstrated that these expenses were incurred after the sale by specific contractual agreement. We did not allow a claim for warehousing costs incurred in sales from inventory, because we do not consider these costs directly related to the sales under consideration as required by § 353.15 of the Commerce Regulations.

For the same reason as stated for Krupp, we did not allow as a circumstance of sale adjustment Thyssen's claim for an expense for technical services.

Regarding the sales by Thyssen through a Swiss firm, we calculated the foreign market value based on Thyssen's home market price in the FRG of similar merchandise.

VDM: We did not allow as circumstances of sale adjustments claims for technical and laboratory services, credit costs for cash discounts, and selling expenses, because VDM did not demonstrate that these claims were directly related to the sales of the merchandise covered by these investigations as required by § 353.15 of the Commerce Regulations.

Verification

In accordance with section 776(a) of the Act, we verified all of the information used in making these determinations. We were granted access to the books and records of Thyssen, Krupp, VDM, Thyssen Specialty Steel, Inc., Krupp Specialty Steel, Inc., and VDM Technologies, Inc. We used standard verification procedures, including examination of accounting records, financial statements, and selected documents containing relevant information.

Result of Investigations

We made fair value comparisons on all the reported cold-rolled stainless steel sheet and strip sold in the United States by the three German companies during the investigative period. For cold-rolled stainless steel sheet, margins were found on 73 percent of metric tons sold. The margins ranged from .05 percent to 106.37 percent. The overall weighted-average margin on these sales was 7.4 percent. For cold-rolled stainless steel strip, margins were found on 29 percent of metric tons sold. The margins ranged from .07 percent to 243.72 percent. The overall weighted-average margin on these sales was 2.98 percent.

Final Determinations

Based on our investigations and in accordance with section 735(a) of the Act, we have reached final determinations that certain stainless steel sheet and strip products from the FRG are being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of certain stainless steel sheet and strip products from the FRG. The United States Customs Service will continue to require the posting of a cash deposit, bond, or other security in amounts of the following overall weighted-average margins for certain stainless steel sheet and strip. The bond or cash deposit requirements established in our preliminary determinations of December 17, 1982, are no longer in effect.

	Weighted-average margins
Cold-rolled stainless steel sheet:	
Krupp	7.76
Thyssen	6.47
VDM	7.40
All Other Manufacturers/Producers/Exporters	7.40
Cold-rolled stainless steel strip:	
Krupp	3.03
Thyssen	1.49
VDM	4.72
All Other Manufacturers/Producers/Exporters	2.98
Hot-rolled stainless steel sheet:	
Krupp	7.76
Thyssen	6.47
VDM	7.40
All Other Manufacturers/Producers/Exporters	7.40
Hot-rolled stainless steel strip:	
Krupp	3.03
Thyssen	1.49
VDM	4.72
All Other Manufacturers/Producers/Exporters	2.98

ITC Notification

We are notifying the ITC and making available to it all non-privileged and non-confidential information relating to these determinations. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on certain stainless steel sheet and strip products from the FRG entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Import Administration.

May 2, 1983.

Appendix—Product Description: Certain Stainless Steel Sheet and Strip Products

For the purposes of these investigations, the term "certain stainless steel sheet and strip products" covers hot- or cold-rolled stainless steel sheet or strip, excluding hot- or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 on the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inces in width. Hot-rolled stainless strip, including razor blade strip, not over 0.01 inch in thickness is not included. Cold-rolled stainless steel sheet covers cold-rolled stainless steel products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless strip is a flat-rolled stainless steel strip product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in width. Cold-rolled stainless steel strips, including razor blade strip, not over 0.01 inch in thickness is not included in these investigations.

[FR Doc. 83-12135 Filed 5-5-83; 8:45 am]
BILLING CODE 3510-25-M

[A-427-070]

Antidumping; Kraft Condenser Paper From France; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping

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finding and tentative determination to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on kraft condenser paper from France. The review covers the one known exporter of the merchandise to the United States, Papeteries Bollore, S.A., and the period September 1, 1981 through August 31, 1982. The review indicates the existence of *de minimis* margins.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of the sales during the period of review The Department has also tentatively determined to revoke the finding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3003/5496.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 6580) the final results of its last administrative review of the antidumping finding on kraft condenser paper from France (44 FR 54696, September 21, 1979) and announced its intent to conduct the next administrative review by the end of September 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of kraft condenser paper meaning capacitor tissue or condenser paper containing 80 percent or more by weight chemical sulphate or soda wood pulp based on total fiber content. This merchandise is currently classifiable under items 252.4000, 252.4200, and 256.3080 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French kraft condenser paper to the United States, Papeteries Bollore, S.A., and the period September 1, 1981 through August 31, 1982.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as appropriate, as defined in section 772 of the Tariff Act. Purchase price and exporter's sales price were based on the delivered, duty-paid, packed price to the first unrelated purchaser, with deductions, where applicable, for ocean freight, insurance, foreign and U.S. inland freight, customs duties, and clearance charges. In addition, in exporter's sales price situations we deducted U.S. selling expenses in accordance with § 353.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market prices were based on the packed, delivered prices to unrelated purchasers with adjustments, where applicable, for foreign inland freight, differences in credit costs, and directly related selling expenses, in accordance with § 353.15 of the Commerce Regulations. We also made adjustments, where applicable, for differences in packing costs and differences in physical characteristics, in accordance with § 353.16 of the Commerce Regulations. Further, when we used exporter's sales price as a basis of comparison, we made an adjustment for indirect selling expenses up to the amount of the actual selling expenses incurred in the U.S. market, in accordance with § 353.15(c) of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a 0.06% margin exists for Papeteries Bollore, S.A., for the period September 1, 1981 through August 31, 1982.

The Department has concluded that, for the period September 1, 1980 through August 31, 1982, Papeteries Bollore, S.A. had *de minimis* margins.

As provided for in §353.54(e) of the Commerce Regulations, Papeteries Bollore, S.A. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop which indicate that kraft condenser paper manufactured and/or exported to the United States by Papeteries Bollore, S.A. is being sold at less than fair value.

Therefore, we tentatively determine to revoke the antidumping finding on kraft condenser paper from France. If this revocation is made final it will apply to all unliquidated entries of kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase or export dates, as applicable, during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, tentative determination to revoke, and notice are in accordance with section 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

April 28, 1983.

[FR Doc. 83-12230 Filed 5-5-83; 8:45]

BILLING CODE 3510-25-M

[A-583-081]

Antidumping; Polyvinyl Chloride Sheet and Film From Taiwan; Final Results of Administrative Review and Revocation in Part of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review and revocation in part of antidumping finding.

SUMMARY: On November 10, 1982, the Department of Commerce published the preliminary results of its administrative review, intent to revoke in part, and tentative determination to revoke in part the antidumping finding on polyvinyl chloride sheet and film from Taiwan. The review covers the 47 known exporters and one third-country reseller of this merchandise to the United States currently covered by the finding and the period June 1, 1980 through either May 31, 1981, or June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received comments from two of the exporters. After analysis of the comments, we have made changes in the list of companies subject to revocation or tentative determination to revoke.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: 202–377–3601.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1978, the Treasury Department published in the **Federal Register** an antidumping finding with respect to polyvinyl chloride sheet and film from Taiwan (T.D. 78–219, 43 FR 28457). On November 10, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50937) the preliminary results of its last administrative review, intent to revoke in part, and tentative determination to revoke in part. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of unsupported, flexible, calendered polyvinyl chloride ("PVC") sheet, film, and strips, over 6 inches in width and over 18 inches in length, and at least 0.002 inch but not over 0.020 inch in thickness, currently classifiable under item numbers 771.4312 and 774.5590 of the Tariff Schedules of the United States Annotated.

The review covers the 47 known exporters and one third-country (Hong Kong) reseller to the United States of PVC sheet and film from Taiwan currently covered by the finding and the period June 1, 1980 through either May 31, 1981, or June 30, 1981.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. We received written comments from two of the firms, Nan Ya Plastics Corporation ("Nan Ya") and Cathay Plastic Industry Co., Ltd. ("Cathay").

Comment 1: Nan Ya requested that certain Taiwanese trading companies, which to the best of its knowledge have exported only Nan Ya manufactured materials and have never been found to have sold at less than fair value, should be listed in the final results as having no margins and as firms which, like Nan Ya, will not be subject to future section 751 reviews for sales of merchandise manufactured by Nan Ya.

Department's Position: Twenty-one firms listed below have had no sales at less than fair value for at least a two-year period and have shown through direct correspondence with the Department that they have exported only Nan Ya manufactured materials. As we indicated in our preliminary results, this partial revocation applies to merchandise produced and sold by Nan Ya directly to the United States or indirectly through a trading company. We therefore are revoking the finding with regard to these twenty-one firms, together with Nan Ya, for merchandise manufactured by Nan Ya.

In addition to the twenty-one firms, Nan Ya listed six firms whom it believed qualified for revocation. These six firms have not responded to one or more of our questionnaires during the past two years and have, therefore, been assigned a best information assessment rate. These firms have now informed us by letter that in the past they only shipped merchandise manufactured by Nan Ya, they only exported to the United States, and that they did not in fact ship during the periods for which we used best evidence. We will defer our decision on revocation for these six firms until we verify the status of these firms vis-a-vis Nan Ya. These six firms are:

Bueno Manufacturing Co.
Chien YW Enterprises Corp.
Jamecle Corp.
Taiwan Upholstery Furniture Export Supplies Ltd.
Tarner Enterprises Co.
Wen Fung Industries Co., Ltd.

Comment 2: Nan Ya informed us that one firm, Jump International Industries Corp., which was listed in our preliminary results as only shipping merchandise not covered by the finding, does ship covered merchandise, although only merchandise manufactured by Nan Ya. In addition, it stated that Tarner Enterprises Co., listed in our preliminary results as having gone out of business, is not out of business.

Department's Position: For purposes of our final results we are including both firms. We are revoking the finding with regard to Jump International Industries Corp. along with Nan Ya (see Comment 1).

Comment 3: Cathay requested that two trading companies who have exported only Cathay manufactured materials and who, in Cathay's opinion, have never been found to have sold at less than fair value should be covered by the tentative determination to revoke with regard to Cathay.

Department's Position: These firms have not responded to one or more of our questionnaires during the past two years and have, therefore, been assigned a best information assessment rate. Cathay argued that these firms did not ship during the periods for which we used best information. We will defer our decision on tentative revocations for these two firms until we verify their status vis-a-vis Cathay. These two firms are:

Formosa Shoe Industry
Lot Heng (PVC Co.), Ltd.

In our preliminary results we indicated that merchandise exported by Progress Plastics Co., Ltd. was not subject to the finding. We have now independently determined that, although the firm had no shipments for the period of this review, it did in the past export merchandise which is subject to the finding. We will, therefore, include this firm in our review using the best information available, which is the most recent rate for the firm. We have further determined that merchandise exported by Fuji Industries Co. (Taiwan), Ltd. and Grand Asia Plastic Industry, Inc. is actually polyethylene not subject to the finding. We, therefore, will not cover these two firms in this review or future section 751 reviews, unless they begin shipping the covered merchandise.

Final Results of Review and Revocation in Part

As a result of analysis of the comments received and other analysis, we determine that the following margins exist:

Exporter	Time period	Margin (percent)
Apex International Corp.	6/1/80–6/30/81	0
Asiam International Inc.	6/1/80–5/31/81	[1]11.37
BL & GY International Co., Ltd.	6/1/80–6/30/81	0
Brave Dragon Industries Ltd.	6/1/80–5/31/81	[1]5.9
Bueno Manufacturing Co.	6/1/80–6/30/81	[2]
Cathay Plastic Industry Co., Ltd.	6/1/80–6/30/81	0
Cheng Heung Corp.	6/1/80–6/30/81	[1]0
Chia Shiu Enterprises Corp.	6/1/80–6/30/81	0
Chien YW Enterprises Corp.	6/1/80–6/30/81	0
Collins Co., Ltd	6/1/80–5/31/81	[1]5.9
Diamond Shamrock Trading Corp.	6/1/80–6/31/81	[1]0
Digest International Develop. Corp.	6/1/80–6/30/81	0

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Exporter	Time period	Margin (percent)
Dirkson Inc	6/1/80-5/30/81	0
Easin Inc	6/1/80-5/30/81	0
Essex Sporting Goods	6/1/80-5/31/81	[1]5.9
Everlasting Manufacturing Inc	6/1/80-5/30/81	0
Fashion Plastics Fabr. Co., Ltd	6/1/80-5/31/81	[1]5.9
Formosa Shoe Industry	6/1/80-5/31/81	0
Gela & Co	6/1/80-5/30/81	[1]0
G. Gaily International Corp	6/1/80-5/30/81	[1]0
Heyward & Co., Ltd	6/1/80-5/30/81	[1]0
Holdcheer Corp. Ltd	6/1/80-5/30/81	0
Huihsin Trading Co., Ltd	6/1/80-5/30/81	0
Jamecle Corp	6/1/80-5/31/81	[1]11.37
Jiffy Trading Co	6/1/80-5/31/81	[1]0
Jump International Corp	6/1/80-5/30/81	[1]0
K. E. & Kingstone Co., Ltd	6/1/80-6/30/81	0
Key Song International Co., Ltd	6/1/80-5/31/81	11.37
Le Yang, Inc	6/1/80-5/31/81	0
Long Joy Enterprises Co., Ltd	6/1/80-5/31/81	5.9
Mine Chung Knitting Co., Ltd	6/1/80-6/30/81	0
Nan Lung Plastics Co., Ltd	6/1/80-5/31/81	11.37
Nan Ya Plastics Corp	6/1/80-6/30/81	0
Nanping Corp	6/1/80-6/30/81	0
Odin Industrial Co., Ltd	6/1/80-5/31/81	[1]11.37
Paulko enterprises	6/1/80-6/30/81	[1]0
Progress Plastics Co., Ltd	6/1/80-5/31/81	[1]11.37
San Ching Plastics	6/1/80-5/31/81	11.37
San Jing Enterprises Corp	6/1/80-5/31/81	5.9
Sequence Co., Ltd	6/1/80-5/31/81	[1]0
Taiwan Upholstery Furniture Export Supplies Ltd	6/1/80-5/31/81	[1]11.37
Tarner Enterprises Co	6/1/80-6/30/81	[1]11.37
Team Worldwide Corp	6/1/80-6/30/81	[1]0
Union Industries Ltd	6/1/80-5/31/81	11.37
Wen Fung Industries Co., Ltd	6/1/80-5/31/81	[1]5.9
World Fashions Corp	6/1/80-6/30/81	0
Yung Chieh Enterprise Co., Ltd	6/1/80-5/31/81	[1]11.37
THIRD-COUNTRY RESELLER/ COUNTRY		
Lot Heng (PVC Co.), Ltd./ Hong Kong	6/1/80-5/31/81	[1]11.37

[1] No shipments during the period.

The Department has determined that the following seven firms do not export merchandise which is subject to the finding:

Canal International Corp.
Hotsun Industrial Corp.
Interbond Ltd.
P.R. Originals Co., Ltd.
Richard Soong Co., Ltd.
St. Solid Co., Ltd.
Taiwan Eva Industrial Co., Ltd.

The Department has also determined that the following two firms have gone out of business:

Foremost Worldwide (Taiwan) Co., Ltd.
Phoenix Enterprises Inc.

Therefore, these nine firms will not be covered in this review or future section 751 reviews. This is not a revocation of the finding with respect to these firms. Should these firms begin exporting the covered merchandise to the U.S., we shall treat them as new exporters.

Also as a result of this review, the Department revokes the antidumping finding on PVC sheet and film from Taiwan with respect to Nan Ya and twenty-one firms who ship only to the United States and only merchandise manufactured by Nan Ya. These twenty-one firms are:

Apex International Corp.
BL & GY International Co., Ltd.
Cheng Hsung Corp.
Chia Shiu Enterprises Corp.
Digest International Development Corp.
Dirkson Inc.
Easin Inc.
Everlasting Manufacturing Inc.
Gela & Co.
G. Gaily International Corp.
Heyward & Co., Ltd.
Holdcheer Corp. Ltd.
Huihsin Trading Co., Ltd.
Jiffy Trading Co.
Jump International Industries Corp.
K.E. & Kingstone Co., Ltd.
Mine Chung Knitting Co., Ltd.
Nanping Corp.
Paulko Enterprises
Team Worldwide Corp.
World Fashions Corp.

These revocations apply to all unliquidated entries of PVC sheet and film produced and sold by Nan Ya directly to the United States or indirectly through these twenty-one firms, and entered, or withdrawn from warehouse, for consumption on or after June 26, 1981, the date of publication of our tentative determination to revoke with regard to Nan Ya.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of PVC sheet and film from the remaining firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred after the most recent reviewed period and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review, partial revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-12229 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

[A-337-001]

Antidumping; Sodium Nitrate From Chile; Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of allowance of security in lieu of estimated duty pending early determination of antidumping duty.

SUMMARY: The Department of Commerce has determined that, on the basis of information received from the only manufacturer currently covered by the antidumping duty order on sodium nitrate from Chile, Sociedad Quimica y Minera de Chile, S.A., the Department has a sufficient basis to conduct an expedited review of the order. The Department will determine the appropriate foreign market values and United States prices by June 25, 1983. We will permit Sociedad Quimica y Minera de Chile, S.A. to post bonds or other security in lieu of the cash deposit of estimated antidumping duties for merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and before June 25, 1983.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On March 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 12580) an antidumping duty order on sodium nitrate from Chile. The Department announced that, in addition to deposits of estimated normal customs duties, Customs officers were to require a cash deposit of estimated antidumping duties on all merchandise entered, or withdrawn from warehouse, for consumption on or after March 25, 1983.

On April 1, 1983, Sociedad Quimica y Minera de Chile, S.A. ("SQM") requested that the Department waive the requirement for cash deposit of estimated antidumping duties and conduct an expedited review pursuant to section 736(c) of the Tariff Act of 1930 ("the Tariff Act").

Before granting a waiver of cash deposits of estimated antidumping duties we must be satisfied that, based upon the information presented by SQM, we will be able to determine the appropriate foreign market values and United States prices within 90 days after the date of publication of the order.

After reviewing the information submitted by SQM, the Department is satisfied that it will be able to determine the appropriate foreign market values and United States prices.

Accordingly, the Department is instructing the Customs Service to waive cash deposits of estimated antidumping duties and accept bonds or other security for entries of sodium nitrate manufactured by SQM entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the results of this expedited review by June 25, 1983, including the results of its analysis of any such comments or hearing.

This notice is published in accordance with section 736(c)(2)(A) of the Tariff Act of 1930 as amended (19 U.S.C. 1675(2)(A)).

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-12227 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-041]

Antidumping; Synthetic Methionine from Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On October 8, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on synthetic methionine from Japan. The review covers the 30 known exporters and third-country resellers of this merchandise to the United States currently covered by the finding and the period July 1, 1980 through June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. The petitioner and two exporters submitted written comments. With the exception of the margin for one of the commenting exporters, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia McClenahan or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1973, the Treasury Department published in the **Federal Register** (38 FR 18392) an antidumping finding with respect to synthetic methionine from Japan. On October 8, 1982, the Department of Commerce ("the Deaprtment") published in the **Federal Register** (47 FR 44602-03) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of synthetic methionine, other than synthetic L methionine. Synthetic methinonine is an amino acid produced in two grades, DL methionine National Formula grade (used for research and pharmaceutical purposes) and DL methinonine feed grade (used as a feed additive). Both grades of synthetic methinonine are currently classifiable under item 425.0420 of the Tariff Schedules of the United States Annotated.

The review covers the 30 known exporters and third-country resellers of Japanese synthetic DL methionine to the United States currently covered by the finding and the period July 1, 1980 through June 30, 1981.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. The petitioner, Monsanto Industrial Chemical Co., Ltd., and two exporters, Mitsui & Co., Ltd., and Ajinomoto Co., Inc., submitted written comments.

Comment 1: Monsanto argues that the agreement between AEC Corporation, a subsdiary of Rhone Poulenc, a French firm, and Mitsui was made for the sole purpose of circumventing the antidumping finding. The agreement implies displacement of exports of Japanese synthetic methionine from the United States market to other parts of the world. The agreement also rasies by implication the question of who is now supplying AEC's non-U.S. former customers. The Department should investigate whether there is a parallel agreement between AEC and Mitsui's former supplier.

Department's Position: The antidumping finding relates only to sales of synthetic methionine produced in Japan and sold to the United States. The agreement refers only to sales of French synthetic methionine to the United States. The marketing plans for Japanese synthetic methionine to countries other than the United States are not relevant to this finding. The Department lacks authority to assess antidumping duties on French synthetic methionine under the aegis of the antidumping finding on Japanese synthetic methionine.

Comment 2: Mitsui contends that the preliminary dumping margin of 10.43 percent assigend to Nippon Soda Co., Ltd./Mitsui should be 8.83 percent, based upon the final results of the last section 751 review.

Department's Position: The Department agrees and has changed the dumping margin percentage for Nippon Soda/Mitsui to reflect correctly the most recent rate for this non-shipping combination.

Comment 3: Ajinomoto argues that, because it had no sales during the review period, the Department should not require an estimated antidumping duty cash deposit rate of 48 percent.

Department's Position: Because Ajinomoto failed to respond to our questionaire until after publication of our prelimiarny results, we will continue to use the best information available to determine the cash deposit rate for Ajinomoto.

Final Results of the Review

Based on our analysis of the comments received, we have changed the margin percentage for Nippon Soda/Mitsui. The final results of our review for all of the other firms are the same as those presented in the preliminary results of review, and we determine that the following weighted-average margins

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exist for the period July 1, 1980 through June 30, 1981:

	Margin (percent)
MANUFACTURER/EXPORTER	
Ajinomoto Co	48
Alps Pharmaceutical Co	[1] 22.54
Amano Pharmaceutical Co	[1] 48
Chugai Boyeki Co	[1] 0
Daito Bussan Co	[1] 0
Heim Japan Ltd	[1] 11.14
Iwaki Yakuhin Kogyo	[1] 0
Isho Corporation	48
Iwaki & Co	[1] 1.69
Koyo Mercantile Co., Ltd	[1] 0
Kyowa Hakko Kogyo Co	[1] 29.10
Marubeni Corp	[1] 48
Nippon Kayaku	[1] 48
Nippon Soda Co., Ltd./Mitsui & Co	[1] 8.63
K. Sakai & Co., Ltd	[1] 0
Sumitomo Chemical	[1] 0
THIRD-COUNTRY RESELLERS (COUNTRY)	
Atlantic Trading Co. (Canada)	[1] 0
H. J. Baker & Brothers (West Germany)	[1] 0
Chemical & Feeds Ltd. (United Kingdom)	[1] 48
Chemo Dondorff (West Germany)	[1] 48
Deutsch-Norwegische GmbH (West Germany)	[1] 22.53
Forlamik Chemicals (Canada)	[1] 21.66
Karl O. Helm (West Germany)	[1] 2.66
Hoffman LaRoche (Canada)	[1] 0
Instel Corp. (France)	[1] 6.25
Mitsui & Co. (Belgium)	[1] 0
Mitsui & Co. (United Kingdom)	[1] 0
Nutrikem Limited (United Kingdom)	[1] 0
Seimaglues & Sohn (West Germany)	[1] 48
R. W. Unwin & Co. (United Kingdom)	[1] 0

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese synthetic methionine from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after June 30, 1981, and who is unrelated to any covered firm, a cash deposit of 29.10 percent shall be required on future entries. This is the highest rate for a responding firm with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

April 27, 1983.

[FR Doc. 83-12238 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Export Visa Requirement for Down and Feather-Filled Apparel from the Republic of Korea

May 2, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring an export visa for down and feather-filled apparel in Categories 353, 354, 653, and 654, produced or manufactured in the Republic of Korea.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982 between the Governments of the United States and the Republic of Korea includes coverage of down and feather-filled apparel. Accordingly, on and after the effective date of this action, it will be necessary for shipments of these products to be visaed by the Government of the Republic of Korea in the same manner as other categories of textile products subject to this agreement are currently required to be visaed.

EFFECTIVE DATE: June 1, 1983 for goods exported on and after that date.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On February 9, 1981, there was published in the **Federal Register** (46 FR 11571) a letter dated February 4, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs which permitted entry, effective on February 9, 1981 and until further notice, of down and feather-filled jackets, coats and vests in Categories 353, 354, 653, and 654, produced or manufactured in certain specified countries, including Korea, without an export visa. This agreement now covers down and feather-filled apparel. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements further amends the directive of February 4, 1981 to the Commissioner of Customs to require export visas for these products, produced or manufactured in Korea and exported on and after June 1, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 2, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the letter of February 4, 1981, which directed you to waive, effective on February 9, 1981 and until further notice, the export visa requirement for feather-filled apparel in Categories 353, 354, 653, and 654 from designated countries, including the Republic of Korea.

Effective on June 1, 1983 and until further notice, an export visa will be required for merchandise in Categories 353, 354, 653, and 654, produced or manufactured in the Republic of Korea and exported on and after that date.

The action taken with respect to the Government of the Republic of Korea and with respect to imports of cotton and man-made fiber textile products from Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-12133 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

Announcement of Change in the Export Visa and Exempt Certification Requirements for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

May 3, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: The Government of the Public of Korea has returned to using blue ink for its export visa and exempt certification stamps for merchandise in Categories 300–369, 400–469, and 600–669, exported on and after March 21, 1983

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175)).

SUMMARY: On January 1, 1983 the Government of the Republic of Korea began using export visa and exempt certification stamps in black ink for textile and apparel products covered by the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982 with the Government of the United States. Because it is difficult to identify the original version of a black ink stamp on entry documents, the Government of the United States asked the Korean Government to return to using blue ink. The Korean Government agreed to do so as of March 21, 1983.

EFFECTIVE DATE: On and after May 15, 1983 merchandise in Categories 300–369, 40–469, and 600–669, exported on and after March 21, 1983 will be required to have a blue ink visa or certification stamp in order to be entered into the United States for consumption or withdrawn from warehouse for consumption. Merchandise exported before March 21, 1983 will not be deined entry for consumption or withdrawal from warehouse inconsumption in the United States, if visaed in black ink, provided all other requirements have been met.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On November 10, 1982 a notice was published in the **Federal Resigter** announcing changes in the visa and exempt certification stamps used by the Government of the Republic of Korea for certain cotton, wool, and man-made fiber textile and apparel products exported to the United States. One of the changes involved the use of black ink stamps. Because of problems associated with the use of these stamps, the Korean Government has agreed to return to the use of blue ink for this purpose. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on May 15, 1983 to require that merchandise in Categories 300–369, 400–469, and 600–669, produced or manufactured in Korea and exported on and after March 21, 1983 be visaed or certified in blue.

Sincerely,

Walter C. Lenahan,

Chairman, committee for the Implementation of Textile Agreements.

May 3, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of November 4, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements concerning visa and exempt certification requirements for cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in the Republic of Korea.

Effective on May 15, 1983 and until further notice, paragraph 3 of the directive of November 4, 1982 is amended to require that cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in the Republic of Korea and exported on and after March 21, 1983, shall be visaed or certified for exemption in blue ink in order to be permitted entry for consumption, or withdrawal from warehouse for consumption, in the United States. Merchandise in these categories that has been exported before March 21, 1983 and is visaed or certified for exemption in black ink shall not be denied entry, provided all other visa and exempt certification requirements have been met.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-12219 Filed 5-5-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Titles of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Services and/or Supplies—Handicapped Program (Active Duty Dependents Only) (DA Form 1863–3)

The CHAMPUS DA Form 1863–3 is utilized to collect information to evaluate eligibility for civilian health care benefits and to issue checks upon establishment of eligibility and determination that health benefits received are authorized. Civilian Hospitals and CHAMPUS Beneficiaries: 8,000 responses; 1,500 hours.

Forward comments to Ed Springer, OMB Des, Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, OASD(MS), DIRMS, IRAD, Room 1A658 Pentagon, Washington, DC 20301, (202) 697–1195.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, Telephone (303) 361–3509.

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Dated: May 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-12197 Filed 5-5-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Titles of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Statement of Personal Injury—Possible Third Party Liability (CHAMPUS) (DA Form 1863-5)

The CHAMPUS DA Form 1863-5 is necessary to recover from negligent third persons responsible for injuries to CHAMPUS beneficiaries, and certain others the reasonable value of medical care furnished. Civilian Hospitals and CHAMPUS Beneficiaries: 30,000 responses; 10,000 hours.

Forward comments to Ed Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20530, and John V. Wenderoth, Agency Clearance Officer, OASD(MS), DIRMS, IRAD, Room 1A658 Pentagon, Washington DC 20301, (202) 697-1195.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, Telephone (303) 361-3509.

Dated: May 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-12196 Filed 5-5-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Titles of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension:

Prescription Billing—Outpatient Pharmaceutical Services CHAMPUS (DA Form 1863-4)

The CHAMPUS DA Form 1863-4 is necessary to collect information to evaluate eligibility for civilian health benefits authorized and to issue checks upon establishment of eligibility and determination that pharmaceuticals received are obtainable only by prescription. Civilian Pharmacies, Hospitals and CHAMPUS Beneficiaries: 25,000 responses; 6,250 hours.

Forward comments to Ed Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20530, and John V. Wenderoth, Agency Clearance Officer, OASD(MS), DIRMS, IRAD, Room 1A658 Pentagon, Washington, DC 20301, (202) 697-1195.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, Telephone (303) 361-3509.

Dated: May 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-12198 Filed 5-5-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Information Collection in Support of DoD Solicitation Instruments

The DoD issues approximately 12 million annual solicitations for the purpose of awarding contracts. Information Collection from the Public in support of this DoD Acquisition Process is necessary to evaluate bids and responses from potential suppliers for supplies, services and hardware for the purpose of making awards in conformance with the requirements of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 600,000 responses; 330,000,000 hours (preliminary estimate).

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone: (202) 697-1195.

A copy of the information collection proposal may be obtained from James D. Richardson, DMSSO, II Skyline Place, Suite 1403, 5203 Leesburg Pike, Falls Church, VA 22041, telephone: (703) 756-2340/1.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-12200 Filed 5-5-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Extension of Closing Date To Apply for and Establish Institutional Eligibility To Participate in the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs for the 1983-84 Award Year

AGENCY: Education Department.

ACTION: Notice of Extension of Closing Date To Apply for and Establish Institutional Eligibility To Participate in the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs for the 1983-84 Award Year.

SUMMARY: This notice extends the closing date from February 2, 1983 to June 30, 1983, to enable a class of institutions of higher education to apply for and qualify as eligible institutions of higher education for the purpose of participating in the supplemental Educational Opportunity Grant (SEOG), College Work-Study (CW-S), or National Direct Student Loan (NDSL) Program in award year 1983-84. The class of institutions covered by this extension includes only those institutions that applied for funds under the SEOG. CW-S, or NDSL Program for award year 1983-84 by October 15, 1982, the published closing date for those funding applications.

This extension is being provided to allow those institutions, that were unable to qualify as eligible institutions because of the Secretary's timetable for listing State agencies that the Secretary determines are reliable authority as to the quality of public postsecondary vocational education in the State, an additional opportunity to establish their eligibility.

An institution that wishes to have its eligibility established for the purpose of participating in the SEOG, CW-S or NDSL Program in the 1983-1984 award year must submit a completed ED FORM 1059 (Request for Institutional Eligibility for Programs) with the required documentation. The Secretary will not award any funds for the 1983-1984 award year to an institution under the SEOG, CW-S, or NDSL Program unless he determines on or before June 30, 1983, that the institution meets the requisite eligibility criteria.

The notice establishing the February 2, 1983 closing date, which was published in the **Federal Register** on January 3, 1983 (48 FR 58-59), provides detailed information concerning the submission process.

FOR FURTHER INFORMATION CONTACT: Inquiries concerning this extension date should be addressed to Dr. Leslie Ross, Chief, Institutional Eligibility Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB-3), Washington, D.C. 20202. Telephone: (202) 245-9873.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Opportunity Grant Program, 84.007; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038)

Dated: May 3, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-12228 Filed 5-5-83; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Applications for Review Accepted for Hearing by the Education Appeal Board

AGENCY: Education Department.

ACTION: Notice of Applications for Review Accepted for Hearing by the Education Appeal Board.

SUMMARY: This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between December 15, 1981 and March 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW., (Room 2141, FOB-6), Washington, D.C. 20202. Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 *et seq.*), the Education Appeal Board has authority to conduct: (1) Audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board.

The Secretary has designated the Board as having jurisdiction over appeal proceedings related to final audit determinations, the withholding or termination of funds, and cease and desist actions for most programs administered by the Department of Education (ED). The Secretary also has designated the Board as having jurisdiction to conduct hearings concerning most ED administered programs that involve a determination that a grant is void, the disapproval of a request for permission to incur an expenditure during the term of a grant, or determinations regarding cost allocation plans or special rates negotiated with specific grantees. Final regulations governing Board jurisdiction and procedures were published in the **Federal Register** on May 18, 1981 (46 FR 27304).

This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between December 15, 1981, and March 31, 1983.

Appeal of Paul Quinn College, Docket No. 1-(94)-81, ACN 06-11004.

Paul Quinn College had received a grant of $859,000 for a two-year funding period; the audit covered just one fiscal year, FY 79-80, the first year under the grant. The College appealed three disallowances in the final audit determination: (1) Disallowance of $9,900 in National Teaching Fellowship Grant costs; (2) disallowance of $100,153 in recruitment, accounting, and admissions costs; and (3) disallowance of $236,158 in "other unsupported labor costs." The Department's Assistance Management and Procurement Service unit had sought recovery of $372,263 for six audit exceptions, but the College has appealed only the three enumerated above for a total of $346,211.

Appeal of the State of California, Docket No. 2-(95)-82, ACN 09-10450.

The State appealed a final audit determination by the Assistant Secretary for Educational Research and Improvement that the State overclaimed $1,592,952 under Title IV, Part B, of the Elementary and Secondary Education Act during fiscal years 1976 through 1980.

The Assistant Secretary also determined that the Federal Government did not owe the California State Department of Education $730,000 for professional and administrative services paid by the State.

Appeal of Huston-Tillotson College, Docket No. 3-(96)-81, ACN 06-11003.

Huston-Tillotson College had received a two-year grant of $1,267,000 under Title III, Strengthening Developing Institutions; an audit was conducted for FY 79-80 and audit exceptions totalling $58,670 were disallowed by the Department's Assistance Management and Procurement Service unit. The grantee appealed these disallowances, which included: (1) Unsupported supplies and equipment costs, $4,277; (2) duplicate claims, $2,270; (3) unauthorized equipment costs, $20,600; and (4) unallowable recruitment costs, $31,523.

McKeesport Area School District, Docket No. 4-(97)-82, ACN 03-10001.

The Department's Assistance Management and Procurement Service unit supported disallowances totalling $36,126 as the result of an audit of monies spent by McKeesport in the 1979-80 school year for certain remedial programs under ESAA legislation. The

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auditor reported that a portion of the time of the ESAA-funded counselors was spent on non-ESAA activities. McKeesport argues that the auditor did not make an appropriate determination and appeals the finding.

Appeal of the State of Hawaii, Docket No. 5–(98)–82, ACN 09–15389.

The State appealed a final audit determination by the Assistant Secretary for Educational Research and Improvement that State-funded salaries and wages charged to the administration of the Library Services and Construction Act program for fiscal year 1978 were not substantiated by any time distribution or equivalent records. A refund of $56,906.70 of Federal funds is sought. This amount may be reduced by application of the Statute of Limitations.

Appeal of the State of California, Docket No. 6–(99)–82, ACN 09–10105

As the result of an audit of the administration of California's support service centers for the four fiscal years ending June 30, 1980, Federal auditors found that the Federal share of certain "Overcharges" amounted to a total of $319,653. The Assistance Management and Procurement Service unit of the U.S. Department of Education supported these findings, requiring repayment of the full $319,653. This total included: (1) $154,787 for "revenues in excess of actual costs" and (2) $164,866 for "equipment depreciation overcharges."

California did not dispute (1) above, and agreed to repay the $154,787. California, however, is appealing the second of these two findings calling for the repayment of $164,866.

Appeal of St. Bernard Parish School Board, Docket No. 7–(100)–82, ACN 11–23028

Federal auditors concluded that $753,205 in bilingual funds granted to St. Bernard Parish for the period July, 1978, to June, 1981, were used in violation of Federal regulations in that Spanish was being taught to children whose dominant language is English. The Parish School Board has appealed the Department's determination that the money be refunded.

Appeal of St. John the Baptist Parish School Board, Docket No. 8–(101)–82, ACN 11–23028

Federal auditors concluded that $765,603 in bilingual funds granted to St. John the Baptist Parish for the period July, 1978, to June, 1981, were used in violation of Federal regulations in that French was being taught to children whose dominant language is English. The Parish School Board has appealed the Department's determination that the money be refunded.

Appeal of Tangipahoa Parish School Board, Docket No. 9–(102)–82, ACN 11–23028

Federal auditors concluded that $572,054 in bilingual funds granted to Tangipahoa Parish for the period July, 1978, to June, 1981, were used in violation of Federal regulations in that Italian was being taught to children whose dominant language is English. The Parish School Board has appealed the Department's determination that the money be refunded.

Appeal of the State of Indiana, Docket No. 10–(103)–82, ACN 05–23567

A grant was awarded the Indiana Department of Public Instruction for "sex desegregation activities." Federal auditors subsequently reviewed costs in the amount of $166,725 for the period July 1, 1979, to June 30, 1980, to see whether those costs were appropriately incurred. The auditors found that the incurred costs included $9,501 in indirect costs which had not been included in the grant or in the approved budget. The auditors disapproved the expenditure of the $9,501 while approving the expenditure of the balance of the grant. The State of Indiana has appealed the audit disallowance.

Appeal of the State of Indiana, Docket No. 11–(104)–82, ACN 05–23588

The Indiana Department of Public Instruction received a grant of $269,886 for race desegregation activities for the period July 1, 1979, through June 30, 1980. A subsequent audit disallowed $3,481 for consulting costs incurred without the necessary prior approval and for other infractions of applicable rules and regulations. The State of Indiana appealed $12,666 of the questioned costs.

Appeal of the Commonwealth of Puerto Rico, Docket No. 12–(105)–82, ACN 02–14013 (previously HEW ACN 02–19574)

Federal auditors reviewed credits due the U.S. Department of Education as a result of uncashed and cancelled checks related to ED-supported programs for fiscal year 1976 through fiscal year 1979. The auditors determined that $1,083,615 should have been returned to the Federal Government rather than desposited to the general account of the Commonwealth. The Commonwealth has appealed that determination.

Appeal of the State of Indiana, Docket No. 13–(106)–82, ACN 05–23591

The Indiana Department of Public Instruction received Federal funds totalling $95,000 for a reading improvement project. The Federal audit was undertaken for the period September 1, 1979, to August 31, 1980, to determine whether expenditures of $83,219 during that period were proper and reasonable. The auditors determined that expenditures of $18,010 for equipment were make in violation of required procedures, and that an additional $5,685 for indirect costs were not approved as required/ A total of $23,675 is sought for recovery by the Federal Government; Indiana appeals the findings.

Appeal of the State of Massachusetts, Docket No. 14–(107)–82, ACN 01–14009 (previously 01–19550)

The Federal audit in Massachusetts covered programs conducted under the Vocational Education Act of 1963, As amended, during the period July 1, 1973, through February 28, 1978. The State of Massachusetts has appealed the Assistant Secretary's Letter of Final Determination requiring a refund of $6,061,823 which, by stipulation of the parties, has been reduced by the sum of $689,841 barred by the Statute of Limitations.

Appeal of the State of Indiana, Docket No. 15–(108)–82, ACN 05–20115

The State is appealing a final audit determination by the Assistant Secretary for Educational Research and Improvement that the State had obligated and expended library grant award funds for 1976 and 1977 after the period of obligation had expired. The Assistant Secretary seeks recovery of $1,579,091 said to be unallowable for this reason.

Appeal of the State of Pennsylvania, Docket No. 16–(109)–82, ACN 03–19569 (HHS ACN 03–14006)

The Federal auditors in Pennsylvania reviewed certain expenditures incurred under the Vocational Education Act of 1963, as amended, during the period July 1, 1977, through June 30, 1979. The Assistant Secretary concluded that Pennsylvania should refund $3,702,976 of fiscal year 1978 funds which were not obligated and expended within the available time period. A refund of an additional $170,674 is sought for funds charged improperly to the vocational education program.

Appeal of the San Antonio Independent School District, Docket No. 17–(110)–82, ACN 06–20105

The San Antonio Independent School District had been awarded a grant of $270,243 for a bilingual education program. The auditors subsequently reviewed claimed expenditures of $268,556.35 for the period October 1, 1980, through September 30, 1981, and concluded that unallowable costs of $8,366 resulted from the participation of ineligible students. The School District is appealing the adverse finding.

Appeal of the State of Washington, Docket No. 1–(111)–83, ACN 10–20000

The Assistant Secretary for Elementary and Secondary Education seeks recovery of $1,237 under Title I, ESEA, on the grounds that the State's time and effort reporting system did not accurately reflect the expenditure of time by State employees; as a consequence two employees are alleged to have spent less time on federally-funded activities than the records showed. The State is appealing the adverse finding on the grounds that the recordkeeping system is fully adequate.

Appeal of the State of Florida, Docket No. 2–(112)–83, ACN 04–20100

As the result of an audit of certain federally-funded vocational education expenditures in Florida from July 1, 1977, through September 30, 1981, the Assistant Secretary for Vocational and Adult Education has requested a refund of $766,893 from Florida. The auditors found that this sum had not been expended by Florida during the period it was legally possible to do so. Florida appeals the finding, claiming that it has interpreted properly the Tydings Amendment governing the timing of expenditure of Federal funds.

Appeal of the Oakland Unified School District, Docket No. 1–(113)–83, ACN 09–20502

The Assistance Management and Procurement Service unit of the U.S. Department of Education seeks the recovery of $4,000 it alleges was improperly transferred by Oakland to another school district. Oakland appeals the finding on the grounds that it was instructed by a Federal official to make the transfer to the other school district.

Appeal of Wayne State University, Docket No. 4–(114)–83, ACN 05–23601

The Assistance Management and Procurement Service unit of the U.S. Department of Education seeks recovery of $7,762 as the result of an audit of a bilingual education grant. The audit alleges that the University failed to follow proper procedures in obtaining consultant services. The University appeals the finding.

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: May 2, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary.

[FR Doc. 83-12225 Filed 5-5-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-80-008; ERA Case Nos. 51007-0638-21-22, 51007-0638-22-22, 51007-0638-23-22, and 51007-0638-24-22]

Modification of an Order Granting Permanent Peakload Exemptions to Florida Power Corp. for Suwannee Powerplants

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and Proposed Modification of an Order Granting Permanent Peakload Exemptions to Florida Power Corporation for Suwannee Powerplants Nos. CT–1 Through CT–4, Suwannee County, Florida.

SUMMARY: In response to a request dated February 4, 1982, and revised on December 29, 1982 and April 4, 1983, from Florida Power Corporation (FPC), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), and 10 CFR Part 501, Subpart G, to modify the permanent peakload exemptions granted by Order ("Order") to four combustion turbine powerplants identified as Suwannee CT–1 through CT–4, owned and operated by FPC at its Suwannee station, Suwannee County, Florida. The modification would permit the alternate use of natural gas in each of the combustion turbines in addition to the distillate oil permitted by the Order.

Based upon its review of FPC's modification request, ERA is proposing to modify the Order on the basis of its determination that significantly changed circumstances, as defined in 10 CFR 501.102(b), exist with respect to the applicability of the original exemptions. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of thier right, pursuant to 10 CFR 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the Federal Register (see DATE section, below). If no responses are received within this period, the Order modification, as proposed, for each combustion turbine unit shall become final upon the expiration of the period, without further action by ERA.

A detailed discussion of the Order and FPC's request for modification thereof is provided in the SUPPLEMENTARY INFORMATION section below.

DATE: Written responses to ERA's proposed modification of the FPC Order must be received by ERA no later than June 6, 1983.

ADDRESS: Written responses must be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585. The case numbers, FC 51007–0638–21–22, 22–22, 23–22, 24–22, should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone (202) 252–8162;

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone (202) 252–2967.

SUPPLEMENTARY INFORMATION: On August 1, 1980, ERA issued an Order exempting FPC's Suwannee River peaking units CT–1, CT–2, CT–3 and CT–4, located at its Suwannee Station in Suwannee County, Florida, from Section 202 of FUA, which prohibits both the use of natural gas or petroleum as a primary energy source in any new powerplant and the construction of any such facility without the capabilty to use an alternate fuel as a primary energy source (45 FR 52864, August 6, 1980). FPC's exemption petition was filed and granted under § 503.41 of ERA's interim rules for new facilities and Section 212(g) of FUA, which provide for a permanent peakload exemption for new electric powerplants. Subject to the terms and conditions set forth in the Order, the permanent exemptions permitted the use of distillate oil to meet peakload requirements in each of the four combustion turbine powerplants. At the request of FPC, on July 16, 1981 (46 FR 38122 (July 24, 1981)), the Order was modified so as to revise terms and conditions relating to peakload use restrictions.

By letter dated February 4, 1982, and revised on December 29, 1982 and April 4, 1983, FPC requested that ERA modify the Order to permit the alternate

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burning of natural gas in each of the four combustion turbines in addition to burning distillate oil. In support of its request, FPC states that its recent construction of new transmission lines in the northern part of Florida has reduced the need to operate its three natural-gas fired baseload powerplants at the Suwannee facility to maintain system voltage levels in the northern peninsula of its service area. In response to these conditions, FPC plans to operate the natural gas units at a reduced capacity factor, resulting in excess natural gas availability at the Suwannee facility. Based upon these changed circumstances, FPC seeks to modify the Order so as to permit it the operational flexibility to use natural gas as an alternative to distillate for peakload purposes in Suwannee CT–1 through CT–4.

ERA's final rules governing the exemption for the use of natural gas in new peakload powerplants are set forth at 10 CFR 503.41 (46 FR 59872, 59916 (December 7, 1981)), and provide that to qualify for the exemption:

(1) A petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant; and

(2) The Administrator of the EPA or the appropriate state air pollution control agency must certify that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded.

FPC has certified that its powerplants CT–1 through CT–4 would be operated solely as peakload powerplants. Since ERA has determined that there are no presently available fuels which may be used in FPC's CT–1 through CT–4 units, the environmental certification requirement is waived with respect to FPC's request.

As requested, pursuant to 10 CFR 501.101(a), ERA has commenced a proceeding to modify the Order. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G (46 FR 59872, 59898 (December 7, 1981)). Based upon the information contained in FPC's modification request and upon the record as a whole, ERA proposes:

(1) To find that FPC has demonstrated significantly changed circumstances pursuant to 10 CFR 501.102(b), warranting modification of the Order; and

(2) To modify the Order to permit the use of either natural gas or petroleum as the primary energy source in Suwannee CT–1 through CT–4 peaking powerplants subject to the terms and conditions set forth in the Order as modified on July 16, 1981.

Pursuant to 10 CFR 501.101(c), by letter dated April 4, 1983, FPC sent notice of its request for modification of the Order to Garrett Corporation, the sole commenter in the original Order proceeding. Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order and of their right pursuant to 10 CFR 501.101(d) to file a response thereto within 30 days of the publication of this Notice in the **Federal Register**. If ERA receives no response within this period, the Order modification shall become final as proposed, without further ERA action, upon expiration of the period.

Issued in Washington, D.C., April 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-12138 Filed 5-5-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EF81-2011-000, and EF82-2011-001]

Bonneville Power Administration; Order Setting Matters for Hearing, Consolidating Dockets, and Establishing Procedures

Issued: April 29, 1983.

On June 29, 1981, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy submitted to the Commission for final confirmation and approval various wholesale power rate schedules (Docket No. EF81–2011–000) and general rate schedule provisions developed by the Administrator of the Bonneville Power Administration (Bonneville or BPA).[1] The rate schedules were submitted to the Commission pursuant to Section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act or Act).[2] The rates were intended to increase wholesale power revenues to Bonneville by approximately $457 million over its previous rates. Approval of these rates was requested by Bonneville for a five-year period beginning July 1, 1981.[3]

On August 16, 1982, Bonneville filed a proposed superseding wholesale power rate increase and request for interim approval in Docket No. EF82–2011–000 pursuant to Section 7 of the Regional Act. The proposed rates were established by Bonneville to provide for an increase in revenues of approximately $815 million for fiscal year 1983. These rates were placed into effect on an interim basis by the Commission on September 29, 1982, to become effective as of October 1, 1982.[4]

Notice of the filing in Docket No. EF81–2011–000 was published in the **Federal Register**, with interested parties invited to submit comments on or before August 24, 1981.[5] In response, 26 petitions to intervene were received.[6] Additionally, four sets of cross comments were received in response to the initial comments.[7]

Notice of the filing in Docket No. EF82–2011–000 was published in the **Federal Register** with interested parties invited to submit comments on Bonneville's request for interim rate approval on or before October 1, 1982. In a September 29, 1982 order granting interim approval of Bonneville's rates in that docket,[8] the Commission noted the interventions of 18 parties [9] and requested further comments on Bonneville's filing with respect to those issues that they felt should be set for hearing under Section 7(k) of the Act. In response, the Commission received comments from eight parties.[10]

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[1] *See* Attachment A for rate schedule designations.

[2] 16 U.S.C. 839e (December 5, 1980).

[3] The rate schedules were granted interim approval by the Assistant Secretary pursuant to Delegation Order No. 0204–33 on June 24, 1981, to become effective on an interim basis as of July 1, 1981. On June 22, 1982, the Commission extended interim approval of the rate schedules pursuant to section 7(i)(3) of the Regional Act. *See* "Order Granting Extension of Interim Rates For A Limited Time," Docket Nos. EF81–2011–001 and EF81–2021–001, 19 FERC ¶ 61,281.

[4] "Order Granting Interim Approval, Granting Waiver, Noting Interventions, Denying Motions, and Establishing Procedures," 20 FERC ¶ 61,388 (September 29, 1982).

[5] The original comment period, which ended August 15, 1981, was extended until August 24, 1981, in a **Federal Register** notice published on August 14, 1981.

[6] *See* Attachment B for list of Intervenors.

[7] After the close of the comment period, the parties filing comments were requested to send copies of their pleadings to each of the other parties to allow all parties an opportunity to submit cross-comments. In the interim, however, the date for cross-comments was suspended to allow the Commission the opportunity to first address issues raised by the parties regarding the scope of its jurisdiction over Bonneville's rates under the new Regional Act. On September 1, 1982, the Commission issued an order resolving the scope of its jurisdiction, granting intervention, and reestablishing a date for cross-comments. *See* "Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Procedures," 20 FERC ¶ 61,292.

[8] *See* footnote 4, *supra*.

[9] *See* Attachment C for list of Intervenors.

[10] Public Utility Commissioner of Oregon; the Eugene Water and Electric Board and City of Seattle, City Light Department (EWEB or Seattle); the People of the State of California, the California Public Utilities Commission, the Department of Water & Power of the City of Los Angeles, *et al;* Pacific Gas & Electric Company, and Southern California Edison Company (California Utilities); the Public Power Council, the Direct Service Industrial Customers, and the Investor-Owned Utilities. Comments in this docket were also submitted on September 8, 1982, by the California Energy Commission.

[11] "Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Further Procedures", Docket Nos. EF81–2011–000 and EF81–2021–000, 20 FERC ¶ 61,292 (September 1, 1982).

[12] Section 7(a)(2) of the Regional Act; 16 U.S.C. 839e(a)(2).

[13] 16 U.S.C. 832.

[14] 16 U.S.C. 825.

[15] 16 U.S.C. 836.

Discussion

These cases are the first to come before the Commission since passage of the Regional Act on December 5, 1980. As we noted in a September 1, 1982 order delineating the scope of our jurisdiction under the Regional Act,[11] the Commission's new role in the BPA ratemaking process is to assure that Bonneville's overall rates:

(A) Are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power system over a reasonable number of years after first meeting the Administrator's other costs;

(B) Are based upon the Administrator's total system costs; and

(C) Insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.[12]

Additionally, the Commission is obligated under Section 7(k) of the Act to make a finding that Bonneville's rates for service to the non-regional, non-firm customers served within the United States ("export rates") comport with the standards set forth in the Bonneville Project Act of 1937,[13] the Flood Control Act of 1944,[14] and the Federal Columbia River Transmission System Act.[15] To insure that Bonneville's non-firm export rates meet these standards, Section 7(k) further requires that the parties be afforded an opportunity to be heard by the Commission with regard to these rates.

In their pleadings, the parties have raised numerous concerns regarding Bonneville's non-firm export rates. These concerns relate to Bonneville's NF–1 non-firm energy rate (EF81–2011–000) and its superseding NF–2 non-firm energy rate (EF82–2011–000). The NF–1 rate, which supersedes Bonneville's H–6 non-firm rate, is purportedly based on the costs of resources that contribute to the availability of non-firm energy. The NF–1 rate consists of a floor rate, which is 5.0 mills per kilowatt-hour during off-peak hours and 6.5 mills per kilowatt-hour during peak hours, and a variable rate. The ceiling on the variable rate, according to Bonneville, is equivalent to the cost of the most expensive power purchase or resource in operation over a given period of time. Bonneville estimates the average NF–1 sales rate under this schedule to be approximately 9.6 mills per kilowatt-hour.

Many parties have challenged both the structure of the non-firm rate and the assumptions used by Bonneville in its analysis of the non-firm revenues generated by the rate. A number of customers in the southwest, for example, argue that Bonneville's NF–1 rate is not cost-based and therefore does not comport with the statutory requirements that rates be set at the lowest possible level consistent with sound business principles. Other customers raise questions relating to BPA's purported ability to use economic operation of its hydro system to meet non-firm needs without jeopardizing its firm power capabilities. Other challenges have been raised as well.

The NF–2 rate was purportedly designed by Bonneville to address concerns raised by the parties with regard to BPA's NF–1 rate and its predecessor, the H–6 rate. The superseding NF–2 rate is comprised of three components: a standard rate, a spill rate, and an incremental rate. Sales under the NF–2 rate schedule are projected by Bonneville to yield a 19 percent increase over the NF–1 rate. The standard rate is set at 16.2 mills per kilowatt-hour. Under the standard rate, 50 percent of each maximum hourly amount will be offered with a guaranteed delivery provision. The spill rate, which is set at 9 mills per kilowatt-hour, applies when Bonneville is in a spill or imminent spill condition at one of its hydroelectric plants. The incremental rate is applied to energy sold by Bonneville which has an incremental cost greater than 16.2 mills per kilowatt-hour and which is produced or purchased by Bonneville at its option concurrently with the non-firm sale. Bonneville estimates the average non-firm rate for sales under the NF–2 rate schedule at approximaely 11.2 mills per kilowatt-hour.

Like the NF–1 rate, a number of parties, particularly those in the southwest, have questioned the conceptual basis upon which the NF–2 rate schedule has been designed, arguing that the rate should be based on the costs of providing non-firm service. The California Public Utility Commission, for example, argues that the NF–2 rate should be based on marginal costs with, in certain circumstances, individual adjustment to rates based on cost of service. Certain northwest utilities, [16] on the other hand, advocate reinstatement of the prior H–6 share the savings methodology.

In addition to challenges to Bonneville's requested NF–1 and NF–2 rates, a number of parties have also raised issues regarding Bonneville's Surplus Energy rate schedule (SE–1) and its Surplus Power Rate schedule (SP–1). The primary concerns of the parties relate to the queston of whether the terms and conditions of the SE–1 and SP–1 rates are sufficiently differentiated from those of the NF–2 rate to assure that BPA is not selling non-firm energy in the guise of firm energy or firm power. Under Section 7(k) of the Act, should the assuredness of energy under these rate schedules be less than firm, these rates would then be subject to review pursuant to section 7(k) of the Act, along with the NF–1 and NF–2 rate schedules. While there is some uncertainty as to the magnitude of surplus power that BPA intends to market under these schedules, our review indicates that Bonneville will have sufficient capacity during the effective period to assure that it will not be marketing power under these schedules in excess of the surplus firm power capability. Accordingly, we have no reason to believe that Bonneville will not fulfill its obligation to sell only non-firm energy under the NF–2 rate and to sell only surplus firm service under the SP–1 and SE–1 rates. We therefore find it inappropriate to set these rate schedules for hearing under Section 7(k) of the Act.

With respect to the NF–1 and NF–2 rate schedules, we find that significant questions have been raised by the parties regarding whether these schedules meet the standards set forth in the applicable power marketing statutes. Based on the record presented, we cannot make a determination as to whether the revenue level proposed to be collected or the basis upon which the rate schedules have been designed is appropriate. We shall therefore set these matters for hearing.

With respect to determining whether Bonneville's overall rate level is in compliance with the standards set forth in section 7(a)(2) of the Regional Act, the Commission is presently in the process of reviewing these matters for purposes of confirmation and approval, or disapproval. We have been informed by our staff that there are currently a number of data requests to BPA outstanding in Docket No. EF82–2011–000. Until this review process is

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[16] EWEB and Seattle.

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completed, we cannot determine whether Bonneville's overall rates will produce revenues sufficient to recover the costs of the Federal investment in the Bonneville projects. We see no reason, however, to delay hearing on the Section 7(k) rates pending a determination on Bonneville's overall rate level.

We similarly see no reason to defer our ongoing evaluation of Bonneville's overall rates until the Section 7(k) proceedings are completed. Our review indicates that the revenues from the non-firm, non-regional sales would amount to between one-half of one percent and twelve percent of Bonneville's total revenues. An ultimate adjustment to the Section 7(k) rates of even fifty percent of the proposed rates would thus have a maximum impact on BPA's overall revenues of no greater than six percent. It therefore appears that any Commission ordered adjustment in the non-firm, non-regional revenues as a result of the Section 7(k) hearings would not have a significant enough impact to hold up our ongoing review of BPA's overall rates. Accordingly, we shall initiate a hearing on the Section 7(k) rates and continue our review of BPA's other rates in these dockets.

We find that Docket Nos. EF81-2011-000 and EF82-2011-001 contain common issues of law and fact with respect to Bonneville's non-firm, non-regional rates for sales within the United States. In light of the similar issues involved as well as the similarities among intervening parties, we shall order these dockets consolidated for purposes of hearing and decision.

The Commission notes that a substantial record has been developed by the Bonneville Administrator which has been submitted for filing in these dockets. In light of this fact, it would appear that discovery and preparation for hearing in this case should not unduly delay the proceedings. Any ultimate decision with respect to these matters, however, will be within the discretion of the presiding law judge.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C., 839e, particularly section 7(k) thereof, Bonneville's NF-1 and NF-2 rates applicable to sales of non-firm electric power within the United States, but outside the region, are hereby set for hearing. The hearing shall be conducted in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(B) Docket Nos. EF81-2011-000 and EF82-2011-001 are hereby consolidated for purposes of hearing and decision.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately twenty (20) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Docket No. EF81-2011—Rate Schedules

PF-1—Priority Firm Power Rate
IP-1—Wholesale Power Rate for Industrial firm power
MP-1—Wholesale Power Rate for Modified firm power
CF-1—Wholesale Firm Capacity Rate
CE-1—Wholesale Emergency Capacity Rate
NR-1—New Resources Firm Power Rate
NF-1—Wholesale Nonfirm Energy Rate
RP-1—Reserve Power Rate
FE-1—Wholesale Firm Energy Rate
SI-1—Special Industrial Power Rate
General Rate Schedule Provisions

Docket No. EF82-2011-001—Rate Schedules

PF-2—Priority Firm Power Rate
IP-2 (MP-2)—Industrial Firm Power Rate
NR-2—New Resources Firm Power Rate
SP-1—Surplus Firm Power Rate
SE-1—Surplus Firm Energy Rate
NF-2—Nonfirm Energy Rate
RP-2—Reserve Power Rate
FE-2—Firm Energy Rate
SI-2—Special Industrial Power Rate
CF-2—Firm Capacity Rate
CE-2—Emergency Capacity Rate
EB-1—Energy Broker Rate
General Rate Schedule Provisions

Attachment B

Bonneville Power Administration, Docket No. EF81-2011-000

St. Regis Paper Company
Public Utility Commissioner of Oregon
Southern California Edison Company
Direct Service Industrial Customers
Puget Sound Power and Light Company
Public Utilities Commission of the State of California
Department of Water and Power of the City of Los Angeles, Public Service Department of the City of Glendale, Public Service Department of the City of Burbank, The Water and Power Department of the City of Pasadena
Washington Utilities and Transportation Commission
Washington Water Power Company
The Montana Power Company
CP National Corporation
Portland General Electric Company
Pacific Power and Light Co.
Pacific Power and Light Company
Public Generating Pool
Pacific Gas and Electric Company
Public Utility District No. 1 of Snohomish County, Washington
Public Power Council
Idaho Power Company
Idaho Public Utilities Commission
Utah Power and Light Company
International Paper Company
Anaconda Aluminum Company
Honorable James Weaver
Public Service Commission of Montana
California Energy Commission
Vigilante Electric Cooperative, Inc.

Attachment C

Docket No. ER82-2011-001

C.P. National Corporation
Portland General Electric Co.
California Energy Commission
Puget Sound Power and Light Co.
Idaho Power Co.
Utah Power and Light Co.
Direct Services Industries
Cities of Los Angeles, Glendale, Burbank, Pasadena and Pacific Gas and Electric Co. and Southern California Edison Co.
Montana Power Co.
Cities of Eugene, Oregon and Seattle, Washington
California Public Utilities Commission
Public Utility Districts of Clallam, Grays Harbor, Lewis, Mason No. 1 and No. 3, Pacific and Snohomish Counties, Washington
Washington Water Power Co.
Association of Public Agency Customers
Public Power Council
Public Utility Commissioner of Oregon

[FR Doc. 83-12224 Filed 5-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RI83-5-000]

MGF Oil Corp.; Complaint

May 2, 1983.

Take notice that on March 4, 1983 MGF Oil Corporation (MGF) filed a complaint with the Commission against Pyro Energy Corporation (Pyro) and El Paso Natural Gas Company (El Paso). The oil wells involved are the Sears #1, Sears #2, and Sears #3 and are located in Survey 30, T&P RR Co., Block 20, Nolan County, Texas. MGF sells casinghead gas produced from the above-mentioned wells to Pyro, which in turn resells the gas to El Paso. Initially the transaction between MGF and Pyro was governed by an interstate contract, dated January 24, 1972. This contract expired on January 24, 1982. Under this contract the subject gas was sold at $.17 per Mcf at 14.65 psia. After being unable to conclude a satisfactory replacement contract with Pyro, MGF filed a unilateral rate increase in Docket No. CS69-31 (and an application for abandonment of the subject sales to Pyro). MGF filed for a rate of $.961 per MMBtu at 14.73 psia for recompletion gas produced from the Sears #2 well and for a rate of $.572 per MMBtu at 14.73 psia for Permian Basin gas produced from the Sears #1 and #3 wells.

Although Pyro expressed no objection to the abandonment application, MGF states that El Paso has advised that it could not support the application; however, El Paso also advised that, to some extent, it would be willing to pay a higher rate for the subject gas. MGF has now sold gas to Pyro for a year without a contract.

By its complaint MGF seeks to require Pyro and El Paso to pay on the basis of MGF's above-mentioned unilateral rate increase filings until a new contractual agreement is executed and becomes effective. Additionally, MGF seeks payment at the minimum rate under Opinion No. 749 from January 1, 1976 through July 1, 1982, the day before the unilateral rate increases became effective.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12221 Filed 5-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-28-003]

Panhandle Eastern Pipe Line Co.; Change in Tariff

May 2, 1983.

Take notice that on April 29, 1983 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fifth Revised Sheet No. 3-A.
Twenty-Second Revised Sheet No. 3-B.

The proposed effective date of these tariff sheets is June 1, 1983.

These revised tariff sheets reflect a reduced PGA rate adjustment of 63.78¢ per Dt, as follows:

(1) A 21.20¢ per Dt decrease resulting from Panhandle's projected reduced gas purchase costs; and

(2) A 44.62¢ per Dt decrease in the recovery of amounts in the Deferred Purchased Gas Cost Account, which reflects a proposed amortization over a three-year peirod of the deferred purchased gas cost account; and

(3) A 2.04¢ increase in the Deferred Purchased Gas Cost Carrying Charge.

Panhandles states that this propsoed rate reduction represents a revision of the PGA rate adjustment which became effective March 1, 1983 pursuant to the Commission's Order dated February 28, 1983, in Docket No. TA83-1-28-001 (PGA83-2, IPR83-1, DCA83-1, TT83-1 and ANGTS83-1), and reflects significant changes which have occurred, and are anticipated to occur, in Panhandle's purchase gas patterns and deferred purchased gas cost account.

Specifically, the major changes in gas purchase costs, and the significant revisions in the methods of recovering those costs through this proposed PGA include:

(1) Reduction in the cost of Canadian gas to reflect the new border price of $4.40 per MMBtu.

(2) Reduction in the volume of Canadian gas purchased from Canadian suppliers and delivered to Panhandle by the Northern Border Pipeline System.

(3) Changes in the purchase pattern of Panhandle's domestic gas supplies involving increased proportions of purchased gas from low cost (Section 104 and Section 106) sources and lower volumes of gas from other NGPA categories.

(4) Reduction in Panhandle's purchases from its pipeline supplier, Trunkline Gas Company, in order to permit a larger portion of system requirements to be obtained from domestic field and plant purchases, utilizing the methodology of the Docket No. RP61-103 settlement.

(5) Reduction in the deferred account currently being recovered, through amortization over a 36-month period of the balance remaining at the time this PGA rate adjustment will take effect.

Panhandle further states that the purpose of this program is to reverse the upward trend in Panhandle's gas supply costs and rates to its resale customers and to provide an immediate reduction in rates of 64 cents per Dt that will assist the customers in retaining their market, and enhancing their purchases from Panhandle.

The reduced volumes that Panhandle's resale customers are presently purchasing and projected for the next two to three years results in system requirements substantially lower than Panhandle's take-or-pay obligations to its suppliers. This filing, along with other programs being pursued by Panhandle, are intended to bring these factors more closely into balance.

Panhandle is vigorously pursuing these programs to assist its customers in retaining and restoring their markets in an effort to turn around the diminution of volumes to be purchased from Panhandle. This filing is designed to expedite the passthrough of those programs.

In order to facilitate relief for the resale customers, promptly and with a minimum of procedural complexity, Panhandle requests waiver of several requirements in the normal PGA and tariff procedures. All necessary waivers are hereby respectfully requested. These include:

(a) Waiver of the twice a year PGA limitation in order to permit this intermediate PGA filing to become effective June 1, 1983. As the Commission is aware, the normal PGA rate adjustment dates for Panhandle are March 1 and September 1.

(b) Waiver of the 45 days' notice period for PGA rate adjustments specified in § 18.1 of Panhandle's tariff, in order to bring the benefits of the lower rates to the resale customers as soon as practicable.

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(c) Waiver of the portion of § 18.2 of Panhandle's tariff that calls for historical gas purchase patterns and sales volumes in the computation of the PGA rate adjustment, in order to reflect the projected sales volumes and the proposed change in gas purchase patterns upon which a portion of this rate reduction is based.

(d) Waiver of the provisions of the PGA tariff and regulations to permit amortization of the deferred purchased gas cost account over a period of 36 months, in order to smooth out the unusually large deferred balance presently being recovered in the PGA that became effective March 1.

Panhandle states that its representatives are available to respond to inquiries concerning the material transmitted herewith.

Copies of this letter and enclosure are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12222 Filed 5-5-83; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. EL83-20-000]

The Town of Highlands, North Carolina, Haywood Electric Membership Corporation, and North Carolina Electric Membership Corp. v. Nantahala Power & Light Co.; Filing

May 2, 1983.

Take notice that on April 13, 1983, pursuant to Rules 206, 212 and 217 of the Commission's Rules of Practice and Procedure, and Article II of the Settlement Agreement in *Nantahala Power & Light Co., Docket No. ER 80-574, which was accepted by the Commission on* November 16, 1981, the Town of Highlands, North Carolina ("Highlands"), Haywood Electric Membership Corporation and North Carolina Electric Membership Corporation ("Coops") filed a complaint requesting that the Commission order revision of Nantahala's PL-(COSAC) Tariff beginning March 1, 1981 to conform with the Commission's modification of Nantahala's energy entitlements under the 1971 Apportionment Contract for wholesale ratemaking purposes in Opinion No. 139, *Nantahala Power & Light Co.*, 19 FERC 61,152 (May 14, 1982), and order refunds of amounts collected since March 1, 1981 based on Nantahala's use of the 1971 Apportionment Contract without modification for ratemaking purposes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12223 Filed 5-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3474-002, et al.]

Lake Junaluska Assembly, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. Type of Application: Case Specific Exemption—5 MW or Less.

b. Project No.: 3474-002.

c. Date Filed: January 21, 1983.

d. Applicant: Lake Junaluska Assembly.

e. Name of Project: Lake Junaluska.

f. Location: Haywood County, North Carolina.

g. Filed Pursuant to: 18 CFR Part 4 Subpart K (1981).

h. Contact Person: Mr. Lawrence Braxton, Business Manager, Lake Junaluska Assembly, The United Methodist Church, Southeastern Jurisdiction, Lake Junaluska, North Carolina 28745.

i. Comment Date: June 13, 1983.

j. Description of Project: The proposed project consist of: (1) a reservoir with a storage capacity of 2,533 acre-feet and a surface area of 189 acres at power pool elevation of 2561.2 NGVD; (2) a concrete dam that is 550 feet long and 43 feet high at its maximum section; (3) a concrete powerhouse which will contain 3 generating units rated at 95.5 kW, 164 kW, and 280 kW, respectively, for a total installed capacity of 439.5 kW; and (4) appurtenant facilities. The Applicant estimates the average annual energy output to be 2,807,890 kWh

k. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

2a. Type of Application: Application for License (under 5 MW).

b. Project No: 4117-001.

c. Date Filed: March 23, 1983.

d. Applicant: The Metropolitan District.

e. Name of Project: Colebrook Project.

f. Location: On the West Branch of the Farmington River, in Litchfield County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Bernard A. Batycki, District Manager, The Metropolitan District, 555 Main Street, Hartford, Connecticut 06101.

i. Comment Date: July 1, 1983.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Colebrook Dam and Colebrook River Lake and would consist of: (1) new trashracks at the existing intake structure; (2) modification of the outlet conduit and portal to accommodate project flows and pressures; (3) a new powerhouse with an installed capacity of 2,500 kW at the downstream toe of the dam embankment; and (4) other appurtenances. Applicant estimates an average annual generation of 6,500,000 kWh. This application was filed during the term of Applicant's preliminary permit for the Colebrook Project No. 4117-000.

k. Purpose of Project: Project energy would be sold to the Connecticut Light and Power Company.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

3a. Type of Application: Exemption from License—5 MW or Less.

b. Project No: 6276-002.

c. Date Filed: November 23, 1982.

d. Applicant: MacGregor Downs, Inc.

e. Name of Project: Lockville Dam.

f. Location: Chatham and Lee Counties, North Carolina.

g. Filed Pursuant to: 18 CFR Part 4 Subpart K (1982).

h. Contact Person: Mr. Pete Reynolds, MacGregor Downs, Inc., P.O. Box 790, Cary, North Carolina 27511.

i. Comment Date: June 13, 1983.

j. The proposed project would consist of: (1) an existing reservoir with a surface area of approximately 50 acres and a storage capacity of approximately 400 acre-feet at power pool elevation of 180 feet m.s.l.; (2) an existing concrete dam that is approximately 600-feet long and 13-feet high; (3) an existing concrete and brick powerhouse which would contain two proposed generating units rated at 880 kW each; (4) a proposed 23 kV transmission line; and (5) appurentant facilities. The Applicant estimates the average annual generation would be 7.65 GWh.

k. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

a. Type of Application: License (5 MW or Less).

b. Project No: 6783-000.

c. Date Filed: October 20, 1982.

d. Applicant: Enviro Hydro, Inc.

e. Name of Project: Butter Creek.

f. Location: On Butter Creek, near Hyampon, in Trinity County, California, and utilizing Trinity National Forest lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: H.L. Pete Childers, Enviro Hydro, Inc., 9200 Shanley Lane, Auburn, California 95603.

i. Comment Date: June 13, 1983.

j. Competing Application: Project No. 4396-000, Date Filed: March 23, 1983, Notice Issued: April 29, 1981.

k. Description of Project: The proposed project would consist of: (1) a 3-foot-high concrete weir at elevation 2,250 feet; (2) a 6,800-foot-long, 48-inch-diameter pipeline/penstock; (3) a powerhouse at elevation 1,600 feet containing one generating unit rated at 2,000 kW; (4) an access road; and (5) a 4-mile-long transmission line. The average annual energy generation is estimated to be 7 million kWh.

l. Purpose of Project: Power will be sold to the Pacific Gas and Electric Company.

m. This notice also consists of the following standard paragraphs: A2, B, C and D1.

a. Type of Application: Preliminary Permit.

b. Project No: P-6994-000.

c. Date Filed: January 11, 1983.

d. Applicant: City of Memphis, Tennessee.

e. Name of Project: H.M. Bessie.

f. Location: the Bessie Cutoff area of the Mississippi River, in Lake County, Tennessee, Fulton County, Kentucky, and New Madrid, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arnold Fieldman, Mr. Channing D. Strother, Jr., Goldberg, Fieldman & Letham, P.C., 1100 Fifteenth Street, NW., Washington, D.C. 20005, and Ira C. Stanfill, Memphis Light, Gas and Water Division, P.O. Box 430, Memphis, Tennessee 38101.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) the construction of a new channel; (2) a new powerhouse containing 25 generating units having a total rated capacity of 100 MW; (3) a new 161-kV, 5.6-mile long transmission line and an upgrading of an existing 69-kV 24-mile long transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 641 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Tennessee Valley Authority.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $14,000.

6a. Type of Application: Preliminary Permit.

b. Project No: 7034-001.

c. Date Filed: April 4, 1983.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: Hunger Mountain Project.

f. Location: On North Fork Calawah River in Clallam County, Washington, within the Olympic National Forest.

g. Filed Pursaunt to: Federal Power Act 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Jerome E. Livingston, President, 201–215th Street, SE., Bothell, Washington 98011 and Dr. Brad Shea, Western Eco-Systems Technology, Inc., 204–215th St. SE., Bothell, Washington 98011.

i. Comment date: July 7, 1983.

j. Description of Project: The proposed project would consist of: (1) a 5-foot-high diversion structure at elevation 1,925 feet; (2) a 12-inch-diameter, 11,500-foot-long pipeline-penstock system; (3) a powerhouse containing two generating units with a total rated capacity of 4,040 kW, operating under a head of 825 feet; (4) a tailrace discharging directly into the North Fork Calawah River; and (5) a 3.5-mile-long, 35-kV transmission line. The estimated average annual energy output is 25 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 30 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $150,000.

k. Purpose of Project: Project power will be sold to a local service utility or Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2

7a. Type of Application: Preliminary Permit.

b. Project No: 7037-000.

c. Date Filed: January 31, 1983.

d. Applicant: Public Utility District No. 1 of Okanogan County.

e. Name of Project: Shankers Bend.

f. Location: On the Similkameen River, near the Town of Oroville, in Okanogan County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C., 791(a)–825(r).

h. Contact Person: Harlan Warner, Manager, Okanogan County PUD No. 1, P.O. Box 912, Okanogan, Washington 98840.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) a 140-foot-high concrete dam; (2) a 7,500-acre reservoir with a storage capacity of 162,000 acre-feet at normal reservoir elevation 1,175 feet; (3) a powerhouse near the base of the dam containing one or two generating units with a total installed capacity of 18 MW; and (4) a 5.3-mile-long transmission line. The average annual energy generation is estimated to be 60 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of one million dollars. No new roads would be required to conduct the studies.

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k. Purpose of Project: Power will be used by the Applicant.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, D2.

8a. Type of Application: Exemption for Small Conduit Hydroelectric Facility.

b. Project No: 7055–000.

c. Date Filed: February 2, 1983, amended March 18, 1983.

d. Applicant: City of Monroe, Utah.

e. Name of Project: Monroe Pumping and Power Generating Station.

f. Location: Monroe Creek, Sevier County, Utah.

g. Filed Pursuant to: 18 CFR Part 4 Subpart J (1980), Implementing Section 30 of the Federal Power Act (Act).

h. Contact Person: Honorable Myron Madsen, Mayor, Monroe City, 10 North Main Street, Monroe, Utah 84754.

i. Comment Date: June 13, 1983.

j. Description of Project: The proposed project would utilize an existing irrigation system and would include: (1) a pump and power generating building housing a 40-kW generator-pump unit and a 57-kW generator unit; (2) an addition of approximately 1,900 feet of 15-inch diameter PVC pipe from the existing pressure irrigation system to the pump and power generating building; (3) an addition of a 15-inch diameter PVC line connecting into the existing system near the existing reservoir and extending to the pump and power generating building; (4) the existing Monroe South Bend Canal; (5) an existing reservoir with a storage capacity of 11 acre-feet; and (6) appurtenant facilities. Average annual generation is estimated to be 500,000 kWh. Average head would be 145 feet. The system would be manually operated.

k. Purpose of Project: All energy would be used by the local municipal utility, Monroe City Power.

l. This notice also consists of the following standard paragraphs: D3b, B and C.

9a. Type of Application: Preliminary Permit.

b. Project No.: 7064–000.

c. Date Filed: February 8, 1983 and supplemented April 7, 1983.

d. Applicant: J. Michael Scott.

e. Name of Project: Bear Creek Hydro Project.

f. Location: Gardiner, Park County, Montana on the Bear Creek.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: J. Michael Scott, No. 7, 503 North Black, Bozeman, Montana 54715.

i. Comment Date: July 7, 1983.

j. Description of Project: The proposed project would be located entirely within the U.S. Forest Service, Gallatin National Forest, and consist of: (1) proposed intake structure located at elevation 6160 msl; (2) a new steel penstock approximately 2 miles long; (3) a proposed powerhouse with a total installed capacity of 520 kW; (4) a proposed tailrace; (5) a new transmission line approximately .15 miles; and (6) appurtenant facilities. All power generated would be sold to Montana Power Company or a local utility company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

10a. Type of Application: Preliminary Permit.

b. Project No: 7066–000.

c. Date Filed: February 9, 1983.

d. Applicant: Burlington Street Associates.

e. Name of Project: Burlington Street Dam.

f. Location: Johnson County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. T. B. Forbes, Burlington Street Associates, P.O. Box 421, Mercer Island, Washington 98040, and Mr. Joel Rector, Attorney, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing reservoir with a surface area of 110 acres and storage capacity of 640 acre-feet; (2) an existing concrete dam that is approximately 20 feet high and 284-feet long; (3) an existing concrete conduit which is 9-feet by 18-feet; (4) an existing powerhouse which would consist of 2 generating units rated at 1 MW each for a total installed capacity of 2 MW; and (5) appurtenant facilities. The Applicant estimates the average annual energy output to be 8,760,000 kWh.

k. Purpose of Project: The Applicant proposes to sell the generated power to the University of Iowa.

l. This notice consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

11a. Type of Application: License (Over 5 MW).

b. Project No: 7099–000.

c. Date Filed: February 23, 1983.

d. Applicant: The City of Gillette, Wyoming.

e. Name of Project: Lake Elwell Hydroelectric Power.

f. Location: On the Marias River in Liberty County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Alan Tandy, City Administrator, City of Gillette, P.O. Box 3003, Gillette, Wyoming 82716.

i. Comment Date: June 13, 1983.

j. Competing Application: Project No. 6432–001, Date Filed: July 13, 1982; Project No. 7022–000, Date Filed: January 25, 1983.

k. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation Tiber Dam and consist of: (1) an existing 1,600-foot-long, auxiliary outlet works; (2) a proposed powerhouse containing an installed generating capacity of 14 MW; (3) a proposed 1-mile-long, 115-kV transmission line; and (4) appurtenant facilities. The project would utilize approximately 11 acres of U.S. Government land. The Applicant estimates that the average annual energy generation will be 64 GWh.

l. This notice also consists of the following standard paragraphs: A3, B, C, and D1.

12a. Type of Application: Preliminary Permit.

b. Project No: 7101–000.

c. Date Filed: March 16, 1983.

d. Applicant: Eric H. Lange.

e. Name of Project: Plainwell No. 1 Water Power Project.

f. Location: Kalamazoo River, Allegan County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Eric H. Lange, 800 Stephenson Highway, Troy, Michigan 48084.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) the existing Plainwell No. 1 dam, a 175 foot long earth embankment and concrete structure about 20 feet high, and owned by the Michigan Department of Natural Resources; (2) a proposed powerhouse with an installed capacity of 1200 kW; (3) a proposed short transmission line to connect with the existing power grid; and (4) appurtenant equipment. Applicant estimates the average annual power production to be 6.0 GWh.

k. Purpose of Project: Applicant proposes to sell the project power to Consumers Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

13a. Type of Application: 5 MW Exemption.

b. Project No: 7118–000.

c. Date Filed: March 3, 1983.

d. Applicant: Cumberland Power Corporation.

e. Name of Project: Smelt Hill Project.

f. Location: On the Presumpscot River, near the town of Falmouth, Cumberland County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Clinton Smith, Cumberland Power Corporation, P.O. Box 340, N. Windham, Maine 04062.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing 151-foot-long, 14-foot-high timber crib dam to be repaired and fitted with 4-foot-high flashboards; (2) an existing 40-foot-long sluice gate section containing 5 sluice gates; (3) an existing 16-acre reservoir with a normal maximum water surface elevation of 21.2 feet m.s.l.; (4) an existing canal intake and trashrack structure; (5) an existing 26-foot-wide, 285-foot-long power canal; (6) an existing powerhouse foundation forming the last 150 feet of the intake canal wall to be repaired and a new powerhouse constructed to contain 5 turbine-generators with a total rated capacity of 1,125 kW; (7) an existing fishway located near the east abutment and a new fishway to be constructed at the end of the power canal; (8) a transmission line; and (9) appurtenant facilities.

k. Purpose of Project: Energy produced at the project would be utilized by the Applicant with excess energy sold to the local utility.

l. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

14a. Type of Application: Preliminary Permit.

b. Project No: 7130–000.

c. Date Filed: March 9, 1983.

d. Applicant: HY-TECH Company.

e. Name of Project: Shell Creek.

f. Location: Shell Creek, Big Horn County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 91(a)–825(r).

h. Contact Person: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of (1) a proposed concrete diversion structure, 8 feet high and 60 feet long; (2) a proposed penstock, 10,000 feet long; (3) a proposed powerhouse containing 3 generating units with a total installed capacity of 12,000 kW; (4) a proposed transmission line, approximately 3 miles long; and (5) appurtenant facilities. Applicant estimates the total annual power production to be 24.0 GWh.

k. Purpose of Project: Applicant states that the project power will be sold to Big Horn Rural Electric Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 7131–000.

c. Date Filed: March 9, 1983.

d. Applicant: HY-TECH Company.

e. Name of Project: Tongue River.

f. Location: Tongue River, Sheridan County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501.

i. Comment Date: July 7, 1983.

j. Description of Project: The proposed project would consist of (1) a proposed reinforced concrete diversion structure, approximately 10 feet high and 150 feet long; (2) a proposed 72-inch diameter, 5,000 feet long penstock; (3) a proposed 8-foot diameter 12,000 feet long tunnel; (4) a proposed powerhouse with a 36 MW generating unit; (5) a proposed 15-mile long transmission line to connect with the existing power grid; (6) appurtenant facilities. Applicant estimates the total annual power production to be 155.0 GWh

k. Purpose of Project: Applicant proposes to sell the project power to Montana—Dakota Utility Company or to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No: 7133–000.

c. Date Filed: March 10, 1983.

d. Applicant: HY-TECH Company.

e. Name of Project: North Piney Creek.

f. Location: North Piney Creek, Sheridan County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501.

i. Comment Date: July 7, 1983.

j. Description of Project: The proposed project would consist of: (1) a proposed concrete diversion structure, 8 feet high and 60 feet long; (2) a proposed penstock, approximately 12,000 feet long; (3) a proposed powerhouse containing 4 generating units with a total installed capacity of 8,000 kW; (4) and (5) Appurtenant facilities. Applicant estimates the annual power production to be 10.5 GWh.

k. Purpose of Project: Applicant states that the project power will be sold to Montana-Dakota Utility Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

17a. Type of Application: Preliminary Permit.

b. Project No: P–7138–000.

c. Date Filed: March 10, 1983.

d. Applicant: Springfield Associates No. 3.

e. Name of Project: Hills Creek.

f. Location: On Hills Creek in Lane County, Oregon, within the Willamette National Forest near the Town of Oakridge.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, WA 98040 with a copy to: Mr. Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, UT 84117.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high, 200-foot-long diversion dam at approximately elevation 2,000 feet; (2) a 5,000-foot-long steel penstock; (3) a powerhouse containing a single 2.5-MW generating unit; and (4) a 5.5-mile-long, 34.5-kV transmission line. The project would have an average annual generation of 10,660 MWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month preliminary permit to conduct engineering, economic, and environmental feasibility studies and to prepare an application for a FERC license. No new roads would be constructed to conduct the studies. Applicant estimates that the studies would cost $150,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

18a. Type of Application: Preliminary Permit.

b. Project No: 7139–000.

c. Date Filed: March 10, 1983.

d. Applicant: Springfield Associates #4.

e. Name of Project: Wiley Creek.

f. Location: On Wiley Creek in Linn County, Oregon within the Willamette National Forest near the Town of Sweet Home.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040 with a copy to: Mr. Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: July 5, 1983.

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j. Description of Project: The proposed project would consist of: (1) a 40-foot-high, 200-foot-long dam at elevation 1,060 feet; (2) a reservoir having a surface area of 3 acres and a storage capacity of 70 acre-feet; (3) a 750-foot-long penstock; (4) a powerhouse containing a single 1.7-MW generating unit with an average annual generation of 6,700 MWh; and (5) a 7-mile-long, 34.5-kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic, and environmental feasibility studies and to prepare an FERC license application. These studies would include core borings and test pits at the dam site, penstock route, and powerhouse site. No new roads would be constructed to conduct the studies and all disturbed lands would be restored. Applicant estimates that the studies would cost $150,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

19a. Type of Application: Preliminary Permit.

b. Project No: 7140–000.

c. Date Filed: March 10, 1983.

d. Applicant: Springfield Associates #1.

e. Name of Project: North Fork #1.

f. Location: On the North Fork of Willamette River in Lane County, Oregon within the Willamette National Forest near the Town of Westfir.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040 with a copy to: Mr. Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: July 5, 1983.

j. Description of Project: Two options for project development would be investigated. Option 1 would consist of: (1) a 10-foot-high, 200-foot-long diversion structure at elevation 1,540 feet; and (2) a 7,000-foot-long steel penstock. Option 2 would consist of: (1) an 80-foot-high, 800-foot-long dam at elevation 1,540 feet; (2) a reservoir having a surface area of 30 acres and a storage capacity of 1,100 acre-feet; and (3) an undetermined length of penstock. Each option would include: (1) a powerhouse containing a single generating unit with a capacity of 11.4 MW and an average annual generation of 44,900 MWh; and (2) an 11.5-mile-long, 34.5-kv transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month preliminary permit to conduct engineering, economic, and environmental studies to ascertain project feasibility and to prepare an application for an FERC license. Those studies would include core borings and test pits at the dam site, penstock route, and powerhouse site. No new roads would be constructed to conduct the studies and all disturbed lands would be restored. Applicant estimates the cost of the above activities to be $150,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

20a. Type of Application: Preliminary Permit.

b. Project No: 7152–000.

c. Date Filed: March 17, 1983.

d. Applicant: Seward Construction Co., Inc., Zoes J. Dimos and James C. Katsekas.

e. Name of Project: Lyman Water Power Project.

f. Location: On Connecticut River in Coos County, New Hampshire, and Essex County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gus Garceau, Seward Construction Co., P.O. Box 1011, Portsmouth, New Hampshire 03801, and Zoes J. Dimos and James C. Katsekas, 209 Walnut Street, Manchester, New Hampshire 03104.

i. Comment Date: July 1, 1983

j. Description of Project: The proposed run-of-river project would consist of: (1) a breached dam, approximately 25 feet high and 500 feet long, to be reconstructed; (2) a reservoir having minimal pondage; (3) a new penstock, approximately 2,000 feet long; (4) a new powerhouse to be constructed at an old powerhouse site and to contain turbine-generator units having a total rated capacity of 4,200 kW; (5) a tailrace returning flow to the Connecticut River approximately 2,000 feet downstream of the dam; (6) a new transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 17,000,000 kWh. Ownership of the site is unknown, at present, and the Applicant is investigating. Project energy would be sold locally.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

l. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $100,000.

21a. Type of Application: License (under 5 MW).

b. Project No: 7153–000.

c. Date Filed: March 21, 1983.

d. Applicant: SNC Hydro Inc.

e. Name of Project: Victory Mills Project.

f. Location: Fish Creek in Saratoga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: H.W. Pearson, SNC Hydro, Inc, c/o The SNC Corporation, 219 East 42nd Street, New York, New York 10017.

i. Comment Date: July 1, 1983.

j. Description of Project: The proposed project would consist of: (1) a new concrete weir dam varying from 4 to 6 feet in height and 220 feet long; (2) an existing sluice dam 9 feet high and 20 feet long; (3) a reservoir having a surface area of 4.3 acres, a storage capacity of 18 acre-feet and normal water surface elevation of 189.0 feet m.s.l.; (4) rehabilitation of the existing intake canal; (5) three steel penstocks, one 5 feet in diameter and 20 feet long, one 6 feet in diameter and 90 feet long and one 4 feet in diameter and 40 feet long; (6) an existing powerhouse with three new generating units having a total installed capacity of 1,237 kw; (7) rehabilitation of the existing tailrace canal; (8) an existing 4.8 kV transmission line; and (9) appurtenant facilities. The Applicant estimates the average annual generation would be 4,500,000 kWh. Estimated construction cost is $450,000. The existing retired facilities are owned by the Niagara Mohawk Power Corporation.

k. Purpose of Project: All project energy generated would be sold to the Nigara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

22 a.Type of Application: Preliminary Permit.

b. Project No: 7167–000.

c. Date Filed: March 21, 1983.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: Sitkum, River Project.

f. Location: On the Sitkum River, near Forks, in Clallam County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jerome E. Livingston, 201–215th Street, SE., Bothell, Washington 98011.

i. Comment Date: July 7, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) a 10-foot-high, 60-foot-wide diversion structure on the Sitkum River, approximately 8.6 miles upstream from its confluence with South Fork Calawah River; (2) a 12,000-foot-long, 54-inch-diameter combination pipeline-penstock; (3) a powerhouse, near the confluence of Sitkum River and Brandberry Creek, containing two turbine generators with a total installed capacity of 8.0 MW and producing an average annual energy output of 56 GWh; and (4) appurtenant facilities. The project is located entirely within the Olympic National Forest. Project power would be sold to a public utility.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 30-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $150,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

23 a. Type of Application: Preliminary Permit.

b. Project No: 7169–000

c. Date Filed: March 23, 1983.

d. Applicant: The Colorado Water Resources and Power Development Authority.

e. Name of Project: Dolores Pumped Storage Project.

f. Location: Plateau Creek in Montezuma County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ival V. Goslin, Executive Director, and Mr. W. D. Farr, Chairman, Colorado Water Resources and Power Development Authority, 1390 Logan Street, Suite 217, Denver, Colorado 80203.

i. Comment Date: July 6, 1983.

j. Description of Project: The proposed pumped-storage project would consist of: (1) a 15,500 acre-foot forebay, at 8,013 feet m.s.l., formed by (2) a 6,200-foot long, 113-foot high dam and a 700-foot long, 20-foot high dike—both of earthfill construction with provision for a 15,500 cfs emergency spillway; (3) an intake structure and two penstocks, each 21 feet in diameter and 5,340 feet in length, with horizontal and vertical alignments leading to (4) an underground powerplant containing two 500 MW pump-turbines for a total rated capacity of 1,000 MW; (5) two tailrace tunnels, each 38 feet in diameter and 850 feet in length, connecting to (6) a 17,000 acre-foot afterbay, at 7,165 feet m.s.l., formed by (7) an 800-foot long, 240-foot high concrete arch dam with provision for a 22,000 cfs spillway; (8) two 345-kV transmission lines, each 6-½ miles long; and (9) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 800 million kWh. Energy would be marketed through various public and private utilities. Feasibility studies will be conducted jointly with the U.S. Bureau of Reclamation.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of preliminary permit for a period of 3 years during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $700,000.

24a. Type of Application: Exemption from Licensing (5MW or less).

b. Project No: 7172–000.

c. Date Filed: March 23, 1983.

d. Applicant: Douglas Water Power Company.

e. Name of Project: Dry Ridge Hydroelectric.

f. Location: On an unnamed tributary of the Roaring River in Clackamas County, Oregon, within Mount Hood National Forest.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Douglas Pegar, Douglas Water Power Company, 540 East First Street, Gladstone, Oregon 97027.

i. Comment Date: June 16, 1983.

j. Description of Project: The proposed project would consist of: (1) a 2.5-foot-high, 24-foot-long wood and concrete diversion/intake structure at elevation 3200 feet; (2) a 24-inch-diameter, 5200-foot-long penstock; (3) a powerhouse at elevation 1040 feet containing one turbine and two generators with a total rated capacity of 5.0 MW and an average annual generation of 12.24 GWh; (4) a 10-foot-long tailrace to the Glackamas River; and (5) an 8000-foot-long transmission line connecting to an existing Pacific Gas and Electric Company line.

k. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

25a. Type of Application: Preliminary Permit.

b. Project No: 7178–000.

c. Date Filed: March 29, 1983.

d. Applicant: Ronald F. and Carlene A. Ott.

e. Name of Project: Arbuckle Mountain Hydropower.

f. Location: On Middle Fork Cottonwood Creek in Shasta County, California near the Town of Platina.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ronald F. Ott, Ott Water Engineers, Inc., 2334 Washington Ave., Redding, California 96001.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high, 120-foot-long diversion structure at elevation 1,900 feet; (2) a 66-inch-diameter, 1,200-foot-long conduit or channel; (3) three 36-inch-diameter, 50-foot-long penstocks; (4) a powerhouse containing three generating units with a combined rated capacity of 300 kW, operating under a head of 30 feet; and (5) a 12.5-kV transmission line tying into an existing Pacific Gas and Electric Company line. The estimated annual energy output would be 1 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 24 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $50,000.

k. Purpose of Project: Project power will be sold to Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

26a. Type of Application: Preliminary Permit.

b. Project No: 7184–000.

c. Date Filed: March 30, 1983.

d. Applicant: Richard A. and Carole K. Sorenson.

e. Name of Project: Sorensen Hydroelectric.

f. Location: On Warm Springs Creek in Custer County, Idaho near the Town of Stanley, within the Sawtooth National Forest.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Eric Schulz, CH2M Hill, 700 Clearwater Lane, P.O. Box 8748, Boise, Idaho 83707.

i. Comment Date: July 5, 1983.

j. Description of Project: The proposed project would consist of: (1) a 2-foot-high, 15-foot-long diversion-intake structure at elevation 5,900 feet (2) a 16-inch-diameter, 3,000-foot-long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of

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30 kW, operating under a head of 90 feet; and (4) a 3,500-foot-long buried transmission line. The estimated annual energy output would be 250,000 kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 24 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $2,500.

k. Purpose of Project: Project Power will be utilized on-site by the Applicants to serve miscellaneous electrical loads at the Robinson Bar Ranch.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

27a. Type of Application: Preliminary Permit.

b. Project No: 7199–000.

c. Date Filed: April 7, 1983.

d. Applicant: City of Strawberry Point, Iowa.

e. Name of Project: Delhi Milldam.

f. Location: Delaware County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary C. Peterson, Shive—Hattery and Associates, P.O. Box 1803, Cedar Rapids, Iowa 52406.

i. Comment Date: July 1, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing reservoir with an area of 50 acres and a storage capacity of 880 acre-feet at power pool elevation of 886 feet m.s.l.; (2) an existing earth filled dam that is 58.5-feet high and 700-feet long; (3) an existing powerhouse that will contain 1 generating unit rated at 600 kW; (4) a proposed transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,628,000 kWh.

k. Purpose of Project: The Applicant anticipates using all the energy generated at the project.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210., 385.211, 385.214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the commission's rules may become party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital leters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days drom the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 3, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–11982 Filed 5–5–83; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 28 Through April 1, 1983

During the week of March 28 through April 1, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Gentry & Wagner, 3/31/83; HFA-0123

The DOE issued a Decision and Order concerning an Appeal from a denial of a Freedom of Information Act (FOIA) request by the FOIA Officer of DOE's Oak Ridge Operations Office. The Appellants sought the release of the transcript of a Merit Systems Protection Board proceeding, a copy of which was held by the DOE. On appeal, the Office of Hearings and Appeals determined that the document is an agency record within the purview of the FOIA and not exempt from disclosure under any of the Act's provisions. Accordingly, the Appeal was granted.

Motions for Discovery

Barkett Oil Co., Anchor Distributors, Inc., Lawrence Oil Co., Office of Enforcement, 4/1/83; BRD–1342, BRD–1357, HRD–0006, HRD–0059, HRD–0060, HRD–0061, HRZ–0135

Barkett Oil Company and two affiliated firms, Lawrence Oil Company and Anchor Distributors, Inc., filed Motions for Discovery in connection with a series of Proposed Remedial Orders issued to them by the Economic Regulatory Administration (ERA). In denying the motions, OHA held that contemporaneous construction discovery was not appropriate concerning various aspects of the reseller-retailer pricing regulations and the policies and audit practices used by the agency in implementing those regulations. The subjects on which discovery was denied included: (1) the equal application rule, (2) netting of overcharges against alleged "undercharges," (3) inclusion of the non-product cost increase allowance in maximum lawful selling prices calculated under the acquisition rule, 10 CFR 212.111(c), (4) calculation of banks of unrecouped costs, (5) the sequence of recovery of product and non-product cost increases, (6) establishment of pricing periods, and (7) the pricing rules applicable to sales of unleaded gasoline. The OHA also denied the firms' requests for discovery concerning gasoline prices charged by retailers other than Barkett and its affiliates, the agency's standards governing assessment of interest on overcharges, and whether the agency abused its discretion by auditing Barkett and its affiliates.

In addition, the OHA granted a motion filed by ERA to withdraw portions of certain of the PROs insofar as they alleged overcharges on sales of unleaded gasoline. The PROs involved had been issued prior to Ruling 1981–3, which stated that the agency would apply 10.CFR 212.93(a) rather than 10 CFR 212.112 in determining the maximum lawful selling prices which resellers and retailers could charge for unleaded gasoline. OHA concluded that to the extent that Ruling 1981–3 might alter the ERA's calculations, ERA should not be precluded from modifying those calculations.

Interlocutory Orders

ERA/Cordele Operating Company, 4/1/83; HRZ–0119

The Economic Regulatory Administration (ERA) filed a Motion to Join Additional Parties in connection with an enforcement proceeding pending before the Office of Hearings and Appeals, *Cordele Operating Company*, Case No. HRO–0069 (filed September 9, 1982). Pursuant to that Motion, the ERA sought an order under 10 CFR 205.199G to join Mr. W. L. Pickens, Mr. H. J. Porter and the Wheelock Oil Company as

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parties to the Cordele proceeding. Cordele, Pickens, Porter and Wheelock objected to the motion, asserting that the DOE regulations required the ERA to issue new PROs to the additional parties, and that joinder of the additional parties at this stage in the proceeding violates due process. The DOE granted the ERA's motion, finding that it was more administratively efficient to join the parties under Section 205.199G than to issue the parties new PROs. The DOE further found that joinder at this stage of the proceeding did not violate due process.

Office of Special Counsel for Compliance, 3/30/83; HRZ-0094

The Office of Special Counsel for Compliance (OSC) filed a motion to compel Gulf Oil Corporation to produce further corporate state of mind discovery pursuant to the decisions of the Office of Hearings and Appeals in *Office of Special Counsel (Gulf)*, 9 DOE ¶ 84,010 (1982) *(OSC/Gulf I)*, and *Office of Special Counsel (Gulf)*, 9 DOE ¶ 82,543 (1982) *(OSC/Gulf II)*. OSC's motion related to a Proposed Remedial Order that OSC issued to Gulf on May 1, 1979. In considering OSC's motion, the DOE found that Gulf's response to the corporate state of mind discovery orders was defective in some respects. In particular, the DOE concluded that Gulf: (1) had failed to apply properly the "responsible corporate officer" (RCO) concept articulated in *OSC/Gulf II*; (2) had conducted an inadequate search for documents responsive to two interrogatories OSC had propounded; and (3) had improperly failed to search the personal files of RCOs. Gulf was ordered to submit a modified discovery response to remedy these defects. The DOE, however, did not agree with OSC that Gulf's discovery response was defective in other respects and that OSC needed to depose Gulf officials concerning the conduct of the search. Accordingly, the OSC motion was granted in part.

Refund Applications

Pennzoil Company/Paul Smith Oil, Inc., 4/1/83 RF10-58

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The present Decision and Order addresses an application for refund filed by an applicant claiming purchases of a covered product in excess of 50,000 gallons per month during the period for which a refund is claimed. In considering the refund application, the DOE determined that the firm was adversely affected by Pennzoil's alleged overcharges and was eligible for a portion of the consent order funds. Accordingly, Paul Smith Oil, Inc.'s application was granted.

Standard Oil Company (Indiana)/Don Grangers Auto et al., 3/30/83; RF21-0854 et al.

The DOE issued a Decision and Order concerning 34 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 34 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $31,731.

Standard Oil Company (Indiana)/Merle Oil Company Inc. et al., 3/30/83; RF21-0057 et al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 67 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $131,142.

Standard Oil Company (Indiana)/Merle Oil Company Inc. et al., 3/29/83; RF21-0058 et al.

The DOE issued a Decision and Order concerning 75 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 75 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $$32,587.

Standard Oil Company (Indiana)/Village of Arlington Heights et al., 4/1/83; RF21-131 et al.

The DOE has issued a Decision and Order concerning 27 Applications for Refund from consumers of Amoco motor gasoline. All of these consumers elected to apply for a refund based upon the presumption of injury and formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Each consumer therefore submitted detailed information concerning its Amoco purchase volumes. After analyzing this information, the DOE concluded that each of the 27 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. Accordingly, these applications were granted in full.

Tenneco Oil Company/Kellermyer Incorporated, 3/30/83; RF7-104

Kellermyer Incorporated filed an Appliation for Refund for a portion of the Tenneco Oil Company consent order fund. Kellermyer formerly sold Tenneco propane on consignment. In its application, Kellermyer claimed that Tenneco failed to supply the firm with its propane allocation and as a result Kellermyer suffered injury due to lost profits. Kellermyer also alleged that Tenneco overcharged the firm on propane. After analyzing Kellermyer's claims, the Office of Hearings and Appeals found that Kellermyer qualified for a refund under the procedures set forth in *Office of Special Counsel*, 9 DOE ¶ 82,538 (1982), based on its allocation claim. However, OHA determined that Kellermyer should not receive a refund based on its price claim since Kellermyer did not suffer any injury due to the alleged Tenneco overcharges. Accordingly, Kellermyer's application was granted in part.

Protective Order

Atlantic Richfield Co./Economic Regulatory Administration, 3/28/83; HRJ-0039

The Atlantic Richfield Co. and the Economic Regulatory Administration jointly filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the parties. The DOE granted the application and issued the requested Protective Order as an Order of the Department of Energy.

Dismissals

The following submissions were dismissed:

Name	Case No.
Beerbower Oil Co	RF21-2741.
Duane Bodensteiner	RF21-2472.
Braaten Oil Co., Inc	RF21-0964.
Crown Moving & Storage	RF21-1818.
Fagen Oil Co	RF21-0786.
Fund for Open Info Accountability	HFA-0125.
Vance C. Gary	RF21-2463.
H. D. Seitz Oil Co	RF21-2211.
Hall's Car Care Center	RF21-1095.
Hartigan Oil Co	RF21-2403
Highway 55 Standard	RF21-1099
Robert Hudspeth	RF21-2503.
Jackson Petroleum Co	RF21-2380
Donald V. McClarty	RF21-1550
Quickie Transport Co	RF21-1813
James V. Tyrell	RF21-2297
Robert L. Winberg	RF21-0944

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-12139 Filed 5-5-83; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

Order Confirming, Approving, and Placing Increased Power Rate in Effect on an Interim Basis

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of power rate order (Sam Rayburn Dam).

SUMMARY: The Assistant Secretary for Conservation and Renewable Energy, under Delegation Order 0204-33, FR 60638 (December 28, 1978), as amended, effective March 19, 1981, has developed, acting by and through the Administrator, Southwestern Power Administration, an increased power rate in the amount of $1,704,504, an increase of $316,204 annually, for the sale of power and energy from the Sam Rayburn Dam marketed by the Southwestern Power Administration. The Assistant Secretary has approved the increase and has submitted it to the Federal Energy Regulatory Commission for confirmation and approval and placement into effect on a final basis.

EFFECTIVE DATE: The increased rate is being submitted to the Federal Energy Regulatory Commission for confirmation, approval, and placement into effect on a final basis by June 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box Drawer 1619, Tulsa, Oklahoma 74101, (918) 581-7529;

Fred A. Sheap, Office of Power Marketing Coordination, Department of Energy, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20585, (202) 633-8336.

Issued in Washington, D.C., April 28, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: Southwestern Power Administration—Sam Rayburn Dam Rate. Order Approving Power Rates for Submission, Rate Order No. SWPA-10.

April 28, 1983.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (SWPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204-33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

On August 19, 1982, the Southwestern Power Administration (SWPA) published notice in the **Federal Register** (47 FR 36278) that the Administrator had prepared a Current Power Repayment Study and a Revised Power Repayment Study showing the need for additional revenue to meet cost recovery criteria for the Sam Rayburn Dam project. The **Federal Register** Notice was issued in accordance with Title 10, Part 903, Subpart A, of the Code of Federal Regulations entitled, "Procedures for Public Participation in Power and Transmission Rate Adjustments." The **Federal Register** Notice apprised the public that a Public Information Forum would be held September 21, 1982, and a Public Comment Forum would be held October 19, 1982, with written comments to be accepted through November 18, 1982. Both public forums were held in Tulsa, Oklahoma, as scheduled, but there was no attendance by customer groups or other interested parties, and no written comments were received by SWPA through November 18, 1982, or afterward. SWPA attributes lack of formal participation or response to the communication that occurred between SWPA and the customer (Sam Rayburn Dam Electric Cooperative, Inc.) while the repayment studies were being developed. SWPA made a special effort to keep the customer informed as study material was developed in an effort to involve the customer in the ratemaking process. It appears that the additional communication with the customer during study preparation resulted in greater customer acceptance of the proposed rate.

The Revised Power Repayment Study demonstrates the need for a rate increase in the amount of $316,204 annually. This would increase the existing rate of $1,388,300 to $1,704,504 or 22.8 percent. The existing rate was placed in effect June 1, 1979, on an interim basis by the Assistant Secretary for Resource Applications (Assistant Secretary) in Rate Order No. SWPA-2 dated April 12, 1979. The Assistant Secretary approved the rate on an interim basis for a period of five years or until the FERC confirmed and approved the rate on a final basis. On January 8, 1981, the FERC issued its order under Docket No. EF 79-4021 confirming and approving the existing annual rate of $1,388,300 as submitted by the Assistant Secretary.

Sam Rayburn Dam Electric Cooperative, Inc., refused to pay the existing rate of $1,388,300 while it was in effect on an interim basis (June 1, 1979, through January 7, 1981). SWPA filed suit at the district court level to obtain payment, but the court handed down a decision in August 1982 in favor of the customer. Subsequently, the Fifth Circuit Court of Appeals reversed two other lower court decisions involving the same legal issues. Based upon this ruling the District Court vacated its previous Order in the Sam Rayburn case and entered a judgment in favor of the United States. The FERC staff has advised SWPA that for purposes of the repayment studies, we should treat court orders as final consistent with previous Commission rulings. Therefore, the repayment studies include no adjustments to revenue since the Government's position is currently upheld by court order.

Discussion

Estimates of Future Expenses

The need for additional revenue results mainly from increased operation and maintenance (O&M) expense related to hydroelectric power facilities operated by the Corps of Engineers and SWPA's general administrative and overhead expense. O&M expense projections provided by the Corps for the 1978 Repayment Study were estimated at $411,300 per year for FY 1982 and subsequent years. In the 1982 Repayment Study, Corps O&M expense is escalated 10 percent per year from a FY 1981 base year cost of $395,900 to $637,600 in FY 1986 and subsequent years. The 1978 Repayment Study estimated FY 1978 O&M to be $280,900 which proved to be very close to the actual figure for FY 1978 of $293,145. A comparison of O&M expense using FY

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1978, which is the first projected year of the Repayment Study, and FY 1986, which represents the maximum escalated O&M expense figure in the 1982 Repayment Study, indicates that O&M expense is projected to increase $356,700 or 127 percent.

The 1982 Repayment Study follows the same procedure as the 1978 Repayment Study to determine the portion of general administrative and overhead (GA&O) costs assigned to the Sam Rayburn Dam project. The ratio of power investment in the Sam Rayburn Dam project to the total SWPA system power and transmission investments in service is applied to the estimated GA&O expense for the total system. The total system GA&O expense is projected from estimated Congressional Budget appropriations using Gross National Product deflators through FY 1986. The FY 1986 amount is used for each subsequent year. A five-year average (FY 1977–FY 1981) of actual total system Transmission O&M and GA&O expense indicates that GA&O expense comprises 45.4 percent and Transmission O&M expense 54.6 percent of the total GA&O and O&M expense. Transmission O&M is not chargeable to the Sam Rayburn Dam project.

The 1978 Repayment Study estimated GA&O expense for the Sam Rayburn Dam project to be $57,800 in FY 1978 and increase to $60,200 for 1982 and later years. The 1982 Repayment Study escalates GA&O expense from $115,600 in FY 1982 to $121,200 for FY 1986 forward. The increase from FY 1978 through FY 1986 amounts to $63,400 or 109.7 percent.

Estimates of future project replacements were provided by the Corps of Engineers July 15, 1977, based on 1977 cost data. The 1977 cost estimates have been escalated to 1981 cost levels by SWPA using "The Handy-Whitman Index of Public Utility Construction Costs" for July 1981. The 1978 Repayment Study estimated project replacements totaling $1,063,800 for the period FY 1982 through FY 2016. The 1982 Repayment Study estimates project replacements totaling $1,897,300 for the same period of time. The estimated increase in cost related to major project replacements is $833,500 or 78.4 percent for FY 1982 through FY 2016.

As a result of increased expenses, the 1982 Power Repayment Studies for Sam Rayburn Dam show the need for an annual increase in revenue of $316,204 to repay all costs including amortization of the power investment at a 50-year rate and satisfy requirements of Section 5 of the Flood Control Act of 1944 and Department of Energy Order No. RA 6120.2.

Submission to the FERC; Effective Date

As explained by the Administrator, because of the pendency of unresolved litigation in the Claims Court, he proposed that the rate involved in tis proceeding not be placed into effect on an interim basis, but that it be placed into effect upon confirmation and approval by the FERC on a final basis. The power repayment study is based upon the assumption that the rate will be in effect beginning June 1, 1983.

Accordingly, I am not placing the rate into effect on an interim basis at this time but am approving it for submission to the FERC for confirmation, approval and effectuation on a final basis, subject to further review of the matter if action by the FERC is unduly delayed.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby approve an increase in the present annual rate of $1,388,300 for the sale of power and energy from Sam Rayburn Dam to Sam Rayburn Dam Electric Cooperative, Inc., under Contract No. 14–02–0001–1124, as amended November 1, 1980, to a rate of $1,704,504 per year, or $142,042 per month for submission to the Federal Energy Regulatory Commission for confirmation, approval and placement in effect on a final basis.

Issued at Washington, D.C., this 28th day of April 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Proposed Rate Schedule 14–02–0001–1124 [1]

United States Department of Energy, Southwestern Power Administration

Wholesale Rate for Power and Energy Sold to Sam Rayburn Dam Electric Cooperative, Inc.

(Contract 14–02–0001–1124)*

Effective: As of June 1, 1983, and thereafter in accordance with the order of the Federal Energy Regulatory Commission, dated ———, 1983, Docket No. EF 83–4021.

Applicable: To the power and energy purchased by Sam Rayburn Dam Electric Cooperative, Inc. (Sam Dam Co-op) from the Southwestern Power Administration (Government) under the Agreement for the Sale of the entire output of Sam Rayburn Dam at the damsite dated February 13, 1964, designated as Contract 14–02–0001–1124.

Compensation for Sam Rayburn Dam Power and Energy:

Article II, of said Contract 14–02–0001–1124.

"Section 3. Compensation to SPA for Sam Rayburn Dam Power and Energy.

(a) The Sam Dam Co-op shall compensate SPA each month for the 'Hydro Power and Energy' purchased under this Article II in accordance with the schedule of compensation set forth below:

(i) Beginning on the first day of the month following the date the first generating unit at the Sam Rayburn Dam is ready for commercial operation, and until the amount of compensation provided under part (ii), below, becomes due and payable—$40,000 per month;

(ii) Beginning on the first day of the month following the date two generating units at the Sam Rayburn Dam are ready for commercial operation, and thereafter during the term of this contract—$79,167 per month;

(iii) Effective March 5, 1971, by F.P.C. Order—$85,833.34 per month, $1,030,000.00 per year;

(iv) Effective June 1, 1979, by F.E.R.C. Order—$115,091.67 per month, $1,388,300.00 per year;

(v) Effective June 1, 1983, by F.E.R.C. Order—$142,042.00 per month, $1,704,504.00 per year.

(b) If, for a period of forty-eight hours or longer SPA by reason of an 'Uncontrollable Force' is unable to deliver 'Hydro Power and Energy' as scheduled, SPA shall deliver to the Sam Dam Co-op from other sources of power supply available to SPA an amount of power and energy equivalent to that scheduled but not received by the Sam Dam Co-op during the period of such inability. The point of delivery for such equivalent amounts of power and energy shall be at such point or points of interconnection between the 'System of SPA' and the 'System of Sam Dam Co-op' as may be mutually agreed upon at the time of each such period of inability; *Provided*, that it is recognized that the amount of water available for generation of 'Hydro Power and Energy' at any particular time is and will be dependent upon the manner in which the generation and delivery of power and energy has been previously scheduled by the Sam Dam Co-op, and it is understood and agreed that if any such period of inability of SPA to deliver power and energy as scheduled by the Sam Dam Co-op is caused by a failure of water supply at the Sam Rayburn Dam which is the result of improvident scheduling by the Sam Dam Co-op then, and in that event, the Sam Dam Co-op shall not be entitled to receive any equivalent amounts of power and energy as hereinbefore provided."

[FR Doc. 83-12137 Filed 5-5-83; 8:45 am]

BILLING CODE 6450-01-M

[1] Marked "Rate Schedule 14–02–0001–1124" for reference purposes only; not so designated in proceedings before the Federal Energy Regulatory Commission.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59124; BH–FRL 2355–4]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by May 23, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–59124]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–47

Close of Review Period. June 2, 1983.
Manufacturer. Confidential.
Chemical. (G) Modified poly (amino—amine).
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. Confidential.
Exposure. Confidential.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land.

TME 83–48

Close of Review Period. June 2, 1983.
Manufacturer. Confidential.
Chemical. (G) Diamino heteropolycyclic compound.
Use/Production. (G) Water colorant used as a minor component in industrial, commercial and consumer applications. Prod. range: 120 days—500 kg.
Toxicity Data. Acute oral LD_{50}: 5,000 mg/kg; Acute dermal LD_{50}: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant; Ames Test: Negative; Acute Toxicity (96 hr. LC_{50}, Bluegill)—71 mg/l.
Exposure. Minimal exposure during manufacturing and processing.
Environmental Release/Disposal. Disposal by on-site treatment prior to discharge to a publicly owned treatment works (POTW).

TME 83–49

Close of Review Period. June 2, 1983.
Manufacturer. Confidential.
Chemical. (G) Spiro [isobenzofuran xanthene].
Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: 210 days—1,400 kg.
Toxicity Data. Acute oral LD_{50}: >5,000 mg/kg; Acute dermal LD_{50}: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.
Exposure. Minimal exposure during manufacturing and processing.
Environmental Release/Disposal. Disposal by on-site treatment prior to discharge to a POTW.

TME 83–50

Manufacturer. Confidential.
Chemical. (G) Dialkylphenyl substituted amine.
Use/Production. (G) Captive intermediate used in manufacture of a minor component for paper coatings. Prod. range: 1,900 kg.
Toxicity Data. Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant.
Exposure. Minimal exposure during manufacture and processing.
Environmental Release/Disposal. Disposal by on-site treatment prior to discharge to a POTW.

Dated: April 25, 1983.

Ronald A. Standley,

Acting Director, Management Support Division.

[FR Doc. 83-11621 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–51464; TSH–FRL 2355–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nineteen PMNs and provides a summary of each.

DATES: Close of Review Period:
PMN 83–642, 83–643, 83–644, 83–645, 83–646, 83–647, 83–648 and 83–649; July 13, 1983.
PMN 83–650 and 83–651; July 16, 1983.
PMN 83–652, 83–653, 83–654 and 83–655; July 17, 1983.
PMN 83–656; July 18, 1983.
PMN 83–657, 83–658, 83–659, and 83–660; July 19, 1983.
Written comments by:
PMN 83–642, 83–643, 83–644, 83–645, 83–646, 83–647, 83–648 and 83–649; June 13, 1983.
PMN 83–650 and 83–651; June 16, 1983.
PMN 83–652, 83–653, 83–654 and 83–655; June 17, 1983.
PMN 83–656; June 18, 1983.
PMN 83–657, 83–658, 83–659 and 83–660; June 19, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51464]" and the specific PMN number should be sent to: Document Control Officer (TS –793), Office of Pesticides and Toxic Substances, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St.,SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–642

Manufacturer. Confidential.
Chemical. (G) Disubstituted phenol.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 1–20 kg/yr.

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Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-643

Manufacturer. Confidential.
Dated: Chemical. (G) Disubstituted benzoxazole.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 1–20 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-44

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzoxazolium salt.
Use/Production. (G) Incorporated as a minor constituent in an article for commerical and consumer use. Prod. range: 2–40 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83-645

Manufacturer. Confidential.
Chemical. (G) Alkyd polymer from a vegetable oil with substituted alkanediols and carbomonocyclic acids.
Use/Production. (G) Destructive and dispersive use. Prod. range: 23,500–70,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and ocular, a total of 130 workers, up to 6 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–1,000 kg/yr to land. Disposal by approved landfill.

PMN 83-646

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resin.
Use/Production. (G) Dispersive use. Prod. range: 12,500–37,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and ocular, a total of 43 workers, up to 6 hrs/da, up to 46 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–1,000 kg/yr to land. Disposal by approved landfill.

PMN 83-647

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-648

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-649

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-650

Manufacturer. Confidential.
Chemical. (G) Polymer of a diisocyanate, polyether, alkanol substituted cycloalkane, dipropylene glycol.
Use/Production. (G) Site-limited and use. Prod. range: 500–12,800 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and ocular, a total of 6 workers, up to 8 hrs/da, up to 6 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by approved landfill.

PMN 83-651

Manufacturer. Confidential.
Chemical. (G) Polymer of a diisocyanate polyether glycol, alkanol substituted cycloalkane, dipropylene glycol, alkanol diamine, substituted bisphenol A polymer.
Use/Production. (G) Coatings. Prod. range: 575–14,400 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and ocular, a total of 3 workers, up to 8 hrs/da, up to 6 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by approved landfill.

PMN 83-652

Manufacturer. Confidential.
Chemical. (G) Modified poly (amido-amine).
Use/Production. (G) Open use. Prod range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 6 hrs/da.
Environmental Release/Disposal. Less than 10 kg-yr released to air, water and land.

PMN 83-653

Manufacturer. Confidential.
Chemical. (G) Disubstituted isobenoxfurandione, disubstituted bis phenyleneoxy bis copolymer with tetracarboxy carbocycle and disubstituted benzenediamine.
Use/Production. (G) Thermoplastic resin for molded articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and disposal: dermal.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW), biological treatment system and approved landfill.

PMN 83-654

Manufacturer. Confidential.
Chemical. (S) Lauryl sulfate salt with 2-amino-2-methyl-1-propanol.
Use/Production. (S) Surfactant for use in consumer cleaning products. Prod. range: 5,000–75,000 kg/yr.
Toxicity Data. Acute oral: 1,300 mg/kg; Irritation: Skin—Irritant, Eye—Irritant.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83-655

Manufacturer. Confidential.
Chemical. (G) Napthalenesulfonic acid, derivative, ester with hydroxybenzo-phenone.
Use/Production. Confidential. Prod. range: 500–1,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, up to 51 manhours/yr.
Environmental Release/Disposal. No release.

PMN 83-656

Manufacturer. Confidential.
Chemical. (G) Substituted alkyl carboxylic acid, carbomonocyclic ester.
Use/Production. (S) Captive intermediate. Prod. range: Cofidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 4 workers.
Environmental Release/Disposal. Disposal by biological treatment system and incineration.

PMN 83-657

Manufacturer. Confidential.
Chemical. (G) Pentasubstituted benzimidazolium salt.
Use/Production. (G) Incorporated as a minor constituent in an article for commercial and consumer use. Prod. range: 2–50 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83-658

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzenamine.
Use/Production. (G) Low volume site-limited intermediate. Prod. range: 2–40 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-659

Manufacturer. Confidential.
Chemical. (G) Tetrasubstituted benzene.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 2–40 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-660

Importer. Manchem, Incorporated.
Chemical. (G) Perfluorinated hydrocarbon.
Use/Import. (S) Vapour phase soldering. Import range: 0–20,000 kg/yr.
Toxicity Data. Acute oral: > 5.0 g/kg; Irritation: Eye—Nonirritant; Ames Test: Negative.
Exposure. Use: dermal and inhalation.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to air.

Dated: April 25, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-11622 Filed 5-5-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-55002 PH-FRL 2359-8]

Florida; Intent To Approve State Plan for Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(f) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 172, Subpart B, require each State desiring to issue experimental use permits to submit a plan to EPA for its experimental use permit program. Any State experimental use program authorized under this section shall be maintained in accordance with the State plan approved under this section. This is a notice of intent to approve such a plan for Florida.

DATE: Comments should be received on or before June 6, 1983.

ADDRESS: Written comments should be submitted to: Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments should bear the identifying notation OPP 55002. The administrative record supporting this action is available for public inspection at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. Complete copies of the Florida State Plan are available for public inspection at:

1. Florida Department of Agriculture, 213 Mayo Building, Tallahassee, Florida 32301.

2. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Kent Williams, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404-881-3222).

SUPPLEMENTARY INFORMATION: Section 5(f) of FIFRA, as amended, and the implementing regulations at 40 CFR Part 172, Subpart B, require each State desiring to issue experimental use permits to submit a plan for its experimental use permit program to EPA for approval. Any State experimental use permit program shall be maintained in accordance with the State Plan approved under this section.

On January 4, 1982, EPA received such a plan from the State of Florida. EPA withheld action on the plan, pending State administrative amendments to pesticide regulations. On March 8, 1983, EPA learned that these amendments had been incorporated into Florida Rule 5E-2.09 Experimental Use Permits. EPA finds that the Florida State Plan satisfies the requirements of section 5(f) of the amended FIFRA and 40 CFR Part 172, Subpart B, and EPA intends to approve the Florida State Plan. Complete copies of the Florida State Plan are available for public inspection, and public comment is solicited.

The Office of Management and Budget has granted EPA an exemption from OMB review (under the authority of Executive Order 12291) of notice of intent to approve State plans for issuing State experimental use permits.

Dated: March 29, 1983.

Charles R. Jeter,

Regional Administrator, Region IV.

[FR Doc. 83-12176 Filed 5-5-83; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-2360-4]

Availability of Environmental Impact Statements Filed April 25 Through April 29, 1983 Pursuant To 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities General Information (202) 382-5075 or 382-5076.

Corps of Engineers:
EIS No. 830227, Draft, COE, MS, Hattiesburg-Petal Flood Control, Bowie and Leaf Rivers, Forrest County, Due: June 24, 1983
EIS No. 830224, Final, COE, KS, Main Branch Chisholm Creek Local Flood Protection, Sedgwick County, Due: June 6, 1983
EIS No. 830222, F Suppl, COE, NY, Wallkill River Snagging and Clearing, Black Dirt Area, Orange County, Due: June 6, 1983
Department of the Interior:
EIS No. 830225, Draft, BLM, OR, Southern Malheur Livestock Grazing Management Program, Malheur County, Due: June 30, 1983
EIS No. 830226, Draft, BLM, CA, Redding Resource Area Domestic Livestock Grazing Management Program, Due: June 27, 1983
EIS No. 830229, Draft, BLM, ID, Big Lost-Mackay Area, Livestock Grazing Mgmt. Plan, Butte/Custer Counties, Due: July 9, 1983
EIS No. 830230, Draft, IBR, AZ, Central Arizona Project, Regulatory Storage Division, Const./Oper, Due: July 28, 1983
Department of Transportation:
EIS No. 830228, Draft, FHW, GA, Presidential Parkway Construction, I-75 to Blvd. Fulton and Dekalb Counties, Due: June 24, 1983
Federal Energy Regulatory Commission:
EIS No. 830223, Final, FRC, ID, Gem State Hydroelectric Project #2952 License, Bingham/Bonneville Counties, Due: June 5, 1983
EIS No. 830231, Final, FRC, WA, Cowlitz Falls Hydroelectric Project #2833 License, C/O, Lewis County, Due: June 6, 1983
Amended Notices:
EIS No. 830146, Draft, OSM, MT, PRO, Rosebud Coal Mining Operations, Comprehensive Plan, Rosebud Co.

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Published FR 04/29/83—Incorrect accession number

Dated: May 3, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-12171 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51465 TSH-FRL 2359-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chamical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES:

Close of Review Period: PMN 83-661, 83-662 and 83-663 July 20, 1983; PMN 83-664, July 23, 1983; PMN 83-665, 83-666, 83-667, 83-668, 83-669, and 83-670, July 24, 1983; PMN 83-671, 83-672, 83-675, July 25, 1983; PMN 83-676, 83-677, 83-678 and 83-679, July 26, 1983.

Written comments by: PMN 83-661, 83-662, and 83-663, June 20, 1983; PMN 83-664, June 23, 1983; PMN 83-665, 83-666, 83-667, 83-668, 83-669, and 83-670, June 24, 1983; PMN 83-671, 83-672, 83-675, June 25, 1983; PMN 83-676, 83-677, 83-678, and 83-679, June 26, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51465]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St. SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer of the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-661

Manufacturer. Confidential.
Chemical. (G) Polyimid ester.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Minimal.
Environmental Release/Disposal. Release is negligible. Disposal by Resource Conservation Recovery Act regulations.

PMN 83-662

Manufacturer. Confidential.
Chemical. (G) Melamine formaldehyde resin.
Use/Production. (G) Open use. Prod. range: 0-2,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation, and ocular, a total of 139 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10 to more than 10,000 kg/yr to land. Disposal by incineration and landfill.

PMN 83-663

Importer. Confidential.
Chemical. (G) Alkyl-substituted aromatic amine.
Use/Import. (S) Industrial chain extender for polyurethanes.
Import range: Confidential.
Toxicity Data. Acute oral: 1,490 mg/kg; Acute dermal: > 2,500 mg/kg; Irritation: Skin—Non-irritant. Eye—Non-irritant; Ames Test: Negative.
Exposure. Manufacture and processing: dermal, a total of 17 workers, up to 8 hrs/da, up to 180 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-100 kg/yr to water. Disposal by publicly owned treatment works (POTW).

PMN 83-664

Manufacturer. American Cyanamid Company.
Chemical. (G) Substituted benzoic acid.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: > 500 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Slight, Eye—Positive; Ames Test: Negative; Ingestion—Slight.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-665

Manufacturer. Confidential.
Chemical. (G) Mixed polyalkoxy alkyl siloxanes and silsesquioxanes.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and processing: dermal, inhalation, and ocular, a total of 18 workers, up to 6 hrs/da, up to 8 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-666

Manufacturer. Confidential.
Chemical. (G) Aromatic alkyd.
Use/Production. (S) Resin for low volatile organic content coatings. Prod. range: 5,000-100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation and ocular, a total of 53 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10-100 kg/yr released to air and water with 100 to more than 10,000 kg/yr to land.
Disposal by POTW and approved landfill.

PMN 83-667

Manufacturer. Confidential.
Chemical. (G) Pentasubstituted benzimidazolium salt.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 3-60 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incinceration.

PMN 83-668

Manufacturer. Confidential.
Chemical. (G) Tetrasubstituted benzenamine.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 2-40 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-669

Importer. Confidential.
Chemical. (G) Chromium complex of substitutedphenolazosulfonaphthol with naphtholazosulfonaphthol.
Use/Import. (S) Industrial textile dye. Import range: Confidential.
Toxicity Data. Acute oral: 4.7 g/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Processing: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 80 da/yr.
Environmental Release/Disposal. Less than 80 kg/yr released to water. Disposal by POTW and incineration.

PMN 83-670

Manufacturer. Confidential.
Chemical. (S) Polymer of: neopentyl glycol, trimellitic anhydride, phthalic anhydride, trimethyl pentanediol.
Use/Production. (G) Open use. Prod. range: 3,500-75,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture, processing, and disposal: dermal and inhalation, a total of 16 workers, up to 8 hrs/da, up to 45 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by approved landfill.

PMN 83-671

Manufacturer. Confidential.
Chemical. (G) Tetrasubstituted benzothiazole salt.
Use/Production. (G) Incorporated as a minor constituent in an article for commercial and consumer use. Prod. range: 5-10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83-672

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzothiazole salt.
Use/Production. (G) Low-volume site-limited intermediate. Prod. range: 5-10 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, use and disposal: dermal and inhalation, minimal.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-675

Manufacturer. Confidential.
Chemical. (G) Vinyl acetate, butyl acrylate, substituted methacrylate, terpolymer.
Use/Production. (G) Dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 9 workers, up to 24 hrs/da, up to 350 da/yr.
Environmental Release/Disposal. 10-1,000 kg/yr released to water. Disposal by POTW.

PMN 83-676

Manufacturer. Confidential.
Chemical. (S) 1-Naphthalenesulfonic acid, 6-amino-5-hydroxy-.
Use/Production. (S) Industrial site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, use and disposal: dermal, a total of 66 workers, up to 12 hrs/da, up to 180 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100-1,000 kg/yr to water. Disposal by wastewater treatment plant.

PMN 83-677

Importer. Confidential.
Chemical. (G) Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenyl-pyrazolone.
Use/Import. (S) Industrial textile dye. Import range: 400-2,500 kg/yr.
Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Processing: dermal, a total of 12 workers, up to 3 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. Less than 25 kg/yr released to water. Disposal by POTW and incineration.

PMN 83-678

Importer. Confidential.
Chemical. (G) Dibutyltin mercaptoacetate derivative.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: dermal and inhalation, minimal.
Environmental Release/Disposal. No release.

PMN 83-679

Importer. Confidential.
Chemical. (G) Alkyl ester of an epoxy acid.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: dermal and inhalation, minimal.
Environmental Release/Disposal. No release.

Dated: April 29, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-12044 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL 2359-2]

Air Pollution Control Grants; Continuing Eligibility Level for FY81, State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and opportunity for public hearing.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 6 announces an opportunity for public hearing and comment on a tentative determination that the State of Arkansas' budget reduction in FY81 contributed to the Arkansas Department of Pollution Control and Ecology's (ADPC&E) inability to meet the continuing eligibility level (CEL) requirement of Section 105(b) of the Clean Air Act (CAA) in FY81.

HEARING OPPORTUNITY: If written requests for a public hearing are received by June 6, 1983. The Agency will hold a hearing at Little Rock, Arkansas.

FOR FURTHER INFORMATION CONTACT: Dolores S. Johnsom, Chief, State Programs Section, Air & Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 767-9858, FTS 729-9858.

SUPPLEMENTARY INFORMATION: Section 105(b) of the Clean Air Act (CAA) specifies that no Agency shall receive any grant under this section during any fiscal year when its expenditures of non-federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, *after notice and opportunity for public hearing,* determines that a reduction in expenditures is attributable to a non-selective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of government.

Although the ADPC&E had initially certified that its state expenditures for air pollution control programs in Arkansas had met CEL requirements, further review of Fiscal Year 1981 (FY81) financial data disclosed that FY81 expenditures were $48,196.00 below the FY80 level of expenditure. ADPC&E has provided a letter dated October 22, 1982, from the Director, Department of Finance and Administration, State of Arkansas, explaining that actual distributions of FY81 funds were only 99.2% of appropriations and that reductions were "applied equally to all agencies" as required by law. ADPC&E

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has informed EPA that this reduction caused the FY81 expenditures for air programs to be $42,564 less than the FY80 level, resulting in the State not meeting the CEL requirement. EPA proposes that ADPC&E pay back the remainder ($5,632) which resulted from federal grant overpayments.

This is not an evaluation of present programs. EPA has noted that (1) this issue concerns only a budgeting error in a previous year, FY81, (2) all substantive grant commitments were met in FY81 despite reduced funding and ADPC&E organizational changes, (3) if FY82 and FY83 to date the ADPC&E has demonstrated a commitment to support the air pollution control program, exceeding the FY80 level of State funding.

This notice provides an opportunity for a public hearing, as required by the Clean Air Act. EPA will hold the hearing only if actual requests for a public hearing are received. Unless written requests for a hearing on this FY81 CEL issue are received by EPA, Region 6 (Dallas) by June 6, 1983 we will proceed to resolve this matter as proposed. EPA will also consider any written comments received.

Dated: April 20, 1983.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 83-12175 Filed 5-5-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-678-DR]

Mississippi; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Mississippi (FEMA-678-DR), dated April 16, 1983, and related determinations.

DATED: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: The notice of a major disaster for the State of Mississippi dated April 16, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1983.

Pearl River, Simpson, and Copiah Counties for Individual Assistance and Public Assistance

Covington County for Individual Assistance

Claiborne and Pike Counties as adjacent counties for Individual Assistance

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Joe D. Winkle,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12142 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-680-DR]

Utah; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Utah (FEMA-680-DR), dated April 30, 1983, and related determinations.

DATED: April 30, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management agency, Washington, D.C. 20472 (202) 287-0501).

Notice: Notice is hereby given that, in a letter of April 30, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as emended, (42 U.S.C 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of Utah, resulting from severe storms, landslides and flooding, beginning on or about April 12, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Utah.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. David P. Grier, IV., of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Utah to have been affected adversely by this declared major disaster:

Utah County for Individual Assistance and Public Assistance

Carbon and Emery Counties for Individual Assistance only

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 83-12144 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-681-DR]

Virgin Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Virgin Islands of the United States (FEMA-681-DR), dated April 30, 1983, and related determinations.

DATED: April 30, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: Notice is hereby given that, in a letter of April 30, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the Virgin Islands of the United States of America, resulting from severe storms, landslides and flooding, beginning on or about April 17, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the Virgin Islands of the United States of America.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Frank P. Petrone of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Virgin Islands of the United States of America to have been affected adversely by this declared major disaster:

The Islands of St. John and St. Thomas for Individual Assistance and Public Assistance

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Joe D. Winkle,

Acting Deputy Associate Director State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12145 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Inactive Tariffs—Bureau of Tariffs; Intent to Cancel

The foreign commerce files of the Federal Maritime Commission contain numerous tariffs which have been classified as inactive due to the absence of any tariff changes for a period of one year or longer, or the Commission staff's inability to contact the tariff filers at the addresses shown on the tariffs. Inactive tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. Accordingly, the commission proposes to cancel the inactive tariffs listed below unless the common carriers shall have advised the Commission within 30 days of the date of this Notice as to why their inactive tariffs should not be cancelled:

Bankouku Kisen Kaisha, Ltd.—FMC-3
Caribbean Supply Co.—FMC-1
Colcargo Empresa Naviera, S.A.—FMC-1
Comarvenca De Navegacion, C. por A. d.b.a. Donaca Line—FMC-1
Gulf Link Services Inc.—FMC-2
Kien Hung Shipping Co., Ltd.—FMC-1
Marcella Shipping Co.—FMC-3
Natimar Compania Naviera S.A. Panama d.b.a. Natimar Line S.A.—FMC-1
Piura Trading Inc.—FMC-1
Sanmar Line S.A. Colombia d.b.a. Sanmarline—FMC-1
Seastar Shipping Co., Ltd.—FMC-1
Timber Line Ltd.—FMC-1 & 2
Turk & Caicos Traders Ltd.—FMC-1
Victoria Line—FMC-2

Now, therefore it is ordered, That the common carriers listed above advise the Director, Bureau of Tariffs at 1100 "L" Street, NW., Washington, D.C. 20573, in writing within 30 days of the date this Notice is published in the **Federal Register** of any reason why the tariff listed above should not be cancelled as inactive;

It is further ordered, that a copy of this Notice be sent by certified mail to the last known address of the common carriers listed above:

It is further ordered, That the subject tariffs of all carriers named above not responding to this Notice will be cancelled;

It is further ordered, That this Notice be published in the **Federal Register** and a copy thereof be filed with any tariff cancelled pursuant to this Notice.

By the Commission, pursuant to authority delegated by section 9.04 of Commission Order No. 1 (Revised), effective November 12, 1981.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83 12190 filed 5-5-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BankAmerica Corp.; Acquisition of Bank Holding Company

BankAmerica Corporation, San Francisco, California, has applied for the Board's approval under section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire 100 percent of the voting shares of the successor by merger to Seafirst Corporation, Seattle, Washington, and thereby indirectly acquire 100 percent of the voting shares of Seattle-First National Bank, Seattle, Washington, and Western National Bank, Bothell, Washington. The factors that are considered in acting on this application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

BankAmerica Corporation, San Francisco, California, has also applied, pursuant to sections 4(c)(8) and 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and (13)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire shares of numerous direct and indirect subsidiaries of Seafirst Corporation presently engaged in various activities, including originating, acquiring, and servicing loans and other extensions of credit; operating industrial banks; operating a licensed small business investment company; providing data processing services; leasing activities; acting as underwriter or reinsurer for credit life insurance and credit accident and health insurance and as agent or broker for life and disability insurance and property damage insurance, all directly related to an extension of credit or the provision of financial services; selling money orders and U.S. savings bonds, and selling and issuing traveler's checks; operating an Edge Act corporation; operating a foreign bank subsidiary; and providing services to the bank or bank holding company or holding, on behalf of the bank or bank holding company, certain assets acquired in satisfaction of debts previously contracted. In addition to the factors considered under section 3 of the Act, the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843) and § 225.4(a) of the Board's Regulation Y (12 U.S.C. 225.4(a)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 31, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by the proposal.

Board of Governors of the Federal Reserve System, May 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12353 Filed 5-5-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83N-0062]

Codex Standard for Dried Apricots

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the Codex Standard for Dried Apricots (Codex standard) developed by the Codex Alimentarius Commission and

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announcing that no U.S. standard will be established for dried apricots based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways; full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

The United States can accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies by establishing a standard under the authority of section 401 of the act (21 U.S.C. 341), or by revising an existing standard appropriately to incorporate the Codex provisions within the U.S. standard. However, section 401 of the act states that no definition and standard of identity and no standard of quality shall be established for dried fruits. Therefore, FDA lacks authority to establish U.S. standards for dried apricots. There are only voluntary grade standards for marketing dried apricots, including identity and quality requirements, developed by the U.S. Department of Agriculture.

Although no U.S. standard for dried apricots may be established, FDA is publishing the Codex standard (Codex standard 130–1981), as set forth below, in accordance with the agency's usual practice in those cases subject to 21 CFR 130.6. Because FDA cannot establish a standard for dried apricots, no comments are solicited in response to this notice. FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

The Codex standard for dried apricots is as follows:

Codex Stan 130–1981—Codex Standard for Dried Apricots (Worldwide Standard)

1. *Scope.*

This standard applies to dried fruits of *Armeniaca vulgaria* Lam. (*Prunus armeniaca* L.) which have been suitably treated or processed and which are offered for direct consumption. It also covers dried apricots which are packed in bulk containers and which are intended for repacking into consumer size containers or for direct sale to consumers.

2. *Description.*

2.1 *Product Definition.*

Dried apricots is the product: (a) *prepared* from sound ripe fruit of varieties of *Armeniaca vulgaria* Lam. (*Prunus armeniaca* L.); and (b) *processed* by drying either by the sun or by other recognized methods of dehydration, which may be preceded by sulphuring, into a form of marketable dried product.

2.2 *Varietal Types.*

Any suitable variety (cultivar) of apricots may be used.

2.3 *Styles.*

The product shall be presented in one of the following styles:

(a) Whole, unpitted;

(b) Whole, pitted;

(c) Whole, pitted and stuffed with edible materials;

(d) Halves;

(e) Slabs—consisting of portions of sound, ripe apricots of characteristic colour, irregular in shape, size and thickness and excluding whole fruit;

(f) Kamaradin—consisting of dried apricot pulp or paste prepared as a sheet or flakes.

2.4 *Size Classification* (Optional).

Dried apricots may be designated as to size in accordance with the following table:

Designation	Number of unpitted wholes per kg	Number of pitted wholes per kg	Number of halves per kg
Very small	Over 205	241–600	481–800
Small	150–205	186–240	331–480
Medium	115–149	131–185	261–330
Large	95–114	106–130	200–260
Extra large	Less than 95	Less than 100.	Less than 200

3. *Essential Composition and Quality Factors.*

3.1 *Basic Ingredients.*

Clean, sound apricots of a quality suitable for human consumption.

3.2 *Optional Ingredients.*

Other edible material as may be appropriate to stuffing the product, including nutritive carbohydrate sweeteners as approved by the Codex Alimentarius Commission (see §§ 2.3(c) and 7.1.2(c)).

3.3 *Quality Criteria.*

3.3.1 *Moisture Content.*

(a) *Unsulphured* dried apricots not treated with sorbic acid—not more than 20% m/m.

(b) *Sulphured* and/or sorbic acid treated dried apricots—not more than 25% m/m.

3.3.2 *Quality Factors—General Requirements.*

(a) Colour characteristic of the variety and the type of treatment;

(b) Flavour and odour characteristic of the product;

(c) Free from damaged, broken, mouldy and immature fruit for styles 2.3 (a) to (d) as described in sub-section 3.3.3 and subject to tolerances provided for in sub-section 3.4.4;

(d) Generally uniform in size within any count category, where declared;

(e) Free from living insects or mites;

(f) Mineral impurities—may not be present to the extent that the eating quality or usability is materially affected;

(g) Foreign matter—Practically free from extraneous vegetable matter, insect debris and other objectionable matter.

3.3.3 *Definition of Defects.*

(a) *Damaged fruit*—fruit affected by any damage or blemish on the surface resulting from factors such as hail, etc., affecting more than 5 mm^2 of fruit surface.

(b) *Broken fruit*—fruit affected by any damage resulting from improper halving or other mechanical action.

(c) *Immature fruit*—fruit which is generally deficient in sugar and may be sour in taste.

(d) *Insect damaged fruit*—fruit which is affected by insect damage or containing dead insects, mites, or other pests.

(e) *Mouldy fruit*—fruit which is affected by mould to a visible extent, or decay.

(f) *Dirty fruit*—fruit affected by imbedded dirt or any other foreign material.

3.3.4 *Allowances for Defects.*

The sample unit size shall be 1 kg.

The following allowances for defects shall apply to all the styles with the exception of the "Slab" and "Kamaradin" styles:

Defect	Maximum allowed (percent m/m)
Slabs	10
Damaged fruit	10
Broken fruit (see § 8.2.3)	10
Insect damaged and dirty fruit	5
Mouldy fruit	1
Total	15
Immature fruit	10

4. *Food Additives, Maximum Level.*

4.1 Sorbic acid and its sodium and potassium salts, 500 mg/kg, singly or in combination, expressed as sorbic acid.

4.2 Sulphur dioxide, 2,000 mg/kg.

5. *Hygiene.*

5.1 It is recommended that the product covered by the provisions of this standard be prepared and handled in accordance with the appropriate sections of the Recommended International Code of Hygienic Practice—General Principles of Food Hygiene (CAC/RCP 1–1969, Rev. 1) and the Recommended International Code of Hygienic Practice for Dried Fruits (CAC/RCP 3–1969).

5.2 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganims in amounts which may represent a hazard to health.

6. *Weights and Measures.*

Containers shall be as full as practicable without impairment of quality and shall be consistent with a proper declaration of contents for the product.

7. *Labeling.*

In addition to sections 1, 2, 4 and 6 of the *General Standard for the Labeling of Prepackaged Foods* (Ref. Codex STAN 1–1981) the following specific provisions apply:

7.1 *The name of the food.*

7.1.1 The name of the product as declared on the label shall be "Dried Apricots".

7.1.2 In addition, there shall appear on the label as part of the name or in close proximity to the name, the form of presentation as indicated below:

(a) Whole, unpitted;

(b) Whole, pitted;

(c) Whole, pitted, filled with . . . as appropriate;

(d) Halves;

(e) Slabs;

(f) Kamaradin.

7.2 *List of Ingredients.*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2(b) and 3.2(c) of the General Standard for the Labelling of Prepackaged Foods (Ref. Codex STAN 1–1981).

7.3 *Net Contents.*

The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

7.4 *Name and Address.*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

7.5 *Country of Origin.*

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7.6 *Lot Identification.*

Each container shall be permanently marked in code or in clear to identify the producing factory and the lot.

7.7 *Date Marking.*

The date of minimum durability shall be declared using terms such as 'best before' or 'will keep at least until'.

7.8 *Optional Declaration.*

7.8.1 A size classification for dried apricot halves or whole dried apricots may be stated on the label if the pack complies with the appropriate requirements of sub-section 2.4.

7.8.2 The variety or varietal type of the dried apricots may be stated on the label.

8. *Methods of Analysis and Sampling.*

8.1 *Sampling.*

Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods, CAC/RM 42–1980, with the following additions and modifications:

(a) When product is presented in containers of 10 kilograms or more the sample size (n) (e.g.—number of sample units examined) will be determined by dividing the total net weight of the lot in kilograms by 10 and utilizing the table for containers with a net weight greater than 4.5 kg.

8.2 *Test Procedures.*

8.2.1 *Moisture.*

According to the AOAC (1975) method (Official Methods of Analysis of the AOAC, 1975, 22.013: Moisture in Dried Fruits (7)—Official Final Action (and 22.008(c)) or according to the FAO/WHO Codex Alimentarius method CAC/RM 50–1974. (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, 3rd Series, CAC/RM 50/53–1974, Moisture Determination—Electrical Conductance Method). However, in the case of dispute, the method of analysis of the AOAC, 1975, 22.013, Moisture in Dried Fruits, will be the reference method.

8.2.2 *Sulphur Dioxide.*

According to the AOAC (1975) method (Official Methods of Analysis of the AOAC, 1975, 20.104: Colorimetric Method (31)—Official Final Action (Applicable to Dried Fruit)).

8.2.3 *Broken, Slabs, Dirty, Mouldy, Damaged and Immature Fruit.*

Examine the fruits visually and weigh the defective items.

Dated: April 28, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-11800 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0184; DESI 597]

Certain Drug Products Containing an Anticholinergic in Combination With a Barbiturate; Drugs For Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity For Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of certain drug products containing an anticholinergic in combination with a barbiturate. Under the exemption the drug products have been allowed to remain on the market for continued study beyond the time limit scheduled for implementing the Drug Efficacy Study. This notice also reclassifies the drug products to lacking substantial evidence of effectiveness.

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proposes to withdraw approval of applicable new drug applications, and offers an opportunity for a hearing on the proposal.

DATES: The revocation of the exemption is effective May 6, 1983; requests for hearing by June 6, 1983; material to support hearing request by July 5, 1983.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 75N–0184 and DESI 597, and directed to the attention of the appropriate office named below:

Requests for hearing, supporting data, and comments: Dockets Management Branch (HFA–305), Rm. 4–67, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN–501), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 27, 1972 (37 FR 15026), FDA announced its evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS–NRC) on certain drugs containing an anticholinergic in fixed combination with a barbiturate. The drugs were classified as lacking substantial evidence of effectiveness and as possibly effective for various gastrointestinal disorders. In a notice published in the **Federal Register** of November 11, 1975 (40 FR 52844), FDA temporarily exempted certain anticholinergic/barbiturate combinations from the timetable established for implementing the Drug Efficacy Study. This exemption was conditioned upon the commitment of each manufacturer or distributor to conduct appropriate studies designed to determine the effectiveness of its particular combination drug product as adjunctive therapy in the treatment of peptic ulcer, or in the treatment of irritable bowel syndrome (IBS) or acute enterocolitis. The notice set a timetable for submission of protocols to FDA, for review of the protocols by FDA, and for starting, reporting on, and competing the studies.

In the **Federal Register** of August 19, 1977 (42 FR 41917), FDA reclassified certain drug products that had previously been announced as eligible for the exemption to lacking substantial evidence of effectiveness, proposed to withdraw approval of their new drug applications, and offered an opportunity for a hearing on the proposal. The agency took this action because the particular manufacturers were not in compliance with the conditions for continued marketing announced in the November 11, 1975 notice and because no data had been submitted supporting the effectiveness of the drugs.

In the **Federal Register** of June 20, 1978 (43 FR 27490), FDA announced a change in its policy concerning anticholinergic/barbiturate combination products as previously announced in the November 11, 1975 notice. The changes required that each marketed drug be the subject of a new drug application (NDA) or an abbreviated new drug application (ANDA), and allowed an anticholinergic/barbiturate combination drug product to remain on or to enter the market even though its manufacturer was not conducting clinical studies of its effectiveness, as long as some other manufacturer was conducting clinical studies on a product which contained the same drugs and to which the same effectiveness conclusion would ultimately apply. The notice also granted an additional year for the completion of clinical studies and set a timetable for submission of final reports to FDA. Furthermore, in the same issue of the **Federal Register** (43 FR 26469), FDA rescinded the August 19, 1977 notice of opportunity for hearing insofar as it pertained to products covered by a relevant ongoing study of another drug product.

The National Center for Drugs and Biologics has completed its review of several reports submitted under the timetables established in the June 20, 1978 notice. These reports concern the following drug products:

1. Donnatal Tablets (ANDA 86–676) containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; A.H. Robins Co. 1211 Sherwood Ave., Richmond VA 23220 (reference number 90–005).

2. Levsin With Phenobarbital Tablets (ANDA 86–640) containing hyoscyamine sulfate and phenobarbital; Kremers-Urban Co., 5600 W. County Line Rd., P.O. Box 2038, Milwaukee, WI 53201 (reference number 90–013).

3. Belladenal Tablets (ANDA 86–668) and Belladenal–S Tablets (ANDA 87–198) each containing bellafoline levorotary alkaloids of belladonna as the malates and phenobarbital; Sandoz Pharmaceuticals, Division of Sandoz, Inc., East Hanover, NJ 07936 (reference number 90–026).

4. Butibel Tablets (no NDA) and Elixir (ANDA 86–664) each containing belladonna extract and butabarbital sodium; McNeil Laboratories, 500 Office Center Dr., Forth Washington, PA 19034 (reference number 90–015).

The following drug products are affected by the conclusions on the above listed products and are subject to this notice:

1. Donnatal Elixir (ANDA 86–661) and Capsules (ANDA 86–677) each containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; A.H. Robins Co.

2. Barophen Elixir (ANDA 86–546) containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; National Pharmaceutical Manufacturing Co., Division of Barre-National, Inc., 4128 Hayward Ave., Baltimore, MD 21215.

3. Bellastal Capsules (ANDA 86–657) containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; Warton Laboratories, Inc., Division U.S. Ethicals, Inc., 37–02 48th Ave., Long Island, NY 11101.

4. Susano Elixir (ANDA 86–587) and Tablets (ANDA 86–588) each containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

5. Kinesed Tablets (no NDA) containing atropine sulfate, hyoscine hydrobromide, and phenobarbital; ICI United States, Inc., 3411 Silverside Rd., P.O. Box 751, Wilmington, DE 19897 (reference number 90–023).

Many tablet products containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; National Pharamaceutical Alliance, Suite 800, 2550 M St., NW., Washington, D.C. 20037 (reference number 90–016).

7. Barbidonna Tablets (no NDA) containing atropine sulfate, hyoscyamine sulfate, hyoscine hydrobromide, and phenobarbital; Mallinckrodt, Inc., P.O. Box 5439, St. Louis, MO 63147 (reference number 90–017).

8. Barbidonna Tablets (ANDA 86–589), Barbidonna Elixir (ANDA 86–590), and Barbidonna No. 2 Tablets (ANDA 87–572) each containing atropine sulfate, hyoscyamine sulfate, hyoscine hydrobromide, and phenobarbital; Wallace Laboratories, Division of Carter-Wallace, Inc., Half Acre Rd., Cranbury, NJ 08512.

9. Hybephen Tablets (ANDA 86–573) containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; Beecham Laboratories, Division of Beecham, Inc., 501 Fifth St., Bristol, TN 37620 (reference number 90–018).

10. Belabarb Tablets (no NDA) containing atropine sulfate, hyoscyamine hydrobromide, hyoscine hydrobromide, and phenobarbital; Arnar-Stone Laboratories, Inc., 601 E. Kensington Rd., Mount Prospect, IL 60056 (reference number 90–020).

11. Spalix Elixir (ANDA 86–652) and Spalix Tablets (ANDA 86–653) each containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; Reid-Provident Laboratories, Inc., 640 Tenth St., N.W., Atlanta, GA 30318.

12. Neoquess Tablets (ANDA 86–665) containing atropine sulfate, hyoscyamine sulfate, scopolamine hydrobromide, and phenobarbital; O'Neal, Jones, and Feldman, Inc., 1304 Ashby Rd., St. Louis, MO 63132.

13. Levsin With Phenobarbital Elixir (ANDA 86–638) and Levsin-PB Drops (ANDA 86–639) each containing hyoscyamine sulfate and phenobarbital; Kremers-Urban Co.

14. Anaspaz-PB Tablets (no NDA) containing l-hyoscyamine sulfate and phenobarbital; B. F. Ascher & Co., 15501 W. 109th St., Lenexa, KS 66219 (reference number 90–014).

15. Chardonna-2 Tablets (ANDA 86–585) containing belladonna extract and phenobarbital; Wm. H. Rorer, Inc., 500 Virginia Dr., Ft. Washington, PA 19034 (reference number 90–010).

16. Butabar Belladonna Elixir (ANDA 86–561) containing belladonna alkaloids and butabarbital sodium; National Pharmaceutical Manufacturing Co.

17. Belladonna Alkoloids And Phenobarbital Tablets (ANDA 86–591) containing belladonna alkaloids and phenobarbital; Lemmon Co., P.O. Box 30, Sellerville, PA 18960.

18. Phenobarbital and Belladonna Elixir (ANDA 86–662) containing atropine sulfate, scopolamine hydrobromide, and phenobrabital; Pharmaceutical Associates, Inc., Division of Beach Products, 5220 S. Manhattan Ave, Tampa, FL 33611.

19. Homapin–10 PB Tablets (ANDA 87–441) and Homapin-5 PB Tablets (ANDA 87–443) each containing homatropine methylbromide and phenobarbital; Mission Pharmacal Co., 1325 E. Durango St., Box 1670, San Antonio, TX 78296.

20. Bay-Ase Elixir (ANDA 86–673) containing atropine sulfate, hyoscyamine sulfate, hyoscine hydrobromide, and phenobarbital; Bay Laboratories, Inc., 3654 West Jarvis, Skokie, IL 60076.

21. Spasmatol Elixir (ANDA 86–897) containing atropine sulfate, hyoscyamine hydorobromide, scopolamine hydrobromide, and phenobarbital; Pharmaceutical Associates, Inc., P.O. Box 128, Conestee, SC 29636.

Approval of the following new drug application was previously withdrawn on May 28, 1982 (47 FR 23568), based upon the written request of the applicant:

Phenobarbital and Atropine Tablets (NDA 597) containing atropine sulfate and phenobarbital; The Vale Chemical Co., 1201 Liberty St., Allentown, PA 18102.

AT the time approval of this application was withdrawn, FDA had reached no final conclusions concerning the effectivness of the drug product. The conclusions announced in this notice are also applicable to this drug product and to any identical, similar, or related drug product as defined in 21 CFR 310.6.

Effectiveness Reports

A. *Donnatal Tablets (Final Report Due on October 23, 1978).*

1. *Irritable Bowel Syndrome (IBS) Study—Protocol 03.* On October 23, 1978, A. H. Robins, Co., in collaboration with ICI United States, Inc., submitted a progress report on protocol 03. This was a double-blind, parallel treatment, multi-investigator study designed to compare Donnatal Tablets with its components and placebo in relieving symptoms associated with IBS. Patients were randomly assigned to one of four treatment groups (Donnatal, belladonna alkaloids, phenobarbital, or placebo) for 4 weeks. Patients were examined before drug administration and after the first, second, third, and fourth weeks of medication for an evaluation of night pain, day pain, nature and frequency of stools, and other symptoms (flatulence, nausea, vomiting, anorexia, and belching are listed on the office visit case report form). Patients maintained daily diaries in which they recoreded the duration and severity of their symptoms. Weekly, the investigators reviewed each patient's diary, assessed their symptoms, and made a global evaluation of their condition in relation to their pre-drug status.

Robins originally planned a 288-patient, 12-investigator study. As of August 15, 1978, however, only eight investigators had entered 199 patients into the study, with 162 of them entered by four investigators (Rider, Coronato, Grossman, and Statman). Only 106 of the 199 completed the study; 14 withdrew and 77 were excluded from analyses.

Robins' report summarizes the weekly results for two sets of patients—those who ultimately completed the study and those evaluable at each week. The results, as reported by Robins for evaluable patients at each week, are summarized below. The results for patients who ultimately completed the study are similar.

SIGNIFICANT COMPARISONS (P<.05) FAVORING DONNATAL BY WEEK FOR EVALUABLE PATIENTS—PHYSICIAN RATINGS

	Donnatal v. belladonna alkaloids	Donnatal v. phenobarbital	Donnatal v. placebo
Night pain:			
Mean score	None	None	None.
Percent improved	None	Week 3	Week 4.
Percent symptom-free.	Week 3	Week 1, 3	Week 1, 3, 4.
Day pain:			
Mean score	None	None	None.
Percent improved	None	None	None.
Percent symptom-free.	None	None	None.
Global evaluation:			
Mean score	None	None	None
Percent with moderate or marked improvement.	Week 3	Week 3, 4	Week 3, 4.
Nature of stools:			
Percent with normal stools.	None	None	Week 1.

SIGNIFICANT COMPARISONS (P<.05) FAVORING DONNATAL BY WEEK FOR EVALUABLE PATIENTS—PATIENT RATINGS

	Donnatal v. belladonna alkaloids	Donnatal v. phenobarbital	Donnatal v. placebo
Night pain:			
Mean weekly score	None	None	None.
Mean percentage of nights improved.	None	None	None.
Mean Percentage of nights symptom-free.	Week 1	Week 1, 3, 4	Week 1.
Day pain:			
Mean weekly score	None	None	None.
Mean percentage of days improved.	None	None	None.
Mean Percentage of days symptom-free.	None	None	None.
Duration of pain:			
Mean daily duration of pain.	None	None	None.
Global evaluation:			
Mean weekly score	None	None	Week 3.
Mean percentage of days improved.	None	None	Week 3.

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As shown in the tables above, only occasional isolated comparisons favor Donnatal over its components or placebo. For example, when Donnatal is compared with belladonna alkaloids, only 3 out of a total of 72 statistical comparisons (the 18 items shown in the tables at each of 4 weeks) favor Donnatal at the 5 percent level of significance. These comparisons are freedom from night pain at week 1 for the patient ratings, freedom from night pain at week 3 for the physician ratings, and moderate or marked improvement at week 3 for the physician global evaluations. It should be noted, however, that there are no significant differences in the mean night pain scores or in the percent of patients whose night pain improved on either the patient ratings or the physician ratings at any time period. Similarly, there are no significant differences in mean scores for the physician global evaluations or for the patient global evaluations, both of which are more comprehensive assessments of overall symptomatic improvement than the artificial subset of those with marked or moderate improvement. In any event, it is apparent that three isolated, inconsistent favorable comparisons do not constitute substantial evidence of effectiveness. This number of significant comparisons (at the p=0.05 level) would be expected as a matter of chance even if there were no difference between Donnatal and belladonna alkaloids. The Donnatal versus phenobarbital comparisons and Donnatal versus placebo comparisons favor Donnatal to a slightly greater extent but these results, like the Donnatal versus belladonna alkaloid comparisons, are inconsistent and subject to similar analytical problems. There is thus no evidence that each component of Donnatal, and particularly the phenobarbital component (tested by the Donnatal versus belladonna comparisons), contributes to the effects claimed for the combination drug in the treatment of IBS, as required by 21 CFR 300.50.

Also, the report of the study is inadequate. First, the statistical analyses used by Robins are questionable. The firm combined the results of four investigators (Rider, Coronato, Grossman, and Statman) as a single block and the results of the remaining investigators as another block. These data were then analyzed by the Mantel-Haenzel method. The data from the patient diaries, on the other hand, were treated as one group and analyzed by the Wilcoxon rank sum test, without blocking by investigator. Robins does not justify either method of combining results, raising the possibility that these analytic decisions were made after the fact with knowledge of the data and results. In such cases, it is essential to justify the statistical methods used and to explain how analytic bias was minimized. 21 CFR 314.111(a)(5)(ii)(*a*) (*4*) and (*5*).

Second, even if Robins' statistical analyses had provided more positive evidence of effectiveness and their appropriateness had been better documented, any statistical conclusions would tend to be invalidated by the extremely large groups of patient exclusions. Robins only accounts for a few exclusions in its study summaries, again casting doubt upon its exclusions and subsequent analyses. 21 CFR 314.111(a)(5)(ii)(*a*) (*4*) and (*5*). At a minimum, Robins should have analyzed the entire patient group.

2. *Duodenal Ulcer Study—Procotol 01.* On October 23, 1978, Robins submitted a status report on protocol 01. This report lists the participating investigators and case reports received by the firm, and states whether a particular investigator's study was open or closed. It does not provide an evaluation of any data. However, Robins had previously submitted an interim report concerning protocol 01 on April 24, 1978. This interim report provides evaluations of data derived from 126 patients entered by 18 investigators (288 patients were originally planned). A review of the April 24, 1978 report follows.

Protocol 01 was a double-blind, parallel treatment, multi-investigator study designed to compare Donnatal with its components and placebo in improving symptoms and/or healing of duodenal ulcer. Patients with endoscopically documented, uncomplicated duodenal ulcer accompanied by pain were randomly assigned to one of four treatment groups (Donnatal, belladonna alkaloids, phenobarbital, or placebo) for 4 weeks. All patients received liquid antacid and were instructed to take the antacid on the occasion of epigastric pain. Patients maintained daily diaries in which they recorded pain intensity and duration. Physicians examined the patients before drug administration and following the first, second, third, and fourth weeks of medication to evaluate symptoms. Antacid consumption was also recorded. In addition, the original protocol required that patients be endoscopically reevaluated for ulcer healing at the end of the fourth week. This aspect of the protocol was changed to require endoscopy at the end of the second week, after approximately one-third of the patients had already been enrolled.

Comparisons between treatment groups were based upon evaluations of day pain, night pain, duration of pain, antacid consumption, and the physicians' global evaluations of patient symptom improvement in relation to patient pre-drug status. No comparisons were made concerning the incidence of ulcer healing because of a lack of sufficient data pertaining to the second week endoscopy results.

In its interim report, Robins summarizes the results for the first week; no results are presented for the second, third, or fourth weeks. According to Robins' analyses, Donnatal is shown statistically superior ($P<.05$) to belladonna alkaloids and placebo, but not to phenobarbital, for the physicians' global evaluations of symptom improvement at week one. Donnatal is not shown statistically superior ($P<.05$) to its components or placebo for any other evaluated parameter at week one. Thus, Robins has failed to show that each component of Donnatal contributes the effects claimed for the combination drug in the treatment of duodenal ulcer, as required by 21 CFR 300.50.

At the present there are no data (either in the literature or submitted as part of material reviewed in these considerations) supporting a contention that anticholinergic drugs promote ulcer healing. On the other hand, there is substantial documentation that some therapeutic regimens (notably H_2 histamine antagonists, sucralfate, and some antacid regimens) do promote ulcer healing. Thus, drugs of the Donnatal class need be considered as adjunctive treatment to therapeutic regimens known to promote healing of duodenal ulcer. Robins did not evaluate the effects of Donnatal in patients receiving a treatment known to promote duodenal ulcer healing. The Robins study employed antacids in an "as needed" fashion and this antacid regimen is not known to promote ulcer healing. Therefore, the study is further deficient in failing to use an appropriate patient population. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*).

3. *Functional Upper Gastronintestinal Syndrome Study—Protocol 02.* On October 23, 1978, Robins submitted a status report on protocol 02. This study was designed to compare Donnatal with its components and placebo in improving symptoms associated with upper gastrointestinal syndrome for which no anatomical abnormality could be demostrated. This report does not contain an evaluation of any data. However, in a previous interim report dated October 26, 1977, Robins supplied observations in 71 evaluable patients out of a proposed 288 patient study. In this interim report, Robins concludes that no efficacy conclusions can be drawn from the limited number of observations but that trends favor continuation of the studies.

4. *Functional Gastrointestinal Syndrome Study—Protocol 04.* On October 26, 1977, Robins submitted an evaluative interim report on protocol 04. This study was designed to compare Donnatal with its components and placebo in improving various symptoms associated with functional gastrointestinal syndrome which could not be diagnosed as purely gastrointestinal or psychic in origin, and for which no anatomical abnormality could be demonstrated. This interim report presents observations in 15 evaluable patients out of a proposed 288 patient study. Robins concludes that the small number of patients studied precludes an evaluation of the data. In a later report dated April 24, 1978, Robins states that this study was discontinued because of a lack of patients. No further data were submitted.

B. *Levsin With Phenobarbital Tablets (Final Report Due April 23, 1979).* On April 30, 1979, Kremers-Urban submitted a final report of a study designed to compare Levsin With Phenobarbital with its components and placebo in the treatment of IBS. This was a double-blind, parallel treatment, multi-investigator study in which patients were randomly assigned to one of four treatment groups (Levsin With Phenobarbital, 1-hyoscyamine sulfate, phenobarbital, or placebo) for 5 weeks. Eighty-eight patients were entered into the study and evaluated. Kremers-Urban concludes that the results of the study do not show Levsin With Phenobarbital to be statistically superior to its components or placebo. Thus, there is no evidence that each component of Levsin With Phenobarbitel contributes to the effects claimed for the combination drug, as required by 21 CFR 300.50.

C. *Belladenal Tablets (Final Report Due March 8, 1979).* On March 8, 1979, Sandoz submitted a final report on two double-blind, parallel treatment, multi-clinic studies (numbers 7 and 8) designed to compare Belladenal with its components and placebo in improving symptoms associated with IBS. Patients were randomly assigned to one of four treatment groups (Belladenal, bellafoline, phenobarbital, or placebo) for 4 weeks. Out of a total of 365 patients originally entered into the study, 270 completed the 4 weeks of treatment.

The investigators evaluated the patients before drug administration and at the end of each of the 4 study weeks. Patients recorded self-ratings of symptoms in a daily diary. Both the investigators and patients rated abdominal pain, constipation, diarrhea, feelings of abdominal distention, belching, anorexia, nausea, borborygmus, and flatulence. The investigators also rated abdominal tenderness and hyperactive bowel signs, and made global evaluations of patient illness. As a secondary measure, the investigators assessed the effects of the test drugs on certain psychological and emotional factors using a modified Hamilton Anxiety Scale.

In its report, Sandoz presents results for study 7, study 8, and the two studies combined. These results are further broken down into those obtained during the initial 7 days of treatment and those obtained during the full 28 days of treatment.

With respect to the gastrointestinal observations, Sandoz's analyses do not show Belladenal significantly superior ($P<.05$) to its components or placebo. In study 7, there is no measurement for which Belladenal is significantly superior ($P<.05$) to both of its components and no measurement for which it is superior to either component over the full 28 days of treatment. The only comparisons which significantly favor ($P<.05$) Belladenal over either component occur during the first week, where Belladenal is favored over phenobarbital for belching and gurgling in the abdomen. Trends do not favor Belladenal, either. If comparisons exclusively concerned with the first week are disregarded, 42 out of 72 comparisons show trends that favor bellafoline over Belladenal, and another 42 out of 72 comparisons show trends that favor phenobarbital over Belladenal. Furthermore, except for a few isolated significant comparisons, Belladenal is generally not shown to be significantly superior ($P<.05$) to placebo over the full 28 days of treatment.

In study 8, the gastrointestinal related results are even more negative. Belladenal is not shown to be significantly better ($P<.05$) than phenobarbital at any point, and only four comparisons, which occur at the first week, show Belladenal significantly superior ($P<.05$) to bellafoline. Moreover, 96 out of 117 comparisons show trends favoring phenobarbital over Belladenal. The pooled data show similar results for the gastrointestinal observations. No comparisons significantly favor ($P<.05$) Belladenal over its components.

Thus, Sandoz has failed to demonstrate that each component of Belladenal contributes to the effects claimed for the combination drug in relieving gastrointestinal symptoms associated with IBS, as required by 21 CFR 300.50.

Sandoz also analyzed the results concerning the patients' psychological and emotional states. These results are similar to those for gastrointestinal symptoms; Belladenal did not produce a statistically significant effect ($P<.05$) favoring it over its components or placebo. However, even if positive results were obtained for the observed psychological and emotional factors, it would not provide evidence that Belladenal is effective in the treatment of IBS, since it would not show that the drug improves some gastrointestinal clinical parameter.

The design and the report of the study are also deficient. First, the investigators used a 7-point scale (no pain to severe pain) to evaluate a patient's symptom severity and to make a global evaluation of the patient's illness (very much improved to very much worse). These scales do not contain clearly defined degrees of severity or improvement. It is thus difficult to determine whether each investigator evaluated patients in a similar manner. This is especially relevant where data are obtained from two multi-center studies involving 19 investigators. This makes the results of the study difficult to interpret and potentially unreliable. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

Second, the protocol specified that patients were not to take any anticholinergics, analgesics, antacids, salicylates, sedatives, hypnotics, tranquilizers, or antidepressants during the clinical trials. Sandoz notes that this aspect of the protocol was difficult to enforce and only those patients who "significantly deviated" from it were dropped from the study. Sandoz does not define "significantly deviated," however, nor does it provide any information on the types of concomitant drugs used, the dose and duration of the concomitant drugs, and when in the trials the concomitant drugs were taken. Therefore, it is impossible to determine whether the treatment groups were comparable in terms of the use of drugs other than the test drugs. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

D. *Butibel Tablets and Elixir (Final Report Due November 9, 1978).* On November 8, 1978, McNeil, in collaboration with Wm. H. Rorer & Co., submitted a final report concerning a

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double-blind, parallel treatment, multi-investigator study designed to compare the effects of Butibel with its components and placebo in the symptomatic relief of duodenal ulcer in patients receiving antacids (23 investigators and 131 patients). Patients were assigned to one of four treatment groups (combination of sodium butabarbital 30 milligrams (mg) and belladonna extract 30 mg, sodium butabarbital 30 mg, belladonna extract 30 mg, or placebo) for 4 weeks. The investigators recorded observations before a patient received an upper GI Series, before test drug administration, and after each of the 4 study weeks. Patients recorded observations in a daily diary. The investigators evaluated epigastric pain, hyperactive peristalsis (borborygmi), heartburn, nausea, vomiting, nocturnal awakening due to pain, diarrhea, constipation, abdominal cramps, and degree of tenderness upon palpation of the abdomen. Patients recorded antacid consumption and reported time lost from work. Both the investigators and the patients made global evaluations of symptoms weekly, and at the last office visit both attempted to predict whether the study medication was active or not. As a secondary measure, the investigators evaluated patients' responses to treatment for certain psychological and emotional factors using a Hamilton Anxiety Scale.

In its summary of the results of this study, McNeil states, "Epigastric pain provides a reliable estimate of the efficacy of agents indicated for the relief of symptoms of duodenal ulcer" and supplied the following table (designated as Table I by McNeil) in support of its claims of effectiveness for Butibel:

EPIGASTRIC PAIN

	Week			
	1	2	3	4
Combination (C) vs Placebo (P).	C>P....	[1] C>P..	C>P....	C>P.
Sodium Butabarbital (S) vs Placebo (P).	S>P....	S>P....	S>P....	S>P.
Belladonna Extract (B) vs Placebo (P).	B>P....	[2] B>P..	B>P....	B>P.
Combination (C) vs Belladonna Extract (B).	C>B....	B>C....	C>B....	B>C.
Combination (C) vs Sodium Butabarbital (S).	C>S....	C>S....	C>S....	C>S.

Note.—For each comparison, the first product has numerically better results than the second, i.e., C>P means C has numerically better results than P.
[1] P<.05.
[2] P<.01.

It is apparent that the results reported in this table do not support the effectiveness of Butibel. At no week does the combination provide significantly greater (P<.05) pain relief than either of its components alone. In fact, the belladonna component is numerically superior to the combination at weeks 2 and 4. Furthermore, this table shows only minimal, if any, evidence of a difference between the combination and palcebo. Thus, these results fail to demonstrate that each component of the combination contributes to the effects claimed for the drug in the treatment of duodenal ulcer, as required by 21 CFR 300.50.

In addition, it is not clear what statistical analyses were used to derive the conclusions presented in McNeil's Table I. The supplied computer printouts which McNeil claims provide complete details of the analyses supporting its conclusions are poorly documented and do not permit evaluation. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

Furthermore, the statistical reports and clinical data displays presented by McNeil contradict the firm's summary of its results. McNeil's Table XI "Kruskal-Wallis One-Way Analysis of Variance for Treatments at Each Visit by Symptom" (not reproduced here) lists under epigastric pain, p-values which indicate no significant differences between the four treatment groups for any time period. McNeil's Table X, which lists the mean symptom severity scores, contradicts some of the trends presented in the preceding table for epigastric pain. Table X shows sodium butabarbital numerically better than the combination at week 4 in contradiction to McNeil's Table I. McNeil's statistical report also states, "Except for constipation at week 1 (P=.05), all other symptoms demonstrated similar results among the four treatments (P>. 10). For constipation at week 1, the multiple comparison test indicated that placebo patients were significantly more improved than Butibel or Sodium Butabarbital patients." This quoted paragraph appears to be in agreement with McNeil's Table XI. McNeil's summary of significant levels presented in its Clinical Display Section also shows no significant differences between treatment groups for epigastric pain.

For other observations McNeil summarizes:

> The results of the measurements for the other gastrointestinal symptom parameters tested were more variable than those for epigastric pain. * * * reduction in antacid consumption was similar for all treatment groups. All treatment groups showed similar significant improvement on the Hamilton Anxiety Scale in the measurements for gastrointestinal symptoms and for Total Score.

McNeil makes no claims regarding these observations.

Other information not mentioned in McNeil's summary includes results of patient and investigator global evaluations, patient and investigator predictions as to the drug received, and time lost from work due to ulcer symptomatology. No differences were found by the firm among the four treatment groups for either the patient or the investigator global evaluations at week 2, 3, or 4 using a Kruskal-Wallis nonparametric test. A significant difference among the treatment groups was found for the patient and investigator global evaluations at week 1. McNeil then states in is statistical report, "The multiple comparison test demonstrates a significantly better response for Butibel patients as compared to placebo patients (P=0.05), as judged by the patient. Similarly, the investigators evaluated the Butibel patients to have a better response than placebo patients (P=0.07)." However, McNeil's Table XVIII "Means and Standard Deviations" shows placebo patients with a lower (better) mean score than Butibel for both the patient and physician global evaluations at week 1. Furthermore, the number of belladonna extract patients judged to have marked or moderate improvement compared to the number of Butibel patients judged to have marked or moderate improvement, favors belladonna extract over Butibel (McNeil's Table XVIII).

No significant differences are reported among the four treatment groups for time lost from work. No claim is made of a differentiation among the three active drugs in terms of predicting whether a patient received an active drug or not.

Overall, neither McNeil's summary of its epigastric pain results (McNeil's Table I) nor its specific statistical reports and clinical data displays provide evidence that the tested combination is superior to its components or placebo in providing relief of symptons associated with duodenal ulcer. Thus, McNeil has failed to show that each component of the tested combination drug contributes to the effects claimed for it, as required by 21 CFR 300.50.

Furthermore, since anticholinergic drugs have not been shown to promote ulcer healing, the tested combination drug should have been studied in patients receiving a treatment known to promote duodenal ulcer healing (see discussion under Donnatal Duodenal Ulcer Study above). McNeil's study employed antacids in an "as needed" fashion and this antacid regimen is not known to promote ulcer healing. Therefore, this study is deficient in failing to use an appropriate patient population. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*).

In addition, even if positive results were obtained in this study, it is unclear whether the results would apply to Butibel. The active test drugs as used in the clinical trials contained 30 mg of each active component. Butibel contains 15 mg of each active component. Although McNeil claims that one capsule of the combination as used in the clinical trials is bioequivalent to two capsules of Butibel, it presents no evidence to demonstrate this claim. 21 CFR 314.111(a)(5)(ii)(*b*).

Conclusion/Revocation of Exemption/ Notice of Opportunity for Hearing

No person has yet submitted any data which would support reclassification to effective of any of the above listed drug products. Furthermore, adequate time has been allowed for the design and conduct of acceptable studies to demonstrate drug effectiveness. Accordingly, the Director of the National Center for Drugs and Biologics hereby revokes the temporary exemption granted to these drug products by the November 11, 1975 and June 20, 1978 notices, and proposes to withdraw approval of the new drug applications subject to this notice.

On the basis of all the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and, for combination drug products, 21 CFR 300.50, demonstrating the effectiveness of the above listed drug products.

Therefore, notice is given to the holders of the new drug applications, to persons who manufacture or distribute a drug product listed above that is not the subject of an approved new drug application, and to all other interested persons that the Director of the National Center from Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications (except NDA 597) and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to the approved drug products named above and to the drug product previously subject to NDA 597, as defined in 21 CFR 310.6. This includes, but is not limited to, the manufacturers or distributors of the drug products listed above that are not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug products that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompases all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or puruant to section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or sumilar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before June 6, 1983, written notice of appearance and request for hearing, and (2) on or before July 5, 1983, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other persons subject to this notice under 21 CFR 310.6 to file a timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice shall be filed in four copies. Such submissions except for data and information prohibited from public disclosure under to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.82 and 47 FR 26913 published in the Federal Register of June 22, 1982).

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Dated: April 13, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-12139 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Denver District Office, chaired by Leroy Gomez, District Director. The topics to be discussed are: Direct-to-Consumer Advertising of Prescription Drugs, Updates on Sodium Labeling, Medical Device Approvals, and Dietary Aids and Diets.

DATE: Wednesday, May 11, 1983, 7:30 p.m.

ADDRESS: Cascade County Extension Office, 1211 Northwest Bypass, Great Falls, MT 59404.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Brunner, Consumer Affairs Officer, Food and Drug Administration, 500 U.S. Customhouse, 19th and California Sts., Denver, CO 80202, 303–837–4915. Denver District Office, chaired by Leroy Gomez, District Director. The topics to be discussed are: Direct-to-Consumer Advertising of Prescription Drugs, with Updates on Diets and Dietary Aids, Sulfiting Agents, and BHA (butylated hydroxy anisole).

DATE: Thursday, May 12, 1983, 1:30 p.m.

ADDRESS: Utah Department of Agriculture, 350 North Redwood Rd., Salt Lake City, UT 84116.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Brunner, Consumer Affairs Officer, Food and Drug Administration, 500 U.S. Customhouse, 19th and California Sts., Denver, CO 80202, 303–837–4915.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11833 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by Lynn Campbell, Director, San Juan District Office.

DATE: Tuesday, May 24, 1983, 1 p.m.

ADDRESS: The meeting will be held at the LaConcha Hotel, Ashford Ave., Condado, San Juan, PR.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201–645–6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: April 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11829 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0184; DESI 597]

Bentyl Syrup With Phenobarbital; Drug Efficacy Study Implementation; Revocation of Temporary Exemption; Proposal To Withdraw Approval of New Drug Application; Opportunity for Hearing

Correction

In FR Doc. 83-9463, beginning on page 15717, in the issue of Tuesday, April 12, 1983, make the following changes:

1. On page 15718, in the third column, in paragraph 28, in the fourth line "Bellandonna" should read "Belladonna"; in paragraph 31, in the fifth line "Bellandonna" should read "Belladonna".

2. On page 15719, in the third column, in the third paragraph, in the sixth line, "June 3" should read "June 13".

BILLING CODE 1505-01-M

[Docket No. 82P-0303]

Downs Surgical, Inc.; Sugita Aneurysm Clip; Panel Recommendation on Petition for Reclassification

Correction

In FR Doc. 83-0319, beginning on page 15721, in the issue of Tuesday, April 12, 1983, on page 15722, in the first column, in the first paragraph, in the second line, "(22))" should read "(2))".

BILLING CODE 1505-01-M

Pulmonary-Allergy Drugs Advisory Committee; Republishing of Meeting Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is republishing a portion of the notice announcing a meeting of the Pulmonary-Allergy Drugs Advisory Committee scheduled for May 13, 1983. The meeting was announced in the **Federal Register** of April 29, 1983 (48 FR 19470). This portion of the notice is being republished because of a revised schedule and a change in the open committee discussion concerning sulfiting agents used as antioxidants in drug products and the pharmacokinetics and labeling of sustained release theophylline preparations. These topics will be scheduled for discussion at an advisory committee meeting to be announced later for June 1983. The May 13 meeting will deal solely with the over-the-counter status of metaproterenol metered dose inhalers. These inhalers do not contain sulfiting agents.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. May 13, 8 a.m., Conference Rm. 10, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 4 p.m.; Conrad J. Leder, National Center for Drugs and Biologics (HFN-160), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3500.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss whether metaproterenol metered dose inhalers should continue to be marketed over-the-counter (OTC).

Dated: May 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12366 Filed 5-5-83; 11:17 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 29.

Public Health Service

National Institutes of Health

Subject: Study of Cervicitis in Pregnancy—New
Respondents: Women
Subject: A Cohort Study of Second Primary Tumors following Chemotherapy for Gestational Trophoblastic Disease—New
Respondents: Women with trophoblastic disease and their physicians
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Premarket Notification Submission (0910-0120)—Extension/No Change
Respondents: Medical device manufacturers
Subject: Required Registration, Recordkeeping, and Reporting by Importers of Nonhuman Primates (0920-0096)—Extension/No Change
OMB Desk Officer: Richard Eisinger

Centers for Disease Control

Subject: National Disease Surveillance Program—I. Case Reports (0920-0009)—Revision
Respondents: State and territorial health departments.
Subject: Study of Birth Defects Risk Factors Including Military Service in Vietnam (0920-0094)—Revision
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: Grant Applications for Research Projects on Adolescent Pregnancy and Family Life—New
Respondents: Colleges and universities, research institutes, hospitals and health centers, voluntary organizations
Subject: Grant Applications for Demonstration Projects on Adolescent Pregnancy and Family Life—New
Respondents: Voluntary organizations, hospitals, health clinics, and other community institutions that serve adolescents
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: National (Rural) Swing-Bed Program Evaluation—Preliminary Plan
Respondents: Hospitals having swing-bed agreements with the Department, a comparison group of similar non-swing bed hospitals
Subject: Medicare Reimbursement Settlement Data for Hospitals and Skilled Nursing Facilities (0938-0159)—Extension/No Change
Respondents: Hospitals and Skilled Nursing Facilities
Subject: Medicare Reimbursement Settlement Data for Outpatient Physical Therapy Providers (0938-0142)—Reinstatement
Respondents: Outpatient physical therapy providers
Subject: Periodic Interim Payment Quarterly Report for Home Health Agencies (0938-0153)—Reinstatement
Respondents: Home Health Agencies in the Medicare program
Subject: Evaluation of Medicare Competition Demonstration—Preliminary Plan
Respondents: Medicare beneficiaries affected by Medicare demonstrations
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Capability of 8(a) Contractors—New
Respondents: Small professional services firms approved for Procurement assistance under Section 8(a) of the Small Business Act
Subject: Informal Caregivers Survey Follow-Up—New
Respondents: Informal caregivers of channeling demonstration clients
Subject: HHS Procurement Manual Part 3-3.55 Solicitations for Negotiated Procurements—New
Respondents: State, local governments, businesses or other institutions

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

Joseph F. Costa, Acting HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: April 29, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-12010 Filed 5-5-83; 8:45 am]

BILLING CODE 4160-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Number AZ-AZ027-000001]

Arizona: Realty Action; Competitive Sale of Public Land in Yuma County

The Bureau of Land Management will offer the following described lands for sale at a public auction on July 14, 1983, at 1:00 p.m. at the Gila Bend Civic Center. There will be 24 tracts of land in three different sale areas. It has been determined that the sale of these tracts is consistent with section 205(1)(c) of the Federal Land Policy and Management Act of October 21, 1976. The lands will be offered for sale at no less than the appraised fair market value indicated below.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Tract No.	Legal description	Acres	Value
Turtle Back Sale Area:			
1	T. 3 S., R. 11 W., sec. 22 NE¼.	160.0	$42,400
2	T. 3 S., R. 11 W., sec. 22 SE¼.	160.0	42,400
3	T. 3 S., R. 11 W., sec. 23 NW¼.	160.0	42,400
4	T. 3 S., R. 11 W., sec. 23 SW¼.	160.0	42,400
5	T. 3 S., R. 11 W., sec. 27 NE¼.	160.0	40,000
6	T. 3 S., R. 11 W., sec. 27 SE¼.	160.0	40,000
7	T. 3 S., R. 11 W., sec. 28 S½SW¼, sec. 33 NW¼.	240.0	60,000
8	T. 3 S., R. 11 W., sec. 28 S½SE¼, sec. 33 NE¼.	240.0	60,000

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GILA AND SALT RIVER MERIDIAN, ARIZONA—Continued

Tract No.	Legal description	Acres	Value
9	T. 3 S., R. 11 W., sec. 27 S½SW¼, sec. 34 NW¼.	240.0	60,000
10	T. 3 S., R. 11 W., sec. 34 NE¼.	160.0	42,400
11	T. 3 S., R. 11 W., sec. 33 SW¼.	160.0	42,400
12	T. 3 S., R. 11 W., sec. 33 SE¼.	160.0	42,400
13	T. 3 S., R. 11 W., sec. 34 SW¼.	160.0	42,400
14	T. 3 S., R. 11 W., sec. 34 SE¼.	160.0	42,400
Texas Hill Sale Area:			
1	T. 7 S., R. 14 W., sec. 13 S½NE¼, SE¼.	240.0	60,000
2	T. 7 S., R. 14 W., sec. 13 SE¼NW¼, SW¼; sec. 24, N½NW¼.	280.00	70,000
3	T. 7 S., R. 14 W., sec. 14 SE¼, S½SW¼.	240.0	60,000
Aztec Sale Area:			
1	T. 7 S., R. 11 W., sec. 6 Lots 1, 2, S½NE¼.	157.75	35,500
2	T. 7 S., R. 11 W., sec. 6 Lots 3, 4, S. SE¼NW¼.	151.99	34,200
3	T. 7 S., R. 11 W., sec. 6 Lots 6, 7, E½SW¼.	152.85	34,400
4	T. 7 S., R. 11 W., sec. 6 SE¼.	160.00	36,000
5	T. 7 S., R. 11 W., sec. 7 NE¼, NW¼, SE¼, W½.	210.00	47,250
6	W½NE¼SE¼. T. 7 S., R. 11 W., sec. 7 Lots 1, 2, 3, E½NW¼, NE¼SW¼.	228.94	51,600
7	T. 7 S., R. 11 W., sec. 8 NW¼.	160.00	36,000

The above aggregates 4,461.5 acres of land in Yuma County.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including the mining laws, except the mineral leasing laws, for a period of 2 years or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 2-year period.

Lands not sold on July 14, 1983, will be reoffered for sale by competitive bid at the Phoenix District Office at 10:00 a.m. on October 5, 1983. Any remaining unsold lands will be available for over-the-counter purchase for the remainder of the 2 years.

All of the parcels listed will be subject to the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

The following tracts in the Turtleback Sale Area have additional reservations:

1. All tracts in the Turtleback Sale Area will be sold subject to oil and gas Lease A–14852.

2. Turtleback tracts 11, 12, 13, and 14 will be sold subject to Arizona Public Service powerline right-of-way AR–010756.

3. Turtleback tracts 11, 12, 13, and 14 will be sold subject to Arizona Public Service gas line right-of-way AR–034091.

4. A public road right-of-way will be reserved for the east 33' of tracts 1, 2, 5, 6, 10 and 14. Additionally, a public road easement will be reserved on the south 33' of tract 5.

The following parcels in the Texas Hill Sale Area have additional reservations.

1. Tract 1 will be sold subject to oil and gas lease A–18112.

2. Tract 2 will be sold subject to oil and gas lease A–18112 and oil and gas lease A–18113.

There are no known mineral values in the land. If the successful bidder wishes, he/she may apply for the reserved mineral estate under the provision of Sec. 209(b) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2757: 43 U.S.C., 1718).

Additional information concerning these lands, terms and conditions of the sale, and bidding instructions may be obtained from the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 or by calling (602) 241–2511.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the Proposed Action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: April 22, 1983.

W. K. Barker,

District Manager.

[FR Doc. 83-12064 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number AZ–AZ027–000003]

Arizona: Realty Action; Competitive Sale of Public Land in Pima County

The Bureau of Land Management will offer the following described lands for sale at a public auction on July 12, 1983, at 1:00 p.m. at the Phelps Dodge Recreation Hall in Ajo. There will be six tracts of land offered at the sale. It has been determined that the sale of these tracts is consistent with Sec. 205(1)(c) of the Federal Land Policy and Management Act of October 21, 1976. The lands will be offered for sale at no less than the appraised fair market value indicated below.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Tract No.	Legal description	Acres	Value
Ajo Sale Area:			
1	T. 12 S., R. 6 W., sec. 3 S½SW¼SE¼SE¼.	5.0	$12,500
2	T. 12 S., R. 6 W., sec. 3 N½SW¼SE¼SE¼.	5.0	12,500
3	T. 12 S., R. 6 W., sec. 3 S½NW¼SE¼SE¼.	5.0	12,500
4	T. 12 S., R. 6 W., sec. 3 N½NW¼SE¼. SE¼	5.0	12,500
5	T. 12 S., R. 6 W., sec. 3 SW¼NE¼SE¼.	10.0	22,000
6	T. 12 S., R. 6 W., sec. 3 NW¼NE¼SE¼.	10.0	22,000

The above aggregates 40.0 acres of land in Pima County.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including mining laws, except mineral leasing laws, for a period of 2 years or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 2-year period.

Lands not sold on July 12, 1983, will be reoffered for competitive bid at the Phoenix District Office on October 5, 1983. Any remaining unsold lands will be available for over-the-counter purchase for the remainder of the 2 years.

All of the parcels listed will be subject to the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

3. A reservation of all minerals to the United States with the right to prospect for, mine, and remove such deposits.

There are no known mineral values in the land. If the successful bidder wishes, he/she may apply for the reserved mineral estate under the provision of Sec. 209(b) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1718).

Additional information concerning these lands, terms and conditions of the sale, and bidding instructions may be obtained from the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 or by calling (602) 241–2511.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the Proposed Action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: April 22, 1983.

W. K. Barker,

District Manager.

[FR Doc. 83-12063 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number AZ–AZ027–000002]

Arizona: Realty Action Competitive Sale of Public Land in La Paz County

The Bureau of Land Management will offer the following described lands for sale at a public auction on July 7, 1983, at 1:00 p.m. at the Bouse Community Center. There will be 24 tracts of land offered at the sale. It has been determined that the sale of these tracts is consistent with section 205(1)(c) of the Federal Land Policy and Management Act of October 21, 1976. The lands will be offered for sale at no less than the appraised fair market value indicated below.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Tract No.	Legal description	Acres	Value
La Paz Sale Area:			
1	T. 5 N., R. 12 W., sec. 5 S½N½.	160.0	$76,000
2	T. 5 N., R. 12 W., sec. 6 Lots 1, 2.	80.1	32,000
3	T. 7 N., R. 17 W., sec. 35 NE¼NW¼NW¼.	10.0	5,000
4	T. 7 N., R. 17 W., sec. 35 SE¼NW¼NW¼.	10.0	5,000
5	T. 7 N., R. 17 W., sec. 35 W½NW¼NW¼.	20.0	9,000
6	T. 7 N., R. 17 W., sec. 36 NE¼NW¼NW¼.	10.0	4,500
7	T. 7 N., R. 17 W., sec. 36 SE¼NW¼NW¼.	10.0	5,000
8	T. 7 N., R. 17 W., sec. 36 W½NW¼NW¼.	20.0	9,000
9	T. 7 N., R. 17 W., sec. 15 NE¼SE¼.	40.0	17,000
10	T. 5 N., R. 16 W., sec. 4 SW¼, N½S½ SE¼ W½S½ S½SE¼.	220.0	80,000
11	T. 5 N., R. 16 W., sec. 5 Lots 3, 4.	160.92	34,600
12	T. 5 N., R. 16 W., sec. 5 SW¼.	160.00	34,400
13	T. 5 N., R. 16 W., sec. 5 SE¼.	160.0	34,400
14	T. 5 N., R. 16 W., sec. 9 NE¼.	160.0	36,000
15	T. 5 N., R. 16 W., sec. 10 NW¼.	160.0	36,000
16	T. 5 N., R. 15 W., sec. 16 NW¼.	160.0	34,400
17	T. 5 N., R. 15 W., sec. 16 NE¼.	160.0	36,000
18	T. 5 N., R. 15 W., sec. 17 NW¼.	160.0	36,000
19	T. 5 N., R. 15 W., sec. 17 NE¼.	160.0	36,000
20	T. 5 N., R. 15 W., sec. 17 SE¼.	160.0	34,400
21	T. 5 N., R. 15 W., sec. 17 SW¼.	160.0	36,000
22	T. 5 N., R. 15 W., sec. 20 NW¼.	160.0	34,400
23	T. 5 N., R. 15 W., sec. 20 NE¼.	160.0	36,000
24	T. 5 N., R. 12 W., sec. 7 Lots 2, 3.	77.4	36,800

The above aggregates 2,739.42 acres of land in La Paz County.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including mining laws, except mineral leasing laws, for a period of 2 years or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 2-year period.

Lands not sold on July 7, 1983, will be reoffered for sale by competitive bid at the Phoenix District Office at 10:00 a.m. on October 5, 1983. Any remaining unsold lands will be available for over-the-counter purchase for the remainder of the 2 years.

All of the parcels listed will be subject to the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

3. A reservation of all minerals to the United States with the right to prospect for, mine, and remove such deposits.

The following tracts in the La Paz Sale Area have additional reservations:

Tract 2:

1. Will be sold subject to oil and gas lease A–13482.

Tract 3:

1. Will be sold subject to oil and gas lease A–13695.

Tract 4:

1. Will be sold subject to oil and gas lease A–13695.

Tract 5:

1. Will be sold subject to oil and gas lease A–13695.

Tract 6:

1. Will be sold subject to Arizona Department of Transportation right-of-way, PHX–079054.

Tract 7:

1. Will be sold subject to Arizona Department of Transportation right-of-way, PHX–079054.

Tract 8:

1. Will be sold subject to Arizona Department of Transportation right-of-way, PHX–079054.

Tract 9:

1. Will be sold subject to oil and gas lease A–16800.

Tract 10:

1. Will be sold subject to oil and gas lease A–15328.

2. Will be sold subject to Arizona Public Service powerline right-of-way, A–8039.

Tracts 11, 12, and 13:

1. Will be sold subject to oil and gas lease A–15328.

Tract 14:

1. Will be sold subject to Arizona Public Service powerline right-of-way, A–8039.

Tract 16:

1. Will be sold subject to oil and gas lease A–11156.

Tract 17:

1. Will be sold subject to oil and gas lease A–11156.

Tracts 20 and 21:

1. Will be sold subject to Arizona Public Service powerline right-of-way, AR–03209.

2. Will be sold subject to oil and gas lease A–11156.

There are no known mineral values in the land. If the successful bidder wishes, he/she may apply for the reserved mineral estate under the provision of section 209(b) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1718).

Additional information concerning these lands, terms and conditions of the sale, and bidding instructions may be obtained from the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 or by calling (602) 241–2511.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the Proposed Action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this

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realty action will become the final determination of the Department of the Interior.

Dated: April 22, 1983.

W. K. Barker,

District Manager.

[FR Doc. 83-12052 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Colorado; Site Specific Call for Expressions of Interest in Oil Shale Leasing; Solicitation of Public Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Solicitation of public comments.

SUMMARY: This notice announces the opportunity for industry to express interest in specific tracts or areas of public lands for possible leasing of deposits of oil shale, which deposits may include Kerogen and other minerals and commercial interest (excluding oil and gas) within the Piceance Basin Planning Area of the White River Resource Area of the Craig District. Organizations and individuals are also invited to identify specific areas for possible protection from mineral leasing.

The information submitted will be used in the preparation of a Resource Management Plan in accordance with the land use planning requirements of the Federal Land Policy and Management Act. The plan will identify areas for priority management of a full range of resource values including oil shale. It may also identify tracts which could eventually be leased for oil shale should the Department of Interior establish an Oil Shale Leasing Program.

DATE: Responses to this notice must be received by July 11, 1983.

ADDRESS: Responses should be sent to: Bureau of Land Management, White River Resource Area, Oil Shale Projects Team, PO Box 928, Meeker, Colorado 81641.

FOR FURTHER INFORMATION CONTACT: John Singlaub, Team Leader at the address above. Telephone (303) 878-3601.

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that the official call for site specific expressions of interest in Federal leasing of deposits of oil shale which mineral deposits may include kerogen and other mineral deposits of commercial interest (excluding oil and gas), within the Piceance Basin Planning Area of the White River Resource Area, is now in effect. The Piceance Basin Planning Area generally includes the public lands southwest of Meeker, southeast of Rangely, and northwest of Rifle, in Rio Blanco and Garfield Counties, Colorado.

Expressions of interests will be accepted for lands where the Federal government owns the minerals within the the Piceance Basin Planning Area. Maps which indicate the areas open for expressions of interest may be obtained by contacting John Singlaub at the White River Resource Area Office at the address above. This call for expressions of interest is a step in the planning process which will lead to a Resource Management Plan which may consider site-specific tract analysis and will identify cumulative impacts of various alternatives.

This call for expressions of interest allows potential lessee's an opportunity to participate in the planning process by identifying mineral areas which could be considered for future sales of leases for oil shale deposits, as well as specific tracts for such leasing. It also allows citizens to identify specific areas which should not be considered for mineral leasing. The availability of this data will be an important factor in delineating the areas and tracts most likely to receive consideration for leasing. These areas may be of any size or configuration. Specific tracts identified in this call may not exceed 5,120 acres in size, however.

An expression of leasing interest is not an application. The size and/or location of a proposed area or tract may be modified or changed in the tract delineation or planning process if there is sufficient reason to do so. Areas and tracts may also be prioritized based upon the existence of resource conflicts. Examples of the types of concerns that may make such action necessary include: access needs, mining efficiency, future development potential, resource conservation, State preferences and environmental concerns.

Expressions of interest in oil shale must be submitted in writing. If more than one area or tract is nominated, the areas or tracts must be ranked by priority. The following information should be submitted:

1. Location—Delineations should be made on a map with a scale not less than ½ inch to the mile and an accompanying legal description if possible.

2. Extraction Technology—List the primary and alternative technological development preferences on a general basis (not a detailed plan). This should include the type of mine, techniques for mining, type of mineral separation, type of retorting, type of waste disposal.

3. Quality and Quantity—Estimates of the quality and quantity of the mineral resource(s) and economic value within the expression area.

4. Projected production and markets.

5. Transportation Needs—Include existing and proposed facilities (e.g., pipelines, roads).

6. Proposed water needs and source.

7. Proposed surface facilities.

8. Other pertinent information.

Data which is considered proprietary should not be submitted at this time.

For those wishing to identify areas that should not be leased, the following information should be included:

1. Location—Delineations should be made on a suitable map with a scale not less than ½ inch to the mile accompanied with a legal description if possible.

2. Reasons for not developing and/or leasing the area.

3. The kinds of mineral activity that should not occur (e.g. open pit mining, underground retorting, any surface disturbance, etc.).

4. Other pertinent information.

Expressions of interest will be accepted through July 11, 1983. Any information received after that date will be considered; however, inclusion of the data into the tract delineation and planning process cannot be assured. Other public participation activities will be conducted in accordance with 43 CFR part 1601. Dates, times and locations of these activities will be announced through local media and mailings to interested parties.

Documents relative to the tract delineation and planning process may be reviewed at the White River Resource Area Office during regular office hours.

Dated: April 28, 1983.

Lee Carie,

District Manager.

[FR Doc. 83-12163 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

Headwaters Resource Management Plan; Butte District, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft resource management plan/environmental impact statement and public hearing.

SUMMARY: Pursuant to Section 202(f) of the Federal Land Policy and Management Act of 1976 and Section 102(c) of the National Environmental Policy Act of 1969, a draft resource management plan/environmental impact statement (RMP/EIS) has been prepared for the Headwaters Resource Area. The RMP/EIS addresses future management options for approximately 311,337 surface acres and 655,505 acres of federal mineral estate administered by the Bureau of Land Management in west central Montana. The affected counties are Broadwater, Cascade, Gallatin, Jefferson, Lewis and Clark, Meagher, Park, Pondera, and Teton.

PUBLIC PARTICIPATION: Copies of the draft RMP/EIS are available from the Butte District Office, 106 N. Parkmont, P.O. Box 3388, Butte, MT 59702, phone (406) 494-5059. Public reading copies are available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets N.W., Washington, D.C. 20240

BLM, Montana State Office, Public Affairs Office, 222 N. 32nd Street, Billings, Montana 59107

BLM, Butte District Office, 106 N. Parkmont, Butte, Montana 59702

The draft RMP/EIS will be available for review from May 6, 1983, to August 5, 1983. However, written comments would be appreciated by July 8, 1983, and should be sent to: Project Manager, Headwaters RMP, Butte District Office, P.O. Box 3388, Butte, Montana 59702.

Oral or written comments also will be received at a formal public hearing to be held on Wednesday, June 15, 1983 from 3 p.m. to 5 p.m. and from 7 p.m. to 9 p.m. at Jorgenson's Holiday Motel, 1714 11th Avenue, Helena, Montana. In conjection with this hearing, there will be an open house at Jorgenson's Holiday Motel on the same day as the hearing, running from 10 a.m. to 5 p.m. and from 6 p.m. to 8 p.m., to provide an opportunity for informal discussions with the resource specialists who participated in the development of the draft RMP/EIS. Oral and written comments concerning the adequacy of the draft RMP/EIS will be considered in the preparation of the final RMP/EIS for the Headwater Resource Area.

SUPPLEMENTARY INFORMATION: The draft RMP/EIS analyzes four alternatives, with one representing a continuation of present management direction (no action). The others emphasize environmental protection, resource production, and an intermediate or balanced approach (preferred).

The plan focuses on resolving eleven resource management issues: oil and gas leasing and development; grazing allotment and riparian habitat management; wilderness study recommendations; forest management; land ownership adjustments; mineral exploration and development; motorcycle use areas; motorized vehicle access; utility and transportation corridors; coal leasing; and special designations.

FOR FURTHER INFORMATION CONTACT: Project Manager, Headwaters RMP, (406) 494-5059.

Dated: April 19, 1983.

DeMiles R. Pedersen,

Acting State Director.

[FR Doc. 83-11347 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-36019, OR-36020]

Realty Action, Competitive/Modified Competitive Sale of Public Land; Lake County, Oregon

The following described parcels of land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 STAT. 2750, 43 USC 1713) at no less than the appraised fair market value shown:

Parcel No.	Legal description	Acreage	Appraised value
1, OR-36019	T. 27 S., R. 17 E., Willamette Meridian, Oregon. Section 31: SE¼ NE¼, E½ SE¼.	120	
	Section 32: S½ NW¼.	80	
	T. 28 S., R. 17 E., Willamette Meridian, Oregon. Section 6: Lot 1	37.46	
		237.46	$47,500
2,OR-36020	T. 28 S., R. 16 E., Willamette Meridian, Oregon. Section 11: SW¼ NW¼, NW¼ SW¼.	80	22,400

The sale will be held on Wednesday, July 6, 1983, at 10:00 a.m., P.D.T., Bureau of Land Management Conference Room, 1000 South Ninth Street, Lakeview, Oregon.

The sale is consistent with publicly supported Bureau planning. The sale involves isolated land completely surrounded by private land, that is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another Federal department or agency. The public interest will be served by offering this land for sale.

Sale parcel #1,OR-36019, will be offered for sale at public auction through modified competitive bidding with Mr. Joe Oxenford given preference to meet the high selling bid. Refusal or failure by Mr. Oxenford to meet the high selling bid immediately after the close of oral bidding shall constitute a waiver of such right.

Sale parcel #2,OR-36020, will be offered for sale at public auction through competitive bidding.

Modified competitive bidding procedures are being used to recognize the needs of adjoining landowners. Preference to meet the high selling bid is authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; CFR Part 2711.3-2(a)(2)).

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered. Proof of these requirements shall accompany all sale bids.

Sealed written bids will be considered only if received by the Bureau of Land Management, 1000 South Ninth Street, P.O. Box 151, Lakeview, Oregon 97630, prior to 9:00 a.m., Wednesday, July 6, 1983, P.D.T., and for at least the appraised value. A separate written bid must be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashiers check, made payable to the Bureau of Land Management for at least twenty percent (20%) of the amount bid and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sales OR-36019/OR-36020, Sale Parcel Number ——, Lake County, Oregon, July 6, 1983". The written sealed bids will be opened and publicly declared at the beginning of each sale. If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by drawing.

In order to participate in the oral bidding on each parcel, bidders must submit a written bid for not less than the appraised value, and the twenty percent (20%) required deposit.

Oral bidding will be entertained after public declaration of the apparent high sealed bidder and all oral bids must be made in increments of $50.00 or more. After oral bids are entertained, the apparent high qualifying oral bidder shall submit payment by cash, personal check, bank draft, money order or any combination thereof, any additional amount necessary to bring the amount tendered with their sealed bids up to twenty percent (20%) of the amount of the oral bid, immediately following the close of the sale.

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In the exercise of the preference right, whether submitted by sealed bid or oral bid, the preference right holder shall be required to submit payment as stated above immediately following the close of the sale.

The terms and conditions applicable to the sale are:

1. The apparent high bidder shall submit the remainder of the full bid price within 30 days from the date of sale. Failure to submit the full bid price within 30 days from the date of sale shall result in sale cancellation of the specific parcel and the deposit shall be forfeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his/her obligation and withdraw any tract from the sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consumption of the sale would encourage or promote speculation in public lands.

3. The patents will contain a reservation to the United States for ditches and canals.

4. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

5. The sale will be subject to all valid existing rights.

Those parcels not sold pursuant to this Notice of Realty Action shall remain available for sale on a continuing basis until sold. The sale price shall be based on the appraised fair market value at the time of purchase. Subsequent purchases may be transacted at the Lakeview District Office, in person, during regular business hours (7:45 a.m. to 4:30 p.m.)

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Lakeview District Office, Bureau of Land Management, 1000 South Ninth Street, Lakeview, Oregon 97630.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Lakeview District Office, Bureau of Land Management, P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 97–394, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: April 27, 1983.

Richard A. Gerity,

District Manager.

[FR Doc. 83-12181 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52910]

Utah; Invitation To Participate in Coal Exploration Program—Getty Minerals Company

Getty Minerals Company is inviting all qualified parties to participate in a program for the exploration of coal reserves in the Muddy Creek area about four miles northwest of Emery County, Utah. The lands are located in Sevier and Emery Counties, Utah and are described as follows:

T. 21 S., R. 5 E., SLM, Utah
Secs. 2, and 9–16, all;
Sec. 17, S½;
Secs. 20–25, all;
Sec. 26, E½;
Sec. 27, all;
Sec. 28, N½, N½S½, S½SE¼, SE¼SW¼;
Sec. 29, E½NE¼, NE¼SE¼;
Sec. 33, lots 2–4, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 34, all.
T. 21 S., R. 6 E., SLM, Utah
Sec. 17, W½NW¼, NW¼SW¼;
Sec. 18, lots 1–4, E½E½, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 19, lots 1–4, W½E½, E½W¼, E½SE¼;
Sec. 20, SW¼;
Sec. 29, N½NW¼, SW¼NW¼;
Sec. 30, lots 1–4, NE¼, E½W½, N½SE¼, SW¼SE¼.
Containing 14,400.48 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 and to Mark L. Adkins, Getty Minerals Company, 5250 South 300 West, Salt Lake City, Utah 84107. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register.**

Any party wishing to participate in the exploration program must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Getty Minerals Company is available for public review during normal business hours, in the following office, under Serial Number U–52910: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,

Deputy State Director, Operations.

[FR Doc. 83-12104 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Idaho; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice announces that lands within 2 former wilderness study areas, totaling 7,885 acres, have been placed under protective management as a result of land-use planning decisions of the Bureau of Land Management, or are under consideration for such designation.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706, telephone (208) 334–1746.

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management wilderness study areas in Idaho to bring the Bureau's wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the **Federal Register** on December 30, 1982 (47 FR 58372).

Section 1. Protective Management

Two areas, totaling 7,885 acres, have been placed under protective management as a result of land/use planning decisions pursuant to Section 202 of the Federal Land Policy and Management Act of 1976, or are under consideration for such designation. These areas were formerly identified as wilderness study areas (WSA) under Section 603 of the Act. They were deleted from that category on December 30, 1982. The areas are:

Little Wood River (ID–53–4), 4,385 acres, Blaine County. All of this former wilderness study area, plus additional public lands, has been established as the Elk Mountain Area of Critical Environmental Concern.

Lower Salmon Falls Creek (ID–17–10), 3,500 acres, Twin Falls County. Approximately half of this former wilderness study area, plus additional public lands, has been established as the Salmon Falls Creek Outstanding Natural Area. The remainder of the wilderness study area is under consideration for addition to this Outstanding Natural Area.

Section 2. Management of Deleted Lands

All lands in Idaho deleted from wilderness study status by the decision issued on December 30, 1982 (47 FR 58372), are hereby released from management restrictions to protect their wilderness suitability. Of these lands, 7,885 acres have been placed under protective management or under consideration for protective management, as described in Section 1 of this decision, and will be managed to protect the identified natural, scenic, and cultural values. The remaining 13,860 acres will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Dated: May 2, 1983.

Garrey E. Carruthers,

Assistant Secretary.

TABLE 1.—AREAS PLACED UNDER PROTECTIVE MANAGEMENT

Area name	No.	Acreage	County	Category
Little Wood River.	ID–53–4	4,385	Blaine	ACEC [1]
Lower Salmon Falls Creek.	ID–17–10	3,500	Twin Falls	ONA [2]
Total (2 areas)		7,885		

[1] All of the former Little Wood River wilderness study area, plus additional public lands, has been established as the Elk Mountain Area of Critical Environmental Concern, totaling approximately 8,000 areas.
[2] Portions of the remaining former Lower Salmon Falls Creek wilderness study area, plus other public lands, totaling approximately 3,800 acres, are under consideration for addition to this Outstanding Natural Area.

[FR Doc. 83-12211 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of wilderness inventory decisions.

SUMMARY: This notice designates 1 area totaling 4,002 acres for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976. This notice also amends previous wilderness inventory decisions by the Bureau of Land Management for lands in Wyoming, deleting parts of 13 wilderness study areas. The total area deleted from wilderness study area status under Section 603 of the Act is 10,026 acres.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Wyoming State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001, telephone (307) 772–2073.

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management wilderness study areas in Wyoming to bring the Bureau's wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the **Federal Register** on December 30, 1982 (47 FR 58372).

Section 1. Consideration for Protective Management.

The Whitehorse Creek area (WY–040–325) of 4,002 acres in Fremont County has been designated for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976. This area was formerly identified as a wilderness study area under Section 603 of the Act. It was deleted from that category on December 30, 1982.

Section 2. Split-Estate Lands.

A. "Split-estate" lands are lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned. Split-estate lands were improperly identified for wilderness study under Section 603 of the Federal Land Policy and Management Act of 1976; that error is corrected by this decision.

B. Boundaries and acreages of the wilderness study areas listed in Table 1 are modified, effective upon publication of this decision in the **Federal Register**, to delete split-estate lands. The deleted lands consist of: (1) Scattered tracts of split estate located within wilderness study areas and (2) tracts of split-estate located on the periphery of wilderness study areas. Only the indicated acreage is deleted from wilderness study. The remainder of the wilderness study area remains under wilderness study, and the boundary change does not affect the Bureau of Land Management's previously adopted conclusions as to the presence of wilderness characteristics in the remaining wilderness study area.

Section 3. Management of Deleted Lands.

All lands in Wyoming deleted from wilderness study status by this decision in Table 1 and by the decision issued on December 30, 1982 (47 FR 58372) and not designated for further wilderness consideration in Section 1 of this notice are hereby released from management restrictions to protect their wilderness suitability. Such lands, totaling 26,393 acres, will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Garrey E. Carruthers,

Assistant Secretary.

May 2, 1983.

TABLE 1.—MODIFIED WILDERNESS STUDY AREAS—BOUNDARY CHANGED TO DELETE SPLIT ESTATE

Wilderness study area name	No.	Old wilderness study area acreage	Acres split estate	Revised wilderness study area acreage	County
Sheep Mountain	WY–010–130	23,250	1,040	22,210	Big Horn.
Red Butte	WY–010–131	11,350	440	10,910	Do.
Honeycombs	WY–010–221	21,000	260	20,740	Washakie.
McCullough Peaks	WY–010–335	25,210	640	24,570	Park.
Sweetwater Rocks	WY–030–120	6,316	360	5,956	Fremont.
Sweetwater Rocks	WY–030–122	12,789	40	12,749	Do.
Adobe Town	WY–030–401	33,000	1,560	31,440	Sweetwater.
Adobe Town	WY–040–406	52,710	2,279	50,431	Do.
Subtotal		85,710	3,839	81,871	
Lake Mountain	WY–040–110	13,970	105	13,865	Sublette.
Sand Dunes	WY–040–307	27,200	691	26,509	Sweetwater.
South Pinnacles	WY–040–313	10,826	26	10,800	Do.
Honeycomb Buttes	WY–040–323	41,620	870	40,750	Sweetwater/Fremont.
Devils Playground/ Twin Buttes.	WY–040–401/402	24,276	1,715	22,561	Sweetwater.
Total (13 areas)			10,026		

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[FR Doc. 83-12212 Filed 5-5-83; 8:45 am]
BILLING CODE 4310-10-M

Minerals Management Service

Withdrawal of 1983 Sale Offerings to Eligible U.S. Refiners of Royalty Oil Available From Federal Offshore and Onshore Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Withdrawal of Notice of 3 Sale Offerings of Available Royalty Oil.

SUMMARY: This document withdraws at this time 3 sale offerings announced on April 26, 1983 (48 FR 19000), by the Secretary of the Interior.

DATE: Withdrawal of the 3 sale offerings is effective today, May 6, 1983.

FOR FURTHER INFORMATION CONTACT: RIK Sale Coordinator Dennis Whitcomb (303) 231-3432, or Anthony Gallagher, Chief of Accounting, Policy, and Regulatory Analysis (703) 860-7311.

SUPPLEMENTARY INFORMATION: Royalty Oil Sales No. 83-1, 83-2, and 83-3 will not be held respectively on July 6, August 3, and September 7, 1983, as advertised by the Secretary of the Interior. Requests for applications or applications already made will be returned to the senders by MMS immediately and will not be processed at this time.

Orie L. Kelm,

Deputy Associate Director for Royalty Management, Minerals Management Service.

[FR Doc. 83-12375 Filed 5-5-83; 9:25 am]
BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Kanematsu-Gosho (USA) Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's Rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on May 3, 1983.

Copies of the initial determintion, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: May 3, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-12220 Filed 5-5-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-128]

Certain Cupric Hydroxide Formulated Fungicides and Cupric Hydroxide Preparations Used in the Formulation Thereof; Commission Decision Not To Review Initial Determination

Correction

In FR Doc. 83-11255 beginning on page 19086 in the issue of Wednesday, April 27, 1983, make the following correction:

In the heading at the beginning of the document, "Investigation No. 337-TA-128" was omitted and should be inserted as set forth above.

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Linbeck Corporation, 3810 West Alabama, Houston, Texas 77027.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

(i) Linbeck Construction Corporation, Texas;

(ii) P & L Equipment Company, Inc., Texas;

(iii) Urban Construction Company, Texas;

(iv) Helena, Inc., Texas;

(v) Lucia, Inc., Texas; and

(vi) Marie, Inc., Texas.

1. Parent Corporation: Sage Foods, Inc., 999 East Touhy, Suite 260, Des Plaines, IL 60018.

2. Wholly-owned Subsidiaries:

(i) Infra-Red (Illinois corporation);

(ii) Practical Packaging Unlimited (California corporation).

The following list of divisions is to be added to the previous CIH notice of the parent corporation Archer Daniels Midland Company, 4666 Faries Parkway, Decatur, IL 62525. That notice was published on April 22, 1983, at 48 FR 17408.

3. Divisions of the parent corporation or of above-named subsidiaries which are same as the above but operate under a separate name only, for commercial reasons:

(1) Cross & Murrey & Co., 710 3rd Avenue NW., Minneapolis, Minnesota;

(2) L. W. Roach & Co., 1356 Chattahoochee Avenue NW., Atlanta, Georgia;

(3) Trans-Sweet, Lakeville, New York;

(4) Paris Milling Company, 1392 S. Main, Parks, Texas;

(5) Massey & Fair, 818 Ashby Street NW., Atlanta, Georgia;

(6) Southern Cotton Oil Co., 4666 Faries Parkway, Decatur, Illinois;

(7) ADM Foods, 4666 Faries Parkway, Decatur, Illinois;

(8) New Era Milling, P.O. Box 958, Arkansas City, Kansas;

(9) Interstate Milling Company, P.O. Box 31155, Charlotte, North Carolina;

(10) Econo-Flo Flour, 4550 W. 109th St., Shawnee Mission, Kansas;

(11) Inland Mills, P.O. Box 1357, Des Moines, Iowa;

(12) Gooch Mill & Elevator, Box 81308, Lincoln, Nebraska;

(13) Fuhrer-Ford Mill, P.O. Box 786, Mt. Vernon, Indiana;

(14) Western Star Mill, P.O. Box 1308, Salina, Kansas;

(15) ADM Processing, 4666 Faries Parkway, Decatur, Illinois;

(16) Lubbock Cotton Oil Co., P.O. Box 2788, Lubbock, Texas;

(17) Quanah Cotton Oil Co., P.O. Box 180, Quanah, Texas;

(18) Sweetwater Cotton Oil Co., P.O. Box 420, Sweetwater, Texas;

(19) Coeval, Inc., Highway 150, St. Joseph, Illinois;

(20) Centennial Mills, P.O. Box 3773, Portland, Oregon;

(21) Clinton Corn, Clinton, Iowa;

(22) Corn Sweeteners, P.O. Box 1445, Cedar Rapids, Iowa;

(23) ADM Grain Co., P.O. Box 15166, Commerce Station, Minneapolis, Minnesota;

(24) Smoot Grain Co., P.O. Box 1521, Hutchinson, Kansas;

(25) Golden Grains and Feeds, Box 595, Monroe, North Carolina;

(26) H. Dittlinger Roller Mills, 398 E. San Antonio Street, New Braunfels, Texas; and

(27) Western New York Syrup Corp., 3401 Rochester Road, Lakeville, New York.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12146 Filed 5-5-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-201

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81316. By decision of April 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the transfer to Cromartie Transport Company, Inc., Wilmington, NC, of a portion of the authority issued to Wendell Transport Corporation, Wendell, NC, in MC-114562 Subs 5, 6, and 9, authorizing (1) blackstrap molasses, in bulk, in tank vehicles, from Canal Point, Belle Glade, points in Palm Beach County, FL, and points within that part of Hendry County, FL, on and east of FL Hwy 833 to points in NC and SC, (2) molasses, in bulk, in tank vehicles, from Wilmington, NC, to points in SC, and (3) molasses and mixtures of molasses and feed supplements, in bulk, in tank vehicles, from Wilmington, NC, to points in VA. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602.

Volume No. OP2-202

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC-81349. By decision of April 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1181, Review Board Number 1, approved the transfer to DAVID & CHRISTINE HOCKIN, d.b.a. A. & A. BERGMAN, Caseville, MI, of Certificate No. MC-146963F, and Permit Nos. MC-110981 and Sub-No. 8, issued November 12, 1980, November 22, 1971, and September 21, 1977, respectively, to ALFRED BERGMAN AND LOIS BERGMAN, d.b.a. A. & A. BERGMAN, Caseville, MI, authorizing (1) soybean meal, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to points in MI, restricted to traffic originating at the named origin facilities; and (2) sweet cream, plain and sweetened condensed whole milk, cottage cheese, butter, and animal feed, from specified points in MI, to specified points in OH and WV; (3) empty containers, from specified points in OH, and WV, to specified points in MI; (4) beans, from points in a described area of MI, to specified points in KY, WV, points in a described area of IA and MO, and points in IL, IN, and OH; (5) feed, from Chicago, IL, to points in a described area of MI; (6) fence materials, from Sterling, IL, to points in a described area of MI; (7) soybean meal, from Decatur, IN, and Fostoria, OH, to points in a described area of MI, and from Frankfort and Loganport, IN, to points in MI, under continuing contract(s) in (2) through (7) above with Farm Bureau Services, Inc., of Lansing, MI. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684 for transferee and transferor.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-262

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81416, filed April 22, 1983. By decision of March 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to Kathryn A. Dunlap, of Fairfield, OH, of Certificates No. MC-13777 Subs 8, 9, 10X (including the underlying authority in MC-13777 Lead and Subs 4, 5, 6, and 7), and 11, issued January 28, 1981, August 5, 1981, July 22, 1981, and November 7, 1981, respectively, to AAA Transportation, Inc., of Indianapolis, IN, authorizing the transportation of: in *Sub. 8, machinery, equipment, materials and supplies* used in connection with the production, construction, operation, repair, service, maintenance, dismantling and transmission of air, water, and sewage systems or installations, between those points in the U.S. in and east of MN, IA, MO, AR, and TX, restricted to traffic originating at or destined to the facilities of the The Clow Corp; *Sub 9,* (1) *building materials,* and (2) *forest products and*

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lumber and wood products, between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX; *Sub 10X*, (1) *building materials*, (a) between Hamilton County, OH, on the one hand, and, on the other, points in Louisville, KY, St. Louis, MO, and points in IL and IN, and (b) between points in Lawrence County, IL, on the one hand, and, on the other, points in IN, (2) *waste or scrap materials not identified by industry producing*, between points in Indianapolis, IN, on the one hand, and, on the other, points in OH, (3) *metal products and materials, equipment and supplies*, used in the manufacture and distribution thereof, between points in Butler County, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, OK, SC, TN, TX, VA, WV, and WI, (4) *building materials, materials, equipment, and supplies*, used in the manufacture, distribution and installation thereof, (a) between points in Warren County, OH, on the one hand, and, on the other, points in GA, IL, IN, IA, KY, MI, MO, and TX, (b) betweem points in Henry County, GA, on the one hand, and on the other, points in KY, MO, OH, and TN, and (c) between Chicago, IL, and points in Warren County, OH, and Jefferson County, KY, on the one hand, and, on the other, points in GA, IL, IN, IA, KY, MI, MO, OH, and TN, and (5) *building materials*, between points in Butler County, OH, on the one hand, and, on the other , points in the U.S.; and *Sub 11 metal products*, between points in OH, on the one hand, and, on the other, points in the U.S. Representative: James R. Stiverson, 1396 W. 5th Ave., P.O. Box 12241, Columbus, OH 43212, (614) 481–8821.

For the following, please direct status calls to Team 5 at 202–275–7269.

Volume No. OP5–FC–197

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81379. By decision of April 22, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, Review Board Number 2 approved the transfer to A–C TRUCK SERVICE, INC., of Great Bend, KS, of Certificate No. MC–158939 issued August 19, 1982 to H.L. KELLY TRUCKING of Great Bend, KS authorizing the transportation of *oil field machinery*, between points in KS, AZ, CA, CO, LA, MT, NE, NM, OK, TX, and WY. Representative: Eugene W. Hiatt, 627 S. Topeka Ave., Topeka, KS 66603.

[FR Doc. 83–12181 Filed 5–5–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OPY–2–206]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following operating rights applications are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by the Commission's General Rules of Practice (49 CFR 1160).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved commom control, unresolved fitness questions, and jurisdictional problems), we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems), upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Decided May 3, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC 167162, filed March 30, 1983. Applicant: E & M EXPRESS, INC., 110 North St. Andrews Dr., Ormond Beach, FL 32074. Representative: Chester A Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, 202–296–3555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., of Elmira, NY.

Note.—This application is directly related to MC–F–15147, published in the **Federal Register** this issue.

[FR Doc. 83–12148 Filed 5–5–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are

governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier; motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to team 4 at (202) 275–7669.

Volume. No. OP4–260

Decided: April 29, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC–112076 Sub-12, filed April 25, 1983. Applicant: THOMAS J. PECK & SONS, INC., 415 S. 600 E.–RD 4A, Lehi, UT 84043. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, Ut 84108 (801) 581–0322. Transporting *petroleum products*, between points in Carbon County, WY, on the one hand, and, on the other, points in UT, under continuing contract(s) with Concrete Products Company, of Salt Lake City, UT.

MC–135887 Sub-4, filed April 19, 1983. Applicant: VOYNE R. GLEASON, P.O. Box 1051, Hayden Lake, ID 83835. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104 (206) 622–3220. Transporting *food and related products*, between points in ID, OR, CA, and WA.

MC–147216 Sub-8, filed April 19, 1983. Applicant: CARL KLEMM, INC., d.b.a., KLEMM TANK LINES, 1126 Terry Lane, DePere, WI 54115. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting *petroleum and petroleum products*, between points in IL, IA, and WI.

MC–149157 Sub-11, filed April 25, 1983. Applicant: STYLE CRAFT TRANSPORT, INC., Hwy 71 S., Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502 (712) 323–9124. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with J.C. Leather Corporation, of Sioux Falls, SD.

MC–150136 Sub-6, filed April 19, 1983. Applicant: JOE SICILIA, INC., N. 5523 Julia, Spokane WA 99207. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009 (206) 453–0312. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S.

MC–154876, filed April 25, 1983. Applicant: CAL-WESTERN TRANSPORT, INC., P.O. Box 896, Tulare, CA 93275. Representative: B. J. Sparlin (same address as applicant) (209) 688–0591. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Archer Daniels Midland Company, of Decatur, IL, and Richard Allmon Company, of Glendale, CA.

MC–156416 (Sub-1), filed April 22, 1983. Applicant: B & C TRUCKING, INC., 2425 Durby, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 (901) 526–4114. Transporting (1) *such commodities* are dealt in or used by hotel and motel furnishings and equipment suppliers, between points in the U.S. (except AK and HI), and (2) *furniture and fixtures*, between points in MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC–161107 (Sub-3), filed April 18, 1983. Applicant: MILBANK FREIGHTWAYS, P.O. Box 9485, Minneapolis, MN 55440. Representative: Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101 (612) 224–9454. (A) Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Minneapolis, MN and Denver, CO, from Minneapolis over Interstate Hwy 35 to Des Moines, IA, then over Interstate Hwy 80 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Denver, CO, and return over the same route, serving all intermediate

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points, and (B) over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MN, WI, ND, SD, IL, and IA.

MC–161647 (Sub-1), filed April 19, 1983. Applicant: CORE, LTD., 1882 Ridge Rd., No. Haven, CT 06473. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103 (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Westvaco Corporation of New York, NY.

MC–164726, (Sub-2), filed April 19, 1983. Applicant: C & D VAN HORN, INC., Box 93, Valley St., Delaware, NJ 07833. Representative: Raymond Talipski, 121 S Main St., Taylor, PA 18517 (717) 344–8030. Transporting *citrus juice concentrate*, between points in Orange, Polk, Manatee, Pasco, Indian River, St. Lucie, Lake, Desoto, Hendry and Highlands Counties, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166716, filed April 25, 1983. Applicant: TITAN TRANSPORTATION, INC., 746 N. Texas St., Fairfield, CA 94533. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111 (415) 986–1414. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Capel Klang Company, of Stockton, GA.

MC 166917, filed April 21, 1983. Applicant: GARY HOFF & DALE HOFF, d.b.a. HOFF BROTHERS, Route 3, Perryville, MO 63775. Representative: Herman W. Huber, 101 E. High St., Jefferson City, MO 65101 (314) 636–9131. Transporting *commodities in bulk*, between points in AR, IL, KY, MS, MO and TN.

MC 167437, filed April 19, 1983. Applicant: B.R. MCGREE, d.b.a. SFI TRUCKING COMPANY, Rte. 1, Box 280PZ, Kilgore, TX 75662. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332–4718. Transporting *Mercer commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southern Forge, Inc. of Longview, TX.

MC 167566, filed April 21, 1983. Applicant: CECIL SANFORD, d.b.a. SNS EXPRESS, Route 8, Powerdam Rd., Defiance, OH 43512. Representative: Cecil Sanford (same address as applicant) (419) 393–2061. Transporting *food and related products*, between points in U.S. (except AK and HI).

MC 167567, filed April 21, 1983. Applicant: SMITH & SCHARTNER, INC., Route 2, Sturgeon Bay, WI 54235. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Door County, WI, on the one hand, and, on the other, St. Louis, MO and points in IL, IN, IA, and MN.

MC 167576, filed April 22, 1983. Applicant: D. M. MITCHELL TRANSPORT CO., 3501 Wyoming Ave., Dearborn, MI 48120. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801 (616) 941–5313. Transporting *petroleum, natural gas and their products*, between points in MI, IN, OH, PA, WV and KY.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–159

Decided: April 29, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 6461 (Sub-28), filed April 21, 1983. Applicant: B-LINE TRANSPORT CO., INC., E 7100 Broadway, Spokane, WA 99206. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave. Portland, OR 97210 (503) 226–3755. Transporting *general commodities* (except classes A and B exlposives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transporting Systems, Inc., of Wilsonville, OR.

MC 67450 (Sub-119), filed April 22, 1983. Applicant: PETERLINE CARTAGE CO., a Corporation, 9651 South Ewing Avenue, Chicago IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603 (312) 263–2306. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (Except AK and HI).

MC 114840 (Sub-18(A)), filed April 19, 1983. Applicant: EBY BROS., INC., P.O. Box 9342, Boise, ID 83707. Representative: Timothy R. Stivers, P.O. Box 1578, Boise, ID 83701 (208) 343–3071. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—Applicant has also filed for authority under the non-fitness procedures docketed MC–114840 Sub-18(B), published in this same Federal Register issue.

MC 114840 (Sub-18(B)), filed April 19, 1983. Applicant: EBY BROS. INC., P.O. Box 9342, boise, ID 83707. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

Note.—Applicant has also filed for authority under the finteas procedures docketed MC–114840 Sub-18(A), published in this same Federal Register issue.

MC 126320 (Sub-20), filed April 15, 1983. Applicant: DETTINBURN TRUCKING, INC., Route 3, Box 24, Petersburg, WV 26847. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814 (301) 654–2240. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 148161 (Sub-4), filed April 21, 1983. Applicant: SALEM TRUCKING CO., R. D. No. 1, Franklin, ME 04634. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110 (215) 561–1030. Transporting *building materials*, between points in Bucks County, PA, and Westchester County, NY, on the one hand, and, on the other, points in MA, ME and NH.

MC 154621 (Sub-5), filed April 22, 1983. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71207. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205 (601) 948–8820. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Manville Corporation and its subsidiaries, of West Monroe, LA.

MC 166581, filed March 1, 1983, and previously noticed in Federal Register issue of March 24, 1983. Applicant: WABER TRANSPORT, INC., 20 Enterprise Ave., Secaucus, NJ 07094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934 (201) 234–0301. Transporting *such commodities* as are dealt in or used by retail department stores and discount houses, between Secaucus, NJ, and points in Mecklenburg County, NC, on the one hand, and, on the other, points in TX, AZ, CA, UT, OR, WA and CO.

Note.—This republication clarifies the territorial description.

MC 167370, filed April 15, 1983. Applicant: ROGER CONLEY d.b.a. R.C. TRUCKING, 1550 E. Riverview, Orange, CA 92665. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702 (714) 998–5412. Transporting *materials, equipment and supplies* used in hospitals, between points in the U.S. (except AK and HI), under continuing contract(s) with American Hospital Supply, Inc., of Irvine, CA.

MC 167470, filed April 18, 1983. Applicant: SPECIALTY TRANSPORTATION, INC., P.O. Box 24160, Houston, TX 77229–4160. Representative: David L. Taylor (same address as applicant) (713) 455–1105. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 167491, filed April 18, 1983. Applicant: GENE'S HOT SHOT SERVICE, INC., Route 4, Box 223, Sayre, OK 73662. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154 (405) 424–3301. Transporting *Mercer commodities*, between points in AL, AR, CA, CO, KS, LA, MS, ND, NM, OK, TX, UT and WY.

MC 167530, filed April 19, 1983. Applicant: TRANSPORTATION CONSOLIDATORS, INC., 14003 S. E. 134th St., Renton, WA 98055. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055 (206) 235–1111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–206

Decided: April 26, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-67), filed April 18, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (Same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Aetna Life & Casualty of Hartford, CT.

MC 79658 (Sub-68), filed April 18, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. Georhe Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (Same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with A. M. Castle & Company of Franklin Park, IL.

MC 108119 (Sub-289), filed April 15, 1983. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, Saint Paul, MN 55164. Representative: Clellan G. Ahrens, P.O. Box 43010, Saint Paul, MN 55164 (612) 454–5750, Ext. 226. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Hampton Lumber Sales Company, of Portland, OR.

MC 119388 (Sub-21), filed April 18, 1983. Applicant: GLEN R. ELLIS, INC., 3911 Jerome Ave., Chattanooga, TN 37407. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–347–8862. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of malt beverages, between those points in the U.S. in and east of TX, OK, KS, NE, ND and SD.

MC 123289 (Sub-5), filed April 18, 1983. Applicant: NORMAN LINES, INC., 765 East California Ave., Dolton, IL 60419. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting *food and related products* and *such commodities* as are used by meat packers, between points in the U.S. (except AK and HI).

MC 129948 (Sub-3A), filed April 15, 1983. Applicant: WHITE PINE TRANSIT CO., INC., 400 E. Leonard St., P.O. Box 681, Ironwood, MI 49938. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers* in charter and special operations, in interstate, intrastate and foreign commerce over regular routes: (a) between Ashland, WI and Calumet, MI: From Ashland over U.S. Hwy 2 to junction MI Hwy 28, then over MI Hwy 28 to junction MI Hwy 64, then over MI Hwy 64 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction MI Hwy 26, then over MI Hwy 26 to junction MI Hwy 203, then over MI Hwy 203 to Calumet, and return over the same route serving all intermediate points and the off-route points of Ramsay, MI and mining sites near White Pine and Hancock, MI; (b) Between Calumet, MI and Marquette, MI over U.S. Hwy 41, serving all intermediate points and the off-route points of various mining sites near Hancock, Negaunee and Ishpeming, MI; (c) Between Calumet, MI and Houghton, MI over MI Hwy 26, serving all intermediate points; (d) Between Ontonagon, MI and Baraga, MI over MI Hwy 38, serving all intermedite points; (e) Between Palmer, MI and junction MI Hwy 35 and U.S. Hwy 41, near Negaunee, MI over MI Hwy 35, serving all intermediate points and the off-route mining sites near Palmer; (f) Between Mercer, WI and junction U.S. Hwy 51 and U.S. Hwy 2, near Hurley, WI over U.S. Hwy 51, serving all intermediate points; (g) Between Iron Belt, WI and Ironwood, MI; From Iron Belt over WI Hwy 77 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Ironwood, serving all intermediate points.

Note.—(1) Applicant intends to tack these routes with each other and with its existing authority; (2) Applicant seeks to provide regular-route service in interstate and foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Applicant also seeks authority in MC-129948 (Sub-3B) published in the same issue.

MC 159519 (Sub-1), filed April 18, 1983. Applicant: R.W. JOYCE TRUCKING CO., P.O. Box 1201, 237 Starlite Road, Mt. Airy, NC 27030. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Building, 425 13th Street, N.W., Washington, DC 20004, (202) 737–030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NY, NJ, PA, DE, MD, VA, WV, OH, NC, SC, GA, FL, TX, AZ, NV, CA, OR, WA, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167296, filed April 7, 1983. Applicant: L & R DISTRIBUTORS, 10031 Royal Oak Rd., Cedarburg, WI 53012. Representative: Loren E. Phalin (same address as applicant), 414–377–7422. Transporting machinery, between Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167458, filed April 15, 1983. Applicant: TROPHY TRANSPORTATION, INC., 13443 S. E. Wiese Rd., Boring, OR 97009. Representative: Alan Meyer (same address an applicant), (503) 658–6960 Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, AR, CA, CO, ID, NM, NV, OK, OR, TX, UT, WA, and WY.

Volume No. OP5–204

Decided: April 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

FF 569 (Sub-2), filed April 14, 1983 Applicant: GOLDEN COAST FORWARDING LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312)

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283–1600. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, commodities in bulk, motor vehicles, used household goods, and unaccompained baggage), between points in the U.S.

MC 94648 (Sub-2), filed March 22, 1983. Applicant: ERNEST A. PLANTE, d.b.a., ERNEST A. PLANTE MOVERS, 70 Bridgham St., Providence, RI 02907. Representative: Ernest A. Plante (same address as applicant), 401–331–0426. Transporting *household goods, furniture and fixtures*, between points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SE, TN , TX, VT, VA, WV, WI, and DC

MC 128878 (Sub-50), filed April 14, 1983. Applicant: SERVICE TRUCK LINE, INC., 1400 Alpine, P.O. Box 5518, Bossier City, LA 71111. Representative: C. Wade Shemwell (same address as applicant), (318) 747–4300. Transporting *lumber, wood products, forest products*, and *building materials*, between points in the U.S., under continuing contract(s) with Manville Forest Products Corporation, of West Monroe, LA.

MC 151989 (Sub-3), filed April 14, 1983. Applicant: TODD TRANSPORTATION COMPANY, 421 Garrard Street, Covington, KY 41011. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202, (513) 621–4607. Transporting *cranes and construction equipment*, between points in the U.S., under continuing contract(s) with Carlisle Construction Co., Inc., of Newport, KY.

MC 157278 (Sub-1), filed March 29, 1983. Applicant: FARM TRANSPORT CO., 1685 K St., Gering, NE 69341. Representative: Philip M. Kelly, 105 East 16th St., Scottsbluff, NE 69361, (308) 632–7191. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA, CO, NE, SD, TX, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164208 (Sub-1), filed April 15, 1983. Applicant: CANOGA TRANSPORTATION CO., INC., R.D. No. 2, Box 2453, Seneca Falls, NY 13148. Representative: Roy D. Pinsky, Suite 1020, State Tower Bldg., Syracuse, NY 13202, (315) 422–2384. Transporting *general commodities* (except classes A and B explosives and household goods), between points in ME, VT, NH, MA, CT, RI, NY, PA, MD, NJ, VA, WV, NC, SC, MI, IN, OH, IL, TN, KY, and MO.

MC 165159 (Sub-1), filed April 4, 1983. Applicant: HALL TRANSPORTATION INC., 7141 Germantown Ave., Philadelphia, PA 19119. Representative: Lester W. Hall (Same address as applicant), 215–248–1200. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in DE, FL, GA, MD, NC, NJ, NY, PA, SC, VA, and DC.

MC 167418, filed April 11, 1983. Applicant: C. E. HOWARD TRANSFER CO., INC., P.O. Box 276, Andrews, SC 29510. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211, (803) 799–0122. Transporting *Iron and steel articles*, between points in Georgetown County, SC, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, PA, TN, VA, WV, and WI.

MC 167428, filed April 15, 1983. Applicant: DESERT EMPIRE TRANSFER & STORAGE, INC., Building 5, 3016 Kansas Ave., Riverside, CA 92507. Representative: William J. Monheim, P.O.B. 1756, Whitter, CA 90609, (213) 945–2745. Transporting *tobacco products*, between points in Riverside County, CA, on the one hand, and, on the other, points in Clark County, NV.

MC 167439, filed April 15, 1983. Applicant: R.B.W., INC., 3101 Poplar St., Terre Haute, IN 47803. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IN, on the one hand, and, on the other, points in KY, IL, GA, MI, MO, OH, TN, and WI.

[FR Doc. 83-12153 Filed 5-5-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 4 at (202) 275–7669.

Volume No. OP4–161

Decided: April 29, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 159987 (Sub-1), filed April 21, 1983. Applicant: THE 7 BROTHERS INTERNATIONAL, INC., Seven Brothers Square, Bronx, NY 10452. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20423, (202) 785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 160757 (Sub-1), filed April 25, 1983. Applicant: CENTURY TOURS, INC., 306 Stiles Court, Pompton Lakes, NJ 07442. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162886 (Sub-1), filed April 20, 1983. Applicant: AIRPORT LIMO, INC., 1200 N. Hudson St., Arlington, VA 22201. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167457, filed April 18, 1983. Applicant: CONNIE SUE WALTERS, d.b.a. PRECISION SHIPPERS, INTERSTATE, P.O. Box 1361, Parkersburg, WV 26101. Representative: Michael R. Martin (same address as applicant), (304) 428–5465. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) as a *broker of general commodities* (except used household goods), between points in the U.S. (except AK and HI).

MC 167477, filed April 18, 1983. Applicant: NEWBOS TRUCKING COMPANY, INC., 25 Longfellow Rd., Newton, MA 02162. Representative: Stephen L. Tober, 381 Middle St., Concord, NH 03801, (603) 431–1002. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167547, filed April 20, 1983. Applicant: THE PALMERI MOTORCOACH CORPORATION, P.O. Box 45, Martins Creek, PA 18063. Representative: D. Mark Thomas, P.O. Box 999, Harrisburg, PA 17108, (717) 255–7600. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, NJ and NY, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167556, filed April 21, 1983. Applicant: C2C TRANSPORTATION BROKERAGE CORP., 81 Eastridge Dr., Waterbury, CT 06708. Representative: Joseph M. O'Leary (same address as applicant), (203) 573–0282. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167557, filed April 21, 1983. Applicant: MODERN VAN SERVICE, INC., P.O. Box 2205, Clarksville, TN 37040–0404. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting (1), for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 167577, filed April 22, 1983. Applicant: BRANTLEY TOURS, INC., 1106 Tremont Rd., Wilson, NC 27893. Representative: Luray D. Brantley (same address as applicant), (919) 291–9882. Transporting *passengers*, in charter and special operations, beginning and ending at points in Wilson, Edgecombe, Nash, and Wayne Counties, NC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–160

Decided: April 29, 1983.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 156991 (Sub-1), filed April 19, 1983. Applicant: JOE LOUIS GLADNEY, d.b.a. GLADNEY TRANSPORTATION, 2739 Greenmount Ave., Baltimore, MD 21218. Representative: Joe Louis Gladney (same address as applicant), (301) 235–2100. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 164101 (Sub-1), filed April 15, 1983. Applicant: OPEN ROAD EXPRESS, INC., Port Street, P.O. Box 4128, Newark, NJ 07114. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167540, filed April 18, 1983. Applicant: FALCON ENTERPRISES, INC., 116 Hall St., P.O. Box 2009, Concord, NH 03301. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167570, filed April 21, 1983. Applicant: WILLAMETTE VALLEY STAGE LINE, INC., 3594 Dove Lane, Eugene, OR 97402. Representative: Jerry R. Woods, Room 104 Flavia Hall, P.O. Box 28, Marylhurst, OR 97036, (503) 635–5600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167590, filed April 22, 1983. Applicant: RAYMOND TALMADGE, d.b.a., CALVARY COACH, 100 N. 58th Street, Philadelphia, PA 19139. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in DE, MD, NJ, and PA, and

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extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–205

Decided: April 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2908 (Sub-33), filed April 15, 1983. Applicant: CAPITAL MOTOR LINES, d.b.a. CAPITAL TRAILWAY, P.O. Box 1427, Montgomery, AL 36102. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. (1) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167378, filed April 12, 1983. Applicant: METROPOLITAN LOGISTIC SERVICES, 75 Broad Ave., Fairview, NJ 07022. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048, (212) 466–0220. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–207

Decided: April 26, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167468, filed April 18, 1983. Applicant: GERALD GRANUM, d.b.a. GRANUM TRUCKING, R.R. 2, P.O. Box 327, Volga, SD 57071. Representative: Gerald Granum (same address as applicant), (605) 627–9907. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 129848 (Sub-3(B)), filed April 15, 1983. Applicant: WHITE PINE TRANSIT CO., INC., 400 E. Leonard St., P.O. Box 681, Ironwood, MI 49938. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—(a) Applicant seeks to provide privately-funded charter and special transportation. (b) Applicant also seeks authority in MC–129948 Sub 3(A) published in the same issue.

[FR Doc. 83–12152 Filed 5–5–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,

Secretary.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–203

Decided: April 29, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 70272 (Sub-33)X, filed April 20, 1983. Applicant: AMBASSADOR MOVING SYSTEMS, INC., 8019 Belair Rd., Baltimore, MD 20234. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, 202–833–8884. Sub-No. 32 certificate: broaden the commodity description from household goods, as defined by the Commission, to "household goods and furniture and fixtures."

MC 142713 (Sub-2)X, filed April 11, 1983. Applicant: PETER GOLDING, d.b.a. SEVEN BROTHERS TRUCKING CO., 1055 Highland Ave., Needham, MA 02194. Representative: Peter Golding (same address as applicant), (617) 449–1060. Sub-No. 1: (1) remove the facility restrictions; and (2) change radial to non-radial territory.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–201

Decided: April 25, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 228 (Sub-86)X, filed April 7, 1983. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Samuel B. Jamieson, Jr. (same address as applicant), (201) 529–3666. Sub 65 certificate: Remove the following restriction: "RESTRICTION: Service is restricted against the transportation of passengers and their baggage between junction County Highway 79 and New York Highway 32, near Modena, NY, and points north thereof to and including New Paltz, NY, on the one hand, and, on the other, points along Route 17 in NJ, New York City, and points through the New York City gateway."

[FR Doc. 83–12145 Filed 5–5–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions; Correction.

SUMMARY: In No. MC–F–15161, Vernon G. Sawyer, also published under the volume No. OP4–MCF–210 (April 12, 1983, 48 FR 15739), four of the paragraph numbers that should have been listed with those named under Sawyer Transport's operating rights contained in Certificate No. MC–123407 (Sub–No. 668)X were inadvertently omitted. The purpose of this document is to correct that error by adding to that list of paragraph numbers the four that were omitted.

Please make the following correction:

On page 15739, third column, under MC–F–15161, add paragraph numbers 56, 187, 248, and 296 between lines 24 and 29 in their proper numerical sequence.

FOR FURTHER INFORMATION CONTACT: Warren Wood, (202) 275–7977.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12147 Filed 5–5–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 6, 1983. Petitions for reconsideration must be filed by May 26, 1983. Petitions for stay must be filed by May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceedings(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution ave., NW, Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside of the DC area.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15038]

Kreider Truck Service, Inc.—Control Exemption—Cryogenic Transportation, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue, N.W., Suite 300, Washington,. DC 20006.

Pleadings should refer to No. MC–F–15038.

Decided: April 29, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(3) the proposed acquisition of control by Kreider Truck Service, Inc. (MC–114194) of Cryogenic Transportation, Inc. (Mc–160798), through purchase of 50 percent of Cryogenic's stock.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett concurred except for the second ordering paragraph in the decision.

[No. MC–F–15102]

B.N.T. Service Inc.—Purchase Exemption—Spector Red Ball, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Joseph T. Bambrick, Jr., Douglassville, PA 19518.

Pleadings should refer to No. MC–F–15102.

Decided: April 28, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval, the purchase by B.N.T. Service Inc. (No. MC–148848), a portion of Spector Red Ball, Inc.'s authority in Certificate No. MC–2229 (Sub-No. 250) which authorizes the regular-route transportation of general commodities (with exceptions) along specified routes and between named points in IL, MN, and WI.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett.

[No. MC–F–15112]

Cheyenne Transportation, Inc.—Purchase Exemption—Floyd Duenow, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: William J. Gambucci, Hovland & Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402.

Pleadings should refer to No. MC–F–15112.

Decided: April 29, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a) the purchase by Cheyenne Transportation, Inc., of the operating rights of Floyd Duenow, Inc., contained in Certificate No. MC–127187 (Sub-No. 59) and Permits No. MC–127187 (Sub-No. 58) and MC–1522882 (Sub-No. 1).

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett.

[No. MC–F–15113]

Henry V. Rabouin, Inc.—Purchase Exemption—Bob's Transport and Storage Co., Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666.

Decided: April 29, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343 the purchase by Henry V. Rabouin, Inc. (No. MC–30618) of a portion of the outstanding authority of Bob's Transport & Storage Co., Inc. (No. MC–148624).

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15031]

McCoy Group, Inc.—Continuance in Control Exemption—McCoy of Wisconsin, Inc. d.b.a. Food Liner, Inc., McMorhan Trucking Co., Inc., and GMC Motor Truck Service, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Donald B. Levine, 180 North LaSalle Street, Suite 2210, Chicago, IL 60601.

Pleadings should refer to No. MC–F–15031.

Decided: April 29, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343, the continuance in control of McCoy of Wisconsin, Inc., d.b.a. Food Liner, Inc. (MC–163711), McMorhan Trucking Co., Inc. (MC–136774 and MC–143029), and GMC Motor Truck Service, Inc. (MC–155774) by McCoy Group, Inc., and in turn, its stockholders Robert L. McCoy, his wife, and their children, John R. McCoy, Robert S. McCoy, R. Michael McCoy, Nancy J. Weller and Denise Shane.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

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[No. MC-F-15123]

Bowhay Truck Line, Inc.—Purchase Exemption—Johnson Truck Line, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioners' representatives: Jack L. Shultz (Bowhay), Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501-2028; William B. Barker (Johnson), Jandera, Gregg & Barker, P.O. Box 1979, Topeka, KS 66601.

Pleading should refer to No. MC-F-15123.

Decided: April 29, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343 the purchase by Bowhay Truck Line, Inc. of the authority of Johnson Truck Line, Inc. in Certificate No. MC-105774 (Sub-Nos. 3, 4, and 8X). Sub-No. 8X, which supersedes Sub-Nos. 3 and 4, and embraces them, authorizes the irregular-route transportation of metal products and machinery, (1) between points in 38 States, on the one hand, and, on the other, points in Clay and Osborne Counties, KS, and (2) between points in Mitchell County, KS, on the one hand, and, on the other, points in 25 States.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15142]

Howard Dullum—Purchase Exemption—Texas Western Express, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Clayte Binion, 623 South Henderson, Second Floor, Ft. Worth, TX 76104.

Pleadings should refer to No. MC-F-15142.

Decided: April 28, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Howard Dullum of the operating rights of Texas Western Express, Inc., contained in Certificate No. MC-152406 (Sub-Nos. 2 and 3).

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett.

[No. MC-F-15152]

Valley Transportation Service, Inc.—Merger Exemption—L.C.W. Transportation Service, Inc., Reentitled L.C.W. Transportation Service, Inc.—Merger Exemption—Valley Transportation Service, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioners' representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064.

Pleadings should refer to No. MC-F-15152.

Decided: April 28, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(1), the merger of the operating rights of Valley Transportation Service (No. MC-149553) into L.C.W. Transportation Service, Inc. (No. MC-15304). The operating rights of Valley in No. MC-149553 to be merged are contained in certificates issued in Sub-No. 1, for food or kindred products as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Lucas and Sandusky Counties, OH, Allegheny County, PA, Muscatine and Johnson Counties, IA, and Ottawa County, MI, on the one hand, and, on the other, points in Texas; Sub-No. 2, for building materials, between points in Webb and El Paso Counties, TX, on the one hand, and, on the other, points in Oklahoma, Texas, Louisiana, Colorado, New Mexico, Utah, Kansas, Iowa, Mississippi, Illinois, Ohio, and Indiana; Sub-No. 3, for (1) food and related products, between Camden, NJ, on the one hand, and, on the other, points in Lamar County, TX, and (2) meat and meat products, between points in Texas, on the one hand, and, on the other, those points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico; Sub-No. 5, for general commodities (except classes A and B explosives), between the facilities of Union Camp Corporation, at points in the United States, on the one hand, and, on the other, points in the United States; Sub-No. 6, for foodstuffs, between points in Bexar, Cameron, Dallas, El Paso, Harris, Hidalgo, Tarrant, and Webb Counties, TX, on the one hand, and, on the other, those points in the United States in and west of North Dakota, South Dakota, Iowa, Missouri, Oklahoma, and Texas (except Alaska and Hawaii); Sub-No. 7, food and related products and agricultural equipment, between Oklahoma City, OK, and points in Texas, on the one hand, and, on the other, ports of entry along the International Boundary line between the United States and the Republic of Mexico located in Texas; Sub-No. 8, for (1) such commodities as are dealt in by chain grocery and food business houses, between the facilities of Ralston Purina Company, at those points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and (2) food and related products, between points in Clinton and Lee Counties, IA, and Tazewell County, IL, on the one hand, and, on the other, points in Texas, Louisiana, and Arkansas; Sub-No. 9, for meat, meat products, meat by-products, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Decriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from points in Cameron and Hidalgo Counties, TX, to points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma; Sub-No. 10, for meats, meat products, meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Chicago, IL, to points in Texas, Louisiana, and California; Sub-No. 11, for such commodities as are dealt in or used by manufacturers of photographic products, (1) from the facilities of Eastman Kodak Company at Rochester, NY, to the facilities of Eastman Kodak Company at Chamblee, GA, and Dallas, TX, and (2) between the facilities of Eastman Kodak Company at Rochester, NY, and Laredo, TX; and Sub-No. 12, for (A)(1) frozen vegetables, frozen fruits, frozen berries, frozen juices, and citrus concentrate, except in bulk, and (2) commodities which are otherwise exempt for regulation under 49 U.S. 10524(a)(6), when moving in the same vehicle at the same time with the commodities named in (1) above, from points in Cameron, Hidalgo, Webb, and El Paso Counties, TX, to points in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, New Hampshire, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, restricted in (1) and (2) to the use of vehicles equipped with mechanical refrigeration, (B) agricultural pesticides (except in bulk), from the facilities of Shell Chemical Company, a division of Shell Oil Company, at or near El Paso, IL, to points in the United States (except Alaska and Hawaii), (C) petroleum and petroleum products, vehicle body sealers, and sound deadening compounds (except in bulk), from Congo (Hancock County) and St. Marys (Pleasants County), WV, to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, Tennessee, and Texas, restricted to the transportation of traffic originating at the named origins, (D) foodstuffs (except frozen foods and commodities in bulk), from the facilities of Vlasic Foods, Inc., at Greenville, MS, to points in Alabama (except Brimingham and points in its commercial zone), Arkansas, Georgia (except Atlanta and points in its commercial zone), Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas, restricted to the transportation of traffic originating at the above facilities, (E) foodstuffs (except commodities in bulk), (1) from the facilities used by Texsun Corporation, at or near Weslaco and Harlingen, TX, to those points in the United States in and west of Michigan, Ohio, Kentucky, Tennessee, Alabama, and Florida (except Alaska and Hawaii), and (2) from the facilities used by Texsun Corporation, at or near Plymouth, IN, to points in Iowa, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Wisconsin, and West Virginia, restricted in (1) and (2) above to traffic originating and destined to the named points, (F) such merchandise as is dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in Alabama, Arkansas, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Nebraska, New York, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., (G) petroleum and petroleum products, vehicle sealer and/or sound deadener compounds (except in bulk, in tank vehicles) and filters, from points in Warren County, MS to points in Alabama, Arkansas, Florida, Georgia, Louisiana, and Texas, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corporation, located in Warren County, MS, and (H)(1) copying machines, and materials, equipment, supplies and accessories used in the manufacture, serivce and distribution of copying machines (except commodities in bulk), between points in California, New York, New Hamphsire, and Texas, and (2) paper and paper products (except commodities in bulk), between points in California, New York, New Hampshire, and Texas (except from the facilities of (a) Eastex, Incorporated, in Jasper County, TX, (b) Southland Paper Mills, Inc., at Sheldon and Herty, TX, and (c) Rock-Tenn Corp., at Greenville, TX), restricted in (H) (1) and (2) above to traffic originating at and destined to points in the described territory; and a permit issued in Sub No. 4, for (1) canned citrus juice and citrus pulp livestock feed, in bags, from the facilities of the Texas Citrus Exchange at Harlingen and Mission, TX, to points in Oklahoma, Arkansas, Kansas, Missouri, Illinois Nebraska, Iowa, South Dakota, Minnesota, Wisconsin, North Dakota, and Colorado, (2) canned citrus juice, from the facilities of Texas Citrus Exchange at Harlingen and Mission, TX, to points in New Mexico, Arizona, California, Indiana, and Michigan, and (3) frozen concentrated citrus products in containers, in mixed loads with canned citrus juice, from the facilities of the Texas Citrus Exchange at Harlingen, Mission, Brownsville, and McAllen, TX, to points in Oklahoma, Arkansas, Missouri, Kansas, Illinois, Nebraska, Iowa, South Dakota, Minnesota, Wisconsin, North Dakota, Colorado, New Mexico, Arizona, California, Indiana, and Michigan, restricted to transportation under a continuing contracts(s) with Texas Citrus Exchange of McAllen, TX.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15121]

Greentree Transportation Company—Purchase Exemption—Midamerican Freight, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; and (2) Petitioner's representative: Anthony E. Young, Ltd., Suite 350, 29 South LaSalle Street, Chicago, IL 60603.

Pleadings should refer to No. MC-F-15121.

Decided: April 27, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Greentree Transportation Company of the interstate operating rights of Midamerican Freight, Inc., contained in Certificate No. MC-160960, and the acquisition of control of these rights by L. B. Foster Company (of which Greentree is a wholly owned subsidiary).

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83-12160 Filed 5-5-83; 8:45 am]

BILLING CODE 7035-01-M

[OPY-2-206-A]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

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We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grants or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 3, 1983.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC–F–15147, filed March 31, 1983. ROY J. FRANTA (110 N. Williams Ave., Baltimore, MD 21222), GLENN E. KEINBAUER (45 Lyndale Ave., Baltimore, MD 21236), HARRY E. ZECHMAN and MARY V. ZECHMAN (both of 1103—One Smeton Pl., Towson, MD 21204) KENNETH K. ZECHMAN and ETHEL C. ZECHMAN (both of 11111 Towood Rd., Kingsville, MD 21087) (Applicants)—CONTINUANCE IN CONTROL—E & M EXPRESS, INC. (E & M), (110 N. st. Andrews Dr., Ormond Beach, FL 32074). Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–3555. Applicants, non-carriers, seek authority to continue in control of E & M upon the institution by E & M of operations in interestate or foreign commerce, as a motor contract carrier. Roy J. Franta and Glenn E. Kleinbauer each own 20 percent of the stock of E & M and Harry E. Zechman, Mary V. Zechman, Kenneth K. Zechman, and Ethel C. Zechman, each own 15 percent of the stock of E & M. The applicants seek to acquire control of said rights and property through the transaction. All applicants (except Mary V. Zechman) own stock and are officers and directors of The Blue Diamond Company, which holds authority issued by the Commission under Docket No. MC–113106 and subs thereunder.

Note.—(1) By decision served March 24, 1983, in No. MC–F–15147, applicants have been relieved from filing a detailed abstract of shipments as required by Section B–4 of Form OP–F–45; and (2) E & M has filed a directly related application, its initial contract-carrier application, docketed MC–167162, published in the **Federal Register** this issue.

[FR Doc. 83-12149 Filed 5-5-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
907	Burlington Northern RR Co., Exemption for Contract, Tariff ICC–BN–C–0239 (Coal)	1	04–28–83
908	Burlington Northern RR Co., Exemption for Contract, Tariff ICC–BN–C–0239 (Coal)	2	04–28–83
910	Burlington Northern RR Co., Exemption for Contract, Tariff ICC–BN–C–0240 (Coal)	1	04–28–83
911	Norfolk and Western Railway Company, Exemption for Contract, Tariff ICC–NW–C–7020, Supp. 1 (Bituminous Coal), via Port of Sandusky Dock, Ohio	1	04–28–83
914	The Denver and Rio Grande Western RR Co., Exemption for Contract, Tariff ICC–DRGW–C–0063, Supplement 2 (Iron and Steel Plate)	1	04–28–83
915	Alaska Railroad, Exemption for Contract, Tariff ICC–ARR–C–0012 (Petroleum Products)	2	04–28–83
916	Pittsburgh and Lake Erie RR Co., Exemption for Contract, Tariff ICC–PLE–C–0104 (Bituminous Steam Coal), via Port of Ashtabula Harbor, Ohio	2	04–28–83
917	The Pittsburgh and Lake Erie RR Co., Exemption for Contract, Tariff ICC–PLE–C–05, Supplement 1 (Iron Ore), via Port of Ashtabula Harbor, Ohio	3	04–28–83

[1] Review Board No. 1, Members Parker, Chandler, and Forber. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10505.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12022 Filed 5-5-83; 8:45 am]

BILLING CODE 7035-01-M

[1] Note tariff supplements advancing contract's effective date shall refer to these decisions for authority.

DEPARTMENT OF JUSTICE

Agency Forms Under Review

May 3, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202–633–4312

Revision

- Immigration and Naturalization Service, Department of Justice

Application by Nonimmigrant Student for Extension of Stay, School Transfer, and Permission to Accept or Continue Employment or Practical Training

On occasion

Individuals or households, Businesses or other for-profit, Non-profit institutions

Nonimmigrant students/educational institutions: 93,000 responses; 31,000 hours; not applicable under 3504(h).

David Reed—395–7231

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-12130 Filed 5-5-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

Advisory Committee on Sheltered Workshops

A meeting of the Advisory Committee on Sheltered Workshops will be held on May 25, 1983, from 8:00 a.m. to 5:00 p.m. and on May 26 from 8:00 a.m. to 4:30 p.m. The meeting will be held in Rm. N3437 A, B, C, and D Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, DC. Subcommittee meetings will be held in the same rooms on May 24, 1983, from 9:30 a.m. to 2:30 p.m.

The Committee will consider topics concerning the employment of handicapped workers employed at subminimum wages under section 14(c) of the Fair Labor Standards Act. Major areas for discussion include a review of the recommendations made at the last meeting along with the Department's response, reports from the various subcommittees, and a review of the regulations (CFR Part 529) governing the employment of patient workers in hospitals and institutions. Other topics may also be included on the agenda or introduced during the meeting.

The four subcommittees that have been constituted by the Committee are the following: a subcommittee to review methods for calculating piece rates paid handicapped workers employed in sheltered workshops; a subcommittee to review the Department's application forms for special minimum wage certificates for sheltered workshops; a subcommittee to review and revise the Committee's publication *A Statement of Principles Respecting the Policies, Organization, Operation and Service Activities of Sheltered Workshops And Homebound Programs;* and a subcommittee to review Section 14(c) of the Fair Labor Standards Act which provides for the employment of handicapped workers at special lower minimum wages.

Members of the public are invited to attend the proceedings, including the meetings of the subcommittees. Written data, views, or arguments pertaining to the business before the Committee must be received by the Committee's Secretariat prior to the meeting date.

Telephone inquiries and communications concerning this meeting should be directed to: Arthur H. Korn, Secretariat for the Advisory Committee on Sheltered Workshops, Rm C4316, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone no. 202/523–8727. This is not a toll free telephone number.

Signed in Washington, DC. this 3rd day of May 1983.

William M. Otter,

Administrator.

[FR Doc. 83-12213 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Notice of Ending of Extended Benefit Period in the State of Indiana

This notice announces the ending of the Extended Benefit Period in the State of Indiana, effective on April 30, 1983.

Background

The Federal-State Extended Umemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period acutally terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Indiana on January 16, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on April 9, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week

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there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on April 30, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on April 28, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-12200 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,616, 13,676 and 13,698]

Duval Corp., Mineral Park Property, Kingman, Arizona; Sierrita Property, Sahuarita, Arizona; Esperanza Property, Tucson, Arizona; Negative Determination Regarding Application for Reconsideration

By an application dated March 31, 1983, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at the Duval Corporation's Mineral Park Property, Sierrita Property, and Esperanza Property, Arizona. The determination was published in the **Federal Register** on March 22, 1983 (48 FR 12006).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In its request for reconsideration, the Union argues that the Department's decision should have been based on the total copper content of imported copper (ore concentrates, matte, blister, refined and scrap) instead of imports of refined copper. The Union indicated that there was no survey of customers of Duval Corporation cited in the Department's negative determination. Lastly, the Union suggests that the Duval Corporation determination was inconsistent with those issued by the Department for workers producing refined copper at Kennecott Corporation, TA-W-13,509; 13,628; 13,648 and 13,649.

The Department's review showed that U.S. imports of refined copper declined both absolutely and relative to domestic production in 1981 compared to 1980 and in the January through September 1982 period compared to the same period in 1981. U.S. imports of molybdenum compounds are negligible. The Department found that since ferromolybdenum accounted for a relatively small percentage of total production, any import influence in this product line could not have contributed importantly to overall employment declines.

In the instant case the Department's investigation revealed that all copper ore and copper concentrates produced by the company were used in company production of cathodes. Neither copper ore nor copper concentrate was marketed to outside customers. That being the case, the proper focus of competitive impact is on the final product i.e., copper cathodes. The Department used imports of refined copper as the product like or directly competitive with the product produced by the company. The investigation revealed that refined copper imports had declined both in absolute and relative terms during the period relevant to the investigation. Total domestic production of refined copper declined while U.S. exports of refined copper increased during the investigative period.

The Department is not obliged to conduct a customer survey to substantiate the "contributed importantly" part of Section 222 of the Act for group certification if the increased import criterion of that Section is not met. All of the criteria of Section 222 of the Act must be met for certification.

The Department's initial denial for trade adjustment assistance for Duval workers is not inconsistent with certifications issued to the Kennecott Corporation. The decisions were different because the facts pertinent to the decision in the respective cases were different. Each worker petition must be handled on its own merits for the appropriate time frame for which it was filed in determining whether it meets the statutory criteria of Section 222 of the Trade Act. The worker investigations for workers at Kennecott (TA-W-13,509; 13,628; 13,648 and 13,649) were instituted in an earlier time frame when only import data for the first six months of 1982 was available. The data was used in conjuction with company data for the same period. The worker petitions for workers at Duval Corporation (TA-W-13,616; 13,676 and 13,698) were filed later when data on imports of refined copper in the first nine monhts of 1982 became available. Data now on file show that U.S. imports of refined copper for the entire 1982 year declined 22 percent compared to 1981. Company data for the same relevant period was used in the investigation.

Conclusion

After careful review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is, denied.

Signed at Washington, D.C. this April 25, 1983.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 83-12201 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13, 506]

Hecla Mining Corp., Star Mine, Wallace, Idaho; Affirmative Determination Regarding Application for Reconsideration

By an application dated March 30, 1983, company officials requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers of Hecla Mining Corporation's Star mine in Wallace, Idaho. The determination was published in the **Federal Register**, on March 4, 1983 (48 FR 9391).

The application for reconsideration claims that workers of their major customer, who jointly owns the Star mine with Hecla, were certified for trade adjustment assistance subsequent to the Department's denial of trade adjustment assistance to workers at Hecla's Star mine.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, D.C., this April 28, 1983.

Robert Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 83-12202 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,487]

Lello Fashions, North Bergen, N.J.; Affirmative Determination Regarding Application for Reconsideration

By an application dated April 15, 1983, a company official requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers of Lello Fashions, North Bergen, New Jersey. The determination was published in the **Federal Register** on March 22, 1983 (48 FR 12008).

The application for reconsideration claims that Lello Fashions' major manufacturer in 1980 closed in 1981 and the Department certified those workers for trade adjustment assistance.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this April 28, 1983.

Robert Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 83-12202 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-2-M]

Hecla Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Hecla Mining Company, P.O. Box 320, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 57.4-43 (buildings; fire resistance requirements) to its Atlas Mine project (I.D. No. 10-00168) located in Shoshone County, Idaho. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that buildings and other similar structures, which are within 100 feet of mine openings used for intake air or designated as escapeways in exhaust air, be constructed of fire-resistant materials.

2. The Atlas project is a development project and not in production at this time. All work is being done on the main level approximately 6,000 feet in from the portal. There are no shafts on the property.

3. There is a wood-frame structure located approximately 80 feet from the south tunnel portal which houses the mine compressors and repair shop, and is used as a lamp room. No combustible liquids are stored in the building.

4. As an alternate method, petitioner proposes to:

a. Install metal sheeting on the outside of the front (side facing the portal) of the building;

b. Install ⅝ inch sheetrock on the inside front wall of the building;

c. Install and maintain a vent door on the portal to the mine;

d. Install a fan reversing switch near the mine's refuge area on the main underground 20 hp exhaust fan; and

e. Maintain a fire hydrant and hoses at a location between the building and the mine portal.

4. Petitioner states that by the use of the reversing capability of the 20 hp surface fan and the 20 hp underground exhaust fan (with the reversing switch near the underground refuge chamber), and by closing the portal vent door, fresh air would be drawn in from the exhaust opening and any smoke near the portal would not be drawn into the mine.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 6, 1983. Copies of the petition are available for inspection at that address.

Dated: April 11, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-12210 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-36-M]

Siegrist Construction Co.; Petition for Modification of Application of Mandatory Safety Standard

Siegrist Construction Company, 6999 York Street, Denver, Colorado 80229-7399 has filed a petition to modify the application of 30 CFR 56.4-27 (fire extinguishers on self-propelled mobile equipment) to its Pacific Pit (I.D. No. 05-03785) located in Adams County, Colorado, Del Camino Properties (I.D. No. 05-03788) located in Weld County, Colorado, and its Colorado Sand and Gravel Operations (I.D. No. 05-03789) located in Adams County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever self-propelled mobile equipment is used, such equipment be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Fire extinguishers cannot be maintained in perfect working order at all times on the self-propelled mining equipment because of theft, extreme vibration, dirt and weather. For this reason, should a fire occur on the equipment, an operable extinguisher may not be present on the equipment.

3. As an alternative method, petitioner proposes to locate fire extinguishers on the crusher, in the tool trailer, scale house, superintendent's pickup, all mechanics' trucks and water trucks, each clearly marked by signs. Fire extinguishers will be checked daily to assure they are in working order. All employees will be instructed in the proper use and location of the extinguishers. A two-way radio will be located in the superintendent's pickup, capable of making contact with the home office to obtain necessary assistance.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments.

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 6, 1983. Copies of the petition are available for inspection at that address.

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Dated: April 11, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-12209 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

- Employment Standards Administration

Miner's Claim for Benefits Under the Black Lung Benefits Act; History of Coal Mine Employment; Drug, Respiratory Therapy, Oxygen and Medical Equipment Reimbursement Form
CM–911, CM–911a, CM–915
Annually (CM–911 & CM–911a); As needed (CM–915)
Individuals or households
172,000 responses; 28,083 hours, 3 forms

The miner's claim for benefits under the Black Lung Benefits Act must be revised to obtain earnings information from miner's filing a claim after December 31, 1981, as required by the 1981 amendments to the Act so benefits may be adjusted due to excess earnings.

Extension (Adjustment To Burden)

- Employment Standards Administration

Black Lung Medical Reports (20 CFR 718)
CM–907, CM–933, CM–933B, CM–988, CM–1159
On occasion
Businesses or other institutions
Small business or organization
SIC: 801
55,000 responses; 11,001 hours; 5 forms

20 CFR Part 718 specifies that certain information relative to the medical condition of a claimant who is alleging the presence of pneumoconiosis be obtained as a routine function of the claims adjudication process. The medical specifications in the regulations have been formulated in a variety of forms to promote efficiency and accuracy in gathering the required data.

Signed at Washington, D.C. this 3rd day of May 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-12204 Filed 5-5-83; 8:45 am]

BILLING CODES 4510-28-M; 4510-43-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

- Mine Safety and Health Administration

Record of Examination for Hazardous Conditions
MSHA 233R
Daily
Businesses or other institutions; small business or organization
SIC: 111 and 121
1,950,840 responses; 975,420 hours
One Form

Requires reports of daily inspection for hazardous conditions in surface coal mines and surface work areas of underground coal mines.

- Ventilation System and Methane and Dust Control Plan

MSHA 204
Semiannually—active mines; annually—new mines
Businesses or other institutions; small business or organization
SIC: 111 and 121
5,742 responses, 19,926 hours

Requires the operator to submit a detailed ventilation system and methane and dust control plan including an up-to-date map of the mine to MSHA for approval. The plan shows the type and location of mechanical ventilation equipment installed and operated in the mine and the quantity and velocity of air reaching each working face.

Revision

- Occupational Safety and Health Administration

Cotton Dust 39 CFR 1910.1043
On occasion
Business or other institutions; small business or organization
SIC: Multiple
178,000 responses; 71,200 hours

This regulation requires employers to establish and maintain accurate records of exposure monitoring and medical surveillance for employees exposed to cotton dust. These records are used by the employer, employee, physician and the government in determining whether an employee's exposure to cotton dust has had an effect on his/her health.

Reinstatements

- Mine Safety and Health Administration

Records of Fire Drills and Programs to Instruct and Train Miners in the Location and Use of Firefighting Equipment
MSHA 220R
Quarterly
Businesses or other institutions; small business or organization
SIC: 111 and 121
5,742 responses, 36,476 hours

Requires operators to keep a record of fire drills and institute a program to train all miners in the use and location of fire fighting equipment.

- Department Management

Supplemental Qualifications Statement
DL 1–385
On occasion
Individuals or households
SIC: 999
11,625 responses; 23,250 hours
One form

This form will be used to elicit information on the qualifications of applicants. The information received from each candidate will be evaluated by a panel of Subject Matter Experts and/or Qualification Rating Examiners to determine which candidates are the best qualified and will be referred for selection.

- Occupational Safety and Health Administration

Report of Injuries to Employees Operating Mechanical Power Presses When injury occurs
Business or other institutions; small business or organization
SIC: Multiple
400 responses; 120 hours

This report is necessary in order that OSHA may conduct an on-going analysis of mechanical power press injuries. The report is used to record and evaluate the causal factors of such injuries and thus monitor the effectiveness of the standard for continued use or revision when found appropriate.

Signed at Washington, D.C., this 29th day of April 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-12205 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-28-M; 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Office Names, Rooms, and Telephone Numbers; Changes

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Changes in office Names, Rooms, and Telephone Numbers.

SUMMARY: The Merit Systems Protection Board announces that the former Docket Room, Office of the Secretary, is now named the Appellate Jurisdiction Branch and is located in Room 1204, 1120 Vermont Avenue, NW., Washington, D.C. 20419. The telephone numbers are 653–8120 and 653–8125. Also, the former Special Case Management Division, Office of the Secretary, is now named the Original Jurisdiction Branch and is located in Room 1206. The telephone numbers are 653–8239 or 653–7130. All documents filed, or required to be filed in any proceeding before the Board, shall be filed with the Office of the Secretary in the appropriate office noted above, between 8:00 a.m. and 5:30 p.m., Monday through Friday (except Federal holidays). Documents hand delivered for filing must be submitted by 5:30 p.m. to be accepted for filing on that day.

FOR FURTHER INFORMATION CONTACT: Elizabeth Woodyard, Chief, Appellate Jurisdiction Branch, 653–8120, or Delores Satterfield, Chief, Original Jurisdiction Branch, 653–7130.

Dated: April 27, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83-11908 Filed 5-5-83; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-40]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: May 24, 1983, 10:30 a.m. to 5:30 p.m.; May 25, 1983, 8:30 a.m. to 5:30 p.m.; and May 26, 1983, 8:30 a.m. to 1 p.m.

ADDRESS: National Aeronautics and Space Administration, Room B226–A, 600 Independence Avenue SW, Washington, DC 20546

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–3653).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and

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Earth Science programs. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include an update of FY 1984 Budget and Program Status; FY 1985 Program and Budget Issues; a discussion of the Space Science Board Earth Science Strategy and possible new initiatives in the Earth Sciences, and a discussion on planning strategies and priorities.

Type of meeting: Open

AGENDA

May 24, 1983

10:30 a.m.—Introduction, Announcements, Meeting Logistics, and Other Administrative Matters.

10:45 a.m.—Update on FY 1984 Budget and Program status and FY 1985 Budget Prospects and Issues.

1 p.m.—FY 1985 Program and Budget Issues from the Perspective of the Division Directors.

2:30 p.m.—Space Science Board–Earth Science Strategy.

4:30 p.m.—Status of Possible New Earth Science Initiatives.

5:30 p.m.—Adjourn.

May 25, 1983

8:30 a.m.—Status of NASA/University Relations Study.

9:15 a.m.—Astronomy Survey Committee Report/A Summary.

10:30 a.m.—Spacelab Payloads/A Status Report.

11:30 a.m.—A Proposal for a Planetary Observer Line.

1:15 p.m.—Discussion of Planning Strategies and Priorities.

4 p.m.—Splinter Meetings/Planning.

5:30 p.m.—Adjourn.

May 26, 1983

8:30 a.m.—Planning Group Reports; Continuation of General Discussion, and Formulation of Recommendations.

12:30 p.m.—Plans for Next Meeting.

1 p.m.—Adjourn.

Ann P. Bradley,

Acting Associate Administrator for Management, Office of Management.

April 28, 1983.

[FR Doc. 83-12162 Filed 5-5-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Council; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: NSF Advisory Council.

Place: Room 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Date: Thursday and Friday, May 26–27, 1983.

Time: 9:00–5:00 p.m., May 26; 9:00–12 Noon, May 27.

Type of Meeting: Open.

Contact Person: Ms. Jeanne Hudson, Executive Secretary, NFS Advisory Council, National Science Foundation, Rm. 516, 1800 G Street, N.W., Washington, D.C. 20550. Telephone: 202/357–0419.

Purpose of Advisory Council: The purpose of the NSF Advisory Council is to provide advice and counsel to the NSF Director and principal members of his staff on Foundationwide issues which require the expertise of the many and varied disciplines and program interests represented in the Foundation.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: To review progress by the three task groups of the NSF Advisory Council and to meet with the Director and NSF Staff.

M. Rebecca Winkler,

Committee Management Coordinator.

May 3, 1983.

[FR Doc. 83-12158 Filed 5-5-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for PCM, Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: May 26–28, 1983, 9:00 AM–5:30 PM.

Place: Room 643, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9687.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 3, 1983.

[FR Doc. 83-12157 Filed 5-5-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Biophysics/Biochemistry Programs, Group B, of the Advisory Panel for Physiology, Cellular, and Mollecular Biology.

Date and Time: May 23 and 24, 1983, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G ST, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Huber Warner, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Biophysics/Biochemistry Programs.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 3, 1983.

[FR Doc. 83-12156 Filed 5-5-83; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 2, 1983
Thursday, June 9, 1983
Thursday, June 16, 1983
Thursday, June 23, 1983
Thursday, June 30, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415; (202–632–9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

May 3, 1983.

[FR Doc. 83-12235 Filed 5-5-83; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-39]

Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers; Initiation of Investigation

On March 16, 1983, the Chairman of the Section 301 Committee received a petition filed under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) from the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers alleging that the Republic of Korea has engaged in practices which are inconsistent with its obligations under the General Agreement on Tariffs and Trade (GATT) and the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code) and are unjustifiable and discriminatory and a burden on U.S. commerce. These alleged practices include:

(1) The provision of subsidized inputs from state-owned entities;

(2) The provision of direct production subsidies to wire rope producers;

(3) The provision of export subsidies to wire rope exporters;

(4) The infringement of U.S. trademarks through the marketing of wire rope in the U.S. which is improperly marked; and

(5) The restriction of Korean wire rope exports to Japan and resulting diversion of those exports to the U.S. market.

A copy of the petition is available for public inspection at the address listed below.

On May 2, 1983, the United States Trade Representative (USTR) decided to initiate an investigation with respect to the first two allegations listed above. For the reasons set forth below, the USTR decided not to include the remaining allegations within the scope of the investigation.

With respect to the third allegation, the USTR decided not to initiate an investigation because pursuant to Art. 14(5) of the Subsidies Code, Korea has entered into a commitment with respect to its export subsidies and the United States, pursuant to Art. 14(6) and 14(8), is precluded from challenging Korea's use of export subsidies as long as Korea continues to meet the obligations of the commitment.

With respect to the fourth allegation, USTR has decided not to initiate an investigation because the allegation concerns the behavior of private firms, not government action. Section 301 only permits action in response to the acts, policies or practices of a foreign government or instrumentality.

Finally, with respect to the fifth allegation, the USTR decided not to initiate an investigation on the grounds that the information provided in the petition was insufficient to serve as the basis for an investigation. The decision with respect to this allegation is without prejudice to the right of the petitioner to file a petition at such time as sufficient supporting information is available.

Upon request of the petitioner a public hearing has been scheduled for June 2, 1983 to consider the issues raised in the petition with respect to the allegations under investigation. The hearing will be held at the Office of the USTR, Room 403, 600 17th Street, NW., Washington, D.C. at 10:00 a.m.

Requests to present oral testimony must be submitted by May 26 and briefs accompanying oral testimony must be received no later than May 31. Written briefs from persons not wishing to present oral testimony should be received on or before June 2. Requests to present oral testimony as well as written submissions should conform to the requirements set forth in 15 CFR 2006.8 and 2006.9 and should be sent to the Chairman, Section 301 Committee, Room 223, 600 17th Street, NW., Washington, D.C. 20506.

In order to assure parties an opportunity to contest information provided by other interested parties in the written briefs and oral testimony, rebuttal briefs may be filed by any interested party in accordance with the requirements of 15 CFR 2006.8 no later than June 16.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 83-12173 Filed 5-5-83; 8:45 am]

BILLING CODE 3190-01-M

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POSTAL RATE COMMISSION

[Docket No. A83-19; Order No. 497]

Griswoldville, Massachusetts 01345, Richard R. Herzig, Petitioner; Notice and Order of Filing of Appeal

April 29, 1983.

On April 25, 1983, the Commission received an appeal letter from Richard R. Herzig (hereinafter "Petitioner"), concerning the United States Postal Service's decision to close the Griswoldville, Massachusetts post office. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views." [2] The petition requests that the decision to close the Griswoldville post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised the the Commission reserves the right to request a legal memorandum from the Service on any issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the isues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed. The Commission orders.

(A) The appeal letter from Richard R. Herzig of the Griswoldville post office be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. section 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

Cyril J. Pittack,

Acting Secretary.

APPENDIX—Docket No. A83-19 Griswold, Massachusetts 01345

April 25, 1983; Filing of Petition.

April 29, 1983; Notice and Order of Filing of Appeal.

May 10, 1983; Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].

May 16, 1983; Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

May 25, 1983; Petitioner's Initial Brief [*See* 39 CFR 3001.115(a)].

June 9, 1983; Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].

June 24, 1983; (1) Petitioner's Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(c)]. (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.

August 23, 1983; Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-12196 Filed 5-5-83; 8:45 am]

BILLING CODE 7715-01-M

[1] 39 U.S.C. 404(b) was added to title 39 by Pub L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 FR 59079-85. (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[5] In the Matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

PRESIDENTIAL COMMISSION FOR THE GERMAN-AMERICAN TRICENTENNIAL

Privacy Act and Freedom of Information Act; Temporary Procedures

AGENCY: The Presidential Commission for the German-American Tricentennial.

ACTION: Notice of temporary procedures.

SUMMARY: In compliance with the Privacy Act of 1974, Pub. L. 93-579 and Freedom of Information Act as amended by Pub. L. 93-502 (5 U.S.C. 552), referred to as the "Acts", the Commission will make fullest possible disclosure of its information and identifiable records consistent with the Acts. The Commission proposes to use the administrative service staff support of the United States Information Agency to implement the Act. The procedures are designed to become effective June 6, 1983 and to terminate January 31, 1984 when the Commission expires. The public is requested to submit comments.

EFFECTIVE DATE: Comments are due June 6, 1983. The regulations will become effective on that date unless a notice to the contrary is published in the **Federal Register.**

ADDRESS: Comments should be addressed to: Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: The Presidential Commission on the German-American Tricentennial was established to plan, encourage, develop, and coordinate the commemoration of the German-American Tricentennial. In preparing its plans and carrying out its program, the Commission considers related plans and programs developed by state, local, private, and foreign groups.

It is the policy of the Commission that information about its operations, organization, procedures, and records be freely available to the public in accordance with the provisions of Pub. L. 93-579, the Privacy Act of 1974 (5 U.S.C. 552a) and Pub. L. 90-83, the Freedom of Information Act as amended by Pub. L. 93-502 (5 U.S.C. 522), referred to as the "Acts". In compliance with the Acts, the Commission will make the fullest possible disclosure of its information and identifiable records consistent with the provisions of the Acts.

The Director of the United States Information Agency (USIA) is authorized to provide administrative services and staff support to the Commission, as necessary, for which reimbursement shall be made from funds of the Commission under section 686 of Title 31, United States Code, in such amounts as may be agreed upon by the Chairman of the Commission and the Director. Accordingly, the USIA will supply the Administrative services and staff for processing requests under the Acts. Therefore, all requests are to be made in accordance with the regulations published by the USIA at 22 CFR Part 505 and at 22 CFR Part 503.

The procedures shall become effective June 6, 1983 unless there is a notice to the contrary. The procedures shall apply to the Commission until January 31, 1984 upon which date the Commission will terminate.

Dated: May 3, 1983.

Victor B. Olason,

Coordinator, The Presidential Commission for the German-American Tricentenial.

[FR Doc. 83-12217 Filed 5-5-83; 8:45 am]

BILLING CODE 8230-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5456]

Avdon Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On January 21, 1983, a notice was published in the **Federal Register** (48 FR 2885) stating that Avdon Capital Corporation, 850 Avenue L, Brooklyn, New York 11230 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 104.102 (1982)), for a license to operate as a Section 301(d) small business investment company.

Interested parties were given until the close of business on February 5, 1983, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02-5456 on April 21, 1983, to Avdon Capital Corporation, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 2, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12194 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 01/01-0324]

Investors Technology Capital Corp.; Application for License To Operate as a Small Business Investment Company

An Application for a License to Operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Investors Technology Capital Corporation, 314 Flanders Road, East Lyme, Connecticut 0633, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and shareholders are as follows:

President, Director (17.96%,
Richard D. McHugh, 15 South Gate Lane, North Haven, Connecticut 06473
Executive Vice President, Director (15.29%)
John G. Arbour, 9 Wildwood Lane, Westport, Connecticut 06880
Secretary, Director (17.96%)
Gary C. Granai, 202 Grassy Hill Road, East Lyme, Connecticut 0633
Director (0.65%)
Robert M. Green, 24 Jannus Lane, Madison, Connecticut 06443
Director (0.65%)
Joseph F. Bruno, 35 William Street, Hamden, Connecticut 06514
Director (0.65%)
Philip C. Hophins, Carroll Heights, Norwich, Connecticut 06360
Director (0.65%)
Alphonse F. Spadaro, Jr., 101 Pease Road, Woodbridge, Connecticut

The Applicant, a Connecticut corporation, will begin operations with $506,000 paid-in capital and paid-in surplus, and will conduct its activities primarily in the State of Connecticut.

The Applicant intends to provide financial assistance to small business concerns for their growth, modernization and expansion and will render other management consulting services.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probablity of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written coments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 2, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12193 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

[License No 10/10-118]

West Central Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), West Central Capital Corporation, Suite 206, 440 Northlake Center, Dallas, Texas 75238 under the laws of the State of Texas has surrendered its License No. 10/10-0118 issued by SBA on August 27, 1962.

West Central Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of West Central Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 26, 1983

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-12195 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Application for Recordation of Trade Name: "Underground Camera, Inc."

AGENCY: Customs Service, Treasury.

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ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Underground Camera, Inc.," used by Underground Camera, Inc., a corporation organized under the laws of the State of Massachusetts, located at 369 Central Street, Foxboro, Massachusetts 02035.

The application states that the trade name is used in connection with photographic equipment, namely, cameras and lenses; photographic supplies, namely, photographic film and chemicals; and photographic accessories, namely, camera supports and illuminators. The trade name is applied to the goods in the United States. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; (202–566–5765).

Dated: May 3, 1983.

A. Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-12182 Filed 5-5-83; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Availability of Reports of 38 U.S.C. 219 Program Evaluations

Notice is hereby given that the program evaluations of the Veterans Administration's Radiation Therapy Program and Nuclear Medicine Program have been completed.

Single copies of the Radiation Therapy Program evelaution and the Nuclear Medicine Program evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquires, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: May 2, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-12108 Filed 5-5-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 89
Friday, May 6, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 19, 1983.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-642-83 Filed 5-4-83; 10:36 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 24, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Reparations—Proposed Rules
Enforcement Quarterly Budget Briefing (closed)

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-641-83 Filed 5-4-83; 10:36 am]

BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 10, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Kerosene Heaters Voluntary Standard: Meeting with UL*
The Commission will meet with representatives of Underwriters' Laboratories to discuss in further detail the voluntary standard for kerosene heaters.
2. *Vented Space Heaters: Meeting with Industry*
The Commission will meet with manufacturers of vented space heaters to discuss the use of safety shut-off devices which would prevent carbon monoxide poisonings associated with improper installation and/or malfunctioning heaters.

(For a recorded message containing the latest agenda information, call 301–492–5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

[S-647-83 Filed 5-4-83; 3:37 pm]

BILLING CODE 6355-01-M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 19267, April 28, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m. May 5, 1983.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. Fifty-Mile Container Rules.

[S-643-83 Filed 5-4-83; 11:01 am]

BILLING CODE 6730-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-22]

TIME AND DATE: 10 a.m., Tuesday, May 17, 1983.

PLACE Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Certain processes for the manufacture of skinless sausage casings and resulting product (Docket No. 930).
5. Investigation 731–TA–130 (Chloropicrin from the People's Republic of China)—briefing and vote.
6. Investigation 751–TA–7 (Salmon Gill Fish Netting from Japan—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-640-83 Filed 5-4-83; 9:28 am]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-21]

TIME AND DATE: 10:00 a.m., Tuesday, May 10, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 104–TAA–16, 17, and 18 (Nonrubber Footwear from Brazil, India, and Spain)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-639-83 Filed 5-3-83; 4:19 pm]

BILLING CODE 7020-02-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held the following meeting on Sunday, May 1, 1983, at 7:30 p.m. at 450 5th Street, N.W., Washington, D.C., to consider the following item.

Regulatory matter regarding financial institution.

The Commissioners, their legal assistants and the Secretary of the Commission attended the closed meeting. Certain staff members who are responsible for the calendared matter were present.

The General Counsel of the Commission, or his designee, has

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certified that, in his opinion, the item considered at the closed meeting was considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272–2468.

May 3, 1983.

[S-044-83 Filed 5-4-83; 11:17 am]

BILLING CODE 8010-01-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 9, 1983, at 450 5th Street, N.W., Washington, D.C.

Closed meetings will be held on Tuesday, May 10, 1983, at 10 a.m. and on Wednesday, May 11, 1983, following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 10, 1983, at 10 a.m., will be:

Access to investigative files by Federal, State, or self-regulatory authorities.
Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Right to Financial Privacy Act.
Institution of administrative proceeding of an enforcement nature.
Regulatory matters bearing enforcement implications.

The subject matter of the closed meeting scheduled for Wednesday, May 11, 1983, following the 10 a.m. open meeting, will be:

Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Wednesday, May 11, 1983, at 10 a.m., will be:

1. Consideration of whether to propose for public comment amendments to Rule 206(3)–2 under the Investment Advisers Act of 1940 which would eliminate the requirement that an investment adviser obtain at least annually from a client written renewal of the client's consent to agency cross transactions. For further information, please contact Arthur E. Dinerman at (202) 272–3021.

2. Consideration of whether to order an evidentiary hearing on an application filed by Union-Investment-Gesellschaft m.b.h. ("Union-Investment"), a West German management company, on behalf of Unifonds, a West German mutual fund, requesting an order pursuant to Sections 6(c) and 7(d) of the Investment Company Act of 1940, permitting registration of Union-Investment under the Act so that it may sell Unifonds shares in the United States, and granting exemptions from many of the provisions of the Act. A hearing was requested on this application by the Investment Company Institute, the national association of the American mutual fund industry. For futher information, please contact Brian M. Kaplowitz at (202) 272–3027.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

May 3, 1983.

[S-045-83 Filed 5-4-83; 11:17 am]

BILLING CODE 8010-01-M

9

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1311]

TIME AND DATE: 10:15 a.m. (E.D.T.), Wednesday, May 11, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA ITEM: Approval of minutes of meetings held on April 27, 1983.

A—Project Authorizations
A1. Project Authorization No. 3655—Construction of 161-kV transmission facilities and substation for Shell Oil Company in north Langford, Mississippi.
B—Purchase Awards
B1. Requisition 67—Purchase of term coal for Johnsonville Steam Plant.
C—Power Items
C1. Adoption of supplemental resolution authorizing 1983 Series C power bonds.
C2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1983 Series C power bonds.
* C3. Letter agreement with Big Rivers Electric Corporation covering arrangements for increase in the amount of power which TVA wheels for Big Rivers under an existing agreement.
D—Personnel Items
D1. Supplement to personal services contract with Gilbert Associates, Incorporated, Reading, Pennsylvania, for architectural, engineering, and design services, requested by the Office of Engineering Design and Construction.
E—Real Property Transactions
E1. Grant of permanent easement to the city of Franklin, Tennessee, for public recreation purposes, affecting approximately 1.0 acre of TVA phosphate land located in Williamson County, Tennessee—Tract No. XTPS–13RE.
E2. Grant of permanent easement to Bear Creek Development Authority for sewerage facilities, affecting approximately 0.46 acre of Upper Bear Creek Reservoir land located in Winston County, Alabama—Tract No XTBCUR–3S.
E3. Resolution designating approximately 24 acres of Tims Ford Reservoir land and appurtenant use rights, located in Franklin County, Tennessee, as surplus and for sale at public auction—Tract No. XTMFR–13.
F—Unclassified

* Item approved by individual Board members. This would give formal ratification to the Board's action.

F1. Agreement between TVA and Southeast Oklahoma Public Facilities Authority for the purpose of furthering economic development in the southeast Oklahoma area.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: May 4, 1983.

[S-046-83 Filed 5-5-83; 12:20 pm]

BILLING CODE 8120-01-M

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federal register

Friday
May 6, 1983

Part II

Small Business Administration

Small Business Size Standards: Proposed Rule

VOL
48
ISS
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MAY
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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is proposing to amend its size standards regulations. These changes are being proposed to deal with the effects of inflation, to address long-standing problems of defining small business in certain industries, to provide one set of standards for both the procurement and financial assistance programs, and to improve the readability of the regulations. This action is intended to update the size standards and clarify the regulations. In certain instances, however, existent regulations have been left in place.

DATE: Written comments must be submitted on or before July 5, 1983.

ADDRESS: Submit written comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas, (202) 653–6373.

SUPPLEMENTARY INFORMATION:

Chronology

This is the fifth notice to appear in the **Federal Register** since March of 1980, concerning SBA's intent to comprehensively revise its size standards. Previous notices were: (1) Advance Notice, March 10, 1980; 45 FR 15442; (2) Notice of Public Hearings, April 8, 1980, 45 FR 23704; (3) Public Notice, September 10, 1980, 45 FR 59587; (4) Second Advance Notice, May 3, 1982, 47 FR 18992.

Summary of Notices

SBA's first advance notice of proposed rulemaking contained size standards based primarily on the industrial structure of each industry. Public and Federal Government agency comments had not been solicited prior to that time. In setting these size standards, SBA categorized industries by the degree of economic competition existing within the industry. Industries were grouped into either a competitive, mixed, or concentrated category and relatively high size standards were assigned to the mixed and, particularly, to the concentrated categories. Lower standards were proposed for competitive industries. Size standards for this notice were primarily stated in terms of number of employees and ranged from 15 to 2500 employees.

In response to this notice, SBA received over 1500 public and agency comments, both in the form of written correspondence and testimony at public hearings. These comments were largely supportive of existing SBA size standards rather than the proposed changes and were primarily directed at 200 of a total of over 800 different industries covered in the proposal. There was little opposition to using a single size standard for SBA programs, and to the general use of employee size standards.

As a result of these comments and the fact that the Nation was in an environment of budgetary constraints, SBA, in the second advance notice (1982), shifted its methodology away from the first advance notice's emphasis on economic analysis and industry competition. SBA focused more heavily on agency program needs and the desires of the public as shown by the comments. Moreover, SBA, as a matter of policy, proposed to lower the size standards thus concentrating SBA resources on smaller firms in the belief that those firms have the greatest needs. As a result, proposed size standards in this second notice ranged from 25 to 500 employees.

SBA received over 500 comments to the second notice from the public and Government agencies. The majority of them were negative.

In the rule that SBA is presently proposing, SBA is attempting to reconcile the various opinions presented by the commentors to each of the advance notices. Thus, the Agency's position reflects both the comments of the private sector and the opinions of the Federal agencies through the prior notices. The essential features of this revision are to propose that: (1) the existing procurement size standards (both receipts and employee size standards) be used as a base for uniform agency size standards; (2) size standards which are currently expressed in terms of annual receipts (chiefly nonmanufacturing industries), remain in annual receipts and be increased for inflation; (3) size standards currently expressed in number of employees (chiefly manufacturing) remain the same; (4) the language of the size standards regulations is revised to relfect these changes and to improve the readability of the regulation.

In effect, virtually no size standards will be lower than the current size standard (with a few exceptions where specific industry problems exist) and many will be higher under this proposal. This particular approach is largely based on the belief that the set of size standards presently in use is logically based, considering the development and general public acceptability of the procurement size standards, the industrial structure of industries, and the needs of Federal programs which have utilized the existent standards for a number of years.

While major changes have occurred in SBA's size standards revision effort, two considerations have remained constant and have been continued over all three notices: (1) size standards are based on 4-digit Standard Industrial Code rather than a combination of SIC categories and numerous product or activity descriptions, which is presently the case; (2) there is a single size standard for each industry that is applicable to all SBA programs. This contrasts with the present variation in size standards among various SBA programs which has traditionally existed. In the past, this variation has resulted in certain firms being eligible for some programs, but ineligible for others, based on size. This new approach aids in providing more uniform SBA size standards applicable to all SBA programs.

Reason for This Proposed Rule

First, as discussed in more detail below, the comments to the advance notices proposing major increases or reductions in size standards for particular industies have been largely unfavorable. SBA highly values the process of public comment and accordingly has adjusted the standards expressed in this notice.

Second, the size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others.

In addition, as a result of comments from the public and procuring agencies, SBA has realized that certain industries and activities within industries are especially sensitive to the size standard used for set-asides. Many size standards in this proposal have been adjusted to accommodate these circumstances.

Third, a compelling reason exists for continuation of the existing size standards, with adjustments for inflation. Many private sector commentors and procuring agencies have indicated their preference for the current procurement size standards. A number of businesses and procuring agencies have been able to plan and operate their activities under the existing size standards. Based on their historical success with using these size standards, they are reluctant to accept any change other than an increase for inflation. SBA has a strong interest in facilitating the administration of the small business set-aside program, and has therefore sought to minimize disruption to this program.

Fourth, inflation is a well-known economic phenomenon by which the real value of any quantity measured in dollars becomes diminished. In recognition of this, SBA, in 1975, made a general adjustment to receipts size standards for inflation and is proposing to do so again. The intent of this proposal is to give the size standards a real value equivalent to that which existed in 1975, or whenever a receipts size standard may have been subsequently established. Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this.

Fifth, the designation of the SBA size standards more specifically in terms of SIC Manual industry classifications has several implications. It follows the explicit statutory intent of Section 3 of the Small Business Act that the SBA size standards vary from industry to industry. It conforms the SBA industry definitions with general governmentwide, business, and economic industry categories, rather than specialized SBA or procurement groupings. Furthermore, SBA's Size Appeals Board precedents have utilized SIC categories in interpreting the present regulation in many instances. While the proposed revision increases the number of size standards, since almost every 4-digit SIC industry would have a separate size standard, the use of SIC industry categories is a common and acceptable procedure.

Firms generally know their SIC industry category, since they may use it for various Government and non-Govenment reporting purposes. In the procurement area, the designation of size standards more specifically in terms of SIC codes could reduce disputes concerning the proper classification of particular procurements, especially where the item or service being procured is similar to commercial items or services. Even where the item may be specialized, use of the SIC categories in the required SBA size standard can reduce disputes by establishing more definite criteria. The use of uniform SIC industry size standards for the various SBA programs also facilitiates the combined usage and interrelation of SBA programs, since firms would be likely to have the same size eligibility for various financial and procurement programs.

Since the SBA size standards are used not only in SBA size determinations, but also by private firms and other agencies for procurement, regulatory, and assistance purposes, stating the size standards in terms of the commonly used SIC industry categories should aid their acceptance and wider use in aid of small business. For example, the Regulatory Flexibility Act indicates that other agencies should generally follow the SBA size standards in considering the effects of their regulations or proposed regulations on small business. This would be facilitated if SBA size standards are established on a uniform SIC Manual industry classification basis.

Sixth, SBA is also proposing to eliminate the use of the residual size standard of 500 employees where no size standard is specified for procurement purposes. This would be replaced by an "ad hoc" size standard authority, similar to what is currently used for financial purposes. The existing residual and ad hoc regulations are presently found in 13 CFR Part 121.3–8 and 121.3–10. The proposed ad hoc authority may be found in § 121.10(b). Since virtually all industries involved in SBA programs are proposed to have a size standard, it is anticipated that the ad hoc provision will be rarely used.

Comments

In response to SBA's second advance notice a total of 516 respondents generated over 1,000 written comments. Of the individual respondents, 481 were from the public while 35 were from Federal agencies and departments. This latest response was down substantially from the first advance notice, which included 1,124 individual respondents. However, the figure of over 500 responses indicated that the public was still concerned with the potential impact of the proposed changes. The responses were critical of the proposed changes in the level of industry size standards by approximately a 4-to-1 margin. While numerous criticisms were voiced, a number of commentors stated similar objections. The most numerous comments included the following: (1) Many felt that the economic conditions of their particular industry argued for a different size standard. In the majority of cases the commentor wanted a higher size standard; (2) a number of commentors were concerned with the lack of distinction between full-time and part-time employees in the second notice. Many felt that this was unfair to firms, especially in the service sector, which employes part-time workers, since part-time and full-time workers are counted equally for size standard purposes; (3) in some industries commentors stated that the standard industrial code was unnecessarily broad in that it included subindustries with different Federal procurement markets. Commentors believed that these subindustries should be separated with different, usually higher, size standards; (4) a number of commentors said that the size standard which was suggested in the second advance notice would be disadvantageous to the procurement set-aside program. Frequently, commentors claimed that the set-aside program could not attract competent bidders in industries with a lower size standard; (5) some commentors were strongly critical of the decision to have a maximum size standard of 500 employees. They argued that such a maximum was arbitrary and failed to recognize that in many industries this would result in an insufficient number of bidders on small business set-asides, and would ignore competitive circumstances; (6) many commentors urged that SBA should strive for continuity and that the employee-based size standards should be retained at their present level. Many of these commentors felt, however, that the size standards based on gross receipts should be revised for inflation to maintain real measures of size unaffected by price trends.

A pattern which is readily apparent from the comments is that a few industries are responsible for most of the comments. Almost half of the total comments, for example, focus on the following 10 industries:

Engineering
Dredging
General Construction (Except Dredging)
Janitorial Services
Shipbuilding and Ship Repair
Research and Development Laboratories
Oil Refining
Base Maintenance
Computer Programming and Data Processing
Special Trade Construction

These industries, and a few others with procurement-related problems, received special attention from the SBA size standards staff when reviewing the public response.

SBA has given considerable weight to the over 2,000 comments received in response to the two advance notices.

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The public comment procedure, however, is not regarded as a letter-writing contest. The Office of the Federal Register has pointed out: [1]

> In rulemaking, every voice is important. Agencies cannot count the number of comments received as if they were votes. An agency must consider each issue and use its expertise to reach a solution that meets the letter and spirit of the law.

Nonetheless, SBA regards comments as an informal indicator of the proposed rules' impact.

Numerous commentors to SBA's March 10, 1980, and May 3, 1982, advance notices stated that the proposed changes would adversely affect them or a small group of firms within their industry. There are some individual firms which may be adversely affected by their own loss or a competitor's gain in eligibility. However, SBA anticipates no adverse impact on any industry as a whole or on the economy if the proposed size standards are implemented. One should not confuse the legitimate, but somewhat self-serving, concerns of a comparatively small number of firms with an adverse impact on an entire industry, region, or the economy.

Methodology for Setting Size Standards

As already discussed, the method of setting size standards in the manufacturing industries is simply to retain the present procurement size standards as expressed in employees unless comments have been received which indicate a problem. A similar approach applies to the nonmanufacturing industries. In these, however, an inflationary adjustment is made in an attempt to put the size standards on a real dollar equivalent to the time of the last general adjustment, usually 1975.

The technique for adjusting for inflation focuses on a single measure—the GNP deflator. This measure is used in the National Income Accounts to calculate GNP adjusted for inflation (real GNP). This measure is more sophisticated than other measures of inflation in both method and coverage. It includes the prices of all goods and services in the economy whether paid by consumers, businesses, or the public sector. Thus, it is the most comprehensive price index since it includes all sectors of the economy.

The appropriate adjustment period will vary from industry to industry depending on the year of its last adjustment for inflation. In the majority of nonmanufacturing industries the last adjustment occurred in 1975 based on 1974 data. Thus the deflator for 1974 of 115 (1972=100) is compared with the estimated deflator of 208 for the third quarter of 1982. The total change of +81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions. In instances where size standards have been set after 1974, the adjustments are commensurately less to reflect the shorter period in which inflation occurred.

Discussion of Provisions of the Proposed Part 121

Not all sections of this Part 121 reflect a proposed change. Only §§ 121.1 121.2, 121.4, 121.5, 121.7, and 121.10 represent changes to the present regulations. All other sections are merely reproduced as they now exist or slightly amended for clarity. Revisions to these §§ 121.3, 121.6, 121.8, 121.9, and 121.11, may be proposed for change in the future.

This proposal revises the format of the Part 121 size regulation due to the consolidation of the size standards. The general SIC industry size standards are set forth in § 121.2, along with the definition of employees (average for the prior 12 months) and the definition of receipts (average of the most recent 3 completed fiscal years). Section 121.3 contains certain general definitions, including the definition of affiliation (the size of affiliates must be added to the size of the firm for size standard purposes).

Section 121.4 consolidates provisions relating to the application of the size standards to SBA financial assistance programs and to the minority small business and capital ownership program (including 8(a) contracts). This section notes that the applicable size standard is that of the primary activity of the firm (including affiliates). The section retains the existing general alternate small business definition for small business investment companies, development companies, and pollution bond guarantees. The existing 25 percent increase in the size standards for financial assistance when it is to be used by the firm in a labor surplus or redevelopment area is retained (this 25 percent increase does not apply to 8(a) assistance or the surety bond guarantee program). The geographic size differentials for firms in Alaska, Hawaii, and Puerto Rico are not retained.

The proposed regulation provides that size determinations for 8(a) contracting purposes would be made by SBA if necessary for program eligibility purposes or for the award of particular 8(a) contracts. The present provision in the regulation (§ 121.3–17) indicating that size for 8(a) purposes is only determined on a general program basis is deleted.

The procedural provisions of Part 124 of the SBA regulations (minority small business and capital ownership development assistance) are being revised as part of a general revision of Part 124 which is to be published in the near future as a proposed rule. That proposal will include additional procedures regarding 8(a) size certifications and size determinations. 8(a) size determinations will be governed by those regulations, rather than by the procurement size determination procedures of Part 121.

When bidding on regular (non-8(a)) small business set-asides, 8(a) firms are subject to the same size standards and size protest procedures as other bidders.

Section 121.5 contains provisions relating to size eligibility for set-aside procurements and for subcontracting. Firms, including any affiliates must meet the size standard for the procurement (which is designated in the solicitation). The procurement size section provides that procurements are classified in the most appropriate SIC industry size standard category, giving consideration to the descriptions in the regulation and the SIC Manual, the product or service description in the solicitation, and the attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. These factors presently are considered under the SBA size regulations and Size Appeals Board procedures.

The size standard for bidders not manufacturing the product being supplied for a small business set-aside is the appropriate wholesale size standard for the item being supplied, rather than the general 500 employee nonmanufacturer size standard of the present regulation. On set-aside procurements other than those under "small purchase procedures," such nonmanufacturer must furnish the product of a small manufacturer, manufactured or produced in the United States. For purposes of Certificates of Competency on unrestricted procurements, nonmanufacturers must meet the appropriate wholesale size standard.

Section 121.5 also contains size provisions relating to subcontracts on Government procurements under Section 8(d) of the Small Business Act. That section of the Act encourages Government prime contractors to subcontract to small businesses. The subcontracting size standard generally is the industry size standard for the service or item which the subcontractor is providing to the prime contractor. However, on subcontracts pertaining to "small purchase procedures," this proposal provides (as under the present regulation) that the subcontractor, including any affiliates, must have no more than 500 employees.

The proposed regulation also sets forth procedures for protests and size determinations. It is anticipated that other amendments will be proposed at a later time on size procedures and affiliation.

In proposed § 121.7, SBA is proposing a size standard of 500 employees for purposes of award of any funding agreement under the Small Business Innovation Development (SBID) Act of 1982 (Pub. L. 97–219, 15 U.S.C. 638(e)–(k)). The 500 employee standard is the standard currently applicable for research and development (R&D). Although the current definition of R&D is somewhat narrower than the R&D definition included in the SBID Act, SBA believes a uniform standard of 500 employees is most appropriate for this program.

The SBID Act requires certain Federal departments and agencies to set aside a portion of their R&D budgets to fund Small Business Innovation Research (SBIR) programs. Such programs are to adopt uniform, simplified, and standardized procedures to facilitate the participation of small for profit R&D firms in the programs. The legislative history of the SBID Act indicates that Congress intended that R&D firms having less than 500 employees participate in this program. In the judgment of the SBA, the goals and purpose of the SBID Act will be best served by adopting a size standard of 500 employees for participants in SBIR programs regardless of industry.

Proposed §121.7 also specifies that the 500 employee size standard applies to all funding agreements under the SBID Act. "Funding agreement" is defined in the SBID Act as "any contract, grant or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, development or research work funded in whole or in part by the Federal Government." SBA proposes a uniform size standard for all types of funding agreements of the SBID Act for uniformity among SBIR programs.

Summary of Results

The size standards in manufacturing, mining, and transportation are presently stated in terms of "number of employees" for purposes of the SBA procurement program. Under this proposed rule the size standards in these industries for the procurement program would be retained (unless problems have been noted). All procurement size standards will also apply to the SBA financial assistance programs. For wholesale industries, the current procurement standard based on employees would be replaced with a gross receipt size standard to be used for all SBA programs. Sufficient problems have been identified in the following four areas for the SBA to propose changing the pertinent size standard from the present procurement size standard.

SIC	Industry	Current procurement size standard (employees)	proposed standard (million)
4131	Intercity and rural highway passenger transportation.	500	3.5
4141	Local passenger transportation charter service.	500	3.5
4142	Passenger transportation charter service, except local.	500	3.5
50–51	Wholesale trade	500	(*)

* $15 million–$35 million depending on the industry.

The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. In the majority of industries in which a number of comments have been received pursuant to the Advance Notices, the inflation adjustment will accommodate the views of the commentors including the procuring agencies. However, in a few industries, specific problems are not resolved through the inflationary adjustment. These industries include the following:

SIC	Industry	Current procurement size standard (Million)	Proposed standard (Million)
1629	Heavy construction (except dredging).	$12.0	$21.5
1629	Dredging component	8.5	9.5
5812	Eating places (except food services).	(*)	3.5
5812	Food service component (industrial and institutional food service activities).	5.5	10.0
8911	Architectural and surveying services.	2.0	3.5
8911	Engineering services (except for military and aerospace equipment and for military weapons).	7.5	3.5
8911	Engineering services for military and aerospace equipment and for military weapons (except marine engineering).	7.5	13.5
8911	Naval architecture and marine engineering services.	9.0	11.0
8931 [2]	Accounting and auditing	2.0	5.0
8931 [2]	Bookkeeping and billing services.	2.0	3.5

* None.
[2] This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49864), which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

In the Small Business Investment Company, development company, and pollution bond programs the alternate size standard of $6 million in net worth and average net income after Federal income taxes of $2 million will be retained.

It should be reemphasized that the vast majority of proposed adjustments in construction, retail, and services were simply the result of the inflation increase applied to the present procurement receipts size standards. These adjustments and the decision to retain the present employee procurement size standards in the manufacturing industries have resulted in size standard ranges which are sharply different from those proposed during the first and second notices. As presently proposed, these ranges are as follows:

Agriculture: $100,000–$1.0 million; 25–30 employees
Mining: 500 employees
Construction: $9.0 million–$21 million
Manufacturing: 500–1500 employees
Transportation: $3.5–$20.0 million; 500–1500 employees
Wholesale: $15 million–$35 million
Retail: $3.5 million–$13.5 million
Services: $2.5 million–$14.5 million

[1] The Federal Register, What It Is and How to Use It, National Archives and Records Service, GSA, Washington, D.C., 1980, p. 108.

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Compliance With Regulatory Flexibility Act and Executive Order 12291

General

SBA considers that this proposd rule, if promulgated in final form, will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. In addition, this proposed rule, if promulgated in final form, would constitute a major rule for the purpose of E.O. 12291.

We have indicated above in this supplementary material a description of the reasons why this action is being considered, a statement of the reasons for and objectives of this proposal, and a description of the significant alternatives to this proposal. The legal basis for this proposal is Sections 3 and 5(b) of the Small Business Act, 15 U.S.C. 632 and 634(b).

Immediately below we have set forth an Economic Analysis of this proposal which provides, among other things, a description and estimate of the number of small entities to which the proposal would apply, an identification of overlapping and conflicting Federal rules, a description of the benefits and costs associated with the proposal and those likely to receive such benefits and costs.

Economic Analysis.

The intent of this proposed rule is to unify all size standards, regardless of the program to which they apply, at the level currently used for SBA's procurement set-aside program.[3] In addition, those size standards presently expressed in dollars, basically those for the nonmanufacturing industries, are proposed to be increased for inflation. Finally, a relatively small number of size standards would be changed due to special circumstances.

In a dynamic $3 trillion GNP economy, the fortunes of small businesses are influenced by a great variety of economic and noneconomic forces. When one considers business cycles, changing markets, taxes, fiscal and monetary policies, technological change, foreign trade, regulations, finance, and many other influences on over 7 million small businesses, the significance of size standards can be viewed as quite modest. The basic purpose of this portion of the explanatory material is to estimate the economic impact of the proposed size standards changes on firms which use, or are likely to use, SBA assistance.

[3] The size standards are described in 13 CFR 121.3–8.

The most important consideration to keep in mind in evaluating size standards changes is the fact that only a tiny fraction of the nation's small businesses are ever in a position to use SBA assistance and, thus, be subject to a size standards test. SBA's present size standards cover or define almost 99 percent of all firms as small. Under this proposal and previous SBA proposals, the coverage has not varied by more than 1 or 2 percentage points. While the proposed changes are of broad interest to small businesses, this proposal is principally followed by those relatively few businesses which are specifically interested in SBA programs.

An assumption behind the Regulatory Flexibility Act (RFA) and Executive Order 12291 is that regulatory requirements imposed equally on all firms in an industry may result in a disproportionately heavy burden on small firms. Small businesses have repeatedly pointed out that uniform application of the same regulations to them and to larger firms may produce certain inequities. Regulatory requirements which are mandatory require firms to keep records, make reports, and alter their way of doing business in complying with provision of new rules. These burdens and costs may be disproportionately heavier on small firms than on large firms.

A particular type of regulatory impact envisioned by the RFA and the Executive Order does not apply to the SBA size standard definitions of small business. SBA size standards in and of themselves do not require any firm to do anything because participation in SBA programs is entirely voluntary. The purpose of the RFA is to require the Government to consider special treatment for small business to mitigate inequities. Size standards, however, define what a small business is. They are definitions and do not themselves regulate or control business behavior. Thus, size standards do not constitute a regulatory burden in the typical sense.

The next portion of this statement will follow the outline suggested in the SBA pamphlet, "The Regulatory Flexibility Act" (Office of Advocacy, 1980), for the purpose of presenting an economic analysis of this proposal.

Economic Impact Analysis

First, the *demographic impact* of this proposal is the incremental number of firms affected by the proposed change. SBA estimates that about 39,000 additional firms, excluding farms, will be considered small as a result of the proposed rule. The inclusion of these firms is necessary, the Agency believes, to restore or maintain parity with the firms defined as small business in 1975, the date of the last general size standards adjustment. Details of this estimate are in Table 2 below. As explained above, since only a tiny fraction of small businesses are interested in SBA assistance, the actual impact will be much smaller than the potential impact indicated by the 39,000 firm estimate. If 5 percent of these newly eligible firms were interested in SBA assistance, then the net demographic effect would be 1,950 additional firms receiving SBA assistance. Out of a total small business universe of over 5 million firms, the additional firms represent four one-hundredths of 1 percent or four small businesses out of every 10,000.

Of its three major programs—financial assistance, procurement assistance, and management assistance—SBA estimates that no more than 5 percent of the Nation's small businesses use these programs. This is a crude estimate because only in its financial assistance program does SBA have an exact count of the number of participating firms. For the procurement and management assistance programs, however, indirect indicators must be employed.

For financial assistance, SBA's major program is the 7(a) bank loan guarantee program. In FY 1982, there were 12,016 guarantees of this type. Direct, Economic Opportunity Loans, and Local Development Loans together accounted for 3,185 additional loans for a grand total of 15,201 firms in the various loan programs.

Data do not exist for the number of firms receiving set-asides, although, in FY 1981, 2,377,000 prime contract actions (over $10,000 value) were set aside.[4] Since one firm may receive more than one contract and since the number of contract actions by far exceeds the number of actual contracts,[5] the number of firms involved in set-asides is a fraction of the 2.4 million contract actions, and this is probably also true of subcontracts. The number of referrals for Certificates of Competency is substantially less than either of tthe other program potentials.

SBA's Procurement Automated Source System, PASS, lists 71,000 firms. This is a list of small firms interested in doing Government work, not a list of those actually performing it. The number of firms receiving contracts, therefore, is probably closer to 71,000 rather than 2.4 million; 71,000 is 2 percent of the 3.7 million firms currently defined as small for SBA procurement purposes (see Table 1).

[4] Federal Procurement Data Center Special Analysis #4.3B, pg. 1, for FY 1981.

[5] A contract action may include the initial contract, add-ons, change orders, etc.

SBA's management assistance data are recorded by number of persons helped through courses, seminars, workshops, SCORE, ACE, and so on. The number of firms is not tracked and, in any case, is far fewer than the number of persons assisted. Furthermore, when a firm rather than an individual makes use of management assistance, the smallest firms tend to use the assistance, and so it is unlikely that many firms near the size standard would use this form of assistance. In FY 1982, 358,000 people attended management assistance courses and 191,000 received counseling.

Some examples of the estimated impact in representative industries are as follows:

SIC	Name	Total No. firms	Present (small)	Proposed (small)	Change	Change as percent present (small)
1721	Construction painting	27,311	27,133	27,285	+152	0.56
5411	Retail grocery	91,902	89,850	90,703	+853	0.95
7538	Service auto repair	39,884	39,490	39,565	+75	0.19

The second topic for analysis is *economic cost analysis*. These types of costs are inapplicable in the case of size standards. Size standards impose no reporting or recordkeeping costs by themselves. In the event that other Federal agencies decide to use SBA's size standards for regulatory purposes, any economic costs involved would be due to that agency's regulations themselves, not to the size standard.[6]

The *competitive effects* of size standards differ from those normally associated with regulations such as the impact on prices of goods and services, profits, growth, innovation, mergers, and foreign trade. Size standards are not anticipated to have any appreciable effect on these factors.

The aspect of competition upon which the proposed changes may have an effect is in regarding competition as business rivalry. For example, by increasing the size standard and thereby the number of eligible firms in an industry, it could work to the detriment of smaller firms by diluting SBA's fixed resources. A somewhat larger firm, compared to the current size standards may win a set-aside bid or a loan from which it previously has been excluded.

The *aggregated impact* of this proposal, which includes forecasts of firm failures, employment losses, community impact, and the effect on economic concentration is not significant.

The likelihood of firm failures and associated unemployment is very remote as a result of SBA's proposed changes. There may be some individual firms (certainly not industries) which have become overly dependent on continued SBA assistance so that a change of eligibility for set-asides would adversely affect them.

This effect may occur in industries where size standards have been increased. With more firms eligible to bid on procurement set-asides, the somewhat larger newly eligible firms may win bids over other smaller businesses. Again, any adverse effect would occur only to firms which have become so dependent on SBA aid that they cannot exist without it.

This proposed rule generally will affect the four sectors of business in which annual receipts size standards are used: construction, wholesale, retail, and services. Based on data from the 1977 Economic Census, the latest available, SBA estimates that this proposed rule will result in additional firms being classified as small. These firms, SBA believes, are not larger in terms of employees or physical output, only in terms of receipts due to inflation. This estimate is detailed in Table 2.

Due to the fact that a very small percentage of all small businesses are concerned with SBA assistance, the number of firms actually affected will be considerably less than 39,000. It is not possible to tell in advance what this number would be, especially since there is no way to determine how many firms would use SBA assistance if the proposed rule is adopted.

Size standards are primarily used for SBA programs and are designed with this purpose in mind. They are not intended as an all-purpose definition of small business, or as appropriate definitions for non-SBA purposes. In the SBA Loan Guarantee program, 7(a), the vast majority of loans go to firms with fewer than 19 employees. Since $2.5 million is the lowest proposed size standard (with the exception of agriculture), firms smaller than this size are unaffected.[7] In FY 1982, the most recent year for such data, 82 percent of SBA loans were to firms with fewer than 19 employees.

Also, in the most recent fiscal year, SBA participated in approximately 12,000 guaranteed loans. While there are incomplete statistics on the total number of loans to small business economy-wide, SBA loans represent a tiny proportion of total small business loans. The normal commercial banking system finances the vast majority of loans to small business. Thus, SBA's presence in total small business financing is quite small.

SBA estimates that on average, 39,000 firms would generate 109 SBA loans. However, since the newly eligible firms will be larger than the currently eligible firms, they most likely will not be interested in SBA loans. This is because the smallest small businesses generate the bulk of SBA loans (85 percent of guarantee loans are to firms with fewer than 19 employees). Thus, the number of new loans generated by the proposed change are estimated to be considerably less than 109. In any case, SBA's lending authority is fixed by Congress, and the total dollars loaned cannot change through a change in the size standards. The economic impact of this proposed rule on small business lending will, therefore, be marginal.

SBA's second major form of small business assistance is the procurement set-aside program. The question raised by this proposed rule in terms of impact is: How many additional firms will be eligible to bid for small business set-asides? at the most, 22,553 firms will become newly eligible.[8] While there are no data on the total number of firms which bid on set-asides, it generally is believed that only a small percentage of small businesses are interested in doing work for the Government. For this reason, of the 22,553 firms, it is likely that only a few hundred might become involved in Government procurement at the prime or subcontract level.

Further, it is impossible to predict which firms or group of firms will gain or lose benefits of SBA procurement assistance. Even without any change in size standards, the group of firms participating in Government contracts this year will differ in an unpredictable

[6] The use of SBA size standards for regulatory purposes is optional under the Regulatory Flexibility Act (§ 601(3)).

[7] For retail in general, 55 employees is the approximate equivalent of $2.5 million in annual sales. For services, 65 employees is the approximate equivalent of $2.5 million in annual sales.

[8] From Table 2, total firms changing status minus 13,180 retail firms (for which set-asides are not applicable) and minus 2,904 manufacturing firms whose procurement eligibility remains unchanged.

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way from the group which participated last year.

What impact will the presence of a few hundred additional firms have on the procurement assistance program? While there are several million firms eligible now, only a small percentage participate in Government procurement. The practical effect of this proposed rule, although not quantifiable, may be in having one or two additional firms offering on a particular contract or subcontract. For some contracts, then, there might be perhaps eight bidders rather than seven, with no way of knowing whether the newly designated small firm would even win the contract or how it would affect the bid price of other bidders.

In the procurement assistance program the net effect is actually zero. For example, if a firm currently eligible to bid on a set-aside is too large under the proposed size standards, then a firm below the new standard will get the contract and perform the work. One firm's loss is the other's gain, and the net result is zero.

A third possible area of impact is the extramural use of size standards, that is, their use for other than SBA purposes. These may include Federal, other government, and private sector adaptation of size standards for any number of purposes. SBA usually has no knowledge of the extramural use of its size standards and, thus, this impact is unknown to SBA but may be known to the specific agency which uses small business definitions. The use of SBA size standards as a small business definition, according to the Regulatory Flexibility Act, is advisory not mandatory when used by other Federal agencies (see Sec. 601(3)).

To conclude, the impact of this proposal on the SBA loan program may be on the order of a few million dollars in loans. Funding permitting, loans have always been made to a small firm as long as it is eligible and meets the appropriate loan requirements. For procurement assistance, the impact is indeterminate; if one small business is not awarded a contract, then another small business will get it. Thus, it offsets the firm not receiving the contract. Any impact due to the extramural use of SBA's size standards is due to that agency's regulation, not the size standard itself.

SBA Actions To Comply With the Administrative Procedure Act

The SBA actions described below, which are normally required to comply with the Administrative Procedure Act, summarize the steps taken by the Agency in developing the proposed rule.

The Agency published advance notices on March 10, 1980, and May 3, 1982, on the revision of size standards.

Another notice requesting public comment on the major issues related to the size standards was published on September 10, 1980.

Public hearings were held by SBA in each of its 10 regions in May and June 1980, and may be held again if warranted.

Over 2,000 comments were received and considered in 1980 and 1982.

Comments from over 35 Federal agencies were received and considered in 1980 and 1982.

Meetings and briefings were held with approximately 40 trade associations and both Congressional Small Business Committees in 1980 and similarly in 1982.

Response was made to specific inquiries from hundered of phone calls and letters.

SBA filed, categorized, and took into account all the comments and inquires submitted to the agency.

SBA has provided a very large number of trade publications, magazines, and trade association newsletters with interviews and information on the proposed size standards. There have been press releases as well as articles in such general circulation newspapers as the Washington Post and the Wall Street Journal.

APPENDIX A.—AGENCIES WHICH HAVE ISSUED RULES DEFINING SMALL BUSINESS

Agency	Citation
Civil Aeronautics Board	14 CFR Part 399.
Commodities Futures Trading Commission.	17 CFR Part 1.
Consumer Product Safety Commission.	16 CFR Part 1306.
Department of Commerce	37 CFR Parts 1, 5
Department of Defense	39 CFR Part 1–39, 1–701.1, 7–2003(b), 644.512.
Department of Energy	10 CFR 600.33.
Department of Health and Human Services.	41 CFR Parts 3–1, 3–7, 1–1.701(a).
Department of Labor	30 CFR Parts 55, 56, 57, 75, 77.
Department of the Treasury	26 CFR Parts 1, 11, 1.1244(c)–2, 1.1371–1.
Environmental Protection Agency.	40 CFR Parts 704, 713, 29 CFR Part 104.
National Aeronautics and Space Administration.	41 CFR Ch. 18 Parts 1, 2, 3, 7.
Securities and Exchange Commission.	17 CFR 270.3c–2 SEC Release No. 1765.

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) Federal agencies are urged to accord special consideration to small business under their regulations. These rules defining small business may differ from SBA's but they do not conflict with the size standards for SBA's programs, including procurement set asides. When participating in SBA programs, including procurement from small business, Federal agencies must use the SBA size standards as published in 13 CFR Part 121.

TABLE 1.—ESTIMATE OF NUMBER OF SMALL FIRMS COMPARED TO INDUSTRY TOTAL UNDER PROPOSED REVISIONS FOR SIZE STANDARDS—BY INDUSTRY DIVISIONS

SIC division	Total firms	Current small		Proposed small
		Loan	Proc.	
Agriculture Services and Fishing and Forestry [4]	96,342	95,703	95,876	95,709
Mining	23,097	22,667	22,667	22,667
Construction	1,176,135	1,166,963	1,167,233	1,173,413
Manufacturing	299,351	281,127	284,111	284,111
Transp. Comm. Util. [1]	134,775	129,066	131,365	133,024
Wholesale [2]	286,925	273,117	282,481	277,561
Retail	1,567,071	1,514,667	NA	1,527,867
Insurance and Real Estate [3]	87,666	83,183	NA	86,595
Services	1,763,992	1,752,287	1,753,709	1,756,616
Total	5,435,374	5,318,830	3,737,442	5,357,553

[1] Only those industries in which SBA makes loans are listed. Some industries in the Transportation, Communication, and Utilities division are not eligible for SBA programs. Source: 1980 D&B/USEEM, specially prepared for SBA.
[2] Merchants wholesalers, wholesale agents, brokers, and commission merchants are included. Sales outlets owned by manufacturers are not included as a wholesale function.
[3] Only those industries in which SBA makes or proposes to make loans are listed. These are (1) Fire, Casualty, and Marine Insurance Companies; (2) Insurance Agents and Brokers, and (3) Mobile Home Site Operators. Source: County Business Patterns, 1980.
[4] County Business Patterns, 1980.

Sources of Information: All data were derived from the various U.S. Economic Censuses of 1977, including special tabulations by the Bureau of the Census for SBA, except as noted below.

Farms are listed separately because, historically, SBA has been an insignificant source of Government farm financing, this role being played by FmHA. Data are from 1978 Census of Agriculture.

SIC division	Total farms	Current small		Proposed small
		Loan	Proc.	
Farms	2,477,000	2,413,000	Na	2,254,000

TABLE 2.—ANALYSIS OF CHANGE

Title	SIC	Estimated number of firms changing status [1]	Percent all firms changing status	Percent small firms changing status [1]
Agr. Servs., Fish., and Forestry	A	0	0	0
Mining	B	0	0	0
Construction	C	+6,450	0.55	0.55
Manufacturing	D	2,984	1.00	1.08
Transp., Commun. and Utils	E	+3,938	2.92	3.06
Wholesale	F	+4,434	1.55	1.62
Retail	G	+13,180	0.84	0.87
Insurance and Real Estate [3]	H	+3,412	3.90	4.10
Services	I	+4,319	0.24	0.25
Total		38,717	0.71	0.75

Title	SIC	Estimated number of farms changing status [2]	Percent all farms changing status	Percent small farms changing status
Farms	A	−159,000	6.4	6.6

[1] Using current loan size standard as a base. 500 employees used for mining as current base. If procurement size standards were used as the base, the number of firms changing status would be fewer.
[2] Based on current loan standard.
[3] Includes only Fire, Casualty, and Marine Insurance; Insurance Agents; and Mobile Homesite Operators.

List of Subjects in 13 CFR Part 121

Small businesses, Size standards.

This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664), which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC–8931).

Accordingly, pursuant to Sections 3 and 5 (b) of the Small Business Act, as amended (15 U.S.C. 632, 634), it is proposed to revise Part 121 of Title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Sec.

121.1 Purpose and method of establishing size standards.
121.2 Standard industrial classifications and size standards.
121.3 General definitions.
121.4 Small business for financial programs.
121.5 Small business for government procurement.
121.6 Small business for sales or lease of government property.
121.7 Small business innovation research program.
121.8 Size determinations.
121.9 Protest of small business status.
121.10 Size standards responsibilities.
121.11 Appeals.
121.12 Small business for paying reduced patent fees under Title 35, U.S. Code.

Authority: 15 U.S.C. 632 and 634.

§ 121.1 Purpose and method of establishing size standards.

The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiatives and individual judgment be assured. The preservation and expansion of such competition is basic not only to economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation. (Small Business Act, Section 2(a), (15 U.S.C. 631))

(a) To implement this policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve these and other social goals. Eligibility for SBA programs requires that a firm be "small." The actual setting of size standards, i.e., the size specification of "small" is delegated to the Administrator of the SBA.

(b) Size standards are established primarily to define eligibility for SBA programs and Federal procurement purposes. It is clear, both from the Act itself and from the legislative history, that the specification of what is a small business has been left to administrative, rather than legislative, determination. Size standards vary by industry with particular attention to the structure of the designated industry, Administration policy and the needs of the various Federal programs to which they apply. In its most basic sense, this is the approach of establishing size standards. Factors, among others, which are examined for the purpose of setting size standards include maximum size of firms, average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by firm size of sales and employees in the industry, the presence of Federal procurement, and relation to other SBA programs. The development of size standards is not an exact quantitative procedure. No single measure or simple numerical device is the basis for establishing size standards.

(c) The process of establishing size standards is a complex one. The basic source of data used in establishing size standards include: the Standard Industrial Classification Manual, which is used as a guide in defining industries; U.S. Bureau of the Census, Economic Censuses including Concentration Ratios in Manufacturing, Enterprise Statistics; special tabulations of the Enterprise Statistics and Annual Survey of Manufactures prepared for SBA by the U.S. Bureau of the Census; U.S. Department of Commerce, U.S. Industrial Outlook, Survey of Current Business, and County Business Patterns; Internal Revenue Service, Statistics of Income; Dun and Bradstreet, DMI Market Profile; and special USEEM tabulations; Economic Information Service, Marketing Information; Federal Procurement Data System statistics, SBA's own extensive files of articles and correspondence, and information provided by trade associations.

(d) Under the Regulatory Flexibility Act (Pub. L. 96–354), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. However, SBA size standards sometimes may not be appropriate for the particular regulation involved. In such cases where a Federal agency decides the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is more appropriate to the activities of the agency.

(e) SBA assistance should not be regarded as permanent nor as the primary source of a firm's sales. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should not rely on Federal

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assistance from the cradle to the grave, but should plan for the day when they can compete without assistance.

§ 121.2 Standard industrial classification and size standards.

(a) The following industry size standards apply to all SBA programs except the sales of government property (§ 121.6) physical disaster loans (no size standards); Small Business Investment Companies, Development Companies, and Pollution Control Bonds (see § 121.3-4(e)). The industry size standards are set forth in the table following this section. Their relationship to the various SBA programs is set forth in §§ 121.4 and 121.5 of these regulations. The table column labeled "SIC" follows the standard industrial classification code as published by the U.S. Government in the Standard Industrial Classification Manual, Office of Management and Budget, Executive Office of the President. The Standard Industrial Classification Manual is intended to cover the entire field of economic activities. It classifies and defines activities by industry categories and is the source used by SBA as a guide in defining industries for size standards. (It is available for sale from the U.S. Government Printing Office [1] and is in the reference section of most libraries.) The number of employees or annual receipts indicates the maximum allowed for a concern (including its affiliates) to be considered small.

(b) For the purpose of these size standards, the term "number of employees" is a measure of the average employment of a business concern and means its average employment, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceding 12 months. If a business has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business. If a business has acquired an affiliate during the applicable 12 month period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern has been an affiliate during a portion of the period.

(c)(1) "Annual receipts" means the 3-year average of the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, based on its revenues entered on its regular books of account for its most recently completed 3 fiscal years (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service for Federal income tax purposes.

(2) If a concern has been in business less than 3 years, its average annual receipts for the period in which it has been in business, and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been affiliated during a portion of the applicable accounting period.

[1] Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 4101-0066)

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
	Division A—Agriculture			
	Major Group 01—Agricultural Production—Crops			
0111 to 0191	Agricultural Production—Crops	None	[1] $1.0	[1] $0.1
	Major Group 02—Agricultural Production—Livestock			
0211	Beef Cattle Feedlots (Custom)	None	$10.0	$1.0
0212 to 0291	Agricultural Production—Livestock, except 0211	None	$1.0	$0.1
	Major Group 07—Agricultural Services			
All SIC's		None	None	50
	Major Group 08—Forestry			
All SIC's		None	None	25
	Major Group 09—Fishing, Hunting, and Trapping			
All SIC's		None	None	25
	Division B—Mining			
	Major Group 10—Metal Mining			
1011	Iron Ores	500	None	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
1021	Copper Ores	500	None	500
1031	Lead and Zinc Ores	500	None	500
1041	Gold Ores	500	None	500
1044	Silver Ores	500	None	500
1051	Bauxite and Other Aluminum Ores	500	None	500
1061	Ferroalloy Ores, Except Vanadium	500	None	500
1081	Metal Mining Services	$2.0	None	$3.5
1092	Mercury Ores	500	None	500
1094	Uranium-Radium-Vanadium Ores	500	None	500
1099	Metal Ores, Not Elsewhere Classified	500	None	500
	Major Group 11—Anthracite Mining			
1111	Anthracite	500	250	500
1112	Anthracite Mining Services	$2.0	250	$3.5
	Major Group 12—Bituminous Coal and Lignite Mining			
1211	Bituminous Coal and Lignite	500	None	500
1213	Bituminous Coal and Lignite Mining Services	$2.0	250	$3.5
	Major Group 13—Oil and Gas Extraction			
1311	Crude Petroleum and Natural Gas	500	None	500
1321	Natural Gas Liquids	500	None	500
1381	Drilling Oil and Gas Wells	500	None	500
1382	Oil and Gas Field Exploration Services	$2.0	$2.0	$3.5
1389	Oil and Gas Field Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 14—Mining and Quarrying of Non-Metallic Minerals, Except Fuels			
1411	Dimension Stone	500	None	500
1422	Crushed and Broken Limestone	500	None	500
1423	Crushed and Broken Granite	500	None	500
1429	Crushed and Broken Stone, N.E.C	500	None	500
1442	Construction Sand and Gravel	500	None	500
1446	Industrial Sand	500	None	500
1452	Bentonite	500	None	500
1453	Fire Clay	500	None	500
1454	Fuller's Earth	500	None	500
1455	Kaolin and Ball Clay	500	None	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C	500	None	500
1472	Barite	500	None	500
1473	Fluorspar	500	None	500
1474	Potash, Soda, and Borate Minerals	500	None	500
1475	Phosphate Rock	500	None	500
1476	Rock Salt	500	None	500
1477	Sulfur	500	None	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C	500	None	500
1481	Nonmetallic Minerals (Except Fuels) Services	$2.0	$2.0	$3.5
1492	Gypsum	500	None	500
1496	Talc, Soapstone, and Pyrophyllite	500	None	500
1499	Miscellaneous Nonmetallic Minerals, N.E.C	500	None	500
	Division C—Construction			
	Major Group 15—Building Construction—General Contractors and Operative Buildings			
1521	General Contractors—Single-Family Houses	$12.0	$9.5	$21.5
1522	General Contractors—Residential Buildings, Other Than Single-Family	$12.0	$9.5	$21.5
1531	Operative Builders	$12.0	$9.5	$21.5
1541	General Contractors—Industrial Buildings and Warehouses	$12.0	$9.5	$21.5
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses	$12.0	$9.5	$21.5
	Major Group 16—Construction Other Than Building Construction—General Contractors			
1611	Highway and Street Construction, Except Elevated Highways	$12.0	$9.5	$21.5
1622	Bridge, Tunnel, and Elevated Highway Construction	$12.0	$9.5	$21.5
1623	Water, Sewer, Pipe Line, Communication and Power Line Construction	$12.0	$9.5	$21.5
1629	Heavy Construction, Except Dredging	$12.0	$9.5	$21.5
1629	Dredging and Surface Cleanup Activities	$9.5	$9.5	$9.5
	Major Group 17—Construction—Special Trade Contractors			
1711	Plumbing, Heating (Except Electric), and Air Conditioning	$5.0	$5.0	$9.0
1721	Painting, Paper Hanging, and Decorating	$5.0	$5.0	$9.0
1731	Electrical Work	$5.0	$5.0	$9.0
1741	Masonry, Stone Setting, and Other Stonework	$5.0	$5.0	$9.0
1742	Plastering, Drywall, Acoustical, and Insulation Work	$5.0	$5.0	$9.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	$5.0	$5.0	$9.0
1751	Carpentering	$5.0	$5.0	$9.0
1752	Floor Laying and Other Floor Work, N.E.C	$5.0	$5.0	$9.0
1761	Roofing and Sheet Metal Work	$5.0	$5.0	$9.0
1771	Concrete Work	$5.0	$5.0	$9.0
1781	Water Well Drilling	$5.0	$5.0	$9.0
1791	Structural Steel Erection	$5.0	$5.0	$9.0
1793	Glass and Glazing Work	$5.0	$5.0	$9.0

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COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
1794	Excavating the Foundation Work	$5.0	$5.0	$9.0
1795	Wrecking and Demolition Work	$5.0	$5.0	$9.0
1796	Installation or Erection of Building Equipment, N.E.C.	$5.0	$5.0	$9.0
1799	Special Trade Contractors, N.E.C.	$5.0	$5.0	$9.0
	Division D—Manufacturing [1]			
	Major Group 20—Food and Kindred Products			
2011	Meat Packing Plants	500	500	500
2013	Sausages and Other Prepared Meat Products	500	500	500
2016	Poultry Dressing Plants	500	500	500
2017	Poultry and Egg Processing	500	500	500
2021	Creamery Butter	500	500	500
2022	Cheese, Natural and Processed	500	500	500
2023	Condensed and Evaporated Milk	500	500	500
2024	Ice Cream and Frozen Desserts	500	500	500
2026	Fluid Milk	1,000	1,000	1,000
2032	Canned Specialties	500	500	500
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies [2]	500	500	500
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	500	500	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	500	500	500
2037	Frozen Fruit, Fruit Juices, and Vegetables	500	500	500
2038	Frozen Specialties	500	500	500
2041	Flour and Other Grain Mill Products	1,000	1,000	1,000
2043	Cereal Breakfast Foods	500	250	500
2044	Rice Milling	500	500	500
2045	Blended and Prepared Flour	750	750	750
2046	Wet Corn Milling	500	500	500
2047	Dog, Cat, and Other Pet Food	500	250	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, N.E.C.	500	250	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	750	750	750
2052	Cookies and Crackers	500	250	500
2061	Cane Sugar, Except Refining Only	750	750	750
2062	Cane Sugar Refining	750	750	750
2063	Beet Sugar	500	250	500
2065	Candy and Other Confectionery Products	500	500	500
2066	Chocolate and Cocoa Products	500	500	500
2067	Chewing Gum	500	250	500
2074	Cottonseed Oil Mills	500	500	500
2075	Soybean Oil Mills	1,000	1,000	1,000
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	500	250	500
2077	Animal and Marine Fats and Oils	750	750	750
2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, N.E.C.	500	500	500
2082	Malt Beverages	500	250	500
2083	Malt	500	250	500
2084	Wines, Brandy, and Brandy Spirits	750	750	750
2085	Distilled, Rectified, and Blended Liquors	500	250	500
2086	Bottled and Canned Soft Drinks and Carbonated Waters	500	500	500
2087	Flavoring Extracts and Flavoring Syrups, N.E.C.	500	250	500
2091	Canned and Cured Fish and Seafoods	500	250	500
2092	Fresh or Frozen Packaged Fish and Seafoods	500	250	500
2095	Roasted Coffee	500	250	500
2097	Manufactured Ice	500	250	500
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	500	250	500
2099	Food Preparations, N.E.C.			
	Major Group 21—Tobacco Manufacturers			
2111	Cigarettes	1,000	1,000	1,000
2121	Cigars	500	500	3100
2131	Tobacco (Chewing and Smoking) and Snuff	500	500	500
2141	Tobacco Stemming and Redrying	500	500	500
	Major Group 22—Textile Mill Products			
2211	Broad Woven Fabric Mills, Cotton	1,000	1,000	1,000
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk	500	500	500
2231	Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing)	500	250	500
2241	Narrow Fabrics and Other Smallwares Mills: Cotton, Wool, Silk, and Man-Made Fiber	500	250	500
2251	Women's Full Length and Knee Length Hosiery	500	250	500
2252	Hosiery, Except Women's Full Length and Knee Length Hosiery	500	250	500
2253	Knit Outerwear Mills	500	250	500
2254	Knit Underwear Mills	500	250	500
2257	Circular Knit Fabric Mills	500	250	500
2258	Warp Knit Fabric Mills	500	250	500
2259	Knitting Mills	1,000	550	1,000
2261	Finishers of Broad Woven Fabrics of Cotton	500	500	500
2262	Finishers of Broad Woven Fabrics of Man-Made Fiber and Silk	500	250	500
2269	Finishers of Textiles, N.E.C.	750	750	750
2271	Woven Carpets and Rugs	500	500	500
2272	Tufted Carpets and Rugs	500	500	500
2279	Carpets and Rugs, N.E.C.	500	500	500
2281	Yarn Spinning Mills: Cotton, Man-Made Fibers, and Silk	500	250	500
2282	Yarn Texturizing, Throwing, and Winding Mills: Cotton, Man-Made Fibers, and Silk	500	250	500
2283	Yarn Mills, Wool, Including Carpet and Rug Yarn	500	500	500
2284	Thread Mills			

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2291	Felt Goods, Except Woven Felts and Hats	500	250	500
2292	Lace Goods	500	250	500
2293	Paddings and Upholstery Filling	500	250	500
2294	Processed Waste and Recovered Fibers and Flock	500	250	500
2295	Coated Fabrics, Not Rubberized	1,000	250	1,000
2296	Tire Cord and Fabric	1,000	1,000	1,000
2297	Nonwoven Fabrics	500	250	500
2298	Cordage and Twine	500	250	500
2299	Textile Goods, N.E.C.	500	250	500
	Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials			
2311	Men's, Youths', and Boys' Suits, Coats and Overcoats	500	250	500
2321	Men's, Youths', and Boys' Shirts (Except Work Shirts) and Nightwear	500	250	500
2322	Men's, Youths', and Boys Underwear	500	250	500
2323	Men's, Youths', and Boys' Neckwear	500	250	500
2327	Men's, Youths', and Boys' Separate Trousers	500	250	500
2328	Men's, Youths', and Boys' Work Clothing	500	250	500
2329	Men's, Youths', and Boys' Clothing, N.E.C.	500	250	500
2331	Women's, Misses', and Juniors' Blouses, Waists, and Shirts	500	250	500
2335	Women's, Misses', and Juniors' Dresses	500	250	500
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	500	250	500
2339	Women's, Misses', and Juniors' Outerwear, N.E.C.	500	250	500
2341	Women's, Misses', and Children's and Infants' Underwear and Nightwear	500	250	500
2342	Brassieres, Girdles, and Allied Garments	500	250	500
2351	Millinery	500	250	500
2352	Hats and Caps, Except Millinery	500	250	500
2361	Girls', Children's, and Infants' Dresses, Blouses, Waists, and Shirts	500	250	500
2363	Girls', Children's, and Infants' Coats and Suits	500	250	500
2369	Girls', Children's, and Infants' Outwear, N.E.C.	500	250	500
2371	Fur Goods	500	250	500
2381	Dress and Work Gloves, Except Knit and All-Leather	500	250	500
2384	Robes and Dressing Gowns	500	250	500
2385	Raincoats and Other Waterproof Outer Garments	500	250	500
2386	Leather and Sheep Lined Clothing	500	250	500
2387	Apparel and Belts	500	250	500
2389	Apparel and Accessories, N.E.C.	500	250	500
2391	Curtains and Draperies	500	250	500
2392	Housefurnishings, Except Curtains and Draperies	500	250	500
2393	Textile Bags	500	250	500
2394	Canvas and Related Products	500	250	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	500	250	500
2396	Automotive Trimmings, Apparel Findings, and Related Products	500	250	500
2397	Schiffli Machine Embroideries	500	250	500
2399	Fabricated Textile Products, N.E.C.	500	250	500
	Major Group 24—Lumber and Wood Products, Except Furniture			
2411	Logging Camps and Logging Contractors	500	250	500
2421	Sawmills and Planing Mills, General	500	250	500
2426	Hardwood Dimension and Flooring Mills	500	250	500
2429	Special Product Sawmills, N.E.C.	500	250	500
2431	Millwork	500	250	500
2434	Wood Kitchen Cabinets	500	250	500
2435	Hardwood Veneer and Plywood	500	250	500
2436	Softwood Veneer and Plywood	500	250	500
2439	Structural Wood Members, N.E.C.	500	250	500
2441	Nailed and Lock Corner Wood Boxes and Shook	500	250	500
2448	Wood Pallets and Skids	500	250	500
2449	Wood Containers, N.E.C.	500	250	500
2451	Mobile Homes	500	250	500
2452	Prefabricated Wood Buildings and Components	500	250	500
2491	Wood Preserving	500	250	500
2492	Particleboard	500	250	500
2499	Wood Products, N.E.C.	500	250	500
	Major Group 25—Furniture and Fixtures			
2511	Wood Household Furniture, Except Upholstered500	250	500	
2512	Wood Household Furniture, Upholstered	500	250	500
2514	Metal Household Furniture	500	250	500
2515	Mattresses and Bedsprings	500	250	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	500	250	500
2519	Household Furniture, N.E.C.	500	250	500
2521	Wood Office Furniture	500	250	500
2522	Metal Office Furniture	500	500	500
2531	Public Building and Related Furniture	500	250	500
2541	Wood Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2542	Metal Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2591	Drapery Hardware and Window Blinds and Shades	500	250	500
2599	Furniture and Fixtures, N.E.C.	500	250	500
	Major Group 26—Paper and Allied Products			
2611	Pulp Mills	750	750	750
2621	Paper Mills, Except Building Paper Mills	750	750	750

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SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2631	Paperboard Mills	750	750	750
2641	Paper Coating and Glazing	500	500	500
2642	Envelopes	500	250	500
2643	Bags, Except Textile Bags	500	500	500
2645	Die-Cut Paper and Paperboard and Cardboard	500	250	500
2646	Pressed and Molded Pulp Goods	750	750	750
2647	Sanitary Paper Products	500	500	500
2648	Stationery, Tablets, and Related Products	500	2500	500
2649	Converted Paper and Paperboard Products, N.E.C.	500	500	500
2651	Filing Paperboard Boxes	500	250	500
2652	Set-up Paperboard Boxes	500	250	500
2653	Corrugated and Solid Fiber Boxes	500	250	500
2654	Sanitary Food Containers	750	750	750
2655	Fiber Cans, Tubes, Drums, and Similar Products	500	250	500
2661	Building Paper and Building Board Mills	750	750	750
	Major Group 27—Printing, Publishing, and Allied Industries			
2711	Newspapers: Publishing, Publishing and Printing	500	250	500
2721	Periodicals: Publishing, Publishing and Printing	500	250	500
2731	Books: Publishing, Publishing and Printing	500	250	500
2732	Book Printing	500	250	500
2741	Miscellaneous Publishing	500	250	500
2751	Commercial Printing, Letterpress, and Screen	500	250	500
2752	Commercial Printing, Lithographic	500	250	500
2753	Engraving and Plate Printing	500	250	500
2754	Commercial Printing, Gravure	500	250	500
2761	Manifold Business Forms	500	250	500
2771	Greeting Card Publishing	500	250	500
2782	Blankbooks, Looseleaf Binders and Devices	500	250	500
2789	Bookbinding and Related Work	500	250	500
2791	Typesetting	500	250	500
2793	Photoengraving	500	250	500
2794	Electrotyping and Stereotyping	500	250	500
2795	Lithographic Platemaking and Related Services	500	250	500
	Major Group 28—Chemicals and Allied Products			
2812	Alkalies and Chlorine	1,000	1,000	1,000
2813	Industrial Gases	1,000	1,000	1,000
2816	Inorganic Pigments	1,000	1,000	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000	1,000	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750	750	750
2822	Synthetic Rubber (Vulcanizable Elastomers	1,000	1,000	1,000
2823	Cellulosic Man-Made Fibers	1,000	1,000	1,000
2824	Synthetic Organic Fibers, Except Cellulosic	1,000	1,000	1,000
2831	Biological Products	500	250	500
2833	Medicinal Chemicals and Botanical Products	750	250	750
2834	Pharmaceutical Preparations	750	750	750
2841	Soap and Other Detergents, Except Specialty Cleaners	750	750	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	500	500	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants	500	250	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	500	500	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	500	250	500
2861	Gum and Wood Chemicals	500	500	500
2865	Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners)	750	750	750
2869	Industrial Organic Chemicals, N.E.C.	1,000	1,000	1,000
2873	Nitrogenous Fertilizers	1,000	1,000	1,000
2874	Phosphatic Fertilizers	500	500	500
2875	Fertilizers, Mixing Only	500	500	500
2879	Pesticides and Agriculture Chemicals, N.E.C.	500	500	500
2891	Adhesives and Sealants	500	250	500
2892	Explosives	750	750	750
2893	Printing Ink	500	250	500
2895	Carbon Black	500	500	500
2899	Chemicals and Chemical Preparations, N.E.C.	500	250	500
	Major Group 29—Petroleum Refining and Related Industries			
2911	Petroleum Refining[6]	1,500	1,500	1,500
2951	Paving Mixtures and Blocks	500	250	500
2952	Asphalt Felts and Coatings	750	750	750
2992	Lubricating Oils and Greases	500	500	500
2999	Products of Petroleum and Coal, N.E.C.	500	250	500
	Major Group 30—Rubber and Miscellaneous Plastics Products			
3011	Tires and Inner Tubes[6]	1,000	1,000	1,000
3021	Rubber and Plastics Footwear	1,000	1,000	1,000
3031	Reclaimed Rubber	750	750	750
3041	Rubber and Plastics Hose and Belting	500	500	500
3069	Fabricated Rubber Products, N.E.C.	500	500	500
3079	Miscellaneous Plastics Products	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
	Major Group 31—Leather and Leather Products			
3111	Leather Tanning and Finishing	500	250	500
3131	Boot and Shoe Cut Stock and Findings	500	250	500
3142	House Slippers	500	250	500
3143	Men's Footwear, Except Athletic	500	500	500
3144	Women's Footwear, Except Athletic	500	500	500
3149	Footwear, Except Rubber, N.E.C.	500	500	500
3151	Leather Gloves and Mittens	500	250	500
3161	Luggage	500	250	500
3171	Women's Handbags and Purses	500	250	500
3172	Personal Leather Goods, Except Women's Handbags and Purses	500	250	500
3199	Leather Goods, N.E.C.	500	250	500
	Major Group 32—Stone, Clay, Glass, and Concrete Products			
3211	Flat Glass	1,000	1,000	1,000
3221	Glass Containers	750	750	750
3229	Pressed and Blown Glass and Glassware, N.E.C.	750	750	750
3231	Glass Products, Made of Purchased Glass	500	250	500
3241	Cement, Hydraulic	750	750	750
3251	Brick and Structural Clay Tile	500	250	500
3253	Ceramic Wall and Floor Tile	500	500	500
3255	Clay Refractories	500	250	500
3259	Structural Clay Products, N.E.C.	500	250	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	750	500	750
3262	Vitreous China Table and Kitchen Articles	500	500	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	500	500	500
3264	Porcelain Electrical Supplies	500	500	500
3269	Pottery Products, N.E.C.	500	250	500
3271	Concrete Block and Brick	500	250	500
3272	Concrete Products, Except Block and Brick	500	250	500
3273	Ready-Mixed Concrete	500	250	500
3274	Lime	500	500	500
3275	Gypsum Products	1,000	1,000	1,000
3281	Cut Stone and Stone Products	500	250	500
3291	Abrasive Products	500	250	500
3292	Asbestos Products	750	750	750
3293	Gaskets, Packing, and Sealing Devices	500	500	500
3295	Minerals and Earths, Ground or Otherwise Treated	500	250	500
3296	Mineral Wool	750	750	750
3297	Nonclay Refractories	750	750	750
3299	Nonmetallic Mineral Products, N.E.C.	500	250	500
	Major Group 33—Primary Metal Industries			
3312	Blast Furnaces (Including Coke Ovens), Steel Works, and Rolling Mills	1,000	1,000	1,000
3313	Electrometallurgical Products	750	750	750
3315	Steel Wire Drawing and Steel Nails and Spikes	1,000	1,000	1,000
3316	Cold Rolled Steel Sheet, Strip, and Bars	1,000	1,000	1,000
3317	Steel Pipe and Tubes	1,000	1,000	1,000
3321	Gray Iron Foundries	500	500	500
3322	Malleable Iron Foundries	500	500	500
3324	Steel Investment Foundries	500	500	500
3325	Steel Foundries, N.E.C.	500	500	500
3331	Primary Smelting and Refining of Copper	1,000	1,000	1,000
3332	Primary Smelting and Refining of Lead	1,000	1,000	1,000
3333	Primary Smelting and Refining of Zinc	750	750	750
3334	Primary Production of Aluminum	1,000	1,000	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, N.E.C.	750	750	750
3341	Secondary Smelting and Refining on Non-ferrous Metals	500	250	500
3351	Rolling, Drawing, and Extruding of Copper	750	750	750
3353	Aluminum Sheet, Plate, and Foil	750	750	750
3354	Aluminum Extruded Products	750	750	750
3355	Aluminum Rolling and Drawing, N.E.C.	750	750	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750	750	750
3357	Drawing and Insulating of Nonferrous Wire	1,000	1,000	1,000
3361	Aluminum Foundries (Castings)	500	250	500
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)	500	250	500
3369	Nonferrous Foundries (Castings), N.E.C.	500	250	500
3398	Metal Heat Treating	750	750	750
3399	Primary Metal Products, N.E.C.	750	750	750
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment			
3411	Metal Cans	1,000	1,000	1,000
3412	Metal Shipping Barrels, Drums, Kegs, and Pails	500	500	500
3421	Cutlery	500	250	500
3423	Hand and Edge Tools, Except Machine Tools and Hand Saws	500	250	500
3425	Hand Saws and Saw Blades	500	250	500
3429	Hardware, N.E.C.	500	250	500
3431	Enameled Iron and Metal Sanitary Ware	750	750	750
3432	Plumbing Fixture Fittings and Trim (Brass Goods)	500	500	500
3433	Heating Equipment, Except Electric and Warm Air Furnace	500	500	500
3441	Fabricated Structural Metal	500	250	500
3442	Metal Doors, Sash, Frames, Molding, and Trim	500	250	500
3443	Fabricated Plate Work (Boiler Shops)	500	250	500

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SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3444	Sheet Metal Work	500	250	500
3446	Architectural and Ornamental Metal Work	500	250	500
3448	Prefabricated Metal Buildings and Components	500	250	500
3449	Miscellaneous Metal Work	500	250	500
3451	Screw Machine Products	500	500	500
3452	Bolts, Nuts, Screws, Rivets, and Washers	500	500	500
3462	Iron and Steel Forgings	500	250	500
3463	Nonferrous Forgings	500	250	500
3465	Automotive Stampings	500	250	500
3466	Crowns and Closures	500	250	500
3469	Metal Stampings, N.E.C.	500	250	500
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	500	250	500
3479	Coating, Engraving, and Allied Services, N.E.C.	1,000	1,000	1,000
3482	Small Arms Ammunition	1,500	1,000	1,500
3483	Ammunition, Except for Small Arms, N.E.C.	1,000	1,000	1,000
3484	Small Arms	500	250	500
3489	Ordnance and Accessories, N.E.C.	500	500	500
3493	Steel Springs, Except Wire	500	500	500
3494	Valves and Pipe Fittings, Except Plumbers' Brass Goods	500	250	500
3495	Wire Springs	500	250	500
3496	Miscellaneous Fabricated Wire Products	500	500	500
3497	Metal Foil and Leaf	500	250	500
3498	Fabricated Pipe and Fabricated Pipe Fittings	500	500	500
3499	Fabricated Metal Products, N.E.C.			
	Major Group 35—Machinery, Except Electrical			
3511	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units	1,000	1,000	1,000
3519	Internal Combustion Engines, N.E.C.	1,000	1,000	1,000
3523	Farm Machinery and Equipment	500	500	500
3524	Garden Tractors and Lawn and Garden Equipment	500	500	500
3531	Construction Machinery and Equipment	750	750	750
3532	Mining Machinery and Equipment, Except Oil Field Machinery and Equipment	500	500	500
3533	Oil Field Machinery and Equipment	500	500	500
3534	Elevators and Moving Stairways	500	500	500
3535	Conveyors and Conveying Equipment	500	250	500
3536	Hoists, Industrial Cranes, and Monorail Systems	500	500	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers	750	750	750
3541	Machine Tools, Metal Cutting Types	500	500	500
3542	Machine Tools, Metal Forming Types	500	500	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	500	250	500
3545	Machine Tool Accessories and Measuring Devices	500	250	500
3546	Power Driven Hand Tools	500	500	500
3547	Rolling Mill Machinery and Equipment	500	500	500
3549	Metalworking Machinery, N.E.C.	500	500	500
3551	Food Products Machinery	500	250	500
3552	Textile Machinery	500	250	500
3553	Woodworking Machinery	500	250	500
3554	Paper Industries Machinery	500	250	500
3555	Printing Trades Machinery and Equipment	500	500	500
3559	Special Industry Machinery, N.E.C.	500	250	500
3561	Pumps and Pumping Equipment	500	500	500
3562	Ball and Roller Bearings	750	750	750
3563	Air and Gas Compressors	500	500	500
3564	Blowers and Exhaust and Ventilation Fans	500	250	500
3565	Industrial Patterns	500	250	500
3566	Speed Changers, Industrial High Speed Drivers, and Gears	500	500	500
3567	Industrial Process Furnaces and Ovens	500	250	500
3568	Mechanical Power Transmission Equipment, N.E.C.	500	500	500
3569	General Industrial Machinery and Equipment, N.E.C.	500	250	500
3572	Typewriters	1,000	1,000	1,000
3573	Electronic Computing Equipment	1,000	1,000	1,000
3574	Calculating and Accounting Machines, Except Electronic Computing Equipment	1,000	1,000	1,000
3576	Scales and Balances, Except Laboratory	500	250	500
3579	Office Machines, N.E.C.	500	500	500
3581	Automatic Merchandising Machines	500	250	500
3582	Commercial Laundry, Dry Cleaning, and Pressing Machines	500	250	500
3585	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment.	750	750	750
3586	Measuring and Dispensing Pumps	500	500	500
3589	Service Industry Machines, N.E.C.	500	250	500
3592	Carburetors, Pistons, Piston Rings, and Valves	500	250	500
3599	Machinery, Except Electronical, N.E.C.	500	250	500
	Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies			
3612	Power, Distribution, and Specialty Transformers	750	750	750
3613	Switchgear and Switchboard Apparatus	750	750	750
3621	Motors and Generators	1,000	1,000	1,000
3625	Industrial Controls	750	750	750
3623	Welding Apparatus, Electric	500	250	500
3624	Carbon and Graphite Products	750	750	750
3629	Electrical Industrial Apparatus, N.E.C.	500	500	500
3631	Household Cooking Equipment	750	750	750
3632	Household Refrigerators and Home and Farm Freezers	1,000	1,000	1,000
3633	Household Laundry Equipment	1,000	1,000	1,000
3634	Electric Housewares and Fans	750	750	750

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3635	Household Vacuum Cleaners	750	750	750
3636	Sewing Machines	750	750	750
3639	Household Appliances, N.E.C.	500	500	500
3641	Electric Lamps	1,000	1,000	1,000
3643	Current-Carrying Wiring Devices	500	500	500
3644	Noncurrent-Carrying Wiring Devices	500	500	500
3645	Residential Electric Light Fixtures	500	250	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500	250	500
3647	Vehicular Lighting Equipment	500	250	500
3648	Lighting Equipment, N.E.C.	500	250	500
3651	Radio and Television Receiving Sets, Except Communication Types	750	750	750
3652	Phonograph Records and Pre-recorded Magnetic Tape	750	750	750
3661	Telephone and Telegraph Apparatus	1,000	1,000	1,000
3662	Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus	750	750	750
3671	Radio and Television Receiving Type Electron Tubes, Except Cathode Ray	1,000	1,000	1,000
3672	Cathode Ray Television Picture Tubes	750	750	750
3673	Transmitting, Industrial, and Special Purpose Electron Tubes	750	750	750
3674	Semiconductors and Related Devices	500	500	500
3675	Electronic Capacitors	500	500	500
3676	Resistors, for Electronic Applications	500	500	500
3677	Electronic Coils, Transformers, and Other Inductors	500	500	500
3678	Connectors, for Electronic Applications	500	500	500
3679	Electronic Components, N.E.C.	500	500	500
3691	Storage Batteries	500	500	500
3692	Primary Batteries, Dry and Wet	1,000	1,000	1,000
3693	Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus.	500	500	500
3694	Electrical Equipment for Internal Combustion Engines	750	750	750
3699	Electrical Machinery, Equipment, and Supplies, N.E.C.	500	500	500
	Major Group 37—Transportation Equipment			
3711	Motor Vehicles and Passenger Car Bodies	1,000	1,000	1,000
3713	Truck and Bus Bodies	500	250	500
3714	Motor Vehicle Parts and Accessories	500	500	500
3715	Truck Trailers	500	500	500
3716	Motor Homes	500	250	1,000
3721	Aircraft	1,500	1,500	1,500
3724	Aircraft Engines and Engine Parts	1,000	1,000	1,000
3728	Aircraft Parts and Auxiliary Equipment N.E.C.	1,000	1,000	1,000
3731	Ship Building and Repairing	1,000	1,000	1,000
3732	Boat Building and Repairing	500	250	500
3743	Railroad Equipment	1,000	750	1,000
3751	Motorcycles, Bicycles, and Parts	500	500	500
3761	Guided Missiles and Space Vehicles	1,000	250	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	1,000	1,000	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000	1,000	1,000
3792	Travel Trailers and Campers	500	250	500
3795	Tanks and Tank Components	1,000	1,000	1,000
3799	Transportation Equipment, N.E.C.	500	250	500
	Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks			
3811	Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment	500	500	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	500	500	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Products.	500	500	500
3824	Totalizing Fluid Meters and Counting Device	500	500	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals	500	500	500
3829	Measuring and Controlling Devices, N.E.C.	500	500	500
3832	Optical Instruments and Lenses	500	250	500
3841	Surgical and Medical Instruments and Apparatus	500	250	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies	500	250	500
3843	Dental Equipment and Supplies	500	250	500
3851	Ophthalmic Goods	500	250	500
3861	Photographic Equipment and Supplies	500	500	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	500	500	500
	Major Group 39—Miscellaneous Manufacturing Industries			
3911	Jewelry, Precious Metal	500	250	500
3914	Silverware, Plated Ware, and Stainless Steel Ware	500	500	500
3915	Jewelers' Findings and Materials, and Lapidary Work	500	250	500
3931	Musical Instruments	500	250	500
3942	Dolls	500	250	500
3944	Games, Toys, and Children's Vehicles; Except Dolls and Bicycles	500	250	500
3949	Sporting and Athletic Goods, N.E.C.	500	250	500
3951	Pens, Mechanical Pencils, and Parts	500	500	500
3952	Lead Pencils, Crayons, and Artists' Materials	500	250	500
3953	Marking Devices	500	250	500
3955	Carbon Paper and Inked Ribbons	500	250	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	500	250	500
3962	Feathers, Plumes, and Artificial Trees and Flowers	500	250	500
3963	Buttons	500	250	500
3964	Needles, Pins, Hooks and Eyes, and Similar Notions	500	250	500
3991	Brooms and Brushes	500	250	500
3993	Signs and Advertising Displays	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3995	Burial Caskets	500	250	500
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C.	750	750	750
3999	Manufacturing Industries, N.E.C.	500	250	500
	Division E—Transportation, Communications, Electric, Gas, and Sanitary Services			
	Major Group 40—Railroad Transportation			
4011	Railroad, Line-haul Operating	500	$1.5	1,500
4013	Switching and Terminal Establishments	500	$1.5	500
	Major Group 41—Local and Suburban Transit and Interurban Highway Passenger Transportation			
4111	Local and Suburban Transit	500	$1.5	$3.5
4119	Local Passenger Transportation, N.E.C	500	$1.5	$3.5
4121	Taxicabs	500	$1.5	$3.5
4131	Intercity and Rural Highway Passenger Transportation	500	$1.5	$3.5
4141	Local Passenger Transportation Charter Service	500	$1.5	$3.5
4142	Passenger Transportation Charter Service, Except Local	500	$1.5	$3.5
4151	School Buses	500	$1.5	$3.5
4171	Terminal and Joint Terminal Maintenance Facilities for Motor Vehicle Passenger Transportation	$2.0	$2.0	$3.5
4172	Maintenance and Service Facilities for Motor Vehicle Passenger Transportation	$2.0	$2.0	$3.5
	Major Group 42—Motor Freight Transportation and Warehousing			
4212	Local Trucking Without Storage[4]	$7.0	$6.5	$12.5
4213	Trucking, Except Local	$7.0	$6.5	$12.5
4214	Local Trucking With Storage	$7.0	$6.5	$12.5
4221	Farm Product Warehousing and Storage	$7.0	$6.5	$12.5
4222	Refrigerated Warehousing	$7.0	$6.5	$12.5
4224	Household Goods Warehousing and Storage	$7.0	$6.5	$12.5
4225	General Warehousing and Storage	$7.0	$6.5	$12.5
4226	Special Warehousing and Storage, N.E.C.	$7.0	$6.5	$12.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	$2.0	$2.0	$3.5
	Major Group 44—Water Transportation[7]			
4411	Deep Sea Foreign Transportation	500	$1.5	500
4421	Transportation to and Between Non-contiguous Territories	500	$1.5	500
4432	Coastwise Transportation	500	$1.5	500
4433	Intercoastal Transportation	500	$1.5	500
4431	Great Lakes-St. Lawrence Seaway Transportation	500	$1.5	500
4441	Transportation on Rivers and Canals	500	$1.5	500
4452	Ferries	500	$1.5	500
4453	Lighterage	500	$1.5	500
4454	Towing and Tugboat Service	$2.0	$2.0	$3.5
4459	Local Water Transportation, N.E.C.	500	$1.5	500
4463	Marine Cargo Handling	$7.5	$1.5	$12.5
4464	Canal Operation	$2.0	$2.0	$3.5
4499	Water Transportation Services, N.E.C.	$2.0	$2.0	$3.5
	Major Group 45—Transportation by Air[7]			
4511	Air Transportation, Certificated Carriers	1,500	1,000	1,500
4521	Air Transportation, Noncertificated Carriers[8]	1,500	1,000	1,500
4582	Airports and Flying Fields	$2.0	$2.0	$3.5
4583	Airport Terminal Services	$2.0	$2.0	$3.5
	Major Group 46—Pipe Lines, Except Natural Gas			
4612	Crude Petroleum Pipe Lines	None	None	1,500
4613	Refined Petroleum Pipe Lines	None	None	1,500
4619	Pipe Lines, N.E.C.	None	None	$20.0
	Major Group 47—Transportation Services			
4712	Freight Forwarding	$7.0	$6.5	$12.5
4722	Arrangement of Passenger Transportation	$2.0	$2.0	$3.5
4723	Arrangement of Transportation of Freight and Cargo	$2.0	$2.0	$3.5
4742	Rental of Railroad Cars With Care of Lading	$2.0	$2.0	$3.5
4743	Rental of Railroad Cars Without Care of Lading	$2.0	$2.0	$3.5
4782	Inspection and Weighing Services Connected With Transportation	$7.0	$6.5	$12.5
4783	Packing and Crating	$2.0	2.0	$3.5
4784	Fixed Facilities for Handling Motor Vehicle Transportation, N.E.C	$2.0	$2.0	$3.5
4789	Services Incidental to Transportation, N.E.C.			
	Major Group 48—Communications			
4832	Radio Broadcasting	None	$2.0	$3.5
4833	Television Broadcasting	None	$5.0	$7.0
4899	Communication Services, N.E.C.	$2.0	$2.0	$7.5
	Major Group 49—Electric, Gas, and Sanitary Services			
4941	Water Supply	None	$2.5	$3.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
4952	Sewerage Systems	None	$1.5	$3.5
4953	Refuse Systems[9]	$3.5	$2.0	$6.0
4959	Sanitary Services, N.E.C.	$2.0	$2.0	$3.5
4961	Steam Supply	None	None	$6.0
4971	Irrigation Systems	None	None	$3.5
	Division F—Wholesale Trade			
	Major Group 50—Wholesale Trade—Durable Goods			
5012	Automobiles and Other Motor Vehicles	500	$22.0	$35.0
5013	Automotive Parts and Supplies	500	$9.5	$15.0
5014	Tires and Tubes	500	$22.0	$25.0
5021	Furniture	500	$9.5	$15.0
5023	Home Furnishings	500	$9.5	$15.0
5031	Lumber, Plywood, and Millwork	500	$9.5	$25.0
5039	Construction Materials, N.E.C.	500	$14.5	$15.0
5041	Sporting and Recreational Goods and Supplies	500	$14.5	$15.0
5042	Toys and Hobby Goods and Supplies	500	$14.5	$15.0
5043	Photographic Equipment and Supplies	500	$9.5	$25.0
5051	Metals Service Centers and Offices	500	$14.5	$35.0
5052	Coal and Other Minerals and Ores	500	$9.5	$35.0
5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials	500	$22.0	$25.0
5064	Electrical Appliances, Television and Radio Sets	500	$14.5	$25.0
5065	Electronic Parts and Equipment	500	$9.5	$15.0
5072	Hardware	500	$9.5	$15.0
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	500	$9.5	$15.0
5075	Warm Air Heating and Air Conditioning Equipment and Supplies	500	$9.5	$15.0
5078	Refrigeration Equipment and Supplies	500	$9.5	$15.0
5081	Commercial Machines and Equipment	500	$22.0	$25.0
5082	Construction and Mining Machinery and Equipment	500	$14.5	$25.0
5083	Farm and Garden Machinery and Equipment	500	$22.0	$25.0
5084	Industrial Machinery and Equipment	500	$14.5	$15.0
5085	Industrial Supplies	500	$14.5	$15.0
5086	Professional Equipment and Supplies	500	$9.5	$15.0
5087	Service Establishment Equipment and Supplies	500	$9.5	$15.0
5088	Transportation Equipment and Supplies, Except Motor Vehicles	500	$9.5	$25.0
5093	Scrap and Waste Materials	500	$9.5	$15.0
5094	Jewelry, Watches, Diamonds and Other Precious Stones	500	$9.5	$15.0
5099	Durable Goods, N.E.C.	500	$9.5	$15.0
5111	Printing and Writing Paper	500	$14.5	$35.0
5112	Stationery Supplies	500	$9.5	$15.0
5113	Industrial and Personal Service Paper	500	$22.0	$25.0
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	500	$14.5	$25.0
5133	Piece Goods (Woven Fabrics)	500	$14.5	$15.0
5134	Notions and Other Dry Goods	500	$14.5	$15.0
5136	Men's and Boys' Clothing and Furnishings	500	$9.5	$15.0
5137	Women's, Children's and Infants' Clothing and Accessories	500	$9.5	$15.0
5139	Footwear	500	$14.5	$15.0
5141	Groceries, General Line	500	$22.0	$35.0
5142	Frozen Foods	500	$22.0	$25.0
5143	Dairy Products	500	$14.5	$25.0
5144	Poultry and Poultry Products	500	$9.5	$15.0
5145	Confectionery	500	$9.5	$15.0
5146	Fish and Seafoods	500	$9.5	$15.0
5147	Meats and Meat Products	500	$14.5	$25.0
5148	Fresh Fruits and Vegetables	500	$9.5	$15.0
5149	Groceries and Related Products, N.E.C.	800	$14.5	$25.0
5152	Cotton	500	$22.0	$35.0
5153	Grain	500	$14.5	$35.0
5154	Livestock	500	$14.5	$25.0
5159	Farm-Product Raw Materials, N.E.C.	500	$9.5	$35.0
5161	Chemicals and Allied Products	500	$22.0	$25.0
5171	Petroleum Bulk Stations and Terminals	500	$22.0	$25.0
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	500	$22.0	$35.0
5181	Beer and Ale	500	$9.5	$15.0
5182	Wines and Distilled Alcoholic Beverages	500	$22.0	$35.0
5191	Farm Supplies	500	$9.5	$15.0
5194	Tobacco and Tobacco Products	500	$14.5	$25.0
5198	Paints, Varnishes, and Supplies	500	$22.0	$25.0
5199	Nondurable Goods, N.E.C.	500	$9.5	$15.0
	Division G—Retail Trade			
	Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers			
5211	Lumber and Other Building Materials Dealers	None	$2.0	$3.5
5231	Paint, Glass, and Wallpaper Stores	None	$2.0	$3.5
5251	Hardware Stores	None	$2.0	$3.5
5261	Retail Nurseries, Lawn and Garden Supply Stores	None	$2.0	$3.5
5271	Mobile Home Dealers	None	$3.5	$6.5
	Major Group 53—General Merchandise Stores			
5311	Department Stores	None	$7.5	$13.5
5331	Variety Stores	None	$3.0	$6.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
5399	Miscellaneous General Merchandise Stores	None	$2.0	$3.5
	Major Group 54—Food Stores			
5411	Grocery Stores	None	$7.5	$13.5
5422	Freezer and Locker Meat Provisioners	None	$2.0	$3.5
5423	Meat and Fish (Seafood) Markets	None	$2.0	$3.5
5431	Fruit Stores and Vegetable Markets	None	$2.0	$3.5
5441	Candy, Nut, and Confectionery Stores	None	$2.0	$3.5
5451	Dairy Products Stores	None	$2.0	$3.5
5462	Retail Bakeries—Baking and Selling	None	$2.0	$3.5
5463	Retail Bakeries—Selling Only	None	$2.0	$3.5
5499	Miscellaneous Food Stores	None	$2.0	$3.5
	Major Group 55—Automotive Dealers and Gasoline Service Stations			
5511	Motor Vehicles Dealers (New and Used)	None	[10] 950	$11.5
5521	Motor Vehicle Dealers (Used Only)	None	$6.5	$11.5
5531	Auto and Home Supply Stores	None	$2.0	$3.5
5541	Gasoline Service Stations	None	$2.0	$3.5
5551	Boat Dealers	None	$2.0	$3.5
5561	Recreational and Utility Trailer Dealers	None	$2.0	$3.5
5571	Motorcycle Dealers	None	$2.0	$3.5
5599	Automotive Dealers, N.E.C [11]	None	$2.0	$3.5
	Major Group 56—Apparel and Accessory Stores			
5611	Men's and Boys' Clothing and Furnishings Stores	None	$2.5	$4.5
5621	Women's Ready-to-Wear Stores	None	$2.5	$4.5
5631	Women's Accessory and Specialty Stores	None	$2.0	$3.5
5641	Children's and Infants' Wear Stores	None	$2.0	$3.5
5651	Family Clothing Stores	None	$2.5	$4.5
5661	Shoe Stores	None	$2.5	$4.5
5681	Furriers and Fur Shops	None	$2.0	$3.5
5699	Miscellaneous Apparel and Accessory Stores	None	$2.0	$3.5
	Major Group 57—Furniture, Home Furnishings, and Equipment Stores			
5712	Furniture Stores	None	$2.0	$3.5
5713	Floor Covering Stores	None	$2.0	$3.5
5714	Drapery, Curtain, and Upholstery Stores	None	$2.0	$3.5
5719	Miscellaneous Home Furnishing Stores	None	$2.0	$3.5
5722	Household Appliance Stores	None	$2.5	$4.5
5732	Radio and Television Stores	None	$2.5	$4.5
5733	Music Stores	None	$2.0	$3.5
	Major Group 58—Eating and Drinking Places			
5812	Eating Places (Except Food Services)	None	$2.0	$3.5
5812	Food Services	$5.5	$2.0	$10.0
5813	Drinking Places (Alcoholic Beverages)	None	$2.0	$3.5
	Major Group 59—Miscellaneous Retail			
5912	Drug Stores and Proprietary Stores	None	$2.0	$3.5
5921	Liquor Stores	None	$2.0	$3.5
5931	Used Merchandise Stores	None	$2.0	$3.5
5941	Sporting Goods Stores and Bicycle Shops	None	$2.0	$3.5
5942	Book Stores	None	$2.0	$3.5
5943	Stationery Stores	None	$2.0	$3.5
5944	Jewelry Stores	None	$2.0	$3.5
5945	Hobby, Toy, and Game Shops	None	$2.0	$3.5
5946	Camera and Photographic Supply Stores	None	$2.0	$3.5
5947	Gift, Novelty, and Souvenir Shops	None	$2.0	$3.5
5948	Luggage and Leather Goods Stores	None	$2.0	$3.5
5949	Sewing, Needlework, and Piece Goods Stores	None	$2.0	$3.5
5961	Mail Order Houses	None	$7.5	$12.5
5962	Automatic Merchandising Machine Operators	None	$2.0	$3.5
5963	Direct Selling Establishments	None	$2.0	$3.5
5982	Fuelwand Ice Dealers, Except Fuel Oil Dealers and Bottled Gas Dealers	None	$2.0	$3.5
5983	Fuel Oil Dealers	None	100	$3.5
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	None	$2.0	$3.5
5992	Florists	None	$2.0	$3.5
5993	Cigar Stores and Stands	None	$2.0	$3.5
5994	News Dealers and Newsstands	None	$2.0	$3.5
5999	Miscellaneous Retail Stores, N.E.C	None	$2.0	$3.5
	Division H—Finance, Insurance, and Real Estate [12]			
	Major Group 63—Insurance			
6331	Fire, Marine, and Casualty Insurance	None	None	1,500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
	Major Group 64—Insurance Agents, Brokers, and Service			
6411	Insurance Agents, Brokers, and Service	None	None	$3.5
	Major Group 65—Real Estate			
6515	Operators of Residential Mobile Home Sites	None	None	$3.5
	Leasing of Building Space to the Federal Government by Owners [13]	None	None	$10.0
	Division I—Services			
	Major Group 70—Hotels, Rooming Houses, Camps, and Other Lodging Places			
7011	Hotels, Motels, and Tourist Courts	$2.0	$3.0	$3.5
7021	Rooming and Boarding Houses	$2.0	$3.0	$3.5
7032	Sporting and Recreational Camps	$2.0	$2.0	$3.5
7033	Trailering Parks and Camp Sites for Transients	$2.0	$1.5	$3.5
7041	Organization Hotels and Lodging Houses, on Membership Basis	$2.0	$2.0	$3.5
	Major Group 72—Personal Services			
7211	Power Laundries, Family and Commercial	$4.0	$3.0	$7.0
7212	Garment Pressing, and Agents for Laundries and Dry Cleaners	$2.0	$2.0	$3.5
7213	Linen Supply	$2.0	$2.0	$7.0
7214	Diaper Service	$4.0	$2.0	$7.0
7215	Coin-operated Laundries and Dry Cleaning	$2.0	$2.0	$3.5
7216	Dry Cleaning Plants, Except Rug Cleaning	$1.5	$2.0	$2.5
7217	Carpet and Upholstery Cleaning	$1.5	$2.0	$2.5
7218	Industrial Launderers	$4.0	$2.0	$7.0
7219	Laundry and Garment Services, N.E.C	$2.0	$2.0	$3.5
7221	Photographic Studios, Portrait	$2.0	$2.0	$3.5
7231	Beauty Shops	$2.0	$2.0	$3.5
7241	Barber Shops	$2.0	$2.0	$3.5
7251	Shoe Repair Shops, Shoe Shine Parlors, and Hat Cleaning Shops	$2.0	$2.0	$3.5
7261	Funeral Service and Crematories	$2.0	$2.0	$3.5
7299	Miscellaneous	$2.0	$2.0	$3.5
	Major Group 73—Business Services			
7311	Advertising Agencies	$2.0	$2.0	$3.5
7312	Outdoor Advertising Services	$2.0	$2.0	$3.5
7313	Radio, Television, and Publishers' Advertising Representatives	$2.0	$2.0	$3.5
7319	Advertising, N.E.C	$2.0	$2.0	$3.5
7321	Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies	$2.0	$2.0	$3.5
7331	Direct Mail Advertising Services	$2.0	$2.0	$3.5
7332	Blueprinting and Photocopying Services	$2.0	$2.0	$3.5
7333	Commercial Photographs, Art, and Graphics	$2.0	$2.0	$3.5
7339	Stenographic Services; and Reproduction Services, N.E.C	$2.0	$2.0	$3.5
7341	Window Cleaning	$2.0	$2.0	$3.5
7342	Disinfecting and Exterminating Services	$2.0	$2.0	$3.5
7349	Cleaning and Maintenance Services to Dwellings and Other Buildings, N.E.C	$4.5	$2.0	$6.0
7351	News Syndicates	$2.0	$2.0	$3.5
7361	Employment Agencies	$2.0	$2.0	$3.5
7362	Temporary Help Supply Services	$2.0	$2.0	$3.5
7369	Personnel Supply Services, N.E.C. [14] (includes base maintenance)	$7.5	$2.0	$13.5
7372	Computer Programming and Other Software Services	$4.0	$2.0	$7.0
7374	Data Processing Services	$4.0	$2.0	$7.0
7379	Computer Related Services, N.E.C	$7.0	$2.0	$12.5
7391	Research and Development Laboratories [15]	500	$2.0	500
7392	Management, Consulting, and Public Relations Services	$2.0	$2.0	$3.5
7393	Detective Agencies and Protective Services	$4.5	$2.0	$6.0
7394	Equipment Rental and Leasing Services	$2.0	$2.0	$3.5
7395	Photofinishing Laboratories	$2.0	$2.0	$3.5
7396	Trading Stamp Services	$2.0	$2.0	$3.5
7397	Commercial Testing Laboratories	$2.0	$2.0	$3.5
7399	Business Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 75—Automotive Repair, Services, and Garages			
7512	Passenger Car Rental and Leasing, Without Drivers	$7.0	$2.0	$12.5
7513	Truck Rental and Leasing, Without Drivers	$7.0	$2.0	$12.5
7519	Utility Trailer and Recreational Vehicle Rental	$2.0	$2.0	$3.5
7523	Parking Lots	$2.0	$2.0	$3.5
7525	Parking Structures	$2.0	$2.0	$3.5
7531	Top and Body Repair Shops	$2.0	$2.0	$3.5
7534	Tire Retreading and Repair Shops	$4.0	$2.0	$7.0
7535	Paint Shops	$2.0	$2.0	$3.5
7538	General Automotive Repair Shops	$2.0	$2.0	$3.5
7539	Automotive Repair Shops, N.E.C	$2.0	$2.0	$3.5
7542	Car Washes	$2.0	$2.0	$3.5
7549	Automotive Services, Except Repair and Car Washes	$2.0	$2.0	$3.5
	Major Group 76—Miscellaneous Repair Services			
7622	Radio and Television Repair Shops	$2.0	$2.0	$8.5

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COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
7623	Refrigeration and Air Conditioning Service and Repair Shops	$2.0	$2.0	$3.5
7629	Electrical and Electronic Repair Shops, N.E.C.	$2.0	$2.0	$3.5
7631	Watch, Clock, and Jewelry Repair	$2.0	$2.0	$3.5
7641	Reupholstery and Furniture Repair	$2.0	$2.0	$3.5
7692	Welding Repair	$2.0	$2.0	$3.5
7694	Armature Rewinding Shops	$2.0	$2.0	$3.5
7699	Repair Shops and Related Services, N.E.C.	$2.0	$2.0	$3.5
	Major Group 78—Motion Pictures			
7813	Motion Picture Production, Except for Television	$8.0	$8.0	$14.5
7814	Motion Picture and Tape Production for Television	$8.0	$8.0	$14.5
7819	Services Allied to Motion Picture Production	$8.0	$8.0	$14.5
7823	Motion Picture Film Exchanges	$8.0	$2.0	$14.5
7824	Film or Tape Distribution for Television	$2.0	$2.0	$3.5
7829	Services Allied to Motion Picture Distribution	$2.0	$2.0	$3.5
7832	Motion Picture Theaters, Except Drive-In	$2.0	$2.0	$3.5
7833	Drive-In Motion Picture Theaters	$2.0	$2.0	$3.5
	Major Group 79—Amusement and Recreation Services, Except Motion Pictures			
7911	Dance Halls, Studios, and Schools	$2.0	$2.0	$3.5
7922	Theatrical Producers (Except Motion Pictures), Bands, Orchestras, and Entertainers	$2.0	$2.0	$3.5
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	$2.0	$2.0	$3.5
7932	Billiard and Pool Establishments	$2.0	$2.0	$3.5
7933	Bowling Alleys	$2.0	$2.0	$3.5
7941	Professional Sports Clubs and Promoters	$2.0	$2.0	$3.5
7993	Coin-operated Amusement Devices	$2.0	$2.0	$3.5
7996	Amusement Parks	$2.0	$2.0	$3.5
7999	Amusement and Recreation Services, N.E.C.	$2.0	$2.0	$3.5
	Major Group 80—Health Services			
8011	Offices of Physicians	$2.0	$2.0	$3.5
8021	Offices of Dentists	$2.0	$2.0	$3.5
8031	Offices of Osteopathic Physicians	$2.0	$2.0	$3.5
8041	Offices of Chiropractors	$2.0	$2.0	$3.5
8042	Offices of Optometrists	$2.0	$2.0	$3.5
8049	Offices of Health Practioners, N.E.C.	$2.0	$1.5	$3.5
8051	Skilled Nursing Care Facilities	$2.0	$1.5	$3.5
8059	Nursing and Personal Care Facilities, N.E.C.	$2.0	[10] 150	$3.5
8062	General Medical and Surgical Hospitals	$2.0	[10] 150	$3.5
8063	Psychiatric Hospitals	$2.0	[10] 150	$3.5
8069	Specialty Hospitals, Except Psychiatric	$2.0	$1.5	$3.5
8071	Medical Laboratories	$2.0	$1.5	$3.5
8072	Dental Laboratories	$2.0	$2.0	$3.5
8081	Outpatient Care Facilities	$2.0	$2.0	$3.5
8091	Health and Allied Services, N.E.C.	$2.0	$2.0	$3.5
	Major Group 81—Legal Services			
8111	Legal Services	$2.0	$2.0	$3.5
	Major Group 82—Educational Services			
8299	Schools and Educational Services, N.E.C. Except Flight Training	$2.0	$2.0	$3.5
8299	Flight Training Services	$7.0	$2.0	$12.5
	Major Group 89—Miscellaneous Services			
8911	Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons	$7.5	$3.5	$3.5
8911	Engineering Services for Military and Aerospace Equipment and for Military Weapons (Except Marine Engineering)	$7.5	$3.5	$13.5
8911	Marine Engineering and Naval Architecture	$9.0	$3.5	$11.0
8911	Architectural Services (Except Naval) and Surveying Services	$2.0	$2.0	$3.5
8931	Accounting and Auditing Service [17]	$2.0	$2.0	$5.0
8931	Bookkeeping Services	$2.0	$2.0	$3.5
8999	Services, N.E.C.	$2.0	$2.0	$3.5

Footnotes

[1] Size standards preceded by a dollar sign ($) are in millions of dollars. All others are in number of employees unless specified otherwise.

[2] SIC Division D, Manufacturing: "Rebuilding on a factory basis or equivalent." For rebuilding machinery or equipment on a factory basis, use SIC code applicable for new manufactured product. The appropriate size standard is not limited to manufacturers. Ordinary repair services or preservation operations, however, are not considered rebuilding activities.

[3] SIC–2033: For purposes of Government procurement for food canning and preserving under SIC 2033, the standard of 500 employes shall be exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

[4] SIC–2911: For purposes of Government procurement, the firm may not have more than 1500 employees nor may it have more than 50,000 barrels per day. This capacity may be measured in terms of either crude oil or bona fide feedstocks or both, but the sum total of the various petroleum-based inputs into the process may not exceed 50,000 barrels. In addition to the direct owned capacity of the concern in question, counted capacity will include any leased facilities or any facilities made available to the concern under an arrangement such as (but not limited to) an exchange agreement or a throughput or other form of processing agreement (whereby another party processes the concern's own crude or feedstocks). Such an arrangement would have the same effect as though such facilities had been leased, and this would have to be included in the concern's own capacity. Any exchanges on a refined-product-for-refined-product basis are not permitted in the satisfaction of the contract. The total product to be delivered in the performance of the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

[5] SIC–3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112, provided that (1) the value of tires within Census Classification Codes 30111 and 30112 which it manufactured during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

[6] SIC–40212: The Component "Garbage and Refuse, Collecting and Transporting: Without Disposal" shall have a size standard of $6.0 million. This is the same size standard as SIC–4953, *Refuse Systems.*

[7] Offshore Marine Services: The applicable size standard shall be $14 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

[8] SIC–4521: Includes passenger or cargo transportation requiring the use of one or more helicopters or fixed-wing aircraft. For other services requiring the use of one or more helicopters or fixed-wing aircraft, a size standard of $6.5 million shall apply. This does not include offshore marine transportation services as defined in footnote 7.

[9] SIC–4953: "Garbage and Refuse, Collecting and Transportation: Without Disposal," a component of SIC–4212, has the same size standard as SIC–4953.

[10] Units.

[11] SIC–5599: For retail firms whose principal line of business is the retail sale of aircraft, a $5 million size standard shall apply.

[12] Most industries in Division H—Finance, Insurance, and Real Estate—are excluded from SBA assistance.

[13] Leasing of building space to the Federal Government by owners—For the purpose of Government procurement, a size standard of $10 million in gross receipts is established for owners of building space that is leased to the Federal Government. The standard for these procurements shall apply to the owner of the property and not to those acting as an agent for the owner. There is no size standard concerning the agent.

[14] If one of the activities in base maintenance, as defined in SIC–7399, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.

"Base maintenance" constitutes three or more separate activities. These activities may be either service or special trade construction related activities. As services, these activities must each be in a separate industry. These activities may include but are not limited to such separate maintenance activities as *Janitorial and Custodial Service, Protective Guard Service, Commissary Service, Fire Prevention Service,* the *Safety Engineering Service, Messenger Service,* and *Grounds Maintenance and Landscaping Service.*

If the contract involves the use of special trade contractors (plumbing, painting, plastering, carpeting, etc.), all such specialized special trade construction activities will be considered a single activity, which is *Base Housing Maintenance.* This is only one activity of base maintenance and two additional activities must be present for the contract to be considered base maintenance.

[15] SIC–7391: For research and development contracts requiring the delivery of a manufactured product, the size standard to use is that of the manufacturing industry in which the specific product is classified.

Research and development, as defined in the *SIC Manual,* means laboratory or other physical research and development on a contract or fee basis. Research and development for purposes of size determinations does not include the following: economic, educational, engineering, operations, systems or other nonphysical research, or computer programming, data processing, commercial and/or medical laboratory testing.

For purposes of the SBIR program only, a different definition has been established by law. See Part 121.7.

[16] Beds.

[17] This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664 which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC–8931).

§121.3 General definitions

(a) *Affiliates*: Concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affilated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(i) *Nature of Control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party with the power to control.

(ii) *Meaning of "party or parties."* The term "party" or "parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(iii) *Control through stock ownership.*—(A) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(B) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls or has the power to control less than 50 percent of the voting stock of a concern and such minority block is *(1)* equal or substantially equal in size, and *(2)* large as compared with any other block outstanding, there is a presumption that each such party controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(C) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(iv) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time or within a relatively short time after a size determination and agreements to merge in the future are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised.

Example. If company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A", the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B". Further, if company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place.

(v) *Voting trusts.* If the purpose of a voting trust, or similar agreement is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulations, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is valid within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the

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best interest of the small business program.

(vi) *Control through common management.* A concern may be found as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing or has the power to direct or influence the operation of such other concern.

(A) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(B) *Common facilities.* One concern shares common office space and/or employees and/or other facilities with another concern particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(C) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(vii) *Control through contractual relationships.*— (A) Definition of a joint venture for size determination purposes: A joint venture for size determination purpose is an association of persons and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(B) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(C) *Joint venture—procurement and property sale assistance.* Concerns bidding on a particular procurement or property sale as joint venturers are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. Moreover, as ostensible subcontractor which is to perform primary or vital requirements of a contract may have a controlling role such to be considered a joint venturer affiliated on the contract with the prime contractor. A joint venture affiliation finding is limited to particular contracts unless the SBA size determination finds general affiliation between the parties.

(D) Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(E) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(B) "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation joint venture, association, or cooperative. For the purpose of making affiliation findings (see subsection (a) of this section) any business entity whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

(c) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of marterials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

§ 121.4 Small business for financial programs.

(a) The provisions within this section apply to size eligibility for SBA financial assistance, which includes the following SBA programs: Financial and Guarantee Assistance, Small Business Investment Companies, Development Companies, Surety Bonding, Pollution Control, and Minority Small Business and Capital Ownership Development. Such size eligibility is determined with reference to the size standard for the primary industry of the concern (including any affiliates) under the SIC code size standards in the table contained in § 121.2. The size standards are generally in terms of four-digit industries set forth in the Standard Industrial Classification Manual. In addition to meeting the size standards of this regulation, a small business concern must be not dominant in its field of operation. (See § 121.3(c).) If a concern is engaged in a number of industries (or including its affiliates is engaged in several industries), the size standard shall be that of the concern's (or concerns') primary industry. The primary industry determination considers the distribution among industries during the most recent fiscal year and 12 month period of receipts and employees of the concern (or of an entire affiliated group if the group in its entirety has a different primary industry). The determination may also consider other factors (e.g., patents, contract awards, assets).

(b) After the appropriate size standard is ascertained, the eligibility of the concern under that size standard must be considerd. In determining whether a concern is eligible under its applicable primary industry size standard, employees or receipts (or other size measurement under subsection (e) of this section, e.g., net worth) of the concern and its affiliates must be aggregated. (Section 121.3(a) sets forth the SBA affiliation definition.)

(c) A concern which applies for an SBA loan or guarantee to refinance an existing SBA loan or guarantee but which, since the date of the original financing, has by natural growth (as distinguished from, e. g., merger) grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA administratively determines that refinancing is necessary to protect the Government's financial interest.

(d) The applicable size standards for the purpose of all SBA financial and guarantee programs excluding the Section 8(a) Program and the Surety Bond Guarantee Assistance Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area." "Redevelopment area" means a "redevelopment area" in accordance with the Public Works Economic Development Act of 1965 (Pub. L. 89–136, 79 Stat. 570, 42 U.S.C. 3211). "Labor surplus areas" are defined monthly in the Department of Labor publication "Area Trends."

(3) A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies, or pollution control guarantee assistance, is one which: (1) Together with its affiliates, does not have net worth in excess of $6 million, and does not have an average net income after Federal income taxes for the preceding 2 years in excess of $2 million (average net income to be computed without benefit of any caryover loss); or (2) a concern is also eligible for these programs if it otherwise qualifies under this section as a small business concern for financial assistance.

(f) The concern's size status may be determined at the SBA District Office, the SBA Regional Office, or by any other SBA office or financial institution appropriately designated. The determination may be made at the time of application for assistance. The concern's size eligibility is determined as of the time of its application or self-certification as small by the concern and the time of approval of the financing. Except for firms participating in the section 8(a) program, subsequent changes in size will not affect a firm's size status.

(g) For purposes of the Minority Small Business and Capital Ownership Development Assistance program (the program authorized by section 8(a) of the Small Business Act),

(1) In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.2 of the SBA Rules and Regulations. The particular size standard to be applied will be based on the primary industry classification of the applicant concern.

(2) In order to continue to participate in the section 8(a) program once a concern is admitted to the program, the concern must certify to SBA that it is a small business for the purpose of performing each individual contract which it is awarded. SBA, in turn, will verify such certifications.

(h) For purposes of surety bond guarantee assistance

(1) Any construction concern (general of special trade) is small if its annual receipts average for its preceding three fiscal years does not exceed $5 million.

(2) Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial classification Manual) is small it its annual receipts average for its preceding three fiscal years does not exceed $5 million.

(3) For other surety bond guarantee assistance, the provisions of § 121.4 (a) and (b) are applicable in determining eligibility as a small business concern.

§ 121.5 Small business for government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry, is not considered an SBA size determination.

(b)(1) The procurement is classified for size standard purposes in the most appropriate SIC code industry category (§ 121.2); giving consideration to the industry descriptions in the regulation and the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. In borderline cases, consideration may be given to previous Government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service being procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act. A concern which is bidding on a contract for a procurement in an SIC industry under § 121.2 must meet the size standard designated for that industry. The size standard and SIC industry designation are set forth in the solicitation.

(2) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when:

(i) Its average annual receipts (including affiliates) for its three most recently completed fiscal years does not exceed the size standard for the appropriate wholesale industry identified with the product being procured as defined in § 121.2, and

(ii) In the case of Government procurement reserved (i.e., set aside) for small businesses, such nonmanufacturer must furnish, in the performance of the contract, the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States. The term "nonmanufacturer" includes a concern which can manufacture or produce the product referred to in the specific procurement but does not do so in connection with that procurement. For size determination purposes there can be only one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination need not be consistent with whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act.

(iii) A concern which purchases items and packages them into a kit is considered to be a nonmanufacturer small business and can qualify as such for a given procurement if it meets the size qualifications of a small nonmanufacturer for the procurement and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

(iv) If the procurement is subject to, and is actually processed under, "small purchase procedures" as defined in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product.

(v) For the purpose of receiving a Certificate of Competency on an unrestricted procurement, a small business nonmanufacturer may furnish any domestically produced or

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manufactured product. The applicable size standard shall be that of the wholesale industry of the item being procured.

(c) If a procurement calls for two or more items with different size standards and the bidder can bid on any items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value.

(d) The determination of the appropriate classification of a product or service shall be made by the contracting officer of the procuring agency or his authorized representative. Both the SIC industry classification and the applicable size standard (number of emloyees, average annual receipts, etc.), shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed to SBA in the manner provided in § 121.11; provided, however, that an unclear or incomplete classification action by the contracting officer may be supplied by the SBA if necessary in connection with a size determination or size appeal.

(e) In the submission of a bid or proposal on a Government procurement, a concern which meets the designated size standard and which either has not been determined by SBA to be ineligible under the same or a lower size standard, or has been determined to be ineligible but subsequently has been recertified by SBA, may represent that it is a small business concern within the size standard designated for the procurement. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of the self-certification, a contracting officer shall accept the self-certification at face value for the particular procurement involved. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern within the size standard applicable to the procurement.

(f) If a concern has been determined by SBA to be ineligible as a small business under a particular size standard, and it has already self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination.

(g) For subcontracting purposes pursuant to Section 8(d) of the Small Business Act, a concern is small

(1) in connection with subcontracts of $10,000 or less which relate to Government procurements if, including its affiliates, its number of employees does not exceed 500 persons; and

(2) In connection with subcontracts exceeding $10,000 which relate to Government procurements if its number of employees or average annual receipts, (including its affiliates), does not exceed the size standard under § 121.2 for the product or service it is providing on the subcontract. Concerns may self-certify their status as a small subcontractor for the procurement.

(3) The contracting officer or other affected party in connection with small business subcontracting requirements, pursuant to section 8(d) of the Small Business Act, may proteat a written representation of small business status, or the refusal to accept such written representation, of a concern offering as a subcontractor on a particular procurement. The protest and related information shall be referred to the SBA Regional Office in which the concern has its principal office for a size determination or other appropriate SBA action.

§ 121.6 Small business for sales or lease of Government property.

In the submission of a bid or proposal for the purchase or lease of Government-owned property, a small business concern is one which meets the criteria provided in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of a concern's self-certification as a small business, a contracting officer shall accept the self-certification at face value. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern for the sale or lease on which protested. If a concern has been determined by SBA to be ineligible under the applicable size standard and has not been recertified, it shall not self-certify under that size standard until it has been recertified by SBA; and shall immediately notify the contracting officer on any pending sales or leases where it had self-certified under the same size standard.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the following criteria.

(1) Manufacturers. Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided, however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,500 persons and it does not have more than 50,000 barrels per day crude oil or bona fide feed stock capacity [2] from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except on a refined-product-for-refined-product basis) or a throughput or other from of processing agreement, with the same effect as though such facilities had been leased.

(2) Other than manufacturers. Any concern which is primarily not a manufacturer (except as specified in paragraph (a)(3) of this section) is small if its average annual receipts for its preceding 3 fiscal years do not exceed $2 million.

(3) Stockpile purchasers. Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual receipts for its preceding 3 fiscal years do not exceed $42 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;[3]

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (b)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent (50 percent in Alaska) of such timber. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (b)(1) of this section, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and the size status of the concern manufacturing the sawlogs into lumber or timbers.

(c) *Special salvage timber sales.* (1) In connection with sale of Government-owned special salvage timber, designated by the USFS as SSTS, a small business is a concern that:

(i) Is primarily engaged in the logging or forests products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small business, restricting the disposal of timber and, when the special salvage timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber (50 percent in Alaska). The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(iii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following element: (A) felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS sale logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS sale.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at a minimum, a breakdown of the log into the rough cut of the finished product. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(iii) It further agrees that it will accomplish the logging of SSTS timber, exclusive of hauling, with its own

[2] See § 121.2 (footnotes) for definition of crude oil capacity and bona fide feed stock capacity.

[3] "Forest Products Industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

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employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, the special salvage timber may be disposed of without restriction when there are less than two qualified mills in the market area.

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:

(1) It is independently owned and operated;

(2) It is not dominant in its field of operation;

(3) Together with its affiliates, its number of employees does not exceed 250 persons;

(4) It maintains management and control of the actual mining operation at the tract; and

(5) Any transfer of the lease from the holder of the original set-aside must be to another small business within the meaning of this paragrpah.

(e) In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

§ 121.7 Small Business Innovation Research Programs.

(a) A small business concern for purposes of award of any funding agreement under a solicitation pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97–291, 15 U.S.C. 638(e)-(k)) is one which, including its affiliates, has a number of employees not exceeding 500. The term "affiliates" is defined in § 121.3(a) of this title. The term "number of employees" is defined in § 121.2(b) of this title.

(b) The Small business Innovation Development Act of 1982 defines "research" or "research and development" as any

> • • • activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studies; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systemactic applicaton of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement or prototypes and new processes to meet specific requirements (15 U.S.C. 638, as amended by 96 Stat. 218, Sec. 4(e)(5))

(c) SBA has issued a policy directive (Policy Directive No. 65–01; 47 FR 52906, November 24, 1982) prescribing criteria for solicitations and award of funding agreements pursuant to the Small Business Innovation Research (SBIR) Program. Under the SBIR program, the term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

§ 121.8 Size Determinations.

(a) Original size determinations shall be made by the regional director, or his delegate, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director or his delegate, or the Associate Administrator for Finance and Investment promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Administration Size Appeals Board. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to these regulations, a request for recertification, a request for a Certificate of Competency, or if the Associate Adminstrator for Procurement Assistance or his delegate or a regional director or his delegate determines it necessary to question the size status of a concern for the purpose of any Small Business contracting program or Procurement Source Program, or for property sales purposes or for any other purpose relating to Government procurement or sales. For the purpose of SBA financial assistance, a formal size determination under this provision shall be made by the Regional Office only (1) where the regular review of the loan file or other substantial evidence indicates the need therefor and a request is made by the appropriate SBA financial assistance official, or (2) where an initial determination is made by the SBA financial assistance officer that the concern is other than small and a request is made by the loan applicant. Initial nonformal financial assistance size determinations may not be appealed to the SBA Size Appeals Board.

(b) Once properly instituted (i.e., by filing of a protest or by an official request for a determination) formal size determinations may be completed, even if the particular application, bid, or offer is subsequently withdrawn, or the Government procurement or sale is cancelled or awarded.

(c) The size determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate SBA may untilze other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size status is under consideration. Specific signed factual evidence will be weighed more heavily by SBA than general unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure. The SBA formal size determination shall be based upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(d) If SBA has made a formal size determination that a particular concern is not small, the concern will not be deemed eligible within such applicable size standard for any assistance under the Small Business Act or the Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business. After such an adverse size determination, the concern shall not self-certify itself as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified. Applications for recertification shall be made to the SBA Regional Office which made the original size determination. Applications for recertification shall be accompanied by a current completed SBA Form 355 and by any other pertinent information necessary to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern. If good cause is shown in extraordinary cases, as determined by the Chairperson of the Size Appeals Boards, the original decision on the application for recertification may be made by the Size Appeals Board.

(1) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based on an ineligible nonmanufacturer size determination on a particular Government procurement.

(2) If SBA makes a size determination denying an application for recertification, such adverse size determination may be appealed to the Size Appeals Board. Recertifications have future effect only and, except as to timber sales size determinations, are not appealable to the Board by other than the concern in question (however, the concerns' later self-certification on subsequent set-aside procurements or property sales may be protested in the usual manner).

(e) Size determinations for compliance purposes. Upon request by other Government agencies, SBA size determinations under Part 121 may be made to assist in the enforcment or administration of regulations or contracts, as well as in connection with award of contracts or granting of assistance. SBA size determinations are findings on the size status of a concern (including its affiliates) as of a definite time and regarding a specific applicable SBA size standard, and do not rule on compliance, contractual or administrative matters which are handled by the other agencies.

§ 121.9 Protest of small business status.

(a) *How to protest.* Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular Government procurement or sale. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement or sale involved. In order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed within 5 days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. Such filing must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted: *Provided, however,* That a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted and the contracting officer thereafter receives a confirming letter (1) within such 5-day period or (2) postmarked no later than 1 day after the date of such telephone protest. Any contracting officer who receives a protest shall promptly forward such protest to the SBA regional office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement or sale by filing a protest with the SBA regional office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award. A protest received after the time limits set forth herein shall not apply to the procurement or sale in question. A concern determined other than small business as a result of such late protest, however, shall be precluded from self-certification in any other procurement or sale in which the size standard is not higher than the standard in the procurement or sale in question. A protest must adequately set forth specific alleged grounds for the protest. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to adequately specify grounds for the protest. Evidence supporting the protest may be submitted therewith. Protests which do not set forth specific alleged grounds for the protest will be dismissed.

(b) *Notification of protest.* Upon receipt of such protest, the SBA regional director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The regional director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination, by certified mail, return receipt requested. Such bidder must, within 3 working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the completed SBA Form 355 within the billing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business. If the bidder or offeror does not submit the completed SBA Form 355 within the period provided above, or within any additional period of time provided by SBA upon application for good cause shown, SBA may assume that the disclosure of the Form or any missing part thereof would be contrary to the interests of the party failing to make such disclosure.

(c) *Notification of determination.* After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision within 10 working days, if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

(e) *Multiple Award Schedules.* Protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals) on a multiple award schedule procurement set aside for small business.

§ 121.10 Size standard responsibilities.

(a) Office of Size Standards Staff, Office of the Administrator, shall:

(1) Develop and recommend small business size standards to the Administrator of SBA for promulgation.

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards.

(3) Conduct industry hearings pertaining to size standards.

(4) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing, or establish new, size standards should be addressed to the Director, Size Standards Staff, Office of the Administrator, 1441 L Street, N.W., Washington, D.C. 20416, and should include information on the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. The methodology described in the section on "Purpose

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and Method of Establishing Size Standards" (§ 121.1) provides basic criteria on the kinds of information desirable to make an appropriate request. If no size standard of an industry has been established in this part, then SBA, upon request, may issue an *ad hoc* or temporary size standard for the industry in question.

(c) The Office of General Counsel, in conjunction with other interested SBA offices, shall develop and recommend to the Administrator regulations and procedures to assist in implementing the size standards.

(d) The Size Appeals Board shall hear and resolve appeals of size determinations concerning the small business size status of individual firms. The Board also hears and resolves appeals concerning the appropriate size standard for particular small business set-aside procurements, and may issue interpretations of the size regulations.

§ 121.11 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from all size determinations and product classifications made pursuant to these regulations and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed or modified. The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determinations made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management or contractual relations, or an appeal based on allegation that the small buisiness size standard established by SBA for a particular industry or field of operation is improper for the purpose intended. Size Appeals Board proceedings are essentially factfinding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties. The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairperson); the Associate Administrator for Procurement Assistance (Vice Chairperson); the Associate Administrator for Finance and Investment; the Associate Administrator for Minority Small Business and Capital Ownership Development; and the Director of the Size Standards Staff. In the event the Vice Chairperson acts as Chairperson in the stead of the Deputy Administrator, the Director of the Office of Procurement and Technical Assistance shall become a member of the Board. Each member shall designate one alternate in writing to act in his stead, and in the event of an emergency, the Chairperson may designate a temporary additional alternate for any member. Each member or his alternate shall have one vote except that the Chairperson or the Vice Chairperson acting in his stead shall vote only in the event of a tie.

(b) *Method of appeal.*—(1) Who may appeal. An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern and whose protest has been denied by a regional director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a regional director or his delegatee or by the Associate Administrator for Finance and Investment;

(iii) Any concern or other interested party which has been adversely affected by a decision of a contracting officer regarding product classification; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) *Where to appeal.* Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Time for appeal.*—(i) An appeal from a size determination or product classification by a regional director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement must be within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned. Appeals from a size determination in a pending Government property sale must be within 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending sale is concerned. An appeal received after the time limits set forth herein shall be acted on, but such determination shall not apply to the procurement or sale in question.

(ii) An appeal from a contracting officer's designation of the Standard Industrial Classification industry into which the product or service being procured is classified, and/or the Small Business Administration size standard applicable thereto may be taken:

(A) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or

(B) Not less than 5 days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal shall be determined by the time of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limit has expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) *Appeal.* No particular form is prescribed for the appeal. However, the appellant shall submit to the Board an original and one legible copy of such appeal. A copy of the appeal shall be simultaneously sent by the appellant to the contracting officer, if applicable, and also a simultaneous copy to the appropriate Regional Office. The appeal should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name, address, and telephone number of the contracting officer;

(iv) A full and specific statement of the reasons why the decision of a regional director, or his delegatee, the contracting officer or the Associate Administrator for Finance and Investment is alleged to be erroneous;

(v) Arguments in support of such allegations; and

(vi) Action sought by the appellant.

Appeals must set forth specifically the alleged ground of material error in the original classification or size determination. The Board generally will not review issues or evidence not previously presented to the SBA office making the original size determination unless such review is determined to be necessary to prevent manifest injury to a party not due to any fault or omission of such party.

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate regional director or his delegatee and to the contracting officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of appellant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with one legible copy thereof, as to why the appeal should or should not be denied. Such statements shall be mailed or delivered to the Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within 5 calendar days of the receipt of appropriate notification of appeal or other action in the proceeding. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.*—(1) The Size Appeals Board shall consider the appeal on the written submission of the parties. The Board may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision. Time limitations on all submissions will be strictly applied. Late submissions and submissions additional to those provided for in the regulation or requested by SBA may be disregarded by the Board to avoid delay in disposition of the case. If deemed necessary the Board may request additional specific information from the parties or other persons. In the case of refusal or failure to promptly furnish such information, the Board may assume that disclosure would be contrary to the interests of the party failing to make such disclosure.

(2) Procedures in oral inquiries. In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) *Decision of the Size Appeals Board.* The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) *Reconsiderations.*—(1) Following a decision by the Size Appeals Board that a firm and its affiliates are not small business within an applicable size standard, any such firm or affiliate may petition the Size Appeals Board for reconsideration upon presentation of appropriate justification therefor. Such petition must be received by the Size Appeals Board within 10 business days following receipt by the firm of the formal written Findings and Decision of the Board. The Findings and Decision of the Board will be prepared and forwarded to the parties within a short period of time following the Board's determination. The petition for reconsideration may be in any form, with an original and one copy. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Chairperson shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Chairperson, in his discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant facts not previously considered by the Board and not previously available to the petitioner;

(iii) When a request for reconsideration is made, the petitioning firm must demonstrate that the grounds for reconsideration involve facts which were not previously presented to the Board through no fault or omission of such party.

(4) If the Chairperson denies the request for reconsideration, he shall notify all parties. If the request for reconsideration is granted by the Chairperson, he shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

(h) The following may be summarily dismissed by the Chairperson:

(1) Untimely appeals and untimely petitions for reconsideration;

(2) Appeals not setting forth specifically the alleged grounds of

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material error in the initial size or classification determination;

(3) Appeals not within the Board's jurisdiction;

(3) Appeals where the allegation of error has no apparent ground of support in either the record before the Board or under the Regulations of this Part 121;

(5) Appeals on product or service classification/size standard determinations where the contract in question has already been awarded;

(6) Petitions for reconsideration which do not specify material errors of fact in the factual findings and conclusions of the Board's decision or do not specify relevant facts not previously presented to SBA through no fault or omission of the petitioning party; and

(7) Appeals primarily based upon issues or evidence that appellant had unreasonably failed to present to the SBA field office and there is no explanation for this failure. Failure to meet time limitations in making submissions to SBA field offices generally would not be a reasonable explanation.

Such summary dismissal by the Chairperson shall be final insofar as the pending procurement or sale is concerned. The Chairperson shall also refer size determination appeals dismissed solely by reason of untimeliness to the Board for a decision as regards eligibility for future procurements, sales, or other small business assistance. He shall not, however, refer to the Board untimely appeals from a product or service classification or size standard determination. The parties and other interested persons shall be promptly notified of the Chairperson's action and the basis thereof.

§ 121.12 Small business for paying reduced Patent fees under Title 35, U.S.C.

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S.C. 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, N.W., Washington, D.C. 20416 [Attention: SBA Office of General Counsel]. The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: March 4, 1983.

James G. Sanders,

Administrator.

[FR Doc. 83–11794 Filed 5–5–83; 8:45 am]

BILLING CODE 8025–01–M

federal register

Friday
May 6, 1983

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Delaware:	DE83–3014.
Minnesota:	MN83–2038.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA82–5112	July 16, 1982.
CA82–5120	Aug. 27,1982.
Colorado:	
CO83–5109	Apr. 8, 1983.
Delaware:	
DE82–3015	June 4, 1982.
Iowa:	
IA83–4022	Mar. 11, 1983.
Dist. of Columbia, Maryland and Virginia:	
DC82–3031	Nov. 12, 1982.
Kentucky:	
KY82–1053	Oct. 1, 1982.
KY82–1054	Oct. 1, 1982
KY82–1055	Oct. 1, 1982.
Louisiana:	
LA82–4021	May 1, 1982.
LA83–4019	Feb. 4, 1983.
LA82–4053	Nov. 5, 1982.
New Mexico:	
NM83–4032	Apr. 15, 1983.
New York:	
NY83–3003	Mar. 25, 1983.
Rhode Island:	
RI–3042	Aug. 15, 1981.
North Dakota:	
ND81–5131	July 6, 1981.
Virginia:	
VA82–3034	Dec. 3, 1982.
VA82–3033	Dec. 3, 1982.
VA82–3035	Dec. 3, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL82–1034 (AL83–1036)	July 30, 1982.
AL82–1035 (AL83–1036)	July 30, 1982.
AL82–1036 (AL83–1037)	July 30, 1982.
AL82–1037 (AL83–1039)	July 30, 1982.
Indiana:	
IN80–2062 (IN 83–2030)	Sept. 26, 1980.
Oklahoma:	
OK83–4027 (OK83–4034)	Apr. 8, 1983.
Pennsylvania:	
PA80–3059 (PA83–3009)	Oct. 3, 1980.

Signed at Washington, D.C. this 29th day of April 1983.

Dorothy P. Come,

Assistant Administrator Wage and Hour Division.

BILLING CODE 4510–27–M

NEW DECISION

STATE: Delaware
DECISION NO.: DE83-3016
DESCRIPTION OF WORK: Highway Construction.

COUNTIES: State of Delaware
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION:		
BRICKLAYERS	$11.40	2.05
CARPENTERS	10.93	1.10
CEMENT MASONS	13.00	1.65+a
ELECTRICIANS		3+%
IRONWORKERS	12.95	2.75
LABORERS	6.69	
POWER EQUIPMENT OPERATORS:		
ASPHALT PAVER	11.70	19.15%a
ASPHALT SPREADER	11.70	19.15%a
BACKHOES, CRANES	12.57	19.15%a
BULLDOZERS	11.70	19.15%a
GRADALL	12.57	19.15%a
LOADERS	11.70	19.15%a
MOTOR PATROL/GRADER	11.70	19.15%a
ROLLERS	10.93	19.15%a
TRUCK DRIVERS	9.11	2.20%+b

WELDERS - Rate of Craft

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day plus Election Day, provided the employee works the schedule work day before and after the holiday.

b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee has worked the schedule work day preceding and following the holiday.

"Collected classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a) (1) (ii)).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:	$17.35	$1.44
AREA 1;	13.17	1.30
AREA 2	17.08	3.00
AREA 3	15.70	2.13
AREA 4	16.12	2.825
BOILERMAKERS	14.73	1.70
BRICKLAYERS; Stonemasons:	17.43	1.10
AREA 1	14.84	.50
AREA 2	16.88	2.69
AREA 3	16.84	.50
AREA 4	17.185	1.20
AREA 5	14.20	.50
AREA 6	16.44	1.70
AREA 7	16.44	1.50
AREA 8	16.89	.50
AREA 10	13.24	.50
AREA 12	16.51	1.50
AREA 13	17.04	1.20
AREA 16		
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:		
AREA 1;		
Carpenters; Piledrivermen; & Soft Floor Layers	15.04	1.00
AREA 2:		
Carpenters; Soft Floor Layers	14.44	1.40
AREA 3:		
Carpenters; Soft Floor Layers	13.15	.70
AREA 4:		
Carpenters	13.50	1.60
AREA 5:		
Carpenters	15.00	.60
AREA 6:		
Carpenters	11.20	.30
AREA 7:		
Carpenters	13.00	.85
AREA 8:		
Carpenters; Piledrivermen	14.36	3.10
CARPENTERS (CONT'D):		
AREA 9:	$16.53	$2.77
Soft Floor Layers		
AREA 10:	11.99	.91
Carpenters		
AREA 11:	14.97	
Carpenters		
AREA 12:	15.00	2.10
Carpenters; Soft Floor Layers		
AREA 13:	14.95	1.60
Carpenters; Soft Floor Layers		
AREA 14:	16.71	
Carpenters; Soft Floor Layers		
AREA 15:	15.45	1.05
Carpenters; Soft Floor Layers		
AREA 16:	12.10	1.00
Carpenters		
AREA 17:		
Carpenters; Millwrights; & Soft Floor Layers	14.35	.70
AREA 18:		
Carpenters; East Portion	16.67	.85
West Portion	14.12	.85
AREA 19:		
Carpenters; Millwrights; & Piledrivermen	15.53	.70
AREA 20:		
Carpenters	11.45	
AREA 21:		
Carpenters; Soft Floor Layers	13.00	1.60
Millwrights	15.54	1.60
AREA 22:		
Carpenters	12.68	.82
AREA 23:		
Carpenters; Soft Floor Layers	15.53	1.20

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
AREA 21:		
Brush	$10.95	0.77
Sandblasters; Spray; Steel	11.70	.77
AREA 31:		
Brush	10.98	1.59
Tapers	12.67	1.59
Sandblasters; Spray; Steel	11.88	1.59
Sanders	9.35	1.59
AREA 41:		
Brush; Drywall Finishers; & Paperhangers	13.12	1.82
Drywall Sander	11.34	1.82
Sandblasters; Spray; Steel	12.82	1.82
AREA 51:		
Brush; Roller	13.32	1.35
Drywall Tapers & Finishers	13.32	1.35
Paperhanging; Sandblasters; Spray; Steel	16.07	1.35
AREA 61:		
Brush; Roller	13.95	1.47
Drywall Sander	10.85	1.47
Drywall Finisher	14.05	1.47
Sandblasting; Steel	14.20	1.47
Sandblasting; Spray	14.45	1.47
AREA 71:		
Brush; Roller; Wallpaper	16.16	2.33
Sandblast; Spray; Steel	16.91	2.33
Finishers & Tapers	17.11	1.37
Sanders	12.83	1.37
AREA 81:		
Brush	14.61	1.33
Paperhangers; Spray; Steel & Tapers	15.21	1.33
PIPEFITTERS; Plumbers; & Steamfitters:		
AREA 1	15.28	2.42
AREA 2	15.62	2.54
AREA 3	15.80	3.30
AREA 4	16.37	3.43
AREA 5:		
Electricians	14.32	3.44
Cable Splicers	14.60	3.38
AREA 6:		
Electricians	15.75	4.80
Cable Splicers	14.40	3.34
AREA 7:	14.60	3.38
AREA 8:		
Electricians	15.53	5.02
Cable Splicers	14.44	5.19
AREA 9:		
Electrical Installations over $75,000.00	15.75	3.45
Electrical Installations under $75,000.00	13.31	3.12
ROOFERS:		
AREA 11:	$13.83	$3.05
Roofers	13.38	3.05
Kettlemen	11.90	3.05
AREA 21:		
Roofers	9.60	2.33
AREA 31:	9.34	2.33
1st Roofer	13.07	1.48
2nd Roofer	11.28	2.10
AREA 4:	13.25	2.10
AREA 5:	12.62	1.38
AREA 6:		
SHEET METAL WORKERS:		
AREA 1	15.15	3.41
AREA 2	16.01	1.72
AREA 3	15.57	2.99
AREA 4	11.94	2.48
AREA 5	13.68	1.17
AREA 6	15.19	2.37
AREA 7	14.28	2.36+d
AREA 9	14.88	1.43+d
AREA 10	19.66	2.20
SPRINKLER FITTERS	16.47	2.83
TERRAZZO WORKERS	14.32	.89
TERRAZZO WORKERS' FINISHERS	17.67	.65
TILE SETTERS:		
AREA 1	16.78	1.72
AREA 2	17.25	1.38+e
TILE SETTERS' FINISHERS	14.63	
TRUCK DRIVERS		
Group 1: Boom Truck Op.; Ready-Mix; Tractor Trailer	14.90	2.10
Group 2: Ready-Mix; Tractor Trailer	14.55	2.10
Group 3: Mechanic; Fork Lift Op.; 6 Tandem or 3 Axle	14.45	2.10
Group 4: Farm Tractor; Single or 2 Axle; 6 Dumpman	13.60	2.10
AREA 2	10.10	
AREA 3	9.20	
AREA 4	10.75	
AREA 5	14.00	
AREA 6	11.25	
AREA 7	12.95	1.10
AREA 9	8.90	
AREA 10	10.40	
AREA 11	12.80	
LANDSCAPERS	6.80	1.10

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	Basic Hourly Rates	Fringe Benefits
CARPENTERS (CONT'D):		
AREA 24:		
Carpenters; Soft Floor Layers	$15.32	$1.40
AREA 25:		
Millwrights	16.86	3.12
CEMENT MASONS; Plasterers:		
AREA 1:		
Cement Masons	12.645	.40
AREA 2:		
Plasterers	12.50	.83
AREA 3:		
Cement Masons	17.10	1.10
AREA 5:	16.10	.50
AREA 6:		
Cement Masons	17.03	2.02
AREA 7:		
Plasterers	14.05	3.72
AREA 8:	13.75	
Cement Masons	16.10	.50
AREA 9:		
Cement Masons	15.65	1.20
Plasterers	17.10	
AREA 10:		
Cement Masons	16.70	.50
AREA 11:		
Cement Masons	17.85	.50
AREA 12:		
Cement Masons	16.10	1.50
AREA 13:		
Plasterers	14.90	2.87
AREA 14:		
Cement Masons	16.70	.01
Plasterers	14.75	
AREA 15	16.10	.50
AREA 17:	12.45	
Cement Masons	16.70	
ELECTRICIANS:		
AREA 1:	15.75	4.80
Electricians	14.40	3.34
Cable Splicers	14.60	3.38
AREA 3:		
Electricians	15.53	5.02
Cable Splicers	14.44	5.19
AREA 4:		
Electrical Installations over $75,000.00	15.75	3.45
Electrical Installations under $75,000.00	13.31	3.12
ELECTRICIANS (CONT'D):		
AREA 5:	$16.80	$3.33
Electricians	16.95	3.37
Cable Splicers		
AREA 6:		
Electrical Installations over $75,000.00	15.75	3.45
Electrical Installations under $75,000.00	12.53	3.01
AREA 7:		
Electricians	14.00	3.30
Cable Splicers	14.40	3.34
AREA 8:		
Electricians	12.30	3.28
Cable Splicers	13.56	3.41
AREA 9:		
Electrical Installations over $75,000.00	15.75	3.45
Electrical Installations under $75,000.00	12.58	3.02
AREA 10:		
Electricians	17.76	4.75
Cable Splicers	18.26	4.88
ELEVATOR CONSTRUCTORS:		
Chisamore & Iannti Cos.:		
Mechanic	16.43	2.465%+ 4%
Helpers	70%JR	2.465%+ 4%
Helpers (Prob.)	50%JR	
GLAZIERS:		
AREA 1	15.00	1.31
AREA 2	14.90	
AREA 3	15.36	.30
AREA 4	11.20	
IRONWORKERS:		
AREA 1	15.22	3.22
AREA 2	17.25	2.35
AREA 3	14.13	2.46
AREA 4	14.64	1.79%
LATHERS; Drywall Hangers:		
AREA 1	14.13	3.44
MARBLE SETTERS	17.30	1.79
PAINTERS:		
AREA 1:		
Brush	11.95	1.59
Tapers	13.67	1.59
Sandblasters; Spray; Steel	12.91	1.59
Sanders	9.33	

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
AREA 1:		
Group 1	$10.10	$1.25
Group 2	10.25	1.25
Group 3	10.30	1.25
Group 4	10.70	1.25
AREA 2:		
Group 1	9.20	.75
Group 2	9.30	.75
Group 3	9.40	.75
AREA 3:		
Group 1	10.75	1.25
Group 2	10.90	1.25
Group 3	11.15	1.25
Group 4	11.35	1.25
AREA 4:		
Group 1	14.00	2.60
Group 2	14.15	2.60
Group 3	14.40	2.60
Group 4	14.70	2.60
AREA 5:		
Group 1	11.25	1.15
Group 2	11.40	1.15
Group 3	11.65	1.15
Group 4	11.85	1.15
AREA 6:		
Group 1	13.25	1.45
Group 2	13.40	1.45
Group 3	13.65	1.45
Group 4	13.95	1.45
AREA 7:		
Group 1	8.90	.95
Group 2	9.00	.95
Group 3	9.25	.95

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
AREA 8:		
Group 1	$9.20	$.75
Group 2	9.30	.75
Group 3	9.40	.75
AREA 9:		
Group 1	10.40	.65
Group 2	10.50	.65
Group 3	10.60	.65
Group 4	10.65	.65
Group 5	10.75	.65
Group 6	10.80	.65
AREA 10:		
Group 1	12.80	.95
Group 2	12.85	.95
Group 3	12.90	.95
Group 4	12.95	.95
Group 5	13.05	.95
Group 6	13.10	.95
Group 7	13.15	.95
POWER EQUIPMENT OPERATORS:		
Class 1	19.34	2.15
Class 2	19.00	2.15
Class 3	18.20	2.15
Class 4	17.59	2.15
Class 5	17.25	2.15
Class 6	17.08	2.15
Class 7	15.57	2.15
Class 8	14.45	2.15
Class 9	13.89	2.15

FOOTNOTES:
a. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; & Christmas Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employees who have worked in the business more than 3 years; 6% for employees who have worked in business less than 3 years
c. 1 Paid Holiday: Labor Day
d. 3% of gross earnings to SAEMI
e. 2 Weeks' Paid Vacation

AREA DESCRIPTIONS

ASBESTOS WORKERS:
AREA 1: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Lake of the Woods, Pine, Roseau & Wadena Cos.
AREA 2: Becker, Clay, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, & Red Lake Cos.
AREA 3: Big Stone, Chisago, Cottonwood, Dodge, Douglas, Goodhue, Grant, Isanti, Lac Qui Parle, LeSueur, Lyon, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Pope, Redwood, Renville, Rice, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Waseca, Winona, Wright & Yellow Medicine Cos.
AREA 4: Jackson, Lincoln, Murray & Nobles Cos.

AREA DESCRIPTIONS (CONT'D)

BRICKLAYERS & STONEMASONS:
AREA 1: Aitkin (E ½) & Pine Cos.
AREA 2: Aitkin (W ½), Becker, Beltrami, Cass, Clay, Clearwater, Crow Wing, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Mille Lacs (N. of an E-W extension of the northern border of Isanti Co.), Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau & Wadena Cos.
AREA 3: Big Stone, Lac Qui Parle, Lincoln, Lyon, Redwood, Renville & Yellow Medicine Cos.
AREA 4: Chisago, Isanti, Mille Lacs (S. of an E-W extension of the northern border of Isanti Co.) & Wright Cos.
AREA 5: Cottonwood, Jackson, Murray & Nobles Cos.
AREA 6: Dodge & Wabasha (S. of a line running E & W on Hwy #247) Cos.
AREA 7: Douglas, Grant, Morrison, Todd, Traverse & Wilkin Cos.
AREA 8: Goodhue (E. part, inclu. Bellechester, Frontenac, Goodhue, Harrishey Creek, Pine Island, Red Wing, Vasswelch, Whiterock & Zumbrota) & Wabasha (N. of a line running E & W on Hwy #247) Cos.
AREA 9: Goodhue (W. part, exclu. Bellechester, Frontenac, Goodhue, Harrishey Creek, Pine Island, Red Wing, Vasswelch, Whiterock & Zumbrota), Rice & Steele (N ½) Cos.
AREA 10: LeSueur, Nicollet & Sibley Cos.
AREA 11: McLeod, Meeker & Swift Cos.
AREA 12: Pope & Stevens Cos.
AREA 13: Steele (S ½) & Waseca Cos.
AREA 14: Winona Co.
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS:
AREA 1: Aitkin (Jacobson) Co.
AREA 2: Aitkin (N ½) & Cass (NE Section) Cos.
AREA 3: Aitkin (S 3/4), Cass (Exclu. NE & NW portions), Crow Wing, Hubbard (Exclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby), Mille Lacs (N. part, inclu. cities of Opstead & Vineland), Todd (N ½), & Wadena Cos.
AREA 4: Becker, Clay (Except Moorhead), Otter Tail & Wilkin Cos.
AREA 5: Beltrami, Cass (NW portion), Clearwater, & Hubbard (N. part, inclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby) Cos.
AREA 6: Big Stone (N ½), Douglas, Grant, Pope, Stevens, & Traverse Cos.
AREA 7: Big Stone (S ½), Lac Qui Parle, McLeod (W. part), Meeker, Renville (N ½), Swift & Yellow Medicine Cos.
AREA 8: Chisago, Isanti, McLeod (E. part), Mille Lacs (SE part, inclu. cities of Bock, Long Siding, & Princeton), Pine (S. part, inclu. cities of Beroun, Brook Park, Henriette, Pine City, Rock Creek & W. Rock), Sibley (NE edge), & Wright (Exclu. NW part) Cos.
AREA 9: Chisago & Isanti Cos.
AREA 10: Clay (City of Moorhead & a radius of 5 miles NE & S of the city limits) Co.
AREA 11: Cottonwood, Jackson, Lincoln, Lyon, McLeod (S. tip), Murray, Nicollet (W. part, inclu. cities of Courtland, Klossner & Lafayette), Nobles, Redwood, Renville (S ½), & Sibley (W 2/3) Cos.
AREA 12: Dodge (NE part, inclu. cities of Burns, Concord, Dodge Center, Kasson, & Mantorville), Goodhue (city of Pine Island) & Wabasha (Exclu. NW part & cities of Kellogg, Minneska & Weaver) Cos.
AREA 13: Dodge (NW part, inclu. cities of Claremont & W. Concord), Goodhue (cities of Dennison, Kenyon, Skyberg, Soga, Stanton, & Wanga), LeSueur (E. part, inclu. cities of Elysian, Lexington, Montgomery, New Prague, St. Thomas, & Waterville), Rice, Steele (N. part, exclu. Blooming Prairie & Ellendale) & Waseca (exclu. Smiths Mill, Matawan & New Richland) Cos.
AREA 14: Dodge (S. portion, includes cities of Hayfield & Gale), & Steele (SE tip, inclu. Blooming Prairie) Cos.
AREA 15: Goodhue (Exclu. city of Pine Island & Dennison, Kenyon, Skyberg, Soga, Stanton & Wanga) & Wabasha (NW part, inclu. Lake City, Wabasha, Zumbrota & Cannon Falls) Cos.
AREA 16: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk (Exclu. E. Grand Forks & an area 5 miles outside city limits), Red Lake & Roseau Cos.
AREA 17: Lake of the Woods Co.

AREA DESCRIPTIONS (CONT'D)

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS (CONT'D):
AREA 18: LeSueur (W. part, inclu. cities of Cleveland, Kasota, LeCenter, LeSueur & Ottawa), Nicollet (E. part, inclu. cities of New Sweden, Nicollet, Norseland, N. Mankato, & St. Peter), Sibley (SE Tip), Waseca (NW Tip, inclu. Smiths Mill) Cos.
AREA 19: Mille Lacs (SW part, inclu. cities of Foreston, Milaca, & Pease) & Wright (NW part) Cos.
AREA 20: Mille Lacs (Central part, inclu. cities of Cove, Isle, Onamia, & Waukon), Morrison, & Todd (S ½) Cos.
AREA 21: Pine (N. part, exclu. cities of Beroun, Brook Park, Henriette, Pine City, Rock Creek, & W. Rock) Co.
AREA 22: Polk (E. Grand Forks & an area 5 miles outside city limits) Co.
AREA 23: Steele (SW Tip, inclu. Ellendale) & Waseca (S. part, inclu. Matawan & New Richland) Cos.
AREA 24: Wabasha (Kellogg, Minneska & Weaver) & Winona Cos.
AREA 25: All aforementioned areas, except 17, 19 & 21
CEMENT MASONS; PLASTERERS:
AREA 1: Aitkin (E ½) & Pine (N 2/3, inclu. Sandstone & Hinckley) Cos.
AREA 2: Aitkin & Pine (N ½) Cos.
AREA 3: Aitkin (W ½), Becker, Beltrami, Cass, Clay, Crow Wing, Hubbard, Otter Tail & Wadena Cos.
AREA 4: Big Stone, Lac Qui Parle, Lincoln, Lyon, Redwood, Renville & Yellow Medicine Cos.
AREA 5: Chisago, Isanti, McLeod, Mille Lacs, Pine (S. of the Northern boundaries of Dell Grove, Sandstone & Danforth Twps.), Sibley & Wright Cos.
AREA 6: Chisago & Pine (S ½) Cos.
AREA 7: Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau Cos.
AREA 8: Cottonwood, Jackson, Murray & Nobles Cos.
AREA 9: Dodge (E. of a line running N & S of Dodge Center) Co.
AREA 10: Dodge (W. of a line running N & S of Dodge Center), LeSueur (E ½), Rice, Steele, & Waseca (E 2/3) Cos.
AREA 11: Douglas, Grant, Morrison, Todd, Traverse, & Wilkin Cos.
AREA 12: Goodhue & Wabasha (N. of a line running E & W on Hwy #247) Cos.
AREA 13: Isanti, Mille Lacs, Sibley & Wright Cos.
AREA 14: LeSueur (W 3/4), Nicollet & Waseca (W 1/3) Cos.
AREA 15: Meeker & Swift Cos.
AREA 16: Pope & Stevens Cos.
AREA 17: Wabasha (E. to Junction of Minn. Hwy #60, then E. to Mississippi River) & Winona Cos.
ELECTRICIANS:
AREA 1: Aitkin, Cass (S 2/3), Crow Wing, Hubbard (S ½, exclu. Becida, Guthrie, Lake George, Laporte, Nary & Rosby), Mille Lacs (N. part, includes cities of Cove, Isle, Onamia, Opstead, Vineland & Waukon), Morrison, Pine (N. part, inclu. Sandstone & Hinckley Twps.), Todd & Wadena Cos.
AREA 2: Becker, Clay, Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau Cos.
AREA 3: Beltrami, Cass (N. 1/3), Clearwater, Hubbard (N. part, inclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby), & Lake of the Woods Cos.
AREA 4: Big Stone, Cottonwood, Jackson, Lac Qui Parle, LeSueur (W 1/3), Lincoln, Lyon, McLeod, Meeker, Nicollet, Pope, Redwood, Renville, Sibley, Stevens, Swift, Waseca, Wright (W 2/3), & Yellow Medicine Cos.
AREA 5: Chisago, Goodhue (W. of Belle Creek, Minneola, Roscoe, & Vasa Twps.), Isanti, LeSueur (E. of Cleveland, Sharon, Tyrone & Washington Twps.), Mille Lacs (S. of Bradbury, Lewis & Onamia Twps.), Pine (S. of Arlone, Barry, Clover, Hinckley & Omaga Twps.) & Rice Cos.
AREA 6: Dodge, Goodhue (E. part, inclu. Cannon Falls, Red Wing, Zumbrota & Pine Island), Steele & Wabasha Cos.
AREA 7: Douglas, Grant, Otter Tail, Traverse & Wilkin Cos.
AREA 8: Murray & Nobles Cos.
AREA 9: Winona Co.
AREA 10: Wright (E 1/3) Co.

AREA DESCRIPTIONS (CONT'D)

GLAZIERS:
AREA 1: Chisago, Isanti, McLeod, Pine, Sibley & Wright Cos.
AREA 2: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Steele & Yellow Medicine Cos.
AREA 3: Dodge, Goodhue, Wabasha & Winona Cos.
AREA 4: LeSueur, Nicollet, Rice & Waseca Cos.
IRONWORKERS:
AREA 1: Aitkin, Becker, Beltrami, Cass, Clearwater, Crow Wing (Exclu. SW portion), Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Mille Lacs (N part, includes cities of Cove, Isle, Onamia, Opstead, Vineland & Waukon), Norman, Otter Tail (NE part, includes cities of Butler, Hillview, Luce & Vergas), Pennington, Pine (N. part, exclu. cities of Henriette, Pine City, Rock Creek & W. Rock), Polk, Red Lake, Roseau, Wabasha, & Wadena (N. of city of Wadena) Cos.
AREA 2: Big Stone, Chisago, Cottonwood, Crow Wing (SW portion), Dodge, Douglas, Goodhue, Grant, Isanti, Lac Qui Parle, LeSueur, Lincoln, Lyon, McLeod, Meeker, Mille Lacs (S. part, includes cities of Rock, Foreston, Long Siding, Milaca, Pease & Princeton), Morrison, Nicollet, Otter Tail (Exclu. cities of Butler, Hillview, Luce & Vergas), Pine (S. part, includes the cities of Henriette, Pine City, Rock Creek, & W. Rock), Pope, Redwood, Renville, Rice, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena (city of Wadena & S. to county line), Waseca, Winona, Wright & Yellow Medicine Cos.
AREA 3: Clay & Wilkin Cos.
AREA 4: Jackson, Murray & Nobles Cos.
LATHERS & DRYWALL INSTALLERS:
AREA 1: Becker (Exclu. NE section), Big Stone, Chisago, Clay, Crow Wing (S ½), Douglas, Goodhue (exclu. S 1/3), Grant, Isanti, LeSueur, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Otter Tail, Pine (S 1/3, exclu. Hinckley), Pope, Renville, Rice, Sibley, Stevens, Swift, Todd, Traverse, Wabasha (N. part, inclu. Lake City), Wadena (portion S. of a line drawn from Becker-Hubbard-Wadena Co. line to Cass-Todd-Wadena Co. line), Waseca (NW section, inclu. Jamesville), Wilkin & Wright Cos.
PAINTERS:
AREA 1: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Lake of the Woods, Morrison (N. part, exclu. Little Falls), Todd & Wadena Cos.
AREA 2: Becker, Clay, Grant, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau & Wilkin Cos.
AREA 3: Big Stone, Douglas, Meeker, Mille Lacs, Morrison (S. part, inclu. Little Falls), Pope, Stevens, Swift,& Traverse Cos.
AREA 4: Chisago & Pine (S 1/3, inclu. Pine City) Cos.
AREA 5: Cottonwood, Jackson, Lac Qui Parle, LeSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Renville, Rice, Sibley, Steele, Waseca & Yellow Medicine Cos.
AREA 6: Dodge, Goodhue, Wabasha & Winona Cos.
AREA 7: Isanti, McLeod & Wright Cos.
AREA 8: Pine (N 2/3, exclu. Pine City) Co.
PIPEFITTERS; PLUMBERS; & STEAMFITTERS:
AREA 1: Aitkin, Becker, Beltrami, Cass (S. ½), Clay (Exclu. city of Moorhead), Clearwater, Crow Wing, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk (exclu. city of E. Grand Forks), Red Lake, Roseau, Traverse, Wadena & Wilkin Cos.
AREA 2: Big Stone, Lac Qui Parle, Meeker, Morrison, Pope, Stevens, Swift, Todd & Yellow Medicine Cos.
AREA 3: Cass (N ½) Co.
AREA 4: Chisago & Goodhue (N ½) Cos.
AREA 5: Clay (City of Moorhead) & Polk (city of E. Grand Forks) Cos.
AREA 6: Cottonwood, Jackson, LeSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Renville & Sibley Cos.
AREA 7: Dodge, Goodhue (S ½), Rice, Steele, Wabasha, Waseca & Winona Cos.

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AREA DESCRIPTIONS (CONT'D)

PIPEFITTERS; PLUMBERS; & STEAMFITTERS (CONT'D):
AREA 8: Isanti, McLeod, Mille Lacs & Wright Cos.
AREA 9: Pine Co.
ROOFERS:
AREA 1: Aitkin Co.
AREA 2: Becker, Clay, Grant, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, Traverse & Wilkin Cos.
AREA 3: Beltrami, Clearwater & Lake of the Woods Cos.
AREA 4: Cass, Douglas, Hubbard, Isanti (N. of St. Hwy #95, exclu. city of Cambridge), Mille Lacs, Morrison, Pine, Pope, Stevens, Todd, Wadena & Wright (N. of Wright Co. Rd. #39, from S. Haven to Monticello, inclu. both towns) Cos.
AREA 5: Chisago, Goodhue, Isanti (S. of St. Hwy #95, inclu. city of Cambridge), LeSueur, McLeod, Nicollet, Rice, Sibley, Wabasha & Wright Cos.
AREA 6: Crow Wing Co.
AREA 7: Dodge, Steele, Waseca & Winona Cos.
SHEET METAL WORKERS:
AREA 1: Aitkin Co.
AREA 2: Becker, Douglas, Grant, Mahnomen, Mille Lacs, Morrison, Otter Tail, Pope, Stevens, Todd & Traverse Cos.
AREA 3: Beltrami, Clearwater & Lake of the Woods Cos.
AREA 4: Big Stone, Lac qui Parle, Meeker (W ½), Renville, Swift & Yellow Medicine Cos.
AREA 5: Cass, Crow Wing, Hubbard & Wadena Cos.
AREA 6: Chisago, Isanti, Pine & Rice Cos.
AREA 7: Clay, Norman & Wilkin Cos.
AREA 8: Cottonwood, Dodge, Goodhue, Jackson, LaSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Steele, Wabasha, Waseca & Winona Cos.
AREA 9: Kittson, Marshall, Pennington, Polk, Red Lake & Roseau Cos.
AREA 10: McLeod, Meeker (E ½), Sibley & Wright Cos.
TILE SETTERS:
AREA 1: Dodge & Wabasha (Cities of Plainview & Elgin S. of a line E & W on Hwy #247) Cos.
AREA 2: Remaining Counties & Remainder of Wabasha Co.
TRUCK DRIVERS:
AREA 1: Chisago (S ½) & Wright Cos.
AREA 2: Aitkin, Cass (S. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Crow Wing, Morrison, Todd & Wadena Cos.
AREA 3: Becker, Big Stone, Clay, Otter Tail, Traverse & Wilkin Cos.
AREA 4: Beltrami, Cass (N. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Clearwater & Hubbard Cos.
AREA 5: Chisago (N ½), Isanti & Pine Cos.
AREA 6: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Renville & Yellow Medicine Cos.
AREA 7: Dodge, Goodhue, LeSueur, McLeod, Nicollet, Rice, Sibley, Steele, Wabasha, Waseca & Winona Cos.
AREA 8: Douglas, Grant, Meeker, Pope, Stevens & Swift Cos.
AREA 9: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake & Roseau Cos.
AREA 10: Lake of the Woods Co.
AREA 11: Mille Lacs Co.
LABORERS:
AREA 1: Aitkin, Cass (S. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Crow Wing, Morrison, Todd & Wadena Cos.
AREA 2: Becker, Big Stone, Clay, Otter Tail, Traverse & Wilkin Cos.
AREA 3: Beltrami, Cass (N. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Clearwater & Hubbard Cos.

AREA DESCRIPTIONS (CONT'D)

LABORERS (CONT'D):
AREA 4: Chisago, Isanti, Pine & Wright Cos.
AREA 5: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Renville & Yellow Medicine Cos.
AREA 6: Dodge, Goodhue, LeSueur, McLeod, Nicollet, Rice, Sibley, Steele, Wabasha, Waseca, & Winona Cos.
AREA 7: Douglas, Grant, Meeker, Pope, Stevens & Swift Cos.
AREA 8: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake & Roseau Cos.
AREA 9: Lake of the Woods Co.
AREA 10: Mille Lacs Co.

LABORERS CLASSIFICATIONS FOR AREAS 1, 3, 4, 5 & 6:
Group 1: General; Carpenter Tender; Concrete; Damp Proofer below grade; Drill Runner Tender; Dumpman - dirt, asphalt, concrete, cement; Heater Tender; Hot Tar Caulker - corker; Joist Handler; Material Handler - all types Power Buggy; Rebar; Snow Blower Operator; & Tool Crib Checker
Group 2: Chain Saw Operator; Concrete Saw, Drill Operator; Concrete Vibrator; Demolition & Wrecking excluding remodeling; Mason Tender; Mortar Mixer - cement or any other substitute material or composition; Pipe Handler; Pneumatic & Electric Tools, Jackhammer, Paving Buster, Chipping Hammer, Tamper Operator, etc.; Swing Stage Line Scaffold (not including "patent" Scaffolding); & Torchman - gas, electric, thermal or similar device
Group 3: Caisson Work; Nozzle Operator - Gunite, Cement, Sandblasting; Pipelayer; Refractory Worker; Sheeting Setter & Drivers, Heavy Building Excavation; Underground Work - open ditch or excavation 8' below grade; & Underpinning
Group 4: Driller for Blasting purposes; Dynamite Blasters or substitute products Tovex TR, water, gas, gel, bristar, silent Dynamite, etc.
LABORERS CLASSIFICATIONS FOR AREA 2:
Group 1: Laborers; Concrete Bucket Men
Group 2: Power Tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer Tender; Mortar Mixer
Group 3: Hod Carriers; Non-metallic Pipe Layer; Gas Line Wrapping and Taping (distribution only); Cutting Torch for Demolition
LABORERS CLASSIFICATIONS FOR AREA 7:
Group 1: Common; Damp Proofer below grade; & Power Buggy Operator
Group 2: Air Tool Operator; Automatic Tamper Operator; Concrete Saw - Core Drill; Dumpman; Laborer on Rope Swing Scaffold, but not including Safety Scaffold; Mason Tender; Man Handling Cement 2 hours or more per day; Mixers of Mortar, Cement, or any other substitute materials or composition; Operator of Concrete Vibrator; Torchmen Demolition; & Underground work, Caisson Work, Cofferdam Work, Tunnel Work, House Moving & Underpinning Work, including Sheeting Setters & Drivers of Heavy Building Excavation (all work 8 ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide (Not Applicable to Air Pressure Work)
Group 3: Nozzlemen
LABORERS CLASSIFICATIONS FOR AREA 8:
Group 1: Laborers; Concrete Bucket Man

Group 2: All power tools (air, gas, and electric); Operators of tools that come under the Laborers' jurisdiction; Brick, Plaster and Finisher Tender; Sandblaster and Gunnite Pot Tender; Hose Tender where under the Laborers' jurisdiction

Group 3: Hod Carriers; Non-metallic Pipelayers; Gas Line Wrapping or Taping; Sand Blaster and Gunnite Nozzleman where under Laborers' jurisdiction; Cutting Torch for demolition

LABORERS CLASSIFICATIONS FOR AREA 9:
Group 1: Common; Concrete Shoveler; Damp Proofer below grade; Steel Joist Handler; Salamander & Gas Heater Tender; Snow Blower Operator; Tamper; & Reinforced Steel
Group 2: Carpenter Tender; Bricklayer Tender; Mason Tender; Stone Mason Tender; Jackhammer Operator; Pavement Breaker Operator; Cement Handler (bulk or bag); Cement, Mortar or any other substitute or composition mixer - mixer, one bag; Concrete Vibrator Operator; Concrete Puddler; Hand Cement Mixer; Hand Frame or Pneumatic Concrete & Power Operated Tamper Operator; Chipping Hammer Operator; Power Buggy Operator; Kettlemen; Pump Operator 3" & Under; & Torchman Demolition
Group 3: Cement Gun Operator; Nozzleman; Concrete Saw - Core Drill; Gunite Machine Operator; & Underground work which is 8 ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide
Group 4: Pipe Handler (water, gas, cast iron & non-metallic)
Group 5: Pipe Layer - non-metallic
Group 6: Power Chain Saw Operator
LABORERS CLASSIFICATIONS FOR AREA 10:
Group 1: General; Demolition & Wrecking; Torchman Demolition; Hot Tar Caulker & Cooker; Concrete Joint Saw Op.; & Damp Proofer below grade
Group 2: Concrete Core Drill; & Power Buggy Operator
Group 3: Miner Tender; Dumpman; Chipping Hammer Operator; Concrete Vibrator Operator; Mixer of Mortar, Cement or any substitute materials or composition; Automatic Tamper Operator; Laborers on Rope Swing Scaffold, but not inclu. Safety Scaffold; Cement Handler (dry sack or bulk, over two hours per day); Plaster Tender; Block Tender Handling 12" concrete blocks or larger; Gunite Machine Operator
Group 4: Jackhammer Man
Group 5: Underground Work, Caisson Work, Cofferdam Work, Tunnel Work, House Moving & Underpinning Work, including Sheet Setters & Drivers on Heavy Building Excavation. Eight Ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide (Not Applicable to Air Pressure Work)
Group 6: Dynamite Man; & Pipe Layers
Group 7: Nozzlemen
POWER EQUIPMENT OPERATORS CLASSIFICATIONS:
CLASS 1 - Helicopter Operator; Truck & Crawler Cranes with 300' of Boom and over, including jib; Tower Crane 300' & over
CLASS 2 - Truck & Crawler Crane w/200' of Boom, up to and no: including 300' of Boom, including jib; Tower Crane 250' & over
CLASS 3 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib; Tower Crane 200' & over
CLASS 4 - Traveling Tower Crane; Master Mechanic; Pile Driving Operator; Tower Crane 150' & over
CLASS 5 - Truck & Crawler Cranes up to & not including 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary 100' & over; Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License.
CLASS 6 - Air Compressor Operator, 450 CFM or over, Pump Operator and/or Conveyor Operator (2 or more machines); Hoist Engineer (2 drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift; Boom Truck Operator; Concrete Mixer Op.; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D):
CLASS 7 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 8 - Air Compressor Operator, 450 CFM or over, Pump and/or Conveyor Operator; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Operator
CLASS 9 - Mechanical Space Heater (temporary heat); Oiler or Greaser; Elevator Operator

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. CA82-5112 - Mod. #12
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Cement Masons:		
Cement Masons	$15.52	$5.93
Swing or slip form Scaffolds or Composition Masons	15.77	5.93

DECISION NO. CA82-5120 - Mod. 49
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Cement Masons:		
Cement Masons	$15.52	$5.93
Swing or Slip form scaffold or composition Mason	15.77	5.93

DECISION NO. CO83-5109 - Mod. #3
(48 FR 15404 - April 8, 1983)
Statewide, Colorado

	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
Fringe Benefits ONLY		$2.59

DECISION NO. DE82-3013
MOD. NO. 3
(47 FR 24526 - June 4, 1982)
State of Delaware

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator Constructors:		
Mechanics	$17.41	2.69+b+c
Elevator Constructors Helpers	12.19	2.69+b+c
Elevator Constructors Helpers (Prob.)	8.705	
Ironworkers:		
Structural, Ornamental & Reinforcing, Riggers, & Machinery Movers	14.95	5.26
Millwrights:		
Kent & New Castle Cos.	19.03	3.91
Roofers, Composition, Damp & Waterproofers	16.92	2.43+j
TRUCK DRIVERS:		
BUILDING CONSTRUCTION		
Group 1	12.22	2.545
Group 2	12.435	2.545
Group 3	12.535	2.545
HEAVY CONSTRUCTION		
Group 1	11.435	2.545
Group 2	11.585	2.545
Group 3	11.685	2.545
OMIT:		
HIGHWAY CONSTRUCTION, ORIGINALLY ISSUED IN T ITS ENTIRETY: (SEE SCHEDULE BELOW)		
HIGHWAY CONSTRUCTION:		
Bricklayers	11.40	2.05
Carpenters	10.95	1.43
Cement Masons	10.25	2.10
Electricians	13.00	1.85+3 -1/4%
Ironworkers	12.95	2.75
LABORERS	6.69	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	11.70	19.1%+a
Asphalt Spreader	11.70	19.1%+a
Backhoes, cranes	12.57	19.1%+a
Bulldozers	11.70	19.1%+a
Gradall	12.57	19.1%+a
Loaders	11.70	19.1%+a
Motor Patrol/Grader	11.70	19.1%+a
Rollers	10.93	19.1%+a
TRUCK DRIVERS	8.11	2.285+b

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day plus Election Day, provided the employee works the schedule work day before and after the holiday.

b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee has worked the schedule work days preceding and following the holiday.

DECISION NO. IA83-4022 - Mod. #1
(48 FR 10577 - 3/11/83)
Statewide Iowa(except Cerro Gordo, Scott & Webster Cos.)

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters, Piledrivermen & Millwrights:		
Zone 1:		
Carpenters	$14.33	2.10
Carp.(creosote)	14.58	2.10
Piledrivermen	14.455	2.10
Zones 2 & 3	11.22	1.38
Cement masons:		
Zone 1	12.17	2.45
Zones 2 & 3	11.22	1.38
Laborers:		
Zones 2 & 3 - Group 1	9.91	1.30
Group 2	9.61	1.30
Group 3	9.41	1.30
Power equipment ops.:		
Zones 1 & 2 - Group 1	12.25	2.10
Group 2	11.55	2.10
Group 3	10.76	2.10
Truck drivers:		
Zones 2 & 3	10.48	.85
OMIT all rates & classifications for ZONE 1 Laborers & Truck drivers		
ADD:		
Laborers:		
ZONE 1:		
Group 1 - General laborers	10.19	1.90
Group 2-Towboats & dredge deckhands	10.31	1.90
Group 3-Rakers & screedman on asphalt mortar mixers;chain saw ops.	10.54	1.90
Group 4-Pipelayers; conc. saw op.	10.48	1.90
Group 5-Form setters & precast manhole setter,inlet builder & manhole setter	10.92	1.90

DECISION NO. IA83-4022
MOD. #1 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
Truck drivers:		
Zone 1:		
Single axle,jacks & spreader tandem axle euclid;power lift form truck & jack, jack & spreader truck lowboys,tractor-trailer water pulls,tandem dump w/auxiliary end, dump trailer	$10.27	1.75
Lumber carrier	10.82	1.75
Water pulls	10.62	1.75

DECISION NO. DC82-3031-Mod. #5
(47 FR 51304-November 12, 1982)
District of Columbia;Maryland-Montgomery & Prince Georges Counties; & DC Training School; Virginia-Independent City of Alexandria,Arlington,& Fairfax Counties.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS-BUILDING CONSTRUCTION-PRINCE GEORGES COUNTY ONLY	$16.05	2.86
ADD:		
ASBESTOS WORKER HELPER (Loading,unloading,distribution & stockpiling of materials & equipment; loading & unloading of tools;tool repair,cleaning & pick-up activity;job clean-up activity;removal of insulation under the direction of a journeyman service contractor equipment;setting up & tearing down of scafford;sealing duct insulation & applying stic-clips;perimeter wall & ceiling insulation)	4.30	

DECISION #KY82-1053 - Mod. #2
(47 FR 43521 - October 1, 1982)
Allen County Etc., Kentucky

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Power Equipment Operators - Heavy Construction Projects Including Bridges Across Commercially Navigable Rivers:		
Class A	$14.52	2.13
Class B	11.69	2.13
Class C	10.89	2.13
Class D	15.02	2.13

DECISION #KY82-1054 - Mod. #1
(47 FR 43518 - October 1, 1982)
Adair County Etc., Kentucky

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Power Equipment Operators - Heavy Construction Projects Including Bridges Across Commercially Navigable Rivers:		
Class A	$14.52	2.13
Class B	11.69	2.13
Class C	10.89	2.13
Class D	15.02	2.13

DECISION #KY82-1055 - Mod. #1
(47 FR 43519 - October 1, 1982)
Anderson County Etc., Kentucky

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Heavy Construction Projects	12.81	1.88
Highway Construction Projects	11.91	1.88
Piledrivermen:		
Heavy Construction Projects	13.06	1.88
Highway Construction Projects	12.16	1.88
Power Equipment Operators - Heavy Construction Projects Including Bridges Across Commercially Navigable Rivers:		
Class A	14.52	2.13
Class B	11.69	2.13

DECISION #KY82-1055 - Mod. #1
Cont'd:

	Basic Hourly Rates	Fringe Benefits
Class C	$10.89	2.13
Class D	15.02	2.13

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DECISION #LA82-4021-MOD.#9 (47 FR 19877 - 5/1/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & Pipefitters	15.19	3.09
Sprinkler fitters	15.07	2.83
DECISION #LA83-4001-MOD.#4 (48 FR 928 - 1/7/83) Jefferson,Orleans,Bossier,Caddo,Calcasieu, Beauregard,Cameron, Jefferson Davis,Allen, Plaquemines,St. Bernard & St. Charles Pars., Louisiana		
CHANGE:		
Bricklayers & Stonemasons		
Zones 1,6,7 & 8	14.50	2.04
Zones 3,4 & 5	16.10	2.32
Electricians:		
Zones 3,4 & 5:		
Electricians	18.70	2.50+ 3-5/10%
Cable Splicers	19.20	2.50+ 3-5/10%
Line Construction:		
Zones 3,4 & 5:		
Group 1	18.70	2.50+ 3-1/10%
Group 2	19.20	2.50+ 3-1/10%
Group 3	16.70	2.50+ 3-1/10%
Plumbers & Pipefitters:		
Zones 1,6,7 & 8	16.80	2.43
Zone 2	15.19	3.09
Zones 3,4 & 5	18.98	2.00
DECISION #LA83-4019-MOD.#2 (48 FR 5448 - 2/4/83) Calcasieu Par.,Louisiana		
CHANGE:		
Asbestos Workers	18.645	2.335
Bricklayers & Stonemasons	16.10	2.32
Carpenters:		
Carpenters,Piledrivermen & Soft Floor Layers	15.29	1.75
Millwrights	17.83	.07
Cement Masons	15.47	
Electricians:		
New & old single or multiple family residence & apt. complex not to exceed 12 units 2-stor walk-ups	10.90	2.00+ 3-5/10%

DECISION #LA83-4019-MOD#2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Other Electricians:		
Electricians	18.70	2.50+ 3-5/10%
Cable Splicers	19.20	2.50+ 3-5/10%
Glaziers	15.25	.02+b
Ironworkers	15.66	2.22
Lathers	15.29	1.75
Marble & Terrazzo Workers	16.10	2.32
Plasterers	16.37	
Plumbers & Pipefitters	18.98	2.00
Roofers:		
Roofers	15.70	.20
Roofer helpers remove old roofing,hustle material & cleanup under supervision of journeymen	12.30	.20
Sprinkler Fitters	15.07	2.83
Truck Drivers:		
Pickup Drivers	12.67	.70
Stake bodies,dumps, trailer trucks,winch truck & Mississippi wagon	13.52	.70
Power Equipment Operators:		
Group 1	15.91	2.35
Group 2	11.21	2.35
Group 3	16.16	2.35
Group 4	16.41	2.35
Group 5	16.66	2.35
Group 6	16.91	2.35
Group 7	17.41	2.35

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DECISION #LA82-4053-MOD#10 (47 FR 50421 - 11/5/82) Statewide, Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers:		
Zone 1	18.645	2.335
Bricklayers & Stonemasons:		
Zone 1	16.20	2.26
Zone 2	13.22	1.90
Zone 3	16.10	2.32
Zone 4	14.50	2.04
Carpenters:		
Zone 2:		
Carpenters,piledrivermen & Soft Floor Layers	15.29	1.75
Millwrights	17.83	.07
Zone 4:		
Carpenters & Piledrivermen	15.70	1.86
Millwrights	19.775	1b
Zone 5:		
Carpenters & Soft Floor Layers	14.76	2.40
Millwrights	15.15	2.40
Piledrivermen	14.86	2.40
Zone 6:		
Carpenters & Soft Floor Layers	14.60	2.40
Millwrights	15.15	2.40
Piledrivermen	14.86	2.40
Cement Masons:		
Zone 1	14.58	.05
Zone 2	15.47	
Zone 4	14.21	1.68
Zone 6	10.50	
Electricians:		
Zone 3:		
Electricians	18.70	2.50+ 3-5/10%
Cable Splicers	19.20	2.50 3-5/10%
Glaziers:		
Zone 1	15.25	.02+b
Ironworkers:		
Zone 1	15.35	2.08
Zone 2	15.89	1.99
Zone 6	15.66	2.22
Laborers:		
Zone 4:		
Group 1	11.02	.85
Group 2	11.12	.85
Group 3	11.17	.85
Zone 5:		
Group 1	10.62	.85
Group 2	10.72	.85
Group 3	10.77	.85

DECISION #LA82-4053-MOD#10 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Zone 6:		
Group 1	10.89	1.08
Group 2	10.99	1.08
Group 3	11.14	1.08
Group 4	11.05	1.08
Group 5	11.15	1.08
Zone 7:		
Group 1	10.57	1.08
Group 2	10.72	1.08
Group 3	10.77	1.08
Lathers:		
Zone 1	14.78	2.30
Zone 2	15.70	1.86
Zone 4	15.29	1.75
Line Construction:(Zone 3):		
Linemen,equipment opr.	18.70	2.50+ 3-1/10%
Cable Splicers	19.20	2.50+ 3-1/10%
Groundmen	16.70	2.50+ 3-1/10%
Marble,tile & terrazzo workers & finishers:		
Zone 1:		
Marble Setters	14.50	2.04
Tile & Terrazzo Workers	14.65	.70
Marble,tile & Terrazzo Finishers	10.60	1.19
Zone 2:		
Marble & Terrazzo Workers	16.10	2.32
Zone 6:		
Marble,tile & Terrazzo Finishers	10.60	1.15
Zone 7:		
Tile Finishers	10.60	1.15
Painters:		
Zone 2:		
Group 1	12.15	1.38
Group 2	13.87	1.38
Plasterers:		
Zone 3	16.37	
Plumbers & Pipefitters:		
Zone 1	16.80	2.43
Zone 2	17.619	2.585
Zone 4	15.19	3.09
Zone 5	18.98	2.00
Power Equipment Operators:		
Zone 5:		
Group 1	15.91	2.35
Group 2	11.21	2.35
Group 3	16.16	2.35
Group 4	16.41	2.35
Group 5	16.66	2.35
Group 6	16.91	2.35
Group 7	17.41	2.35

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DECISION #LA82-4053-MOD#10 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Zone 6:		
Group 1	15.66	2.35
Group 2	15.91	2.35
Group 3	16.16	2.35
Group 4	16.41	2.35
Group 5	16.91	2.35
Group 6	16.66	2.35
Group 7	15.41	2.35
Group 8	13.18	2.35
Group 9	11.61	2.35
Group 10	9.45	2.35
Group 11	10.78	2.35
Zone 7:		
Group 1	15.23	2.35
Group 2	12.49	2.35
Group 3	12.68	2.35
Group 4	15.73	2.35
Group 5	10.79	2.35
Group 6	9.08	2.35
Group 7	15.48	2.35
Group 8	15.73	2.35
Group 9	15.98	2.35
Group 10	16.23	2.35
Group 11	16.73	2.35
Group 12	17.23	2.35
Roofers:		
Roofers	15.70	.20
Roofers helpers remove old roofing,hustle material & cleanup under supervision of a journeyman	12.30	.30
Sprinkler Fitters	15.07	2.83
Truck Drivers:		
Zone 1:		
Pickup Drivers	12.67	.70
Stake bodies,dumps, trailer trucks,winch truck & mississippi wagon	13.52	.70
Zone 4:		
Group 1	12.68	
Group 2	12.98	
Group 3	13.13	
Group 4	13.33	
Group 5	13.48	
Group 6	13.28	
Zone 5:		
Group 1	11.39	.70
Group 2	12.00	.70
Group 3	12.05	.70
Group 4	12.31	.70

DECISION #LA82-4053-MOD#10 (Cont'd)	Basic Hourly Rates	Fringe Benefits
ADD:		
Sound Installers - the installation (except the installation of conduit the wiring of light circuits & the wiring of power circuits up to the final distribution panel), operation, maintenance & repair of video,sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of vioce or sound with or without athereal aid including all types of signal systems that may be required		
Jefferson,Orleans,Plaquemines,St.Bernard & St. Charles Pars.	11.82	1.8b+ 32+d
Footnote:		
d - Paid Holidays-A,C,D, E,G, Mardi Gras Day & Christmas Eve		

DECISION #NM83-4032-Mod. #1 48FR16413-April 15, 1983 Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SHEET METAL WORKERS (ZONE I)		
Zone I-A	$17.17	3%+2.96
Zone I-B	20.42	3%+2.96
Zone I-C	20.42	3%+2.96
Zone I-D	20.42	3%+2.96
SHEET METAL WORKERS (ZONE II)		
Zone II-A	13.80	3%+1.55
Zone II-B	15.30	3%+1.55
Zone II-C	16.05	3%+1.55

DECISION NO. NY83-3003 - MOD. #2 (48 FR 12647 - March 25, 1983) ONONDAGA, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS	15.39	3.38

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DECISION No. RI81-3042 MOD. # 12 (46 FR 42615 - August 15, 1981) Statewide, RI.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BUILDING CONSTRUCTION		
Bricklayers, Stonemasons:		
Remainder of State	$15.07	3.48
Cement Masons, Plasterers:		
Woonsocket, N. Smithfield, Burrillville, Chepachet, Cumberland (N 1/3), & Lincoln, Westerely, Hopkinton, South Kingstown, Charlestown, Richmond, Wakefield & Peace Dale	15.07	3.48
Marble Setters, Terrazzo Workers & Tile Setters	14.92	3.48
Painters, Caulkers & Cleaners	15.07	3.48
Roofers:		
Composition, Waterproofers	13.80	4.05
Slate, Tile, Precast Concrete	14.00	4.05
Plasterers:		
Remainder of State	15.60	1.90
Steamfitters	15.83	4.00
HEAVY & HIGHWAY CONSTRUCTION:		
BRICKLAYERS & STONEMASONS:		
CATCH BASINS, MANHOLE BUILDERS	14.05	3.45

DECISION NO. ND81-5131 - Mod. #5 (46 FR 35008 - July 6, 1981) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Structural, Ornmental and Reinforcing	$14.13	2.66

DECISION NO. VA82-3034-Mod #1 (47 FR54746-DECEMBER 3,1982 THE CITIES OF CHESAPEAKE, PORTSMOUTH, & VIRGINIA BEACH	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	$15.90	3.015
BRICKLAYERS & STONE MASONS	12.78	1.53
MARBLE SETTERS	10.80	1.20
PLUMBERS & STEAMFITTERS	13.80	2.02
TERRAZZO & TILE WORKERS	10.80	1.20

DECISION NO. VA82-3033-Mod #3 (47 FR 54744-December 3, 1982) HENRICO COUNTY & THE INDEPENDENT CITY OF RICHMOND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	15.90	3.015

DECISION NO. VA82-3035-Mod #1 (47 FR 54747-December 3, 1982) YORK COUNTY, & THE CITIES OF HAMPTON & NEWPORT NEWS (INCLUDING LANGLEY AFB, FORT EUSTIS & FORT MONROE)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	15.90	3.015

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SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTIES: CALHOUN, ETOWAH, ST. CLAIR, SHELBY, TALLADEGA, TUSCALOOSA, & WALKER.
DECISION NO.: AL83-1038
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1034 dated July 30, 1982 in 47 FR 33043.
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation; bridges involving marine construction; & other major bridges).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$3.75	
CARPENTERS	6.72	
CONCRETE FINISHERS	6.27	
CONCRETE SAW	3.75	
ELECTRICIANS	12.05	1.36
IRONWORKERS:		
Reinforcing	6.00	
Structural	7.79	
LABORERS:		
Asphalt Rakers	4.00	
Asphalt Rakers	5.85	
Concrete Laborers	4.75	
Pipelayers	4.10	
Powderman & Blasters	5.50	
Saw	3.75	
Side Rail or Form Setters	5.03	
Unskilled	3.50	
Wagon Drill	5.00	
PAINTERS	6.00	
PILEDRIVERMEN	6.00	
POWER EQUIPMENT OPERATORS:		
Aggregate Spreader	5.40	
Air Compressor	3.75	
Asphalt Distributor	6.75	
Asphalt Spreader	6.80	
Asphalt Mixer & Pug Mill & Batch Plant	4.87	
Asphalt Plant Driers	4.25	
Bulldozers	6.46	
Bull Floats	4.25	
Concrete Mixer (3 bags & Under)	4.25	
Concrete Mixer (over 3 bags)	4.75	
Concrete Paving Machine	6.35	
Concrete Paving Finishing Machine	6.35	
Concrete Paving Spreader	6.35	
Cranes, Clamshells, Backhoes, Derricks, Draglines or Shovels	6.55	
Conveyors	4.25	
Crusher & Screening Plant	4.50	
Drilling Machine	5.50	
POWER EQUIPMENT OPER., CONT'd:		
Elevating Graders, Gradalls, or Trenching	$ 5.50	
Firemen	4.10	
Form Graders	3.75	
Hoist(2 drums or 2 cages or more)	4.50	
Hoist (1 drum)	4.25	
Mechanic	7.19	
Motor Patrol	7.00	
Oiler & Greaseman	5.50	
Paving & Subgraders	4.25	
Piledrivers	7.00	
Pumps	4.25	
Pumpcretes	4.50	
Rollers(self-propelled)	4.92	
Rollers(self-propelled on asphalt bases & pavements)	6.00	
Scale Operators	4.25	
Scalemen	4.25	
Scrapers	6.68	
Seeding & Mulching Machines	4.50	
Striping Machine	4.75	
Tractors & Loaders (80 hp or less, draw-bar capacity)	4.50	
Tractors & Loaders(over 80 hp)	5.75	
Tractors & Loaders (farm rubber-tired)	4.25	
TRUCK		
TRUCK DRIVERS:		
Under 1½tons	3.75	
Single rear axle	3.75	
Multi-rear axle or heavy duty,off-road, single axle	4.00	
Winch Truck & A-Frame	4.50	
WELDERS-Receive rate for craft to which it is incidental		

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTY: JEFFERSON
DECISION NO.: AL83-1036
DATE: DATE OF PUBLICATION
Supersedes Decision NO.: AL82-1035 dated July 30, 1982 in 47 FR 33043.
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION (excluding tunnels,building structures in rest area projects & railroad construction;bascule,suspension, & spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; & other major bridges).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 5.75	
CARPENTERS	7.10	
CONCRETE FINISHERS	6.42	
CONCRETE SAW	4.25	
ELECTRICIANS	12.05	1.36
IRONWORKERS:		
Structural	13.07	
Reinforcing	6.42	
LABORERS:		
Air Tool Operators	4.10	
Asphalt Rakers	5.85	
Concrete Laborers	5.00	
Pipelayers	4.50	
Powderman & Blasters	5.25	
Saw	4.25	
Side Rail or Form Setters	5.50	
Unskilled	4.00	
Wagon Drill	5.00	
PAINTERS	6.00	
PILEDRIVERMEN	6.50	
POWER EQUIPMENT OPERATORS:		
Aggregate Spreader	5.40	
Air Compressor	4.25	
Asphalt Distributor	6.69	
Asphalt Spreader	7.14	
Asphalt Mixer & Pug Mills & Batch Plants	4.87	
Asphalt Plant Driers	4.25	
Bulldozer	6.50	
Bull Floats	4.25	
Concrete Mixers (3 bags & under)	4.25	
Concrete Mixers (over 3 bags)	4.75	
Concrete Paving Machine	6.35	
Concrete Paving Finishing Machine	6.35	
Concrete Paving Spreaders	6.35	
Cranes, Clamshells, Backhoe, Derricks, Dragline, or Shovels	7.00	
Conveyors	4.25	
Crusher & Screening Plants	4.50	
Drilling Machines	5.75	
Elevating Graders, Gradalls, or Trenching	7.00	
Firemen	4.10	
Form Graders	4.25	
POWER EQUIPMENT OPERATORS, CONT'D:		
Hoist (2 drums or 2 cages or more)	$ 4.50	
Hoist (1 drum)	4.25	
Mechanics	7.50	
Motor Patrols	7.50	
Oilers & Greasemen	6.75	
Paving Subgraders	4.25	
Piledrivers	7.00	
Pumps	4.25	
Pumpcretes	4.50	
Rollers (self-propelled)	6.00	
Roller (self-propelled on asphalt bases & pavements	7.00	
Scale Operators	4.25	
Scalemen	4.25	
Scrapers	6.00	
Seeding & Mulching Machines	4.50	
Striping Machine	4.75	
Tractors & Loaders (farm rubber-tired)	4.25	
Tractors & Loaders (80 hp or less, draw-bar capacity)	4.98	
Tractors & Loaders (over 80 hp)	6.50	
TRUCK DRIVERS:		
Under 1½ tons	4.25	
Single Rear Axle	4.25	
Multi-Rear Axle or Heavy duty, off-road single axle	4.70	
Winch Truck & A-Frame	4.50	
WELDERS--Receive rate prescribed for craft to which it is incidental.		

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTY: MOBILE
DECISION NO.: AL83-1037
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1036 dated July 30, 1982 in 47 FR 33045.
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; & other major bridges).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 5.75	
CARPENTERS	6.50	
CONCRETE FINISHERS	6.10	
CONCRETE SAW	4.25	
ELECTRICIANS	12.05	1.36
IRONWORKERS:		
Structural	8.50	
Reinforcing	8.00	
LABORERS:		
Air Tool Operators	4.10	
Asphalt Rakers	4.33	
Concrete Laborers	4.92	
Pipelayers	4.10	
Powdermen & Blasters	5.50	
Saw	4.25	
Side Rail & Form Setters	5.50	
Unskilled	4.00	
Wagon Drill	5.00	
PAINTERS	6.35	
PILEDRIVERMEN	7.00	
POWER EQUIPMENT OPERATORS:		
Aggregate Spreader	5.40	
Asphalt Spreader Operator	7.00	
Air Compressor	4.25	
Asphalt Distributor	5.98	
Asphalt Spreader	6.33	
Asphalt Mixers & Pug Mills & Batch Plants	4.87	
Asphalt Plant Driers	4.25	
Bulldozers	6.00	
Bull Floats	4.25	
Concrete Mixer (3 bags & under)	4.25	
Concrete Mixer (over 3 bags)	4.75	
Concrete Paving Machine	6.35	
Concrete Paving Finishing Machine	6.35	
Concrete Paving Spreader	6.35	
Crane, Clamshells, Backhoe, Derricks, Draglines, or Shovels	7.00	
Conveyors	4.25	
Crusher & Screening Plants	4.50	
Drilling Machine	5.74	
Elevating Graders, Gradalls or Trenching	6.00	
Firemen	4.10	
Form Graders	4.25	
Hoist (2 Drums or 2 cages or more)	4.50	
POWER EQUIPMENT OPERATORS--Cont'd:		
Hoist (1 drum)	$ 4.25	
Mechanics	7.00	
Motor Patrols	7.00	
Oilers & Greasemen	6.00	
Paving Subgraders	4.25	
Piledrivers	7.00	
Pumps	4.25	
Pumpcretes	4.50	
Roller (self-propelled)	4.75	
Roller (self-propelled on asphalt bases & pavements	6.00	
Scale Operators	4.25	
Scalemen	4.25	
Scrapers	6.00	
Seeding & Mulching Machines	4.50	
Striping Machine	4.75	
Tractors & Loaders (farm rubber tired)	4.25	
Tractors & Loaders (80 hp or less, draw-bar capacity)	4.50	
Tractors & Loaders (over 80 hp)	5.75	
TRUCK DRIVERS:		
Under 1½ tons	4.25	
Single-Rear Axle	4.25	
Multi-rear Axle or Heavy Duty, off road, single axle	4.50	
Winch Trucks & A-Frame	4.50	
WELDERS--Receive rate prescribed for craft to which it is incidental.		

SUPERSEDEAS DESCISION

STATE: ALABAMA
COUNTIES: AUTAUGA,BALDWIN,BARBOUR,BIBB,BLOUNT,BULLOCK,BUTLER,CHAMBERS, CHEROKEE,CHILTON,CHOCTAW,CLARK,CLAY,COFFEE,COLBERT,CONECUH,COOSA,COVINGTON, CRENSHAW,CULLMAN,CLEBURNE,DALE,DALLAS,DeKALB,ELMORE,ESCAMBIA,FAYETTE, FRANKLIN,GENEVA,GREENE,HALE,HENRY,HOUSTON,JACKSON,LAMAR,LAUDERDALE,LAWRENCE, LEE,LIMESTONE,LOWNDES,MACON,MADISON,MARENGO,MARION,MARSHALL,MONROE,MONTGOMERY, MORGAN,PERRY,PICKENS,PIKE,RANDOLPH,RUSSELL,SUMTER,TALLAPOOSA,WASHINGTON,WILCOX, & WINSTON.
DECISION NUMBER: AL83-1039
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1037 dated July 30, 1982 in 47 FR 33044.
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 5.75	
CARPENTERS	6.07	
CONCRETE FINISHERS	5.68	
CONCRETE SAW	3.75	
ELECTRICIANS	11.87	
IRONWORKERS:		
Reinforcing	6.16	
Structural	7.79	
LABORERS:		
Air Tool Operators	4.00	
Asphalt Rakers	4.75	
Concrete Laborers	4.54	
Pipelayers	3.75	
Powderman & Blasters	5.50	
Saw	3.65	
Side Rail or Form Setters	5.01	
Unskilled	3.50	
Wagon Drill	5.00	
PAINTERS	6.00	
PILEDRIVERMEN	6.00	
POWER EQUIPMENT OPERATORS:		
Aggregate Spreader Oper.	5.29	
Air Compressors	3.75	
Asphalt Distributors	5.88	
Asphalt Spreader	6.30	
Asphalt Mixer,Pug Mills & Batch Plants	4.87	
Asphalt Plant Driers	4.25	
Bulldozer	6.00	
Bull Floats	4.25	
Concrete Mixer(3 bags & under)	4.25	
Concrete Mixer (over 3 bags)	4.75	
Concrete Paving Machine	6.35	
Concrete Paving Finishing Machine	6.35	
POWER EQUIPMENT OPER., CONT'd:		
Concrete Paving Spreader	$ 6.35	
Cranes, Clamshells, Backhoe, Derricks, Draglines, or Shovels	6.35	
Conveyors	4.25	
Crusher & Screening Plant	4.50	
Drilling Machine	5.00	
Elevating Graders,Gradalls, or Trenching	5.50	
Firemen	4.10	
Form Graders	3.75	
Hoist (2 drum or 2 cages or more)	4.50	
Hoist (1 drum)	4.25	
Mechanics	7.00	
Motor Patrols	6.75	
Oilers & Greasemen	5.64	
Paving Subgraders	4.25	
Piledrivers	6.25	
Pumps	4.25	
Pumpcretes	4.50	
Roller (self-propelled)	4.89	
Roller (self-propelled on asphalt bases & pavements)	5.69	
Scale Operators	4.25	
Scalemen	4.25	
Scrapers	3.55	
Seeding & Mulching Machine	4.50	
Striping Machine	4.75	
Tractors & Loaders (farm rubber-tired)	4.25	
Tractors & Loaders (80 hp or less, draw-bar capacity)	4.30	
Tractors & Loaders (over 80 hp)	5.00	

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Under 1½tons	$ 3.75	
Single Rear Axle	4.25	
Multi-Rear Axle or Heavy Duty, Off-Road Single Axle	4.50	
Winch Truck & A-Frame.	4.50	
WELDERS-Receive rate prescribed for craft to which it is incidental		
Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: Indiana COUNTIES: *See Below
DECISION NO. IN83-2030 DATE: Date of Publication
Supersedes Decision No. IN80-2082 dated September 26, 1980 in 45 FR 64052
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to & including 4 stories)

*Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski, & Starke

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$16.85	2.15
Area 2	18.00	3.03
Area 3	17.21	2.73
BOILERMAKERS	18.83	3.405
BRICKLAYERS, STONEMASONS, CAULKERS, POINTERS & CLEANERS:		
Area 1	15.72	3.37
Area 2	15.97	1.68
Area 3	17.05	3.25
CARPENTERS:		
Aeea 1:		
Carpenters & Soft Floor Layers	14.30	2.48
Millwrights & Pile-drivermen	14.55	2.48
Area 2:		
Carpenters & Soft Floor Layers	13.40	.72+ 6%
Millwrights & Pile-drivermen	13.80	.72+ 6%
Area 3:		
Carpenters, Piledriver-men & Soft Floor Layers	17.10	3.57
Millwrights	17.20	3.57
Area 4:		
Carpenters & Soft Floor Layers	14.68	2.02
Millwrights	15.43	2.02
Piledrivermen	14.88	2.02
CEMENT MASONS:		
Area 1	15.12	1.58
Area 2	16.13	2.09
Area 3	18.00	2.16
Area 4	14.68	2.03
ELECTRICIANS:		
Area 1	17.70	1.83 +3%
Area 2	17.55	14.3%
Area 3	18.46	12.5%
Area 4	17.55	2.24
ELEVATOR CONSTRUCTORS:		
Area 1	14.15	2.465 +a&b
Area 2	17.36	3.33 +a&b
Area 3	16.11	2.465 +a&b
ELEVATOR CONSTRUCTORS' HELPERS:		
Area 1 & 3	70%JR	2.465 +a&b
Area 2	70%JR	2.33+ a&b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
IRONWORKERS:		
Area 1	15.40	4.56
Area 2	17.80	3.87
Area 3	14.79	3.32
Area 4	15.00	6.09
MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS:		
Area 1	13.75	2.72
Area 2	13.15	3.08
Area 3:		
Marble Setters & Terrazzo Workers	17.05	3.25
Tile Setters	16.95	3.25
PAINTERS:		
Area 1:		
Brush, Roller, Taper & Paperhanger	12.75	2.07
Spray & Sandblasting	13.85	2.07
Area 2:		
Painter, Drywall Tapers & Finishers	11.69	1.63
Area 3:		
Brush	14.85	2.27
Drywall Tapers	15.05	2.27
Paperhangers	15.10	2.27
Area 4:		
Brush & Tapers	14.70	2.39
PLASTERERS:		
Area 1	14.59	2.08
Area 2	15.89	2.24
Area 3	10.87	1.96
Area 4	13.31	1.80
PLUMBERS & STEAMFITTERS:		
Area 1	16.48	2.72
Area 2	15.93	2.45
Area 3	18.00	3.00
ROOFERS:		
Area 1	13.90	.50
Area 2	16.91	2.40
Area 3:		
Composition	14.60	2.03
Slate & Tile	15.10	2.03

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	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Area 1	17.66	3.96c
Area 2	16.16	2.16
Area 3	17.15	2.19
SPRINKLER FITTERS	16.67	2.83
LABORERS:		
Area 1:		
Group 1	13.23	1.89
Group 2	13.43	1.89
Group 3	13.53	1.89
Group 4	14.23	1.89
Area 2:		
Group 1	12.98	1.89
Group 2	13.18	1.89
Group 3	13.28	1.89
Group 4	13.98	1.89
Area 3:		
Group 1	11.48	1.94
Group 2	11.68	1.94
Group 3	11.78	1.94
Group 4	12.48	1.94
Area 4:		
Group 1	11.73	
Group 2	11.93	
Group 3	12.03	
Group 4	12.73	
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70
Area 2:		
Group 1	16.40	
Group 2	15.50	
Group 3	15.05	
Group 4	14.25	
Group 5	13.45	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;C-Independence Day;D-Labor Day; Thanksgiving Day;F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, and Day after Thanksgiving Day
b. Employer contibutes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years
c. 3% of gross earnings to SASMI

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AREA DESCRIPTIONS

ASBESTOS WORKERS

Area 1 - LaGrange County
Area 2 - Newton County
Area 3 - Remaining Counties

BRICKLAYERS

Area 1 - Marshall County
Area 2 - Elkhart, LaGrange & Kosciusko Counties
Area 3 - Jasper, Newton, Pulaski & Starke Counties

CARPENTERS

Area 1 - Elkhart County
Area 2 - LaGrange County
Area 3 - Jasper, Newton & Starke Counties
Area 4 - Kosciusko, Marshall & Pulaski Counties

CEMENT MASONS

Area 1 - Elkhart, LaGrange & Kosciusko Counties
Area 2 - Marshall, & Pulaski (##) Counties
Area 3 - Jasper (N. 1/3), Pulaski (N ½) and Starke Counties
Area 4 - Newton County & Remainder of Jasper Counties

ELECTRICIANS

Area 1 - LaGrange Counties
Area 2 - Elkhart, Kosciusko & Marshall Counties
Area 3 - Jasper, Pulaski & StarkeCounties
Area 4 - Newton County

ELEVATOR CONSTRUCTION

Area 1 - LaGrange County
Area 2 - Newton County
Area 3 - Remainder of Counties

IRONWORKERS

Area 1 - Elkhart, Kosciusko (NW excl. Warsaw), LaGrange (W ½ excl. city of LaGrange), Marshall, Pulaski, & Starke Counties
Area 2 - Northern ½ of Jasper County & Newton County .
Area 3 - Southern ½ of Jasper County
Area 4 - Remainder of Counties

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AREA DESCRIPTIONS (CONT'D)

MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS

Area 1 - Marshall County
Area 2 - Elkhart, LaGrange & Kosciusko Countie
Area 3 - Jasper, Newton, Pulaski & Starke Counties

PAINTERS

Area 1 - LaGrange County
Area 2 - Elkhart, Kosciusko & Marshall Counties
Area 3 - Pulaski & Starke Counties
Area 4 - Jasper & Newton Counties

PLASTERERS

Area 1 - Elkhart, Kosciusko & LaGrange Counties
Area 2 - Marshall Co. & S. ½ of Pulaski County
Area 3 - Jasper (N 1/3), Pulaski (N ½) and Starke Counties
Area 4 - Newton & Remainder of Jasper Counties

PLUMBERS

Area 1 - Elkhart, Kosciusko & LaGrange counties
Area 2 - Jasper, Marshall, Pulaski & Starke Counties
Area 3 - Newton County

ROOFERS

Area 1 - LaGrange County
Area 2 - Jasper & Newton Counties
Area 3 - Remainder of Counties

SHEET METAL WORKERS

Area 1 - LaGrange County
Area 2 - Elkhart, Kosciusko Counties
Area 3 - Remainder of Counties

LABORERS:

Area 1 - Jasper & Newton Counties
Area 2 - Starke County
Area 3 - Pulaski County
Area 4 - Remainder of Counties

POWER EQUIPMENT OPERATORS

Area 1 - Jasper, Newton, Pulaski & Starke Counties
Area 2 - Remainder of Counties

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CLASSIFICATION DEFINITIONS

LABORERS

AREAS 1 - 2 - 3

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders in Area I and IA; Portable Water Pumps with Discharge up to 3 inches

Group II - Waterproofing; Hauling of Creosote Lumber or like treated material (ex railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Op.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth Compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump crete Assemblers; Core Drills Op.; Cement; Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing Pneumatic Spikers; Deck Engine & Winch Op.; Water Maine & Cable Ducking; Screed Man or Screw Op; on Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler

Group III - Plaster Tenders; Mason Tenders ex in area I &IA; Motar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason ex Area I & IA; Water Blast Mach. Op.

Group VI - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

AREA 4

Group 1 - Building & Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers & Cleaners; Waterboys & Toolhousemen; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; all Portable Water Pumps with discharge up to three (3) inches; Plaster Tenders

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CLASSIFICATION DEFINITIONS (CONT'D)

LABORERS - AREA 4 (CONT'D)

Group II - Waterproofing; Handling of Creosote Lumber of like treated material; (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen & Sheetmen working Ditches deeper than six (6) feet in depth; Laborers working in ditches (6) feet in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) & Sewer Pipe Layer (metallic or non-metallic); Motor driven wheelbarrows and Concrete Buggies Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials; Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winches Operators; Water Main & Cable Ducking (metallic and non-metallic) Screed Man on Screw Operator on Asphalt Paver; Chain and Demolition Saw operators; Concrete Conveyor Assemblers

Group III - Waster Blast Machine Operator; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

Group IV - Dynamite Men; Drillers-Air Track or Wagon Drilling for explosives

POWER EQUIPMENT OPERATORS

AREA 1

Group 1 - Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (requires two Engineers), Boiler and Throttle Valve) Boring Machine (Road), Caisson Rigs, Central Redi-Mix Plant Concrete Conveyor Systems, Concrete Power over 27E cu. ft., Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Pumps (truck mounted), Concrete Tower, CranesAll, Cranes-Hammerhead, Creter Cranes, Derricks-All, Forklift capable of hoisting and mechanically moving forks horizontally, Grader-Elevating, Highlift Shovels or Front End Loader-Hoists-Two or more drums, Locomotives-All, Motor Patrol, Pile Drivers and Skid Rig, Pre-stress Machine, Rock Drill (self-propelled), Rock Drill (truck mounted) Scoops - Tractor drawn, Slip-Form Paver, Tournapull, Tractor with Boom and Side Boom, Trenching Machines 12 or more inches in width

DECISION NO. IN83-2030

POWER EQUIPMENT OPERATORS - AREA 1 (CONT'D)

Group 2 - Combination Backhoe Front End Loader Machine with backhoe bucket or with attachments

Group 3 - Air Compressor 600 cu. ft. and over, Bobcat (over 3/4 cu. yd.), Boilers, Broom-All Powered Propelled, Bull Dozers, Compressor and Throttle Valve, Concrete Breaker (truck mounted), Concrete Mixer of more than 21 cu. ft. capacity, Forklift with a fixed or tilt mast, Greaser Engineer, Hoists-One drum, Hydraulic Boom Truck, Post-Hole Digger (vehicle mounted), Pump Cretes- (Squeeze crete type pumps, Gypsum Bulker and Pump), Rollers-All, Steam Generators, Stone Crushers, Straddle Buggies, Tractors, Winch Truck with "A" Frame

Group 4 - Buck Hoists, Combination - Small Equipment Operator, Conveyor-Portable, Grouting Machines, Hoist Elevators Mat'l & Personnel, Hydraulic Power Units Grouting and Pile Driving, Stud Welder, Trenching Machines less than 12 inches in width, Welding Machines 8 thrmugh 15

Group 5 - Bobcat (up to and including 3/4 cu. yd.), Compressor over 210 cu. ft. and less than 600 cu. ft., Generators - over 50 KW, Heaters-Mechanical, Hoists-All Elevator (perm. installation), Hoist-Automatic, Hoist-Tugger Single Drum, Oilers, Pumps-Well Points and Electric Submersibles, Small Rugger Tired End Loaders ½ cu. yd. and under, Tractors-Farm Type, Welding Machines (2 thrmugh 8)

AREA 2

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (Requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe (Endloader with Backhoe bucket over ½ cu. yd.), Combination Tugger Hoist & Air Tugger, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Paver 27E cu. ft. & under, Concrete Pump with boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Crete Crane, Derricks-All, Derricks-Traveling, Forklift-Lull Type, Fork Lift-10 ton & over, Hoists-1,2, & 3 Drum, Hoist-2 Tugger One Floor, Hydraulic Boom Truck, Locomotives-All, Motor Patrol, Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Slip Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors

Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination Backhoe (Endloader with Backhoe bucket ½ cu. yd. & under), Engineer acting as Conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drilling Machines, Hoists-All Elevators, Hoists-Tugger Single Drum, Post Hole Digger, Rollers-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trucks

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SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Oklahoma, Cleveland & Canadian
DECISION NO. OK83-4034 DATE: Date of Publication
SUPERSEDES DECISION #OK83-4027 dated April 8, 1983 in 48 FR 15424
DESCRIPTION OF WORK: Residential construction, single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits
Air conditioning mechanic	$8.12	
Bricklayers	10.00	
Carpenters	8.61	
Cement Masons	9.36	
Drywall:		
Installers	6.91	
Tapers	8.61	
Electricians	8.44	
Glaziers	10.20	
Insulation installers	7.00	
Ironworkers	9.00	
Laborers:		
General	5.55	
Mason tenders	7.00	
Mortar mixers	6.00	
Pipelayers	8.75	
Painters	7.12	
Plumbers & pipefitters	8.96	
Roofers	10.00	
Sheet metal workers	9.14	
Soft floor layers	9.45	
Sound installer	9.20	
Tile setters	8.93	
Truck drivers	6.00	
Power Equipment Operators:		
Backhoe	8.07	
Bulldozer	8.22	
Concrete pump operator	6.82	
Crane	9.47	
Loader	7.50	
Roller - compactor	7.00	
Scrapers - blade	8.75	

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))".

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Erie
DECISION NO.: PA83-3009 DATE: Date of Publication
Supersedes Decision No. PA80-3059, dated October 3, 1980, in 45 FR 65895.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (Does not include single family homes or apartments up to and including 4 stories), excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.24	2.43
BOILERMAKERS	17.255	3.305
BRICKLAYERS	16.85	2.37
CARPENTERS	14.30	28%+ .05
CEMENT MASONS	16.85	2.37
DRYWALL FINISHERS	12.30	1.12
ELECTRICIANS	16.15	4.45+ 3%%
ELEVATOR CONSTRUCTORS	16.04	2.69+ a+b
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	2.69+ a+b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR	
GLAZIERS	15.24	1.42
IRONWORKERS:		
Structural	15.50	3.62
Ornamental	15.50	3.62
Reinforcing	15.50	3.62
LATHERS	14.30	28%+ .05
LABORERS:		
Common Laborers	13.10	20%+ .08
Mason Tenders & Plasterers Tenders	13.60	20%+ .08
LINE CONSTRUCTION:		
Linemen, Heavy Equipment Operator	13.37	.55+ 3 3/8%
Winch - Truck Driver	9.38	.55+ 3 3/8%
Groundmen	8.97	.55+ 3 3/8%
MARBLE SETTERS	13.60	1.37
MARBLE FINISHERS	13.60	.08+ 20%
MILLWRIGHTS	13.91	37%%
PAINTERS:		
Brush	12.30	1.12
Structural Steel	13.05	1.12
Spray	12.80	1.12
PILEDRIVERMEN	16.02	17%%
PLASTERERS	15.65	2.37
PLUMBERS	19.07	1.71
ROOFERS:		
Composition	16.00	1.73
SHEET METAL WORKERS	15.84	3.71
SOFT FLOOR LAYERS	14.30	28%+ .05
SPRINKLER FITTERS	16.92	2.83
STEAMFITTERS	19.07	1.71
STONEMASONS	16.85	2.37
TERRAZZO WORKERS	13.60	1.37
TERRAZZO FINISHERS	13.60	.08+ 20%
TILE SETTERS	13.60	1.37+ 20%
TILE FINISHERS	13.60	.08+ 20%
TRUCK DRIVERS	9.12	c+d+e
POWER EQUIPMENT OPERATOR		
Class 1	15.94	3.05
Class 1-A	16.23	3.05
Class 1-B	16.50	3.05
Class 1-C	16.78	3.05
Class 2	15.44	3.05
Class 3	15.27	3.05
Class 4	13.78	3.05
Class 5	13.49	3.05
Class 5-A	13.78	3.05

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POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch Plant - Automatic, Boom - side, cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting operating Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Leverman, Mix Mobile or similar type, Mixer - concrete paving, Mixer - paving (self-propelled), Multiple Bowel Machines or Multi-engine, Pile Driver -Franki or similar type, Pile Driver (when assistance in required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - Boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or outboard), Bulldozer, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core Drill - Well and Core (truck mounted), Engineer - maintenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic backhoe attached), Cranes, Tower, Metro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pumpcrete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), spray Cure Machine Machine (power drivern), Spreader, Steam Jenny (or similar type), Syphone (steam or air) Tractors (all types with hydraulic backhoe attached)

Class 1-A: Austin Western or similar type with jib + 25¢, Austin Western or similar type 25 tons or over with jib + 25¢, Cranes (excluding over head cranes), Crane - placed on building structure, Hoist single cage with Chicago Boom attached + 25¢, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

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POWER EQUIPMENT OPERATORS CONT'D

Class 2: Backfilling Machine, Boat - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and gunnite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - lull or similar type generators - two Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section 1C), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), post Driver - guard rail (truck mounted), Pumpcrete or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for snaking and hauling), Truck - winch, Tugger

Class 4: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladavator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1½ inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane

CLASS 5: Brake man, Deck hand, Helicopter, signalman, Oiler, Mechanic helper

Class 5-A: Oiler, Truck crane (50 tons or over & Fireman

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F, plus Friday after Thanksgiving Day.

c. Employer agree to contribute $137.27 per month to a Health and Welfare Fund.

d. Employer agree to contribute $26.00 per week to a pension fund.

e. One week vacation after 1 years work; two weeks vacation after five years of service.

WELDER: Receive rate prescribed for craft performing operation to which is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 83-11901 Filed 5-5-83; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
May 6, 1983

Part IV

Department of the Interior

Fish and Wildlife Service

Department of Commerce

National Oceanic and Atmospheric Administration

Transfer of Marine Mammal Management Authority to States

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 18, 216, and 403

Transfer of Marine Mammal Management Authority to States

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule

SUMMARY: The Fish and Wildlife Service (FWS) and the National Marine Fisheries Services (NMFS) are adopting a final rule to implement amendments to Section 109 of the Marine Mammal Protection Act (hereinafter referred to as "MMPA," or "the Act"). These regulations establish procedures for the transfer of marine mammal management authority to the states, the form and minimum requirements of a state application for the transfer of management authority, the relationship between Federal and state wildlife agencies both prior and subsequent to the transfer of management authority, and the revocation and return to the FWS or NMFS of management authority once transferred to the states.

EFFECTIVE DATE: June 6, 1983.

ADDRESSES: Chief, Division of Wildlife Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; or Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Mr. William Reffalt, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202) 632–2202; or Richard B. Roe, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (202) 634–7461.

SUPPLEMENTARY INFORMATION: On October 9, 1981, the President approved Pub. L. 97–58 amending various provisions of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* One aspect of these amendments altered the mechanism for the transfer of marine mammal management authority to the states under section 109 of the Act, 16 U.S.C. 1379. Under the pre-existing statutory procedures, states were required to request the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) to return management of the species. If a state sought authority to allow taking of the marine mammals under its management program, the state was required to request the FWS or NMFS to waive the moratorium on the taking of the species. This request required a formal Federal hearing before an Administrative Law Judge concerning the status of the requested species, and the permissible number of animals to be taken, as well as consideration of the state's proposed laws and regulations that would govern the taking of the species. The proposed waiver of the moratorium to allow taking of the species also required compliance with the provisions of the National Environmental Policy Act. In reviewing these procedures, Congress found that the lengthy process had resulted in a situation in which the goal of the Act—effective management to maintain healthy populations of marine mammals—was being impaired.

To remedy this problem, Congress established a simplified procedure under which a state could resume management of marine mammal species. This procedure entails a three-step process. First, the state must submit a request to the FWS or NMFS for transfer of management authority for a given species or a number of species of marine mammals. This request and its supporting documentation is reviewed by the appropriate Service to determine if the state has developed and will implement a program for the conservation and management of the species which meets certain requirements set forth in the Act. Second, if the FWS or NMFS publishes a proposed finding that the state program meets these requirements, the state must make a determination, under procedures set by the Act, of the optimum sustainable population ("OSP") of the species and the maximum allowable take of the species that is consistent with maintaining the species at OSP. Third, the state's determinations must be implemented through state laws and/or regulations and, if the range of the species extends beyond the territorial water of the state, the state and Federal governments must agree on a process for allocating the take of the species in areas under respective state and Federal juriadictions. Once this "cooperative allocation agreement", if required, has been implemented and the OSP and maximum allowable take determinations are final and implemented under state law, the Service will publish a final finding and rule transferring exclusive authority to manage marine mammals to the state for the area within its jurisdiction, including its territorial waters. The only exception to this assumption of exclusive jurisdiction would be for takings by non-state personnel for scientific research and public display purposes and takings by Federal officials and agents for health and welfare purposes, activities which remain under the control of the Federal government pursuant to section 109 of the Act.

On May 12, 1982 the FWS published proposed regulations to implement the statutory procedures for transfer of marine mammal management authority to the states (47 FR 20508). The NMFS also published corresponding regulations for species under its jurisdiction (47 FR 20496). After consideration of 26 letters of public comment the proposed regulations have been amended slightly to clarify further certain provisions, especially those involving the timing of state and Federal actions, and subsistence use provisions relating to the State of Alaska.

The Marine Mammal Commission recommended that FWS's final regulations implementing statutory procedures to transfer marine mammal management authority to states, and any supplementary information explaining them in the notice of final rulemaking, be identical to those published by the NMFS. This is to avoid any potential confusion resulting from different explanations by the two agencies of the already complex transfer process. The Services decided that this recommendation has merit and that these regulations should be published jointly as a final rule and later codified at 50 CFR Part 403. Former regulations governing transfer of management authority in 50 CFR Parts 18 and 216 have been deleted and replaced with references to the joint regulations now found in 50 CFR Part 403.

Although three commentators registered opposition to the idea of a transfer of management authority to states, no party questioned any major interpretations of the Act as set forth in these regulations. The Marine Mammal Commission, for example, recommended that the proposed regulations be adopted subject to minor changes. The State of Alaska and the International Association of Fish and Wildlife Agencies supported the proposed regulations as a faithful interpretation of the transfer provisions of Pub. L. 97–58.

The Department of Game, State of Washington, commented on the complexity and difficulty of the statutory requirements for a transfer of management authority, but thought that the proposed regulations were fair and comprehensive. Similar views were expressed by private individuals and organizations.

The final rule adopted herein is essentially unchanged from the proposed rules. These regulations apply to the species of marine mammals currently managed by the FWS, under the authority of the MMPA, such as the polar bear, sea otter, walrus, dugong, manatee and marine otter, and to other species of marine mammals, including seals, sea lions, porpoises and whales which are managed by the NMFS.

Public Comments

Comments on the proposed regulations were solicited from all interested parties within a 60-day comment period, May 12–July 12, 1982. Since the FWS and the NMFS published identical proposed regulations, comments received by both agencies were jointly considered. The following parties submitted written comments:

Numan Kitlutsisti
Alaska Federation of Natives
Jean McCollom
Shell Oil Company
Washington Department of Fish and Game
Umpqua Commercial Fishermen's Wives Association
Defenders of Wildlife
Friends of the Sea Otter
Alaska Department of Fish and Game
Marine Mammal Commission
Friends of Wildlife
Texas Parks and Wildlife Department
Minerals Management Service, Department of the Interior
Environmental Defense Fund with Friends of the Earth, the Humane Society of the United States, and the Society for Animal Protective Legislation
Seal Rescue Fund
Alaska Oil and Gas Association
Conoco Oil Company
Kauernak, Inc.
Harlan L. Bay, Taxidermist
Mac's Taxidermy
Animal Welfare Society, Inc. with Maine Chapter, Defenders of Wildlife, and Marine Federation of Humane Societies
John E. Rowe
H. K. Grade, Taxidermist
Denna McLeod
Save Our Salmon
International Association of Fish and Wildlife Agencies

After the comment period closed, the Assistant Administrator for Fisheries, NMFS, also received comments from an employee concerning the State of Alaska's position on the 1981 MMPA Amendments.

Copies of all comments are available for inspection at the offices of the information contact listed above.

General Comments

Many of the letters we received reflect public views on the advisability or inadvisability of transferring marine mammal management authority to states, and do not specifically address our procedural regulations. In this regard, two commentators opposed any transfer of marine mammal management authority to states because of concern for the continued conservation of these species. One commentator opposed management transfer because of possible impacts on offshore oil development activities. Several groups and individuals, primarily commercial fishing and taxidermy interests, registered approval of an early transfer of authority to states.

The MMPA of 1972, as well as the 1981 amendments, anticipated the eventual transfer of management authority from the Federal Government to the states, and provided specific procedures to accomplish this transfer. The Act provides a mechanism for the transfer, from the Federal Government to the states, of marine mammal management authority based on Federal review and approval of state management plans. State marine mammal management programs must generally be consistent with the goals and policies of the MMPA and, specifically, the maintenance of marine mammal populations at optimum sustainable population (OSP) levels. The regulations adopted today implement current statutory procedures and contain only limited discretionary provisions to this end. Neither the Act, as amended, nor these regulations allow for any relaxation of the strict OSP management standard. The Services strongly encourage states to apply for marine mammal management authority and obtain jurisdiction over their resident marine mammal populations. As recognized by Congress, marine mammal management activities will be more efficient and less costly at the state agency level.

Oil and gas development interests are concerned that a transfer of management authority to states may impede offshore development because regulations governing the taking of small numbers of marine mammals under section 101(a)(5) of the Act may vary among states and between states and the Federal Government. One commentator requested that we provide a specific mechanism for interstate coordination of marine mammal permits. In addition, these reviewers were confused as to the possible impact of these regulations and the MMPA amendments on future Endangered Species Act (ESA) consultations.

Once management authority is transferred for a given species, the state has exclusive jurisdiction to manage marine mammals pursuant to the MMPA within the state and its territorial waters, except for takings by non-state personnel for scientific research and public display purposes or by Federal personnel for health and welfare purposes. Exceptions under MMPA section 101(a)(5) for the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in specified activities (other than commercial fisheries) within a specified geographical region within the state or its territorial waters, must be sought from the appropriate state agency, once management authority for the species has been transferred.

Once management authority has been transferred, the Federal Government will only regulate incidental takings, including those specified in sections 101(a)(2), 101(a)(4) and 101(a)(5), that occur outside state territorial waters and within the 200 mile zone described in section 3(14)(B) of the Act (Fishery Conservation Zone, of FCZ). It is possible, therefore, that because an activity takes place over a large geographical area, an individual or organization may need to apply to one or more states and the Federal Government for permission to take certain marine mammals under section 101(a)(5).

Current policies and procedures for the ESA consultations among agencies will not be affected by these regulations. Section 17 of the ESA provides that, in case of conflicts between the ESA and the MMPA, the more restrictive provision applies. Concurrent jurisdiction, rather than exclusive state authority, is provided for under the ESA. Since the consultation responsibilities of Federal agencies (under section 7) and the prohibitions (under section 9) specified in the Endangered Species Act will continue to apply for those marine mammals that are also listed as endangered or threatened under the ESA, the transfer of management authority to a given state would not affect Federal agency consultation responsibilities under the ESA. Furthermore, section 6(c) provides for state and Federal agreements for the conservation and management of endangered and threatened species. Nothing in the Act or in our regulations should be construed as affecting in any manner any cooperative agreement

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entered into between a state and the Federal Government under section 6(c) of the ESA.

Several Alaska Native representatives requested a clarification of the subsistence use provisions which only apply to the State of Alaska. Some reordering of paragraphs and refinement of terms has been added to these provisions and is discussed in detail under § 403.03 below.

Many commentators questioned the submission of proposed statutes and regulations in the state management plan and suggested the word "proposed" be deleted, or that the approval of a state management plan, if based in part on proposed language, remain conditional until any proposed statutes and regulations are implemented. Specific aspects of this issue are discussed under § 403.03 below.

Section 403.01

This section describes the purpose and scope of these regulations. In response to comments the first sentence of this section has been revised to include the phrase "upon a finding by the Secretary of compliance with certain requirements," and an error in the last word of paragraph (a) has been corrected.

We have not accepted the recommendation to add a new paragraph (b)(3) which would exclude "reasonable and prudent development of resources in the state and national interest" (such as oil and gas), from activities affected by these regulations, since this is not within our authority under the MMPA. Paragraph (b) excludes the taking of marine mammals by Federal, state and local government officials in the course of their official duties. This activity is governed by 50 CFR 18.22 and 216.22, and the notification requirements of those sections remain in effect. Sections 18.22 and 216.22 relate to the taking of stranded and beached marine mammals and the taking of marine mammals for the protection of public health and welfare. The Services are in the process of revising §§ 18.22 and 216.22 to reflect the new statutory language contained in section 109(h) as requested by one commentator. These revisions will be proposed in separate Federal Register publications.

Section 403.02

This section defines certain terms used in this subpart. A new paragraph (a) has been added to read as follows. "The term 'species' includes any population stock." This provision is derived from the first sentence of section 109(a) of the Act which allows states the option of managing their marine mammals on the basis of population stocks. For example, states may choose where appropriate to determine optimum sustainable population (OSP) and allowable take levels for individual population stocks. This was the intent of the proposed regulation as evidenced by the definition of OSP, found at § 403.02(b) (formerly (a)), which provides that OSP is a population size for a "given species or stock." Section 3(10) of the MMPA defines the terms "population stock" or "stock" to mean "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature."

We have therefore adopted the recommendation to clarify the term "species" to reflect the provisions of sections 109(a) and 3(10) of the Act. Conversely, we are unable to adopt the recommendation of another commentator that marine mammal species should not be subdivided into population stocks for purposes of these regulations, since the Act requires that this management option be available.

Two commentators recommended changes or requested clarification of our OSP definition in paragraph (b) (formerly (a)). Congress has specifically reaffirmed that this definition accurately reflects the meaning of the term and the intent of Congress in passing the original Act. H.R. Rep. No. 97–228, 97th Cong., 1st Sess., p. 16 (1981). It is important to note that OSP is any population level within a range of population levels. The upper bound of the range is the largest supportable population level within a given ecosystem (carrying capacity). The lower bound of the range is the population level for a given species or stock that results in maximum net productivity.

This section also defines "state management program." The state management program consists of the legal framework under which the state will manage marine mammals. Components of this framework which are specifically required to be submitted in the state's request for transfer of management authority are set forth in paragraphs (b) and (c) of § 403.03 of the proposed regulations. Paragraph (d) of § 403.03 lists additional components required only in the State of Alaska's management program.

Several commentators objected to including proposed laws, regulations and policies within the definition of "state management program." The response to this comment is found below under the discussion of § 403.03. One commentator recommended that the term "statute" be substituted for the term "law," except in those cases where the term "law" is specifically meant to include both "statutes" and "regulations." We agree with this recommendation and have made this substitution in the definition of state management program, and throughout the final rule, where appropriate.

Section 403.03

This section delineates the form and minimum requirements of a state request for transfer of management authority. Any state requesting management authority from both the FWS and NMFS may combine the request in a single document and send copies to both agencies. The request must contain two elements: (1) Certain aspects of the proposed state management program and (2) supplemental information pertaining to the state management program. The request must include the text of relevant statutes, regulations, policies and other authorities of state law, and a narrative discussion of how these authorities blend to form a framework that meets the new requirements of the Act. This narrative discussion may be in the form of a memorandum prepared by the state Attorney General, as suggested by one commentator. However, a memorandum from the Attorney General is not added as a requirement because the state should be in the best position to determine the most appropriate agency to develop the narrative discussion.

As discussed in the preamble to the proposed regulations, although the state management program is defined broadly by section 403.02, the request for transfer of management authority need not include all aspects of the state management program. The state need not provide specific laws pertaining to the manner, times or amount of take, unless specifically required by § 403.03. Thus, the state need not submit as part of its request regulations pertaining to such aspects of take as bag limits, seasons, or the minimum rifle caliber that can be used in taking the species, since they are not specifically required by the Act. However, the request must include, for example, a law that requires taking to be humane (see § 403.03(b)(2)(i)), even though this is a restriction on the manner of taking, since it is specifically required by the Act.

A. *Submission of Proposed Statutes and Regulations.*

Numerous commentators objected to provisions allowing the Service to approve a state management program containing proposed laws. Many of these comments were based on the

requirements of sections 109(b)(1) and 109(f)(1)(A) of the Act. Section 109(b)(1) requires the Secretary to find that the state "has developed and will implement" a program for the conservation and management of the species before transferring management authority to the state. This language parallels the requirement of section 109(f)(1)(A), applicable only in the case of Alaska, that the Secretary find that the state "has adopted and will implement" certain statutes and regulations governing subsistence uses of marine mammals before transferring management authority to the State of Alaska. Commentators expressed concern that approval of state management programs containing proposed laws would violate these provisions and that such approvals could preclude public comment on the management programs the states actually adopt. Furthermore, commentators stated that revocation, the Service's recourse in the event a proposed statute or regulation is not adopted as submitted in the request, is too time-consuming to assure effective conservation and management of marine mammal species as the Act requires.

The Services appreciate the concerns of all parties on this issue. The transfer of management authority is a lengthy process. Allowing states to submit proposed laws for approval purposes would help streamline the process. But the affected public should have an opportunity to comment on all aspects of the state management program and should be assured that the program the state implements is the same as the program the public reviews and the Service approves.

To accommodate these concerns, the Services retained the provisions allowing states to submit management programs based on proposed laws or policies and amended the approval and transfer provisions in § 403.03. The new provisions incorporate informal rulemaking procedures for reviewing state management programs and transferring management authority to the states. New § 403.03(f) requires the Service, promptly after receiving a state's request, to make an initial determination on whether the state has developed and will implement a marine mammal management program that meets the requirements of the Act and the regulations. The Service must publish a general notice of its initial determination in the Federal Register together with, in the case of a positive determination, a proposed rule to transfer management authority to the State. The general notice will provide the public with an opportunity to comment (60 days) and to request an informal public hearing on both the Service's initial determination and on the state management program.

After considering comments and all other relevant information, the Service will publish in the Federal Register its final determination on whether the state's program meets the requirements of the Act and regulations. Along with a positive determination, the Service will publish a final regulation transferring management authority for the species to the state after the following requirements are satisfied:

(a) The state's determinations under §403.04 are implemented under state law;

(b) Any cooperative allocation agreement required under §403.05(a) is implemented; and

(c) The state has adopted laws and policies that are substantially the same as those submitted in proposed form in the state's management program.

This process will allow the Services to decide initially to transfer management authority to a state based on a management program containing proposed laws and policies but requires those laws and policies to be adopted before management authority ultimately is transferred to the state. The Service's initial determination to transfer management will give the state reasonable assurance that its management program, including the laws and policies it intends to enact, meets the requirements of the Act and these regulations. The state can then adopt the laws and policies submitted in proposed form, conduct its hearings and make its determinations under §403.04, and develop and implement any cooperative allocation agreement required under §403.05(a).

This process also assures the public that the management program the state ultimately adopts will be substantially the same as the program on which the public had an opportunity to comment. If, after issuing proposed rules to transfer management authority to the state, the Service finds that the state has failed to adopt laws and policies substantially the same as those submitted in proposed form in the state's management program (*e.g.*, the laws and policies adopted fail to accord the same approximate level of protection to the species, or otherwise merit resubmission of the state management program for public review and comment under §403.03), the Service will not issue final regulations transferring management authority to the state. In that case, the state's recourse is to adopt laws and policies substantially the same as those submitted in proposed form in its management program. Alternatively, the state could submit a new or revised management program which the Service would consider pursuant to §403.03(f)

B. *Other Provisions.*

Paragraph (b) of § 403.03 lists those components of the state management program which must be submitted in the request for a transfer of management authority. In the case of Alaska, paragraph (d) lists additional mandatory components relating to subsistence uses of marine mammals. These requirements are the minimum necessary to enable the appropriate Service to make the determinations required by section 109(b)(1) of the Act.

Section 403.03(b)(1) requires the state to list the scientific and common names and estimated range of the species of marine mammals for which it seeks managment authority. A state may request the transfer of management for more than one species. If this is the case, those components of the state managment program that apply to more than one species do not need to be repeated for each species. Rather, the state should list the species and the components of the state management program that apply to some or all of the species. Those components of the state management program that apply to individual species should be so designated. The state should discuss which components apply generally to all species and which apply specifically to individual species in the narrative discussion required by § 403.03(a)(2).

Several commentators objected to the use of the word "provisions" to describe what aspects of the state management program must be submitted in the request for management authority. *See*, e.g., § 403.03(b)(2). By use of the word "provisions" it was intended that some form of state law such as statutes or regulations provide for the applicable requirements. The regulations are amended by use of the phrase "provisions of state law" where appropriate to clarify this intention.

The basic premise of section 109 of the Act and these regulations is that a state to which management authority has been transferred for a given species is to regulate the taking of that species so as to prevent its population from declining below its OSP. However, the Act provides that in the case of Alaska, subsistence taking may be allowed even if the species is below its OSP, as long as the amount of subsistence take will nevertheless permit the species to

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increase toward its OSP. Paragraph (b)(2)(iii) of this section reflects this distinction.

The State of Alaska requested confirmation of its interpretation of paragraph (b)(2)(ii)(A) concerning the transfer of management authority for a species that is below OSP. Alaska believes that section 109(b)(1) (C) and (D) of the Act contemplates transfer of management authority in this case as long as taking is not permitted, or in the case of subsistence take in Alaska, as long as the subsistence take determination does not preclude a species from "eventually attaining OSP." However, Alaska's interpretation is not entirely consistent with the MMPA. In fact, section 109(b)(1)(D) of the Act states that Alaska may not permit subsistence taking of a number of animals that "would be inconsistent with the maintenance of the species at its OSP." As indicated above, we interpret this language to mean that taking is permitted as long as the amount of subsistence take will nevertheless permit the species to *increase* toward its OSP. Taking of a species below its OSP for subsistence purposes may not be permitted at a level that will prevent the species from increasing in numbers. *See* H.R. Rep. No. 97–288, 97th Cong., 1st Sess., p. 23 (1981).

One commentator was confused over the regulation of take of marine mammals for scientific research or public display purposes. Section 403.03(b)(2)(iv) of the regulations as proposed and adopted requires the state not to permit take for scientific research and public display purposes with two exceptions: (1) Take for scientific research or public display purposes by or on behalf of the state; (2) take for scientific research or public display purposes pursuant to a Federal permit (see 50 CFR 18.31 and 216.31).

This scheme is explicitly required by the Act. Section 109(b)(1)(E) of the Act provides that the state may only *permit* take for scientific research and public display purposes when done by or on behalf of the State. Management of all other take for scientific research and public display purposes is retained by the Services even after transfer of marine mammal management authority to the state. *See* H.R. Rep. No. 97–228, *supra* at 23. The Services regulate this take pursuant to permits granted under 50 CFR 18.31 and 216.31. The state may not *prohibit* takings for scientific research or public display conducted pursuant to Federal permits. (Review of Federal permits to assure consistency with state management is provided by § 403.05(c)). (See H.R. Rep. No. 97–228, *supra*.) Thus, § 403.03(b)(2)(iv) requires that the state not permit all but these two types of scientific research and public display take; it does not authorize the state to *permit* any scientific research and public display take other than that by or on behalf of the state.

One commentator requested a provision to ensure state review of scientific research and public display permits issued by the Federal government for species that have not been transferred to the state, so that the state may review such permits for possible interference with management plans for other species that are within its jurisdiction. The MMPA does not authorize a state to review and disapprove scientific research and public display permits regarding species for which management authority has not been transferred to that state. If management authority is transferred to a state for a given species, then the Act authorizes that state to review and approve or disapprove an application for a permit to take a live specimen of that species within the state or its territorial waters for scientific research or public display purposes. Section 104(d) of the MMPA provides public review procedures for scientific research and public display permits. The Services publish notices of receipt of an application for the take of any marine mammals for scientific research and public display purposes in the **Federal Register**. Written comments are invited from all interested parties, including the states. A hearing may also be requested on such permits. Notice of the issuance or denial of any such permits is also given in the **Federal Register** and copies of these permits are available for review at the appropriate regional Service office.

One commentator believes that paragraph (b)(2) of § 403.03 contains no requirement that the state recognize the need to establish procedures for "incidental but not intentional taking." On the contrary, paragraph (b)(2)(v) requires that the state's marine mammal management program contains provisions of state law which "regulate the incidental taking of the species in a manner consistent with section 101(a)(2), (4) and (5)." Sections 101(a) (4) and (5) provide exceptions to the MMPA moratorium for incidental but not intentional taking of small numbers of marine mammals under certain circumstances.

The commentator further requested that there be a requirement that the state recognize "the potential for unexpected takes" and also stated that "[T]he difference between unexpected/incidental taking and capturing or killing is large, and we feel some recognition of this difference is warranted." The Act requires all "incidental taking", which includes "take(s)" as defined at 50 CFR 18.3 and 216.3 pursuant to MMPA section 101(a), to be regulated within a state either by the Federal government, or by the state if management authority for that species has been transferred. Congress made no distinction between unexpected incidental takings and capturing or killing except with respect to cooperative allocation agreements under Section 109(d). *See* H.R. Rep. No. 97–228, *supra* at 28.

One commentator suggested that we restrict the application of (b)(2)(v) of § 403.03 to species "within state waters" and eliminate reference to Federal regulations. This commentator believes that it is sufficient that state incidental take regulations are consistent with the Act and that any further Federal regulation would impose undue burdens on the state. The Services agree with this comment and delete the reference to Federal regulations in paragraph (b)(2)(v).

The Minerals Management Service (MMS) of the Department of the Interior commented that the effect of paragraph (b)(2)(v) could be that an oil, gas, geophysical survey or Outer Continental Shelf (OCS) development company may need to obtain permission to take marine mammals from one or more states for animals and individual activities in waters under state jurisdiction, as well as from the Federal agencies for animals and activities in areas seaward of state territorial waters. MMS believes that this situation could cause time delays and greatly escalate costs to both industry and the Federal government. MMS stated that these potential delays are inconsistent with the OCS Lands Act, as amended, and Administration policy regarding our nation's energy resources. MMS recommended, therefore, that reference to section 101(a)(5) be eliminated from § 403.03(b)(2)(v) and that authority to authorize incidental taking under section 101(a)(5) of the Act be retained by the Federal agencies.

Section 109(b)(3)(B) of the Act provides that following transfer of management authority for a given species, the Services retain authority to regulate only that incidental taking, provided for under section 101(a) (2), (4) and (5), which occurs within the 200-mile Fishery Conservation Zone (FCZ) described in section 3(14)(B) of the Act. Congress found that where management authority had been transferred to the state, and when the required determinations and agreements have been made, the state will have exclusive authority to manage marine mammals within the state, including its territorial waters, except for the scientific research, public display, and health and welfare takings described earlier. Section 109(b)(3)(B) is intended to make this explicit. *See* H.R. Rep. No. 97–228, *supra* at 24. The Act, therefore, precludes adoption of the MMS suggestion in these regulations.

Paragraph (b)(3) of this section requires that the state program contain procedures for acquiring and evaluating data relating to OSP and the maximum allowable take of the species. The procedure for acquiring and reviewing such information need not comply with section 403.04 procedures pertaining to determining OSP and the maximum allowable take of species. However, if the review, which should be done at least annually, discloses that OSP and maximum allowable take determinations may need to be adjusted, the state must use the procedures required by § 403.04 in making these adjustments. Two commentors recommended that the word "annually," as provided in the preamble to the proposed regulations, be inserted in paragraph (b)(3), and we have adopted this recommendation.

Paragraph (b)(6) of this section lists certain aspects of the state management program which must be considered by the appropriate Service in making a determination as to whether the state's program is consistent with the Act. The description of the organization of state offices involved in the administration and enforcement of the state management program need describe only the various responsibilities of these offices as they relate to marine mammal management and how these offices relate to one another. In the latter regard, an organizational chart would be helpful. Paragraph (b)(6)(ii) relates to permits involving marine mammals. The state should describe what types of permits apply to actions involving marine mammals, the laws under which such permits are granted, and what factors guide discretion on permit applications. The state should discuss, pursuant to paragraph (b)(6)(iii), certain aspects of judicial review such as the courts which have jurisdiction to review administrative decisions, who may challenge administrative decisions, the scope of judicial review, and the range of available remedies. The state should discuss, pursuant to paragraph (b)(6)(iv), such aspects of administrative rulemaking as notice procedures, public comment requirements, *ex parte* rules and hearing requirements.

Although paragraphs (b)(6)(ii) through (b)(6)(iv) pertain to state laws on specific aspects of marine mammal management, copies of these laws do not need to be included with those provided pursuant to § 403.03(a)(1). A general description of the provisions, limitations and exceptions of these laws will be sufficient.

Paragraph 403.03(c) requires the state to submit in its request for the transfer of management authority certain supplementary information pertaining to the state management program. This information need only be submitted in summary form. It is believed that compiling the information in this form will not unduly burden the state, yet will provide the appropriate Service with a baseline from which to evaluate the proposed administration of marine mammal management by the state.

Two commentators requested greater specificity in the requirements of paragraphs (b)(6) and (c) of this section to provide Federal agencies and the public with more detailed information. We have carefully reviewed the text of the proposed and adopted paragraphs (b)(6) and (c) and have determined that these provisions require sufficient information to ensure that the public can have adequate notice of and information on the state management program and to support a finding of consistency with the goals and policies of the Act. Thus, we have adopted paragraphs (b)(6) and (c) as proposed.

Paragraph (d) of § 403.03 pertains to regulation of subsistence use of marine mammals in Alaska as provided by section 109(f) of the Act. Several commentators remarked that § 403.03(d) was confusing as written and much in need of clarification and reorganization. In addition, commentators remarked that section 109(f)(1) of the Act specifies the form in which Alaska's subsistence program must be submitted. That is, statute *and* regulations must be adopted governing certain aspects of the subsistence program; statutes *or* regulations must be adopted governing others. Accordingly § 403.03(d) is reorganized both to clarify the requirements of a submission by Alaska concerning subsistence use and to reflect the form of legal authorities required by the Act.

Other minor changes are made in § 403.03(d) in response to comments. For example, paragraph (d)(1)(ii) of the proposed regulations (now (d)(2)(ii)) is amended to include examples from the legislation of some types of economic opportunities, at the request of several commentators. In addition, the proposed regulations provided, in conformance with section 109(f)(1)(B) of the Act, that nonsubsistence use can be authorized only if certain findings are made on the basis of the administrative record before the state agency. Section 403.03(d)(2)(iii) of the final regulations is added to ensure that written findings are made in suppport of the state agency's determinations. A new § 403.03(d)(3) is added to parallel the general requirement of § 403.03(a)(2) that the state request include a narrative discussion explaining its program in terms of the requirements of the Act. Section 403.03(d)(3) requires that the State of Alaska provide a discussion specific to the regulation of nonsubsistence consumptive uses of marine mammals and their effect on subsistence users.

Several commentators suggested the need for specific information on this issue and requested amendment of paragraph (d) to require that the State of Alaska provide this information in its request for marine mammal management authority. We disagree with the recommendation to add additional requirements to these regulations when the Act does not specifically require them. However the following are examples of the types of information the state should provide in the narrative discussion required by paragraph (d)(3): A description of: (1) The types of nonsubsistence consumptive uses which may be authorized for each species; (2) how nonsubsistence consumptive uses of a marine mammal species will be regulated to provide economic opportunities to residents of rural coastal villages of Alaska who engage in subsistence uses of the species; (3) any permit or licensing system relating to the taking of a marine mammal species for nonsubsistence uses, the licensing of marine mammal hunting guides, the designation of marine mammal guiding areas, and the assignment of such areas to marine mammal hunting guides; (4) any laws which authorize and establish the standards for granting or withholding such permits and licenses; and (5) the procedures used in granting or withholding such permits or licenses. In any event, the narrative discussion required by paragraph (d)(3) must provide the Services with a clear explanation of how the state's program satisfies the requirements of section 109(f) of the Act.

Additionally, it should be noted that § 403.03(d)(1)(iv) requires that the state submit a statute and regulations ensuring that takings for subsistence

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uses are accomplished in a non-wasteful manner. For an example of the FWS's position on what constitutes takings in a "wasteful manner," see the definition of "wasteful manner" in 50 CFR 18.3.

One commentator suggested that provisions for subsistence take in Alaska apply only to Alaskan natives and their families, not all rural Alaska residents. This is contrary to the requirements of the MMPA. Section 109(f)(2) of the MMPA clearly defines the term "subsistence use" to be the "customary and traditional uses by rural Alaska residents". Although the legislative history of the Act, as cited by the Defenders of Wildlife in their comments, does speak of "Alaskan Natives," *see* H.R. Rep. No. 97–228, *supra* at 28, this does not limit the definition for several reasons.

First, Congress recognized that the subsistence use provisions of section 109 of the MMPA are similar to those of Title 8 of the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487. H.R. Rep. No. 97–228, *supra* at 28. The only difference between the two subsistence provisions is that "customary trade is not included within the purview of section 109 [of the MMPA]". Congress further stated that:

> The section 109(f)(2) definition of subsistence uses is identical to the definition of the same term in section 803 of ANILCA in that it defines subsistence uses as the customary and traditional uses by rural Alaska residents for the personal and family consumption purposes set forth in section 803.

Id. Since the ANILCA subsistence provisions apply to both native and non-native rural Alaska residents, *see* S. Rep. No. 96–413, 96th Cong., 1st Sess., p. 233 (1979), so do the subsistence provisions of section 109 of the MMPA.

Second, marine mammal management authority could not be transferred to Alaska, the only state to which the subsistence provisions of section 109(f) of the MMPA apply, if subsistence provisions of section 109(f) were limited to Natives. Congress noted that Alaska interprets its Constitution as prohibiting any discrimination between its citizens on the basis of race, thereby precluding transfer of management authority to Alaska unless the subsistence provisions were racially neutral. *See* H.R. Rep. 97–228, *supra* at 12.

Thus, the subsistence provisions of section 109 of the MMPA apply to rural Alaska residents independent of race. It should be noted, however, that under section 101(b) of the MMPA, the subsistence priority when the Federal Government is exercising management authority is limited to Alaskan Natives.

Paragraph (e) of § 403.03 provides procedures for the appropriate Service's informal review of a request for transfer of management authority. The preliminary review procedures of paragraph (e) are not designed as a mechanism for piecemeal review of the state's management program. This subsection can be used either to gain guidance on an entire program before formal submission, or as a means of evaluating proposed aspects of the state management program before final enactment and submission.

As explained above, the Services incorporated informal rulemaking procedures for approving state management programs and transferring management authority to states in § 403.03 (f) through (h). One commentator suggested that a public comment period of at least 90 days be established. The Services believe that 90 days is excessive, but agree to the need for a minimum comment period to assist states and Federal agencies in planning and to assure adequate time for public involvement especially in rural areas. Accordingly, we have revised paragraph (f) to include a comment period of 60 days.

Section 403.04

This section describes procedures which the state must provide for in its management program and employ in determining the OSP of a given species and the maximum allowable number of animals that can be taken without reducing the population below OSP. These procedures are required by section 109(c) of the Act.

In response to public comments, we have made the following minor revisions to this section. The first sentence of paragraph (c) has been amended to read "The state agency with responsibility for managing the species in the event management authority is transferred to the state * * *," since at this point in the process management authority has not yet been transferred. A typographical error ("uses" should be "issues") has been corrected in paragraph (f)(5) and in paragraph (g)(1) the term "may" has been replaced by the word "shall" which does not change the intent of this paragraph. Finally, paragraph (g)(3) has been revised by the addition of the phrase "and the hearing record" at the end of this paragraph to clarify that both the hearing record and the decision document must be available for public inspection.

Several editorial changes were suggested by a number of commentators concerning the timing and specific content of documents. These suggestions have not been adopted. In our view the requirements of section 109(c) of the Act are already rigorous and specific and need no further elaboration.

One commentator requested an addition to paragraph (b) that would require states to consider the impacts on state residents and on operations in state and national interest (i.e., oil and gas development) when making any changes in regulations establishing bag limits, quotas, seasons, areas, manner of take, etc. Neither the Act, nor the House Report accompanying the 1981 amendments, contains any reference to a priority allocation of marine mammals for oil and gas development purposes. This commentator also requested some provision for public comment on proposed changes in these state regulations. Public notice provisions of state rulemaking procedures will provide the opportunity for public review of proposed changes in state regulations.

Paragraph (c) requires that a state make an initial determination regarding OSP and maximum allowable take. One commentator recommended that this paragraph also require the state to determine the current population size of the species or stock, its OSP and then whether or not it is within that range. Section 403.04 and the OSP definition at § 403.02 reflect Congressional intent concerning the findings the state must make in the OSP hearing, *see* section 109(b)(1)(C) of the Act, and therefore provide sufficient guidance to states on their responsibilities under this section.

One commentator noted that biological data may be lacking concerning certain marine mammal species, and that the appropriate Service should participate in the OSP determination rather than simply review the results of a state determination. The Services intend to make available all information on marine mammal species and any expertise needed by state agencies or the public throughout the state's OSP proceedings. The Services may also choose to submit evidence at an OSP hearing just as any other interested party. It should be emphasized however that the OSP and maximum allowable take determinations are solely the responsibility of the state and are a prerequisite to transfer of management authority for a species.

Paragraph (f) describes procedures which must be employed in the hearing itself. The hearing must be transcribed verbatim. In accordance with the Act, final determinations must be based on the best available scientific information. This information must be of sufficient quantity and quality to ensure that any

taking will be consistent with the maintenance of OSP. *See Committee for Humane Legislation* v. *Richardson*, 414 F. Supp. 297 (D.D.C. 1976), *aff'd*, 540 F. 2d 1141 (D.C. Cir. 1976).

Interested persons must be afforded the opportunity to participate in the hearing to the extent specified in paragraph (f)(3). Other aspects of hearing procedures are left to the discretion of the presiding officer(s) in accordance with state law.

One commentator questioned the intent of Congress concerning the standing of written testimony that is not orally presented at a hearing conducted pursuant to § 403.04. Congress specifically found that a state may not rely on evidence, oral or written, which is not presented at the hearing. All written documents, therefore, must be entered into the record by a person able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained in the written material. *See* H.R. Rep. No. 97–228, *supra* at 25. Sections 403.04(f)(3) and 403.04(g)(1) are intended to make this explicit.

One commentator suggested that a specific time period be established for the review and final determination process described in paragraph (g). We believe that the states, because they are most familiar with resources available to them, are in the best position to determine appropriate time periods for review of the hearing record and decisions on the issues relevant in the OSP hearing.

Section 403.05

This section describes Federal and state responsibilities after transfer of management authority. Several minor changes have been made to this section including substituting the word "transferred" for the word "returned" in paragraphs (c) and (d), when referring to the process for transferring authority for marine mammal management to states. The word "returned" is reserved for that process whereby management authority is returned to the Federal Government pursuant to § 403.07. Paragraph (c) has also been revised in response to a comment by the addition of the phrase "together with the basis for such finding" in the first sentence of paragraph (c)(1). This is to clarify that the Service is to receive specific information on the reasons for a state's finding that the issuance of a permit would not be consistent with the state management program for a given species.

Several commentators asked that the Services explain the requirements for cooperative allocation agreements in § 403.05. The State of Alaska suggested language explaining this provision in terms of Congressional intent and providing a description of the cooperative allocation agreement and the process by which it will be developed:

> Paragraph (a) describes the cooperative allocation agreement. In the case of a species whose range extends beyond the territorial water of the state, this agreement is a prerequisite to the transfer of management authority. . . . This instrument was designed by Congress to ensure that the state does not preempt all available take so as to preclude federal incidental take determinations in the FCZ, and to ensure that the Secretary does not make unjustifiable claims respecting numbers of animals purported to be needed to carry out his responsibilities under section 101 of the Act. Thus, it is anticipated that after the State has made its determination as to maximum allowable take, the [Service] will provide its judgment as to the number of animals that will be taken in the FCZ pursuant to federal incidental take determinations. The State will compare this number to its determination of maximum take and also, in the case of Alaska, to that necessary for subsistence use. Priority of allocation is given first to taking for subsistence purposes, in the case of Alaska, and secondly to incidental taking within the FCZ under the authority of section 101(a). The cooperative allocation agreement [including the procedures required by section 109(b)(1)(G) of the Act and 403.03(b)(4) of these regulations], therefore, is designed to provide [that] . . . (1) the state [does not] assert the need for a number of animals for subsistence uses which is not supported by historical experience or fact and which would preclude the occurrence within the FCZ of commercial fishing or other activities involving the incidental taking of marine mammals, or (2) the Secretary [does not] make unjustifiable claims regarding the number of marine mammals necessary for the Secretary to carry out his responsibilities pursuant to section 101(a). It is not intended that the cooperative allocation agreement be a vehicle by which the Secretary can assert that the State has provided inadequate numbers of marine mammals for subsistence uses.

The State of Washington believes that the allocation of maximum allowable take, provided for in the cooperative allocation agreement in paragraph (a), would entail a joint effort in determining OSP both in and out of state waters. It recommends that these regulations include further information on the Federal methodology and procedures to be utilized in such a joint determination.

As indicated above in the discussion of § 403.04, the scientific and technical expertise of the Services is available to states requesting assistance in developing their initial OSP determination pursuant to that section. However, it is the state, and only the state, which has the authority and responsibility to determine OSP and maximum allowable take for species pursuant to section 109 of the Act. There are no joint Federal/state OSP determinations for species whose range extends beyond territorial waters of the state. The state's OSP and maximum allowable take determinations will apply within the FCZ pursuant to section 109(b)(3) and shall be treated within this zone as a Secretarial determination made in accordance with section 103 and as an applicable waiver of the moratorium under section 101(a). *See* H.R. Rep. No. 97–228, *supra* at 25.

The State of Washington, and other commentators, identified a problem which may arise concerning the management of species that migrate through the jurisdictions of two or more states. The cooperative allocation agreement described in paragraph (a) and further explained above, applies only between a state and the Federal Government. This does not preclude however the development of cooperative agreements between states on joint OSP research for the purpose of developing a data base to be used in the OSP determinations of one or more adjacent states for that species. We encourage the development of such cooperative agreements among states which may share management for a species.

One commentator requested a definition of the term "incidental take" as used in paragraph (a). Because cooperative allocation agreements concern that taking provided for under section 101(a) of the Act, the Services believe no additional definition of "incidental take" is necessary for § 403.05(a). *See* H.R. Rep. No. 97–228, *supra* at 26. Another commentator requested that some priority consideration in allocation be provided for non-commerical fishing incidental take under section 101(a)(5); however, no such priority was established in the 1981 Amendments for this type of take.

Paragraph (d) of section 403.05 encourages the state and the appropriate Service to cooperate, to the maximum extent practicable, in conserving the species of marine mammals. Three commentators requested clarification of this paragraph. The State and Federal cooperation in marine mammal conservation activities may include joint efforts involving marine mammals (e.g., research and enforcement) and does not preclude the state agency from entering into other agreements with its citizens or other parties for conservation purposes. The Federal role in monitoring and reviewing the implementation of state programs is explained under § 403.06 below.

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Section 403.06

This section provides procedures for the monitoring and review of the state management program. Under section 109(e) of the Act, the Services have responsibility, after management authority has been transferred to the state, to monitor the state's implementation of its program. To facilitate this review process, paragraph (b) requires the state to submit an annual report on its management of the species, and paragraph (c) requires a report whenever either of the two events listed in that subsection occur.

Several minor changes have been made in this section. Paragraph (a) has been revised to include the phrase "implementation of" to emphasize that the Services must monitor and review the implementation of the state's program. In paragraphs (b) and (d) the words "transfer" or "transferred" have been substituted for the words "return" or "returned," and in paragraphs (b)(1) and (c)(1) the term "law(s)" has been substituted for the phrase "laws or regulations" as discussed earlier. In paragraph (b)(9), pertaining to "other information" that may be requested from the state, the phrase "consistent with the Act as amended" has been added to clarify that "other information" must pertain to the Act and to its requirements. Finally, in paragraph (d) we have added the phrase "and at the appropriate regional office of either Service" in response to several requests. To provide greater public access to reports submitted pursuant to this section, reports will be available for inspection at the appropriate regional offices of the Services as well as in the Washington, D.C. offices of the FWS and the NMFS.

Paragraph (b) defines the components of the annual report. Any changes in the state laws provided in the original request pursuant to § 403.03(b) and, in the case of Alaska, § 403.03(d), must be described in the annual report. The report should include a discussion of how such changes affect implementation of the management program. However, the extent of each discussion should be proportional to the importance of that change. For example, a change in rulemaking procedures (§ 403.03(b)(6)(iv)) may require less attention than a change in laws concerning the take of the species (§ 403.03(b)(2)).

Paragraph (b)(3) of § 403.06 requires the state to provide a summary of all available information relating to takings under the state management program. Two commentators suggested this provision as it relates to the State of Alaska and takings for subsistence uses be explained. For the State of Alaska, the summary must include takings which have been authorized for subsistence purposes, takings which have been authorized for nonsubsistence consumptive uses, and a discussion of how the regulation of nonsubsistence consumptive uses has, to the maximum extent practicable, provided economic opportunities for the residents of rural coastal villages of Alaska who engage in subsistence uses of marine mammal species.

One commentator requested that paragraphs (b) and (c) require states to report all available information on the causes of marine mammal mortality. Information on marine mammal mortality must be supplied under paragraphs (b) (2), (3), (5), and (7), and under (c)(2) if the extent of mortality may warrant reconsideration of the OSP and maximum allowable take determinations.

Paragraph (c) of this section requires the state to report the occurrence of either of two specified events: a change in relevant state law that may impair the implementation of the state's program, or a significant occurrence or new information that may warrant reconsideration of the determinations made under § 403.04. These events concern either the very foundation of the state management program or the status of the species involved and, therefore, require immediate review by the appropriate Service.

The report should describe the event and how it affects marine mammal management. The extent of discussion should correspond to the magnitude of the problem for either the state management program or the species. For example, a change in regulatory procedures for acquiring and evaluating data relating to OSP (§ 403.03(b)(3)) may require less discussion than significant new information that warrants reconsideration of the state's OSP and maximum allowable take determinations for a species.

One commentator recommended that a specific timeframe for the filing of paragraph (c) reports be established. We have added a specific time period to paragraph (c) (45 days), but any significant event which may require an emergency reconsideration of a state management plan is to be communicated to the appropriate Service as soon as possible within this new 45-day period.

Several commentators objected to the wording of paragraph (c)(1) which requires the state to report any change in a relevant statute or regulation *which might impair the state's ability to implement the program.* These commentators felt that the state should report all changes to relevant statutes and regulations.

The report required by paragraph (c) is distinct from the annual report and is intended to provide the opportunity for emergency review of significant events. States need not report under paragraph (c) minor changes in statutes and regulations, such as changes in time periods or minor procedural revisions. In our view, a requirement to report any minor changes would be unnecessarily burdensome on the states. Instead, states must report, under § 403.06(b)(1), on an annual basis all changes in laws submitted pursuant to § 403.03 (b) and (d). The appropriate Service must be alerted as soon as possible to changes which might impair the state's ability to implement its marine mammal management program. Although some commentators suggested that this standard was vague and did not provide assurance that significant changes would be immediately reported by the state, no change has been made in this standard. The state will be in the best position to judge immediately the effect of a change in state laws governing its program. By use of the phrase "may impair," doubtful situations must be resolved in favor of reporting the change to the Service. In addition, any change in the state management program that will qualify for immediate reporting is likely to be widely known. Concerned citizens or organizations can therefore play an important role in keeping the Services informed about changes in the state management program.

Section 403.07

This section provides procedures and standards for the Service's review of state management of a species of marine mammals and revocation of management authority. In addition, this section provides procedures for the state's voluntary return of management to the appropriate Service.

Numerous editorial and minor revisions have been made to this section in response to commentators' suggestions. Again, the word "transferred" has been substituted for the word "returned" when referring to the transfer to a state. "Returned" refers only to the return of management from a state to the Federal Government pursuant to this section. The word "implementation" has been added to paragraph (a) to clarify that implementation of the program is subject to review by the Services. Throughout this section, "approved management program" has been substituted for the term "request for return of management authority" since the program being implemented, and therefore subject to review, is the management program that was approved. Paragraph (a)(1) has been changed to provide that after the Service has received information concerning implementation of the state management program, the determination of whether or not the state is in compliance with the Act and the regulations must be made within 30 days. In paragraph (a)(2) the phrase "and invite public comments thereon" has been inserted following the provision that notice be published in the **Federal Register**, to clarify our intent that the public have an opportunity to review the Service's decision to revoke. The phrase "or unless otherwise agreed upon" has been added to the end of paragraph (b)(1) to accommodate the possibility that a state may be able to advise the appropriate Service of its intent to return management well in advance of the effective date. In paragraph (b)(2) the words "and management" have been inserted following the word "conservation," to clarify that the implementation of all aspects of the state management program is of concern.

Paragraph (b)(2) of § 403.07 provides a mechanism for the return of marine mammal management authority to the appropriate Service should any aspect of the state management program be enjoined by court order so as to preclude effective conservation and management of the species. The State of Washington, in commenting on this provision, noted that there is no vehicle for "re-transfer" of management authority to the state should the injunction be dissolved or the matter causing the return of management to the Service otherwise be satisfactorily resolved. It is not the intent of these regulations to require resubmission of an entire state management program pursuant to § 403.03 should the events noted by the State of Washington occur. For example, if a preliminary injunction that caused management authority to be returned to the Service is dissolved, or should a final injunction be denied, the state management program for which management authority had originally been transferred would be revived and continue to apply. Likewise, if a final injunction is issued but the defect cured through, for example, state legislation, the original state management program, as amended by the curative legislation, would comply with this Part provided the new legislation cured that aspect of the state management program which had been enjoined.

Accordingly, § 403.07(b)(2) is amended by adding a sentence providing that when management authority has been returned to the appropriate Service pursuant to § 403.07(b)(2), it may be returned to the state ("re-transferred") should, in the judgment of the Service, the cause for return be alleviated in such a way as to ensure that the state's management program provides effective conservation and management of the species. Compliance with § 403.03 procedures is not required for this type of "re-transfer."

Several aspects of this provision should be noted. It applies if the state has concluded that the injunction precludes effective conservation and management of the species under the state management program and has, therefore, voluntarily returned management under § 403.07(b)(2). It also applies if the state notifies the appropriate Service that effective conservation and management is not precluded because of the injunction, but the Service has decided otherwise and revoked management authority pursuant to § 403.07(a). In order for the state to take advantage of the "re-transfer" provision of § 403.07(b)(2), the state should notify the Service of the resolution of the matter. This notification should specify how the matter has been resolved and describe why the state believes effective conservation and management of the species under the state management program is now possible. In addition, the ability to take advantage of the "re-transfer" provision of § 403.07(b)(2) assumes that no other aspect of the state management program other than that which was the subject of the injunction has been impermissibly altered since the injunction was issued. If another aspect of the state management program has been altered, the state must report this change in the notice to the Service that the cause for the injunction has been cured. The Service will review this change in the state management program as if it was reported pursuant to § 403.06(c). After the state has provided notice to the Service that the cause for the injunction has been cured (including the description of any other changes in the state management program), the Service may "re-transfer" management authority if, in their judgment, a certain standard is met. This standard is the same as for the original transfer of management to the state as set forth in § 403.03(h). If the Service declines to "re-transfer" pursuant to § 403.07(b)(2), the state may regain management authority only by complying with § 403.03.

One commentator requested guidance on the meaning of the term "substantial factual information" as used in paragraph (a). We are unable to be more specific in this regard. All information will be judged on a case-by-case basis. The Services retain an oversight responsibility under section 109 of the Act following transfer of management authority to a state and anyone may report any type of information to the appropriate Service concerning the implementation of a state management program. However, this procedure is not intended to provide a forum for arbitrary or unfounded statements by individuals opposed to state management per se.

One commentator noted that paragraph (a)(2) requires publication of a notice of intent to revoke management, but does not require publication of a contrary determination following receipt of any substantial factual information concerning the implementation of the state program. Since a finding that the state is in compliance with the Act and these regulations does not change the status quo, no general public notice is required. The individual or organization providing information to the Service will be informed of the decision pursuant to the Services' policy of responding to public inquiries and correspondence.

Two commentators noted that there is no provision under paragraph (a)(2) allowing the Services to impose an immediate emergency moratorium on taking within the state. There is no authority under the Act for such action by the Services.

One commentator requested that additional language be included in this section to require revocation of state management authority in the event that the state does not give adequate consideration to activities that are in the national interest, such as siting of energy facilities. No such authority exists under the Act.

Section 403.08

This section provides notification of the states to which management has been transferred. Accordingly, it will be updated from time to time when management has been transferred to a new state or for a new species.

This section has been revised to include reference to cooperative allocation agreements where they apply. The Marine Mammal Commission also requested the addition of reference to any state regulations adopted by the Services under § 403.05(b). However, we

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intend to place these regulations, if and when adopted, under a separate section of this Part.

Applicability to Other Laws, Regulations and Requirements

Environmental assessments have been prepared in conjunction with these proposed regulations. They are available at the addresses noted in the preamble to this final rule. Based on the environmental assessments, the Department of the Interior and the Department of Commerce determined that the proposed rule would not be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(c).

The Department of the Interior and the Department of Commerce have determined that this is not a major rule and does not require preparation of a regulatory impact analysis under Executive Order 12291.

The Departments have also determined that this rule will not have a significant economic impact on a substantial number of small entities and thus a regulatory impact analysis need not be prepared under the Regulatory Flexibility Act, 5 U.S.C. 601. (The determinations by the FWS under Executive Order 12291 and the Regulatory Flexibility Act are discussed in more detail in a Determination of Effects which has been made a part of the Administrative record.)

The information collections contained in this final regulation are not subject to Office of Management and Budget clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since there are expected to be fewer than ten respondents annually.

Primary Authors

The primary authors of this final rule are John Bardwell and W. Michael Young, Department of the Interior; and Georgia Cranmore and Gretchen Beck, Department of Commerce.

List of Subjects in 50 CFR Part 403

Administrative practice and procedure, Alaska, Intergovernmental relations, Exports, Imports, Transportation, Marine mammals, Indians, Endangered and threatened wildlife.

Regulation Promulgation

For the reasons set out in the preamble, Subpart F of Part 18, Title 50, Code of Federal Regulations and Subpart H of Part 216, Title 50, Code of Federal Regulations are removed and replaced with the following references and new Part 403:

PART 18—[AMENDED]

Subpart F—Transfer of Management Authority to States

Regulations governing the transfer of management authority to states pursuant to Section 109 of the Marine Mammal Protection Act for marine mammal species under the jurisdiction of the Secretary of the Interior are found at Part 403 of this Title.

PART 216—[AMENDED]

Subpart H—Transfer of Management Authority to States

Regulations governing the transfer of management authority to states pursuant to Section 109 of the Marine Mammal Protection Act for marine mammal species under the jurisdiction of the Secretary of Commerce are found at Part 403 of this Title.

PART 403—TRANSFER OF MARINE MAMMAL MANAGEMENT AUTHORITY TO STATES

Sec.

403.01 Purpose and scope of regulations.
403.02 Definitions.
403.03 Review and approval of state request for management authority.
403.04 Determination and hearings under section 109(c) of the MMPA.
403.05 State and Federal responsibilities after transfer of management authority.
403.06 Monitoring and review of state management program.
403.07 Revocation and return of state management authority.
403.08 List of states to which management authority has been transferred.

Authority: 16 U.S.C. 1361 *et seq.*, as amended by Pub. L. 97–58.

§ 403.01 Purpose and scope of regulations.

The regulations contained in this Part implement section 109 of the Act which, upon a finding by the Secretary of compliance with certain requirements, provides for the transfer of marine mammal management authority to the states.

(a) The regulations of this Part apply the procedures for the transfer of marine mammal management authority to a state, the form and minimum requirements of a state application for the transfer of management authority, the relationship between Federal and state wildlife agencies both prior and subsequent to the transfer of management authority, and the revocation and return of management authority to the Federal Government.

(b) Nothing in this Part shall prevent: (1) The taking of a marine mammal by or on behalf of a Federal, state or local government official, in accordance with sections 18.22 or 216.22 of this Title and section 109(h) of the Act, or (2) the adoption or enforcement of any state law or regulation relating to any marine mammal taken before December 21, 1972.

(c) The information collection requirements contained in §§ 403.03, 403.06, and 403.07 of this Part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

§ 403.02 Definitions.

The following definitions apply to this Part:

(a) The term "species" includes any population stock.

(b) "Optimum Sustainable Population" or "OSP" means a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality.

(c) "State management program" means existing and proposed state statutes, regulations, policies and other authorities which form the framework for the conservation of a species of marine mammals.

(d) "State regulation" means the whole or part of a state agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of a state agency and which is duly promulgated in accordance with established procedure.

(e) The "Act" means the Marine Mammal Protection Act (MMPA) of 1972, 16 U.S.C. 1361 *et seq.*, as amended by Pub. L. 97–58.

(f) The " Secretary" means the Secretary of the Interior or the Secretary of Commerce, depending on the species involved. Under Section 3(11) of the Act, the Secretary of Commerce has jurisdiction over members of the order Cetacea and members, other than walruses, of the order Pinnipedia; the Secretary of the Interior has jurdisdiction over all other mammals. These secretarial authorities have been delegated to the National Marine Fisheries Service and the Fish and Wildlife Service, respectively.

(g) The "Service" or "Services" means the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), as appropriate depending on the species involved. Any determination or finding required by this Part to be made by the "Service" must be made by the Director of the FWS or by the Assistant Administrator of the NMFS, or their delegees, as appropriate.

§ 403.03 Review and approval of State request for management authority.

(a) Any state may request the transfer of management authority for a species of marine mammals by submitting a written request to the Director of the Fish and Wildlife Service ("Director") for species of marine mammals under the jurisdiction of the FWS, or to the Assistant Administrator for Fisheries of the National Marine Fisheries Service ("Assistant Administrator") for species of marine mammals under the jurisdiction of the NMFS. The request must include:

(1) Copies of existing and proposed statutes, regulations, policies and other authorities of state law which comprise those aspects of the state management program outlined in paragraph (b) of this section, and, in the case of Alaska, paragraph (d) (1) through (3) of this section;

(2) A narrative discussion of the statutes, regulations, policies and other authorities which comprise those aspects of the state management program outlined in paragraph (b) of this section, and, in the case of Alaska, paragraph (d) of this section, which explains the program in terms of the requirements of the Act and the regulations of this Part; and

(3) Supplementary information as required by paragraph (c) of this section.

(b) A request for transfer of marine mammal management authority will not be approved unless it contains the following:

(1) The scientific and common names and estimated range of the species of marine mammals subject to the state management program.

(2) Provisions of state law concerning the take of marine mammals that

(i) Require that the taking of marine mammals be humane as defined by section 3(4) of the Act;

(ii) Do not permit the taking of marine mammals until the following have occurred:

(A) The state, pursuant to the requirements of § 403.04 of this Part, has determined that the species is at its Optimum Sustainable Population (OSP) and determined the maximum number of animals that may be taken without reducing the species below its OSP, and, in the case of Alaska, when a species is below OSP, the maximum numbers that can be taken for subsistence uses while allowing the species to increase toward its OSP;

(B) The determination as to OSP and maximum take are final and implemented under state law; and

(C) A cooperative allocation agreement, if required under § 403.05(a) of this Part, is implemented;

(iii) Do not permit take in excess of the maximum number of animals that may be taken as determined pursuant to § 403.04 of this Part; provided that for Alaska, subsistence take may be allowed in accordance with paragraph (d) of this section, and if the species is below OSP, any level of take allowed for subsistence use shall permit the species to increase toward OSP;

(iv) Do not permit take that is for scientific research or public display purposes except such take by or on behalf of the state, or pursuant to a Federal permit issued under §§ 18.31 or 216.31 of this Title; and

(v) Regulate the incidental taking of the species in a manner consistent with section 101(a) (2), (4) and (5) of the Act.

(3) Provisions for annually acquiring and evaluating data and other new evidence relating to OSP of the species and the maximum allowable take, and if warranted on the basis of such evaluation, for requiring reevaluations of OSP and maximum allowable take determinations pursuant to § 403.04.

(4) Procedures for the resolution of differences between the state and the appropriate Service that might arise during the development of a cooperative allocation agreement pursuant to § 403.05(a) of this Part.

(5) Procedures for the submission of an annual report meeting the requirements of § 403.06(b) of this Part to the appropriate Service regarding the administration of the state management program during the reporting period.

(6) A description of—

(i) The organization of state offices involved in the administration and enforcement of the state management program;

(ii) Any permit system relating to the marine mammals, the laws that apply to such permits, and the procedures to be used in granting or withholding such permits;

(iii) State laws relating to judicial review of administrative decisions as they relate to the state management program;

(iv) State laws relating to administrative rulemaking as they relate to the state management program;

(c) In addition to the aspects of the state management program required to be submitted by paragraph (b) of this section, the state shall submit information, in summary form, relating to

(1) The anticipated staffing and funding of state offices involved in the administration and enforcement of the state management program;

(2) Anticipated research and enforcement activities relating to conservation of the species for which management authority is sought; and

(3) Such other materials and information as the Service may request or which the state may deem necessary or advisable to demonstrate the compatibility of the state management program with the policy and purposes of the Act and the rules and regulations issued under the Act.

(d) In addition to the requirements contained in paragraphs (b) and (c) of this section, a request for the transfer of marine mammal management authority by the State of Alaska must contain the following concerning subsistence use of the species:

(1) A statute and regulations concerning the take of marine mammals that ensure that

(i) The taking of marine mammals species for subsistence uses will be the priority consumptive uses of the species;

(ii) If restrictions on subsistence uses of the species are required, such restrictions shall be based upon the customary and direct dependence upon the species as the mainstay of livelihood, local residency, and the availability of alternative resources; and

(iii) The taking of marine mammal species for subsistence uses is accomplished in a non-wasteful manner;

(2) Statutes or regulations that ensure that the appropriate state agency will

(i) Authorize nonsubsistence consumptive uses of a marine mammal species only if such uses will have no significant adverse impact on subsistence uses of the species;

(ii) Regulate nonsubsistence consumptive uses in a manner which, to the maximum extent practicable, provides economic opportunities, including, but not limited to, licensing of marine mammal hunting guides and the assignment of guiding areas, for residents of rural coastal villages of Alaska who engage in subsistence uses of the species; and

(iii) Make written findings supporting the authorizations and regulations described in this paragraph based solely on the administrative record before the agency;

(3) A narrative discussion of the statutes or regulations required under paragraph (2) above, and any additional policies or procedures concerning the regulation of nonsubsistence consumptive uses of marine mammals. This discussion must explain how the State's program satisfies the requirements of Section 109(f) of the Act, namely that the regulation of nonsubsistence consumptive uses of marine mammals provides, to the maximum extent praticable, economic opportunities for the residents of rural coastal

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villages of Alaska who engage in subsistence uses of the species.

(e) To assist states in preparing the state management program for submission, the Service will also, at the written request of any state, make a preliminary review of any aspects of the state management program. This review will be advisory in nature and shall not be binding upon the Services. Notwithstanding preliminary review by the Service, once any proposed aspect of the state management program has been prepared and submitted in final form, it shall be subject to final review and approval under paragraphs (f) through (h) of this section.

(f)(1) After receiving the state's request, for management authority, the Service shall make an initial determination on whether the state's management program meets the requirements of the Act and these regulations.

(2) Within 45 days after receiving the state's request, unless the state and the Service agree to another time period, the Service shall publish a general notice of its initial determination in the **Federal Register** together with, in the case of a positive determination, the text of a proposed rule to transfer management authority to the state. The general notice shall contain a summary of the major components of the state's management program and shall indicate where the full text of the management program may be inspected or copied. The public shall be allowed to submit written comments and to request an informal public hearing on the Service's initial determination and the state's management program within 60 days of publication of the general notice.

(g) If requested, the Service may conduct an informal public hearing after publishing 30 days' advance notice of the date, location, and time of such hearing in the **Federal Register.**

(h) After considering all comments and other relevant information, the Service shall publish in the **Federal Register** its final determination on whether the state has developed and will implement a management program that meets the requirement of the Act and these regulations. In the case of a positive final determination, the Service shall publish with the notice a final regulation transferring management authority for the species to the state after the following requirements are satisfied:

(1) The state's determinations pursuant to § 403.04 of this Part are final and implemented under state law;

(2) Any cooperative allocation agreement required under § 403.05(a) of this Part is implemented; and,

(3) The state has enacted and submitted to the Service laws and policies that are substantially the same as those provided pursuant to § 403.03(a) in proposed form in the state's management program.

§ § 403.04 Determinations and hearings under section 109(c) of the MMPA.

(a) *Introduction.* In order to gain approval of its marine mammal management program the state must provide for a process, consistent with section 109(c) of the Act, to determine the optimum sustainable population of the species and the maximum number of animals that may be taken from populations it manages without reducing the species below OSP. The state process must be completed before the state may exercise any management authority over the subject marine mammals, and it must include the elements set forth below.

(b) *Basis, purpose, and scope.* The process set forth in this section is applicable to and required for only the determination of the OSP of the species and maximum number that may be taken without reducing it below its OSP and, in the case of Alaska if the species is below OSP, the maximum number of animals that may be taken, if any, for subsistence uses without preventing the species from increasing toward its OSP. The state need not allow the maximum take, as determined in accordance with this process, that is biologically permissible. The state may change regulations establishing bag limits, quotas, seasons, areas, manner of take, etc. within the maximum biologically permissible take pursuant to its other rulemaking criteria, authority, and procedures. Compliance with the process set forth in this section would not be required again unless the state proposes to modify its determinations of the status of the species with respect to its OSP or the maximum permissible take from that species.

(c) *Initial determination by the State.* The state agency with responsibility for managing the species in the event management authority is transferred to the state shall make initial determinations on the basis of the best scientific evidence available of: (1) Whether or not it is at its OSP; (2) if so, the maximum number of that species that nay be taken without reducing it below its OSP; and (3) if not, in the case of Alaska, the maximum number of animals that may be taken, if any, for subsistence uses without preventing the species from increasing toward its OSP.

(d) *Notice and review of initial determinations and request for hearing.* The state agency shall provide notice of its initial determinations to the Service and the public and shall provide access to or copies of the documentation supporting its determinations to the Service and the public. The state agency shall indicate, in the notice of its initial determinations, the location(s) and hours during which such documentation may be inspected, and the costs, if any of copies of such documentation. The state agency shall also indicate in the notice that any interested person may request a hearing regarding the initial determinations, and the state shall provide a reasonable time, not less than 30 days, for making the request, taking into account the time required to advise the public of the initial determinations and to make the supporting documentation readily available to interested persons for their consideration. If a request for a hearing is not made within the prescribed time period, the initial determinations shall be treated as final.

(e) *Notice of hearing.* If a request for a hearing is made within the prescribed time period by any interested person, the state agency shall provide notice of the hearing to the Service and the public not less than 30 days in advance of the scheduled date(s) of the hearing(s). The notice shall include the date(s), location(s), and purpose of the hearing, a recitation of the initial determinations, the name(s) of the person(s) who will preside at the hearing, and the manner and date by which interested persons must notify the state agency or presiding officer(s) of their desire to participate in the hearing. The state shall also make available and distribute upon request a list of witnesses and description of the documentation and other evidence that will be relied upon by the state's witnesses in support of its initial determinations sufficiently in advance of the hearing date so as to allow interested persons to prepare questions and supporting or rebuttal testimony for the hearing.

(f) *Conduct of the hearing.* (1) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(2) The state shall sponsor all written documentation in support of its determinations with witnesses who are able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained therein provided that, except by agreement of the parties, the state agency may not call any witnesses or introduce any

documentation into the record unless the advance notice requirements of paragraph (e) of this section are met with respect to such witnesses or documentation.

(3) Any interested person who has notificed the state agency of his desire to participate in the hearing pursuant to subparagraph (e) of this section may participate in the hearing by presenting oral or written testimony or cross-examining the witnesses or other parties with respect to matters relevant to the state's initial determinations, provided that any such written documentation must be sponsored by a witness who is able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained therein.

(4) The presiding officer(s) shall conduct the hearing in accordance with such other rules of evidence, criteria, and procedures as are necessary and appropriate for the expeditious and effective determination of the issues. The presiding officer(s) may provide for oral argument and/or written briefs at the end of the hearing.

(5) Final determinations on the issues specified in paragraph (c) of this section must be supported by the best available scientific information so as to insure that any taking will be consistent with the maintenance of OSP.

(g) *Review of the hearing record and final determinations.* (1) The state agency shall provide for either: (i) Review and evaluation of the hearing record by the presiding officer(s) and transmittal by the presiding officer(s) of recommended final determinations to the decision-maker(s) in the state agency; or (ii) review and evaluation of the hearing record and final determinations by the state agency without benefit of any recommendations by the presiding officer(s). In any event, the final determinations by the state agency must be made solely on the basis of the record developed at the hearing. The state agency in making its final determinations, and/or presiding officer(s) in making his (their) recommended determinations, may not rely on oral or written evidence which was not presented at the hearing and made available to the parties for cross-examination and rebuttal testimony. Any such oral or written information transmitted to the presiding officer(s) or other members of the state agency responsible for the final determinations shall be treated as *ex parte* communications and may not be considered part of the record for decision.

(2) The state agency shall make final determinations of the issues set forth in paragraph (c) of this section and shall include in its statement of final determinations a statement of findings and conclusions and the reasons or basis therefor.

(3) The state agency shall advise the Service and the public of its final determinations and shall provide access to or copies of its decision document and Hearing Record.

(h) *Judicial review.* The state agency's final determinations after a hearing must be supported by substantial evidence in the record of the hearing. Opportunity for judicial review of the state agency's final determinations must be available under state law. The scope of judicial review shall be equivalent to that provided for in 5 U.S.C. 706(2) (A) through (E).

§ 403.05 State and Federal responsibilities after transfer of management authority.

(a) After determinations required by section 403.04 of this Part have been made in respect to a species whose range extends beyond the territorial waters of the state, the state shall not exercise management authority until a cooperative allocation agreement with the Secretary has been signed and the Service has transferred management authority pursuant to § 403.03(h). The cooperative allocation agreement shall provide procedures for allocating, on a timely basis, the maximum amount of take as determined by the state pursuant to § 403.04 of this Part. Such allocation shall give first priority to incidental take within the zone described in section 3(14)(B) of the Act as provided for under section 101(a) of the Act, except that in the case of Alaska, first priority shall be given to subsistence use.

(b) For those species to which subparagraph (a) of this section applies, the state may request the Service to regulate the taking of the species within the zone described in section 3(14)(B) of the Act for subsistence uses and/or hunting in a manner consistent with the regulation by the state of such taking within the state. If such a request is made, the Service shall adopt and enforce within such zone, such of the state's regulatory provisions as the Service considers to be consistent with the administration within such zone of section 101(a) of the Act.

(c) If management authority for a species has been transferred to a state pursuant to this subpart, the Service shall provide to the state an opportunity to review all requests for permits to remove live animals from habitat within the state for scientific research or public display purposes. If the state finds that issuance of the permit would not be consistent with its management program for the species:

(1) The state shall so inform the Service, together with the reasons for such finding, within 30 days of its receipt of the application, and the Service shall not issue the permit; and

(2) The Service shall provide to the permit applicant and the state an opportunity to adjust the permit application or otherwise reconcile it with the state management program for the species.

(d) After management of a species has been transferred to the state, state and Federal authorities shall cooperate to the maximum extent practicable in conserving the species of marine mammals.

§ 403.06 Monitoring and review of state management program.

(a) The Service has responsibility to monitor and review implementation of all state management programs approved pursuant to this Part.

(b) In order to facilitate such review, each state to which management authority has been transferred shall submit an annual report, not later than 120 days after the close of such state's first full fiscal or calendar year following the effective date of the Service's approval of the State management program, and at the same time each following year, or at such other time as may be agreed upon. The repot shall contain the following information current for each reporting period:

(1) Any changes in the state laws which comprise those aspects of the state management program submitted pursuant to section 403.03(b), and, in the case of Alaska, § 403.03(d), of this Part;

(2) Pertinent new data on the marine mammal species or the marine ecosystems in question including a summary of the status, trend and general health of the species;

(3) A summary of available information relating to takings under the state management program;

(4) A summary of state actions to protect species' habitat;

(5) A summary of all state research activity on the species;

(6) Any significant changes in the information provided with the original request for transfer of management authority;

(7) A summary of enforcement activity;

(8) A summary of budget and staffing levels for the marine mammal activities in the categories of research, management and enforcement;

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(9) Any other information which the Service may request, consistent with the Act as amended, or which the state deems necessary or advisable to facilitate review by the Service of state management of the species.

(c) Each state having an approved management program shall file a report, in a timely manner, not to exceed 45 days from the occurrence of any of the following:

(1) Any change in a relevant state law (amendments, repealers, or new legislation or regulations or judicial precedent) as submitted pursuant to paragraphs (b)(2) through (b)(5), and in the case of Alaska, paragraph (d), of § 403.03 of this Part that may impair the State's ability to implement the program;

(2) Any significant natural or manmade occurrence or any new scientific information that may warrant reconsideration of the determinations made pursuant to § 403.04 of this Part.

(d) All components of the state request for transfer of management authority, as well as annual reports submitted under paragraph (b) of this section and any reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, or, as appropriate, at the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235, and at the appropriate Service's regional office.

§ 403.07 Revocation and return of state management authority.

(a) *Revocation of management.* The Service shall have responsibility to review management of a species transferred to a state under this Part and to determine whether or not the implementation of the state management program continues to comply with the requirements of the Act, this Part and the state's approved management program.

(1) Upon receipt of any substantial factual information suggesting that the state management program is not being implemented or is being implemented in a manner inconsistent with the Act, this Part, or the state's approved management program, the Service shall, as soon as practicable but not later than 30 days after receipt, determine whether or not the state continues to comply with the requirements of the Act, this Part and the state's approved management program.

(2) Whenever pursuant to a review as specified in paragraph (a)(1) of this section, the Service determines that any substantial aspect of the state management program is not in compliance with the requirements of the Act, this Part or the state's approved management program, it shall provide written notice to the state of its intent to revoke management authority, together with a statement, in detail, of those actions or failures to act upon which such intent to revoke is based. The Service shall publish notice of such intent to revoke in the **Federal Register** and invite public comment thereon, and shall conduct an informal public hearing on the matter if requested by the state or if the Service otherwise determines it to be necessary. The Service shall provide to the state an opportunity for consultation between the Service and the state concerning such actions or failures and necessary remedial actions to be taken by the state.

(3) If within 90 days after notice is provided under paragraph (a)(2) of this section, the state has not taken such remedial measures as are necessary, in the judgment of the Service, to bring the state management program into compliance with the provision of the Act, this Part and the state's approved management program, the Service shall revoke the transfer of management authority by written notice to the state and publication in the **Federal Register**.

(b) *Voluntary return of management authority to the Service.* (1) If a state desires to return management of a species of marine mammals to the Service, it shall provide the Service notice of intent to return management. The Service shall accept the return of management, and such return shall become effective, upon publication of a notice in the **Federal Register** to this effect no sooner than 30 days (except in an emergency as determined by the Service) nor longer than 60 days after the state has provided notice of its intent to return management or unless otherwise agreed upon.

(2) If implementation of any aspect of the state management program is enjoined by court order, the state shall advise the Service of such injunction and its effect on the state management program. If the state determines that the effect of the injunction is to preclude effective conservation and management of the species under the terms of the state management program, it shall so notify the Service and such notification shall be treated as a notice of intent to return management as provided in paragraph (b)(1) of this section. If the state determines that the injunction does not preclude effective conservation and management of marine mammals under the terms of the state management program, it shall so notify the Service together with the basis for the state's determination and such notice shall be treated as a report submitted pursuant to the terms of § 403.06(c)(1) of this Part. In either case, the state shall provide notice to the Service as soon as practicable but not more than 30 days after issuance of the injunction. Management authority returned to the Service pursuant to this paragraph may be re-transferred to the state, notwithstanding the requirements of § 403.03, when, in the judgment of the Service, the cause for return of management authority to the Service has been alleviated in such a way as to allow effective conservation and management of the species consistent with the requirements of the Act and this Part.

(c) When revocation of a management authority pursuant to paragraph (a) of this section becomes final, or when a state returns management pursuant to paragraph (b) of this section, the Service shall resume such management authority and provide for the conservation of the species within the state in accordance with the provisions of the Act.

§ 403.08 List of states to which management has been transferred.

The following states have received management authority pursuant to this Part for the species listed and, where appropriate, cooperative allocation agreements pursuant to § 403.05(c) are in force:

[Reserved]

Dated: March 16, 1983

G. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: April 18, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 83-12127 Filed 5-5-83; 8:45 am]

BILLING CODE 4310-55-M

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May 6, 1983

Part V

Department of the Interior

Bureau of Land Management

Use Authorizations; Special Recreation Permits, Other Than on Developed Recreation Sites; Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8370

Use Authorizations; Amendment of Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would amend 43 CFR Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites, by setting forth clearly a recitation of specifically prohibited acts under the regulations and the penalties that would apply upon conviction. It would: state grounds for exemption from Special Recreation Permit requirements; authorize the Director of the Bureau of Land Management to set recreation permit fee schedules to help reimburse the United States for costs incurred in permitting recreational use of public lands; replace the requirements that an applicant for a waiver of fees submit documentation of its official recognition as an educational or scientific institution with discretion to require such documentation on the part of the authorized officer; allow commercial educational users to obtain such waivers; and state the appeals procedure.

DATE: Comments should be submitted by June 30, 1983. Comments postmarked or received after this date may not be considered in the decisionmaking process in the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C street NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Bruce R. Brown,
or
Robert I. Conquergood, (202) 343–9353.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would amend 43 CFR Subpart 8372 in four respects: (1) By giving the Director, Bureau of Land Management, discretion to set special recreation permit fees for the use of public lands administered by the Bureau; (2) by modifying the requirements for obtaining waivers of permit fees; (3) by clearly setting forth prohibitions relating to special recreation permits other than on developed recreation sites, and the penalties for violating those prohibitions; and (4) by adding a section stating the circumstances when special recreation permits are not required.

Section 8372.4 is amended in the proposed rulemaking to require the Director, Bureau of Land Management, to publish a schedule of fees for special recreation permits. This fee schedule is designed to require recreational users of the public lands to pay the costs of administering the permits. The proposal also allows the Bureau of Land Management to recover the actual costs of issuing and monitoring permits when the estimated costs exceeds certain levels, allows the authorized officer to require a nonrefundable partial prepayment to cover the cost of processing the application and to charge larger fees than those provided in the schedule if permitted by the Federal Land Policy Management Act of 1976 or the Land and Water Conservation Fund Act, as appropriate.

The following fees are required for special recreation uses of public lands administered by the Bureau of Land Management in accordance with proposed 43 CFR 8372.4(a)(1). This fee schedule will be effective upon the date of final publication in the **Federal Register**.

(1) Commercial use—a minimum of $100 or the amount from the table below, whichever is greater, is required. The adjusted daily charge recognizes that operators provide discounts to certain customers and groups that may vary from the initially advertised customer rate schedules. The fee per user day will be based on the adjusted daily charge per customer rather than the advertised rate schedule. Additional adjustments may be made if the advertised daily rate includes long distance transportation costs or lodging in local communities before or after the permitted use.

Adjusted daily charge collected by permittee from each participant	Fee paid to the Bureau per user day
$8.00 or less	$.25
8.01 to 20.00	.40
20.01 to 35.00	.80
35.01 to 50.00	1.30
50.01 to 75.00	1.90
75.01 to 100.00	2.60
100.01 to 125.00	3.40
125.01 to 150.00	4.10
150.01 to 175.00	4.90
175.01 to 200.00	5.60
200.01 to 250.00	6.75
250.01 to 300.00	8.25
Over 300.00	(1)

[1] Three percent of adjusted daily charge per participant.

(2) Competitive use. A minimum of $2.00 per user day or 3 percent of the gross receipts, whichever is greater, is required. When use is both commerical and competitive, the competitive fee shall be charged.

(3) Other uses. A minimum of $2.00 per user day is required.

The existing regulations, at § 8372.4(d), include a complicated set of criteria for waiver of fees for use of the public lands for educational or scientific purposes, including the need to present proof of accreditation and to demonstrate that the institution is noncommercial or that the activity is not connected with commercial aspects of the institution. These requirements have been shown to be unnecessarily burdensome and are removed from the proposed rulemaking. Instead, the authorized officer would have discretion to require documentation of accreditation by Federal, State or local government agencies, or any other documentation necessary to show that the use proposed is educational.

Proposed amended § 8372.0–7 clearly states acts that are prohibited under the subpart. In addition to prohibiting use of the public lands without obtaining the permits and paying the fees required by the subpart, this section prohibits: Violation of stipulations or conditions in such permits; knowing participation in the events or activities for which the required permit has not been issued; and failure to post a copy of a commercial or competitive permit in plain sight where all participants can read it. The proposed rulemaking also adds a paragraph stating the criminal and civil penalties that may be incurred by violators.

The proposed rulemaking adds a new § 8372.1–3 excepting certain uses from the requirement to obtain Special Recreation Permits and pay fees. These include events sponsored or co-sponsored by the Bureau of Land Management, events traversing less than 1 mile of public land and beginning and ending on other land, and, in the discretion of the authorized officer, non-commercial events with fewer than 50 vehicles, no cash prizes, no public advertising, and in compliance with off-road vehicle designations.

The proposed rulemaking includes other amendments that are editorial only, removes unnecessary or confusing language from the existing regulations and adds a section on appeals. All decisions of the authorized officer will be held in full force and effect pending appeal unless the Secretary of the Interior rules otherwise.

This proposed rulemaking is being published to coordinate with the public consideration of the Proposed Special Recreation Permit Policy of the Bureau of Land Management, which was published in the **Federal Register** on March 16, 1983. Copies of this proposed policy document may be obtained by calling the telephone number listed above. The deadline for submitting public comments on both this proposed rulemaking and the proposed policy will be June 21, 1983.

The principal authors of this proposed rulemaking are Bruce R. Brown and Robert I. Conquergood, Division of Recreation, Cultural and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). There will be no significant impact on any user group, and the proposal favors no demographic group.

The proposed rulemaking would serve to protect the recreation resources and opportunities on the public lands. The proposed rulemaking would only affect individuals and groups using the public lands for certain recreation purposes, and educational institutions using the public lands for educational or scientific purposes. The proposed increase in fees will compensate the United States for administering the program, with no significant impact on any entity.

Information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1004–0119.

List of Subjects in 43 CFR Part 8370

Public lands—recreation, Recreation areas, Surety bonds.

PART 8370—[AMENDED]

Under the authority of 43 U.S.C. 1201, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (43 U.S.C. 1181a), the Act of September 15, 1960, as amended (16 U.S.C. 670g–n), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*–6a), and the National Trails System Act (16 U.S.C. 1241 *et seq.*), it is proposed to amend Subpart 8372, Part 8370, Group 8300, Subchapter H, Chapter II of Title 43 of the Code of Federal Regulations as follows:

§ 8372.0–3 [Amended]

1. Section 8372.0–3 is amended by correcting the citation "16 U.S.C. 460(1–6a)" to read "16 U.S.C. 460*l*–6a."

2. Section 8372.0–5 is revised by:

a. Revising paragraph (b) to read as follows:

§ 8372.0–5 [Amended]

* * * * *

(b) "Actual expenses" are expenses necessarily incurred for the permitted activity or use. These include, but are not limited to, the actual costs of such items as expendable equipment and supplies. Actual expenses do not include any salaries, profit, increase of capital worth, allowances, or subsidies of any other activities of the permittee or sponsor, the purchase or amortization of nonexpendable supplies or equipment, any allowance for undersubscribed events or any monetary compensation for sponsors or participants."

* * * * *

b. Revising paragraph (e) to read as follows:

* * * * *

(e) "Educational use" is an academic activity sponsored by an accredited institution of learning.

* * * * *

3. Section 8372.0–7 is revised to read as follows:

§ 8372.0–7 Enforcement

(a) *Prohibited acts.* On all public lands, it is prohibited to: (1) Fail to obtain a permit and pay any fee required by this subpart; (2) violate stipulations or conditions of a permit issued under authority of this subpart; (3) participate knowingly in an event or use subject to the permit requirements of this subpart where no such permit has been issued; (4) fail to post a copy of any commercial or competitive permit where all participants have the opportunity to read it.

(b) *Penalties.* (1) Any person convicted of violating any prohibited act in this subpart may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. (2) Unauthorized users may be subject to civil action for unauthorized use of the public lands and their resources.

4. A new § 8372.1–3 is added to read as follows:

§ 8372.1–3 Exceptions.

(a) Special Recreation Permits are not required for uses that are sponsored or co-sponsored by the Bureau of Land Management.

(b) The authorized officer may determine that permits and fees are unnecessary where a use or event begins and ends on non-public lands, traverses less than 1 mile of public lands, and poses no threat of significant damage to public land resource values.

(c) The authorized officer may waive permit and fee requirements for off-road vehicle competitive events that are not commercial when the events comply with off-road vehicle designations for the use area, no cash prizes are awarded, fewer than 50 vehicles are involved and there is no public advertising for the event.

5. Section 8372.4 is amended by:

a. Amending paragraph (a) to read as follows:

§ 8372.4 [Amended]

(a) *Fees.* (1) Fees for Special Recreation Permits shall be established and maintained by the Director, Bureau of Land Management, and may be adjusted from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Manual of the Bureau of Land Management, published periodically in the **Federal Register** and otherwise made generally available to the public.

(2) The authorized officer may charge fees larger than the minimum set in the current fee schedule if the authorized officer determines that such larger fees are needed to compensate the United States for costs incurred in connection with the issuance of permits and for uses of the public lands and their resources under said permits. The authorized officer shall notify the applicant of any fee larger than that provided in the schedule in writing within 15 days of receipt of the application.

(3) The authorized officer may require a nonrefundable prepayment of all or a portion of the fees from the schedule, not to exceed the estimated cost of processing the application, before processing the application.

(4) Actual costs to the United States shall be charged in lieu of the fees provided in the schedule when the estimated cost of issuing and monitoring the permit (estimated at the time of application) exceeds $5,000, except when the total estimated fees from the schedule over the term of the permit exceed the estimated actual cost. In that case, the fees from the schedule shall be charged. The authorized officer shall

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notify the applicant in writing of such charges within 15 days of receipt of the permit application and shall not process said application until payment has been made for such charges.

• • • • •

b. Removing paragraph (b) in its entirety.

c. Redesignating paragraphs (c) and (d), as (b) and (c), respectively.

d. Amending paragraph (c), formerly paragraph (d), by removing paragraphs (c) (4) and (5) in their entirety and amending paragraph (c)(3) to read as follows:

• • • • •

(c) • • •

(3) Applicants for waiver of fees on this basis may be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State or local government bodies or any other documentation necessary to demonstrate educational use as defined in section 8372.0–5(e) of this title. The use of recreational resources for which a waiver on this basis is requested shall relate directly to scientific or educational purposes and shall not be primarily for recreational purposes.

6. New § 8372.6 is added to read as follows:

§ 8372.6 Appeals.

(a) Any person adversely affected by a decision of the authorized officer under this part may appeal under Part 4 of this title from any final decision of the authorized officer.

(b) All decisions of the authorized officer under this Part shall remain effective pending appeal unless the Secretary rules otherwise.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 14, 1983.

[FR Doc. 83–12140 Filed 5–5–83; 8:45 am]

BILLING CODE 4310–84–M

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Friday
May 6, 1983

Part VI

Federal Emergency Management Agency

Transportation Accident Planning and Preparedness Guidance; Availability of Guidance Document

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Transportation Accident Planning and Preparedness Guidance; Availability of Transportation Guidance Document

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Availability of a transportation accident planning and prepardness guidance document and invitation for submittal of comments.

SUMMARY: The transportation guidance document, *Guidance for Developing State and Local Radiological Emergency Response Plans and Preparedness for Transportation Accidents*, is available for public distribution and comment. Copies will be distributed to State and local governments by the Federal Emergency Management Agency (FEMA) for review, comment and use.

This document provides planning and preparedness guidance in the form of 14 planning objectives and related criteria for use by State and local governments in developing emergency response plans for transportation accidents involving radioactive materials. The document also provides background information to support the application of the guidance to specific jurisdictions and to explain the unique characteristics of transportation accidents. This document is intended for interim use by State and local governments until a final edition is published early in 1984. Comments received by FEMA on the current, interim-use document will be analyzed with the results being used to develop the final edition.

This document has been developed by the Federal Radiological Preparedness Coordinating Committee's Subcommittee on Transportation Accidents which is co-chaired by the U.S. Department of Transportation and FEMA.

A copy of this document may be obtained from the: Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024. Please reference the title of the document in your request.

Comments on this document will be received through September 6, 1983 and should be addressed to: Rules Docket Clerk, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, D.C. 20472.

Dated: April 29, 1982.

Joe D. Winkle,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12141 Filed 5-5-83; 8:45 am]

BILLING CODE 6718-01-M

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Part VII

Department of Housing and Urban Development

Office of the Secretary

Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 8

[Docket No. R-83-528]

Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: HUD adopts procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Housing and Urban Development. The rule implements Section 504 of the Rehabilitation Act of 1973, as amended.

DATES:

Effective date: June 1, 1983.

Comment due date: August 4, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Putman, Special Advisor to Deputy Under Secretary for Intergovernmental Relations, Office of Housing, Office of Policy and Budget, Room 10184 at the above address (202) 755-6732. A telecommunications device for deaf persons (TDD) is available at (202) 426-0016. These are not toll free numbers. This notice will be available on tape for persons with vision impairments in the office of the Rules Docket Clerk shown above.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) provides that "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *."

On April 19, 1978, the Department published a Notice of Proposed Rulemaking (43 FR 16652) for public comment (the "1978 proposed rule"). In addition, 10 public hearings were conducted throughout the country. More than 225 individuals and organizations presented testimony at the public hearings. Transcripts were made of each public hearing and were analyzed along with 258 written comments received from other sources. The largest number of comments (c. 185) were received from organizations representing handicapped people. The next largest group (c. 131) was Federal, State or local agencies, including some 31 Housing Authorities. Seventeen comments were received from individuals or organizations representing the housing industry.

In general, both the organizations representing disabled persons and the housing industry were critical of the 1978 proposed rule, but for different reasons. The principal concern expressed by the disabled consumer groups was the number of provisions for waivers and exceptions. On the other hand, most of the housing industry representatives felt that these should be expanded, and that funds should be provided by HUD to cover any costs incurred as a result of Section 504 requirements. Similarly, public agencies questioned the source of funds for assuring accessibility and were concerned that such costs would reduce the level of funds currently available for program purposes.

Subsequently, two events occurred which have direct bearing on the Department's implementation of Section 504 as it applies to HUD programs. These were: (1) the decision of the United States Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and subsequent appellate decisions regarding the extent of recipient's obligations to accommodate the needs of handicapped persons, discussed more fully below in connection with the "program accessibility" provisions of the regulations, and (2) a Report to Congress (B-197756, June 19, 1981) issued by the Comptroller General entitled "Weaknesses in the Planning and Utilization of Rental Housing for Persons in Wheelchairs."

The GAO report concluded that HUD and the Farmers Home Administration "have no reliable statistics on the number of people using wheelchairs in the United States or on the characteristics of such persons, for example, their geographic location, age, income, family size, and need for federally subsidized housing * * * Also, they have no information to determine if a market exists for accessible units in the area serviced by the housing projects they support." The GAO report went on to state that: "HUD and FmHA need to have such information to determine if a market exists for accessible units and whether policies relating to housing the handicapped adequately respond to such a market."

The GAO surveyed 847 accessible housing units and determined that only 27% were actually occupied by persons using wheelchairs. The report concluded that HUD and FmHA need to do more with respect to out-reach programs and effectively advertising the availability of units accessible for handicapped individuals. Of equal importance to regulatory implementation of Section 504, GAO also recommended the elimination of nationwide percentage goals (previously adopted administratively under various HUD and FmHA programs) in favor of establishing local or regional goals, based upon a market analysis of demand.

Because of substantial changes that have been made from the 1978 proposed rule on grounds not fully discussed in connection with the publication of the 1978 proposed rule, the Department normally would publish this regulation as a revised proposed rule for further comment, rather than for immediate effect. However, on June 16, 1981, the United States District Court, Central District of California, issued an Order requiring HUD and certain other Federal agencies to publish final regulations implementing Section 504 of the Rehabilitation Act of 1973 on an expedited basis. *Paralyzed Veterans of America, etc., et al.* v. *William French Smith, et al.*, No. 79-1979 WPG, June 16, 1981. While the Department does not construe the District Court's order as necessarily overriding the public notice and comment requirements otherwise applicable, the Department believes, on balance, that the public interest requires that regulatory implementation of Section 504 with respect to HUD programs not be subjected to further delay. In reaching this conclusion, the Department has taken into account the fact that principal substantive requirements of Subpart C of the interim rule, regarding program accessibility, already are in effect through program regulations and the HUD Minimum Property Standards.

Accordingly, this rule is being published as an interim rule for effectiveness at the earliest date possible, subject to certain statutory requirements noted below. Public comments are solicited for consideration prior to issuance of a final rule.

At the outset, it will be useful to note certain preliminary observations regarding the scope and nature of Section 504 and its regulatory

implementation, as well as to note highlights of the history of Section 504's regulatory implementation by the Federal Government which form the backdrop of HUD's interim rule.

The language of Section 504 is almost identical to the nondiscrimination provisions of Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Section 901 of Title IX of the Education Amendments of 1972 (20 U.S.C. 1681) and, like those statutes, establishes a governmentwide policy against discrimination in Federally assisted programs and activities—in this case, on the basis of handicap.

However, as was noted by the Department of Health, Education and Welfare (as it then was) in 1976 when first addressing the problems of regulatory implementation of Section 504:

> "Section 504 * * * differs conceptually from both titles VI and IX. The premise of both title VI and title IX is that there are no inherent differences or inequalities between the general public and the persons protected by these statutes and, therefore, there should be no differential treatment in the administration of Federal programs. The concept of section 504, on the other hand, is far more complex. Handicapped persons may require different treatment in order to be afforded equal access to federally assisted programs and activities, and identical treatment may, in fact, constitute discrimination. The problem of establishing general rules as to when different treatment is prohibited or required is compounded by the diversity of existing handicaps and the differing degree to which particular persons may be affected. Thus, under section 504, questions arise as to when different treatment of handicapped persons should be considered improper and when it should be required.
>
> Because the concepts underlying section 504 were new and complex and few judicial precedents existed in the area, the very general language of the statute creates serious problems of interpretation. There is almost no substantive legislative history surrounding the development and enactment of section 504. There were, for example, no public hearings accompanying the originial bills, and there was almost no substantive floor debate." (41 FR 20296, May 17, 1976).

At the time of the above writing, HEW also noted that there was then "no legislatively directed scheme of enforcement such as those provided in section 602 of Title VI * * * and 902 of Title IX" (ibid.). However, that void had been filled by Executive Order 11914, issued by President Ford, which prescribed specific enforcement procedures and sanctions for noncompliance, all based on precedents from Title VI and Title IX. Subsequently, Congress established legislatively, through Section 120(a) of the Rehabilitation Amendments of 1978 (adding Section 505 of the Rehabilitation Act, 29 U.S.C. 794-a), that the "remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance * * * under section 504 * * *."

As indicated, the first attempt by an Executive Department to address the issues of regulatory implementation of Section 504 was by HEW, which published a notice of intent to publish a proposed rule regarding programs or activities receiving Federal financial assistance from HEW in May 1976 (41 FR 20296), followed by a notice of proposed rulemaking in July 1976 (41 FR 29548) and a final rule in May 1977 (42 FR 22677). That final rule, as applicable to the programs of the Department of Health and Human Services, is now codified at 45 CFR Part 84. As will be noted below in the discussion of particular provisions, the HEW regulation was based in significant part upon provisions of HEW's then-existing regulations implementing Title VI and Title IX.

Executive Order 11914, referred to above, also assigned to HEW the task of issuing general standards for other departments and agencies of the Federal government to follow in promulgating regulations implementing Section 504. A proposed rule implementing this requirement of Executive Order 11914 was published by HEW in June 1977 (42 FR 32264) and a final rule, originally codified at 45 CFR Part 85, was published in January 1978 (43 FR 2132). In publishing its proposed rule for effectuating Section 504 to programs and activities receiving Federal financial assistance from HUD, the Department relied principally upon 45 CFR Part 85 but also adapted additional provisions from 45 CFR Part 85. The HEW regulation implementing Executive Order 11914, as it existed at 45 CFR Part 85 at the time of publication of HUD's proposed rule, is sometimes referred to in this preamble as the "HEW Implementation Guidelines."

By Executive Order 12250, issued by President Carter in November 1980, the authority of HHS (as successor to HEW) to promulgate general standards under Section 504 was transferred to the Department of Justice, which readopted the HEW Implementation Guideline without substantial change (except for modification of program accessibility provisions relating to mass transit systems made necessary by the decision of the District of Columbia Circuit Court of Appeals in *American Public Transit Association* v. *Lewis*, 655 F. 2d 1271 (D.C. Cir. 1981)). 28 CFR Part 41, adopted at 46 FR 40686, 40687 (August 11, 1981). As re-adopted by the Department of Justice, the HEW Implemenation Guidelines are referred to herein as the "DOJ Implemenation Regulation."

The complexity of the issues involved in regulatory implementation of Section 504 which HEW noted more than six years ago have not diminished since that time. Judicial authority commencing with *Southeastern Community College* has called into question certain of the principal assumptions of the initial rulemaking as applied in particular contexts that are analogous, although not identical, to contexts pertinent to HUD programs. The Department is obliged to adhere as closely as possible to authoritative judicial interpretations of the scope of Section 504, as nearly as the Department is able to discern their direction.

As discussed more fully below in relation to Subpart C of this interim rule, the guidance that may be learned from judicial consideration to date of the program accessibility concept is less than complete, for while several decisions have either invalidated or criticized portions of agency regulations as requiring too much, no decision to date of which the Department is aware has addressed the concept in the context of housing facilities.

In engaging in substantive rulemaking under the authority of Section 504, it is not required absolutely that the Department define with precision the reach of the statutory mandate, and the Department does not pretend that it has done so in this rulemaking. Notwithstanding uncertainty that will persist regarding the exact limits of the statute itself, the Department believes that the provisions now being adopted for administrative implementation are reasonably related to the purposes of Section 504 while consistent with achievement of the objectives of the program statutes authorizing the Federal financial assistance (cf. Section 602, Civil Rights Act of 1964, 42 U.S.C. 2000d-1, made applicable to Section 504 enforcement by Section 505 of the Rehabilitation Act; *Lau* v. *Nichols*, 414 U.S. 563, 571 (1974) (Stewart, J., concurring); *Thorpe* v. *Housing Authority of the City of Durham*, 393 U.S. 268, 280-281 (1969)).

The regulation is divided into four subparts. Subpart A (General Provisions) outlines applicability, defines the important terms that are used throughout the regulation, and states in general terms the discriminatory acts that are prohibited. Subpart B (Employment) prescribes

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requirements for nondiscrimination in the employment practices of recipients of Federal financial assistance. Subpart C (Program Accessibility) sets forth the requirement that no otherwise qualified handicapped person shall be denied accessibility to federally-assisted programs or activities. It also sets forth specific requirements and standards for non-housing and housing facilities. Subpart D (Enforcement) sets forth administrative enforcement provisions, and Subpart E governs the practice for hearings, decisions and administrative review, supplementing Subpart D.

Subpart A—General Provisions

Section 8.1 states the purpose of Part 8 as effectuating Section 504 with respect to any program or activity receiving Federal financial assistance from HUD. It notes that Part 8 does not effectuate Section 504 as it applies to any program or activity conducted by the Department. This refers to an amendment to Section 504, effected by Section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which extended its coverage to "any program or activity conducted by any Executive agency or by the United States Postal Service." The amendment further requires the head of each agency to "promulgate such regulations as may be necessary to carry out" the amendment and further requires that copies of any proposed regulation be submitted to "appropriate authorizing committees of the Congress" thirty days before taking effect. Regulations effectuating Section 504 as to Federally conducted programs are subject to the coordinating authority of the Department of Justice under Executive Order 12250. HUD is advised that the Department of Justice intends to establish an implementation guideline relating to Federally conducted programs, but no such guidance has been established to date. The Department anticipates that it will publish regulations effectuating Section 504 as to programs and activities conducted by the Department after evaluation of public comments received on the interim rule published herewith.

Section 8.1 also notes that compliance with the requirements of Part 8 does not assure compliance with requirements for accessibility by the physically handicapped imposed pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151, et seq.), where applicable. HUD regulations implementing the Architectural Barriers Act are located at 24 CFR Parts 40 and 41.

Paragraph (b) of Section 8.1 provides that the policies and standards for compliance established in Part 8 are established in contemplation of, and with a view to enforcement through, program administration and the administrative procedures described in Subparts D and E of Part 8. In view of the uncertainty noted above as to the exact limits of the statute itself, the Department wishes to emphasize that the policies and substantive requirements adopted in Part 8 are adopted only with a view to program administration by the Department and to enforcement through the procedures authorized by Section 505 of the Rehabilitation Act (including judicial enforcement of contractual assurances by the United States).

Section 8.2, identifying programs or activities to which Part 8 applies, is without substantive change from the proposed rule.

Section 8.3 defines terms used in Part 8. In its proposed rule, the Department generally provided definitions only of terms also defined in the HEW Implementation Guideline or in 45 CFR Part 84. For further clarification and in response to comments, the Department is adding definitions of further terms, including "accessible," "adaptable," "alteration," "multifamily project," and "project."

Several commentors objected to the notion set forth in the preamble to the proposed rule that the term "program accessibility," which was not defined in either 45 CFR Part 84 or 45 CFR Part 85, was not susceptible to a Departmentwide definition. Instead, program accessibility was defined separately with respect to different HUD program areas. Upon reconsideration, the Department has determined that program or activity accessibility can be defined in broad terms. Further, while "accessibility" in the context of HUD programs relates uniquely to the architectural needs of physically handicapped persons, program accessibility and activity accessibility clearly have a broader meaning applicable to all handicapped persons. For example, even though a facility in which a federally assisted program is conducted is free of architectural barriers and thus meets requirements for facility accessibility, the program is not accessible if management policies and procedures effectively bar handicapped people from participating in or otherwise benefiting from the program or activity. On the other hand, a program which is conducted in an inaccessible existing facility can be made accessible without altering the facility, where the program or activity can be delivered or otherwise be made available to a handicapped beneficiary without loss of essential program benefits.

With the foregoing consideration in mind, "accessible" is defined separately in the interim rule in the distinct contexts of program or activity accessibility, facility accessibility, and accessibility of an individual dwelling unit. The definition of "accessible," when used in relation to a facility or dwelling unit, are based in part upon definitions contained in the Minimum Guidelines and Requirements for Accessible Design issued recently by the Architectural and Transportation Barriers Compliance Board (the "ATBCB") (47 FR 33862, to be codified at 36 CFR Part 1190). An "accessible" dwelling unit includes an "adaptable" unit, i.e., one so planned and constructed that converting it to an accessible unit for a handicapped occupant is simply a matter of installing or adjusting such items as grab bars, lights, buzzers or kitchen equipment, and no major construction work such as widening doors or moving walls is required.

A definition of "alteration" has been added to refer consistently to structural changes in an existing facility. In the proposed regulation no definition was provided, and various synonyms or near synonyms such as remodeling, rehabilitation or retrofitting were used in the text. The definition utilized is based on that adopted by the ATBCB in the Minimum Guidelines.

In its proposed rule, the Department proposed utilization of the definition of "Federal financial assistance" used in the HEW Implementation Guideline. In this interim rule, however, the Department has adapted the definition contained in the Department's own Title VI regulation (24 CFR Part 1) on the ground that it is better tailored to encompass forms of assistance under HUD programs.

Public comments revealed concern that the proposed definition of "Federal financial assistance" excluded procurement contracts and contracts of insurance or guaranty. Procurement contracts are covered by the Department of Labor's regulation under Section 503 of the Act. In excluding programs of insurance and guaranty, the Department is following a Justice Department opinion of September 23, 1977, which advised that Congress intended the reach of Section 504 to be consistent with Title VI and Title IX both of which exclude programs of insurance and guaranty.

The definition of "handicapped person" is unchanged from the proposed rule, which in turn incorporated without change the definition then contained in the HEW Implementation Guideline and now continued in the DOJ Implementation Regulation. This definition also conforms to the statutory definition of handicapped person applicable to Section 504 which is set forth in Section 111(a) of the Rehabilitation Act Amendments of 1974 (29 U.S.C. 706). While there was strong support among commentors on the proposed rule for adoption of this definition, a number of related concerns were expressed as follows:

(1) *Coverage.* Representatives of several disability groups wanted their particular disability group to be specifically mentioned as eligible. The definition is written broadly to cover any person who has a physical or mental impairment that substantially limits one or more major life activities.

Several commentors mentioned the need to define specific learning disabilities, and to include the sensorily deprived and the minimally brain damaged. Physical or mental impairment is defined to include, among other impairments, "specific learning disabilities." The Department will interpret the term as it is used in Section 602 of the Education of the Handicapped Act, as amended, to describe such conditions as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Concern was also expressed by advocates of the mentally ill and the autistic with regard to their coverage. Both groups are clearly included in the "handicapped person." Whether they also are "qualified" for participation in a particular program or activity despite their handicap is a separate question.

(2) *Terminology.* Several commentors requested that the term "handicapped" be replaced by "disabled" wherever possible, and that the term "emotionally disturbed" be substituted for "mentally ill." Since both the Section 504 and existing regulatory implementation thereof use "handicapped," HUD will continue to use "handicapped" instead of "disabled" in Section 504 contexts. The term "emotionally disturbed" is considered too vague for regulatory purposes.

(3) *Eligibility for housing.* Eighteen (18) commentors recommended that the definition of handicapped person be amended to reflect the different types of dwelling units needed by different types of handicapped persons. Their concern was that non-handicapped or non-physically handicapped persons might be allowed or even required to use units adapted for the physically handicapped. Accordingly, the Department has added a provision at § 8.26 which addresses these concerns.

(4) *Interpretation of definition.* Several commentors stated that more guidance was needed in order for recipients to make a determination that an individual "has a history of" or "record of" an impairment, or "is regarded as having an impairment." Their particular concern was over the inclusion of drug addicts and alcoholics in the definition of handicapped persons. On this issue, HUD is following an opinion the Attorney General, dated April 12, 1977, which concluded that drug addiction and alcoholism are "physical or mental impairments" within the meaning of Section 7(6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 706), and that drug addicts and alcoholics are therefore "handicapped" for the purposes of Section 504. However, this does not necessarily mean that such individuals are "qualified handicapped persons" for the purposes of this rule. As noted by HEW in its analysis of 45 CFR Part 84, set forth in Appendix A thereto:

> "It cannot be emphasized too strongly that the statute and the regulation apply only to discrimination against qualified handicapped persons solely by reason of their handicap. The fact that drug addiction and alcoholism may be handicaps does not mean that these conditions must be ignored in determining whether an individual is qualified for services or employment opportunities. On the contrary, a recipient may hold a drug addict or alcoholic to the same standard of performance and behavior to which it holds others, even if any unsatisfactory performance or behavior is related to the person's drug addiction or alcoholism. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestation of the condition may be taken into account in determining whether he or she is qualified."

This interpretation is reflected in the definition of "qualified handicapped person," as discussed below.

A definition of "project" has been added in order to differentiate it from "facility" and in order to clarify the application of requirements for accessible dwelling units. As here defined, a project may include one or more buildings, sites or site developments, treated administratively as a single HUD assisted project. "Multifamily project" is defined as a project containing more than two dwelling units. The threshold of two units is chosen because it represents the demarcation between HUD's Minimum Property Standards for One- and Two-Family Dwellings and the Minimum Property Standards for Multifamily Dwellings.

As in the proposed rule, the definition of a "qualified handicapped person" with respect to a program or activity other than employment refers to one "who meets the essential eligibility requirements for participation in such program or activity or for receipt of benefits therefrom." For clarification, a provision is added that "essential eligibility requirements" include stated program eligibility requirements such as income or citizenship or alien status, as well as

> "* * * implicit requirements inherent in the nature of the program or activity, such as that an occupant of multifamily housing be capable of independent living (except to the extent that necessary support services are contemplated to be provided in connection with the program or activity or will otherwise be available to such occupant) and of complying with all obligations of occupancy, including the obligation to conduct himself or herself in a manner which will not disturb his or her neighbors' peaceful enjoyment of their accommodation and will be conducive to maintaining the housing facility in a decent, safe and sanitary condition. For example, a chronically mentally ill person whose condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his own health or safety in the absence of necessary supportive services may be 'qualified' for occupancy in a project where such supportive services are provided but may not be 'qualified' for a project lacking such services."

The example referring to the chronically mentally ill confirms the Department's current practice under the Section 202 direct loan program for housing for the elderly or handicapped (see Announcement of Funding Availability published April 20, 1982 (47 FR 16892)). The Department emphasizes, however, that the factor of capability of independent living is not to be taken as an invitation to inquiries which infringe upon the privacy or dignity of applicants. Particularly in the case of persons whose handicaps are physical, a strong presumption in favor of the individual's own assessment of his or her capabilities is warranted in the absence of substantial evidence to the contrary. The mere existence of a person's physical disability, of course, does not constitute such evidence. For example, the fact that a person requires the use of a wheelchair is not evidence that he or she is incapable of independent living. The "significant risk" test is based upon *Doe* v. *New York University*, 666 F. 2d 761 (2d Cir. 1981). The Department does not regard the foregoing clarification as a departure from the intent of its proposed rule and

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reiterates the following from the preamble to the proposed rule:

"* * * The Department wishes to emphasize that this regulation does not prohibit denying services or benefits of a program, such as occupancy in a housing project assisted by the Department for bona fide reasons, even if those reasons are also related to the handicap, so long as the basis for such denial is failure to meet eligibility criteria which are applied to all potential beneficiaries, handicapped and non-handicapped. Similarly, this regulation does not prohibit turning down a handicapped job applicant for bona fide job-related reasons, even if those reasons are also related to the handicap. For example, an applicant who could not perform the basic physical requirements for the position of 'housepainter' would not be considered a 'qualified handicapped person.' Likewise, if a handicapped individual had a history or pattern of anti-social behavior including, for example, criminal activity, he or she may be denied services or benefits of a program on the same basis as a non-handicapped person, even if the anti-social behavior is related to the handicap." (43 FR 16852)

The definition of "qualified handicapped person" excludes, with respect to both employment and programs or activities other than employment, any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug use, would constitute a direct threat to property or the safety of others. The derivation of this exclusion from an opinion of the Attorney General is referred to above. The Department further notes that Congress responded in part to the concerns expressed at the time of adoption of the HEW regulation by providing, in 1978, that for purposes of Section 504 "as such section relates to employment," the term "handicapped individual" does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others" (29 U.S.C. 706, as amended by Section 122(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978). Inasmuch as the statutory provision relates to the term "handicapped individual" and not the term "qualified handicapped individual," the Department does not consider the provision exclusive, either in terms of activity for which an alcoholic or drug abuser may be found not qualified (i.e., employment) or in terms of the basis for finding such individual not qualified for a particular program or activity (i.e., "would constitute a direct threat to property or the safety of others"). The Department believes that an alcoholic or drug abuser may be found not qualified for a program or activity for failure to meet "essential eligibility requirements" of the program, as described in the rule, for reasons that may fall short of "a direct threat to property or the safety of others."

The proposed rule included a definition of "small provider" and exempted recipients meeting the definition from various specific requirements of the regulation such as preparation of transition plans and completion of required alteration within a three-year period. Over 100 commentors stated a position that too many recipients were covered by the definition and thus exempted from requirements of the rule. In view of other changes made in the regulations, the Department does not believe that the general exemption from "small providers" is required, and the definition has been eliminated. However, the Department invites comment as to whether such an exception may be advisable or appropriate with respect to any specific requirements of the regulations.

Section 8.4 states a general prohibition against discrimination on the basis of handicap in HUD-assisted programs and enumerates specific discriminatory acts prohibited. This section of the proposed rule was identical to that contained in the HEW Implementation Guideline (now continued in the DOJ Implementation Regulation), which in turn was based upon Title VI precedents. In the interim rule, the provision is unchanged from that contained in the proposed rule, except for additions of the word "solely" before "on the basis of handicap" and deletion of the words "or benefits from" from the phrase "any program or activity that receives or benefits from Federal financial assistance." These changes are made to conform the regulatory language to that of the statute, and deletion of the phrase "or benefits from" is not intended to alter the jurisdictional reach of Section 504 as it applies to HUD-assisted programs. The Department is aware that the phrase "or benefits from" may be seen as critical in the context of certain other government programs but is not aware of a context involving HUD programs where the phrase would make such a difference. However, the Department invites comment as to specific contexts in which an issue as to the jurisdictional reach of Section 504 may be seen as arising based upon this language.

The Department also invites comment as to whether the description of specific actions prohibited may raise special problems in the context of handicapped persons notwithstanding their appropriateness in the separate contexts of nondiscrimination based upon race, color, or national origin. This invitation is based upon the recognition, referred to above, of the different conceptual premises underlying Title VI and Title IX on the one hand, and Section 504 on the other.

Section 8.4(c) is unchanged from the proposed rule. It reiterates the provision of the DOJ Implementation Regulation which states that the exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons, or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part. It further notes that certain of the Department's programs operate under statutory definitions of handicapped person which are more restrictive than the definition contained in § 8.3, and such definitions are not superseded or otherwise affected by this regulation. The differing statutory program definitions are provided in detail at Appendix B.

Section 8.4(d) provides, in language unchanged from the proposed rule, that recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons. A number of comments recommended that this section be expanded or made more specific. The Department wishes to emphasize that it fully supports the concept of making programs available in the most integrated setting appropriate to the needs of qualified handicapped persons, and that this concept is key to the effective implementation of the program accessibility requirements. "Most integrated setting" refers not only to housing integrated into the community, but also to the availability of community and related services. Thus, in considering what constitutes "the most integrated setting," a recipient should verify not only that the setting itself is like those where non-handicapped people live, work and socialize but also that services such as shopping and transportation are available. This concept also is incorporated into § 8.25 of the interim rule, regarding distribution of accessible dwelling units within a project.

Subpart B—Employment

Subpart B prescribes requirements for nondiscrimination in the employment practices of recipients. For the proposed rule, HUD incorporated directly the employment provisions of the HEW Implementation Guideline with the exception of the provision regarding preemployment inquiries, which incorporated additional language from HEW's Section 504 regulation relating to HEW programs (45 CFR 84.14).

Several Federal circuit courts which have considered coverage of employment discrimination under section 504 have ruled that employment is covered under section 504 only where a primary purpose of the assistance is to provide employment. *U.S.* v. *Cabrini Medical Center*, 639 F. 2d 908 (2d Cir. 1981); *Carmi* v. *Metropolitan St. Louis Sewer District*, 620 F. 2d 672 (8th Cir. 1980), *cert. denied*, 449 U.S. 892 (1980); *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F. 2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979); *Scanlon* v. *Atascadero State Hospital*, 677 F. 2d 1271 (9th Cir. 1982).

The Department of Justice has taken the position in litigation that these holdings misinterpret section 504. The holdings apply the limitation on employment coverage embodied in section 604 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–3) to employment claims under section 504 by reason of section 505(a)(2) of the Rehabilitation Act, which was added by 1978 amendments and provides that the "remedies, procedures and rights" set forth in Title VI shall be available to persons aggrieved by actions which violate section 504 (29 U.S.C. 794a(a)(2)). The decisions cited above have held that section 505(a)(2) also extended Title VI's limitation on employment coverage to section 504. The Justice Department contends that the legislative history of section 505(a)(2) unequivocally demonstrates that Congress only intended to incorporate Title VI-patterned procedural remedies in the Rehabilitation Act did not intend to curtail substantive rights with respect to employment claims. The Justice Department's view has been adopted recently by two Courts of Appeals in *Jones* v. *Metropolitan Atlanta Rapid Transit Authority*, 681 F. 2d 1376 (11th Cir. 1982), and *LeStrange* v. *Consolidated Rail Corp.*, 687 F. 2d 767 (3rd Cir. 1982), cert. granted, —— S.Ct. (Feb. 22, 1983). In addition, the Supreme Court recently has rejected a somewhat similar attempt to read the limitation on employment coverage embodied in Section 604 of Title VI into Title IX of the Education Amendments of 1972. *North Haven Board of Education* v. *Bell*, 102 S.Ct. 1912 (1982). Accordingly, HUD believes it appropriate to continue to adhere to its previously proposed position that Section 504 extends to discrimination in employment even where the provision of employment is not the primary objective of the Federal financial assistance. However, pending further clarification of the law, § 8.14 provides that the requirements of this Subpart B will not be enforced where employment is not a primary objective of the Federal financial assistance in States located in the Second, Fourth, Eighth, and Ninth Circuits (i.e., New York, Connecticut, Vermont, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, and Hawaii).

Section 8.10 of the interim rule states the general prohibition against discrimination in employment and lists activities connected to employment to which the prohibition applies. It is substantially unchanged from the proposed rule, and is consistent with the DOJ Implementation Regulation, except for addition of the word "solely" and deletion of the phrase "or benefit from" for the reasons stated above.

Section 8.11 of the interim rule requires a recipient to make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. The Department emphasizes that the requirement assumes that the handicapped applicant or employee is a "qualified handicapped person" with respect to the essential elements of the employment. Where a handicapped person is not qualified to perform a particular job, where reasonable accommodation does not overcome the effects of a person's handicap, or where reasonable accommodation causes under hardship to the employer, the failure to hire or promote the handicapped person does not constitute prohibited discrimination.

The largest number of comments on this subpart of the proposed rule (approximately 79 out of a total of 129) criticized the vagueness and lack of examples for the terms "reasonable accommodation" and "undue hardship." For additional guidance, the Department has incorporated into the interim rule further provisions from the HHS Section 504 regulations relating to HEW programs. Subsection (b) of § 8.11 makes clear that reasonable accommodation is intended to include, but is not limited to, the modification of work schedules, including part-time employment, and job restructuring. Job restructuring may entail shifting nonessential duties to other employees. In other cases, reasonable accommodation may include the relocation of particular offices or jobs so that they are in facilities or parts of facilities that are accessible to and usable by handicapped persons.

Subsection (c) of § 8.11, based upon 45 CFR 84.12, provides that in determining whether an accommodation would impose an "undue hardship" on the operation of a recipient's program, factors to be considered include: (1) The overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget; (2) the type of the recipient's operation, including the composition and structure of the recipient's workforce; and (3) the nature and cost of the accommodation needed.

The weight given to relevant factors in making the determination as to whether an accommodation constitutes undue hardship will vary depending on the facts of a particular situation. Thus, it would be considered reasonable for a large developer to accommodate an architect who is confined to a wheelchair by rearranging the workspace to permit easier access, by providing ramps, and by modifying restroom facilities so that they are accessible to and usable by the handicapped employee. On the other hand, a small developer might not be required to spend more than a nominal sum, such as that necessary to equip a telephone for use by a secretary with impaired hearing.

Section 8.12 of the proposed rule, based on the HEW Implementation Guideline, would have prohibited a recipient from using employment tests and criteria "that discriminate against handicapped persons" and would have required that a recipient ensure that employment tests "are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills."

For the interim rule, the department has adopted the somewhat clearer provisions of 45 CFR Part 84. Thus, § 8.12 prohibits employers from using tests or other selection criteria that screen out, or tend to screen out, handicapped persons unless the tests or criteria are shown to be job-related. This section takes into account that

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some tests and criteria depend upon sensory, manual, or speaking skills that may not themselves be essential for the performance of the job in question and, yet, would disqualify a handicapped person. The recipient must select and administer tests so as best to ensure that the test will measure a handicapped person's actual ability to perform on the job rather than the person's ability to see, hear, speak, or perform manual tasks, except where such skills are the factors that the test purports to measure. For example, a person with a speech impediment might be well qualified for jobs that do not and need not require an ability to speak clearly. Yet, if given an oral test, the person would be unable to perform in a satisfactory manner. The test would not, therefore, predict job performance, but instead would reflect impaired speech.

Section 8.14 of the proposed rule, relating to preemployment inquiries, was based upon the HEW Implementation Guideline and also included part, but not all, of the fuller provisions of 45 CFR 84.14. For the interim rule, the Department has incorporated further provisions of 45 CFR 84.14. As revised, the section (renumbered § 8.13) contains a general prohibition against preemployment inquiries regarding a person's handicapped status. However, an employer may inquire into an applicant's ability to perform job-related tasks such as an applicant's ability to perform a job safely. For example, an employer may not ask if an applicant has a particular handicap, but may ask whether the person can perform a particular job without endangering his or her own well-being or that of other employees.

Subpart C—Program Accessibility

This subpart sets forth the requirements, methods and standards for making Departmental programs accessible.

In the Department's proposed rule as well as in the current DOJ Implementation Regulations, the "program accessibility" requirements deal exclusively with physical access to facilities by physically handicapped persons. However, "program accessibility" in its fullest sense is not limited to physical architectural barriers but includes communications barriers and other, perhaps less tangible, barriers as well. Given the nature of the Department's programs as well as the extent of the Department's evolving experience to date, the primary focus of Subpart C remains architectural barriers. In order to emphasize the broader general reach of the "program accessibility" requirement, however, the section stating the general rquirement has been restated without reference to facilities. As revised, Section 8.20 states that each program or activity which receives Federal financial assistance from HUD shall be operated so that the program or activity, when viewed in its entirety, is readily accessible to and usable by qualified handicapped persons. The Department invites comment as to specific further provisions which may be appropriate to further accessibility of the Department's programs outside the context of architectural barriers.

Subpart C, as revised, includes the scope of Subparts E, F and G of the proposed rule, which pertained to individual program areas (Low-Income Public Housing and Section 8 Housing Programs; Other Subsidized Housing Programs; and Community Planning and Development Programs), and those proposed subparts have been eliminated. As revised, the internal organization of Subpart C is as follows. Section 8.20, stating the general requirement as described above, is followed by a section dealing with non-housing facilities within which a covered program or activity is conducted or where application for participation therein is made or benefits distributable pursuant to the program or activity are distributed. This section would apply, for instance, to a facility where a program or activity assisted by Community Development Block Grant funds is conducted, or to an office of a public housing authority where applications for housing assistance are made. This section is followed by a series of sections dealing with housing programs. Finally, Section 8.30 prescribes the standards for physical accessibility to be followed where required, both for housing and non-housing facilities.

As indicated, the principal focus of the program accessibility concept in the context of HUD programs relates to architectural barriers. This is the area having the greatest impact on both recipients and program beneficiaries and potential beneficiaries, and it also is the area where the least guidance is available from the statute itself or its legislative history.

Section 504, on its face, does not prohibit or otherwise refer to architectural barriers, and the legislative history of the original enactment of Section 504 contains no references to architectural barriers. Prior to publishing its proposed rule to implement Section 504 with respect to HEW programs, HEW solicited public comment on the following question:

"Whether § 504 prohibitions extend to architectural barriers, and, if so, whether the nondiscrimination requirements apply to both new and existing buildings used in connection with federally assisted program or activities" (41 FR 20298 (May 17, 1976)).

After consideration of public comments, HEW answered both questions affirmatively, stating:

> Most of the comments agreed that the protection of section 504 did, in fact, extend to the concept of architectural barriers and that the proposed regulation should apply to both new and existing buildings. The proposed regulation adopts the position that section 504 deals with the issue of accessibility of buildings, whether new or existing, because the existence of architectural barrier operates to exclude handicapped persons from the federally assisted programs and services held within them. (41 FR 29555 (July 16, 1976)).

The current DOJ Implementation Regulation sets forth program accessibility requirements dealing with architectural barriers which are consistent in approach with those proposed by HEW in 1976 and adopted by it in 1977 for application to HEW program recipients, and are in substantially the form adopted by HEW in 1978 for application to programs of all agencies.

The basis of HEW's conclusions regarding the scope of Section 504's application to architectural barriers is not stated in its rulemaking actions other than as set forth above. Considered in the light of the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent Court of Appeals decision in *American Public Transit Association v. Lewis*, 655 F. 2d 1271 (D.C. Cir. 1981), the breadth of the conclusions reached by HEW appears questionable. In particular, the Department believes that HEW did not give sufficient consideration to the fact that Congress had already legislated expressly in the area through the Architectural Barriers Act of 1968 and gave no indication of an intent to overide the specific provisions and limitations of that enactment through the general prohibitions of Section 504.

Southeastern Community College did not deal with program accessibility requirements in the context of architectural barriers. The principal issue in the case was whether the plantiff, who suffered from a hearing disability, was an "otherwise qualified handicapped individual" for a training program for registered nurses. The Court concluded that the individual was not "qualified" but then went further to consider whether the recipient of Federal assistance was obligated to undertake affirmative action through program modifications that would overcome the effects of the disqualifying handicap. In this context, the Supreme Court held that "neither the language, purpose, nor history of Section 504 reveals an intent to impose an affirmative action obligation on all recipients of federal funds" (442 U.S. at 411). In reaching this conclusion, the Court noted that "[t]he language and structure of Rehabilitation Act of 1973 reflect a recognition by Congress of the distinction between the even-handed treatment of qualified handicapped persons and affirmative efforts to overcome the disabilities caused by handicap," (id. at 410), relying heavily on evidence that "demonstrated that Congress understood accommodation of the needs of handicapped individuals may require affirmative action and knew how to provide for it in those instances where it wished to do so" (Id.).

In *Southeastern Community College*, the comparisons which the Court made were to other provisions of the Rehabilitation Act itself, particularly Section 501(b), requiring affirmative action in employment by Federal agencies, and Section 503(a), which requires affirmative action in hiring by Federal contractors. Similarly, the Department believes that, in interpreting the intended scope of Section 504 with respect to architectural barriers, it cannot ignore Congress' express resolution on that subject as embodied in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.). The appropriateness of this comparison is stregthened by the fact that, while the Architectural Barriers Act was enacted in 1968, Congress further legislated in relation to it in Section 502 of the Rehabilitation Act of 1973 (creating the Architectural and Transportation Barriers Compliance Board) without revising in any manner the provisions and scope of the Architectural Barriers Act itself.

Of particular importance in the context of the Department's consideration of the scope of Section 504 as it may relate to architectural barriers in residential structures assisted under HUD programs is the Architectural Barriers Act's express exclusion of "privately owned residential structure[s] not leased by the Government for subsidized housing programs" (42 U.S.C. 4151). In addition, the requirements of the Architectural Barriers Act affect existing buildings only when they are altered, without requiring that alterations be undertaken solely for the purpose of achieving accessibility (42 U.S.C. 4155). In adopting compliance standards the Department determines either are required by Section 504 as a matter of statutory construction or are reasonably related to the purposes of Section 504 while consistent with achievement of the objectives of the program statute authorizing the Federal financial assistance, the Department is compelled to reach a resolution which does not render these specific expressions of Congressional intent a nullity.

At the same time, the Department is also aware of the Supreme Court's warning that "the line between a lawful refusal to extend affirmative action and illegal discrimination against handicapped persons" is not always clear, and that "situations may arise where a refusal to modify an existing program might become unreasonable and discriminatory" (442 U.S. at 412–413). Subsequent decisions, while not defining the limits of the obligation, have confirmed that Section 504 requires at least "modest, affirmative steps to accommodate handicapped persons." *American Public Transit Association* v. *Lewis*, 655 F. 2d 1271, 1278 (D.C. Cir. 1981); see *Dopico* v. *Goldschmidt*, 687 F. 2d 644 (2d Cir. 1982): *New Mexico Association for Retarded Citizens* v. *State of New Mexico*, 678 F. 2d 847 (10th Cir. 1982). But the question of how much accommodation is called for "is purely economic and administrative. . . . [I]t turns more on considerations of practicality than on matters of entitlement, merit, and restitution. And, while it is bounded, after *Davis*, by a general proscription against massive expenditures, the question is one of the degree of effort necessary rather than whether any effort at all is required." *Dopico*, supra, at 653.

With this guidance in mind, the Department believes that failure to prescribe accessibility requirements in newly constructed or substantially rehabilitated Federally assisted housing, including privately-owned structures, would cross the line and be unreasonable and discriminatory in a manner prohibited by Section 504. The incremental additional cost involved in meeting accessibility standards for buildings or individual units in new construction, or rehabilitation substantial enough to be equivalent to new construction, is slight.

The interim rule provides, therefore, that newly constructed Federally assisted multifamily housing projects must meet accessibility standards as to exits, entrances, and other areas affecting facility accessibility. The same requirement is applicable when alterations are performed if the project contains 25 or more units and if the cost of alterations is 75% or more of the replacement cost of the completed project. If the foregoing qualification does not apply, alterations performed to common areas or to parts of facilities that affect accessibility are required to be accomplished, to the extent feasible, in compliance with accessibility standards. The foregoing requirements apply to all Federally assisted multifamily housing, except that construction or alteration of public housing to which accessibility standards promulgated pursuant to the Architectural Barriers Act are applicable are governed by those standards.

The requirements mentioned above relate to facility accessibility. Accessibility of individual dwelling units within multifamily housing projects is a separate subject. Standards published to date under the Architectural Barriers Act do not address the subject of the number of units required or recommended to be accessible, nor does the current edition of the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI A 117.1–1980). (The Minimum Guidelines and Requirements for Accessible Design issued recently by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, to be codified at 36 CFR Part 1190) adopted scoping provisions for common areas, and it is expected that scoping provisions regarding the number of dwelling units required to be made accessible for Architectural Barriers Act compliance will be included in uniform accessibility standards to be issued by the standard-setting agencies under that Act, including HUD.) The Department's proposed rule also did not attempt to prescribe a minimum number or percentage of units required to be made accessible, except only for a requirement that in a multifamily rehabilitation assisted by Community Development Block Grant funds, at least 2 percent of the units affected by the rehabilitation should be "barrier-free." However, requirements of minimum amounts of accessible units have been adopted by the Department under particular programs. Since 1970, HUD has required generally that 10 percent of the units in all new projects for the elderly be made accessible to persons in

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wheelchairs. (This policy was modified in 1982, as noted below.) In 1977, the Department adopted a policy of requiring that not less than 5 percent of the units in non-elderly Section 8 projects be designed for and accessible to the physically handicapped; this policy is a current regulatory requirement, "where practicable", of the Section 8 new construction and substantial rehabilitation programs (24 CFR 880.202(f), 881.202(e)).

Several commentors on the proposed rule suggested a need for concrete percentage requirements for accessible units. In view of the criticisms contained in the General Accounting Office report referred to above, the Department considered making the number of accessible units required to be included in any project dependent entirely upon a prior assessment of the need for accessible units within a housing market area. The Department believes that, theoretically at least, such a requirement would fully satisfy the requirements of Section 504. On this basis, the requirement for 10 percent of the units in all new projects for the elderly was made more flexible in 1982, when sponsors of Section 202 elderly projects were advised to base the number of accessible units included in project proposals on a determination of need, to be reviewed by HUD taking into consideration the number of accessible units already existing and those which will be coming on the market in projects where architectural plans are already approved. However, on further consideration, the Department has concluded that, given the general unavailability of reliable data upon which such an assessment could be made which would be free of dispute, subjecting all housing proposals to prior completion of such a questionable assessment would unduly burden the administration of the programs.

Accordingly, the Department has elected to prescribe a fixed requirement that a minimum of 5% of the units in any newly constructed multifamily project containing 15 or more units including a public housing project meet accessibility standards, and that an additional 2% of units in any such project be accessible to persons with hearing or vision impairment (§ 8.22). The same requirement is applicable where alterations are undertaken to a project containing 25 or more units if the cost of alterations is 75% or more of the replacement cost of the completed project. In adopting the latter qualifications for accessibility requirements where alterations are concerned, the Department has sought to balance the need for accessible units against the structural restrictions and resulting financial impact on rehabilitation projects.

In view of the possibility noted by the GAO report that an oversupply of accessible units may exist in some areas as well as the contrary possibility that an undersupply may exist in other areas, the interim rule permits variances from the 5 percent minimum requirement. A sponsor or developer of a multifamily project may request a waiver of the 5% minimum upon demonstrating to the reasonable satisfaction of the Department, based on available current data, such as census data or a currently effective Housing Assistance Plan, that provision of accessible units in a project to the extent required by the minimum percentage requirements would exceed the need for such units in the housing market area. In addition, HUD may prescribe lower percentages for any housing market area based upon its determination that a sufficient number of accessible units are available to meet expected needs in such area. In addition to current available data of the type mentioned above, this determination may be based upon evidence that accessible units in the area are being occupied by persons not having the disabilities or impairments requiring the accessibility features of the units, provided that HUD further determines that reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons in the area. In reviewing a request by a sponsor or developer or in considering a reduction of requirements for an area, HUD must consult with organizations serving handicapped persons and may, in its discretion, consult with State and local governments. The interim rule also provides that HUD may prescribe higher percentages for an area upon request therefor by any State or local government or agency thereof based upon a demonstration of need or in response to evidence of such a need received in any other manner, except that in no case (other than group homes or independent living complexes for the handicapped) will more than 15% of the units in any project be required to be accessible to persons with mobility impairments. In determining whether an increase in the minimum requirements is appropriate in any area, HUD is required to take into account the expected needs of eligible non-handicapped persons.

In other cases where alterations are performed to privately owned Federally assisted multifamily projects, alterations are required to be accomplished in a manner consistent with achieving accessibility to the extent feasible, but in no such case are alterations required to be undertaken solely for the purpose of making units accessible. In this context, "feasibility" includes both structural and financial feasibility. As a definition of "structural feasibility", the Department has adopted one facet of the ATBCB's definition of "structural impracticability", viz., having little likelihood of being accomplished without removing or altering a load-bearing structural member (47 FR 33866, to be codified at 36 CFR 1190.3). However, the Department believes that the financial criterion adopted by the ATBCB, viz., an increased cost of 50 percent or more of the value of the element of the building or facility involved, while appropriate in an Architectural Barriers Act context where Federal financial assistance is assured to be a funding source for the alterations, is less appropriate where an alteration may be undertaken without Federal assistance or where cost limitations of a program under which rehabilitation assistance is provided may preclude cost additions of less than 50%. Accordingly, the interim rule provides that financial feasibility shall take into account the degree to which the alterations are funded by Federal financial assistance, the cost limitations (including unit cost limits) of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in a manner either consistent or inconsistent with accessibility whether or not the alteration work is assisted with Federal financial assistance.

In the case of individual dwelling units, alterations are required to the extent feasible, to be accomplished in compliance with accessibility standards if, as a result of such alterations, the unit can be made accessible for persons of identifiable types or degrees of disability or impairment. For example, alterations are not required to be made in accordance with standards for accessibility to persons with mobility impairments if the unit is not located on a route accessible to such persons and alterations are not also being performed to the route. Unit alterations cease to be subject to the foregoing requirement with respect to standards for accessibility to mobility-impaired persons when 15% of the units in a project are accessible to such persons.

As indicated above, while alterations to privately owned residential structures are generally subject to requirements of consistency with achieving accessibility within feasibility limitations, in no case are alterations required to be undertaken by a private owner solely for the purpose of making units accessible. This, however, is not the case in public housing, in which the Department believes that different requirements are appropriate in view of the differentiation made by Congress itself in the Architectural Barriers Act. The Department also considers it appropriate to take into account the fact that, by and large, alterations of public housing projects are funded entirely by funds provided by the Department for a modernization program to be funded under the Comprehensive Improvement Assistance Program. Section 8.24(c) of the interim rule prescribes the extent to which units in public housing projects governed by a modernization project must be made accessible. The Public Housing Authority (PHA) is required to assess, on a PHA-wide basis, the needs of current tenants and applicants on its waiting list for accessible units and the extent to which such need has not been met or cannot reasonably be expected to be met in the proximate future through development, alterations otherwise contemplated by such modernization project or other modernization projects, or other programs administered by the PHA (e.g., Section 8 Moderate Rehabilitation or Section 8 Existing Housing). If the PHA currently has no accessible units or if information regarding availability of accessible units has not been communicated sufficiently so that, as a result, the number of eligible qualified handicapped persons on the PHA's waiting list is not fairly representative of the number of such persons in the area, the PHA's assessment shall be required to include the needs of eligible qualified handicapped persons in the PHA's jurisdiction. If the PHA determines, on the basis of such assessment, that alterations to make additional units accessible must be included in its modernization program in order that the needs of handicapped individuals who are current tenants or applicants on its waiting list may be accommodated proportionately to the needs of non-handicapped individuals in the same categories, then the PHA shall provide in its modernization project for such structurally feasible alterations complying with applicable accessibility standards as may be required to achieve such objective (provided, however, that the PHA shall not be required to make more than five percent of the units covered by any modernization project accessible). If the alterations required to make additional units accessible pursuant to the foregoing would result in the modernization project being determined not to be financially feasible as defined in the modernization program regulation (i.e., the cost of the modernization program (excluding the cost of management improvements) would exceed the prototype cost of a new project), the PHA may request a waiver of the financial feasibility standard to such extent or of the requirement to make additional units accessible. The foregoing requirements are consistent with current administrative requirements of the modernization program.

Section 8.25 of the interim rule applies the "most integrated setting" concept of § 8.4(d), as well as the prohibition of § 8.4(b)(vii) against limiting the enjoyment of opportunities by a qualified handicapped person solely on the basis of handicap, to the housing context. It requires, to the extent feasible and subject to reasonable health and safety requirements, that accessible dwelling units be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified handicapped person's choice of living arrangements is generally comparable to that of other persons eligible for housing assistance under the same program. It adds, however, that provision of an elevator in a multifamily project shall not be required solely for the purpose of permitting location of accessible units above or below the accessible grade level.

Section 8.26, governing occupancy of accessible units, is designed to remedy the shortcomings noted by GAO in the matching of accessible units with qualified handicapped persons needing them. It requires owners and managers having accessible units to adopt suitable means to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons and to take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible qualified handicapped persons whose disability requires the accessibility features of the particular unit. To the extent necessary or appropriate to achieve this objective in the individual circumstances of the project, when an accessible unit becomes vacant, the owner or manager, before offering such unit to the applicant at the head of the waiting list, may offer such unit to (i) current occupants of other units of the same project, or comparable projects under common control, having disabilities or impairments requiring the accessibility features of the vacant unit and occupying units not having such features, or (ii) an eligible qualified applicant on the waiting list having disabilities or impairments requiring the accessibility features of the vacant unit, provided that such preference is not likely to delay unreasonably the availability of a unit for the applicant at the head of the waiting list. When offering an accessible unit to an applicant not having disabilities or impairments requiring the accessibility features of the unit, the owner or manager may require such applicant to agree (and may incorporate such agreement in the lease) to move to a nonaccessible unit when available. If reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, an owner or manager is not required to hold an accessible unit vacant for longer than normal period in order to locate an eligible qualified handicapped person having disabilities or impairments requiring the accessibility features of the vacant unit. The Department believes that holding an accessible unit vacant for a longer than normal period would be unfair to non-handicapped applicants and inconsistent with Section 504's objective of even-handed treatment.

Section 8.27 governs the Section 8 Existing Housing program. The treatment of this program was among the most controversial aspects of the proposed rule. Commentors pointed out that this program is one of the most flexible, and potentially one of the most useful programs for integrating handicapped people into the community. Some 20 commentors directly criticized the outreach requirement of the proposed rule as weak or superfluous because they may not be existing accessible units in a particular community, PHAs will often lack the resources to fulfill this requirement, and under the proposed rule, owners whose sole source of Federal financial assistance was as recipients under the Section 8 Existing Housing Program would have been classified as small providers and not required to provide accessible housing.

The Department believes that, because of the nature of the Section 8 Existing Housing Program, requiring recipients—either handicapped certificate holders or building owners—to make alterations for accessibility would be ineffective and unenforceable, and would substantially reduce private-owner participation in this program. The Department also continues to believe that outreach efforts on the part of

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public housing agencies to locate both qualified handicapped persons and accessible units is the most important component of program accessibility for the Section 8 Existing Housing Program. Accordingly, these provisions have been expanded in the interim rule. The Department also points out that owners participating in the Section 8 Existing Housing Program are "recipients" subject to the nondiscrimination requirements of Subpart A of the interim rule.

Section 8.28 consolidates the requirements in the proposed rule regarding homeownership programs which include Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help programs. The largest number of the comments received on this issue objected to the provision that the cost of making a home accessible may be passed on to the prospective homebuyer. Of particular concern was the likelihood that added costs would have to be paid by the homebuyer up front rather than amortized over the life of the mortgage. This would occur where additional costs put the total cost over allowable mortgage limits. The Department is without statutory authority to absorb additional costs over mortgage limits, except to the extent that an increase (up to 10%) may be granted pursuant to the authority granted under Section 235(p) (added by Section 206(a)(4) of the Housing and Community Development Act of 1980).

Several commentors objected to placing the responsibility on the handicapped person to work with the developer to determine which modification he or she would require. The Department believes that an individual homebuyer should have the opportunity to have his or her individual dwelling constructed as he or she wishes. Accessibility standards of § 8.30 will apply only to those accessibility features selected by the homebuyer.

Section 8.29 provides that if historic facilities become subject to alterations to which Part 8 applies and the provision of accessibility would substantially impair the historical or architectural integrity of the property, comments of the Advisory Council on Historic Preservation shall be obtained when required by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and 36 CFR Part 800 prior to commencement of alterations. Accessibility to the historic facility subject to alterations need not be provided if such accessibility would substantially impair the historic features of the property or result in undue financial or administrative burden. A substantial impairment of the historical or architectural integrity of an historic facility constitutes a fundamental alteration in the program and is not required in light of the *Davis* opinion.

Section 8.30 prescribes the standards for facility accessibility or dwelling unit accessibility which are to be complied with when applicable. It provides that standards for accessibility for housing facilities or units to which HUD's Minimum Property Standards are applicable shall be those set forth in the American National Standards Institute ANSI A117.1–1980, Specifications for Buildings and Facilities Accessible to and Usable by Physically Handicapped Persons, subject to any conflict with a specific provision of the Minimum Property Standards, in which case the latter will govern. Standards for non-housing accessibility and for housing to which the Minimum Property Standards are not applicable will be the ANSI standard. Upon issuance of Uniform Federal Accessibility Standards by the standard-setting agencies under the Architectural Barriers Act, the Department will consider the extent to which those standards should be adopted for Section 504 compliance purposes.

Paragraph (b) of § 8.30 provides that the requirements of Subpart C relating to new construction shall be applicable to projects for which proposals or applications are submitted after the effective date of the regulations. Requirements relating to alterations are applicable to alterations for which proposals or applications are submitted after the effective date of the rule or, in the case of alterations which are not performed with Federal financial assistance, for which contracts are entered after such effective date. The Department notes that new construction or alterations to which Subpart C may not be applicable under this provision may still be subject to existing program requirements regarding accessibility.

Subpart D—Enforcement

The DOJ Implementation Regulation (and the predecessor HEW Implementation Guideline) requires each agency to establish an enforcement system for Section 504 and its implementing regulation which includes: (1) The enforcement and hearing procedures adopted for the enforcement of Title VI of the Civil Rights Act of 1964; (2) a requirement that recipients sign assurances of compliance with Section 504; and (3) a requirement that recipients (a) notify employees and beneficiaries of their rights under Section 504, (b) conduct self-evaluations of their compliance with Section 504 with the assistance of interested persons including handicapped persons and organizations representing handicapped persons, and (c) otherwise consult with these same individuals and organizations in achieving compliance with Section 504. In its proposed rule, HUD incorporated the sections pertinent to each of these requirements from HEW's Section 504 regulation covering HEW programs. In addition, recipients other than small providers were required to consult with interested persons including handicapped persons and organizations on at least an annual basis to assess compliance with the requirements of this part. Owners whose sole source of Federal financial assistance was as recipients under the Section 8 Existing Housing Program were exempted from the requirements for self-evaluation, consultation and notice.

The requirement of contractual assurances is important and indispensable as a means of assuring adequate compliance with the obligations imposed by Section 504 and by Part 8. The administrative enforcement scheme provided by Section 505 of the Rehabilitation Act, incorporating the enforcement scheme under Title VI, contemplates only termination of, or refusal to grant or to continue, assistance. This method of enforcement may be undesirable or inadequate in two frequent general contexts: when the burden of the funding termination will fall most heavily upon innocent program beneficiaries, or when the form of Federal financial asistance is an already-completed transfer or sale of real property or a one-time grant, leaving no continuing assistance to which the sanction can be applied.

Consequently, it has long been recognized that an important "other means authorized by law" (Section 602, Civil Rights Act of 1964 (42 U.S.C. 2000d–1)) for enforcement of civil rights obligations is a Government suit to enforce contractual assurances. See e.g., *U.S.* v. *Marion County School District*, 625 F. 2d 607 (5th Cir. 1980). The requirement for such assurances in any application for assistance and in grant agreements, cooperative agreements, and other contracts pursuant to which Federal financial assistance is extended by HUD is contained in § 8.50 of the interim rule.

Section 8.32 of the proposed rule would have imposed upon all recipients, other than owners receiving Section 8 Existing Housing assistance, certain requirements relating to evaluation by recipients of their compliance with Part 8. The details of the self-evaluation requirements were adopted from the HEW Section 504 regulation relating to HEW programs (now 45 CFR Part 84), which in turn adopted the concept from HEW's regulations implementing Title IX. The self-evaluation requirement does not have a precedent in Title VI regulation. In 45 CFR Part 84 and in Title IX regulations (see 45 CFR 86.3), the requirement is an integral part of provisions requiring remedial actions to overcome the effects of past discrimination or encouraging affirmative action in the absence of a finding of discrimination. As indicated elsewhere in this preamble, Section 504 has been held to be less susceptible to "affirmative action" requirements than may be appropriate under Title VI or Title IX. The Department also believes that the self-evaluation mechanism, while appropriate and feasible for institutional recipients of assistance of the type characteristic of HHS and other educational programs, is less so in the case of recipients under HUD programs who are principally private owners of real estate. Accordingly, the Department believes that the self-evaluation requirement is not necessary for effective enforcement of Section 504 obligations under HUD-assisted programs and has therefore deleted this requirement from the interim rule.

Section 8.51 requires that recipients notify participants, applicants, beneficiaries and employees, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in its programs or activities subject to Part 8.

For the remainder of its enforcement provisions, the proposed rule simply incorporated by reference the provisions of the Department's Title VI regulations at 24 CFR 1.6–1.12 and Part 2. In this interim rule, in order that attention may more easily be focused on such provisions in the context of Section 504 enforcement, the provisions are fully set out in §§ 8.52–8.56 of Subpart D and in Subpart E. The provisions are identical to the Title VI regulation with the following exceptions. Section 8.53(a) provides that the responsible Department official or designee shall from time to time review the practices of recipients to determine whether they are complying with this Part. This provision refers to the Department official to whom general responsibility for Section 504 enforcement is delegated. A provision has been added to the effect that, in addition, program administrators shall include in normal program compliance reviews and monitoring procedures appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of Section 504 and Part 8.

Similar recognition of the fact that Section 504 objectives may be incorporated into program regulations appears in § 8.54(d). Paragraph (d) prescribes certain prerequisites to actions to effect compliance "by any other means authorized by law." This, too, refers to action by the Department official to whom general enforcement responsibility under Section 504 is delegated. The additional provision provides that this provision shall not be construed to prevent a program administrator from utilizing such procedures and sanctions established under such program as may be appropriate to assure or secure compliance with a specific requirement of such program designed to effectuate the objectives of Section 504 or Part 8.

In addition, a requirement of notice to the Governor of a State or chief executive officer of a unit of general local government following a determination of noncompliance in any program or activity funded in whole or in part with community development block grant assistance under Title I of the Housing and Community Development Act of 1974 has been added at § 8.54(d). This requirement is based on Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309).

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The regulation allows recipients to adopt the least costly means of achieving compliance where existing facilities are inaccessible. In addition, employers are required to make accommodations for qualified handicapped persons only if those accommodations do not cause an undue economic hardship.

This rule was listed as item H–70–78 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422, 48427) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 8

Administrative practice and procedure, Housing, Loan programs—housing and community development, Grant programs—housing and community development, Handicapped, Civil rights, Reporting and recordkeeping requirements, Equal employment opportunity.

Accordingly, 24 CFR Subtitle A is hereby amended by adding a new Part 8 thereto, reading as follows:

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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Subpart B—Employment

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Subpart C—Program Accessibility

8.20 General requirements concerning program accessibility.
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8.28 Homeownership programs (Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help Programs).
8.29 Historic facilities.
8.30 Standards; effective date of requirements.

Subpart D—Enforcement

8.50 Assurances required.
8.51 Notice.
8.52 Compliance information.
8.53 Conduct of investigations.
8.54 Procedure for effecting compliance.
8.55 Hearings.
8.56 Decisions and notices.

Subpart E—Practice and Procedure for Hearings

8.60 General information.
8.61 Appearance and practice.
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8.63 Form, execution, service and filing of documents.
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8.82 Definitions.

Appendix A—Federal financial assistance of the Department of Housing and Urban Development to which this part applies.
Appendix B—Statutory definitions of handicapped persons.

Authority: Sec. 7, 504, 505, Rehabilitation Act of 1973 as amended (29 U.S.C. 706, 794, 794a); Sec. 109 Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309); and Sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 8.1 Purpose.

(a) The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that no otherwise qualified handicapped person in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, so be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. This Part does not effectuate Section 504 as it applies to any program or activity conducted by the Department. Compliance with the requirements of this part does not assure compliance with requirements for accessibility by the physically-handicapped imposed pursuant to the Architectural Barriers Act of 1968, as amended, (42 U.S.C. 4151 et seq.), where applicable.

(b) The policies and standards for compliance established by this part are established in contemplation of, and with a view to enforcement through, the Department's administration of programs or activities receiving Federal financial assistance and the administrative procedures described in Subparts D and E of this Part (including, without limitation, judicial enforcement pursuant to § 8.53(a) of this Part).

§ 8.2 Applicability.

This part applies to each program or activity that receives Federal financial assistance from HUD, including any program or activity assisted under the statutes listed in Appendix A of this part. The fact that certain financial assistance is not listed in Appendix A shall not mean that such financial assistance is not covered if Section 504 of the Act is otherwise applicable. Other statutes now in effect or hereafter enacted under which Federal financial assistance is extended by the Department may be added to Appendix A, or other changes therein may be made, by notice published in the **Federal Register.**

§ 8.3 Definitions.

As used in this part, the following terms have the following meanings:

"Accessible", when used with respect to a program or activity, means that such program or activity is conducted, delivered, or offered in such a way that qualified handicapped persons can benefit from and participate in the program or activity.

"Accessible", when used with respect to a facility or portion thereof other than an individual dwelling unit, means that such facility or portion thereof complies with the specifications and requirements of the applicable standards prescribed by § 8.30 of this Part and can be approached, entered, and used by phusically handicapped persons. The phrase "accessible to and usable by" is used throughout this part as a synonym for accessible.

"Accessible", when used with respect to an individual dwelling unit, means that such unit is located on an accessible route and is constructed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 of this Part, or is adaptable to meet such standards, so that such unit, as constructed or adapted, can be approached, entered, and used by a physically handicapped person who is disabled or has a hearing or vision impairment. "Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility which complies with the space and reach requirements of applicable standards prescribed by § 8.30 of this Part; provided, however, that an accessible route which serves only accessible units for persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments. When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified handicapped person (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), such unit will be deemed accessible if it meets the requirements of applicable standards which address the particular disability or impairment of such person.

"Adaptable" means that certain elements of a dwelling unit, such as kitchen counters and sinks, are constructed so as to be able to be added to, raised, lowered, or otherwise altered, or walls are of sufficient strength to receive grab bars, so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability. For example, in a unit adaptable for a vision-impaired person the wiring for audible emergency alarms may be installed but the alarms themselves need not be installed until such time as the unit is made ready for occupancy by a vision-impaired person.

"Alteration" means any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems.

"Applicant for assistance" means an individual or public or private entity which submits an application, request, plan, or statement required to be approved by or to be satisfactory to, a Department official or (in the case of a subgrantee) by a prospective recipient as a condition to becoming eligible for Federal financial assistance.

"Department" or "HUD" means the Department of Housing and Urban Development.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

"Federal financial assistance" includes: (1) Grants, loans, and advances of Federal funds, (2) the grant

or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale or lease of, or the permission to use (as other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced (i) for the purpose of assisting the recipient, or (ii) in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance or subsidy. In the case of Federal financial assistance described in clauses (2) and (4), the program or activity which receives Federal financial assistance shall be deemed to continue so long as the property is used for the purpose for which the Federal financial assistance is extended. The term "Federal financial assistance" does not include a procurement contract or payments pursuant thereto or a contract of insurance or guaranty.

Handicap" means any condition or characteristic that renders a person as defined herein.

"Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" means: (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means: (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (1) of this definition but is treated by a recipient as having such an impairment.

"Multifamily project" means a project containing more than two dwelling units.

"Project" means the whole of one or more residential structures and appurtenant structures, equipment, roads, walls, and parking lots which are covered by a single contract for Federal financial assistance or application therefor, or are treated as such a whole for processing purposes, whether or not located on a common site.

"Qualified handicapped persons" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; and

(2) With respect to a program or activity other than employment, a handicapped person who meets the essential eligibility requirements for participation in such program or activity or for receipt of benefits therefrom except that the term does not include any individual whose current use of alcohol or drugs would constitute a direct threat to the property or safety of others. "Essential eligibility requirements" include stated eligibility requirements such as income or citizenship or alien status as well as implicit requirements inherent in the nature of the program or activity, such as that an occupant of multifamily housing be capable of independent living (except to the extent that necessary support services are contemplated to be provided in connection with the program or activity or will otherwise be available to such occupant) and of complying with all obligations of occupancy, including the obligation to conduct himself or herself in a manner which will not disturb his or her neighbors' peaceful enjoyment of their accommodation and will be conducive to maintaining the housing facility in a decent, safe and sanitary condition. For example, a chronically mentally ill person whose condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his own health or safety in the absence of necessary supportive services may be "qualified" for occupancy in a project where such supportive services are provided but may not be "qualified" for a project lacking such services.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

"Responsible Department official" means the Secretary or, to the extent of any delegation of authority by the Secretary to act under this part, any other Department official to whom authority has been delegated.

"Secretary" means the Secretary of Housing and Urban Development.

"Section 504" means Section 504 of the Rehabilitation Act of 1973, as amended (28 U.S.C. 794).

§ 8.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department.

(b) *Specific Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service in a program or activity that receives Federal financial assistance from the Department may not, directly or through contractual, licensing, or other arrangements, solely on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or

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service that is not equivalent to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons from that provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services to be equally effective are not required to produce the identical result or level of achievement for handicapped and non-handicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.

(3) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different despite the existence of separate or different programs or activities designed specifically for the handicapped.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) that subject qualified handicapped persons to discrimination on the basis of handicap;

(ii) that defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections:

(i) that exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity that receives Federal financial assistance, or

(ii) that defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) Exceptions to this requirement may be approved by the responsible Department official if an applicant for assistance or a recipient can demonstrate that:

(i) there are no sites available in the community that are accessible or that can be made accessible to handicapped persons at a cost that will not render the facility financially infeasible; and

(ii) the alternative to compliance with this requirement would be nonparticipation in the program or activity receiving Federal financial assistance.

(c) Programs limited by Federal law:

(1) The exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons, or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons, is not prohibited by this part.

(2) Certain of the Department's programs operate under statutory definitions of "handicapped persons" which are more restrictive than § 8.3 (see Appendix B), and such definitions are not superseded or otherwise affected by this regulation.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

Subpart B—Employment

§ 8.10 General prohibitions against employment discrimination.

(a) No qualified handicapped person shall, solely on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives Federal financial assistance from the Department.

(b) A recipient may no limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, injury or illness, and rehiring.

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 8.11 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons and (2) Job restructuring, job relocation, part-time or modified work schedules, acquisitions or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining, pursuant to paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 8.12 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test or other selection criterion is shown to be job-related for the position in question; and (2) Alternative job-related tests or criteria that do not tend to screen out as many handicapped persons have not been shown by the responsible HUD official to be available.

(b) A recipient shall select and administer tests concerning employment to ensure that when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 8.13 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not make preemployment inquiry or conduct a preemployment medical examination of an applicant to determine whether the applicant is a handicapped person or the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is undertaking affirmative action efforts, voluntary or otherwise, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped; *Provided*, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of medical examination conducted prior to the employee's entrance on duty. *Provided*, that: (1) All entering employees in that category of job classification must take such an examination regardless of whether or not they are handicapped; and (2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§ 8.14 Exception States.

Until such time as this section may be further amended, the provisions of this Subpart B shall be enforced in the States comprising the Second Circuit (Connecticut, New York, and Vermont), Fourth Circuit (Maryland, North Carolina, South Carolina, Virginia, and West Virginia), and Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota), and Ninth Circuit (Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, and Hawaii) only with respect to programs or activities in which the provision of employment is a primary objective.

Subpart C—Program Accessibility

§ 8.20 General requirement concerning program accessibility.

Each program or activity that receives Federal financial assistance from the Department shall be operated so that the program or activity, when viewed in this entirety, is readily accessible to and usable by qualified handicapped persons.

§ 8.21 Non-housing facilities.

(a) No qualified handicapped person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department because a recipient's facilities within which such program or activity is conducted, or where application for participation therein is made or the benefits distributable pursuant to such program or activity are distributed, are inaccessible to or unusable by handicapped persons.

(b) This section does not require that each of a recipient's facilities described in paragraph (a) of this section be accessible, or that every part of such facilities be accessible, so long as sufficient such facilities or parts thereof are accessible to make participation in such program and the benefits thereof readily available to qualified handicapped persons.

(c) This section does not require that the facilities described in paragraph (a) of this section maintained by every recipient must meet the requirements of paragraph (b) of this section if there are facilities of other recipients in the area pertinent to the same program or activity which meet the requirements of paragraph (b) of this section to a degree sufficient to make the program or activity, when viewed in its entirety, available for participation by qualified handicapped persons, and if compliance by the recipient through the means enumerated in paragraph (d) of this section would result in a fundamental alteration in the nature of its program or activity or in undue financial or administrative burden. In such event, however, a recipient whose facilities are inaccessible shall take reasonable steps to direct qualified handicapped persons to facilities of other recipients which are accessible and where participation in the program or activity by the qualified handicapped person may be achieved.

(d) A recipient may comply with the requirements of this section through such means as: (1) location of programs or services to accessible facilities or

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accessible portions of facilities; (2) the addition or redesign of equipment (e.g., appliances or furnishings); (3) changes in management policies or procedures (e.g., establishing preferences for qualified handicapped persons on waiting lists for the program or activity at accessible facilities); (4) acquisition or construction of additional facilities, or alterations to existing facilities on a selective basis; or (5) any other methods that result in making its program or activity accessible to handicapped persons.

(e) Construction or alterations of facilities described in paragraph (a) of this section to which standards issued pursuant to the Architectural Barriers Act are applicable shall be performed in accordance with such standards.

(f) Facilities described in paragraph (a) of this section to which paragraph (e) of this section is not applicable shall be constructed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30.

(g) Alterations of existing facilities described in paragraph (a) of this section to which paragraph (e) of this section is not applicable shall be performed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 to the extent set forth herein. Alterations to which paragraph (e) of this section is not applicable performed to portions (including common areas) of existing facilities described in paragraph (a) of this section that affect participation by qualified handicapped persons in a program or activity conducted therein shall, to the extent feasible, be accomplished in a manner consistent with the standards prescribed in § 8.30.

(h) For the purposes of paragraph (g) of this section and §§ 8.23 and 8.24(c), "feasibility" shall include structural and financial feasibility. An alteration may be considered not structurally feasible when it has little likelihood of being accomplished without removing or altering a load-bearing structural member. Financial feasibility shall take into account the degree to which the alteration work is to be assisted with Federal financial assistance, the cost limitations (including unit cost limits) of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in manners consistent and inconsistent with accessibility whether or not the alteration work is assisted with Federal financial assistance.

§ 8.22 Housing facilities—new construction.

(a) New construction of a multifamily project (including a public housing project as required by § 8.24) assisted by Federal financial assistance or covered by a contract for Federal financial assistance from the Department (including, in the case of a Section 8 project, an Agreement to Enter into a Housing Assistance Payments Contract) shall be performed in compliance with the specifications and requirements of the applicable standards prescribed in § 8.30. Subject to paragraphs (b) and (c) of this section, a minimum of five percent of the total dwelling units in a project containing not less than 15 dwelling units (but not less than one unit in any such project) shall be accessible for persons with mobility impairments and an additional two percent (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairment.

(b) Notwithstanding the provisions of paragraph (a) of this section, a sponsor or developer of a multifamily project otherwise subject to the requirements of paragraph (a) of this section may request a waiver of such requirements upon demonstrating to the reasonable satisfaction of HUD that provision of accessible units in such project to the extent otherwise required by paragraph (a) of this section would exceed the need for such units in the housing market area. Such demonstration shall be based on census data or other available current data (including a currently effective Housing Assistance Plan). In addition, HUD may prescribe lower percentages than those prescribed in paragraph (a) of this section for any housing market area based upon its determination that a sufficient number of accessible units are available in such area for the expected needs in such area. Such determination by HUD may be based upon evidence that accessible units in the area are being occupied by persons not having the disabilities or impairments requiring the accessibility features of the units, provided that HUD further determines that reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons in the area. In reviewing a request by a sponsor or developer or in considering a reduction of requirements for an area, HUD shall consult with organizations serving handicapped persons and may, in its discretion, consult with State and local governments.

(c) HUD may prescribe higher percentages than those prescribed in paragraph (a) of this section for any area upon request therefor by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need therefor, based on census data or other available current data (including a currently effective Housing Assistance Plan), or in response to evidence of such a need received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible non-handicapped persons as well as the needs of qualified handicapped persons. Except for group homes or independent living complexes for handicapped persons, in no event shall more than 15 percent of the units in any project be required to be accessible to persons with mobility impairments.

§ 8.23 Housing facilities—alterations.

(a) Alterations of existing multifamily housing (other than public housing) assisted by Federal financial assistance or covered by a contract for Federal financial assistance from the Department (including an Agreement to Enter into Housing Assistance Payments Contract) shall be performed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 to the extent provided herein. If the facility contains 25 or more units and if the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, the provisions of § 8.22 shall apply. If the preceding sentence does not apply, there shall be no minimum number of units required to be made accessible. Alterations performed to common areas of facilities or parts of facilities that affect accessiblity of the facility shall, to the extent feasible, be accomplished in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30. Alterations to dwelling units shall, to the extent feasible, be accomplished in compliance with specifications and requirements of applicable standards prescribed by § 8.30 if, as a result of such alterations, the unit can be made accessible for persons of identifiable types or degrees of disability or impairment. However, alterations to units shall not be subject to the foregoing requirement with respect to standards for accessibility to persons with mobility impairments from and after such time as 15% of the units in a project are accessible to such persons.

(b) This section does not apply to an individual who borrows or receives

funds to rehabilitate a dwelling unit in which he or she resides or intends to reside.

§ 8.24 Public housing.

(a) Construction of any public housing project, whether or not constituting a "residential structure" as defined in 24 CFR 40.2, shall be performed in compliance with the standards applicable to residential structures pursuant to 24 CFR 40.4 and, in addition, shall be subject to the requirements of § 8.22 regarding accessible units.

(b) Alteration of any public housing project, whether or not constituting a "residential structure" as defined in 24 CFR 40.2, performed as part of a modernization program pursuant to 24 CFR Part 868 and which involves structural parts or building elements to which the standards made applicable pursuant to 24 CFR 40.4 are applicable shall be performed in accordance with such standards.

(c) Dwelling units in public housing projects covered by a modernization project pursuant to 24 CFR Part 868 shall be made accessible to the extent required by this paragraph. The PHA shall assess, on a PHA-wide basis, the needs of current tenants and applicants on its waiting list for accessible units and the extent to which such needs have not been met or cannot reasonably be expected to be met in the proximate future through development, alterations otherwise contemplated by such modernization project or other modernization projects, or other programs administered by the PHA (e.g., Section 8 Moderate Rehabilitation or Section 8 Existing Housing). (If the PHA currently has no accessible units or information regarding availability of accessible units has not been communicated sufficiently so that, as a result, the number of eligible qualified handicapped persons on the PHA's waiting list is not fairly representative of the number of such persons in the area, the PHA's assessment shall be required to include the needs of eligible qualified handicapped persons in the PHA's jurisdiction.) If the PHA determines, on the basis of such assessment, that alterations to make additional units accessible must be included in its modernization program in order that the needs of eligible qualified handicapped individuals who are current tenants or applicants on its waiting list may be accommodated proportionally to the needs of non-handicapped individuals in the same categories, then the PHA shall provide in its modernization project for such structurally feasible alterations complying with the specifications and requirements of applicable standards prescribed by § 8.30 as may be required to achieve such objective (provided, however, that the PHA shall not be required to make more than five percent of the units covered by any modernization project accessible). If alterations required to make additional units accessible pursuant to the foregoing would result in the modernization project being determined not to be financially feasible (as defined in 24 CFR 868.3), the PHA may request a waiver of the financial feasibility standard to such extent or of the requirement to make additional units accessible otherwise made applicable by this section.

§ 8.25 Distribution of accessible dwelling units.

Accessible dwelling units required by §§ 8.22, 8.23(a), or 8.24 (a) or (c) shall, to the extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a sufficient range of sizes and amenities so that a qualified handicapped person's choice of living arrangements is generally comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily project solely for the purpose of permitting location of accessible units above or below the accessible grade level.

§ 8.26 Occupancy of accessible dwelling units.

Owners and managers of multifamily project having accessible units shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible qualified handicapped persons whose disability requires the accessibility features of the particular unit. To the extent necessary or appropriate to achieve the foregoing objective in the individual circumstances of the project, when an accessible unit becomes vacant, the owner or manager, before offering such unit to the applicant at the head of the waiting list, may offer such unit to (a) current occupants of other units of the same project, or comparable projects under common control, having disabilities or impairments requiring the accessibility features of the vacant unit and occupying units not having such features or (b) an eligible qualified applicant on the waiting list having disabilities or impairments requiring the accessibility features of the vacant unit, provided that such preference is not likely to delay unreasonably the availability of a unit for the applicant at the head of the waiting list. When offering such unit to an applicant not having disabilities or impairments requiring the accessibility features of the unit, the owner or manager may require such applicant to agree (and may incorporate such agreement in the lease) to move to a nonaccessible unit when available. If reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, an owner or manager shall not be required to hold an accessible unit vacant for a longer than normal period in order to locate an eligible qualified handicapped person having disabilities or impairments requiring the accessibility features of the vacant unit.

§ 8.27 Section 8 Existing Housing.

A PHA conducting a Section 8 Existing Housing program under 24 CFR Part 882 shall:

(a) In providing notice of the availability and nature of housing assistance for lower-income families pursuant to 24 CFR 882.207, adopt suitable means to assure that such notice reaches eligible qualified handicapped persons;

(b) In its activities to encourage participation by owners and others pursuant to § 882.208, include encouragement of participation by owners and having accessible units;

(c) Include a current listing of known available accessible units in the Certificate Holder's Packet distributed to qualified handicapped Certificate holders;

(d) Take into account the special problem of ability to locate an accessible unit when considering requests by qualified handicapped persons for extensions of Certificates pursuant to 24 CFR 882.209(d);

(e) If necessary in order that the needs of eligible qualified handicapped individuals on its waiting list may be met proportionally to the needs of eligible nonhandicapped individuals, request increases in contract rents for accessible units pursuant to 24 CFR 882.106.

§ 8.28 Homeownership programs (Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help Programs).

Any housing units newly constructed or rehabilitated for purchase by a prospective eligible qualified handicapped owner-occupant shall be

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made accessible upon request of the prospective buyer if the nature of the handicap so requires. In such case, the buyer shall consult with the seller or builder/sponsor regarding the specific design features to be provided. When accessibility features selected at the option of the homebuyer features shall comply with the relevant standards. The buyer shall be permitted to depart from particular specifications of these standards in order to accommodate his/her specific handicap. The cost of making a facility accessible pursuant to this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (see 24 CFR 235.320.)

§ 8.29 Historic facilities.

If historic facilities (listed, or eligible to be listed, in the National Register of Historic Places, or facilities similarly listed pursuant to a State, county, or local statute) become subject to alterations to which this Part applies and the provisions of accessibility would substantially impair the historical or architectural integrity of the property, comments of the Advisory Council on Historic Preservation shall be obtained when required by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and 36 CFR Part 800 prior to commencement of alterations. Accessibility to the historic facility subject to alterations need not be provided if such accessibility would substantially impair the historic features of the property or result in undue financial or administrative burden.

§ 8.30 Standards; effective date of requirements.

(a) Standards for accessibility for housing facilities or units to which HUD's Minimum Property Standards are applicable shall be those set forth in the American National Standards Institute ANSI A117.1–1980, Specifications for Buildings and Facilities Accessible to and Usable by Physically Handicapped Persons, published by the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10008 (hereinafter "ANSI Standard"), except that in any case of conflict with a specific standard set forth or incorporated in the applicable Minimum Property Standards, the latter shall govern as long as ready access is provided. Standards for non-housing accessibility and for housing to which the Minimum Property Standards are not applicable shall be the ANSI Standard.

(b) The requirement of this Subpart C relating to new construction shall be applicable to projects for which proposals or applications are submitted after [effective date of this Part]. The requirements of this Subpart C relating to alterations shall be applicable to all alterations for which proposals or applications are submitted after August 4, 1983 or, in the case of alterations not performed with Federal financial assistance, for which contracts are entered after August 4, 1983. For purposes of this paragraph, in the context of Community Development Block Grant programs not requiring applications, the final statement required to be submitted to the Department by the grantee shall be deemed an "application."

Subpart D—Enforcement

§ 8.50 Assurances required.

(a) *General.* Every application for Federal financial assistance from the Department submitted on or after August 4, 1983 under any program or activity which requires approval of applications on a project or similar basis shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to such application, contain or be accompanied by the assurance by the applicant that no qualified handicapped person shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under such program or activity, and such program or activity shall be operated and administered in compliance with all requirements imposed by or pursuant to this Part. Every grant agreement, cooperative agreement, or other contract pursuant to which Federal financial assistance from the Department is extended which is entered into or amended on or after August 4, 1983 shall contain an assurance by the grantee or other contracting party that no qualified handicapped person shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under the program of activity receiving Federal financial assistance, and such program of activity shall be operated and administered in compliance with all requirements imposed by or pursuant to this Part. The responsible Department official shall specify the form of the foregoing assurance for any covered program activity and the extent to which similar assurances (and the form thereof) shall be required of subrecipients, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the Department a right to seek its judicial enforcement.

(b) *Duration of obligation.* In the case of an application, agreement or contract for Federal financial assistance in the form of a transfer of real property or an interest therein, or a sale or lease of real property or interest therein without consideration or at a nominal consideration, or at a consideration which is reduced (1) for the purpose of assisting the recipient or (2) in recognition of the public interest to be served by such sale or lease to the recipient, the assurance made pursuant to paragraph (a) of this section shall obligate the applicant, and the agreement or contract pursuant to which such Federal financial assistance is provided shall contain a similar assurance which shall obligate the recipient (including any successor, assignee, or transferee of the recipient), for the period during which the real property is used for the purpose for which Federal financial assistance is extended. In cases where the Federal financial assistance is provided on a continuing basis, the assurance shall obligate the applicant or recipient for the period during which Federal financial assistance is provided. In cases where the Federal financial assistance is provided on an advance or one-time basis, the assurance shall obligate the applicant or recipient for such period during which the program or activity benefits from receipt of such assistance as determined by the responsible Department official.

§ 8.51 Notice.

Recipients shall take appropriate initial and continuing steps to notify participants, applicants, beneficiaries, and employees, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in its programs or activities subject to this Part.

§ 8.52 Compliance information.

(a) *Cooperation and assistance.* The responsible Department official and each Department official who by law or delegation has the principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Part and shall provide assistance and guidance to recipients to help them comply voluntarily with this Part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his/her designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him/her to ascertain whether the recipient has complied or is complying with this Part. In general, recipients should have available for the Department data showing the extent to which handicapped persons are beneficiaries of federally assisted programs.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his/her designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this Part. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or persons shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Part and its applicability to the program or activity under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by Section 504 and this Part.

§ 8.53 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or designee shall from time to time review the practices of recipients to detemine whether they are complying with this Part. In addition, each Department official who by law or delegation has principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part shall include in normal program compliance reviews and monitoring procedures appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of Section 504 and this Part.

(b) *Complaints.* Any person who believes himself/herself or any specific class of persons to be subjected to discrimination prohibited by this Part may either personally or by a representative, file with the responsible Department official or designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible department official or designee.

(c) *Investigations.* The responsible Department official or designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this Part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this Part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this Part, the responsible Department official or designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 8.53(c).

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Section 504 or this Part, or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 8.54 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this Part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this Part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to:

(1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking, and

(2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 8.50.* If an applicant or a recipient of assistance under a contract which is extended or amended on or after August 4, 1983 fails or refuses to furnish an assurance required under § 8.50 or otherwise fails or refuses to comply with the requirements imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceeding under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to an express finding, on the record, of noncompliance with this Part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:

(1) the responsible Department official has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Part;

(3) the action has been approved by the Secretary; and

(4) the expiration of 30 days after the Secretary has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report

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of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Notice to State or local government.* Whenever the Secretary determines that a State or unit of general local government which is a recipient of Federal financial assistance under Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.) has failed to comply with a requirement of Section 504 or this Part with respect to a program or activity funded in whole or in part with such assistance, he shall notify the Governor of such State or the chief executive officer of such unit of general local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. Such notice shall be given not less than 60 days prior to (1) an order suspending, terminating, or refusing to grant or continue Federal financial assistance becoming effective pursuant to paragraph (c) of this section, or (2) any action to effect compliance by any other means authorized by law taken pursuant to paragraph (c) of this section.

(e) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until:

(1) the responsible Department official has determined that compliance cannot be secured by voluntary means;

(2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and

(3) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient to comply with this Part and to take such corrective action as may be appropriate.

However, this paragraph shall not be construed to prevent a Department official who by law or delegation has principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part from utilizing such procedures and sanctions established under such program as may be appropriate to assure or secure compliance with a specific requirement of such program designed to effectuate the objectives of Section 504 or this Part.

§ 8.55 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 8.54(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the reasponsible Department official that the matter be scheduled for hearing, or

(2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under §8.54(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he/she determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his/her discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 and in accordance with subpart E of this Part relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevent evidence of the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the onset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may include irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department and the applicant or recipient, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this Part with respect to two or more programs or activities to which this Part applies, or noncompliance with this Part and the regulations of one or more other Federal departments or agencies issued under Section 504, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this Part. Final decisions in such cases insofar as this Part is concerned, shall be made in accordance with § 8.56.

§ 8.56 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his/her recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient requested. Where the initial decision is made by the hearing examiner, the applicant or recipient may, within the period provided for in Subpart E of this Part, file with the responsible Department official exceptions to the initial decision, with reasons thereof. In the absence of exceptions, the responsible Department official may on his/her own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review and responsible Department official shall review the initial decision and issue his/her own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official, in which event a copy shall also be sent to the complainant.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he/she reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 8.55(a)(2), the decision of a hearing examiner or responsible Department official shall be based on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(d) *Rulings required.* Each decision of a hearing examiner or responsible Department official shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program or activity involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of Section 504 and this Part, including provisions designed to assure that no Federal financial assistance will thereafter be extended for such program or activity to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this Part, or to have otherwise failed to comply with this Part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this Part.

(f) *Posttermination proceedings.* (1) Any applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this Part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with the Practice and Procedure for Hearings issued by the Department (Subpart E). The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

(g) *Forms and instruction.* The responsible Department official shall assure that forms and detailed instructions and procedures for effectuating this Part are issued and promptly made available to interested persons.

(h) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of Section 504 and this Part (other than responsibility for final decision as provided in § 8.56), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Section 504 and this Part to similar programs or activities and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action has been taken by the responsible official of this Department.

Subpart E—Practice and Procedure for Hearings

§ 8.60 General information.

(a) *Scope of rules.* The rules of procedure in this Subpart supplement Subpart D of this Part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Housing and Urban Development, including each of its organizational units, pursuant to Section 504 of the Rehabilitation Act of 1973 (as amended) and this Part.

(b) *Records to be public.* All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights docket clerk during regular business hours. Inquiries may be addressed to the Civil Rights docket clerk, Department of Housing and Urban Development, Washington, D.C. 20410.

(c) *Use of number.* As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa.

(d) *Suspension of rules.* The responsible Department official with respect to pending matters may modify or waive any rule in this Subpart E upon his/her determination that no party will be unduly prejudiced and the ends of justice will thereby be served, and upon notice to all parties.

§ 8.61 Appearance and practice.

(a) *Appearance.* A party may appear in person or by counsel and participate fully in any proceeding. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf. Counsel must be members in

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good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

(b) *Authority for representation.* Any individual acting in a representative capacity in any proceeding may be required to show his/her authority to act in such capacity.

(c) *Exclusion from hearing for misconduct.* Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 8.62 Parties.

(a) *Parties; General Counsel a party.* (1) The term party shall include an applicant or recipient or other person with respect to whom a notice of hearing or opportunity for hearing has been served naming him/her as respondent. (2) The General Counsel of the Department of Housing and Urban Development shall be deemed a party to all proceedings.

(b) *Amici curiae.* (1) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference or, if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he/she finds that the petitioner has a legitimate interest in the proceedings, and that such participation will not unduly delay the outcome and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing. (2) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. Such brief shall be filed and served on each party within the time limits applicable to the party whose position he/she deems himself/herself to support; or if he/she does not deem himself/herself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings. (3) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his/her discretion, may grant any such request if he/she believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

(c) *Complainants not parties.* A person submitting a complaint pursuant to § 8.53 of this Part is not a party to the proceedings governed by this party, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

§ 8.63 Form, execution, service and filing of documents.

(a) *Form of documents to be filed.* Documents to be filed under the rules of this Subpart E shall be dated, the original signed in ink, shall show the docket description and title of the proceeding and the title, if any, and address of the signatory. Copies need not be signed, but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

(b) *Signature of documents.* The signature of a party, authorized officer, employee or attorney constitutes a certificate that he/she has read the document, that to the best of his/her knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

(c) *Filing and service.* All notices by the responsible Department official or the presiding officer, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to the responsible Department official or the presiding officer from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights docket clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 8:45 a.m. to 5:15 p.m., e.s.t. or d.s.t., whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 8.69(f).

(d) *Service—how made.* Service shall be made by personal delivery of one copy of each person to be served or by registered or certified mail, return receipt requested, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed.

(e) *Date of service.* The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

(f) *Certificate of service.* The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his/her attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

§ 8.64 Time.

(a) *Computation.* In computing any period of time under the rules of this Subpart E or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(b) *Extension of time or postponement.* Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his/her decision, such requests should be addressed to him/her. Answers to such requests are permitted if made promptly.

(c) *Reduction of time to file documents.* For good cause, the responsible Department official with respect to pending matters may reduce any time limit prescribed by the rules in this Subpart E except as provided by law or other express provisions in this Part 8.

§ 8.65 Proceedings prior to hearing.

(a) *Notice of hearing or opportunity for hearing.* Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to this part.

(b) *Answer to notice.* The respondent, applicant, or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case the answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

(c) *Amendment of notice or answer.* The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his/her answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his/her original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer. A respondent shall file an answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be longer, unless the presiding officer otherwise orders.

(d) *Request for hearing.* Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing, the respondent, either in the answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of all right to a hearing and to constitute consent to the making of a decision on the basis of such information as is available.

(e) *Consolidation.* The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

(f) *Motions.* Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer. A repetitious motion will not be entertained.

(g) *Responses to motions and petitions.* Within 8 days after a written motion or petition is served, or such other period as the responsible Department official or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

(h) *Disposition of motions and petitions.* The responsible Department official or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting responses: *Provided, however,* that prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the presiding officer or the responsible Department official, respectively, not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral argument shall not be held on written motions or petitions unless the presiding officer in his/her discretion expressly so orders.

§ 8.66 Responsibilities and duties of presiding officer.

(a) *Who presides.* A presiding officer shall preside over all proceedings held under this Subpart E.

(b) *Designation of hearing examiner.* The designation of a hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record, including his/her recommended findings and proposed decision, to the responsible Department official, and may also fix the time and place of hearing. A copy of such designation shall be served on all parties. After service of the designation of a hearing examiner to preside, and until such examiner makes the decision, motions and petitions shall be submitted to him/her. In the case of the death, illness, disqualification, or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his/her place.

(c) *Authority of presiding officer.* The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He/She shall have all powers necessary to these ends, including (but not limited to) the power to:

(1) Arrange and issue notice of the date, time and place of hearings or, upon due notice to the parties, change the date, time and place of hearings previously set.

(2) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him/her.

(6) Regulate the course of the hearing and the conduct of counsel therein.

(7) Examine witnesses and direct witnesses to testify.

(8) Receive, rule on, exclude, or limit evidence.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him/her.

(10) Issue initial or recommended decisions, or final decisions where the responsible Department official presides.

(11) Take any action authorized by the rules in this Subpart E or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

§ 8.67 Hearing procedures.

(a) *Statements of positions and trial briefs.* The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing, to submit trial briefs, and to participate in conferences to settle, simplify, or fix the issues in a proceeding.

(b) *Evidentiary purpose.* (1) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented

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in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he/she intends to prove, may be made at hearings.

(2) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of this Part. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his/her failure timely to answer, or from his/her admissions or stipulations in the record, that there are no matters of material fact in dispute, the presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 8.69(a). Thereafter the proceedings shall go to conclusion in accordance with § 8.69 of this Part. The presiding officer may allow an appeal from such officer in accordance with paragraph (p) of this section.

(c) *Testimony.* Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his/her discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in paragraphs (e) and (f), of this section, witnesses shall be available at the hearing for cross-examination.

(d) *Exhibits.* Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

(e) *Affidavits.* An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and, not less than seven days prior to hearing, a party may file and serve written objection to any affidavit on the ground that he/she believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

(f) *Dispositions.* Upon such terms as the presiding officer determines to be just, and for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

(g) *Admissions as to facts and documents.* Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcment of any order entered therein, and shall not constitute an admission by him/her for any other purposes or be used against him/her in any other proceeding or action.

(h) *Evidence.* Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

(i) *Cross-examination.* A witness may be cross-examined on any matter material to the proceeding.

(j) *Unsponsored written material.* Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

(k) *Objections.* Objections to evidence shall be timely and briefly state the ground relied upon.

(l) *Exceptions to rulings of presiding officer unnecessary.* Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he/she desires the presiding officer to take, or his/her objection to an action taken, and his/her grounds therefor.

(m) *Official notice.* Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

(n) *Public document items.* Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

(o) *Offer or proof.* An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(p) *Appeals from ruling of presiding officer.* Rulings of the presiding officer may not be appealed to the responsible Department official prior to consideration of the entire proceeding except with the consent of the presiding officer and where he/she certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expenses, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the responsible Department official within such period as the presiding officer directs. No oral argument will be heard unless the responsible Department official directs otherwise. At any time prior to submission of the proceeding for decision, the responsible Department official may direct the presiding officer to certify any question or the entire record to him/her for decision. Where the entire records so certified, the presiding officer shall recommend a decision.

§ 8.68 The record.

(a) *Official transcript.* The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

(b) *Record for decision.* The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

§ 8.69 Posthearing procedures, decisions.

(a) *Posthearing briefs: proposed findings and conclusions.*

(1) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law and, if permitted, reply briefs.

(2) Briefs should include a summary of the evidence relied upon, together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

(b) *Decisions following hearing.* When the time for submission of posthearing briefs has expired, the presiding officer, if the responsible Department official, shall make a final decision. If the presiding officer is a hearing examiner, he/she shall certify the entire record, including recommended findings and proposed decision, to the responsible Department official or, if so authorized, shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

(c) *Exceptions to initial or recommended decisions.* Within 30 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the responsible Department official. Any other party may file a response thereto within 45 days after the mailing of the decision. Upon the filing of such exceptions, the responsible Department official shall review the decision and issue a decision thereon.

(d) *Final decisions.* (1) The responsible Department official shall make the final decision in all proceedings under this part after expiration of all applicable time limits provided in § 8.69(a) or § 8.69(c).

(2) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the 30-day period specified in subparagraph (3) of this paragraph, such initial decision shall become the final decision of the responsible Department official upon his/her approval thereof and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of paragraph (c) of this section.

(3) Where the final decision of the responsible Department official does not provide for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, it is an "order" within the meaning of 5 U.S.C. 551(6) (formerly section 2(d) of the Administrative Procedure Act). When such final decision of the responsible Department official (other than the Secretary) does provide for suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, such decision shall not constitute an "order" or "final agency action" until approved by the Secretary.

(4) All final decisions shall be promptly served on all parties, and amici, if any.

(e) *Oral argument to the responsible Department official.*

(1) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, or upon review on initiative of the responsible Department official, he/she shall make such request in writing. The responsible Department official may grant or deny such requests in his/her discretion. If granted, notice of oral argument will be served on all parties. The Notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Civil Rights docket clerk not later than seven days before the date set for oral argument.

(2) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidation of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(3) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Civil Rights docket clerk at least seven days before the argument.

(f) *Service on amici curiae.* All briefs, exceptions, memoranda, requests, and decisions referred to in § 8.50 shall be served upon amici curiae at the same time and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 8.48(a) shall be served on amici.

§ 8.70 Judicial standards of practice.

(a) *Conduct.* Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his/her best efforts to restrain his/her client from improprieties in connection with a proceeding.

(b) *Improper conduct.* With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the responsible Department official by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his/her staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer

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having responsibility for a decision in the proceeding, or his/her staff. It is improper for any person to solicit communications to any such officer, or his/her staff, other than proper communications by parties or amici curiae.

(c) *Ex parte communications.* Only persons employed by or assigned to work with the responsible Department official who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the responsible Department official, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The responsible Department official, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons who are employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

(d) *Expeditious treatment.* Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

(e) *Matters not prohibited.* A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights docket clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by paragraph (c) of this section. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of § 8.55 of this Part are not prohibited.

(f) *Filing of ex parte communications.* A prohibited communication in writing received by the Secretary, the responsible Department official, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he/she considers the memorandum to be incorrect.

§ 8.71 Post-termination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that, since entry of the order, it has brought its program or activity into compliance with the requirements of Section 504 and this Part, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request, the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to paragraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

§ 8.72 Definitions.

(a) The definitions contained in § 8.3 of this Part, to the extent applicable, apply to this subpart.

(b) The term "hearing examiner" is used in the sense in which it is used in 5 U.S.C. 3105 and 3344 (formerly sec. 11 of the Administrative Procedure Act).

(c) "Presiding officer," in any particular matter, may be the assigned hearing examiner or the responsible Department official.

Appendix A—Federal Financial Assistance of the Department of Housing and Urban Development to Which This Part Applies

(The Catalog of Federal Domestic Assistance number is shown in parenthesis after each program. Programs without a number are not listed in the Catalog of Federal Domestic Assistance as of the effective date of this interim rule.)

Community Planning and Development Programs

Community development block grant program. Title I of the Housing and Community Development Act of 1974, as amended; 42 U.S.C. 5301. (14.218)

Community development block grants/small cities program. Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301. (14.219)

Community development block grants/state's program. Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301. (14.228)

Community development block grants/Secretary's discretionary fund. Section 107 of the Housing and Community Development Act of 1974, as amended. (14.229)

Urban renewal programs. (Urban renewal projects and neighborhood development programs, code enforcement programs, demolition programs, rehabilitation grants, interim assistance grants, and community renewal programs.) Title I, Housing Act of 1949, as amended, 42 U.S.C. 1450.

Model Cities Program. Title I, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301.

Comprehensive planning assistance. Section 701, Housing Act of 1954, 40 U.S.C. 461. (14.203)

Rehabilitation loan program. Section 312, Housing Act of 1964, 42 U.S.C. 1452b. (14.220)

Urban Homesteading. Section 810 of the Housing and Community Development Act of 1974, 12 U.S.C. 1706e. (14.222)

Urban Development Action Grants. Section 19 of the Housing and Community Development Act of 1977, 42 U.S.C. 5301. (14.221)

Neighborhood Self-Help Development Program, Title VII, Housing and Community Development Act of 1978, 42 U.S.C. 8121. (14.800)

Livable Cities Program, Title VIII, Housing and Community Development Act of 1978, 42 U.S.C. 8141.

Loans and grants for new community development programs, (excluding assistance in the form of guarantees). Title VII, Housing and Urban Development Act of 1970, 42 U.S.C. § 4511. (14.207)

Housing Programs

Lower-income housing assistance payments program. (Section 8.) Section 8, United States Housing Act of 1937 as amended 42 U.S.C. 1437f. (14.156)

Low-income public housing (including operating subsidies, modernization and Indian housing). United States Housing Act of 1937, 42 U.S.C. 1437. (14.146)

Public housing—Comprehensive Improvement Assistance Program (Public Housing Modernization). United States Housing Act of 1937, as amended, 42 U.S.C. 1430–1437. (14.158)

Operating assistance for troubled multifamily housing project (Troubled Projects Program (Flexible Subsidy)). Housing and Community Development Amendment of 1978, 12 U.S.C. 1715z–1. (14.164)

Public facilities liquidating programs. Title II of the Independent Offices Appropriations Act of 1955, Pub. L. 83–428, 12 U.S.C. 1701g–5.

Technical assistance to contractors or subcontractors. Section 911(b), Housing and Urban Development Act of 1970, 15 U.S.C. 694(a). Note.

Nonprofit sponsor assistance program. Section 106(b) of the Housing and Urban Development Act of 1968. (14.141)

Homeownership for lower income families, with assistance. Section 235(i), National Housing Act, 12 U.S.C. 1715z. (14.105)

Homes released from rehabilitation project mortgage, with assistance. Section 235(j) National Housing Act, 12 U.S.C. 1715z.

Rental and cooperative housing for lower income families. Section 236, National Housing Act, 12 U.S.C. 1715z–1. (14.103)

Direct loans for housing for the elderly or handicapped. Section 202, Housing Act of 1959, 12 U.S.C. 1701g. (14.157)

Assistance for Housing in Alaska, Section 1004 Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3371.

Technical assistance and interest subsidies to State housing finance and development agencies (Section 802). Section 802, Housing and Community Development Act of 1974, 42 U.S.C. 1440.

Emergency mortgage relief loan program. Section 106 of the Emergency Homeowner's Relief Act, 12 U.S.C. 2705.

Rent supplements. Section 101, Housing and Urban Development Act of 1965, 12 U.S.C. 1701s. (14.149)

Counseling for homebuyers, homeowners and tenants. Section 106, Housing and Urban Development Act of 1968, as amended by Section 903(a), Housing and Urban Development Act of 1970, 12 U.S.C. 1701x.

Low-income housing—homeownership opportunities for low-income families (turnkey III—mutual help for Indian areas). United States Housing Act of 1937, 42 U.S.C. 1401–1435.

Community services for tenants. Section 3, U.S. Housing Act of 1937, 42 U.S.C. 1437a.

Congregate Housing Services Program, Title IV. Housing and Community Development Act of 1978, 42 U.S.C. 8001. (14.170)

Surplus land for low and moderate income housing. Section 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484b. (14. 211)

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Special assistance functions. Section 305, National Housing Act, 12 U.S.C. 1720, [including purchase of below market interest rate mortgages insured by FHA under section 221(d)(4), National Housing Act, 12 U.S.C. 1715L(d)(3), and the "Tandem" program, section 305(i) National Housing Act].

Policy Development and Research

Research and technology, (excluding contracts for procurement). Title V, Housing and Urban Development Act of 1970, 42 U.S.C. 1701z–1 [including the following current programs: Modular Integrated Utility System (MIUS), Tenant Management Program, Urban Observatory, and Urban Reinvestment Task Force]. (14.506)

Solar heating and cooling demonstration program. Solar Heating and Cooling Act of 1974, 42 U.S.C. 5501.

Fair Housing and Equal Opportunity

Fair housing assistance program. Title VIII of the Civil Rights Act of 1968; as amended, 42 U.S.C. 3601. (14.506)

Solar Energy and Energy Conservation Bank

Solar Energy and Energy Conservation Bank—financial assistance. Title V, Energy Security Act, 12 U.S.C. 3601–20.

Appendix B—Statutory Definitions of Handicapped Persons

The following programs operate under the statutory definition of handicapped person in Section 202(d)(4) of the Housing Act of 1959, as amended, 12 U.S.C. 1701q(d)(4): Homes released from rehabilitation project mortgage (Section 221(h), National Housing Act); Condominium units released from a Section 221(d)(3) mortgage (Section 221(i), National Housing Act); Housing for the Elderly or Handicapped (Section 202, Housing Act of 1959); and Rental and Cooperative Housing for Lower Income Persons (Section 236(j)(2)(B) and Section 236(i)(4), National Housing Act). This definition reads as follows:

The term "elderly or handicapped families" means families which consist of two or more persons and the head of which (or his spouse) is sixty-two years of age or over or is handicapped, and such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such a person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his/her ability to live independently; and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if such person is a developmentally disabled individual as defined in Section 102(a)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, as amended.

The following programs operate under a definition of handicapped person found in Section 3(2), United States Housing Act of 1937, as amended: Low-Income Public Housing; and Section 8, U.S. Housing Act of 1937, Housing Assistance Payments Program. This definition reads as follows:

The term "families" includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102(a)(5) of the Developmental Disability Services and Facilities Construction Amendments of 1970, as amended, or is handicapped * * *. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

The two statutory definitions (i.e., section 202(d)(4) of the Housing Act of 1959 and section 3(2) of the U.S. Housing Act) are essentially the same except that the latter definition includes a person who "is under a disability as defined in section 223 of the Social Security Act" and the former does not; and section 202(b)(4) requires that the family (or his or her spouse) be elderly or handicapped, while section 3(2) does not make this distinction. The criteria for determining whether a person is handicapped are the same in both statutes: to have an impairment which (i) is expected to be of long-continued and indefinite duration; (ii) substantially

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impedes his/her ability to live independently; and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

Dated: April 11, 1983.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 83-11951 Filed 5-5-83; 8:45 am]
BILLING CODE 4210-01-M

federal register

Friday
May 6, 1983

Part VIII

Environmental Protection Agency

Category of Chemical Substances Known as Chlorinated Naphthalenes Proposed Determination of Significant New Uses; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50502/FRL 2306-6; TSH-FRL 2306-6]

Category of Chemical Substances Known as Chlorinated Naphthalenes Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing or importing chlorinated naphthalenes (CN's) for "significant new uses" as defined in the rule. The agency is concerned that chlorinated naphthalenes may present risks to human health if new uses occur.

DATES: Written comments should be submitted by July 5, 1983.

ADDRESS: Comments should bear the document number OPTS-50502 and should be addressed to: TSCA Publication Information Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), in Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act (TSCA) authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5 (d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). Section 5(g) requires that if the Agency does not take action under section 5, 6, or 7 after receiving a SNUR notice, it must explain in the **Federal Register** its reasons for not taking action. Substances covered by proposed or final SNUR's are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707.

I. Substances Subject to Proposed SNUR—Chlorinated Naphthalenes

This proposed SNUR applies to the category of chemical substances known as chlorinated naphthalenes (CN's). The category of CN's includes all individual monochloronaphthalene through octachloronaphthalene isomers and mixtures of two or more chlorinated naphthalenes that are on the TSCA Inventory of Chemical Substances in Commerce. These substances are:

CN's Listed on the TSCA Inventory of Chemical Substances in Commerce

CAS Registry Number	Chemical Substance
90-13-1	Naphthalene, 1-chloro-
91-58-7	Naphthalene, 2-chloro-
1321-64-8	Naphthalene, pentachloro-
1321-65-9	Naphthalene, trichloro-
1335-87-1	Naphthalene, hexachloro-
1335-88-2	Naphthalene, tetrachloro-
1825-30-5	Naphthalene, 1,5-dichloro-
1825-31-6	Naphthalene, 1,4-dichloro-
2050-69-3	Naphthalene, 1,2-dichloro-
2050-72-6	Naphthalene, 1,6-dichloro-
2050-73-0	Naphthalene, 1,7-dichloro-
2050-74-0	Naphthalene, 1,8,-dichloro-
2050-75-1	Naphthalene, 2,3-dichloro-
2065-70-5	Naphthalene, 2,6-dichloro-
2198-75-6	Naphthalene, 1,3-dichloro-
2198-77-8	Naphthalene, 2,7-dichloro-
2234-13-1	Naphthalene, octachloro-
25586-43-0	Naphthalene, chloro-
32241-8-0	Naphthalene, heptachloro-

Manufacture or importation of CN's not on the Inventory requires submission of a premanufacture notice under section 5(a) of TSCA.

In this proposal, EPA is exercising the authority granted by section 26(c) of TSCA. Section 26(c) allows EPA to take action including proposing a SNUR with respect to a "group of chemical substances the members of which are similar in molecular structure * * *." All the chlorinated naphthalenes are similar in molecular structure since they consist of naphthalene, which is two fused benzene rings, where one or more of the eight hydrogen atoms is replaced with a chlorine atom.

II. Background

CN's have been used in a variety of applications including use in cable insulation, wood preservatives, automotive and other capacitors, engine oils, and cutting and grinding fluids. In the 1920's, about 20 million pounds of CN's were produced annually, primarily for use in cable insulation. Between the 1930's and 1950's, CN's were used extensively in the manufacture of electrical insulation. In 1956, over 7 million pounds were manufactured domestically. Domestic manufacture of CN's decreased to 700,000 pounds in 1978 as CN's were replaced by a variety of substitutes and Chemisphere, the last domestic maufacturer of CN's discontinued production by 1980. However, CN's are still manufactured outside the United States and some CN's are imported into the United States. In 1980, 32,497 pounds of CN's were imported, while 34,062 pounds were imported in 1981. In 1981, about 15,000 to 20,000 pounds of CN's were used in refractive index testing oils, and most of the rest were used as capacitor dielectrics.

Under section 4(e) of TSCA, the Interagency Testing Committee in its second report recommended that the following tests be conducted for CN's: mutagenicity tests, teratogenicity tests, long-term carcinogenicity tests, environmental effects tests and chronic studies to evaluate the other effects of prolonged exposures (43 FR 16684, April 19, 1978). However, because CN's are no longer domestically manufactured and are imported only in limited volumes, EPA decided not to propose a section 4 test rule (46 FR 54482), November 2, 1981). Instead, EPA requested comments on several alternatives to testing. These included a SNUR, a section 8(a) reporting rule, and listing CN's under section 5(b)(4). Comments on alternatives to testing were received from the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA). CMA suggested that CN's be considered for a section 8(a) reporting rule, while NRDC suggested that CN's be subject to a SNUR, a section 8(a) reporting rule and a rulemaking to list the chemical under section 5(b)(4).

EPA has decided to propose a SNUR for CN's. EPA is proposing to designate as significant new uses certain uses of CN's that are reasonably expected to result in different or increased exposures that have health or environmental significance. Through a SNUR, EPA will be able to assess risks resulting from a significant change or increase in human or environmental exposure to CN's before that exposure occurs.

III. Reasons for Proposing This Rule

A. EPA's Concerns for Health and Environmental Effects of CN's

EPA is primarily concerned about the potential for oncogenicity (the capacity to produce or from tumors) in humans exposed to CN's. EPA is also concerned about the potential for liver degeneration, hyperkeratosis (thickening of the skin), acute dermatitis, and other health effects in humans exposed to this class of chemicals.

EPA is also concerned about the potential ecological hazards resulting from exposure to CN's. All CN's have the potential to concentrate in living organisms and this potential increases with the degree of chlorination. Based on analogy to other chlorinated hydrocarbons, EPA believes that CN's have the potential to persist in the environment. They have been detected in plants, fish, and birds; thus, CN's may be transported through the aquatic food chain to fish-eating birds. CN's are also highly toxic to marine and freshwater algae, as well as aquatic and terrestrial invertebrates, and appear to be a cumulative toxin in these organisms.

Available test data on CN's are summarized in the following Unit IIIB. Based on the available health and environmental effect data on CN's and the structural similarity of the members of the category, EPA believes there is a reasonable basis for concern about the entire category of CN's. While some category members may present more or less concern for the effects identified, EPA does not believe there is adequate justification for distinguishing between individual category members in this proposal.

B. Summary of Test Data on CN's Available to EPA

Although there are no known human studies on oncogenic effects caused by the chloronaphthalenes, there are reports showing tissue changes in exposed animals which may indicate a tumorogenic response. In one study, a hyperplastic response was induced by a topical administration of chlorinated naphthalenes (Halowaxes 1000, 1014 and 1020) to the inner surface of rabbit ear skin (Ref. 36). At the end of a 3-week exposure period, moderate hyperplasia was observed, a severe response was evident at the end of the sixth week, and a subsidence of the activity was observed 2 weeks later. In this study, only a 4 percent solution of Halowax 1020 in Carbowax and 5 percent solution of Halowax 1014 in olive oil had a statistically significant difference from the increase produced by the vehicles alone when applied for 6 weeks.

There are also reports of metaplastic and hyperplastic changes in the reproductive systems of several animal species following exposure to chlorinated naphthalenes. Bell (Ref. 1) reported "some" cases of squamous metaplasia of the epididymis of calves (number unspecified) fed chlorinated naphthalenes. The doses, exposure periods, and specific substances fed were not reported. Bell (Ref. 2) reported squamous metaplasia of the epididymis and the ducts of the parotid gland in a calf orally administered a single dose of pentachloronaphthalene. The findings were reported at necropsy 57 days after administration. A Holstein bull fed a daily dose of a mixture of penta- and hexachloronaphthalenes (isomers unspecified) for a total of 1.8 g in a 52-day period, developed metaplasia of the head of the epididymis (Ref. 45). Experimentally induced metaplasia and keratinization of the lumen of the seminal vesicles in a Holstein calf fed "toxic" material for 30 days were also reported (Ref. 26). The toxic material was reported as highly chlorinated naphthalenes (unknown mixture and unspecified isomers) (Ref. 45). Dose-related increases of epithelial metaplasia of the testicular germinal epithelium were reported in calves fed food containing chlorinated naphthalenes (composition and isomers unspecified) (Ref 30). Hyperplastic changes were also noted in the luminal surface of the vaginas of young pigs fed hexachloronaphthalene (isomers unspecified) (Ref. 20). The Agency believes these tissue changes are significant when considering the "hyperplasia to metaplasia to neoplasia" sequence often observed in oncogenesis.

Additional support for the Agency's oncogenic concern is based on the fact that a metabolite of chlorinated naphthalenes may be responsible for the metaplastic changes noted in these animal studies. Several metabolism studies suggested arene oxides as intermediates in the metabolism of some of the chlorinated naphthalenes to metabolites identified in sampled blood and urine (Refs. 32, 33, 34, 6, and 7). Other studies have shown arene oxides to occur in the metabolism of other chlorinated and non-chlorinated aromatics, and to be part of the oncogenic mechanism for these compounds (Refs. 19, 16, 38, and 5). Arene oxide intermediates in the metabolism of polynuclear aromatic hydrocarbons, polychlorinated biphenyls, and chlorinated benzenes were also shown to react readily with cellular macromolecules (Refs. 19 and 47). Consequently arene oxide derivatives may be essential intermediate metabolites in the induction of oncogenesis, and possibly mutagenesis, by their parent compounds. Since chlorinated naphthalene metabolism may proceed via these intermediates, the chlorinated naphthalenes may be considered potentially oncogenic and mutagenic.

Another metabolic concern which has been associated with exposure to chlorinated naphthalenes and which may further support the Agency's oncogenic suspicions, is the vitamin A depression noted in exposed animals. For example, one study showed that high levels of vitamin A significantly decreased the incidence and degree of the hyperplasia induced by 20-methylcholanthrene in organ cultures of mouse prostates (Ref. 22). It has also been suggested that the synthesis of retinoids such as vitamin A, may maintain differentiated epithelia during oncogenic insult (Ref. 37). Vitamin A has also been reported to reduce the incidence of lung, urinary bladder, and breast cancer in experimental animals (Ref. 27). The depression of plasma vitamin A has been reported to precede other signs of hyperkeratosis, a commonly demonstrated effect in animals exposed to the chlorinated naphthalenes, and to extend at least a month beyond exposure to these chemicals (Ref. 31). The correlation between vitamin A depression and hyperkeratosis is speculative. However, the Agency believes that these observations suggest that the depletion of vitamin A levels may increase susceptibility to the oncogenic effect of the chlorinated naphthalenes.

Some human health effects commonly associated with exposure to some of the chlorinated naphthalenes are liver degeneration and chloracne. Chloracne is the most commonly reported health effect from subchronic exposure to CN's in humans. Several other health effects have also been reported in workers exposed for different lengths of time and seem to be linked with the higher chlorinated naphthalenes, penta through hexa (Refs. 11, 18, and 35); tetra through octa (Ref. 21). These other effects include acute yellow atrophy and necrosis of the liver, malaise, anorexia vertigo, nausea, and jaundice (Refs. 9 and 21). Other observed human effects include perforating ulcers of the duodenum, varices of the esophagus, swollen gall bladder, gallstones, necrosis and fibrosis of the pancreas, parenchymatous degeneration of adrenal gland cells, and degeneration of the kidney tubules and glomeruli.

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Information on various other health effects in animals shows that hyperkeratosis is the most often reported health effect in large animals, e.g., calves, subchronically exposed to the chlorinated naphthalenes. Frequently, excessive lacrimation and mucus production are also associated with the hyperkeratosis. Smaller animals, e.g., rats, exposed to the chlorinated naphthalenes generally developed fatty liver degeneration and fibrosis. In some instances, death resulted from liver degeneration in rabbits after exposure to large doses of trichloronaphthalene and tetrachloronaphthalene (Ref. 8).

Some acute effects noted in animals are mostly acute dermatitis (Refs. 3 and 18); lacrimation; excessive salivation, nasal discharge (Ref. 2); and liver fat increase (Ref. 13). Acute effects of the highly chlorinated naphthalenes seem to be related to the inability of animals to metabolize and excrete these compounds (Ref. 8).

Chlorinated naphthalenes also have been shown to affect the reproductive system of cattle and sheep by causing abnormal sperm production, making the animal sterile during the period of exposure. Once exposure decreases, the animals' fertility usually returns, indicating that the effect is reversible (Refs. 30 and 45). No followup studies have been done with the offspring from these animals. In female cattle, chlorinated naphyhalenes have been linked to nonfecundity and natural abortion (Refs. 15 and 4).

EPA also believes that CN's may present potential ecological hazards because there is reason to expect that the chlorohaphthalenes bioconcentrate and are transported through the food chain, causing adverse ecological effects. These characteristics are thought to be dependent upon the degree of chlorination.

Through the arithmetic process proposed by Hansch et al. (Ref. 25), various investigators have been able to calculate the octonal/water partition coefficients for the eight major chlorinated naphthalene insomers mono- through octa-chloronaphthalene. The coefficients of the chlorinated naphthalenes were found to increase with the degree of chlorination. Neely et al (Ref. 28) reported that a high correlation also exists between this coefficient and bioconcentration in fish such that the higher the coefficient of a chemical, the greater the degree of biconcentration. Therefore, the range of calculated coefficients for the chloronaphthalenes indicates that all of these compounds have a potential to bioconcentrate and that this potential increases with the degree of chlorination.

Experimental studies have also reported bioconcentration factors of 25 to 140 for marine algae (Ref. 46) and higher factors, 63 to 257, have been measured for shrimp (Ref. 17) exposed to chloronaphthalene formulations containing 28, 56 and 62 percent chlorination. Bioconcentration factors for fish have not been measured, but are predicted to range from 230 for monochloronaphthalene to 850,000 for octochloronaphthalene based on their partitioning. Monitoring studies have detected chloronaphthalenes in plants, fish, and birds, and suggest that these chemicals have been transported through the aquatic food chain to fish eating birds.

Most of the chlorinated naphthalenes have been found not only to be highly toxic to marine and freshwater algae, but also to exhibit a high degree of cumulative toxicity indicating a high probability of causing chronic effects. This toxicity appears to decrease with increasing chlorination and demonstrates that the greater risk of environmental hazards is the result of the lower chlorinated naphthalenes. However, the higher chlorinated naphthalenes are believed to persist in the environment longer because they are metabolized more slowly.

Most of the plant toxicity data available for chloronaphthalenes are for marine and freshwater algae. One study (Ref. 46) exposed four species of saltwater algae and two bacillariophytes to three chloronaphthalene formulations. Toxicity of the chloronaphthalenes was found to decrease with increased chlorination for all species at every exposure concentration. Similar findings were reported by Craigie and Hutzinger (Ref. 10) using *T. fluviatilis, D. tertiolecta* and *Olisthodiscus* sp., and by EPA (Ref. 42) using *S. costatum* and *S. capricornutum*. The no observed effect concentrations reported by EPA (Ref. 42) for algae growth varied from less than μg/l monochloronaphthalenes (22 percent Cl) to greater than 500,000 μg/l octachloronaphthalene (70 percent Cl). These studies identify monochloronaphthalene as a cumulative toxin in aquatic plants and also indicate that the lesser chlorinated naphthalenes have a higher likelihood of causing chronic effects.

There is no information on the effects of polychloronaphthalenes to the long-term growth of terrestrial plants. Since polychloronaphthalenes have been identified as cumulative toxins in algae, it is likely that these substances are also cumulative toxins in terrestrial plants. Supporting this assertion is a study where chloronaphthalenes were detected in apples (Ref. 14). The EPA believes this finding may indicate a potential for chronic effects in terrestrial plants.

The acute toxicity of chloronaphthalenes has been determined for three species of aquatic invertebrates: *D. magna* (Ref. 42); post-larval and adult glass shrimp, *P. pugio* (Ref. 17) and mysid shrimp, *M. bahia* (Ref. 42). Most of the chloronaphthalenes studied have been shown to be very toxic to this group of organisms, with EC_{50} values less than 500 μg/l. Acute toxicity no effect levels for *D. magna* and mysid shrimp have been reported to be less than 170 μg/l for monochloronaphthalene. Monochloronaphthalene, Halowax 1000, (28 percent Cl) and Halowax 1099 (52 percent Cl) have all shown cumulative toxicity to aquatic invertebrates (Ref. 17 and 42).

Acute toxicity also appears to be related to the degree of chlorination; toxicity increases with the higher chlorinated naphthalenes until a point is reached where it decreases rapidly. Studies by Green and Neff (Ref. 17) and EPA (Ref. 42) demonstrate decreasing EC_{50} Values with increasing chlorination until the percent chlorine reaches about 52 to 56 and then a sharp increase in values between 57 and 69 percent chlorination.

Chlorinated naphthalenes have also been shown to be acutely toxic to the soil invertebrates (Ref. 40). Subchronic effects of Halowax 1099 on the horseshoe crab, *L. polyphemus*, and the mud crab, *R. harrisii*, have been studied by Neff and Giam (Ref. 29) and Laughlin et al. (Ref. 23). Holowax 1099 interfered with the larval development in *L. polyphemus*. Neff and Giam (Ref. 29) reported that Halowax 1099 was just as toxic to the horseshoe crab as the chlorinated biphenyl formulation. Aroclor 1066, which is 66 percent chlorinated.

Halowax 1099 was about three times more toxic than Halowax 1000 to the larvae of *R. harrisii*. Both Halowax formulations also interfered with larval development. The no effect concentrations for the measured effects were 50–100 μg/l for Halowax 1099 and 150–300 μg/l for Halowax 1000. These concentrations were nominal and are maximal estimates of no effect concentrations. As such, actual concentrations are lower because Laughlin et al. (Ref. 23) used a static test method with renewal every 24 hours and treatment concentrations decreased 70 to 80 percent between renewals.

Laughlin et al. (Ref. 23) also characterized these chlorinated naphthalenes as cumulative poisions. The report noted a 7-day lag time in the onset of mortality after the crab larvae were exposed to these chemicals.

The effect of sublethal concentrations of Halowax 1099 on the respiratory rates of juvenile mud crabs were also studied by Laughlin and Neff (Ref. 24). Mean respiratory rates of crabs were increased over control rates after only a 5-day exposure to 20 μg/l Halowax 1099 at three different salinities. The mean rate of exposed crabs given a hyposmotic shock, i.e., the lowest salinity, was significantly higher for animals at the two higher salinities. Laughlin and Neff concluded that the higher energetic cost of acclimation to transient reductions in salinity caused by low environmental concentrations of chloronaphthalenes would produce many indirect ecological effects to crab populations in exposed areas.

These data indicate that chloronaphthalenes can affect some aquatic invertebrates at concentrations lower than 20 μg/l, can interfere with their development, and are cumulative toxins at subchronic exposures. No studies on the chronic toxicity, i.e., whole life cycle studies, of chloronaphthalenes have been found for invertebrates.

The acute toxicity of monochloronaphthalene and octachloronaphthalene has been evaluated for the bluegill, *L. macrochirus*, and the sheepshead minow, *C. variegatus*, using a static exposure method (Ref. 42). The 96-h EC_{50} values for monochloronaphthalene were 2270 and 2360 μg/l for the bluegill and minnow, respectively. Octachloronaphthalene showed very low toxicity to these fish. The 96-h EC_{50} value for *L. macrochirus* decreased from 3710 μg/l at 24 hours to 2270 μg/l at 48 hours and thereafter remained constant throughout the 96 hours. A similar pattern was observed for *C. variegatus* except that the acute toxicity disappeared at 72 hours. No effect concentrations of less than 780 and 1190 μg/l monochloronaphthalene were reported for *L. macrochirus* and *C. variegatus*, respectively.

The acute toxicity of monochloronaphthalene to frogs, *R. pipiens*, was studied by Sundstrom et al. (Ref. 38) through intraperitoneal injection. The 96-h LD_{50} value was 900 mg/kg. The identified metabolite or monochloronaphthalene was 4–chloro-1-naphthol which was about four times more toxic to frogs. The LD_{50} value was 245 mg/kg.

The subchronic effect of monochloronaphthalene on the early life stages, i.e., embryos and larvae, of the sheepshead minnow was examined in studies using a flow-through exposure method (Ref. 42). The maximum allowable toxicant concentration (MATC) was 390–780 μg/l. The no observed effect concentration is the lower MATC limit. No chronic studies, e.g., whole life cycles, are available for aquatic vertebrates for any of the chloronaphthalenes.

No toxicity studies for wild terrestrial vertebrates were available. Only laboratory and domesticated animals have been studied and these data were summarized in the health effects section.

C. Proposed Significant New Uses

EPA proposes to define the following as significant new uses of CN's:

(1) Manufacture within the United States.

(2) Import by any person of more than 100,000 pounds a calendar year.

A significant new use is defined after Agency consideration of all relevant factors, including those listed in section 5(a)(2) of TSCA.

For CN's, EPA is particularly concerned about significant increases in the overall volume of CN's processed and used each year. This is because CN's are very likely to concentrate in living organisms and persist. Therefore, EPA's definition of significant new use focuses on possible domestic manufacture or increased import of CN's. EPA believes that domestic manufacture or significantly increased import of CN's would reasonably be expected to result in different or increased exposures that have health or environmental significance. While EPA believes that these proposed definitions of significant new use are appropriate for CN's, they should not be viewed as a general policy for defining significant new uses in other SNUR's

If a chemical substance has a high potential for toxicity, EPA believes that "significant new uses" can be defined broadly so that the Agency can review potential exposures and releases of concern and take regulatory action, if appropriate, before those exposures or releases occur. EPA recognizes that some broad definitions of significant new use may result in the Agency receiving a SNUR notice for an end use which may not result in a significant increase in exposure or release. The Agency believes that the submission of SNUR notices in such cases is preferable to defining significant new use narrowly for substances of high potential toxicity and possibly allowing significant exposures or release to occur without notice to the Agency. However, EPA encourages public comment on possible ways to exclude from SNUR notice requirements any end uses that are unlikely to present increased exposure or release.

1. *General Rationale for the Significant New Use Definitions.* Today, there is relatively little exposure to CN's. Only about 30,000 pounds of CN's are processed annually and the largest percentage of that is for use in refractive index oil. Exposure to CN's in this use is limited, because CN's are used in small amounts during the preparation of slides for observation in crime and petrographic laboratories. The use of ventilation hoods in many laboratories also reduces exposure to CN's. Small amounts of CN's are also used in capacitors today. Workers and consumers can be exposed to CN's and there can be releases to the environment as a result of this use. However, exposure and release are limited somewhat by the small amount of CN's now processed for this use.

In the past, CN's were produced in high volumes and used in many applications that resulted in significant human exposure and environmental release. The Agency would be concerned if these end uses resumed or if CN's were again produced in high volume. CN's have been manufactured and processed domestically at volumes as high as about 20 million pounds annually. CN's have been used in many applications, including chemical resistant gauge fluids, instrument seals, heat exchange fluids, high boiling specialty solvents (mainly for laboratory use), color dispersants, additives for crankcase oils, feedstocks for dyes, dye carriers, wood preservatives, impregnation (saturation or coating) of condensers for electrical applications, temporary binders in the manufacture of ceramics, gear oil, cutting oils, flame proofing, refractive index testing oils, insulation of electrical cable and conductors, moisture-proof sealants, separators in batteries, masking compounds in electroplating, and grinding wheel lubricants. However, of the many uses, only a few have been important in terms of volume. These uses include cable insulation, wood preservation, engine oil additives, electroplating masking compounds, feedstocks for dye production, dye carriers, capacitors, and refractive index testing oils (Ref. 44).

Several of the past uses of CN's resulted in substantial exposure to workers, consumers, or the environment. For example, capacitors were impregnated by dipping the parts into an

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open vat, allowing substantial opportunity for release of vapors and inhalation by workers. Average airborne concentrations of 1.0 to 7.6 mg/m³ were measured in a factor impregnating condensers (Ref. 12). Dermal exposure may also have occurred when coated parts were handled manually to encase the winding. Releases to the environment may have occurred from volatilization of heated CN's, due to dragout losses on coated parts, cleaning of process equipment, and disposal of rejected parts and other wastes. CN's were detected in the air (9.8–33 mg/m³) and water (0.6μg/L) in the vicinity of one capacitor plant. Lower levels have been detected at other plants (Ref. 41). In addition, auto mechanics and consumers were frequently exposed dermally and via inhalation to CN's contained in engine oil and gear oil during changes of these fluids. Similarly, workers in the metalworking fluids industry were often exposed dermally and by inhalation to CN's contained in metalworking fluids during the machining of metal. In addition, use of CN's as feedstocks in the production of dyes for textiles could have resulted in exposure to workers during sampling and handling of the unreacted chloronaphthalene while handling the filter cake or waste material. The process using CN's as feedstocks in the production of dyes may have resulted in releases of potential concern including airborne emissions from reactor and condenser vents, the liquid waste streams, and bottoms from distillation equipment used to produce CN's.

In addition to the resumption of past uses, the Agency would be concerned about possible new end uses of CN's. EPA believes that the most likely possible new end uses of CN's are as an intermediate for polymers and as additive flame retardants in plastics. Use of CN's as an additive flame retardant could result in dermal exposure from the charging of flaked or granular CN into the mixer or extruder. In addition, in this use, the CN may be volatilized during the rolling or extruding operation, leading to some exposure by inhalation. Because of the many complicated factors that must be considered in identifying and predicting the likelihood of new end uses for CN's, this activity is speculative. Consequently, the Agency is hesitant to define specific end uses as significant new uses in this case because of the major health and environmental concerns associated with CN's.

Because present uses result in relatively limited exposure, EPA does not believe that CN's should be subject to a test rule under section 4. However, if use of CN's increase, exposure is likely to increase. Increased use could result from a resumption of past end uses, increase in present uses or development of entirely new end uses. Similarly, if domestic manufacture occurs exposure could increase. If exposures increased, EPA would be concerned and believes it should have the opportunity to review possible increased exposures before they occur. Therefore, the Agency is proposing the definitions of significant new use listed above.

2. *Rationale for Defining Manufacture in the United States as a Significant New Use.* EPA proposes that domestic manufacture of CN's be considered a significant new use. Resumption of domestic manufacture would be a sign of significant market changes that are likely to be indicative of changes or increases in existing end uses and exposures. It could also indicate new end uses or a resumption of past end uses. EPA estimates that domestic manufacture may not be economical when demand is less than 100,000 pounds per year because of the high costs of producing the substances at low volume. Therefore, any resumption of domestic manufacture would likely indicate a major expansion of current end uses, a revival of former end uses, or the development of new end uses for CN's. This would be significant because it would increase the opportunity for exposure and release of CN's.

In addition, domestic production itself could increase total human and environmental exposure. Past monitoring around CN manufacturing facilities has detected the presence of CN's in air and water. Averaged over 24 hours, concentrations of up to 1600 mg/m³ were present in the air (Ref. 41). CN's in the water were reported as low but detectable (Ref. 41). In addition, EPA has estimated airborne release factors for other processes involving the direct chlorination of hydrocarbons that range from 0.03 g/kg (monochlorobenzene) to 2.57 g/kg (carbon tetrachloride) (Ref. 43).

EPA acknowledges that some CN isomers are subject to Occupational Safety and Health Administration (OSHA) limits. However, these limits were established to provide protection from acute effects of CN's and may not provide adequate protection against potential chronic hazards. Although it is possible that CN's will be manufactured in a system that limits worker exposure, the possibility exists that such a system will not be used and that adequate measures will not be taken to protect workers. Because domestic manufacture could result in significant exposures and releases, the Agency believes that it should have the opportunity to review the manner and method of manufacturing CN's before domestic manufacture occurs.

EPA recognizes that CN's were manufactured domestically in the past, but believes that this definition of significant new use is a proper application of its SNUR authority. EPA believes that if the domestic manufacture of a substance has ceased, the resumption of manufacture can be considered a new use, and in certain cases, a significant new use subject to section 5 reporting. TSCA takes a similar position for premanufacture notification: chemical substances that were manufactured or processed in the past but that were not in commercial production when the TSCA Inventory was compiled are subject to premanufacture notification requirements before domestic manufacture. Of course, EPA recognizes that the cessation of manufacture is distinguishable from a temporary suspension of production due to short-term market conditions. In this case EPA believes that the domestic manufacture of CN's has ceased rather than been temporarily suspended.

3. *Rationale for Defining Import by any Person of More Than 100,000 Pounds a Calendar Year as a Significant New Use.* This proposed definition would require reporting prior to importing more than 100,000 pounds of any CN or combination of CN's during a calendar year. This figure would include the amount of CN's contained in an imported mixture.

As stated above, domestic manufacture of CN's ceased in 1980, only 32,487 pounds were imported in 1980, and only 34,062 pounds were imported in 1981. The only current importer of CN's has reported to EPA that it does not expect the import volume of CN's to increase. EPA believes that a near tripling of the current level of importation (an increase in imports of almost 70,000 pounds) would indicate a major expansion of current end uses, a revival of former end uses, or the development of new end uses for CN's. This would be significant because it would increase the opportunity for exposure and release of CN's. The submission of a SNUR notice before importation of more than 100,000 pounds of CN's a calendar year would alert the Agency to increased exposures and releases from current end uses, the resumption of past end uses, or the initiation of new end uses.

EPA is proposing that the 100,000 pounds per year notice requirement be applied on a per-person basis. That is, more than one person could import up to 100,000 pounds of CN's during a calendar year without submitting a SNUR notice. This means that more than 100,000 pounds could be imported yearly if there were multiple importers. To address this possibility, EPA also considered defining as a significant new use an aggregate 100,000 pound import figure and requiring a notice 90 days before the import totaled 100,000 pounds a year. To implement such a notice requirement either EPA or potential notice submitters as a group would have to keep track of the amount of CN's imported or proposed to be imported by various parties during the year. This approach would have the advantage of allowing Agency review before the total amount of CN's imported reached a substantial level. However, such an approach would also require the person who intends to import the 100,001st pound of CN's to bear the expense of a SNUR notice even if that person imports only a relatively small amount of the substance. The Agency requests comments on the possible use of aggregate volume notice requirements. If comments indicate that the approach is workable, EPA may adopt it in a final rule.

To address the problem of multiple importers EPA also considered the alternative of defining the volume of import by any person that is a significant new use at a figure below 100,000 pounds (e.g., 50,000 pounds). Establishing a lower import volume as a significant new use would reduce the possibility that significant quantities of CN's would be imported without the submission of a significant new use notice. Such an approach may be appropriate if it is assumed that more than one person may import CN's. If increased uses of CN's can be expected to stimulate market demand to a sufficient degree to attract multiple importers, a lower import volume may be an appropriate definition of a significant new use. The Agency requests comments on the option of defining import of CN's at a volume below 100,000 pounds as a significant new use to address the issue of multiple importers.

Another way of dealing with the potential problem of multiple importers would be to define processing over 100,000 pounds a year of CN's by any person as a significant new use. Under this approach, if a person processed over 100,000 pounds of CN's purchased from a number of importers, the processor would be required to submit a SNUR notice even if the importers were not required to do so. The Agency also requests comment on this approach.

4. *Alternative Definitions of Significant New Use.* EPA considered several alternatives to the significant new use definitions proposed here including: (1) Domestic manufacture which allowed CN exposures or releases over a specified limit; (2) domestic manufacture which produced CN's over a specified volume; (3) certain specified end uses not now occurring.

a. *Exposures or Releases Over Specified Limit.* First, EPA considered defining as a significant new use (1) domestic manufacture or processing which allowed greater than a defined amount of exposure or release or (2) domestic manufacture of processing without specified exposure or release controls. For example, the Agency could require reporting if domestic manufacture and processing permitted more than X mg/m³ airborne concentration in the workplace (using definitions similar in form to those used by OSHA) or release greater than X parts per million in an effluent stream. Alternatively, the Agency could specify general types of exposure controls for manufacturing and processing CN's and any manufacture of processing of CN's without these controls would be considered a significant new use. EPA does not have appropriate information to propose such definitions at this time but encourages submission of such information in comments.

b. *Domestic Manufacture Over Specified Volume.* Second, the Agency considered defining domestic manufacture over a certain volume as a significant new use. EPA does not believe that this alternative differs significantly from the one proposed in this rule because the Agency believes that domestic manufacture is likely to occur only if the demand for CN's is close to 100,000 pounds per year and that manufacture at this level or above could present significant increases in exposures and releases.

c. *Specified End Uses Not Now Occurring.* Third, EPA considered defining as a significant new use any specified end use that is not now occurring, but that could occur and present significant exposures and releases. For example, EPA could define use as an intermediate for textiles, use as a fire retardant, or use in engine and gear oil as a significant new use for specified CN's. In view of the serious health and environmental risks that may be posed by CN's, EPA does not believe that this approach would assure that the Agency could review and control all exposures of CN's that may result in health or environmental risk. In particular, EPA may not be able to identify all potential uses of CN's that would be of concern.

The Agency requests comments on the proposed definitions of significant new use and the alternative approaches considered.

IV. Other Regulatory Options

EPA considered a number of regulatory alternatives for CN's before proposing a SNUR. These include rules under section 8(a), 8(d), and 6(b)(4).

EPA believes that a section 8(a) reporting rule for CN's would not obviate the need for a SNUR. Although some CN's were included in the section 8(a) reporting rule published in the Federal Register of June 22, 1982 (47 FR 26992), this is a one-time reporting rule which would not alert EPA to increased exposure of CN's in the future. The Agency could propose a section 8(a) "tracking" rule requiring periodic reporting of information on uses and exposure to CN's. However, under a section 8(a) rule, EPA may not receive notice of all potentially significant new exposures, since small businesses would be exempt from reporting. In addition, by promulgating a SNUR, EPA could issue a section 5(e) or 5(f) order in appropriate circumstances, while a section 8(a) rule would not permit the use of these authorities. Rather, EPA would have to obtain test data under section 4 and then, if necessary, regulate CN's under section 6. This approach could allow unnecessary risks to human health and the environment during the time needed for data development. EPA believes that the serious hazards that may be associated with CN's warrant the issuance of a significant new use rule rather than a section 8(a) reporting rule.

Under section 8(d), EPA has promulgated a rule to require manufacturers and processors to submit to EPA health and safety studies in their possession on certain substances, including CN's. See the Federal Register of September 2, 1982 (47 FR 38780). This rule will give EPA information on CN's relevant to its review of significant new use notices that may be submitted and will help the Agency to determine whether additional regulatory action is necessary. However, the section 8(d) reporting rule does not obviate the need for a significant new use rule. For example, section 8(d) reporting will not provide sufficient information for EPA to examine current, overall exposure to CN's. In addition, the section 8(d) rule is

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a one-time reporting rule that would not provide EPA with health and safety studies conducted in the future.

EPA has decided not to include CN's on the section 5(b)(4) list at this time. The use of section 5(b)(4) is under Agency study at this time. The use of section 5(b)(4) is under Agency study and it is possible that CN's may be included on the list at a later time.

V. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to notify EPA before a substance subject to a SNUR is manufactured or processed for a significant new use. Because of the definition of significant new use proposed in this SNUR EPA expects that it will receive SNUR notices only from potential manufacturers and potential and current importers of CN's.

VI. Uses That May Be Subject to SNUR Notices Requirements

EPA recognizes that when chemical substances proposed to be subject to this SNUR are added to the Inventory they may be manufactured or processed for "significant new uses" as defined in this proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the date when the SNUR is proposed. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if the substances are manufactured or processed between proposal and promulgation for proposed "significant new uses," the Agency will still consider such uses to be "new" if they are retained in the final rule. EPA recognizes that this interpretation may disrupt commerical activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. The Agency specifically requests comment on ways to minimize this disruption.

VII. Procedures for Informing Persons of the Existence of this Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing persons of the existence of the rule. The Agency intends to publish information concerning final SNUR's in the TSCA Chemicals-in-Progress Bulletin, published by the Industry Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNUR's through footnotes indicating that the substances were subject to a SNUR. The footnote could also refer to an Inventory Appendix which would give a **Federal Register** or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNUR's as an Inventory Appendix. EPA requests comment on these various ways of informing persons of SNUR notice requirements.

VIII. Required Information

EPA is not now proposing a special form for SNUR notices. Instead, EPA would encourage SNUR notice submitters to use the proposed premanufacture notice form published in the **Federal Register** of October 16, 1979 (44 FR 59764) or, when it is promulgated, the final premanufacture notice form. SNUR notices must comply with section 5 of TSCA. The Agency interpreted section 5 requirements in its Interim Policy for Premanufacture Notices published in the **Federal Register** of May 15, 1979 (44 FR 28564) and its Statement of Revised Interim Policy published in the **Federal Register** of November 7, 1980 (45 FR 74378).

In a final SNUR, EPA would urge SNUR notice submitters to provide detailed information on human exposure and environmental release that will result from the significant new use. In addition, EPA would urge persons to submit information on potential benefits of CN's, including information on risks posed by CN's compared to their substitutes.

IX. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the serious health and environmental risks that may be posed by CN's EPA encourages possible SNUR notice submitters to develop data on their health and environmental effects before commencing a significant new use of CN's. As stated above, the Interagency Testing Committee recommended testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects. The Agency has tentatively concluded that test data are needed to assess adequately the risk from carcinogenicity, teratogenicity, and reproductive effects. The Agency believes that bioaccumulation in fish, uptake in plants, and chronic toxicity to fish and invertebrates are inadequately characterized environmental effects of concern. Persons required to submit a SNUR notice must decide what data on health and environmental effects to develop. However, in view of the potential risks from the different or increased exposures associated with the proposed significant new uses of CN's, EPA strongly encourages any person who submits a notice under this SNUR to include data on the toxic effects of concern. If a SNUR notice is submitted for a use involving much exposure or environmental release without such test data, EPA may take action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data which will be useful to the Agency's evaluation of a significant new use of CN's. EPA encourages persons to consult with the Agency before selecting a protocol for testing of CN's.

EPA generally encourages potential notice submitters who test the substances to review test methodologies published by the Organization for Economic Cooperation and Development or EPA test guidelines under section 4 of TSCA or section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act. Other test methods generally accepted in practice among professionals in the particular scientific field may also be appropriate.

X. EPA Review of Notice

EPA generally intends to review SNUR notices the same way it reviews premanufacture notices. EPA will publish a summary of each notice in the **Federal Register** under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c) this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substances for a significant new use

until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for CN's without information sufficient to judge the toxicity or exposure potential of the substance, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a notice to other EPA offices and other Federal information in a notice to other EPA offices and other Federal agencies, if they would be helpful in evaluating or controlling a chemical substance. If EPA does not take action under section 5, 6, or 7 to control a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

XI. Modification of Reporting Requirements

EPA is not proposing a sunset provision that would terminate these significant new use reporting requirements on a certain date. However, the Agency believes that there may be circumstances that will lead to modification of the proposed requirements.

When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will amend the SNUR to eliminate notice requirements for the use if the Agency decides that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate notice requirements for other uses if it determines, based on new data, that the substances no longer present health or environmental concerns for those uses.

EPA will amend a SNUR only through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XII. Proposed Rule Language

This proposed rule is structured as follows. The chemicals and defined significant new use are described in paragraph (a) of this rule. In paragraph (b), EPA proposes definitions applicable for the section, most of which have been used in other TSCA rules. Paragraph (c) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. An explanation of the principal importer concept appeared in EPA's clarification of its proposed premanufacture notification requirements published in the **Federal Register** of September 23, 1980 (45 FR 63006). The notice requirements and procedures for reporting under this rule are stated in paragraph (d).

Paragraph (e) clarifies that the exemptions of TSCA section 5(h) apply in SNUR's with the exception of the section 5(h)(4) exemption provisions which apply only to new chemical substances. Thus, substances can be manufactured in small quantities solely for research and development without a SNUR notice being submitted. In addition, EPA proposes that if the substances are produced as an impurity or byproduct, they are not subject to SNUR notice requirements. The Agency is adopting this policy for this proposal because identification of the presence of the substances when used in this way can be very difficult and because the Agency does not belive that these substances would give rise to significant exposures if they appear as an impurity or byproduct. Paragraph (f) describes enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XIII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, as defined by rule, without submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as an injunction to restrain violations of a SNUR and seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or who cause it to be reported.

XIV. Analyses and Assessments

A. Economic Analysis

Persons who intend to manufacture or import CN's for a significant new use, as defined in this rule would be required to submit a SNUR notice with the information required by statute. The cost of submitting a SNUR notice can be estimated from the cost of submitting a PMN, which has been estimated to range between $1,200 and 7,900 per substance, with an average of $4,550. The direct costs of submitting the required information may have less of an impact on a company's decision whether to produce or import CN's than the firm's uncertainty over what regulatory decisions EPA might make if a SNUR notice is submitted.

Issuance of a SNUR conveys the message that EPA has serious concerns about a chemical and that the Agency may consider further regulatory action if a SNUR notice is received. The uncertainty about possible regulatory follow-up may have a significant impact on a company's decision to produce or import the chemical.

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A SNUR notice submitter may also incur the costs of subsequent regulatory action if, after reviewing the SNUR notice, EPA decides that the new use of the chemical may or does present an unreasonable risk to health or the environment. The agency could issue a section 5(e) order prohibiting or limiting the manufacture, processing, distribution, use, or disposal of the chemical's new use pending submission of additional information. The costs to industry of a section 5(e) order could range from $891,100 to $1,160,400, including research, analysis, and decision-making costs associated with evaluating the response to the section 5(e) order, and testing costs associated with complying with the order.

EPA estimates that the total cost to industry of a SNUR with a section 5(e) order and recommended testing, including costs of delays in production resulting from submission and review of the SNUR notice and delays due to testing, will range from $896,400 to $1,118,700. Assuming the producer or importer would pass all of the increased costs to the purchaser, the costs of EPA regulation would result in a price increase from 32 to 60 percent.

Section 12(b) of TSCA requires that a notice be submitted to EPA each year before a party exports a substance that is subject to a proposed or final SNUR. EPA estimates that the total cost of submitting a section 12(b) export notice ranges from $50 to $100 annually.

EPA also considered the economic impact of action under section 8(a). As an alternative to a SNUR, the Agency considered a section 8(a) rule to monitor uses of CN's. The cost of submitting a section 8(a) report would range from $200 to $700. In addition, the uncertainty about possible regulatory follow-up by EPA may have a significant impact on a company's decision to manufacture or import CN's.

A company submitting a section 8(a) report may also incur the costs of subsequent regulatory action, if after reviewing the report, EPA decides that the substance may or does present an unreasonable risk to health or the environment. The Agency could issue a section 4 rule requiring that certain testing be conducted on the substance. EPA estimates that the cost of a section 4 test rule could range from $891,100 to $1,160,400. There are no delay costs associated with a section 8(a) reporting rule or section 4 test rule. Total costs of reporting under section 8(a) including possible testing costs could range from $891,300 to $1,161,100.

EPA also considered designating CN's under section 5(b)(4) of TSCA. If done in conjunction with a section 8(a) rule, a section 5(b)(4) designation would subject small businesses to reporting. If a section 5(b)(4) designation accompanies a SNUR, persons submitting a SNUR notice would be required to show that the significant new use of CN's will not present an unreasonable risk of injury to health or the environment. This requirement would tend to push the SNUR notice costs toward the higher end of the scale, or close to $7,900.

The benefits of the regulatory alternatives have not been quantified; however, they have been qualitatively assessed. The benefits of a regulatory alternative are the reduction in risks to health and the environment as a result of Agency action. For CN's the benefits are primarily reduced rates of morbidity and mortality and reduced environmental burden.

The benefits of a SNUR are greater than the benefits of a section 8(a) reporting rule either with or without an associated section 5(b)(4) designation. A SNUR would prohibit production or importation of a chemical for the new use during the notice preparation and review period, thereby reducing risks to health and the environment. With a SNUR, there may also be immediate reduction in risks because any domestic production or import over 100,000 pounds may be prohibited under section 5(e) until test results are submitted and reviewed by the Agency.

Unlike a SNUR, a section 8(a) reporting rule, with or without an associated section 5(b)(4) designation, would not allow EPA to use section 5(e) authority to limit or prohibit the production or importation of CN's pending the development of data. Any reduction in risks would occur only through regulatory follow-up or by voluntary action taken by industry. Such action could take several years.

A more complete economic analysis of this SNUR is identified in the rulemaking record and is available for public review. EPA invites comments on this economic analysis.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "Major Rule" because it does not have an effect of $100 million or more on the economy and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low.

If a company developed test data in response to a section 5(e) order following reporting under the SNUR, the total costs of EPA regulation could result in that company increasing its prices from 32 to 60 percent. However, because of the nature of the rule and the substances, EPA believes that there will be few significant new use notices submitted under this rule. In addition, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value. Further, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

2. *Regulatory Flexibility Act.* Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant impact on a substantial number of small entities. The Agency acknowledges that the current importer of CN's is a small business. EPA is unable to predict realistically whether other parties affected by this proposed rule will be small businesses. However, EPA believes that although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected would not be substantial even if all the potential new uses were developed by small companies.

3. *Paperwork Reduction Act.* The reporting provisions of this rule are not subject to the Paperwork Reduction Act, 44 U.S.C. 3501, because this rule is not expected to impose reporting requirements on ten or more persons as defined in 44 U.S.C. 3502(4).

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XVI Rulemaking Record

EPA has established an administrative record for this rule (docket number OPTS–50502). The complete record is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays in the OPTS Reading Room, Rm. E–107, 401 M St. SW., Washington, D.C.

The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency.

2. **Federal Register** notice entitled "Chlorinated Naphthalenes: Response to Interagency Testing Committee."

3. Economic Analysis of Proposed Significant New Use Rule on Chlorinated Naphthalenes.

4. Chlorinated Naphthalenes: Workplace Exposure and Release.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

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List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

(Sec. 5, Pub. L. 94-469, 90 Stat. 2012) (15 U.S.C. 2604).

Dated: April 22, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended by adding a new § 721.90 to read as follows:

§ 721.90 Chlorinated naphthalenes.

This section identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act (TSCA). In addition, it specifies procedures for reporting on these chemicals.

(a) *Chemical substances and significant new uses subject to reporting.* Manufacture within the United States and import by any person or more than 100,000 pounds a calendar year are "significant new uses" of chlorinated naphthalenes.

(b) *Definitions.* The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply to this section. In addition, the following definitions apply:

(1) The terms "article," byproduct," "EPA," and "impurity," have the same meanings as in § 710.2 of this Chapter.

(2) "Chlorinated naphthalenes" means all individual monochloronaphthalene through octachloronaphthalene isomers and all mixtures of two or more such isomers that are listed on the TSCA Inventory of Chemical Substances in Commerce.

(3) "Importer" or "person who intends to import" means anyone who intends to import any chemical substance, in pure form or as part of a mixture or article, into the customs territory of the United States and includes:

(i) The person liable for the payment of any duties on the merchandise, or any authorized agent on his behalf (as defined in 19 CFR 1.11).

(ii) The consignee.

(iii) The importer of record.

(iv) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(v) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the United States consists of the 50 States, Puerto Rico, and the District of Columbia.

(4)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(A) For commercial distribution, including for test marketing.

(B) For use by the manufacturer, including use for product research and development, or as an intermediate.

(ii) The term "manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(5) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(6) "Principal importer" means the first importer who, knowing that a chemical substance will be imported rather than manufactured domestically, specifies the chemical substance and the amount to be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(7) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(8) "Small quantities solely for research and development" means quantities of a chemical substance manufactured, imported, or processed solely for research and development and that (i) are not greater than reasonably necessary for such purposes and (ii) are used by, or directly under the supervision of, a technically qualified individual.

(9) "Technically qualified individual" means a person or persons (i) who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision, (ii) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (iii) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substances listed in paragraph (a) of this section for the significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of TSCA and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing a significant new use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and the notice must include the information and test data specified in section 5(d)(1).

(e) *Exemptions and exclusions.* The chemical substances listed in this section are not subject to the notification requirements of this section if they:

(1) Meet any of the applicable exemption requirements of TSCA section 5(h), including the exemptions of subsection 5(h)(1) for test marketing substances and subsection 5(h)(3) for substances manufactured only in small quantities solely for research and development.

(2) Are manufactured or processed only as an impurity or byproduct.

(f) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a Significant New Use Rule is a violation of section 15 of TSCA (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by TSCA, is a violation of TSCA section 15 (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection as required by TSCA section 11, is a violation of section 15 of TSCA (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of a Significant New Rule may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of a Significant New Use Rule or act to seize any chemical substance manufactured or processed in violation of a Significant New Use Rule or take other actions under the authority of TSCA section 7 or 17 (15 U.S.C. 2606 or 2616).

[FR Doc. 83-12048 Filed 5-5-83; 8:45 am]
BILLING CODE 6560-50-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Last Listing May 5, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

H.J. Res. 245/Pub. L. 98-26 To correct Public Law 98-8 due to errors in the enrollment of H.R. 1718. (May 4, 1983; 97 Stat. 186) Price $1.75

S.J. Res. 62/Pub. L. 98-27 To provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week". (May 4, 1983; 97 Stat. 187) Price $1.75

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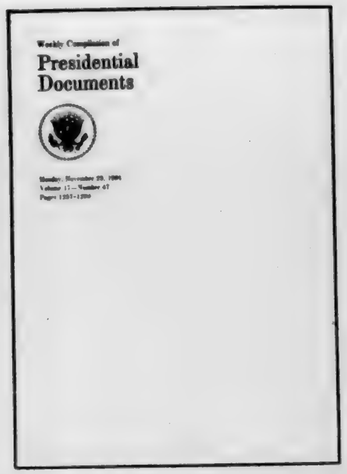

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federal register

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Federal Register
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

Federal Register
Vol. 48, No. 90
Monday, May 9, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

Revision of Normal Operating Schedule and Miscellaneous Other Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and mandatory egg products inspection regulations by changing the definition of the normal operating schedule. For the voluntary grading programs, the normal operating schedule is the operating period during which the Agency provides grading service at the regular rate charge to official plants having an approved established tour of duty or at a premium rate for tours including night differential hours. For the mandatory inspection program, the normal operating schedule is the operating period during which the Agency provides inspection service without charge to official plants having an approved regularly assigned tour of duty. Currently, the normal operating schedule is defined as a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week within the period of Monday through Saturday for each shift required. This rule revises the current definition by providing that the normal operating schedule shall consist of any five consecutive 8-hour days Sunday through Saturday, excluding not to exceed 1 hour for lunch. Consequently, it also amends procedures for the administration of Sunday premium charges to official plants utilizing voluntary grading services.

This amendment revises the unduly restrictive definition of the normal operating schedule. Moreover, it provides for better service to the industry by increasing program flexibility in establishing a normal operating schedule. Also, a few nonsubstantive miscellaneous amendments are made for clarity or to correct obsolete or erroneous citations.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: D. M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, D.C. 20250, (202) 447–3506.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

A determination has been made that this final rule is not a "major" rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule amends the definition of the normal operating schedule so as to expressly reflect the Agency's policy of providing grading or inspection service on any five consecutive 8-hour days Sunday through Saturday when essential to accomplish program needs. It will not have a substantive impact on the economy, consumers, or State or local governments or entities subject to the requirements of the Agricultural Marketing Act of 1946, as amended (AMA), or the Egg Products Inspection Act (EPIA).

Effect on Small Entities

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act. The rule relates, in part, to a method of operating used in conducting the Agency's business and is intended to incorporate in the regulations a policy designed to conform to that of the industry served by the Agency.

Background

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing Federal voluntary poultry, rabbit, and egg grading service. Under the provisions of the EPIA, the cost of Federal mandatory egg products inspection service is to be borne by the United States, except for the costs of overtime or holiday work. To implement these provisions, the Agency established a 40-hour workweek; i.e., normal operating schedule consisting of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week within the period of Monday through Saturday. This Monday through Saturday normal operating schedule was established to designate the operating period during which the Agency would provide resident grading service at the regular rate charge, except for additional night differential charges for work performed between 6 p.m. and 6 a.m., or cost-free mandatory inspection service unless such services otherwise constituted holiday or overtime work. Thus, an official plant operating on a schedule not conforming to the Monday through Saturday workweek would be charged at the regular rate charge for voluntary grading service during nonpremium hours or would receive free mandatory inspection service, only for that portion of their normal operating schedule that runs concurrently with the Monday through Saturday workweek.

Currently, full-time voluntary service plants working on Sunday in lieu of a regularly scheduled workday pay the overtime rate for Sunday service and the regular rate for the scheduled day not worked. This situation occurs because full-time plants cannot schedule Sunday as a regular workday and the Agency must recover its costs for standby time on the day not worked. Under the amendments, Sunday may be established as part of the normal operating schedule. If Sundays are worked, plants would be charged Sunday differential rather than overtime, but they would not be charged for the day not worked since it would no longer be a part of the scheduled workweek.

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Recognizing the burdens on the industry associated with the current definition of the normal operating schedule and to avoid this hardship, the Agency believes that defining the normal operating schedule so as to correspond to the workweek of plants which routinely work on Sundays is consistent with the intent of Congress under the AMA and EPIA. Not providing Sunday service or not considering Sunday as part of the regular workweek would seriously handicap the Agency in carrying out its functions and would cause the industry and the consumer to bear increased costs. So, the Agency is defining the normal operating schedule as a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required.

Other procedures related to the schedule of operations of official plants as established in the grading (7 CFR Parts 55, 56, and 70) and inspection (7 CFR Part 59) regulations are unaffected by this rule.

The Agency has determined that since this rule involves a matter concerning Agency organization, procedure, or practice, notice and comment under the Administrative Procedure Act are not required and good cause exists for finding such procedure unnecessary.

Final Rule

The Agency is amending the definition of the normal operating schedule in 7 CFR Parts 55, 56, 59, and 70 to avoid the hardship imposed on the industry due to the unduly restrictive current definition. This final rule changes the definition of the normal operating schedule which will hereafter be defined as a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Sunday through Saturday for each shift required.

The Agency is amending procedures for administration of charges for voluntary services in 7 CFR Parts 55, 56, and 70 to provide for reimbursement of differential for Sunday work. These amendments are made because pursuant to authority contained in 5 U.S.C. 5548, the Agency must conform to requirements pertaining to its employees' entitlement to premiun pay and must recover costs of services rendered pursuant to 7 U.S.C. 1622.

A few miscellaneous changes of an editorial or housekeeping nature are being made to update or correct various sections in 7 CFR Parts 55, 56, 59, and 70. These changes are nonsubstantive and made to correct obsolete and erroneous citations and to clarify the regulations. These amendments provide helpful clarifications in the regulations and impose no new requirements.

Regarding the normal schedule of operations and administration of Sunday charges, the Agency has determined that this is a matter of Agency organization, practice, and procedure, and is therefore exempt from notice and comment requirements under the Administrative Procedure Act. Likewise, it is found upon good cause that notice and other public procedure with respect to the miscellaneous amendments are impracticable, unnecessary, and contrary to the public interest, because they are nonsubstantive, impose no new requirements, and merely clarify the regulations.

Information Collection Requirements and Recordkeeping

Information collection requirements and recordkeeping provisions contained in 7 CFR Parts 56, 59, and 70 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35; and 7 CFR Part 56 has been assigned OMB No. 0581–0126; and 7 CFR Part 59 has been assigned OMB Nos. 0581–0113 and 0581–0114; and 7 CFR Part 70 has been assigned OMB No. 0581–0127. Information collection requirements contained in 7 CFR Part 55 do not require approval because this regulation has less than 10 respondents.

List of Subjects

7 CFR Part 55

Egg products, Voluntary inspection service.

7 CFR Part 56

Shell eggs, Voluntary grading service.

7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

7 CFR Part 70

Poultry, Poultry products, Rabbit products, Voluntary grading service.

Accordingly, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), and the Egg Products Inspection Act (21 U.S.C. 1031–1056), the U.S. Department of Agriculture hereby amends the Regulations Governing the Voluntary Inspection of Egg Products and Grading (7 CFR Part 55); the Regulations Governing the Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56); the Regulations Governing the Inspection of Eggs and Egg Products (7 CFR Part 59); and the Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and United States Classes, Standards, and Grades (7 CFR Part 70) as set forth below:

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for Part 55 is revised to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. Section 55.96 is revised to read as follows:

§ 55.96 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to § 55.560 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

3. In § 55.560, paragraph (a)(2)(vi) is removed, paragraph (a)(2)(v) is redesignated as (a)(2)(vi), and a new paragraph (a)(2)(v) is added to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(2) * * *

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

4. The authority citation for Part 56 is revised to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

5. Section 56.18 is revised to read as follows:

§ 56.18 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to §§ 56.52 and 56.54 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

6. In § 56.52, paragraph (a)(2)(vi) is removed, paragraph (a)(2)(v) is redesignated as (a)(2)(vi), and a new paragraph (a)(2)(v) is added to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(2) * * *

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

* * * * *

7. In § 56.54, paragraph (a)(1)(vi) is removed, paragraph (a)(1)(v) is redesignated as (a)(1)(vi), and a new paragraph (a)(1)(v) is added to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(1) * * *

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

8. The authority citation for Part 59 is revised to read as follows:

Authority: Secs. 2–28, 84 Stat. 1620–1635; 21 U.S.C. 1031–1056, unless otherwise noted.

9. Section 59.124 is revised to read as follows:

§ 59.124 Schedule of operation of official plants.

Operating schedules for an official plant shall be subject to approval of the Administrator. The normal operating schedule shall consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each full shift required. Clock hours of daily operations need not be specified in a schedule, although as a condition of continuance of approval of a schedule, the hours of operation must be reasonably uniform from day to day.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

10. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

11. Section 70.18 is revised to read as follows:

§ 70.18 Schedule of operation of official plants.

Grading operation schedules for services performed pursuant to §§ 70.76 and 70.77 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the administrative workweek, Sunday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

§ 70.25 [Amended]

12. Section 70.25 is amended by removing "§§ 70.20 through 70.25" and inserting, in their place, the words "this section".

13. In § 70.76, paragraph (a)(1)(vi) is removed, paragraph (a)(1)(v) is redesignated as (a)(1)(vi), and a new paragraph (a)(1)(v) is added to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(1) * * *

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

* * * * *

14. In § 70.77, paragraph (a)(2)(vi) is removed, paragraph (a)(2)(v) is redesignated as (a)(2)(vi), a new paragraph (a)(2)(v) is added, and paragraph (a)(4) is revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(2) * * *

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

* * * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $.00024, except that the minimum charge per billing shall be $120 and the maximum charge shall be $1,200. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627); Egg Products Inspection Act (21 U.S.C. 1031–1056))

Done at Washington, D.C., on May 4, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-12378 Filed 5-6-83; 8:45 am]
BILLING CODE 3410-02-M

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100, 208, 212, 214, 234, and 245

Miscellaneous Technical Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule makes various technical and editorial amendments to 8 CFR, without changing the substance of the affected provisions in order to update certain citations, addresses, and to improve readability.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION:

In § 100.4, the listing of the location of the Service regional offices is amended to reflect a change in the location of the Northern Regional Office in 1979 from St. Paul, Minnesota to Fort Snelling, Twin Cities, Minnesota.

Executive Order No. 12356 (47 FR 14874, dated April 6, 1982) expressly revoked Executive Order No. 12065 (43 FR 28949). This rule amends the citations to this order in 8 CFR 208.8(d) and 208.10 (b) and (c).

In §§ 212.7(b)(4)(ii) and 234.2(c)(1), the title and address of the "Director, Foreign Quarantine Program, Center for Disease Control, Atlanta, Ga. 30333", is revised to read "Director, Division of Quarantine, Center for Prevention Services, Center for Disease Control, Atlanta, Ga. 30333". In addition, grammatical changes have been made to improve readability.

In paragraph (c)(6) of § 214.1, the reference to breaching and cancelling bonds is incorrectly cited as "§§ 101.6 (c) and (e) this chapter." The correct citation to breaching and cancelling bonds is "§ 103.6 (c) and (e) of this title."

In a previous rule, § 245.1(g) (1) and (2) were redesignated 245.1(e) (1) and (2). This rule amends two citations in paragraph 245.2(a)(2) to reflect this change.

Compliance with 5 U.S.C. 553 as to the notice of proposed rulemaking and delayed effective date is unnecessary because the amendments in this order are merely technical in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant impact on a substantial number of small entities. This is not a rule as defined in section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 100

Administrative practice and procedure.

8 CFR Part 208

Administrative practice and procedure.

8 CFR Part 212

Administrative practice and procedure, Health.

8 CFR Part 214

Administrative practice and procedure, Students.

8 CFR Part 234

Administrative practice and procedure, Aliens, Health care, Health facilities, Health personnel, Quarantine.

8 CFR Part 245

Administrative practice and procedure.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. In § 100.4, paragraph (a) is revised to read as follows:

§ 100.4 Field service.

* * * * *

(a) *Regional Offices.* The Eastern Regional Office, located in Burlington, Vermont, has jurisdiction over districts 1, 2, 3, 4, 5, 7, 21, 22, 23, 25, and 27 and Border Patrol sectors 1, 2, 3, and 4. The Southern Regional Office located in Dallas, Tex., has jurisdiction over districts 6, 14, 15, 20, 26, 28, 38 and 40, and Border Patrol sectors 15, 16, 17, 18, 19, 20, and 21. The Northern Regional Office, located in Fort Snelling, Twin Cities, Minnesota, has jurisdiction over districts 8, 9, 10, 11, 12, 19, 24, 29, 30, 31, and 32 and Border Patrol sectors 5, 6, 7, 8, and 9. The Western Regional Office, located in San Pedro, California, has jurisdiction over districts 13, 16, 17, 18, and 39 and Border Patrol sectors 10, 11, 12, 13, and 14.

* * * * *

PART 208—ASYLUM PROCEDURES

2. In § 208.8, paragraph (d) is revised to read as follows:

§ 208.8 Decision by the district director.

* * * * *

(d) *Decision based on BHRHA opinion.* If the decision is based in whole or in part on a BHRHA opinion, the opinion will be made part of the record of proceeding unless it is classified under Executive Order No. 12356 (47 FR 14874; April 6, 1982). If the BHRHA opinion is included in the record, the applicant shall be given an opportunity to inspect, explain, and rebut the opinion, as provided in § 103.2(b)(2) of this chapter.

* * * * *

3. In § 208.10, paragraphs (b) and (c) are revised to read as follows:

§ 208.10 Asylum requests in exclusion or deportation proceedings.

* * * * *

(b) *BHRHA advisory opinion.* When the asylum request is filed, the hearing will be adjourned for the purpose of requesting an advisory opinion from BHRHA. The immigration judge shall not request an opinion if it has been received in connection with an application under § 208.7 of this part unless circumstances have changed so substantially since the first opinion was provided that a second referral would materially aid in adjudicating the asylum request. The BHRHA opinion, unless classified under Executive Order No. 12356, will be made part of the record, and the applicant shall be given an opportunity to inspect, explain, and rebut it.

(c) *Record and non-record evidence.* Both the applicant and the Service may present evidence for the record in the exclusion or deportation proceedings. Additionally, the Service may present non-record evidence to be considered by the immigration judge, provided the information is classified under Executive Order No. 12356. When the immigration judge receives non-record evidence, the applicant shall be informed as to whether the character of the evidence concerns political, social or other conditions in a specified country, or personally related to the applicant.

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

4. In § 212.7, paragraph (b)(4)(ii) is revised to read as follows:

§ 212.7 Waiver of certain grounds of excludability.

* * * * *

(b) * * *

(4) * * *

(ii) *Submission of statement.* Upon being notified that the medical report has been reviewed by the U.S. Public Health Service and determined to be acceptable, the alien or the alien's sponsoring family member shall submit a statement to the consular or Service office. The statement must be from a clinic, hospital, institution, school, specialized facility, or specialist in the United States approved by the U.S. Public Health Service. The statement must specify the name and address of the clinic, hospital, institution, school, specialized facility, or specialist, and must affirm that:

(A) The specified facility or specialist agrees to accept the alien for all necessary diagnostic studies, medical supervision, and shall be responsible for providing or ensuring that the alien is provided the additional care, training, or schooling as the diagnostic studies indicate are necessary for a period of 5 years;

(B) The alien, the alien's sponsoring family member, or another responsible person has made complete financial arrangements for payment of any charges that may be incurred during this period for studies, care, training and services;

(C) The Director, Division of Quarantine, Center for Prevention Services, Center for Disease Control, Atlanta, Ga. 30333 shall be furnished:

(*1*) An initial report evaluating the alien's mental status within 30 days after the alien's arrival;

(*2*) Semiannual reports of the alien's mental status for a period of five years unless the U.S. Public Health Service has approved transferring responsibility for the alien's medical supervision to another facility or specialist;

(*3*) Prompt notification of the aliens death;

(*4*) Prompt notification of the alien's failure to report to the facility or specialist as may be required for the semiannual reports; and

(*5*) Prompt notification of the alien's failure to report to the facility or specialist within 30 days after being notified by the U.S. Public Health Service that the alien has arrived in the United States; and

(D) The alien shall be in an outpatient, inpatient, study, or other specified status as determined by the responsible local physician or specialist during the initial evaluation and during any subsequent care or observation deemed necessary.

* * * * *

PART 214—NONIMMIGRANT CLASSES

5. In § 214.1, paragraph (c)(6) is revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(c) * * *

(6) *Bonds.* For procedures on cancelling and breaching bonds, see § 103.6 (c) and (e) of this title.

* * * * *

PART 234—PHYSICAL AND MENTAL EXAMINATION OF ARRIVING ALIENS

6. In § 234.2, paragraph (c)(1) is revised as follows:

§ 234.2 Examination in the United States of alien applicants for benefits under the immigration laws and other aliens.

* * * * *

(c) *Civil surgeon reports.*—(1) *Applicants for status of permanent resident.*

(i) When an applicant for status as a permanent resident is found upon examination to be free of any defect, disease, or disability listed in section 212(a) of the Act, the civil surgeon shall endorse Form I–486A, Medical Examination and Immigration Interview, and forward it with the X-ray and other pertinent laboratory reports to the immigration office from which the alien was referred. The immigration office may return the X-ray and laboratory reports to the alien. If the applicant is found to be afflicted with a defect, disease or disability listed under section 212(a) of the Act, the civil surgeon shall complete Form FS–398, in duplicate, and forward it with Form I–486A, X-ray, and other pertinent laboratory reports to the immigration office from which the alien was referred.

(ii) If the applicant is found to be afflicted with active tuberculosis and a waiver is granted under section 212(g) of the Act, the immigration office will forward a copy of the completed Form I–601 (Application for Waiver of Grounds of Excludability) and a copy of the Form FS–398 to the Director, Division of Quarantine, Center for Prevention Services, Center for Disease Control, Atlanta, Georgia 30333.

(iii) If an alien who is found to be mentally retarded or to have had one or more previous attacks of insanity, applies for a waiver of excludability under section 212(g) of the Act, the immigration office will submit to the Director, Division of Quarantine, Center for Prevention Services, Center for Disease Control, Atlanta, Georgia, 30333, the completed Form I–601, including a copy of the medical report specified in the instructions attached to that form, and a copy of Form FS–398. This official shall review the medical report and advise the Service whether it is acceptable, in accordance with § 212.7(b)(4)(ii) of this chapter.

(iv) In any other case where the applicant has been found to be afflicted with active or inactive tuberculosis or an infectious or noninfectious leprosy condition, the immigration office will forward a copy of Form FS–398, with the applicant's address endorsed on the reverse to the Director, Division of Quarantine, Center for Prevention Services, Center for Disease Control, Atlanta, Georgia 30333.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

§ 245.2 [Amended]

7. In § 245.2, paragraph (a)(2) is amended by removing the citations "§ 245.1(g)(2)" and "§ 245.1(g)(1)" and inserting in their place, the citations "245.1(e)(2)" and "§ 245.1(e)(1)".

(Secs. 103, 208, 212, 214, 234, and 245 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1158, 1182, 1184, 1224 and 1255)

Dated: May 3, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83–12340 Filed 5–6–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–CE–51–AD; Amdt. 39–4644]

Airworthiness Directives; Government Aircraft Factories (GAF); Models N24A Nomad Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Government Aircraft Factories (GAF) Model N24A Nomad airplanes which requires a 200-lb. reduction in the maximum takeoff weight obtained from the maximum takeoff weight versus altitude/temperature (WAT) charts provided in the Airplane Flight Manual (AFM). Recent flight tests on new N24A production aircraft have established that these airplanes cannot achieve single engine climb performance stated in the AFM. This AD will ensure operation of the airplane at a weight at

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which it will meet AFM performance specifications.

DATES: Effective Date: May 16, 1983. Compliance: As prescribed in the body of this AD.

ADDRESSES: Australian Department of Aviation (DOA) Approved AFM General Amendment G8 dated March 17, 1983, may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, 3207, Victoria, Australia. This data may be examined at the Northwest Mountain Region, Honolulu Aircraft Certification Field Office, Room 7108, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Manager, Aircraft Certification Field Office, ANM–170H, Federal Aviation Administration, P.O. Box 50246, Honolulu, Hawaii 96850, telephone: (808) 546–8650 or 546–8658; or Mr. P. Cormaci, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: DOA has advised FAA that during recent production flight testing of a new Nomad Model N24A aircraft, GAF experienced difficulties in achieving the level of one engine inoperative climb performance representative of that obtained at the time of original certification. As a result, DOA requested GAF to conduct a climb performance flight audit on a number of new production aircraft to verify flight manual data, or, if this could not be shown, to reestablish the performance. Four Model N24A airplanes were used and the results indicated production airplanes could not meet AFM single engine climb performance. The manufacturer has not been able to identify the cause of the problem.

For U.S. certification, the Australian manufactured Nomad Model N24A airplanes equipped with turbopropeller engines, in addition to FAR Part 23 requirements, have been shown to meet supplemental requirements found in FAR Part 135 Appendix A—Additional Airworthiness Standards for 10 or More Passenger Airplanes (ref: Type Certificate Data Sheet A7PC—Certification Basis and Equipment). These additional requirements pertain, in part, to the turbopropeller engine installation and supplement FAR Part 23 as amended thru Amendment 23–9. The DOA approved AFM contains appropriate performance information and includes WAT charts which are required for both FAR 91 and 135 operations. DOA has suggested that the maximum takeoff weight derived from the WAT charts in the AFM be reduced by 200 lbs. to assure all airplanes will meet AFM performance.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring a 200-pound weight reduction from weight(s) obtained from the WAT charts contained in the appropriate AFM on GAF Model N24A Nomad airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Government Aircraft Factories (GAF): Applies to Model N24A Nomad airplanes (all serial numbers) certificated in any category.

Compliance: Required within the next 50-hours time-in-service, unless already accomplished.

To ensure Aircraft Flight Manual (AFM) one engine inoperative climb performance is achieved, accomplish the following:

(a) Fabricate and install a placard on the instrument panel in plain view which reads as follows:

"Reduce Weight Obtained From Weight/Altitude/Temperature Charts by 200 Lbs"

and operate the airplane in accordance with this placard.

(b) The placard required by paragraph (a) may be installed by the pilot.

Note.—A maintenance record entry as prescribed by FAR 91.173 is required when complying with this AD.

(c) The placard required by paragraph (a) may be removed when DOA AFM General Amendment G8 dated March 17, 1983, has been incorporated in the AFM.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Honolulu Aircraft Certification Field Office, Room 7108, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

This amendment becomes effective on May 16, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on April 28, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–12188 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-21]

Alteration of Control Zone; Portland, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this action is to redescribe the Portland Control Zone. The intended effect of this action is to reduce the size of controlled airspace designated at Portland, Oregon, to ease the burden imposed by controlled airspace to VFR operations at the Portland-Troutdale Airport.

DATES: Comments must be received on or before July 1, 1983. Effective June 3, 1983.

ADDRESS: Send comments on the rule to: Manager, Airspace and Procedures Branch, ANM–530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace & Procedures Office, during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace and Procedures Specialist, ANM–534. The telephone number is (206) 433–1640.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical corrections to the description of the control zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the reviews and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 is to reduce the size of the Portland Control Zone. The present configuration of the Portland Control Zone extension to the east overlays the Portland-Troutdale Airport when the Troutdale Control Zone is not in effect. Due to Troutdale Tower's limited hours of operation, the VFR/IFR status of the Troutdale Airport is determined by the Portland International Airport reported weather for the control zone. This remote governing weather is an unnecessary imposition on the flying public operating at Troutdale Airport where the weather conditions could be substantially different than Portland International. To rectify this problem, this action will reduce the size of the Portland Control Zone so that it does not overlay the Portland-Troutdale Airport. Inasmuch as this action reduces the size of controlled airspace and, therefore, relieves a burden on the flying public, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal Register**. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular 70–3, dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zone, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective June 3, 1983, as follows:

Portland, Oregon (Amended)

By deleting the words, "° ° ° and within 3 miles each side of the 119° and 299° bearings from the LAKER LOM" and replacing with the words, "° ° ° and within 2 miles north and 3 miles south of the 119° and 299° bearings from the LAKER LOM."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on April 27, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–12187 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-20]

Alteration of Control Zone; Troutdale, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment alters the description of the Troutdale, Oregon (Portland-Troutdale Airport) Control Zone by changing the hours the control zone is effective to reflect current control zone operations. No change in airspace is made by this action.

DATES: Comment must be received on or before July 1, 1983. Effective June 3, 1983.

ADDRESS: Send comments on the rule to: Manager, Airspace and Procedures Branch, ANM–530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace and Procedures Office, during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace and Procedures Specialist, ANM–534. The telephone number is (206) 433–1640

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical corrections to the description of the control zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 is to change the effective hours of the Troutdale, Oregon Control Zone. The recent loss of Automated Meteorological Observation Service (AMOS) equipment at Portland-Troutdale Airport, which was available during hours when the Troutdale Control Tower was closed, and the reduced hours of operation of the control tower since the air traffic controllers strike in August 1981, have resulted in new hours of effectivity for the control zone. Weather reporting is a requirement for a control zone to be effective. Accordingly, there is a need to re-describe the effective hours for the Troutdale Control Zone so that the description of the control zone reflects currently effective hours of operation. Inasmuch as this action only corrects the description and there is no added burden to the public by this change, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal**

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Register. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular 70-3, dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective June 3, 1983, as follows:

Troutdale, Oregon (Revised)

By deleting the words "* * * this control zone shall be effective from 0700 to 2300 hours, local time daily." and substituting the words "* * * this control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 Fr 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act

Issued in Seattle, Washington on April 27, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-12186 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-17]

Alteration of Transition Area and Control Zone; Astoria, Oregon

AGENCY: Federal Aviation Administration (FFA), DOT.

ACTION: Final rule.

SUMMARY: This action provides for alteration of the 700 foot transition area and control zone to provide controlled airspace for aircraft executing a new ILS instrument approach procedure to Astoria Airport, Astoria, Oregon.

EFFECTIVE DATE: June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace and Procedures Specialist, ANM-534, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 433-1640.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1983, a Notice of Proposed Rulemaking was published in the **Federal Register** (48 FR 4292) stating that the Federal Aviation Administration proposed to alter the transition area and control zone at Astoria, Oregon. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§71.171 and 71.181, Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 871) as republished, AC 70-3A, is amended, effective June 9, 1983, as follows:

Astoria, Oregon (Amended)

1. By amending the control zone description by adding the words, "and within 2 miles each side of the Astoria ILS localizer east course, extending from the 5 mile radius zone to the PEN NDB (latitude 46°08'23"W., longitude 123°35'10"W.)."

2. By amending the transition area description by deleting all the words after, "24.5 miles northwest of the VOR;" and adding, "within an 18.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 326° radial to the 347° radial; within a 26.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 347° radial to the 039° radial; within an arc bordered by and between the 17.5 and 26.5 radius of the Astoria VOR/DME extending clockwise from the 039° radial to the 185° radial; within 9.5 miles north and 4.5 miles south of the Astoria ILS localizer east course extending from the PEN NDB (latitude 46°08'23"N., longitude 123°35'10"W.) to 18.5 miles east; and within 2 miles north and 2 miles south of the Astoria ILS localizer east course extending from the 5 mile radius area east to the PEN NDB."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Navigation (air).

Issued in Seattle, Washington on April 25, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-12034 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 903

Public Information

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule; amendment.

SUMMARY: This amendment updates National Oceanic and Atmospheric Administration (NOAA) organizational elements, addresses, and officials authorized to make initial denials under the Freedom of Information Act as the result of a restructuring of NOAA.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: J. Donald French, Administrative Systems Branch (AT/IMS44), Office of Information and Management Services, NOAA, Rockville, MD 20852. Telephone: (301) 443-8162.

SUPPLEMENTARY INFORMATION:

List of Subjects in 15 CFR Part 903

Freedom of Information, Administrative practice and procedure.

PART 903—[AMENDED]

1. Section 903.1 is amended by revising paragraph (b) to read as follows:

§ 903.1 Scope and purpose.

* * * * *

(b) The organization elements within NOAA are:

(1) The Office of the Administrator;
(2) The National Ocean Service;
(3) The National Weather Service;
(4) The National Marine Fisheries Service;

(5) The National Environmental Satellite, Data, and Information Service;
(6) The Office of Oceanic and Atmospheric Research;
(7) The Office of General Counsel;
(8) The Office of Congressional Affairs;
(9) The Office of Public Affairs;
(10) The Office of Civil Rights;
(11) The Office of NOAA Corps;
(12) The Office of Policy and Planning;
(13) The Office of Budget and Finance;
(14) The Office of Administrative and Technical Services.

2. Section 903.5 is amended by revising paragraph (c) to read as follows:

§ 903.5 Availability of materials for inspection and copying; indexes.

* * * * *

(c) The above materials may be inspected in the NOAA Public Reference Facility, Room 400, Building 5, 6010 Executive Boulevard, Rockville, MD. Mail to this facility should be addressed as follows: Administrative Documentation Officer (AT/IMS4), National Oceanic and Atmospheric Administration, Rockville, MD 20852. The telephone number for the facility is (301) 443-8192. The facility is open to the public Monday through Friday of each week, except on official Federal holidays, between the hours of 9:00 a.m. and 4:30 p.m. There are no fees or formal requirements for such inspections. Photo copies of these materials can be provided on demand at the prices established in paragraph 903.10.

3. Section 903.7 is amended by revising paragraphs (b) and (c) to read as follows:

§ 903.7 Requests for records.

* * * * *

(b) If the appropriate information office is not known, the public should direct its inquiries to the NOAA Public Reference Facility identified in paragraph 903.5(c) or the Office of Public Affairs, National Oceanic and Atmospheric Administration, Washington, DC 20230. This facility will route the request, if it appears to be for information regularly available, to the appropriate information office; if the request is for other types of information, the facility will treat the request in accordance with paragraphs (c) through (e) of this section.

(c) A request for a record (or information contained therein) which is not customarily made available to the public as part of the agency's regular information services, or which is not available in the NOAA Public Reference Facility, shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information Request," or "Request for Records," or the equivalent, to distinguish it from other mail. Each such request so marked shall be addressed to a NOAA official identified in section 903.11 who the requester knows or has reason to believe is responsible for the records requested. If the requester is not sure which is the responsible organizational element, the request shall be addressed to the NOAA Public Reference Facility at the address specified in § 903.5(c).

* * * * *

4. Section 903.8 is amended by revising paragraph (a)(3) to read as follows:

§ 903.8 Initial determination of availability of records.

(a) * * *

(3) Whether the records no longer exist, or are not in the Agency's possession. In each instance, the requester shall be promptly notified in writing.

5. Section 903.9 is amended by revising paragraphs (b) and (g) to read as follows:

§ 903.9 Appeals from initial denials or untimely delays.

* * * * *

(b) An appeal should be addressed to the General Counsel, U.S. Department of Commerce (DOC), Washington, D.C. 20230. Both the appeal envelope and the letter shall be marked clearly "Freedom of Information Appeal," or "Appeal for Records," or the equivalent. An appeal not addressed and marked as provided herein, upon recognition to be such by agency personnel, will be so marked and forwarded immediately to the General Counsel/DOC. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 522(a)(6), until the earlier of either: (1) The time that forwarding to the General Counsel/DOC has been effected, or (2) the time such forwarding would have been effected had due diligence been exercised by agency personnel. In each instance when an appeal is so forwarded, the General Counsel/DOC shall notify the requester that the appeal was improperly addressed and of the date the appeal actually was received, or normally should have been received, in the Office of the General Counsel/DOC.

* * * * *

(g) Final appeal decisions are indexed and available for public inspection and copying in the Central Reference and Records Inspection Facility, Department of Commerce, Room 6628, Herbert C. Hoover Building, Washington, D.C. 20230. Telephone: (202) 377-4217.

5. Section 903.10 is amended by revising paragraph (c)(4)(iii) to read as follows:

§ 903.10 Fees and charges.

(c) * * *

(4) * * *

(iii) Exceeds $50 and the requester has said nothing about payment or the requester is delinquent in past payments, the requester shall be notified immediately (by telephone if possible, with written confirmation) of the estimated total fee and shall be asked to pay such fee before the search may be conducted or continued. The notice may advise the requester to confer with NOAA personnel so as to attempt to reformulate the request for records to reduce the fee.

* * * * *

6. Section 903.11 is amended by revising it to read as follows:

§ 903.11 Officials authorized to make initial denials.

The following officials of the National Oceanic and Atmospheric Administration (NOAA) have been delegated authority initially to deny requests for records of their respective organizational elements. (The listings are subject to changes because of reorganizational revisions or new delegations.)

Administrator, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.
Deputy Administrator, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.
Associate Administrator, National Oceanic and Atmospheric Administration, Washington D.C. 20230.
Director, Office of Public Affairs, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.
Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, MD 20852.
Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.
Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.
Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910.
Assistant Administrator for Environmental Satellite, Data, and Information Services, National Oceanic and Atmospheric Administration, Washington, D.C. 20233.
Assistant Administrator for Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Rockville, MD 20852.

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Director, Environmental Research Laboratories, National Oceanic and Atmospheric Administration, Boulder, CO 80303.
Director, Office of Administrative and Technical Services, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.

Dated: May 2, 1983.

Francis J. Balint,

Chief, Information and Management Services Division

[FR Doc. 83-12174 Filed 5-6-83; 8:45 am]
BILLING CODE 3510-13-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and its counterpart agency, the St. Lawrence Seaway Authority of Canada, publish joint Seaway Regulations. As a result of discussions with the St. Lawrence Seaway Authority, it was determined that a number of the existing regulations needed clarification. Therefore the Seaway Corporation has amended 33 CFR Part 401—Subpart A.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315) 764-3245.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1983, the Seaway Corporation published in the **Federal Register** (48 FR 9037) proposed amendments to the Seaway Regulations which had been developed jointly with the Canadian Seaway Authority.

One comment was submitted in response to the notice of proposed rulemaking.

The commenter advised that a change in the designation of the International Maritime Organization had been made and that all references to "IMCO" should be deleted and the word "IMO" substituted therefore. This change has been adopted in order to assist the users of the Seaway, and is reflected in §§ 401.68, 401.69, 401.80 and Schedule III.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

In § 401.3, paragraph (d)(1) has been reworded to clearly indicate that the dimensions addressed in the regulations are set out in the block diagram.

Section 401.9 has been revised to remove any question that 19.8 m applies to the overall length of the vessel.

In the table in § 401.10(c), the column heading, "Ship's Overall Length," has been changed to "Overall Length of Vessels," and the information in this column has been revised to eliminate any misunderstanding regarding the vessel's dimensions that are covered by the regulations, and to assure that all dimensions are included.

In § 401.12(a)(5), the word "lines" replaced the word "wires" to bring it into conformity with other areas of that section, and as in § 401.10, the information under the column, "Overall Length of Vessels," had been revised for the reason previously stated.

In § 401.15, the phrase "in overall length" has been added for clarity.

In § 401.40, paragraph (c) has been reworded in order to more clearly define the intent of the regulation.

Section 401.45 has been revised to clearly indicate that the regulation is concerned with the speed of a vessel entering a lock chamber.

In § 401.47, paragraph (c) has been reworded to conform to paragraph (c) of § 401.40.

In the table to § 401.48, items 2 (a), (b), (d), and (e), the phrase, "in overall length," has been added for clarity.

In § 401.51, the regulation has been divided into two paragraphs to make it easier to understand.

In § 401.68 and § 401.69, "IMCO" has been removed and "IMO" inserted in lieu thereof to reflect a change in the designation of the International Maritime Organization.

In § 401.74, the addresses of the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority have been added for the convenience of the user.

In paragraph (a) of § 401.80, a phrase has been added citing Schedule III as the schedule which the vessel owner may look to for compliance with this regulation, and in both paragraphs (a) and (b) "IMCO" has been removed and "IMO" inserted in lieu thereof.

In § 401.82, the word "nearest" has been added to indicate that a vessel extending more than 33.5 m above water level must furnish precise information concerning its height to the nearest Seaway station. As previously written, the regulation had been interpreted to mean that any Seaway station could be contacted, while the intent was to require that it be reported to the nearest Seaway station.

Paragraph (b)(2) of § 401.97 has been reworded to indicate that the Saint Lawrence Seaway Tariff of Tolls is an agreement between the governments of the United States and Canada. In paragraph (e)(1), the word "same" was deleted because it was unnecessary.

In Schedule III, all references to "IMCO" have been removed and "IMO" inserted in lieu thereof.

This proposed regulation involves a foreign affairs function of the United States; therefore Executive Order 12291 does not apply to this rulemaking. The Saint Lawrence Seaway Development Corporation certifies that, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), this final rule will not have a significant impact on a substantial number of small entities. The Seaway Regulations relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. On the other hand, the economic benefits derived from a safe and efficiently operated St. Lawrence Seaway are considerable. Finally, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required.

PART 401—[AMENDED]

For the stated reasons, the Seaway Regulations are amended as follows.

1. In § 401.3, paragraph (d)(1) is revised to read as follows:

§ 401.3 Maximum vessel dimensions.

* * * * *

(d) * * *

(1) A vessel having a beam width of less than 23.16 m and having dimensions exceeding the limits set out in the block diagram illustrated in Appendix I shall not transit a lock except in accordance with a permit to transit issued by the Authority.

2. In § 401.9, paragraph (a) is revised to read as follows:

§ 401.9 Radiotelephone equipment.

(a) Self-propelled vessels, other than pleasure craft of less than 19.8 m in overall length, shall be equipped with VHF (very high frequency) radiotelephone equipment.

* * * * *

3. In § 401.10, the table in paragraph (c) is revised as follows:

§ 401.10 Mooring lines.

* * * * *

(c) * * *

Overall length of vessels	Length of mooring line	Breaking strength
40 m or more but not more than 60 m	110 m	89 kN.
More than 60 m but not more than 90 m	110 m	134 kN.
More than 90 m but not more than 120 m	110 m	178 kN.
More than 120 m but not more than 180 m	110 m	250 kN.
More than 180 m but not more than 225.5 m	110 m	300 kN.

4. In § 401.12, paragraph (a)(5) and the table in paragraph (b) are revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * *

(5) Every vessel shall have a minimum of two spare mooring lines available and ready for immediate use.

* * * * *

TABLE

*Overall length of vessels	For mooring lines Nos. 1 and 2	For mooring lines Nos. 3 and 4
60 m or more but not more than 90 m.	Between 10 m and 25 m from the stem.	Between 10 m and 25 m from the stem.
More than 90 m but not more than 120 m.	Between 12 m and 30 m from the stem.	Between 15 m and 35 m from the stem.
More than 120 m but not more than 150 m.	Between 12 m and 35 m from the stem.	Between 15 m and 40 m from the stem.
More than 150 m but not more than 180 m.	Between 15 m and 40 m from the stem.	Between 20 m and 45 m from the stem.
More than 180 m but not more than 222.5 m.	Between 20 m and 50 m from the stem.	Between 20 m and 50 m from the stem

5. Section 401.15 is revised to read as follows:

§ 401.15 Stern anchors.

Every vessel of more than 110 m in overall length, the keel of which is laid after January 1, 1975, shall be equipped with a stern anchor.

6. Section 401.40 is amended by revising paragraph (c) to read as follows:

§ 401.40 Entering a lock.

* * * * *

(c) No vessel shall use thrusters when passing a lock gate.

7. Section 401.45 introductory text is revised to read as follows:

§ 401.45 Emergency procedure.

When the speed of a vessel entering a lock chamber has to be checked in an emergency, a signal consisting of five blasts on a horn shall be given,

* * * * *

8. In § 401.47, paragraph (c) is revised to read as follows:

§ 401.47 Leaving a lock.

* * * * *

(c) No vessel shall use thrusters when passing a lock gate.

9. In the table to § 401.48, items 2 (a), (b), (d) and the introductory text of (e) are revised to read as follows:

§ 401.48 Turning basins.

* * * * *

2. * * *

(a) Turning Basin No. 1—Opposite St. Catharines Wharf for vessels up to 107 m in overall length

(b) Turning Basin No. 2—Between Lock 7 and Guard Gate for vessels up to 180 m in overall length.

* * * * *

(d) Turning Basin No. 4—North of Lock No. 8 for vessels up to 170 m in overall length.

(e) For vessels up to 80 m in overall length.

* * * * *

10. Section 401.51 is revised to read as follows:

§ 401.51 Signalling approach to a bridge.

(a) Unless a vessel's approach has been recognized by a flashing signal, the master shall signal the vessel's presence to the bridgemaster by VHF radio when it comes abreast of any of the bridge whistle signs.

(b) The signs referred to in paragraph (a) of this section shall be placed at distances varying between 670 m and 1,500 m upstream and downstream from movable bridges at sites other than lock sites.

§ 401.68 [Amended]

11. In § 401.68, paragraphs (a) (1), (2), (3) and (4) are amended as follows:

Paragraphs (a) (1), (2), (3) and (4) are amended by removing "IMCO" and inserting in lieu thereof "IMO" wherever it occurs.

§ 401.69 [Amended]

12. In § 401.69, paragraphs (c) (1), (2), (3), (4), (5), (6), and (7) are amended as follows:

Paragraphs (c) (1), (2), (3), (4), (5), (6) and (7) are amended by removing "IMCO" and inserting in lieu thereof "IMO" wherever it occurs.

13. In § 401.74, paragraph (a) is revised to read as follows:

§ 401.74 Transit declaration.

(a) A Seaway Transit Declaration Form (Cargo and Passenger), which may be obtained from the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662, or the St. Lawrence Seaway Authority, 202 Pitt Street, Cornwall, Ontario K6J 3P7, shall be forwarded to the Corporation or the Authority by the representative of a vessel, other than a pleasure craft of not more than 317.5 tonnes, within fourteen days after the vessel first enters the Seaway on any upbound or downbound voyage.

* * * * *

14. Section 401.80 is revised to read as follows:

§ 401.80 Reporting dangerous cargo.

(a) The master of any explosive vessel or hazardous cargo vessel shall report to a Seaway station, as set out in Schedule III, the nature, quantity, and IMO classification of the dangerous cargo and where it is stowed on the vessel.

(b) The master of any vessel, that takes on explosive or hazardous cargo while in the Seaway, shall report to the nearest Seaway station at least four hours prior to commencing transit from a port, dock or wharf, the nature, quantity and IMO classification of the dangerous cargo and where it is stowed on the vessel.

15. Section 401.82 is revised to read as follows:

§ 401.82 Reporting mast height.

A vessel, any part of which extends more than 33.5 m above water level, shall not transit any part of the Seaway until precise information concerning the height of the vessel has been furnished to the nearest Seaway station.

16. In § 401.97, paragraphs (b)(2) and (e)(1) are revised to read as follows:

§ 401.97 Closing procedures.

* * * * *

(b) * * *

(2) It reports at the applicable calling in point referred to in paragraph (c) of this section within a period of 96 hours after the clearance date in that navigation season, it furnishes the applicable operational surcharge established by agreement between the United States and Canada, known as the St. Lawrence Seaway Tariff of Tolls, and the transit is authorized by the Corporation and the Authority.

* * * * *

(e) * * *

(1) At the time of such entry or departure, report to the nearest Seaway station the furthermost destination of the vessel's voyage and any

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intermediate destinations within that Section; and

* * * * *

(e) * * *

17. Schedule III to Part 401 is amended as follows:

Schedule III—[Amended]

Schedule III is amended by removing "IMCO" and inserting in lieu thereof "IMO" wherever it occurs under the column "Message Content."

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and sec. 4, 5, 6, 7, 8, 12 and 13 of sec. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Massena, New York on April 29, 1983.

Saint Lawrence Seaway Development Corporation.

William H. Kennedy,

Associate Administrator.

[FR Doc. 83-11988 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF EDUCATION

34 CFR Part 510

Bilingual Education; Training Projects Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues amendments to the regulations for the Bilingual Education Training Projects Program to provide for further consideration of the need for the proposed activities in making grant award decisions under the Training Projects Program. Section 721(c) of the Bilingual Education Act provides that, in determining the distribution of funds under the Act, the Secretary gives priority to areas having the greatest need for programs assisted under the Act. The amendments add new factors that the Secretary considers in determining the need for programs proposed by applicants under the Training Projects Program.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after the publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Harry G. Logel, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 447–9273.

SUPPLEMENTARY INFORMATION: The authority for the Bilingual Education Training Projects Program is the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978, Pub. L. 95–561.

Section 721(c) of the Bilingual Education Act (the Act) provides that, in determining the distribution of funds under the Act, the Secretary gives priority to areas having the greatest need for programs assisted under the Act. The regulations published on September 2, 1981 explained how the Secretary implements the priority to assist areas with the greatest need. The Secretary amends those regulations to establish additional factors that the Secretary will consider in determining the need for the proposed activities.

The amendments also authorize the Secretary to establish a cut-off score, as in the regulations governing the Bilingual Education Basic Projects Program (34 CFR 501.31(a)), to ensure the quality of the applications selected for funding.

The entire § 510.34 has been republished for the reader's better understanding of the new provisions.

Summary of Comments and Responses

The Secretary published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on January 11, 1983 (46 FR 44141). Interested persons were given 45 days to comment on the proposed regulations. Six commenters submitted comments on the proposed regulations. A summary of their comments and the Secretary's responses follow.

Comment. Three commenters expressed concerns that consideration of past and present assistance provided under the Training Projects Program to address the needs of the language group(s) and area(s) proposed to be served should not lead to a failure to recognize that areas with large and growing populations of limited English proficient children have continuing needs, in spite of such past and present assistance.

Response. No change has been made. The amendments provide for a determination of need which takes into account the continuing needs of geographic areas and language groups which have received or are receiving assistance under the Training Projects Program. These geographic areas and language groups will not be excluded from consideration for further assistance. In determining need the Secretary will consider the number of limited English proficient children who would benefit from the proposed training, the number and kinds of personnel needed in programs of bilingual education for these children, and the lack of training programs in the geographic area to prepare such personnel.

Comment. One commenter asked whether the Secretary or the groups of experts selected by the Secretary under 34 CFR 75.217 of the Education Department General Administrative Regulations (EDGAR) to evaluate applications will apply the factors in § 510.34(c).

Response. The Secretary or the Secretary's designee will use the factors in § 510.34(c) to determine the need for the proposed activities. The Secretary will continue to use groups of experts to evaluate applications using the applicable selection criteria in §§ 510.31, 510.32, and 510.33.

Comment. One commenter asked why the lists of types and sources of information that the Secretary considers in determining need had been deleted from § 510.34(c) of the regulations.

Response. No change has been made. This information was deleted from § 510.34(c) because it was redundant with 34 CFR 75.217(d) of the Education Department General Administrative Regulations (EDGAR), which is made applicable to the Training Projects Program by 34 CFR 500.3 of the Bilingual Education General Provisions. Section 75.217(d) provides that, in determining the order in which applications will be selected, the Secretary considers information in each application, the rank ordering of the application, and any other information relevant to a criterion, priority, or other requirement that applies to the selection of applications for new grants.

Comment. One commenter asked why the regulations did not specifically address Section 723(a)(4) of the Act, which provides that priority be given to eligible applicants with demonstrated competence and experience in the field of bilingual education.

Response. No change has been made. The priority in Section 723(a)(4) is implemented with the application of the regulations selection criteria entitled "Quality of personnel" in § 510.31(g), § 510.32(f), and § 510.33(h). Under the "Quality of personnel" criterion, the Secretary considers the qualifications of the project director and other key personnel to be used in the project, evidence of experience in fields related to the objectives of the project, and any other relevant information that the applicant provides.

The points awarded for the "Quality of personnel" criterion affect the position of the application in the rank order. An applicant with demonstrated competence and experience in the field of bilingual education would receive a larger share of the points to be assigned under "Quality of personnel", which could place that applicant higher in the rank order than an applicant which submitted an application of comparable quality, yet lacked this experience.

Comment. One commenter asked whether the term "area" in § 510.34 (c)(4) and (c)(5) referred to geographic area.

Response. Changes have been made. Section 510.34(c) has been revised to clarify that the word "area" refers to geographic area.

Comment. One commenter asked whether the term "existing projects" in 34 CFR 510.34(c)(6) referred to projects funded under the Training Projects Program.

Response. A change has been made. Section 510.34(c)(6) has been revised to clarify that the Secretary considers the extent to which the project addresses a specific need for training not addressed by existing projects funded under the Training Projects Program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Approximately 200 applicants sought assistance in Fiscal Year 1982. These regulations establish additional factors for consideration in making awards. They will not have a significant economic impact on any applicants or grantees.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 510

Bilingual education, Colleges and universities, Education, Elementary and secondary education, Grant programs—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

Dated: May 4, 1983.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Program)

The Secretary amends Part 510 of Title 34 of the Code of Federal Regulations as follows:

PART 510—BILINGUAL EDUCATION: TRAINING PROJECTS PROGRAM

Section 510.34 is revised to read as follows:

§ 510.34 What factors does the Secretary consider in awarding grants?

(a) The Secretary establishes a cut-off score which an application must meet, based on the applicable selection criteria in § 510.31 (for applications proposing to provide training programs at institutions of higher education), § 510.32 (for applications proposing to provide short-term or year-round training institutes), or § 510.33 (for applications proposing to provide training projects for SEA personnel), to be considered for a grant. The cut-off score for each separate competition is announced annually in the application notice published in the **Federal Register**.

(b) In determining the distribution of funds under this Part, the Secretary shall give priority to areas having the greatest need for programs assisted under this Part.

(c) In determining need under paragraph (b) of this section, the Secretary considers—

(1) The number and native language of children of limited English proficiency who would benefit from the training to be provided to persons participating in the project;

(2) The number and kinds of personnel currently participating in or preparing to participate in programs of bilingual education for these children, compared to the number and kinds of personnel needed;

(3) The number and kinds of personnel that the applicant proposes to train under this program and other programs supported under the Act;

(4) Past and present assistance provided under the Training Projects Program to address the need of the language group(s) and geographic area(s) proposed to be served;

(5) The absence of training programs addressing the needs of the language group(s) in the geographic area(s) proposed to be served by the applicant; and

(6) The extent to which the project addresses a specific need for training not addressed by existing projects funded under the Training Projects Program. (20 U.S.C. 3231(c), 3233(a)(1))

[FR Doc. 83-12324 Filed 5-6-83; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-6-FRL 2290-5]

Delegation of Additional Authority to State of Texas for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA, Region 6, has delegated to the State of Texas, the additional authority to implement and enforce the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements adopted after the delegation dates of November 15, 1978, and February 5, 1981. Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Parts 60 and 61 are delegated to the Texas Air Control Board (TACB). Any such authority and responsibilities may be redelegated by the Board to its staff.

EFFECTIVE DATE: December 28, 1982.

ADDRESS: Copies of the State request and State-EPA agreement for this delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency (EPA), Region 6, Interfirst Two Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, EPA, address above. Telephone 214–767–1594: FTS 8–729–1594.

SUPPLEMENTARY INFORMATION: On May 9, 1975, the State of Texas requested EPA, Region 6, to delegate the authority to the TACB to implement and enforce

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the NSPS and NESHAP programs specified under 40 CFR Parts 60 and 61.

On November 15, 1978 and February 5, 1981, EPA delegated the authority to the State of Texas to implement and enforce the existing NSPS and NESHAP programs in the State of Texas. Condition 4 of the delegation agreement did not allow the State to assume the responsibilities to implement and enforce the NSPS and NESHAP requirements adopted after the above delegation dates. Therefore, on December 15, 1982, the State of Texas requested a revision of the delegation of responsibility for the NSPS and NESHAP programs. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the TACB were found to provide an adequate and effective procedure to implement and enforce all future NSPS and NESHAP requirements. Therefore, on December 28, 1982, EPA delegated the additional authority to the State of Texas to implement and enforce all previously adopted and all future NSPS and NESHAP requirements pursuant to Sections 111(c) and 112(d) of the Clean Air Act subject to the conditions and limitations as specified in the agreements. However, the State may decline delegation of any standard within thirty (30) days after final promulgation. This amendment supersedes the November 15, 1978, and February 5, 1981, delegation agreements.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this from the requirements of Section 3 of Executive Order 12291.

Sources locating in the State of Texas should submit all information pursuant to 40 CFR Parts 60 and 61 directly to the State agency at the following address: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

This delegation is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: January 25, 1983.

Frances E. Phillips,

Acting Regional Administrator.

PART 60—NEW SOURCE PERFORMANCE STANDARDS

The address for the State agency has been changed. Therefore, Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

In § 60.4, paragraph (b)(SS) is amended by revising the phrases "8520 Shoal Creek Boulevard" to read "6330 Highway 290 East" and "78758" to read "78723" as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(SS) * * * 6330 Highway 290 East, * * * 78723.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

The address for the State agency has been changed. Therefore, Part 61 of Chapter 1, Title 40 of the Code of the Federal Regulations is amended as follows:

In § 61.4, paragraph (b)(SS) is amended by revising the phrases "8520 Shoal Creek Boulevard" to read "6330 Highway 290 East" and "78758" to read "78723" as follows:

§ 61.4 Address.

* * * * *

(b) * * *

(SS) * * * 6330 Highway 290 East, * * * 78723.

[FR Doc. 83-12045 Filed 5-6-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6510]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second year layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESS: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and County	Location	Date and name of newspaper in which notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
California: Los Angeles	Unincorporated areas	*West Hollywood*, Nov. 11, 1982 and Nov. 18, 1982; *Pico Post*, Nov. 25, 1982 and Dec. 2, 1982.	Mr. Harry L. Hufford, Chief Administrative Officer, Los Angeles County Courthouse, 500 W. Temple St., Rm. 358, Los Angeles, CA 90012.	Oct. 29, 1982	065043B
Texas: Hidalgo	City of McAllen	*The Monitor*, Oct. 26, 1982 and Nov. 2, 1982.	Hon. Othal E. Brand, Mayor, City of McAllen, 311 N. 15th Street, P.O. Box 220 McAllen, TX 78501.	Nov. 2, 1982	480343C
North Carolina: Cumberland County.	Fayetteville, city of	*The Fayetteville Observer*, Oct. 29, 1982 and Nov. 5, 1982.	Hon. Beth Finch, Mayor, City of Fayetteville, 234 Green Street, Fayetteville, North Carolina 29301.	Nov. 5, 1982	370077D
Pennsylvania: Luzerne	Borough of Swoyersville	*Citizen's Voice*, Oct. 29, 1982 and Nov. 5, 1982.	Michael J. Simko, Borough Manager, Borough of Swoyersville, Main and Shoemaker Streets, Swoyersville, PA 18704.	Nov. 5, 1982	420627B
Colorado: Alamosa	City of Alamosa	*Valley Courier*, Nov. 2, 1982 and Nov. 9, 1982.	Hon. Cliff Hartman, Mayor, City of Alamosa, P.O. Box 419, Alamosa, CO 81101.	Nov. 9, 1982	080010B
Missouri: Randolph	City of Moberly	*Moberly Monitor-Index*, Nov. 2, 1982 and Nov. 9, 1982.	Hon. Donald R. Schaffer, Mayor, City of Moberly, 109 N. Clark St., Moberly, MO 65270.	Nov. 9, 1982	290305B
Oklahoma: Cleveland	City of Lexington	*Cleveland County Reporter*, Nov. 4, 1982 and Nov. 11, 1982.	Hon. Raymond Cox, Mayor, City of Lexington, P.O. Drawer "D", 121 E. Broadway, Lexington, OK 73051.	Nov. 9, 1982	400043D
Iowa: Black Hawk	City of Evansdale	*Black Hawk County Sun*, Dec. 2, 1982 and Dec. 9, 1982.	Hon. Henry L. Epperson, Mayor, City of Evansdale, 123 North Evans Road, Evansdale, IA 50707	Nov. 10, 1982	190020B
West Virginia: Logan	Town of West Logan	*Logan Banner*, Nov. 5, 1982 and Nov. 12, 1982.	Hon. Steve Toth, Mayor, Town of West Logan, P.O. Box 260, West Logan, WV 25601.	Nov. 12, 1982	545539D
Washington: Okanogan	City of Omak	*The Omak-Okanogan County Chronicle*, Nov. 11, 1982 and Nov. 18, 1982.	Hon. Ray Treiber, Mayor, City of Omak, P.O. Box 72, Omak, Washington 98841	Nov. 16, 1982	530120C
Washington: Okanogan	Town of Oroville	*Oroville Gazette-Tribune*, Nov. 11, 1982 and Nov. 18, 1982.	Hon Ed King, Mayor, Town of Oroville, 1310 Ironwood, Oroville, Washington 98844.	Nov. 16, 1982	530121C
California: Santa Clara	City of Campbell	*Campbell Press*, Dec. 1, 1982 and Dec. 8, 1982.	Hon. William Podgorsek, Mayor, City of Campbell, 75 North Central Avenue, Campbell, CA 95008.	Dec. 7, 1982	060338C
California: Glenn	City of Willows	*Willows Press*, Nov. 30, 1982 and Dec. 7, 1982.	Hon. Stephen Rath, Mayor, City of Willows, 201 Lassen Street, Willows, CA 95988.	Dec. 7, 1982	060059C
Oregon: Tillamook	City of Nehalem	*Fishrapper*, Dec. 2, 1982 and Dec. 9, 1982.	Hon. John Holstrom, Mayor, City of Nehalem, P.O. Box 143, Nehalem, OR 97131.	Dec. 7, 1982	410200C
Washington: Snohomish	City of Edmonds	*The Herald*, Nov. 30, 1982 and Dec 7, 1982	Hon. Harve H. Harrison, Mayor, City of Edmonds, 200 Dayton Street, Edmonds, WA 98020.	Dec. 7, 1982	530163C
California: Sonoma	City of Petaluma	*Argus-Courier*, Dec. 22, 1982 and Dec. 29, 1982.	Hon. Fred V. Mattsi, Mayor; City of Petaluma, P.O. Box 61, Petaluma, CA 94953.	Dec. 10, 1982	060379B
Arizona: Maricopa	City of Tempe	*Tempe Daily News*, Dec. 7, 1982 and Dec. 14, 1982.	Hon. Harry E. Mitchell, Mayor, City of Tempe, P.O. Box 5002, Tempe, AZ 85281.	Dec. 14, 1982	040054C
Colorado: Boulder, Adams, and Jefferson.	City of Broomfield	*The Enterprise*, Dec. 9, 1982 and Dec. 16, 1982.	Hon. Walter Speder, Mayor, City of Broomfield, No. 6 Garden Office Center, Broomfield, CO 80020.	Dec. 14, 1982	085073B
Louisiana: Acadia Parish	City of Rayne	*The Rayne Independent*, Dec. 9, 1982 and Dec. 16, 1982.	Hon. Ralph J. Slutes, Mayor, City of Rayne, 301 East Louisiana Avenue, P.O. Box 69, Rayne, LA 70578.	Dec. 14, 1982	220008C
Texas: San Patricio	City of Odem	*The Odem-Edroy Times*, Dec. 9, 1982 and Dec. 16, 1982.	Hon. Stanley Webb III, Mayor, City of Odem, 514 Park Avenue, P.O. Drawer AG, Odem, TX 78370.	Dec. 14, 1982	480558C
Kansas: Butler	City of Augusta	*The Augusta Daily Gazette*, Dec. 14, 1982 and Dec. 21, 1982.	Hon. Robert J. Skryock, Mayor, City of Augusta, P.O. Box 489, Augusta, KS 67010.	Dec. 21, 1982	200038C
Texas: Dallas	City of Duncanville	*Duncanville Suburban*, Dec. 16, 1982 and Dec. 23, 1982.	Hon. Cliff Boyd, Mayor, City of Duncanville, P.O. Box 280, Duncanville, TX 75116.	Dec. 21, 1982	480173C
Texas: Bexar	Town of Hollywood Park	*North Side Herald*, Dec. 16, 1982 and Dec. 23, 1982.	Hon. Ruby M. Weinholt, Mayor, Town of Hollywood Park, 2 Mecca Drive, Hollywood Park, TX 78232.	Dec. 21, 1982	480040C
Oregon: Union	City of La Grande	*The Observer*, Dec. 14, 1982 and Dec. 21, 1982.	Hon. Robert H. Davidson, Mayor, City of La Grande, P.O. Box 670, La Grande, OR 97850.	Dec. 21, 1982	410260C
Arkansas: Faulkner	City of Conway	*Log Cabin Democrat*, Dec. 21, 1982 and Dec. 28, 1982.	Hon. William L. Wright, Mayor, City of Conway, Municipal Building, Chestnut and Prairie Streets, Conway, AR 72032	Dec. 28, 1982	050078C
Idaho: Bannock	City of Inkom	*Idaho State Journal*, Dec. 21, 1982 and Dec. 28, 1982.	Hon. Ron Helmandollar, Mayor, City of Inkom, P.O. Box 166, Inkom, ID 83245.	Dec. 28, 1982	160010C
Louisiana: Ascension	Town of Sorrento	*Gonzales Weekly*, Dec. 24, 1982 and Dec. 31, 1982.	Hon. John N. LeBlanc, Sr., Mayor, Town of Sorrento, P.O. Box 65, Sorrento, LA 70778.	Dec. 28, 1982	220016C
Missouri: Boone	City of Columbia	*Columbia Missourian*, Dec. 21, 1982 and Dec. 28, 1982.	Hon. John Westlund, Mayor, City of Columbia, 7th and Broadway, P.O. Box N, Columbia, MO 65205.	Dec. 28, 1982	290036C
Oregon: Douglas	City of Myrtle Creek	*Umpqua Free Press*, Dec. 23, 1982 and Dec. 30, 1982.	Hon. Frank W. Starr, Mayor, City of Myrtle Creek, P.O. Box 940 Myrtle Creek, OR 97457.	Dec. 28, 1982	410064C
Georgia: Clayton County	Riverdale, City of	*The News Daily*, Dec. 28, 1982 and Jan. 4, 1983.	Hon. Lemor Hutcheson, Mayor, City of Riverdale, City Hall, 6690 Church Street, Riverdale, GA 30274.	Jan. 7, 1983	130047C
Ohio: Montgomery	City of Miamisburg	*The Miamisburg News*, Jan. 5, 1983 and Jan. 12, 1983.	Hon. Robert H. Mears, Sr., Mayor, City of Miamisburg, 10 North First Street, Miamisburg, OH 45342.	Jan. 14, 1983	390413C
Missouri: St. Louis	City of Hazelwood	*Florissant Valley Reporter*, Jan. 13, 1983 and Jan. 20, 1983.	Hon. Douglas Palmer, Mayor, City of Hazelwood, 7900 North Lindbergh Blvd., Hazelwood, MO 63042.	Jan. 18, 1983	290357C
Illinois: Winnebago	City of Loves Park	*Town and Country Buyers Guide*, Jan. 13, 1983 and Jan. 20, 1983.	Hon. Joseph Sinklawic, Mayor, City of Loves Park, 540 Loves Park Drive, Loves Park, IL 61111.	Jan. 21, 1983	170722C
Michigan: Lapeer	City of Lapeer	*Lapeer County Press*, Jan. 12, 1983 and Jan. 19, 1983	Mr. Arnold B. Whitney, City Manager, City of Lapeer, 576 Liberty Street, Lapeer, MI 48446.	Jan. 21, 1983	260112C

State and County	Location	Date and name of newspaper in which notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Pennsylvania: Bucks	Borough of Morrisville	*The Trenton Times*, Jan. 14, 1983 and Jan. 21, 1983.	Hon. Lee D. Rockafellow, Mayor, Borough of Morrisville, 316 West Bridge Street, Morrisville, PA 19067.	Jan. 21, 1983	420194D
Pennsylvania: Westmoreland	City of New Kensington	*Valley News Dispatch*, Jan. 14, 1983 and Jan. 21, 1983.	Hon. John J. Monaco, Mayor, City of New Kensington, 2400 Leechburg Road, New Kensington, PA 15068.	Jan. 21, 1983	420691B
New York: Onondaga County	Lysander, town of	*The Messenger*, Jan 26, 1983 and Feb. 2, 1983.	Mr. Milton Sayeu, Supervisor, Town of Lysander, 6 Lock Street, Baldwinsville, New York 13027.	Feb. 4, 1983	360583C
California: Santa Clara	City of Mountain View	*Peninsula Times-Tribune*, Mar. 23, 1983 and Mar. 30, 1983.	Hon. Patricia Figueroa, Mayor, City of Mountain View, P.O. Box 10, Mountain View, CA 94042.	Feb. 8, 1983	060347C
California: San Joaquin	City of Stockton	*Stockton Record*, Feb. 1, 1983 and Feb. 8, 1983.	Hon. Arnold I. Rue, Mayor, City of Stockton, City Hall, 425 N. El Dorado Street, Stockton, CA 95202.	Feb. 8, 1983	060302C
Utah: Carbon		*Sun Advocate*, Feb. 2, 1983 and Feb. 9, 1983.	Mr. Lee Semken, Chairman, Board of County Commissioners, Carbon County Courthouse, Price, UT 84501.	Feb. 8, 1983	490032C
Tennessee: Shelby County	Arlington, town of	*The Collierville Herald*, Feb. 3, 1983 and Feb. 10, 1983.	Hon. Sam T. Wilson, Mayor, Town of Arlington, P.O. Box 310, Arlington, TN 38002.	Feb. 11, 1983	470262B
Tennessee: Hamblen County	Morristown, city of	*Citizen Tribune*, Feb. 4, 1983 and Feb. 11, 1983.	Hon. John Johnson, Mayor, City of Morristown, P.O. Box 1499, Morristown, TN 37814.	Feb. 11, 1983	470070D
Indiana: Clark	Unincorporated areas	*The Evening News and Journal*, Feb. 11, 1983 and Feb. 18, 1983.	Larry Coats, President, Clark County Board of Commissioners, Room 306, City—County Building, Jeffersonville, IN 47130.	Feb. 18, 1983	180426C
Alabama: Lee County	Auburn, city of	*Auburn Bulletin*, Feb. 16, 1983 and Feb. 25, 1983.	Hon. Jan Dempsey, Mayor, City of Auburn, P.O. Box 511, Auburn, AL 36830.	Feb. 25, 1983	010144E
Arizona: Mohave	Unincorporated areas	*The Kingman Daily Miner*, Feb. 22, 1983 and Mar. 1, 1983.	Mr. Jerry A. Holt, Chairman, Board of Supervisors, Mohave County Courthouse, P.O. Box 390, Kingman, AZ 86402.	Mar. 1, 1983	040058C
Arizona: Maricopa	Town of Surprise	*Peoria Times*, Feb. 25, 1983 and Mar. 4, 1983.	Hon. George Cumbie, Mayor, Town of Surprise, P.O. Box 1307, Surprise, AZ 85345.	Mar. 1, 1983	040053C
Louisiana: Ouachita	City of Monroe	*News-Star-World*, Feb. 22, 1983 and Mar. 1, 1983.	Hon. Robert E. Powell, Mayor, City of Monroe, P.O. Box 123, Monroe, LA 71201.	Mar. 1, 1983	220136C
Texas: Wharton	City of El Campo	*El Campo Leader News*, Feb. 23, 1983 and Mar. 2, 1983.	Hon. A. G. Miller, Mayor, City of El Campo, P.O. Box 629, El Campo, TX 77437.	Mar. 1, 1983	480853C
New York: Chemung County	Big Flats, town of	*Elmira Star Gazette*, Mar. 4, 1983 and Mar. 11, 1983.	Ms. Beverly Miner, Supervisor, Town of Big Flats, 476 Maple Street, Big Flats, New York 14814.	Mar. 11, 1983	360148D
Alabama: Colbert County	Sheffield, city of	*Florence Times Tri Cities Daily*, Mar. 11, 1983 and Mar. 18, 1983.	Hon. E. S. Enoch, Mayor, City of Sheffield, P.O. Drawer Q, Sheffield, AL 35660.	Mar. 18, 1983	010048C
Kentucky: Perry County	Hazard, city of	*The Herald Voice*, Mar. 10, 1983 and Mar. 17, 1983.	Hon. William D. Gorman, Mayor, City of Hazard, P.O. Box 420, Hazard, KY 41701.	Mar. 18, 1983	215188C
New York: Broome County	Vestal, town of	*The Vestal News*, Mar. 10, 1983 and Mar. 17, 1983.	Mr. Joseph Munk, Supervisor, Town of Vestal, Vestal Town Hall, 605 Vestal Parkway West, Vestal, New York 13850.	Mar. 18, 1983	360057C
Mississippi: LeFlore County	LeFlore County (unincorporated areas).	*Greenwood Commonwealth*, Mar. 18, 1983 and Mar. 25, 1983.	Mr. Ray Tribble, President, County Board of Supervisors, P.O. Drawer 1468, Greenwood, MI 38930.	Mar. 25, 1983	280101C
Vermont: Chittenden County	Essex, town of	*Burlington Free Press*, Mar. 18, 1983 and Mar. 25, 1983.	Mr. Kevin Ryan, Town Manager, Town of Essex, 4 Lincoln Street, Essex Junction, Vermont 05452.	Mar. 25, 1983	500034C
Texas: Dallas	City of Irving	*Irving Daily News*, Mar. 22, 1983 and Mar. 29, 1983.	Hon. Bobby Joe Reiper, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Mar. 29, 1983	480180B
California: Merced	City of Merced	*Merced Sun-Star*, Mar. 26, 1983 and Apr. 5, 1983.	Hon. Norman Herman, Mayor, City of Merced, 1730 M Street, P.O. Box 2068, Merced, CA 95340.	Apr. 5, 1983	060191C
Tennessee: Hamilton	City of Soddy-Daisy	*Chattanooga Times*, Aug. 6, 1982 and Aug. 13, 1982.	Mr. Robert Diehl, City Manager, P.O. Box 478, Soddy-Daisy, TN 37319.	June 1, 1983	475445C

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804 November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12008 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA 6512]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on an after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the indentification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

PART 65—[AMENDED]

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

1 S. ATE	2 Identification No.	3 Community name and county name	4 Panels printed (number and suffix)	5 Inland/coastal	6 Hazard	7 60.3 code	8 Program status	9 Status of FHBM	9 Status of FIRM	10 Previous map dates FHBM	10 Previous map dates FIRM	11 Revision code(s)	12 Rescission	13 Floodways printed	14 Location of map repository
Effective date: April 5, 1983															
ND	380147	City of Tioga (Williams County).	0001B	I	FL	B	1	3	1	6–28–74, 12–12–75	NA	9 10	NA	NA	Honorable Charles Barton, Mayor, City of Tioga, City Hall, Tioga, N.D. 58852.
ND	380344	City of Watford City (McKenzie County).	0001B	I	FL	B	4	3	1	6–15–79	NA	9 10	NA	NA	Honorable Don Hoffman, Mayor, City of Watford City, P.O. Box 494, Watford City, N.D. 58854, (701) 842–2533.
Effective date: April 8, 1983															
KY	210061	Burkesville, city of Cumberland County.	0005B	I	FL	B	1	3	1	2–15–74, 2–27–76	NA	8 10	NA	NA	Honorable Paul T. Smith, Mayor, City of Burkesville, P.O. Box 177, Burkesville, Kentucky 42717.
PA	420279	Township of East Whiteland (Chester County).	0005A	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Harold F. E. Jeunet, Chairman, Township Building, 209 Conestoga Road, Frazer, PA 19355.
PA	420244	Borough of Wilmore (Cambria County).	0001B	I	FL	B	1	3	1	8–9–74, 5–21–76	NA	10	NA	NA	Mark Blaisdell, Borough Manager, Box 57, Church Street, Wilmore, PA 15962.
Effective date: April 12, 1983															
MO	290441	City of Licking (Texas County).	0001B	I	FL	B	1	2	1	3–1–74, 4–23–76	NA	9 10	NA	NA	Honorable Phil Wulff, Mayor, City of Licking, City Hall, P.O. Box 84, Licking, MO 65542.
Effective date: April 19, 1983															
MO	290847	Christian County (unincorporated).	0000, 0001A through 0008A	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable Junior C. Combs, County Clerk, Christian County, P.O. Box 285, Ozark, Missouri 65721

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1 STATE	2 Identification No.	3 Community name and county name	4 Panels printed (number and suffix)	5 Inland/coastal	6 Hazard	7 60.3 code	8 Program status	9 Status of FHBM	9 Status of FIRM	10 Previous map dates FHBM	10 Previous map dates FIRM	11 Revision code(s)	12 Rescission	13 Floodways panels printed	14 Location of map repository
MO	290795	Crawford County (unincorporated).	0000, 0001A through 0008A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable Andrew L. Stubblefield, County Clerk, Crawford County, P.O. Box AF, Steelville, Missouri 65455, (314) 775–2376.
MO	290122	Dunklin County (unincorporated).	0000, 0001A through 0008A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable Mike Hunter, County Clerk, Dunklin County, P.O. Box 186, Kennett, Missouri 63857, (314) 888–2796.
MO	290804	Henry County (unincorporated).	0000, 0001A through 0009A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable T. Richard Hetherington, County Clerk, Henry County, Henry County Courthouse, Clinton, Missouri 64735, (816) 885–5301.
NM	350068	City of Las Vegas (San Miguel County).	0001B	I	FL	B	1	2	1	6–26–74, 10–29–76	NA	NA	9 10	NA	Honorable Stephen R. Franken, Mayor, City of Las Vegas, P.O. Box 179, Las Vegas, N.M. 87701, (505) 454–1401.
ND	380355	Bowman County (unincorporated).	0000, 0003A, 0005A, 0007A, 0011A, through 0016A, 0024A.	I	FL	B	1	2	1	NA	NA	NA	NA	NA	Mr. Richard McGee, Chairman, County Commissioner, Rhame, N.D. 58651, (701) 279–6640.
ND	380319	City of Williston (Williams County).	0000, 0001B through 0003B.	I	FL	B	4	2	1	5–16–78	NA	9 10	NA	NA	Mr. J. A. Haugen, President, City of Williston, P.O. Box 1306, Williston, N.D. 58801, (701) 572–8161.
MO	290789	Camden County (unincorporated).	0000, 0001A through 0012A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Leo Marler, County Clerk, Camden County, P.O. Box 207, Camdenton, MO 65020, (314) 346–2250.
MO	290073	Charlton County (unincorporated).	0000, 0001A through 0011A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	James R. Ramsey, County Clerk, Charlton County, Keytesville, MO 65261, (816) 288–3273.
MO	290785	Barton County (unincorporated).	0000, 0001A through 0009A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable Bonda Rawlings, County Clerk, Barton County, Barton County Courthouse, Lamar, Missouri 64759, (417) 682–3529.
MO	290786	Bates County (unincorporated).	0000, 0001A through 0012A.	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Terry W. Wheatley, County Clerk, Butler, MO 64730, (816) 679–3371.

Effective date: April 22, 1983

IL	170851	Village of Minier (Tazewell County).	0001B	I	FL	B	1	3	1	11–29–74, 9–19–75	NA	10	NA	NA	Ira Crouse, Village President, 101 Central, Minier, IL 61759, (309) 392–2442.
IL	170853A	Village of New Bedford (Bureau County).	0001A	I	FL	B	4	3	1	6–27–75	NA	9 16	NA	NA	Mr. Frank Swanson, Village President, Village Hall, New Bedford, IL 61346, (815) 445–3241 (Home).
IL	70407	Village of Seneca (LaSalle County).	0001B	I	FL	B	1	3	1	3–15–74, 6–4–76	NA	10	NA	NA	Mr. Ronald Johnson, Mayor, Village Hall, 116 W. Williams Street, Seneca, IL 61360, (815) 357–8771.

Effective date: April 26, 1983

IA	190173	City of Tiffin (Johnson County).	0001A	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Honorable James Brotherton, Mayor, City of Tiffin, 410 E. Washington Street, Iowa City, IA 52240, (319) 645–2414.

Effective date: April 29, 1983

IL	170052	City of Charleston (Coles County).	0000, 0001B, 0002B	I	FL	B	1	3	1	6–26–74, 10–15–76	NA	9 16	NA	NA	Office of City Planner, Municipal Building, 520 Jackson Avenue, Charleston, IL 61920, (217) 345–7619
MN	270437	City of Arlington (Sibley County).	0001B	I	FL	B	1	3	1	5–17–74, 7–16–76	NA	10	NA	NA	City Clerk Officer, 312 West Alden, Arlington, MN 55307, (612) 964–2378

Community Map Actions

(Codes: Where No Entry is Necessary Use NA)

Column Code:

1. Two letter state designator
2. FIA Community 6-digit identity number
3. Community name, County(ies) name
4. Four digit number and suffix of each FIRM or FHBM panel printed
5. INL/Coast:
   I=Inland; C=Coastal; W=Wave Height
6. Hazard:
   FL=Flood; MS=Mudslide; ER=Erosion; NF=Non Flood Prone; MF=Minimally Flood Prone
7. 60.3 Code:
   A=Special Hazard not defined, no elevation data (No FHBM)
   B=Special Hazard Designated, no elevation data (No FHBM)
   C=FIRM, No Floodway or Coastal High Hazard
   D=FIRM, Regulatory Floodway Designated [1]
   E=FIRM, Coastal High Hazard [1]
8. Program Status:
   1=Emergency; 2=Regular; 3=Not Participating, No Map; 4=Not Participating, With Map; 5=Withdrew; 6=Suspended
9. FHBM Status:
   1=Never Mapped; 2=Original; 3=Revised; 4=Rescinded; 5=Superseded by FIRM
10. FIRM Status:
    1=Never Mapped; 2=Original; 3=Revised; 4=Rescinded; 5=All zone C—No Published FIRM; 6=All zone A and C—no elevations determined
11. Dates of All Previous Maps
12. Revision Codes:
    1. 67 BFE (Base Flood Elevation) Decrease
    2. 67 BFE Increase
    3. 65 SFHA (Special Flood Hazard Area) Change
    4. Change of Zone Designation; revised FIRM
    5. Curvilinear
    6. 64 Incorporation
    7. 64 Discorporation
    8. 64 Annexation
    9. SFHA Reduction
    10. Non-67 SFHA Increase Without Numbered Zones
    11. Non-67 SFHA Increase With Numbered Zones
    12. Drafting Correction; Printing Errors
    13. Suffix Change ONLY
    14. Change to Uniform Zone Designations (7/1/74)
    15. Revisions Withdrawn
    16. Refunds Possible
    17. Letter of Map Amendment (70)
    18. Letter of Map Amendment (70 without **Federal Register** publication)
    19. **Federal Register** Ommission
    20. Attention. A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
    21. Miscellaneous
13. List of Numbered Floodway Panels Printed
14. Address of Community Map Repository

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12005 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

[1] Dual entry is available.

44 CFR Part 65

[Docket No. FEMA 6516]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program; Arkansas et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date list in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" and a FIRM by the letter "R" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter 1 of the Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this part:

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40 FR 5149	44 FR 52835
40 FR 17015	44 FR 57094
40 FR 20798	45 FR 12421
40 FR 46102	45 FR 28051
40 FR 53579	45 FR 31318
40 FR 56672	45 FR 34120
41 FR 1478	45 FR 49570
41 FR 50890	45 FR 52385
41 FR 13352	46 FR 13695
41 FR 17728	46 FR 20176
42 FR 8895	46 FR 26776
42 FR 29433	46 FR 46810
42 FR 46226	47 FR 3121
42 FR 64076	47 FR 16869
43 FR 24019	47 FR 28657
44 FR 815	47 FR 41744
44 FR 6383	47 FR 47563
44 FR 18485	47 FR 57495
44 FR 25636	48 FR 9284
44 FR 34120	48 FR 20699

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to the part:

40 FR 17015	42 FR 64076
41 FR 1478	43 FR 24019
42 FR 49811	44 FR 25636

45 FR 12421	47 FR 3121
45 FR 49570	47 FR 16869
46 FR 20176	47 FR 28657
46 FR 46810	47 FR 41744

3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

4. The Community lacked land-use authority over the special flood hazard area.

5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.

6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.

7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8. The T&E or H&E Map was rescinded.

9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

10. Miscellaneous.

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

Key to Symbols

E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.

R The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

State	Community name, number	County	Hazard ID date	Rescission date	Reason
ARK	Town of Bigelow, 050387(E)	Perry	Feb. 27, 1976	Jan. 26, 1983	2
ARK	Town of Greenway, 050031(E)	Clay	Jan. 2, 1976	do	2
IL	Village of Lafayette, 170759(E)	Stark	Nov. 15, 1974	do	2
MI	Township of Bruce, 260675	Chippewa	June 3, 1977	do	2
MI	Village of Caro, 260597	Tuscola	Oct. 24, 1975	do	2
MI	Village of Clifford, 260579	Lapeer	Jan. 16, 1981	do	2
MI	Township of Forest, 260373	Cheboygan	Mar. 4, 1977	do	2
MI	Township of Sugar Island, 260379	Chippewa	June 17, 1977	do	2
MI	Township of St. Ignace, 260444	Mackinac	July 29, 1977	do	2
MI	Township of York, 260541	Washtenaw	July 18, 1975	do	2
MO	Village of Marlborough, 290368(E)	St. Louis	June 18, 1976	do	2
MO	City of Platte Woods, 290536(E)	Platte	do	do	2
OH	Village of of New Boston, 390497(E)	Scioto	May 21, 1976	do	2
OK	Town of Chouteau, 400115(E)	Mayes	Dec. 26, 1979	do	2
OK	Town of Porter, 400434(E)	Wagoner	Apr. 9, 1976	do	4
PA	Borough of Atwood, 422297	Armstrong	Jan. 31, 1975	do	2
PA	Borough of Bernville, 421051(E)	Berks	May 7, 1976	do	4
PA	Borough of Saxton, 420123(E)	Bedford	June 28, 1974	do	2
PA	Borough of Wallaceton, 420316	Marion	Nov. 8, 1974	do	2
SC	Town of Aynor, 450105(E)	Horry	June 28, 1974	do	2
TX	City of Timpson, 481007	Shelby	Nov. 5, 1976	do	2

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.

Issued: April 8, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12288 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6515]

Communities With No Special Hazard Areas for the National Flood Insurance Program; Arkansas et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program of (NFIP) without a map.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial rates.

In addition, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notices stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subject in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.8 List of Communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
Arkansas	Perry	Town of Bigelow.	January 26, 1983
Arkansas	Clay	Town of Greenway	do
Illinois	Stark	Village of Lafayette.	do
Missouri	St. Louis	Village of Marlborough.	do
Missouri	Platte	City of Platte Woods.	do
Ohio	Scioto	Village of New Boston.	do
Oklahoma	Mayes	Town of Chouteau.	do
Oklahoma	Wagoner	Town of Porter.	do
Pennsylvania	Berks	Borough of Bernville.	do
Pennsylvania	Bedford	Borough of Saxton.	do
South Carolina	Horry	Town of Aynor	do
Texas	Shelby	City of Timpson	do

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: April 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12287 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Glendale, Arizona; Under National Flood Insurance Program

AGENCY: Federal Emergeny Management Agency.

ACTION: Final rule; Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Glendale, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Glendale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817. Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(a):

Map No. 040045, Panels 0006C and 0007C published on October 6, 1980, in 45 FR 66116, indicates that the existing structures located on Lots 263 through 268, Westree Unit 1, Phase 4, Glendale, Arizona, as recorded in Book 208, page 22 of records, in the Office of the Recorder, Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. 040045, Panels 0006C and 0007C are hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency

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Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provided routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12313 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Phoenix, Arizona; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Phoenix, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Phoenix, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 040051, Panel 0100B, published on October 6, 1980, in 45 FR 66116, indicates that the existing structure located on Lot 7, Villa Arcadia, according to Book 100 of Maps, page 49, records of Maricopa County, Arizona, is located within the Special Flood Hazard Area.

Map No. 040051, Panel 0100B is hereby corrected to reflect that the existing structure located on the above-mentioned lot is not within the Special Flood Hazard Area identified on October 6, 1980. This structure is in Zone B.

Map No. 040051, Panel 0030B, published on October 6, 1980, in 45 FR 66116, indicates that the existing structures located on Lots 767, 768, 795, 827, 829, 833, 834, 835, 841, and 843 of Deer Valley Village, Unit 6, as recorded in Book 222, on page 18, on April 9, 1980, in the Office of the Recorder of Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. 040051, Panel 0030B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone C.

Map No. 040051, Panel 0095B, published on October 6, 1980, in 45 FR 66116, indicates that the existing structures located on Lot 2, Wilshire Park, according to Book 52 of Maps, page 45, records of Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. 040051, Panel 0095B is hereby corrected to reflect that the existing structures located on the above-mentioned lot are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12309 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Sacramento County, California; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Sacramento County, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Sacramento County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes

the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 060262, Panel 0340B, published on October 6, 1980, in 45 FR 66118, indicates that the existing structures located on Lots 8A through 24A, 29A through 34A, 8B through 24B, and 28B through 34B of Rancho Grande, Unit No. 9, Sacramento County, California, recorded as Certificate Number 11403 in Book 148 of Maps, Map Number 15, in the office of the Recorder, Sacramento County, California, are located within the Special Flood Hazard Area.

Map No. 060262, Panel 0340B is hereby corrected to reflect that the existing structures located on Lots 8A, 9A, 13A through 24A, 29A through 34A, 8B, 9B, 13B through 24B, and 28B through 34B are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12310 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5977]

Letter of Map Amendment for City of Los Angeles, California; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Los Angeles, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Los Angeles, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to puchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 060137, Panel 0063C, published on January 23, 1981, in 46 FR 7352, indicates that the existing structure located on Lot 3 in Block 4, Tract 7355, as per map recorded in Book 79, page 48 of Maps, in the Office of the County Recorder of Los Angeles County, California, is located within the Special Flood Hazard Area.

Map No. 060137, Panel 0063C is hereby corrected to reflect that the existing structure located on the above-mentioned lot is not within the Special Flood Hazard Area identified on January 23, 1981. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12314 Filed 5-6-83; 8:45 am]

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Aurora, Colo.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 080002, Panel 0015B, published on October 6, 1980, in 45 FR 66109, indicates that the existing structures located on Lots 52 through 58 and 142 through 157 of Sunstone Subdivision Filing No. 1, Aurora, Colorado, filed for record in the Office of the County Clerk and Recorder of Arapahoe County, Colorado, on August 31, 1982, at pages 12 and 13, in Book 58, as Reception No. 2199723, are located within the Special Flood Hazard Area.

Map No. 080002, Panel 0015B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12311 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Jacksonville, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Jacksonville, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Jacksonville, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 120077B, Panel H&I-09, published on October 6, 1980, in 45 FR 66059, indicates that the property known as Walnut Bend Unit 1, Jacksonville, Florida, as recorded in Plat Book 38, Pages 29 and 29A in the Office of the Public Records of Duval County, Florida, formerly known as Huntington Forest Estates, Unit 2, is located within the Special Flood Hazard Area.

Map Number 120077B, Panel H&I-09 is hereby corrected to reflect the property known as Walnut Bend Unit 1, Jacksonville, Florida, is not within the Special Flood Hazard Area identified on December 1, 1977. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 13, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12308 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Pinellas County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pinellas County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pinellas County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number H and I 125139, Panel 09B, published on October 6, 1980, in 45 FR 66060 indicates that a parcel of land in the Southeast ¼ of the Southwest ¼ of Section 33, Township 28 South, Range 16 East, Pinellas County, Florida, containing 14.49 acres more or less and being the site of the Cypress Trace Phase II Condominiums, as recorded in Official Record 5292 on Pages 1948 and 1949, in Pinellas County, Florida, is located within the Special Flood Hazard Area.

Map Number H and I 125139, Panel 09B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on July 8, 1977. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12304 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6493]

Letter of Map Amendment for Unincorporated Areas of Polk County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Polk County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Areas of Polk County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program

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(NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 120261, Panel 0825B, published on February 17, 1983, in 48 FR 6985, indicates that Phase 1 Long Hammock Recreational Vehicle Subdivision, Polk County, Florida, recorded as Instrument No. 321322, on Official Record 2014, Pages 2002 through 2004, and in Plat Book 73, Page 21 in the Public Records of Polk County, Florida, is located within the Special Flood Hazard Area.

Map Number 120261, Panel 0825B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on January 19, 1983. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 13, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12305 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6493]

Letter of Map Amendment for the Unincorporated Areas of Polk County, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Polk County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Areas of Polk County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claims is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 120261, Panel 0825B, published on February 17, 1983, in 48 FR 6985, indicates that Tracts S–1 and R of River Ranch Shores Unit One, Polk County, Florida, recorded on Official Record 2014, Pages 1,999 through 2,001, and in Plat Book 48, Page 46, of Public Records of Polk County, Florida, are located within the Special Flood Hazard Area.

Map Number 120261, Panel 0825B is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on January 19, 1983. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 13, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12306 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6237]

Letter of Map Amendment for County of St. Clair, Ill.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Clair County, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Clair County, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, (312) 353–1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 170616, Panel 0070A, published on January 25, 1982, in 47 FR 3356 indicates that Lot 7 of Deerrun Subdivision, located in Section 35, TIN, R 7 W, St. Clair County, Illinois, according to the plat thereof, recorded in Plat Book 72, Page 44 in the Office of the Recorder of St. Clair County, Illinois is located within the Special Flood Hazard Area.

Map Number 170616, Panel 0070A, is hereby corrected to reflect that the structure located on the above-mentioned property is not located within the Special Flood Hazard Area identified on December 15, 1981. The structure is located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 12, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12307 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6116]

Letter of Map Amendment for City of Des Plaines, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Des Plaines, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Des Plaines, Illinois, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 170081, Panel 0005C, published on July 22, 1981, in 46 FR 37654, indicates that a 10.38-acre tract of land known as River's Edge Planned Unit Development, Des Plaines, Illinois, recorded on Document No. 2542679 in the Office of Recorder of Deeds, Cook County, Illinois, is located partially within the Special Flood Hazard Area.

Map Number 170081, Panel 0005C, is hereby corrected to reflect that the existing structures located on the above-mentioned property, numbered 4 through 8 on the Grading Plan for River's Edge, Sheet 3 of 8, prepared by Spaceco, dated January 19, 1979, revised last on February 15, 1983, are not within the Special Flood Hazard Area identified on June 15, 1981. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12308 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA-6002]

Letter of Map Amendment for the City of Joliet, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Joliet, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Joliet, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 170702, Panel 0005B, published on March 5, 1981, in 46 FR 15269, indicates that Lots 19, 20, and 21, with the mailing address of 1151 West Park Front, in West Park Addition in Section 17, Township 35 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois, Quitclaim Deed R78-43607 of Will County, Illinois, are located within the Special Flood Hazard Area.

Map Number 170702, Panel 0005B, is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on February 4, 1981. The existing structure is located in Zone C. However, the lots would still be partially inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12297 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6022]

Letter of Map Amendment for County of Butler, Kans., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the County of Butler, Kansas. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Butler, Kansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 200037, Panel 0100B, published on March 31, 1981, in 46 FR 19476, indicates that a lot located in the Southeast Quarter of Section 30, Township 25 South, Range 3 East, Butler County, Kansas, as recorded in Deed Book 367, at Page 280 in the Butler County Clerk's Office, the lot having the local address of Route 1, Benton, Kansas and containing 5.0 acres, is located within the Special Flood Hazard Area.

Map No. 200037, Panel 0100B is hereby corrected to reflect that the existing structure on the lot of the above-mentioned property is not within the Special Flood Hazard Area identified on March 2, 1981. This structure is in Zone C. However, the lot would still be partially inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and

Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 13, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12296 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6419]

Letter of Map Amendment for City of Manhattan, Kansas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Manhattan, Kansas. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Manhattan, Kansas, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 200300, Panel 0002C, published on September 23, 1982, in 47 FR 41960, indicates that Lot Numbers 1 and 2 of University Gardens Subdivision first unit and 2A of University Gardens Subdivision second unit, Manhattan, Kansas, as recorded in Book 308, Pages 41 and 42; Book 302, Pages 657 and 658; and Book C, Page 40 of the Riley County, Kansas, Office of Register of Deeds, are located partially within the Special Flood Hazard Area.

Map Number 200300, Panel 0002C is hereby corrected to reflect that the existing office building located on the above-mentioned property, and the existing apartment buildings located on the above-mentioned property, which have the addresses of 916 and 918 and 920 and 922, as shown on the Topographic Map, Lots 1, 2 and 2A, University Gardens Subdivision, Manhattan, Kansas, prepared by Schwab-Eaton P.A., Consulting Engineers and Land Surveyors, Manhattan, Kansas, dated May 1982, revised January 1983, are not within the Special Flood Hazard Area identified on April 1, 1982. The office building and the apartment building, with the addresses of 900 and 902 are located in Zone C, and the apartment buildings, addressed as 900 and 902, 916 and 918, and 920 and 922, are located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 15, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-12299 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Novi, Michigan, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Novi, Michigan. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Novi, Michigan, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606 (312) 353-1500.

SUPPLEMENTARY INFORMATION: If a property owner was requried to

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purchase flood insurance as a condition of Federal or federally-related financial assistance for contruction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 260175, Panel 0002B, published on October 6, 1980, in 45 FR 66080 indicates that a parcel of land containing approximately 15.725 acres in the Northwest Quarter of Section 35, Novi Township, Oakland County, Michigan, according to the deeds thereof, recorded in Liber 5931, Pages 219 and 220 and Liber 8117, Page 338 in the Office of the Register of Oakland County, Michigan is partially located within the Special Flood Hazard Area.

Map Number 260175, Panel 0002B, is hereby corrected to reflect that the structure located on the above-mentioned property is not located within the Special Flood Hazard Area identified on April 3, 1978. The structure is lcoated in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b) the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard area on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12300 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for City of Sikeston, Missouri; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Sikeston, Missouri. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Sikeston, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 295270B, Panel H&I—04, published on October 6, 1980, in 45 FR 66107, indicates that Lots 10 through 22 in Block 2; Lots 1 through 16 in Block 3; Lots 1 through 8 in Block 4; Lots 1 through 7 in Block 5; Lots 1 and 2 in Block 6; Lots 1 through 31 in Block 7; Lots 1 through 48 in Block 8; Lots 6 through 33 in Block 9; Lots 1 through 13 in Block 10, and Lots 1 through 16 in Block 11 of a 91.21 acre tract known as Clayton-Heights Addition to the City of Sikeston, Missouri, as recorded in Plat Book 9, Page 53; Plat Book 13, Page 28; and Plat Book 12, Pages 13 and 15, in the Office of Recorder, Scott County, Missouri, are located within the Special Flood Hazard Area.

Map Number 295270B, Panel H&I—04, is hereby corrected to reflect that Lots 10 through 22 in Block 2; Lots 1 through 16 in Block 3; Lots 1 through 8 in Block 4; Lots 1 through 7 in Block 5; Lots 1 and 2 in Block 6; Lots 1 through 12, 17 through 19, and 22 through 31 in Block 7; Lots 1 through 18, 21 through 29, and 32 through 48 in Block 8; Lots 6 through 33 in Block 9; Lots 1 through 13 in Block 10; and Lots 1 through 16 in Block 11 of the above-mentioned property, are not within the Special Flood Hazard Area; identified on April 29, 1977. The existing structures located on these lots are in Zone C.

Map Number 295270B, Panel H&I—04, is also corrected to reflect that Lots 13 through 16, 20 and 21 in Block 7; and Lots 19, 20, 30, and 31 in Block 8 of the above-mentioned property are not within the Special Flood Hazard Area identified on April 29, 1977. The structures located on these lots are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367;

delegation of authority to Associate Director, State and Local Programs and Support.)

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

Issued: April 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12301 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5977]

Letter of Map Amendment for Unincorporated Areas of Greenville County, South Carolina; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Greenville County, South Carolina. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Areas of Greenville County, South Carolina, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 450089, Panel 0205A, published on January 23, 1981, in 46 FR 7352, indicates that Lot 55 of the Holly Tree Plantation, Greenville County, South Carolina, recorded as File Number 72–166, in Plat Book 4–X, Page 36, in the Office of the County Register of Mesne Conveyance, Greenville County, South Carolina is located within the Special Flood Hazard Area.

Map Number 450089, Panel 0205A is hereby corrected to reflect that the above-mentioned property is located partially within the Special Flood Hazard Area and that the existing structure located on the property is not within the Special Flood Hazard Area identified on December 2, 1980. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

Issued: April 21, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12302 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6480]

Letter of Map Amendment for Shelby County, Tennessee; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Unincorporated Areas of Shelby County, Tennessee. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Shelby County, Tennessee, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 470214, Panel 0135B, published on January 7, 1983, in 48 FR 795, indicates that Lots 1, 14–16, and 24–28 of Parcel I and Lots 1–8 and 13–25 of

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Parcel II in the Germantown Parkway Commons, as recorded in Plat Book 83, Pages 19 and 20 in the Office of the Register, Shelby County, Tennessee are located within the Special Flood Hazard Area.

Map Number 470214, Panel 0135B, is hereby corrected to reflect that Lots 1, 14–18, and 24–28 of Parcel I and Lots 1–8 and 13–25 of Panel II are not located within the Special Flood Hazard Area identified on December 1, 1982. Lots 15–17, 27, and 28 of Parcel I and Lots 1, 2, 4–8, 13–18 and 20–25 of Parcel II are located in Zone B. Lots 1, 14, 18, and 24–26 of Parcel I and Lots 3 and 9 of Parcel II are located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirments or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12300 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6480]

Letter of Map Amendment for the City of Memphis, Tennessee; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Memphis, Tennessee. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Memphis, Tennessee, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATES: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone Toll Free (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number 470177, Panel 0010, published on January 7, 1983, in 48 FR 494, indicates that the City of Memphis' North Wastewater Treatment Plant, located on a 168.2629 acre tract of land east of and adjacent to the Mississippi River just north of the Wolf River Diversion Channel, and recorded as instrument number G5–6158 in the Shelby County Register's Office, is located within the Special Flood Hazard Area.

Map Number 470177, Panel 0010, is hereby corrected to reflect that the Fine Bar Screens, Administration Building, Maintenance Building, and Blower structures are not within the Special Flood Hazard Area identified on December 1, 1982. These structures are located in Zone B. However, the property would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

Issued: April 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12290 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for City of Denton, Texas; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Denton, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Denton, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map number FIRM 480194, Panel Number 0020B, published on October 6, 1980, in FR Volume 45 No. 195, page 66097, indicates that Lot 1, Block 1, Golden Triangle Industrial Park, as described in Cabinet B, page 369, of Denton County, Texas, Deed and Plat Records, is located within the Special Flood Hazard Area.

Map Number FIRM 480194, Panel Number 0020B, is hereby corrected to reflect that existing structures located on Lot 1, Block 1 of the above-mentioned property is not within the Special Flood Hazard Area identified on August 1, 1979. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12291 Filed 5–6–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6287]

Letter of Map Amendment for City of Centerville, Utah; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Centerville, Utah. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Centerville, Utah, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20817, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 490040, Panel 0001B, published on May 5, 1982, in 47 FR 19345, indictes that the existing structures located at or above existing natural ground elevations of 4217 feet NGVD, are located within the Special Flood Hazard Area.

Map No. 490040, Panel 0001B is hereby corrected to reflect that the existing structures located at or above the above-mentioned existing natural ground elevations are not within the Special Flood Hazard Area identified on May 5, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: April 20, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–12292 Filed 5–6–83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 25

Relocation Assistance and Land Acquisition for Federal and Federally Assisted Programs; Schedule of Moving Expense Allowances; Individuals and Families; Correction

AGENCY: Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This document corrects the amounts of allowance dollars in Table II—Mobile Homes—West Virginia in the moving expense schedules for displaced persons that appeared at page 3763 in the **Federal Register** of Thursday, January 27, 1983 (48 FR 3763).

FOR FURTHER INFORMATION CONTACT: Peter Nyberg, Relocation Division, Office of Right-of-Way (202–426–0117); or Reid Alsop, Office of the Chief Counsel (202–426–0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

In FR Doc. 83–1881 appearing on page 3763 in the issue of Thursday, January 27, 1983, correct the amounts for West Virginia in the column designated "Allowance Dollars" to read from top to bottom as $150, $200, $250, and $300.

(42 U.S.C. 4601 *et seq;* 41 CFR 101–6.105–1; 49 CFR 25.153)

Issued on: April 29, 1983.

R. A. Barnhart,

Administrator, Federal Highway Administration.

[FR Doc. 83–12271 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–22–M

Proposed Rules

Federal Register
Vol. 48, No. 90
Monday, May 9, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Futures Legislation; Regulatory Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Regulation review; proposed rule.

SUMMARY: Agricultural Marketing Service (AMS) in compliance with the requirements for the periodic review of existing regulations, has reviewed the regulations regarding the classification of cotton under the authority of futures legislation. As a result of the review, certain changes in the regulations are being proposed. These changes would amend the wording of the regulations to conform with organizational changes within the Cotton Division of AMS and would update terms and definitions.

DATE: Comments must be received on or before July 8, 1983.

ADDRESS: Written comments may be sent to Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, (202) 447–2147.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291, and Secretary's Memorandum 1512–1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

Willaim T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the proposals reflect AMS organizational changes and changes made for clarification purposes; furthermore, most users of the services are not considered small entities under the Act.

Background

Pursuant to the authority contained in the United States Cotton Futures Act (7 U.S.C. 15b *et seq.*), AMS provides cotton classing services on a fee basis for the trading of cotton futures contracts. In order to provide such classing services, AMS has enacted regulations (7 CFR Part 27) which set out in detail the procedures and requirements for requesting clasification, for the sampling and handling of samples, for the actual classification and micronaire determinations and for issurance of official class certificates.

These regulations also set forth the schedule of fees, designate spot markets for settlement of contracts when the cotton delivered differs from the base quality, provide for the establishment of quotations committees in the designated markets, and delineate the responsibilities and duties of the Cotton Division of AMS in administering these regulations.

Regulations Review

The Cotton Division of AMS has undertaken a general review of existing regulations on cotton classification under the authority of futures legislation. The review was conducted in accordance with the requirements of Executive Order 12291 of February 17, 1981, and under the guidelines contained in the Secretary's Memorandum 1512–1 of June 11, 1981. These regulations were listed as schedule for review in the Department's Semi-Annual Regulatory Agenda published in the **Federal Register** on October 28, 1982 (47 FR 48307).

The regulations of Part 27 have been examined for their need, currentness and effectiveness. It is determined that the procedures currently in effect are useful and efficient methods for providing cotton classification services and are adequate for the purposes of cotton futures trading. The requirements for inspection, sampling, and certification are not burdensome to the users of the service. The fees currently in effect were revised effective October 1, 1982, and are adequate to meet current operational costs and recover the costs of providing the services as required by the statute. Fees charged under the regulations are reviewed yearly.

Proposed Changes

The changes in Part 27 proposed by AMS would not affect the services provided or the procedures for providing these services. AMS proposes to eliminate masculine references in favor of sexually neutral language. Also to reflect the nomenclature changes made when the Cotton Division was reorganized in 1978, AMS proposes to substitute the term "Marketing Services Office" for "Board of Cotton Examiners," to substitute the term "Grading Section" for "Appeal Board of Review Examiners," to substitute the term "Area Director" for "Chairman of the Board of Cotton Examiners," and to substitute the term "Head, Grading Section" for "Chairman of Appeal Board of Review Examiners."

Specifically, AMS proposes to amend the following sections:

1. Sections 27.2, 27.44, 27.12, 27.53, 27.55, 27.56, 27.63, 27.73, 27.98, and 27.102 by eliminating masculine references in favor of sexually neutral language.

2. Sections 27.2, 27.9, 27.11, 27.14, 27.16, 27.20, 27.22, 27.24, 27.28, 27.32, 27.33, 27.39, 27.41, 27.42, 27.46, 27.47, 27.53, 27.54, 27.57, 27.58, 27.64, 27.67, and 27.89 by substituting the term "Marketing Services Office" for "Board of Cotton Examiners."

3. Sections 27.2, 27.9, 27.39, and 27.69 by substituting the term "Grading Section" for "Appeal Board of Review Examiners."

4. Sections 27.11, 27.22, 27.24, 27.32, 27.33, 27.39, 27.41, 27.45, 27.55, 27.66, 27.67, 27.90, and 27.91 by substituting the term "Area Director" for "Chairman of the Board of Cotton Examiners."

5. Sections 27.31 by substituting the term "Cotton Classers" for "Cotton Examiners."

6. Sections 27.39 and 27.69 by substituting the term"Head Grading Section" for "Chairman of the Appeal Board of Review Examiners."

7. Sections 27.9 by clarifying and condensing the section and by deleting the obsolete term of "Board of Supervising Cotton Examiners," the duties of which have been previously transferred to the "Appeal Board of Review Examiners" which under this

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proposal would be renamed the "Grading Section."

8. Section 27.39 by clarifying the section.

AMS is proposing no further changes for Part 27 at this time.

List of Subjects in 7 CFR Part 27

Classification, Cotton, Micronaire, Samples, Spot markets.

Accordingly, it is proposed to amend Part 27 of Chapter 1, Title 7 of the Code of Federal Regulations as shown. The Table of Contents would be amended accordingly.

PART 27—[AMENDED]

1. (a) The authority citation of Part 27 is revised to read as follows:

Authority.—90 Stat. 1841–1846; 7 U.S.C. 15b.

Subpart A—[Amended]

1. (b) Subpart A would be amended by deleting all references to "(90 Stat. 1841–1846; (7 U.S.C. 15b)" which appears as the individual citations in sections of the subpart.

2. Section 27.2 would be amended by revising paragraphs (d), (f), (g), and (h) to read as follows:

§ 27.2 Terms defined.

* * * * *

(d) *Adminstrator.* The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Administrator's stead.

* * * * *

(f) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in the Director's stead.

(g) *Marketing Services Office.* A facility of the Cotton Division established under the act at any point.

(h) *Grading Section.* The national classing supervision office at Memphis, Tennessee; performs final review of cotton classification.

* * * * *

3. Section 27.4 would be revised to read as follows:

§ 27.4 Obligations and rights under act: not affected by regulations.

Nothing in this subpart shall be construed as relieving any party to a basis grade contract of any obligation imposed upon the party, or as depriving the party of any right to which the party might be entitled under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the act.

4. Section 27.9 would be revised to read as follows:

§ 27.9 Marketing Services Offices; Grading Section.

Marketing Services Offices shall be maintained at points designated for the purpose by the Administrator. The Grading Section shall review the classification of any cotton in accordance with §§ 27.61 to 27.72. The Grading Section shall also perform other duties as assigned.

5. Section 27.11 would be revised to read as follows:

§ 27.11 Area Director, Marketing Services Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Marketing Services Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith.

6. Section 27.12 would be revised to read as follows:

§ 27.12 Classification request for each lot of cotton.

For each lot or mark of cotton of which the applicant desires separate clasification and certification, the applicant shall make a separate written request in a form prescribed or supplied by the Cotton Divison for that purpose.

7. Section 27.14 would be revised to read as follows:

§ 27.14 Filing of classification and Micronaire determination requests.

Requests for classification shall be filed with the Marketing Services Office serving the location at which the cotton is stored. Requests for classification shall be filed within 30 days after sampling and before classification of the samples. The applicant may file a request for a review of classification as part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cotton Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a basis grade contract. Requests for Micronaire determinations may also be filed as provided in §§ 27.62 and 27.63.

8. Section 27.16 would be revised to read as follows:

§ 27.16 Inspection; weighing; samples; supervision.

The inspection, weighing, and sampling of cotton for which classification is desired and the preparation and delivery of samples to the Marketing Services Office shall be (a) under the supervision of a supervisor of cotton inspection, or (b) by or under the direction of an exchange inspection agency and subject to the supervision of a supervisor of cotton inspection.

9. Section 27.20 would be revised to read as follows:

§ 27.20 Drawing and handling of samples of cotton; inspection of bales.

One sample shall be drawn from the top side of each bale and one from the botton side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The bale shall be inspected and any condition not fully indicated by the samples shall be explained by the supervisor of cotton inspection or exchange inspection agency in a written memorandum, which shall accompany the samples to the Marketing Services Office. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample which does not meet the requirements of this section may be rejected by the supervisor of cotton inspection or the Area Director.

10. Section 27.22 would be revised to read as follows:

§ 27.22 Wrapping and marking of samples of cotton.

The original sets of samples of the bales constituting a lot or mark to be classified separately shall be enclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the Area Director of the Marketing Services Office to which the samples are to be delivered.

11. Section 27.24 would be revised to read as follows:

§ 27.24 Delivery of samples of cotton.

The original sample from each bale to be classified shall be delivered to the Marketing Services Office with which the classification request was filed, at its classification room. If there is no Marketing Services Office at the point where the cotton is sampled, the supervisor of cotton inspection or the exchange inspection agency shall forward the samples to the proper Marketing Services Office. No samples covered by pending classification request which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the Area Director or the Director.

12. Section 27.28 would be revised to read as follows:

§ 27.28 Disposition of samples.

Samples submitted to a Marketing Services Office shall become the property of the Department and shall be disposed of in accordance with the property regulations of Department when no longer needed for classification or Micronaire determinations.

13. Section 27.31 would be revised to read as follows:

§ 27.31 Classification of cotton and Micronaire determinations; by whom made.

For the purposes of subsection 15b(f) of the act the classification of any cotton shall be determined only by cotton classers designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

14. Section 27.32 would be revised to read as follows:

§ 27.32 Order of classification.

All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the Marketing Services Office, except as otherwise provied in this subpart or when the Area Director or the Director shall find that an emergency exists and shall order otherwise.

15. Section 27.33 would be revised to read as follows:

§ 27.33 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Marketing Services Office, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

16. Section 27.39 would be revised to read as follows:

§ 27.39 Issuance of certificates.

Except as otherwise provided in this section, as soon as practicable after the classification of cotton has been completed by a Marketing Services Office, the Marketing Services Office shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the Area Director of the Marketing Services Office that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the Marketing Services Office, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination shall be certified by the Marketing Services Office or by the Grading Section on the classification certificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the Marketing Services Office shall notify the Grading Section of the results of the classification and the latter shall review the classification and make the Micronaire determination, and notify the Marketing Services Office of the results. The latter shall issue a cotton class certificate over the signature of the Head, Grading Section showing the results of the review classification (but not the initial classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The Marketing Services Office or the Grading Section may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by them, notwithstanding any other provisions of this section.

Section 27.41 would be revised to read as follows:

§ 27.41 Lost certificate; duplicate.

Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the Area Director of the Marketing Services Office which issued such certificate, that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

18. Section 27.42 would be revised to read as follows:

§27.42 Surrender of certificate.

For good cause any certificate issued under this subpart shall be surrendered to a Marketing Services Office for correction or cancellation. If such certificate be not surrendered upon request it shall nevertheless be invalid under subsection 15b(f) of the act and this subpart.

19. Section 27.45 would be revised to read as follows:

§27.45 No storage of cotton for classification at disapproved place.

No cotton submitted for classification under subsection 15b(f) of the act shall be located or stored at a place disapproved for the purpose by the Area Director or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a basis grade contract, unless the cotton shall be removed under the supervision of an exchange inspection agency, or a supervisor of cotton inspection, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued.

20. Section 27.46 would be revised to read as follows:

§ 27.46 Cotton withdrawn from storage.

The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the Marketing Services Office which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been

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changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

21. Section 27.52 would be revised to read as follows:

§ 27.52 Delivery without certification.

If upon the date fixed for delivery in accordance with subsection 15b(f) of the Act cotton class certificates shall not have been issued by a Marketing Services Office for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the Marketing Services Office for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52 through 27.56. Sections 27.52–27.56 shall not apply to cotton upon which a Marketing Services Office has already issued cotton class certificates pursuant to this subpart.

22. Section 27.53 would be revised to read as follows:

§ 27.53 Notice for delayed certification; requirements.

On the date of giving the transferable notice of the delivery in accordance with subsection 15b(f) of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the Marketing Services Office with which the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the Marketing Services Office the lot numbers of the cotton so to be delivered shall be specified.

23. Section 27.54 would be revised to read as follows:

§ 27.54 Inspection and sampling for delayed certification.

Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the Marketing Services Office not later than the date of issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the Marketing Services Office in accordance with all regulations applicable and in readiness for classification not later than 8 p.m. of the second business day preceding such last delivery day.

24. Section 27.55 would be revised to reads as follows:

§ 27.55 Requirements in lieu of cotton class certificates on delivery day.

If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the Area Director, or to Area Director's representative authorized for the purpose, a written notice stating to the best of the tenderer's knowledge and belief the true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of § 27.52 through 27.56 shall have been complied with, the Area Director or the duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the tender only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day deliver such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

25. Section 27.56 would be revised to read as follows:

§ 27.56 Obligations of person making tender.

The person making the tender shall deliver the cotton class certificates therefor to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a.m. on that day. If the cotton class certificates are delivered after 11 a.m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a.m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

26. Section 27.57 would be revised to read as follows:

§ 27.57 Request for postponement.

If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the Marketing Services Office in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

27. Section 27.58 would be revised to read as follows:

§ 27.58 Postponed classification; must be within 30 days.

If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the Marketing Services Office or under its control.

28. Section 27.61 would be revised to read as follows:

§ 27.61 One review of classification.

One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in §§ 27.62 to 27.72, such review to be performed by the Grading Section. Micronaire determinations are not subject to review.

29. Section 27.63 would be revised to read as follows:

§ 27.63 Conditions for review of classification and for Micronaire determination for receiver.

Any receiver of cotton upon a basis grade contract who has not redelivered such cotton on a basis grade contract may have a review of the classification of any cotton of which the classification has not been previously reviewed by filing a written application within 7 business days following the date of the delivery of cotton class certificates in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, the receiver may, upon proper showing of the facts, be allowed 5 additional business days for filing the application for review of the classification of such cotton, provided written request for such extension is filed within 7 business days following the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

30. Section 27.64 would be amended by revising paragraph (a) to read as follows:

§ 27.64 Application for review of classification and for Micronaire determination; filing.

(a) Every application review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the Marketing Services Office serving the location at which the cotton is stored. The application shall in each case be in the hands of such Marketing Services Office within the time specified in § 27.62 or § 27.63 for applying for review: *Provided*, That any Marketing Services Office may designate any officer of the Cotton Division or a representative of an exchange inspection agency located at another point to receive applications, and in such cases the applications shall be in the hands of the persons so designated within the time specified. Any person making such application shall, upon call of the Marketing Services Office or person with whom such application was filed under this section, surrender the cotton class certificates covering the cotton involved.

* * * * *

31. Section 27.66 would be revised to read as follows:

§ 27.66 Dismissal of application for review.

Any application for review may be dismissed whenever it shall be found by the Area Director or the Director that it was filed without good cause or for dilatory purposes.

32. Section 27.67 would be revised to read as follows:

§ 27.67 Use of new samples in reviews and Micronaire determinations.

Unless the use of new samples shall be necessary in the judgment of the Area Director, a review classification pursuant to §§ 27.61 to 27.72, or a Micronaire determination pursuant to § 27.14, § 27.62 or § 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the Marketing Services Office: but if the use of new samples is deemed necessary by the Area Director, or if there are no samples of the cotton in the possession of the Marketing Services Office, or if the samples of the cotton have been in the possession of the Marketing Services Office for more than one year, the person requesting the review classification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the Marketing Services Office in accordance with this subpart.

33. Section 27.69 would be revised to read as follows:

§ 27.69 Classification review; notations on certificate.

When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the Head, Grading Section shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

34. Section 27.73 would be revised to read as follows:

§ 27.73 Supervision of transfers of cotton.

Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which the owner holds valid cotton class certificates desires to transfer such cotton to a different delivery point, or to a different warehouse at the same delivery point, for the purpose of having it made available for delivery upon a basis grade contract, such transfer shall be effected under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

35. Section 27.81 would be revised to read as follows:

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purposes of business convenience, or when made necessary by the transfer of the cotton under the supervison of an exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 45 cents for each certificate issued.

36. Section 27.89 would be revised to read as follows:

§ 27.89 Expenses; inspection; sampling.

Expense of inspection and sampling, the preparation of the samples and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a Marketing Services Office, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the Marketing Services Office shall be borne by the party requesting the service.

37. Section 27.90 would be revised to read as follows:

§ 27.90 Bills for payment of fees and expenses.

The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the Area Director or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

38. Section 27.91 would be revised to read as follows:

§ 27.91 Advance deposit may be required.

If requested by the Area Director with whom the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

39. Section 27.98 would be amended by revising paragraph (a) to read as follows. (The introductory paragraph is shown for the reader's convenience.)

§ 27.98 Responsibilities and duties of the Cotton Division.

The Cotton Division is responsible for the accuracy of price quotations in each bona fide spot market. In carrying out this responsibility the Cotton Division will perform the following duties and functions:

(a) The Cotton Division will assign an employee in each market to collect, analyze, and present periodically to the quotation committee pertinent information on the prices and values of spot cotton in the market to supplement information collected and available to the committee. The employee will attend each scheduled meeting of the committee and present these findings and recommendations on quotations.

* * * * *

40. Section 27.102 would be revised to read as follows:

§ 27.102 Administration.

The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to

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the approval of the Director or shall be prescribed by the Director.

Dated: May 3, 1983.

William T. Manley,

Duputy Administrator, Marketing Program Operations.

[FR Doc. 83-12338 Filed 5-6-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 29

Allocation of Tobacco Inspection Services; Eligibility for Price Support

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: the regulations under the Tobacco Inspection Act governing designated tobacco auction markets are hereby proposed to be amended to: (1) Terminate designations for eight tobacco markets that have been inactive for two or more seasons; (2) delete from the listing of designated markets the four Maryland tobacco markets for which producers, in a 1982 referendum, voted against mandatory, federal grading, and (3) to delete repetitious, statutory language which has no effect on the substance of the regulations.

DATE: Comments are due on or before July 8, 1983.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 502 Annex Building, Washington, D.C. 20250 (202) 447–2567.

SUPPLEMENTARY INFORMATION: Section 29.73 of the regulations under the Tobacco Inspection Act (7 CFR 29.73) provides that the designation of a tobacco auction market "shall terminate automatically at the end of any two consecutive marketing seasons during which a designated market does not conduct any sales of tobacco at auction."

According to Department records, no auctions have been conducted at the following listed markets and, in view of the long periods in which no sales have taken place at these locations, their designation as tobacco auction markets is hereby proposed to be terminated:

Market	Date designated	Years inactive
Martinsville, VA.	June 26, 1942 (7 FR 4611)	2
Ellerbe, NC	Aug 25,1949 (14FR 5364)	4
Fayetteville, NC.	June 17, 1947 (12 FR 4015)	4
Lamar, SC	May 28,1951 (16 FR 5108)	4
Pearson, GA	May 13, 1955 (20 FR 3251)	4
Quitman, GA	Aug. 28, 1945 (10 FR 11104)	5
Sylvester, GA	June 21,1950 (15 FR 3969)	5
Swainsboro, Ga.	July 6, 1956 (21d FR 4998)	7

All Maryland tobacco auction markets were designated May 17, 1946, (13 FR 2579). The Department conducted a referendum February 8–12, 1982, to determine if Maryland producers favored termination of the tobacco auction markets in that State. By a vote of 1263 to 242, Maryland producers favored the termination of the designations, thus eliminating the requirement for mandatory, federal grading of the Maryland tobacco crop in the 1982 and succeeding seasons. In view of this determination, the designations of tobacco auction markets in the following locations were terminated: Hughesville, LaPlata, Upper Marlboro, and Waldorf, Maryland. The department proposes to delete these markets from the designations listed under § 29.8001 of the regulations.

The Department proposes to delete provisions of section 29.8001 (7 CFR § 29.8001) which quote verbatim from sections 2 and 5 of the Tobacco Inspection Act. The quotation is deemed unnecessary as repetitious of statutory language contained in the Tobacco inspection Act of 1935, as amended. This change has no effect on the substance of the regulations. Also, the Department proposes to delete the words appearing in parentheses immediately following the table in Section 29.8001 and to insert in its stead: (1) The authority for the regulations and (2) the source of the amendments thereto.

The proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order. Initial review of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness has been completed.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these proposed regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will have no significant economic impact upon all entities, small or large, and will in no way affect the normal competition in the market place.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file the same with Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 502 Annex Building, Washington, D.C., 20250, not later than 60 days after publication in the **Federal Register.**

All written submissions made pursuant to this notice will be made available for public inspection at the above location during regular business hours (7 CFR 1.27(b)).

List of Subjects in 7 CFR Part 29

Administrative practices and procedure, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly, the Department hereby proposes to amend the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29, Subpart D, as follows:

1. Amend § 29.8001 by inserting immediately after the heading "Subpart D—Orders of Designation of Tobacco Markets," the following:

Authority: Sec. 14, 49 Stat. 734, as amended; 7 U.S.C. 511m. [New]

Source: 1 FR 649, June 23, 1936; 14 FR 465, February 3, 1949; 24 FR 2776, April 10, 1959; 35 FR 6107, April 15, 1970; 39 FR 36957, October 16, 1974; and 48 FR 10291, March 11, 1983, unless otherwise noted. [New]

2. Amend § 29.8001 by removing the first, second, and third paragraphs therefrom and replace with the following:

§ 29.8001 Designation of tobacco markets.

Following is a listing of officially designated tobacco markets:

* * * * *

3. Amend the table contained in § 29.8001, entitled "Designated Tobacco Markets" as follows:

(a) Item (t) is amended by removing the words "Martinsville, Va." from the column entitled Auction markets.

(b) Item (w) is removed in its entirety.

(c) Items (x), (y), and (z) are relettered (w), (x), and (y), respectively, to maintain alphabetical sequence.

(d) Items (aa) and (bb) are removed in their entirety.

(e) Item (cc) is relettered (z), and items (dd), (ee), (ff), and (gg) are relettered (aa), (bb), (cc), (dd), respectively, to maintain alphabetical sequence.

(f) Item (hh) is removed in its entirety.

(g) Item (ii) is relettered (ee) to maintain alphabetical sequence.

(h) Item (jj) is amended by removing the word "Georgia" from the column entitled Territory and the words "Sylvester, Ga." from the column entitled Auction markets. Further, (jj) is relettered (ff) to maintain alphabetical sequence.

(i) Item (kk) is amended by removing the words "Scottsville, Ky." from the column entitled Auction markets. Further, item (kk) is relettered (gg) to maintain alphabetical sequence.

(j) Items (ll) and (mm) are relettered (hh) and (ii), respectively, to maintain alphabetical sequence.

(k) Item (nn) is removed in its entirety.

(l) Items (oo), (pp), and (qq) are relettered (jj), (kk), and (ll), respectively, to maintain alphabetical sequence.

(m) Item (rr) is amended by removing the words "and Pearson" from the column entitled Auction markets. Further, (rr) is relettered (mm) to maintain alphabetical sequence.

(n) Item (ss) is relettered (nn) to maintain alphabetical sequence.

(o) Item (tt) is amended by removing the words, "Swainsboro, Ga.," from the column entitled Auction markets. Item (tt) is relettered (oo) to maintain alphabetical sequence.

(p) Items (uu) and (vv) are relettered (pp) and (qq), respectively, to maintain alphabetical sequence.

(q) Item (ww) is amended to add the words "March 11, 1983" to the column entitled Order of designation and to add the words 48 FR 10291 to the column entitled Citation. Item (ww) is relettered (rr) to maintain alphabetical sequence.

4. Remove the two paragraphs immediately following the table in § 29.8001.

For purposes of clarity, the table has been set out from item (w):

* * * * *

	Territory	Types of Tobacco	Auction markets	Order of designation	Citation
(w)	Georgia	do	Fitzgerald, Ga	July 22, 1946	11 FR 7967.
(x)	North Carolina	do	Clinton, N.C	Aug. 9, 1946	11 FR 8712.
(y)	Kentucky	do	Winchester, Ky	Oct. 30, 1946	11 FR 13099.
(z)	Florida	do	Jasper, Fla	May 27, 1948	13 FR 2963.
(aa)	Georgia	do	Clayton, Ga	July 30, 1948	13 FR 4498.
(bb)	Kentucky	do	London, Ky	Oct. 25, 1948	13 FR 6348.
(cc)	North Carolina	do	West Jefferson, N.C	do	13 FR 6346.
(dd)	North Carolina	do	Dunn, N.C	July 15, 1949	14 FR 4514.
(ee)	Kentucky, Tennessee	do	Somerset, Ky; Sparta, Tenn	Oct. 7, 1949	14 FR 6193.
(ff)	North Carolina, South Carolina	do	Greensboro, Windsor, N.C; Hemingway, S.C	June 16, 1950	15 FR 3980.
(gg)	Kentucky	All	Franklin, Ky; Russellville, Ky	June 21, 1950	15 FR 4072.
(hh)	Tennessee, Virginia	do	Sweetwater, Tenn; Pennington Gap, Va	July 18, 1950	15 FR 4875.
(ii)	Kentucky	do	Mayfield, Murray, Paducah, Ky	Oct. 19, 1950	15 FR 7117.
(jj)	Tennessee	do	Mountain City, Tenn	Nov. 1, 1951	16 FR 11260.
(kk)	Florida	do	High Springs	June 2, 1954	19 FR 3211.
(ll)	Tennessee	do	Newport	Oct. 27, 1954	19 FR 6878.
(mm)	Georgia	do	Alma	May 13, 1955	20 FR 3252.
(nn)	Kentucky, Virginia	do	Henderson, Ky; Gate City, Va	Oct 29, 1942	20 FR 8142.
(oo)	Florida, Georgia	All	Madison, Fla; Thomasville, Ga	July 6, 1956	21 FR 4998.
(pp)	Kentucky	All	Morehead	June 18, 1958	23 FR 4377.
(qq)	North Carolina	do	Yadkinville, N.C	Apr. 15, 1970	35 FR 6107.
(rr)	North Carolina	Flue-Cured	Mebane-Burlington, N.C	Mar. 11, 1983	48 FR 10291.

Dated: May 3, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-12337 Filed 5-6-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Reports of Theft or Loss of Licensed Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations concerned with reports of theft or loss of licensed material. The proposed amendment would modify that part of the regulation which permits licensee judgment in the reporting of loss or theft of licensed material, with a requirement that the licensee report all licensed material (in a quantity greater than the minumum specified in the amended regulation) lost, stolen or missing for more than 30 days after its absence becomes known to the licensee. Modification of this judgmental condition will result in the reporting of all significant losses or thefts and will provide assurance that adequate radiological safety evaluation, for the purpose of protecting the public, are made by the NRC as well as the licensee in investigating the circumstances surrounding any loss or theft of licensed material.

DATES: Comments should be submitted on or before June 23, 1983. Comments received after this date will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Submit written comments on the proposal and/or the supporting value/impact statement to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Single copies of the value/impact statement may be obtained on request from the contact identified below. Copies of the value/impact statement and of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald O. Nellis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–5825.

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1980, the Radiation Safety Officer on an NRC licensee notified the Nuclear Regulatory Commision of the loss or theft of a package of licensed material. The package, containing 10 12.5-millicurie

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cesium-137 sealed sources, was placed in the transportation system to be shipped to South Korea in February 1979. In September 1979, the licensee was notified that the package had not been received. It did not, however, report the loss or theft to the Nuclear Regulatory Commission, in accordance with 10 CFR 20.402, until November 1980 because it believed that the unopened package was somewhere within the transportation sytem and did not constitute a significant hazard to person in unrestricted areas.

The Cs-137 sources were contained in a sealed lead-pipe shield, held in a plywood frame in the center of a Department of Transportation Specification 7A package. Radiation levels from the package were reported to be 1.8 mR/hr (millirem/hour) at 3 feet and 16 mR/hr on contact.

Assuming that the package had indeed been opened, radiation levels of 48 mR/hr at 3 feet, 436 mR/hr at 1 foot, and 1742 mR/hr at 6 inches would have been present. These radiation levels are considerably in excess of the level specified for unrestricted areas in § 20.105.

The Nuclear Regulatory Commission considers that inexcusable delays in reporting missing material such as described above, could, under plausible circumstances, constitute significant hazards to persons engaged in the transportation industry and to the public in general. The staff recognizes that currently 10 CFR 20.402 due to its judgmental language does not require a report if a licensee believes that a loss or theft does not constitute a substantial hazard in unrestricted areas. A Notice of Violation was issued to the licensee in this case because of its failure to exercise reasonable judgment. However, the NRC staff thinks that the existing regulations should be amended to require licensees to apply a common standard to the reporting of lost or stolen licensed material. This approach is in keeping with a recent Commission policy statement concerning the responsibility of licensees, published in the **Federal Register** of July 20, 1982 (47 FR 31462). The Commission, therefore, is proposing to amend § 20.402 to modify the judgmental language which allows the licensee to decide whether or not to report a loss or theft of licensed material. In order to reduce the number of reports required under the amended version of § 20.402, the Commission has decided that only losses or thefts of licensed material in quantities greater than 10 times the quantities specified in Appendix C of Part 20 need be reported. The bases for this judgment are § 20.303(b)(2) which permits licensees to discharge into sanitary sewage systems 10 times the quantities specified in Appendix C of Part 20, and § 32.19(a) which permits the sale or transfer of up to 10 exempt quantities (as set forth in § 30.71, Schedule B) in a single transaction.

Proposed Action

The NRC is proposing to amend § 20.402 to modify the judgmental part of the present regulations so that all licensed material (in a quantity greater than the minimum specified in the amended regulation) missing for more than 30 days will be reported without regard to the hazard involved to persons in unrestricted areas.

Paperwork Reduction Act Statement

In NRC regulations, there are a number of requirements for the reporting of situations where specified materials are lost, stolen or missing. These requirements already achieve the goals of the proposed § 20.402 for these materials and situations. Accordingly, the proposed amendment provides that a licensee who files a report of material lost, stolen or missing under one of these requirements need not file a report under the proposed amendment. A list of the pertinent regulations is found in paragraph (d) of the amended regulatory text.

The proposed rule will be submitted to the Office of Management and Budget for clearance of the reporting requirements that may be appropriate under the Paperwork Reduction Act [Pub. L. 96–511]. The SF–83 "Request for Clearance," Supporting Statement, and related documentation submitted to OMB will be placed in the NRC Public Document Room at 1717 H Street NW., Washington, D.C. 20555. The material will be available for inspection and copying for a fee.

Regulatory Flexibility Certification

On the basis of information available to it, the NRC, in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

There are approximately 8,000 NRC fuel cycle and materials licensees of which approximately one half or 4,000 qualify as small entities and consist for the most part of hospitals or medical facilities. The present reporting requirements under § 20.402 result in approximately 25 reports annually (from all 8,000 licensees) which require licensees to devote an average of 3 hours for each report or a total of 75 staff hours annually. The proposed amendment could result in 30 to 35 additional reports annually for a total increase of roughly 100 licensee staff hours spread out among the 8,000 licensees. The Commission will welcome any comments regarding this Regulatory Flexibility Certification.

List of Subjects in 10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that the NRC is proposing to adopt the following amendments to 10 CFR Part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 is revised to read as follows: **Authority:** Secs. 53, 63, 65, 81, 103, 104, 161, 68 Stat. 930, 933, 935, 936, 937, 948, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201); secs. 201, as amended, 202, 206, 68 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 20.101, 20.102, 20.103(a), (b), and (f), 20.104(a) and (b), 20.105(b), 20.106(a), 20.201, 20.202(a), 20.205, 20.207, 20.301, 20.303, 20.304 and 29.305 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 20.102, 20.103(c), 20.401–20.407, 20.408(b), and 20.409 are issued under sec 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 20.402 is amended as follows:

a. Paragraphs (a) and (b) are revised.

b. New paragraphs (c) and (d) are added.

c. Existing paragraphs (c) and (d) are redesignated (e) and (f), respectively.

§ 20.402 Reports of theft or loss of licensed material.

(a) Each licensee shall report by telephone to the Regional Administrator of the appropriate Nuclear Regulatory Commission Regional Administrator of the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix D of this part:

(1) Immediately after its occurrence becomes known to the licensee, any lost, stolen or missing licensed material in such quantities and under such circumstances that it appears to the licensee that a substantial hazard may result to persons in unrestricted areas; or

(2) Within 30 days after the occurrence of any lost, stolen or missing licensed material becomes known to the licensee, all licensed material (in a quantity greater than 10 times the quantity specified in Appendix C of this part) which is still missing at this time unless the material has already been reported under paragraph (a) (1) of the section.

(b) Each licensee who is required to make a report pursuant to paragraph (a) of this section shall, within 30 days after making the telephone report required under paragraph (a), make a report in writing to the appropriate NRC Regional Office listed in Appendix D with copies to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, setting forth the following information:

• • • • •

(c) Lost or missing licensed material, for the purpose of this section, means any licensed material whose location is unaccounted for. It includes such material which has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

(d) A duplicate report is not required if the licensee is required to submit a report pursuant to §§ 30.55(c), 40.64(c), 50.72, 70.52, 73.27(b), 73.67(e)(3)(vi), 73.67(g)(3)(iii), 73.71 or 150.19(c) of this chapter.

• • • • •

Dated at Bethesda, Maryland this 14th day of February 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations

[FR Doc. 83–12338 Filed 5–6–83; 8:45 am]

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10 CFR Parts 20 and 150

Transuranic Waste Disposal; Withdrawal of Proposed Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Commission is withdrawing two notices of proposed rulemaking published in the **Federal Register** on September 12, 1974 (39 FR 32921 and 32922), in which the Atomic Energy Commission (the predecessor of the NRC) proposed to restrict the disposal of transuranic waste by shallow land burial. On July 24, 1981, the Commission published in the **Federal Register** (46 FR 38081) a notice of proposed rulemaking which would add a new 10 CFR Part 61, "Licensing Requirements for the Land Disposal of Radioactive Waste" to its regulations. The 1974 proposed amendments were included within the scope of the Part 61 proposed rule. Part 61 has now been issued as a final rule. Therefore, the Commission is withdrawing the earlier 1974 notices of proposed rulemaking.

DATE: Effective May 9, 1983.

FOR FURTHER INFORMATION CONTACT: L. B. Higginbotham, chief, Low-Level Waste Licensing Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427–4433.

SUPPLEMENTARY INFORMATION: On September 12, 1974, the Commission published proposed amendments to 10 CFR Parts 20 and 150 (39 FR 32921 and 32922) to restrict the disposal, by burial in soil, of waste containing transuranium elements. The proposed rules would have amended Part 20 to prohibit the disposal of waste containing transuranic elements and Part 150 to reassert the Commission's authority over disposal of transuranic containiment wastes in Agreement States.

After publication of the proposed rules, the Commission started a program to analyze the requirements for disposal of transuranic and other radionuclides contained in waste and to establish a basis for any concentration limits that might be established for the near surface or shallow land disposal of waste. A **Federal Register** notice concerning the program was published August 18, 1978 (43 FR 36722). On July 24, 1981, the Commission published for public comment a notice of proposed rulemaking to add a new Part 61, "Licensing Requirements for the Land Disposal of Radioactive Waste" to the Commission's regulations. Part 61 was issued as a final rule on December 27, 1982 (47 FR 57446–57482).

Tables 1 and 2 and Part 61 establish specific concentration limits for transuranic and other radionuclides that would be acceptable for routine disposal by near surface land burial. Part 61 thus incorporates the narrower scope of the earlier proposed rulemaking on transuranic disposal.

Waste containing radionuclides in concentrations greater than the limits established in Part 61 would not be acceptable for disposal near surface without specific Commission review and approval. Such approval would be based on an evaluation of the specific characteristics of the waste, disposal site, and the method of disposal, and a finding that there is reasonable assurance that the Part 61 Subpart C performance objectives are met. The Commission plans to examine alternative disposal methods and requirements for disposal of these wastes.

The Commission hereby withdraws the notices of proposed rulemaking published September 12, 1974 (39 FR 32921 and 32922).

Dated at Bethesda, Maryland, this 26th day of April 1983.

For the U.S. Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83–12350 Filed 5–6–83; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Doc. No. R–0465]

Electronic Fund Transfers; Intent To Make Determination of Effect on Massachusetts Law

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preemption determination.

SUMMARY: The Board is publishing notice of its intent to make a determination as to whether the Massachusetts law on electronic fund transfers is inconsistent with and preempted by the Electronic Fund Transfer Act and Regulation E.

DATE: Comments must be received on or before July 11, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Senior Attorney, or Richard S. Garabedian, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–2412 or (202) 452–3667.

SUPPLEMENTARY INFORMATION: (1) *General.* Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*), as implemented by Regulation E

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(12 CFR 205.12), authorizes the Board to determine whether any inconsistency exists between the Federal Act and State law. If the State law is inconsistent with the Federal Act, it will be preempted to the extent of any inconsistency. However, an inconsistent State law that is more protective of the consumer may not be preempted. The Board has been asked to make a preemption determination with respect to the Massachusetts statute (M.G.L.A. c. 167B § 1 *et seq.*) and regulation (209 CMR 31.00) on electronic fund transfers. This proposed preemption determination is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(4)).

(2) *Analysis for preemption.* Proposed preemption determinations under the Electronic Fund Transfer Act and Regulation E are based on a section-by-section analysis of the State and Federal statutes and regulations. After consideration of any inconsistencies between each requirement of a given State section and the corresponding requirement in the Federal law, the section is viewed as a whole to determine whether the inconsistencies are such as to require preemption of the section. A comparison of each group of related sections is also made. The statutory language in § 919, which refers to inconsistencies in "provisions" of Federal and State statutes, supports this type of analysis. This approach also avoids the formation of the very complex hybrid rules that would result from preemption of individual requirements within each section of State law.

(3) *Discussion.* The Board has reviewed the Massachusetts electronic fund transfer law in light of the above analysis and proposes to preempt the State section on error resolution and the related disclosure provisions. The Board proposes to preempt these sections because on the whole they are inconsistent with the Federal error resolution procedures and are not more protective.

The proposed preemption will apply to § 17 of both the State statute (M.G.L.A. c. 167B § 17) and the regulation (209 CMR 31.17). It will also apply to § 8(a)(9) of the statute, to the extent that it requires a disclosure of the State error resolution procedures to be included on the initial disclosure statement; § 8(1)(b) of the regulation, to the extent that it requires a disclosure of error resolution procedures; and Appendices 2A and 2B to the regulation, which contain model forms for the State error resolution disclosures.

Other Massachusetts provisions are not proposed for preemption because the sections are the same as the Federal law, address areas not covered by the Federal law, or are more protective even though an inconsistency exists. For example, the State sections on liability for unauthorized transfers and on change in terms notification are inconsistent with the applicable Federal sections, but are on the whole more protective.

Differences between the Federal and State provisions on error resolution include:

- The State law fails to provide for an additional error notification period following a request for additional information, clarification or documentation as provided in § 205.11(b)(1)(i)(B) of Regulation E.
- The State law requires the error to be resolved within 10 calendar days, in contrast to 10 business days under § 205.11(c)(1), with a 45-day alternative procedure. It permits a financial institution to require written confirmation of an oral error notice within that 10-calendar-day period, with provisional recrediting required only if the written confirmation is received within 10 calendar days, in contrast to the 10-business-day period in § 205.11(b)(2).
- In the case of the alternative 45-day error resolution procedure, State law fails to require financial institutions to honor items drawn on the account after the redebiting of a provisionally recredited amount, as provided in § 205.11(f)(2).
- If an error did occur, State law does not require the refunding of any fees or charges imposed as a result of the error, as does § 205.11(e)(1).
- The State regulation provides additional error resolution rules for debits initiated by a third party through an automated clearing house. However, the regulation appears to give financial institutions up to 30 days to provisionally recredit, as contrasted to the 10-business-day requirement in § 205.11(c)(2)(i).

(4) *Comment requested.* Interested persons are invited to submit comments regarding the proposed determination. After the close of the comment period and analysis of the comments received, notice of final action on the proposal will be published in the **Federal Register.**

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc.83-12240 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; Doc. No. R-0486]

Truth in Lending; Intent To Make Determinations of Effect on State Laws; Mississippi, New Jersey, Oklahoma, and South Carolina

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preeemption determinations.

SUMMARY: The Board is publishing for comment proposed determinations as to whether certain provisions in the laws of Mississippi, New Jersey, Oklahoma, and South Carolina are inconsistent with the Truth in Lending Act or Regulation Z and therefore preempted. Any determinations that provisions are preempted, which would trigger the prohibition against giving such preempted disclosures, will have an effective date of October 1, 1984, although creditors will have the option of complying from the date of the Board's determination.

This notice also includes a discussion of the procedures that the Board follows upon receipt of a request for a determination and a statement of the principles used in making preemption determinations.

DATE: Comments must be received on or before July 11, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, N.W., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Rugenia Silver or Gerald Hurst, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Wahington, D.C. 20551, at (202) 452-2412 or 452-3667.

SUPPLEMENTARY INFORMATION: (1) *General.* The Board has received four requests for determinations as to whether provisions of certain laws in Mississippi, New Jersey, Oklahoma, and South Carolina are inconsistent with the Truth in Lending Act and Regulation Z, and therefore preempted. Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. These proposed preemption determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(2); 48 FR 4454, February 1, 1983).

The procedures for requesting a determination and the general procedures followed in making a determination are contained in Appendix A to 12 CFR Part 226. In addition, in order to obtain information and comment from interested parties as early as possible in the course of making determinations, the Board: (1) Forwards copies of requests for determinations to the attorneys general of the states involved and to the Federal Reserve Banks in whose districts the states are located, shortly after receipt of the requests, and (2) sends copies of the proposed determinations and final determinations directly to the requesting party, the state attorney general, and the Federal Reserve Bank.

(2) *Principles followed in preemption analysis.* In determining whether a state law is inconsistent with the federal provisions, § 226.28(a)(1) of Regulation Z, which implements § 111 of the act, provides that state requirements are inconsistent with the federal provisions if the state law requires a creditor to make disclosures or take actions that contradict the federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Two examples of contradictory state laws are included in § 226.28(a)(1). They are: (1) A law that requires the use of the same term for a different amount or a different meaning than the federal law, or (2) a law that requires the use of a different term than the federal term to describe the same item.

In previous preemption determinations (48 FR 4454, February 1, 1983) the Board developed the following principles that were applied in making the current proposed determinations:

- For purposes of making preemption determinations, state law is deemed to require the use of specific terminology in the state disclosures if the statute uses certain terminology in the disclosure provision.

- A state disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a federal disclosure.
- Preemption occurs only in those transactions in which an actual inconsistency exists between the state law and the federal law.
- A state law is not inconsistent merely because it requires more information than federal law or requires disclosure in transactions where federal law requires none.

In general, preemption determinations will be limited to those provisions of state law identified in the request for a determination. At the Board's discretion, however, other state provisions that may be affected by the federal law will also be addressed.

(3) *Effect of preemption determination.* If the Board determines that a state-required disclosure is inconsistent with the federal law, the state law is preempted to the extent of the inconsistency. Creditors in that state may not make disclosures using the inconsistent term or form, even on a separate document from the federal disclosures. Preemption determinations have an effective date of the October 1 that follows the determination by at least 6 months, as required by section 105(d) of the act. It is expected that these proposed determinations, if adopted, will have an effective date of October 1, 1984, although creditors could begin complying with the determinations before that time.

A determination on provisions in the law of one state will have no effect on the validity of similar provisions in other states.

(4) *Discussion of specific requests and proposed derterminations.* In response to four requests, the Board has reviewed provisions in the laws of Mississippi, New Jersey, Oklahoma, and South Carolina. (The requests are available for public inspection and copying, subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261).) The proposed determinations regarding the state laws at issue, together with the reasons for the proposals, are set forth below.

Mississippi. An attorney representing a financial institution has requested a determination of whether a provision of the Mississippi Motor Vehicle Sales Finance Law is preempted by the federal act and regulation. Section 63-19-31(2)(g) of that statute requires that a buyer receive a copy of the retail installment contract disclosing, among other information, the amount of the finance charge. Section 75-17-1(9) of Mississippi law defines "finance charge" as:

> • • • the amount or rate paid or payable, directly or indirectly, by a debtor • • • incident to or as a condition of the extension of credit • • • provided, however, that • • • insurance premiums • • • shall not be included in the finance charge • • •.

In contrast, section 106 and § 226.4 of the federal act and regulation, respectively, define "finance charge" to include certain insurance premiums in all cases, and exclude others only if specified conditions are met by the creditor. Because of its treatment of insurance premiums, Mississippi law may, in certain transactions, require the disclosure of a finance charge, using that term, which differs in amount from the finance charge calculated and disclosed under federal law for the same transactions. Thus, the Board believes that § 63-19-31(2)(g) of the Mississippi Motor Vehicle Sales Finance Law is preempted in those cases in which the term "finance charge" would be used under state law to describe a different amount than the finance charge disclosed under federal law. While this determination would prevent a creditor from showing the state-mandated finance charge in those cases, it would not affect the amount or types of charges that the creditor may collect under state law.

New Jersey. An attorney has requested a determination of whether a New Jersey law relating to the use of agents in mortgage transactions is inconsistent with and therefore preempted by the Truth in Lending Act and Regulation Z. Under § 46:6-1 of New Jersey Statutes Annotated, a consumer may empower an agent to act on his or her behalf in completing a mortgage transaction. The actions which the agent is authorized to take may include attending the closing, and signing and receiving documents such as the note, mortgage, Truth in Lending disclosures and notice of the right of rescission.

Regulation Z requires that disclosures and notice of the right of rescission, if applicable, be given to the "consumer" in the transaction. However, the regulation does not prohibit the creditor from giving this material to an agent acting on behalf of the consumer under a valid state agency law. For this reason, the Board believes that the New Jersey law permitting the use of an agent for receipt of loan documents, including the Truth in Lending disclosures and rescission notices, is not preempted by the Truth in Lending Act and Regulation Z, because creditors may comply with the federal act and regulation by

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providing the required disclosures and notices to an agent for the consumer.

Oklahoma. The state of Oklahoma has requested a determination that the credit disclosures required by the Oklahoma Pawn Shop Act (59 Oklahoma Statutes §§ 1501 to 1513) are not preempted by the federal Truth in Lending Act. (Although certain transactions in Oklahoma are exempt from chapter 2 of the Truth in Lending Act, that exemption does not extend to pawnshop transactions.) Specifically, the state seeks a determination that the following required Oklahoma disclosures are not preempted by the federal law:

- The requirement that the pawnbroker-creditor disclose the "total of payments" even though a pawn transaction involves a single payment. (Rules of the Administrator § 150.5(g)).
- The requirement that the pawnbroker-creditor disclose the "name and address of the customer and the customer's description or the distinctive number from [the] customer's driver's license or military identification." (Rules of the Administrator § 150.5(k)).
- The requirement that the following be disclosed: "A statement to the effect that the customer is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker thirty (30) days after the specified maturity date, provided that the pledged goods may be redeemed by the customer within thirty (30) days following the maturity date of the pawn transaction by payment of the originally agreed redemption price and the payment of an additional pawn finance charge equal to one-thirtieth (1/30) of the original monthly pawn finance charge for each day following the original maturity date including the day on which the pledged goods are finally redeemed." (Rules of the Administrator § 150.5(n)).
- The requirement that a renewal of the pawn transaction with no change in the original terms be treated as a refinancing requiring full new disclosures. (Rules of the Administrator § 150.6).

Since footnote 44 of Regulation Z allows creditors to disclose the "total of payments" in single payment obligations at their discretion, a state requirement making the "total of payments" disclosure mandatory in a single payment transaction does not interfere with the federal scheme and, therefore, should not be preempted. In connection with this disclosure, the Board notes that the finance charge, which is reflected in the total of payments, is defined in the Oklahoma Rules in a more abbreviated manner than in § 226.4 of Regulation Z. For example, the enumerated types of finance charges in § 226.4(b)(2) through (9) are not reflected in the state finance charge definition. It appears, however, that the finance charge computed under state law is always identical to the federal finance charge because Oklahoma pawnshop creditors may not impose any of the charges listed in § 226.4(b)(2) through (9). On this basis, the Board believes that the state disclosures of the finance charge and total of payments do not contradict federal law and therefore are not preempted.

The customer identification requirement (§ 150.5(k)) and the forfeiture clause disclosure requirement (§ 150.5(n)) of the Oklahoma Rules are unrelated to any required federal disclosure. Under § 150.4 of the Oklahoma Rules, both of these disclosures must appear separate from the other required disclosures. Because these provisions merely provide additional information and do not contradict any federal disclosure, the Board believes that the customer identification and the forfeiture clause requirement are not preempted by the federal law.

The Oklahoma Rules (§ 150.8) define "refinancing" in much the same manner as § 226.20(a) of Regulation Z in that a refinancing occurs when an existing obligation is satisfied and replaced by a new obligation undertaken by the same consumer. It appears, however, that, as a matter of state law, Oklahoma provides that a renewal or consolidation of a pawn transaction must be treated as a new transaction requiring full redisclosure. This may result in pawnshop creditors having to give new disclosures where not required to do so by federal law. The Board believes that the state requirement does not interfere with the federal scheme and is therefore, not preempted since such additional information is not prohibited by the federal law.

South Carolina. A bank has requested a determination of whether a provision of South Carolina law is inconsistent with and therefore preempted by the Truth in Lending Act. Under § 37-10-102(c) of the South Carolina Code Annotated, a consumer loan secured by real estate must be accompanied by a notice of any due-on-sale clause contained in the loan documents. Where the creditor is authorized to accelerate the note in the event of a transfer of the property, the law provides that:

> • • • the creditor shall include in all disclosure statements required by the Federal Truth-in-Lending Act to be provided to the debtor the following statement, which shall be either in capital letters or underlined: Assumption Notice—The debt secured hereby is subject to call in full or the terms thereof being modified in the event the real estate securing the debt is sold, conveyed or otherwise transferred.

The required disclosure is somewhat similar to the statement of the creditor's assumption policy required in residential mortgage transactions by § 226.16(q) of Regulation Z. It differs from the federal provision, however in that it calls for a more detailed statement than is contemplated by the federal law and may be required in transactions other than residential mortgage transactions.

On its face, the South Carolina law appears to require the inclusion of a nonfederal disclosure within the Federal Truth in Lending disclosure statement, in violation of § 226.17(a) of Regulation Z, which requires that all federal disclosures be segregated from other material. However, the South Carolina Department of Consumer Affairs, which administers the state provision, has indicated that the required statement may appear on the contract apart from the segregated federal disclosures, and that it will issue a formal interpretation reflecting that position. Thus, creditors in South Carolina may comply with the state law without violating the segregation requirements of the federal statute and regulation. In addition, while the due-on-sale notice is not substantially similar to the disclosure required by § 226.16(q), it does not contradict or conflict with that disclosure but merely provides additional information. On this basis, the Board believes that § 37-10-102(c) of South Carolina law is not inconsistent with the federal act and regulation and therefore is not preempted.

(5) *Comment requested.* Interested persons are invited to submit comments regarding the proposed determinations. After the close of the comment period and analysis of the comments received, notice of final action on the proposals will be published in the **Federal Register.**

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12238 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-34-AD]

Airworthiness Directives; AMI Industries, Inc. Seat Models 716 and 865

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require installation of seat frame braces on certain crew seats. This proposed AD is required to preclude seat failure which could result in injuries under forward loading conditions less than those required by TSO-C39.

DATES: Comments must be received on or before June 24, 1983. Compliance schedule: Within 90 days from the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: AMI Industries, Inc., P.O. Box 370, Colorado Springs, Colorado 80901. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or Denver Aircraft Certification Field Office, 10455 East 25th Avenues, Suite 307, Aurora, Colorado. Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Rules Docket No. 83-NM-34-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Woodford R. Boyce Aerospace Engineer, Denver Aircraft Certification Field Office, FAA, Northwest Mountain Region, 10455 East 25th Avenue, Suite 307, Aurora, Colorado 80010; telephone (303) 340-5304.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments specified above will be considered by the Administrator before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket 83-NM-34-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: There has been an occurrence in which the crew seats manufactured by AMI Industries failed during a survivable emergency landing in which occupants were injured. Additionally, TSO tests have been conducted verifying failure of the seat frame assembly at loads below the 9g. forward requirement. Investigation revealed that the seat frame assemblies were inadequately heat treated. This condition, if uncorrected, could contribute to additional occupant injury.

The crew seats initially were acquired by Beech Aircraft Corp. for installation on Model 18 series and Model 65/90 series airplanes, but may be installed in other airplanes.

Since this condition is likely to exist in other seats of the same type design, an AD is being proposed that would require installation of the seat frame braces on all applicable AMI crew seat Models 716 and 865 in accordance with AMI Service Bulletin No. 25-10-865-01. Accomplishment of this modification will correct the unsafe condition and retain the TSO authorization.

The costs that would be associated with this proposed AD are estimated to be $140 for each of 1,000 units in service. The total is estimated at $140,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the FAA proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulation [14 CFR 39.13) by adding the following new Airworthiness Directive:

AMI Industries, Inc.: Applies to AMI crew seats Model 716-1, -2, -11, -12, -21 and -22 and Model 865-1 through -9 and -11 typically found on but not limited to Beech Aircraft Corp., Model 18 Series and Model 65/90 series airplanes certificated in all categories.

Compliance required within 90 days after the effective date of this AD unless previously accomplished.

To prevent the possible failure of these crew seats reinforce the crew seat frame assembly P/N 865J10005-1 by installation of AMI Industries, Inc. seat frame brace kit P/N 865K90000-1 in accordance with AMI Industries, Inc. Service Bulletin No. 25-10-865-01, dated January 31, 1983.

An alternate means of compliance which provides an equivalent level of safety may be used when approved by the Manager, Denver Aircraft Certification Field Office, FAA, Northwest Mountain Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document: (1) Involves a proposed regulation which is not μmajor under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that his proposed rule if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on April 29, 1983.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-12322 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-30-AD]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require installation of an additional overwing emergency exit light on AMD-BA Model falcon 10 airplanes. The existing lighting system does not provide adequate illuminaton

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to permit safe evacuation of the airplane at night, as required by FAR 25.812(f).

DATES: Comments must be received on or before June 27, 1983.

ADDRESSES: The applicable service information may be obtained from AMD–BA Representative, c/o F.J.C., Teterboro Airport, New Jersey 07606, or may also be examined at the address shown below.

Submit comments to FAA, Northwest Mountain Region, 17900 pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written date, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing dat for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–30–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: Subsequent to the issuance of the U.S. type certificate for the Avions Marcel Dassault-Breguet Aviation Model Falcon 10 airplane, it was found that the exterior emergency lighting system did not provide the illumination at the overwing emergency exits required by FAR 25.812(f). The purpose of this requirement is to assure that sufficient lighting is provided for safe and rapid evacuation from the aircraft. Therefore, the manufacturer was required to correct this noncompliance item and provide a modification kit for the aircraft which have already been delivered. The corrective action consists of the installation of an additional light unit at each overwing exit. A certification test was conducted with the additional light installed and it was verified that the required illumination exists with dual lights. Avions Marcel Dassault-Breguet Aviation Service Bullentin No. F10–33–033 contains instructions for obtaining the modification kit and accomplishing the modification/installation.

Since these conditions exist on airplanes of this model registered in the United States, an AD is proposed that would require installation of an additional exterior emergency light at the overwing emergency exits on Avions Marcel Dassault-Breguet Aviation Model Falcon 10 airplanes.

It is estimated that 130 U.S. registered airplanes would be affected by this AD, that it would take approximately 45 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour. Modification parts are estimated at $100 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators would be $217,750. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Avions Marcel Dassault-Breguet Aviation: Applies to all Model Falcon 10 airplanes equipped with one Vibrachoc light, P/N 5006810100, at the L.H. and R.H. overwing emergency exit, certificated in all categories. Compliance required as indicated, unless already accomplished.

1. Within the next 250 hours time in service or 180 days, whichever occurs first after the effective date of this AD, install a second light in accordance with Avions Marcel Dassault-Breguet Aviation Service Bulletin No. F10–33–003, dated November 12, 1981.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a signficant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on April 27, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-12035 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83–ANM–3]

Proposed Transition Area; Fort Morgan, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 700 foot transition area to provide controlled airspace for aircraft executing new NDB instrument approach procedures to Fort Morgan Municipal Airport, Fort Morgan, Colorado. The intended effect of this action is to ensure segregation of aircraft using the new approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATE: Comments must be received before June 9, 1983.

ADDRESS: Send comments to: Manager, Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office, and the informal docket may be examined in the Airspace & Procedures Office, at the same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, ANM–533. The telephone number is (206) 433–1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made; "Comments to Airspace Docket No. 83–ANM–3." The postcard will be date/time stamped and returned to the commenter. All communications received before June 9, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 71.161 of Part 71 of Federal Aviation Regulations (14 CFR Part 71) because development of NDB approach procedures requires a transition area 700 feet above ground level to contain the new procedures within controlled airspace.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.161 of Part 71 of Federal Aviation Regulations (14 CFR Part 71) by establishing the following transition area:

Fort Morgan Colorado (New)

That airspace extending upward from 700 feet above the surface within a 10.5 mile radius of the Fort Morgan Municipal Airport (Latitude 40°20'00" N, Longitude 103°48'16" W); and 9.5 miles southwest to 5.5 miles northeast of the 333 true bearing (322 magnetic bearing) extending 18 miles northwest of the airport; and 9.5 miles southwest to 5.5 miles northeast of the 151 true bearing (140 magnetic bearing) extending 19 miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on April 25, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-12184 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83–ANM–1]

Proposed Alteration of Transition Area, Butte, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action establishes a 700 foot transition area at Butte, Montana. Amendment 3 to the LOC/DME Rwy 15, Standard Instrument Approach Procedure (SIAP), relocated the final approach fix to provide a lower visibility requirement on the approach. This transition area will provide controlled airspace from 700 feet above the surface to encompass a 10 nautical mile procedure turn area based on the new final approach fix.

DATE: Comments must be received on or before June 9, 1983.

ADDRESS: Send comments on the proposal to: Manager, Airspace and Procedures Branch, ANM–530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel Office and an informal docket may be examined in the Airspace and Procedures Branch at the same address.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM–535. The telephone number is (206) 433–1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ANM–1." The postcard will be date/time stamped and returned to the commenter. All communications received before June 9, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace & Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot transition area located at Butte, Montana. This proposal is necessary to provide controlled airspace for aircraft executing the LOC/DME Runway 15 approach.

List of Subjects in 14 CFR Part 71

Transition areas; Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation

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Administration proposes to amend § 71.161, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Butte, Montana

Add "That airspace extending upwards from 700 feet above the surface within a five mile radius of the Bert Mooney Airport, Butte, Montana (45° 57' N., 112° 30' W.) extending 9.5 miles southwest and 5 miles northeast of the Butte (I–BEY) localizer NW course 313 (330 m) extending 24.5 miles northwest of the airport.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle,Washington on April 25, 1983.

Wayne J. Barlow,

Acting Drector, Northwest Mountain Region.

[FR Doc. 83–12165 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 939

Extension of Comment Period for La Parguera National Marine Sanctuary and the Draft Environmental Impact Statement

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Department of Commerce.

ACTION: Proposed rule and DEIS, extension of comment period.

SUMMARY: On March 4, 1983 the availability notice for the Draft Environmental Impact Statement (DEIS) for a proposed national marine sanctuary off La Parguera, Puerto Rico was announced (FR Vol 48, No. 44, 9365) and NOAA concurrently published proposed regulations for the proposed sanctuary (FR Vol 48, No. 44, 9366). The comment period for both was scheduled to end May 2, 1983. However, because of requests from a number of interested individuals, NOAA is extending the comment period until June 2, 1983.

DATE: Commets due on or before June 2, 1983.

ADDRESS: Send comments to Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Lindelof, 202/634–4236.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: May 3, 1983.

Peter L. Tweedt,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 83–12207 Filed 5–6–83; 8:45 am]

BILLING CODE 3510–08–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9145]

General Motors Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Detroit, Mich. motor vehicle manufacturer, among other things, to provide all interested persons with service bulletins (Product Service Publications) and indexes which describe both current and potential problems and update repair procedures. GM would also be required to advertise the existence, availability and benefits of these publications in national magazines and through direct-mail notices. The indexes will list each service bulletin, provide ordering information, and contain plain language summaries of certain bulletins. Additionally, GM would be required to establish a nationwide arbitration program for car owners with unsatisfied complaints about engine or transmission failures.

DATE: Comments must be received on or before July 8, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Barbara E. Arnold, Acting Director, 4R. Cleveland Regional Office, Federal Trade Commission, Suite 500—Mall Bldg., 118 St. Clair Ave., Cleveland, OH 44114, (216) 522–4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Motor vehicles, Trade practices.

United States of America Before Federal Trade Commission

In the matter of General Motors Corporation, a corporation; Agrement containing consent order to cease and desist.

The Agreement herein, by and between General Motors Corporation. a corporation, hereinafter sometimes referred to as respondent, by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent General Motors Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3044 West Grand Boulevard, in the City of Detroit, State of Michigan.

2. Respondent has been served with a copy of the Complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45 (1980), and has filed an answer to said Complaint denying said charges. General Motors denies the acts and practices alleged in paragraphs 5 through 10 of the Complaint, and continues to deny that such acts and practices violate Section 5 of the Federal Trade Commission Act.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives: (a) any further procedural steps;

(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the Complaint issued by the Commission.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent: (1) issue its decision containing the following Order to Cease and Desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondent's address as stated in this Agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation , or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the Complaint and the Order contemplated hereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

Definitions

For the purposes of this Order, the following definitions shall apply:

A. "General Motors"—General Motors Corporation, and its successors, assigns, officers representatives, agents, and employees, acting directly or through any corporation, subsidiary, division, or other device.

B. "Vehicle"—A General Motors passenger car or light truck with a gross vehicle weight rating no greater than 10,000 pounds.

C. "Specified Components"—The following components manufactured through the date the Commission accepts the agreement pursuant to Section 3.25(f) of the Commission's Rules of Practice:

(1) THM 200 automatic transmissions;

(2) camshafts or lifters in 305 or 350 cubic-inch-displacement ("CID") gasoline engines produced in plants operated by General Motors Chevrolet Division since 1974;

(3) fuel injection pumps or fuel injectors in 350 CID diesel engines produced inplants operated by General Motors Oldsmobile Division.

D. "Dealer"—Any person, partnership, firm, or corporation which, pursuant to a Dealer Sales and Service Agreement with General Motors, purchases or receives on consignment from General Motors vehicles for resale or lease to the public, including persons, partnerships, firms, or corporations owned or operated by General Motors.

E. "Product Service Publication" ("PSP" or "Bulletin")—A document or an article in a document issued from time to time by General Motors car or truck divisions to their dealers or to dealers' employees, which describes or recommends:

(1) diagnostic, repair, or maintenance procedures;

(2) additional parts or upgraded or different replacement parts;

(3) non-repair information regarding the use and care of vehicles.

Examples of PSPs are: "Dealer Service Technical Bulletins," "Dealer Technical Bulletins;" and some articles in "Service Guild," "Service News," and "Dealer Service Information Bulletins," depending on the practice of the division issuing the PSP. The term "PSPs" includes other documents bearing different titles, but which are substantially the same in content and purpose. If a document (such as "Service News" and "Service Guild") contains several articles, any one of which describes unrelated diagnostic, repair, or maintenance procedures, then each such article shall be considered to be an individual PSP. PSPs do not include shop service manuals or parts manuals.

F. "Product Condition"—The condition of a vehicle that gives rise to any repair, maintenance, or diagnostic procedures, or that gives rise to the use of additional parts, described in PSPs.

G. "PSP Index"—A document, clear and comprehensible to prospective purchasers and vehicle owners, which has entries for all PSPs published each model year by the applicable General Motors car to truck divisions.

(1) For each entry in the PSP Index, the following information will be readily understandable:

(a) the particular model(s) and model year(s) to which the entry applies or potentially applies;

(b) the subject of the PSP;

(c) the major component or system of components to which the PSP relates;

(d) the identifying number of the PSP to which the entry relates; and

(e) how to obtain that PSP from General Motors and its dealers.

(2) The PSP Index shall contain PSP Explanatory Information, subject to the provisions of paragraph D(2) of section I, and the PSP Explanatory Information shall be appropriately referenced in the PSP Index entry, when any of the following criteria is met:

(a) the PSP describes repair, maintenance, or diagnostic procedures not previously specifically covered in the applicable shop service manual, either (i) where the cost of such procedures to a customer is reasonably expected to exceed the reference cost, or (ii) where the procedures are intended and designed to prevent future repair or replacement costs reasonably expected to exceed the reference cost; or

(b) the PSP describes revisions to repair, maintenance, or diagnostic procedures in the existing shop service manual where the revisions are intended and designed either (i) to prevent future repair or replacement costs reasonably expected to exceed the reference cost, or (ii) to reduce such costs by an amount reasonably expected to exceed the reference cost; or

(c) the PSP describes modified (including additional, different, or upgraded) parts recommendations.

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where the modification is intended and designed either (i) to prevent future repair or replacement costs reasonably expected to exceed the reference cost, or (ii) to reduce such costs by an amount reasonably expected to exceed the reference cost; or

(d) the PSP describes (i) information revising or updating owner's manuals or maintenance schedules or (ii) non-repair information regarding the use and care of vehicles by vehicle owners and operators.

H. "PSP Explanatory Information"—Information related to a particular PSP, that includes all of the following items as applicable:

(1) a description of the product condition and the engine size and transmission type (automatic or manual);

(2) a description of the major symptoms indicating the product condition;

(3) the steps or possible steps that can be taken to minimize or avoid the product condition;

(4) a statement that upgraded or different parts are called for to correct the product condition, if such is the case; if no such parts are involved, a statement that the repair or maintenance procedure discussed in the PSP has to be repeated if such is the case;

(5) a statement of the immediate and long-range performance consequences; and if avoidance of repair costs is a reason for undertaking the procedure, a statement of the estimated repair costs if known, or, if not known, a characterization of the costs of not performing the procedures in a timely manner;

(6) where available, the estimated labor time and an estimated range of retail labor rates, as well as a list of the major parts required to correct the product condition;

(7) a description of the underlying PSP(s) sufficient to permit an interested person to identify and order the PSP(s) from General Motors; and

(8) a disclosure of the primary benefit(s) of this information, if the PSP contains information not related to a product condition, such as some PSPs meeting the criteria set forth in paragraph G(2)(d) of this Definition section.

Provided, however, that for PSPs relating to use and care information or to product conditions about which General Motors notifies all affected owners directly and in writing, the owner letter may be used in lieu of PSP Explanatory information.

I. "Costs"—

1. "Reference cost" in paragraph G(2) of this Definition section means one hundred fifty dollars ($150), adjusted in the month when this Order is served and, annually thereafter, by a ratio, the numerator of which is the most recently published quarterly "Implicit Price Deflator" for the Gross National Product (IPD), and the denominator of which is the IPD for the last quarter of 1982, adjustments to be rounded to the nearest dollar. IPDs used in these annual adjustments shall have been computed using the same base year.

2. "Cost(s)" other than "reference cost" in paragraph G(2) of this Definition section shall be calculated by adding the suggested retail price for parts which are or may be required and the applicable national average dealer warranty labor rate charges multiplied by the time required to effectuate the repair, replacement, diagnosis or maintenance as determined by the labor time guide for the applicable General Motors division.

J. "Third-party Arbitration Program"—The program by which General Motors, through an impartial third-party administrator, permits any individual vehicle owner in the United States to submit an unresolved complaint for resolution by mediation, and, if mediation efforts fail, by arbitration administered by the third-party administrator.

K. "Powertrain Components"—

(1) *Gasoline and diesel engines.* Cylinder blocks and heads, and all internal parts, including camshafts and lifters, manifolds, timing gears, timing gear chains or belts and covers, flywheels, harmonic balancers, valve covers, oil pans, oil pumps, engine mounts, seals and gaskets, water pumps and fuel pumps, and diesel injection pumps; also, turbocharger housings and internal parts, turbocharger valves, seals and gaskets.

(2) *Transmissions.* Cases and all internal parts, torque converters, vacuum modulators, seals and gaskets, and transmission mounts; also, transfer cases and all internal parts, seals and gaskets.

L. "Background Statements"—Those statements included in the Special Implementing Provisions to the General Motors Zone Handbook For Third-Party Arbitration (Attachment B to this Order), title "Background Statement THM 200 Transmissions," "Background Statement Diesel Fuel Injection Systems," and "Background Statement Camshafts and Lifters."

I

It is ordered that respondent General Motors, its successors, assigns, officers, representatives, agents, and employees, acting directly or through any corporation, subsidiary, division, or other device (elsewhere in the Order, "respondent" or "General Motors"), in connection with the advertising, offering for sale, sale, or distribution of any vehicle in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. By January 1984, or by the date of service of this Order, whichever is later, failing to prepare and issue PSP Indexes for the 1982 and 1983 model years, and thereafter failing to prepare and issue PSP Indexes for each model year.

B. Beginning with the 1984 model year, failing to disclose for each model year, in a clear and conspicuous manner, in each vehicle owner manual (where it shall be itemized in the Table of Contents) published by General Motors for each of its vehicle lines:

(1) The following statement—

Updated Service Information You Can Obtain

(Division) regularly sends its dealers useful service bulletins about (Division) products. (Division) monitors product performance in the field. We then prepare bulletins for servicing our products better. Now, you can get these bulletins, too.

Bulletins cover various subjects. Some pertain to the proper use and care of your car (truck). Some describe costly repairs. Others describe inexpensive repairs which, if done timely, with the latest parts, may avoid future costly repairs. Some bulletins tell a mechanic how to repair a new or unexpected condition. Others describe a quicker way to fix your car (truck). They can help a mechanic service your car (truck) better.

Most bulletins apply to conditions affecting a small number of cars (trucks). Your (Division) dealer or a qualified mechanic may have to determine if a specific bulletin applies to your car (truck).

You can subscribe to all (Division) bulletins. This way you'll get them as they come out. You can wait a while and get an index to the bulletins. The index summarizes some of the more important bulletins. You can also get individual bulletins. However, you'll need the index to identify them.

(2) The above statement shall in addition provide at least the following information in clear and comprehensible language—

(a) Concerning indexes—

(i) Indexes list each PSP, provide ordering information for individual PSPs, and are cumulatively updated quarterly for each model year.

(ii) Indexes contain plain-language highlights and summaries of PSPs describing costly repairs, designed to prevent costly repairs, or containing owner use and care information.

(iii) They are free for model years 1982–1985; if there is a charger thereafter, it shall be credited against any charge for PSPs ordered.

(iv) Most PSPs applicable to a new car will be listed in the last quarter's index for that car's model year. Some may also appear in indexes for the next model year; and a few many appear in subsequent years.

(v) When consumers order any index, they will receive the latest applicable index for the model year of their car unless they request an index for a different model year.

(b) Concerning PSPs—

(i) The cost of individual PSPs, if any, and how to order them.

(c) Concerning subscriptions—

(i) The cost of subscriptions and how to order them.

(ii) The subscriber is entitled to all PSPs published by a division during a model year.

(d) Concerning ordering—

(i) An ordering coupon to obtain a properly identified index, PSP, or subscription.

(ii) The toll-free telephone number described in paragraph C of section II.

(iii) A statement that informs owners that they can inspect copies of the indexes and individual PSPs at a participating dealership.

(3) The following statement, which shall be made in conjunction with the statement described above, but which shall not precede disclosure of the information described in paragraphs B(2)(a)(i) and B(2)(a)(ii)—

These bulletins are meant for mechanics. They are NOT meant for the do-it-yourselfer. Mechanics have the equipment, tools, safety instructions, and know-how to do a job quickly and safely.

C. Beginning with the 1984 model year, failing to disclose, for each model year, in a clear and conspicuous manner in the principal point-of-sale catalog published by General Motors for each of its vehicle lines the following statement:

A Word About Updated Service Information

(Division) regularly sends its dealers useful service bulletins about (Division) products. (Division) monitors product performance in the field. We then prepare bulletins for servicing our products better. Now you can get these bulletins, too. Ask your dealer. To get ordering information, call toll-free ———.

D. Failing to mail, or cause to be mailed, upon written request accompanied by any applicable fee specified in section II, any of the following:

(1) Information describing PSPs, PSP Indexes, and PSP subscriptions, as well as how to obtain each;

(2) The most current PSP Index for the particular General Motors vehicle division and model year identified in the request, provided that the PSP Explanatory Information in the PSP Index may be limited to the particular vehicle make, model and model year identified in the request; or

(3) In accordance with the terms of paragraph A of section II, any specifically identified PSPs, or a subscription to all PSPs for a current model year.

Provided that, General Motors need not make available a PSP or PSP Index issued in a model year four (4) or more years prior to the model year in which the request is received.

E. Failing to mail, or cause to be mailed, upon oral request received pursuant to a toll-free telephone procedure of the kind described in paragraph C of section II. information describing (1) PSPs, (2) PSP Indexes, and (3) PSP subscriptions, as well as ordering materials or coupons which can be used to order each.

F. Failing to furnish each dealer with each PSP and all PSP Indexes, and with binders, containers, index tabs, or other materials which enhance the accessibility of such materials at each dealership. General Motors need only furnish each dealer with the PSPs and PSP Indexes related to the vehicles manufactured by the division(s) represented by that dealership.

G. Beginning with the 1984 model year, and once in each 6-month period thereafter, failing to recommend and urge, in writing, that each dealer:

(1) Place the display posters, referenced in paragraph B of section II, in conspicuous and accessible locations within the dealers' showrooms, service waiting areas, service payment areas or parts departments, and request replacement posters from General Motors, as needed;

(2) Provide to requestors, in a form which may be retained, the PSP Index for a particular vehicle, make, model, and model year, and provide specifically identified PSPs and information how to order subscriptions to all PSPs for a particular model year, free or on reasonable terms; and

(3) Provide members of the public with ready access to the PSPs and PSP Indexes furnished to those dealers.

H. Failing to include detailed information regarding General Motors third-party arbitration program described in section IV, and the PSP program described in this section, in ongoing training programs and training materials for dealers on subjects related to service and customer relations, beginning not later than one hundred and eighty (180) days after service of this Order and continuing for the duration of this Order.

I. Failing to continue General Motors program of issuing PSPs in a manner comparable to the program as it existed during the period 1976 through 1981. Such program shall continue to take into account criteria for issuing PSPs such as frequency, repair, cost, and significance of product conditions.

J. Failing to prepare and issue an entry in the PSP Index for each PSP issued, and to include such entry in an updated PSP Index. PSP Indexes must be cumulatively updated quarterly for each model year, and must include no less than all PSP index entries for all PSPs issued between the start of the model year and one month prior to the update, provided that there must be one PSP Index for each model year that includes an entry for every PSP issued in that model year. The updated PSP Indexes must be forwarded to dealers and be available from General Motors within four months after issuance to dealers of any PSP which was not included in a prior Index.

It is further ordered that:

A. Beginning with the 1984 model year, General Motors shall implement a program whereby each person may obtain specified PSP Indexes, individual PSPs, or yearly subscriptions to all PSPs issued for a particular General Motors division in a model year. Subject to the limitations of this section, General Motors may, at its option, impose a reasonable charge. Any charge for a PSP Index must be credited toward the initial purchase of PSPs themselves. The maximum charges shall be as follows:

(1) For PSP Indexes ordered in

(a) Model years prior to 1986, no charge;

(b) Model years 1986 through 1988, a charge not to exceed two dollars ($2.00) per any PSP Index;

(c) Model years 1989 and thereafter, a charge not to exceed three dollars ($3.00) per any PSP Index.

(2) For individual PSPs ordered in

(a) Model years prior to 1986, a charge not to exceed three dollars ($3.00) for the first PSP requested in each order and one dollar ($1.00) for each additional PSP requested in that order;

(b) Model years 1986 and thereafter, a charge not to exceed four dollars ($4.00) for the first PSP requested in each order

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and two dollars ($2.00) for each additional PSP requested in that order.

(3) For PSP subscriptions for a given model year, a charge not to exceed reasonable cost or equal to the charge (if any) to dealers.

B. In the 1986 model year, General Motors shall furnish to each of its dealers three display posters at least 24" x 36" in size promoting the existence, availability, and benefits of General Motors PSPs and PSP Indexes. Thereafter, General Motors shall furnish additional copies of these posters upon request by any dealer.

C. Within thirty (30) days after the date of service of this Order, General Motors shall establish and maintain a toll-free telephone system designed to accommodate the volume of telephone calls which result from the disclosures made pursuant to this Order. Said system shall provide that, after obtaining the caller's name and address, the person receiving the call shall cause to be mailed to the caller the materials described in paragraph E of section I or paragraph E of section IV as appropriate. If the materials described in paragraph E of section I are to be sent, General Motors shall instruct the person receiving the call to state that the caller's dealer may have PSPs and PSP Indexes available for the caller's convenience.

III

It is further ordered that:

A. At least four (4) times in the 1984 model year and two (2) times in each model year thereafter, General Motors shall place and cause to be disseminated four-color, full-page advertisements in national magazines. Each time such advertisements are placed, the magazines must have a combined total non-duplicated readership (i.e., "net reach") of at least seventy-five million (75,000,000) adults, as measured or verified by an outside organization generally recognized as competent and experienced in this field and used by General Motors or its advertising agencies for other advertising research. The demographic characteristics for the combined readership of the magazines selected for such advertisements must be generally representative of the demographic characteristics of the population of owners and potential purchasers of General Motors vehicles. Such advertisements may be tied into existing advertising themes, but most be devoted exclusively to explaining and promoting the existence, availability and benefits of PSPs and PSP Indexes. In addition, such advertisements must disclose that PSP Indexes are free, if such is the case; must prominently show the toll-free telephone number required by paragraph C of section II; and must include an order form to obtain PSP Indexes.

B. At least two (2) times in the 1984 model year, two (2) times in the 1985 model year, and three (3) times in each model year thereafter, General Motors shall place and cause to be disseminated full-page advertisements in national magazines. Each time such advertisements are placed, the magazines must have a combined total non-duplicated readership (i.e., "net reach") of at least seventy-five million (75,000,000) adults as measured or verified by an outside organization generally recognzed as competent and experienced in this field and used by General Motors or its advertising agencies for other advertising research. The demographic characteristics for the combined total readership of the magazines selected for such advertisements must be generally representative of the demographic characteristics of the population of owners and potential purchasers of General Motors vehicles. Such advertisements must contain a principal message devoted to explaining and promoting the existence, availability, and benefits of General Motors third-party arbitration program provided for in sections IV and V, and must conspicuously disclose the toll-free number required by paragraph C of section II. Each advertisement placed after the date of execution of this Order and before the date of service of this Order, if such advertisements meet all the requirements of this paragraph but for the fact that the advertisements were placed prior to the date of service of this Order, shall reduce on a one-for-one basis the requirement to place advertisements during the last three (3) years of the duration of this Order.

C. (1) Prior to the placement of the first advertisement required by paragraph A, and prior to the placement of any subsequent advertisements differing substantially in content or format from that first advertisement, General Motors shall conduct copy testing of such advertisement(s). The copy testing shall be based on monadic interviews (such as the "mall intercept" procedure) of subjects screened and selected so as to be representative of owners of General Motors vehicles purchased new, and shall be designed and implemented in accordance with General Motors usual procedures for such testing under the direction of an outside research organization or consultant generally recognized as competent and experienced in this field and used by General Motors for other advertising research. Said organization or consultant shall submit to General Motors a report on the effectiveness of the tested advertisement, and said advertisement shall meet General Motors obligations under this section if said report concludes that the advertisement, measured in relation to advertisements for comparable automotive product information, effectively communicates:

(a) That General Motors makes information available to consumers, for 1982 and subsequent model years, which describes or recommends diagnostic, repair, or maintenance procedures for product conditions, or contains information about the use and care of vehicles; and

(b) How consumers can obtain PSP subscriptions and PSP Indexes.

Unless otherwise specified by this Order, the testing of advertisements described in this paragraph shall adhere to the standards set forth in "PACT: Positioning Advertising Copy Testing (A Consensus Credo representing the views of leading American Advertising Agencies)," dated January 1982.

(2) Prior to the placement of the first advertisement required by paragraph B, and prior to the placement of any subsequent advertisements differing substantially in content from that first advertisement, General Motors shall conduct, or cause to be conducted, copy testing of said advertisement(s) using a population representative of owners and potential purchasers of General Motors vehicles, and employing a so-called "Group-Depth Interview" or "Focus Group" method of copy testing, designed and implemented in accordance with General Motors usual procedures for such research under the direction of an outside research organization or consultant generally recognized as competent and experienced in this field and used by General Motors for other advertising research. Said organization or consultant shall submit to General Motors a report on the effectiveness of the tested advertisement(s), and the advertisement(s) shall meet General Motors obligations under this paragraph if, on the basis of said report and applying criteria customarily applied to General Motors service advertising or advertising for comparable complaint resolution programs, the advertisement(s) effectively communicates:

(a) That General Motors is offering to submit complaints concerning its vehicles to a third-party arbiter; and

(b) How consumers can obtain information about the third-party arbitration program.

D. Beginning with the 1984 model year, in any proprietary magazine sent by General Motors vehicle divisions to a primary target audience of division vehicle owners, General Motors shall annually include a full-page advertisement containing the disclosure statements set forth in paragraph B of section I, or the substantial equivalents thereof, concerning the same information.

IV

It is further ordered that:

A. General Motors shall implement a nationwide third-party arbitration program to settle complaints of individual owners relating to powertrain components.

B. Such third-party arbitration program shall be binding on General Motors, but nonbinding on consumers unless a consumer elects to accept an arbitration award.

C. Such third-party arbitration program shall be conducted in accordance with (1) the Uniform Rules for Arbitration published by the Better Business Bureau; (2) the Zone Handbook for Third-Party Arbitration (Attachment A to this Order), as modified by the special implementing provisions (Attachment B to this Order); and (3) the General Motors Consumer Arbitration Handbook (Attachment C to this Order). The special implementing provisions (Attachment B to this Order) shall not be modified without prior Commission approval insofar as the provisions apply to arbitration involving specified components. For two years after date of service of this Order, such third-party arbitration program shall be conducted at no charge to the consumer by General Motors or the third-party arbitrator. Thereafter, no charge shall be imposed on consumers by General Motors or the third-party arbitrator that exceeds charges specified in the Uniform Rules of Arbitration published by the Better Business Bureau. The General Motors Consumer Arbitration Handbook (Attachment C to this Order) shall effectively communicate that if a consumer accepts an arbitration award, the consumer cannot seek reimbursement from General Motors for the same problem through the use of other legal proceedings.

D. Such third-party arbitration program shall be fully operational in the cities identified in Attachment D no later than sixty (60) days after the date of service of this Order, and thereafter expanded as demands on the program may require to resolve consumer complaints expeditiously. The expansion shall be designed and implemented so that owners who elect to arbitrate complaints about specified components can obtain their arbitration hearing within sixty (60) days of their election (exclusive of periods of delay attributable to the consumer) unless extraordinary circumstances justify a longer period in individual instances.

E. General Motors shall mail or cause to be mailed, either upon written request or oral request received pursuant to a toll-free telephone procedure of the kind described in paragraph C of section II, a handbook explaining the details of General Motors third-party arbitration program (Attachment C to this Order).

F. General Motors shall include in a letter to each dealer, once in each 6-month period, a clear and conspicuous reminder to dealers regarding disclosure of the availability of General Motors third-party arbitration program.

V

It is further ordered that:

A. Within sixty (60) days after the date of service of this Order, General Motors shall contact, by first-class mail, each attorney general's office (or such other office as may be appropriate) of the fifty states and the District of Columbia, and shall:

(1) Provide each such office with a copy of this Order.

(2) Describe General Motors third-party arbitration program.

(3) Describe the PSPs and PSP Indexes and explain how consumers can obtain them.

(4) Inform each such office that General Motors will, if the appropriate office wishes, notify by first-class mail each person who has complained to that office about a specified component, and that General Motors will provide that person with:

(a) Information about the availability of General Motors third-party arbitration program;

(b) One or more of the appropriate Background Statements when any specified component has been identified; and

(c) Information about PSPs and PSP indexes and how to obtain them.

(5) Request that each such office provide General Motors with (a) a copy of each complaint concerning a specified component; or, at the option of that office, (b) the owner's name and address, and the identity of the specified component or components.

(6) Inform each such office that General Motors will also send, by first-class mail, a notice to any person who has complained to any other state or local law enforcement or consumer affairs office about a specified component, and urge such office to encourage state and local law enforcement or consumer affairs offices to forward to General Motors either copies of such complaints, or, at the option of the forwarding office, a list of the names, addresses and the identity of the specified component or components.

B. Within sixty (60) days after receipt of any complaint or the complainant's name and address, from any office solicited pursuant to paragraph A of section V, or any complaint concerning a specified component or the complainant's name and address from the Federal Trade Commission, General Motors shall send to that complaintant, by first-class mail:

(1) One or more of the appropriate Background Statements when any specified component has been identified;

(2) A statement which clearly and conspicuously discloses information about the availablity of General Motors third-party arbitration program, including the statements contained in Attachment E;

(3) A statement which clearly and conspicuously discloses information about the availability of PSPs and PSP Indexes.

C. Within sixty (60) days after the date of service of this Order, General Motors shall send by first-class mail to any person who has an open or unsatisfactorily resovled complaint and who, prior to the date of service of this Order, had notified General Motors about a specified component, and whose name and address have been retained by General Motors, the information contained in paragraphs B(1), (2), and (3) above.

D. Within thirty (30) days of service of this Order, General Motors shall provide to appropriate General Motors employees, including employees at the zone offices and headquarters of the car and truck divisions who have responsibility for receiving and responding to consumer complaints, written instruction stating that all consumers who identify a specified component in any oral or written complaint received after the date of service of this Order must be sent, by first-class mail, a letter providing the information contained in paragraphs B (1), (2), and (3) above.

E. General Motors shall obtain, maintain, and retain for a period of four (4) years from the date of service of this Order, the following records for specified components:

(1) The results of each mediation pursuant to the procedure described in section IV including the terms of any settlement and, where available, the

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terms of any proposed settlement of a complaint;

(2) Copies of each arbitration decision, including, where available, the reasons for the decision; and

(3) Documents showing all requests for arbitration made by vehicle owners, the dates of such requests, and the dates of all arbitration hearings.

VI

It is further ordered that sections I, II, III, IV and V of this Order shall expire eight (8) years after the date of service of this Order; *provided*, that if at any time during which said sections remain in effect, the Commission issues a final trade regulation rule imposing obligations on the automobile industry comparable to those imposed under any such section(s), such section(s) shall terminate upon the effective date of such rule, and, in such event, General Motors shall advise the Commission of its intention to rely upon any such rule as having terminated and superseded such section(s) of this Order thirty (30) days in advance of reliance thereon; *provided further*, that if at any time during which such section(s) remain in effect, the Commission issues a final guide under Sections 1.5 and 1.6 of the Commission's Rules of Practice imposing obligations on the automobile industry comparable to those imposed under any such section(s), then the Commission shall, upon General Motors motion or upon the Commission's own motion, reopen this proceeding within one hundred twenty (120) days of such motion, and, within a reasonable time thereafter, vacate any such section(s) of this Order, unless the Commission finds that such action is not required by changed conditions of law or fact or is not in the public interest; and *provided further*, that nothing herein shall preclude General Motors at any time from moving the Commission to alter, modify, or set aside this Order under the Commission's Rules of Practice.

VII

It is further ordered that:

A. General Motors shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

B. General Motors shall, with one hundred twenty (120) days after the implementation of the PSP program pursuant to section I of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which General Motors has complied with this Order.

C. During the time that sections I, II, III, IV and V remain in effect, General Motors shall retain and transmit to the Commission upon reasonable request:

(1) A copy of each PSP Index required by paragraphs A and J of section I, and a copy of each PSP;

(2) Copy-test results of advertisements disseminated pursuant to section III; and

(3) A copy of each poster furnished to dealers pursuant to paragraph B of section II.

D. Once during the term of this Order, General Motors shall file with the Commission a report, in writing, setting forth in good faith its best estimates of:

(1) The costs and benefits, to General Motors and to the public, of the obligations imposed by this Order; and

(2) The extent to which dealers have displayed posters furnished to them pursuant to paragraph B of section II and have provided access to PSPs and PSP Indexes furnished by General Motors as required by paragraphs A and J of section I.

Said report shall be filed within six (6) months of General Motors receipt of a request therefor from the Commission or its staff, and shall cover the period from the date of service of this Order until the date of said request. General Motors shall make available for inspection upon reasonable notice by authorized representatives of the Federal Trade Commission, all underlying documents and data relating to the "cost and benefits" portion of said report and used in the preparation of said report. If copies of any such materials are requested by Commission representatives, General Motors may, at its option, either make such materials available to such representatives for copying purposes, or provide copies at either (a) rates the Commission charges for copies of materials released pursuant to the Freedom of Information Act, or (b) General Motors costs, whichever is lower.

E. General Motors shall retain records relative to the manner and form of its continuing compliance with sections I, II, III, IV and V for a period of three (3) years, and make said records available for inspection upon reasonable notice by authorized representatives of the Federal Trade Commission. If copies of any such records are requested by such representatives, General Motors may, at its option, either make such records available for copying purposes or provide copies at either (a) rates the Commission charges for copies of records released pursuant to the Freedom of Information Act, or (b) General Motors costs, whichever is lower.

F. During the time that sections I, II, III, IV and V remain in effect, General Motors shall notify the Commission prior to any change in General Motors corporate structure, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

It is further ordered that the provisions of this Order shall be limited in their application to the United States.

BILLING CODE 6750-01-M

INTRODUCTION

For the past few years, the National Football League has wrestled with the subject of providing some form of appeal on official judgment decisions in close calls. To this date, the experts are saying that football is a sport and the breaks and calls will average out over the course of a game or season. To question the official's judgment, they say, would create havoc on the field. No one has disputed the fact that some calls, although sound in judgment at the time, are in fact incorrect when viewed from a different angle. Our position in Consumer Relations is not totally unlike the situation in this country's favorite spectator sport. The consumer expects and is now more than ever demanding avenues of appeal on decisions that do not appear to the consumer to be fair or in keeping with what he or she feels is General Motors obligation. Unlike football, vehicle ownership and maintenance is not a sport and our consumer handling cannot be averaged over the course of the season.

General Motors and the Better Business Bureau have developed a program for third party arbitration. You are possibly aware that the Magnuson-Moss Act recommends an arbitration system. Some very interesting results have been obtained from our pilot test and while we resist considering any consumer contact on a win or loss basis, we feel that the additional time that has been spent by the dealers and divisional personnel has made winners of us all. During the period of the arbitration tests to date, consumer complaints reaching the divisional central offices have either declined more sharply than the divisional average or have bucked the trend and decreased while the divisional average increased. Obviously, the consumer's need for an avenue of appeal has been answered.

Attachment A—General Motors Zone Handbook for Third-Party Arbitration

Customer Service

ZONE HANDBOOK
FOR THIRD PARTY ARBITRATION

This "Zone Handbook For Third-Party Arbitration" shall be supplemented to include the provisions of Attachment B to the "Agreement Containing Consent Order to Cease and Desist" (FTC Docket No. 9145) herein shall be deleted or modified as necessary to conform this handbook with the requirements of the Consent Order.

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TWENTY QUESTIONS (AND ANSWERS) ABOUT CONSUMER ARBITRATION

BBB

THE COUNCIL OF BETTER BUSINESS BUREAUS, INC.
1150 17TH STREET, N.W. WASHINGTON, D.C. 20036

1
What is consumer arbitration?

Consumer arbitration is a simple and economical procedure whereby a businessman and his customer may submit their dispute to an impartial third party for resolution. Arbitration is an alternative to lengthy, costly court action, but it is available only when all other means of settling the disagreement, such as mediation by a Better Business Bureau, have failed. BBBs will not arbitrate criminal violations, damages which go beyond the actual service or product involved, and issues that may not be arbitrated under the law.

2
How does consumer arbitration work?

When all informal attempts to resolve a customer's complaint have been futile, the BBB may suggest arbitration, or one of the parties may initiate a request for arbitration. If both the business and the customer agree, the Bureau will take the administrative steps necessary for arbitration.

3
Who will actually perform the arbitration?

The Bureau maintains a pool of volunteer arbitrators chosen from all segments of the community. Members of this pool will serve as Arbitrators. A list of possible Arbitrators, plus biographical sketches, will be sent to both Parties to the arbitration. Each party will cross off names of those considered unacceptable and assign a priority to those remaining. The preference of the Parties will determine who is chosen to arbitrate, and no Arbitrator will be selected if rejected by either Party. For some low-cost disputes utilizing a preselected arbitration panel, the Parties may object to individual members of the panel if there is reason to believe they will not act impartially.

4
What if the Parties cannot agree on who shall arbitrate?

If no Arbitrator is acceptable to both Parties, each will select one Arbitrator who then will select a third who shall serve as chairman. When there are three arbitrators, the majority shall decide all questions.

5
Are the Arbitrators impartial?

Nobody can ensure the impartiality of any person, but the process of arbitration is time-tested to assure optimum impartiality. The Arbitrators are not paid for their efforts. They perform their duties as a public service. Not only will each Party receive a biographical sketch of each Arbitrator, but all Arbitrators are required to disclose, as a condition of accepting appointment, any financial, commercial, professional, social or familial relationships with any of the Parties or their counsel. Although the BBB receives the bulk of its funding from local businesses, the arbitration process is conducted independent of the BBB, which has only an administrative role.

6
Would the Customer or Business be better off going to court?

In many areas, courts suffer from over-loaded dockets, and there is delay in resolving any dispute. Arbitration is a speedy procedure. It can be instituted in a short period of time, with most hearings usually lasting no more than an hour. Going to court may require hiring an attorney, but anyone can represent himself in arbitration. One may be represented by a lawyer in an arbitration proceeding, but the non-legal, informal nature of such a proceeding usually makes a lawyer unnecessary. Most important, an arbitration proceeding gives a better forum than most small claims courts. It is a private matter with no onlookers (unless the Parties permit it), a judge chosen by the Parties, and a flexible process throughout.

7
What does arbitration cost?

The administrative costs of arbitration, including inspection and technical witnesses, will be borne by the Better Business Bureau, although in some cases a refundable performance bond will be required to insure the presence of the Parties. The costs of other witnesses, attorneys' fees, and a transcript or recording of the proceedings, if desired, will be borne by the Party requesting same.

8
Where and when will the arbitration be held?

The arbitration hearing will be held at a time and place convenient to the Parties and Arbitrator, such as an evening or weekend. Often the BBB maintains a room that is appropriate for conducting arbitration hearings. Hearings have been conducted at the site of a home improvement job and in a garage where an auto repair issue was in dispute.

9
What is an inspection and why should an inspection be advantageous?

An inspection is an added feature of arbitration whereby the repair job, construction site, product or service is actually seen and evaluated by the Arbitrator, usually with both Parties present. This procedure is particularly suited to disputes involving the quality of workmanship and is not usually available in court.

10
What if the subject matter of the dispute is highly technical?

For disputes requiring technical expertise beyond the capacity of the Arbitrator, an expert witness is called in to the inspection or hearing, or the product is submitted to an independent testing laboratory. In such cases, the normal and reasonable costs will be borne by the BBB.

11
Once the arbitration agreement is signed and returned, can either Party back out?

Under most state laws, an agreement to arbitrate is binding on both parties, with either party given the right to compel the other by filing in court action to go through with the arbitration. However, it is the policy of the BBB to encourage the performance of voluntary agreements to arbitrate and to conduct its arbitration program as a community service. The emphasis is placed on the voluntariness of the proceedings.

12
What if the dispute is settled after the arbitration agreement is signed, but before the Award is rendered?

A fundamental purpose for establishing a consumer arbitration program is to resolve disputes. Thus, if the Parties settle their case before an Award is rendered, even if a hearing has been held, the arbitration process is suspended. Upon written notice signed by each party that an agreement has been reached the proceedings are terminated. In a typical program, it is not unusual for the parties to settle their case after they have agreed to arbitrate.

13
What is the nature of an arbitration hearing?

The arbitration hearing is conducted in an informal manner with each party given full opportunity to present his arguments and evidence. All Parties and witnesses are sworn to tell the truth by the Arbitrator who may, in most states, administer oaths. The Arbitrator, too, is often sworn in prior to the hearing, often by a Notary Public. Parties are encouraged to limit their proofs to reliable and relevant materials. Where possible, original copies of contracts and other documents should be brought along, together with eye-witnesses, if any. Cross-examination of witnesses will be permitted. Although the atmosphere is informal, decorum and proper courtesy are required at all times. The hearings are not restricted as to time, and the Parties are encouraged to tell their full story without necessary repetition.

14
Who can attend the hearing?

Only those persons having a direct interest in the controversy may attend a hearing, although the Parties may agree to allow the presence of others. Arbitration is a private proceeding, unlike a court hearing.

15
Can the Parties contact the Arbitrator outside the hearing?

No communication between the Parties and the Arbitrator is allowed except at the hearing or inspection. All other communication regarding the case must be directed to the BBB, which will transmit it to an Arbitrator and the other Party. This rule is to ensure that no Party attempts to persuade or influence an Arbitrator without the knowledge of the other party.

16
What is an Award?

An Award is the decision of the Arbitrator. Unlike most small claims court decisions, it is in writing and it disposes of all issues in a manner to achieve a final wrap-up of the dispute. A "split award" is one that decides in part for and against both Parties.

17
How is an arbitration Award enforced?

In most states, an arbitration Award is enforced by the court. This means that a written Award, signed by the Arbitrator, may be taken to court and enforced as if it were a judgment or order of the court, all without a rehearing of the case.

18
May an Award be attacked in court?

In rare circumstances, an Award may be subject to successful attack in court. To set aside an Award one must show that it was procured by corruption, fraud, misconduct, or gross partiality on the part of the Arbitrator. If an Award goes beyond the issues in dispute, it may be set aside also.

19
Can an Award be modified or corrected without going to court?

Yes. When the Arbitrator deems it necessary, an Award may be corrected or modified where there was an evident miscalculation or mistake of fact not learned until after the Award was initially rendered.

20
Are there any advantages for businesses to include arbitration clauses in their contracts?

Numerous businesses have arbitration clauses in their customer contracts and many other businesses have precommitted themselves to arbitration if they or the BBB cannot resolve a dispute. Contractors have found, for example, that an arbitration clause in their home improvement contract is a good selling tool. Many businesses want to advertise their participation in a BBB program, and they may not do so unless they are precommitted to arbitration. Also, reports given to the public by the BBB will indicate which businesses are precommitted to arbitration.

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ARBITRATION

A NATIONAL PROGRAM OF DISPUTE RESOLUTION

NATIONAL PROGRAM OF CONSUMER ARBITRATION THROUGH THE BETTER BUSINESS BUREAUS

UNIFORM RULES FOR BETTER BUSINESS BUREAU ARBITRATION

1 Definitions

A **"Arbitration"** is a legal process in which two or more persons agree to let an impartial person finally decide their dispute.

B **"You,"** as used in these rules, means one of the parties involved in the dispute being arbitrated.

C **"BBB"** means the Better Business Bureau which is administering the arbitration.

D **"Arbitrator"** refers to the individual or panel selected to conduct the arbitration and make a final decision in the dispute.

E **"Disputes"** which may be arbitrated under these rules include any disagreements between a business and its customer relating to a transaction in the marketplace. These disputes do not include alleged criminal violations or matters which may not be arbitrated under the law. Unless you otherwise agree, these disputes also will not include claims that go beyond the actual price of the product or service involved such as loss of wages, mental anguish, personal injuries, punitive damages or consequential damages relating to the sale or service transaction. A decision as to whether your dispute or any part of your dispute is arbitrable under these rules or is one within the scope of your agreement to arbitrate rests solely with the BBB.

2 Application of These Rules

These rules apply to any dispute which you agree to arbitrate through the BBB. You must accept these rules when you sign an agreement to arbitrate; however, the BBB will not arbitrate your dispute until its normal complaint handling procedures have been exhausted.

3 The State Law

The law of the state where your dispute is arbitrated shall apply.

4 Beginning Arbitration

If the BBB's efforts to resolve your dispute have been exhausted, the BBB may suggest arbitration to you, or you may request the BBB to start an arbitration, or you may already have signed a prior agreement with the BBB to arbitrate a dispute that cannot be resolved by other means. The BBB will prepare an arbitration agreement stating the issues to be arbitrated for you and the other parties to the dispute to sign. If you agree with the issues to be arbitrated under this agreement, you should sign the agreement and return it to the BBB within five days of receiving it unless the BBB gives you additional time. If you disagree with the issues as stated in the agreement, let the BBB know and it will try to resolve any conflicts. Your failure to return the arbitration agreement within five days will be considered a rejection of arbitration. Exception: If you have signed a prior agreement to arbitrate with the BBB, your failure to mail the agreement in five days will be considered an acceptance of the stated issues. When the BBB has received the agreement from all parties to a dispute it will begin the arbitration process.

5 Selecting Your Arbitrator

The BBB will maintain a pool of volunteers, who reflect, to the extent possible, the total community. The Arbitrator will be selected from this pool in the following manner:

A. The Single Arbitrator

The BBB will provide you and the other parties with an identical list of five Arbitrators chosen from the volunteer pool, together with brief biographies of each. After receiving this list you will have five days to cross off any name considered unacceptable and to assign priorities (#1, #2, #3, etc.) to those remaining. If you do not mail the list in five days, the BBB will assume all names are satisfactory to you. The BBB will select the Arbitrator on the basis of the highest priority common choice of the parties and availability. If no Arbitrator on the list is acceptable to all the parties, the BBB normally will send out a new list.

B. Three-Person Panel

At the option of the BBB or where the state law requires, a panel of three Arbitrators may decide your dispute. The selection process is the same as above, except your first choice, if available, and the first choice of any other party will pick a third Arbitrator who has not been rejected by you. The person so selected will chair the hearing, and the decision in your dispute will be by a majority vote of the panel. If your first choice is the same person chosen first by the other parties, that individual will chair the panel and the second or third choices of the parties will constitute the other two panel members.

C. Alternate Procedures

When state law permits, variations of these selection procedures may be used by the BBB; however, any alternate procedure must give you a choice of the Arbitrator.

6 Facilities and Costs of Arbitration

The BBB will provide or arrange for facilities to hold your arbitration hearing and it will maintain all of your arbitration records. If you want a record of proceedings or if you bring your own lawyer or witnesses, you are responsible for these costs.

7 Communicating with the Arbitrator

You may not have any direct communication with the Arbitrator about your dispute unless all other parties are present or have given written permission for you to do so. Any communications for the Arbitrator must be sent through the BBB, which will relay them to the Arbitrator with copies to the other parties to the dispute. Except for your notice of hearing or inspection, all BBB communications to you will be by regular mail or by other reasonable means, subject to state law requirements.

8 The Arbitrator's Appointment and Oath

The BBB will send the Arbitrator a notice of appointment, together with a copy of your agreement, these rules, and any other appropriate material relating to your dispute. The Arbitrator must sign a special oath and give this to the BBB together with a disclosure of relationships with any parties to the dispute.

9 Disqualifying Arbitrators; Filling Vacancies

Before signing the oath pledging to make a fair decision in your dispute, the Arbitrator must disclose any financial, competitive, professional, family or social relationship, however remote, with you or any other party to your dispute. If the relationship is such that a fair decision cannot be made, the Arbitrator will refuse to serve. All other disclosures should be given by the Arbitrator to the BBB which will let you know about them and give you an opportunity to accept or reject the Arbitrator, depending on how you believe the disclosure might affect the Arbitrator's decision. The BBB, too, may reject an Arbitrator on the basis of such disclosures. If the Arbitrator is rejected, the selection process described in Rule 5 will be repeated.

10 Representation by a Lawyer

In an arbitration hearing you may argue your own case or have someone represent you. If your representative is a lawyer, you must give the lawyer's name and address to the BBB at least seven days before the hearing so the BBB can inform other parties in the dispute and give them an opportunity to get a lawyer if they wish.

11 Inspection

Before the hearing, either you or the Arbitrator may request an inspection of the product or service involved in the dispute. The Arbitrator will have the final decision on whether or not to conduct an inspection. If the Arbitrator decides an inspection is desirable, the BBB will be informed and a notice of inspection will be sent to you at least seven days in advance by certified mail (return receipt requested) or by other methods permitted under state law. If you or your representative cannot attend, you will be given an opportunity to comment on any of the observations made at the inspection.

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12 Experts

At the request of the Arbitrator, the BBB will make every effort to obtain a neutral volunteer expert to inspect the product or service at issue in your dispute. At the BBB's option, the expert's findings will be presented in writing or in person at your arbitration hearing. At the hearing, you will have an opportunity to evaluate and comment on the qualifications of the expert and any findings made by the expert.

13 Hearing Dates; Notice of Hearing

When the Arbitrator has agreed to serve, the BBB will set a time and place for your conference and that of the Arbitrator. Notice of your hearing will be sent to you at least seven days in advance by the BBB by certified mail (return receipt requested) or by other methods approved by state law. If you object to the time or place stated in your notice, contact the BBB immediately and let them know. If you do not object, or if you come to the hearing, your acceptance of the notice will be assumed.

14 Waiver of Oral Hearing

If you decide not to appear personally or to be represented by someone else at your hearing, you may send the BBB a written statement of your case together with any written evidence you may have. Or the BBB, at its option, may make other arrangements to have your statement and evidence presented. In any arbitration where you do not appear personally, the Arbitrator will set deadlines for you to send to the BBB your written statement and any evidence. The Arbitrator's final decision will be made within ten days of this deadline.

15 Attendance at Hearings

Unless you otherwise agree in writing, only those with a direct interest in your dispute, including your lawyer and witnesses, may attend the hearing. The Arbitrator has the option of either permitting your witnesses to be present for the entire hearing or to appear only for their testimony.

16 Absence of a Party

If you fail to come to a hearing after accepting notice, the Arbitrator may decide to hold the hearing in your absence. Your absence does not mean the Arbitrator will automatically decide against you. The Arbitrator may, however, give you the right to present your statement and any evidence in writing within a set time.

17 Transcript of Hearing

If you pay all costs, the BBB will arrange to make a transcript of the hearing; however, the other parties and the Arbitrator must be given access to this transcript. At the request of the Arbitrator and at no cost to you, the BBB may record the proceedings and provide a tape to the Arbitrator to assist in making a decision.

18 Interpreters

If you need an interpreter for your arbitration and cannot provide your own, contact the BBB and it will make every effort to find a volunteer interpreter. You would be responsible for interpreter fees, if any.

19 Oaths

The Arbitrator will sign a special notarized oath before your hearing. You and your witnesses may be placed under oath at the hearing, except in instances where this procedure is not required by the BBB and state law.

20 Hearing Procedures

The Arbitrator will decide on the order and procedures for you to present your side of the dispute. You will be given an opportunity to make a personal presentation of your case, as well as present any witnesses and evidence in support of your case. You also may question the other parties, their witnesses and their evidence. After everyone has given their presentation, you will be given an opportunity to make a closing statement. When the Arbitrator is satisfied that all testimony and evidence have been presented, your hearing will be closed.

21 Admission of Evidence

You may give your presentation and evidence in an arbitration hearing without being restricted by the usual rules of evidence, and the Arbitrator will decide how relevant or meaningful it is in making a final decision. The Arbitrator may restrict your presentation if it is repetitious or not related to the dispute.

22 Incomplete Hearings

If the Arbitrator considers it necessary for a fair decision, new or additional hearings may be scheduled in your dispute. After your hearing has been closed by the Arbitrator, you may request that it be reopened to consider matters not raised at the original hearing, if the Arbitrator has not yet made a decision. Your request must be sent to the BBB, and copies will be sent to any other parties. The Arbitrator will make the final decision on whether to reopen the hearing or not.

23 Subpoena Powers; Depositions

If you have a reason to believe the other side will not bring to the hearing certain witnesses or evidence which you consider important to a full and fair consideration of your dispute, you may send the BBB a request that the Arbitrator subpoena or direct the bringing of such witnesses or evidence. If the Arbitrator agrees with your request, such a subpoena or directive will be sent according to state law. Where state law permits, the Arbitrator may also authorize the taking of depositions, by which you may ask questions of other parties' witnesses who cannot attend the hearing; however, you must pay for the cost of such depositions.

24 Affidavits

The Arbitrator also may permit written statements, made under oath and notarized, instead of oral statements.

25 Waiver of Rules

If you believe that any part of these rules has not been followed, you must object in writing to the BBB before the Arbitrator makes a final decision, or your objection will not be considered.

26 Change of Time

You and any other parties to your dispute may agree to change any period of time stated in these rules.

27 The Decision

A. **Time.** The Arbitrator must write a final decision no later than ten days after your hearing is closed and the BBB may request this time to be reduced in some cases. If you have been asked to furnish or wish additional materials relating to your dispute, the Arbitrator will set a time for these materials to be sent to the BBB and a final decision will be made ten days after they are received. The BBB will send you a copy of this decision by certified mail or by other means permitted by state law.

B. **Scope.** The Arbitrator may make any decision, which the Arbitrator deems to be fair and equitable within the scope of your agreement to arbitrate, provided state law does not prohibit all or part of that decision.

C. **Modifying the Decision.** If you believe the final decision is impossible to perform, or that it contains a mistake of fact or miscalculation, or that it is otherwise imperfect in form, you should notify the BBB in writing. The BBB will share your observation with the other parties and forward it, together with their views, to the Arbitrator who may accept it in whole or in part or reject it altogether.

D. **Settlement.** If you and the other parties voluntarily decide to settle your dispute before the hearing, the settlement will end your dispute and no hearing will be held. If your voluntary settlement occurs during the hearing, you may ask the Arbitrator to reflect the settlement in the final decision. If your settlement occurs after the hearing but before the Arbitrator's final decision, be sure to notify the BBB at once.

E. **Form and Filing.** The Arbitrator will make the final decision in writing and it will be notarized before the BBB duplicates it and sends a copy to you and any other party. If state law so requires, the BBB will also assist you in filing a copy of the decision with the proper court if you wish. The Arbitrator and the BBB will not make any public disclosure of the decision unless you and all other parties agree in writing.

28 Interpretation of Rules

The Arbitrator will interpret these rules and your agreement to arbitrate on all matters relating to the powers and duties of the Arbitrator. On all other questions about these rules, the BBB will make the final decision.

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MEETING FOLLOW-UP

The General Motors Third Party Arbitration Program's effectiveness can be substantially enhanced by obtaining the dealer's pledge to arbitrate complaints arising out of retail transactions. The pledge to arbitrate would apply to any disagreement between the dealer and his customer regarding the sale or rental of any product or service.

Much of the success or failure of the program will depend on the degree of participation by dealers.

Accordingly, attached is a suggested letter which your zone manager may wish to adapt for a follow-up meeting with your business management contact dealers.

SUGGESTED LETTER

Dealer:

We have now officially begun the Third Party Arbitration Program in the [CITY] area.

I would just like to reiterate my personal commitment to having this program be a sincere demonstration of (Division's) intention that every customer should be treated fairly and that he shall be convinced that he has been treated fairly.

Accordingly, I will appreciate it if you will make certain that all of your customer contact people are aware of the details of the program. They should make certain that the zone office is made aware of any serious difference of opinion with a customer, and that we have the opportunity to try to resolve it with your help. The customer should not be discouraged from using the mechanism because that would defeat its purpose. I repeat, however, in the best interest of all concerned, and especially in the retention of owner goodwill, the best way to resolve any dispute is among ourselves at the earliest possible moment.

I am hopeful that many dealers will agree to pledge to arbitration as General Motors has. This would greatly strengthen the program. However, other dealers may decide to consider arbitration of dealer/customer disputes on a case-by-case basis, and I again encourage you to carefully consider any case which may be brought to your attention by the Better Business Bureau or even to volunteer this resolution mechanism to the customer when it is apparent that a serious difference of opinion exists.

A key part of the Arbitration Program is the selection of a specific individual at each dealership who will have the authority to react responsibly to consumers or Better Business Bureau personnel on consumer complaints. If you have not selected an individual to assume these duties, I encourage you to do so and advise the Better Business Bureau of the name and telephone number of your selection as soon as possible.

If everyone involved enters into this program in the spirit in which it is intended, I am convinced it can be a very positive forward step in our relations with our customers.

Zone Manager

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PLEDGE TO ARBITRATE

This company is pledged to arbitrate through the Better Business Bureau all disputes, except as limited in this agreement, involving us and our customers, provided that we have first had an opportunity to resolve any such dispute; however, we will not consider ourselves bound to arbitrate unless all reasonable efforts to resolve the matter informally by the Bureau have proved unsuccessful and all other necessary parties have agreed to arbitrate.

Our pledge applies to any disagreement between us and our customers regarding the sale or rental of any of our products or services. Our pledge does not extend to disputes alleging criminal violations and demands for damages for personal injuries or other claims which go beyond the cost of the product or service involved, as well as to disputes which may not be arbitrated under the law.

This pledge applies to all disputes received by the Better Business Bureau while it is in effect and to disputes received within thirty days of our written notice to discontinue our pledge to arbitrate.

Signed _____
(Authorized Agent of Company)

Print Name _____

Date _____

Company Name _____

Address _____

Our principal contact for the Better Business Bureau for purposes of handling any customer dispute is _____ telephone _____

and our alternate contact is _____

Past experience has shown that the Arbitration Program is improved with an open line of communication between the Better Business Bureau and zone personnel. In an effort to obtain the best possible working relationship, zone management is requested to establish periodic meetings with Better Business Bureau personnel in their area. Initially, these meetings should be held monthly, and as frequently as necessary after the lines of communication are firmly established.

For all dissatisfied closings of Consumer Relations cases which are within the parameters of this program, the consumer should be advised in writing of the Arbitration option. The suggested letter contained in this handbook should be used for that notification (See "Consumer Letter" Section).

BETTER BUSINESS BUREAU
REPORTS & PROCEDURES

In order for General Motors to assess the effectiveness of the Arbitration Program, the results of the mediation and arbitration proceedings need to be tabulated uniformly so as to be useful and meaningful to various levels of management.

We have tried to develop a simple uniform reporting system which is to be used by all of the Bureaus.

Attached are three pages labeled (A), (B), and (C).

Pages (A) and (B) are instructions which should be reviewed carefully by each individual involved in the program. Page (B) provides instructions and it outlines the common format to be used in showing the status of General Motors arbitration cases. Page (C) is the monthly update of the General Motors arbitration cases.

At the end of each month, Page (C) and a detailed "Status of General Motors Arbitration Cases Report" using the format outlined on (B) is to be mailed to the Director of Consumer Relations, 8-151, General Motors Building, Detroit, Michigan, with copies to the General Motors divisional zone offices.

GENERAL MOTORS ARBITRATION UPDATE
THRU MONTH ENDING _____

BETTER BUSINESS BUREAU OF _____ REPORT
(location)

(Note to Better Business Bureau. This report must be mailed immediately at month-end to the Director of Consumer Relations, 8-151 GM Bldg., 3044 West Grand Boulevard, Detroit, Michigan 48202. Also, a copy is to be mailed to the zone office of the GM Car and Truck Division in the test area.)

1. FORMAL COMPLAINTS BY DIVISION:
(This is the total opened with each division since the start of the program. A copy of each complaint must be forwarded to the appropriate zone on the day the complaint is opened. An information copy should be sent to the Director of Consumer Relations, GM Detroit with this report at the end of the month.)

CHEVROLET	_____
PONTIAC	_____
OLDSMOBILE	_____
BUICK	_____
CADILLAC	_____
GMC TRUCK	_____
TOTAL	═══

2. STATUS OR DISPOSITION OF COMPLAINTS:

A) Closed in mediation	_____
B) Currently in mediation	_____
C) Closed in arbitration* (see attached details)	_____
D) Currently in arbitration** (see attached details)	_____
TOTAL	═══

(Total of A, B, C, and D must equal totals of formal complaints by division shown above.)

*Note: Copies of Final Award for each case should have been forwarded to Detroit simultaneously with forwarding to the zone.

**Note: Copies of all documents must be forwarded to the Detroit address as shown above simultaneously with forwarding to divisional zone offices.

BETTER BUSINESS BUREAU OF _____
STATUS OF GM ARBITRATION CASES MONTH ENDING _____

DIVISION & OWNER	CASE NO. (1)	DATE OFFERED TO ARBITRATION (2)	ARBITRATOR (3)	DATE OF HEARING (4)	DATE CLOSED (5)
CHEVROLET Smith, J. Jones, T.	1 4	5-1-79 * #	Lang, F.		
PONTIAC Thompson, R.	3				
OLDSMOBILE Brown, L.	2				
BUICK					
CADILLAC					
GMC TRUCK					

NOTE: (1) Establish a sequential numbering system to identify all cases beginning with the first case encountered. (It is not necessary to identify cases already closed by number. Merely pick up the numbering system with cases now appearing in Column (2) above.)

(2) Show date case is offered to the parties for arbitration.

(3) Provide arbitrator's name in this column; however, if a case is settled after it is "offered," but prior to arbitration, show "settled" in this column, and the "settled" date in Column (5). Show arbitrator's name where available.

(4) This is the date agreed upon for the hearing.

(5) Show the date the final award is dated. When a case has appeared in this column for one month, it should be dropped from future listings.

KEY: *Denotes arbitration agreement returned by company.
#Denotes arbitration agreement returned by customer.

BETTER BUSINESS BUREAU OF _____
GENERAL MOTORS ARBITRATION UPDATE MONTH ENDING _____

1. FORMAL COMPLAINTS BY DIVISION:

CHEVROLET	_____
PONTIAC	_____
OLDSMOBILE	_____
BUICK	_____
CADILLAC	_____
GMC TRUCK	_____
TOTAL	═══

2. STATUS OR DISPOSITION OF COMPLAINTS

A. Closed in mediation	_____
B. Currently in mediation	_____
C. Closed in arbitration	_____
D. Currently in arbitration	_____
TOTAL	═══

Completed form should be mailed at the end of each month to: Director of Consumer Relations, 8-151 GM Bldg., Detroit, Michigan 48202, with copies to GM Zone Offices.

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Zone Reports & Procedures

It is our intention to keep the procedures for Arbitration as simple as possible, and to minimize additional record keeping for the zone offices. Obviously, however, we must have certain records to determine the effectiveness of the program and its cost.

ARBITRATION—AWARD REPORTING

The Award Report (sample provided) is to be completed immediately upon receipt of an Arbitration Award. One copy is to be forwarded directly to the Divisional Central Office, Consumer Relations Department, and an additional copy forwarded directly to the General Motors Corporation, Consumer Relations Section (Attention: The Administrator of Third Party Arbitration).

The Award Report is a summary of the complaint and should be a brief concise synopsis of:

A) The owner's complaint and demands.
B) The Division's position and offer, if any.
C) The arbitrator's Decision and Award.

Attached to this report should be a copy of the Award and Finding of Facts, a copy of the owner's complaint, and any zone correspondence and write-ups.

—SAMPLE—

DATE: 2–15–80
OWNER: John S. Customer, 6064 Berkley Drive, Somewhere, MN
COMPLAINT: Owner alleges auto-transmission failure was result of manufacturing defect in valve body.
DIVISION POSITION: Zone claims vehicle beyond time and mileage limitations of New Vehicle Warranty and repairs not performed by franchised dealer.
HEARING DATE: 2–20–80
ARBITRATOR: John Q. Arbitrator, Attorney at Law
LOCATION: Minneapolis
DIVISION: CHEVROLET
PRODUCT YEAR: 1976
MODEL: Caprice
MILEAGE: 48,621
DELIVERY DATE: 11–21–75
DEMAND: Reimburse $681.00 for transmission repairs performed by independent transmission shop.
DIVISION OFFER: Division offered $268.99 "parts only" adjustment for owner "goodwill."
DECISION: The arbitrator ruled in favor of the Division.
AWARD TO CUSTOMER (Check one)
☐ No Award
☑ Award Equal to Divisional Offer
☐ Award Greater Than Divisional Offer

ARBITRATION—ZONE GUIDE

Please adhere strictly to the following procedures so that we may have accurate information concerning the impact of the Arbitration Program and the number of cases which reach the Better Business Bureau.

• Make a write-up sheet on every call or letter where the customer indicates his contact is a result of knowledge of the Arbitration Program. Existing zone complaint forms or other detailed complaint forms will suffice, but the top of the form should be clearly marked to identify it as having resulted from the Arbitration Program.

The form must contain the owner's name, address, and telephone number, details of the nature of the complaint, the complete action taken, and how it was concluded (either satisfied or dissatisfied).

• A separate and complete history file on all "Arbitration Program" cases should be maintained for whatever analyses may be desired.

• If the complaint is closed dissatisfied, and falls within the criteria of the Arbitration Program, the zone will write the owner a letter (sample provided). The letter offers the owner the option of arbitration if he desires to pursue the matter through the Better Business Bureau. If the final decision is given verbally to the customer, his options should be fully explained to him following the language and intent of the sample letter.

Judgment will be used in the mailing of this letter, but in general it should be used in any instance where the customer's complaint had any real substance to it; it should be used in any case of the type where a customer might consider litigation; and it should be used in any type of complaint where an owner might write to a legislator or a consumer agency. The letter need not be used in instances of minor disagreements, or where a partial adjustment has been agreed upon with the owner.

• When a customer is advised of the arbitration option, the zone should provide the local Better Business Bureau Office with a copy of the letter to the owner along with an explanation of the zone's position on the matter. This procedure should be periodically reviewed with the Better Business Bureau to determine its advisability. Bureau notification may be discontinued if it is ineffective or causing an undue burden on the Better Business Bureau Staff. The transmittal to the Bureau should include any pertinent zone write-up sheets and a full explanation of the zone's position. NOTE: It is imperative that the Better Business Bureau be provided sufficient detail of the zone's position so that they may adequately represent that position to the customer. This represents the zone's best and last opportunity to convince the customer of the strength of the zone's position, and permit the customer to evaluate the likelihood of his prevailing in an arbitration procedure.

It is the sincere intent of Divisional and Corporate management that the broadest possible interpretation be placed on the Arbitration guidelines, and that owners shall be advised by the zones of the availability of arbitration if the customer obviously is dissatisfied with the decision on his complaint.

It is also the intent of the program that owners shall be advised of the arbitration option even if he has not voluntarily raised the question of arbitration.

Obviously, every effort will be made to resolve every complaint satisfactorily and, in any event, the division's position should be stated so clearly and completely that the customer will be fully aware of our valid reasons for rejecting his claim.

ARBITRATION—GUIDE

Dealer and Customer Contract Personnel

This area has been selected for Third Party Arbitration which may prove vitally important to the future course of General Motors Consumer Relations. It is essential that the integrity of this program be maintained or the credibility of General Motors will suffer a more severe blow than any goodwill which might come from the program.

The people charged with the responsibility for contacting dealers and, especially customers, will be the most important factor in the success or failure of the program. Accordingly, it seemed appropriate to publish these guidelines for you.

LIMITATIONS ON ARBITRATION

This program will handle any complaint, regardless of the referral source, about any covered General Motors vehicle owned by a person residing in the area or involving a General Motors dealer located in the area. For the purpose of this program, the amount to be arbitrated may not exceed the amount of the sales or service transaction(s) that is (are) the subject of the dispute without the express approval of the General Motors Division.

GMC agrees to enter binding arbitration pursuant to BBB rules: 1) in all disputes arising out of written warranties on vehicles manufactured by GM, and 2) in all disputes involving issues of alleged manufacturer's responsibility on any GM vehicle. GM will encourage its dealers to arbitrate, but will not consider itself committed to arbitrate those disputes based only on dealer sales practices or consumer-pay services. However, in all other disputes in which GM's dealer or the vehicle owner asserts responsibility by the manufacturer, GM agrees to review these cases carefully and apply the broadest possible criteria for agreeing to arbitrate on a case-by-case basis.

It is especially important that no customer be drawn into a dispute between the zone and the dealer as to whose responsibility a problem may be, particularly if it involves a comeback on warranty work for which the division has previously paid the dealer. In any such instance, if a problem still exists, it is still the clear-cut obligation of the division. The customer must be taken care of with no discussion with him. If this requires the use of the facilities of another dealership, the fact remains that we have the obligation to the customer.

In the event of the allegation of fraud, or of a violation of law, or of a class action, or of a product liability involving personal injury or property damage, it should be explained to the customer (if he mentions arbitration) that the classifications are not eligible for arbitration.

If a customer expresses a desire to take a case to arbitration, do not attempt to discourage him except through your sincerest efforts at a prompt and satisfactory resolution of the complaint. If you feel you have exhausted every effort in this report, remember that only the zone manager has the authority to sign a dissatisfied closing. His knowledge of the complaint and his agreement with the action is all the more important in view of the arbitration program. Also, any cases which you are unable to satisfy on casual contacts with the customer at dealerships, should also be considered to be called to the zone manager's attention. These cases, too, may be eligible for arbitration.

CONSUMER LETTER

Attached is a sample of a letter to be used to advise of the Arbitration Program where a customer is not satisfied with the decision rendered by the zone office or representative and otherwise fits the parameters of the program.

If you are concluding a case with a customer, and you know he is dissatisfied, you should consider suggesting a third-party opinion to him. This is the essence of a third-party mechanism.

In that event, the diplomatic tone of voice and manner of the offer are of critical importance. If and when such an occasion arises, in a friendly manner we should express a sincere regret that we have been unable to come to a mutually satisfactory resolution of the complaint. Point out that we feel very sincerely that our position is a correct one, but he obviously feels the same about his position. Accordingly, and in the interest of making certain he has been treated fairly, we are willing to have an objective decision rendered by an unbiased third party. Point out that in addition to the normal options which a customer always has, the Better Business Bureau has agreed to mediate and, if necessary, arrange for arbitration of such disputes. Suggest that the customer can contact the Better Business Bureau if he wishes to pursue the matter. In every instance, the Better Business Bureau must be advised in accordance with the zone office procedural guidelines which have been issued.

For your guidance, the arbitration process should be offered in any instance where the complaint has any real substance to it; it should be offered in any case of the type where a customer might consider litigation; and it should be offered in any type of complaint where an owner might write to a legislator or a consumer agency. The offer would not be suggested in instances of minor disagreements, or where a partial adjustment has been agreed upon with the owner.

To reiterate, the success or failure, and therefore the credibility of the Corporation and your Division, will depend upon how this program is administered at the customer contact level. We know we can count on you to do your part.

Thank you.

PROPOSED CUSTOMER LETTER

(USE IN ANY CASE WHERE CUSTOMER HAS BEEN DENIED A CLAIM AND HAS NOT ACCEPTED A COMPROMISE OFFER.)

DEAR _____ _____

WE ARE SORRY THAT YOU HAVE CONTINUED TO BE DISSATISFIED WITH THE DECISION THAT WAS MADE CONCERNING YOUR _____.

WE KNOW THAT YOU ARE SINCERE IN THE POSITION YOU HAVE TAKEN, AND WE HOPE THAT YOU CAN ALSO UNDERSTAND OUR POINT OF VIEW AS IT RELATES TO THE MANUFACTURER'S OBLIGATION AND WE BELIEVE WE MADE A CORRECT DECISION IN YOUR CASE.

AS YOU PERHAPS KNOW, GENERAL MOTORS, THROUGH THE LOCAL BETTER BUSINESS BUREAU, PROVIDES A SERVICE OF VOLUNTARY MEDIATION/ARBITRATION FOR CONSUMER COMPLAINT DISAGREEMENTS. GENERAL MOTORS HAS COMMITTED ITSELF TO ACCEPT AND ABIDE BY DECISIONS MADE IN THIS ARBITRATION PROCESS.

THIS SERVICE IS AVAILABLE TO YOU IF YOU DESIRE IT. THERE IS NO FEE FOR THE CUSTOMER WHO WISHES TO HAVE A CLAIM CONSIDERED, AND THE MEDIATION AND ARBITRATION PROCESS IS NOT A LONG ONE.

IF YOU CARE TO AVAIL YOURSELF OF THIS SERVICE, CALL OR WRITE (NAME), AT THE (AREA) BETTER BUSINESS BUREAU OFFICE, (ADDRESS-PHONE NUMBER), YOU WILL BE FURNISHED WITH FULL DETAILS OF THE PROGRAM.

VERY TRULY YOURS,

(THE ZONE MAY ELECT TO FORWARD A COPY TO BBB WITH A SHORT STATEMENT OF THE NATURE OF THE COMPLAINT AND THE DIVISION'S POSITION, AFTER CONFERRING WITH BBB.)

Quotes—Observations

Following are some quotes from the various divisions and an impartial observer of the arbitration process. "The binding arbitration process in the Minneapolis Zone has given the consumer in the test area a better opportunity to get personal attention to his automotive grievance. In the many cases where arbitration was discussed as an available process, the complaint was concluded satisfactorily."

"In addition to the zone's report, we feel that the test indicates that although the owners have not always benefited financially, they are appreciative of the opportunity to be heard and have their complaints investigated in detail and reviewed by a third party."

"The last area I want to discuss is the attitude of the company as it was evidenced at this particular hearing.

Two instances come to mind which should adequately serve as illustrations. First, the company representatives failed to provide specific evidence requested by the arbitrator in advance of the hearing. Substitutions of other evidence were made, with no explanation of why they were made.

This action, in itself, was enough to give me the impression that the company had a rather condescending attitude toward this customer, this case, and this arbitrator. This attitude was confirmed at the hearing, in my opinion, when the arbitrator asked about this and was given an insufficient answer.

The second instance also occurred during the hearing. The company's representatives had prepared a file of their evidence and an outline of their testimony. Attractively packaged copies of this file were conspicuously handed to the arbitrator and the BBB observers, but not to the customer. "Evidentiary packages" such as this are useful, and are appreciated by the BBB staff as well as the arbitrators. Not providing a copy to the customer is, however, not only impolite, but hints again at an unwillingness to play fair. These packages typically contain nothing more than the bare outlines of the case, and I can see no reason to withhold this information from the customer. My point is underscored by the fact that when customer-complainants have prepared such files they have invariably given a copy to the company, as well as the arbitrator and the BBB.

In conclusion, this was a case the company should probably not have lost. In a similar case involving a different division, the company did in fact win; that is, the customer received no award on similar facts, and asking for similar relief. A variety of factors influence the arbitrator, however, and in this case, it appears that most of those factors influenced him in the customer's favor. While my observations and comments are highly subjective, I think they are accurate and may illustrate some of the possible reasons for the result in this case."

PREPARE—PREPARE—PREPARE

Make sure you have all of the information on the situation in question.

Don't take anything for granted. For example, if you previously inspected the car and found it beautiful, but the customer is now complaining again about the paint, don't rely on that earlier inspection. One of our divisions did that in Minneapolis and was absolutely shocked when they got to the hearing and, in the company of the arbitrator, made an inspection which they should have made when they were first advised of the complaint by the Better Business Bureau. The paint had deteriorated badly, and the arbitrator ordered a paint job so extensive that it cost the division over $1,500 to comply. If they hadn't been complacent, they might have corrected the paint to the customer's satisfaction far less expensively.

Don't rely on the dealer's word concerning the service history. Get out there and examine the dealer's records and documents yourself. Further, if the customer makes a statement concerning the service history which is not in agreement with what you have found in the dealer's records, ask the customer for the additional documentation because, you should tell him, this will help you to evaluate the problem and do everything you can to help him. He may well have some documentation that is not in the dealer's records.

Both of the above comments are designed to help you prevent walking into any surprises at the arbitration hearing.

But strike a balance. You must be careful in going into an arbitration hearing that you don't overwhelm everybody with factory expertise, documentation, and jargon.

Be liberal in your interpretation of the parameters of the program. You do have the opportunity to examine the proposed issues to be brought up at the hearing. At that time you can point out any areas which are beyond our parameters, if you so wish, and have an understanding that those particular issues are not subject to arbitration. Again,

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however, don't be too hard to get along with in that regard.

One final word: Whatever the decision, no matter how wrong you may think it is, accept it graciously. Conclude every hearing on the friendliest posible basis. Indicate to the customer that regardless of the decision, we still value him or her as a customer.

As stated earlier, don't hesitate to bring the dealer or a dealer representative to the hearing if you think it will help the arbitrator to evaluate the situation properly. Bring with you whatever backup documents or information may be appropriate. Be sure to bring copies for everyone who will be invovled in the hearing. Don't overwhelm them with technical material, such as shop manuals, and so on. But bring simple, clear, informational things that will help everyone to decide the issues fairly.

We urge you to keep a record of the time you spend on these cases. It will be important in our overall evaluation of the program.

We will ask each zone for a monthly report on the activity. A copy of the report form will be given to you, along with instructions for completing it. It is very simple and will require a minimal amount of your time.

As soon as you know that a case is probably going to arbitration, send a copy directly to the consumer relations manager at your home office and a copy to the director, GM consumer relations.

General motors will agree to arbitrate any instance of a dispute with a customer with respect to the application, administration, or interpretation of our new vehicle warranty. We will also cover disputes or questions concerning alleged manufacturer's responsibility of GM vehicles beyond the new vehicle warranty period; however, this in no way alters our standard new vehicle warranty.

General Motors will not be committed to arbitrate complaints arising out of retail transactions between the dealer and his customer.

Let's take an example where someone has gone to an independent shop and had work performed and then asks us to pay the bill. Undoubtedly the car will have been beyond warranty or the customer would have gone to an authorized dealership, as required under the warranty. Since customers are aware that they must present their cars to an authorized dealer for warranty service, they would certainly expect to follow that same procedure if they expect any kind of consideration after the warranty expired. We did not have an opportunity to determine whether or not we actually had responsibility in this case. We didn't know the extent of our responsibility, if there was any at all. We never try to evade our responsibility, but before someone asks us to assume that responsibility we do ask the opportunity to evaluate it. I'm sure you can think of even better approaches, but above all, be logical, be friendly, and be very sincere in indicating that our only desire is to be helpful and to be fair.

Don't talk down to anybody. Don't be condescending.

Be just as friendly and human and helpful as it is possible to be. Remember, the arbitrator is human, just as is the customer.

Do's and Don'ts

DO NOT USE THE ARBITRATOR'S FIRST NAME, THIS GIVES THE CUSTOMER THE IMPRESSION THAT HE HAS ENTERED A "KANGAROO COURT."

IF THE ARBITRATOR ASKS FOR SOME INFORMATION IN ADVANCE, GIVE IT TO HIM UNHESITATINGLY. REMEMBER, HE IS MERELY TRYING TO COME TO A FAIR DECISION. IF, FOR EXAMPLE, HE ASKS WHAT A CAR IS WORTH (SUCH AS WHERE THE CUSTOMER HAS ASKED FOR A REPURCHASE OF THE CAR) DO YOUR BEST TO PROVIDE HIM WITH THE BEST CURRENT WHOLESALE AND RETAIL PRICES. ONE OF OUR DIVISIONS MADE THE MISTAKE OF GIVING THE ARBITRATOR THE LOWEST WHOLESALE PRICE IN RESPONSE TO SUCH A REQUEST. AND THAT, AMONG SEVERAL OTHER ITEMS, PROBABLY HELPED INFLUENCE THE ARBITRATOR TO A VERY ADVERSE DECISION FOR THE DIVISION.

IF YOU HAVE INSPECTED THE CAR AND ROAD TESTED IT, AND IF YOU ARE SATISFIED THAT THE CAR WOULD BE ACCEPTABLE TO ANY REASONABLE PERSON, URGE VERY STRONGLY THAT YOU WOULD LIKE THE ARBITRATOR TO LOOK AT THE CAR, IF IT'S A PAINT OR APPEARANCE COMPLAINT. IF IT'S A PERFORMANCE COMPLAINT OF ANY KIND, STRONGLY INVITE THE ARBITRATOR TO GO FOR A RIDE IN THE CAR ON THE GROUNDS THAT THIS IS REALLY THE ONLY WAY FOR ALL OF US TO HAVE A CLEAR UNDERSTANDING AS TO WHETHER OR NOT THE CAR IS ACCEPTABLE.

IF YOU KNOW THERE ARE SOME SHORTCOMINGS, BE PERFECTLY HONEST ABOUT THEM; BUT VERY CANDIDLY DESCRIBE PRECISELY WHAT YOU ARE WILLING TO DO TO HELP RESOLVE THE MATTER, OR DESCRIBE VERY FULLY WHY YOU ARE NOT PREPARED TO DO ANYTHING IF YOU FEEL THE PROBLEM IS ENTIRELY THE CUSTOMER'S RESPONSIBILITY.

DO'S AND DON'TS OF THE ARBITRATION PROCESS

DO'S

1) Be prepared. Keep your cool.

2) Be a good listener to plaintiff and arbitrator. Take notes.

3) When asked to present our case, be brief and concise as to our position.

4) Be sure you have a warranty folder and Owner's Manual.

5) Be sure that you ask owner if he has received a warranty folder and understands it.

6) When the owner is complaining of a paint or appearance item, be sure arbitrator is willing to inspect the vehicle with the owner.

7) Water leak—take the car through a car wash.

8) Driveability case—have the owner drive it with the arbitrator and a divisional representative.

9) Gas mileage—prior to arbitration, make sure that a gas-per-mile test has been performed with the dealer personnel and the owner. Also, make sure that a report has been made out and the owner verifies this.

10) Independent repairs—if no opportunity has beeen made for a divisional inspection of the vehicle, bring up the fact that under the terms of the warranty, the division should have been able to make an inspection.

11) If owner claims he properly maintained vehicle, ask owner to provide proof of such maintenance.

12) It is important that the full service file be available and reviewed by zone.

13) Establish position on any adjustment based on complete knowledge of probable cause of failure.

14) Prepare case carefully to prevent surprises during the hearing. Customers are usually well prepared.

15) Establish a rapport with customer prior to the hearing so that the best possible feelings can be realized after conclusion of the hearing—win or lose.

16) Be positive, friendly, and confident about your case and the position you have taken.

17) If appropriate, the service manager of each dealership involved should attend the hearing.

18) Discuss each case eligible for arbitration with other member(s) of zone staff in order to get different viewpoints.

19) Do contemplate any possible objections and have answers ready.

20) Do be factual and concise in your presentation.

21) Do be sure the issues of the arbitration are clearly stated in the agreement. These issues are all the arbitrator is empowered to act upon.

22) Do contact the dealer in arbitration if the complaint on the vehicle is relative to poor dealer workmanship.

23) Reinspect all complaint vehicles immediately before the arbitration day.

24) Be sure to persuade the customer you are sincerely interested in solving his service problem.

25) If customer has a bonafide service problem, clear it up without going to arbitration.

26) Ask the customer early in the handling for his/her experiences with the vehicle including copies of repair orders, etc.

27) Include the consumer in the results of evaluations, tests, and inspections performed.

18) Provide copies of evidence or supporting material to all parties involved in an arbitration hearing, including the customer.

29) Evaluate your position from the viewpoint of the consumer and other observers

30) Provide exactly the material, answers, or information requested by the arbitrator or provide a complete explanation for all diversions from those requests.

31) Provide alternate solutions to the problem—as many as possible.

32) Provide all available support for the specific areas of contradiction.

33) Offer demonstrations to support your position.

34) Try to resolve the difference, not to "win the case."

DON'TS

1) Don't appear to be angry.

2) Don't argue with owner or arbitrator.

3) Don't interrupt owner on arbitrator when either is talking.

4) Don't get caught with doubtful issues (appearance or performance problems).

5) Don't be doubtful, uncertain, or tentative.

6) Don't leave doubt in anyone's mind on technical questions that must be understood in layman's language.

7) Don't hurry your presentation or introduce key facts until appropriate time.

8) Don't let a case get to arbitration unless you are 100 percent sure that all possible steps have been taken to satisfy the customer. Remember, these arbitrators know nothing of the automobile business other than what they have read, heard, or experienced.

9) Don't try to overpower the hearing with unnecessary personnel.

10) Don't leave any questions or complaints by the owner unanswered.

11) Don't let your customer think you are not sincerely interested in handling his service problem even when you are taking it to arbitration.

12) Don't go to arbitration unprepared.

13) Don't assume that one arbitration finding sets a precedent.

14) Don't assume a position that would reflect insincerity or the attitude that we are absolute.

15) Don't assume that everyone knows the facts that we take for granted.

16) Don't forget that the intent and reason for arbitration is consumer satisfaction.

17) Don't think of the arbitration process as a win-lose proposition.

18) Don't assume a position based on someone else's opinion.

Attachment B—Special Implementing Provisions To Be Included in General Motors Zone Handbook for Third-Party Arbitration

1. Zone Handbook, Page 8, *et seq.*

SPECIAL GENERAL MOTORS PROVISIONS

• A dissatisfied customer with a complaint claiming General Motors responsbility for defects, problems, failures or malfunctions relating to powertrain components must be advised of the arbitration option even if the customer has not raised the question of arbitration or has not contacted the Customer Services Representative for the vehicle's division.

• The notice *must* be in writing (see example letter at page —).

• Powertrain components, for purposes of arbitration, are:

1. *Gasoline and diesel engines.* Cylinder blocks and heads, and all internal parts, including camshafts and lifters, manifolds, timing gears, timing gear chains or belts and covers, flywheels, harmonic balance, valve covers, oil pans, oil pumps, engine mounts, seals and gaskets, water pumps and fuel pumps, and diesel injection pumps; also, turbocharger housing and internal parts, turbocharger valves, seals and gaskets.

2. *Transmissions.* Cases and all internal parts, torque converters, vacuum modulators, seals and gaskets, and transmission mounts; also, transfer cases and all internal parts, seals and gaskets.

• If the customer complaint may involve, or if the customer states that the complaint involves one or more of the following components manufactured (through the date the Commission accepts this agreement pursuant to Section 3.25(f) of the Commission's Rules of Practice): (1) THM 200 automatic transmissions; (2) camshafts or lifters in 305 or 350 cubic-inch-displacement ("CID") gasoline engines produced in plants operated by General Motors Chevrolet Division since 1974; or (3) fuel injection pumps or fuel injectors in 350 CID diesel engines produced in plants operated by General Motors Oldsmobile Division, the following special provisions must be followed:

—The General Motors Arbitration Program is ordinarily limited to owners who still possess the General Motors car which had a mechanical problem or failure. However, when the complaint involves one of the components identified in this paragraph, customers must be given the opportunity to arbitrate their disputes even if they no longer possess the car.

—Under typical Better Business Bureau procedures, the BBB usually gives the General Motors zone representative an opportunity to cross off unacceptable names from the list of possible arbitrators. If the appropriate zone representative has knowledge that any of the arbitrators have heard three or more disputes involving any of the components identified in this paragraph, the zone representative must cross off such arbitrators names from the list.

—At the time the customer elects to arbitrate, the Zone must provide the customer with one or more (as appropriate) of the following Background Statements:

BACKGROUND STATEMENT

THM 200 TRANSMISSIONS

NOTICE TO OWNERS: You may wish to provide this Background Statement to the Arbitrator at the time of your hearing.

This arbitration case may involve an owner's complaint about a General Motors THM 200 transmission. As part of the settlement of their dispute involving THM 200 Transmissions, General Motors and the Federal Trade Commission have prepared this information sheet to provide arbitrators with potentially useful background facts about THM 200 transmissions. Some of these facts may not be widely known.

2. *Transmissions.* Cases and all internal parts, torque converters, vacuum modulators, seals and gaskets, and transmission mounts; also, transfer cases and all internal parts, seals and gaskets.

• If the customer complaint may involve, or if the customer states that the complaint involves one or more of the following components manufactured (through the date the Commission accepts this agreement pursuant to Section 3.25(f) of the Commission's Rules of Practice): (1) THM 200 automatic transmissions; (2) camshafts or lifters in 305 or 350 cubic-inch-displacement ("CID") gasoline engines produced in plants operated by General Motors Chevrolet Division since 1974; or (3) fuel injection pumps or fuel injectors in 350 CID diesel engines produced in plants operated by General Motors Oldsmobile Division, the following special provisions must be followed:

—The General Motors Arbitration Program is ordinarily limited to owners who still possess the General Motors car which had a mechanical problem or failure. However, when the complaint involves one of the components identified in this paragraph, customers must be given the opportunity to arbitrate their disputes even if they no longer possess the car.

—Under typical Better Business Bureau procedures, the BBB usually gives the General Motors zone representative an opportunity to cross off unacceptable names from the list of possible arbitrators. If the appropriate zone representative has knowledge that any of the arbitrators have heard

Arbitration is appropriate to resolve complaints about THM 200 transmissions because, while some complaints are similar, each case is by its nature individual and must be resolved on its own merits.

To assist arbitrators who may be considering an owner's complaint about a THM 200 transmission, General Motors and the Federal Trade Commission are providing the following compilation of facts. These may or may not be relevant to the dispute in a particular case.

1. Automatic transmissions are complex devices comprised of hundreds of inter-related parts—THM 200 models have over 600 parts. An automatic transmission transmits and multiplies the turning force of the engine in order to drive the vehicle. It automatically changes gears for the driver at different speeds and under different conditions.

2. Transmissions designated "THM 200" comprise one series of automatic transmissions from a broad line of General Motors automatic transmissions. Each series, including the THM 200 series, has a number of different models, and each model is specifically designed for a particular vehicle, engine, and drive axle match-up.

3. The THM 200 series has been used in a wide variety of different car lines since the 1976 model year. It has only been used in rear-wheel-drive vehicles. One way to determine whether a particular vehicle is equipped with a THM 200 transmission is to examine the transmission oil pan. The word "metric" appears on the oil pans of vehicles equipped with the THM 200.

4. Development of the THM 200 series began in the early 1970's. By late 1973, prototypes were undergoing vehicle testing in 5,200-pound cars with 350-cubic-inch V8 engines. Careful and thorough testing of the THM 200 series continued not just until the time of its introduction midway through the 1976 model year, but, in line with General Motor's usual practice, continued thereafter and continues today.

5. THM 200 transmissions are mass-produced. Where a product is being mass-produced, it is possible that from time to time a particular item may be completed and yet

contain a defect in material or workmanship. Recognizing this fact about mass production, General Motors provides a limited warranty with each new General Motors vehicle sold by one of its dealers. The warranty generally covers any repair and needed adjustments to correct defects in material and workmanship within the warranty period. However, complaints may occur after the warranty. A manufacturer's warranty is not necessarily the limit of the manufacturer's responsibility, and need not control the outcome of arbitration.

8. Normally, it is reasonable to expect General Motors automatic transmissions to provide reliable, dependable service beyond the warranty period. Many transmissions do not require replacement during the life of the car.

7. Failures in THM 200 transmissions can occur for several reasons. These failures can be related to defects in material or workmanship which do not evidence themselves during the manufacturer's warranty period. They can also be related to individual driving habits or improper maintenance. The manufacturer spells out in the owner's manual proper maintenance procedures, and discloses driving habits which should be avoided. The owner's manual for each model car can differ. To determine the proper maintenance procedures or driving habits, you must look at the specific manual or maintenance schedule for the vehicle which is the subject of this arbitration.

BACKGROUND STATEMENT

CAMSHAFTS AND LIFTERS

NOTICE TO OWNERS: You may wish to provide this Background Statement to the Arbitrator at the time of your hearing.

This arbitration case may involve a complaint about the camshaft and/or lifters in a General Motors 305 or 350 CID gasoline engine produced in plants operated by the Chevrolet Division since 1974. As part of the settlement of their dispute involving camshafts and lifters in these engines, General Motors and the Federal Trade Commission have prepared this information sheet to provide potentially useful background facts. Some of these facts may not be widely known.

Arbitration is appropriate to resolve complaints about camshafts and lifters because, while some complaints are similar, each case is by its nature individual and must be resolved on its own merits.

To assist arbitrators who may be considering an owner's complaint about camshafts and lifters in these 305 or 350 CID engines, General Motors and the Federal Trade Commission are providing the following compilation of facts. These may or may not be relevant to the dispute in a particular case.

1. In a four-cycle internal combustion engine, the camshaft and accompanying lifters (sixteen in an eight-cylinder engine) mechanically operate a series of valves which allow a gasoline and air mixture to enter, and exhaust gases to be forced out of, the engine cyclinders.

2. Since 1974, these 305 and 350 CID gasoline engines have been used in a wide variety of different General Motors car and truck lines and models.

3. These engines are mass-produced. When a product is mass-produced, it is possible that from time to time a particular item may be completed and yet contain a defect in material or workmanship. Recognizing this fact about mass production, General Motors provided a limited warranty with each new General Motors vehicle sold by one of its dealers. The warranty generally covers any repair and needed adjustments to correct defects in materials and workmanship within the warranty period. However, complaints may occur after the warranty. A manufacturer's warranty is not necessarily the limit of the manufacturer's responsibility, and need not control the outcome of arbitration.

4. It is reasonable to expect camshafts and lifters in these engines to provide reliable, dependable service beyond the warranty period; they can and often do last for many years. However, in order to maintain the life of camshafts and lifters and to prevent excessive wear, they must be properly lubricated at all times; the engine oil must be maintained at the proper level; the oil and filter must be changed in accordance with the owner's manual and maintenance schedule recommendations; and the proper engine oil must be used.

5. One important part of choosing oil for lubrication is to use oil of the categories or ratings recommended by the manufacturer in the owner's manual and maintenance schedule. Oils have various categories or ratings. Oils for gasoline engines are designated SA, SB, SC, SD, SE, or SF. Oils for diesel engines are designated CA, CB, CC, or CD. An oil can be assigned more than one category if it will work in more than one kind of engine—for example, "SE/CD" or "SF/CD." These are called "multi-purpose" oils.

6. Some, but not all, "multi-purpose" oils produced prior to the 1981 model year may have provided inadequate wear protection for some gasoline engines, including these 305 and 350 CID engines. This may have caused excessive wear of camshafts or lifters, even if the owners followed the recommendations in their owner's manuals. For the most part, these "multi-purpose" oils were available only in bulk quantities sold in drums; however, some were also available in quart-size cans from a small number of service stations and retail outlets. Most service stations offered only oils with satisfactory lubrication characteristics.

7. General Motors was aware of this problem and throughout the mid- and late 1970's tried to persuade oil companies to reformulate these oils in order to eliminate excessive wear problems. These efforts succeeded in numerous cases. However, not all of the oils which had been causing problems were reformulated, and some owners continued to experience excessive camshaft/lifter wear using these oils. General Motors therefore changed the owner's manuals in the late 1980 model year to tell owners to avoid certain categories of "multi-purpose" oils that might cause excessive wear. By the 1981 model year, with the introduction of the SF oil category, the "multi-purpose" oils that had caused excessive wear were no longer produced.

Background Statement

Diesel Fuel Injection Systems

NOTICE TO OWNERS: You may wish to provide this Background Statement to the Arbitrator at the time of your hearing.

This arbitration case may involve an owner's complaint about the fuel injection system in a 350 CID diesel engine produced in a plant operated by the Oldsmobile Division. As part of the settlement of their dispute involving these engines, General Motors and the Federal Trade Commission have prepared this information sheet to provide potentially useful background facts. Some of these facts may not be widely known.

Arbitration is appropriate to resolve complaints about diesel fuel injection systems because, while some complaints are similar, each case is by its nature individual and must be resolved on its own merits.

To assist arbitrators who may be considering an owner's complaint about the fuel injection system in 350 diesel engines, General Motors and the Federal Trade Commission are providing the following compilation of facts. These may or may not be relevant to the dispute in a particular case.

1. In diesel engines, fuel is injected directly into the cylinders instead of being first mixed with air in a carburetor as it is in many gasoline engines. Diesel engines use a high-pressure fuel injection pump to inject fuel through nozzles called "injectors." The fuel injection system injects controlled amounts of fuel into the engine's cylinders.

2. Beginning in the 1978 model year, this diesel engine has been used in a wide variety of different General Motors car lines and models.

3. Development of the 350 diesel engine began in the early 1970's. Like many complex automotive products, 350 diesel engines have undergone a number of product improvements and changes throughout its use.

4. These 350 diesel engines are mass-produced. When a product is mass-produced it is possible that from time to time a particular item may be completed and yet contain a defect in material or workmanship. Recognizing this fact about mass production, General Motors provides a limited warranty with each new General Motors vehicle sold by one of its dealers. The warranty generally covers any repair and needed adjustments to correct defects in material and workmanship within the warranty period. However, complaints may occur after the warranty period. A manufacturer's warranty is not necessarily the limit of the manufacturer's responsibility, and need not control the outcome of the arbitration.

5. Excessive amounts of water contamination can damage the fuel injection pump and fuel injectors. For this reason, diesel fuel systems usually are designed to reduce the likelihood of engine damage caused by water contamination. The 350 diesel engine was originally designed to avoid this risk unless more than 1 to 2 gallons of water (depending on the shape of the fuel tank on the various vehicle models) was present in the fuel tank.

6. In 1979, General Motors became aware that some owners were unknowingly purchasing water-contaminated diesel fuel which caused problems with the fuel injection systems in certain 350 diesel engines. By August 1979, General Motors had determined that deterioration of the governor weight retainer ring, a part of the diesel fuel injection pump, could occur in some diesel engines.

7. In July 1980, General Motors offered to make repairs without charge, needed as a result of deterioration of governor weight retainer rings up to 5 years or 50,000 miles, whichever occurred first, and offered reimbursement for past repairs due to water contamination (owners were informed that they could make claims for reimbursement until October 1, 1980). To protect against water contamination, General Motors offered to install a water detector kit for $50.00, the price charged to purchasers of new vehicles equipped with the detector. This detector indicates to the driver when there is an excessive amount of water in the fuel tank. It includes several additional features. It increased the water separation capacity of the fuel system to about 4 to 7 gallons and also made it easier to remove water from the fuel tank. General Motors sent letters to owners explaining the steps it was taking. However, as with any such mailing, some owners may not have received this letter.

8. It is the customer's option whether the arbitration decision is to be based on written, in-person, or telephone submissions. General Motors may appear only in the manner selected by the customer. When in-person submissions are made, General Motors may be represented by no more than two (2) persons, not counting non-party witnesses. Arbitration may also be conducted by conference telephone calls (at General Motors expense), if the consumer elects.

2. *Zone Handbook, Page 19*

- A dissatisfied owner with a complaint involving one or more "powertrain components" must be advised of the arbitration option even if he has not raised the question of arbitration. The advice in these cases must be by letter (sample provided). See Page B-1 through B-8 (Addendum to Page 8) for more detailed discussion.

3. *Zone Handbook, Page 23*

- It must be offered in cases where powertrain components are involved. See page B-1 (Addendum to Page 8).

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Attachment C—General Motors Consumers Arbitration Handbook

ATTACHMENT C to the "Agreement Containing Consent Order to Cease and Desist" (FTC Docket No. 9145)

GENERAL MOTORS CONSUMER ARBITRATION PROGRAM

A THIRD PARTY CONSUMER DISPUTE RESOLUTION MECHANISM

A COMMON SENSE APPROACH FOR RESOLVING CONSUMER-BUSINESS DISPUTES

A GM Corporate Program Administered by the Better Business Bureau

Underscored passages herein shall be deleted or modified as necessary to conform this handbook with the requirements of the "Agreement Containing Consent Order to Cease and Desist" (FTC Docket No. 9145)

COUNCIL OF BETTER BUSINESS BUREAUS, INC.
THE INTERNATIONAL ASSOCIATION OF BETTER BUSINESS BUREAUS

As the owner of a General Motors car, your continued satisfaction and goodwill are important to us. So, in the event of any problem with the sales transaction or the operation of your vehicle, a simple three-step procedure has been established to aid in resolving misunderstandings.

STEP ONE —

Discuss your problem with your dealership's management — the Sales or Service Manager, the owner of the dealership or the General Manager.

STEP TWO —

If your problem remains unresolved, contact the Customer Services Department of your vehicle's nearest Zone Office (found in your Owner's Manual) and provide them with the necessary information. They in return will furnish you with their recommendations.

STEP THREE —

If all else fails, contact the Customer Services Representative for your vehicle's division (found in your Owner's Manual). In Canada, contact the Customer Service Representative, General Motors of Canada Limited, Oshawa, Ontario, L1J 5Z6, *Telephone:* 416-644-6624.

If, in your opinion, your problem has still not been resolved, there is an additional step, explained later in this booklet, called Third Party Arbitration which can be pursued.

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The BBB National Consumer Arbitration Program

Since its National Consumer Arbitration Program was announced in 1972, Better Business Bureaus have instituted this process in more than 100 major metropolitan areas. Thousands of disputes each year are being arbitrated and more than 5,000 community volunteers serve as arbitrators.

Business has recognized the worth of this dispute resolution system. Large numbers of small and large businesses are pledging to arbitrate consumer disputes through the BBB system. The automotive industry and the construction industry – both involved in disputes that entail large sums of money – are more involved in the process than most, but virtually all types of marketplace disputes are being arbitrated by the BBB's.

Government is also recognizing the value of this private sector mechanism for dealing with issues which can best be resolved in a fast, fair and flexible process like BBB arbitration. Increasingly the Federal Trade Commission, state attorneys general, as well as local district attorneys and judges, are writing BBB arbitration into consent orders or are referring disputes on a case-by-case basis to the BBB.

Of course, none of this would be possible without an ever increasing pool of community volunteers to serve as arbitrators. We applaud these citizens for their public service.

Warren E. Burger, Chief Justice of the United States Supreme Court, put programs like BBB arbitration into perspective when he said:

"The notion that most people want black-robed judges, well dressed lawyers and fine paneled courtrooms as the setting to resolve their dispute is not correct. People with problems, like people with pains, want relief, and they want it as quickly and inexpensively as possible.

"The harsh truth is that if we do not devise substitutes for the courtroom processes, and do not do it rather quickly, we may well be on our way to a society overrun by lawyers...brigades of judges in numbers never before contemplated."

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WHAT IS CONSUMER ARBITRATION?

Arbitration is a legal process in which two or more people agree to permit a third person to make a final decision in a dispute between them.

Consumer arbitration is a procedure set up by Better Business Bureaus to settle consumer-business disputes informally, privately and fingly. If all efforts to resolve complaints about products or services fail the Better Business Bureau may offer the legally binding process to the business and its customer. When both **voluntarily** agree to arbitrate the dispute, the BBB will ask them to sign a contract which permits a community volunteer, acceptable to the business and the customer, to conduct a fact-finding hearing and make a final decision in the matter.

The basic principles of BBB arbitration -

- Strictly **voluntary**
- Used only when **all informal efforts** to resolve disputes **have failed**
- A **broad-based pool of trained volunteer arbitrators** from the local community
- Arbitrators chosen by a **mutual selection** process
- Private hearings with **confidential** results
- Hearings held at **convenience of all**
- Informal procedures with **no formal rules** of evidence so everyone can present his own case
- Availability of product or on-site inspection or a technical **expert if necessary**
- **Consistent with state law**

WHAT ARE THE STEPS IN BBB ARBITRATION?

THE COMPLAINT

First, the customer should complain to the business. Only if this fails to satisfy should the customer come to the Better Business Bureau.

THE MEDIATION STAGE

The BBB will get the facts as seen by the customer and then seek the business response to the complaint. If informal efforts to mediate the dispute fail, arbitration is offered.

AGREEMENT TO ARBITRATE

The business and its customer sign an agreement that describes the issues being disputed. They then become the "parties" to arbitration.

CHOOSING AN ARBITRATOR

Although state law and BBB policies offer various means of choosing arbitrators, normally the parties are given a list of five trained community volunteers together with a brief biography of each. They are asked to cross off any unacceptable arbitrator and to indicate their priorities ("1," "2," "3," etc.) for the remaining names. The highest overlapping priority choice of all parties usually becomes the arbitrator.

INSPECTIONS AND EXPERTS

If necessary, an inspection of the product or service performed will be conducted by the arbitrator, and the BBB will attempt to provide technical expertise if needed by the arbitrator.

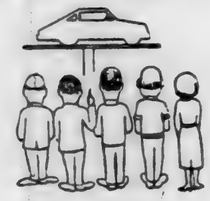

THE HEARING

Informal proceedings are conducted by the arbitrator. Parties may be represented, bring witnesses and give any supporting evidence.

THE DECISION

After hearing all the facts, the arbitrator has ten days to make a written decision. This decision may not go beyond the limits of the original issues stated in the arbitration agreement. It may require action by one or more parties. It may require the payment of money. It may reject the customer's complaint completely, or it may be a "split" decision which recognizes a part of the customer's claim (and a part of the company's claim).

WHEN IS ARBITRATION OFFERED?

If all mediation efforts fail to settle a dispute the BBB may offer arbitration, or one of the parties may initiate a request for arbitration. Many businesses have pledged in advance to arbitrate any dispute which cannot be otherwise resolved, and the decision to arbitrate then becomes their customer's choice.

While the great majority of consumer-business disputes may be resolved by arbitration, it is important to note that some issues lie outside the scope of the arbitration program. Generally, these include claims that go beyond the actual value of the product or service in dispute, such as a demand for consequential or punitive damages by the consumer. For example, an arbitrator may hear a case involving the premature failure of an automobile's transmission. If, however, that failure caused the driver to miss a plane connection, which in turn prevented his completing an important deal, a demand for such losses could only be dealt with in a court of law.

Other issues which cannot be arbitrated include personal injury and property damage claims, allegations of fraud or other violations of criminal law, and any other issue which may not be arbitrated under state law.

WHEN IS IT BETTER TO GO TO COURT?

Certainly, when the issue involves alleged punitive or consequential damages that would not be arbitrated by the BBB, the customer may find a court the only alternative. Also, the customer who seeks to set a precedent for other consumers is better off in a court of record because an arbitration resolves only the issues in the case at hand and establishes no precedent at all. And certain federal or state laws passed to help the consumer make a claim could be more advantageous.

Balanced against these considerations are the disadvantages inherent in many courts: overcrowded dockets could result in delays, attorneys may be required, strict rules of evidence may be applied, and the dispute will be aired in public. Arbitration is usually faster. It does not require (although it permits) attorney representation. It has no formal rules of evidence, and it is conducted in private.

WHO ARE THE ARBITRATORS?

Thousands of volunteers from all walks of life serve the BBB as arbitrators. They include professionals, educators, retirees, lawyers, housewives, and others. Most of these volunteers have gone through a special training program. Arbitrators are not paid for their

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services: they perform their duties as a public service and are not employed by the BBB. All arbitrators are required to disclose, as a condition of hearing a case, any financial, commercial, professional, social or familial relationship – no matter how remote – with any of the parties or their counsel.

HOW IS THE ARBITRATOR CHOSEN?

A list of five possible arbitrators, with brief biographies of each, is sent to the parties. Each party may cross off any person considered unacceptable and assign a priority to those remaining. The highest common priority choice of the parties usually will be the arbitrator and no person rejected by either party will serve. In some cases the Bureau may take the first choice of each party, with these two persons choosing a third from the pool of volunteer arbitrators. This third person will then chair the panel of three and a decision will be by majority vote. Because of state law requirements or Bureau policy in some areas the selection method may vary somewhat, but in all areas the parties are given a choice of arbitrators.

WHAT DOES ARBITRATION COST?

The administrative costs of arbitration are underwritten by the Better Business Bureau, which is supported by the business community. The parties must pay for their own witnesses and attorney's fees, if any. If any one wants a transcript of the proceedings, this too must be paid by the requesting party.

WHEN AND WHERE WILL THE ARBITRATION BE HELD?

Whenever possible an arbitration hearing is held at a time and place convenient to the parties and the arbitrator. Arbitrations have been held at various times and places, including the job site in dispute and in private homes.

WHAT IS A "TYPICAL" ARBITRATION?

Of course, there is no such thing as a "typical" arbitration, just as it is impossible to locate the "average" man. But here's an actual arbitration case that shows many elements of the arbitration process:

The dispute began in the driveway of the consumer's home when the consumer noticed a flat left rear tire on her year-old domestic compact car. After jacking up the rear of the car with the factory-supplied bumper jack, she removed the flat tire and prepared to replace it with the spare. At this point, however, the tab on the jack that fit into the bumper slot broke off and the car fell, causing considerable damage to the bumper.

The field representative for the manufacturer met the consumer at the dealership and inspected the damage. He found no evidence that either the bumper or the jack had been defective and concluded that the car must have moved, causing stress on the jack. He, therefore, denied the owner's claim.

After mediation by the BBB failed to break the impasse, arbitration was offered. Both parties agreed to arbitrate and a hearing was scheduled.

At the hearing the consumer described the events leading to the incident, stressing that she had read on the printed instruction inside the car's trunk. The field representative agreed that she had used the jack properly but, quoting from an owner's manual, contended that her failure to chock the wheels as stated in the manual caused the car to move and the subsequent damage to occur. The consumer countered that the printed instruction in the trunk did not include chocking the wheels, so she had not done so.

The arbitrator then suggested that they take a look at the instructions in question. The hearing moved from the BBB office to the parking lot. The arbitrator opened the trunk and read the instructions. Finding no instructions to chock the wheels, he found in the consumer's favor and awarded her the requested remedy: a new bumper installed by the dealer and a new jack, the costs to be borne by the manufacturer.

This was a relatively easy case. The field representative's problem was that he relied on the most recent owner's manual and assumed (incorrectly) that the instructions had not changed between model years. Had he not made this assumption, there would have been no arbitration. But the dispute did exist and was resolved by arbitration. The ability of an arbitrator, as opposed to a judge, to simply "go out and look at the car" was instrumental in arriving at a clear and fair decision.

WHEN ARE INSPECTIONS AND EXPERTS INVOLVED?

Sometimes to get a full understanding of the facts, especially where the quality of workmanship is at issue, the arbitrator must actually see the product or work involved. Both parties may be present for any inspection and both parties have a right to bring their own experts if they wish. The BBB has identified volunteer experts in the community to serve as technical advisers to arbitrators. Should the arbitrator request such an expert, the Bureau will seek to obtain one who has no relationship with any party and is not a potential competitor of the business involved in the arbitration.

HOW DO YOU PREPARE FOR AN ARBITRATION?

If you have agreed to enter into a binding arbitration agreement through the BBB, in effect you have chosen this process instead of going to court.

First, you will receive by mail an arbitration agreement form to sign and return to the BBB. Read it carefully to be sure it accurately describes what the dispute is and what you are seeking in the way of a decision from the arbitrator. If you think it is not accurate, call the BBB and ask to have the agreement changed. Sign it only when you agree with it, because it is a legal document.

At the same time you may receive a list of five arbitrators with brief biographical sketches. Cross off any names that seem totally unacceptable and assign your priority to those remaining on the list. (This selection process may vary somewhat depending on state law and Bureau policies.)

Return the agreement and your arbitrator choices to the BBB, along with an indication of the most convenient times for you to attend a hearing or the times when you will not be available.

The BBB will tell you when and where the hearing is to be held. You have a right to be represented by a lawyer, but the BBB should be told as soon as possible if you plan to be represented so the other side can be notified of this fact. Of course, you have the right to represent yourself or even have a non-lawyer act as your spokesman.

At no time may you or your representative contact the arbitrator without the other party being present. All correspondence relating to the arbitration must be directed through the BBB, which will forward all information and make sure the other side gets copies when necessary.

The actual hearing is an informal session without rigid rules of evidence, and it is designed to ensure that everyone gets the fullest opportunity to describe his side of a dispute. You have the opportunity to attend the hearing or to submit your case in writing if time or distance prevents your attendance. Some Bureaus have also set up systems by which disputes can be arbitrated over the telephone.

Most people, however, find that it is in their interest to come to the hearing if possible. If you do, you should prepare an outline of your argument to help you in your presentation. That way you won't forget important points in your favor.

After you state the facts as you see them, the other side has a right to ask you questions. You have the same right. The arbitrator is trained to ask questions, too, if there still are some uncertain areas to be covered for a full understanding of the dispute.

Prepare a list of questions you want to ask the other side before you come to the hearing. And add to your list any new questions that occur when you hear what their statement is.

After each side has presented its case, be prepared to give a summary of your position. Describe the weak points in the other side's case, deal with any questions that have not otherwise been answered, and tell the arbitrator exactly what kind of decision you want and why.

Remember that the sole purpose of the hearing is to allow the arbitrator to gather and sort out the facts and thus make a fair decision. You should be prepared to prove that your position is right and that your opponent's is wrong. But a friendly, sincere approach works best. You are there because you and the other side have a disagreement, but keep that disagreement factual and within the bounds of normal courtesy and conventional language. Bombarding an arbitrator with technical jargon will not be productive, nor is rudeness, arguing with the arbitrator, or belittling your opponent. Put yourself in the arbitrator's position–a lay person whose only purpose in volunteering is to help you resolve your dispute–and use your own common sense about how to proceed.

Here is a checklist to help you prepare your case:

1. Bring to the hearing all available written information relating to your dispute. Bring original documents, if possible. Also **bring copies for the arbitrator and the other party.**
   - _____ sales receipt/invoice; purchase date, price, etc.
   - _____ warranty/guarantee
   - _____ contracts/service records; terms, obligations, etc.
   - _____ proof of payment/payment contracts
   - _____ correspondence between customer and business
   - _____ appropriate advertisements, if any; sales, special offers, etc.
   - _____ delivery receipt; condition at time of delivery/installation
2. List witnesses to transaction, sales/service persons involved, installation person, etc.
   - _____ You are responsible for your witnesses' submission of information, either written or in person.
   - _____ Keep your witnesses informed of the scheduled proceedings.
3. List in chronological sequence actions taken to resolve this dispute.

TO THE CUSTOMER:

Can you clearly state what the problem is, and why you think the company is responsible? _____

_____

_____

_____

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To whom did you speak? _____

_____

When did this happen? _____

_____

What did they tell you, and/or what action did they take? _____

_____

_____

_____

Were other business/service persons involved? _____

____ Who _____

____ When _____

____ Why _____

____ What did they tell you and/or what action did they take? (Their written statements or presence as witnesses are preferable to your statements, if necessary to your case.)

_____

_____

_____

_____

TO THE BUSINESS:

Is there a problem at all? If so, why are you not responsible? When did you learn of it? _____

_____

_____

_____

_____

From whom did you learn this? _____

_____

What actions did you take? _____

_____

_____

Were other business/service persons involved? _____

____ Who _____

____ When _____

____ Why _____

____ What did they do/or what was their role in th matter? (Their written statements or presenc as witnesses are preferable to your statement if necessary to your case.) _____

_____

_____

_____

_____

WHAT HAPPENS AFTER THE ARBITRATOR MAKES A DECISION?

In the initial agreement to arbitrate each party has given an a bitrator the right to make a final decision in the dispute. The parti may, of course, settle their own dispute at any time—after they hav signed the agreement, during the hearing, or before the decision i given by the arbitrator.

But once the decision is made by the arbitrator, the parties are legally bound to follow it. In virtually all cases the parties comply with the arbitrator's decision. If necessary, the "winner" may take the award to an appropriate court and have it enforced as if it were a judgment or order of the court—without a rehearing of the case. In rare cases, either party may petition the Bureau to request the arbitrator to modify or clarify the final decision if it contains errors of fact or is unclear. This is done by making a written request to the BBB which, if it finds the request to have some merit, will make a copy for the other party to respond to and then send it to the arbitrator. The arbitrator's response to such a request is final.

NOTES:

GM

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FORM # 24-165-GM BBB 1-81

Attachment D

1. Minneapolis/St. Paul, Minnesota
2. Buffalo, New York
3. San Francisco, California
4. Des Moines, Iowa
5. Philadelphia, Pennsylvania
6. Milwaukee, Wisconsin
7. Denver, Colorado
8. Louisville, Kentucky
9. Charlotte, North Carolina
10. Memphis, Tennessee
11. Portland, Oregon
12. Boston, Massachusetts
13. Detroit, Michigan
14. Washington, D.C.
15. Houston, Texas
16. Dallas/Fort Worth, Texas
17. New Orleans, Louisiana
18. Albuquerque, New Mexico
19. Phoenix, Arizona
20. Los Angeles, California
21. Reno, Nevada
22. Salt Lake City, Utah
23. Seattle, Washington
24. Omaha, Nebraska
25. Pittsburgh, Pennsylvania
26. Cleveland, Ohio
27. Indianapolis, Indiana
28. Wichita, Kansas
29. St. Louis, Missouri
30. New York, New York
31. Oklahoma City, Oklahoma
32. Birmingham, Alabama
33. Miami, Florida
34. Atlanta, Georgia
35. Jackson, Mississippi
36. Little Rock, Arkansas
37. Chicago, Illinois
38. Honolulu, Hawaii
39. Boise, Idaho

Attachment E

The General Motors Consumer Arbitration Program is ordinarily limited to owners who still possess the General Motors car which had a mechanical problem or failure. If your complaint involves one or more of the following components manufactured [through the date the Commission accepts this Consent Agreement pursuant to Section 3.25(f) of the Federal Trade Commission's Rules of Practice]: a model THM 200 transmission failure, a camshaft failure in a 305 or 350 cubic-inch-displacement V–8 gasoline engine produced in a plant operated by General Motors Chevrolet Division since 1974, or a failure in the fuel injection pump in a 350 cubic-inch-displacement diesel engine produced in a plant operated by General Motors Oldsmobile Division, General Motors is extending eligibility to you for the General Motors Arbitration Program even if you no longer have the General Motors car which had the problem.

A handbook is available that tells you more about the procedures and other eligibility rules for the Arbitration Program. This free handbook is available by calling toll-free 800– , or by writing:

General Motors Corporation

——Address——

——City, State, ZIP Code——

Please save this letter. If you decide to arbitrate, this letter is important to show your eligibility.

ANALYSIS OF PROPOSED CONSENT ORDER—TO AID PUBLIC COMMENT

[Docket No. 9145]

General Motors Corporation

The Federal Trade Commission has tentatively accepted an Agreement to a proposed Consent Order from General Motors Corporation.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received, and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Complaint in this matter alleges that General Motors knew or should have known about certain serious problems or defects in its cars, but failed to disclose the existence of these problems or defects. The Complaint further alleges that General Motors knew or should have known how to avoid or alleviate these problems or defects and failed to disclose this information to the public. These practices, the Complaint alleges, are unfair and deceptive.

CONTENTS OF THE ORDER

The proposed Order between General Motors and the Federal Trade Commission covers four basic areas:

(1) General Motors will provide interested parties with all Product Service Publications ("PSPs"). This information can help car owners, car buyers, or mechanics.

(2) General Motors will provide descriptive Indexes of the PSPs. These Indexes will allow interested parties to order those PSPs most important to them. The Indexes will also contain plainlanguage Explanatory Information relating to those PSPs which either describe expensive repairs and how to avoid expensive repairs or provide information about how consumers should care for their cars.

(3) General Motors will establish a nationwide arbitration program for car owners with unsatisfied complaints about failures in the engine or transmission in any General Motors car.

(4) General Motors will provide advertising and direct-mail notice of the availability of the Product Service Publications and the arbitration program.

Product Service Publications

After a car model is available to the public, General Motors car divisions continue to gather information regarding the performance and operation of that model. Sometimes this information leads the General Motors car divisions to issue bulletins on a one-time basis or newsletter articles on a monthly basis. The car divisions assign a variety of different titles to this information. For the purposes of the Consent Order, these documents are called "Product Service Publications" ("PSPs"). These PSPs outline problems or potential problems and ways of dealing with them. Sometimes they simply describe new, easier, or more effective repair procedures. Sometimes these bulletins describe how to diagnose or avoid certain problems. Other bulletins may update Owner's Manuals or Maintenance Schedules to provide information about how to care for particular cars. Each division may issue as many as two hundred fifty (250) PSPs each year. Previously, General Motors car divisions distributed PSPs only to its dealers.

Indexes and Explanatory Information

Under the proposed Order, General Motors will make available to the public all PSPs that are designed for the care and service of the car. To help people identify PSPs of particular interest, general Motors will also provide descriptive Indexes. And, for the more important PSPs describing expensive repairs or use and care information updating Owner's Manuals or Maintenance Schedules, the Indexes will include a non-technical explanation of these PSPs and the car problem the PSP was designed to meet.

General Motors may decide to charge for some of this information. PSP Indexes will be free until at least the 1986 model year. If General Motors decides to change for individual PSP's or PSP Indexes, these fees will be nominal.

Arbitration

Owners sometimes experience car failures for which they believe General Motors is responsible, and many of these failures can occur after the warranty expires. Under the proposed Order, General Motors must conduct an arbitration program to allow people to resolve complaints against General Motors. Under the arbitration program, which will operate in at least thirty-nine (39) specified cities, owners may contact the Better Business Bureau to arrange for an arbitration hearing if they have an unsatisfied complaint about an engine or transmission problem in a General Motors car (Appendix A lists the 39 specified cities). This program relies on impartial, trained, third-party, volunteer arbitrators. Currently, there is no charge for this arbitration, and it is not necessary for an owner to hire a lawyer.

The arbitration is binding on General Motors, but non-binding on consumers unless a consumer elects to accept the arbitration award. This means that if the Better Business Bureau's volunteer arbitrator rules against General Motors, General Motors must obey the ruling. On the other hand, if the arbitrator awards the consumer nothing or something less than what the consumer feels is fair, the consumer is free to reject the award and initiate a lawsuit or pursue other private remedies against General Motors.

For current and prior owners of General Motors cars equipped with certain specified components, the proposed Order requires General Motors to give Background Statements to those owners who select arbitration. Owners may find information in the Background Statements which may be

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helpful in their arbitration. The Background Statements apply to General Motors cars equipped with the following specified components:

- THM 200 transmission—an automatic transmission that is installed in many General Motors rear-wheel-drive car lines.
- Camshafts and lifters in Chevrolet 305 CID (5.0 liter) and 350 CID (5.7 liter) V-8 engines.
- Fuel injection pumps and fuel injectors in Oldsmobile 350 CID (5.7 liter) diesel engines.

If one of these specified components in a General Motors car fails, the owner will have the ability to go to the Better Business Bureau in one of the 39 cities, request arbitration, and present the arbitrator with the applicable Background Statement, along with any other evidence supporting the owner's claim.

Advertising and Direct Mail

General Motors will send direct-mail notices, appropriate Background Statements, and information about the arbitration and PSP programs to all consumers who complained to General Motors, to the Federal Trade Commission or to state or local law enforcement or consumer affairs offices about a failure in a specified component. Under the proposed Order, General Motors will set up a nationwide toll-free telephone line to take inquiries about PSPs, PSP Indexes, and arbitration. The information may also be obtained by writing to General Motors.

General Motors dealers will have copies of the PSPs and PSP Indexes available to read at the dealerships, and can provide copies to consumers who request them.

The PSPs and PSP Indexes will be promoted in a number of ways. General Motors will place full-page advertisements in national magazines—four advertisements during the first year of the Order, and two in each succeeding year—promoting the PSP program. Dealers will also be provided with showroom posters promoting the program. Owner's manuals, point-of-sale brochures, and letters to certain owners of General Motors cars (with the components specified above) will also spell out and explain what information is available and how it can be obtained.

Some General Motors advertising will contain messages promoting the availability and use of arbitration. These messages will also appear in national magazines—two times during the first year of the Order, and three times every year thereafter.

The advertising for PSP's and arbitration is designed to reach at least 75 million readers.

EFFECTS OF THE ORDER

These programs should benefit General Motors car owners and buyers immediately, and ultimately all consumers, in the following ways:

—Owners can use the PSPs and Explanatory Information to better maintain their cars or to minimize future repair costs.
—Buyers can now avail themselve of the PSPs relating to the particular cars they are considering. This should lead to more informed purchase decisions.
—Independent auto mechanics will now be able to enjoy some of the same technical information previously available only to dealers. Both the mechanics and General Motors car owners should benefit from lower repair costs and more effective repairs.
—Arbitration will be an effective mechanism to help avoid legal time and expense by having disputes heard by an impartial third party

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpertation of the Agreement and proposed Order to modify in any way their terms.

Appendix—Minimum Cities Where the Arbitration Program Will be Established

1. Minneapolis/St. Paul, Minnesota
2. Buffalo, New York
3. San Francisco, California
4. Des Moines, Iowa
5. Philadelphia, Pennsylvania
6. Milwaukee, Wisconsin
7. Denver, Colorado
8. Louisville, Kentucky
9. Charlotte, North Carolina
10. Memphis, Tennessee
11. Portland, Oregon
12. Boston, Massachusetts
13. Detroit, Michigan
14. Washington, D.C.
15. Houston, Texas
16. Dallas/Fort Worth, Texas
17. New Orleans, Louisiana
18. Albuquerque, New Mexico
19. Phoenix, Arizona
20. Los Angeles, California
21. Reno, Nevada
22. Salt Lake City, Utah
23. Seattle, Washington
24. Omaha, Nabraska
25. Pittsburgh, Pennsylvania
26. Cleveland, Ohio
27. Indianapolis, Indiana
28. Wichita, Kansas
29. St. Louis, Missouri
30. New York, New York
31. Oklahoma City, Oklahoma
32. Birmingham, Alabama
33. Miami, Florida
34. Atlanta, Georgia
35. Jackson, Mississippi
36. Little Rock, Arkansas
37. Chicago, Illinois
38. Honolulu, Hawaii
39. Boise, Idaho

The Order requires that General Motors must expand the arbitration program as demand requires in order to expeditiously resolve consumer complaints. For those General Motors car owners who do not live near these metropolitan areas, they can consider arbitration by telephone and/or by mail.

Emily H. Rock,

Secretary.

Separate Statement of Commissioner David A. Clanton Concerning Consent Agreement With General Motors Corporation in Docket No. 9145

The Commission today has voted to settle its litigation with General Motors by provisionally accepting a proposed consent order. I appreciate the effort that went into negotiating that settlement, and recongnize that it has a number of attractive features. However, I must reluctantly dissent from the Commission's decision.

The essence of the Commission's complaint in this case was that GM knew of certain mechanical problems that had developed with its automobiles, and refused to tell consumers even though that information would have been worth more to consumers than it would have cost to disclose. These are only allegations, of course, and their truth was to have been decided in a full trial on the merits. We do not have all the evidence before us at this point. However, I believe (as I did when we issued the complaint) that we have reason to believe that these charges would be borne out at trial. Presumably, my fellow Commissioners share that belief—Otherwise, the proper course would have been to dismiss the case entirely, or to return it for further investigation and pre-trial discovery.

My difficulty is with the remedy we are accepting as the proper form of relief for these alleged violations. The proposed consent has many features that may be of considerable value prospectively, including the system for making product service publications available to the consuming public. The requirement ordering GM to arbitrate *all* disputes involving the powertrain can also be viewed as a prospective benefit. In pursuing these benefits, however, we may have lost sight of the alleged violations we originally set out to remedy. I am concerned that this remedy does too little to address those specific violations, and as a consequence bears too little relation to the theory of the Commission's case.

This is particularly true of the arbitration provisions. As noted above, the proposed consent requires GM to arbitrate all powertrain disputes, even for problems where there is no reason to believe that GM may have violated the FTC Act. This is in part due to GM's understandable reluctance to discriminate among its customers by offering arbitration for some problems but not for others. However, one effect of this expanded coverage is to blur the focus of the redress mechanism, making it much less targeted. The order deliberately avoids setting forth any standards on which the arbitrators might base their decisions. In effect, it shifts from a theory of narrowly-focused liability for those mechanical problems which should have been disclosed and were not; to a remedy which offers potential liability for *all* mechanical problems, but only to the extent that a lay arbitrator decides that liability would be appropriate.

I recognize that arbitration has many attractions as a basis for settlement. This is particularly true in a case such as this one, where there may be individual issues of fact about the appropriate measure of repair costs, or whether any given failure was due to improper consumer maintenance rather than to a manufacturing problem. Thus, my objection is not so much to arbitration *per se* as to the somewhat unfocused nature of the arbitration that the Commission is ordering here.

The settlement does not attempt to focus the arbitration by supplying consumers with "Background Statements" which they may (if they wish) give to the arbitrator. These statements are critical, for they represent the only communication from the Commission to the arbitrator, and the only vehicle by which we might influence the standard that will effectively be applied. My fear, however, is that they may be too much of a compromise, and offer too little assistance to consumers, to provide very much focus. The statement dealing with the THM–200 transmission, for example, begins with several paragraphs describing the complexity of transmissions and the care that GM took in manufacturing and testing them. The statements of the most value to consumers—for example, that the terms of the warranty should not necessarily control the outcome of the arbitration—are buried much later in the Statement. Nothing at all is said about the Commission's theory of the case; *i.e.*, that the FTC had reason to believe that these transmissions failed sufficiently often that GM should have told consumers so before they made their purchase. In short, nothing is said to focus the arbitrator's attention on the issues that we at the Commission believed were crucial in deciding whether liability should attach.

Thus, my concern is that this remedy may convert this case from one designed to impose liability for failures to make the proper disclosures, to one that imposes liability on the basis of some unknown and unfocused standard. I hope that my colleagues in the majority are correct, and that these fears will prove unfounded. In the meantime, I would welcome any comments from the public on this aspect of the proposed settlement.

Separate Statement of Commissioner Pertschuk Concerning Consent Agreement With General Motors in Docket No. 9145

April 26, 1983.

In my belief, based on the evidence in hand, General Motors violated the law by knowingly refusing to disclose several costly defects in cars that it sold to hundreds or thousands or millions of consumers over the past several years. GM's unwillingness to divulge this information may have caused unwitting purchasers hundreds of millions of dollars in total damages from repeated breakdowns and expensive repairs, not to mention the time and aggravation involved.

Today the Commission has provisionally accepted a consent agreement which settles the charges it brought against GM in 1980. The deal requires GM to give aggrieved owners an opportunity to resolve their disputes with GM through individual arbitration. In addition it requires GM to make its internal product service publications (PSPs), which describe problems with its cars, publicly available for eight years. After that, the order would expire.

The settlement does provide some benefits, and I encourage all consumers to take full advantage of the arbitration (and PSP) programs which will be available. After all, if consumers don't actively exercise their rights under this order they can't receive any compensation under it.

Still, despite these benefits, I do not believe that *individual* case-by-case arbitration, where each consumer must *prove* a right to redress, provides a strong enough solution for the substantial injury suffered here by classes of commonly-situated consumers. Only direct, automatic refunds to consumers, which is the redress remedy the Commission has always used before in its cases involving systematic car defects, can do that. I therefore voted to send the case back to trial rather than to accept the consent agreement in its present form.

Consumers have suffered severe economic headaches from the GM cars in question. The alleged defect in the THM 200 transmission caused individual repair bills of $400–$500 and total damages in the hundreds of millions of dollars. It appears to have failed at an abnormally high and alarmingly greater rate than the THM 350 transmission it replaced (normally, many GM transmissions never require replacement for the entire life of the car). In suing GM, the Commission alleged that GM knew about this dramatically higher failure rate but never told consumers about it.

Serious camshaft breakdowns in GM's 305 and 350 CID gas engines, another of the alleged problems, caused individual damages of around $400 a repair and total damages in the tens of millions of dollars. With proper maintenance and lubrication, camshafts normally should last the life of the car, yet thousands wore out early here at least partly as a result of faulty oil use recommendation by GM in its owner's manuals.

Water contamination resulting from an alleged defect in the fuel injection pumps and fuels injectors of GM's diesel engine cars caused $300–500 in individual repairs and total damages in the million of dollars. These losses have been somewhat offset, however, by GM's subsequent implementation of a partial fix for the defect and voluntary reimbursement of costs to some owners.

The Commission's choice of remedy for the enormous potential consumer injury in this case was severely limited by GM's absolute refusal to agree to any direct redress program in settlement negotiations. In so refusing GM knew, of course, that it would take years for the Commission to win redress for consumers through litigation, a problem which GM greatly exacerbated by "stonewalling" our staff's discovery demands. By these tactics, GM seized the upper hand and gave the Commission this unsatisfying choice: settlement now with case-by-case arbitration of damage claims in lieu of direct redress, or protracted litigation delaying years more any final award of direct refunds for consumers.

The Commission's trial team in this matter—one of its finest, incidentally—recommended settlement by arbitration as the *less unattractive* of the two alternatives, e.g., the most immediate means practically available for getting money into injured consumers' pockets. This was a powerful appeal, one that I was quite drawn to during the Commission's deliberations. In the final analysis, though, I was unpersuaded for the following reasons.

First, the agreement does not by itself *create* an opportunity for consumer redress here; that already exists in GM's voluntary nationwide arbitration program in cooperation with the Better Business Bureau. At most, through certain valuable improvements it would add to the BBB program, such as making the arbitration non-binding and publicizing it more widely, the agreement would only enlarge, to some unknowable degree, the consumer's opportunity for recovery.

Second, and more fundamental, are the conceptual problems that I have with arbitration as a remedy for generic products defects. While informal dispute resolution mechanisms, including arbitration, may be a wonderfully practical and efficient innovation for resolving individual legal disputes, *case-by-case* arbitration is a flawed remedy for substantial consumer injury in this type of case, in which there is proof of *systematic* defects *common* to an entire class of similarly-situated consumers. The highly individual nature or arbitration places an unfair burden here on consumers who, under the Commission's legal theory, are entitled to full redress of damages from GM without inquiry into the facts and circumstances of each particular case.

The inherent variability of case-by-case arbitration raises a host of troublesome questions. How many consumers will event bother to seek restitution, especially when many may have already experienced the discouragement of failing to get adequate redress from the dealer and GM zone representative? Will those who do try recover all or most of their damages in informal mediation with the dealer, the stage at which the great majority of disputes will likely be resolved? If they obtain only partial recovery will they persevere to aribtration or just stop, frustrated by the process and headaches involved? If they call it quits, will they have gotten justice? Of those who go to arbitration, how many will win—only half, as is usually the case, or almost all, as *should* be the case under the Commission's legal theory? Can the typical lay arbitrator knowledgeably apply the relevant legal theory, ruling in favor of the consumer unless GM can prove that consumer abuse, not the design defect, was the likelier cause?

In a word, can this arbitration remedy rise above a system that is designed only for resolution of *individually different* disputes and which in some ways resembles a game of chance, to become the rough equivalent of a program of direct automatic redress for the common injuries suffered by consumers here? As much as I want to believe otherwise, and as much as I respect our staff's judgment to the contrary, I am afraid that arbitration could substitute "random redress" for the automatic restitution to which these consumers are entitled under the Commission's theory of liability.

Our staff believes the "Background Statements" on the three alleged defects, which GM has agreed to give consumers, will help to reduce the inherent randomness of the arbitration process. This is impossible to know. The arbitrator certainly is not bound to heed the information provided, but is free to apply his or her own individual sense of right. Nevertheless, the staff strongly believes these statements, as negotiated, will tend to help the consumer.

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First, the staff believes the novel presence of a fact sheet, which explicitly alludes to the "settlement of a dispute" between GM and the FTC, will suggest to the arbitrator possible culpability on the part of GM. Second, they believe the statement in the fact sheet that the "warranty is not necessarily the limit of the manfuacturer's responsibility, and need not control the outcome of arbitration," will help dispel the view of arbitrators (around 50 percent in CRO's arbitrator interviews) that in fact the warranty is controlling. Third, they believe each of the fact sheets is suggestive enough of a problem that was GM's fault, not the consumer's, to give both the consumer and the arbitrator enough information to work with in support of the consumer's claim.

I hope the staff is right, but there are reasons to be doubtful. The fact sheets are the result of extremely tenacious bargaining with GM, *and look it.* They are hardly a model of clarity, obscuring even the statements most helpful to the consumer.[1] To GM's further advantage, they state up front the reality that each arbitration case is, in fact, "individual" in nature (which is diametrically opposite to the Commission's theory of liability), and exclude the likelihood, or even the possibility, of a systematic design or performance defect. In short, they are neutral, deliberately muddled (by GM) statements of the problems and the issues, suitable at most only for case-by-case resolution of individual complaints. They don't come close to reflecting our defect theory of common recovery in the case.

Still, despite my reservations about the agreement, I want to see the arbitration program succeed in the sense that it fairly awards all consumers who were unfairly injured by GM's failure to disclose alleged defects.

Indeed, I could have enthusiastically supported the program if it had more clearly reflected the following underlying principles of the Commission's case against GM:

- Systematic defects, such as the ones alleged here, sometimes do not come to light until after the warranty period.
- It is normally reasonable for consumers to expect cars to provide reliable, dependable service well beyond the warranty period.
- The FTC had evidence the failure rates of the components here were abnormally high, that GM knew this but never told consumers about it.
- The consumer should win an award equal to his or her out-of-pocket repair costs, unless in the particular individual case GM can prove the problem was the consumer's fault, as judged by clear instructions for proper driving or maintenance that may appear in the owner's manual.

Whether these principles will be reflected in individual arbitration hearings under the negotiated terms of the arbitration program is perhaps the central question about this consent agreement that commentors should address during the public comment proceeding.

Separate Statement of Commissioner Patricia P. Bailey Concerning Consent Agreement With General Motors Corporation, Docket No. 9145

I have, with some reservations, voted to provisionally accept the consent agreement negotiated by the Commission's Cleveland Regional Office staff with the General Motors Corporation (GM). Any settlement is, by its very nature, an imperfect compromise of the important issues (and injury) at stake in any lawsuit. This one—negotiated to bring an end to one of the most massive and complex cases the Commission has ever brought—is no exception. Nevertheless, I am persuaded by the evidence now before us that it represents a fair and equitable, if not complete, resolution of the debate between the Commission and GM concerning what went wrong with the THM 200 transmissions, camshafts and diesels in various models of GM cars.

The settlement offers the Commission the fastest and indeed the only feasible way to redress the injury suffered by many GM owners. Our sole alternative is continued litigation which would take until at least the end of the decade to resolve. By that time, injured GM owners, some of whom bought their cars as far back as 1974, will have given up, disappeared, or lost the records needed to document their claims. The money they lost, even if it could be recovered, would have eroded substantially in actual value. Given the choice between the Pyrrhic victory of possibly winning the case sometime in the 1990's and obtaining some immediate relief now, I elected what seemed to be the more valuable option from those consumers' perspective.

It is easy for any enforcement agency to become absorbed in the vindication of important legal principals. But we have at least an equal responsibility to the public whom we are charged to protect—even at the cost of striking a compromise of their interests in order to obtain any redress of their grievances at all. In choosing this settlement over protracted litigation, I do not suggest for a moment that it represents the optimal resolution of the Commission's case against GM. Rather, I believe that it represents the only practical alternative for the consumers the Commission must first and foremost represent.

The Commission alleged in its 1980 complaint that the three components of the cars in question were subject to an "abnormal number of failures" or, in plain English, were defective. The Commission further alleged that at some time after the cars were sold, GM knew or should have known the three components were defective but continued selling the cars without telling consumers about those problems. Such practices are deceptive and violate the Federal Trade Commission Act. While I believed then and continue to believe that these basic complaint allegations are very likely true, the task of proving them at trial would be enormously complicated.

Ultimately, the staff decided to pursue GM's basic settlement offer of arbitration of consumer complaints for three reasons: first, the trial of the case had not yet begun after over two years of pre-trial skirmishing and it appeared the litigation would drag on for years. Second, the case involved colorable claims by GM that some of the failures of the three components may have been caused not by any mechanical defect but rather by consumer misuse. (For example, camshafts may have failed when consumers neglected recommended oil changes for long periods of time.) Third, the potential magnitude of the redress class, partnered with the issue of consumer abuse, made arbitration a practical compromise which hopefully will result in compensation for those who were innocently injured.

The arbitration program required by the consent agreement affords several important protections to consumers: for the life of the order (eight years), GM will be under a legal obligation to provide arbitration to all consumers experiencing engine and transmission problems; consumers will be provided with fact sheets, which may be submitted to the arbitrator, concerning the three allegedly defective components and which indicate specifically that the warranty is not the limit of GM's liability in any given case; they will have the option of requesting an in-person hearing before an arbitrator, who will travel to their location at GM's expense if consumers so elect; and the arbitrations will be non-binding on consumers. Past experience indicates that at least 85 percent of all grievances are resolved voluntarily by the company before they reach the final arbitration phase and that most consumers leave this interim mediation phase either satisfied or committed to pursue final arbitration. Of the 15 percent who pursue their claims to artibration, almost 60 percent obtain an award larger than that offered in the mediation phase. The strengthening of arbitration remedies afforded by the order should encourage additional voluntary resolution of disputes by GM.

Finally, the arbitration program will be conducted under the auspices of the Better Business Bureau (BBB). The Commission has had experience with other BBB programs, particularly the self-regulatory program in the advertising industry, and we have confidence in the basic integrity of that organization and its ability to handle this kind of process.

Nonetheless, the arbitration program contained in the consent agreement is experimental and, if the agreement is approved finally by the Commission, we will be monitoring its results very carefully. As far as I am concerned, no precedent will be set by this remedial approach until and unless the Commission is satisfied that it has worked well and effectively for all concerned. GM and the BBB have an opportunity here to justify not only the Commission's effort to give arbitration an opportunity to work but also consumers' continued confidence in GM products.

For the future, the settlement requires the public disclosure of systematic problems on a level unprecedented in the American automobile industry. Previously, this information was only available to GM dealers and rarely reached car owners and independent mechanics. Combined with the requirements contained in the Commission's 1980 consent agreement with the Ford Motor Company, this settlement will accomplish the simultaneous disclosure of product reliability information by the two largest domestic automakers. These disclosures, if utilized by consumers and consumer media, could change the basis on which cars are marketed in this country and should also prove helpful in future arbitrations of consumer disputes.

[1] In the transmission fact sheet, for example, the above warranty statement is buried at the bottom of the 5th paragraph, toward the end of the sheet. In the camshaft fact sheet, the statement that there could have been excessive wear "even if the owners followed the recommendations in the owner's manual," and that GM was aware of this problem, appear in the last paragraphs of the sheet.

Separate Statement of Commissioner George W. Douglas Concerning Consent Agreement With General Motors in Docket No. 9145

By its action today the Commission has settled a long, complex case that was initiated in 1978, and, if it were to be pursued through litigation, could easily last as long as ten more years before resolution.

The consent agreement signed by General Motors and the FTC staff provides several substantial benefits to consumers which are not now available and which would not likely be forthcoming from litigation, even if the Commission won every appeal on every portion of the complaint. First, injured consumers, some of whom purchased their vehicles as far back as 1975–1976, will receive redress via mediation and arbitration *now*, through an unbiased Better Business Bureau arbitration program.

Second, and of potentially greater importance in terms of benefits to prospective automobile purchasers, the settlement calls for General Motors to provide detailed disclosures of maintenance, repair, and use and care information by making its Product Service Publications available to consumers for the first time. (Litigation, by contrast, would at best result only in an order calling for GM to cease and desist from failing to disclose material defects.)

In view of the immediate and significant benefits that the consent order provides consumers, the alternative course—a protracted legal battle with a highly uncertain outcome—is decidedly inferior. Indeed, to pursue direct redress through litigation would mean that consumers would likely, in the event that the Commission did prevail, receive no compensation at all until the end of the decade, and possibly not until 1993 or later. This raises the serious question as to how many injured owners will have exhibited the necessary patience and foresight in maintaining documentation of their losses caused by one of the defects involved. Truly, the pursuit of litigation in this matter would provide a compelling textbook example of the aphorism that "justice delayed is justice denied."

An even more disturbing aspect of continuing litigation is that the ultimate outcome is highly dubious and made particularly uncertain by the fact that the Commission has to win two separate court cases (and associated appeals) in order for redress to be granted.

Clearly, for the Commission to pursue litigation in this matter would not be in the best interests of consumers deserving of redress. Indeed, taking the greater certainty of immediate compensation through mediation and arbitration into account, the amount of total redress to consumers through arbitration is, by my estimates, likely to exceed the expected redress through litigation by sixfold. In summary, the Commission wisely fulfilled its responsibility to consumers in eschewing the quixotic quest preferred by Commissioner Pertschuk, which in all likelihood would have had the result of enriching a large number of lawyers at the expense of injured consumers.

Questions for Public Comment Presented by Commissioner Pertschuk

1. Generally speaking, is the remedy of arbitration—in which the issues of whether a product defect exists and whether the manufacturer should be held responsible for it are adjudicated on a case-by-case basis—an appropriate response to allegations of a common undisclosed product defect causing injury to a class of similarly-situated consumers? Please explain. In what circumstances might case-by-case arbitration be a more appropriate remedy than direct automatic redress for responding to consumer injury resulting from undisclosed product defects?

2. Generally speaking, what are the advantages and disadvantages to consumers of the Better Business Bureau's voluntary arbitration program, which would be utilized under this consent agreement?

a. Through 1982 reportedly, around 3400 cases had proceeded through arbitration in the GM/BBB program since its inception in 1978. Has the BBB program demonstrated the organization and capacity to handle efficiently and fairly the increased load of thousands of arbitration cases that could result from this consent agreement? Please explain.

b. What has been the experience of consumers in GM's current arbitration program in obtaining compensation for failures occurring after the expiration of the written warranty? To what extent currently does GM raise the expiration of the written warranty in the arbitration hearing or their written submissions to the arbitrator?

c. Have consumers who have gone through GM's arbitration program found that they were overmatched—that GM through it expertise, resources, or influence, had a significant advantage in the arbitrition proceedings? Please explain.

d. The GM BBB arbitration program incorporated in this consent agreement can be described as a mediation/arbitration program, in which the consumer and GM first must try to settle on their own, as opposed to a straight arbitration program in which complainants have immediate access to arbitration without the intermediate mechanism urging mediation. Under this program, reportedly over 80% of all disputes are closed in the mandatory mediation phase and never go to arbitration. In the context of this settlement with GM, is a mediation/arbitration program appropriate? Or should the program only offer straight arbitration or at least the clear option (rather than requirement) to mediate or proceed straight to arbitration? Please explain.

3. What impact is the consent agreement's provision for *non-binding* arbitration likely to have?

a. Will it increase consumers' willingness to arbitrate, knowing that they will not be bound by the decision if they are unsatisfied with it?

b. What effect if any will it have on GM's incentive to resolve disputes to consumers' satisfaction in the mediation phase preceding arbitration? For example, since an unsatisfactory arbitration judgment would be non-ninding on the consumer, leaving the consumer free to seek recovery through other means such as private class actions, will GM have a substantially greater incentive to satisfy the consumer at the pre-arbitration mediation stage? Please explain.

4. What impact if any will the "Background Statements" on the alleged defects, which GM has agreed to provide consumers, have on the arbitration hearings? Are these statements as written adequate for the purpose of providing useful information to the consumer and appropriate guidance to the arbitrator? If they are not adequate, how could they be modifed to be substantially more useful? Please explain.

5. What impact if any will the consent agreement, specifically its provisions for arbitration of outstanding disputes, have on the various class action and state attorney's general lawsuits that have been filed against GM alleging one or more of the same defects involved in the Commission's case? Specifically, will it make it harder or easier for deserving consumers to get direct redress from GM through those actions? Please explain.

6. What effect if any do you believe the GM Product Service Publication (PSP) disclosure provisions of the consent agreement will have as a means of implementing GM's duty under the order to disclose known problems with its cars to consumers?

a. Do you believe the PSPs, in the manner of dissemination and format provided, will be reasonably accessible to consumers?

b. Do you believe the PSPs will provide the kind of information that will be reasonably understandable and useful to consumers?

c. Do you believe the requirement for GM to make its PSPs available to the public should expire after eight years, as provided in the consent order? Please explain.

7. If you believe the arbitration and/or PSP disclosure provisions of the consent agreement are seriously deficient in any way, how would you modify them to make them more acceptable? Please explain.

8. Do you believe either the arbitration or PSP disclosure provisions of the consent agreement, standing alone, are an adequate basis for accepting the consent agreement? Rejecting it? Please explain. If you do not believe one or the other of these provisions is an adequate basis alone for accepting the agreement, do you nevertheless believe that the combined benefits of the arbitration and PSP provisions warrant acceptance of the agreement? Please explain.

Question for Public Comment Presented by Commissioner Patricia P. Bailey

In responding to the questions posed by Commissioner Pertschuk, commenters should at all times bear in mind that the alternative to the mediation/arbitration program

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required by this consent agreement is to return the case to litigation, which could not be completed for several years, perhaps by the end of this decade. Even then, if the Commission were to prevail, a second lawsuit would have to be undertaken to obtain redress for affected consumers. Would those who purchased any of the allegedly defective cars beginning in 1974 be better served if the commission pursued that uncertain and lengthy course or by the immediate initiation of the process mandated by this consent agreement?

Commissioner George W. Douglas' Separate Analysis of Arbitration Provisions for Aid in Public Comment

In fashioning their responses during the 60-day public comment period, some commentators may find considerable value in a concise analysis of how the provisionally accepted consent order modifies General Motors' current, voluntary arbitration program. Specifically, the negotiated settlement provides seven improvements in General Motors' existing arbitration program.

First, whereas the arbitrator's decision in the current program is binding on the consumer (except in two states), the negotiated settlement requires that although the arbitrator's decision would still bind General Motors, it would not bind the consumer, who would be eligible to participate in private/state/class action lawsuits if not satisfied with the arbitrated settlement.

Second, under the terms of General Motors' existing arbitration program, only current vehicle owners are eligible. The negotiated settlement, however, specifies that injured consumers will be eligible to participate in the arbitration program and receive redress regardless of whether or not they still own the problem vehicles.

Third, the current General Motors program is offered in 39 cities, and injured consumers must participate in person, implying an extreme hardship on owners living far away from one of those cities. Under the terms of the negotiated settlement, *all* injured consumers in the United States will be able to participate, without incurring any extra costs, regardless of where they live. *At the injured consumers* option, arbitration will be conducted by mail, by telephone, or in person, at General Motors' expense.

Fourth, General Motors' current arbitration program is "experimental" and can be terminated at any time. The negotiated settlement requires that General Motors continue the program for eight years and expand it as necessary.

Fifth, whereas the existing program does not furnish *any* background information for the arbitrator's use, the negotiated settlement provides background information statements to be used by consumers experiencing any of the three defects listed in the complaint. Significantly, the background statements point out that the written warranty is not controlling.

Sixth, General Motors has provided only limited disclosure of its existing arbitration program, typically informing only owners of vehicles less than three years old or with under 36 000 miles about the program. Under the terms of the settlement, General Motors would have to take certain steps to ensure widespread disclosure. Direct mail notice will be given to all injured owners who have complained to the Federal Trade Commission, to a state attorney general, or to General Motors after 1978. General Motors will also be required to conduct extensive advertising of the program and to provide a toll free number for information.

Seventh, the negotiated settlement calls for General Motors to provide arbitration within sixty days (under penalty of fine) from the date of first contact about the program by a consumer. The provisions in the current program do not require General Motors to act by any specific time.

In addition to the improvements listed above, the negotiated settlement also provides that General Motors, if so directed by the Commission must conduct an analysis of the costs and benefits brought forth by the settlement for the purposes of making further improvements in this or other following consent orders involving redress or arbitration.

[FR Doc 83-12233 Filed 5-6-83; 8:45 am]
BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Withdrawal of Proposed Testing Program and Certification Requirements for Architectural Glazing Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Consumer Product Safety Commission is withdrawing a proposed rule to establish a reasonable testing program and certification requirements for products subject to the Commission's safety standard for architectural glazing materials. The proposal is being withdrawn because it would be economically burdensome to consumers and the industry and it would not significantly affect the safety of the products.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: In 1977 the Commission issued a safety standard applicable to glazing materials used or intended for use in specified applications. 16 CFR Part 1201. On December 16, 1977 the Commission published for public comment a proposed rule, under the authority of 15 U.S.C. 2063, 2065, and 2076(e), containing (1) requirements for sampling and testing of architectural glazing materials subject to the safety standard, to support certification of compliance with the standard; (2) requirements for the form and content of a certificate of compliance stating that the architectural glazing materials are subject to and comply with the standard; (3) requirements for temporary labeling of the architectural glazing materials; and (4) requirements for maintenance of records relating to the production, sampling, testing, certification, and distribution of the architectural glazing materials. 42 FR 63586 (Dec. 16, 1977).

During early 1978 the Commission received 29 written public comments on the proposed requirements and heard oral presentations at a public hearing on March 1, 1978. These comments, mostly from representatives of the industry, generally asserted that the proposed requirements were (a) unreasonable due to their cost and to the recordkeeping requirements, (b) unnecessary to assure that the public would be protected from unreasonable risks associated with noncomplying glazing materials, and (c) unfair since foreign manufacturers were not included within the requirements. More specifically, industry estimated that costs to the consumer from the requirements would be from $7 to $12 million (1978 dollars), with an additional cost to the industry for recordkeeping of one or two million dollars annually.

A July 1978 report, prepared under contract for the Commission, concluded that the costs of the proposed requirements would be passed on to consumers with normal mark-up and would total from $9.8 to $17 million (1978 dollars). In addition, this report by A.T. Kearney, Inc. found that the requirements could impose signifícant adverse impacts on small businesses and on domestic producers.

The Commission's engineering staff believes that a mandatory reasonable testing program, such as the one proposed in 1977, would have only a marginal effect (if any) in decreasing the incidence of certified glazing material that is in fact noncomplying. The enforcement staff has estimated that resources expended to enforce a certification rule for glazing materials would likely include 16 staff months during the first year of enforcement and eight staff months during each year after that.

In the absence of any specific certification rule for architectural glazing materials subject to 16 CFR Part 1201, manufacturers and private labelers of such products must nevertheless comply with section 14(a) of the Consumer Product Safety Act, 15 U.S.C. 2063(a). Under this statutory provision, manfacturers and private labelers must issue certifcates certifying that their products conform to the Commission's standard on architectural glazing materials. The certificates must (1) accompany the products or otherwise be furnished to distributors and retailers, (2) be based on a test of each product or on a reasonable testing program, (3) state the name of the manufacturer or private labeler, and (4) include the date and place of manufacture. These requirements have applied since the safety standard on architectural glazing materials has been in effect, and they will continue to apply now that the proposed certification rule is being withdrawn. The Commission believes that the existence of these statutory requirements makes unnecessary any more specific certification rule for architectural glazing materials.

Conclusion

Based on all information now availabe to the Commission, the likely costs of a certification rule for architectural glazing materials to consumers, to the industry, and to the government would not be justified by any potential increase in protection to the public. Therefore, the Commission hereby withdraws the testing program and certification requirements that were proposed on December 16, 1977.

Dated: May 2, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-12341 Filed 5-6-83; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Permanent State Regulatory Program of Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Indiana to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Indiana State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of a set of modifications to Indiana's surface and underground coal mining regulations and is intended, in part, to satisfy two specific conditions of the Secretary's approval. The amendment also consists of other changes to the Indiana rules which are not related to the conditions of approval.

This document sets forth the times and locations that the Indiana program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment (IN-0323), and information pertinent to the public hearing.

DATE: Written comments relating to Indiana's proposed modification of its program not received on or before 4:00 p.m. on June 8, 1983, will not necessarily be considered in the Secretary's decision on whether the proposed program amendment satisfies the above conditions.

If requested, a public hearing will be held on June 3, 1983, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES.**"

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

If a public hearing is held, its location will be at: OSM Indianapolis Field Office, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana. Telephone: (317) 269-2600.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Indiana program, the proposed amendment, and a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana.

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or a locations other than Indianapolis, Indiana will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business three working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all person scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be

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made a part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 727.13(j), the Secretary may conditionally approve a State permanent reglatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Indiana State Program

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and detailed explantion of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32106).

At the time of the Secretary's conditional approval, Indiana agreed to meet nine minor conditions, many of which contained several parts. Most of the conditions and their parts have been removed through the approval of amendments to the Indiana program. For additional information on the prior removal of conditions, see the December 17, 1982, **Federal Register** at 47 FR 56493, and the March 4, 1983, **Federal Register** at 48 FR 9248.

The remaining conditions on the Indiana program are as follows:

Condition (a)(2) requires Indiana to require the design criteria for stream channel diverdsions as require by 30 CFR 816.44 and 817.44

Condition (b)(3) requires Iniana to require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities indication all the information requird by 30 CFR 782.19.

The deadline for Indiana to address these conditions is July 1, 1983. Both of these conditions are proposed to be addressed by the Indiana modifications being announced in this notice.

Two other conditions, (g)(1) and (h), require legislative actions and are scheduled to be met by September 30, 1983.

IV. Discussion of the Proposed Amendment

On April 19, 1983, OSM received a set of regulation amendments from the Indiana Department of Natural Resources intended to meet conditions (a)(2) and (b)(3). See IN–0323. Indiana has proposed changes to its rules at 310 IAC 12–5–19 and 12–5–85 to meet condition (a)(2), and at 12–3–63 to meet condition (b)(3).

In addition, Indiana has proposed changes to other State rules that are unrelated to the conditions. These rules are:

310 IAC 12–1–3, 12–3–12, 12–3–39, 12–3–76, 13–3–112, 12–3–118, 12–4–3, 12–4–4, 12–4–7, 12–4–17, 12–5–36, 12–5–41, 12–5–71.5, 12–5–101, 12—5–105, 12–5–139.5, 12–6–1, 12–6–4, 12–6–5, 12–6–6.5, 12–6–9, 12–6–15, and 12–6–16.

Thus, the Secretary requests comments on the substantive adequacy of the proposed amendment to satisfy the conditions listed above and on the substantive adequacy of the proposed changes to the other Indiana rules.

Procedural Matters

1. *Compliance with the National Enviromental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subject in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 4, 1983.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–12379 Filed 5–6–83; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 925

Public Comment Procedures and Opportunity for Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for requesting a public hearing on the substantive adequacy of certain program amendments submitted by the State of Missouri as modifications to the Missouri permanent regulatory program (hereinafter referred to as the Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted include statutory and regulatory changes to the performance bond requirements of the Missouri program.

This notice sets forth the times and locations that the Missouri program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., June 8, 1983 to be considered in the decision on whether to approve or disapprove the proposed program amendments.

A public hearing on the proposed modifications will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting, rather than a public hearing may be held, and the results of the meeting included in the Administrative Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be published in the **Federal Register**. Requests for a public should be directed to Richard Rieke at the address and phone number listed below by 4:00 p.m., May 24, 1983.

ADDRESSES: Written comments and requests for a hearing should be sent to: Mr. Richard Rieke, Field Office Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments

received in response to the notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Missouri Department of Natural Resources, Land Reclamation Commission, 1026 D Northeast Drive, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Field Office Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: The Missouri program was approved on November 21, 1980 (45 FR 77017–77028). The approval was conditioned on the correction of 23 minor deficiencies, which were included in three conditions, (a), (b), and (c). Condition (a) consisted of (a)(1) through (a)(21). The Secretary removed the first six elements of condition (a)(1), conditions (a)(2) through (a)(21), and conditions (b) and (c) on May 11, 1982 (47 FR 20116–20119). The Secretary removed the last element of condition (a)(1) on January 17, 1983 (48 FR 1956). Information pertinent to the general background, revisions, modifications, and amendments to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77017).

On April 13, 1983, Missouri submitted a proposed program amendment (Administrative Record No. MO–253), consisting of enacted legislation (Senate Bill 737) and promulgated regulations to amend the performance bond provisions of the Missouri program.

The proposed program amendments create and implement a coal mine land reclamation fund to be used to complete reclamation after the proceeds from any applicable performance bond have been exhausted. All permittees are required to pay an assessment to the fund based on the tonnage of coal sold or otherwise disposed of.

The full text of the proposed program amendments submitted by Missouri on April 13, 1983, is available for public inspection at the addresses listed above. The Director now seeks public comment on the adequacy of the proposed amendments. If approved, the amendment will become part of the Missouri program.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 4, 1983.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–12382 Filed 5–6–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Emergency Fire Suppression Assistance

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed regulation sets forth the circumstances under which the Forest Service may commit resources to help suppress fires on adjacent lands when a reciprocal agreement with other fire organizations does not exist, and when the Forest Service may provide these services free, and when reimbursement to the Forest Service is required. This proposed regulation is necessary to implement provisions of the Reciprocal Fire Protection Act, 42 U.S.C. 1856b, governing emergency situations where there are no reciprocal agreements between the Forest Service and other fire organizations.

DATE: Comments on this proposed regulation must be received by July 8, 1983.

ADDRESS: Comments may be mailed to: R. Max Peterson, Chief (3100), USDA Forest Service, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Francis Russ, Staff Assistant, Cooperative Fire Protection Staff, Telephone (703) 235–8023.

SUPPLEMENTARY INFORMATION: 42 U.S.C 1856a authorizes agency heads who are responsible for providing fire protection for property of the United States to enter into reciprocal agreements with other fire organizations to provide mutual fire protection assistance. In the absence of such reciprocal agreements, 42 U.S.C. 1856a authorizes agency heads to render emergency assistance, with or without reimbursement, in fire suppression and in preserving life and property from fire. This emergency assistance may only be extended when determined by regulation to be in the best interest of the United States.

Under the proposed rule, where Forest Service prescribed fires escape onto lands not administered by the Forest Service, the Forest Service may, on a non-reimbursable basis, commit resources to suppress these fires. When requested, the Forest Service may commit resources on a reimbursable basis to suppress other fires in the vicinity of Forest Service fire protection facilities and to preserve life and property from fire.

This action has been reviewed pursuant to Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. The proposed rule will have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It also has been determined that this action does not require a regulatory

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flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because the action will not have a significant economic impact on a substantial number of small entities since it imposes no direct or indirect cost on small entities; it imposes no paperwork or recordkeeping requirements on small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

List of Subjects in 36 CFR Part 211

Administrative practices and procedure, Fire prevention, Intergovernmental relations, National forests, Public lands—permits.

Therefore, for the reasons set forth in the preamble, Part 211 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION

Subpart A—Cooperation with Private and State Agencies

1. Revise the table of contents by adding § 211.5 to read as follows:

Sec.

• • • • •

211.5 Emergency Fire Suppression Assistance.

2. The authority citation for Part 211 Subpart A, reads as follows:

Authority: 69 Stat. 67, as amended, 42 U.S.C. 1856b; 30 Stat. 35, as amended, Sec. 1, 33 Stat. 628; 16 U.S.C. 472, 551.

3. Add § 211.5 to read as follows:

§ 211.5 Emergency Fire Suppression Assistance.

In the absence of a written reciprocal agreements with any fire organization or in situations outside the scope of an agreement, the Forest Service is authorized to render emergency assistance in suppressing fires and in preserving life and property from the threat of fire within the vicinity of Forest Service fire protection facilities under the following conditions:

(a) If a Forest Service prescribed fire escapes onto lands not administered by the Forest Service, the Forest Service may commit personnel, materials, and equipment without reimbursement or consideration of the fire's continuing threat to National Forest System lands or resources.

(b) When requested, the Forest Service may commit personnel, materials, and equipment on a reimbursable basis on lands not administered by the Forest Service without regard to the fire's threat to National Forest System lands or resources.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

April 8, 1983.

[FR Doc. 83-12378 Filed 5-6-83; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2292-8]

Approval and Promulgation of Implementation Plans; Massachusetts; New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve a revision to the Massachusetts State Implementation Plan (SIP) which incorporates into the Massachusetts SIP preconstruction review requirements for major new sources locating in nonattainment areas where the air quality is worse than levels set to protect public health and welfare. These new Massachusetts regulations meet the Clean Air Act requirements for review of new sources and modifications in nonattainment areas.

DATE: Comments must be received on or before June 8, 1983.

ADDRESS: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203 and the Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Steet, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Branch, EPA, Region I, Room 2111, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5130.

SUPPLEMENTARY INFORMATION:

Background

Major new or modified sources locating in areas designated nonattainment with respect to National Ambient Air Quality Standards under Section 107 of the Clean Air Act are required to meet the condtions set forth in Sections 172 and 173 of the Clean Air Act and in 40 CFR 51.18. The present Massachusetts SIP for review of such sources was approved on January 10, 1980 (45 FR 2036) and September 10, 1980 (45 FR 59579).

EPA revised the requirements for new source review in nonattainment areas on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52741) and required states to revise their SIPs to include these changes.

State Submittal

In response, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted on May 27, 1982 and September 9, 1982 a request for a SIP revision which included:

1. 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review,"
2. Revisions and additions to 310 CMR 7.00, "General Definitions,"
3. A revised Regulation 310 CMR 7.02(b)(5), "Plan Approval and Emission Limitations," which states that major sources locating in a nonattainment area will not be granted approval to construct unless they meet the requirements of 310 CMR, Appendix A, and
4. A revised Regulation 310 CMR 7.02(b)(6) "Plan Approval and Emission Limitations," which states that emissions from sources subject to the requirements of Appendix A must be consistent with reasonable further progress.

EPA Evaluation

EPA has completed a "Technical Support Document" which is available for public review (see "**ADDRESSES**"). The Technical Support Document discusses the Massachusetts submittal and compares it to the federal new source review requirements. Except as noted below, EPA has concluded that the Massachusetts submittal meets EPA requirements.

Plantwide vs. Dual Definition of Source. On October 14, 1981 (46 FR 50766) EPA made further changes to the new source review requirements which states were allowed, but not required, to adopt. In this rulemaking EPA redefined source as an entire plant rather than as both an entire plant *and* as an identifiable piece of process equipment (the "dual" definition) and removed the definition of reconstruction. The effect of these changes was to reduce the number of sources subject to review. The plantwide definition requires that only sources with a net plantwide emissions increase comply with new source review regulations. An emissions increase at a single piece of process equipment would not be subject to review under nonattainment regulations if emissions were reduced by an equivalent amount at another piece of process equipment. Under the plantwide definition of source, reconstruction would apply only to entire plants which are rebuilt. Since few, if any, such reconstructions are anticipated, EPA determined there was no reason to retain this definition.

The DEQE choose to adopt the more recent plantwide definition. On August 17, 1982, however, the U.S. Court of Appeals for the Washington, D.C. Circuit issued an opinion in *Natural Resources Defense Council* v. *Gorsuch*, 685 F.2d 718 (D.C. Circuit, 1982) which, if finalized, will vacate EPA's October 14, 1981 final rulemaking. EPA, therefore, cannot approve the definition of "source" or the supporting definition of "building, structure, facility or installation," as submitted by the DEQE. EPA is proposing to take no action on these definitions insofar as they are used for the review of new sources in nonattainment areas. EPA is proposing to approve these definitions for use elsewhere in the SIP.

We are also taking no action on a provision of Appendix A which would apply only in conjunction with a plantwide definition of source. Paragraph 4(b) of Appendix A requires the installation of reasonably available control technology (RACT) at a modification when there is no increase in total emissions plantwide. That is, a source could reduce emissions elsewhere at its plant to avoid new source review but could not avoid RACT.

The current Massachusetts SIP requires new sources locating in a nonattainment area to follow the requirements of the Emission Offset Interpretative Ruling (EOIR) of January 16, 1979 (44 FR 3274) which contains a dual definition of "source" and a definition of "reconstruction." These definitions and accompanying supporting definitions ("facility" and "fixed capital cost") will remain in effect with respect to review of new sources in nonattainment areas.

Emission Reduction Credit for Source Shutdowns and Production Curtailment

Pursuant to 40 CFR 51.18(j)(3)(ii)(c), source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed may not be used for emission offset credit unless the shutdown or curtailment occurred after August 7, 1977 or one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment credit. DEQE's regulation, 310 CMF Appendix A, Paragraph 5(q), states only that credit for emissions reductions occurring before July 1, 1979 will not be granted unless credit was applied for in writing before that date.

Because DEQE's regulation does not limit emission credit for prior shutdowns or curtailments to replacement facilities it does not fully meet EPA requirements. Therefore, we cannot approve Appendix A, Paragraph 5(q) which addresses shutdown credits. EPA is now preparing a proposed regulation to implement the settlement agreement reached in *Chemical Manufacturers Association (CMA) v. EPA*, No. 79–1112 (D.C. Circuit February 22, 1982). The regulation will propose to remove the replacement unit restriction on shutdown and production curtailment emission credits. If EPA should finalize the regulation then the DEQE submittal would be approvable. However, until that time, the Federal laws require States plans to restrict the use of shutdown or production curtailment credits to replacement units in nonattainment areas. Therefore, EPA is taking no action at this time on 310 CMR, Appendix A, Paragraph 5(q). At the time the rulemaking effort pursuant to the CMA settlement is resolved, EPA will determine whether the DEQE provision is approvable. The current Massachusetts SIP, the EOIR, meets the requirements of 40 CFR 51.18(j)(3)(ii)(c). Therefore, 40 CFR Appendix S, Emission Offset Interpretative Ruling, Paragraph IV(c)(3) which requires that emission reduction credits from source shutdowns or curtailments in production or operating hours may only be used for replacement facilities, will remain in effect.

Proposed Action

EPA is proposing approval of:

1. The addition of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review," to the Massachusetts SIP.
2. Revisions to 310 CMR 7.00 "General Definitions" with the exception of the definitions of "source" and "building, structure, facility or installation," insofar as they apply to 310 CMR, Appendix A.
3. A revision to 310 CMR 7.02(b)(5) which states that major sources locating in a nonattainment area must meet the requirements of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review," with the exceptions noted below.

Exceptions:

(a) The definitions of "source", "facility", "construction" and "fixed capital cost" now in the Massachusetts SIP will remain in effect.

(b) The provision limiting the use of emissions reduction credit resulting from source shutdowns or curtailments in production or operating hours, 40 CFR Appendix S, Emission Offset Interpretative Ruling, Paragraph IV(c)(3), will remain in effect.

4. A revision to 310 CMR 7.02(b)(6) which replaces the reference to the EOIR with a reference to 310 CMR, Appendix A.

EPA is proposing to take no action on:

1. The definitions of "source" and "building, structure, facility or installation" found at 310 CMR 7.00, "General Definitions," insofar as these definitions apply to the review of new sources in nonattainment areas.
2. Paragraph 4 of Appendix A which requires the installation of RACT at modifications at sources in nonattainment areas where there is no overall increase in emissions.
3. Paragraph 5(q) of Appendix A which pertains to source shutdowns and production curtailments.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: January 19, 1983.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 83-12327 Filed 5-6-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 192

[AH-FRL 3219-6]

Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Invitation for Comment

Correction

In FR Doc. 83-11507 beginning on page 19584 in the issue of Friday, April 29, 1983, make the following correction:

On page 19602, center column, beneath the line reading "Dated: April 20, 1983" insert the signer's name and title as follows:

Lee L. Verstandig,

Acting Administrator.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 114-50

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Acquisition for Federal and Federally-Assisted Programs

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Proposed Model Regulations and Request for Comments.

SUMMARY: The Department of Transportation (DOT) at the request of the Office of Management and Budget, published in the **Federal Register** on April 14, 1983, 48 FR 16198, a notice of proposed rulemaking (NPRM) under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). This proposed DOT rule, developed by an interagency working group, is intended to eventually serve as a model for regulations to be issued by all other Federal agencies with programs covered by the Uniform Act. Those agencies will be requested by OMB to review their existing regulations and to revise them to be substantially identical to the final DOT regulations.

State and local agencies and individuals affected by programs of the Department of the Interior may wish to review and comment on the proposed regulation within the prescribed period. Appropriate DOT officials will be available to respond to any questions which may arise on this matter. To the extent possible, it is intended that all major issues be resolved through the DOT NPRM and that subsequent rules of this agency will adhere closely to the DOT model. Copies of comments sent to DOT may also be sent to this Department to the Chief, Division of Real Property Management.

DATE: Comments must be received by the Department of Transportation on or before May 31, 1983.

ADDRESSES: Comments should be submitted to Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th Street, S.W., Room 10241, Washington, D.C. 20590. Copies of comments may also be submitted to Department of the Interior, Office of Acquisition and Property Management, Division of Real Property, 18th and C Streets, N.W., Room 5513, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George W. Sandberg, Department of the Interior, Chief, Division of Real Property Management, (202) 343-3337.

Dated: May 4, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 83-12319 Filed 5-6-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation; Public Hearings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearings on proposed rulemaking.

SUMMARY: The Bureau of Reclamation, Department of the Interior, published proposed rules and regulations for acreage limitation in the May 3, 1983 **Federal Register** (48 FR 19900). Notice is hereby given that the Bureau of Reclamation will conduct public hearings to receive testimony on the proposed rules and regulations. The testimony received at these hearings will be considered in preparing the final rules for acreage limitation.

DATES: Comments are due on or before June 30, 1983. The hearings will be held on the dates shown in the Supplementary Information. All hearings will begin at 9 a.m. and will continue until all testimony has been heard.

ADDRESSES: The hearings will be held at the locations shown in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon S. Cooper, (303) 234-7196.

SUPPLEMENTARY INFORMATION: The hearings will be held on the dates and at the locations shown below:

June 9—Department of the Interior Auditorium, Washington, D.C.

June 13—Ramada Inn, 3333 Ramada Road, Grand Island, Nebraska

June 14—Holiday Inn West, Ballroom, 14707 West Colfax Avenue, Golden, Colorado

Ramada Inn Convention Center, Powderhorn Room, 718 Horizon Drive, Grand Junction, Colorado

June 15—Salt Palace, 100 South West Temple, Room 220, Salt Lake City, Utah

June 16—Holiday Inn, 13070 South Highway 33, Santa Nella—Exhibit Room, Los Banos, California

Red Lion Downtowner, 1800 Fairview Avenue, Boise, Idaho

June 17—Memorial Hall, West Sycamore Street, Willows, California

June 21—Ramada Inn, Homesteader Room, Mullowney Lane and I-90, Billings, Montana

Hilton Inn, 1901 University Boulevard, NE., Albuquerque, New Mexico

June 22—Civic and Convention Center, Yuma, Arizona

June 23—Bend-LaPine Schools Administrative Center, Room 310, 520 NW. Wall Street, Bend, Oregon

College Theatre, College of Sequoia, Mooney Boulevard, Visalia, California

June 24—Franklin County PUD Building, 1411 West Clark, Pasco, Washington

Oral statements will be limited to 10 minutes. Speakers will not be permitted to trade their time to obtain a longer oral presentation; however, the hearings officer may allow any person additional time after all other comments have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order, but will be recalled after all the scheduled speakers have been heard. Speaker requests will be scheduled up to 2 working days preceding the hearings and any subsequent request will be handled on a first-come-first-served basis following the scheduled presentations.

Individuals or organizations wishing to speak at the hearings or who desire additional information should contact the appropriate office listed below:

Hearing: Pasco, Washington, Boise, Idaho, and Bend, Oregon.

Contact: Regional Director, Pacific-Northwest Region, Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, Idaho 83724, (208) 334-1938.

Hearing: Los Banos, Willows, and Visalia, California.

Contact: Regional Director, Mid-Pacific Region, Bureau of Reclamation, Federal Office Building, 280 Cottage Way, Sacramento, California 95825, (916) 484-4680.

Hearing: Yuma, Arizona.

Contact: Regional Director, Lower Colorado Region, Bureau of Reclamation, Nevada Highway and Park Street, PO Box 427, Boulder City, Nevada 89005, (702) 293-8652.

Hearing: Salt Lake City, Utah, and Grand Junction, Colorado.

Contact: Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, PO Box 11568, Salt Lake City, Utah 84147, (801) 524-4419.

Hearing: Albuquerque, New Mexico.

Contact: Regional Director, Southwest Region, Bureau of Reclamation, 714 South Tyler, Amarillo, Texas 79101, (806) 378-5445.

Hearing: Billings, Montana.

Contact: Regional Director, Upper Missouri Region, Bureau of Reclamation, 316 North 26th Street, PO Box 2553, Billings, Montana 95103, (406) 657-6412.

Hearing: Golden, Colorado, and Grand Island, Nebraska.

Contact: Regional Director, Lower Missouri Region, Bureau of Reclamation, Building 20, Denver Federal Center, PO Box 25247, Denver, Colorado 80225, (303) 234-3327.

Hearing: Washington, D.C.

Contact: Commissioner, Bureau of Reclamation, Attention: Code 420, 18th and C Streets, NW, Washington, D.C. 20240, (202) 343-5204.

Those wishing to supplement their testimony with a written statement or those who would prefer to submit testimony should address their statements to: Vernon S. Cooper, Bureau of Reclamation, E&R Center, Code D-410, PO Box 25007, Denver, Colorado 80225.

Dated: May 4, 1983.

Robert N. Broadbent,

Commissioner, Bureau of Reclamation.

[FR Doc. 83-12330 Filed 5-6-83; 8:45 am]

BILLING CODE 4310-09-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6485]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Massachusetts; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 4686 on February 2, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Otis, Berkshire County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Otis, Berkshire County, Massachusetts, previously published at 48 FR 4686 on February 2, 1983, in acccordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding	Location	*Elevation in feet, national geodetic vertical datum
West Branch Farmington River.	Approximately 3,890' upstream of Covered Bridge.	*1,255

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12294 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Town of Amherst, Mass.; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 10880 on March 15, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Amherst, Hampshire County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Amherst, Hampshire County, Massachusetts, previously published at 48 FR 10880 on March 15, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

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Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding	Location	*Elevation in feet, national geodetic vertical datum
Mill River	Upstream second crossing State Route 116.	*159
Fort River	Upstream Boston and Maine Railroad.	*159
Plum Brook	Confluence with Fort River.	*143

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12285 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6492]

National Flood Insurance Program; Proposed Flood Elevation Determinations; New Jersey; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 7221 on February 18, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Bedminster, Somerset County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Bedminster, Somerset County, New Jersey, previously published at 48 FR 7221 on February 18, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding	Location	*Elevation in feet national geodetic vertical datum
Lamington River	Approximately 2,200 feet upstream of Herzog Brook.	*208
	Access Road (upstream side).	*222

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12293 Filed 5-6-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[Docket No. CGD 77-064]

Licensing of Pilots; Manning of Vessels—Pilots

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearings: reopening and extension of comment period.

SUMMARY: On January 27, 1983, the Coast Guard published a Supplemental Notice of Proposed Rulemaking regarding the licensing of pilots (48 FR 3912). At that time the Coast Guard stated that no public hearings were planned, but that they may be held if written request for hearings were received and it was determined that the opportunity to make oral presentation would aid the rulemaking process. The Coast Guard, based upon numerous written requests, has determined that hearings are desirable. As a result of the decision to hold public hearings, the comment period is reopened.

DATES: The Coast Guard will hold public hearings on June 8, 1983, June 14, 1983, and June 29, 1983. All hearings will begin at 10 a.m. and end at 4 p.m.. Comments must be received by July 15, 1983.

ADDRESSES: Comments should be submitted to the Commandant (GCMC/44), (CGD 82–085), U.S. Coast Guard Headquarters, Washington, D.C. 20593. Comments may be delivered and will be available for inspection at the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593, phone (202) 426–1477, between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday except holidays.

Public hearings will be held at the following locations:

(1) June 8, 1983, Base Theater, U.S. Naval Air Station, Belle Chase, Louisiana
(2) June 14, 1983, Ship Model Room, Seamen's Church Institute, 15 State Street, New York, New York
(3) June 29, 1983, Second Floor Assembly Hall, Soldiers' and Sailors' Memorial Building, 1315 Chestnut Street, St. Louis, Missouri.

Attendance is open to the public. Persons wishing to present oral statements at the hearings should notify the Executive Secretary no later than the day before the hearing.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Marine Safety Council (G-CMC/44), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1477.

Dated: May 2, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-12085 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 83-427; FCC 83-176]

Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons

AGENCY: Federal Communications Commission

ACTION: Proposed rule

SUMMARY: The Commission adopts Notice of Proposed Rulemaking designed to implement the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410. The Notice of Proposed Rulemaking solicits comments from interested parties with respect to the following issues: (1) How reasonable access to telephone service by the hearing impaired may be ensured: (2) what classes of essential telephones should be made hearing-aid compatible: (3) what technical standards should be adopted to implement the Act; (4) how labeling as to the hearing-aid compatibility of telephone equipment may be accomplished; and (5) what types of specialized customer premises equipment (CPE) for the disabled may be offered by carriers under tariff and be the subject of a state commission-sponsored program to subsidize such specialized CPE is subsidized through regulated service revenues.

DATES: Comments due by June 15, 1983. Replies due by July 15, 1983

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gregory J. Vogt, Enforcement Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554. Telephone No. (202) 632–4890.

Notice of Proposed Rulemaking

In the matter of access to telecommunications equipment by the hearing impaired and other disabled persons; CC Docket No. 83–427.

Adopted: April 27, 1983.
Released: May 4, 1983.

By the Commission: Commissioner Jones absent.

1. On January 3, 1982, the President signed into law the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (Disabled Act).[1] *See* Appendix A for relevant text. The Act is designed to promote access to telephone service by the hearing impaired. It is also designed to enable telephone companies to accommodate the needs of persons who by reason of a speech, hearing, sight or mobility impairment require the use of specialized customer premises equipment (CPE) to access communications services. The Act directs this Commission to "complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment of the Telecommunications for the Disabled Act of 1982." Disabled Act, § 610(f). This Notice of Proposed Rulemaking is intended to comply with the provisions of the Act.

2. Notice is hereby given that the Commission will amend, modify or create additional provisions in Part 68 and other appropriate sections of the rules to carry out Congress' purpose. Comments are solicited on the issues indicated below. Based upon these comments we will promulgate final rules necessary to implement the provisions of the Disabled Act. In particular, we will issue final rules to ensure that the hearing impaired have available reasonable access to telephone service. We shall require that essential telephones be made hearing/aid compatible. In addition, the Commission will adopt or approve technical standards necessary to enforce the Act as well as establish labeling requirements on equipment packaging to inform consumers of the hearing aid compatibility of telephones. Moreover, Congress has mandated that we issue rules to permit common carriers to offer specialized CPE needed by disabled persons.[2]

I. Background

3. A significant minority of the population of the United States suffers from different degrees of hearing, sight, speech or mobility impairment. Congress stated that

> Hearing impairments affect a large number of Americans in all age groups. The [Committee] has determined that 10.6 million citizens have sufficiently impaired hearing to require the use of a hearing aid. Four hundred thousand are totally deaf, while twice that number cannot understand any speech that is not amplified to a level that is medically dangerous. One of the most frustrating aspects of hearing impairment and deafness is the inability to use telecommunications media on which modern life has grown so dependent. Persons with normal hearing may be unable fully to appreciate the pervasiveness of the telephone booth in commercial transactions and personal contacts. The inability to use this instrument, except through an interpreter, is not only a practical disability but a constant source of dependency and personal frustration. Conversely, the ability independently to use the telephone may enable persons with other severe handicaps—such as paralysis or blindness—to lead self-sufficient lives in regular contact with society. The Committee believes that making the benefits of the technological revolution in telecommunications available to all

[1] The Act encompased House substitute language for the language of S. 2355, which would have amended the Communications Act of 1934 to provide reasonable access to telephone service by the hearing impaired. *See* S. Rep. No. 97–503, 97th Cong., 2d Sess. (1982). The Senate language was sufficiently different from the House version to make the Senate Report of little use in interpreting the Disabled Act. There was no Conference Report.

[2] We intend the term "CPE" to be synonymous with the term "terminal equipment" which is used in the Disabled Act. By a separate order decided today in CC Docket 78–50, *Telecommunications Services for the Deaf and Hearing Impaired*, FCC 83–177 (adopted April 27, 1983) (Docket 78–50 Order), we terminate a proceeding which explored and provided a national forum for views on various issues related to the telecommunications needs of the deaf and hearing impaired. Although the major focus of that Notice of Inquiry proceeding concerned the adequacy of terminal equipment utilized by those with total hearing losses, additional questions regarding other types of telephone service as well as the compatibility of telephones to hearing aids were also raised. As stated in that order, several of the issues, which are addressed in the Disabled Act, will be considered in the current proceeding, based upon updated information requested in this Notice of Proposed Rulemaking. Other issues raised in that Notice of Inquiry are resolved in the Docket 78–50 Order.

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Americans, including those with disabilities, should be a priority of our national telecommunications policy.

House Report No. 97–888, 97th Cong., 2d Sess., at 4–5 (1982) (House Report).

4. The specialized CPE needed by disabled persons is often more expensive than equipment needed by nondisabled persons, and some is so expensive as to be unaffordable for most disabled persons without some form of financial assistance. In enacting the Disabled Act, Congress made the determination that a competitive environment may not always be the most effective means for assuring the availability of specialized equipment for the disabled. The House Report stated:

> The detariffing of terminal equipment will cause competition to drive prices to costs and will effectively prevent the State commissions from regulating the price and other terms under which the consumer obtains terminal equipment. The Committee believes that, as applied to disabled persons, such a policy could lead to substantial price increases and reductions in the access to the nationwide network which persons with disabilities currently enjoy. It is the purpose of this legislation to increase the access of the physically impaired to new technologies and not allow the level of service currently available to deteriorate.

Id. at 13.

5. The Telecommunications for the Disabled Act of 1982 modified the Commission's decision in Computer II.[1] Computer II required, among other things, that all CPE be offered on a detariffed basis. The Act creates an exception to Computer II for telephone companies' provision of specialized CPE needed by disabled persons to communicate. Disabled Act, § 610(g). In response to the requirements of the Act, and in response to two waiver petitions, one filed by AT&T and one filed by the Organization for the Use of the Telephone, we granted a waiver of the Computer II requirements in order that no disruption in service to disabled persons or telephone companies would occur before we could implement the Disabled Act. *See American Telephone & Telegraph Co.*, FCC 82–580 (released January 25, 1983) *(Disabled Waiver Order).*

The waiver permits, but does not require, telephone companies to offer under tariff specialized CPE needed by disabled persons and permits the Bell Operating Companies (BOCs) to offer such equipment without forming a separate subsidiary.

6. The Act goes farther with respect to the communications needs of the hearing impaired, the largest group of disabled persons. The Act requires that we issue regulations that will ensure reasonable access by the hearing impaired to "telephone service." The legislative history of the Act defines telephone service to include specialized CPE and transmission service. House Report at 8. In addition, the Act requires that we make all "essential telephones" compatible with hearing-aids which have telephone switches. *See* para. 19, *infra.* The enforcement of those regulations must be delegated to state public utility commissions once they adopt these regulations. Therefore, Congress has determined that in its nationwide scheme for promoting access to the telephone network by the hearing impaired, states should play an integral role in implementing the Act through enforcing regulations adopted by this Commission. To effectuate these provisions, the Commission is also required to adopt or approve technical standards to assure hearing-aid compatibility of telephones. Although we will be the primary enforcers of the technical standards to be adopted pursuant to the Act under our Part 68 registration program, as a practical matter, state commissions will also play a significant role in enforcing those technical standards due to their responsibilities to implement the hearing-aid compatibility provisions of the Act. Further, the Commission is to adopt labeling requirements to inform consumers whether CPE they may purchase is hearing-aid compatible.

II. Issues on Which Comments Are Sought

7. The provisions of the Act which should be addressed in this rulemaking proceeding fall into five major categories: (1) ensuring reasonable access by the hearing impaired to telephone service, (2) making essential telephones hearing-aid compatible, (3) adopting technical standards necessary to implement the policies covered in the first two issues outlined above, (4) establishing labeling requirements for the packaging of hearing-aid compatible equipment, and (5) providing specialized CPE needed by disabled persons to communicate.

8. Interested parties are invited to propose specific language for rules to be adopted by this Commission pursuant to the Disabled Act. Two general issues affect all rules contemplated by the legislation. First, any rules or regulations issued must be framed with consideration given to the costs and benefits implicated by particular rules. Disabled Act, § 610(e). Thus, commenting parties should address the quantitative and qualitative costs and benefits to be expected from the implementation of any particular proposal which telephone users in general, including those who have hearing or other impairments, will incur. Second, any regulations should encourage the use of currently available technology and not discourage or impair the development of improved technology. Comments should consider this goal. *Id.*

A. Access to Telephone Service by the Hearing Impaired

9. The Disabled Act is intended in part to implement an important aspect of this Commission's general obligation "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges. . . ." 47 U.S.C. 151. Subsection (a) requires the Commission to adopt regulations to ensure reasonable access to telephone service by the hearing impaired. The House Report reads:

> This subsection directs the attention of the Commission to the special problems of persons with impaired hearing. The mandate of the Commission to ensure reasonable access to telephone service is limited to regulations and technical standards that ensure the availability of terminal equipment and transmission service for persons with impaired hearing and that govern the use of such equipment and its interconnection with telephone services for the transmission of voice or data.

House Report at 8. "Telephone service" potentially includes not only CPE provided for individual, rather than public, use and access to telephone lines, but also other incidental services, including operator and directory assistance, recorded message services, information services and the like.

10. Incidental transmission services are potentially included within the definition of "telephone service." In particular, information services with respect to the types of CPE or components of CPE which are needed for a hearing impaired individual to access the network may be included. For instance, AT&T has established Telecommunications Centers for Disabled Customers in various locations throughout the country which serve as information centers to inform customers of the types of equipment needed for them to effectively access telephone lines. *See* Petition for Waiver filed by American Telephone and Telegraph Co., October 22, 1982.

11. Deaf individuals may also require other specialized transmission services, such as TTY activated operator and directory assistance services, and other dial-up services incidental to transmission services. Currently, AT&T operates centers providing business office and directory assistance services for deaf TTY users. Access to AT&T's operator assistance services is provided through a nationwide toll free number, (800) 855–1155, equally available for use by both Bell customers and customers of independent telephone companies. Commenting parties are encouraged to address the issue of whether these services should be expanded to include other types of services and to other carriers. Comments are solicited as to those incidental transmission services which should be included within the definition of "telephone service." Commenting parties should describe the services to be included and the extent to which they are already available from carriers or otherwise.

12. At first glance, the inclusion of access to specialized terminal equipment contained in subsection (a) potentially overlaps with the provisions of subsection (b), which mandates that the Commission require all "essential" telephones to be made hearing-aid compatible. The legislative history states that the Commission may not generally designate residential telphones as "essential" telphones. *See* paras. 20, 21, *infra.* Thus, we conclude that the provisions of subsection (a) relating to reasonable access to telephone service apply to terminal equipment provided for private use and does not apply to telephones provided for public use.

13. Subsection (a) grants this Commission the discretion as to how to ensure reasonable access to the CPE necessary to access communications service. Persons with less than total hearing loss may require special hearing-aids containing "telephone switches" to use otherwise available voice communications services. *See* para. 19, *infra.* A second, often less desirable alternative to hearing-aid compatible telephones is CPE with an amplified hearing handset, which can produce sufficient volume to permit persons who are hearing impaired but do not have hearing aids to use the telephone. Amplified hearing handsets can be attached to many models of telephone sets to enable the hearing impaired to hear more effectively. Amplified hearing handsets, however, do not reduce hearing-aid feed back or minimize background noise.

14. We solicit comments with respect to how this Commission should ensure reasonable availability of specialized terminal equipment. One way to provide such access would be to require carriers to provide either a hearing-aid compatible telphone or a telephone with an amplified hearing handset upon request. An alternative would be for this Commission to require carriers to make available devices which can be installed on or in a telephone to make that CPE hearing aid compatible. Commenting parties are urged to suggest other methods to implement reasonable access to specialized CPE.

15. The Act contemplates that this Commission should not impose on manufacturers the responsibility of complying with the legislation. House Report at 11. The responsibility to comply could be provided in a variety of ways. One way of making equipment available is pursuant to section 610(g) of the Disabled Act by which carriers can tariff specialized CPE needed by the disabled, including the hearing impaired, and by which state public utility commissions may establish programs whereby the costs of such a specialized CPE can be financed through funds received from rates for communications services. Alternatively, we might prohibit any equipment from being registered in the future under part 68 of our Rules unless it is hearing-aid compatible. Another option would require a carrier to provide hearing-aid compatible CPE and amplified hearing handsets upon customer request. Still another possibility would be to require carriers only to inform customers where specialized CPE may be obtained. Interested parties should provide comments concerning whether the rules to be adopted should provide flexibility to states as to how reasonable access should be ensured.

16. For the severely hearing impaired, or those who are totally deaf, visual output telecommunications devices for the deaf (TDDs or TTYs) can be employed to permit direct communications with other TDDs. Most have a "soft" display which uses light emitting diodes and are connected to the telephone network through the use of an acoustic coupler or registered data coupler. Several manufacturers offer TDDs under various arrangements, some through local telephone companies. In addition, personal computer terminals may be useful to permit the deaf to communicate.

17. Commenting parties should describe how the provision of TTYs for the deaf should be treated. Should one of the foregoing approaches be used for TTYs or is some other alternative necessary? One aspect of promoting access by the deaf to telephone service concerns the compatibility of TDDs and TTYs with other services for the hearing imparied. As described in the Docket 78–50 Order, older TTYs employed the five bit Baudot code with a half duplex modem while most of the newer devices, as well as personal computer terminals, utilize the eight bit ASCII format with a full duplex modem. Some of the newer TDDs contain a switch which enables those terminals to communicate with either Baudot or ASCII devices. Commenting parties should address whether there is any action this Commission should take in implementing the Disabled Act to rectify any incompatibility problems between Baudot and ASCII devices. Compatibility would primarily be accomplished through dual capability devices capable of communicating in both ASCII and Baudot formats.

18. Any rules which we adopt pursuant to subsection (a) must be framed with a concern for the costs incurred and benefits achieved by the rules. In order to evaulate the costs and benefits we must have data as to what carriers and manufacturers presently do for the hearing impaired. We request that carriers and manufacturers describe the ways in which they presently accommodate the needs of the hearing impaired and, particularly, state the percentage of CPE which is presently hearing-aid compatible or which is equipped with amplified hearing handsets. In addition, carriers and manufacturers should state the percentage of telephones that are hearing-aid compatible which are presently being provided or which will be provided in the future. Other interested parties are encouraged to comment on present and future carrier or manufacturer accommodations to the communications needs of the hearing impaired.

B. Essential Telephones

19. Section 610(b) of the Act provides that the Commission shall require that "essential" telephones contain internal means for effective use with hearing aids. Congress noted:

> Most hearing aids have a built-in telephone pickup, or "telecoil," which is activated by a switch on the hearing aid. When this switch is placed in the "telephone" position, the microphone is turned off and the hearing aid can be used at full volume without feedback and with minimal background noise. Unless this type of hearing aid becomes

[1] Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 1962 (D.C. Cir. 1982), *petition for cert. filed*, 51 U.S.L.W. 3014, 3615 (U.S. February 9, 10, 1983) (Nos. 82–1331, 82–1332).

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technologically obsolete at some future time and disappears from popular use, it will be considered "specially designed for telephone use." Currently, these hearing aids are activated by the strong magnetic field generated by some 90 percent of all telephone receivers, such as the Western Electric 500 set.

The legislation focuses on those "essential telephones" to which the hearing impaired must have access if they are to function effectively in modern society. Companies are free to manufacture and to market non-compatible telephones, and businesses and consumers may purchase these instruments for use by persons who do not have hearing impairments.

House Report at 8–9. The Act contemplates that the Commission's rules implementing this subsection will preempt inconsistent state requirements. *Id.* at 10. In order to achieve the purposes of the Act in this regard the Commission is required to define the meaning of "essential" telephones. *Id.* at 8–10. The Act defines three classes of essential telephones: (1) coin-operated telephones; (2) telephones provided for emergency use; and (3) other telephones frequently needed by persons with hearing aids.

20. The legislative history describes these categories of essential telephones as follows:

"Coin-Operated Telephones"

The term "coin-operated telephone" includes any telephone which is operated with coins, whether it is located on public property or in a "semipublic" location (such as a drug store, gas station, or private club). Since significant electrical power is required to accept coins, compatibility is now economical and should continue to be so in the future. Although the requirement that coin-operated telephones be retrofitted is universal in application, the overwhelming majority of coin phones are already hearing-aid compatible.

"Telephones Provided for Emergency Use"

The definition that the rulemaking adopts for "telephones provided for emergency use" must enumerate the types of locations in which access to a telephone may save persons from serious bodily injury, theft, or a life-threatening situation. The Committee intends that the term be defined to include voice-carrying devices in elevators, mineshafts, and other places where a person with impaired hearing might be isolated in an emergency. The term must also include telephones specifically installed to alert the police, fire department, or other emegency authorities; typically such a telephone cannot reach other persons on the network. Finally, the Commission should prescribe specific guidelines for telephones provided to avoid life-threatening situations in hospitals and other situations in which persons with impaired hearing may be confined.

"Telephones Frequently Needed by Persons With Impaired Hearing"

The third group of essential telephones to be defined by rule, those "frequently needed by persons with impaired hearing," must be hearing-aid compatible, but the legislation specifically prohibits the Commission from requiring equipment installed prior to the effective date of the Act to be retrofitted. This class includes any telephone that a carrier makes available for public use that is not either coin-operated or provided for emergency use. For example, after the date of enactment, new "Charge-a-Call" phones (or at least a reasonable number at each location) must be compatible with hearing aids unless they are in the proximity of compatible phones providing the same range of service. The Committee intends that the Commission employ a common-sense approach: if a usable pay phone is nearby and readily available, the incompatible instrument is not "needed by the hearing impaired."

The Committee further intends that the Commission include essential telephones operated by persons other than carriers in this category after a detailed examination of the costs involved and of the benefits that the hearing-impaired and those with whom they communicate will realize. The definitions must be specific and provide detailed guidance as to the locations where such telephones must be available.

* * * * *

Places of Business.—In the absence of extraordinary costs of implementation, persons with impaired hearing should be confident that they can effectively use any telephone made generally available to invitees in a place of business or in a public building, including phones restricted to local calling areas or to internal extensions.

Workplaces.—The Committee is also concerned that inability to use telephones should not impair the productivity of persons using a hearing aid in their place of work. An employee with impaired hearing should have access to at least one compatible telephone unless his duties would not involve the use of such a telephone if it were available. Regulations must be sufficiently specific to enable employers to comply without undue risk of an unexpectedly adverse interpretation in a subsequent proceeding for compliance.

Hotels and Motels.—The Committee observes that current law allows the Commission directly to regulate the offering of telephone service by hotel and motel owners. See *Ambassador, Inc. v. United States*, 325 U.S. 317 (1944). The legislation does not, however, impose costly requirements on these businesses. As an alternative to providing compatible telephones in every room, a hotel may set aside a reasonable number of rooms (under a formula that the regulations will specify) for the hearing impaired. Alternatively, the hotel owner may maintain a supply of compatible instruments and install them at the request of a guest who uses a hearing aid. * * *

House Report at 9–10.

21. It appears that residential telephones cannot be defined as "essential." Congress has stated that

"Under no circumstances may the Commission designate as an essential telephone any residential telephone or any other telephone if all persons who would normally use it do not have hearing impairments."

Id. at 9. Comments from telephone companies and other interested parties are solicited as to the extent various classes of essential telephones are already hearing-aid compatible.

22. In addition, comments on the classes of equipment to be designated essential are solicited. Proposed definitions should specify the places and types of telephones to be included for each class of essential telephone and, as required with other provisions of the Act, an evaluation of the costs and benefits of the inclusion of particular locations within such definitions. Special attention should be directed to the timetable and means by which implementation of any proposed rules should be achieved.

C. Technical Standards

23. As indicated, the Act envisions that the Commission will establish or approve technical standards for compatibility between hearing aids and telephones. These standards would consist primarily of a definition relating to the magnetic field emanating from telephone handsets. The legislative history to the Act states that

The Committee chose not to specify that telephones necessarily use this method, known as "inductive coupling," in order to encourage any new technology which is at least equal to the quality of use that inductive coupling currently provides. [4] A telephone that couples inductively (without the use of a portable adapter) would, however, satisfy this requirement to provide internal means for effective use with hearing aids specially designed for telephone use. [5] Subsection (b)

[4] Although the additional costs of making telephones that are compatible with hearing aids are not now signifiant, it is possible that improvement in the network—such as a reduction in power levels—may increase this differential in costs.

[5] Persons with impaired hearing have complained that external adapters are too bulky to carry conveniently, draw attention to an apparent disability that has been overcome in all other situations, are susceptible to loss and damage, and require replacement of batteries after 90 hours of use (potentially at an inconvenient time). Western Electric has announced plans to introduce a newly designed adapter that will mitigate some of these inconveniences.

does not require telephones to include internal amplifers; these devices, which are available in some public telephones, enhance use of the telephone by some persons with impaired hearing, whether or not their hearing aids are specially designed for telephone use.

House Report at 8. The Report continued:

The Committee intends the Commission to rely on the development of standards by industry, but this section also gives the Commission authority to set such standards in the absence of industry agreement or in the event consumers establish that the standard fails to provide satisfactory results.

The Committee does not intend technical standards to freeze technology by specifying a permissible design and excluding potentially superior alternatives. . . .

The Committee intends that any standard established by the Commission (or developed by industry and approved by the Commission) should be nationally uniform, and that States be preempted from establishing conflicting technical standards. With the exception of this subsection and subsection (b), nothing in the legislation changes the division of jurisdictional responsibility between the Commission and the State commissions or in any other way diminishes the rights and authorities of the States as they existed on the date of enactment.

Id. at 11 (footnote omitted). Within these general guidelines we solicit proposed technical standards for hearing-aid compatible telephones.

24. The Commission has received a letter from the Electronic Industries Association (EIA) stating that its members are actively working on an industry-wide standard for telephone handset compatibility with hearing aids. Letter from EIA to Chief, Common Carrier Bureau, dated January 11, 1983. The EIA has requested that this technical issue be separated from other issues in this rulemaking so that its study group can continue its work outside the rulemaking process with Commission staff participation. We believe that the rulemaking process offers the best means by which all rules related to hearing-aid standards, including technical compatibility, can be developed. Accordingly, all interested persons and groups, including EIA, should submit proposed technical standards within the time frame and procedures established in this Notice.

25. In previous rulemakings involving technical issues we have found it useful to convene informal meetings of industry representatives and other interested persons under the aegis of the Commission, for the purpose of discussing and achieving agreement on the technical issues involved. *See, e.g., Common Carrier Interconnection Rules, Notice of Proposed Rulemaking*, 72 FCC 2d 330 (1979), *First Report and Order*, 76 FCC 2d 246 (1980). We believe that because the bulk of regulatory responsibility in relation to technical standards involves engineering matters that can in large measure be resolved by discussion in a group forum, this procedure would also be useful here. In addition, given that any rules required by the Disabled Act must be adopted by the end of 1983, those meetings should prove more expeditious than other procedural alternatives. Accordingly, we delegate to the Chief, Common Carrier Bureau authority to convene, conduct, participate in and schedule meetings of interested persons and groups in order to specify and resolve technical issues necessary to recommend to the Commission a proposed hearing-aid compatibility standard. [6] Reasonable notice of any public meeting shall be provided by Bureau Order. On the basis of the data provided at these meetings and other materials presented in the comments, the Commission will determine the appropriate standards that can best achieve the mandates of the Act.

D. Labeling

26. The Act also provides that the Commission establish requirements for the labeling of packaging for CPE offered for sale or lease to inform consumers whether such equipment is hearing-aid compatible. Disabled Act, § 610(d). The legislative history provides:

Subsection (d) directs the Commission to develop requirements for packaging materials that explain, in a clear understandable manner, whether and how persons with impaired hearing may use such equipment effectively. Although the legislation does not specifically require manufacturers to label telephone equipment, the Committee observes that it would be desirable for persons using hearing aids to be able to identify noncompatible telephones whenever traveling outside their homes.

Id. at 12. Interested parties should make recommendations as to the specific content of such labeling and whether hearing-aid compatibility data should be provided with all telephones, only certain telephones, or even for certain registered equipment other that telephones.

27. In addition, although not required by the Disabled Act, comments are solicited with respect to whether labeling placed directly on CPE should reflect whether a particular piece of equipment is hearing-aid compatible. One way in which such labeling could be accomplished would be to place a letter, such as an "H", in a standard conspicuous location on all compatible devices. Commenting parties are requested to propose alternatives, and to identify the costs involved in labeling such equipment.

E. Specialized CPE for Disabled Persons

28. In addition to requiring that the Commission take steps to ensure access to telephone service and essential telephones for the hearing impaired, the Disabled Act creates an exception to our Computer II decisions by permitting carriers to provide specialized CPE needed by persons whose speech, vision, hearing or mobility is impaired. The statute also permits state public utility commissions to allow carriers to recover the reasonable and prudent costs of providing such equipment in the tariff rates for communications services. Disabled Act, § 610(g).

29. The Act's scheme of promoting access to specialized CPE by disabled persons was described by Congress as follows:

Reliance on the private sector to provide access to telecommunications is particularly appropriate in times of fiscal austerity and contraction of government. Ensuring the availability of specialized equipment may enable handicapped individuals to support themselves, and in many cases to avoid institutionalization. The Committee is particularly interested in promoting devices that enable the elderly and the disabled safely to lead independent self-supporting lives. For the paralyzed veterans, "hands-off" telephone equipment may mean the difference between being able to live at home and work in an office or leading a life of constant surveillance in a hospital. Recently, radio devices have been developed that alert a patients' doctor if he fails to signal periodically that he is not in need of medical assistance. The Telecommunications for the Disabled Act allows these various devices to be offered at affordable rates, whether or not a patient is institutionalized, thereby reducing hospital costs and encouraging more economic treatment of the physically impaired as outpatients.

House Report at 5.

30. There now exist a variety of programs, mostly at the state level, which promote access to telecommunications equipment by those with impaired sight, hearing, speech or mobility. For instance, a California statute orders its state public utility commission to design a program to require telephone companies to provide a deaf TTY/TDD at a cost not to exceed the basic exchange rate. *See Calif. Pub. Util. Code* § 2831. New York and Michigan have similar statutes. In addition, certain telephone companies have voluntarily provided CPE for the disabled at the customer's request. In

[6] To permit any necessary judicial review of these meetings, minutes will be taken and placed in the public file.

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some states, subsidies to manufacturers of equipment needed by the disabled are provided so that the cost of such equipment may be reduced.

31. As mentioned previously, pursuant to this legislation and on an interim basis, we waived the Computer II rules to permit telephone companies to provide under tariff specialized CPE needed by disabled persons to communicate. *Disabled Waiver Order*, para. 18. In addition, the BOCs were permitted to offer such equipment without first establishing a separate subsidiary for providing CPE. We did not decide the question of whether the states could, consistent with the legislation, require carriers to offer specialized equipment under tariff. *Id.* at paras. 18–19.

32. Neither the Act nor the legislative history specifically defines the term "specialized terminal equipment needed by" disabled persons. The House Report stated

> Examples make clear the limited scope of the statutory exception. Speakerphones may be vital to a person with impaired mobility; to a businessman they are a mere convenience. This subsection would only authorize a subsidy directed exclusively at the disabled. In the case of equipment for non-voice communications by the disabled, the State commission could extend a subsidy to non-handicapped persons who require such equipment regularly to communicate with the disabled.

House Report at 13. During the debates concerning the Act, the House sponsor to the bill stated that this Commission had the discretion to define "specialized CPE." 128 Cong. Rec. H9484 (Daily Ed., December 13, 1982) (comments of Rep. Wirth). For interim purposes, we defined that term in the *Disabled Waiver Order*, to include "CPE which has as at least one of its important purposes specialized application enabling disabled persons to communicate." *Disabled Waiver Order*, para. 15. We also included "special assemblies" which comprise special configurations of CPE necessary to meet the telecommunications needs of a disabled customer. Nevertheless, we stated that the term "specialized equipment" did not include basic equipment, such as push button telephones or telephones with lighted dials which may be incidentally useful to disabled persons in communicating over the nationwide telephone system. *Id.* Interested parties are invited to submit comments on the definition of the term, "specialized terminal equipment," as used in the Act. Should the definition contained in the *Disabled Waiver Order* be used? Should the term be restricted to equipment which is specifically designed for use by disabled persons?

33. The statutory language apparently leaves to the carrier the initial decision whether or not to tariff specialized equipment for the disabled. Although the legislation is silent on the question, the legislative history of the Disabled Act makes clear that "the Commission cannot interfere with the State's decision to tariff such equipment and to allow the recovery of reasonable and prudent costs not charged directly to the user in tariffs for regulated services." 128 Cong. Rec. H9484 (Daily Ed., December 13, 1982) (remarks of Rep. Wirth). Therefore, in our view, the Disabled Act contemplates that this Commission should leave to carriers and State commissions the decision whether or not specialized equipment will be tariffed, although this Commission will determine what specialized equipment falls within the meaning of the statute.

34. In developing such a program, however,

> The State commission may allow only reasonable and prudent costs to be included in any tariff. The Committee intends that any excessive costs resulting from discriminatory procurement practices would not be considered reasonable and prudent. To allow recovery in excess of reasonable and prudent costs would severely distort the nationwide market for terminal equipment.

House Report at 14.

35. In addition, the House Report to the Disabled Act states that "[i]n light of the record of voluntary cooperation by the industry, the Committee found it unnecessary specifically to address the possibility of a 'recalcitrant carrier' that might decline to participate in a program of subsidized offerings sanctioned by the State commission. * * * These matters may be considered, if necessary, in formulating the required modifications to *Computer II*." House Report at 14. Because the Disabled Act contemplates that State commissions shall for the most part enforce the regulations issued pursuant to the Act, *see* Disabled Act, § 610(h), we believe that State commissions should determine, in a manner which is consistent with their state statutes and the Disabled Act, whether to require a carrier to participate in a program of subsidized equipment offerings.

III. Regulatory Flexibility Act Initial Analysis

36. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, the Commission issues the following regulatory flexibility initial analysis:

A. Reason for Action

37. This Notice of Proposed Rulemaking was prompted by the Telecommunications for the Disabled Act of 1982, Pub. L. 97–140 (to be published at 47 U.S.C. 610). Through this proceeding, the Commission seeks to comply with the congressional purposes contained in that legislation.

B. Objective

38. The purpose of this Notice of Proposed Rulemaking is to initiate a rulemaking and seek public comment on the method by which this Commission can assure reasonable access to telephone service by the hearing impaired and to establish regulations for making essential telephones compatible with hearing aids designed for telephone use. This rulemaking would also establish or adopt technical and labeling standards for hearing-aid compatible telephones. In addition, this rulemaking would define the circumstances under which specialized equipment needed by the hearing impaired and other disabled persons may be provided pursuant to state public utility commission regulations.

C. Legal Basis

39. The legal authority for seeking comment on these policies is sections 1 and 4(i) of the Communications Act of 1934, as amended (47 U.S.C. 151, 154(i)) and the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (to be published at 47 U.S.C. 610).

D. Description, Potential Impact and Number of Small Entities Affected

40. The primary impact of the rules which would be issued pursuant to this Notice of Proposed Rulemaking would be on the nation's telephone companies, 935 of which have annual operating revenues of under one million dollars. One of the purposes of this rulemaking is to discover the dollar impact which could potentially befall all telephone companies, including those which are small entities. Nevertheless, normally the types of costs which would be incurred under the rules required by the legislation are recoverable by telephone companies in the amounts paid by ratepayers for communications services. Thus, the potential impact on these small entities should be slight. Furthermore, small manufacturers of equipment or component parts of equipment which enable disabled persons to more effectively communicate over the nationwide telephone network may be affected by the rules which are adopted. The extent of such an effect and whether the rules will be beneficial or adverse to those small manufacturers will not be known until comments are received in this proceeding.

E. Recording, Recordkeeping and Other Compliance Requirements

41. The rules to be issued pursuant to this proceeding should not increase to any measurable degree recordkeeping or other reporting requirements of small entities over and above that which is presently required. Telephone companies will have to comply with the rules issued pursuant to this rulemaking proceeding.

F. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

42. The only Federal rule which may overlap or conflict with the rules is contained in a Commission *Memorandum Opinion and Order*, FCC 82–580 (released January 25, 1983). That order will be superseded and amended by the rules which are issued pursuant to this rulemaking proceeding.

G. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

43. Any alternatives which minimize the impact on small entities and which would remain consistent with stated objectives will be considered during the course of this rulemaking proceeding.

H. Comments Are Solicited

44. Written public comments are requested on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the balance of the Notice of Proposed Rulemaking, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall send a copy of this Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

IV. Procedure

45. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the time a Public Notice is issued stating a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments and pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff that addresses the merits of the proceedings. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, 47 CFR 1.1231.

46. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested parties may file comments by June 15, 1983, and reply comments by July 15, 1983. All relevant and timely comments and reply comments will be considered by the Commission before further action in this proceeding is taken.

47. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provision of section 1.419 of the Commission's rules, an original and five copies of all comments, replies or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional six copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that Common Carrier Docket No. 83—is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy may file an additional five copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at 1919 M Street, N.W., Washington, D.C. Further information concerning this proceeding may be obtained from Greg Vogt, (202) 632–4890.

V. Ordering Clauses

48. Accordingly, it is hereby ordered, pursuant to sections 4(i), 4(j) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 154(j)), and pursuant to the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (to be published at 47 U.S.C. 610), that a rulemaking proceeding is hereby instituted in the above-captioned matter.

49. It is further ordered, pursuant to sections 4(i), 4(j) and 5(d) of the Communications Act of 1934, as amended (47 U.S.C. 154(i), (j) and 155(d)), with respect to the establishment of technical standards discussed herein, that the Chief, Common Carrier Bureau is hereby delegated authority to: (1) By order convene such meetings as may be necessary for the conduct of this proceeding; (2) direct any such meetings; (3) schedule a formal pleading cycle; and (4) issue such further orders as may be necessary for the conduct of this proceeding. To the extent necessary to allow Commission staff to attend and participate in these meetings, Subpart H of Part 1 of the Commission's rules, 47 CFR 1.1201, *et seq.*, is hereby waived.

50. It is further ordered, that pursuant to 47 U.S.C. 154(i), 154(j), and 5 U.S.C. 553, notice is hereby given of proposed rule changes in Part 68 of the Commission's Rules and Regulations, 47 CFR 68.1 *et seq.*, § 64.702 (47 CFR 64.702) and other relevant sections of the Rules in accordance with the discussion and deliniation of issues set forth herein.

51. It is further ordered that the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

52. It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking to the

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Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.* (1980)).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Note.—Appendix A will not appear in the CFR.

The Telecommunications for the Disabled Act of 1982, Pub. L. 97–410, 97th Cong., 2d Sess. (to be published at 47 U.S.C. 610), provides in relevant part:

BILLING CODE 6712-01-M

Sec.2. The Congress finds that --

(1) all persons should have available the best telephone service which is technologically and economically feasible;

(2) currently available technology is capable of providing telephone service to some individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best telephone service which is technologically and economically feasible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

Sec. 3 "Telephone Service for the Disabled"

SEC. 610(a). The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

(b) The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term "essential telephones" means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.

(c) The Commission shall establish or approve such technical standards as are required to enforce this section.

(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatiblity between telephones and hearing aids.

(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

(f) The Commission shall complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment [of] the Telecommunications for the Disabled Act of 1982. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

(g) Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

(h) The Commission shall delegate to each State commission the authority to enforce within such State compliance with the specific regulations that the Commission issues under subsections (a) and (b), conditioned upon the adoption and enforcement of such regulations by the State commission.

[FR Doc. 83-12379 Filed 5-6-83; 8:45 am]
BILLING CODE 6712-01-C

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR 100–179 (Ch. I)

[Docket No. HM–188]

Transportation of Hazardous Materials Between Canada and the United States; Correction

AGENCY: Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking and notice of public hearing; correction.

SUMMARY: This document corrects the Advance Notice (48 FR 20255, May 5, 1983) relating to the Materials Transportation Bureau's (MTB) request for public comments relative to any future action it should take concerning the provisions of § 173.8 of the Department's Hazardous Materials Regulations (HMR). This section allows, with certain exceptions, shipments of hazardous materials to be transported by railroad into or through the United States in conformance with the regulations of the Canadian Transport Commission (CTC). MTB will consider oral comments at a public hearing as well as written comments. Commenters may also address matters related to proposed requirements of Canada's Ministry of Transport (Transport Canada) even though such comments would only be relevant to § 173.8 if they are adopted as final requirements under Canada's Transportation of Dangerous Goods Act at a future date. The date of the hearing was given as June 2, 1983; however, no closing date was given for written comments. Written comments must be received by the Dockets Branch of MTB on or before June 29, 1983.

DATE: Hearing date: June 2, 1983, beginning at 9:30 a.m.

Written comments: Submit written comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590, on or before June 29, 1983. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

ADDRESS: The Hearing will be held in room 2230, Nassif Building, DOT Headquarters, 400 Seventh Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202) 426–0656.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1 and paragraph (a)(4) of Appendix A to Part 106)

Issued in Washington, D.C. on May 5, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-12468 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1309 and 1310

[Ex Parte No. MC–169]

Expansion of Zone of Reasonableness for Motor Common Carriers of Property and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Motor Carrier Act of 1980 permits motor common carriers of property and freight forwarders to reduce or increase rates within a 10 percent zone of rate freedom without investigation, suspension, revision, or revocation on the grounds that the changed rate is unreasonable because it is too high or too low. The Commission can increase the zone by up to five percentage points during any one-year period if it finds that there is sufficient actual and potential competition to regulate rates and that carriers or freight forwarders, shippers, and the public will benefit from increased rate flexibility. The Commission proposes to exercise its authority to expand the present zone from 10 percent to 15 percent. The Commission also proposes to streamline its tariff filing requirements governing rates and charges filed pursuant to zone of rate freedom authority. Adoption of these proposals will require revision of the rules established by the Commission in Docket No. 37416, *Identification of Rates Filed Under Zone of Rate Freedom By Motor Common Carriers of Property and Freight Forwarders* (not printed), decided July 15, 1980, which set forth the manner in which carriers must notify the Commission when they wish to have rates considered under the zone.

DATE: Comments are due on June 8, 1983.

ADDRESS: Send comments (original and 15 copies) to: Ex Parte No. MC–169, Rm. 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Leonard L. Arnaiz, (202) 275–7831, or Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: Section 10708 of Title 49, United States Code, was amended by the Motor Carrier Act of 1980 [1] (MCA) by adding a "Zone of Rate Freedom for Motor Common Carriers of Property and Freight Forwarders" (ZORF). The ZORF provides individual motor carriers and freight forwarders with greater freedom to establish rates free from regulatory interference. Filings under ZORF can reduce or increase rates by 10 percent without Commission interference with the proposed rate on the basis that it is too high or too low[2]

Congress did not intend that the ZORF be fixed, but rather, that it reflect changes in the competitive character of the industry. Therefore, paragraph (2) of the new subsection provides for adjustment in the ZORF as follows:

(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that—

(A) There is sufficient actual and potential competition to regulate rates; and

(B) There are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility; except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

It is clear that there has been a significant increase in the level of competition in the motor carrier industry since passage of the MCA warranting the exercise of our authority to adjust the zone.

[1] Pub. L. No. 96–296, 94 Stat. 793.

[2] Subsection (d)(1) reads as follows:

(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

(A) The carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

(B) The aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

The ZORF was created with the expectation that other provisions of the MCA, particularly the relaxed motor carrier entry standards and removal of certain restrictions on motor carrier operations, would generate sufficient competition to guarantee effective and efficient regulation of rates through the working of the marketplace instead of by the Commission. It was anticipated that as the competitive character of the industry changed, carriers would require a means to respond to new market demands free of government interference.[3] Therefore, the ZORF itself is designed both to foster competition, and to permit rate flexibility where it is justified by, and is in response to, existing competition.

At present, there is vigorous price competition in the trucking industry. With capital resources already committed to the marketplace, and with a temporarily declining traffic base to support those resources, competition for available traffic has increased sharply. Moreover, in the present economic climate, the regulatory reform brought about by the MCA has further intensified competition.

Therefore, consistent with Congress' intent that carriers be permitted maximum price flexibility for the purpose of furthering competition, we propose to expand the zone of rate freedom for motor carriers of property and freight forwarders from 10 percent to 15 percent. It appears that there is sufficient actual and potential competition within the industry to regulate rates fairly and efficiently. We are confident that the presence of competition will discourage carriers from abusing the greater rate freedom we propose to authorize. In addition, the increased rate flexibility will not only permit carriers greater freedom to set rates in response to market demands free of government regulation, but will also benefit shippers and the public by encouraging a broader array of prices and services tailored to their needs.

We tentatively conclude that the statute does not authorize us to propose cumulative increases in the ZORF boundaries, that is, to add the 5 percentage point increase that we did not authorize in 1981 and 1982 to the increase we now propose, thereby expanding the zone to 25 percent. While we are of the opinion that such an increase would meet the substantive criteria of section 10708 (the presence of sufficient competition, and benefits to carriers, forwarders, shippers, and the public), the statutory limitation of 5 percentage points a year appears to preclude cumulative expansion. We will, however, consider comments on this issue, as well as on our 5 percent expansion proposal.

The proposed 15 percent zone is also in accordance with 49 U.S.C. 10708(d)(3)(B), which became effective two years after enactment of the MCA. That provision provides for adjustment in the zone to reflect changes in the economy due to inflation or deflation. Specifically, it states that the zone . . . "shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate."

In addition to proposing to change the size of the zone, we also propose to simplify our regulations governing the filing of tariffs under the zone of rate freedom. The changes we propose are generally similar to the regulations adopted for motor passenger carrier ZORF filings in Docket No. 38900, *Identification of Rates Filed Under Zone of Rate Freedom by Motor Carriers of Passengers.*

Specifically, we propose to eliminate the requirement that not only the letter of transmittal, but also the title page of a ZORF tariff and every other page of a tariff containing a ZORF rate, contain an "appropriate statement" to the effect that the carrier wishes to have the tariff matter considered pursuant to 49 U.S.C. 10708. The proposed regulations require such a statement to be contained only in the letter of transmittal.

Further, we propose to modify the requirement that the letter of transmittal identify the specific page or item where the "comparison rate" (the rate in effect one year prior to the filing date or on or after July 1, 1980, as appropriate) could be found. Instead, the proposed regulations do not require such identification in the letter of transmittal, but state that if the ZORF rate is protested, then the carrier's reply to the protest must contain the identification.

We seek comment on these procedural changes, as well as on the proposal to change the size of the zone.

Energy and Environmental Considerations

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

This action will not have a significant economic impact on a substantial number of small entities. To the extent the proposals would affect small entities, the effects would be largely positive, since the new rules give carriers of property and freight forwarders additional flexibility in responding to market demands and simplify requirements for tariff filing. Any effect on small shippers would also be positive since they too would benefit from the carriers' ability to be more responsive to their needs and may benefit as well from simplified tariffs and the reduced carrier costs in filing them.

The index terms (1) for 49 CFR Part 1309 are as follows: freight, freight forwarders, motor carriers, and moving of household goods, and (2) for 49 CFR Part 1310 are as follows: exports, freight, imports, intermodal transportation, maritime carriers, and motor carriers.

(49 U.S.C. 10321, and 10708(d)(2), and 5 U.S.C. 553)

Decided: April 20, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1309—[AMENDED]

Title 49 Parts 1309 and 1310 are proposed to be amended as follows:

1. Paragraph (a) of § 1309.8 would be removed.

2. Paragraph (b) of § 1309.8 would be redesignated as paragraph (a), and in the newly redesignated paragraph (a) paragraphs (2), (3), and (6) would be revised and paragraph (4) would be removed and reserved as follows:

§ 1309.8 Zone of rate freedom.

(a) *Letters of transmittal.*

* * * * *

(2) If the application of the proposed rate, charge, or provisions would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 15 percent [4] above that in effect 1 year prior to the effective date of the proposed increase.

(3) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 15 percent [4] below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a

[3] H. Rept. 96–1069, 96th Cong., 2d Sess. 25 (1980).

[4] This percentage shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor that has occured during the one-year period prior to the effective date of the proposed rate. 49 U.S.C. 10708(d)(3)(B).

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service not provided by the freight forwarder on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(4) [Reserved]

* * * * *

(6) The freight forwarder will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by Section 10708(d)(3) (A or B); and that the rates or provisions fall within the 15 percent [1] zone; also, if the rate is more than 15 percent [1] above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureaus which published the increase, and the effective date.

* * * * *

3. A new paragraph (b) would be added to § 1309.8 to read as follows:

* * * * *

(b) The letter need not identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect one year prior to the date of the proposed rate, or on July 1, 1980, or later, as appropriate. However, if the rate is protested, the carrier, in its reply to the protest, must make such identification.

* * * * *

4. Section 1310.1 would be amended by revising paragraphs (c)(6) (ii), (iii), (iv), and (vi) as follows:

§ 1310.1 Filing tariffs (rule 1).

* * * * *

(c) *Letters of transmittal.*

* * * * *

(6) * * *

(ii) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 15 percent [1] above that in effect 1 year prior to the effective date of the proposed increase.

(iii) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 15 percent [1] below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the carrier on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(iv) The letter need not identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect one year prior to the date of the proposed reduction, or on July 1, 1980 or later, as appropriate. However, if the rate is protested, the carrier, in its reply to the protest, must make such identification.

* * * * *

(vi) The carrier will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by Section 10708(d)(3) (A or B), and that the rates or provisions fall within the 15 percent [1] zone; also, if the rate is more than 15 percent [1] above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureau which published the increase, and the effective date.

* * * * *

§ 1310.4 [Amended]

5. Section 1310.4 would be amended by removing and reserving paragraph (f)(6).

§ 1310.5 [Amended]

6. Section 1310.5 would be amended by removing and reserving paragraph (m).

[FR Doc. 83-12282 Filed 5-6-83; 8:45 am]

BILLING CODE 7035-01-M

[1] This percentage shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor that has occurred during the one-year period prior to the effective date of the proposed rate. 49 U.S.C. 10708(d)(3)(B).

Notices

Federal Register
Vol. 48, No. 90
Monday, May 9, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer from whom a copy of the Collection of Information and Supporting Documents is available: Robin A. Caldwell (202) 673-5922.

REVISION

Title of the Collection of Information: Part 291, "Domestic Cargo Transportation."

Agency Form Number: 291.

How often the Collection of Information must be filed: Semiannually.

Who is asked or required to report: Domestic air cargo carriers.

Estimate of number of annual responses: 84.

Estimate of number of annual hours needed to complete the collection of information: 336.

Dated: April 28, 1983.

Robin A. Caldwell

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-12330 Filed 5-6-83; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
83-5-18	AmericAir, Inc. d.b.a. Air Link Commuter.	May 24, 1983
83-5-24	Airways of New Mexico, Inc.	May 24, 1983

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response together with a summary of the testimony, statistical data, and other material relied upon to support the allegations with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

For further information contact: Ms. Barbara P. Dunnigan for Order 83-5-18 (202) 673-5918 and Mr. James P. Lawyer for Order 83-5-24 at (202) 673-5348; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

By the Civil Aeronautics Board: May 3, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12333 Filed 5-6-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-4-36]

Employee Protection Program Investigations; Dismissal of Four Applications

AGENCY: Civil Aeronautics Board.

ACTION: Institution of Employee Protection Program Investigations; Dismissal of four applications, Order 83-4-36.

SUMMARY: The Board is instituting investigations in the following dockets to determine whether any of the major contractions experienced by the carrier under consideration amounted to a qualifying dislocation, within the meaning of Section 43 of the Airline Deregulaiton Act of 1978:

(a) Airlift International Employee Protection Program Investigation—Docket 38418;

(b) Air New England Employee Protection Program Investigation—Docket 40201;

(c) American Airlines Employee Protection Program Investigation—Docket 38570;

(d) Braniff International Airways Employee Protection Program Investigation—Docket 38978;

(e) Continental Airlines Employee Protection Program Investigation—Docket 38720;

(f) Mackey International Airlines Employee Protection Program Investigation—Docket 39783;

(g) Pan American World Airways Employee Protection Program Investigation—Docket 38883;

(h) Trans World Airlines Employee Protection Program Investigation—Docket 38184; and

(i) United Air Lines Employee Protection Program Investigation—Docket 38571.

The Board is also dismissing the applications in Dockets 38586, 39700, 38885, and 34562 of Eastern Air Lines, Delta Air Lines, Aeroamerica, and Overseas National Airways, respectively.

DATE: Petitions for reconsideration of this order and petitions for leave to intervene shall be filed by June 6, 1983.

ADDRESSES: Documents should be filed in all pertinent dockets, Docket Section, Room 714, Civil Aeronautics Board, Washington, D.C. 20428.

CONTACT: Steven B. Farbman, Office of Deputy Director/Associate Director, Legal Affairs, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-3340.

By the Civil Aeronautics Board: April 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12332 Filed 5-6-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-5-11, Docket 41452]

Delta Development Corp.; Order to Show Cause

AGENCY: Civil Aeronautics Board

ACTION: Notice of order to show cause: Order 83-5-11, Docket 41452.

SUMMARY: The Board proposes to revoke the certificate of Delta Development Corp., d.b.a. Western Yukon Air for its failure to comply with the continuing fitness requirements of section 401(r) of the Act.

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OBJECTIONS: All interested persons having objections to the Board's conclusions, as described in the order cited above, shall, no later than June 9, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41452, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all the persons listed in paragraph 6 of Order 83–5–11.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions. To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5432. Persons outside the Washington Metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: John Brennan, (202) 673–5333, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 3, 1983.

Phyllis T. Kaylor,

Secretary

[FR Doc. 83–12334 Filed 5–5–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 640]

Robert J. Lambert et al.; Order Amending Temporary Denial of Export Privileges

In the matter of Robert J. Lambert, d.b.a. Computer and Test Systems, 5671 Via Ceresa Yorba Linda, California 92686, Dierk Hagemann, d.b.a. Uni-Data World Transport Corporation, 110 Standard Street, El Segundo, California and Albert Franz Kessler, 20 Kennel Street, 8800 Thawil, Switzerland.

By Order of February 28, 1983, 48 FR 10108 (March 10, 1983), Manuel Rodriguez d.b.a. Export Assistance Services, 5671 Via Ceresa, Yorba Linda, California 92686, was designated, in Paragraph III, as a person related to one or more of the respondents and was temporarily denied, pursuant to § 386.19 of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1982)), all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data.

Mr. Rodriguez moved to vacate the Order of February 28, 1983 with respect to himself on the ground that he lacks any relationship with any of the respondents such that he should be designated a related person. The Department of Commerce (the "Department") has now answered this motion by joining in its request to vacate the Order with regard to Mr. Rodriguez. The Department cited as its reasons the additional information provided by Mr. Rodriguez and also other facts available to the Department.

Based on the representations made by Mr. Rodriguez and by the Department, I find that the requested motion is justified, and that granting it will not jeopardize the purpose of the Order.

Accordingly, it is hereby Ordered that, effective immediately, the Order of February 28, 1983 is amended by removing Manuel Rodriguez, d.b.a. Export Assistance Services, 5671 Via Ceresa, Yorba Linda, California 92686, from its designation of related persons in Paragraph III.

A copy of this Amendment of the Order of February 28, 1983 shall be served upon Mr. Rodriguez and published in the **Federal Register.**

Dated: May 2, 1983, 3:30 p.m. EST.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 83–12284 Filed 5–6–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On March 7, 1983, Notice was published in the **Federal Register** (48 FR 9551), that an application had been filed with the National Marine Fisheries Service by Mr. Jeffrey D. Goodyear, Moss Landing Marine Laboratories, P.O. Box 223, Moss Landing, California 95039, for a permit to conduct biopsy and radio tagging studies involving humpback whales (*Megaptera novaeangliae*) and fin whales (*Balaenoptera physalus*) over a 2-year period.

Notice is hereby given that on May 3, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to Jeffrey D. Goodyear, Moss Landing Marine Laboratories, for taking up to 135 humpback whales and up to 90 fin whales subject to certain conditions set forth therein.

As required by the Endangered Species Act of 1973 issuance of this permit is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 24, 1974.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 3, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–12352 Filed 5–6–83; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Proposed Modification to Permit No. 347 (P77W)

Notice is hereby given that the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, has requested a modification of Permit No. 347 issued on July 25, 1981 (46 FR 38950) under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to take an additional 1,600 California sea lions by tagging and marking as described in the original application, and to extend the period of validity of the permit by two years until December 31, 1986.

Concurrent with the publication of this notice in the **Federal Register,** the Secretary of Commerce is forwarding copies of the modification to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington D.C. 20235 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in the modification are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731

Dated: May 5, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–12351 Filed 5–6–83; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations governing the Taking and Importing of Marine Mammals (50 CFR Part 216)

1. Applicant: New York Aquarium (P112D), Boardwalk and West 8th Street, Brooklyn, New York 11224.
2. Type of Permit: Public Display.
3. Names and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*).
4. Type of Take: To take for permanent maintenance.
5. Location of Activity: West Coast of Florida.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above-described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register,** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: May 3, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–12350 Filed 5–6–83; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of the Republic of Singapore Authorized To Issue Visas and Exempt Certifications for Certain Textile and Apparel Products Exported to the United States

May 4, 1983

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a new list of officials of the Government of the Republic of Singapore authorized to sign export visas and exempt certifications for cotton, wool, and man-made fiber textile and apparel produced or manufactured in Singapore.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175).

SUMMARY: The Government of the Republic of Singapore has notified the Government of the United States that nine officials are now authorized to sign export visas and exempt certifications for cotton, wool, and man-made fiber textile products exported to the United States.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, (202/377–4212).

SUPPLEMENTARY INFORMATION: On February 16, 1982 a letter dated February 10, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (47 FR 6663) which established export visa and exempt certification requirements for certain cotton, wool, and man-made fiber apparel products, produced or manufactured in Singapore and exported to the United States on and after April 1, 1982. A further letter dated November 19, 1982 was published in the **Federal Register** on November 26, 1982 (47 FR 53446) extending coverage of the existing export visa and exempt certification requirements to include additional categories of cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in Singapore and exported on and after January 15, 1983. One of the requirements is that the visas and exempt certifications be signed by an official of the Government of the

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Republic of Singapore. The following officials have been so authorized:

Shirley Sim Mui Gek
Tay Guek Khiam
Wong Swee Kim
Mohamed Saimi Bin Talib
Irene Mok Moh Wan
Chia Keng Chun
Irene Lee Kim Eng
Abeedah Binti Rustam Ali
Soo Eng Pok

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-12342 Filed 5-6-83; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a collection of information in the form of a study of residential fires originating with components of electrical systems.

The purpose of this study is to gather information which will be used by the Commission: (a) To direct engineering work related to identification of factors contributing to residential fires originating in components of electrical systems; (b) to advise manufacturers and voluntary standards organizations of the need for changes in the design of components of electrical systems; (c) to support proposed changes to the National Electrical Code; and (d) to support educational efforts directed toward consumers concerning proper installation and maintenance of components of residential electrical systems.

This study will gather information from a maximum of ten local fire departments. The fire departments participating in this study will do so on a voluntary basis and will receive reimbursement from the Commission for staff time and costs incurred to provide information. Personnel from the participating fire departments will receive a training course on identification of the components of a residential electrical system. After completion of the training course, personnel from the participating fire departments will investigate selected residential fires following written guidance prepared by the Commission, and will report the results of each investigation using a standardized report form furnished by the Commission. The study will involve investigations of approximately 100 residential fires.

Information about the Proposed Collection of Information.

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Data Collection on Fires Originating in Components of Residential Electrical Systems.

Type of request: Approval of a new plan.

Frequency of collection: Approximately 10 investigations per respondent.

General description of respondents: Local fire departments.

Estimated number of respondents: 10.

Estimated average number of hours per response: 8.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395-7313. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: May 3, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-12337 Filed 5-6-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Board of Advisors to the President, Naval War College, Newport, Rhode Island; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Board of Advisors to the President, Naval War College, will meet on June 9, 1983, in room 210, Conolly Hall. The session will commence at 8:30 a.m. and terminate at approximately 4:30 p.m. The purpose of the meeting is to elicit the advice of the Board on educational, doctrinal, and research policies and programs of the Naval War College.

For further information concerning this meeting contact: Elizabeth F. Crosby, Executive Assistant to the Dean of Academics, Naval War College, Newport, Rhode Island 02841. Telephone: (401) 841-3535.

Dated: May 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-12286 Filed 5-6-83; 8:45 am]

BILLING CODE 3810-AE-M

Naval Discharge Review Board; Hearing Locations

In November 1975 the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C., area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for May through September 1983 has been approved, but remains subject to modification if required:

May 16 through May 27, 1983; Dallas, TX.
June 6 through June 10, 1983; San Francisco, CA.
June 13 through June 20, 1983; Arlington, VA.
August 15 through August 26, 1983; Arlington, VA.
September 12 through September 23, 1983; Chicago, IL.

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer to their residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application the hearing location which is preferred. Applicant forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and representatives will be mailed a notification of the date and place of their hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact: Captain Raymond A. Ways, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203. Telephone: (202) 696-4881.

Dated: May 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 83-12288 Filed 5-6-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Energy Information Administration

[EIA-254]

Quarterly Progress Report on Status Reactor Construction

AGENCY: Energy Information Adminstration, United States Department of Energy.

ACTION: Request for comments on the extension of Form EIA-254.[1]

SUMMARY: The Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) plans to extend the "Quarterly Progress Report on Status of Reactor Construction," (EIA-254) and invites comments on the survey and the content of the form.

DATES: Written comments must be submitted on or before June 8, 1983.

ADDRESS: Send comments to Ms. Justine G. Johnson at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the Form EIA-254, contact Ms. Justine Johnson, Nuclear and Alternate Fuels Division, MS: 2F-021, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-6330.

SUPPLEMENTARY INFORMATION:

I. Background
II. Request for Comments

I. Background

The EIA announces plans to extend the Form EIA-254, which is used to collect data on those nuclear units planned or under construction by an electric utility. The cost and construction scheduling data requested on the form are utilized in the Office of Coal, Nuclear, Electric and Alternate Fuels for analysis in support of its program, for replies to Congress and for publication of statistical information.

The primary data elements are respondent identification, name and location of nuclear electric generating unit, contact name, address, telephone number, and electrical capacity expressed as design electrical rating in net megawatts. Total nuclear plant costs in specific categories are requested in direct, indirect and contingency costs reported in constant dollar terms. Estimated costs for cost escalation on direct and indirect costs and interest during construction are requested in nominal dollar terms. The form also requests weight of U-238 and U-235 and total other weights (i.e. thorium, plutonium and U-233).

The chronological data reported are application for constuction permit docketed by the Nuclear Regulatory Commission (NRC), start of construction at site, application for facility license docketed by NRC, first criticality, percent of physical construction completed to date, date of first operation at plant's designed full power, date plant placed in commercial operation, and first discharge of nuclear fuel.

Form EIA-254 is a voluntary quarterly progress report. Electric utility companies within the U.S. who have nuclear units planned or under construction are the sole source of data. Forms are mailed in the beginning of the month of the new quarter and respondents are asked to submit their completed forms within a five or six week period.

II. Request for Comments

The EIA invites prospective respondents to comment on the planned extension within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider)

a. Are the instructions and definitions clear and sufficent?

b. Can data be sumitted using the defintions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved?

(As a potential user)

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data? (Be specific)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiences?

The EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., May 2, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 83-0850 Filed 5-6-83; 8:45 am]

BILLING CODE 6450-01-M

[1] Form EIA-254 filed as a part of the original document.

Federal Energy Regulatory Commission

[Docket No. ID-2036-000]

William J. Alley; Application

May 3, 1983.

The filing individual submits the following:

Take notice that on March 11, 1983, William J. Alley filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director; Central Illinois Public Service Company.
Chairman of the Board, Chief Executive Officer, President and Director; Frankin Life Insurance Company.
Chairman of the Board and Director; American Franklin Company.
Director; American Brands, Inc.
Chairman of the Board, President, and Director; Franklin Financial Services Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

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North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12285 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2037-000]

John L. C. Bachofer, Jr.; Application

May 3, 1983.

The filing individual submits the following:

Take notice that on March 11, 1983, John L. C. Bachofer, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Metropolitan Edison Company.

Vice President and Director, York Haven Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before May 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12286 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-379-001]

Delhi Gas Pipeline Corp.; Amendment

May 3, 1983.

Take notice that on December 20, 1982, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-379-001 an amendment to its pending application filed in Docket No. CP82-379-000 pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and 284.127 of the Commission's Regulations so as to authorize the transportation of natural gas to an additional point of delivery located in Beaver County, Oklahoma, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on June 16, 1982, Delhi filed in Docket No. CP82-379-000 an application to transport gas for Transwestern Pipeline Company (Transwestern) for a period ending March 1, 1990. Such service, it is stated, commenced on July 9, 1980. Delhi, it is asserted, receives natural gas at various points of delivery on its Western Oklahoma pipeline system and subsequently transports and redelivers equivalent quantities of gas to Transwestern at points in Ellis and Custer Counties, Oklahoma.

Delhi proposes herein to deliver gas to Transwestern at an additional point in Beaver County, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 24 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12290 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2035-000]

Robert S. Eckley; Application

May 3, 1983.

The filing individual submits the following:

Take notice that on March 11, 1983, Robert S. Eckley filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Central Illinois Public Service Company

Director—State Farm Fire and Casualty Company

Director—State Farm Mutual Automobile Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12289 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP61-92-010]

El Paso Natural Gas Company; Petition to Amend

May 3, 1983.

Take notice that on April 6, 1983, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP61-92-010 a petition to amend the order issued January 11, 1965,[1] as amended, in Docket No. CP61-92 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), at a revised delivery point and the establishment of five new delivery points from Northern to El Paso under the terms of an amended exchange arrangement between El Paso and Northern, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

El Paso states that it was authorized to construct and operate certain facilities and to exchange natural gas with Northern at certain points in Texas and Oklahoma pursuant to the terms of a 1963 service agreement dated August 17, 1962, as amended. It is further stated that Northern has volumes of residue gas from Amoco Production Company's (Amoco) Slaughter Plant in Hockley, Texas, which are available to El Paso as part of the authorized exchange. Some of the residue gas received by El Paso for Northern's account at the Slaughter Plant must be returned by Northern to Amoco's Prentice Plant in Yoakum County, Texas, pursuant to the terms of a gas sales contract between Northern and Amoco, it is averred. Additionally, El Paso asserts that Northern must deliver gas to Energas Company, Division of Pioneer Corporation (Energas), for resale to an existing right-of-way grantor located on Northern's pipeline in Yoakum County.

In order to enable Northern to meet its obligations, El Paso and Northern have amended their exchange arrangement to reflect the proposed change of a delivery point from a Northern delivery point to an El Paso delivery point, it is stated. In this petition, El Paso proposes to deliver up to 1,000 Mcf of gas per day to Northern at an existing point of interconnection between El Paso's Dumas pipeline and Northern's discharge line in Yoakum County. It is averred that this delivery point would enable Northern to return gas to Amoco's Prentice Plant and to render service to Energas.

Furthermore, Northern has volumes of gas available to it under existing surplus residue agreements and other gas purchase agreements, it is asserted. In order for Northern to receive its gas from these sources, Northern and El Paso have further amended their exchange arrangement to include five additional delivery points from Northern to El Paso, it is stated. El Paso avers it would receive up to 34,250 Mcf of gas available to Northern from the following sources: (1) Phillips Petroleum Company's (Phillips) Lee Plant located in Lea County, New Mexico; (2) Phillips' Dumas Plant located in Moore County, Texas; (3) the No. 1 Cross B well located in Roger Mills County, Oklahoma; (4) the Carruth 1-43 well located in Hemphill County, Texas; and (5) the Poker Lake State 1-32 well located in Eddy County, New Mexico. El Paso would redeliver the volumes to Northern as part of the exchange volumes now authorized, it is stated.

No new facilities or increases in the existing volumetric limitations are proposed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12251 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-367-000]

Empire District Electric Company; Order Accepting Rate for Filing, Noting Intervention, and Terminating Docket

Issued: May 2, 1983.

On March 3, 1983, Empire District Electric Company (Empire) submitted for filing an executed amendment to Service Schedule L of the interchange and interconnection agreement between Empire and Kansas Gas and Electric Company (KG&E).[1] The amendment would increase the capacity charge for sales under Schedule L, peaking service, from the cost of procurement plus $0.27/kW/month to the cost of procurement plus $0.46/kW/month.[2] The peaking power is resold by KG&E to Kansas Electric Power Cooperative (KEPCo)[3] at a rate which includes a pass-through of Empire's charges. Empire requests that the effective date of its proposed rate be April 1, 1983, although it has not requested waiver of notice in order to accomplish this result.

Notice of Empire's filing was published in the **Federal Register**[4] with comments due by March 28, 1983. KEPCo filed a timely motion to intervene, protest, and request for a maximum suspension. KEPCo states that as the ultimate purchaser of the peaking power, it has a direct interest in the outcome of this proceeding. KEPCo also contends that Empire's filing fails to satisfy the Commission's filing requirements and provides an insufficient basis for evaluation of the proposed charge. As a result, KEPCo contends that the submittal should be rejected or declared deficient. However, KEPCo suggests that a preferable approach would be to suspend the rate for five months to allow for discovery and settlement discussions. While KEPCo asserts that Empire's filing raises a number of unanswered questions (such as the support for the stated "replacement capacity cost"), KEPCo has offered no specific substantive objections.

Empire answered KEPCo's pleading on April 13, 1983. The company does not oppose the motion to intervene, but does assert that its submittal substantially complies with the Commission's filing requirements and is consistent in form with a prior submittal to implement rates under Service Schedule L. Concerning the challenged "replacement capacity cost" calculation, Empire has noted a typographical error on its rate worksheet and has provided additional explanation of the derivation of its figures. Empire objects to the request for a maximum suspension, stating that the suspension period is not a mechanism designed to allow for discovery or settlement negotiations.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motion to intervene serves to make KEPCo a party to this proceeding.

[1] The amendment is designated as: *The Empire District Electric Company*, Supplement No. 3 to, Supplement No. 16 to Rate Schedule FPC No. 60.

[2] Empire purchases the power and energy required from a third party (generally Southwestern Power Administration) and resells it to KG&E. Empire's capacity charge in excess of the cost of procurement represents the company's cost to wheel the power over its transmission system.

[3] KEPCo's member systems are: Ark Valley Electric Cooperative Association, Inc.; Butler Rural Electric Cooperative Association, Inc.; Caney Valley Cooperative Association, Inc.; CMS Electric Cooperative Association, Inc.; Coffey County Rural Electric Cooperative Association, Inc.; C&W Rural Electric Cooperative Association, Inc.; Jewell-Mitchell Cooperative Electric Company; NCK Electric Cooperative, Inc.; Ninnescah Rural Electric Cooperative Association, Inc.; Norton-Decatur Cooperative Electric Company; Radiant Electric Cooperative, Inc.; Sedgwick County Electric Cooperative Association, Inc.; Sekan Electric Cooperative Association, Inc.; Smoky Hill Electric Cooperative Association, Inc.; Sumner-Cowley Electric Cooperative, Inc.; United Electric Cooperative, Inc.; and Victory Electric Cooperative Association, Inc.

[4] 48 FR 11315 (March 17, 1983).

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While the additional information contained in Empire's April 13 answer is helpful in allowing the Commission to evaluate the company's rate filing, we find that Empire's submittal, as originally tendered, substantially complied with the Commission's filing requirements. As a change in rate for an interconnection service, the submittal is subject to the abbreviated filing requirements contained in section 35.13(a)(2)(i)(D) of the Commission's regulations. Absent any other alleged basis for rejection or the issuance of a deficiency letter, we shall therefore deny KEPCo's request for such action.[5]

We further find that suspension of the rate (for five months or otherwise) is neither necessary nor appropriate. Empire has supported the proposed capacity charge of $0.46/kw/month on the basis of an annual fixed charge applied to average investment in 161 kV transmission facilities plus an allowance for losses. We note that rates identical to that currently proposed by Empire are already on file with the Commission for similar service provided by Empire to other interconnected utilities.[6] Having reviewed the filing as well as the pleadings, we conclude that the proposed charge is cost justified and that no basis exists upon which to proceed to hearing. Therefore, we shall accept Empire's rate for filing without suspension. However, Empire has neither requested nor supported a waiver of the notice requirements and we cannot conclude that good cause exists to authorize such a waiver. Accordingly, Empire's rate will be accepted for filing to become effective on May 3, 1983, sixty days after filing.

The Commission orders:

(A) KEPCo's requests for rejection, issuance of a deficiency letter, or a maximum suspension are hereby denied.

(B) Waiver of the notice requirements is hereby denied.

(C) Empire's proposed rate is hereby accepted for filing to become effective on May 3, 1983, without suspension.

(D) Docket No. ER83-367-000 is hereby terminated.

(E) The Secretary shall promptly publish this order in **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12252 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5924-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

May 3, 1983.

Take notice that Energenics Systems, Inc., Permittee for the Trenton Dam Project No. 5924, has requested that its preliminary permit be terminated. The permit was issue on May 24, 1982, and would have expired on November 1, 1983. The project would have been located on the Republican River in Hitchcock County, Nebraska.

The Permittee filed its request on April 15, 1982, and the surrender of the preliminary permit for Project No. 5924 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12253 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3982-001]

Utilities Board of the City of Lamar, Colorado; Surrender of Preliminary Permit

May 3, 1983.

Take notice that Utilities Board of the City of Lamar, Colorado, Permittee for the Eagle Nest Dam Project No. 3982 located on the Cimarron Creek in colfax County, New Mexico, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 17, 1982, and would have expired on August 31, 1983. The Permittee states that analysis of the Eagle Nest Dam Project did not indicate feasibility for development by a utility system.

Utilities Board of the City of Lamar, Colorado's request was filed April 18, 1983. The surrender of the permit for Project No. 3982 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12282 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4731-001]

Marin Municipal Water District; Surrender of Preliminary Permit

May 3, 1983.

Take notice that Marin Municipal Water District, Permittee for the proposed Bone Tempe Reservoir Project No. 4731, has requested that its preliminary permit be terminated. The permit was issued on December 10, 1981, and would have expired May 31, 1983. The project would have been located on the Lagunitas Creek in Marin County, California.

The Permittee filed its request on April 6, 1983, and the surrender of the preliminary permit for Project No. 4731 is deemed accepted as of the date of this notice

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12257 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-263-000]

Northern Border Pipeline Company; Application

May 3, 1983.

Take notice that on April 5, 1983, Northern Border Pipeline Company (Applicant), 224 South 108th Avenue, Omaha, Nebraska 68154, filed in Docket No. CP83-263-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Michigan Wisconsin Pipe Line Company (Mich Wis), Natural Gas Pipeline Company of America (Natural), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and Transcontinental Gas Pipe Line Corporation (Transco) and authorizing the operation of an existing tee and side valve in order to receive the gas to be transported, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Great Plains Gasification Associates is constructing a coal gasification plant near Beulah, North Dakota, which would produce approximately 137,500 Mcf of synthetic natural gas per day. This production would be purchased by Mich Wis, Natural, Tennessee, and Transco, it is asserted. Applicant proposes to receive the synthetic natural gas at an existing valve on its pipeline in Mercer County, North Dakota, transport it commingled with natural gas and redeliver the volumes to Northern Natural Gas Company, Division of InterNorth, Inc., at Ventura, Iowa, for the account of the four shippers. Applicant states that it would be obligated to transport on a firm basis up to 34,375 Mcf per day for Mich Wis, 27,500 Mcf per day for Natural, 41,250 Mcf per day for Tennessee, and 34,375 per day for Transco, for a total of 137,500 Mcf per day.

Applicant proposes to transport up to 137,500 Mcf per day for the shippers on an interruptible basis during a testing period from January 1 to December 31, 1984. Applicant would charge a transportation rate of the product of the dekatherm-mile rate and the dekatherm miles transported. During a development period from January 1 to December 31, 1985, Applicant proposes to transport up to 137,500 Mcf per day for the shippers on a firm basis The transportation rate would be the greater of the dekatherm-mile charge or the appropriate minimum charge.

Finally, beginning on January 1, 1986, and continuing for 23 years, Applicant proposes to transport up to 137,500 Mcf per day for the shippers on a firm basis, at a rate based on its cost of service Rate Schedule T-1. Applicant further states that volumes in excess of the shippers' firm daily receipt quantities would be accepted and transported on an interruptible basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12258 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-6-000]

Southwestern Public Service Co. and New Mexico Electric Service Company Order Accepting Application for Filing, and Approving Sale of Assets

Issued April 28, 1983.

On December 14, 1982, Southwestern Public Service Company ("SPS") and New Mexico Elelctric Service Company ("NME") jointly filed an application under Section 203 of the Federal Power Act for commission approval of the sale of NME's assets and electric utility business to SPS. SPS is a public utility as defined in Part II of the Federal Power Act. The company engages primarily in the generation, transmission, and distribution of electricity to approximately 309,000 retail customers and at wholesale to 23 electric cooperative, municipal, and investor-owned utilities. The company transacts business in the States of New Mexico, Texas, Oklahoma, and Kansas.NME, also a public utility uner the Federal Power Act, is engaged primarily in the generation, transmission, and distribution of electricity in Lea County, New Mexico, located in the southeastern corner of the State.

NME serves approximately 21,000 retail customers.

The electric systems of NME and SPS serve contiguous territories and are interconnected with one another at a point near Hobbs, New Mexico. NME is also interconnected with Lea County Electric Cooperative (Lea County). NME and Lea County, through a joint venture, entered ito an interconnection agreement with SPS effective January 1, 1979; this agreement superseded a prior interconnection agreement with Southwestern. Pursuant to their contractual arrangements, SPS supplies firm power and economy energy to NME and Lea County. In addition, SPS purchases and dispatches the output of NME's gas turbine generating unit.

SPS proposes to purchase NME's assets and electric utility business in exchange for: (1) 1,065,000 shares of SPS common stock; and (2) the assumption, defeasance, or refunding by SPS of NME's liabilities, based upon the latter's September 30, 1982 balance sheet. The number of shares will be adjusted for changes in retained earnings above or below $50,000 at the rate of one share for each $15.75. Based upon the September 30, 1982 price of $15.75 for a share, the SPS common stock has a value of $16,773,750.

Notice of the instant filing was published in the **Federal Register**, [1] with comments due on or before January 17, 1983. No comments have been received.

Discussion

The Statutory Standard

The standards pertaining to acquisitions are set forth in Section 203 of the Federal Power Act, 16 U.S.C. 824b. Section 203(a) provides that:

> No public utility shall sell, lease, or otherwise dispose of the whole of its facilites subject to the jurisdiction of the Commission, • • • merge or consolidate such facilities • • • or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so • • •. After notice and an opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest it shall approve the same.

Further, under Section 203(b), the Commission may condition its approval on terms "necessary or appropriate to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission."

As the statute has been applied, the applicants are not required to establish that the transaction will add to the public benefit; they need only establish that the transaction is not inconsistent with the public interest. The principle which underlies Section 203 is one of compatibility. *Pacific Power and Light Co.* v. *FPC*, 111 F. 2d 1014 (9th Cir. 1940). Moreover, the application filed by SPS and NME must be evaluated within the broad context of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79 *et. seq.* That act, *inter alia*, seeks to assure that electric utility holding systems are fully integrated. Section 2(a)(29) , 15 U.S.C. § 79b; Section 10(c)(2), 15 U.S.C. 79j.

In *Commonwealth Edison Co.*, 36 FPC 927, 932 (1966), the Commission set forth a non-exclusive list of relevant fac'ors

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[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

[6] Similar changes in the capacity charge have been accepted for filing in Docket Nos. ER83-322-000 and ER83-327-000 for peaking power service provided by Empire to Kansas City Power & Light Company. *See* Letter Order of the Director of the Office of Electric Power Regulation, dated March 25, 1983.

[1] 48 FR 000 (Jan. 0, 1983).

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appropriate for consideration of any merger agreement subject to the Commission's jurisdiction. These factors included:

> * * * the effect of the proposed action on the applicants' operating cost and rate levels, the contemplated accounting treatment, reasonableness of the purchase price, whether the acquiring utility has coerced the to-be acquired utility into acceptance of the merger, the effect the proposed action may have on the competitive situation, and finally, whether the consolidation will impair effective regulation by this Commission or the appropriate state regulatory authority.

The Need For A Hearing

In the order setting the *Commonwealth Edison* merger for hearing, the Commission also stated that "the public interest will generally be best served by setting for hearing all applications requesting approval of the merger and consolidation of two or more Class A electric utilities." 35 FPC at 930. While both SPS and NME have revenues in excess of those necessary to attain Class A status, [2] we do not believe that a hearing is necessary where the receipt of evidence will not aid the Commission in reaching an ultimate decision. *Denver Stock Yard Co.* v. *Producers Livestock Marketing Ass'n*, 356 U.S. 282, 287 (1958); *City of Lafayette* v. *SEC*, 454 F. 2d 941, 953 (D.C. Cir. 1971); *affirmed sub nom. Gulf States Utilities Co.* v. *FPC*, 411 U.S. 747 (1973).

In the instant case, we have carefully reviewed the joint application of SPS and NME. In addition, we have reviewed information contained in the Commission's public files as well as the record of the proceedings held before the New Mexico Public Service Commission (NMPSC) on December 21, 1982 concerning the companies' application to transfer NME's assets and business to SPS. [3] Based upon our review, we find that sufficient information exists from which to determine whether the proposed transfer of assets is consistent with the public interest and that a formal evidentiary hearing in the instant case is unnecessary. As noted, no interventions have been filed in opposition to the transaction. Accordingly, we now turn to an evaluation of the SPS-NME proposal, in light of the factors set forth in *Commonwealth Edison, supra.*

[2] A Class A electric utility is one whose annual electric operating revenues are $20.5 million or greater. For the twelve months ending September 30, 1982, the applicants' electric operating revenues were: SPS–$804 million; NME–$41 million.

[3] By order dated December 22, 1982, the NMPSC approved the transfer.

The Effect of the Proposed Transaction on Operating Costs and Rate Levels

NME operates an electric utility system centered at Hobbs, New Mexico. The company operates two generating units at its Maddox Station power plant: a 114 MW nameplate capacity gas-fired steam turbine and an 81 MW nameplate capacity gas turbine. According to NME's 1981 Form 1, the latter unit was operated for only 180 hours during the year; thus, the bulk of NME's system requirements are met by the company's steam unit. For 1981, NME's operating expenses per kWh was an average of 4.2¢, of which 3.4¢ consisted of production-related expenses.

SPS, on the other hand, operates its steam turbine units at average operating costs ranging form 1.7–2.7¢/kWh. With respect to distribution, NME's expenses averaged 0.13¢/kWH for 1981, as compared to SPS' cost of 0.09¢/kWh. For administrative and general expenses, each company's average expense during 1981 was 0.15¢/kWh. Based upon SPS' present rates, the sale of NME's assets and business to SPS would result in an immediate overall decrease of 3.3% in rates to NME's customers.

It appears that no additional investment in facilities by SPS will be necessary as a result of the purchase of NME's assets, since the two companies are contiguous and interconnected. However, the proposed transaction is expected to reduce administrative expenses presently being incurred by both companies as a result of their separate operation.

We conclude, on the basis of the foregoing, that the proposed transaction offers the prospect of lower costs and rates for the two companies' customers as a result of more efficient utilization of SPS' generating capacity and reduction in combined operating expenses.

Reasonableness of the Purchase Price

As indicated previously, the proposed transaction involves a transfer of stock valued at $16,773,750, and and assumption of liabilities; no cash payment will be made.

In *Southwestern Public Service Co.*, Opinion No. 162, 22 FERC ¶ 61,341 (March 23, 1983) we affirmed the presiding administrative law judge's finding [4] that a just and reasonable return on equity for SPS was 16.5%. Application of this 16.5% rate to the incremental earnings which would accrue to SPS if the instant transaction were consummated results in a value of $16,025,000. In addition, the average price-to-earnings ratio for electric utilities in that region of the country is approximately 6.6 Applying this ration to the incremental earnings which would result from the transaction results in a vaule of $19,034,400. Finally, we note that NME's book value as of September 30, 1982 was $16,863,797. Under the circumstances, we find that the purchase price of $16,773,750 is reasonable.

[4] 18 FERC ¶ 63,007, p. 65,053 (Jan. 18, 1982).

Was the Sale Coerced by the Acquiring Utility

As the dominant utility in southeastern New Mexico, SPS obviously is in a position to inhibit NME's efforts to retain its independence through means such as joint participation with it in the planning and construction of new facilities, or interconnection with other utilities. The record, however, indicates no such actions. There is no evidence that SPS ever inhibited NME in its efforts to interconnect or otherwise establish closer relations with nearby utilities [5] or otherwise unreasonably refused to cooperate with NME. On the contrary, NME and SPS, along with Lea County, coordinate their electric operations pursuant to their 1979 Interconnection Agreement which provides for the sale of firm power by NME to SPS and for the exchange of unit capacity, emergency service, and economy energy. In addition, we note that SPS and NME are unaffiliated and that the negotiations regarding the proposed agreement were conducted at arms-length. Accordingly, we find no evidence of coercion in the instant case.

The Effect on the Competitive Situation

As part of our analysis we must consider what effect, if any, our approval of a proposed acquisition will have on the existing and future competitive situation in electric utility operations. *Gulf States Utilities Co.* v. *FPC*, 411 U.S. 747 (1973); *Central Power & Light Co.* v. *FERC*, 575 F. 2d 937 (D.C. Cir.), *cert. denied* 439 U.S. 981 (1978); *see*

[5] In January 1981, NME and Public Service Company of New Mexico (PNM), a public utility located in the northern and central part of New Mexico, filed applications under Section 203 to merge the former into the latter. Similar applications were filed before the NMPSC in December 1980. In applying for permission to merge, the parties stated that, upon consummation of the transaction, NME would not become interconnected with PNM. SPS intervened in the proceedings before both this angency and the NMPSC. The NMPSC denied that application in the fall of 1981. On December 13, 1982, PNM and NME filed a joint notice of withdrawal of their applications before this Commission, which became effective December 29, 1982. *See Public Service Co. of New Mexico, et al.*, Docket Nos. EC81–4–000 and EC81–5–000 (January 12, 1983).

also FPC v. *Conway Corp.*, 426 U.S. 271 (1976) (Commission must consider allegations that proposed rates are anticompetitive in effect); *California* v. *FPC*, 369 U.S. 482 (1982); *Northern Natural Gas Co.* v. *FPC*, 399 F. 2d 953 (D.C. Cir. 1968) (antitrust policies must be considered in evaluating the "public interest" standard under the Natural Gas Act). However, while the antitrust laws and the policies underlying them are relevant, they are but one factor to be considered in determining whether the proposed acquisition is consistent with the public interest.

Both SPS and NME are regulated by the NMPSC and this Commission. The existence of regulation clearly serves to constrain potential abuse of monopoly power by public utilities *Commonwealth Edison, supra*, 36 FPC at 940–41.

In the context of regulated public utilities, the "anti-competitive effect" of an acquisition requires consideration of at least three different questions: (1) Will the merger bring a significant added concentration of economic power? (2) Will it eliminate any meaningful competition which may exist, either directly or indirectly, such as in attracting new industry, in making wholesale sales, or in providing economical service? and (3) Will it have an adverse effect on competing energy sources? On the basis of the record in this proceeding, we find that each of these inquiries must be answered in the negative.

In the instant case, the acquisition of NME's assets and business by SPS will increase its operating revenues by approximately 7%, its net income by 3%. Thus, it does not appear that the acquisition of NME will add appreciably to its command of economic power. On the other hand, this increase in SPS' size promises to bring tangible rate advantages to customers of both companies.

We have no reason to conclude that approval of the acquisition eliminates substantial actual or potential competition, at retail or wholesale, between SPS and NME. Furthermore, there is no evidence in this proceeding that the acquisition will have any adverse effect on any competition which may exist between electric power and other energy sources, such as oil, coal, and natural gas.

Effectiveness Of Regulation

Impairment of the effectiveness of regulation is another of the abuses to be guarded against in considering whether an acquisition is consistent with the public interest. In the instant case, the acquisition will not interfere with this Commission's regulation of SPS' wholesale transactions.

SPS does business in Texas and Oklahoma, as well as in the State of New Mexico. The company's retail business in New Mexico is presently subject to regulation by the NMPSC: as part of the regulation, costs incurred by SPS in serving New Mexico ratepayers are segregated out of SPS' systemwide costs. Thus, we do not believe that the addition of NME's retail customers to SPS' system should hamper or interfere with regulation by the NMPSC or any other interested State commission. Accordingly, we do not believe that regulatory effectiveness will be impaired by the merger.

Accounting Treatment

SPS proposes to acquire NME for stock valued at $16,773,750, $2,090.047 less than NME's book value. SPS proposes to record this difference between net book value and the purchase price as a negative adjustment in Account 114 (Electric Plant Acquisition Adjustments) of the Uniform System of Accounts and to amortize the amount over a 20-year period by crediting Account 406 (Amortization of Electric Plant Acquisition Adjustments). We believe, however, that the full amount of the difference between book value and purchase price should be credited to Account 108 (Accumulated Provision For Depreciation of Electric Utility Plant) at the time of purchase.

We conclude that the accounting, as so modified, fairly represents the results of the sale and will accord both with generally accepted accounting principles and the requirements of our Uniform System of Accounts prescribed for public utilities subject to the Federal Power Act.

Conclusion

On the basis of the foregoing analysis, we believe that the proposed acquisition by SPS of NME's assets and electric utility business, as modified with respect to SPS' proposed accounting treatment of the transaction, is consistent with the public interest. Accordingly, we shall approve the joint application of SPS and NME on the terms and conditions stated below.

The Commission orders:

(A) The joint application of SPS and NME tendered on December 14, 1982 is hereby accepted for filing.

(B) The proposed acquisition of NME's facilities by SPS as described in the application is hereby authorized and approved upon the terms and conditions set forth in the application, subject to the modification set forth in Ordering Paragraph (C) below.

(C) SPS shall credit the full amount of the negative acquisition adjustment resulting from the purchase of NME's assets and electric utility business to Account 108 under the Uniform System of Accounts as of the date of purchase.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determination of costs, or any matter now pending or which may come before this Commission or any other regulatory body.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12200 Filed 5–6–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–267–000]

Tennessee Gas Pipeline Co. and Columbia Gas Transmission Corporation Application

May 3, 1983.

Take notice that on April 11, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 and Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP83–267–000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas and an application by Tennessee for permission and approval to abandon a transportation service provided Columbia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that pursuant to an agreement between them dated December 8, 1982, they propose to exchange 50,000 Mcf of natural gas per day. Columbia would deliver gas to Tennessee at existing interconnections at Tennessee's main line valve 225 in Chautauqua County, New York, and at Tennessee's main line valve 223 in Erie County, Pennsylvania, and other mutually agreed upon points, it is stated. It is also stated that Tennessee would deliver gas to Columbia on Columbia's WB system at or near Servia, Braxton County, West Virginia, and at or near Columbia's Files Creek Compressor Station in Randolph County, West

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Virginia, and at other mutually agreed upon points. Applicants state that Tennessee would provide interconnection facilities at the delivery points to Columbia pursuant to blanket certificate authorization. Applicants also indicate that 17 existing interconnections have been agreed to as balancing points for the exchange. There would be no charge to either party for the exchange service, it is stated.

It is also stated that Tennessee desires to abandon a transportation service currently provide to Columbia. Applicants state that the proposed exchange is a substitute for the transportation service and that the exchange would utilize the same gas volumes currently being transported by Tennessee, with the same Tennessee receipt points. It is stated that Applicants have agreed to cancel the transportation service in favor of the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rule.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12281 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-265-000, Docket No. RP83-78-000 [1]]

Wyoming Interstate Company, Ltd., Application and Proposed Changes in FERC Gas Tariff

May 3, 1983.

Take notice that on April 7, 1983, Wyoming Interstate Company, Ltd. (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83-265-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas in interstate commerce, with changes in contract demand volumes of four existing customers, and tendered for filing in Docket No. RP83-78-000 pursuant to Section 4 of the Natural Gas Act Second Revised Sheet No. 5 and Alternate Second Revised Sheet No. 5, superseding First Revised Sheet No. 5, which changes Applicant's Rate Schedule T of the FERC Gas Tariff to reflect changed and increased contract demand volumes to be effective October 1, 1983, all as more fully set forth in the application and tariff sheets which are on file with the Commission and open to public inspection.

In Docket No. CP83-265-000 Applicant requests authority to continue service with the following changes in contract demand volumes:

Customer	Existing contract demand Mcf/d	Proposed contract demand Mcf/d
Colorado Interstate Gas Co.	149,300	150,000
Columbia Gas Transmission Corp.	64,900	65,000
Natural Gas Pipeline Co. of America	165,300	140,000
Northern Natural Gas Co.	46,000	70,000
Total	425,500	425,000

Applicant proposes that on October 1, 1983, its aggregate contract demand volume increase to 500,000 Mcf per day.[2]

Applicant alleges that construction of the 5,400 horsepower Cheyenne Compressor Station authorized by Opinion No. 138 and Order in Docket No. CP79-80, *et al.*, issued March 12, 1982, will be necessary to increase its system capacity to 500,000 Mcf per day.

In Docket No. RP83-78-000 Applicant has tendered for filing certain alternative proposed changes to Rate Schedule T of its FERC Gas Tariff. Rate Schedule T provides a two-part rate under which Applicant provides firm transportation service to its jurisdictional customers. The revision to Rate Schedule T proposed incorporates the annualized effect of the investment in the Cheyenne Compressor Station and applies the related powered throughput factor in the commodity component. The rate proposed in Second Revised Sheet No. 5 is based on a contract demand of 500,000 Mcf per day while the rate proposed in Alternate Second Revised Sheet No. 5 is based on Applicant's existing contract demand volume of 425,500 Mcf per day. Applicant states that the alternate sheet is provided only in the event that its applications for authorization in Docket Nos. CP83-63-000 and CP83-265-000 are not approved prior to October 1, 1983.[1] Applicant alleges the changed rate reflects the additional investment in compression facilities and reflects a lowering of throughput requirement from 87% of unpowered capacity to 72% of the proposed powered capacity of the system.

Any person desiring to be heard or to make any protest with reference to said application or tariff filing should on or before May 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will

[1] Not Consolidated.

[2] In Docket No. CP83-63-000 Applicant seeks authorization to transport a contract demand volume of 75,000 Mcf per day for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Notice of Application issued November 29, 1982, 47 FR 54536). The sum of the volumes proposed to be transported in Docket Nos. CP83-63-000 and CP83-265-000 equal 500,000 Mcf per day.

be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12285 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-162-000]

Amalgamated Sugar Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 3, 1983.

On January 31, 1983 Amalgamated Sugar Co. of P.O. Box 250, Nampa, Idaho 83651, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On April 11, 1983, supplementary information was filed regarding the facility.

The topping-cycle facility is located at North Nampa Boulevard and Karcher Road, Nampa Township, Canyon County, Idaho. The primary energy source is coal. The electric power production capacity is 9,200 kilowatts. Installation of turbine/generators began is 1968. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petiton to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12248 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-185-000]

Biomass Power Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; ERRATA

May 3, 1983.

Correction

In Docket No. QF83-185-000 appearing in the **Federal Register** issue of Friday, March 4, 1983, 48 FR 9359, make the following correction: on page 9359, in the middle column, in the third full paragraph, lines five, six and seven.

"The electric power production capacity of the facility will be 7,500 kilowatts" is corrected to read "The electric power production capacity of the facility will be 6,400 kilowatts."

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12249 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-248-000]

Energy Systems Division of Thermo Electron Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 3, 1983.

On April 6, 1983, Energy Systems Division of Thermo Electron Corp., P.O. Box 459, Waltham, Massachusetts 02254, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located at Dade County Downtown Government Center in Miami, Florida. It will consist of a gas turbine, an unfired heat recovery boiler, a steam turbine and absorption chillers. The electric power production capacity of the facility will be 25 megawatts. The primary energy source will be natural gas. Installation of the facility will begin in 1984. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to

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[Docket No. QF83-252-000]

James D. Schumacher; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 3, 1983.

On April 11, 1983, James D. Schumacher, (Applicant), 11273 Edgemere Terrace, Roscoe, Illinois 61073, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind-powered generating facility is located at the Applicant's address. The electric power production capacity of the facility is 3 kilowatts. No other wind-powered small power production facility owned by the Applicant is located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission. 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to

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the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12255 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-244-000]

Windpower Partners 1983-1; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 3, 1983.

On April 1, 1983, Windpower Partners 1983-1, 500 Sansome Street, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The windplant, consisting of 150–200 50 kilowatt windmills and 500–525 100 kilowatt windmills, will be located in the Altamont Pass area near Livermore, California. The electric power production capacity of the facility will be 60 megawatts. At any one point on the wind plant property, the aggregate capacity of windmills located within a one-mile radius will be 30 megawatts or less and no other wind-powered small power production facility will be located within one mile of the facility for which qualifying status is sought. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12204 Filed 5-6-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPM-FRL 2360-6]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507 (a) (B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers: Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington. D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Policy and Resource Programs

• Title: Survey of Small Businesses to Determine Regulatory Compliance Problems (EPA ID 1035).

Abstract: EPA plans to survey a sample of small businesses and trade associations for their perceptions on regulatory issues and their concerns about environmental regulations. The information will help the Agency develop an agenda for its proposed conference on small businesses.

Respondents: 200 small businesses and 30 trade associations.

• Title: Economic Dislocation Early Warning System (EDEWS) (EPA ID 0849).

Abstract: EPA will collect information each quarter on actual/threatened plant closings and production curtailments possibly related to environmental requirements of the Clean Air Act. The Agency will use the information to evaluate the effects of these requirements on potential loss/shifts of employment.

Respondents: State/local environmental enforcement authorities and some small businesses.

Pesticides and Toxics Programs

• Title: Form for Requesting Samples (EPA ID 0941).

Abstract: Laboratories will use this revised form to request quality control samples and toxic/hazardous materials samples from EPA. The form will also assist these labs in conducting internal quality control sample programs as recommended by EPA.

Respondents: Federal, state, local, university and private laboratories.

• Title: National Pesticide Usage Survey of Nurseries (EPA ID 1034).

Abstract: EPA is conducting a study of nurseries to gather information on pesticide usage. The information collected will ultimately affect regulatory decisions involving registration, data requirements and special studies.

Respondents: Nurseries.

* * * * *

Agency Forms Cleared by OMB Between April 8 and April 19, 1983

EPA ID 873, EPA Form 5700-31 "Application for Federal Assistance (short form)," was cleared April 19 (OMB #2010-0005).

EPA ID 874, Application for Federal Assistance (Construction), was cleared April 14 (OMB #2010-0003).

EPA ID 0938, General Application for Assistance, was cleared April 18, (OMB #2010-0004).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: May 5, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83-12178 Filed 5-6-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies, Chemical New York Corp.

Chemical New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and

§ 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through its subsidiary, Chemical Mortgage Company, Columbus, Ohio, in arranging equity financing for income producing properties. These activities would be performed from offices of Applicant's subsidiary in Cincinnati and Columbus, Ohio, and the geographic area to be served is the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12286 Filed 5-6-83; 8:45]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; First Missouri Banks, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Missouri Banks, Inc.*, Manchester, Missouri; to acquire 100 percent of the voting shares or assets of First Missouri Bank of St. Peters, N.A., St. Peters, Missouri, a proposed *de novo* bank. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12243 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Number One Bancorp, Inc. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Number One Bancorp, Inc.*, Scranton, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Hawley, Pennsylvania. Comments on this application must be received not later than June 1, 1983.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Pickens County Bancshares, Inc.*, Reform, Alabama; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Reform, Reform, Alabama. Comments on this application must be received not later than June 1, 1983.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Paris Bancshares, Inc.*, Paris, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of The Paris National Bank, Paris, Missouri. Comments on this application must be received not later than June 1, 1983.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Pineland Bancshares, Inc.*, Pineland, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Pineland State Bank, Pineland, Texas. Comments on this application must be received not later than June 1, 1983.

E. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *The Bank of New Mexico Holding Company*, Albuquerque, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of the Bank of Albuquerque, Albuquerque, New Mexico. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12244 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; S & T Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications

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are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *S & T Bancorp, Inc.*, Indiana, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Savings & Trust Bank of Pennsylvania, Indiana, Pennsylvania. Comments on this application must be received not later than June 2, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Albank Corporation*, Chicago, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Albany Bank and Trust Company National Association, Chicago, Illinois. Comments on this application must be received not later than June 2, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Dawson Bancshares, Inc.*, Dawson, Texas; to become a bank holding company by aquiring 100 percent of the voting shares of First State Bank & Trust Company, Dawson, Texas. Comments on this application must be received not later than June 2, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Valley Center Bancshares, Inc.*, Valley Center, Kansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Arkansas Valley State Bank, Valley Center, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than June 2, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12288 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

SSB Bancorp; Formation of Bank Holding Company

SSB Bancorp, Shipshewana, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Shipshewana, State Bank, Shipshewana, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

SSB Bancorp, Shipshewana, Indiana, ha also applied, pursuant to section 4(c)(8) of the Bank Holding Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Shipshewana, Insurance Agency, Inc., Shipshewana, Indiana.

Applicant states that the proposed subsidiary would engage in the activities of providing general insurance agency services, including fire, casualty, life and health insurance in a community of less than 5,000 in population. These activities would be performed from offices of Applicant's subsidiary in the towns of Shipshewana, LaGrange, and Topeka, Indiana, and the geographic areas to be served are Shipshewana, LaGrange, Topeka, and the outlying areas of LaGrange County, Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than May 24, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12287 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Southwest Florida Banks, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Southwest Florida Banks, Inc.*, Fort Myers, Florida; to acquire 100 percent of the voting shares or assets of Palm State Bank, Palm Harbor, Florida. Comments on this application must be received not later than June 2, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bankshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of American National Bank, Bay City, Texas. Comments on this application must be received not later than May 25, 1983.

2. *Victoria Bankshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of Cibolo State Bank, Cibolo, Texas. Comments on this application must be received not later than May 25, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12289 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Fleet Financial Group, Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (mortgage banking; Nevada): To engage, *de novo*, through its direct subsidiary Fleet Mortgage Corp., Milwaukee, Wisconsin, in the following activities: Origination and sale of residential and commercial mortgage loans; and servicing of residential and commercial mortgage loans. These activities will be conducted within the limitations set forth in § 225.4(a)(1) of Regulation Y promulgated under Section 4(c)(8) of the Bank Holding Company Act and the limitations set forth in § 225.4(a)(3) of the aforesaid Regulation Y. Such activities will be conducted at a new office in Moana-Lakeside Plaza, Reno, Nevada. The service area will be the Nevada counties of Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe, White Pine and the city and suburbs of Tonopah in Nye County. Comments on this application must be received not later than May 26, 1983.

2. *Fleet Financial Group, Inc.*, Providence, Rhode Island (mortgage banking; Illinois): To engage, *de novo*, through its direct subsidiary Fleet Mortgage Corp., Milwaukee, Wisconsin, in the following activities: Origination and sale of residential and commercial mortgage loans; and servicing of residential and commercial mortgage loans. These activities will be conducted within the limitations set forth in § 225.4(a)(1) of Regulation Y promulgated under Section 4(c)(8) of the Bank Holding Company Act and the limitations set forth in § 225.4(a)(3) of the aforesaid Regulation Y. Such activities will be conducted at a new office in Chicago, Illinois. The service area will be the northeast portion of Cook County and the southeast portion of Lake County, Illinois. Comments on this application must be received not later than May 26, 1983.

3. *Fleet Financial Group, Inc.*, Providence, Rhode Island (mortgage banking; Illinois): To engage, *de novo*, through its direct subsidiary Fleet Mortgage Corp., Milwaukee, Wisconsin, in the following activities: Origination and sale of residential and commercial mortgage loans; and servicing of residential and commercial mortgage loans. These activities will be conducted within the limitations set forth in Section 225.4(a)(1) of Regulation Y promulgated under Section 4(c)(8) of the Bank Holding Company Act and the limitations set forth in § 225.4(a)(3) of the aforesaid Regulation Y. Such activities will be conducted at a new office in Urbana, Illinois. The service area will be the Illinois counties of Bureau, Champaign, Clark, Coles, Cumberland, De Witt, Douglas, Edgar, Ford, Fulton, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macon, Marshall, Mercer, Moultrie, Peoria, Piatt, Putnam, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford. Comments on this application must be received not later than May 26, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and *Barclays Bank International Limited*, London, England (consumer finance and insurance activities; Florida): To continue to engage through their subsidiaries, BarclaysAmerican/Financial, Inc. ("BAF"), BarclaysAmerican/Mortgage, Inc. ("BAM") and BarclaysAmerican/Financial Services, Inc. ("BAFS"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning); and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. These insurance activities are permissible pursuant to Sections 601 (A) and (D) of the Garn-St Germain Depository Institutions Act of 1982. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. These activities would be conducted from an office of BAF, BAM and BAFS located in Tampa, Florida, serving customers in Tampa and surrounding areas in Florida. This notification is for the relocation of an existing office located in Mulberry, Florida. Comments on this application must be received not later than May 31, 1983.

2. *The Chase Manhattan Corporation*, New York, New York (finance, servicing, and leasing activities; Northeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Rochester, New York

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serving northern New York State, and the states of Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts and Vermont. Comments on this application must be received not later than May 31, 1983.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina, (consumer finance and insurance activities; North Carolina): To engage, through its subsidiary, TranSouth Financial Corporation, in making direct loans for consumer and other purposes, purchasing retail installment notes and contracts and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit and through its subsidiary, TranSouth Mortgage Corporation, in making direct loans for consumer and other purposes under the general usury statues, purchasing retail installment notes and contracts, making direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit from a common office to be located in Kannapolis, North Carolina, serving an area consisting of a 25 mile radius of said office. This notification is for the relocation of an existing office located in Concord, North Carolina. Comments on this application must be received not later than may 30, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp*, Green Bay, Wisconsin (financing, servicing and leasing activities; Wisconsin, Illinois, Michigan): To engage, through its proposed subsidiary, Associated Commercial Finance, Inc., in making or acquiring loans and other extensions of credit such as would be made by a commercial financial company, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets; serving such loans for others; and making leases of personal property or acting as agent, broker or advisor in leasing such property. These activities would be performed in the States of Illinois, Michigan and Wisconsin, from an office located in Milwaukee, Wisconsin. Comments on this application must be received not later than May 26, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (investment advising and real estate appraisal activities; *de novo* offices; all fifty (50) states and the District of Columbia): To engage, through its direct subsidiary, BA Appraisals, Inc., a Delaware corporation, in the activities of providing portfolio investment advice (real estate) to any person; furnishing general economic information and advice; providing financial advice to state and local governments on methods of financing real estate development projects and performing real estate appraisals. These activities will be conducted from two *de novo* appraisal offices located in Walnut Creek and El Monte, California, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 3, 1961.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12262 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; PNC Financial Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.*, Pittsburgh, Pennsylvania (trust activities; Florida): To engage, through its subsidiary, PNC Trust Company of Florida, N.A., in performing the activities of trust company in the manner authorized by Federal law. These activities will be conducted at an office located in the metropolitan areas of Tampa and St. Petersburg, Florida, serving Hillsborough and Pinellas Counties, Florida. Comments on this application must be received not later than May 26, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *The Toronto-Dominion Bank*, Toronto, Ontario, Canada, Toronto-Dominion Holdings (U.S.A.), Inc., Atlanta, Georgia (solicitation, servicing, lending and leasing activities; the United States) Too engage *de novo* through their subsidiary, Toronto-Dominion (Colorado), Inc., in soliciting, making or acquiring loans and other extensions of credit, including permitted leasing transactions, for its own account as well as in soliciting and servicing credit for the Toronto-Dominion Bank's agencies, branches and lending subsidiary companies, including marketing credit and other services offered by, assisting in the negotiation of the term of transactions with, and servicing an monitoring extensions of credit and relationships entered into by the entities described above in accordance with the Board's Regulation Y. These activities will be conducted through the expansion of the service area of Toronto-Dominion (Colorado) Inc.'s existing Denver, Colorado Office, serving the area described in the above caption. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12270 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim fee schedule for automated clearing house service corporate trade payments pilot.

SUMMARY: The Board has approved the following interim fee schedule for the automated clearing house (ACH) corporate trade payments pilot:

Interim Fee Schedule

	Cents
Intra-ACH:	
Debits Originated	4.5
Credits received	4.5
Each addenda record after the first 15	0.1
New York Intra-ACH:	
Debits Originated	1.5
Credits received	1.5
Intra-ACH:	
Debits Originated	7.5
Credits received	7.5
Each addenda record after the first 15	0.2
New York Intra-ACH:	
Debits Originated	4.5
Credits received	4.5
Each addenda record after the first 15	0.1

EFFECTIVE DATE: June 2, 1983.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Assistant Director (202/ 452–2231) or Florence M. Young, Program Manager (202/452–3955), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452–3711), or Robert G. Ballen, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Since the inception of the ACH, it has primarily been oriented toward consumer payments, such as, salaries, insurance premiums, and mortgage payments. The ACH service is being modified to facilitate corporate trade payments as now permitted under the rules of the National Automated Clearing House Association. The use of the ACH for corporate trade payments will be implemented on a pilot basis. The pilot, scheduled to begin in June 1983, will initially be limited to ten participating corporate originators and 50 participating receivers. The number of maximum participating originators and receivers will gradually be expanded during the course of the pilot. It is expected that the program will be fully phased-in by the end of 1983, at which time the use of the ACH for corporate trade payments will be available to any company that wishes to use the service.

The Board has adopted an interim fee schedule that will apply to this pilot program. This fee schedule will be reviewed when the program becomes fully operational.

The current ACH fee schedule assesses charges to the recipients of funds, that is, receivers of credits and originators of debits, because the recipients of funds realize greater benefits from the ACH than do payors.[1] Based on available information, the benefits to originators and receivers of corporate trade payments appear to be comparable to current ACH applications. Therefore, the current method of assessing ACH fees will be applied to the corporate trade payment pilot.

The current ACH fee schedule assesses higher fees to receivers of ACH credit transactions than to originators of day cycle debit transactions. Additionally, originators of cash concentration debits are assessed a surcharge for these debits that are processed on the night cycle. The price differentials in the current fee schedule reflect the relative benefits realized by the participants in the ACH service. Because corporate trade payment processing has not begun, there currently is little information regarding the average dollar value of the payments or whether the average dollar value of credits and debits differs significantly. It is expected, however, that the average dollar value of credit and debit payments should not differ substantially. Further, the ability of corporations to negotiate trade terms, including payment dates, suggests that both receivers of credits and originators of debits should realize comparable improvements in funds availability. Therefore, the interim fee schedule for the pilot program will provide for the same fee to be charged to receivers of credits and originators or debits.

Unlike current ACH applications, corporate trade payments will be accompanied by records containing supporting documentation, such as, invoice identification, adjustment documentation, and discount information. Balancing the number of these addenda records and the payment information included on them to the payment record necessitates additional processing and will result in higher costs. As many as 4,990 addenda records may accompany a corporate trade payment.

It cannot be determined with precision how corporations will use the addenda record feature of the application. Assessing a separate fee for each addenda record would increase the difficulty for receiving corporations to evaluate the costs and benefits of participating in the ACH since they have no control over the number of invoices (addenda records) that the originators of the payments may choose to include with each payment. On the other hand, setting a single fee to recover the cost of processing all potential addenda records would be unfair to these users who may not need such capacity. Corporate representatives have indicated that, at least initially, the number of addenda records accompanying a payment should average 10 to 15. Therefore, until more experience is gained with the corporate trade payments application, the Board has determined that it would be appropriate to set a fee for the payment and 15 addenda records and to establish a separate fee for each additional addenda record.

The current ACH fees were set to recover 40 percent of the costs of providing commercial ACH services, including the private sector adjustment factor (PSAF). These prices were established in accordance with the ACH pricing policy that was adopted by the Board during April 1982. (Under this policy, the System will reduce the support provided to the ACH service by 20 percent each year so that ACH fees set in 1985 would be set to recover 100 percent of the costs of providing commercial ACH services, including the (PSAF.) Similarly, the interim fee schedule for the pilot will be set on the same basis, that is, currently at the 40 percent recovery rate.

Since it appears that receivers of credits and originators of debits will realize comparable benefits from the corporate trade payments application, the interim intra-ACH fees applicable to the pilot will be based on the average of current intra-ACH prices. This average price is 3.0 cents per transaction for all Reserve Banks, except the New York Reserve Bank. The average price for New York intra-ACH payments is 1.5 cents per transaction, reflecting the fact that the New York Automated Clearing House Association (NYACH) processes all commercial ACH transactions in the New York District.

The interim intra-ACH fee for the pilot will also reflect the additional costs incurred in editing addenda records. It has been estimated that 40 percent of the cost, including the PSAF, of editing one addenda record at one Reserve office is 0.1 cent. Given the 15 addenda records per transaction base, this will result in a 1.5 cents increase in the basic transaction fee. This additional cost will be included in the intra-ACH fees for all Reserve Banks, except New York. For corporate trade payments, the current 1.5 cents interregional differential will

[1] 47 FR 53500 (November 26, 1982).

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be increased by 1.5 cents to reflect the cost of editing addenda records at the second Federal Reserve office.

The interim fee schedule for the ACH corporate trade payments pilot effective June 2, 1983 is as follows:

	Cents
Intra-ACH:	
Debits Originated [1]	4.5
Credits received [1]	4.5
Each addenda record after the first 15	0.1
New York Intra-ACH: [2]	
Intra-ACH:	
Debits Originated	1.5
Credits received	1.5
Intra-ACH:	
Debits Originated [1]	7.5
Credits received [1]	7.5
Each addenda record after the first 15	0.2
New York Intra-ACH:	
Debits Originated	4.5
Credits received	4.5 [2]
Each addenda record after the first 15	0.1

[1] Fees reflect the costs associated with processing of ACH payment plus 15 addenda records.
[2] New York intra-ACH fees do not reflect the costs associated with processing addenda records because ACH transactions are processed by NYACH.

By order of the Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12341 Filed 5-6-83; 8:45 am]
BILLING CODE 6210-01-M

[Docket Nos. R-0392, 0433]

Reduction and Pricing of Federal Reserve Float

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of proposals to reduce and price Federal Reserve check float.

SUMMARY: The Board of Governors has approved procedures to eliminate and price Federal Reserve check float. A substantial portion of float arising from interterritory returned checks will be eliminated by deferring credit for these returned checks by one day. Other check float will be eliminated or priced. With the implementation of these procedures, all Federal Reserve float arising from the provision of check collection services to depository institutions will be eliminated or priced.

EFFECTIVE DATE: August 1, 1983. On that date, Reserve Banks will change availability schedules for interterritory returned checks. The other procedures will be implemented on October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Assistant Director (202/ 452–2231) or Morgan J. Hallmon, Program Manager, Payments Mechanism Planning (202/452–3676), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452–3625), Daniel L. Rhoads, Attorney (202/452–3711), or Robert G. Ballen, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Pub. L. 96–221) ("MCA") requires that fees be established for Federal Reserve Bank services. The MCA requires that the Federal Reserve price for Federal Reserve float that remains after operational means to reduce float are implemented.[1]

On December 31, 1980, the Board determined, in response to comments received on the Board's proposals to reduce and price float (45 FR 58689), to proceed with internal operational improvements to reduce float.

As a method of eliminating a portion of Federal Reserve check float, the Board requested comment in April 1982 on a proposed amendment to Regulation J to require a depository institution to pay for checks made available to it by a Reserve Bank on a weekday that is a banking day for the Reserve Bank even if the institution is closed on a regular basis during the business week ("midweek closings"). Comment was also requested on whether this procedure should apply to checks made available to institutions that are closed on state or local holidays by Reserve Banks that are open on such days ("nonstandard holidays"). 47 FR 15349, (April 9, 1982).

The Board also requested comment in November 1982 on a proposal to charge a depository institution that deposits an interterritory check of $50,000 or more based on a wire notification by the Reserve Bank when that check is returned. Comment was also requested on proposals to price holdover check float, intraterritory check transportation float, and other categories of check float as well as interterritory check float. 47 FR 50342 (November 5, 1982).

On March 8, 1983, the Board announced a program to reduce and/or price interterritory check float and check holdover float. 48 FR 10753 (March 14, 1983). Under this program, depository institutions would be offered two crediting options to reduce interterritory check float and three methods for paying for remaining interterritory check float. Additionally, the Board approved pricing of check holdover float over a six month period by incorporating the value of this float in the cost of check services to be recovered in 1983. The Board has now adopted procedures to reduce and/or price the remaining categories of Federal Reserve float arising from the provision of check collection services to depository institutions.

[1] 126 Cong. Rec. S3167 (daily ed. March 27, 1980) (statement of Senator Proxmire).

Return Item Float

Float associated with interterritory returned items amounted to $150 million on a daily average basis in 1982. This float arises because current System procedures specify that payor institutions receive immediate credit for returned items. Reserve Banks, however, are operationally unable to debit immediately the original depositing institution's account for returned items drawn on an institution located in another Federal Reserve territory.

In order to reduce the float associated with such interterritory returned items, the Board requested public comment in November 1982 on a proposal to charge the depositing institution's account for large interterritory returned items ($50,000 or more) based on receipt of a wire notification from the returning Federal Reserve office. As an alternative to having the institution's account debited immediately, the Board proposed that a depository institution could compensate for such return item float through an "as of" adjustment to its account.

The Board received 144 comments on the return item float proposal. A substantial number of commenters (68) expressed support for the proposal. However, a number of commenters, including many who supported the proposal, raised legal concern regarding the proposal. These concerns included: (1) The impact of the proposal on the midnight deadline for returned items; (2) whether a Reserve Bank has authority to charge an institution's account based upon a wire notification; (3) the authority of a depository institution to charge its customer's account prior to receipt of the physical item; (4) the depository institution's liability for errors in account entries, including the possibility of charging an account twice for the same return or charging an account improperly, which may result in subsequent wrongful dishonors; and (5) the Federal Reserve's lack of liability for transmission of erroneous payment data. In addition, a large number of commenters also cited considerable operational difficulties such as reconciling the wire notification with the paper return.

Many commenters suggested that the Federal Reserve consider alternative methods of recovering return item float. Twenty commenters suggested that return item float be handled through a modification to the Federal Reserve's availability schedules. Commenters suggesting this deferred availability approach generally stated their belief that such an approach would more equitably assign float costs associated with returned items by placing the burden of this cost on the institutions that are returning the items and their customers. Some commenters suggested that the Federal Reserve impose an explicit fee for returned items, which would also cover the float costs.

The Board believes that the commenters raised legal and operational issues with respect to the proposal that cannot be resolved in a cost effective manner. Further, since the proposal would have applied only to large dollar returned items, procedures for pricing remaining return item float would still have to be developed. The Board has therefore decided not to adopt the proposal regarding interterritory return item float. Further, the Board does not believe that adoption of an explicit fee for returned items as suggested in some of the comments is appropriate at this time since the System is conducting pilot programs in the Dallas and Kansas City Districts to determine the effectiveness of return item pricing.

After consideration of the comments received and further analysis, the Board has decided to adopt an alternative suggested by the commenters. Under this approach, credit for interterritory returned items would be deferred one day. This deferral of credit on interterritory returned items would eliminate $130 million of return item float.[2] [3] Deferring credit by one day for interterritory returned items will be implemented in August 1983 in order to provide Reserve Banks and depository institutions sufficient time to make operational changes.[4] Since this procedure may affect local clearinghouses that require immediate credit for returned items, Reserve Banks will consult with local clearinghouses to assure orderly implementation of the procedures.

[2] Some commenters suggested that credit for interterritory returned items be provided based upon a fixed availability schedule depending upon the location of the depositing bank. The Board does not believe that such a schedule is necessary or appropriate since most returned items are delivered to the depositing bank's Federal Reserve office within on day.

[3] The remaining $20 million of return item float arises from a variety of other reason, including when a Reserve Bank is unable to return the item to the depositing institution on a timely basis or when it has sent the item to the wrong payor. This "holdover" float will be priced in the same manner as other holdover float, that is, the value is to be added to the cost of the check collection service.

Midweek Closing and Nonstandard Holidays

In April 1982, the Board requested public comment on a proposal to amend Regulation J to require a depository institution to pay for checks delivered or made available to it on days the institution is closed and on which the Reserve Bank is open. Such days consist of "midweek closing days"—regular weekdays on which a depository institution closes as permitted by state law and "nonstandard holidays"—days on which the paying institution is closed because of a state or local holiday. The proposal was intended to eliminate the float that results from granting credit to the depositor for checks that could not be charged to the closed paying institution. Float resulting from midweek closings was approximately $160 million, and float resulting from nonstandard holidays was approximately $100 million on a daily average basis in 1982.

A total of 150 comments were received on the issue of midweek closings; 59 commenters favored the proposal, and 91 were opposed. Most of those opposed were small institutions and their trade associations. These commenters opposed the proposal because they believed that it was unfair to require depository institutions to pay for checks when they are closed as permitted by state law. The commenters also stated that the proposal would make it difficult and more expensive for them to manage their cash positions.

Those in favor of the proposal generally indicated that it is an equitable way of eliminating float. Institutions that are the source of the float would be most immediately affected by the proposal. These commenters also indicated that the proposal would eliminate the advantages these closed institutions may have in not having to bear the cost of such float directly.

A total of 82 comments were received on the issue of nonstandard holidays. Of these, 19 were in favor of the proposal, and 63 were opposed. Those opposed indicated that bank holidays are mandated by state law and it would be unfair to penalize banks for acting in accordance with state law; it is inequitable to charge banks that are closed on nonstandard holidays when Reserve Banks themselves do not follow a uniform holiday schedule; and the proposal would make it more difficult and expensive for depository institutions to manage their cash positions.

The Board believes the comments on both midweek closings and nonstandard holidays raise significant issues. The major impact of the midweek closing proposal would be on small institutions in small communities that are closed during the week. In some areas the practice has been widespread for many years. For example, it is reported that over 70 percent of the banks in western Tennessee close during the week. Such institutions typically prefer to open on Saturdays as a convenience to customers that are unable to do their banking business during the week. Adoption of the proposal could also have a significant effect upon the operations of some small institutions, particularly since they would be unable to debit their customers accounts until the following day. In addition, there is little evidence to suggest that the bulk of these institutions are closed in order to avoid paying for checks or to create Federal Reserve float. Further, depository institutions closed on nonstandard holidays generally do not have the opportunity to remain open. Therefore, the Board has determined not to adopt the proposed amendment to Regulation J at this time.

The Board believes, however, that it is necessary to adopt procedures to eliminate or price this float as required by the MCA. Therefore, Reserve Banks will have three options to deal with float arising from midweek closings and nonstandard holidays. First, a Reserve Bank could modify its availability schedule for local depositors so that credit for checks drawn on closed institutions would be deferred one additional day.[5] Second, a Reserve Bank could modify its current practice of posting funds received for the account of the insititution on the day the institution is closed. A one day deferral of credits received on the day the institution is closed would offset some of the float arising from midweek closings and nonstandard holidays. Finally, Reserve Banks could price all or any remaining float arising from midweek closings or nonstandard holidays in the same manner as holdover float. The value of this float would be added to the cost of the check collection service.

The Board intends to monitor float associated with midweek closings to

[4] This one-day deferal generally would apply to intererterritory and intraterritory returned items that are comingled. However, if intraterritory returned items are separated by the paying bank, credit for such items would not be deferred since the items can be returned to the depositing bank the same day and no Federal Reserve float would be created. Reserve Banks that are able to process commingled returns in a timely fashion could give immediat credit for such intraterritory returned items when no Federal Reserve float would arise from such a practice.

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determine whether it is increasing to any significant extent. If a pattern develops, the Board may reconsider the proposed amendment to Regulation J.

Intraterritory Transportation Float

In November 1982, it was proposed that intraterrioty transportation float be priced in the same manner as holdover float. Intraterritory transportation float results primarily from the inability of a Federal Reserve office to make presentment of checks to payor institutions as a result of transportation delays. The few commenters expressing views specifically on this proposal generally were opposed to charging at all for float that arises from conditions beyond the control of depository institutions. Other commenters argued that pricing of intraterritory transportation float in this manner would not provide Reserve Banks with an incentive to operate efficiently.

The MCA requires that all Federal Reserve float arising from the provision of priced services to depository institutions be priced. Because of the operational difficulty of allocating intraterritory transportation float back to specific depository institutions and in view of the small amount of float involved ($110 million), it would also be inefficient to attempt to trace the float to individual depositors. Accordingly, the Board believes that the values of such float should be added to the cost of the check collection service. Reserve Bank performance will continue to be monitored to ensure that intraterritory transportation float is kept to a minimum and that Reserve Banks continue to operate efficiently.

All Other Check Float

Only a small amount ($40 million) of check float will remain after implementation of the above procedures. This remaining check float arises primarily from adjustments to the accounts of depository institutions because of Federal Reserve accounting errors and from the handling of government agency deposits at Reserve Banks. The amount of float arising from adjustments is relatively small ($30 million) and it would not be cost effective to charge the float to particular depository institutions. The Board therefore believes it appropriate to add the value of this float to the cost of the check collection service.

The Board also believes that it is inappropriate to charge depository institutions for float arising from deposits by government agencies ($10 million) since such float does not arise from the provision of priced services to depository institutions. Indeed, since such float arises from the provision of services to government agencies, it is not necessary to price such float under the Monetary Control Act. Accordingly, the value of this float will be attributed to such government agencies.

Implementation Schedule

The one day deferral of credit for interterritory returned items will be implemented on August 1, 1983, in order to provide Reserve Banks and depository institutions sufficient time to make the appropriate operational adjustments.

Virtually all other categories of check float will be priced by adding the value of the float to the cost of the check collection service. Any Necessary adjustments to fee schedues will be implemented beginning in October, 1983, thus providing Reserve Banks with an opportunity to implement operational adjustments designed to reduce float further and to put into place and test the systems necessary to implement the adopted procedures. An October 1983 implementation date also will enable Reserve Banks to coordinate these changes with modifications to fees that may result from the comprehensive review of their fee schedules planned for this summer. The Board believes that piecemeal adjustments to fee schedules at an earlier time could be disruptive to depository institutions that take Federal Reserve fee schedules into account in their planning and operations. After implementation of these procedures, all Federal Reserve float arising from the provision of check collection services to depository institutions will have been eliminated or priced in accordance with the Monetary Control Act of 1980.

By order of the Board of Governors of the Federal Reserve System, May 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12237 Filed 5-6-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. 907.

DATE/ADDRESS: The meeting will be held May 24–25, 1983, from 9:00 a.m. to 4:00 p.m. each day. It will be held in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, in room 503–A.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755–8670/71.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available. Correspondence can be addressed to Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201.

Sign language interpreting services will be provided if requested in advance.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 48 FR 12136–12137, March 23, 1983.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83-12336 Filed 5-6-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action-Exchange; Public Lands in Lassen County, California

The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian, California

T.29N., R.9E.,
Sec. 33, SE¼NE¼.
T.30N., R.10E.,
Sec. 1, Lots 3 and 4;
Sec. 2, Lot 1, SE¼NE¼, SW¼NW¼, NW¼SW¼;
Sec. 3, SE¼NE¼;
Sec. 9, E½SE¼;
Sec. 10, NW¼SW¼;
Sec. 11, NW¼NW¼, S½SW¼;
Sec. 14, NW¼.
T.29N., R.11E.,
Sec. 10, NW¼NE¼;
Sec. 19, SE¼NE¼;
Sec. 20, NW¼NE¼;
Sec. 21, NE¼NE¼.
T.30N., R.11E.,
Sec. 1, N½SW¼;
Sec. 5, Lots 1, 2, S½NE¼, NE¼SE¼;
Sec. 6, Lots 1, 2, SW¼NE¼;
Sec. 18, W½NE¼.
T.31N., R.11E.,
Sec. 26, SW¼SE¼.

Containing 1,392.07 acres.

In exchange for these lands, the Federal Government will acquire tracts of non-Federal land in Lassen County from the management consultants and land managers firm of Beaty and Associates, P.O. Box 898, Redding, California, 96001, authorized by the landowners, Walker et. al. The lands are described as follows:

Mount Diablo Meridian, California

Fee Title

T.29N., R.11E.,
Sec. 2, Lots 2, 3, 4, S½NW¼;
Sec. 3, S½N½, N½SW¼, NW¼SE¼;
Sec. 4, S½NE¼, NE¼SE¼, W½SW¼;
Sec. 5, N½SE¼, SE¼SE¼, and those portions of the SE¼NW¼ and the NW¼SW¼ lying South of the centerline of State Highway 36, except that one acre portion of the SE¼NW¼ described as follows: Commencing at the CN 1/16 corner of Section 5, thence South 208 feet; thence West 208 feet; thence North 208 feet; thence East 208 feet to the point beginning;
Sec. 6, That portion of the SE¼SW¼ and the SW¼SE¼ lying South of the centerline of the Southern Pacific Railroad right-of-way (S 015838).
T.30N., R.11E.,
Sec. 35, SE¼SW¼, N½SE¼, SW¼SE¼.
T.30N., R.9E.,
Sec. 36, That portion of the N½ lying north of the south boundary of the SPRR right-of-way.

Easements

T.29N., R.9E.,
Sec. 4, That portion of the old Southern Pacific Railroad right-way (SU 03144) lying within the SW¼SW¼; Section 17, That portion of the old Southern Pacific Railroad right-of-way (SU 03144) lying within the W½SW¼.

Containing 1,177.16 acres.

All minerals in the private and public lands will be exchanged.

The purpose of this exchange is to acquire non-Federal lands that have significant multiple-use values, recreational, cultural, wildlife, botanical, and scenic, that far outweigh values found on the Federal lands to be exchanged. The exchange is consistent with Bureau planning and has been discussed with Lassen County and various other State of California agencies. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States (Act of August 30, 1980, 43 U.S.C. 945).

There will also be reserved to the United States of America, and its assigns, a nonexclusive easement to use, maintain, improve, and repair roads over and across the following described real property situated in the County of Lassen, State of California, to wit:

Mount Diablo Meridian, California

T. 30 N., R. 10 E.,
Sec. 1, Lots 3 and 4;
Sec. 2, Lot 1, SE¼NE¼, SW¼NW¼, NW¼SW¼;
Sec. 3, SE¼NE¼;
Sec. 9, E½SE¼;
Sec. 10, NW¼SW¼;
Sec. 11, NW¼NW¼, S½SW¼;
Sec. 14, NW¼.

The publication of this notice in the **Federal Register** shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be consummated before the end of that period.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Bureau of Land Management's Susanville District Office, 705 Hall Street, Susanville, California, 96130 and at the Eagle Lake Resource Area Office, 2545 Riverside Drive, Susanville, California, 96130.

The publication date of this notice, May 9, 1983 will commence the 45 day comment period. For a period of 45 days after publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Bureau of Land Management, 705 Hall Street, P. O. Box 1090, Susanville, California, 96130.

C. Rex Cleary,

District Manager.

Dated: April 19, 1983.

[FR Doc. 83-11340 Filed 5-6-83; 8:45 am]

BILLING CODE 4310-84-M

[M 55074]

Realty Action; Competitive Sale of Public Land in Treasury County, Montana

The following described land has been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than fair market value ($4,800).

Montana Principal Meridian

T. 3 N., R. 38 E.,
Sec. 26: SE¼NE¼, SW¼NW¼.

The areas described aggregate 80 acres.

The subject land will be offered for sale by sealed bid utilizing competitive bidding procedures. Bids will be opened at the Montana State Office on July 13, 1983, at 9 a.m. If not sold the land will remain available for sale on a continuing basis until a sale is completed. Any sealed bids received will be opened at 9 a.m. each succeeding first and third Wednesdays until the lands are sold or the sale is closed.

Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid.

The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55074

July 13, 1983 (or continuation date)

Bids must be submitted to the BLM Montana State Office, 222 North 32nd Street, Billings, Montana 59107.

All minerals will be reserved to the United States. A right-of-way for ditches and canals will be reserved and the sale will be subject to all valid existing rights and reservations of record.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Miles City District, P.O. Box 940, Miles City, Montana 59301.

Information related to the sale, including planning documents and environmental assessment is available for review at the Miles City District Office.

Ray Brubaker,

District Manager.

[FR Doc. 83-12283 Filed 5-6-83; 8:45 am]

BILLING CODE 4310-84-M

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Bureau of Reclamation

Hoover Powerplant Modification Project, Arizona-Nevada; Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement for the Hoover Powerplant Modification Study Project. That study was authorized by Pub. L. 94–158 on December 16, 1975. This statement (INT DES 83–28 dated May 4, 1983), filed with the Environmental Protection Agency, is available to the public, as specified in the Notice of Availability.

The purpose of the proposed construction and operation of additional generating units is to increase the generating capacity of the powerplant by 500 megawatts to help meet peak demand in the Southwest. The project will not result in additional electrical generation. Construction of the feature is scheduled to begin in 1987 with project completion scheduled for 1992.

A public hearing to receive comments on the draft environmental statement will be held in Boulder City, Nevada, at the Boulder City Hall, 900 Arizona Avenue, on June 8, 1983. The hearing will commence at 7 p.m. Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not trade their time to obtain longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comments have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order, and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted up to 4 p.m. June 1, 1983, and any subsequent requests will be handled on a first-come, first-serve basis following the scheduled presentations.

Organizations or individuals desiring to present their statements at the hearing should contact Mary Webb of the Office of Environment, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293–8464, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be sent on or before June 1, 1983, so that they can be included in the hearing records.

Dated: May 4, 1983.

Robert N. Broadbent,

Commissioner.

[FR Doc 83–12310 Filed 5–6–83; 8:45 am]

BILLING CODE 4310–09–M

[INT DES 83–28]

Hoover Powerplant Modification Project, Arizona-Nevada; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement for the Hoover Powerplant Modification Project, Arizona-Nevada.

This statement describes the environmental impacts resulting from the proposed construction and operation of additional generating units at the Hoover Powerplant to increase the capacity. The project will not result in additional electrical generation. The powerplant would be increased by 500 megawatts for a total plant capacity of about 2,300 megawatts. Development of the proposed project is contingent upon Administration and congressional consideration of the results of the feasibility study and environmental review process. Written comments may be submitted to the Regional Director (address below) on or before August 2, 1983.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Bureau of Reclamation, Room 7622, Department of the Interior, Washington, DC 20240, Telephone: (202) 343–4991;

Division of Management Support, General Services, Library Section, Code 950, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234–3007;

Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, Nevada 89005, Telephone: (702) 293–8464;

Arizona Projects Office, Bureau of Reclamation, 201 North Central Avenue, Valley Bank Center, Suite 2200, Phoenix, Arizona 85073, Telephone: (602) 261–3577;

Boulder City Public Library, 813 Arizona Avenue, Boulder City, Nevada 89005, Telephone: (702) 293–1281;

Clark County Library, 1401 East Flamingo Road, Las Vegas, Nevada 89109, Telephone: (702) 733–7810;

Bullhead City Public Library, Bullhead City, Arizona 86430; or

Los Angeles County Public Library, 3200 West Temple Street, Los Angeles, California 90053.

Single copies of the draft environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 4, 1983.

Tom Loomis,

Acting Director, Office of Environmental Project Review.

[FR Doc. 83–12317 Filed 5–6–83; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: U.S. International trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Deka Machine Sale Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on May 4, 1983.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Rudy J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: May 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–0510 Filed 5–6–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brookers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Resigter** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Resigter** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Resigter** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR Part 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. in addition to fitness grounds, these applications may be opposed on the grounds that the tranportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provieded under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–187

Decided: April 29, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 58035 (Sub-37), filed April 14, 1983. Applicant: TRANS-WESTERN EXPRESS, LTD., 5231 Monroe St., Denver, CO 80216. Representative: David E. Driggers, 1600 Lincoln Ctr., 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 139785 (Sub-5), filed April 11, 1983. Applicant: LIETZ TRANSPORTATION, INC., Rt. 1 Coloma, WI 54930. Representative: John L. Bruemmer, P. O. Box 927, Madison, WI 53701, (608) 257–9521. Transporting (1) *food and related products* and (2) *metal products, lumber and wood products, and packaged oil and greases*, between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written request of the permit in MC–139785 Sub 4 issued June 7, 1982.

Note.—The purpose of this application is to convert applicant's existing contract carrier authority to common carrier authority under 49 U.S.C. 10925(e).

MC 145704 (Sub-5), filed April 11, 1983. Applicant: G. P. BOURROUS TRUCKING CO., INC., 508 Burke St., P.O. Drawer F, Diboll, TX 75941. Representative: Lawrence A. Winkle, Suite 1125—Frito Lay Tower, P.O. Box 45538, Dallas, TX 75244, (214) 358–3341.

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Transporting *building materials* and *Mercer commodities*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 (202) 275-7030.

Volume No. OP2-205

Decided: April 29, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 138522 (Sub-10), filed April 15, 1983. Applicant: R. G. STANKO EXPRESS, INC., P.O Box 127, Gering, NE 69341. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501-2028, 402-475-6761. Transporting *general commodities* (except classess A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144902 (Sub-4), filed April 11, 1983. Applicant: RUDY LEBLANC, d.b.a. RULE TRUCKING COMPANY, Drawer 609, Miles City, MT 59301. Representative: Charles A. Murray, Jr., 2822 Third Ave., N., Billings, MT 59101, 406-252-4165. Transporting *beverages*, between points in MT, WY and CO, on the one hand, and, on the other, points in MT, WY, CA, OR, WA, MN, WI, and MO.

MC 144913 (Sub-9), filed April 18, 1983. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Rd., Forest Park, GA 30050. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949-7756. Transporting *food and related products*, between Gulfport, MS, Mobile, AL, Tampa, FL, and Charleston, SC on the one hand, and on the other, Birmingham, AL.

MC 145282 (Sub-7), filed April 15, 1983. Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI.)

MC 146603 (Sub-10), filed April 19, 1983. Applicant: A. & S., INC. P.O. Box 6, Oakland, ME 04963. Representative: A. Wayne Chaffee (same address as applicant), 207-465-3234. Transporting *lumber and wood products*, between points in Somerset County, ME, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Moose River Lumber Co., of Mackman, ME.

MC 146993 (Sub-5), filed April 11, 1983. Applicant: VAUGHAN CARTAGE COMPANY, INC., 116 Cooley Industrial Park, LaGrange, GA 30241. Representative: W. H. Tomlinson, 1601 13th St., Suite B, Columbus, GA 31901, 404-322-8404. Transporting (1) *textile mill products*, (2) *rubber and plastic products*, (3) *metal products*, (4) *machinery*, and (5) *chemicals and related products*, between points in the U.S., under continuing contract(s) with (a) Interface Flooring Systems, Inc., (b) LaGrange Molded Products, Inc. (Rosemark), (c) VIS-QUEEN Corporation, all of LaGrange, GA, (d) J. T. Kight & Son, Inc., of Columbus, GA, and (e) Miliken & Company, of Spartanburg, SC.

MC 150412 (Sub-4), filed April 21, 1983. Applicant: VERNON EQUIPMENT, INC., 725 Brea Canyon Rd., Ste. 4, P.O. Box 701, Walnut, CA 91789. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216-566-5639. Transporting *pulp, paper and related products*, between points in the U.S., Under contract(s) with Southwest Forest Industries, Inc., of Phoenix, AZ.

MC 151043 (Sub-2), filed April 15, 1983. Applicant: JACOBI SODDING SERVICE, INC., R.R. No. 2, Box 232C, Stiller Rd., Floyds Knobs, IN 47119. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635-2339. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Midwest Veneers, Inc., of Clarksville, IN, (b) Cobb Wood Products, Inc., of Clarksville, IN; (c) Chester B. Stem, Inc., of New Albany, IN; and, (d) Millett Hardwoods, Inc., of Louisville, KY.

MC 163382, filed April 20, 1983. Applicant: R.D. DUMAIS d.b.a. TEXAS MOVING COMPANY, 928 North Bowser Rd., P.O. Box 1543, Richardson, TX 75081. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214-255-8279. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CO, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in by manufacturers, distributors, and users of machinery and equipment, between points in the U.S. (except AK and HI).

MC 165823, filed April 20, 1983. Applicant: W.A. QUERNER d.b.a. RAINBOW MOTOR LINES, 120 Beverly Dr., San Antonio, TX 78201. Representative: William E. Collier, 9885 I.H. 10 West, San Antonio, TX 78230-2285, 512-694-800. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Bill Miller Bar-B-Q, Inc., of San Antonio, TX.

MC 167333, filed April 11, 1983. Applicant: DAVID A. MUNNS, d.b.a. DAVID A MUNNS TRUCKING, Rt. 3, Box 361, Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3071. Transporting (1) *coal, chemicals and minerals, pesticides, insecticides, and herbicides*, between points in CA, ID, MT, NV, OR, UT, WA and WY, (2) *building materials, lumber, wood products, metal products*, between those points in the U.S. in and west of NM, IA, NE, KS, OK, and TX (except AK and HI), and (3) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Part (3) is published in the Federal Register, this issue, under the preface with "fitness applications".

MC 167362, filed April 11, 1983. Applicant: SACRAMENTO LUMBER SALES, INC., P.O. Box 867, Santa Teresa, NM 88008. Representative: Clyde C. Crenshaw (same address as applicant), 505-589-7998. Transporting *waste or scrap materials not identified by industry producing*, between points in TX and NM, on the one hand, and, on the other, points in Navajo county, AZ, under continuing contract(s) with Southwest Forest Industries, Inc., of Phoenix, AZ.

MC 167382 (Sub-1), filed April 13, 1983. Applicant: FEDERAL TRANSPORT, INC., 142 Clinton St., Hopkington, MA 01748. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, 617-535-5430. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167452, filed April 15, 1983. Applicant: STATE TRANSFER, INC., 5265 Utah Ave. South, Seattle, WA 98134. Representative: Russell Evans, P.O. Box 5613, Bellevue, WA 98006, 206-644-2100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, and ID.

MC 167542, filed April 20, 1983. Applicant: TRANSPORT BERNARD LAURENDEAU INC., 41 rue Pontmain (Laval-des-Rapides), Laval, PQ, Canada H7N 4K3. Representative: J. P. Vermette, 250 Napoleon-Provost St., Repentigny, PQ, Canada J6A 1H5, 514-353-0550. Transporting *lumber and forest products*, between the ports of entry on the international boundary line between the United States and Canada and points in CT, DE, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV.

MC 165543 (Sub-1), filed April 20, 1983. Applicant: SUDDATH TRANSPORTATION SERVICES, INC., P.O. Box 60089, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, 202-785-0024. As a *broker of household goods*, between points in the U.S. Condition: The holder of any license issued in this proceeding shall provide its customers with (1) publication OCP-100, and (2) written notification of its affiliations with motor carriers of household goods before any contract for its broker service is executed.

MC 167573, filed April 22, 1983. Applicant: A & W BUS SERVICE, INC., 698 Warrenton Rd., P.O. Box 5362, Fredericksburg, VA 22403. Representative: Haywood Kube (same address as applicant), 703-371-1405. Transporting (I) *passengers*, in charter and special operations, beginning and ending at points in VA, and extending to points in the U.S. (except AK and HI), and (II) *passengers*, over *regular routes*, between Fredericksburg, VA, and Washington, DC: (1) from Fredericksburg over Interstate Hwy 95 to junction Interstate Hwy 395, and then over Interstate Hwy 395 to Washington, and return over the same route, (2) from Fredericksburg over Rte. 1 to Aquia, VA, then over Interstate Hwy 95 to junction Interstate Hwy 395, and then over Interstate Hwy 395 to Washington, and return over the same route, and (3) serving all intermediate points in routes (1) and (2) above. Part (1) is published in the Federal Register, this issue, under the preface with "fitness applications."

Note.—Applicant seeks to provide privately funded charter and special transportation. Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 167623, filed April 25, 1983. Applicant: KC WRECKER SERVICE, P.O. Box 201056, Dallas, TX 75220. Representative: Charles R. Kale (same address as applicant), 214-721-1894. Transporting *wrecked, replacement, and disabled motor vehicles*, between points in TX, AR, CO, KS, LA, MS, MO, NM, OK, and TN.

Volume No. OP2-199

Decided: April 29, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2202 (Sub-668), filed April 6, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 301-986-1410. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Galaxy Carpet Mills, Inc., of Chatsworth, GA.

MC 107012 (Sub-616), filed April 20, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 218-429-2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Union Pacific Railroad Company, of Omaha, NE.

MC 110683 (Sub-209), filed April 21, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., NW., Washington, DC 20005, 202-783-8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 110683 (Sub-210), filed April 22, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., NW., Washington, DC 20005, 202-783-8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Davidson Rubber Division, of Dover, NH.

MC 144882 (Sub-4), filed April 11, 1983. Applicant: STATEWIDE DISTRIBUTION SERVICES, INC., P.O. Box 58926, Vernon, CA 90058. Representative: Marsha N. Honda, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application (s) for common control to Team 2, Room 2379.

MC 156822 (Sub-2), filed April 22, 1983. Applicant: IMMANUEL FREIGHT LINES, INC., 1380 Mica St., Santa Fe Springs, CA 90670. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312-263-2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160232 (Sub-1), filed April 19, 1983. Applicant: TRI-GAS & OIL CO., INC. P.O. Box 465, Route 313 (North), Federalsburg, MD 21632. Representative: Robert E. Blades (same address as applicant), 301-754-6184. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pickled products, between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, under continuing contract(s) with Bloch & Guggenheimer, Inc., of Long Island City, NY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 163162 (Sub-1), filed April 18, 1983. Applicant: GARDNER TRUCKING, INC., 7391 Highway 13 East, Pittsville, WI 54466. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608-256-7444. Transporting *pulp, paper and related products*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167363, filed April 18, 1983. Applicant: MIDWEST CARGO, INC., 4657 Platt Rd., Ann Arbor, MI 48104. Representative: Jack L. Schiller, 11,-56 76th Dr., Forest Hills, NY 11375, 212-263-2078. Transporting *general commodities* (except classes A and B

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explosives), household, and commodities in bulk), between points in CA, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167482, filed April 19, 1983. Applicant: JAMES THOMPSON, JACK THOMPSON AND LARRY THOMPSON, d.b.a. THOMPSON TRUCKING, Country Rd., Rt. 1, Box 161, Canton, TX 75103. Representative: D. Paul Stafford, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *motorcycles and machinery*, between points in NE, TX, CA, and GA, on the one hand, and, on the other, points in OK, LA, MS, and TX.

MC 167493, filed April 18, 1983. Applicant: T. K. TRUCKING, INC., 1138 Hughes Shop Rd., Westminster, MD 21157. Representative: Floyd K. Shipley (same address as applicant), 301–876–3663. Transporting (1) *food and related products*, between Baltimore, MD, points in Clayton, Cobb, Dekalb, Douglas, and Fulton Counties, GA, and Anne Arundel, Baltimore, and Prince Georges Counties, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *lumber and wood products*, between points in Carroll County, MD, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, MA, ME, MD, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC.

[FR Doc. 83-12291 Filed 5-6-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisified before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–204

Decided: April 29, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 167272 (Sub-1), filed April 11, 1983. Applicant: CHEETAH TRANSFER LTD., INC., 151 Route 206—Bldg. 21, Suite 12, Flanders, NJ 07836. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI.)

MC 167333, filed April 11, 1983. Applicant: DAVID A. MUNNS, d.b.a. DAVID A MUNNS TRUCKING, Rt. 3, Box 361, Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (1) *coal, chemicals and minerals, pesticides, insecticides, and herbicides*, between points in CA, ID, MT, NV, OR, UT, WA and WY, (2) *building materials, lumber, wood products, metal products*, between those points in the U.S. in the west of MN, IA, NE, KS, OK, and TX (except AK and HI), and (3) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Part (1) and (2) are published in the **Federal Register**, this issue, under the preface with "regular applications".

MC 167383, filed April 12, 1983. Applicant: FLOYD DAVID DOCKER, d.b.a. JOSHLIS CHARTERS, Route # I, Box 200F, Belmont, NC 28012. Representative: Floyd David Dockery (same address as applicant), 704–825–2952. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167552, filed April 21, 1983. Applicant: ASNES, INC., 1010 Ute Way, Capitol Heights, MD 20743. Representative: Granderson L. Archer (same address as applicant), 301–735–9231. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167553, filed April 20, 1983. Applicant: EARLE C. PEASLEE, d.b.a. PEASLEE'S TRANSPORTATION, Little Pond Rd., Sandwich, NH 03270. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167562, filed April 21, 1983. Applicant: TEXAS STAR TRAVEL, INC., P.O. Box 1531, Lewisville, TX 75067. Representative: Dean Spearman, 2721 Meadows Dr., Plano, TX 75074, 214–423–4177. Transporting *passengers* in charter and special operations, beginning and ending at points in TX and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167572, filed April 21, 1983. Applicant: ANDERSON BROS. BUS LINE, INC., 2040 Forest Dr., Annapolis, MD 21401. Representative: Rodell B. Anderson (same address as applicant), 301–841–6039. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167573, filed April 22, 1983. Applicant: A & W BUS SERVICE, INC., 698 Warrenton Rd., P.O. Box 5362, Fredericksburg, VA 22403. Representative: Haywood Kube (same address as applicant), 703–371–1405. Transporting (I) *passengers*, in charter and special operations, beginning and ending at points in VA, and extending to points in the U.S. (except AK and HI), and (II) *passengers*, over *regular routes*, between Fredericksburg, VA, and Washington, DC: (1) from Fredericksburg over Interstate Hwy 95 to junction Interstate Hwy 395, and then over Interstate Hwy 395 to Washington, and return over the same route, (2) from Fredericksburg over Rte. 1 to Aquia, VA, then over Interstate Hwy 95 to junction Interstate Hwy 395, and then over Interstate Hwy 395 to Washington, and return over the same route, and (3) serving all intermediate points in routes (1) and (2) above. Part (II) is published in the **Federal Register**, this issue, under the preface with "regular applications".

Note.—Applicant seeks to provide privately-funded charter and special transportation. Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 167652, filed April 26, 1983. Applicant: JEAN MENNENGA, 165 Amaral St., East Providence, RI 02914. Representative: Charles R. Reilly, 391 Davisville Rd., North Kingstown, RI 02852, 401–884–0969. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167643, filed April 26, 1983. Applicant: FLORIDA-GREAT LAKES EXPRESS, 2300 E. Higgins Rd., Elk Grove Village, IL 60007. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, 404–477–1525. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–200

Decided: April 29, 1983.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 116313 (Sub-9), filed April 22, 1983. Applicant: TROMBLY MOTOR COACH SERVICE, INC., Route 125, Bypass, North Andover, MA 01845. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, 703–893–3050. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167492, filed April 18, 1983. Applicant: KANATA LTL, INC., 67 Dorset Dr., Depew, NY 14043. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW, Washington, DC 20036, 202–296–2900. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–184

Decided: April 29, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

MC 167365, filed April 12, 1983. Applicant: L & M TRAFFIC CONSULTANT COMPANY, 406 R. L. Honeycutt Dr., Wilmington, NC 28403. Representative: Frank B. Gibson, Jr., 16 N. Fifth Ave., Wilmington, NC 28401 (919) 763–2426. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167374, filed April 13, 1983. Applicant: LOWELL STEVEN FLOYD d.b.a. STEVEN FLOYD TRUCKING, 16965 Roberts Rd. #A, Los Gato, CA 95030. Representative: Lowell Steven Floyd (same address as applicant) (408) 356–0878. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 167404, filed April 14, 1983. Applicant: GREGORY J. WARRINGTON, 1445 Cormier Rd., Green Bay, WI 54303. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901 (608) 742–3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (excpet AK and HI).

MC 167405, filed April 14, 1983. Applicant: JACK A FEDDER, Route 3 Campbellsport, WI 53010. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901 (608) 742–3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167415, filed April 13, 1983. Applicant: EXECU-LINE TRANSPORT INC., 8A Moon Drive, Albany, NY 12205. Representative: Stuart J. Justice, 112 State St., Albany, NY 12207, (518) 436–0706. Transporting *passengers*, in charter and special operations, between points in NY, MA, NJ, and CT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167424, filed April 15, 1983. Applicant: INTERSTATE SERVICES, INC., 764 No. Cypress, P.O. Box 546, Orange, CA 92667. Representative:

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Steven K. Kuhlman, 717–17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3–186

Decided: April 29, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 167334, filed April 11, 1983. Applicant: OCEAN STATE EXPRESS CO., INC., 238 Park Place, Woonsocket, RI 02895. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019, (617) 966–2093. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12279 Filed 5-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. OP2-207]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided April 29, 1983.

90–Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly complete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demontrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier (Board Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 2, (202) 275–7030.

MC 109312 (Sub-44), filed April 11, 1983. Applicant: DE CAMP BUS LINES, 101 Greenwood Ave., Montclair, NJ 07042. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201–992–2200. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–109312, which traverse NY and NJ.

[FR Doc. 83-12278 Filed 5-6-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–259

The following applications were filed in region I.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 166951 (Sub-1–2TA), filed April 21, 1983. Applicant: ANDREW'S XPRESS, INC., 508 E. 36th Street, Patterson, NJ 07504. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375. *Chemicals (except chemicals in bulk),* between the facilities of FR Chemicals-Division of Cine Magnetics, Inc., located at Mt. Vernon, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, PA and RI. Supporting shipper: FR Chemicals-Division of Cine Magnetics, Inc., 524 S. Columbus Ave., Mt. Vernon, NY 10550.

MC 167618 (Sub-1–1TA), filed April 25, 1983. Applicant: BLUE JAY TRANSPORTATION INC., 400 South Street, P.O. Box 773, Marlboro, MA 01752. Representative: David M. Marshall, Marshall and Marshall, Sixth Floor—95 State Street, Springfield, MA 01103. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in Middlesex and Norfolk Counties, MA, on the one hand, and, on the other, points in CT, NH, NJ and NY. Supporting shipper(s): Nypro Corp., Inc. 101 Union Street, Clinton, MA 01510; Merck, Sharp & Dohme Division, Merck & Co., Inc., 40 A Street, Needham, MA 02192; Urell, Inc., 86 Collidge Avenue, Watertown, MA 02172; and H. B. Fuller Co., Hayes Memorial Drive, Marlboro, MA 01752.

MC 162133 (Sub-1–2TA), filed April 20, 1983. Applicant: COMMUTER BUS LINE, INC., 1515 Jefferson Street, Hoboken, NJ 07030. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* between Staten Island and Manhattan, NY via NJ under continuing contract with Great Kills Commuters Association, Staten Island, NY. Supporting shipper: Great Kills Commuters Association, 134 Rye Avenue, Staten Island, NY 10312.

MC 167163 (Sub-1–1TA), filed April 26, 1983. Applicant: EASTERN CONNECTION, INC., 101 Tremont Street, Suite 215–216, Boston, MA 02108. Representative: Robert R. Berluti, Esq., Connor & Hilliard, 1350 Main Street, Walpole, MA 02081. *Printed matter (except in bulk and tank vehicles) weighing less than 10,000 lbs.* between Washington, DC, Boston, MA, New York, NY, Philadelphia, PA, Hartford, CT and Baltimore, MD. Supporting shipper: Bingham, Dana and Gould, 100 Federal Street, Boston, MA 02108.

MC 119103 (Sub-1–3TA), filed April 20, 1983. Applicant: J. E. FORTIN, INC., 116 Fortin Boulevard, St. Bernard de Lacolle, P.Q. J0J 1V0 CD. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. *Meat and meat products* from ports of entry on the U.S./CD Boundary Line in ME, MI, NH, NY, and VT, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, OH, PA, NC, RI, SC, TN, VT, VA, WV, WI, and DC. Supporting shipper: Olympia Packers Ltd., 171 St. Edouard Street, St. Simon, Quebec, J0H 1Y0 CD.

MC 143127 (Sub-1–33TA) (Republication), filed March 29, 1983. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Catherine Jablonski (same as above). *General commodities (except Classes A & B explosives; Household Goods; Commodities in bulk, and Hazardous wastes)* between points in the U.S. (except AK and HI) originating at or destined to the facilities of Arcata Graphics Co. Supporting shipper: Arcata Graphics Co., 101 Merritt 7, Norwalk, CT 06852. Sole purpose of this republication is to delete the specific reference of Norwalk, CT as the only originating/destination facility. Applicant seeks authority to provide service to all facilities of Arcata Graphics Co.

MC 167632 (Sub-1–1TA), filed April 26, 1983. Applicant: OVAL CARGO DISTRIBUTION SYSTEM, INC. d.b.a. OVAL TRANSPORT, 345 Sussex Road, Wood-Ridge, NJ 07075. Representative: Harold L. Reckson, 32–28 Halsey Road, Fair Lawn, NJ 07410. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between Boston, MA, Portsmouth, NH, Providence, RI, New York, NY, Philadelphia, PA, Baltimore, MD, and Norfolk, VA, and points in their commercial zones, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and LA. Supporting shipper: Hapag-Lloyd Agencies, Inc., 1 Edgewater Plaza, Staten Island, NY 10305.

MC 111729 (Sub-1–14TA), filed April 20, 1983. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same as applicant). *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with Western Electric Company, Incorporated of Greensboro, NC. Supporting shipper: Western Electric Company, Incorporated, Guilford Center, Greensboro, NC 27420.

MC 125875 (Sub-1–1TA), filed April 21, 1983. Applicant: REAL TRANSIT CO., P.O. Box 343, Fords Road, Rockaway, NJ 07866. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Common carrier:* regular routes: *Passengers* between Long Valley, NJ and New York City, serving all intermediate points: From the intersection of NJ Hwy 24 and County Rts. 513 and 517 at Long Valley, NJ, east along NJ Hwy 24 to the intersection of U.S. Hwy 206 near Chester, NJ, then north over U.S. Hwy 206 to the Intersection of I–80, then east over I–80 to the intersection of NJ Hwy 23 and U.S. Hwy 46, then east over U.S. Hwy 46 to the intersection of NJ Hwy 3, then east over U.S. Hwy 3 to I–495, the east over I–495 to the New York Port Authority bus Terminal. Supporting shipper(s): There are 38 statements in support of this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 22527 (Sub-1–1TA), filed April 25, 1983. Applicant: RIVERSIDE SERVICE CORPORATION, 7 Austin Street, Buffalo, NY 14207. Representative: Frederick H. Staub (same address as applicant). *Metal products,* between points in NY, on the one hand, and, on the other, points in PA, OH, NJ, MA, CT, RI, NH, VT and ME. Supporting shipper: Bethlehem Steel Corporation, Bethlehem, PA 18016.

MC 167554 (Sub-1–1TA), filed April 21 1983. Applicant: SANBORN'S MOTOR EXPRESS QUEBEC, INC., 550 Forest Avenue, Portland, ME 04101. Representative: Zoe Ann Pace, Esq., Zelby & Burstein, 387 Park Avenue South, New York, NY 10016. *General commodities (except household goods, commodities in bulk and Class A and B explosives)* between the U.S./Canadian border with ports of entry at LaColle/Champlain, NY, Rock Island/Derby, VT, and Philipsburg/High Gate Springs, VT, on the one hand, and, on the other points in ME, NH, VT, MA, CT, RI, NY, NJ, PA and MD. Supporting shipper(s): There are 38 statements in support of this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 150260 (Sub-1–1TA), filed April 25, 1983. Applicant: L. F. STARBIRD & SON, R. R. 2, Box 462, Hollis Center, ME 04042. Representative: John G. Feehan, 178 Middle Street, Portland, ME 04112. *(1) Coal in bulk* from points in PA to the facilities of Solid Ruel Depot Company in Biddeford, ME; *(2) Carbonated soft drinks in cans and bottles* from points in MA to the facilities of Seltzer & Rydholm Distributors, Inc., in Portland, ME. Supporting shipper(s): Solid Fuel Company, 374 Main Street, Biddeford, ME 04005; Seltzer & Rydholm Distributors, Inc., 250 Canco Road, Portland, ME 04104.

MC 154631 (Sub-1–16TA), filed April 22, 1983. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street,

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P.O. Box 996, Woonsocket, RI 02895. Representative: Richard J. Wood, Jr., 622 Arndt Road, Easton, PA 18042. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with American Can Company, Washington, NJ. Supporting shipper: American Can Company, Route 31, Washington, NJ 07882.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 167422 (Sub-II–1TA), filed April 20, 1983. Applicant: CENTRAN, INC., 1450 Dewey Ave., P.O. Box 3156, Williamsport, PA 17701. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Contract, irregular: *Beverages, containers, and equipment, materials, and supplies used in the manufacture and distribution of beverages,* between points in Lycoming County, PA, on the one hand, and, on the other, points in MD, NJ, NY, DE, OH, and WV, under continuing contract(s) with Cenpro, Inc., of Williamsport, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Cenpro, Inc., P.O.B. 3156, Willamsport, PA 17701.

MC 166709 (Sub-II–1TA), filed April 18, 1983. Applicant: DSI, INC., P.O.B. 804, Fredericksburg, VA 22404. Representative: Calvin F. Major, 200 W. Grace St, Suite 115, P.O.B. 5010, Richmond, VA 23220. Contract, irregular: (1) *lumber and wood products,* between points in VA, CT, MA, NY, OH, WV, NJ, MD, PA, DE, NC, SC, GA and KY, under continuing contract(s) with (a) Clayborne C. Beck & Son, Inc., and (b) Foreign & Domestic Woods, Inc., and (2) *coal/water slurry mixture* between points in MO, DE, IL, TN, PA, FL and OH, under continuing contract(s) with Atlantic Research Corp. Supporting shipper(s): Clayborne C. Beck & Son, Inc., 208 Kent Ave., Fredericksburg, VA 22401 Foreign & Domestic Woods, Inc., P.O.B. 449, Bowling Green, VA 22427 Atlantic Research Corp., ARC–COAL Pilot Plant, Box 35, TWT Star Rt., Fredericksburg, VA 22401.

MC 145235 (Sub-II–5TA), filed April 25, 1983. Applicant: DUTCH MAID PRODUCE INC., RD 2, Willard, OH 44890. Representative: J. L. Nedrich, 20821 Oak Trail, Strongsville, OH 44136. Contract, Irregular: General Commodities, between all points in the United States (except AK & HI), under continuing contract(s) with Shonac for 270 days. Supporting shipper: Shonac, 1675 Watkins Avenue, Columbus, OH 43206.

MC 48386(Sub-II–TA), filed April 20, 1983. Applicant: GRAVER TRUCKING, INC., R. D. #7, Box 7655, Stroudsburg, PA 18360. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Coal and coal products,* between Northumberland, Schuylkill, Lackawanna and Luzerne County, PA, on the one hand, and, on the other, points in NJ, NY, CT, RI and MA. Supporting shipper(s): Excelsior Fuel, Inc., P.O. Box 217, Brewster, NY.

MC 133541 (Sub-II–3TA), filed April 25, 1983. Applicant: McKIBBEN MOTOR SERVICE, INC., P.O. Box 15830, Cincinnati, OH 45215. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. (1) Food and related products, (2) nursery products, (3) building materials, (4) farm implements, (5) paper and paper products, (6) house heating furnaces, (7) recyclable materials, and (8) machinery, machine parts, electrical supplies, valves and valves parts, between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. except AK and HI for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 6 supporting shippers. Their statements may be examined in the Phila. ICC office.

MC 107012 (Sub-II–289TA), filed April 21, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 64801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Modern Mode Furniture, Oakland, CA for 270 days. Supporting shipper: Modern Mode Furniture, 6425 San Leandro St., P.O Box 6667, Oakland, CA 94603.

MC 107012 (Sub-II–290TA), filed April 21, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with American Woodmark Corporation, Berryville, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Woodmark Corporation, 103 Byrd Avenue Berryville, VA 22611.

MC 107012 (Sub-II–291TA), filed April 26, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the U.S. under continuing contract(s) with The Gillette Company, Boston, MA., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 107012 (Sub-II–292TA), filed April 26, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US, under continuing contract(s) with Gould, Inc., of Rolling Meadows, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gould, Inc., 10 Gould Center, Rolling Meadows, IL 60008.

MC 157652 (Sub-II–2TA), filed April 26, 1983. Applicant: PROTECTIVE FOOD SERVICES, INC., 8242 B Sandy Court, Jessup, MD 20794. Representative: Walter T. Evans, 17 West Jefferson Street, Rockville, MD 20850. *Such commodities as are dealt in by grocery food business houses and drug houses* between Richmond, VA, on the one hand, and, on the other, points in VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 6 supporting shippers. Their statements may be examined in the Phila ICC office.

MC 145900 (Sub-II–1TA), filed February 22, 1983. Applicant: THREE RIVERS TRUCKING, INC., Legionville Road, Ambridge, PA 15003. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. *Iron and steel and iron and steel articles between* points in PA on and west of U.S. Highway 219, on the one hand, and, on the other, points in VA and MD, under a continuing contract(s) with Levinson Steel Company of Pittsburgh, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Levinson Steel Company, 799 Castle Shannon Boulevard, Pittsburgh, PA 15234.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 167642 (Sub-3–1TA), filed April 26, 1983. Applicant: SPEIGHTS SERVICE COMPANY, 845 Brook Hollow Road, Nashville, TN 37205. Representative: G. David Speights (same address as applicant). *Contract carrier;* irregular routes: *Boats* between Dickson County, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV. Supporting shipper: Harbour, Inc., Rt. 2, Box 502 Burns, TN 37029.

MC 167637 (Sub-3–1TA), filed April 26, 1983. Applicant: VENSON HAWKINS d.b.a. HAWKINS TRANSPORT, Rt. 1, Box 16, Wartrace, TN 37183. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract carrier;* irregular routes: *Sugar and sucrose (in bulk in tank vehicles)* (1) From Reserve, Supreme, Mathews, and New Orleans, LA to Cookeville, Knoxville, Nashville, Chattanooga, TN; Gadaden, Huntsville, Sheffield, and Birmingham, AL; and Bowling Green, KY; and (2) From Birmingham, AL to Cookeville and Nashville, TN; and Bowling Green, KY, under continuing contract(s) with Industrial Sweetener Products, Incorporated. Supporting shipper: Industrial Sweetener Products, Incorporated, 2513 31st Street, Birmingham, AL 35228.

MC 144218 (Sub-3–7TA), filed April 26, 1983. Applicant: FELDSPAR TRUCKING COMPANY, INC., P.O. Box 858, Spruce Pine, NC 28777. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. *Clay, concrete, stone products, and chemicals and related products,* over irregular routes, between the facilities of Murco Wall Products, Inc., located at or near Hammond, LA, Fort Worth and Houston, TX, and Buckeye, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Murco Wall Products, Inc., 300 N.E. 21st Street, Fort Worth, TX 76106.

MC 144164 (Sub-3–1TA), filed April 26, 1983. Applicant: DONALD R. SPRAY d.b.a. ELK RIVER LINES, 302 South Atlantic Street, Tullahoma, TN 37388. Representative: L. Wayne Bomar, 104 Depot Street, P.O. Box 129, Shelbyville, TN 37160. *Passengers, and their personal baggage, in charter and special operations,* beginning and ending at points in TN and AL and extending to points in the U.S. (including AK and excluding HI). Supporting shipper(s): There are ten statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 163280 (Sub-3–2TA), filed April 26, 1983. Applicant: DOWLING EGG FARM, P.O. Box 902, High Springs, FL 32643. Representative: James L. Dowling, Sr. (same address as applicant). *Foam Egg Cartons, Foam Sandwich Containers, and other Related Foam Products* from Sebring, FL and its commercial zone to Lagrange, GA, Blackshear, GA, and Wilson, NC, and their commercial zones. Supporting shipper: Florida Containers, Inc., P.O. Boc 1149, Sebring, FL 33870.

MC 140334 (Sub-3–9TA), filed April 26, 1983. Applicant: AM–CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *General commodities (except classes A and B explosives, household goods, and commodities in bulk),* between Spartanburg and Greer, SC and Delaware City, DE on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with American Hoechst Corporation, Fiber Film Group of Spartanburg, SC. Supporting shipper: American Hoechst Corporation, Fiber Film Group, P.O. Box 5887, Spartanburg, SC 29304.

MC 2934 (Sub-3–73TA), filed April 25, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *General Commodities (except Class A & B explosives and commodities in bulk),* between points in the U.S. (excluding AK and HI), under continuing contracts with Scientific-Atlanta, Inc., One Technology Parkway, Atlanta, GA 30348. Supporting shipper: Scientific-Atlanta, Inc., One Technology Parkway, Atlanta, GA 30348.

MC 682 (Sub-3–10TA), filed April 28, 1983. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Boulevard, Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036–5391. *Contract,* irregular *household goods, electronic equipment, aircraft parts of a fragile nature and display material,* between points in the United States (except AK and HI), under continuing contracts with the Lockheed Corporation of Burbank, CA, and its subsidiaries (the Lockheed Missiles & Space Company, Inc., of Sunnyvale, CA; the Lockheed-California Company, of Burbank, CA; the Lockheed Shipbuilding & Construction Company, of Seattle, WA; the Lockheed Aircraft Service Company, of Ontario, CA; Lockheed Air Terminal, Inc., of Burbank, CA; the Murdock Machine & Engineering Co., of Irving, TX; the Lockheed Engineering and Management Services Co., Inc., of Houston, TX; the Lockheed-Georgia Company, of Marietta, Georgia; and the Lockheed Electronics Company, Inc., of Plainfield, NJ). Supporting shipper: the Lockheed Corporation, 86 South Cobb Drive, Marietta, GA 30063.

MC 147877 (Sub-3–2TA), filed April 27, 1983. Applicant: SANFORD M. HEDRICK, JR., d.b.a. HEDRICK TRUCKING CO., P.O. Box 769, Darlington, SC 29532. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier:* Irregular. *Metal cans, and materials, equipment and supplies used in the manufacture and distribution thereof,* between Cheraw, SC, on the one hand, and, on the other, points in the US in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with Crown Cork & Seal Co., Inc., of Philadelphia, PA. Supporting shipper: Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, PA 19136.

MC 2934 (Sub-3–74TA), filed April 28, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Switchboard parts, computer equipment, delicate electronic instruments and equipment,* between points in the U.S. (excluding AK and HI), under continuing contracts with General Electric Company, Nuclear Energy Business Operations and Affiliates, 175 Curtner Avenue, San Jose, CA 95125. Supporting shipper: General Electric Company, Nuclear Energy Business Operations and Affiliates, 175 Curtner Avenue, San Jose, CA 95125.

MC 167873 (Sub-3–1TA), filed April 27, 1983. Applicant: B. G. BELL TRUCKING COMPANY, Route 1, Box 360–A–6, Eufaula, AL 36027. Representative: B. G. Bell, Sr., Route 1, Box 360–A–6, Eufaula, AL 36027. *Contract, Irregular: Lumber and Forest Products* between Barbour County, AL on one hand, and, on the other, points in AL, GA, FL, MS, LA, TN, and SC. Supporting shippers: Garrison Brothers Lumber Company, Brick Yard Road, Eufaula, AL 36027. Lakeside Lumber Company, South Orange Avenue, Eufaula, AL 36027. Dixon Lumber Company, West Washington Street, Eufaula, AL 36027. Brabham Lumber Company, West Boundary Street, Eufaula, AL 36027.

MC 167469, (Sub-3–1TA), filed April 27, 1983. Applicant: GLOBE TREKS, INC., 247 Fifth Avenue West, Hendersonville, NC 28739. Representative: Frank T. Schell (Same address as applicant). *Passengers and*

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their baggage in charter and special operations beginning and ending in points in North Carolina and extending to points in TN, FL, GA, SC, VA, WV, District of Columbia. Supporting shippers: Opportunity Group, Inc., 1411 Asheville Highway, Hendersonville, NC 28739; City of Hendersonville, 145 East Fifth Avenue, Hendersonville, NC 28739.

The following protests were filed in Region 4. Send Protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735, (Sub-4–85TA), filed April 22, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods*, between points in the U.S. under a continuing contract(s) with C.M.I. Corporation of Troy, MI. Supporting shipper: C.M.I. Corporation 755 W. Big Beaver Rd. Troy, ML, 48084.

MC 15735 (Sub-4–86TA), filed April 25, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods*, between points in the U.S., under a continuing contract(s) with Prime Computer, Inc. Supporting shipper: Prime Computer, Inc., Prime Park, Natick, MA. 01760.

MC 87113 (Sub-4–7TA), filed April 25, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohstetter, 1700 K St., N.W., Washington, D.C. 2006 (202) 833–8884. *Contract* irregular household goods,, between points in the U.S. under continuing contract(s) with Lockheed Corporation of Burbank, CA and subsidiaries. Supporting shipper: Lockheed Corporation 86 S. Cobb Dr., Marietta, GA 30063.

MC 121555 (Sub-4–1TA), filed April 25, 1983. Applicant: PARCEL DISPATCH, INC., 1525 North Riverside Drive, Indianapolis, IN 46202. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract*, irregular: *Such commodities as are dealt in or used by manufacturers and distributors of food products, cosmetics, costume jewelry, and printed matter*, from Cincinnati, OH to Plainwell, MI, under continuing contract(s) with Avon Products, Inc., Cincinnati, OH. An underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., P.O. Box 145420, Cincinnati, OH 45214–5420.

MC 126739 (Sub-4–1TA), filed April 22, 1983. Applicant: MAHNENSMITH TRUCKING SERVICE, INC., P.O. Box 395, Van Buren, IN 46991. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Contract; Irregular: *Liquid fertilizer*, from Dublin, IN to points in OH, under continuing contract(s) with Amoco Oil Company, of Chicago, IL. Supporting shipper: Amoco Oil Company, P.O. Box 8, Yoder, IN 46798. Underlying ETA seeks 120 days authority.

MC 149293 (Sub-4–1TA), filed April 25, 1983. Applicant: THREE STAR TRUCKING CO., 7871 Ritz, Westland, MI 48185. Representative: Alex J. Miller, 555 S. Woodward, Ste. 512, Birmingham, MI 48011. *Building and roofing materials, lumber and lumber products* between points in MI, OH, IN, IL, IA, WI, KY, MO and MN. Supporting shipper: Globe Industries, Inc., 2638 E. 126th St., Chicago, IL 60633.

MC 156072 (Sub-4–1TA), filed April 25, 1983. Applicant: CHARLES WARREN d.b.a. WARREN AUTO SERVICE, P.O. Box 83, Washington St., Saratoga, IN 47382. Representative: Robert B. Hebert, One Indiana Square, Suite 1600, Indianapolis, IN 46204 (317) 632–6262. Contract; Irregular: *Soft drinks and materials, equipment and supplies used in the production or distribution of soft drinks*, from Portland, IN, to points in Allen and Montgomery Counties, OH; and from Hancock, Preble and Shelby Counties, OH to Portland, IN. Supporting shipper: Coca-Cola Bottling Company of Portland, Indiana, Inc., 1617 North Meridian St., P.O. Box 1007, Portland, IN 47371.

MC 165838 (Sub-4–1TA), filed April 25, 1983. Applicant: HAYES TRANSPORT, INC., 2476 Spring Rose Circle, Verona, WI 53593. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502. *Food and related products*, from points in Dane County, WI, to Miami, FL, Chicago, IL, Indianapolis, IN, Portland, ME, Rochester, NY and Rock Hill, SC. Supporting shipper: Stauffer & Sons, Inc., 2819 Hwy. FS, Blue Mounds, WI 53572.

MC 167605 (Sub-4–1TA), filed April 22, 1983. Applicant: JOHN H. BERNECHE d.b.a. J. B. & SONS, 2780 Matilda, Roseville, MN 55113. Representative: Robert S. Lee, 121 South 8th St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Contract; Irregular: *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Miller (Little-Giant) Manufacturing Co., Inc., 494 Villaume Ave., South St. Paul, MN 55075.

MC 167635 (Sub-4–1TA), filed April 26, 1983. Applicant: UNITED HARDWARE DISTRIBUTING COMPANY, 5005 Nathan Lane, Minneapolis, MN 55442. Representative: Richard C. Snyder, 8201 54th Ave. No., New Hope, MN 55428. Contract, irregular, *Food and related products*, from Green Bay, WI, Muscatine, IA, Shaller, IA, Chicago, IL, and Grundy Center, IA to St. Paul, MN. Supporting shipper: Hancock-Nelson Mercantile Company, 607 Hampton Ave., St. Paul, MN 55114.

MC 15735 (Sub-4–82TA), filed April 19, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Raychem Corp., of Menlo Park, CA, and its subsidiaries. Supporting shipper: Raychem Corp., 300 Constitution Dr., Menlo Park, CA 94025.

MC 15735 (Sub-4–83TA), filed April 22, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods*, between points in the U.S. under a continuing contract(s) with Grinnell Fire Protection Systems Co. Inc., of Providence, RI. Supporting shipper: Grinnell Fire Protection Systems Co. Inc., 10 Dorrance, RI 02903.

MC 15735 (Sub-4–84TA), filed April 21, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with the Metropolitan Hospital Associations Purchasing Service of Chicago, IL, a service of the Conference of Metropolitan Associations. Supporting shipper: Metropolitan Associations Purchasing Service, 840 N. Lake Shore Dr., Chicago, IL 60611.

MC 87113 (Sub-4–6TA), filed April 20, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd. Indianapolis, IN 46250.Representative Alan F. Wohlstetter, 1700 K St., NW., Washington, D. C. 20006. *Contract* irregular *household goods*, between points in the U.S. under continuing contract(s) with Thousand Trails, Inc. of Seattle, WA Supporting shipper: Thousand Trails, Inc. 4800 S. 188th St., Seattle, WA 98188.

MC 142096 (Sub-4–5TA), filed April 19, 1983. Applicant: MILLER BROS. TRUCKING CO., INC. 4100 West Mitchell St., Milwaukee, WI 53215. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Common; irregular: *rubber and related products including tires, pneumatic rubber products and similar items* between Des Moines, IA and Milwaukee, WI. Supporting shipper: The Armstrong Rubber Co., 2345 East Market St, Des Moines, IA 50306.

MC 147669 (Sub-4–3TA), filed April 20, 1983. Applicant: McNITT PRODUCE, INC., 3220 Fairlane, SW., Grandville, MI 49418. Representative: Ronald J. Kooistra, 2737 De Hoop Ave., SW., Wyoming, MI 49509. Contract: irregular *Transporting furniture and fixtures* between points in the United States under a continuing contract with Shaw-Walker Company, Inc., division at Western, Muskegon, Michigan, 49443. Supporting shipper: Shaw-Walker Company, Inc., Division at Western Muskegon, MI 49443.

MC 167229 (Sub-4–1TA), filed April 19, 1983. Applicant: C T U CORP., 645 Joliet St., West Chicago, IL 60185. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Passengers in charter & special operations:* between Calhoun County, MI, on the one hand, and, on the other, points in the U.S. supporting shipper: Royal Great Lake Tours, 2008 W. Goguac, Battle Creek, MI 49015.

MC 167520 (Sub-4–1TA), filed April 18, 1983. Applicant: LEANDER E. FILZEN d.b.a., 326 North Jefferson St., New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, Mineapolis, MN 55402 (612) 333–1341. Contract; irregular: *Architectural precast stone*, between points in the U.S. (except AK and HI) under continuing contract(s) with American Artstone Company of New Ulm, MN Supporting shipper: American Artstone Company, 224 3rd St., N., P.O. Box 425, New Ulm, MN 56873

MC 167524 (Sub-4–1TA), filed April 19, 1983. Applicant: JACK FANKHANEL, d.b.a. FANKHANEL OIL COMPANY, Sabin, MN 56580. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. Contract; Irregular: *Petroleum products, in bulk, in tank vehicles*, between points in Cass County, ND, on the one hand, and on the other, points in Clay County, MN, under contract(s) with TJ's Skelly Truck Stop. Supporting shipper: TJ's Skelly Truck Stop, R.R. #2, Glyndon, MN 56547.

MC 167555 (Sub-4–1TA), filed April 20, 1983. Applicant: GEORGE HINTZ, INC., Route 1, Land O'Lakes, WI 54540. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Contract irregular: Furniture* from Iron Moutain, MI to points in FL, GA, LA, and TX, under continuing contract(s) with Khoury, Inc. Underlying ETA seeks 120 days authority. Supporting shipper: Khoury, Inc., P.O. Box 729, Iron Mountain, MI 49801.

MC 167559 (Sub-4–1TA), filed April 20, 1983. Applicant: A B C RAPID DELIVERY, INC., 1219 Dalbigne St., Belvidere, IL 61008. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603. *Contract*, Irregular: *a) Building Materials; and b) Materials, equipment and supplies, used or useful in the manufacture, sale and distribution of Building Materials*, between points in IL, IN, IA, and WI, under continuing contract with Apache Building Products of Belvidere, IL. Supporting Shipper: Apache Building Products, 1005 Mckinley Ave., Belvidere, IL 61008.

MC 167560 (Sub-4–1TA), filed April 20, 1983. Applicant: D. M. MITCHELL TRANSPORT CO., 3501 Wyoming Avenue, Dearborn, MI 48120. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. *Petroleum, natural gas and their products* between points in MI, IN, OH, PA, WV and KY. Restricted to shipments originating at or destined to facilities of the Standard Oil Co., BP Oil, Inc. Supporting shipper: The Standard Oil Co., BP Oil, Inc., 1510 Rockefeller Bldg., 614 Superior AVe., Cleveland, OH 44113.

MC 167586 (Sub-4–1TA), filed April 22, 1983. Applicant: KENNETH M. CALL, d.b.a. CALL TRUCKING, Rte. #1, Box 48, Angola, IN 46703. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885. Contract, irregular: *General Commodities except classes A and B explosives, commodities in bulk and household goods as defined by the Commission*, between Steuben County, IN on the one hand, and, on the other, Davidson County, TN under continuing contract(s) with Metal Spinners, Inc. of Angola, IN. Supporting Shipper: Metal Spinners, Inc., 1023 South Wayne St., Angola, IN 46703. An underlying application for Emergency Temporary Authority for 120 days has also been filed.

MC 167587 (Sub-4–1TA), filed April 22, 1983. Applicant: WALSKE'S, INC., Route 1, Little Suamico, WI 54541. Representative: Nancy J. Johnson, 103 East Washington St., Box 216, Crandon, WI 54520. *Meat, meat products and meat by-products* between Abbotsford, Eau Claire, Green Bay, Kenosha, and Milwaukee, WI on the one hand, and, on the other hand, Miami and Jacksonville, FL; New York, NY; Savannah, Atlanta and Augusta, GA; Philadelphia, PA; Boston, MA; Manchester, NH; Elizabeth, Pitman and Bayonne, NJ; New Orleans, LA; Norfolk and Williamsburg, VA; Amarillo, Brownsville and Hereford, TX; Garden City, KS; Denver, CO; Oakland and Los Angeles, CA and Seattle, WA. Supporting shipper(s): Wisconsin Beef Industries, Inc., P.O. Box 9002, 2715 Hogarth Street, Eau Claire, WI 54742; Green Bay Dressed Beef, Box 8547, Green Bay, WI 54308; World Service, Inc., 250 Chester Street, St. Paul MN 55107; Shelly Brokerage, Inc., P.O. Box 577, Park Forest, IL 60466; L.G.V. International, P.O. Box 1164, Milwaukee, WI 53201.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79858 (Sub-5–16TA), filed April 25, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representatives: Robert C. Mills, Michael L. Harvey (same as above). *Reverse Osmosis and Ultra Filtration Systems (water purification systems) parts, materials and supplies used in the manufacture, sale, distribution. and maintenance thereof* between points in the U.S. (excl, AK and HI) under continuing contract(s) with Fluid Systems Division, UOP, Inc., San Diego, CA.

MC79658 (Sub-5–17TA), filed April 25, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representatives: Robert C. Mills, Michael L. Harvey (same as above). *Household goods* between points in the U.S. under continuing contract(s) with ServiceMaster Industries Inc., Downers Grove, IL.

MC 121794 (Sub-5–2TA), filed April 25, 1983. Applicant: JAMES WILKETT, d.b.a. Wilkett Trucking Co., P.O. Box 466, Stigler, OK 74462. Representative: John J. McMackin, jr., 1101 Connecticut Avenue NW., Suite 500, Washington, DC 20036. *Coal and coal products* between points in Coal, Okfuskee and Okmulgee Counties, OK and Gregg and Ellis Counties, TX. Supporting Shipper: Westhoff, Inc., Great Bend, KS.

MC 134262 (Sub-5–5 TA), filed April 25, 1983. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., Box 385, Boyden, IA 51234. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Salt* and *salt products*, from points in Ellsworth County, KS to points in AR, CO, IA, IL, IN, KY, LA, MI, MN, MT, ND, NE, NM, OK, SD, TN, TX, WI and WY.

Supporting shipper: Independent Salt Co., Kanopolis, KS

MC 134983 (Sub-5–1 TA), filed April 25, 1983. Applicant: MID CONTINENT TRUCKING COMPANY, 204 Morningside Drive, Denison, IA 51442. Representative: Michael Greder, 204 Morningside Drive, Denison, IA 51442. Meats, meat products, meat by-products, and articles distributed by meat packinghouses, and materials, equipment and supplies utilized in the manufacture, sale and distribution thereof. Between points in the U.S. (Except AK and HI). Supporting shipper: Farmland Foods, Inc., Dennison, IA.

MC 148291 (Sub-5–2 TA), filed April 25, 1983. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1693, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *General commodities (except those of unusual value, household goods, commodities in bulk, classes A and B explosives and those requiring special equipment)* between points in Faulkner County, AR, on the one hand, and, on the other, points in the U.S. (except HI and AK). Supporting shippers: 9.

Note.—Applicant intends to tack and interline.

MC 151637 (Sub-5–11 TA), filed April 28, 1983. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *General commodities, except Classes A & B Explosives; Household Goods; and Commodities in bulk*, between points in AR, OK and TX, on the one hand, and on the other, points in AL, AR, AZ, CA, FL, GA, IA, IL, IN, KS, KY, LA, MI, MO, MS, NM, OH, PA, TN, TX and WI. Supporting shipper: Coating and Plastics, Inc., Fort Smith, AR; Griffin Grocery Company, Van Buren, AR; Rheem Manufacturing Company, Fort Smith, AR.

MC 167486 (Sub-5–1 TA), filed April 28, 1983. Applicant: ARKOMA HOTSHOT SERVICE, INC., Route 2, Box 14BR, Greenwood, AR 72936. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Mercer Commodities*, between points in AR and OK. Supporting shippers: 8.

MC 167607 (Sub-5–1 TA), filed April 25, 1983. Applicant: TRANSPORT CONCEPTS, INC., 1620 S.W. Wilshire Blvd., Burleson, TX 76028. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Audio Systems and materials, equipment and supplies used in the manufacture, sale and distribution of Audio Systems* between Dallas, TX on the one hand, and, on the other, points in AZ, CA, and MN. Restricted to shipments originating at or destined to the facilities of Pilot Audio Systems. Supporting shipper: Pilot Audio Systems, Dallas, TX.

MC 167608 (Sub-5–1 TA), filed April 25, 1983. Applicant: JORDAN TRUCKS, INC., P.O. Box 209, Mason, TX 76856. Representative: Thomas F. Sedberry, P.O. Box 2023, Austin, TX 78768. *Fertilizer and fertilizer ingredients*, between points in Mason, Llano, San Saba and McCulloch Counties TX, on the one hand, and, on the other, points in NM and AR. Supporting shipper: Fredonia Peanut Co., Inc.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board (RMBC), 211 Main St., Suite 500, San Fancisco, CA 94105.

MC 167639 (Sub-6–1 TA), filed April 26, 1983. Applicant: BILLINGS STORAGE AND WAREHOUSE CO., P.O. Box 20858, Billings, MT 59104. Representative: Joe Gerbase, P.O. Drawer 849, Billings, MT. 59103–0849. *Contract carrier*, irregular route, *Pharmaceuticals, Medical Supplies and Equipment, Food and Drugs:* Between points in Yellowstone County, MT. on the one hand, and, on the other, points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Cassia Clark, Custer, Fremont, Idaho, Jefferson, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, and Twin Falls Counties, ID, Big Horn, Cambell, Crook, Park, Sheridan and Teton Counties, Wyoming, Billings, Bowman, Divide, Golden Valley, McKenzie, Slope, Stark, and Williams Counties, ND and Butte, Custer, Fall River, Harding, Lawrence and Pennington Counties, SD and between points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Cassia, Clark, Custer, Fremont, Idaho, Jefferson, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton and Twin Falls Counties ID, Big Horn Cambell, Crook, Park, Sheridan and Teton Counties Wyoming, Billings, Bowman, Divide, Golden Valley, McKenzie, Slope, Stark, and Williams Counties, ND and Butte, Custer, Fall River Harding, Lawrence and Pennington Counties, SD, for 270 days. Supporting shipper: Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, IL 60053.

MC 167651 (Sub-6–1TA), filed April 25, 1983. Applicant: P. W. BLACK TRUCKING, 750 W. 110th St., Los Angeles, CA 90044. Representative: (Same as applicant). *Musical Instruments, wardrobe and equipment related to performances of the Los Angeles Philharmonic Orchestra*, from Los Angeles, CA to all points in U.S. (excluding AK and HI) and return. Supporting shipper: Los Angeles Philharmonic Association, 135 North Grand Ave., Los Angeles, CA 90012.

MC 167649 (Sub-6–1TA), filed April 26, 1983. Applicant: EQUINE TRANSPORTATION, LTD., 2629 W. Horsetooth Rd., Ft. Collins, CO 80526. Representative: Lynne Wagers-Reese (same address as applicant). (1) *Equine—horses, mules* as are chiefly valuable for breeding, racing, show purposes and other special uses, race horses and show horses, from points in CO, on the one hand, and points in the U.S. (except AK and HI) on the other for 270 days. Supporting shippers: There are 7 shippers. Their statements may be examined at the Regional Office listed above.

MC 167568 (Sub-6–1TA), filed April 26, 1983. Applicant: KENICHI HARAMOTO d.b.a. FUJI EXPRESS, 328 Swift Ave., South San Francisco, CA 94080. Representative: Kenichi Haramoto (same as applicant). *General Commodities* (except class A and B explosives, household goods, and bulk commodities) between points in CA for 270 days. Applicant intends to interline. An underlying ETA seeks 120 days authority. There are 6 supporting shippers. Their statements are available at the regional ICC office.

MC 164104 (Sub-6–7TA), filed April 25, 1983. Applicant: SITTER'S TRANSPORT LIMITED, 406 1st Ave., Kindersley, Saskatchewan, CD S0L 1S0. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. *Potash* from ports of entry on the U.S.-Canadian border at points in MT to points in MT for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Farmers Union Grain Terminal Association, Box 671, Great Falls, MT 59403.

MC 160051 (Sub-6–5TA), filed April 26, 1983. Applicant: TALENT TRUCKING CO., P.O.B. 320, Talent, OR 97540. Representative: John A. Anderson, Ste. 801—The 1515 Bldg., 1515 SW 5th Ave., Portland, OR 97201. *Contract carrier*, irregular routes: *Fiberglass and fiberglass products, and materials, equipment and supplies used in the manufacture, sale and distribution of fiberglass and fiberglass products*, between points in the U.S. (except AK & HI), under continuing contract(s) with Continental Fiberglass Corporation, of Des Moines, IA, for 270 days. Supporting shipper(s): Continental Fiberglass Corporation, 339 S.W. 6th St., Des Moines, IA 50309.

MC 167650 (Sub-6–1), filed April 25, 1983. Applicant: R. J. ANDREWS, INC. d.b.a. TRAVEL TIME TOURS, 451 West Bonita Ave., Ste. 14, San Dimas, CA 91773. Representative: Melvin Leiding, 2131 N. Valencia Ave., Placentia, CA 92670. *Passengers* in special and charter operations between points in the U.S. for 270 days. Supporting shippers: There are 12 shippers. Their statements may be examined in the office listed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12281 Filed 5–6–83; 8:45 am]
BILLING CODE 7035–01–M

[No. 38879]

Motor Carriers; Agricultural Cooperative; Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: May 4, 1983.

The following notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt interstate transportation must file the Notice, Form BOp–102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filling of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Green Valley Transport Systems, Inc.
(2) 5500 Schaefer St., Suite B, P.O. Box 1743, Chino, CA 91710
(3) Calle 1 No. 703 PUE 7–8 Agua Prieta, Mexico
(4) Rick Bracken, 5500 Schaefer Ave., Chino, CA 91710

(1) Land O'Lakes, Inc.
(2) P.O. Box 116, Minneapolis, MN 55440
(3) 4001 Lexington Avenue North, Arden Hills, Minnesota 55112
(4) Herb Sorvik, P.O. Box 116, Minneapolis, MN 55440

(1) Santa Fe Growers Association
(2) 323 San Francisco, Santa Fe, New Mexico 87501
(3) 12215 East Chandler Hts. Rd., Chandler, AZ 85224
(4) David Robinson, 2228 West Northern Ave., Phoeniz, AZ 85021.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12275 Filed 5–6–83; 8:45 am]
BILLING CODE 7035–01–M

[No. 38879]

Motor Carriers; Aero Mayflower Transit Co., Inc.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioner's existing operations granted at 47 FR 47331 (October 25, 1982) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioner's future contracts is granted.

DATE: Comments are due on May 24, 1983. The provisional exemption of petitioner's future contracts will become final on June 8, 1983, unless, in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38879, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Leonard L. Arnaiz, (202) 275–7831
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: April 29, 1983.

By the Commission, Division 1, Commissioners Sterrett, Taylor, and Gradison. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12276 Filed 5–6–83; 8:45 am]
BILLING CODE 7035–01–M

[No. 39019]

Motor Carriers; New England Retail Express, Inc.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioner's existing operations granted at 48 FR 9384 (March 4, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioner's future contracts is granted.

DATE: Comments are due on May 24, 1983. The provisional exemption of petitioner's future contracts will become final on June 8, 1983, unless, in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 39019, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Robin Williams, (202) 275–7697
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: April 28, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12277 Filed 5–6–83; 8:45 am]
BILLING CODE 7035–01–M

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[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract no. and specifics	Review Board [1]	Decided date
919	Soo Line RR Co. Exemption for Contract Tariff ICC-SOO-C-0051, Supplements 1 (Woodpulp)	3	05-03-83
920	Norfolk and Western Railway Co. Exemption for Contract Tariff ICC-NW-C-0080, Supplement 1 (Motor Vehicles)	1	05-03-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

[1] Note tariff supplements advancing contracts' effective date shall refer to these decisions for authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12274 Filed 5-6-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Denial of Application; B. Earl Mahan

On January 13, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to B. Earl Mahan, 736 Searchlight, Stockton, California 95205 seeking to deny the application filed on May 8, 1982 for registration as a researcher in Schedules I and II and as an analytical laboratory under 21 U.S.C. 823(F). The statutory predicates for the Order were that B. Earl Mahan was not registered with the State of California as a researcher in Schedules I and II, as required by California law, and therefore is not authorized to conduct research in California; that the Food and Drug Administration disapproved Mahan's application as a Schedule I researcher on May 28, 1982 finding him to be unqualified and incompetent to conduct research in Schedule I; and that he is not a practitioner as that term is defined in 21 U.S.C. 802 (20) and used in 21 U.S.C. 824(a). Respondent sent an undated letter which was received by the Drug Enforcement Administration on February 1, 1983. The Acting Administrator has considered this letter and constitutes it to be a waiver of the hearing under 21 CFR 1301.54(d) and 1301.54(e). The Acting Administrator enters this final order on the record as it appears.

Respondent posses an associate's degree in general education from a community college. He has submitted no evidence to indicate that he possesses the requisite training, knowledge, or equipment for controlled substance research or the operation of an analytical laboratory. This matter first came to the attention of DEA when Respondent filed applications for registration as a researcher in Schedule I. In that application Respondent wrote: "project. the use of catoles. the filling of pitholes in the face. catgut or pure cow skin in chemical injection. Purpose. to be better at my trade controlled substances. Liteocain, codeine." When DEA personnel contacted Respondent concerning this application, he explained theat his research involved "opium extraction from hearts of lettuce leaf" in addition to "catoles treatment" and the sale of look-alike drugs. Respondent described his specialty as that of chemical facelifting.

When DEA personnel investigated Respondent's application at his home he showed them a quantity of look-alike drugs. When DEA personnel informed him that he did not need to be registered with DEA to possess these substances, Respondent indicated that he is aware of this and added that the reason that he needs a DEA registration is so that he can get the real drugs. Respondent informed DEA investigators that he had obtained his expertise in drug handling from taking a course on drugs at Sacramento State University and from reading the Physicians' Desk Reference. The Acting Administrator notes that Respondent submitted a copy of his transcript from Sacramento State University, and that this transcript is devoid of any indication than Mahan enrolled in a chemistry or other physical science course. He did, however, receive a "D" in a course entitled Drug Abuse and Criminal Behavior.

It is clear that DEA cannot register Respondent as a researcher in Schedule I and II since he lacks California registration for such activities. Respondent would lead DEA to believe that a business license he obtained from the City of Stockton somehow authorizes him to operate as a researcher in California. Similarly, DEA cannot register Respondent as a researcher under 21 U.S.C. 823(f), since the Food & Drug Administration disapproved his application as a Schedule I researcher. The Acting Administrator finds the denial memorandum from the Acting Director of the Division of Pharmacological Drug Products at the Food and Drug Administration to be very well taken. That memorandum reads: "We find this is not research; there was no protocol. The applicant is found to be not qualified and competent. This submission has no scientific merit."

The third ground for the denial of Respondents's application is the fact that he does not meet the statutory definition of a practitioner as that term is defined in 21 U.S.C. 802 (20). That section defines a practitioner, in pertinent part, as a "physician, dentist, veterinarian, scientific investigator * * * or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research."

Mahan is not a physician, dentist or veterinarian. He would be registered with DEA, if at all, as a scientific investigator. As the Acting Administrator noted in Michael J. McClara, 46 FR 57375 (1981), the CSA contains no explicit definition of "scientific investigator." In McClara, the Acting Administrator noted that the State of California does not license analytical laboratories. McClara possessed limited chemistry training and very minimal laboratory equipment that was inaufficient to conduct analysis of controlled substances. The Acting Administrator concluded that DEA has an obligation to evaluate the qualifications of individuals who seek registration as analytical laboratories in states that do not license such activities, in order to protect the public health and safety.

The Acting Administrator finds that B. Earl Mahan is not a "scientific investigator." These applications are nothing more than transparent ruses to obtain controlled substances. Mahan would lead this agency to believe that a business license and a mediocre academic record somehow rendered him competent to conduct research in controlled substances. In McClara, the Acting Administrator concluded that the first responsibility of DEA is to protect the public health and safety, and DEA would have been remiss in its duties if it had granted McClara's application for registration. The same considerations apply in denying the application of B. Earl Mahan. Registration of Mr. Mahan could wreak catastrophic results upon the public.

For the reasons stated above, the Acting Administrator finds that B. Earl Mahan, the applicant herein, does not meet the definition of a practitioner found in 21 U.S.C. 802 (20). The Acting Administrator also finds that B. Earl Mahan lacks the requisite California registration to conduct research in Schedules I and II and that the Food and Drug Administration disapproved his application as a Schedule I researcher. It is the decision of the Acting Administrator to deny the application filed by B. Earl Mahan May 8, 1982 for registration with DEA as a researcher in Schedules I and II and as a analytical laboratory. Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C 824 and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby denies the application filed May 8, 1982, and any other applications that may be pending, effective immediately.

Dated: May 2, 1983.

Francis M. Mullen, Jr,

Acting Administrator.

[FR Doc. 83-12325 Filed 5-6-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[83-41]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Computer Science and Applications.

DATE AND TIME: May 26, 1983, 8:30 a.m. to 4:30 p.m.; and May 27, 1983, 8:30 a.m. to 3:30 p.m.

ADDRESS: Ames Research Center, Building 244, Room 103, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Holcomb, National Aeronautics and Space Administration, Code RTC-6, Washington, D.C. 20546; (202/755-2494).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Computer Science and Applications was established to review and make recommendations on NASA research and technology programs and plans in aerospace computing, including concurrent processing, reliable engineering, data systems, artificial intelligence, and high performance computational facilities. The subcommittee is composed of eleven members and chaired by Professor Raj Reddy of Carnegie-Mellon University. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including the subcommittee members and participants).

Type of Meeting: Open.

Agenda

May 26, 1983

8:30 a.m.—Opening Remarks.

9 a.m.—Overview of Office of Aeronautics and Space Technology Long Range Plan.

9:30 a.m.—Computer Science and Applications Long Range Plans.

4:30 p.m.—Adjourn.

May 27, 1983

8 a.m.—Ames Research Center Computer Science and Applications Program.

3:30 p.m.—Adjourn.

Ann P. Bradley,

Acting Associate Administrator for Management, Office of Management.

April 29, 1983.

[FR Doc. 83-12412 Filed 5-6-83; 8:45 am]

BILLING CODE 7510-01-M

[83-42]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATE AND TIME: June 1-2, 1983, 8:30 a.m. to 5:00 p.m. each day.

ADDRESS: Langley Research Center, Building 1202, Room 246, Hampton, Virginia 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan McIver, National Aeronautics and Space Administration, Code RTC-6, Washington, DC 20546; (202/755-2494).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronic devices, sensors, communications, robotics and teleoperation, and control technology. The Subcommittee, chaired by Dr. Don Fraser, is comprised of 11 members, the meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda

June 1, 1983

8:30 a.m.—Opening Remarks.

8:50 a.m.—Overview of Office of Aeronautics and Space Technology Long Range Plan.

9:20 a.m.—Space Electronics Long Range Plan.

5 p.m.—Adjourn.

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8:30 a.m.—Langley Research Center Space Electronics Program.
5 p.m.—Adjourn.

Ann P. Bradley,
Acting Associate Administrator for Management, Office of Management.

May 2, 1983.

[FR Doc. 83-12413 Filed 5-6-83; 8:45 am]
BILLING CODE 7510-01-M

[83-43]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: June 7, 1983, 8:30 a.m. to 4:30 p.m.; June 8, 1983, 8:30 a.m. to 4:30 p.m.; June 9, 1983, 8:30 a.m. to 11:00 a.m.

ADDRESS: Langley Research Center, Building 1202, Room 246, Hampton, Virginia 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan E. McIver, National Aeronautics and Space Administration, Code RTH-6, Washinton, D.C. 20546; (202/755-3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The subcommittee chaired by Mr. Duane McRuer, is comprised on 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the subcommittee members and participants).

Type of Meeting: Open.

Agenda

June 7, 1983
8:30 a.m.—Subcommittee Business.
9:30 a.m.—Introductory Remarks.
10 a.m.—NASA Aircraft Controls and Guidance Research and Technology Plan.
1 p.m.—Simulation Validation Technology Review Task.
2 p.m.—NASA Controls and Guidance Program Issues.
4:30 p.m.—Adjourn.

June 8, 1983
8:30 a.m.—NASA Controls and Guidance Program Issues Continued.
4:30 p.m.—Adjourn.

June 9, 1983
8:30 a.m.—Subcommittee Deliberation.
11 a.m.—Adjourn.

Ann P. Bradley,
Acting Associate Administrator for Management, Office of Management.

April 29, 1983.

[FR Doc. 83-12414 Filed 5-6-83; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-61 to Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. This amendment is effective as of its date of issuance.

This amendment deletes the fish impingement monitoring requirements form the Appendix B (Environmental) Technical Specifications (ETS).

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for amendment dated July 23, 1982 and February 15, 1983, (2) Amendment No. 56 to License No. DPR-61, and (3) the Commission's related letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,
Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 83-12360 Filed 5-6-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co. and Big Rock Point Plant; Issuance of Director's Decision

By petitions sent in the form of Mailgrams on April 11 and 12, 1983 to the Commissioners of the Nuclear Regulatory Commission (the Commission) (NRC), Ms. JoAnn Bier and Ms. Christa-Maria requested that no additional fuel be allowed in the Big Rock Point spent fuel pool (beyond the 132 assemblies currently stored in the pool) until the issue of pool thermal/structural adequacy is resolved. The petitions have been treated under 10 CFR 2.206 of the Commission's regulations. They were referred to the NRC staff for disposition on April 14, 1983. Big Rock Point is located in Charlevoix County, Michigan.

The petitions quoted concerns about the thermal/structural adequacy of the Big Rock Point spent fuel pool which were identified by the NRC staff in a letter to the licensee dated May 21, 1982.

Upon review of the NRC staff's ongoing efforts regarding these concerns, the Director of Nuclear Reactor Regulation has determined that the NRC staff is already addressing the issues raised by the petitioners, and that no further actions need be undertaken at this time. The reasons for this determination are explained in the "Director's Decision" under 10 CFR 2.206 (DD-83-07) which is available in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of the decision will be filed with the Secetary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 3d day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,
Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 83-12361 Filed 5-6-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 89 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

This amendment to the Technical Specification revises the following: (1) The Group I Containment Isolation signal from reactor vessel low-low water level to reactor low-low-low water level, (2) the Group I isolation reactor pressure setpoint from 880 psig to 850 psig and (3) the low-low set logic to the two non-ADS safety relief valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a singificant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 10, 1983, (2) Amendment No. 89 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,
Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-12362 Filed 5-6-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 82 to Facility Operating License No. DPR-46 issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to include modifications to the following: (1) Fire protection system clean water supply; (2) scram discharge volume; (3) RPS power monitoring system; (4) plant staff working hours; (5) Safety Review Audit Board duties; (6) snubber listings; (7) Standby Gas Treatment (SBGT) testing requirements; (8) 10 CFR Appendix J testing; (9) Station Operations Review Committee and Safety Review Audit Board review frequency, and (10) increase in the suppression pool temperature limit during normal operation and (11) administrative controls.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for amendment dated June 10, 1982, November 24, 1982 and February 25, 1983 (2) Amendment No. 82 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,
Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-12363 Filed 5-6-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the Licensees), which revised the operating license and Technical Specifications for operation of the Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment implements International Atomic Energy Agency (IAEA) Safeguards at the Trojan facility by the addition of a license condition subjecting the facility to IAEA safeguards inspections as defined in the Facility Attachment. The Facility Attachment defines the IAEA inspection program, and was prepared jointly by the United States and the IAEA in consultation with the licensees. Under the Treaty with the IAEA, the U.S. is committed to permit the IAEA to apply safeguards in the U.S. in the same manner as non-nuclear weapons countries.

Unrelated to the above, the amendment also corrects an error in Table 2-1 in Part I of the Environmental

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Technical Specifications which defines radiological sampling types and locations.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 23, 1982, (2) Amendment No. 80 to License No. NPF-1 and (3) the Commission's related letter dated April 27, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of April, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12384 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-59 (the license) which authorizes the operation of the James A. FitzPatrick Nuclear Power Plant (the facility) at steady-state reactor power levels not in excess of 2436 megawatts thermal. The facility consists of a boiling water reactor located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section IV.F of Appendix E to 10 CFR Part 50 requires that an emergency preparedness exercise be conducted (at least) annually. By letter dated January 4, 1983 the licensee requested a one-time exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F, to conduct an annual emergency preparedness exercise for the year subsequent to its first full-scale exercise (August 11, 1982). This first exercise of August 11, 1982, was scheduled in response to a January 21, 1982 letter from the NRC to G. T. Berry, which granted a deferral from an earlier mandated exercise date and required that the second annual exercise be conducted prior to April 1, 1983. However, as a result of coordination efforts with New York State, Oswego County and Niagara Mohawk, the licensee has tentatively scheduled the 1983 exercise for October 12, 1983. Therefore the licensee requested a one-time waiver for the date of this currently scheduled exercise.

During our review we found: that the last full-scale exercise held on August 11, 1982 demonstrated an acceptable level of preparedness; that a full-scale exercise was conducted September 16, 1981 by Niagara Mohawk at its Nine Mile Point facility, which is adjacent to the FitzPatrick plant (on the same site), and that this has effectively resulted in an annual exercise involving state and local authorities with the FitzPatrick-Nine Mile Point site; that these full-scale exercises provide adequate assurance regarding the capability of the State and local officials to respond to an emergency at either nuclear plant; that another exercise will be conducted prior to October 15, 1983; and that the training of emergency response personnel will continue as committed to in the James A. FitzPatrick Nuclear Power Plant Emergency Plan to ensure that personnel remain familiar with emergency response duties.

Based on our findings, we have determined that a one-time delay in performing the next annual emergency preparedness exercise will not adversely affect the overall state of emergency preparedness at FitzPatrick. Therefore, we conclude that the licensee's exemption request is acceptable and should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 50.T2, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the commission hereby approves the following exemption request:

The licensee is exempt from the requirement of Section IV.F of Appendix E to 10 CFR Part 50 with respect to the requirement for conducting an annual emergency preparedness exercise and is required to conduct the next emergency preparedness exercise no later than October 15, 1983.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 28th day of April 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12385 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado (Fort St. Vrain Nuclear Generating Plant); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Public Service Company of Colorado (the licensee) is the holder of Facility Operating License No. DPR-34 which authorizes the operation of the Fort St. Vrain Nuclear Generating Station (the facility) at a steady-state power level not in excess of 842 megawatts thermal. The facility is a high temperature gas-cooled reactor (HTGR) located at the licensee's site in Weld County, Colorado.

II

Following the accident at Three Mile Island No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and

Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981: (1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Public Service Company of Colorado (PSC) responded to Generic Letter 82-05 by letter dated March 26, 1982, and provided supplemental information by letter dated June 30, 1982; PSC responded to Generic Letter 82-10 by letter dated June 1, 1982. In these submittals, PSC confirmed that some of the items identified in the Generic Letters had been completed, some were not applicable to Fort St. Vrain, and made firm commitments to complete the remainder. The attached Tables summarizing the liensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 addressed nineteen and sixteen items, respectively. Of the 11 items listed in Generic Letter 82-10 requiring a response, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of Commission Paper SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed. Some items are still under reveiw to resolve philosophical differences in reactor technology, and one, the simulator item, is under policy review to account for a one-of-a-kind, unique facility. The staff has reviewed the licensee's submittals and determined that the licensee's response is acceptable based on the following:

I.A.3.1 Simulator Exams. Since specific requirements for a Fort St. Vrain simulator are not available, and a simulator for a one-of-a-kind, unique reactor would be difficult and expensive to develop, the issue of a simulator exam must be resolved at a later date by cognizant management at the NRC and therefore is not included in this Order. In the interim, PSC is providing training in accident analyses and plant behavior during transients as well as more hands-on experience and use of accident simulation codes for its operators. Until the issue of a simulator exam is resolved, PSC is in compliance with the intent of the requirement.

II.B.2 Plant Shielding

II.B.3 Post Accident Sampling. The existing methods and instrumentation for monitoring the plant exhaust stack gas and primary activity are acceptable for the previously analyzed design basis accident at Fort St. Vrain. However, it appears that for some worst-case severe accident sequence scenarios beyond the design basis, the on-line monitors could go off scale and personnel access might not be permissible either to obtain a primary coolant grab sample or to read an inplace monitor. Until an NRC ruling becomes available on severe accident analyses, PSC is in compliance with this item.

II.B.4 Training to Mitigate Core Damage. Procedures and training in place at FSV are satisfactory with respect to prevention and mitigation of core damage. PSC is reviewing procedures for alternate depressurization methods and will possibly include them in a training manual.

II.F.1 Accident Monitoring. This item consists of six parts dealing with instrumentation necessary to detect certain failed conditions. The containment water level and hydrogen concentration monitors are not applicable to FSV. The containment pressure monitor is for determining if a coolant line has failed; the FSV coolant helium pressure is monitored continuously and a loss of helium, is known immediately and a reactor trip is initiated by the plant protection system. FSV has provisions for continuous sampling of plant effluents for post-accident releases of radioactive iodines and particulates and onsite laboratory capabilities. The ruling mentioned in Items II.B.2 and II.B.3, above, may also affect this item.

The effluent gases at FSV are monitored before release by instrumentation having a continuous recording and control room display. Permanent online monitors have an upper limit reading of 10 μci/cc. Installed semiportable monitors are capable of 10E5 μci/cc.

The requirement of monitoring the radiation level of the containment (reactor building for FSV) is met in a qualitative sense at FSV, but the upper limit of radiation specified at 10^8 rad/h cannot be met with the existing installed instrumentation, (which has a limit of 10E4 rad/h). The power density and fuel configuration are different for water reactors and FSV. The power density is lower and the fuel is encapsulated with a multilayered ceramic coating having a high temperature capability. This coating would delay the release of highly active fission products after a reactor scram. Also, the Prestressed Concrete Reactor Vessel (PCRV) has a minimum thickness of nine feet. Consequently, the post-accident radiation levels in the reactor building would probably be lower than those of a water reactor.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and should, therefore, be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

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Implement and maintain the specific items described as complete in the attachments to this Order. Incomplete items shall be completed by no later than the dates shown in the attachments (as described in the licensee's submittals noted in Section III herein) and maintained thereafter.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. A copy shall also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Arlington, Texas, this 27th day of April 1983.

For the Nuclear Regulatory Commission.

James E. Gagliardo,

Director, Division of Resident, Reactor Project and Engineering Programs, Region IV.

Attachment 1

LICENSEE COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	Schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator exams [1]	Oct. 1, 1981	Include simulator exams in licensing examinations	To be determined.
II.B.2	Plant shielding	Jan. 1, 1982	Modify facility to provide access to vital area under accident conditions.	Complete.
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	Do.
II.B.4	Training for mitigating core damage.	Oct. 1, 1981	Complete training program	Do.
II.E.1.2	Aux FW indication and flow indicator.	July 1, 1981	Modify instrumentation to level of safety grade	Not applicable
II.E.4.2	Containment isolation dependability.	do	Part 5—lower containment pressure setpoint to level compatible with normal operation.	Complete.
II.E.4.2	Containment isolation dependability.	do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	July 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install in-containment radiation-level monitor	Do.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Not applicable.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.
II.K.3.15	Isolation of HPCI and RCIC modification.	July 1, 1982	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.19	Interlock on recirculation pump	July 1, 1982	Install interlocks on recirculation pump loops	Do.
II.K.3.22	RCIC suction	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Do.
II.K.3.24	Space cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Do.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.
II.K.2.10	Safety grade trips	do	Install anticipatory reactor trips	Do.

[1] Where complete date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not part of Confirmatory Order.

Attachment 2

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-9737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	Schedule	Requirement	Licensee's completion schedule (or status)
I.A.1.3.1	Limit overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC policy statement issued by Gen. Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum shift crew [2]	To be superseded by proposed rule.	To be addressed in the final rule on licensed operator staffing at nuclear power units.	To be addressed when final rule is issued.
I.C.1	Revise emergency procedures [1]	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
II.D.1.2	Rv and SV test programs	July 1, 1982	Submit plant-specific reports on relief and safety valve program.	Not applicable.
II.D.1.3	Block valve test program	do	Submit report of results of test program	Do.
II.K.3.18	ADS actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA analysis [2]	1 year after staff approval of model.	Submit plant-specific analyses	Do.
III.A.1.2	Staffing levels for emergency situations [2].	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
III.A.1.2	Upgrade emergency support facilities [2].	do	do	Do.
II.A.2.2	Meteorological data [2]	do	do	Do.
III.D.3.4	Control room habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Where complete date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not part of Confirmatory Order.

[FR Doc. 83-12366 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co. Salem Nuclear Generating Station, Units 1 and 2; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied the petition filed by the Public Advocate of the State of New Jersey on April 12, 1983, amended April 18, 1983. The petition has been treated pursuant to 10 CFR 2.206 of the Commission's regulations.

The petition requested that the Nuclear Regulatory Commission order Public Service Electric and Gas Company to show cause why it should not be restrained from restarting the Salem facilities until it had taken certain actions related to the causes of the reactor circuit-trip breaker failures of February 22 and 25, 1983 at the Salem Unit 1 facility. In addition, the Public Advocate requested that the licensee be required to demonstrate certain actions before an Atomic Safety and Licensing Board in response to the show cause order.

A copy of the "Director's Decision under 10 CFR 2.206" is available in the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. 20555, and the local public document room for the Salem facility located at the Salem Free Public Library, 112 West Broadway, Salem, N.J. 08097.

A copy of the Decision is being filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated: at Bethesda, Maryland, thia 29th day of April 1983.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12367 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment To Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Provisional Operating License No. DPR-13, to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective upon issuance; however, the Technical Specifications are to be implemented within 30 days of issuance.

The amendment modified Section 3.7 of the Appendix A Technical Specifications and Bases to incorporate conditions of electrical power availability during cold shutdown or refueling.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 27, 1980, (2) Amendment No. 68 to License No. DPR-13, and (3) the Commission's related Satety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 3d day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 83-12368 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Provisional Operating License No. DPR-13, to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment deletes the Technical Specifications related to audits of Emergency Preparedness and Safeguards Contingency (Security) Plans.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 4, 1983, (2) Amendment No. 69 to License No. DPR-13, and (3) the Commission's letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 3d day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5 Division of Licensing.

[FR Doc. 83-12369 Filed 5-6-83; 8:45 am]

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[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Issuance of Amendments Facility Operating License Nos. NPF-10 and NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. NPF-10, and Amendment No. 5 to Facility Operating License NPF-15 to Southern California Edison Company (SCE), San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility) located in San Diego County, California. These amendments are effective April 29, 1983.

The amendments modify the license condition and Technical Specifications covering the Post Accident Sampling System (PASS) to require availability and training of operators, development of procedures, implementation of interim compensatory measures, monthly progress reports, and full operability by September 1, 1983. These amendments were requested by the SCE letters of February 24, March 4, April 14, and April 19, 1983.

Issuance of these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Prior public notice of these amendments is not required because the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amemdments will not result in any significant environmental impact and pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration an environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see: (1) Southern California Edison Company's letters dated February 24, March 4, April 14 and April 19, 1983, (2) Amendment No. 17 to Facility Operating License No. NPF-10, (3) Amendment No. 5 to Facility Operating License NPF-15, and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-12370 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN-483 OL]

Union Electric Co. (Callaway Plant, Unit 1); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of April 29, 1983, oral argument on the appeal of the Joint Intervenors from the December 13, 1982 partial initial decision of the Licensing Board in this operating license proceeding will be heard at 9:30 a.m. on Tuesday, June 14, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 2, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-12373 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications related to reactor coolant system leakage, condensate storage tank supply and auxiliary feedwater pump testing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 20, 1982, (2) Amendment No. 49 to License No. DPR-43 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin, 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing

[FR Doc. 83-12371 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Units 1 and 2); Exemption

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27 (the licenses) which authorize operation of the Point Beach Nuclear Plant, Units 1 and 2, respectively (the facilities) at a steady state reactor power level not in excess of 1518 megawatts thermal (rated power). The facilities consist or Westinghouse Electric Corporation designed pressurized water reactors (PWRs) located at the licensee's site in Manitowoc County, Wisconsin.

The license is subject to all rules, regulations and Orders of the Commission.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G, is the subject of this exemption request.

Section III.G details the requirements for fire protection of safe shutdown capability. Specifically, Section III.G.1 requires that fire protection features shall be provided for structures, systems and components important to safe shutdown. These features shall be capable of limiting fire damage such that one train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) shall be free of fire damage and systems necessary to achieve and maintain cold shutdown from either the control room or emergency station(s) shall be capable of being repaired within 72 hours.

Section III.G.2 provides requirements to ensure that the objectives of Section III.G.1 are met. Section III.G.3 specifies the requirements for alternative or dedicated shutdown capability necessary to ensure that the objectives of Section III.G.1 are met given that the specific provisions of Section III.G.2 cannot be met.

III

By letters dated June 30 and October 11, 1982, the licensee requested an exemption from Section III.G, "Fire Protection of Safe Shutdown Capability" of Appendix R to 10 CFR Part 50 to the extent that it requires the installation of a fixed suppression system in the control room.

The licensee's rationale for the exemption is as follows. First, the in situ fire loading for the control room is low, and the presence of transient combustibles is strictly controlled. Second, the room is covered by a fire detection system. Third, the room is continuously manned and a hose station and portable extinguishers are immediately available to assure prompt manual suppression of a fire. Finally, an alternate safe shutdown system is available which assures that the plant can be shut down safely even if the control room is made temporarily uninhabitable by a fire.

We have evaluated the licensee's rationale and find it acceptable. The installation of a fixed fire suppression system in the control room would not significantly increase the level of fire protection. On this basis, we conclude that the exemption should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Section III.G of Appendix R to the extent that it requires a fixed suppression system in the Control Room.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 28th day of April 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-12372 Filed 5-6-83; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability "for Comment" of NUREG-0897 Entitled "Containment Emergency Sump Performance;" Standard Review Plan Section 6.2.2, Rev. 4 Entitled, "Containment Heat Removal Systems;" NUREG-0869 Entitled "USI A-43 Resolution Positions"

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared the following documents for public comment: NUREG-0897 entitled, "Containment Emergency Sump Performance;" Standard Review Plan Section 6.2.2, Rev. 4, entitled, "Containment Heat Removal Systems;" and NUREG-0869 entitled, "USI A-43 Resolution Positions." NUREG-0869 contains a draft of the proposed Regulatory Guide 1.82, Rev. 1 entitled, "Sump for Emergency Core Cooling and Containment Spray Systems;" the A-43 supporting Value/Impact Statement and summaries of the Committee to Review Generic Requirements Meetings No's 26 and 28 pertinent to Unresolved Safety Issue (USI) A-43. These documents, when issued in final form, will serve as the NRC staff's resolution of USI A-43, "Containment Emergency Sump Performance." This issue was identified as an Unresolved Safety Issue in the 1978 Annual Report pursuant to Section 210 of the Energy Reorganization Act of 1974.

The central issue of Unresolved Safety Issue A-43 is the capability of the containment emergency sump to provide an adequate water source to sustain long-term recirculation cooling following a loss-of-coolant accident. The NRC staff has completed its technical evaluation of this issue and these findings are reported in NUREG-0897. Based upon extensive experimental data and analysis, the NRC staff proposes that certain revisions be made to the current sump review guidelines to incorporate these findings. The necessary modifications are contained in the proposed revisions to Standard Review Plan, Section 6.2.2, and Regulatory Guide 1.82.

The proposed changes to Standard Review Plan, Section 6.2.2 and Regulatory Guide 1.82 amend requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq). The final proposed changes will be submitted to the Office of Management and Budget for review and approval of the paperwork requirements following receipt and review of "For Comment" responses.

Comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received and address them in the final documents. It should be clearly noted that these "For Comment" documents are not to be used as interim requirements. The staff plans to hold public meetings to discuss these findings and proposed changes to SRP, Section 6.2.2, and Regulatory Guide 1.82 on June 1-2, 1983 at the U.S. Nuclear Regulatory Commission, 7920 Norfolk Avenue, Bethesda, Maryland.

Copies of the "For Comment" documents will be available after May 13, 1983. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear

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Regulatory Commission, Washington, D.C. 20555, telephone (301) 492–7536.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by July 11, 1983.

For the Nuclear Regulatory Commission.

Themis P. Speis,

Director, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 83–12374 Filed 5–6–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without Scram; Meeting

The ACRS Subcommittee on Anticipated Transients Without Scram (ATWS) will hold a meeting on May 27, 1983, Room 1046, at 1717 H Street, NW., Washington, D.C. The purpose of the meeting is to continue review of the NRC Staff's proposed rule on ATWS.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, May 27, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this topic.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 3, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–12345 Filed 5–6–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee-on-Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on May 24–25, 1983, at the Denver Plaza, 7201 East 49th Avenue, Commerce City, CO. The Subcommittee will review the NRC Research Programs in LOCA and Thermal Hydraulic Transient research.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, May 24, 1983–8:30 a.m. until the conclusion of business.

Wednesday, May 25, 1983–8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested person regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 2, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–12347 Filed 5–6–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittees on Metal Components and Reactor Fuels; Meeting

The Combined ACRS Subcommittees on Metal Components and Reactor Fuels will hold a meeting on May 26 and 27, 1983, 1717 H Street, NW, Washington, DC. The Subcommittees will review BWR pipe cracking phenomena and modifications, turbine disk cracking its causes and fixes, reactor coolant pump seal failures, its causes, fixes and consequences and fuel clad degradation.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittees finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Room 1046—Thursday, May 26, 1983—8:30 a.m. until the conclusion of business.

Room 1167—Friday, May 27, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(3), (4).

Dated: May 3, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–12346 Filed 5–6–83; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

May 4, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, May 23–24, 1983. The meeting on Monday and Tuesday will be held in Rooms 416 and B–100 at the Page Building No. 1, 2001 Wisconsin Avenue, NW., Washington, DC. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.The Tentative Agenda is as follows:

Monday, May 23, 1983

2001 Wisconsin Avenue, NW., Page Building No. 1, Rooms 416 and B–100, Washington, D.C.

Plenary

[9:00 a.m.–12:00 Noon]

9:00 a.m.–9:15 a.m.:

- Announcements—Room 416

9:15 a.m.–12:00 Noon:

- Shipbuilding/Shipyard—Room 416

Speakers: Admiral Harold E. Shear, Administrator, Maritime Administration, U.S. Department of Transportation; Rear Admiral James W. Lisanby, Deputy Commander for Acquisition and Logisitcs, Naval Sea Systems Command; Lee Rice, President-elect of the Shipbuilders Council of America; and Herman Molzahn, Vice President for Shipyard Operations, the American Waterways Operators, Inc.

12:00 Noon–1:00 p.m.: *Lunch*

Panel Meetings

[1:00 p.m.–5:00 p.m.]

1:00 p.m.–3:00 p.m.:

- Ocean Research Chairman: Sylvia A. Earle—Room 416

Topic: Undersea Technology

Speakers: John Steele, Director, Woods Hole, Oceanographic Institution and Carl Helwig, Chairman, Government Relations Committee, Association of Diving Contractors

1:00 p.m.–3:00 p.m.:

- Marine Minerals Chairman: Burt Keenan—Room B–100A

Topic: Panel Work Session

1:00 p.m.–5:00 p.m.:

- Coastal Zone Co-Chairman: Sharron Stewart and Jack R. Van Lopik—Room B–100

Topic: Wetlands

5:00 p.m.: *Adjourn*

Tuesday, May 25, 1983

2001 Wisconsin Avenue, NW., Page Building No. 1, Rooms 416 and B–100, Washington, D.C.

Panel Meetings

[8:30 a.m.–12:30 p.m.]

8:30 a.m.–10:30 p.m.:

- Radioactive Waste Disposal Chairman: John A. Knauss—Room 416

Topic: Panel Work Session

10:30 a.m.–12:30 p.m.:

- Weather Satellites Chairman: FitzGerald Bemiss—Room 416

Topic: Panel Work Session

Note.—A final decision to hold a Weather Satellites Panel Meeting has not yet been reached. In the event that a Weather Satellites Panel Meeting is not held, the Radioactive Waste Disposal Panel Meeting will commence at 8:30 a.m. and run through 12:30 p.m. You will be further advised on this agenda item in a later notice.

12:30 p.m.–1:30 p.m.: *Lunch*

1:30 p.m.–3:30 p.m.:

Plenary

- Action Items
- Panel Reports

3:30 p.m.: *Adjourn*

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

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Dated: May 4, 1983.

James A. Almazan,

Staff Physical Scientist.

Stephanie Y. Hughes,

Administrative Assistant.

[FR Doc. 83-12338 Filed 5-6-83; 8:45 am]

BILLING CODE 3510-12-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond Escrow and Sale-Contract Requirements Relating To Sale of Assets By an Employer; Interstate Brands Corporation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: Based on a request by the Interstate Brands Corporation, the Pension Benefit Guaranty Corporation has granted an exemption from the bond/escrow and sale-contract requirements of section 4204(a)(1) (B) and (C) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from these requirements was published on February 22, 1983 (48 FR 7530). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail form the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale. Another condition is that the sales agreement provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws as within the first five plan years after the sale and fails to pay withdrawal liability.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow and sale-contract requirements of section 4204(a)(1) (B) and (C). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On February 22, 1983 (48 FR 7530), the PBGC published a notice of the pendency of a request from the Interstate Brand Corporations ("Interstate") for an exemption from the requirements of ERISA section 4204(a)(1) (B) and (C). The request pertains to the February 28, 1981 purchase by American Barkeries Company ("American") of certain of the assets of Interstate. No comments were received in response to the notice.

Interstate contributed to the Northern California Retail Clerks Unions and Food Employers Joint Pension Plan (the "Plan"). According to the Plan, Interstate's potential withdrawal liability to the Plan has been calculated to be $41,763. The amount of the bond or escrow required under section 4204(a)(1)(B) is $10,544 (the amount of Interstate's required annual contribution to the Plan for the plan year ending December 31, 1980).

American is the parent in a controlled group of corporations. American's audited consolidated financial statements for the two years ending before the date of the sale were submitted. According to those statements, American had an average net income after taxes of $1.8 million for its fiscal years 1980 and 1979, and total net assets as of December 27, 1980 of approximately $52 million. American has indicated its intention that section 4204 should apply to the sale.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption under section 4204(c) would more effectively or equitably carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC has granted the request for an exemption from the bond/escrow and sale-contract requirements. The granting of an exemption or variance from the requirements of section 4204(A)(1) (B) and (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 4th day of May 1983.

Edwin M. Jones,

Excecutive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-12360 Filed 5-6-83; 8:45 am]

BILLING CODE 7708-01-M

Pendency of Request for Exemption From Bond/Escrow and Sale-Contract Requirements Relating To Sale of Assets By an Employer That Contributes To a Multiemployer Plan; A. A. Brown, et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of consideration of amendment to class exemption.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from A. A. Brown, as a representative for two liquidated corporations (Centennial Laundry Company and Ace Laundry Company), for an exemption from the bond/escrow and sale-contract requirements of section 4204(a)(1) (B) and (C) of the Employee Retirement Income Security Act of 1974. On the basis of that request, PBGC is considering an amendment to its class exemption, which presently covers certain transactions that were consummated prior to January 1, 1981. Under the amendment, the class exemption would be extended to also include any sale for which a legally enforceable contract containing all of the terms and conditions of the sale was signed by the parties prior to January 1, 1981.

Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. Another condition is that the sales agreement provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws within the first five plan years after the sale and fails to pay withdrawal liability. The PBGC is authorized to grant individual and class exemptions from these requirements. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to solicit the views of interested persons on this exemption request and the PBGC's proposal to amend the existing class exemption.

DATES: Comments must be submitted on or before June 23, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 2006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (ERISA), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204. The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

All of the withdrawal liability provisions of the Multiemployer Act—sections 4201 through 4225—are effective as of April 29, 1980. Since Congress made section 4204 effective as of April 29, 1980, it is apparent that Congress intended that provision to be available with respect to transactions occurring after that date that would otherwise constitute withdrawals.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) or (C) does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Section 4204(c) and § 2643.3(b) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127 (1981)), require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register** and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

On August 10, 1982 (47 FR 34662), PBGC issued a class exemption from the requirements of ERISA section 4204(a)(1) (B) and (C). The class exemption applies to all sales of assets consummated prior to January 1, 1981, but on or after the effective date of Part 1, Subtitle E of Title IV of ERISA, on the condition that each of the parties provide written notification to the affected plan of the party's intention to have the transaction governed by section 4204.

The Request

The PBGC has received a request from A. A. Brown ("Brown"), acting as representative for two liquidated corporations, Centennial Laundry Company ("Centennial") and Ace Laundry Company ("Ace"), for an exemption from the requirements of ERISA section 4204(a)(1) (B) and (C). In the request, Brown represents, among other things, that:

1. During the latter part of 1980, Centennial and Ace entered into negotiations for a sale of assets to the Chief Laundry Company, a wholly owned subsidiary of North Chicago Laundry Company ("North Chicago"). An agreement of sale between the parties was executed on December 17, 1980. The agreement contained all the material terms and conditions of the sale. However, in order to take advantage of certain tax law changes, the closing, including execution of the installment notes, was deferred until January 1981. The December agreement did not take into account the provisoins of ERISA section 4204, although it was subsequently amended on September 1, 1982 in an effort to comply with section 4204(a)(1)(A).

2. Prior to the sale, Ace was a wholly owned subsidiary of Centennial, in which Brown was the sole stockholder. Following the sale of assets, both Centennial and Ace were liquidated and their remaining assets distributed to Brown.

3. North Chicago has assumed Centennial's and Ace's responsibilities, as members of the Textile Maintenance Institute, under a collective bargaining agreement with the Textile Processors, Service Trade, Health Care, Professional and Technical Employees International Union, Local No. 46 (formerly the Laundry, Dry Cleaning and Dye Workers' International Union No. 46).

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which obligated Centennial and Ace to contribute to the Laundry, Dry Cleaning and Dye House Workers' International Union Pension Fund (the "Fund"). The combined potential withdrawal liability of the sellers to the Fund has been estimated to be $150,000.

4. The amount of the bond or escrow required under section 4204(a)(1)(B) is estimated to be $45,000 (the annual contribution required to be made by Centennial and Ace for the 1980 plan year, the plan year preceding the sale).

5. An exemption should be granted from the requirements of section 4204(a)(1) (B) and (C), because, even though the closing occurred in January 1981, a binding contract containing all the terms and conditions of the sale was entered into on December 17, 1980.

6. North Chicago has indicated its intention that ERISA section 4204 should apply to the sale.

7. A complete copy of this request has been sent by Brown to the Fund and the collective bargaining representative of the seller's former employees.

No financial information on North Chicago was submitted as part of this request.

Issue Under Consideration

This request asserts that relief is warranted under ERISA section 4204(c) because a binding contract containing all of the terms and conditions of the sale was entered into on December 17, 1980, and that only for tax purposes was the closing deferred until January 1981. Thus, the parties were in essentially the same position as parties to a sale that was consummated prior to January 1, 1981 and therefore covered by the class exemption. This transaction, like the transactions presently covered by the class exemption, was due to its timing likely to have been a normal business transaction undertaken without regard to the question of withdrawal liability. Moreover, the parties want their sale to be covered by section 4204 and have indicated their agreement to assume the responsibilities they would incur if section 4204 applies.

Accordingly, on the basis of the instant request, PBGC is considering amending the class exemption from the requirements of section 4204(a)(1) (B) and (C) to also include sales for which a legally enforceable contract containing all of the terms and conditions of the sale was signed by the parties prior to January 1, 1981.

Comment

All interested persons are invited to submit written comments on the pending class exemption to the above address, on or before June 23, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 3rd day of May 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-12361 Filed 5-6-83; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance proposed rule 22d-6 (17 CFR 270.22d-6) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) which would permit registered investment companies to adopt a pricing scheme on sales of their sharers that include rates specifically described in a schedule, that permits negotiated rates, or by a combination of these two methods. Adoption of this rule would obviate the necessity of such companies' filing applications for exemptive orders permitting certain pricing variations. The rule was proposed for public comment in Investment Company Act Release No. 13183.

The potential respondents are approximately 1650 registered broker/dealers who underwrite and sell shares of investment companies.

Agency Clearance Officer—Kenneth A. Fogash—(202)272-2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

New

Rule 22d-6
No. 270-275

Submit comment to OMB Desk Officer: Robert Veeder (202) 395-4814.

Dated: May 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12365 Filed 5-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13207; 812-5436]

Pruco Life Series Fund, Inc.; Filing of Application

April 29, 1983.

Notice is hereby given that Pruco Life Series Fund, Inc. ("Applicant"), 3003 North Central Avenue, Phoenix, AZ 85012, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 25, 1983, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute the net asset value per share of its Money Market Portfolio using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the provisions from which Applicant seeks to be exempted.

Applicant states that it was organized under the laws of the State of Maryland on November 15, 1982. Applicant's investment Adviser is the Prudential Insurance Company of America ("Prudential").

According to the application, Applicant will offer for sale three separate classes of shares, one of which will represent a Money Market Portfolio ("Fund") whose investment objective is to achieve as high a level of current income as is consistent with the preservation of capital and the maintenance of liquidity by investing in high quality, short-term debt obligations. Applicant will offer its shares only to separate accounts of Prudential subsidiaries established to fund certain variable life insurance contracts.

Applicant has agreed to the following conditions to any order granting the application:

1. Applicant's board of directors in supervising the operations of the Fund and delegating special responsibilities involving portfolio management to Applicant's investment adviser undertakes—as a particular responsibility within the overall duty of care owed to the stockholders of the Fund—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Periodic review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share based upon available market quotations from the Fund's amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among other things: (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds one-half of one percent, the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in any material dilution or other unfair results to investors or existing stockholders, it shall take such corrective action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which action may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the averge maturity of the Fund; withholding dividends or payment of distributions from capital or capital gains, redeeming of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not: (a) Purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. The maturity of portfolio securities held by the Fund shall be calculated as set forth in proposed Rule 2a-7 under the Act or in such other manner as the Commission may adopt in the Rule as finally adopted.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the considerations of the board of directors and its actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meetings of the board of directors. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the investments of the Fund, including repurchase agreements, to those United States dollar denominated instruments which the board of directors determines present minimal credit risks and are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 24, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12350 Filed 5-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19718; File No. SR-CBOE-83-08]

Self-Regulatory Organizations; Proposed Rule Change By Chicago Board Options Exchange, Incorporated; Relating to Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

In Securities Exchange Act Release No. 19284, issued on November 22, 1982, the Commission approved certain rules changes of the Chicago Board Options Exchange ("CBOE"), the American Stock Exchange and the New York Stock Exchange relating to the listing and trading of standardized put and call option contracts on various stock indices. In the release the Commission stated, "Each index that will underlie an options contract must be reviewed separately as a proposed rule change pursuant to Rule 19b-4 under the Act before trading in an option based on that index may commence." The purpose of this proposed rule change is to permit CBOE to list options on the stock index described in Item 3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

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(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to permit CBOE to list and trade standardized put and call options on the stock index commonly known as the S&P 500. CBOE expects shortly to obtain a license from Standard & Poor's Corporation to use the S&P 500 Stock Price Index as an underlying stock index for securities options trading. Options on the S&P 500 will be traded within the general framework of Exchange rules for trading index options which were approved by the Commission in Securities Exchange Act Release Nos. 19264, 19586, 19587, 19588, 19589 and 19590.

Certain contract terms will differ from the terms of options which are already traded on the CBOE 100 Index. The index multiplier on the S&P 500 Index Option, defined in Rule 24.1(f), will be 500. For example, an at-the-money option when the S&P 500 is 150 would be a $75,000 contract.

The current index value would be the continuously disseminated value as reported by Standard & Poor's and by various securities information vendors who calculate and disseminate the S&P 500 throughout the day. The final index value reported by Standard & Poor's will be the closing index value as defined in Rule 24.1(g). Shortly before trading actually commences, the Exchange will designate a reporting authority as that term is defined in Rule 24.1(h).

Following is Standard & Poor's description of the S&P 500.

"The purpose of the S&P 500 Stock Price Index is to portray the pattern of common stock price movement. Construction of the index proceeds from industry groups to the whole. Since some industries are characterized by companies of relatively small stock capitalization, the Index does not comprise the 500 largest companies listed on the New York Stock Exchange. However, the total market value of the S&P 500 as of November 30, 1982 represented 79.0% of the aggregate market value of common stocks traded on the New York Stock Exchange.

"A major use of the group indexes is as a standard for comparison of the performance of individual stocks within each group. Care is taken to avoid construction of a group index in which the movements of a single, dominant stock would effectively determine the movements of the group index.

"Component stocks are chosen solely with the aim of achieving a distribution by broad industry groupings that approximates the distribution of these groupings in the New York Stock Exchange common stock population, taken as the assumed model for the composition of the total stock market. Each stock added to the Index must represent a viable enterprise and must be representative of the industry group to which it is assigned. Its market price movements must in general be responsive to changes in industry affairs. Aggregate market value of the stock and its trading activity are important considerations in the selection process. Judgments as to the investment appeal of the stocks do not enter into the selection process.

"The S&P 500 Committee is responsible for all decisions affecting the Index. It determines the overall policy and objectives of the Index and establishes guidelines and criteria for adding or deleting a company from the Index. The Committee passes on all changes. It is specifically charged with keeping the Index representative and updated, but always within the context of the basic principle of stability of composition, and every effort is made to aviod excessive turnover of the Index.

"To increase the usefulness of these price indexes, Standard & Poor's computes companion series of per share data by industry groups, all related to the stock price indexes, including per share earnings, dividends, sales, operating income, depreciation, taxes, book value, working capital and capital expenditures, and significant ratios and yields. These data are published in Standard & Poor's Analysts Handbook annually back to 1951. The Analysts Handbbok is kept current through a monthly supplement which, in addition to quarterly sales, earnings and dividends, also contains S&P's official group earnings estimates and indicated dividend rates.

Stock Price Index Formula

"The forumla adopted by Standard & Poor's after much testing is generally defined as a "base-weighted aggregative" expressed in relatives with the average value for the base period (1941–1943) equal to 10. This method of computation has two distinct advantages over most index number series: (1) It has the necessary flexibility to adjust for arbitrary price changes caused by the issuance of rights, stock dividends, splitups, etc., and (2) the resultant index numbers are accurate and have a relatively high degree of continuity, which is especially important when long term comparisons are to be made.

"*Weighting*—Each component stock is weighted so that it will influence the index in proportion to its respective market importance. The most suitable weighting factor for this purpose is the number of shares outstanding. The price of any stock multiplied by the number of shares outstanding gives the current market value for that particular issue. This market value determines the relative importance of the security.

"*Base values and group indexes*—Market values for individual stocks are added together to obtain the group market value. This group value is expressed as a relative, or index number to the base period (1941–1943) market value. As the base period market value is relatively constant the index number reflects only fluctuations in current market prices."

The basis under the Securities Exchange Act of 1934 (the Act) for the proposed rules change is Section 6(b)(5) in that the proposed changes are designed to facilitate transactions in options on a stock index and to bring such transactions within the regulatory framework of the Act and of CBOE's own rules.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange does not believe the proposed rule change will impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 29, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12367 Filed 5-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19720; File No. SR-NASD-83-4]

Self-Regulatory Organizations; Proposed Rule Change By National Association of Securities Dealers, Inc., Relating To a Fee for the Computer-To-Computer Interface Trade Reporting Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1983, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Schedule D of the NASD's By-Laws to provide a fee for the Computer-to-Computer Interface Service which permits members to report transactions through their computer systems or service bureaus. The fee for each subscriber shall be $1,200 per month.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The proposed rule change establishes a fee for the Computer-to-Computer Interface Service. This Service will facilitate trade reporting by permitting members to automatically report transactions directly through their computer systems. This proposed rule change is consistent with Section 15A(b)(5) of the Act.

B. *Self-Regulatory Organization's Statement on Burden on Competion.* The Association anticipates no burden on competition presented by this porposed rule change.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12356 Filed 5-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19721; File No. SR-NYSE-83-13]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.; Relating to the Proposed Rule Change Altering the Fidelity Insurance Requirements for Members and Member Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would alter the fidelity insurance requirements for members and member organizations and change the basis for calculating such requirements from one utilizing required net capital to one based upon the total amount of securities and money under possession and control by a member organization.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization include statements concerning the purpose of an basis for the proposed rule change and

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discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to:

- Increase the fidelity insurance coverage required to be carried by members and member organizations. Coverage for carrying organizations would be raised from a range of $200,000 to $5 million to a range of $1 million to $50 million. Required coverage for introducing members would be raised to $500,000.
- Mandate coverage for all members or member organizations that deal with the public or clear their own securities transactions.
- Permit introducing organizations to meet coverage requirements if their carrying member organization extends its coverage to them via a "Disclosed Accounts Rider."
- Change the basis for calculation of required fidelity insurance coverage from one utilizing required net capital to one based upon the total amount of securities and money under a member organization's possession and control. For member organizations with no ready method to value customers' portfolios, a substitute calculation using items reported on FOCUS is available.
- Specifically spell out categories of coverage which were previously required by policy or interpretation.

Statutory Basis for the Proposed Rule Change

The proposed change is consistent with Section 6(b)(5) of the Act in that it is generally designed to protect investors and the public interest by insuring that members and member organizations comply with certain prescribed minimum fidelity insurance standards.

The proposed amendment is also consistent with Section 6(c)(3)(A) which permits a national securities exchange to deny or condition the membership of a broker dealer that does not meet such standards of financial responsibility as are prescribed by the rules of the Exchange.

In addition, the proposed revision is in keeping with SEC Rule 15c3–1 in that it protects a member organization's capital structure against unexpected loss.

B. *Self-Regulatory Organization's Statement of Burden on Competition.* The proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments on the proposed amendments were solicited from the Exchange membership and ten responses were received. A summary of the substance of the comments received including the significant issues raised and the actual comment letters are available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. Copies of this filing, a summary of the comments and the actual comment letters will also be available for inspection and copying at the principal office of the above captioned self-regulatory organization.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizatioin consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. Copies of such filing, a summary of the comments and actual comment letters will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12334 Filed 5–6–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

San Francisco International Airport; FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by San Francisco International Airport (SFO) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for SFO under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before July 24, 1983.

DATES: The effective date of the FAA's acceptance of the SFO noise exposure maps and of the start of its review of the associated noise compatibility program is January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Ellis A. Ohnstad, Airport Planning Officer, AWP–640, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; (213) 536–6250. Comments on the proposed noise compatibility program should also be submitted to that office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for San Francisco International Airport, effective January 25, 1983, and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 24, 1983. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

San Francisco International Airport submitted to the FAA on June 2, 1982, noise exposure maps, descriptions and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at SFO from August 1977 to March 1980. It was requested that the FAA accept this material as a noise exposure map as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by San Francisco International Airport. The specific maps under consideration are depicted in Figures IID–4, IID–6 and IVB–1 in the Joint Land Use Study Final Technical Report, the final report of the ANCLUC study. The FAA has accepted these materials as the noise exposure maps for San Francisco International Airport, effective on January 25, 1983.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for SFO, also effective on January 25, 1983. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 24, 1983.

The proposed program, however, includes recommended measures relating to flight procedures for noise control purposes, the review of which is not subject to the 180-day review procedures. The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the accepted noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue SW., Room 615, Washington, D.C.;

Federal Aviation Administration, Western-Pacific Regional Office, 15000 Aviation Boulevard, Room 6E25, Hawthorne, California;

Federal Aviation Administration, Airports District Office, 831 Mitten Road, Room 210, Burlingame, California; or

San Francisco International Airport, Office of Community Affairs, Second Level Connector (between Central and North Terminal Buildings), San Mateo County, California.

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT."**

Issued in Hawthorne, California, on April 27, 1983.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 83–12344 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–13–M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–3 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: Develop a concept for an improved airway/route structure to use in the En Route Navigation (VOR) Network Program.

DATE: Beginning May 31, 1983, at 1 p.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration,

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Conference Room 9 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by May 23, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on April 29, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83-12321 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 82-22]

Economic Cost to Society of Motor Vehicle Accidents

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of publication and availability

SUMMARY: The National Highway Traffic Safety Administration has prepared a report which discusses and measures the economic loss to society that results from motor vehicle accidents. The report addresses losses associated with medical expense, lost productivity, insurance expense, property damage, legal expenses and other sources of economic loss. In addition, the report discusses the impact of these costs on Federal and state governments. The purpose of this notice is to announce the availability of the report.

ADDRESS: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, SW., Washington, DC, 20590 (202/426-0874). Comments should refer to the docket number (82-22) and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590 (docket hours are from 8:00 am to 4:00 pm, Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ellen A. Kranidas, Director, Office of Program and Rulemaking, Analysis, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, SW., Washington, DC, 20590, (202/426-1600).

SUPPLEMENTARY INFORMATION: In 1980, over 51,000 persons were killed and nearly 4 million were injured in accidents on the nation's highways. The loss of life and bodily injury resulting from these accidents is a major cause of personal grief and economic hardship for the immediate victims, their families and friends. While it is impossible to economically value the pain, suffering, and frustration that results from these accidents, both the individual accident victims and society as a whole are affected in numerous ways which can appropriately be valued in quantitative terms. The cost of medical care, for example, is borne by the individual through payments for uninsured expenses, by society through higher insurance premiums, and through the diversion of medical resources away from other needs such as disease control or medical research. Significant costs are also associated with the productivity that is lost when an individual's life is claimed at an early age. Those dependent on the victim suffer the immediate economic hardship from foregone income, but society also suffers through efforts to support the victim's dependents and through foregone contributions to the nation's productivity. These and other costs resulting from motor vehicle accidents are examined in a NHTSA report entitled "The Economic Cost to Society of Motor Vehicle Accidents."

The report estimates that the total economic cost in 1980 resulting from motor vehicle accidents was $57.2 billion. Of this total, medical costs were responsible for $3.3 billion, property losses for $21.0 billion, lost productivity for $14.2 billion, and other costs for $18.6 billion. Because of their great number, property-damage-only accidents were the largest source of loss, totalling $21.7 billion. The second largest contributor was fatal accidents, totalling $13.7 billion followed by the frequent but relatively less serious accidents classifed under the abbreviated injury scale (AIS) I totalling $7.5 billion.

Any person or organizations wishing to comment may do so by sending their comments to the address shown above.

Issued on May 4, 1983.

Barry Felrice,

Associate Administrator, Plans and Programs.

[FR Doc. 83-12273 Filed 5-6-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 83-55]

Change of Practice Relating to the Tariff Treatment of Moon Boot Shells Imported With Removable Liners; Correction

AGENCY: Customs Service, Treasury.

ACTION: Change of practice; correction.

SUMMARY: This document corrects and error in a document published in the **Federal Register** on Wednesday, March 9, 1983 (48 FR 9982), relating to a change of practice with respect to the tariff classification of moon boot shells imported with removable liners.

FOR FURTHER INFORMATION CONTACT: Jesse V. Vitello, Regulations Control Branch, U.S. Customs Service (202-566-8237).

Background

In FR Doc. 83-5963, appearing at page 9982, in the issue of March 9, 1983, the word "felt" was inadvertently included in the heading and summary portion of the document. However, as indicated in the change of practice portion, the change relates to moon boot shells imported with an equal number of liners of any construction. It is not limited to felt liners. Accordingly, the following correction is made to the document:

On page 9982, in the heading and summary, the word "felt" is removed.

Dated: May 3, 1983.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 83-12323 Filed 5-6-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 90
Monday, May 9, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, May 10, 1983.

PLACE: Commission Conference Room No. 200, Second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, DC. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-1-FOIA-020-NY, concerning a request for documents from a closed age discrimination charge file.
4. A Proposed Contract for Computer Services.

Closed:

1. Litigation Authorization: General Counsel Recommendations.
2. Proposed Withdrawal of prior Commissioners Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued May 3, 1983.

[S-852-83 Filed 5-5-83; 10:33 am]

BILLING CODE 6750-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 12, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title*: Notice of Inquiry in the Matter of Allowing the Public Direct Remote Access to Commission Computer Data Bases. *Summary*: The proposed Notice of Inquiry has been developed to address the desirability of authorizing direct electronic access by the public to the Commission's automated computer files. This action is the result of a petition submitted by the Association of Federal Communications Consulting Engineers.

General—2—*Title*: Petition for rulemaking concerning the repeal or modification of the personal attack and political editorial rules. *Summary*: The Commission will consider adoption of a Notice of Proposed Rulemaking concerning repeal or modification of Section 73.1920 and 73.1930 of the rules, the personal attack and political editorial rules.

Private Radio—1—*Title*: Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available for repeater operation. *Summary*: The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97 of the Rules to make additional Amateur Radio Service frequencies in the 28.0—29.7 MHz band available for repeater operation.

Private Radio—2—*Title*: Amendment of Subpart K of Part 90 of the Rules to permit the use of omnidirectional antennas with operational-fixed stations operating on assignments in the 450-470 MHz band (RM-4230). *Summary*: The FCC will consider whether to adopt a Notice of Proposed Rule Making to allow 450-470 MHz operational fixed stations to utilize omnidirectional antennas if they communicate with at least three receiving locations separated by at least 160° in azimuth.

Common Carrier—1—*Title*: Application of American Telephone and Telegraph Company for authority under Section 214 of the Communications Act to install and operate packet switches at specified telephone company locations in the United States. *Summary*: The Commission will consider whether to grant or deny AT&T's application for Section 214 authority to install and operate packet facilities at specified telephone company locations. The facilities would be used in a new service offering called the Basic Packet Switching Service (BPSS).

Common Carrier—2—*Title*: National Association of Regulatory Utility Commissioners Petition for Declaratory Ruling that State Commissions Have Authority to Require Exchange Carriers to Provide and Maintain Basic Telephone Instruments and Associated Inside Wiring. *Summary*: The Commission will consider whether it is consistent with the Second Computer Inquiry for states to require telephone companies to provide customer premises equipment and related installation and maintenance services to their subscriber on a detariffed basis under a specific alternative regulatory scheme proposed by NARUC.

Common Carrier—3—*Title*: Adoption of Rules Relating to the Provision of CPE by the Florida Public Service Commission. *Summary*: In response to a petition for declaratory ruling filed by the Florida Telephone Association, the Commission will consider whether the *Second Computer Inquiry* has preempted the Florida PSC's requirements relating to the provision of customer premises equipment by carriers.

Video—1—*Title*: (1) Application for the involuntary assignment of the license of station WDHO-TV, Toledo, Ohio, from D. H. Overmyer Telecasting Co., Inc., as debtor in possession under the United States Bankruptcy Court, Southern District of New York to D. H. Overmyer Telecasting Co., Inc.; (2) Application for the involuntary assignment of the WDHO-TV license from D. H. Overmyer Telecasting Co., Inc., to D. H. Overmyer Telecasting Co., Inc., as debtor in possession under the United States Bankruptcy Court, Norther District of Ohio, Eastern Division; (3) an application from the First National Bank of Boston for the involuntary transfer of control of D. H. Overmyer Telecasting Co., Inc., as debtor in possession under the United States Bankruptcy Court, Northern District of Ohio, Eastern Division, from The Overmyer Company to the First National Bank of Boston; (4) Petition for Special Relief and Informal Objection to the application of the First National Bank of Boston by The Overmyer Company. *Summary*: The Commission will consider the significance of the assumption of control of a broadcast facility pursuant to the order of a bankruptcy court, but without prior Commission consent, and other matters alleged regarding the appropriateness of granting the First

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National Bank of Boston's involuntary transfer application.

Video—2—*Title:* Petition for Reconsideration of a partial denial of a tax certificate (CSR–1708) filed by Georgia Cablevision Corporation and Atlanta Home Theater. *Summary:* Petitioners seek a tax certificate, pursuant to Section 1071 of the 1954 Internal Revenue Code, for the sale of a MDS system.

Video—3—*Title:* "Petition for Clarification," filed by Direct Broadcast Satellite Corporation (DBSC) of the Commission's action of December 3, 1982, granting a direct broadcast satellite authorization to DBSC. *Summary:* The Commission will consider the request by Direct Broadcast Satellite Corporation (DBSC) for clarification of the grant of its construction permit for an interim direct broadcast satellite system.

Policy—1—*Title:* Increased antenna height of Class A FM broadcast stations in Puerto Rico and the Virgin Islands. *Summary:* The Commission will consider amending its rules to permit increased antenna height, up to 1,100 feet above average terrain for Class A FM stations in Puerto Rico and the Virgin Islands.

Policy—2—*Title:* Amendment of FM Table of Assignments regarding Helena, Montana (BC Docket No. 80–523). *Summary:* The Commission will review a Broadcast.

Enforcement—1—*Title:* License Renewal Applications of Certain Broadcast Stations Serving the States of Louisiana and Mississippi. *Summary:* The Commission considers a petition to deny filed by the National Black Media Coalition against the renewal applications of 19 broadcast stations located in Louisiana and Mississippi as well as a petition to deny filed by the Mississippi NAACP against the renewal applications of Stations WROA/WZKX (FM), Gulfport and WSLI/WXLY (FM), Jackson, Mississippi. Both petitions allege that the licensees have deficient employment practices with regard to Blacks.

Enforcement—2—*Title:* License Renewal Application of United Communications Corporation for Station WVBK, Herndon, Virginia. *Summary:* The National Black Media Coalition filed a petition to deny alleging that the licensee's employment practices regarding minorities do not comply with the Commission's EEO rules and policies. The Commission considers the petitioner's allegations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: May 6, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-656-83 Filed 5-5-83; 3:36 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, May 12, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Application for Review in Illinois Bell Telephone Company DPLMRS application/complaint proceeding (CC Docket Nos. 78–314 and 315).

Hearing—2—Applications for Review of a final Review Board Decision and a Petition to Enlarge Issues in the Louisville, Kentucky television proceeding (Docket Nos. 79–280 and 79–281).

Hearing—3—Petition for Reconsideration in the Orange Park, Florida, comparative TV proceeding (Docket Nos. 81–690 and 81–692).

Hearing—4—Petition for Reconsideration, Certified Question, and Motion to Show Cause in the Arlington, Virginia, comparative DPLMRS proceeding (CC Docket No. 79–229–31).

Hearing—5—Petitions for Reconsideration in the City of New York Municipal Broadcasting System (WNYC–WCCO) AM radio proceeding (Docket Nos. 11227, 17558, 19403).

Hearing—6—Application for a Construction Permit for a new standard broadcast station in Lares, Puerto Rico (Docket No. 20989)

Hearing—7—Applications for Review, Petitions for Enlargement of the Issues, and Petition for Leave to Amend in the Muncie, Indiana FM radio comparative proceeding (BC Docket Nos. 80–96 to 80–98).

Hearing—8—Applications for Review in the Cleveland, Ohio comparative UHF television proceeding: (BC Docket Nos. 80–425 and 80–426).

Hearing—9—Exceptions to the Initial Decision in the complaint proceeding involving MCI Telecommunications Corp., AT&T and PT&T (CC Docket No. 81–217).

Hearing—10—Joint Motion for Dismissal of Action with Prejudice and Termination of Proceedings in the Western States Telephone Company Common Carrier proceeding (Docket No. 16883).

Hearing—11—Application for Review in the TV–8, Inc., Somerset, Kentucky UHF television comparative proceeding (BC Docket Nos. 80–454 and 455).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearing Items 1 thru 9, May 4, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider these items in Closed Session.

Hearing Item 10, February 9, 1983. Commissioners Fowler, Chairman, Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider this item in Closed Session.

Hearing Item 11, April 18, 1983. Commissioners Fowler, Chairman, Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: May 6, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-655-83 Filed 5-6-83; 3:38 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION

Federal Register No. 633

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 12, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting for this date:

Final repayment determination and issuance of statement of reasons for the Reagan for President Committee

PERSON TO CONTRACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-657-83 Filed 5-5-83; 3:53 pm]

BILLING CODE 6715-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION

May 4, 1983.

TIME AND DATE: 10 a.m. May 11, 1983.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTRACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—778th Meeting—May 11, 1983, Regular Meeting (10 a.m.)

CAP–1. Project No. 6743–000, Hudson River-Black River Regulatory District
CAP–2. Project No. 6293–001, Horseshoe Bar Associates, Inc.
CAP–3. Project No. 4044–002, Minnesota Department of Natural Resources
CAP–4. Project No. 2986–003, James C. Katsekas and Zoes J. Dimos
CAP–5. Project No. 6695–001, et al., Crown Zellerbach Corp., et al.
CAP–6. Project No. 2701–002, Niagara Mohawk Power Corp.
CAP–7. Project No. 6775–001, Winchester Water Control District and Elektra Power Corp.
CAP–8. Project No. 6775–002, Winchester Water Control District and Elektra Power Corp.
CAP–9. Project No. 2840–003, East-Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District And South Columbia Basin Irrigation District
CAP–10. Project No. 3620–002, Power Authority of the State of New York
CAP–11. Project No. 6806–002, New York State Energy Research and Development Authority; Project No. 4113–001, Long Lake Energy Corp.; Project No. 5315–001, Phoenix Hydro Corp.; Project No. 5323–001, Village of Phoenix, New York
CAP–12. Docket No. HB24–63–3–004, Public Service Co. of Colorado
CAP–13. Project No. 4881–003, Arthur Bloom and Ada County; Project No. 3598–000, Cook Electric Co.
CAP–14. Project No. 2811–002, Public Utility District No. 1 of Klickitat County, Washington
CAP–15. Project Nos. 6175–004, 6206–001, 6245–001 and 6246–001, Lester Kelley, et al.
CAP–16. Project Nos. 67–009 and 2868–000, Southern California Edison Co.; Project No. 2904–000, the Cities of Anaheim and Riverside, California
CAP–17. Project No. 45448–000, Western Power, Inc.; Project No. 6071–000, Public Utility District No. 1 of Lewis County, Washington; Project No. 6387–001, Western Hydro Electric, Inc.
CAP–18. Project No. 6307–002, Lawrence J. McMurtrey
CAP–19. Project No. 4796–001, Niagara Mohawk Power Corp.
CAP–20. Docket No. EL79–32–001 and Project No. 1490–000, Brazos River Authority
CAP–21. Project Nos. 108–007 and 008, Northern States Power Co.
CAP–22. Docket No. ER83–396–000, Northern Indiana Public Service Co.
CAP–23. Docket Nos. ER83–407–000 and ER82–751–000, Delmarva Power & Light Co.
CAP–24. Docket No. ER80–573–001, Southwestern Public Service Co.
CAP–25. Docket No. EL80–25–004, Commonwealth Edison Co.
CAP–26. Docket No. ER83–241–001, Idaho Power Co.
CAP–27. Omitted
CAP–28. Docket No. ER82–576–000, Energy Conversions of America, Inc.
CAP–29. Omitted
CAP–30. Docket No. ER82–553–001, Ohio Power Co.
CAP–31. Docket No. EL83–3–000, Delmarva Power & Light Co.
CAP–32. Docket No. ER82–707–000, Interstate Power Co.
CAP–33. Omitted
CAP–34. Docket Nos. ER82–702–000, 001, ER82–703–001 and ER76–304, et al., New England Power Co.
CAP–35. Docket No. ER82–593–000, Pennsylvania Electric Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. GP83–13–000, State of Oklahoma, Section 108 NGPA Determination, Phillips Petroleum Co., Tilla #1 Well, FERC J.D. No. 82–44102
CAM–2. Docket No. GP82–59–000, Wyoming Oil and Gas Conservation Commission, NGPA Section 107 Determination, Amoco Production Co., Champlin 242 Amoco D No. 1 Well, J.D. No. 82–23136
CAM–3. Docket No. RM79–76–159 (Texas—29), High-Cost gas produced from tight formations
CAM–4. Docket No. RM79–76–163 (Colorado—31), High-Cost gas produced from tight formations
CAM–5. Docket No. RM79–76–180 (New Mexico—20), High-Cost gas produced from tight formations
CAM–6. Docket No. RO82–19–000, Lobo Oil Co.

Consent Gas Agenda

CAG–1. Docket Nos. TA83–2–31–000 (PGA83–2, IPR83–2) and RP83–67–000, Arkansas Louisiana Gas Co.
CAG–2. Docket Nos. RP83–52–003 and RP83–53–002, United Gas Piple Line Co.
CAG–3. Docket No. TA83–52–37–000 (PGA83–3), Northwest Pipeline Co.
CAG–4. Docket No. RP82–114–001, Northwest Central Pipeline Co. (formerly Cities Service Gas Co.)
CAG–5. Docket No. RP83–77–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–6. Docket No. TA83–2–37–000 (PGA83–2 and IPR83–2), Northwest Pipeline Corp.
CAG–7. Docket Nos. RP65–57, RP65–34 and RP67–10, Texas Gas Transmission Corp.; Docket Nos. RP73–14–012, 013 and 014, Michigan Wisconsin Pipe Line Co.
CAG–8. Docket No. RP82–13–000, National Fuel Gas Supply Corp.
CAG–9. Docket No. RP82–96–000, Southwest Gas Corp.
CAG–10. Docket No. RP81–25–003, South Georgia Natural Gas Co.
CAG–11. Docket Nos. RP80–97–015, RP81–54–005, RP77–62–021, RP82–12–008 and RP82–125–008 (liquids and liquefiables), Tennessee Gas Pipeline Co.; Docket Nos. RP80–100–007, RP81–61–006, RP82–80–001 and RP79–39–008, Michigan Wisconsin Pipe Line Co.; Docket Nos. RP80–145–007, RP81–82–006, and RP82–119–004, Columbia Gulf Transmission Co.; Docket Nos. RP80–146–007, RP81–83–007, and RP82–120–003, Columbia Gas Transmission Co.; Docket Nos. RP80–55–004, RP80–118–005, RP81–73–000 and RP82–32–000, Sea Robin Pipeline Co.; Docket Nos. RP81–7–008, and RP81–84–005, Florida Gas Transmission Co.; Docket No. RP81–130–002, Transwestern Pipeline Co.; Docket No. RP61–169–004, Texas Eastern Transmission Corp.; Docket No. RP82–55–005, Transcontinental Gas Pipe Line Corp.; Docket No. RP81–76–000, Northwest Central Pipeline Corp.
CAG–12. Docket No. ST83–155–000, Howell Pipeline Co.
CAG–13. Docket No. G–7004–012, Pennzoil Co.
CAC–14. Docket Nos. CI82–273–001 and CI82–274–001, Pennzoil Co.
CAG–15. Docket No. CI75–122–001, et al., Getty Oil Co., et al.
CAG–16. Docket No. RI81–1–002, Amoco Production Co.
CAG–17. Omitted
CAG–18. Docket Nos. CP82–500–000, 001 and 002, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–19. Docket Nos. CP73–70–004, CP77–31–000 and CP78–102–000, Columbia Gulf Transmission Co.; Docket Nos. CP77–37–000 and CP77–396–000 Sea Robin Pipeline Co.; Docket Nos. CI77–80–000 and CI70–116–000, Amoco Production Co.; Docket Nos. CP77–597–000 and CP79–504–000, Trunkline Gas Co.; Docket No. CP78–44–000, Columbia Gulf Transmission Co. and Tennessee Gas Pipeline Co.; Docket Nos. CP78–136–000, CP79–24–000 and CP81–93–000, Transcontinental Gas Pipe Line Corp.; Docket No. CP78–189–000, Texas Eastern Transmission Corp.; Docket No. CP81–5–000, United Gas Pipeline Co.; Docket No. CP81–68–000, Southern Natural Gas Co.; Docket No. CP81–482–000, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
CAG–20. Docket Nos. CP77–408–007 and 008, El Paso Natural Gas Co.
CAG–21. Docket No. CP82–471–000 Howell Pipeline Co., Inc.
CAG–22. Docket No. CP83–163–000, Montana-Dakota Utilities Co.
CAG–23. Docket No. CP83–252–000, Natural Gas Pipeline Co. of America.
CAG–24. Docket No. CP82–12–000, New England States Pipeline Co.
CAG–25. Docket No. TA83–2–34–001 (PGA83–2), Florida Gas Transmission Co.
CAG–26. Docket No. CP83–270–000, Producer-Suppliers of Transcontinental Gas Pipe Line Corp.

I. Licensed Project Matters

P–1. Project No. 344–001, Southern California Edison.
P–2. Project Nos. 2497–001, 2758–001, 2776–001, 2768–001, 2770–001, 2771–001, 2772–001, and 2775–001, Linweave, Inc.

II. Electric Rate Matters

ER–1. Docket Nos. ER81–400–001 and 002, Pennsylvania Power & Light Co.
ER–2. Docket No. ER78–417–000, Kentucky Utilities Co.
ER–3. Docket Nos. ER79–182–000 and ER80–106–000, Commonwealth Edison Co.
ER–4. Docket No. ER81–187–000, Public Service Co. of New Mexico.
ER–5. Docket No. ER78–490–000, Ohio Edison Co.; Docket No. ER80–673–000, Ohio Power Co.
ER–6. Docket No. EF82–5031–000, Western Area Power Administration (Pick-Sloan Project).

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ER-7. Docket No. PL83-4-000, Policy statement regarding the Commission's enforcement role under Section 210 of the Public Utility Regulatory Policies Act of 1978.
ER-8. (a) Docket No. ER82-616-001, Middle South Energy, Inc.; (b) Docket No. RM83-21-000, Interpretation of authority to suspend initial rate schedules.

Miscellaneous Agenda

M-1. Reserved
M-2. Reserved
M-3. Docket Nos. RM80-47-002, 003, 005, 006, 007, 008, 009, 010, 011 and 012, Regulations implementing Section 110 of the Natural Gas Policy Act of 1978 and establishing policy under the Natural Gas Act.
M-4. Docket Nos. RM80-47-003, 004, 007, 009 and 010, Regulations implementing Section 110 of the Natural Gas Policy Act of 1978 and establishing policy under the Natural Gas Act.
M-5. Docket No. GP81-43-000, MCOR Oil & Gas Corp.
M-6. (a) Docket No. GP81-34-000, State of Ohio, Section 103 NGPA Determination, Charles O. Lighthizer, A. R. Crawford No. 1 Well, FERC No. JD79-6124, State Docket No. 2595, Marshall No. 1 Well, FERC No. JD79-12527, State Docket No. 3903; (b) Docket No. GP83-6-000, State of Kansas, Section 102 NGPA Determination, TXO Production Corp., Cromer #1 Well, JD No. 83-03969, State Docket No. K-82-0699; Docket No. GP83-10-000, State of Mississippi, Section 107 NGPA Determination, Sun Exploration and Production Co., Sun Gas Division, Ross Beatty No. 1 Well, JD No. 82-52240; (c) Docket No. GP83-12-000, Kansas Corp. Commission, Continental Energy Co., Section 103 NGPA Determination, Stanley No. 1 Well, JD81-01760; Docket No. GP82-9-000, State of West Virginia, Section 103 NGPA Determination, Patrick Petroleum Corp., Jacob Daugherty No. 1 Well, FERC No. JD81-27387; Docket No. GP82-48-000, State of New Mexico, Section 103 NGPA Determination, Warren Petroleum Co. (a Division of Gulf Oil Corp.), Mark Well No. 8, FERC Docket No. JD79-16337.
M-7. Omitted

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket No. RP79-10-002 and RP80-134-007, Great Lakes Gas Transmission Co.
RP-2. Docket No. TA81-2-33-000, et al., El Paso Natural Gas Co.
RP-3. Docket Nos. TA83-1-33-006 and TA82-2-33-016 (affiliated entities), El Paso Natural Gas Co.; Docket Nos. TA82-2-9-008 and TA83-1-9-003, Tennessee Gas Pipeline Co.
RP-4. Docket Nos. TA83-1-30-005 and RP83-51-002, Trunkline Gas Co.
RP-5. Docket No. TA83-1-26-002, Panhandle Eastern Pipe Line Co.

II. Producers Matters

CI-1. Omitted

III. Pipeline Certificate Matters

CP-1. Docket No. RP73-6-002, Mississippi River Transmission Corp.
CP-2. Docket No. TC83-6-000, Arkansas Louisiana Gas Co.
CP-3. Docket No. TC83-7-000, Consolidated Gas Supply Corp.
CP-4. Docket No. CP82-342-000, Consolidated Gas Co. of Florida, Inc., applicant v. Florida Gas Transmission Co., respondent.
CP-5. Docket No. CP82-531-000, Consolidated Gas Supply Corp.; Docket No. CP82-550-000, Transcontinental Gas Pipe Line Corp.
CP-6. Docket Nos. CP74-122-013 and 014, Energy Terminal Service Corp.; Docket No. CP73-148-002, Energy Pipeline Corp.; Docket No. CP80-453-000, Texas Eastern Transmission Corp.

Kenneth F. Plumb,
Secretary.

[S-853-83 Filed 5-5-83; 10:40 am]
BILLING CODE 6717-01-M

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, May 4, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Discussion entitled "What is advertising anyway?" with American Association of Advertising Agencies.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-854-83 Filed 5-5-83; 3:36 pm]
BILLING CODE 6750-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 10:00 a.m., Thursday, May 12, 1983.

PLACE: Sheraton Centre Hotel, 811 7th Avenue (7th and 53rd Street), New York, New York 10019; (212) 581-1000.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Membership in Federal Credit Unions; Final Amendment to Policy Statement 82-3, Allowing Addition of Groups Within Area Around Branch Office.
4. Federal Credit Union Loan Rate Ceiling; Continuation or Reduction of 21% Ceiling Beyond Present Expiration Date of September 4, 1983.
5. Final Amendment to NCUA Regulation Section 701.1(a), to include in the definition of low income credit union, credit unions predominantly serving students.
6. Proposed Charter Amendment from Zelico Federal Credit Union, Bogalusa, Louisiana, to convert the Field of Membership from Occupational to Community Charter.
7. Appeal of Denial for Charter Application for Proposed El Campo Aluminum Employees Federal Credit Union, El Campo, Texas.

TIME AND DATE: 4 p.m., Wednesday, May 11, 1983.

PLACE: Sheraton Centre Hotel, 811 7th Avenue (7th and 53rd Street), New York, New York 10019.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Requests from Federally insured credit unions for special assistance to prevent liquidation under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Requests for special assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Requests for emergency mergers under Section 205(h) of the Federal Credit Union Act with special assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Proposed Memorandum of Agreement between NCUA and a Federal Credit Union. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-855-83 Filed 5-5-83; 4:09 pm]
BILLING CODE 7535-01-M

8

NATIONAL CREDIT UNION ADIMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 10 a.m., Monday, April 18, 1983.

PLACE: Sixth floor, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTER CONSIDERED:

1. Merger.

The Board voted that the agency business required that a meeting be held with less than the seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-856-83 Filed 5-6-83; 4:09 pm]
BILLING CODE 7535-01-M

9

NATIONAL CREDIT UNION ADMINISTRATION:

Notice of Previously Held Emergency Meeting

TIME AND DATE: 3 p.m., Wednesday, April 13, 1983.

PLACE: Seventh Floor Board Room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTER CONSIDERED:

1. Conservatorship.

The Board voted that the agency business required that a meeting be held with less than the seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-850-83 Filed 5-4-83; 4:09 pm]
BILLING CODE 7535-01-M

10

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 9, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tueseday, May 10:*
10:00 a.m.:
Discussion of NECNP v. NRC (Elimination of Financial Qualification Review) (Closed—Exemption 10)
2:00 p.m.:
Discussion of Steps to Decision in TMI-1 Restart (Closed—Exemption 10)

Wednesday, May 11:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)
2:00 p.m.:
Review of NFS-Erwin Settlement (Closed—Exemptions 1 and 10)

Thursday, May 12:

10:30 a.m.:
Evaluation of Implications of Salem Event (Part I) (Public Meeting)
2:00 p.m.:
Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule (Public Meeting)

Friday, May 13:

10:00 a.m.:
Meeting with ACRS (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: May 3, 1983.

Walter Magee,
Office of the Secretary.

[S-851-83 Filed 5-4-83; 4:42 pm]
BILLING CODE 7590-01-M

11

SECURITIES AND EXCHANGE COMMISSION

STATUS: Open/closed meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, May 3, 1983.

CHANGES IN THE MEETING: Deletions/additional items.

The following item will not be considered at a closed meeting scheduled for Tuesday, May 10, 1983, at 10:00 a.m.

Regulatory matter bearing enforcement implications.

The following additional item will be considered at an open meeting scheduled for Wednesday, May 11, 1983, at 10:00 a.m. in Room 1C30.

Consideration of whether to issue an interpretative release discussing certain questions raised by *Colema Realty Corp. v. Bibow* with respect to Rule 16b-3 under the Securities Exchange Act of 1934. For further information, please contract William E. Toomey at (202) 272-2573.

The following item will not be considered at a closed meeting scheduled for Wednesday, May 11, 1983, following the 10:00 a.m. open meeting.

Regulatory matter regarding financial institution.

The following items will be considered at a closed meeting scheduled for Wednesday, May 11, 1983, following the 10:00 a.m. open meeting:

Settlement of adminstrative proceeding of an enforcement nature.
Litigation matter.

Commissioner Evans, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

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Part II

Department of Transportation

Federal Aviation Administration

Airport Traffic Control Towers; Revised Establishment and Discontinuance Criteria

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Revised Establishment and Discontinuance Criteria for Airport Traffic Control Towers

AGENCY: DOT, Federal Aviation Administration (FAA).

ACTION: Invitation for public comment on proposed criteria for establishment and discontinuance of VFR airport traffic control towers.

Summary and Purpose: Current criteria for establishment and discontinuance of airport traffic control towers, publiched in FAA Order 7031.2B, Airway Planning Standard Number One—Terminal Air Navigation Facilities and Air Traffic Control Services (Reference 1), are based upon an economic analysis published in 1975 (Reference 2). These criteria have been revised to incorporate updated economic values and costs and improved analysis of tower benefits (Reference 3). The FAA is soliciting public comment on the proposed changes because: (1) Public comments on FAA's tower criteria have not been solicited since several policy alternatives for tower discontinuance were proposed for public comment in 1977 (Reference 4), (2) the revised criteria are somewhat more stringent than current criteria, (3) the Airport and Airway Improvement Act of 1982 provides that direct costs for operation and maintenance of airport traffic control facilities, as well as establishment of such facilities, may be taken from the Aviation Trust Fund (Reference 5), (4) the criteria are an important element to assist in the implementation of FAA's National Plan of Integrated Airport Systems, and (5) it is expected that these revised criteria will also serve as a basis for decisions concerning contracting tower operations to the private sector. The FAA believes that it is appropriate for the public to have input to the criteria development process, since these criteria will help to determine how much of Aviation Trust Fund resources will be used to provide airport traffic control services.

Invitation for Public Comment: Interested parties are invited to submit written comments on the proposed revised airport traffic control tower establishment and discontinuance criteria and/or suggest alternative criteria.

DATE: Comments should be received on or before June 15, 1983.

ADDRESS: Communications should be mailed in duplicate to FAA, APO–230, 800 Independence Ave., SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Harvey B. Safeer, Director of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–426–3331. Copies of the Draft Criteria Report Number FAA–APO–83–2 and additional copies of this notice may be obtained from the same address. The referenced literature is also available for review at this location.

SUPPLEMENTARY INFORMATION:

Background

Criteria for the establishment of airport traffic control towers have been published by FAA and its predecessor organization since 1951. Current criteria for tower establishment, published as Change 3 to Airway Planning Standard Number One in October 1975 and shown in an Appendix to this notice, are based upon an economic analysis detailed in an FAA report, "Establishment Criteria for Airport Traffic Control Towers (ATCT)" (Reference 2).

Criteria for the discontinuance of tower services have been available since 1956. While establishment criteria revisions tightened criteria for new facilities, FAA maintained "grandfather" clauses for discontinuance of towers commissioned under previous criteria. This "grandfather" approach protected towers already in service by relating discontinuance of an existing tower to the criteria in effect at the time the tower was programmed or established.

In 1977 the FAA drafted a report, "An Analysis of Continued Operation of Selected Airport Traffic Control Towers" (Reference 6), which provided a comprehensive benefit-cost approach to assess the merits of continued funding of towers. Locations were identified as candidates for discontinuance wherever benefits from continued tower operation were less than operating and maintenance costs over a 15-year forecast period. That same year, the FAA published a notice in the **Federal Register** (Reference 4) and held public hearings inviting comments on alternative policy formulations for tower discontinuance. Most of the respondents (about 75 percent) wanted the tower at "their" location retained.

In June 1981, the U.S. General Accounting Office (GAO) published a report "FAA Misses Opportunities to Discontinue or Reduce Operating Hours of Some Airport Traffic Control Towers" (Reference 7). GAO criticized the FAA for continuing to use a "grandfather" clause instead of "uniform criteria" for tower discontinuance, continuing "operation of economically unjustified control towers," and using "outdated information in benefit-cost analysis." The GAO recommended that the FAA "identify control tower candidates for discontinuance by adopting uniform criteria which require (1) an economic analysis based on up-to-date benefits and costs and (2) consideration of noneconomic factors, such as topography or the frequent occurrence of severe weather at each airport, and institute procedures to ensure that the criteria are applied periodically and that discontinuance of candidate towers is actively pursued."

Current discontinuance criteria were published as Change 19 to Airway Planning Standard Number One in November 1981. This Change established uniform criteria for decommissioning airport traffic control towers and required that a site-specific analysis be performed which would consider specific factors listed in the change. (See Appendix for additional details.)

Revised Criteria

The FAA has completed a revised economic analysis for VFR airport control towers (Reference 3) and has used this analysis to revise the establishment and discontinuance criteria. The analysis campares the present value of tower benefits with the present value of tower costs over a fifteen-year time frame.

Site-specific activity forecasts are used to develop the three categories of VFR tower benefits: benefits from prevented collisions between aircraft, benefits from other prevented accidents, and benefits from reduced flying time. Considered in the benefit analysis are the mix of aircraft types (air carrier, air taxi, general aviation, and military) and levels of local and itinerant traffic operating within the terminal area. Also considered are the number of passengers and crew aboard each generic category of aircraft who might be killed or injured should a collision or other type of tower-preventable accident occur. Updated economic values (Reference 8) are used to develop tower benefits and assign explicit dollar values to fatalities, injuries and passengers' time to provide a common basis for comparing costs and benefits.

Revised VFR tower costs include annual costs of staffing, maintenance, equipment, supplies and leased services. Establishment costs also include non-recurring investment costs such as facilities, equipment, and operational start-up. Tower discontinuance criteria use the same annual costs as establishment criteria, but investment costs are replaced by the costs of closing the tower.

A location meets tower establishment criteria when the benefits which derive from operating the tower exceed the installation and operations costs—the benefit/cost ratio is greater than or equal to one. A tower meets discontinuance criteria, when the life-cycle costs of continued operation exceed the benefits—the benefit/cost ratio is less than one. If a tower meets the initial benefit-cost screening criteria for discontinuance, a site-specific analysis will then be performed. Factors which must be included in this analysis are specified in the proposed Change to the Airway Planning Standard given in the Appendix.

Preliminary screenings, using the revised benefit-cost criteria, indicate that fewer airports will tend to qualify for tower establishment and somewhat fewer towers will qualify for continued operation. Report Number FAA–APO–83–2, "Establishment and Discontinuance Criteria for Airport Traffic Control Towers" (Reference 3) provides a comprehensive description of the revised benefit-cost analysis and criteria for VFR towers.

References

1. Airway Planning Standard Number One—Terminal Air Navigation Facilities and Air Traffic Control Services, FAA Order 7031.2B, through Change 20, FAA, December 11, 1981.

2. Establishment Criteria for Airport Traffic Control Towers (ATCT), Report Number ASP–75–4, FAA, October 1975.

3. Establishment and Discontinuance Criteria for Airport Traffic Control Towers, Draft Report, Report Number FAA–APO–82–2, April 1983.

4. **Federal Register**, Vol. 42, No. 170, September 1, 1977, pp 44062–5.

5. Airport and Airway Improvement Act of 1982, Pub. L. 97–248, Enacted September 3, 1982.

6. An Analysis of Continued Operation of Selected Airport Traffic Control Towers (ATCT), Draft Report, Report Number FAA–ASP–77–6, FAA, June 1977.

7. FAA Misses Opportunities to Discontinue or Reduce Operating Hours of Some Airport Traffic Control Towers, U.S. General Accounting Office, June 1, 1981.

8. Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs, Report Number FAA–APO–81–3, FAA, September 1981.

Issued in Washington, D.C., on April 29, 1983.

Harvey B. Safeer,

Director of Aviation Policy and Plans.

Appendix

This appendix contains the text of the proposed change to Airway Planning Standard Number One and the current text of the Planning Standard which it would replace.

Proposed Revised Tower Criteria

5. *FAA Airport Traffic Control Tower.*

a. *Establishment.*

(1) *Phase I Criteria.*

Phase I criteria, simple tests for identifying possible sites for tower establishment, use the following ratio sum derived from the latest annual operation counts. Let

AC=Air Carrier Operations
AT=Air Taxi Operations
GAI=General Aviation Itinerant Operations
GAL=General Aviation Local Operations
MI=Military Itinerant Operations
ML=Military Local Operations

Then

$$\frac{AC}{38{,}000} + \frac{AT}{90{,}000} + \frac{GAI}{160{,}000} + \frac{GAL}{280{,}000} + \frac{MI}{48{,}000} + \frac{ML}{90{,}000}$$

is the *Phase I Establishment Ratio Sum.* If this sum is greater than or equal to one, then the site becomes a candidate for tower establishment.

(2) *Benefit/Cost Criteria (Phase II).* Phase II criteria, detailed in Report Number APO–83–2, Establishment and Discontinuance Criteria for Airport Traffic Control Towers, compare the present value of tower benefits with the present value of costs over a fifteen-year time frame, using site-specific activity forecasts to develop the benefits. The present values are then obtained by discounting the future costs and benefits to the present and summing. A location meets *tower establishment criteria* when the ratio of benefits to costs is 1.0 or greater.

(3) Phase I is used to identify a potential candidate and Phase II verifies its economic justification. A location may be exempted from meeting Phase I and/or Phase II and be considered an establishment candidate because of other special factors. In these cases a site-specific analysis must be performed and adequate justification presented.

The site specific analysis should include, but not be limited to:

(a) Assurance that factors unique to the location such as weather and topography, are properly accounted for.

(b) Potential use of the site to provide capacity and training relief for a hub airport.

(c) Impact on adjacent facilities.

(d) Operational factors which cannot otherwise be accounted for by the benefit-cost analysis.

(e) The possibility of significant changes in traffic activity attributable to unique local conditions.

(f) Military requirements.

(4) FAA Regional Offices shall submit site-specific data required to apply the criteria and validate candidacy with their response to the annual Call for Estimates.

b. *Hours of Operation.*

(1) Normally new control towers will be operated 16 hours or less a day. Individual operational justification is required to operate any newly established control tower more than 16 hours per day.

(2) Order 7232.5E, Reduced Operating Hours for Airport Traffic Control Tower/Approach Control Facilities, establishes criteria and provides guidelines for selecting airport traffic control tower/approach control facilities for reduced hours of operation.

Based on a study of the individual location's activity pattern, the region shall submit recommended hours of operation to the Washington Office. (See Order 7232.5E, Reduced Operating Hours for Airport Traffic Control Towers/Approach Control Facilities.)

c. *Discontinuance.*

(1) *Phase I Criteria.*

For tower discontinuance, the following ratio sum, analogous to the sum in Paragraph 5a. Establishment, is used:

$$\frac{AC}{15{,}000} + \frac{AT}{40{,}000} + \frac{GAI}{75{,}000} + \frac{GAL}{125{,}000} + \frac{MI}{20{,}000} + \frac{ML}{35{,}000}$$

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A site becomes a discontinuance candidate if this sum, the *Phase I Discontinuance Ratio Sum*, drops below one.

(2) *Benefit Cost Criteria (Phase II).* Phase II criteria, detailed in Report Number APO–83–2, compare the present value of continued tower operation with associated benefits. A location meets *tower discontinuance criteria* when the ratio of benefits to costs falls below one.

(3) *Site-Specific Analysis (Phase III).* If continued tower operation is not economically justified, a site-specific analysis will be performed which should include, but not be limited to:

(a) Assurance that factors unique to the location such as weather and topography, are properly accounted for.

(b) Potential use of the site to provide capacity and training relief for a hub airport.

(c) Impact on adjacent facilities.

(d) Operational factors which cannot otherwise be accounted for by the benefit-cost analysis.

(e) The possibility of significant changes in traffic activity attributable to unique local conditions.

(f) Military requirements.

(4) FAA Regional Offices shall submit discontinuance candidates, along with the site-specific data required to apply the criteria and validate candidacy, annually or more often if appropriate.

d. *Withdrawn*—CHG 3

Current Tower Criteria

5. *FAA Airport Traffic Control Tower.*

a. *Establishment.* An airport having certificated route air carrier service, air taxi (including scheduled commuter service) or general aviation activity or any combination thereof is a candidate for a control tower if it satisfies the sum of the ratio value level described below: A ratio value for each of the three (3) types of operation categories is computed. If the sum of the three ratio values is equal to or greater than 1, then the location is a candidate.[1]

Type of operation		Ratio value
(1)	Number of air carrier operations / 15,000 =	xxxxx
(2)	Number of air taxi operations / 25,000 =	xxxxx
(3)	Number of general aviation and military operations (local plus itinerant) / 200,000 =	xxxxx
	Sum of ratio values	If 1 or greater, location is a candidate.

b. *Hours of Operation.*

(1) Normally new control towers will be operated 16 hours a day. Individual operational justification is required to operate any newly established control tower more than 16 hours per day.

(2) Order 7232.5E, Reduced Operating Hours for Airport Traffic Control Towers/Approach Control Facilities, establishes criteria and provides guidelines for selecting airport traffic control tower/approach control facilities for reduced hours of operation.

Based on a study of the individual location's activity pattern, the region shall submit recommended hours of operation to the Washington Office. (See Order 7232.5E, Reduced Operating Hours for Airport Traffic Control Towers/Approach Control Facilities.)

c. *Discontinuance.* A control tower is a candidate for decommissioning when the sum of the ratio values computed in paragraph 5a. *Establishment* drops below 0.65. Using the approach described in Report No. ASP–75–4, Establishment Criteria for Airport Traffic Control Towers, tower decommissioning candidates will be screened in FAA Headquarters to determine whether continued operation is economically justified. If this screening does not show that continued operation is justified, a site-specific analysis will be performed which shall include:

(1) Assurance that factors unique to the location such as weather and topography, are properly accounted for.

(2) Potential use of the site to provide capacity and training relief for a hub airport.

(3) The possibility of reducing FAA operating costs.

(4) The possibility of significant changes in traffic activity attributable to unique local conditions.

(5) The feasibility of local cost-sharing.

FAA Regional Offices shall submit discontinuance candidates along with the data required for screening annually, or more often if appropriate.

d. Withdrawn—CHG 3.

[FR Doc. 83–12183 Filed 5–6–83; 8:45 am]

BILLING CODE 4910–13–M

[1] Tower candidates identified by the above procedure will be screened in FAA Headquarters using the approach described in Report No. ASP–75–4, Establishment Criteria for Airport Traffic Control Towers. FAA Regional Offices shall submit data required for screening purposes with their responses to the annual Call for Estimates.

federal register

Monday
May 9, 1983

Part III

Department of Energy

Office of Conservation and Renewable Energy

Affordable Manufactured Housing Through Energy Conservation; Notice of Inquiry

VOL 48 ISS 90 MAY 9 1983 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Ch. II

[Docket No. CAS-RM-79-112A]

Affordable Manufactured Housing Through Energy Conservation

AGENCY: Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy announces the availability of draft voluntary guidelines for home manufacturers and retailers entitled, "Affordable Manufactured Housing Through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Manufactured Homes". For the purposes of the guidelines, a manufactured home is a structure: transportable in one or more sections; built on a permanent chassis; and designed to be used as a dwelling. This Notice of Inquiry is intended to solicit public comment on the draft guidelines. The Department is particularly interested in receiving comments on the set of questions contained in this Notice.

Congress has directed the Department to develop and promulgate voluntary energy performance standards for the design of new commercial and residential buildings. Compliance with these standards will only be required for the design of new Federal buildings. For all other buildings, these standards will serve as voluntary guidelines.

As defined by statute, an energy performance standard for a new building is a design requirement which prescribes an energy consumption goal and a method for calculating whether the design meets that goal.

The draft guidelines, which are the subject of this Notice, provide a simplified calculation technique for analyzing whether the design of a manufactured home meets an energy consumption goal which could be set by a manufacturer, retailer, financial institution, or a consumer. No energy consumption goals, however, have been developed at this time.

Instead of establishing specific energy consumption goals, the draft guidelines provide a simple, reliable way to determine the cost effectiveness of different energy conservation options, without prescribing a specific level in investment for energy conservation. They allow the user to consider regional differences in climatic conditions, building materials and labor costs, fuel prices, and fuel types.

The draft guidelines contain an easy to operate slide rule which will enable home manufacturers and retailers to calculate the amount of energy that can be saved by incorporating energy conservation options that affect space conditioning. The use of the slide rule is explained in a short brochure. Both slide rule and brochure are packaged in a folder for easy access and use. Accompanying the slide rule folder is a design and construction guidebook that explains how to construct, install, specify, and operate the several energy conservation options analyzed by the slide rule. The guidebook discusses and analyzes additional space conditioning options as well as a variety of domestic hot water and appliance options. The guidebook also provides the user with an easy to use economic evaluation technique for determing the cost effectiveness of a single or combination of options.

The draft guidelines and a technical support document will be available for public inspection at the DOE Headquarters in Washington, D.C. or at the nine DOE Regional Support Offices on May 9, 1983. Address for each are listed elsewhere in this Notice. A copy of the draft guidelines and the technical support document may be obtained by submitting a written request to the Hearings and Dockets Branch of the Office of Conservation and Renewable Energy. Because supplies of each are limited, respondents are asked to specify whether they are interested in reviewing either the draft guidelines or the technical support document, or both, and to request the documents only if they plan to submit comments.

DATES: Written comments must be received no later than July 8, 1983, 60 days after the guidelines and technical support documents are made available for review, to receive consideration by the Department. Current plans are to make the guidelines available through a network which includes the Government Printing Office. A public meeting will be held on May 20, 1983, 9:00 a.m., in Washington, D.C. at the Department of Energy, 1000 Independence Ave. S.W. Room 1E-245. The purpose of the public meeting is to provide a briefing on the draft guidelines to interested parties and to allow the opportunity for oral comments.

ADDRESSES: Send written comments (5 copies) to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, Docket Number CAS-RM-79-112A, 1000 Independence Avenue SW., Room 6B-025, Washington, D.C. 20585, (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Architectural & Engineering Systems Branch, Department of Energy, Room GF-231, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9837

Richard F. Kessler, Office of General Counsel, Department of Energy, Room 6B-158, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9519.

SUPPLEMENTARY INFORMATION:

I. Background
II. A Revised View of Performance Standards
III. Technical Approach
IV. Summary of Guidelines
V. Use of Guidelines
VI. Questions for Public Comment
VII. Availability of Guidelines
VIII. Comment Procedures

I. Background

The Energy Conservation Standards for New Buildings Act of 1976, as amended (Act), 42 U.S.C. Section 6831 *et seq.*, requires the Department of Energy (DOE) to issue voluntary performance standards for the design of new commercial and residential buildings. Compliance with the standards is only required for the design of new Federal buildings. For all other buildings, compliance is voluntary, and the standards serve only as voluntary guidelines.

As originally enacted, Title III of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1144 *et seq.*, required the Department of Housing and Urban Development (HUD) to develop, promulgate, implement and enforce compliance with the performance standards. On August 4, 1977, the Act was amended by Section 304(a), 42 U.S.C. Section 7154, of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et seq.*, which transferred from HUD to DOE the responsibility to develop and promulgate the standards. HUD retained its implementation responsibilities.

In November 1979, DOE published proposed energy performance standards in the **Federal Register**, 44 FR 68120 *et seq.* (November 28, 1979). The Notice was controversial and generated over 40,000 comments. The comments included technical and other substantive criticisms of the proposed standards. Many commenters expressed concern that the proposed standards were not technically practicable or economically achievable. Furthermore, many commenters stated that the proposed standards placed too great a reliance upon the use of a complex computer program which many commenters said

they neither understood nor could afford to use.

Less than a year after publication of the proposed standards, the Act was again amended by Section 326, 94 Stat. 1629, of the Housing and Community Development Act of 1980, Publ. L. 96-399 (October 8, 1980). This amendment required that DOE promulgate interim standards by August 1, 1981, and extended the date for promulgation of a final rule to April 1, 1983. These interim standards were only to apply to new Federal buildings and required demonstration projects in at least two geographical areas.

In August 1981, Congress again amended the Act and also deferred the appropriation for the program for Fiscal Year 1981 to Fiscal Year 1982. Subtitle D of Title 10 of the Omnibus Reconciliation Act of 1981, 97 Stat. 35 (August 13, 1981), amended the Act to create the term "voluntary performance standards;" eliminated the provision for a possible statutory sanction for noncompliance; added a provision that, except for Federal buildings, "voluntary standards will be developed solely as guidelines to provide technical assistance for the design and construction of energy efficient buildings;" and extended the time to meet a reporting requirement.

II. A Revised View of Performance Standards

The legislative changes which have taken place since enactment of the Act in 1976 require a fundamental change in focus. DOE retains the responsibility for developing voluntary performance standards for all new buildings but these standards now serve a dual purpose. The performance standards serve one purpose for the Federal sector where the standards would set required performance levels for Federal buildings only. However, the Act specifically directs that, except for Federal buildings, voluntary performance standards "* * * shall be developed solely as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings" Section 304(a)(4) of the Act. Accordingly, voluntary guidelines serve a second purpose for the private sector by providing sound technical information and examples of cost effective, energy efficient design and construction practices.

The Act defines the term "voluntary performance standards" to mean:

> an energy consumption goal or goals to be met without specification of the method, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary." Section 303(a) of the Act.

As defined by the Act, the voluntary performance standards serve as an objective during the design stage. They do not apply to the operation, maintenance or energy consumption of a building once built. They operate by setting an energy consumption goal for a building; i.e., a quantified target of energy consumption at the design stage and a method to calculate whether a design meets the energy consumption goal.

Past experience with the development of standards for this program has demonstrated the need for a simple, reliable way to enable a person to determine the cost effectiveness of different energy conservation options. Comments received in response to proposed energy performance standards published in November 1979 were especially critical of the apparent need to use a complex, time-consuming computer program as the calculation method.

Use of a complex computer program alienated many and left others unconvinced of its technical accuracy. Additionally, it became clear that people will only invest in greater energy efficiency if convinced that the long term cost savings, from reduced energy consumption, justify the first cost expenditure. Accordingly, DOE has concluded that the most effective way to convince a person to invest in additional energy conservation options is to provide a method which convincingly demonstrates that the savings justify the investment. One must first be able to calculate the costs and benefits of additional levels of energy conservation. Only then does it make sense to recommend a voluntary energy consumption goal which is technically achievable, economically attainable and environmentally sound.

DOE has made a major effort to develop calculation techniques which are inexpensive, readily understood and easy to operate. The objective has been to develop calculation techniques, which, to borrow a term from the computer industry, are "user friendly".

Today's issuance announces the availability of what DOE hopes will prove to be a user friendly calculation technique to determine the cost effectiveness of energy conserving options for manufactured homes.

The draft guidelines, which are the subject of this Notice, provide a simplified technique which will assist home manufacturers, retailers and home buyers in assessing the relative economic viability of conservation purchases. In effect, users of the guidelines will set their own energy consumption goal and use the simple analysis tools to establish the best energy conservation options to meet that goal. No energy consumption goal has been set by DOE at this time.

The guidelines provide a simple, reliable way to determine the relative cost effectiveness of different combinations of energy conservation options, without prescribing specific levels of investment. By considering regional differences in materials and labor costs, fuel prices, fuel types, and climatic conditions, the results of the selection of energy conservation options may be specifically selected by each user.

Although actual fuel consumption will vary with differences in family size and lifestyle, site differences, building orientation on a site, rapid and/or severe changes in temperature, humidity and sun availability, and other considerations, the guidelines and accompanying slide rule will give relative mean energy use under uniformly assumed living conditions. The guidelines will contain an easy to operate Slide Rule calculator which will enable home manufacturers and retailers to calculate the amount of energy that may be saved by incorporating energy conservation options that affect Space Conditioning. The use of the Slide Rule is explained in a short brochure. Both Slide Rule and brochure are packaged in a folder for easy access and use. Accompanying the slide rule folder is a design and construction guidebook that explains how to construct, install, specify, and operate the several energy conservation options analyzed by the Slide Rule. The guidebook discusses and analyzes additional Space Conditioning options as well as a variety of Domestic Hot Water and Appliance options. The guidebook also provides the user with an easy-to-use Economic Evaluation Technique for determining the cost effectiveness of a single or combination of options.

III. Technical Approach

DOE established a technical project for the development of manufactured home guidelines using the management services of the American Institute of Architects Foundation (AIA-F). Steven Winter Associates, Inc. (SWA) of New York, an architectural/engineering firm, developed the comprehensive information on energy conservation options included in the guidelines. SWA was responsible for performing the

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computer analyses on manufactured homes and for preparing complete documentation of the research methods, assumptions, and results.

Lawrence Berkeley Laboratory (LBL) also contributed to the effort. Much of the initial computer analyses on manufactured homes and residential buildings was compiled through their long-term residential research program. Additionally LBL performed much of the data base research on climate and location factors.

The project has been aided by several review panels which provided guidance and assistance to the project team: a panel of home manufacturers and retailers; a research review panel composed of passive solar, climate, and project overview subpanels; and a panel of architects. The research review panel reviewed research methods, assumptions, and results. The home manufacturer and retailer and architect panels reviewed the development of the guidelines as the project progressed. Representatives from utilities, HUD, public interest groups, consumer groups, environmental groups, and the financial community were asked to provide their views and advice as appropriate.

This project focuses on the credibility of the energy use analyses. Considerable attention has been given to examining all research assumptions and procedures to ensure their adequacy and accuracy. In addition, all research methods, assumptions, and results have been thoroughly documented to ensure that all research results are reproducible and verifiable. The research documentation is available for review at the DOE Headquarters Office in Washington, D.C. and at the nine DOE Regional Support Offices.

The first step in the research effort was to define building prototypes. For manufactured housing they are single- and double-section prototypes—a 14-foot-wide single unit and a 4-foot-wide double unit. Prototypes have been defined largely on the basis of data from the Manufactured Housing Institute and the National Institute of Building Sciences. DOE–2.1 was then used to determine the prototypes' base energy used in 45 U.S. climatic locations. DOE-2.1 is a public-domain computer program for energy analysis of buildings. It calculates the hour-by-hour energy use of a building if provided with its location, construction, operation, and heating, ventilation and air-conditioning equipment specifications. It was developed by the Lawrence Berkeley Laboratory in collaboration with Los Alamos National Laboratory with financial support from DOE. Next, a variety of energy conservation options were defined, and DOE–2.1 sensitivity analyses were performed for the prototypical homes in various climates and locations to determine the energy use effects of each option.

The data from this research provided the basis for preparing a data base for displaying the research results. This process enabled the researchers to determine the energy effects of a variety of options. The results were analyzed further and it was determined that an easy to use Slide Rule would be the most practical format to display the information.

Fifty-one cities, included in an original DOE–2.1 data base, were selected because they included most major cities and covered the range of climate types in which there is significant building construction and acquisition.

This data base was subsequently modified by a DOE sponsored project. Locations were eliminated if the changes in both heating and cooling were within 5% of that of another base city. This resulted in the elimination of eight cities. At the same time two new locations were added for better coverage, resulting in 45 base cities.

To develop results for other locations the following climate data was used: (1) heating and cooling degree days to various degree bases for the 3400 National Oceanographic and Atmospheric Administration (NOAA) stations (20-year average 1951–1980), and (2) latent humidity calculated from Typical Meteorological Year (TMY) weather tapes for 300 U.S. loctions.

IV. Summary of Guidelines

The draft guidelines are written for those in the manufactured housing industry who desire a simple procedure for designing and constructing energy conserving, cost efficient manufactured homes. They show how different energy conservation strategies in different regions can actually increase monthly disposable income by reducing fuel bills. Home buyers, weary of the spiraling cost of fuel, are becoming increasingly receptive to retailers and manufacturers who are prepared to explain how particular energy conservation related expenditures may, over a short period of time, save more money in reduced fuel bills than they cost. The draft guidelines may be used by manufacturers and retailers interested in improving energy efficiency and using energy cost savings as a marketing strategy to sell homes.

The design and construction of those parts of the home, which affect energy use, are influenced by a number of industry and government participants. HUD, under the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, Put L. 93–383, 42 U.S.C. Section 5401 *et seq.*, regulates certain energy related aspects of a manufactured home's construction. The HUD Standards (24 CFR Part 3282) apply to all homes manufactured for sale to purchasers in the United States and are designed to improve the quality and durability of the homes. The thermal integrity of the home is a significant part of the standards. In addition, product manufacturers, lenders, and home buyers are all market forces influencing the energy efficiency of the manufactured home.

Manufacturers confronted with these sometimes conflicting pressures have had to rely on intuition, experience and, where available, complicated energy used and economic analysis tools to estimate the costs and savings of options designed to reduce energy use in the home. Many of the tools are ill-suited to this purpose, difficult to use and may not cover a sufficient range of possible energy improvements to allow comparisons. For example, one tool might be useful for estimating the energy and cost impacts of increased insulation levels but is not applicable for estimating the impacts from the installation of a solar domestic hot water system.

By providing user friendly energy and economic analysis procedures, the guidelines fill a number of gaps. First, they allow the manufacturer or retailer to evaluate the impact on energy use of an array of options. Next, local fuel costs may be utilized to more accurately estimate the dollar savings from a given option.

Finally, by providing an easy-to-use tool for economic analysis, the guidelines allow the savings in fuel costs to be compared with the costs of purchasing and installing the option to reveal the "net" savings to the homeowner. Demonstrating that an option or a package of options will result in a net savings is equivalent to saying that purchasing these options will reduce the cost of home ownership. For example, it may be possible to show that increasing the cost of the home $100, by purchasing a more efficient furnace, will save $300 in fuel costs in the first year. Demonstrating and documenting estimated dollar savings in this way is not only an excellent marketing tool, but it also provides data to convince a lender to finance the cost of the improvement. In addition, lenders, concerned with a potential home buyer's ability to carry a mortgage, are beginning to view fuel costs as an important consideration in deciding whether or not a loan is secure.

Application of this tool should encourage that trend.

V. Use of Guidelines.

The guideline document is divided into three main chapters and an appendix. The chapters are entitled:

- Chapter 1. Overview and Using the Guide
- Chapter 2. Design and Construction
- Chapter 3. Selecting Energy Conservation Options
- Appendix. Estimating Local Energy Costs

The first chapter introduces the guideline package and provides a road map for using the materials presented. The second chapter contains construction, design and specification information on the energy conservation options discussed in the third chapter. Worksheets are provided which, when used in conjunction with the Slide Rule, are useful in selecting those energy conservation options which are most cost-effective.

The worksheets are divided into two parts. The first describes the characteristics of a "Comparison Home." The Comparison Home is used as a benchmark against which the energy savings of various conservation options are compared. The Comparison Home is representative of construction specifications typically used by retailers and manufacturers. The second part of the worksheet is used to identify how various components and systems (the "OPTIONS") which when added to, or substituted in, the Comparison Home, influence the amount of energy the home is expected to use.

Separate worksheets are provided for evaluating options in each of the major areas of energy use: Space Conditioning, Domestic Hot Water and Appliances. Options from all three worksheets are compared and the final selection of options is made by the manufacturer or retailer using a set of economic worksheets.

It is anticipated that the guidelines will aid the manufacturer and retailer in assisting the potential home buyer in selecting and financing energy conservation options. Further, but covering the most popular and effective options from each of the major areas of energy use (Space Conditioning, Domestic Hot Water, and Appliances), the guidelines help identify a 'balanced' package of options.

The discussion which follows describes in more detail the information contained in each separate chapter of the guidelines.

Design and Construction

This chapter discusses the characteristics, affecting heating and cooling, which contribute to the overall energy efficiency of the manufactured home. The chapter is intended to be used with the Slide Rule and contains descriptions of energy efficient construction techniques required to achieve the performance levels estimated by the slide rule analysis procedure.

The design and construction information in the guidebook is divided into individual sections providing recommended techniques for constructing or installing each of the options evaluated by the Slide Rule.

It is suggested that interested persons carefully note these discussions to ensure that the home will be built properly for an energy efficiency standpoint, and that the assumptions built into the Slide Rule are, in fact, reflected in the construction of the actual home. In order to make these assumptions absolutely clear to the manufacturer or retailer, a summary is provided at the end of each discussion explicitly listing the assumptions for the particular component being reviewed.

Selecting Energy Conservation Options

The first section of this chapter explains the use of the Space Conditioning worksheet. The worksheet, which is filled in using the energy savings calculated from the Slide Rule, is designed to calculate the actual fuel costs for a "Comparison Home" and for a series of "options" in which one or more of the characteristics of the Comparison Home have been changed. Properly completed, the worksheet gives the manufacturer or retailer a clear indication of the energy use implications for a variety of alternative methods for designing and constructing a particular home for a particular location. The information contained on the worksheet is used in the Economic Evaluation Technique described below.

The second section of the Selecting Energy Options chapter discusses the energy performance characteristics of the Domestic Hot Water system in the manufactured home. The Federal Trade Commission (FTC) promulgated "Energy Guide" performance labels form the basis for the energy use and fuel cost analyses provided in this section.

A method is also provided for fine tuning the accuracy of these labels with respect to the location of the home, its particular fuel costs, and the system characteristics. The resultant simple analysis technique allows the energy cost savings associated with Domestic Hot Water energy conserving options to be compared. As in the preceding Space Conditioning section, a worksheet is provided comparing the fuel costs of the various system and energy conservation options being considered.

Once completed, the worksheet gives the manufacturer or retailer a simple and clear indication of the cost implications of utilizing a particular Domestic Hot Water system. The information, tabulated on the worksheet, can be used with the Economic Evaluation Technique discussed below.

The Appliance section of this chapter reviews the effects on annual fuel costs of the major Appliances in the manufactured home. As in the Domestic Hot Water discussion, the Energy Guide labels which appear on appliances manufactured since May 1980, form the basis of the energy use and cost analysis method presented.

The Appliances analyzed in this section are:

- Refrigerator
- Refrigerator-Freezers
- Freezers
- Dishwashers
- Clothes Washers
- Clothes Dryers
- Kitchen Ranges and Ovens

The use of the labels to calculate and compare the fuel costs of various different pieces of equipment is explained in detail in the section.

A worksheet is provided and the manufacturer or retailer can quickly assess the fuel cost implications of specifying particular pieces of equipment and of substituting other, more energy efficient models. This worksheet, like those for Space Conditioning and Domestic Hot Water, is also designed to be used with the Economic Evaluation Technique.

Having calculated the energy use and fuel cost characteristics for a variety of Space Conditioning, Domestic Hot Water, and Appliance options and recorded this information on the appropriate worksheets, the next step is to decide which of the options are most appropriate for a particular home in a particular location. This last section of the Selecting Energy Options chapter provides an easy-to-use Economic Evaluation Technique for making decisions based on the relative cost effectiveness of each of the options being considered.

The technique is focused on three final worksheets which incorporate information from the preceding three worksheets and which, when properly completed, display the options for a particular home, ranked according to the

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order in which they are most cost effective. The resulting list of individual options can be combined into packages of options with recalculated total energy cost savings information. These packages with their accompanying technical and financial documentation will provide valuable tools for the successful marketing of cost effective, energy conserving manufactured housing.

Slide Rule Brochure

A separate brochure entitled "Using the Slide Rule and Modifiers" outlines the procedures for quantifying energy savings due to the energy conservation options. The Slide Rule and additional analysis techniques are used to calculate the change in energy use associated with changing one or more of the following characteristics of the Comparison Home:

- Ceiling Insulation
- Wall Insulation
- Floor Insulation
- Infiltration
- Floor Area (as a base parameter)
- Window Characteristics
  - a. sash material
  - b. glazing layers
  - c. area
  - d. glazing materials
- Location (climate zone)
- Equipment and Controls (efficiency)
- Fans (Whole House Type)
- Movable Window Insulation
- Exterior Roof Color
- Thermostat Setback

Different sets of slide rule inserts will be provided for each of the 45 locations, thus simplifying the necessary calculations. The Slide Rules alone will provide quick, reliable estimates of the changes in home energy use resulting from changes in particular building characteristics.

VI. Questions for Public Comment

DOE welcomes the comments of interested persons. However, DOE is particularly interested in obtaining the views of the public, including home manufacturers and retailers, mortgage institutions and the Department of Housing and Urban Development and other interested persons on the questions set forth below. DOE would appreciate receipt of all written comments and related information by July 8, 1983 in order to utilize this material for the next phase of the program.

1. Are the documents useful to manufacturers and retailers in marketing conservation measures and to home buyers in purchasing energy conservation options?

2. Would a guidebook oriented to the energy related concerns of manufactured home buyers be appropriate and/or necessary?

3. Are the construction details useful, clearly presented and accurately discussed?

4. Does the economics section provide the information of most concern to sellers and purchasers?

5. Should an energy label or sticker, based on the guidelines, be developed for attachment to the home?

VII. Availability of Draft Guidelines

Copies of the Draft Guidelines and the Technical Support Document will be available on May 9, 1983 for inspection at the DOE Freedom of Information Office, Forrestal Building, Room 1E-090, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, and at each of the DOE Regional Support Offices, which are located at the following addresses:

U.S. Department of Energy, Boston Support Office, 150 Causeway Street, Room 700, Boston, Massachusetts 02114

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3200, New York, New York 10278

U.S. Department of Energy, Philadephia Support Office, 1421 Cherry Street, Philadelphia, PA 19102

U.S. Department of Energy, Atlanta Support Office, 1655 Peachtree NE., 8th Floor, Atlanta, Georgia 30309

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439

U.S. Department of Energy, Dallas Support Office, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas Texas 75235

U.S. Department of Energy, Kansas City Support Office, 324 East Eleventh Street, Kansas City, Missouri 64106

U.S. Department of Energy, Denver Area Office, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226

U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, California 94612.

Copies of the draft guidelines, technical support document or both may be obtained by making a written request to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-025, Washington, D.C. 20585. (202) 252-9319

VIII. Comment Procedures

All interested persons are invited to submit written comments to DOE. The correspondence should be mailed to the same address as above. Comments should be identified on the document and envelopes submitted to DOE with the designation "Affordable Manufactured Housing through Energy Conservation". Five (5) copies should be submitted. All written comments and related information should be received by DOE no later than July 8, 1983, 60 days after the documents are made available, in order to receive consideration in the final guidelines.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

(Energy Conservation Standards for New Buildings Act of 1976, as amended, 42 U.S.C. Section 6831 *et seq.*; the Department of Energy Organization Act, 42 U.S.C. Section 7101 *et seq.*)

Issued in Washington, D.C., April 26, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-12179 Filed 5-6-83; 8:45 am]

BILLING CODE 6450-01-M

federal register

Monday
May 9, 1983

Part IV

Department of Energy

Western Area Power Administration

General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

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VOL 48 ISS 90 MAY 9 1983 UMI

DEPARTMENT OF ENERGY

Western Area Power Administration

General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

AGENCY: Western Area Power Administration, Department of Energy.

SUMMARY: The Western Area Power Administration has developed the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria) contained herein through an extensive public process. Western began the informal process in November 1979, holding several informal Public Information Forums, and continued with the formal public process, when proposed Criteria were published in the **Federal Register** on September 22, 1981 (46 FR 46864–46874) and August 24, 1982 (47 FR 36946–36957). Two Public Comment Forums were held to gather public input on the proposals. The Public Comment Forums were announced in the **Federal Register** on December 29, 1981 (46 FR 62929) and September 20, 1982 (47 FR 41420), and were held on January 21, 1982, and November 23, 1982.

The Criteria contained herein will serve as the principles and guidelines for the marketing of power from the Boulder Canyon Project, Parker-Davis Project and the United States entitlement in the Navajo Generating Station (Navajo), a feature of the Central Arizona Project. Power from these Projects will become available as existing contracts or contract extensions terminate, and will be marketed in accordance with these Criteria.

The Criteria contained herein provide for:

1. Renewal of Boulder Canyon Project contracts under new terms and conditions;

2. Reservation of capacity and energy amounts for current Parker-Davis Project contractors;

3. Marketing principles for the additional capacity made available through the Boulder Canyon Project Uprating Program and energy in excess of Boulder Canyon Project renewal amounts;

4. Marketing principles for additional Parker-Davis Project capacity made available through operational integration of the Federal system and energy in excess of amounts reserved for current contractors;

5. Marketing principles for Navajo capacity and energy surplus to Central Arizona Project and Title I Salinity Control Project needs; and

6. General contract provisions applicable to the power sales from all resources in the Boulder City Area.

In accordance with applicable authorities for power sales from the Projects, the Criteria defines the geographic area in which the power available will be marketed, the amounts and classes of power available, the service seasons for the Boulder City Area, priorities and preferences in allocation, points of delivery, and general contract provisions.

DATES: These General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects are effective 30 days from the date of this notice.

ADDRESS: For further information concerning these Criteria contact: Mr. R. A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005.

SUPPLEMENTARY INFORMATION:

Contents

A. Discussion of Public Comments
B. Revisions to the "Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects—Revision" as a Result of Public Comment
C. Documents in Public File
D. Regulatory Procedural Requirements
E. General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

A. Discussion of Public Comments

Throughout the informal and formal public process, Western received numerous comments from organizations comprised of present contractors, public and private utilities, municipalities, state and Federal agencies, Congressional representatives, and private citizens. The Comments centered around 15 major issues. They are:

1. Term of Contract;
2. Marketing Area;
3. Service Seasons;
4. Central Arizona Project Regulatory Storage;
5. Priority Use Power;
6. Renewal of Current Boulder Canyon Project Contracts;
7. Amount of Capacity and Energy Reserved for Renewal to Current Boulder Canyon Project Contractors;
8. Total Energy Available from the Boulder Canyon Project;
9. Firming Energy for the Boulder Canyon Project;
10. Operational Flexibility of the Boulder Canyon Project Resource;
11. Nonfederal Funding of the Boulder Canyon Project (Hoover) Uprating Program;
12. Marketing Power to the Metropolitan Water District of Southern California;
13. Environmental Assessment;
14. Comments from the San Diego, California Area; and
15. Allocations to Military Installations.

1. *Term of Contract.* The Criteria provides that Parker-Davis Project power will be placed under contract for a 20-year period. Boulder Canyon Project power will be placed under contract for a 30-year period with a reevaluation of the amount of energy available from the project at the end of the first 20 years.

These terms of contract have been established in response to comments received to the proposed Criteria of September 1981, that solicited comments on terms of contract ranging from 10 to 20 years, and the revised Criteria published in August 1982, that proposed a 20-year term of contract and the unique nature of the resources. With few exceptions, the comments received indicated that no support would be given for a 10-year term of contract. Commentors insisted that Western's reason to establish the 10-year term of contract; i.e., to allow accurate resource commitments based on near-term hydrologic studies, was insufficient justification for such a short term of contract. They proposed that a longer term of contract, with provisions for adjustment of energy at reasonable intervals, would be a more reasonable approach.

At the present time, there are no proposed additions to the Parker-Davis Project. The amount of resources available are expected to remain stable for at least 20 years. Additionally, due to the complexity of combining Boulder Canyon Project marketing with Parker-Davis Project marketing, the term of contract of 20 years contained in the Criteria for Parker-Davis Project resources is a reasonable term of contract in these unique circumstances.

With regard to the Boulder Canyon Project, legislative amendments have been proposed recently by the Department of the Interior. These amendments would authorize the development of additional capacity at the Boulder Canyon Project through contributed funding agreements. The amount of capacity financed by the entities receiving the allocation of capacity from the Hoover Uprating Program will be delivered in stages as the uprating program is completed.

Western believes that the proposed (August 1982) 20-year term could unnecessarily restrict some smaller entities from participating in the Hoover Uprating Program. Therefore, these amounts of capacity will be placed under contract that will terminate on September 30, 2017. Western believes that this term of contract for Boulder Canyon Project power is sufficient to amortize any bond financing arrangements at reasonable annual rates.

In order to have a common term of contract for Boulder Canyon Project power, renewal contracts will also terminate on September 30, 2017. Western believes the term of contract shown in the Criteria for the Projects to be fair and reasonable.

Comments were also received that the post-1987 Boulder Canyon Project contracts must contain a renewal clause. Western believes that there is no need for, and therefore will not include, renewal language in Boulder Canyon Project contracts, or the Criteria, since the statute does not require such a clause.

2. *Marketing Area.* The Criteria establishes and defines the geographic boundaries of the power marketing area for all Boulder City Area resources. The area can generally be described as southern California, southern Nevada, most of Arizona and a small portion of New Mexico. This is the area in which power from Boulder City Area resources has been historically marketed.

Throughout the public process Western has received comments from entities in Utah and other states in the Upper Colorado River Basin that these states should receive a fair allocation of Boulder City Area power. They have indicated that the allocation of Colorado River Storage Project power (marketed by the Salt Lake City Area Office of Western) to entities in the Lower Colorado River Basin should be withdrawn if the Upper Colorado River Basin states do not receive a fair allocation of Boulder City Area power. They have presented maps showing the "overlap" of the Salt Lake City and Boulder City marketing areas and have indicated that entities in the Lower Colorado River Basin have an unfair advantage over entities in the Upper Colorado River Basin for allocations of Federal power due to this "overlap" of marketing areas.

In contrast, entities in the Boulder City Area have commented that Western should retain its historical marketing area.

The historical marketing area generally conforms to the boundaries of the Bureau of Reclamation's (Reclamation) Lower Colorado Region, excepting that portion of the Lower Colorado River Basin in Utah.

Power from resources in the Boulder City Area has historically been marketed to southern Nevada, southern California, Arizona, and to a narrow section of New Mexico bordering eastern Arizona. Except for Boulder Canyon Project power, there is no statutory identification of a specified geographical area in which power from Boulder City Area resources is to be marketed. The decision of the area in which to market power from particular projects has been left to Secretarial determination.

The marketing of power from the Parker-Davis Project and Navajo was influenced by the location of these projects, load centers and available transmission. In the case of the Parker-Davis Project, transmission facilities were constructed as part of the Federal project to the load centers that could economically be reached. Parker-Davis Project power was marketed within the States of Arizona, California, and Nevada due to the practicality of transmission over the relatively short distance. Service practicalities also encourage arrangements for marketing Navajo power to other participants in the Navajo Generating Station. The participants are located within Arizona, California, and Nevada. The layoff contract arrangements were practical because, either transmission service paths from the Navajo resource to the "layoff" contractors were established, for the most part, by their involvement as Navajo participants, or the contractor had access to the resource because of involvement in other Federal projects.

The total preference load in the Boulder City Area is nearly 10,000 MW, while the Federal resources to which the Criteria applies have a total capability of less than 3,000 MW. Federal resources in the Boulder City Area supply approximately 30 percent of the total preference load. In contrast, Federal resources in the Upper Colorado River Basin serve nearly 50 percent of the preference load. To expand the Boulder City Marketing Area to include the Upper Colorado River Basin would only serve to dilute the benefits of the Federal resources in the Boulder City Area. No good reason appears to reduce the amount of Federal resources to the Upper Colorado River Basin, when the proportion of Federal resources to preference load are in such contrast.

Western has concluded that the power marketing area should be established to coincide with the historical power marketing practice in the Boulder City Area.

3. *Service Seasons.* The Criteria provides for two service seasons for Boulder City Area Projects. The Summer Season is generally the months of March through September with the Winter Season being generally the months of October through February. The Criteria provides for a reduced allocation during the Winter Season, as this is the period when generator maintenance is performed and the generating capacity of the Projects is reduced.

The concept of service seasons for marketing of Boulder City Area resources is not new. The current Parker-Davis Project contracts and Southern Division Colorado River Storage Project contracts have both a Summer and Winter service season. However, the length of these service seasons do not correspond. Additionally, the current Boulder Canyon Project contracts do not contain allocations for particular service season. Western asked for comments on the desirability of adopting a 6 month Summer-6 month Winter Season similar to that contained in the Colorado River Storage Project contracts or adopting the 7 month Summer-5 month Winter Season similar to the current Parker-Davis Project contracts.

Comments received indicated that the 7 month Summer-5 month Winter Season option was preferred. Reasons cited were that the longer 7 month Summer Seaon allowed the greater Summer Season allocation to span the month of March when, in general, the loads were building and the additional resource is needed.

Present Boulder Canyon Project contractors indicated their concern that the concept of service seasons would reduce their present flexibility of scheduling energy to meet their loads. Western's intent is to allow the Boulder Canyon Project contractors to schedule the energy allocated to them to meet their loads within water release constraints, not unlike the method presently employed. The water release constraints are the same as those that have historically been imposed, and in fact, have been taken into consideration in the development of the service seasons. Historically, approximately 70 percent of the annual water release from Lake Mead has been scheduled during the 7 month Summer Season. An amount of energy equivalent to this water release is shown in the Criteria as available during the Summer Season, with the remainder being shown as available in the Winter Season. Western believes that there is sufficient diversity in the contractors' loads to be able to schedule energy to meet the needs of the

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contractors without imposing a burden on any particular contractor.

The present Boulder Canyon Project contractors objected to the reduction in capacity allocations in the Winter Season that had been proposed in the August 1982 Criteria. They stated that such a reduction was unprecedented in project history. Some of the current Boulder Canyon Project contractors proposed, as an alternative, the showing of the Summer Season allocation contained in the August 1982 Criteria as contingent capacity on a year around basis. Western agrees with this approach, and has, therefore, removed the Winter Season capacity amounts. Capacity reductions for the Boulder Canyon Project in the Winter Season will be on a pro rata basis, depending upon the capacity of the generating units actually removed from service.

4. *Central Arizona Project Regulatory Storage.* The Criteria provides for the marketing of Navajo power surplus to Central Arizona Project and Title I Salinity Control Project needs, under short term arrangements. The August 1982 Criteria provided for the marketing of 50 MW of firm power during the winter season, and recognized that the addition of a regulatory storage unit would increase the amount of power available. Due to comments received by the Central Arizona Water Conservation District and other Arizona entities, Western has deleted power amounts and contract term until studies presently underway are completed. Western has also shown a first priority of allocation to Arizona entities.

The current studies have evolved from earlier studies concerning power marketing alternatives for Navajo power. Since 1981, Western's Boulder City Area Office has been engaged in a study effort with Reclamation and other entities in the State of Arizona to determine the benefits to the Central Arizona Project of a regulatory storage unit. These studies indicate that the addition of a regulatory storage unit could allow for the marketing of Navajo power during the summer months, when the peak load for most systems in the Boulder City Area are generally higher; rather than the Winter Season availability without a regulatory storage unit.

These earlier studies indicated that as much as 216 MW of power could be made available on a firm basis during some summer months in a normal year when the Central Arizona Project is diverting 1.5 million acre-feet of water. The amount of power available will depend upon the size of the storage unit and exchange or purchase arrangements with utilities. The exchange arrangements necessary would be for a utility or utilities to provide pumping power in the winter months in exchange for power from Navajo during peak load periods in the summer months.

Following finalization of the aforementioned studies, the Arizona Power Authority and several Arizona utilities began a study, through their consultant, to determine the fiscal benefits to the Central Arizona Project of combining the marketing of Arizona's share of Boulder Canyon Project power (as shown in the August 1982 Criteria) with power from the Navajo resource. It is Western's understanding that the goal of the study is to find a marketing alternative which enhances the ability of Navajo to provide pumping power for Central Arizona Project water, revenue for repayment of project costs, and an additional value which might be sold or otherwise converted to debt-carrying capacity to assist in project funding. The possibility of contributed funding is being investigated as Federal funding for the Central Arizona Project may not be available.

The necessity for completing the Central Arizona Project on schedule is due to Arizona's ground water overdraft situation that has caused the water level to drop a reported three feet per year. The overdraft can be somewhat relieved by completion of the Central Arizona Project and the use of project water in lieu of ground water.

The Central Arizona Water Conservation District, the entity which has contracted with Reclamation to repay the Central Arizona Project, has commented that the allocation of Navajo power in Arizona may be a means of securing contributed funding for the Central Arizona Project and that contributed funding may assist in timely completion of the project. The concept of marketing Navajo power to Arizona entities was advanced in comments at the November 1982, Public Comment Forum and in written comments, and has received qualified support from several entities in the Marketing area. Therefore, Western has decided to give a first priority in allocation to Arizona entities.

Western believes that it is important to protect the repayment of the investment made by the Federal Government in the Central Arizona Project. Repayment can begin only when the project begins delivering water and becomes revenue producing. If an allocation of Navajo power to entities in Arizona can bring in contributed capital to enhance the repayment schedule of the project, this would be in the public interest of the State of Arizona and the United States, and is provided for in the Criteria. If, however, the studies being conducted by the Arizona group do not yield a favorable result, the resource will be offered to other entities within the marketing area.

5. *Priority Use Power.* The Criteria provides that certain amounts of Parker-Davis Project power is reserved for priority uses by the United States. Priority use power is defined as that amount of capacity and energy needed for Federal reclamation project use and irrigation pumping on certain Indian lands.

Comments during the early stages of the public process were directed toward limiting the geographic area in which priority use power could be used and a description of the Federal reclamation projects that would use this power. Western agreed with these comments and has provided a listing of projects using this power and has limited its use to the Lower Colorado River Basin. Western will continue the established practice of marketing Parker-Davis Project power reserved for priority use, but not presently needed, as withdrawable power.

Comments have also addressed Western's definition of the phrase "* * * irrigation pumping on certain Indian lands." Western has defined this term in the Criteria as "* * * irrigation pumping on Indian irrigation projects which are adjacent to the lower Colorado River south of Davis Dam and north of the border between the United States and Mexico."

Comments suggested that Western has misconstrued the language of the Parker Dam Act by so restricting the priority use power to Indian irrigation projects adjacent to the Colorado River. The commentors indicate that the intent of Congress in enacting the Parker Dam legislation was to allow priority use power to be used for reclamation of all Indian lands.

The interpretation of this phrase has been established in earlier allocations of Parker-Davis Project power. This interpretation was further defined in 1978 in a memorandum from the Commissioner of Reclamation. The Commissioner further defined "* * * irrigation pumping on certain Indian lands * * *," as irrigation pumping on Indian irrigation projects which are adjacent to the lower Colorado River south of Davis Dam and north of the border between the United States and Mexico. Irrigation pumping was also defined: "* * * irrigation pumping on Indian irrigation projects includes pumping for the purpose of bringing water to reservation land under agricultural production, and removing water from reservation land. Specifically excluded from this use are commercial, industrial, and residential uses."

Western has adopted this definition used by Reclamation for several years. Indian irrigation projects that do not border the Colorado River between Davis Dam and the border between the United States and Mexico will not be considered for an allocation of priority use power.

6. *Renewal of Current Boulder Canyon Project Contracts.* The Criteria provides for a renewal of current Boulder Canyon Project contracts under new terms and conditions. The principles and guidelines for renewal contracts are contained in the Criteria. Throughout the public process Western has received extensive legal briefs and comments concerning the marketing of Boulder Canyon Project power. Comments concerning the Boulder Canyon Project have centered principally around the interpretation of Section 5 of the Boulder Canyon Project Act. The California Boulder Canyon Project contractors have taken the position that Western has no authority to do anything but renew the present contracts in kind. This contention is based upon an interpretation of the renewal language of Section 5(b) of the Boulder Canyon Project Act. The States of Arizona and Nevada (States), on the other hand, contend that Western is statutorily required by Section 5(c) of the Boulder Canyon Project Act to divide the power from the Hoover resource equally for use within each of the States of Arizona, California and Nevada; except that any power not applied for by the State of California as a state must be divided between Arizona and Nevada. The States assert that this right is superior to the renewal language of Section 5(b) of the Boulder Canyon Project Act. Comments from the cities of Anaheim, Azusa, Riverside, Banning, and Colton, and other interested parties propose that Western should reallocate all of the Boulder Canyon Project power based upon the broad public interest interpretation of the Boulder Canyon Project Act.

The State of Nevada, on August 27, 1982, filed suit in Las Vegas District Court against the United States and the California Boulder Canyon Project contractors. The litigation advances the aforementioned claims to a statutory right to one-third of the Hoover resource upon contract termination and to any amount of power not applied for by California as a state. The State of Arizona has since joined the State of Nevada. The California Hoover Allottees (except MWD), have answered the claim and have filed a counter claim; and the Cities of Anaheim, Azusa, Banning, Riverside, and Colton have filed a motion to intervene.

Notwithstanding the above legal positions of the States and the California Boulder Canyon Project contractors, these entities and several other preference entities have indicated qualified support of the proposed renewals and allocations shown in the August 1982 Criteria with some additional provisions.

Western has analyzed the additional provisions and has included some of these provisions in the Criteria.

The authority granted by Congress in the Boulder Canyon Project Act provides for the necessary administrative flexibility to market Boulder Canyon Project power after May 31, 1987, without the limitation of a mechanical renewal of the existing contracts or an automatic redistribution of the power among the three states.

Western believes that the renewals and allocations shown in the Criteria will provide for a fair distribution of the resources without impairing the legitimate reliance of current contractors on the resource. Three general alternative allocation schemes were considered and evaluated. These alternatives, and an analysis of the effects of these alternatives, are contained in the Environmental Assessment for the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects dated April 1983.

The Boulder Canyon Project Act requires Western to publish regulations for contract renewals and for the sale of power from the project. Western has stated that these Criteria are the regulations referred to, which are herewith promulgated pursuant to the Boulder Canyon Project Act.

7. *Amount of Capacity and Energy Reserved for Renewal to Current Boulder Canyon Project Contractors.* The Criteria generally provides for a renewal to the present nameplate capacity rating of the individual units assigned for the use of the contractors or to amounts of capacity designated in the current contracts. The energy reserved for the renewal offer is the individual contractors allocated percentage of 3665 MkWh, the 11-year average of total sales of Boulder Canyon Project energy from 1969–1979. The renewal offer also contains additional amounts of capacity and energy allocated to the City of Los Angeles, Department of Water and Power.

Notwithstanding the legal positions of the current contractors, qualified support for the capacity and energy amounts shown in the August 1982 Criteria has been expressed in comments from the current contractors. Some changes were suggested in comments from Boulder Canyon Project contractors and other entities. Western has adopted some of the suggested changes, where appropriate.

The renewal amounts of capacity were developed consistent with historical power marketing policy. In general, the capacity available for marketing from reclamation projects, has been based on that capacity, which is surplus to project needs, if an adverse water supply condition were to exist during a given contract period. Based on Reclamation hydrology studies, for the period 1987–1997, an adverse water supply condition would result in reservoir elevations that would still produce nearly rated head (approximately 490 feet) on the generating units. This means that if the marketing of power for the 1987–1997 period from the Boulder Canyon Project were based upon historical policy, the nameplate rating or 1,340 MW of capacity would be marketed.

Reclamation has published a special report, entitled "Hoover Powerplant Uprating Special Report," U.S. Department of the Interior, Bureau of Reclamation (May 1980), that indicates the powerplant will actually produce 1,450 MW at rated head. Arguments have been made that the renewal offer to each contractor should be based upon the actual output of the dedicated generating units at rated head; the amounts shown in Reclamation's special report.

Western has offered an amount of capacity to the individual contractors based upon the nameplate rating of generating units presently dedicated for their use, and in some cases other contract entitlements, with the exception of the renewal capacity for the City of Los Angeles, Department of Water and Power. The greatest reduction in capacity actually available at rated head to a current contractor with a renewal offer at the nameplate rating of the existing generators, is to the City of Los Angeles, Department of Water and Power. The generating units installed for their use were built in the early years of the project, and have greater overload capability than generators installed in later years. Therefore, Western has offered a renewal to the actual capacity at rated head to the City of Los Angeles. Additionally, a proportionate share of

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the energy available in excess of renewal shown in the August 1982 Criteria is offered to the City of Los Angeles as a part of renewal.

The energy offered for renewal is generally the present allocated percentage of 3665 MkWh, the average of total Boulder Canyon Project energy sales including Hoover Deficiency Energy, with the exception, as noted above, of the City of Los Angeles.

Under terms of their present contract, the Boulder Canyon Project contractors receive a percentage of the energy generated at the powerplant up to a quantity referred to as "defined firm" energy. This quantity is specified as 4,330 MkWh for operating year 1936, reduced at a rate of 8,760 kWh per year. If generation is greater than defined firm energy in any year of operation, this "secondary energy" is delivered first to the Metropolitan Water District of Southern California. If the Metropolitan Water District cannot use the additional energy for pumping Colorado River water, the secondary energy is distributed 55 percent to the City of Los Angeles, Department of Water and Power and 45 percent to the Southern California Edison Company. In some instances, if the energy generated is less than defined firm energy, the contractors are credited for the amount of energy not taken, and a portion of the investment, in the amount of revenue not realized, is deferred from repayment until after June 1, 1987.

The Coordinated Long-Range Operating Criteria, developed in accordance with provisions of Title VI of the Colorado River Basin Project Act (Pub. L. 90–537) and printed in the **Federal Register**, June 10, 1970, placed a method into effect for calculating the amount of energy that would not be available to the Hoover contractors during the time that Glen Canyon Reservoir (Lake Powell) was filling. This amount of energy is generally known as Hoover Deficiency Energy. This amount of energy not available due to the impounding of water behind Glen Canyon Dam was purchased and delivered to certain Hoover contractors, annually, to mitigate this loss.

As stated earlier, the 11-year period, 1969–1979, was chosen to determine the average historical energy delivered to Hoover contractors. This was the most current data available to Western when it began the informal public process to develop the Criteria in November 1979.

Western believes that renewal of the present contracts based on the 11-year average of total sales, including purchased Hoover Deficiency Energy, is a renewal of Hoover energy actually used by the current contractors. Additionally, Western will guarantee to deliver this amount of energy annually, to those contractors who so desire. This provision will give the current contractors a firm amount of energy, and not a quantity of annual energy subject to the vagaries of the hydrologic cycle. Energy in excess of amounts reserved for renewal is being used to enhance the value of the capacity available from the Hoover Uprating Program.

8. *Total Energy Available from the Boulder Canyon Project.* The Criteria provides for the annual marketing of approximatley 4500 MkWh from the Boulder Canyon Project. The amount reflected in the August 1982 Criteria has been increased from 4300 MkWh as a result of analysis of recent hydrology studies.

At the Public Information Forum in November 1979, Reclamation presented the results of the latest Colorado River Storage Project long range hydrology study. This Study indicated that the hydrology for the period 1987–2002, on the average, would support the marketing of 4300 MkWh from the Boulder Canyon Project. Throughout the public process, Western continued to show this amount of energy available. From comments received, Western requested of Reclamation the results of more recent studies. By letter dated February 5, 1983, Reclamation gave the following data:

Water year	10-year average (MkWh)	Running average (MkWh)
1998 to 1997	4541	4541
1998 to 2007	4069	4305
2008 to 2017	3921	4177

With the energy reevaluation period at 20 years, as stated in the Criteria, Western, using past Reclamation policy of marketing energy based on average hydrology, could market 4305 MkWh.

These averages are based upon historical generation efficiency at the Boulder Canyon Project. With operational integration of the powerplant, Reclamation, citing their experience with comparable facilities, believes that the generation efficiency can be increased by approximately six percent. With a six percent increase in efficiency, the generation, with average hydrology for the 20-year period, is increased to 4563 MkWh. Western has chosen to market 4500 MkWh from the Boulder Canyon Project to be consistent with historical marketing policy; that of marketing energy based on average hydrology.

9. *Firming Energy for the Boulder Canyon Project.* The Criteria provides for Western to purchase firming energy for the Boulder Canyon Project, unless a contractor can provide firming energy from its own resources more efficiently.

In comments received, some of the current Boulder Canyon Project contractors indicated objection to Western firming the resource due to the costs involved. Western's authority to purchase firming energy was also challenged.

The firming concept is important to the value of the uprated capacity. If the energy could not be firmed, the beneficial use of that capacity might be limited to those with a renewal contract. Western believes that, with its ability to purchase low cost off-peak thermal energy, the cost of firming is low when compared to the enhanced value of the uprated capacity. The enhanced value will spread the benefits of Federal power to a greater number of potential users. However, the alternative proposed by the City of Los Angeles; i.e., of providing firming energy only for those contractors requesting it, has been adopted. Western believes that if an entity does not wish to obtain firming energy from Western, Western should not force the acceptance of the energy on that entity.

The authority of the Secretary of the Interior (now Secretary of Energy pursuant to the transfer provisions of Section 302(a) of the Department of Energy Organization Act, Pub. L. 95–91) to purchase firming energy to support or firm-up the marketing of power generated at Federal hydroelectric projects has repeatedly been recognized as a lawful exercise of inherent authority under reclamation law.

The Criteria establishes, consistent with past policy, that salable firm energy will be based upon an averge water condition. This determination contemplates the purchase of energy to augment available energy in minimum water years.

The determination to sell on an average year energy basis, as opposed to a minimum or maximum basis, is a proper exercise of the Secretary's discretion. To sell on a minimum year basis would reduce the benefit of the uprated capacity. To sell on a maximum year basis would, in effect, require such large purchases of energy in deficient years, as to render such a plan an undesirable marketing policy.

10. *Operational Flexibility of the Boulder Canyon Project Resource.* The Criteria provides for current Boulder Canyon Project contractors to schedule loaded and unloaded synchronized generation to accomplish various control functions they presently enjoy through use of dynamic signal. This scheme is intended to approximate the control of generation that presently exists.

Comments received from current Boulder Canyon Project contractors have indicated the importance to their power systems of the individual unit control functions of the Hoover resource. The ability to use the individual generating units to provide spinning reserves and to control generation response to scheduled load changes, is an efficient use of the resource. Other sources of generation cannot accomplish these functions as efficiently.

The flexibility inherent in individual generators at Hoover Powerplant, under terms of the present contracts, have historically been operated for the sole benefit of the existing contractors. These generators are within four different control areas (City of Los Angeles, Southern California Edison Company, Nevada Power Company, and Western). The existing contractors have enjoyed the benefits of control area generation, which includes the use of the generating units to supply reserves, to regulate the generation to match load, and to dispatch units to keep up with system load buildup (Reserves, Regulation and Ramping).

Continued operation of Hoover Powerplant as four distinct powerplants would result in a less than optimum generation efficiency. This reduced efficiency has been the subject of one report that was submitted to the Secretary of the Interior by the General Accounting Office. The report recommended, that in order to achieve the optimum amount of energy per acre-foot of water, the operation of the powerplant should be integrated.

Personnel of the Boulder City Area Office have investigated various means of placing the Hoover units in the Boulder City control area, and of still allowing the affected parties to use the resource to accomplish these control functions. At the May 16, 1980 Public Information Forum, Western advanced a method of achieving these goals by means of an electronic dynamic schedule. This proposal met with approval as to concept.

At the November 23, 1982, Public Comment Forum, the City of Los Angeles, stated that the method of generation control proposed by Western would introduce time delays into the control of their systems that could not be tolerated. Due to these comments, members of the Boulder City Area staff, and the Lower Colorado Region Reclamation staff met with representatives of the current Boulder Canyon Project contractors on December 16, 1982, and with individual contractors in following months. The purpose of these meetings was to discuss desirable response characteristics and communication requirements to implement the control method proposed. These meetings resulted in a report by Reclamation and Western addressing the problems and requirements of the proposed operational scheme, as well as the concepts to be employed. Possible solutions to several of the problems mentioned by the City of Los Angeles are contained in the report. This report is entitled "Hoover Operational Concepts," copies of which have been furnished to the affected parties. The contractors or their operating representatives will lose full "hands on" control of the generating units, but the control offered by the electronic dynamic schedule concept, is a reasonable approximation of that control. It is proposed that implementation of the electronic dynamic schedule concept will be "phased in" with other design changes at Hoover recommended by Western and Reclamation for post-1987 operations.

11. *Nonfederal Funding of the Boulder Canyon Project (Hoover) Uprating Program.* The Criteria provides that the development and subsequent delivery of the capacity available from the Uprating Program will be contingent upon the finalization of financing agreements with Reclamation and satisfactory contractual arrangements with Western.

Some questions have arisen as to the relationship between the allocations and the funding agreements for uprated capacity. The allocation of the uprated capacity gives a potential contractor the ability to participate in funding agreements with Reclamation, with the delivery of that capacity being contingent upon the furnishing of financing by agreement with Reclamation.

The funding agreements are envisioned as three party arrangements between Reclamation, Western and the entity receiving the allocation of uprated capacity. In the event that an entity receiving the allocation fails to provide the necessary funding, Western will reallocate the amount of capacity and energy released.

Several questions were asked with regard to legislative amendments by the Interior Department to Senate Bill 306. These questions were answered by Reclamation in their letter dated January 3, 1983, to Western. The questions related to provisions of the legislative amendments that required the Secretary of the Interior to contract with entities contributing funds in amounts and for a duration as he may determine. The question was; would Interior honor Western's proposed allocation and term of contract. Reclamation has answered that, insofar as allocations and term of contract, they would defer those questions to Western. Reclamation stated, "Those amendments should not be construed as an attempt to usurp the Secretary of Energy's power marketing authority." Due to the unique nature of the Upratings, close coordination between Western and Reclamation has been necessary to insure that the Criteria does not impose constraints that would preclude contributed financing.

Recent legislative amendments proposed by Reclamation to Senate Bill 268, the successor to Senate Bill 306, have clarified many of those items mentioned at the Public Comments Forum.

12. *Marketing Power to the Metropolitan Water District of Southern California.* Under terms of the "General Regualations for Generation and Sale of Power in Accordance with the Boulder Canyon Project Adjustment Act of 1941," the Metropolitan Water District of Southern California receives its allocation of firm energy from the Boulder Canyon Project and a first priority for delivery of secondary energy, both as defined in the Regulations. The Regulations and the terms of their present contracts restrict the use of this energy to pumping water into and in the Colorado River Aqueduct. In the event the Metropolitan Water District does not need the energy for pumping Colorado River water, the energy not taken is divided in given percentages to the City of Los Angeles, Department of Water and Power, and the Southern California Edison Company.

Throughout the public process Western has not included the restriction that energy allocated to the Metropolitan Water District in the renewal contract be used only for pumping Colorado River water. Comments have been received that this restriction should again apply to the Metropolitan Water District, and energy not used in pumping Colorado River water should be distributed among new and current contractors.

When the original allocations were made in 1930, there was strong opposition to the Metropolitan Water District receiving such a large portion (35 percent) of the available energy. California utilities felt that if the Metropolitan Water District received such a large block of power from the

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Boulder Canyon Project, they might enter into competition with the utilities, and have an unfair advantage over them in securing the utility market in southern California. Due to this "fear," the restriction was placed in the Regulations and contracts, that the Metropolitan Water District could only use the energy allocated to it for pumping Colorado River water. At the time the Metropolitan Water District contracted for Boulder Canyon Project power, the only water source envisioned was the Colorado River, and the Secretary believed it to be in the public interest to allocate a large share of the energy from the project for conveying that water to the Los Angeles Basin.

Since the origional allocation of Boulder Canyon Project power, southern California has grown tremendously. The need for additional water supplies for the Los Angeles Basin have required construction of the State Water Project that brings water from northern California to the Los Angeles Basin. The Metropolitan Water District uses a significant amount of energy to bring northern California water into the basin, blend it with Colorado River water, and distribute the water to the users.

Western believes that moving water into the Los Angeles Basin to service industries, municipalities, and residents is in the public interest. The benefits of the resource flow to the entire southern California coastal plain. To restrict the Metropolitan Water District to using their allocation of Boulder Canyon Project power for pumping Colorado River water, when it is known that water supplies from northern California are necessary to meet the total water needs of southern California, would be a restriction on the beneficial use of the resource. This restriction would result in recognition of only a portion of the water supply problem of the Los Angeles Basin. Wesern believes that the policies requiring the restrictive language in the Regulations are no longer valid. Therefore, the restriction of only pumping Colorado River water with Boulder Canyon Project power is not proper and will not be continued in the next contract period.

13. *Environmental Assessment.* Several comments were received concerning the Preliminary Environmental Assessment of the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects. These comments indicated that the Environmental Assessment is conclusory in nature with no hard analysis of the environmental consequences of the Criteria.

An Environmental Assessment is done to determine if there are significant environemental consequences of the Federal action, and to examine the possible alternatives to the action. The Environmental Assessment then, is an overview, to determine if the environmental consequences are significant enough to warrant preparation of an Environmental Impact Statement. The proposed action has not significant environmental consequences and, therefore, an Environmental Impact Statement with the inferred "hard analysis" is not necessary.

14. *Comments from the San Diego, California Area.* Western has received numerous comments from individuals, organizations and government entities located in the San Diego Gas & Electric Company service area requesting that Western: (1) Allocate power to a Joint Power Agency in the San Diego area that would contract for the power for the benefit of the citizens in the area; or (2) Allocate power to San Diego Gas & Electric in proportion to the population and energy needs of the various applicants; or (3) Auction the power to the highest bidder.

First, an allocation to a Joint Power Agency that, in and of itself, cannot take Federal power and distribute the benefits of the allocation, is not consistent with preference policy. While in general, an application for power by a municipal government or governments is a preference application, there are other requirements for qualification that exist, that are based on legal interpretations applicable to specific projects, the policies of Western, and the discretion of Western's Administrator.

One requirement is that a preference entity have the means of taking and distributing power either to subordinate preference entities or to ultimate consumers. This is an administrative policy of Western, which generally applies to preference entities that have authority to serve customers in their service area. This policy does not apply to preference entities which merely undertake to serve loads which are owned, controlled, operated and maintained solely by those entities, such as an irrigation district pumping load and the loads of Federal research laboratories, state universities, state and Federal prisons, etc.

The legal basis for this requirement was addressed by the Attorney General of the United States in an opinion entitled "Disposition of Surplus Power Generated at Clark Hill Reservoir Project" on July 15, 1955. This opinion dealt with an arrangement which appears to be similar to that contemplated as a Joint Power Agency for the San Diego Area. The Agency would contract for Federal power but would not physically have the ability to distribute that power for its own benefit. The Secretary of the Interior inquired of the Attorney General as to the legality of a contract which the Secretary, through the Southeastern Power Administration, proposed to execute with the Georgia Power Company (a privately owned utility) for the marketing of electric energy generated at the Clark Will Reservoir Project.

The proposed contract, among other things, provided for the sale, at stated rates, of one-half of the Clark Hill power to the Power Company for a period of fifteen years subject to cancellation by either party upon three years' notice. The Power Company in turn agreed to sell power, at stated rates, to preference customers to be designated by the Southeastern Power Administration. The additional cost to the preference customers would have been no more than that due to carrying, transforming, and delivering the energy. The preference customers would have obtained all benefits of the available power.

The Attorney General held that "the preference requirement [is not] satisfied by disposition of the power to a non-preference customer under an arrangement whereby it obligates itself to sell an equivalent amount of power to preference customers to be designated by the Secretary of the Interior."

An allocation to a group of preference applicants that did not have the means to take and distribute the power, or an arrangement whereby San Diego Gas & Electric would agree to pass on the benefits of Federal power, would not satisfy the requirements of Federal preference laws.

Western is mandated by reclamation law to recognize preference in the sale of Federal power. Preference is given to public bodies, cooperatives, State and Federal governments, and municipalities. If any power is left after these preference entities are served, investor owned utilities such as San Diego Gas & Electric Company, could be given an allocation. However, the preference demand for Federal power is much greater than the supply and an allocation to an investor owned utility is unlikely.

Secondly, in response to the comment that Western should allocate power in proportion to the population and energy needs of the applicants, population can be a consideration in making allocations of power. However, other factors such as load, load growth, type of load

served, and environmental factors may also be considered.

Finally, in response to comments concerning the auctioning of power, Federal power rates are set in accordance with Federal laws and regulations. These authorities contain language which can be summarized by the principle that rate schedules are drawn (1) to repay with interest over a reasonable period of years all capital investments allocated to the power purpose, (2) to repay on a current annual basis all operating costs, including operation and maintenance, replacements, purchased power, and wheeling, and (3) to repay or fund certain irrigation or other water resource project costs. While all costs must be recovered, the regulations implementing project authorities preclude the Government from making a profit on the sale of power, or from marketing the power to the highest bidder.

15. *Allocations to Military Installations.* Throughout the public process comments have been received from military installations indicating their desire to receive an allocation of Federal power. These comments have stressed the status of the installations as preference entities. They have put forth public interest arguments holding that an allocation of low cost power for the use of the installation would reduce the overall cost of government and would, therefore, benefit all of the taxpayers of the nation. Western recognizes the status of the military installations under the Reclamation Project Act of 1939 as preference entities, but not as preference entities with a higher priority as among other preference entities.

B. Revisions to the "Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects—Revisions," as a Result of Public Comment

Part I. Section C—Contractual Information

The contract term for Boulder Canyon Project power has been changed from 20 years to 30 years. This change was made to allow for a greater term of contract for Boulder Canyon Project contractors to amortize the investment in the Uprating Program at reasonable annual rates.

The energy reevaluation period for Boulder Canyon Project power has been extended from 10 to 20 years. This was changed to reflect the results of current hydrology studies.

The contract term for power from the Navajo resource has been deleted. Studies are in progress involving Reclamation, Western, and Arizona utilities to determine amounts of nonfederal funding that would be supportable from a combined marketing package of the Bouder Canyon Project power allocated for use in Arizona and Navajo power surplus to Central Arizona Project needs. The results of these studies, and any financing arrangements for Central Arizona Project features, may require adjustment of the term of contract to reflect periods of debt service of those entities advancing funds. Therefore, Western will delay setting a contract term for the Navajo resource until after the results of the studies are available.

Part IV. Navajo Generating Station

The preference order for power from the Navajo Generating Station surplus to Central Arizona Project needs has been changed to indicate that allocations will go first to entities in Arizona. As explained earlier, Western believes and Reclamation supports the allocation of Navajo power to Arizona entities, to the extent that the allocation can assist nonfederal funding of certain features of the project, and that completion of the project is of great importance to the United States and the State of Arizona. Should studies underway not prove to be fruitful, Western will allocate Navajo power in accordance with the last three preference priorities.

The class of power for the Navajo resource has been changed from Long Term Firm Power to Long Term Contingent Power. A reevaluation of the nature of the resource, the load that the Navajo resource is dedicated to serve, financial impacts to Central Arizona Project repayment of purchasing firming energy, and the vagaries of the hydrologic cycle require the marketing of contingent power.

The Navajo resource must first meet the Central Arizona Project needs. The hydrologic cycle can be such that surplus water years can be followed by normal years and vice-versa. This would lead to marketing the estimated amount of surplus capacity and energy during a normal year on a firm basis, followed by a purchase of expensive capacity and energy to meet the firm contract obligations the following surplus year. The possible disparity between the purchase and sales rates to supply the contract obligations may be such, that an adverse effect upon Central Arizona Project repayment could occur.

Part V. Parker-Davis Project

The table showing the existing Parker-Davis Project allocations has been revised to show the withdrawal of priority use power for the Fort Mohave Indian Tribe from those contractors having a withdrawable allocation.

The amounts of power available for allocation have also been changed to reflect amounts allocated to the City of Needles, California, that, as stated in the Criteria, have met the requirements to become a preference contractor.

Long-term Peaking Power in the amount of 10 MW has been removed from the Criteria. Reclamation, in its letter of March 18, 1983, indicated that the actual capacity ratings of the generating units at Davis Dam were incorrect. In actuality the Davis Units are rated at 48 MW continuously, rather than 52 MW as used in an earlier determination of marketable capacity.

Part VI. Boulder Canyon Project

The table showing the amounts of Long-Term Contingent Power reserved for renewal to current contractors has been modified to reflect comments by Southern California Edison Company, the City of Los Angles, Department of Water and Power, and the States of Arizona and Nevada.

The table in the August 24, 1982, Criteria incorrectly showed the entire entitlement for the City of Boulder City coming from the Los Angeles allocation. In actuality the entitlement is served equally from Los Angeles Department of Water and Power and Southern California Edison Company.

The States of Arizona and Nevada have agreed on a distribution of 44 MW reserved for use by these states in the General Regulations. These amounts have been changed in the table.

It has been reported that the Bureau of Mines office in Boulder City, Nevada is closing in October 1983. Inasmuch as the 20 MW entitlement is restricted for use in a specific geographic area by Regulation, the Boulder City allocation has been shown as 20 MW and the Bureau of Mines allocation has been deleted. However, should the Bureau of Mines office not close, the renewal referred to in the Criteria will be offered to the Bureau of Mines.

Preference language regarding the Boulder Canyon Project allocation has been added. This language was contained in the September 22, 1981 Criteria, but was inadvertently ommitted in drafting the August 24, 1982 Criteria.

The amount of energy shown allocated for use in the State of Nevada has been increased by 200 MkWh annually. Comments received indicated support for this additional allocation. When the Central Arizona Project is completed, Federal power will be in use for pumping the allocation of Colorado

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River water for the States of Arizona and California (Metropolitan Water District). The additional energy allocated for use within the State of Nevada could supply a major portion of the Southern Nevada Water Project energy requirements for pumping Colorado River water.

Language has been inserted to specify the distribution of energy in excess of firm contract amounts. Western agrees with comments that the State of Arizona should have a limited first right of delivery to excess energy similar to the present contract with the Metroplitan Water District and that after 200 MkWh is delivered to Arizona, such excess energy should be available for use in all three States.

An option for Boulder Canyon Project contractors has been added to allow the contractors to provide their own firming energy. In a year when generation does not meet the contractual amounts, contractors will have the option to accept a reduced amount of energy or to have Western purchase the firming energy for them.

C. Documents in Public File

In accordance with section 501(b) of the Department of Energy Organization Act of 1977, Pub. L. 95–91, the following materials relative to the research performed, analysis made and other information in support of, the need for, and the probable effect of, the Criteria, are available for inspection and copying at the Boulder City Area Office:

1. Environmental Assessment of General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects, Western Area Power Administration, April 1983.

2. Letter dated February 28, 1983 to Parties Commenting on the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Revision). Transmits comments received prior to February 28, 1983.

3. Reporter's Transcript of Proceedings. Public Comment Forum for Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects, with Exhibits 1–13, November 23, 1982.

4. **Federal Register** (Vol. 47, No. 164), Tuesday, August 24, 1982, notices, pages 36946–36957. Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects; Revision.

5. Letter dated March 15, 1982, to Parties Commenting on the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects. Transmits comments received prior to March 10, 1982.

6. Reporter's Transcript of Proceedings-Public Comment Forum for General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects, with Exhibits 1–6, January 21, 1982.

7. Letter dated December 31, 1981, to contractors and Interested Parties. Transmits **Federal Register** Notice dated December 29, 1981 announcing public comment forum.

8. **Federal Register** (Vol. 46, No. 249), Tuesday, December 29, 1981, notices, page 62929. Announcement of January 21, 1982, public comment forum.

9. Letter dated September 30, 1981, to Contractors and Interested parties. Transmits Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects.

10. **Federal Register** (Vol. 46, No. 183), Tuseday, September 22, 1981, notices, pages 46864–46874. Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects.

11. Letter dated August 11, 1981, to Mr. Robert A. Olson from California Hoover Allottees. Recites California allottees position with regard to Boulder Canyon Project power marketing.

12. Letter dated July 23, 1981, to Contractors and Interested Parties. Transmits July 17, 1981, **Federal Register** (46 FR 37062) notice which deferred publication of the Proposed General Consolidated Power Marketing Criteria for Boulder City Area Projects and Regulations for the Boulder Canyon Project Renewal (Proposed Criteria) until September 11, 1981.

13. Letter dated July 19, 1981, to Boulder Canyon Project Contractors. Transmits letter dated June 30, 1981, from the State of Nevada, Division of Colorado River Resources, to Mr. R. A. Olson.

14. Letter dated June 30, 1981, from the State of Nevada, Division of Colorado River Resources to Mr. R. A. Olson. Requests delay in publication of the Proposed Criteria.

15. Letter dated June 18, 1981, from the Arizona Power Authority to Mr. R. A. Olson. Requests delay in publication of the Proposed Criteria.

16. Letter dated June 12, 1981, from the State of Nevada, Division of Colorado River Resources, to Mr. R. A. Olson. Requests reply to Nevada legal opinion and other information.

17. Letter dated May 1, 1981, to State of Nevada, Division of Colorado River Resources. Replies to State's letter dated April 21, 1981.

18. Letter dated April 21, 1981, from the State of Nevada, Division of Colorado River Resources to Mr. R. A. Olson. Requests information concerning analysis of Nevada's legal opinion.

19. Letter dated April 9, 1981, To Contractors and Interested Parties. Transmits information regarding the schedule for completion of the General Cosolidated Power Marketing Criteria for Boulder City Area Projects.

20. Letter dated January 27, 1981, To Contractors and Other Interested Parties. Transmits comments on December 12, 1980, letter regarding tentative schedule for completion of the General Consolidated Power Marketing Plan.

21. Letter dated December 12, 1980, To Contractors and Other Interested Parties. Transmits tentative calendar of events, staff discussion paper concerning Boulder Canyon Project issues (dated December 10, 1980), and the Proposed General Consolidated Power Marketing Criteria for Boulder City Area Projects.

22. Letter dated October 20, 1980, to All Parties Who Submitted Written Comments to the August 29, 1980, public information forum. Transmits comments on August 29, 1980, public information forum.

23. Consolidated Power Marketing Plan public information forum, August 29, 1980, presentation.

24. Consolidated Power Marketing Plan public information forum, August 29, 1980, slides.

25. Letter dated July 31, 1980, to Arizona Municipal Power Users' Association. Transmits comments on May 16, 1980, public information forum.

26. **Federal Register** (Vol. 45, No. 147), Tuesday, July 29, 1980, notices, pages 50412 and 50413. Announcement of August 29, 1980, public information forum.

27. Letter dated July 25, 1980, to Contractors and Other Parties Interested in Future Power Marketing Criteria for the Boulder City Area. Notification of August 29, 1980, public information forum also transmitted Preliminary Draft Criteria.

28. Consolidated Power Marketing Plan public information forum, May 16, 1980, presentation.

29. Consolidated Power Marketing Plan public information forum, May 16, 1980, slides.

30. Letter dated May 2, 1980, to All Parties Who Submitted Written Comments to the February 22, 1980, public information forum. Transmits comments on February 22, 1980, public information forum.

31. **Federal Register** (Vol. 45, No 72), Friday, April 11, 1980, notices pages 24912 and 24913. Announcement of May 16, 1980, public information forum.

32. Consolidated Power Marketing Plan public information forum, February 22, 1980, presentation.

33. Consolidated Power Marketing Plan public information forum, February 22, 1980, slides.

34. **Federal Register** (Vol 45, No. 33), Friday, February 15, 1980, notices, pages 10398 and 10399. Announces intent to formulate Consolidated Marketing Criteria for the Boulder City Area Projects.

35. Letter dated January 31, 1980, to Contractors and Other Parties Interested in the Consolidated Power Marketing Plan for the Boulder City Area. Notification of February 22, 1980, public information forum.

36. Letter dated January 30, 1980, to All Parties Who Submitted Written Comments on the Consolidated Power Marketing Plan. Transmits comments on March 28, 1979, letter and November 30, 1980, public information forum.

37. Consolidated Power Marketing Plan public information forum, November 30, 1979, proceedings of the meeting.

38. Errata sheet for November 30, 1979, Consolidated Power Marketing Plan public information forum proceedings of the meeting.

39. Consolidated Power Marketing Plan public information forum, November 30, 1979, slides.

40. **Federal Register** (Vol. 44, No. 213) Thursday, November 1, 1979, notices, pages 62938 and 62939. Announcement of November 30, 1979, public information forum.

41. **Federal Register** (Vol. 44, No. 80) Tuesday, April 24, 1979, notices, pages 24153 and 24154. Notices of request for written comments on the marketing of Boulder Canyon Project power.

42. Memorandum dated March 28, 1979, to Contractors and Other Parties Interested in Future Marketing Plans for Boulder Canyon Project Power. Requests written comments on future marketing plans for Boulder Canyon Project.

43. Navajo Marketing Meeting, Denver, Colorado, September 21, 1978. Agenda and presentation.

44. Navajo Marketing Meeting. September 21, 1978, graphics to presentations.

45. **Federal Register** (Vol. 43, No. 178) Wednesday, September 13, 1978, notices, pages 40909 and 40910. Announcements of public meetings concerning marketing power from the Navajo Project, Page, Arizona.

46. U.S. Census Bureau, 1980 census.

47. U.S. Bureau of Economics Analysis, Bureau of Economics Analysis Economic Areas.

48. Fradkin, Philip L., 1981, *A River No More*, Alfred A. Knopf, New York.

49. Mountain West Research. *Regional Economic/Demographic Baseline Studies*. April 1980. Prepared for U.S. Water and Power Resources Service, Lower Colorado Region.

50. U.S. Department of Commerce, Bureau of the Census. *1970 Census of the Population: General Social and Economic Characteristics*. Utah, U.S.

51. U.S. Water Resources Council. *BEA Economic Areas, Vol. II of 1972 OBERS Projections*. (7 volumes), Washington: 1974.

52. U.S. Department of Commerce, Bureau of the Census. *Population Estimate and Projections*. Series P–25, Nos. 676, 692. 1977.

53. U.S. Department of Energy. "Electric Power Supply and Demand for the Contiguous United States, 1982–1991", Memorandum, EP–42, June 3, 1982.

54. U.S. Department of Interior, Bureau of Reclamation. "Feasibility Plan for Hoover Powerplant Modifications". August 1977.

55. U.S. Department of Interior, Bureau of Reclamation. *Hoover Powerplant Modifications Special Report*. January 1978.

D. Regulatory Procedural Requirements

1. Determination under Executive Order 12291: Western has determined that these Criteria are not a major rule under section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of the Executive Order 12291.

2. Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.): Each agency, when required by 5 U.S.C. 553 to publish certain rules, is further required to prepare and make available for public comment initial regulatory flexibility analyses to describe the impact of such rules on small entities. Western has determined that this rulemaking of particular applicability relates to allocation and selling of electric power in accordance with reclamation law by Western and, therefore, is not a rule within the purview of the Regulatory Flexibility Act. In any event, the Administrator of Western hereby certifies that the impacts of such allocation and the selling of electric service by Western would not cause an adverse economic impact on a substantial number of these small entities provided for under the Regulatory Flexibility Act.

3. Environmental Assessment: Western has prepared an environmental assessment (EA) which is available for public review. The EA addresses the four alternatives of:

1. No action, essentially renewal in kind of existing Boulder Canyon Project capacity and offer from allocation of Parker-Davis Project capacity and energy.

2. One-third split of Boulder Canyon Project power and offer for allocation of Parker-Davis Project power.

3. Renewal of firm power to existing contractors and allocation of additional firm power and peaking power to existing and new customers.

4. Renewal of nameplate capacity and one-third split of additional uprated operating capacity of the Boulder Canyon Project power, offer for allocation of Parker-Davis Project power, and allocation of additional power as firm and peaking power.

The impact analysis deals with the effect these alternatives will have on the existing electrical system as well as the effect of the alternatives on the physical, natural, and social/economic environments.

Western has made a determination based upon environmental considerations of these final Criteria, that this action is not a significant action in the context of the National Environmental Policy Act, and that it will not lead to any significant environmental impacts. A Finding of No Significant Impact has been prepared. Copies of the EA and FONSI are available from the Boulder City Area Office.

E. General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

Part I. General

Section A. Purpose and Scope

In accordance with Federal power marketing authorities in reclamation law and the Department of Energy Organization Act of 1977, the Western Area Power Administration (Western) has developed these General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria). These Criteria establish one set of general marketing principles for power generated at all Federal projects (Projects) under the marketing jurisdiction of Western's Boulder City Area Office. This document will serve as a new power marketing criteria for the Parker-Davis Project and Central Arizona Project (Navajo) resources, and will serve as the regulations for contract renewal and for the sale of power from the Boulder Canyon Project. The power generated at these Projects has been marketed under different power marketing guidelines or regulations. By consolidating the marketing of power from the Projects under common guidelines, the Federal system can be operated at improved

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efficiency within the constraints imposed by law, regulations, and treaties.

Section B. Authorities

Federal power in the Boulder City Area is marketed in accordance with the power marketing authorities in Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and all acts amendatory thereof or supplementary thereto); the Department of Energy Organization Act of 1977 (91 Stat. 565); and in particular, those acts and amendments enabling the Boulder Canyon Project (45 Stat. 1057); Parker-Davis Project (49 Stat. 1028, 1039; 68 Stat. 143); and the Colorado River Basin Project (82 Stat. 885).

Section C. Contractual Information

Power contracts will be implemented as existing contracts and contract extensions terminate, and as additional resources become available. The existing Boulder Canyon Project contracts terminate on May 31, 1987. The existing Parker-Davis Project contracts terminate on March 31, 1986. The Parker-Davis Project contracts will be extended through May 31, 1987, upon mutual agreement between Western and each individual contractor, in order to have common contract termination dates.

The additional Parker-Davis Project power will not be available until operational integration in the Boulder City area is implemented. Navajo power surplus to the needs of the Central Arizona Project and Title I Salinity Control Project (as amended by Pub. L. 96–336, September 4, 1980, 88 Stat. 266), may be available as early as July 1984, in varying quantities, and will be marketed in accordance with these Criteria.

Western will offer power contracts to each contractor containing the terms and conditions and any special provisions which may be applicable to the power to be marketed under these Criteria. Separate exhibits to the contracts will identify such things as the amounts of capacity and energy to be delivered on a monthly basis from a particular Project, the point(s) of delivery, and the maximum rate of delivery at each point of delivery. These exhibits will be prepared and modified as necessary. If requested by the contractor, Western, in preparation of the exhibits, will endeavor to approximate the individual contractor's seasonal and monthly energy usage pattern. The extent to which Western will be able to accommodate these patterns, will be contingent upon monthly energy availability and required water releases.

The Projects will be operationally integrated to improve the efficiency of the Federal system in accordance with: the operational constraints of the Colorado River, hydro-project powerplants, and Navajo Generating Station, as may be imposed by the Secretary of the Interior or authorized representatives; applicable laws; the general terms, conditions, and principles contained in these Criteria; and the General Power Contract Provisions in effect which are applicable to a particular Project.

Long-term contracts for Parker-Davis Project power will terminate September 30, 2007. Long-term contracts for Boulder Canyon Project power will terminate on September 30, 2017. Long-term contracts for the Boulder Canyon Project will be subject to an energy revision on or about October 1, 2007, if deemed necessary by Western, due to the results of then current hydrology studies.

Each Boulder Canyon Project and Navajo contractor will also contractually agree to supply its own reserves for power from these Projects which meet or exceed Western Systems Coordinating Council minimum reserve requirements.

Contracts for Boulder Canyon Project power will allow for a reduction in capacity due to generating unit outages caused by forced outages, maintenance schedules, or reservior drawdown. This reduction will be based on the ratio each entity's allocation of Boulder Canyon Project capacity bears to the total Boulder Canyon Project capacity marketed, multiplied by the amount of capacity removed from service, or not available because of reduction in effective head.

Notwithstanding the procedures in Section A of Part VIII, below, Western, within the constraints of river operation, intends to permit each Boulder Canyon Project power contractor to schedule loaded and unloaded synchronized generation, the sum of which cannot exceed the amount of capacity reserved for the renewal offer to the individual contractors. To the extent that energy entitlements are not exceeded, such previously scheduled unloaded synchronized generation may be used for regulation, ramping, and spinning reserves through the use of a dynamic signal. These functions will be developed by Western and Reclamation, in cooperation with the Boulder Canyon Project power contractors, and implemented by contract and through written operating instructions.

Energy used for the purpose of supplying unloaded synchronized generation to Boulder Canyon Project power contractors will be accounted for on a monthly basis, and will be supplied by the individual contractors through reductions in energy deliveries, in subsequent months, as will be specified in the power contracts.

Studies are in progress to determine the possible benefits to the Central Arizona Project of combined marketing of the Navajo resource and the Boulder Canyon Project power allocated for use within Arizona, and to determine the amount of funding that could feasibly be provided to the Bureau of Reclamation (Reclamation) by entities in the state of Arizona or political subdivisions of the State of Arizona, for the construction of a regulatory storage unit or other features of the Central Arizona Project. The results of these studies and the term of indebtedness of any contributed funding arrangements that may result will have an effect upon the term of power contracts for the Navajo resource. Therefore, Western will delay establishment of a term of contract for long-term commitments for Navajo power until these studies are completed.

Western will purchase energy, if necessary, specifically for the purpose of fulfilling the energy obligations shown in these Criteria for the Boulder Canyon Project and Parker-Davis Project; except that for those Boulder Canyon Project contractors that can provide firming energy more efficiently from their own resources, Western, on an annual basis, will agree to those contractors providing their own firming energy. Western will reduce the energy obligation to those contractors proportionately. The cost of firming energy that is provided will be reimbursed in the year in which it occurs.

The individual Projects will remain financially segregated for the purposes of accounting and Project repayment. The Boulder City Area rate schedules for each individual Project will be developed to satisfy cost recovery criteria for each Project. Cost recovery criteria for the Boulder Canyon Project and for the United States Navajo entitlement will be developed as part of a separate public process. The Parker-Davis Project cost recovery criteria is already established.

In general, the cost recovery criteria will include components such as operation and maintenance, replacements, betterments, amortization of long-term debt with interest, and other financial obligations of the Projects. Beginning June 1, 1987, the rate for Boulder Canyon Project power will include a component to provide for a contribution to the Lower Colorado River Basin Development Fund, in accordance with the Colorado River Basin Project Act of 1968, and any other applicable legislation that may be enacted.

In order to allow Reclamation to comply with required minimum water releases, and to allow Western to receive purchased energy during offpeak load hours, all power contractors may be required to schedule a minimum rate of delivery during such offpeak load hours. The percentage of energy to be taken by the contractors at the minimum scheduled rate of delivery shall be established on a seasonal basis, and may be increased or decreased as conditions dictate. The monthly minimum rate of delivery for each power contractor will be computed by dividing the number of kilowatthours to be taken during the month by a contractor at the minimum rate of delivery, by the number of offpeak load hours in the month. The number of kilowatthours to be taken during offpeak load hours at the minimum rate of delivery will not exceed 25 percent of the contractor's monthly energy entitlement. Offpeak load hours will be defined in the contracts based on individual system characteristics.

No contractor shall sell for profit any of the capacity and energy allocated to it to any customer of the contractor for resale by that customer.

Part II. Marketing Area

The marketing area for the Projects is defined in appendix A of these Criteria, and consists generally of southern California, southern Nevada, most of Arizona, and a small part of New Mexico. The Boulder City Area marketing area includes a limited portion of the Upper Colorado River Basin, in which the Navajo Generating Station is located, and most of the Lower Colorado River Basin, as defined in the Colorado River Compact.

Part III. Service Seasons

Power from all Projects will be marketed for delivery during two service seasons. These seasons are based upon historic water releases on the Lower Colorado River. Approximately 70 percent of the water is released from Lake Mead during the summer season and 30 percent is released during the winter season. The reduced water releases during the winter season allow for a period in which to perform generator maintenance.

Section A. Summer Season

The summer season for any calendar year is the 7-month period beginning the first day of the Boulder City Area's March billing period and continuing through the last day of its September billing period.

Section B. Winter Season

The winter season is the 5-month period beginning the first day of the Boulder City Area's October billing period, for any calendar year, and continuing through the last day of its February billing period in the next succeeding calendar year.

Section C. Proposed Regulatory Storage Unit

Reclamation is finalizing studies to provide a recommendation to the Secretary of the Interior concerning the location and size of a regulatory storage unit for the Central Arizona Project. Construction of a regulatory storage unit would give Reclamation the operational flexibility to increase winter season pumping and reduce summer season pumping. This may allow for marketing of Navajo power surplus to Central Arizona Project needs during both the summer and winter seasons. The length of service season for Navajo power will depend upon such factors as the construction of the storage unit, the size of the storage unit, utility exchange arrangements and Navajo outage schedules. Initally, the service seasons for delivery of Navajo power will coincide with the seasons established for all projects.

Part IV. Navajo Generating Station

Section A. General

The Central Arizona Project is tentatively scheduled to begin pump testing operations in July 1984, with intitial water deliveries in January 1985. Power surplus to pumping needs in varying quanitities may be available at that time and will be marketed under short term arrangements.

A regulatory storage unit for the Central Arizona Project, if constructed, would give Reclamation the operational flexibility to maximize winter season pumping and reduce summer season pumping with the effect of making Navajo power available during the peak load months. Arizona entities are presently completing studies to determine the amount of contributed financing that could be provided for construction of a regulatory storage unit or other features of the Central Arizona Project.

With construction of a regulatory storage unit, the potential exists for power to be made available during the summer season under long term arrangements. Allocations of Navajo power for long term arrangements will be made after the decision relative to the construction of a regulatory storage unit is reached. Delivery of Navajo power under long term arrangements with Western may require the contractor to contribute funds to Reclamation for the construction of a regulatory storage unit for the Central Arizona Project.

Navajo power, which is surplus to the Federal uses of the Central Arizona Project and Title I Salinity Control Project (as amended by Pub. L. 96–336, September 4, 1980, 88 Stat. 266), will be allocated in accordance with the preference provisions of section 9(c) of the Reclamation Project Act of 1939, in the following order of priority:

1. Preference entity(s) within Arizona;
2. Preference entities within the Boulder City marketing area;
3. Preference entities in adjacent Federal marketing areas; and
4. Nonpreference entities in the Boulder City marketing area.

In the event that a potential contractor fails to place such power under contract within a reasonable period, as specified by the United States and in accordance with the terms and conditions offered by the United States, the amounts of power released by such failure will be reallocated in accordance with the preceding order of priortiy.

Section B. Short-Term Contingent Power

Contingent power is capacity and energy which is normally available, except during either forced or planned outages that affect powerplant capability. Reduction in capacity and energy, when necessary, will be on a pro-rata basis among all contractors for Navajo surplus power. The Central Arizona Project is tentatively scheduled to begin pump testing operations in July 1984, with initial deliveries of water in January 1985. After that time, varying amounts of power may be available under short term arrangements.

Section C. Long-Term Contingent Power

Amounts of contingent power available will depend upon the construction of a regulatory storage unit and related agreements, and Central Arizona Project operation plans.

Each Navajo contractor will also contractually agree to supply its own reserves for Navajo power which meet or exceed Western Systems Coordinating Council minimum reserve requirements.

Part V. Parker-Davis Project

Section A. General

An amount of Parker-Davis Project power is reserved for priority uses by the United States, and upon application,

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for allocation to new and current contractors.

Power reserved for United States priority use is capacity and energy which is reserved for Federal reclamation project use, and irrigation pumping on certain Indian lands. Power that is reserved for United States priority use, but not presently needed, is marketed to some of the Parker-Davis Project contractors as withdrawable power. Requests for withdrawals for Federal reclamation project use power, and Indian irrigation pumping power have equal priority.

Federal reclamation project use power is defined for these Criteria to mean that capacity and energy which is established herein for Federal reclamation projects in the Lower Colorado River Basin. Such projects are Federal reclamation facilities established for the protection and drainage works along the lower Colorado River. The following is a list of projects for which Federal reclamation project use power is reserved: relift and drainage pumps, construction camp sites, Yuma-Mesa Irrigation and Drainage District, Gila Project drainage pumps, Wellton-Mohawk Irrigation and Drainage District Plant Nos. 1, 2, and 3, and the Colorado River Front Work and Levee System.

Power for irrigation pumping on certain Indian lands is defined for these Criteria to mean Federal capacity and energy established herein for use in irrigation pumping on Indian irrigation projects which are adjacent to the lower Colorado River south of Davis Dam and north of the border between the United States and Mexico.

When priority use power is requested, Western will substantiate that the power to be withdrawn will be used for the above specified purposes, and then will withdraw the necessary amount of power upon a 2-year advance notice. Withdrawals of power will be made as requested and substantiated until the total amount of power reserved for priority use purposes is in use.

Power surplus to that reserved for United States priority uses and that reserved for allocation to the existing contractors will be available for allocation to new or current contractors in accordance with preference provisions of section 9(c) of the Reclamation Project Act of 1939, in the following order of priority:

1. Preference entities within the Boulder City marketing area;
2. Preference entities in adjacent Federal marketing areas; and
3. Nonpreference entities in the Boulder City marketing area.

In the event that a contractor or potential contractor fails to place such power under contract within a reasonable period, to be determined by the United States, in accordance with the terms and conditions offered by the United States, the amounts of power released by such failure will be reallocated in accordance with the preceding preference order.

Section B. Long-Term Firm Power

Long-Term Firm Power is intended to have assured availability to the contractor within energy limitations specified in these Criteria. The maximum seasonal capacity entitlement for long-term firm power shall be available to a contractor during each month of the service season. The amount of energy associated with long-term firm power shall be the amount of energy specified in these Criteria and in power sales contracts.

Parker-Davis Project Long Term Firm Power capacity allocations reserved for current contractor upon receipt of an Application for Power are as follows:

Contractor * Ref. appendix B	Summer season kilowatts			Winter season kilowatts		
	Withdrawable	Non-withdrawable	Total	Withdrawable	Non-withdrawable	Total
APPA						
AEPCO		21,100	21,100		16,200	16,200
Mesa		10,450	10,450		8,000	8,000
MEC		2,700	2,700		2,200	2,200
CRIR		8,900	8,900		5,940	5,940
CRC (Nevada)	7,900	49,050	56,950	4,710	36,300	41,010
EAFB	1,935	16,350	18,285	1,180	13,450	14,630
ED-3	2,925		2,925	2,115		2,115
IID		32,550	32,550		26,300	26,300
SRP		31,700	31,700		22,500	22,500
SCIP	1,935	15,250	17,185	1,180	11,950	13,130
Thatcher		350	350		250	250
WMIDD	900	2,200	3,100	595	1,850	2,445
YID		960	960		780	780
YPG	1,935	3,300	5,235	1,180	2,900	4,080
FMIT		1,970	1,970		1,200	1,200
Subtotal	17,530	198,830	214,360	10,980	149,820	160,780
Priority Uses		39,000	39,000		24,700	24,700
TOTAL	17,530	235,830	253,360	10,980	174,520	185,480

Energy available to Long Term Firm Power contractors on and after June 1, 1987, will be equal to 3441 kWh/kW (67 percent capacity factor) in the summer season and 1703 kWh/kW (47 percent capacity factor) in the winter season.

Western advised the city of Needles, California (Needles), by letter dated January 18, 1979, that the Deputy Secretary, Department of Energy, had elected to make power available to Needles under similar terms and conditions as that which was available to Needles under terminated Contract No. 14-06-300-802. Needles met the requirements to become a preference customer.

Western has reserved for application by Needles the following amounts of power from the Parker-Davis Project for the post-1987 contract period under then current contract terms and conditions:

Kilowatt	
5,100	17,800,868 kWh, summer.
4,064	8,752,053 kWh, winter.

Section C. Power In Excess of Amount Reserved

Western will also make available for allocation to new and current contractors the power in excess of that reserved for the existing Parker-Davis Project contractors and priority uses. Amounts of such power which are estimated to be available for allocation after May 31, 1987, are as follows:

ADDITIONAL PARKER-DAVIS PROJECT POWER AVAILABLE FOR ALLOCATION

Season	Kilowatt
Summer	24,555
Winter	22,186

Energy available to Long Term Firm Power contractors on and after June 1, 1987, will be equal to 3,441 kWh/kW (67 percent capacity factor) in the summer season and 1,703 kWh/kW (47 percent capacity factor) in the winter season.

Withdrawable power will continue to be subject to a 2-year withdrawal notice. In the event that withdrawals for priority use purposes are made following the allocation process and prior to June 1, 1987, the amount of withdrawable power allocated to individual contractors will be reduced on a pro rata basis.

Part VI. Boulder Canyon Project

Section A. Long-Term Contingent Power

Contingent capacity is capacity which is normally available, except during either forced or planned outages that affect powerplant capability. Electric service renewal contracts for long-term contingent capacity and firm energy under new terms and conditions will be offered to existing Boulder Canyon Project contractors in the following amounts:

LONG-TERM CONTINGENT POWER RESERVED FOR RENEWAL CONTRACT OFFERS TO CURRENT BOULDER CANYON PROJECT CONTRACTORS

Contractor [1]	Capacity (kilowatts)	Energy	
		Summer [2]	Winter [2]
MWD	247,500	904,382	387,592
LADWP	467,875	470,535	201,658
SCE	277,500	175,486	75,208
Glendale	18,000	47,398	20,313
Pasadena	11,000	40,655	17,424
Burbank	5,125	14,811	6,347
APA (Arizona)	177,000	452,192	193,797
CRC (Nevada)	177,000	452,192	193,797
Boulder City	20,000	56,000	24,000

[1] Reference appendix C.
[2] Kilowatt hours in thousands.

The reservation shown for the City of Boulder City includes a renewal offer of 700 kW and 1,550,000 kWh to the Bureau of Mines. In the event that the renewal offer to the Bureau of Mines is released, such amounts will be offered to the City of Boulder City.

Capacity reductions, when necessary, will be on a pro rata basis among all of the Boulder Canyon Project contractors. Winter season capacity will depend primarily upon the capacity of generating units removed from service for maintenance by Reclamation.

Each Boulder Canyon Project contractor will also contractually agree to supply its own reserves for Boulder Canyon Project power which meet or exceed Western Systems Coordinating Council minimum reserve requirements.

Section B. Planned Uprating Program

Reclamation is currently planning an Uprating Program which would increase the generating capability of the Boulder Canyon Project. Reclamation is proposing that the Uprating Program be financed with contributed funds provided by the contractor receiving the allocation. The development and subsequent delivery of the uprated capacity will be contingent upon the contractor finalizing financing agreements with Reclamation and satisfactory contract arrangements with Western.

The amounts of capacity and energy in excess of renewal offers to be reserved for allocation for use in the Boulder City marketing area within the States of Arizona, California, and Nevada are:

	Capacity (kilowatts)	Energy [1]	
		Summer	Winter
Arizona	188,000	148,000	64,000
California	127,000	99,850	43,364
Nevada	188,000	298,000	124,000

[1] Kilowatt hours in thousands.

The States of Arizona and Nevada have established agencies to contract for Boulder Canyon Project power. However, other preference entities within these States have advised Western that they too have the ability to contract for Boulder Canyon Project power with Western directly, and have requested to be permitted to apply for power directly with Western. In order to avoid unduly limiting the allocation process, Western will accept applications from all qualified preference entities within these States, and determine their ability to contract with Western during the allocation process. Western will also accept applications from qualified preference entities within the State of California.

In the event that a contractor or potential contractor fails to place power under contract within a reasonable period, as specified by the United States and in accordance with the terms and conditions offered by the United States, or fails to provide contributed funds, the amounts of power released by such failure will be reallocated in the following order:

1. Preference entities within the Boulder City marketing area;
2. Preference entities in adjacent Federal marketing areas; and
3. Nonpreference entities in the Boulder City marketing area.

The Uprating Program will be constructed in stages and is currently scheduled to be completed in early 1991. Power contracts will become effective on June 1, 1987, and will contain an estimated schedule for power deliveries from the Uprating Program as this program is completed.

In the event that any part of the Uprating Program is not completed, the total amount of contingent capacity initially allocated to contractors will be reduced on a proportional basis. Power reserved for renewal to existing Boulder Canyon Project contractors will not be affected. If, subsequent to such a capacity reduction, the Uprating Program is reinstated in whole or in part, the amounts initially allocated will be restored to the contractors in proportionate amounts as the upratings are completed.

Section C. Energy in Excess of Firm Commitments

Energy generated in any year of operation in excess of firm contract commitments (approximately 4,500 MkWh) shall be delivered in the following order:

1. The first 200 MkWh for use within the State of Arizona.

2. Energy generated in excess of 4,700 million kilowatt hours (MkWh) shall be delivered equally for use within the States of Arizona, California and Nevada; *Except*, That in the event excess energy in the amount of 200 MkWh is not generated during any year of operation, Arizona shall accumulate a first right of delivery of excess energy subsequently generated in an amount not to exceed 600 MkWh. Said first right of delivery shall accrue at a rate of 200 MkWh per year for each year excess energy in the amount of 200 MkWh is not generated, less amounts of excess energy delivered.

Section D. Modification Program

Reclamation is also planning a Hoover Modification Program which would further increase the generating capability of the Boulder Canyon Project by approximately 500 MW at rated head. If developed by Reclamation, marketing of that resource will be addressed by Western at that time.

Section E. Capacity Reductions

Contracts for Boulder Canyon Project power will allow for a reduction in capacity due to generating unit outages maintenance schedules, or reservoir drawdown. This reduction will be based on the ratio each entity's allocation of Boulder Canyon Project capacity bears to the total Boulder Canyon Project capacity marketed, multiplied by the amount of capacity removed from service, or not available because of reduction of effective head.

Part VII. Nonfirm Power and Other Agreements

Section A. Short-Term Interruptible Power

Interruptible power may be available under contracts which permit curtailment of delivery by the Boulder City Area.

To the extent that capacity and energy in excess of long-term contract commitments become available, short-term interruptible power may be offered on an if-, as-, and when-available basis. Contacts for short-term interruptible

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power will be offered on a seasonal or monthly basis as conditions permit.

Western will continue to engage in a fuel replacement program in the Boulder City Area. Purchased energy and project generated energy in excess of long-term contract commitments may be offered as fuel replacement energy.

Section B. Short-Term Firm Power

To the extent that capacity and energy in excess of long-term contract commitments become available, short-term firm power may be offered. Contracts for short-term firm power will be offered on a seasonal, monthly, or yearly basis as conditions permit.

Section C. Other Agreements

Western may as it deems reasonable and necessary enter into such other agreements as: transmission service agreements, interchange agreeements, reserve agreeements, load regulation agreements, exchange agreements, maintenance and emergency service agreements, power pooling agreements, or other transactions.

Part VIII. Conditions of Delivery

Western, in cooperation with the contractor, will establish scheduling and accounting procedures based upon standard utility industry practices. These procedures shall be set forth in separate written instructions. Subject to Western's approval as to location and voltage, delivery will be made at Boulder City Area transmission system voltages, but not normally less than 69 kilovolts. Subject to Western's approval, deliveries will continue to be made at lower voltages at powerplant and substation locations to contractors already receiving such deliveries from Western.

Section A. Scheduling

Deliveries of Boulder City Area power shall be scheduled in advance in accordance with procedures set forth in written instructions. These procedures shall provide for the adoption of schedules to the needs of day-to-day or hour-by-hour operations. Said procedures shall also specify the conditions under which actual deliveries, which are greater or less than scheduled deliveries during the month of a particular season, shall be adjusted in later deliveries in subsequent months of that season. Except in unusual circumstances, Western will not permit energy allocated to a contractor for use within one season to be used in another season.

Section B. Accounting

Deliveries of Boulder City Area power will normally be accounted for on the basis of advance schedules, in accordance with the procedures set forth in written instuctions. The written instructions shall include procedures for determining amounts of Boulder City Area power delivered to the contractor at each point of delivery and the procedures for delivery of losses.

Section C. Designated Points of Delivery

Delivery will be made at designated points on the Boulder City Area transmission system at rates of delivery not to exceed the available capability of the transmission system. The designated points of delivery and transmission systems are those specified by Appendix D and Appendix E, respectively, and may be modified as required.

The designation of delivery points in Appendix D and the transmission systems in Appendix E does not imply any obligation for Western to furnish additional facilities or to increase transmission or transformer capabilities at the designated points. Modifications to existing facilities and alternate or additional delivery points requested by the contractors may be permitted at the discretion of Western. Requests for taps on the Boulder City Area transmission system will be considered on a case-by-case basis.

Navajo power will be delivered at the McCullough and Westwing Substations and other points on the Central Arizona Project system as may be available. If the contractor cannot take delivery of Navajo power into its own system at these delivery points, transmission service arrangements to other delivery points will be the obligation of the contractor.

Boulder Canyon Project power will be delivered at Mead Substation and designated Hoover Switchyards. If a contractor cannot accept delivery of Boulder Canyon Project power at Mead Substation or the designated Hoover Switchyard, transmission service arrangements to other delivery points will be the obligation of the contractor.

Parker-Davis Project power will be delivered to designated points of delivery shown in Appendix D, except for those points denoted as Navajo and Boulder Canyon Project delivery points.

Section D. Conservation and Renewable Energy Programs

On November 13, 1981, Western published in the **Federal Register** a notice of the "Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs" (Vol. 46, No. 219). These guidelines outline the requirements for Western's power contractors to develop and implement their own individual conservation and renewable energy programs. Each contractor will be subject to these guidelines.

Issued at Golden, Colorado on May 3, 1983.

Robert L. McPhail,

Administrator.

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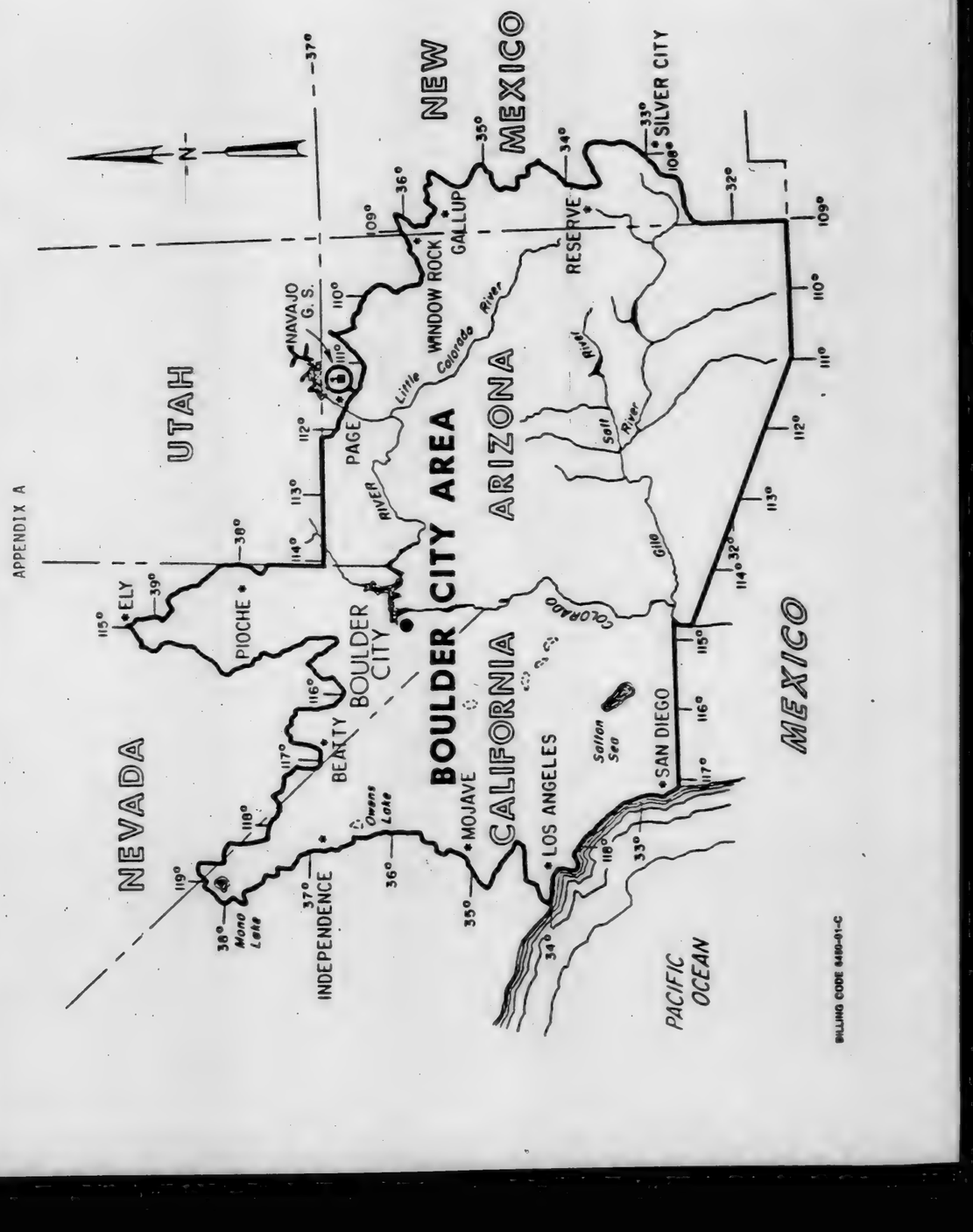

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Appendix A

Included in this Area are the following:

A. All of the drainage area considered tributary to the Colorado River below a point 1 mile downstream from the mouth of the Paria River (Lee's Ferry).

B. The State of Arizona, excluding that portion lying in the Upper Colorado River Basin, except for that portion of the Upper Colorado River Basin in which the Navajo Generating Station is located. The Navajo Generating Station is included in the power marketing area as a resource only.

C. That portion of the State of New Mexico lying in the Lower Colorado River Basin and the independent Quemada Basin lying north of the San Francisco River drainage area.

D. Those portions of the State of California lying in the Lower Colorado River Basin and in drainage basins of all streams draining into the Pacific Ocean south of Calleguas Creek.

E. Those parts of the States of California and Nevada in the Lahontan Basin including and lying south of the drainages of Mono Lake, Adobe Meadows, Owens Lake, Amargosa River, Dry Lakes, and all closed independent basins or other areas in southern Arizona not tributary to the Colorado River.

Appendix B

Existing Parker-Davis Project Contractors

APPA—Arizona Power Pooling Association (Arizona) [1]

CRIR—Colorado River Indian Reservation (Arizona, California)

CRC—State of Nevada and its Colorado River Commission (Contractor for the State of Nevada) [2]

EAFB—Edwards Air Force Base (California)

ED-3—Electrical District Number Three (Arizona)

FMIT—Fort Mojave Indian Tribe (Arizona, California)

IID—Imperial Irrigation District (California)

SRP—Salt River Project (Arizona)

SCIP—San Carlos Irrigation Project (Arizona)

Thatcher—Town of Thatcher (Arizona)

WMIDD—Wellton-Mohawk Irrigation and Drainage District (Arizona)

YID—Yuma Irrigation District (Arizona)

YPG—Department of the Army, Yuma Proving Ground (Arizona)

Appendix C

Existing Boulder Canyon Project Contractors

MWD—Metropolitan Water District of Southern California (California)

LADWP—Department of Water and Power, the City of Los Angeles (California)

SCE—Southern California Edison Company (California)

Glendale—City of Glendale (California)

Pasadena—City of Pasadena (California)

Burbank—City of Burbank (California)

APA—Arizona Power Authority (Contractor for the State of Arizona) [1]

CRC—State of Nevada and its Colorado River Commission (Contractor for the State of Nevada) [2]

Boulder City—City of Boulder City (Nevada)

[1] APPA Distribution:
1. MEC—Mohave Electric Cooperative (Allottee and Member of AEPCO).
2. Mesa—City of Mesa (Allottee and Principal of APPA).
3. AEPCO—Arizona Electric Power Cooperative, Inc. (Allottee and Principal of APPA):
a. Anza Electric Cooperative (California).
b. Duncan Valley Electric Cooperative (Arizona).
c. Graham County Electric Cooperative (Arizona).
d. Mohave Electric Cooperative (Arizona).
e. Sulphur Springs Valley Electric Cooperative (Arizona).
f. Trico Electric Cooperative (Arizona).

[2] CRC Contractors:
1. Overton Power District (Nevada).
2. Valley Electric Association (Nevada).
3. BMP Industrial Complex (Nevada):
a. Basic Management, Inc. (Nevada).
b. Flintkote Company (Nevada).
c. Kerr-McGee (Nevada).
d. Stauffer Chemical Company (Nevada).
e. Titanium Metals Corporation (Nevada).

[1] APA Contractors:
1. Buckeye Water Conservation and Drainage District.
2. Chandler Heights Citrus Irrigation District.
3. Cortaro-Marana Irrigation District.
4. Electrical District Number 2, Pinal County.
5. Electrical District Number 3, Pinal County.
6. Electrical District Number 4, Pinal County.
7. Electrical District Number 5, Maricopa County.
8. Electrical District Number 8, Pinal County.
9. Electrical District Number 6, Pinal County.
10. Electrical District Number 7, Maricopa County.
11. Maricopa County Municipal Water Conservation District Number One.
12. Ocotillo Water Conservation District.
13. Roosevelt Irrigation District.
14. Roosevelt Water Conservation District.
15. Salt River Project.
16. San Tan Irrigation District.
17. Wellton-Mohawk Irrigation and Drainage District.

[2] CRC Contractors:
1. Lincoln County Power District.
2. Nevada Power Company.
3. Overton Power District.
4. BMP Industrial Complex:
a. Basic Management, Inc.
b. Flintkote Company.
c. Kerr-McKee.
d. Stauffer Chemical Company.
e. Titanium Metals Corporation.

Appendix D

DESIGNATED POINTS OF DELIVERY, TAP POINTS, AND VOLTAGES

	Kilovolts
Arizona:	
Adams Tap	115
Black Mesa	230
Bouse	161
Buckeye	161
Buckskin Tap	69
Bullhead Tap	69
Casa Grande	115
	12.5
Cochise	115
Coolidge	230
	115
	13.8
	12.5
Colorado Tap	69
Davis Switchyard	230
	69
Davis Tap	4.16
Duval-Warm Springs Tap	69
Eagle Eye	161
ED-2	115
	12.5
ED-4	115
	12.5
ED-5	115
Empire	115
Gila	161
	69
	34.5
Headgate Rock Tap	161
Hilltop Tap	230
Liberty	230
Marana	115
Maricopa	115
	69
	13.8
MEC Kingman Tap	69
Mesa	230
	69
Navajo Switchyard [1]	500
Nogales Tap	115
Oracle	115
Phoenix	161
	69
	12.5
Pinnacle Peak	230
Planet Tap	69
Prescott	230
	115
Round Valley	230
Saguaro Generating Station	115
Signal	115
	12.5
Tucson	115
	14.4
Wellton-Mohawk	161
D34.5	
Westwing [1]	500
	230
Yuma Tap	34.5
Yuma Mesa	34.5
California:	
Blythe	161
Gene	230
Knob	161
Parker Switchyard	230
	161
	69
	34.5
Senator Wash	69
Nevada:	
Amargosa	138
Basic	230
	13.8
Boulder City Switchyard	69
	2.4
Boulder City Tap	230
Clark Tie	230
Hoover Switchyard [2]	287.5
	230
	138
	69
Mead [2]	230
McCullough Switchyard [1]	500
	230

[2] Boulder Canyon Project Delivery Points.

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APPENDIX E

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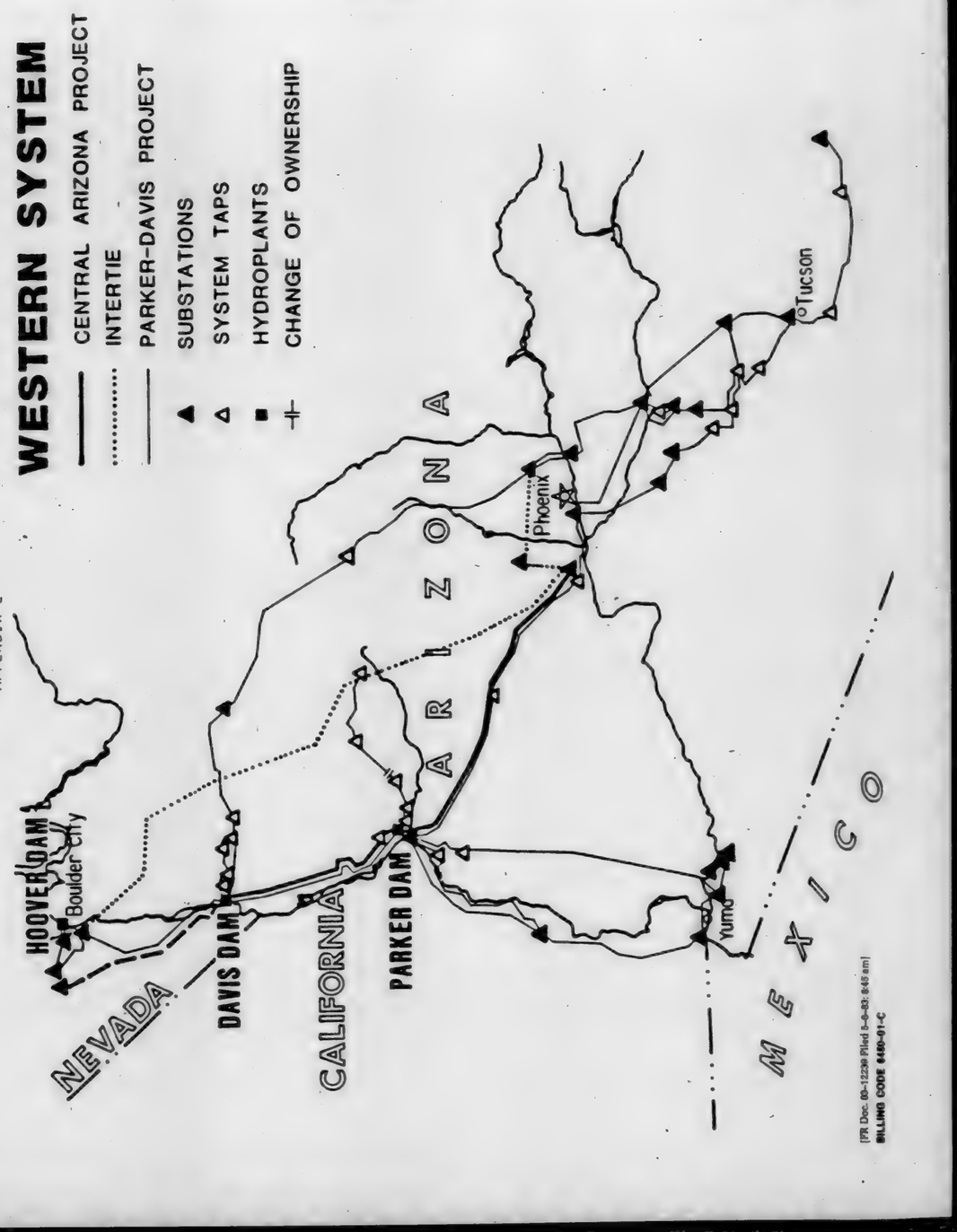

APPENDIX E

[FR Doc. 83-12230 Filed 5-6-83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12418 of May 5, 1983

Transfer of Functions Relating to Financial Responsibility of Vessels for Pollution Liability

By the authority vested in me as President by the Constitution and statutes of the United States of America, in order to transfer certain functions relating to the financial responsibility of vessels for water pollution and establish the authority of Federal agencies to respond to discharges or substantial threats of discharges of oil and hazardous substances, it is hereby ordered as follows:

Section 1. Executive Order No. 11735 of August 3, 1973, is amended as follows:

(a) The heading of Section 3 is amended to read "Reserved".

(b) Subsections 3(1) and 3(2) are redesignated subsections 2(6) and 2(7) respectively.

(c) Section 5(a) is amended to provide as follows:

"(a) The head of each Federal department and agency having responsibilities under the National Contingency Plan (40 C.F.R. Part 300), as now or hereafter amended, is designated and empowered to exercise, without the approval, ratification, or other action of the President, in accordance with that Plan, the authority under Section 311(c)(1) of the Act (33 U.S.C. 1321(c)(1)), relating to the removal of oil and hazardous substances that have been discharged, or for which there is a substantial threat of discharge, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).".

Sec. 2. Section 1–2 of Executive Order No. 12123 of February 26, 1979, is amended to provide as follows:

"1–2. *Determination of Financial Responsibility and the Assessment and Compromise of Penalties.*

"The Secretary of the Department in which the Coast Guard is operating is hereby delegated the following authorities:

"1–201. The authority vested in the President by Section 305(a)(1) of the Act (92 Stat. 677, 43 U.S.C. 1815(a)(1)), relating to vessels;

1–202. The authority vested in the President by Section 305(b) of the Act (92 Stat. 678, 43 U.S.C. 1815(b)), relating to offshore facilities; and

1–203. The authority vested in the President by Section 312(a)(2) of the Act (92 Stat. 684, 43 U.S.C. 1822(a)(2)), relating to the assessment and compromise of penalties concerning vessels.".

Sec. 3. Section 5(b) of Executive Order No. 12316 of August 14, 1981 is amended to provide as follows:

"(b) The functions vested in the President by Section 108(a) of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating. The Secretary shall be responsible, in accordance with Section 109 of the Act, for the enforcement of civil penalties for violations of the regulations issued under Section 108(a) of the Act.".

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Sec. 4. The Secretary of the Department in which the Coast Guard is operating is hereby delegated the authority vested in the President by Sections 311(p)(1)–(2) of the Federal Water Pollution Control Act, as amended (86 Stat. 870, 33 U.S.C. 1321(p)(1)–(2)), as those sections are incorporated by reference in Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act of 1973 (Public Law 93–153, 87 Stat. 586, 587), relating to the demonstration of financial responsibility for vessels carrying oil loaded from the Trans-Alaska pipeline.

Sec. 5. The Director of the Office of Management and Budget shall make such determinations, issue such Orders, and take all steps necessary or appropriate to effectuate the transfer of records, property, personnel, and positions and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, as provided in this Order, from the Federal Maritime Commission to the Secretary of the Department in which the Coast Guard is operating.

Sec. 6. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred from the Federal Maritime Commission to the Secretary of the Department in which the Coast Guard is operating by the delegation made in this Order shall remain in effect until amended, modified, or revoked.

Ronald Reagan

THE WHITE HOUSE,
May 5, 1983.

[FR Doc. 83-12861
Filed 5-6-83; 4:30 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12419 of May 5, 1983

Implementation of the International Convention on Tonnage Measurement of Ships

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to implement the International Convention on Tonnage Measurement of Ships, it is hereby ordered as follows:

Section 1. The Secretary of the Department in which the Coast Guard is operating shall perform the obligations of the United States, as prescribed by the Articles of the Convention.

Sec. 2. The Secretary of the Department in which the Coast Guard is operating may authorize one or more United States corporations or associations to admeasure vessels and issue International Tonnage Certificates, pursuant to the provisions of the Convention.

Ronald Reagan

THE WHITE HOUSE,
May 5, 1983.

[FR Doc. 83-12862
Filed 5-6-83; 4:31 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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Tuesday, May 10, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215 and 220

Claim and Report Submission; National School Lunch Program, Special Milk Program; and School Breakfast Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Food and Nutrition Service (FNS) is issuing this final rule to amend the regulations for the National School Lunch Program (NSPL), Special Milk Program (SMP) and School Breakfast Program (SBP). This rule implements a provision of Pub. L. 97–370, the 1983 Agriculture Appropriations Act, which mandates time limits for the submission of fiscal year 1983 Claims for Reimbursement to State agencies by School Food Authorities and program reports by State agencies to FNS. The rule will result in improved fiscal accountability at the local, State and Federal levels for fiscal year 1983 funds.

EFFECTIVE DATES: This rule is effective May 10, 1983. Since the statutory change reflected in this rule was effective upon enactment of Pub. L. 97–370 on December 18, 1982, fiscal year 1983 Claims for Reimbursement paid after December 18, 1982 and fiscal year 1983 program reports received by FNS after that date must have been submitted within the statutory deadlines.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This interim rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354; the Regulatory Flexibility Act. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

This rule is effective upon publication. Since the statutory change reflected in this rule was effective upon enactment of Pub. L. 97–370, fiscal year 1983 Claims for Reimbursement paid after December 18, 1982 and fiscal year 1983 program reports received by FNS after that date must have been submitted within the statutory deadlines. The law does not permit the Department to establish a later implementation date. Therefore, Robert E. Leard, Administrator, Food and Nutrition Service, has determined that good cause exists for making this rule effective earlier than 30 days after publication.

However, the Department did provide State agencies with advance notification that this provision was included in legislation which was likely to be enacted.

Background

There has been growing concern in the Congress, by the General Accounting Office, and by the Office of Management and Budget over the accountability for Federal funds. This regulation implements provisions included in the Agriculture Appropriation Act of 1983, Pub. L. 97–370, which was signed on December 18, 1982. These provisions mandate that "only final reimbursement claims for service of meals, supplements and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act." The Act further stipulates that "States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month." Finally, the Act provides that "Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary."

The Department is planning to publish a proposed rule for public comment which would make permanent the claim and report submission provisions of Pub. L. 97–370 and also make other conforming changes to Parts 210, 215, and 220 of the regulations.

The claims and report provisions were included in the law because the Department was experiencing serious delays in receiving complete and accurate participation data for the various child nutrition programs. Since the receipt of timely and accurate data is essential to the administration of these programs, Congress mandated that States submit their monthly reports to FNS within 90 days. Recognizing that States must receive complete claims from schools and institutions in a timely manner in order to submit their monthly reports to FNS as mandated, Congress further established a 60-day time limit for submission of the claims from which States prepare the reports. The time limits specified in the law allow State agencies and School Food Authorities to deal with exigencies that may arise from time to time in the claim and report processes. Schools and institutions will have two months in which to collect and submit meal counts and other essential information, and State agencies will have an additional month in which to compile all participation data into a final report.

Schools, institutions, and State agencies are cautioned that claims which are not submitted within 60 days of the claiming month shall not be paid, and States shall not receive funds for meals which are not reported within 90 days of the month in which they were

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served. Exceptions to these strictures may be granted by FNS on a case-by-case basis. However, it would be incumbent upon schools, institutions or State agencies to demonstrate to FNS that an exception is justified.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Grant programs—Social Programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Special Milk Program, Grant programs-Social programs, Nutrition, Children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs-Social programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, Parts 210, 215 and 220 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. Section 210.4, is amended by adding a new paragraph (e) as follows:

§ 210.4 Payments to States.

* * * * *

(e) Notwithstanding any other provision of this section, for the fiscal year ending September 30, 1983, a State agency shall receive payments of Program funds under this section for any month only if a final Report of School Program Operations (FNS–10) for such month is submitted no later than 90 days following the last day of that month. FNS may grant exceptions to this requirement if it determines that such exceptions are justified.

2. In § 210.13, paragraph (b) is amended by adding the following language to the end of the paragraph:

§ 210.13 Reimbursement procedures.

* * * * *

(b) * * * Notwithstanding any other provision of this paragraph, final Claims for Reimbursement for fiscal year 1983 shall be filed with the State agency, or FNSRO where applicable, not later than 60 days following the last day of the month covered by the claim. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted.

* * * * *

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

1. Section 215.4 is amended by adding a new paragraph (c) as follows:

§ 215.4 Payments of funds to States.

* * * * *

(c) Notwithstanding any other provision of this section, for the fiscal year ending September 30, 1983, a State agency shall receive payments of Program funds under this section for any month only if a final Report of School Program Operations (FNS–10) for such month is submitted no later than 90 days following the last day of that month. FNS may grant exceptions to this requirement if it determines that such exceptions are justified.

2. In § 215.10, paragraph (c) previously reserved, is added to read as follows:

§ 215.10 Reimbursement procedures.

* * * * *

(c) Notwithstanding any other provision of this section, final Claims for Reimbursement for fiscal year 1983 shall be filed with the State agency, or FNSRO where applicable, not later than 60 days following the last day of the month covered by the claim. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. Section 220.4, is amended by adding a new paragraph (d) as follows:

§ 220.4 Payments to States.

* * * * *

(d) Notwithstanding any other provision of this section for the fiscal year ending September 30, 1983, a State agency shall receive payments of Program funds under this section for any month only if a final Report of School Program Operations (FNS–10) for such month is submitted no later than 90 days following the last day of that month. FNS may grant exceptions to this requirement if it determines that such exceptions are justified.

§ 220.11 [Amended]

2. In § 220.11, paragraph (d), previously reserved, is added to read as follows:

* * * * *

(d) Notwithstanding any other provision of this section, final Claims for Reimbursement for fiscal year 1983 shall be filed with the State agency, or FNSRO where applicable, not later than 60 days following the last day of the month covered by the claim. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted.

* * * * *

(Catalog of Federal Domestic Assistance Nos. 10.553, 10.555 and 10.556)

(Pub. L. 97–370, 96 Stat. 1800)

Dated: April 22, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-12407 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 210, 215, 220, 235 and 245

[Amdts. 58, 27, 45, 9 and 24, Respectively]

Procurement Standards and Other Technical Changes

Correction

In FR Doc. 83–11524 beginning on page 19353 in the issue of Friday, April 29, 1983, make the following correction: The Docket line should have read as set forth above.

BILLING CODE 1505-01-M

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7 CFR Parts 225 and 226

Summer Food Service Program; Child Care Food Program; Claim and Report Submission

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule

SUMMARY: This final rule implements a provision of Public Law 97–370, the 1983 Agriculture Appropriations Act, mandating the submission of claims to State agencies within 60 days of the claiming month and the submission of Program reports by State agencies to the Department within 90 days of the month covered by the report. This rule amends both the Child Care Food Program (CCFP) and the Summer Food Service Program (SFSP) regulations.

EFFECTIVE DATES: This rule is effective May 10, 1983. However, the statutory change reflected in this rule was effective upon enactment of Public Law 97–370 on December 18, 1982. Therefore, fiscal year 1983 Claims for Reimbursement paid after December 18, 1982 must have been submitted within the statutory deadlines.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom or Mary Lou Wheeler at Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302 or by telephone at (703) 756–3886.

SUPPLEMENTARY INFORMATION:

Classification: This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Public Law 96–354. The Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

This rule is effective upon publication. Since the statutory change reflected in this rule was effective upon enactment of Pub. L. 97–370, fiscal year 1983 Claims for Reimbursement paid after December 18, 1982 must have been submitted within the statutory deadlines. The law does not permit the Department to establish a later implementation date. Therefore, Robert E. Leard, Administrator, Food and Nutrition Service, has determined that good cause exists for making this rule effective earlier than 30 days after publication. However, the Department did provide State agencies with advance notification that this provision was included in legislation which was likely to be enacted.

The CCFP is authorized by Section 17 of the National School Lunch Act (NSLA), and the SFSP is authorized by Section 13 of the NSLA. Comprehensive regulations for the CCFP were last published on August 20, 1982, in response to changes mandated by Public Law 97–35, the *Omnibus Budget Reconciliation Act of 1981*. The most recent regulations for the SFSP were published on December 30, 1982. This regulation implements a provision of Public Law 97–370, which was signed on December 18, 1982. This provision mandates that "Only final reimbursement claims for service of meals, supplements and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act." The Act further stipulates that "States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month." Finally, the Act provides that "Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary." The effective date of this provision established in the law is December 18, 1982.

This provision was included in the law because Congress perceived that the Department was experiencing serious delays in receiving complete and accurate participation data for the Child Nutrition Programs. Since the receipt of timely and accurate data is essential to the administration of these programs, Congress is mandating that States submit their monthly reports as soon as feasible after the end of the month. Recognizing that States must receive complete claims in a timely manner in order to submit their required monthly reports, Congress further established a 60-day time limit for submission of claims. The time limits specified in the law allow both State agencies and institutions to deal with exigencies that may arise from time to time. Institutions will have two months in which to collect and submit meal or home counts and other essential information, and State agencies will have an additional month in which to compile all participation data into a final report.

Paticipants and State agencies are cautioned that claims which are not submitted within 60 days of the claiming month shall not be paid, and States shall not be authorized to draw funds for meals which are not reported within 90 days of the month in which they were served. Exceptions to these may be granted by FNS on a case-by-case basis. However, it is incumbent upon the institution or State agency to demonstrate to FNS that an exception is justified.

The Department is planning to issue a proposed rule to make the claiming and reporting provision of Public Law 97–370 permanent.

In response to this mandate, the Department is amending the SFSP and CCFP regulations as follows:

Summer Food Service Program Regulations

(1) Two sentences are added to § 225.10(c) to specify that the final date for the State agency to report monthly information on the use of funds and on Program operations for Fiscal Year 1983 is 90 days after the month covered by the report. States shall not receive funds for any month for which the report is not submitted within this time frame unless FNS grants an exception.

(2) Two sentences are added to § 225.11(c)(6) to state that claims for Fiscal Year 1983 shall not be honored by the State agency unless they are submitted within 60 days of the month covered by the claim. No claim filed later than 60 days after the month covered will be paid unless FNS determines that an exception to this deadline should be granted.

Child Care Food Program

(1) In § 226.7(b), two sentences are added to specify that the deadline for the State to submit monthly reports for Fiscal Year 1983 is 90 days after the end of the month covered by the report. States shall not receive funds for any month for which the report is not submitted within this time limit unless FNS grants an exception.

(2) Two sentences are added to § 226.10(c) stating that claims for Fiscal Year 1983 shall not be honored unless they are submitted within 60 days after the end of the month covered by the claim. Claims submitted after the 60 day deadline will not be paid unless FNS determines that an exception should be granted.

List of Subjects

7 CFR Part 225

Food assistance program, Grant programs-health, Infants and children, Reporting and Recordkeeping requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs-health, Infants and children, Reporting and recordkeeping requirements.

Accordingly, the Department is amending 7 CFR Part 225 as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

1. Section 225.10(c) is amended by adding two sentences to read as follows:

§225.10 Records and reports.

* * * * *

(c) * * * For Fiscal Year 1983, the final such report for each month shall be submitted not later than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final such report is not submitted within this time limit, unless FNS grants an exception.

* * * * *

2. Section 225.11(c)(6) is amended by adding two sentences to read as follows:

§ 225.11 Program payments.

* * * * *

(c) *Reimbursements.* * * *

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(6) * * * Notwithstanding the foregoing, for Fiscal Year 1983, claims for reimbursement containing data in sufficient detail to justify the amount claimed and to enable the State agency to provide the information required in Program reports shall be filed with the State agency not later than 60 days following the last day of the month covered by the claim. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted.

* * * * *

Accordingly, the Department is amending 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. Amend § 226.7(d) by adding two sentences at the end of the present text, to read as follows:

§ 226.7 State agency responsibilities for financial management.

* * * * *

(d) *Reports.* * * * During Fiscal Year 1983, the final report for each month on the use of funds and on Program operations shall be submitted no more than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not submitted within this time limit unless FNS grants an exception.

* * * * *

2. Amend § 226.10(c) by adding two sentences at the end of the present text, to read as follows:

§226.10 Program payment procedures.

* * * * *

(c) * * * Notwithstanding the above, For Fiscal Year 1983, claims for reimbursement containing data in sufficient detail to justify the amount claimed and to enable the State agency to provide the information required in Program reports shall be filed with the State agency not later than 60 days following the last day of the month covered by the claim. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted.

(Secs. 13 and 17 of the National School Lunch Act, as amended by Public Law 97–307).

Dated: April 22, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–12488 Filed 5–9–83; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Amended Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reduces the assessment rate for melons grown in South Texas from two cents to one cent per carton. The committee has estimated that the size of the melon crop will provide adequate income at the lower assessment rate. This will decrease the assessment burden on handlers.

EFFECTIVE DATE: May 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because it reduces costs for the directly regulated handlers.

This amendment is based upon committee recommendations resulting from a telephone vote conducted April 15–19, 1983. During this period all committee members were contacted and the vote was unanimously in favor of this action. The committee has studied the reports of acreage planted in melons in the production area and has determined that sufficient income for committee operations would be generated at a rate of assessment of one cent per carton. While planted acreage is somewhat lower than last year, expenses for planned production research projects have been less than anticipated. This is because the cooperator was unable to hire a cultural practices technician, and because certain cultural practices projects will not be undertake this season. Since the committee has sufficent funds for contingencies in its reserve, committee members believe it appropriate to reduce the assessment this shipping season.

Findings

After consideration of all relevant matters, it is found that the following amendment will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) to maximize benefits to handlers this amendment should apply to as many shipments as possible during the effective period, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area and (4) the amendment reduces the financial burden on the handling of production area melons.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

The first paragraph of § 979.205 (48 FR 1932), *Expenses and assessment rate,* is hereby revised to as follows:

§ 979.205 Expenses and assessment rate.

* * * * *

Expenses of $119,000 by the South Texas Melon Committee are authorized and an assessment rate of $0.01 per carton of melons is established from the date hereof until September 30, 1983.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: May 4, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–12391 Filed 5–9–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Cascade Airways, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Cascade Airways, Inc. to the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States.

EFFECTIVE DATE: April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of the Immigration and Naturalization Service has entered into an agreement with Cascade Airways, Inc. to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Naturalization Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the present listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 is amended as follows:

1. Add in alphabetical order, "Cascade Airways, Inc.," under "At Calgary".

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: May 5, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83–12451 Filed 5–9–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 379, 385 and 399

[Docket No. 30429–70]

Amendments to the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations by inserting material inadvertently omitted and by removing material inadvertently added to the Regulations in past revisions. This rule neither expands nor limits the provisions of the Export Administration Regulations, and only conforms their provisions to previously announced policy.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION: On December 29, 1982, the **Federal Register** published the Commodity Control List (CCL) in a new paragraph format (47 FR 58122–58194). Two references to commodities controlled for export for reasons of nuclear non-proliferation were inadvertently omitted. Also, another reference to the old CCL format, which included footnotes, was inadvertently retained in the Regulations, and references to special export controls on shipments to South Africa and Namibia were inadvertently added to two entries on the List. Special foreign policy controls regarding Iraq were inadvertently retained on two CCL entries. In addition, typographical errors were made on three of the CCL entries.

On January 25, 1983, the **Federal Register** published a notice announcing the extension of foreign policy export controls (48 FR 3359–3361). Export controls imposed on commodities for use in the 1980 Summer Olympics in Moscow were repealed, but some references to such controls in Parts 371, 379 and 385 were inadvertently retained. In addition, a typographical error was made in reference to a CCL entry for which some export controls were amended.

This rule, which neither expands nor limits the provisions of the export Administration Regulations, makes the following amendments to those Regulations:

1. The references to the Moscow Summer Olympics controls are removed;

2. The reference to the old footnoted CCL format is revised to reflect the new paragraph format;

3. The omitted nuclear non-proliferation references are incorporated into the appropriate Commodity Control List entries;

4. The inapplicable South Africa and Namibia references are removed;

5. References to CCL ECCN 6799G are amended to read "6899G", and a typographical error involving 6899G is corrected;

6. Typographical errors in ECCNs 1362A, 1371A and 1501A are corrected;

7. "Iraq" is removed from the special foreign policy controls in ECCNs 1460A and 5460F. This change conforms these CCL entries with export controls already announced (**Federal Register** of September 15, 1982, pages 40538–40541);

8. An outdated commodity interpretation (removed by **Federal Register** announcement on November 18, 1982, pages 51858–51861) is removed from ECCN 6699G; and

9. A paragraph on special South Africa and Namibia controls that was inadvertently removed is restored to ECCN 6779F.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

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List of Subjects

15 CFR Parts 371 and 399

Exports.

15 CFR Part 385

Communist countries, Exports.

PART 371—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

§ 371.2 [Amended]

1. Paragraph (c)(13) of § 371.2 is removed.

2. Paragraph (b) of § 371.3 is revised to read as follows:

§ 371.3 General License G-DEST; shipments of commodities to destinations not requiring a validated license.

* * * * *

(b) *Commodity Control List provisions.* If information contained in a particular entry of the Commodity Control List (Supplement No. 1 to § 399.1) modifies or alters any provisions of General License *G-DEST*, the provisions contained in the Commodity Control List shall govern.

§ 379.4 [Amended]

3. Paragraph (g) of § 379.4 is removed and reserved.

§ 385.4 [Amended]

4. In § 385.4, paragraphs (a)(2)(ii)(B) and (a)(5)(viii) are amended by revising the number "6799G" to read "6899G".

5. The following amendments are made to the Commodity Control List (Supplement No. 1 to § 399.1):

A. ECCN 4261B is amended by inserting between the *Processing Code* paragraph and the *Special Licenses Available* paragraph a new paragraph reading as follows:

4261B ***

Controls for ECCN 4261B

* * * * *

Processing Code: * * *

Reason for Control: Nuclear non-proliferation.

* * * * *

B. In ECCN 1362A, paragraph (b) of the Definitive List of Vibration Test Equipment Controlled by ECCN 1362A is amended by revising the phrase "referenced to 2×10^{-6} N)" to read "(referenced to 2×10^{-6} N/m^2)".

C. In ECCN 1371A, paragraph (a)(1) of the Definitive List of Commodities Controlled by ECCN 1371A is amended by revising the phrase "(SAE–5144C)" to read "(SAE–5144OC)".

D. ECCNs 6392F and 6599G are amended by removing the *Special South Africa and Namibia Controls* paragraph.

E. ECCN 1460A is amended by removing the word "Iraq," from the Note (beginning "Nonmilitary aircraft designed to carry up to a maximum of 25 persons, * * * ") following the three numbered paragraphs under the heading *Special Foreign Policy Controls.*

F. ECCN 5460F is amended by removing the word "Iraq," from the Note (beginning "Nonmilitary aircraft designed to carry up to a maximum of 25 persons, * * * ") following the *Special Licenses Available* paragraph.

G. ECCN 1501A is amended by revising the word "report" to read "reexport" in the *Special Foreign Policy Controls* paragraph.

H. The *Reason for Control* paragraph of ECCN 1502A amended by inserting the phrase "nuclear non-proliferation;" between the phrase "National security;" and the phrase "crime control".

I. ECCN 6699G is amended by removing the Commodity Interpretation ("Illustrative List of Chemicals and Materials * * * ").

J. ECCN 6779F is amended by removing the paragraph entitled *Special South Africa and Namibia Controls.*

K. ECCN 6899G is amended by revising the heading to read as follows:

6899G Other rubber and rubber products, n.e.s. Controls for ECCN 6899G:

* * * * *

(Sec. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; E. O. No. 12214 (45 FR 29783, May 6, 1980))

Date: April 28, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-12408 Filed 5-9-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations Under the Commodity Exchange Act—Recordkeeping; Revocation of Regulation Which Permitted Exemption to One-Minute Timing of Trades

AGENCY: Commodity Futures Trading Commission.

ACTION: Revocation.

SUMMARY: Before it was amended on December 2, 1980, § 1.35(g) of the Commodity Futures Trading Commission ("Commission") regulations required each contract market to show on its trade register the time of the execution of each futures trade to the nearest minute. On December 12, 1979, the Commission adopted § 1.35a–(T) of its regulations, which provided that if a contract market fulfilled certain conditions, it would be exempt from the then one-minute timing requirement for trades in § 1.35(g). The Commission has since deleted the one-minute timing requirement in favor of 30-minute bracket periods for the timing of trades and, thus, § 1.35a–(T) is no longer necessary.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas L. Sweat, Jr., Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: Section 1.35a–(T) [1] states that a contract market will be exempt from the provisions of § 1.35(g)(1) [2] (one-minute timing) until January 1, 1981, if the contract market divides its trading day into separately identified time periods which are no more than 30 minutes long, if it identifies on its trade register the time period in which each trade is executed, and if it submits such reports as required by the Director or the Deputy Director of the Division of Trading and Markets on the accuracy of this time period information and the use made of this information in the contract market's surveillance of market activity required by the Commodity Exchange Act [3] and § 1.51 of the regulations thereunder.[4] Approximately a year after the Commission adopted § 1.35a–(T), the Commission deleted the one-minute timing requirement in § 1.35(g)(1) [5] and replaced it with a requirement that trades be recorded according to the time period in which they were executed, these time periods being no longer than 30 minutes each. In addition, § 1.35(g)(2), as amended, states that a contract market shall submit to the Commission such reports as requested by the Director of the Division of Trading and Markets concerning the accuracy of any information recorded on the contract market's trade register required by § 1.35(e),[6] which includes the time period in which each trade is executed.

[1] 17 CFR 1.35a–(T), 44 FR 71617 (December 12, 1979).

[2] 17 CFR 1.35(g) (1979).

[3] 7 U.S.C. 1 *et seq.*, (1976 and Supp. V 1981), *as amended by* the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 (1983).

[4] 17 CFR 1.51 (1982).

[5] 45 FR 70753 (December 2, 1980).

[6] 17 CFR 1.35(e) (1982).

Section 1.35a–(T) was intended as a temporary regulation and, as a result of the Commission's amendment of § 1.35(g) (1) and (2), it has become obsolete. In consideration of the foregoing and pursuant to the authority in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1976), the Commission hereby revokes 17 CFR 1.35a–(T).

Issued in Washington, D.C. on May 5, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-12482 Filed 5-9-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., Inc., and biocraft Laboratories, Inc., providing for oral use of amoxicillin trihydrate tablets for treating bacterial dermatitis and soft tissue infections in dogs.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., Inc., 1405 Cummings Drive, P.O. Box 26609, Richmond, VA 23261, and Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407, jointly filed NADA 65–492 providing for oral use of amoxicillin trihydrate tablets (Robamox-V) for treating soft tissue infections (abscesses, wounds, and lacerations) and bacterial dermatitis in dogs.

The firms submitted data from dose-titration, subacute-toxicity, comparative-bioavailability, and clinical studies demonstrating the drug's safety and effectiveness. The NADA is approved, and the regulations are amended to reflect the approval.

Biocraft Laboratories, Inc., has not previously been included in the regulations in the list of sponsors of approved NADA's. The regulations are amended to include this sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 540

Animal drugs, Antibiotics, Penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 540 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407	000332
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000332	Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407.
* * * * *	

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

2. Part 540 is amended by adding new § 540.103f, to read as follows:

§ 540.103f Amoxicillin trihydrate tablets.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate tablets are composed of amoxicillin trihydrate with or without one or more suitable and harmless lubricants, fillers, binder-disintegrants, and buffers. Each tablet contains amoxicillin trihydrate equivalent to 50, 100, 200, or 400 milligrams of amoxicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the amount of amoxicillin that it is represented to contain. The moisture content is not more than 6 percent. Tablets disintegrate within 30 minutes. It passes the identity test. The amoxicillin trihydrate used conforms to the requirements of § 440.3(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter, and in addition, this drug shall be labeled "amoxicillin tablets."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, disintegration time, and identity.

(ii) Samples required.

(*a*) The amoxicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay—(1) Potency.* Assay for potency by either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative

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number of tablets into a high-speed blender jar containing sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of amoxicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Place a representative number of tablets in a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure described in paragraph (e)(1) of that section.

(4) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample as follows: Using a mortar and pestle, grind a representative number of tablets into a fine powder. Dissolve an accurately weighed amount of this powder in 0.1*N* hydrochloric acid to give a solution containing 4 milligrams of amoxicillin per milliliter.

(c) *Conditions of marketing*—(1) *Specifications.* The drug conforms to the requirements of paragraph (a) of this section.

(2) *Sponsor.* See 000031 or 000332 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dogs—(a) Dosage:* 5 milligrams per pound of body weight twice a day.

(*b*) *Indications for use:* Treatment of bacterial dermatitis due to *Staphylococcus aureus, Streptococcus* spp., *Staphylococcus* supp., and *E. coli;* and soft tissue infections (abscesses, wounds, lacerations) due to *Staphylococcus aureus, Streptococcus* spp., *E. coli, Proteus mirabilis,* and *Staphylococcus* spp.

(*c*) *Limitations.* Use for 5 to 7 days for 48 hours after all symptoms have subsided. If no improvement is seen in 5 days, review diagnosis and change therapy. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) [Reserved]

Effective date. May 10, 1983.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)))

Dated: May 3, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12417 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Growmark, Inc., providing for use of a 50-gram-per-pound lincomycin premix in manufacturing a 20-gram-per-pound lincomycin premix. The intermediate premix is subsequently used in swine feeds for treatment and/or control of dysentery.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701, is sponsor of NADA 133–832 filed in its behalf by the Upjohn Co. The NADA provides for use of a 50-gram-per-pound lincomycin premix in manufacturing a 20-gram-per-pound lincomycin intermediate premix for subsequent incorporation into complete swine feeds. The complete feeds are used for control and/or treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). The basis of approval is discussed in the freedom of information (FOI) summary. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by adding new paragraph (b)(12) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(12) Premix level of 20 grams per pound has been granted to No. 020275 in § 510.600 of this chapter for use in paragraph (f)(2) (i), (ii) and (iii) of this section.

* * * * *

Effective date. May 10, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12416 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 8

[Docket No. R-83-528]

Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule; correction.

SUMMARY: This document corrects the effective date contained in an interim rule implementing Section 504 of the Rehabilitation Act of 1973, as amended, which was published May 6, 1983 (48 FR 20638). The date listed on the regulation is an erroneous one.

DATES: Effective date: June 15, 1983.

Comments must be received by: August 4, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Putman, Special Advisor to Deputy Under Secretary for Intergovernmental Relations, Office of Housing, Office of Policy and Budget, Room 10184 at the above address, (202) 755–6732. A telecommunications device for deaf persons (TDD) is available at (202) 426–0016. These are not toll free numbers. This notice will be available on tape for persons with vision impairments in the Office of the Rules Docket Clerk shown above.

Accordingly, the effective date for 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development, appearing on 20638 in the issue of May 6, 1983, is corrected to read as follows:

DATES: Effective date: June 15, 1983.

Comments must be received by August 4, 1983.

Dated: May 6, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-12807 Filed 5-9-83; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 108

[Docket No. R-83-701]

Compliance Procedures for Affirmative Fair Housing Marketing

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Technical amendment.

SUMMARY: This document amends 24 CFR Part 108 of HUD regulations to include OMB control numbers at the place where current information collection requirements are described.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Sally Warner Watts, Regulations Division, Office of the General Counsel, (202) 755–7084. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirement contained in the regulatory section listed below has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned the control number listed. The requirement to notify HUD of the owner's intent to begin marketing, contained in § 108.15; is part of the owner's responsiblities in carrying out the Affirmative Fair Housing Marketing Plan, Form HUD–935.2.

Text of the Amendment

Following the text of § 108.15 of Title 24, add the following statement:

(Approved by the Office of Management and Budget under OMB Control Number 2535–0027)

Dated: May 2, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-12444 Filed 5-9-83; 8:45 am]

BILLING CODE 4210-28-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 901

Bylaws of the Corporation

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Final rule.

SUMMARY: The document published here in a revision of the Bylaws of the Pennsylvania Avenue Development Corporation ("PADC"). PADC was created by Act of Congress (Pennsylvania Avenue Development Corporation Act of 1972, 40 U.S.C. 871, *et seq.)* as a wholly-owned corporation of the United States Government, with authority to create and amend Bylaws to govern the manner in which it carries out its functions. (40 U.S.C. 875(5)).

The Corporation's Bylaws previously provided that eight voting members of the Board of Directors constitutes a quorum. In the past the Corporation on occasion has had difficulty obtaining a quorum which is necessary to transact the business of the Corporation, although it never has had to adjourn a meeting for want of such a quorum.

EFFECTIVE DATE: January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan L. Kempner, General Counsel (202) 566–1078 or Mary Schneider Chyun, Attorney (202) 566–1078, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Washington, D.C. 20004.

SUPPLEMENTARY INFORMATION: To enhance the Board of Directors' ability to achieve the necessary quorum, the following two amendments to the Bylaws, both of which are consistent with a reasonable interpretation of the mandates of PADC's enabling statute, have been made:

- Provide that a quorum shall be a majority of voting members serving at the time the meeting is convened. Therefore, if for any reason there are two or three vacancies on the voting Board, a majority of seven would suffice as a quorum (and proportionately less if even more vacancies arose) rather than the eight that are presently required.
- Permit public voting members to designate two officials from their agencies, either of whom may serve on the Board in his/her stead. This would offer some protection from the situation where a Board member's primary alternate becomes unavailable without allowing sufficient time to secure a letter of appointment from the Board member for a new alternate.

The Corporation has determined that, since this document is not a rule and is published in the **Federal Register** and Code of Federal Regulations for information purposes only, it is not a "major rule," and thus does not require a regulatory impact analysis under Executive Order 12291, "Federal Regulations." (46 FR 13193, February 19, 1981). It will not result in any of the effects described in Section 1(b) of the Executive Order. In addition, the Chairman of the Corporation's Board of Directors has determined, and hereby certifies, that this document will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980, 5 U.S.C. 603, 604 and 605).

List of Subjects in 36 CFR Part 901

Bylaws.

For the reasons set out in the preamble, Part 901, Chapter IX of Title 36, Code of Federal Regulations, is amended as set forth below.

PART 901—BYLAWS OF THE CORPORATION

36 CFR Part 901 is amended by removing the present language of §§ 901.3(d) and 901.3(e), and inserting in lieu thereof the following language:

§ 901.3 [Amended]

* * * * *

(d) *Quorum.* The presence of a majority of the number of voting Directors serving at the time of a

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meeting of the Board shall constitute a quorum for the transaction of business at such meeting of the Board. The act of a majority of the voting Directors at any meeting at which there is a quorum shall be an act of the Board of Directors. If there shall be less than a quorum at any meeting, a majority of the voting Directors present may adjourn the meeting until such time as a quorum can practically and reasonably be obtained.

(e) *Directors Serving in Stead.* Each member of the Board of Directors specified in paragraphs (1) through (7) of subsection 3(c) of the Act, if unable to serve in person, may designate up to two officials from his agency or department to serve on the Board in his stead. Such designation shall be effected by a letter of appointment, from the Director specified in the Act, received by the Chairman prior to or at a meeting of the Board of Directors. If two officials are so designated, then the Director specified in the Act shall identify one as the First Designee and the other as the Second Designee. The Second Designee may only serve as Director if the First Designee is not in attendance at a meeting of the Board of Directors. An official designated to serve in stead shall serve as the voting Director of the represented agency until the Chairman receives written notice from the Director specified in the Act, or his successor, that the designation is rescinded.

Dated: April 23, 1983.

Henry A. Berliner, Jr.,

Chairman.

[FR Doc. 83-12333 Filed 5-9-83; 8:45 am]

BILLING CODE 7536-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-3

Selection of Offerors for Negotiation and Award

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations by revising an existing subpart on the selection of offerors for negotiation and award. The regulations clarify and simplify the source selection process and will result in reduced administrative burden. This revision is also consistent with Executive Order 12352 of March 17, 1982 on Federal Procurement Reforms.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Norman Audi, Division of Procurement Policy, (202-245-6154).

SUPPLEMENTARY INFORMATION: On January 14, 1983, the proposed rule on the selection of offerors for negotiation and award was published in the **Federal Register** (48 FR 1774) and invited public comments by February 14, 1983. As a result, three responses were received—one from a nonprofit organization, another from an educational association, and the third from an agency within the Department.

The agency within the Department suggested that we expand § 3-3.5107-6(b) to provide a more detailed explanation of the peer review requirements. We concur and have revised the section accordingly.

The nonprofit organization was concerned with the usage of average ratings as stated in § 3-3.5108-4. They did not believe that the use of an average score would adequately reflect disparities of scores between individual evaluators. Further, they believed that raw scoring allows evaluators to see the picture more accurately. Their rationale included using passing scores and comparing the average rating and total points to the passing scores. We do not agree with the comments. Passing scores or predetermined cutoff scores are prohibited and are not to be employed (§ 3-3.5108-4). Further, § 3-3.5108-5 requires that a copy of each rating sheet be included in the technical evaluation report. Therefore the disparities between individual evaluators are not lost when the technical evaluation panel collectively ranks the proposals. Finally, we do not limit rating and ranking to the method set forth in § 3-3.5108-4. The method we include is the one which is generally used; however, the original rating plan may employ a different method.

The educational association was concerned that subparagraph (b) of § 3-3.5110 of the existing regulation had been deleted. This subparagraph emphasized the importance of scientific competence in the selection of a contractor to perform a research and development contract. We concur and have revised § 3-3.5515, Source selection decision, to include part of the language in the former regulation and to add additional language which the association recommended.

This rule will not have any significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96-3545, U.S.C. 601, et. seq.)

List of Subjects in 41 CFR Part 3-3

Government procurement.

This is not a major rule as defined by Executive Order 12291 of February 17, 1981.

The provisions of this amendment are issued under 5 U.S.C. 301, 40 U.S.C. 486(c).

Title 41 CFR Chapter 3 is amended as set forth below.

Dated: May 3, 1983.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance, and Logistics.

Under Part 3-3, it is proposed to revise Subpart 3-3.51 to read as follows:

PART 3-3—PROCUREMENT BY NEGOTIATION

* * * * *

Subpart 3-3.51—Selection of Offerors for Negotiation and Award

Sec.

3-3.5100 Scope of subpart.
3-3.5101 Definitions.
3-3.5102 Applicability.
3-3.5103 Integrity of the source selection process.
3-3.5104 Technical evaluation plan.
3-3.5105 Changes in Government requirements.
3-3.5106 Standard for evaluation of proposals.
3-3.5107 Technical evaluation panel.
3-3.5107-1 General.
3-3.5107-2 Role of the project officer.
3-3.5107-3 Role of the contracting officer.
3-3.5107-4 Conflicts of interest.
3-3.5107-5 Continuity of evaluation process.
3-3.5107-6 Use of outside evaluators.
3-3.5108 Evaluation of technical proposals.
3-3.5108-1 Receipt of proposals.
3-3.5108-2 Convening the technical evaluation panel.
3-3.5108-3 Clarifications.
3-3.5108-4 Rating and ranking of proposals.
3-3.5108-5 Technical evaluation report.
3-3.5109 Evaluation of business proposals.
3-3.5110 Competitive range.
3-3.5111 Preparation for discussions.
3-3.5112 Written or oral discussions.
3-3.5113 Request for best and final offers.
3-3.5114 Evaluation of best and final offers.
3-3.5115 Source selection decision.
3-3.5116 Negotiation with the selected source.
3-3.5117 Post negotiation, contract preparation, and award.
3-3.5118 Notification and debriefing of unsuccessful offerors.
3-3.5119 Post-award orientation of contractors.

* * * * *

§ 3-3.5100 Scope of subpart.

This subpart establishes policies and procedures concerning the source selection process for the procurement of personal property and nonpersonal services. It elaborates on the guidance provided in § 1-3.805.

§ 3-3.5101 Definitions.

(a) "Clarification," as used in this subpart, means communication with an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the offeror's proposal. It is achieved by explanation or substantiation, either in response to contracting officer inquiry or as initiated by the offeror. Unlike discussion, clarification does not give the offeror an opportunity to revise or modify its proposal.

(b) "Deficiency," as used in this subpart, means any part of a proposal that fails to satisfy the requirements of the Department.

(c) "Discussion," as used in this subpart, means any oral or written communication between the contracting officer and an offeror that involves information essential for determining the acceptability of a proposal as submitted or provides the offeror an opportunity to revise or modify its proposal.

§ 3-3.5102 Applicability.

This subpart applies to all competitively negotiated procurements in excess of $10,000 except for:

(a) Architect-engineer services (see §§ 1-4.10 and 3-4.10); and

(b) Contracts to be awarded to the Small Business Administration pursuant to section 8(a) of the Small Business Act (see §§ 1-7.713 and 3-1.713).

§ 3-3.5103 Integrity of the source selection process.

(a) The source selection process shall be conducted in accordance with standards and procedures that:

(1) Insure fair and impartial treatment of all offerors; and

(2) Insure the selection of sources whose performance is expected to best meet the requirements or objectives of the request for proposals at a reasonable price or cost.

(b) Personnel participating in the evaluation process must not discuss or reveal information concerning the evaluations except to an individual participating in the same evaluation proceedings, and then only to the extent that the information is required in connection with the proceedings. Divulging information during the evaluation, selection, and negotiation phases of the procurement to offerors or to personnel not having a need to know could jeopardize the resultant award. Therefore, the contracting officer must instruct personnel participating in the evaluations to observe these restrictions and assure that all personnel understand that unauthorized disclosure of information, no matter how innocent, could compromise the procurement process and is prohibited (see § 1-3.805-1(b)).

(c) Discussions with offerors relative to any aspect of the procurement shall be conducted only by the contracting officer or his/her authorized representative within the contracting office.

§ 3-3.5104 Technical evaluation plan.

(a) A technical evaluation plan may be required by the contracting officer, at his/her discretion, when a procurement is sufficiently complex as to warrant a formal plan.

(b) The technical evaluation plan should include at least the following:

(1) A list of technical evaluation panel members, their organizations as well as a list of their major consulting clients (if applicable), their qualifications, and curricula vitae (if available);

(2) A justification for using non-Government technical evaluation panel members (justification is not required if non-Government evaluators will be used in accordance with standard procuring activity procedures or policies);

(3) A statement that there is no apparent or actual conflict of interest regarding any panel member;

(4) A copy of each rating sheet, approved by the contracting officer, to be used to assure consistency with the evaluation criteria; and

(5) A brief description of the general evaluation approach.

(c) The technical evaluation plan must be signed by an official within the program office in a position at least one level above the project officer or in accordance with procuring activity procedures.

(d) The technical evaluation plan should be submitted to the contracting officer for review and approval before the solicitation is issued. The contracting officer shall make sure that the principal factors relating to the evaluation are reflected in the evaluation criteria when conducting the review of the plan.

§ 3-3.5105 Changes in Government requirements.

(a) When, either before or after receipt of proposals, the Government changes, relaxes, increases, or otherwise modifies its requirements, the contracting officer shall issue a written amendment to the solicitation. However, when time is of the essence, oral advice of changes may be given if the changes involved are not complex and all firms to be notified (see paragraph (b), below) are notified as near to the same time as possible. The contracting officer shall make a record of the oral advice and promptly confirm the oral advice by a written amendment to the solicitation.

(b) In deciding which firms to notify of a change, the contracting officer shall consider the stage in the procurement cycle at which the change occurs and the magnitude of the change, as follows:

(1) If proposals are not yet due, the amendment shall be sent to all firms that have received a solicitation.

(2) If the time for receipt of proposals has passed but proposals have not yet been evaluated, the amendment shall be sent only to the responding offerors.

(3) If the competitive range has been established, only those offerors within the competitive range shall be sent the amendment.

(4) If a change is so substantial that it warrants complete revision of a solicitation, the contracting officer shall cancel the original solicitation and issue a new one, regardless of the stage of the procurement. The new solicitation shall be synopsized and issued to all firms originally solicited as well as to any firms added to the original list.

(c) If the proposal considered to be most advantageous to the Government involves a departure from the stated requirements, the contracting officer shall provide all offerors an opportunity to submit new or amended proposals on the basis of the revised requirements; *provided,* that this can be done without revealing to the other offerors the solution proposed in the original departure or any other information that is entitled to protection.

(d) The decision to issue an amendment, or cancel and reissue a solicitation, is the responsibility of the contracting officer.

§ 3-3.5106 Standard for evaluation of proposals.

The evaluation criteria included in the solicitation serve as the standard against which all proposals are evaluated. Prospective offerors rely upon the evaluation criteria in the solicitation in developing proposals and they must be assured that the evaluation is conducted in accordance with those criteria. All personnel involved in the evaluation process must make sure that the evaluation criteria contained in the solicitation are the *only* criteria used in conducting the evaluation. See §§ 3-3.5503(f) and 3-3.5511 for detailed guidance on evaluation criteria.

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§ 3-3.5107 Technical evaluation panel.

§ 3-3.5107-1 General.

(a) A technical evaluation panel is required for all procurements applicable to this subpart which are expected to exceed $250,000. The contracting officer, at his/her discretion, may require a technical evaluation panel for procurements not exceeding $250,000 based on the complexity of the procurement.

(b) The technical evaluation process requires careful and deliberate consideration as to the size, composition, expertise, and function of the technical evaluation panel (see § 3-3.5005(b)(14)). The efforts of the panel can result in success or failure of the procurement.

§ 3-3.5107-2 Role of the project officer.

(a) The project officer is the contracting officer's technical representative for the procurement action. The project officer may be a voting member of the technical evaluation panel and may also serve as the chairperson of the panel unless he/she is prohibited by law or procuring activity procedures from serving on the panel.

(b) The project officer is responsible for recommending panel members who are knowledgeable of the technical aspects of the procurement and who are competent to identify strengths and weaknesses of the various proposals. The program training requirements specified in § 3-1.454 must be adhered to when selecting prospective panel members.

(c) The project officer should make efforts to ensure that persons possessing expertise and experience in addressing issues relative to sex, race, national origin, and handicapped discrimination be included as panel members in procurements which address those issues. The intent is to balance the composition of the panel so that qualified and concerned individuals may provide insight to other panel members regarding ideas and approaches to be taken in the evaluation of proposals.

(d) The project officer is to submit the recommended list of panel members to an official within the program office in a position at least one level above the project officer or in accordance with procuring activity procedures. This official will review the recommendations, appoint the panel members and select the chairperson.

(e) It is the responsibility of the project officer to arrange for adequate and secure working space for the panel.

§ 3-3.5107-3 Role of the contracting officer.

(a) The contracting officer is the Department's official representative having delegated procurement authority to enter into and administer contracts. The term "contracting officer," as used in this subpart, may be the contracting officer or his/her designated representative within the contracting office.

(b) The contracting officer shall not serve as a member of the technical evaluation panel but should be available to:

(1) Address the initial meeting of the technical evaluation panel (see § 3-3.5106-2);

(2) Provide assistance to the evaluators as required; and

(3) Assure that the scores adequately reflect the written technical evaluation report comments (see § 3-3.5108-5).

§ 3-3.5107-4 Conflicts of interest.

(a) If a panel member has an apparent or real conflict of interest related to a proposal under evaluation, he/she shall not serve on the technical evaluation panel and shall be replaced with another evaluator. If a suitable replacement is not available, the panel shall perform the review with one less evaluator.

(b) For the purpose of this subpart, conflicts of interest are defined in the Department's Standards of Conduct set forth in 45 CFR Part 73 which incorporates 5 CFR Part 737, Post Employment Conflict of Interest. The Standards of Conduct shall be applicable to both in-house personnel and outside evaluators serving on the technical evaluation panel.

§ 3-3.5107-5 Continuity of evaluation process.

(a) The technical evaluation panel is responsible for evaluating the original proposals, making recommendations to the chairperson regarding clarifications and deficiencies of proposals, and, if required by the contracting officer, assisting the contracting officer during discussions and negotiations, and reviewing supplemental, revised and/or "best and final" offers. To the extent possible, the same evaluators should be available throughout the entire evaluation and selection process to assure continuity and consistency in the treatment of proposals. However, the following are some examples of circumstances when it would not be necessary for the technical evaluation panel to evaluate any revised proposals submitted during the procurement:

(1) The answers to the questions do not have a substantial impact on the proposal (see 3-3.5111(a));

(2) The "best and final" offers are not materially different from the original proposals; or

(3) The rankings of the offerors are not affected because the revisions to the proposals are relatively minor.

(b) The chairperson, with the concurrence of the contracting officer, may decide not to have the panel evaluate the revised proposals. Whenever this decision is made, it must be fully documented by the chairperson and approved by the contracting officer.

(c) When technical evaluation panel meetings are considered necessary by the contracting officer, the attendance of evaluators is mandatory. When the chairperson determines that an evaluator's failure to attend the meetings is prejudicial to the evaluation, the chairperson may replace the individual after discussing the situation with the contracting officer and obtaining his/her concurrence and the approval of the program official responsible for appointing the panel members (see § 3-3.5107-2(d)).

(d) Whenever continuity of the evaluation process is not possible, and either new evaluators are selected or a reduced panel is decided upon, each proposal which is being reviewed at any stage of the procurement should be reviewed at that stage by all members of the revised panel unless it is impractical to do so because of the receipt of an unusually large number of proposals.

§ 3-3.5107-6 Use of outside evaluators.

(a) The technical evaluation panel shall be composed of Government employees except that outside evaluators may be used when expertise is required which is not available within the Government, or as required by law (see § 3-1.353(f)).

(b) The National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are required to have a peer review of research and development contracts in accordance with Public Law (Pub. L.) 93-352 as amended by Pub. L. 94-63; 42 U.S.C. 289 *l*-4. This legislation requires peer review of projects and proposals, and not more than one-fourth of the members of a peer review group may be officers or employees of the United States. NIH and ADAMHA are therefore exempt from the provisions of § 3-3.5107 to the extent that 42 U.S.C. 289 *l*-4 applies.

§ 3-3.5108 Evaluation of technical proposals.

§ 3-3.5108-1 Receipt of proposals.

(a) After the closing date set by the solicitation for the receipt of proposals, the contracting officer will forward the technical proposals to the project officer or chairperson for evaluation by means of a transmittal memorandum. The business proposals will be retained by the contracting officer for evaluation (see § 3-3.5109).

(b) The transmittal memorandum to the chairperson should include at least the following:

(1) A list, by name, of the organizations submitting proposals;

(2) A reference to § 3-3.5103 on the need to preserve the integrity of the source selection process;

(3) A requirement for a technical evaluation report in accordance with § 3-3.5108-5; and

(4) The establishment of a date for receipt of the technical evaluation report.

§ 3-3.5108-2 Convening the technical evaluation panel.

(a) Normally the technical evaluation panel will convene to evaluate the proposals. However, there may be situations when the contracting officer determines it is not feasible or practicable for the panel to convene. Whenever this decision is made, care must be taken to assure that the technical review is closely monitored to produce acceptable results. The procedures for handling and disclosing proposals outside the Government for evaluation purposes is set forth in § 3-1.353(e).

(b) When a panel is convened, the chairperson is responsible for the control of the technical proposals provided to him/her by the contracting officer for use during the evaluation process. The chairperson will generally distribute the technical proposals at the initial panel meeting and will establish procedures for securing the proposals whenever they are not being evaluated to insure the confidentiality of the proposals. After the evaluation is complete, all proposals must be accounted for by returning to the contracting officer, destruction, or filing in an appropriate manner to maintain the confidential nature of the data.

(c) The contracting officer should address the initial meeting of the panel and state the basic groundrules for conducting the evaluation. The contracting officer shall provide written guidance to the panel if he/she is unable to attend the initial panel meeting. The guidance should include:

(1) Explanation of conflicts of interest (see § 3-3.5107-4);

(2) The necessity to re-read and understand the solicitation especially the statement of work and evaluation criteria, prior to reading the proposals;

(3) The need for evaluators to restrict the review to only the solicitation and the contents of the technical proposals;

(4) The need for each evaluator to review all the proposals;

(5) The need to watch for ambiguities, inconsistencies, errors, and deficiencies which should be surfaced during the evaluation process;

(6) An explanation of the evaluation process and what will be expected of the evaluators throughout the process;

(7) The need for the evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses which affect the scoring of the proposals; and

(8) An instruction directing the evaluators that, until the award is made, information concerning the procurement must not be disclosed to any person not directly involved in the evaluation process.

§ 3-3.5108-3 Clarifications.

Normally, clarifications of proposals can be made when discussions are conducted with all offerors in the competitive range. However, there are instances when the contracting officer may find it necessary to make inquiry of an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. The contracting officer shall assure that the clarifications are in writing. Such inquiry of and clarification furnished in writing by such offeror shall not be considered to constitute "discussions" within the meaning of § 3-3.5101(c) and shall not necessitate any inquiry of other offerors. However, if clarification results in an offeror revising its proposal or would in any way prejudice the interest of other offerors, the information should be returned to the offeror without being evaluated or discussions should be conducted with all offerors which have not been eliminated from the competition.

§ 3-3.5108-4 Rating and ranking of proposals.

The evaluators will individually read each proposal and describe tentative strengths, weaknesses and develop preliminary scores in relation to each evaluation criterion set forth in the solicitation. The evaluators will use the rating sheets either in the technical evaluation plan or approved by the contracting officer when a technical evaluation plan is not required. (See § 3-3.5104(b). After this has been accomplished, the evaluators should discuss in detail the individual strengths and weaknesses described by each evaluator and, if possible, arrive at a common understanding of the major strengths and weaknesses and the potential for correcting each offeror's weakness(es). Each evaluator will individually rate (score) each proposal, and then the technical evaluation panel will collectively rank the proposals. Generally, but depending on the rating plan employed, ranking will be accomplished by totaling the numerical scores assigned by each evaluator to the evaluation criteria and developing an average rating for each offeror. The evaluators should then identify each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

§ 3-3.5108-5 Technical evaluation report.

A technical evaluation report shall be prepared and furnished to the contracting officer by the chairperson and maintained as a permanent record in the contract file. The report must reflect the ranking of the proposals and identify each proposal as acceptable or unacceptable in accordance with § 3-3.5108-4. The report must also include a narrative evaluation specifying the strengths and weaknesses of each proposal, a copy of each rating sheet, and any reservations, qualifications, or areas to be addressed that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal must be included. The report should also include specific points and questions which are to be raised in discussions or negotiations.

§ 3-3.5109 Evaluation of business proposals.

(a) Concurrently with the evaluation of the technical proposals, the contracting officer shall begin the evaluation of the business proposals. The contracting officer must adhere to the requirements for cost or price analysis included in §§ 1-3.807 and 3-3.807.2 for each business proposal in the competitive range. An audit report may be required in accordance with §§ 1-3.809 and 3-3.809. The contracting officer must exercise judgment in determining the extent of analysis in each case depending on the amount of the proposal, the technical complexity and related cost or price, and cost

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realism. The contracting officer should request the project officer to analyze such items as: the number of labor hours proposed for various labor categories; the mix of labor hours and categories of labor in relation to the technical requirements of the project; the kinds and quantities of material, equipment, and supplies; types, numbers, and hours/days of proposed consultants; logic of proposed subcontracting; analysis of the travel proposed including number of trips, locations, purpose, and travelers; and kinds and quantities of data processing. The project officer shall provide his/her opinion as to whether these elements are necessary and reasonable for efficient contract performance. Exceptions to proposed elements shall be supported by adequate rationale to allow for effective negotiations. The contracting officer should also request the assistance of a cost/price analyst when considered necessary. In all cases, the negotiation memorandum (see § 3–50.3) must include the rationale used in determining that the price or cost is fair and reasonable.

(b) The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, the contracting officer should consider factors such as the offeror's management organization, past performance, reputation for reliability, availability of the required facilities, and cost controls. This information is to be used by the contracting officer to determine the offeror's responsibility.

§ 3–3.5110 Competitive range.

(a) The contracting officer shall determine which proposals are in the competitive range for the purpose of conducting written or oral discussions. The competitive range shall be determined on the basis of price or cost, technical and other salient factors that were stated in the solicitation and shall include all proposals which have a reasonable chance of being selected for award. A proposal must be included in the competitive range unless there is no real possibility that it can be improved to the point where it becomes the *most* acceptable. When there is a reasonable doubt as to whether a proposal should be included in the competitive range, the proposal shall be included.

(b) In certain circumstances, when deciding which proposals should be included in the competitive range, the contracting officer may request that the technical evaluation panel review the cost or price data. Typical situations which may necessitate this review include a suspected "buy-in," large differences in cost or price among the proposals, proposals receiving high technical ratings which have relatively high costs, and proposals receiving low technical ratings which have relatively low costs. The resultant comparison of cost or price to technical factors and the determination of cost or price realism should assist the contracting officer in deciding which proposals are to be included in the competitive range.

(c) All determinations regarding the inclusion or exclusion of proposals in the competitive range must be completely documented, including the salient reasons for the determinations, and set forth in the negotiation memorandum (see § 3–50.301(i)).

(d) Some of the factors which the contracting officer should consider in determining the competitive range are:

(1) The relative importance of cost or price as compared to technical factors in accordance with the solicitation provisions required in § 3–3.5511–4(c).

(2) The susceptibility of significantly reducing a proposal with an unreasonably high price or cost without undermining the technical merit if the offeror otherwise has a reasonable chance to receive an award; and

(3) The likelihood of reducing cost or price of a proposal which exceeds the Government's requirements.

(e) The contracting officer shall conduct a thorough review of the technical evaluation report to be assured that:

(1) All determinations of unacceptability are supported by concrete and comprehensive statements that are factual and convincing and are consistent with the evaluation criteria set forth in the solicitation. Every statement should be reviewed carefully to eliminate any doubts as to the unacceptability of a proposal;

(2) All recommendations to exclude proposals from the competitive range are supported by persuasive rationale and sufficient facts to substantiate a judgment that meaningful discussions are not possible or there is no reasonable chance of the proposal being selected for award;

(3) Those cases where only one organization is found to be technically acceptable are fully scrutinized; and

(4) Unacceptable proposals contain "information" deficiencies which are so material as to preclude any possibility of upgrading the proposal to a competitive level except through major revisions and additions which would be tantamount to the submission of another proposal.

§ 3–3.5111 Preparation for discussions.

(a) The contracting officer and project officer should discuss the uncertainties and/or deficiencies that are included in the technical evaluation report for each proposal in the competitive range. Technical questions should be developed by the project officer and/or the technical evaluation panel and should be included in the technical evaluation report. The management and cost or price questions should be prepared by the contracting officer with assistance from the project officer and/or panel as required. The method of requesting offerors in the competitive range to submit the additional information will vary depending on the complexity of the questions, the extent of additional information requested, the time needed to analyze the responses, and the time frame for making the award. However, to the extent practicable, all questions and answers should be in writing. Each offeror in the competitive range shall be given an equitable period of time for preparation of responses to questions to the extent practicable.

(b) The questions should be developed so as to disclose the ambiguities, uncertainties, and deficiencies of the offeror (see § 3–3.5112(b)(2)).

§ 3–3.5112 Written or oral discussions.

(a) The contracting officer, with the support of personnel who evaluated the technical proposals, and, if necessary, cost analysts, attorneys, etc., must conduct written or oral discussions with all offerors within the competitive range, except that this requirement need not apply to the exceptions in § 1–3.805–1(a). The content and extent of the discussions is a matter of the contracting officer's judgment, based on the particular facts of each procurement.

(b) The contracting officer shall:

(1) Control all discussions;

(2) Advise the offeror of deficiencies in its proposal so that the offeror is given an opportunity to satisfy fully the Government's requirements;

(3) Attempt to resolve any uncertainties concerning the technical proposal and other terms and conditions of the proposal;

(4) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process; and

(5) Provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its proposal that may result from the discussions.

(c) The contracting officer and other Government personnel shall not engage in the following:

(1) Technical leveling (i.e., helping any offeror to bring its proposal up to the level of other proposals through successive rounds of discussion by pointing out weaknesses resulting from the offeror's lack of diligence, competence, or inventiveness in preparing the proposal);

(2) Technical transfusion (i.e., Government disclosure of technical information pertaining to a proposal that results in improvement of a competing proposal); or

(3) Auction techniques, such as the following:

(i) Indicating to an offeror a price that it must meet to obtain further consideration;

(ii) Advising an offeror of its price standing relative to another offeror (however, it is permissible to inform an offeror that its price is considered by the Government to be too high or too low); and

(iii) Otherwise furnishing information about other offerors' prices.

(d) Careful judgment must be exercised in determining the extent of discussions. In some cases, more than one round of discussions with all the offerors within the competitive range may be required. The time available, the expense and administrative limitations, and the complexity, size, and significance of the procurement should all be considered in deciding on the type, duration, and depth of the discussions.

§ 3–3.5113 Request for best and final offers.

At the conclusion of discussions with all offerors in the competitive range a final, common cutoff date, which allows a reasonable opportunity for submission of written "best and final" offers must be established and all offerors in the competitive range so notified. If oral notification is given, it must be confirmed in writing. The written notification must include the following information:

(a) Discussions have been concluded;

(b) Offerors are being given an opportunity to submit a "best and final" offer;

(c) The offer is subject to both the "Late Proposals, Modifications of Proposals, and Withdrawals of Proposals" provision of the solicitation, and the requirements of § 1–3.805–1(b);

(d) Any "best and final" offers received after the time and date established for receipt of offers shall be handled in accordance with §§ 1–3.802–1 and 1–3.802–2, as applicable;

(e) The confirmation of a prior offer should be specifically stated as a final offer; and

(f) All revisions to former offers should be submitted on Optional Form 59, Contract Pricing Proposal, or Optional Form 60, Contract Pricing Proposal (Research and Development), as applicable, and should be fully documented.

§ 3–3.5114 Evaluation of best and final offers.

"Best and final" offers are subject to a final evaluation of price or cost and other salient factors by the contracting officer and project officer with assistance from a cost/price analyst, and an evaluation of technical factors by the technical evaluation panel, as necessary. Proposals may be technically rescored and reranked by the technical evaluation panel and a technical evaluation report prepared. To the extent practicable, the evaluation shall be performed by the same evaluators who reviewed the original proposals.

§ 3–3.5115 Source selection decision.

(a) After the close of discussions and evaluation of "best and final" offers, the contracting officer will select for award the offeror whose proposal offers the greatest advantage to the Government, price and other factors considered and/or in accordance with the evaluation criteria set forth in the solicitation.

(b) Of particular importance in the award of research or development contracts, including those with educational institutions, is the competence of key personnel in the specific field of science or technology involved, as reflected in the proposal. However, awards should be made for research and development capabilities that exceed those needed for the successful performance of the particular project.

§ 3–3.5116 Negotiation with the selected source.

(a) After selection of the successful proposal, a limited negotiation with the selected offeror may be conducted if deemed necessary. However, no factor which could have any effect on the selection process may be introduced into the negotiation after the common cutoff date for receipt of best and final offers. The negotiation shall not in any way prejudice the competitive interests or right of the unsuccessful offerors. Negotiaton with the selected offeror shall be restricted to definitizing the final agreement on terms and conditions; e.g., assuming none of these factors were involved in the selection process, negotiation could include such topics as payment provisions, patent rights, rights in data, property provisions, labor rates, indirect cost rates, and fees. Prior to conducting the limited negotiation, the contracting officer shall approve a written determination citing both the specific issues to be discussed and the rationale showing that the negotiations shall not have any effect on the selection process.

(b) Caution must be exercised by the contracting officer to insure that the negotiation is not used to change the requirement contained in the solicitation, nor to make any other changes which would impact on the source selection decision. Whenever a material change occurs in the requirements as a result of the negotiation, the competition must be reopened and all offerors submitting "best and final" offers must be given an opportunity to resubmit proposals based on the revised requirements. Whenever there is a question as to whether a change is material, the contracting officer should obtain the advice of technical personnel and legal counsel before reopening the competition. Significant changes in the offeror's cost proposal may also necessitate a reopening of competition if such changes alter the factors involved in the original selection process.

(c) Should negotiations beyond those specified in (a) above be required for any reason, discussions must be reopened with all offerors submitting "best and final" offers.

(d) Upon completion of the negotiation, the contracting officer should obtain a confirmation letter from the successful offeror which includes any revisions to the technical proposal, the agreed to price or cost, and, as applicable, a certificate of current cost or pricing data.

§ 3–3.5117 Post negotiation, contract preparation, and award.

(a) The contracting officer must perform the following actions after negotiations have been completed:

(1) Prepare the negotiation memorandum in accordance with Subpart 3–50.3;

(2) Prepare the contract containing all agreed to terms and conditions and clauses required by law or regulation;

(3) Include in the contract file the pertinent documents referenced in § 3–1.313–51; and

(4) Obtain the appropriate approval of proposed contract awards in accordance with Subpart 3–50.1 and procuring activity procedures.

(b) After receiving the required approvals, the contract should be

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transmitted to the prospective contractor for signature. The prospective contractor must be informed that the contract is not effective until accepted by the contracting officer.

(c) The contract shall not be issued until the finance office certifies that the funds are available for obligation.

§ 3-3.5118 Notification and debriefing of unsuccessful offerors.

Unsuccessful offerors will be notified, and debriefed at their request, in accordance with §3-3.103.

§ 3-3.5119 Post-award orientation of contractors.

FPR Subpart 1-1.18 prescribes policies and procedures regarding the postaward orientation of contractors. To the extent practicable, contracting officers should utilize letters to accomplish postaward orientation objectives (see § 1-1.1806). A postaward orientation conference should be arranged only when letters cannot resolve key issues.

[FR Doc. 83-12448 Filed 5-9-83; 8:45 am]
BILLING CODE 4110-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6518]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-8620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new constuction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
North Dakota:				
Traill	Garfield, township of	380669-New	April 5, 1983, emergency	
Richland	Liberty Grove, township of	380665	...do	
Bottineau	Newborg, township of	380668-New	...do	
Traill	Norman, township of	380670-New	...do	
Colorado: Weld	Erie, town of	080181	July 22, 1975, emergency; Oct. 17, 1978, regular; Jan. 17, 1979, suspended; April 5, 1983, reinstated.	June 28, 1974 and Nov. 28, 1975.
Minnesota: Aitkin	Unincorporated areas	270628B	Apr. 23, 1974, emergency; Mar. 15, 1982, regular; Mar 15, 1982, suspended; Apr. 6, 1983, reinstated.	Dec. 30, 1977.
Idaho: Teton	...do	160230A	Apr. 8, 1983, emergency	Sept. 13, 1977.
Maine: Washington	East Machias, town of	230813	Apr. 8, 1983, emergency	Feb. 11, 1977.
Michigan: Kent	Cannon, township of	260734-New	...do	
Texas: Donley	Clarendon, city of	481584-New	...do	
Washington: Skamania	North Bonneville, city of	530256	...do	Nov. 19, 1976.
Georgia: Fulton	Mountain Park, city of	130315B	Apr. 7, 1983, emergency, Apr. 7, 1983, regular	Jan. 13, 1978 and Feb. 16, 1983.
California: San Joaquin	Manteca, city of	060706-New	Apr. 8, 1983, emergency	
North Dakota: Richland	Summit, township of	380671-New	Apr. 15, 1983, emergency	
Texas: Galveston	Tiki Island, village of	481585-New	...do	
Louisiana: Morehouse Parish	Unincorporated areas	220367A	Apr. 14, 1983, emergency	Aug. 5, 1978.
Wyoming: Converse	...do	560082A	Apr. 22, 1983, emergency	Feb. 21, 1978.
Wisconsin: Walworth	East Troy, village of	550464C	Dec. 21, 1982, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Apr. 19, 1983, reinstated.	May 24, 1975, May 14, 1976 and Nov. 10, 1978.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Ozaukee	Port Washington, city of	550316B	June 30, 1975, emergency; Oct. 15, 1981, regular; Aug. 17, 1982, suspended; Apr. 19, 1983, reinstated.	May 31, 1974 and Oct. 15, 1981.
Minnesota:				
Wabasha	Zumbro Falls, city of	270491B	Nov. 21, 1974, emergency; Nov. 4, 1981, regular; Nov. 4, 1981, suspended; Apr. 22, 1983, reinstated.	Aug. 16, 1974 and Mar. 19, 1976.
Norman	Ada, city of	270323B	Apr. 30, 1974, emergency; Aug. 2, 1982, regular; Aug. 2, 1982, suspended; Apr. 18, 1983, reinstated.	May 10, 1974 and June 11, 1976.
Ohio:				
Licking	Buckeye Lake, village of	390682-New	Apr. 26, 1983, emergency	
Gallia	Crown City, village of	390167	...do	Jan. 10, 1975.
Greene	Jamestown, village of	390681	...do	
Washington: Pierce	Bonney Lake, city of	530274A	Oct. 14, 1982, emergency; Apr. 26, 1983, regular.	May 1, 1980
Pennsylvania: York	West Manheim, township of	422234B	Mar. 9, 1976, emergency; Mar. 16, 1983, regular; Mar. 16, 1983, suspended; Apr. 26, 1983, reinstated.	Dec. 13, 1974 and Oct. 31, 1975.
New Jersey: Union	Kenilworth, borough of	340466B	Feb. 8, 1973, emergency; Mar. 2, 1983, regular; Mar. 2, 1983, suspended; Apr. 27, 1983, reinstated.	Oct. 26, 1973.
Mississippi: Lamar	Sumrall, town of	280326A	Apr. 22, 1983, emergency	Aug. 31, 1979.
Colorado: Pueblo	Boone, town of	080146B	Apr. 26, 1983, emergency	Sept. 6, 1974, Jan. 9, 1976 and Sept 19, 1978.
Illinois: Sangamon	Sherman, village of	170969A	...do	Jan. 12, 1978.
Indiana: LaPorte	LaPorte, city of	180490-New	...do	
Missouri:				
Bollinger	Zalma, village of	290033A	...do	Oct. 25, 1974 and Nov. 7, 1975.
Christian	Nixa, city of	290078	Apr. 22, 1983, emergency; Apr. 22, 1983, regular.	NSFHA.
Illinois: Scott	Bluffs, village of	170608B	Apr. 26, 1983, emergency; Apr. 26, 1983, regular.	June 7, 1974, Jan. 30, 1976 and June 15, 1981.
Alabama: Etowah	Gadsden, city of	010080C	Apr. 4, 1983, suspension, withdrawn	June 15, 1978, May 26, 1978, Mar. 8, 1974.
Connecticut: Litchfield	Torrington, city of	095081B	...do	Mar. 5, 1976, July 1, 1974 and May 18, 1972.
Iowa:				
Union	Creston, city of	190264B	...do	Jan. 2, 1976, June 28, 1974.
Shelby	Harlan, city of	190246B	...do	Jan. 9, 1976, June 28, 1974.
Mills	Pacific Junction, city of	190206A	...do	June 28, 1974.
Kansas: McPherson	Unincorporated areas	200214B	...do	June 28, 1977.
Louisiana:				
Bossier Parish	Bossier City, city of	220330C	...do	June 28, 1974, Dec. 12, 1975 and June 5, 1979.
Vermilion and Iberia	Delcambre, town of	220223B	...do	Oct. 7, 1980, Apr. 5, 1974.
St. Tammany Parish	Mandeville, town of	220202C	...do	Sept. 28, 1979, Oct. 1, 1976 and June 28, 1974.
New Hampshire: Hillsborough	Hancock, town of	330089B	...do	Nov. 5, 1976, May 31, 1974.
New York: Suffolk	Asheroken, village of	365333C	...do	Oct. 10, 1975, July 1, 1974, and Aug. 20, 1971.
Louisiana: Vermilion Parish	Erath, town of	220224B	...do	Feb. 20, 1979, Mar. 8, 1974.
New York: Onondaga	Cicero, town of	360572C	...do	July 16, 1976, Dec. 31, 1976 and Nov. 1, 1974.
New York:				
Nassau	Glen Cove, city of	360465	...do	Mar. 1, 1978.
Greene	Jewett, town of of	361114B	...do	Dec. 23, 1977, Jan. 17, 1974.
Pennsylvania: York	Manheim, township of	422224B	...do	Apr. 18, 1980, Dec. 27, 1974.
Texas:				
Galveston	Clear Lake Shores, city of	485461C	...do	Apr. 18, 1975, Oct. 23, 1970.
Do.	Hitchcock, city of	485479D	...do	Oct. 31, 1975, July 1, 1974, Nov. 17, 1970.
Vermont: Franklin	Highgate, town of	500055B	...do	Aug. 13, 1976, May 31, 1974.
Virginia:				
Tazewell	Cedar Bluff, town of	510162A	...do	June 25, 1976, May 10, 1974.
Do.	Richlands, town of	510583A	...do	June 18, 1976.
West Virginia:				
Ohio	Unincorporated areas of	540149B	...do	Oct. 2, 1981, Nov. 29, 1974.
Wetzel	...Do	540207A	...do	Dec. 20, 1974.
Texas: Orange	Pine Forest, town of	480697A	...do	Dec. 13, 1974.
Tennessee: Gibson	Bradford, city of	470057B	...do	June 21, 1974, Apr. 23, 1976.
New York:				
Suffolk	Huntington Bay, village of	361543B	Apr. 18, 1983, suspension withdrawn	Dec. 12, 1980 and Feb. 7, 1975.
Suffolk	Lloyd Harbor village of	360799C	...do	Apr. 12, 1974, Feb. 15, 1978 and Apr. 18, 1983.
Oneida	New Hartford, town of	360535B	...do	May 28, 1974 and Feb. 22, 1974.
Suffolk	Northport, village of	360801B	...do	Apr. 12, 1974 and June 4, 1976.
Green	Tannersville, village of	360297B	...do	June 25, 1975 and June 7, 1974.
Pennsylvania:				
Berks	Spring, township of	421108B	...do	Sept. 13, 1974.
Do.	Wyomissing, burough of	421375A	...do	Nov. 22, 1974.
Texas: Galveston	Friendswood, city of	485468	...do	Dec. 19, 1975.
Connecticut: New Heaven	West Haven, city of	090092C	...do	May 31, 1974 and Jan. 17, 1979.
Kentucky: Floyd	Allen, city of	210070	...do	Feb. 27, 1976.
Minnesota: Chisago	Unincorporated areas	270662B	...do	Oct. 28, 1977.
New Jersey:				
Monmouth	Keyport, borough of	340304C	...do	Jan. 23, 1974, Feb. 6, 1976, and July 2, 1979.
Bergen	Closter, borough of	340023B	...do	Apr. 9, 1976 and Sept. 6, 1974

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State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Sussex	Newton, town of	3404538	do.	Apr. 12, 1974 and June 4, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 1, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12315 Filed 5-9-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determinations to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Town of Lincoln, Talladega County (FEMA–6442)	Blue Eye Creek	Just upstream of McClain Avenue	*486
			Just upstream of State Highway 77	*501
		Tributary 1	Approximately 200 feet upstream of State Highway 77	*507
		Tributary 2	Just upstream of Magnolia Avenue	*499
Maps available for inspection at Town Hall, Clerk's Office, Highway 78, Lincoln, Alabama 35096.				
Alaska	Kotzebue (city), Kotzebue Division, FEMA–6442	Kotzebue Sound	Center of intersection of Shore Avenue and Runik Way	*10
			Center of intersection of Tundra Street and Eighth Avenue.	*7
Maps available for inspection at City Hall, 3rd Avenue, Kotzebue, Alaska.				
California	Placer County (unincorporated areas), FEMA–6449	Dry Creek (at Roseville	375 feet downstream from center of Atkinson Street	*119
		Miners Ravine	25 feet upstream from center of Sierra College Boulevard.	*246
		Antelope Creek	100 feet upstream from center of Grange Avenue	*331
		Antelope Creek Tributary	25 feet upstream from center of Humphrey Road	*380
		Secret Ravine	100 feet upstream from center of King Road	*381
		Secret Ravine Tributary	20 feet upstream from center of Interstate Highway 80	*367
		Aguiler Road Tributary	25 feet upstream from center of Aguiler Road	*267
		Pleasant Grove Creek	25 feet upstream from center of Southern Pacific Railroad.	*105
		Pleasant Grove Creek Tributary 1	20 feet upstream from center of State Highway 65	*109
		Pleasant Grove Creek Tributary 2	20 feet upstream from center of unnamed road	*118

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pleasant Grove Creek Tributary 3	20 feet upstream from center of unnamed road	*119
		Sucker Ravine	500 feet upstream from confluence with Secret Ravine	*235
		Orchard Creek	100 feet upstream from center of Industrial Avenue	*119
		Orchard Creek Tributary 1	20 feet upstream from center of Athens Avenue	*120
		Orchard Creek Tributary 2	20 feet upstream from center of State Highway 65	*128
		Orchard Creek Tributary 2–1	100 feet upstream from center of State Highway 65	*128
		Orchard Creek Tributary 2–2	20 feet upstream from center of unnamed road	*134
		Orchard Creek Tributary 3	25 feet upstream from center of State Highway 65	*129
		Auburn Ravine	20 feet upstream from center of Forgotten Road	*1,004
		Dry Creek (Vicinity of Auburn)	25 feet upstream from center of Haines Road	*1,430
		Truckee River	50 feet upstream from center of Alpine Meadows Road.	*6,174
		Auburn Ravine (at Lincoln)	20 feet upstream from center of State Highway 65	*150
		Ward Creek	30 feet upstream from center of State Highway 89	*6,250
		Clover Valley Creek	180 feet downstream from center of Sierra College Boulevard.	*498
Maps available for inspection at Department of Public Works, 11444 B Avenue, Auburn, California.				
California	Porterville (city), Tulare County, FEMA–6442	Tule River	50 feet upstream from center of Jaye Street	*441
		Shallow Flooding	Center of intersection of Olive Avenue and Plano Street.	#1
		Shallow Flooding	Center of intersection of Doris Avenue and Sunnyside Avenue.	*447
Maps available for inspection at City Planning Department, 291 North Main Street, Porterville, California.				
Colorado	Jamestown (town), Boulder County, FEMA–4485	James Creek	At downstream corporate limit	*6,802
			20 feet upstream from centerline of Main Street	*6,915
			10 feet downstream from upstream corporate limits	*7,057
		Little James Creek	10 feet upstream from centerline of Ward Street	*6,976
			90 feet upstream from centerline of James Canyon Drive.	*7,167
			10 feet downstream from upstream corporate limit	*7,287
		Unnamed Tributary to Little James Creek.	At corporate limit	*7,299
Maps available for inspection at Town Clerk's Office, Town Hall, Main Street, Jamestown, Colorado.				
Florida	City of Apalachicola, Franklin County (FEMA–6431)	Apalachicola Bay	Intersection of Market Street and Avenue J	*9
			Intersection of Avenue B and 6th Street	*13
		Shallow Flooding	Intersection of 6th Street and Avenue G	*11
			Intersection of 10th Street and 23rd Avenue	*14
Maps available for inspection at City Clerk's Office, City Hall, 6 Avenue E, Apalachicola, Florida 32320.				
Florida	City of Carrabelle, Franklin County (FEMA–6431)	Gulf of Mexico St./George Sound	Mouth of Carrabelle River	*16
			Avenue F South	*14
			Avenue E South	*12
		Carrabelle River	Upstream of U.S. Highway 98	*11
			Downstream of U.S. Highway 98	*10
		Ponding Areas	At 6th Street East near D Avenue South	*20
			At 3rd Street East Near A Avenue South	*13
			South of C Avenue North and east of 2nd St. West	*14
Maps available for inspection at City Hall, Avenue B, South, Carrabelle, Florida 32322.				
Idaho	Nez Perce County (unincorporated areas), FEMA–6449.	Clearwater River	At intersection of river and U.S. Highway 95	*785
			At confluence with Big Canyon Creek	*848
		Lindsay Creek	70 feet upstream from center of Gun Club Road	*856
		Lindsay Creek Tributary	25 feet upstream from center of first crossing of Old Lapwai Road.	*1,035
		Tammany Creek	At center of intersection of County Road 456 and Tammany Creek Road.	*1,406
		Lapwai Creek	100 feet upstream from center of Sweetwater Road	*1,091
			100 feet upstream from center of Lyle Gulch Road	*1,360
		Lapwai Creek Lower Overflow	40 feet upstream from center of County Road 343	*882
		Lapwai Creek Upper Overflow	20 feet upstream from center of U.S. Highway 95	*973
		Mission Creek	40 feet upstream from center of Fountain Grade Road	*1,764
		Mission Creek Lower Overflow	At the divergence from Mission Creek	*1,519
		Mission Creek Upper Overflow	25 feet upstream from center of unnamed road	*1,575
		Big Canyon Creek	At intersection of Creek and Little Canyon Creek Road	*1,071
		Hatwai Creek	130 feet upstream from center of U.S. Highway 95	*788
		Potlatch River	25 feet upstream from center of County Road 220	*1,072
Maps available for inspection at County Planning Office, Urban Renewal Building, Lewistown, Idaho.				
Illinois	(C) Danville, Vermilion County (Docket No. FEMA–6442).	Vermilion River	About 4,000 feet downstream of Interstate 74	*533
			Western corporate limits (about 4,500 feet upstream of Conrail).	*542
		North Fork Vermilion River	About 800 feet upstream of Conrail	*539
			About 11,200 feet upstream of Water Treatment Plant Dam.	*559
		Stoney Creek	Just upstream of Griffin Street	*551
			About 250 feet downstream of Winter Avenue	*610
			Just upstream of Winter Avenue	*613
			Just downstream of Liberty Lane Road	*625
		Koehn Creek	Just upstream of Conrail (about 700 feet downstream of Fairchild Street).	*634
			About 100 feet upstream of Fairchild Street	*639
			Just downstream of Voorhees Street	*643
			Upstream corporate limit	*656

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Branch Kosko Creek	At mouth	*643
			Just upstream of Bohn Aluminum Driveway-West	*644
			At upstream corporate limit	*654
		East Branch Lick Creek	Just downstream of East Main Street	*804
			About 1,800 feet upstream of East Main Street	*825
			Just upstream of Conrail	*837
			About 200 feet upstream of Old Lynch Road	*844
Maps available for inspection at City Clerk's Office, City Hall, 400 North Hazel Street, Danville, Illinois.				
Indiana	(C) Auburn, De Kalb County (Docket No. FEMA-6442).	Cedar Creek	About 850 feet downstream of Chessie System	*852
			About 0.36 mile upstream of First Street	*861
Maps available for inspection at City Hall, Auburn, Indiana.				
Indiana	(C) Bluffton, Wells County (Docket No. FEMA-6442)	Wabash River	About 3,000 feet downstream of Norfolk and Western Railway.	*807
			About 400 feet upstream of Main Street	*811
			At eastern corporate limits about 5,600 feet upstream of Main Street.	*812
Maps available for inspection at the County-City Area Plan Office, Wells County Courthouse, Bluffton, Indiana.				
Indiana	(C) Cannelton, Perry County (Docket No. FEMA-6442).	Ohio River	About 1.2 miles downstream of Lincoln Trails Highway	*401
			About 2.3 miles upstream of Lincoln Trails Highway	*402
Maps available for inspection at the City Hall, Cannelton, Indiana.				
Indiana	(T) Corydon, Harrison County (Docket No. FEMA-6442).	Indian Creek	About 1.8 miles downstream of confluence with Little Indian Creek.	*537
			About 0.5 mile upstream of Low Flow Dam No. 3	*578
		Little Indian Creek	At mouth	*548
			About 0.4 mile upstream of Golf Course Drive	*585
Maps available for inspection at Town Hall, 119 North Oak, Corydon, Indiana.				
Indiana	(T) Grandview, Spencer County (Docket No. FEMA-6442).	Ohio River	Within the community	*394
Maps available for inspection at Town Hall, Grandview, Indiana.				
Indiana	(C) Huntington, Huntington County (Docket No. FEMA-6442).	Wabash River	At downstream corporate limits	*705
			Just downstream of State Highway 221	*714
		Little River	About 300 feet upstream of confluence with Wabash River.	*706
			About 300 feet upstream of Jefferson Street	*722
			About 600 feet upstream of Jefferson Street (Just upstream of dam).	*726
			Just downstream of North Broadway	*730
Maps available for inspection at City Building, 300 Cherry Street, Huntington, Indiana.				
Indiana	(Uninc.) Huntington County (Docket No. FEMA-6442)	Wabash River	Just upstream of State Route 105	*693
			About 300 feet downstream of State Route 5	*727
		Little River	About 200 feet upstream of North Broadway	*730
			About 1,500 feet upstream of Norfold and Western Railway.	*755
		Calf Creek	At mouth	*753
			Just upstream of U.S. Route 24 and State Route 37	*754
			About 150 feet upstream of 1100 North Road	*763
		Loon Creek	About 450 feet downstream of Norfolk and Western Railway.	*701
			Just upstream of 600 West Road	*720
			About 1,800 feet upstream of 600 West Road	*727
Maps available for inspection at the County Courthouse, Huntington, Indiana.				
Indiana	(C) New Haven, Allen County (Docket No. FEMA-6442).	Maumee River	About 2.7 miles downstream of Norfolk and Western Railway.	*747
			About 1.25 miles upstream of Landin Road	*751
		Martin Ditch	At mouth	*749
			Just downstream of Norfolk and Western Railway	*753
			About 250 feet upstream of Norfolk and Western Railway.	*759
			Just downstream of Doyle Road	*766
		Trier Ditch	At mouth	*750
			Just upstream of Hartzell Road	*756
			Just downstream of Moeller Road	*762
		Bender Ditch	At mouth	*761
			Just upstream of Moeller Road	*767
			Just downstream of Seiler Road	*771
		Dannenfelser-Cochoit Ditch	At mouth	*757
			Just upstream of Walnut Road	*764
			Just upstream of Werling Road	*769
			Just Downstream of Seiler Road	*782
Maps available for inspection at City Hall, 1235 Lincoln Highway East, New Haven, Indiana.				
Indiana	(C) Rockport, Spencer County (Docket No. FEMA-6442).	Ohio River	Within the community	*392
Maps available for inspection at City Hall, Box 151, Rockport, Indiana.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Georgetown, Clay County (Docket No. FEMA-6442).	Buffalo River	At Downstream corporate limits	*882
			At upstream corporate limits	*884
Maps available for inspection at the Mayor's Office, City Hall, Main Street, Georgetown, Minnesota.				
Minnesota	(Uninc.) Marshall County (Docket No. FEMA-6442)	Red River of the North	Just upstream of State Highway 317	*801
			Upstream county boundary	*813
		Tamarac River	About 1.2 miles downstream of County Highway 5	*822
			Just upstream of Burlington Northern Railroad	*830
			Just downstream of County Highway 109	*836
		Middle River	Just upstream of unnamed county road (about 3.7 miles downstream of Burlington Northern Railroad).	*836
			About 3.1 miles upstream of Dam at City of Argyle	*857
			Just upstream of unnamed road (about 6.0 miles downstream of County Highway 28 in Newfolden).	*1,086
			Just upstream of Township Road (about 3.8 miles downstream of County Highway 28 in Newfolden).	*1,075
			Just downstream of County Highway 28 east of Newfolden.	*1,087
			About 3.2 miles upstream of County Highway 28 east of Newfolden.	*1,100
			Just upstream of unnamed road about 1.6 miles downstream of County Highway 47 (West of the City of Middle River).	*1,129
			Just downstream of County Highway 47 (West of the City of Middle River).	*1,132
			Just upstream of County Highway 47 (West of the City of Middle River).	*1,135
			City of Middle River (western corporate limit)	*1,138
			City of Middle River (eastern corporate limit)	*1,141
			Just downstream of County Highway 47 near County Highway 12.	*1,143
			Just upstream of County Highway 47 near County Highway 12.	*1,145
		Snake River	Just upstream of unnamed road (about 3.3 miles downstream of Soo Line Railroad).	*808
			Just upstream of State Highway 220 (about 2.0 miles upstream of the Soo Line Railroad).	*814
			Just upstream of County Highway 104	*835
			Just upstream of County Highway 15	*850
			About 3.0 miles upstream of County Highway 15 at City of Warren corporate limits.	*860
			About 7.4 miles upstream of County Highway 15	*874
		Mud River	Just upstream of unnamed road (about 1.2 miles downstream of County Highway 54).	*1,173
			About 1.2 miles upstream of County Highway 54 (at county boundary).	*1,178
		Shallow Flooding (Overflow from Middle River).	South of County Highway 110 near U.S. Highway 75	#3
		Shallow Flooding (Overflow from Tamarac River).	South of County Highway 5 and west of City of Stephen.	#3
		Shallow Flooding (Overflow from Snake River).	East of County Highway 15 and North of State Highway 1.	#3
			West of County Highway 105 (at county boundary)	*829
			West of County Highway 104 (at county boundary)	*829
Maps available for inspection at the County Auditor's Office, Marshall County Courthouse, Warren, Minnesota.				
Missouri	(C) Joplin, Jasper, and Newton Counties (Docket No FEMA- 6442).	Baker's Branch	Mouth at Turkey Creek	*961
			About 200 feet downstream of Rangeline Avenue	*976
			About 800 feet upstream of Rangeline Avenue	*982
		Center Creek	About 1.3 miles upstream of County Road	*881
			About 400 feet upstream of County Road	*884
		County Line Creek	Mouth at Tin Cup Creek	*945
			About 160 Feet upstream of Thirty-Second Street	*951
			Just upstream of Old Thirty-Second Street	*968
			About 0.3 mile upstream of Old Thirty-Second Street	*997
		Iowa Avenue Branch	Mouth at Joplin Creek	*966
			Just downstream of 7th Street	*975
			Just upstream of 7th Street	*980
			About 400 feet downstream of 15th Street	*993
			Just upstream of 15th Street	*998
			Just downstream of 26th Street	*1,038
		Joplin Creek	Mouth at Turkey Creek	*921
			Just downstream of Missouri Pacific Railroad	*984
			Just upstream of Missouri Pacific Railroad	*989
			Just downstream of Connecticut Avenue	*996
			Just upstream of Connecticut Avenue	*1,001
			About 1,000 feet downstream of Kansas City Southern Railroad (upstream of U.S. Route 71).	*1,041
			About 600 feet downstream of Kansas City Southern Railroad (upstream of U.S. Route 71).	*1,049
			Just downstream of Davis Boulevard	*1,059
		Shoal Creek	About 400 feet downstream of Joplin Water Works Company Dam.	*884
			Just upstream of Joplin Water Works Company Dam	*891
			About 0.6 mile upstream of State Highway 86	*912

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Silver Creek	Mouth at Shoal Creek	*908
			Just downstream of State Highway 86	*907
			Just upstream of State Highway 86	*925
			Just downstream of U.S. Highway 71 and Interstate 44 Interchange.	*1,003
			Just upstream of U.S. Highway 71 and Interstate 44 Interchange.	*1,017
			Just downstream of Duquesne Road	*1,054
		Tin Cup Creek	Mouth at Shoal Creek	*896
			About 100 feet downstream of McIntosh Circle Drive	*947
			Just upstream of McIntosh Circle Drive	*956
			About 850 feet downstream of 32nd Street (just downstream of unnamed drive).	*956
			About 750 feet downstream of 32nd Street (just upstream of unnamed drive).	*966
			About 100 feet upstream of 32nd Street	*972
			About 750 feet upstream of Jackson Avenue	*987
		Turkey Creek	About 800 feet downstream of St. Louis-San Francisco Railroad (downstream of Lone Elm Road).	*905
			Just downstream of Lone Elm Road	*916
			About 100 feet upstream of Lone Elm Road	*920
			Just upstream of Florida Avenue	*960
			About 1,300 feet upstream of Duquesne Road	*994

Maps available for inspection at City Hall, 303 East Third Street, Joplin, Missouri.

Montana	Teton County (unincorporated areas) FEMA-6442	Sun River	At upstream limit of detailed study	*3576
		Teton River	50 feet upstream from center of Bellview Road	*3803
		Spring Creek	50 feet upstream from center of road leading to airport	*3833

Maps available for inspection at County Clerk, County Courthouse, Choteau, Montana.

New Jersey	Plainfield (city), Union County (Docket No. FEMA-6431).	Green Brook	At Jefferson Avenue	*52
			Clinton Avenue (downstream side)	*62
			Approximately 50' upstream of Gerald Avenue	*75
			Approximately 65' upstream of Westervelt Avenue	*99
			Ponding area along Leland Avenue and north along South Avenue.	*120
			Leland Avenue (upstream side)	*123
			At upstream corporate limits	*126
		Cedar Brook	At downstream corporate limits	*72
			Ponding area along Randolph Road	*80
			Steel Avenue (upstream side)	*82

Maps available for inspection at the Office of the City Engineer, Municipal Building, 515 Watchung Avenue, Plainfield, New Jersey.

New York	Cove Neck, Village, Nassau County (Docket No. FEMA-6384).	Oyster Bay Cove	Oyster Bay Cove shoreline	*12
		Oyster Bay Harbor	Oyster Bay Harbor shoreline north of Oyster Bay Cove shoreline to approximately 2,000 feet south of Cove Point.	*15
		Cold Spring Harbor	Cold Spring Harbor shoreline from Cove Point to Cooper Bluff.	*16
			Cold Spring Harbor shoreline from Cooper Bluff to Village of Cove Neck-Village of Laurel Hollow corporate limits.	*15
			Sagamore Hill National Historical Site along eastern corporate limits.	*13

Maps available for inspection at the residence of the Village Clerk, Mrs. W.D. Robinson, Tennis Court Road, Cove Neck, New York.

New York	Islip, town, Suffolk County (Docket No. FEMA-6401)	Atlantic Ocean	Shoreline from western corporate limits to a point 0.63 mile east of western corporate limits.	*15
			Shoreline from a point 0.63 mile east of western corporate limits to eastern corporate limits.	*14
			Shoreline of Fire Island Inlet from western corporate limits to east of the vicinity of the U.S. coastguard reservation on Fire Island Inlet.	*12
			Shoreline of Great South Bay, east of the vicinity of the coastguard station on Fire Island Inlet.	*8
			Western corporate limits of the Village of Saltaire	*8
			Shoreline of Great South Bay from the eastern corporate limits of the Village of Saltaire to Cranberry Walk (extended).	*5
			Shoreline of Great South Bay from Cranberry Walk (extended) to the eastern corporate limits.	*6
			Entire shoreline of West Fire Island	*8
			Northern shoreline of Great South Bay from the confluence with Sampawams Creek to eastern corporate limits.	*7

Maps available for inspection at the Town Hall, 655 Main Street, Islip, New York.

New York	Johnstown, city, Fulton County (Docket No. FEMA-6449.	Cayadutta Creek	Downstream corporate limits	*597
			Upstream of Main Street	*647
			Upstream of Miller Street	*682
			Upstream corporate limits	*727
		Hall Creek	Upstream of Pleasant Avenue	*653
			Confluence with Mathew Creek	*663
			Upstream corporate limits	*712
		Mathew Creek	Confluence with Hall Creek	*663
			Approximately 200 feet downstream of O'Neil Avenue	*696

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cornie Creek	Confluence with Hale Creek	*661
			Upstream of Cornie Avenue	*669
		Hale Creek	Confluence with Cayadutta Creek	*659
			Upstream at Jansen Avenue	*665
			Upstream corporate limits	*668
		Yost Creek	Confluence with Cayadutta Creek	*647
			Upstream at Wright Drive	*668

Maps available for inspection at the City Hall, 41 East Main Street, Johnstown, New York.

New York	Portville, town, Cattaraugus County (Docket No. FEMA-6442).	Oswayo Creek	Confluence with Allegheny River	*1,437
			At upstream corporate limits	*1,437

Maps available for inspection at the Town Office Building, Route 417, Portville, New York.

North Carolina	Unincorporated Areas of Union County (FEMA-6442)	Bearskin Creek	Approximately 200 feet downstream of Secondary Road 1007.	*618
			Approximately 140 feet downstream of Secondary Road 1351.	*633
		Crooked Creek	Approximately 400 feet upstream of U.S. Highway 601	*962
			At the confluence with North and South Forks Crooked Creek.	*966
		Davis Mine Creek	Just upstream of confluence with Price Mill Creek	*581
		East Fork Twelve Mile Creek	Approximately 180 feet upstream of Secondary Road 1008.	*525
			Approximately 390 feet downstream of Secondary Road 1328.	*528
			Just downstream of Secondary Road 1329	*539
			Just downstream of Secondary Road 1315	*545
		Goose Creek	Just upstream of State Highway 218	*499
			Just upstream of Secondary Road 1533	*525
			Approximately 100 feet upstream of Secondary Road 1004.	*537
			Just upstream of Secondary Road 1525	*560
		Little Twelve Mile Creek	Just upstream of Secondary Road 1328	*527
			Just upstream of Secondary Road 1329	*542
		Meadow Branch	Approximately 500 feet downstream of Secondary Road 1002.	*528
		Meadow Branch West	Just upstream of confluence with Meadow Branch	*526
		North Fork Crooked Creek	Just upstream of Secondary Road 1504	*561
			Approximately 100 feet upstream of Secondary Road 1514.	*569
			Just downstream of Secondary Road 1520	*607
			Just downstream of Secondary Road 1562	*623
		North Fork Crooked Creek Tributary.	Approximately 100 feet downstream of Secondary Road 1524.	*643
		Price Mill Creek	Just upstream of Secondary Road 1336	*560
			Just upstream of State Highway 64	*564
			Just upstream of Secondary Road 1346	*577
		South Fork Crooked Creek	Just upstream of Secondary Road 1004	*578
			Approximately 350 feet downstream of Secondary Road 1504.	*595
			Just downstream of Secondary Road 1508	*592
		Twelve Mile Creek	Just upstream of Secondary Road 1301	*496
			Just upstream of State Highway 16	*510
		West Fork Twelve Mile Creek	Just downstream of Secondary Road 1315	*539
			Just downstream of State Highway 84	*564
			Just upstream of Secondary Road 1338	*571
			Just upstream of Secondary Road 1346	*582
			Approximately 100 feet downstream of Secondary Road 1356.	*607

Maps available for inspection at Planning Department, Union County Courthouse, Monroe, North Carolina 28110.

Ohio	(C) East Liverpool, Columbiana County (Docket No. FEMA-6442).	Ohio River	About 0.7 mile downstream of Newell Bridge	*666
			About 2.7 miles upstream of U.S. Route 30	*680

Maps available for inspection at the Mayor's Office, 126 West Sixth Street, East Liverpool, Ohio.

Ohio	(V) Ripley, Brown County (Docket No. FEMA-6442)	Ohio River	At downstream corporate limits	*513
			At upstream corporate limits	*514

Maps available for inspection at Town Hall, 14 North Third Street, Ripley, Ohio.

Ohio	(V) Shadyside, Belmont County (Docket No. FEMA-6431).	Ohio River	At downstream corporate Limits	*654
			At upstream corporate limits	*656

Maps available for inspection at the Mayor's Office, Village Hall, East 39th Street, Shadyside, Ohio.

Pennsylvania	Pike, township, Berks County (Docket No. FEMA-6254).	Pine Creek	Downstream corporate limits	*352
			Lobachsville Road (upstream side)	*367
			Confluence of West Branch of Pine Creek	*400
		West Branch of Pine Creek	Confluence with Pine Creek	*400
			Downstream of Ruppert School Road	*447
		Oysterdale Creek	Downstream corporate limits	*351
			130 feet downstream of Rohrbach Road	*374

Maps available for inspection at the residence of the Pike Township Secretary, Ms. Shirley Rhoads, R.D. 2, Oley, Pennsylvania.

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	South Coventry, Township, Chester County (Docket No. FEMA-6224).	French Creek	Upstream of Pottstown Pike (State Route 100)	*260
			Approximately 2,140' upstream of Pottstown Pike (State Route 100).	*260
Maps available for inspection at the residence of the Township Secretary, Mr. Robert W. Fries, R.D. 2, Pottstown, Pennsylvania, at the Springers Store in Pushtown, Pennsylvania, and at the Bucktown Branch of the Elverson National Bank.				
Tennessee	City of Murfreesboro, Rutherford County (FEMA-6431).	West Fork Stones River	Just downstream of Thompson Lane	*558
			Just downstream of U.S. Highway 41 and 70	*563
			Just upstream of Interstate Highway 24	*587
		Sinking Creek	Just downstream of Memorial Boulevard (U.S. Highway 231) Drive.	*596
			Just upstream of Highland Street	*601
			Just upstream of Ewing Road	*612
		Lytle Creek	Just upstream of Louisville and Nashville Railroad near Carnation street.	*582
			Just upstream of the intersection of U.S. Highway 70 (Southeast Broad Street) and West Main Street.	*585
			Just upstream of Old Salem Road	*590
Maps available for inspection at City Hall, 220 Northwest Broad Street, Murfreesboro, Tennessee 97130.				
Wisconsin	(V) Albany, Green County (Docket No. FEMA-6442)	Sugar River	About 0.7 mile downstream of Main Street (downstream corporate limits).	*801
			About 0.6 mile upstream of Main Street (upstream corporate limits).	*808
Maps available for inspection at Village Hall, Albany, Wisconsin.				
Wisconsin	(V) Monticello, Green County (Docket No. FEMA-6442).	Brayton Creek	Just downstream of Coates Avenue	*837
			About 150 feet upstream of Coates Avenue	*839
			About 2,500 feet upstream of Coates Avenue	*841
		West Branch Little Sugar River	About 2,500 feet downstream of Wisconsin Avenue	*828
			Just downstream of Main Street	*833
			Just upstream of Main Street	*836
			At confluence with Brayton Creek	*837
Maps available for inspection at the Village Hall, Monticello, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 15, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12289 Filed 5-9-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 82-777; RM-4196]

FM Broadcast Station in Plantation Key, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 276A to Plantation Key, Florida, in response to a petition filed by John T. Galanses. The assigned channel could provide a second FM service to Plantation Key.

DATE: Effective: July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order

(Proceeding Terminated)

In the matter of; amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Plantation Key, Florida) BC Docket No. 82–777, RM–4190.

Adopted: April 20, 1983.
Released: May 4, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 FR 54519, published December 3, 1982, proposing the assignment of Channel 276A to Plantation Key, Florida, as that community's second FM assignment. The *Notice* was issued in response to a petition filed by John T. Galanses ("petitioner"). Petitioner submitted comments in support of the proposal and expressed his continuing interest in applying for the station, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 276A to Plantation Key, Florida, since it could provide a second local FM service to that community.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, That effective July 5, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, *is amended*, with respect to the community listed below:

City	Channel No.
Plantation Key, Fla	262, and 276A.

4. *It is further ordered*, That this proceeding *is terminated*.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-12512 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-764; RM-4211]

FM Broadcast Stations in Charlotte Amalie, Virgin Islands; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class B Channel 271 to Charlotte Amalie, Virgin Islands, in response to a petition filed by Thousand Islands Corporation. The assigned channel could provide a third FM service to Charlotte Amalie.

DATE: Effective: July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order

Proceeding Terminated

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Charlotte Amalie, Virgin Islands), BC Docket No. 82–764, RM–4211.

Adopted: April 20, 1983.
Released: May 4, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 FR 53931, published November 30, 1982, proposing the assignment of Class B Channel 271 to Charlotte Amalie, Virgin Islands, as that community's third FM assignment in response to a petition filed by Thousand Islands Corporation ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 271 to Charlotte Amalie, Virgin Islands, since it could provide a third local FM service to that community.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, that effective July 5, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, *is amended*, with respect to the community listed below:

City	Channel No.
Charlotte Amalie, V.I.	226, 250, and 271.

4. *It is further ordered*, that this proceeding *is terminated*.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-12511 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 311; Sub-4]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure; rule-related notice.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 11 to 11.5 cents per mile.

EFFECTIVE DATE: This decision will be effective on May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Lee Alexander, (202) 275–7723; Ted Kalick, (202) 275–6446; Alan Rothenberg, (202) 275–7597; Boston, MA, (617) 223–2372; Philadelphia, PA, (215) 597–4460; Atlanta, GA, (404) 881–2167; Chicago, IL, (312) 353–6204; Ft. Worth, TX, (817) 334–2794; San Francisco, CA, (415) 974–7125.

SUPPLEMENTARY INFORMATION: In a decision served April 21, 1983 (46 FR 18817, April 28, 1983), the Commission established owner-operator reimbursement at 11 cents per mile for all carrier-related business miles. This change will become effective May 10, 1983. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of May 2, 1983, the current price of diesel fuel was 118.2 cents per gallon. The reimbursement figure is 11.6. Ten working days after publication of the notice in the **Federal Register** (effective May 24, 1983), carriers shall reimburse owner-operators at a minimum of 11.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: May 2, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12402 Filed 5-9-83; 8:45 am]

BILLING CODE 7035-01-M

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Proposed Rules

Federal Register
Vol. 48, No. 91
Tuesday, May 10, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO–14–A59]

Milk in the New England Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a change in the New England milk order based on industry proposals considered at a public hearing in January 1983. The change would remove Dukes County, Massachusetts, from the New England milk marketing area. The recommended change is necessary to reflect current marketing conditions and to assure orderly marketing in the New England marketing area.

DATE: Comments are due on or before May 25, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202/447–6273).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued January 3, 1983; published January 7, 1983 (48 FR 812).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New England marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication in the **Federal Register**. The exceptions should be filed in four copies. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Boston, Massachusetts, on January 26, 1983, pursuant to notice thereof issued January 3, 1983 (48 FR 812).

The material issues on the record of the hearing relate to: (1) the deletion of Dukes County, Massachusetts, from the New England milk marketing area; and (2) the re-zoning of a small portion of southwestern Connecticut from Zone 5 to Zone 6.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* Dukes County, Massachusetts, should be removed from the New England milk marketing area. Such action would allow Seaside Dairy Corporation (SDC) to continue to operate a dairy farm and milk processing plant on Martha's Vineyard Island without being subject to the pricing and pooling provisions of the New England milk order. The portion of Dukes County other than Martha's Vineyard consists of a number of small, privately owned islands with no retail outlets for fluid milk. For administrative convenience, all of Dukes County should be removed from the marketing area.

The operator of Seaside Dairy, which began its milk production and processing business in mid-1981, testified that no milk is purchased to supplement the dairy's own production, and that all of the dairy's output is distributed on Martha's Vineyard. He stated that Seaside Dairy is the only milk pasteurization plant on the Island, and has no capability for marketing milk in a form other than Class I. He estimated that the approximately 111,000 pounds of milk produced and processed by SDC in December 1982 represented 60 percent of the fluid milk sales on Martha's Vineyard. Milk from four Order 1 handlers located on the mainland is also distributed on the Vineyard. The witness estimated the other handlers' shares of the total fluid milk disposition in December 1982 to range from 2 to 18 percent each. There is a wide seasonal fluctuation in milk consumption on the Island due to summer vacationers who cause the summer population (July through September) of the Vineyard to be as much as eight times that in winter. The witness estimated that SDC's share of the market for August 1982 was 29 percent, or only half of its share in December, when the population is just over 9,000 people.

The handler testified that because of the expense of transporting feed and supplies to the Island by ferry, the costs of operating both the dairy farm and the processing plant are substantially higher than those encountered by mainland producers and handlers. He stated that when combined with SDC's high operating costs, the effect of Federal order regulation is to threaten Seaside's economic survival by requiring Seaside to pay to the pool the difference between the Federal order Class I and blended prices. He pointed out that the continued operation of Seaside Dairy assures a reliable milk supply for the Island, which is subject to interruptions of supply from the mainland due to disruptions of ferry service. Ferry service has, he pointed out, been interrupted in the past by severe

weather conditions and by labor difficulties and will continue to be subject to such disruptions in the future, jeopardizing milk (and food) supplies for the inhabitants of Martha's Vineyard.

Seaside's owner-operator asserted that removal of Dukes County from the New England marketing area would in no way result in disorderly marketing. Seaside is the only producer or handler that would cease to be pooled as a result of such an amendment. He claimed that regulated handlers from the mainland distributing milk on the Island would not be subject to unfair price competition as a result of Seaside's nonpool status because of SDC's higher costs of operation and because of minimum price regulation by the Massachusetts Milk Control Commission. The witness also pointed out that the cost of ferry transportation and Seaside's high costs of operation would make it extremely unlikely that Seaside would be able to ship milk in excess of the Vineyard's demand for its fluid milk products to the mainland, in either bulk or packaged form, at a price competitive with that charged by mainland handlers. The volume of sales by any of the mainland handlers which could be lost to SDC during the winter months was characterized by the witness as minor, since the largest of those handlers distributed only an estimated 33,000 pounds of milk on the Island in December 1982. Due to the large seasonal variation in fluid milk sales on the Island, the witness considered it unlikely that the market share of any of the mainland handlers would decline significantly during the July through September period in which most of their on-Island sales occur.

The witness testified that although Seaside Dairy is the only dairy farmer on the Vineyard who would be affected by loss of pool status, there are other persons on the Island who keep a few dairy cows, and whose milk Seaside would like to be able to purchase to augment its own production in order to satisfy demand for its product. The witness indicated that even if Seaside Dairy qualified for producer-handler status, it could not purchase milk from other dairy farmers and avoid pooling as long as Dukes County remains part of the Order 1 marketing area. A farmer residing on Martha's Vineyard testified that he sells raw milk at his farm to summer residents, but in winter feeds most of the milk produced on his farm to his pigs because SDC cannot purchase it from him without incurring an additional pool obligation. He asserted that in the event Dukes County is deleted from the marketing area, any farmer supplying Seaside with raw milk would be assured a fair price for his milk by the Massachusetts Milk Control Commission.

Other witnesses testifying in favor of the deletion of Dukes County from the marketing area were the Massachusetts Commissioner of Agriculture and counsel for Seaside Dairy. The Commissioner emphasized the vulnerability of Martha's Vineyard residents to interruptions of their food supply, and the importance of SDC's existence to assure some local food production. He pointed out that Seaside Dairy employs five people year-round in an island economy whose heavy reliance on summer tourism results in high seasonal unemployment. He also maintained that the loss of returns to the thousands of Order 1 producers of removing Seaside Dairy's $1,200 monthly contribution to the New England pool would be negligible. The counsel for SDC testified relative to the history of dairy marketing on Martha's Vineyard and emphasized that the need for an on-island source of milk supply has become more acute due to an increase in the year-round population of the Vineyard since the early 1960's when a milk processing plant on the Island discontinued operation.

Representatives of two pooled mainland handlers with fluid milk disposition on Martha's Vineyard and a representative of a large New England cooperative association testified in opposition to the removal of Dukes County from the marketing area. Briefs opposing the proposal were filed on behalf of those parties and on behalf of a cooperative association and a federation of cooperatives. The opponents described the wide seasonal variation in sales on the Vineyard as requiring heavy reliance on supplemental supplies of fluid milk products from the mainland, and asserted that marketing conditions are not substantially different now than those in existence at the time the county was added to the marketing area. The handlers expressed concern that if production on the Island were encouraged to increase significantly, Vineyard producers would once again be relying on mainland Federal order handlers to balance their surplus production in winter as well as to supply seasonal Class I needs in summer.

The handler representatives claimed that without regulation Seaside Dairy would gain a sizeable price advantage (6.5 cents per quart, according to one witness) over fully regulated mainland handlers, seriously endangering the principle of handler equity. They warned that displacement of the mainland handlers' winter sales on the Island could cause the network of distribution to break down and thereby jeopardize the ability of regulated handlers to supply milk to Vineyard consumers during the summer at a reasonable price. Furthermore, they argued, reduced demand for their product during winter months could result in the cessation of winter deliveries to the Vineyard due to higher per unit costs of distribution in winter. A concern that Seaside Dairy would attempt to expand its sales to Nantucket Island and disrupt the distribution network serving that location was also expressed.

Estimates of fluid milk sales on Martha's Vineyard presented by the Seaside Dairy representative were based on Seaside's actual production and sales as well as the most accurate information on sales by mainland handlers available to the representative. Those estimates showed August sales to be approximately double those in December. Of the four mainland handlers distributing milk on Martha's Vineyard, the H. P. Hood Company was estimated by the Seaside witness to have the largest share of total sales. The Hood Company spokesman, rather than use Hood's actual sales information, chose to base his estimate of sales patterns on the Island on per capita consumption information for New England. As a result, Hood's estimate of total summer sales on the Vineyard was nearly four times Seaside's estimate. The Hood Company spokesman estimated that Hood's share of sales represents 20 percent of total annual sales in Dukes County, and that Hood sells about three times as much milk on Martha's Vineyard in the summer months as it does during the rest of the year. These data would be more consistent with Seaside's estimates of total sales on the Island than a projection based on regional per capita consumption.

The witness testifying for the cooperative association asserted that changing the marketing area to solve one marketing difficulty would establish an undesirable precedent for dealing with future problems encountered by other handlers or producers. He stated that a preferable approach to dealing with the present situation would be for Seaside Dairy to pursue qualification under the Order 1 producer-handler definition, and thereby avoid pooling.

Dukes County has been part of a Federal order marketing area since July 1959, when it was added to the Southeastern New England marketing

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area at the request of Martha's Vineyard Cooperative Dairy, Inc. The cooperative wished to ensure that its distributing plant and member producers, all located on the Island, would not lose pool status during the summer months when the cooperative's receipts would be used primarily in Class I disposition on the Island. Prior to the summer of 1959, the cooperative had been a pool handler on the basis of its shipments to pool plants on the mainland. Loss of pool status during the summer months would have made the cooperative's milk ineligible for pooling during the following December through June, when demand on the Vineyard is limited and much of the milk would have to be moved to the mainland. Under nonpool status, milk so moved would be subject to "a return of no more that the Class II price less the substantial transportation charges involved in moving milk to the mainland. Such a return would seriously jeopardize the economy of the Island, of which dairying is an important segment." In adding Dukes County to the marketing area, the Secretary found that loss of pool status would inflict "unnecessary hardship on a small group of producers who have been generally associated with the market over an extended period of years * * *". The Vineyard was described as having "a substantial relationship with other parts of the marketing area from the standpoint of both receipts and dispositions of milk." [1]

Milk marketing conditions on Martha's Vineyard today are substantially different than those which supported the incorporation of Dukes County into the Southeastern New England marketing area in 1959. The interrelationship between Martha's Vineyard and the mainland handlers is much less involved at this time than it was when Dukes County was added to the marketing area. The cooperative which requested that the county be included in order to protect its pool status has long since been out of existence as have virtually all its producers, whose hardship as a result of exclusion from the marketwide pool was a major consideration in the addition of Dukes County to the marketing area. In 1959 approximately 20 milk producers located on the Island not only supplied milk for Class I needs on the Island but produced enough surplus to be shipped to mainland pool plants during the low production months of the year to qualify for pooling. In order to qualify for pooling under the Southeastern New England Federal order, as it had for some time, the Martha's Vineyard Cooperative had to ship at least 30 percent of its producer milk to pool distributing plants. Seaside Dairy has no surplus production and, according to testimony at the hearing, would find it economically disadvantageous in view of the high cost of moving milk to the mainland to produce milk in excess of demand for its fluid products, or to encourage other Vineyard producers to do so. If disposal of surplus milk to the mainland were economically feasible, it is unlikely that the Vineyard farmer who testified would be feeding his surplus production to his pigs.

A 1964 decision denied a proposal to remove Dukes County from the marketing area on the basis that a large majority of the fluid milk sales on the Vineyard were by regulated handlers. Although mainland pool handlers still account for a majority of Class I sales on the Island on an annual basis, Seaside Dairy clearly has a majority of those sales during nine months of the year. The existence of Seaside Dairy thus has resulted in a much smaller volume of milk required from mainland pool handlers to supplement Class I needs on the island during most of the year. At the same time, summer increases in Class I needs on Martha's Vineyard provide an opportunity for mainland handlers to follow their regular customers to a vacation resort area, and offset the regular summer decline in demand for fluid milk products on the mainland.

The argument that removal of Dukes County from the New England marketing area would make it more difficult for the distributors serving the Island to adapt to the large seasonal fluctuations in fluid milk requirements is not persuasive. The record does not indicate that the regulatory status of Seaside Dairy will have any significant effect on the fluctuation in seasonal requirements for milk supplies from the mainland. During winter months, the volume of fluid milk supplied to the Island by any of the distributors is quite small, and has little potential for declining. Seaside's limited ability to expand summer production over winter levels would result in little impact on the volume of summer fluid milk sales needed on Martha's Vineyard from the mainland handlers. In the unlikely event that SDC were to acquire all of the winter fluid milk business, the regulated mainland handlers still would lose only a small amount of their total annual sales on the Island, and the amount of seasonal fluctuation would change very little. The seasonal fluctuations in milk supply required from mainland handlers with Seaside Dairy as an unregulated handler could hardly be much greater than if SDC were to remain a fully regulated handler.

Mainland distributors serving the Vineyard are accustomed to supplying milk and other products on a highly seasonal basis. The potential loss of some fluid milk sales during the nine months per year when the population (and demand for all products) is at its lowest level would not appear to be a basis for curtailing or reducing delivery of the volume of fluid milk needed from the mainland during the winter. In addition to supplies of fluid milk, year-round Island residents would continue to require the importation from the mainland of Class II dairy products and all of the other items which they obtain from mainland distributors. The handlers who testified also supply the unregulated resort areas of Nantucket and Berkshire County, Massachusetts, where demand for fluid milk also fluctuates widely on a seasonal basis.

The 6.5-cent per quart price disadvantage to which opponents to the proposal claim the distributors of milk from the mainland would be subject if SDC ceased to be regulated by the Federal order is largely overstated. Two-thirds of Seaside's "advantage" is made up of the transportation costs of getting packaged milk from mainland processing plants to the ferry and across to the Vineyard by ferry. Seaside incurs similar costs in obtaining supplies for both its dairy and processing operation by means of the same transportation system, thereby cancelling out much of any price advantage obtained by producing milk on the Island. Furthermore, no cost advantage can increase Seaside Dairy's ability to expand sales past the potential winter demand for fluid milk on the Island. SDC would have no advantage in attempting to compete on the mainland with pooled handlers, since the cost of moving packaged milk there would more than cancel out any price advantage resulting from Seaside's lack of regulation.

The welfare of year-round residents of the Island would be best-served by the removal of Dukes County from the New England marketing area. During the winter months, when mainland handlers supply the smallest proportion of sales, ferry service is most vulnerable to interruption. Those most likely to be adversely affected by the lack of a dependable local milk supply are therefore the year-round residents of the Island. Seaside Dairy represents the most likely source of a local milk supply for Vineyard residents, and its existence should be discouraged by regulation.

The local economy, a concern for which was a basis for including Dukes County in the marketing area in 1959, would clearly be benefited by the removal of the County from the marketing area in 1983. In a summer resort community such as Martha's Vineyard, year-round employment is a valuable contribution to the local economy. According to the hearing record, Seaside Dairy employs five people on a full year basis and thus is a definite asset to the economy of the Island. A further potential benefit to the Vineyard's economy is the opportunity for farmers located on the Island to sell their winter milk production to Seaside Dairy for human consumption. The farmers would welcome the supplemental income derived from such sales, and the operator of Seaside Dairy expressed his desire to use the milk of other Vineyard farmers if it were possible to obtain it for about the blended price rather than for the Class I price required under Federal order regulation. A situation in which milk eligible for fluid use is fed to livestock because of the presence of regulations inhibiting its use by a nearby handler represents an uneconomic use of resources when considered in light of the need to import fluid milk to the Island. It is not anticipated that an outlet for some supplemental supplies of milk on the Island would result in a surplus production problem. The costs of disposing of such surplus should act as a disincentive for farmers to produce milk beyond the limits of local winter demand.

A concern expressed by opponents of Proposal 1, that adoption of the proposal would create a precedent for any handler desiring to escape Federal order regulation to request that his sales area be withdrawn from the marketing area, is not well-grounded. The protection of the minimum price provisions of the order have little significance to SDC in its capacity as a dairy farmer. Dukes County is the only portion of the New England marketing area accessible only by ferry. The island location and the milk marketing channels necessary to supply such a location are unique. Measures adopted to deal with this situation would hardly create a basis for similar action in other circumstances. It is not anticipated that removal of Dukes County from the marketing area will make the competitive situation for regulated handlers on Martha's Vineyard much different than it is now.

2. *Pricing zones.* A proposal to designate a separate price zone for a small portion of southwestern Connecticut should not be adopted. Marcus Dairy, a proprietary handler pooled under the New England milk order and located at Danbury, Connecticut, proposed that locations in Fairfield County, Connecticut, that are within 15 miles of the New York-Connecticut border and north of the towns of Wilton, Weston, Easton, and Trumbull, be re-designated from Zone 5 to Zone 8. Such action would result in a 7.5-cent per hundredweight reduction in the price Marcus Dairy would be obligated to pay for producer milk used in Class I. The blended price paid to dairy farmers delivering milk to Marcus Dairy also would be reduced by 7.5 cents per hundredweight on all of their deliveries to Danbury.

The handler asserted that recent amendments to both the New York-New Jersey and New England milk orders have caused the competitive situation at Danbury to become extremely disadvantageous to Marcus. The September 1981 amendment to the New York-New Jersey milk order (Order 2) reduced costs to New York handlers with whom Marcus competes by passing back to producers some of the farm-to-plant hauling costs previously paid by handlers. A few months later, an amendment to the New England milk order (Order 1) effective January 1982 increased transportation allowances for milk moving from country to city locations without changing price relationships between Danbury and the lower-numbered, higher-priced zones of the New England marketing area, and without making any adjustments in Order 1 pricing to compensate for the changes in Order 2. The Danbury handler contended that both amendments gave its competitors substantial price advantages.

The representative for Marcus Dairy testified that without the proposed re-zoning, Marcus is subject to competitive disadvantage because of price misalignment with handlers regulated under both the New York-New Jersey and New England Federal milk orders. The inter-order price misalignment (with Order 2) was attributed by proponent to an Order 1 Class I price at Danbury that is 14.8 cents per hundredweight higher than the Order 2 Class I price at the same location. The handler claimed that its misalignment problem with New York handlers is aggravated by the fact that its principal competitors distributing milk in the New York counties of Dutchess, Putnam, and Westchester are located further from the New York metropolitan area than Marcus, and consequently are in lower-priced zones. Those Order 2 handlers therefore have more than the 14.8-cent advantage over Marcus in raw milk costs which exists at Danbury. According to proponent, the inter-order price misalignment at Danbury is the principal cause of the decline in the percentage of Marcus' total sales that are distributed in New York from 40 percent in 1978 to 20–25 percent at the present time. Proponent testified, however, that the decline in the New York percentage of total sales does not reflect a decline in volume. The volume of fluid milk sold by Marcus to be distributed in the three New York counties in which Marcus is licensed to market milk has, according to the witness, increased, but not in proportion with increased sales in Connecticut. The witness stated further that Marcus Dairy has applied for licenses to distribute milk in three additional New York couties.

The Marcus Dairy representative testified that the lower price at Danbury under Order 2 is an incentive for Marcus to so arrange its sales that the handler would be pooled under Order 2 rather than under Order 1. As a result of such action, he contended, dairy farmers delivering milk to Marcus would lose the benefit of the higher Order 1 blend price to producers, and all producers supplying the New England market would be subject to a lower blend price because of the loss to the pool of a handler with relatively high Class I use. The witness also pointed out that such a shift of regulation would result in a significant price advantage for Marcus over other Connecticut handlers located in Zone 5 of the New England marketing area. The 7.5-cent price change proposed for the Danbury location is, the witness explained, a compromise which would allow Marcus to compete freely in both orders without gaining the full 14.8-cent advantage over nearby Order 1 handlers which would be achieved by a shift to regulation under Order 2.

According to the handler representative, the 1982 Order 1 amendment was in error in two respects. First, by re-zoning western Connecticut from Zone 7 to Zone 5 and thereby maintaining the approximately 10-cent price difference between Boston/Providence and western Connecticut, the Department failed to recognize the effect increased hauling costs should have had on the price difference between those areas. Second, the witness claimed, retention of Danbury in the same zone as other plants in western Connecticut fails to take into account

[1] Official notice is hereby taken of the Acting Secretary's decision issued June 16, 1959 (24 FR 5156), adding Dukes County to the Southeastern New England milk order.

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Danbury's relative proximity to the western milk supply for Order 1 and the "county plant" nature of the Danbury location. The witness described Danbury's location as between the other Zone 5 Connecticut plants and the western milk supply for Order 1 and only 3 miles from the Order 2 marketing area, with the population centers most accessible to Danbury being in New York State. He stated that other Connecticut handlers are located closer than Danbury to Connecticut population centers, and that Marcus Dairy must ship milk into those population centers in order to compete. Unless the errors of the 1982 amendment are corrected, the Marcus Dairy representative claimed, Marcus Dairy will continue to suffer a competitive disadvantage to both Order 1 handlers with whom Marcus competes in Connecticut, and its Order 2 competitors in New York.

Representatives of four proprietary handlers, two of whom are located in Zone 5, and two cooperative associations testified in opposition to Proposal No. 2. In addition, another cooperative association and a federation of cooperatives filed briefs opposing the proposed re-zoning. The opponents of the proposal denied that Marcus is subject to any competitive disadvantage in relation to either New England or New York handlers, and pointed to the growth in Marcus' sales in both New York and Connecticut to support their position. According to the opponents, the 1982 Order 1 amendment which changed the Order 1-Order 2 price difference at Danbury from 12.4 cents to 14.8 cents maintained close alignment of Order 1 and Order 2 pricing at that location. In support of their assertion that the 14.8-cent difference at Danbury does not represent any serious price misalignment, opponents of the proposition stated that there has been no significant shift of sales by Order 2 handlers into Order 1 as a result of the most recent changes to both orders, and, in fact, that there are no Order 2 handlers with sales in Connecticut.

In answer to Marcus' argument that the Danbury location should be in a lower-priced zone than the rest of western Connecticut, one witness pointed out that all of western Connecticut historically has been one zone and is a fairly contiguous metropolitan area. Another witness stated that the present Zone 5 is too small and too competitive an area to justify a 7.5-cent lower price in a small zone of townships. Several witnesses pointed out that with 75–80 percent of its sales in Connecticut, Marcus competes primarily with other Connecticut handlers. They stated that, as Marcus is a vigorous competitor in Connecticut and has expanded sales there greatly in the last few years, a 7.5-cent price advantage over other western Connecticut handlers would be unfair.

Opposing witnesses testified that the 1982 Order 1 amendment maintained stable price relationships among handlers in the former "nearby plant" zone. They supported the decision to not adjust prices further downward in a westerly direction by noting that the partial shift of the Order 1 production area from Vermont to New York, which was the basis of the zoning established by the 1978 Order 1 amendment, had reversed itself by 1981. A larger share of Order 1 production is coming from north of the marketing area now than was the case in 1977, the period on which the 1978 amendment was beased.

The 1978 decision amending the New England milk order was quoted at length by the Marcus representative in support of his proposal. In that decision the area known as the "nearby plant" zone, which included all of Connecticut, Massachusetts (except Berkshire County) and Rhode Island in a single price zone, was divided into zones to assure that milk would be moved from the "country" production areas to the primary consumption area of Boston/Providence. A key finding in that decision was that the source of milk production pooled under the New England order had been shifting from Vermont (north of Boston/Providence) to New York (west of Boston/Providence) over time, and that the shift should be reflected in price adjustments westward as well as northward. Western Connecticut was established as a lower-priced zone than Boston/Providence because "as the market shifts to greater dependence on supplies of milk from New York, it will become increasingly important to maintain a high enough price in the eastern consumption areas to attract this milk from beyond the consumption centers in the western portions of Connecticut and Massachusetts" (43 FR 45523). Greater downward price adjustments were found necessary for western Massachusetts as that area was closer than western Connecticut to the Vermont production area, as well as being much nearer than Boston/Providence to New York. There is no evidence in the present record to support a conclusion that the price difference between western Connecticut and Boston/Providence is not great enough to attract needed supplies of milk from boyond western Connecticut and Massachusetts to Boston/Providence.

There is no reason to increase the price difference between western Connecticut and Boston/Providence in order to reflect the growing importance of New York as a source of milk for the New England marketing area. As noted by opponents of the proposal, the shift of production area from Vermont to New York observed in 1978 has reversed itself. In December 1976, 28.1 percent of Order 1 producer milk was produced in New York. By December 1981, New York milk comprised only 23.4 percent of the Order 1 pool. New York production pooled under Order 1 has declined not only as a proportion of the New England pool, but in terms of volume as well. Milk produced in New York and pooled in New England declined by more than 13 million pounds from December 1976 to December 1981. Nor has the source of New York milk in Order 1 shifted from northern New York to southern New York, as suggested by Marcus. The portion of southeastern New York that is more accessible to Danbury than to other parts of the New England marketing area is the area including Delaware, Greene and Columbia Counties, and those to the south. In those counties, production declined by nearly 10 million pounds from December 1976 to December 1981, and from 43.4 percent to 39.3 percent of New York production pooled under Order 1. Production from counties north of Delaware, Greene, and Columbia declined by only 3.4 million pounds over the same period, but increased as a percentage of New York production pooled in New England from 56.6 percent to 60.7 percent. The milk from New York producers that is most readily available to Marcus Dairy has, therefore, declined not only in relation to other milk supplies pooled under the New England order, but has decreased by 20 percent in terms of volume.

At the same time, the volume of milk distributed by Marcus Dairy has increased greatly. According to the Marcus representative's testimony, the proportion of Marcus' total sales distributed within New York State has declined from 40 percent to 20–25 percent while the volume of those sales has not declined at all. A conclusion that Marcus' total sales must have at least doubled, and sales in Connecticut more than doubled, since 1978 is inescapable. As the supply of milk produced by southern New York dairy farmers for the New England market dwindles and Marcus' sales increase, the ability of Marcus Dairy to attract a sufficient supply of milk from the southern New York area, which is its primary source of supply, becomes increasingly questionable. A reduction of the blend price paid to producers delivering milk to Danbury would appear to be unwise if Marcus is to continue to obtain a sufficient supply of milk from nearby sources.

Given the expansion of Marcus' sales during the last few years, it is difficult to justify any reduction of the Class I price at Danbury on the basis that Marcus Dairy suffers from a competitive disadvantage. The handler's pending applications to add three New York counties to its distribution area would tend to indicate that Marcus is well able to compete successfully in an area of New York State where its principal competitors are handlers from the New York City area who are subject to higher raw milk costs and handlers from more distant zones who must bear the costs of transporting packaged milk to the sales area. The fact that no New York handlers compete in Connecticut while Marcus is able to expand sales in New York, given licensing approval, is a strong reason to deny a price reduction at Danbury on the basis of inter-order misalignment in favor of New York handlers.

The record does not support a claim that Marcus Dairy is subject to a competitive disadvantage in relation to other Connecticut Zone 5 handlers. Since 1978, Marcus' sales in Connecticut have more than doubled although all of the handlers in western Connecticut have been subject to the same price adjustments for some time. 1980 Census data show that the population of western Connecticut increased by less than two percent from 1970 to 1980. Marcus Dairy's ability to gain sales in Connecticut at the expense of other handlers clearly has not been impaired by any competitive disadvantage in terms of raw milk procurement costs.

The argument that Danbury is a "country" location in relation to other Connecticut locations is not valid. In prior decisions, Hartford, which is approximately 60 miles from Danbury, has been described as a population center in the sense of being the largest city in the heavily populated area of southwestern Connecticut. Hartford is, however, not located in the center of that area, but at its northeast corner. According to the 1980 Census, Fairfield County, in which Danbury is located, is the second most populous Connecticut county, after Hartford County, by only a very small margin. New Haven County, located between Fairfield and Hartford Counties, falls in third place by less than 50,000 people. Southwestern Connecticut is, as one witness described it, a fairly contiguous metropolitan area, and plants throughout southwestern Connecticut must compete for milk supplies produced in "country" locations in Vermont and New York where the bulk of the market's milk supply is produced.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may in be conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the New England marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

List of Subjects in 7 CFR Part 1001

Milk marketing orders, Milk, Dairy products.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

§ 1001.2 [Amended]

In § 1001.2, under the heading "Massachusetts", the County of "Dukes" is removed.

Signed at Washington, D.C., on: May 5, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-12483 Filed 5-9-83; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1136

[Docket No. AO-309-A24]

Milk in the Great Basin Marketing Area; Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a change affecting the classification provisions of the Great Basin Federal milk marketing order. The change would classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are aseptically processed and packaged in hermetically sealed paper containers. The decision is based on an industry proposal considered at a public hearing held December 9, 1982. The recommended order amendment is necessary to reflect current marketing conditions and to assure orderly marketing in the area.

DATE: Comments are due on or before May 31, 1983.

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ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued November 19, 1982; published November 26, 1982 (47 FR 53395).

Emergency Final Decision: Issued February 8, 1983; published February 14, 1983 (48 FR 6545).

Final Order: Issued February 23, 1983, published March 1, 1983 (48 FR 8425).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Great Basin marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before 20 days after publication in the **Federal Register.** The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment set forth below is based on the record of a public hearing held at Salt Lake City, Utah, on December 9, 1982, pursuant to notice thereof issued November 19, 1982 (47 FR 53395).

The hearing notice specifically invited interested persons to present evidence concerning the probably regulatory and informational impact of the proposals on small businesses. However, no participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that the proposed amendment, if adopted, will not have a significant impact on a substantial number of small entities. The proposed amendment would promote orderly marketing of milk by producers and regulated handlers.

The material issues on the record of hearing relate to:

1. Performance standards for a pool plant that primarily processes and distributes aseptically processed fluid milk products.

2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions thereto with respect to issue No. 1.

3. Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products.

4. Classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed paper containers.

A prior decision dealt with issues 1 and 2. The remaining issues (Nos. 3 and 4) of the hearing are considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

3. *Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products.* The provisions of the order should not be amended to permit an exempt plant to have all or part of its supply aseptically processed and packaged by a pool plant for disposition for charitable purposes without the exempt plant losing its exempt status under the order.[1]

A proposal of Gossner Foods, Inc. (Gossner), a proprietary handler, would permit a plant that is exempt from the regulatory requirements of the order to have part or all of its milk supply custom packaged at a pooled UHT plant and returned to the exempt plant to be used for charitable purposes without the exempt plant losing its exempt status. The proposal was one of several proposals presented by the handler at the hearing which were designed to accommodate the operations of his new plant. The plant processes, packages, and distributes only UHT milk in hermetically sealed paper containers. Such milk requires no refrigeration for several months.

In support of the proposal, Gossner's spokesman testified that the exemption sought would be beneficial to the welfare program of the Church of Jesus Christ of Latter-Day Saints (Church) which operates an exempt plant under the order. He testified that the proposal would have no effect on the operation of the order since the milk supply associated with the Church's plant is neither priced nor pooled under the order.

The manager of processing operations of the Church testified in support of the proposal. He testified that UHT fluid milk products could become an important addition to the welfare program of the Church. The witness testified that for a number of years the Church has operated a self-supported Church-wide program for its needy members throughout the United States and Canada. He testified that the present volume of packaged fluid milk distributed through the Church's welfare program is about 30 million quarts per year. Of this total, about 22 million quarts per year are distributed to the needy in the Great Basin area, all of which is processed at its Salt Lake City exempt fluid milk plant. The witness indicated that in other parts of the country the Church purchases packaged fluid milk products from regulated plants to fulfill the requirements of its welfare program.

In further support of the proposal, the witness stated that the adoption of the proposal would enable the Church to test the feasibility of using UHT milk in its welfare program. He indicated that such evaluation would be of several months' duration so that the Church can determine whether or not to build its own UHT milk plant. Furthermore, he said that the Church in the Great Basin area has a sufficient supply of milk available from its own farms in the Great Basin area to supply the Church's entire welfare program with UHT milk.

At the hearing and in its post-hearing brief, Western Dairymen Cooperative, Inc., (WDCI)[2] opposed the proposal. The federation of cooperatives argued that the effect of this proposal is to have the Great Basin pool defray part of the cost of starting up the UHT plant and the Church's experiment in determining the merits of using UHT milk in its welfare program. Furthermore, it argued that the language of the proposal could not accomplish its purported purpose and that the proposal violates the uniformity requirements of the Agricultural Marketing Agreement Act. Moreover, WDCI argued that the provision that exempts the Church was adopted on the basis that the distribution of milk to needy members was limited in scope and confined essentially to the Salt Lake City area.

Although it did not testify at the hearing, Beatrice Foods Co. (Beatrice) filed a post-hearing brief opposing the proposal. It maintained that the current order provisions are sufficient to address the proponent's need. In this regard, the handler indicated that the current order would permit the UHT plant to receive milk from the Church's plant as "other source milk" and then transfer the package UHT milk as Class I milk to the Church for its welfare distribution program. Beatrice contends that this arrangement assures that Grade A milk produced for the market is handled in a manner that is uniform among all plants.

Beatrice also argued that the proposal would result in unequal recordkeeping requirements for handlers. The handler contends that the proposal would not require the proponent to accurately account to the market administrator for the exempt milk that would be moving into and out of its plant.

The opponent contends the proposal would result in an unfair competitive advantage for the proponent. In this regard, the handler states that this is because the proponent would not incur any payment obligation under the order for the exempt milk and would benefit from the Church's effort to build a market demand for its UHT milk products. Beatrice contends that the record indicates that the proponent does not intend to process this milk for the Church free of charge. Therefore, Beatrice argues that this arrangement constitutes a commercial transaction and that it should be accounted for in the same manner as other commercial transactions under the order.

Under the present provisions of the order, a handler receiving milk from an exempt plant for custom processing and packaging is required to account to the pool for such milk as Class III. The milk returned to the operator of the exempt plant would be classified as Class I milk. Thus, the pool handler would incur a payment obligation under the order at the difference between the Class I and Class IIII prices on the milk so returned. Under this accounting procedure, such payment obligation incurred by the UHT handler would be expected to be passed on to the exempt plant operator as part of the cost of processing the milk by the pool handler.

As indicated, the intent of the proposal as presented would exempt from the order's pooling and pricing requirements any milk received by the UHT pool handler from dairy farms operated by the Church. All of such milk would be aseptically packaged in hermetically sealed paper containers as UHT milk and returned to the Church for distribution to the needy throughout the United States and Canada. Thus, adoption of the proposal would allow the UHT pool handler to custom process and package part or all of the Church's milk supply without the handler incurring any payment obligation under the order on the milk so processed. It would be expected that this would result in a lower processing and packaging charge to the Church than under the present terms of the order. Adoption of the proposal would also provide the opportunity for the Church to supply the total milk requirements of its welfare program from the milk produced on its own farms. Finally, its adoption would provide the Church the option of studying the feasibility of whether or not to build its own UHT plant facilities.

Since its inception in November 1959, the Great Basin order has completely exempted the Church's plant at Salt Lake City. In this regard, official notice is taken of the Assistant Secretary's September 1, 1959 (24 FR 7207) decision proposing a new order for the Great Basin marketing area, in which appears a discussion of the basis for providing complete exemption to the Church's operation.

An important factor that was considered in exempting the Church's processing plant from regulation was that the fluid milk products handled were being disposed of to individuals or institutions for charitable purposes rather than being disposed of commercially. Also, it was contemplated that such plant would process only the milk produced on the Church's farms and that the milk would be disposed of primarily in the local market. Through the years, the Church has continued to operate in this manner. Consequently, there is no indication that the Church's present operation is a threat to orderly and stable marketing for producers whose milk is priced under the order and for those handlers who are subject to full regulation.

The proposal under consideration, which would permit the Gossner plant to custom package "UHT" milk for the Church's "exempt plant," could result in a substantial expansion of the exempt plant's operations. As indicated, the Church desired the custom packaging arrangement so that it could distribute its own milk without refrigeration not only locally but throughout the United States and Canada. The distribution of this milk over a wide area could have an impact on producers and handlers in other markets by supplanting local milk in the other areas with the Church's UHT milk. Such widespread distribution would seriously undermine the basis for exempting the Church's plant from regulation, which was that it was essentially a local operation, and that any adverse impact from its exempt status would be limited to the local market where the exemption was approved by the area's producers.

For these reasons, it is concluded that the proposal to expand the basis of exempting the Church's plant should not be adopted. Accordingly, the proposal is denied.

In conjunction with the exemption proposal, Gossner also proposed an expansion of the "non-producer" definition to have it apply to milk produced by a charitable institution that is moved directly to another plant for custom processing and packaging as UHT milk. Since the proposal to expand the basis of exempting a charitable institution is denied, the issue raised in the non-producer proposal becomes moot.

4. *Classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are aseptically packaged in hermetically sealed paper containers.* A Class II classification should apply to formulas prepared for infant feeding or dietary use that are aseptically packaged in hermetically sealed paper containers.

Although not marketed at the present time in hermetically sealed paper containers, any such products so marketed would be classified as Class I under the order. However, the present order excludes from the fluid milk product definition milk or milk products used for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A proposal to change the "fluid milk product" definition was made by

[1] The aseptic process embraces the use of ultra high temperature pasteurization and aseptic packaging of fluid milk products in hermetically sealed paper containers. The resulting products from this process are commonly referred to as "UHT" milk. Because of the common usage of the term "UHT", reference is made in the decision to UHT milk or milk products and UHT plant.

[2] Western Dairymen Cooperative, Inc., is a federation of cooperatives consisting of Mountain Empire Dairymen's Association, Western General Dairies, Inc., Dairymen's Cooperative Association, Lake Mead Cooperative Association, Black Hills Milk Producers Association and Ft. Collins Milk Producers Association.

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Gossner. The proposal was one of several proposals made by the handler to accommodate the operations of its new UHT plant. Proponent's witness testified that Gossner expects to process for distribution in the near future formulas especially prepared for infant feeding or dietary use that are processed with ultra-high temperatures and aseptically packaged in hermetically sealed paper containers. In his opinion, there is no basis for making any distinction in classification among the various types of containers that are used to package such formulas. The witness argued that in terms of shelf life and competition for unrefrigerated shelf space, hermetically sealed paper containers are equivalent to such products packaged in glass or metal containers.

At the hearing and in its post-hearing brief, WDCI opposed the proposal. The basis of such opposition focused on the belief that the adoption of the proposal could result in the classification as Class II of certain products that are normally classified as Class I. Opponent expressed particular concern that fluid skim products could be packaged and labeled as dietary products and thus would be classified as Class II under the proposal. Finally, opponent's witness argued that no action should be taken on the proposal until after the UHT operator has had actual experience in marketing UHT dietary and infant feeding formulas in competition with similar products that are packaged in hermetically sealed glass or all metal containers.

Infant and dietary formulas, which now are sold only in hermetically sealed glass or all-metal containers, are specialized food items prepared for a very limited use. Such formulas do not compete with fluid milk beverages consumed by the general public. It is within this conceptual framework that any milk or milk products used in the production of such formulas in glass or metal containers are now excluded from the "fluid milk product" definition and classified as Class II.

When the provision for such exclusion from the "fluid milk product" definition was developed, such formulas were only packaged in hermetically sealed glass and metal containers. With the advent of UHT milk, dietary and infant feeding formulas can now be aseptically packaged in hermetically sealed paper containers. Such products can compete to a reasonable extent with glass or metal containers in terms of unrefrigerated shelf life.

It is appropriate, therefore, to remove from the "fluid milk product" definition dietary and infant feeding formulas that are aseptically packaged in hermetically sealed paper containers and specifically include such products in Class II. This will allow the UHT milk processor to compete for dietary and infant feeding formula business on a comparable basis with such formulas packaged in glass or all-metal containers.

As noted earlier, WDCI expressed concern that the adoption of this proposal would facilitate the circumvention of the Class I pricing provisions of the order through mislabeling of products. While this seems unlikely, this matter can be reviewed through the hearing process should experience indicate that there is some problem.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interests; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Great Basin marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1136—[AMENDED]

1. In § 1136.15, paragraph (b)(1) is revised to read as follows:

§ 1135.15 Fluid milk product.

* * * * * *

(b) * * *

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass, paper, or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

* * * * * *

2. In § 1136.40, paragraph (b)(4)(vi) is revised to read as follows:

§ 1136.40 Classes of utilization.

* * * * * *

(b) * * *

(4) * * *

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers or aseptically packaged in hermetically sealed paper containers.

* * * * * *

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 5, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-12532 Filed 5-6-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1139

Milk in the Lake Mead Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain diversion provisions of the Lake Mead Federal milk order for May through July 1983. The proposed suspension would remove the requirement that 20 percent of a dairy farmer's monthly milk production be received at a pool plant in order for the remaining production to be eligible to be moved directly from the farm to nonpool manufacturing plants and still be priced and pooled under the order. The suspension was requested by a cooperative association to reduce hauling costs in disposing of an increased supply of milk that is not needed for fluid use.

DATE: Comments are due not later than May 17, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major"action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures and the inclusion of May 1983 in the suspension period if it is found necessary. The initial request for this action was received on April 27, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of certain provisions of the order regulating the handling of milk in the Lake Mead marketing area is being considered for the months of May through July 1983:

1. In § 1139.13(d)(2), the language "from whom at least 20 percent of his milk production is received during the month at a pool plant".

2. In § 1139.13(d)(3), the language "from whom at least 20 percent of his milk production is received during the month at the pool plant".

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file two copies of such material with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the publication of this notice in the **Federal Register.** The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include May 1983 in the suspension period.

The comments that are received will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.23(b)).

Statement of Consideration

This proposed action would make inoperative for May through July 1983 the requirement that a portion of a dairy farmer's monthly milk production be received at a pool plant in order for the remaining production to be eligible to be diverted directly from the farm to nonpool plants and still be priced and pooled under the order. The order now provides that 20 percent of a dairy farmer's production must be received at a pool plant in order for the remaining production of the producer to be eligible for diversion by a cooperative association or other handlers.

The action was requested by the Lake Mead Cooperative Association, which supplies a substantial part of the market's fluid milk needs and handles most of the market's reserve supplies. The cooperative association requested the suspension to provide for greater efficiencies in handling the market's reserve milk supply.

The need to handle an increasing quantity of reserve milk supplies is a result of a continuing imbalance between the market's fluid milk requirements and the milk supplies available from producers. The cooperative indicates that milk production continues to be heavy without a corresponding increase in sales to fluid milk outlets. As a result of these marketing conditions, the order limits on the quantity of milk that may be moved directly from farms to nonpool plants and still be priced under the order were suspended for the months of April through July 1983 (48 FR 16028). A similar suspension has been in effect since April 1982 (47 FR 17036, 47 FR 38496, 47 FR 55201).

Although the diversion limitations are currently suspended, the order still requires that 20 percent of a dairy farmer's monthly milk production must be received at a pool plant in order for the remaining quantity to be eligible for diversion to nonpool plants. As a result, the cooperative contends that substantial quantities of the milk of individual producers who are located farthest from the market must be shipped to pool plants solely for diversion qualification purposes. The shipment of distantly located milk supplies to pool plants displaces the milk of other producers who are located nearer to the distributing plants. Such milk must then be shipped to distant outlets for surplus disposal. Thus, the cooperative contends that it incurs unnecessary hauling costs because of the need to qualify the milk of its member producers to be eligible for diversion to nonpool plants. The cooperative indicates that suspension of this requirement would eliminate costly and inefficient movements of producer milk that are made solely for the purpose of pooling the milk of dairy farmers who have been regularly associated with the market.

The cooperative requested the suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. It is expected that a hearing will be held in the near future to consider proposals to amend the order to accommodate current marketing conditions.

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List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on: May 5, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-12404 Filed 5-7-83; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 556 and 563

[No. 83-244]

Interstate Transactions Involving Insured Institutions

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is proposing to adopt a rule regarding interstate transactions involving institutions the accounts of which are insured ("insured institution") by the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"). In supervisory cases, that rule generally would follow and clarify the Board's current policy, applicable to federal institutions, to permit interstate supervisory mergers, acquisitions, consolidations, and transfers of assets involving insured institutions. The Board also proposes to permit nonsupervisory interstate mergers, acquisitions, and establishment of branches where state law specifically permits entry by out-of-state institutions. This proposed change of policy is intended by the Board to address issues raised by recent and continuing changes in the financial services industry.

DATES: Comment period: July 11, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Please contact Gayle Radley, Attorney, Division of Corporate and Regulatory Structure, Office of General Counsel, (202) 377-6961, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: The proposed rule embodies the policy of the Board, as operating head of the FSLIC, regarding permissible interestate transactions for insured institutions, *e.g.*, the establishment of a branch office in a state other than the state in which an institution's home office is located.

Background

Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) ("HOLA") grants the Board plenary authority to regulate the operations and activities of federal savings and loan institutions. Although the HOLA did not specifically address the Board's authority to permit branching until the passage of the Garn-St Germain Depository Institutions act of 1982 ("The Garn-St Germain Act" or "DIA"). The Board has always had the authority to regulate branching of federal associations both on an intrastate and an interstate basis. *See IBAA* v. *Federal Home Loan Bank Board*, Civ. No. 82-0508 (D.D.C. Aug. 4, 1982).

Accordingly, the Board has permitted federally chartered institutions to branch since 1937, 2 FR 825-26 (May 14, 1937), although its first statement of policy on branching was not adopted until 1967, 32 FR 20630-31 (Dec. 21, 1967). In 1972, the Board amended that policy to emphasize its preference for intrastate operations by stating that generally it would not approve applications for interstate branches, 37 FR 3987 (February 25, 1972). The policy statement made it clear, however, that the Board maintained its discretionary statutory authority to permit interstate branching.

This general policy has been modified because of the financial difficulties facing the thrift industry in recent years. From the beginning of 1980 through March 1983, th FSLIC arranged 354 supervisory mergers, many of which required FSLIC financial assistance. These transactions reflected the Corporation's need to protect the limited resources of its insurance fund by merging the most seriously financially weakened savings institutions with stronger institutions. In some of these cases, intrastate mergers could not be accomplished without increased risk and substantial cost to the insurance fund.

In response to these circumstances, the Board has amended its branching policy statement three times in the last two years to specifically authorize interstate operations by federally chartered institutions in supervisory cases. *See* Board Resolutions Nos. 82-498, 47 FR 34125 (Aug. 6, 1982); 81-157, 46 FR 19221 (Mar. 30, 1981); and 81-496, 46 FR 45120 (Sept. 10, 1981). These amendments enabled the FSLIC to draw from a wider range of merger partners to arrange interstate transactions in supervisory situations where acceptable merger partners could not be found in-state.

Current Board Policy

The current policy regarding branching by federal institutions, set forth at § 556.5 of the Regulations for the Federal Savings and Loan System ("Federal Regulations"), recognizes the Board's authority to permit interstate branching by federal institutions. While the Board has generally preferred intrastate transactions and its policy statement generally proscribes interstate transactions, the Board has approved acquisitions, mergers, and similar transactions that result in interstate operations in those cases where affirmative action by the FSLIC is necessary to prevent failure of an insured institution.

Under the current policy statement, an interstate transaction may be approved subject to the following conditions: (1) the interstate acquisition must be made in connection with action by the FSLIC to prevent the failure of an insured institution; (2) the FSLIC must determine that the insurance risk or cost to its fund would be reduced by the interstate transaction; and (3) there must be no equally desirable intrastate acquisition available that would pose a substantially lesser insurance risk or cost to the FSLIC. Institutions that establish interstate operations by virtue of supervisory transactions may thereafter open additional branches, merge with, acquire the assets of, or acquire another healthy institution in the newly entered state, subject to the same branching guidelines that apply to a federal institution with its home office in that state.

The Garn-St Germain Act

Congress responded to the changing competitive environment and to the financial crisis in the thrift industry by enacting the DIA. Among other things, the DIA reinforced the Board's existing plenary authority to approve branching by federally chartered institutions and expanded the authority of the Board to approve interstate activities resulting from transactions involving state-chartered insured institutions and savings and loan holding companies.

Section 334 of the DIA added a new paragraph (r) to Section 5 of the HOLA which specifically confirms the Board's authority to regulate interstate branching. Section 5(r) does, however, limit the permissible branching the Board can authorize for federal institutions by providing that no institution can operate a branch outside the state in which the institution has its home office, unless it qualifies as a domestic building and loan association under Section 7701(a)(19) of the Internal Revenue Code ("IRC") or meets the asset-composition test imposed by that IRC section. Further, all of the institution's assets located in the new state must meet the IRC standards for a qualified building and loan association. The statute, however, establishes certain exceptions to this provision. It grandfathers existing nonconforming branches and permits an institution to retain branches acquired under the emergency thrift acquisition authority set out in Section 123 of the DIA. Moreover, Section 5(r) exempts from the IRC restrictions interstate branches in those states where state law would permit the interstate branch regardless of conformance with IRC standards.

Section 123 of the Garn-St Germain Act created a new Section 408(m) of the National Housing Act ("NHA") to specifically authorize the FSLIC to override any state or federal law (other than the antitrust laws) that would prevent a financially troubled, insured institution from merging with any other insured institution or a bank insured by the Federal Deposit Insurance Corporation ("FDIC"), or being acquired by any person or company, including a bank holding company. Where an insured institution is acquired by a bank or a bank holding company, or where the home office of the acquired savings institution is not in the same state as the bank holding company's banking subsidiary, the institution is subject to national bank branching restrictions. Among other things, this section of the DIA requires that in the case of a minority-controlled institution, the FSLIC shall seek offers from other minority-controlled institutions before proceeding with the priorities established to evaluate alternative transactions governed by Section 123.

Proposed Rule on Interstate Transactons

In light of the dramatic changes that are occurring in the financial services industry which allow the movement of funds and transfer of financial services across the country in a matter of moments, the continued, nationwide competition from unregulated financial companies, and the financial crisis in the thrift industry, the Board is reevaluating its policy on interstate transactions and considering the adoption of a new policy in the form of a regulation applicable to all insured institutions.

The Board is aware that state-chartered thrift institutions already are able to establish branch offices *de novo*, by merger or acquisition on a nonsupervisory basis in a state that permits such entry by an out-of-state institution. In fact, some state-chartered thrifts are permitted by their state law, subject to FSLIC approval under the Savings and Loan Holding Company Act, 12 U.S.C. 1730a (the "Holding Company Act") to acquire out-of-state institutions as subsidiaries under their investment leeway authority. Thus, it appears that if federal thrifts are not permitted to branch to the same extent as their state-chartered competitors, they will operate at a competitive disadvantage with those state-chartered institutions.

This proposal would permit the establishment of interstate branch offices, whether *de novo*, by merger, acquisition, or otherwise, on a nonsupervisory basis where state law authorizes the transaction (*i.e.*, a "host state" approach). Under this host state approach, an insured institution headquartered or located in one state could acquire the assets of or merge with an institution having its home office in another state. Similarly, an out-of-state insured institution could establish a *de novo* branch in such a host state. In addition, this host state approach would govern FSLIC authorization under the Holding Company Act of an acquisition of an insured institution headquartered or located in one state by an insured institution, or a savings bank the accounts of which are insured by the FDIC, that is headquartered or located in a second state. An institution that acquires branches in a new state pursuant to this proposed regulation would be permitted to expand its operations within the new state to the same extent as could any other federal association headquartered or located in that state.

The Board believes that this approach to interstate transactions is consistent with the intent of Section 334 of the DIA, which limits interstate branching by federal institutions to branches that meet IRC-type requirements, except where such branches would be otherwise permitted by state law. At the same time, however, the Board specifically requests comments regarding the need for or advantages of adopting conditions to restrict interstate branching; *e.g.*, requiring reciprocal state laws that permit interstate transactions.

The proposed regulation also clarifies that the Board will permit a supervisory transaction that involves the interstate consolidation of insured institutions owned substantially in their entirety as of April 28, 1983, by the same individual or group of individuals. In addition, the Board is proposing to give out-of-state institutions that have established an in-state presence pursuant to supervisory or nonsupervisory acquisitions, priority over other out-of-state institutions when evaluating competing proposals in supervisory cases.

Nothing in this regulation should be interpreted as conflicting with the provisions of Title I of the DIA, especially Section 123, the terms and conditions of which will be applied by the Board where it is required to do so. Finally, this proposal does not otherwise affect the authority or restrictions applicable to the acquisition of an insured institution under the National Housing Act by a depository institution (other than an insured institution or an FDIC-insured savings bank), a multiple S&L holding company, or any other company.

As a general matter, the Board believes that deferral to state law would not unduly disrupt FSLIC supervisory activities and would recognize the interest and significance of state law in interstate transactions. The Board further recognizes that the pace of development in the regulated financial services industry raises significant questions regarding the advantages and appropriateness of absolute restrictions on interstate transactions which may act as artificial barriers to competition.

Home Offices

Finally, the Board proposes to permit an institution with its home office in one state to redesignate its home office to another state where it has a grandfathered branch office. However, the institution could not, thereafter, branch further in the state to which it has moved its home office solely upon the rationale that such state is now the state of the institution's home office.

List of Subjects in 12 CFR Parts 556 and 563

Interstate operations, Branching, Mergers, Acquisitions, Consolidation of subsidiaries, Transfer of accounts.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board is providing the following initial regulatory flexibility analysis:

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1. *Reasons, objectives, and legal basis underlying this proposed rule.* These factors are discussed elsewhere in the supplementary information.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to savings and loan institutions the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* It is not anticipated that the proposed rule will have a significant impact on small institutions because, in the absence of the proposed rule, most of the transactions which the proposed rule would permit could be effectuated by a state-chartered institution.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposed rule.

5. *Alternatives to the proposed rule.* The proposed rule would relieve existing or apparent restrictions on the regulated industry; thus, there are no alternatives that would have a lesser impact on small entities.

Accordingly, the Board hereby proposes to amend Part 556 of Subchapter C, and Part 563 of Subchapter D, Chapter V of Title 12, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 556—[AMENDED]

1. Amend § 556.5 by revising paragraph (a)(3) as follows:

§ 556.5 Establishment of branch offices.

(a) * * *

(3) Except as provided in § 571.15 of Subchapter D regarding interstate transactions involving insured institutions, the Board generally will approve the establishment of a branch office only in the state in which the home office of the institution is located. For purposes of this section the term home office will have the same meaning as it does in 571.15(c)(4).

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—[AMENDED]

2. Add a new § 563.22–1 as follows:

§ 563.22–1 Interstate transactions involving insured institutions.

(a) *Interstate transactions.* An "interstate transaction" shall mean a transaction whereby an insured institution, including an insured institution acting as a holding company, acquires a full service corporation, of the nature available at a branch office of an insured institution, in a state other than the state in which it is headquartered. A savings bank the accounts of which are insured by the Federal Deposit Insurance Corporation ("FDIC") that is involved in a transaction with an insured institution shall be deemed to be an insured institution for the purpose of this section.

(b) *Supervisory interstate transactions.* (1) The Corporation may authorize the establishment of a branch office by an insured institution, which is not headquartered or located in the same state as such branch office, by merger, consolidation, transfer of assets and assumption of liabilities, acquisition, or similar transaction. In addition, the Corporation may authorize an insured institution to acquire, either directly or indirectly through a subsidiary, an insured institution which is headquartered or located in a state other than the state in which such acquiring insured institution is headquartered or located.

(2) The transactions governed by paragraph (b)(1) of this section may be authorized only under the following circumstances:

(i) the branch or insured institution will be acquired in connection with an action taken by the Corporation to (A) prevent the default of an insured institution, (B) restore an insured institution in default to normal operation, or (C) lessen the risk to the Corporation posed by an insured institution threatened by instability, when severe financial conditions exist which threaten the stability of a significant number of insured institutions or of insured institutions possessing significant resources;

(ii) the Corporation determines that its insurance liability or risk, including cost or potential cost, will be reduced as a result of the interstate transaction; and

(iii) no otherwise equally desirable non-interstate transaction has been determined by the Corporation to have been submitted.

(3)(i) Where a minority-controlled institution meets the standards set forth in (A), (B), and (C) of subsection (b)(2)(i) of this section, the Corporation will seek an offer from other minority-controlled institutions.

(ii) For the purpose of making a finding under paragraph (b)(2)(iii) of this section, an insured institution will be considered to be within any state in which it has a branch office.

(4) Notwithstanding the conditions set out in this paragraph (b), the Corporation may, in its discretion, approve the consolidation of insured institutions located in different states where (A) each transaction conforms to the standards of subsections (2) (ii) and (iii) of this paragraph (b), and (B) since April 26, 1983, at least 90 percent control of each of the institutions involved has been held by the same individual or group of individuals acting in concert to control such institutions.

(c) *Nonsupervisory transactions.* (1) The Corporation may authorize an insured institution which is headquartered or located in another state to establish a branch office in a state the law of which specifically authorizes the transaction by which the branch office is established ("host state approach"). If permitted by such state law, the branch office may be established *de novo* or by merger, consolidation, transfer of assets and assumption of liabilities, acquisition, or similar transaction. In addition, the Corporation may authorize under the same host state approach an insured institution headquartered or located in another state to acquire, either directly or indirectly through a subsidiary, an insured institution or similar depository institution headquartered or located in a state.

(2) The Corporation may authorize transactions that involve the establishment or acquisition of additional branch offices of an insured institution in any state in which the insured institution has already established an authorized branch in accordance with this section or its predecessor, section 556.5 of subchapter C.

(3) The Corporation may authorize the consolidation of some or all of the insured-institution subsidiaries controlled since February 14, 1968, by a multistate savings and loan holding company.

(4) An insured institution may designate as its home office a branch office it has in another state. If the institution's branch office(s) in such other state were achieved otherwise than in accordance with this section or its predecessor, section 556.5 of Subchapter C, however, the institution may not branch further in its new home-office state on the basis that such state is now the state of the institution's home office. For the purpose of future branching, the institution's former home-office state will continue to be viewed as the state of its home office.

(Sec. 5 of the Home Owners' Loan Act 48 Stat. 132 (12 U.S.C. 1464); secs. 402, 403, 406, 407, and 408 of the National Housing Act, 12 U.S.C. 1725, 1726, 1729 1730, and 1730a; Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1071 (1943–48 Comp)))

Dated: April 26, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–12336 Filed 5–9–83; 8:45 am]

BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 116

Policies of General Application; Flood Insurance Protection; Floodplain Management and Wetlands Protection

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration is publishing its proposed amendments to Part 116 of the Code of Federal Regulations (13 CFR Part 116).

The proposal would eliminate the requirement that all SBA borrowers purchase flood insurance if it is made available during the term of the loan, and amends the regulation to include insurance against mudslides and soil erosion (13 CFR 116.11 (a) and (b)).

The proposal would require disaster borrowers to purchase such insurance in an amount equal to the insurable value of the property or the maximum amount available. (13 CFR 116.11(c)).

The proposal also increases the loan amount under which SBA may waive the 8-step decision-making process, on a case-by-case basis, to determine adverse effects or incompatible development on wetlands or in a floodplain (13 CFR 116.32(a)(6)).

The proposal would also amend the "Purpose and Scope" section to conform it to current program conditions (13 CFR 116.10). It would further amend the section on "Related Regulations" to conform it to the current regulations of the Federal Emergency Management Agency.

DATE: Comments must be received on or before June 9, 1983.

ADDRESS: Written comments are to be submitted in duplicate to the Deputy Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202–653–6879.

SUPPLEMENTARY INFORMATION: The following sections of Part 116 of 13 CFR would be amended by this proposal:

Section 116.10: The existing regulation fails to include Certified Development Companies (section 503 of the Small Business Investment Act, 15 U.S.C. 697) within the scope of this Part. The cited statute was enacted in July, 1980 (Pub. L. 96–302), whereas this § 116.10 of the regulations was promulgated in 1978 (43 FR 32128) and has not been amended since. The proposed amendment would cure this omission, but does not create a new requirement since the Flood Disaster Protection Act of 1973 mandates such inclusion. The proposed amendment also omits references to SBA programs which exist no longer, or have been merged into other listed programs.

Section 116.11(a): The existing regulation requires SBA disaster borrowers who have obtained loans at a time when flood insurance is not available in their localities to purchase flood insurance if it becomes available during the term of the loan. The Agency is not administratively able to enforce this requirement, which is not required by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 *et seq.*), the basis for this subpart of Part 116. The reason for this inability is that neither borrowers nor SBA are always aware of the availability of flood insurance in a given locality because of the manner in which such areas are designated. Borrowers have been and will continue to be required to purchase such insurance if it is available prior to loan disbursement.

Section 116.11(b) would be amended to provide that SBA will not provide, directly or indirectly, disaster assistance to applicants located in special hazard areas, including those which are prone to mudslides and soil erosion, unless the community is participating in the Federal insurance program, or less than a year has elapsed since the community was advised of the availability of such program in the area. This change would conform the regulation to Federal Emergency Management Agency regulations, 44 CFR 64.3.

Section 116.11(c): The existing regulation merely requires a prospective borrower under all SBA financial assistance programs to provide and maintain flood insurance in the amount of the SBA loan balance, even if greater amounts are available and the insurable value of the collateral for the loan is also greater. As a result, SBA is sometimes called upon to provide subsequent disaster assistance which would not be necessary if the borrower had purchased the additional available insurance. The amendment would require borrowers to purchase the maximum amount of insurance available under the National Flood Insurance Act of 1968 not to exceed the insurable value of the property. It would further the purpose of the national flood insurance program by providing that all borrowers located in a special flood hazard area share the risk of such locations and are covered to the extent of their possible loss. It also would better protect SBA's collateral position with respect to collateral for a given loan. Many times the agency is not the first lienholder and in fact may be subordinated to more than one lien. This requirement will assure that the value of SBA's collateral is protected from floods in flood prone locations. This amendment would also benefit disaster victims by reducing the amount of debt they must incur due to a subsequent disaster.

This proposal will have an economic effect on all SBA borrowers, businesses as well as home owners, where the amount of the loan is less than the insurable value of the property. The additional cost for each borrower will be the difference between the flood insurance premiums for insurance in the amount of the SBA loan and the premiums for insurance in the amount of the insurable value of the property (or maximum insurance available, whichever is lower). Because of the impossibility of forecasting the time, magnitude or location of disasters, it is not feasible to estimate the total number of borrowers who will be located in flood prone areas nor the gross additional cost to any single borrower or all borrowers as a group. However, the gross amount of additional cost could be significant.

SBA, as indicated above, seeks to ensure its collateral for a given loan and avoid multiple loans to the same flood prone borrower by promulgating this requirement. In doing so, SBA is convinced that the benefits of the proposal outweigh its costs. The only reasonable alternative to this proposal is to continue the existent regulation, which has proved unsatisfactory. There are no additional recordkeeping or reporting requirements inherent in this proposal, and it does not contradict, overlap or duplicate any other existent regulations of statutes.

Section 116.12: This section incorrectly cites the related regulations. The amendment would conform the section to current regulations.

Section 116.32(a)(6): The existing regulation lists 6 actions which typically do not create adverse effects or incompatible development on wetlands or in floodplains. Therefore the full 8-step decision-making process [required by §116.35, implementing Section 2(a) of

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Executive Order 11988] may be waived on a case-by-case basis in instances of these actions. One such action is "all SBA loan assistance of $300,000 or less." This regulation was promulgated May 24, 1978 (43 FR 22298). Due to inflation and the great increase in construction costs, the increased amount of $500,000 would more properly reflect the amount of construction contemplated by the regulation when it was promulgated. This amendment will relieve applicants for loans in the $300,000 to $500,000 range of the need to supply SBA with the necessary information and studies for the implementation of the prescribed decision-making process, and consequently will reduce both the cost and the time required to process such loan applications.

Except to the extent indicated above with respect to the revision of §116.11(c), these proposed regulations, if promulgated in final form, either singly or as a whole, would not have a significant economic impact on a substantial number of small entities. In addition, they do not constitute major regulations for the purpose of Executive Order 12291. To the extent that the revision of § 116.11(c) could have a significant economic impact or constitute a major rule, the statement above as to its potential effect is provided as a regulatory analysis for the purposes of the Regulatory Flexibility Act and E.O. 12291.

List of Subjects in 13 CFR Part 116

Flood insurance, Flood plains, Lead poisoning, Small businesses, Veterans.

Accordingly, pursuant to the authority of § 5(b)(6) of the Small Business Act (15 U.S.C. 631 *et seq),* Subparts B and D of Part 116, Chapter 1, Title 13 of the Code of Federal Regulations are proposed to be amended as follows:

Subpart B

PART 116—[AMENDED]

Section 116.10 would be revised to read as follows:

§ 116.10 Purpose and scope.

This subpart is established by the SBA to implement the Agency's responsibilities under section 102(a) of the Flood Disaster Protection Act of 1973, which prohibits Federal financial assistance for acquisition or construction purposes in special flood hazard areas (as designated by the Federal Emergency Management Administration, formerly by the Secretary of Housing and Urban Development), when persons in such areas are eligible for flood insurance which has been made available under the National Flood Insurance Act of 1968, and have not obtained such insurance. The following programs are subject to the legislation: 7(a) Business loans, 7(b) disaster loans, Sections 501, 502 and 503 development company loans, lease guarantees, small business investment companies and pollution control guarantees.

Section 116.11 would be amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 116.11 Requirements.

(a) *General.* Flood insurance is required of a recipient of SBA direct or indirect assistance for construction purposes as defined in paragraph (d) of this section on the basis of its availability at the time of approval of a loan.

(b) *Community Participation in Insurance Program.* On and after July 1, 1975, no financial assistance will be authorized by which SBA would provide direct or indirect assistance to an applicant located in an identified special hazard area, including an area of mudslides and flood-related erosion as defined in Title 44, Code of Federal Regulations, § 59.1, unless (1) the community in which said applicant is located is participating in the flood insurance program or (2) less than a year has elapsed since the community was formally notified of the identification of a special flood hazard area within its boundaries.

(c) *Amount of coverage required.* The amount of flood insurance required is the maximum flood insurance available under the National Flood Insurance Act of 1968, as amended, but not to exceed the insurable value of the property.

* * * * *

Section 116.12 would be revised to read as follows:

§ 116.12 Related regulations.

It is the intent of the SBA that this Subpart B be administered in a manner consistent with regulations issued by the Federal Emergency Management Agency (44 CFR Parts 59–77).

Subpart D

Section 116.32 would be amended by removing from paragraph (a)(6) thereof: "$300,000" and inserting in place thereof "$500,000".

(Catalog of Federal Domestic Assistance Programs No. 59.008, Physical Disaster Loans)

Dated: April 1, 1983.

James C. Sanders,

Administrator.

FR Doc. 83-12346 Filed 5-9-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 11

[Docket No. RM83-13-000]

Annual Charges for Use of Government Dams and Other Structures Under Part I of the Federal Power Act; Extension of Time for Comments

May 5, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On March 31, 1983, the Commission issued a Notice of Proposed Rulemaking involving annual charges for use of government dams and other structures under Part I of the Federal Power Act (48 FR 15134, April 7, 1983). The comment period is being extended at the request of the Annual Charges Policy Group and Idaho Power Company.

DATE: Comments must be submitted on or before July 15, 1983.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, (202) 357–8400.

Kenneth F. Plumb,

Secretary.

Annual Charges for the Use of Government Dams and Other Structures Under Part I of the Federal Power Act; Docket No. RM83–13–000; notice of extension of time.

May 5, 1983.

On April 15, 1983 and April 28, 1983, the Annual Charges Policy Group (ACPG) and Idaho Power Company (Idaho) filed respective motions for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued March 31, 1983, in the above-docketed proceeding. The ACPG's motion states that because of the complexity of the issues involved in this proceeding, the ACPG requires additional time to perform a comprehensive analysis of the proposed rule and also to review data and information developed at the technical conference which was recently held in this proceeding. The ACPG's motion further states that the National Water Resources Association supports this extension request. Idaho's motion states that the company requires additional time in order to analyze the proposed rule.

Upon consideration, notice is hereby given that an extension of time for the filing of comments is granted to and including July 15, 1983.

[FR Doc. 83-12495 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 158

[Docket No. 83-0110]

Quick Frozen Cauliflower; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Codex Standard for Quick Frozen Cauliflower (Codex standard) developed by the Codex Alimentarius Comission and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by July 11, 1983.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C Street, SW., Washington, D.C. 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for quick frozen cauliflower.

As a member of the Codex Alimentarius Commision, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to acceptance at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the Act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) Or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for quick frozen cauliflower. Ther are only voluntary grade standards for marketing frozen cauliflower, including identity and quality requirements, developed by the U.S. Department of Agriculture.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment: (1) On the need for and desirability of, a standard for this food, (2) on the specific provisions of the Codex standard (Codex standard 111–1981) and any modifications that should be included in a U.S. standard, if established, and (3) on any other pertinent points.

FDA advises that if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Owing to the large number of countries, often with diverse food regulations, that are associated with Codex, certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act. Rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, the Codex standard for quick frozen cauliflower specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA uses the methods published in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 158

Food standards, Frozen vegetables, Vegetables.

The Codex standard under consideration is as follows:

Codex STAN 111-1981—Codex Standard for Quick Frozen Cauliflower Worldwide Standard

1. *Scope.*

This standard shall apply to quick frozen cauliflower of the species *Brassica oleracea* L. *var. botrytis* L. as defined below and offered for direct consumption without further processing, except for re-packing, if required. It does not apply to the product when indicated as intended for further processing or for other industrial purposes.

2. *Description.*

2.1 *Product Definition.*

Quick frozen cauliflower is the product prepared from fresh, clean, sound heads of the cauliflower plant conforming to the characteristics of the species *Brassica oleracea* L. *var. botrytis* L., which heads may be trimmed and separated into parts, and which are washed and sufficiently blanched to ensure stability of colour and flavour during normal marketing cycles.

2.2 *Process Definition.*

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2.2.1 Quick frozen cauliflower is the product subjected to a freezing process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18°C (0°F) at the thermal centre after thermal stabilization.

2.2.2 The recognized practice of re-packing quick frozen products under controlled conditions is permitted.

2.3 *Handling Practice.*

The product shall be handled under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale. It is recommended that during storage, transportation, distribution and retail, the product be handled in accordance with the provisions in the *Recommended International Code of Practice for the Processing and Handling of Quick Frozen Foods* (Ref. No. CAC/RCP 8–1976).

2.4 *Presentation.*

2.4.1 *Style.*

(a) Whole—the whole, intact head, which is trimmed at the base and which may have attached small, tender, modified leaves.

(b) Split—the whole head, cut vertically into two or more sections.

(c) Florets [1]—segments of the head, which may have a portion of the secondary stem attached, measuring at least 12 mm across the top in the greatest dimension. A maximum tolerance of 20 percent m/m is permitted for units in which the greatest dimension across the floret is more than 5 mm and less than 12 mm. Small, tender modified leaves may be present or attached to the units.

2.4.2 *Other Styles.*

Any other presentation of the product shall be permitted provided that it:

(a) is sufficiently distinctive from other forms of presentation laid down in this standard;

(b) meets all other requirements of this standard;

(c) is adequately described on the label to avoid confusing or misleading the consumer.

2.4.3 *Sizing.*

2.4.3.1 Quick frozen cauliflower florets may to presented sized or unsized.

2.4.3.2 If presented as size graded they shall conform to the following specifications:

(a) *Large florets*—segments of head measuring at least 30 mm across the top in the greatest dimension and of which a portion of secondary stem may be attached. Small tender modified leaves may be present or attached to the unit.

(b) *Small florets*—segments of head measuring at least 12 mm but less than 30 mm across the top in the greatest dimension and to which a small portion of secondary stem may be attached. Small tender modified leaves may be present or attached to the unit.

2.4.4 *Tolerances for Sizes.*

2.4.4.1 When cauliflower is presented as sized, a tolerance of 20 percent by weight is permitted as not conforming to the size indicated on the package.

2.4.4.2 *Standard Sample Size.*

The standard sample size shall be 500 g.

2.4.5 *Definition of "Defective" for Presentation.*

Any sample unit which fails to comply with the sizing requirements of Section 2.4.4. shall be regarded as defective.

2.4.6 *Lot Acceptance for Presentation Factors.*

A lot will be considered acceptable with respect to sizing when the number of "defectives" as defined in section 2.4.5 does not exceed the acceptance number (c) for the appropriate sample size as specified in the *FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods* (Ref. No. CAC/RM 42–1969).

3. *Essential Composition and Quality Factors.*

3.1 *Optional Ingredients.*

Salt (sodium chloride);

Condiments, such as spices and herbs.

3.2 *Quality Factors.*

3.2.1 *General Requirements.*

Quick frozen cauliflower shall be:

—of reasonably uniform white to dark cream colour over the tops of the units which may be slightly dull and have a tinge of green, yellow or pink. The stem or branch portions may be light green or have a tinge of blue;

—free from foreign flavour or odour, taking into consideration any added optional ingredients;

—clean, free from sand, grit and other foreign material;

and with respect to Visual Defects or Other Defects subject to a tolerance shall be:

—reasonably free from discoloured areas confined essentially to the surface;

—reasonably free from damaged or blemished areas;

—reasonably free from fibrous stems;

—reasonably free from poorly trimmed units;

—reasonably free from fragments;

—reasonably compact and reasonably well-developed;

—reasonably free from coarse green leaves;

for floret styles:

—practically free from loose stems.

3.2.2 *Definition of Visual Defects.*

(a) Discolouration—grey, brown, green or similar discolouration confined essentially to the flower surface of the unit and which materially detracts from the appearance of the product. Branches or stems with a bluish or greenish tinge are not to be considered as discoloured.

Light—the discolouration disappears almost entirely upon cooking.

Dark—the discolouration does not disappear upon cooking.

(b) *Blemished*—A unit affected by pathological or insect injury, and which may extend into the cauliflower.

Minor—the appearance of the unit is only slightly affected.

Major—the appearance of the unit is materially affected.

Serious—the appearance of the unit is objectionally affected to such an extent that it would customarily be discarded under normal culinary preparation.

(c) *Mechanically damaged.*

Major—A unit in which more than 50 percent of the curd has been mechanically damaged or is missing (for split and floret styles).

Major—A unit in which more than 25 percent of the curd has been mechanically damaged or is missing (for whole style).

(d) *Fibrous.*

Major—A unit which possesses tough fibres that are quite noticeable and materially affect the eating quality.

Serious—A unit which possesses tough fibres that are objectionable and of such nature that it would be customarily discarded.

(e) *Poorly trimmed*—A unit which has deep-knife gouges or a ragged appearance.

(f) *Leaves*—coarse green leaves or parts thereof whether or not attached to the unit.

(g) *Fragments*—portion of the floret 5 mm or less across the greatest dimension.

(h) *Not compact*—A unit in which the florets are spreading, or the flowerhead has a "ricey" appearance of the flowerhead is very soft or mushy.

(i) *Loose stem*—Each piece of stem exceeding 2.5 cm in length detached from a cauliflower unit.

3.2.3 *Standard Sample Size.*

[1] The term "clusters" is used as an alternative to "florets" in some English speaking countries.

(i) Whole style—The minimum number of heads weighing in total at least 500 grammes.

(ii) Split sections—500 grammes.

(ii) Florets—500 grammes.

(iv) Other styles—500 grammes.

3.2.4 *Tolerance for Visual Defects.*

For *tolerances* based on the standard sample sizes indicated in section 3.2.3, visual defects shall be assigned points in accordance with the appropriate Table in this Section. The maximum number of defects permitted is the Total Allowable Points rating indicated for the respective categories Minor, Major and Serious or the Combined Total of the foregoing categories.

3.3 *Definition of "defective" for Quality Factors.*

Any sample unit taken in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL-6.5) (Ref. No. CAC/RM 42-1969) shall be regarded as a "defective" for the respective characteristics when:

(a) it fails to meet the general requirements given in section 3.2.1.

(b) It exceeds the "maximum total points" in any one or more of the defect categories in Table 1 or Table 2, as appropriate for the style given in section 3.2.4.

3.4. *Lot Acceptance for Quality Factors.*

A lot will be considered acceptable with respect to Quality Factors when the number of "defectives" as defined in section 3.3 does not exceed the acceptance number (c) for the appropriate sample size as specified in the *FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42–1969).*

TABLE 1—WHOLE STYLE

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
Discolouration:					
Light	Each area or combined area of 8 sq. cm.	1			
Dark	Each area or combined area of 4 sq. cm.		2		
Blemished:					
Minor	Each head	1			
Major	do		2		
Serious	do			4	
Mechanically damaged:					
Major	do		2		
Fibrous:					
Major	do		2		
Serious	do			4	
Poorly trimmed	do		2		
Leaves	Each 2 sq. cm		2		
Not compact	Each area of combined area of 12 sq. cm.		2		
Total allowable points		10	6	4	10

TABLE 2—SPLIT, FLORETS AND OTHER STYLES

Defect	Unit of measurement	Defect categories			
		Minor	Major	Serious	Total
Discolouration:					
Light	Each area or combined area of 8 sq. cm.	1			
Dark	Each area or combined area of 4 sq. cm.		2		
Blemished:					
Minor	Each unit	1			
Major	do		2		
Serious	do			4	
Mechanically damaged:					
Major	do		2		
Fibrous:					
Major	do		2		
Serious	do			4	
Poorly trimmed	do	1			
Leaves	Each 2 sq. cm		2		
Fragments	Each 3 percent m/m		2		
Not compact	Each area or combined area of 12 sq. cm.		2		
Loose stem	Each piece	1			
Total allowable points		25	16	4	25

4. *Food Additives.*

4.1 Citric acid or malic acid, as processing aids for use in the blanching or cooling water in accordance with GMP.

4.2 *Carry-Over Principle.*

"Section 3" of the "Principle relating to the Carry-Over of Additives Into Foods" as set forth in Volume I of the Codex Alimentarius shall apply.

5. *Hygiene.*

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Practice—General Principles of Food Hygiene (Ref. No. CAC/RCP 1–1969, Rev. 1) recommended by the Codex Alimentarius Commission.

6. *Labelling.*

In addition to sections 1, 2, 4 and 6 of the *Codex General Standard for the Labelling of Prepackaged Foods* (Ref. No. CODEX STAN 1–1981), the following specific provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the food as declared on the label shall include "cauliflower". The words "quick-frozen" shall also appear on the label except that the term "frozen" [2] may be applied in countries where this term is customarily used for describing the product processed in accordance with section 2.2 of the standard.

6.1.2 The name of the food shall also include the style, as appropriate: "whole", "split" or "florets" [3] in accordance with sections 2.4.1 and 2.4.3.

6.1.3 If the product is produced in accordance with Section 2.4.2 the label shall contain in close proximity to the word cauliflower such additional words or phrases that will avoid misleading or confusing the consumer.

6.1.4 When any ingredient other than salt, has been added which imparts to the food the distinctive flavour of the ingredient, the name of the food shall be accompanied by the term "with X" or "X flavoured", as appropriate.

6.1.5 If a term designating the size of the florets is used:

(a) the words "large florets" or "small florets" as appropriate, and/or

(b) by a correct representation on the label of the size range to which the florets predominantly conform, and/or

(c) the customary method of declaring size in the country in which the product is sold.

6.2 *List of Ingredients.*

A complete list of ingredients shall be declared in descending order of proportion in accordance with section 3.2(c) of the *Codex General Standard for the Labelling of Prepackaged Foods* (Ref. No. CODEX STAN 1–1981), except that the food additives present in the

[2] "Frozen": This term is used as an alternative to "quick frozen" in some English-speaking countries.

[3] The term "clusters" is used as an alternative to "florets" in some English-speaking countries.

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product in accordance with sections 4.1 and 4.2 need not be declared.

6.3 *Net Contents.*

The net contents shall be declared by weight in either the metric system ("Systeme international" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.4 *Name and Address.*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

6.5 *Country of Origin.*

The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.6 *Lot Identification.*

Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

6.7 *Additional Requirements.*

The packages shall bear clear directions for keeping from the time they are purchased from the retailer to the time of their use, as well as directions for cooking.

6.8 *Bulk Packs.*

In the case of quick frozen cauliflower in bulk, the information required in Sections 6.1 to 6.5 shall either be placed on the container or be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen" (the term "frozen" may be used in accordance with section 6.1.1. of this standard) and the name and address of the manufacturer or packer shall appear on the container.

7. *Packaging.*

Packaging used for quick frozen cauliflower shall:

(a) protect the organoleptic and quality characteristics of the product;

(b) protect the product from microbiological and other contamination;

(c) protect the product from dehydration and, where appropriate, leakage as far as technologically practicable; and

(d) not pass on to the product any odour, taste, colour or other foreign characteristics, throughout the processing (where applicable) and distribution of the product up to the time of final sale.

8. *Methods of Examination, Analysis and sampling.*

8.1 *Sampling.*

8.1.1 *Sampling for presentation and visual defects:*

For those provisions detailed in sections 2.4 and 3.2 of this standard, sampling shall be carried out in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (AQL 6.5) (Ref. No. CAC/RM 42–1969).

8.1.2 *Sampling for net weight:* Shall be carried out in accordance with the FAO/WHO Sampling Plans for the Determination of Net Weight (under elaboration by the Codex Committee on Methods of Analysis and Sampling).

8.1.3 *Sampling for Analytical Requirements:* Sampling Plans to be eleborated.

8.2 *Thawing Procedure.*

FAO/WHO Codex Alimentarius Standard Procedure for Thawing of Quick Frozen Fruits and Vegetables (Ref. No. CAC/RM 32–1970).

8.3 *Cooking Procedure.*

FAO/WHO Codex Alimentarius Standard Procedure for Cooking of Quick Frozen Vegetables (Ref. No. CAC/RM 33–1970). The cooking time for the quick frozen cauliflower varies according to the style and variety characteristics. The following figures should be considerd as guidelines:

Style and variety	Cooking time—(minutes)
Whole and split	10–20
Florets	3–8

8.4 *Determination of Net Weight.*

FAO/WHO Codex Alimentarius Standard Procedure for Determination of Net Weight of Frozen Fruits and Vegetables (Ref. No. CAC/RM 34–1970); also contained in the *Codex Standard for Quick Frozen Peas,* (Codex STAN 41–1981, Section 8.3).

Interested persons may, on or before July 11, 1983 submit to the Dockets Management Branch (address above), written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small business consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: April 29, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83–12246 Filed 5–9–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–82–82]

Calculation of Over-Issuance and Cumulative Cash Flow Deficit Under the Arbitrage Bond Regulations; Public Hearing on Proposed Regulations.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to amendments proposed to clarify and correct the arbitrage bond regulations relating to over-issuance and cumulative cash flow deficit.

DATES: The public hearing will be held on Thursday, June 9, 1983, beginning at 10:00 am. Outlines or oral comments must be delivered or mailed by Thursday, May 26, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–82–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 103(c) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, March 29, 1983 (48 FR 13051).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, May 26, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83–12409 Filed 5–9–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 905

Surface Mining and Reclamation Operations Under a Federal Program for California

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellaton of Promulgation Process for a Federal Program for California.

SUMMARY: The Office of Surface Mining (OSM) is announcing the withdrawal of the proposed Federal program to regulate surface coal mining and reclamation operations for California because it is highly unlikely there will be any mining of coal on non-Federal and non-Indian lands in that State in the forseeable future.

DATES: None.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On July 26, 1982, the Office of Surface Mining published a proposed Federal program for California in the **Federal Register** to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State (47 FR 32686). On August 12, 1982, OSM postponed the scheduled public hearing and extended the comment period indefinitely (47 FR 35011). During the comment period, OSM was informed by the California Division of Mines and Geology that all known coal deposits in California were too small and of too poor quality for commercial recovery in the forseeable future.

The Surface Mining Control and Reclamation Act in Sections 503 and 504 (30 U.S.C. 1253 and 1254), and OSM's regulations (30 CFR 736.11), require that there be an approved State or Federal regulatory program in States having coal reserves on non-Federal or non-Indian lands and in which there is a likelihood of either coal exploration or development before June 1985. Since development of California's known coal reserves on non-Federal and non-Indian lands is extremely unlikely, a regulatory program is not required. Therefore, the proposed regulatory program for California is being withdrawn and the promulgation process cancelled. Should information come to light which indicates an increased likelihood of coal exploration or surface coal mining on non-Federal and non-Indian lands within the State, promulgation of the required program will be reinitiated by subsequent rulemaking notice.

Dated: May 3, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection Office of Surface Mining.

[FR Doc. 83–12454 Filed 5–9–83; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Proposed rules.

SUMMARY: The Veterans Administration is publishing proposed regulations to implement provisions of the Veterans' Rehabilitation and Education Amendments of 1980. Title 1 of these amendments updates and expands the vocational rehabilitation program. This revision of chapter 31 of title 38, United States Code, the first since its establishment for veterans of World War II, improves the vocational rehabilitation program, and helps to assure that service-disabled veterans will benefit from the latest concepts and methods developed in the field of rehabilitation. The revision of the law requires a corresponding revision of regulations governing the program. The regulations contained herein implement provisions of the law dealing with the process of measuring the rate at which a rehabilitation program is being pursued, approving and authorizing payment of subsistence allowance for training and rehabilitation services appropriate to the rate of pursuit, and approving leaves of absence during a rehabilitation program. These regulations will better acquaint eligible veterans, educational institutions and the public at large with the way the provisions will be implemented.

DATES: Comments must be received on or before July 6, 1983. It is proposed that these regulations be made effective on the same dates as the provisions of law on which they are based. Following this principle, provisions for approval and authorization of subsistence allowance generally would be effective October 1, 1980, as would be provisions for measurement of the rate at which training is pursued. Regulations implementing provisions which establish new categories of service under the rehabilitation program or modify existing policy generally would be effective April 1, 1981. Provisions for approval of leaves of absence also would be effective April 1, 1981.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jeffrey T. Goetz, Assistant Director for Policy and Program Development, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits (202) 389–2886.

SUPPLEMENTARY INFORMATION: The Veterans Administration published a portion of the proposed regulations implementing some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 in the **Federal Register** on April 29, 1982, at pages 18382 to 18386. The second portion of the proposed regulations was published in the **Federal Register** on September 15, 1982, at pages 40650 to 40659. These proposals constitute an additional portion of the regulations to be proposed for this purpose. Specifically, these regulations contain policy for determining the rate at which

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a rehabilitation program is being pursued, approval and authorization of payment of subsistence allowance in accordance with the rate of pursuit, authorization and payment of training and rehabilitation services, and approval of leaves of absence during a rehabilitation program.

These proposed regulations do not meet the criteria for major rules as contained in Executive Order 12291. There will be no new reporting or recordkeeping requirements, or other compliance costs, to business or educational institutions caused by this proposal. The proposal will not affect other agencies. However, this proposal may induce some veterans to train under chapter 31, title 38, U.S.C., who would not have done so otherwise. Furthermore, these proposed regulations will affect every veteran who is eligible to train under chapter 31, title 38, U.S.C. However, these effects of the law do not place the proposed regulations in the category of major rules. Since these proposed regulations are not major rules they do not require a regulatory analysis. They will not have an annual effect of $1 million on the economy. They will not create major increases in costs or prices. They will not impose major recordkeeping burdens on anyone and they will not cause major additional costs to recipients of federal assistance. Accordingly, the Veterans Administration has not prepared an analysis of these proposed regulations.

The Administrator has certified that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the proposed rules simply incorporate the requirements of Pub. L. 96–466 for authorization and payment for services and support being provided during a rehabilitation program. These rules will therefore have no significant impact on small entities.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects In 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 21, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 21, "Vocational Rehabilitation and Education," is amended as follows:

1. Section 21.260 and the center heading preceding the section are revised as follows:

Monetary Assistance Services

§ 21.260 Subsistence allowance.

(a) *General.* A veteran in a rehabilitation program under chapter 31 will receive a monthly subsistence allowance at the rates specified in paragraph (b), unless he or she has elected to receive payment at the rate of the monthly educational assistance allowance payable under chapter 34 for similar training. See § 21.264 and § 21.4136. (38 U.S.C. 1506(a))

(b) *Rate of payment.* Subsistence allowance is paid at the following rates effective October 1, 1980.

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Institutional: [1]				
Full-time	$262	$349	$411	$30
¾ time	212	262	308	23
½ time	141	175	206	15
Nonpay on-job training or experience in a federal agency; training in the home; vocational course in a rehabilitation facility or sheltered workshop; independent instructor: Full time only	262	349	411	30
Farm cooperative; apprenticeship or other on-job training: [2] Full time only	246	297	343	22
Combination (institutional and OJT) (Full time only):				
Institutional ½ time or more	262	349	411	30
OJT ½ time or more	246	297	343	22
Non-farm cooperative (Full time only):				
Institutional	262	349	411	30
On-job	246	297	343	22
Improvement of rehabilitation potential: Full time only	262	349	411	30
Extended evaluation: [3]				
Independent living:				
Full time	262	349	411	30
¾ time	212	262	308	23
½ time	141	175	206	15
¼ time	71	87	103	8

[1] Measurement of rate of pursuit (§§ 21.4270–21.4275).
[2] For on-job training, subsistance allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.
[3] Rates for extended evaluation effective April 1, 1981.

(c) *Subsistence allowance precluded.* A subsistence allowance may not be paid for any period during which the only authorized services being furnished to the veteran by the VA are:

(1) Initial evaluation;

(2) Employment services; or

(3) Counseling. (38 U.S.C. 1508(a))

§ 21.261 [Removed]

2. Section 21.261 is removed.

3. Section 21.262 is revised as follows:

§ 21.262 Reimbursement of costs for training and rehabilitation services.

(a) *General.* The use of facilities and services shall be provided through contract, agreement of other cooperative arrangement between the VA and the vendor. (38 U.S.C. 1515(b))

(b) *VA Procurement Regulations.* Payment of charges for training and rehabilitation services authorized under chapter 31 are subject to the provisions of applicable VA Procurement Regulations especially 41 CFR Part 8–15 and Subpart 8–95.2. (38 U.S.C. 1515(a))

§ 21.263 [Removed]

4. Section 21.263 is removed.

5. Section 21.264 is revised as follows:

§ 21.264 Election of payment at the chapter 34 educational assistance rate.

(a) *Eligibility.* A veteran who applies for and is found entitled to training or education under chapter 31, may elect to receive payment at the educational allowance rate and other assistance furnished under chapter 34, for similar training in lieu of a subsistence allowance, provided the following criteria are met:

(1) The veteran has remaining eligibility for and entitlement to educational assistance under chapter 34;

(2) The veteran enrolls in a program of education or training approved for benefits under chapter 34;

(3) The program of education is part of an IWRP (Individualized Written Rehabilitation Plan) approved by the VA. (38 U.S.C. 1508)

(b) *Reelection of subsistence allowance.* Reelection of payment of benefits at the chapter 31 subsistence allowance rate may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(1) Chapter 34 eligibility or entitlement ends earlier;

(2) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program. (38 U.S.C. 1508(b))

(c) *Services precluded.* A veteran entitled to vocational rehabilitation training or education who elects payment at the educational assistance rate payable under chapter 34 shall be provided the same training and rehabilitation services as other veterans under chapter 31, but may not be provided:

(1) Subsistence allowance;

(2) Loans from the revolving fund loan;

(3) Payment of costs for:

(i) Vocational and other training services;

(ii) Supplies; or

(iii) Individualized tutorial assistance. (38 U.S.C. 1508(f))

(d) *Chapter 34 provisions applicable.* A veteran who has elected payment at the chapter 34 educational assistance rate must meet the same terms and conditions as other veteran pursuing similiar training under chapter 34. (38 U.S.C. 1508(f))

§ 21.265 [Removed]

6. Section 21.265 is removed.

7. Section 21.266 is revised as follows:

§ 21.266 Payment of subsistence allowance under special conditions.

(a) *Hospitalized veteran or serviceperson.* A veteran pursuing a VA rehabilitation program under chapter 31 while hospitalized in a VA medical center or in any other hospital at VA expense may receive a subsistence allowance. The subsistence allowance will be paid at the rates specified in § 21.260, except:

(1) The amount of subsistence allowance or the allowance provided under § 21.264 that may be paid to a veteran pursuing a rehabilitation program for any month for which the veteran receives compensation at the rate prescribed in § 3.401(h) of this title, as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the VA may not exceed, when added to any compensation to which such veteran is entitled for the month, an amount equal to the greater of:

(i) The sum of: (A) the amount of monthly subsistence or the allowance payable under § 21.264, and (B) the amount of monthly disability that would be paid to the veteran if he or she was not receiving compensation at the temporary 100 percent rate as the result of such hospital treatment or observation, or

(ii) The amount of monthly disability compensation payable under § 3.401(h) of this title.

(2) A veteran pursuing a rehabilitation program while in post-hospitalization convalescence (§3.401(h)) will be paid the regular rate of subsistence allowance.

(3) A serviceperson pursuing a rehabilitation program under chapter 31 will not receive a subsistence allowance if he or she is hospitalized in a medical facility under the jurisdiction of the Secretary of Defense pending final discharge from the armed forces. (38 U.S.C. 1508(h))

(b) *Specialized rehabilitation facility.* (1) A veteran in a specialized rehabilitation facility will be paid the regular rate of subsistence allowance. The VA may pay the cost of room and board in lieu of subsistence allowance when:

(i) The specialized rehabilitation facility requires that similarly circumstanced persons pay the same charges for room and board, and

(ii) The case manager finds and the veteran agrees that it is to the veteran's advantage for the VA to pay the cost of room and board.

(2) Even though the VA pays the cost of room and board, the veteran will be paid that portion of subsistence allowance otherwise payable for dependents. (38 U.S.C. 1508(e)).

(c) *Non-pay work experience or training in a federal agency.* A veteran in an on-job program or being provided work experience in a federal agency at no or nominal pay shall receive subsistence allowance at the institutional rate. (38 U.S.C. 1508(c))

(d) *Extended evaluation and independent living program.* A veteran in a program of extended evaluation or independent living service program shall be paid subsistence allowance for full or part-time participation at the rate specified for institutional training in § 21.260. If an extended independent living program is pursued on a less than a quarter-time basis, the VA will only pay established charges for services furnished. (38 U.S.C. 1508(h))

(e) *On-job training.* A veteran in an on-job training program will be paid subsistence allowance at the rate provided under § 21.260(b), except that subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective. (38 U.S.C. 1508(c)

§ 21.267 [Removed]

8. Section 21.267 is removed.

9. Section 21.268 is revised as follows:

§ 21.268 Employment adjustment allowance.

(a) *General.* A veteran who completes a period of rehabilitation and reaches the point of employability will be paid an employment adjustment allowance for a period of two months at the full-time subsistence allowance rate for the type of program the veteran was last pursuing. (38 U.S.C. 1508(a))

(b) *Reelection of subsistence allowance.* A veteran who has elected payment at the chapter 34 educational assistance allowance rate may be paid an employment adjustment allowance only if he or she reelects subsistence allowance not later than the date following completion of the period of rehabilitation to the point of employability. (38 U.S.C. 1508(f))

(c) *Special programs.* An employment adjustment allowance will be paid at the institutional rate of subsistence allowance for veterans in any of the following programs:

(1) On-job training at no or nominal pay in a federal agency;

(2) Training in the home program;

(3) Independent instructor program;

(4) Cooperative program; or

(5) Self-employment program. (38 U.S.C. 1508(a))

(d) *Combination program.* A veteran who has pursued a combination program will be paid an employment adjustment allowance at the full-time rate for the type of training the veteran was actually pursuing at the completion of the period of rehabilitation to the

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point of employability. (38 U.S.C. 1508(a))

(e) *Subsequent payments of employment adjustment allowance.* If a veteran has ever received an employment adjustment allowance following rehabilitation to the point of employability, he or she may, nevertheless, receive it again when completing an additional rehabilitation program to the point of employability if:

(1) The prior determination of rehabilitation to the point of employability is set aside; and

(2) The veteran is reinducted into a new vocational rehabilitation program as provided in § 21.280. (38 U.S.C. 1508(a))

(f) *Employment adjustment allowance not charged against entitlement.* An employment adjustment allowance will not be charged against the veteran's basic entitlement. (38 U.S.C. 1508(a))

10. Section 21.270 and 21.272 are added as follows:

§ 21.270 Payment of subsistence allowance during leave and between periods of instruction.

(a) *Payment during leave.* The VA will pay an eligible veteran a subsistence allowance during any period of approved leave including a veteran:

(1) Receiving medical or rehabilitation services on an outpatient basis at a VA medical center, and who provides his or her own room and board;

(2) Receiving service department retirement or retained pay while not on active duty;

(3) Hospitalized at a VA medical center while on approved leave. If the veteran becomes eligible for payment of disability compensation at the temporary 100 percent rate, under § 3.401(h) of this title due to hospitalization, payment will be made under provisions of § 21.266(a). (38 U.S.C. 1510)

(b) *Payment for intervals between periods of instruction.* Subsistence allowance will be paid to a veteran for the following periods unless the case manager and the veteran jointly determine that such payment is not in the veteran's interest:

(1) A period between consecutive terms within an enrollment period that does not exceed 1 full calendar month;

(2) A period between consecutive school terms, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in, and pursuing, the same objective at the second institution, provided the period does not exceed 30 days;

(3) A period which does not exceed 30 days, between a semester, term, or quarter, when the educational institution certifies the enrollment of the veteran on an individual semester, term, or quarter basis. (38 U.S.C. 1780(a))

(c) *Payment for other periods.* Subsistence allowance will be paid for:

(1) Weekends and legal holidays, or customary vacation periods associated with them;

(2) Periods in which the school is closed temporarily under emergency conditions described in § 21.4138(f). (38 U.S.C. 1510, 1780(a))

§ 21.272 Veteran-student services.

(a) *Eligibility.* Veterans who are pursuing full-time programs of education or training under chapter 31 are eligible to receive a work-study allowance. (38 U.S.C. 1504(a)(4))

(b) *Selection criteria.* Whenever feasible, the VA will give priority to veterans with service-connected disabilities rated at 30 percent or more disabling in selection for this allowance. The VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment the subsistence allowance or payment made at the chapter 34 rate;

(2) Motivation of the veteran; and

(3) Compatibility of the work assignment with the veteran's physical condition. (38 U.S.C. 1504(a)(4), 1685)

(c) *Utilization.* Veteran-student services may be utilized in connection with:

(1) The VA outreach services program as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary VA papers and other documents at educational institutions, regional offices or other VA facilities;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of the VA. (38 U.S.C. 1504(a)(4), 1685)

(d) *Rate of payment.* (1) In return for the veteran's agreement to perform services for the VA totaling 250 hours during an enrollment period, the VA will pay an allowance in an amount equal to the higher of:

(i) The amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times 250; or

(ii) $837.50.

(2) The VA will pay a proportionately smaller allowance to a veteran who agrees to perform a lesser number of hours of services. (38 U.S.C. 1504(a)(4), 1685)

(e) *Payment in advance.* The VA shall pay in advance an amount equal to 40 percent of the total amount payable under the contract. (38 U.S.C. 1504(a)(4), 1685(a))

(f) *Veteran reduces rate of pursuit.* In the event the veteran ceases to be a full-time student before completing an agreement, the veteran may, with the approval of the Director, or designee, of the VA field station, be permitted to complete the portion of the agreement that remains. The veteran must complete the remaining portion of the agreement in the same term, quarter or semester in which the veteran ceases to be a full-time student or within three months thereafter. (38 U.S.C. 1504(a)(4), 1685)

(g) *Veteran terminates training.* If the veteran terminates all training before completing an agreement, the VA:

(1) Will permit him or her to complete the portion of the agreement represented by the sum of money the VA has advanced to the veteran for which he or she has not performed any services; but

(2) Will not permit him or her to complete that portion of an agreement for which no advance has been made. (38 U.S.C. 1504(a)(4), 1685)

(h) *Indebtedness for unperformed service.* (1) If the veteran has received an advance for hours of unperformed service that remain after application of paragraphs (f) and (g) of this section, that advance:

(i) Will be a debt due the United States; and

(ii) Will be subject to recovery in the same manner as any other debt due the United States;

(2) For each hour of unperformed service, the amount of indebtedness shall equal the hourly wage upon which the contract was made. (38 U.S.C. 1504(a)(4), 1685)

(i) *Survey.* The VA will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively. (38 U.S.C. 1504(a)(4), 1685)

11. Section 21.274 is revised as follows:

§ 21.274 Revolving fund loan.

(a) *Establishment of revolving fund loan.* A revolving fund is established to provide advances to veterans who would otherwise be unable to begin or continue in a rehabilitation program without such assistance. (38 U.S.C. 1512)

(b) Definition. The term "advance" means a non-interest loan from the revolving fund. (38 U.S.C. 1512)

(c) *Eligibility.* A veteran is eligible for an advance if the following conditions are present:

(1) An Individualized Written Rehabilitation Plan, Individualized Extended Evaluation Plan, or Individualized Independent Living Plan has been prepared; and

(2) The veteran and VA staff agree on the terms and conditions of the plan. (38 U.S.C. 1512)

(d) *Advance conditions.* (1) An advance may be approved when the following conditions are met:

(i) The purpose of the advance is clearly and directly related to beginning, continuing, or reentering a rehabilitation program;

(ii) The veteran would otherwise be unable to begin, continue or reenter his or her rehabilitation program;

(iii) The advance does not exceed either the amount needed, or twice the monthly subsistence allowance for a veteran without dependents in full-time institutional training; and

(iv) The veteran has elected, or is in receipt of, subsistence allowance.

(2) An advance may not be made to a veteran who meets conditions described in paragraph (d)(1) of this section if the veteran:

(i) Has not fully repaid an existing advance;

(ii) Does not agree to the terms and conditions for repayment; or

(iii) Will not be eligible in the future for payments of pension, compensation, subsistence allowance, educational assistance, or retired pay. (38 U.S.C. 1512).

(e) *Determination of the amount of the advance.* (1) If the conditions described in paragraphs (c) and (d) of this section are met, a counseling psychologist or vocational rehabilitation specialist in the VR&C Division will:

(i) Document the findings; and

(ii) Determine the amount of the advance.

The advance may not exceed the amount needed by the veteran, and shall not exceed twice the monthly subsistence allowance for a veteran in full-time institutional training.

(2) Loans will be made in multiples of $10. (38 U.S.C. 1512)

(f) *Repayment.* (1) *Offset possible.* The amount advanced will be repaid in monthly installments from future VA payments for compensation, pension, subsistence allowance, educational assistance or retired pay.

(i) Repayment will begin on the earlier of the following dates:

(A) The first day of the month following the month in which the advance is granted; or

(B) The first day of the month after receipt of the advance in which the veteran receives a subsistence allowance.

(ii) The VR&C staff person who approves the advance will determine the rate of repayment.

(iii) The monthly rate of repayment may not be less than 10 percent of the amount advanced unless the monthly benefit against which the advance is being offset is less than that amount. (38 U.S.C. 1512)

(2) *Offset not possible.* If the amount advanced cannot be repaid from the benefits cited in paragraph (f)(1) of this section because the veteran is not in receipt of any of these benefits, collection of the amount due will be made in the same manner as any other debt payable to the VA. (38 U.S.C. 1512)

12. Section 21.276 is added as follows:

§ 21.276 Incarcerated veterans.

(a) *General.* The provisions contained in this section describe the limitations on payment of subsistence allowance and charges for tuition and fees for:

(1) Incarcerated veterans;

(2) Formerly incarcerated veterans in halfway houses; and

(3) Incarcerated and formerly incarcerated veterans in work release programs (38 U.S.C. 1508(g), 1780(a))

(b) *Definition.* The term "incarcerated veterans" means any veteran incarcerated in a Federal, State, or local prison, jail, or other penal institution for either:

(1) A felony (convicted or unconvicted); or

(2) A misdemeanor (convicted or unconvicted). (38 U.S.C. 1508(g), 1780(a))

(c) *Subsistence allowance not paid to an incarcerated veteran.* A subsistence allowance may not be paid to any incarcerated veteran, as that term is described in paragraph (b) of this section, if:

(1) Tuition and fees are paid by a non-VA Federal, State, or local government; or

(2) There are no charges for tuition and fees. (38 U.S.C. 1780(a))

(d) *Felony conviction.* A subsistence allowance may not be paid to an incarcerated veteran convicted of a felony, but the VA may pay all or part of the veteran's tuition and fees. (38 U.S.C. 1508(g))

(e) *Half-way house.* A subsistence allowance may not be paid to a veteran pursuing a rehabilitation program while residing in a halfway hosue as a result of a felony conviction when all of the veteran's living expenses are paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1780(a))

(f) *Work-release program.* A subsistence allowance may not be paid to a veteran in a work release program as a result of a felony conviction if all of the veteran's living expenses are being paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1508(g), 1780(a))

(g) *Subsistence allowance paid.* When the conditions described in paragraphs (c) thorugh (f) of this section do not preclude the payment of a subsistence allowance, the veteran will be paid at the rate applicable to the the type of program and rate of pursuit of the program. (38 U.S.C. 1508(g))

(h) *Payment of tuition, fees, and other charges.* The VA may not pay tuition, fees, and other course costs if there are no charges for the course, but may pay tuition, fees, and other course costs to the extent these costs are not paid by a non-VA Federal, State or local government program for similarly circumstanced non-veterans. (38 U.S.C. 1508(g), 1780(a))

(i) *Services.* The VA may provide other appropriate services including but not limited to medical, reader service, and tutorial assistance necessary for the veteran to pursue his or her rehabilitation program. (38 U.S.C. 1508(g), 1780(a))

(j) *Apportionment.* (1) *Felony conviction.* Apportionment of subsistence allowance may be continued or made to dependents of an incarcerated veteran convicted of a felony if:

(i) The apportionment began before October 17, 1980, or

(ii) The convicted felon is in a halfway house or in a work-release program, and all of his or her living expenses are not being paid by a governmental agency other than the VA.

(2) *Not convicted of a felony.* Apportionment to dependents of a veteran not convicted of a felony may be made under § 21.330 if the veteran meets conditions for payment of subsistence allowance described in paragraphs (c) and (d) of this section. (38 U.S.C. 1508(g), 1780(a))

(k) *Payment of allowances at the rates paid under chapter 34.* An incarcerated veteran, or a veteran in a halfway house or work release program who elects payment at the educational assistance rate paid under chapter 34 shall be paid in accordance with the provisions of law applicable to other incarcerated veterans training under chapter 34. (38 U.S.C. 1780(a))

§§ 21.278 and 21.279 [Removed]

13. Sections 21.278 and 21.279 are removed.

14. New §§ 21.310 through 21.350, are added as follows:

Rate of Pursuit

Sec.

21.310 Rate of pursuit of a rehabilitation program.

21.312 Reduced work tolerance.

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Sec.

21.314 Pursuit of training under special conditions.

Authorization of Subsistance Allowance and Training and Rehabilitation Services

21.320 Awards for subsistence allowance and authorization or rehabilitation services.
21.322 Commencing dates of subsistence allowance.
21.324 Reduction or termination dates of subsistence allowance.
21.326 Authorization of employment services.
21.328 Two veteran cases—dependents.
21.330 Apportionment.
21.332 Payments of subsistence allowance.
21.334 Election of payment at the chapter 34 rate.

Leaves of Absence

21.340 Leaves of absence.
21.342 Leave accounting policy.
21.344 Facility offering training or rehabilitation services.
21.346 Facility temporarily not offering training or rehabilitation services.
21.348 Leave following completion of a period of training or rehabilitation services.
21.350 Unauthorized absences.

Rate of Pursuit

§ 21.310 Rate of pursuit of a rehabilitation program.

(a) *Programs offered at educational institutions.* This section provides policy for determining the full-time and part-time rate of pursuit of a rehabilitation program by a veteran whose ability to pursue a program has not been reduced by the effects of disability.

(1) The VA will measure the full-time and part-time rate of pursuit of training offered at educational institutions according to the criteria found in §§ 21.4270 through 21.4275, except as provided in paragraphs (a) (2) and (3) of this section.

(2) *Independent study course.*

(i) For certain seriously disabled veterans described in subdivision (i)(A) of this subparagraph the VA may measure the veteran's enrollment:

(A) In an independent study course as half-time or greater training, or

(B) Both in independent study subjects and subjects requiring class attendance on the basis of the combined training load when the number of credit hours of independent study equals or exceeds the number of other credit hours.

(ii) To qualify for measurement described in paragraph (a)(2)(i) of this section:

(A) The seriously disabled veteran must have a disability or circumstances which preclude regular attendance at an institution of higher learning, and

(B) Independent study must be a sound method for providing the training necessary for restoring the veteran's employability.

(iii) In all other cases the VA will measure independent study according to the provisions of § 21.4270(b), footnote 7. (38 U.S.C. 1508(d))

(3) *Special school.* If training is pursued in a special school, such as those for persons with visual or hearing disabilities, the rate of pursuit will be measured under §§ 21.4270 through 21.4275 unless it is the established policy of the school to measure the rate of pursuit for full-time or a particular level of part-time training based upon fewer semester, credit, or clock hours of attendance than prescribed in those regulations.

(4) *Farm cooperative.* If training in a farm cooperative program is provided by an educational institution, the rate of pursuit is determined under § 21.4270.

(5) *Courses offered under contract.* When a school or other entity furnishes all or part of a vocational rehabilitation program under contract with another school, the VA will measure the course or courses as appropriate for the school or other entity actually providing the training. (38 1508(d))

(b) *Education or training not furnished by an educational institution.* The following types of training which are not furnished by an educational institution (§ 21.35(k)(iii)) may only be pursued full-time:

(1) *On-job training.* Full-time training in an on-job program is the lesser of the number of hours in the prevailing workweek for:

(i) Journeyman employees in the same job categories at the establishment where training is being provided;

(ii) Other persons in on-job training for the same or similar occupations at the facility where the veteran is training or at other facilities in the locality.

(2) *Farm cooperative training.* If training in a farm cooperative program is provided by an individual instructor, the full-time rate of pursuit is assessed under § 21.126.

(3) *Independent instructor.* The full-time rate of pursuit for a veteran in an independent instructor program is assessed under § 21.146.

(4) *Training in the home.* The full-time rate for a training program provided in the veteran's home is assessed under § 21.156.

(5) *Vocational course in a rehabilitation facility or sheltered workshop.* A vocational course of training offered by a rehabilitation facility or sheltered workshop (21.35(k)), will be measured under provisions of § 21.4270(b), unless it is the established policy of the facility to measure the rate of pursuit for full-time or a particular level of part-time training based upon fewer clock hours of attendance than provided in that regulation. (38 U.S.C. 1508(d))

(c) *Combination and cooperative programs.* The rate of pursuit of a program which combines institutional training and on-the-job training will be measured as follows:

(1) The institutional part will be assessed under §§ 21.4270 through 21.4275, and

(2) The on-the-job part will be assessed under § 21.310(b). (38 U.S.C. 1508(d))

(d) *Rehabilitative services.* Measurement of the rate of pursuit for veterans in programs consisting primarily of services designed to evaluate and improve physical and psychological functioning will be assessed under this paragraph.

(1) The services assessed under this paragraph include:

(i) Evaluation and improvement of the rehabilitation potential of a veteran for whom attainment of a vocational goal is reasonably feasible;

(ii) Extended evaluation to determine whether attainment of a vocational goal is reasonably feasible; or

(iii) A program of independent living services to enable a veteran to function more independently in his or her family and community when attainment of a vocational goal is not reasonably feasible.

(2) Measurement of the rate of pursuit for services and programs named in paragraph (d)(1) of this section will be:

(i) As provided in paragraph (a) of this section for services furnished by educational institutions; or

(ii) According to the noneducational facility's customary criteria for full-time and part-time pursuit. If the facility does not have established criteria for full-time and part-time pursuit, or services are being provided by more than one facility the rate of pursuit will be assessed in the following manner:

Rate of pursuit	Clock hours per month
Full-time	120 or more.
Three-quarter time[1]	90–119.
Half-time[1]	60–89.
Quarter-time[1]	30–59.

[1] Extended evaluation and independent living. (38 U.S.C. 1508(d))

§ 21.312 Reduced work tolerance.

(a) *General.* The VA will consider that a veteran with reduced work tolerance is pursuing a rehabilitation program full-time when the amount of time the veteran is devoting to his or her program is as great as the effects of his or her disability (service and nonservice-connected) will permit. (38 U.S.C. 1508(d))

(b) *Pursuit of a program.* A veteran with reduced work tolerance may pursue a rehabilitation program when the following conditions are met:

(1) Reduced work tolerance has been determined;

(2) Achievement of the goals of the program are reasonably feasible;

(3) The IWRP (Individualized Written Rehabilitation Plan) or other plan provides for completion of the program under chapter 31, or the conditions described in § 21.82(b) for completion of a plan are met. (38 U.S.C. 1508(d))

(c) *Redetermination of work tolerance.* As necessary, but not less than once yearly, the veteran's work tolerance will be reevaluated. The rate of pursuit required to meet the standard of full-time pursuit will be modified if there is either an increase or decrease in the work tolerance of the veteran. (38 U.S.C. 1508(d))

(d) *Payment of allowance.* A veteran with a reduced work tolerance will be paid a subsistence allowance, at the full-time rate for the type of program being pursued when the veteran meets the standard for full-time pursuit established for him or her. (38 U.S.C. 1508(d))

(e) *Determining work tolerance.* A VA physician will make all determinations and redeterminations of work tolerance. (38 U.S.C. 1508(d))

§ 21.314 Pursuit of training under special conditions.

A veteran is generally required to pursue a rehabilitation program at a rate which meets the requirement for full or part-time participation described in §§ 21.310 and 21.312. However a veteran may pursue a rehabilitation program at a lesser rate if such pursuit is a part of the veteran's plan. Subsistence allowance is not payable during such periods except for emergency conditions described under provisions of § 21.4138(b). (38 U.S.C. 1508(d))

Authorization of Subsistence Allowance and Training and Rehabilitation Services

§ 21.320 Awards for subsistence allowance and authorization of rehabilitation services.

Awards providing for payment of a subsistence allowance and authorization of services necessary for rehabilitation may be prepared when an IWRP (Individualized Written Rehabilitation Plan) or other plan has been completed and other requirements for entrance or reentrance into a rehabilitation program have been met.

(a) *Commencing date of subsistence allowance.* The commencing date of an award of subsistence allowance will be determined under the provisions of § 21.322. (38 U.S.C. 1508(a))

(b) *Commencing date of authorization of training and rehabilitation services.* The commencing date for authorization of training and rehabilitation services is the same as the effective date for awards for subsistence allowance under provisions of § 21.322 except when:

(1) The commencing date for authorization of a program of employment services is determined under provisions of § 21.326;

(2) An earlier commencement date is established in the veteran's plan;

(3) The veteran elects payment at the educational assistance allowance rate, the commencing date of payment is determined under provisions applicable to commencement of payment under chapter 34. (38 U.S.C. 1508(a))

(c) *Ending date of subsistence allowance.* The ending date of an award for subsistence allowance will be the earliest of the following dates:

(1) The ending date provided in the veteran's IWRP or other plan;

(2) The ending date of a period of enrollment as certified by a training or rehabilitation facility;

(3) The ending date specified in § 21.324. (38 U.S.C. 1508)

(d) *Ending date for training and rehabilitation services.* The ending date of training and rehabilitation services will be the same as the termination date for subsistence allowance under paragraph (c) of this section except when:

(1) The ending date for a period of employment services is determined under provisions of § 21.326;

(2) A later termination date is established in the veteran's plan;

(3) A veteran has elected payment at the educational assistance rate paid under chapter 34 the ending date of the award is determined under regulations applicable to termination of training under chapter 34. (38 U.S.C. 1508(a))

§ 21.322 Commencing dates of subsistence allowance.

(a) *General.* The VA will determine the commencing date of an award or increased award of subsistence allowance under this section. The VA will not authorize subsistence allowance for any period prior to the earliest date for which disability compensation is payable or would be payable except for the veteran's receipt of retired pay. (38 U.S.C. 1508, 3013)

(b) *Entrance or reentrance into vocational rehabilitation, extended evaluation, independent living services.* The earlier of:

(1) The date the facility requires the veteran to report for prescribed activities; or

(2) The date training or rehabilitation services begin. (38 U.S.C. 1508)

(c) *Increase for dependents.* (1) The date of the entrance or reentrance if:

(i) The VA receives the claim for the increase within 1 year of the date of entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request.

(2) The date the VA receives notice of the dependent's existence if:

(i) The VA receives the claim for the increase more than 1 year after the date of the entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request. (38 U.S.C. 1508)

(d) *Correction of military records.* In accordance with the facts found, but not earlier than the date the change, correction, or modification was made by the service department, if eligibility of a veteran arises as the result of correction or modification of military records under 10 U.S.C. 1552, or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other competent military authority. (38 U.S.C. 1503(b))

(e) *Bar to benefits removed by the VA.* In accordance with the facts found, but not earlier than the date the change was made by the VA if eligibility of a veteran arises as the result of review of the evidence of record regarding the character of discharge by the VA when the veteran's discharge or dismissal was a bar to benefits under 38 U.S.C. 3101. (38 U.S.C. 1503(b))

(f) *Incarcerated veterans.* (1) Date of release from Federal, State, or local penal institution of a veteran incarcerated for conviction of a felony.

(2) Earlier of the following dates in the case of a veteran residing in a half-way house or participating in a work-release program as a result of a felony conviction.

(i) Date of release from the half-way house or work-release program, or

(ii) Date a veteran becomes obligated to pay part of his or her living expenses.

(3) Date a veteran who is incarcerated for other than a felony conviction in a Federal, State or local prison ceases to have all of his or her tuition and fees paid by a non-VA government agency or is first required to pay tuition and fees in a course for which no charges were made. (38 U.S.C. 1508(g), 1780(a))

(g) *Temporary 100 percent award terminated.* Date of reduction of a temporary award of disability compensation at the 100 percent rate because of hospitalization. (38 U.S.C. 1508(h))

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(h) *Liberalizing laws and VA issues.* In accordance with facts found, but not earlier than the date of the act or administrative issue. (38 U.S.C. 3013)

§ 21.324 Reduction or termination dates of subsistence allowance.

(a) *General.* The effective date of reduction of the amount paid or termination of payment of subsistance allowance will be the earliest of the dates specified in this section. If an award is reduced, the reduced rate will be effective the day following the date of termination of the greater benefit. (38 U.S.C. 3013)

(b) *Death of a veteran.* Date of death, if death occurs while the veteran is in attendance or authorized leave status; otherwise date of last attendance. (38 U.S.C. 3013)

(c) *Death of dependent.* Last day of the calendar year in which death occurred unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(d) *Divorce.* Last day of the calendar year in which divorce occurs unless the veterans's program is terminated earlier under the provisions. (38 U.S.C. 3013)

(e) *Child.* (1) *Marriage.* Last day of the calendar year in which the marriage occurs unless the veteran's program is terminated earlier under other provisions.

(2) *Age 18.* Day preceding the child's 18th birthday.

(3) *School attendance.*

(i) Last day of the month in which the child ceases attending school; or

(ii) The day preceding the child's 23rd birthday, whichever is earlier.

(4) *Helplessness.* Last day of the month in which 60 days has passed from the VA's noticed to the payee that the child's helplessness has ceased. (38 U.S.C. 3013)

(f) *Interrupted, rehabilitation to the point of employability, independent living program completed, and extended evaluation completed status.* Last day of attendance, or approved leave status, whichever is applicable. (38 U.S.C. 3013)

(g) *Discontinued.* Last day of attendance or approved leave status, whichever is applicable, except as follows:

(1) If the VA places the veteran in "discontinued" status following the veterans's withdrawal from all courses with nonpunitive grades or following his or her completion of all courses with nonpunitive grades and the case manager does not find mitigating circumstances, the VA will terminate subsistance allowance effective:

(i) The first date of the term, or

(ii) December 1, 1976, whichever is later.

(2) If the VA places the veteran in "discontinued" status following a term in which the grades the veteran receives include both those that count in the grade point average and nonpunitive grades, and the case manager does not find mitigating circumstances:

(i) The VA will terminate subsistance allowance for courses in which the veteran receives nonpunitive grades effective the first day of the term or December 1, 1976, whichever is later.

(ii) The VA will terminate subsistance allowance for courses in which the veteran receives grades that will count in the grade point average effective the veteran's last day of attendance or approved leave status, whichever is applicable. (38 U.S.C. 1780(a))

(h) *Wages or salary received in apprentice or on the-job training.* (1) If the sum of the training wage plus the schedular subsistence allowance is more then the journeyman wage when the training commences, the subsistence allowance will be decreased by the VA effective the first day of the second month following the month in which the veteran enters on job-training.

(2) Subsequent adjustments will be effective the first day of the second month following the month in which wages or salary changes are made which justify the adjustment under provisions of § 21.266(e). (38 U.S.C. 1506)

(i) *Reduction in rate of pursuit of the program.* End of month in which reduction occurs, except that if the rate of pursuit is reduced as a result of the veteran's withdrawal from a unit course with nonpunitive grade(s) or as a result of the veteran's completion of a unit course or courses with nonpunitive grade(s) (§ 21.4200(j)), the VA will reduce subsistence allowance as follows:

(1) If it is determined that there are mitigating circumstances:

(i) Withdrawal with nonpunitive grades: The end of the month or the end of the term in which the veteran withdraws, whichever is earlier; if the reduction occurs at the beginning of the term benefits will be reduced the first day of the term in which the veteran withdraws or December 1, 1976, whichever is the later.

(ii) Completion with nonpunitive grades. No reduction required.

(2) If it is determined there are no mitigating circumstances the VA will reduce the veteran's subsistance allowance effective the first day of the term in which the veteran withdraws of which the veteran completes with nonpunitive grades or December 1, 1976, whichever is later. (38 U.S.C. 1780(a))

(j) *Severance of service connection.* Last day of the month in which the severance becomes final. (38 U.S.C. 3013)

(k) *Fraud.* The later of the following dates:

(1) The beginning date of the award of subsistence allowance, or

(2) The day preceding the date of the fraudulent act. (38 U.S.C. 3503(a))

(l) *Error.* (1) *Payee error.* Effective date of the award of subsistence allowance or day preceding the act, whichever is later, but not prior to the date the veteran's entitlement ceases, on an erroneous award based on an act of commission or omission by a payee with his or her knowledge.

(2) *Administrative error.* Except as provided in paragraph (j) of this section, date of last payment on an erroneous award based solely on administrative error or an error in judgment by a VA employee. (38 U.S.C. 3013)

(m) *Treasonable acts subversive activities.* The later of the following dates:

(1) Beginning date of the award of subsistence allowance, or

(2) Day preceding the date of commission of the treasonable act or subversive activities for which the veteran is convicted. (38 U.S.C. 3013)

(n) *Incarceration in prison or jail.* (1) *Felony conviction.* If a veteran's subsistence allowance must be reduced because of incarceration for a felony conviction under provisions of § 21.276 his or her rate of payment will be reduced the later of:

(i) The date of his or her incarceration in a prison or jail; or

(ii) The commencing date of his or her award as determined by § 21.322.

(2) *Non-felony incarceration.* If a veteran's subsistence allowance must be reduced because of incarceration for reasons other than a felony conviction under provisions of § 21.276, his or her rate will be reduced the date a non-VA government program either begins paying or would normally begin paying the tuition and fees which are required to be paid for similarly circumstanced nonveterans.

(3) *Half-way house or work-release program.*

(i) The subsistence allowance of a veteran in a half-way house or work-release program as a result of conviction of a felony will be reduced under the provisions of § 21.276 the latest of the following dates:

(A) The date the veteran enters the half-way house;

(B) The commencing date of the award, as determined by § 21.322; or

(C) The date on which the Federal government, or a State or local government, pays all the veteran's living expenses.

(ii) The subsistence allowance of a veteran incarcerated for reasons other than conviction of a felony will be reduced the date on which the Federal government pays:

(A) All of the veteran's living expenses, and

(B) All of the veteran's tuition and fees; or

(C) None of the veteran's tuition and fees. (38 U.S.C. 1508(a), 1780(a))

(o) *Specialized rehabilitation facility.* Date payment for room and board by VA begins, reduce the rate paid to the amount payable for dependents. (38 U.S.C. 1508(i))

(p) *Termination of subsistence allowance while hospitalized at VA expense.* Date before the beginning date of the increased disability compensation award if a veteran in a rehabilitation program is awarded disability compensation at the 100 percent rate while hospitalized at VA expense. (38 U.S.C. 1508(h))

§ 21.326 Authorization of employment services.

(a) *General.* Authorization of employment services shall be based upon the services identified and goals established in an IEAP (Individualized Employment Assistance Plan) under provisions of § 21.88. The effective dates for the commencement, or termination of such services will be determined under this section. (38 U.S.C. 1507(a))

(b) *Commencing date.* The commencing date authorizing a period of employment services will be the later of:

(1) The date following completion of the period of rehabilitation to the point of employability;

(2) The date of the original IEAP. (38 U.S.C. 1507, 1517(a))

(c) *Termination of the authorization of employment services.* Authorization for employment services will be terminated the earliest of:

(1) The last day employment services are provided under the terms of an IEAP when employment services are interrupted, discontinued, or the veteran is rehabilitated;

(2) The date the award is found to be erroneous because of an act of omission or commission by the veteran, or with his or her knowledge;

(3) The last day of the month in which severance of service connection becomes final;

(4) The day preceding the date of a fraudulent act;

(5) The date preceding the commission of a treasonable or subversive act for which the veteran in convicted. (38 U.S.C. 1508, 3013)

§ 21.328 Two veteran cases—dependents.

If both partners in a marriage are veterans, and if each is receiving either subsistence allowance for a vocational rehabilitation program or an eductional assistance allowance under another VA program, each is entitled to receive the additional allowances payable for each other and for their children. (38 U.S.C. 1508(a))

§ 21.330 Apportionment.

(a) *General.* Where in order, the VA will apportion subsistence allowance in accordance with § 3.451 of this title, subject to the limitations of § 3.458 of this title. (38 U.S.C. 3107(c))

(b) *Effective date.* The effective date of apportionment will be as prescribed in §3.400(e) of this title. (38 U.S.C. 3107(c))

(c) *Child adopted out of family.* Where evidence establishes that a veteran is the natural parent of a child or children legally adopted outside of the veteran's family, the VA will apportion in favor of the child or children only that additional amount of subsistence allowance payable on account of the existence of the child or children. The veteran is not entitled in his or her own right to the additional amount of subsistence allowance payable for the child because of the existence of the child unless the veteran is contributing to the child's support. (38 U.S.C. 3107(c))

(d) *Veteran convicted of a felony.* The subsistence allowance of a veteran in a rehabilitation program after October 17, 1980, may not be apportioned if the veteran is incarcerated because of conviction for a felony. (38 U.S.C. 1508(g))

§ 21.332 Payments of subsistence allowance.

(a) *Eligibility.* The VA shall pay subsistence allowance at the rates specified in § 21.260 to an eligible veteran enrolled in a rehabilitation program at the end of the month for the type of program pursued during the month unless advance payment is approved. The VA will continue payments during those intervals described in § 21.270. (38 U.S.C. 1508)

(b) *Advance payment criteria.* The VA will make an advance payment of subsistence allowance only when:

(1) The veteran specifically requests an advance payment; and

(2) The educational institution at which the veteran is accepted or enrolled has agreed to, and can carry out, satisfactorily the provisions of 38 U.S.C. 1780(d)(4) and (5) pertaining to:

(i) Receipt, delivery or return of advance checks; and

(ii) Certifications of delivery and enrollment. (38 U.S.C. 1780(d))

(c) *Advance payment.* (1) The amount of advance payment is not to exceed:

(i) The veteran's subsistence allowance for the month or part of a month in which his or her course will begin; plus

(ii) The veteran's subsistence allowance for the following month.

(2) Upon application and completion of arrangements for enrollment of a veteran who meets the criteria for an advance payment, the VA shall mail a check payable to the veteran to the institution for delivery to the veteran upon registration.

(3) An institution shall not deliver an advance payment check to a veteran more than 30 days in advance of commencement of his or her program. (38 U.S.C. 1780(d))

(d) *Certification for advance payment.* The VA will authorize advance payment upon receipt of the institution's certification of the following information:

(1) The veteran is eligible for benefits;

(2) The institution has accepted the veteran or he or she is eligible to continue his or her training;

(3) The veteran has notified the institution of his or her intention to attend or to reenroll;

(4) The number of semester or clock hours the veteran will pursue; and

(5) The beginning and ending dates of the enrollment period. (38 U.S.C. 1780(d))

(e) *Time of advance payment.* The VA will authorize advance payment only:

(1) At the beginning of an ordinary school year; or

(2) At the beginning of any other enrollment period which begins after a break in enrollment of one full calendar month or longer. (38 U.S.C. 1780(d))

(f) *Other payments.* (1) The VA will make all payments other than advance payments at the end of the month for the veteran's training during that month.

(2) The VA may withhold final payment until:

(i) The VA receives certification that the veteran has completed his or her course; and

(ii) The VA makes all necessary adjustments in the veteran's award resulting from that certification. (38 U.S.C. 1780(g))

(g) *Payments for courses which are repeated.* The VA may pay subsistence allowance to a veteran who repeats a course under conditions described in § 21.132. (38 U.S.C. 1780(a))

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§ 21.334 Election of payment at the chapter 34 rate.

(a) *Election.* When the veteran elects payment at the chapter 34 rate, the effective dates for commencement or reduction and termination shall be in accordance with §§ 21.4130 through 21.4135. (38 U.S.C. 1508, 1780)

(b) *Election of payment at the chapter 34 rate subsequent to induction into a rehabilitation program.* Election of payment at the chapter 34 rate subsequent to induction into training is permissible under provisions of § 21.262(a) and (b). The effective date of the election is the latest of the following dates:

(1) The commencing date of the program under provisions of § 21.4131;

(2) The day following the end of period for which the VA paid tuition, fees or other program charges under this chapter. (38 U.S.C. 1508(f))

(c) *Reelection of subsistence allowance subsequent to induction.* If a veteran reelects subsistence allowance under provisions of § 21.262(c), the effective date of the change is earliest of the following:

(1) The date following completion of the term, semester, quarter, or other period of instruction in which the veteran is curently enrolled;

(2) The veteran's chapter 34 delimiting date;

(3) The day after exhaustion of chapter 34 entitlement; or

(4) The day following the date of a VA detemination that failure to approve reelection would prevent the veteran from continuing the rehabilitation program. (38 U.S.C. 1508(f))

(d) *Election or reelection during leave or between periods of instruction.* (1) *Payment at the chapter 34 rate.* If an otherwise eligible veteran elects payment at the chapter 34 rate during a period of authorized leave or between periods of instruction the effective date of the election shall be the first day of the next period of instruction.

(2) *Subsistence allowance.* If an otherwise eligible veteran reelects subsistence allowance during leave or between periods of instruction following election of payment at the chapter 34 rate, the effective date of the change will be the date of the reelection or the beginning of the next period of training, whichever is to the veteran's benefit. (38 U.S.C. 1508(b))

Leaves of Absence

§ 21.340 Introduction.

(a) *General.* The VA may approve leaves of absence under certain conditions. During approved leaves of absence a veteran shall be considered to be pursuing a rehabilitation program. Leave may be authorized for a veteran during a period:

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; or

(3) Independent living services. (38 U.S.C. 1510)

(b) *Election of subsistence allowance.* If a veteran elects to receive subsistence allowance and payment of rehabilitation services by the VA, he or she may be authorized leave of absence under §§ 21.342 through 21.350. (38 U.S.C. 1510)

(c) *Election of payment at the chapter 34 rate.* If a veteran elects to receive an allowance and other assistance equivalent to that provided under chapter 34, the effect of absences is determined under provisions of §§ 21.4204 and 4205. (38 U.S.C. 1510)

§ 21.342 Leave accounting policy.

(a) *Amount of leave.* A veteran pursuing one of the programs listed in § 21.340(a) may be authorized up to 30 days of leave by the case manager during a twelve-month period. The beginning date of the first twelve-month period is the commencing date of the original award, and the ending date is twelve months from the beginning date with subsequent consecutive twelve-month periods thereafter. (38 U.S.C. 1510)

(b) *Additional leave under exceptional circumstances.* A veteran in a program offered by an institution of higher learning which leads to a standard college degree may be authorized up to 15 additional days of leave by the case manager under exceptional circumstances such as extended illness or family problems. (38 U.S.C. 1510)

(c) *Absence.* For the purpose of determining when a leave of absence may be authorized, a veteran who elects subsistence allowance shall be considered absent during any period in which he or she is:

(1) Not in attendance under the rules and regulations of the educational institution, rehabilitation center, or sheltered workshop;

(2) Not considered at work under the rules of the training establishment;

(3) Not present at a scheduled period of individual instruction. (38 U.S.C. 1510)

(d) *System of records.* An educational institution, training establishment, rehabilitation center, or other facility or individual providing training and rehabilitation services under chapter 31 may utilize the same system of records to determine absence as the one used for similarly circumstanced nonveterans. (38 U.S.C. 1510)

(e) *Change in rate of pursuit.* The amount of approved leave is not affected by the veteran's rate of pursuit of a rehabilitation program, rather one day of leave is charged for each day, or part of a day of absence. (38 U.S.C. 1510)

(f) *Charging leave.* The VA shall charge 1 day for each day of approved leave used by the veteran. (38 U.S.C. 1510)

(g) *Limitation on carrying leave over to another period.* The veteran may not carry over unused days of leave from one twelve-month period to another. (38 U.S.C. 1510)

(h) *Responsibility for approving leave.* The case manager shall approve leaves of absence. (38 U.S.C. 1510)

§ 21.344 Facility offering training or rehabilitation services.

(a) *Approval of leaves of absence required.* Leaves of absence must normally be approved in advance by the VA when the facility offering training or rehabilitation services arranges for the leave. The approval of the case manager is required:

(1) During periods in a rehabilitation program identified in § 21.342(c); or

(2) A period of hospitalization at VA expense during one of the periods identified in § 21.341(c). (38 U.S.C. 1510)

(b) *Responsibility of the veteran in obtaining leave.* The VA will not authorize leave without a verbal or written request by the veteran, and the approval of the facility. (38 U.S.C. 1510)

(c) *Conditions permitting approval of leaves of absence.*

(1) The case manager may approve leaves of absence up to a total of 30 days during a twelve-month period if the facility certifies that the use of the leave does not interfere materially with the veteran's progress;

(2) An additional period of up to 15 days of leave in the same twelve-month period under exceptional circumstances may be approved by the case manager for a veteran in a program leading to a standard college degree if failure to approve leave will:

(i) Result in personal hardship, or

(ii) Adversely affect the veteran's ability to continue in his or her rehabilitation program. (38 U.S.C. 1510)

§ 21.346 Facility temporarily not offering training or rehabilitation services.

(a) *Approval of leave of absence not required.* A veteran may receive subsistence allowance during a period when the facility temporarily is not offering services without the veteran's seeking an approved leave of absence or being charged with leave when:

(1) The facility is closed temporarily under an executive order of the President or due to an emergency situation;

(2) The veteran is pursuing on-the-job training and he or she receives holidays established by Federal or State law;

(3) The veteran is pursuing farm cooperative training and incurs:

(i) Routine absences from the farm required in the ordinary day-to-day conduct of farm business; or

(ii) Absences from that part of a farm cooperative course which is given at the educational institution; or

(4) The veteran is pursuing a standard college degree; and

(i) There is an interval between consecutive semesters, terms, quarters or periods of instruction *within a certified enrollment period* which does not exceed a full calendar month;

(ii) There is an interval, which does not exceed a full calendar month between semesters, terms or quarters when the educational institution only certifies enrollment on a semester, term, or quarter basis;

(iii) There is an interval, which does not exceed 30 days, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in and pursuing a similar program at the second institution;

(iv) A period of up to 5 days per twelve-month period during which a school offering non-college-degree courses is not operating, because instructors are attending professional meetings.

(5) The case manager may disapprove leave under paragraph (a)(4) of this section if:

(i) Approval would result in or lead to use of more than 48 months of entitlement under chapter 31, alone; or

(ii) Approval would require extension of the scheduled completion date of the veteran's program. (38 U.S.C. 1510)

(b) *Approval of leaves of absence required.* A veteran, who wishes to receive subsistence allowance while the facility temporarily is not offering training under conditions other than those identified in paragraph (a) of this section, must seek an approved leave. (38 U.S.C. 1510)

§ 21.348 Leave following completion of a period of training or rehabilitation services.

(a) *Leave following completion of training or rehabilitation services.* Leave may not be approved following completion of a period of service described in § 21.340(a). (38 U.S.C. 1510)

(b) *Postponement of the date of completion of a period of rehabilitation services prohibited.* The date of completion of the veteran's program may not be extended for the purpose of allowing the veteran to use leave. (38 U.S.C. 1510)

§ 21.350 Unauthorized absences.

A veteran who is unable to obtain an unauthorized leave of absence in advance may seek to have the unauthorized absence excused.

(a) *Excusing unauthorized absences.* The VA may excuse an unauthorized absence and make proper charges against the veteran's leave when:

(1) The veteran has absented himself or herself under conditions which make his or her obtaining advance approval from the VA impracticable; and

(2) Conditions for approval of leave are otherwise met. (38 U.S.C. 1510)

(b) *Unexcused, unauthorized absences.* When an unauthorized absence is not satisfactorily explained, the VA will take necessary action, including forfeiture of subsistence allowance for that period of absence. (38 U.S.C. 1510)

[FR Doc. 83-12172 Filed 5-9-83; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 10

Proposed On-Demand International Express Mail Service to Brazil

AGENCY: Postal Service.

ACTION: Proposed on-demand international express mail service to Brazil.

SUMMARY: Pursuant to an agreement with the postal administration of Brazil, the Postal Service proposes to begin On-Demand International Express Mail Service to Brazil at postage rates indicated in the table below. The proposed service is scheduled to begin on July 15, 1983.

DATE: Comments must be received on or before June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245-4414.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual needed to introduce the proposed new service, including the rate table reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply, (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed On-Demand International Express Mail Service to Brazil at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

BRAZIL—INTERNATIONAL EXPRESS MAIL
[On Demand Service] [1]

Up to and including			
Pounds	Rate	Pounds	Rate
1	$21.00	26	$133.50
2	25.50	27	138.00
3	30.00	28	142.50
4	34.50	29	147.00
5	39.00	30	151.50
6	43.50	31	156.00
7	48.00	32	160.50
8	52.50	33	165.00
9	57.00	34	169.50
10	61.50	35	174.00
11	66.00	36	178.50
12	70.50	37	183.00
13	75.00	38	187.50
14	79.50	39	192.00
15	84.00	40	196.50
16	88.50	41	201.00
17	93.00	42	205.50
18	97.50	43	210.00
19	102.00	44	214.50
20	106.50	45	219.00
21	111.00	46	223.50
22	115.50	47	228.00
23	120.50	48	232.50
24	124.50	49	237.00
25	129.00	50	241.50

[1] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-12513 Filed 5-9-83; 8:45 am]
BILLING CODE 7710-12-M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2731/P294; PH-FRL 2352-8]

Diflubenzuron; Proposed Tolerance

Correction

In FR Doc. 83-10885, in the issue of Wednesday, April 27, 1983, appearing on page 19039, in the last column, the table to § 180.377 is reprinted to properly align the items under the table headings as set forth below:

§ 180.377 Diflubenzuron; tolerances for residues.

* * * * *

Commodities	Parts per million
Mushrooms	0.2 ppm.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6514]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
California	City of Ontario (San Bernardino County)	Cucamonga Creek	Intersection of Hellman Avenue and Francis Street.	#1	Depths less
			200 feet east of the intersection of Hellman Avenue and Fourth Street.	#1	than 1 foot
		Deer Creek	Intersection of Fourth Street and Turner Avenue.	#1	Depths less than 1 foot

Maps available for inspection at the Building Department, 303 East B Street, Ontario, California 91764.
Send comments to the Honorable Robert Ellingwood, Mayor, City of Ontario, 303 East B Street, Ontario, California 91764.

Maryland	Cumberland, City, Allegany County	North Branch Potomac River.	Downstream corporate limits	*604	*602
			Upstream of Chessie System	*609	*606
			Upstream of Ford Avenue	*612	*609
			2nd crossing of Chessie System	*614	*611
			Confluence of Wills Creek	*616	*614
			Upstream corporate limits	*633	*627

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Wills Creek	Confluence with North Branch Potomac River.	*616	*614

Maps available for inspection at the City Hall, Cumberland, Maryland.
Send comments to Honorable George H. Wyckoff, Jr., Mayor of Cumberland, P.O. Box 1702, Cumberland, Maryland 21502.

Minnesota	(C) Stillwater, Washington County	Saint Croix River	At downstream corporate limits	*693	*692
			At upstream corporate limits	*693	*693
		Browns Creek	About 1,300 feet upstream of State Highway 96.	*707	*705
		Long Lake	Shoreline		*693

Maps available for inspection at the City Hall, 216 North 4th Street, Stillwater, Minnesota.
Send comments to: Honorable Nils Kriesel, Finance Coordinator and Director, City of Stillwater, City Hall, 216 North 4th Street, Stillwater, Minnesota 55082.

Pennsylvania	Butler, City, Butler County	Sullivan Run	Negley Avenue extended, downstream side	none	*989
			State Route 68 (Cunningham Street), upstream side.	none	*993
			Newcastle Street, downstream side	none	*994
			West Brady Street, upstream side	none	*998
			Miller Street, downstream side	none	*1,002
			Mercer Street, downstream side	none	*1,004
			North 6th Avenue, upstream side	none	*1,006

Maps available for inspection at the City Hall, 140 West North Street, Butler, Pennsylvania.
Send comments to Honorable Ronald E. Forcht, Mayor of Butler, 140 West North Street, Butler, Pennsylvania 16001.

Pennsylvania	Lycoming, Township, Lycoming County	Lycoming Creek	Upstream U.S. Route 15	*584	*581
			Downstream State Route 973	*599	*597
			Downstream most upstream crossing of CONRAIL.	*617	*613
		Hoagland Run	Confluence with Lycoming Creek	*599	*596
			Approximately 6,000 feet upstream of confluence with Lycoming Creek.	*599	*597

Maps available for inspection at the Lycoming Township Building, R.D. 2, Linden, Pennsylvania.
Send comments to Honorable Robert E. Wagner, Chairmen of the Lycoming Board of Supervisors, R.D. 2, Box 79, Linden, Pennsylvania 17744.

Pennsylvania	Salisbury, Township, Lehigh County	Cedar Creek	Downstream corporate limits	*3F1	*262
			Upstream corporate limits	*267	*265
		Little Lehigh Creek	Downstream corporate limits	*298	*301
			Keystone Road	*306	*307

Maps available for inspection at the Salisbury Township Building, 3000 South Pike Avenue, Allentown, Pennsylvania.
Send comments to Honorable Robert Sander, President of the Salisbury Board of Commissioners, 3000 South Pike Avenue, Allentown, Pennsylvania 18103.

Pennsylvania	West Wyoming, Borough, Luzerne County	Abrahams Creek	Downstream corporate limits	*560	*554
			Upstream side, CONRAIL bridge	*562	*557
			Upstream side, Eighth Street bridge	*599	*593
			Upstream side, Shoemaker Avenue bridge	*606	*599

Maps available for inspection at the Borough Building, West 6th Street, West Wyoming, Pennsylvania.
Send comments to Honorable George Nocek, Mayor of West Wyoming, West 8th Street, West Wyoming, Pennsylvania 18644.

Washington	City of Richland (Benton County)	Yakima River	At Union Pacific Railroad Bridge	*352	*352
			Approximately 200 feet downstream of the Van Giesen Bridge.	*374	*374

Maps are available for inspection in the Planning Department, City Hall, Richland, Washington 99352.
Send comments to the Honorable Tom Logston, Mayor, City of Richland, P.O. Box 190, Richland, Washington 99352.

Pursuant to the provisions of 5 U.S.C. 505(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 14, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12312 Filed 5-6-83; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 83-372; FCC 83-141]

Deregulation of Mobile Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice, the Commission proposes to deregulate all mobile telephone customer premises equipment (CPE). In the Second Computer Inquiry, the Commission directed common carriers to offer CPE on a nontariffed basis separate from their transmission offerings. However, the Commission expressly excluded mobile CPE from the scope of its decision. In this proceeding, the Commission will consider whether to conform the treatment of mobile CPE with its treatment of all other CPE.

DATE: Comments must be received on or before May 20, 1983, and reply Comments must be received on or before June 20, 1983.

ADDRESS: Secretary's Office, Rm. 222, FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William F. Adler (202) 632-6400.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

Proposed Rulemaking

In the matter of deregulation of mobile customer premises equipment; CC Docket No. 83-372.

Adopted April 7, 1983.
Released: April 28, 1983.

By the Commission: Commissioner Fogarty absent; Commissioner Rivera issuing a separate statement.

1. In the *Second Computer Inquiry*,[1] we decided, among other things, that regulation of carrier-provided CPE (customer premises equipment) as part of a common carrier service is no longer warranted.[2] We therefore required that CPE provided by common carriers be offered on a nontariffed basis separate from their common carrier transmission offerings, pursuant to the bifurcated approach set forth in *Further Reconsideration* 88 FCC 2d 518-24 (1981). Several types of equipment were not included in the ultimate decision to deregulate CPE, one of which was mobile telephone equipment.[3] We here turn our attention to mobile telephone equipment.

2. In deciding not to include mobile telephone equipment within the definition of CPE, we observed that the status of this equipment was in issue in another rulemaking proceeding in CC Docket No. 79-318, *Cellular Communications Systems*.[4] Accordingly, in *Computer II* we did not deregulate carrier-provided mobile telephone equipment used in conjunction with either conventional or cellular mobile radio communications systems, even though other mobile radio equipment was deregulated. We did not alter this determination on reconsideration.[5] Several months later in our cellular *report and Order*, 86 FCC 2d 469 (1981), we ordered that mobile telephone equipment provided in conjunction with cellular systems, which telephone equipment had not yet been produced or marketed commercially,[6] be deregulated from the outset. Of particular consequence is our ultimate finding that there is "no compelling reason to treat cellular mobile equipment differently from landline customer premises equipment."[7] We affirmed that determination in our *Order on Reconsideration*, 89 FCC 2d 58, 85 (1982).

3. At this point, the mobile telephone used in conventional common carrier mobile radio services constitutes the only piece of two way voice terminal equipment that is accorded disparate treatment. In this proceeding, we propose to deregulate that equipment, thereby conforming our treatment of it with our treatment of all other CPE. To the extent that we have preempted state regulation of other CPE in the *Second Computer Inquiry*, we would also preempt state regulation of mobile CPE. Our proposal applies to mobile telephone equipment used in all services licensed under Part 22 of the Rules: domestic public land mobile radio service (including airborne), rural radio service and offshore telecommunications service.[8] Rather than recite in detail the rationale for deregulating this mobile CPE, we rely on, and incorporate by reference, the relevant portions of the *Second Computer Inquiry* and *Cellular Communications Systems*. Interested persons should examine specifically the following: *Second Computer Inquiry*, 77 FCC 2d at 438-457, *reconsideration* 84 FCC 2d at 61-67; and *Cellular Communications Systems*, Notice of Inquiry and Notice of Proposed Rulemaking, 78 FCC 2d 984, 995-96 (1980), Report and Order, 86 FCC 2d at 497. We expect comments to be limited to specific reasons why this particular terminal equipment should not be deregulated; parties are cautioned not to address the general issue of whether CPE (including cellular CPE) should be deregulated.[9]

Regulatory Flexibility Act—Initial Analysis

4. *Reasons for action and objective.* This is a policy of general applicability being proposed to conform the regulations of mobile customer premises equipment with the regulation of other telephone customer premise equipment. The objectives are to encourage the competitive provision of mobile CPE, to remove advantages accruing to carriers over other vendors of mobile CPE, and to foster an environment in which consumers will have the maximum array of choices.

5. *Legal basis.* The authority for this proposed rulemaking is contained in Sections 4, 303 and 403 of the Communications Act of 1934, as amended.

6. *Small entities affected and potential impact.* The proposed policy is expected to affect (a) most telephone companies and radio common carriers providing mobile telephone service, (b) manufacturers of mobile CPE, and (c) retail and wholesale vendors of mobile CPE. The potential impact would be measured only in terms of revenues from the provision, manufacture or sale of equipment. It is anticipated that, overall, the impact will be favorable.

7. *Relevant federal rules which overlap, duplicate or conflict with this action.* None.

8. *Reporting, record-keeping and compliance requiements.* None.

9. *Alternatives that would lessen impact.* The only alternative is retention of the status quo.

10. Interested persons are invited to participate in this proceeding by submitting comments in accordance with Section 1.419 of the Commission's Rules, 47 CFR 1.419. Comments must be filed by June 6, 1983, and reply comments by July 5, 1983.

11. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, and *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. The Secretary of the Commission shall serve a copy of this Notice of Proposed Rulemaking upon each state public utilities regulatory commission.

13. Authority for this action is contained in Sections 4(i), 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Henry M. Rivera

In the Matter of: Deregulation of Mobile Customer Premises Equipment.

I write separately to emphasize that mobile customer premises equipment (CPE) utilized in the rural radio service is included within this proceeding.[1] That service is an important means of communications in rural America—vital to its economy and to the safety of property and life. I am concerned that deregulation of rural radio mobile CPE could adversely affect the viability and availability of that service. Before the Commission acts, it should have a clear understanding of the possible effects that deregulation of this mobile CPE may have on the viability of the rural radio service.[2] Therefore, I hope that state regulatory bodies, industry and users address this issue in their comments.

[FR Doc. 83-12475 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 198 (D.C. Cir. 1982).

[2] Final Decision, *Id.* at 447.

[3] Final Decision, *Id.* at 447, n. 57; 84 FCC 2d at 70; 88 FCC 2d at 513, n. 1.

[4] Final Decision, *Id.* at 447, n. 57.

[5] 84 FCC 2d at 70.

[6] At least three manufacturers had produced mobile units which were then being used by Illinois Bell in its cellular developmental system in Chicago.

[7] Report and Order at 497, n. 65.

[8] While we reserved judgment in the Second Computer Inquiry regarding deregulation of mobile telephone CPE, we expressed no such reservation with respect to common carrier paging receivers. To the extent that there is any ambiguity, we here confirm that paging receivers were included in the generic categories of CPE deregulated in the Second Computer Inquiry.

[9] The requirements of the Second Computer Inquiry relating to the structure under which AT&T and its affiliates provide deregulated CPE would apply to the provision of conventional mobile telephone CPE. In CC Docket 83-115, FCC 83-71, release March 4, 1983, however, we are examining whether the Bell Operating Companies should be subject to structural separation in a post divestiture environment.

[1] See paragraph 3 of the Notice of Proposed Rulemaking.

[2] For example, because of the importance of the rural radio service, state regulatory bodies may be permitting cross-subsidization of that service in order to keep the charges for the service and equipment affordable. The proposed deregulation may restrict the states' flexibility to continue such subsidies.

47 CFR Part 73

[MM Docket No. 83-406; RM-4385]

FM Broadcast Stations in Hilo, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 224A to Hilo, Hawaii, in response to a petition filed by Mid Pacific Broadcasting Company. The proposed assignment could provide a fourth FM service to that community.

DATES: Comments must be filed on or before June 13, 1983, and reply comments on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hilo, Hawaii); MM Docket No. 83-406, RM-4385.

Adopted: April 20, 1983.
Released: April 29, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Mid-Pacific Broadcasting Company ("petitioner"), requesting the assignment of Channel 240A to Hilo, Hawaii, as its fourth FM channel. Petitioner expressed its interest in applying for the channel, if assigned.

2. Channel 204A in Hilo, Hawaii, would be short spaced to Channel 240A in Paaiulo, Hawaii. However, Channel 224A is available in Hilo and meets all spacing requirements.

3. In view of the fact that the proposed assignment of Channel 224A could provide a fourth FM broadcast service to Hilo, Hawaii, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Hilo, Hawaii	234, 246, 250	224A, 234, 246, 250

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do*

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Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12610 Filed 5-6-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-406; RM-4388]

FM Broadcast Stations in Clintonville, Manitowoc and New Holstein, Wisconsin; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 221A to New Holstein, Wisconsin, as that community's first FM allocation, in response to a petition filed by WMBE, Incorporated. The assignment requires a channel substitution and modification of license at Manitowoc, Wisconsin, and the addition of a site restriction on an existing assignment at Clintonville, Wisconsin, to accomodate the proposal.

DATES: Comments must be filed on or before June 13, 1983, and reply comments must be filed on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making and Order To Show Cause

In the Matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Clintonville, Manitowoc and New Holstein, Wisconsin); MM Docket No. 83–406, RM–4388.

Adopted: April 20, 1983.
Released: April 29, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed February 15, 1983, by WMBE, Incorporated ("petitioner") seeking the assignment of FM Channel 221A to New Holstein, Wisconsin, as that community's first FM allocation. Petitioner states that if the channel is assigned, it will apply for authority to build and operate a station.

2. As petitioner acknowledges in its petition, the instant proposal requires that certain site restrictions be imposed on Channel 221A to New Holstein, if assigned, and on Channel 221A to Clintonville, Wisconsin,[1] previously assigned. Additionally, the substitution of Channel 257A for existing Channel 221A in Manitowoc, Wisconsin, is required to accommodate petitioner's proposal. Channel 221A (Station WKKB), Manitowoc, Wisconsin, is presently licensed to Cub Radio, Inc.

3. Specifically, the site restrictions and channel substitution are necessary since the distance between New Holstein and Clintonville is 61 miles, and between New Holstein and Manitowoc, 20 miles, whereas § 73.207 of the Commission's Rules requires a separation of 65 miles between co-channel Class A assignments to avoid short spacing. The proposed substitution of Channel 257A for 221A at Manitowoc can be accomplished in conformity with the minimum distance separation requirements.

4. A staff engineering study for New Holstein and Clintonville reveals that in order to avoid short spacing to each other, the ultimate permittee at New Holstein would be required to locate its transmitter 6.8 miles east of the community, while the Clintonville applicant would be required to specify a transmitter site 4.4 miles north of Clintonville. If Channel 221A is ultimately assigned to New Holstein, Clintonville Broadcasting, Inc. would be permitted to amend its application to specify a new transmitter site for Channel 221A. Its cut-off protection would be retained to prevent any delay in processing its application. We wish to hear from Clintonville Broadcasting, Inc. as to whether a move of its proposed transmitter site could not be accomplished.

5. Whenever an existing licensee would have to switch frequencies in order to accommodate a new assignment, we require that the proponent of the new assignment make a commitment that it would reimburse the affected station for the costs incurred in changing frequencies. Therefore, petitioner should indicate whether it would be willing to reimburse Station WKKB, Manitowoc, Wisconsin, for its costs in changing frequencies to Channel 257A.

6. In view of the fact that the proposed assignment could provide a first FM service at New Holstein, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Manitowoc, Wisconsin	221A, 272A	257A, 272A
New Holstein, Wisconsin		221A

7. *It is ordered*, That pursuant to § 316(a) of the Communications Act of 1934, as amend, Cub Radio, Inc., licensee of Station WKKB, Manitowoc Wisconsin, *shall show cause* why its license should not be modified to specify operation on Channel 257A in lieu of Channel 221A.

8. Pursuant to § 1.87 of the Commission's Rules, Cub Radio, Inc. may, not later than June 13, 1983, request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Cub Radio, Inc. may not later than June 13, 1983, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Cub Radio, Inc. to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statment is filed by the date referred to above, Cub Radio, Inc. will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

9. *It is further ordered*, That the Secretary of the Commission *shall send* by Certified Mail, Return Receipt Requested, a copy of this *Order* to the following:

Clintonville Broadcasting, Inc., P.O. Box 192, Rice Lake, Wisconsin 54868;

Cub Radio, Inc., P.O. Box 98, Manitowoc, Wisconsin 54220.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983, and are advised to read the Appendix for the proper procedures.

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceedings.

(a) Counterproposals advanced in this proceeding itself will be considered, if

[1] An application has been filed for Channel 221A at Clintonville by Clintonville Broadcasting, Inc. (File No. BPH–820929BC).

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advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the Provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12818 Filed 5-9-83; 8:45am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-407; RM-4364]

TV Broadcast Stations in Bainbridge, Georgia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 49 to Bainbridge, Georgia, as its first television assignment in response to a petition filed by Mr. and Mrs. Sam M. Griffin, Jr.

DATES: Comments must be filed on or before June 13, 1983, and reply comments on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of; Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Bainbridge, Georgia); MM Docket No. 83-407, RM-4364.

Adopted: April 20, 1983.
Released: April 29, 1983.

By the Chief, Policy and Rules Division.

1. The commission herein considers a petition for rule making filed January 31, 1983, by Mr. and Mrs. Sam M. Griffin, Jr. ("petitioners") proposing the assignment of UHF Television Channel 49 to Bainbridge, Georgia, as its first television assignment. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

2. Bainbridge (population 10,553) [1], seat of Decatur County (population 25,495), is located in southwest Georgia, approximately 315 kilometers (197 miles) south of Atlanta.

3. Petitioners submitted information in support of their proposal and expressed their interest in applying for the channel, if assigned.

4. In view of the fact that Bainbridge could receive its first television service, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Bainbridge, Georgia		49

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202)634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, *It is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties must file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties may be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, brief, or other documents shall be funished the Commission.

6. *Public Inspection of Filing.* All finding made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

[FR Doc. 83-12817 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-405; RM-4296]

TV Broadcast Stations in Oklahoma City, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 61 to Oklahoma City, Oklahoma, as its tenth television assignment, in response to a petition filed by David Allen Crabtree.

DATES: Comments must be filed on or before June 13, 1983, and reply comments on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lippo, Mass Media Bureau (202) 634-6530

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of; Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Oklahoma City, Oklahoma) MM Docket No. 83-405, RM-4296.

Adopted: April 20, 1983.
Released: April 29, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by David Allen Crabtree ("petitioner"), as its tenth television assignment. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned.

2. Oklahoma City (population 403,213) [1], seat of Oklahoma County (population 568,933) and capital of the state of Oklahoma, is located in the central portion of the state.

3. In view of the fact that Oklahoma City could receive its tenth local television service, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Oklahoma City, Oklahoma	4-, 5, 9-, *13, 14-, 25-, 34-, 43+, 52.	4-, 5, 9-, *13, 14-, 25-, 34-, 43+, 52, 61

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte*. contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the

[1] Population figures are taken from the 1980 U.S Census Advance Report.

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person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the date set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submission by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12315 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-10-M

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47 CFR Part 73

[MM Docket No. 83-404; RM-4335]

TV Broadcast Stations in Roanoke, Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 60 to Roanoke, Virginia, as its sixth television assignment in response to a petition filed by David Allen Crabtree.

DATES: Comments must be filed on or before June 13, 1983, and reply comments on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Proposed Rule Making

Television broadcasting.

In the Matter of; Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Roanoke, Virginia) MM Docket No. 83-404, RM-4335.

Adopted: April 20, 1983.
Released: April 29, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by David Allen Crabtree ("petitioner"), seeking the assignment of UHF Television Channel 60 to Roanoke, Virginia. The petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. A site restriction of 8.7 miles north of Roanoke is required to avoid short spacing to WJTM–TV (Channel 45), Winston-Salem, North Carolina.

2. Roanoke (population 100,427)[1] is located in southwestern Virginia, approximately 225 kilometers (140 miles) west of Richmond, Virginia.

3. In view of the fact that Roanoke could receive its sixth local television broadcast service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Roanoke, Virginia	7–, 10, *15+, 27+, 38–.	7–, 10, *15+, 27+, 38–, 60

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12314 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

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47 CFR Part 73

[MM Docket No. 83-409; RM-4286]

Television Broadcast Stations in Seattle, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 45 to Seattle, Washington, in response to a petition filed by William V. Johnson. The assignment could provide Seattle with a seventh television allocation.

DATES: Comments must be filed on or before June 17, 1983, and reply comments must be filed on or before July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of; Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Seattle, Washington) MM Docket No. 83-409, RM-4286

Adopted: April 20, 1983.
Released: May 3, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed December 29, 1982, by William V. Johnson ("petitioner"), seeking the assignment of UHF television Channel 45 to Seattle, Washington, as that community's seventh television allocation. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Seattle (population 493,846)[1], the county seat of King County (population 1,269,749), is located on Puget Sound in northwest Washington. At the present time, Seattle is served by commercial television stations (KOMO–TV, Channel 4; KING–TV, Channel 5; KIRO–TV, Channel 7; and Channel 22 (applied for)), as well as by noncommercial educational Station KCTS–TV (Channel * 9). Additionally, one other noncommercial educational channel (* 62) is unoccupied and unapplied for at the present time.

3. A staff engineering study reveals that Channel 45 could be assigned to Seattle, Washington, in compliance with the requirements of § 73.610 of the

[1] Population figures are extracted from the 1980 U.S. Census, Advance Reports.

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Commission's Rules. Since Seattle is located within 402 kilometers (250) miles) of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

4. In view of the foregoing and the fact that the proposed assignment would provide a seventh television allocation to Seattle, Washington, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Seattle, Washington	4, 5+, 7, *9, 22+, *62.	4, 5+, 7, *9, 22+, 45+, *62

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 17, 1983, and reply comments on or before July 5, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set fourth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12519 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-410; RM-4389]

FM Broadcast Stations in Soldotna, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a second FM assignment to Soldotna, Alaska, in response to a petition filed by King County Broadcasters.

DATES: Comments must be filed on or before June 17, 1983, and reply comments on or before July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Soldotna, Alaska) (MM Docket No. 83–410, RM–4389).

Adopted: April 20, 1983.
Released: May 3, 1983.

By the Chief, Policy and Rules Division.

1. King County Broadcasters ("petitioner") submitted a petition for rule making on February 16, 1983, seeking the assignment of Class C Channel 247 to Soldotna, Alaska. Petitioner stated its intention to apply for Channel 247, if assigned to Soldotna.

2. In support of the proposal, petitioner submitted population and economic information. However, in view of the action taken in *Revision of FM Policies and Procedures*, 90 FCC 2d 88 (1982), these issues are no longer a requirement to justify a non-conflicting proposal. Petitioner alleges that it intends to provide new and diverse programming to the Kenai Peninsula Borough (of which Soldotna is a community). According to the petitioner's engineering study, Channel 269A (assigned to Soldotna) is in use by Station K269AU, a translator rebroadcasting the programming of Station KSKA, Anchorage, Alaska.

3. In view of the fact that the proposal could provide a second local broadcast service to Soldotna, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Soldotna, Alaska	269A	247, 269A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 17, 1983, and reply comments on or before July 5, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial coments, so that parties may coment on them in reply comments. They will not be considered if advanced in reply comment. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-12530 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

VOL 48 ISS 91 MY 10 1983 UMI

47 CFR Part 73

[MM Docket No. 83-412; RM-4377]

FM Broadcast Stattion in Ouray, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first FM assignment to Ouray, Colorado, in response to a petition filed by Kristi R. Westfall.

DATES: Comments must be filed on or before June 17, 1983, and reply comments on or before July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ouray, Colorado) (MM Docket No. 83-412, RM-4377)

Adopted: April 20, 1983.

Released: May 3, 1983.

By the Chief, Policy and Rules Divisions.

1. Kristi R. Westfall ("petitioner") filed a petition for rule making on February 8, 1983, seeking to assign Channel 285A to Ouray, Colorado. The proposed assignment could provide for a first FM service to Ouray. Peititioner stated her intention to apply for the channel, if assigned.

2. In support of the proposal the petitioner submitted population and economic data. However, in view of the action taken in the *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), this information is no longer relevant to a non-conflicting proposal. Channel 285A can be assigned to Ouray in conformity with the minimum distance separation requirements.

3. In view of the fact that Ouray could receive its first local FM service, we shall seek comments on the proposal to amend the FM Table of Assigments (§ 73.202(b) of the Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Ouray, Colo.		285A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A Showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 17, 1983, and reply comments on or before July 5, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Secion 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-12522 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-411; RM-4378]

FM Broadcasting Station in Kankakee, and Crete, Illinois; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 224A to Kankakee, Illinois, in response to a petition filed by Edward J. Wilk and Joseph F. Wilk. The proposal could provide a second FM service to that community. Also proposed is the reassignment of Channel 272A from Kankakee to Crete, Illinois, to reflect its actual use at Crete.

DATES: Comments must be filed on or before June 17, 1983, and reply comments must be filed on or before July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcasting Stations. (Kankakee, and Crete, Illinois) (MM Docket No. 83-411, RM-4378).

Adopted: April 20, 1983.

Released: May 3, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed February 8, 1983, by Edward J. Wilk and Joseph F. Wilk ("petitioners") seeking the assignment of Channel 224A to Kankakee, Illinois, as its third FM assignment. Petitioners submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Channel 272A, now assigned to Kankakee, is actually used at Crete, Illinois, pursuant to the 10-mile rule, § 73.203(b) of the Commission's Rules. Therefore, we also propose herein to reassign the channel to Crete to reflect its actual use there.

3. In view of the fact that the proposed Kankakee assignment could provide a second FM service, the Commission believes that it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following communities:

City	Channel No.	
	Present	Proposed
Crete, Ill		272A
Kankakee, Ill	260, 272A	224A, 260

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 17, 1983, and reply comments on or before July 5, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in

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connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-12521 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-413; RM-4358]

FM Broadcast Stations in Williston, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Class C Channel 266 to Williston, North Dakota, in response to a petition filed by Dianna L. Simpson. The proposed assignment could provide a third FM service to that community.

DATES: Comments must be filed on or before June 20, 1983, and reply comments must be filed on or before July 6, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau; (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of Amendment of § 73.202(b), table of Assignments, FM broadcast stations. (Williston, North Dakota) (MM Docket No. 83-413, RM-4358).

Adopted: April 20, 1983.
Released: May 4, 1983.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed January 21, 1983, by Dianna L. Simpson ("Petitioner") proposing the assignment of Class C Channel 266 to Williston, North Dakota, as its third FM assignment. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the proposed assignment of Channel 266 to Williston, North Dakota, is within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrance must be obtained.

3. In view of the fact that the proposed assignment could provide a third local FM broadcast service to Williston, North Dakota, the Commission believes it is appropriate to propose amending the FM Table of Assignment, § 73.202(b) of the Commission's Rule, with respect to the following community:

City	Channel No.	
	Present	Proposed
Williston, N.Dak.	241,253	241,235, and 266.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 20, 1983, and reply comments on or before July 6, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-12522 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-415; RM-4301]

TV Broadcast Stations in Jacksonville, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 69 to Jacksonville, Florida, as its eighth television assignment, in response to a petition filed by David Allen Crabtree.

DATES: Comments must be filed on or before June 20, 1983, and reply comments on or before July 6, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations. (Jacksonville, Florida) (MM Docket No. 83-415, RM-4301).

Adopted: April 20, 1983.
Released: May 4, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by David Allen Crabtree ("petitioner"), seeking the assignment of UHF Television Channel 69 to Jacksonville, Florida, as its eighth television assignment. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned.

2. Jacksonville (population 540,898),[1] seat of Duval County (population 570,981), is located in northeast Florida, approximately 500 kilometers (320 miles) north of Miami.

3. In view of the fact that Jacksonville could receive its eighth local television broadcast service, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the city of Jacksonville, Florida, as follows:

City	Channel No.	
	Present	Proposed
Jacksonville, Fla.	4+, *7, 12+, 17, 30+, 47—, and *59.	4+, *7, 12+, 17, 30+, 47—, *59, and 69.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 20, 1983, and reply comments on or before July 6, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should not that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

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Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in the *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-12525 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-414; RM-4297]

TV Broadcast Stations in Lebanon, Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 66 to Lebanon, Tennessee, as its first television assignment, in response to a petition filed by Peggy Ann Rothchild.

DATES: Comments must be filed on or before June 20, 1983, and reply comments must be filed on or before July 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations. (Lebanon, Tennessee) (MM Docket No. 83-414, RM-4297).

Adopted: April 20, 1983.
Released: May 4, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed January 6, 1983, by Peggy Ann Rothchild ("petitioner") seeking the assignment of UHF Television Channel 66 to Lebanon, Tennessee, as its first television assignment.

2. Lebanon (population 11,872),[1] seat of Wilson County (population 56,064), is located in north central Tennessee, approximately 42 kilometers (26 miles) east of Nashville. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. The channel can be assigned consistent with the minimum distance separation requirements and other technical criteria.

3. In view of the fact that Lebanon could receive its first local television broadcast service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Lebanon, Tenn.		66-

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 20, 1983, and reply comments on or before July 6, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066,1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606)(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix as attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of fillings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set put in §§ 1.415 and 1.420 of the Commission's Rule and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-12534 Filed 5-9-83; 8:45 am]

BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 48, No. 91
Tuesday, May 10, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet at the Old Post Office, 1100 Pennsylvania Avenue, NW., West Conference Room, Washington, D.C. The meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a Mayor, and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

Call to order
Chairman's Welcome
Order of Business
Consideration of Minutes of April 12, 1983, Meeting
I. Report of the Executive Director
II. Report of the General Counsel
  A. Regulations Review
  B. Tax Study
III. Report of the Office of Cultural Resource Preservation
  A. Status of Section 106 Cases
IV. New Business

DATE: The meeting will begin at 9:00 a.m., Wednesday, June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 430, Washington, D.C. 20005; 202–254–3967.

Dated: May 5, 1983.

John M. Fowler,
Acting Executive Director.

[FR Doc. 83-12400 Filed 5-6-83; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1983 Tobacco Price Support Levels

AGENCY: Commodity Credit Corporation (CCC), Department of Agriculture.

ACTION: Notice of proposed determination of 1983 Tobacco Price Support Levels.

SUMMARY: The purpose of this Notice of Proposed Determination is to request comments with respect to levels of price support which are required to be determined for all eligible kinds of tobacco for the 1983 marketing year in accordance with the Agricultural Act of 1949, as amended. The public is invited to submit written comments, views and recommendations concerning the proposed determinations.

DATE: Comments must be received on or before June 9, 1983 in order to be assured of consideration.

ADDRESS: Written comments should be sent to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741, USDA South Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert H. Miller (202) 447–8839 or Robert Tarczy (202) 447–5167.

A Preliminary Regulatory Analysis Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from Mr. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been classified as "not major." The provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases, Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this notice.

Price suport is required to be made available for each crop of a kind of tobacco for which quotas are in effect or for which marketing quotas have not been disapproved by producers at a level which is determined in accordance with a formula prescribed in Section 106 of the Agricultural Act of 1949, as amended (7 U.S.C. 1445). Under Section 106(b), the level of support for such tobacco is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest, and taxes (collectively referred to as the "parity index") for the three previous calendar years to the average index of such prices paid by farmers, including wage rates, interest, and taxes for the 1959 calendar year.

Section 106(d) of the 1949 Act further provides that if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. However, the weighted average of the support rates for all eligible grades of such kind of tobacco must reflect, after such reduction, not less than: (1) 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under section 106, if the support level therefore is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefore is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is required to take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

For the 1982 crop year, the Secretary of Agriculture reduced the level of support for flue-cured, types 11–14, burley, type 31, Virginia fire-cured, type 21, dark air-cured, types 35–36, cigar binder, types 51–52, and Puerto Rican, type 46, to the maximum extent permitted by Section 106(d) of the 1949 Act. However, no such adjustment in the levels of support was made for Kentucky-Tennessee fire-cured, tupes 22–23, Virginia sun-cured, type 37, and cigar filler and binder, types 42–44, 54–55.

In determining the levels of price support for the 1983 crops of various kinds of tobacco, the average parity indexes for the three previous crop years are: 1980=950, 1981=1035, 1982=1071. The 3-year average is 1,019. The ratio of the 1980–82 average parity index (1,019) to the 1959 average parity index (298) is 3.42. Accordingly, the support level for the 1983 crop of each eligible kind of tobacco prior to any adjustments (i.e., basic support level) is 342 percent of the 1959 level as shown in the following table:

Kind and type of tobacco	Adjustment factor (number)	Support level (cents per pound) 1959	Support level (cents per pound) 1983
Flue-cured, types 11–14	3.42	55.5	189.8
Burley, type 31	3.42	57.2	195.6
Virginia fire-cured, type 21	3.42	38.8	132.7
Kentucky-Tennessee fire-cured, types 22–23	3.42	38.8	132.7
Dark air-cured, types 35–36	3.42	34.5	118.0
Virginia sun-cured, type 37	3.42	34.5	118.0
Cigar binder, types 51–52	3.42	39.6	135.4
Cigar filler and binder, types 42–44, 53–55	3.42	28.6	97.8
Puerto Rican, type 46	3.42	29.7	101.6

The increase in the basic support level from the 1982 year to the 1983 crop year is shown in the following table, which also shows the increase multiplied by 65 percent.

[Cents per pound]

Kind and type	Basic support level 1982	Basic support level 1983	Increase in 1983 from 1982 Unadjusted	Increase in 1983 from 1982 Adjusted [1]
Flue-cured, types 11–14	175.9	189.8	13.9	9.0
Burley, type 31	181.3	195.6	14.3	9.3
Virginia fire-cured, type 21	123.0	132.7	9.7	6.3
Kentucky-Tennessee fire-cured, types 22–23	123.0	132.7	9.7	6.3
Dark air-cured, types 35–36	109.4	118.0	8.6	5.6
Virginia sun-cured, type 37	109.4	118.0	8.6	5.6
Cigar binder, types 51–52	125.5	135.4	9.9	6.4
Cigar filler and binder, types 42–44, 54–55	90.7	97.8	7.1	4.6
Puerto Rican, type 46	94.1	101.6	7.5	4.9

[1] 65 percent of total increase.

The increases in 1983 from 1982 (unadjusted and adjusted) when added to the 1982 effective supprot level result in the following minimum and maximum adjusted support levels for the 1983 crops of various kinds of tobaccos:

[Cents per pound]

Kind and type	Minimum	Maximum
Flue-cured, types 11–14	178.9	183.8
Burley, type 31	184.4	189.4
Virginia fire-cured, type 21	125.1	128.5
Kentucky-Tennessee fire-cured, types 22–23	129.3	132.7
Dark air-cured, types 35–36	111.3	114.3
Virginia sun-cured, type 37	115.0	118.0
Cigar binder, types 51–52	127.6	131.1
Cigar filler and binder, types 42–44, 54–55	95.3	97.8
Puerto Rican, type 46	95.8	98.4

The supplies of all kinds of tobacco for the 1982 crop year for which price support is made available are in excess of their respective reserve supply levels, i.e., the supply deemed adequate to meet domestic use and export needs. During the 1982 crop year, the percentage of the 1982 crop which was pledged as collateral for CCC price support loans ranged from 7 percent for Virginia fire-cured (type 21) to nearly 100 percent for Puerto Rican filler (type 46).

As of February 1, 1983, the tobacco loan associations held stocks (redried weight) of 842.9 million pounds (773.5 million of which were uncommitted) representing 1975 through 1982 crops of various kinds of tobacco.

Despite marketing quota reductions, the projected supplies of the various kinds of tobacco for the 1983 crop year will remain in excess of the respective reserve supply level as indicated in the following table:

Kind and type	1982/83 Total supply [1]	1982/83 Reserve supply level	1983/84 Total supply [1]	1983/84 Reserve supply level
	Million Pounds			
Flue-cured, types 11–14	3,135	2,588	3,035	2,550
Burley, type 31	1,851	1,678	1,881	1,672
Virginia fire-cured, type 21	14.4	12.6	14.5	13.6
Kentucky-Tennessee fire-cured, types 22–23	108.1	95.9	105.6	98.7
Dark air-cured, types 35–36	58.5	52.0	54.9	51.4
Virginia sun-cured, type 37	2.3	2.0	2.4	2.2
Cigar binder, types 51–52	10.2	8.0	10.3	9.1
Cigar filler and binder, types 42–44, 54–55	87.6	82.1	83.7	79.3
Puerto Rican, type 46	8.0	[2] 3.6	7.5	[2] 3.6

[1] Projected in Final Regulatory Impact Analyses for Quota Determinations.
[2] Three times annual disappearance past 3 marketing years.

Proposed Determinations

Accordingly, the Secretary of Agriculture proposes to determine and announce with respect to the kinds of 1983-crop tobacco set forth in the following table and adjusted price support level within the ranges indicated. Comments are requested with respect to the appropriate level of price support within these ranges for the various kinds of tobacco.

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[Cents per pound]

Kind and type of tobacco	Average price support level
Flue-cured, type 11–14	178.9 - 183.8
Burley, type 31	184.4 - 189.4
Virginia fire-cured, type 21	125.1 - 128.5
Kentucky-Tennessee fire-cured, types 22–23	129.3 - 132.7
Dark air-cured, types 35–36	111.3 - 114.3
Virginia sun-cured, type 37	115.0 - 118.0
Cigar binder, types 51–52	127.6 - 131.1
Cigar filler and binder, types 42–44, 54–55	95.3 - 97.8
Puerto Rican, type 46	95.8 - 98.4

Signed at Washington, D.C. on May 5, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-12501 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Northeastern Area-State and Private Forestry; Decision Notice and Finding of No Significant Impact; Cooperative Federal-State Spruce Budworm; Suppression Project, Vermont, 1983

An environmental assessement (EA) that discusses the 1983 proposed Cooperative Suppression Project for spruce budworm in Vermont has been prepared. In this project, the Vermont Department of Forests, Parks and Recreation in cooperation with the USDA Forest Service proposes to apply *Bacillus thuringiensis* (Bt) on about 4,000 acres and Sevin 4 Oil on about 1,000 acres in Caledonia, Essex, Lamoille, Orleans, and Washington Counties.

Decision Notice

It is my decision to provide Federal financial assistance for Vermont's proposed 1983 Spruce Budworm Cooperative Suppression project. As required by the National Environmental Policy (NEPA) reglations, this decision is based on an environmental analysis. The 1983 proposed project meets USDA Forest Service environmental, biological, economic and Federal role criteria for financial assistance. Mitigation measures and specific requirements are described in the EA and are adopted as minimum precautions.

Finding of No Significant Impact

I have determined that the proposed project based on the analysis described in the environmental Assessment, is not a major Federal action and will not cause any significant environmental impacts or adverse effects. Therefore, an environmental impact statement will not be prepared. This determination considered these factors: (a) EPA has approved Bt and Sevin 4 Oil for the proposed use; (b) all applications will comply with State and Federal laws; (c) management requirements, constraints and mitigation measures ensure against significant adverse effects; and (d) physical and biological effects are limited to planned treatment areas; there will be on adverse effects on any endangered plants or animals known to inhabit the affected environment; and (e) there are no apparent adverse cumulative or secondary effects.

Copies of the Environmental Assessment are available for public review at the following offices:

Agency of Environmental Conservaton, Department of Forests, Parks and Recreation, Montpelier, Vermont 05602;

USDA Forest Service, Northeastern Area, State and Private Forestry, Louis C. Wyman Forestry Sciences Laboratory, P.O. Box 640, Durham, New Hampshire 03824; or

USDA Forest Service, Northeastern Area, State and Private Forestry, 370 Reed Road, Broomall, PA 19008.

Implementation may take place immediately after the date of this decision. This decision is not subject to administrative review (appeal) pursuant to 36 CFR Part 211.19.

Dated: May 2, 1983.

Thomas N. Schenarts,

Area Director, Northeastern Area.

[FR Doc. 83-12459 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-11-M

Mount St. Helens Scientific Advisory Board, Gifford Pinchot National Forest, Vancouver, Washington; Meeting

The Mount St. Helens Scientific Advisory Committee will meet at 9:00 a.m., May 26, 1983, at the Gifford Pinchot National Forest, Forest Supervisor's Office, 500 West 12th Street, Vancouver, Washington 98660, to develop scientific advice and recommendations relative to:

1. Corps of Engineers' planning process for Spirit Lake, Toutle, and Cowlitz Rivers.

2. On-going research project in the Mount St. Helens National Volcanic Monument.

3. Interpretation from the Congressional Record of "unimpeded" terminology in the Act.

4. Open discussion of topics of interest to the advisory board.

The meeting will be open to the public. Persons who wish to attend should notify Dr. Jack E. Wenjum, Chairperson, c/o Gifford Pinchot National Forest, Forest Supervisor's Office, 500 West 12th Street, Vancouver, WA 98660, 206-696-7570. Written statements may be filed with the committee before or after the meeting.

Dated: May 4, 1983.

Robert D. Tokarczyk,

Forest Supervisor.

[FR Doc. 83-12465 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-11-M

Draft Environmental Impact Statement for a Regional Plan for the Lake Tahoe Basin, Tahoe Regional Planning Agency; South Lake Tahoe, California; Correction Notice

A draft environmental impact statement for a regional plan for the Lake Tahoe Basin was distributed to the public February 24, 1983, by the Tahoe Regional Planning Agency. In cooperation with the Planning Agency, the Forest Service published a notice of availability of the EIS in the **Federal Register** on March 31, 1983 (FR Vol. 48, No. 63, p.13470).

Pub. L. 95-557 was inadvertently quoted as the Compact that established the Tahoe Regional Planning Agency. The law that actually established the planning agency was Pub. L. 95-551.

All other information contained in the notice remains the same.

Dated: April 21, 1983.

David E. Ketcham,

Director of Environmental Coordination, USDA-Forest Service.

[FR Doc. 83-12428 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-11-M

Interchange of Army Lands and National Forest Lands

In the matter of; Joint Interchange Order Between Department of the Army and Department of Agriculture; Interchange of Administrative Jurisdiction of Department of the Army Lands and National Forest Lands.

This is a notice of an interchange order which describes the interchange of administrative jurisdiction on 763.84 acres of land within the boundaries of the Jefferson National Forest, Virginia, from the Department of Agriculture to the Department of the Army and the interchange of administrative jurisdiction of 5,087 acres of land within the Jefferson National Forest, Virginia, from the Department of the Army to the Department of Agriculture.

The interchange order describes the tracts briefly. Legal descriptions are on file in the Office of the District Engineer, Huntington District, Corps of Engineers, Huntington, West Virginia, and the Office of the Forest Supervisor, Jefferson National Forest, Roanoke, Virginia. The publication of this order will complete the interchange. Therefore, the order is published as follows:

R. Max Peterson,

Chief.

May 4, 1983.

Department of the Army

Department of Agriculture

North Fork of Pound Lake and John W. Flannagan Dam and Reservoir Projects; Virginia

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands.

By virtue of the authority vested in the Secretary of the Army and in the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

(1) The lands under the jurisdiction of the Department of the Army described in Exhibit A attached hereto and made a part hereof, which lands are within the exterior boundaries of the Jefferson National Forest, Virginia, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record and to such continued use by the Corps of Engineers of all of these lands which are necessary for the operation and maintenance of the North Fork of Pound River Lake project for its intended purpose of flood control; including, but not limited to the right to flooding of the area, to construct and maintain transmission lines, utilities, access roads, and to make improvements in the aid of navigation, and the right to prohibit construction and placing of fill material below spillway crest elevation 1644', except as approved in writing by the District Engineer. The Secretary of Agriculture will assume administration of all assignable outgrants and leases now existing on the North Fork of Pound River Lake project lands hereby transferred.

(2) The National Forest lands described in Exhibit B, attached hereto and made a part hereof, which are a part of the Jefferson National Forest, Virginia, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army, subject to outstanding rights or interests of record.

(3) Pursuant to Section 2 of the aforesaid Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to the Department of the Army lands comprising the John W. Flannagan Dam and Reservoir Project. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereby subject to the laws applicable to lands acquired under the Act of March 1, 1911 (38 Stat. 961), as amended.

Dated: February 24, 1983.

John O. Marsh, Jr.,

Secretary of the Army.

Dated: March 22, 1983.

John R. Block,

Secretary of Agriculture.

Exhibit A: Lands Transferred From the Secretary of the Army to the Secretary of Agriculture

Land under the jurisdiction of the Department of the Army for or in connection with the North Fork of Pound Lake project located in Wise County, Virginia, as follows:

Portions of Corps of Engineers Tract Numbers

111	114	131
112	119	
113	121	

All of Corps of Engineers Tract Numbers

100	222	419
101	223	421-1
102	224	421-2
103	226	422
104	227	423
106	227c	425c
107	228	501-1
108	229	501-2
109	230	502
111c	231	503
129	232	509
131c	233	511
201	234	512
202-1	300	513
202-2	301c	517
202-3	302	518
202-5	303	519
202-6	304	521
203	305	522
204	306	524
206	307	526
207	308	528
208	309	528c
209	403	529
210	404	531
211	406	533
212	407	534
213	408	536
214	411	537
215	411c	538
216	412	539
217	413	541
218	414	542
219	416	543
220	417	000
221	418	

All lands transferred herein consist of 5,087.00 acres, more or less. Legal descriptions of the transferred tracts, and Real Estate Segment Maps depicting their location, are on file in the office of the District Engineer, Huntington District Corps of Engineers, Huntington, West Virginia, and the office of the Forest Supervisor, Jefferson National Forest, Roanoke, Virginia.

Exhibit B; Lands Transferred From the Secretary of Agriculture to the Secretary of the Army

Land under the jurisdiction of the Department of Agriculture for or in connection with the Jefferson National Forest located in Dickenson County, Virginia, as follows:

Portions of Forerst Service Tract Numbers

550 550f

All of Forest Service Tract Numbers

550g
550h 550l:

All lands transferred herein consist of 763.84 acres, more or less. A complete legal description of the transferred tracts and survey plats depicting their location are on file in the office of the Forest Supervisor, Jefferson National Forest, Roanoke, Virginia, and in the office of the District Engineer, Huntington District Corps of Engineers, Huntington, West Virginia.

[FR Doc. 83-12427 Filed 5-9-83; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 83-5-21, Docket 41455]

Applications, etc.: Order To Show Cause; Alsair Vacations Canada Ltd. et al.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause.

SUMMARY: The Board proposes to cancel the section 402 foreign air carrier permits of certain indirect foreign air carriers of passengers.

Dockets: 41455 and 38487.

Basis for Decision: The section 402 permit procedures for granting the necessary economic authority to indirect foreign air carriers of passengers has been replaced by a simple registration procedure (see SPR-179, 46 FR 56605, November 18, 1981 and SPR-183, 47 FR 5204, February 4, 1982). Ample time—over one year—has been provided for such permit holders to register under the new procedures. Thus, the foreign air carrier permits now held by the 18 such indirect foreign air carriers (see attachment to this notice) are duplicative and unnecessary, and should be cancelled. In addition a pending renewal application of Deutsches Reiseburo GmbH (Germany) d/b/a Der Travel Services has been dismissed as moot.

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Objections: All interested persons having objections to the Board's tentative findings and conclusions that these permits should be cancelled, as described in the order cited above, shall, no later than June 24, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the indirect foreign air carriers listed in the attachment to the order cited above, the Department of Transportation, and the Department of State. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions to cancel the foreign air carrier permits of the indirect foreign air carriers listed on the attachment to this notice.

ADDRESSES:

For Objections: Docket 41455, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Addresses for the foreign indirect air carriers are listed in the attachment to the order cited above.

To Get a Copy of the Complete Order: Request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Contact Regis P. Milan, Jr., Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5878.

By the Civil Aeronautics Board: May 3, 1983.

Phyllis T. Kaylor,

Secretary.

Name and address of indirect air carrier (or its designated agent) holding section 402 permit	Holder's homeland	Order No. and effective date of permit
Allair Vacations Canada Limited, Anderson & Pendleton, 1000 Connecticut Ave., N.W., Suite 707, Washington, DC 20006	Canada	76–1–64, Jan. 15, 1976.
Club Mediterranee S.A. (France), d/b/a/ Club Med. Inc., (U.S.A.)[1] United States Corporation Company, 306 South State Street, Dover, Delaware.	France	76–8–89, Aug. 14, 1978.
Deutsches Reiseburo GmbH (Germany), d/b/a/ Der Travel Service,[1] Paul Reiber, 6714 Whittier Avenue, McLean, VA 22101.	Federal Republic of Germany	78–8–61, Aug. 11, 1978.
Globus-Gateway Tours, Ltd. (Switzerland), John A. Martinen, 69–15 Austin Street, Forest Hills, NY 11375	Switzerland	78–5–9, May 2, 1978.
Holland America Lijn, N.V., Borce & Garofalo, P.C., 1120 Connecticut Ave., N.W., Suite 460, Washington, DC 20036	Netherlands	80–5–30, May 5, 1980.
International Developers, Inc. (JAPAN) d/b/a/ Toyo World Enterprises of California, Inc., Harry A. Bowen, Bowen and Allin, 2000 K Street, N.W., Suite 350, Washington, DC 20006.	Japan	79–1–123, Jan. 19, 1979.
Japan Travel Bureau, Inc. d/b/a/ Japan Travel Bureau International Inc.,[1] Mr. Carol Lyttle, Jr., Whitman & Ransom, 522 Fifth Avenue, New York, NY 10036.	Japan	80–6–174, June 27, 1980.
Jetsave Ltd. (United Kingdom),[1] Paul Mowforth, 17044 Collins Avenue, Miami Beach, FL 33160	United Kingdom	77–3–44, Mar. 5, 1977.
Kinki Nippon Tourist Co. (Japan), d/b/a/ Kintetsu World Express, Inc. (U.S.A.), Mr. Robert N. Meeser, 910 17th Street, N.W., Suite 828, Washington, DC 20006.	Japan	79–8–149, Aug. 27, 1979.
Kuoni Travel Limited (Switzerland), d/b/a Kuoni Travel, Inc., Mr. Richard J. Kendall, Shew, Pittman, Potts & Trowbridge, 910 17th Street, N.W., Washington, DC 20006.	Switzerland	76–6–135, June 17, 1976
Laker Air Travel Limited,[2] Mr. Robert M. Beckman, 1001 Connecticut Ave., N.W., Suite 235, Washington, DC 20036	United Kingdom	80–5–96, May 14, 1980.
Reiseburo Schwaben International GmbH (Germany), d/b/a Schwaben,[1] Morris R. Garfinkle, Galland, Kharasch, Gallens & Short, P.C., 1054 31st street, N.W., Washington, DC 20007.	Federal Republic of Germany	78–5–7, May 2, 1978.
Sun Tours Limited (Canada), Mr. Paul M. Ruden, Wilner & Scheiner, 1200 New Hampshire Ave., N.W., Washington, DC 20036.	Canada	77–5–55, May 11, 1977
Sytour SC, Robert M. Hausman, Hausman and Rosenthal, 2020 K Street, N.W., Washington, DC 20006	Belgium	78–1–93, Jan. 19, 1978.
Thomas Cook Overseas, Ltd. (Great Britain), d/b/a Thomas Cook, Inc. (U.S.A), Mr. Charles A. Hobbs, Williamson, Cragun & Barker, 1735 New York Ave., N.W., Washington, DC 20006.	United Kingdom	77–3–90, Mar. 14, 1977
Top Tours, S.A. (Spain), d/b/a TTI Travel, Inc. (U.S.A.), Howard S. Boros, Boros & Garofalo, P.C., 1120 Connecticut Ave., N.W., Suite 460, Bender Building, Washington, DC 20036.	Spain	80–5–184, May 28, 1980.
Travac, A.G. (Switzerland),[3] W. J. Deacon, 1270 Broadway, New York, NY 10001	Switzerland	79–8–145, Aug. 27, 1979.
Travelair AG (Switzerland),[1] 530 Fifth Avenue, New York, NY 10036	Switzerland	79–8–146, Aug. 27, 1979.

[1] Registered under new Subpart F "Regsestion of Foreign Charter Operators", to Part 380.

[2] Laker Air Travel Limited (LATL) has not registered under Part 380. However, LATL's former owners have registered under the name Freddie Laker's Skytrain Limited d/b/a Laker Travel d/b/a Laker.

[3] Travac, A.G. (Switzerland) has not registered under Part 380. The sole owner of this entity also is a part owner (45%) of Travac Tours and Charter, Inc. (another Swiss charter operator) which has registered under Part 380.

[FR Doc. 83–12329 Filed 5–9–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; University of California et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230

Docket No.: 83–91. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94550. Instrument: Excimer Laser, Model EMG 101E and Accessories, Manufacturer: Lambda Physik GmbH and Co., West Germany. Intended use of instrument: The instrument will be used for studies of tritium recovery surface physics and chemistry, and other laser photophysics and chemistry applications. In the tritium studies, the ultraviolet laser output will be used to produce gas-phase radicals to study reaction kinetics. It will also be used as a CO_2 laser to pump an ammonia laser, which will be used for tritium recovery. In the surface studies, its wide range of available ultraviolet wavelengths, high pulse energy, and long gas fill lifetime will permit studies of surface cleaning, doping and metal and insulator deposition on semiconductors.

Application received by Commissioner of Customs: April 21, 1983.

Docket No.: 83–173. Applicant: National Institutes of Health, Radiation Oncology Branch/Division of Cancer Treatment/National Cancer Institute, 9000 Rockville Pike, Building 10, Room B3B69, Bethesda, MD 20205. Instrument: Medical Linear Accelerator (Microtron). Manufacturer: Acanditronix, Sweden. Intended use of instrument: The instrument is intended to be used for studing the use of intraoperative radiation. Application received by Commissioner of Customs: April 19, 1983.

Docket No.: 83–175. Applicant: University of Florida/Shands Hospital, Inc., Division of Surgical Pathology, Box J–275, JHMHC, Gainesville, FL 32610. Instrument: Electron Microscope, Model 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be use to examine the ultrastructure of human and other animal tissues during experiments which require the identification of the pathologic metabolism, malignant transformation and virus infection. In addition, the instrument will be used in teaching graduate students, medical students, and pathology residents in the courses: Basic Pathology, Surgical Pathology, Masters and Doctoral Thesis and Dissertation and Pathology Residency. Application Received by Commissioner of Customs: April 19, 1983.

Docket No.: 83–177. Applicant: University of California, San Diego, Department of Physics, B–019, La Jolla, CA 92093. Instrument: Superconducting Magnet with Gradient Coils and Accessories. Manufacturer: Cryogenic Consultants Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used for research involving the characterization of magnetic and superconducting materials to work towards an understanding of the mechanism underlying these phenomena. Future work includes continuing studies of ternary rare earth magnetic superconductors, valence fluctuations in various rare earth compounds and the effect of pressure on these and other substances. An important property in any of these investigations is the magnetic susceptibility as a function of temperature. The instrument will also be used to train four graduate students in physics research in the operation of the Faraday balance susceptometer and the associated low temperature apparatus. Application received by Commission of Customs: April 19, 1983.

Docket No.: 83–178. Applicant: Michael Reese Hospital and Medical Center, Lake Shore Drive at 31st Street, Chicago, IL 60616. Instrument: Therac 20/Saturne Liner Accelerator, Model G2900C with Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of instrument: The instrument is intended to be used for the following neutron versus photon plus electron studies:

1. A randomized study of neutrons and conventional radiotherapy in malignant inoperable, recurrent, and resectable head and neck tumors;

2. Non-randomized study of the value of radiation therapy using neutrons alone or in combination with surgery for the treatment of clinical stage B_2 or C or D_1 bladder carcinoma;

3. The value of radiation therapy using neutrons alone or in combination with photons in the treatment of clinical stage C adenocarcinoma of the prostate;

4. Neutron therapy in the treatment of squamous cell carcinoma of uterine cervix;

5. Treatment of squamous cell carcinoma of the oral cavity, pharynx and larynx using neutron therapy as the only planned modality;

6. Neutron therapy in the treatment of potentially operable patient with squamous cell carcinoma of the oral cavity, pharynx and larynx;

7. Efficacy of a supplementary neutron boost following irradiation of squamous cell carcinoma of the oral cavity, pharynx and larynx;

8. A randomized study of neutron therapy in the treatment of non-resectable adenocarcinoma of the pancreas;

9. A pilot study of the use of neutron beam therapy combined with Misonidazole in the treatment of high grade astrocytomas of the brain;

10. A non-randomized study of the efficacy of neutron beam therapy followed by systemic chemotherapy in the treatment of non-resectable epidermoid cancers of the lung;

Additional cooperative protocol studies not entailing the use of neutrons include:

11. A phase II protocol for the evaluation of Misonidazole combined with radiation in the treatment of patients with advanced pelvic malignancy;

12. A randomized phase III protocol for the evaluation of Misonidazole combined with radiation in the treatment of patients with brain metastases;

13. Evaluation of Misonidazole combined with radiation in the treatment of non-resectable carcinomas of the esophagus.

In addition, the instrument is intended to be used in the training of physicians. Application received by Commissioner of Customs: April 20, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–12300 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–25–M

Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was established on October 5, 1981, pursuant to the charter of the Committee.

The Fiber Optic Subcommittee was formed to study fiber optic communications equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and place: May 24, 1983, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in

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5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–2583.

Dated: April 29, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83–12456 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–25–M

Telecommunication Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and place: May 25, 1983, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. The committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–2583.

Dated: April 29, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83–12457 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–25–M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Northwest Equipment Co., Inc., et al.

Petitions have been accepted for filing from the following firms: (1) Northwest Equipment Company, Inc., P.O. Box 10473, Yakima, Washington 98909, producer of farm implements, packing equipment, conveyors and parts (accepted April 12, 1983); (2) Homestead Woolen Mills, Inc., West Swanzey, New Hampshire 03469, producer of fabrics (accepted April 12, 1983); (3) Interstate Drop Forge Company, Milwaukee, Wisconsin 53216, producer of steel forgings and dies (accepted April 12, 1983); (4) Moore Clear Company, P.O. Box 42248, Portland, Oregon 97242, producer of iron castings (accepted April 12, 1983); (5) Progressive Furniture Company, Inc., N.W. Corner 32nd & Reed Streets, Philadelphia, Pennsylvania 19146, producer of dinette furniture (accepted April 12, 1983); (6) Wall Industries, Inc., P.O. Box 560, Elkin, North Carolina 28621, producer of cordage (accepted April 12, 1983); (7) Rielly Company, Inc., 109 River Street, Valatie, New York 12184, producer of women's and girls' apparel tops (accepted April 12, 1983); (8) Springfield Foundry Company, Inc., 295 Pasco Road, Indian Orchard, Massachusetts 01151, producer of iron castings (accepted April 12, 1983); (9) The Lightning Group, Inc., P.O. Box 8, Duncannon, Pennsylvania 17020, producer of juvenile furniture, toys and games (accepted April 12, 1983); (10) BGW Systems, Inc., 13130 South Yukon Avenue, Hawthorne, California 90250, producer of audio equipment (accepted April 12, 1983); (11) Houck Industries, Inc., 437 North M Street, Tulare, California 93274, producer of metal drawer slides (accepted April 12, 1983); (12) Arrow Huss, Inc., 5600 Butler Lane, Scotts Valley, California 95066, producer of amusement park rides (accepted April 13, 1983); (13) Terex Corporation, 5405 Darrow Road, Hudson, Ohio 44236, producer of bulldozers, haulers, loaders and scrapers (accepted April 13, 1983); (14) The L. N. Gross Company, 701 Beta Drive, Mayfield Village, Ohio 44143, producer of women's jackets, skirts, blouses and slacks (accepted April 14, 1983); (15) Nicole Originals, Ltd., 3701 N. Ravenswood Avenue, Chicago, Illinois 60613, producer of women's dresses (accepted April 14, 1983); (16) Chromex Chemical Corporation, 19 Clay Street, Brooklyn, New York 11222, producer of writing instruments and parts, ink and cosmetics (accepted April 14, 1983); (17) Macalloy Corporation, P.O. Box 130, Charleston, South Carolina 29402, producer of ferrochromium (accepted April 15, 1983); (18) Tru-Cut, Inc., 28 W. 020 Commercial Avenue, Barrington, Illinois 60010, producer of drill bits (accepted April 15, 1983); (19) Chapman Farms, R.D. No. 1, Cassville, New York 13318, producer of potatoes, peas, carrots and oats (accepted April 15, 1983); (20) Rainbow Dyeing & Finishing, Inc., 20–21 Wagaraw Road, Fair Lawn, New Jersey 07401, producer of fabric (accepted April 18, 1983); (21) Volco Brass and Copper Company, 801 Kenilworth Boulevard, Kenilworth, New Jersey 07033, producer of wire (accepted April 18, 1983); (22) Kolet Industries Company, Inc., P.O. Box 1701, Lahaina, Hawaii 96761, producer of hats (accepted April 18, 1983); (23) Tiny Folks, Inc., 135 West 29th Street, New York, New York 10001, producer of children's jumpers, skirts, blouses; overalls and pants (accepted April 19, 1983); (24) Pumice Products Company, Inc., 1300 East Franklin Road, Meridian, Idaho 83642, producer of concrete building blocks (accepted April 19, 1983); (25) Leo's Quality Foods, Inc., 1850 W. Slauson Avenue, Los Angeles, California 90047, processor of meat (accepted April 19, 1983); (26) El Paso Brick Company, Inc., P.O. Box 12336, El Paso, Texas 79912, producer of brick and tile (accepted April 20, 1983); (27) The Arkansas Company, Inc., 185 Foundry Street, Newark, New Jersey 07105, producer of chemicals (accepted April 21, 1983); (28) Tipco Sportswear, Inc., 1676 Atlanta Road, S.E., Smyrna, Georgia 30080, producer of women's slacks and shorts (accepted April 22, 1983); (29) Whitin Roberts Company, P.O. Box 1889, Charlotte, North Carolina 28233, producer of textile machinery and parts (accepted April 22, 1983); (30) Michael Berkowitz International, Inc., 180 Madison Avenue, New York, New York 10016, producer of men's and women's sleepwear and robes; women's lingerie, blouses and dresses; and disposable face masks (accepted April 26, 1983); (31) Omega Fashions, Ltd., 387 Park Avenue South, New York, New York 10016, producer of women's belts (accepted April 27, 1983); (32) All Fab Corporation, Building C–19, Paine Field, Everett, Washington 98204, producer of airplane parts (accepted April 27, 1983); (33) I. D. Watch Case Company, Inc., 137–11 90th Avenue, Jamaica, New York 11435, producer of watch cases and bands (accepted April 27, 1983); and (34) Suisan Fruit Processing Company, Inc., 1965 Kamehameha Avenue, Hilo, Hawaii 96720, processor of fruit (accepted April 29, 1983);

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.039, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83–12458 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–25–M

Minority Business Development Agency

Solicitation of Applications

May 3, 1983.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning September 1, 1983 in the Orlando, Florida SMSA. The cost of the project is estimated to be $187,000. The maximum Federal participation amount is $168,300. The minimum amount required for non-Federal participation is $187,000. The award number will be 04–10–83010–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: June 3, 1983.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency (Appropriate Address).

FOR FURTHER INFORMATION CONTACT: Gordon Anderson/Karen Davis, Telephone 404–881–3094.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement.

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants.

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process.

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications.

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—the organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and expereience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—background credentials and references for the owners of the organization and a capability

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statement of what the organization can do.

—knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and adminsitrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—clear explanations of all expenditures proposed, and

—the extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC). Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A–95 requirements.

Questions concerning the proceeding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be be held at the above address on May 19, 1983 at 1:00 p.m.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)

Dated: May 3, 1983.

Stanley W. Tate,

Regional Director.

[FR Doc. 83–12484 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit; Mystic Marinelife Aquarium

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and IMporting of Marine Mammals (50 CFR Part 216).

1. Applicant: Mystic Marinelife Aquarium (P13"0") Mystic, Connecticut 06355.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Gray seals (*Halichoerus grypus*) (2).

4. Type of Take: To take for permanent maintenance.

5. Location of Activity: Canadian, Nova Scotia, waters.

6. Period of Activity: Three (3) years.

The arrangement and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangement and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: May 4, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83–12489 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Receipt of Application for Permit; Oregon State University

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Dr. Bruce R. Mate and James R. Harvey (P129D), School of Oceanography, Oregon State University Marine Science Center, Newport, Oregon 97365.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Harbor seals (Phoca vitulina). 90

4. Type of Take: Radio tagging 30 juvenile or non-lactating adults per year. Up to 100 harbor seals may be harassed up to ten times a year in the course of tagging the animals.

5. Location of Activity: Oregon Coast, Yaquina Bay.

6. Period Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following officers:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 4, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–12488 Filed 5–9–83; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Crops of Engineers, Department of the Army

Intent To Prepare Draft Supplement to the Final Environmental Impact Statement (EIS) of the Eastern Rapides and South-Central Avoyelles Parishes, Louisiana, Project

AGENCY: *Lead Agency:* Army Corps of Engineers, DOD.

Cooperating Agency: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare a draft supplement to the final EIS.

SUMMARY: 1. *Proposed Action.* The proposed work to be analyzed in this statement consists of actions by both the Soil Conservation Service (SCS) and the Corps of Engineers (COE). The SCS portion consists of two separate watershed projects within Rapides, Avoyelles, and St. Landry parishes to provide major drainage laterals which were developed under the authority of Pub. L. 83–566. The COE portion consists of improvements to provide for an adequate outlet for the watershed projects to be implemented. The authorized improvements consist of clearing and snagging or channel enlargement of the Chatlin Lake Canal, Bayou du Lac, Bayou des Glaises, and the Bayou des Glaises diversion channel from the vicinity of Alexandria in Rapides Parish to Darbonne Bay near Courtableau in St. Landry Parish. At Darbonne Bay a gated drainage structure and associated works would provide for the diversion of floodflows through the west Atchafalaya Basin protection levee to the West Atchafalaya Floodway, and an outlet channel would convey floodflows from the structure to low land in the floodway. An additional outlet channel would be provided through the Butte LaRose ridge in the Atchafalaya Basin Floodway near Butte LaRose, Louisiana, in St. Martin Parish. The acquisition and development for waterfowl and crawfish of the 3,700 acre Lake Pearl area in Avoyelles Parish is included as a mitigative feature of the project.

2. *Alternatives.* a. Two COE action alternatives other than the proposal were considered in the final array of alternatives. Although these final two alternatives have been eliminated due to excessive costs they are identified for the record.

(1) Plan 1 proposed the construction of a new channel from approximately Long Bridge to Hamburg and a pumping station to evacuate the floodflows from the basin. All features above Long Bridge would be similar to the proposed action. There would be no improvements to watercourses or other construction below this area.

(2) Plan 2 proposed the implementation of all channel improvement features from Chatlin Lake Canal to just north of Hwy. U.S. 190. Beginning downstream of the weirs just below Hwy. 190, the landside borrow pit adjacent to the protection levee would be enlarged to Lake Fausse Point. Additional enlargement of the Charenton Drainage Canal would be accomplished to allow the passage of floodflows to West Cote Blanche Bay and the Gulf of Mexico.

b. The alternative of no action is also being considered.

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3. *Scoping Process.* a. The initial public meeting was held in November 1964 in connection with the survey study which resulted in the authorization for flood control improvements in the area. Public meetings were held on June 16 and 17, 1976, in Marksville and Opelousas, at which the proposal and ten alternatives were presented to the public for consideration. Various informal meetings have been held with federal and state agencies regarding evaluation of the project upon fish and wildlife resources.

b. Significant issues to be addressed in the draft supplemental EIS include effects on the following resources: agricultural lands, bottom land hardwood forests, aquatic resources, Henderson Lake, Lake Pearl, wildife resources, threatened and endangered species, cultural resources, water quality, recreation resources, and socioeconomic resources.

c. The U.S. Fish and Wildlife Service will provide a draft Coordination Act Report to accompany the draft supplemental EIS.

d. Coordination will be maintained with the U.S. Fish and Wildlife Service, the Louisiana Department of Wildlife and Fisheries, and any other interested agency as the study progresses.

4. *Availability.* A definite schedule has not been established for the availability of the draft supplemental EIS. Funds are not available in FY 84 for report preparation. If funds are available in FY 85, the draft supplemental EIS should be available by January, 1985.

ADDRESS: Questions concerning the proposed action and the draft supplemental EIS should be addressed to Mr. William C. Wilson (LMNPD–RE), U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, LA 70160, telephone (504) 838–2527.

Dated: May 2, 1983.

Robert C. Lee,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–12481 Filed 5–9–83; 8:45 am]

BILLING CODE 3710–GX–M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs, Education Department.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Women's Educational Programs, and its Executive, Civil Rights, Federal Policies, Practices, and Programs, and Women's Educational Equity Act Program Committees. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

June 1, 1983, 1:00 p.m. to 5:00 p.m.
June 2, 1983, 7:30 a.m. to 9:30 a.m., 10:00 a.m. to 12:30 p.m. and 2:00 p.m. to 5:00 p.m.
June 3, 1983, 9:00 a.m. to 12:00 p.m., and 1:30 p.m. to 3:30 p.m.

ADDRESS: The meetings will be held at Hotel Washington, Pennsylvania Avenue at 15th Street, N.W. and also at the Council offices at 425 13th Street, N.W., Suite 416, Washington, D.C. (See details below for exact location and times of meetings.)

FOR FURTHER INFORMATION CONTACT: Sharon Petersen, Administrative Assistant to the Executive Director, National Advisory Council on Women's Educational Programs, 425 13th Street, N.W., Suite 416, Washington, D.C. 20004; (202) 376–1038.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to: (a) Advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee meeting will take place on June 2, 1983, at the Hotel Washington, Pennsylvania Avenue at 15th Street, N.W. from 7:30 a.m. to 9:30 a.m. The agenda will include committee reports, personnel, the annual report and 1984 budget.

The meetings of the Civil Rights Committee, Women's Educational Equity Act Program Committee and the Federal Policies, Practices and Programs Committee will take place on June 1, 1983 from 1:00 p.m. to 5:00 p.m. at the Council offices, 425 13th Street, N.W., Suite 416, Washington, D.C.

The agenda of the Civil Rights Committee will include a review of the status of the Ambassadorship videotape, discussion of the menu of services and election of vice-chair.

The agenda of the Federal Policies, Practices and Programs Committee will include a report on Re-entry/Career Fulfillment Conferences and the report to the Council on these proposals.

The agenda of the Women's Educational Equity Act Program Committee will include revision of the site visit evaluation form:

The meeting of the National Advisory Council on Women's Educational Programs will take place June 2, 1983, from 10:00 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:00 p.m. and June 3, 1983, from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 3:30 p.m. at the Hotel Washington, Pennsylvania Avenue at 15th Street, N.W.

The agenda will include committee reports, personnel, the Annual Report and the 1984 budget.

The meeting of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 425 13th Street, N.W., Suite 416, Washington, D.C. 20004.

Signed at Washington, D.C. on May 5, 1983.

Rosemary Thomson,

Executive Director.

[FR Doc. 83–12531 Filed 5–9–83; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 1, 2, and 3, 1983.

ADDRESS: College of Saint Mary, 1901 South 72nd Street, Omaha, Nebraska 68124.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 425 Thirteenth Street, NW.; Suite 529, Washington, D.C. 20004, telephone: (202) 376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) activities that will lead to changes in the legislative provisions of this title and other federal laws affecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The Council meeting will be held from 2:00 p.m. until 5:00 p.m., and from 7:00 p.m. until 9:00 p.m. on June 1; from 9:00 a.m. until 5:00 p.m., and from 7:00 p.m. until 9:00 p.m. on June 2; and from 9:00 a.m. until 12:00 Noon on June 3, 1983.

The proposed agenda includes:

—*Panel discussion:* Developing partnerships between the corporate sector and higher education.
—*Review of draft statements:*
"The Federal Government and Student Financial Assistance",
"The Federal Government and Aid to Postsecondary Institutions",
"Building Partnerships", and
"Federal Policy on Continuing Education and Training".
—*Planning annual report for 1982–1983*
—*Other Council business*

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, NW.; Suite 529, Washington, D.C.

Signed at Washington, D.C. on May 4, 1983.

William G. Shannon,

Executive Director.

[FR Doc. 83–12450 Filed 5–9–83; 8:45 am]

BILLING CODE 4000–01–M

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Section 10(a)(2)).

DATE: June 5, 1983 at 5:00 p.m. through June 7, 1983 at 2:00 p.m.

ADDRESS: Marriott's Hunt Valley Inn, Hunt Valley, Maryland.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW., Washington, D.C. 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the director of the Fund for the Improvement of Postsecondary Education * * * on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board is closed to the public. The meeting is for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program.

The meeting of the National Board of the Fund will be closed to the public from 5:00 p.m., June 5 until the conclusion of the agenda, approximately 2:00 p.m., June 7 for review, discussion or consideration of proposals submitted to the Fund for grant awards. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemptions (4) and (6) of Section 552(c) of the Government in the Sunshine Act (Pub. L 94–409; 5 U.S.C. 552(c) (4) and (6)). Discussions of the applications and the qualifications of proposed staff will disclose commercial or financial information obtained from applicants which is confidential or disclose information of a personal nature where disclosure of such matters to the public would consititute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5, U.S.C. 552(c) will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building, 7th and D Streets, SW., Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m.

Dated: May 4, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–12449 Filed 5–9–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Petroleum Supply Reporting System Forms; Solicitation of Comments and Notice of Public Hearing

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Solicitation of comments and notice of public hearing.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning proposed changes to the Petroleum Supply Reporting System forms. In an effort to maximize public participation in the discussion of revisions to these forms, the EIA will conduct a public hearing on Friday, June 10, 1983 in Room 1E245 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, beginning at 9:00 a.m. (e.d.t.)

DATES: Those wishing to provide oral testimony at the public hearing must request to speak at the hearing by 4:30 p.m. Monday, May 23, 1983 and must submit a copy of their presentation to the EIA by 4:30 p.m. Tuesday, May 31, 1983.

Those wishing to provide written comments only must submit a copy of their comments to the EIA by 4:30 p.m. Friday, June 3, 1983.

ADDRESS: Send comments, requests to speak at the hearing, and written presentation to: Special Projects Manager, EI–422, Mail Stop 2H–058, Office of Oil and Gas, Energy

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Information Administration, Washington, D.C. 20585.

For Further Information or Copies of Proposed Changes Contact: Paul Chapman, EI–422, Mail Stop 2H–058, Office of Oil and Gas, Energy Information Administration, Washington, D.C. 20585, Telephone: 202–252–8384.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments and Public Hearing Procedures

I. Background

In accordance with provisions of the Department of Energy (DOE) Organization Act (Pub. L. No. 95–91), the Energy Information Administration (EIA) is responsible for carrying out comprehensive national energy data programs including the compilation and dissemination of economic and statistical information. In keeping with DOE's mandated responsibilities and in an effort to minimize respondent burden, the EIA proposes changes in the following petroleum supply data collection forms:

Monthly Refinery Report (Form EIA–810)

Monthly Bulk Terminal Stocks Report (Form EIA–811)

Monthly Product Pipeline Report (Form EIA–812)

Monthly Natural Gas Liquids Report (Form EIA–816)

Annual Sales of Liquefied Petroleum Gases (Form EIA–174)

Annual Refinery Report (Form EIA–820)

The proposed changes and modifications are designed to reduce respondent burden.

The proposed changes are summarized below:

1. Form EIA–810 (Monthly Refinery Report)—

a. Mixed liquefied petroleum gases (LPG) products (E–P mix, B–P mix, and unfractionated stream) would no longer be reported as individual commodities. Respondents would include the components of mixes with the appropriate products (i.e. BP mix would no longer be reported; the propane in BP mix would be included with propane entries elsewhere on the reporting forms).

b. Natural gasoline, isopentane, and plant condensate would be combined into a single reporting category.

c. Still gas categories for petrochemical and other use would be combined.

d. Petrochemical use and other use categories for liquefied refinery gases (LRG) would be combined.

2. Forms EIA–811 (Monthly Bulk Terminal Report) and EIA–812 (Monthly Product Pipeline Report)—

a. Mixed LPG products (E–P mix, B–P mix, and unfractionated stream) would no longer be reported as individual commodities. Respondents would report the component products separately.

b. Natural gasoline, isopentane, and plant condensate would be combined into a single reporting category.

3. Form EIA–816 (Monthly Natural Gas Liquids Report)—

a. Mixed and intermediate products E–P mix, B–P mix, and unfractionated stream) would no longer be reported as individual commodities. Respondents would report the component products separately.

b. Natural gasoline, isopentane and plant condensate would be combined into a single reporting category.

c. Report items for finished petroleum products would be eliminated. Facilities which produce finished petroleum products would be required to file Form EIA–810 (Monthly Refinery Report) instead of Form EIA–816 (Monthly Natural Gas Liquids Report).

d. An "inputs" column would no longer be included on the form. A facility would only report production of liquids derived from natural gas streams. Liquids received from other facilities would be reflected in receipts, shipments and inventory entries, but not production entries.

4. Form EIA–174 (Sales of Liquefied Petroleum Gases—

a. Butane-propane mix would no longer be reported as a commodity. Respondents would report the butane and propane in B–P mix with the entries for butane and propane.

5. Form EIA–820 (Annual Refinery Report)—

a. Instructions on storage capacity would be revised to be consistent with the proposed changes to the monthly reporting of mixes and unfractionated streams.

II. Comments and Public Hearing Procedures

A. Written Comments

EIA invites the public to comment on these proposed changes and provides the following guidelines to assist in preparation of responses.

If you are a possible data provider:

(1) How many hours, including time for research, computation, preparation and administrative review, will it take your firm to change from current reporting procedures to the proposed procedures during the first year of reporting?

(2) How many hours will your firm save in subsequent years of reporting?

(3) Estimate the initial cost of modifying the forms, including direct and indirect cost associated with the data collection. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs.

(4) Estimate the cost savings in subsequent years of reporting.

(5) Do you agree with each of the proposed changes? Are there additional changes that you would recommend?

If you are a data user:

(1) Do you need data at the levels of aggregation that would be available using the modified (new) forms; that is: do the products, frequency, market categories and geography reflect your needs?

(2) Do you need any of the elements of information that would be eliminated by this proposal? For what purposes would you use these data?

(3) How could the form be improved to better meet your specific data needs?

Comments will be summarized and provided in EIA's submission to the Office of Management and Budget and will become a matter of public record.

B. Public Hearings

1. *Procedures for Requests to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections above.

The EIA invites any interested person wishing to provide oral testimony on these forms to request to speak at the hearing no later than 4:30 p.m. Monday, May 23, 1983 and to provide a copy of the presentation to the EIA by 4:30 p.m. Tuesday May 31, 1983. Such a presentation should include the interest concerned, if appropriate, a statement indicating why the individual is a proper representative of a class of persons that has such an interest, and a telephone number where this individual may be contacted during the day. The EIA will notify each person selected to speak at the hearing by Wednesday June 1, 1983. Persons selected should bring 25 copies of their written presentations to the hearing.

2. *Conduct of the Hearing.* The EIA will schedule the presentations and establish the procedures governing the conduct of the hearing. Any person desiring to present oral testimony will be allowed to do so, time permitting. Although time constraints may limit the number of persons who will be allowed to speak, the EIA will consider all comments submitted. Likewise, the length of each presentation may be limited based on the number of persons requesting to be heard. An EIA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions immediately following a presentation may be asked only at the discretion of those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any other procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer. A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained in the EIA and made available for inspection at the DOE Freedom of Information Office, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C., 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C. on May 5, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83–12541 Filed 5–9–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. OR83–2–000]

Coastal States Marketing, Inc., et al.; Petition for Issuance of an Order Directing Compliance With the Interstate Commerce Act

May 3, 1983.

Take notice that on April 25, 1983, Coastal States Marketing, Inc. (CSMI) and Coastal States Trading, Inc. (CSTI) filed a petition requesting the Commission to issue an order directing Texas-New Mexico Pipeline Co. and the Texas Pipeline Company (T–NMPLCo.) to continue the pre-existing practices in connection with the receipt and further transportation on a commingled basis of West Coast Sweet (WCSW) crude oil from the Four Corners Pipeline Company until appropriate tariff filings have been made and approved. CSMI and CSTI contend that T–NMPLCo. cannot change their historic practices or tariffs without filing an amended tariff on 30 days statutory notice in accordance with the provisions of the Interstate Commerce Act (ICA) Section 6(3) and 49 CFR 1300.14(a). Therefore, CSMI and CSTI further request that the Commission issue an order directing T–NMPLCo. to file any proposed changes in practices, services or tariffs in accordance with the provisions of ICA, Section 6(3) and 49 CFR 1300.14(a).

CSMI and CSTI (petitioners) state that T–NMPLCo. has changed an existing practice without properly proposing and noticing a change in its tariff. CSMI and CSTI state that the pipeline has established a sulphur content level by weight in order to commingle WCSW crude oil into the fungible stream. the petitioners state that they cannot meet the new standard, and therefore the WCSW is being "batched". The petitioners state that the result is that they are precluded from reaching their traditional markets.

A copy of the filing has been served on T–NMPLCo.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12435 Filed 5–9–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–45–000 (PGA 83–2)]

Inter-City Minnesota Pipelines Ltd., Inc.; PGA Filing and Request for Waiver of Regulations

May 4, 1983.

Take notice that on April 22, 1983, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) tendered for filing Eighteenth Revised sheet No. 4 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff. Minnesota Pipelines has requested that the sheet be suspended only for such time as is necessary to allow an effective date of May 1, 1983 for the rates set out therein.

Minnesota Pipelines represents that Eighteenth Revised Sheet No. 4 will effect the recent 54¢/MMBtu reduction in Canadian border prices applicable to gas purchased by Minnesota Pipelines for sale in its Western Zone. No change was made by the national Energy Board of Canada to the price of gas imported for sale in Minnesota Pipelines' Eastern Zone.

Minnesota Pipelines requests that the Commission waive § 154.38(d)(4)(iv)(a) of its regulations that prescribes that Minnesota Pipelines shall make only a single PGA filing effective and Minnesota Pipelines' tariff be waived to allow an effective date of May 1 for the proposed rates.

Any person desiring to be heard or to make any protest with reference to said PGA filing and request for waiver should on or before May 9, 1983 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12436 Filed 5–9–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–5–000 (PGA83–2)]

Midwestern Gas Transmission Co.; Rate Filing

May 4, 1983.

Take notice that on April 21, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Seventh Revised Sheet No. 6 to Original Volume No. 1 and Eighth Revised Sheet No. 37 to Original Volume No. 2 of its FERC Gas Tariff to be effective April 11, 1983.

Midwestern states that the sole purpose of the revised tariff sheets is to simultaneously reduce its Northern System rates to reflect the rate charged to Midwestern by its Canadian supplier, TransCanada PipeLines Ltd., from $4.94 per MMBtu to $4.40 per MMBtu. Midwestern requests waiver to make its filing effective as proposed and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

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Practice and Procedure. All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12437 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-196-002]

Missouri Edison Co.; Order Denying Rehearing

May 4, 1983.

On April 4, 1983, the City of Clarksville, Missouri (Clarksville) requested rehearing of an order issued on March 4, 1983, in which the Commission denied a prior request for rehearing of an order issued on December 30, 1982. The original order in this proceeding accepted for filing rates for service to Clarksville by Missouri Edison Company (Edison) and permitted the rates to become effective as of December 31, 1982, subject to the outcome of proceedings pending in Docket Nos. ER81-450-000 and ER81-461-000.

Clarksville noted in its first request for rehearing that, in addition to eliminating an 80% demand ratchet consistent with a settlement agreement in Docket No. ER81-461-000, Edison's filing increased its prior demand charge to $7.51 per month per kW. Clarksville argued that this increase in the demand charge could have no relationship to the removal of the demand ratchet because Edison had agreed in the earlier settlement agreement to eliminate the ratchet retroactive to July, 1981, without reserving the right to redesign the rate by increasing the demand charge to offset elimination of the ratchet. The Commission stated in its March 4 order that Clarksville's characterization of the settlement was incorrect. We noted that the settlement agreement provided for elimination of the demand ratchet, but contained no restriction on the level of the unit demand charge except that such charge when applied to the billing determinants excluding the ratchet would be equal to the Staff's cost of service rather than the revenue level originally proposed by Edison. We further noted that any other reading of the settlement would prove illogical since the resulting revenues would not be "in accordance with Staff's cost of service" as the agreement provided.[1]

In its April 4, 1983 pleading, Clarksville contends that the Commission's interpretation of the settlement agreement was in error because it would render meaningless the retroactive elimination of the ratchet as of July 9, 1981. Clarksville maintains that allowing the demand charge to increase nullifies any gain achieved by the retroactive elimination of the demand ratchet. Clarksville requests that the Commission reject the filing insofar as it proposes to increase the demand charge for the prior period and to initiate proceedings to determine the justness and reasonableness of a prospective application of Edison's demand charge increase. Alternatively, Clarksville asks that we remand the case to determine the parties' intent with respect to the settlement agreement.

Discussion

Upon consideration of Clarksville's request for rehearing, we conclude that the March 4 order was correct. We shall therefore deny rehearing.

Clarksville argues that if it is subjected to the increased demand charge in order that Edison may recover the same level of revenue there is no gain or loss associated with a retroactive elimination of the ratchet (Reh. App. at 4-5). The premise underlying Clarksville's contention is that the purpose of eliminating the demand ratchet retroactively was to reduce the demand charge and that the Agreement should not be construed in a manner which will defeat the purpose of this provision. However, this premise is inconsistent with the clear language of the settlement. As noted in the March 4 order, while the settlement agreement provided for elimination of the ratchet, the sole restriction on the level of the unit demand charge was that such charge would produce revenues equal to Staff's cost of service rather than the higher revenue level originally proposed by Edison. In this sense, we view the settlement agreement as a dollar settlement with all provisions being applied as of the date that the rates originally took effect. However, Edison would not be able to recover the level of revenues specified in the settlement agreement if the company could not revise the unit charge upward once the demand ratchet was eliminated. We shall therefore deny rehearing.

We shall also deny Clarksville's request to initiate proceedings to determine the justness and reasonableness of a prospective application of the revised demand charge inasmuch as it was agreed in the parties' settlement that the wholesale rate to Clarksville, which necessarily includes the demand charge component of the rate, would be in accordance with Staff's cost of service. Had the agreed upon rate been subject to further reduction as a result of elimination of the demand ratchet, then the parties could not have been agreeing to Staff's cost of service but to a lower revenue level. Because we find that the settlement provisions providing for settlement at the Staff's recommended revenue level are clear and unambiguous, there is no need for a hearing to determine the intent of the parties.

The Commission orders:

(A) Clarksville's request for rehearing is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12438 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

May 4, 1983.

Take notice that on April 21, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1:
Twentieth Revised Sheet No. 4b

Original Volume No. 2:
Thirtieth Revised Sheet No. 1c

These tariff sheets reflect reduced rates resulting from the decrease in purchased gas costs Northern will experience as a result of the decrease in the Canadian Border export price from $4.94 per Mmbtu to $4.40 per Mmbtu effective April 11, 1983. Northern states that these tariff sheets reflect a decrease in the Commodity Component of its Market Area sales rates of 4.49¢ per Mcf at 1000 Btu per cubic foot and a decrease of 4.53¢ per Mcf in its field area sales rate.

Northern requests any waiver of the Commission's regulations to the extent, if any, required to effectuate the tariff sheets on April 27, 1983.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers, interested State Commissions, and all parties to Docket Nos. RP82-71 and TA83-1-59.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12439 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-75-000]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1983.

Take notice that on April 22, 1983 Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Second Revised Sheet No. 6 and Original Sheet Nos. 96 through 99 to Original Volume No. 1 and First Revised Sheet No. 91 and First Revised Sheet No. 219 to Original Volume No. 2 of its FERC Gas Tariff to be effective on May 23, 1983.

Northwest Central states that the filing proposes an increase above its presently effective rates which reflects an increase in revenues of $19,030,347 inclusive of transportation services, based on the test period (the twelve months ended February 28, 1983, adjusted for known changes through November 30, 1983). Northwest Central states that the increased rates are required to reflect an overall rate of return of 14.63 percent; increases in wages and benefits; increases in administrative expenses; increases in prepayments for gas; increases in plant and related cost of service items; and reduced sales volumes.

Northwest Central's filing also proposes for inclusion in the General Terms and Conditions of Original Volume No. 1 of its FERC Gas Tariff a new Article 25 containing a prepayments rate adjustment provision.

Northwest Central states that this filing was served on each of its customers and affected states commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12440 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA83-2-35-000 and RP83-76-000]

Peoples Natural Gas Company, Division of InterNorth, Inc.; Rate Change and Proposal To Change Purchased Gas Cost Adjustment Provision

May 4, 1983.

Take notice that on April 25, 1983, Peoples Natural Gas Company, Division of InterNorth, Inc., (Peoples) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 4 the following tariff sheets:

Thirtieth Revised Sheet No. 3a
Second Revised Sheet No. 21a
Second Revised Sheet No. 21b

Thirtieth Revised Sheet No. 3a is being filed to reflect reductions in rates received from the Colorado Interstate Gas Company. Peoples proposes to make these reductions effective to its Volume No. 4 customers on June 1, 1983.

Peoples is also proposing in this filing to change its Volume No. 4 PGA Procedures to reflect that the market area served under Volume No. 4 is potentially supplied from multiple sources rather than "a sole source of supply" as specified in the currently effective tariff.

Copies of the filing were served upon the Gas Utility Customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12442 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

May 9, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative annual valuation is under consideration for the common carrier by pipeline listed below:

1981 Annual Report

Valuation Docket No. PV-1466-000
Tomahawk Pipe Line Company, P.O. Box 376, Tulsa, Oklahoma 74101

On or before June 16, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an approporiate certificate of

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[1] The settlement agreement states:

"(3) At the conclusion of Docket No. ER81-450-000 when permanent rates are known and refunds, if any, are ordered by the Commission to be paid by Union Electric Company to Missouri Edison Company, MEC will adjust the wholesale rate to Clarksville retroactive to July 9, 1981, the date the increased rates in Docket No. ER81-461-000 went into effect subject to refund, determining such permanent rate and refund, if any, without a demand ratchet and in accordance with Staff's cost of service and the permanent rates allowed in Docket No. ER81-450-000."

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service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-12687 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2361-1]

Availability of Report; *Monitoring Results and Environmental Impact on the Gulf of Mexico Incineration Site from the Incineration of PCB's under Research Permit HQ 81-002;* April 1983.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Summary Report.

SUMMARY: EPA is today announcing the availability of a report entitled: *Monitoring Results and Environmental Imapct on the Gulf of Mexico Incineration Site from the Incineration of PCB's under Research Permit HQ 81-002. April 1983.*

FOR FURTHER INFORMATION CONTACT: Alan B. Rubin (WH-585), U.S. EPA, Criteria and Standards Division, 401 M Street, SW, Washington, DC 20460 (202) 245-3030.

SUPPLEMENTARY INFORMATION:

Background

Two trial burns of PCB-laden wastes were conducted in 1981-1982 onboard the incinerator vessel VULCANUS I at the designated Ocean Incineration Site in the Gulf of Mexico under research permit HQ 81-002 issued by EPA under Section 102 of the Marine Protection, Research, and Sanctuaries Act. The purpose of these trial burns was to determine the incinerability of PCB's on this vessel by calculating the material's destruction efficiency (DE) and observing incinerator operating conditions. A public meeting and a public hearing were conducted in Brownsville, Texas, on May 20, 1982 and August 31, 1982, respectively, to discuss preliminary results from the two burns and receive comment.

EPA is today announcing the availability of the final technical report on these two trial burns. The report consisting of six studies and conclusions, presents results on incinerator stack gas and environmental monitoring conducted for both burns. A summary of this report follows (attachment). The full report is available for inspection at several locations identified at the end of the report summary.

Dated: May 3, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator.

Summary of Report Entitled: Monitoring Results and Environmental Impact on the Gulf of Mexico Incineration Site from the Incineration of PCB's under Research Permit HQ 81-002

April 1983

Abstract

From December 22, 1981 to January 2, 1982, 698,500 U.S. gallons of PCB-laden wastes were incinerated aboard the VULCANUS I. Monitoring data showed that overall waste combustion efficiency (CE) exceeded the permit requirement of 99.9%. The destruction efficiency (DE) of PCB's calculated from data obtained from the one valid sample of stack emissions was greater than the permit requirement of 99.9%. However, problems with the incinerator stack gas sampling equipment prevented the securing for analysis of more than one valid stack gas sample. Consequently, a second research burn was authorized in order to gather additional information of DE for PCB-laden wastes incinerated on the VULCANUS.

From August 15-31, 1982, an additional 800,000 gallons of liquid PCB-laden wastes were incinerated on the VULCANUS I. CE averaged 99.99%. The calculated DE for PCB's exceeded 99.99%. Environmental monitoring in the vicinity of the VULCANUS I showed no impact.

Based upon the monitoring results and incinerator performance data, EPA concludes that the operating and performance parameters under EPA research permit HQ 81-002 were met.

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Executive Summary

Summaries of Studies and Conclusions

Appendix I—*Monitoring of Combustion Efficiency, Destruction Efficiency and Safety during the Test Incineration of PCB Waste, Carried out in the Gulf of Mexico under EPA Permit HQ 81-002—"Research", from December 22, 1981 to January 2, 1982 on the Incineration Vessel VULCANUS. Part I: Combustion and Destruction.*. Report Written by H. Compaan. TNO Delft, Netherlands. 1982.

Appendix II—*A Summary of Events, Communications, and Technical Data Related to the At-Sea Incineration of PCB—Containing Wastes Onboard the M/T VULCANUS, December 20, 1981 to January 4, 1982.* Report Written by J. F. Metzger and D. G. Ackerman, TRW Inc., Energy and Environmental Division. Redondo Beach, California 90278. March, 1983.

Appendix III—*Audit of the VULCANUS Incineration Ship Prior to the August 1982 PCB Burn, Mobile, Alabama.* Report Written by F. W. Sexton and D. E. Lentzen. Environmental Quality Assurance Department, Systems, and Measurements Division, Research Triangle Institute, Research Triangle Park, North Carolina 27709. October, 1982.

Appendix IV—*At-Sea Incineration of PCB Containing Wastes Onboard the M/T VULCANUS* (August 15-31, 1982). Report Written by D. G. Ackerman, J. F. McGaughey, and D. E. Wagoner. TRW, Inc., Energy and Environmental Division. Redondo Beach, California 90278. February, 1983.

Appendix V—*Biological Monitoring of PCB Incineration at the Designated Site in the Gulf of Mexico.* Report Written by TerEco Corporation, College Station, Texas 77841. October, 1982.

Appendix VI—*Ambient Air Monitoring of the August 1982 M/T VULCANUS PCB Incineration at the Gulf of Mexico Designated Site.* Report Written by Michael A. Guttman, Norman W. Flynn, and Robert F. Shokes. JRB Associates. La Jolla, California 92038. January, 1983.

Executive Summary

Pursuant to reasarch permit HQ 81-002, issued under the Marine Protection, Research, and Sanctuaries Act by EPA to Chemical Waste Mangement and Ocean Combustion Service (the Permittees), the incinerator vessel VULCANUS I incinerated 698,500 U.S. gallons of liquid PCB wastes from December 22, 1981 to January 2, 1982, at the Gulf of Mexico incineration site. A second burn of an additional 800,000 U.S. gallons of these wastes occurred at the site from August 15 to August 31, 1982.

The first burn was monitored by TNO, Dutch scientific consulting organization hired by the Permittees, and these monitoring activities were observed by EPA personnel serving as shipriders. In addition, an EPA contractor, TRW, evaluated TNO's overall monitoring activities and verified their incinerator parameter measurements and their calculation of incinerator performance (CE and DE). Monitoring results showed that overall waste combustion efficiency (CE) varied between 99.916% and 99.999% (permit requirement for CE was equal to or greater than 99.9%). The wall temperatures of both incinerators varied between 1270 and 1320° C (flame temperature 1470 to 1520° C). The permit requirement for minimum wall termperature was 1200° C. A destruction eficiency (DE) for Report PCB's of greater than 99.92% was tentatively determined. TRW verified this result by analysis of a split stack gas sample. However, problems with the incinerator stack gas sampling apparatus prevented TNO from obtaining more than one valid sample to conclusively determine a scientifically supportable DE for PCB's. Monitoring data and results for the other major incinerator operational and performance parameters (temperature, carbon monoxide, excess oxygen, CE, residence time) demonstrated that the other permit requirements were met or exceeded. Permit requirements for excess oxygen in the stack gas and residence time of the waste in the incinerator were 3% minimum and 1 second or longer, respectively.

On May 20, 1982, a public meeting was held in Brownsville, Texas, to discuss these preliminary results. Several comments received at this meeting indicated that the preliminary information obtained from this burn was not sufficient and/or of a quality to demonstrate adequate incinerability of PCB's aboard the vessel. In addition, both TNO and EPA shiprider reported several minor operating difficulties during this burn. Therefore, it was decided to authorize a second burn under the permit in order to gather additional information for PCB DE calculation.

From August 15-31, 1982, an additional 800,000 gallons of liquid PCB wastes were incinerated on the vessel at the Gulf site. EPA had total control over the emissions and environmental monitoring of this burn. EPA designed, installed, and supervised the operation of the sampling train used in the determination of DE's for PCB's, chlorinated benzenes, and tetrachlorodibenzofuran isomers. In addition, EPA utilized the ocean survey vessel ANTELOPE to conduct environmental monitoring in the vicinity of the VULCANUS. The State of Texas conducted onshore monitoring for possible remnants of the incineration plume.

The various measures of incinerator performance again met or exceeded requirements of the permit. Incinerator wall temperatures averaged 1303°C (permit requirement 1200°C minimum). Excess oxygen in the incinerator stack gas averaged 10.1% (permit requirement 3% minimum). CE averaged 99.99% (permit requirement 99.9% minimum).

The Agency monitored for PCB's, chlorobenzenes, TCDF's and TCDD's in the incinerator stack gas and in the raw wastes. PCB content in the raw wastes ranged from 13.2% to 25.3% with a mean of 19.3%. Chlorobenzene content was approximately 8%. TCDF content in the waste ranged from 25 to 80 ppb. One sample of raw waste contained 0.83 ppb TCDD. None of the first two compounds were found in stack gas concentrations above detecable limits of the analytical method. On that basis, DEs for these first two compounds were calculated to be greater than 99.9906% and greater than 99.996%, respectively (permit requirement for PCB DE was 99.9% minimum). TCDF's were found in some but not all of the stack gases. TCDF DE was calculated to be greater than 99.93%.

Trace amounts of 2,3,7,8-TCDD (dioxin) were found in one of the incinerator stack gas samples. The maximum concentration of dioxin emitted was approximately 2.6% of the concentration found acceptable for emissions from land-based municipal waste resource recovery incinerators.

Environmental monitoring in the vicinity of the VULCANUS showed no impact. No effect on water chemistry or on biota exposed to the plume in the vicinity of the vessel was detected. An increase in ambient water background concentrations of organochlorines was not detected. Organochlorines in the ambient air in the immediate vicinity of the vessel were not detected.

In summary, the monitoring results obtained from the two burns of PCB wastes executed under research permit HQ 81-002 demonstrated that VULCANUS I incinerator operational and performance requirements were met or exceeded. Finally, there were no apparent environmental impacts from incineration of PCB's under these operating and performance conditions.

Summaries of Studies and Conclusions

The following section summarizes the six appendices of the report.

Appendix I—*Monitoring of Combustion Efficiency, Destruction Efficiency and Safety During the Test Incineration of PCB Waste, Carried out in the Gulf of Mexico under EPA Permit HQ 81-002—"Research", from December 22, 1981 to January 2, 1982 on the Incineration Vessel VULCANUS. Part I: Combustion and Destruction.* Report Written by H. Compaan. TNO Delft, Netherlands. 1982

From December 22, 1981 to January 2, 1982, approximately 3300 metric tons (698,500 U.S. gallons) of chemical wastes, containing PCB's were incinerated on the M/T VULCANUS I at the Gulf of Mexico incineration site.

The PCB content of the waste as specified by Chemical Waste Management, Inc., varied between 5.6 and 26.3% (w/w) per tank; the chlorine content as measured by TNO varied between 29 and 66% (w/w) per tank. Other important components of the waste were: hexachlorobutadiene, trichlorobenzene, hexachlorobenzene, hexachloroethane and fuel oil.

The incineration was carried out smoothly and there were no major problems. Minor problems encountered were vibrations of the incinerators, probably caused by the high energy content of part of the waste, and the repeated activation of the automatic shut-off valves by the ultra high frequency radio transmitter signals.

The wall temperatures of both incinerators varied between 1270 and 1320° C, which means that the flame temperatures varied from about 1470 to 1520° C. The calculated average residence times varied from 0.91 to 1.46 seconds. The combustion efficiency was monitored continuously by feeding the signals from the CO and CO_2 monitors into a microcomputer and calculating and printing the results. The combustion efficiency was never lower than 99.916% and normally varied between 99.940% and 99.999%. The stack gas monitors were calibrated three of four times a day.

In order to determine destruction efficiencies of selected waste components, three stack sampling boxes, each containing 8 sampling trains were installed on the catwalk near the top of the ovens. The stack samples were taken through one quartz tube, mounted in a water cooled stainless steel jacket, for each set of 8 sampling trains. Two of these sets could be used, the third one was lost, probably due to plugging of the quartz sampling probe by solid material coming from the brick lining of the incinerators. This may have been caused by incinerator vibrations mentioned above. The recovery factors for the sampling trains were determined in two separate experiments and varied between about 60 and 10% for different substances. The destruction efficiencies for hexachlorobutadiene, different chlorobenzenes and a number of PCB isomers were greater than 99.92% for the one valid stack gas sample obtained.

A number of stack samples were taken through the long heat traced PTFE lines, carrying the stack gases to the stack gas monitors. However, a recovery experiment showed that such a sampling line causes losses of the less volatile PCB components. Traces of PCB's were found in the samples taken through the PTFE line, but these results have not been used for the calculation of destruction efficiencies. Small amount of TCDF were found in the quartz sampling probes and in the condensate flasks.

Appendix II—*A Summary of Events, Communications, and Technical*

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Data Related to the At-Sea Incineration of PCB—Containing Wastes Onboard the M/T VULCANUS, December 20, 1981 to January 4, 1982. Report Written by J. F. Metzger and D. G. Ackerman, TRW Inc., Energy and Environmental Division. Redondo Beach, California 90278. March, 1983.

This section was prepared by an EPA contractor and EPA representative who served as shipriders on VULCANUS for the first incineration cruise. It confirms TNO's findings of CE, DE, and other incinerator operational parameters. However, it reports a number of minor problems encountered during the voyage. While these problems did not affect overall ship operations, they did contribute to problems in obtaining sufficient valid measurements to allow EPA to conclude that the DE of PCB wastes was adequate.

- Routing radio transmissions interfered with operation of the camera in the "black box", and portions of the film were not properly exposed.
- The same transmissions interfered with the control electronics of ther waste feed system causing an automatic switch from waste to gasoil feed, thereby also increasing consumption of gasoil. The length of the voyage was increased.
- The fixed-position probe in the port incinerator which supplied gas to the on-line monitoring instrumentation system became plugged. The combustion gas monitors were switched to TNO's probe, but it too became plugged. Thereafter, no combustion gas measurements were possible for the port incinerator. The corresponding probe in the starboard incinerator remained functional
- Continuous and severe vibration occurred during burning of waste material having a heating value in excess of 12,000 Btu/lb. The waste injection systems did not have sufficient turndown, and all other attempts to eliminate the vibration were similary not effective.
- Sampling problems were evidenced by the loss of impinger solution. No fully adequate explanation could be advanced, but the losses for Test 3 were particularly severe and were believed to have been caused by back pressure surges occurring when the probe became plugged. Additionally, the condensate from Test 3 was colorless rather than the green expected. The pressure surges were possibly responsible for this as well, expelling liquid from the downstream impingers into the condensate trap. Test 3 was therefore judged totally invalid.
- Also during the test periods, TNO's CO analyzer was rendered inoperable by the vibration. The calibration electronics of the ship's standard CO analyzer were likewise damaged, but otherwise this instrument seemed to remain functional. It was believed that all subsequent CO readings were high by a value of 9 to 10 ppm. Erroneously high readings such as these lead to calculated combustion efficiency values that are erroneously low.

Appendix III—*Audit of the VULCANUS Incineration Ship Pior to the August 1982 PCB Burn, Mobile, Alabama.* Report Written by F.W. Sexton and D.E. Lentzen. Environmental Quality Assurance Department, Systems and Measurements Division, Research Triangle Institute, Research Triangle Park, North Carolina 27709. October, 1982.

This section describes the procedures by EPA to calibrate instruments on the VULCANUS I used to calculate overall PCB waste C.E. for the second incineration voyage permitted under research permit HQ 81–002.

Appendix IV—*At-Sea Incineration of PCB Containing Wastes Onboard the M/T VULCANUS* (August 15–31, 1982). Report Written by D.G. Ackerman, J.F. McGaughey, and D.E. Wagoner. TRW, Inc., Energy and Environmental Division. Redondo Beach, California 90278. February, 1983.

This report describes the testing that was performed during the incineration at sea of 3,523 metric tons of wastes (800,000 U.S. gallons) containing PCB's onboard the incineration ship M/T VULCANUS from August 15–31, 1982 (2nd burn authorized under research permit HQ 81–002).

EPA contracted the Energy and Environmental Division of TRW, Inc., Redondo Beach, CA, to sample and monitor the incineration process and analyze the samples in order to determine compliance with the operating and safety requirements of the permit. A representative from EPA, (the Task Officer) was onboard during the testing, and a technician-employee of EPA assisted the TRW Test Team.

A standard EPA-specified sampling train was used to acquire samples of the effluent combustion gases. A fixed-position, water-cooled probe was mounted in the starboard incinerator and directed stack gas to the train. A total of 10 stack gas monitoring tests were performed. Samples of the waste were also taken during each test. Samples thus acquired were analyzed on land for PCB's by TRW, and other possible compounds of concern in either the waste or the stack gas, tetrachlorodibenzofurans (TCDF's) and tetrachlorodibenzo-p-dioxins (TCDD's), were analyzed by the University of Nebraska Chemistry Department and EPA's Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina.

Other test-relate activities included wipe-sampling and onboard analysis of these samples to determine compliance with the health and safety plan, acquisition of samples of work space air in the incineration control room and the dining room, and acqusition of pertinent process-related data (e.g., temperatures in the incinerators and concentrations of carbon dioxide (CO_2), oxygen (O_2), and carbon monoxide (CO) in the combustion gas).

The various measures of incinerator performance met or exceeded requirements of the permit. Incinerator wall temperatures averaged 1303° C, oxygen 10.1%, carbon dioxide 9.1%, carbon monoxide 8 ppm, and combustion efficiency 99.99%.

The Agency monitored for PCB's, chlorobenzenes, TCDF's and TCDD's in the incinerator stack gas to determine DE's of these compounds (permit requirement for PCB DE was 99.9% minimum). None of the first two compounds were present in stack gas concentrations above detectable limits of the analytical method. On that basis, DE's for these first two compounds were calculated to be greater than 99.9906% and greater than 99.996%, respectively. TCDF's were found in some but not all of the stack gases. TCDF DE was calculated to be greater than 99.93%.

Minute amounts of TCDD were found in one waste and one stack gas sample. Since the two samples did not come from the same test, no DE conclusions could be derived. The amount of TCDD found in the waste (0.83 ppb) was well below levels of TCDD found in Agent Orange incinerated during earlier burns (2.0 ppm). The amount of TCDD found in the one stack gas sample corresponded to an emission concentration of 0.09 ng/m³ whereas EPA's—*Interim Evaluation of Health Risks Associated with Emissions of Tetrachlorinated Dioxins from Municipal Waste Resource Recovery Facilities—November 1982,* allows TCDD emission up to 3.5 ng/m³.

Appendix V—*Biological Monitoring of PCB Incineration at the Designated Site in the Gulf of Mexico.* Report Written by TerEco Corporation, College Station, Texas 77841. October, 1982.

This section details environmental monitoring for changes in water chemistry and toxicity effects on marine organisms as a result of incineration plume exposure.

During July 1982, TerEco personnel conducted a 4-day baseline or preburn cruise to the Gulf Ocean Incineration Site to check upon environmental conditions at the site to the incineration of PCB wastes and to launch two pelagic biotal ocean monitors (P–BOM's). In August they participated in a 5-day monitoring cruise during which time they launched five P–BOM's, three of which were impacted by the fallout plume of M/T VULCANUS, and two of which served as controls. Three species of marine organisms were exposed in each BOM and were processed for laboratory analyses while still aboard the OSV ANTELOPE.

Laboratory analyses involved determinations of concentrations of PCB's in the surface waters, in collectors placed on each P–BOM, in neuston, and in the tissues of *Menidia beryllina* and *Fundulus grandis* (both finfish). No increase in ambient water background levels of organochlorines was detected from the incineration. Results show that *Fundulus* and *Menidia* did not accumulate additional PCB's above their background levels. The core of the monitoring effort centered in determining the adenylate energy charge (AEC) of test (exposed to fallout plume) and control individuals of the above species and the grass shrimp *Palaemonetes pugio.* Although the results of AEC calculations revealed that all three species suffered some stress during their stay on the ship and their exposure in the P–BOM's, it was concluded that plume contact from the incineration of PCB wastes could not have caused this physiological reaction. More likely as a cause is the long delay in deciding upon ship departure and the related long period that test organisms had to stay in crowded conditions. Metabolic enzyme analyses carried out on *Fundulus* tissues compare favorably with results obtained by TerEco in other environmental studies. No evidence was generated that related any metabolic change in test animals directly to the incineration process.

Appendix VI—*Ambient Air Monitoring of the August 1982, M/T VULCANUS PCB Incineration at the Gulf of Mexico Designated Site.* Report Written by Michael A. Guttman, Norman W. Fynn, and Robert F. Shokes. JRB Associates. La Jolla, California 92038. January, 1983.

This section reports on ambient air monitoring in the immediate vicinity (0.5–15 miles) of the incinerator vessel conducted onboard EPA's ocean research vessel, the ANTELOPE. Plume contract was demonstrated by HCl readings significantly higher than background levels. Organochlorines were not detected for the incineration of PCB wastes.

During July and August, 1982, scientists from the U.S. Environmental Protection Agency and JRB Associates conducted preburn baseline and incineration monitoring surveys at the Gulf of Mexico designated incineration site. Data on ambient air background concentrations of HCl and organochlorines were obtained on the baseline cruise. The August 1982 incineration was a controlled PCB wate burn conducted by the M/T VULCANUS. Using the government's survey vessel, OSV ANTELOPE, as a sampling platform to track the incineration plume and collect ambient air samples for polychlorinated biphenyl (PCB) measurement, the primary objective was to determine if any detectable amounts of fugitive PCB's or organochlorine residues from the incineration process could be found in the atmosphere. Using a dispersion model (Turner, 1970) to predict plume location and guide the sampling, a secondary objective was to check the model's validity using hydrogen chloride (HCl) from the incineration process as a tracer.

Results from the baseline survey indicate only very trace amounts of airborne organic materials, and no organochlorines. By comparison during the incineration monitoring, significantly higher amounts of airbrne organics were measured, but again no PCB's or other organochlorines were detected. Presumably, the elevated airborne organics were generated by combustion on the VULCANUS, either from the waste incineration or from the vessel's propulsion engines. Real-time HCl monitoring assured that the incineration emission plume generated by the VULCANUS was being sampled. Although there were discrepancies between measured airborne HCl levels and distributions predicted by the model, agreement between the two was relatively good considering the uncertainties involved in modeling atmospheric stabiltiy.

Supplemental Reports

Presently, two supplemental reports are still in preparation. They will be made available for public inspection within the next thirty days at the locations identified below.

The first supplemental report is being prepared by the State of Texas. This report will furnish monitoring data for incineration plume remnants at several shore locations. Preliminary results indicate no detectable increase in ambient air organochlorine or HCl concentrations. These results are expected since ambient air monitoring in the immediate vicinity of the VULCANUS yielded no detectable concentrations of organochlorines and only ppm concentrations of HCl.

The second supplemental report is being prepared by EPA and will present descriptive worst case scenarios for spillage of a full shipload of PCB wastes over commercially and recreationally important Gulf Coast fishing and shrimping grounds as well as spillage at the Gulf of Mexico incineration site. Probabilities of such occurrences will also be stated. This report will also describe a worst case meteorological scenario for plume remnant transport to landfall, indicating PCB concentrations reching land. These concentrations will be compared to ambient background PCB concentrations and several OSHA and NIOSH standards. Total PCB exposure due to contact with plume remnants under worst case meteorological conditions will be compared to PCB exposure from other routes such as diet. As with worst case spillages, a probability or occurrence frequency of such worst case meteorological conditions will be stated.

Full Report Availability

All appendices in this report are on file at the following locations for inspection during normal business hours:

United States Environmental Protection Agency, Criteria and Standards Division, 401 M Street, SW., Washington, DC 20460, Attn: Dr. Alan B. Rubin, 2818 Mall, (202) 245–3030

United States Environmental Protection Agency, Library, Room 2404 Mall, 401 M Street, SW., Washington, D.C. 20460

U.S. Army Corps of Engineers Brownsville, Room 508, Boca Chica Towers, 2100 Boca Chica Blvd., Brownsvill, Texas

United States Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, Attn: Bob Vickery

Appendix IV to this report is also identified as EPA Report No. 600/7–83–024, April, 1983 and may be ordered from the National Technical Information

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Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4650.

[FR Doc. 83-12367 Filed 5-9-83; 8:45 am]
BILLING CODE 6560-50-M

[PF-323; PH-FRL 2351-8]

Certain Companies; Pesticide, Food, and Food Additive Petitions

Correction

In FR Doc. 83–10740, in the issue of Wednesday, April 27, 1983, appearing on page 19078, in the second column, first full paragraph, line 6, *"[N–T1 (1-ethylpropyl)-3,4-"* should read *"[N-(1-ethylpropyl)-3,4-"*.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Highlands Broadcasting Co., Inc. et al.; Hearing Designation Order; Correction

In re applications of Highlands Broadcasting Company, Inc., Stevens Point, Wisconsin, Req: 96.7 MHz, Channel 244 3kW (H&V), 300 feet (MM Docket No. 83–274, File No. BPH–810709AD); Skipko Broadcasting, Inc., Junction City, Wisconsin, Req: 96.7 MHz, Channel 244 3kW (H&V), 280 feet (MM Docket No. 83–275, File No. BPH–811201AK); Sharon Broadcasting Corporation, Whiting, Wisconsin, Req: 96.7 MHz, Channel 244 3 kW (H&V), 300 feet (MM Docket No. 83–276 File No. BPH–820122AR); Central Wisconsin Broadcasting Company, Stevens Point, Wisconsin, Req: 96.7 MHz, Channel 244 3 kW (H&V), 291 feet (MM Docket No. 83–277 File No. BPH–820129AU). (3–31–83; 48 FR 13491)

Released: April 21, 1983.

The Commission, by the Chief, Mass Media Bureau, has before it the hearing designation order designation for comparative hearing the above-captioned applications, released March 25, 1983, which inadvertently and erroneously listed the proposed community of license of the Skipko Broadcasting, Inc. application as "Stevens Points, Wisconsin."

Accordingly, it is ordered, That the caption of the Skipko Broadcasting, Inc. application is corrected to read "Junction City, Wisconsin."

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-12471 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1402]

Petitions for Reconsideration and Applications for Review of Actions in Rulemaking Proceedings

May 3, 1983.

The following listings of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (North Charleston, Eastover, and Ravenel, South Carolina) (BC Docket No. 80–201, RM's 3249 & 3710)
Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Elloree, South Carolina) (BC Docket No. 80–211, RM–3579)
Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Mount Pleasant, Parris Island, Manning, Bamberg, and Batesburg, South Carolina) (BC Docket No. 80–213, RM's 3406, 3718 & 3719)
Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Johnston, Leesville, Winnsboro Mills, Saluda, Union and Batesburg, South Carolina) (BC Docket No. 81–171, RM's 3518, 3556, 3613, 3666 & 3771)
Filed by: Edward B. Reddy & Matthew H. McCormick, Attorneys for Edgefield-Saluda Radio Co., Inc., on 3–28–83. Robert E. Kelly, Attorney for Clarence E. Jones, d/b/a Santee-Cooper Broadcasting Company on 3–28–83. Lawrence J. Bernard, Jr., Attorney for Clarendon County Broadcasting Company (WTWE–FM) & Jerrold Miller, Attorney for Ridge Broadcasting Company (WKWQ–FM) on 3–28–83.
Subject: Expansion of the Telephony Segments of the High Frequency Amateur Radio Service Bands. (PR Docket No. 82–83, RM's 3705, 3729, 3734, 3778, 3831, 3833 & 3860)
Filed by: Malcolm C. Mallette (WA9BVS), on 4–22–83.
Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82–122)
Filed by: Arthur H. Simms, Attorney for The Western Union Telegraph Company on 4–25–83. John A. Ligon, Attorney for ITT World Communications Inc., on 4–26–83.
Subject: The Suburban Community Policy, the *Berwick* Doctrine, and the *De Facto* Reallocation Policy. (BC Docket No. 82–320)
Filed by: George H. Shapiro & Michael J. Hirrel, Attorneys for Buena Vista Telecasters of Texas, Inc., on 4–13–83. Roy F. Perkins, Jr., for Perkins and Root, law firm on 4–13–83. Joseph F. Hennessey, Attorney for Denton Channel Two Foundation, Inc., on 4–13–83. John R. Feore & Thomas J. Hutton, Attorneys for Suncoast Radio-South Carolina Corporation on 4–14–83. Dennis P. Corbett & Robert W. Coll, Attorneys for Wilson Communications Corp., on 4–22–83. Dennis P. Corbett, James A. McKenna, Jr. & Steven A. Lerman, Attorneys for the law firm of McKenna, Wilkinson & Kittner on 4–22–83. James A. McKenna, Jr., Robert W. Coll & Jill Abeshouse Stern, Attorneys for American Broadcasting Companies, Inc., on 4–22–83. J. Richard Carr, Attorney for Washington Oregon Broadcasting, Inc., on 4–22–83. Robert B. McKenna, Attorney for W–2, Incorporated on 4–22–83. Lawrence J. Bernard, Jr., Attorney for Jack A. Carpenter and Beaufort County Broadcasting Company on 4–22–83.
Subject: Establishment of a Class of Amateur Operator License Not Requiring a Demonstration of Proficiency in the International Morse Code. (PR Docket No. 83–28)
Rule Part: 97.
Filed by: Robert G. Wheaton (W5XW), on 4–25–83. (Request that the Commission review and reverse denial of extension of time in which to file comments)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-12470 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, June 8 and 9, 1983. The meeting will begin on June 8 at 9:30 a.m. in the offices of AT&T, Conference Room A (10th Floor), 1120 20th Street NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation or Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3484) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-12469 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Expense Accounts Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of three meetings of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee. The meetings will begin at 9:00 a.m. and will be open to the public. The meeting locations are:

Wednesday and Thursday, May 25–26, 1983
AT&T, Wednesday—Room 918, Thursday—Conference Room A, 1120 20th Street, NW., Washington, D.C.
Wednesday, June 15, 1983
USITA Conference Room, 1801 K Street, NW., Suite 1201, Washington, D.C.
Wednesday and Thursday, June 29–30, 1983
Federal Communications Commission, Room #7317, 2025 M Street, NW., Washington, D.C.

The agenda are as follow:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-12474 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Separations and Costing Subcommittee; meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Wednesday, May 25, 1983. The meeting will begin at 10:00 a.m. in the offices of the New York Public Service Commission, Hearing Room #2, 2 World Trade Center, 24th Floor, New York, New York and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Organization, Interpretation of Mission and Approach
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-12473 Filed 5-9-83; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Review Schedule Under OMB Circular A–76 for FEMA In-House Commercial Activities

AGENCY: Federal Emergency Agency.

ACTION: Notice.

The following is a listing of the Federal Emergency Management Agency (FEMA) in-house commercial activities that are scheduled for an A–76 review in fiscal year 1983. The information is provided in accordance with OMB Circular No. A–76, Revised, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government," dated March 29, 1979. Information identifies the function, location of work performance, manpower required to perform the work, and the date that the activity review is to be completed.

1. Transportation Services; Emmitsburg, MD; 4 workyears; July 31, 1983.
2. Audiovisual Products/Services; Washington, DC; 2 workyears; July 31, 1983.
3. Audiovisual Products/Services; Emmitsburg, MD; 4.75 workyears; August 31, 1983.
4. Guard Protection Services; Thomasville, GA; 3 workyears; September 30, 1983.

Inquiries concerning the reviews should be addressed to the FEMA A–76 contact, Gail Kercheval, (202) 287–0293, 500 C Street SW, Washington, DC 20472.

Dated: May 4, 1983.

Walter A. Girstantas,

Assistant Associate Director, Office of Administrative Support.

[FR Doc. 83-12429 Filed 5-9-83; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T–4109.

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Title: Georgia Ports Authority/ Japanese Lines Volume Incentive Agreement

Parties: Georgia Ports Authority (Authority), Japan Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha Yamashita-Shinnihon Steamship Co., Ltd. (Japanese Lines)

Synopsis: Agreement No. T-4109 is a three year agreement between the Authority and the Lines guaranteeing minimum wharfage payment and providing for incremental savings to the Lines in exchange for their nonexclusive use of the facilities.

Filing Party: Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Agreement No. 2744-50.

Title: Atlantic and Gulf/West Coast of South America Conference.

Parties: Chilean Line (Compania Sud-Americana De Vapores), Delta Steamship Lines, Inc., Flota Mercante Grancolombiana, S.A., Peruvian State Line (Compania Peruana De Vapores), Lykes Bros. Steamship Co., Inc., Transnave (Transportes Navieros Equatorianos).

Synopsis: The scope of the basic agreement would be amended to add U.S. intermodal authority.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement Nos. 3868-30 and 3868-31.

Title: United States Atlantic and Gulf/ Panama Freight Conference.

Parties: Delta Steamship Lines, Inc., Lykes Bros. Steamship Co., Inc., Sea-Land Service Inc. and United States Lines, Inc.

Synopsis: The basic agreement would be amended (1) to provide that the members may agree upon and file proportional rates and (2) to add authority for alternate port service.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

By Order of the Federal Maritime Commission.

Dated: May 5, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-12429 Filed 5-9-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1411]

Surface Cargo Specialists, Inc.; Order of Revocation

On April 29, 1983, Surface Cargo Specialists, Inc., c/o Farrell Transportation Corp., 15506 South Conduit Avenue, Jamaica, NY 11434 surrendered its Independent Ocean Freight Forwarders License No. 1411 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1411 issued to Surface Cargo Specialists, Inc. be revoked effective April 29, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Surface Cargo Specialists, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-12430 Filed 5-9-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

George Andrew Pasayan d.b.a. Georgia International Forwarding Company, 103 Line Creek Circle, P.O. Box 2324, Peachtree City, GA 30269

Prestige Forwarding Services Corporation, 425 California Street, Suite 2200, San Francisco, CA 94104
Officers: Jawad Kamel, Chairman; Mohammad Mortazavi, President; Gilbert E. Sells, Vice President; Werner Seyfried, Vice President/ Operations; Behrooz A. Khavari, Vice President

Morgan Systems International, Inc., 16515 Hedgecroft, Suite 306, Houston, TX 77060
Officers: James Michael Terry, President/Director; Willy Ruefenacht, Stockholder; Captain Ahmed Hamdy, Stockholder

Argosy International Inc., 16058 Vickery Drive, Suite 130, Houston, TX 77032
Officers: John E. Patrick, President/ Director; Samir George Zabaneh, Secretary/Director; Fuad J. Baba, Vice President/Director; Fihmi J. Baba, Assistant Treasurer/Director

Jean H. Johnston d.b.a. Joy International Freight Forwarding (JIFF), 135 Wyandot Avenue, Marion, OH

Stevan Mile Dokmanovic, d.b.a. DMS International Freight Forwarder, 358 Litchfield, Houston, TX 77024

Carmen Colon d.b.a. Carmenco International, 2625 Third Avenue, Apt. 1A, Bronx, NY 10451

Seachott, Inc., Cargo Bldg., No. 3, Doors 106-109, Dulles International Airport, P.O. Box 17373, Washington, D.C. 20041
Officer: Robert J. Schott, President/ Director

Consolidated Freightways Export-Import Services, Inc., 244 Jackson Street, San Francisco, CA 94111
Officers: Raymond F. O'Brien, Chairman/Director; John P. Kelly, Vice President/General Counsel/ Sec./Director; Donald E. Moffitt, Vice President-Finance/Treasurer/ Director; W. Roger Curry, Vice Chairman/Director; Lary R. Scott, Director; John A. Hettrich, General Manager; George T. Barczay, Assistant Secretary; William N. Maurer, Assistant Secretary

Hasman & Baxt of Florida, Inc., 3443 N.W. 65th Street, Miami, FL 33147
Officers: Mitchell P. Baxt, President/ Director; Humberto Estevez, Secretary/Director; Belle Dirstein, Director

Constantin D. Florescu d.b.a. A. F. C. International, 99 East First Street, Clifton, NJ 07011

Alex Stiebel, 640 LaPrairie, Ferndale, Michigan 48220

By the Federal Maritime Commission.

Dated: May 4, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-12363 Filed 5-9-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2610]

John J. Tarnowski; Order of Revocation

On March 30, 1983, John J. Tarnowski, 10902 Clearfolk Street, Humble, TX 77338 requested the Commission to revoke his Independent Ocean Freight Forwarder License No. 2610.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised) § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2610 issued to John J. Tarnowski, be revoked effective March 30, 1983.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2610 issued to John J. Tarnowski be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon John J. Tarnowski.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-12364 Filed 5-9-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that the are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First City Bank-Forum, N.A., San Antonio, Texas, a *de novo* institution. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12409 Filed 5-9-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Omaha National Corporation*, Omaha, Nebraska (mortgage lending activities; Kansas and Missouri): To engage through its subsidiary, Realbanc, Inc., in mortgage lending activities; including the extension of residential mortgage loans for sale to permanent investors, the extension of construction loans and the performance of local collection and inspection activities related thereto. These activities will be conducted from an office in Kansas City, Missouri, and will serve the States of Missouri and Kansas. Comments on this application must be received not later than June 3, 1983.

2. *American Commerce Bancshares, Inc.*, Oklahoma City, Oklahoma (mortgage financing; Oklahoma): To engage directly in making residential mortgage loans for sale into the secondary real estate market. These activities would be performed in Oklahoma City, Oklahoma serving Oklahoma County, Cleveland County and Canadian County in the State of Oklahoma. Comments on this application must be received not later than June 3, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angles, California (mortgage and servicing activities; Colorado): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; and the servicing of such loans for others. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Arvada, Colorado, serving the State of Colorado. Comments on this application must be received not later than June 3, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (mortgage and servicing activities; California): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; and the servicing of such loans for others. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Los Angeles, California, serving the State of California. Comments on this application must be received not later than June 3, 1983.

3. *Woodburn Bancorp*, Woodburn, Oregon (leasing activities; Oregon): To establish a *de novo* subsidiary, Woodburn Bancorp Leasing, Inc., to engage in leasing real and personal properties and servicing such leases in accordance with the Federal Reserve Board's Regulation Y. These activities would be conducted from an office of Woodburn Bancorp in Woodburn, Oregon, serving Woodburn and the surrounding rural area. Comments on this application must be received not later than June 2, 1983.

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Board of Governors of the Federal Reserve System, May 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12410 Filed 5-9-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Independent Banks of Virginia, Inc.*, Norfolk, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bank & Trust, Norfolk, Virginia. Comments on this application must be received not later than May 27, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Alexander City Bancshares, Inc.*, Alexander City, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Alexander City Bank, Alexander City, Alabama. Comments on this application must be received not later than May 25, 1983.

Board of Governors of the Federal Reserve System, May 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12408 Filed 5-9-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Health Risks in Information Processing; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Date: May 20, 1983.
Time: 9:30 a.m.
Place: Robert A. Taft Laboratory, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To review and discuss a research protocol for validating:
(1) a questionnarie instrument developed to measure aspects of information proceesing load, and
(2) a physiological approach, involving heart rate recording, to assessing information processing demands.

Additional information may be obtained from: Joseph J. Hurrell, Jr., Ph.D., Applied Psychology and Ergonomics Branch, Division of Biomedical and Behavioral Science, Mail Stop C-24, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684-8293.

Dated: May 4, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83-12483 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 82N-0373]

Clinical Studies of Effects of Orphan Products; Grants

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of funds for fiscal year 1983 for awarding grants to support clinical trials on safety and effectiveness of orphan products. FDA expects to award approximately 15 to 30 grants ranging from $20,000 to $70,000 each. FDA will consider larger grants if they extend over a 2- or 3-year period.

DATE: Applications must be received by 4 p.m. on July 11, 1983. The earliest beginning date for awards is September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Lewis, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4903.

SUPPLEMENTARY INFORMATION: FDA will support the clinical studies covered by this notice under section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 13.103.

I. Background

FDA has established an Office for Orphan Products Development to identify and facilitate the availability of orphan products. Orphan products are drugs, biologics, medical devices (including in vitro diagnostics), foods for medical purposes, and veterinary products that may be useful in an uncommon or common disease but lack committed commercial sponsorship because they are not considered commercially attractive for marketing. A subcategory of orphan products are those marketed products with suggestive evidence of usefulness in an uncommon, serious disease but which are not labeled for that disease because definitive evidence is lacking.

One way to make orphan products more easily available is to support research to determine whether the products are safe and effective. FDA has allocated funds to support such research.

II. Research Goals and Objectives

FDA will consider only clinical studies for determining whether the products are safe and effective for premarket approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including the addition of new uses to marketed drugs. Ordinarily, there should already be available at least some preliminary clinical research suggesting effectiveness and relative safety, though FDA will also consider applications where persuasive pharmacologic evidence is available that a product has a reasonable possibility of being effective even though no clinical trials have yet been performed. All studies subject to requirements for clinical investigations under the Federal Food, Drug, and Costmetic Act are to be conducted in accordance with those requirements in addition to the requirements of the request for application (RFA).

Because funds are relatively limited, FDA cannot consider large research projects involving many patients and long-term followup. The typical study considered for support may involve up to several dozen patients and will be well controlled and directed to providing substantial evidence of the product's safety and effectiveness. Pharmacokinetic studies will also be considered if they are necessary to determine safe and effective doses in patients with serious organ disease that might affect drug disposition. But pharmacokinetic studies will be considered only if they are part of studies for determining effectiveness of a drug or are proposed as disirable information to obtain for drugs that are already shown to be effective. In designing a well-controlled study, the investigator should keep in mind that historical controls or use of the patient as his/her own control are generally less desirable and reliable than active control or, when ethical, placebo controls.

III. Reporting Requirements

Financial status reports will be required at the end of each budget period.

IV. Mechanism of Support

A. *Ward Instrument.* Support will be in the form of grant awards. These awards will be subject to all policies and requirements that govern the research grant programs of the Public Health Service including the provisions of 42 CFR Part 52, 45 CFR Part 74, and requirements for cost sharing.

B. *Eligibility.* These grants are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity.

C. *Length of Support.* The length of support will depend upon the nature of the study and may extend beyond 1 year. For studies where the expected date of completion is more than 1 year, however, continuation of support beyond the first year will be based upon review of performance during the preceding year and availability of funds.

D. *Funding plan.* The number of studies funded will depend on the quality of the applications received and the availability of funds.

V. Review Procedure and Criteria

A. *Review Method.* Applications will undergo initial review by experts in the field relative to the specific application. The experts will review and evaluate each application based on its scientific merit. The applications will be subject to a second-level review to evaluate them based on their relevance to the aims of the Orphan Products Development Program. Applications will also be reviewed prior to an FDA grant award to ensure to the extent practicable that proposed studies are consistent with requirements for approval under the Federal Food, Drug, and Cosmetic Act.

B. *Review Criteria.* Applications must be responsive to this request for applications. Those judged not to be responsive will be referred to the Division of Research Grants, National Institutes of Health (NIH), for review and consideration as unsolicited applications. Applications that are judged to be unresponsive will not be considered for funding under this RFA. Applications will be reviewed according to the following criteria.

1. Responsiveness to the RFA.
2. The soundness of the rationale for the study.
3. The appropriateness of the study design to answer the question posed.
4. The evidence presented by the applicant that he/she will be able to recruit the proposed number of patients and complete the study during the allotted period.
5. The plans for complying with regulations for protection of human subjects as applicable to the proposed study.
6. The research experience, training, and competence of the principal investigator and the support staff.

VI. Format for Application

Applications must be submitted on Form PHS 398, Public Health Service Grant Application. The face page of the application must reflect the RFA number RFA-FDA-OP-83-1. To ensure confidentiality of individual salary information, applicants may choose to include that information on the original application only. All copies of the application should reflect only a total amount for salaries and fringe benefits. the copies of the application will be distributed to the reviewers when the application is received. No action will be taken by the funding agency to delete confidential information. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and the regulations of the Food and Drug Administration implementing the Act (21 CFR 20.61).

The collection of information requested on the PHS Form 398 and the instructions have been submitted by the Public Health Service (PHS) to the Office of Management and Budget (OMB), and were approved and assigned OMB control number 0925-0001.

Legend

Unless disclosure is required by the Freedom of Information Act, 5 U.S.C. 552, as amended (the act) as determined by the Freedom of Information (FOI) Officials of the Department of Health and Human Services, data contained in the portions of this application with have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

The original and six copies of the completed application should be delivered to, and application kits are available from, Helen M. Crown, Chief, State Contracts and Assistance Agreement Branch (HFA-520), Food and Drug Administration, Rm. 12A-27, 5600 Fishers Lane, Rockville, MD 20857; 301-443-6170.

Label the outside of the mailing package and the top of the application face page "Response To RFA-FDA-OP-83-1."

Applications must be received by 4 p.m. on July 11, 1983. Those received later will be considered in a second round of review if unobligated funds remain in the program. If there are no funds remaining, late applications will be referred to the Division of Research Grants, National Institutes of Health, for review as unsolicited applications.

Dated: May 3, 1983

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-12445 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

Eastern Shore Labs., Inc.; Aquamycin Soluble Powder; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Eastern Shore Labs., Inc., providing for use of Aquamycin Soluble Powder (tetracycline hydrochloride) for making medicated drinking water used in chickens, turkeys, calves, and swine for preventing and treating certain diseases. The firm requested withdrawal of approval.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4093.

SUPPLEMENTARY INFORMATION: Eastern Shore Laboratories, Inc., Laurel, DE 19956, is sponsor of NADA 65-095, which provides for use of Aquamycin Soluble Powder (tetracycline hydrochloride) for making medicated

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drinking water used in chickens, turkeys, calves, and swine for preventing and treating certain diseases.

The product was originally approved on August 26, 1969. Approval of this NADA has not been codified in the Code of Federal Regulations. This firm, in its submission of October 29, 1982, to FDA's Bureau of Veterinary Medicine, requested withdrawal of approval of the NADA without prejudice and waived opportunity for a hearing (see 21 CFR 514.115(d)) because the product is not being manufactured.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA 65–095 and all supplements for Aquamycin Soluble Powder is hereby withdrawn, effective May 20, 1983.

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12446 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0061]

Codex Standard for Dried Edible Fungi

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the Codex Standard for Dried Edible Fungi (Codex Standard 39–1981) (Codex standard) developed by the Codex Alimentarius Commission and announcing that no U.S. standard will be established for dried edible fungi based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of Codex standard signifies that, except as provided for by specified deviations, a product that complies with the codex standard may be distributed freely within the accepting country. A participating country which concludes that it will accept a Codex standard is requested to inform the codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

The United States can accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies by establishing a standard under the authority of section 401 of the act (21 U.S.C. 341), or by revising an existing standard appropriately to incorporate the Codex provisions within the U.S. standard. However, section 401 of the act states that no definition and standard of identity and no standard of quality shall be established for dried vegetables. Therefore, there are no U.S. standards for dried edible fungi.

Although no U.S. standard for dried edible fungi can be established, FDA is publishing the Codex standard, as set forth below, in accordance with 21 CFR 130.6. Because FDA cannot establish a standard for dried edible fungi, no comments are solicited in response to this notice. The Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

The Codex standard for Dried Edible Fungi is as follows:

Codex Stan. 39–1981—Codex Standard For Dried Edible Fungi [1]

World-wide Standard

1. *Scope*

This standard applies to dried fungi (including freeze-dried fungi), whole or sliced, of all edible species, after preparation and packaging.[2]

[1] Formerly CAC/RS 39–1970.

[2] This standard also covers dried fungus Shii-ta-ke.

2. *Description*

2.1 *Definitions of products*

2.1.1 "Whole dried fungi" means the product obtained from cleaned and dried edible fungi. Their stalks may be shortened.

2.1.2 Whole caps without stems.

2.1.3 "Cut dried fungi" means the product obtained from whole edible fungi sliced and dried, the thickness of individual slices being 1–4 mm.

2.2 *Definitions of defects*

2.2.1 "Damaged fungi" means whole fungi, with more than ¼ of the cap missing, or, in the case of cut fungi, means fungi with more than ⅓ of the total surface of the slice missing.

2.2.2 "Carbonized fungi" means whole or cut dried fungi with traces of carbonization on their surface.

2.2.3 "Maggot damaged fungi" means fungi having holes caused by maggots.

2.2.4 "Seriously maggot damaged fungi" means fungi having four or more holes caused by maggots.

2.2.5 "Crushed fungi" means parts of mushrooms passing through a sieve having a 5x5 mm mesh.

2.2.6 "Fallen-off stalks" means stalks separated from the caps.

2.2.7 "Organic impurities of vegetable origin" means admixtures of other edible fungi, parts of plants such as leaves, pine needles, etc.

2.2.8 "Mineral impurities" means those substances which, after ashing, remain as insoluble residues in hydrochloric acid.

2.3 *Main Species*

All edible fungi permitted for sale by the competent authorities in the consuming countries.

Essential Quality Factors

3.1 *Raw Material*

The raw material used for the production of dried edible fungi shall meet the general requirements set out in the General Standard for Edible Fungi and Fungus Products (CAC/RS 38–1970)

3.2 *End Product*

3.2.1 Dried Edible Fungi shall be healthy, i.e. not spoiled; of a colour, flavour and taste appropriate for the species; clean, i.e. free of organic and mineral impurities; free, as far as possible, from maggot damage and damage caused by insects; undamaged.

3.2.2 Dried Edible Fungi shall be properly dried and conform with the following:

Product	Maximum water content (percent m/m)
Freeze-dried fungi	6
Dried (other than freeze-dried) fungi	12

Product	Maximum water content (percent m/m)
Dried Fungus *Shii-ta-ke*	13

3.3 *Tolerances for Defects*

3.3.1 A maximum of 25% m/m of fungi not satisfying the end-product requirements specified in sub-section 3.2.1 is allowed.

3.3.2 Within the tolerance, provided for in subsection 3.2.1, the following individual tolerances shall apply:

Defects	Tolerance
Mineral impurities	Not more than 2% m/m.
Organic impurities of vegetable origin.	Not more than 0.02% m/m except for Shii-ta-ke mushrooms for which the maximum shall be 1% m/m.
Maggot damaged fungi:	
Wild growing fungi	Not more than 20% m/m of total damage including serious damage.
Cultivated fungi	Not more than 1% m/m of total damage including not more than 0.5% m/m of serious damage.
Crushed fungi	Not more than 6% m/m.
Carbonized fungi	Not more than 2% m/m.
Damaged fungi	Not more than 20% m/m.

fallen-off stalks shall be equal in number to caps, i.e. 1:1.

4. Hygiene.

It is recommended that the products covered by this standard be prepared in accordance with the Code of Hygienic Practice for Dehydrated Fruits and Vegetables including Edible Fungi recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 5–1971).

5. Packaging and Presentation.

5.1 *Uniformity*

Packages (cartons, polyethylene bags, boxes) in a lot shall each contain fungi of the same commercial type, and shall have a uniform net weight.

5.2 *Packaging*

Cartons, bags and boxes shall be such as to ensure adequate protection against humidity during storage and transport of the product. Any paper or other material used inside the package shall be new, waterproof and harmless to human health. Fungi shall not come into contact with printed inscriptions on the package.

5.3 Fungi shall be loosely packed in packing units.

6. *Labeling*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the labelling of Prepackaged Foods (Ref. CODEX STAN. 1–1981) the following specific provisions apply:

6.1 *The Name of the Food*

Products complying with the definitions and other requirements of this standard shall be so designated as to specify:

6.1.1 The common and scientific name of the species of fungus used, but the terms "fungus" and fungi" may be replaced by terms which have customarily been used to describe the genus or species concerned in the country in which the product is intended to be sold, e.g. "mushroom" or "mushrooms" for the genus *Agaricus;*

6.1.2 The type of product: "dried fungi" or "freeze-dried fungi";

6.1.3 The style: "whole", "caps" or "sliced".

6.2 *Net Contents*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

6.3 *Name and Address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.4 *Country of Origin*

6.4.1 The country of origin of the product shall be declared.

6.4.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7. *Methods of Analysis and Sampling.*

(To be developed).

Dated: April 29, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-12245 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held from 3 p.m. to 5 p.m., Monday, May 23, 1983.

ADDRESS: The meeting will be held in Rm. 503A–529, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth Flieger, Special Assistant to the Associate Commissioner for Health Affairs (HFY–1) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6143.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care. The agenda item for discussion at the May 23, 1983, meeting will be direct-to-consumer advertising of prescription drugs.

Dated: May 2, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12443 Filed 5-9-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Advisory Board; Subcommittee for the Review of Contracts and Budget of the Office of the Director; Amended Notice of Meeting

Notice is hereby given for an amendment to the Notice of the National Cancer Advisory Board, National Cancer Institute, May 15–18, 1983, which was published in the **Federal Register** on April 15 (48 FR 16338–9). The *beginning time* for the Subcommittee for the Review of Contracts and Budget of the Office of the Director, May 18, will be changed from 1:00 p.m. to 12:30 p.m. The place of the meeting will remain the same: Building 31, C Wing, Conference Room 7, National Institutes of Health. For further information, please contact Mr. James E. Prather, Executive Secretary, National Cancer Institute, National Institutes of Health, Building 31, Room 11A29, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: May 4, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-12304 Filed 5-9-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Trials Committee, National Cancer Institute, June 13–14, 1983, Landow Building, Conference Room E, 7910 Woodmont Avenue, Bethesda, Maryland 20814. This meeting will be open to the public on June 13, from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

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In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 13, from approximately 9:30 a.m. to recess, and on June 14, from 9:00 a.m. to adjournment for the review, discussion and evaluating of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and person information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard A. Rhoden, Executive Secretary, Clinical Trials Committee, National Cancer Institute, Westwood Building, Room 803, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7030) will furnish substantive program information.

Dated: April 9, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–12393 Filed 5–9–83; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors; Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Treatment, National Cancer Institute, June 9–10, 1983, Building 31, C Wing, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public on June 9, from 8:30 a.m. to 12:00 noon, and again from 3:30 p.m. to recess, and on June 10, from 8:30 a.m. to adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, there will be a review of the Radiation Research Program, including new initiatives for 1984. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552B(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 9, from 1:00 p.m. to approximately 3:00 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301/496–4291) will furnish substantive program information.

Dated: April 29, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–12392 Filed 5–9–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19155–13]

Alaska Native Claims Selection; Doyon Ltd.

On September 27, 1982, a Decision to Issue Conveyance (DIC) was issued to Doyon, Limited and published September 29, 1982, in the **Federal Register** (47 FR 42824–42825).

The navigability maps attached to the DIC of September 27, 1982, identified the navigable water bodies as recommended in the Alaska State Director (SD). BLM memorandum dated August 31, 1982, concerning final easements and navigability determinations for Doyon, Limited, in the vicinity of Evansville.

On April 15, 1983, an amendment to the SD memorandum was issued which contained an administrative redetermination of certain unnamed, double-lined sloughs, along the Koyukuk River, South Fork Koyukuk River and John River in the following described lands:

Fairbanks Meridian, Alaska (Surveyed)

T. 23 N., 17 W.,
Secs. 13, 31, 32, and 33.
T. 22 N., 18 W.,
Secs. 12, 13, and 24.
T. 23 N., R. 19 W.,
Secs. 8, 20, 21, 26, 29, and 33.
T. 25 N., R. 19 W.,
Secs. 16, 20, 21, and 36.

The navigable water bodies in the areas listed above are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–13.

The DIC of September 27, 1982, approved for conveyance the surface and subsurface estates of the beds of the above-mentioned unnamed sloughs to Doyon, Limited. As these water bodies are now considered navigable, the submerged lands beneath them are not public lands and are not available to the Native corporation under the Alaska Native Claims Settlement Act of December 18, 1971 (43 CFR 2650.0–5(g)).

Therefore, the DIC of September 27, 1982, is hereby modified to exclude the submerged lands beneath the above-described water bodies from the approval for conveyance to Doyon, Limited. Approximately 156 acres will not be charged toward the regional corporation's entitlement.

This modified decision consititutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the Tundra Times.

Except as modified by this decision, the decision of September 27, 1982, stands as written.

B. LaVollo Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–12485 Filed 5–9–83; 8:45 am]

BILLING CODE 4310–84–M

[F–19328–A; F–19328–B]

Alaska Native Claims Selection; Evansville, Inc.

On September 27, 1982, a Decision to Issue Conveyance (DIC) was issued to Evansville, Inc., and published September 29, 1982 in the **Federal Register** (47 FR 42816).

The navigability maps attached to the DIC of September 27, 1982, identified the navigable water bodies as recommended in the Alaska State Director (SD), BLM memorandum dated August 31, 1982, concerning final easements and navigability determinations for lands in the vicinity of Evansville.

On April 15, 1983, an amendment to the SD memorandum was issued which contained an administrative redetermination of certain unnamed, double-lined sloughs along the Koyukuk River and the John River in the following described lands:

Fairbanks Meridian, Alaska (Surveyed)

T. 25 N., R. 17 W.,
Secs. 3, 4, and 9.
T. 24 N., R., 19 W.
Secs. 2, 20, 21, 28, 29, 32, and 33.

The navigable water bodies in the areas listed above are identified on the attached navigability maps, the original of which will be found in easement casefile F–19328–EE.

The DIC of September 27, 1982 approved for conveyance the surface estate of the beds of the above-described sloughs to Evansville, Inc., and conveyance of the subsurface estate of the same lands to Doyon, Limited. As these water bodies are now considered navigable, the submerged lands beneath them are not public land and are not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act of December 18, 1971 (43 CFR 2650.0–5(g)).

Therefore, the DIC of September 27, 1982, is hereby modified to exclude the submerged lands beneath the above-described water bodies from the approval for conveyance to Evansville, Inc. and Doyon, Limited. Approximately 191 acres will not be charged against the corporation's entitlement.

Evansville, Inc., is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA, as amended. The total acreage conveyed or approved for conveyance is now approximately 63,737 acres instead of 63,928 acres, as shown in the amended DIC dated November 8, 1982. The remaining entitlement of approximately 5,383 acres will be conveyed at a later date.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the *Tundra Times*.

Except as modified by this decision and the decision of November 8, 1982, the decision of September 27, 1982, stands as written.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–12484 Filed 5–9–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 824]

California; Filing of Plat of Survey

April 29, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 32 N., R. 9 W.

2. This plat, representing the corrective dependent resurvey of the section line between sections 2 and 11, T. 32 N., R. 9 W., Mount Diablo Meridian, under Group No. 824, California, was accepted April 15, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Dated: May 2, 1983.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83–12462 Filed 5–9–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 824]

California; Filing of Plat of Survey

April 29, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 32 N., R. 9 W.

2. This plat, representing the corrective dependent resurvey of the section line between sections 2 and 11, T. 32 N., R. 9 W., Mount Diablo Meridian, under Group No. 824, California, was accepted April 15, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Dated: May 2, 1983.

Herman J. Lyttge,

Records and Information Section.

[FR Doc. 83–12463 Filed 5–9–83; 8:45 am]

BILLING CODE 4310–84–M

Utah and Colorado; Availability of Draft Uinta-Southwestern Utah Coal EIS, Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a Draft Uinta-Southwestern Utah Coal Regional Environmental Impact Statement (EIS) which analyzes a second round of proposed competitive leasing of Federal coal in the Uinta-Southwestern Utah Coal Production Region.

Four coal leasing alternatives are considered: (1) Lease 27 tracts containing 1.907 billion tons of in-place coal, (2) lease 22 tracts containing 1.668 billion tons of in-place coal, (3) lease 20 tracts containing 1.316 billion tons of in-place coal, and (4) no competitive Federal leasing (No Action). The tracts are located in central Utah (20 tracts), southern Utah (5 tracts) and west-central Colorado (2 tracts). Alternative Two is the preferred alternative.

Because all tracts proposed for surface mining have Federal surface, no surface owner consent will be required.

DATE: Written comments on the Draft EIS should be submitted by July 6, 1983. Hearing dates are listed below.

ADDRESS: Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. ATTN: Mr. Ronald Bolander (933).

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Bolander, EIS Team Leader, at the above address. Telephone (801) 524–4257.

SUPPLEMENTARY INFORMATION: A limited number of copies of the Draft EIS are available upon request from Mr. Bolander at the above address, or from BLM offices at the following locations:

—Bureau of Land Management, Office of Public Affairs, Main Interior Building, 18th and C Streets NW., Washington, D.C. 20240

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—Bureau of Land Management, Moab District Office, 125 West 2nd South, P.O. Box 970, Moab, Utah 84532
—Bureau of Land Management, Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720
—Bureau of Land Management, Richfield District Office, 150 East 900 North, P.O. Box 763, Richfield, Utah 84701
—Bureau of Land Management, Price River Resource Area Office, 900 North 7th East, P.O. Box AB, Price, Utah 84501
—Bureau of Land Management, Kanab Resource Area Office, 320 North 1st East, P.O. Box 458, Kanab, Utah 84741
—Uncompahgre Basin Resource Area Office, Bureau of Land Management, 336 South 10th, P.O. Box 1269, Montrose, Colorado 81401
—Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202

Public hearings will be held as scheduled below to announce and discuss the results of the ranking and selection process and the potential impacts, including mitigation measures, as presented in the Draft EIS. The State Director, Utah State Office, invites oral and written comments at that time.

June 6, 1983, 7:00 p.m.
Delta Middle School Cafeteria, Delta, Colorado
June 7, 1983, 7:00 p.m.
Emery County Courthouse, Castle Dale, Utah
June 8, 1983, 7:00 p.m.
BLM Kanab Area Office, 320 North First East, Kanab, Utah
June 9, 1983, 7:00 p.m.
Salt Palace, Room 220, Salt Lake City, Utah

Written and oral comments concerning the adequacy of the Draft EIS will receive consideration in preparation of the Final Environmental Impact Statement.

Dated: April 20, 1983.
Signed:

James M. Parker,
Acting Director, Bureau of Land Management.

Dated: April 29, 1983.
Approved:

David G. Houston,
Acting Assistant Secretary for Land and Water Resources.

[FR Doc. 83-12285 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-84-M

[U-050]

Richard District, Richfield, Utah; Henry Mountain Final Grazing Environmental Statement (EIS)

Notice is hereby given that Henry Mountain Final Grazing EIS is available to the public. Public comment will be accepted until June 28, 1983. Those wishing a copy of the final EIS should write or call Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, telephone (801) 896-8221.

Donald L. Pendleton,
District Manager.
May 2, 1983.

[FR Doc. 83-12477 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Rawlins District Advisory Council Meeting

AGENCY: Rawlins District Office, Rawlins, Wyoming.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Rawlins District Advisory Council will be held.

DATE: June 16, 1983.

ADDRESS: Rawlins District Office, 1300 N. Third Street, Rawlins, Wyoming.

FOR FURTHER INFORMATION CONTACT: David Walter, District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301; (307) 324-7171.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9 a.m. in the conference room of the Rawlins District Office. The agenda for this meeting will include:

(1) Introduction and orientation.
(2) BLM/on-shore minerals management merger in the Rawlins District.
(3) Adobe Town/Ferris Mountains EIS and wilderness study.
(4) Coal leasing program.
(5) Asset management.
(6) Sportsman's Park Inc. public access program.
(7) Public comment period.
(8) Election of officers.

The meeting is open to the public. Interested persons may make oral statements to the council at 3:30 p.m. or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager on or before June 9, 1983. Depending on the number of persons wanting to make statements, a time limit may be established.

David J. Walter,
District Manager.

[FR Doc. 83-12461 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-84-M

Bakersfield District Advisory Council; Meeting

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that the Bakersfield District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Friday, June 10 and Satruday, June 11, 1983, in the City Council Chambers of the Bishop City Hall, 377 West Line Street, Bishop, California. The meetings will be held from 8 a.m. to 5 p.m. on Friday, and from 8 a.m. to 2 p.m. on Satruday.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

(1) The effects of illegal marijuana cultivation on multiple-use resource management.

(2) The preliminary wilderness recommendations proposed in the Draft Environmental Impact Statement for the Benton-Owens Valley/Bodie-Coleville Study Areas.

(3) A field trip, scheduled for Saturday morning, to tour the Mono Lake area and to review on-site the current status of legislation and resouce management issued concerning that area. Transportation for this trip is provided for staff and Council members only. Public participants are invited to join the tour, but must provide their own transportation and meals.

The meeting is open to the public, with time allotted for oral comments at 4 p.m. Friday, June 10. If written comments will be presented for the Council's consideration, they must be submitted before the close of the meeting.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marth Witt, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 302, Bakersfield, CA 93301; (805) 861-4191.

Dated: May 4, 1983.
Robert D. Rheiner, Jr.,
District Manager.

[FR Doc. 83-12706 Filed 5-9-83; 11:05 am]
BILLING CODE 4310-84-M

National Park Service

Golden Gate National Recreation Area Advisory Commission; Hearing

Notice is hereby given in accordance with the Federal Advisory Committee Act that a hearing of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (P.s.t.) on Wednesday, June 1, 1983, at Building 101, Fort Funston, San Francisco, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco, and San Mateo counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda item for this hearing will be draft Land Protection Plan for Golden Gate National Recreation Area. The Commission will be receiving public testimony on the draft plan.

The hearing is open to the public. Any member of the public may file with the Commission a written statement concerning the matter to be discussed.

Persons wishing to receive further information on this hearing or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556-2920.

Minutes of this hearing will be available for public infomation by July 11, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: April 29, 1983.
John Cherry,
Acting Regional Director, Western Region.

[FR Doc. 83-12452 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 29, 1983. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 25, 1983.

Carol D. Shull,
Chief of Registration, National Register.

CALIFORNIA

San Bernardino County
Newbury Springs vicinity, *Newberry Archaeological Site,*

CONNECTICUT

Middlesex County
Portland, *Indian Hill Avenue Historic District,* Main St. and Indian Hill Ave. to river

KENTUCKY

Calloway County
Murray, *Murray State University Historic Buildings, Addition: Main Library,* Murray State University campus

Christian County
Hopkinsville, *Freeman Chapel C.M.E. Church (Christian County MRA),* 137 S. Virginia St.

Franklin County
Frankfort, *Hume, E. E., Hall,* Kentucky State University Campus

Jefferson County
Louisville, *Board of Extension of the Methodist Episcopal Church, South (North Old Louisville MRA),* 1115 S. 4th St.
Louisville, *District #1 (North Old Louisville MRA),* S. Brook and E. Breckinridge St.
Louisville, *District #2 (North Old Louisville MRA),* W. Breckinridge St. and S. 2nd St.
Louisville, *Ewing, D. H., & Sons Creamery (North Old Louisville MRA),* 981 S. 3rd St.
Louisville, *Kentucky Street School (North Old Louisville MRA),* 119 E. Kentucky St.
Louisville, *Marvin, Dr. J. B., House (North Old Louisville MRA),* 809 S. 4th St.
Louisville, *Thierman Apartments (North Old Louisville MRA),* 416-420 W. Breckinridge St.
McCraken County
Paducah, *Anderson, Artelia, Hall,* 1400 H.C. Mathis Dr.
Montgomery County
Mount Sterling, *KEAS Tabernacle Christian Methodist Episcopal Church,* 101 S. Queen St.
Oldham County
Crestwood, *Clore, Albert E., House,* 6400 Clore Lane

MASSACHUSETTS

Bristol County
Rehoboth, *Allen, Elisha, House (Rehoboth MRA),* 106 Homestead Rd.
Rehoboth, *Anawam Club Clubhouse (Rehoboth MRA),* 13 Gorman St.
Rehoboth, *Anawam Club Cartaker's House (Rehoboth MRA),* 15 Gorman St.
Rehoboth, *Anawan Rock (Rehoboth MRA),* Anawan St.
Rehoboth, *Baker House (Rehoboth MRA),* 191 Hornbine Rd.
Rehoboth, *Bliss, Abiah, House (Rehoboth MRA),* 154 Agricultural Ave.
Rehoboth, *Bliss, Daniel, Homestead (Rehoboth MRA),* 76 Homestead Ave.
Rehoboth, *Bowen, Nathan, House (Rehoboth MRA),* 26 Kelton St.
Rehoboth, *Bramble Hill (Rehoboth MRA),* 32 Moulton St.
Rehoboth, *Briggs Tavern (Rehoboth MRA),* 2 Anawan St.
Rehoboth, *Brown House (Rehoboth MRA),* 384 Tremont St.
Rehoboth, *Carpenter Bridge (Rehoboth MRA),* Carpenter St.
Rehoboth, *Carpenter House (Rehoboth MRA),* 89 Carpenter St.
Rehoboth, *Carpenter, Christoper, House (Rehoboth MRA),* 60 Carpenter St.
Rehoboth, *Carpenter Col. Thomas, III, House (Rehoboth MRA),* 77 Bay State Rd.
Rehoboth, *Cushing House (Rehoboth MRA),* 186 Pine St.
Rehoboth, *Cushing, Caleb, Farm (Rehoboth MRA),* 188 Pine St.
Rehoboth, *Drown, Nathaniel, House (Rehoboth MRA),* 116 Summer St.
Rehoboth, *Elm Cottage/Blanding Farm (Rehoboth MRA),* 103 Broad St.
Rehoboth, *Goff Farm (Rehoboth MRA),* 158 Perryville Rd.
Rehoboth, *Goff Homestead (Rehoboth MRA),* 40 Maple Lane.
Rehoboth, *Hornbine Baptist Church (Rehoboth MRA),* 141 Hornbine Rd.
Rehoboth, *Hornbine School (Rehoboth MRA),* 144 Hornbine Rd.
Rehoboth, *Horton, Welcome, Farm (Rehoboth MRA),* 122 Martin St.
Rehoboth, *House at 197 Hornbine Road (Rehoboth MRA),* 197 Hornbine Rd.
Rehoboth, *House at 30 Kelton Street (Rehoboth MRA),* 30 Kelton St.
Rehoboth, *Ingalls-Wheeler-Horton Homestead Site (Rehoboth MRA),* 214 Chestnut St.
Rehoboth, *Kingsley House (Rehoboth MRA),* 96 Davis St.
Rehoboth, *Knapp, Seth, Jr., House (Rehoboth MRA),* 82 Water St.

Rehoboth, *Martin Farm (Rehoboth MRA)*, 121 Martin St.
Rehoboth, *Peck-Bowen House (Rehoboth MRA)*, 330 Fairview Ave.
Rehoboth, *Perry, James House (Rehoboth MRA)*, 121 Perryville Rd.
Rehoboth, *Pierce, Capt. Mial, Farm (Rehoboth MRA)*, 177 Hombine Rd.
Rehoboth, *Rehoboth Village Historic District (Rehoboth MRA)*, Bay State Rd. and Locust Ave.
Rehoboth, *Viall, Samuel, House (Rehoboth MRA)*, 85 Carpenter St.
Rehoboth, *Wheller, Aaron, House (Rehoboth MRA)*, 371 Fairview Ave.
Rehoboth, *Wheller-Ingalls House (Rehoboth MRA)*, 51 Summer St.

MISSISSIPPI

Lincoln County

Brookhaven, *U.S. Post Office*, 201 W. Cherokee St.

NEBRASKA

Franklin County

Bloomington vicinity, *Lost Creek Archeological Site.*

NEW JERSEY

Bergen County

Dumont, *North Church*, 120 Washington Ave. and 191 Washington Ave.
Hackensack *Reformed Dutch Church and Green*, 42 Court St.

NEW YORK

New York County

New York, *Hatch, Barbara Rutherford, House* 153 E. 63rd St.
New York, *House at 17 West 16th Street*, 17 W. 16th St.
New York, *House at 203 Prince Street*, 203 Prince St.
New York, *Smith, Fleming, Warehouse*, 451–453 Washington St.

OHIO

Ross County

Hallsville vicinity, *Buchwalter House-Applethorpe Farm*, 292 Whissler Rd.

Sandusky County

Fremont, *Fabing, Frederick, House* 201 S. Park Ave.

Summit County

Akron, *Akron Post Office and Federal Building*, 168 E. Market St.

OKLAHOMA

Delaware County

Bassett Grove Ceremonial Grounds

TEXAS

Harris County

Houston, *Trinity Church*, 3404 S. Main St.

McLennan County

Waco, *Artesian Manufacturing and Bottling Company Building (Home of Dr. Pepper)*, 300 S. 5th St.

Nolan County

Sweetwater, *First National Bank Building*, 101 E. Third St.

Tarrant County

Fort Worth, *Sanquinet, Marshall R., House* 4729 Collinwood Ave.

UTAH

Weber County

Ogden, *Ogden High School (Ogden Art Deco Buildings TR)*, 2828 Harrison Blvd.
Ogden, *Ogden/Weber Municipal Building (Ogden Art Deco Buildings TR)*, 2541 Washington Blvd.
Ogden, *U.S. Forest Service Building (Ogden Art Deco Buildings TR)*, 507 25th St.

VERMONT

Caledonia County

Waterford, *Lee Farm*, SR 25

Chittenden County

Jericho, *Jericho Center Historic District*, Brown's Trace, Bolger Hill and Varney Rds.

WYOMING

Carbon County

Rawlins, *Wyoming State Penitentiary District*, 6th and Walnut Sts.

[FR Doc. 83-12493 Filed 5-9-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Coordinated Operating Agreement for the Central Valley Project and the State Water Project in California; Intent To Prepare a Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare, in coordination with the California State Department of Water Resources, a joint draft environmental statement-environmental impact report (DES–EIR) on the proposed Coordinating Operating Agreement for the Central Valley Project (CVP) and the State Water Project (SWP).

The purpose of the Federal CVP and the SWP is to manage water resources in California for the benefit of agricultural, industrial, municipal and other beneficial uses. To a large extent much of the project water from the Federal and State facilities in the Central Valley is transported in the same river or conveyance facility. Consequently, much of the water is intermingled.

Both the State and Federal Governments properly regard their project water as a valuable product of their planning and development efforts. Coordination of the CVP SWP operations is essential to assure that each project obtains its appropriate share of the water available especially since the water of one project is physically indistinguishable from that of the other. Close coordination of project operations is necessary to obtain the most effective use of project water. Also, coordination is necessary to make sure that each agency, State and Federal, bears an appropriate share of the obligations to protect the water-related environment.

The DES–EIR will identify all viable options to and the impacts which result from renegotiation of the present draft agreement between the State and Federal Governments for the coordinated operation of the CVP and the SWP.

Since 1979, formal negotiating sessions have been held which were open to the public. However, there will be one or more scoping sessions at which information will be solicited from all interested public entities and persons to assist in scoping the issues to be addressed and to identify other significant issues related to the proposed action. The time and place of this scoping session will be announced not later than 30 days after the publication of this notice.

For this DES–EIR, the contact person will be: Roderick M. Hall, Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4792.

Dated: May 4, 1983.

R. N. Broadbent,

Commissioner.

[FR Doc. 83-12455 Filed 5-9-83; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Montana; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice designates 15 areas totaling 52,361 acres for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976 or for consideration of other forms of protective management. This notice also amends previous wilderness inventory decisions by the Bureau of Land Management for lands in Montana, deleting all or part of 5 wilderness study areas. The total area deleted from wilderness study area status under Section 603 of the Act by this decision is 23,116 acres.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Montana State Director, Bureau of Land Management, 222 North 32nd Street, Post Office Box 30157, billings, Montana 59107, telephone (406) 657–6090.

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management wilderness study areas in Montana to bring the Bureau's wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the **Federal Register** on December 30, 1982 (47 FR 58372).

Section 1. Consideration for Protective Management

The 15 areas listed in Table 1, totaling 52,361 acres, have been designated for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976 or for consideration for other forms of protective management. These areas were formerly identified as wilderness study areas under Section 603 of the Act. They were either deleted from that category on December 30, 1982, or they are being deleted by Sections 2 and 3 of this decision.

Section 2. Areas Under 5,000 Acres

The wilderness study areas listed in Table 2 are modified to delete roadless areas smaller than 5,000 acres, effective upon publication of this decision in the **Federal Register**. These roadless areas were improperly identified as parts of wilderness study areas under Section 603 of the Federal Land Policy and Management Act of 1976. Only the acreages listed in Table 2 as "acres deleted" are deleted from wilderness study; the remainder of the wilderness study area remains under wilderness study, and the deletions do not affect the Bureau of Land Management's previously adopted conclusions as to the presence of wilderness characteristics in the remaining wilderness study area.

Section 3. Split-Estate Lands

A. "Split-estate" lands are lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned. Split-estate lands were improperly identified for wilderness study under Section 603 of the Federal Land Policy and Management Act of 1976. That error is corrected by this decision.

B. With the deletion of split-estate lands from the wilderness study areas listed in Table 3, there are no roadless areas in these listed wilderness study areas having 5,000 acres or more of contiguous public lands. Therefore, the areas listed in Table 3 are deleted in their entirety from the status of wilderness study areas, effective upon publication of this decision in the **Federal Register**.

C. The boundary and acreage of the following wilderness study area is modified, effective upon publication of this decision in the **Federal Register**, to delete split-estate lands and an isolated tract of public land which is separated from the wilderness study area by the deleted split estate. This isolated tract no longer qualifies for wilderness study under section 603 because it is smaller than 5,000 acres. Only the indicated acreage is deleted from wilderness study. The remainder of the wilderness study area remains under wilderness study, and the boundary change does not affect the Bureau of Land Management's previously adopted conclusions as to the presence of wilderness characteristics in the remaining wilderness study area.

Wilderness Study Area Name: Terry Badlands
Number: MT–024–684
Old Wilderness Study Area Acreage: 43,450
Split Estate Acres Deleted: 215
Non-Split Estate Acres Deleted: 70
Revised Wilderness Study Area Acreage: 43,165
Counties: Prairie and Custer

Section 4. Management of Deleted Lands

All lands in Montana deleted from wilderness study status by this decision in Tables 2 and 3, in section 3(C) above, and by the decision issued on December 30, 1982, (47 FR 58372) and not designated for further wilderness consideration in Table 1 of this notice are hereby released from management restrictions to protect their wilderness suitability. Of these lands, 6,922 acres are being considered for designation as Areas of Critical Environmental Concern, Natural Areas, or Recreation Lands and will be managed to protect the identified natural or recreational values. The remaining 12,930 acres will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

May 3, 1983.

Garrey E. Carruthers,

Assistant Secretary.

TABLE 1.—AREAS BEING CONSIDERED FOR PROTECTIVE MANAGEMENT.

Area name	Number	Acreage	County	Category [1]
Billy Creek	MT–024–633	3,450	Garfield	Wilderness.
Seven Blackfoot:	MT–024–657			
Tract A		3,950	Garfield	Wilderness, ACEC, NA.
Tract B		4,850	Garfield	Do.
Antelope Creek	MT–065–266A	2,750	Phillips	Wilderness.
Burnt Timber Canyon	MT–067–205	3,955	Carbon	Do.
Big Horn Tackon	MT–067–207	4,550	Carbon	Do.
Stafford	MT–068–250	4,800	Blaine	Do.
Gallagher Creek	MT–074–151B	4,257	Powell	Wilderness, ACEC.
Quigg West	MT–074–155	520	Granite	Wilderness.
Blind Horse Creek	MT–075–102	4,927	Teton	Wilderness, ACEC, ONA.
Chute Mountain	MT–075–105	3,205	Teton	Do.
Deep Creel/Battle Creek	MT–075–106	3,088	Teton	Do.
North Fork Sun Rvere	MT–075–107	196	Teton	ACEC.
Beaver Meadows	MT–075–110	595	Lewis & Clark	Do.
Sleeping Giant	MT–075–111	6,131	Lewis & Clark	ACEC, NA, RL.
Farlin Creek	MT–076–034	*1,139*	Beaverhead	Wilderness.
Total (15 areas)		52,361		

[1] In this table the following abbreviations are used: Wilderness means wilderness consideration under Section 202 of the Federal Land Policy and Management Act of 1976; ACEC means consideration for areas of critical environmental concern; NA means consideration for natural areas; ONA means consideration for outstanding natural areas; and RL means consideration for recreation lands.

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TABLE 2.—MODIFIED WILDERNESS STUDY AREAS—ROADLESS AREAS SMALLER THAN 5,000 ACRES DELETED.

Wilderness study area	Number	Old wilderness study area acreage	Acres deleted	Revised wilderness study area acreage	County
Seven Blackfoot	MT-024-057	20,250		11,459	Garfield.
Tract A			3,950		
Tract B			4,850		
Subtotal			8,800		
Antelope Creek	MT-095-266	12,350		9,600	Phillips.
Tract A			2,750		
Total (2 areas)			11,550		

TABLE 3.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES AFTER DELETION OF SPLIT-ESTATE LANDS

Wilderness Study area name	Number	Acreage	County
Dog Creek South	MT-068-244	5,150	Fergus.
Sleeping Giant	MT-075-111	6,131	Lewis & Clark.
Total (2 areas)		11,281	

[FR Doc. 83-12343 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-84-M

Privacy Act of 1974—Deletion of System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to delete a system of records notice from its inventory of records subject to the Act. The records system notice is titled: "Audit Files—Interior, Office of Inspector General–1" and was last published in the **Federal Register** on November 30, 1981 (46 FR 58200). The records maintained in the audit files of the Department's Office of Inspector General are not retrieved by the name of an individual or by any number, symbol, or other identifying particular assigned to an individual.

In conjunction with the foregoing deletion, the Office of Inspector General system of records notice titled "Management Information—Interior, Office of Inspector General–3," previously published in the **Federal Register** on November 30, 1981 (46 FR 58201), is re-numbered to become "Management Information-Interior, Office of Inspector General–1."

As provided in 5 U.S.C. 552a(e)(11), written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the **Federal Register** will be considered. The proposal shall become effective June 9, 1983 unless comments are received which would result in a contrary determination.

Dated: May 2, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 83-12411 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-10-M

Transfer of Emergency Preparedness Functions

Notice is hereby given that the Secretary of the Interior, Secretary of Defense, and the Director, Federal Emergency Management Agency have signed an agreement providing for the transfer of certain emergency preparedness functions related to water.

The agreement, published in its entirety below, transfers all water and water resource responsibilities assigned to the Secretary of the Interior by Part 7 and related sections of Executive Order 11490, as amended, to the Secretary of Defense, acting through the Secretary of the Army. The effective date of the agreement is April 27, 1983.

Dated: May 3, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

Transfer Agreement of Responsibilities and Functions Assigned Under Executive Order 11490

Whereas, the President, by Executive Order 11490, October 28, 1969, as amended, has directed the Secretary of the Interior to prepare national emergency plans and develop preparedness programs for water as defined in the Order; and

Whereas, Section 3013 of the Order provides that any emergency function, or parts thereof, may be transferred from one department or agency to another with the consent of the heads of the organizations involved and with the concurrence of the Director, Federal Emergency Management Agency; and

Whereas, the Secretary of the Interior desires to transfer all water and water resource responsibilities and functions assigned to him by Part 7 and related sections of the Order, including but not limited to, sections 102(c), 401(28), 701(5), 702(6), 703(3), 804(4), 902(6), 1552(1), 2701(2), and 2701(4), to the Secretary of Defense, acting through the Secretary of the Army; and

Whereas, the Secretary of Defense will accept said responsibilities and functions and, acting through the Secretary of the Army, will implement, in the event of an emergency, all appropriate plans developed under the responsibilities and functions being transferred; and

Whereas, it is the agreement of the Secretaries of the Interior and Defense to subsequently support an amendment to Executive Order 11490 in consonance with this Transfer Agreement;

Now therefore, be it agreed that the transfer of the above stated responsibilities and functions is accomplished, effective 30 days following concurrence herewith by the Director, Federal Emergency Management Agency.

Dated: February 3, 1983.

James G. Watt,

Secretary of the Interior.

Dated: March 8, 1983.

Caspar W. Weinberger,

Secretary of Defense.

Dated: March 28, 1983.

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 83-12478 Filed 5-9-83; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP1-164]

Motor Carriers; Decision-Notice

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.1. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questons involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decison is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team 1, (202) 275–7992.

MC–F–15237, filed: April 13, 1983. DANIEL B. FRIEDMAN, Main Road, Dorrance, PA 18707, and MORTON FRANK, 58–60 Page Place, Maspeth, NY 11378—CONTINUANCE IN CONTROL—FRIEDMAN'S EXPRESS, INC. (Friedman's) P.O. Box 480, Wilkes-Barre, PA 18773; and KERI CORPORATION (Keri), 58–20 Borden Avenue, Maspeth, NY 11378. Representative: Maxwell A. Howell, 2554 Massachusetts Avenue, NW., Washington, DC 20008. Friedman's and Keri are controlled through majority stock ownership by Daniel B. Friedman and Morton Frank, as individuals, who, by this application, seek approval for continuance in control of Friedman's and Keri, upon the latter's institution of motor carriage operations. Friedman's has issued and outstanding 600 shares of common stock, of which Daniel B. Friedman owns 50 percent and Morton Frank owns 16 percent. Keri has not yet commenced operations; however, capital stock has been subscribed, of which Messrs. Friedman and Frank each own 50 percent. The controlling individuals are officers and directors of both companies. Friedman's is a motor carrier of property pursuant MC–60430 and sub-numbers thereunder, which has long been established under the "grandfather clause" of the Act. On February 23, 1983, the Commission issued an initial decision to Keri Corporation in MC–164060 authorizing the transportation of *general commodities,* with three exceptions, between points in 17 States and the District of Columbia, conditioned upon approval of the instant application.

Notes.—(1) This application is related to MC–164060. (2) No application for TA has been filed.

[FR Doc. 83-12289 Filed 5-9-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find;

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered;

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative

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requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,
Secretary.

For the following, please direct status calls to Team 1 at 202–275–7992.

Volume No. OP1–FC–165

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81412. By decision of May 3, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to AUTOBUS LACHUTE, INC., Lachute, Quebec, Canada, of Certificate No. MC–119860 (Sub-No. 5), issued November 2, 1982, to RENFREW COUNTY BUS LINES, LTD., Renfrew, Ontario, Canada, authorizing the transportation of (1) passengers and their baggage in the same vehicle with passengers, in round-trip charter operations, (a) beginning and ending at ports of entry of the United States-Canada boundary line in MI and east thereof, and extending to Washington, DC, Alexandria and Mt. Vernon, VA, points in Arlington County, VA, and points in MD, PA, NY, RI, CT, MA, VT, ME, NH, MI and OH, and (b) beginning and ending at ports of entry on the United States-Canada boundary line in MI and those states east thereof, and extending to points in AL, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WV, WA, WI, and WY, and (2) passengers and their baggage in the same vehicle with passengers, in round-trip sightseeing and pleasure tours, beginning and ending at ports of entry along the United States-Canada boundary line and extending to points in the U.S. (except AK and HI). Representative: Charles Ephraim, Suite 406, 918 16th St., NW. Washington, DC 20006.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–FC–208

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81383. By decision of May 3, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR Part 1181, Review Board Number 1, approved the transfer to SNYDER BRIDGE COMPANY, Joplin, MO, of authority issued to FARTHING & WEIDMAN, INC., Joplin, MO, in Certificate No. MC–74623, issued March 10, 1971, authorizing the transportation of such commodities, which because of size or weight require the use of special equipment and machinery, between points in that part of Missouri, Kansas, and Oklahoma, within 100 miles of Joplin, MO, including Joplin. An application for temporary authority has been filed. Representative: James M. Zerkel, 3400 E. 20th St., Joplin, MO, 64804.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–MCFC–196

Decided: April 29, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

MC–FC–81408. By decision of April 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to T. K. STANLEY, INC., of Waynesboro, MS, of Certificate No. MC–147185, issued July 2, 1982, to STEVE FARRAR, of Waynesboro, MS, authorizing the transportation of (1) *oil field equipment and supplies*, and (2) *pipe*, between points in AL, AR, FL, LA, and MS. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701.

Volume No. OP3–MCFC–197

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81300. By decision of April 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to WALT'S DRIVE-A-WAY SERVICE, INC., of Evansville, IN, of Certificate No. MC–142315 and Subs 2F and 4, issued October 25, 1977, March 9, 1981, and August 3, 1981, respectively, to MEISLER CARTAGE INC., of Evansville, IN, authorizing (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, in tank vehicles and in dump vehicles, and those requiring special equipment), between Evansville, IN, on the one hand, and, on the other, Albion, Grayville, and West Salem, IL, subject to the following conditions: (a) the operations authorized herein are restricted to the transportation of shipments having a prior or subsequent movement by rail, and (b) the authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 10930 (formerly Section 210) of the Act, (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), (a) between points in Sullivan, Greene, Monroe, Lawrence, Washington, Harrison, Crawford, Orange, Perry, Daviess, Martin, Dubois, Pike, Warrick, Spencer, Knox, Gibson, Vanderburgh, Posey, Floyd, and Clark Counties, IN, Clark, Coles, Cumberland, Effingham, Fayette, Marion, Jefferson, Franklin, Williamson, Johnson, Massac, Pope, Saline, Hamilton, Wayne, Clay, Jasper, Richland, Edwards, White, Gallatin, Hardin, Wabash, Lawrence, Crawford, Pulaski, Union, Jackson, and Perry Counties, IL, and Marshall, Trigg, Todd, Logan, Edmonson, Grayson, Breckinridge, Meade, Hancock, Ohio, Daviess, McLean, Hopkins, Muhlenberg, Butler, Christian, Webster, Henderson, Union, Crittenden, Caldwell, Livingston, Lyon, and McCracken Counties, KY, and (b) between Evansville, IN, and St. Louis, MO, restricted in both 2(a) and 2(b) above to the transportation of traffic having a prior or subsequent movement by rail, and (3) *rubber and plastic products*, between points in Posey County, IN, on the one hand, and, on the other, points in Vanderburg County, IN, and Williamson and St. Clair Counties, IL, restricted to traffic having a prior or subsequent movement by rail. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204.

MC–FC–81373. By decision of April 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to Julia O. Bunch, d.b.a. JayBee Transportation Company, Rowlett, TX 75088, of Certificate No. MC–151505, issued February 1, 1982, to Ram Truck Lines, Inc., Mesquite, TX 75149, authorizing the irregular route transportation of *general commodities* (except classes A and B explosives), between the facilities of Acme Fast Freight, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S. Representative: Julia O. Bunch (Same address as applicant). (214) 475–1407.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–268

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81426, filed April 26, 1983. By decision of May 2, 1983, issued under 49 U.S.C 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to SERVICE LINES, INC., of Palmetto, GA, of Permit No. MC–158527, issued February 16, 1982, to HOWARD W TEAL, d.b.a. TRANS STATE, INC., of East Point, GA, authorizing the transportation of *such merchandise* as is dealt in by retail, discount and department stores [except commodities in bulk and except foodstuffs), between points in Coweta County, GA, on the one hand, and, on he other, points in AL, FL, GA, MS, NC, SC, TN, and VA, under continuing contract(s) with K-Mark Corporation, of Newnan, GA. Transferee is a carrier holding authority under No. MC–157183. Representative: Howard W. Teal, P.O. Box 571, Palmetto, GA 30268, for both transferee and transferor. (404) 463–4531.

MC–FC–81371, filed April 6, 1983. By decision of April 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to TRI–GAS & OIL CO., INC., of Federalsburg, MD, of Certificate No. MC–159557, issued April 29, 1982, to B. & M. TRANSPORTATION CO., INC., of Federalsburg, MD, authorizing the transportation of *containers, container ends and closures, and tin plates*, between points in NY, OH, IL, MA, RI, PA, MD, DE, VA, WV, NJ, NC, SC, GA, and FL. Representative: Robert E. Blades, Box 465 (Route 313 North), Federalsburg, MD 21632, (301) 744–8184.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–FC–208

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–78296. By decision of April 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 granted applicant's letter petition for reopening and approved the transfer to AIR TRANSPORT, INC., Boston, MA, of Permit No. MC–144745 Sub 1, issued July 24, 1980, to W & D EXPRESS, INC., Boston, MA, authorizing the transportation of (1) frozen bakery products and frozen onion rings, and (2) commodities otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), when moving in mixed loads with the commodities in (1) above, from Boston, Gloucester, Lawrence, Wilmington, and Worcester, MA, to points in AL, IA, LA, MS, TN, VA, and DC, under continuing contract(s) with Boston Bonnie, Inc., and Boston Bonnie Bakers, Inc., both of Boston, MA. Representative: Frederick T. O'Sullivan, P.O. Box 2184, 622 Lowell Street, Peabody, MA 01960.

MC–FC–81321. By decision of 4–26–83 issued under 49 U.S.C. 10101–10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the lease for a period of 1 year, to LARRY REVENAUGH, d.b.a., HANSEN TRANSFER, of Logan, IA, of the regular-route portion of Certificate No. MC–121589 Sub 12X issued July 28, 1982, and the underlying regular-route authority in Sub 2 issued May 1, 1979 to N & W TRANSFER, INC., of Nehawka, NE, authorizing the transportation of *general commodities* (except classes A and B explosives, and household goods), between Weeping Water, NE, on the one hand, and, on the other, Lincoln, Omaha, Auburn, and Louisville, NE, over a series of described regular routes, with described alternate regular-route services between Omaha, NE, on the one hand, and, on the other, Nebraska City and Lincoln, NE. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114.

MC–FC–81375. By decision of April 26, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BESTWAY EXPEDITING, INC., Kalamazoo, MI, of Certificates Nos. MC–157159 and Subs 1 and 3, and Permit No. MC–157459 Sub 2, issued April 23, 1982, September 9, 1982, January 19, 1983, and Nomember 26, 1982, respectively, to LEWIS C. HOWARD, INC., Kalamazoo, MI, authorizing the transportation of general commodities, with exceptions, (a) between points in Kalamazoo County, MI, on the one hand, and, on the other, points in Elkhart County, IN; (b) between points in Kalamazoo County, MI, on the one hand, and, on the other, points in IN, IL, and OH; (c) between points in DE, GA, IL, IN, KS, KY, MD, MA, MI, MS, NJ, NY, OH, PA, OK, and WI; and (d) between points in the U.S. (except AK and HI), under continuing contract(s) with Clark Equipment Company, of Buchanan, MI. An application for temporary authority has been filed. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49301.

MC–FC–81397. By decision of April 28, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to SUFFOLK TRANSPORTATION CORPORATION, of Suffolk, VA of Certificate No. MC 151839 Subs 1F, 2, and 5, issued March 27, 1981, June 4, 1981, and August 13, 1982, respectively, and Permit No. MC 151839 Subs 3 and 4 both issued May 29, 1981, to C & S TURCKING, INC., authorizing the transportation of (1) *general commodities* (with exceptions), (a) between points in the Norfolk, VA commercial zone, (b) between Suffolk, Richmond, and Petersburg, VA, and (c) between Suffolk, VA, on the one hand, and, on the other, points in NC and MD, restricted in all above to traffic having a prior or subsequent movement by water or rail; (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE, GA, MD, NJ, NC, PA, SC, VA, WV, and DC; (3)(a) *pulp, paper, and related products*, (b) *rubber and plastic products*, (c) *chemicals and related products*, and (d) *building materials*, between points in the U.S., under continuing contract(s) with Union Camp Corporation, of Wayne, NJ; (4) *chemicals and related products*, between points in the U.S., under continuing contract(s) with Goldschmidt Chemical Corporation, of Hopewell, VA; and (5) *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Lewittes Furniture Enterprises, Inc., of Taylorsville, NC. Representative: Frank L. Willard, Suite #1001, First & Merchants Bank Bldg., Norfolk, VA 23510.

Volume No. OP5–FC–209

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81303. By decision of April 27, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to ZAVITZ BROTHERS LIMITED of Wainfleet, Ontario, Canada, of a portion of Certificate No. MC–142048 Sub 11 issued May 20, 1982 to FAST FOOD TRANSPORT, INC., of Buffalo, NY, authorizing the transportation of *food and related products*, between points in DE, ME, MD, MI, NH, RI, VT, VA, WV and DC. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, for transferee.

MC–FC–81392. By decision of April 27, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to BILLIE R. CELLUM, Pharr, TX, of Certificate No. MC–143458 Sub 3, issued August 20, 1982, to CONTINENTAL CARRIERS, INC., Millbrook, AL, authorizing the transportation of animal hides from points in GA, TN, SC, FL, and AL, to points in CA. Representative: Dwight L. Koerber, Jr., 110 No. Second Street, P.O. Box 1320, Clearfield, PA 16830.

Volume No. OP5–FC–210

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81304. By decision of April 29, 1983 issued under 49 U.S.C. 10926 and

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the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to ROBINETTE & SON TRUCKING INC. of Franklin, IN, of Certificate No. MC 142299 (Sub-No. 3)x issued May 27, 1981 and its underlying authority in MC 142299 Sub 2 issued November 26, 1979 to TRUCK RAIL TRUCK SERVICE COMPANY, INC. of Greenwood, IN, authorizing the transportation of *general commodities*, between Chicago, IL, on the one hand, and, on the other, points in IL, IN (except Columbus and Michigan City and their commercial zones), KY, MI (except the Upper Peninsula and Muskegon, Battle Creek, Benton Harbor and Watervliet and their commercial zones), and OH. Transferee presently holds authority under Certificate No. MC 152023 and Permit No. MC 151981. Representative: Jerry L. Robinette, 599 Earlywood Dr., Franklin, IN 46131.

[FR Doc. 83-12400 Filed 5-9-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decision; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (Fitness-Only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, Published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For Compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision in neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-162

Decided: April 29, 1983.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 143140 (Sub-7), filed April 25, 1983. Applicant: SEYMOUR CHARTER BUS LINES, INC., Route #3, Maynardville, TN 37807. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, 1-(614) 486-0448.Transporting *Passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167591, filed April 25, 1983. Applicant: VALERIOTE BUS CO., INC., 1080 Broadway, Bayonne, NJ 07002. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123 (212) 239-4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167640, filed April 26, 1983. Applicant: HENRAY BUS COMPANY, INC., 1080 Broadway, Bayonne, NJ 07002. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123 (212) 239-4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-190

Decied: May 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 85205 (Sub-12), filed April 18, 1983. Applicant: SMITH TRANSPORTATION CO., 731 S. Lincoln St. Santa Maria, CA 93454. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306 (805) 872-1106. As a *broker* of *General commodities* (except household goods), between points in the U.S.

MC 160624 (sub-1), filed April 18, 1983. Applicant: WHITE PLAINS BUS CO., INC., 91 Fulton St., White Plains, NY 10606. Representative: Garrison R. Corwin, Jr. 100 Mamaroneck Ave., P.O. Box 370, Mamaroneck, NY 10543 (914) 698-2746.. Transporting *passengers*, in charter and special operation, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162865, filed April 15, 1983. Applicant: DENNY BROADWAY d.b.a. BROADWAY TOURS, Sand Road Circle, Henderson, TN 38340. Representative: Robert N. Townsed, 121 Tennessee Ave. South, Parsons, TN 38363 (901) 847-3111. Transporting *passengers*, in special and charter operation, beginning and ending at points in TN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167494, filed April 19, 1983. Applicant: DENIS RIORDAN & SONS, INC., 8525 Mallory Rd., Jacksonville, FL 32220. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202 (904) 632-2300. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167504, filed April 19, 1983. Applicant: JORDAN ENGINEERING AND CONSULTANTS, INC., 38500 Van Born Rd., Wayne, MI 48184. Representative: David E. Jerome, 436 N. Center St., Northville, MI 48167 (313) 348-4433. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167525, filed April 19, 1983. Applicant: YELLOW AND BLUE TRACTION CORP. 179-09 146th Drive, Queens, NY 11434. Representative: Eugene Miller (same address as applicant) (212) 528-0163. Transporting *passengers*, in charter operations, beginning and ending at points in PA, NY, CT, MA, and NJ and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 167534, filed April 18, 1983. Applicant: LAWTON AIRPORT TRANSPORTATION CO., INC., 3302 S.W. 11th Street, Lawton, OK 73501. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154 (405) 424-3301. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167565, filed April 21, 1983. Applicant: VESTED TOURS SERVICE, INC., 8382 Frankstown Rd. Pittsburgh, PA 15221. Representative: Norman E. Williamson, Jr. (same address as applicant) (412) 371-0363. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Volume No. OP3-192

Decided: May 2, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1934 (Sub-55), filed April 15, 1983. Applicant: THE ARROW LINE, INC., 105 Cherry Street, P.O. Box 8807, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant) (203) 289-1531. Over regular routes, transporting *passengers*, (1) between West Springfield, MA and Atlantic City, NJ, (a) from West Springfield, MA over Interstate Hwy 91 to junction Interstate Hwy 95, at New Haven, CT, then over Interstate Hwy 95 to junction New Jersey Garden State Parkway, at or near Woodbridge, NJ, then over New Jersey State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway and city streets to Atlantic City, NJ, and return over the same route, (b) from West Springfield, MA over Interstate Hwy 91 to junction Interstate Hwy 84, at Hartford, CT, then over Interstate Hwy 84 and city streets to East Hartford, CT, then over Interstate Hwy 84 to junction Interstate Hwy 684, at or near Brewster, NY, then over Interstate Hwy 684 to junction Interstate Hwy 287, at White Plains, NY, then over Interstate Hwy 287 to junction Interstate Hwy 87, at or near Elmsford, NY, then over Interstate Hwy 87 to junction Interstate Hwy 95, at New York, NY, then over Interstate Hwy 95 to junction New Jersey Garden State Parkway, at or near Woodbridge, NJ, then over New Jersey Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway and city streets to Atlantic City, NJ and return over the same route, (c) from West Springfield, MA over Interstate Hwy 91 to junction Interstate Hwy 84, at Hartford, CT, then over Interstate Hwy 84 and city streets to East Hartford, CT, then over Interstate Hwy 84 to junction Connecticut Hwy 8, at or near Waterbury, CT, then over Connecticut Hwy 8 to junction Interstate Hwy 95, at or near Bridgeport, CT, then over Interstate Hwy 95 to junction New Jersey Garden State Parkway, at or near Woodbridge, NJ, then over New Jersey Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway and city streets to Atlantic City, NJ, and return over the same route, (2) betweeni East Hartford, CT and Atantic City, NJ, from East Hartford, CT over Connecticut Hwy 2 to junction Connecticut Hwy 52, at or near Norwich, CT, then over Connecticut Hwy 52 to junction Connecticut Hwy 32, at or near Uncasville, CT, then over Connecticut Route 32 to junction Interstate Hwy 95, at or near New London, CT, then over Interstate Hwy 95 to junction New Jersey Garden State Parkway, at or near Woodbridge, NJ, then over New Jersey Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway and city streets to Atlantic City, NJ, and return over the same route, serving all intermediate points in (1) and (2) above.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 167445, filed April 15, 1983. Applicant: BARON TOURS COMPANY, INC., 54-17 Avenue L, Brooklyn, NY 11234. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022 (212) 838-0600. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167495, filed April 18, 1983. Applicant: TUNNEL LIMOUSINE CO., INC., 244 Woodbourne Rd., Langhorne, PA 19047. Representative: Theodore M. Ejdys (same address as applicant) (215) 757-7940. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-264

Decided: May 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 167597, filed April 25, 1983. Applicant: HARRY J. HEUER d.b.a. HEUER ENTERPRISES, 1920 Kingsboro Rd., Casper, WY 82604. Representative: Betty Lou Heuer (Same address as applicant) (307) 237-1188. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4-267

Decided: May 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

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MC 167617, filed April 25, 1983. Applicant: 1549 BLACK HORSE PIKE, INC., T/A Exclusive Limousine, 1540 Black Horse Pike, Pleasantville, NJ 08232. Representative: Paul Krulish (Same address as applicant) (609) 641–3191.Transporting *passengers*, in special operations, beginning and ending at points in Atlantic County, NJ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special transportation.

MC 167646, filed April 26, 1983. Applicant: BLUE BIRD BUS RENTAL SYSTEM, INC., 2019 W. Virginia Ve., N.E., Washington, DC 20002. Representative: Dorothy L. Gary, 3015 Adams St., N.E. Washington, DC 20018 (202) 529–0329. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167647, filed April 26, 1983. Applicant: TRANSIT ENTERPRISE SYSTEMS, INC., P.O. Box 5391, Fredericksburg, VA 22401. Representative: Robert R. Harris, 1730 M St., N.W., Suite 501, Washington, DC 20036 (202) 296–2900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83–12408 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the folowing types of applications as indicated; common carrier of property—that the services proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absencnce of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed application involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–161

Decided: April 29, 1983.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 66860 (Sub-56), filed April 25, 1983. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Dr. NW., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr., (same address as applicant), (703) 366–2484. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 113751 (Sub-61), filed April 22, 1983. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia St., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158810 (Sub-1), filed April 21, 1983. Applicant: CHICAGO & COASTAL MOTOR EXPRESS, INC., 6587 Beverly Drive, Parma Heights, OH 44130. Representative: Kenneth E. Norton (same address as applicant), (216) 942–1900. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 160951 (Sub-2), filed April 25, 1983. Applicant: A. M. EXPRESS, INC., 18603 Harrison St., Lowell, IN 46356. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *chemicals and related products, and metal products*, between points in IN, on the one hand, and, on the other, points in IL, MI, OH, and KY.

MC 167571, filed April 21, 1983. Applicant: RICHARD WOLDEN, d.b.a. RICHARD'S TRUCKING SERVICE, 7765 Ideal Ave., Cottage Grove, MN 55016. Representative: James E. Ballenthin, 1016 Comwed Tower, 444 Cedar St., St. Paul, MN 55101 (612) 277–7731. Transporting *food and related products*, between St. Louis, MO, Minneapolis, MN, Milwaukee, WI, and points in La Crosse County, WI, and points in St. Claire County, IL, on the one hand, and, on the other, points in IA and NE.

For the following, please direct status calls to Team 3 at 202–275–5223.

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Decided: May 2, 1983.

By the Commission, Review Board No. 2, Member Carleton, Williams, and Ewing. (Member Carleton not participating.)

MC 113855 (Sub-546), filed April 15, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55903. Representative: Thomas J. Van Osdel, 15 Broadway–Suite 502, Fargo, ND 58102 (701) 235–4487). Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with The Trane Company of LaCrosse, WI and its subsidiaries.

MC 135924 (Sub-39), filed April 14, 1983. Applicant: SIMONS TRUCKING CO., INC., 3851 River Rd., Grand Rapids, MN 55744. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Tubular Steel, Inc., of Creve Coeur, MO, and (2) United Freight Dispatch, Inc., of Elkhart, IN.

MC 144484 (Sub-20), filed April 15, 1983. Applicant: FREIGHTWAYS, INC., Industrial Park Drive, P.O. Box 31, Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in KS, NE, IA, MO, IL, and AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150255 (Sub-13), filed April 13, 1983. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159855, filed April 15, 1983. Applicant: D M S CONSTRUCTION COMPANY, 100 Rogers Drive, Rome, GA 30161. Representative: Kim G. Meyer, P.O. Box 56282, Atlanta, GA 30303, (404) 523–1717. Transporting (1) *building materials*, between points in GA, FL, SC, NC, TN, KY, AL, MS, AR, TX and LA, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, AR and TX, and (2) *steel and metal products*, between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164015 (Sub-1), filed April 15, 1983. Applicant: MIDWESTERN TANK LINES, INC., 715 E 3900 S—Ste 209, Salt Lake City, UT 84106. Representative: Thomas Shouse (same address as applicant), (801) 268–2380. Transporting *food and related products*, between points in the U.S. in and west of LA, AR, MO, IL and WI.

MC 164465 (Sub-1), filed April 15, 1983. Applicant: JOSEPH J. ZAPUTIL, JR., D/B/A JOE ZAPUTIL TRUCKING, Route 1, Box 1A, Mystic, IA 52574. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2339. Transporting (1) *lumber and wood products*, between points in MS and LA, on the one hand, and, on the other, Omaha, NE, and points in IA, and (2) *metal products*, between points in Appanoose County, IA, on the one hand, and, on the other, Wheeling, WV, and points in IN and PA.

Volume No. OP3–183

Decided: April 28, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 30144 (Sub-8), filed April 7, 1983. Applicant: GEORGE W. JEWETT & SON, INC., Rt. 5, Cornish, ME 04020. Representative: David R. Hastings II, 8 Portland St., Fryeburg, ME 04037, (207) 935–2061. Transporting (1) *petroleum products*, between points in the U.S., under continuing contract(s) with M. W. Sewall and Co. of Bath, ME, Republic Oil Company, Inc. of Willimantic, CT, Alkay Associates of Ellington, CT, J. E. Meintzer & Sons, Inc. of Easton, MD, Bill's Oil Service of Waterville, ME, W. H. Knightly & Co. of Norway, ME, James M. Howard & Son, Inc. of Laconia, NH, D. W. Small & Sons, Inc. of Ellsworth, ME, McKusick Petroleum Co. of Dover-Foxcroft, ME, C. N. Brown Company and Ripley & Fletcher Co. both of South Paris, ME, (2) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in the U.S., under continuing contract(s) with Blue Rock Industries, Chadwick-BaRoss, Inc. and Aerial Lifts of N.E., Inc. all of Westbrook, ME, Bridge Construction Crop. of Augusta, ME, Jordan-Milton Machinery, Inc. of Concord, NH, Eastern Tractor & Equipment Co. of Portland, ME, C. F. I. Construction Co. of East Greenwich, RI, S. E. McMillan Co., Inc. of Bangor, ME and United Freightways, Inc. of East Baldwin, ME, (3) *plastic products*, between points in the U.S., under continuing contract(s) with Cyro Industries, Inc. of Sanford, ME, (4) *food and related products*, between points in the U.S., under continuing contract(s) with Abbott's Ice Cream, Inc. of Conway, NH, (5) *chemicals and related products*, between points in the U.S., under continuing contract(s) with Scott Paper Company of Westbrook, ME, Statler Tissue Company of Augusta, ME and Keyes Fibre Company of Waterville, ME and (6) *cement*, between points in the U.S., under continuing contract(s) with F. R. Carroll, Inc. of Limerick, ME, Dayton Sand & Gravel Co., Inc. of Dayton, ME, Burnham Bros., Inc. of Naples, ME and George R. Roberts, Inc. of Alfred, ME.

MC 114015 (Sub-40), filed March 28, 1983. Applicant: HUSS, INCORPORATED, Highway 47 W., P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048, (212) 466–0220. Transporting *general commodities* except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Applicant's permit under MC 114015, issued November 14, 1977, and (Sub 32F), issued March 13, 1981, (Sub 33), issued

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March 16, 1981 (Sub 34), issued April 17, 1981, (Sub 35)X (and underlying Sub Nos. 4, 6, 7, 9, 10, 11, 13, 15, 16, 17, 18, 19, 20, 22, 24F, 25F, 28F, 29F, 30F, and 31F), issued June 3, 1981, (Sub 36), issued January 12, 1982, (Sub 37), issued March 5, 1982, (Sub 38), issued February 28, 1983, (Sub 39), issued March 16, 1983, and permits acquired in MC–F–14879 in No. MC 52614 and Subs 13, 14, 15X (and underlying Subs 5, 6, 7, 8, 9F, 10F, and 12F), and (Sub 16), published in the **Federal Register** on June 8, 1982, are revoked upon issuance of a certificate in this proceeding.

MC 119765 (Sub-103), filed April 11, 1983. Applicant: EIGHT WAY XPRESS, INC., 10855 W. Dodge Rd., Omaha, NE 68154. Representative: Floyd Foreman (same address as applicant), (712) 366–2588. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 123395 (Sub-2), filed April 7, 1983. Applicant: J. W. DOUGLASS CORP., 23 Tripp St., P.O. Box K, South Station, Fall River, MA 02724. Representative: Russell B. Curnett, 826 Orleans Rd., P.O. Box 996, Harwich, MA 02645–0996, (617) 432–0907. Transporting *highway construction materials, coal and coal products,* and *flyash,* between points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT.

MC 145904 (Sub-43), filed April 14, 1983. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159174 (Sub-2), filed April 14, 1983. Applicant: KLC, INC., 2416 N. Marine Dr. No. 121, Portland, OR 97217. Representative: Vern Phillips (same address as applicant), (503) 286–6433. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

MC 163455 filed April 14, 1983. Applicant: ALL TRUCK TRANSPORTATION CO., INC., 9010 S. Odell, Bridgeview, IL 60455. Representative: Dennis James Stolfo, 13 North LaSalle St., Suite 0227, Chicago, IL 60602, (312) 236–8481. Transporting (1) *pulp, paper and related products,* between points in Cook County, IL, on the one hand, and, on the other, points in IN, and (2) *metal products, containers,* and *chemicals and related products,* between points in IL, IN, MI, IA, WI, and MO.

MC 163964 (Sub-1), filed April 11, 1983. Applicant: EXPO DISPLAY SERVICE, INC., d/b/a WHEELS UNLIMITED, 16011 Commerce Way, Cerritos, CA 90701. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting (1) *transportation equipment,* (2) *machinery,* (3) *motor oil,* (4) *wearing apparel,* (5) *musical instruments,* (6) *sporting goods,* and (7) *materials, equipment and supplies* used in the assembly, display, and demonstration at trade shows, between points in CA, NV, AZ, UT, WA, OR, ID, MT, WY, CO, TX, OK, NM, NE, AR, KS, OH, IL, IN, WI, LA, KY, MN, MO, MI, PA, TN, NY, NJ, MA, MD, VA, GA, FL, and DC.

MC 166945, filed April 14, 1983. Applicant: KUNDLA WESTERN BEEF CO., INC., R.D. #5, Box 149, Moscow, PA 18444. Representative: Thomas J. Foley, Jr., Connell Bldg., Eighth Floor, Scranton, PA 18503, (717) 342–8194. Transporting *food and related products,* between those points in the U.S. in and east of KS, ND, NE, OK, SD, and TX.

MC 167344, filed April 12, 1983. Applicant: IVAN STUTZMAN & SON TRUCKING, INC., Cty. Rd. 626, P.O. Box 134, Berlin, OH 44610. epresentative: William A. Nearhood, 221 Church St., Ashland, OH 44805 (419) 289–1011. Transporting *meat, meat products, meat by-products and meat packing supplies,* betweeen points in the U.S. (except AK and HI), under continuing contract(s) with Sugardale Foods, Inc., of Canton, OH; Superior's Brand Meats, Inc., of Massillon, OH, Worthington Packing Company, or Worthington, IN, and G.B.D., Inc., of Warren, OH.

MC 167345, filed April 12, 1983. Applicant: CORPORATE 50+, Route 4 Box 16–A–1, Searcy, AR 72143. Representative: James R. Landis (same address as applicant), (501) 268–2790. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167354, filed April 11, 1983. Applicant: A & J TRUCKING & WAREHOUSING, INC., 480 Herbst Manor, Corapolis, PA 15108. Representative: William A. Gray, 2310 Grant Bldg. Pittsburgh PA 15219, (412) 417–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Allegheny, Washington, Westmoreland, Beaver, Butler and Armstrong Counties, PA, on the one hand, and, on the other, points in OH, WV, MD, NY and NJ.

MC 167375, filed April 11, 1983. Applicant: DONALD H. AMMON AND FLORENCE L. AMMON, d.b.a. D AND F ENTERPRISES, 1103 Sam Davis Rd., Smyrna, TN 37167. Representative: Donald H. Ammon (same address as applicant), (616) 459–9516. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Safety Service Co., of Nashville, TN.

MC 167414, filed April 14, 1983. Applicant: GRANTHAM DISTRIBUTING COMPANY, INC., 2685 Hansrob Rd., Orlando, FL 32804. Representative: Robert D. Clerk (same address as applicant), (305) 299–6557. Transporting (1) *food and related products, machinery, rubber and plastic products, metal products,* and *clay, concrete, glass or stone products,* (a) between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) between points in Lyon County, NV, on the one hand, and, on the other, points in CA, TX, NY, and IL.

MC 167425, filed April 15, 1983. Applicant: RANDY C. BRAY, 583 Carter Dr., Grants Pass, OR 97526. Representative: Randy C. Bray (same address as applicant), (503) 476–8011 .Transporting *general commodities,* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 167444, filed April 15, 1983. Applicant: S. & G. LEYDIG TRUCK TRAILER LEASING, INC., RD 1, Box 577, Hyndman, PA 15545. Representative: Theodore F. Kohn, 4956 McAnulty Rd., Pittsburgh, PA 15236, (412) 881–0478. Transporting (1) *waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI), under continuing contract(s) with T. Clemente & Sons of New York, NY, Zunno Rag Corp. of Brooklyn, NY and Romerovski Bros., Inc. of Roselle Park, NJ and (2) *pulp, paper and related products,* betweens points in the U.S. (except AK and HI), under continuing contract(s) with Roselle Paper Co., Inc. of Roselle, NJ and Toronto Paperboard Co. of Toronto, OH.

Volume No. OP3–193

Decided: May 2, 1983.

By the Commission, Review Board No. 3 Members Krock, Joyce, and Dowell.

MC 150825 (Sub-3), filed April 18, 1983. Applicant: B & T MAIL SERVICE, INC., 19625 Lincoln Ave., New Berlin, WI 53151. Representative: Joseph E. Luden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, OH, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and WY.

MC 161914, filed April 15, 1983. Applicant: NORMAN K. SPERRY, P.O. Box 308, Heber City, UT 84032. Representative: Norman Sperry (same address as applicant), (801) 654–4317. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Bakery Service, Inc., of Salt Lake City, UT.

MC 167465, filed April 18, 1983. Applicant: RAND R MEATS, INC., P.O. Box 118, Oregon, WI 53578. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742–3579. Transporting *food and related products,* between points in WI, on the one hand, and, on the other, points in CA, IL, IN, IA, FL, MI, MN, MO, NE, TX, and WI.

MC 167485, filed April 18, 1983. Applicant: BSI TRANSPORT, INC., 10362 Tanner Rd., Houston, TX 77041. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting (a) *metal products* and *chemicals and related products,* between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) *plastic products,* between points in the U.S. (except AK and HI).

MC 167505, filed April 19, 1983. Applicant: H. E. McKENZIE MOVING & STORAGE, INC., d.b.a. INDIAN TRAILS VAN LINES, 29701 Pierce St., Southfield, MI 48076. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in MI, on the one hand, and, on the other, points in NY, NJ, PA, MD, DE, VA, WV, OH, NC, SC, GA, FL, AL, MS, TN, KY, IN, MI, IL, WI, MN, IA, MO, AR, LA, TX, and DC.

For the folowing please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–265

Decided: May 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 68717 (Sub-3), filed January 28, 1983, noticed in the **Federal Register** issue of February 14, 1983, and republished this issue. Applicant: W. N. DAUL TRANSFER LINES, INC., 1521 Ellis St., Kewaunee, WI 54216. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53710, (414) 435–1910. Transporting *general commodities* (except classes A and B explosives), between points in Brown, Calumet, Door, Kewaunee, Manitowoc, Outagamie and Sheboygan Counties, WI and Chicago, IL and Milwaukee, WI. Condition: Issuance of a certificate in this proceeding in subject to coincidental cancellation of Certificate No. MC–68717 Sub-No. 3, issued April 11, 1983.

Note.—The purpose of this republication is to correct the territorial description in this proceeding.

Volume No. OP4–263

Decided: May 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF 686, filed April 22, 1983. Applicant: ALAMODE TRANSPORTATION CORPORATION, 1225 Gardner Rd., Broadview, IL 60153. Representative: Maureen Beal (same address as applicant), (312) 450–2940. As a freight forwarder, in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles,* between points in the U.S. (except VT).

MC 66567 (Sub-2), filed April 22, 1983. Applicant: BOB KILPATRICK MOVING & STORAGE, INC., 147 Walnut St., Northvale, NJ 07646. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland, Park, NJ 08904, (201) 572–5551. Transporting *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Austin Associates, of, Northvale, NJ.

MC 109426 (Sub-6), filed April 22, 1983. Applicant: McCOLLISTER'S MOVING & STORAGE, INC., 1800 Route 130 North, P.O. Box 9, Burlington, NJ 08016. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925–8300. Transporting *electronic equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Honeywell, Inc., of Minneapolis, MN.

MC 129927 (Sub-8), filed April 25, 1983. Applicant: JAMERSON BROTHERS TRUCKING COMPANY, INC., Rt. 3, Box 75, Appomattox, VA 24522. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3609. Transporting (1) *lumber and wood products,* (2) *furniture and fixtures, empty containers, trailers and chassis,* and (3) *iron and steel articles,* and *materials, equipment and supplies* used in the erection of iron and steel articles, between points in the U.S. (except AK and HI). Condition: Issuance of certificate in this proceeding is subject to concidental cancellation of the Permit in MC–129927 Sub 7X, issued March 4, 1982, and the underlying authority in Permits No. MC 129927 and Sub-Nos. 1 and 4, issued July 6, 1973, March 31, 1977, and October 21, 1981. This is a conversion application filed under 49 U.S.C. 10923(e).

MC 134806 (Sub-86), filed April 13, 1983. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Dr., Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814, (301) 986–9030. Transporting (1) *maple syrup and syrup products,* under continuing contract(s) with American Maple Products Corp., of New Port, VT, (2) *metal products,* under continuing contract with Burt Equipment Company, Inc., of Westminster Station, VT, and (3) *spas,* under continuing contract(s) with Habitat, of South Deerfield, MA, between points in the U.S. (except AK and HI).

MC 140986 (Sub-23), filed April 22, 1983. Applicant: GREAT NORTHERN TRUCK LINES, INC., Love Lane, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Issuance of a Certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request of Permit Nos. MC–140986 Sub 1, issued August 22, 1977, Sub 3, issued July 19, 1978, Sub 7, issued May 18, 1979, Sub 8, issued March 8, 1979, Sub 9, issued May 27, 1981, Sub 12, issued August 29, 1980, Sub 14, issued October 28, 1980, Sub 15, issued May 14, 1981, Sub 16, issued August 24, 1981, Sub 17, issued July 15, 1981, Sub 18, issued August 14, 1981, Sub 19, issued April 6, 1982, Sub 20, issued May 17, 1982, and Sub 21, issued May 18, 1982.

Note.—Applicant seeks to convert contract to common carrier authority pursuant to 49 U.S.C. 10925(e).

MC 149177 (Sub-5), filed April 25, 1983. Applicant: FRANCIS POWELL ENTERPRISES, INC., 106 5th Ave., Grove Hill, AL 36451. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL

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35209, (205) 942–0116. Transporting *wood and wood products, and building materials*, between points in AR, FL, LA, TX, SC, AL, GA, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150826 (Sub-3), filed April 25, 1983. Applicant: FULTRAN, INC., 3000 Shermer Rd. Northbrook, IL 60062. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, (312) 235–0375. Transporting*general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150886 (Sub-2), filed April 25, 1983. Applicant: KID GLOVE SERVICE, INC. 6060 E. Hanna St., Indianapolis, IN 46203. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 636–1301. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in IN, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, OH, PA, TN, WV, and WI.

MC 166676, filed April 22, 1983. Applicant: "EXPO-TRANSPORTATION" & SERVICES, INC., 417 Pleasant Dr., Schaumburg, IL 60172. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL and points in Kane and McHenry Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 167426, filed April 13, 1983. Applicant: O. B. RIGSBY TRUCKING, INC., 3810 Lighfoot Mill Rd., Chattanooga, TN 37406. Representative: Roland M. Lowell, Fifth Floor, 501 Union St., Nashville, TN 37219, (615) 255–0540. Transporting *asphalt, ores and minerals, commodities in bulk, and waste or scrap materials*, between points in AL, FL, GA, KY, MS, SC, TN.

MC 167476, filed April 18, 1983. Applicant: THE K COMPANY, 1220 Licking Pike, Newport, KY 41072. Representative: Albert J. Lerner, 1400 Tri-State Bldg., Cincinnati, OH 45202, (513) 721–0947. Transporting *waste or scrap materials not identified by industry producing and metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with the David J. Joseph Company of Cincinnati, OH.

MC 167596, filed April 22, 1983. Applicant: ORA EDSEL DAVIS, d.b.a. DAVIS FARMS & TRUCKING, 5084 Peele Rd., Sabina, OH 45169. Representative: James M. Burtch, 100 E Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *fertilizer and fertilizer ingredients*, between points in IN, KY and OH, on the one hand, and, on the other, points in IN, KY, MI NY, OH, PA and WV.

Volume No. OP4–266

Decided: May 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

FF–687, filed April 26, 1983. Applicant: NOW FREIGHT INC., 1114 Rhodes Ct., Wheaton, IL 60187. Representative: Suzanne Margaret Mueller (same address as applicant), (312) 668–9154. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the United States.

MC 153077 (Sub-4), filed April 26, 1983. Applicant: TOTAL TRANSPORTATION, INC., 1532 93rd Land NE, Minneapolis, MN 55434. Representative: Jack Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (612) 780–4597. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156517 (Sub-2), filed April 26, 1983. Applicant: GILLIAM TRUCKING, INC., Rural Route 31, P.O. Box 9, Terre Haute, IN 47803. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159597 (Sub-1), filed April 26, 1983. Applicant: ROY POWELL TRUCKING, INC., P.O. Box 872, 407 Kirk St., Lawrenceburg, Tn 38464. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Pulaski Rubber Company, Pulaski, TN.

MC 160276 (Sub-3), filed April 26, 1983. Applicant: BIGELOW TRANSPORTATION COMPANY, INC., P.O. Box 3089, Greenville, SC 29602. Representative: Billy T. Davis (same address as applicant), (803) 299–2381. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ladd Furniture, Inc. of High Point, NC.

MC 164677, filed April 27, 1983. Applicant: BAILIN, INC., dba. CBR ENTERPRISES, INC., 122 S.E. 9th, Bend, OR 97701. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205, (503) 224–4840. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR, WA, CA, AZ, and NV.

MC 165156, filed April 26, 1983. Applicant: B & J TRUCKING, INC., Rt. 1, Box 18C, Sheridan, AR 72150. Representative: Sam Ed Gibson, P.O. Box 211, Benton, AR 72015, (501) 778–7471. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between point in the U.S. (except AK and HI), under continuing contract(s) with IXL Manufacturing Co., Inc. d.b.a LaPierre Sawyer Handler Company of Sheridan, AR.

MC 165917, filed April 27, 1983. Applicant: B & H VAN LINES, INC., 524 Cooper St., Asheboro, NC 27203. Representative: Albert R. Byrd, Rt. 2, Box 351–A, Pleasant Garden, NC 27313, (919) 625–3776. Transporting *household goods*, between points in Randolph and Guilford Counties, NC, on the one hand, and, on the other, points in SC, GA, FL, AL, LA, AR, MS, TN, VA, WV, KY, OH, PA, NY, NJ, DE, MD, and MI.

MC 167626, filed April 28, 1983. Applicant: INTEGRATED DISTRIBUTION, INCORPORATED, One Century Dr., Parsippany, NJ 07054. Representative: Raymond L. Pucci (same address as applicant), (201) 540–7963. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with National Steel Corporation, of Pittsburgh, PA. and its subsidiaries.

MC 167636, filed April 28, 1983. Applicant: LORENZ TRUCKING, INC., 2706 New Albany Rd., Cinnaminson, NJ 08077. Representative: Edwin R. Jonas III, Suite 24, 807 Haddon Ave., Haddonfield, NJ 08033, (609) 428–4600. Transportation *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with Englewood Tire Co., of Englewood, NJ; Giles and Ransome Co., of Cornwells Heights, PA; Liss Bros., and Sol Seved and Sons, Inc., both of Philadelphia, PA.

MC 167657, filed April 27, 1983. Applicant: ROY BRYANT CATTLE COMPANY, 142 Kobcrest, Houston, TX 77060. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *food and related products*, between points in KS, on the one hand, and, on the other, points in AR, LA, OK, TN and TX.

[FR Doc. 83–12407 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP1–163]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: April 29, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275–7992.

MC 148561 (Sub-3)X, filed April 14, 1983. Applicant: BENETO, INC., P.O. Box 533, West Sacramento, CA 95691. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Sub-No. 1 certificate: (1) remove restriction "except in bulk in tank vehicles", (2) broaden "petroleum oil and greases" to "petroleum and petroleum products", (3) broaden one-way authority to two-way radial authority, and (4) broaden Richmond, CA to Contra Cosa County, CA.

[FR Doc. 83–12398 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers: Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handing Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the office of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP3–MCF–198

[No. MC–F–15225]

Wetterau, Incorporated—continuance in control exemption—Foxtran, Inc., and Trans Continental Leasing, Ltd. Wetterau, Incorported seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Trans Continental Leasing, Ltd. and Foxtran, Inc. Trans Continental is a wholly owned subsidiary of Wetterau, operating as a contract carrier in No. MC–145925. Foxtran, Inc. is a wholly owned subsidiary of Fox Grocery Co. operating as a common carrier in No. MC–151854. Wetterau acquired the capital stock of Fox while Foxtran's initial application for authority was pending. Subsequent to the acquisition, a certificate was issued to Foxtran. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission Washington, DC 20423, and (2) Petitioner's representative: Mr. George Williams Wetterau, Incorporated 8920 Pershall Road Hazelwood, MO 63042. Comments should refer to No. MC–F–15225.

MC–F–15236, Van de Hogen Cartage, Inc.—purchase exemption—Sawyer Transport, Inc., and Warsaw Trucking Co., Inc. (Nathan Yorke, trustee-in-Bankruptcy). Van De Hogen Cartage, Inc., (MC–164874) seeks an exemption from the requirement under 49 U.S.C. 11343 of prior approval of its purchase of the authorities issued to Sawyer Transport, Inc., in No. MC–123407 (Sub-Nos. 179, 199, 285, 314, 388, 470, 483, 566, 627, 645, and paragraphs 90, 99, 143, 157, 244, 254, 294, 314, and 326 of Sub-No. 668X), and the authorities issued to Warsaw Trucking Co., Inc., in No. MC–123294 (Sub-Nos. 10, 15, 24, 26, 42, 63, 85, and 46, paragraphs (4) (a) and (b), (6), (10)(a)(b)(c)(d) and (e), (13 (a) and (b), (15), (17), (20), (24), 29 (a) and (b), (39), (44), (59), and (42), of Sub-No. 91X and specified portions of its lead and Sub-No. 7 certificates superceded by Sub-No. 91X], which authorize, respectively, nationwide nonradial transportation of machinery and transportation of metal products between points in Illinois, Ohio, Michigan, Missouri, Iowa, and Kentucky, and radially between specified Ohio and Indiana counties, on the one hand, and, on the other, points in all, or portions of the United States, in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. Van De Hogen also seeks temporary authority to lease the operating rights of Sawyer and Warsaw pending disposition of the petition of exemption. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and (2) Petitioners' representative; William J. Hirsch P. C., 64 Niagra Street, Buffalo, NY 14202, and Carl L. Steeiner, Esq., Axelrod, Goodman, Steiner & Bazelon, 135 S. LaSalle Street, Chicago, IL 60603. Comments should refer to No. MC–F–15236.

OP5–F–211

Decided: May 2, 1983.

[No. MC–F–15235]

The Mason and Dixon Tank Lines, Inc.,—purchase exemption—McNair Transport, Inc. The Mason and Dixon Tank Lines, Inc. (MC–61403) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of McNair

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Transport, Inc. (MC–102567), specifically, McNair's Sub-No. 257 authorizing the transportation of commodities in bulk between points in the United States (except Alaska and Hawaii). Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and (2) Petitioner's representative: Steven C. Rose, The Mason and Dixon Tank Lines, Inc., P.O. Box 969, Kingsport, TN 37662. Comments should refer to NO. MC–F–15235.

[FR Doc. 83–12397 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 29518 (Sub-No. 1); Finance Docket No. 29518 (Sub-No. 5)]

Rail Carriers; Midwestern Rail Properties, Inc., Subsidiary of Chicago and North Western Transportation Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) and Soo Line Railroad Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)—Lines in Minnesota, Iowa and Missouri

Decided: May 3, 1983.

By motion filed April 29, 1983, Midwestern Railroad Properties, Incorporated (MRPI), and Chicago and North Western Transportation Company (C&NW) request that the inconsistent applications [1] filed by Soo Line Railroad Company (Soo) to acquire lines of Chicago, Rock Island and Pacific Railroad, Debtor (William M Gibbons, Trustee) (Rock Island) be rejected. In the alternative, MRPI and C&NW request that, if the applications are not rejected, 30 days be allowed from the date that Soo's applications are accepted for written comments in support or opposition. Soo filed a reply.

On April 1, 1983, an application filed by MRPI, a subsidiary of C&NW, to acquire certain Rock Island Lines was accepted for consideration. That decision also set a procedural schedule requiring statements in support, opposing or seeking other relief to be filed by April 26th. Reply statements are due on May 6, 1983.

On April 26, Soo filed applications to acquire the lines sought by MRPI and C&NW and certain other short line segments. On May 3, 1983, the Soo applications were accepted and the same procedural schedule for the MRPI and C&NW proposal was adopted.

[1] The motion to reject also encompasses Soo's supplemental acquisition application in Finance Docket N. 29518 (Sub-No. 4).

MRPI and C&NW's motion to reject will be treated as an appeal to that decision.

MRPI and C&NW argue that Soo's applications should be rejected because, unlike the application filed by MRPI and C&NW, Soo's applications have not been approved by the bankruptcy court overseeing the sale of the Rock Island estate. MRPI and C&NW contend that sale by a debtor of a line of railroad can occur only upon approval of the bankruptcy judge and must be initiated upon petition to the court. MRPI and C&NW further argue that the Commission has no jurisdiction to consider eiher a proposal by Soo rejected by the bankruptcy court or a supplemental proposal by Soo never presented to the court.

We reject MRPI's and C&NW's arguments. There is no question that the sale of a rail line of a bankrupt carrier must be approved by the bankruptcy court. However, the Commission has, on other occasions, considered competing applications for lines where only one proposal had *preliminary* approval of the court. The Commission's mandate under section 17(b) of the Milwaukee Railroad Restructuring Act (49 U.S.C. 915) is to recommend to the court whether the proposal is in the public interest. The Commission has the power to approve, modify, condition or disapprove a proposal.

The Commission's reasoning has always been that this broad mandate requires that another proposal, which may be a better proposal than the one referred by the court, not be foreclosed. In *Continental Group, Inc.—Pur.—Chicago, R.I.& P.R. CO.*, 363 I.C.C. 822 (1980), the Commission considered five applications, only three of which had an agreement with the trustee or preliminary court approval. [2] Again in *St. Louis S. W. Ry.—Pur.—Rock Island (Tucumcari)*, 363 I.C.C. 319 (1980), the Commission considered the inconsistent application filed by Missouri Pacific Railroad Company (Finance Docket No. 29828) without preliminary court approval. [3]

Further, the argument by MRPI and C&NW that the bankruptcy court precluded consideration of Soo's application by referring only MRPI's application is without merit. Soo's supplemental application in Sub-No. 4, when coupled with its Sub-No. 5 application, presents a new proposal not yet reviewed by the court, and, incidentally, not specifically rejected. Just as in the *Tucumcari* case, here the Commission is free to consider Soo's new proposal prior to its submission to the bankruptcy court. Indeed, our procedural schedule in this proceeding provided for pleadings "seeking other relief". Accordingly, the appeal to the decision accepting Soo's application is denied.

MRPI and C&NW request, in the alternative, that they be allowed 30 days from the acceptance of Soo's applications for filing of written comments in support of or in opposition to Soo's proposal. Soo suggests a 10-day extension. Inasmuch as the bankruptcy court has allowed only until June 20, 1983, to reach a final decision, 30 days for comment cannot be allowed. However, the procedural schedule will be altered to allow comments to be filed by May 23, 1983, and responses to those comments by June 2, 1983.

It is ordered:

1. The appeal filed by MRPI and C&NW seeking rejection of Soo's application is denied.

2. The alternative request by MRPI and C&NW to allow 30 days for comments on Soo's applications is granted to the extent that the deadline for filing written comments in support of or in opposition to Soo's applications is extended to May 23, 1983, and the deadline for filing responses to those comments is extended to June 2, 1983.

3. This decision is effective on May 5, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12405 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[2] North-South Development Corporation (Finance Docket No. 29476) and Arkansas Transportation Commission and Oklahoma Department of Transportation (Finance Docket No. 29480) had neither and agreement with the trustee nor preliminary court approval.

[3] Also see *Burlington Northern, Inc.—Pur.—Chicago, M., St. P.*, 363 I.C.C. 298 (1980) where four competing applications were considered, but only two had received preliminary court approval.

[AB 14 SDM]

Rail Carriers; Northwestern Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Northwestern Pacific Railroad Company has filed with Commission its amended color-coded system diagram map in docket No. AB 14 SDM. The Commission on April 28, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 14 SDM.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12403 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[AB 39 SDM]

Rail Carriers; St. Louis Southwestern Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the St. Louis Southwestern Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 39 SDM. The Commission on April 25, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map also be requested from the railroad at a norminal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 39 SDM.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12404 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 388 (Sub-21)]

Rail Carriers; State Intrastate Rail Rate Authority; New Jersey

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing.

SUMMARY: In the **Federal Register** notice of January 27, 1983, (48 FR 3892), the date comments were due in this proceeding was March 14, 1983. This date was subsequently extended to April 13, 1983, by order served March 18, 1983. At the request of the Office of Regulatory Affairs of the State of New Jersey, the date has been postponed another 30 days to May 13, 1983.

DATES: Revised standards and procedures are due May 13, 1983. Comments of interested parties on the submission are due June 13, 1983, and shall be served on the State. New Jersey may file a reply by July 5, 1983, and shall serve the reply on all interested parties.

ADDRESS: Send an original and, if possible, 15 copies of all comments to: Rail Section, Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: May 3, 1983.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12395 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 388]

Rail Carriers; State Intrastate Rail Authority

AGENCY: Interstate Commerce Commission.

ACTION: Pursuant to a request by the Railroad Commission of Texas, it has been decided that states may reply to comments on their plans in these proceedings. The replies by the states shall be served on the interested parties. Certifications of service shall be filed with the Commission.

DATES: Interested parties that have already filed comments in a state certification proceeding shall serve their comments on the affected state by [5 days after service]. Except for those states delineated below, a state may file a reply by [25 days after service], and shall serve its reply on all interested parties.

With respect to Alabama, Colorado, Michigan, New Hampshire, New Jersey, Ohio, and Oregon certification proceedings, the comment period expires June 13, 1983. Interested parties, that seek to participate in any of these certification proceedings, shall serve their comments on the affected state. The pertinent state may file a reply by July 5, 1983, and shall serve the reply on all interested parties.

ADDRESS: Send certificates of service to: Rail Section, Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. metropolitan area) or toll free (800) 424–5403.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: May 3, 1983.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12396 Filed 5–9–83; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Proposed Revised Consent Decree in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 4, 1983, a proposed Revised Consent Decree in *United States of America* v. *National Steel Corporation*, Civil No. 61–00005–W(H), was lodged with the United States District Court for the Northern District of West Virginia.

The Revised Consent Decree replaces in its entirety the Consent Decree between the United States of America, State of West Virginia and National Steel Corporation applicable to National's Weirton Steel Division plant in Weirton, West Virginia, entered in the United States District Court for the Northern District of West Virginia on July 17, 1981. It represents settlement of the claims of the United States and the State of West Virginia for stipulated penalty amounts and other penalties as a result of National's violation of the July 17, 1981 Consent Decree and reflects the alternative emission control program required as a result of the plan revision (bubble) approved by the Administrator, EPA, and published in the **Federal Register** on December 9, 1982 (47 FR 55393), at the blast furnaces, basic oxygen furnace and sinter cooler. Under the Revised Consent Decree National Steel Corporation agrees to pay a civil penalty of $3.5 million for its past violations and to post a bond in the sum of $1.87 million to insure control of the sinter plant prior to any resumption of operation.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice written comments related to the proposed Revised Consent Decree. Comments should be addressed to the Assistant

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Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States of America* v. *National Steel Corporation*, D.J. Ref. No. 90-5-2-1-316.

The proposed consent decree may be examined at the Office of the United States Attorney, Post Office Box 591, Wheeling, West Virginia 26003, at the Region III Office of the Environmental Protection Agency, Enforcement Division, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $3.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-12478 Filed 5-9-83; 8:45 am]

BILLING CODE 4410-01-M

Proposed Final Judgment (On Consent) In Action To Enforce the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 28, 1983, a proposed final judgment (on consent) in *United States* v. *Quick Roll Leaf Manufacturing Company*, Civil Action No. 83-0349, was lodged with the United States District Court for the Eastern District of New York.

The proposed final judgment (on consent) enjoins defendant to comply with the volatile organic compounds standards of the New York State Clean Air Act Implementation Plan ("SIP"), establishes a schedule for the construction of pollution control equipment that will ensure defendant's compliance with the SIP, and requires defendant to pay a civil penalty of $11,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed final judgment (on consent). Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Quick Roll Leaf Manufacturing Company*, DOJ No. 90-5-2-1-566.

A copy of the proposed final judgment (on consent) may be examined at the offices of the United States Attorney, Eastern District of New York U.S. Courthouse, 225 Cadman Plaza East, Brookland, New York 11202; the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed final judgment (on consent) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-12479 Filed 5-9-83; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

National Institute of Justice Advisory Board; Meeting

Notice is hereby given that the National Institute of Justice Advisory Board will hold its meeting on May 19, 1983 from 9:00 a.m. to 6:00 p.m.; on May 20, 1983 from 9:00 a.m. to 6:00 p.m.; and on May 21, 1873 from 9:00 a.m. to 1:00 p.m. at the Hyatt on Sunset, 8401 Sunset Boulevard, Hollywood, California.

On May 19, 1983 from 1:00 p.m. to 6:00 p.m. and on May 20, 1983 from 9:00 a.m. to 1:00 P.m. the Advisory Board will conduct public hearings on the Costs of the Fear of Crime. Community and business representatives, criminal justice practitioners and state and local officials will present testimony on the social and economic costs arising from the fear of crime. The hearings will be conducted in Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, California. During the remaining sessions on May 19-21, the Advisory Board will conduct its regular business at the Hyatt on Sunset Hotel. Main items on the agenda will inlcude an update of National Institute program activities, a review of the FY 85 budget, a discussion of research recommendations in the adjudication area and reports for the Advisory Board subcommittees.

The meeting is open to the public. For further information please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice (202-724-2953).

Dated April 26, 1983.

James K. Stewart,

Director.

[FR Doc. 83-12480 Filed 5-9-83; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Picoma Industries et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 25, 1983-April 29, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,859; Picoma Industries, Picoma Products Plant, Martins Ferry, OH

TA-W-13,860; Picoma Industries, Pattons Run Plant, Martins Ferry, OH

TA-W-13,810; Prestolite Co., Jackson, KY

TA-W-14,211; Edgcomb Metals, Philadelphia, PA

TA-W-13,797; McGill Manufacturing Co., Inc., Valparaiso, IN

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,809; Pioneer Video, Inc., Carson, CA

TA-W-13,841; Pacific Columbia Mills, Olympia Plant, Columbia, SC

TA-W-13,820; General Motors Corp., General Motors Assembly Div., Tarrytown, NY

TA-W-13,993; Babcock & Wilcox Co., Canton, OH

TA-W-13,903; Mississippi Lime Co., Peerless Div. and Peerless Rotary, Genevieve, MO

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,802; Phillips Fibers Corp., Spartanburg, SC

Aggregate U.S. imports of all yarns did not increase as required for certification.

TA-W-13,819; General Motors Corp., General Motors Assembly Div., Lakewood, GA

Aggregate U.S. imports of subcompact automobiles did not increase as required for certification.

TA-W-13,944; Giberson Co., Brunswick, NJ

The worker's firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-13,785; Jane Ann Fashions, Coaldale, PA

A certification was issued covering all workers separated on or after September 10, 1981.

TA-W-13,850; Conmold, Inc., Latrobe, PA

A certification was issued in response to a petition received on October 13, 1982 covering all workers separated on or after October 1, 1981 and before December 31, 1982.

TA-W-13,824; Goodyear Tire & Rubber Co., Shoe Products Div., Windsor, VT

A certification was issued in response to a petition received on September 24, 1982 covering all workers separated on or after September 21, 1981.

TA-W-13,855; Siberline Manufacturing Co., Inc., Lansford, PA

A certification was issued in response to a petition received on October 8, 1982 covering all workers separated on or before October 4, 1981.

TA-W-13,891; Ingersoll-Rand Co., Type 30 Small Compressor Div., Painted Post, NY

A certification was issued in response to a petition received on October 25, 1981 covering all workers separated on or before October 18, 1981.

TA-W-13,847; Kaiser Steel Corp., Fabricated Products Groups, Napa, CA

A certification was issued in response to a petition received on July 8, 1982 covering all workers separated on or before August 1, 1981.

TA-W-13,803; Xerox Corp., Reprographics Group, Webster, NY

A certification was issued covering all workers of Reprographics Group engaged in employment related to the production of low and mid volume photocopy machines at the firm separated on or after January 1, 1982.

TA-W-13,620; Wheeling-Pittsburgh Steel Corp., Steubenville, Facility, Follansbee, WV

A certification was issued covering all workers separated on or after June 21, 1981.

TA-W-13,814; American Stamping Co., Euclid, OH

A certification was issued covering all workers separated on or after September 17, 1981.

TA-W-13,621; Wheeling-Pittsburgh Steel Corp., Steubenville Facility, Steubenville, OH

A certification was issued covering all workers separated on or after June 21, 1981.

TA-W-13,619; Wheeling-Pittsburgh Steel Corp., Steubenville Facility, Mingo Junction ,OH

A certification was issued covering all workers separated on or after June 21, 1981.

TA-W-13,908; U.S. Steel Corp., Great Lakes Fleet, Inc., Duluth, MN

A certification was issued in response to a petition received on October 25, 1982 covering all workers separated on or after September 30, 1981.

TA-W-13,930; U.S. Steel Corp., Inc., Western Mining District, Wellington, UT

A certification was issued in response to a petition received on November 1, 1982 covering all workers separated on or after September 28, 1981.

TA-W-13,931; U.S. Steel Mining Corp., Inc., Western Mining District, East Carbon City, UT

A certification was issued in response to a petition received on November 1, 1982 covering all workers separated on or after September 28, 1981.

I hereby certify that the aforementioned determinations were issued during the period April 25, 1983-April 29, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW. Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 3, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-12509 Filed 5-9-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; B. F. Walker Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of April 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

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APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
B.F. Walker, Inc. (workers)	Pueblo, CO	4/19/83	4/14/83	TA-W-14,603	Haul (truck) oilfield pipes and equipment.
Currier Piano Co., Inc. (workers)	Marion, NC	4/21/83	4/15/83	TA-W-14,604	Upright pianos.
Dal Truck Equipment, Inc. (IAMAW)	Buffalo, NY	4/22/83	4/19/83	TA-W-14,605	Aluminum bodies, install fiber glass bodies for vans.
Gilmore Steel Corp., Oregon Steel Mills Div. (USWA)	Portland, OR	4/21/83	4/18/83	TA-W-14,606	Plate steel and special carbon plate.
Jim Walter Resources, Inc., CIC Div. (USWA)	Birmingham, AL	4/19/83	4/18/83	TA-W-14,607	Coke, chemicals, pig iron and mineral wool.
Jones & Laughlin Steel Corp. (USWA)	Detroit, MI	4/25/83	4/19/83	TA-W-14,608	Stainless steel sheet and strip finishing mill.
Metallurgical, Inc. (workers)	Cleveland, OH	4/26/83	4/15/83	TA-W/14,609	Alloy briquettes.
Peter Cooper Corp. (UE)	Oak Creek, WI	4/26/83	4/20/83	TA-W-14,610	Animal glue.
Vesta Mining Co. & LaBelle (workers)	McMurray, PA	4/22/83	4/19/83	TA-W-14,611	Coal mining.
Wright & McGill Co. (company)	Denver, CO	4/25/83	4/20/83	TA-W-14,612	Fiber glass and graphite fishing rods.
Wright & McGill Co. (company)	Aurora, CO	4/25/83	4/20/83	TA-W-14,613	Fiberglass and graphite fishing rods.
Canon Coal Company (UMWA)	Clarksville, PA	4/26/83	4/20/83	TA-W-14,614	Coal mining.
DME Company (workers)	Darlington, PA	4/29/83	4/19/83	TA-W-14,615	Mold bases for plastic parts.
Superior Drawn Steel Co (USWA)	Monaca, PA	4/28/83	4/26/83	TA-W-14,616	Carbon and law alloy steel bars and shapes.
Teledyne-Pittsburgh Tool Steel (USWA)	Monaca, PA	4/28/83	4/26/83	TA-W-14,617	Alloy tool steel and shapes.
U.S. Steel Mining Co., Inc., Mt. Braddock (UMWA)	Fayette Co., PA	4/26/83	4/20/83	TA-W-14,618	Coal mining.
U.S. Steel Mining Co., Inc., Dilworth Mine (UMWA)	Greene Co., PA	4/26/83	4/20/83	TA-W-14,619	Coal mining.
U.S. Steel Mining Co., Inc., Robena Mine & Prep. Plant (UMWA).	Greene Co., PA	4/26/83	4/20/83	TA-W-14,620	Coal mining and cleaning.
Ampco-Pittsburgh Corp., Colona Thread Protectors Div. (USWA).	Monaca, PA	4/29/83	4/26/83	TA-W-14,621	Tread protectors for oil drilling pipes.
B.J. Hughes Services Equipment Co. (workers)	Long Beach, CA	4/19/83	4/6/83	TA-W-14,622	Oil field equipment.

[FR Doc. 83-12510 Filed 5-9-83; 8:45 am]
BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions To Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The Additions to the annual list are effective on May 1, 1983.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington, D.C. 20213. Telephone: 202-376-6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurment set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Exeucitve agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) (1982 ed.) and are added to the annual list of labor surplus areas, effective May 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on April 27, 1983.

Albert Angrisani,
Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[May 1, 1983]

Labor surplus area	Civil jurisdiction included
Minnesota: Duluth City	Duluth City in St. Louis County.
North Carolina: Montgomery County.	Montgomery County.
Oklahoma: Balance of Tulsa County.	Tulsa County less Tulsa City.

[FR Doc. 83-12508 Filed 5-9-83; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Securtiy Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, June 14, 1983, in the Labor Auditorium, located in the Great Hall, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington D.C.

The purpose of the meeting is to present a forum on the subject of Social Investment of Employee Benefit Fund Assets. It will consist of a morning session beginning at 9:30, at which invited guests will present their viewpoints, followed in the afternoon, at 1:30, by statements, limited to five minutes, from the public on this issue.

Individuals wishing to address the Council should submit written requests and copies of their statements on or before May 23 to Edward F. Lyaczek, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue NW., Washington, D.C. 20216. Telephone (202) 523-8753.

Papers on the subject of Social Investment are invited and will be accepted and included in the record of the meeting. Papers may be submitted at any time prior to the meeting date to the Executive Secretary of the Advisory Council at the above address.

Signed at Washington, D.C. this 20th day of April 1983.

Jeffrey N. Clayton,
Administrator, Pension and Welfare Benefit programs.

[FR Doc. 83-12386 Filed 5-9-83; 8:45 am]
BILLING CODE 4510-29-M

Quain and Ramstad Clinic et al.; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Quain and Ramstad Clinic, P.C., Employees' Retirement Plan (the Plan) Located in Bismarck, North Dakota

[Exemption Application No. D-3700; Prohibited Transaction Exemption 83-82]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan (the Loan) of the lesser of $2 million or 25% of the fair market value of the Plan's assets as of the closing date of the Loan by the Plan to Quain and Ramstad Clinic, P.C. (the Employer), the sponsor of the Plan, provided that the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 21, 1982, at 47 FR 56940.

Written Comments and Hearing Requests: Three comments were received by the Department with regard to the proposed exemption. One commentator stated that the security to be used to secure the Loan, i.e. the accounts receivable of the Employer, currently fund obligations under a certain unfunded benefit plan maintained for the former partners of Quain and Ramstad Clinic prior to its incorporation. The applicant responded to this comment and stated that a security interest in the accounts receivable would defeat the tax deferral aspects of the unfunded plan, and therefore no such security interest exists. The commentator also stated that he was concerned about the use of accounts receivable as security for the Loan. The Department contacted the commentator, and after a discussion of the above issues, the commentator stated that he has no objection to the granting of an exemption.

Another commentator raised certain concerns involving the security for the Loan, and how the liquidity of the Plan will be affected by the Loan. The Department contacted the commentator and after explaining the protections afforded the plan by the terms of the exemption, including the role of the independent fiduciary, the commentator stated that he no longer had concerns with regard to the proposed exemption.

The appplicant also commented and requested a modification of the exemption application to provide that the Loan amount will not exceed the lesser of $2 million or 25% of the Plan's total assests as of the date of the closing of the Loan. The Northwestern National Bank of Minneapolis, the independent fiduciary with regard to the transaction, has considered the change and has determined that the Loan remains an appropriate and suitable investment for the Plan. The Department notes this change and has determined that such does not reflect on the merits of the exemption. The Department hereby incorporates such change into this final grant.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Tarboro Clinic, P.A. Restated Money Purchase Pension Plan (the Money Purchase Plan) and the Tarboro Clinic, P.A. Restated Profit Sharing Plan (the Profit Sharing Plan; collectively, the Plans), Located in Tarboro, North Carolina

[Application Nos. D-3780 and D-3781; Prohibited Transaction Exemption 83-83]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the

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application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past purchases totaling 240 shares of the common stock of the Edgecombe Bank and Trust Company (Edgecombe) from Dr. Victor Herring III (Herring), by the individual accounts of Herring in the Plans provided that the price paid for such stock was not greater than the fair market value of the stock at the time of the transactions. Herring is a director of the Tarboro Clinic, P.A., the sponsor of the Plans and at the time of such purchases was a director of Edgecombe.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 11, 1983 at 48 FR 10499.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Drs. Weigler, Jacobsohn and Mollick, S.C. Amended and Restated Employees Pension Plan (the Plan) Located in Cadahy, Wisconsin

[Exemption Application No. D–3802; Prohibited Transaction Exemption 83–84]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of certain art work by the Plan to Dr. Jordan M. Weigler, a party in interest with respect to the Plan, provided that the sales price for the artwork is at least equal to its fair market value at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 4, 1983 at 48 FR 9394.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Group Health Cooperative of Puget Sound Staff Pension Plan (the Plan) Located in Seattle, Washington

[Exemption Application No. D–3950; Prohibited Transaction Exemption 83–85]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to certain transactions involving the contribution, sale and purchase of "no-load" mutual fund shares (the "No-Load" Mutual Fund Shares) between the Plan and professional and administrative employees (the Participants) of the Group Health Cooperative of Puget Sound, provide all purchases and sales of the "No-Load" Mutual Fund Shares are conducted at fair market value and all Participant contributions of "No-Load" Mutual Fund Shares are valued at their fair market value on the date contributed.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 11, 1983 at 48 FR 10500.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523– 8971. (This is not a toll-free number.)

Fox, Goldblatt & Singer, Inc. Employees Profit Sharing Plan (the Plan) Located in St. Louis, Missouri

[Exemption Application No. D–3978; Prohibited Transaction Exemption 83–86]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase by each of the individually directed accounts (the Accounts) of Milton R. Fox, Samuel A. Goldblatt and Thomas M. Singer in the Plan of an equal undivided one-third interest in a certain parcel of improved real property from Fox, Goldblatt, Singer Investments, a Partnership, a party in interest with respect to the Plan, provided the terms and conditions of the purchase are at least as favorable to the Accounts in the Plan as those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983 at 48 FR 14083.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523– 8881. (This is not a toll-free number.)

Radiology of Tupelo, Professional Association Profit Sharing Plan (the Plan), Located in Tupelo, Mississippi

[Exemption Application No. D–3984; Prohibited Transaction Exemption 83–87]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by Dr. Douglas E. Clark, Jr., (Dr. Clark) of a parcel of unimproved real property located in Pontotoc County, Mississippi for $48,000 to the individual account of Dr. Clark in the Plan, provided that this price is not more than the fair market value of the property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983 at 48 FR 14083.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 5th day of May, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–12432 Filed 5–9–83; 8:45 am]

BILLING CODE 4510–29–M

Pension Plan for the Employees of David Meadows, et al.; Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Pension Plan for the Employees of C. David Meadows, M.D., P.A., the Money Purchase Pension Plan for the Employees of C. David Meadows, M.D., P.A. and the Profit Sharing Plan for the Employees of C. David Meadows, M.D., P.A. (collectively, the Plans) located in Arlington, Texas

[Application Nos. D–3530, D–3531 and D–3532]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4974(c)(1) (A) through (E) of the Code, shall not apply to the participation of the Plans in a loan to Drs. C. David Meadows (Dr. Meadows) and Joseph T. Sams (Dr. Sams) and to the repurchase of the Plans' participation interests by the Plans' trustee, provided that the terms of the transaction are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

Summary of Facts and Representations

1. The Plans include a defined benefit pension plan, a money purchase plan and a profit sharing plan with 9, 1 and 9 participants respectively. As of June 30, 1982, the pension plan had $206,326 in assets, the money purchase plan $146,477 in assets and the profit sharing plan $192,176 in assets. The sponsor of the Plans is C. David Meadows, M.D., P.A. (the Employer), a professional association whose sole member is Dr. Meadows. The Plans' trustee is the Texas Commerce Bank-Arlington, Arlington, Texas (the Bank).

2. On January 29, 1983, Dr. Meadows and Dr. Sams (the Doctors) borrowed $484,871.82 from the Bank, the Doctors executing a promissory note (the Note) in favor of the Bank. The purpose of the loan was to renew and extend a previous construction loan which was used to finance construction of a medical office building located at 900 Wright Street, Arlington, Texas. The medical building is presently leased to the Employer and to Joseph T. Sams, M.D., P.A. On the day the Note was issued, Dr. Meadows purchased a 30% participation interest in the Note from the Bank.

3. Dr. Meadows' present interest in the Note is $145,461, with the Bank's interest presently equaling $339,410.20. The Note is a 20 year note, however, the Bank has the right to call the Note on the fifth, tenth and fifteenth anniversary date of the Note. The Note is payable in equal monthly installments of $6,000 which includes interest at the rate of the prime rate charged by the Bank plus ½%, adjusted whenever the Bank changes the prime rate charged to its borrowers. The Note is secured by a first lien on the medical office building.

4. The Bank as trustee for each of the plans proposes to purchase an undivided interest in the Note. Three participation certificates, each lasting for a 5 year period will be issued to the Plans. The first certificate in the amount of $43,000 will be issued to the money purchase plan, the second for $57,000 will be issued to the profit sharing plan and the third for $61,000 will be issued to the pension plan. The total participation of each Plan in the Note, however, will in no event exceed 20% of the total assets of each plan on the date the Plans enter into the transaction. Dr. Meadows represents that he will always

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hold at least a 30% interest in the Note. Further, the terms of the participation certificates require that the Bank, upon written demand, pay the plans all or any part of the unpaid indebtedness due on their participation interests including accrued interest. At the end of the 5 year period, the Bank bill in any case be required to repurchase the plans' interests in the Note for its unpaid principal balance plus accrued interest.

5. On April 19, 1982, the Property was appraised by Edward D. Holman, a staff appraiser for McClellan, Massey, Inc. of Dallas, Texas, as having a fair market value of $550,000 as of March 10, 1982. Since the Property's appraised value represents only approximately 113% of the outstanding balance of the Note, Dr. Meadows has agreed to subordinate his 30% interest in the Note to the Plans. Therefore, the Plans' participation in the Note will be effectively secured by property worth approximately $371,000 or in excess of twice the amount of the Note.

6. Mr. Michael Hunter, an attorney with the law firm of Godfrey, Decker, McMackin, Shipman, McClane & Bourland of Fort Worth, Texas, will be appointed to act as an independent fiduciary for the proposed transaction. Mr. Hunter represents that he is aware of his duties, responsibilities and liabilities as a fiduciary under the Act in connection with the proposed loan. Mr. Hunter further represents that he has no other relationships with any of the parties to the proposed transaction.

Mr. Hunter represents that after examining the terms of the proposed transaction, he has initially determined that it is appropriate and suitable for the Plans. Mr. Hunter will reexamine the terms of the proposed transaction immediately prior to its consummation and will confirm that it continues to be an appropriate and suitable transaction for the Plans. Mr. Hunter will also monitor the transaction to ensure that the terms and conditions of the Note are maintained.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because

(a) the terms of the Note are the same as those required by the Bank;

(b) an independent fiduciary has determined that the transaction is in the best interests and protection of the plans and of their participants and beneficiaries; and

(c) Dr. Meadows has agreed to subordinate his interest in the Note to that of that Plans, thereby providing security on the Plans' investment in excess of twice the amount invested.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Allbright Machine Company, Inc. Employees' Profit-Sharing Plan and Trust (the Plan) Located in Odessa, Texas

[Application No. D–3674]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the lease of certain real property by the Plan to Allbright Machine Company, Inc. (the Employer) for a ten-year period, with the option to renew, provided the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan which was initially adopted on September 31, 1965. As of July 1, 1982 there were eight participants in the Plan and total assets of $174,790. The trustee of the Plan is the Interfirst Bank of Odessa, N.A. (the Trustee). The Trustee has been trustee since the inception of the Plan. The Trustee is an independent Trustee with complete investment authority for the Plan.

2. The Employer is a Texas corporation engaged in the business of manufacturing oil field equipment. On March 15, 1969, the Plan acquired a building located at 4701 North Golder, Odessa, Texas (the Building). The Plan immediately began leasing the Building to the Employer pursuant to an oral agreement. The Plan received $350 from the Employer for its use of the Building, until April 1, 1969. This amount was for rent and utilities.

3. On April 1, 1969, a formal lease agreement (the Lease) was entered into between the Plan and the Employer for the Employer's use of the Building. The Lease was effective April 1, 1969 through March 31, 1974, with an option to renew for an additional 10 year period. Under the terms of the Lease, the Plan agreed to pay ad valorem taxes on the Building and the Employer agreed to pay all utilities and insurance. The Plan received $130 per month in rent from April 1, 1969 through February of 1970. The Lease provides that the Plan is to receive $200 per month from March 1, 1970 until the end of the Lease term including the optional renewal period. However, in July of 1978 the Employer began enlarging the Building's capacity and the rent was increased to $300 per month. In September of 1980, when the Building's capacity had effectively been doubled, the rent was increased to $500 per month and has remained at this level until the present.[1]

4. The Plan now proposes to enter a new lease to take effect upon the granting of the proposed exemption (the New Lease) with the Employer for a primary term of 10 years with an option to renew for another 10-year period upon the same terms and conditions as the New Lease except that monthly installment of rent shall be renegotiated in writing by the Trustee and the Employer. The rental fee is to be paid by the Employer at a rate of $500 per month. The rental rate will be adjusted every two years during the term of the New Lease to reflect the then fair rental value of the Building as determined by an independent appraisal. Under the terms of the New Lease, the Employer will pay all taxes and assessments covering the Building and will be responsible for maintaining property and liability insurance.

5. An appraisal performed by Mr. Curtis Sims of M. D. Shirley Associates, Inc., an independent real estate appraiser experienced in the appraisal of investment, residential and commercial real property, has determined, that the fair rental value of the Building is $440 per month as of June 24, 1982. This appraisal also establishes the fair market value of the Building at $40,000 as of this date.

6. The Trustee has approved the terms of the New Lease, and has determined that it is in the best interests of the Plan and its participants and beneficiaries. Further, in accordance with the powers granted to the Trustee by the Plan's Trust Agreement, it has agreed to enforce all of the terms and conditions of the New Lease.

7. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act have been satisfied because:

[1] The applicant represents that the lease of the Building by the Plan to the Employer from January 1, 1975 to the present is encompassed by the transitional rules of section 414 of the Act. The Department expresses no opinion as to the applicability of section 414 of the Act with regard to the Lease.

(1) the terms of the New Lease can easily be determined from the proposed written lease agreement and can be easily monitored by the Plan's records;

(2) the Plan will receive the fair market rental value for its property as determined by an independent real estate appraiser;

(3) the independent Trustee, having reviewed all of the terms of the New Lease, has determined that it is in the interests of the Plan and its participants and beneficiaries; and

(4) the Trustee will enforce the terms and conditions of the New Lease.

For further information contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Neurological Associates, S.C., Profit Sharing Plan and Trust (the Plan) Located in Peoria, Illinois

[Application No. D–3856]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash purchase of certain real property from Dr. Gaylord W. Bennett (Dr. Bennett), a party in interest with respect to the Plan, by Dr. Bennett's individual directed account under the Plan, provided that the purchase price does not exceed the fair market value of such property on the date of purchase.

Summary of Facts and Representations

1. The Plan is an individual account plan which permits all participants to direct the investment of their accounts under the Plan and provides that any income, expenses, gains, or losses attributable to the assets credited to each participant's account shall be allocated to that account only. As of October 13, 1982, the Plan covered 31 participants, including Dr. Bennett. As of April 12, 1983, the fair market value of Dr. Bennett's vested interest under the Plan was $79,580.

2. The real property in question is a parcel of undeveloped land (the Land) identified as Lot 2 of Highland Lake Estates, located in Woodford County, Illinois. Dr. Bennett did not acquire the Land from a party in interest with respect to the Plan. Dr. Bennett intends to use the Land for retirement purposes. Mr. Andrew L. Placher, a registered real estate broker licensed in the State of Illinois and associated with farm properties throughout Central Illinois for over 20 years, has examined the Land and estimated its fair market value on March 26, 1983 as $19,500. Mr. Placher certifies that he is not related to any person holding any title to the Land and has no personal interest therein whatsoever.

3. Dr. Bennett wishes to sell the Land to his individual account under the Plan because he believes the Land has good potential for appreciation. The proposed purchase price of the Land is $19,500, payable in cash at closing. Dr. Bennett will pay the selling fees and expenses incurred in effecting the proposed purchase.

4. In summary, the applicant represents that the proposed purchase satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the proposed purchase price equals the fair market value of the Land as established by an independent appraiser, (b) the proposed purchase involves less than 25% of Dr. Bennett's vested interest under the Plan, (c) the Plan will not be charged with the fees and expenses incurred in effecting the purchase, (d) the only Plan assets involved in the proposed purchase are those credited to Dr. Bennett's individual account under the Plan so that he is the only Plan participant affected by the proposed transaction, and (e) Dr. Bennett believes the proposed purchase is in his best interest and wishes the purchase to be effected.

Notice to Interested Persons: Since the only Plan assets involved in the proposed transaction are those in Dr. Bennett's account under the Plan and he is the only Plan participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number).

The American Can Company Retirement Plan for Salaried Employees (the Salaried Plan); The Pension Plan for Canco USW Employees (the USW Plan); The General Pension Plan for Hourly Employees at Tampa, Florida, Chandler, Arizona and Deming, New Mexico (the MRI Plan); and The Pension Plan for Hourly Employees at the Seattle Plant (the Seattle Plan; Collectively, the Plans) Located in Greenwich, Connecticut

[Application Nos. D–4003, D–4004, D–4005 and D–4006]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the sale by the USW Plan, the MRI Plan and the Seattle Plan (together, the Hourly Plans) of their interests in Metropolitan Life Insurance Company Guaranteed Insurance Contract #1650 (GIC #1650) to the Salaried Plan, provided the consideration paid by the Salaried Plan for the interests in GIC #1650 is equal to the fair market value of the interests at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plans are funded through the American Can Company Master Retirement Trust (the Master Trust) under an agreement (the Master Trust Agreement) between American Can Company (the Company) and Bankers Trust Company (the Trustee). The Plans provide pension benefits to eligible employees and their beneficiaries. The Salaried Plan covers all eligible salaried employees employed by the Company at included locations or by any subsidiary of the Company which participates in the Salaried Plan (other than employees covered by a collective bargaining agreement which does not provide for such participation). The Hourly Plans cover eligible employees of the Company who are in the bargaining units covered by the agreements between the Company and certain unions. As of January 1, 1982 there were approximately 13,500 participants in the Salaried Plan and approximately 15,000, 43 and 8 participants, respectively, in the USW Plan, the MRI Plan and the Seattle Plan. The Master Trust is a group trust in which designated plans maintained by the Company and its subsidiaries (the Participating Plans) participate and which is authorized to hold all or any portion of each Participating Plan's assets. The applicant represents that, to its best knowledge and belief, the Plans do not provide services to one another and are not otherwise parties in interest with respect to one another.

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2. Under Section X of the Salaried Plan (which is comparable to the funding provisions set forth in the addendum to each Hourly Plan and the funding provisions of the other Participating Plans), assets held for the Salaried Plan in the Master Trust are generally to be invested by the Trustee in its discretion. However, certain powers with respect to the investment of the Salaried Plan's assets are reserved to a committee (the Investment Review Committee) composed of individuals appointed by the Board of Directors of the Company. The current members of the Investment Review Committee are Kenneth A . Yarnell, Jr., David I. Chemerow, Eugene C. Ecker, J. Andrew Hays, John G. Polk and Daniel E. Rubenstein. Each of the current members is an employee of the Company.

3. Included in the reserve powers of the Investment Review Committee is the power to direct the Trustee to enter into one or more group annuity contracts on behalf of a Participating Plan. Pursuant to this power, the Investment Review Committee directed the Trustee to hold certain group annuity contracts of a type known as guaranteed insurance contracts (the GICs) for certain of the Participating Plans.

4. Pursuant to the Master Trust Agreement, GICs held for the Participating Plans are credited for bookkeeping purposes to segregated investment pools (the Investment Pools), to separate them from the main pool of assets (the General Fund). The General Fund, in which all Participating Plans share, is invested primarily in marketable securities. Investment Pool 2, in which only the USW Plan and another plan for hourly employees (the IAM Plan) have an interest, holds five branches of GIC #1650 with Metropolitan Life Insurance Company (Metropolitan).[1] Investment Pool 6, which most of the Participating Plans share (including the Hourly Plans), holds the remaining four branches of GIC #1650 and several other GICs with various insurers. Shortly before the proposed transaction, the Company and the Investment Review Committee will direct the Trustee to split Investment Pool 6 into two separate pools, with a new pool (Investment Pool 10) holding the branches of GIC # 1650 previously held under Investment Pool 6 and with Investment Pool 6 continuing to hold the remaining GICs.

[1] While GIC #1650 is a single contract, to which contributions are to be made over a period of years, each year's contributions are subject to different interest rate guarantees. Accordingly, for accounting purposes, each year's contributions are segregated in a separate "branch" of the contract.

5. At the present time, approximately 69% of the assets of the Salaried Plan is invested in the General Fund. Only approximately 11% (based on book values) is invested in GICs and approximately 12% in an immunized bond portfolio. Almost all of the USW Plan's assets, however, are invested in GICs and an immunized bond portfolio (approximately 36% in GICs based on book values and approximately 60% in the bond portfolio). While the GICs and immunized bond portfolios offer valuable interest rate guarantees, the Company and the Investment Review Committee have determined that greater liquidity is needed for the USW Plan, and that the most practical way to achieve such liquidity is to dispose of the USW Plan's interest in GIC #1650. Disposing of any portion of the bond portfolio to increase liquidity under the USW Plan would be substantially detrimental to the Plan. Achievement of the overall goals of an immunized bond portfolio depends on maintaining a precise mix of maturity dates and interest yields. Sale of any significant portion of the portfolio would, thus, tend to defeat its investment purpose.

6. Greater liquidity is also needed for the remaining two Hourly Plans. These plans cover operations that have been sold by the Company as of April, 1982. Under the terms of the purchase agreement (the Purchase Agreement), the assets of each Plan are to be transferred to a trust established by the buyer, in connection with its assumption of the Plan. At the present time, the assets of these Plans are invested in the General Fund and Investment Pool 6. Upon receipt of Internal Revenue Service approval, the Company will be required to transfer liquid assets (cash or cash equivalents) to the respective buyers, necessitating the liquidation of each Plan's interest in Investment Pool 6.

7. It is proposed that such disposition of the Hourly Plans' interest in the GIC be accomplished through a sale by each Hourly Plan to the Salaried Plan of the Hourly Plan's interest in the GIC. Such sale would take the form of an exchange by (a) the USW Plan of its interests in investment Pool 2 and new Investment Pool 10 and (b) each other Plan of its interest in new Investment Pool 10 for a portion of the Salaried Plan's interest in the General Fund having the same value. The publicly traded securities in the General Fund are valued, at market, by the Trustee, using primarily daily pricing tapes from Telestat Systems, Inc. and Interactive Data Service Corp. any independently managed portfolios in the General Fund that invest in foreign securities are valued by the Trustee's Global Trust Group. The General Fund's real estate account is valued on the basis of information provided by the two collective real estate trusts in which the assets are invested.

8. Each Hourly Plan's interest in the respective branches of the GIC involved would be valued separately. Each branch would be valued for this purpose at a figure halfway between (a) the amount that the Salaried Plan would have to pay for the particular branch in order to have a yield (for the remaining period of the branch) on that branch equal to the yield that would be available if the Salaried Plan purchased a new GIC from Metropolitan and (b) the amount that would be paid to the Hourly Plan by Metropolitan if its share of that branch were cashed out. The amount that would be received by the Hourly Plan on a cash-out will in each case be smaller than the amount that the Salaried Plan would have to pay to receive the equivalent yield if it purchased a new GIC from Metropolitan, because of the manner in which Metropolitan computes its so-called "bid" and "asked" prices for such contracts. The applicable "bid" and "asked" figures for each branch of GIC #1650 are readily available from Metropolitan, and current figures could be obtained at the time of the transaction.

9. The Company and the Investment Review Committee believe that the proposed transaction would be of benefit to the Salaried Plan and the Hourly Plans. It would permit the Salaried Plan to acquire a secure investment, of a type commonly made by qualified pension plans, at a lower cost than would otherwise be possible and it would at the same time permit the Hourly Plans to dispose of their interests in GIC #1650 at a higher price than would otherwise be available.

10. Nothing in this subject transaction could have any impact on the Company's sale of operations described in Representation #6 above, as those operations were sold as of April, 1982. The Trustee's only obligation under the Purchase Agreement was to liquidate the GICs and deliver cash or cash equivalents to a trust being established by the buyer. The Company has no financial stake in the method used for liquidating the MRI and Seattle Plans' interests in the GICs, because the Purchase Agreement does not commit the Company to transfer any particular amount of assets in respect of the MRI and Seattle Plans. The Investment Review Committee made an independent determination on behalf of the Salaried Plan to purchase GIC #1650. There was no conflict of interest. The decision to buy the GIC was purely on the merits of the investment. The only matter that needed to be resolved was finding a fair and equitable method for pricing. The proposed pricing mechanism, which was suggested by the Company's outside counsel provides a favorable arrangement for all the Plans, based upon an objective standard.

11. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) the transaction would permit the Salaried Plan to acquire a secure investment providing a guaranteed investment yield that as higher than would otherwise be available; (2) the transaction would permit each Hourly Plan to satisfy its liquidity needs without incurring the charges applicable on a cash-out with Metropolitan; (3) this will be a one-time transaction involving no extension of credit; (4) the asset value figures used as the basis for the exchange will be determined solely on quotas of (a) value figures received from an independent party, Metropolitan, in the case of the GIC and (b) market values furnished by independent fiduciaries (i.e., the Trustee and the trustees of certain collective real estate funds) in the case of the assets in the General Fund; and (5) the Investment Review Committee has determined that the proposed transaction is appropriate for the Plans and in the best interests of their participants and beneficiaries.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Western Growers Pension Trust (the Plan) Located in Irvine, California

[Application No. D-4063]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan by the Plan to WGA Service Corp. of the lesser of 12½% of the Plan's assets on the date of the loan or $2,500,000, under the terms described in this notice, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a multi-employer pension plan which is administered by a board of trustees. As of September 1, 1982, the Plan had approximately 8,544 active participants, 1,020 retirees, and 32 beneficiaries. The Plan had $19,127,887 in total assets as of December 10, 1982.

2. The Plan was originally created under the guidance of the Western Growers Association (WGA), which is a non-profit trade association whose members are active growers and shippers of produce in the western United States and whose members, in large part pursuant to collective bargaining agreements, make contributions on behalf of their employees to the Plan. WGA Service Corp. is a profit corporation organized under the laws of the State of California. There are common directors and trustees among the Plan, WGA, and WGA Service Corp. All of the capital stock of WGA Service Corp. is owned by WGA.

3. WGA Service Corp. owns the building located at 17620 Fitch, Irvine, California (the Building), which houses the headquarters of the WGA. WGA Service Corp. leases part of the Building to WGA and also leases part of the Building to the Plan. The applicants represent that the lease to the Plan is exempt under section 408(b)(2) of the Act in that the lease is for office space in which the Plan conducts legal, accounting and other operations necessary for the operation of the Plan, and that no more than reasonable compensation is paid for the rental of the office space.[1]

4. The Plan proposes to loan to WGA Service Corp. an amount up to 12½% of the Plan's assets as of the date of the loan, not to exceed the sum of $2,500,000. The interest rate for the loan is to be a fixed rate which will be equal to the prevailing rate of interest charged for similar real estate loans in the Southern California area by major financial institutions at the time the loan is funded. The loan is to be amortized over 30 years, and will be completely due and payable in 10 years. The loan will be secured by a first deed of trust on the Building which will be recorded with the County Recorder for the County of Orange, State of California. The Building has been appraised by Mark Hasker Byer, M.A.I., an independent appraiser in Newport Beach, California, as having a fair market value of $4,500,000 as of May 16, 1982.

[1] The Department expresses no opinion in this proposed exemption as to whether the lease between WGA Service Corp. and the Plan is encompassed by section 408(b)(2) of the Act.

5. The Plan's trustees have delegated investment authority within specific guidelines to its independent investment counsel, Van Deventer & Hoch (V&H). V&H currently manages assets in excess of $200 million. In 1976 (V&H) merged with Chemical New York Corporation, the holding company for the Chemical Bank of New York. V&H has reviewed the terms of the proposed loan and has determined that the loan is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries. V&H will set the rate of interest at the outset of the loan. Mr. Harold Brown, who is legal counsel to the Plan, will monitor the loan and take whatever action is necessary to enforce the Plan's rights under the loan. Mr. Brown acknowledges his status as fiduciary to the Plan in connection with his responsibilities to monitor the loan. Mr. Brown represents that he is counsel only to the Plan and does not represent WGA or WGA Service Corp.

6. In summary, the applicants represent that the proposed loan transaction meets the criteria of section 408(a) of the Act because: (1) the loan will involve no more than 12½% of Plan assets; (2) the interest rate will be set by V&H and will be equal to the prevailing rate charged by major local financial institutions at the time of the funding of the loan; (3) the loan is to be secured by real property which has been appraised by an independent appraiser at a value 1.8 times the maximum amount of the loan; (4) V&H, the Plan's independent fiduciary, has determined that the loan is appropriate for the Plan; and (5) Harold Brown, the Plan's counsel, will serve as an independent fiduciary to monitor the loan and take whatever action is necessary to enforce the Plan's rights.

Notice of Interested Persons

Notice will be provided to interested persons in the manner agreed upon by the Department and the applicants within 21 days of the date of publication of this notice of proposed exemption. Comments and requests for a public hearing must be received by the Department within 55 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Employee's Retirement Plan and Trust Agreement of Affiliated Pathologists, P.A. (the Plan) Located in Denton, Texas

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[Application No. D–4164]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan of a 8.1302% interest in a joint venture to Affiliated Pathologists, P.A. (the Employer), a party in interest with respect to the Plan, provided that the amount paid to the Plan is not less than the fair market value at the time of sale.

Summary of Facts and Representations

1. The Plan, a defined contribution pension plan, has 9 participants and net assets as of March 31, 1982 of $806,262.42. The Employer is a professional medical corporation with offices in Texas and Oklahoma.

2. In 1973, the Plan purchased a 5% interest in a joint venture known as Metro-East Property III (Metro-East) for $6,232. Metro-East owns 440 acres of undeveloped land in the Dallas Metropolitan area. Metro-East purchased the land in 1973 for a price of approximately $615,000. In order to finance the purchase of the land, Metro-East borrowed $489,241.76 at an interest rate of 7%, payable over 10 years.[1] The loan was secured by a deed of trust on the land. The Plan in addition to its initial capital contribution was required under the terms of the joint venture agreement to make annual capital contributions to retire the underlying deed of trust.

3. Several investors have withdrawn from Metro-East because of the decline in the real estate market, thereby resulting in an increase in the ownership share and obligations of the remaining joint venturers, including the Plan. Between 1973 and 1982, the Plan made the following capital contributions and had the following ownership interest in Metro-East:

	Ownership (percent)	Capital contribution
1973	5	[1] $6,232
1974	5	4,200
1975	5.86	4,986
1976	7.52	4,163
1977	8.1302	4,881
1978	8.1302	4,872
1979	8.1302	4,870
1980	8.1302	4,771
1981	8.1302	4,922
1982	8.1302	4,719
		48,616

[1] Initial purchase price

If no further change in ownership in Metro-East takes place, the Plan can be expected to make payments over the next 4 years of $18,547.15.[2]

4. As a result of the declining real estate market, the Plan has attempted to sell its interest in Metro-East to the other joint venturers. These efforts have yielded only minimal interest.[3] The Plan proposes to sell its interest in Metro-East to the Employer for its fair market value as determined by an independent appraiser. Mr. J. B. Featherston of Merrill Lynch Realty Commercial Services, Dallas, Texas, an independent appraiser, has determined that the value of the Plan's interest in Metro-East as of June 15, 1982 was $35,800. The applicant represents that this appraisal will be updated at the time of sale and the Plan will receive the greater of $35,800 or the current appraisal. No sales commission will be paid by the Plan with respect to the proposed sale and any costs of sale will be borne by the Employer. In addition, the Employer will hold the Plan harmless from any future contingencies occurring after the sale which give rise to a liability of the Plan by reason of its previous ownership interest in Metro-East.

The applicant represents that if an exemption is not issued, the Plan will continue to make capital contributions pursuant to the joint venture agreement, without any current income return on this investment and with uncertainty as to any future appreciation.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) It will be a one time transaction for cash;

(b) All costs of sale for the transaction will be paid by the Employer;

(c) The Employer will hold the Plan harmless from any liabilities occurring after the sale which arose from the Plan's ownership in Metro-East;

(d) The Plan will receive the greater of $35,800 or the current appraised value of the Plan's interest in Metro-East on the date of sale; and

(e) The Plan trustees have determined that the proposed transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Visonik of America, Inc. Profit Sharing Plan and Trust (the Plan), Located in Orinda, California

[Application No. D–4208]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedures 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of a limited partnership interest by the Plan to Visonik of America, Inc. (the Employer), a party in interest with respect to the Plan, provided that the amount paid to the Plan for its partnership interest is not less than fair market value at the time of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 7 participants and net assets of $206,218.08 as of January 31, 1983. The Plan trustee is Mr. Henry G. Eberle (Mr. Eberle).

2. On August 8, 1980, the Plan purchased for $42,000 a 4.019% interest in Redding Development Associates (Redding), a California limited partnership.[1] Redding was formed on September 1, 1979, for the purpose of acquiring and reselling certain parcels of real property located in Contra Costa County, California. Redding was to exist for a period of 3 years or until the earlier sale of the partnership real estate.

3. Redding is now, and has been for many months, in a precarious financial position. In addition to adverse conditions in the real estate market which prevented an early sale of the partnership property, the general partners of Redding, Charles M. Southall and William H. Zepp, are represented to have violated various provisions of the partnership agreement to the detriment of the Plan and the other limited partners. In regard to these violations, a suit was filed by W. Barry Kannon, a limited partner, against the general partners in July 1982.

4. On August 26, 1982, the limited partners of Redding met and elected a new general partner, Ralph L. Aldrich, to undertake the management and sale of the partnership properties. Despite Mr. Aldrich's best efforts to salvage the partnership's property, it appears that foreclosures by lenders holding third and fourth deeds of trust on the partnership property may result in a loss to the Plan and the other limited partners in Redding of their capital contributions. The applicant represents that should current foreclosure proceedings continue, the Plan and the other limited partners will be left with only a claim against Charles M. Southall and William H. Zepp, the former general partners of Redding, for their losses. In a letter to the limited partners of Redding dated December 29, 1982, Mr. Aldrich stated that because of the precarious position Redding is in now, that the limited partners should discuss with their accountants the possibility of writing off this investment as a total loss.

5. The Employer has offered to purchase the Plan's 4.019% interest in Redding for a cash purchase price equal to the Plan's original acquisition cost plus simple interest at the rate of 15% per annum for the date of acquisition (purchase price would be $58,656.16 as of March 31, 1983). All costs of the transaction would be borne by the Employer. Further, the Employer and Mr. Eberle have agreed to hold the Plan harmless from any past or future losses arising from the Plan's ownership of the limited partnership interest in Redding.

6. The applicant represents that the sale of the limited partnership interest in Redding would relieve the Plan of the substantial risk involved in continuing to hold the limited partnership interest and of the costs that must necessarily be incurred in pursuing claims against the former general partners of the partnership. In addition, it will preserve the Plan's initial investment in the partnership interest and provide a return on that investment.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) It will be a one time transaction for cash;

(b) The Plan will be able to dispose of an otherwise worthless asset without suffering a loss;

(c) All costs of sale for the transaction will be paid by the Employer; and

(d) The Employer and Mr. Eberle will hold the Plan harmless from past and future losses arising from the Plan's ownership of the limited partnership interest in Redding.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number).

Ray Tylander's Inc. Profit Sharing Plan Located in Palm Beach, Florida

[Application No. D–4220]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the temporary exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed construction loans, not to exceed the lesser of $350,000 or 25 % of the Plan's assets, for a period of ten years, by the Plan to certain qualified customers of Ray Tylander Inc. (the Employer), a party in interest with respect to the Plan, provided the terms of each transaction are no less favorable to the Plan than those available in an arm's length transaction with the unrelated party.

Temporary Nature of Exemption

If granted, the exemption will be temporary in nature and will expire 10 years after the date of grant.

Summary of Facts and Representations

1. The Plan is a profit sharing plan that had 83 participants and total assets of $560,454 as of June 30, 1982. The Plan's administrative committee (the Committee) directs all investments for the Plan. The individuals who comprise the Committee and make the investment decisions for the Plan are all officers and/or shareholders of the Employer.

2. The Employer is a State of Florida corporation that engages in the building materials business and, in connection therewith, manufacturers penalized home packages.

3. The applicant is requesting a temporary exemption, for ten years, which would permit the Plan to invest up to the lesser of 25% of $350,000 of its assets in Loans to certain qualified customers of the Employer. Each Loan would: (1) by limited to no more than 10% of the assets of the Plan; and (2) bear a floating interest rate 2 percent over the prime rate of Chase Manhattan Bank of New York City, with a floor of 8%, and would have a term of six months. Repayments will be made to the Plan upon the completion of each home by established mortgage lenders pursuant to their irrevocable permanent mortgage commitment letter to the Plan. It is represented that no Loans will be made to borrowers who are parties-in-interest to the Plan.

4. The Loans will be secured by a first mortgage on the property on which the house will be built. In addition the Loans will be secured by a third mortgage (the Third Mortgage) on a retail lumber yard owned by the Employer (the Property), located at 8333 Southern Boulevard, West Palm Beach, Florida, which is subject to a first mortgage (the First Mortgage) of approximately $163,441 held by the Florida Federal of St. Petersburg, Florida and two separate second mortgages (the Second Mortgages) of $75,000 each, held by Charles and Doris Carpenter and Mary Frances Hecht, respectively. An appraisal performed on January 11, 1983 by Arthur J. St. John (Mr. St. John), S.R.P.A. Broker, vice president of Ted

[1] The loan was renegotiated by Metro-East and the maturity date on the loan has been extended until 1988.

[2] In this proposed exemption, the Department expresses no opinion as to whether the Plan's acquisition or subsequent actions with respect to its ownership interest in Metro-East violated any provision of Part 4 of Title I of the Act.

[3] Plan received an offer to purchase its entire interest for $1,000. A second offer of $2,411.64 was eceived for a purchase of 3.654 Percent of the Plan's interest.

[1] The applicant represents that the principals in Redding are independent and unrelated to the Employer, the Plan and the Plan trustee.

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Brown Real Estate, Inc., an independent appraiser, valued the Property at $1,040,000. In the opinion of Mr. St. John, the neighborhood, in which the Property is situated, is increasing steadily in value as demand for both vacant sites and improved industrial buildings increases. The Third Mortgage will be filed with the clerk of the Circuit Court of Palm Beach County, Florida, recording the Plan's secured interest in the Property. It is represented that the Plan will be added as a loss payee on the insurance policy (the Policy) insuring the Plan's secured interest in the Property against fire, casualty losses, etc. throughout the terms of the Loans upon the execution of the Third Mortgage. It is represented that the Policy reflects adequate coverage for the transaction. In addition, the Employer wil incur all costs necessary to maintain the Property, including, but not limited to, paying all taxes, assessments, insurance premiums, repairs, etc.

5. Maynard Hamblin (Mr. Hamblin) of West Palm Beach, Florida has been designated as the independent fiduciary with respect to the proposed transactions. Mr. Hamblin has 19 years of banking experience with First Federal Savings and Loan (the Bank) of Lake Worth, Florida. It is represented that during his employment with the Bank, he reviewed loan applications, security instruments, appraisals and credit applications for hundreds of applicants. As a member of the loan committee he was directly involved in the decision as to whether specific applications would be approved. In addition, he has administered several pension and profit sharing plans for the Bank, whose assets exceeded $1 million. Mr. Hamblin represents that he understands his fiduciary responsibilities under the Act. Mr. Hamblin represents that after considering proposed exemption and all supplementary information submitted, it is his opinion that the Loans described herein are of a desirable format, in the best interests to all concerned and clearly protective of the rights of the participants and their beneficiaries. In addition to reviewing the specific terms and conditions of the Loans, Mr. Hamblin has: (1) examined the overall Plan investment portfolio; (2) considered the cash flow needs of the Plan; (3) given consideration of the necessity of a sale of any Plan assets; (4) examined the diversification of Plan assets in light of the proposed investment in the Loans; and (5) reviewed the terms of the proposed Loans as such terms comport with the Plan's investment scheme. Mr. Hamblin will: (1) select certain Committee approved loan applications for Plan investment; (2) monitor all the terms and conditions of such Loans to ensure repayment; and (3) take appropriate actions in the event of default. Mr. Hamblin will require the Employer to provide additional collateral, when, in his opinion, the excess (the fair market value of the Property less the outstanding balances of the First Mortgage and the Second Mortgages) is less than 150% of the remaining balance of the Loans. In such instance Mr. Hamblin will be provided with an appraisal of such additional collateral so that the remaining balance of the Loans will always be 150 percent secured.

6. As a matter of procedure, the Employer's credit department would receive the application documents and verify the applicant's employment, banking and credit information. A real estate title search would be conducted of the subject property and a title policy issued by an independent title company. Certain completed applications will be sent to the Committee for their review for possible Plan investment. The following criteria would be used by the Committee, as a basis for selected approval of any loan application:

(a) receipt of an irrevocable permanent mortgage commitment letter from an established mortgage lender assuring payoff of the Loan/or Loans upon the completion of a home/or homes;

(b) evidence that the subject property/or properties on which the home/or homes will be built would be free and clear, insuring a first mortgage position, and of sufficient value to represent a minimum of 40% of the amount of the Loan/or Loans;

(c) receipt of a completed job estimate sheet evidencing sufficient monies for each completion; and

(d) evidence that extended insurance coverage is provided with loss payee in favor of the Plan.

All loans which are approved by the Committee will be sent to Mr. Hamblin for final selection of Loans for the Plan. Mr. Hamblin will make the final decision as to what Loans are selected for Plan investment.

7. In summary, the applicant represents that the Loans meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) Mr. Hamblin has determined that the transactions are appropriate for the Plan and are in best interests of the Plan's participants and beneficiaries;

(b) Mr. Hamblin will select the Loans and will monitor the terms and conditions of such Loans;

(c) each Loan will at all times be secured by a first mortgage on the subject property and a third mortgage on the Property; and

(d) each Loan will be limited to 10% of the Plan's assets and the aggregate outstanding balances of the Loans at no time will exceed the lesser of $350,000 or 25% of the fair market value of the assets of the Plan.

For further information contact: Horace C. Green of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Drs. Krumholtz and Lunsford, P.A. Employees' Profit Sharing Plan (the Profit Sharing Plan) and Drs. Krumholtz and Lunsford, P.A. Employees' Pension Plan (the Pension Plan; together, the Plans) Located in Boca Raton, Florida

[Application No. D–4281]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the code shall not apply to the sales by the Plans to Drs. Krumholtz and Lunsford of each Plan's 14.03065 percent interest in the KLMR partnership for $55,670.95, provided such amount is not less than the fair market value of each Plan's interest on the date of the sale.

Summary of Facts and Representations

1. The Pension Plan is a money purchase pension plan with 15 participants. The Profit Sharing Plan also has 15 participants. Each Plan owns a 14.03065 percent interest in a partnership called KLMR. The partnership was originally formed on January 19, 1970, and the Plans acquired their interests on November 16, 1973.

2. KLMR's sole asset is land located in Boca Raton, Florida. The size of the property is 72,142 square feet. On January 1, 1971, KLMR entered into a lease agreement for the land with a partnership called 600 Enterprises. Drs. Krumholtz and Lunsford, who are the Plans' trustees, are individual partners in 600 Enterprises.

3. By letter dated October 22, 1980, the Department's Miami Area Office informed the applicants that the Department believed that the lease constituted a prohibited transaction. The Department stated its belief that the lease was not covered by the transitional rules contained in sections 414 and 2003 of the Act because the lease is not as favorable to the Plans as an arm's-length transaction would be.

4. The Plans now wish to sell their partnership interests in KLMR to Drs. Krumholtz and Lunsford to end the prohibited transaction resulting from the lease. The proposed sales would enable the Plans to sell non-liquid assets for cash during a time when the market for such investments is totally inactive and depressed. The applicants represent that the proceeds from the sales can be invested in more liquid assests.

5. The applicants have represented that the price will be based upon a value of $5.50 per square foot for the partnership interests. Each Plan would thus receive $55,670.95 for its 14.03065 percent interest in KLMR. Mr. Salvatore J. Catalo of Carlen Apppraisal and Realty, Inc. of Boca Raton, Florida, an independent appraiser, represents that the fair market value of the land as of March 5, 1983 was $5.50 per square foot, for a total of approximately $396,000 for the entire parcel.

6. The applicants represent that they will pay all exicse taxes which are applicable under section 4975(a) of the Code by reason of the prior lease of the subject property within 60 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein. In addition, the applicants represent that they will reimburse the Plans for their proportionate share of any lease payments that may be due resulting from a difference between the fair market value in 1973 of the long term lease that was entered into, and the amount actually paid during the period of the lease, including any interest that may be due thereon.

7. In summary, the applicants represent that the proposed transaction will satisfy the criteria contained in section 408(a) of the Act because: (1) the sale is a one-time transaction for cash; (2) the sale enables the Plans to dispose of an unmarketable, non-liquid asset; (3) the price is equal to the fair market value as established by an independent appraiser; and (4) with respect to the prior lease of the subject property, the applicants will fully comply with the excise tax provisions of section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–6881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 5th day of May 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–12422 Filed 5–9–83; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

SUMMARY: This notice publishes the names of Performance Review Board Members as required by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to, and will serve on the Performance Review Board for Senior Executives in the U.S. Merit Systems Protection Board: Alvin Golub, Jim Johnson, Harold Kessler, R. J. Payne, and Evangeline Swift.

EFFECTIVE DATE: May 10, 1983.

FOR FURTHER INFORMATION CONTACT: Frederick L. Foley, Director, Personnel Management Division, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419. (653–5916).

For the Board.

Herbert E. Ellingwood,

Chairman.

April 29, 1983.

[FR Doc. 83–12316 Filed 5–9–83; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Industrial Science and Technological Innovation; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Industrial Science and Technological Innovation.

Date and time: June 2 and 3, 1983; 8:30 am–5:00 pm.

Place: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Room 540.

Type of meeting: Part open (6/2—8:30–12:00 and 6/3—1:30–5:00 open; 6/2—1:30–5:00 and 6/3—8:30–12:00 closed).

Contract person: Mr. Thomas M. Ryan, Program Specialist, Division of Industrial Science and Technological Innovation, Room 1250, National Science Foundation, Washington, DC 20550 (202) 357–7875.

Summary of minutes: May be obtained from the contact person at the above address.

Purpose of committee: To provide advice and recommendations concerning support for research in NSF programs administered by the Division of Industrial Science and Technological Innovation.

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Agenda

June 2, 1983; 8:30 am–12 pm (Open)

Discussion of Industrial Science and Technological Innovation research program initiatives. Briefing on National Science Board report on industry/university research cooperation. Discussion of dissemination of NSF/ISTI research results and other matters.

June 2, 1983; 1:30 pm–5:00 pm (Closed)

Review and comparison of delcined proposals (and supporting documentation) with successful awards under the Division of Industrial Science and Technological Innovation, including review of peer review materials and other privileged materials. A report will be prepared on the Committee's findings and recommendations.

June 3, 1983; 8:30 am–12:00 pm (Closed)

Continuation of small group oversight review and appraisal of technical aspects of ISTI program management. Written report to be prepared within 90 days of the meeting.

June 3, 1983; 1:30 pm–5:00 pm (Open)

Small Business Innovation Research (SBIR) program issues. A plenary session devoted to general discussion and future meetings will terminate the meeting.

Reason for closing: The oversight portion of the meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. These sessions will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Management Officer pursuant to provisions of Secion 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: May 5, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–12432 Filed 5–9–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Economic Science; Subpanel on Measurement Methods and Data Resources; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Measurement Methods and Data Resources of the Advisory Panel for Social and Economic Science.

Date and time: June 3–4, 1983: 9:00 a.m. to 5:30 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of meeting: Closed—June 3–4, 1983: 9:00 a.m. to 5:30 p.m.

Contact person: Dr. Murray Aborn, Program Director, Measurement Methods and Data Resources, Room 312, National Science Foundation, Washington, DC 20550, Telephone (202) 257–7913.

Summary of minutes: May be obtained from the contact person Dr. Murray Aborn at the above address.

Purpose of subpanel: To provide advice and recommendations concerning support for research and research-related projects in Measurement Methods and Data Resources.

Agenda: Review and evaluation of research and research-related proposals as part of the award selection process.

Reason for closing: the proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: May 5, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–12431 Filed 5–9–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Behavioral and Neural Sciences; Subpanel for Sensory Physiology and Perception; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences, Subpanel for Sensory Physiology and Perception.

Date & time: May 18, 1983, 10:00 p.m.–5:30 p.m., May 19, and 20, 1983, 9:00 a.m. to 5:00 p.m.

Place: Room 1240, at the National Science Foundation, 1800 G Street, N.W., Washintton, D.C. 20550.

Type of meeting: Part Open—Open 12:00 p.m.–2:00 p.m., May 18. Closed 9:00 a.m.–5:00 p.m., May 19 and 20.

Contact person: Dr. William A. Yost, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washinton, D.C. 20550; telephone 202/357–7428.

Summary minutes: May be obtained from the Contact Person, Dr. William A. Yost at the address listed above.

Purpose of panel: To provide advice and recommendations concerning support for research in sensory physiology and perception.

Agenda: Open: May 18, 1983, 10:00–12:00 p.m. Discussion of Long Range Planning and the two panel review procedure. Closed: May 18, 19, to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(C), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the director, NSF, on July 6, 1979.

Reason for late Notice: Oversight of originating office.

Dated: May 5, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–12433 Filed 5–9–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Economic Science Subpanel on Decision and Management Science Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Decision and Management Science of the Advisory Panel for Social and Economic Science.

Date/time: May 31, 1983–9:00 a.m. to 5:00 p.m. June 1, 1983–9:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550, May 31 and June 1, Room 338.

Type of meeting: Part Open. 5/31—9:00 a.m. to 5:00 p.m.—Closed. 6/1—9:00 a.m. to 10:00 a.m.—Closed. 6/1—10:00 a.m. to 12 noon—Open. 6/1—12:30 p.m. to 5:00 p.m.—Closed.

Contact person: Dr. Trudi C. Miller, Acting Program Director, National Science Foundation, Room 312—Phone (202) 357–7569.

Purpose of subpanel: To provide advice and recommendations concerning research in Decision and Management Science.

Agenda: *6/1—10:00 a.m. to 12:00 noon—Open session.* General discussion about the distinguishing characteristics of basic research in the field of Decision and Management Science and of high priority research areas.

5/31—9:00 a.m. to 5:00 p.m. and 6/1—9:00 a.m. to 10:00 a.m. and 6/1—12:00 to 5:00 p.m.—Closed session. To review and evaluate proposals.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: May 5, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–12434 Filed 5–9–83; 8:45 am]

BILLING CODE 7555–01–M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemptions From Bond/Escrow, Requirement Relating To! Sale of Assets By an Employer That Contributes To a Multiemployer Plan: Libby, McNeill & Libby, Inc. (California Canners and Growers)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Libby, McNeill & Libby, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a five plan year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advice interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before June 24, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (ERISA) provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 42404 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127 (1981)), the PBGG shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation requires the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Libby, McNeill & Libby, Inc. ("Libby") for an exemption from the requirement of ERISA section 4204(a)(1)(B). The exemption request concerns a sale of certain assets by Libby to California Canners and Growers ("Cal Can"). In the request, Libby represents, among other things, that:

1. Effective June 17, 1982, Libby sold, in addition to other assets, its plants and facilities located at Yakima, Washington and Gridley, California to Cal Can. Effective on the same date, Libby leased its plant and facilities at Sunnyvale, California for a five-year period to Cal Can. (On December 17, 1982, Libby sold the Sunnyvale facility to Lincoln Mathilda Associates, Ltd., which took the facility subject to the lease to Cal Can.)

2. In connection with this sale and lease, Cal Can has assumed the responsibilities of Libby under the following collective bargaining agreements:

(a) Master Collective Bargaining Agreement between California Processors, Inc. and Teamsters California State Council of Cannery and Food Processing Unions, International

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Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers as adopted June 25, 1979;

(b) Collective Bargaining Agreement dated June 1, 1979 between Libby (Yakima, Washington) and Fruit & Vegetable Packers and Warehousemen International Brotherhood of Teamsters Local No. 760;

(c) Collective Bargaining Agreement dated July 1, 1981 between Libby (Gridley, California Factory Office) and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 849; and

(d) Collective Bargaining Agreement dated January 7, 1981 between Libby (Sunnyvale, California Factory Office) and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 679.

These agreements obligate Cal Can to contribute to the Western States Food Processing Industry Employees Pension Plan ("Western States Plan") and the Western Conference of Teamsters Pension Trust Fund ("Western Conference Plan"). Libby or members of its controlled group are continuing as contributing employers to both plans. The purchased and leased operations represent at least 70 percent of Libby's contribution obligation to each plan. (PBGC takes no position as to whether there has been a complete or partial withdrawal with respect to the plans as a result of the transactions described above.)

4. In the purchase agreement, Libby agreed that, if the purchaser withdraws within five years of the date of the sale and fails to pay withdrawal liability, it would be secondarily liable for any withdrawal liability the seller would have had to the plan but for the operation of ERISA section 4204. The purchase agreement further provides that Cal Can will have an obligation to make contributions to the Western Conference Plan and the Western States Plan for substantially the same number of contribution base units for which Libby was obligated prior to the sale.

5. The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of Libby's and Cal Can's withdrawal liability (excluding the liability attributable to the purchased operations from Libby), and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each such plan:

Plan	Estimate of seller's liability	Estimate of purchaser's liability	Amount of bond/escrow
Western Conference Plan	$2,166,749	$5,405,918	[1] $434,558
Western States Plan	650,000	3,300,000	[2] 365,428
Total	2,816,749	8,705,918	799,986

[1] The amount represents the average annual contribution that Libby made to the Western Conference Plan for the three plan years preceding the plan year in which the sale occurred.

[2] The amount represents the annual contribution required to be made by Libby to the Western States Plan for plan year 1981.

6. Cal Can is a nonprofit agricultural cooperative association organized for the purpose of processing and marketing fruits and vegetables delivered by its members. According to its audited financial statement, Cal Can had total net assets for its fiscal year ended May 31, 1982 of approximately $42 million. It total unencumbered net assets for that year was $20.6 million, of which $7.7 million was in "trademarks and other" assets. Cal Can suffered losses in each of its fiscal years 1980–1982, with the average net loss for the three year period of about $14.9 million.

7. Cal Can has indicated that it concurs in the request for exemption submitted by Libby.

8. A copy of the request has been sent by Libby to the plans and the collective bargaining representatives of the seller's former employees.

Comment

All interested persons are invited to submit written comments on the pending class exemption to the above address, on or before June 24, 1983. All comments will be made a part of the record. Comments received, as well as the relevant information submitted in support of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 5th day of May 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-12526 Filed 5-9-83; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Interim notice of modification to an existing system of records.

SUMMARY: The purpose of this notice is to modify a routine use of a Postal Service system of records, system USPS 050.020, Finance Records—Payroll System. This change is necessary due to the FICA deduction information disclosure which must be made in compliance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). System USPS 050.020 was last published in 48 FR 10971, dated March 15, 1983.

EFFECTIVE DATE: May 10, 1983. This notice is effective on an interim basis, in order to correspond with the implementation provisions of the TEFRA. However, interested persons are invited to submit written data, views, or arguments concerning the change in compliance with 5 U.S.C. 552a(e)(11). Comments must be received on or before June 13, 1983.

ADDRESS: Comments may be mailed to the Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260, or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in Room 8121.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith (202) 245–5568.

SUPPLEMENTARY INFORMATION: With the recent passage of the TEFRA, medicare coverage has been extended to postal employees who are participants of the Civil Service Retirement System. As a result, the wages of such employees are now subject to the hospital insurance portion of the FICA tax and routine use 6 of system USPS 050.020, Finance Records—Payroll System, must be modified as follows to describe the information disclosure that is necessary to administer this activity:

USPS 050.020, Finance Records—Payroll System

"6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W–2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form."

A complete statement of the system as revised appears below:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings. Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W–2 information) must be disclosed to the Social Security administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of the amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York. NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel

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research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group. Data collected are not for the purpose of making determination about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or the other authorized persons as defined by Pub. L. 93–647.

26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files. (Note: this routine use will be in effect for a period of one year from its effective date.) (Proposed)

27. To union-sponsored insurance carriers for the purpose of determining eligibility for coverage and payment of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate. (Proposed)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit request to the System Manager.

RECORD ACCESS PROCEDURE:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83–12006 Filed 5–9–83; 8:45 am]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Application for Employee Annuity Under the Railroad Retirement Act.

(2) Form(s) submitted: AA–1, AA–1d, G–214, G–204.

(3) Type of request: Revision.

(4) Frequency of use: On occasion.

(5) Respondents: Applicants for annuities.

(6) Annual responses: 34,800.

(7) Annual reporting hours: 15,560.

(8) Collection description: The RRA provides for payment of age, disability and supplemental annuities to qualified employees. The application and related forms obtain information about the applicant's family, work history, military service, disability benefits from other government agencies and public or private pensions. The information is used to determine entitlement to and amount of annuity applied for.

(1) Collection title: Application for Spouse Annuity Under the Railroad Retirement Act.

(2) Form(s) submitted: AA–3.

(3) Type of request: Revision.

(4) Frequency of use: On occasion.

(5) Respondents: Applicants for Spouse Annuities Under RRA.

(6) Annual responses: 21,000.

(7) Annual reporting hours: 9,100.

(8) Collection description: The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the Act. The application will obtain information supporting the claim for benefits based on being a spouse of an annuitant. The information will be used for determining entitlement to and amount of annuity applied for.

(1) Collection title: Self-Employment Questionnaire.

(2) Form(s) submitted: AA–4.

(3) Type of request: New.

(4) Frequency of use: On occasion.

(5) Respondents: Applicants for employee or spouse annuities.

(6) Annual responses: 600.

(7) Annual reporting hours: 150.

(8) Collection description: Section 2 of the RRA provides for payment of annuities to qualified employees and their spouses. In order to receive an annuity, the applicant must stop all railroad work and all work for pay outside the railroad industry that is considered 'last person service' (LPS). This collection obtains information about the applicant's self-employment work to be used in making an LPS determination.

(1) Collection title: Applications for survivor annuities.

(2) Form(s) submitted: AA–17, AA–17b, AA–18, AA–19, AA–19a, AA–19s, AA–20, G–476c.

(3) Type of request: Revision.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals applying for survivor annuities.

(6) Annual responses: 23,000.

(7) Annual reporting hours: 8,330.

(8) Collection description: The applications obtain information from widow(er)s, children and parents of deceased railroad workers to support claims for survivor benefits. The information will be used for determining entitlement to and amount of annuity applied for.

(1) Collection title: Notice of payment of separation allowance.

(2) Form(s) submitted: UI–13.

(3) Type of request: Extension.

(4) Frequency of use: On occasion.

(5) Respondents: Railroad employers.

(6) Annual responses: 1,500.

(7) Annual reporting hours: 375.

(8) Collection description: Under the Railroad Unemployment Insurance Act, a railroad employee who is paid a separation allowance is disqualified for unemployment and sickness benefits for the period of time the employee would have worked to earn the amount of a separation allowance. The notice will obtain the information needed for determining the disqualification period.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83–12490 Filed 5–9–83; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13211; 812–5488]

HVA Money Market Fund, Inc.; Filing of Application

May 3, 1983.

Notice is hereby given that HVA Money Market Fund, Inc. ("Applicant"), Hartford Plaza, Hartford, Connecticut 06115, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 9, 1983, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to maintain a $1.00 per share purchase, redemption and repurchase price for its shares by means of the amortized cost method of portfolio valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of those provisions of the Act from which Applicant seeks an exemption.

According to the application, investments made by Applicant will be in money market securities with emphasis on obtaining a high level of current income, consistent with liquidity and preservation of capital. Applicant states that it will pursue its investment objective by investing in various instruments: obligations of the U.S. Government and its agencies and instrumentalities; money market instruments, such as bank certificates of deposit, finance company commercial paper, corporate commercial paper, bankers' acceptances and repurchase agreements; and corporate bonds, notes and other debt instruments.

Applicant represents that its assets will consist entirely of cash and investments having a stated maturity date of less than twelve months from the date of purchase and that some investments may have a stated term or maturity date as short as one day. Applicant represents further that the average maturity of the portfolio will vary according to the investment adviser's appraisal of money market conditions.

Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant indicates that its executive management has determined that absent unusual or extraordinary circumstances, the amortized cost method of valuing Applicant's portfolio of money market securities is appropriate and in Applicant's best interests and will reflect the fair value of such securities. Applicant also avers that its executive management is of the view that it will be advantageous to Applicant's shareholders to have the conveniences and advantages of the stable purchase, redemption and repurchase price of $1.00 per share which the amortized cost method of valuing money market portfolio securities would provide. Furthermore, Applicant states that before it utilizes the amortized cost method of valuation its board of directors will determine that, absent unusual circumstances, use of that valuation method is appropriate and in the best interests of Applicant and will reflect the fair value of Applicant's portfolio securities. Thus, Applicant submits that its use of the amortized cost method of valuing its money market portfolio securities, subject to certain conditions to which it agrees, will benefit its shareholders.

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If the requested exemption is granted by the Commission, Applicant agrees to adhere to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving management of the portfolio of Applicant to Applicant's investment adviser, Applicant's board of directors—as a particular responsibility within the overall duty of care owed to its shareholders—agrees to establish procedures reasonably designed, taking into account current market conditions and the investment objectives of Applicant, to stabiize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, when it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review. To fullfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) Quotations or estimates of market value of individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) When Applicant's board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action, as it deems appropriate, to eliminate or to reduce to the extent reasonably practicable, such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the maturity of Applicant's portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not: (a) Purchase any instrument with a remaining maturity of greater than twelve months, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average protfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less, as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments including repurchase agreements, to those United States dollar denominated instruments which the board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will described the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 27, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12504 Filed 5–9–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13206; 812–5520]

Nationwide Life Insurance Co. and Nationwide DC Variable Account; Application

April 29, 1983.

Notice is hereby given, That Nationwide Life Insurance Company ("Nationwide Life"), One National Plaza, Columbus, Ohio 43216, a stock life insurance company organized under the laws of the State of Ohio, and Nationwide DC Variable Account ("DCVA"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") (collectively "Applicants"), filed an application on April 8, 1983 and an amendment thereto on April 27, 1983, for an order amending a prior order of the Commission pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provision.

DCVA was established by Nationwide Life in connection with the sale of certain Group Flexible Fund Retirement Contracts. Purchase payments less applicable charges are allocated at the discretion of the contract owner (or participant if permitted by the retirement plan) to the General Account and/or to one or more series of the DCVA, each of which represents investment in shares of a separate diversified, open-end, management investment company registered under the Act (collectively, the "Eligible Funds"). The Eligible Funds are: Nationwide Fund, Nationwide Money Market Fund, Seligman Growth Fund, Putnam Investors Fund, Inc., Massachusetts Capital Development Fund, Inc. ("MCD"), Massachusetts Financial High Income Trust ("MFHI") and Massachusetts Investors Growth Stock Fund, Inc. Shares of Eligible Funds are sold to the DCVA at net asset value.

Applicants received an order of the Commission on December 23, 1974 (Investment Company Act Rel. No. 8622) granting exemptions from various provisions of the Act and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. Applicants now seek an order of the Commission amending this prior order to allow the addition of three new series to the DCVA: the Fidelity High Income Fund, Fidelity-Equity Income Fund, and Twentieth Century Growth Investors. Applicants propose to permit contract owners (or participants if permitted by the retirement plan) to make two transfers of unit values among the series of the DCVA each calendar year without charge. For each additional transfer, an administrative charge of $5 will be assessed. EAch exchange request must involve either unit value having an aggregate value of at least $1000 or all of that participant's unit value in the series. Upon receipt of an exchange request, Nationwide Life will transfer the amount to be converted in accordance with Rule 22c–1 under the Act. Such transfers will be based on the accumulation unit values of the affected series at the close of business on the day such transfer occurs. The MCD and the MFHI series are an exception to the extent that no more than two exchanges of unit value by a participant into such a series may be made during any calendar year.

Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to permit the proposed offer of exchange rights described above, where permitted under applicable law and by the retirement plan under which a given contract is issued.

Notice is further given, That any interested person wishing to request a hearing on the application may, not later than May 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12503 Filed 5–9–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13212; 812–5532]

Sun Life Assurance Company of Canada (U.S.), et al.; Application

May 4, 1983.

Notice is hereby given, That Sun life Assurance Company of Canada (U.S.), Sun Life of Canada (U.S.) Variable Account C ("Variable Acount C"), 1 Sun Life Executive Park Wellesley Hills, MA 02181 a separate account registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Clarendon Insurance Agency, Inc. 200 Berkely Street, Boston Mass. 02116 (collectively, "applicants") filed an application pursuant to Section 11 of the Act on April 14, 1983 and an amendement thereto on May 2, 1983 for an order of the Commission approving the terms of certain offers of exchange. All interested persons are referred to the application and amendment on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the act for a statement of the relevant statutory provision.

Variable Account C was established for use with respect to certain variable annuity contracts. Assets of Variable Account C are divided into sub-accounts. Each sub-account invests exclusively in shares of one of nine specific mutual funds. In Investment Company Act Release No. 12831 (November 18, 1982), the Commission approved, pursuant to Section 11 of the Act, the terms of offers of exchange of variable accumulation units of one sub-account for variable accumulation units of another, of fixed accumulation units for variable accumulation units and vice versa, and, after the annuity commencement date, of variable units of one sub-account for variable units of another sub-account. Applicants propose to offer exchanges of units of an additional sub-account which invests in Massachusetts Financial Emerging Growth Trust. These exchanges will be made on the basis of relative net asset values without the deduction of any fees or charges.

Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to permit Applicants to provide the exchange right described above.

Notice is further given, That any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices or orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delelgated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12507 Filed 5–9–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19726; File No. SR–MSRB–82–15]

Municipal Securities Rulemaking Board; Order Withdrawing Proposed Rule Change

May 3, 1983.

The Municipal Securities Rulemaking Board ("MSRB") on December 21, 1983, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), and Rule 19b–4 thereunder, a proposed rule change that would have amended MSRB Rule G–12(e)(v)(B), on uniform practice in the delivery of securities. The proposed rule change would have required that certificates of $5,000 par value denominaton be delivered on all transactions of registered securities issued on or after January 1, 1983, and settled prior to January 1, 1985, unless the parties agreed otherwise.

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Notice of the proposed rule change, including the terms of substance, was published in Securities Exchange Act Release No. 19384 (December 30, 1982), (48 FR 3066, Jan. 24, 1983). The Commission received three comment letters, all of which opposed the proposed rule change. All three of the commentators said that the increased number of certificates which would have been required by the proposed rule change would have entailed significant expenses.

The MSRB, by letter dated April 25, 1983, notified the Commission that it had determined to withdraw the proposed rule change. After reviewing the comment letters on the proposed rule change, the MSRB determined that the increased burdens which would have been imposed upon issuers, transfer agents, and other market participants, would have exceeded the benefits of the proposed rule change. They also noted that the use of certain automated clearance techniques might help to alleviate some of the clearance difficulties which originally prompted submission of the proposed rule change. Although the MSRB stated that it continues to be concerned that the municipal securities industry may experience clearance delays due to the use of larger denomination certificates, particularly during the period immediately following the effective date of the registration provisions of Tax Equity and Fiscal Responsibility Act of 1982, as amended, they believe that the withdrawal of the proposed rule change is in the best long-term interests of all participants in the municipal securities markets.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, withdrawn.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12502 Filed 5-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19727; File No. SR-NSCC-83-4]

Filing and Immediate Effectiveness of a Proposed Rule Change By National Securities Clearing Corporation

The National Securities Clearing Corporation ("NSCC") on April 7, 1983, filed with the Commission a proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that modifies NSCC Rule 7, Section 5 by: (1) Expanding the categories of trade data that NSCC can accept from self-regulatory organizations ("SRO's") on behalf of NSCC participants and (2) increasing the number of NSCC systems that can receive that data. Under the proposed rule change, NSCC can accept from other SRO's on behalf of SRO members that also are NSCC participants compared trade data to be included in NSCC's automated clearance and settlement systems, *e.g.*, NSCC's continuous net settlement ("CNS") system. That compared trade data could reflect net securities transactions due to be cleared and settled at NSCC. Previously, NSCC only could accept for inclusion in NSCC's trade comparison operation initial or supplementary trade data from "marketplace regulators," *i.e.*, national securities exchanges and the National Association of Securities Dealers, Inc., or from service bureaus performing back-office functions for NSCC participants. In addition, the proposed rule change clarifies that any report of initial, supplemental or compared trade data that is received under the Rule is deemed by NSCC to be authorized by the NSCC participant on whose behalf the report is made.

In its filing, NSCC explains that the proposal's primary purpose is to facilitate NSCC participants' use of NSCC's CNS system for securities transactions required to be confirmed and affirmed through the National Institutional Delivery System of several registered securities depositories. NSCC believes that the proposed rule change will facilitate the prompt and accurate clearance of securities transactions and will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Publication of the submission is expected to be made in the **Federal Register** during the week of May 9, 1983. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-83-4.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12506 Filed 5-9-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 2, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Potomac Electric Power Company
Common Stock, $10 Par Value (File No. 7-6617)
$2.44 Convertible Cumulative Preferred Series of 1966 (File No. 7-6618)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.[1]

Interested persons are invited to submit on or before May 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this

[1] These securities are currently listed and registered on the Philadelphia Stock Exchange, Inc. ("Phlx"). However, at the request of Potomac Electric Power Company ("Company") the Phlx filed an application on April 28, 1983 to remove the above securities, as well as other issues of the company, from listing and registration on the Exchange. The Phlx has indicated to the Commission staff that it wishes to continue to trade the above securities pursuant to unlisted trading privileges to avoid any lapse in trading.

opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12505 Filed 5-9-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 02/02-0463]

County Capital Corp.; Application for License To Operate as a Small Business Investment Company

An Application for a License to Operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by County Capital Corp., 25 Main Street, Southampton, New York 11968, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and shareholders are as follows:

President, Treasurer, Director 20%
Myron Jaffe, 182 Hungry Habor Road, Valley Stream, New York 11581
Vice President Secretary, Director 20%
Carl A. Weise, 89 Tenth Street, Garden City, New York 11530
Vice President Director 20%
Edward V. Walsh, Jr., 19 St. Paul's Place, Garden City, New York 11530

The Applicant, a New York corporation will begin operations with $500,000 paid-in capital and paid-in surplus, and will conduct its activities primarily in the State of New York.

The Applicant intends to provide financial assistance to small business concerns for their growth, modernization and expansion and will render other management consulting services.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416..

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 4, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12529 Filed 5-9-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0434]

Faulkner Investment Company; License Surrender

Notice is hereby given that Faulkner Investment Company, 870 Seventh Avenue, New York, New York 10019, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Faulkner Investment Company was licensed by the Small Business Administration on November 5, 1981.

Under the authority vested by the Act and pursuant to Regulations promulgated thereunder, the surrender of the License was accepted on April 21, 1983, and accordingly, all right, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 4, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12530 Filed 5-9-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5330]

Fook Wah Co., Inc.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) (Act) been filed by Fook Wah Company, Inc., with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

The officers, directors and stockholders of the applicant are as follows:

Director, President, Chairman of the Board; Chief Financial Officer
Ronald F. T. Wong, 540 Darrell Road, Hillsborough, CA 94010
Director and Secretary
Ronald G. Tong, 846 Clayton Street, San Francisco, CA 94117
Director, Vice President General Manager
Vincent M. Chinn, 55 Fallon Place, San Francisco, CA 94133

The Applicant, a California corporation, with its principal place of business at 738 Washington Street, San Francisco, California 94108, will begin operations with $1,006,000 of paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under Act and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 4, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12537 Filed 5-9-83; 8:45 am]

BILLING CODE 8025-01-M

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[License No. 09/09-0326]

I. K. Capital Loans Co. Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of I. K. Capital Loans Company, Ltd., 8601 Wilshire Boulevard, Suite 600, Beverly Hills, California 90211, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The officers, directors and stockholders of the applicant are as follows:

Director, Chief Financial Officer, Assistant Secretary and Sole Stockholder
Iraj Kermanshahchi, 8601 Wilshire Boulevard, Suite 600, Beverly Hills, California 90211
Director and President
Thomas O. Rockefeller, 900 Lombard Court, Costa Mesa, California 92626
Director, Vice President and Secretary
Albert J. Ashkar, Jr., 8383 Wilshire Boulevard, Suite 900, Beverly Hills, California 90211
Assistant Secretary
Edna Negari, 519 Chalette Drive, Beverly Hills, California 90210

The applicant, a California corporation, with its principal place of business at 8601 Wilshire Boulevard, Suite 600, Beverly Hills, California 90211, will begin operations with $1,020,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Beverly Hills, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 4, 1983.

Robert G. Lineberry,
Deputy Associate Administrator for Investment.

[FR Doc. 83-12339 Filed 5-9-83; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 97; Rev. 22]

Delegation of Authority; Chief, Examination Support Section/Staff or Returns Program Manager

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to provide for the redelegation of authority to enter into closing agreements concerning internal revenue tax liability to the Chief, Examination Support Section/Staff or Returns Program Manager with respect to agreements concerning the administrative disposition of certain tax shelter cases. The text of the delegation order appears below.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: J. J. Thomassen OP:EX:I:E, 1111 Constitution Ave., NW., Roon 2406, Washington, D.C. 20224, telephone (202) 566-6466 (Not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Robert Ackerman,
Acting Director, Office of IRP, Service Center and Support Programs.

Order No. 97 (Rev. 22)

Effective date:

Closing Agreements Concerning Internal Revenue Tax Liability

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32; Treasury Department Order No. 150-36; and Treasury Department Order No. 150-63; subject to the transfer of authority covered in Treasury Department Order No. 221, as modified by Treasury Department Order No. 221-3 (Rev. 2), as revised, this authority is hereinafter delegated.

1. The Chief Counsel is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions if the request to the Chief Counsel for determination or ruling was made before any affected returns have been filed.

2. The Deputy Chief Counsel and the Assistant Commissioner (Examination), are hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Associate Commissioner (Operations) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she act) with respect to the performance of his/her functions as the competent authority under the tax conventions of the United States.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction, that is, in respect of any transaction concerning empolyee plans or exempt organizations.

4. Regional Commissioners; Regional Counsel; Regional Directors of Appeals; Assistant Regional Commissioners (Examinations); District Directors; Chiefs and Associate Chiefs of Appeals Offices; and Appeals Team Chiefs with respect to his/her team cases, are hereby authorized in cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period ended prior to the date of agreement and related specific items affecting other taxable periods.

5. the Associate Chief Counsel (Technical); the Assistant Commissioner (Employee Plans and Exempt Organizations); Regional Commissioners; Regional Counsel; Regional Directors of Appeals; Chiefs and Associates Chiefs of Appeals Offices; and Appeals Team Chiefs with respect to his/her team cases, are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

6. The Director, Foreign Operations District, is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, under Revenue Procedure 72-22, C.B. 1972-1, 747, and under Revenue Procedure 69-13, C.B. 1969-1, 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65-17, C.B. 1965-1, 833.

7. The authority delegated herein does not include the authority to set aside any closing agreement.

8. Authority delegated in this Order may not be redelegated, except that the Chief Counsel may redelegate the authority contained in paragraph 1 to the Associate Chief Counsel (Technical) and to the technical advisors on the staff of the Associate Chief Counsel (Technical) for cases that do not involve precedent issues, the Assistant Commissioner (Examination) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioner (Examination), the Deputy Chief Counsel may redelegate the authority in paragraph 2 of this Order but not lower than the Deputy Associate Chief Counsel (Litigation), and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues; and District Directors may redelegate the authority contained in paragraph 4 of this Order but not below the Chief, Quality Review Staff, or Section Chief, Quality Review Staff, with respect to all matters, and not below the Chief, Examination Support Staff/Section, or Returns Program manager, with respect to agreements concerning the administrative disposition of certain tax shelter cases.

9. Delegation Order No. 97 (Rev. 21), effective October 8, 1982, is hereby superseded.

Dated: 11, April 11, 1983.

James I. Owens,
Deputy Commissioner.

[FR Doc. 83-12497 Filed 5-9-83; 8:45 am]
BILLING CODE 4830-01-M

[Delegation Order No. 42; Rev. 19]

Delegation of Authority; Windfall Profit Tax Staff/Section et al.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to provide for the redelegation of authority to sign all consents fixing the period of limitations on assessment or collection to personnel assigned to the Windfall Profit Tax Staff/Section, Grade GS-11, and Automated Collection Branch Managers, Grade GS-9. The text of the Delegation Order appears below.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Aron OP:C:O, Internal Revenue Service, 1111 Constitution Ave. NW., Room 7539, Washington, D.C. 20224, Telephone (202) 566-3131 (Not a toll-free telephone number).

This document does not meet the criteria for significant regulations set fourth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Robert Ackerman,
Acting Director, Office of IRP, Service Center and Support Programs.

Order No. 42 (Rev. 19)

Effective date: March 7, 1983.

Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120; Order No. 150-2; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Chief Counsel
b. Regional Counsel
c. Regional Directors of Appeals
d. Service Center Directors
e. District Directors

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence and Processing Section; Revenue Officers; Chief, Quality Review Staff; Returns Program Managers; and personnel assigned to the Windfall Profit Tax Staff/Section, Grade GS-11;

b. Collection—Chiefs, Office Branches and Office Groups; Revenue Officers; Chiefs, Technical and Office Compliance Branches and Groups; Revenue Representative Supervisors; and Automated Collection Branch managers, Grade GS-9;

c. Examination—Reviewers, Grade GS-11; Group Managers; Case Managers; Returns Program Managers; Classifiers/Screeners, Grade GS-11; and personnel assigned to the Examination Support Staff/Section, Grade GS-11;

d. Criminal Investigation—Chiefs, Criminal Investigation Divisions, except this authority in streamlined districts is limited to the District Director;

e. Appeals—Appeals Officers;

f. Foreign Operations District—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and

g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS-11; Group Managers.

3. No authority is delegated under this Order to the District Counsel.

4. Delegation Order No. 42 (Rev. 18), effective March 7, 1983, is superseded.

Dated: April 11, 1983.

James I. Owens,
Deputy Commissioner.

[FR Doc. 83-12498 Filed 5-9-83; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period April 22, through April 29, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections

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should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB No.: 1545–0182
Form No.: 4782
Title: Employer Moving Expense Information
OMB No.: 1545–0146
Form No.: 2553
Title: Election by a Small Business Corporation
OMB No.: 1545–0120
Form No.: 1099–G
Title: Statement for Recipient of Certain Government Payments
OMB No.: 1545–0117:
Form No.: 1099–OID
Title: Statement for Recipients of Original Issue Discount
OMB Reviewer: Norman Frumkin (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

Alcohol, Tobacco and Firearms

OMB No.: 1512–0067
Form No.: ATF F 1473
Title: Shipment and Receipt Specially Denatured Tax-Free or Recovered Spirits
OMB No.: 1512–0205
Form No.: ATF F 5110.40
Title: Monthly Report of Production Operations
OMB No.: 1512–0072
Form No.: ATF F 1479 (5150.23)
Title: Application for Permit to Use Specially Denatured Spirits
OMB No.: 1512–0068
Form No.: ATF F 1474 (5150.30)
Title: Application for Permit to Deal in Specially Denatured Spirits
OMB No.: 1512–0066
Form No.: ATF F 1451 (5150.28)
Title: Report of Tax Free Alcohol User
OMB No.: 1512–0071
Form No.: ATF F 1478 (5150.10)
Title: Bonded Dealer's Report of Specially Denatured Alcohol or Rum
OMB No.: 1512–0075
Form No.: ATF F 1482 (5150.18)
Title: User's Report of Denatured Alcohol or Rum
OMB No.: 1512–0140
Form No.: ATF F 2622 (5150.28)
Title: Application to Procure, Reprocess, Bottle, Repackage, or Resell Products Containing SDA
OMB No.: 1512–0137
Form No.: AFT F 2600 (5150.22)
Title: Application for Permit to Use Alcohol Free of Tax
OMB No.: 1512–0123
Form No.: AFT F 1467 (5110.15)
Title: Details of Packages Filled with Denatured Spirits
OMB Reviewer: Judy Mcintosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB No.: N/A (NEW SUBMISSION)
Form No.: TFR–611
Title: Report of Blocked Property
OMB No.: N/A (NEW SUBMISSION)
Form No.: None
Title: Survey to find Additional Sources of U.S. Currency Paper
OMB Reviewer: Richard Sheppard (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of the Public Debt

OMB No.: 1535–0010
Form No.: PD 1782
Title: Application for Redemption at par of U.S. Treasury Bonds eligible for Payment of Federal Estate Tax
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Comptroller of the Currency

OMB No.: 1557–0056
Form No.: CC 7022–01, CC 7022–12, CC 7022–13, CC 7022–14, CC 7020–17
Title: Application, Organizational Certificate and Legal Notice to Convert to a National Bank
OMB Reviewer: Richard Sheppard (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB No.: 1515–0065
Form No.: CF 7501 A,B,C
Title: Consumption Entry; Consumption Entry Permit
OMB No.: 1515–0085
Form No.: CF 247
Title: U.S. Customs Service Cost Submission
OMB No.: 1515–0047
Form No.: CF 5523
Title: Invoice Details for Footwear
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: May 3, 1983.

Cathy Thomas,

Acting Departmental Reports Management Officer.

[FR Doc. 83-12424 Filed 5-9-83; 8:45 am]

BILLING CODE 4910-25-M

[Supp. to Dept. Cir. Public Debt Series—No. 12–83]

Series M–1986; Interest Rate

May 4, 1983.

The Secretary announced on May 3, 1983, that the interest rate on the notes designated Series M—1986, described in Department Circular—Public Debt Series—No. 12–83 dated April 28, 1983, will be 9⅜ percent. Interest on the notes will be payable at the rate of 9⅜ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-12421 Filed 5-9-83; 8:45 am]

BILLING CODE 4910-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 91
Tuesday, May 10, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10: a.m., Thursday, May 12, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Cooperative efforts: Meeting with Industry and consumers

In observance of National Product Safety Week, the Commission will meet with representatives of consumer groups, industry trade organizations and manufacturers to discuss past, present and future cooperative activities.

(For a recorded message containing the latest agenda information, call 301–497–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

[S-661-83 Filed 5-6-83; 2:13 pm]

BILLING CODE 6355-01-M

2

FEDERAL ELECTION COMMISSION

["Federal Register" No. 633]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, May 10, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been added to the agenda:

Review and referral procedures for Title 26 Presidential Candidates

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 12, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been tentatively added to the agenda:

EEO Procedures

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-660-83 Filed 5-6-83; 1:36 pm]

BILLING CODE 6715-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 12 Noon, Monday, May 16, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: May 6, 1983.

James McAfee,

Associate Secretary of the Board.

[S-663-83 Filed 5-6-83; 3:58 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, May 16, 1983.

PLACE: Board Building, C Street enterence between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed amendments to Regulation O (Loans to Executive Officers, Directors and Principal Shareholders) to implement the Garn-St Germain Depository Institutions Act of 1982.

Discussion Agenda:

2. Proposed revision of Regulation Y (Bank Holding Companies and Change in Bank Control).

3. Proposals to simplify the processing of domestic applications by bank holding companies and state member banks.

4. Proposed general revision of Regulation T (Credit by Brokers and Dealers). (Proposed earlier for public comment; Docket Nos. R–0362 and R–0389)

5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: May 6, 1983.

James McAfee,

Associate Secretary of the Board.

[S-664-83 Filed 5-6-83; 3:58 pm]

BILLING CODE 6210-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–11]

TIME AND DATE: 9 a.m., Tuesday, May 17, 1983.

PLACE: NTSB Board Room, 800 Independence Ave. SW., Washington, D.C. 20595.

STATUS: The first three items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Explosion and Fire On Board the U.S. Coastal Tankship POLING BROS. NO. 9, East River, New York Harbor, February 26, 1982.

2. *Pipeline Accident Report:* Northern National Gas Company Natural Gas Pipeline Rupture, Explosion, and Fire, Hudson, Iowa, November 4, 1982.

3. *Special Interest Briefs:* of aviation accidents involving air traffic control as a cause or factor.

4. *Opinion and Order:* Petition of Meade, Docket SM–2898; disposition of the Administrator's appeal.

5. *Opinion and Order:* Petition of Williams, Docket SM–3037; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

May 6, 1983.

[S-688-83 Filed 5-6-83; 12:45 pm]

BILLING CODE 4910-56-M

6

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL.

ACTION: Meeting notice.

STATUS: Open. A portion of the meeting scheduled for May 19 may be closed to the public to discuss personnel matters. The Council will consider the matter of closing a portion of this meeting as its first item of business on May 19.

TIME AND DATE: May 18, 1983, 3 p.m.; May 19, 1983, 10 a.m.

PLACE: Statehouse Inn, Alpine Room, 981 Grove Street, Boise, Idaho.

MATTERS TO BE CONSIDERED:

*Council adoption of responses to comments on Draft Energy Plan.

*Discussion of Draft Fiscal Year 1984 and Fiscal Year 1985 Budget and Future Activities.

*Adoption of wildlife land acquisition criteria pursuant to section 1004(b)(1) of the Fish and Wildlife Program.

*Council Business.

*Public comment will follow cash agenda item.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

*Pursuant to 5 U.S.C. 552b.

[FR Doc. S-683-83 -Filed 5-6-83; 2:33 pm]

BILLING CODE 6000-00-M

VOL 48 ISS 91 MY 10 1983 UMI

federal register

Tuesday
May 10, 1983

Part II

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

VOL 48 ISS 91 MY 10 1983 UMI

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

I. *New Applications and Major Amendments to Deferred Applications.* Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV, of the Communications Act of 1934, as amended (47 U.S.C. 390–94) and in accordance with 15 CFR part 2301. All of the applications listed in this section were received postmarked by February 28, 1983. The effective date of acceptance of these proposals, unless otherwise indicated herein, is "Date Received." Applications are listed alphabetically by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of either the Act or 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP). Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Pursuant to 15 CFR 2301.09, applicants were required to publish in a newspaper of general circulation, in the community to be served by the applicant, a notice that such application has been tendered to the PTFP of the National Telecommunications and Information Administration. The notice shall have been published once a week for two consecutive weeks on or before February 28, 1983. The notice included (1) information as to where within the community to be served a copy of the application, and any amendments thereto, may be inspected by the public during normal business hours; and (2) an invitation for parties supporting or opposing the application to file comments with the Administrator, National Telecommunications and Information Administration, Public Telecommunications Facilities Program, Washington, D.C. 20230. All comments must be filed within fifteen (15) calendar days from the date of this public notice of acceptance of the application and must be accompanied by a written assurance that a copy of the comments has been mailed to the applicant.

Scott Mason,
Chief, Management Branch.

Alabama

File No. 3159CRB, University of Alabama, 1028 7th Avenue, Birmingham, AL 35294. Signed by: Kenneth M. Pruitt, Assistant Vice Pres. Research. Funds Requested: $16,387. Total Project Cost: $21,850. To expand the SCA service of WBHM–FM by adding SCA receivers to the four station SCA network—Birmingham, Huntsville, Montgomery and Tuscaloosa.

File No. 3274PRB, Alabama Educational TV Commission, 2101 Magnolia Avenue, Birmingham, AL 35256. Signed by: Wilbur H. Hinton, General Manager. Funds Requested: $50,000. Total Project Cost: $58,362. To plan the establishment of an interconnected statewide radio network among interested stations and the identification and implementation of specific radio facilities needed to provide for unserved audiences.

File No. 3292CTB, Alabama Educational TV Commission, 2101 Magnolia Avenue, Birmingham, AL 35256. Signed by: Wilbur H. Hinton, General Manager. Funds Requested: $1,209,200. Total Project Cost: $1,882,467. To replace the fallen tower of WCIQ–TV, Channel 7, in Cheaha State Park, and to replace the worn out, obsolete, or dangerous transmission plus selected directly related production items in order to stabilize the rapidly eroding technical base of the Alabama TV network.

File No. 3252PTN, Miles College, 5500 Avenue G, Fairfield, AL 35064. Signed by: W. Clyde Williams, President. Funds Requested: $61,057. Total Project Cost: $84,057. To plan for the establishment of a public telecommunications facility in Fairfield using radio or low power TV or combination of both for educational purposes.

File No. 3155PRB, Alabama State University, 915 South Jackson, Montgomery, AL 36195. Signed by: Robert Randolph, President. Funds Requested: $71,875. Total Project Cost: $81,875. To plan the construction of a minority owned and operated radio station operating on 90.7 MHZ with a power of 25,000 watts to provide an alternate program service for the citizens of Montgomery and Elmore County.

File No. 3074CRB, Troy State University, University Avenue, Troy, AL 36082. Signed by: Ralph W. Adams, President. Funds Requested: $164,651. Total Project Cost: $219,535. To establish a repeater radio transmitter to extend the program service of WTSU–FM to the unserved communities around Phenix City, Alabama and Columbus, Georgia.

File No. 3075CRTB, Stillman College, 3600 15th Street, Tuscaloosa, AL 35403. Signed by: Cordell Wynn, President. Funds Requested: $1,040,084. Total Project Cost: $1,859,780. To construct an FM radio station and a low power TV station on the campus of Stillman College for the training of students in telecommunications and to provide the local community with college educational, cultural, and informational programs.

File No. 3223CTN, University of Alabama, P.O. Box 2846 Old Union Bldg., University, AL 35486. Signed by: Robert A. Wright, VP and Treasurer. Funds Requested: $174,285. Total Project Cost: $232,380. To significantly improve the basic production equipment flexibility for the increase and improvement of the program series provided by this University of Alabama production center for the Alabama Public Telecommunications Network.

Arkansas

File No. 3238CRB, Arkansas Broadcasting Foundation, 1501 Arch Street, Little Rock, AR 72202. Signed by: Pat House, President. Funds Requested: $32,384. Total Project Cost: $43,179. To acquire origination equipment, satellite reception equipment and test equipment to assist in the activation of KABF–FM in Little Rock, AR. Station will benefit 608,000 citizens in Little Rock area.

File No. 3334CTB, Newark Public Schools, P.O. Box 280 Fourth College, Newark, AR 72562. Signed by: Bobby R. DePoyster, Superintendent. Funds Requested: $175,000. Total Project Cost: $250,000. To construct a TV station in Newark on channel 17. Station would provide first local origination broadcast service for area.

File No. 3348CRB, Newark Public Schools, Fourth and College Streets, Newark, AR 72562. Signed by: Bobby R. DePoyster, Superintendent. Funds Requested: $150,000. Total Project Cost: $201,900. To activate a noncommercial FM radio station on 90.9 MHZ in Newark. Station will serve 51,000 people. Facility will be utilized as a training facility for students and staff of the school district.

Arizona

File No. 3226CTB, Arizona State Univ/ Board of Regents, Tempe, AZ 85287. Signed by: H.B. Hunnicutt, Asst. VP for Research. Funds Requested: $1,470,000. Total Project Cost: $1,960,000. To replace obsolete and worn out production equipment at Arizona's primary public television station, KAET–TV.

File No. 3227CTB, Navajo Community College, Tsaile, AZ 86556. Signed by: Dean C. Jackson, President. Funds Requested: $508,429. Total Project cost: $677,05. To establish first service television to the Arizona and New Mexico Navajo Nation, utilizing low power and translator dissemination equipment, and including first local origination capability.

File No. 3355PTB, Silvercloud Video Productions, 1321 E. King Road, Tucson, AZ 85719. Signed by: John Howard Crouch, President. Funds Requested: $38,771. Total Project cost: $38,771. To plan for the extensive use of a mobile television production facility to provide locally-originated programming, especially for and about Arizona's Native American tribes. Project would focus on servicing those areas where first local origination is not currently experienced.

California

File No. 3192CRB, Humboldt State University, Arcata, CA 95521. Signed by: Dr. Donald F. Straham, VP Administrative Affairs. Funds Requested: $57,184. Total Project Cost: $77,247. To increase the power of KHSU–FM in Arcata to bring first service public radio to 45,000 residents of Humboldt County.

File No. 3061PRTB, California State College at Bakersfield, 9001 Stockdale Highway, Bakersfield, CA 93309. Signed by: P. M. Rice, Vice President. Funds Requested: $126,864. Total Project Cost: $126,864. To plan to establish first service radio and television stations' primarily for the counties of Bakersfield and Kern, as well as some parts of Tulare, Inyo, Mono, and San Bernardino. Also, to explore other telecommunications services that would prove relavent and cost effective for the communities to be served.

File No. 3271RTNC, Regents of University of California, Systemwide Administration, 2200 University Avenue, Berkeley, CA 94720. Signed by: David F. Mears, Univ Coord of Contracts & Grants. Funds Requested: $451,835. Total Project Cost: $602,447. To construct transmit/receive earth stations at colleges in Berkeley and LaJolla for data transmission and further development of the University system's library automation services.

File No. 3279CRB, The University Foundation, California State University at Chico, West 1st & Normal Streets, Chico, CA 95929. Signed by: Len C. McCandliss, Executive Officer, CSVC Fdn. Funds Requested: $99,702. Total Project Cost: $132,936. To provide first service public radio to 40,000 residents of northern California with the purchase of higher power transmission equipment, relocation of one translator and acquisition of a new one. The project also proposes to extend KCHO's subcarrier reading service to the extended service areas.

File No. 3288TNC, California State University at Chico, W. First & Normal Streets, Chico, CA 95929. Signed by: Dr. Gerald Stairs, Vice President. Funds Requested: $863,746. Total Project Cost: $1,151,661. To upgrade an instructional television fixed service with satellite transmit capability, replacement of origination equipment and an increase of the number of regional learning centers.

File No. 3247CTB, Rural California Broadcasting Corp., 325 East Cotati Avenue, Cotati, CA 94928. Signed by: John F. Kramer, Treasurer. Funds Requested: $201,890. Total Project Cost: $269,186. To increase the power of KRCB–TV to 5 KW, and thereby providing additional first service to 43,000 residents of the Sonoma, Marin, Napa, Lake and Solano Counties, when the station goes on air later in 1983.

File No. 3121CTB, Redwood Empire Public TV, Inc., 7246 Humboldt Hill Co., Eureka, CA 95501. Signed by: Maj. Gen. William T. Daly, Ret., President. Funds Requested: $146,700. Total Project Cost: $195,600. To acquire production equipment that would allow greater local programming origination, particularly in Hoopa, Redwood, Eureka and other communities of Humboldt County.

File No. 3286CRB, Hoopa Tribal Broadcasting Co., Box 1220, Hoopa Valley Shop Ctr, Hoopa, CA 95546. Signed by: David A. Contreral, Board Chairman. Funds Requested: $79,956. Total Project Cost: $106,129. To move KIDE's transmitter, and to extend the station's signal coverage with the addition of seven translators designed to reach over 39,000 residents of Humboldt County who do not currently receive a public radio signal.

File No. , 3053TNP, Corp. on Disabilities and Telecommunications, P.O. Box 27573, Los Angeles, CA 90027. Signed by: Neil W. Goldstein, Chairman of the Board. Funds Requested: $61,570. Total Project Cost: $61,570. To determine the feasibility of creating a nationwide distribution network of programs specifically directed to and developed by the disabled. Planning will focus on cable and satellite interconnection, as well as the marketing of modeling programming.

File No. 3059CTB, Community TV of Southern California, 4401 Sunset Boulevard, Los Angeles, CA 90027. Signed by: Joseph J. Sands, Senior Vice President. Funds Requested: $399,547. Total Project Cost: $532,729. To replace obsolete and necessary origination equipment for state-of-the-art interfacing with the national television system from Los Angeles.

File No. 3225CTN, University of Southern California, Olin Hall 214, University Park, Los Angeles, CA 90089. Signed by: Cornelius J. Pings, Provost. Funds Requested: $165,730. Total Project Cost: $220,974. To acquire a satellite receive terminal to enhance and expand current instructional television services.

File No. 3340RNC, Pacific Foundation, 5316 Venice Blvd., Los Angeles, CA 90019. Signed by: Sharon Maeda, Executive Director. Funds Requested: $54,838. Total Project Cost: $73,718. To provide the essential equipment that would allow the Program Service Radio Archives to become state-of-the-art in its capability to effectively distribute recordings over 30 years old. Project would assure the availability of quality, historical recordings, especially for and about minorities and women.

File No. 3242TNC, City of Los Gatos, 110 E. Main Street, Los Gatos, CA 96030. Signed by: Brent N. Ventura. Funds Requested: $240,000. Total Project Cost: $320,000. To establish a cable access center to provide the first local origination service to the Los Gatos area.

File No. 3291PTN, Yosemite Community College District, 2201 Blue Gum Avenue, Modesto, CA 95352. Signed by: Tom Van Groningen, District Superintendent. Funds Requested: $38,664. Total Project Cost: $68,644. To establish a plan of action to interconnect telecommunications systems, operations, and maintenance with the contiguous counties of Amador, Calaveras, El Dorado, Sacramento, San Joaquin, Stanislaus, Tuolumne and Yolo.

File No. 3200CTB, Indian Wells Valley TV Booster, 205 Silver Ridge Drive, Ridgecrest, CA 93555. Signed by: Edward R. Middlemiss, Treasurer. Funds Requested: $19,100. Total Project Cost: $25,467. To extend the signal of KVCR–TV of San Bernardino with two translators that will provide first service public television to areas of Ridgecrest, China Lake, Inyokern, Sky Place, College Heights, and part of San Bernardino County.

File No. 3284CRB, California State University, 6000 J Street, Sacramento, CA 95819. Signed by: Phil Corriveau, General Manager, KXPR. Funds Requested: $4,576. Total Project Cost:

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$8,101. To the extend the signal of KXPR–FM to the Lake Tahoe Basin area and its surrounding communities by replacing a translator on Angels Roost Peak in El Dorado County. This project will provide first service to 36,000 residents.

File No. 3240CTN, Superintendent of Schools, Department of Education, 6401 Linda Vista Road, San Diego, CA 92111. Signed by: Gerald A. Rosander, Superintendent of Schools. Funds Requested: $194,250. Total Project Cost: $259,000. To extend the services of the San Diego Department of Education's instructional television by adding 50 additional receiving sites.

File No. 3263CTB, San Diego State University Foundation, 5300 Campanile Drive, San Diego, CA 92182. Signed by: Lawrence B. Feinberg, Assoc Dean Grad Div & Research. Funds Requested: $587,672. Total Project Cost: $791,062. To replace the antenna and tower of KPBS-TV, and to upgrade the transmitter, as all of the station's dissemination equipment is obsolete and experiences significant amounts of breakdowns.

File No. 3303CRB, San Diego State University Foundation, 5300 Campanile Drive, San Diego, CA 92182. Signed by: Lawrence B. Feinberg, Associate Dean Graduate Div. Funds Requested: $174,946. Total Project Cost: $233,261. To activate a full service radio station in Imperial County at the Calexico branch of San Diego State University. This project will provide first service to over 92,000 residents in Calexico, Imperial, Holtsville, Brawley, and El Centro.

File No. 3040RNC, Broadcast Services for the Blind, 420 Taylor Street, San Francisco, CA 94102. Signed by: R. L. Schoenberger, Jr., President, Board of Directors. Funds Requested: $35,561. Total Project Cost: $47,414. To purchase 300 additional SCA recievers to further service print handicapped population in Bay Area, and to upgrade origination equipment to strengthen the quality of operation.

File No. 3218PRB, Poor People's Radio, Inc., P.O. Box 11008, San Francisco, CA 94101. Signed by: Joe Rudolph, General Manager. Funds Requested: $37,095. Total Project Cost: $41,605. To investigate the poor radiation of KPOO-FM's signal, and to plan to implement the technology necessary to strengthen the signal and provide KPOO's unique offerings to the numerous residents currently unserved by programming for minorities and women. Plan includes extension of signal to the five Bay Area counties as well as Vallejo and San Jose.

File No. 3218PRB, Western Comm. Bilingual Radio Inc, 385 Eighth Street, San Francisco, CA 94103. Signed by: Suzanne D. Manriquez, Treasurer/Secretary. Funds Requested: $100,000. Total Project Cost: $117,480. To plan for the extension, expansion and upgrading of the bilingual public radio station network for the benefit of California's, Colorado's, Texas's, and Washington's Latino residents.

File No. 3220PTB, Community Action for Urbanized American Indians, Inc., 225 Valencia Street, San Francisco, CA 94103. Signed by: Francis Allen, Chairman. Funds Requested: $70,000. Total Project Cost:- $94,000. To plan for a multi-faceted telecommunications delivery of programs geared specifically to currently unserved Indian populations across the country. This planning would provide the basic steps for activating first signal public television in several reservation communities.

File No. 3237CTB, KQED, Inc., 500 Eight Street, San Francisco, CA 94103. Signed by: Bonnie J. Smith, VP & Chief Financial Officer. Funds Requested: $103,275. Total Project Cost: $137,700. To reduce energy usage and operating costs of the UHF transmitter for KQEC-TV, Channel 32, by refurbishing equipment.

File No. 3282CRB, Pataphysical Broadcasting Foundation., Inc., 203 8th Avenue, Santa Cruz, CA 95061. Signed by: Jeffrey Werner, President, Board of Directors. Funds Requested: $106,424. Total Project Cost: $141,899. To extended the signal of KUSP-FM by translator to reach the Big Sur area, and to upgrade and replace obsolete and worn out origination equipment in Santa Cruz. Project will provide first service to over 1,200 residents of Santa Cruz, Monterey, San Benito, Santa Clara and Big Sur Counties.

File No. 3265TNRP, Mendocino County Superintendent of Schools, 589 Low Gap Road, Ukiah, CA 95482. Signed by: Louis G. Dolsol, Superintendent of Schools. Funds Requested: $26,800. Total Project Cost: $30,800. To plan the establishment of a telecommunications system to link existing services with facilities to be determined. Project proposes to especially provide instructional services to isolated rural communities.

File No. 3167CTB, California Community TV Network, 10 Alexander Street, Watsonville, CA 95076. Signed by: Lewis Friedland, Director. Funds Requested: $1,135,486. Total Project Cost: $1,513,982. To activate a full service public television station in Santa Cruz County to provide a first signal to over 184,000 residents of this and seven surrounding counties.

Colorado

File No. 3058CTB, Front Range Educational Media Corp., 6801 W. 117th Avenue, Broomfield, CO 80020. Signed by: Michael J. August, General Manager. Funds Requested: $103,365. Total Project Cost: $137,820. To improve the dissemination and program production capability of KBDI–TV operating on Channel 12 at Broomfield, CO.

File No. 3222CRB, The Colorado College, 1000 N. Cascade Avenue, Colorado Springs, CO 80903. Signed by: Gresham Riley, President. Funds Requested: $59,868. Total Project Cost: $81,168. To move the transmitter/antenna of public radio station KRCC–FM, operating on 91.5 MHZ in Colorado Springs, to an elevation of 9550 ft. on Cheyenne Mt. to enable it to reach 90 percent of the population of El Paso County and provide 42,000 residents with their first public radio service, and to upgrade the station's capability to provide radio reading services to the print handicapped over SCA as well as to provide NPR programming to Colorado Springs.

File No. 3275CRB, Colorado State Board of Agriculture, Lory Student Center, Fort Collins, CO 80523. Signed by: Joe Spease, General Manager. Funds Requested: $40,867. Total Project Cost: $54,490. To replace the obsolete 1 KW transmitter of public radio station KCSU–FM with 5 KW at its present site, change and frequency on which it operates from 90.9 to 90.5 MHZ, and upgrade production capabilities to provide relevant local programming to parts of the City of Ft. Collins as well as Loveland, Wellington & La Porte, and first service to Estes Park, CO.

File No. 3152CRB, Western Colorado Public Radio, 2685 Caribbean Drive, Grand Junction, CO 81501. Signed by: Marsha L. Gobbo, Director. Funds Requested: $162,720. Total Project Cost: $217,062. To establish a public radio station in Grand Junction, CO, operating on 88.9 MHZ which will make it possible to bring first public radio programming to eight counties on the western slope in the near future—Rio Blanco, Mesa, Garfield, Delta, Ouray, Montrose, Eagle and Pitkin.

File No. 3213CRB, Colorado Radio Info Service, Inc., P.O. Box 1652, Greeley, CO 80632. Signed by: Robert Caron, President. Funds Requested: $9,600. Total Project Cost: $12,800. To acquire SCA receivers for use by the print handicapped in the reception areas of public radio stations KUNC–FM in Greeley, KCFR–FM in Denver, and KRCC–FM in Colorado Springs. This proposal brings first radio reading service to print handicapped persons residing in Colorado Springs and nearby communities.

File No. 3236CRB, Trustees for University of Northern Colorado, Greeley, CO 80639. Signed by: John Burke, VP Univ Relations, Sec, Trustees. Funds Requested: $54,427. Total Project Cost: $72,570. To extend by translators the signal of public radio station KUNC–FM, operated on 91.5 MHZ, by the University of Northern Colorado, and to bring a first noncommercial radio service to the communities of Sterling, Estes Park, Walden, Steamboat Springs, and Kremmling in Colorado, Torrington, Wyoming, and Scottsbluff, Kimball and Sidney in Nebraska.

File No. 3148CRB, Denver Educational Broadcasting, Inc., 7932 S. Lamar Court, Littleton, Co 80123. Signed by: Hugo Morales, President Board of Directors. Funds Requested: $228,936. Total Project Cost: $305,249. To establish a bilingual public radio station on 89.3 MHZ in Denver, CO, and provide programming service to other parts of the State. This station will provide the first bilingual radio facility with access to a satellite uplink which will enable the licensee to begin to meet some of the daily national program needs of bilingual and Spanish-speaking audiences.

File No. 3261PRB, Pueblo Community College, 900 W. Orman Avenue, Pueblo, Co 81004. Signed by: Glen Allen, Vice President for Contracts. Funds Requested: $24,238. Total Project Cost: $32,238. To plan for the activation of an FM noncommercial public radio station as a CPB-qualified, National Public Radio outlet serving Pueblo, CO, with translators serving southern and southeastern Colorado.

Connecticut

File No. 3101CRB, Connecticut Educational Telecommunications Corp, 24 Summit Street, Hartford, CT 06106. Signed by: Paul K. Taff, President & General Manager. Funds Requested: $144,524. Total Project Cost: $196,815. To modify and move the transmitter of WPBH, a noncommercial FM radio station operating on Channel 213B and presently serving Hartford, CT, to increase power and provide first local service to western CT including Danbury. Also includes request for mobile unit for local program production.

Washington, DC

File No. 3084CTN, Appalachian Community Service Network, 1200 New Hampshire Ave, NW, #240, Washington, DC 20036. Singed by: Harold E. Morse, President ACSN. Funds Requested: $22,500. Total Project Cost: $30,000. To replace non-type accepted microwave hardware (as required by the FCC) between the University of Kentucky and ACSN's earth station located in Fayette County, KY.

Delaware

File No. 3169PRB, Delaware Technical and Community College, 1832 N. DuPont Parkway, Dover, DE 19901. Signed by: Dr. John R. Kotula, President. Funds Requested: $15,357. Total Project Cost: $18,555. To Plan for first public radio signal for the Delaware counties of Kent and Sussex.

Florida

File No. 3062CTB, South Florida Public Telecommunications, Inc., 505 S. Congress Avenue, Boynton Beach, FL 33435. Signed by: Sam J. Barbaro, Vice President & General Manager. Funds Requested: $304,740. Total Project Cost: $406,321. To replace and upgrade the basic local production capability of WHRS-TV in Boynton Beach to maintain and increase its community service programs.

File No. 3044CTB, Daytona Beach Community College, 1200 Volusia Avenue, Daytona Beach, FL 32015. Signed by: Dr. Charles H. Polk, President. Funds Requested: $390,000. Total Project Cost: $520,000. To construct a full power TV station to provide first service to Flagler County and the first reliable signal to most of Daytona Beach and Volusia County. The proposed Daytona Beach station will operate at a power of 70.6 KW on Channel 15.

File No. 3123CRB, Indian River Community College, 3209 Virginia Avenue, Fort Pierce, FL 33450. Signed by: Herman A. Heise, President. Funds Requested: $53,250. Total Project Cost: $71,000. To extend the coverage of WQCS–FM to provide service to 24,471 people now unserved in the Indian River Community by constructing a 500-foot tower which will be 200 feet higher than the present tower.

File No. 3005CTB, University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Signed by: Ann R. Stevens, Ph.D., Assoc. Dean for Research. Funds Requested: $21,451. Total Project Cost: $28,602. To improve the remote local program capability of WUFT–TV by securing two microwave antennas to be mounted on the existing tower.

File No. 3008CTB, University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Singed by: Ann R. Stevens, Ph.D., Assoc. Dean for Research. Funds Requested: $127,151. Total Project Cost: $169,535. To improve the basic production capability of WUFT–TV by adding a studio camera to provide the needed flexibility for increasing local programming.

File No. 3293CRB, WJCT, Inc., 100 Festival Park Avenue, Jacksonville, FL 32202. Signed by: Fred Rebman, President. Funds Requested: $237,289. Total Project Cost: $316,386. To construct a repeater transmitter with a power of 100,000 watts to provide the first public radio signal for the Jasper/Live Oak area, and improve the basic local origination capability of WJCT–FM.

File No. 3294CTB, WJCT, Inc., 100 Festival Park Avenue, Jacksonville, FL 32202. Signed by: Fred Rebman, President. Funds Requested: $665,047. Total Project Cost: $886,730. To replace the worn out 6 Bay transmitting Antenna and the worn out and obsolete local origination equipment in order to eliminate the present interruptions and serious degradation of the WJCT–TV programming services.

File No. 3177PTBN, Barry University telecommunications Department, 11300 N.E. 2nd Avenue, Miami, FL 33161. Signed by: Sister Jeanne O'Laughlin, President. Funds Requested: $32,190. Total Project Cost: $36,966. To plan for the development of an interactive telecommunications system, a county-wide multi-distribution system and a public telecommunications facility at Barry University, the combination of which will improve the quality of life for minorities in greater Miami and Dade County.

File No. 3337CRB, Bascomb Memorial broadcasting Foundation, Inc., P.O. Box 558636, Miami, FL 33155. Signed by: Thomas G. Becker, President. Funds Requested: $17,668. Total Project Cost: $23,558. To improve the basic production capability of WDNA–FM by securing origination equipment which will result in a stereo production facility.

File No. 3283CTB, Pensacola Jr. College, 1000 College Boulevard, Pensacola, FL 32504. Signed by: Dr. C. Noojin Walker, VP, Academic Affairs. Funds Requested: $789,409. Total Project Cost: $1,052,546. To replace the present WSRE tower to accommodate a much heavier high gain antenna, install a new TV antenna and a new 55 KW transmitter (present is 2 KW), in order to provide the first public TV signal for the unserved areas of Escambia, Santa Rosa, and Okaloosa Counties.

File No. 3129CTN, State of Florida, Division of Communications, Larson Bldg., Room 651, Tallahassee, FL 32301. Signed by: Donald R. Allen, Dir., Div. of Communications. Funds Requested: $888,818. Total Project Cost: $1,775,118. To provide for innovative uses of uplink and downlink satellite communications and slow-scan TV systems for public distribution of agricultural weather

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information, agricultural information, and teleconferencing.

Georgia

File No. 3127CRB, Georgia Public Telelcommunications Commission, 1540 Stewart Avenue, SW, Atlanta, GA 30310. Signed by: Richard E. Ottinger, Executive Director. Funds Requested: $317,692. Total Project Cost: $423,590. To establish two station state radio networks which will provide first public signal to approximately 1.1 million listeners. Project is first phase of eight station state public radio networks. Initially programming will originate from Atlanta. Warm Springs station will operated at 100 KW on 88.1 MHZ. Cochran station will operate at 100 KW on 89.7 MHZ.

File No. 3234RNC, Georgia Radio Reading Service, Inc., 1580 Peach Tree Street, N.W., Atlanta, GA 30309. Signed by: James E. Cashin, Executive Director. Funds Requested: $28,125. Total Project Cost: $37,500. To acquire 500 SCA receivers for use by the blind and print handicapped. Users will receive the programming broadcast by WABE–FM in Atlanta. Power increase by WABE–FM is providing additional receiver demands.

File No. 3171CRB, West Georgia College, Maple Street, Carrollton, GA 30118. Signed by: Maurice K. Townsend, President. Funds Requested: $56,437. Total Project Cost: $75,256. To extend the signal of WWGC–FM to better serve the Carrollton area. Project will relocate antenna and replace 32-year-old transmitter.

Iowa

File No. 3030CRB, University of Northern Iowa, 324 Communications Arts Center, Cedar Falls, IA 50614. Signed by: Harold J. Burris, Admin., Grants & Contracts. Funds Requested: $119,986. Total Project Cost: $170,181. To replace antenna and improve STL of KUNI, a public radio station serving Cedar Falls, Iowa.

File No. 3333CRB, Oakhill-Jackson Economic Development Corp., POB 1405, 625 5th Avenue, S.E., Cear Rapids, IA 52406. Signed by: Robert J. Irwin, President. Funds Requested: $66,635. Total Project Cost: $160,442. To increase the power of noncommercial radio station KOJC from 10 watts to 250 watts. KOJC serves Cedar Rapids, Iowa.

File No. 3071CTB, Eastern Iowa Community College District, 284 Eastern Avenue, Davenport, IA 52803. Signed by: Michael E. Crawford, Chancellor. Funds Requested: $912,553. Total Project Cost: $1,303,647. To establish the Eastern Iowa Telecommunications Network using ITFS and microwave technology which will link three colleges and extension sites.

File No. 3069PRTB, State Educational Radio & TV Facility Board, Iowa Public TV, 2801 Bell Avenue, Des Moines, IA 50321. Signed by: Larry G. Patten, Executive Director. Funds Requested: $150,000. Total Project Cost: $183,193. To identify and to plan for coverage of areas of Iowa unserved by public radio and/or TV. To assess state information and processing systems and to develop plans for a more efficient system.

File No. 3070CTB, State Educational Radio & TV Facility Board, Iowa Public TV, 2801 Bell Avenue, Des Moines, IA 50321. Signed by: Larry G. Patten, Executive Director. Funds Requested: $237,214. Total Project Cost: $316,286. To replace essential studio equipment of public TV station KDIN, Channel 11, Flagship Station of Iowa Public TV, serving the entire state.

File No. 3072CTB, Iowa Lakes Community College, 300 South 18th Street, Estherville, IA 51334. Signed by: R. H. Blacker, Superintendent. Funds Requested: $142,476. Total Project Cost: $189,969. To expand the ITFS system of Iowa Lakes Community College in order to increase the population able to receive the system's educational programming. The system currently serves five northeastern rural counties.

Idaho

File No. 3091CTB, Nez Perce Tribal Foundation, Veterans Memorial Bldg., Lapwai, ID 83540. Signed by: J. Herman Reuben, Acting Secretary. Funds Requested: $112,408. Total Project Cost: $149,877. To activate a low-power TV station on the Nez Perce Reservation in northern Idaho which will operate on Channel 36 at Lapwai, and also serve the communities of Sweetwater and Spalding.

Illinois

File No. 3186PRB, Prairie Air, Inc., 113 North Market, Champaign, IL 61856. Signed by: Bill Thomas, Station Coordinator. Funds Requested: $3,564. Total Project Cost: $3,564. To plan for the expansion of noncommercial radio station WEFT, 90.1 MHZ, Champaign, IL, to provide increased public broadcast services to the communities in the greater Champaign-Urbana, Illinois area.

File No. 3187CRB, Prairie Air, Inc., 113 N. Market, Champaign, IL 61856. Signed by: Bill Thomas, Station Coordinator. Funds Requested: $40,103. Total Project Cost: $53,603. To improve studio and acquire remote mobile origination equipment for noncommercial radio station WEFT, 90.1 MHZ, Champaign, IL, to offer expanded local programming services to the residents of the Champaign-Urbana metropolitan area.

File No. 3116CRB, Board of Education, City of Chicago, 228 Worth LaSalle Street, Chicago, IL 60601. Signed by: McNair Grant, Assoc. Supt., Govt. Funded Prog. Funds Requested: $648,420. Total Project Cost: $864,560. To improve the production and distribution facilities of noncommercial FM radio station WBEZ, 91.5 MHZ, Chicago, IL, by replacing and expanding apparatus needed to deliver programming to the metropolitan Chicago area.

File No. 3219CRB, Northern Illinois University, DeKalb, IL 60115. Signed by: Richard J. Smith, VP for Business Affairs. Funds Requested: $482,436. Total Project Cost: $643,248. To extend the signal and provide first origination program capabilities in Rockford, IL, for noncommercial radio station WNIV, 89.5 MHZ, DeKalb, IL, to provide first service in the area surrounding Rockford and improve broadcast services to the metropolitan areas of both Rockford and DeKalb.

File No. 3264CTN, Oakton Community College, 1600 E. Golf Road, Des Plaines, IL 60016. Signed by:,W.A. Koehnline, President. Funds Requested: $192,244. Total Project Cost: $273,825. To establish an interconnection among several community cable systems via activation of a noncommercial ITFS service on Channels B3 & B4, Des Plaines, IL, to provide locally originated program services to the townships of Maine, New Trier, Northfield and Niles of surburban Chicago.

File No. 3199CRB, Illinois Eastern Community Colleges, 2200 College Drive, Mt. Carmel, IL 62863. Signed by: James S. Spencer, Chancellor. Funds Requested: $20,000. Total Project Cost: $27,826. To provide significant improvement in programming flexibility for noncommercial FM radio station WVJC, 89.1 MHZ, by adding satellite reception facilities to receive National Public Radio programming.

File No. 3231PTBN, Governors State University, Stuenkel Road, Park Forest, IL 60466. Signed by: Dr. Sheadrick A. Tillman IV, Asoc. VP for Research. Funds Requested: $12,775. Total Project Cost: $19,927. To plan for noncommercial television services to enable the dissemination of educational and cultural programs from Governors State University by a variety of telecommunications means to serve the communities of Kankakee, Joliet, Palos Hills, IL, and St. John, IN.

File No. 3017/CRB, Bradley University, 1501 W. Bradley Avenue, Peoria, IL 61625. Signed by: Dr. John C. Hitt, Provost & VP for Academic Affairs.

Funds Requested: $16,610. Total Project Cost: $22,210. To improve the origination capabilities of noncommercial radio station WCBU 89.9 MHZ of Bradley University, Peoria, IL, by replacing old and adding additional equipment needed to better serve the Peoria service area.

File No. 3325CRB, Augustana College, 639 38th Street, Rock Island, IL 61201. Signed by: J. Thomas Tredway, President. Funds Requested: $18,796. Total Project Cost: $25,812. To extend the signal of noncommercial radio station WVIK, Rock Island, IL, by activating translators in both Galesburg, Channel 283, and Dixon, Channel 214, IL, to provide first service for public broadcasting in those communities.

File No. 3128CRB, The Board of Trustees University of Illinois, 354 Administration Building, Urbana, IL 61801. Signed by: Linda Wilson, Assoc Vice Chancellor for Res. Funds Requested: $46,200. Total Project Cost: $61,600. To improve dissemination and origination facilities of noncommercial radio station WILL, operating on 90.0 MHZ, Urban, Illinois, by replacing obsolete equipment necessary to deliver services to east central Illinois and west central Indiana.

Indiana

File No. 3154CTB, Board of Trustees of Indiana University, Indiana Univ. Bryan 215E, Bloomington, IN 47405. Signed by: J. D. Mulholland, Treasurer. Funds Requested: $301,016. Total Project Cost: $401,355. To replace existing essential broadcast dissemination and origination facilities of noncommercial TV station WTIU, Channel 30, Bloomington, Indiana, to enable continued telecommunications services to communities in and about Bloomington.

File No. 3140CTB, Fort Wayne Public TV, Inc., 227 E. Washington Blvd, PO Box 39, Fort Wayne, IN 46801. Signed by: Donald R. Sugarman, MD, President. Funds Requested: $82,170. Total Project Cost: $109,560. To improve the programming flexibility of noncommercial television repeater station on Channel 39, Fort Wayne, Indiana, by installing a satellite receiving dish to receive PBS programming for dissemination to the Fort Wayne metropolitan area.

File No. 3145CTN, Indiana University Foundation, 355 Lansing Street, Indianapolis, IN 46202. Signed by: Wendell F. McBurney, Dean Research & Spon. Programs. Funds Requested: $172,566. Total Project Cost: $230,088. To extend and improve statewide interconnection network facilities by activating ITFS Channel G–1, Westville, IN and ITFS Channel B–1 and B–2, South Bend, IN, further to remote control transmission equipment and replace obsolete signal reception equipment at nine college and university locations of the system.

File No. 3098CTB, Michigan Public Brdcstg Corp., 2424 California Rd, PO Box 34, Mishawaka, IN 46544. Signed by: Thomas E. Brubaker, Executive Director & Gen Manager. Funds Requested: $30,605. Total Project Cost: $40,806. To replace obsolete equipment in order to maintain dissemination and program services on noncommercial television station WNIT–TV, Channel 34, South Bend, Indiana, providing service to communities in the South Bend metropolitan area.

File No. 3241CTB, WIPB, Ball State University, 246 Minnestrista Blvd., Muncie, IN 47303. Signed by: Thomas J. Kinghorn, VP Business Affairs, Treasurer. Funds Requested: $189,000. Total Project Cost: $252,000. To provide for the replacement of equipment of existing broadcast facilities and to improve the origination facilities of noncommerical television station WIPB, Channel 49, Muncie, IN, to maintain local and other program services to the communities in east central Indiana.

File No. 3277CRB, Earlham College, 509 National Rd. West, Richmond, IN 47374. Signed by: G. Richard Wynn, VP, Financial Affairs. Funds Requested: $28,081. Total Project Cost: $55,950. To extend the signal of noncommercial radio station WECI, 91.5 MHZ, Earlham College, Richmond, IN, by increasing dissemination capacity with significantly higher power transmission equipment to provide first service to the Richmond, IN area communities.

File No. 3060CTB, Vincennes University Board of Trustees, 1002 N. First Street, Vincennes, IN 47591. Signed by: Phillip M. Summers, Ph.D., President. Funds Requested: $84,600. Total Project Cost: $112,800. To improve transmission facilities of noncommercial television station, WVUT, Channel 22, Vincennes, IN, by making more efficient and reliable dissemination equipment necessary to serve the 24-county area of metropolitan Vincennes.

Kansas

File No. 3251CTB, Smokey Hills Public TV, P. O. Box 98th & Elm Street, Bunker Hill, KS 67626. Signed by: Kenneth F. Gardner, Vice President & General Manager. Funds Requested: $171,176. Total Project Cost: $228,235. To extend the signal of KOOD–TV to the residents in Pratt, Kiowa, Edwards, Kingman, Barber and Stafford Counties by translator and microwave. Project will provide first signal to over 1,000 currently unserved residents.

File No. 3202PRB, Emporia State University, 1200 Commercial, Emporia, KS 66801. Signed by: John E. Visser, President. Funds Requested: $25,900. Total Project Cost: $25,900. To plan for a public telecommunications broadcast facility at Emporia State University to serve Emporia, Kansa.

File No. 3338CRB, The University of Kansas, 1150 W. 11th Street/POB 647, Lawrence, KS 66044. Signed by: Carolyn Hallenbeck, Dir of Research Support. Funds Requested: $22,560. Total Project Cost: $30,500. To purchase SCA receivers to provide radio reading services to 400 additional print handicapped in Lawrence, Kansas.

File No. 3013CRB, Friends University, 2100 University Avenue, Wichita, KS 67213. Signed by: Richard Felix, President. Funds Requested: $43,054. Total Project Cost: $57,405. To improve facilities of public radio station KSOF operating at 91.1 in Wichita, Kansas, by purchasing studio and remote equipment.

File No. 3103CRB, Kansas Public T/C Service, Inc., 320 West 21st Street, Wichita, KS 67201. Signed by: Zoel Parenteau, President & General Manager. Funds Requested: $167,206. Total Project Cost: $222,943. To improve facilities of KPTS, a public TV station in Wichita, Kansas, operating on Channel 8.

Kentucky

File No. 3181CRB, Western Kentucky University, Academic Complex 153, Bowing Green, KY 42101. Signed by: Dr. Paul B. Cook, Asst. to Pres. for Resources Mgmt. Funds Requested: $36,150. Total Project Cost: $48,200. To establish a noncommercial radio station on frequency 89.7, Sommerset, KY, by erecting tower facilities at Purdy, KY, in order to provide public radio service programming to communities in that area.

File No. 3042CRB, Black American Communications, Inc. of Kentucky, 315 W. Lexington Street, Harrodsburg, KY 40330. Signed by: William A. Taylor, President. Funds Requested: $72,135. Total Project Cost: $96,180. To establish a noncommercial FM radio station operating on FM 89.9, Frankfort, KY, to provide first local program services to minorities in Owen and Henry Counties, KY, and additional service to the Frankfort, KY, metropolitan area.

File No. 3276CTB, Kentucky Authority for Educational TV, 600 Cooper Drive, Lexington, KY 40502. Signed by: O. Leonard Press, Executive Director. Funds Requested: $273,180. Total Project Cost: $364,240. To extend the signal of noncommercial television station

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WKMJ, Channel 58, Louisville, KY, by replacing obsolete dissemination equipment at its transmitting site, Floyd Knobs, Indiana, to better serve the people in the Louisville metropolitan area.

File No. 3280CTB, Kentucky Authority for Educational TV, 600 Cooper Drive, Lexington, KY 40502. Signed by: O. Leonard Press, Executive Director. Funds Requested: $236,250. Total Project Cost: $315,000. To improve the origination facilities of the Kentucky Authority for Educational Television, KET, Lexington, by replacing obsolete apparatus needed to provide locally originated programming throughout the State.

File No. 3077TNP, University of Louisville Foundation, Inc., 2301 S. Third St./Balknap Campus, Louisville, KY 40292. Signed by: John W. Brown, Dir., Ofc. of Sponsored Programs. Funds Requested: $44,827. Total Project Cost: $44,827. To plan for an expansion of ITFS systems operated by the University of Louisville Instructional Communications Center for the Kentuckian Metroversity, Louisville, KY, to bring additional telecommunications services to the Fort Knox, KY, community.

File No. 3001CRB, Appalshop, Inc., 306 Madison Street, Whitesburg, KY 41858. Signed by: Katharine Pearson, President. Funds Requested: $99,557. Total Project Cost: $132,770. To establish a noncommercial FM radio station on a frequency of 88.7 in Mayking, KY and provide origination facilities at Whitesburg, KY to provide programming to rural and isolated communities in southeastern Kentucky.

Louisiana

File No. 3096CTNC, Louisiana Educational Television Authority, 2618 Wooddale, Baton Rouge, LA 70805. Signed by: A. Fred Frey, Executive Director. Funds Requested: $276,683. Total Project Cost: $368,911. To expand the closed-circuit educational TV network by utilization of 6 ITFS transmitters located at 6 hospitals in Louisiana. Stations will be located at Baton Rouge, Shreveport, Monroe, Lafayette, Alexandria, and Lake Charles.

File No. 3326CTB, Greater New Orleans Educational TV Foundation, 916 Navarre Avenue, New Orleans, LA 70124. Signed by: Vincent F. Saele, President & CEO. Funds Requested: $768,273. Total Project Cost: $1,024,365. To replace worn out equipment at station WYES–TV, Channel 12, in New Orleans. Station presently provides only public TV signal for 1,800,000 people.

Massachusetts

File No. 3011CRN, Talking Information Center, 440 Plain Street, Box 487, Marshfield, MA 02050. Signed by: Ron Bersani, Executive Director. Funds Requested: $98,150. Total Project Cost: $130,866. To improve production capabilities of Talking Information Center radio reading service and to purchase 15000 SCA receivers to serve the sight impaired of Marshfield, MA.

Maryland

File No. 3253PRB, University of Maryland, Eastern Shore, Backbone Rd. JT Williams Admin., Princess Anne, MD 21853. Signed by: William P. Hytche, Chancellor. Funds Requested: $26,320. Total Project Cost: $26,960. To plan for a noncommercial FM radio station which will serve Princess Anne and surrounding areas and which would provide first public radio signal to unserved areas.

File No. 3066CRN, The Washington Ear, Inc., 35 University Blvd., East, Silver Spring, MD 20901. Signed by: Margaret Rockwell Pfanstiehl, President and CEO. Funds Requested: $2,732. Total Project Cost: $3,643. To acquire audio description equipment for use with WETA–FM SCA. Project will provide descriptions of video for visually impaired. Service will benefit approximately 28,000 in Washington, DC area. Service could potentially benefit two million visually impaired in USA.

Maine

File No. 3043CTB, Colby-Bates-Bowdoin Educational Telecasting Corp., 1450 Lisbon Street, Lewiston, ME 04240. Signed by H. Odell Skinner, President and General Manager. Funds Requested: $1,031,983. Total Project Cost: $1,544,983. To improve the transmitting system of WCBB–TV, a public television station serving Lewiston, Maine, and to extend that signal via translators, to four unserved areas of Maine.

File No. 3298CRB, Saint Joseph's College, White's Bridge Road, North Windham, ME 04062. Signed by: Anthony R. Santoro, Ph.D., President. Funds Requested: $23,119. Total Project Cost: $30,827. To activate a noncommercial radio station on 91.5 to serve North Windham, Maine.

File No. 3232CTB, University of Maine, Alumni Hall, Orono, ME 04469. Signed by: William J. Sullivan, Vice Chancellor for Admin. Funds Requested: $148,897. Total Project Cost: $198,897. To improve the production facilities of WMBG–TV providing first public television local origination to southern Maine.

File No. 3243CTB, University of Maine, Alumni Hall, Orono, ME 04469. Signed by: William J. Sullivan, Treasurer. Funds Requested: $306,784. Total Project Cost: $409,045. To replace obsolete transmitting equipment of public television station WMEM serving Aroostook County, Maine.

Michigan

File No. 3108CTB, Grand Valley State College, 301 Manitou Hall, Allendale, MI 49401. Signed by: James Starkweather, Director of Budgets. Funds Requested: $182,426. Total Project Cost: $243,235. To activate a repeater noncommercial TV station on Channel 52, Kalamazoo, MI, providing first service to communities in the west central portion of Michigan.

File No. 3087CTB, Regents of the University of Michigan-Flint, 400 4th Street, Admin. Bldg., Ann Arbor, MI 48109. Signed by: J. F. Brinkerhoff, VP & Chief Financial Officer. Funds Requested: $172,023. Total Project Cost: $229,365. To extend the broadcast signal of noncommercial television station WFUM, Channel 28, Flint, MI, by constructing a translator on Channel 46, Port Huron, MI, to bring residents of that and surrounding communities a first public broadcast signal in the area.

File No. 3151CTB, Detroit Educational TV Foundation, 7441 Second Blvd., Detroit, MI 48202. Signed by: John T. Caldwell Jr., President and General Manager, Funds Requested: $315,499. Total Project Cost: $420,666. To improve origination facilities of noncommercial broadcast television station WTVS, Channel 56, Detroit, MI, by replacing obsolete production equipment to provide better programming to communities of the metropolitan Detroit area and to the PBS network.

File No. 3175CTB, Board of Trustees Michigan State Univ., 212 Comm. Arts Building, East Lansing, MI 48824. Signed by: Roger E. Wilkinson, Secretary, Board of Trustees. Funds Requested: $326,250. Total Project Cost: $435,000. To replace basic equipment at existing noncommercial television station WKAR, Channel 23, East Lansing, MI, and thereby improve origination facilities necessary to provide program services to the metropolitan areas of Lansing and Jackson, Michigan.

File No. 3081PRTBN, Gwinn Area Community Schools, Gwinn, MI 49841. Signed by: Dr. Allen Ahola, Superintendent. Funds Requested: $79,800. Total Project Cost: $121,600. To plan for a noncommercial public telecommunications service system to meet educational, social, health and other basic needs of rural and isolated communities in Michigan's upper peninsula region.

File No. 3051CTB, Central Michigan University, 155 Anspach Hall, Mt. Pleasant, MI 48859. Signed by: Harold Abel, President. Funds Requested: $1,032,445. Total Project Cost: $1,376,594. To establish noncommercial TV repeater stations operating on Channels 27 in Cadillac and Channel 21 in Manistee, MI, operated by Central Michigan University, Mt. Pleasant, MI, station WCMU, Channel 14, to serve the Cadillac, Manistee and Ludington areas.

File No. 3124CRB, Blue Lake Fine Arts Camp, Rural Route #2, Twin Lake, MI 49457. Signed by: William F. Stansell, President. Funds Requested: $13,817. Total Project Cost: $18,423. To provide auxiliary remote studios by acquiring mobile origination facilities for noncommercial FM radio station WBLV, 90.3 MHZ, Twin Lake, Michigan, to better serve the communities within its coverage area.

Minnesota

File No. 3165CTB, West Central Minnesota Educational TV Council, 25 South Miles Street, Appleton, MN 56208. Signed by: James T. Hegland, Secretary KWCM Bd of Directors. Funds Requested: $1,231,664. Total Project Cost: $1,642,219. To extend the signal of noncommercial television station KWCM, Channel 10, Appleton, MN, by acquiring additional dissemination apparatus to meet the need of communities in southwest Minnesota.

File No. 308CRB, Markato State University, MSU Student Union Room 119, Markato, MN 56001. Signed by: Margaret R. Preska, President. Funds Requested: $81,615. Total Project Cost: $108,820. To extend the signal of public radio station KMSU, 89.7 MHZ. Mankato State University, Mankato, MN, by interconnecting station KAVT, Austin, MN, and by translators in the communities of Albert Lea, Fairmont, and Blue Earth, MN, to provide service to those communities.

File No. 3150BTBNC, Minnesota Tele-Media, Marshall, MN 56258. Signed by: Gerritt Groen, Chairperson. Funds Requested: $1,569,870. Total Project Cost: $2,093,159. To establish a noncommercial telecommunications network by acquiring low power television translators, instructional TV fixed service and microwave interconnection apparatus for dissemination and origination purposes to provide educational and cultural programs to central southwest Minnesota's rural and isolated communities.

File No. 3025CTB, Twin Cities Public TV, Inc., 1640 Como Avenue, St. Paul, MN 55108. Signed by: James E. Carufel, Ast. Gen. Mgr., VP–Admin. Funds Requested: $408,450. Total Project Cost: $544,600. To provide replacement of essential and improve other origination facilities of noncommercial TV station, KTCA, Channel 2, St. Paul, MN, to assure uninterrupted service to residents of Minnesota.

File No. 3073TRBNP, Minnesota Department of Education, 550 Cedar Street, St. Paul, MN 55101. Signed by: John J. Feda, Commissioner of Education. Funds Requested: $99,150. Total Project Cost: $120,050. To plan for facilities to establish transmission and production for a variety of noncommercial telecommunications services to unserved rural and isolated communities in Minnesota and to interconnect them with existing broadcast and nonbroadcast services.

File No. 3112CRB, Minnesota Public Radio, Inc., 45 East Eighth, St. Paul, MN, 55101. Signed by: William H. Kling, President. Funds requested: $122,170. Total Project Cost; $187,910. To purchase transmission equipment for a new FM public radio station and translator to serve Virginia, Hibbing, and International Falls.

File No. 3113CRB, Minnesota Public Radio, Inc., 45 East Eighth Street, St. Paul, MN 55101. Signed by: William H. Kling, President. Funds Requested: $62,287. Total Project Cost: $83,050. To establish a noncommercial radio station on 88.1 MHZ, Sioux Falls, SD, to offer origination services from Augustana College's Sioux Falls campus and from Minnesota Public Radio Station, KRSW, Worthington, MN, to provide telecommunications services to Sioux Falls and unserve rural communities north of the city.

File No. 3114CRB, Minnesota Public Radio, Inc., 45 East Eighth Street, St. Paul, MN 55101. Signed by: William Kling, President. Funds Requested: $370,089. Total Project Cost: $493,452. To replace obsolete dissemination equipment for noncommercial radio station KSJM, 91.1, St. Paul, MN, and to improve the origination capabilities of Minnesota Public Radio by adding remote studio capabilities and satellite uplink equipment in order to provide services to its network in Minnesota and elsewhere.

File No. 3300PTB, Educational Cooperative Service, Box 15, Star Route, Staples, MN 56479. Signed by: Richard T. Hegre, Executive Director. Funds Requested: $41,000. Total Project Cost: $41,000. To plan for the activation of first noncommercial television services to serve a fourteen county area in north central Minnesota in order to provide educational, cultural, and informational programming to the rural and isolated communities.

Missouri

File No. 3314CRB, The School of the Ozarks, Point Lookout, MO 65726. Signed by: Howell Keeter, Acting President. Funds Requested: $38,038. Total Project Cost: $50,710. To improve signal of public radio station KSOZ serving Point Lookout, Missouri.

File No. 3009CRB, Curators of the University of Missouri, G–6 Library, Rolla, MO 65401. Signed by: Neil K. Smith, Dir. Business Services. Funds Requested: $9,704. Total Project Cost: $12,939. To replace obsolete studio equipment of KUMR–FM, a public radio station serving Rolla, MO.

File No. 3205PTB, Ozark Public Telecommunications, Inc., MPO Box 21, Springfield, MO 65801. Signed by: Christopher W. Nattinger, Chairman of the Board. Funds Requested: $14,475. Total Project Cost: $14,475. To plan for the extension of signal from public station KOZK–TV and KSMU–Fm in Springfield to Joplin, Missouri.

Mississippi

File No. 3345PRB, Mississippi Valley State Uuniv, Highway 52 & Sunflower Road, Itta Bena, MS 38941. Signed by: Joe I. Boyer, President. Funds Requested: $26,638. Total Project Cost: $31,338. To plan for the establishment of a noncommercial FM station at Itta Bena, MS. Station would serve 23,000 people in Leflore County.

File No. 3228PTB, Mississippi Band of Choctaw Indians, RT 7, Box 21, Philadelphia, MS 39350. Signed by: Phillip Martin, Chief. Funds Requested: $42,954. Total Project Cost: $42,954. To plan the establishment of a noncommercial TV station to serve the Choctaw Indian Reservation and surrounding area.

Montana

File No. 3346CRB, Blackfeet Media Inc., Tribal Admin. Bldg., Box 850, Browning, MT 59417. Signed by: Darnell Doore, Blackfeet Media Director. Funds Requested: $204,830. Total Project Cost: $273,107. To establish a noncommercial radio station on the Blackfeet Indian Reservation which will operate on 88.7 MHz in Browning, MT, and will provide a first public radio service including locally originated, culturally-related programming, to listeners in a northwest section of the State of Montana.

File No. 3208BNCT, Bitter Root Electric TV Cooperative Inc., P.O. Box 109, Corvallis, MT 59828. Signed by: Reno Peressini, President. Funds Requested: $92,527. Total Project Cost:

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$123,370. To activate a noncommercial low-power television facility to bring first public television to the residents of Darby, Hamilton, Grantsdale, Corvallis and Victor, MT, plus homes in surrounding rural areas.

File No. 3184CTB, Valley County TV Dist #1, c/o Clerk & Recorders Office, Glasgow, MT 59230. Signed by: Everett Breigenzer, President. Funds Requested: $81,000. Total Project Cost: $108,000. To establish a public low-power television facility, operating on Channel 6 in Glasgow, MT, and one translator to bring first public television to residents of the Milk River Valley, including a portion of the Ft. Peck Indian Reservation.

File No. 3215CRB, Great Falls Public Radio Association, 1400 First Ave., N., POB 3343, Great Falls, MT 59403. Signed by: Bruce Mackenzie, President. Funds Requested: $99,341. Total Project Cost: $133,455. To establish a noncommercial radio station which will bring a first public radio signal to residents of Cascade County and portions of Teton, Pondera, and Chouteau Counties. This station will rebroadcast KUFM–FM, from the University of MT, with the capability to substitute local programming, and carrying SCA which permits reading services for the print handicapped.

File No. 3166CTB, Dull Knife Memorial College Telecommunications, Box 206, Lame Deer, MT 59043. Signed by: Darius T. Rowland, President. Funds Requested: $556,838. Total Project Cost: $742,584. To expand the broadcast capability of the low-power TV facility under construction by Lame Deer Memorial College using translators, six of which will be solar powered, to bring public TV to the entire Northern Cheyenne Indian Reservation, a portion of the Crow Reservation and off-reservation mining towns expected to rapidly develope in this energy impacted area over the next five years.

File No. 3248CTB, Shields & Paradise Valley TV District, Court House, Treasurer's Office, P.O. Box 34, Livingston, MT 59047. Signed by: Harry A. Livingston, President. Funds Requested: $61,660. Total Project Cost: $82,215. To establish a low-power television facility, operating on Channel 49, six miles south of Livingston, to bring first public television south into Paradise Valley as well as north to the Livingston area and Shields River Valley.

File No. 3209CTB, Phillips County TV Tax District, P.O. Box 821, Malta, MT 59538. Signed by: Ray Holzhey, Chairman. Funds Requested: $70,500. Total Project Cost: $94,000. To establish a noncommercial low-power television facility in Malta, MT, operating on Channel 15, which will bring a first public TV signal to the citizens of Phillips County.

File No. 3244BNCT, Whitehall Low Power TV, Inc., 400 First Street, Whitehall, MT 59759. Signed by: Dale Davis, President. Funds Requested: $100,987. Total Project Cost: $134,650. To establish a low-power public television facility to bring first service to the residents of Whitehall, MT and the immediate outlying area, and to distribute the signal over the local system.

North Carolina

File No. 3092CRB, University of North Carolina at Chapel Hill, Swain Hall 044A, Chapel Hill, NC 27514. Signed by: Donald M. Wood, Dir. of Research Services. Funds Requested: $97,200. Total Project Cost: $129,600. To activate a repeater FM radio station on 88.3 MHz in Greenville. Station will provide first service to six counties in eastern North Carolina. Primary coverage for Edgecomb, Pitt, Greene, Lenoir, Wayne, Wilson counties. Station will repeat the signal of WUNC–FM in Chapel Hill.

Nebraska

File No. 3086CTB, University of Nebraska, 1800 North 33rd Street, Lincoln, NE 68501. Signed by: Earl J. Freise, Asst. Vice Chancellor for Res. Funds Requested: $709,569. Total Project Cost: $946,093. To replace the unreliable 20-year-old KUON–TV transmitter and replace the worn out, obsolete local and network origination equipment in order to provide a reliable and quality program service to 97.5 percent of the State.

File No. 3157CRB, Union College, 3800 South 48th Street, Lincoln, NE 68506. Signed by: Dean Hubbard, President. Funds Requested: $447,750. Total Project Cost: $597,000. To construct a statewide radio network by activating four stations at Norfolk, Kearny, North Platte, and Scottsbluff, with an off-air pickup from KUCV in Lincoln, which will provide first radio service to 450,000 people, and to activate an SCA system to be used throughout the network.

File No. 3126PRN, Radio Talking Book Service, Inc., 3219 Cuming Street, Omaha, NE 68131. Signed by: David E. Robinson, Director. Funds Requested: $14,599. Total Project Cost: $14,599. To plan for the extension of the Radio Talking Book Service in Omaha to provide this service statewide.

File No. 3302PRB, Omaha Black Telecommunications, Inc., 4732 N. 41st Street, Omaha, NE 68111. Signed by: Ruth Williams, Grant Coordinator Funds Requested: $121,800. Total Project Cost: $122,344. To plan the construction of a 5,500 watt minority radio station for the Omaha area, in order to provide an alternative program service for Black citizens.

New Hampshire

File No. 3118CRB, Granite State Public Radio, Inc., 26 Pleasant Street, Concord, NH 03301. Signed by: Keith Thompson, General Manager. Funds Requested: $7,762. Total Project Cost: $10,350. To extend, via translator, the signal of public radio station WEVO–FM of Concord, NH, to the unserved Nashua County area of New Hampshire.

File No. 3297CTB, University of New Hampshire, Pettee Brook Lane, Durham, NH 03824. Signed by: Lennard A. Fisk, Director of Research. Funds Requested: $278,685. Total Project Cost: $371,580. To replace and increase power of WLED, Channel 49, serving Littleton, New Hampshire, and to replace obsolete microwave distribution system for New Hampshire Public Tv system.

New Jersey

File No. 3104PRB, Newark Public Radio, Inc., 54 Park Place, Newark, NJ 07102. Signed by: Robert Gottenhof, General Manager. Funds Requested: $22,000. Total Project Cost: $28,000. To plan to extend the signal of public radio station WGBO–FM, currently serving the Newark, New Jersey area, into the unserved communities of Vineland and Atlantic City.

File No. 3328PRB, Rutgers University, 180 University Avenue, Newark, NJ 07102. Signed by: Albert Hanna, Assistant Comptroller. Funds Requested: $42,555. Total Project Cost: $57,825. To plan for first public radio service to Vineland and Atlantic City, New Jersey.

File No. 3176PTN, Somerset County College T/C, P.O. Box 3300, Somerville, NJ 08876. Signed by: S. Charles Irace, President. Funds Requested: $41,638. Total Project Cost: $41,638. To plan a telecommunications network which will link Somerset County College in Somerville, NJ, to local industry, government agencies, and other educational centers.

File No. 3033 CTN, Borough of South River, 64–66 Main Street, South River, NJ 08882. Signed by: William Reichenbach, Jr., Borough Clerk. Funds Requested: $88,762. Total Project Cost: $118,350. To activate a community cable channel that would serve South River, New Jersey.

File No. 3137CRN, State of New Jersey, Department of Education State Library, 2300 Stuyvesant Avenue CN 501, Trenton, NJ 08625. Signed by: Sam Cooperman, Commissioner of Education.

Funds Requested: $80,384. Total Project Cost: $115,964. To construct a radio reading service for the print handicapped using the aural subcarriers of UHF New Jersey television station WNJT in Trenton and WNJB in New Brunswick.

New Mexico

File No. 3245CTB, Regents of the University of New Mexico and Board of Education, City of Albuquerque, 1130 University Blvd., NE, Albuquerque, NM 87102. Signed by: Ivan Martinez, Manager Grants and Contracts. Funds Requested: $122,077. Total Project Cost: $162,770. To acquire and replace equipment necessary to operate and maintain KUME–TV in Albuquerque, NM. Also, project will re-institute translator in the Farmington, Herfano, and Bloomfield areas. Translators will replace service previously provided by San Juan Non-Profit TV.

File No. 3254RBC, Regents of Univ of New Mexico, 305 Onate Hall, Campus & Girard, Albuquerque, NM 87131. Signed by: Ivan Martinez, Manager, Contracts and Grants. Funds requested: $37,350. Total Project Cost: $49,800. To replace worn out origination equipment at KUNM–FM, Albuquerque. Station provides service to approximately 660,000 in northern and central NM. Station is only NPR/CPB qualified station in geographic area.

File No. 3089CRB, Northern New Mexico Community College, POB 250, US285 ½m. n/City Hall, Espanola, NM 87532. Signed by: Ted J. Trujillo, VP of Student Affairs & Inst Opr. Funds Requested: $45,723. Total Project Cost: $60,964. To extend the signals of KANW/KUNM, Albuquerque, by FM translator. Translator will provide first service to 20,000 in Espanola area. Project proposes local origination capability for translator. Station will serve Rio Arriba and Santa Fe counties.

File No. 3282CRB, Regents of New Mexico State University, Milton Hall, Room 120, Las Cruces, NM 88003. Signed by: John J. Monagle, Dir Arts & Science Research Cntr. Funds Requested: $18,950. Total Project Cost: $25,267. To extend the signal of KRWG–FM by translators in four NM cities. Alamogordo on 89.5, Silver City on 91.3, Lordsburg on 91.9, and Truth or Consequences on 91.9, will receive first public radio signals. Project will provide first service to 54,074 citizens.

File No. 3330CTB, Regents of New Mexico State University, Milton Hall, Room 110, Las Cruces, NM 88003. Signed by: Jane A. Youngers, Dir Office of Grants & Contracts. Funds Requested: $32,625. Total Project Cost: $43,500. To improve the efficiency of KRWG–TV, operating on Channel 22 in Las Cruces, NM. Project would purchase an energy-saving device for the UHF which would save $9,500 per year in electrical costs.

File No. 3010CRB, Ramah Navajo School Board, Inc., P.O. Box 18, Ramah, NM 87321. Signed by: Bennie Cohoe, Executive Director. Funds Requested: $295,506. Total Project Cost: $394,008. To expand the service of KTDB–FM in Ramah. Signal will extend into the Shiprock Agency in parts of NM, AZ, and UT. Service will be provided by translators with local origination. Translators will be connected via microwave.

File No. 3198CRB, Fine Arts Radio, Inc., 1010 San Lorenzo Drive, Santa Fe, NM 87501. Signed by: William Dunning, Project Director. Funds Requested: $121,347. Total Project Cost: $161,797. To extend signal of KUNM–FM by use of translators in Santa Fe and Los Alamos. Project would provide local origination capacity of FM translators. Stations would be connected by microwave relay. Project would provide first acceptable local services to area.

Nevada

File No. 3321PRTB, Rural Television System, Inc., 70 Artemisa, Reno, NV 89507. Signed by: Daniel J. Tone, Executive Director. Funds Requested: $328,000. Total Project Cost: $328,000. To plan for the establishment of first service public broadcasting in unserved rural areas of the western United States, including, but not only California, Nevada, Montana, Wyoming, and Minnesota. Project proposes to approach at least 40 rural communities.

New York

File No. 3160CRB, Genesee Community College, 1 College Road, Batavia, NY 14020. Signed by: Chuck Platt, Associate Professor. Funds Requested: $22,500. Total Project Cost: $30,000. To construct an FM radio station operating at 90.7 MHZ with a power of 534 watts to provide local program service to the community with an accent on student training.

File No. 3107CRB, UHURU Communications, Inc., POB 653 Westview Station, Binghamton, NY 13905. Signed by: Ashimba A. Tariq, President. Funds Requested: $113,951. Total Project Cost: $151,934. To construct a minority owned and operated radio station which will provide an alternate program service for Binghamton, Endicott, Johnson City, and Broome County, operating on 91.5 with a power of 1000 watts.

File No. 3197CRB, STETA, Inc., 1168 Conklin Road, Binghamton, NY 13902. Signed by: Michael J. Ziegler, President & General Manager. Funds Requested: $138,723. Total Project Cost: $184,965. To extend the radio signal of WSKG–FM via six translators in order to provide the first radio service to six of the unserved cities in the southern tier—Corning, Cortland, Watkins Glen, Ithaca, Mansfield, and Oneonta.

File No. 3076CRB, Sun Ship Communications, Inc., 763 Humboldt Parkway, Buffalo, NY 14208. Signed by: Clarence Smith, Chairman of the Board. Funds Requested: $300,000. Total Project Cost: $600,000. To construct a minority-owned AM radio station in Buffalo, operating on 820 KHZ with a daytime power of 50 KW and a nighttime power of 2.5 KW in order to provide minority focused educational and informational progams for the greater western New York area.

File No. 3041CRB, St. Lawrence University, Payson Hall, Canton, NY 13617. Signed by: James A. Arvidson, Director of Broadcasting. Funds Requested: $17,250. Total Project Cost: $24,750. To secure a new antenna with a power gain of 2.5 which is necessary in order for WSLU to get the 18 KW effective radiated power needed to provide the first radio signal to 120,000 people.

File No. 3313CRB, Boces #1 Monroe County, 41 O'Connor Road, Fairport, NY 14450. Signed by: Kenneth F. Harris, Superintendent. Funds Requested: $88,442. Total Project Cost: $117,923. To expand the transmitter power of WRHR–FM from 10 watts to 2500 watts and interconnect three high school production studios by a microwave system in order to provide a network of instructional programs for the Rochester area.

File No. 3018CRTB, The Public Broadcasting Council of Central New York, 506 Old Liverpool Road, Liverpool, NY 13088. Signed by: Richard W. Russell, President & General Manager. Funds Requested: $364,147. Total Project Cost: $485,530. To provide the first public radio signal for Utica and Watertown via repeater transmitters. To provide SCA receivers for Syracuse, Utica and Watertown, and replace three worn out video tape recorders.

File No. 3170CTN, Chinese Community TV Network, 22 East Broadway, New York, NY 10002. Signed by: Chung Lo, President. Funds Requested: $375,000. Total Project Cost: $500,000. To install 30 city blocks with an industrial-type cable system to provide 100,000 Asians in Chinatown with local programs and to improve the origination capability of the Chinese Community TV Network's production studio.

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File No. 3235CTB, Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019. Signed by: Charles S. Warren, Sr. VP, Chief Admin. Officer. Funds Requested: $453,750. Total Project Cost: $605,000. To replace worn out and obsolete local and national origination equipment essential to maintain and improve WNET's considerable program commitments.

File No. 3270PTN, Asian-Cine-Vision, Inc., 32 East Broadway, New York, NY 10002. Signed by: Peter Chow, Executive Director. Funds Requested: $46,410. Total Project Cost: $46,410. To plan the establishment of an Asian American Program Network by the development of a broadcast facility in New York and the most effective system for delivery of Asian programming to the target cities.

File No. 3295CTN, Hispanic Information & Telecomunications Network, 80 East 11th Street, New York, NY 10003. Signed by: Jose Luis Rodriguez, President. Funds Requested: $561,149. Total Project Cost: $748,199. To establish a complete production studio and microwave linkage to WNYE-TV for broadcast to the Western Union uplink satellite transponder for cable distribution in order to serve the communications needs of the Hispanic community in the Nation.

File No. 3134CTN, New York Institute of Technology, Wheatly Road, Old Westbury, NY 11568. Signed by: Mathew Schure, President. Funds Requested: $158,931. Total Project Cost: $211,910. To establish a microwave interconnect between New York Institute of Technology and cable systems in Manhattan and Nassau Counties, providing cultural and educational programs to meet the needs of minorities and women.

File No. 3285CTB, Northeast New York Public Telecommunications Council, Inc., PO Box 617, Plattsburgh, NY 12901. Signed by: Gerald K. Bates, President & General Manager. Funds Requested: $315,193. Total Project Cost: $420,258. To correct severe deficiencies in the signal coverage of WCFR-TV by replacing the antenna and RF exciter and replacing worn out and unreliable local origination equipment. The transmission upgrade will povide first service to 15,000 people in the Plattsburgh area.

File No. 318CTB, State University College at Potsdam, Pierrepont Avenue, Potsdam, NY 13676. Signed by: Dr. Cornelius Robbins, Acting President. Funds Requested: $124,215. Total Project Cost: $165,620. To establish a low-powered TV station at the State University College at Potsdam to provide local program service to the 18,000 residents in the community.

File No. 3094CTB, Rochester Area ETV Assoc., Inc., 280 State Street, Rochester, NY 14614. Signed by: William J. Pearce, President. Funds Requested: $330,000. Total Project Cost: $440,000. To provide an additional program service over cable designed to serve Rochester's 92,000 Black and Hispanic residents and to replace worn out production equipment.

File No. 3281CRB, Mohawk-Hudson Council on Educational TV Inc, P. O. Box 17, Schenectady, NY 12301. Signed by: Donald E. Schein, President. Funds Requested: $6,000. Total Project Cost: $8,000. To extend WMHT's radio information service for the print handicapped by securing an additional 100 SCA receivers.

Ohio

File No. 3185CTB, Ohio Univeristy Telecommunications Center, 9 S. College Street, Athens, OH 45701. Signed by: Ron Barr, Associate Provost. Funds Requested: $59,962. Total Project Cost: $79, 962.To upgrade the production capability of Ohio public TV stations WOUB, Channel 20, serving Athens and WOUC, Channel 44, serving Cambridge.

File No. 3122CTB, Bowling Green State University, Troup Avenue, Bowling Green, OH 43403. Signed by: Garrett T. Heberlein, Vice Provost for Research. Funds Requested: $755,514. Total Project Cost: $1,245,514. To increase ERP and replace transmitter of WGBU-TV which will provide first public TV service to 47,000 people in SE Michigan and NW Ohio.

File No. 3120CTB, The Ohio State University Telecommunications Center, 2400 Olentangy River Road, Columbus, OH 43210. Signed by: Dale K Ouzts, Director. Funds Requested: $1,024,072. Total Project Cost: $1,500,000. To replace transmitter and antenna of public TV station WOSU, Channel 34, serving Columbus, Ohio.

File No. 3106PRN, Miami Valley Radio Reading Service, Inc., Ste. 207 Roesch Library, Dayton, OH 45469. Signed by: Richard Dershem, Executive Director. Funds Requested: $20,000. Total Project Cost: $20,000. To establish a radio reading service to serve the print handicapped of Dayton, Ohio. Radio station WQRP-FM will supply both air time and use of subcarrier.

File No. 3178CTB, The Public Broadcasting Foundation of Northwest Ohio, P.O. Box 30, Toledo, OH 43692. Signed by: Robert D. Smith, President & General Manager. Funds Requested: $221,945. Total Project Cost: $296,945. To upgrade WGTE, a public TV station operating on Channel 30 and serving Toledo, Ohio, by replacing essential VTR units and editing system and acquiring state-of-the-art production equipment.

Oklahoma

File No. 3268CRB, University of Oklahoma, 780 Van Vleet Oval, Norman, OK 73019. Signed by: Taylor C. Anthony, Dir Office Research Admin. Funds Requested: $58,401. Total Project Cost: $77,868. To augment existing local origination facilities of KGOU-FM in Norman and provide a satellite earth terminal for greater flexibility of programming.

File No. 3339CRB, Carrie Williams Communication Foundation, Inc., Box 48538, Tulsa, OK 74106. Signed by: Gerald L. Davis, Chairman, Bd. of Directors. Funds Requested: $74,460. Total Project Cost: $99,280. To construct a minority owned and operated radio station, operating on 88.7 MHZ with a power of 3 KW in Tulsa.

Oregon

File No. 3133CRB, State of Oregon Acting by and through State Board of Higher Education, 1250 Siskiyou Blvd., Ashland, OR 97520. Signed by: Ernest E. Ettlich, Dean of Academic Affairs. Funds Requested: $30,906. Total Project Cost: $41,208. To extend the signal of KSOR-FM, operating on 90.1 MHZ from Ashland, OR, by translator to provide first public radio service to rural communities in northern California of Dunsmuir, McCloud and Mt. Shasta City, and to replace outdated equipment which prevents KSOR from providing adequate, quality service to its listeners.

File No. 3173PTN, Oregon Association of Hospitals Fdn., 220 S.W. Morrison, Portland, OR 97204. Signed by: Steven D. Berkshire, President. Funds Requested: $132,710. Total Project Cost: $132,710. To plan for a comprehensive broadcast system for the purpose of broadcasting health education to professionals and patients within hospitals and the community.

File No. 3174CRB, State of Oregon Acting by and through Oregon Commission on Public Broadcasting, 2828 SW Front Avenue, Portland, OR 97201. Signed by: Gerald L. Appy, Executive Director. Funds Requested: $183,000. Total Project Cost: $260,000. To upgrade and extend the signal of KOAP-FM, operating on 91.5 MHZ in Portland by replacing its transmitter and moving its antenna to a new tall tower (to be shared by KOAP-TV and other entities) which is being constructed at an antenna farm. This project will permit 300,000 additional persons to receive Oregon's flagship public radio station for the first time

File No. 3357CRB, KBOO Foundation, 20 S.E. 8th Avenue, Portland, OR 97214. Signed by: David F. Keyes, Treasurer. Funds Requested: $10,235. Total Project Cost: $13,647. To replace the antenna of public radio station KBOO-FM operating on 90.7 MHZ in Portland, OR, and provide a reliable, continuous signal to all listeners within the community.

Pennsylvania

File No. 3201, Bloomsburg State College, Main & Penn. Streets, Bloomsburg, PA 17815. Signed by: James H. McCormick, President. Funds Requested: $22,615. Total Project Cost: $30,154. To activate a cable access center based at Bloomsburg State College and serving the community of Bloomsburg, Pennsylvania.

File No. 3130CNBT, South Central Educational Broadcasting Council, 1982 Locust Lane, Harrisburg, PA 17109. Signed by: Dr. Robert Larson, President and General Manager. Funds Requested: $598,447. Total Project Cost: $797,929. To extend via translator the signal of WITF in Harrisburg, Pennsylvania, to unserved Franklin County, to improve the WITF signal received in Chambersburg, and to establish a narrowcasting telecommunication system of ITFS and cable.

File No. 3343CRB, Indiana University of Pennsylvania, 121 Stouffer Hall, Indiana, PA 15705. Signed by: Kurt P. Dudt, Assistant Professor. Funds Requested: $46,550. Total Project Cost: $64,733. To improve signal of public radio station WIUP serving Indiana, Pennsylvania.

File No. 3161CRB, Spanish American Civic Association, 545 Pershing Avenue, Lancaster, PA 17602. Signed by: Iris Macrae, President. Funds Requested: $35,595. Total Project Cost: $46,095. To activate a 100 watt public radio station which will provide first service to Lancaster and to the Hispanic community.

File No. 3093CTB, Metro. Pittsburgh Public Broadcasting, Inc., 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed by: Henry Enright, Assistant to the President. Funds Requested: $113,010. Total Project Cost: $150,680. To extend by translator the signal of public TV station WQED-TV, serving Pittsburgh, to the unserved area of Somerset, Pennsylvania.

File No. 3168CRB, Northeastern Pennsylvania Educational TV Association, Old Boston Road, Pittston, PA 18640. Signed by: Dr. John E. Walsh, President & General Manager. Funds Requested: $6,178. Total Project Cost: $8,238. To extend via translators the signal of public radio station WUIA-FM, currently serving the Pittston area, to the unserved community of Allentown, Pennsylvania.

File No. 3259CTN, Northeastern Pennsylvania Educational TV Association, Old Boston Road, Pittston, PA 18640. Signed by: John E. Walsh, President & General Manager. Funds Requested: $111,317. Total Project Cost: $148,423. To activate a regional narrowcast distribution network using ITFS to provide instructional, educational, and informational programming to the Scranton-Wilkes Barre, Pennsylvania area.

File No. 3289CTB, Pennsylvania State University, Wagner Annex, University Park, PA 16802. Signed by: Robert J. Scannell, VP, Dean Commonwealth Educ Syst. Funds Requested: $113,010. Total Project Cost: $150,680. To extend via translators, the signal of public televison station WPSX-TV to Bedford and Fulton Counties in Pennsylvania.

Puerto Rico

File No. 3085TBC, Ana G. Mendez Education Foundation, Caretera Estatal #176, POB E, Rio Piedras, RQ 00928. Signed by: Jose F. Mendez, President. Funds Requested: $449,167. Total Project Cost: $635,390. To activate a repeater noncommercial TV station on Channel 26, Jayuya, Puerto Rico, to serve the metropolitan area of Ponce and rural isolated communities near the mountains of that city with first service educational programming.

South Carolina

File No. 3064CRB, Barnwell School District 19, Pascallas Streets, Blackville, SC 29817. Signed by: Richard L. Huggins, Superintendent. Funds Requested: $36,148. Total Project Cost: $48,198. To establish a 100 watt FM station on 91.9 MHZ in Blackwell, SC. Station will be located in Blackwell High School and will provide first public signal to 30,000. Station will be staffed by volunteers and students.

File No. 3179CRB, South Carolina Educational TV Commission, 2712 Millwood Avenue, Columbia, SC 29205. Signed by: Henry J. Cauthen, President & General Manager. Funds Requested: $79,841. Total Project Cost: $106,455. To establish a new public FM radio station on 90.1 MHZ in Conway which will provide first public and institutional radio service to 153,498 people. Station will serve Georgetown, Horry and Marion Counties. The station will initially repeat the SCETV signal from Columbia.

File No. 3182CRB, South Carolina Educational TV Commission, 2712 Millwood Avenue, Columbia, SC 29250. Signed by: Henry J. Cauthen, President & General Manager. Funds Requested: $112,004. Total Project Cost: $149,339. To establish a new public FM radio station on 91.7 MHZ in Greenwood which will provide first public and institutional radio services to 105,000 people. Station will serve Abbeville, Greenwood and Newberry Counties. The station will initially repeat the SCETV signal from Columbia.

South Dakota

File No. 3117CRB, South Dakota Educational TV Board, 310 E. Clark Street, Vermillion, SD 57069. Signed by: Martin P. Busch, Excutive Director. Funds Requested: $88,399. Total Project Cost: $118,285. To construct a public radio station near Reliance, SD, to operate on 91.1 MHZ and provide first public radio programming to approximately 52,000 residents.

File NO. 3136CRB, South Dakota Educational TV Board, 310 E. Clark Street, Vermillion SD 57069. Signed by: Martin P. Busch, Executive Director. Funds Requested: $46,308. Total Project. Cost: $61,745. To construct a public radio station at Rapid City, SD, to operate on 90.5 MHZ and provide first public radio programming service to approximately 72,000 residents of western South Dakota.

Tennessee

File No. 3324CRB, Southern Missionary College, PO Box 670, Collegedale, TN 37315. Signed by: Richard Reiner, Business Manager. Funds Requested: $30,461. Total Project Cost: $40,615. To improve and upgrade the studio production equipment for WSMC-FM in Collegedale, which provides program service for the Chattanooga area.

File No. 3090CTN, Kingsport City School System, 1800 Legion Drive, Kingsport, TN 37664. Signed by: Dr. Ralph E. Evans, Superintendent. Funds Requested: $191,520. Total Project Cost: $296,153. To construct two ITFS systems, one at Kingsport and one at Johnson City along with a multi-cable distribution system in order to produce and transmit a continuing series of educational TV programs.

File No. 3224CTB, Tennessee State Board of Education, 209 Communications Bldg., Knoxville, TN 37916. Signed by: Dr. Robert L. McElrath, Commissioner on Education. Funds Requested: $475,252. Total Project Cost: $661,299. To replace a worn out, unreliable TV transmitter for WSJK, Channel 2, and thereby improve the quality and overall reliability of the signal delivery throughout the station's service area of Knoxville and the tri-

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cities of Kingsport, Bristol, and Johnson City.

File No. 3097CRB, Memphis Community TV Foundation Box 80000, Memphis, TN 38512. Signed by: Howard D. Holst, Treasurer. Funds Requested: $56,520. Total Project Cost: $84,770. To increase WKNO's effective radiated power to 100 KW by securing a new antenna and thereby bring the first radio signal to 40,200 people.

File No. 3296CRB, Radio Free Broadcasting, 156 Drakes Lane, Summertown, TN 38483. Signed by: Jeffrey Keating, Station Manager. Funds Requested: $25,087. Total Project Cost: $33,450. To extend the coverage of WUTZ–FM in Summertown by expanding the transmitter power from 10 W to 300 W and improve local origination capability. WUTZ is in the 1M/V per meter coverage radius of WUOT–FM, 100,000 W in Knoxville.

Texas

File No. 3329PTNP, Southwest Center for Educational TV, 7703 N. Lamar Blvd., Suite 500, Austin, TX 78752. Signed by: Louis Barbash, General Manager. Funds Requested: $24,890. Total Project Cost: $24,890. To plan for a national cable network that will offer programming of special interest to ethnic groups. Project will survey the interest in ethnic programming and evaluate the means of electronic dissemination.

File No. 3119TNP, Navarro College, 4200 West Highway 31, Corsicana, TX 75110. Signed by: Kenneth P. Walker, President. Funds Requested: $22,818. Total Project Coast: $22,818. To plan the design of video-based interactive telecommunications system between the main campus in Corsicana and the distant educational centers. Educational centers are located in Waxahachie, Ennis, and Mexia. Project would benefit 3,000 people.

File No. 3163CRB, Public Comm Foundation for North Texas, 3000 Harvey Hines Blvd., Dallas, TX 75201. Signed by: Richard J. Meyer, President. Funds Requested: $283,849. Total Project Cost: $378,466. To extend and improve the signal of KERA–FM on 90.1 MHZ in Dallas. Project would increase power and replace worn out equipment. Station will serve north central Texas including Dallas and Forth Worth.

File No. 3063CTB, El Paso Public TV Foundation, P.O. Box 146, El Paso, TX 79942. Signed by: Dr. William R. Williams, Chairman. Funds Requested: $131,064. Total Project Cost: $174,752. To improve the signal of KCOS–TV in El Paso. Project proposes to replace worn out equipment.

File No. 3036CRB, University of Houston, 4600 Gulf Freeway, Suite 500, Houston TX 77023. Signed by: Dr. Robert C. Maxson, Sr. V.P. Academic Affairs. Funds Requested: $153,937. Total Project Cost: $205,250. To extend the signal of noncommercial radio station, KUHF, in Houston. Project will provide first public radio signal to 90,771. KUHF proposes to relocate transmitter and increase antenna height.

File No. 3309CTB, Central Texas College, Highway 190 West, Killeen, TX 76542. Signed by: Marjory I. Crane, Deputy Chancellor for Contracts. Funds Requested: $175,062. Total Project Cost: $233,417. To improve the facilities of KNCT–TV in Killeen. Proposal would replace worn out TV equipment. Station provides only service to approximately 480,000 in central Texas.

File No. 3193CTB, Odessa Jr. College District, 201 West University, Odessa, TX 79762. Signed by: Phillip T. Speegle, President. Funds Requested: $409,275. Total Project Cost: $545,700. To activate new nonncommercial TV station on Channel 36 in Odessa, which will serve 305,000 in Ector, Midland and Andrews Counties.

Utah

File No. 3057CRTBN, University of Utah, Media Services Department, 204 James Talmage Building, Salt Lake City, UT 84112. Signed by: James J. Brophy, Vice President for Research. Funds Requested: $1,878,633. Total Project Cost: $2,504,884.To extend the signal of KUSU–FM with two FM translators to serve the Uintah Basin area. To interconnect via microwave the cities of Park City, Coalville, Herber, Roosevelt, Vernal and Manila with existing state systems, to acquire production equipment for Snow College in Ephriam, to replace KUER–FM's transmitter and antenna, and to upgrade KUED–TV production capability.

Virginia

File No. 3289TBNP, Northern Virginia Community College, 8333 Little River Turnpike, Annandale, VA 22003. Signed by: Richard J. Ernst, President. Funds Requested: $76,079. Total Project Cost: $117,289. To plan for the increased utilization of existing telecommunications resources in northern Virginia.

File No. 3102CTB, Shenandoah Valley Educational TV Corp., Port Republic Road, Harrisonburg, VA 22801. Signed by: Richard L. Parker, Exec. VP/General Manager. Funds Requested: $145,325. Total Project Cost: $193,834. To replace obsolete translator in Luary, and also increase station coverage to unserved communities. To replace worn out production equipment.

File No. 3131CRB, Hampton Roads Educational Telecommunications Assoc., Inc., 5200 Hampton Blvd., Norfork, VA 23508. Signed by: John R. Morison, President and General Manager. Funds Requested: $109,252. Total Project Cost: $145,670. To replace worn out and obsolete transmission, origination, and interconnection equipment to provide quality service to greater Norfolk community.

File No. 3135CTB, Hampton Roads Educational telecommuinications Association, Inc., 5200 Hampton Boulevard, Norfolk, VA 235508. Signed by: John R. Morison, President and General Manager. Funds Requested: $747,387. Total Project Cost: $996,515. To replace worn out and obsolete production equipment and to complete transmitter efficiency project, both of which will strengthen the quality of service to greater Norfolk community.

File No. 3048PTN, Viriginia Commonwealth University, 1015 W. Main St., 4052 Oliver H1., Richmond, VA 23284. Signed by: Herbert B. Chermside, Dir. of Spon. Program Admin.. Funds Requested: $63,448. Total Project Cost: $63,448. To plan for the most feasible interconnection of adult education programs nationwide using modern telecommunications. Project intended to service nation's illiterate population.

File No. 3083TNC, Richmond Public Schools, 301 N. Ninth Street, Richmond, VA 23219. Signed by: Dr. James W. Tyler, Deputy Superintendent. Funds Requested: $320,205. Total Project Cost: $426,900. To extend current ITFS in Richmond with the addition of two more channels and necessary production equipment for servicing overall Richmond community.

File No. 3311TNC, Central Virginia Educational TV Corp., 22 Sesame Street/PO Box 23, Richmond, VA 232235. Signed by: Richard E. Hall, Vice President/Broadcasting. Funds Requested: $175,123. Total Project Cost: $233,498. To establish instructional television services for higher educational offerings as well as to connect with other existing ITFS at the local level.

File No. 3146TNC, National University of the Air, Inc., 1118 Ironbound Road, Williamsburg, VA 23185. Signed by: John A. Curtis, Chairman of the Board. Funds Requested: $1,182,870. Total Project Cost: $1,577,160. To expand the educational, medical, and social services telecommunications network in Tidewater, Virginia, Atlanta, Georgia, Washington, D.C, and other cities by purchasing dissemination and origination equipment.

Virgin Islands

File No. 3095CTB,Virgin Islands Public Television System, 8A Ross Estate/ Barbel Plaza S., Charlotte Amalie, VQ 00801. Signed by: Orville Kean, Board Chairman. Funds Requested: $299,978. Total Project Cost: $399,978. To replace essential broadcast dissemination facilities and improve origination equipment of public television station WTJX, Channel 12, Virgin Islands Public TV system, Charlotte Amalie, U.S. Virgin Islands to provide program services to the islands of St. John, St. Croix and St. Thomas.

Washington

File No. 3214CRB, Public Radio for Okanogan Valley, RTE 2, Klein Apts., No. 3, Okanogan, WA 98840. Signed by: John Wilson, President. Funds Requested: $4,481. Total Project Cost: $5,975. To extend the signal of KPBX–FM, Spokane, WA, by translator on Omak Mtn. to bring first public radio programming to residents of central Okanogan Valley including a portion of the Colville Indian Reservation.

File No. 3195PRB, Seattle Public Library, 1000 4th Avenue, Seattle, WA 98104. Signed by: Ronald A. Dubberly, City Librarian. Funds Requested: $35,773. Total Project Cost: $35,773. To plan for statewide accessibility of radio reading services designed for individuals who cannot read because of visual or physical handicaps. Such service is currently limited to 1,300 recipients in the greater Seattle area from transmission via the SCA of KUOW–FM licensed to the University of Washington.

File No. 3246CRB, University of Washington, 325 Communications Bldg., Seattle, WA 98195. Signed by: Donald R. Baldwin, Director, Grant Services. Funds Requested: $148,455. Total Project Cost: $197,940. To upgrade and replace the transmission facilities of public radio station KUOW–FM to assure continued service to 80,000 persons and first service to 85,000 persons within Seattle by overcoming limitations of obsolete equipment and hilly terrain, more reliable signals to the Bellevue-Redmond area, and establishment of a solid signal for future expansion of public radio to unserved northwestern Washington communities by translators and a repeater station.

File No. 3158CRB, Pacific Lutheran University, Inc., P.O. Box 2068, Tacoma, WA 98447. Signed by: William O. Rieke, President. Funds Requested: $55,011. Total Project Cost: $73,349. To extend the signal of KPLU–FM, operating on 88.5 MHZ at Tacoma, by translators to reach unserved communities in southwest Washington encompassing the Counties of Grays Harbor, Pacific, Wahkiakum, Lewis, Cowlits as well as parts of Clark.

Wisconsin

File No. 3032CTN, Lakeshore Technical Institute, 1290 North Avenue, Cleveland, WI 53015. Signed by: Frederick J. Nierode, District Director. Funds Requested: $34,800. Total Project Cost: $46,500. To provide the first local public telecommunications service (videotex) for the predominantly rural population of 120,000 and to upgrade worn out production equipment.

File No. 3158CTB, State of Wisconsin Education Communications Board, 732 N. Midvale Blvd., Madison, WI 53705. Signed by: Viggo Rasmusen, Chairperson. Funds Requested: $155,175. Total Project Cost: $206,900. To expand the state educational TV system to provide the network service to the unserved areas of Florence and Adams Counties via translators.

West Virginia

File No. 3088CRB, West Virginia Educational Broadcasting Authority, B424 Bldg., Six State Capitol, Charleston, WV 25305. Signed by: Presley D. Holmes, Executive Director. Funds Requested: $596,466. Total Project Cost: $1,020,016. To construct three FM public radio stations serving Parkersburg, Keyser, and Martinsburg, WV and a microwave system which will distribute from Charleston to the new station a radio reading service. The microwave system will also interconnect three West Virginia public TV stations.

File No. 3139CRB, Kanawha Economic Development Corp., One Bruce Street, Institute, WV 25112. Signed by: Robert T. Lipscomb, President. Funds Requested: $109,034. Total Project Cost: $145,366. To activate a job training program in conjunction with a previously funded public radio station to operate on 90.9 in Institute, West Virginia.

Wyoming

File No. 3143PRB, University of Wyoming, Box 3984 University Station, Laramie, WY 82071. Signed by: Durward Long, Acting Vice President/Finance. Funds Requested: $24,500. Total Project Cost: $24,500. To study the feasibility of and ways and means to extend the educational and cultural resources of the University of Wyoming to all areas of the State by means of telecommunications including noncommercial radio and television.

File No. 3316PRB, Big Horn Basin Foundation for Public Broadcasting, 864 Lane 11½, Powell, WY 82435. Signed by: Paul D. Friend, Registered Agent. Funds Requested: $24,436. Total Project Cost: $27,936. To plan for a noncommercial radio station which will bring a first public radio signal to nearly 24,000 residents of the Big Horn Basin, primarily Park County and the northwestern portion of Big Horn County.

File No. 3016CRB, Goshen Public Radio Committee, 215 E. 21st Street, Torrington, WY 82240. Signed by: Robert Heyl, Chairman. Funds Requested: $6,000. Total Project Cost: $8,000. To extend by translator the signal of KUWR–FM, Laramie, WY, to bring first public radio service to the residents of Torrington, WY.

Deferred List of Applications Submitted to PTFP for Fiscal Year 1983

Arizona

New file no. 3336CTB; old file no. 2030; Case Grande Union High School, Case Grande.

New file no. 3144CTB; old file no. 2362; University of Arizona Board of Regents, Tucson.

California

New file no. 3206CTN; old file no. 2340; California State University, Carson.

New file no. 3188PTN; old file no. 2273; Imperial County Office of Educ, El Centro.

New file no. 3003PTN; old file no. 2067; Deaf Informed Communications Resource Center, Fremont.

New file no. 3304CRB; old file no. 2302; International Institute of Los Angeles, Los Angeles.

New file no. 3194CTN; old file no. 2200; Peralta Community College District, Oakland.

New file no. 3054CTB; old file no. 2106; Black TV Workshop of Los Angeles, Inc., Pacoima.

New file no. 3267CTB; old file no. 2096; Central California Educational TV Inc., Sacramento.

Colorado

New file no. 3079CTB; old file no. 2154; Gunnison Metropolitan Recreation Dist., Gunnison.

New file no. 3211CRB; old file no. 2070; Five County Public Telecommunications NRP Project, Lake George.

New file no. 3276CTB; old file no. 2076; County of San Miguel, Telluride.

Connecticut

New file no. 3047PTN; old file no. 2040; Cmty Renewal Team of Greater Hartford, Hartford.

New file no. 3099CTB; old file no. 2158; Connecticut Educational Telecommunications Corp., Hartford.

New file no. 3100CTN; old file no. 2150; Connecticut Educational Telecommunications Corp., Hartford.

New file no. 3203PTN; old file no. 2059; City of New Britain, New Britain.

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Washington, DC

New file no. 3006CTB; old file no. 2057; Greater Washington Educational Tel. Association, Washington.
New file no. 3066CTB; old file no. 2009; Howard University, Washington.
New file no. 3082CRB; old file no. 2179; Pacifica Foundation, Inc. Washington.

Florida

New file no. 3020PRTBN; old file no. 2224; Brevard Community College, Cocoa.
New file no. 3031PRTB; old file no. 2038; School Board of Broward County, Ft. Lauderdale.
New file no. 3354CRB; old file no. 2045; Broward Public Radio Assoc., Inc. Ft. Lauderdale.
New file no. 3299PRN; old file no. 2189; Latinos in Public Radio in Florida, Inc., Lake Worth.
New file no. 3169CRB; old file no. 2216; School Board of Dade County, Miami.
New file no. 3217CTB; old file no. 2093; Community TV Foundation of South Florida, Inc., Miami.
New file no. 3229CTN; old file no. 2260; School Board of Marion County, Ocala.
New file no. 3164CTB; old file no. 2242; Community Communications, Inc., Orlando.
New file no. 3306CRB; old file no. 2297; Florida A&M University, Tallahassee.
New file no. 3028CTB; old file no. 2335; Univ. of South Florida, Tampa.
New file no. 3029CTB; old file no. 2336; Univ. of South Florida, Tampa.
New file no. 3221CRB; old file no. 2160; Nathan B. Stubblefield Foundation., Tampa.
New file no. 3230CTB; old file no. 2133; Florida West Coast Public Broadcasting, Inc. Tampa.

Iowa

New file no. 3280PTB; old file no. 2065; Northern Trails Area Education Agency, Clear Lake.
New file no. 3349CRB; old file no. 2341; Urban Community Broadcasting, Des Moines.

Idaho

New file no. 3012CRTB; old file no. 2328; State Board of Education, Boise.

Illinois

New file no. 3002CTB; old file no. 2043; Chicago Educational TV Association, Chicago.

Indiana

New file no. 3305CTN; old file no. 2245; Northwest Indiana Public Broadcasting, Highland.
New file no. 3034CTB; old file no. 2036; Metro. Indianapolis TV Association, Inc, Indianapolis.
New file no. 3037CTN; old file no. 2284; City of Lake Station, Lake Station.

Kansas

New file no. 3356CTB; old file no. 2168; Johnson County Community College, Overland Park.
New file no. 3191CTB; old file no. 2027; Washburn Univ. of Topeka, Topeka.

Massachusetts

New file no. 3322PTNB; old file no. 2203; Emerson College, Boston.
New file no. 3257CTN; old file no. 2249; Clarke School for the Deaf, Northampton.

Maryland

New file no. 3258CRB; old file no. 2016; John Hopkins University, Baltimore.

Maine

New file no. 3204PTN; old file no. 2233; Medical Care Development, Inc., Augusta.

Michigan

New file no. 3109CTB; old file no. 2014; Grand Valley State College, Allendale.
New file no. 3110CRB; old file no. 2015; Grand Valley State College, Allendale.
New file no. 3196PTN; old file no. 2221; Bay De Noc Community College, Escanaba.
New file no. 3105CRB; old file no. 2046; Central Michigan University Public Broadcasting, Mt. Pleasant.
New file no. 3026CRB; old file no. 2109; Delta College, University Ctr.

Minnesota

New file no. 3019CRB; old file no. 2129; Minnesota Public Radio, Inc., St. Paul.

Missouri

New file no. 3301CRB; old file no. 2278; Mid-Coast Radio Project, Inc., Kansas City.
New file no. 3153CTB; old file no. 2301; Double Helix Corp., St. Louis.
New file no. 3347CRN; old file no. 2299; Missouri Federation of the Blind, St. Louis.

Montana

New file no. 3342CTB; old file no. 2135; Blaine County Public TV, Inc., Chinook.

North Carolina

New file no. 3007CRTBN; old file no. 2120; North Carolina Agency for Public Telecommunications, Raleigh.
New file no. 3023CRB; old file no. 2020; Friends of Public Radio, Wilmington.

New Mexico

New file no. 3344CRB; old file no. 2333; Eastern New Mexico University, Portales.

Nevada

New file no. 3341CTB; old file no. 2146; Channel 5 Public Broadcasting, Inc., Reno.

New York

New file no. 3004CTN; old file no. 2008; Columbia Greene Community College, Hudson.
New File no. 3036PTB; old file no. 2343; Graduate School & University Center, CUNY, New York.
New file no. 3115CRN; old file no. 2355; The Radio Foundation, Inc., New York.
New file no. 3350PRB; old file no. 2298; American Foundation for the Blind, New York.
New file no. 3172CTB; old file no. 2112; Mohawk-Hudson Council Educational TV, Schenectady.

Ohio

New file no. 3136CTN; old file no. 2105; University of Akron TV Production Center, Akron.
New file no. 3125CTN; old file no. 2013; Bowling Green State University, Bowling Green.
New file no. 3027CTB; old file no. 2019; Greater Cincinnati TV Educational Foundation, Cincinnati.
New file no. 3078PTN; old file no. 2357; Russell-Robinson Comm. Serv. Inc., Columbus.
New file no. 3190CRB; old file no. 2184; Dayton Public Radio, Inc., Dayton.
New file no. 3233CTB; old file no. 2117; Greater Dayton Public TV, Inc., Dayton.
New file no. 3323CRB; old file no. 2062; Toledo Board of Education, Toledo.

Oregon

New file no. 3207CTN; old file no. 2094; Lane Community College, Eugene.

Pennsylvania

New file no. 3351CRB; old file no. 2287; Solebury School, New Hope.
New file no. 3312CRB; old file no. 2161; Temple University, Philadelphia.
New file no. 3111CRB; old file no. 2234; Metro Pittsburgh Public Broadcasting, Pittsburgh.
New file no. 3141 CTB; old file no. 2296; Metro. Pittsbugh Public Broadcasting, Pittsburgh.
New file no. 3273CRB; old file no. 2290; Pittsburgh Comm. Brdcstg. Corp., Pittsburgh.
New file no. 3332CTN; old file no. 2286; Borough of Pottstown, Pottstown.

Puerto Rico

New file no. 3052CRB; old file no. 2055; Catholic University of Puerto Rico Asn, Ponce.

Tennessee

New file no. 3290CRB; old file no. 2322; University of Tennessee, Chattanooga.

Texas

New file no. 3049CRB; old file no. 2025; South Texas Public Broadcasting System, Corpus Christi.
New file no. 3050CRB; old file no. 2024; South Texas Public Broadcasting System, Corpus Christi.

New file no. 3065CTB; old file no. 2028; South Texas Public Broadcasting System, Corpus Christi.
New file no. 3180CTB; old file no. 2342; Public Communications Foundation for North TX, Dallas.
New file no. 3352CRB; old file no. 2229; North Texas Reading Service, Inc., Dallas
New file no. 3039CTB; old file no. 2152; Denton Channel Two Fdn., Inc., Denton.
New file no. 3318CRB; old file no. 2149; ETCOM, Inc., El Paso.
New file no. 3056CTN; old file no. 2194; Region IV Educational Service Center, Houston.
New file no. 3315CBR; old file no. 2326; Texarkana Community College, Texarkana.

Virginia

New file no. 3255CTN; old file no. 2054; Center for Excellence, Inc., Williamsburg.

Vermont

New file no. 3162CTB; old file no. 2163; University of Vermont, Winooski.

West Virginia

New file no. 3249CRB; old file no. 2191; Trustees of Bethany College, Bethany.

Wyoming

New file no. 3021CRTB; old file no. 2139; Casper Community College District, Casper.
New file no. 3024CTB; old file no. 2276; Western Wyoming Community College, Rock Springs.

[FR Doc. 83-12380 Filed 5-9-83; 8:45 am]
BILLING CODE 3510-60-M

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federal register

Tuesday
May 10, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 886]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 4, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

Issued May 4, 1983

VOLUME 886

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:	04/12/83	JA: MT			
8331862	2-82-52	2509121428		103		ANDERSON #1-34	WILDCAT	15.0	PHILLIPS PETROLEU
8331860	2-82-51	2509121428		102-2		ANDERSON #1-34	WILDCAT	15.0	PHILLIPS PETROLEU
-CRESCENT PETROLEUM CORP				RECEIVED:	04/12/83	JA: MT			
8331858	2-82-49	2510122055		103		ADDRE MALONE #1 T33N R1W SEC 10	OLD SHELBY	36.5	OPTEK INC
8331861	2-82-48	2510122019		103		MONTANA POWER #1 T32N R1W	OLD SHELBY	91.3	OPTEK INC
8331859	2-82-47	2510122145		103		WEXPRO-WILLIAMS #1 T33N R1W	OLD SHELBY	36.5	OPTEK INC
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALLEN M ANDERSON				RECEIVED:	04/13/83	JA: OH			
8331863		3416727301	D	107-TF		DENNIS NOLAND #1	WARREN	10.0	
8331864		3416727304	D	107-TF		HEISS BROTHERS INC #3	MUSKINGUM	10.0	
-ALTEX INC				RECEIVED:	04/13/83	JA: OH			
8331865		3404520834		103		D ENGLE ETAL #1A	RUSH CREEK TOWNSHIP	2.0	
-ATLAS ENERGY GROUP INC				RECEIVED:	04/13/83	JA: OH			
8331866		3415522030		103	107-TF	SIELKO UNIT #1	BAZETTA	0.0	COLUMBIA GAS TRAN
8331867		3415522043		103	107-TF	WOLFORD STEFAN UNIT #1	BROOKFIELD	11.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	04/13/83	JA: OH			
8331868		3403124969		107-TF		LOVER ETAL #2	CLARK	15.0	
-BERMAN J SHAFER				RECEIVED:	04/13/83	JA: OH			
8331869		3410323178		107-TF		BARNES #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
8331870		3415321165		107-TF		RYDA-FRENCH UNIT #1	FAIR	7.5	EAST OHIO GAS CO
-C T DRILLING CORP				RECEIVED:	04/13/83	JA: OH			
8331868		3416774200		103		WEST ROCKOIL #2	LUDLOW	22.5	RIVER GAS CO
-CANECO RESOURCES CORP				RECEIVED:	04/13/83	JA: OH			
8331873		3416923337		107-TF		HERSHBERGER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8331874		3416923352		107-TF		HERSHBERGER #2	WILDCAT	0.0	COLUMBIA GAS TRAN
8331871		3416923331		107-TF		STEINER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8331872		3416923332		107-TF		STEINER #2	WILDCAT	0.0	COLUMBIA GAS TRAN
-CENTRAL ENERGY CO INC				RECEIVED:	04/13/83	JA: OH			
8331783		3411926099		107-TF		HINDEL #1	IRISH RIDGE	6.0	NATIONAL GAS & OI
-CHANSE PETROLEUM CORPORATION				RECEIVED	04/13/83	JA: OH			
8331876		3400721490		107-TF		A C & G P JEROME #3	NEW LYME	4.5	EAST OHIO GAS CO
8331881		3400721779		107-TF		A C & G P JEROME #4	NEW LYME	4.5	EAST OHIO GAS CO
8331882		3400721781		107-TF		A C & G P JEROME #5	NEW LYME	4.0	EAST OHIO GAS CO
8331880		3400721767		107-TF		H & M ARENDT #1	LENOX	3.1	EAST OHIO GAS CO
8331877		3400721494		107-TF		JAMES & WILMA HAMILTON #3	LENOX	3.4	EAST OHIO GAS CO
8331875		3400721496		107-TF		JENNIE FETTERS #1	LENOX	3.6	EAST OHIO GAS CO
8331879		3400721755		107-TF		JOSEPH & J MCINTOSH #1	DORSET	1.3	EAST OHIO GAS CO
8331878		3400721524		107-TF		STANLEY & VERONICA SCHOSSLER #1	NEW LYME	4.0	EAST OHIO GAS CO
-CLARENCE SHERMAN				RECEIVED:	04/13/83	JA: OH			
8331834		3407523926		103	107-TF	L & B MILLER #1	JEFFERSON		
-COASTAL PETROLEUM CORP				RECEIVED:	04/13/83	JA: OH			
8331885		3410323662		107-TF		BEITZ-CURTIS #1	CLARK	638.7	COLUMBIA GAS TRAN
8331886		3410323010		107-TF		STILES #1	SHARON	9.0	COLUMBIA GAS TRAN
							SHARON	9.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	04/13/83	JA: OH			
8331887B		3416727315	D	107-TF		SCHWENDEMAN #2	WARREN	5.5	RIVER GAS CO
8331887A		3416727315		103		SCHWENDEMAN #2	WARREN	5.5	RIVER GAS CO
-DAVID SHAFER OIL PRODUCERS INC				RECEIVED:	04/13/83	JA: OH			
8331895		3415321311		107-TF		FIRESTONE #5-F	BATH	7.5	EAST OHIO GAS CO
8331893		3415320948		107-TF		R C FIRESTONE #1-D	BATH	7.5	EAST OHIO GAS CO
8331898		3415320938		107-TF		R C FIRESTONE #2-C	BATH	10.0	EAST OHIO GAS CO
8331891		3415320940		107-TF		R C FIRESTONE #4-C	BATH	7.5	EAST OHIO GAS CO
8331894		3415320951		107-TF		R C FIRESTONE #4-D	BATH	7.5	EAST OHIO GAS CO
8331892		3415320941		107-TF		R C FIRESTONE #5-C	BATH	7.5	EAST OHIO GAS CO
-DELRAY DRILLING INC				RECEIVED:	04/13/83	JA: OH			
8331889		3408924570		103		BAILEY 1-B	FALLSBURG	0.0	COLUMBIA GAS TRAN
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED:	04/13/83	JA: OH			
8331896		3411522970		103	107-TF	DONALD LAWRENCE #1	CENTER	20.0	
8331900		3411522974		103	107-TF	F & R SILVUS UNIT #2	CENTER	25.0	
8331899		3411522973		103	107-TF	JOHN WAGNER #1	CENTER	25.0	
8331898		3411522972		103	107-TF	MARY MILLER UNIT #1	CENTER	25.0	
8331901		3411523121		103	107-TF	SILVUS ESTATE #2	CENTER	25.0	
8331897		3411522971		103	107-TF	WILLIAM MOORE #1	CENTER	50.0	
-EDWARD E ATHA				RECEIVED:	04/13/83	JA: OH			
8331902		3400922585		107-TF		HERBERT PARSONS #1	CARTHAGE	2.0	
-EVERFLOW EASTERN INC				RECEIVED:	04/13/83	JA: OH			
8331904B		3415723803	D	107-TF		SIEGEL #1	WARREN	0.0	
8331904A		3415723803		103		SIEGEL #1	WARREN	0.0	
8331903B		3415123799	D	107-TF		SUTTON #1	OSNABURG	0.0	
8331903A		3415123799		103		SUTTON #1	OSNABURG	0.0	
-FREDERICK PETROLEUM CORP				RECEIVED:	04/13/83	JA: OH			
8331905		3416727378		107-TF		R MCATEE #5	AURELIUS	73.0	
-GASEARCH INC				RECEIVED:	04/13/83	JA: OH			
8331906		3415522061		103	107-TF	TADLA #1	MESOPOTAMIA	20.0	
-GNC ENERGY CORP				RECEIVED:	04/13/83	JA: OH			
8331907		3411522418		107-TF		HAROLD DOH & LINDA DRAKE "A" #1	RINGGOLD	15.0	
8331909		3411522622		107-TF		KENNETH & ANITA BENJAMIN #1	PENN	15.0	COLUMBIA GAS TRAN
8331908		3411522481		107-TF		MYRON & MARY JANES "A" #1	PENN	15.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	04/13/83	JA: OH			
8331910		3411522343		107-TF		BEULAH COMSTOCK #1	UNION	10.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	04/13/83	JA: OH			
8331913		3405328190		107-TF		MALCOLM & ROMA HARD #2	CHESHIRE	8.0	COLUMBIA GAS TRAN
-JAMES R SMAIL				RECEIVED:	04/13/83	JA: OH			
8331911		3416923360		107-TF		SAIF #1	CLINTON	35.0	COLUMBIA GAS TRAN
-JANCO WELL OPERATIONS LTD #2-3				RECEIVED:	04/13/83	JA: OH			
8331912		3415522278		107-TF		MARJORIE JONES	FARMINGTON	500.0	EAST OHIO GAS CO
-JONSU OIL CORP				RECEIVED:	04/13/83	JA: OH			
8331914		3403124555		103		MILEMAN #1	MONROE	5.0	NATIONAL GAS & OI
8331915		3403124903		103		MCGINNIS #2	MONROE	4.0	NATIONAL GAS & OI
8331916		3408924559		103		WILLIAMS #1	BOWLING GREEN	5.0	NATIONAL GAS & OI
-K S T OIL & GAS CO INC				RECEIVED:	04/13/83	JA: OH			
8331921		3415321116		103	107-TF	CLARK-BATH #1	BATH	36.0	YANKEE RESOURCES
8331923		3415321167		103	107-TF	ELIAS #2	NORTHAMPTON	35.0	YANKEE RESOURCES
8331924		3415321168		103	107-TF	ELIAS #3	NORTHAMPTON	38.0	YANKEE RESOURCES
8331925		3415321169		103	107-TF	ELIAS #4	NORTHAMPTON	40.0	YANKEE RESOURCES
8331926		3415321218		103	107-TF	ELLETT #1	HUDSON	40.0	YANKEE RESOURCES
8331919		3415321026		103	107-TF	GRIMM #1	RICHFIELD	40.0	YANKEE RESOURCES
8331920		3415321027		103	107-TF	GRIMM #2	RICHFIELD	30.0	YANKEE RESOURCES
8331927		3415321298		103	107-TF	HARVEY #1	BATH	35.0	YANKEE RESOURCES
8331922		3415321118		103	107-TF	LONG-PRICE #1	BATH	39.0	YANKEE RESOURCES
8331918		3409921236		103	107-TF	MARTIG #2	GOSHEN	30.0	YANKEE RESOURCES
-KAISER ENERGY INC				RECEIVED:	04/13/83	JA: OH			
8331917		3403120411		103		MARY BYWATERS KEM #204	SALINE	13.0	
-L & M PETROLEUM INC				RECEIVED:	04/13/83	JA: OH			
8331947		3412725752		107-TF		ROBERT FOWLE #1	SALT LICK	10.0	
-LEADER EQUITIES INC				RECEIVED:	04/13/83	JA: OH			
8331928		3403124938		103	107-TF	MCNELL #2	WASHINGTON	12.0	
8331929		3411926580		103	107-TF	RUTH WRIGHT #1	JEFFERSON	14.0	
-LESLIE OIL & GAS CO INC				RECEIVED:	04/13/83	JA: OH			
8331940		3415723038		107-TF		BOMBER DONEY UNIT #1	DOVER	20.0	YANKEE RESOURCES
8331938		3415723018		103		CLARK LONG UNIT #1		20.0	EAST OHIO GAS CO
8331943		3415723156		108		E SIMMERMAN #1		20.0	EAST OHIO GAS CO
8331944		3415723161		108		ENOS YODER #1		20.0	EAST OHIO GAS CO
8331939		3415723036		107-TF		EVERETT #1	GOSHEN	20.0	YANKEE RESOURCES
8331934		3415722820		108		FRED FREDERICKS #2		20.0	EAST OHIO GAS CO
8331942		3415723048		108		HERBERT SANDERS #1		20.0	EAST OHIO GAS CO
8331936		3415722823		108		JOHN LONG #1		20.0	EAST OHIO GAS CO
8331935		3415722822		108		JOHN MILLER #1		20.0	EAST OHIO GAS CO
8331931		3415722774		108		KAIL #1		20.0	EAST OHIO GAS CO
8331932		3415722775		108		KAIL #2		20.0	EAST OHIO GAS CO
8331945		3415723304		107-TF		L SMITH #2	GOSHEN	20.0	YANKEE RESOURCES
8331937		3415722829		108		MCPHERSON #1		20.0	EAST OHIO GAS CO
8331941		3415723042		108		S FILPER #2 (FKA EMPIRE COAL SHUGAR		20.0	EAST OHIO GAS CO
8331930		3415722765		108		WILSON-GLAZER-BOND UNIT #1		20.0	EAST OHIO GAS CO
8331933		3415722818		108		WILSON-GLAZER-BOND UNIT #3		20.0	EAST OHIO GAS CO
-LEVENGOOD OIL & GAS INC				RECEIVED:	04/13/83	JA: OH			
8331946		3403124851		103	107-TF	FRED HEEKLEY #2	CLARK	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	04/13/83	JA: OH			
8331948		3412122898		107-TF		W SMITH #1-HD	SHARON	24.0	YANKEE RESOURCES
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/13/83	JA: OH			
8331949		3408720349		103	107-TF	GREEN GATE FARMS INC #1 349	SOUTH ARABIA	41.1	
-NEW FRONTIER EXPLORATION INC				RECEIVED:	04/13/83	JA: OH			
8331953		3415723816		103	107-TF	CARL JENKINS #1	UNION	20.0	YANKEE RESOURCES
8331952		3411926433		103	107-TF	GERALD LACY #6	CASS	14.0	COLUMBIA GAS TRAN
8331951		3406720584		103	107-TF	RONALD HUGHES #1	MONROE	18.0	TENNECO INC
-OXFORD OIL CO				RECEIVED:	04/13/83	JA: OH			
8331974		3411926494		103	107-TF	ELTHER NEUMAN #1	CLAY	10.0	
-POI ENERGY INC				RECEIVED:	04/13/83	JA: OH			
8331955		3408722102		103	107-TF	FALZONE-MOTKO-FATTERSON #1	ROME	45.0	
8331956		3405503630		103	107-TF	YMCA #2	BAINBRIDGE	55.0	
-POMSTONE CORP				RECEIVED:	04/13/83	JA: OH			
8331957		3415723635		108		REGULA #1		1.0	
-PROFESSIONAL PETROLEUM INC				RECEIVED:	04/13/83	JA: OH			
8331954		3416727408		103		USA/TAYLOR #2	INDEPENDENCE	17.3	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP				RECEIVED:	04/13/83	JA: OH			
8331958B		3400922602	D	107-TF		SUNDAY CREEK COAL #65	TRIMBLE	11.0	COLUMBIA GAS TRAN
8331958A		3400922602		103		SUNDAY CREEK COAL #65	TRIMBLE	11.0	COLUMBIA GAS TRAN
-REDMAN OIL CO INC				RECEIVED:	04/13/83	JA: OH			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331962		3411522988		103	107-TF	D K HOOK #2	BRISTOL	73.0	COLUMBIA GAS TRAN
8331961		3411522766		103	107-TF	HARLEY LITTLE #1	BRISTOL	7.3	COLUMBIA GAS TRAN
8331960		3411523073		103	107-TF	HOPE-RAY #1	BRISTOL	78.0	COLUMBIA GAS TRAN
8331960		3411522785		103	107-TF	SADIE LAWRENCE #1	BRISTOL	18.3	COLUMBIA GAS TRAN
8331959		3411522784		103	107-TF	WILLIS GARRETT #2	BRISTOL	73.0	COLUMBIA GAS TRAN
-SHONGUM OIL & GAS INC				RECEIVED:	04/13/83	JA: OH			
8331967		3410323335		107-TF		RUTH UNIT #2	SHARON	12.0	YANKEE RESOURCES
8331965		3410323256		107-TF		MARIE MARTMAN #1	SHARON	12.0	YANKEE RESOURCES
8331966		3410323281		107-TF		M C CHURCH GRETHER PUCILOWSKI #1	MADSHORTH	12.0	YANKEE RESOURCES
8331966		3410323207		107-TF		TAYLOR & WILLIS #1	MADSHORTH	12.0	YANKEE RESOURCES
-STRATA CORP				RECEIVED:	04/13/83	JA: OH			
8331973		3412725784		107-TF		CAVINEE & FURNEY #1	PLEASANT	48.0	
8331968		3400922544		107-TF		DELAVAL #1	CANAAN	5.0	
8331971		3411926168		107-TF		FRANCE #1	SPRINGFIELD	30.0	
8331969		3400922053		107-TF		R WILLIAMS #2	LODI	10.0	
8331972		3412725718		107-TF		RODGERS #2	CLAYTON	25.0	
-STRATA PETROLEUM INC				RECEIVED:	04/13/83	JA: OH			
8331970		3411122557		107-DV		HURL ECKELBERRY #1	MECHANICSBURG	25.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	04/13/83	JA: OH			
8331950		3409920894		108		MARTIG		8.0	VESCORP INDUSTRIE
-TOWNER PETROLEUM CO				RECEIVED:	04/13/83	JA: OH			
8331975		3405923352		103	107-TF	B BLACK/A LAW #1	OXFORD	27.0	TENNESSEE GAS PIP
-TRISTAR PETROLEUM RESOURCES				RECEIVED:	04/13/83	JA: OH			
8331976		3407920151		107-DV		JACK CRUISE #1	SCIOTO	1.8	
-VIKING RESOURCES CORP				RECEIVED:	04/13/83	JA: OH			
8331979		3408520387		103	107-TF	COLLINS #2	PERRY	30.0	
8331978		3408520306		103	107-TF	LAKE COUNTY NURSERY #5	PERRY	30.0	
8331980		3408520416		103	107-TF	LAKE COUNTY NURSERY #6	MADISON	30.0	
8331977		3405520360		103	107-TF	LOSELY #3	PERRY	30.0	
-WILLIAM F HILL				RECEIVED:	04/13/83	JA: OH			
8331981		3407523972		103		ORCHARD #2	MONROE	7.0	
-WILLIAM H TIPKA				RECEIVED:	04/13/83	JA: OH			
8331982		3410322707		107-TF		J MCCLELLAND #1A	GRANGER	0.0	BARTLO OIL & GAS
8331983		3410323363		107-TF		MUSCOLINE-BLOSS #1	MADSHORTH	5.0	EAST OHIO GAS CO
-ZORAN OIL & GAS CO				RECEIVED:	04/13/83	JA: OH			
8331984		3408722214		103	107-TF	DAVIS-FERBER #4	DENMARK	18.0	

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

-ATLAS RESOURCES INC				RECEIVED:	04/11/83	JA: PA			
8331845	19465	3706327156		102-2		MOSLAK #1	GREEN	173.0	COLUMBIA GAS TRAN
-BELKNAP GAS CO				RECEIVED:	04/11/83	JA: PA			
8331808	17127	3700500000		108		J R ORR FARM	WAYNE	1.9	THE PEOPLES NATUR
-CENTER BAR GAS CO				RECEIVED:	04/11/83	JA: PA			
8331842	19377	3703921647		107-TF		JOHN HOOGSTAD #2 82-28	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/11/83	JA: PA			
8331856	19571	3706327092		103		DOLLY WHITE #1 WH-1944	NORTH MAHONING	53.0	GENERAL SYSTEM PU
8331855	19570	3706320059		108		HARRY L GEORGE #2 LM-551	ARMSTRONG	21.0	GENERAL SYSTEM PU
8331843	19406	3702120190		103		ROY D LEAMER #1 LM-1553	SUSQUEHANNA	23.0	GENERAL SYSTEM PU
8331857	19572	3706327171		103		THOMAS KING #1 WH-1948	GRANT AND MONTGOMERY	2.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC				RECEIVED:	04/11/83	JA: PA			
8331809	17246	3703320994		108		R SEYLER #2 KM-6	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
-DORSO ENERGY				RECEIVED:	04/11/83	JA: PA			
8331844	19414	3706327131		103		JOHN J WEYANDT #3 #172	CRETE	25.0	JONES & LAUGHLIN
8331845	19415	3706327334		103		JOHN J WEYANDT #5 #181	CRETE	30.0	BETHLEHEM STEEL C
-EASTERN STATES EXPLORATION CO				RECEIVED:	04/11/83	JA: PA			
8331837	19318	3706522483		103		THOMAS J MINNS #1	WARSAW	10.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	04/11/83	JA: PA			
8331840	19335	3706300000		103		WALTER AND JOHN STOCK #2 F-3490	MARION CENTER	30.0	T W PHILLIPS GAS
-HIMES BOBBY A				RECEIVED:	04/11/83	JA: PA			
8331822	18889	3706500000		108		CARNAHAM #1	POLK	2.0	COLUMBIA GAS TRAN
8331823	18890	3706500000		108		CARNAHAM #2	POLK	1.0	COLUMBIA GAS TRAN
-INGRAM ENTERPRISES INC				RECEIVED:	04/11/83	JA: PA			
8331807	15850	3703921538		107-TF		LINZ #2	CROSSINGVILLE	36.0	COLUMBIA GAS TRAN
8331806	15849	3703921538		103		LINZ #2	CROSSINGVILLE	36.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	04/11/83	JA: PA			
8331834	19501	3706327195		103		KOVALCHICK SALVAGE CO #1 (5.8A)	INDIANA BORO	0.0	PEOPLES NATURAL G
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	04/11/83	JA: PA			
8331853	19496	3706522645		103		COOK/STEWART #1	PERRY	48.3	T W PHILLIPS GAS
8331852	19493	3706522646		103		HOWARD COOK & MARJORIE STEWART #2	COOK-STEWART	98.6	T W PHILLIPS GAS
-MARK RESOURCES CORP				RECEIVED:	04/11/83	JA: PA			
8331826	19154	3708520489		107-TF		R BURKHARDT #1	HERMITAGE	48.0	
8331825	19153	3705520489		102-2		R BURKHARDT #1	HERMITAGE	0.0	
-MERIDIAN EXPLORATION CORP				RECEIVED:	04/11/83	JA: PA			
8331839	19330	3703921589		107-TF		MAX FERRIS 8614-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8331838	19329	3703921569		102-2		MAX FERRIS 8614-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8331830	19235	3703921921		107-TF		QUIRING UNIT 8566-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8331829	19234	3703921921		102-2		QUIRING UNIT 8566-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8331831	19236	3704921821		107-TF		SZYMANSKI 8649-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8331828	19229	3704921821		102-2		SZYMANSKI 8649-1			
-MID-PENN ENERGY CORP				RECEIVED:	04/11/83	JA: PA			
8331851	19491	3703321547		103		RAYMOND J DUCK #2	GRAMPIAN	40.0	CONSOLIDATED GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/11/83	JA: PA			
8331864	15329	3703721346		103		J T SIBOL #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
8331805	15330	3703921346		107-TF		J T SIBOL #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	04/11/83	JA: PA			
8331802	13180	3706522355		108		ARABELLE PHELPS FARM #2704	ELDRED TOWNSHIP	1.0	GENERAL SYSTEM PU
8331801	13095	3706522400		108		G H & M ALLEN FARM #2048	ELDRED TOWNSHIP	0.8	GENERAL SYSTEM PU
8331803	13492	3708300000		103		L D LESTNORE #383-P	LESTNORE TOWNSHIP	0.9	GENERAL SYSTEM PU
-NYS NATURAL GAS COMPANY				RECEIVED:	04/11/83	JA: PA			
8331834	19278	3703921574		103		HENTON #1 CRA-21574	ATHENS	3.0	COLUMBIA GAS TRAN
8331833	19277	3703921574		107-TF		HENTON #1 CRA-21574	ATHENS	3.0	COLUMBIA GAS TRAN
8331835	19279	3703921706		103		HENTON #2 CRA-21706	ATHENS	3.0	COLUMBIA GAS TRAN
8331832	19276	3703921706		107-TF		HENTON #2 CRA-21706	ATHENS	0.0	COLUMBIA GAS TRAN
-PETROBANK OPERATING CO				RECEIVED:	04/11/83	JA: PA			
8331846	19440	3706327321		103		CLARK ESTATES #23	MONTGOMERY	85.5	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	04/11/83	JA: PA			
8331816	17387	3706325194		103		ANNA MARY HAMILTON AGENT #1	SOUTH MAHONING	12.0	COLUMBIA GAS TRAN
8331818	17389	3706325315		108		DANIEL J PERLONGO #1	EAST MAHONING	18.0	COLUMBIA GAS TRAN
8331819	17386	3706325319		108		DAVID CHICHURA #1	GRANT	5.0	COLUMBIA GAS TRAN
8331821	18209	3706325616		108		GEORGE I REAM #1	CENTER	14.0	COLUMBIA GAS TRAN
8331819	17390	3706326761		108		HELEN M PELES #2	WAYNE	12.0	COLUMBIA GAS TRAN
8331813	17384	3706326275		108		HORACE M STEELE #1	EAST MAHONING	7.0	COLUMBIA GAS TRAN
8331811	17369	3703321044		108		JOHN VINCENT FERGUSON #1	LUMBER CITY BORO	7.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8331820	17784	3706325853		108		PAUL S GETTY SR #1	GRANT	10.0	COLUMBIA GAS TRAN
8331817	17358	3706325547		108		RAYMOND GLASSER #1	EAST MAHONING	14.0	COLUMBIA GAS TRAN
8331812	17370	3703321085		108		RUTH E SPENCER #1	PENN	9.0	CONSOLIDATED GAS
8331814	17385	3706320169		108		THOMAS A WALKER #1	EAST MAHONING	6.0	COLUMBIA GAS TRAN
8331810	17368	3703321024		108		WILLIAM I HOCH #1	BELL	14.0	CONSOLIDATED GAS
-RENNIE KELLY ENTERPRISES				RECEIVED:	04/11/83	JA: PA			
8331827	19182	3706327213	D	103		PAINTER-PEARCE #1 (6A)	CANOE	0.0	CONSOLIDATED GAS
-ROBERT H BRACE				RECEIVED:	04/11/83	JA: PA			
8331841	19337	3704920639		103		BRACE #1	WATERFORD	0.0	NATIONAL FUEL GAS
-S T JOINT VENTURE #2-C				RECEIVED:	04/11/83	JA: PA			
8331824	18955	3703321362		103		MC DONALD #2	PENN	25.0	CONSOLIDATED GAS
-SCOTT AND HUSSING				RECEIVED:	04/11/83	JA: PA			
8331849	19488	3712521273		108		JONES & LAUGHLIN STEEL CORP #1 #129	BELLE VERNON	4.8	COLUMBIA GAS OF P
8331850	19489	3712521151		108		JONES & LAUGHLIN STEEL CORP #5 #105	CALIFORNIA	8.0	COLUMBIA GAS OF P
-UNION DRILLING INC				RECEIVED:	04/11/83	JA: PA			
8331836	19285	3706326922		102-2		MURRAY CRAMER #2 8744	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-VICTORY DEVELOPMENT CO				RECEIVED:	04/11/83	JA: PA			
8331847	19457	3706327335		103		LYDIC #1 - IND-27335	GREEN	56.0	CONSOLIDATED GAS

[FR Doc. 83-12419 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-C

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[Volume 887]

Issued: May 4, 1983.

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PB: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
Issued May 4, 1983

VOLUME 887

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BOLIN OIL COMPANY				RECEIVED:	04/14/83	JA: MT			
8332158	3-82-61	2504121673		108		BOLIN - FROST - STATE #1-20	TIGER RIDGE	0.0	NORTHERN NATURAL
-GETTY OIL COMPANY				RECEIVED:	04/14/83	JA: MT			
8332150	2-82-54	2508321525		102-4		SOUTH WONLY #33-2	EAST FAIRVIEW FIELD	23.0	PHILLIPS PETRCLEU
-MERLAND OIL & GAS INC				RECEIVED:	04/14/83	JA: MT			
8332152	3-82-72	2508521335		103		PICARD #14-2	NORTH BAINVILLE	9.0	DOME PETROLEUM CO
-MONTANA-DAKOTA UTILITIES CO				RECEIVED:	04/14/83	JA: MT			
8332154	2-82-58	2507121742		103		MDU 979 FEE	BOWDOIN	30.0	MONTANA-DAKOTA UT
-ORBIT VENTURES INC				RECEIVED:	04/14/83	JA: MT			
8332153	3-82-62	2509121421		102-2		MORKEN #3-27	DIVIDE	27.0	PHILLIPS PETROLEU
-PATRICK PETROLEUM CORP OF MICHIGAN				RECEIVED:	04/14/83	JA: MT			
8332156	3-82-67	2508521305		102-2		IVERSON #1-21	ANVIL	30.0	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	04/14/83	JA: MT			
8332155	2-82-53	2502521194		103		UNIT 11X-6B	PENNEL	13.9	MONTANA DAKOTA UT
8332160	3-82-60	2502521197		103		UNIT 33-7B	PENNEL	20.4	MONTANA DAKOTA UT
-SOLOMON & MCGARVEY				RECEIVED:	04/14/83	JA: MT			
8332157	3-82-70	2504122081		102-4		SOLOMON 4-30 T31N R17E SEC 30	TIGER RIDGE-BULLHEAD	18.0	NORTHERN NATURAL
-SOLOMON EXPLORATION				RECEIVED:	04/14/83	JA: MT			
8332148	3-82-63	2508522114		108		FOX 29-13 T32N R18E SEC 29	WILDCAT	9.0	NORTHERN NATURAL
8332159	3-82-69	2504122194		102-4		OLSON 17-33 T31N R17E SEC 33	TIGER RIDGE	14.0	NORTHERN NATURAL
-SOUTHLAND ROYALTY CO				RECEIVED:	04/14/83	JA: MT			
8332151	3-82-71	2508321246		102-4		PREVOST #1-24	THREE BUTTES	3.5	MGPC INC
-WEST GAS INC				RECEIVED:	04/14/83	JA: MT			
8332149	2-82-55	2509521145		103		DANNENBERG 11-27	NORTH LAKE BASIN	3.6	MONTANA DAKOTA UT
8332146	2-82-57	2509521142		103		DANNENBERG 3-27	NORTH LAKE BASIN	346.8	MONTANA DAKOTA UT
8332147	2-82-56	2509521165		103		NORDAHL 9A-11	LAKE BASIN	3.6	MONTANA DAKOTA UT
OKLAHOMA CORPORATION COMMISSION									
-AUTUMN ENERGY CORP				RECEIVED:	04/13/83	JA: OK			
8332029	21068	3514322199		103		COUSINS #1	THE MOUNDS DISTRICT	30.0	PHILLIPS PETROLEU
-BOSWELL ENERGY CORP				RECEIVED:	04/13/83	JA: OK		0.0	PHILLIPS PETROLEU
8332014	19963	3510920374		102-4		CHISHOLM #1-9			
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/13/83	JA: OK	E KREMLIN	20.0	ARKANSAS LOUISIAN
8331991	20695	3504700000		108		F A SMITH UNIT #1			
-CHEROKEE RESOURCE MANAGEMENT				RECEIVED:	04/13/83	JA: OK	SOUTH STROUD PRUE	18.0	SWAB CORP
8331996	21032	3508121823		103		EVANS #5	SOUTH STROUD PRUE	19.0	SWAB CORP
8331997	21033	3508121783		103		EVANS #7	SOUTH STROUD PRUE	22.0	SWAB CORP
8331995	21031	3508121824		103		EVANS #8			
-DAWN ENERGY CO				RECEIVED:	04/13/83	JA: OK	SHARON	45.0	PHILLIPS PETROLEU
8332018	21004	3515321271		103		RAY #1-7			
-FUHK EXPLORATION INC				RECEIVED:	04/13/83	JA: OK	SOONER TREND	15.0	CONOCO INC
8332009	17684	3507323224		103		BRUEGGEM #2-29			
-GREEN OPERATING CO				RECEIVED:	04/13/83	JA: OK	SOUTHWEST MT VERNON	165.0	SUN EXPLORATION &
8332038	21068	3508121805		103		ELVINA 11-1			
-J M HUBER CORPORATION				RECEIVED:	04/13/83	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332028	21029	3504723074		103		LOVELL #6	N WAUKOMIS	350.0	UNION TEXAS PETRO
8331994	21030	3504723076		103		LOVELL #7	N WAUKOMIS	912.5	UNION TEXAS PETRO
-JOHN P CASTLEMAN JR				RECEIVED:	04/13/83	JA: OK			
8331985	19610	3502520524		102-4		CASTLEMAN-CUTRIGHT #1	NORTH EAST SAMPSEL	0.0	
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	04/13/83	JA: OK			
8332016	20610	3504700000		108		PAUL #1	E SPRING VALLEY	13.0	GRACE PETROLEUM C
-K-N NATURAL GAS CO INC				RECEIVED:	04/13/83	JA: OK			
8331998	21042	3513900000		108		GODLEY #1	GUYMON - HUGOTON	19.0	
-LEEDE OIL & GAS INC				RECEIVED:	04/13/83	JA: OK			
8332017	20869	3507920618		103		HICKS #1	CAMERON	182.0	ARKANSAS LOUISIAN
-M S KLOTZMAN EXPLORATION				RECEIVED:	04/13/83	JA: OK			
8331990	20208	3511121345		103		BURGESS #4	SCHULTER	10.0	SCHULTER GATHERIN
-MID-AMERICA PETROLEUM INC				RECEIVED:	04/13/83	JA: OK			
8331989	19928	3505320858		102-2		GILE #1	NORTHEAST WAKITA	360.0	
8331988	19926	3505320857		102-2		JESS #1	NORTHEAST WAKITA	266.0	
-MOBIL OIL CORP				RECEIVED:	04/13/83	JA: OK			
8332024	21059	3504900000		108		F H HARRIS #1	ROBBERSON	4.3	OKLAHOMA NATURAL
8332025	21060	3504900000		108		F H HARRIS #3	ROBBERSON	6.5	OKLAHOMA NATURAL
8332026	21061	3504900000		108		F H HARRIS #5	ROBBERSON	4.3	OKLAHOMA NATURAL
8332027	21062	3504900000		108		F H HARRIS #8A	ROBBERSON	4.3	OKLAHOMA NATURAL
8332004	21053	3501900000		108		GR DEESE #23-14 JOHNSON SHARTZ #16	SHO VEL TUM	0.1	LONE STAR GAS CO
8332028	21063	3501900000		108		GR DEESE #34-8 F E TUCKER #8	SHO VEL TUM	0.1	LONE STAR GAS CO
8332005	21054	3501900000		108		NEUSTADT DE #1-9 GEORGE FISH #9	SHO VEL TUM	0.0	LONE STAR GAS UNI
8332021	21056	3501900000		108		NEU DEESE #11-1 C D SMITH #1	SHO VEL TUM	0.0	LONE STAR GAS CO
8332022	21057	3501900000		108		NEU DEESE #16-1 R G CALVERY #1	SHO VEL TUM	0.0	LONE STAR GAS CO
8332006	21055	3501900000		108		NEU DEESE #7-1 EMMA CREEKMORE #1	SHO VEL TUM	0.0	LONE STAR GAS UNI
8332023	21058	3501900000		108		SW VEL SPRINGER #13-6 ANNIE BROM #6	SHO VEL TUM	3.7	GETTY OIL CO
-NOBLE OPERATING INC				RECEIVED:	04/13/83	JA: OK			
8331993	20948	3504722754		103		RANDOLPH #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-OXXO INC				RECEIVED:	04/13/83	JA: OK			
8332015	19964	3513300000		102-3	103	REYNOLDS #4	WEWOKA	18.3	ARKANSAS LOUISIAN
-PETRO-LEWIS CORPORATION				RECEIVED:	04/13/83	JA: OK			
8332008	00689	3507321289		108-ER		RILEY #9-1	SOONER TREND	0.0	PARTNERSHIP PROPE
-R & E OIL & GAS CORP				RECEIVED:	04/13/83	JA: OK			
8332012	19952	3514722356		102-2		BEESON #1	NEW FIELD	0.0	MARION CORP
8332013	19953	3514722359		102-2		BEESON #3	NEW FIELD	0.0	MARION CORP
8332011	19951	3514723385		102-2		LEDFORD #2	NEW FIELD	0.0	MARION CORP
-RAINBOW OIL & GAS EXPLORATION				RECEIVED:	04/13/83	JA: OK			
8332031	23416	3511700000		108		GEYER SCHOOL LAND B #3		0.0	MID-AMERICA GAS L
-SENECA OIL COMPANY				RECEIVED:	04/13/83	JA: OK			
8332010	18075	3512174638		103		ECHELLE #1-9		1050.0	DELNI GAS PIPELIN
-SHELL OIL CO				RECEIVED:	04/13/83	JA: OK			
8332007	23936	3501521476		107-DP		KIDWELL #1-36		912.5	TENNESSEE GAS PIP
-SIMCOE OIL CO				RECEIVED:	04/13/83	JA: OK			
8332019	21008	3507300000		103		CIMARRON #1	SOONER TREND	100.0	EASON OIL CO
-SKI ENERGY				RECEIVED:	04/13/83	JA: OK			
8331999	21043	3514520949		103		GAZALSKI #114		18.3	PHILLIPS PETROLEU
8332002	21046	3514322246		103		SKI #19		9.1	PHILLIPS PETROLEU
8332000	21044	3514322178		103		SKI 29		9.1	PHILLIPS PETROLEU
8332001	21045	3514520943		103		WOODARD #113		27.4	PHILLIPS PETROLEU
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	04/13/83	JA: OK			
8331992	21041	3508322119		103		VAN DORN #1	EAST GUTHRIE	292.0	CHAMPLIN PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	04/13/83	JA: OK			
8332003	21051	3510321787		103		S LONE ELM CLEVELAND S U #90	SOUTH LONE ELM	22.0	AMINOIL U S A INC
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	04/13/83	JA: OK			
8331987	19902	3507122476		102-4	103	BULL #1-16	SOUTHEAST BRAMEN	277.4	JOE L THOMPSON IN
-WHEATLAND OIL CO				RECEIVED:	04/13/83	JA: OK			
8331986	19680	3504521094		102-4		BERRYMAN #A-2	EAST PACKSADDLE	36.5	PANHANDLE EASTERN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/14/83	JA: PA			
8332121	19562	3706327370		103		COUNTY OF INDIANA/BL SPRUCE PK #1	ERNEST	25.0	PEOPLES NATURAL G
8332122	19563	3706327393		103		HAROLD PEDDICORD #1	WHITE	24.0	COLUMBIA GAS TRAN
8332123	19564	3702120196		103		RONALD BAKER #1	HASTINGS	25.0	PEOPLES NATURAL G
-ANGERMAN ASSOCIATES INC				RECEIVED:	04/14/83	JA: PA			
8332124	19565	3712900000		103		MICHAEL PFAFF #2 - WES-22114	W PENNA-UPPER DEVON A	25.0	PEOPLES NATURAL G
8332125	19566	3706300000		103		T EARL STRONG #3 - IND-27306	W PENNA-UPPER DEVON A	25.0	T W PHILLIPS GAS
-ATLAS RESOURCES INC				RECEIVED:	04/14/83	JA: PA			
8332108	19356	3706327148		102-4		STUTZMAN #1	CHERRYHILL	66.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	04/14/83	JA: PA			
8332120	19560	3712133815		102-3		RAINBOW BEAGLE CLUB #1	JACKSON TOWNSHIP	50.0	TENNESSEE GAS PIP
8332119	19559	3712133815		107-TF		RAINBOW BEAGLE CLUB #1	JACKSON TOWNSHIP	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/14/83	JA: PA			
8332134	19585	3704720359		108		CONSOLIDATED GAS SUPPLY CORP WN-133	FOX	3.0	GENERAL SYSTEM PU
8332136	19588	3703321452		103		W HARTFIELD #1 WN-1966	PIKE	43.0	GENERAL SYSTEM PU
8332137	19589	3702120197		103		WILLIAM D WILSON #1 WN-1989	SUSQUEHANNA	55.0	GENERAL SYSTEM PU
8332135	19587	3703321453		103		WILLIAM HARTFIELD #2 WN-1965	PIKE	34.0	GENERAL SYSTEM PU
-EASTERN STATES EXPLORATION CO				RECEIVED:	04/14/83	JA: PA			
8332091	17909	3702720017		102-2		COMMONWEALTH OF PA - TR #231 #1	BOGGS	60.0	TEXAS EASTERN TRA
-ENERGY PRODUCTION CO				RECEIVED:	04/14/83	JA: PA			
8332108	19456	3706327249		103		WALTER A SCHROTH #2	NOLO MOUNTAIN	9.6	T W PHILLIPS
-ENVIROGAS INC				RECEIVED:	04/14/83	JA: PA			
8332090	17550	3704922023		107-TF		G COUNASSE #1	CLYMER	18.0	TENNESSEE GAS PIP
8332088	17353	3704921806		107-TF		G POST #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8332076	15178	3704921859		107-TF		L SKARZENSKI #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8332087	17352	3704921895		107-TF		L SKARZENSKI #2	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	04/14/83	JA: PA			
8332143	19603	3706522715		103		CHARLES W FRAMPTON #4 F-3719	BIG RUN	60.0	CONSOLIDATED GAS
8332142	19602	3706522703		103		MILES A BOLVIN #3-A F-3674	BIG RUN	60.0	CONSOLIDATED GAS
8332141	19601	3703321454		103		O M READ #3 F-3624	BIG RUN	60.0	CONSOLIDATED GAS
-FLANIGAN BROTHERS				RECEIVED:	04/14/83	JA: PA			
8332075	11479	3703900000		102-4		HLOPICK #1	SPRING	5.0	COLUMBIA GAS TRAN
-FOX OIL & GAS INC				RECEIVED:	04/14/83	JA: PA			
8332133	19577	3706321416		102-4		BERNARD/FRY #1 276	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
8332129	19573	3706321380		102-4		CLYDE BUTERBAUGH #1 275	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
8332130	19574	3706321272		102-4		D BUTERBAUGH #1 (255)	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
8332132	19576	3706321237		102-4		EARL BUTERBAUGH #1 243	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
8332131	19575	3706321203		102-4		R BUTERBAUGH #1 245	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
-GERSZBERG SHEPHERD				RECEIVED:	04/14/83	JA: PA			
8332093	18876	3703121033		103		DONALD KNAPP #1	CLARION	0.0	NATIONAL FUEL GAS
-INGRAM ENTERPRISES INC				RECEIVED:	04/14/83	JA: PA			
8332086	15872	3703900000		107-TF		PLEMENTOSH #1	COONS CORNERS-CONNEAU	48.0	NATIONAL FUEL GAS
8332085	15871	3703900000		103	107-TF	PLEMENTOSH #1	COONS CORNERS-CONNEAU	48.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332084	15870	3703921523		103		ZINCHIAK #1	COOMS CORNERS CONNEAU	56.0	NATIONAL FUEL GAS
8332083	15869	3703900000		107-TF		ZINCHIAK #1	COOMS CORNERS CONNEAU	36.0	NATIONAL FUEL GAS
-JAMES F SCOTT				RECEIVED:	04/14/83	JA: PA			
8332077	15561	3706522361		108		JOHN HERSHBERGER PS-378	HENDERSON	7.0	CONSOLIDATED GAS
8332078	15562	3706522386		108		JOSEPH TORRELL PS-374	KINSLOW	29.0	CONSOLIDATED GAS
8332079	15563	3706326368		108		WILLIAM STATES PS-356	BANKS	15.0	CONSOLIDATED GAS
-KEPCO INC				RECEIVED:	04/14/83	JA: PA			
8332082	15651	3705921593		108		C J HARTLEY #1 (PK-6)	GARARDS FORT	8.0	NEW JERSEY NATURA
8332081	15650	3705921571		108		E V BUNNER #2 (PK-2)	GARARDS FORT	14.0	NEW JERSEY NATURA
8332080	15649	3705921572		108		E V BUNNER #4 (PK-4)	GARARDS FORT	14.0	NEW JERSEY NATURA
-MAC-MAR INC				RECEIVED:	04/14/83	JA: PA			
8332107	19438	3706326972		103		URICK #1	BLAIRSVILLE	50.0	PEOPLES NATURAL G
-MEDINA OIL & GAS CO				RECEIVED:	04/14/83	JA: PA			
8332092	17966	3703121007		103		MEDINA-OIL & GAS CO #2	FISHER	0.0	NATIONAL FUEL GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	04/14/83	JA: PA			
8332112	19531	3703921415		107-TF		E MORTON #599-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332111	19530	3703921415		102-2		E MORTON #599-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332128	19569	3703921816		103		FINCK 5642-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332099	19528	3703921578		102-2		G BROWN #617-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332116	19535	3703921819		107-TF		H ADAMS UNIT #650-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332115	19534	3703921819		102-2		H ADAMS UNIT #650-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332127	19568	3703921815		103		H FINCK #643-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332110	19529	3703921717		107-TF		J WILKINS #623-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332109	19528	3703921717		102-2		J WILKINS #623-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332118	19537	3703921820		102-2		JOSLIN #651-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332117	19536	3703921820		107-TF		JOSLIN #651-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332114	19533	3703921580		107-TF		LEE STERLING #615-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8332113	19532	3703921580		102-2		LEE STERLING #615-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
-NRM PETROLEUM CORPORATION				RECEIVED:	04/14/83	JA: PA			
8332106	19367	3704922073		102-2		NIEMEYER #3	WATERFORD	0.0	COLUMBIA GAS TRAN
8332105	19366	3704922073		107-TF		NIEMEYER #3	WATERFORD	0.0	COLUMBIA GAS TRAN
8332104	19361	3704922137		107-TF		WILLEY #2	WATERFORD	0.0	COLUMBIA GAS TRAN
8332103	19360	3704922137		102-2		WILLEY #2	WATERFORD	0.0	COLUMBIA GAS TRAN
8332102	19359	3704922170		107-TF		ZIELINSKI #1	WATERFORD	0.0	COLUMBIA GAS TRAN
8332101	19358	3704922170		102-2		ZIELINSKI #1			
-PETRO EVALUATION SERVICES INC				RECEIVED:	04/14/83	JA: PA			
8332098	19146	3704922454		107-TF		SEMPLE #2	FRANKLIN CENTER	35.0	COLUMBIA GAS TRAN
8332097	19145	3704922103		107-TF		SZYMANOWICZ #2	FRANKLIN CENTER	35.0	COLUMBIA GAS TRAN
8332096	19143	3704922452		107-TF		TIPTON #1	FRANKLIN CENTER	30.0	COLUMBIA GAS TRAN
-PETROTECH INC				RECEIVED:	04/14/83	JA: PA			
8332126	19567	3705324507		103		TPT-1B	KOPPERS SURF	0.0	NATIONAL FUEL GAS
-PHILLIPS PRODUCTION CO				RECEIVED:	04/14/83	JA: PA			
8332089	17377	3706325633	D	108		GEORGE I REAM #1	CENTER	14.0	COLUMBIA GAS TRAN
-ROBERT BRACE				RECEIVED:	04/14/83	JA: PA			
8332095	18892	3704922411		107-TF		CZESHOWSKI #1	WATERFORD	20.0	NATIONAL FUEL GAS
8332094	18891	3704922438		107-TF		MCCALL #4	WATERFORD	0.0	NATIONAL FUEL GAS
-SCOTT AND MUSSING				RECEIVED:	04/14/83	JA: PA			
8332138	19591	3712521159		108		JONES & LAUGHLIN STEEL #4 WELL #106	BELLE VERNON	3.0	BETHLEHEM STEEL E
8332140	19599	3706324830		108		ROY A ORR #2 WELL #126	PLUM CREEK	7.0	BETHLEHEM STEEL C
8332139	19598	3706325557		108		ROY A ORR #3 WELL #144	PLUM CREEK	3.0	BETHLEHEM STEEL C
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-ASHLAND EXPLORATION INC				RECEIVED:	04/14/83	JA: WV			
8332064		4701900468		103		CHRISTIAN COLLIERY CO #3 - 093041	PAINT CREEK	16.0	COLUMBIA GAS TRAN
8332065		4701900477		103		EASTERN ASSOC COAL CORP -093001	PAINT CREEK	324.0	COLUMBIA GAS TRAN
8332051		4703902061		108		EASTERN GAS & FUEL #48 - 862398	PAINT CREEK	20.0	COLUMBIA GAS TRAN
8332066		4706501040		108		PARDEE LAND CO #58 - 088751	LOGAN-WYOMING	19.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/14/83	JA: WV			
8332070		4710721049		103		CORBIN #2	UNION	1.6	CONSOLIDATED GAS
8332069		4710721094		103		DAVIS #2	UNION	4.0	CONSOLIDATED GAS
8332072		4710720996		103		DAWSON #2	UNION	0.9	CONSOLIDATED GAS
8332063		4708121779		103		L TENNEY #1	VALLEY DISTRICT	19.7	CONSOLIDATED GAS
8332071		4710721019		103		TANNER #2	UNION	6.0	CONSOLIDATED GAS
8332074		4710720982		103		WRIGHT #1	UNION	2.0	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	04/14/83	JA: WV			
8332038		4708505098		102-3		LAYFIELD #2	GRANT DISTRICT	5.0	
8332053		4708505599		102-3		LOGAN #1	UNION DISTRICT	15.0	
8332041		4708505208		102-3		MARTIN-MAXON #1	UNION DISTRICT	15.0	
8332042		4708505210		102-3		MARTIN-MAXON #2	UNION DISTRICT	15.0	
8332052		4708505600		102-3		MCKINLEY #1	UNION DISTRICT	12.0	
8332039		4708505605		102-3		MCKINLEY #2	UNION DISTRICT	18.0	
8332037		4701703083		102-3		OKEY LEGGETT #1	SOUTHWEST DISTRICT	15.0	
8332043		4708505083		102-3		PIFER #1	GRANT DISTRICT	8.0	
8332055		4708505444		102-3		PRUNTY HEIRS #1	UNION DISTRICT	12.0	
8332056		4708505446		102-3		PRUNTY HEIRS #3	UNION DISTRICT	15.0	
8332036		4708505442		102-3		PRUNTY HEIRS #4	UNION DISTRICT	14.0	
8332044		4708505499		102-3		ROYAL COX #2	UNION DISTRICT	20.0	COLUMBIA GAS TRAN
8332040		4708505524		102-3		ROYAL COX #3	UNION DISTRICT	7.0	COLUMBIA GAS TRAN
-COMMODORE DRILLING FUND LTD				RECEIVED:	04/14/83	JA: WV			
8332062		4702103413		108		CLARK "A" #1	ASPINALL-FINSTER	14.0	CONSOLIDATED GAS
8332035		4702103414		103		CLARK "A" #2	ASPINALL-FINSTER	14.0	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC				RECEIVED:	04/14/83	JA: WV			
8332058		4703302208		108		J E BRENNAN #1 KL-260	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8332067		4703302644		103		LYDA RICHARD #1 DA-4	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8332059		4703302213		108		MARIE HARBERT #1 KL-271	SARDIS DISTRICT	25.0	CONSOLIDATED GAS
8332057		4703302193		108		MARIE HARBERT #1 KL-274	SARDIS-DISTRICT	25.0	CONSOLIDATED GAS
8332068		4703302585		103		ROSS VINCENT #1 DA-1	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8332073		4700101198		108		THELMA BENNETT #1 KL-278	PLEASANT DISTRICT	25.0	CONSOLIDATED GAS
8332054		4703301983		108		V M ROGERS #1 KT-3	EAGLE DISTRICT	25.0	CONSOLIDATED GAS
-F S WORKMAN				RECEIVED:	04/11/83	JA: WV			
8332145		4700500434		108		BOONE 434	WASHINGTON	1.7	PENNZOIL CO
-HARDEE PETROLEUM CO				RECEIVED:	04/11/83	JA: WV			
8332144		4701502118		103		ELK RIVER LUMBER CO #10	PLEASANT DIST	73.0	CONSOLIDATED GAS
-STONEWALL GAS CO				RECEIVED:	04/14/83	JA: WV			
8332034		4703302227		108		CHILDERS #1	UNION	0.0	CONSOLIDATED GAS
8332033		4703301951		108		CORA J HOWELL #1	UNION	2.7	CONSOLIDATED GAS
8332032		4700101080		108		D C STUART #2	PHILIPPI	7.5	CONSOLIDATED GAS
-WEITNER ENTERPRISES				RECEIVED:	04/14/83	JA: WV			
8332050		4700700976		108		BLAKE #2	BIG BULL RUN	5.0	EQUITABLE GAS CO
8332047		4700701012		108		D J MOYERS #1	BULL RUN	12.0	EQUITABLE GAS CO
8332060		4700700881		108		HINES #2	BULL CREEK	4.0	EQUITABLE GAS CO
8332049		4700700975		108		HINES #3	BULL RUN	2.0	EQUITABLE GAS CO
8332061		4700700928		108		KELLEY #1	WALKER FORK	10.0	EQUITABLE GAS CO
8332048		4700701130		108		TURNER #1	LITTLE KANAWHA RIVER	2.0	EQUITABLE GAS CO
8332045		4700701001		108		WEST #1	BRUSH RUN	7.0	EQUITABLE GAS CO
8332046		4700701003		108		WEST #2	BRUSH RUN	2.0	EQUITABLE GAS CO
********** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, WASHINGTON, DC **********									
-SHELL OIL CO				RECEIVED:	04/14/83	JA: LA 7			
8332162	LA-010-82	1701501648		108		U S A #6	SLIGO	10.0	TEXAS EASTERN TRA
8332161	LA-011-82	1701501478		108		U S A #9	SLIGO	12.0	TEXAS EASTERN TRA
8332163	LA 009-82	1701501015		108		U S A "B" #2	SLIGO	12.0	TEXAS EASTERN TRA

[FR Doc. 83-12420 Filed 5-9-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Tuesday
May 10, 1983

Part IV

Environmental Protection Agency

Hazardous Waste Management System: The Hazardous Waste Permit Program; Proposed Rules

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124 and 270

[SWH–FRL 2251–6]

Hazardous Waste Management System: The Hazardous Waste Permit Program; Procedures for Decisionmaking

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency is proposing to amend its hazardous waste permit regulations today. These regulations were promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act (RCRA), and were included in the Consolidated Permit Regulations. The Agency is proposing to allow owners and operators of existing hazardous waste management facilities who submit an incomplete Part A of the RCRA permit application to receive a notice of the deficiency and an opportunity to explain or cure the deficiency before the owner or operator is subject to EPA enforcement for operation without a permit. The Agency also is proposing to amend the regulations to require that if the Administrator denies a request for a panel hearing on an initial permit for an existing hazardous waste management facility, he must give his reasons for the denial.

Today's actions are prompted by a settlement stipulation concerning these issues in the lawsuit on the Consolidated Permit Regulations. These proposed amendments will not have an economic impact on the regulated community, nor will they have any impact on public health or the environment.

DATE: EPA will accept comments on these proposed amendments until July 11, 1983.

ADDRESS: Comments on these amendments should should be addressed to the Docket Clerk (Docket 3005—Hearings), Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346 or in Washington, D.C. at 382–3000. For specific information on this proposed amendment, contact Deborah Wolpe, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 382–4754.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980, and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations establish the first phase of a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260–265, 45 FR 33066–33289). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations, governing five permit programs.[1] On January , 1983, the Consolidated Permit Regulations were deconsolidated. Each permit program now appears in a separate Part of the Code of Federal Regulations. The changes proposed today concern only the RCRA portion of the Consolidated Permit Regulations, now codified at 40 CFR Part 270.

The Subtitle C RCRA regulations, among other things, require hazardous waste management (HWM) facilities which treat, store, or dispose of hazardous waste to obtain a permit from EPA or an authorized state [2] and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed of only in these permitted facilities.

Recognizing the EPA would not be able to issue permits to all HWM facilities before the Subtitle C program became effective, Section 3005(e) of RCRA provides that a facility that meets certain requirements will be treated as having been issued a permit until such time as final administrative action is taken on its permit application. This statutory authorization to operate a HWM facility between the effective date of the Subtitle C program (November 19, 1980) and the issuance or denial of a final permit, is known as "interim status."

Interim status is conferred on any person who:

(1) Owns and operates a facility required to have a permit, which is in existence on November 19, 1980;

(2) has complied with the requirements of Section 3010(a) of RCRA (notification of hazardous waste activity); and

(3) has made an application for a permit under Section 3005 of RCRA.

EPA has defined the term "application for a permit" under section 3005(e) to mean only Part A of the permit application [See 40 CFR 270.70]. The application for a RCRA hazardous waste management permit is in two parts—A and B. Part A includes some very basic information about a facility such as its location, owner, the wastes it handles and the processes it employs [see 40 CFR 270.13]. Part B consists of more technical information reflecting the facility standards in 40 CFR Part 264. To qualify for interm status, however, only Part A of the permit application must be submitted.

This preamble and today's proposed amendments relate to the procedural aspects of failure to qualify for interim status, and denial of a permit.

II. Failure to Qualify for Interim Status

An owner or operator of a HWM facility may fail to qualify for interim status for any of the reasons listed in the statute as prerequisites to interim status: (a) The facility was not in existence on or before November 19, 1980; (b) the owner or operator failed to comply with Section 3010 of RCRA (*i.e.*, failed to notify, if required); or (c) the owner or operator failed to submit Part A of his permit application on time.[3] In addition, an owner or operator may fail to qualify for interim status if he fails to submit a complete Part A permit application. Section 270.70 of the regulations currently states that if, upon examination or reexamination of a Part A application, EPA determines that it fails to meet the standards of the regulations, EPA may notify the owner or operator that the application is deficient. Section 270.70 provides that the result of such a determination is that the owner or operator is not entitled to

[1] The five permit programs which were covered by the Consolidated Permit Regulation are: the hazardous waste management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under section 402 of the Clean Water Act, the "Dredge and Fill" program under section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing section 165 of the Clean Air Act [45 FR 33290–33388 (May 19, 1980), previously codified at 40 CFR Parts 122–124].

[2] Pursuant to Section 3006 of RCRA, a state may obtain authorization to run the hazardous waste program in lieu of the Federal program. For a discussion of state authorization of the RCRA program, see the preamble to 40 CFR Part 123 (now Part 271) in the May 19, 1980 **Federal Register**, 45 FR 33380, and the preamble discussion accompanying the January 26, 1981 amendments to those regulations, 46 FR 8298; and subsequent amendments on July 26, 1982, 47 FR 32373.

[3] Failure to file a Part A on time may not always result in a failure to qualify for interim status. The Agency may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing HWM facility may submit Part A of its permit application, as there is no statutory deadline for submitting the permit application. [See 40 CFR 270.10(e)(3)].

interim status, and is subject to EPA enforcement for operating without a permit.

Petitioners in the litigation on the Consolidated Permit Regulations, *NRDC v. EPA*, No. 80–1607, and consolidated cases (D.C. Cir., filed June 2, 1980),[4] argued that a determination that an owner or operator never acquired interim status cannot be made without some procedural safeguards. They argued that notice and opportunity for comment are necessary before the Agency can require a facility to cease operations because it failed to qualify for interim status.

The Agency believes that, as a practical matter, there are procedural safeguards already in place. It is standard operating procedure to allow a facility to correct, explain, or resubmit Part A of the permit application if it is found deficient, although such a procedure is not included in the regulations. To assuage petitioners' concerns, however, the Agency is today proposing to amend § 270.70 to expressly provide that before EPA determines that Part A of a permit application is deficient, it will notify the owner or operator in writing of the apparent deficiency. The notice will specify the grounds for EPA's belief that the application is deficient, and will give the owner or operator 30 days from the date of receipt to respond to the notification and to explain or cure the deficiency. If, after such notice and opportunity for response, EPA still finds that the application is deficient, it then can take appropriate enforcement action.

Some petitioners asserted that, in addition to notice and opportunity for comment on EPA's decision that a Part A application is deficient, the permit applicant should be granted a hearing on request. In EPA's view, a hearing is unnecessary. The statute does not require a hearing and issues in controversy should be simple and straight-forward enough to be resolved without resort to a hearing.

This proposal would put in regulatory form what is already standard Agency procedure. EPA believes that it is reasonable to give permit applicants an opportunity to cure deficient applications. Today's proposal would guarantee applicants that opportunity.

III. Opportunity for a Hearing Prior to Denial of an Initial Permit

As stated earlier, Section 3005(e) of RCRA states that any person who owns or operates an existing facility meeting the criteria listed in that section, shall be treated as having been issued a RCRA permit until such time as final administrative disposition of the permit application is made. Final administrative disposition occurs when EPA either issues or denies the permit.

The petitioners in the NRDC lawsuit raised several issues concerning the issuance or denial of an initial RCRA permit. They argued that due process requires the opportunity for a hearing before a permit is denied for a facility operating under interim status. In addition, they argued that the imposition of extensive, expensive, conditions in a permit might be tantamount to a denial of a permit, therefore a hearing should be available in such situations as well. The petitioners admitted that a full evidentiary hearing would not be necessary in every case, but some type of hearing ought to be available.[5]

EPA's position with respect to formal adjudicatory hearings was stated in the preamble to the May 19, 1980 regulations. It is EPA's position that such hearings are not required for the issuance of RCRA permits. The Agency stated that the requirements of due process are flexible, and that other procedures may be used which can be adapted to the nature of the problem being addressed (See 45 FR 33409–33411).

EPA believes that the current regulations meet the applicable due process tests. The regulations provide for notice of what the Agency proposes to do, an opportunity to challenge that proposal both through written comments and an informal public hearing, and a response to comments and a decision based on the administrative record.

Petitioners believed that the May 19, 1980 regulations only gave a right to this public hearing in situation were EPA proposed to issue a permit, and not when the Agency proposed to deny a permit. As promulgated on May 19, 1980, section 124.12(a) stated that the Director shall hold a public hearing whenever there is a " * * * significant degree of public interest in a draft permit." EPA's intention when promulgating this regulation was to provide a public hearing in situations where EPA issues either a tentative decision to issue or to deny a permit. In fact, a notice of intent to deny a permit is considered a draft permit.[6] This was clarified in amendments promulgated on July 15, 1981 (46 FR 36704) in response to an amendment to Section 7006(b) of RCRA.

As stated in the preamble to those amendments, the Agency intends that the requirement to hold an informal hearing (when one is requested) apply to cases where the Agency has tentatively decided to deny a permit as well as when the Agency has tentatively decided to issue a permit. All that RCRA and due process require is the opportunity for an informal hearing. That opportunity exists both for the issuance and denial of a RCRA permit.

The petitioners also were concerned that in some instances, there would be complicated factual issues that could be addressed better through a formal, rather than an informal, hearing. As the regulations are currently written, the Regional Administrator always has the discretion to hold a formal panel hearing. However, the petitioners objected to a lack of assurance in the regulations that they would receive a written response to a request for such a hearing, should the Regional Administrator deny the request. They were concerned that there would be situations were EPA and the permit applicant would disagree about changes necessary to bring the facility into compliance with the regulations. In situations where the Regional Administrator proposes to issue a permit, but the applicant disagrees as to major permit conditions, the petitioners want the opportunity for a panel hearing.

As a matter of policy, EPA has determined that permit applicants should have an opportunity for a panel hearing when there is a tentative decision to deny the initial permit for an

[4] For further discussion of the *NRDC v. EPA* case and the settlement agreement filed on the RCRA-related issues, see the preamble to the proposed amendments on owner signature and certification, 47 FR 32030 (July 23, 1982).

[5] There are three types of hearings available under Part 124. These are: (1) Public hearings. Public, or informal, hearing must be held whenever the Director receives written notice of opposition to a RCRA draft permit and a request for a hearing within 45 days of public notice of the draft permit [See 40 CFR 124.121]; (2) Evidentiary hearings. Evidentiary hearings under Subpart E of Part 124 are formal adversarial hearings conducted by a judicial officer pursuant to formal rules of practice. Evidentiary hearings are available under Section 3008 of RCRA in connection with the termination of a RCRA permit. They are not available upon the issuance or denial of a RCRA permit. See 40 CFR 124.12 and 124.71(a) and the preamble discussion at 45 FR 33408–11; and (3) Panel hearings. Panel hearings under Subpart F of Part 124 are nonadversarial hearings before a panel consisting of three or more EPA employees having special expertise or responsibility in areas related to the issues to be decided. A panel hearing is available whenever the Regional Administrator determines that as a matter of discretion, it would be an appropriate way to process a draft permit. Evidentiary hearings and Panel hearings are both considered formal adjudicatory hearings, as they conform to the formal hearing requirements of the Administrative Procedure Act.

[6] If the Director tentatively decides to deny the permit, he issues a "notice of intent to deny" the permit. A notice of intent to deny is a type of draft permit, which is processed under the same procedures as any draft permit [See 40 CFR 124.6(b)].

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existing facility, and where the applicant and EPA disagree on major conditions in the initial draft permit for an existing facility. Today's proposed amendment to § 124.12(e)(2) provides assurance that such a hearing will not be arbitrarily denied.

Under today's proposal, the permit applicant may request a panel hearing pursuant to §124.114. Such a request must be made before the end of the 45-day public comment period. The applicant must explain in his request why he believes that the issues for which he requests a hearing are genuine issues of material fact, and are issues which are determinative with respect to one or more contested permit conditions. If the Regional Administrator denies the request for a panel hearing, he must send a brief written statement to the applicant explaining his reasons for concluding that no determinative issues have been presented for resolution in a panel hearing.

This proposal would give the petitioners the assurance they want that a panel hearing will not be unreasonably denied.

It should be noted that in circumstances where the Administrator remands an appeal to the Regional Administrator, the Administrator may direct the Regional Administrator to hold a non-adversary panel hearing, if none has been held before.

VI. Economic Impact

These proposed amendments will not have any economic impact on the regulated community, as stated in the background information. It is standard operating procedure for the Agency to allow an applicant the opportunity to correct, explain or cure an incomplete Part A of the RCRA permit. This proposal, therefore does not change anything but the regulatory language.

The second regulatory change requires the Regional Administrator to provide a written reason for denying an applicant's request for a formal hearing. This proposed change increases the paperwork of the Regional Administrator, but does not affect the regulated community.

VII. Request for Comments

The Agency invites comments on all aspects of these proposed regulations. EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of the *NRDC* v. *EPA* litigation affecting the RCRA portion of the Consolidated Permit Regulations. However, EPA will carefully consider all public comments on this proposal before making its final decision.

VIII. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto take effect six months after their promulgation. In addition, Section 553(d) of the Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date. The purpose of these requirements is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today, however, the Agency believes that an effective date 30 days or six months after promulgation would cause unnecessary disruption in the implementation of the regulations and might deny the public certain safeguards in the permitting process. These amendments, if promulgated in final form, would not impose substative requirements on the regulated community, but rather would guarantee certain procedural safeguards. The Agency believes that this is not the type of regulation that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, EPA believes that it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or would otherwise be inappropriate.

IX. Executive Order 12291

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;

—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more. It merely provides some procedural safeguards upon the failure to qualify for interim status and the issuance or denial of a RCRA permit. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This amendment is not a major regulation, therefore no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

X. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this proposed rule have been submitted to the Office of Management and Budget (OMB) for approval under Section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB or the public.

XI. President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden of the RCRA portion of the Consolidated Permit Regulations (now deconsolidated) on the regulated community. This proposal also fulfills one of EPA's obligations in the settlement of industry litigation on the RCRA portion of the Consolidated Permit Regulations. In addition to issuing proposals aimed at settling the litigation, the Agency has deconsolidated the regulations to make them more easily usable by the public. As a result of deconsolidation, there was some reorganization of the regulations. Thus, this proposed amendment is in somewhat different format and location than it appeared in the settlement agreement.

XII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of proposed rulemaking for any rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment imposes no substantive requirements on the regulated community. Accordingly, I hereby certify that this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

Dated: April 26, 1983.

Lee L. Verstandig,
Acting Administrator.

List of Subjects

40 CFR Part 270

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Waste pollution control, Water supply, Indians—lands.

PART 270—[AMENDED]

It is proposed that 40 CFR Parts 270 and 124 be amended as follows:

1. The authority citation for Part 270 reads as follows:

Authority: Sections 1006, 2002(a), 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6901, 6912(a), 6925, 6927 and 6974).

2. In Part 270, it is proposed to amend § 270.70 by revising paragraph (b) to read as follows:

§ 270.70 Qualifying for interim status.

* * * * *

(b) *Failure to qualify for interim status.* If EPA has reason to believe upon examination of a Part A application that it fails to meet the requirements of § 270.13, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for EPA's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, EPA determines that the application is deficient it may take appropriate enforcement action.

PART 124—[AMENDED]

3. The authority citation for Part 124 reads as follows:

Authority: The Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; the Clean Water Act, 33 U.S.C. 1251 *et seq.*; the Clean Air Act, 42 U.S.C. 1857 *et seq.*

4. In Part 124, it is proposed to amend § 124.12 by revising paragraph (e) to read as follows:

§ 124.12 Public hearings.

* * * * *

(e)(1) At his or her discretion, the Regional Administrator may specify that RCRA or UIC permits be processed under the procedures in Subpart F.

(2) For initial RCRA permits for existing HWM facilities, the Regional Administrator shall have the discretion to provide a hearing under the procedures in Subpart F. The permit applicant may request such a hearing pursuant to § 124.114 on one or more issues, if the applicant explains in his request why he or she believes those issues: (1) Are genuine issues of material fact and; (2) are determinative with respect to one or more contested permit conditions, identified as such in the applicant's request, that would require extensive changes to the facility ("contested major permit conditions"). If the Regional Administrator decides to deny the request, he or she shall send to the applicant a brief written statement of his or her reasons for concluding that no such determinative issues have been presented for resolution in such a hearing.

[FR Doc. 83-12402 Filed 5-9-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Parts 264 and 270

[SW FRL 2251-7]

Hazardous Waste Management System: Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; and the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend the hazardous waste permit regulations. The regulations require, among other things, that a permittee under the Resource Conservation and Recovery Act maintain records of all ground-water monitoring data for the active life of the hazardous waste mangement facility. Today's proposal would change this requirement to allow the permittee to retain records of ground-water monitoring data for ten consecutive years only. This proposal eliminates a burdensom recordkeeping requirement without compromising protection of human health and the environment.

This amendent, if promulgated in the same form as proposed here, would result in an estimated savings to the regulated community of approximately $45,000 a year by reducing the burden of retaining ground-water monitoring records.

DATE: EPA will accept comments on this proposal until July 11, 1983.

ADDRESS: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the docket as "Docket 3004—Ground-water Monitoring Data."

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline toll-free at (800) 424–9346 or in Washington, D.C. at 382–3000; or Deborah Wolpe, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 382–4754.

SUPPLEMENTARY INFORMATION: On February 26, 1980, and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations established the first phase of a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260–265, 45 FR 33066–33289). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations governing five permit programs.[1] On January ——, 1983, the Consolidated Permit Regulations were deconsolidated. Each of the five permit programs now appears in a separate Part of the Code of Federal Regulations. The changes proposed today affect only

[1] The five permit programs which were covered by the Consolidated Permit Regulations are: The Hazardous Waste Management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Clean Water Act, the State "Dredge or fill" program under Section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing Section 165 of the Clean Air Act. [Previously codified in 40 CFR Parts 122–124, 45 FR 33290–33358].

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the hazardous waste permit program under Subtitle C of RCRA, now codified at 40 CFR Part 270.

Section 270.30 lists conditions which are applicable to all RCRA permits. Among them is a requirement that the permittee retain records of all monitoring information for a period of at least three years from the date of the sample, measurement, report or application. See 40 CFR 270.30(j)(2) [originally § 122.7(j)(2)]. Section 270.30(j)(2) additionally requires, however, that the permittee maintain records "from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well."

In addition, 40 CFR 264.73 states that the owner or operator of a permitted facility must keep a written operating record at the facility containing certain information, including ground-water monitoring data, which must be included in the operating record *until closure* of the facility. (See 40 CFR 264.73(b)).

Section 270.30(j)(2) has been challenged as unreasonable in a lawsuit on the Consolidated Permit Regulations, *NRDC* v. *EPA*, No. 80–1607 and consolidated cases, (D.C. Cir., filed June 2, 1980).[1] Petitioners in the suit claimed that this requirement of maintaining records for the active life of the facility is unnecessary, as the permit-issuing authority can readily obtain the necessary information from the RCRA annual reports required under 40 CFR 265.75(f) and 265.94.[2]

Athough EPA does not agree that it is duplicative to require the facility owner or operator to maintain such data for the lifetime of the facility, the Agency believes that this recordkeeping requirement is more burdensome than it need be. The Agency is therefore proposing to amend § 270.30(j)(2) to require the permittee to retain records of all ground-water monitoring activities for ten consecutive years only, and to amend § 264.73 to require that the permittee maintain the ground-water monitoring data in the facility's written operating record also for ten years. The Agency believes that ten years is a reasonable period of time to require the facility owner or operator to maintain records. In addition to this ten year record of monitoring data, ground-water quality background values will be specified in the permit itself. The last ten years of ground-water monitoring data, in addition to the background values is sufficient information for the facility owner or operator and EPA to make a realistic assessment of changes in ground-water quality.

It should be noted that on a case by case basis, EPA may always require a facility to retain the ground-water monitoring records for more than ten years. Section 264.74 states that the retention period for all records under Part 264 is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the Administrator for other reasons. Therefore, the effect of this proposal would be to eliminate a burdensome recordkeeping requirement without compromising EPA's access to information, or the protection of human health and the environment.

[1] For further discussion of the *NRDC* v. *EPA* lawsuit and the settlement agreement filed on the RCRA-related issues in the case, see the preamble to the proposed amendments to §§ 122.4 and 122.7 concerning owner signature and certification, (now §§ 270.7 and 270.11), 47 FR 32038 (July 23, 1982).

[2] This was the litigants' actual argument. Their assumption was that Part 264 would contain requirements very similar to §§ 265.75(f) and 265.94. In fact, however, the Part 265 requirements do not apply to permitted facilities. There currently is no such requirement that ground-water monitoring data be reported in the annual report for permitted facilities (Part 264). Therefore, the argument that maintaining these records at the permitted facility is duplicative has no basis.

IV. Request for Comments

The Agency invites comments on all aspects of these proposed regulations. EPA anticipates that finalization of today's proposal will provide part of the basis for settlement of the *NRDC* v. *EPA* litigation affecting the RCRA portion of the Consolidated Permit Regulations. However, EPA will carefully consider all public comments on this proposal before making its final decision. EPA is specifically requesting comments on whether reducing the recordkeeping requirement for groundwater monitoring data to ten years is sufficient to meet the objectives of Subpart F, and whether it is clear that this proposal requires the owner or operator to retain the data from the last ten consecutive years, and not any random ten years.

V. Economic Impact

The change proposed today will only affect facilities that require ground water monitoring, i.e, landfills, surface impoundments, land treatment units and some waste piles.

EPA estimates that this proposal will reduce compliance costs to the regulated community by approximately $45,000 a year. This represents an annual cost savings of approximately $30 per facility.

VI. Executive Order 12291

Under Executive Order 12291, (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;

—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more annually. Although it will effect the economy, the effect will not be the result of an increase in costs or prices to industry in terms of compliance with the regulations. Rather, the effect is to reduce the cost of compliance slightly. There will be no adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this amendment is not a major regulation, and no regulatory impact analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room S–269, U.S. EPA, 401 M Street, SW, Washington, D.C., 20460.

VII. Paperwork Reduction Act

The information reporting and recordkeeping provisions in this rule have been submitted for approval to the Office of Management and Budget (OMB) under Section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

VIII. President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden on the regulated community. This proposal also fulfills one of EPA's obligations in the settlement of the RCRA portion of industry litigation on the Consolidated Permit Regulations. In addition to issuing proposals aimed at settling the litigation, the Agency has deconsolidated the regulations to make them more easily usable by the public. As a result of deconsolidation, there was some reorganization of the regulations. Thus, this proposed amendment is in somewhat different format and location than it appeared in the settlement agreement.

IX. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have a significant economic impact on a substantial number of small entities because it imposes no new substantive requirements. It will result in a slight reduction of regulatory requirements. Accordingly, I hereby certify that this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

Dated: April 20, 1983.

Lee. L. Verstandig,

Acting Administrator.

List of Subjects

40 CFR Part 264

Hazardous materials, Packaging and containers, Recordkeeping and reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 270

Administrative practice and procedure, Hazardous material, Air pollution control, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

PART 270—[AMENDED]

It is proposed that Title 40, Part 270 of the Code of Federal Regulations be amended as follows:

1. The authority citation for Part 270 reads as follows:

Authority: Sections 1006, 2002(a), 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6905, 6912(a), 6925, 6927 and 6974).

2. It is proposed that 40 CFR Part 270 be amended by revising paragraph (j)(2) of § 270.30 to read as follows:

§ 270.30 Conditions applicable to all permits.

* * * * *

(j) * * *

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. The permittee shall maintain records of all ground-water monitoring data and associated evaluations for ten years. Whese time periods may be extended by request of the Director at any time.

PART 264—[AMENDED]

3. The authority citation for Part 264 reads as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930 and 6974).

4. It is proposed that 40 CFR Part 264 be amended by revising paragraph (b) of § 264.73 to read as follows:

§ 264.73 Operating record.

* * * * *

(b) The following information, other than the Subpart F ground-water monitoring data required in paragraph (b)(6) of this section, must be recorded, as it becomes available, and maintained in the operating record until closure of the facility. Data associated with Subpart F ground-water monitoring must be recorded, as it becomes available, and maintained in the operating record for ten years.

* * * * *

[FR Doc. 83–12490 Filed 5–9–83; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 270

[SW H–FRL 2251–8]

Hazardous Waste Management System; the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its hazardous waste permit regulations to allow some hazardous waste permits to be automatically transferred from the original permitted owner to the new owner of a hazardous waste treatment, storage, or disposal facility if the original owner gives 90 days advance notice of the transfer. This proposal would only allow such transfers to occur automatically if the new owner makes no changes in the operation of the facility, and meets other prerequisites specified in these proposed regulations.

Because these amendments are proposed, they will have no immediate economic impact. If these amendments are promulgated in the same form as proposed today, the Agency expects that they will result in a minimal savings to the regulated community. The savings would be realized by reducing the time and procedural requirements involved in transferring a permit to a new owner or operator. There would be no impact on the environment as this proposal would result in a reduction of paperwork, but no reduction of substantive requirements.

DATE: The Agency will accept comments on these proposed amendments until July 11, 1983.

ADDRESS: Comments on these amendments should be addressed to the Docket Clerk (Docket 3005—Transfers of Permits), Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA hotline toll-free at (800) 424–9346 in Washington, D.C. at (202) 382–3000; or Deborah Wolpe, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 382–4754.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 26, 1980 and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations established the first phase of a comprehensive regulatory program for the handling and management of hazardous waste (40 CFR Parts 260–265, 45 FR 33066–33289). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations governing five permit programs.[1] (40

[1] The five permit programs which were governed by the Consolidated Permit Regulations are: the

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CFR Parts 122–124, 45 FR 33290–33588). Subsequently, on January ——, 1983, the Consolidated Permit Regulations were deconsolidated. Each of the five permit programs now appears in a separate Part of the Code of Federal Regulations. The changes proposed today concern only one of these permit programs—the hazardous waste permit program under Subtitle C of RCRA, now located at 40 CFR Part 270.

The Subtitle C regulations require, among other things, that facilities which treat, store, or dispose of hazardous waste obtain a permit from EPA or an authorized state,[2] and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed of only in these permitted facilities. A RCRA permit is obtained by the owner, and, if the facility is owned by one person and operated by another, by the operator of a hazardous waste management (HWM) facility. See 40 CFR 270.7(b).

The privileges associated with a RCRA permit attach only to the person authorized to conduct the permitted activity and are not inherently assignable. As a practical matter, however, the Agency allows changes in ownership or operational control of some facilities to occur without requiring the issuance of an entirely new permit.

II. Current Regulations on Transferring Permits

Permits are not transferable to any person except after notice to the Director.[3] When the Director receives notice of a proposed change in ownership or operational control, he decides whether the change should involve: (1) A revocation and reissuance of the permit; (2) a "major" modification to the existing permit; or (3) a minor modification to the existing permit.[4] The type and extent of the changes to the permit necessitated by the transfer of control determine whether and how the permit will be transferred. Each of these approaches entails different procedures and consequences.[5]

A. Transfer by Revocation and Reissuance

The Director may require revocation and reissuance of any permit that is being transferred. As a practical matter, such procedures probably would be invoked only when the new owner or operator proposes significant changes to the facility such as changes in the processes used and the wastes handled.

The revocation and reissuance of a permit entails essentially the same procedures as issuance of a permit. A new permit application must be submitted, and all applicable procedures in 40 CFR Part 124 must be followed, i.e., a draft permit must be prepared, and public notice and an opportunity for public comment and hearing on the draft permit must be given. The entire permit is reopened when a permit is being revoked and reissued.

This method of transferring permits is therefore time-consuming. For this reason it generally will be used only when the new owner or operator will change the operation of the entire facility significantly.

B. Transfer by "Major" Modification of the Permit

In many cases, a change in ownership or operational control will involve only a modification to the existing permit, rather than a complete revocation of the existing permit and issuance of a new permit. A modification generally should be adequate if the changes necessitated by the transfer do not entail numerous significant changes to the existing permit. For example, if the new pemittee proposes changes to the closure or post-closure plan, or financial mechanisms, but not the actual operation of the currently permitted facility, a major modification should be sufficient.

A major modification to a permit still requires that the procedures outlined in 40 CFR Part 124 (i.e., draft permit, public notice etc.) be followed. However, only those portions of the permit application concerning the conditions being changed or added is required, and only those permit conditions which are being modified are reopened at this time. Thus, the public is informed of the changes and has an opportunity to comment, but the transfer would not be as involved or time-consuming as a transfer which entails revocation and reissuance of a permit. Of course the permittee may always request that the transfer be handled as a revocation and reissuance, rather than a modification to an existing permit.

C. Transfer by Minor Modification of the Permit

Some changes in ownership or operational control may require only a minor modification of the permit under 40 CFR 270.42(d). Section 270.42 provides that, in certain circumstances, with the consent of the permittee, the Director may modify a permit without following the procedures of Part 124 when there is a change in ownership or operational control. A transfer may only be handled as a minor modification to the permit if the Director determines that no changes to the permit other than the change in ownership or operational control (and any other changes listed in § 270.42 as minor modifications[6] are necessary, and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Director. (See 40 CFR 270.42(d)). For example, a transfer of control between subsidiaries of the same corporation should involve only a change in name, and therefore could be treated as a minor modification to the permit.

A minor modification may be processed much faster than either a major modification, or a revocation and reissuance, as no draft permit need be prepared, and no public notice procedures are required. However, the permittee must wait for EPA to act on the modification before the transfer may take place, and transfer by minor modification is only available under very limited circumstances.

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hazardous waste management (HWM) program under Subtitle C of RCRA; the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act; the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Clean Water Act; the State "Dredge or Fill" program under Section 404 of the Clean Water Act; and the Prevention of Significant Deterioration (PSD) program under regulations implementing Section 165 of the Clear Air Act.

[2] Section 3006 of RCRA provides that the Administrator of EPA shall authorize state hazardous waste management programs to operate in their respective jurisdictions in lieu of the Federal program. Such programs must meet minimum EPA guidelines. See the preamble to 40 CFR Part 123 (now Part 271) in the May 19, 1980 **Federal Register**, 45 FR 33380; the preamble discussion accompanying the January 20, 1981 amendments to those regulations, 46 FR 6298; and subsequent amendments on July 26, 1982, 47 FR 32373.

[3] The term "Director" as used in the hazardous waste permit regulations, is defined to mean the EPA Regional Administrator or the State Director of an authorized state program, as the circumstances require. See 40 CFR 270.1.

[4] See 40 CFR 270.30(1)(3). The Director may require modification or revocation or reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

[5] Automatic transfers are allowed for NPDES and certain UIC permits only, but not RCRA permits. See 40 CFR 122.61 and 144.38.

[6] The other changes listed in § 270.42 as minor modifications to RCRA permits are changes in the lists of facility coordinators or equipment in the contingency plan; changes in the estimates of maximum inventory in the closure plan; changes in the estimates of the expected year of closure; changes approving periods longer than 90 or 180 days for the time allowed for closure; certain changes in the trial burn for incinerators; and certain changes in land treatment programs. The Agency is planning to propose to expand the list of minor modifications in the near future.

D. Automatic Transfer of Permits

The regulations currently do not provide for automatic transfers of RCRA permits. However, NPDES and some UIC permits may be transferred to a new permittee automatically, if the requirements of §§ 122.61 or 144.38 are fulfilled. For an NPDES or UIC permit to be transferred automatically, the current permittee must notify the Director at least 30 days in advance of the proposed transfer date, and include in the notice a written agreement containing a specific date for the transfer of permit responsibility, coverage and liability. The transfer is automatic if the Director does not notify them of his intent to modify or revoke and reissue the permit within the 30 days.

For NPDES and UIC permits that are automatically transferred under §§ 122.61 or 144.38 the cause for modification survives the transfer, so that the Director may later modify the permit to reflect the changes to the facility resulting from the transfer, without holding up the transfer. This procedure allows a transfer to take place with no delay other than the 30-day notice period. This procedure is less burdensome on new owners or operators, therefore, as they need not wait for EPA to make the change to the permits, as they do when the permit is modified or revoked and reissued prior to the actual transfer.

III. Proposed Changes

Section 270.40, concerning transfers of RCRA permits, has been challenged as unreasonably restrictive. Industry petitioners, in settlement discussions dealing with the lawsuit on the consolidated permit regulations,[7] have argued that requiring a modification or revocation and reissuance of a permit for most RCRA permits before a transfer may take place is unduly burdensome. They have asserted that the requirements, details, and formalities attending property transfers are burdensome enough without involving EPA. Thus, they suggest that EPA should allow transfers of RCRA permits under an approach similar to that used for NPDES and UIC permits, allowing "automatic" transfers of permits for RCRA facilities.

Today the Agency is proposing to allow some RCRA permits to be transferred automatically, under a scheme similar to that used for NPDES and some UIC permits. The Agency agrees that many transfers ought to be subject to a streamlined transfer procedure, one not involving prior Agency action.

Today's proposal provides that a transfer may take place "automatically" if the new permittee proposes no changes in the operation of the facility and the Director receives notice from the existing permittee at least 90 days in advance of the proposed transfer date and receives a written agreement containing: (1) A specific date for transfer of permit responsibility, coverage and liability; (2) a demonstration that the financial responsibility regulations will be met by the new permittee, including a copy of the appropriate documents; and (3) a signed statement by the new permittee agreeing to comply with the existing permit conditions and the revised financial instruments.

If the new permittee does not receive notice from the Director within the 90-day advance notice period that modification or revocation and reissuance is necessary prior to the transfer, the transfer is effective on the date specified in the notice. EPA would plan to modify the permit, after the date of transfer, to reflect the new owner or operator's name and the revised financial instruments. If, however, the Director gives notice within the 90-day advance notice period, that a major or minor modification or revocation and reissuance of the permit is necessary prior to the transfer, the applicable procedures must be followed.

This is a change from the May 19, 1980 regulations. In the preamble to those regulations, the Agency stated that for RCRA facilities, it would always be necessary to modify the permits upon the transfer of ownership or operational control of the permitted facility. EPA had determined that this was necessary because we believed that all RCRA permits would contain conditions which would be personal to the permittee and which necessarily would change when the permittee changes, such as the closure and post-closure plans, the contingency plan, and provisions for financial responsibility.

The Agency no longer believes that all of the closure, inspection, and contingency plans are personal to the permittee. Many can be generally applicable to the facility. To expedite transfers of property, EPA is proposing to allow an automatic transfer of the permit when these conditions would not change, and then later process the facility's change of name and financial instruments as a modification to the permit.

It will be up to the original and new permittees whether they wish to apply to the Director for an automatic transfer or a minor modification, the major difference being that for a minor modification, they would wait for the Agency to take action on the permit modification before the transfer takes place.

It should be noted that EPA does not intend to allow any automatic transfers where a major modification to the permit would be necessary.

Ninety days is the same amount of advance notice that is required by EPA for transfers of facilities during interim status. (See 40 CFR 270.72). The Agency believes that in most cases, it needs that amount of time to review the revised financial instruments. It has been the Agency's experience, however, that the 90-day notice period may need to be shortened in certain circumstances, *e.g.*, a court-ordered transfer of ownership necessitating a permit transfer in less than 90-days. Therefore, the Agency is proposing to add a provision to § 270.40(b) that for good cause shown by either the existing or new permittee, the Director may allow a shorter advance notice period.

The Director must get actual notice of the transfer before the 90-days advance notice period begins. The permittee is therefore advised to send his notice by certified mail.

IV. Transfer of State Permits

Many states preclude any permit transfers and require that new facility owners apply for and obtain a new permit in all instances of changes in ownership or operational control. This proposal would not affect transfers of permits in states which preclude permit transfers under state law because Section 3009 of RCRA allows States to impose requirements that are more stringent than those imposed by the Federal regulations.

V. Economic Impact

EPA estimates that the savings attributable to this proposal would be equal to the difference between the cost of a minor modification to a permit and the cost of the automatic transfer (i.e., difference in when the modification to the permit occurs). This amendment merely allows the permittee a measure of convenience, by assuring the permittee that he may make his modification within 90 days. Because the cost of this convenience is negligible, there would be very little if any cost savings.

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[7] *NRDC* v. *EPA*, No. 80–1607 and consolidated cases (D.C. Cir., filed June 2, 1980). For further discussion of the lawsuit and the settlement agreement dealing with the RCRA-related issues in the case, see the preamble to the proposed amendments to §§ 122.4 and 122.6 (now §§ 270.7 and 270.11), 47 FR 32038 (July 23, 1982).

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VI. Request for Comments

The Agency invites comments on all aspects of these proposed regulations. EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of the *NRDC v. EPA* lawsuit on the RCRA portion of the consolidated permit regulations. However, EPA will carefully consider all public comments on this proposal before making its final decision.

VII. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto take effect six months after their promulgation. In addition, section 553(d) of the Administrative Procedure Act requires publication of a substantive rule note less than 30 days before its effective date. The purpose of these requirements is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today, however, the Agency believes that an effective date six months after promulgation would cause unnecessary disruption in the implementation of the hazardous waste management program and would contravene the purpose of these amendments. These amendments, if promulgated in final form, would allow some RCRA permits to be transferred from a permittee to a new owner or operator without prior modification or revocation and reissuance.

The Agency believes that this is not the type of regulation that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Indeed, this is a rule that would relieve an existing restriction. (See 42 U.S.C. 553(d)(1)). Consequently, EPA believes that it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or would otherwise be inappropriate.

VIII. Executive Order 12291

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;

—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulation is not major because it will not result in an effect on the economy of $100 million or more. There will be no adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This amendment is not a major regulation, therefore no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

IX. Paperwork Reduction Act

The reporting or recordkeeping provisions in this rule have been submitted for approval to the Office of Management and Budget (OMB) under Section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

X. President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden on the regulated community. This proposal also fulfills one of EPA's obligations in the settlement of the RCRA portion of industry litigation on the Consolidated Permit Regulations. In addition to issuing proposals aimed at settling the litigation the Agency has deconsolidated the regulations to make them more easily usable by the public. As a result of deconsolidation there was some reorganization of the regulations. Thus, this proposed amendment is in somewhat different format and location than it appeared in the settlement agreement.

XI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish general notice of proposed rulemaking for any rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

These amendments will not have a significant economic impact on a substantial number of small entities. If these amendments are promulgated in the same form as proposed today, the Agency expects that it will result in minimal savings to the community.

Accordingly, I hereby certify that this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

Dated: April 26, 1983.

Lee L. Verstandig

Acting Administrator.

List of Subjects in 40 CFR Part 270

Administrative practices and procedure, Reporting and recordkeeping requirements, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

PART 270—[AMENDED]

It is proposed that 40 CFR Part 270 be amended as follows:

1. The authority citation for Part 270 reads as follows:

Authority: Sections 1006, 2002, 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by of the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6905, 6912, 6925, 6927 and 6974).

2. It is proposed that § 270.40 be amended by designating the existing section as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 270.40 Transfer of permits.

* * * * *

(b) *Automatic Transfers.* As an alternative to transfers under paragraph (a) of this section, any RCRA permit may be automatically transferred to a new permittee if the new permittee proposes no changes in operation, and:

(1) The Director receives notice by certified mail from the existing permittee at least 90 days in advance of the proposed transfer date specified in the agreement mentioned in paragraph (b)(2) of this section, unless the Administrator allows a shorter advance notice period for good cause shown by the existing or new permittee;

(2) The notice includes: (i) A written agreement between the existing and new permittee, signed by both,

containing a specific date for transfer of permit responsibility, coverage, and liability; (ii) a demonstration that the financial responsibility requirements of 40 CFR Part 264 will be met by the new permittee, including a copy of the revised financial instruments or other appropriate documents; (iii) a signed statement by the new permittee agreeing to comply with the existing permit conditions, and the revised financial requirements; and

(3) The new permittee receives no notice from the Director, within 90 days from the date the Director received the notice referred to in paragraph (b)(1) of this section, that modification, or revocation and reissuance of the permit is necessary. If such notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section. EPA may modify the permit after the effective date of the transfer to include the new permittee's name and the revised financial instruments. If, within the 90 day advance notice period, the Director gives notice that modification or revocation and reissuance of the permit is necessary under § 270.41(b)(2), the applicable procedures of Part 124 must be followed, rather than these procedures for an automatic transfer.

* * * * *

[FR Doc. 83-12401 Filed 5-9-83; 8:45 am]
BILLING CODE 6560-50-M

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

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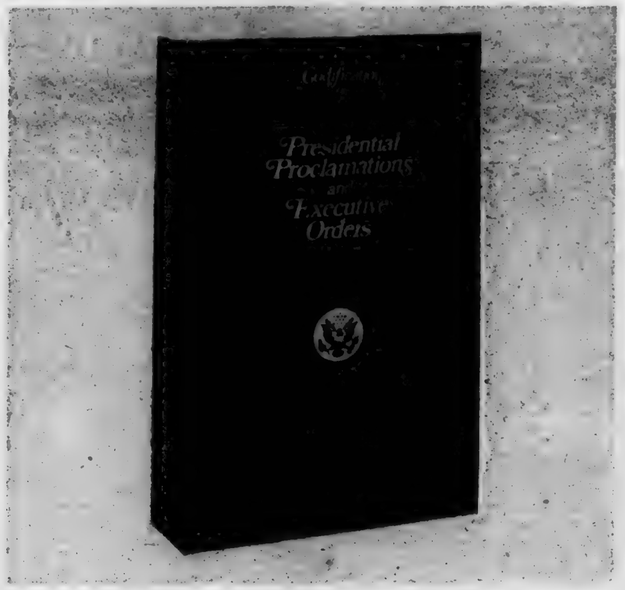

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federal register

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Rules and Regulations

Federal Register
Vol. 48, No. 92
Wednesday, May 11, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1320

Collections of Information in Federal Acquisition Regulations

AGENCY: Office of Management and Budget, Office of Information and Regulatory Affairs.

ACTION: Notice concerning collections of information in Federal Acquisition Regulations.

SUMMARY: This notice is being issued to inform all affected parties of our intent to review collections of information contained in the Federal Acquisition Regulation and agencies' implementing and supplementing regulations, under the Paperwork Reduction Act of 1980, prior to April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Edward C. Springer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503; telephone (202) 395–4814.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget before collecting information from ten or more members of the public. As evidence of such approval, agencies are required to display an OMB control number on collection of information requirements. As stated in Pub. L. 96–511, "Notwithstanding any other provision of law, no person shall be subject to any penalty for failure to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director of OMB, or fails to state that such request is not subject to this chapter."

Collections of information from ten or more firms in connection with the acquisition of goods and services by the Federal Government are subject to the same review and approval requirements as other collections of information under Pub. L. 96–511. Furthermore, private sector firms, as "persons" within the meaning in the Act, are accorded protections in the Act. The Office of Information and Regulatory Affairs recently issued a rule (5 CFR Part 1320) 48 FR 13666 which clarifies the applicability of Pub. L. 96–511 to collections of information associated with Federal acquisitions.

Over the last few years, OMB has been working with the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration in developing a single, standard Federal Acquisition Regulation (FAR). That regulation is intended to replace and simplify the myriad of agency procurement regulations currently in place. It will contain numerous reporting and recordkeeping requirements, which OMB is planning to review under Pub. L. 96–511 prior to the April 1, 1984 implementation date for the FAR.

In addition to the FAR, some agencies will be issuing new acquisition procedures or retaining existing acquisition procedures applicable to particular agency requirements. The reporting and recordkeeping associated with such procedures will also be reviewed by OMB under Pub. L. 96–511 in time for the April 1, 1984 implementation of the FAR.

It is the purpose of this notice to inform all affected parties that for acquisitions for which solicitations are issued on or after April 1, 1984, only those collections of information required by acquisition regulations, bearing a current OMB control number displayed in the text of the Federal Acquisition Regulation or agency implementing and supplementing acquisition regulations, will be considered to be approved under the Paperwork Reduction Act. There will be continuing approval for solicitations issued prior to April 1, 1984 and contracts entered into as a result of solicitations issued prior to April 1, 1984.

Christopher DeMuth,
Administrator for Information and Regulatory Affairs.

[FR Doc. 83-12813 Filed 5-10-83; 8:45 am]
BILLING CODE 3110-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

[Amdt. 4]

Tobacco Loan Program

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: An interim rule which was published on November 16, 1982 (47 FR 51554), is hereby adopted as a final rule except for an amendment to more precisely indicate the method by which the Secretary of Agriculture may adjust the level of price support for tobacco. The interim rule amended certain provisions of the regulations found at 7 CFR Part 1464 which govern the Commodity Credit Corporation price support program for tobacco in order to implement certain changes in that program which were required by the No Net Cost Tobacco Program Act of 1982, (Pub. L. 97–218, 96 Stat. 197, approved July 20, 1982). These program changes affect the terms and conditions under which price support will be made available to producers for the 1982 and subsequent crops of tobacco.

EFFECTIVE DATE: May 11, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist (202) 447–2715. A final Regulatory Impact

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or a geographic region; or (3)

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significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Title: Commodity Loan and Purchases: Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The No Net Cost Tobacco Program Act of 1982 (the "Act") amended the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to establish a tobacco price support and adjustment program which would result in no net cost to the taxpayer, other than administrative costs. The Act provided for the establishment of Funds or Accounts which would be used to receive contributions by tobacco producers to pay for any losses sustained by the CCC for 1982 and subsequent crops of tobacco in its operation of a tobacco price support program.

The Act also amended Section 106 of the Agricultural Act of 1949 to provide that if the Secretary determines that any grade of any kind of tobacco of a crop for which marketing quotas are in effect will likely be excessive, the Secretary may reduce the support rate which would otherwise be established for such grade of tobacco. Before making such reduction, the Secretary must take into consideration the effect such reduction may have on the supply and price of the other grades of the kinds of quota tobacco.

On November 16, 1982, an interim rule was published in the **Federal Register** (47 FR 51554) which amended the regulations at 7 CFR Part 1464 to implement the foregoing provisions of the Act. The public was afforded 60 days to comment on the interim rule. Only one comment was received during the comment period which ended on January 17, 1983. The American Farm Bureau Federation expressed support with respect to the provisions of the interim rule.

Accordingly, the interim rule as published on November 16, 1982, is adopted as a final rule, except that § 1464.3(b) is revised to make it clear that once the Secretary has, in accordance with § 1464.3(b), reduced the support rate which would otherwise be established, the support level for the current marketing year shall be the announced support level for the preceding marketing year plus any increase determined in accordance with the provisions of Section 106(d) of the Agricultural Act of 1949.

List of Subjects in 7 CFR Part 1464

Price support programs, Tobacco.

Final Rule

Accordingly, the interim rule published at 47 FR 51554 November 16, 1982, which amended the regulations at 7 CFR Part 1464 is hereby adopted as a final rule, except that § 1464.3(b) is revised to read as follows:

§ 1464.3 Level of price support

* * * * *

(b) Effective for the 1982 and subsequent crops of tobacco, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the appropriate association, may reduce the support rate which would otherwise be established for such grade of tobacco. Before reducing the support rate for a particular grade of tobacco, the Secretary must take into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. After such reduction, however, the weighted average of the support rates for all eligible grades of such kind of tobacco shall reflect not less than (1) 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under paragraph (a) of this section, if the support level for such kind of tobacco is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under paragraph (a) of this section, if the support level for such kind of tobacco is not higher than the support level for the preceding crop. All official grades shall be considered in determining the weighted average of the grade loan rates. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the following factors will be considered: (i) The domestic supply, including domestic inventories, (ii) the amount of such tobacco pledged as security for price support loans, and (iii) anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. Any adjustment in the support level for any marketing year shall be determined by comparing the support level computed in accordance with the provisions of paragraph (a) of this section for the preceding marketing year to the support level computed in accordance with the provisions of paragraph (a) for the current marketing year. If the computed support level for the current marketing year is higher than the computed support level for the preceding marketing year, an amount which is not less than 65 percent of such increase shall be added to the adjusted support level (determined in accordance with the provisions of this paragraph) which was in effect for the preceding marketing year and such total shall be the adjusted support level for the current marketing year. If the computed support level for the current marketing year is lower than such level for the preceding marketing year, the current marketing year support level shall be the preceding marketing year's adjusted support level: *Provided*, That if the computed support level for the current marketing year is less than the adjusted support level for the preceding marketing year, the computed support level shall be the support level in effect for the current marketing year.

Signed at Washington, D.C., on May 5, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-12581 Filed 5-10-83; 8:45 am]

BILLING CODE 3410-05-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Rev. 6, Amdt. 29]

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is issuing today a final rule that SBA will not participate in any loan in which the lender has issued a real estate forward commitment. Inquiries by lenders and others concerning the alleged vagueness of the so-called conflict provision is the basis for the SBA decision to clarify the proscription of the forward commitment type of transaction.

EFFECTIVE DATE: May 11, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Hertzberg, Deputy Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6574.

SUPPLEMENTARY INFORMATION: On November 15, 1982, SBA published in the **Federal Register** (47 FR 51403) a proposed rule clarifying conflict of interest situations in the financial assistance programs and adding an example covering the issuanvce of forward commitments by participating lenders. The rule clarifies that SBA will not participate in any loan where the lender has issued a real estate forward commitment to a builder/developer with respect to a project in which the applicant will use the loan proceeds to acquire business or industrial space. Public comment was invited to be received by December 15, 1982.

Only two comment letters were received on the proposed rule, one from a real estate consulting organization, and the second from that organization's legal counsel. These comments were opposed to the proposed rule change.

One of the comment letters maintained that small businesses would be severely impacted through higher costs and lost growth opportunities. In fact, the rule change does not impact on small businesses since it is merely clarifying a pre-existing prohibition on forward commitment arrangements. Any adverse impact that may affect real estate purchases results from recent changes in the availability of long term real estate mortgage financing rather than any change in SBA lending practices.

The respondent further maintains that SBA's assumption that builders/developers are the beneficiaries is misleading, and that the proposed rule is prejudicial in that it addresses real estate forward commitments but not other types of forward commitments.

It is the position of SBA that if an identifiable small business desires to purchase specific real estate and finance that purchase through a lender with SBA's guaranty, such a transaction would be eligible for SBA assistance provided no previous agreement existed between the lender and the builder/developer. Such and arrangement would clearly assist the small business concern. Since a forward commitment runs between a lender an a builder, prior to initiation of construction, and in the absence of an identified small business purchaser, it is clear that the builder is the beneficiary at the time the commitment is issued. SBA does not consider valid the comment on the prejudicial aspect since real estate forward commitments are the only type known to involve SBA financing. However, since the real estate forward commitment is only an example of ineligibility, the prohibition would be equally applicable should a similar situation arise not involving real estate.

Finally, the respondent maintains that neither the lender nor SBA is under any obligation to accept unworthy credit risks. SBA does not disagree with this comment; however, SBA does not believe this is a relevant point since it does not bear on the underlying basis for the rule clarification.

The second comment letter suggests that SBA has no factual basis upon which to base a prohibition on forward commitments, and does not describe "conflict of interest" as that term is used under the Small Business Act, and existing regulations.

In fact, "conflict of interest" is a principle commonly understood and used in both business and government. The principle embodies requirements that permit decisions and/or recommendations to be made free of factors which would or could influence the judgment of the decisionmaker because of other interests or relationships he or she may have.

This respondent has gone on to suggest that existing SBA regulations limit conflict of interest to those situations where the lender would have or acquire an interest in the small business concern being financed by that lender. While existing regulations could be read in such a way, the SBA never intended to so limit its ability to determine the existence of a conflict of interest in any other situation. It is eminently clear to SBA that conflicts of interest can and do take many other forms, and this is precisely the reason that such clarification in the regulations is necessary.

This respondent raised several other issues also covered in the first comment letter and addressed above.

SBA has determined that the rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The Agency is certain that the annual effect of the rule on the economy will be less than $100 million. The rule will not result in a major increase in costs or price for consumers, individual industries, Federal, State or local government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity or innovation.

The SBA also certifies that the promulgation of this rule will not have a significant economic impact on a substantial number of small entities. In this regard, while the result of promulgation of this rule will be to restrict forward commitment situations from participation in SBA's loan program, it will not by itself result in the deprivation or granting of a loan to a given small business. If a business which might be aided by a forward commitment is otherwise eligible for SBA assistance, it should be able to receive that assistance notwithstanding a prohibition on forward commitments.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small business.

PART 120—[AMENDED]

Accordingly, pursuant to the authority in Section 5(b)(6) of the Small Business Act (15 U.S.C. 631 et seq.), Part 120, Chapter I, Title 13 of the Code of Federal Regulations, is amended by revising § 120.5(a)(1) introductory text, and renumbering paragraphs (a)(1) (iv) and (v) of § 120.5 as (a)(1) (v) and (vi), respectively, and by adding a new paragraph (a)(1)(iv) to § 120.5, to read as follows:

§ 120.5 Operations of eligible participants.

(a) *General.* * * *

(1) *Conflicts.* Without the prior written approval of the responsible SBA district office, SBA will not participate in any loan to a small business concern where the lender has, or acquires while the loan is outstanding, an interest in any form which could constitute a conflict of interest with respect to the loan or the small business concern. For example:

* * * * *

(iv) SBA will not participate in any loan to a small business concern where the lender has issued a real estate forward commitment to a builder/developer with respect to a project of such builder/developer in which the applicant will use the proceeds of the loan to acquire business or industrial space.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

Dated: April 1, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-12580 Filed 5-10-83; 8:45 am]

BILLING CODE 8025-01-M

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Freedom of Information Act Release No. 65

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive Release.

SUMMARY: The Commission takes the position that a letter requesting confidential treatment for materials submitted to the Commission is not entitled to confidential treatment under the Freedom of Information Act.

EFFECTIVE DATE: May 11, 1983.

FOR FURTHER INFORMATION CONTACT: Harry J. Weiss, Office of the General Counsel (202) 272–2454.

SUPPLEMENTARY INFORMATION: The Freedom of Information Act, 5 U.S.C. 552, as amended, (FOIA) generally provides that any person has a right, enforceable in court, of access to the extent that such records, or portions thereof, are protected from disclosure by one of nine exemptions.[1] The Commission has adopted rules which allow persons submitting information to make requests for confidential treatment in order that such information not be disclosed pursuant to the FOIA.[2]

A number of persons requesting confidential treatment have also requested that the letter requesting confidential treatment itself be afforded confidential treatment. The Commission takes the position that a request for confidential treatment is not protected under the FOIA. Accordingly, the Commission will release copies of requests for confidential treatment if they are requested under the FOIA.[3]

Persons requesting confidential treatment should avoid including in their requests information which is itself confidential.[4] Under the Commission's confidential treatment regulations, a request for confidential treatment need only "specif[y] the information as to which confidential treatment is requested." [5]

The requester should not attempt to substantiate a request at the time the request is made. Should the Commission receive a request under the FOIA for the designated information, the requester will then be afforded an opportunity to substantiate the request and, under the Commission's regulations, the requester may, if necessary, request confidential treatment for portions of the substantiation.[6]

By the Commission.

May 5, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-12870 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

[1] *See also* 17 CFR 200.80.

[2] 17 CFR 200.83.

[3] The Commission may, in its discretion, release a copy of a request under the FOIA even if a FOIA exemption would permit nondisclosure. *See Chrysler Corp. v. Brown*, 441 U.S. 281, 292–294 (1979).

[4] The Commission recognizes that, on rare occasions, it may be necessary to afford confidential treatment to the request itself in order to preserve the confidentiality of the information as to which confidential treatment is requested (*e.g.*, where an informant requests that confidential treatment be afforded to the letter in which he seeks confidential treatment for his investigative testimony because of his desire to avoid disclosure of his identity or the fact that he has provided information to the Commission). On those occasions, the requester should request, and describe the extraordinary circumstances that necessitate, confidential treatment of the request.

[5] 17 CFR 200.83(c)(1)(iii).

[6] 17 CFR 200.83(d)(2)(viii).

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Investigations Involving Requests for Temporary Relief—Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Interim rules; request for comments.

SUMMARY: These rules amend part 210 of the Commission's *Rules of Practice and Procedure*. Part 210 governs procedures to be followed in investigations of unfair acts and unfair methods of competition under section 337 of the Tariff Act of 1930. 19 U.S.C. 1337. The amendments clarify and modify the procedures for investigations involving requests for temporary relief pursuant to 19 U.S.C. 1337 (e) and (f).

Under existing Commission practice (19 CFR 210.20(a)(2) and (a)(10)), the complainant sets forth its request for temporary relief and any factual allegations underlying the claim in the complaint. The request and accompanying factual allegations are reviewed by the Commission prior to institution of the investigation. If the request and allegations are deemed sufficient under 19 CFR 210.11(a), the Commission defines the scope of the investigation to include a request for temporary relief pursuant to 19 CFR 210.12. After institution, the investigation is assigned to a presiding officer who conducts any hearings required.

The amended rules change existing practice by requiring the complainant to set forth the request for temporary relief and supporting allegations in a motion submitted concurrently with the complaint. The rules further provide for the filing of a formal response to the motion by any parties opposed to the issuance of temporary relief. As the amended rules make clear, the presiding officer assigned to the case, rather than the Commission, will review the sufficiency of the claim and allegations and decide what action is appropriate.

EFFECTIVE DATE: May 11, 1983. The procedures established by these interim rules will be applicable only to section 337 complaints filed subsequent to the effective date. The superseded rules provisions will continue in effect for all previously filed complaints. Comments on these interim rules will be considered if received on or before June 10, 1983.

ADDRESS: Send comments to the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0311.

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties. Under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), the Commission has the authority to conduct investigations of alleged unfair acts and unfair methods of competition in import trade. Pursuant to sections 337 (e) and (f), the Commission may order the temporary exclusion of the articles under investigation, except under bond, or issue temporary cease and desist orders. 19 U.S.C. 1337 (e) and (f). The purpose of these amendments is to modify the procedures for section 337 investigations involving requests for temporary relief. The amendments are intended to formalize the procedures for resolving the issues presented and to provide respondents with a formal opportunity to respond to a request for temporary relief prior to any adjudicatory hearings.

Under existing Commission practice, the complainant sets forth any allegations underlying its request for

temporary relief in a complaint filed with the Commission under 19 CFR 210.20(a). Prior to institution of the investigation, the Commission reviews the complaint, including any allegations regarding temporary relief, pursuant to 19 CFR 210.11(a). In certain instances, at complainant's request, the Commission, upon institution, has requested that the presiding officer issue an initial determination on temporary relief by a specific date.

After the Commission has voted to institute an investigation, the Secretary to the Commission serves the respondents with the complaint and notice of investigation (19 CFR 210.13). The respondents have 20 days from the date of service to respond to the allegations of the complaint, including any allegations regarding temporary relief. After the complaint, response, and discovery (if any), the presiding officer conducts a temporary relief hearing and issues an initial determination pursuant to § 210.53(b) of the Commission's rules. 47 FR 25134 June 10, 1982 (to be codified at 19 CFR 210.53(b)).

The amendments are intended to remedy problems that have arisen under existing Commission practice. At the institution stage, the Commission does not know either how many respondents will be contesting the allegations in the complaint or the substance and complexity of respondents' defenses. Thus, the Commission must rely exclusively on complainant's allegations in evaluating the sufficiency of any statements regarding temporary relief. This is a particular problem when the Commission is being asked to order an initial determination on temporary relief by a specific date, since the respondents' views as to temporary relief and the presiding officers' availability to schedule a hearing are unknown. Thus, the Commission believes that the more appropriate procedure is to permit respondents to file a formal reply prior to consideration of the sufficiency of any allegations regarding temporary relief or any decision as to a hearing date. The presiding officer will review the motion and response, and will then be in a position to resolve any conflict in the positions of the parties, including any conflict regarding the complainant's request for temporary relief by a specific date.

Rule 210.20 is amended in paragraph (a)(10), which concerns requests for relief contained in the complaint. The paragraph is amended to include a reference to the new procedure by which requests for temporary relief must be made by way of separate motion as provided for in new § 210.24(e).

Rule 210.24, which concerns motions, is amended with the addition of a new paragraph (e) to be codified at 19 CFR 210.24(e). This provision deals with motions for temporary relief and responses thereto. Under § 210.24(e)(1), a complaint must be accompanied by a motion for temporary relief, a memorandum of points and authorities, and supporting affidavits. The motion must set forth specific facts relating to (1) complainant's likelihood of success on the merits; (2) immediate and substantial harm to the domestic industry; (3) harm, if any, to the proposed respondents; and (4) the effect, if any, on the public interest as enunciated in §§ 337 (e) and (f) and 19 CFR 210.14. The Commission considers these four factors in evaluating requests for temporary relief. See, e.g., *Certain Apparatus for the Continuous Production of Copper Rod*, Action, Order and Opinions concerning Temporary Relief, Investigation No. 337–TA–89, USITC Pub. 1132, April 1981, at 4.

Rule 210.24(e)(2) allows for motions for temporary relief to be filed after the institution of an investigation. Such a motion has the same requirements as a motion accompanying the complaint with the exception that a later motion has the additional requirement of showing extraordinary changed circumstances of which the moving party was not, and could not have been, aware at the time the complaint was filed.

Rule 210.24(e)(3) provides for responses to motions for temporary relief. This provision permits any party to file a response to the temporary relief motion. The response must set forth specific facts relating to (1) complainant's likelihood of success on the merits; (2) immediate and substantial harm to the domestic industry; (3) harm, if any, to the respondents; and (4) the effect, if any, on the public interest. Time for responses to motions accompanying the complaint is 20 days, the same time allowed for responses to the complaint itself. Motions brought after the institution of an investigation shall have a response time of 10 days after service of the motion, the same response time as for other motions. The presiding officer is given authority to alter response times according to the needs of particular circumstances. Responses must be accompanied by the same types of supporting materials, except that affidavits are required only where feasible.

Rule 210.13, which concerns service of the complaint, has been amended to reference service of any accompanying motion for temporary relief.

Rule 210.14, which concerns Commission actions, public interest factor, and bonding, is amended to permit the presiding officer to consider and make appropriate findings in the initial determination regarding the effect, if any, that the issuance of the requested temporary relief would have on the public interest. Paragraph (b) has been amended to make it consistent with section 7 of the Administrative Procedure Act (5 U.S.C. 556(d)) and to prohibit the compelling of discovery in connection with settlement terminations or requests for temporary relief where such discovery relates solely to the public interest.

The Commission expects a complainant to come forward with specific facts supporting its entitlement to temporary relief. When temporary relief is requested by a specific date, complainant should present specific facts to support such a request. When there is no genuine issue of material fact and a party is entitled to summary determination as a matter of law, the Commission intends that the motion be summarily determined in accordance with 19 CFR 210.50.

The complainant carries the burden of establishing its entitlement to temporary relief. Similarly, the respondent, whenever possible, must present by affidavit facts essential to justify its opposition.

The Commission recognizes that in certain instances, parties may be unable to present certain essential facts in order to support or contest motions for temporary relief. In such instances, the presiding officer may permit discovery or make such other order as is just under the circumstances. Nevertheless, where the facts are readily available without discovery, the reasons given for the need for discovery are insufficient, or there is an appearance of improper or unjustified delay, the presiding officer may rule upon a motion without further discovery.

In accordance with the Regulatory Flexibility Act, it is hereby certified that these interim rules will not have a significant economic impact on a substantial number of small entities. Adoption of these rules is will make it less costly and time consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

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List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Customs duties and inspection, Imports, Investigations.

PART 210—[AMENDED]

Part 210 is amended as set forth below:

1. Section 210.13 which concerns service of the complaint is revised as follows:

§ 210.13 Service of Complaint.

Each respondent named in the complaint, and other respondents as later discovered, shall be served by the Commission with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation. The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission considers appropriate shall also be served with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation. Service shall be effected upon institution of the investigation or as soon as possible after respondents are discovered.

2. Section 210.14(b) is revised as follows:

§ 210.14 Commission action, public interest factor, and bonding.

* * * * *

(b) Unless otherwise ordered by the Commission or permitted by this subsection, the presiding officer shall not take evidence or other information or hear arguments from the parties and other interested persons with respect to the subject matter of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section. However, with regard to settlements by agreement or consent order under § 210.51 (c) and (d), the parties may file statements regarding the impact of the proposed settlement on the public interest, and the presiding officer may in his discretion hear argument, although no discovery may be compelled with respect to issues relating solely to the public interest. Thereafter, the presiding officer shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. With respect to initial determinations concerning temporary relief issued pursuant to § 210.53(b), the parties may present oral or documentary evidence regarding the impact of the requested temporary relief on the public interest, submit rebuttal evidence, and conduct such cross-examination as may be required for a full and true disclosure of the facts, and the presiding officer shall thereafter in his initial determination make appropriate findings regarding the effect, if any, that the issuance of the requested temporary relief would have on the public interest, although no discovery may be compelled with respect to issues relating solely to the public interest.

* * * * *

3. Section 210.20(a)(10) is amended as follows:

§ 210.20 The complaint.

(a) * * *

(10) Contain a request for relief sought. When the complaint contains a request for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f), a separate motion for temporary relief shall accompany the complaint in accordance with § 210.24(e) of this part.

* * * * *

4. In § 210.24, a new paragraph (e) is added to read as follows:

§ 210.24 Motion.

* * * * *

(e) *Motion for Temporary Relief.* Requests for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f) shall be made through a motion under § 210.24(e) (1) or (2) of this part.

(1) *Motion accompanying complaint.* A complaint requesting temporary relief pursuant to § 210.20(a)(10) of this part shall be accompanied by a motion which sets forth complainant's request for temporary relief. The motion shall contain a detailed statement of specific facts bearing on:

(i) Complainant's probability of success on the merits;

(ii) Immediate and substantial harm to the domestic industry in the absence of the requested temporary relief;

(iii) Harm, if any, to the proposed respondents if the requested temporary relief is granted; and

(iv) The effect, if any, that the issuance of the requested temporary relief would have on the public interest.

The motion shall contain in addition a memorandum of points and authorities in support of the motion and affidavits executed by persons with knowledge of the facts specified in the motion. A motion for temporary relief accompanying a complaint shall be deemed filed on the date that the Commission institutes an investigation and shall be served with the complaint and notice of investigation in accordance with § 210.13 of this part. A motion for temporary relief accompanying a complaint shall be forwarded to the presiding officer for decision in the form of an initial determination to be issued pursuant to § 210.53(b) of this part.

(2) *Motions filed after institution of the investigation.* A motion for temporary relief may be filed after the institution of an investigation by the Commission. Such a motion shall contain a statement of specific facts, memorandum of points and authorities, and affidavits as required in § 210.24(e)(1), and a showing that extraordinary changed circumstances exist warranting temporary relief and that the moving party was not and with due diligence could not have been aware of the extraordinary changed circumstances at the time the complaint was filed.

(3) *Response to motion for temporary relief.* Any party may file a response to a motion for temporary relief. Responses shall be filed within 20 days after the service of a motion accompanying the complaint and 10 days after service of a motion filed after the institution of an investigation, unless otherwise ordered by the presiding officer. The response shall contain.

(i) A statement which sets forth with particularity any objection to the motion for temporary relief;

(ii) A statement which sets forth with specificity facts bearing on:

(A) complainant's probability of success on the merits;

(B) immediate and substantial harm, if any, to the domestic industry in the absence of the requested temporary relief;

(C) harm, if any, to the respondents if the requested temporary relief is granted; and

(D) the effect, if any, that the issuance of the requested temporary relief would have on the public interest.

(iii) A memorandum of points and authorities in opposition to the motion;

(iv) Affidavits, where possible, executed by persons with knowledge of the facts specified in the response.

By order of the Commission.

Issued: May 5, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-12867 Filed 5-10-83; 8:45 am]

BILLING CODE 7020-02-M

19 CFR Part 210

Initial Determinations; Addition of Motions for Designating Investigations

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: This rule amends section 210.53 of the Commission's *Rules of Practice and Procedure* which concerns the issuance of initial determinations in investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The effect of the amended rule is to add motions for designating investigations under section 337 "more complicated" to those motions which the presiding officer may grant by filing an initial determination with the Commission.

EFFECTIVE DATE: May 11, 1983. The amendment effected by this final rule is applicable only to section 337 investigations instituted subsequent to June 10, 1982.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0311.

SUPPLEMENTARY INFORMATION:

Authority for adoption of this rule is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties, including those exercised under section 337 of the Tariff Act of 1930 (19 U.S.C 1337). Authority is also derived from the Administrative Procedure Act (5 U.S.C. 551, et seq.), which authorizes the adoption of certain procedures in an adjudicative proceeding when an agency does not preside over the hearing at which the evidence is received. Under 5 U.S.C. 557, the agency may require the presiding officer to make an initial decision that becomes the decision of the agency without further proceedings unless the decision is appealed to, or reviewed by, the agency. Alternatively, the agency may require that the entire record be certified to it for decision with a recommended decision by the presiding officer.

The purpose of this amendment to the Commission's rules is to include motions for designating investigations "more complicated" within the meaning of subsection 337(b)(1) of the statute and section 210.15 of the Commission's rules among those motions which the presiding officer may grant by filing an initial determination with the Commission. Such motions are not presently covered by section 210.53 of the rules which concerns the issuance of initial determinations.

In accordance with the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Adoption of this rule is anticipated to make it less costly and time-consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Customs duties and inspection, Imports, Investigations.

Explanation of Amendment

Section 210.53 Initial Determinations.

Paragraph (c) is amended to add motions for designating investigations under section 337 "more complicated" to those motions which the presiding officer may grant by filing an initial determination with the Commission. This amendment will conform the treatment of such motions to that accorded the other types of motions enumerated in § 210.53(c). It is also expected to reduce the amount of time required to obtain final disposition of motions to designate investigations "more complicated".

PART 210—[AMENDED]

19 CFR Part 210 is amended as set forth below.

1. In § 210.53, paragraph (c) is revised to read as follows:

§ 210.53 Initial determinations.

* * * * *

(c) *On motions for summary determination, termination, finding of default, amendment to complaint or notice, or "more complicated" designation.* Following the filing of a motion for summary determination pursuant to § 210.50, motion for termination pursuant to § 210.51, motion for a finding of default pursuant to §§ 210.21(d) and 210.53(b), motion to amend the complaint or notice of investigation pursuant to § 210.22(2), or motion to designate the investigation as "more complicated" pursuant to § 210.15, the presiding officer shall grant such motions by filing with the Commission an initial determination, or shall deny such motions by issuing an order directing denial.

By order of the Commission.

Issued: May 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-12871 Filed 5-10-83; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7892]

Income Tax; Public Approval and Information Reporting Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 103 (k) and (l) of the Internal Revenue Code relating to the public approval and information reporting requirements applicable to certain issues of State and local government obligations. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The public approval requirements apply only with respect to industrial development bonds. The information reporting requirements apply to all issues of industrial development bonds, student loan bonds, and State and local governmental issues at least a major portion of the proceeds of which are used by organizations described in section 501(c)(3). These temporary regulations would provide issuers with the guidance needed to comply with the Act. Failure to comply with these requirements will result in loss of tax exemption for the interest on these bonds. In addition, these temporary regulations serve as the text of proposed regulations found in the Proposed Rules section of this issue of the **Federal Register**.

DATE: The regulations are effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT: George T. Magnatta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (attention: CC:LR:T) (202–566–3288).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 103 (k) and (l) of the Internal Revenue Code, which was enacted by section 215 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 324, 468).

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The regulations are promulgated under the authority contained in section 7805 of Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and will remain in effect until superseded by final regulations on this subject.

Rules—Public Approval Requirement

New section 103(k) added a requirement for issues of industrial development bonds (IDBs). In general, IDB issues must be approved prior to issuance by affected governmental units either by voter referendum or by their elected representatives following a public hearing for which there was reasonable public notice. For IDBs issued after December 31, 1982, failure to comply with this requirement results in the loss of tax exemption for the interest on these bonds. There are two exceptions, however: the first, for obligations issued solely to refund an issue that was issued before July 1, 1982, with a term which does not exceed 3 years; the second, for obligations that refund an issue that has been publicly approved, without extending the term of the refunded obligation.

Under the temporary regulations, the issuing governmental unit (or the governmental unit on behalf of which the obligations are issued) and each host governmental unit, i.e., each unit in which a financed facility is located, must approve the issue. Facilities are located in a unit if the unit has jurisdiction over the site of the facility. A unit has jurisdiction over the site of a facility if the facility is located within the unit's boundaries or, if such boundaries are unknown, within the area in which the unit possesses discretion under State law to exercise sovereign power.

Inasmuch as the site of a facility typically will be within the geographic jurisdiction of more than one governmental unit of a State, the temporary regulations provide that approval by the host unit is satisfied when any one host unit with jurisdiction over the entire site approves the issue. Thus, for example, if the entire site of a facility is within the geographic jurisdiction of a county, city, and the State, either the State, county, or city may approve the issue to comply with the host approval requirement. However, if the obligations in the preceding example are issued by the city or an authority acting on behalf of the city, the city would have to approve the issue in any case.

Under the temporary regulations, facilities located within two or more governmental units (including two or more States) but not entirely within any one such unit may be treated as separate facilities for public approval purposes, each located entirely within the appropriate unit. For example, a manufacturing plant located in two counties may be treated as two facilities, each located entirely within the respective county. Therefore, in addition to the issuer, both counties, or the State, may approve the issue.

The temporary regulations further describe the method by which units may approve an issue. A unit approves an issue when the issue is approved by its applicable elected representative following a public hearing for which there was reasonable public notice. Alternatively, an issue may be approved by a voter referendum.

Generally, the applicable elected representative must be either the chief elected executive officer of the unit (e.g., a governor), its legislature, or, if the State is the approving unit, the chief elected State legal officer of the executive branch of State government (e.g., the Attorney General). However, the chief elected executive officer or applicable law may designate another elected official of such unit to approve issues in its behalf. Because this is an additional requirement of the Federal tax law it may not correspond to State and local law requirements. The various acts comprising an approval by a governmental unit therefore need not find authorization under State law, in order collectively to satisfy the approval requirement under the temporary regulations. It is anticipated, however, that State and local governments may desire to take appropriate steps to facilitate the approval process set forth in these temporary regulations.

This public approval requirement may be independent of the requirements of § 1.103–8(a)(5) (relating to a bond resolution or similar official action). Thus, the approval by an applicable elected representative may occur after the governmental unit provisionally commits itself to issue the bonds. For example, costs incurred after the commencement of construction but prior to public approval may be funded from a prospective IDB issue, provided that the costs are incurred after a bond resolution or similar official action has been taken by the issuer. However, a jurisdiction cannot bind itself to exercise the approval required under section 103(k), prior to fulfilling the hearing requirement.

The applicable elected representative of a governmental unit with no chief elected executive officer or elected legislative body is that of the next higher unit with such an applicable elected representative. The next higher unit is the unit from which the authority of the governmental unit with no such representative is derived. Rules are provided for determining whether a governmental unit is the next higher unit with respect to another unit.

The public-hearing requirement is satisfied under the temporary regulations if the hearing is designed to provide individuals of the affected governmental unit(s) a reasonable opportunity to express their views on the proposed issue. It is not necessary that the applicable elected representative who approves the bonds or any other particular officials be present at the hearing or that a report on the hearing be submitted to the approving official. Thus, a hearing may be conducted by a person appointed or employed by the governmental unit or by an agency such as an entity that issues the obligations on behalf of the governmental unit. Generally, if more than one governmental unit must approve an issue, necessary hearings may be consolidated, provided that all of the individuals of the affected governmental units are accorded a reasonable opportunity to be heard, the hearing is a joint undertaking of all the governmental units, and the location of the hearing is in reasonable geographic proximity to all affected jurisdictions.

Section 103(k)(2) requires reasonable public notice for any required public hearing. Notice is presumed reasonable under the temporary regulations if it is published no fewer than 14 days before the hearing and is reasonably designed to inform citizens of the affected governmental units. In general, publication is presumed to be reasonably designed to inform the affected residents if provided in the same manner and the same locations as required of the approving governmental unit(s) for any other purposes for which state law specifies a notice of public hearing requirement. However, notice is presumed to be reasonable in a locality where the facility is located only if published in one or more newspapers of general circulation available to residents of the locality or if announced by radio or television broadcast to those residents.

Information Reporting Requirement

Section 5f.103–3 describes the new information reporting requirement under section 103(l) for issuers of "private purpose" bonds. Private purpose bonds include industrial development bonds and obligations issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans either to individuals for educational

expenses or to organizations described in section 501(c)(3) which are exempt from taxation by reason of section 501(a).

This information reporting requirement applies to private purpose bonds issued after December 31, 1982, and includes obligations that are issued after such date which refund private purpose bonds, even if the refunded bonds were issued before such date.

The information is to be supplied to the Internal Revenue Service on Form 8038. This form must be filed no later than the 15th day of the second calendar month after the close of the calendar quarter in which the private purpose bond is issued. It may be filed at any time before that date, including before the date of issue, but it generally must be based on the facts as of the date of issue. Furthermore, the Secretary may grant an extension of time for filing this form if there is reasonable cause for the delay.

The information required to be submitted to the Internal Revenue Service includes (1) date of issue, (2) amount of lendable proceeds, (3) stated interest rate of each maturity, (4) the term of each maturity, (5) face amount of each maturity, (6) a general description of property to be financed by the obligation, (7) each initial principal user of any financed facilities, and (8) certain other information.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply, and no Regulatory Flexibility Analysis is required for these rules.

Nonapplication of Executive Order 12291

The Commissioner has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these temporary regulations is George T. Magnatta of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Taxable income, Deductions, Exemptions, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, Part 5f, Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982, is amended by adding new §§ 5f.103–2 and 5f.103–3 immediately after 5f.103–1, to read as follows:

Paragraph 1. A new § 5f.103—2 is added to read as follows:

§ 5f.103–2 Public approval of industrial development bonds.

(a) *General rule.* An industrial development bond (within the meaning of § 1.103–7(b)(1) issued after December 31, 1982, shall be treated as an obligation not described in section 103(a) unless it is issued as part of an issue which satisfies the public approval requirement of section 103(k) and paragraph (c) of this section or is described in the exceptions set forth in paragraph (b) of this section.

(b) *Exceptions.*—(1) *No extension of maturity.* Paragraph (a) of this section does not apply to a refunding obligation if—

(i) It refunds an obligation which was approved under section 103(k) and this section (or which is treated as approved pursuant to paragraph (f) of this section), and

(ii) It has a maturity date which is not later than the maturity date of the obligation to be refunded.

(2) *Refunding of pre-July 1, 1982, obligation.* Paragraph (a) of this section does not apply to an obligation issued solely to refund an obligation which—

(i) Was issued before July 1, 1982, and

(ii) Has a term which does not exceed 3 years.

The term of an obligation is determined without regard to whether it is a refunding obligation. With respect to the refunding of an issue also containing obligations with terms which exceed 3 years, paragraph (b)(2) applies only if the refunding issue proceeds are used solely to refund obligations with terms not exceeding 3 years and to pay reasonable incidental costs of the refunding (*e.g.*, legal and accounting fees, printing costs, and rating fees) attributable thereto. Paragraph (b)(2) applies only to issues issued after December 31, 1982, the proceeds of which are used to refund issues issued prior to July 1, 1982. Thus, subsequent refundings of such refunding issues must satisfy the public approval requirement of section 103(k) and paragraph (c) of this section.

(c) *Public approval requirement.* —(1) *In general.* An issue is publicly approved if prior to the date of issue the governmental unit(s) described in subparagraphs (2) and (3) this paragraph (c) approve the issue, in the manner described in paragraph (d) of this section. See paragraph (f) for rules pertaining to determining the scope of an approval and paragraph (g)(1) for the definition of "governmental unit".

(2) *Issuer approval.* The governmental unit (i) which will issue the obligations or (ii) on behalf of which the issue is to be issued must approve the issue ("issuer approval"). If the issuer is not a governmental unit, the governmental unit on behalf of which the issuer acts shall be determined in a manner consistent with determinations under § 1.103–1, and such unit must approve the issue. However, in the case of an issuer which issues obligations on behalf of more than one governmental unit (*e.g.*, an authority which acts for two counties), any one of such units may give the issuer approval required by this paragraph (c)(2).

(3) *Host approval.* Each governmental unit the geographic jurisdiction (as defined in paragraph (g)(4)) of which contains the site of a facility to be financed by the issue must approve the issue ("host approval"). However, if the entire site of a facility to be financed by the issue is within the geographic jurisdiction of more than one governmental unit within a State (counting the State as a governmental unit within such State), then any one of such units may provide host approval for the issue with respect to that facility. For purposes of this paragraph (c)(3), if property to be financed by the issue is located within two or more governmental units but not entirely within either of such units, each portion of the property which is located entirely within the smallest respective governmental units may be treated as a separate facility. The issuer approval (as described in paragraph (c)(2)) may be treated as a host approval if the governmental unit giving the issuer approval is also a governmental unit described in this paragraph (c)(3). See paragraph (e)(2) with respect to host approval by a governmental unit with no applicable elected representative.

(d) *Method of public approval.* For purposes of this section, an issue is approved by a governmental unit only if—

(1) An applicable elected representative (as defined in paragraph (e)) of such unit approves the issue following a public hearing (as defined in paragraph (g)(2)) held in a location which, under the facts and circumstances, is convenient for residents of the unit, and for which there

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was reasonable public notice (as defined in paragraph (g)(3)), or

(2) A referendum of the voters of the unit (as defined in paragraph (g)(5)) approves the issue.

An approval may satisfy the requirements of this section without regard to the authority under State or local law for the acts constituting such approval. The location of hearing will be presumed convenient for residents of the unit if it is located in the approving governmental unit's capital or seat of government. If more than one governmental unit is required to provide a public hearing, such hearings may be combined as long as the combined hearing is a joint undertaking that provides all of the residents of the participating governmental units (*i.e.*, those relying on such hearing as an element of public approval) a reasonable opportunity to be heard. The location of any combined hearing is presumed to provide a reasonable opportunity to be heard provided it is no farther than 100 miles from the seat of government of each participating governmental unit beyond whose geographic jurisdiction the hearing is conducted.

(e) *Applicable elected representative.*—(1) *In general.* The applicable elected representative of a governmental unit means—

(i) Its elected legislative body,

(ii) Its chief elected executive officer,

(iii) In the case of a State, the chief elected legal officer of the State's executive branch of government, or

(iv) Any official elected by the voters of the unit and designated for purposes of this section by the unit's chief elected executive officer or by State or local law to approve issues for the unit.

For purposes of subdivisions (ii), (iii), and (iv) of this paragraph (e)(1), an official shall be considered elected by the voters of the unit only if he is popularly elected at-large by the voters of the goverenmental unit. If an official popularly elected at-large by the voters of a governmental unit is appointed or selected pursuant to State or local law to be the chief executive officer of the unit, such official is deemed to be an elected chief executive officer for purposes of this section but for no longer than his tenure as an official elected at-large. In the case of a bicameral legislature which is popularly elected, both chambers together constitute an applicable elected representative, but neither chamber does independently, unless so designated under paragraph (e)(1)(iv). If multiple elected legislative bodies of a governmental unit have independent legislative authority, however, the body with the more specific authority relating to the issue is the only legislative body described in paragraph (e)(1)(i) of this section. See paragraph (h), Example (7) of this section.

(2) *Governmental unit with no applicable elected representative.* (i) The applicable elected representatives of a governmental unit with no representative (but for this paragraph (e)(2) and section 103(k)(2)(E)(ii)) are deemed to be those of the next higher governmental unit (with an applicable elected representative) from which the governmental unit derives its authority. For purposes of this subparagraph (2), a governmental unit derives its authority from another unit which—

(A) Enacts a specific law (*e.g.*, a provision in a State constitution, charter or statute) by or under which the governmental unit is created,

(B) Otherwise empowers or approves the creation of the governmental unit, or

(C) Appoints members to the governing body of the governmental unit.

In the case of a governmental unit with no applicable elected representative (but for this paragraph (e)(2)), any unit described in subdivision (A), (B), or (C) or this paragraph (e)(2)(i) may be treated as the next higher unit, without regard to the relative status of all of such units under State law.

(ii) In the case of a host approval (as required under paragraph (c)(3) of this section), a unit may be treated as the next higher unit, only if—

(A) The facility is located within its geographic jurisdiction, and

(B) Eligible individuals, if any, residing at the site of the facility are entitled to vote for the applicable elected representative of that unit (as determined under this paragraph (e)).

(3) *On behalf of issuers.* In the case of an issuer which is not a governmental unit but which issues bonds on behalf of a governmental unit, the applicable elected representative is any applicable elected representative of the unit on behalf of which the bonds are issued. If the unit on behalf of which the bonds are issued has no applicable elected representative (but for paragraph (e)(2) of this section), the applicable elected representative of the governmental unit is determined in the manner described in paragraph (e)(2).

(f) *Scope of approval.*—(1) *In general.* Public approval is required by section 103(k) and this section for issues of industrial development bonds, except as otherwise provided in paragraph (a) and (b) of this section. An issue is treated as approved if the governmental units (described in paragraph (c) of this section in relation to the issue) have approved either—

(i) The issue (by approving each facility to be financed), not more than one year before the date of issue, or

(ii) A plan of financing for each facility financed by the issue pursuant to which the issue in question is timely issued (as required in paragraph (f)(3) of this section).

In either case, the scope of the approval is determined by the information, as specified in paragraph (f)(2), contained in the notice of hearing (when required) and the approval.

(2) *Information required.* A facility is within the scope of an approval if the notice of hearing (when required) and the approval contain—

(i) A general, functional description of the type and use of the facility to be financed (*e.g.*, "a 10,000 square foot machine shop and hardware manufacturing plant", "400-room airport hotel building", "dock facility for supertankers", "convention center auditorium and sports arena with 25,000 seating capacity", "air and water pollution control facilities for oil refinery"),

(ii) The maximum aggregate face amount of obligations to be issued with respect to the facility,

(iii) The initial owner, operator, or manager of the facility,

(iv) The prospective location of the facility by its street address or, if none, by a general description designed to inform readers of its specific location.

An approval is valid for purposes of this section with respect to any issue used to provide publicly approved facilities, notwithstanding insubstantial deviations with respect to the maximum aggregate face amount of the bonds issued under the approval for the facility, the name of its initial owner, manager, or operator, or the type or location of the facility from that described in the approval. An approval or notice of public hearing will not be considered to be adequate if any of the items in subdivisions (i) through (iv) of this subparagraph (2), with respect to the facility to be financed, are unknown on the date of the approval or the date of the public notice.

(3) *Timely issuance pursuant to a plan of financing.* An issue is timely issued pursuant to a plan of financing for a facility if—

(i) The issue is issued no later than 3 years after the first issue pursuant to the plan, and

(ii) The first such issue in whole or in part issued pursuant to the plan was issued no later than 1 year after the date of approval.

(4) *Facility—definition.* For purposes of this paragraph (f), the term "facility" includes a tract or adjoining tracts of land, the improvements thereon and any personal property used in connection with such real property. Separate tracts of land (including improvements and connected personal property) may be treated as one facility only if they are used in an integrated operation.

(g) *Definitions.* For purposes of this section—(1) *Governmental unit.* Governmental unit has the same meaning as in § 1.103–1. Thus, a governmental unit is a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof. The term "political subdivision" denotes any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit.

(2) *Public hearing.* Public hearing means a forum providing a reasonable opportunity for interested individuals to express their views, both orally and in writing, on the proposed issue of bonds and the location and nature of a proposed facility to be financed. In general, a governmental unit may select its own procedure for the hearing, provided that interested individuals have a reasonable opportunity to express their views. Thus, it may impose reasonable requirements on persons who wish to participate in the hearing, such as a requirement that persons desiring to speak at the hearing so request in writing at least 24 hours before the hearing or that they limit their oral remarks to 10 minutes. For purposes of this public hearing requirement, it is not necessary, for example, that the applicable elected representative who will approve the bonds be present at the hearing, that a report on the hearing be submitted to that official, or that State administrative procedural requirements for public hearings in general be observed. However, compliance with such State procedural requirements (except those at variance with a specific requirement set forth in this section) will generally assure that the hearing satisfies the requirements of this section. The hearing may be conducted by any individual appointed or employed to perform such function by the governmental unit or its agencies, or by the issuer (if on behalf of issuer). Thus, for example, for bonds to be issued by an authority that acts on behalf of a county, the hearing may be conducted by the authority, the county, or an appointee or employee of either.

(3) *Reasonable public notice.* Reasonable public notice means published notice which is reasonably designed to inform residents of the affected governmental units, including residents of the issuing unit and the governmental unit where a facility is to be located, of the proposed issue. The notice must state the time and place for the hearing and contain the information contained in paragraph (f)(2) of this section. Notice is presumed reasonable if published no fewer than 14 days before the hearing. Except in the locality of the facility, publication is presumed to be reasonably designed to inform residents of the approving governmental unit if given in the same manner and same locations as required of the approving governmental unit for any other purposes for which applicable State or local law specifies a notice of public hearing requirement (including laws relating to notice of public meetings of the governmental unit). Notice is presumed reasonably designed to inform affected residents in the locality of the facility only if published in one or more newspapers of general circulation available to residents of that locality or if announced by radio or television broadcast to those residents.

(4) *Geographic jurisdiction.* Geographic jurisdiction is the are aencompassed by the boundaries prescribed by State or local law for a governmental unit or, if there are no such boundaries, the area in which a unit may exercise such sovereign powers that make that unit a governmental unit for purposes of § 1.103–1 and this section.

(5) *Voter referendum.* A voter referendum is a vote by the voters of the affected governmental unit conducted in the manner and at such a time as voter referenda on matters relating to governmental spending or bond issuances by the governmental unit under applicable State and local law.

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). State X proposes to issue an industrial development bond, the proceeds of which are to finance a facility located entirely within the geographic jurisdiction of City Y (which is located in State X). Under the provisions of paragraph (c), only State X must approve the issue because State X is the issuer and the facility is to be located entirely within the State's geographic jurisdiction. Its applicable elected representative must approve the issue after the public notice and public hearing requirements are satisfied.

Example (2). (i) Industrial Development Authority X proposes to issue an industrial development bond, the proceeds of which are to finance a facility located entirely within the geographic jurisdiction of City Y (which is located in State Z). Authority X acts on behalf of State Z. Under the provisions of paragraph (c), only State Z must approve the issue because State Z is the governmental unit on behalf of which Authority X, the issuer, is acting and the facility is to be located entirely within its geographic jurisdiction.

(ii) State Z has a governor, an elected bicameral legislature and an appointed attorney general who is the chief legal officer of State Z. Under the laws of State Z, the attorney general must approve any issue of industrial development bonds. The approval by the attorney general is not a sufficient approval under this section, since the attorney general is not an applicable elected representative within the meaning of this section. Under the provisions of paragraphs (d) and (e), either the governor, both chambers of the legislature or any popularly elected official of the State who is designated for this purpose by the governor or by State law must approve the issue after the public notice and public hearing requirements are satisfied.

Example (3). (i) County Y, a county in State X, proposes to issue an industrial development bond, the proceeds of which are to finance a facility located entirely within its jurisdiction. Under the provisions of paragraph (c), only County Y must approve the issue because County Y is the issuer and the facility is to be located entirely within the geographic jurisdiction of County Y.

(ii) County Y has no elected officials or legislature. County Y derives its authority from State X which is the next higher governmental unit with an applicable elected representative. The laws of State X designate the attorney general, who is an official of State X elected at-large, as the official who must approve any issue of industrial development bonds for the State. Under this section, State X's attorney general is an applicable elected representative who may approve the issue after the public notice and public hearing requirements are satisfied.

Example (4). (i) City X, a city located in County Y and State Z, proposes to issue an industrial development bond, the proceeds of which are to finance a facility located entirely within the geographic jurisdiction of City X. Under the provisions of paragraph (c), only City X must approve the issue because it is the issuer and the facility is to be located entirely within the geographic jurisdiction of City X.

(ii) Mayor A, the chief elected executive officer of City X, has designated, for purposes of this section, Deputy Mayor B, an official of City X elected at-large, to approve industrial development bond issues for the city. Under the provisions of paragraph (e), Deputy Mayor B may approve the issue, since he is an applicable elected representative, after the public notice and public hearing requirements are satisfied.

Example (5). (i) County M proposes to issue an industrial development bond to finance a project located partly within the geographic jurisdiction of County M and partly within the geographic jurisdiction of County N. Both

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counties are located in State X. The part of the project in County N is also located partly within the geographic jurisdiction of City O and partly within the geographic jurisdiction of City P. Under the provisions of paragraph (c)(2), County M must give issuer approval. Additionally, under the provisions of paragraph (c)(3), either State X, County N, or both Cities O and P, must give host approval.

(ii) Counties M and N will approve the issue, but neither has any officials who are elected at-large by the voters of the respective governmental units. Both governmental units derive their authority from State X which is the next higher governmental unit with an applicable elected representative. Under the provisions of paragraph (e), an applicable elected representative of State X must approve the issue for Counties M and N after the public notice and public hearing requirements are satisfied.

Example (6). (i) County M proposes to issue an industrial development bond to finance two facilities. One facility is located entirely within the geographic jurisdiction of County M and the second facility is located partly within the geographic jurisdiction of County M and partly within the geographic jurisdiction of County N. The second facility is also located within the geographic jurisdictions of Cities O and P, which cities are located within the geographic jurisdiction of County N. Under the provisions of paragraph (c)(2), County M must give issuer approval. Additionally, under the provisions of paragraph (c)(3), either State X, County N, or both Cities O and P, must give host approval.

(ii) Counties M and N will approve the issue. Each has a chief elected executive officer. Under the provisions of paragraphs (d) and (e), the chief elected executive officer of each county may approve the issue, after the public notice and public hearing requirements are satisfied.

Example (7). (i) State X proposes to issue an industrial development bond to finance a facility located partly within the geographic jurisdiction of State X and partly within the geographic jurisdiction of State Y. That portion of the facility located in State Y is located entirely within the geographic jurisdiction of City Z. State X must give issuer approval. Additionally, either State Y or City Z must give host approval as that part of the facility to be located outside State X will be entirely within the geographic jurisdiction of each unit.

(ii) Under the provisions of paragraphs (d) and (e), the governor of State X may approve the issue, after the public notice and public hearing requirements are satisfied. City Z (assuming that it give host approval for the bond) has a city council and a school board, both of which are elected legislative bodies with independent jurisdiction. The authority of the school board is limited under State law to matters directly concerning the provision of public education. Under paragraph (e), the school board is not an applicable elected representative of City Z but the city council is an applicable elected representative of City Z. The city council may approve the issue after the public hearing and public notice requirements are satisfied.

Example (8). (i) Public Housing Authority M, a governmental unit, proposes to issue an industrial development bond to finance several housing projects with known sites located entirely within its geographic jurisdiction. M's geographic jurisdiction is coextensive with the combined geographic jurisdictions of Counties N and O. The projects are separately owned and managed. They are not adjacent to each other. The projects also are located in County N. Under the provisions of paragraph (c), M must give issuer approval.

(ii) M, which has no elected officials or legislature, was created by both Counties N and O pursuant to a special statute of State Q permitting such a joint undertaking. Both Counties N and O have an applicable elected representative. Under the provisions of paragraph (e)(2), either County N, County O, or State Q is deemed to be the next higher governmental unit with an applicable elected representative, and an applicable elected representative from any of these units may give the issuer approval for Authority M. Therefore, either the applicable representative of County N, County O, or State Q can give the issuer approval for Authority M.

(iii) For purposes of the host approval, the issuer approval by M will satisfy the host approval requirement only if the applicable elected representative of County N or State Q gives issuer approval for M. Under the provisions of paragraph (e)(2), the host approval requirement is satisfied only if qualified persons residing at the site of the facility are entitled to vote for the applicable elected representative who gave the approval (*i.e.*, the representative of State Q or County N). However, if the applicable elected representative of O gave issuer approval for Authority M, a separate host approval would be required because the residents of the sites where the projects are located (*i.e.*, County N) could not note for the applicable elected representative of County O.

(iv) Public Housing Authority M conducts a public hearing concerning prospective housing projects following notice thereof published in a newspaper of general circulation in County N. Additionally, M provides notice to the residents of O (which are also within M's jurisdiction) in the manner required for notice of public hearing for other purposes under State Q law. Following the public hearing, the chief elected executive officer of County N approves for Authority M prospective issues for the project. M issues two $7 million issues, one for each project. One issue is issued six months after the date of approval; the second issue is issued thirteen months thereafter. On these facts, only the first issue satisfied the public approval requirement of this section.

Par. 2. A new § 5f.103–3 is added to read as follows:

§ 5f.103–3 Information reporting requirements for certain bonds.

(a) *General rule.* Under section 103(l), any private purpose bond issued after December 31, 1982 (including any obligation issued thereafter to refund private purpose bonds issued before December 31, 1982) shall be treated as an obligation not described in section 103(a) unless the information reporting requirement (as described in paragraph (c) of this section) is substantially satisfied with respect to the issue of which the bond is a part.

(b) *Private purpose bonds.* For purposes of this section, the term "private purpose bond" means—

(1) Any industrial development bond (as defined in section 103(b)(2) and § 1.103–7(b)(1)), or

(2) Any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

(i) To finance loans to individuals for educational or related expenses (hereinafter referred to as a "student loan bond"), or

(ii) By an organization described in section 501(c)(3) which is exempt from taxation by reason of section 501(a) (hereinafter referred to as "private exempt entity bond").

The meaning of the terms "major portion" and "directly or indirectly" shall be the same as under § 1.103–7. Student loan bonds include, but are not limited to, qualified scholarship funding bonds (as defined in section 103(e)).

(c) *Information required.* An obligation satisfies the requirements of section 103(l) and this section only if it is issued as part of an issue with respect to which the issuer, based on information and reasonable expectations determined as of the date of issue, submits on Form 8038 the information required therein, including—

(1) The name, address, and employer identification number of the issuer,

(2) The date of issue (as defined in paragraph (g)(1)),

(3) The face amount of the issue,

(4) The total purchase price of the issue,

(5) The amount allocated to a reasonably required reserve or replacement fund,

(6) The amount of lendable proceeds (as defined in paragraph (g)(4) of this section),

(7) The stated interest rate of each maturity (as defined in paragraph (g)(2) of this section) or, if the interest rate is variable, a description of the method under which the interest rate is computed,

(8) The term (as defined in paragraph (g)(3)) of each maturity.

(9) A general description of the property to be financed by the issue (including property financed by an obligation that will be refunded with the issue proceeds) which includes—

(i) The type of bond issued, that is, a student loan bond, a private exempt entity bond, or an industrial development bond and in the case of an industrial development bond described in section 103(b)(4), the subparagraph of section 103(b)(4) that describes the property, *e.g.*, for a football stadium, that the property is described in section 103(b)(4)(B),

(ii) The recovery classes (as defined in section 168(c)(2)), if applicable, of the various items of financed property and the approximate amount of lendable proceeds attributable thereto,

(iii) The approximate amount of lendable proceeds attributable to land or other property not described in subdivision (ii),

(iv) In the case of obligations described in section 103(b)(6) or private exempt entity bonds, the four-digit Standard Industrial Classification Code of the facilities financed.

(10) If section 103(k) (relating to public approval requirement for industrial development bonds) applies to such issue, the name(s) of the approving governmental unit(s) and of the applicable elected representative(s) (as defined in section 103(k)(2)(E) and § 5f.103–2(e)) or a description of the voter referendum that approved the issue for such unit(s).

(11) The name, address, and employer identification number of—

(i) Each initial principal user (as defined in paragraph (g)(5) of this section) of any facilities provided with the proceeds of the issue,

(ii) The common parent, if any, of any affiliated group of corporations (as defined in section 1504(a) but determined without regard to the exceptions of section 1504(b)) of which such initial principal user is a member, and

(iii) Any person (not included under paragraph (c)(11)(i)) that is treated as a principal user under section 103(b)(6)(L), but only if the issue is treated as a separate issue under section 103(b)(6)(K).

The information to be supplied must be determined based on information and reasonable expectations as of the date of issue. Therefore, such statement need not be amended to report information learned subsequent to the date of issue. However, if the statement is filed after the date of issue it may reflect such information and the reasonable expectations of the issuer as of that date.

(d) *Additional information.* An issuer may supply the following information—

(1) The average maturity of the issue (as defined in section 103(b)(14)), and

(2) The average reasonably expected economic life (as defined in section 103(b)(14)) of the facility which is financed with the issue.

(e) *Time for filing.* The statement required by section 103(l) and this section shall be filed not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the obligation is issued. It may be filed at any time before such date but must be complete based on facts and reasonable expectations as of the date of issue. The Secretary may grant an extension of time for filing the statement required under section 103(l) and this section if there is reasonable cause for the failure to file such statement in a timely fashion.

(f) *Place for filing.* Form 8038 is to be mailed to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

(g) *Definitions.* For purposes of this section—

(1) The term "date of issue" means the date on which the issuer physically exchanges the first of the obligations which are part of the issue for the underwriter's (or other purchaser's) funds. In the event that amounts are periodically advanced with respect to an issue, the date of issue is when the first of such obligations under the issue is created and the funds are advanced.

(2) The term "maturity" means those obligations of the issue having both the same maturity date and the same stated interest rate.

(3) The term "term of an issue" means the duration of the period beginning on the date of issue and ending on the latest maturity date of any obligation of the issue without regard to optional redemption dates.

(4) The term "lendable proceeds" means the amount of the original proceeds, net of amounts allocated to a reasonably required reserve or replacement fund. See generally § 1.103–13(b) and § 1.103–14(d) for further definitions.

(5) The term "initial principal user" means each person who as of the date of issue is obligated to use the facility to such an extent that under section 103(b)(6) such person would be treated as a principal user. With respect to organizations described in section 501(c)(3), however, such determination is made without regard to whether such organization is treated as an exempt organization under section 103(b)(3) and § 1.103–7(b)(2).

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 29, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 83–12259 Filed 5–6–83; 4:25 pm]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Ch. I

Land Protection Plans

AGENCY: National Park Service, Interior.

ACTION: Final interpretive rule.

SUMMARY: The National Park Service has developed instructions for the preparation of land protection plans and is providing the list of National Park System units expected to begin preparing these plans during Fiscal Year 1983. These plans are being prepared in response to the Department of the Interior's policy for the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). The public is invited to participate in the planning process for individual areas.

DATE: This interpretive rule will become effective on May 11, 1983.

ADDRESS: Correspondence concerning this rule should be addressed to Director, National Park Service (Attn: 763), Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Donald Humphrey or Warren Brown, Division of Park Planning and Special Studies, National Park Service, Washington, D.C. 20240 (202) 343–8377.

SUPPLEMENTARY INFORMATION: On May 7, 1982 the Department of the Interior published a new final policy statement on Use of the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). In response to this policy, the National Park Service has, by notice in the **Federal Register** on January 3, 1983 (48 FR 85), withdrawn its 1979 land acquisition policy and guideline (44 FR 24790), and is beginning the preparation of land protection plans consistent with the instructions printed below.

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These plans will be prepared for each unit in the National Park System containing non-Federal land within its authorized boundary. Priority is being given to those areas with current appropriations. Approximately one-third of all plans are scheduled for completion by September 30, 1983, one-third by September 30, 1984, and the remaining plans will be completed by September 30, 1985.

Each individual plan will be prepared in compliance with the National Environmental Policy Act and other applicable legislation, regulations, executive orders, and Departmental and Service directives. In some cases compliance requirements will already have been met in previous planning documents. The planning process will include consultation with the Fish and Wildlife Service where proposed actions may have an impact on endangered species, and the Advisory Council on Historic Preservation where actions may impact historic resources.

1. *Environmental Effects:* The action being taken in adopting these instructions will establish a general format and approach for completing these plans. Each plan will consider various alternatives for carrying out the purposes of the area as authorized by Congress and will, as necessary, consider environmental implications associated with implementation of the plan. The preparation of individual plans will guide future actions to protect unit resources. The development of instructions for land protection planning will have no significant effect on the human environment and is categorically excluded from the procedural requirements of the National Environmental Policy Act. Further environmental compliance will occur as necessary at the individual land protection plan level.

2. *Statement of Effects:* The Department of the Interior has determined that these interpetive instructions are not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. National Park Service land protection is carried out under authorizing legislation for each area and annual appropriations acts. These instructions and individual land protection plans will provide landowners with more current information about National Park Service (NPS) intentions for buying land or protecting it through other methods.

3. *Paperwork Reduction Act:* These interpretive instructions do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

4. *Authorship Statement:* This document has been prepared by the National Park Service within the Department of the Interior. Principal authors are Donald Humphrey and Warren Brown.

5. *Public Participation and Comments:* The public was invited to comment on the proposed Departmental policy statement that was published in the **Federal Register** of March 18, 1982 (47 FR 11777). The final departmental policy statement was published on May 7, 1982 (47 FR 19784). These instructions implement that policy.

These instructions were published on pages 6676–6683 of the **Federal Register** on February 14, 1983 inviting public comment for 30 days. Comments were received from 21 sources including organizations and individuals. Ten comments offered general support for the instructions and the policy that they implement. One response expressed opposition to Federal acquisition of private lands. The remaining responses included a variety of suggestions and views.

Two responses were critical of the emphasis on alternatives to fee acquisition of private land. These reviewers suggested that zoning and regulations were inadequate, while several other reviewers supported the consideration of these methods as very useful approaches to protection of land. The discussion of fee acquisition has been modified to eliminate some adjectives that one reviewer suggested were unnecessarily restrictive as applied to this method of protection. The instructions as proposed direct that all reasonable methods of protection should be considered in the plans, with attention to cost-effectiveness and ability to achieve unit purposes as established by Congress.

Some comments questioned the legal authority of the National Park Service to use regulatory methods of protecting resources. The text is clear that the section on regulations refers primarily to authorities of other Federal agencies and State or local governments. Additional emphasis has been placed on the advisory role of the National Park Service in cooperating with States, local governments, or other Federal agencies on such protection methods. However, the text also notes that there are circumstances where direct regulatory authority may be exercised by the National Park Service. One revision has been made to explain that regulations are generally to be considered as one part of a protection program, appropriate to prevent harm to public interests and property rather than a substitute for acquisition necessary to provide for National Park Service management or public use.

Several reviewers encouraged public participation in the planning process for individual areas. Public involvement is clearly emphasized in the instructions as proposed, and planning teams will continue to be encouraged to involve interested parties as soon as possible. Individuals and organizations interested in being involved in the planning process for any specific unit should contact the Regional Director or the Superintendent at the addresses given in Appendix A. In response to recommendations in House Report 97–978 on Interior Appropriations for fiscal year 1983, the planning process is being initiated as quickly as possible, and contacts with individual units should be made promptly. Further notices and opportunities for public involvement will be handled at the regional and local levels.

Several reviewers expressed concerns about funding, the acquisition process, use of condemnation, and other aspects of plan implementation. These comments will be considered as the plans are approved, but were not considered relevant to these instructions on how the plans should be prepared.

One comment questioned the need for detailed information on acquisition history, including tracts and improvements, requested in section III (e) under Format. This section has been revised to indicate that an overview with estimates is to be provided instead of individual listings and comprehensive historical data. Costly or time consuming data collection is not required or encouraged.

References to the coordinating procedures with the Advisory Council on Historic Preservation have been revised to allow for more flexibility under the terms of the Programmatic Memorandum of Agreement.

The proposed instructions indicated that plans would be prepared for each unit containing non-Federal land or interests in land. In response to questions about the scope of "non-Federal interests", the instructions have been revised to clarify that plans will be prepared only for those areas containing non-Federal lands within the authorized boundary. This includes approximately 195 units of the national park system. However, the plans for these units will consider protection requirements for all land or interests in land within the boundary, considering cooperative arrangements with other Federal agencies as well as privately owned interests in land.

The proposed instructions indicated that external conditions having a direct impact on land protection within the unit boundary should be assessed in the plan. This remains in the final instructions, which require a careful evaluation of external conditions and activities that have a direct bearing on the protection of land within unit boundaries and an assessment of their impact on protection efforts. The primary focus of the current planning effort is necessarily on lands within the authorized unit boundary. However, conditions outside of the boundary will be considered, and future updates to these land protection plans and other planning efforts may address a broader range of issues related to impacts on park resources from external activities.

Additional editorial changes have been made in the text to clarify several points where questions have been raised by field staff working on the draft plans. The recommended format has been revised to avoid repetition of information about acquisition history and protection alternatives in various sections. None of these changes will have a significant impact on the scope or content of the plans.

Pending completion of a land protection plan, discretionary acquisition actions in any individual unit of the National Park System are being reviewed on a case-by-case basis. These reviews are to assure that: (1) Acquisition proceeds in an orderly and timely manner as intended by Congress (2) appropriated funds are used to protect high priority tracts and address hardships, emergencies and sites needed for administrative use, and (3) the interests to be acquired are those necessary to achieve unit purposes as established in authorizing legislation. Case-by-case reviews will be conducted in a timely manner to avoid unnecessary delays in the obligation of appropriated funds. When a land protection plan has been approved, acquisitions will proceed consistent with priorities identified in the plan, subject to the availability of funds.

Land Protection Plan Instructions

Background

Under a policy and guideline adopted in 1979 (44 FR 24790) the National Park Service prepared land acquisition plans for approximately 120 areas. A new policy statement on land protection was adopted by the Department of the Interior on May 7, 1982 (47 FR 19784). Under this new policy, land acquisition plans will be revised or replaced by land protection plans by September 30, 1985.

Requirements

A Land Protection Plan will be prepared by the appropriate Superintendent for each unit in the National Park System that contains private or other non-Federal land within its authorized boundary. Priorities for preparing plans will be established considering available or possible funding for acquisition, the amount of non-Federal land within the authorized boundary, and the potential for impacts on unit resources. The scope of the planning effort generally should be commensurate with the potential impacts to resources, complexity of the problems, and the amount of land requiring protection.

Purposes of the Plan

The guiding principle of each land protection plan must be to ensure the protection of that unit of the National Park System consistent with the stated purposes for which it was created and administered. Each Superintendent has a duty to know the resources in question and to seek their protection consistent with those purposes. These instructions are designed to assist in meeting those objectives.

Land protection plans are prepared to:

1. Determine what land or interests in land need to be in public ownership, and what means of protection other than acquisition are available to achieve unit purposes as established by Congress.

2. Inform landowners about NPS intentions for buying or protecting land through other means within the unit.

3. Help managers identify priorities for making budget requests and allocating available funds to protect land and unit resources.

4. Find opportunities to help protect the unit by cooperating with state or local governments, landowners, and the private sector.

Coordination: Land protection plans are prepared as part of the unit's overall general management planning process and should be fully coordinated with other plans. The protection plan should be developed after a statement for management or general management plan has been prepared. If an approved GMP has not been completed, the land protection plan may be prepared concurrently with the general management planning effort.

Where the land protection plan is prepared as a separate document, it becomes an action element of the general management plan when approved. Land protection plans should focus on clearly defined issues and recommendations. Unnecessary repetition of details contained in other planning documents should be avoided.

Public Involvement: The land protection plan will be prepared with public involvement. Property owners, State and local governments, and interested parties must be provided notice (individual notice should be provided if feasible) that the planning effort is underway and given an opportunity to comment on the alternatives under consideration. The format for public involvement should include a general notice when planning is initiated, participation when the plan is being prepared, and public review of the draft after policy clearance by the Washington Office. Details will be specified in the task directive that is approved by the Regional Director.

Environmental Compliance: Land Protection plans will be prepared in compliance with applicable requirements of the National Environmental Policy Act (NEPA) and other laws or administrative directives. Specific compliance requirements for each area will depend upon the potential significance of environmental consequences. Some plans are expected to be categorically excluded from the NEPA process, others will require an environmental assessment, and some may require an environmental impact statement. Determinations about compliance requirements will usually be made at the regional level, in consultation with the Washington Office and Regional or Field Solicitor as necessary. Compliance documentation should include the extent of proposed changes in land use and potential impacts on unit resources or the surrounding community from the alternatives recommended by the land protection plan.

Compliance requirements for land protection plans being prepared as part of a General Management Plan effort should be covered in the GMP compliance. Where NEPA compliance is required for a land protection plan, an environmental assessment will be prepared as a separate, but attached document. The environmental assessment may reference the alternatives and proposal in the land protection plan, making it possible for the document to be essentially an analysis of environmental consequences and a list of persons consulted. National Park Service guidelines for environmental compliance are found in NPS–12 (National Park Service NEPA Compliance Guideline).

Endangered Species: The Regional Office should contact the U.S. Fish and

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Wildlife Service regional endangered species staff when planning begins for a specific area and arrange for any necessary consultation early in the planning process to determine if there are any potential effects on any endangered species. If a biological assessment is necessary, it will incorporated into the environmental document released with the plan for public review and arrangements will be made with the Fish and Wildlife Service for the preparation of a biological opinion.

Notification of Advisory Council on Historic Preservation and the State Historic Preservation Officer (SHPO): The Regional Director will be responsible for coordinating plan preparation with the Advisory Council and the SHPO in accordance with the Programmatic Memorandum of Agreement, as amended. That agreement establishes procedures for notice and coordination throughout the planning process.

Responsibilities: The Superintendent is responsible for the preparation and recommendation of the unit's land protection plan in accordance with these instructions. The Regional Director is responsible for scheduling and monitoring the preparation of land protection plans by interdisciplinary teams including planners and realty specialists, and for approving them. The Regional or Field Solicitor should be consulted as necessary throughout the planning process and should review the proposed plans for legal sufficiency.

Plans will be reviewed concurrently by the unit, region, and Washington Office. The memorandum from the Regional Director transmitting the draft plans should report on the status of review by the Regional Solicitor and others. Comments compiled during the Washington Office review will be forwarded to the Regional Director for consideration prior to his or her approval of a plan. The time allocated for WASO review will be 30 days from the date of receipt in the Division of Park Planning and Special Studies.

Task Directive: The scope of the planning effort should be defined as soon as possible in a task directive. This very brief internal working document should list major issues to be discussed, outlined alternatives to be considered, establish schedules for interim and final products allowing time for reviews, and assign responsibilities for completing the tasks.

The task directive also should identify the type of public involvement, environmental compliance, special expertise requirements, coordination with other plans, and any additional guidance needed from the Regional Director or Washington Office for the planning effort. The task directive will be prepared by the Superintendent and planning team and approved by the Regional Director.

Updates: The Superintendent will review the plan on a biennial basis, and revise it as necessary to reflect changes in conditions. Once approved, land protection plans may be amended or revised, generally following the processes for General Management Plans as outlined in NPS–2 (Planning Process Guideline)* * *. If the plan is to be amended, the extent of review and public participation may be adjusted to reflect the scope of the amendment. The Superintendent is responsible for determining if an update is required and for recommending the scheduling of necessary revisions.

Format: Formats for land protection plans may be adjusted to fit special circumstances, but should follow this outline as closely as possible and must address the following points:

I. Introduction

(a) Brief summary of Departmental and NPS policies for land protection and relevant legal authorities.

(b) Explanation of why the plan is being prepared and major issues to be addressed.

(c) Statement that the plan does not constitute an offer to purchase land or interests in land, that it will generally guide subsequent activities subject to availability of funds and other constraints, and that it does not diminish the rights of non-Federal landowners.

II. Purpose of the Unit and Resources To Be Protected

(a) A brief statement of the purpose of the unit as contained in the authorizing legislation, General Management Plan (GMP), or statement for management.

(b) A brief description of the significance of the area and the resources to be protected.

(c) Special legislative, administrative, or congressional directives or constraints on acquisition, appropriations ceiling, mandated acquisition periods, etc. and a history of the unit's growth including boundary changes, ceiling increases, other factors relevant to the protection of the unit's resources.

(d) A brief description of planned resource management and visitor use objectives and activities directly related to land protection requirements, by zone or subzone, as contained in the General Management Plan, resources management plan, etc.

III. Land Ownership and Uses

(a) Description of ownership and use of land and interests within unit boundaries, including total unit acreage, ownership broken down by appropriate categories such as type of owner (Federal, State, private) and type of resource (undeveloped or developed land, relationship to waterbodies, roads, communities; forested or open; wetlands, steep terrain etc.) Type of interests (fee, easements, mineral rights etc.) also should be described. This information should focus on land not under NPS jurisdiction and may be included on maps in the appendix showing regional location, relationship of the unit to adjacent lands and uses, tracts, acreage and ownership in the unit. If there is a large number of tracts, the maps and discussion may aggregate tracts by groups such as type of ownership or level of development.

(b) Description of existing and potential uses of non-Federal lands that would be compatible or incompatible with planned management actions.

(c) External conditions and activities that have a direct bearing on the protection of land within unit boundaries and an assessment of their impact on protection efforts.

(b) A brief overview of the history of protection including estimates of acreages and methods of acquisition, numbers of improvements acquired, types and terms of interests reserved by sellers (based on readily available data).

(e) Status or protection program including the current acquisition ceiling, expenditures and appropriations to date, appropriations available for expenditure, and status of pending condemnation actions.

(f) A general discussion of the relationship of landowners to social and cultural resources of the unit and of social, cultural, economic, and institutional relationships with nearby communities and political subdivisions; important folkways or activities that contribute to the creation, maintenance or protection of the unit's cultural resources; whether landowners are, for instance, corporations or individuals, long-term or short-term owners and known plans for changes in land use, if any.

IV. Protection Alternatives

(a) Identification and assessment of Federal, State, and local laws or authorities that currently provide some resource protection and allow for management or visitor use.

(b) Description of reasonsable alternative methods for protecting land

to carry out the purpose of the unit, (See "Protection Alternatives" below).

(c) Explanation of the circumstances, conditions and requirements affecting the application of each alternative.

(d) Analysis of the effectiveness of each alternative to protect unit resources.

(e) Assessment of the social and cultural impacts of each alternative on non-Federal landowners as well as social and economic impacts on community life (environmental impacts will be assessed in a separate but attached document).

V. Recommendations

(a) Describe the rationale and list priorities for protection by tract or other reasonable aggregated areas or categories, considering the importance of resource protection, visitor use, administrative purposes, etc.

(b) Identify categories of land and rationale for protection:

—By means other than acquisition.

—By acquisition of less-than-fee interests.

—By acquisition of fee.

(c) Discuss proposed methods of acquisition including donation, exchange, transfer, withdrawal, purchase, or condemnation.

(d) Identify land adequately protected under existing ownership (State, county, conservation organization etc.) and not requiring any NPS protection efforts at this time.

VI. Appendices

(a) Maps and black and white protographs should be used wherever necessary to improve understanding of the contents of the land protection plan. These may be included in the text (see III(a) above) or the Appendices. Maps should include a State map showing location of the unit, a regional map showing relationship to adjacent land uses, and a unit map showing tracts, acreages, and important facilities such as visitor centers, campgrounds, and outstanding physical features. Special photo or map portfolios (for review purposes only) may be provided at the unit, the Regional Office and other official review sites.

(b) Listing by priority ranking or grouping, where possible or feasible, of individual tracts showing tract number, name of owner, acreage, proposed protection method (cooperative agreement, zoning, fee or less-than-fee acquisition etc.) and specific reason for protection (i.e., an easement to "protect the historic scene and permit continued farm use" in an historical area).

(c) Copies of authorizing legislation and other Congressional directions such as excerpts from committee reports directly related to land protection requirements.

(d) Sample documents (Easement provisions, agreements, notices to local governments etc.)

(e) One page statistical summary of plan (acres, methods of protection, highlights of III(e) and V).

Although all plans should follow these analytical steps, some may be very brief and all should place primary emphasis on sections IV and V rather than repeating information already contained in the GMP or other plans.

Policy and Legislative Changes

The analysis of alternatives and recommendations should be developed on the basis of current authorities and policies. However, the land protection plan may reveal the need for changes in unit boundaries, protection authorities, or NPS management policies. The plan must recognize that changes in legislation or policy can only be accomplished through Service planning processes and Departmental or Congressional channels.

The analysis of alternatives may include various contingencies for what will be done if such new policies or authorities become available, but suggestions for major changes should be included in the Superintendent's memorandum to the Region and in the Regional Director's memorandum transmitting the plan to Washington and processed through amendment or revision to the General Management Plan or other appropriate procedures.

Land Protection Plans should be developed with special attention to the following issues relating to private ownership within unit boundaries and analysis of alternative methods for protecting land.

Private Ownership Within Unit Boundaries

Boundaries for units of the National Park System are not always drawn exclusively on the basis of natural or cultural features or clear determinations of resource significance. Consequently, not all of the land within a unit boundary may require the same type or level of protection to achieve the purpose of the unit, and land outside of the boundary may have a direct bearing on the well-being of the unit. Plans proposing the NPS assume management responsibility for lands currently in private or other ownership should be able to document that these lands are needed for resource protection and visitor use purposes that cannot be accomplished without Federal acquisition of these lands or interests in these lands. (See Format, Parts II, IV, V, and VI).

Short and Long Term Needs

In considering protection options, the plan should recognize the difference between needs for interim protection and long term objectives for the unit. Some areas have a long term objective of restoring natural systems to their condition prior to human settlement. However, with appropriate controls, it may be possible and, in fact, desirable to allow continued compatible private uses of the land for a specific period of time without adverse impacts on the long term mission of the unit.

In many areas, private uses of the land may contribute to the purposes of the unit by providing visitor services, reducing requirements for maintenance, reducing costs for management or continuing traditional activities that are part of the resource to be protected, particularly in areas of cultural value. The land protection plan should indicate what private uses need to be continued, controlled, or eliminated to meet long range goals of the unit. Interim private use may be provided by deferral of acquisition, right of first refusal, acquisition subject to reservation of use and occupancy, or by purchase followed by leaseback, or sellback with deed restrictions.

Protection Alternatives

Direct NPS acquisition and management of land may not be the only effective or desirable method of protecting unit resources in all cases. *Land protection plans must document that other approaches have been fully considered.* The plan must identify specific protection methods and assess the ability of various alternatives to achieve management objectives. This includes attention to the following types of methods:

Agreements

Agreements are legal instruments defining administrative arrangements between two or more parties. They can provide for exchange of services or other benefits. Within unit boundaries, agreements are most likely to be useful for land owned by:

State or local governments
Private non-profit organizations (scout troops, churches, land trusts or conservation groups)
Other federal agencies
Individuals or corporations who are supportive of unit purposes, in areas where such agreements are specifically authorized by law

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The terms of an agreement can include provisions for:
Limited NPS access to manage natural or cultural resources
Shared responsibility for maintenance of structures or facilities
Public access for recreation or interpretation
Conditions for management of wildlife or other resources
Law enforcement

For example, land administered by the Coast Guard and Navy in Channel Islands National Park can be managed for unit purposes under an agreement that grants NPS access yet continues the defense and coastal security uses of the islands.

NPS directives and the Federal Grants and Cooperative Agreement Act of 1977 (Pub. L. 95–224) establish some important distinctions among contracts, cooperative agreements, and memoranda of understanding. The land projection plan should outline the specific requirements to meet NPS management needs and other types of provisions to be included in an agreement so that the appropriate legal instrument can be drawn up at a later date.

Zoning

Zoning is based on the power of State and local governments to protect public health, safety, and the welfare by regulating the use of land. Within a unit of the National Park System, local zoning regulations can be used to limit the density, type, location, and character of private development. Some authorizing legislation specifically provides for cooperation between NPS and local governments in developing zoning regulations. In other areas, zoning should be considered when:

—Local government has a zoning ordinance in place or appears to be willing to adopt one.

—There is evidence of State and local support for the protection objectives of the unit.

—Some reasonable private use of the land is consistent with unit purposes.

—Private land use needs to be controlled and managed rather than prohibited to meet unit objectives.

The land protection plan should be clear about what types of protection could be exercised through a zoning ordinance administered by the local government. This may include:

Restrictions on the type of use; residential, commercial, industrial, agricultural, etc.

Limits on the intensity of use; size of lots, height of buildings, number of units per acre.

Standards for design; requirements for set backs from property lines, number of parking spaces per unit, portion of lot to remain in open space.

The plan should take special care to consider what uses of land may be allowed under current zoning classifications which appear to meet NPS objectives as well as those which seem to conflict. For example, the zoning category of "recreation use" may allow for trailer parks, resort motels, and other development unlikely to be compatible with purposes of the unit. Land zoned for low density residential use may be more adequately protected in terms of unit objectives than land zoned for agricultural use where feed lots, timber operations, and other intense activities may be allowed automatically.

A few zoning ordinances allow for transfers of density or development rights from one tract to another. This tool is especially useful in jurisdictions where development can be concentrated in areas already served by public utilities while undeveloped land is retained in low density uses. The land protection plan should consider if development should be prohibited, controlled, or concentrated in other locations. Where the location of new development is of primary concern, zoning and related TDR (transferable development right) programs are likely to be worthy of consideration in the protection plan.

Cooperation with state or local governments may be necessary to revise or prepare zoning regulations. The land protection plan should advise local governments about the types of zoning provisions that would be consistent with unit objectives as well as local interests and concerns. At the same time, the plan should recognize that zoning changes are often controversial and the NPS role should be defined with sensitivity to the potential for criticism of federal involvement in local land use regulation. Special expertise may be required to advise unit managers on complex zoning questions.

Local zoning has been criticized as a long term protection tool because of the potential for changes in local governing bodies, political pressures on decisions, and problems in enforcement of regulations. Land protection plans may suggest what steps could be taken to overcome some of these problems or what contingency actions may be taken if zoning fails. Suggestions for NPS involvement in State or local zoning and other land use regulatory activities should be developed in close consultation with the Office of the Solicitor. In discussing zoning, the plan should give special attention to maintaining cooperative relationships with local governments rather than creating confrontations. In the absence of special legislative provisions for the particular unit, the National Park Service role in local zoning matters is advisory.

In limited instances where the state has ceded exclusive jurisdiction to the Federal Government within the boundaries of a National Park, or where otherwise authorized by law, the National Park Service may be able to exercise direct regulatory authority over private lands. In such cases, NPS would be acting like the local governing body in establishing limits on the type, density, and character of land use. This approach is most appropriate for developed areas within older established National Parks rather than a method of protecting new areas or undeveloped land.

Regulations

In addition to zoning, Federal agencies and state and local governments administer a variety of other laws that can help protect unit resources. The land protection plan will consider what regulatory authorities are available to control:
Air and water pollution
Dredging or filling of wetlands
Hunting and fishing
Tree cutting and forestry practices
Resource extraction and excavation
Construction in navigable waters
Subdivision of land
Development in flood hazard areas

Regulations cannot usually provide for public use, but they can prevent harm to natural or cultural resources. For example, Federal, state, and local regulations often impose strict limits on dredging or filling of wetlands that would destroy wildlife habitat or degrade water quality. Local subdivision and environmental regulations may restrict residential development that is not adequately served by roads, water, and sewage treatment facilities.

It is much more difficult for regulations to absolutely prohibit an activity than to simply limit the type, amount, or intensity of the activity. In units where the impact of development is already evident regulations are more likely to be effective in reducing adverse effects of major projects. In relatively pristine areas, regulations may be of little use in efforts to preserve natural systems from any intrusions of development. Regulations also are more likely to be effective where there is a good base of information about the impacts of certain activities on unit resources. For example, documentation (supported by adequate data) that water pollution is destroying specific fish and wildlife populations will be helpful in efforts to enforce state or local regulations on the source of the pollutants.

A land protection plan should discuss the role NPS can play in assuring that regulations are effectively implemented. This could include cooperation with local efforts to identify and prosecute violators as well as technical assistance or review of permit applications. Although regulations should not be considered as a substitute for acquisition of land or interests needed for resource management and public use, they can be an important element in the general plan for protecting the unit.

Easement Acquisitions

Property ownership should be envisioned as a bundle of rights. These include the right to farm, cut trees; build houses, or extract resources and exclude others from it. Easements convey only some of the rights in property from one person to another. They may be positive: giving a right of access, or negative: restricting specific activities on the land. Easements are most likely to be useful where:

—Some, but not all private uses are compatible with unit purposes.

—Current owners desire to continue current types of use and occupancy of the land under terms set by NPS.

—Scenic values need protection, or access by the public or NPS is needed only over a portion of the land.

Easements are extremely flexible and can be drafted to fit the specific characteristics of the land as well as concerns of the owner. The protection plan should identify the types of conditions imposed by or uses that will be limited by an easement. These could include restrictions on:
Tree cutting
Excavation or grading
Resource extraction
Hunting or fishing
Residential development
Farming practices that erode the soil
Grazing
Commercial or industrial activities

Restrictions may specify changes in use that will be allowed by the unit manager subject to clearly defined conditions on the timing, intensity, or amount of the use.

The easement also could include positive provisions for:
Public access along a river or trail
NPA access to manage natural or cultural resources
Utility rights of way

Negative easements are often likely to be appropriate on developed properties where single fainly residential uses can continue without adverse impacts on public use of the unit. Negative easements also are useful in protecting scenic values of agricultural or forest land. The type of reatrictions to be imposed can be as general or specific as necessary to meet protection needs. For example, an easement on a farm along a parkway or historic area could specify that no trees will be cut or structures be built in a legally defined area unless consistent with clear standards in the easement. An easement on an historic building might specify that it will be maintained and painted only a certain color to match the character of the neighborhood, or preserve historic values.

Positive easements are likely to be most useful where the planned use by NPS or the public will not substantially interfere with other private uses of the land. Public access through land managed for farming or timber production is one example of a likely application for a positive easement. While some landowners may be receptive to selling less than their entire interest in land, others may prefer to sell in fee. The plan should indicate what factors will be considered in making the choice between fee and easement. These may include: owner preference, relative costs, character of the site or the resource, and plans for public use or other management requirements. In general, plans should give special attention to defining what interests in land are required to achieve unit purposes rather than leave the choice between fee and easement entirely to the property owner. The plan also should identify what special efforts might be necessary to inform landowners about possible advantages of owner imposed deed restrictions, easement sales and requirements for monitoring and enforcement of easement conditions. Plans proposing substantial use of easements should discuss any special staff, funding, or training needs to assure that easement conditions can be adequately managed and enforced.

There is no rule of thumb for determining whether easements are "too expensive" in relation to fee acquisition. Costs for purchasing easements will vary widely depending on how much potential uses of the land are limited and the local trends in development. Proposed easement programs must be evaluated on a case-by-case basis. In discussing costs of an easement program, the plan should balance all revelant factors:

Easements: limited management control, purchase price, enforcement costs, benefits of continued private use, opportunities for public use, impact on local tax base.

Fee ownership: full control over management, purchase price, maintenance expenses, payments in lieu of taxes, NPS liability for damages, patrol and enforcement expenses, opportunities for public use, development costs.

Fee Acquisition

When all of the interests in land are acquired, it is owned in fee simple. Fee acquisition may be recommended when other methods of protection have been found to be inadequate, inefficient, or ineffective to meet management needs. Before recommending a protection strategy that relys entirely on fee purchases, *the plan should explain why other approaches are not adequate and why problems with these other approaches cannot be solved.* Fee acquisition is most often appropriate where the land:

—Is Needed for development of unit facilities or public use.

—Must be maintained in a natural condition that precludes reasonable private use.

—Requires active NPS management to preserve historic and archeological resources, eliminate exotic species, or conduct other activities that substantially conflict with private use.

—Is owned by individuals who do not wish to sell less-than-fee interests (sellback and lease back should be considered).

—Cannot be protected in accord with unit purposes by other methods, or alternatives would not be cost-effective.

Methods of Acquisition

NPS can acquire fee and less-than-fee interests through several different methods. These include:
Purchase with donated or appropriated funds
Withdrawal from the public domain
Transfer from other federal agencies
Donation
Bargain sale
Exchange
Condemnation

Plans for direct purchase should recognize the uncertainties about the level of annual appropriations by Congress. Transfers and withdrawals also usually require specific direction from Congress. Donations and exchanges depend upon a variety of factors not usually within the direct control of NPS. Consequently, the plan should discuss specific means of

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acquisition (i.e., donation, purchase or exchange) in general terms without attempting to define which individual tracts will be acquired by specific methods, unless some agreement has already been reached or the methods are specified in the authorizing legislation.

Landowners who have substantial taxable incomes would most likely be interested in a full donation. A bargain sale (partial donation) may be attractive to individuals or corporations who need some cash and some deductions from taxable income. The plan provides an opportunity to determine what special assistance may be necessary to inform landowers about the tax advantages of donations. The plan should not, however, attempt to offer tax advice, but may indicate what steps can be taken to encourage landowners to consult with their attorneys and accountants.

Exchanges should be considered where:

NPS has identified potential trade lands under its own control (land outside of the current boundary acquired to avoid severance damages, for example).

Land is located in the same state under other Federal agency jurisdiction.

In cases, where the landowner wishes to sell fee but NPS needs a less-than-fee interest, a purchase and sell or lease-back arrangement should be considered. The land protection plan should identify those tracts where fee acquisition could be used initially to meet landowner objectives, and then the land could be leased, or resold with restrictions in the deed to meet NPS objectives. A discussion of timing for lease back or sell back and any necessary restrictions should be included in the plan.

Authorizing legislation for many areas provides that land also may be acquired subject to reservations or a right of use and occupancy. Reservations may be for a term of years or the life of the owner and must include restrictions to assure protection of unit resources. Rights to salvage structures or materials also may be reserved. The plan should specify what land or structures may be acquired subject to reservations as well as land that cannot be acquired with reservations, in accord with the area's legislation.

The plan should explain what circumstances may require the use of condemnation to acquire or less-than-fee interests in private property. These include simply resolving disagreements over fair market value and solving title problems, as well as preventing uses that would harm unit resources. The plan should note any specific legislative directions on condemnation, recognize the distinction between inholding areas authorized prior to 1959 and recently authorized areas, and explain to landowners that condemnation is a judicial process to assure them of just compensation when private land is taken for public purposes.

The land protection plan should identify any special concerns about the actual process of acquisition that should be taken into consideration to minimize adverse impacts on landowners.

Emergencies and Hardships

It is not possible to predict in advance when landowners may be subject to hardships that require them to dispose of land or improvements in land, or to know when action by landowners may cause significant or irreparable damage to unit resources. Accordingly, both emergencies and hardships will be revised on a case-by-case basis as they arise and will not affect the overall setting of priorities in the preparation of land protection plans. Where authorizing legislation provides for special consideration to be given to hardships, appropriate reference to the legislation should be included in the plan.

Appendix A

Areas where planning is scheduled to be underway by October 1, 1983. This list includes areas where plans are scheduled for completion during Fiscal Year 1983 and 1984.

Alaska Region: Roger Contor, Regional Director, National Park Service, 540 West 5th Avenue, Room 202, Anchorage, Alaska 99501 (907–271–4196)

Glacier Bay NP
P.O. Box 1089
Juneau, AK 99802

Kenai Fjords NP
P.O. Box 1727
Seward, AK 99664

Lake Clark NP
701 C Street
Anchorage, AK 99513

Sitka NHP
P.O. Box 738
Sitka, AK 99835

Wrangell-St. Elias NP
P.O. Box 29
Glennallen, AK 99588

Yukon Charley Rivers NP
P.O. Box 64
Eagle, AK 99738

Appalachian Trail: David Richie, Project Manager, Appalachian Trail Project Office, National Park Service, Harpers Ferry, West Virginia 25425 (304–535–2346)

Mid-Atlantic Region: James W. Coleman, Jr., Regional Director, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106 (215–597–7013)

Allegheny Portage RR NHS
National Park Service
P.O. Box 247
Cresson, PA 16630

Appomattox Court House NHP
P.O. Box 218
Appomattox, VA 24522

Assateague Island NS
Route 2, Box 294
Berlin, MD 21811

Colonial NHP
P.O. Box 210
Yorktown, VA 23690

Delaware Water Gap NRA
Bushkill, PA 18324

Eisenhower NHS
c/o Gettysburg NMP
Gettysburg, PA 17325

Fort Necessity NB
The National Pike
Farmington, PA 15437

Fredericksburg & Spotsylvania NMP
P.O. Box 679
Fredericksburg, VA 22401

Friendship Hill NHS
c/o Fort Necessity Nat'l Battlefield
The National Pike
Farmington, PA 15437

Gettysburg NMP
Gettysburg, PA 17325

Hampton NHS
525 Hampton Lane
Towson, MD 21204

Independence NHP
313 Walnut Street
Philadelphia, PA 19106

Johnstown Flood NM
P.O. Box 247
Cresson, PA 16630

Maggie L. Walker NHS
c/o Richmond Nat'l Battlefield Park
3215 East Broad Street
Richmond, VA 23223

New River Gorge NR
P.O. Box Drawer V
Oak, Hill, WV 25901

Petersburg NB
P.O. Box 549
Petersburg, VA 23803

Richmond NBP
3215 E. Broad Street
Richmond, VA 23223

Upper Delaware SRR
P.O. Box C
Narrowsburg, NY 12764

Valley Forge NHP
Valley Forge, PA 19481

Mid-West Region: Jim L. Dunning, Regional Director, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102 (402–221–3431)

Apostle Islands NL
P.O. Box 729
Bayfield, WI 54814

Cuyahoga Valley NRA
P.O. Box 158
Peninsula, OH 44264

Herbert Hoover NHS
P.O. Box 607
West Branch, IA 52358

Indiana Dunes NL
1100 N. Mineral Springs
Porter, IN 46304

Lincoln Boyhood NM
Lincoln City, IN 47552

Lincoln Home NHS
526 South 7th Street
Springfield, IL 62703

Lower Saint Croix NSR
P.O. Box 708,
Saint Croix Falls, WI 54024

Mound City Group NM
16062 State Rt. 104
Chillicothe, OH 45601

Pictured Rocks NL
P.O. Box 40
Munising, MI 49862

Saint Croix NSR
P.O. Box 708
Saint Croix Falls, WI 54024

Scotts Bluff NM
P.O. Box 427,
Gering, NE 69341

Sleeping Bear Dunes NL
400 ½ Maint Street,
Frankfort, MI 49635

Voyageurs NP
P.O. Box Drawer 50,
International Falls, MN 56649

William H. Taft NHS
2038 Auburn Avenue
Cincinnati, OH 45219

Wilsons Creek NB
Postal Drawer C
Republic, MO 65738

National Capital Region: Manus J. Fish, Jr., Regional Director, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242 (202–426–5720)

Antietam NB
P.O. Box 158
Sharpsburg, MD 21782

C & O Canal NHP
P.O. Box 4
Sharpsburg, MD 21782

Harpers Ferry NHP
P.O. Box 65
Harpers Ferry, WV 25425

Manassas NBP
P.O. Box 1830
Manassas, VA 22110

Monocacy NB
c/o C & O Canal NHP
P.O. Box 158
Sharpsburg, MD 21782

Piscataway Park
c/o National Capital Region-East
5210 Indian Head Highway
Oxon Hill, MD 20021

Prince William Forest Park
P.O. Box 208
Triangle, VA 22172

North Atlantic Region: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, Massachusetts 02119 (617–223–3769)

Adams NHS
P.O. Box 531
Quincy, MA 02269

Boston African American NHS
c/o Boston NHP
Charleston Navy Yard
Boston, MA 02129

Cape Cod NS
South Wellfleet, MA 02663

Fire Island NS
120 Laurel Street
Patchogue, NY 11772

Gateway NRA
Floyd Bennett Field, Bldg. 69
Brooklyn, NY 11234

Home of FDR NHS
Hyde Park, NY 12538

Lowell NHP
171 Merrimack Street
P.O. Box 1098
Lowell, MA 01853

Martin Van Buren NHS
P.O. Box 545
Kinderhook, NY 12106

Minute Man NHP
P.O. Box 160
Concord, MA 01742

Morristown NHP
National Park Service
Washington Place
Morristown, NJ 07960

Saint Croix Island NM
c/o Acadia National Park
Route 1, Box 1
Bar Harbor, ME 04609

Salem Maritime NHS
Custom House, Derby Street
Salem, MA 01970

Saratoga NHP
R.D. #1, Box 113–C
Stillwater, NY 12170

Springfield Armory NHS
One Armory Square
Springfield, MA 01105

Pacific Northwest Region: Daniel J. Tobin, Jr., Regional Director, National Park Service, 2001 6th Avenue, Seattle, Washington 98121 (202–442–5565)

Ebey's Landing NHR
c/o Pacific Northwest Regional Office
Westin Building, Room 1920
2001 6th Avenue
Seattle, WA 98121

Fort Vancouver NHS
Vancouver, WA 98661

John Day Fossil Beds NM
420 West Main Street
John Day, OR 97845

Lake Chelan NRA
Chelan, WA 98816

Mount Rainier NP
Tahoma Woods, Star Route
Ashford, WA 98304

Nez Perce NHP
P.O. Box 93
Spalding, ID 83551

North Cascades NP
800 State Street
Sedro Woolley, WA 98284

Olympic NP
600 East Park Avenue
Port Angeles, WA 98362

Ross Lake NRA
c/o North Cascades NP
800 State Street
Sedro Woolley, WA 98284

Rocky Mountain Region: L. Lorraine Mintzmyer, Regional Director, National Park Service, P.O. Box 25287, Denver, Colorado 80225 (303–234–2500)

Arches NP
c/o Canyonlands National Park
446 S. Main Street
Moab, UT 84532

Badlands NP
P.O. Box 6
Interior, SD 57750

Bent's Old Fort NHS
P.O. Box 581
La Junta, CO 81050

Bighorn Canyon NRA
P.O. Box 458
Fort Smith, MT 59035

Black Canyon of the Gunnison NM
P.O. Box 1648
Montrose, CO 81401

Bryce Canyon NP
Bryce Canyon, UT 84717

Capitol Reef NP
Torrey, UT 84775

Dinosaur NM
P.O. Box 210
Dinosaur, CO 81610

Fort Laramie NHS
Fort Laramie, WY 82212

Fort Union Trading Post NHS
Buford Route
Williston, ND 58801

Glacier NP
West Glacier, MT 59936

Golden Spike NHS
P.O. Box 394
Brigham City, UT 84302

Grand Teton NP
P.O. Drawer 170
Moose, WY 83012

Grant-Kohrs Ranch NHS
P.O. Box 790
Deer Lodge, MT 59722

Great Sand Dunes NM
P.O. Box 60
Alamosa, CO 81101

Rocky Mountain NP
Estes Park, CO 80517

Zion NP
Springdale, UT 84767

Southeast Region: Robert M. Baker, Regional Director, National Park Service, Richard B. Russell Federal Bldg. & U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404–221–5185)

Andersonville NHS
Andersonville, GA 31711
Big Cypress NP
S.R. Box 110–Satinwood Drive
Ochopee, FL 33943
Biscayne NP
P.O. Box 1369
Homestead, FL 33030
Canaveral NS
P.O. Box 2583
Titusville, FL 32780
Cape Hatteras NS
Route 1, Box 675
Manteo, NC 27954
Cape Lookout NS
P.O. Box 690
Beaufort, NC 28516
Castillo de San Marcos NM
1 Castillo Drive
St. Augustine, FL 32084
Chattahoochee River NRA
1905 Powers Ferry Rd-Suite 150
Marietta, GA 30067
Chickamauga & Chattanooga NMP
P.O. Box 2128
Ft. Oglethorpe, GA 30742
Cumberland Gap NHP
P.O. Box 840
Middlesboro, KY 40965
Cumberland Island NS
P.O. Box 806
Saint Marys, GA 31558
De Soto N Memorial
National Park Service
75th Street, N.W.
Bradenton, FL 33529
Everglades NP
P.O. Box 279
Homestead, FL 33030
Fort Caroline NM
12713 Ft. Caroline Road
Jacksonville, FL 32225
Fort Donelson NMP
P.O. Box F
Dover, TN 37058
Fort Frederica NM
Route 4, Box 286–C
St. Simons Island, GA 31522
Fort Pulaski NM
P.O. Box 98
Tybee Island, GA 31328
Fort Raleigh NHS
c/o Cape Hatteras National Seashore
Route 1, Box 675
Manteo, NC 27954
Fort Sumter NM
1214 Middle Street
Sullivan's Island, SC 29482
Great Smoky Mountains NP
Gatlinburg, TN 37738
Gulf Islands NS
P.O. Box 100
Gulf Breeze, FL 32561
Mammoth Cave NP
Mammoth Cave, KY 42259
Martin Luther King, Jr., NHS
c/o Southeast Regional Office
National Park Service
75 Springs Street, S.W.
Atlanta, GA 30303
Moores Creek NB
P.O. Box 69
Currie, NC 28435
Natchez Trace Parkway
Rural Route 1, NT–143
Tupelo, MS 39901
Obed WSR
P.O. Drawer 630
Oneida, TN 37841
Shiloh NMP
Shiloh, TN 38376
Tuskegee Institute NHS
399 Old Montgomery Road
Tuskegee, AL 36083
Vicksburg NMP
P.O. Box 349
Vicksburg, MS 39180
Virgin Islands NP
P.O. Box 7789, Charlotte Amalie
St. Thomas, VI 00801
Southwest Region: Robert I. Kerr, Regional Director, National Park Service, Old Santa Fe Trail, P.O. Box 728, Santa Fe, New Mexico 87501 (505–988–6388)
Bandelier NM
Los Alamos, NM 87544
Big Bend NP
Big Bend Nat'l Park, TX 79834
Big Thicket NP
P.O. Box 7408
Beaumont, TX 77706
Buffalo NR
P.O. Box 1173
Harrison, AR 72601
Chaco Culture NHP
Star Route 4, Box 6500
Bloomfield, NM 87413
Chickasaw NRA
P.O. Box 201
Ft. Oglethorpe, GA 30742
El Morro NM
Ramah, NM 87321
Fort Smith NHS
P.O. Box 1406
Fort Smith, AR 72902
Georgia O'Keeffe NHS
c/o Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, NM 87501
Hot Springs NP
P.O. Box 1860
Hot Springs, AR 71901
Jean Lafitte NHP
c/o Municipal Auditorium
1201 St. Peter Street
New Orleans, LA 70116
Lyndon B. Johnson NHS
P.O. Box 329
Johnson City, TX 78636
Padre Island NS
9405 South Padre Island Drive
Corpus Christi, TX 78418
Palo Alto Battlefield NHS
c/o Padre Island NS
9405 South Padre Island Drive
Corpus Christi, TX 78418
Salinas NM
P.O. Box 496
Mountainair, NM 87036
San Antonio Missions NHS
727 E. Durango-Rm. A612
San Antonio, TX 78206
Western Region: Howard Chapman, Regional Director, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102 (415–556–4196)
Channel Islands NP
1901 Spinnaker Drive
Ventura, CA 93001
Chiricahua NM
Dos Cabezas Route Box 6500
Willcox, AZ 85643
Coronado NM
Rural Route 1, Box 126
Hereford, AZ 85615
Golden Gate NRA
Building 201, Fort Mason
San Francisco, CA 94124
Grand Canyon NP
P.O. Box 129
Grand Canyon, AZ 86023
Kaloko Honokohau NHP
c/o Pacific Area Director
300 Ala Moana Blvd.
Honolulu, HI 96850
Kings Canyon NP
c/o Sequoia and Kings Canyon Nat'l Parks
Three Rivers, CA 93271
Lake Mead NRA
601 Nevada Highway
Boulder City, NV 89005
Lassen Volcanic NP
Mineral, CA 96063
Montezuma Castle NM
P.O. Box 219
Camp Verde, AZ 86322
Point Reyes NS
Point Reyes, CA 94956
Saguaro NM
Route 8, Box 695
Tucson, AZ 85730
Santa Monica Mountains NRA
22900 Ventura Blvd., Suite 140
Woodland Hills, CA 91364
Sequoia NP
c/o Sequoia & Kings Canyon Nat'l Parks
Three Rivers, CA 93271
Tuzigoot NM
c/o Montezuma Castle NM
P.O. Box 219
Camp Verde, AZ 86322
War in the Pacific NHP
P.O. Box FA
Agana, Guam 96910
Yosemite NP
P.O. Box 577
Yosemite National Park, CA 95389

Russell E. Dickenson,
Director.

[FR Doc. 83–12878 Filed 5–10–83; 8:45 am]
BILLING CODE 4310–70–M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Malaysia and Qatar

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Malaysia and Qatar.

SUMMARY: Pursuant to agreements with the postal administrations of Malaysia and Qatar, the Postal Service intends to begin International Express Mail Service with Malaysia and Qatar at postage rates indicated in the tables below. Service is scheduled to begin on June 10, 1983.

EFFECTIVE DATE: June 10, 1983.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245–4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on April 5, 1983 (48 FR 14660), the Postal Service announced that it was proposing to begin International Express Mail Service to Malaysia and Qatar on June 10, 1983. Comments were invited on published rate tables, which were proposed amendments to the International Mail Manual (incorporated by reference in the **Federal Register**, 39 CFR 10.1), and which were to become effective on the date service began. No comments were received.

Accordingly, the Postal Service is confirming that it intends to begin International Express Mail Service with Malaysia and Qatar on June 10, 1983 at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

MALAYSIA.—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On demand service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$29.00	1	$21.00
2	33.50	2	25.50
3	38.00	3	30.00
4	42.50	4	34.50
5	47.00	5	39.00
6	51.50	6	43.50
7	56.00	7	48.00
8	60.50	8	52.50
9	65.00	9	57.00
10	69.50	10	61.50
11	74.00	11	66.00
12	78.50	12	70.50
13	83.00	13	75.00
14	87.50	14	79.50
15	92.00	15	84.00
16	96.50	16	88.50
17	101.00	17	93.00
18	105.50	18	97.50
19	110.00	19	102.00
20	114.50	20	106.50
21	119.00	21	111.00
22	123.50	22	115.50

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.80 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

QATAR.—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On demand service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$26.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.80 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83–12814 Filed 5–10–83; 8:45 am]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2739/R544; PH–FRL 2359–7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ametryn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide ametryn in or on the raw agricultural commodity cassava roots. This regulation to establish a maximum permissible level for residues of ametryn in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on May 11, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of March 9, 1983 (48 FR 9887), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2739 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide ametryn (2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-*s*-triazine) in or on the raw

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agricultural commodity cassava roots at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 27, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.258 is amended by adding and alphabetically inserting the raw agricultural commodity cassava roots to read as follows:

§ 180.258 Ametryn; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cassava, roots	0.1
* * * * *	

[FR Doc. 83-12180 Filed 5-10-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2713/R559; PH-FRL 2361-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemical in or on Raw Agricultural Commodities; 1-Triacontanol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the plant growth regulator 1-triacontanol in or on all raw agricultural commodities. This regulation to eliminate the need to establish a maximum permissible level for residues of the plant growth regulator in or on all raw agricultural commodities was requested by the Biochemical Research Corporation.

EFFECTIVE DATE: Effective on May 11, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 6, 1983 (48 FR 14002), which announced that the Biochemical Research Corporation, 140 Little Falls St., Falls Church, VA 22046, had submitted pesticide petition 2F2713 to the EPA proposing to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the plant growth regulator 1-triacontanol in or on all raw agricultural commodities.

There were no comments received in response to the notice of filing.

The data submitted in the petition and relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance included an acute oral lethal dose (LD_{50}) study (rat) with an LD_{50} greater than 5,000 milligrams (mg)/kilogram (kg); a primary dermal irritation study (rabbit), negative; an acute dermal toxicity study (rabbit with an LD_{50} greater than 2,000 mg/kg; a primary eye irritation study (rabbit), serve irritation; and an Ames Assay that did not demonstrate mutagenic activity. All other toxicology studies and requirements including long and short-term feeding studies and a 3-generation reproduction study, were waived in accordance with the provision of 40 CFR 162.451(c). These requirements were waived since 1-triacontanol is found to be ubiquitous in all plant life and insect waxes. Thus, animals that consume vegetation, including humans naturally ingest this compound as a diet constituent.

No residues are expected in any raw agricultural commodities resulting from the use of this plant growth regulator.

There are no regulatory actions pending against the product and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded. The metabolism of 1-triacontanol is adequately delineated for the use. An analytical method, electron capture gas chromatography, is available for determining residues of 1-triacontanol. However regulatory action is not anticipated in the case of the exemption. Since no detectable residues are expected in any raw agricultural commodities from the use, residues are not expected in meat, milk, poultry, or eggs.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the regulation would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities.

A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by adding a new § 180.1081 to read as follows:

§ 180.1081 1-Triacontanol; exemption from the requirement of a tolerance.

1-Triacontanol is exempted from the requirement of a tolerance when used as a plant growth regulator in or on all raw agricultural commodities.

[FR Doc. 83-12004 Filed 5-10-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300073A; PH-FRL 2361-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Polybutenes, Polyvinyl Chloride, and Butyl Benzyl Phthalate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules exempt polybutenes, polyvinyl chloride, and butyl benzyl phthalate from the requirement of a tolerance when combined with each other and used as inert ingredients in multi-layered dispensers of pesticide formulations. These regulations were requested by the Health-Chem Corporation.

EFFECTIVE DATE: Effective on May 11, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arthur Donner, Registration Support and Emergency Response Branch (TS-767C), Registration Division, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued proposed rules published in the **Federal Register** of March 23, 1983 (48 FR 12110) that announced that at the request of the Health-Chem Corporation, 1107 Broadway, New York, NY 10010 the Administrator proposed to amend 40 CFR Part 180 by establishing exemptions from the requirement of a tolerance for residues of polybutenes, polyvinyl chloride, and butyl benzyl phthalate, respectively, when combined with each other and used as inert ingredients in multi-layered dispensers of (Z)-11-hexadecenal to disrupt the mating of the artichoke plume moth.

There were no comments or requests for referral to an advisory committee received in response to the proposed rules.

The data and relevant information submitted in the request and the bases for approval of the exemptions were discussed in the notice of proposed rulemaking.

The pesticides are considered useful for the purpose for which the exemptions are sought. It is concluded that the exemptions would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 3, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. In § 180.1037, by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 180.1037 Polybutenes; exemption from the requirement of a tolerance.

* * * * *

(b) Polybutenes are exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity artichokes when used as a sticker agent in multi-layered laminated controlled-release dispensers of (Z)-11-hexadecenal to disrupt the mating of the artichoke plume moth.

2. In § 180.1060, by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 180.1060 Polyvinyl chloride; exemption from the requirement of a tolerance.

* * * * *

(b) Polyvinyl chloride is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity artichokes when used as inert multi-layered laminated controlled-release dispensers of (Z)-11-hexadecenal to disrupt the mating of the artichoke plume moth.

3. In § 180.1062, by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 180.1062 Butyl benzyl phthalate; exemption from the requirement of a tolerance

* * * * *

(b) Butyl benzyl phthalate is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity artichokes when used as an inert plasticizer in multi-layered laminated controlled-release dispensers of (Z)-11-hexadecenal to disrupt the mating of the artichoke plume moth.

[FR Doc. 83-12805 Filed 5-10-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 14-1

Interior Procurement Regulations

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This final rule revises provisions of the Interior Procurement Regulations (IPR) concerning debarred, suspended and ineligible contractors. This revision is necessary in order to comply with the requirements of Office of Federal Procurement Policy (OFPP) Letter 82-1, dated June 24, 1982, and Federal Procurement Regulation Temporary Regulation 65, dated October 4, 1982.

EFFECTIVE DATE: This rule is to be effective May 11, 1983.

FOR FURTHER INFORMATION CONTACT: David Metz (202) 343-3345.

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SUPPLEMENTARY INFORMATION:

Primary Author

The primary author of this rule is David Metz, Office of Acquisition and Property Management, telephone (202) 343-3345.

Impact

The Director, Office of Management and Budget has exempted agency procurement regulations from the requirements of Executive Order 12291. This rule is the required implementation of a Government-wide policy, and as such will have no independent significant economic effect on a substantial number of small entities.

This rule is being published as a final rule as it is merely the internal implementation of a government-wide policy, making public comment both impracticable and unnecessary. For this same reason, the rule is being made effective upon publication in the **Federal Register.**

List of subjects in 41 CFR Chapter 14-1

Government procurement, administrative practices and procedures, environmental protection, Indian business and finance, Labor surplus area, Minority businesses, Small businesses.

Accordingly, 41 CFR subpart 14-1.6 is revised to read as set forth below, pursuant to 40 U.S.C. 486(c), and 5 U.S.C. 301.

Dated: May 4, 1983.

Richard R. Hite,

Assistant Secretary of the Interior.

PART 14-1—GENERAL

1. The Table of contents for subpart 14-1.6 is revised to read as follows:

Subpart 14-1.6—Debarment, Suspension and Ineligibility

Sec.

14-1.600 Scope of subpart.
14-1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors, and agency records.
14-1.603-1 Consolidated list of debarred, suspended, and ineligible contractors.
14-1.603-2 Agency records.
14-1.604 Treatment to be accorded listed contractors.
14-1.604-1 General.
14-1.604-2 Review procedures.
14-1.605 Debarment.
14-1.605-3 Procedures.
14-1.606 Suspension.
14-1.606-3 Procedures.

2. Subpart 14-1.6 is revised to read as follows:

Subpart 14-1.6—Debarment, Suspension and Ineligibility

§ 14-1.600 Scope of subpart.

This subpart prescribes Departmental procedures for debarring and suspending contractors, and the use and maintenance of a consolidated list of debarred, suspended or ineligible contractors.

§ 14-1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors, and agency records.

§ 14-1.603-1 Consolidated list of debarred, suspended, and ineligible contractors.

The Division of Acquisition and Grants, Office of Acquisition and Property Management shall be responsible for the actions described in FPR § 1-1.603-1(b), except that the heads of procuring activities are responsible for the internal distribution of the consolidated list to the appropriate procurement operation offices under their jurisdiction.

§ 14-1.603-2 Agency records.

The Division of Acquisition and Grants, Office of Acquisition and Property Management shall maintain the records required by FPR § 1-1.603-2.

§ 14-1.604 Treatment to be accorded listed contractors.

§ 14-1.604-1 General.

The Director, Office of Acquisition and Property Management shall make the determinations required by FPR §§ 1-1.604-1, 1-1.604-3 and 1-1.604-4. Requests for such determinations shall be forwarded by the contracting officer through the head of the procuring activity to the Director, Office of Acquisition and Property Management.

§ 14-1.604-2 Review procedures.

Contracting officers shall review the consolidated list of debarred, suspended, and ineligible contractors prior to issuing any solicitation, awarding any contract or contract modification, approving any subcontractor or initiating any pre-award survey.

§ 14-1.605 Debarment.

§ 14-1.605-3 Procedures.

(a) *Debarring official.* The Director, Office of Acquisition and Property Management is the official authorized to debar a contractor for any of the causes set forth in FPR § 1-1.605-2. In addition, the Director, Office of Acquisition and Property Management is authorized to take all of the actions described in FPR § 1-1.605-1, including the determination that compelling reasons exist justifying continued business dealings between the Department of the Interior and a contractor debarred by another agency. None of these authorities may be redelegated.

(b) *Referral.* Whenever cause for debarment becomes known to a contracting officer, the matter shall be referred through the head of the procuring activity to the Director, Office of Acquisition and Property Management, together with a recommended action.

(c) *Notice of proposed debarment.* The Director, Office of Acquisition and Property Management shall initiate a debarment action by providing the contractor and any specifically named affiliates with written notice of the proposed debarment. This notice shall, at a minimum, contain the information described in FPR § 1-1.605-3(c), and shall be sent by certified mail return receipt requested.

(d) *Factfinding.* In proposed debarment actions not based upon a conviction or judgment or debarment by another agency, if the contractor's submission raises a genuine dispute over material facts, the Director, Office of Acquisition and Property Management shall conduct factfinding as described in FPR § 1-1.605-3(b)(2). The bureau or office which referred the action, the Office of the Inspector General and the Office of the Solicitor shall assist the Director, Office of Acquisition and Property Management, as necessary, in conducting factfinding.

(e) *Hearing.* If a hearing is requested, it shall be conducted by the Director, Office of Acquisition and Property Management, or his designee. The hearing will be held at a location convenient to the parties concerned as determined by the Director, Office of Acquisition and Property Management, and on a date and at a time stated. Subject to the provisions of 43 CFR Part 1, the firm or individual against whom the debarment action is taken may be represented by a duly authorized representative. Witnesses may be called to testify by either party. The hearing shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the hearing. A transcript of the hearing will be made available at cost to the party sought to be debarred.

(f) *Decision and notice.* The Director, Office of Acquisition and Property Management shall make the decision regarding debarment in accordance with FPR § 1-1.605-3(d), and provide notice to the contractor in accordance with FPR § 1-1.605-3(e).

§ 14-1.606 Suspension.

§ 14-1.606-3 Procedures.

(a) *Suspending official.* The Director, Office of Acquisition and Property Management is the official authorized to suspend contractors for the causes set forth in FPR § 1-1.606-2. In addition, the Director, Office of Acquisition and Property Management is authorized to take the actions described in FPR § 1-1.606-1, including the determination that compelling reasons exist justifying continued business dealings between the Department of the Interior and a contractor suspended by another agency. None of these authorities may be redelegated.

(b) *Referral.* Whenever cause for suspension becomes known to a contracting officer, the matter shall be referred through the head of the procuring activity to the Director, Office of Acquisition and Property Management together with a recommended action.

(c) *Notice of suspension.* The Director, Office of Acquisition and Property Management shall provide the affected contractor and any specifically named affiliates with a notice of suspension, in accordance with FPR § 1-1.606-3(c).

(d) *Factfinding.* In cases involving a genuine dispute over material facts, the Director, Office of Acquisition and Property Management shall conduct factfinding to the extent necessary to resolve the dispute; except that factfinding shall not be conducted in the circumstances described in FPR § 1-1.606-3(c)(6).

(e) *Decision and notice.* The Director, Office of Acquisition and Property Management shall make the suspension decision and provide written notice thereof in accordance with FPR § 1-1.606-3(d).

(f) *Period of suspension.* The Director, Office of Acquisition and Property Management is authorized to take the actions described in FPR § 1-1.606-4 concerning the period of suspension. This authority is not redelegable.

[FR Doc. 83-12542 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 30429-72

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule and request for comment.

SUMMARY: The Secretary of Commerce issues emergency regulations for the ocean salmon fisheries off Washington, Oregon, and California. Although specific regulations vary by fishery and area, together they establish fishing seasons, legal gear, quotas, inseason management procedures, daily catch limits for recreational fisheries, and minimum size limits for salmon taken in the fishery, conservation zone off Washington, Oregon, and California. The regulations are intended to prevent overfishing, to apportion equitably the ocean harvest between commercial and recreational fisheries, and to allow salmon to escape the ocean fisheries thereby providing fish for various inside fisheries, meeting U.S. obligations to treaty Indian fishermen, and achieving spawning escapement goals.

DATE: Interim rule is effective on May 23, 1983, and will remain effective until August 21, 1983. Comments are invited until May 23, 1983.

ADDRESSES: Interested parties are invited to submit comments on this emergency interim rule to Director, Northwest Region, National Marine Fisheries Service (NMFS), 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, (Northwest Regional Director, NMFS), 206-527-6150; or Alan W. Ford (Southwest Regional Director, NMFS), 213-548-2575.

SUPPLEMENTARY INFORMATION:

Background

Under the Magnuson Fishery Conservation and Management Act (Magnuson Act), the fishery management plan (FNP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, was prepared by the Pacific Fishery Management Council (Council), and was approved for the Secretary of Commerce (Secretary) by the Assistant Administrator for Fisheries (Assistant Administrator), NOAA, on March 2, 1978. Regulations to implement the FMP were first published on April 14, 1978 (43 FR 15629), as emergency regulations. Regulations to implement the 1982 Council amendment to the FMP as well as certain changes occasioned by a Secretarial amendment, were issued as final rules on August 16, 1982 (47 FR 35489) and on September 1, 1982 (47 FR 38545). Both 1982 final rules are superseded by these emergency rules. NOAA expects to have final rules in place before these emergency rules expire.

An amendment for 1983 has been prepared by the Council and is undergoing review by the Secretary of Commerce. A draft supplement to the environmental impact statement (DSEIS) for the 1983 amendment was filed with the Environmental Protection Agency, and a notice of availability of this DSEIS was published on February 4, 1983 (48 FR 5308). The Council held six public hearings on the draft of this amendment during the period February 15-17, 1983.

The 1983 amendment is intended to provide adequate escapements from the ocean salmon fisheries for treaty Indian fisheries, for various water fisheries, and for spawning. In addition, the amendment is intended to maintain existing ocean fisheries and to allocate equitably the salmon resources between the ocean commercial and recreational fisheries. The amendment will be accompanied by a final EIS, and a regulatory impact review/regulatory flexibility analysis.

Proposed regulations will be published for a separate review and public comment period as required by the Magnuson Act. If the amendment is approved by the Secretary as submitted by the Council, the proposed rule will be identical to this emergency interim rule; and comments received on this emergency rule will be considered in developing the final rule to implement the 1983 FMP amendment.

These interim regulations are necessary immediately to address an emergency in the ocean salmon fishery until the amendment is reviewed, appropriately approved, and implemented by final regulations. Section 305(e) of the Magnuson Act authorizes the Secretary to promulgate emergency regulations with or without an approved FMP or amendment when a Council finds that an emergency exists involving a fishery under its jurisdiction. The Council requested by majority vote and the Assistant Administrator agreed that until the 1983 amendment was approved and implemented, emergency

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regulations should be promulgated immediately to protect some depressed salmon stocks from overfishing and to meet Federal obligations to achieve treaty Indian fishing allocation requirements and spawning escapement goals.

This emergency rulemaking remains in effect for 90 days and may be extended, by agreement of the Secretary of Commerce and the Council, for a second 90-day period.

Status of the Salmon Resource in 1983

Current information on the abundance of the major stocks of chinook and coho salmon that are available to the ocean fisheries in 1983 indicates that (1) some stocks continue to be depressed to such an extent that ocean harvest must be regulated to assure adequate escapement to inside fisheries and spawning grounds, and (2) other stocks continue to be at or near optimum levels of abundance. The status of stocks is presented in detail in Chapter IV of the report accompanying the 1983 FMP amendment.

Council Proposals for 1983

The Council and its advisors considered the status-of-stocks information included in the report along with other factors, including public comments, during their deliberations on the 1983 amendment. Since none of the management options contained in the draft amendment would have met the Council's management goals, none was adopted by the Council; however, the draft document did discuss components of the Council-adopted management measures, which were included within the range of options chosen and are presented here as emergency regulations.

In January 1983, the Council adopted the draft 1983 FMP amendment for public review; it contained four regulatory options for managing the commercial fishery and four options for the recreational fishery. The options ranged from more restrictive to less restrictive than the 1982 management measures. That document, including the draft supplemental environmental impact statement and draft regulatory impact review, was widely distributed and was the subject of discussion at six public hearings in Washington, Oregon, California, and Idaho. As a result of comments received during the public comment period and of the analyses of the impacts of the options that were drafted by the Council's Salmon Plan Development Team, the Council adopted the management measures contained in the 1983 amendment. Further public comments were heard by the Council in Portland, Oregon, on May 16–17 and 23, 1983, before it adopted the 1983 management measures.

1983 Management Measures

The 1983 management measures adopted by the Council for commercial and recreational fishing along the entire coast are intended to achieve spawning escapement, treaty Indian and inside allocation goals, distribute the regulatory burden equitably, and minimize unpredictable shifts in fishing effort along the coast. The measures adopted contain ocean fishing seasons, area, gear, and bag limit requirements, and place quotas on some coho and chinook harvests. Minimum harvest lengths for salmon in all ocean fisheries are unchanged from 1982.

North of Cape Falcon, Oregon, area openings and conservation closures for 1983 maximize season length and harvest by concentrating fishing effort on healthy salmon stocks while minimizing harvest of depressed stocks. Openings of limited areas (e.g., inside 3 miles or inside 6 miles) in the recreational fishery focus effort on healthy stocks of Columbia River hatchery, Washington hatchery, and Oregon costal chinook near the shore until such time as depressed, natural stocks of upper Columbia River chinook appear. The fishing area then expands seaward and the fishery is directed toward healthy hatchery coho stocks further offshore. The result of limited area openings should be a longer recreational season than that of 1982.

Enforcement of these limited area restrictions will be carefully coordinated among U.S. Coast Guard, National Marine Fisheries Service, and state agency personnel to determine compliance with this type of management measure. Consideration of such area openings in the future may be dependent upon the degree of compliance in 1983.

Because directed chinook fisheries might increase the ocean harvest of some depressed natural stocks an disrupt the normal relationship between the ocean and in-river harvests fall chinook stocks returning to Columbia River hatcheries, the level of ocean harvest north of Cape Falcon, Oregon, is directly limited for the first time by chinook quotas. Conservation closures around the mouth of the Columbia River protect the immature chinook and coho feeding in this area as well as the mature upriver spring, summer, and fall chinook returning to that river.

Columbia River and Oregon coastal coho stocks are important to ocean fisheries off the southern Washington coast as well as the fisheries off the coasts of northern California and Oregon. These stocks are the primary component of the Oregon Production Index (OPI), which is an index of the annual abundance of California, Oregon coastal, and Columbia River coho stocks from Leadbetter Point, Washington, south through California. The OPI uses the number of two-year old jack (precocious male) coho that return to selected locations during the previous spawning run to predict season abundance of three-year-old adult coho off northern California, Oregon and southern Washington.

During the period 1979–82, actual stock sizes exceeded pre-season predictions for the OPI. The greatest error, 22 percent or 321,000 fish, occurred in 1982. Following the 1982 season, a thorough review of the stock abundance estimation procedure was undertaken to improve the accuracy of the stock size forecast for 1983. As a result of this review, the Council adopted a revised data base for predicting OPI coho abundance. Changes in the abundance predictor include upward adjustments in: (1) Lewis River hatchery jack counts that reflect the increased production at that facility, and (2) Columbia River jack counts that reflect a lower jack-to-adult ratio and a higher survival rate because release of young salmon from the hatcheries has been delayed until later in the spring. A more recent data base (1977–82) was used, reflecting a changed jack-to-adult relationship due to variations in hatchery production, stock utilization, and harvest patterns, and reduction in the proportion of wild fish in the total stock. Using this revised base data, the preseason estimate of coho stock size in the OPI area in 1983 is 1,654,000 coho, including private hatchery contributions. This estimate compares to 1,090,800 coho predicted for 1982. Without this revision, the pre-season estimate of stocks for 1983 would have been approximately 1,777,000 coho.

Although the Council initially adopted a harvest ceiling of 501,000 coho for the area north of Cape Falcon, allocations to user groups necessitated a technical adjustment to 494,000 coho to allow for an increased coho catch in the July troll fishery and for shaker mortality in the pink-and-sockeye-only troll fishery. The 494,000 harvest ceiling was adjusted to account for shaker mortality in the late chinook-only fisheries, resulting in an ocean quota of 482,000 coho north of Cape Falcon for fishermen who are not treaty Indians.

Despite the relative abundance of coho in 1983 as indicated by the OPI estimate, serious conservation concerns

with regard to natural stocks of Washington coastal, Puget Sound, and Oregon coastal coho caused the Council to adopt measures shifting a significant portion of the northern Washington and southern Oregon troll harvest to the area off central and northern Oregon and the Columbia River mouth. This shift will maximize harvest opportunity on healthy Columbia River hatchery coho stocks and reduce the harvest of wild coastal coho.

North of Cape Falcon, the unlimited all-species troll season is restricted to the area south of the Columbia River and seaward to 10 miles, from August 10–September 8. This restriction is designed to allow trollers to harvest surplus hatchery coho while protecting upriver bright chinooks returning to the Columbia River as well as weak runs of Washington coastal coho returning to rivers fished by treaty Indians. The available information indicates that the trollers have a greater impact on the upriver bright chinook and Washington coastal coho than does the ocean recreational fishery.

Management measures for the area north of Cape Falcon in 1982 were designed to allocate 58 percent of the coho to the troll fishery and 42 percent to the recreational fishery (47 percent troll and 53 percent recreational allocation from Cape Falcon to Leadbetter Point and 64 percent troll, 36 percent recreational allocation north of Leadbetter Point). The 1983 coho quotas, however, allocate 34 percent to the troll fishery and 66 percent to the recreational fishery north of Cape Falcon. This shift in Washington coho allocations is offset by: (1) A special troll fishery for pink and sockeye salmon, (2) a troll fishery for all-species-except-coho with special gear in the area north of Cape Falcon, and (3) a sizeable troll coho quota south of the Columbia River designed to attract Washington trollers away from weak runs of Washington coastal coho and Columbia River chinook.

The Directors of the Washington Department of Fisheries and the Oregon Department of Fish and Wildlife have agreed to make the necessary arrangements for Washington trollers to participate in the all-species fishery south of the Columbia River by allowing them to land in Washington ports even though ocean areas off Washington may be closed at the time. Under state regulations, a Washington troller may not land in Oregon unless he qualifies for a permit under that state's moratorium or unless he is forced into an Oregon port due to bad weather or mechanical problems.

The two-week troll fishery for pink and sockeye salmon, beginning August 7 north of Carroll Island, will harvest predominantly Fraser-River-origin stocks of pink salmon, which are expected to be at recent record high abundance. Gear is limited to bare blued hooks and flashers.

During July, the troll fishery north of Cape Falcon will target on chinook using only plugs at least 6 inches long. This troll gear is known to be highly selective for legal-sized chinook. The incidental catch of coho in this fishery is limited to 33 percent of the combined catch of chinook and coho, but not to exceed 20,000 coho.

The impacts of the troll and the recreational fisheries on coho from northern Washington are vastly different. To meet spawning escapements and treaty Indian harvest entitlements, the Council either had to reduce the total coho harvest of both fisheries (allowing an over-escapement of stronger runs) or allow only the fishery which would have the least impact on weaker runs (the recreational fishery) to increase.

The Council-adopted management measures, which include some modified fishing areas and generally later open periods, are expected to minimize the impacts of fishing pressure on natural coho stocks, particularly the coastal Oregon and Washington coho stocks. The decision to concentrate ocean fishing on hatchery stocks also should help pass several wild salmon stocks to the inside treaty Indian fisheries in Washington. The Council's reprogramming effort to shift more of the allowable troll harvest of coho off central and northern Oregon and the Columbia River mouth will serve to allow the ocean fisheries an opportunity to increase the allowable catch, thus minimizing the potential adverse economic consequences that result when the fisheries are closed early because the quotas are reached.

The area from Cape Falcon to Cape Blanco, Oregon, includes a 66-mile long subarea from Heceta Head to Cape Kiwanda which is managed by two overlapping troll quotas, the first beginning on July 1 and the second beginning August 1. The overlap area includes Newport, the State's second largest port for commercial landings. Troll landings at Newport count toward the quota from Cape Kiwanda south to the Oregon-California border until that quota is reached. Then, beginning when the southern quota is reached, but not before August 1, Newport landings will apply to the quota from Heceta Head north to Cape Falcon. As a result, the fishing effort for coho will be shifted northward later in the season onto Columbia River hatchery stocks and away from Oregon coastal wild coho stocks.

The recreational fishery from Cape Falcon to Cape Blanco opens on June 16, almost a week later than in 1982.

From Cape Blanco, Oregon, to Cape Vizcaino, California, a multiyear rebuilding schedule for Klamath River chinook is established with the goal of increasing in-river runs by an average of 20 percent over the previous four years. Unexpected changes in the fisheries, resource, or environment would be accommodated, but, otherwise, management measures would not change for four years. If the average increase in in-river run size over four years is higher than 20 percent over the previous four years, the goal for the following four years would be 20 percent greater than the increased average; however, if the average increase in escapement is lower than 20 percent, the goal for the following four years would remain at 20 percent above the goal for the previous four years.

The southern boundary of this area has been moved 46 miles northward, from Point Arena to Cape Vizcaino, in view of new information from coded wire tags which indicates that most of the chinook landed at Fort Bragg (just south of Cape Vizcaino) with current stock sizes, are of Sacramento not Klamath River origin.

Escapement from the ocean to the Klamath River was 62,700 chinook in 1982. The 1983 management measures are expected to result in 70,100 chinook returning to the Klamath, an 11.8 percent increase over 1982. The Council's 1983 ocean escapement goal is 68,900 chinook. The full benefit of the regulations will be realized in 1984 when a 20.5 percent increase over 1982 is expected to escape the ocean fisheries. These estimates should be considered as maximum, since undoubtedly there will be some shifts in fishing effort precipitated by those regulations, the impacts of which cannot be evaluated until they occur.

Although the recreational season in this area is essentially the same as in 1982, the troll season is reduced from 1982. Changes in troll regulations off California include use of barbless hooks in all troll fisheries, a limitation of six trolling wires per vessel to minimize shaker losses, a May 16 (instead of May 1) opening of the chinook fishery, a June 1 (instead of May 25) opening of the all-species season, a 12-mile square ocean closure at the Klamath River mouth during August, and a month shorter all-

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species season (closing August 31 instead of September 30).

In addition, a coho quota has been imposed on the troll fishery off California for the first time. In previous seasons, the catch of coho off California was counted toward the OPI quota south of Cape Falcon, but the fishery off California did not close when that quota was reached. In 1983, the all-species troll fishery between the Oregon-California border and Cape Vizcaino will close when 71,000 coho are projected to have been caught and an all-species-except-coho season subsequently will continue in that area.

The troll season from Cape Blanco to the Oregon-California border is shortened from 1982. The May all-species season opens two weeks later than in 1982 (May 16 instead of May 1) and the September all-species-except-coho season is limited to two weeks (September 1–15) in a 12x24-mile rectangular area at the mouth of the Rogue River.

As a result of changes made in management measures from 1982 to 1983, but without considering potential effort shifts, the recreational catch from Cape Blanco to Cape Vizcaino is expected to increase by almost 3 percent over 1982, while the troll catch is expected to be nearly 12 percent less than in 1982.

South of Cape Vizcaino, California, a similar rebuilding schedule for Sacramento chinook was adopted. The 1983 Sacramento River escapement goals are for 65,800 upper and 82,000 (71,000 natural and 11,000 hatchery) lower river spawners. The 1983 emergency regulations provide for an opening of the troll chinook season later than in 1982 (May 1 instead of April 22). However, the 1983 regulations will not be in effect until after May 1 and the fishery will open under existing regulations. It is projected that the overall escapement goal to the Sacramento River will be reached in 1983; however, the upper river goal may not be reached.

Inseason adjustments to management measures in 1983 could include the following:

—The recreational daily catch limit may be reduced from two fish to one fish to extend the recreational season through Labor Day off Oregon and Washington.
—The area restrictions north of Cape Falcon may be modified to permit the recreational fishery to move offshore earlier, to reduce effort on chinook and to increase the likelihood of achieving the coho quota.
—If either recreational chinook quota north or south of Klipsan Beach is projected to be uncaught, a portion of the unused balance may be reallocated to the other subarea during the season.
—The estimated abundance of private hatchery coho in the Oregon Production Index (OPI) will be reassessed to determine if coho quotas need adjustment.
—The troll coho quota for the August fishery from the Columbia River to Cape Falcon may be increased by the amount of fish (if any) remaining in the quota for the July plugs-only season north of Cape Falcon. Likewise, the troll chinook quota for the August fishery from the Columbia River to Cape Falcon may be increased by the amount of fish (if any) remaining in the chinook quota for the May and July fisheries north of Cape Falcon.

Determinations necessary for inseason adjustments will be made by the NMFS Northwest Regional Director, in consultation with the Directors of the state fishery management agencies, and adjustments will be implemented by the Secretary.

Treaty Indian fisheries

Four northern Washington Indian tribes, the Makah, Quileute, Hoh, and Quinault tribes, have Indian treaty rights to fish for all salmon species in the ocean adjacent to the State of Washington. Between 1972 and 1981, the ocean treaty troll catch of chinook and coho increased two and three fold respectively. In 1982, the actual treaty Indian ocean troll catch totaled approximately 116,800 coho, almost four times the amount anticipated when the regulations for the all-citizen fisheries were established.

Northern Washington fisheries are managed to maximize the catch without causing the natural coho spawning escapements to the Hoh, Queets, or Quillayute rivers to fall below the lower end of the escapement range adopted by the United States District Court for 1982 in *Hoh et al. v. Baldrige.* The Queets natural run is the most depressed of the three systems. The lower end of the 1982 court-adopted spawning escapement range for the Queets River is 5,600 fish.

The timing and amount of salmon harvested by treaty Indians in the ocean directly influences the amount available to allocate to all-citizen ocean fishermen, and the amount of fish available for inside Indian and all-citizen fisheries and for spawning. Uncertainty regarding the size and timing of treaty-Indian troll harvest creates a situation where the impact of ocean fishing regulations upon individual salmon runs, which are of management concern, is nearly impossible to determine.

The Council urged the treaty tribes to agree upon the timing and specific catch level for 1983 ocean treaty Indian fisheries. The Makah Tribe has been unable to reach agreement with the Quileute, Hoh, and Quinault tribes on the number of salmon that will be harvested by treaty Indian fishermen in the ocean in 1983. However, tribal representatives agreed that it would be appropriate for the Council to establish management measures for the all-citizen fishery based on an allowable ocean harvest of 482,000 coho for them north of Cape Falcon. Negotiations among the tribes are continuing in an effort to reach agreement on the size and timing of the 1983 treaty Indian fishery in the ocean. Additional tribal restrictions for their ocean fisheries, including quotas, may be established by the tribes after the date of filing of these emergency regulations.

Federal treaty Indian fishing regulations in 1983 for persons authorized to exercise the Makah Indian treaty ocean fishing rights were adopted as submitted by the Tribe and provide for Makah Indian fishermen to fish in their adjudicated ocean area for all species from May 1 through October 31, and to retain chinook with a minimum length of 24 inches and coho with a minimum length of 16 inches. Either fixed or hand-held lines or poles may be used.

Federal treaty Indian fishing regulations in 1983, for persons authorized to exercise treaty ocean fishing rights of the Quileute, Hoh, and Quinault tribes, provide for fishing by these tribes in their respective adjudicated ocean areas for all species from May 1 through September 15. Treaty fishermen may not retain chinook smaller than 26 inches or coho smaller than 16 inches but a daily limit of 2 chinook between 24 and 26 inches may be kept for ceremonial and subsistence use. Either fixed or hand-held lines or poles may be used. These emergency regulations are less restrictive than those recommended by the three tribes to avoid impeding the process of on-going negotiations between the Makah Tribe and the other three tribes.

Except as noted in § 661.23(c), all other commercial salmon fishing regulations apply to persons exercising the Makah, Quileute, Quinault, and Hoh treaty right to fish in the ocean.

Related Litigation

Hoopa Valley Tribe v. Baldrige: In June of 1982, the Hoopa Valley Indian Tribe, whose reservation is on the Klamath River, brought suit against the Secretary. The tribes claimed that emergency regulations implementing a Secretarial FMP amendment approved on May 26, 1982, for the commercial troll fishery between Cape Blanco, Oregon, and Point Arena, California, were not designed to prevent overfishing of Klamath River fall chinook and did not adequately consider Indian fishing rights in that river. Because a decision has not yet been rendered by the Court, it is unknown at this time what impact, if any, a judicial determination would have on these 1983 emergency regulations. The Secretary believes that the emergency regulations implementing the 1982 Secretarial amendment adequately prevented overfishing of Klamath River chinook and considered Indian fishing rights, consistent with applicable legal requirements. As indicated above, the 1983 emergency regulations are designed to increase the number of chinook entering the Klamath River in 1983 by approximately 12 percent over 1982.

Hoh v. Baldrige: This case was filed in U.S. District Court in 1981 and the Court maintains jurisdiction. The tribes, the State of Washington, and the Department of Commerce meet regularly to discuss and agree on appropriate spawning escapements for coho returning to those northern Washington coastal rivers on which the tribes fish. For 1983, the parties agreed to adopt spawning escapement goals, which were the same as those established by an order of the Court for 1982. The allowable ocean harvest quota of 482,000 coho north of Cape Falcon, Oregon, to the U.S.-Canada border is expected to allow attainment of these agreed-upon spawning escapements.

Confederated Tribes v. Baldrige: The U.S. District Court also maintains continuing jurisdiction in this action. In this litigation, originally filed in 1981, the Court directed the Secretary to evaluate possible management measures for the FCZ off Alaska, Washington, and Oregon which would return more fall chinook salmon to the upper reaches of the Columbia River (bright fall chinook destined for the river above Bonneville Dam, or upriver brights).

The Secretary's evaluation indicated that little could be done by way of restrictions to the ocean fishery off Oregon and Washington north of Cape Falcon to increase the return of upriver bright chinook to the Columbia. No action occurred in this case in 1982 and it is expected that the Secretary's imposition of a chinook harvest quota for the fisheries north of Cape Falcon by these emergency regulations (see discussion above) will be in the best interests of that resource and the tribes.

Classification

Recognizing the critical need for 1983 ocean salmon regulations, the Assistant Administrator agrees with the council's finding that an emergency exists. He has determined that this rule is consistent with the Magnuson Act and other applicable law and should be issued pursuant to section 305(e)(2) of the Magnuson act. He has determined that continuing the regulations now in force would jeopardize the resource, and, therefore, that it is necessary to promulgate these interim regulations immediately.

The Assistant Administrator finds for good cause that the reasons justifying promulgation of these rules on an emergency basis make it impracticable and contrary to the public interest to delay the effective date of these emergency regulations for the full 30-day comment period under the provisions of section 553(d) of the Administrative Procedure Act. To ensure that the public has a reasonable opportunity to comment before these regulations become effective, public comments are invited until May 23.

Because it responds to an emergency, this rule is exempt from the procedures of E.O. 12291 under section 8 (a)(1) of that order. The rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is impracticable to follow the procedures of the order. This rule does not contain a request for collection of information for purposes of the Paperwork Reduction Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act because it is an interim emergency, rather than a proposed or final, rule.

As the final agency action approving a 1983 salmon FMP amendment and proposed implementing regulations has not yet occurred, a final supplemental environmental impact statement has not yet been prepared. A notice of availability of the draft supplemental environmental impact statement for the 1983 amendment was published on February 4, 1983 (48 FR 5308). Letters certifying consistency of the emergency regulations with approved State coastal zone management program were mailed to Oregon, California, Washington, and the San Francisco Bay Area coastal zone agencies on April 6, 1983.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: April 29, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 661 is revised to read as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Subpart A—General Measures

Sec.

661.1 Purpose.
661.2 Relation to other laws.
661.3 Definitions.
661.4 [Reserved]
661.5 Reporting requirements.
661.6 [Reserved]
661.7 General restrictions.
661.8 Facilitation of enforcement.
661.9 Penalties.

Subpart B—Management Measures

661.20 Commercial fishing.
661.21 Recreational fishing.
661.22 Inseason adjustments.
661.23 Treaty Indian fishing.
661.24 Experimental fisheries.
661.25 Scientific research.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Measures

§ 661.1 Purpose.

The purpose of this part is to provide for the management of the salmon fisheries off the coasts of Washington, Oregon, and California in the fishery conservation zone (the FCZ, also known as the 3-to-200 mile zone) over which the United States exercises exclusive fishery management authority (i.e., the Pacific Fishery Management Council's Salmon Fishery Management Area) under the Magnuson Fishery Conservation and Management Act.

§ 661.2 Relation to other laws.

(a) This part does not apply to fishing for pink and sockeye salmon conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, in U.S. Convention Waters between 48° N. latitude and the provisional international boundary between the United States and Canada.

(b) This part recognizes that any State law which pertains to vessels registered under the laws of that State while in the fishery management area, and which is consistent with this part or any applicable Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the coasts of Washington, Oregon and California (Fishery Management Plan), including

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any State landing law, will continue to have force and effect with respect to fishing activities addressed herein.

(c) Any person fishing subject to this part shall be bound by the international boundaries of the management subareas described in § 661.3, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

§ 661.3 Definitions.

Authorized officer means:

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

(b) Any special agent of the National Marine Fisheries Service or other officer authorized by the Secretary;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Barbless hook means a hook with a single shank and point, with no secondary point or barb curving or projecting in any other direction.

Commercial fishing means fishing with troll fishing gear as defined in this section, or fishing for the purpose of sale or barter of the catch.

Conservation zone (CZ) means one of two conservation zones as follows:

(a) *Conservation zone 1:* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (lightship buoy), then due east to shore along 46°11'06" N. latitude.

(b) *Conservation zone 2:* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude, and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth).

Council means the Pacific Fishery Management Council.

Dressed, head-off length of salmon means the shortest distance between the midpoint of the clavicle arch (see illustration) and the fork of the tail, measured along the lateral line while the fish is lying on its side, without resort to any force or mutilation of the fish other than removal of the head, gills, and entrails.

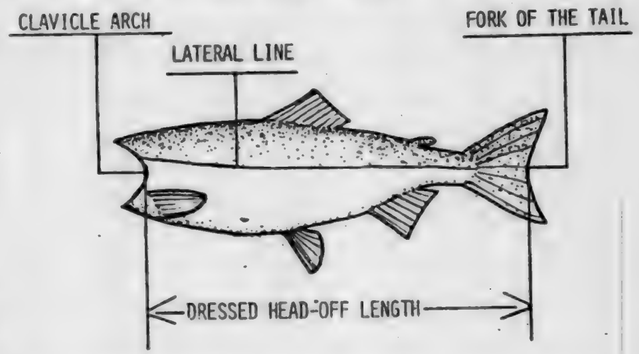

Dressed, head-off salmon means salmon that have been beheaded, gilled, and gutted without further separation of vertebrae, and are either being prepared for on-board freezing, or are frozen and will remain frozen until landed.

Fishery management area means the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California between 3 and 200 miles offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the FCZ is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3-mile limit"). The outer boundary of the FCZ is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico.

(a) The northeastern, northern, and northwestern boundaries of the fishery management area are as follows:

(1) Northeastern boundary—that part of a line connecting the light on Tatoosh Island, Washington, with the light on Bonilla Point on Vancouver Island, British Columbia, southerly of the International Boundary between the U.S. and Canada (at 48°29'37" N. latitude, 124°43'33"W. longitude), and northerly of the point where that line intersects with the boundary of the U.S. territorial sea.

(2) Northern and northwestern boundary is a line [1] connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'56" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(3) The southern boundary of the fishery management area is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22" N. lat., 117°27'49" W. long.;
32°37'37" N. lat., 117°40'31" W. long.;
31°07'58" N. lat., 118°36'18" W. long.;
30°32'31" N. lat., 121°51'58" W. long.

(b) Geographical landmarks referenced in this part are located at the following latitudes:

Carroll Island, 48°00'18" N. lat.
Queets River, 47°31'42" N. lat.
Point Brown, 46°55'42" N. lat.
Leadbetter Point, 46°38'10" N. lat.
Klipsan Beach, 46°28'12" N. lat.
North Head, 46°18'00" N. lat.
Columbia River, 46°14'24" N. lat.
South Jetty, 46°14'06" N. lat.
Columbia River Lightship Buoy, 46°11'06" N. lat.
Cape Falcon, 45°46'00" N. lat.
Cape Kiwanda, 45°13'12" N. lat.
Cape Perpetua, 44°18'00" N. lat.
Heceta Head, 44°08'18" N. lat.
Cape Blanco, 42°50'20" N. lat.
Rogue River, 42°25'16" N. lat.
OR/CA Border, 42°00'00" N. lat.
Klamath River, 41°32'48" N. lat.
Cape Vizcaino, 39°43'30" N. lat.
Point Arena, 39°00'00" N. lat.

[1] The line joining these coordinates is the provisional international boundary of the U.S. FCZ as shown on NOAA/NOS Charts #18480 and #18002.

Fishing means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any boat, ship, or other craft which is used for, equipped to be used for, or of a type that is normally used for fishing.

Freezer trolling vessel means a fishing vessel, equipped with troll fishing gear, which has a present capability for (a) on-board freezing of the catch, *and* (b) storage of the fish in a frozen condition until they are landed.

Land or *landing* means to begin offloading fish, to arrive in port with the intention of offloading fish or to cause fish to be offloaded.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Plugs means artificial fishing lure made of wood or plastic with one or more hooks attached.

Recreational fishing means fishing with recreational fishing gear as defined in this section and not for the purpose of sale or barter.

Recreation fishing gear means conventional angling tackle consisting of a rod, reel, line, and hooks with bait or lure attached.

Regional Director means the Northwest Regional Director, National Marine Fisheries Service (7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115) or his designee.

Salmon means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known as Pacific salmon, including but not limited to:

Chinook (king) salmon—*Oncorhynchus tshawytscha*
Coho (silver) salmon—*Oncorhynchus kisutch*
Pink (humpback) salmon—*Oncorhynchus gorbuscha*
Chum (dog) salmon—*Oncorhynchus keta*
Sockeye (red) salmon—*Oncorhynchus nerka*

Secretary means the Secretary of commerce, or a designee.

Special fishery zone means one of two special fishery zones as follows:

(a) *Special fishery zone 1:* The ocean area south of the Columbia River mouth bounded by a line extending from the tip of the South Jetty (46°14'06" N. latitude and 124°04'00" W. longitude), then southwesterly along a line of 239° True to the lightship buoy (46°11'06" N. latitude and 124°11'00" W. longitude), then due west along 46°11'06" N. latitude to 124°13'24" W. longitude (approximately 10 nautical miles offshore), then south along a line of 180° True (approximately 10 miles offshore from the baseline from which the territorial sea is measured), and then due east to Cape Falcon along 45°46'00" N. latitude.

(b) *Special fishery zone 2:* The ocean area surrounding the Rogue River mouth bounded on the north by 42°37'18" N. latitude (approximately 12 nautical miles north of the rogue River mouth), on the west by 124°42'00" W. longitude (approximately 12 nautical miles offshore), and on the south by 42°13'18" N. latitude (approximately 12 nautical miles south of the Rogue River mouth).

Total length of salmon means the shortest distance between the tip of the snout or jaw (whichever extends furthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force or mutilation of the salmon other than fanning or swinging the tail.

Troll fishing gear mean fishing gear that consists of one or more lines that drag hooks with bait or lures behind a moving fishing vessel, *and* which lines are affixed to the vessel and are not disengaged from the vessel at any time during the fishing operation.

Whole bait means a hook or hooks baited with a whole natural bait.

§ 661.4 [Reserved]

§ 661.5 Reporting requirements.

This part recognizes that catch and effort data necessary for implementation of any applicable Fishery Management Plan is collected by the States of Washington, Oregon, and California under existing State data-collection provisions. No additional catch reports will be required of fishermen or processors as long as the data collection and reporting systems operated by State agencies continue to provide the Secretary with statistical information adequate for management.

§ 661.6 [Reserved]

§ 661.7 General restrictions.

(a) The fishery management area is closed to salmon fishing except as opened by this part or superseding regulations. All open fishing periods begin at 0001 hours and end at 2400 hours local time on the dates specified. Except as otherwise provided by or pursuant to this part, the following restrictions apply to all salmon fishing in the fishery management area.

(b) It is unlawful for any person to—

(1) Take and retain, or land salmon caught with a net in the fishery management area, except that a hand-held net may be used to bring hooked salmon on board a vessel.

(2) Fish for, or take and retain, any species of salmon:

(i) During closed seasons or in closed areas;

(ii) Once any catch limit is attained;

(iii) By means of gear or methods other than recreational fishing gear or troll fishing gear; or

(iv) In violation of any notice issued under § 661.22.

(3) Take and retain or possess aboard a fishing vessel any species of salmon which is less than the applicable minimum total length specified in §§ 661.20(c), 661.21(c), 661.23(a), or 661.23(b)(4).

(4) Possess aboard a fishing vessel a salmon, for which a minimum total length is set by this part, in such a condition that its minimum total length is extended, or cannot be determined, except that "dressed, head-off salmon" may be possessed aboard a "freezer trolling vessel" (unless the adipose fin of such salmon has been removed—see paragraph(b)(6) of this section).

(5) Fail to return to the water immediately and with the least possible injury any salmon the retention of which is prohibited by this part.

(6) Remove the head of any salmon caught in the fishery management area, or possess a salmon with the head removed, if that salmon has been marked by removal of the adipose fin to indicate that a coded wire tag has been implanted in the head of the fish.

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken and retained in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act.

(8) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in

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connection with the enforcement of the Magnuson Act, this part, or any other regulation issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (h)(1) of this section;

(10) Resist a lawful arrest for any act prohibited by this part; or

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part.

§ 661.8 Facilitation of enforcement.

(a) *General.* Each person aboard a fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of the fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. Listen to VHF–FM channel 16 (emergency channel) for instructions to shift to another VHF–FM channel and receive boarding instructions. Visual methods or loudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L", meaning "You should stop your vessel instantly."

(2) "SQ3", meaning "you should stop or heave to; I am going to board you."

(3) "AA AA AA etc.," meaning "Call for unknown station or general call." The operator should respond by identifying his vessel by radio, visual signals or illuminating the vessel name or number.

(4) "RY–CY", meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall—

(1) Stop immediately and lay to or maneuver in such a way as to permit the boarding party to come aboard; and

(2) Take such other actions as necessary to ensure the safety of the boarding party.

§ 661.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act.

Subpart B—Management Measures

§ 661.20 Commerical fishing.

(a) Areas, open seasons, species, and zone and gear restrictions are set forth in Table 1.

TABLE 1.

Areas and open seasons [1]	Species	Zone restrictions [2]	Gear restrictions
United States-Canada border to Cape Falcon:			
May 1–May 31	All except coho	Conservation zone 1 (Columbia River mouth) is closed.	Barbless hooks, whole bait, or plugs not less than 5" only.
July 1—earliest of (1) coho quota, or (2) chinook quota, or (3) July 31.	All except that sockeye and pink salmon may not be retained north of Carroll Island. No more than 1 coho may be retained for each 2 chinook retained.	do	Plugs not less than 6" only.
United States-Canada border to Carroll Island:			
Aug. 7–Aug. 20	Sockeye and pink salmon only		Bare blued hooks and flashers only.
Columbia River to Cape Falcon:			
Aug. 10—earliest of (1) coho quota, or (2) chinook quota, or (3) Sept. 8.	All	Waters *outside* special fishery zone 1 (south of Columbia River mouth) are closed.	
Cape Falcon to Cape Blanco:			
May 1–May 31	All except coho		Barbless hooks, whole bait, or plugs not less than 5" only.
June 1–June 15	All except coho		Plugs not less than 5" or whole bait only.
Sept. 5–Oct. 31	All except coho		
Cape Falcon to Cape Kiwanda:			
Aug 1—coho quota	All		Plugs not less than 5" or whole bait only.
Coho quota—Sept 4	All except coho		
Cape Kiwanda to Heceta Head:			
July1—coho quota	All		Plugs not less than 5" or whole bait only.
Aug. 1—earlier of (1) coho quota, or (2) Sept. 4.	All		
If a coho quota closure occurs prior to Sept. 4, from the time of closure until Sept. 4.	All except coho		
Heceta Head to Cape Blanco:			
July 1—coho quota	All	If a coho quota closure occurs prior to Aug. 1, waters north of Heceta Head to Cape Perpetua are open until Aug. 1.	Plugs not less than 5" or whole bait only.
Coho quota—Sept. 4	All except coho		
Cape Blanco to Oregon-California Border:			
May 16–May 31	All except coho		Barbless hooks only, and no more than 6 troll lines.
June 1–June 15	All except coho		Plugs not less than 5" or whole bait only.
July 1–coho quota	All		
Coho quota—Aug. 31	All except coho		Plugs not less than 5" or whole bait only.
Sept. 1—Sept. 15	All except coho	Only waters *inside* special fishery zone 2 (Rogue River mouth) are open.	
Oct. 1–Oct. 31	All except coho		
Oregon-California Border to Cape Vizcaino			
May 16–May 31	All except coho		Barbless hooks only, and no more than 6 troll lines.
June 1–June 15	All until coho quota is reached, then all except coho.		Barbless hooks only, and no more than 6 troll lines.
July 1–Aug. 31	All until coho quota is reached, then all except coho.	Conservation zone 2 (Klamath River mouth) is closed Aug. 1–Aug. 31.	Barbless hooks only, and no more than 6 troll lines.
Cape Vizcaino to United States-Mexico Borders:			
May 1–May 31	All except coho		Barbless hooks only, and no more than 6 troll lines.

TABLE 1.—Continued

Areas and open seasons [1]	Species	Zone restrictions [2]	Gear restrictions
June 1–June 15	All		Barbless hooks only, and no more than 6 troll lines.
July 1–Sept. 30	All		Barbless hooks only, and no more than 6 troll lines.

[1] Quotas referenced in this column are set forth in the quota table at § 661.22(a).
[2] Conservation zone and special fishery zone are defined in § 661.3.

(b) *Gear restrictions.*—(1) *Troll gear.* No person shall engage in commercial salmon fishing using other than troll fishing gear (as defined in § 661.3) in the fishery management area; however, between the Oregon-California border and the U.S.-Mexico border, troll fishing gear need not be affixed to the fishing vessel as specified in § 661.3.

(2) Lures commonly known as "spoons," "wobblers," "dodgers," and flexible plastic lures are not considered plugs, and may not be used where "plugs only" are specified. *Plugs* are defined in § 661.3.

(3) Where *barbless hooks* are specified, hooks manufactured with barbs can be made "barbless" by forcing the point of the barb flat against the main part of the point. Where "barbless hooks only" are specified south of Cape Blanco, Oregon, to the U.S.-Mexico border, barbless hooks must be used with all types of gear including whole bait and plugs. Where "barbless hooks" are specified north of Cape Blanco, Oregon, to the U.S.-Canada border, barbless hooks must be used with all types of gear *except* whole bait, plugs, and the bare blued hooks used during the special pink—and sockeye—only fishery. *Barbless hook* is defined in § 661.3.

(4) Where *whole bait* is specified, no attraction other than a flasher may be used with the whole bait. *Whole bait* is defined in § 661.3.

(c) *Length restrictions.* Minimum total lengths of salmon and minimum dressed, head-off lengths of salmon are as follows:

Areas	Species	Minimum total lengths (inches)	Minimum lengths for dressed, head-off salmon (inches)
United States-Canada border—Cape Falcon.	Chinook	28	21½
	Coho	16	12
Cape Falcon—Oregon-California border.	Chinook	26	19½
	Coho	16	12
Oregon-California border—United States-Mexico border.	Chinook	26	19½
	Coho	22	16½
All areas	Species other than chinook and coho.	None	None

(d) *Steelhead.* No person engaged in commercial salmon fishing shall take and retain, or possess any steelhead (*Salmo gairdneri*) within the fishery management area.

(e) *Restriction on use of commercial troll fishing gear for recreational fishing.* No person while on a fishing vessel with troll fishing gear on board shall use any part of that troll fishing gear to engage in recreational fishing for salmon.

§ 661.21 Recreational fishing.

(a) Areas, open seasons, species, and zone and gear restrictions are set forth in Table 2:

TABLE 2

Areas and open seasons [1]	Species	Zones [2] [3] 0 to 3 miles	3 to 6 miles	6 to 200 miles	Daily bag and length limits [4] [5]
United States-Canada border to Queets River:					
July 1–July 29	All	Open	Closed	Closed	2 fish legal size.
July 30–Sept. 11	All	Open	Open	Open	2 fish legal size.
Queets River to Pt. Brown:					
May 28–June 17	All except coho	Open	Open	Closed	2 fish legal size.
June 18–July 29	All	Open	Open	Closed	2 fish legal size.
Pt. Brown to Klipsan Beach:					
May 28–June 17	All except coho	Open	Open	Closed	2 fish legal size.
June 18–July 29	All	Open	Open	Closed	2 fish legal size.
July 30–Sept. 11	All	Open	Open	Op3n	2 fish legal size.
Klipsan Beach to North Head:					
June 18–July 29	All	Open	Open	Closed	2 fish legal size.
July 30–Aug 15	All	Open	Open	Open	2 fish legal size.
North Head to South Jetty:					
July 30–Aug. 15	All	Open	Open	Open	2 fish legal size
South Jetty to Cape Falcon:					
June 18–July 29:					
1. From South Jetty south to 46°08'00" N. lat. (approximately 6 miles south of the Columbia Lighthouse Buoy).	All	Open	Closed	Closed	2 fish legal size.
2. South of 46°08'00" to Cape Falcon	All	Open	Open	Closed	2 fish legal size.
July 30–Aug. 15	All	Open	Open	Open	2 fish legal size.
Aug. 16–Sept. 11	All	(6)	(6)	(6)	2 fish legal size.
Cape Falcon to Cape Blanco:					
June 18–Sept. 18	All	Open	Open	Open	2 fish; first 2 salmon taken must be retained regardless of size or species.
Cape Blanco to Oregon-California border:					
May 28–coho quota	All	Open	Open	Open	2 fish; first 2 salmon taken must be retained regardless of size or species.

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TABLE 2—Continued

Areas and open seasons [1]	Species	Zones [2] [3] 0 to 3 miles	3 to 6 miles	6 to 200 miles	Daily bag and length limits [4] [5]
Coho quota–Oct. 31	All except coho	Open	Open	Open	2 fish; first 2 non-coho salmon taken must be retained regardless of size.
Oregon-California border to United States-Mexico border: Saturday nearest Feb. 15 (1983: Feb. 12) to Sunday nearest Nov. 15 (1983: Nov. 13).	All	Open	Open	Open	2 fish legal size.

[1] Seasons are subject to automatic quota closures. *See*, § 661.22(a)(2).
[2] Distances shown are in nautical miles and are measured from "0", the nearest point on the shore from which the baseline used to measure the width of the territorial sea is measured. "0–3" denotes ocean waters within the boundary of the adjacent State which are subject to State and not Federal regulation unless Federal regulations are in effect under section 306(b) of the Magnuson Act. Ocean salmon seasons in State waters shown in Table 2 are seasons adopted by the States in April, 1983 and may be subject to change.
[3] Areas between the U.S./Canada border and Cape Falcon are subject to inseason quota and zone adjustments. *See*, § 661.22(c).
[4] The daily bag limit may be reduced to 1 fish in one or more areas between the U.S/Canada border and the OR/CA border during the season. *See*, § 661.22(d).
[5] Length limits are set forth in the table at § 661.21(c).
[6] Special fishery zone 1 is defined in § 661.3.
[7] Only waters *inside* special fishery zone 1 [6] (south of Columbia River mouth) are open.

(b) *Gear restrictions.* (1) No person shall engage in recreational salmon fishing in the fishery management area using other than recreational fishing gear (as defined in section 661.3), to which may be attached not more than one artificial lure or natural bait, with no more than four single or multiple hooks.

(2) No person shall use more than one rod and line for recreational salmon fishing from the U.S.-Canada border to the Oregon-California border; however, there is no limit to the number of rods or lines used for recreational salmon fishing from the Oregon-California border to the U.S.-Mexico border.

(3) No person engaged in recreational fishing for salmon from the Oregon-California border to the U.S.-Mexico border may use weights of more than four (4) pounds attached directly to the line.

(4) Recreational fishing gear (as defined in section 661.3) must be held by hand while playing a hooked fish and reducing it to possession.

(c) *Length restrictions.* Minimum total lengths of salmon are as follows:

Areas	Minimum total lengths (inches) Chinook	Coho	Other Salmon
United States-Canada border—Cape Falcon.	24	16	None.
Cape Falcon—Oregon-California border.	None	None	None.
Oregon-California border—United States-Mexico border.	22 [1]	22 [1]	None.

[1] Except that one chinook or coho salmon per day may be less than 22 inches but not less than 20 inches.

(d) *Daily bag limits.* No person shall fish for, or take and retain, or possess more than two salmon per day (or one salmon if the daily bag limit is reduced under 661.22(d)) while recreationally salmon fishing in the fishery management area.

§ 661.22 Inseason adjustments.

(a) *Automatic season closures based on quotas.* (1) Salmon harvest quotas, which include fish caught in the territorial sea (0–3 nautical miles) seaward of Washington, Oregon, and California, are as follows:

Areas	Coho quotas [1] Recreational	Coho quotas [1] Commercial	Chinook quotas Recreational	Chinook quotas Commercial
United States-Canada border—Cape Falcon		20,000 in July plug-only season (incidental to chinook fishery) [2] [3].		95,000 in May and July seasons Combined. [4]
United States-Canada border—Leadbetter Point.	129,000 (0)			
United States-Canada border—Klipsan Beach.			59,000 [5]	
Klipsan Beach—Cape Falcon			[5] 29,000	
Leadbetter Point—Cape Falcon	[6] 189,000 (7)			
Special Fishery—Zone 1		[3] [8] 144,00 (8)		[9] 19,000
Cape Falcon—Heceta Head		[3] [8] 254,000 (32)		
Cape Falcon—United States-Mexico border	[3] [7] 196,000 (21)			
Cape Kiwanda—Oregon-California border		[3] [8] 297,000 (32)		
Oregon-California border—Cape Vizcaino		[3] [8] 71,000 (8)		

[1] Numbers in parentheses represent expected private hatchery coho contributions in thousands of fish by area, and are included in the quotas.
[2] These are quotas subject to adjustments based on inseason evaluations of private hatchery contributions, to be made on or before August 1. *See*, Section 661.22(b).
[3] Coho salmon caught between Cape Kiwanda and Heceta head will count first toward the coho quota established for Cape Kiwanda-OR/CA border, and when that quota is reached, then toward the coho quota established for Cape Falcon-Heceta Head.
[4] If the 95,000 chinook commercial quota is not reached during the May and July seasons, the balance will be added to the 19,000 chinook commercial quota for the August season in special fishery zone 1.
[5] If the 20,000 coho commercial quota is exceeded in the July season, the excess will be deducted from the 144,000 commercial troll quota for the August season in special fishery zone2. If the coho quota for the July season is not reached, the remainder will be added to the coho quota for the August season.
[6] This quota includes landings at Fort Bragg, California.
[7] Coho taken in the recreational fishery between the OR/CA border and the U.S./Mexico border are included in this quota, but if the quota is reached, only the area between Cape Falcon and the OR/CA border will close.
[8] These quotas are subject to reallocation under Section 661.22(c)(ii).

(2) When a quota for the commercial or the recreational fishery, or both, if any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary shall, by publishing a notice in the **Federal Register**, close the commercial or recreational fishery, or both, as of the date the quota will be reached.

(b) *Adjustment of quotas.* (1) The estimated contributions of private hatchery coho to coho quotas are shown in parentheses in the quota table in section 661.22(a)(1).

(2) On or before August 1, the Regional Director will review the estimated contributions of private hatchery coho, taking into account coded wire tag and/or scale analysis data gathered during the season. If the contribution of private hatchery coho varies from the preseason estimates, the Secretary may modify the coho quotas accordingly by publishing a notice in the **Federal Register.**

(c) *Area adjustments.* The total recreational quotas between the U.S. Canada border and Cape Falcon are 88,000 chinook (59,000 between the U.S. Canada border and Klipsan Beach, and 29,000 between Klipsan Beach and Cape Falcon) and 318,000 coho (129,000 between the U.S.-Canada border and Leadbetter Point, and 189,000 between Leadbetter Point and Cape Falcon). During the season, the Regional Director will monitor catches applicable to these quotas. The Secretary may, by publishing a notice in the **Federal Register**—

(1) If the Regional Director determines that a chinook quota will be reached before the corresponding coho quota, extend seaward one or more of the areas open to recreational coho fishing in order to increase the likelihood that the chinook and coho quotas will be filled at or near the same time; and

(2) If the Regional Director determines that any portion of the total 88,000 recreational chinook quota may not be taken, reallocate a part of the quota to the area (U.S.-Canada border to Klipsan Beach, or Klipsan Beach to Cape Falcon) which is projected to reach its area allocation first.

(d) *Reduction in daily bag limit.* When 50 percent of any recreational quota between the U.S.-Canada border and the Oregon-California border is projected to be reached, the Regional Director will determine whether a reduction in the daily bag limit from two fish to one fish will avoid an automatic quota closure prior to Labor Day (September 5, 1983). If the Regional Director determines that a reduction to one fish is necessary to extend the season until Labor Day, the Secretary may, by publishing a notice in the **Federal Register,** reduce the daily bag limit to one fish.

(e) *Availability of Data.* The Regional Director will compile in aggregate form all data and other information relevant to the actions described in this section and shall make them available for public review during normal office hours at the Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way N.E., Seattle, Washington 98115.

(f) *Effective dates.* (1) Any notice issued under this section is effective on the date specified in the notice or on the date the notice is filed for public inspection with the Office of the Federal Register, whichever is later.

(2) Any notice issued under this section will remain in effect until the expiration date stated in the notice, or until rescinded or superseded; *provided that,* no such notice has any effect beyond the end of the calendar year in which issued, at which time provisions of this part that were superseded by such notice again become effective until subsequently modified or superseded.

(g) Nothing contained in this part limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act, if the Secretary determines that an emergency involving the salmon fishery exists. Such emergency regulations are effective upon filing for public inspection with the Office of the Federal Register.

§ 661.23 Treaty Indian fishing.

(a) *Makah Tribe.* Persons authorized by the Makah Tribe to exercise fishing rights under the Treaty with the Makah may fish for all salmon species only in that portion of the fishery management area north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude, and such other areas as may hereafter be authorized for that tribe's treaty fishery by a Federal court, from May 1 through October 31. Minimum legal size limits are 24 inches for chinook salmon and 16 inches for coho salmon.

(b) *Quileute, Hoh, and Quinault Tribes.*—(1) *Quileute Tribe.* Persons authorized by the Quileute Tribe to exercise fishing rights under the Treaty of Olympia may fish for all salmon species only in that portion of the fishery management area between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River), and such other areas as may hereafter be authorized for that tribe's treaty fishery by a Federal court, from May 1 through September 15.

(2) *Hoh Tribe.* Persons authorized by the Hoh Tribe to exercise fishing rights under the Treaty of Olympia may fish for all salmon species only in that portion of the fishery management area between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River), and such other areas as may hereafter be authorized for that tribe's treaty fishery by a Federal court, from May 1 through September 15.

(3) *Quinault Tribe.* Persons authorized by the Quinault Tribe to exercise fishing rights under the Treaty of Olympia may fish for all salmon species only in that portion of the fishery management area between 47°40'06" N. latitude (Destruction Island) and 46°53'03" N. latitude (Point Chehalis), and such other areas as may hereafter be authorized for that tribe's treaty fishery by a Federal court, from May 1 through September 15.

(4) *Minimum size limits.* Minimum legal size limits are 26 inches for chinook salmon and 16 inches for coho salmon, except that a daily limit of two chinook salmon between 24 inches and 26 inches may be retained for ceremonial and subsistence purposes.

(c) *Exceptions.* Unless otherwise provided by this section, persons specified in paragraphs (a) and (b) of this section are subject to the provisions of this part, the Magnuson Act, and any other regulations issued under the Magnuson Act, except that the restrictions contained in section 661.20(b) (1), (d) and (e) and section 661.21 (b) and (d) do not apply.

(d) The Secretary will give due consideration in promulgating emergency regulations to the treaty fishing rights of Indian Tribes with federally-adjudicated usual and accustomed fishing grounds in the area affected by such regulations.

§ 661.24 Experimental fisheries.

(a) Upon the recommendation of the Council, the Regional Director may allow such experimental fisheries for research purposes in the fishery management area, as may be proposed by the Council, the Federal Government, State Governments, and treaty Indian tribes having usual and accustomed fishing grounds in the fishery management area.

(b) The Regional Director shall not allow any experimental fishery recommended by the Council unless he determines that the purpose, design, and administration of the experimental fishery are consistent with the goals and objectives of the council's fishery management plan, the national standards (section 301(a) of the

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Magnuson Act), and other applicable law.

(c) Each vessel participating in any experimental fishery recommended by the Council and allowed by the Regional Director is subject to all provisions of this part, except those portions necessarily relating to the purpose and nature of the experimental fishery. These exceptions will be specified in a letter issued by the Regional Director to each vessel participating in the experimental fishery and that letter must be carried aboard each participating vessel.

§ 661.25 Scientific research.

Nothing in this part is intended to inhibit or prevent any scientific or oceanographic research in the fishery management area by a scientific research vessel. The Regional Director shall acknowledge any notification he might receive of any scientific or oceanographic research with respect to salmon being conducted by a scientific research vessel, by issuing to the operator or master of that vessel a letter or acknowledgement, containing information on the purpose and scope (locations and schedules) of the activities. The Regional Director shall transmit copies of such letter to the Council, and to State and Federal administrative and enforcement agencies, to ensure that all concerned parties are aware of the research activities.

[FR Doc. 83-11985 Filed 5-6-83; 2:50 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 92
Wednesday, May, 11, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California: Decision and Referendum Order on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes an amendment of the California raisin marketing agreement and order program. The proposed amendment would: Change the method of establishing marketing policy and volume regulation to permit more timely responses to changing marketing conditions; change committee composition and nomination procedures; abolish the Executive Operations Committee and transfer its compliance responsibility to the Raisin Administrative Committee; add provisions for export merchandising programs; provide authority for advertising and promotion programs; provide authority for crediting a handler's assessments for certain kinds of advertising and promotion; and provide authority to charge interest fees on delinquent assessments. The intent of the proposed changes is to improve the effectiveness and operation of the program. Raisin producers will vote in a referendum to determine whether they favor issuance of the proposed changes.

DATE: The representative period for purposes of the referendum herein ordered is August 1, 1981, to July 31, 1982.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding: Notice of Hearing—Issued August 5, 1982, and published August 11, 1982 (47 FR 34790).

Notice of Recommended Decision—Issued March 29, 1983, and published April 6, 1983 (48 FR 14911).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code, and therefore is not subject to the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

Preliminary Statement

This proposed amendment was formulated on the record of a public hearing held in Fresno, California, on August 19, 1982. The hearing notice was published in the August 11, 1982, issue of the **Federal Register** (47 FR 34790). The notice contained the proposals submitted by the Raisin Administrative Committee. The Committee works with USDA in administering the marketing order program.

This hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

On the basis of the evidence introduced at the hearing and the record thereof, Deputy Administrator Manley, on March 29, 1983, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision which contained notice of the opportunity to file written exceptions by April 19, 1983.

Findings and Conclusions

The material issues, findings and conclusions, rulings, general findings, and regulatory provisions of the recommended decision published in the April 6, 1983, issue of the **Federal Register** (48 FR 14911) are hereby incorporated herein and made a part hereof subject to the following corrections:

Page	Column	Paragraph	Line	Correction
14912	1	7	6	Change "tings" to "tends"
14914	1	2	7	Insert "based" before "upon"
14915	1	2	2	Change "porposed" to "proposed"
14916	1	1	16	Insert "plus" before "3"
14916	1	2	2	Change "nor" to "now"
14921	2	3	7–23	Remove lines 7 through 23 starting with the word "guidelines" and ending with the word "Secretary".
14921	2	4	1–7	Remove lines 1 through 7 starting with the word "At" and ending with the word "the".
14921	3		1–16	Remove lines 1 through 16 starting with the word "proposal" and ending with the word "§ 989.53".
14921	3	1	1–9	Remove lines 1 through 9 starting with the word "Consistent" and ending with the word "handler".
14923	3	1	14 and 16	Change "associations" to "association(s)"
14924	1	1	11	Change "failing" to "falling".
14924	1	2	6	Insert "each" after "at".
14925	1	2	16	Change "carry-in" to "carryin".
14925	1	2	22	Change "crip" to "crop".
14925	3	3	16 and 19	Change "years's" to "year's".
14926	2	1	15	Change "not" to "no"
14926	2	5	2	Change "redesignation" to "redesignating".

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Rulings on exceptions

One comment was filed by the Raisin Administrative Committee in support of the proposals.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California", and "Order Amending the Order, as amended, Regulating the Handling of Raisins Produced from Grapes Grown in California", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement, are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with the decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order as amended and as hereby proposed to be further amended, regulating the handling of raisins produced from grapes grown in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1981, to July 31, 1982.

The agent of the Secretary to conduct such referendum is hereby designated to be Richard Van Diest and Frank M. Grasberger, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture.

Signed at Washington, D.C, on May 6, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [1] amending the order, as amended, regulating the handling of raisins produced from grapes grown in California.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the production area is in the current of interstate or foreign commerce directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof the handling of raisins produced from grapes grown in California, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

Except for the previously noted corrections, the provisions of the recommended amendment of the marketing agreement and order, as amended, contained in the recommended decision issued by the Deputy Administrator on March 29,1983, and published in the April 6, 1983 **Federal Register** (48 FR 14911), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 989—[AMENDED]

1. Section 989.10 is revised to read as follows:

§ 989.10 Varietal types.

"Varietal types" means raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate idenfitication and classification. Varietal types are the following: Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant, Monukka, and Oleate and Related Seedless: *Provided,* That the Committee may, subject to approval of the Secretary, change this list of varietal types.

§ 989.19 [Removed]

2. Section 989.19 is removed.

3. Section 989.22 is revised to read as follows:

§ 989.22 District.

"District" means any one of the geographical areas referred to in § 989.26, and designated in the rules and regulations.

4. Section 989.26 is revised to read as follows:

§ 989.26 Establishment and membership.

A Raisin Administrative Committee is hereby established consisting of 47 members of whom 35 shall represent producers, 10 shall represent handlers, 1 shall represent the cooperative bargaining association(s) and 1 shall be a public member. The producer members shall be selected as follows:

(a) Producer members representing the cooperative marketing association(s) shall be members of such association(s) engaged in the handling of raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the preceding crop year, and those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 35 by the ratio the cooperative marketing association(s) raisin acquisitions are to the acquisitions of all handlers during the preceding crop year.

(b) Producer members representing cooperative bargaining association(s) shall be members of such associations, and the number of those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 35 by the ratio the raisins acquired by handlers from bargaining association members are to the total acquisitions of all handlers during the preceding crop year.

(c) All other producer members who shall not be members of a cooperative bargaining association(s), cooperative marketing association(s) engaged in the handling of raisins which acquired 10 percent or more of the total acquisitions during the preceding crop year, nor sold for cash to cooperative marketing association(s), shall represent all producers not defined in paragraph (a) or (b) of this section and shall be selected in the number and, when appropriate, for the districts as designated in the rules and regulations.

(d) The handler members shall be divided into two groups and include the following:

(1) Handler members shall be selected from and represent cooperative marketing association(s) engaged in the handling of raisins each of which acquired not less than 10 percent of the total raisin acquisitions during the preceding crop year, and the number of those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 10 by the ratio of the cooperative marketing association(s) raisin acquisitions are to the total acquisitions of all handlers during the preceding crop year.

(2) The remaining handler members shall be selected from and represent all other handlers, which would include all independent handlers and small cooperative marketing association(s) who acquired less than 10 percent of the total raisin acquisitions during the preceding crop year. Handler nominees for this group shall be nominated by all handlers in the group in a manner determined by the Committee, with the approval of the Secretary, and specified in the rules and regulations.

(e) The bargaining association'(s) member shall be selected from the cooperative bargaining association(s). The public member shall be nominated by the Committee and selected by the Secretary as public member.

(f) For each member of the Committee there shall be an alternate member who shall have the same qualifications as the member for whom he is an alternate.

§ 989.26a [Removed]

5. Section 989.26a is removed.

§ 989.26b [Removed]

6. Section 989.26b is removed.

§ 989.26c [Removed]

7. Section 989.26c is removed.

8. Section 989.27 is revised to read as follows:

§ 989.27 Eligibility.

No person shall be selected or continue to serve as a member or alternate member of the Committee who is not actively engaged in the business of the group which he represents either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business: *Provided,* That only producers, as defined in § 989.11, engaged as such with respect to the most recent grape crop, are eligible to serve on the Committee. Only handlers who packed or processed raisins during the then current crop year shall be eligible to represent handlers on the Committee. Any handler eligible to represent a particular group shall continue to represent handlers for the entire term for which he was selected.

9. Section § 989.28 is revised to read as follows:

§ 989.28 Term of office.

The term of office of all representatives serving on the Committee shall be for two years and shall end on April 30 of even numbered calendar years, but each such member and alternate member shall continue to serve until their successor is selected and has qualified.

10. Section 989.29 is revised to read as follows:

§989.29 Initial members and nomination of successor members.

(a) *Initial members.* Members and alternate members of the Committee serving immediately prior to the effective date of this amended subpart shall, if thereafter they are eligible, serve on the Committee until April 30, 1984, and until their respective successors have been selected and qualified.

(b) *Nominations for successor members.* Nominations for successor members and alternate members of the Committee shall be made as follows:

(1) The Committee shall notify the cooperative marketing association(s) engaged in handling not less than 10 percent of the total raisin acquisitions during the preceding crop year, and cooperative bargaining association(s), of the date by which nominations to fill member and alternate member positions shall be made. The Committee shall give reasonable publicity of a meeting of meetings of producers who are not members of cooperative bargaining association(s), or cooperative marketing association(s) which handled 10 percent or more of the total raisin acquisitions during the preceding crop year, and of independent handlers and cooperative marketing association(s) who handled less than 10 percent of the total raisin acquisitions during the preceding crop year, for the purpose of making nominations to fill the member and alternate member positions prescribed in § 989.26 (c) and (d): *Provided,* That member and alternate member nominations by independent handlers and cooperative marketing association(s) who acquired less than 10 percent of the total raisin acquisitions during the preceding crop year may be made to the Committee by mail in lieu of meetings.

(2) Any producer representing independent producers and producers who are affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year must have produced grapes which were made into raisins in the particular district for which he is nominated, to represent said district as a producer member or alternate producer member on the Committee. In the event any such nominees are engaged as producers in more than one district, they may be a nominee for only one district. One or more producers or producers affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year may be nominated for each such producer member or alternate member position. Each independent producer and producer affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year shall cast only one vote with respect to each position for which nominations are to be made. The person receiving the majority of the votes with respect to each such position to be filled shall be the person to be certified to the Secretary as the nominee. In the event

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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no person receives a majority there shall be a run off vote between the two persons receiving the largest number of votes. The eligibility of each producer voting in a producer nomination meeting shall be certified by the Committee during or after the meeting, and in the event one or more producers who voted were not eligible and this may have affected the result of any nomination vote, another meeting with respect to such producer nominations shall be held.

(3) One or more eligible handlers for each handler position to be filled may be proposed for nomination to represent independent handlers and cooperative marketing association(s) which acquired less than 10 percent of the total raisin acquisitions during the preceding crop year on the Committee. Nominations shall be made by and from handlers, or employees, representatives or agents of handlers falling within such groups. Each handler shall cast only one vote with respect to each position for which nomination is to be made. The person receiving the most votes with respect to each handler member of handler alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(4) Each vote cast shall be on behalf of the person voting, his agent, subsidiaries, affiliates, and representatives. Voting at each meeting shall be in person. The results of each ballot at each handler meeting shall be announced at that meeting. Voting at each meeting of producers shall be by secret ballot. The results of the voting at producer meetings shall be announced by the Committee following the verifications of eligibility of those participating at such meetings.

(5) Each nomination shall be certified by the Committee to the Secretary on or before April 5 immediately preceding the commencement of the term of office of the member or alternate member position for which the nomination is certified.

11. Section 989.30 is revised to read as follows:

§ 989.30 Selection.

The Secretary shall select producer, handler, cooperative bargaining association(s), and public members and alternate members in the number specified in 989.26, as applicable, and with the qualifications specified in § 989.27. Such selections may be made from nominations certified pursuant to § 989.29 or from other eligible producers, handlers, or cooperative bargaining association(s) officers or employees.

12. Section 989.32 is revised to read as follows:

§ 989.32 Acceptance.

Each person to be selected by the Secretary as a member or as an alternate member of the Committee shall, prior to such selection, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.

13. Section 989.35 is amended by adding a new paragraph (d) reading as follows:

§ 989.35 Powers.

* * * * *

(d) To receive, investigate, and report to the Secretary complaints of violations of this part.

14. Section 989.36 is amended by redesignating seriatim current paragraphs (b) through (k) as paragraphs (c) through (l), and adding a new paragraph (b) reading as follows:

§ 989.36 Duties.

* * * * *

(b) To investigate compliance and to use means available to it to prevent violations of this part.

* * * * *

15. Section 989.36(j), redesignated as § 989.36(k) is amended by removing the words "and the making of nominations to the Secretary for member and alternate member positions on the Executive Operations Committee".

16. Section 989.38 is amended by removing the phrase "Except as otherwise provided in § 989.45," from the second sentence, and by removing the fifth sentence. As amended, § 989.38 reads as follows:

§ 989.38 Procedure.

The Committee shall meet at the call of the chairman, or vice-chairman when acting as chairman, or at the call of any three members. All decisions of the Committee reached shall be by majority vote of the members present. All votes shall be cast in person and a quorum must be present. The presence of 25 members shall be required to constitute a quorum. The Committee shall give to the Secretary the same notice of meetings of the Committee as it gives to its members.

§ 989.39 [Amended]

17. Section 989.39 is amended by removing the words "and the Executive Operations Committee," from the first sentence.

§ 989.43 through 989.52 [Removed]

18. Sections 989.43 through 989.52 and the center heading "Executive Operations Committee" preceding § 989.43 are removed:

19. Section 989.53 is revised to read as follows:

§ 989.53 Research and development.

(a) *General.* The Committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving marketing research and development and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption of raisins in domestic and foreign markets. These projects may include, but need not be limited to those designed to:

(1) Improve through research the accuracy of raisin production estimates;

(2) Improve through research the preparation for market, sanitation, quality, condition, storability, processing, or packaging of raisins;

(3) Ascertain through research the factors affecting acceptance of raisins by manufacturers or consumers;

(4) Promote the marketing, distribution, or consumption of raisins in domestic and foreign markets by collecting data thereon, consulting with members of the trade, and making the information available to producers, handlers, and exporters; and

(5) Promote the marketing, distribution, or consumption of raisins in foreign markets through the use of merchandisirlg programs.

The expense of any such project relating solely to free tonnage raisins shall be paid from funds collected pursuant to §989.80. The expense of any such project relating solely to reserve tonnage raisins shall be paid from the sale proceeds of such raisins. If any such project encompasses both free tonnage and reserve tonnage raisins, such as one which is designed to promote the consumption in export outlets of raisins generally on a long-term basis, the expense of the project may be allocated between the assessment fund and the pool fund.

(b) *Creditable expenditures.* The Committee, with the approval of the Secretary, may provide for crediting all or any portion of a handler's direct expenditures for marketing promotion, including paid advertising, that promotes the sale of raisins, raisin products, or their use. No handler shall receive credit for any allowable direct expenditures that would exceed the total of his assessment obligation which is attributable to that portion of his assessment designated for marketing promotion including paid advertising.

(c) *Criteria.* Before any project involving marketing promotion, including paid advertising, and the crediting of the handler's pro rata expense assessment obligation of handlers is undertaken pursuant to this section, the Secretary after recommendation by the Committee, shall approve appropriate criteria to effectively regulate such activity.

20. Section 989.54 is revised to read as follows:

§ 989.54 Marketing policy.

(a) *Trade demand.* On or before August 15 of each crop year, the Committee shall hold a meeting to review shipment data, inventory data, and other matters relating to the quantity of raisins of all varietal types. For any varietal type for which a free tonnage percentage may be recommended, the Committee shall compute a trade demand. The trade demand shall be 90 percent of the prior crop year's shipments (converted to a natural condition weight) of free tonnage and reserve tonnage sold for free use for that varietal type, into all market outlets, adjusted by the carryin on August 1 of the current crop year and the desirable carryout for the varietal type at the end of that crop year. If the prior year's shipments were limited because of crop conditions, the Committee may select the shipments of one of the three years preceding the prior crop year. The desirable carryout shall be increased from 35,000 to 50,000 tons for Natural (sun-dried) Seedless raisins at a rate of 5,000 tons per year for three crop years, following the effective date of this amended subpart. The desirable carryout for Dipped Seedless raisins shall be 1,500 tons, and for Oleate and Related Seedless raisins, 1,500 tons. The trade demand computed by the Committee shall be announced by the Committee in accordance with paragraph (h) of this section.

(b) *Preliminary percentages.* On or before October 5 of each crop year (except that the Committee may extend this date not more than five business days if warranted by a late crop), the Committee shall estimate the production of any varietal type of raisins for which it has computed a trade demand. If the Committee determines that volume regulation is desirable during the crop year for that varietal type, it shall compute and announce preliminary free and reserve percentages for that varietal type. The Committee shall compute a preliminary free percentage to release 85 percent of the computed trade demand, if it determines that a field price has been established for that varietal type, or 65 percent of the trade demand if no field price has been established. The preliminary free percentage shall be computed by multiplying the trade demand by either 85 percent or 65 percent (as the case may be) and dividing the product by the estimated production of that varietal type and rounding the resulting percentage to the nearest full percent. The difference between 100 percent and the preliminary free percentage shall be the preliminary reserve percentage.

(c) *Interim percentages.* Prior to February 15, the Committee may modify the preliminary free and reserve percentages to release less than the trade demand.

(d) *Final percentages.* No later than February 15, the Committee shall recommend, to the Secretary, final free and reserve percentages which will tend to release the full trade demand for any varietal type for which preliminary or interim percentages have been computed and announced. The difference between any final free percentage designated by the Secretary and 100 percent shall be the final reserve percentage. With its recommendation, the Committee shall report on its consideration of the factors in paragraph (e) of this section.

(e) *Factors.* When computing preliminary and interim percentages, or determining final percentages for recommendation to the Secretary, the Committee shall give consideration to the following factors:

(1) The estimated tonnage held by producers, handlers, and for the account of the Committee at the beginning of the crop year;

(2) The expected general quality and any modifications of the minimum grade standards;

(3) The estimated tonnage of standard and off-grade raisins which will be produced;

(4) If different than the computed trade demand, the estimated trade demand for raisins in free tonnage outlets;

(5) If not estimated as provided in paragraph (a) of this section, an estimated desirable carryout at the end of the crop year for free tonnage and, if applicable, for reserve tonnage;

(6) The estimated market requirements for raisins outside free tonnage outlets, considering the estimated world raisin supply and demand situation;

(7) Current prices being received and the probable general level of prices to be received for raisins by producers and handlers;

(8) The trend and level of consumer income;

(9) Any prohibition of trade practices, pursuant to § 989.62, intended for the crop year, and

(10) Any other pertinent factors bearing on the marketing of raisins including the estimated supply of and demand for other varietal types and regulations applicable thereto.

(f) *Modification.* In the event the Committee subsequently deems it advisable to modify its marketing policy on any crop, because of national emergency, crop failure, or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof with the Secretary within 5 days (exclusive of Saturdays, Sundays, and holidays) after the holding of such meeting, which report shall show such modification and the basis therefor.

(g) *Reserve tonnage to sell as free tonnage.* On or before November 15 of the crop year, the Committee shall make two simultaneous offers to reserve tonnage to handlers to sell as free tonnage for each varietal type for which preliminary percentages have been computed and announced. One offer shall consist of a quantity equal to 10 percent of the prior year's (or the alternative year selected by the Committee pursuant to paragraph (a) of this section) shipments of free tonnage and reserve tonnage sold for free use into all market outlets to equate the current year's supply with the prior year's shipments. This offer shall be allocated to handlers on the basis of their prior year's acquisitions. The second offer, to provide for market expansion, shall consist of a quantity equal to 10 percent of the prior year's (or the alternative year selected by the Committee pursuant to paragraph (a) of this section) shipments of free tonnage and reserve tonnage sold for free use. This offer shall be allocated to handlers on the basis of their prior year's shipments of free tonnage and reserve tonnage sold for free use. Each offer shall be open to handlers not more than five business days, and subsequently, two offers of any tonnage unsold in the original offers open not more than two business days each, may be made. The reoffer tonnage shall be allocated to handlers who purchase 100 percent of their allocation in preceding offers, and shall be on the basis of the quantity each handler purchased, as a percentage of the total quantity purchased by all handlers eligible to participate. At the close of the second reoffer, any remaining tonnage may be offered to handlers who purchased all of their allocations from previous offers on a first-come first-served basis and such offer shall be open to handlers for one business day. Any handler who had no shipments or acquisitions of raisins

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during the prior crop year will be allocated raisins under these offers on the basis of his acquisition (up to the time the original offer is made) of raisins in the current crop year. If field prices are not established, the offer shall be made not more than fifteen days following such establishment. The price of reserve tonnage raisins offered to handlers to sell as free tonnage, pursuant to this paragraph, shall be the established field price for free tonnage raisins of that varietal type, plus 3 percent of the established field price, plus the estimated costs incurred by the Committee for equity holders.

(h) *Publicity.* The Committee shall promptly give reasonable publicity to producers, dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them. Similar publicity shall be given to producers, dehydrators, handlers, and the cooperative bargaining association(s) of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the Committee, where they shall be made available for examination by any producer, dehydrator, handler, or cooperative bargaining association representative. The Committee shall notify handlers, dehydrators and the cooperative bargaining association(s), and give reasonable publicity to producers of its computation of the trade demand, preliminary percentages, and interim percentages and shall notify handlers, dehydrators, and the cooperative bargaining association(s) of the Secretary's action on percentages by registered or certified mail.

21. Section 989.55 is revised to read as follows:

§ 989.55 Regulation by the Secretary.

Whenever the Secretary finds, from the recommendation and supporting information supplied by the Committee or from other available information, that to designate final free and reserve percentages for any varietal type of standard raisins acquired by handlers, during the crop year will tend to effectuate the declared policy of the Act, the Secretary shall designate such percentages. In the event the Secretary finds that suspension or termination of any percentages computed by the Committee or designated by the Secretary tend to effectuate the declared policy of the Act, the Secretary shall suspend or terminate such percentages.

22. Section 989.65 is revised to read as follows:

§ 989.65 Free and reserve tonnage.

The standard raisins acquired by handlers which are free tonnage, and any reserve tonnage purchased for free use, may be disposed of by him in any marketing channel, subject to the applicable provisions of this part. A handler's free tonnage of a varietal type of raisin shall be either the free percentage of the standard raisins of the varietal type acquired by him or all of the standard raisins of the varietal type acquired by him no free percentage is established by the Committee or designated by the Secretary for that varietal type. A handler's reserve tonnage of a varietal type shall be the reserve percentage of the standard raisins of that varietal type acquired by him.

§ 989.66 [Amended]

23. Section 989.66 is amended by removing the proviso in paragraph (b)(1) and changing the punctuation after the word "control" from a colon (:) to a period (.).

§ 989.67 [Amended]

24. Section 989.67(j) is amended by changing the reference from "§ 989.54(d)" to "§ 989.54(g)".

§ 989.69 [Removed]

25. Section 989.69 is removed.

26. Secton 989.73 is amended by redesignating current paragraph (c) as (d), and adding a new paragraph (c) reading as follows:

§ 989.73 Reports

* * * * *

(c) Each handler shall file such reports of creditable promotion including paid advertising as recommended by the Committee and approved by the Secretary.

* * * * *

§ 989.76 [Amended]

27. Section 989.76 is amended by adding the following sentence at the end of that section reading as follows: The Committee, with the approval of the Secretary, may prescribe rules and regulations to include under this section handler records that detail promotion and advertising activities which the Committee may need to perform its functions under § 989.53.

§ 989.77 [Amended]

28. Section 989.77 is amended by adding at the end of the first sentences the phrase "and promotion and advertising activities conducted by handlers under § 989.53".

29. The first sentence of § 989.80(a) is amended by adding at the end of the sentence the words, "less any amounts credited pursuant to § 989.53".

30. Section § 989.80 is revised by adding paragraph (d) to read as follows:

§ 989.80 Assessments

* * * * *

(d) Each handler shall, with respect to administrative assessments not paid within 30 calendar days of the date o. the Committee's invoice, pay to the Committee interest on the unpaid assessment at the rate of the prime rate established by the bank in which the Committee has its administrative assessment funds deposited, on the day that the administrative assessment becomes delinquent plus 2 percent; and further, that such rate of interest be added to the bill monthly until the delinquent handler's assessment plus applicable interest has been paid: *Provided,* That the Committee may, with the approval of the Secretary, modify the interest rate applicable to delinquent handler's assessment through the establishment of applicable rules and regulations.

§ 989.85 [Amended]

31. Section § 989.85 is amended by removing the words "and no member or alternate member of the Executive Operations Committee".

§ 989.95 [Amended]

32. Section § 989.95 is amended by removing the words: "and the Executive Operations Committee" from the first sentence; "or of the Executive Operations Committee" from the second sentence, and "or the Executive Operations Committee" from the third sentence.

[FR Doc. 83-12888 Filed 5-10-83; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

Proposed Determination of Price Support Differentials for the 1983-Crop Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determination.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to make determinations with respect to the 1983-crop of peanuts for the purpose of adjusting loan and purchase rates for quota and additional peanuts for differences in type, quality, location and other factors. This notice invites written comments regarding these matters.

DATE: Comments must be received on or before June 10, 1983 in order to be assured of consideration.

ADDRESS: Interested persons are invited to send comments to Director, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, Room 5750 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Program Specialist, Tobacco and Peanuts Division (202) 447-5754.

SUPPLEMENTARY INFORMATION: This notice of proposed determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified "not major." It has been determined that this proposed determination will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this proposed determination applies to are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determination since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

The 1983-Crop Peanut Loan and Purchase Program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), and the Commodity Credit Corporation Charter Act, as amended. The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. Section 403 of the Act provides that appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple quality, location, and other factors. Section 403 also provides that such adjustments shall, insofar as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined for the applicable crop year. A ton of farmers stock peanuts is likely to include a large, but variable, proportion of high quality edible peanuts referred to as sound mature kernels (SMK) and sound splits (SS), as well as smaller quantities of lower quality loose shelled kernels (LSK), other kernels (OK), and damaged kernels (DK). The value of any ton farmers stock of peanuts, therefore, is determined on the basis of the quantity and mix of these kernel values, plus a premium for extra large kernels (ELK) in the case of Virginia type peanuts, and discounts for such factors as foreign material, excess moisture, damage, and the possible presence of Aspergillus flavus mold. The current differentials—i.e., those which applied to the 1982 crop—carry the following price adjustments by peanut types for sound mature kernels: (1) The sound mature kernel. (SMK) value of Virginia type peanuts is 2 percent above the SMK value of the Runner type peanuts, and (2) the SMK value of Spanish type peanuts is one-half percent above the SMK value of Runner type peanuts. Under current practice, the method of calculating support prices for farm-stored loans is the same as that for warehouse storage loans so that all producers will be treated fairly. Accordingly, unless otherwise indicated, the basic rates and discounts applicable to warehouse storage loans also apply to farm-stored loans. The full 1982 schedule of adjustments is set out below. The support value of additional peanuts was computed for the 1982-crop by multiplying what would otherwise have been the value of such peanuts, based upon the 1982 differentials had they been quota peanuts, by .3636. This factor represents the ratio between the 1982 national average support price per ton for additional peanuts established by the Secretary and the 1982 national average support price per ton for quota peanuts established by the Secretary. For the 1983-crop, that factor is .3364.

1982 Crop Peanut Price Support Differentials for Warehouse and Farm-Stored Loan Program

(a) *Average 1982 support values by type per average grade ton of peanuts.—(1) Support value for warehouse-stored loans:*

Type:	Per average grade tons
Virginia	$544.39
Runner	553.82
Spanish	536.43
Valencia:	
Southwest area—suitable for cleaning and roasting	$544.39
Southwest area—not suitable for cleaning and roasting	535.43
Areas other than Southwest	535.43

(2) *Support value for farm-stored loans:*

Type:	Per average grade tons
Virginia	$544
Runner	564
Spanish	536
Valencia: Southwest area	544
Areas other than Southwest	535

(b) *Calculation of support values for quota peanuts.* The support price per ton for 1982-crop quota peanuts of a particular type, and quality is calculated on the basis of the following rates, premiums, and discounts (with no value assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type is 8 cents per pound of kernels in the lot:

(1) *Kernel value per ton excluding loose shelled kernels.* (i) The price per ton for each percent of sound mature and sound split kernels is:

Type:	Per percent
Virginia	$7.976
Runner	7.820
Spanish	7.859
Valencia:	
Southwest area—suitable for cleaning and roasting	8.209
Southwest area—not suitable for cleaning and roasting	7.859
Areas other than Southwest	7.859

(ii) The price per ton for each percent of other kernels is:

Type:	Per percent
All types	$1.40

(iii) The premium per ton for each percent of extra large kernels in Virginia is:

Type:	Per percent
Virginia extra large kernels	$0.45

However, no premium for extra large kernels is applicable to any lot of such peanuts containing more than 4 percent damaged kernels.

(2) *Value of loose shelled kernels per pound.* The price for each pound of loose shelled kernels is:

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	Per pound
All types	$0.07

(3) *Foreign material discount.* For all types of peanuts, the discount per ton for foreign material is as follows:

Percent:	Discount
0 through 4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 pct deduct an additional $2.

(4) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels is as follows:

Percent:	Discount
1 through 4	$0
5	1.00
6	1.80
7 and over	(1)

[1] For each full percent in excess of 6 pct deduct an additional $0.80.

(5) *Damaged kernel discount.* (i) For all types of peanuts, the discount per ton for damaged kernels is as follows:

Percent:	Discount
1	$0
2	3.40
3	7.00
4	11.00
5	25.00
6	40.00
7	60.00
8 to 9	80.00
10 and over	100.00

(ii) Notwithstanding the above discount schedule, the damaged kernel discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.

(6) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price per ton for Virginia type peanuts sampled with other than a pneumatic sampler is reduced by $0.10 per every percentage point of sound mature and sound split kernels.

(7) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type are supported at a rate which is $10 per ton less than the support price available to the type in the mixture having the lowest support price.

(8) *Location adjustments.* (i) Farmers stock peanuts delivered to the associations for a warehouse stored loan for price support advances in the States specified, where peanuts are not customarily shelled or crushed, are discounted as follows:

State:	Per ton
Arizona	$25.00
Arkansas	10.00
California	33.00
Louisiana	7.00
Mississippi	10.00
Missouri	10.00
Tennessee	25.00

(ii) Farmers stock peanuts placed under farm stored loan for price support advances in the States specified, where peanuts are not customarily shelled or crushed, are discounted as follows:

(a) In States specified in paragraph (8)(i), the peanuts are discounted as specified therein.

(b) In Puerto Rico and all other States (excluding those specified in paragraph (8)(i) and Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia), the peanuts are discounted at $40.00 per ton.

(9) *Virginia Type Peanuts.* Virginia type peanuts, in order to be eligible for price support as Virginia type peanuts, must contain 40 percent or more "fancy" size peanuts as determined by a presizer with the rollers set at 31/64 inch space. Virginia type peanuts which are determined to contain less that 40 percent "fancy" size peanuts are supported (but not classed) as though they were Runner type.

(10) *Discount for Aspergillus flavus mold* (segregation 3 peanuts). There is no discount applied to segregation 3 peanuts for Aspergillus flavus mold when such peanuts are pledged as loan collateral at the loan rate applicable to additional peanuts. Should such peanuts later be transferred to quota loan pool in accordance with 7 CFR 1446.66, they are discounted at the rate of $25 per net ton from the quota price support loan rate.

(c) *Calculation of support values for additional peanuts.* The support price per ton for 1982-crop additional peanuts of a particular type and quality shall be calculated on the basis of 36.36 percent of the same rates, premiums, and discounts which are applicable to quota peanuts. This percentage was computed by dividing the national average support rate per ton for additional peanuts by the national average support rate per ton for quota peanuts.

Proposed Determination

CCC hereby proposes to make determinations with regard to price support differentials for the 1983-Crop Peanut Loan and Purchase Program on the basis of the same factors used in establishing differentials for the 1982-crop. The determination will be used to adjust the loan and purchase rates for quota and additional peanuts for differences in type, quality, location and other factors.

Before making a final determination, with respect to these matters, consideration will be given to any relevant data, views, recommendations or other comments which are submitted in writing within the comment period to the Director, Tobacco and Peanuts Division, ASCS–USDA. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5750–South Building.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Signed at Washington, D.C., on May 5, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-12569 Filed 5-6-83; 11:14 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 981

Licensing of Ocean Thermal Energy Conversion Facilities and Plantships

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Review of existing rules with request for comments.

SUMMARY: The Ocean Thermal Energy Conversion (OTEC) Act of 1980, 42 U.S.C. 9127, (Pub. L. 96–320), hereinafter referred to as the Act, requires that the National Oceanic and Atmospheric Administration (NOAA) periodically review the regulations applying to the licensing of OTEC facilities and plantships, at intervals of not more than every three years. The purpose of this review of existing rules with a request for comments is to determine the impact of the existing OTEC licensing regulations on the development, evolution, and commercialization of OTEC technology. The OTEC licensing final rules, which are the subject of this review, are published at 15 CFR Part 981 *et seq.* The Act authorizes NOAA to promulgate revisions to the final rule which are necessary and appropriate based on this review. This notice provides interested persons with an opportunity to contribute to the review of the existing OTEC licensing regulations. Interested persons are invited to submit written or oral data, views, and comments concerning the issues identified in this notice and any other aspect to the existing OTEC licensing regulations. A public hearing may be held in Washington, D.C. if NOAA determines it is warranted. Persons who wish NOAA to conduct a public hearing should include that request in their comments.

DATE: Comments must be received by NOAA on or before Friday, July 1, 1983.

ADDRESS: Submit comments to Richard D. Norling, OTEC Program Manager, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Page 1 Building, Room 105, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: James B. Rucker, Ocean Minerals and Energy Division, NOAA at the above address. Telephone: (202) 254–3483.

SUPPLEMENTARY INFORMATION:

I. Prior Actions

NOAA's final rules for the licensing, ownership and construction of OTEC facilities and plantships are published in the **Federal Register** July 31, 1981 (46 FR 39388–39340). The final rules were supported by a programmatic environmental impact statement (EIS) and a combined Regulatory Impact Analysis and Regulatory Flexibility Analysis (RIA) both dated July 1981.

II. Availability of Comments

All comments received in response to this review of existing rules will be available for public examination and copying during normal business hours in Room 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C.

III. Results of Review

The Act directs NOAA to promulgate any revisions to the effective regulations as are necessary and appropriate based on the review, to ensure that the regulations do not impede the development, evolution, and commercialization of OTEC. Should this review result in a proposed significant change in the regulations, NOAA will categorize the proposed change as "major" under Executive Order 12044. In that event, NOAA will retain the approach and language of the original EIS and RIA documents to the extent they are appropriate, and supplement them as necessary to address any alterations suggested by this review. NOAA will include the results of this review. NOAA will include the results of this review in the Annual Report to Congress describing its OTEC activities during fiscal year 1983.

IV. General Background

OTEC facilities and plantships (a plantship is basically an OTEC vessel that floats on or moves through the water) will produce electric power, or energy-intensive products, by using the temperature difference between warm ocean surface waters and cold, deep (approximately 500 to 1,000 meters) waters. The OTEC principle can be applied most economically in areas where the temperature difference between surface and deep waters is at least 20°C. The electricity generated could be transmitted to shore by cable and then distributed via normal electric distribution grids. The energy also could be used at sea to produce methanol, ammonia, or other products which would be transported to shore by conventional marine transportation methods.

The OTEC industry remains in a formative stage but progress has been made since the time of NOAA's original rulemaking. The basic principles of OTEC power generation have been tested, but the hardware, engineering, the operational requirements of commercial scale OTEC operations have not been fully developed. Construction of an operating commercial OTEC plant will require a capital investment of a hundred million or more dollars. Efforts are underway by private industry to develop OTEC technology and acquire the necessary capital to build plants in Hawaii, Guam and the U.S. Virgin Islands. Four companies have requested pre-application consultation with NOAA under 15 CFR 981.70 of the NOAA OTEC licensing program regulations, but no application for an OTEC license has yet been filed.

V. Issues

NOAA invites comments on the existing regulations for the licensing of OTEC facilities and plantships. Specifically, NOAA seeks to determine whether or not any aspect of NOAA's OTEC licensing regulations has contributed to the delay in filing of license applications by industry. NOAA seeks comments on the issues identified in this notice and on any aspect of the OTEC licensing regulations.

The Amount of License Application Fee. Under existing regulations the applicant must submit a non-refundable application fee of $250,000 with the OTEC license application (15 CFR 981.130). Section 102(h) of the OTEC Act (Pub. L. 96–320) states that the amount of the fee shall reflect the reasonable administrative costs incurred in reviewing and processing the application. NOAA developed the overall cost estimate used in the regulations on the basis of the level of effort required within the NOAA program office to process a single application, including costs to prepare the site-specific consolidated environmental impact statement required by Section 107(e) of the OTEC Act. That consolidated statement must fulfill the requirements of all Federal agencies in carrying out their permitting and authorizing responsibilities on the license application. The estimate also includes costs of holding the required public hearings on the application in the District of Columbia and in adjacent coastal states, as well as support costs for environmental analysis and technical review of the application. The processing cost estimate does not include general administrative overhead in costs associated with other Federal agency actions on the application.

- Is the $250,000 license fee a reasonable estimate? Should other factors be considered by NOAA? Should present factors be reevaluated? Should the fee be subject to revision if two OTEC applications are submitted for the same or very similar location, resulting in fewer administrative costs?
- Should NOAA consider including in its criteria for setting the fee the quality of preapplication environmental work performed by the applicant?
- Should NOAA regulations include a provision to charge OTEC applicants for actual licensing-related costs as they are incurred, even if the costs exceed the present fee level?
- Should a different fee installment schedule be devised to reduce the large initial costs of OTEC projects?

The Duration of the OTEC License Procedure. By the terms of the OTEC Act, NOAA must complete processing of the licensing application within 356 days after its receipt. By most standards, the present application processing schedule is quite short. NOAA welcomes

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suggestions on procedures to future streamline the process.

Information to be Submitted with an OTEC Application. Subpart B of the NOAA OTEC regulations (15 CFR (981.169–280) outlines the information that must be submitted with an application. During the original rulemaking many comments were received on Subpart B. NOAA attempted to reduce regulatory burdens by avoiding long lists of required information. However, certain information on the proposed OTEC facility must be made available at the start of the review for NOAA to meet the stringent statutory deadlines and properly coordinate the activities of other State and Federal government agencies.

- Do the NOAA information requirements, especially in Subpart B, allow enough flexibility for the developing industry? What changes, if any, could make this section more useful and meaningful to those who plan OTEC development?
- Are the information requirements pertaining to the environment reasonable?

Other Issues. NOAA invites public comment on any other issues which should be considered in reviewing the OTEC regulations.

VI. Authority

This notice to conduct a review of final regulations for the licensing of OTEC facilities and plantships is issued under authority of section 117 of the Act (42 U.S.C. 9127).

List of Subjects in 15 CFR Part 981

Administrative practice and procedure, Energy, Environmental protection, Intergovernmental relations, Marine resources.

Dated: May 16, 1983.

Approved:

Peter L. Tweedt,

Acting Director, Office of Ocean and Coastal Resources Management.

[FR Doc. 83-12802 Filed 5-10-83; 8:45 am]
BILLING CODE 3510-12-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 771 0055]

Great Dane Trailers, Inc. and Great Dane Distributor Council; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent agreements, accepted subject to final Commission approval, would, among other things, prohibit the manufacturer and seller of Great Dane truck trailers, an unincorporated dealer's association, and its individual members, from taking any action which frustrates or eliminates competition in the sale of new Great Dane truck trailers. The dealer's association would be required to distribute a copy of the order to all current and furute members and to ensure that members' sales personnel would also be provided with a copy of the order. Great Dane Trailers, Inc. would be barred from entering into any agreement with the dealer's association or its members to restrict sales to certain territories or customers; and from formulating or utilizing exclusive territories until Dec. 1, 1984. The manufacturer would be further required to make available to dealers and customers a brochure listing all independent dealers and advising that any dealers may be contacted regarding the purchase of a new Great Dane truck trailer.

DATE: Comments must be received on or before July 11, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Harold E. Kirtz, Director, 1R, Atlanta, Regional Office Federal Trade Commission, 1718 Peachtree St., NW., Room 1000, Atlana, GA. 30367. (404) 881–4836.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and explanations thereof, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Trade practices, Truck trailers.

In the matter of Great Dane Trailers, Inc., a corporation, and Great Dane Distributor Council, an unincorporated association, and its members, File No. 771 0055. Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Great Dane Trailers, Inc., a corporation, and it now appearing that Great Dane Trailers, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Great Dane Trailers, Inc., and its attorneys and counsel for the Federal Trade Commission that:

1. Proposed respondent Great Dane Trailers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its main office and principal place of business located on East Lathorp Avenue in Savannah, Georgia 31402.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint attached hereto.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60)) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed repondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute either an admission by proposed respondent that the law has been violated as alleged in the draft of compliant here attached or an admission of any of the facts or conclusions alleged in said complaint, except those relating to jurisdiction found in paragraphs one through six.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public

in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed to order to proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construcing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this order, the following definitions shall apply:

A. "Truck trailer" is a property-carrying vehicle, or chassis thereof, drawn by a truck or truck tractor and having one or more axles with a rating of 10,000 pounds or more per axle.

B. "Dealer" is any proprietorship, partnership, firm, or corporation authorized by Great Dane Trailers, Inc., to sell its new truck trailers but which is not owned or controlled by Great Dane Trailers, Inc. Provided, however, that two or more dealers that are majority-owned subsidiaries of a common parent shall not be regarded as separate dealers for the purposes of this order.

C. "Factory branch" is any corporation which is controlled by, or a division of, Great Dane Trailers, Inc., and which sells new Great Dane truck trailers.

D. "Area of primary responsibility" is a geographic area or customer or customers assigned to a dealer on a nonexclusive basis for which the dealer is responsible for sales penetration.

E. "Exclusive territory" is any agreement restricting or prohibiting a dealer from making sales outside of its territory, area of primary responsibility, or historic trading area.

F. "Profit-pass-over" is any agreement which provides compensation to a dealer by a second dealer directly or indirectly for sales made within the first dealer's area of primary responsibility or historic trading area by the second dealer, except for services actualy performed in preparing new Great Dane truck trailers for delivery, including but not limited to clean up costs, repairs, demurrage, transportation, or any other costs related to the handling of such trailers.

I

It is ordered that respondent, Great Dane Trailers, Inc., (hereinafter referred to as "Great Dane"), a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device used in connection with the manufacture, advertisement, offer for sale, sale or distribution of any new Great Dane truck trailers in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Entering into a contract, combination or conspiracy among any of its dealers or with any dealer association, or aiding and abetting any such contract, combination or conspiracy, which has the purpose or effect of limiting, allocating or restricting the territory, customer or class of customers in which or to whom a dealer may solicit or sell new Great Dane truck trailers. The foregoing shall not be deemed to limit or prohibit Great Dane's ability to take any unilateral action that is otherwise lawful, with respect to the marketing or distribution of its products, even though it has been suggested or encouraged by one of more dealers.

2. From the date this order is served upon respondent until December 1, 1984, imposing or attempting to impose any limitation or restriction (including but not limited to exclusive territories and profit-pass-over restrictions) respecting the geographic area, customer, or class of customers in which or to whom a dealer may solicit or sell new Great Dane trucks trailers.

3. From the date this order is served upon respondent until December 1, 1984, entering into, attempting to enter into, continuing, maintaining or enforcing any contract, understanding, or agreement to limit, allocate, or restrict the territory, customer, or class of customers in which or to whom a dealer may solicit or sell new Great Dane truck trailers (including but not limit to exclusive territories and profit-pass-over restrictions).

Provided, however, that nothing in this order shall prohibit Great Dane Trailers, Inc., from utilizing areas of primary responsibility.

Provided further, however, that nothing in this order shall prohibit Great Dane from terminating any dealer, or deciding not to renew any dealer's contract, for failure to achieve adequate levels of sales performance, to pay accounts promptly, to provide adequate services and warranty repair, or any other legal business reason, provided that paragraphs I(1), I(2), or I(3) of this order has not been violated as to such dealer by such termination.

Provided further, however, that nothing in this order shall prohibit Great Dane from agreeing with any dealer that it will not authorize a new dealer or establish a factory branch within a distance of up to 150 miles of that dealer.

II

A. It is further ordered that respondent shall distribute a copy of this order to all operating divisions of said corporation and to present and future personnel, agents or representatives having sales, advertising, or policy responsibilities with respect to the subject matter of this order and that respondent shall secure from each such person a signed statement acknowledging receipt of said order. The signed acknowledgement must be obtained within sixty (60) days of the service upon them of this order or thirty (30) days after the employment of new personnel.

B. It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignement, or sale resulting in the emergency of a successor corporation, or any change in the corporation which may affect compliance obligations arising out of the order.

C. It is further ordered that respondent shall send a copy of this order to all present dealers within sixty (60) days after the date of service of this order and that an additional copy be sent attached to contract renewals until January 1, 1984. All new dealers must also be given copies of this agreement prior to entering into a distribution sales agreement with Great Dane Trailers, Inc.

D. It is further ordered that respondent shall, within sixty days of this order being served upon it, make available to all dealers and customers a brochure identifying all independent dealers and stating that a customer may contact any dealer regarding the purchase of a new Great Dane truck trailer. All Great Dane advertisements in trade publications shall disclose the availability of that brochure from the service date of this order until December 1, 1984.

E. It is further ordered that respondent herein shall, within ninety (90) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order. An additional report shall be filed within sixty (60) days after Great Dane Trailers, Inc., begins to utilize, if it so choose, additional territorial or customers restrictions. That latter report shall include a copy of all new Distribution Sales Agreements, as well as a list of all Great Dane's distributors who have been terminated or not renewed for any reason since January 1, 1982.

In the matter of Great Dane Trailers, Inc., a corporation, and Great Dane Distributor Council, and unincorporated association, and its members. File No. 771 0055. Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Great Dane Distributor Council, and unincorporated association, and its members, and it now appearing that Great Dane Distributor Council and its members, sometimes referred to collectively as proposed respondent, are willing to enter into an agreement containing an order to cease and desist from certain of the acts and practices being investigated,

It is hereby agreed by and between Great Dane Distributor Council, its members and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent Great Dane Distributor Council (also known as the Great Dane Dealer's Association) is an unincorporated association comprised of

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authorized dealers of Great Dane Trailers, Inc., and organized for the mutual benefit of its members.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint attached hereto.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached, and proposed respondent specifically denies it committed the acts complained of.

6. This agreement contemplates, that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed to order to proposed respondent's address shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this order, the following definitions shall apply:

A. "Truck trailer" is a property-carrying vehicle, or chassis thereof, drawn by a truck or truck tractor and having one or more axles with a rating of 10,000 pounds or more per axle.

B. "Dealer" is any proprietorship, partnership, firm, or corporation authorized by Great Dane Trailers, Inc., to sell its new truck trailers but which is not owned or controlled by Great Dane Trailers, Inc. Provided, however, that two or more dealers that are majority-owned subsidiaries of a common parent shall not be regarded as separate dealers for the purposes of this order.

C. "Area of primary responsibility" is a geographic area or customer or customers assigned to a dealer on a nonexclusive basis for which the dealer is responsible for sales penetration.

D. "Historic trading area" is a geographic area or specific customer for which primary responsibility has been assigned at some time in the past.

E. "Exclusive territory" is a geographic area or customer(s) designated by any agreement restricting or prohibiting a dealer from making sales outside of its territory, area of primary responsibility, or historic trading area.

I

It is ordered that respondent, Great Dane Distributor Council, an unincorporated association, its successors, subatitutes, and assigns, and its individual members, officers, agents, representatives, and employees, in connection with the sale or distribution of any new Great Dane truck trailer in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Entering into any agreement with a dealer not to make or solicit sales of new Great Dane truck trailers outside any specific area of primary responsibility, historic trading area or exclusive territory.

2. Entering into any agreement with a dealer not to make or solicit sales of new Great Dane truck trailers to or from any specific customer of class of customers.

3. Encouraging or suggesting to a dealer that a dealer not solicit or make sales of new Great Dane truck trailers outside of its area of primary responsibility, historic trading area, or exclusive territory, or not solicit or make sales of new Great Dane truck trailers to or from any customer or class of customers.

4. Encouraging or suggesting to Great Dane Trailers, Inc., that it take any action or impose and restriction for the purpose of having extra-territorial sales or sales to a specific customer or class of customers stopped or inhibited, directly or indirectly.

Provided, however, that nothing in paragraph 4 of part I of this order shall prohibit any individual dealer, not in concert with any other dealer, from unilaterally suggesting or encouraging Great Dane Trailers, Inc., to take any action, otherwise lawful, with respect to the marketing or distribution of new Great Dane truck trailers.

II

A. It is further ordered that responden shall distribute a copy of this order to all of its members and that those members shall distribute copies of this order to all truck trailer salesmen employed by them. Respondent shall secure from each dealer a signed statement acknowledging receipt of this order and the distribution of this order to their salesmen within sixty (60) days after service upon them of this order. All new members must be given a copy of this order within sixty (60) days of affiliation.

B. It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to the disbanding or incorporation of the Great Dane Distributor Council or the formation of a successor or substitute or any other changes in the Great Dane Distributor Council which may affect compliance obligations under this order.

C. It is further ordered that respondent herein shall within ninety (90) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

III

A. Each dealer signing this order agrees to be individually bound by this order for any act it commits or for any act committed by an employee, agent, or representative of such dealer. No dealer signing this agreement shall be jointly and severally liable for civil penalties for the actions of the association unless it ratified or participated in the encouragement, institution, or carrying out of those actions.

B. This agreement may be executed in two or more counterparts and when so executed shall have the same force and effect as though all signatures appeared on one document.

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed consent orders from Great Dane Trailers, Inc., Great Dane Distributor Council, an unincorporated association of Great Dane dealers, and 27 of the Council's members. The dealer members are:

Ace-Chicago Great Dane Corporation
Allied Body Works, Inc.
American Equipment & Trailer, Inc.
Colorado Semi-Trailer Sales, Inc.
Commercial Trailer Sales, Inc.
H. A. DeHart and Son
Double AA Trailer Sales
Empire Southern Tier Equipment Corp.
Estes Great Dane Trailers, Inc.
Freightliner Sales & Service of Portland, Inc.
Jim Hawk Truck-Trailers, Inc.
Idaho Peterbilt, Inc.

A. W. Logan, Inc.
Maraton Trailers Sales, Inc.
Midwest Great Dane Trailer of Minnesota, Inc.
Nelson Trailers Sales, Inc.
New England Trailer Equipment Corp.
Tom Nowtzke Transport Equipment
Road Equipment, Inc.
Southwest Kenworth, Inc.
Trailer Company of Lancaster, Inc.
Trans Equipment Service, Inc.
Truck Trailer Sales
Trudell Trailer Sales, Inc.
V & W Sales, Inc.
Western Trailer Service, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comment by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaint charges violation of the Federal Trade Commission Act by horizonal allocation of markets by Great Dane dealers and the Distributor Council and the facilitation of that division of markets by the manufacturer, Great Dane Trailers, Inc. These activities, according to the complaint, have hindered, frustrated, restrained and tended to eliminate competition among dealers and befween Great Dane Dealers and factory-owned branches in sales of new Great Dane truck trailers.

The complaint alleges that Great Dane Distributor Council and some or all of its members agreed that no member would solicit or make sales of new truck trailers outside of its area or primary responsibility or to customers with which another dealer had an established relationship. It is further alleged that the Distributor Council encouraged or requested Great Dane Trailers, Inc., to prohibit or discourage sales of new truck trailers by a dealer outside of its assigned area or to a customer with which another dealer had an established relationship. The complaint also alleges that Great Dane Trailers, Inc., aided efforts of the dealers and the Great Dane Distributor Council to limit competition among Great Dane dealers.

The proposed orders require that all of the allegedly anticompetitive practices described above be permanently discontinued. The manufacturer is prohibited from aiding and abetting efforts of the Great Dane Distributor Council or its members to limit competition by agreements to restrict sales to certain territories or customers. The manufacturer is also prohibited from formulating or utilizing exclusive territories until December 1, 1984. The proposed order against Great Dane Trailers, Inc., requires that for a limited period of time, it must make available to dealers and customers a brochure identifying all Great Dane independent dealers and stating that a customer may contact anyone of them regarding purchase of a new truck trailer.

The Great Dane Distributor Council order prohibits the council or its members from agreeing among themselves to restrict sales of new Great Dane truck trailers to certain territories or customers.

The effect of the orders should be to increase price competition among sellers of new Great Dane truck trailers and, thereby, increasing price competition for all truck trailers.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Emily H. Rock,
Secretary.

Dissenting Statement of Chairman Miller In Great Dane Trailers, Inc.*

The Commission has voted to accept provisionally proposed consent agreements with Great Dane Trailers, Inc., and the Great Dane Distributor Council and its members. The proposed orders prohibit the Council or its members from agreeing among themselves to restrict sales of Great Dane's truck trailers to certain territories or customers, and prohibits the manufacturer from aiding and abetting any such efforts. The manufacturer is also prohibited from formulating or utilizing exclusive territories on its own initiative until December 1, 1984. In my view, these consent agreements are likely to lessen competition by inhibiting Great Dane from effectively marketing its product. This may well disadvantage Great Dane vis-a-vis its larger competitors, resulting in harm to consumers of truck trailers.

The complaint in this case charges that respondents "unreasonably hindered, restricted, and restrained competition" by agreeing to a division of territories among retail outlets.[1] (Complaint, para. 11). The purported basis for this conclusion is that the dealers agreed among themselves to treat their manufacturer-granted "areas of primary responsibility" as exclusive territories. Great Dane's liability arises because it allegedly "encouraged" its dealers to do so, and "facilitated" the policy of the agreement.

The complaint suggests, on the basis of these allegations—and a majority of the members of the Commission apparently agrees—that the agreement is properly characterized as "horizontal." However, the complaint noticeably ignores the effect of the agreement on interbrand competition,[2] failing to come to grips with the possibility that any adverse impact on intrabrand competition may, in this case, be more than outweighed by the enhancement of interbrand competition.

It is a convenient rule of thumb to assume that if a territorial restraint is unilaterally imposed *by* the manufacturer it is likely to be vertical in its effect, while if it is initiated by the dealers, it is likely to have a horizontal effect. Nevertheless, it is a serious error to permit a generally helpful rule of thumb to become an immutable rule of law. It must be recognized that the first part of the proposition—that manufacturer-imposed territorial restraints are likely to have a vertical effect—is based upon a much sounder empirical footing [3] than the second part, which relegates all dealer-initiated territorial restraints—regardless of their competitive effects—to the harsh per se analysis.[4] Moreover, where, as here, the restraint is imposed by mutual agreement between exclusive dealers and their manufacturer and affects only intrabrand sales, it is a disservice to the public to subetitute shopworn platitudes for a reasoned analysis of the economic realities.

The most common reason for manufacturer-imposed territorial restraints is to encourage dealers to perform costly services that the manufacturer deems necessary to market its product. The restraints encourage the dealers to offer such services by eliminating the danger that some dealers will free ride on the sales or service efforts of others. However, it should come as no surprise that dealers often support or even encourage this type of market allocation, since they too have "a legitimate, nonmonopolistic interest in seeking to overcome through joint action serious free-rider problems." R. Posner, *Antitrust Law* 185 (1976). Thus, rather than deciding distribution cases "simply by identifying the source of the restriction, * * * it is necessary in every case to determine whether the objective of the challenged restriction is to increase the provision of presale services or to generate monopoly profits." *Id.* at 185–6. This the Commission has failed to do.

The sale of truck trailers of the type manufactured by Great Dane requires unusually costly sales efforts. Great Dane prides itself on providing trailers of high quality that are often customized. Accordingly, dealers must spend considerable resources educating their customers about the quality of the product, providing expert sales assistance and advice on customization, and assuring that post-sale

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* Commissioner George W. Douglas joins this dissenting statement.

[1] Since Great Dane's distribution is approximately 50 percent integrated, retail outlets would include both independent dealers and factory branches. There is no allegation in the complaint that Great Dane's system of dual distributios is in any way anticompetitive.

[2] Since few, if any, Great Dane distributors sell competing brands, there is very little chance of any adverse effect on interbrand competition. The complaint cites no evidence of any anticompetitive effect on the overall product market or that the Great Dane dealers collectively possess any significant degree of retail market power. If supracompetitive profits were being earned by existing resellers of Great Dane products, there should be a queue of other trailer dealers demanding to get into the business. Yet we have uncovered no such evidence. On the contrary, the evidence appears to show that Great Dane is actively seeking to sign up new dealers—an observation also inconsistent with any monopsony power of the dealers.

[3] The justification is that if a restraint is manufacturer-imposed, it is likely to reflect the manufacturer's judgment that this is the most cost-efficient method for maximizing sales. *See generally* R. Bork, *The Antitrust Paradox* 290 (1978).

[4] As demonstrated below, dealer-initiated territorial restraints can serve many of the benign purposes of unilateral manufacturer-imposed restraints.

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service is prompt and reliable. Such customer service efforts, however, are expensive, and give rise to the risk of free-riding by other Great Dane distributors. It is this risk which the allocation of exclusive territories can help to minimize, thereby preserving product quality.[5]

This is precisely the type of situation that the Supreme Court had in mind in *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36 (1977), when it held that non-price vertical restrictions should be analyzed under the rule of reason.

"Service and repair are vital for many products, such as automobiles and major household appliances. The availability and quality of such services affect a manufacturer's goodwill and the competitiveness of his product. Because of market imperfections such as the so-called 'free rider' effect, these services might not be provided by retailers in a purely competitive situation, despite the fact that each retailer's benefit would be greater if all provided the services than if none did." *Id.* at 55.

Unfortunately, the Commission here has decided to place greater emphasis on the application of a rule than on the analysis that underlies it. I firmly believe that truly horizontal restraints among competitors should be harshly judged under the *per se* rule of liability. However, where the alleged market division is among distributors of a single brand with no discernible degree of market power and has the sanction of the manufacturer, such shorthand "analysis" is inadequate.

As enforcers of the law, it is particularly important that we not fall into the trap of making prosecutorial decisions on the basis of legal distinctions unrelated to the purposes or policies of the statute we are charged wtih enforcing. Our responsibility is to ferret out and take action against activities that unreasonably hinder, restrict or restrain trade. We cannot do so it we mechanically plug facts into the most convenient legal formula we can find. Such myopic law enforcement policy is bound to result in outcomes inconsistent with our greater responsibility to the public interest. I fear that the action of the Commission in approving these consent agreements will have just such an effect.

Great Dane is far from dominant in this industry. Fruehauf, the largest manufacturer of truck trailers, has virtually no dealers at all since it is almost 100 percent integrated. As the adminstrative law judge noted in *Fruehauf Corp.*, in the truck trailer industry, "[m]anufacturers sometimes have difficulty in supervising sales efforts and in getting the independents to devote the necessary time and attention to the products." *Fruehauf Corp.*, 91 F.T.C. 132, 166 (1977) (Initial Decision), *aff'd*, 91 F.T.C. 217 (1978), *rev'd on other grounds*, 603 F.2d 345 (2d Cir. 1979); *accord, The Budd Co.*, 86 F.T.C. 518, 554 (1974) (Initial Decision), *rev'd on other grounds*, 86 F.T.C. 569 (1975). Direct manufacturer distribution is costly, however, and may not always be cost-effective for smaller competitors such as Great Dane.[6] The use of exclusive territories may sometimes be a less expensive method of accomplishing the same result. Under the consent order, however, Great Dane will be precluded from making use of this alternative. Not only does the Commission action invalidate the current, dealer-sanctioned, territorial restraints, but—inexplicably—precludes Great Dane from imposing such restraints unilaterally until the end of 1984.[7] By restricting its marketing practices in this fashion, the Commission may well undermine Great Dane's ability to meet the sales strategy of its larger competitors.

Moreover, this consent agreement may function to encourage Great Dane, and similarly-situated mannfacturers in other industries, to accept the greater costs of vertical integration and eliminate their use of independent dealers in order to avoid future liability. Such a decision would certainly be unfortunate from the perspective of the small business distributor who would be terminated.

In short, this order can be expected to reduce service to the public, lessen interbrand competition, give larger manufacturers in the industry a competitive advantage, and probably reduce the number of small dealerships by creating pressure for vertical integration. Why the Commission finds it in the public interest to enter such an order is entirely beyond me. Today's muzzling of Great Dane will be noted throughout our economy, causing others to alter their behavior to avoid similar consequences. Because I cannot sanction today's action I must, respectfully, dissent.

Concurring Statement of Commissioner David A. Clanton in Great Dane Trailers, Inc.

In his dissenting statement, Chairman Miller suggests that the Commission's acceptance of this consent reflects a "myopic law enforcement policy" designed to "mechanically plug facts into the most convenient legal formula we can find" (Miller Statement at p. 2). I respect Chairman Miller's right to disagree with the conclusion reached by the majority of the Commission. However, I cannot accept his characterization of the analysis on which the majority decision was based.

This case involved a system of restrictions preventing Great Dane dealers from selling into each other's territories. The record shows that the restrictions were adopted and enforced largely at the behest of the dealers. As a matter of theory, Chairman Miller is quite correct that even restrictions which are not anticompetitive—*e.g.*, those designed to overcome free-rider problems—will also be supported by dealers. Thus, the fact that dealers supported the restraints does not in and of itself indicate that the restrictions were anticompetitive. As far as I know, no one at the Commission even seriously considered condemning the restrictions for this reason alone.

The difficulty, of course, is that dealers also have incentives to support restrictions that prevent legitimate dealer competition—restrictions that go beyond what is necessary to prevent free-riding. All would agree (Chairman Miller included) that these restrictions ought to be prohibited. The difficulty lies in determining, in any given case, whether a restriction goes only so far as is necessary to prevent free-riding, or whether it is instead designed to insulate dealers from legitimate price competition.

Although the evidence is necessarily incomplete (as the case has not had the benefit of a full trial), I believe that the restraints here fall into the latter category. While Great Dane does not have market power in the traditional dominant-firm sense, the record suggests that its product is sufficiently differentiated to create the *opportunity* for dealers to raise retail margins above competitive levels without losing all of their customers to competing brands. The importance of dealers to Great Dane's distribution strategy, and Great Dane's continual attempts to expand its dealer base, suggest that the existing dealers had sufficient bargaining power vis-a-vis Great Dane to enable them to insist on territorial restrictions which weakened dealer competition.[8] Indeed, the documentary evidence suggests that Great Dane was at most a reluctant participant in the restrictions, enforcing them not for any reasons of its own but rather as a way of alleviating the pressure of dealer complaints. If these restraints were vital to Great Dane's marketing efficiency, it is hard to see why it was so reluctant to enforce them.

One can, of course disagree about the proper interpretation of these facts. My main point, though, is that these facts *were considered:* in no way were they ignored for the sake of a mechanical legal rule. The interpretation question was discussed extensively before accepting this consent, both in the staff memoranda and at the Commission table. Indeed, it was concerns about not interfering with legitimate marketing efforts that led us to modify an earlier settlement proposal. For example, we directed staff to include a provision explicitly permitting Grean Dane to continue to use "areas of primary responsibility" for its dealers. We also shortened the transitional period during which Great Dane would not enforce more rigid territorial restraints—a period which will now expire at the end of next year. Finally, we also added language making it clear that the order did not "limit or prohibit Great Dane's ability to take any unilateral action that is otherwise lawful . . . even though it has been suggested or encouraged by one or more dealers." Great Dane Order ¶ I (1).

In short, this case involved a good deal more than simply the invocation of the most convenient legal formula we could find. The Commission carefully considered each of the factors that make cases like this so difficult, and arrived at what I believe to be a correct assessment of the likely competitive effects. I therefore support the acceptance of this consent.

Concurring Statement by Commissioner Pertschuk in Great Dane Trailers, Inc.

April 29, 1983.

The original consent agreement proposed by staff in this matter permanently barred horizontal and vertical agreements concerning dealer territories. In September, 1981, however, the Commission directed the staff to renegotiate this consent agreement to bar permanently only horizontal territorial allocation and to bar temporarily "airtight" vertical restrictions to serve as a transitional device to insure the effects of the horizontal collusion had disappeared. In doing so, the Commission clearly recognized that territorial restrictions may not be competitively harmful when they are necessary to promote dealer services. The staff renegotiated the consent agreement precisely in the way the Commission had directed and forwarded it in relatively short order to the Commission. The Bureau submitted it to the Commission in September 1982 and I moved its acceptance ten days later. Within a short time, a majority had recorded their votes in favor of the agreement.

Six months passed, however, and the agreement was not provisionally accepted because two Commissioners had not voted. Finally, after I asked for a meeting in March, Chairman Miller indicated he would vote against the agreement and issue a dissent. Today, April 29, that dissent is finished and the Commission can publish the agreement for comment.

Chairman Miller's dissent is replete with arguments about the value of vertical restrictions for the health of the truck trailer industry and in fact suggests our order may do severe damage throughout the economy (see p. 7). I confess I find it hard to understand how a temporary ban on certain territorial restrictions which expires on December 1, 1984 (and will be effective for about a year and a half when this order is finalized) does damage to America's industrial heartland. The record is liberally sprinkled with evidence of dealer collusion as to territorial allocation and with dealer pleas to the manufacturer to enforce territorial restrictions. This is precisely the kind of situation—pressure from a dealer cartel to limit competition among dealers—where even conservative economists say antitrust intervention is warranted. It is an entirely sensible remedy to ban for a short period all airtight territorial restrictions, leaving Great Dane free to impose less restrictive territorial limitations (the kind it says it wanted all along). Such an order allows Great Dane substantial marketing freedom while insuring the effect of the dealers' territorial allocation scheme is dissipated.

[FR Doc. 83-12809 Filed 5-10-83; 8:45 am]
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[5] "In the case of a very expensive item such as a truck . . . where consumers will invest significant travel time in making their purchase, a manufacturer can reach the consuming public through relatively few, relatively dispersed dealers, whom he can induce to provide the level of services he wants by assigning them exclusive territories." R. Posner, *supra*, at 160.

[6] Indeed, at the time of the *Fruehauf* decision, Fruehauf operated approximately 100 factory-owned branches nationwide. By contrast, Great Dane operated only ten such branches. The large capital investments required may limit its ability—as it did that of other smaller manufacturers—to establish additional branches. *See Fruehauf*, 91 F.T.C. at 165–66 and note 13 (Initial Decision).

[7] Because of an ancillary provision barring restrictions on dealers in a prior consent agreement between Great Dane and the Department of Justice, it is possible that Great Dane feels constrained not to impose such restraints in any case. *See United States v. American Body and Trailer Inc.*, CCH Trade Reg. Rep. [1958 Trade Cases] ¶69,063 (W.D. OK. 1958).

[8] The fact that Great Dane was seeking additional distributors, and had also intergrated forward into the dealer level, is hardly inconsistent with a manufacturer attempting to contereact the effects of collusion at the dealer level. While it is true that dealers should have flocked to join the system *if they could be assured of a place in the cartel (i.e.*, if they would be given an exclusive territory of their own sufficiently large to yield supracompetitive profits), this is presumably not the kind of dealer Great Dane was trying to attract.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM83-62-000]

Treatment of Purchased Power in the Fuel Cost Adjustment Clause for Electric Utilities

May 3, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations concerning the treatment of purchased power expenses in the fuel cost adjustment clause used by electric utilities in jurisdictional rate schedules. The proposed rule would allow demand or capacity charges associated with energy purchases to be recovered through the fuel clause if two conditions are met. First, the total cost of the purchase must be less than the buyer's total avoided variable cost. And second, the purpose of the purchase must be solely to displace higher cost generation. The proposed rule will not allow capacity charges incurred for a reliability purchase—i.e., to purchase reserves or otherwise cure a capacity deficiency—to be flowed through the fuel clause.

The proposed rule would broaden the standard for determining whether the energy charges of a purchase may be recovered through fuel clause adjustments. It would permit fuel clause recovery of purchased energy charges as long as they are less than the total avoided variable cost during the purchase period. This would be a change from the present "economic dispatch" criterion that requires purchased energy to be less costly than the purchaser's own generation in each hour in order to be included in the fuel cost adjustment clause. The fuel cost component of all other energy purchases would continue to be accorded fuel clause treatment.

The proposed rule would also require electric utilities that intend to recover the capacity charges associated with economic purchases through a fuel adjustment clause to file a statement that explains the system reserve capacity criteria used by system operators to determine when a reliability purchase must be made.

DATES: Initial comments must be submitted to the Secretary of the Commission by June 10, 1983. Reply comments must be submitted to the Secretary of the Commission by July 11, 1983.

ADDRESSES: All comments should refer to Docket No. RM83-62-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Wilbur Earley, Office of Regulatory Analysis, Federal Energy Regulatory Commission—Room 3000, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-6158;

Robert S. Angyal, Office of the General Counsel—Room 3100, 941 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-5621.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations concerning the treatment of purchased power expenses in the fuel cost adjustment clause used by electric utilities in jurisdictional rate schedules. Under the present regulations, only the fuel cost component of purchased power expenses may generally be recovered through fuel clause adjustments to base rates. The one exception is purchases made on an economic dispatch basis. For these purchases, the net energy charges may be recovered through the fuel clause. At present, our regulations do not allow demand or capacity charges associated with any purchases to be passed through the fuel clause. Those costs must be recovered in base rates.

The proposed rule would allow demand or capacity charges associated with energy purchases to be recovered through the fuel clause if two conditions are met. First, the total cost of the purchase must be less than the buyer's

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total avoided variable cost. And second, the purpose of the purchase must be solely to displace higher cost generation. The proposed rule will not allow capacity charges incurred to purchase reserves or otherwise cure a capacity deficiency to be flowed through the fuel clause.

The proposed rule would also broaden the standard for determining whether the energy charges of a purchase may be recovered through fuel clause adjustments.[1] It would permit fuel clause recovery of purchased energy charges as long as they are less than the total avoided variable cost during the purchase period. This would be a change from the present "economic dispatch" criterion that requires purchased energy to be less costly than the purchaser's own generation in each hour in order to be included in the fuel cost adjustment clause. The fuel cost component of all other energy purchases would continue to be accorded fuel clause treatment.

II. Background

A. The Present Treatment of Purchased Power Expenses in Wholesale Electric Rates

The fixed or base rates for wholesale electric service are typically derived from the estimated cost of service for a future test year.[2] Included in the cost of service are estimates of purchased power expenses. The estimates include both demand and energy charges. Thus, base rates are set so that they will recover forecasted purchased power costs.

Our present fuel clause regulations allow utilities to make adjustment to base rates if certain components of actually incurred purchased power expenses differ from the projections used to set base rates. Utilities can recover the actual expense of the fuel portion of all purchased power and, in addition, the energy charges for energy purchased on an economic dispatch basis.[3] If the actual expenses are less than those forecasted, a negative adjustment (reduction) is made to base rates; if greater, a positive adjustment (increase) is made. The effect of fuel clause adjustments is that actual fuel and (in some cases) energy charges associated with purchased power are recovered, regardless of the accuracy of the estimates embedded in the base rates. However, the present regulations do not allow adjustment if the capacity charges incurred for purchased power are different from the base rate estimates for such charges. The utility can recover only the amount estimated in base rate.

B. Problems With the Present Treatment of Purchased Power Expenses

The inclusion of non-fuel energy (but not capacity) charges in fuel clause adjustments was permitted to "provide an incentive to the utilities to purchase energy, in other than conventional firm power transactions, when the total charge is less than the purchaser's own generation."[4] While the limited inclusion of energy charges may provide an incentive to purchase economic power, the exclusion of capacity charges can provide a disincentive to making the least-cost purchase available.

Economic power can be purchased on either a firm or interruptible basis.[5] Unconditionally interruptible purchases, such as economy energy, typically carry only an energy charge.[6] Firm and conditionally interruptible purchases usually carry a capacity or reservation charge as well as an energy charge.[7] In many instances, the purchase of firm or conditionally interruptible power may be more economic than economy energy for several reasons. First, where there are significant differences in fuel costs between utilities, the split-savings adder for economy energy can be quite large. The reservation or capacity charges associated with firm or conditionally interruptible power may be less than the charges produced by a split-savings adder.

Second, the rate for energy associated with a firm or conditionally interruptible purchase is usually cheaper than that for economy energy due to the practice of "prioritizing" services. A utility may make different types of bulk power sales simultaneously. It is industry practice to impute different incremental costs to different types of sales. A selling utility will usually have an established hierarchy governing the assignment of dispatch priority and associated incremental costs to the various types of transactions for accounting and service termination purposes. The general practice is to assign higher dispatch priority to the firmer transactions and to assign incremental costs in inverse order of priority. Thus, a firm or conditionally interruptible power sale will have a lower incremental energy cost assigned to it than an economy energy sale.

And third, a firm purchase may permit the buyer to reduce the level of spinning reserves. Spinning reserves are typically maintained by operating one or more of the buyer's plants at less than full rating. By making a firm economic purchase rather than an interruptible one, the buyer may realize additional fuel cost savings because of a reduced spinning reserve requirement.

A related consideration is that a firm transaction can help both the seller and the buyer better plan their system operation (for example, unit commitment schedules) for more efficient resource use. This can result in cost savings to both parties.

For the above reasons, a firm or conditionally interruptible economic purchase can, in some instances, be the lower-cost option when compared to an economy energy purchase.

The purchase of some types of economic power may be discouraged by the present exclusion of the associated demand charges from fuel clause adjustments. Demand charges that were not forecasted and included in base rates cannot be recovered by the purchasing utility. They must be absorbed by the utility's stockholders, thereby lowering earned return. In contrast, all energy charges for economic purchases, whether forecasted or not, can be recovered either in base rates (if forecasted) or in fuel clause adjustments to base rates (if not forecasted).[8]

Such treatment may discourage utilities from taking advantage of unforeseen opportunities for substituting unforecasted firm or conditionally interruptible economic purchases for forecasted economy energy purchases, even though the result would be lower costs. Such treatment may also perversely affect utility behavior in cases where a large total level of economic purchases than forecasted can be made. A utility is encouraged to buy economy rather than firm or conditionally interruptible energy even though the latter would produce greater savings.

Consider the following example.[9] Suppose a utility with a decremental energy cost of $35/mwh has an opportunity to make an economic purchase of 6,000 Mwh that was not forecasted in the base rate cost of service. The energy can be purchased under either a short-term power rate or an economy energy rate with a split-savings adder. The resulting costs of and revenues from each option are shown on Table I. Either purchase saves the buyer money, but the short-term power option is the cheaper even if the fuel cost savings that might result from a reduced spinning reserve requirement is ignored. However, the purchasing utility would not be able to recover the demand charges incurred with the firm purchase and would thus not recover the entire cost of the purchase. The exclusion of demand charges from fuel clause adjustments could encourage the utility to buy the economy energy rather than the cheaper short-term power. As a result, the utility's wholesale rates might be higher than necessary and fuel resources would not be used as efficiently as possible.

The numbers from this example may also be used to illustrate the disincentive created by the present regulation against a utility's substituting an unforecasted, yet cheaper, purchase with capacity charges for a forecasted purchase without capacity charges. While the mechanics are somewhat different, the magnitude of the effects is the same as in the first example. Table II shows the resulting costs and revenues if a buying utility were to substitute an unforecasted short-term purchase for a forecasted economy energy purchase. Rates would be adjusted downward by the fuel clause to reflect the lower actual energy charges for the short-term power. However, the utility would not be able to recover the unforecasted demand charges incurred.

TABLE I

Buyer's avoided costs $210,000 (=6000 mwh × $35/mwh)	
Economy energy option:	
Energy rate (megawatt=hours	$28
Seller's incremental cost (megawatt=hours) equals	21
Buyer's decremental cost (megawatt=hours) equals	35
Purchase cost	168,000
Recoverable through fuel clause	168,000
Cost reduction: 6000 × ($35 − $28)	42,000
Rate reduction: 6000 × ($35 − $28)	42,000
Short-term power option:	
Energy rate (megawatt=hours)	19
Demand rate ($700/mw/week at 100% load factor (megawatt=hours)	4
Total rate (megawatt=hours	23
Purchase cost:	
Energy	114,000
Demand	24,000
	138,000
Recoverable through fuel clause	114,000
Unrecoverable	24,000
Cost reduction: 6000 × ($35 − $23)	72,000
Rate reduction: 6000 × ($35 − $19)	96,000
Increased cost if short-term power option not taken: $168,000 × $138,000 equals	30,000

TABLE II

Economy energy forecasted in cost of service study:	
Purchase cost	$168,000
Recoverable through base rates	168,000
Unforecasted short-term power option substituted for forecasted economy energy:	
Purchase cost:	
Energy	114,000
Demand	24,000
	138,000
Actual energy charges incurred	114,000
Energy charges in base rates	168,000
Fuel clause adjustment	(54,000)
Recoverable charges	114,000
Unrecoverable charges	24,000

There remain two final points concerning the present fuel clause if a utility makes an economic purchase with a demand charge tha was not forecasted. First, an inequity is created. The damand charges incurred are borne by the company's stockholders. However, since the fuel savings are directly reflected in fuel clause adjustments, the benefits of the purchase are flowed to the ratepayers. In fact, since the ratepayers would not pay the demand charges incurred, rates are reduced by an amount greater than the cost savings.[10] And second, since the incurred demand charges are not paid by ratepayers, the ratepayers receive incorrect price signals for electricity.

III. The Proposed Rule

It is the policy of this Commission to encourage, wherever possible, the adoption of a least-cost energy strategy for electric utilities.[11] If any of our regulations interfere with the attainment of the goal, then we will consider changing those regulations. Such is the case with the present fuel clause regulations which exclude capacity charges.[12] This exclusion can act as a disincentive to a utility's adopting the least cost option when making energy purhase decisions. The rule proposed here would remove that disincentive by allowing electric utilities to include the total costs of economic power purchases, including capacity charges, in the periodic fuel clause adjustments to base rates. As we have stated before, "a passthrough of capacity costs, incurred solely to reduce energy costs * * * is in the public interest."[13]

The Commission's fuel cost adjustment clause regulation is intended to permit a utility to make adjustments to its base rates for those costs that are volatile and difficult to predict.[14] Fuel costs and the net energy costs of economic purchases fall into this category. This is also the case with the demand charges incurred for economic

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[1] An energy charge is any rate or rate component expressed on a per kilowatt-hour or per megawatt-hour basis.

[2] Base rates are rates that are fixed at a certain level. They can be changed only upon the filing of a new rate case. They are in contrast to rates determined by a formula. Such rates change as the cost components of the formula change without the filing of a new are case. The fuel adjustment clause is the most common use of a rate adjustment formula.

[3] *See* 18 CFR 35.14(a)(2)(ii) and (iii) (1982).

[4] Order No. 517, 52 F.P.C. 1304, 1305 (1974), 39 FR 40562 (1974). This order, issued by the Commission's predecessor, the Federal Power Commission, promulgated the present fuel cost adjustment clause regulation, codified at 18 CFR 35.14 (1982). The Department of Energy Organization Act, in terminating the Federal Power Commission and creating the Federal Energy Regulatory Commission, continued this regulation in effect until modified by the new Commission. Department of Energy Organization Act, section 705(a), 42 U.S.C. 7295(a) (Supp. IV 1980).

[5] The term "economic power" should not be confused with what is commonly known as economy energy. Economy energy is typically transacted on an hourly basis, is priced using the split-savings formula, and may be interrupted. Economy energy is not the only purchase made for reasons of economy, *i.e.*, to displace higher cost generation. Electric utilities regularly purchase other types of power (*e.g.*, short-term power, unit power and dump energy) to lower the cost of supplying electricity to their customers. All purchases made to lower the buying utility's cost of production will be referred to here as economic power.

[6] For example, economy energy has only an energy charge that is based on the seller's incremental running cost plus an adder based on an equal split of the savings. The resulting price is the average of the buyer's decremental cost and the seller's incremental cost.

[7] For example, the price for short- and limited-term power usually involves a capacity or reservation charge based on the fixed cost of some of the seller's generating units and an energy charge based on the seller's system incremental running cost plus a percentage adder. Unit power carries capacity and energy charges tied to the costs of a specific unit.

[8] Purchases must be on an economic dispatch basis for the energy charges to receive fuel clause treatment.

[9] This numerical example was presented in ICF Incorporated, The Federal Energy Regulatory Commission Fuel Adjustment Clause and Utility Incentives to Engage in Electric Power Interchange Transactions Under Emergency and Normal Conditions: Final Report. Submitted to the Office of Energy Contingency Planning, U.S. Department of Energy, February 1982, at 31–33. The numbers are based upon data observed by DOE's Electric Power Monitoring Center during 1980.

[10] Note the difference between the rate reduction and the cost reduction in the short-term power option on Table I.

[11] The term "least cost energy strategy" is often associated with what is known as the "soft path" to energy supply—small scale, decentralized electricity technologies and renewable fuel resources. Here the term is used in a literal sense—the supply of electricity to consumers in the short- and long-run at the lowest possible cost (in the economic sense) without any predetermination as to whether the energy is produced by "soft" technologies, "hard" technologies or some combination of the two. As a regulatory agency, we are concerned with removing any hindrances that might prevent utilities from moving along the path of providing their customers with a reliable supply of electricity at lowest possible cost.

[12] We recently noted that "those regulations were established in a very different economic environment in which capacity costs were rarely incurred for reasons other than meeting reserve requirements. It was therefore found to be appropriate to deny automatic passthrough of capacity costs in the fuel clause." We then went on a grant a waiver of the existing regulations in order to permit inclusion of capacity costs in a fuel adjustment clause where those costs were incurred solely to reduce the overall energy cost. Gulf States Utilities Company, 20 F.E.R.C. ¶ 61,030 at 61,072 (1982).

[13] *Id. Gulf States* was followed in Delmarva Power & Light Company 21 R.E.R.C. ¶ 61,050 (1982) *See also* Florida Power & Light Company, 16 F.E.R.C. ¶ 61,168 at 61,375 (1981).

[14] Order 517, 52 F.P.C. at 1305.

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purchases. The volume and prices of economic purchases, whether firm or interruptible, are dependent on a number of factors that are not readily predictable, such as the availability of capacity and the relative hourly incremental operating costs of sellers and buyers at the time transactions are made. It is therefore appropriate to include the demand or capacity charge component of economic purchases among the items for which base rates may be periodically adjusted.

Flowing the demand component of economic purchase charges through the fuel clause will eliminate the estimation error problem and the subsequent potential for over- or underrecovery of estimated expenses. An overrecovery occurs if forecasted demand charges are greater than those actually incurred. All other things being equal, the result is rates higher than necessary to produce the return the Commission determined to be just and reasonable. An underrecovery occurs if a utility incurs more demand charges than were forecasted for economic purchases. The result is an inequity: the variable cost savings made possible by economic purchases are flowed to ratepayers, but the demand costs are borne by the company's investors. Incorrect price signals are given to consumers in either case.

The proposed rule would also eliminate any bias in favor of services that carry only energy charges. It is our intent to encourage utilities to make the lowest-cost economic power purchases without regard to the manner in which it is priced. As the discussion in the previous section makes clear, a purchase of energy and associated capacity may result in lower rates and more efficient fuel resource use than a purchase of only energy. If a utility is assured that it will recover the total cost of any economic purchase, there is no regulation-induced bias in favor of one type over another.

The intent of the proposed rule is to allow automatic recovery of all costs only for an economic power purchase. Charges for reliability purchases will still have to be recovered through base rates. The proposal therefore sets out two criteria that a purchase must satisfy in order for capacity or reservation charges to receive fuel clause treatment.

The first criterion is that the total cost of the purchase must be less than the buyer's total avoided variable cost. This is somewhat different than the "economic dispatch basis" criterion used in the present fuel clause regulation.[15] The economic dispatch standard requires that purchased energy be economic on an hourly basis in order for the net energy charges to be accorded fuel clause treatment.[16] However, the inclusion of capacity charges in fuel clause treatment requires a broader standard. The focus would no longer be hourly energy economies, but rather the overall savings produced by a purchase that may run longer than one hour. The proposed standard therefore considers whether a particular transaction produces overall net savings, *i.e.*, whether total avoided variable costs are greater than the total cost of the purchase.

The second criterion that a purchase would have to satisfy under the proposed rule in order to recover capacity charges in fuel clause adjustments is that the buyer must have adequate reserve capacity net of all purchases where capacity charges are included in the fuel clause, *i.e.*, independent of all economic purchases. If the buyer has adequate available reserve capacity either from its own system or other firm purchase contracts, then the transaction proposed for fuel clause treatment of capacity charges can be presumed to be for economy and not reliability reasons. The capacity charges for reliability purchases belong in base rates, not in fuel clause adjustments.

A utility's base rates include a return of and on the firm's investment in generating capacity, including reserves, as well as an estimate of expenses for reliability purchases. The estimate for reliability purchased power expenses should be set at a level that reflects planned capacity purchases and an amount of unplanned capacity purchases that assumes the reasonable performance of the utility's generating units. Limiting the recovery of reliability purchase capacity charges to the estimate in base rates provides a utility with an incentive to properly maintain its generating units and to expeditiously restore them to service in the event of a forced outage. Allowing an automatic dollar-for-dollar recovery of those expenses may weaken that incentive.

Furthermore, ratepayers are already paying in base rates for the capacity determined to be required to serve them. Automatic recovery of additional capacity charges would shift the risk of poor plant performance to consumers. We therefore propose to continue to exclude the capacity charges of all reliability purchases from the fuel clause.

In order for the Commission to enforce the proposed regulation's exclusion of capacity charges for reliability purchases from fuel clause adjustments, our auditors must have some guidance on how to distinguish a reliability from an economic purchase. This is not an easy task because the criteria used to determine the capacity required to meet system peak load and provide adequate reserves vary among utilities. There is no one "right" level of reliability. It would be presumptuous to establish a single targeted reliability level that would apply to all utilities under our jurisdiction to distinguish reliability from economic purchases.

We are therefore proposing that electric utilities that intend to recover capacity costs in fuel clause adjustments be required to file a statemet that sets out the system reserve capacity criteria used for planning and operational purposes. The statments should be designed to enable the Commission's auditors to determine the capacity threshold at which the system operator will make a reliability purchase. Subsequent filings are required only if the capacity criteria change.

Where such a capacity criteria statement is required by a state or local regulatory body, including a plant site licensing board, the statement filed with the Commission must be identical in relevent part to the one filed with that authority.

Electric utilities that recover the capacity cost portion of purchased power expenses through fuel clause adjustments would have the burden of retaining sufficient reserve capacity data to demonstrate that a questionable purchase was solely for economy reasons.

We propose to continue the present policy of permitting the energy charges of any purchase to be recovered through fuel clause adjstments if such energy displaces the buyer's higher cost generation. However, the present economic dispatch criterion would no longer be applicable. Instead, the energy charges of a purchase may be recovered through fuel clause adjustments to base rates if the total energy charges incurred are less than the buyer's total avoided variable costs during the purchase period. We propose to continue fuel clause treatment for these energy charges because it encourages buyers to minimize energy costs and keeps customer rates down.

[15] 18 CFR 35.14(a)(2)(iii)(1982).

[16] For example, an intersystem capacity purchase in which the maximum amount of associated energy is continuously scheduled into the buyer's system, *i.e.*, block-loaded, would not presently qualify for fuel clause treatment because such a purchase would not have been made with respect to hourly economies. *See, e.g., Report of Designated Officer, Investigation into Wholesale Power Transactions During Time of Fuel Inadequacies*, Docket No. ER78-307 (March 19, 1979), Appendix I, at 15-16.

IV. Regulatory Flexibility Act Certification.

The Regulatory Flexibility Act ("RFA")[17] requires an agency to prepare certain statements, descriptions, and analyses of a proposed rule which, if promulgated, would have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a proposed rule would not have such an impact.

"Small entity" is defined by section 601(6) of the RFA. One element of the definition, the term "small business," as defined by reference to Section 3 of the Small Business Act,[18] is limited to an entity "which is independently owned and operated and which is not dominant in its field of operation."[19] There are approximately 217 electric utilities in the United States within the jurisdiction of the Commission. Only about 20 of these could possibly be classified as small entities in terms of their size.[20] In addition, because an electic utility typically is the exclusive supplier of electricity in its retail service territory, a utility of this size could not be described as "not dominant in its field of operation." Thus, there is not a substantial number of entities which would be subject to this rule which could be classified as "small"under the RFA.

As explained in Parts II and III of this preamble, the proposed rule would remove a disincentive against utilities' entering into economically advantageous purchases of electric power. Any economic impact of this rule on any utility which may be a small entity can therefore only be beneficial. And since the rule would allow capacity charges to be flowed through the fuel clause only if a purchase results in a net reduction in rates, the customers of all utilities to whom the proposed rule applies should also benefit by it. Thus, the economic impact on utilities and their customers will not be significant in terms of the overall purposes of the FRA.

The proposed rule would also impose a one-time filing requirement (described in Part III of this preamble) on utilities which wish to take advantage of the money-saving opportunities the rule would offer them. (The rule would also require a utility to make a filing if it changes its reserve criteria. We expect that such filings will be infrequent since reserve criteria do not change often). This requirement of the proposed rule, which appears not to duplicate, overlap or conflict with other relevant Federal rules, would involve minimal expense. The Commission therefore certifies, pursuant to Section 605(b) of the RFA, that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Public Comment Procedures

Interested parties are invited to submit written comments on the proposed rule to the Office of the Secretary, Federal Energy Regulatory Commission, 825, North Capitol Street, NE., Washington, D.C. 20426, on or before June 10, 1983. Comments should refer to Docket No. RM83-62-000 on the outside of the envelope and on all documents submitted to the Commission. The Commission intends that those participating in this proceeding should be able to examine and reply to initial comments made in response to this notice. Such reply comments must be submitted on or before July 11, 1983.

Each party submitting comments should include his or her name and address and also the name, mailing address and telephone number to whom communications concerning the proposal may be addressed. Fourteen conformed copies should be submitted along with the original. Written Comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, 20426 (202/357-8055) during regular business hours.

VI. Additional Questions

The Commission wishes to solicit comments on the following question related to the proposed rule. Persons addressing these questions are requested, in their comments, to refer to these by number.

1. Is the proposed filing procedue adequate to insure that the capacity charges for only economic purchased power are passed through the fuel clause? Are there practical alternatives? Is the information requested already filed with the Department of Energy?

2. Is there a readily calculable specific measure of reserve capacity adequacy that could be used to guide the Commission's auditors in lieu of the filing requirement? For example, a purchase whose total costs are less than the total avoided variable costs could be presumed to be for economy purposes if the buyer had a least a 15% reserve margin at the time the purchase began.

3. Should the focus of the reserve criteria be available reserves or operating reserves?

4. Is the information necessary to determine the generating capacity reserve status during a purchase period readily available? Where is such information available? How long is it retained?

5. In determining whether to include the capacity cost of a purchase in the fuel clause, is the proper focus of reserve adequacy the time the purchase is initiated or the entire period of a purchase?

6. Are there alternative tests to enable the Commission's auditors to distinguish between economy and reliablility purchases?

7. Is a distinction between economy and reliability purchases necessary, or should the demand charges for any purchase that lowers variable costs be recovered through the fuel clause?

8. What are the positive and negative considerations of allowing all purchased power expenses to be recovered through automatic adjustments to base rates? Specifically:

a. How would such a policy affect an electric utility's incentive to build and properly maintain efficient generating capacity?

b. If all purchased power expenses are recovered through the fuel clause, should all intersystem sales revenue the be credited to base rates through the fuel clasuse?

9. Is system lambda a suitable measure of avoided variable costs? Are there other measures that are suitable? If so, what are they?

10. Should the capacity charges associated with long-term economic purchases, say 12 months duration, be excluded from fuel clause treatment?

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and Recordkeeping Requirements.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Code of Federal Regulation, as set forth below.

(Federal Power Act, 16 U.S.C. 824d, 824e and 825h (1976 & Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7171, 7172

[17] 5 U.S.C. 601-612 (Supp. IV 1980).

[18] 15 U.S.C. 632 (West Supp. 1982). *See also* the Small Business Administration's Small Business Sizes Standards, 13 C.F.R. Part 212 (1982).

[19] 15 U.S.C.A. 632(a) (West Supp. 1982).

[20] For the purposes of this certification, we treat as small entities Class C and Class D utilities; that is, those utilities with operating revenues of $25,000 or more per year, but less than $1,000,000. *See* 18 C.F.R. Part 104 (1982), Uniform System of Accounts Prescribed bor Public Utilities and Licensees Subject to the Provisions of the Federal Powar Act (Class C and Class D). For the types of electric utilities that the Commission regulates, this treatment seems more consistent with the purposes of the RFA than use of the standards set out in 13 CFR 121.3-10(d) (1982).

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and 7173(c) (Supp. IV 1980); Executive Order 12009, 3 CFR 142 (1978); 5 U.S.C. 553 (1976)

By direction of the Commission

Kenneth F. Plumb,

Secretary.

1. In Part 35, the Table of Contents is amended by revising the title of § 35.14 to read as follows:

PART 35—FILING OF RATE SCHEDULES

Sec.

* * * * * *

35.14 Fuel cost and economic purchased power adjustment clauses.

2. In § 35.14, the title of § 35.14 and paragraphs (a)(1), the introductory text of (a)(2), are revised and a new paragraph (a)(11) is added, to read as follows:

Subpart C—Other Filing Requirements

§ 35.14 Fuel cost and economic purchased power adjustment clauses.

(a) * * *

(1) The fuel clause shall be of the form that provides for periodic adjustments per kWh of sales equal to the difference between the fuel cost per kWh of sales in the base period and in the current period:

Adjustment Factor = *Fm/Sm—Fb/Sb*

Where: *F* is the expense of fossil and nuclear fuel and economic purchased power in the base (*b*) and current (*m*) periods; and *S* is the kWh sales in the base and current periods, all as defined below.

(2) Fuel and economic purchased power costs (*F*) shall be the cost of:

* * * * *

(iii) The charges associated with economic purchased power. Economic purchased power is energy purchased to substitute for energy that would have otherwise been generated at a higher total variable cost by the buyer. Capacity charges for economic purchased power may be included in fuel and economic purchased power costs (*F*) if the toatal cost of the purchase is less than the buyer's total avoided variable cost for the duration of the purchase, and if the available reserve capacity of the buyer is adequate independent of all other purchases where the demand charges are included in *F. Energy charges may be included if the total amount of energy charges incurred for a purchase is less than the buyer's total avoided variable costs for the duration of the purchase; and less*

* * * * *

(11) A utility proposing to include capacity charges in fuel and economic purchased power costs (*F*) under paragraph (a)(2)(iii) of this section shall amend its fuel cost adjustment clause so that it is consistent with paragraphs (a)(1) and (a)(2)(iii) of this section. Such amendment shall include a statement which explains the system reserve capacity criteria used by the utility for planning and operational purposes. The statement shall be designed to enable the Commission's auditors to determine the capacity threshold at which the system operator will make a reliability purchase. Where the utility filing the statement is required by a State or local regulatory body (including a plant site licensing board) to file a capacity criteria statement with that body, the system reserve capacity criteria in the statement filed with the Commission shall be identical to those contained in the statement filed with the State or local regulatory body. Any utility that changes its reserve capacity criteria shall, within 45 days of such change, file an amended fuel cost and economic purchased power adjustment clause to incorporate the new criteria.

[FR Doc. 83-12335 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-221-82]

Public Approval and Information Reporting Requirements: Cross Reference to Temporary Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue service is issuing temporary regulations that relate to public approval and information reporting requirements applicable to certain issues of State and local government obligations. The text of those temporary regulations also serves as the basis for comments solicited by this proposed rulemaking.

DATES: Written comments and requests to speak at the public hearing must be delivered by July 11, 1983. The regulations are proposed to be effective, in general, after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-221-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George T. Magnatta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3288).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 5f of Title 26 of the Code of Federal Regulations. The proposed regulations incorporate the temporary regulations. The proposed regulations, if adopted, would be added to Part 1 of Title 26 of the Code of Federal Regulations. Section 5f.103-2 of the Temporary regulations would become § 1.103-17, and §5f.103-3 would become § 1.103-18, and §§ 5f.103-2 and 5f.103-3 would be deleted.

The proposed regulations relate to the public approval and information reporting requirements under new Code section 103 (k) and (l), which are applicable to certain issues of State and local government obligations. These provisions were added to the Internal Revenue Code of 1954 by Section 215 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248; 96 stat. 324, 468). The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A State. 917; 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 83-12659 (T.D. 7892) published in the Rules and Regulations portion of this issue of the **Federal Register.** The preamble to the temporary regulations providles a substantive description.

Non-Application of Executive Order 12291

The Commissioner has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking, which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations consideration will be given to any written comments that are submitted (preferable seven copies to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying.

A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public helaring is held, notice of the time and place will be published in the **Federal Register** .

Drafting Information

The principal author of these proposed regulations is George T. Magnatta of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects In 26 CFR 1.61 Through 1.281-4

Income taxes, Taxable income, deductions, Exemptions.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-12660 Filed 5-6-83; 4:27 pm]

BILLING CODE 4830-01-M

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26 CFR Parts 20 and 301

[LR-209-76]

Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to special liens for deferred estate taxes. Changes to the applicable law were made by the Tax Reform Act of 1976, the Revenue Act of 1978, and the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the law and would affect those estates electing a special lien in favor of the United States on property as security for deferred payments of estate tax.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 11, 1983. The amendments are generally proposed to be effective for estates of decedents dying after December 31, 1976. The amendments necessitated by the Economic Recovery Tax Act of 1981 are proposed to be effective for estates of decedents dying after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-209-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566-4336, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Estate Tax Regulations (26 CFR Part 20) and to the Procedure and Administration Regulations (26 CFR Part 301) under section 6324A of the Internal Revenue Code of 1954 (Code). These amendments are proposed to reflect the amendments made to the Code by section 2004(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1868); section 702(e) of the Revenue Act of 1978 (Pub. L. 95-600, 92 Stat. 2929); and section 422 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 316). These regulations are to be issued under the authority contained in Code sections 6324A(a) (90 Stat. 1868; 26 U.S.C. 6324a(a)) and 7805 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

The purpose of section 6324A is to permit the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) was made. The election under section 6324A will not be effective unless all parties having an interest in the property subject to the lien sign an agreement in which they consent to the creation of the lien. The agreement is to be attached to the notice in which the lien under section 6324A is elected. The election may be filed at anytime prior to payment of the full amount of the estate tax and interest due. Regulations concerning the election of and agreement to the special lien under section 6324A are found in § 301.6324A-1. The amendments contained in these proposed regulations complete the task of clarifying the provisions contained in section 6324A.

Proposed §§ 20.6324A-1(b) (1) and (2) define the term "section 6166 lien property" and determine the maximum value of the property which the district director may require as section 6166 lien property. Proposed § 20.6324A-1 (b)(3) indicates when the district director may require additional property to be subject to the lien under section 6324A. Proposed § 20.6324A-1(c) discusses the period and priorities of a section 6324A lien.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement,

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Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

PART 20—[AMENDED]

The proposed amendments to 26 CFR Parts 20 and 301 are as follows:

§ 20.2204—1 [Amended]

Paragraph 1. Section 20.2204–1 is amended as follows:

(a) Paragraph (a) is amended by removing the phrases "(1 year with respect to the estate of a decedent dying before January 1, 1974)" and "(1 year if applicable)" wherever they appear.

(b) Paragraph (b) is amended by removing the phrases "(1 year with respect to the estate of a decedent dying before January 1, 1974)" and "(or 1 year period if applicable)" wherever they appear.

Par. 2. A new § 20.2204–3 is added immediately following § 20.2204–2 to read as set forth below.

§ 20.2204–3 Special rules for estates of decedents dying after December 31, 1976; special lien under section 6324A.

For purposes of § 20.2204–1(b) and § 20.2204–2(b), in the case of a decedent dying after December 31, 1976, if the executor elects a special lien in favor of the United States under section 6324A, relating to special lien for estate tax deferred under section 6166, such lien shall be treated as the furnishing of a bond with respect to the amount for which the time for payment has been extended under section 6166. If an election has been made under section 6324A, the executor may not substitute a bond pursuant to section 2204 in lieu of that lien. If a bond has been supplied under section 2204, however, the executor may, by filing a proper notice of election and agreement, substitute a lien under section 6324A for any part or all of such bond. See §§ 20.6324A–1 and 301.6324A–1 for rules relating to special liens under section 6324A.

Par. 3. Section 20.6324A–1 is revised to read as set forth below.

§ 20.6324A–1 Special lien for estate tax deferred under section 6166 or 6166A.

(a) *In general.* If the executor of an estate of a decedent dying after December 31, 1976, makes an election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) to defer the payment of estate tax, the executor may make an election under section 6324A. An election under section 6324A will cause a lien in favor of the United States to attach to the estate's section 6166 lien property, as defined in paragraph (b)(1) of this section. This lien is in lieu of the bonds required by sections 2204 and 6165 and in lieu of any lien under section 6324 on the same property with respect to the same estate. The value of the property which the district director may require under section 6324A as section 6166 lien property may not exceed the sum of the deferred amount (as defined in paragraph (e)(1) of this section) and the required interest amount (as defined in paragraph (e)(2) of this section). The unpaid portion of the deferred amount (plus any unpaid interest, additional amount, addition to tax, assessable penalty, and cost attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property. See § 301.6324A–1 of this chapter (Regulations on Procedure and Administration) for provisions relating to the election of an agreement to the special lien for estate tax deferred under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(b) *Section 6166 lien property.*—(1) *In general.* Section 6166 lien property consists of those interests in real personal property designated in the agreement referred to in section 6324A (c) (see paragraph (b) of § 301.6324A–1 of this chapter). An interest in property may be designated as section 6166 lien property only to the extent such interest can be expected to survive the deferral period (as defined in paragraph (e) (3) of this section). Property designated, however, need not be property included in the decedent's estate.

(2) *Maximum value of required property.* The fair market value of the property required by the district director to be designated as section 6166 lien property with respect to any estate shall not be greater than the sum of the deferred amount and the required interest amount, as these terms are defined in paragraphs (e) (1) and (2) of this section. However, the parties to the agreement referred to in section 6324A (c) may voluntarily designate property having a fair market value in excess of that sum. The fair market value of the section 6166 lien property shall be determined as of the date prescribed in section 6151(a) (without regard to any extension) for payment of the estate tax. Such value must take into account any encumbrance onthe property (such as a mortgage or a lien under section 6324B).

(3) *Additional lien property may be required.* If, at any time, the unpaid portion of the deferred amount and the required interest amount exceeds the fair market value of the section 6166 lien property, the district director may require the addition of property to the agreement in an amount up to such excess. When additional property is required, the district director shall make notice and demand upon the agent designated in the agreement setting forth the amount of additional property required. Property having the required value (or other security equal to the required value) must be added to the agreement within 90 days after notice and demand from the district director. Failure to comply with the demand within the 90-day period shall be treated as an act accelerating payment of installments under section 6166(g) or 6166(h) (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(4) *Partial substitution of bond.* See paragraph (c) of § 301.6324A–1 of this chapter for rules relating to the partial substitution of a bond for the lien where the value of property designated as section 6166 lien property is less than the amount of unpaid estate tax plus interest.

(c) *Special rules.*—(1) *Period of lien.* The lien under section 6324A arises at the earlier of the date—

(i) The executor is discharged from liability under section 2204; or

(ii) Notice of lien is filed in accordance with § 301.6323 (f)–1 of this chapter.

The section 6324A lien continues until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time. The provisions of § 301.6325–1 (c), relating to release of lien or discharge of property, shall apply to this paragraph (c)(1).

(2) *Requirement that lien be filed.* The lien imposed by section 6324A is not valid against a purchaser (as defined in paragraph (f) of § 301.6323 (h)–1, holder of a security interest (as defined in paragraph (a) of § 301.6323 (h)–1), mechanic's lienor (as defined in paragraph (b) of § 301.6323 (h)–1), or judgment lien creditor (as defined in paragraph (g) of § 301.6323 (h)–1) until notice of the lien is filed. Once filed, the notice of lien remains effective without being refiled.

(3) *Priorities.* Although a notice of lien under section 6324A has been properly filed, that lien is not valid—

(i) To the extent provided in section 6323(b)(6), relating to real property tax and special assessment liens, regardless of whether such liens came into existence before or after the filing of the notice of Federal tax lien;

(ii) In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor, provided that such lien came into existence before the notice of tax lien was filed; and

(iii) As against any security interest set forth in section 6323(c)(3), relating to real property construction or improvement financing agreements, regardless whether such security interest came into existence before or after the filing of the notice of tax lien.

However, paragraphs (c) (3) (ii) and (iii) of this section shall not apply to any security interest that came into existence after the date of filing of notice (in a manner similar to a notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h) (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(d) *Release or discharge of lien.* For rules relating to release of the lien imposed by section 6324A or discharge of the section 6166 lien property, see section 6325 and § 301.6325–1 of this chapter.

(e) *Definitions.* For purposes of section 6324A of this section—

(1) *Deferred amount.* The deferred amount is the aggregate amount of estate tax deferred under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) (determined as of the date prescribed by section 6151(a) for payment of the estate tax).

(2) *Required interest amount.* The required interest amount is the aggegate amount of interest payable over the first four years of the deferral period. For purposes of computing the required interest amount, the interest rate prescribed by section 6621 in effect on the date prescribed by section 6151(a) for payment of the estate tax shall be used for computing the interest for the first four years of the deferral period. The 4-percent interest rate prescribed by section 6601(j) shall apply to the extent provided in that section. For purposes of computing interest during deferral periods beginning after December 31, 1982, interest shall be compounded daily.

(3) *Deferral period.* The deferral period is the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(4) *Application of definitions.* In the case of a deficiency, a separate deferred amount, required interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

PART 301—[AMENDED]

§ 301.6324A–1 [Amended]

Par. 4. Paragraphs (a), (b)(1)(iv), (b)(4), and (f) of § 301.6324A–1 are amended by adding the phrase "(as in effect prior to its repeal by Economic Recovery Tax Act of 1981)" after each time the phrase "6166A" appears.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–12866 Filed 5–10–83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Delist Kangaroos; Public Hearing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearing.

SUMMARY: At the request of the Animal Protection Institute of America, the Service is holding a public hearing on its April 8, 1983, proposed rule (48 FR 15426) to remove the red (*Macropus rufus*), eastern gray (*Macropus giganteus*), and the western gray (*Macropus fuliginosus*) kangaroos from any classification pursuant to the Endangered Species Act of 1973.

DATE: The public hearing will be held on Monday, June 6, 1983, commencing at 9:00 AM.

ADDRESS: The public hearing will be held in Room 8068, Main Interior Department Building, 18th and C Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: Section 4(b)(5)(E) of the Endangered Species Act, as amended, calls for the holding of a public hearing when it is requested by any person, provided that such person files for the hearing within 45 days of the publication of a proposed rule to list, delist, or reclassify a species, or to designate or revise Critical Habitat. On April 15, 1983, the Animal Protection Institute of America formally notified the Service by letter that it requested a public hearing for the purpose of reviewing the Service's proposed rule of April 8, 1983, to remove the red, eastern gray, and western gray kangaroos from any classification pursuant to the Endangered Species Act. In compliance with this request, and with Section 4(b)(5)(E) of the Act, the Service hereby notifies all interested individuals and parties that it will hold a public hearing on this issue at the time and place set forth above. All comments and statements presented at this hearing will be made part of the public record and will be considered before any final decision is made concerning the proposed rule.

Dated: May 5, 1983.

C. F. Layton,

Acting Assistant Secretary for Fish and Wildlife Parks.

[FR Doc. 83–12343 Filed 5–10–83; 8:45 am]

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Notices

Federal Register
Vol. 48, No. 92
Wednesday, May 11, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Board of Certification; Meeting

AGENCY: Board of Certification, United States Courts of Appeals, Circuit Executive.

ACTION: Notice of meeting of Board of Certification in Washington, D.C. on May 27, 1983, to interview applicants who are interested in being certified for the positions of circuit executive.

Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. Section 332(f)). While certification is a prerequisite for appointment as circuit executive, it does not ensure employment.

A personal interview with the Board is necessary for certification, and the Board cannot reimburse candidates for attendant travel expenses.

Details on how to apply may be had by writing to: Board of Certification, Administrative Office of the U.S. Courts, Washington, D.C. 20544.

The next meeting of the Board will be held in Washington, D.C. on May 27. Applications must be received well in advance in order to be considered for a possible appointment on this date.

William R. Foley,

Secretary of the Board of Certification and Director, Administrative Office of the U.S. Courts.

[FR Doc. 83-12839 Filed 5-10-83; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Commodity Credit Corporation Crops, 1983 Wheat Program; Determinations Regarding the Proclamation of 1983 Crop Program Provisions for Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of the 1983 wheat loan and purchase rate, established (target) price, acreage reduction program, paid diversion program, and special grazing and haying program.

SUMMARY: The purpose of this notice is to affirm the following determinations which have been made by the Secretatry of Agriculture on August 27, 1982 with respect to the 1983 crop of wheat: (1) The loan and purchase rate will be $3.65 per bushel; (2) the established (target) price will be $4.30 per bushel; (3) an acreage reduction program for wheat will be in effect with a uniform reduction of 15 percent; (4) a cash land diversion program requiring a 5 percent reduction in addition to the 15 percent acreage reduction program with a payment of $2.70 per bushel; and (5) no set-aside or special haying and grazing program will be in effect. These determinations are made in accordance with Sections 107B, 107C, 109, and 110 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: August 27, 1982.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4146. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applies to are: TITLE—Wheat Production Stabilization: Number 10.058 and TITLE–Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. *Loan and Purchase Level.* Section 107B(a) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at such level, not less than $3.65 per bushel, as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

2. *Established (Target) Price.* Section 107B(b)(1)(C) of the 1949 Act provides that the 1983 crop established (target) price shall not be less than $4.30 per bushel. The Secretary may adjust this established price to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made.

3. *Acreage Reduction Program (ARP).* Sections 107B(e) (1) and (2) of the 1949 Act require that the Secretary provide for a combination of an acreage reduction program and a land diversion program under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 percent, consisting of a reduction of 15 percent under the acreage reduction program and a reduction of 5 percent under the land diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage reduction and land diversion program. The acreage base to be used for a farm under the program for the 1983 crop of wheat shall be the same as the acreage base which was applicable to the farm under the acreage reduction program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. If an acreage reduction program is in effect for any crop, the national program acreage, program allocation factor and the voluntary acreage reduction provisions are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm.

4. *Set-Aside Program.* Sections 107B(e) (1) and (3) of the 1949 Act provide that the Secretary may provide for a set-aside program if it is determined that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency.

5. *Land Diversion Program.* Section 107B(e)(5) of the 1949 Act requires that the Secretary implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that to the extent that such acreage does not exceed wheat acreage base for the farm less an amount equivalent to 5 percent of the wheat acreage base. This reduction in acreage is in addition to the 15 percent reduction in wheat acreage based which is required under the acreage reduction program. Such cash land diversion payments shall be made in an amount which is computed by multiplying: (i) The diversion payment rate, by (ii) the farm program yield for the crop by (iii) the additional acreage diverted under the land diversion program. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.

6. *The National Program Acreage (NPA).* Section 107B(c)(1) of the 1949 Act provides that the Secretary shall proclaim an NPA for the 1983 crop of wheat not later than August 15, 1982. The NPA shall be the number of harvested acres of wheat the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1983 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1983/84 marketing year. The NPA provisions do not apply if an acreage reduction program is implemented for the 1983 crop of wheat.

7. *Voluntary Reduction Percentage.* Section 107B(c)(3) of the 1949 Act provides that the 1983 individual farm program acreage of wheat which is eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of wheat planted for harvest on the farm from the 1983-crop established wheat acreage base by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1983 crop. If an acreage reduction program is implemented for the 1983 crop of wheat, the voluntary reduction percentage shall not be applicable to such crop.

8. *Grazing and Haying of Designated ARP Acreage.* Section 107B(e)(4) of the 1949 Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of quar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if it is determined that such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of price support program, and will not affect farm income adversely.

9. *Special Grazing and Haying Program.* Section 109 of the 1949 Act provides that the Secretary is authorized to administer a special wheat acreage grazing and haying program. If a special grazing and haying program is implemented, a producer shall be permitted to designate a portion of the acreage on the farm which the producer intends to plant to wheat, feed grains, or upland cotton for harvest, but not in excess of 40 percent thereof, or 50 acres whichever is greater. Such designated acreage shall be planted to wheat (or some other commodity other than corn or grain sorghum) and must be used by the producer for grazing purposes or hay rather than for commercial grain production. The Secretary shall pay the producer participating in this special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. Acreage which is included in the special program shall be in addition to any acreage which is included in any set-aside, reduced acreage or land diversion program.

10. *Offsetting Compliance.* Section 107B of the 1949 Act provides that the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to assure that all of farms in which they have an interest were in compliance with program requirements which are specified with respect to the wheat program, such as planting within the established wheat acreage bases or the normal crop acreage established for such farms, in order to be eligible for program benefits.

11. *Advance Payments.* Section 107C of the 1949 Act requires that the Secretary shall make advance deficiency payments available to producers who participate in the acreage reduction programs, if the Secretary determines that deficiency payments will likely be made.

If the Secretary establishes an acreage limitation or acreage set-aside program for the 1983 crop of wheat in accordance will section 107B(e) and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make available advance deficiency payments to producers who agree to participate in such program.

In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount

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equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency by the Secretary to be payable to the producers as a deficiency payment for the crop concerned. If the Secretary determines under section 107B(b)(1), that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments. Any refund required shall be due at the end of the marketing year for the crop with respect to which such payments were made. If a producer fails to comply with the requirements under the acreage reduction of set-aside program involved (and, in the case of the 1983 crop of wheat, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

A notice that the Secretary was preparing to make determinations with respect to the 1983 crop of wheat was published in the **Federal Register** on May 25, 1982, (47 FR 22573) and provided for a 30-day comment period. The comment period was limited to 30 days to allow the Secretary sufficient time to properly consider the comments received before the final program determinations are made. A total of 360 comments were received from 36 states. Included in this total were comments from a national farm organization, 2 national agribusinesses, and 6 members of Congress. A majority of the comments centered around the following eight issues: (1) The loan and purchase level; (2) the established (target) price; (3) an acreage reduction program (ARP); (4) a set-aside program; (5) a land diversion program (LDP); (6) permitting haying and grazing of conservation use agreage if an ARP is established; (7) the method used to establish acreage bases; and (8) whether to require offsetting compliance if an ARP is established.

1. *Loan and Purchase Level:* With respect to the loan and purchase level, 83% favored raising the level from the minimum statutory level, 16% favored the minimum level and 10% favored a lower level. Many of those commenting favored a price support level in a range of $3.60 to $7.30 per bushel. However, most of those commenting favored a loan and purchase level of $3.80 per bushel.

2. *Established "Target" Price:* With respect to the established (target) price, 62% favored raising the target price above the statutory minimum of $4.30 per bushel, while 11% favored no target price at all and 2% favored a lower target price. Most comments favored the $4.50 to $5.00 per bushel range for the target price.

3. *Acreage Reduction; Land Diversion or Set-Aside Program:* Approximately 85% of the comments favored an ARP, A LDP or a set-aside program. A majority (70%) favored an ARP, LDP, or some combination of the two. For the ARP, a majority favored either a 15 or 20 percent reduction while the majority of those in favor of an LDP favored either a 10 or 15 percent reduction. Approximately 25 percent favored APR/LDP combinations with the majority of those favoring either a 10%/10% or 15%/10% program.

4. *Haying and Grazing of Conservation Use Acreage:* Approximately 87% of those commenting favored the haying and grazing of the conservation acreage if an ARP is established.

5. *Establishing Acreage Bases:* With respect to establishing the wheat acreage bases, 21% favored using the total acreage cultivated on a farm, 17% favored using the 1982 base for both participants and non-participants in the program, 11% favored using as the base the normal crop acreage which has been established under prior programs, and the remainder of the comments specified other methods for establishing bases. However, all comments favored using some type of historical planted acreage as the base.

6. *Offsetting Compliance:* With respect to offsetting compliance as a program requirements if an ARP is established, 53% opposed requiring it and 47% were in favor of offsetting compliance.

A number of the determinations with respect to the wheat program are required to be made by Section 107B(e)(1) of the 1949 Act not later than August 15 prior to the calendar year in which the crop is harvested. On July 14, 1982, the Secretary announced by press release the various program determinations for the 1983 crop of wheat. However, the Omnibus Budget Reconciliation Act of 1982 amended the 1949 Act which required that the Secretary change some of the previously announced program provisions. Therefore, on August 27, 1982, the Secretary announced by press release the new program provisions. The purpose of this notice is to affirm the program determinations which have previously been announced on August 27, 1982. Thus, it has been determined that no further public rulemaking is required which respect to the following determinations:

Determinations

1. *Loan and Purchase Level:* In accordance with Section 107B(a) of the 1949 Act, it has ben determined that the loan and purchase rate for 1983-crop wheat is $3.65 per bushel since this level will best maintain the competitive relationship of wheat to other grains in domestic and foreign markets after taking into consideration the cost of producing wheat, supply and demand conditions, the world prices for wheat.

2. *Established "Target" Price:* In accordance with Section 107B(1)(C) of the 1949 Act, it has been determined that the established (target) price for wheat is $4.30 per bushel, which is the minumun statutory level.

3. *Acreage Reduction Program (ARP).* In accordance with Section 107B(e)(2) of the 1949 Act, it has been determined that a 20 percent reduction shall be applicable to the acreage planted to wheat in 1983. Producers will be required to reduce their acreage bases by 15 percent for the acreage reduction program and 5 percent for the land diversion program for a total of a 20 percent reduction. Producers will be required to reduce their acreage by the combined total of the acreage reduction and the land diversion program in order to be eligible for loans, purchases, and payments for the 1983 crop of wheat. The Secretary has determined that the total supply of wheat, in the absence of such limitations, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. This option was selected because it provides the best balance between the multiple objectives of providing adequate wheat supplies for domestic and foreign utilization, while maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

Land designated for conservation use must be cropland that was devoted to row crops or small grains in two of the last three years, except that for land to be designated that is in a summer fallow rotation, the requirement is one of the last two years.

Eligible land on which permanent conservation practices were established in 1982 or a subsequent year will be eligible for designation as conservation use acreage under any acreage reduction, set-aside, or diversion program authorized by the 1949 Act as long as the practice is maintained. These conservation practices will be eligible for cost-sharing payment under the Agricultural Conservation Program.

4. *Set-Aside Program.* In accordance with Sections 107B(e) (1) and (3) of the 1949 Act, it has been determined that there will be no set-aside program for the 1983 crop of wheat.

5. *Land Diversion Program (LDP).* In accordance with Section 107B(e)(5) of the 1949 Act, it has been determined that land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Therefore, such payments will be made for the 1983 crop of wheat at $2.70 per bushel times the program yield times the acreage diverted for the 5 percent land diversion program.

6. *National Program Acreage.* In accordance with Section 107B(c)(1) of the 1949 Act, it has been determined that the NPA will not be applicable for the 1983 crop of wheat since an acreage reduction program has been announced.

7. *Voluntary Reduction Percentage.* In accordance with Section 107B(c)(3) of the 1949 Act, it has been determined that the voluntary reduction percentage will not be applicable for the 1983 crop of wheat since an acreage reduction program has been announced.

8. *Grazing and Haying of Designated APR Acreage.* In accordance with Section 107B(e)(4) of the Act, it has been determined that wheat producers shall not be permitted to hay or plant alternate crops on the designated ARP acreage. Grazing of the conservation use acreage will be authorized during the six principal non-growing months as determined by the State ASC committees.

9. *Special Haying and Grazing Program.* In accordance with Section 109 of the 1949 Act, it has been determined that there will be no special haying and grazing program for the 1983 crop of wheat.

10. *Offsetting Compliance.* Offsetting compliance will not be required as a condition of eligibility in order for a wheat producer to participate in the 1983 acreage reduction and land diversion programs.

11. *Advance Payments.* Producers, at the time they sign up for the program, may request an advance of 50 percent of the diversion payment and of any projected deficiency payment. The rate of the advance payment for the deficiency payment portion will be 32.5 cents per bushel, which is 50 percent of the estimated 1983 deficiency payment rate. A producer accepting an advance payment, but who later does not comply with program provisions, must refund the amount of the advance payment with interest. Interest charged will be the rate in effect for commodity loans on the date of the advance payment, plus five percentage points.

(Secs. 107B, 107C, 109, 1001; 95 Stat. 1221, as amended 96 Stat. 966, 91 Stat. 950, as amended, (7 U.S.C. 1445b–1, 1445d. and 1309)).

Signed in Washington, D.C., May 5, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-12658 Filed 5-10-83; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Applications For Loan Guarantees

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces that applications by private lending institutions are now being accepted, and EDA may approve the guarantee of up to 90% of the principal and interest of loans to be made to private borrowers for the purchase of fixed assets and/or for working capital purposes.

DATE: Effective date: May 11, 1983.

FOR FURTHER INFORMATION CONTACT:

For Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Pureto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia: Edward J. Morris, Chief, Business Loans Division, Philadelphia Regional Office, Federal Reserve Bank Building, 105 North 7th Street, Room 600, Philadelphia, Pennsylvania 19106 (215) 597–7538.

For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: M. Fred Coon, Chief, Business Loans Division, Atlanta Regional Office, 1365 Peachtree Street, NE., Suite 700, Atlanta, Georgia 30309 (404) 881–2841.

For Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Donald Goostrey, Chief, Business Loans Division, Chicago Regional Office, 175 West Jackson Boulevard, Suite A–1630; Chicago, Illinois 60604, (312) 353–8569.

For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Henry N. Troell, Chief, Business Loans Division, Austin Regional Office, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Texas 78701, (512) 482–5217.

For Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Chief, Business Loans Division, Denver Regional Office, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80206 (303) 837–4403.

For Alaska, America Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington: Allan Kozu, Chief, Business Loans Division, Seattle Regional Office, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109 (206) 442–4730.

SUPPLEMENTARY INFORMATION:

A. Amount of Funding Available

Total commitments to guarantee loans not to exceed $150 million of contingent liability for loan principal; total commitments to guarantee loans to steel companies not to exceed $20 million of contingent liability for loan principal are available in fiscal year 1983, which ends September 30, 1983.

B. Type of Financial Assistance

The Economic Development Administration will entertain applications for the guarantee of financial assistance to aid in financing, within an eligible area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion or enlargement of existing buildings by guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph or for working capital purposes upon application of such institution and upon such terms and conditions as the Secretary of Commerce may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

C. Conditions of Assistance

1. Applications shall be submitted only by private lending institutions ("the applicant") for the guarantee of loans to private borrowers. EDA will work with the applicant in the preparation and submission of an application. Borrowers and other third parties shall work with the applicant in the origination,

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preparation and submision of an application.

2. The project for which financial assistance is sought must be reasonably calculated to provide more than a temporary alleviation of employment or underemployment within the eligible area wherein it is or will be located. Moreover, assistance will normally be limited to projects entaining Federal Government investment exposure of $10,000 or less per job created or saved.

3. No loan shall be guaranteed unless it is determined that there is reasonable assurance of repayment, and that there is adequate collateral to support the loan. The applicant must explain why it is reasonably sure that the borrower will be able to repay the loan, and provide such documentation as EDA may require to support that conclusion.

4. Subject to section 701(5) of the Public Works and Economic Development Act of 1965, as amended, ("the Act"), no guarantee, including renewals or extensions thereof, can exceed a period of twenty-five years. But ordinarily a fixed asset guaranteed loan cannot exceed the weighted average useful life of the project fixed assets. Further, the term of the guaranteed working capital loan generally cannot exceed five years, and the loan should be amortized in full during its term.

5. No guarantee shall be extended when EDA determines that the interest rate is excessive. Although EDA will not establish administrative ceilings on interest rates for guaranteed loans, it may require the applicant to submit information to support the rate charged.

6. The applicant must include forms: (a) signed by the borrower assuring that the financial assistance will not be used to relocate from one labor area to another; (b) evidencing approval of the application by an agency or instrumentality of the State or political subdivision in which the project is located; and (c) evidencing specific findings by the local authority that the project is consistent with an Overall Economic Development Program approved by EDA.

7. The portion of the loan that is not guaranteed by EDA must be at risk throughout the life of the loan. This precludes the applicant from obtaining a guarantee on the unguaranteed portion of the loan either directly or indirectly, including but not limited to compensating balances.

8. EDA will ordinarily not provide over $10 million of face value loan guarantee assistance to a single firm. EDA will ordinarily not accept applications for guarantees of loans with a face value of $550,000 or less.

9. Pursuant to the authority of Office of Management and Budget Circular A-70, EDA will charge a guaranty fee of one half of one percent per annum of the outstanding EDA contingent liability, payable on a quarterly basis.

10. For guaranteed fixed assets loans, EDA requires an equity contribution of at least fifteen percent (15%) of the aggregate project cost. This requirement may be satisfied through the contribution of equity capital, or the contribution of the proceeds of a standby loan which would ordinarily be repayable only after the loan guaranteed by EDA has been paid in full, and if such standby loan is secured, the security shall be subordinate and inferior to the lien or liens securing the loan guaranteed by EDA.

For guaranteed working capital loans, in addition to the requirements contained in 13 CFR 306.14 (c), EDA requires the firm to have a minimum equity position of at least 20% of the firm's total debt (including all debt associated with the proposed project), or contribute at least 15% of working capital requirements through new equity contributions.

11. Fees and charges levied for services provided by a party with no interest in the applicant in conjunction with the origination or preparation of a loan are an allowable project cost, if the amount of the levy is found to be reasonable and appropriate. These levies are generally related to accounting, legal, engineering, appraisal, or packaging services. "Finder's fees" will not be considered appropriate and are not an allowable project cost. Payment of fees and charges may not be contingent upon loan approval. EDA will require full disclosure of all fees and charges.

12. EDA may guarantee up to 90% of the face value of a loan. However, the applicant shall submit to EDA justification for the percent guarantee requested, including why a lesser guarantee percent would not be acceptable. EDA shall give priority consideration to those projects which propose an EDA guarantee of 75% or less.

13. Ordinarily, EDA will not accept an applicant for a loan guarantee from an applicant who has existing financing extended to the borrower. Such relationships could create conflicts of interest inconsistent with EDA's interests in the applicant's servicing of the loan for which a guarantee is sought.

14. An independent technical and economic feasibility report will be required for applications for new ventures involving a total project cost of $1 million or more; an independent economic feasibility report will be required for applications for projects involving tourism or recreational facilities.

D. Information To Be Submitted by the Applicant

Appropriate evidence obtained from private borrowers shall be submitted by the private lending institution with the application to show compliance with the following conditions:

1. No guarantees shall be extended hereunder unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of EDA will permit the accomplishment of the project.

2. Name Check forms CD-346 for each officer, the chief financial officer, and for each individual owning or controlling at least 20% of the enterprise.

3. Other statutory requirements such as loan guarantees are subject to include:

a. Davis-Bacon Act, as amended, 40 U.S.C. 276a—276(a) (5).

b. The Architectural Barriers Act of 1964, as amended, 42 U.S.C. 4151—4156; See 13 CFR 309.14.

c. The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 40001 *et seq.*

E. Program Priorities

EDA shall give priority consideration to otherwise acceptable applications that exhibit all of the following characteristics:

1. EDA guarantee liability is 75% or less.

2. The financing is for the purchase of fixed assets for business expansion or export development.

3. The project does not involve real estate development.

4. The job/cost ratio is $7,500 or less.

F. Ongoing Applicant Reponsibilities

Upon approval of a guaranteed loan, applicant responsibilities shall include but are not limited to:

1. Executing such care and diligence in the disbursement, servicing, collection and liquidation of the guaranteed loan as would be exercised by a reasonable and prudent commercial bank in dealing with a loan of its funds without guarantee.

2. In the event of the subsequent failure of the project, unless EDA elects otherwise, conducting the liquidation of the failed project prior to making demand on EDA for payment under the EDA guarantee.

G. Application Materials

In addition to a completed application form, the application materials submitted to EDA shall include, but are not limited to, the following:

1. Documentation and accompanying analysis of the basis used to determine reasonable assurance of repayment and adequate collateral coverage. Such documentation shall include:

(a) at least three (3) years historical financial and operating statements of the borrower, as well as pro forma financial and operating statements on a month by month basis for the first year and quarterly basis for the next two (2) years;

(b) current appraisal or estimate of value of the collateral to support the loan.

2. One copy each of the proposed loan agreement between the applicant and the borrower and of the proposed Note evidencing the indebtedness.

3. Audited current financial statements of the borrower prepared in accordance with generally accepted accounting principles.

4. Documentation, statisfactory to EDA, that the guaranteed loan will not create unfair competition within the meaning of section 702 of the Act.

H. Date for Application Submission

Completed applications should be submitted as soon as possible but not later than July 29, 1983. Applications submitted after July 29, 1983 cannot be assured of processing.

I. Approvals of Applications

Approval or disapproval of applications will be announced on or before September 30, 1983.

J. In the event there are any inconsistencies between the material contained in this notice and the Economic Development Administration Directives System, the material in this notice shall prevail.

K. In addition, all EDA loan guarantees are subject to pertinent statutory and regulatory requirements contained in Pub. L. 89-136, 42 U.S.C. 3142-3246(h) and 13 CFR Parts 306 and 309.

Dated: April 25, 1983.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 83-12009 Filed 5-10-83; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Docket No. 13-83]

Proposed Foreign-Trade Zone—Birmingham, Alabama; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Birmingham, Alabama, requesting authority to establish a general-purpose foreign-trade zone in Birmingham, within the Birmingham Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zone Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 2, 1983. The applicant is authorized to make this proposal under Act No. 498, House Bill 1158, Bound Acts of Alabama, 1977.

The proposed zone will be located at the City's Airport Industrial Park, which covers 116 acres on Lake Boulevard and Birmingham Street, adjoining the 1600-acre Birmingham Municipal Airport complex. A general-purpose building is planned to accommodate initial zone activity. Space is also available for firms requiring separate facilities.

The application contains evidence of the need for zone procedures in the Birmingham area. Several firms have indicated an interest in using the zone for warehousing/distribution of such products as steel bars, fabricated steel products, filtration systems and components, industrial valves, controls, auto service equipment and components, furniture, alcohol, and games. No approvals are being requested for manufacturing at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Garnet Fee, District Director, U.S. Customs Service, South Central Region, 250 N. Water Street, P.O. Box 2748, Mobile, AL 36601; and Colonel Patrick J. Kelly, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2288, Mobile, AL 36628.

As part of its investigation, the examiners committee will hold a public hearing on June 3, beginning at 9:00 a.m., in the City Council Chambers, City Hall, 710 20th Street North, Birmingham.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by May 27. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 5, 1983.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Suite 200-201, 408 S. 20th Street, Birmingham, AL 35205

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: May 5, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-12011 Filed 5-10-83; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Computer System Parameters.

Form Numbers: Agency—ITA 6031P, 6031A-P, EAR 376.10 OMB-0625-0038.

Type of Request: Revision.

Burden: 2,020 respondents; 1,535 reporting hours.

Needs and Uses: The information required by these forms is used by the Office of Export Administration to determine whether an application for a validated license to export a computer or related equipment to the Soviet Union, Eastern Europe, or the People's Republic of China should be approved or denied.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: International Trade Administration.

Title: International Import Certificate.

Form Numbers: Agency—ITA-64645P; OMB—0625-0064.

Type of Request: Extension.

Burden: 500 respondents; 2,500 reporting hours.

Needs and Uses: By using this form, a U.S. importer certifies to the government of an

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exporting country that he will import certain specific commodities, and that he will not re-export such commidities except in accordance with the export control regulations of the importing country. This procedure was developed as a result of the efforts of the U.S. and other countries to increase effectiveness of their controls over international trade in strategic commodities.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration.

Title: Reports on General License Exports of U.S. Origin Commodities Imported for Servicing.

Form Numbers: Agency—EAR 371.17(a)(4); OMB—0625.0066.

Type of Request: Extension.

Burden: 50 respondents; 83 reporting hours.

Needs and Uses: This procedure permits exporters to return commodities to communist countries without a validated license, after such commodities have been repaired or serviced in the U.S. The goods were originally shipped to the communist country under a validated license and then returned to the U.S. for repair or servicing.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration.

Title: Report on Destruction or Proof of Return to U.S. or to Foreign Service Facility.

Form Numbers: Agency—EAR 371.17(f)(3)(IV) and (V); OMB—0625–0068.

Type of Request: Extension.

Burden: 100 respondents; 400 reporting hours.

Needs and Uses: This procedure permits commodities to be exported to communist destinations under a general license authorization to replace defective or unacceptable U.S. parts or equipment that were previously exported from the U.S. under a validated export license. The commodity to be replaced must either be destroyed abroad or returned to the U.S. or to a foreign firm owned or controlled by the U.S. exporter that is providing the replacement part or equipment.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration.

Title: Monthly Report on Exports of Parts to Service Equipment Shipped Against a Validated License.

Form Numbers: Agency—EAR 376.4(d); OMB—0625–0067.

Type of Request: Extension.

Burden: 100 respondents; 200 reporting hours.

Needs and Uses: This procedure permits an exporter to ship parts needed to service equipment previously sent to consignees in communist destinations where export controls are imposed for national security reasons.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Ken Allen, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83–12808 Filed 5–10–83; 8:45 am]

BILLING CODE 3510–CW–M

Committee for the Implementation of Textile Agreements

Request for Public Comment on Bilateral Textile Consultations With the Government of Malaysia To Review Trade in Category 341

May 6, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On April 27, 1983 the Government of the United States requested consultations with the Government of the Malaysia with respect to Category 341 (women's girls', and infants' woven cotton blouses). This request was made on the basis of the Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and the Malaysia relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments within 60 days of the request for consultations, the Committee for the Implementation of Textiles Agreements may establish a specific limit of 216,865 dozen for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 341, produced or manufactured in Malaysia and exported to the United States during the twelve-month period with began on April 27, 1983 and extends through March 26, 1984.

The Government of the United States reserves the right under the Agreement to invoke import controls on this category during the 60-day consultation period (April 27, 1983–June 25, 1983) at a level of 54,216 dozen and during the twelve-month period beginning on April 27, 1983 at a level of 216,865 dozen.

Any party wishing to comment or provide data or information regarding the treatment of Category 341 under the bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement with the Government of Malaysia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 341, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitue "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–12810 Filed 5–10–83; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF EDUCATION

Applications for Fellowships for Fiscal Year 1983

AGENCY: National Institute of Handicapped Research, ED.

ACTION: Application Notice for Transmittal of Applications for Fellowships for Fiscal Year 1983.

Applications are invited for Fellowships in Handicapped Research under the National Institute of Handicapped Research (NIHR).

Authority for this program is contained in Section 202(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602 (29 U.S.C. 761a(d)).

Closing Date for Transmittal of Applications: Applications for fellowships must be mailed or hand delivered by July 1, 1983.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133F, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C., time), daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The National Institute of Handicapped Research was established to provide for a comprehensive and coordinated approach to the conduct of research and related activities for the rehabilitation of handicapped individuals. The Institute's major responsibilities include administering research programs, disseminating information acquired through research, participating in international rehabilitation programs, and chairing an Interagency Committee to promote coordination of all Federal policies and priorities for research related to rehabilitation of handicapped individuals.

The Institute is also authorized to establish and maintain fellowships to procure the assistance of highly qualified research fellows to perform research activities in rehabilitation.

Fellows may conduct research in any areas included in Section 204 of Title II of the Rehabilitation Act of 1973, as amended.

Under this program fellowship awards will be made to highly qualified individuals whose training and experience indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of handicapped persons. (See 34 CFR 356.2) Fellows may work at any setting which is appropriate to the conduct of the research.

Individuals applying for research fellowships will be evaluated on the basis of: Quality and level of formal education; work experience; recommendations of former or present supervisors or colleagues; and on the basis of other independent evidence of an ability to work creatively in a field selected by the applicant, which must include a research proposal submitted to NIHR. (See 34 CFR 356.30) Fellowship applications will be reviewed in accordance with the peer review requirements governing NIHR's research fellowship program. (See 34 CFR 356.21)

Fellows are required to submit a final report which contains, as a minimum, an analysis of the significance of the project and an assessment of the degree to which the objectives of the project have been achieved. (See 34 CFR 356.51) Publication, distribution, and disposition of all manuscripts and other materials resulting from the fellowship awarded must acknowledge assistance received from the Department and the Institute. Three copies of these publications or other materials must be furnished to NIHR. (See 34 CFR 356.42)

Available Funds: NIHR has reserved funds to award up to ten fellowships which will include stipends of $25,000 to $30,000 per year plus an allowance of $1,500 to be used by the Fellow for expenses connected with the fellowship including travel and transportation, tuition, fees, supplies, attendance at meetings required to carry out the purpose of the fellowship, and other related expenses. (See 34 CFR 356.50) The amount of the fellowship stipend will be determined by the education and experience levels of the fellow. Senior Fellowships, at $30,000, will be awarded to professionals at mid-career or later; Junior Fellowships of $25,000 will be awarded to scholars with less professional experience.

These estimates, however, do not bind the U.S. Department of Education to a specific number of fellowships or to the amount of any fellowship unless that number is specified in statute or regulations.

The fellowships will be for a one-year period, beginning September 30, 1983. (See 34 CFR 356.40) Fellows will be required to devote full-time to the fellowship activity.

Application Procedures: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mary E. Switzer Building, Room 3511, 330 C Street, SW., Washington, D.C. 20202 (Attention: Fellowship Unit), Telephone: 202–245–0517.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or other performance requirements beyond those imposed under the statute and regulations.

In addition to the research proposal, applicants must also submit evidence of quality and level of formal education, work experience, and recommendations of former or present supervisors or colleagues, and other independent evidence that indicates an ability to work creatively in scientific research, as specified in the Regulations governing the NIHR fellowship program (34 CFR Part 356.3).

Applicable Regulations: Regulations governing the program are: The National Institute of Handicapped Research Regulations (34 CFR Part 356).

Candidates for fiscal year 1983 fellowships should base their applications on Section 202(d) of the Act, applicable NIHR regulations in 34 CFR Part 356, and this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Rheable Edwards, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3511, 330 C Street, SW., Washington, D.C. 20202, Telephone: 202/245–0517, TTY for deaf individuals 202/473–4217.

(29 U.S.C. 762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

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Dated: May 6, 1983.

George A. Conn,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 83-12872 Filed 5-10-83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional eligibility. It also describes the functions of the Committee. Notice of this meeting is required under the Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend and to participate.

DATES: June 14, 1983, 9:00 a.m. to 5:00 p.m., local time; June 15, 8:30 a.m. to 5:30 p.m.; and June 16, 9:00 a.m. to 3:00 p.m. Requests for oral presentations before the Committee must be received on or before May 31, 1983. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington Virginia.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030 ROB-3), U.S. Department of Education, Washington, D.C. 20202 (202-245-9873).

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by Section 1205 of the Higher Education Act as amended by Pub. L. 96-374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs. The meeting on June 14-16 will be open to the public. The meeting will be held at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia. On June 14, the Advisory Committee's Ad Hoc Committee will review comments and hear oral presentations from the public regarding the essay published by the Carnegie Foundation for the Advancement of Teaching, *Control of the Campus*. The oral input from the public regarding the essay will be scheduled from 1:30 p.m. to 3:00 p.m. On June 15, the Committee will review petitions by the following accrediting and State approval agencies relative to initial or continued recognition by the Secretary of Education. The Committee will also hear presentations by representatives of the petitioning agencies and interested third parties. The agencies having petitions pending before the Committee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations.

A. *Petitions for Initial Recognition.* National Association of Private Nontraditional Schools and Colleges.

U.S. Catholic Conference, Board of Examiners.

B. *Petitions for Continuation of Recognition.* Accrediting Council on Education in Journalism and Mass Communication, Accrediting Committee.

American Bar Association, Council of the Section of Legal Education and Admissions to the Bar.

C. Petition for Expansion of Scope of Recognition. American Optometric Association, Council on Optometric Education.

Petitions for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. *Petition for Initial Recognition.* Delaware State Agency for the Approval of Postsecondary Vocational/Technical Educational Institutions and Programs.

B. *Petition for Continuation of Recognition.* Oklahoma State Board of Vocational and Technical Education.

A portion of this meeting will be used by the Advisory Committee to make final recommendations to the Secretary on agencies reviewed under a special procedure. The list of agencies and a description of the procedure were published in the **Federal Register** on May 5, 1983.

On June 16, the Ad Hoc Committee will present its recommendations regarding the essay, *Control of the Campus*, to the full Advisory Committee for review and the Committee will also discuss other policy items.

Request for oral presentations before the Committee should be submitted in writing to Richard J. Rowe (address as above). Requests should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Requests must be received on or before May 31, 1983. Time constraints may limit oral presentations. However, all written material will be considered by the Advisory Committee.

A record will be made of the proceedings of the meeting and will be available for public inspection at the office of the Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030 ROB-3), U.S. Department of Education, Washington, D.C. 20202 (202-245-9873) from the hours of 8:00 a.m. to 4:30 p.m.

Dated: May 6, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-12612 Filed 5-10-83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Vocational Education; Meeting Change

AGENCY: National Advisory Council on Vocational Education.

ACTION: Amendment of notice.

SUMMARY: This document is intended to notify the general public of changes in date and time of a meeting in FR Doc. 83-11577 in the issue of Monday, May 2, 1983, on Page 19771, second column. The **DATE** line should read "May 12, 1983, 8:30 A.M. to 4:30 P.M."

Signed at Washington, DC on May 9, 1983.

James W. Griffith,

Executive Director.

[FR Doc. 83-12813 Filed 5-10-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Canada; International Atomic Energy Agreement on Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-CA-336, to Atomic Energy of Canada, Ltd., 50 milligrams of thorium-230, for use in the mass spectrometic analysis of thorium-uranium oxide and of thorium-plutonium oxide fuels from CANDU and research reactor fuels.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 5, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-12586 Filed 5-10-83; 8:45 am]

BILLING CODE 6450-01-M

Canada; International Atomic Energy Agreement on Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-CA-335, to Atomic Energy of Canada, Ltd., 3.74 grams of plutonium-238, for use in the study of changes in the properties of glass subject to radiation exposure over a period of several years.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 5, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-12588 Filed 5-10-83; 8:45 am]

BILLING CODE 6450-01-M

European Atomic Energy Community; International Atomic Energy Agreement on Civil Uses; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S-EU-758, to the Transurane Institute, the Federal Republic of Germany, 5,000 milligrams of uranium-233, and 10 milligrams of plutonium-242, for use as a standard for isotopic dilution analyses.

Contract Number S-EU-771, to the Transurane Institute, the Federal Republic of Germany, 0.025 grams of plutonium-239, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days aftr the date of publication of this notice.

For the Department of Energy.

Dated: May 5, 1983.

George J. Bradley, Jr.

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-12586 Filed 5-10-83; 8:45 am]

BILLING CODE 6450-01-M

Japan; International Atomic Energy Agreement on Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale:

Contract Number S-JA-333, to Japan Nuclear Fuel Co., Ltd., Kanagawa-Ken, Japan, 545.18 grams of uranium, enriched to 1.85% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 5, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-12587 Filed 5-10-83; 8:45 am]

BILLING CODE 6450-01-M

Solicitation for Cooperative Agreement Proposals for Licensed In-Basin Rod Consolidation Storage Demonstration Program

AGENCY: Richland Operations Office, Commercial Spent Fuel Management Program Office, DOE.

ACTION: Notice of solicitation and preproposal conference.

SUMMARY: In accordance with the Nuclear Waste Policy Act of 1982, the Department of Energy (DOE), Richland Operations Office (RL) is issuing a Solicitation for Cooperative Agreement Proposals (SCAP), No. DE-SC06-83RL10433, for licensed in-basin rod consolidation storage demonstrations. The proposed cooperative agreements will be limited to domestic utilities currently operating civilian nuclear power reactors in the United States. A one-day preproposal conference will be held at the U.S. Department of Energy, Richland Operations Office, Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington in early June 1983.

It is anticipated that the Government will share the cost of one or two cooperative agreements by providing in-kind services.

ADDRESSES: Single copies of the solicitation document and further information on the preproposal conference can be obtained from: U.S. Department of Energy, Richland Operations Office, Attn: Connie S.

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Martin, P.O. Box 550, Richland, WA 99352, (509) 376–6633.

SUPPLEMENTARY INFORMATION: The date and time of the preproposal conference will be announced in the solicitation package. Interested parties will be given an opportunity to submit written questions, comments, and suggestions to DOE at the scheduled conference. Attendance at the preproposal conference is encouraged. However, attendance is neither required nor is it a prerequisite for receiving the solicitation or for making application for award.

Issued in Washington, D.C. on May 5, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83–12583 Filed 5–10–83; 8:45 am]

BILLING CODE 6450–01–M

Solicitation for Cooperative Agreement Proposals for Licensed At-Reactor Spent Nuclear Fuel Dry Storage Demonstration Program

AGENCY: Richland Operations Office, Commercial Spent Fuel Management Program Office, DOE.

ACTION: Notice of solicitation and preproposal conference.

SUMMARY: In accordance with the Nuclear Waste Policy Act of 1982, the Department of Energy (DOE), Richland Operations Office (RL) is issuing a Solicitation for Cooperative Agreement Proposals (SCAP) No. DE–SC06–83RL10432, for licensed at-reactor spent nuclear fuel dry storage demonstrations, including unlicensed testing at Federal facilities if required. The proposed cooperative agreements will be limited to domestic utilities currently operating civilian nuclear power reactors in the United States. A one-day preproposal conference will be held at the U.S. Department of Energy, Richland Operations Office, Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington in early June 1983.

It is anticipated that the Government will share the cost up to a maximum of 25 percent of the total program cost.

ADDRESSES: Single copies of the solicitation document and further information on the preproposal conference can be obtained from: U.S. Department of Energy, Richland Operations Office, Attn: Richard B. Wallace, P.O. Box 550, Richland, WA 99352, (509) 376–8501.

SUPPLEMENTARY INFORMATION: The date and time of the preproposal conference will be announced in the solicitation package. Interested parties will be given an opportunity to submit written questions, comments, and suggestions to DOE at the sheduled conference. Attendance at the preproposal conference is encouraged. However, attendance is neither required nor is it a prerequisite for receiving the solicitation or for making application for award.

Issued in Washington, D.C. on May 5, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83–12584 Filed 5–10–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

National Petroleum Council, Coordinating Subcommittee on Petroleum Inventories and Storage Capacity; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Coordinating Subcommittee of the Committee on Petroleum Inventories and Storage Capacity.

Date and time: Wednesday, June 15, 1983—8:30 a.m.

Place: The Marathon Oil Company Research Center, In the Auditorium, 7400 South Broadway, Littleton, Colorado.

Contact: Jimmie L. Petersen, Director, Office of Oil and Gas, Energy Information Administration, U.S. Department of Energy, Forrestal Building—Room 2H–058, Washington, D.C. 20585, Telephone: 202–252–6401.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to petroleum inventories and petroleum product storage capacities.

Tentative Agenda:

- Review the Coordinating Subcommittee assignment from the NPC Committee on Petroleum Inventories and Storage Capacity.
- Discussion of individual Subcommittee member assignments for the next meeting.
- Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.
- Public Comment.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Jimmie L. Petersen at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of Meeting: As a working subcommittee, verbatim transcripts are not required. Minutes of subcommittee meetings are prepared and are available for review and copying at the Freedom of Information Public Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 3, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83–12580 Filed 5–10–83; 8:45 am]

BILLING CODE 6450–01–M

Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity.

Date and time: Tuesday, June 14, 1983—1:00 p.m.

Place: The Marathon Oil Company Research Center; in the auditorium, 7400 South Broadway, Littleton, Colorado.

Contact: Jimmie L. Petersen, Director, Office of Oil and Gas, Energy Information Adminstration, U.S. Department of Energy, Forrestal Building—Room 2H–058, Washington, D.C. 20585, telephone: 202–252–6401.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to petroleum inventories and petroleum product storage capacities.

Tentative Agenda:

- Review proposed scope, methdology, and timetable of the task Group's assignment.
- Discussion of individual Task Group member assignments for the next meeting.
- Discussion of any other matters pertinent to the overall assignment of the Task Group.
- Public Comment.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agency items should contact Jimmie L. Petersen at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of Meeting: As a working subcommittee, verbatim transcripts are not required. Minutes of subcommittee meetings are prepared and are available for review and copying at the Freedom of Information Public Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 3, 1983.

J. Erich Evered,

Administrator, Energy Information Administration

[FR Doc. 83–12590 Filed 5–10–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commisssion

[Docket No. ER83–369–000]

Alabama Power Co.; Order Accepting for Filing and Suspending Rates, Denying Summary Disposition, Noting Interventions, and Establishing Hearing Procedures

Issued: May 5, 1983.

On March 7, 1983, Alabama Power Company (APC) tendered for filing revised rates for its municipal and cooperative wholesale customers.[1] The proposed rates would increase revenues from the wholesale customers by approximately $6,814,000 (6.13 percent) based on a calendar 1983 test year.[2] APC proposes an effective date for the rates of May 6, 1983, but, pursuant to the terms of a settlement agreement between APC and its wholesale customers in Docket No. ER82–229–000,[3] APC requests that the Commission suspend the effectiveness of the rates until August 1, 1983.

Notice of APC's filing was published in the **Federal Register**, with responses due on or before March 28, 1983. On March 28, 1983, motions to intervene and protests were filed by the Alabama Municipal Electric Authority and APC's municipal customers (Municipal Customers) [4] and by the Alabama Electric Cooperative, Inc. (AEC) and eleven APC cooperative Customers (Cooperatives).[5] The intervenors have requested a five month suspension and investigation of the proposed rates.[6]

The Municipal Customers seek an investigation of APC's fuel adjustment clause charges. Specifically, the customers allege that APC's fuel clause provides for the recovery of the entire energy cost, as contrasted with only the fuel component of the cost, of energy purchases on an "economic dispatch basis." The Municipal Customers request an investigation to determine whether such energy purchases by APC from its affiliates through the Southern Company central dispatching qualify as economic dispatch purchases under the Commission's regulations. Further, they suggest a departure from the Commission's regulations to allow the credit of the total cost of economy sales in the fuel adjustment calculation rather than only the fuel component of such sales. To support this request, they state that the present situation results in an "undue burden" to them as ratepayers. Also, the Municipal Customers claim that APC's proposed rates will result in a price squeeze.

In addition to the issues raised by the Municipal Customers, the Cooperatives allege that APC's charges for spent nuclear fuel disposal, in both the proposed and past rates, are excessive in light of disposal fees established in the Nuclear Waste Policy Act of 1982 (NWPA), Pub. L. 97–425, 96 Stat. 2201 (1983).[7] The Cooperatives specifically request that APC be required to amend its filing and immediately to make refunds to reflect lower spent nuclear fuel disposal costs for prior periods.

On April 12, 1983, APC filed an answer questioning the scope of the intervenors' request for an investigation of its fuel clause practices. APC states that such an investigation must be only prospective in application. In addition, the company indicates that it has provided in its filing for compliance with the NWPA as soon as appropriate fees and procedures under the Act are determined.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make the Municipal Customers and the Cooperatives parties to this proceeding.

The Commission will deny the Cooperatives' request to require an amended filing by APC and immediate refunds to reflect spent nuclear fuel disposal costs as provided in the NWPA. Because utilities continue to have the responsibility for interim storage of spent fuel, a determination must be made as to whether the utility's current estimate for disposal of spent nuclear fuel is reasonable. In addition, significant issues exist as to an appropriate mechanism for adjusting permanent disposal cost recoveries if warranted based on agreements with DOE under the NWPA. Accordingly, we find that APC's treatment of spent nuclear fuel disposal must be evaluated during the course of an evidentiary hearing. In addition, we note that with respect to the permanent disposal of spent nuclear fuel, APC proposes to continue the procedures approved in the settlement agreement in Docket No. ER82–229–000 until an agreement is reached with DOE concerning the timing

[1] *See* Attachment A for list of customers; rate schedule designations for these customers are shown on Attachment B.

[2] Alabama states that the requested rate increase is principally due to increased expenses and plant investment associated with the completion of the R. L. Harris Hydro-electric Project.

[3] The settlement was approved by order dated december 30, 1982.

[4] The municipal customer include the cities of Alexander City, Dothan, fairhope, Lafayette, Lanett, Opelika, Piedmont, and Troy, Alabama, and the Utilities Boards of the Cities of Foley, Luverne, Sylacauga, and tuskegee.

[5] The eleven Cooperatives include Baldwin County Electric Membership Corporation.; Central Alabama Electic Cooperative, Clarke-Washington Electric Membership Corporation, Coosa Valley Electric Cooperative, Dixie Electric Cooperative, Pea River Electric Cooperative, Pioneer Electric Cooperative, Tallapoosa River Electric Cooperative, Wiregrass Electric Cooperative, Black Warrior Electric Membership Corporation, Tombigbee Electric Cooperative. The cooperatives other than Black Warrior and Tombigbee are members of AEC. Baldwin County and Poineer are former wholesale customers who have requested intervention claiming that they are entitled to refunds with respect to APC's alleged past overcollections associated with spent nuclear fuel disposal costs.

[6] The intervenors have raised a number of cost of service and rate design issues including, *inter alia*, rate of return; the inclusion of non-cash items and other errors in cash working capital computations; excessive depreciation accruals, including fuel stocks; treatment of investment tax credits; unsupported projections; plant held for future use amounts; consistency between cost allocation and rate design; assignment of retail-related expenses; classification of O&M expenses; and treatment of transactions between APC and the Southeastern Power Administration.

[7] Under the Nuclear Waste Policy Act of 1982, utilities are required to pay to the Department of Energy a fee of 1.0 mill per kWh of electricity generated by a civilian nuclear reactor and sold on or after April 7, 1983. For spent nuclear fuel which was used to generate electricity in a civilian nuclear reactor prior to April 7, 1983, the utilities are required to pay a one time fee per kilogram of heavy metal. Such fee will be in an amount equivalent to an average charge of one mill per kWh for electricity generated by such spent nuclear fuel. The permanent disposal sites are expected to be ready by 1998. With respect to the interim storage of spent fuel, the NWPA continues to leave this responsibility to utilities. In the event that a utility cannot provide for nterim storage, then DOE is to provide a limited capacity for such interim storage of spent fuel. Also, the Act provides for the annual revision of fees determined under its terms.

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of payment and the amount of fees for permanent disposal of spent fuel. Further, APC has offered to amend its filing to reflect any revised charges resulting from such an agreement. We believe that the company's proposal is reasonable. However, APC is advised that the revised filing shall be made within thirty days of the date of execution of the contract with DOE. Also, APC will be instructed to calculate the effect of the revised charges in a manner consistent with APC's calendar year 1983 test period.

Our preliminary review of APC's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), the Commission noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed rates may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Our review of the instant filing indicates that the proposed rates may produce substantially excessive revenues. Under these circumstances, we shall suspend the rates for five months from the proposed effective date, to become effective, subject to refund, on October 6, 1983.

With regard to APC's fuel adjustment clause, the Commission notes that issues identical to those now raised by the intervenors were previously identified by the customers in Docket No. ER82–229–000 which involved essentially the same fuel clause. Because the proceeding in that docket was settled without an examination of the factual or legal merits of the customers' allegations, these questions, along with the other matters raised by the customers, should be considered during the evidentiary proceeding ordered below. Finally, we agree with APC's contention that any relief resulting from an investigation into its fuel clause provisions should only be ordered from the effective date of the proposed rate increase.[*]

[*] We previously resolved this issue in Docket No. ER81–95–000 (14 FERC ¶ 61,001 at p. 61,002), based on the same settlement provision as that included in the settlement agreement in Docket No. ER82–229–000.

In light of the Municipal Customers' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339–000, 8 FERC ¶ 61,131 (1979).

The Commission orders:

(A) The Cooperatives' request for summary disposition with respect to spent nuclear fuel disposal costs is hereby denied.

(B) APC's submittal is hereby accepted for filing and suspended for five months from the proposed effective date, to become effective, subject to refund, on October 6, 1983.

(C) APC is hereby required to make its revised filing which reflects the charges for permanent disposal of spent nuclear fuel within thirty (30) days of the execution of an agreement with DOE pursuant to the NWPA. Such charges shall be calculated in a manner consistent with APC's calendar year 1983 test period.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of APC's rates.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service to top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause shown. The price squeeze claim shall be governed by § 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Wholesale Customers of Alabama Power Company

Municipals

City of Alexander City
City of Dothan
City of Evergreen
City of Fairhope
Utilities Board of the City of Foley
City of Hartford
City of Lafayette
City of Lanett
Electric Board of the City of Luverne
City of Opelika
City of Piedmont
City of Robertsdale
Utilities Board of the City of Sylacauga
City of Troy
Utilities Board of the City of Tuskegee

Electric Membership and Electric Cooperative Corporations

Black Warrior Electric Membership Corporation
Central Alabama Electric Cooperative, Inc.
Clarke-Washington Electric Membership Corporation
Coosa Valley Electric Cooperative, Inc.
Dixie Electric Cooperative, Inc.
Pea River Electric Cooperative, Inc.
Tallapoosa River Electric
Tombigbee Electric Cooperative, Inc.
Wiregrass Electric Cooperative, Inc.

Attachment B—Alabama Power Company

Docket No. ER83–369–000

Rate Schedule Designations

Designation	Description
FPC Electric Tariff, Original Volume No. 1	
(1) Seventh Revised Sheet No. 2 (Supersedes Sixth Revised Sheet No. 2).	Table of Contents
(2) Fourth Revised Sheet No. 2–A (Supersedes Third Revised Sheet No. 2–A).	Table of Contents Continued.
(3) Third Revised Sheet No. 3 (Supersedes Second Revised Sheet No. 3).	Preliminary Statement
(4) Tenth Revised Sheet No. 5 (Supersedes Ninth Revised Sheet No. 5).	Revision No. 6 Rate Schedule REA–1
(5) Eighth Revised Sheet No. 5–A (Supersedes Seventh Revised Sheet No. 5–A).	Do
(6) Tenth Revised Sheet No. 7 (Supersedes Ninth Revised Sheet No. 7).	Fuel Cost Adjustment.

Designation	Description
(7) Seventh Revised Sheet No. 7–A (Supersedes Sixth Revised Sheet No. 7–A).	Do.
(8) Third Revised Sheet No. 7–B (Supersedes Second Revised Sheet No. 7–B).	Do.
(9) Tenth Revised Sheet No. 8 (Supersedes Ninth Revised Sheet No. 8).	Revision No. 6 Rate Schedule MUN–1.
(10) Eighth Revised Sheet No. 8–A (Supersedes Seventh Revised Sheet No. 8–A).	Revision No. 6 Rate Schedule MUN–1.
(11) Tenth Revised Sheet No. 10 (Supersedes Ninth Revised Sheet No. 10).	Fuel Cost Adjustment.
(12) Seventh Revised Sheet No. 10–A (Supersedes Sixth Revised Sheet No. 10–A).	Do.
(13) Third Revised Sheet No. 10–B (Supersedes Second Revised Sheet No. 10–B).	Do.
(14) Eighth Revised Sheet No. 32 (Supersedes Seventh Revised Sheet No. 32).	Index of Purchasers Revision No. 6 Rate Schedules REA–1 and MUN–1.
(15) Eighteenth Revised Sheet No. 34 (Supersedes Seventeenth Revised Sheet No. 34).	Do.
(16) Twentieth Revised Sheet No. 35 (Supersedes Nineteenth Revised Sheet No. 35).	Do.
(17) Twelfth Revised Sheet No. 36 (Supersedes Eleventh Revised Sheet No. 36).	Do.
(18) Twentieth Revised Sheet No. 37 (Supersedes Nineteenth Revised Sheet No. 37).	Do.
(19) Seventeenth Revised Sheet No. 38 (Supersedes Sixteenth Revised Sheet No. 38).	Do.
(20) Thirteenth Revised Sheet No. 39 (Supersedes Twelfth Revised Sheet No. 39).	Do.
(21) Fourth Revised Sheet No. 40 (Supersedes Third Revised Sheet No. 40).	Do.

[FR Doc. 83–12564 Filed 5–10–83; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 5908–001]

City of Ocean Shores, Washington; Surrender of Preliminary Permit

May 5, 1983.

Take notice that City of Ocean Shores, Washington, Permittee for the proposed West Fork Humptulips River Project No. 5908, has requested that its preliminary permit be terminated. The permit was issued on August 25, 1982, and would have expired on February 28, 1984. The project would have been located on West Fork Humptulips River, in Grays Harbor County, Washington.

The Permittee filed its request on March 1, 1983, and the surrender of the preliminary permit for Project No. 5908 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12555 Filed 5–10–83; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 5869–001]

East Lexington Hydro Associates; Surrender of Preliminary Permit

May 5, 1983.

Take notice that East Lexington Hydro Associates, Permittee for the proposed East Lexington Hydro Project No. 5869, has requested that its preliminary permit be terminated. The permit was issued on September 16, 1982, and would have expired on February 29, 1984. The project would have been located on the Maury River near Lexington, in Rockbridge County, Virginia.

The Permittee filed its request on April 8, 1983, and the surrender of the preliminary permit for Project No. 5869 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12558 Filed 5–10–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TA83–2–33–001]

El Paso Natural Gas Co., Compliance Purchased Gas Cost Adjustment Filing

May 5, 1983.

Take notice that on April 29, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act and in compliance with the Commission's order issued March 31, 1983 at Docket No. TA83–2–33–000, *et al.*, the following tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1.	Third Substitute Thirty-third Revised Sheet No. 3–B. Eleventh Revised Sheet No. 67–D. Fifth Revised Sheet No. 67–D.1. Original Sheet No. 67–D.1a.
Third Revised Volume No. 2.	Third Substitute Twenty-fourth Revised Sheet No. 1–D.
Original Volume No. 2A.	Third Substitute Twenty-fifth Revised Sheet No. 1–C.

The Commission's March 31, 1983 order, among other things, conditionally accepted, effective April 1, 1983 subject to refund, certain revised tariff sheets included in El Paso's notice of rate change filed March 1, 1983 under the tab denominated "TA83–2–33 Tariff Sheets" which reflected a net increase of 2.93¢ per Mcf in rates for jurisdictional gas service rendered to customers under rate schedules affected by and subject to the Purchases Gas Cost Adjustment Provision ("PGA") in El Paso's Original Volume No. 1 Tariff. Ordering paragraphs (C), (E), (F) and (J), respectively, of said order directed El Paso to file, within thirty days of the date of issuance thereof, (i) actual purchase volume information covering the six-month period from July 1, 1982 through December 31, 1982; (ii) workpapers to support certain adjustments to Account 191 and certain amounts related to transportation, gas well royalties and production tax trackers; (iii) revised tariff sheets reflecting elimination of any interperiod tax effect related to transportation revenues and revenues associated with the special retroactive adjustment related to gas sales to Petroleos Mecicanos included in Account 191,; and (iv) revisions to its PGA with respect to the treatment of revenues related to the purchased gas cost component of minimum bills.

In compliance with ordering paragraph (F) of the Commission's March 31, 1983 order, El Paso states that it has recalculated the unrecovered purchased gas cost surcharge included in its March 1, 1983 PGA notice of rate change to eliminate any interperiod tax effect related to transportation revenues and revenues from sales to Petroleos Mexicanos. After such adjustment, El Paso states that the instant filing provides for a net adjustment in its rates of 2.92¢ per Mcf (equivalent to $.0277 per dth) as compared to the net adjustment of 2.93¢ per Mcf (equivalent to $.0278 per dth) initially proposed in the March 1, 1983 PGA filing which reduction is reflected in the rates set forth on tendered Sheet Nos. 3–B, 1–D and 1–C. Additionally, the rates set forth on said tariff sheets differ from those filed at Docket No. TA83–2–33–000 in that they have been adjusted to reflect (i) a decrease in Base Tariff Rates, (ii) conversion from a volumetric to a thermal basis for billing, (iii) implementation of a two-part rate for El Paso's California customers and three largest east-of-California customers, and (iv) cancellation of Rate Schedule G–X, which changes were effectuated April 1, 1983 pursuant to the provisions of the "Offer of Interim Settlement" filed March 15, 1983 and approved on an interim basis by Commission letter order dated March 31, 1983 at Docket No. RP82–33, *et al.* In compliance with ordering paragraph (J), El Paso tendered Eleventh Revised Sheet No. 67–D, Fifth Revised Sheet No. 6–D.1 and Original Sheet No. 67–D.1a reflecting revisions to its PGA clause to specify treatment of revenues associated with the gas cost component of minimum bill charges collected from its jurisdicational

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customers. El Paso also included in the instant tender the information and supporting workpapers required by ordering paragraphs (C) and (E) of the Commission's March 31, 1983 order.

El Paso requests that tendered Sheet Nos. 3–B, 1–D, and 1–C be substituted for their respective counterparts filed March 1, 1983 at Docket No. TA83–2–33–000 and made effective April 1, 1983, subject to refund, as provided for in the Commission's March 31, 1983 order. El Paso further requests, pursuant to § 154.51 of the Commission's Regulations, that the Commission grant waiver of the notice requirements in § 154.22 of its Regulations so as to permit tendered Eleventh Revised Sheet No. 67–D, Fifth Revised Sheet No. 67–D.1 and Original Sheet No. 67–D.1a to become effective April 1, 1983.

El Paso states that copies of the instant filing, together with all enclosures, hae been served upon all parties of record in Docket No. TA83–2–23–000, *et al.*, and otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heart of to make any protest with reference to said tariff filing should, on or before May 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12557 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–71–001]

Granite State Gas Transmission Inc.; Filing Proposed Tariff Changes

May 5, 1983.

Take notice that on April 21, 1983, Granite State Gas Transmission, Inc. (Granite State) tendered for filing Fourth Revised Sheet No. 7 and First Revised Sheet No. 66 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in rates for effectiveness on April 1, 1983. According to Granite State, the revised rates submitted with its filing restate its Base Tariff rates for its jurisdictional sales of natural gas in compliance with the requirements of § 154.38(4)(d)(vi)(a) of the Commission's Regulations under the Natural Gas Act.

Granite State further states that its restated Base Tariff rates are applicable to its wholesale sales to Bay State Gas Company and Northern Utilities, Inc. According to Granite State, copies of its filing were served on the foregoing customers and the regulatory comissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12558 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–79–000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in F.E.R.C. Gas Tariff

May 5, 1983.

Take notice that on April 29, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Original Volumn No. 1 and First Revised Volume No. 2 to become effective June 1, 1983. Michigan Wisconsin states that the proposed rate increase is designed to recover Michigan Wisconsin's overall cost of service, developed by utilizing a base period for the twelve months ended January 31, 1983, adjusted for known and measurable changes through the end of the test period, October 31, 1983. The filed cost of service is approximately $39 million higher, or 1.6%, than the cost of service underlying present rates related primarily to increased take-or-pay requirements and utility plant investment. The effect of such increase on Michigan Wisconsin's average resale rates, together with the restoration of the 6¢ per dekatherm (dth) interim rate reduction implemented in Docket No. RP82–80, is 12.2¢ per dth.

Michigan Wisconsin further states that the proposed rates are based on a sales level of 560 million dekatherms which reflects estimates of declining market requirements. The effect of market declines and the impact of a previously authorized MDQ reduction applicable to Rate Schedule MC–1 account for the balance of the 23.8¢ per dth increase in Michigan Wisconsin's presently effective average resale rates.

For purposes of this filing rates are based on Michigan Wisconsin's currently effective rate design, including classification of costs in accordance with the *Seaboard* decision pursuant to the Stipulation and Agreement approved by the Commission in Docket NO. RP81–61, et al.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12559 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–194–001]

Mississippi Power Co.; Compliance Filing

May 5, 1983.

The filing Company submits the following:

Take notice that on March 25, 1983, Mississippi Power Company submitted for filing revised rates pursuant to the Commission's order issued on February 10, 1983.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 13, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12560 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–81–000]

Montana–Dakota Utilities Co.; Proposed Change in Rates

May 5, 1983.

Take notice that on April 29, 1983, the Montana-Dakota Utilities Co. ("MDU"), a Delaware corporation, whose mailing address is 400 North Fourth Street, Bismarck, North Dakota 58501, filed proposed changes in rates to its jurisdictional gas sales customers.

More specifically, MDU filed the following tariff sheets to its FERC Gas Tariff, which reflect an increase in jurisdictional rates:

Original Volume No. 4

Twenty-fourth Revised Sheet No. 3A

First Revised Volume No. 2

Nineteenth Revised Sheet No. 10

The proposed effective date is June 1, 1983.

Increased revenues from the rates as proposed by MDU would amount to $1,646,310 annually under MDU's Rate Schedules G–1, PR–1, X–1, I–1, X–3, X–5, and X–6.

The filing indicates that MDU has experienced increases in most areas of its cost of service and sharp decreases in its level of sales. Consequently, MDU states, it was required to file for an increase in its jurisdictional rates.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 16, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate in any hearing therein must file a petition to intervene in accordance with the Commission's Rules of Practice and Procedure.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12561 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–55–000 (PGA 83–2)]

Mountain Fuel Resources, Inc.; Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

May 5, 1983.

Take notice that Mountain Fuel Resources, Inc. (Resources), Apr,. 29, 1983, tendered for filing a proposed change in rate applicable to service rendered under its Rate Schedule No. 1 affected by and subject to Resources' *Purchased Gas Cost Adjustment Provision* contained in its FERC Gas Tariff, Original Volume No. 1. Resources filed Eighteenth Revised Sheet No. 7 and Seventh Revised Sheet No. 7–A of its FERC Gas Tariff, Original Volume No. 1.

The current adjustment to Resources' rates results in a net decrease of $0.1919/Mcf over the rate currently being collected. Resources proposes that the rate change be effective June 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12562 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–126–003]

Mountain Fuel Supply Co.; Tariff Filing

May 5, 1983.

Take notice that on April 25, 1983, Mountain Fuel Supply Company (Mountain Fuel) tendered for filing and acceptance First Revised Sheet No. 765 to its FERC Gas Tariff, Original Volume No. 1.

Mountain Fuel states that Rate Schedule X–32 is a Natural Gas Transportation and Exchange Agreement Between Colorado Interstate Gas Company and Mountain Fuel wherein the parties agree to transport and exchange up to 300,000 Mcf per day, on a thermally equivalent basis as approved by the Federal Energy Regulatory Commission on November 26, 1982.

Mountain Fuel states that volumes of natural gas transported and exchanged under Rate Schedule X–32 were estimated in calculating the unit cost-of-service per Mcf in the referenced docket.

Mountain Fuel seeks to supplement Docket No. RP82–126–000 to include Rate Schedule X–32, First Revised Sheet No. 765, and supply charges set forth on Mountain Fuel's currently effective Statement of Rates in its FERC Gas Tariff, Original Volume No. 1, for Mainline Transportation and Compression Redelivery, subject to refund with interest, pending the outcome of the proceeding.

Mountain Fuel has requested that the Commission waive any of its Rules or Regulations as may be necessary to allow the tariff sheet tendered to become effective on May 1, 1983, as proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of 18 CFR. All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12563 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST79–21–002]

ONG Western, Inc.; Extension Reports

May 5, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice oif their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a

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self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 2848.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before May 31, 1983 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284subpart	Effective date
ST79- 21-002	Ong Western, Inc., 624 South Boston Ave., Tulsa, OK 74119.	Transwestern Pipeline Co	4/6/83	D	7/26/83
ST81-344-001	Louisiana Interstate Gas Corp., P.O. Box 1352, Alexandria, LA 71301.	Trans Louisiana Gas Co., Inc	4/15/83	C	7/16/83
ST81-384-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201.	United Gas Pipe Line Co	4/11/83	D	7/10/83
ST81-395-001	do	do	4/11/83	C	7/01/83
ST81-397-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603.	do	4/15/83	G	7/17/83
ST81-398-001	do	Southern Natural Gas co	4/15/83	G	7/17/83
ST81-409-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102.	United Gas Pipe Line Co	4/4/83	G	7/10/83
ST81-419-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603.	Transcontinental Gas Pipe Line Corp	4/15/83	G	7/17/83
ST81-430-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201.	Panhandle Eastern Pipe Line Co	4/15/83	C	8/15/83
ST81-437-001	Liberty Natural Gas Co., 906 Capital Bank Bldg., 5307 E. Mockingbird Lane, Dallas, TX 75206.	United Gas Pipe Line Co	4/14/83	C	7/28/83

NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the commission's regulations.

[FR Doc. 83-12384 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-80-000]

Ringwood Gatrhering Co.,Proposed Changes in FERC Gas Tariff

May 5, 1983

Take notice that Ringwood Gathering Company (formerly Oklahoma Natural Gas Gathering Corporation), on April 29, 1983, tendered for filing proposed changes in its FERC Tariff, Original Volume, No. 1, consisting of the following tariff sheets:

Thirtieth Revised Sheet PGA–1

Ninth Revised Sheet No. 4

Eighth Revised Sheet No. 59

The proposed changes would increase the level of its jurisdictional rates by 25,39 cents per Mcf, which would provide an increase in revenues from jurisdictional sales of $1,727,559 based on the 12-month period ending December 31, 1982, as adjusted. Ringwood Gathering Company states that this increase amounts to a 12.99 percent increase over revenues which would result from annualized effective rates that are in effect at this time.

Ringwood Gathering Company states that this filing is being made in compliance with § 154.63(b)(3) of the Commission's regulations. Ringwood Gathering Company states that declining sales volumes and increased cost of service (labor, supplies, expenses, and construction) have caused its earned rate of return to decline to a negative 5.99 percent after adjustments. Thus, the company requests waiver of the five-month suspension period because it only serves to further erode that return and increase the risk to the company's stockholders.

Ringwood Gathering Company proposes an effective date of June 1, 1983, and states that copies of this filing were served on each of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protesants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12585 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-30-003]

Transcontinental Gas Pipe Line Corp.; Application

May 5, 1983

Take notice that on April 21, 1983, Transcontinental Gas Pipe Line Corporation (Transco) filed alternative proposed tariff sheets to make effective changes in rates applicable to transportation service performed by Transco in the production area of its system. Transco states that its preferred alternative tariff sheets, contained in Attachment A to its filing, not only reflect the revision to Transco's filed rates that were required by the Commission's January 14, 1983 suspension order in this proceeding but also reflect a reduced rate of return on equity agreed upon by the parties to Transco's rate proceedings in Docket No. RP83–11–000 and RP83–30–000 in a settlement agreement filed on April 13, 1983, and presently pending before the Commission. Transco also filed alternative tariff sheets which would reflect the revisions required in the Commission's suspension order but would otherwise implement the full rate increase sought by Transco in the event that the Commission rejects the aforementioned settlement.

Transco proposes an effective date of April 22, 1983, for the alternative tariff sheets contained in Attachment A and specifically requests the Commission to grant a waiver of the notice requirements as provided in § 154.51 of the Commission's regulations in order to make its proposed rates effective on April 22, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12586 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-29-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

May 5, 1983

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 29, 1983 Substitute Twenty-Sixth Revised Sheet No. 12, Substitute Twenty-Sixth Revised Sheet No. 15 and Substitute Ninth Revised Sheet No. 16 to Second Revised Volume No. 1, and Substitute Thirty-Second Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective May 1, 1983, reflect a net decrease of 16.7¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S–2 rate schedules, a net decrease of 16.5¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 0.2¢ per dt in the delivery charge of the X–20 rate schedule.

Transco states that the instant filing is tendered pursuant to the terms of the "Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corporation" (Settlement Agreement) filed April 13, 1983 in Docket Nos. RP83–11–000 and RP83–30–000. In Part C of that Settlement Agreement, Transco has agreed to reflect reductions in its PGA filing to be effective May 1, 1983 "as a result of (a) the general proportionate cutback of gas supplies * * * and (b) the crediting to a separate subaccount of Account No. 191 of 20¢ per dt representing the estimated effect of the price differentials for supplies to be acquired under the ISP * * * " (ISP refers to the Industrial Sales Program discribed in Article B of the Settlement Agreement.) The rates contained in the instant revised PGA filing reflect the foregoing cost reductions in conformity with said Settlement Agreement. The rate decrease in the instant filing has been applied to the rates filed April 13, 1983 in the aforesaid Settlement Agreement which are intended to be made effective April 22, 1983. In this regard, the instant filing is intended to supersede in its entirety the PGA filing made by Transco in the captioned docket, contingent upon approval by the Commission of the aforesaid Settlement Agreement.

Transco further states that these changes have been computed in accordance with applicable tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The instant tracking rate change amounts to a decrease of 16.5¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S–2 and ACQ rate schedules. This decrease is comprised of: (a) an 8.3¢ per dt increase in the current gas cost adjustment; (b) a 4.8¢ per dt decrease in the Deferred Adjustment; and (c) the separate credit of 20.0¢ per dt referred to above. The 4.8¢ decrease in the Deferred Adjustment represents the difference between the currently effective positive Deferred Adjustment of 19.3¢ per dt and the proposed positive Deferred Adjustment of 14.5¢ per dt which is required to eliminate, over the six-month period commencing May 1, 1983, the debit balance of $53,009,565 accumulated in Transco Unrecovered Purchased Gas Cost Account (FERC Account No. 191) at February 28, 1983. Transco further states that its tracking rate change to reflect curtailment credits is a decrease of 0.2¢ per dt in the commodity or delivery charge under its CD, G, OG, E, PS, S–2 and X–20 rate schedules. This decrease represents the difference between the currently effective positive unit adjustment of 0.1¢ per dt and the proposed negative unit adjustment of 0.1¢ per dt, and is designed to eliminate, over the six-month period beginning May 1, 1983, the estimated credit balance in the deferred account relating to such curtailment credits as of April 30, 1983.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest sail filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 83-12587 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-368-000]

Upper Peninsula Power Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, and Establishing Hearing Procedures

Issued: May 5, 1983.

On March 7, 1983, Upper Peninsula Power Company (UPPCO) tendered for filing increased rates for firm service to its seven wholesale customers.[1] UPPCO seeks to implement the rate increase in two phases. The Phase I rates would increase revenues by approximately $586,000 (10.8%) for the calendar year 1983 test period. The Phase II rates represent an additional increase of

[1] *See* Attachment A for customers and rate schedule designations.

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about $200,000, or a total increase of 14.5%. UPPCO requests that the Phase I rates become effective 60 days after filing, and that the Phase II rates take effect no later than 61 days after filing. If the Phase II rates are allowed to become effective following a one day suspension, UPPCO asks that the Phase I rates not become effective separately.

Notice of the filing was published in the **Federal Register** with comments due by March 28, 1983. On March 25, 1983, Wisconsin Electric Power Company (WEPCO) filed a timely motion to intervene. WEPCO raises no specific cost of service issues and states that it is not requesting a hearing. However, WEPCO requests that it be permitted to participate as a full party in any proceedings which may be ordered.

On March 28, 1983, the Alger Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, and the Cities of Gladstone and Negaunee, Michigan (Intervenors) jointly filed a timely protest, motion to intervene, and request for a five month suspension. In support of their request for a maximum suspension, the Intervenors contend, *inter alia*, that: (1) UPPCO's requested rate of return is excessive; (2) UPPCO's expense projections are excessive; and (3) UPPCO's "separation methodology" for allocating transmission facilities is improper.

On April 11, 1983, UPPCO filed an answer to the Intervenors' protest and motion to intervene. In its answer, UPPCO disputes the allegations that its cost of service is excessive and that its "separate methodology" is improper. UPPCO does not, however, oppose the motions to intervene in this proceeding.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions of WEPCO and the Intervenors serve to make them parties to this proceeding.

Our review of UPPCO's submittal and the pleadings indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept UPPCO's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. Because our review suggests that UPPCO's Phase II rates may not yield substantially excessive revenues, we shall suspend the Phase II rates for one day from 60 days after filing, to become effective, subject to refund, on May 8, 1983. As a result of this action and consistent with UPPCO's request, we shall deem the Phase I rates to have been withdrawn.

The Commission orders:

(A) UPPCO's proposed Phase I rates are deemed withdrawn.

(b) UPPCO's proposed Phase II rates are hereby accepted for filing and suspended for one day from 60 days after filing, to become effective, subject to refund, on May 8, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of UPPCO's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Upper Peninsula Power Company Rate Schedule Designations

Designations	Other party
Step I rates are deemed withdrawn Step II rates are designated as follows:	
(1) Supplement No. 26 to rate schedule FPC No. 2 (supersedes supplement Nos. 24 and 25).	Wisconsin Electric Power Co.
(2) Supplement No. 27 to rate schedule FPC No. 3 (supersedes supplement Nos. 25 and 26).	Do.
(3) Supplement No. 26 to rate schedule FPC No. 6 (supersedes supplement Nos. 24 and 25).	Village of Berage.
(4) Supplement No. 26 to rate schedule FPC No. 7 (supersedes supplement Nos. 24 and 25).	Village of L'Anse.
(5) Supplement No. 24 to rate schedule FPC No. 11 (supersedes supplement Nos. 22 and 23).	City of Negaunee.
(6) Supplement No. 26 to rate schedule FPC No. 14 (supersedes supplement Nos. 24 and 25).	Alger-Delta Coop.
(7) Supplement No. 27 to rate schedule FPC No. 15 (supersedes supplement Nos. 25 and 26).	Ontonagon County REA.
(8) Supplement No. 13 to rate schedule FERC No. 23 (supersedes supplement Nos. 11 and 12).	City of Gladstone.

[FR Doc. 83-12568 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-461-000]

Utah Power & Light Co.; Filing

May 5, 1983.

Take notice that on April 11, 1983, Utah Power & Light Company (UP&L) tendered for filing a supplemental revised Appendix 1 as required by Exhibit C for retail sales in its Idaho jurisdiction, together with the Bonneville Power Administration's Average System Cost Report in which Bonneville determined the Average System Cost for the Idaho residential jurisdiction in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between UP&L and the Bonneville Power Administration (BPA). UP&L also submitted comments and objections regarding certain adjustments made by BPA's Average System Cost determination. This filing is a supplement to the original filing of March 7, 1983 and is necessitated by the Idaho P.U.C. issuing an Order on Rehearing wherein it granted an additional revenue requirement increase to UP&L.

UP&L requests an effective date of November 10, 1982.

Copies of the filing were served upon BPA, and the Idaho Public Utilities Commission.

Any person desiring the be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12571 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-56-000]

Valero Interstate Transmission Co.; Purchased Gas Cost Adjustment Filing

May 5, 1983.

Take notice that on April 29, 1983, Valero Interstate Transmission Company ("Vitco") tendered the following filings containing purchased gas cost adjustments:

Original Supplement No. 40 to FERC Rate Schedule No. 1 for the Sale of Gas by Vitco to Natural Gas Pipeline Company of America,

Original supplement No. 119 to FERC Rate Schedule No. 2 for the Sale of Gas by Vitco to Transcontinental Gas Pipe Line Corporation,

Original Supplement No. 17 to FERC Rate Schedule No. 14 for the Sale of Gas by Vitco to El Paso Natural Gas Company, and

1st Revised Sheet No. 14, to FERC Rate Schedule No. T-1

Vitco states that the rates stated on Exhibit A to each of the rate schedule supplements and 1st Revised Sheet No. 14 to Rate Schedule T-1 reflects the change in purchased gas costs based on the six months ended February 28, 1983.

The change in rate provided in Exhibit A to Original Supplement No. 40 to Rate Schedule No. 1 includes an increase in purchased gas costs of 13.77 cents per Mcf and a surcharge of 40.38 cents per Mcf. The change in rate provided in Exhibit A to Orignial Supplement No. 119 to Rate Schedule No. 2 includes an increase in purchase gas costs of 50.94 cents per Mcf and a surcharge of 52.75 cents per Mcf. The change in rate provided in Exhibit A to Original Supplement No. 17 to Rate Schedule No. 14 includes an increase in purchased gas costs of 54.91 cents per Mcf and a surcharge of 24.47 cents per Mcf. The surcharge in each instance is designed to eliminate the balance in the deferred purchased gas cost account. The change in rate provided on 1st Revised Sheet No. 14 to Rate Schedule T-1 includes an increase in purchased gas cost of 2.65 cents per Mcf and a surcharge of 0.08 cents per Mcf.

Vitco states that these rates include no incremental pricing factor because Vitco was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for the above filings is June 1, 1983. Vitco requests a waiver of any Commission regulations or order which would prohibit implementation by June 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 83-12572 filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-82-000]

Valley Gas Transmission, Inc.; Proposed Changes in Rates

May 5, 1983.

Take notice that on April 29, 1983, Valley Gas Transmission, Inc. (Valley) filed proposed changes to its FERC Gas Tariff to become effective on June 1, 1983, consisting of Twenty-Fifth Revised Sheet No. 2A and Second Revised Sheet No. 176 of Original Volume No. 1.

Valley states that the proposed rates are an increase over those currently in effect. The primary reason for the proposed change in the rates is due to the significant decrease in Valley's sales volumes. Although the proposed rates reflect an increase from the currently effective rates of 21.43 cents per Mcf to 39.96 cents per Mcf, those rates reflect a decrease in jurisdictional revenues of $165,045 over those collected for the twelve months ending December 31, 1982.

Valley is requesting that if the Commission determines that the proposed rates should be suspended, that such suspension be for only one day, and that Valley be permitted to collect the increased rates subject to refund.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions of protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12573 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-4-000]

Wabash Valley Power Association, Inc. v. Northern Indiana Public Service Co.; Order Denying Motion To Dismiss, Instituting Investigation, and Establishing Procedures

Issued: May 5, 1983.

On November 3, 1982, Wabash Valley Power Association, Inc. (WVPA) applied to the Commission under Sections 211 and 212 of the Federal Power Act for an order directing Northern Indiana Public Service Company (NIPSCO) to wheel power to twelve WVPA member cooperatives.[1] WVPA currently purchases firm power for the twelve cooperatives from NIPSCO under an electric tariff on file with this Commission.[2] However, WVPA states that it notified NIPSCO on July 19, 1982, of its intent to cancel the tariff service agreements as of August 1, 1983, pursuant to the one-year notice provisions contained in those agreements.

[1] The twelve rural electric membership corporations (REMCs) are Carroll Country REMC, Fulton County REMC, Jasper County REMC, Kankakee Valley REMC, Kosciusko County REMC, LaGrange County REMC, Marshall County REMC, Newton County REMC, Noble County REMC, Steuben County REMC, Warren County REMC, and White County REMC.

[2] FERC Electric Tariff, Third Revised Volume No. 1.

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In support of its wheeling order request, WVPA alleges that NIPSCO has denied numerous requests and proposals by WVPA for "mutually advantageous power supply arrangements" during the past twelve years, has discriminated against WVPA in violation of the Sherman Act, and has used its monopoly over transmission in WVPA's service area to create and maintain anticompetitive control over WVPA. In addition, WVPA alleges that NIPSCO's projected cost of power precludes the company from continuing to supply adequate service to WVPA. For these reasons, WVPA seeks to replace NIPSCO power and energy with other adequate generating resources. WVPA states that its wheeling order request fulfills the requirements of Sections 211 and 212 in that the requested service (1) will not result in a reasonably ascertainable, uncompensated economic loss for NIPSCO, (2) will not place an undue burden on NIPSCO, (3) will not impair the ability of NIPSCO, WVPA, or any other electric utility to render adequate service to its customers, (4) will encourage conservation of energy and capital, (5) will significantly promote the efficient use of facilities and resources, and (6) will improve the reliability of the electric utility systems involved.

Notice of WVPA's application was published in the **Federal Register** with comments due by December 15, 1982. On December 15, 1982, NIPSCO filed an answer, urging that the Commission summarily dismiss WVPA's application. First, NIPSCO denies that it has refused to make mutually advantageous power supply arrangements with WVPA, and that it has used its position to maintain anticompetitive control over WVPA. NIPSCO claims that its February 27, 1978 agreement to purchase 9% of WVPA's share of Marble Hill nuclear output [3] completely refutes those allegations.

Second, NIPSCO denies that a single year's notice effects cancellation of the NIPSCO–WVPA service agreements. NIPSCO states that on February 27, 1978, the parties entered into an interconnection agreement under which NIPSCO agreed to supply WVPA's power needs to the extent that they exceed the output generated by WVPA's ownership in the Marble Hill Nuclear Unit No. 1.[4] Because that agreement requires WVPA to give eleven years' notice of intent to replace NIPSCO-supplied power with power generated by other resources, NIPSCO asserts that WVPA's notice could not cancel the existing power contracts, and that the wheeling order sought by WVPA would breach the interconnection agreement. Moreover, NIPSCO contends that such an order is barred by Section 211(c)(2) of the Federal Power Act, which prohibits the Commission from ordering a utility to wheel any amount of power which replaces an amount of power the utility is already required to supply pursuant to a contract or filed rate schedule.

In addition, NIPSCO challenges WVPA's assertion that loss of the WVPA load will cause NIPSCO no undue economic hardship. NIPSCO claims that, based upon WVPA's commitment to purchase supplemental requirements (beyond its share of Marble Hill output) from NIPSCO, the company has made substantial capital investments to ensure adequate service to all of its customers, including WVPA. NIPSCO contends that the company would have modified its construction plans for the Schahfer Unit Nos. 17 and 18 had it known that the WVPA load might be diverted.

Finally, NIPSCO challenges WVPA's assertion that NIPSCO's projected power costs constitute constructive notice that the company is unable to provide adequate service. NIPSCO contends that projected costs are not relevant to the decision whether to order NIPSCO to wheel energy.

On December 30, 1982, WVPA filed a motion to amend its application, in which it proposed alternate grounds for the requested wheeling order, *i.e.*, that NIPSCO's denial of transmission service constitutes undue discrimination in violation of Sections 205 and 206 of the Federal Power Act. In support of this claim, WVPA alleges that it competes with NIPSCO for industrial load, that reduced power costs would enable WVPA to compete more effectively with NIPSCO, that lower cost sources of bulk power supply are currently available to WVPA, but that NIPSCO has prevented WVPA's access to the lower cost power and precluded effective competition by exercising its monopoly power over transmission in the WVPA service area to deny wheeling service to WVPA. In addition, WVPA states that NIPSCO voluntarily agreed to provide another of its wholesale customers, the City of Rensselear, with the identical wheeling service that WVPA seeks to obtain in this proceeding. Finally, WVPA states that under ¶ 8.6 of the NIPSCO–WVPA inter-connection agreement, the agreement itself is not in effect, and therefore its eleven-year notice provision does not bar WVPA's instant application.

On January 28, 1983, NIPSCO answered WVPA's amended application. NIPSCO contends that it does not possess monopoly control over WVPA, that it lacks the ability to exclude competitors, that it has not foreclosed WVPA from competition with NIPSCO, that it has not discriminated against WVPA, and that it has not prevented WVPA from enteriong the bulk power suply business. NIPSCO additionally claims that its wheeling service to Rensselaer is distinguishable from the service sought by WVPA in that the Rensselaer wheeling arrangement, unlike that proposed by WVPA, affords NIPSCO time to plan system changes in the event that Rensselear diverts its load. Finally, NIPSCO notes that were it not for uncontrollable delays in the Marble Hill construction schedule, which prevented implementation of the interconnection agreement, NIPSCO would now be providing the service requested by WVPA's instant application. These delays contributed to NIPSCO's decision to build the Schahfer Unit Nos. 17 and 18. NIPSCO claims that if it now lost WVPA's load, it would have no market for the generation dedicated to WVPA, and would be forced to shift financial responsibility for the excess generating capacity to retail customers.

Discussion

Initially, we shall deny NIPSCO's request that WVPA's application be summarily dismissed. WVPA has advanced all of the requisite allegations to seek a mandatory wheeling order under Sections 211 and 212 of the Federal Power Act as well as the additional question of undue discrimination. We believe that WVPA's application raises questions of law and fact, including the matter of WVPA's contractual right to obtain power from other sources, which must be resolved on the basis of an evidentiary hearing.

However, we are not convinced that WVPA's allegations of undue discrimination, monopoly power, and anticompetitive behavior may be fully and fairly heard within the confines of a proceeding under Sections 211 and 212 of the Federal Power Act alone. At present, it is not entirely clear whether we may remedy undue discrimination by ordering wheeling. *See Florida Power & Light Co.* v. *FERC*, 600 F. 2d 668, 679 (5th Cir. 1981); *N.Y. State Elec. & Gas Corp.* v. *FERC*, 638 F.2d 388, 402–403, *cert. denied sub nom. Penn Yan* v. *N.Y. State Elec. & Gas Corp.*, 454 U.S. 821 (1981); *Richmond Power & Light Co.* v. *FERC*, 574 F.2d 610, 624 (D.C. Cir. 1978). However, we need not reach that issue at this time. No determination on the scope of potential remedies need be made unless and until specific findings of anticompetitive activities or undue discrimination are made. Because those matters may be best suited to proof under Section 206 of the Federal Power Act, we shall institute a hearing on WVPA's application pursuant to Section 206 as well as Sections 211 and 212 of the Federal Power Act. The burden of proving the present rates, terms or conditions of service unjust, unreasonable, unduly discriminatory or preferential rests with WVPA under Section 206, as does the burden of proving that WVPA is entitled to an order requiring wheeling under Sections 211 and 212.

In the interest of an effective utilization of resources, we shall require that the Section 211/212 portion of this hearing also consider the appropriate rates, terms, and conditions to be incorporated into a proposed wheeling order, if such an order is ultimately found to be appropriate. We believe that this approach will facilitate the negotiations contemplated by Section 212(c) in the event that wheeling is ordered. *See Southeastern Power Administration* v. *Kentucky Utilities Co.*, 11 FERC ¶61,191 (1980). However, in accordance with our past practice, we shall leave to the discretion of the presiding judge whether to phase the Section 211/212 proceeding to allow resolution of the compelled wheeling question prior to consideration of the rate issues. *Southeastern Power Administration* v. *Kentucky Utilities Co.*, 12 FERC ¶61,022 (1980). The Section 211/212 compelled wheeling question should be heard concurrently with the Section 206 discrimination issue.

The Commission orders:

(A) NIPSCO's motion to dismiss WVPA's application is hereby denied.

(B) Pursuant to the authority contained in and subject to the jurisdication conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly Sections 206, 211, and 212 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning WVPA's claims of undue discrimination and entitlement to a wheeling order.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426. The presiding judge is authorized to phase this proceeding as set forth in the body of this order and to establish procedural dates and rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12574 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–57–000 (RP72–41)]

Western Transmission Corp.; Proposed Changes

May 5, 1983.

Take notice that Western Transmission Corporation (Western), on April 29, 1983, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet: Twentieth Revised Sheet No. 3–A, superseding Nineteenth Revised Sheet No. 3–A.

The proposed effective date of the above tariff sheet is June 1, 1983.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–12575 Filed 5–10–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP80–72–009]

Algonquin Gas Transmission Co.; Rate Reductions and Refunds Made To Comply With Commission Order Issued March 3, 1983

May 6, 1983.

Take notice that on April 29, 1983 Algonquin Gas Transmission Company ("Algonquin Gas") filed three tariff sheets and a report showing computations of cost of service, reduced rates, and refunds to comply with the Commission Order issued March 3, 1983 in Algonquin Gas' rate proceeding, Docket Nos. RP80–72–000 and RP80–72–008. Such Commission Order affirmed the Intial Decision issued by Presiding Administrative Law Judge Murray on December 29, 1981 with some modifications.

Algonquin Gas states that the reduced rates will be applied to billings rendered for service rendered on and after April 1, 1983, and that refunds of excess charges apply to the period which commenced August 1, 1980, when increased rates filed in this proceeding were made effective, and extended to April 1, 1983.

Algonquin Gas' filing indicates that a copy of such filing was served upon parties to the proceeding, and that refunds of principal amounts together wtih related interest were made to its Customers on April 29, 1983.

Any person desiring to be heard or to protest filing should file a motion or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.21 and 385.214). All such motions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding.

Copies of Algonquin Gas' filing are on file with the Commission and are available for public inspection.

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[3] This power supply agreement provides that NIPSCO's purchases of WVPA's Marble Hill entitlement will decrease by 1% in each successive year. Because the agreement is administered by the Rural Electrification Administration, it has not been filed as a jurisdictional rate schedule with the Commission.

[4] The interconnection agreement is not on file with the Commission. The service initiation date coincides with the Marble Hill Nuclear Unit No. 1 in-service date, which lies considerably beyond the 120-day notice requirement specified in 18 CFR 35.3.

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Kenneth F. Plumb,

Secretary

[FR Doc. 83-12617 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-72-010]

Algonquin Gas Transmission Co.; Filing of Actual Cost of Service Reports and Refund Reports Related to Rate Schedule SNG-1

May 6, 1983.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on April 29, 1983 filed reports of its actual costs of service for Rate Schedule SNG-1 for the two delivery seasons of 1980-1981, and 1981-1982. Algonquin Gas states that such cost of service reports are required by the provisions of such filed rate schedule but that the filing of such reports within the time specified in such rate schedule was deferred, pursuant to Commission authorization, until the Commission decided upon rate-making methods for Algonquin Gas in a pending rate proceeding, Docket No. RP80-72. Algonquin Gas notes that the Commission issued its Order in such rate proceeding on March 3, 1983.

Algonquin Gas states that such cost of service reports contain a comparison of actual costs with revenues, and that the excess of revenues over actual costs was refunded to its customers under Rate Schedule SNG-1. Algonquin Gas asserts that the related refund reports identify the refunds, which include interest, and that such refunds were made to each customer on April 29, 1983.

Algonquin Gas notes that a copy of its filing, including the enclosed reports, was mailed to each affected party and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of Algonquin Gas' reports are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-12618 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3765-000, et al.]

ARCO Oil and Gas Company, Division of Atlantic Richfield Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To amend Certificates [1]

May 6, 1983

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Porcedure (18 CFR 385,211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which not petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and Date filed	Applicant	Purchaser and location	Price 1,000 ft [3]	Pressure base
G-3765-000, Feb. 25, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221	Columbia Gas Transmission Corp., Midland-Easterwood Field, Acadia Parish, Louisiana	(7)	14.73
G-3894-010, D, Apr. 21, 1983	do	Transcontinental Gas Pipe Line Corporation, Arnecke-ville et al Fields, Aransas, DeWitt, Victoria and Goliad Counties, Texas.	(7)	
G-4544-000, D, Apr. 21, 1983	do	do	(7)	
G-7648-002, Apr. 20, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, Saxet and East Point Fields, Texas.	(7)	
G-9383-000, D, Apr. 20, 1983	ARCO Oil Company and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Northwest Central Pipeline Corp. (formerly Cities Service Gas Company) Sharon N.W., Rhodes, and Hardtner Field, Barber County, Kansas.	(7)	
G-17411-000, D, Apr. 20, 1983	do	United Gas Pipe Line Company, Sunrise Field, Terrebonne Parish, Louisiana.	(7)	
G-18398-001, D, Apr. 20, 1983	do	United Gas Pipe Line Company, Jeanerette Field, St. Mary Parish, Louisiana.	(7)	
G-20297-000, D, Apr. 12, 1983	do	Transcontinental Gas Pipe Line Corporation, Lake Arthur Field, Jefferson Davis Parish, Louisiana.	(7)	

Docket No. and Date filed	Applicant	Purchaser and location	Price 1,000 ft [3]	Pressure base
C168-55-002, C, Apr. 20, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, Pauline Bowman (Sec. 20) No. 2 Well, Section 20, T5N, R17E, Pittsburg County, Oklahoma.	(7)	14.65
C168-1306-001, C, Apr. 25, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77251.	Michigan Wisconsin Pipe Line Company, Certain acreage in the Eugene Island Block 266, Offshore Louisiana.	(7)	15.025
CI70-1079-000, C, Apr. 25, 1983	do	do	(7)	15.025
CI73-2-001, C, Apr. 25, 1983	do	do	(7)	15.025
C168-531-000, D, Apr. 29, 1983	Shell Oil Company, P.O. Box 2463, Houston, Texas 77001.	Southern Natural Gas Company, Tallahala Creek Field, Smith County, Mississippi.	(10)	
C179-200-002, C, Apr. 20, 1983	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, South Pass Blocks 93 & 94, Offshore Louisiana.	(11)	15.025
C183-210-000, B, Apr. 14, 1983	Union National Bank of Wichita, Trustee of The Estate of Walter F. Kuhn dba Walter Kuhn Drilling Co., 902 Union Center Building, Wichita, Kansas 67202.	Northern Natural Gas Company, Orth No. 1 Well, Sec. 5-T30S-R32W, Hugoton Field, Haskell County, Kansas.	(12)	
C183-211-000, B, Apr. 20, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, G. T. Patterson ET UX Lease, Sprayberry Formation, Offshore Louisiana.	(13)	
C183-212-000, B, Apr. 19, 1983	Alex W. McCoy Associates, McFarlin Building, Suite 309, Tulsa, Oklahoma 74103.	Arkansas Louisiana Gas Company, SW Waukomis Field, Garfield County, Oklahoma.	(14)	
C183-213-000, A, Apr. 22, 1983	Phillips Petroleum Company, 336 HSL Building, Bartlesville, Oklahoma 74004.	El Paso Natural Gas Company, Mobil Federal #1, Section 29-23S-31E, Eddy County, New Mexico.	(15)	14.73
C183-214-000, A, Apr. 25, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Cajun Natural Gas Company, Vermilion Area Block 253, Offshore Louisiana.	(16)	15.025
C183-215-000, F, Apr. 25, 1983	Getty Oil Company (Successor In Interest to Continental Oil Company), P.O. Box 1404, Houston, Texas 77251.	Texas Eastern Transmission Corporation, High Island Block 110 Field, Platform A, Offshore Texas.	(17)	14.65
C183-216-000 (G-17980), B, Apr. 25, 1983.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Northern Natural Gas Company, Tubb & Jalmat Areas. Lee County, New Mexico.	(18)	
C183-217-000, D, Apr. 25, 1983	Samedan Oil Corporation, P.O. Box 909, Ardmore, Oklahoma 73401.	Michigan Wisconsin Pipe Line Company, N.W. Quinlan Field, Dewey County, Oklahoma.	(19)	
C183-218-000 (CI77-333), B, Apr. 25, 1983.	Florida Exploration Company, 1990 Post Oak Boulevard, Suite 1400, Houston, Texas 77056.	Florida Gas Transmission Company, N.E. Palourde Field, Assumption Parish, Louisiana.	(20)	
C183-219-000 (CI74-577), B, Apr. 26, 1983.	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Montana Dakota Utilities Company, Garland Field, Park County, Wyoming.	(21)	
C183-220-000, F, Apr. 25, 1983	Getty Oil Company (Succession In Interest To Conoco Inc.), P.O. Box 1404, Houston, Texas 77251.	Texas Eastern Transmission Corporation, High Island Block 110 Field, Platforms B & C, Offshore Texas.	(22)	14.65

[1] Applicant is filing for an additional delivery point.
[2] Deletion of acreage. ARCO no longer holds an interest in the properties involved.
[3] Applicant is filing to reflect change in the delivery points.
[4] ARCO has no remaining reserves or production in the acreage.
[5] Applicant is filing under, contract dated June 3, 1970, amended by Amendment dated March 29, 1983.
[6] Partial Release of Oil and Gas Lease executed September 9, 1959.
[7] ARCO, as operator of the unit, proposed the drilling of Well No. 2 and the other two owners declined to participate and elected to go "no-consent" pursuant to the sole risk provision of the unit operating agreement, therefore, ARCO is requesting his certificate be amended to cover its increased working interest during the payback period of the aforementioned sole risk venture, effective as of date of initial deliveries from such well.
[8] Applicant is filing under Contract dated April 17, 1968, amended by Amendment dated March 29, 1983.
[9] Applicant is filing under Contract dated May 1, 1972, amended by Amendment dated March 29, 1983.
[10] Shell assigned its interest in those certain leases described in the assignment to Enex Resources Corporation, effective November 1, 1982.
[11] Applicant is filing under Gas Sales and Purchase Agreement dated December 1, 1978, amended by Agreement dated April 18, 1983.
[12] Landowner's request for irrigation pumping fuel.
[13] All acreage committed to contract dated August 1, 1952, as amended, was assigned.
[14] Uneconomical to compress gas. Have an alternative interstate buyer with low pressure line in immediate vicinity.
[15] Applicant is filing under Gas Purchases Agreement dated February 1, 1982.
[16] Applicant is filing under Gas Purchase and Sales Agreement dated April 21, 1983.
[17] Applicant requests to continue the sale of gas to Texas Transmission Corporation under a contract dated March 2, 1977.
[18] Conoco has no gas production from the zones covered by Contract No. 4298 (RS 167).
[19] Well Producing water.
[20] Leases have been released because of non-production. Basic contract has terminated.
[21] The purchaser cannot physically take gas in contract quantity as provided under the contract and wishes to terminate the agreement. Abandonment is being requested so that another market may be appropriately sought.
[22] Applicant requests to continue the sale of gas to Texas Eastern Transmission under a contract dated October 1, 1981.

[FR Doc. 12620 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-460-000]

Cleveland Electric Illuminating Co.; Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 14, 1983, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 40 MW of power from the 345 kv interconnection point on CEI's Juniper—Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12619 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-241-002]

Idaho Power Co.; Compliance Filing

May 6, 1983:

The filing Company submits the following:

Take notice that on April 7, 1983, Idaho Power Company (Idaho), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in

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the State of Idaho, prepared in accordance with the Commission's Order issued on March 11, 1983, in Docket No. ER83-241-000, and with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power from Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of the filing was served upon BPA and all parties that made comment on Idaho's Appendix 1 Filings.

Any person desiring to be heard or to protest filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 18, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12821 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS73-603-001, et al.]

Santa Fe-Andover Oil Company (Andover Oil Company), et al; Applications for "Small Producer" Certificates [1]

May 6, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practices and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commision on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket	Date filed	Applicant
CS73-603-001	4/22/83 [1]	Santa Fe-Andover Oil Company (Andover Oil Company), 4500 One Williams Center, Tulsa, Oklahoma 74172.
CS83-76-000	3/28/83	Jay-Bee Oil & Gas, Rt. 22 and Vauxhall Rd., Union, New Jersey 07083.
CS83-77-000	4/4/83	Joe E. Smith, 4104 Cat Hollow, Austin Texas 78731.
CS83-78-000	4/11/83	Hill and Hill Production Co., 6350 LBJ Freeway, Suite 184, Dallas, Texas 75240.
CS83-79-000	4/11/83	William C. Richardson, Jr., 6501 East Hill, No. 107, Austin, Texas 78731.
CS83-80-000	4/11/83	Elizabeth Warren Blankenship, Custodian for Carolyn Judith Warren under the Oklahoma Uniform Gifts to Minor Act, Trust Energy Dept., First National Bank & Trust Co. of Tulsa, P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-81-000	4/11/83	Elizabeth Warren Blankenship, Custodian for Carolyn Judith Warren under the Oklahoma Uniform Gifts to Minors Act, Trust Energy Dept., First National Bank & Trust Co. of Tulsa, P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-82-000	4/18/83	Mark Producing Inc., 675 Bering Drive, Houston, Texas 77057
CS83-83-000	4/19/83	Speerex Limited Partnership, P.O. Box 255, Farmington, New Mexico 87499.
CS83-84-000	4/25/83	Jean Warren Young and The First National Bank and Trust Co. of Tulsa, Co-Trustees of the Wm. K. Warren, Jr., Trust B-1 Stephen Kelly Warren, Trust Energy Dept., First National Bank & Trust Co. of Tulsa, P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-85-000	4/26/83	Little Lake Oil Company, P.O. Box 489, Beatric, Nebraska 68310.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Effective Oct. 1, 1982, Andover Oil Company changed its name to Santa Fe-Andover Oil Company.

[FR Doc. 83-12822 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI78-932-003, et al.]

Odeco Oil & Gas Company, et al.; Applications to Amend Certificates To Establish Entitlement to Section 109 Price [1]

May 3, 1983.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd.* v. *FERC*, 649 F2d. 376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 [1]	Pressure base
CI78-932-003, Apr. 18, 1983	Odeco Oil & Gas Company, 1600 Canal Street, P.O. Box 61780, New Orleans, Louisiana 70163.	Transcontinental Gas Pipe Line Corporation	(*)	
CI79-135-001, Apr. 18, 1983	do	Columbia Gas Transmission Company	(*)	
CI79-160-001, Apr. 18, 1983	do	Transcontinental Gas Pipe Line Corporation	(*)	
CI79-338-001, Mar. 10, 1983	Sonat Exploration Company, P.O. Box 1513, Houston, Texas 77251.	Southern Natural Gas Company	(*)	
CI79-503-001, Mar. 10, 1983	do	do	(*)	
CI79-551-001, Apr. 18, 1983	Odeco Oil & Gas Company, 1600 Canal Street, P.O. Box 61780, New Orleans, Louisiana 70163.	Michigan Wisconsin Pipe Line Company	(*)	
CI79-580-001, Mar. 25, 1983	Union Oil Company of California, Union Oil Center, P.O. Box 7600, Los Angeles, California 90051.	Texas Eastern Transmission Corporation	(*)	
CI80-60-001, Apr. 18, 1983	Odeco Oil & Gas Company, 1600 Canal Street, P.O. Box 61780, New Orleans, Louisiana 70163.	Michigan Wisconsin Pipe Line Company	(*)	
CI80-247-001, Apr. 18, 1983	do	do	(*)	
CI80-254-001, Apr. 18, 1983	do	do	(*)	
CI80-259-001, Apr. 18, 1983	do	do	(*)	
CI81-183-001, Apr. 18, 1983	do	Tennessee Gas Pipeline Company	(*)	
CI81-218-001, Apr. 18, 1983	do	Michigan Wisconsin Pipe Line Company	(*)	
CI81-219-001, Apr. 18, 1983	do	do	(*)	
CI81-485-001, Apr. 18, 1983	do	Columbia Gas Transmission Company	(*)	
CI81-486-001, Apr. 18, 1983	do	Michigan Wisconsin Pipe Line Company	(*)	
CI82-350-002, Mar. 24, 1983	Cities Service Oil & Gas Corporation (successor to Cities Service Company), P.O. Box 300, Tulsa, Oklahoma 74102.	Texas Eastern Transmission Corporation	(*)	
CI82-350-002, Mar. 24, 1953	do	do	(*)	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration, Ltd.* v. *FERC*, 649 F 2d. 376.

[2] Applicant's notice of change in rate filing is being construed as a petition to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration, Ltd.* v. *FERC* 649 F 2d. 376.

[*] Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 83-12441 Filed 5-10-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 3G2796/T409; PH-FRL 2360-1]

American Cyanamid Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the pesticide (+) cyano (3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on certain raw agricultural commodities. These temporary tolerances were requested by American Cyanamid Company.

DATE: These temporary tolerances expire March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, has requested, in pesticide petition PP 3G2796 the establishment of temporary tolerances for residues of the pesticide (+) cyano (3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methyl-ethyl) benzeneacetate, in or on the raw agricultural commodities milk, meat, fat and meat byproducts of cattle at 0.10 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 241-EUP-102 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluted, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any

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findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

Those tolerances expire March 15, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))
Dated: April 27, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-12177 Filed 5-10-83; 8:45 am]
BILLING CODE 6560-50-M

[PF-315; PH-FRL 2361-4]

Food and Feed Additive Petitions; BASF Wyandotte Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received food and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending befor the Agency. The comments are to be identified by the document control number (PF-325) and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following food and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, and Drug, and Cosmetic Act.

I. Initial Filing

1. *FAP 3H5392.* BASF Wyandotte Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the herbicide 2-[1(ethoxyimino)butyl-5-(2-(ethylthio)propyl)-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the commodity cottonseed soapstock at 15 parts per million (ppm). (PM-25, Robert Taylor, 703-557-1800).

2. *FAP 3H5379.* Rhone-Poulenc Inc. Agrochemical Division, P.O. Box 125, Monmouth Junction, NJ 08852. Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of the fungicide iprodione (3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide), its isomer [3-(1-methylethyl)-N-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the commodities dry grape pomace at 600 ppm and raisin waste at 300 ppm, in connection with an experimental use program. (PM-21, Henry Jocaby, 703-557-1900).

II. Amended Petition

FAP 3H5379. Rhone-Poulenc Inc. EPA issued a notice purlished in the **Federal Register** of February 2, 1983 (47 FR 4717) that announced the Rhone-Poulenc, Inc. had submitted food additive petition FAP 3H5379 to the Agency proposing to amend 21 CFR Part 193 by establishing a regulation permitting the combined residues of the above fungicide iprodione in or on the commodity raisins at 180 ppm in connection with an experimental use program.

Rhone-Poulenc has amended the petition by: Increasing the level in raisins from 180 to 330 ppm. (PM-21, Henry Jacoby, 703-557-1900).

(Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))
Dated: May 2, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-12576 Filed 5-10-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-180621; PH-FRL 2361-5]

Pesticides; Emergency Exemptions Granted

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the U.S. Departments of the Interior and Agriculture and the States listed below for the control of various pests. Also listed are crisis exemptions initiated by the U.S. Department of Agriculture and three States.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industry for the use of anilazine on watercress to control leaf spot; March 22, 1983 to October 31, 1983. (Gene Asbury)

2. Alabama Department of Agriculture and Industry for the use of mevinphos on watercress to control aphids; April 6, 1983 to October 31, 1983. (Jim Tompkins)

3. Alabama Department of Agriculture and Industry for the use of cyromazine in poultry houses to control house flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

4. Arkansas State Plant Board for the use of cyromazine in poultry houses to control house flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

5. California Department of Food and Agriculture for the use of carbaryl on avocados to control gypsy moths; March 31, 1983 to March 31, 1984. (Jack E. Housenger)

6. Colorado Department of Agriculture for the use of propachlor on onions to control weeds; March 10, 1983 to May 15, 1983. (Donald R. Stubbs)

7. Florida Department of Agriculture and Consumer Services for the use of chlorpyrifos on citrus to control the citrus root weevil complex; March 14, 1983 to October 31, 1983. (Libby Welch)

8. Florida Department of Agriculture and Consumer Services for the use of permethrin on sweet corn grown for the fresh market to control fall armyworms in Alachua, Broward, Collier, Dade, Gadsden, Hendry, Lake, Lee, Marion, Martin, Orange, Palm Beach, Sarasota, and Seminole Counties; April 7, 1983 to December 31, 1983. (Jack E. Housenger)

9. Florida Department of Agriculture and Consumer Services for the use of cyromazine on lettuce and celery in Hendry, Lake, Orange, Palm Beach, Sarasota, and Seminole Counties to control leafminers; March 18, 1983 to June 30, 1983. Florida had initiated a crisis exemption for this use. (Jack E. Housenger)

10. Georgia Department of Agriculture for the use of fenvalerate on southern peas to control cowpea curculio; March 23, 1983 to October 31, 1983. (Gene Asbury)

11. Idaho Department of Agriculture for the use of cyromazine in poultry houses to control flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

12. Idaho Department of Agriculture for the use of propachlor on onions to control weeds; March 31, 1983 to May 30, 1983. (Libby Welch)

13. Illinois Department of Agriculture for the use of propachlor on onions to control weeds; March 31, 1983 to December 31, 1983. (Libby Welch)

14. Maine Department of Agriculture, Food and Rural Resources for the use of cyromazine in poultry houses to control house flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

15. Maryland Department of Agriculture for the use of fenamiphos on strawberry nursery stock plants to control nematodes (root-knot); April 6, 1983 to July 15, 1983. (Gene Asbury)

16. Maryland Department of Agriculture for the use of mevinphos on watercress to control aphids; April 6, 1983 to October 31, 1983. (Jim Tompkins)

17. Maryland Department of Agriculture for the use of azinphosmethyl on carrots to control carrot weevils; March 14, 1983 to August 31, 1983. (Gene Asbury)

18. Michigan Department of Agriculture for the use of propachlor on onions to control weeds; March 31, 1983 to July 15, 1983. (Libby Welch)

19. Montana Department of Agriculture for the use of chlorpyrifos on small grains (wheat, barley, oats) to control cutworms; March 22, 1983 to June 30, 1983. (Jim Tompkins)

20. Montana Department of Agriculture for the use of permethrin on small grains to control cutworms; March 25, 1983 to June 30, 1983. (Jim Tompkins)

21. Nevada Department of Agriculture for the use of oxyfluorfen on dry bulb onions to control broadleaf weeds; April 6, 1983 to July 1, 1983. (Jim Tompkins)

22. New Jersey Department of Environmental Protection for the use of propachlor on onions to control weeds; March 31, 1983 to December 31, 1983. (Libby Welch)

23. New Jersey Department of Environmental Protection for the use of methiocarb on grapes to repel birds; March 28, 1983 to November 30, 1983. (Jim Tompkins)

24. New Jersey Department of Environmental Protection for the use of fenamiphos on bearing peach trees to control nematodes; March 18, 1983 to December 31, 1983. (Gene Asbury)

25. New Jersey Department of Environmental Protection for the use of fenamiphos on bearing nectarine trees to control nematodes; March 18, 1983 to December 31, 1983. (Gene Asbury)

26. New Mexico Department of Agriculture for the use of oryzalin on alfalfa to control foxtail; March 10, 1983 to April 15, 1983. New Mexico had initiated a crisis exemption for this use. (Libby Welch)

27. New York Department of Environmental Conservation for the use of cyromazine in poultry houses to control flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

28. New York Department of Environmental Conservation for the use of methiocarb on grapes to repel birds; March 28, 1983 to November 30, 1983. (Jim Tompkins)

29. Oregon Department of Agriculture for the use of oxyfluorfen on dry bulb onions to control broadleaf weed; April 6, 1983 to July 1, 1983. (Jim Tompkins)

30. Oregon Department of Agriculture for the use of propachlor on onions to control weeds; March 31, 1983 to June 30, 1983. (Libby Welch)

31. South Carolina Division of Regulatory and Public Services for the use of cyromazine in poultry houses to control flies; March 23, 1983 to December 31, 1983. (Jim Tompkins)

32. Washington Department of Agriculture for the use of triadimefon on nectarines to control powdery mildew; March 28, 1983 to June 30, 1983. (Gene Asbury)

33. West Virginia Department of Agriculture for the use of mevinphos on watercress to control aphids; April 6, 1983 to October 31, 1983. (Jim Tompkins)

34. U.S. Department of Agriculture for the use of ethylene oxide on dead bees and used bee-keeping equipment as a sterilant at ports of entry; March 28, 1983 to March 28, 1984. EPA has not yet made its final determination to conclude the rebuttable presumption against registration (RPAR) of ethylene oxide. (Libby Welch)

35. U.S. Department of the Interior, for the use of sodium cyanide on the Aleution Islands of Amukta and Kiska in Alaska to control the Arctic fox; May 1, 1983 to May 1, 1984. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on March 23, 1983, for the use of metalaxyl on asparagus to control *Phytophthora megasperma* var. *sojea*. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until March 23, 1984. (Jack E. Housenger)

2. California Department of Food and Agriculture on March 24, 1983, for the use of daminozide on cherries to control plant growth and the ripening of fruit. The need for this program has ended. (Libby Welch)

3. California Department of Food and Agriculture on March 11, 1983, for the use of iprodione on grapes to control bunch rot. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 1, 1983. (Libby Welch)

4. Hawaii Department of Agriculture on March 5, 1983, for the use of fenvalerate on Chinese cabbage and mustard cabbage to control diamondback moths. Since it was anticipated that this program would be needed for more than 15 days, Hawaii has requested a specific exemption to continue it. The need for this program is expected to last until March 5, 1984. (Jack E. Housenger)

5. Maryland Department of Agriculture on March 29, 1983, for the use of cyromazine in layer poultry houses to control house flies. Since it was anticipated that this program would be needed for more than 15 days, Maryland has requested a specific

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exemption to continue it. The need for this program is expected to last until December 31, 1983. (Jim Tomkins)

6. U.S. Department of Agriculture on March 15, 1983, for the use of methyl bromide on guar seeds to control the khapra beetle. The need for this program has ended. (Libby Welch)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: May 2, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-12577 Filed 5-10-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers of Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Holland America Tours N.V. (Holland America Cruises), c/o Holland America Line, One Landmark Square, Stamford, Connecticut 06901

Dated: May 5, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-12582 Filed 5-10-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; The Chase Manhattan Corp., et al.

The organizations identified in the notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank no later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (mortgage banking and related lending and insurance activities; Florida): To engage through its subsidiary Chase Home Mortgage Corporation in the making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by real estate including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties, servicing loans and other extensions of credit for any person, selling mortgage loans in the secondary market, and offering mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office located in West Palm Beach, Florida, serving the State of Florida. Comments on this application must be received not later than June 3, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *BancOhio Corporation*, Columbus, Ohio (mortgage banking activities; United States): To engage, through its subsidiary, W. Lyman Case & Company, in making, acquiring, and servicing for its own account and for the account of others, mortgage loans and other extensions of credit (including issuing of letters of credit and accepting drafts) as would be made by a mortgage company, in arranging for equity financing on behalf of institutional investors for commercial and industrial income-producing real property, land in such other activities as are incidental thereto. These activities will be conducted from an office in Cleveland, Ohio, serving the entire United States. Comments on this application must be received not later than May 28, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (mortgage and servicing activities; Utah): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; and the servicing of such loans for others. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Salt Lake City, Utah, serving the State of Utah. Comments on this application must be received not later than June 3, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (mortgage and servicing activities; Colorado): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; and the servicing of such loans for others. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Aurora, Colorado, serving the State of Colorado. Comments on this application must be received not later than June, 3, 1983.

3. *Wells Fargo & Company*, San Francisco, California (finance, leasing and insurance activities; Texas, Arkansas, Louisiana, New Mexico and Oklahoma): Proposes to engage, through its subsidiary, Wells Fargo Credit Corporation, in making or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commercial loans secured by a borrower's or guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property; and acting as agent for credit life or accident and health insurance related to its extensions of credit in accordance with the Board's Regulation Y and Title VI of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Houston, Texas, serving Texas, Arkansas, Louisiana, New Mexico, and Oklahoma. Comments on this application must be received not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12551 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0464]

Federal Reserve Bank Check Collection Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Supplement to request for comments.

SUMMARY: The Board of Governors requested public comment on May 2, 1983, on proposed criteria for selecting depository institutions located outside Federal Reserve office cities for inclusion in a program to accelerate the collection of checks. This request for comments is being supplemented by adding the list of those depository institutions that receive daily average presentments from the Federal Reserve of $20 million or more.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Assistant Director (202/452-2231) of Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452-3711), Robert G. Ballen, Attorney (202/452-3265), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board requested comment on May 2, 1983, on proposed criteria for selecting depository institutions located outside Federal Reserve office cities for inclusion in the program to accelerate the collection of checks. 48 FR 20283 (May 5, 1983). One of the criterion proposed by the Board as a basis for determining which non-city institutions would be included in this aspect of the program to accelerate the collection of checks, called the high-dollar group sort (HDGS), was the value of daily average presentments received from the Federal Reserve. The Board proposed that initially all institutions with average daily presentments amounting to $20 million or more would be included in the HDGS. The Board has been asked to provide a list of the 97 institutions that meet this proposed criterion.

To further assist commenters in their review of the proposed criteria for selecting institutions to be included in the HDGS, the Board's notice has been supplemented to include the names of the 97 institutions that receive daily average presentments from the Federal Reserve of $20 million or more. The publication of these names should not be regarded as a determination that all 97 institutions will be included in the HDGS. Analysis of comments received in response to the Board's proposal may result in the cutoff being raised or lowered, or may even result in the daily average presentments criterion not being adopted.

The 97 institutions that receive daily average presentments from the Federal Reserve of $20 million or more as of March 1983 are:

Federal Reserve Office	Institution	Routing transit No.
First Federal Reserve District		
Boston	Fleet National Bank	01150001
	Rhode Island Hospital Trust	01150033
	Shawmut-Worcester City	01130001
	Arlington Trust	01130117
	Old Colony Bank & Trust	01130142
Windsor Locks	Hartford National Bank	01190044
	Connecticut Bank & Trust	01190057
	Old Colony Bank	01180137
	Colonial Bank	01110080
	Union Trust	02110110
Second Federal Reserve District		
Buffalo	Citizen Bank NYS	02231042
	Manufacturers Hanover	02230936
	Lincoln First Bank	02230017
Jericho	Bank of New York County Trust	02190235
	Chase Manhattan Arthurs-burg	02190947
	Long Island Trust Company	02141063
Cranford	Fidelity Union	02120009
	Midatlantic National Bank	02120001
	First Jersey National	02120033
	First National State Bank	02120002
	United Jersey Bank	02120216
	National State Bank	02120098
	National Community Bank	02120271
	Valley National Bank	02120139
Utica	Chase Manhattan Bank	02130937
	Key Bank, N.A.	02130007
	Citibank (NYS) N.A.	02130582
	Chemical Bank	02130943
	Endicott Trust Company	02131003
	Marine Midland Bank	02130042
	State Bank of Albany	02130001
	Bankers Trust of Albany	02130008
Third Federal Reserve District		
Philadelphia	Morgan Bank	03110023
	New Jersey National Bank	03120073
	Wilmington Trust Company	03110009
	Girard Bank	03110004
	Hamilton Bank	03130154
Fourth Federal Reserve District		
Cleveland	First National Bank of Ashland	04120389
	Ameritrust of Northeastern Ohio	04120179
Cincinnati	Winters National Bank	04220030
	1st Security National Bank	04210002
Pittsburgh	Mellon Bank N.A.	04330100
Fifth Federal Reserve District		
Columbus	Huntington National Bank	04411512
Richmond	First & Merchants National Bank	05140064
	United Virginia	05140186
	Bank of Virginia	05140589
Baltimore	Riggs National Bank	05400003
	Maryland National Bank	05500327
	American Security Bank N.A.	05400055
	Suburban Bank	05500234
	The Bank of Delmar	05210306
Charlotte	First Union National Bank	05310127
	Wachovia Bank & Trust Co. N.A.	05310049
	Wachovia Bank & Trust Co. N.A.	05310763
	North Carolina National Bank	05310055
	Wachovia Bank & Trust Co. N.A.	05310355
	Branch Banking & Trust Co.	05310112
Columbia	Citizens and Southern National Bank	05390037
	South Carolina National Bank	05390022
	First National Bank of South Carolina	05390698
	Bankers Trust	05390448
Sixth Federal Reserve District		
Atlanta	1st National Bank of Atlanta, Augusta	06111327
	Citizens & Southern, DeKalb	06111278
	Trust Company Bank-Cobb County	06110124
	1st National Bank	06110078
Jacksonville	Sun Bank, N.A. of Orlando	06310215
	First National Bank of Florida	06310026
	Southeast First National Bank	06310738
New Orleans	Louisiana National Bank	08540013
Miami	Barnett Bank of South Florida, N.A.	06700398
Seventh Federal Reserve District		
Chicago	Bank of Oak Brook Terrace	07192369
Detroit 1	National Bank of Detroit-Troy	07241303
	National Bank of Detroit-Dearborn	07241292
Detroit 2	Michigan National Bank of Lansing	07241174
	Old Kent Bank and Trust	07240005
Milwaukee	First Wisconsin Bank	07591208
Eighth Federal Reserve District		
St. Louis	Centerre Bank of Rolla	08150269
Louisville	Farmers Bank	08390081
Memphis	Commerce Union Bank	08430272
Ninth Federal Reserve District		
Minneapolis	First Bank, N.A. Northfield	09190148
	First Northwest Bank, Fairbault	09190053
	First Bank, St. Cloud	09190523
	First Northwest Bank, Redwing	09190046
Helena	Security Bank	09280142
Tenth Federal Reserve District		
Denver	Mesa United Bank of Grand Junction	10210061
Oklahoma City	First National Bank	10390001
	First National Bank, Bartlesville	10310052
Eleventh Federal Reserve District		
Dallas	Republic Bank Brownwood	11190155
	InterFirst Bank Carrollton	11192230
San Antonio	Texas Commerce	11492146

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Federal Reserve Office	Institution	Routing transit No.
El Paso	First National Bank of Fabens	11231952
Twelfth Federal Reserve District		
San Francisco	Bank of the West	12110078
Los Angeles 1	Imperial Bank	12220144
	Mitsui Manufacturers Bank	12222607
Los Angeles 2	California First Bank	12220049
Los Angeles 3	Valley National Bank	12210002
	First Interstate Bank	12210001

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12552 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; HomeBanc Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *HomeBanc Corporation,* Guntersville, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of The Home Bank Guntersville, Alabama. Comments on this application must be received not later than June 1, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Peoples First Corporation,* Paducah, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples First National Bank and Trust Company, Paducah, Kentucky. Comments on this application must be received not later than June 3, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Perryton Bancorp, Inc.,* Perryton, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Perryton, Perryton, Texas. Comments on this application must be received not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12547 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; the Home State Building, Inc.

The Home State Building, Inc., Lewis, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Home State Bank, Lewis, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Home State Building, Inc., Lewis, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Lewis Insurance Service, Inc., Lewis, Kansas.

Applicant states that the proposed subsidiary would continue to engage in general insurance agency activities in a community that has a population not exceeding 5,000 and in conformance with Section 601(C) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be performed from offices of Applicant's subsidiary in Lewis, Kansas, and the geographic area to be served is Edwards County, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be pesented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12549 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corporation

Norwest Corporation, Minneapolis, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* in equity financing activities through its nonbank subsidiary, Norwest Mortgage, Inc., Minneapolis, Minnesota. These activities would be performed from offices of Applicant's subsidiary in Colorado, Illinois, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, Texas and Wisconsin, and the geographic areas to be served are all of the United States, including the District of Columbia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12548 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

Whitewater Bancorp., Inc.

Whitewater Bancorp., Inc., Whitewater, Wisconsin, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage directly in general insurance agency activities. Applicant proposes to sell credit-related life insurance and general property, casualty, and health insurance. These activities would be conducted by Applicant, a bank holding with assets of $50 million or less, in a community with a population exceeding 5,000 and in conformance with the requirements of Section 601(F) of the Garn-St Germain Depository Institution Act of 1982. These activities would be performed from premises located at the two offices of Applicant's subsidiary, First Citizens State Bank, Whitewater, Wisconsin. The geographic area to be served is the State of Wisconsin. Such activities have been specified by the Board § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedure of facility 225.4(b).

Interested person may express their views on the question whether consummation of the proposal can "reasonably by expected to produce benefits to the public, such as greater convenience, increases competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or request for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 3, 1983.

Board of Governors of the Federal Reserve System, May 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-12550 Filed 5-10-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

International Narcotics Control Under the Foreign Assistance Act of 1961; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of January 24, 1983 (48 FR 6782), by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, with authority to redelegate, the authority delegated to the Assistant Secretary for Health under section 481(d)(2), of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291(d)(2)), concerning the authority to monitor the impact on the health of persons who use marijuna sprayed with a herbicide to eradicate such marijuana.

The delegation to the Director, Centers for Disease Control, became effective on April 27, 1983

Dated: April 27, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-12656 Filed 5-10-83; 8:45 am]

BILLING CODE 4160-18-M

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Tec' nology Assessment (OHTA), announces that it is seeking additional responses to an announcement of assessment in **Federal Register** Volume 46, number 226, p. 57649, of November 24, 1981 of the role of intraoperative ventricular and atrial mapping in the treatment of some tachyarrhythmias. Specifically, we are interested in the safety, clinical effectiveness, appropriateness and use of this technology as it applies to: (1) Localizing accessory pathways associated with the Wolff-Parkinson-White and other preexcitation syndromes. (2) Mapping the sequence of atrial and ventricular activation for drug resistant supraventricular tachycardias. (3) Delineating the anatomic course of the Bundle of His during open heart surgery. (4) Identifying the site(s) of origin of ventricular (and atrial) arrhythmias. (5) Identifying areas of myocardial ischemia or infarction for purposes of revascularization or for defining margins for surgical resection in the treatment of ischemic heart disease. This assessment seeks to evaluate intraoperative mapping in the management of certain high risk patients with recurrent refractory arrhythmias and compare the outcome of patient management based on electrophysiologic surveys (EPS) with that of other conventional approaches (i.e. empirical therapy).

For the purpose of this announcement, intraoperative ventricular and atrial mapping is defined as direct mapping of the heart's electrophysiologic signals during surgery. Cardiac mapping is a method by which potentials recorded directly from the heart are spatially depicted as a function of time in an intergrated manner. The recording sites are usually indentified from an anatomical grid and may consist of epicardial, endocardial, and even intramyocardial sites. A variety of important electrophysiologic variables can be identified from cardiac recordings including local activation times. Mapping Procedures performed in the cardiac catherization laboratory (preoperative) are not included in this assessment.

The PHS assessment consists of a synthesis of information obtained from appropriate organization in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person

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or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than July 30, 1983, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1975 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Martin Erlichman, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, Stop No. 2, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact Martin Erlichman, Health Science Analyst, at above address or by telephone (301) 443-4090.

Dated: May 4, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services, Research.

[FR Doc. 83-12355 Filed 5-10-83; 8:45 am]
BILLING CODE 4160-17-M

Social Security Administration

Income Maintenance Research and Demonstration; Availability of Grants

The Commissioner of Social Security announces the availability of fiscal year (FY) 1983 funds for income maintenance research and demonstration grants related to the Aid to Families with Dependent Children (AFDC) Program, title IV-A of the Social Security Act. The grants are authorized under sections 1110 and 1115 of the Social Security Act. The closing date for receipt of all applications is July 11, 1983.

Program Purpose

The research and demonstration activities are intended to add to existing knowledge and to improve methods and techniques for the management, administration and effectiveness of public assistance programs.

Program Goals

In general, the Social Security Administration (SSA) will support the following types of projects:

1. Those which develop and demonstrate new financing mechanisms, administrative procedures, and technological innovations for improving the effectiveness of public assistance programs at the State and local levels.

2. Those which increase knowledge of the characteristics and financial needs of a target group.

3. Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out income maintenance.

Priority Projects

In particular, the following projects will be considered for funding:

Demonstration of Grant Diversion—SSA-83-01 (Section 1115 Grant)

One of the objectives of title IV-A of the Social Security Act is to promote self-support and personal independence to the maximum extent possible. Grant diversion is a technique whereby the recipient's AFDC cash grant is diverted to a public or private employer that employs the recipient. In other words, the grant is used to subsidize the wage paid to the employed recipient. In this period of severe fiscal constraints, techniques which maximize existing resources towards creating job opportunities are especially important.

This demonstration will test different models for implementing grant diversion to determine whether they are cost-effective techniques for promoting the self-support of AFDC recipients. Proposals for this demonstration must include a detailed description of the operational aspects of the project, including the amount and duration of the grant diversion, the types of jobs and employees anticipated; the mechanism for diverting the grant; the mechanism for shifting participants to unsubsidized employment; etc. The proposal application also must include an evaluation plan. A control or comparison group is required for the demonstration, and preference will be given to projects utilizing an experimental design with random assignment.

Five to seven grants funded for up to 3 years in duration are anticipated. For the first year, approximately $710,000 in special Federal project funds, matchable with $710,000 in regular Federal funds received under section 403 of the Act, will be available in support of this section 1115 activity. Two succesive 12-month grants will be awarded upon satisfactory performance and availability of fiscal year appropriations.

Demonstration of Front-End Fraud Detection Models SSA-83-02 (Section 1110 grant)

Recipient fraud continues to result in substantial misexpenditures, and when the fraud is identified, expensive and time-consuming court actions are often necessary for recoupmemt of these funds. Many current fraud detection efforts are unfocused, passive, and untimely. Fraud is often not identified until long after an individual has been receiving AFDC benefits.

This project would demonstrate innovative techniques in the early detection and prevention of fraud. Examples of such techniques include tax and bank records matching and special investigations of suspected fraud cases prior to application approval. Preference will be given to those projects employing techniques that would be applied either prior to application approval or shortly thereafter. Effects on participation rates and the costs and savings of the program would be measured. Although some States now practice a variety of front-end fraud detection techniques, hard cost/benefit data comparing their efficacy to less focused methods of verification is lacking. This project would provide for a careful measurement and evaluation of up to two fraud detection systems, with preference given to the use of control or comparison groups. Applicants must indicate the location(s) in which these techniques will be tested and describe the methods by which these techniques are tested and evaluated. Non-governmental applicants must also provide collateral agreements from authorized officials in the demonstration State(s).

Two projects funded for up to 2 years in duration are anticipated. For the first year, a total of $375,000 will be available in support of this section 1110 activity. An additional 12-month grant will be subsequently awarded upon satisfactory performance and availability of fiscal year appropriations.

Demonstration of CWEP-Operated Daycare for AFDC Recipients SSA-83-03 (Section 1115 grant)

States have used a variety of means to provide daycare, where necessary, for AFDC recipients who participate in CWEP, and other work programs, or who are employed. This section 1115 project will demonstrate the use of CWEP participants in the provisions of daycare services for other AFDC recipients. The grantee will demonstrate techniques, consistent with Federal matching requirements, for directly or indirectly using CWEP participants in meeting the childcare needs of other AFDC recipients and in providing to CWEP participants employment experience and skill development in the provision of daycare services. The grantee will evaluate administrative effectiveness; the primary objective is to test implementation processes and administrative procedures that constitute "best practices" for providing daycare through CWEP participants.

Two projects funded for up to 2 years in duration are anticipated. For the first year, $150,000 in special Federal project funds, matchable with $150,000 in regular Federal funds under section 403 of the Act, will be available in support of this section 1115 activity. An additional 12-month grant will be subsequently awarded upon satisfactory performance and availability of fiscal year appropriations.

Demonstrating a Model CWEP Management Information System SSA-83-04 (Section 1110 Grant)

The Community Work Experience Program (CWEP) allows States to require certain AFDC recipients to perform public service work each month for an amount of time no greater than the grant divided by the minimum wage. In order to be an effective, comprehensive program, States must quickly and accurately collect, update, process, and report data on available work sites, recipient/grant information, participant/program performance, etc. To accomplish this on a large scale, automated data processing could be especially useful.

This section 1110 demonstration project will involve the development of an automated system which can be used by caseworkers to match recipients to jobs as well as provide information on work sites, recipient work experience needs, employability characteristics, recipient history, and caseworker reports. The system should also monitor participation of recipients in CWEP at various stages, e.g., registration, referral, and actual on-site participation. Applicants must describe how and where this system will be tested, implemented, and evaluated. Non-governmental applicants must also provide collateral agreements form authorized officials in the demonstration state(s). Preference will be given to applicants that will demonstrate the system on a large scale, or State-wide, and to proposals which link this system to the demonstration State's AFDC Client Information System.

One grant funded for one year only is anticipated. Approximately $250,000 will be available in support of this activity.

Demonstrating Innovative Error Reduction Techniques SSA-83-05 (Section 1115 grant)

Although error rates have significantly declined over the past 10 years, erroneous payments still total about $1 billion annually. In light of current budgetary constraints in government, the development and documentation of innovative techniques that are cost beneficial for reducing erroneous payments are important areas for State demonstration.

This section 1115 projects will provide funds for up to four States to demonstrate and evaluate innovative techniques which significantly reduce erroneous payments. These techniques must be transferable to a large number of States. Two categories of techniques are of particular interest. The first category involves techniques employing the use of management consulting teams to identify problems and develop targeted corrective actions by conducting management and administrative analyses of welfare offices with high error rates. A second category involves techniques directed at the reduction of client error. Several States appear to have successfully employed techniques targeted toward reducing recipient-caused error. A clear demonstration of successful innovative techniques for reducing client error would encourage other States to adopt them. In addition to the above two areas, States may propose other techniques which show promise in reducing error rates.

Proposals must include a description of how project sites will be chosen and how costs and benefits will be measured. Projects must demonstrate probable transferability of techniques and preference will be given to projects that propose evaluations based on an experimental design.

Two to four grants awarded for up to 2 years in duration are anticipated. For the first year, $300,000 in special Federal project funds, matchable with $300,000 in regular Federal funds under section 403 of the Act, will be available in support of this activity. An additional 12-month grant will be subsequently awarded upon satisfactory performance and availability of fiscal year appropriations.

Grantee Share of the Project Costs

Section 1110 grants. Grantees receiving financial assistance to conduct projects must contribute at least 5 percent of the total projects costs for each year for which funding is requested.

Section 1115 grants. Special Federal project funds received under section 1115 grants are available to be used as the single State agency matching funds to obtain regular Federal funds under the AFDC State plan pursuant to section 403 of the Act. Section 1115 grant applications usually include a budget proposal of which 50% of the total cost of the activity will be funded from regular Federal funds under section 403 of the Act and the remaining 50% from special Federal project and State funds. States are expected to contribute at least 5% of the total cost of the activity.

No section 1110 or 1115 grant will be awarded which provides 100% Federal funding.

Unsolicited Projects

Applicants may also submit proposals for projects for funding in areas not specifically identified in this announcement but which are relevant to the goals and objectives of the AFDC program. These applications will be designated as nonpriority due to limitations on funds, but will also be subject to the panel review process. They will compete with other nonpriority projects, and a limited number may be approved pending available funds.

Grant Awards

Grant awards are expected to be made in September 1983.

Criteria for Review and Evaluation of Solicited and Unsolicited Applications

All applications will be judged primarily on the feasibility of their operational design, including their staffing plan, and the quality of their evaluation plan. Competing applications will be reviewed and evaluated against the following criteria:

1. Are the project's personnel qualified and suitable for the assigned tasks? (20 points)

2. Does the applicant have adequate facilities and resources to plan, conduct, and complete the project? (15 points)

3. Is the project's design and evaluation plan adequate and feasible as indicated by the technical approach, the use of scientifically valid methods and data, and the schedule of tasks and milestones? (30 points)

4. Is the budget detailed with explanations and, if necessary, justifications for the requested amounts? Are the costs reasonable and adequately described? Is the project planned in a cost-effective manner? (20 points)

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5. How closely do the project objectives fit HHS priorities and goals? (15 points)

Section 1115 projects which require waivers of section 402 of the Social Security Act must list the required waivers by subsection of the Social Security Act, discuss the implications of granting the waivers and state the effect on recipients participating in the project.

In addition, waiver projects will receive budget reviews in order to assess the potential cost savings of granting the proposed waivers. Special attention must be given to fully stating the budget in accord with the requirements in the applications kit. Proposals with incomplete budgets will be required to provide complete information.

Eligible Applicants

Section 1110 Grants. Any State, public or nonprofit organization or agency may apply for a section 1110 grant under this announcement.

Section 1115 Grants. Under this announcement, only title IV–A State agencies may apply for grants under the section 1115 authority.

The Application Process

1. *Availability of application forms:* Application kits which contain the prescribed application forms and grant guides which provide supplemental descriptive information on the priority projects are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, First Floor, Dogwood West, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207. Telephone: (301) 594–0284. Lawrence H. Pullen, Chief, Grants Management Branch.

When requesting an application kit, the applicant should specify the type of project intended to insure receipt of the proper application.

2. *Additional information:* For questions concerning project development, please contact Elizabeth Barnes, Office of Family Assistance, Social Security Administration, 2100 Second Street, SW., Washington, D.C. 20201. Telephone: (202) 245–3327 or (202) 245–3307.

3. *Application submission:* To be considered for section 1110 or section 1115 grants, all applications must be submitted on the standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the application form, SSA–96, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (SSA–83–01, SSA–83–02, etc.) for which the application is to compete. If the application is not submitted in response to a priority project, indicate "Unsolicited."

4. *Application consideration:* Applications are initially screened for relevance to the interests of SSA.

Irrelevant applications are returned to the applicants. Relevant applications are reviewed and evaluated by a review panel of not less than three experts. Written assessment of each relevant application is made by the review panel.

5. *Application approval:* Following approval by SSA of the applications selected for funding, financial assistance awards will be issued within the limits of available Federal funds. Grant awards are expected to be issued in September 1983. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the terms and conditions of the award, the budget period for which support is contemplated, and the total grantee financial participation.

Closing Dates and Times

The closing date for receipt of applicants in response to this announcement will be July 11, 1983.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Managements, OMBP, Grants Management Branch, First Floor, Dogwood West, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207.

Applications must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m. Monday through Friday. An application will be considered to be received on time if the application is sent by *first class mail* (registered, certified, or express mail) not later than the closing date, as evidenced by a legible U.S. Postal Service postmark.

Private metered postmarks *will not* be considered acceptable as proof of timely mailing. Applications submitted by any other means than *first class mail* through the U.S. Postal Service shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date. *Applications which are not received on time will not be considered for funding.*

A–95 Notification Process. These programs are not covered by the requirements of OMB Circular A–95 or Executive Order 12372 which takes effect April 30, 1983.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research/Demonstrations)

Dated: May 5, 1983.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83-12553 Filed 5-10-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Burley District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 91–463, Pub. L. 94–579, Pub. L. 95–514, and 43 CFR Part 1780, that the Burley District Advisory Council will meet on the following days for the purposes stated:

Thursday, June 16, 1983; 10:00 a.m. The purpose of this meeting is to tour the Cassia RMP Area.

Friday, June 17, 1983; 9:00 a.m. The purpose of this meeting will be to discuss the Cassia RMP tour and items relating to the Cassia RMP. Committees will be established to review and report on the Cassia RMP Alternative and Environmental Consequences section of the draft document.

Wednesday, July 6, 1983; 9:00 a.m. The purpose of this meeting will be to hear the reports of committees established to review the Cassia RMP.

The meetings will be held in the Conference Room at the Burley District Office, 200 South Oakley Highway, Burley, Idaho 83318. The tour on June 16 will depart from the above address.

The meetings are open to the public. Interested persons may make oral statements to the Council between 3:30 p.m. and 4:00 p.m. on June 17, 1983, or July 6, 1983. Members of the public who wish to attend the tour on June 16 must provide their own transportation and lunch. Anyone wishing to make an oral statement must notify the District Manager at the Burley BLM District Office, 200 South Oakley Highway, Burley, Idaho 83318, by June 14, 1983. Depending on the number of persons wanting to make oral statements, a per-person time limit may be established.

Summary minutes of the meetings will be maintained in the District Office and will be available for public inspection and reproduction during business hours

(7:45 a.m. to 4:30 p.m.) 30 days after the meeting.

Dated: May 5, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83-12536 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Realty Action; Sale of Public Lands in Box Elder County

[U–47292, U–47295]

AGENCY: Bureau of Land Management, Salt Lake District, Interior.

ACTION: Notice.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

	Legal Description	Acreage	Value
U–47292	T.10 N., R.18 W., SLM Sec. 21 SE¼	160.0	16,000
U–47295	T.11 N., R.18 W., SLM Sec. 20 NE¼, E½SE¼	240.0	24,000

The above described land will be sold in order to dispose of lands which because of location and other characteristics are difficult and uneconomical to manage. The sale is consistent with the Bureau's planning system and the public interest will be served by offering these lands for sale.

The sale will be held on Monday, July 11, 1983 at 10:00 A.M. at the BLM offices at 2370 S. 2300 W., Salt Lake City, Utah. Said lands will be sold at public auction subject to a preference right to the following adjoining landowners to meet the high bid:

U–47292—Merlin B. Tanner; Grouse Creek, Utah 84313

U–47295—Scott MacKay, representative for the Brangus Ranch; Rupert, Idaho 83350

Bids may be made by a principal or duly qualified agent. Qualified bidders include: Citizens of the United States 18 years of age or over; a corporation subject to the laws of any state or of the United States; a state, state instrumentality or political subdivision authorized to hold property; and any entities capable of holding lands or interests therein under the laws of the state within which the lands to be conveyed are located. Entities include but are not limited to associations, partnerships, and other legal entities. Sealed bids shall be considered only if received at the place of sale, BLM, 2370 South 2300 West, Salt Lake City, Utah 84119, prior to 9:00 A.M. the day of the sale and for at least the appraised value. Each bid shall be accompained by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sale U–47292 or U–47295, Box Elder County." If two or more bids for the same amount are received, the apparent high bidder shall be determined by drawing pursuant to 43 CFR 2711.3–1(c). The sealed bids shall be opened and publicly declared at the beginning of the sale. Oral bids will then be entertained. The oral bids must be made in increments of $100 or more. A Maximum of two minutes will be allowed between oral bids for the submission of a higher bid. When the bidding has been completed, the individual holding a preference right on that tract will be given an opportunity to match the final high bid. If that individual agrees to match the final high bid, he then becomes the apparent high bidder on that tract. If he declines to match the final high bid, the person making the final high bid will be declared the apparent high bidder on that tract.

The person declared to have entered the apparent high qualifying oral bid shall submit payment by cash, personal check, bank draft, money order of any combination; thereof, any additional amount necessary to bring the amount tendered with their sealed bids up to one-fifth of the amount of the oral bid, immediately following the close of the sale. The acceptance or rejection of any offer to purchase shall be in writing no later than 30 days after receipt of such offer.

The terms and conditions applicable to the sale are:

(1) The apparent high bidder shall submit the remainder of the full bid price within 30 days from date of sale. Failure to submit the full bid price prior to, but not including the 30th day following the sale, shall result in cancellation of the sale of the above discribed lands and the deposit shall be forfeited.

(2) The authorized officer may reject the highest qualified bid and release the bidder from his obligation and withdraw the tract for sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law or collusive or other activities have hindered or restrained free and open bidding or consummation of the sale would encourage or promote speculation in public lands

(3) The patent will contain a reservation for ditches and canals and be subject to all valid existing rights.

(4) All minerals will be reserved to the United States on parcel U–47295. (The mineral estate on U47292 is not held by the United States.)

(5) The United States does not, by the terms of this sale, guarantee to any party Physical or legal access to the tract of this sale, guarantee to any party physical or legal acess to the tract of land being sold. Tract U–47295 is completely surrounded by private land and is without physical or legal access.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, BLM, 2370 South 2300 West, Salt Lake City, Utah 84119. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

C. Wayne Richards

Bear River Resource Area Manager.

May 2, 1983.

[FR Doc. 83-12536 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Craig District Advisory Council Meeting

In accordance with Pub. L. 94–579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on June 10, 1983.

The meeting will begin at 10:00 a.m. in the conference room of the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado.

The agenda of the meeting will include:

1. Orientation to BLM's Land Use Planning Process,
2. Discussion of resource issues to be addressed by the Advisory Council,
3. Asset Management,
4. Cooperative Management Agreements, and
5. Statements from the Public.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 1:30 p.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land

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Management, 455 Emerson Street, Craig, Colorado 81625, by June 7, 1983.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: May 2, 1983.

Lee Carie,

District Manager.

[FR Doc. 83-12003 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18606]

Federal Minerals Exchange; Mohave County, Arizona; Realty Action

AGENCY: Bureau of Land Management, (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Federal Minerals in Mohave County, Arizona.

SUMMARY: The following described Federal mineral estate has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 27 N., R. 19 W.
Sec. 14: All;
Sec. 30: All.
T. 23 N., R. 18 W.
Sec. 18: All.
T. 23 N., R. 15 W.
Sec. 34: All.
T. 22 N., R. 15 W.
Sec. 6: All;
Sec. 10: All;
Sec. 12: All;
Sec. 14: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: All;
Sec. 34: N½NE¼ and S½.
T. 22 N., R. 14 W.
Sec. 18: All;
Sec. 20: All;
Sec. 21: NE¼NE¼,S½NE¼, and NW¼;
Sec. 22: All;
Sec. 24: All;
Sec. 26: All;
Sec. 28: All;
Sec. 32: All;
Sec. 34: All;
T. 22 N., R. 13 W.
Sec. 20: All;
Sec. 22: All;
Sec. 24: All;
Sec. 26: All;
Sec. 28: All;
Sec. 30: All;
Sec. 34: NE¼,S½NW¼, and S½.
T. 22 N., R. 12 W.
Sec. 6: All.
T. 21 N., R. 15 W.
Sec. 4: All;
Sec. 6: All;
Sec. 8: All;
Sec. 10: All;
Sec. 12: All;
Sec. 14: All;
Sec. 18: All;
Sec. 20: All: SW¼NE¼;
Sec. 24: All;
Sec. 28: NW¼NE¼,N½NW¼, and SW¼NW¼;
Sec. 30: Lots 3 and 4, E½SW¼, and SE¼.
T. 21 N., R. 14 W.
Sec. 4: All;
Sec. 6: All;
Sec. 8: All;
Sec. 10: All;
Sec. 12: All;
Sec. 14: N½N½ and SW¼NW¼;
Sec. 30: Lots 1–4 and E½W½.
T. 21 N., R. 13 W.
Sec. 4: All;
Sec. 6: All;
Sec. 8: All;
Sec. 10: N½,N½SW¼,SE¼SW¼, and SE¼;
Sec. 12: All;
Sec. 14: All;
Sec. 18: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: All;
Sec. 26: All;
Sec. 28: All;
Sec. 30: All;
Sec. 34: N½NE¼,SW¼NE¼,NW¼, and S½.
T. 21 N., R. 12 W.
Sec. 4: SW¼;
Sec. 6: All;
Sec. 8: All;
Sec. 10: All;
Sec. 12: All;
Sec. 14: All;
Sec. 18: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: All;
Sec. 26: N½;
Sec. 28: All;
Sec. 30: All;
Sec. 34: All.
T. 21 N., R. 11 W.
Sec. 4: All;
Sec. 6: All;
Sec. 8: All;
Sec. 22: SW¼;
Sec. 24: E½NE¼, SW¼NE¼, SW¼NW¼, and S½;
Sec. 26: All;
Sec. 30: All;
Sec. 34: All.
T. 20 N., R. 12 W.
Sec. 1: Lots 1–4 and S½N½;
Sec. 4: Lots 1–4, S½N½,SW¼,N½SE¼, and SE¼SE¼;
Sec. 6: All.
T. 20 N., R. 11 W.
Sec. 4: All;
Sec. 7: Lots 13, 14, 18, and 19;
Sec. 8: N½ and N½SW¼;
Sec. 10: All;
Sec. 18: Lots 11, 12, 15, 16, 17, 18, 19, 20, and SE¼;
Sec. 20: All;
Sec. 22: All;
Sec. 26: All;
Sec. 28: All;
Sec. 30: Lots 1 thru 10 and 13 thru 18;
Sec. 34: All.
T. 19 N., R. 11 W.
Sec. 6: All;
Sec. 8: All;
Sec. 10: All;
Sec. 12: All;
Sec. 18: All;
Sec. 20: W½;
Sec. 22: All;
Sec. 24: All;
Sec. 26: All;
Sec. 28: NW¼ and S½;
Sec. 30: All;
Sec. 34: S½.

Comprising 65,637.91 acres, more or less.

In exchange for this Federal mineral estate, the United States has selected 65,822.02 acres of State-owned minerals also within Mohave County, Arizona.

The purpose of the exchange is to unite State and Federal split estates, thereby eliminating surface management difficulties and providing for the consolidation of mineral ownerships.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response period of forty-five (45) days during which Public comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1 (b), shall segregate the Federal minerals, as described in this Notice, to the extent that they will not be subject to appropriation under the mining laws, subject to any prior valid rights. The segregative effect shall terminate either upon publication in the **Federal Register** of a termination of the segregation or two years from the date of this publication, whichever occurs first. This action is necessary to avoid the occurrence of nuisance mining claims that could encumber the Federal minerals while the preparation of an environmental assessment and mineral report are ongoing.

Upon completion of the environmental assessment, a final Notice of Realty Action will be published. The Notice will provide a final description of the Federal and State minerals to be transferred, including reservations.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including a listing of the selected State-owned minerals, may be obtained from the Area Manager, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Dated: May 3, 1983.

W. K. Barker,

District Manager.

[FR Doc. 83-12539 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 10152]

Oregon; Cancellation of Realty Action

1. By Notice of Realty which was published in the **Federal Register** on August 31, 1982 (47 FR 38428), the following described land was classified and determined suitable for sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, et seq):

Willamette Meridian

T. 4 N., R. 28 E.,
Sec. 14, that portion of the S½SE¼SW¼ lying north of the centerline of Railroad Right-of-Way Oregon 01781, now assigned to the Union Pacific Railroad Company.

The area described contains approximately 7.47 acres in Umatilla County, Oregon.

2. The above-described land has been eliminated from proposed sale under the Recreation and Public Purposes Act; therefore, the Notice of Realty Action identified in paragraph 1, is hereby cancelled.

3. The classification for sale under the Recreation and Public Purposes Act, which was made by classification decision of March 6, 1973, and affirmed by the Notice of Realty Action identified in paragraph 1, is hereby terminated.

4. At 9:30 a.m., on June 17, 1983, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on June 17, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 9:30 a.m., on June 17, 1983, the land will be open to location under the United States mining laws. Appropriation of lands under the general-mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the District Manager, Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918.

Dated: May 2, 1983.

Pearl M. Parker,

District Manager, Vale District Office.

[FR Doc. 83-12530 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-14015]

Alaska Native Claims Selection

In accordance with departmental regulation 43 CFR 2650. 7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Sealaska Corporation for approximately 1,120 acres. The lands involved are within T. 77 S., R. 85 E., Copper River Meridian.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the *Southeast Alaska Empire* (Juneau) upon issuance of the decison. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 CODE OF FEDERAL REGULATIONS (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 10, 1983. to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal is: Sealaska Corporation, One Sealaska Paza, Suite 400, Juneau, Alaska 99801.

Ruth Stockie,

Chief, Sealaska Section.

[FR Doc. 83-12501 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

Applicant: International Animal Exchange Ferndale, MI; PRT 2–10343

The applicant requests a permit to import one male captive-born gaur (*Bos gaurus*) from Metro Toronto Zoo, Canada, for enhancement of propagation.

Applicant: Regional Director–7; USFWS; Juneau, AK; PRT 2–1705

The applicant request an amendment to their permit to allow them to take five eggs from two or more clutches of Aleutian Canada geese (*Branta canadensis leucopareia*) for scientific research. Several populations in the Aleutian Island chain will be sampled.

Applicant: Ranald L. Oxley, Acton, CA; PRT 2–10348

The applicant requests a permit to export and reimport captive-born gray wolves (*Canis Lupus*) to and from Italy

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for enhancement of survival. The wolves will be filmed for educating the public about the conservation needs of wolves and other wildlife.

Applicant: Ducan Lee Bassett; Cleveland, OH; PRT 2-10376

The applicant requests a permit to import one hunting trophy of a captive-born bontebok antelope (*Damaliscus dorcas dorcas*) that is to be culled from a ranch herd in South Africa.

Applicant: Terry McEneaney, Red Rocks Lake National Wildlife Refuge, Lima, MT; PRT 2-10383

The applicant requests a permit to band bald eagles (*Haliaeetus leucocephalus*) for enhancement of survival and scientific research.

Applicant: Dr. Patrick Redig, University of Minnesota, St. Paul, MN; PRT 2-8865

The applicant requests a permit to import captive-born peregrine falcons (*Falco peregrinus*) from certain canadian unversities for release into the wild in Minnesota for enhancement of survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654. Arlington, VA 22203.

Interested persons may comment on these applications Within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 5, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 83-12815 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to import polar bear blood samples as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:
   a. Name: Dr. Kerry Foresman
   b. Address: Dept. of Zoology; Univ. of Rhode Island, Kingston, R.I. 02881
2. Type of permit: Marine Mammal Import
3. Name and number of animals: Polar bear (*Ursus maritimus*) 100 blood samples/yr.
4. Type of Activity: Import blood samples for scientific research
5. Location of Activity: Canada
6. Period of Activity: 3 years

The purpose of this application is to allow the import of blood samples taken from male and female polar bears to analyze blood protein levels in association with pregnancy in an attempt to develop a pregnancy testing procedure. This work will be conducted in conjunction with the Canadian Wildlife Service field project under the direction of Dr. Ian Sterling.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-10362. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: May 5, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-12816 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting a Seismic Survey, ARCO Exploration Co., Big Thicket National Preserve; Texas

Notice is hereby given in accordance with Part 9 § 9.52(b), of Title 36 of the Code of Federal Regulations that the National Park Service has received from ARCO Exploration company a Plan of Operations for the purpose of conducting a seismic survey in the Neches Botton/Jack Gore Baygall Unit of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the documents are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: May 2, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-12580 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-70-M

Availability of Decision Statement for the Development Concept for the Upper Frijoles and Back Gate Areas; Bandelier National Monument, New Mexico

Pursuant to the national Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and part 516 of the Departmental Manual, the National Park Sevice has prepared a Decision Statement for the Development concept Plan for the Upper Frijoles and Back Gate areas of Bandelier National Monument, Santa Fe, Sandoval and los Alamos Counties, New Mexico.

A Draft Development Concept for the Upper Frijoles and Back Gate areas of Bandelier National Monument was prepared and distributed in June and July 1982. The Draft Development Concept Plan bridges the gap between Final Master Plan concepts and comprehensive design for facilities to fulfill those concepts. The proposals contained in the Development concept Plan conform to the general strategies of the master plan, and the impacts associated with their implementation are adequately described in the final Environmental Statement (FES) which accompanied the master plan. Replacing random use with controlled use and revegetating the burn area will reduce negative impacts and improve the aesthetics of the site. Impacts of developments at Upper Frijoles are described as minor and localized in the FES. Since the Development concept Plan proposes less development than was considered in the FES, impacts will be minimal. Therefore, the National Park Service has determined that actions proposed in the Development concept Plan are in compliance with the National Environmental Policy Act and prepared a Decision Statement.

The Decision Statement for the Draft Development concept Plan for the Upper Frijoles and Back Gate areas summarizes the decisions made for limited development and improvement of facilites at Upper Frijoles and Back Gate in Bandelier National Monument. These decisions were made following assessment of alternative strategies, public input, and discussion and consultation with other agencies.

The decision Statement for the Draft Development concept Plan for the Upper Frijoles and Back Gate areas is available in the Office of the Superintendent, Bandelier National Monument, Los Alamos, New mexico 87544; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501, Copies of the document may be obtained, upon request.

The national Park Service will proceed with development of a Final Development Concept Plan. Proposals contained in the plan will be implemented as funds are available.

Dated: May 2, 1983.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-12579 Filed 5-10-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Utah; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice designates 4 areas totaling 6,677 acres for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976. This notice also amends previous wilderness inventory decisions by the Bureau of Land Management for lands in Utah, deleting parts of 4 wilderness study areas. The total area deleted from wilderness study area status under Scetion 603 of the Act is 805 acres.

EFFECTIVE DATE: May 11, 1983.

FOR FURTHER INFORMATION CONTACT: Utah State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, telephone (801) 524-4257.

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management wilderness study areas in Utah to bring the Bureau's wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the **Federal Register** on December 10, 1982 (47 FR 58372).

Section 1. Consideration for Protective Management

The 4 areas listed in Table 1, totaling 6,677 acres, have been designated for wilderness consideration pursuant to Section 202 of the Federal Land Policy and Management Act of 1976. These areas were formerly identified as wilderness study areas under Section 603 of the Act. They were deleted from that category on December 30, 1982.

Section 2. Split-Estate Lands

A. "Split-estate" lands are lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned. Split-estate lands were improperly identified for wilderness study under Section 603 of the Federal Land Policy and Management Act of 1976; that error is corrected by this decision.

B. In the following wilderness study area, 2 tracts of split estate are deleted from wilderness study under Section 603 of the Federal Land Policy and Management Act of 1976, effective upon publication of this decision in the **Federal Register.** Only the indicated acreage of split-estate lands is deleted from wilderness study; the remainder of the wilderness study area remains under wilderness study, and the boundary of the wilderness study area has not been changed. The deletions do not affect the Bureau of Land Management's previously adopted conclusions as to the presence of wilderness characteristics.

Wilderness Study Area Name: Desolation Canyon
Number: UT-060-068A
Old Wilderness Study Area Acreage: 248,130
Acres Split Estate Deleted: 80
Revised Wilderness Study Area Acreage: 248,0509
County: Emery

C. The boundaries and acreages of the wilderness study areas listed in Table 2 are modified, effective upon publication of this decision in the **Federal Register,** to delete tracts of split estate located on the periphery of wilderness study areas. Only the inidicated acreage is deleted from wilderness study. The remainder of the wilderness study area remains under wilderness study, and the boundary change does not affect the Bureau of Land Management's previously adopted conclusions as to the presence of wilderness characteristics in the remaining wilderness study area.

Section 3. Management of Deleted Lands

All lands in Utah deleted from wilderness study status by this decicion in Table 2, in section 2(B) above, and by the decision issued on December 30, 1982, (47 FR 58372) and not designated for further wilderness consideration in Table 1 of this notice are hereby released from management restrictions to protect their wilderness suitability. Among the areas released are 9 areas previously listed by the Bureau of Land Management Utah State Director for wilderness consideration under sectio 202 ($7 FR 21623, May 19, 1982); these areas have been found not to warrant further wilderness consideration. The released lands, totaling 19,315 acres, will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appear under 443 CFR Part 4.

Garrey E. Carruthers,

Assistant Secretary.

May 4, 1983.

TABLE 1.—AREAS BEING CONSIDERED FOR PROTECTIVE MANAGEMENT

Area Name	Number	Acreage	County	Category
Orderville Canyon	UT-040-145	1,750	Kane	Wilderness.[1]
Deep Creek	UT-040-146	3,320	Washington	Do.
North Fork Virgin River	UT-040-150	1,040	Kane	Do.
LaVerkin Creek Canyon	UT-040-153	567	Washington	Do.
Total (4 areas)		6,677		

[1] In this table "wilderness" denotes wilderness consideration under Section 202 of the Federal Land Policy and Management Act of 1976.

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TABLE 2.—MODIFIED WILDERNESS STUDY AREAS—BOUNDARY CHANGED TO DELETE SPLIT ESTATE

Wilderness study area name	Number	Old wilderness study area acreage	Acres split estate	Revised wilderness study area acreage	County
Sleep Creek	UT-040-061	22,034	136	21,898	Garfield.
North Escalante Canyon, the Gulch, Escalante Canyons (Tracts 2, 3, 4).	[1]	109,551	452	109,099	Garfield.
Behind the Rocks	UT-080-140A	12,770	135	12,365	Grand.

[1] This area has no number. It consists of a single roadless area contiguous to the three "instant study areas" listed under "Wilderness Study Area Name."

[FR Doc. 83-12416 Filed 5-10-83; 8:45 am]
BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-134 and 135 (Preliminary)]

Color Television Receivers From the Republic of Korea and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea and Taiwan of color television receivers, complete or incomplete, provided for in items 685.11 and 685.14 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission, 701 E St., NW., Washington, D.C. 20436, telephone 202-523-0312.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to petitions filed on May 2, 1983, by counsel on behalf of the Industrial Union Department, AFL-CIO; the International Brotherhood of Electrical Workers; the International Union of Electrical, Radio and Machine Workers; the Independent Radionic Workers of America; and the Committee to Preserve American Color Television. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition, or by June 16, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties in the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4. 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before May 31, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10 a.m. on May 26, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. Robert Eninger (202-523-0312), not later than May 24, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, sbuparts A thorugh E (19 CFR Part 201. as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Eninger.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: May 5, 1983.

Kenneth F. Mason,
Secretary.

[FR Doc. 83-12846 Filed 5-10-83; 8:45 am]
BILLING CODE 7020-02-M

[332-162]

Foreign Industrial Targeting and Its Effects on U.S. Industries

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b), the Commission has instituted, on its own motion at the request of the Subcommittee on Trade of the House Committee on Ways and Means, investigation No. 332-162 for the purpose of obtaining information on foreign industrial targeting so that it may advise the Committee on Ways and Means on the implications of these practices for U.S. industries.

EFFECTIVE DATE: May 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. John Suomela, Director, Office of Economics (202) 523-3771.

SUPPLEMENTARY INFORMATION: On March 25, 1982, the Subcommittee on Trade of the House Committee on Ways and Means requested the U.S. International Trade Commission to analyze the issue of foreign industrial targeting and its effects on the competitiveness of U.S. industries.

The Committee described industrial targeting as a "collection of concerted government policies to identify and promote particular industries for success in world markets. These policies are typified by a high degree of government involvement in planning, financing, directing and protecting certain industrial activities. They usually involve intra-company activities which could constitute violations of antitrust laws without government sponsorship and guidance."

The Committee listed the following specific policies or practices as having been frequently mentioned as elements of foreign industrial targeting: (1) Government financial suppport shared by a group of companies; (2) Government-sponsored or government-conducted research and development projects to assist a selected group of companies; (3) industry rationalization programs; (4) suspension of antitrust rules on industrial policy grounds; (5) manipulation of capital markets by government or government-backed entities to benefit certain sectors; (6) administrative guidance to divide markets or allocate products among competing domestic companies; (7) government control of technology transfer; (8) government restrictions on foreign investment in order to limit and control competition within certain sectors; (9) government procurement policies designed to assure demand for certain products; and (10) import protection policies.

The Commission has decided to divide this study into three separate phases. The first phase will consider Japanese industrial targeting. The report on this phase will be submitted to the Subcommittee on Trade no later, than September 30, 1983. Future phases will consider industrial targeting by the European Community and by other major U.S. trading partners.

The first phase will attempt to answer the following questions about Japanese industrial targeting: (1) Which industries has the Japanese government targeted? (2) What specific practices has the Japanese government used to further the international competitiveness of these industries? (3) What is the relationship between these practices and international trade agreements? (4) What is the relationship between these practices and U.S. trade law? (5) What have been the effects of these practices on the competitiveness of the targeted Japanese industries and their U.S. competitors?

Public Hearing

A public hearing in connection with the first phase of this investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C., 20436, beginning at 10 a.m. on June 15, 1983, to be continued on June 16 if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than noon, June 8, 1983.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation by June 8, 1983. Commercial or financial information which a submitter desires the Commissioin to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest possible date, but no later than June 30. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: May 4, 1983.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-12845 Filed 5-10-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-201 and 731-TA-133 (Preliminary)]

Forged Undercarriage Components From Italy

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary countervailing duty investigation and a preliminary antidumping investigation under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of forged components for the undercarriage of crawler-type tractors, provided for in items 664.08, 692.34, or 692.35 of the Tariff Schedules of the United States, upon which bounties or grants are alleged to be paid and which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Mariam A. Bishop, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0291.

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on April 29, 1983, on behalf of Jernberg Forgings Co., Lindell Drop Forge Co., Portec, Inc., Presrite Corp., Presrite of Jefferson, Inc., Walco Metal Forming Group, and Walker Forge, Inc., U.S. producers of forged undercarriage components. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition, or by June 13, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance

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with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in the investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of the nonconfidential version of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certification of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before May 26, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigation for 9:30 a.m., on May 24, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Ms. Miriam A. Bishop (202–523–0291), not later than May 19, 1983, to arrange for their appearance. Parties in support of the imposition of countervailing or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: May 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–12844 Filed 5–10–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–132]

Hand-Operated, Gas-Operated, Welding, Cutting, and Heating Equipment and Component Parts Thereof; Commission Decision Not To Review Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 30) terminating the above-captioned investigation with respect to a claim of alleged copyright infringement.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. 1335, 1337) and in §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53(c) and (h).

SUPPLEMENTARY INFORMATION: On March 25, 1983, complainant Victor Equipment Co. moved (Motion No. 132–33) to terminate the investigation with respect to a claim of alleged copyright infringement. The motion was unopposed. On April 6, 1983, the presiding officer issued an initial determination granting Motion No. 132–33. Under § 210.54(a) of the Commission's rules, the deadline for filing petitions for review of the initial determination expired on April 18, 1983. No petitions for review were filed.

Copies of the presiding officer's initial determination, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

By order of the Commission.

Issued: May 3, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–12842 Filed 5–6–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–132]

Hand Operated, Gas-Operated, Welding, Cutting, and Heating Equipment and Component Parts Thereof; Extension of Time for Commission Review of Initial Determination Regarding Temporary Relief

AGENCY: International Trade Commission.

ACTION: Extension of time for Commission review of initial determination denying temporary relief in the above-referenced investigation.

SUPPLEMENTARY INFORMATION: On February 7, 1983, the presiding officer issued an initial determination denying complainant Victor Equipment Co.'s request for temporary relief in the above-referenced investigation. On February 18, 1983, complainant Victor Equipment Co. and the Commission investigative attorney filed petitions for review of the initial determination. The Commission granted the petitions and ordered review on March 9, 1983 (48 FR 11189 (March 16, 1983)).

During the Commission's review of the initial determination regarding temporary relief, complainant moved to terminate the investigation as to respondent I Ling Industry Co. on the basis of a settlement agreement (Motion No. 132–38), and to terminate the investigation as to respondent Van Dreser & Hawkins, Co. without a determination of violation (Motion No. 132–39). If granted, these motions would terminate the investigation as to all of the remaining respondents.

Pursuant to § 201.14(b) of the Commission's Rules of Practice and Procedure, the Commission has extended the time for review of the initial determination regarding temporary relief until thirty (30) days after final Commission action on Motions Nos. 132–38 and 132–39 pursuant to §§ 210.53, 210.54 or 210.56 of the Commission's rules. See 47 FR 25134 (June 10, 1982), 48 FR 9242 (March 4, 1983) (to be codified at 19 CFR 210.53, 210.54, and 210.56).

Copies of the presiding officer's initial determination, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours 8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq. Office of the General Counsel, U.S. Intenational Trade Commission, telephone 202–623–0359.

By order of the Commission.

Issued: May 5, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–12847 Filed 5–10–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–147]

Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 5, 1983, under section 337 of the Traffic Act of 1930 (19 U.S.C. 1337), on behalf of beloit Corporation, 1 St. Lawrence Avenue, Beloit, Wisconsin 53511. The complaint alleges unfair methods of competition and unfair acts in the importation of certain papermaking machine forming sections for the continuous production of paper and components thereof into the United States, or in their sale, by reason of alleged (1) direct infringement, (2) contributory infringement, and (3) induced infringement of claims 1, 2, 3, 4, 7, 8, 10 ,11, and 12 of U.S. Letters Patent 3,726,758. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the compliant, the U.S. International Trade Commission, on April 27, 1983, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain papermaking machine forming sections for the continuous production of paper and components thereof, into the United States, or in their sale, by reason of alleged (1) direct infringement (2) contributory infringement, and (3) induced infringement of the claims 1, 2, 3, 4, 7, 8, 10, 11 and 12 of the U.S. Letters Patent 3,726,758, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Beloit Corporation, 1 St. Lawrence Avenue, Beloit, Wisconsin 53511.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Valmet Oy, Pub. L. 155, SF–00131, Helsinki 13, Finland

TVW Paper Machines, Inc., 180 Interstate North, Atlanta, Georgia 30339

(c) Robert Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Robert S. Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0113

By order of the Commission.

Issued: May 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–12840 Filed 5–10–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–127, 128, and 129 (Preliminary)]

Thin Sheet Glass From Switzerland, Belgium, and the Federal Republic of Germany

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

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the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Switzerland, Belgium, and the Federal Republic of Germany of thin sheet glass, provided for in items 542.11 and 542.13 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).[1]

Background

On March 16, 1983, counsel for Jeannette Sheet Glass Corp. filed a petition with the Commission and the Department of Commerce alleging that imports of thin sheet glass from Switzerland, Belgium, and the Federal Republic of Germany are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Accordingly, effective March 16, 1983, the Commission instituted preliminary antidumping investigations under section 733(a) of the Act (19 U.S.C. 1673b(a)).

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on March 30, 1983 (48 FR 13280). The conference was held in Washington, D.C. on April 11, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on May 2, 1983. A public version of the Commission's report, Thin Sheet Glass from Switzerland, Belgium, and The Federal Republic of Germany (investigations Nos. 731–TA–127, 128 and 129 (Preliminary), USITC Publication 1376, 1983) contains the views of the Commission and information developed during the investigation.

By Order of the Commission.

[1] The Commission made separate determinations concerning regular-quality and high-quality thin sheet glass in these investigations. Commissioner Stern dissented with respect to the regular-quality glass in all three cases, finding that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of that product which are alleged to be sold in the United States at LTFV.

Issued: May 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-12043 Filed 5-10-83; 8:45 am]

BILLING CODE 7020-02-M

[332-154]

U.S. Trade-Related Employment

AGENCY: International Trade Commission.

ACTION: The Commission will hold a public hearing for the purpose of affording all interested parties an opportunity to present views on the effects of exports and imports on U.S. employment. The initial notice of the investigation indicating the scope of the study, contact persons, and other related information was published in the **Federal Register** of March 2, 1983 (48 FR 8677).

Public Hearing: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t., on June 30, 1983, to be continued on July 1, 1983, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, June 23, 1983.

Written Submissions: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than June 23, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: May 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-12041 Filed 5-10-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP 2–FC–209

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC–FC–81255. By decision of May 4, 1983, issued under 49 U.S.C. 10926 and

the transfer rules at 49 CFR Part 1181, Review Board No. 2 approved the transfer to EAGLE TRANSPORT, INC., of Sioux City, IA, of Certificate No. MC–136803 and Sub-Nos. 2, 3, 4, 8, 10, and 12, issued January 17, 1978, February 25, 1976, February 25, 1976, November 7, 1980, October 2, 1979, and April 8, 1981, respectively, to SIOUX CITY BULK FEED SERVICE, INC., of Souix City, IA, authorizing the transportation, as a common carrier, over irregular routes of feed, feed ingredients, pesticides, animal health aid products, poultry feed supplements, rodenticides (except petroleum products, in bulk, in tank vehicles), soybean meal, soybean mill run and soybean hulls, and sand, between specified points in IA, WY, ND, MN, SD, NE, IL, MO, WI, IL, and KS. Representive: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761.

MC–FC–81433. By the decision of May 4, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to Pacific Art Services Limited, of Toronto, Ontario, Canada, of all of the authority issued to Deakin Fine Art Transport Limited, of Toronto, Ontario, Canada, in MC–144102 and Sub No. 1, issued March 15, 1979 and January 7, 1983, respectively, authorizing transportation of (1) fine art objects, paintings, sculpture and original works of art (except in armored vehicles), between ports of entry on the International Boundary line between the United States and Canada in New York and Michigan, on the one hand, and, on the other, points in Illinois, Maryland, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and the District of Columbia, and (2) fine art objects and original works of art, between points in Connecticut, New Jersey, and New York., An application for temporary authority has been filed. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagra St., Buffalo, NY 14202.

Pleased direct Status inquiries about the following to team 4 at (202) 275–7669.

Volume No. OP4–FC–271.

By the Commission Review Board No. 3, Members Krock, Joyce and Dowell.

MC–FC–814429, filed April 28, 1983. By decision of May 3, 1983, issued under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to Super "B" Express, Inc., Denison, TX, of Certificate Nos. MC–155107, issued on December 15, 1981, MC–155107 Sub 2, issued June 10, 1982, and permit No. MC–155107 Sub 1, issued June 10, 1982, to George Buchanan d/b/a/ Super "B" Express, Sherman, TX, authorizing the transportation of such commodities as are dealt in by grocery and food brokerage houses, between points in Grayson County, TX, on the one hand, and, on the other points in the U.S. (except AK and HI), food and related products, between the facilities of the Pillsbury Co., and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S. except AK and HI), and general commodities (with exceptions), between points in the U.S., under continuing contract(s) with United Forwarding, Inc. of Omaha, NE, and Acme Freight, Inc, of New York, NY. An application for temporary authority has been filed. Representative: Mr. William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 256–6279).

MC–FC–81424, filed April 25, 1983. By decision of May 4, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to ADAMS EXPRESS, INC., Atlanta, GA, of Certificate No. MC–113267 (Sub-No. 377), issued April 29, 1982, to KELLOW REFRIGERATED SERVICE, INC., Jonesboro, GA, authorizing the transportation of *food and related productts, paper products, textile mill products, chemicals and related products, building materials, and other specified commodities* between points in midwestern and southern states, and between specified points in the south, on the one hand, and, on the other, eastern and western states. Representative: Charles L. Redel, 212 Exchange Bldg., La Crosse, WI 54601.

Volume No. OP4–FC.272

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing Member Carleton Not Participating.

MC–FC–81428. By decision of May 2, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR. 1181. Review Board Number 2 approved the transfer to BEVERAGE TRANSIT, INC., Stratford, WI, of Certificate No. MC–123406, issued October 18, 1961, to J.N. WEIGEL CO., INC., Marshfield, WI, authorizing the transportation of (1) cheese, butter and cream, and eggs and live and dressed poultry, when moving in the same vehicle at the same time with cheese, butter and cream, between Marshfield, WI, and Chicago, IL, and (2) groceries, creamery supplies and empty containers for eggs and poultry, and fruits and vegetables, when moving in the same vehicle at the same time with groceries, creamery supplies and empty containers for eggs and poultry, from Chicago, IL, Marshfield, WI.

Representative: Nancy J. Johnson, 103 East Washington St., Box 216, Crandon, WI 54520, (608) 252–6537, attorney for applicants.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12590 Filed 5-10 83; 8:45am]

BILLING CODE 7035-01M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982 at 47 FR 49583, which redesignated the regulations at 49 cFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rule of Practice. See 49 CFR Part 1160, subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted

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problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. One this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.— All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–166(F)

Decided: May 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not participating.

MC 4860 (Sub-2), filed April 25, 1983. Applicant: EASTERN BUS LINES, INC., RFD No. 1—Route 85, Bolton, CT 06040. Representative: G. Lee Negro, (same address as applicant), (203) 646–0363. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167581, filed April 22, 1983. Applicant: WYOMING TRANSPORTATION LIMITED, R. R. No. 1TO. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada in MI and NY and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 167601, filed April 22, 1983. Applicant: AIR-LAND FREIGHT SYSTEMS, INC., Building "A" DFW Airport, TX 75261. Representative: H. P. Ainsworth (same address as applicant) (214) 574–2105. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167631, filed April 25, 1983. Applicant: LANNY FAUSS, d.b.a. LNF LEASING, P.O. Box 37096, Omaha, NE 68137. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603 (312) 263–2306. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167660, filed April 27, 1983. Applicant: LARRY KRUMVIEDE, d.b.a. CHITTAMO TRUCK LINES, Frog Creek Road, Rt. 2—Box 91, Minong, WI 54859. Representative: Larry Krumviede (same address as applicant) (715) 466–2555. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–195

Decided: May 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 123915 (Sub-3), filed April 22, 1983. Applicant: B & W BUS SERVICE, INC., Benner Pike, P.O. Box 389, Bellefonte, PA 16823. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 129005 (Sub-2), filed April 26, 1983. Applicant: WILLIAM H. HOGLE, P. O. Box 381, Black Point Rd, Ticonderoga, NY 12883. Representative: W. Norman Charles, P. O. Box 724, Glens Falls, NY 12801 (518) 792–0957. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note:—Applicant seeks to provide privately-funded charter and special transportation.

MC 167454, filed April 18, 1983. Applicant: MARES-SHREVE & ASSOCIATES, INC., 600 First Ave., Suite 332, Seattle, WA 98124. Representative: Robert M. Mares (same address as applicant), (206) 447–0346. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167575, filed April 22, 1983. Applicant: LAWRENCE A. VITEK, 113–27th Ave. N.E. Section G Minneapolis, MN 55418. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424; (612) 927–8855. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167614, filed April 25, 1983. Applicant: DIAMOND COURIER, INC., 443 N. New Ballas Rd., St. Louis, MO 63141. Representative: James R. Jungers (same address as applicant), (314) 993–2933. Transporting *shipments weighing 100 pounds, or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–270

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167686, filed April 28, 1983. Applicant: UTLEY'S TRANSPORTATION SERVICE, 1115 First Terrace, NW, Washington, DC 20001. Representative: Frank J. Utley (same address as applicant), (202) 289–6518. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note:—Applicant seeks to provide privately-funded charter and special transportation.

MC 167687, filed April 28, 1983. Applicant: WALKERWAYS CHARTER SERVICE, 4420 N. Hintz Rd., Owosso, MI 48867. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167696, filed April 28, 1983. Applicant: CANOVAN MOVERS, 212 Lemon St., Vallejo, CA 94590. Representative: John D. Canova (same address as applicant) (707) 643–2521. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in Napa, Solano, Marin, Sonoma, Yolo, San Joaquin, Contra Costa, Alameda, San Francisco, San Mateo, and Santa Clara Counties, CA. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption from Commisson action. Such a petition should include the notice required by Section 11343(e)(2). See Ex Parte 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 42947.

MC 167697, filed April 18, 1983. Applicant: RICHARD WINSTON HARRIS, SR., d.b.a. HARRIS CHARTER SERVICE, 5215 Midwood Ave., Baltimore, MD 21212. Representative: Richard W. Harris, Sr. (same address as applicant) (301) 435–1204. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Merganovich,

Secretary.

[FR Doc. 83–12562 Filed 5–10–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team One at (202) 275–7992.

Volume No. OPI–167(N)

Decided: May 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not participating.

MC 57880 (Sub-30), filed April 22, 1983. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, P.O. Box 472, Monte Vista, CO 81144. Representative: David E. Driggers, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives and household goods, between points in the U.S. (except AK

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and HI), under continuing contracts(s) with ConAgra, Inc., of Omaha, NE, and its subsidiaries.

MC 111231 (Sub-372), filed April 25, 1983. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: James H. Berry (same address as applicant), (501) 751–4806.Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Venture Stores, of St. Ann, MO.

MC 116510 (Sub-4), filed April 25, 1983. Applicant: KEENAN TRANSIT CO., 3600 North Avenue, Melrose Park, IL 60161. Representative: Allan C. Zuckerman, 221 North LaSalle Street, Chicago, IL 60601, (312) 641–5900. Transporting *machinery and transportation equipment*, between Chicago, IL, on the one hand, and, on the other, points in IN, IL, MI, WI, MO, OH, KY, and LA.

MC 151180 (Sub-1), filed April 25, 1983. Applicant: C & M CARTAGE, INC., 400 Charlotte St., Kansas City, MO 64104. Representative: Frank W. Taylor, Jr., 1221 Baltimore, Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MO, KS, AR, OK, IL, IA, NE, and TX.

MC 152291 (Sub-1), filed April 22, 1983. Applicant: ASSEMBLY SQUARE TRANSPORTATION, INC., 20 Sturtevant St., Somerville, MA 02145. Representative: Frank M. Cushman, 5 Carbrey Ave., Sharon, MA 02067, (617) 784–6041. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with AAA Cargo Brokers, Inc., of Sharon, MA.

MC 160051 (Sub-2), filed April 25, 1983. Applicant: TALENT TRUCKING CO., P.O. Box 320, Talent, OR 97540. Representative: John A. Anderson, Ste. 801—The 1515 Bldg., 1515 SW 5th Avenue, Portland, OR 97201, (503) 227–4586. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Continental Fiberglass Corporation, of Des Moines, IA.

MC 166290, filed April 25, 1983. Applicant: MARATHON CHEESE CORPORATION, P.O. Box 185, Marathon, WI 54448. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086 (608) 238–3119. Transporting *paper and paper products*, between points in Marathon County, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, and TX.

MC 166610, filed April 25, 1983. Applicant: MANUEL V. HUERTA, 397 Mi Casa, Nogales, AZ 85621. Representative: Manuel V. Herta (same address as applicant), (602) 281–2058. Transporting *malt beverages and wine*, between points in Pima County, AZ, on the one hand, and, on the other, points in CA and TX., under continuing contract(s) with Finley Distributing Company, and Gusto Beer Distributors Incorporated, both of Tucson, AZ.

MC 166951, filed April 22, 1983. Applicant: ANDREW'S XPRESS, INC., 508 E. 36th St., Patterson, NJ 07504. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375 (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, NY and PA, on the one hand, and, on the other, points in CT, DE, IL, IN, MA, MD, NJ, NY, OH, PA, RI, VA, and WV.

MC 167610, filed April 25, 1983. Applicant: D.M.L. ENTERPRISES, INC., 350 Route 46, Rockaway, NJ 07866. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 167620, filed April 25, 1983. Applicant: LOUISIANA VACUUM SERVICES, INC., 7271 Highway 190 West, Port Allen, LA 70767. Representative: John Schwab, 617 North Boulevard, P.O. Box 3036, Baton Rouge, LA 70821 (504) 387–0511. Transporting *Mercer commodities*, between points in LA, MS, AL, FL, TX, and OK.

MC 167641, filed April 26, 1983. Applicant: RAYMOND M. CRAWFORD, 1589 So. Springwater Road, Oregon City, OR 97045. Representative: Raymond M. Crawford (same address as applicant) (503) 631–2378. Transporting *building materials and lumber and wood products*, between points in CA, ID, NV, WA, and OR.

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–201

Decided: April 28, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 167234, filed April 11, 1983. Applicant: WS–T CO-OP TRANSPORT, a coporation, 136 E. Elm St., West Salem, WI 54669. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *chemicals and related products* and *petroleum, natural gas and their products*, between East Dubuque, IL, and points in MN, on the one hand, and, on the other, points in WI, under continuing contract(s) with Farmers Co-op Supply and Shipping Association, of West Salem, WI.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–273

Decided: May 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 144057 (Sub-6), filed March 14, 1983. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, 1519 Main St., Whitehall, WI 54773. Representative: Joseph E. Ludden, 2707 S. Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *food and related products*, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12593 Filed 5–10–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982)

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: April 25, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP5–F 212

Westside Transport, Inc.—Purchase Exemption—Spector Red Ball, Inc. (Debtor-in-Possession)

MC–F–15115, Westside Transport, Inc. (Westside) (MC–145661) and Spector Red Ball, Inc. (Spector) (MC–2229), seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase by Westside of a portion of Spector's operating rights authorizing the transportation of general commodities (with exceptions), over regular routes, between numerous points in California. Spector has been issued restriction removal authority in certificate No. MC–2229 (Sub-No. 280)X (served March 23, 1983), pertaining to the certificate involved here (MC–2229 (Sub-No. 205)). In addition, temporary authority is sought by Westside to lease a portion of Spector's operating rights pending disposition of the petition for exemption.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; (2) Petitioner's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111; and (3) J. Raymond Chesney, P.O. Box 47407, Dallas, TX 75247. Comments should refer to No. MC–F–15115.

[FR Doc. 83–12596 Filed 5–10–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3 These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–260

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 31389(Sub-3–23TA), filed April 29, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same as applicant). *Contract Carrier: Irregular: General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)*, between Huntsville, AL; Mesa, Phoenix, Scottsdale and Tempe, AZ; Cupertino, Novato and Santa Clara, CA; Bethel, CT; Fort Lauderdale, FL; Schaumburg and Franklin Park, IL; Mount Pleasant, IA; Mansfield, MA; Joplin, MO; Albuquerque, NM; Arcade, NY; and Austin, Ft. Worth and Sequin, TX, on the one hand, and, on the other, points in the U.S., under continuing contract or contracts with Motorola, Inc., of Schaumburg, IL. Supporting shipper: Motorola, Inc., 1301 E. Algonquin, Schaumburg, IL 60195.

MC 167710(Sub-3–1TA), filed April 29, 1983. Applicant: CHAPMAN TRUCKING, INC., 12–A Pegram Circle, Fort Oglethorpe, GA. Representative: Anthony L. Keenan, 1385 Iris Drive, Conyers, GA 30208. *Contract:* Irregular: *Leather goods and riding equipment (saddles and bridles, glass containers used in the beverage and food products industries* between Chattanooga, TN and Colorado Springs, CO; Salt Lake City, UT; Dallas, TX; Tampa, FL; Ider, AL; Denver, CO; Trenton, NJ; Miami, FL; Mt. Vernon, OH; Keyser, WVA; Gulf Port, MS; Los Angeles, CA; Chicago, IL; and Seattle, WA; Supporting shippers: American Saddlery, Inc., 1001 E. 37th St., Chattanooga, TN; Valley Head Saddlery Co., Ider, Al; Chattanooga Glass Co., 400 West 45th St., Chattanooga, TN.

MC 145375 (Sub-3–4TA), filed April 29, 1983. Applicant: H. D. EDGAR TRUCKING COMPANY, INC., Route 1, Box 48, Opp, AL 36467. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, D.C. 20005. *General commodities, (Except classes A & B explosives, household goods as defined by the Commission and commodities in bulk)* between points in the US, (except AK and HI), under continuing contract(s) with Standard Brands Paint Co., Inc., and its divisions and subsidiaries. Supporting shipper(s): Standard Brands Paint Co., Inc., 4500 West 190th Street, Torrance, CA 90509.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 123876 (Sub-5–8TA), filed April 29, 1983. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501–2028. *Alcohol* in bulk between Tazewell County, IL and Lancaster County, NE. Supporting shipper: Jones Petroleum, Lincoln, NE.

MC 135762 (Sub-5–14TA), filed April 29, 1983. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Contract;* Irregular: *General commodities (except Classes A and B explosives, commodities in bulk and household goods as defined by the Commission)*, between points in the U.S. (except AK and HI) under a continuing contract with Hoover Universal, Inc., Supporting shipper: Hoover Universal, Inc., Georgetown, KY.

MC 142037 (Sub-5–2TA), filed April 27, 1983. Applicant: SCHULTZ BROS., INC., Post Office Box 373, Guy, TX 77444, Representative: Thomas F. Sedberry, Post Office Box 2023, Austin, TX 78768. *Building materials*, between points in Tarrant county, TX, on the one hand, and, on the other, points in TX. Restricted to traffic having prior interstate move. Supporting shippers:

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Idaho Timber Corporation and Chandler Corporation.

MC 144413 (Sub-5-2TA), filed April 28, 1983. Applicant: THOMPSON TRUCK TRANSPORTATION, 11218 Elm Street, Omaha, NE 68144. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. *Food and related products* from points in Dallas, TX to Wichita and Huchinson, KS and Lincoln and Omaha, NE under continuing contract(s) with Mission Foods Corporation. Supporting shipper(s): Mission Foods Corporation, Road, Dallas, TX.

MC 165857 (Sub-5-3TA), filed April 29, 1983. Applicant: VINER'S INC., P.O. Box 290 Emerson, IA 51533. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B Omaha, NE 68114. *Metal Products*, from (a) Auburn, NY to Falls City, NE; (b) Chicago and Peoria, IL and El Paso, TX to Omaha, NE; and (c) Monroe, MI to Falls City, NE (and points in their respective commercial zones). Supporting shipper: Total National Transportation Inc., Omaha, NE.

MC 167656 (Sub-5-1TA), filed April 27, 1983. Applicant: TRUCK SYSTEMS, INC., Box 428, Converse, TX 78109. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Clay, glass, concrete or stone products*, between points in TX and CA. Supporting shipper: Capitol Marble & Granite Co., Inc., Marble Falls, TX.

MC 167670 (Sub-5-1TA), filed April 27, 1983. Applicant: C & R CHARTERING CO., INC., 602 N. Broadway, La Porte, TX 77571. Representative: Cliff Hall (same as above). *General Commodities in containers*, between the Ports of Houston, and Galveston, TX the Port of New Orleans, LA, on the one hand, and on the other, points in the U.S. (ex AK and HI) Supporting shipper(s): 10.

MC 167690 (Sub-5-1TA), filed April 28, 1983. Applicant: G & S TRANSPORTATION, INC., P.O. Box 1195, Sherman, TX 75090. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General Commodities (except classes A and B explosives, household goods or bulk commodities)* between Dallas and Tarrant Counties, TX on the one hand, and, on the other, points in AR, LA, OK and TX. Restricted to shipments for the account of Sunbelt Consolidators, Inc. Supporting shipper: Sunbelt Consolidators, Inc., Dallas, TX.

MC 167691 (Sub-5-1TA), filed April 28, 1983. Applicant: SWEETRANS, INC., 3731 Cavalier, Garland, TX 75042. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237-2385. Contract: Irregular; (1) *Corn sweeteners*, from Memphis, TN to Garland, Houston and San Antonio, TX; and (2) from Garland, Houston and San Antonio, TX to points in TX. Supporting shipper: Cargill Corn Starch and Syrup, Inc., Memphis, TN.

MC 167718 (Sub-5-1TA), filed April 29, 1983. Applicant: DOUGLAS W. HOBSON, d.b.a. HOBSON TRANSFER, 722 N. 22nd Street, Clarinda, IA 51632. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Fertilizers*, between La Platte and Omaha, NE, on the one hand, and, on the other, Page County IA. Supporting shipper: Wynn Feed & Fertilizer, Clarinda, IA.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 167266 (Sub-6-1TA), filed April 27, 1983. Applicant: ALONZO FARMS, INC., 7481 Batavia Rd., Dixon, CA 95620. Representative: Alfred C. Alonzo (same as applicant). *Dry fertilizer in bulk*, between points in CA and OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Allied Fiber & Plastics P.O. Box 2332 R, Morristown, New Jersey 07960; Azevedo Hay & Grain, P.O. Box 760, Dixon, CA 95620.

MC 52798 (Sub-6-30TA), filed April 28, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center Street, Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *Household Goods* between points in the U.S., except AK and HI for 270 days. Supporting shipper: Lockheed-Georgia Company of Marietta, GA.

MC 164677 (Sub-6-2TA), filed April 28, 1983. Applicant: BAILIN, INC., d.b.a. CBR ENTERPRISES, INC., 122 S. E. 9th, Bend, OR 97701. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *General commodities* (except A and B explosives, household goods and commodities in bulk), between points in OR, WA, CA, AZ and NV, for 270 days. Supporting shippers: There are 22 supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 166942 (Sub-6-1TA), filed April 27, 1983. Applicant: LEILANI SPELL, d.b.a. ELITE TRUCKING, 100 Harter Ave., Woodland, CA 95695. Representative: (Same as above.) *General Commodities* (except Class A and B explosives, commodities in bulk) between Woodland, CA and Medford, OR for 270 days. An underlying ETA seeks 120 says authority. Supporting shipper: Radio Shack, 700 Santa Anita, Woodland, CA 95695.

MC 151910 (Sub-6-1TA), filed April 28, 1983. Applicant: KINGMAN AUTO SALVAGE, INC., 3800 North Highway 66, Kingman, AZ 86401. Representative: Cecil Blankenship (same address as applicant). *Textile, mill and wood products* between points in the U.S. for 270 days. Supporting shippers: Hydro-Dynamics of Arizona, Inc., 2000 Industrial Blvd., Lake Havasu City, AZ 86403.

MC 141599 (Sub-6-4TA), filed April 28, 1983. Applicant: MOUNTAIN PACIFIC TRANSPORT LTD., d.b.a. SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, B.C., CD V3K 4X9. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. *Lumber and wood products* from points in WA, OR, CA, ID, and MT to points in WA, OR, CA, ID, MT, AZ, NM, TX, NV, UT, WY, OK, NE, KS, ND and SD, for 270 days. Supporting shippers: Wood Traders, Inc., P.O. Box 10428, Eugene, OR 97440; Marine Lumber Service, Inc., P.O. Box 80964, 525 S. Chicago St., Seattle, WA 98108.

MC 141599 (Sub-6-5TA), filed April 28, 1983. Applicant: MOUNTAIN PACIFIC TRANSPORT LTD., d.b.a. SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, B.C., CD V3K 4X9. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. *Mercer commodities and contractors equipment and machinery* between points in WA, OR, CA, NV, ID, UT, AZ, WY, CO, NM, TX, OK, KS, NE, ND and SD, for 270 days. Supporting shipper: Attica Equipment Co., Ltd., 2381 United Blvd., Mayfair Industrial Park, Coquitlam, B.C., CD V3K 5X9.

MC 141599 (Sub-6-6TA), filed April 28, 1983. Applicant: MOUNTAIN PACIFIC TRANSPORT LTD., d.b.a. SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, B.C., CD V3K 4X9. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. *Metal and metal products* from points in the Seattle, WA commercial zone, Spokane and Puyallup, WA, to points in OR, CA, ID, MT, UT, NV, CO, AZ, NM, TX, OK, KS, NE, ND, and SD, for 270 days. Supporting shippers: Bowman Associates, Inc., P.O. Box 9312, Seattle, WA 98108; Bowman & Associates, Inc., S. 525 Monroe, Spokane, WA 99204; Frontier Pipe, 14021 E. Pioneer Way, Puyallup, WA 98371.

MC 146550 (Sub-6-1TA), filed April 27, 1983. Applicant: PETERSEN NORTHWEST CORPORATION, d.b.a. PETE'S MOBILE HOME AND MODULAR TRANSPORTING, 21841 Pacific Hiway S., Seattle, WA 98188. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Building and Buildings in sections including mobile homes in sections and those mounted on wheeled under carriages with hitch ball connections* from points in Jefferson, Marion County, OR to Seattle, King County, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Farwest Modular, Inc., 10466 Sunnyside Rd., S.E., Jefferson, OR 97352.

MC 166735 (Sub-6-1TA), filed April 28, 1983. Applicant: WESTERN PERISHABLE EXPRESS LTD., No. 11-309-20630 Mufford Crescent, Langley B.C., CD V3A 4P7. Representative: (Same as above.) *Contract Carrier*, Irregular routes: *Cedar Shakes and Shingles*, from ports of entry on the U.S.-Canada International Boundary in WA. to points in WA, OR, CA, AZ, CO, ID, NV, MO, WY, UT, for 270 days for the account of Anglo-American Cedar Products Ltd. Supporting shipper: Anglo-American Cedar Products Ltd., 33286 S. Railway Ave., Mission B.C. V2V 4M6.

W 1336 (Sub-3), filed April 26, 1983. Applicant: THE BINKLEY CO., d.b.a. NORTHWEST NAVIGATION, P.O. Box 1065, Bethel, AK 99559. Representative: Jim Pitzer, 15 South Grady Way—Suite 321, Renton, WA 98055. *General Commodities*, by water vessel, between points in AK on the Kuskokwim River and its Tributaries, from its mouth to and including Medfra, AK, for 180 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12800 Filed 5-10-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-140)]

Rail Carriers; Burlington Northern Railroad Company—Abandonment—In Otter Tail County, MN; Notice of Findings

The Commission has found that the public convenience and necessity permit the Burlington Northern Railroad Company to abandon a 16.05-mile line of railroad between milepost 47.47 near Hoot Lake, MN, and milepost 31.42 near Battle Lake, MN. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds That: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. Any offer previously made must be resubmitted within this 10 day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12805 Filed 5-10-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-101 (Sub-5)]

Rail Carriers; Duluth, Missabe and Iron Range Railway Company—Abandonment—in Lake County, MN; Notice of Findings

The Commission has issued a certificate authorizing Duluth, Missabe and Iron Range Railway Company to abandon its 29.86-mile rail line near Jordan (milepost 12.14) and at Sawbill (milepost 42.00) in Lake County, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis D. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offers previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12804 Filed 5-10-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30168]

Rail Carriers; Pioneer Valley Railroad Co.—Exemption Operation Easthampton, MA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the Pioneer Valley Railroad Company from the prior approval requirements of 49 U.S.C. 10901 for its operation of 1.58 miles of railroad in Easthampton, MA.

DATES: This exemption is effective on May 11, 1983. Petitions to reopen must be filed by May 31, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30168 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

and

(2) Petitioner's representative: Robert L. Calhoun, Sullivan & Worcester, Suite 806, 1025 Connecticut Ave., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D. C. Metropolitan area) or toll free (800) 424-5403.

Decided: May 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett concurred except for the third ordering paragraph in the decision. Commissioner Andre would not impose a deadline for consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12807 Filed 5-10-83; 8:45 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee for Review of Investigation Policy on Rights of Licensee Employees Under Investigation; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Committee for Review of the Office of Investigation Policy on Rights of Licensee Employees Under Investigation will hold a meeting on May 26, 1983, beginning at 10:30 a.m. and lasting until the conclusion of business. The meeting will be held in Room 1167, 1717 H Street, N.W., Washington, D.C.

The entire meeting will be open to public attendance except for those

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portions during which the Committee finds it necessary to discuss detailed investigative practices and procedures. (Sunshine Act Exemption 7). To the extent practicable, these closed portions will be held so as to minimize inconvenience to members of the public in attendance.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to avoid the disclosure of investigative techniques and procedures. The authority of such closure is Exemption (7) to the Sunshine Act, 5 U.S.C. 552b(c)(7).

At this meeting the Committee will hear from and hold discussions with representatives from other federal agencies, public interest organizations and a labor group on the issues before the Committee. Those issues are as follows:

1. Should the NRC as a matter of policy apprise all interviewees prior to an interview that they have a right to have an attorney present?

(a) Should there be different policies for those merely being questioned to obtain information and for those being personally investigated, *i.e.*, "suspects"?

(b) If the NRC should advise interviewees of their right to an attorney, what form should that advice take, *i.e.*, published rule, oral advice, signed acknowledgement, etc.?

2. May, and, If so, should the Commission limit an interviewee's choice of counsel by excluding from the interview any attorney who also represents the entity being investigated?

3. Should the NRC allow interviewees to tape record the interview and/or should the NRC record the interview at the request of an interviewee?

(a) If so, should the NRC advise of this right prior to the interview, and, if so, what form should that advice take?

(b) Under what circumstances should the interviewee be allowed to keep the tape or a copy of the tape?

(c) If the interviewee records the interview but the NRC does not, should the NRC insist on having copy of the tape?

4. Should the NRC give all interviewees express grants of confidentiality?

(a) What limitations, if any, should be placed on grants of confidentiality by the NRC?

(b) Should there be different policies for different types of interviewees, *e.g.*, those who come forward on their own, and those whom the NRC has to seek out?

(c) Should the NRC grant confidentiality in the absence of a request for confidentiality?

(d) Should the NRC advise witnesses of the availability of confidentiality, and, if so, what form should this notification take?

In addition, written statements on these issues may be submitted by members of the public. Such statements should be submitted by June 3 to Mr. Richard P. Levi, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. If any other member of the public wishes to make an oral presentation to the Committee, he should contact Mr. Levi (Telephone 202/634–1465).

Further information on this meeting may be obtained from Mr. Levi. A transcript of the meeting will be made available for public inspection and copying at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Washington, D.C. this 5th day of May, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–12827 Filed 5–10–83; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses to Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 3rd day of May at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material type	Material in Kilograms		End-use	Country of destination
		Total element	Total isotope		
Babcock & Wilcox, Apr. 15, 1983, Apr. 21, 1983, ISNM03008.	93.16 pct enriched uranium	25,186	23,463	Scrap recovery and possible sale in U.S. or return to Canada.	FM Canada.
Mitsubishi Int'l, Apr. 14, 1983, April 22, 1983, XSNM02041.	3.15 pct enriched uranium	80,420	2,135	Initial Core, Sendai Nuclear Power Reactor, Unit 2	Japan.
Exxon Nuclear Co., Apr. 25, 1983, Apr. 29, 1983, ISNM03008.	3.30 pct enriched uranium	26,000	860	For fabrication of fuel for reexport to Blayais Nuclear Power Reactor in France.	FM France.

[FR Doc. 83–12828 Filed 5–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–324]

Carolina Power & Light Company; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR–62 issued to Carolina Power & Light Company (the Licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit 2 (the facility), located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to remove a uniform reduction of 8.5 percent in the limiting values of the Maximum Average Planar Linear Heat Generation Rate.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated July 21, 1982, as supplemented April 28, 1983 (2) Amendment No. 80 to License No. DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commissions Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Date at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2 Division of Licensing.

[FR Doc. 83–12829 Filed 5–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al.; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components", to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees), which revised the inservice inspection program for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The ASME Code Requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief was effective as of the date of issuance, April 1, 1983.

This action permits Florida Power Corporation to use the provisions of the 1977 edition of the ASME Code, Section XI, rather than the 1974 version of the Code, regarding the inservice inspection of certain vessel nozzles. The 1977 version permits these inspections at the end of each 10-year inspection interval rather than some percentage of the nozzles inspected at 3⅓ years, 6⅔ years and at 10 years.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letters granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's letters dated February 21, 1983, and March 14, 1983, and (2) the Commission's letters to Florida Power Corporation dated April 1, 1983, and April 27, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of April 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–12830 Filed 5–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–70]

General Electric Company; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to the General Electric Company (the licensee) for Facility Operating License No. TR–1. The amendment revises the license of the General Electric Test Reactor (the facility) located in Vallecitos, California to delete the physical security requirements and the accountability requirements of the license for as long as fuel or fueled experiments are absent from the facility.

The licensee's filing, which has been handled by the Commission as an application for an amendment, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not requied since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Amendment No. 13 to

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Facility Operating License No. TR-1 and (2) the Commission's related letter to the licensee dated May 3, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. A copy of items (1) and (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Acting Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 83-12651 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461-OL]

Illinois Power Company, et al. (Clinton Power Station, Unit No. 1); Memorandum and Order (Scheduling Prehearing Conference)

May 6, 1983.

A special prehearing conference will be held on June 2, 1983, to assess the progress of this proceeding. The conference will convene at 9:00 a.m. in the Plaza Room of the University Inn, 302 East John Street, Champaign, Illinois 61820. All parties are directed to attend and to be prepared to discuss the folllowing topics:

(1) Status of negotiations between the parties on contentions

(2) Applicants' evaluation of construction schedule

(3) Actions being taken to assure adequate quality assurance and quality control

(4) Future schedule for this proceeding.

Upon consideration of the foregoing and the entire record in this matter, it is this 6th day of May 1983.

Ordered:

That a special prehearing conference to consider the matters set forth above shall be held at the stated time and place and shall be attended by all parties to this proceeding.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Oscar H. Paris,

Administrative Judge.

[FR Doc. 83-12632 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 90 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, CentralIowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to delete the requirements for the Shift Technical Advisor (STA) to be on duty during refueling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 15, 1983 (2) Amendment No. 90 to License No. DPR-49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated May 3, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 2, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12633 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 91 to Facility Operating A License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the license for operation of the Duane Arnold Energy Center, located in Linn County Iowa. The amendment is effective as of its date of issuance.

The amendment incorporates a license condition requiring the licensee to follow its "Plan for the Integrated Scheduling of Plant Modifications for the Duane Arnold Energy Center."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazard consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 12, 1982, (2) Amendment No. 91 to License No. DPR-49, and (3) the Commission's related Program Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington,

D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-12634 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Request for Action Under 10 CFR 2.206

Notice is hereby given that by its "Request for Issuance of an Order to Show Cause" dated April 8, 1983 (Request), Sensible Maine Power. Eleanor S. Miller, Stanley R. Tupper, and Judy Flanagan, requested that certain actions be taken by the Nuclear Regulatory Commission with respect to the Maine Yankee Atomic Power Station in light of a report issued by the Federal Emergency Management Agency evaluating the emergency response exercise conducted for the Maine Yankee facility in December 1982. The relief requested includes initiation of show-cause proceedings to modify, suspend, or revoke the Maine Yankee operating license, and such other relief as may be proper. The Request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and action will be taken on the Request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20555 and at the local public document room for the Maine Yankee facility at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

Dated at Bethesda, Maryland, this 29th day of April, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-12635 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corporation; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-63 issued to Niagara Mohawk Power Corporation (the licensee) which revised the technical specifications of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility), located in Oswego County, New York. The amendment is effective as of the date of issuance.

The amendment changes the test duration for the containment integrated leak rate test to a minimum of 8 hours rather than 24 hours.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 11, 1979, (2) amendment No. 52 to License No. DPR-63 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C. and at the State University College at Oswego, Penfield Library, Documents, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-12636 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Issuance of Amendments; Facility Operating License Nos. NPF-10 and NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. NPF-10, and Amendment No. 7 to Facility Operating License NFP-15 to Southern California Edison Company (SCE), San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility) located in San Diego County, California. These amendments are effective as of the date of issuance.

The amendments modify (1) the Technical Specifications covering radioactive liquid effluents and effluent monitoring instrumentation to add a steam generator blowndown bypass line as an alternate release path, along with the associated effluent sampling and monitoring; and (2) the Technical Specification covering radiation monitoring alarm instrumentation to change the alarm setpoint for the containment high range monitors. These amendments were requested by the SCE letter of April 15, 1983.

Issuance of these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which were set forth in the license amendments.

Prior public notice of these amendments is not required because the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and pursuant to 10 CFR 51.4(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) Southern California Edison Company's letter dated April 15, 1983, (2) Amendment No. 19 to Facility Operating License No. NPF-10, (3) Amendment No. 7 to facility Operating License NPF-15, and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

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Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-12837 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its next meeting at 10:30 a.m., May 25, 1983. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, N.W. Washington, D.C. and will be open for public observation. Prior announcement of this meeting was made at the committee's last open meeting which took place on May 5, 1983.

At this meeting, the committee will continue its review of administrative proposals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, N.W. Washington, D.C.

Further information on the meeting may be obtained from Mr. Rothschild, Office of the General counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (Telephone: 202/634-1465).

Dated at Washington, D.C., this 9th day of May 1983.

John C. Hoyle,

Advisory committee Management Officer.

[FR Doc 83-12802 Filed 5-10-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Mangement and Budget

Agency Clearance Officer: Kenneth A. Fogash, 202-272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension
Rule 13e-3
No. 270-1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted Rule 13e-3 and Schedule 13E-3 under the Securities Exchange Act of 1934 for an extension of clearance. The rule and schedule prohibit fraudulent, deceptive and manipulative acts or practices in connection with going private transactions and prescribe filing, disclosure and dissemination requirements designed to prevent such acts and practices. Submit comments to OMB Desk Officer: Robert Veeder, 202-395-4814, Office of Information and Regulatory Affairs, Room 3235, NEOB, Washington, D.C. 20509.

Dated: May 5, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-12864 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19737; SR-CBOE-83-5]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

May 5, 1983.

The Chicago Board Options Exchange, Incorporated ("CBOE"), La Salle at Jackson, Chicago, IL 60604, submitted on March 4, 1983 copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to amend CBOE rules concerning conduct on the trading floor.[1] The proposed rule change adds a Rule 6.20(c) that, among other things, restricts the activities and movements of clerks on the trading floor, prohibits them from using quote terminals in certain circumstances, requires that they display their badges at all times, requires market maker clerks to provide their employers with copies of any option or stock orders the clerks may write up and requires the marking of phone orders by clerks. The rule change proposal also adds an interpretive provision to the CBOE rules that designates failure to adequately supervise an employee for compliance with CBOE Rule 6.20(c) as an activity which may impair the maintenance of a fair and orderly market or impair public confidence in the operations of the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19582, March 10, 1983) and by publication in the **Federal Register** (48 FR 11547, March 18, 1983). No comments on the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12848 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

[1] On March 14, 1983, CBOE filed a technical amendment indicating that its Board approved the proposed rule change.

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 5, 1983.

In the matter of applications of the Cincinnati Stock Exchange; For Unlisted Trading Privileges in Certain Securities; *Securities Exchange Act of 1934.*

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Bradford National Corporation, Common Stock, $.10 Par Value (File No. 7-6622)

Petro-Lewis Corp., Common Stock, $1 Par Value (File No. 7-6623)

Continental Airlines Corp., 9% Cumulative Convertible Preferred, $.10 Par Value (File No. 7-6624)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 26, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission

will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12853 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19729; File No. SR-PSDTC-83-2]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Securities Depository Trust Company

May 4, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 28, 1983, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change (i) would simplify a service provided by PSDTC that allows participants to segregate portions of their securities positions held in their depository accounts while using the unsegregated portions on those positions to satisfy obligations with Pacific Clearing Corporation ("PCC"); and (ii) would establish or change fees related to that service. PSDTC's current rules provide that PCC/PSDTC participants may use their depository accounts to settle short positions included in their daily settlement obligations at PCC by (i) manually instructing PSDTC to debit the appropriate depository long postions for specified amounts of securities ("Manual Release Service") or (ii) having PSDTC automatically debit participants' long depository positions ("Automatic Release Service" or "ARS"). PSDTC believes that participants have been reluctant to use the ARS because it is cumbersome for them to release less than their entire long positions. Participants using ARS that wish to segregate portions of their positions in their depository account to satisfy Rule 15c3-3 (17 CFR 240.15c3-3) or for other purposes are required to submit two instructions: (i) to move a designated portion of their long position from the unsegregated account into a segregated account; and (ii) to return the segregated securities to the unsegregated account after the processing cycle with PCC is completed. The proposed rule change would simplify this procedure by permitting participants to submit one instruction directing PSDTC not to release a specified portion of a long position from the unsegregatd account for only one processing cycle ("By-Pass of ARS"). After the completion of the processing cycle, participants' entire positions would again be available for the ARS for the following day's processing cycle unless additional by-pass instructions were submitted. PSDTC believes that the proposal is consistent with Section 17A(b)(3)(A) of the Act because it would facilitate the prompt and accurate clearance and settlement of securities transactions for which PSDTC is responsible.

As noted, the proposed rule change would institute a new fee for the By-Pass of ARS of $.75 per instruction. The proposal also would increase the fee for the Manual Release Service from $.50 per instruction to $.75 per instruction. (The proposal would not modify the fee for the ARS of $.20 per instruction.) PSDTC belives that the proposed fee increases are consistent with Section 17A(b)(3)(D) of the Act by providing for the equitable allocation of reasonable dues, fees, and other charges among its participants.

PSDTC further believes that the proposed rule change may take effect upon filing with the Commission, pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e) (17 CFR 240.19b-4(e)) thereunder because the proposal (i) effects a change in an existing service that (a) does not adversely affect the safeguarding of securities or funds in the custody or control of PSDTC or for which it is responsible and (b) does not significantly affect the respective rights or obligations of PSDTC or persons using the service; and (ii) it establishes or changes a due, fee, or other charge.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interestred persons are invited to submit written data, views, and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-83-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12851 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 5, 1983.

In the matter of application of the Philadelphia Stock Exchange, Inc.; For Unlisted Trading Privileges in Certain Securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Lake Shore Mines, Ltd., Common Stock, $1 Par Value (File No. 7-6625)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 26, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written

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comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12849 Filed 5-10-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19731; File No. SR-Amex-83-10]

Self-Regulatory Organization; Proposed Rule Change by American Stock Exchange, Inc.; Miscellaneous Office

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 2, 1983, the American Stock Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Rule 464 (Record of Margin Calls) and to delete Rule 418 (Bucket Shops), Rule 349 (Press Representatives), and Rule 445 (Security Underwritings).

ii. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The Exchange is proposing a number of specific housekeeping rule changes as part of its continuing program to ensure that the Exchange's rules remain up to date and as uniform as possible with New York Stock Exchange rules. Each of the proposed changes is reviewed separately below.

Bucket Shops

Amex Rule 418 prohibits a member or member organization from engaging in or being in any way associated with a "bucket shop" [1] operation. As "bucket shops" can be adequately disciplined instead under Article V, Section 4(h) of the Exchange Constitution as "conduct inconsistent with just and equitable principles of trade", as well as under Article V, Section 4(i) as a violation of the anti-fraud provisions of the Exchange Act, a specific Exchange rule addressing this activity is unnecessary. It is therefore proposed that Rule 418 be rescinded. The NYSE has deleted its comparable Rule 403.

Press Representatives

Amex Rule 349 prohibits the direct or indirect employment of a representative of the press by a member or member organization for the purpose of obtaining confidential information. Since press representatives are only one group of persons among many whose employment by a member organization for such purpose would subject the member organization to disciplinary action, a specific Exchange rule addressing only this one group is unnecessary. Moreover, as with the "bucket shop" rule above, the use of inside information can be adequately disciplined instead under Article V, Sections 4(h) or 4(i) of the Constitution. It is thereore proposed that Rule 349 be rescinded. The NYSE has deleted its comparable Rule 349.

Underwriting Report

Amex Rule 445 requires members and member organizations to file with the Exchange a weekly report of net positions from security underwritings. However, this report has not been submitted to the Exchange since the industry adopted the Joint Regulatory Report in 1972 (followed by the FOCUS Report in 1975), as the underwriting information has been reflected in these broader financial reports. Since it is not necessary for this separate underwriting report to be submitted to the Exchange, it is proposed that Rule 445 be rescinded. The NYSE has deleted the comparable provision in its Rule 421.

Record of Margin Calls

Paragraph (a) of Amex Rule 464 requires member firms carrying margin accounts to make a daily record of all margin calls in a customer's account resulting from transactionis effected in the account. Although not expressly stated, the rule has always been interpreted to require that a record be kept of margin calls resulting from market fluctuations, as well as from transactions effected in the account. While the present language has caused no problems, it is proposed that the rule be amended to clarify the broader intent.

"Free-Riding"—Ominibus Accounts

Paragraph (b) of Rule 464 provides that a member firm shall not permit customers to make a practice of "free-riding" in a margin account; that is, effecting margin transactions and then furnishing the required margin through liquidation of the same or other commitments. The rule, however, exempts from this "free-riding" prohibition broker-dealers carrying the customer accounts of other broker-dealers on an "omnibus" basis, describing at length the requirements for qualifying as an "omnibus" account under Regulation T.[2] In the interests of better drafting, it is proposed that the rule be amended to incorporate the Regulation T requirements by reference, rather than tracking them in the rule. The amendments to Rule 464 conform the rule to recent amendments to the comparable NYSE Rule (Rule 432).

(b) *Basis.* The proposed amendments are generally consistent with Section 6(b) of the Exchange Act in that they are designed to ensure that the Exchange's rule remain up to date and as uniform as possible with New York Stock Exchange rules.

B. Self-Regulatory Organization's Statement of Burden on Competition

The proposed rule changes will have no impact on competition.

[1] A "bucket shop" was generally understood to be any organization which intentionally delayed the execution of customer orders in order to make a personal gain from possible price changes.

[2] Since the names of the customers of the introducing broker-dealer are not disclosed to the carrying broker-dealer under an omnibus arrangement, the carrying broker-dealer records all customer transactions of the introducing broker-dealer in a single "ominibus" account and thus is incapable of policing against free-riding. That responsibility remains with the introducing broker-dealer.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated May 5, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12852 Filed 5-10-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19730; File No. SR-NYSE-83-15]

Self-Regulatory Organizations; Proposed Rule Changes by New York Stock Exchange, Inc.; Relating to Changes to Rule 472 (Advertising, Market Letters, Sales Literature, Research Reports and Writing Activities), Rule 474A (Standards for Advertising, Market Letters, Sales Literature, Research Reports, Radio, Television and Writing Activities), and Rule 474B (Standards for Speaking Activities)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 28, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed amendments to NYSE Rules 472, 474A and 474B consolidate all requirements for communications between member organizations and the public into one rule (Rule 472) and would rescind Rules 474A and 474B. The major changes resulting from the proposed amendments to the above three rules include:

—Replacing specific definitions of such terms as "advertisements," "market letters," "research reports" and "sales literature" with one all encompassing term—"communications."

—Only one person, a supervisory analyst, will be required to approve research reports, rather than two persons as at present (a member or allied member and a supervisory analyst).

—Research reports on non-security products may be co-approved by a supervisory analyst and a product specialist designated by the firm.

—Specific standards for communications found in Rule 472.40 and for records of past performance (472.40(3)), have been revised and updated to more appropriately reflect current market environment conditions.

—The major provisions of Rule 474A have been repositioned throughout Rule 472 with or without changes. Such changes are indicated throughout Exhibit II.

—Rule 474B is proposed to be deleted in its entirety and replaced by Rule 472.20, (Other Communications Activities) which requires member organization approval and the establishment of written procedures for supervision.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) *Purpose of Proposed Rule Changes.* The purpose of the proposed amendments is essentially to streamline and consolidate current standards into one rule. Further, melding all definitions into the general term "communications" should eliminate confusion as to which category specific communications fall into. Also, the elimination of the dual approval requirement for research reports eliminates unnecessary and duplicative administrative procedures for members and member organizations. The Exchange believes that since the competency of supervisory analysts is determined by the Exchange both as to abilities as an analyst and as to knowledge of Exchange regulations, their review is sufficient for approval of research reports.

(b) *Statutory Basis for the Proposed Rule Changes.* The proposed amendments are consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 ('34 Act) in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general, to protect investors and the public interest in that the amended rules will continue to set forth standards of truthfulness, good taste and disclosure in the overall communications activities of members and member organizations with the public.

The elimination of the requirement for dual approval of reseach reports is consistent with Section 6(c)(3)(B)of the 1934 Act in that superevisory analysts are required to demonstrate that meet Exchange standards of training, experience and competence.

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B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 5, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12950 Filed 5-10-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2078; Amdt. 7]

California; Declaration of Disaster Loan Area

The above numbered Declaration (48 FR 8167), Amendment #1 (48 FR 9810), Amendment #2 (48 FR 12881), Amendment #3 (48 FR 15207), Amendment #4 (48 FR 16565), Amendment #5 (48 FR 18996) and Amendment #6 (48 FR 19971) are amended to include the Counties of Humboldt and Del Norte to the previously declared disaster area in the State of California as a result of damage caused by severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983. As a result of the amendments to this declaration, SBA extends the date for filing applications for physical damage to the close of business May 11, 1983, and for economic injury until the close of business November 9, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: April 5, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-12064 Filed 5-6-83; 5:08 pm]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2082]

Virgin Islands of the United States; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Islands of St. John and St. Thomas, Virgin Islands of the United States, constitute a disaster area because of damage resulting from severe storms, landslides, and flooding beginning on or about April 17, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1983, and for economic injury until the close of business on January 29, 1984, at the addresses listed below:

U.S. Small Business Administration, Puerto Rico and Virgin Islands District Office, Federal Building—Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00919, or

U.S. Small Business Administration, St. Thomas Post-of -Duty, Federal Office Building, Veterans Drive—Room 283, St. Thomas, Virgin Islands 00801

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are:

Home Owners with credit available elsewhere—11.500%
Home Owners without credit available elsewhere—5.750%
Businesses with credit available elsewhere—10.500%
Businesses without credit available elsewhere—8.000%
Businesses (EIDL) without credit available elsewhere—8.000%
Other (non-profit organizations including charitable and religious organizations)—11.375%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: May 3, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-12066 Filed 5-6-83; 5:08 pm]

BILLING CODE 8025-01-M

Minnesota; Extension of the Pilot Project

AGENCY: Small Business Administration.

Title: Extension of the Pilot Project in the State of Minnesota.

ACTION: Notice.

The Small Business Administration authorized a pilot program in which the State of Minnesota would use the proceeds of a taxable bond sale to purchase the guaranteed portion of long-term SBA loans. This program is fully described on page 34871 in the **Federal Register** dated August 11, 1982, Volume 47, Number 155.

The above-referenced announcement provided that SBA may extend the pilot program for six months after its scheduled termination. At the request of the Minnesota Small Business Finance Agency, SBA will extend the Pilot Project in the State of Minnesota until March 31, 1984.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Financial Analyst, 1441 L Street, NW., Room 720, Washington, D.C. 20416, 653-6076/6266.

(Catalog of Federal Domestic Assistance Programs, 59.012, Small Business Loans)

Dated: May 3, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-12069 Filed 5-10-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/629]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Monday, June 20, 1983 at 2:00 p.m. in the Diplomatic Reception Rooms. The meeting will last approximately until 3:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in February 1983, the announcement of all gifts and loans since January 1, 1983 and a discussion of the newly redesigned James Monroe and James Madison Rooms.

Public access to the Department of State is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, June 13, 1983, telephone (202) 632-0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: April 25, 1983.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 83-12540 Filed 5-10-83; 8:45 am]

BILLING CODE 4710-38-M

[Public Notice CM-8/628]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 25 and June 8, 1983. The meeting on May 25 will be in Room 1107; the meeting on June 8 will be in Room 1105, Department of State, 2201 C Street, NW., Washington, D.C. Both meetings willl begin at 10:00 a.m.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, date transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international study Groups I and III meetings.

Members of the general public may attend the meetings subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meetings. It is therefore suggested that prior to the meetings, persons who plan to attend so advice Mr. Earl Barbely, Department of State, Washington, D.C. 20520; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: April 21, 1983.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-12537 Filed 5-10-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

Application for Recordation of Trade Name: "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada"

AGENCY: Customs Service, Treasury.

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada," used by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, an unincorporated association, located at 901 Massachusetts Avenue, NW., Washington, D.C. 20001.

The application states that the trade name is used by the Association to identify its union activities, which include the formation of local labor unions in the plumbing and pipe fitting industry, as well as certifying (1) that pipe, fabricated pipe, welded pipe and fabricated welded pipe formations were made by members of United Association's local unions and (2) that the services of fabricating and assembling such goods were performed by members of United Association's local unions. The Association's member unions and their members are authorized to use the trade name in the United States and Canada.

Before final action is taken on the application, consideration will be given to any relevent data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before July 11, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: May 4, 1983.

A. Piazza

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-12573 Filed 5-10-83; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 83-104]

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Prefinished Hardboard Siding; Petitioner's Desire To Contest the Decision

AGENCY: Customs Service, Treasury.

ACTION: Notice of (1) decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain prefinished hardboard siding be reclassified for tariff purposes under the provision for other hardboard, whether or not face finished, in item 245.30, Tariff Schedules of the United States (TSUS), Customs invited public comments with regard to the correctness of the present classification. After consideration of the comments received and further review of the matter, Customs has advised the petitoner that such prefinished hardboard siding would continue to be classified under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS. Upon being

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informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

FOR FURTHER INFORMATION CONTACT: Janet L. Johnson, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1981, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the American Hardboard Association, a national trade association representing American manufacturers of prefinished hardboard siding, requesting that certain imported prefinished hardboard siding be reclassified under the provision for other hardboard in item 245.30, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), presently dutiable at 12 percent ad valorem. Such hardboard siding has been classified by Customs under the provision for other building boards, of vegetable fibers (including wood fibers), in item 245.90, TSUS free of duty, following Customs ruling 061750 BF, dated November 14, 1980.

A notice of receipt of the petition was published in the **Federal Register** on March 22, 1982 (47 FR 12258), inviting public comment. Written comments were to have been received on or before May 21, 1982. By notice published in the **Federal Register** on May 27, 1982, (47 FR 23249), the period of time for the submission of comments was extended to June 21, 1982.

Nine commenters responded to the notice. Four favored the reclassification of the merchandise and five opposed any change. Those favoring reclassification generally supported the claims of the petitioner, which are set forth below.

In support of its contention that the merchandise involved is properly classifiable as other hardboard under item 245.30, TSUS, the petitioner made the following claims:

(1) Item 245.90, TSUS, is intended for insulation board products such as sheathing, ceiling tile, sound deadening board and roof deck, all low density products (*i.e.*, weighing 30 pounds or less per cubic foot).

(2) Finished hardboard products weighing 31 pounds or more per cubic foot should be classified in item 245.30, TSUS.

(3) Several passages from the American Society of Testing and Materials (ASTM) publication, ASTM D1554 (Standard Definitions of Terms Relating to Wood-Base Fiber and Particle Panel Materials) support the foregoing claims.

By a ruling dated October 29, 1982 (070255), Customs advised the petitioner that its first contention is contradicted by the annotated tariff schedules. Item 245.30, TSUS, provides only for "hardboard, whether or not face finished, other". As such, the provision covers only plain sheets and strips of hardboard, not advanced in any way except face finishing. The merchandise in question has been processed by more than face finishing; it has been rabbetted and grooved, and a plastic spine has been attached. Such processing advances the hardboard from a material to an article specially designed to be used as lap siding in the construction of walls. As much, the merchandise becomes a building board, classifiable in item 245.90, TSUS.

The first contention is also contradicated by statistical breakouts in the tariff schedules. Effective January 1, 1964, item 245.90, TSUS, was divided into two major statistical sub-categories: "weighing 26 pounds or less per cubic foot," and "other" (*i.e.*, weighing more than 26 pounds per cubic foot). Effective January 1, 1978, the two major sub-categories were changed to "weighing 30 pounds or less per cubic foot, "and other" (*i.e.*, weighing more than 30 pounds per cubic foot). In view of the fact that the tariff schedules have contained these statistical suffix breakdowns under item 245.90, TSUS, since January 1, 1964, the petitioner's claim cannot overcome the administrative treatment of the tariff provision.

The petitioner's second claim is also contradicted by the tariff schedules. Schedule 2, Part 3, Headnote 1(e), TSUS, defines building boards as "panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings, or other parts of building." The merchandise in question qualifies as "building board" according to the Headnote 1(e) definition.

Finally, concerning petitioner's third claim, when the tariff schedules provide a headnote which specifically defines a term such as "building boards," there is no need to resort to commerical definitions.

Decision on Petition and Receipt of Petitioner's Notice of Desire To Contest

In the ruling dated October 29, 1982, the petitioner was advised that its petition was denied and that Customs would continue its practice of classifying such prefinished hardboard siding in item 245.90, TSUS. In response, by letter dated November 29, 1982, the petitioner filed notice of its desire to contest this decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23, Customs Regulation (19 CFR 175.23).

After careful analysis of the comments received in response to the notice and further review of the matter, Customs remains of the opinion that its practice of classifying such prefinished hardboard siding under item 245.90, TSUS, is correct. This practice will continue provided that no decision of the United States Court of International Trade or the United Stated Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

Authority

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24, Customs Regulations (19 CFR 175.24).

Drafting Information

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 22, 1983.

Alfred R. DeAngelus,

Acting Commissioner of Customs.

[FR Doc. 83-12800 Filed 5-10-83; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

[Supp. to Dept. Circ. Public Debt Series—No. 13–83]

Series B–1993; Interest Rate

May 5, 1983.

The Secretary announced on May 4, 1983, that the interest rate on the notes designated Series B–1993, described in Department Circular—Public Debt Series—No. 13–83 dated April 28, 1983, will be 10⅛ percent. Interest on the notes will be payable at the rate of 10⅛ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-12826 Filed 5-10-83; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 92
Wednesday, May 11, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

DEPARTMENT OF EDUCATION; NATIONAL INSTITUTE OF EDUCATION; NATIONAL COUNCIL ON EDUCATIONAL RESEARCH
May 1, 1983.

TIME AND DATE: 9 a.m. to 12 noon, May 20, 1983.

PLACE: The National Institute of Education, Room 823, 1200 19th Street, NW., Washington D.C. 20208.

STATUS: Open.

MATTERS TO BE CONSIDERED: Under the Sunshine Act—discussion of personnel.

1. Personnel.
2. Report from Chairman, Executive Director and other Council members.
3. Unfinished business.

CONTACT PERSON FOR MORE INFORMATION: PATRICIA HINES, TELEPHONE (202) 254–7490.

[S-665-83 Filed 5-9-83; 10:40 am]

BILLING CODE 4000-01-M

2

DEPARTMENT OF EDUCATION; NATIONAL INSTITUTE OF EDUCATION; NATIONAL COUNCIL ON EDUCATIONAL RESEARCH
May 1, 1983.

TIME AND DATE: 8:30 a.m., to 5 p.m., May 19, 1983.

PLACE: Room 823, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208.

STATUS: The first item will be closed to the public and the remainder of the meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Committee reports and committee meetings.

CONTACT PERSON FOR MORE INFORMATION: Patricia Hines, telephone, (202) 254–7490.

[S-674-83 Filed 5-9-83; 3:29 am]

BILLING CODE 4000-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Thursday, May 5, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider an application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt form disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was recessed at 2:17 p.m., and at 5:03 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors considered another application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 6, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-666-83 Filed 5-9-83; 11:27 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11 a.m. on Saturday, May 7, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Smith County Bank, Carthage, Tennessee, which was closed by the Tennessee Commissioner of Banking on Friday, May 6, 1983; (2) accept the bid for the transaction submitted by Murfreesboro Bank & Trust Company, Murfreesboro, Tennessee, an insured State nonmember bank; (3) approve the application of Murfreesboro Bank & Trust Company, Murfreesboro, Tennessee, for consent to purchase the assets of and to assume the liability to pay deposits made in Smith County Bank, Carthage, Tennessee, and for consent to establish the sole office of Smith County Bank as a branch of Murfreesboro Bank & Trust Company; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the

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Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 9, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-673-83 Filed 5-9-83; 3:38 pm]

BILLING CODE 6714-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 4, 1983.

TIME AND DATE: 10 a.m., Wednesday, May 11, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. FMC Corporation, Docket Nos. WEST 82-146-RM, WEST 82-207-M; Petition for Discretionary Review. (Issues include whether the judge erred in concluding that the operator violated 30 CFR 57.6-5, which is a mandatory standard dealing with the storage of blasting agents.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-666-83 Filed 5-9-83; 10:50 am]

BILLING CODE 6735-01-M

6

NATIONAL SCIENCE BOARD

DATE AND TIME:
May 18, 1983 3 p.m. Open Session
May 19, 1983 3:15 p.m. Closed Session
May 19, 1983 4 p.m. Open Session

PLACE: National Science Foundation, 1800 G Street NW., Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Open Sessions: *Wednesday, May 18, 3 p.m.:*

1. Joint Meeting with NSB Commission on Precollege Education in Mathematics, Science, and Technology.

Thursday, May 19, 4 p.m.:

2. Minutes—Open Session—March 1983 Meeting.
3. Chairman's Items.
4. Director's Report.
5. NSF Budget for Fiscal Year 1985.
6. Annual Business.
7. NSB Policy on NSF Excepted Appointment Authority.
8. Grants, Contracts, and Programs.
9. Board Representation at Advisory Committee and Other Meetings.
10. Reports of Board Committees.
11. Other Business.
12. Next Meetings.

Closed Session: *Thursday, May 19, 3:15 p.m.:*

A. Minutes—Closed Session—March 1983 Meeting.
B. NSB and NSF Staff Nominees.
C. Annual Election.
D. Grants, Contracts, and Programs.

[S-670-83 Filed 5-9-83; 1:39 pm]

BILLING CODE 7555-01-M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on June 2, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: May 6, 1983.

[S-669-83 Filed 5-9-83; 1:39 pm]

BILLING CODE 7600-01-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on May 19, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: May 6, 1983.

[S-671-83 5-9-83; 1:39 pm]

BILLING CODE 7600-01-M

9

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Wednesday, May 11, 1983.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

[S-672-83 Filed 5-9-83; 2:30 p.m.]

BILLING CODE 4410-01-M

10

U.S. RAILWAY ASSOCIATION

Board of Directors and Advisory Board.

DATE AND TIME: May 20, 1983, 10 a.m.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED: *Portion Closed to the Public (10 a.m.):*

1. Litigation Report.
2. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

3. Approval of Minutes of April 8, 1983 Meeting.
4. Conrail request for Amendment of Financing Agreement.
5. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777, ext. 503.

[S-667-83 Filed 5-9-83; 11:13 am]

BILLING CODE 8240-01-M

federal register

Wednesday
May 11, 1983

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; End-Stage Renal Disease Program; Prospective Reimbursement for Dialysis Services and Approval of Special Purpose Renal Dialysis Facilities; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; End-Stage Renal Disease Program; Prospective Reimbursement for Dialysis Services and Approval of Special Purpose Renal Dialysis Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations change the reimbursement system by which Medicare pays for outpatient maintenance dialysis and related physician and laboratory services. These changes establish a prospective method of payment for maintenance dialysis, whether furnished at home or in a hospital-based or independent dialysis facility, and revise other aspects of the reimbursement system to encourage home dialysis and provide incentives for economy and efficiency in furnishing these services. These amendments implement section 2145 of the Omnibus Budget Reconciliation Act of 1981. We expect that these changes will improve our administration of the end-stage renal disease program and enable us to control the rapidly growing costs of furnishing dialysis.

The controls on quality of care that have been in effect since the beginning of the program will continue to apply. These regulations will also ensure access to care by providing for adequate reimbursement to isolated, essential facilities, where patients have no alternative sources of dialysis care.

These regulations also provide for time-limited approval for Medicare participation of special purpose renal dialysis facilities. As a general rule we have not approved facilities such as transient or mobile units set up for emergency purposes or to serve vacationing dialysis patients in State parks and children's camps. This change in regulations will remove this limitation.

EFFECTIVE DATES: Most provisions of these regulations are effective August 1, 1983. However, the regulations at 42 CFR Part 405, Subpart U implementing conditions of coverage for special purpose renal dialysis facilities are effective on May 11, 1983. The regulations at 42 CFR Part 405, Subparts B, D, E, and F implementing changes in reimbursement for maintenance dialysis treatments and the physician and laboratory services related to those treatments, including the provisions discontinuing Medicare payment for 100 percent of the cost of home dialysis equipment and the optional target rate reimbursement method for home dialysis, are effective August 1, 1983. See the **SUPPLEMENTARY INFORMATION** for further discussion of these provisions and their effective dates.

FOR FURTHER INFORMATION CONTACT:

Concerning special purpose renal facilities, contact: Stanley Rosenfeld; (301) 594–9737.

Concerning all other provisions of these regulations, contact: Bernadette Schumaker, (301) 597–1337.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Organization and Content

We published a notice of proposed rulemaking (NPRM) on prospective reimbursement on February 12, 1982, and an NPRM on special dialysis facilities on January 15, 1981. The NPRM on prospective reimbursement discussed the ESRD program and its legislative background and explained in detail the regulatory changes we proposed, the methodologies we proposed to implement the prospective reimbursement regulations, and showed what payment rates would result from those methodologies. The NPRM on special purpose facilities set forth our proposal to approve on a time-limited basis vacation and emergency units that did not meet all the requirements we have established for permanent facilities.

The second section of these final regulations summarizes the proposed regulatory changes of the NPRM on prospective reimbursement, discusses the comments we received, sets forth our responses to those comments, and explains any changes to the regulations we are making in light of those comments. This section follows the general organization of the NPRM. In order to be as concise as possible, we have not repeated here much of the discussion in the NPRM on program background and our proposed regulatory changes. The third and fourth sections summarize the proposed methodologies for determining facility payment rates and physician payment rates respectively, discuss those comments, and explain the final methodologies for facility and physician reimbursement. The fifth section deals with additional issues related to implementing the changes in the reimbursement system. The sixth section summarizes the provisions of the NPRM on special purpose dialysis facilities, discusses comments received, sets forth our responses, and explains any changes we are making in light of those comments. The seventh section discusses implementation and effective dates, summarizes those comments and describes our changes in response to those comments. The eighth section briefly addresses procedural aspects of the rulemaking process, such as clearance of reporting requirements. This is followed by the text of the regulations we are changing.

Because the reimbursement changes in these regulations constitute a major rule under Executive Order 12291, with significant economic effects, particularly on small dialysis facilities, an initial regulatory impact analysis was published with the February, 1982 NPRM. A final impact analysis has been prepared and is included in the first appendix to these regulations. A second appendix to these regulations explains and lists the area wage indexes that we will use to adjust prospective payment rates geographically.

B. Legislative Background

The end-stage renal disease (ESRD) program of Medicare was established by Section 2991 of the Social Security Amendments of 1972 (Pub. L. 92–603). That law extended Medicare coverage to individuals who have permanent kidney failure, require either dialysis or transplantation, and meet certain other eligibility requirements.

The End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95–292) were enacted in large part to alleviate the problem of rapidly increasing expenditures in the ESRD program. The amendments added section 1881(b)(2)(B) to title XVIII of the Social Security Act. That legislation directed us to publish regulations establishing methods and procedures to determine the costs incurred by renal dialysis facilities in furnishing ESRD services, and to establish a prospective reimbursement method for those services. The amendments also provided that the prospective reimbursement method should be established on a cost-related or other equitable and economically efficient basis, with incentives for encouraging more efficient and cost-effective delivery of these dialysis services.

Further legislative changes concerning the ESRD payment system were made by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, enacted August 13, 1981). Section 2145 of Pub. L. 97–35, amended section 1881 of the Social Security Act, requiring us to develop a prospective reimbursement system for outpatient maintenance dialysis that promotes home dialysis. This reimbursement system must either reimburse home dialysis and in-facility dialysis under composite rates or use some other method that, after detailed analysis, is determined to be more efficient and promote home dialysis more effectively. Section 2145 also revised the provisions regarding reimbursement for physicians' services to promote efficient delivery of dialysis services and to provide incentive for the increased use of home dialysis.

II. The NPRM on Prospective Reimbursement

A. Introduction

On February 12, 1982, we published an NPRM on reimbursement for dialysis services (47 FR 6556). The proposed regulations set forth in that document were designed to implement section 1881 of the Act, as amended by section 2145 of Pub. L. 97–35. Under those proposals, each facility would receive a certain payment rate per treatment, adjusted for geographic wage differences, regardless of whether the treatment was furnished in the facility or at the patient's home. We proposed to set separate (dual) rates for hospital-based and independent dialysis facilities, averaging $128 per treatment for independent facilities and $132 per treatment for hospital-based facilities. (Since we projected average payments under the NPRM, we have received and incorporated into our data updated information on geographic wage differences. As a result, we now project that average payment rates under the prospective system will be $127 per treatment for independent facilities, and $131 per treatment for hospital-based facilities.)

The NPRM included provision of a process for facilities to seek exceptions to these rates, based on atypical patient mix, extraordinary circumstances, education costs, or because they were isolated essential facilities. We also proposed to eliminate one of the two current methods of payment for physician services related to maintenance dialysis treatment, and to modify the other method, a prospective capitation payment method, to pay the same amount per treatment regardless of home or in-facility setting. The NPRM also included proposed reporting, recordkeeping, and other requirements necessary to support the proposed prospective reimbursement system.

We provided a 60-day public comment period on our proposals, ending April 13, 1982. As of May 7, 1982, we had received 507 petitions (incorporating over 10,000 signatures) and 4285 comments. The comments submitted in letter form came from a variety of sources, as follows:

- 3675 comments from patients, their relatives, and their friends (this category included many form letters);
- 406 comments from dialysis facilities, law firms representing dialysis facilities, and corporations owning such facilities;
- 85 comments from physicians (primarily nephrologists) and suppliers involved in production and distribution of dialysis equipment and supplies; and
- 99 comments from other organizations, such as the National Kidney Foundation, the Renal Physicians Association, and the American Hospital Association, representing various groups that would be affected by these proposals.

B. Congressional Hearings

Since September, 1981 there have been five hearings, held by Congressional subcommittees, devoted to the ESRD program. Three of the four hearings held since February, 1982 dealt with the NPRM in some detail. In addition to comments and questions from Members of Congress and Congressional staff, these subcommittees heard witnesses from the public, facilities, associations, physicians' groups, and other interested persons. We have not summarized their testimony, since it was also submitted to us in writing, and their comments have been included in the comment discussions below. The following hearings were devoted in whole or in part to the NPRM:

1. Subcommittee on Intergovernmental Relations and Human Resources, House Committee on Government Operations—February 24, 1982
2. Subcommittee on Health, Senate Committee on Finance—March 15, 1982
3. Subcommittee on Oversight, House Committee on Ways and Means—April 22, 1982

C. Final Regulatory Provisions and Discussion of Comments

1. General Nature of the Rate-Setting Provisions. The text of the regulations published with this preamble includes general provisions on the payment methods for both facilities and physicians, but does not include the full details of the rate-setting methodologies we propose to use to implement these regulations. These methodologies are subject to continual review, and are based on data that change over time. The specific methodology for determining facility payment rates is described in section III of this preamble. The specific methodology for determining physician payment rates is described in section IV of this preamble. In the future, we will publish changes in these methodologies in Federal Register notices, as explained in section II.C.6 below. (We received numerous comments on our proposed methodologies and provisions on rate notification, but not on the general regulations themselves.)

2. Payment for Dialysis Treatments. Since the regulations governing facility payment rates for dialysis services set forth only principles and authorities, they are relatively simple. The regulations state that HCFA has the authority to establish rate-setting methodologies and set rates in accordance with section 1881 of the Act, and specify how the amount of program payments and beneficiary liability are to be determined based on a prospective payment rate. The NPRM would have required all dialysis facilities to accept these prospective payment rates as payment in full, with beneficiaries continuing to be liable for Part B deductible obligations plus a coinsurance amount of 20 percent of the rate for each treatment. Under the proposal, after the deductible obligation is incurred, the ESRD program would be responsible for 80 percent of all payments due to the facility for covered services furnished to beneficiaries.

Coinment: It was suggested by commenters that we could allow a higher per treatment payment while still reducing our program expenditures if we were to pay less than 80 percent of the rate, and allow the facility to collect the difference from the beneficiary or another payor.

Response: Section 1881(b)(2)(A) of the Act requires that we pay 80 percent of the rate and that the beneficiary's liability be limited to 20 percent of that amount. Accordingly, the merits of this suggestion cannot be considered.

Comment: Some commenters also suggested that the real reason program costs have escalated so rapidly is the large increase in the beneficiary population, rather than inefficiency.

Response: While it is true that the beneficiary population has increased dramatically, our data indicate that we are paying many facilities significantly above their reasonable costs. We have an obligation to revise our reimbursement methodologies in order to promote efficient delivery of dialysis services.

3. Exceptions. Under the retrospective payment method, a large number of hospitals have been granted exceptions to the $138 per treatment national

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payment screen based on their higher costs. In the NPRM, we made it clear that we would have much more specific exception criteria, and expected to grant fewer exceptions overall, in addition to reducing the average payment rate. As a result, many facilities reviewed the proposed exception criteria critically and commented on them. We received a number of comments favoring the proposed criteria in general, especially the exceptions for isolated essential facilities, atypical patient mix, and education costs. Some commenters were critical; others suggested additional criteria. Several comments requested greater specificity on various points of administering the exceptions process.

Comment: A number of commenters supported the idea of establishing separate, higher payment rates for special classes of facilities, rather than an exceptions process. They referred especially to pediatric hospitals, facilities that dialyze their patients less often than three times per week, and facilities with self-care training programs (which claimed that their per treatment costs for training sessions were higher than the additional $20 per treatment that we proposed to pay).

Response: We cannot set separate payment rates in these cases, because we do not have adequate data to do so. For example, outpatient maintenance dialysis facilities in pediatric hospitals have varying percentages of pediatric patients (most treat some adult patients) and widely varying costs per treatment. We do not believe that a facility with 80 percent pediatric patients should receive the same payment rate per treatment as a facility with only 40 percent pediatric patients. These problems are best handled on a case-by-case basis through an exception process. In addition, our data on pediatric facilities are not precise enough to develop a separate rate for them. Accordingly, we have clarified the exception for atypical patient mix, including pediatric patients as an example of an allowable justification for an exception. We have also made it clear that a facility with per treatment training costs higher than its rate will be eligible for an exception to its training payment rate. (This had been stated in one part of the NPRM preamble, but inadvertently omitted from the proposed regulation text. We have corrected this omission.) We have also added an exception criterion for higher costs per treatment related to frequency of dialysis. The exceptions process is superior to separate rates because it allows us to tailor reimbursement to the needs of specific facilities.

Comment: Several commenters also requested us to specify in greater detail the standards that will be used to determine whether a facility meets one of the criteria upon which exceptions will be determined.

Response: It is not possible to make an all-inclusive list of specific exception review standards. In some cases, we do not have the data yet, but we hope to get them from our recently issued new cost report forms. The medical community does not agree on precise criteria for atypical patient mix, and we have therefore concluded that the determination of whether an atypical patient mix exists is better left to consideration of specfic exception requests. In other cases, the exact nature of the excess costs cannot always be foreseen. Nevertheless, we have added to the regulations some examples of the kinds of situations that could be eligible for an exception.

Under these final regulations, we will consider granting an exception (and a higher payment rate) to a facility that is able to provide convincing objective evidence that it has excessive costs per treatment attributable to one or more of the following six criteria.

Atypical service intensity (patient mix)—In the February, 1982 NPRM, we proposed an exception criterion for "atypical patient mix". Many commenters requested that we clarify this exception, and explain how a facility could demonstrate the relation of its patient mix to its higher costs. Higher costs result when an "atypical patient mix" is related to medically necessary atypically intense services in connection with furnishing dialysis services to patients with special needs. In order to clarify this point, we have retitled this criterion "atypical service intensity (patient mix)", expanded our explanation of it, and added examples of types of patient who we believe justifiably require atypically intense services.

In order to qualify for an exception under this criterion, a facility must demonstrate that:

- When compared to other SRD facilities generally, it furnished atypically intense dialysis services or supplies during a substantial number of its outpatient maintenance treatments;
- These intense dialysis services are medically necessary because of the special medical needs of the patients to whom they are furnished;
- The facility has per treatment costs in excess of its payment rate attributable to these intense services; and
- The facility's per treatment costs and services are prudent and reasonable when compared to those of facilities with a similar patient mix.

A facility may justify an exception under this criterion if it can demonstrate that a substantial number of its outpatient treatments involve intense dialysis services that are medically necessary for patients such as:

- Patients who have been referred from other facilities on a temporary basis for more intense care during a period of medical instability, and who return to the original facility after stabilization;
- Pediatric patients, who require a significatly higher staff-to-patient ratio then typical adult patients; or
- Patients who have medical conditions that are not commonly treated by most dialysis facilities and that complicate the dialysis procedure.

Extraordinary circumstances—A facility may incur excess costs beyond its control due to a fire, earthquake, flood, or other natural disasters which could establish grounds for an exception. However, we will not recognize such costs in cases when a facility chose not to maintain adequate insurance protection against such loses (through the purchase of insurance, the maintenance of a self-insurance program or other equivalent alternative) or chose not to file a claim for losses covered by insurance, or not to utilize its self-insurance program.

Isolated essential facilities—We have clarified the criterion from the 1980 NPRM, which referred to these as "sole community providers". (The change of terminology will avoid confusion with a different exception criterion applicable under the hospital cost limits.) A facility may justify an exception under this criterion if:

- It is the only supplier of dialysis services in its geographical area;
- Its patients cannot obtain dialysis services elsewhere without substantial additional hardship; and
- Its costs in excess of its payment rate are justifiable.

In assessing these factors, we will consider local population density, typical local commuting distances for medical services, dialysis facility usage by area residents other than the applicant's patients, and volume of treatments.

Self-dialysis Training Costs—As explained in section V.D. of this preamble, we will pay for dialysis sessions during which self-dialysis training takes place by reimbursing the facility its usual per treatment rate plus $20. If a facility has per treatment training costs in excess of this amount, it may apply for an exception. We will grant an exception only for those costs that are justifiable under the new 42 CFR 405.441, which sets forth the recordkeeping and cost reporting requirements for dialysis and self-care dialysis training.

Frequency of Dialysis—The purpose of this criterion is to eliminate the financial disincentive that exists now to dialyze less often than three times per week, where less frequent dialysis is appropriate. Under certain circumstances, including medical reasons and patient convenience, patients may be dialyzed less often than three times per week. Because of this lower frequency, greater per treatment costs may be incurred, even though the total weekly cost is less than it would be if the patient were dialyzed three times per week. Increases in the per treatment payment rates granted under this exception may be for any amount up to the amount that results in the weekly reimbursement per patient equal to three times the facility's prospective composite rate exclusive of any exception amounts.

Education costs—A facility may qualify for an exception if its excess costs are attributable to an approved nursing education or intern-resident program, as specified in 42 CFR 405.421. The exception may be only for the amount that could be properly allocated to the outpatient dialysis department. The amount of the increase that we will allow under this criterion will be limited to what is reasonable when compared to the costs of other similar facilities that have educational programs.

Under the rules, if a facility shows its projected costs per treatment would be highly likely to exceed its payment rate (based on prior year costs and utilization trends), and meets any of the criteria for an exception, the facility may request an exception—

(1) Within 180 days of after notification of its payment rate (generally the intermediary will send a notice annually); or

(2) Within 180 days after an extraordinary cost-increasing event.

If we approve the exception and set an increased rate, that rate would apply retroactively to either the date HCFA accepts the facility's request, or the date of an extraordinary cost increasing event until the earlier of the effective date of the next rate notification, or the date when the circumstances justifying the exception no longer exist. The provision terminating an exception when the basis for the exception no longer exists has been added to deal more appropriately with exceptions that are needed only for short periods.

Comment: Commenters also requested us to specify our expected processing time for exceptions, without explaining, in any detail the reason for their concern.

Response: Estimating processing time is presently impossible, since we do not know how many requests for exceptions will be submitted. We will not penalize a facility for unreasonable delays on our part as far as determining the applicable retroactive period for the exception rate, but we cannot resolve any cash flow problem resulting from delays, which may be the ultimate concern of the comments.

Comment: Some commenters stated that, when an exception is granted retroactively, patients should not be liable for retroactive coinsurance obligations, and suggested instead that we should pay them.

Response: We have legal authority to pay more than 80 percent of the payment rate we establish, even if it is retroactively determined. The patient must be liable for these amounts. (But see discussion in section V.F. of this preamble on bad debt amounts.)

Comment: Some commenters argued that basing an exception on costs is not fair to proprietary facilities, which require a return on equity.

Response: Proprietary facilities are in competition with nonproprietary ones in the marketplace of dialysis services. The statutory prospective reimbursement system has no interest in which status a facility has. Proprietary facilities must earn their profit by being efficient and reducing their per treatment costs below their payment rate.

4. Appeals: In the NPRM we proposed an appeals procedure for any facility dissatisfied with the prospective reimbursement regulations, adjustment to its cost reports, or HCFA's response to a request for an exception to the prospective rate. This proposed appeals process was based on the existing appeals procedure for cost-based reimbursement of providers established by section 1878 of the Act. Under section 1881(b)(2)(D) of the Act, a renal dialysis facility is to be treated as a provider for purposes of section 1878. Under the proposal, the facility would have been required first to apply for an exception to the rate, and then, if it was dissatisfied with HCFA's response, could appeal pursuant to 42 CFR Part 405, Subpart R, to the Provider Reimbursement Review Board (PRRB) if the amount of disputed reimbursement was $10,000 or more. It was proposed that the regulations and methodology could be challenged in such a proceeding and that certain aspects of such a challenge that were not within the PRRB's jurisdiction could then be brought in district court.

Comment: Some commenters contended that the PRRB has no jurisdiction to review disputes under the ESPD prospective rate system, because section 1878 of the Act provides PRRB review of cost reports covering costs and reimbursement for prior periods. It was suggested that another body, such as the ESRD networks, should provide reviews.

Response: In consideration of these comments we have reviewed the statutory language and its legislative history and have concluded that the NPRM misstated the jurisdiction of the PRRB with respect to prospective reimbursement for dialysis services.

Under section 1878 the PRRB has limited and carefully defined authority. The PRRB has jurisdiction over a matter only if a provider "which has filed a required cost report" seeks a hearing "with respect to such cost report" (§ 1878(a)). After a hearing, the PRRB "shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report * * *" (§ 1878(d)). As these provisions make clear, the cost report is the basis for defining the PRRB's authority. Because the statute restricts the PRRB's mandatory authority to consideration of reimbursement disputes arising from cost reports, we conclude that the PRRB has substantially less authority under a prospective rate system, where cost reports largely perform only a data-gathering role, than under the traditional cost-reimbursement system.

This interpretation is confirmed by the legislative history. When section 1881 was enacted in 1978, it authorized the Secretary to determine the costs incurred by facilities and to determine, "on a cost-related basis or other economical or equitable basis," the amounts of payments to be made to facilities. Under this provision, the cost report filed by a facility could have had substantial significance if the Secretary had chosen to set the amounts of payments on a cost-related basis in which reimbursement depended on the costs of a particular facility, rather than by using the alternative "other economical or equitable basis." When Congress incorporated use of the PRRB procedure in section 1881 it recognized that the procedure would apply only to "renal dialysis facilities reimbursed on a cost-related basis * * *" and, by

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implication therefore, not if the Secretary utilized the alternative "other economical or equitable basis." H.R. Rep. No. 95–549, 95th Cong., 1st Sess. 12 (1977); S. Rep. No. 95–714, 95th Cong., 2d Sess. 11 (1978). The congressional committee reports thus indicated that there was no intention to expand the PRRB's jurisdiction beyond the review of cost reports, as set forth in section 1878.

Under this prospective rate system which is authorized under the statute that was enacted in 1981, the cost report of an individual facility has little or no bearing on its reimbursement, and thus the PRRB does not have authority under section 1878 to review issues that may be raised with respect to the rate. Under the payment system that we are adopting the cost report governs reimbursement for the period covered by the report only with respect to bad debt costs, and therefore only issues related to bad debts are reviewable by the PRRB under section 1878.

As noted above, the NPRM proposed that an ESRD facility could appeal to the PRRB adjustments made to its cost report. We have decided to delete this provision because it is not required by law and because these adjustments (except as they relate to bad debts) are simply adjustments to data and do not have a direct effect on a facility's reimbursement. Providing an appeal in these circumstances would delay our accumulation of data for purposes of possible future rate-setting. Issues about the validity of the data are better dealt with in connection with the rate-setting, rather than in individualized appeals.

We have considered whether the ESRD networks should have a role in reviewing administrative determinations, as suggested by the comment. We have concluded, however, that the structure and basic functions of the ESRD networks are ill-suited to hearing administrative appeals and we have therefore not adopted the suggestion.

As a matter of our discretion, and not because it is required by statute, we are also authorizing the PRRB or the intermediary to review denials of requests for exceptions to the payment rate. Also as a matter of our discretion we have decided to follow the usual rule for determining PRRB jurisdiction that is followed pursuant to section 1878, that only disputes involving $10,000 or more may be brought before the PRRB. Otherwise, the dispute must be reviewed by the intermediary. The PRRB would not be permitted to review the regulations or methodology but could review whether a denial of an exception was appropriate under the rules. When a facility appeals an exception determination to the PRRB, it will not be permitted to submit cost information that was not included in the documentation supporting its exception request. Under a prospective system, it would be inconsistent to consider cost experience occurring after an exception is requested. If such cost experience were accepted in an appeal of an exception determination, it could have the effect of undermining the prospective system and its incentives by basing a facility's payment rate on costs for the period to which the rate applied. This would introduce a strong element of retrospective cost settlement, which would be inconsistent with the intent of Congress.

Comment: Some commenters state that section 1878 provides a 180-day limit in which to appeal an adjustment to a cost report to the PRRB. Therefore, the proposed limit of 30 days for this appeal is illegal.

Response: This appeal was an administrative appeal provided by regulation at the discretion of the Secretary. As explained above, we are eliminating this appeal from the final regulation; therefore, this comment is now moot.

5. Physician reimbursement. In order to remove what we believed were reimbursement disincentives to home dialysis and to establish an efficient method of physician reimbursement for dialysis services that most accurately recognized the special nature of physician services provided to dialysis patients, the NPRM proposed eliminating the "initial method" of physician reimbursement. Under the initial method, payment for routine physician services furnished during an in-facility maintenance dialysis episode was made to a facility, and payment for non-routine services was made on a fee-for-service basis. We proposed paying physicians for all services related to outpatient maintenance dialysis on the basis of a single method of monthly capitation payments that would be equal for home dialysis and in-facility dialysis. These monthly payments would be determined on a basis similar to the "alternative reimbursement method" (ARM).

The proposed regulations on physician reimbursement, like the regulations on payments to facilities for dialysis treatments, were relatively simple, since they set forth only the general principles and authorities under which we establish the rate-setting methodology and set rates. The methodology by which rates will be set is explained in section IV of this preamble.

Comments: Some commenters recommended that we retain the initial method. Some of these commenters argued that we have no legal basis to require the capitation method for all physicians, since section 1881(b)(3)(A) of the Act, which provides for payment for non-routine physicians' services to ESRD patients on a regular fee-for-service reasonable charge basis, was not abrogated by Pub. L. 97–35.

Response: The authority to pay for physician dialysis services is in section 1881(b)(3). This section was modified by section 2145 of Pub. L. 97–35 to emphasize that physician reimbursement promote efficiency and home dialysis. As amended, this section states that the Secretary shall pay under the initial method (under section 1881(b)(3)(A)) *or* under a comprehensive monthly fee (or other) basis (under section 1881(b)(3)(B)). We have interpreted this as authorizing HHS to reimburse under one or both of these methods. To implement the objectives of section 2145, we have chosen to pay only by the monthly capitation method, to pay equal amounts for home and in-facility patients, and to discontinue the initial method, which is not suited for promoting home dialysis.

Comment: Some commenters criticized our view that our proposal would create incentives for physicians to treat more patients at home. Some of these claimed that physician reimbursement has no effect on who goes on home dialysis. Commenters also stated that the proposed method would disadvantage physicians who treat only sicker patients who are not suitable for home dialysis. These commenters argued that our proposal violated section 1801 of the Act, which prohibits Federal supervision or control over the practice of medicine or the manner in which medical services are provided, by attempting to affect which patients are put on home dialysis.

Response: Section 1881(b)(3)(B) of the Act, explicitly authorizes the Secretary to reimburse physicians on a basis that "effectively encourages the efficient delivery of dialysis services and provides incentives for the increased use of home dialysis." This statutory direction indicates that Congress assumed that physicians, as the leaders of the medical team responsible for the patient's care, do have an influence on patient choice and that our reimbursement methodology should recognize that influence. We believe our monthly payment will be adequate reimbursement for the services covered under these payments. Physicians may bill on a fee-for-service basis for

services furnished in addition to those covered under the monthly rate. The comments arguing that the proposal disadvantaged physicians who treat only sicker patients provided no evidence that there is a significant number of physicians who have practices that are necessarily restricted to the supervision of patients who must dialyze at a facility. If a physician voluntarily conducts his practice such that he retains supervision only over the sicker patients, that is an individual decision that should not affect the overall system for physician reimbursement.

6. Notification and Revision of Rate-Setting Methodologies and Payment Rates. The proposed regulations governing reimbursement for both dialysis treatment and physician services did not propose to incorporate the actual rate-setting methodologies, but proposed that, if, as a result of our annual review of data, we proposed to change these methodologies, we would publish in the **Federal Register** for public comment a notice setting forth the proposed changes. We have revised the final regulations to specify that we will publish notices of changes of rates or methodologies in accordance with the rulemaking procedures established by the Department.

Comment: We proposed in the NPRM to publish changes in payment rates resulting from incorporation of updated cost data in a general notice in the **Federal Register.** We intended to solicit public comment only for proposed revisions which change the methodology for setting payment rates. Several commenters said that we cannot publish any subsequent revised rates without providing an opportunity for public comment even if there is no change in methodology, arguing that this would violate the Administrative Procedure Act and prevent the public from commenting on the data and calculations.

Response: We are not required to publish rates in a notice for comment if we use the same methodology. This is a mechanical procedure of substituting more current data. When we have improved cost data, based on the new annual cost reports for ESRD facilities, we will review the prospective payment rates we are now establishing and consider whether they are adequately fulfilling their objectives. If we determine that program objectives could be better achieved by establishing new rates, without revising the methodology, we would calculate new base rates and could issue them in accordance with the Department's rulemaking procedures without opportunity for prior public comment. Similarly, if we received new Bureau of Labor Statistics (BLS) data that were incorporated in revised and updated area wage indexes, we would publish a notice setting forth the revised base rates and area wage indexes. We have modified the final regulations to clarify that all changes in payment rates resulting from incorporation of updated cost data or general revision of geographic labor cost adjustment factors may be issued without opportunity for prior comment. Although we would not publish such rate revisions for comment before implementing them, we would, of course, accept comments on the technical accuracy of our computations, and would make the new data available to affected parties. In the event that this resulted in identification of an actual error, we would then determine what would be the most appropriate administrative remedy.

Comment: Several commenters wanted the regulations to require us to update the prospective rates annually. Generally, these commenters wanted us to establish a regular mechanism for incorporating an annual inflation adjustment in the payment rates.

Response: We will notify facilities of their payment rates annually. However, we will actually change the rates only when our data indicate the need. Based on past experience, we cannot predict whether the per treatment costs of dialysis will increase due to inflation or decrease due to new efficiencies. (The $138 per treatment payment screen has remained unchanged since 1974 because increased efficiencies in the technology and delivery of dialysis services have offset the cost increases of some components of the services.) Provision for an annual inflation adjustment would therefore be unwarranted.

7. Target Rate Reimbursement for Home Dialysis. The optional target rate payment method was established by the End-Stage Renal Disease (ESRD) Program Amendments of 1978 (Pub. L. 95–292), which added section 1881(b)(6) to the Social Security Act. This section required HCFA to establish target reimbursement rates for home dialysis for patients under the direct supervision of a hospital-based or independent renal dialysis facility.

Pub. L. 97–35 raised the limit on the maximum target rate from 70 percent to 75 percent of the average in-facility payment and also explicitly permitted the target rate to be replaced by a prospective system established under section 2145. Therefore, in the NPRM published February 12, 1982, we gave public notice that we are discontinuing the target rate payment method effective on the date that these final regulations are implemented, and we are terminating all existing target rate agreements as of that date. We are amending the appropriate regulations accordingly. (Regulations governing these optional agreements between HCFA and facilities are found at 42 CFR 405–691. Regulations governing the target rate reimbursement method and applications are at 42 CFR 405–440.)

8. One Hundred Percent Cost Reimbursement for Home Dialysis Equipment, Installation, Maintenance, and Repair. The 1978 ESRD Amendments provided that, under certain circumstances, the Secretary may reimburse the full cost of home dialysis equipment, installation, maintenance, and repair. This program was intended to encourage home dialysis by relieving the coinsurance burden on the beneficiaries, and also to avoid high equipment rental payments, which have sometimes exceeded the purchase price.

If this option were retained, the composite rate would have to be adjusted to account for the fact that some of the facility's equipment and related services costs would already have been reimbursed by Medicare. Therefore, we proposed to discontinue this option. We stated in the NPRM that we believed that the prospective rates will establish sufficient incentive for home dialysis and that the 100 percent reimbursement option creates added program expenses that are not warranted. Eliminating this option will make the prospective system both simpler and more comprehensive and will reduce the recordkeeping burden for the facilities. Therefore, the reasonable cost of equipment furnished to home dialysis patients on or after August 1, 1983, is no longer reimbursable at 100 percent.

Comments: Some commenters argued that we had no legal basis for discontinuing the provision of 100 percent reimbursement for home dialysis equipment.

Response: The legal authority for this provision is in section 1881(e) of the Act. That section states that the Secretary *may* authorize payment at 100 percent. It does not require that the Secretary do this.

Comment: Some commenters said that discontinuing the "100 percent equipment" program would create cash flow problems. In addition, the current high interest rates will prevent facilities from financing the purchase of equipment, and therefore from sending patients home.

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Response: We do not believe these factors are prohibitive for several reasons:

- Many new home patients are CAPD patients and do not require a machine.
- If home dialysis is cheaper, as our figures and many commenters agree, then a machine will be a good investment over time, and facilities will have a substantial incentive to purchase equipment for their home dialysis patients.
- At least one major manufacturer and supplier of home dialysis equipment and supplies indicated in its comments that it has offered to furnish all home dialysis equipment, supplies, and maintenance (including water treatment where necessary) to facilities at a price per treatment sufficiently low (an amount less than $97 per treatment) to allow the facilities a margin for furnishing home support services.
- We want to keep equipment costs under the composite rate to simplify billing and program management, and to ensure that equipment costs are subject to the same market discipline created by the prospective payment rates as are other costs.

Comment: Various commenters suggested ways in which we could continue this provision. These commenters believe that, in addition to the cash flow problems cited above, discontinuing this provision would be inequitable since some patients would thereafter be excluded from its benefits, and that discontinuation would not promote home dialysis. Some suggested prorating the composite rate for those patients who receive their home dialysis equipment through facilities that have agreements under the program. Others suggested modifying the program, paying 100 percent only of the capital cost of equipment and excluding water treatment, maintenance and repair services, and so forth.

Response: We want to keep equipment costs under the prospective rate system so that facilities have an incentive to contain these costs. The prospective rate is intended to be an all-inclusive rate that allows facilities maximum flexibility. They may incur high machine costs but low labor costs for one patient, and vice versa for another patient. The rate provides an incentive to keep the total cost down. Removing equipment from the rate would remove the cost containment aspect of the incentive as it applies to machines and would also reduce the facility's flexibility. It would be administratively more cumbersome to have more than one rate per facility. We have reviewed carefully the various suggestions in the comments and have concluded that, because they fail to include all equipment costs within the prospective payment rate, they are not consistent with the objectives of the prospective payment system.

To date, approximately 800 machines, serving about 8 percent of the home dialysis population, have been furnished. These include machines that were already in patients' homes and converted to 100 percent reimbursement. Any equipment already purchased under these agreements will still be handled under the pertinent regulations and the terms of the agreements. In these cases, we will reduce the composite rate that we pay to the facility be $12 per treatment, for those patients who were furnished equipment, to account for the fact that the dialysis machines have already been purchased and installed. The $12 figure is primarily based on the results of our home dialysis cost reviews, which showed total hemodialysis equipment costs to be $13 per treatment and intermittent peritoneal dialysis equipment costs to be approximately $11 per treatment. The weighted average of these two figures, taking into account the number of treatments furnished under each mode, is over $12 per treatment. Further data that are available to us from other sources support $12 as a reasonable figure.

Comment: Some commenters said that discontinuing the "100 percent equipment" program would be a disincentive to home dialysis because home dialysis patients' coinsurance obligation would increase over present amounts.

Response: As we stated above, the difference between the composite rate with "100 percent equipment" and without will be $12. Thus, the difference in the patients' coinsurance liability will only be $2.40. Furthermore, most patients do not pay their coinsurance out-of-pocket. Most often those amounts are paid by other organizations; e.g., one of 39 State programs or private insurance. We believe that the incentives of the new reimbursement system will operate most effectively if all of the components of the dialysis service are included under the composite rate.

9. Standards for Identifying Hospital-Based Facilities. Because the rates set under our methodology pay more for treatments furnished by hospital-based facilities, we must ensure that there are clear and unambiguous standards for determining which facilities are eligible for these higher rates. The NPRM set forth these standards. We received no comments on them, and they remain unchanged in the final regulation.

We note that, if a facility is based in a skilled nursing facility (SNF), the dialysis facility has the same status as the SNF. That is, a facility based in a hospital-based SNF will be considered hospital-based. If the SNF is independent, or is not an integral and subordinate part of the hospital to which it is related, the facility will be considered independent. (Note: No participating dialysis facility is currently known to be SNF-based.)

We also wish to note that we are reviewing the differences between these reimbursement-related standards for identifying hospital-based facilities, and the certification requirements for ESRD facilities, with a view to making future revisions to resolve any problems identified during the implementation of these final regulations.

10. Recordkeeping and Reporting Requirements. The NPRM also set forth proposed recordkeeping and reporting requirements that would be consistent with the demands of the prospective reimbursement system. We received no substantive comments on them and they remain essentially unchanged in the final regulation. (The inapplicability of Subpart D provisions related to reimbursement of hospital-based physicians was discussed in the preamble of the NPRM, but was inadvertently omitted from the proposed regulations text. This omission has been corrected in these final rules.) These requirements will be met by compliance with the cost report forms that are already approved and available to facilities. These are supplemental worksheet I of the Form HCFA 2552 (OMB approval number 0938–0050) for hospital-based facilities, and Form HCFA 265 (OMB approval number 0938–0236) for independent facilities.

III. Rate-Setting for Dialysis Treatment

A. General Overview

The NPRM proposed a prospective rate-setting methodology for dialysis services using composite rates for home and in-facility treatments and distinguishing between hospital-based and independent facilities. We used median audited per treatment costs of 110 facilities as the basis of the rates. Under our proposal, each facility would receive a certain payment rate per treatment that would be adjusted to account for geographic differences in the costs of labor. The adjusted payment per treatment for independent facilities would average around $128 and range from $109 to $143. The adjusted payment per treatment for hospital-based facilities would average around $132 and range from $114 to $146.[1] A facility would receive its appropriate payment rate per treatment regardless of whether the treatment is furnished in the facility or in the patient's home. There would be no year-end adjustments to ensure that the facility receives no more or less than its allowable reasonable costs. If a facility's costs per treatment were less than its payment rate, it would be allowed to retain the difference; if its costs were greater, it would not be able to recover them unless it requested and was granted a higher payment rate under the exception process.

B. Costs Included in Setting the Rate

The statute requires that the composite rate be an all-inclusive payment to approved dialysis facilities for all necessary institutional and home dialysis services, including items, supplies and equipment. These are specified at 42 CFR 405.231 (o) and (p). Payment for all of these items and services is included in the rate so that where the rate applies, facilities may not bill in addition to the rate for any of them. Furthermore, in order to participate in the program, the facility must furnish all necessary dialysis services, supplies, equipment and items (see 42 CFR 405.2163). Accordingly, the costs included in setting the rate were the reasonable costs of all these services, supplies, equipment and items.

We determined reasonable costs of the sampled facilities in accordance with the principles of provider reimbursement as described in 42 CFR Part 405, Subpart D, except for the following sections. These are specifically listed in the regulations (see section III. E., above) as not applicable for reporting ESRD facility costs.

- 42 CFR 405.429 Return on equity capital of proprietary providers;
- 42 CFR 405.430 Inpatient routine nursing cost differential;
- 42 CFR 405.436 Reimbursement of Organ Procurement Agencies (OPA) and histocompatibility laboratories; and
- 42 CFR 405.454 Payment to providers, through
- 42 CFR 405.488 Effect of principles.

In our audits, we also excluded costs as unreasonable if they did not meet the criteria set forth in § 405.451, which concerns costs related to patient care.

We included the cost of furnishing routine ESRD laboratory services in the cost per treatment calculations. (Under our regulations at § 405.231(o), these services are defined as institutional dialysis services.) Under the prospective reimbursement system, facilities are required to furnish routine laboratory tests as an integral part of the dialysis treatment, either directly or under an arrangement as defined in our regulations at § 405.2102(b). We have included an amount for these costs in calculating the prospective rates. Thus, if a dialysis facility has its routine testing done under arrangement with an independent laboratory, it must pay the laboratory itself, out of its prospective rate. Independent labs are not permitted to bill the program directly for routine tests.

As we indicated in the NPRM there will be no change in billing and reimbursing for nonroutine laboratory tests. These tests will continue to be billed and paid for separately, by either the facility, the physician or the independent laboratory.

Comment: Some commenters stated that, in making adjustments to the cost data from our audit sample, we disallowed real costs, that is, legitimate, unavoidable costs of doing business, that should have been included in determining the per treatment costs of dialysis. These "real" costs included items such as facility costs for certain taxes, stockholder servicing costs, and return on equity capital.

Response: In analyzing the audit results, our objective was not to determine all the costs incurred by the facility, but to determine the reasonable cost of furnishing dialysis services in an economical and efficient manner. In doing this, we followed the Medicare principles for determining reasonable cost, as set forth in regulations contained in 42 CFR Part 405, Subpart D and in our Provider Reimbursement Manual (PRM; HCFA Publication 15–1). In addition, we excluded costs from the rate-setting base that we determined were inconsistent with the prospective rate system.

- We excluded income taxes on profits earned by proprietary facilities because those taxes are not allowable costs under Subpart D and section 2122 of the PRM. (We consider these taxes to be costs of operating as a proprietary facility, rather than costs related to patient care under § 405.451 of our regulations.)

Furthermore, the prospective system is designed to provide incentives for efficient and economical operation through the use of fixed payment rates. Different facilities are in competition with each other to offer services within these rates. Under this type of rate, facilities that have input costs not experienced by other facilities are free to make up for this by achieving efficiencies in other input cost centers.

- We excluded stockholder servicing costs from the rate-setting base because they are not related to patient care, and therefore are nonallowable under 42 CFR 405.451. See section 2134.9 of the PRM.
- Our reason for excluding a return on equity for proprietary facilities is similar. While the Secretary is required to pay such a return to certain proprietary providers reimbursed retrospectively on the basis of reasonable cost (section 1861(v)(1)(B)), section 1881(b)(2)(c) gives the Secretary the option to not pay such a return to ESRD facilities. In addition, return on equity is a feature of retrospective cost reimbursement, under which the statute precludes payment to a proprietary facility above its Medicare reasonable costs. Under a prospective incentive systems of course, a proprietary facility is free to keep any amount by which its prospective payments exceed its costs. We believe that including such a return in the rate base for proprietary facilities would weaken the incentives established through the prospective rates. The facilities are able to earn a return on their investment by reducing their per treatment costs below their payment rates by management efficiencies and increased use of home dialysis.

Comment: One commenter said that our audit allowance of $32,000 per year for salaries of administrators and medical directors was an inappropriate limit. The commenter argued that a good administrator or director would be creative and effective enough to reduce the costs of operations sufficiently to justify a salary in excess of $32,000. It argued that we should only have audited the bottom-line cost per treatment, and not set a screen for administrator and medical director salaries.

[1] These estimates of the average per treatment payments have decreased compared with the average rates estimated in the NPRM, to $127 for independent facilities and $131 for hospital-based facilities. There are two reasons for this change. The first is related to the data we use to construct the area wage index discussed below. In the February, 1982 NPRM we used the latest wage data available at that time from the Bureau of Labor Statistics, which were 1979 data. Since then, the 1980 wage data have become available. These data incorporate revised geographic area designations, based on the 1980 census, and include Puerto Rico for the first time. The revised area wage indexes computed on the basis of these data have been used to adjust the audit data and compute our base rates, and have been incorporated in our estimation of average payment rates. Some of the difference in estimated rates results from these data. The other factor resulting in the decreased amount of the estimates is the estimation methodology itself. We have refined the methodology for estimating the effect of the area wage index in order to improve its accuracy, and this also accounts for some of the difference in the average payment estimate between the NPRM and these final regulations.

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Response: In rate-setting we had to establish the rate on the basis of what we determined to be the costs of typical economical and efficient facilities. A facility is free to decide that it is cost-effective to hire an administrator or medical director at a higher salary because he or she has superior skills. However, we cannot include excessive salaries in the rate-setting data base when the great majority of facilities are paying $32,000 or less.

The most significant adjustment to the audited costs of the independent facilities concerned compensation of administrators and medical directors, which accounted for 23 percent of the total adjustment. However, this resulted from a very few, but quite large adjustments. The limit of $32,000 per year which we applied to these positions is the limit applied to administrators of 50 to 99 bed hospitals in HHS Region I, the region with the highest compensation allowances.

We made adjustments to account for unallowable amounts for medical directors' salaries in less than 5 percent of the audited facilities (3 independent facilities and 2 hospital-based facilities). Therefore, for over 95 percent of the facilities in our audits, compensation of medical directors was considerably less than the $32,000 limit that we allowed.

C. Data Used in Setting the Rate

The February, 1982 NPRM described how we accumulated data on the costs of dialysis on which to base prospective payment rates.

Access to data.

Comment: Several commenters asked that we make the data available, as we had offered to do in the NPRM.

Response: We have done so. We made a summary of the cost data on in-facility costs and provided that to some inquirers, and have also copied the complete data on home dialysis costs and given them to those who requested them. Two commenters have come to our offices to inspect the audit data themselves. We have allowed all interested parties access to the data, have assisted them in reviewing it on our premises, and have discussed their questions and problems both in person and on the telephone.

Quality of data.

Comment: We explained in the NPRM that our data on the costs of in-facility treatment were based on audits of a sample of 110 facilities, in which we reviewed facility records for cost reporting periods from 1977, 1978 and 1979. Some commenters believed that these data were too old. They recommended that we either get more recent data, or make adjustments to our sample audit data to account for inflation. For example, some commenters provided illustrations of costs of certain input components of dialysis services, such as labor and energy costs, that have increased significantly since the time of the audits.

Response: In developing our proposed payment rates, we considered whether our audit data were becoming unusable due to factors of age and inflation. However, we found no indications that the per treatment costs of dialysis have been changing over time. Certainly there have been changes in the costs of some components of dialysis, and inflation may have resulted in increases of certain input costs, but in setting a comprehensive prospective rate, we must consider the whole cost of dialysis, and not give inappropriate weight to the costs of selected components. We believe the apparent lack of increase in overall per treatment costs is attributable to increased efficiencies in dialysis technology which have offset the increases in cost of some of the inputs of dialysis services. For example, treatment times have been reduced and automation has been increased since the beginning of the program, resulting in less labor cost per treatment. The comments which suggested that the cost data should be adjusted to account for inflation did not provide information demonstrating that the overall actual costs per dialysis session had increased since the time for the audits. For instance, one large independent provider of dialysis services suggested that consideration of rising labor costs would result in a prospective rate of $155 for independents and $158 for hospitals. The supposed necessity of increasing the prospective rate to these levels to cover inflation costs is, however, refuted by the fact that the commenter and other dialysis providers are prospering and expanding at the current rate of $138. As we pointed out in the NPRM, there has been a substantial growth in the number of dialysis facilities despite the fact that the payment screen has remained at $138 since 1974. The industry growth has continued since the time of the audits (909 facilities in 1978 vs. 1184 at present) and, indeed, 114 new facilities have entered the program since we announced the proposed prospective rate on November 25, 1981. In contrast to the comments, which provided only argument and incomplete information on actual costs, the actions in the marketplace provide persuasive evidence that the audit data, without adjustment, properly reflect the costs of dialysis services today. Accordingly, we are not making any specific adjustment for inflation in setting the initial payment rates, although we have used the data for rate-setting in a way that takes into account possible deficiencies in the data.

Comment: Some commenters stated that our audits of the facility sample were conducted inconsistently and that, as a result, our audited data were invalid and inadequate. However, no specific examples or evidence of inconsistency were given. Commenters also asserted that audited facilities were not given an opportunity to challenge the findings of the auditors or the adjustments made by HCFA.

Response: We believe that we took reasonable care to ensure that our audits were accurate and consistent. In all cases, the auditors applied Medicare provider reimbursement principles. We developed a uniform audit guide, and held training sessions for the auditors. In addition, we used audit personnel from our intermediaries because they were already familiar with Medicare rules and principles. Our audit guide did provide for an exit conference at which each audited facility would have an opportunity to discuss the findings of the auditors. Auditors were also instructed to inform facilities that they could send unsettled disputes to HCFA Central Office for a final review. Moreover, as indicated above, we made the complete audit data available to commenters, who could present information about any assertedly inappropriate findings.

One commenter apparently had a summary we had prepared describing the audit adjustments we had made, and may have mistakenly assumed, because of the wide range of adjustments, excluding or disallowing certain costs for various components of dialysis services, that the audits were inconsistent. However, such variation is actually better explained by the fact that our auditors, applying consistent principles, found unreasonable costs in differing amounts for different facilities.

Costs of home dialysis.

Our data on the cost of home dialysis were more limited than our data on in-facility dialysis. Therefore, when Pub. L. 97–35 was enacted, our first priority was to obtain accurate data on the cost of home dialysis. We selected 23 dialysis facilities and two State kidney programs around the country that had home programs.

The HHS audit agency visited each of these facilities and reviewed its costs. Because of limited time, the audit agency did not attempt to make adjustments as to the reasonableness of these costs, but simply accepted the costs as reported. Although the facilities represented less than 5 percent of the total number of ESRD facilities with home programs, it included 10 of the 13 largest home programs and represented almost 30 percent of all home patients. The facilities were located in 15 States and in all 10 HHS regions.

Comment: Some commenters claimed that our home dialysis audits were not representative of average home program costs.

Response: We chose the home programs to be audited in order to sample as many of the facilities that provided the full range of home dialysis services, supplies and equipment as possible. This would give us the most complete picture of the total cost of home dialysis. Many of the facilities in the sample had large programs, but some of the facilities did not. For example, one facility had only four patients.

The purpose of these audits was to determine the cost of home dialysis when furnished in a reasonably economical manner. This was not intended to include start-up costs for home programs. The intent of the prospective reimbursement systems is to promote efficient home programs regardless of their size. Therefore, we believe it is most consistent with the intent of the legislation to base our composite rates on the costs of reasonably efficient home dialysis programs.

Comment: Some commenters said that we conducted only cursory audits to determine the costs of home dialysis. Others noted that a General Accounting Office (GAO) study had found that home dialysis costs an average of $105 per treatment as opposed to $97 per treatment in our cost study.

Response: When we were studying the costs of home dialysis in order to implement section 2145 of Pub. L. 97–35, we accepted the costs as recorded in the facilities' books because we could not go behind those costs and actually audit them within the time constraints. This may have resulted in overstating the facilities' actual per treatment costs of furnishing home dialysis in an economical and efficient manner. Thus, to the extent that our audits of home dialysis costs may have suffered from their being conducted quickly, any shortcomings would favor providers by overstating actual costs and thereby resulting in higher rates of payment. The GAO did not audit facilities, but instead reviewed home dialysis bills as paid by Medicare carriers. As a result, GAO's dialysis cost study is based on reasonable charges paid to suppliers and patients who chose to bill Medicare directly, and did not include the costs incurred by ESRD facilities that furnish home dialysis services. (ESRD facilities that furnish home dialysis services are paid through intermediaries and never bill the carriers.) Therefore, the GAO figures do not reflect the economies that can be achieved by facilities, such as bulk purchasing discounts or limitations on excess quantities or waste of supplies. The exclusion of facilities from the GAO study may have accounted for the slightly higher costs reported. In any event, the commenter who pointed and the difference in findings between our study and the GAO study did not identify any deficiencies in our study or otherwise provide information indicating that our study was invalid.

Comment: Various commenters suggested that, in determining the cost of home dialysis, we should include in these costs amounts for paid aides (which have been included in the optional target rate reimbursement system), hospitalization, or an allowance to take into account the less efficient use of supplies and equipment in the home setting. (The costs of aides and hospitalization were not included in our review of home dialysis costs.)

Response: We excluded each of these costs from the rate base for different reasons.

- We excluded the cost of paid aides for the reasons stated in the House Committee Report on H.R. 3850 (H.R. Rep. No. 97–143, Part 1, page 76). The report states:

> The committee recognizes that some patients who are appropriate candidates for self-dialysis in the home may be precluded from treatment in that setting because of the absence of a family member or other individual to assist them with dialysis. This is particularly true with hemodialysis treatment as opposed to other treatment techniques, such as continuous ambulatory peritoneal dialysis (CAPD). While provision for the costs of providing for paid assistants for home patients would permit these patients to dialyze in the home setting, the increased labor costs that would result would virtually eliminate the relative cost effectiveness of home treatment. Although facilities would not be precluded from providing paid assistants to patients who require such services, under the composite single rate approach, a separate allowance for such costs in the home component of the composite rate would not be authorized.

- We excluded the costs of hospitalization because these costs are not a component of home dialysis services, and should accordingly be reimbursed separately. We took the same approach in computing the costs of in-facility dialysis. Our per treatment payment rate is intended to cover only the dialysis session itself, not other services required by ESRD patients, which will remain separately reimbursable.

- We did not include an allowance in the rates to reflect the less efficient use of supplies and equipment by home dialysis treatments, as compared to those treated in a facility. We believe the incentives created by the composite rate will be sufficient to offset such inefficiencies, if there are any. Under the composite rate, supplies will be mostly purchased by facilities, which will be able to obtain volume purchasing advantages. Since each home dialysis patient needs a separate machine, equipment may be less efficiently used in the short term. However, the equipment will also last longer. To the extent that the total number of dialysis hours per home dialysis machine is the same or greater than the total number of hours per in-facility machine, there should not be long-term inefficiencies in equipment use.

D. Rates for Independent and Hospital-Based Facilities

Section 2145 of Pub. L. 97–35 requires us to establish prospective rates of payment for dialysis services. The statute gives preference to a method of rate determination using a single composite weighted rate for services furnished in hospital-based facilities and for services furnished at the patient's home by such facilities based on the mix of patients who receive dialysis services at the facility and at home and the relative costs of providing services in each setting. A similar single composite weighted rate would be established for home and in-facility services provided by independent facilities.

The proposed methodology based rates for both hospitals and independents on the median costs for all audited facilities. The median costs for in-facility treatment were composited with the costs for home treatment, weighted by the proportion of home treatments furnished by hospitals and independents respectively. Two further adjustments were made in the methodology to derive hospital-based payment rates: an adjustment of $2.10 per treatment to accommodate the additional overhead costs that hospitals are required to allocate to their outpatient renal dialysis units, and an adjustment of the rate for hospital-based facilities to 105 percent of the median costs for all facilities. Both hospital and independent base rates were to be adjusted by an area wage index, resulting in a wide payment range, with an estimated average independent rate of around $128 per treatment, while the

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estimated average hospital-based facility rate would be around $132. (As a result of applying the most recent area wage index and refining our method for estimating average payment rates, we now estimate that the average per treatment payment rates will be $127 for independent facilities and $131 for hospital-based facilities.)

The rate-setting methodology and the resulting payment rates were the subject of numerous comments. In general, hospitals favored a greater difference between the rates for independent and hospital-based facilities, and criticized aspects of the methodology that tended to draw the rates closer. Conversely, many independents believed that efficiency and competition were increased by paying the same amount for a service regardless of the type of facility furnishing it. Some commenters directly criticized us for encouraging home dialysis through the composite rate, especially CAPD. Some also claimed that reducing payment rates was not the only, or the most appropriate way, to reduce program costs. Several commenters stated general support for a prospective, composite rate, but had specific objections to the rate methodology we proposed.

Dual vs. Single Rate.

Comment: The commenters were divided on whether they preferred a dual rate structure or a single rate. Some commenters said a dual rate methodology should not combine the cost data of hospitals and independents but should consider their costs separately. Other commenters said that the statute required us to encourage efficiency, and that this could best be done by basing the rate on the costs of efficient and economical facilities and setting a single rate. Some commenters argued that we were proposing a modified single rate, instead of an actual dual rate. They based this argument on our use of the same combined cost data for both rates rather than setting separate rates based on separate data. They claim that this does not adequately recognize differences between hospital-based and independent facilities (sicker patients, staffing for emergencies, 24-hour operation, more restrictive State and local regulations) and results in very different treatment of the two types of facilities relative to their median costs of treatment (paying hospital-based facilities an average of more than $8 less than median of that group's costs per treatment and independents an average of $14 more than their median cost per treatment).

Response: We have utilized a methodology that results in different rates for hospital-based and independent facilities in accord with the statute. Hospital payment rate will be on the average about $4 more per treatment than independents. As described in detail in the NPRM, the separate rates are based on separate weighting factors for home population, recognition of the higher general overhead costs incurred by hospitals, and an overall 5 percent upward adjustment for hospitals to allow for possible deficiencies in the data and to mitigate the effects on hospitals of the compositing.

The statute does not prescribe in detail the method for setting dialysis rates, but does require a method that distinguishes between hospital-based and independent facilities and that promotes efficiency. We must set the rates on a cost-related or other economical basis. We believe that combining the cost data from all facilities, and making adjustments to the data base to reflect legitimate cost differences incurred by hospital-based facilities as a class, is more accurate and equitable than using separate sets of data to set separate rates. This method:

- Recognizes a similar cost for a similar service;
- Recognizes that some hospitals have costs as low as the average independent facility; and
- Does not penalize the efficient, lower-cost, independent facilities for their efficiency.

We believe this methodology represents a reasonable balance between the statutory mandates of promoting efficiency and setting methodologies for hospital-based and independent facilities.

Hospital rate adjustment.

Comment: Several commenters questioned our use of the 105 percent adjustment factor for hospitals, and claimed that it, as well as other aspects of the reimbursement methodology, were designed solely to result in certain predetermined rates and program savings, without having a rational basis.

Response: In the NPRM we proposed to set the rate for hospital-based facilities at 105 percent of median costs, while the rate for independents was proposed to be set at 100 percent of median costs. As explained in the NPRM (47 FR 6565), the adjustment to the hospital's rate is appropriate because of the greater impact that any deficiencies in the data, as well as the use of composite rates, would have on hospitals. The comments questioning use of the adjustment did not challenge the fact that such greater impact existed, and we continue to believe that this constitutes a rational and reasonable basis for the adjustment. The contention that the methodology was adopted to result in predetermined rates or savings was based on internal Departmental documents that were apparently procured by the commenters which showed comparisons of rates and program savings. These comparisons were for the purpose of understanding the effects of the alternative methodologies under consideration and not a device to reach predetermined objectives.

Average Rates.

Comment: Some commenters contended that the average rates of $132 and $128 proposed in the NPRM were not the average rates that would actually result from use of the proposed methodology. Apparently, the commenters were basing this comment on a draft internal Departmental document that they had obtained, in which a wage adjustment factor had been developed to estimate the average national effect of the index. This factor had been applied to the entire rate, and the commenters asserted that it should have only been applied to the labor component of the rates. If the factor is applied only to the labor component, the commenters asserted that the actual average rates would be $128 and $125.

Response: These commenters are incorrect. The wage adjustment factor used in the Departmental document was an analytical tool designed to be applied to the entire rate.

Adverse Effect on Hospital-Based Facilities.

Comment: The payment rates we proposed appear to have a much stronger effect on hospital-based than independent facilities. Some commenters noted that the proposed base rate per treatment for hospitals would be more than $8 below the median per treatment costs of hospitals shown by our audits. Hospitals claimed that their higher costs were necessary and justifiable because:

- Hospital-based facilities treat sicker patients and have higher personnel costs;
- Hospital-facilities must have the potential to furnish emergency dialysis and operate 24 hours; and
- Medicare cost allocation rules require the hospital to assign overhead costs to the dialysis facility.

Response: Our audits and other data do show that hospital-based facilities have higher costs than independents, but we have not been able to show that all these costs are necessary and justified and, therefore, that they should be included as legitimate costs of

furnishing dialysis services in our calculation of an appropriate prospective rate for efficiently operated facilities. We believe that, at least to some extent, these higher costs are a result of the disincentives to economy and efficiency under the retrospective cost reimbursement system. For example, we have no data to confirm the nature of the average hospital patient and to correlate this to cost, and the comments that argued that hospitals have higher costs because of sicker outpatients provided no data to support their contention. HCFA has been continuing its research into the question whether the higher costs of some hospitals are attributable to sicker patients. Our Office of Research has recently completed a series of six analyses comparing patient mix of hospital-based and independent facilities (Paul W. Eggers, Ph.D., *Analyses of Indications of Case-Mix Differences Between Freestanding Facility and Hospital-Based Medicare ESRD Patients.* Working paper #OR-38; May 14, 1982.) These analyses are available on request from: Office of Research and Demonstrations, Health Care Financing Administration, Oak Meadows Building 1-A-12, 6340 Security Boulevard, Baltimore, Md. 21207.

Two of the analyses in this study do show that mortality and hospitalization rates are somewhat greater for hospital-based patients, and this indicates that some hospitals may in fact have a sicker patient case mix than independent facilities. However, another analysis in the study showed that these factors were not related to differences between allowed charge levels for hospital-based facilities. In short, although hospitals may have sicker patients, this case mix does not seem to explain their higher costs, which appear instead to be the result of inefficiencies.

We have allowed for the possibility that some facilities incur higher costs due to unusually intense dialysis services for special patients through our exception criterion for atypical service intensity patient mix. Under this exception, a facility that could show higher costs due to medically necessary atypically intense services could receive a higher payment rate. Some hospital-based dialysis facilities are certified to furnish only out-patient maintenance dialysis, just as independent facilities are. Since we can not generally support a statement that all hospitals generally have sicker patients, and higher costs attributable to dialysis services for those patients, than independent facilities, we believe the exception process is the most appropriate way to deal with this problem.

The comments suggesting that hospitals should receive a higher rate because they provide emergency services are not persuasive. We do not cover the emergency services referred to by commenters under the payment method being established. The rate we are setting is for maintenance dialysis only, not for acute care. We believe that we are setting the rate at a level adequate to cover the costs associated with those services, including overhead. Our methodology includes an adjustment that recognizes that hospitals have per treatment overhead costs higher than independents, as mentioned in the comments. Further, hospitals are not bound by the cost allocation requirements in the Medicare regulations. Hospitals can submit alternative ways to allocate costs for approval by their intermediary, if they believe they have a more accurate way to do it.

Although hospitals appear to be more adversely affected by the new prospective rates than independent facilities, the composite nature of the rates substantially mitigates the adverse effect for hospitals. Although the base rate and average per treatment payment rates will differ by about $4, the hospitals will also benefit from the composite effect to a much greater extent than independent facilities because they currently have many more patients dialyzing at home. To illustrate this effect, we have developed the following example, in which we compute hypothetical "effective payment rates" for in-facility treatment by taking into account the revenue above costs for home dialysis treatment. (This illustration uses average per treatment costs from our audits and home costs reviews, and average per treatment payments.)

Illustration of the Effect of Home Dialysis Reimbursement on In-facility Reimbursement.

Because the composite system pays the same amount for in-facility and home dialysis, the revenue above costs from home dialysis has an effect similar to a higher "effective" payment rate for in-facility treatments.

A TYPICAL HOSPITAL-BASED FACILITY

Furnishes..... 5,000 total treatments (75 percent in-facility, 24 percent home).
3,800 In-facility treatments, at $131 per treatment.
1,200 Home treatments, at $131 per treatment.

We plan to pay $131 per treatment, regardless of setting, and since we estimate that home dialysis costs approximately $97 per treatment, the facility will have $40,800 in home dialysis revenue above costs.

1,200	Home dialysis treatment.	1,200	
×$97	Cost of home dialysis.	×$131	Payment rate.
$116,400	Cost of home dialysis.	$157,200	Home dialysis revenue.

$157,200	Revenues.	3800	In-facility dialysis treatments.
−116,400	Cost.	×$131	Payment rate.
$40,800	House dialysis revenue about costs.	$497,600	In-facility dialysis revenue.
		+40,800	Excess home dialysis revenue above costs.
		$538,800	Total revenue available to offset in-facility cost.

If a facility applies this $40,800 to its in-facility costs, it would yield an effective in-facility rate of $142.

$538,800 divided by 3,800=$142 treatment.

A TYPICAL INDEPENDENT FACILITY

Furnishes..... 10,000 Total treatments (89 percent in-facility, 11 percent home).
8,900 Home treatments, at $127 per treatment.
1,100 Home treatments, at $127 per treatment.

We will pay $127 per treatment, regardless of setting, and since we estimate that home dialysis costs only $97 per treatment, the facility will have $33,000 in home dialysis revenue above costs.

1,100 Home dialysis treatments.	1,100 Home dialysis treatments.
×$97 Cost of home dialysis.	×$127 Payment rate.
$106,700 Total cost of providing home dialysis.	$139,700 Home dialysis revenue.

$139,000	Revenues.
−106,700	Costs.
$33,000	Home dialysis revenue above costs.

If a facility applies this $33,000 to its in-facility costs it would yield an effective in-facility rate of $131.

8,900	In-facility dialysis treatments.
×$127	Payment rate.
$1,130,300	In-facility dialysis revenue.
+33,000	Home dialysis revenue above costs.
$1,163,300	Total revenue available to offset in facility costs.

$1,163,300 divided by 8,900=$131 per treatment. This shows a difference of $11 per treatment ($142–$131) between the effective in-facility reimbursement rates for hospital-based and independent facilities.

E. Composite Rates for Home and In-Facitity Dialysis Introduction

In accordance with section 2145 of Pub. L. 97–35, the NPRM gave preference to a rate-setting method that combines two components—the cost of in-facility dialysis and the cost of home dialysis—to yield a composite rate that would be paid to a facility for all its dialysis treatments, whether furnished in the facility or at home.

In computing a composite rate, we proposed to weight the per treatment costs of home and in-facility dialysis by the proportion of patients dialyzing at each location. We proposed to apply the percentage of home dialysis patients served by hospitals to calculate the hospital composite rate, and the percentage of home dialysis patients served by independent facilities to calculate the independent facility composite rate.

Comment: In determining the prospective payment rates, the NPRM proposed weighting the costs of in-facility dialysis and home dialysis by the proportion of patients dialyzing in each setting. Different proportions were used for hospital-based and independent facilities based on their actual experience. Some commenters stated that they believed we were inconsistent and were penalizing hospitals for their higher percentage of home patients because we proposed to base rates for both hospital-based and independent facilities on the median costs of all facilities, while at the same time we proposed to use separate percentages of home patient population for making the composite computation. Some commenters suggested using the combined national average home patient population percentage instead of the separate respective percentages of hospital-based and independent facilities; they asserted that this would avoid disadvantaging those facilities, that is, hospital-based facilities, that already have achieved larger home dialysis programs.

Response: We believe that using the percentage of home patients served by hospitals to compute the hospital rate and the percentage of home patients served by independent facilities to compute the independent rate is fully consistent with the statute. This methodology is not inconsistent with our use of the costs of all facilities to set the basic rate. In the case of the base rate, we use data from all facilities because the statutory objective is to determine the costs of efficient dialysis, adjusted for excess costs attributable to hospitals as a class. The combined data base is a broader measure of the costs of operating an efficient facility. We do not believe that the overall methodology penalizes hospitals because they have two rate-setting adjustments over independents (an overhead add-on plus an additional 5 percent allowance), and they will be paid the composite rate for that 23.5 percent of their patients who are already less expensive home patients. The illustration above demonstrates how the home percentage effect on the composite rate benefits hospitals.

Promoting Home Dialysis.

Comment: Several commenters pointed out various ways in which they believed that our composite rate proposal would adversely affect home dialysis. For example, some commenters believe the composite rate would actually establish a disincentive for home dialysis, since the higher the percentage of home patients included in the compositing formula, the lower the rate would be in future years. Other comments stated that a patient's option to bill Medicare directly, without going through a facility for all non-physician components of home dialysis, would undermine the composite rate system and diminish the composite rate incentives for home dialysis. In addition, we were criticized for promoting home dialysis on the ground that, since the best candidates for home dialysis are also good candidates for transplantation, we are creating a disincentive for transplantation.

Response: The composite rate system is being established in the context of legal requirements to promote home dialysis. At the same time, the law ensures the right of a home dialysis patient to bill Medicare directly for home dialysis supplies and equipment. We do not have the legal authority to change this right. We have clarified sections 405.544 and 405.240 to reflect the fact that home dialysis patients may bill Medicare directly for home dialysis equipment and supplies. If a patient chooses this option, reimbursement is not made under the per treatment prospective rate. Instead, payment is made under the previous reimbursement rules. That is, payment for equipment and supplies would be made on a reasonable cost basis if the patient obtained them from an approved hospital-based or independent ESRD facility. Equipment and supplies obtained from a supplier other than an approved ESRD facility would be reimbursed on a reasonable charge basis. Payment for support services is only made when these services are supplied by an approved ESRD facility. Support services obtained from a hospital-based facility would be paid on a reasonable cost basis; those supplied by an independent facility would be paid on a reasonable charge basis.

We also do not have the authority to require home dialysis over transplantation. That is medical decision to be made by the medical team and the patient. Accordingly, to the extent that either of these two concerns may detract from the effectiveness of these regulations, they must be addressed by Congress.

We do not accept the argument of the comment that the compositing formula will result in a disincentive for home dialysis because increased home dialysis would, in future years, simply result in a lower composite rate. In the first place, we are establishing a methodology only for determining initial prospective payment rates. We are not establishing a requirement that the rate be adjusted in future years to reflect the actual percentages of home and in-facility patients. We are making no commitment for a future year rate-setting methodology. Moreover, if we did adjust the rate in the future to take increased home dialysis into account, the resulting rates would presumably be no less advantageous to the facilities than the rates we are presently establishing. In the meanwhile, however, facilities can benefit substantially from encouraging home dialysis, and therefore substantial incentives for home dialysis exist.

Comment: Some commenters believed that we were placing incentives for promoting home dialysis in the wrong place. Some said we should pay a bonus to the patients, not to the facilities. Other said that our composite rate, by encouraging facilities to furnish home dialysis, would have negative impact on the State programs that have been promoting home dialysis by furnishing supplies and equipment.

Response: The composite rate specified in the law may be paid only to an approved ESRD facility, and therefore we cannot pay the rate to patients. Of course, the facility is free to pay a bonus to its home patients out of the profit it makes and some facilities may do so to encourage home dialysis. With respect to State programs, two general circumstances can exist; either the State is competitive in price or it is not.

If the State program is competitive in price with facilities or other suppliers in the area there are two possibilities:

- Home patients have the option of billing separately for equipment and supplies and may, in turn, assign their benefits to the State program; or
- A facility may have an arrangement with the State for the State to furnish equipment and supplies to the facility's patients, for which the facility would reimburse the State.

If the State program is not competitive, then both facilities and patients will be better off dealing directly with manufacturers and wholesale suppliers. In this way, the relative efficiency of the State programs will determine their role in a composite rate system.

Comment: Some commenters noted that, since home patients have to bear extra inconvenience, including costs of water, electricity, and labor, the composite rate paid to the facility may not be sufficient to overcome the patient's disincentives to dialyze at home.

Response: The prospective reimbursement system adopts a neutral position on this issue, paying the same amount for both in-facility and home dialysis. Our data show that home dialysis is cheaper. If the patient incurs these extra costs, then the facility, in competition with other facilities, can work out with the patient whether some part of its payment should go to the patient or if other amenities should be offered. Further, while some costs to the patient for home dialysis may increase, others would decrease (e.g., transportation), and the patient may enjoy substantial benefits of convenience.

Comment: Some commenters believe that they would be unable to begin training programs for home dialysis rapidly enough to be able to compete with already existing training facilities.

Response: Any facility may arrange to have any of its patients trained by another facility, provided the second facility is approved to furnish self-care dialysis training in accordance with the Subpart U health and safety requirements.

Comment: Some commenters believe training facilities should be subsidized for the patients that they train for other facilities. On the other hand, other commenters were concerned that experienced training facilities would "steal" candidates for self-care dialysis training.

Response: The facility that provides ongoing support services for the trained home dialysis patient should be profiting from that patient and perhaps some of that profit should be paid to the training facility. This goes beyond the scope of our regulations. These types of arrangements must be worked out by the individual facilities involved.

F. Area-Wage Index

Comment: Various commenters stated that the area wage index that we proposed to use is unfair, inaccurate and based on old data, resulting in too wide a variation in rates. They stated that use of the BLS data fails to recognize that facilities in neighboring SMSA's with different indexes must compete for the same labor pool. The substance of the objection to use of BLS data, which measure wage costs experienced by hospitals in various locations, is that the data overstate the degree of variation in wages of the particular types of personnel employed in outpatient ESRD facilities.

Response: In response to these comments, we are modifying the wage index on a transition period basis for the first two years. After that, we will either use an index based on ESRD program data, or revert to the BLS wage index.

The Conference Committee Report on Pub. L. 97–35 (H.R. Rep. No. 97–208, 949) indicates that the rates should reflect local wage differences. Based on the data collection activities of the Bureau of Labor Statistics (BLS), we believe that we can adjust payments by an area wage index figure that expresses the relation of local wage levels to the national average. We originally developed these area wage indexes of use in determining cost limits for hospitals, in order to account for geographic differences in the levels of labor-related costs.

We considered developing a wage index based on salary data from Medicare ESRD cost questionnaires. These data are not highly reliable because they do not represent audited costs and they are not sufficiently accurate and detailed to develop an index. Now that we have implemented improved cost reporting, a wage index specifically related to ESRD facility experience may eventually become possible through our continued evaluation of ESRD cost data or development of additional sources of wage and salary information. Until that time, these area wage indexes are based on the most appropriate data available, which we believe are the BLS data used for the Medicare hospital cost limits.

Some commenters viewed the range of variation resulting from application of the area wage index as too great for a similar service. Immediate implementation of the geographically adjusted rates exactly as proposed in the 1982 NPRM would particularly disadvantage rural facilities, which tend to be relatively isolated, have smaller programs, and have resulting high supply and transportation costs. Some commenters also believe that the area wage index adjustment would provide an unjustifiable windfall to some urban facilities that currently have per treatment costs significantly below the $138 screen. Many commenters also described situations in which the area wage index for one geographic area resulted in payment rates in that area significantly lower than the rates in neighboring geographic areas. Some of these commenters additionally claim that they must compete for labor with facilities that have higher wage indexes

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and resulting higher payment rates. Some commenters claimed that the hospital wage index data collected by BLS did not accurately represent labor costs and wage level differences for ESRD services.

As noted above, H.R. Rept. No. 97–208 states that an area wage adjustment should be used in setting prospective rates. Since 1979, we have used area wage indexes based on BLS data for hospital workers in setting Medicare cost limits for routine inpatient hospital services. Based on our experience, we believe these indexes reflect reasonbly accurately the variations in the costs of living and medical care throughout the country. However, we do not yet have adequate data specifically showing regional variations in the costs of the labor inputs of ESRD services. In the absence of such data, and in view of the numerous comments we have received that raise doubts about the suitability of the area wage indexes for use with respect to ESRD outpatient facilities, we have decided that introducing the wide variations in payment rates that result from application of the indexes is not appropriate at this time. It is possible that ESRD outpatient facilities use a narrower range of personnel services than hospitals generally and that, for this or some other reason, the area wage index overstates that amount of regional variation. Because of this possibility, and in light of the information provided in the comments, we believe that it is appropriate to restrict the impact of the area wage index until we have determined whether it is completely valid for ESRD outpatient facilities.

We will initially limit the rate variations resulting from the area wage index by allowing a two-year transition period, during which the effect of the indexes will be constrained between upper and lower limits. At the end of two years, we will have had an opportunity to collect and analyze ESRD-specific salary data from our new cost report forms. If the data permits us, we will use it as a basis for developing a special wage index for the ESRD program. However, if we cannot determine appropriate indexes on the basis of that data, we will continue to use the area wage index based on BLS data, and will discontinue the upper and lower index limits.

During the two-year transition period beginning on the effective date of these regulations, we will limit the area wage index on the lower end to no less than 0.9. (Area wage indexes for the continental United States range as low as 0.7245.) This will prevent rural facilities from experiencing the adverse effects of immediate implementation. We have selected 0.9 as the lower limit as a balance between several considerations. We believe that limiting the index to no less than the national average (1.0) would result in inappropriately high minimum rates that completely fail to recognize the existence of low-wage areas of the country. The choice of the 0.9 level will benefit about 19 percent of all facilities and will increase the lowest rates by $8 or $9 per treatment. We believe this is sufficient to alleviate the implementation problems of the most drastically affected facilities during the transition period.

We will limit the upper effect of the wage index during the transition period by setting a maximum payment rate of $138 per treatment, which is the amount we have used for some time as the screen for determining reasonable per treatment payments. This limits will prevent any excessive payment levels due to possible deficiencies in the area wage index. This level of $138 is an appropriate transition period ceiling because our audit data indicate that most facilities are capable of operating successfully at this payment level through the country. Facilities with justifiable costs above $138 per treatment will be able to apply for a higher payment rate through our exception process.

In Appendix II to these regulations, we explain how the area wage indexes are calculated and reprint the indexes we are using.

G. Other Suggestions

Comment: Several commenters believed the composite rate system could be improved by making allowance for factors we did not incorporate in our rate-setting methodology. Some of these suggestions paralleled comments on our cost data, proposing allowances for inflation, a return on equity capital, or bad debts. (We proposed in the NPRM not to include an amount for bad debts in the rate, but instead to pay dialysis facilities all of their Medicare bad debts for dialysis services, such that their total revenue from both prospective payments and bad debt settlement does not exceed their allowance costs, in a separate payment at the end of the facility's cost accounting period.)

Response: The statutory prospective reimbursement system is intended to contain costs and promote efficiency by affording facilities an opportunity to retain per treatment payments in excess of their costs. Automatic inflation adjustments are self-fulfilling and guarantee that costs will rise. We will monitor costs and adjust the rate on an as-needed basis, if inflation drives the cost of dialysis up. We believe we are allowing a margin for profit in our rate-setting. This is evidenced by the continuing growth in proprietary facilities in the period since we announced our proposed prospective rates in November 1981. With respect to the suggestion of adding an allowance for bad debts to the rate, we have no data upon which to set this allowance, nor do we intend to provide an incentive for facilities to avoid collecting copayments. As we obtain more data we may consider alternative approaches to this proposed policy, including an allowance for bad debts in the rate, in order to avoid the administratively cumbersome procedure of retroactive settlement of bad debts.

Comment: Some commenters discussed our objective of obtaining program savings under the composite system, and suggested that we could obtain savings by other means, either instead of or in addition to the prospective system. They proposed that we reduce administrative costs of the ESRD program, and that we eliminate certification requirements that the commenters believed were needless. Such savings could affect the level at which we set a prospective rate.

Response: We are attempting to reduce administrative costs. One of the advantages of the new system is that it is simpler (and therefore cheaper) to administer. The billing and processing should be easier and quicker. As for reducing certification requirements that must be met to participate in the Medicare program, those requirements are under continual review, and changes are sometimes proposed to account for changing practices. Other requirements are imposed by States, and facilities must meet them in order to furnish services in that State. In both cases, the costs of meeting the requirements are included in the audited costs of facilities sampled in setting the reimbursement level under this system. We do not believe it is possible or appropriate for us to address them further in establishing our reimbursement policies.

H. Prospective Payment Rates

Applying the principles described above to the data from our facility audits and home dialysis cost studies, we derived the basis components from which national payment rates will be computed.

	Median costs per treatment		
	Adjusted labor [1]	Nonlabor	Total
All facilities	$54.45	$71.53	$125.98
Independents	41.04	67.06	108.10
Hospital-based	61.65	73.93	135.58
Home dialysis cost (all)	11.70	85.09	96.79
Overhead cost differential of hospitals over all facilities			$2.10

	Location of patients (percent)	
	Home	In-facility
Independents	10.5	89.5
Hospital-based	23.5	76.5
Total	17.0	83.0

[1] These adjusted labor costs differ from those published in the NPRM as a result of application of the most recent area wage indexes. The inclusion of Puerto Rico in the BLS data resulted in a slightly different national average wage level.

We have computed the following prospective base rate components, based on the above data components. These rate components are used to compute the composite reimbursement rates per treatment for in-facility and home dialysis. The basic prospective rate for each facility applies directly to all hemodialysis treatments. We discuss below how these rates are also applied to peritoneal dialysis treatments.

	Component		Total base rate [1]
	Labor	Nonlabor	
Independent facilities	$49.96	$72.95	$122.91
Hospital-based	46.62	80.14	126.76

[1] As noted above, the application of the most recent area wage indexes, based on updated BLS data, resulted in slight changes from the values given in the NPRM for adjusted labor costs, which also affects these base rates.

Since the actual payment for each facility is calculated by adjusting the labor component by the appropriate area wage index, the actual average payment will be about $4 higher than the base rate, because most ESRD facilities are located in areas that have a wage index value greater than 1. The area wage index also introduces a substantial variation among the actual rates paid, as explained below. In addition, we plan to pay the composite rate for home dialysis treatments, which cost only $97 per treatment on the average. This provides facilities with extra profit, and has an effect similar to raising their reimbursement rates per in-facility treatment to $142 and $131 for hospital-based and independent facilities respectively (see illustration in section III.D. of this preamble).

IV. Rate-Setting Methodology for Physician Monthly Capitation Payments

The NPRM proposed establishment of equal monthly capitation payment for both home and in-facility dialysis, using a composite weighting formula to account for the proportion of patients currently dialyzing at home. We also proposed to revise the basis for relating the capitation payment to prevailing charges for certain medical procedures, using the most recent and complete prevailing charge data available to us, which is fee screen year 1981 (July 1, 1980–June 30, 1981).

Typically, dialysis patients dialyze between 2 and 3 times per week. Some patients dialyze routinely at a frequency of twice per week, while some patients occasionally miss a dialysis session. At the same time, the physician monthly payment represents payment for some services that may be furnished at a time other than during dialysis. As a balance between these two considerations we proposed basing the monthly payment on 149 dialysis sessions per patient per year, or 12.4 dialysis sessions per patient per month. That is, although practice may vary widely between physicians, or between patients of a physician, for purposes of constructing a payment rate we assumed a value of one physician-patient contact per dialysis session, and that every patient dialyzes 149 times per year. Of course, we do not expect that every patient will be seen by a physician during each dialysis session.

We proposed to use this figure of 12.4 sessions as a base multiplier. This multiplier is applied to the local prevailing charge for a medical specialist's brief follow-up office visit for an established patient (CRVS Code 90040). We added to the resulting figure an amount representing a routine monthly examination, based on the prevailing charge for an intermedidate follow-up office visit (CRVS code 90060). We weighted this sum for the national averages of patients dialyzing in-facility (83 percent) and at home (17 percent). We weighted for the in-facility proportion by multiplying the sum based on the medical procedure model by .83. We weighted for the home proportion by multiplying the base sum by .17, and then multiply that result by .7, which represents the 10:7 facility/home physician treatment capability ratio used under the current Alternative Reimbursement Method (ARM).

Based on the most recently available average prevailing charges for CRVS codes 90040 ($14.07) and 90060 ($20.03), which we have used in place of local prevailing charges in the following example, we have estimated that the average physician monthly payment will be $184.60.

($14.07×12.4)+$20.03=$194.50 (base sum)
$194.50×.83=$161.45 (portion weighted for in-facility treatments)
($194.50×.17)×.7=$23.15 (portion weighted for home treatments)
$161.45+$23.15=$184.60

Under the current ARM, we set upper and lower limits on physician monthly capitation payments. The minimum and maximum payments are different for home and in-facility patients. The lower and upper limits for in-facility patients were $180 and $260 per month. For home patients, the comparable limits were $126 and $182 per month.

We considered adopting this methodology without change for calculating upper and lower limits for physician composite capitation payments. However, the distribution of prevailing charges was such as to cause us to reconsider this. The minimum pair of prevailing charges occurring for the CRVS codes 90040 and 90060 were $7.00 and $11.60 respectively, producing a minimum monthly payment of $93.38. The maximum pair of prevailing charges for these codes were $49.70 and $ 33.14 respectively, producing a maximum monthly payment of $616.30. This range of monthly payments, $93.38 to $616.30, was unacceptable because we wanted to preserve approximately the same variation between the existing minimum and maximum monthly payment. In order to do this, we tried truncating prevailing charges at the tenth and ninetieth percentiles. This yielded lower and upper limits of $132 and $220 for the composite capitation payment. Thus, the upper limit under the composite system would be $36 per month higher than the upper home limit under the ARM, while the lower limit would only increase by $6 per month. We believe that it would be unfair to require some physicians to treat both home and in-facility patients for only $6 per month per patient more than they had been receiving for treating home patients under the ARM.

We therefore returned to the array of prevailing charges, in order to determine the effects of selecting a cut-off point other than the tenth percentile. We found that the prevailing charges for CRVS code 90040 are clustered at the low end in such a way that the difference between the charges for the CRVS code 90040 at the tenth and sixteenth percentiles is only $1. Truncating this array at the sixteenth percentile yields a minimum composite capitation payment of $144 per patient per month. We believe that this results in a much more reasonable range of

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payments than continuing with the tenth percentile. Therefore, based on this truncated list of national prevailing charges (which includes three-fourths of all prevailing charges) the monthly physician reimbursement rates under these regulations will be subject to a minimum of $144 and a maximum of $220.

Comment: Some commenters favored the proposed reduction in physician reimbursement because they believe these physicians have been overpaid for what they do. Other commenters believe that paying lower rates to nephrologists will force them to devote more attention to other things to earn money. Some of these claim that this lesser physician involvement could result in less preventive care, more complications, more hospitalizations, and resulting higher costs, offsetting the savings from reduced physician reimbursement.

Response: Studies of physician involvement in the care of ESRD patients are already underway. Based on other studies of physician participation in HCFA programs, we do not expect a dramatic reduction in physician involvement with dialysis patients. Furthermore, home dialysis patients do not generally require much physician attention, and, in fact, our certification regulations, which set forth the health and safety requirements that a facility must meet to participate in the program, do not require the physical presence of a physician for in-facility dialysis.

While we do not yet have detailed information on the extent of physician involvement in dialysis care, the entire industry has undergone great changes. For example, technological advances have made machines and dialysis safer and more automatic to operate. The extensive experience since the beginning of the program has resulted in more standardized procedures. Consequently, it may be that these improved procedures, nurses' training, and automated technology have reduced the degree of necessary physician involvement.

We believe that medical professionals will furnish appropriate care in a responsible manner. Physicians will be paid much more for their home patients under the new system than under the old, and can achieve the same total reimbursement by increasing the number of their home patients.

Comment: Comments questioned the use of the 12.4 multiplier in setting the physician monthly capitation payment, arguing that physicians had contact with their patients through telephone calls and office visits in addition to the dialysis sessions, which average 12.4 times a month.

Response: As discussed above, the factor of 12.4 is a balance between an approximation of the number of dialysis treatments per month furnished to the average patient, and additional physician services furnished at times other than during the dialysis treatment. Physicians are not required to see their patients at each dialysis session and we do not intent to imply that they should. Rather, the factor of 12.4 is used as a proxy, along with an amount for a single monthly examination (CRVS Code 90060), to represent the amount of overall physician involvement for the average dialysis patient. The specific services furnished by physicians for this monthly capitation payment vary widely depending on the needs of the patient and whether the patient dialyzes in the facility or at home. Because of this wide variation, especially considering that this same payment applies to home dialysis patients, we have made an approximation for the appropriate average level of payment.

Comment: It was suggested that the assumption in the current ARM and in the new physician capitation system that physicians could, on average, handle 10 home dialysis patients in the time that it would take to handle 7 in-facility patients lacked any rational justification.

Response: As pointed out in the NPRM, the 10:7 ratio exists in the present ARM and was based on expert medical advice provided at the time the ARM was established. Although the comment questioned the basis for the ratio, the comment did not propose any other ratio or provide any information suggesting that the ratio is in fact inappropriate. If we are furnished with such information, we will evaluate it and make any appropriate changes in the methodology, but until such time we must use some ratio and we believe that it is reasonable to continue using the ARM ratio.

Comment: Some commenters stated that weighting physician reimbursement by the national average percentage of all home patients (17 percent) is inconsistent with facility reimbursement, which is weighted by hospital (23.5 percent) and independent (10.5 percent) facility home percentages respectively.

Response: The statute does not specify the elements of the methodology as to how physician reimbursement should be set, as it does in the case of facility reimbursement. Also, it would be administratively cumbersome for carriers to determine whether a patient is a hospital-based or independent facility patient since the carrier sees no indication of the patient's facility on the physician's bill. Therefore, use of the national average percentage is appropriate.

Comment: Some commenters, referring to provisions for annually updating the prevailing charge screens for fee-for-service reasonable charge payments, recommended that we also annually update the monthly capitation payment level, asserting that these updates are required by law.

Response: The law does not require that the monthly capitation payment be updated each year. Our statutory authority for this capitation method, section 1881(b)(3)(B) of the Act, was added to the statute to clarify our authority to determine payments for ESRD-related physician services in a manner that adequately recognized the special nature of those services. (S. Rept. No. 95-714, 95th Cong. 2d Sess., p. 10.) The amendments specifically approved of our ARM method for paying for physician services. (Under this method we had also decided not to commit ourselves to updating ARM payments at any particular interval but to update based on program experience. See 42 CFR 405.542(b)(4).)

A physician's rate set by this methodology will be held constant and will not be automatically updated by the carrier's prevailing charge data. The rate will only change when, after review of program data, we determine that a change is warranted. We will regularly review physician reimbursement at the same times that we review the level of the prospective payment rates for facility dialysis services.

V. Other Issues

A. Access to and Quality of Care

Introduction. As noted above, the greatest number of comments expressed concern over the effect the proposed rules would have on access to and quality of care. As we said in the NPRM, we do not expect the quality of care to be adversely affected by these regulations. Access to care may be improved because the payment rates offer incentive for existing facilities to expand, and for new facilities to open.

Adverse Effects of Economic Incentives.

Comment: Some commenters said that the proposed payment levels would be inadequate to allow facilites to accumulate capital for improvements or expansion.

Response: New facilities continue to enter the program. We believe that with efficient mangement there will be sufficient profit to improve or expand facilities as needed. Future expansion will not be as critical as in the past, since we expect a decrease in the rate of growth of the ESRD population. For example, from 1980 to 1981 there was a 15.4 percent increase in the Medicare ESRD population. Over the next 5 years we expect the annual increase to decline to 3–5 percent. In addition, we expect that there will be more patients treated in the home, which will relieve still further any future demands on in-facility capacity.

Comment: Various commenters discussed the interrelation of economy and efficiency with cheaper, and possibly poorer quality care. Some commenters urged that care could be given cheaper at equal quality by reusing dialyzers, decreasing staff-to-patient ratios, using fewer registered nurses (RNs), encouraging patients to assist more in their own care, and encouraging more patients to dialyze at home. Other commenters declared that these same measures would adversely affect the quality of care and recommended that we adopt regulatory provisions that would prevent this.

Response: The prospective rate system provides an incentive to furnish care economically. The conditions of participation for ESRD facilities (42 CFR Subpart U) establish the requirements that we believe are necessary to provide quality care. Nothing in the prospective reimbursement rates allows a facility to depart from compliance with these requirements, which have proved satisfactory to ensure the adequacy of patient care. Although we will continue to be alert to the possibility of changing these requirements, nothing in the comments has persuaded us that changes should be made at this time. The medical community does not agree on an optimum model for the dialysis procedure. There is a wide variation among the staff complements and practices at various facilities. In the random sample of facilities that were audited, we included a cross section of facilities of all types. In the absence of a demonstrated need requiring a particular method of operation to ensure patient safety, medical practitioners should be permitted to devise appropriate methods of treatment.

Comment: Commenters also claimed that under the composite rate, poorly qualified self-care training units will arise, in an attempt to take advantage of the increased payment for home dialysis.

Response: All training units have to be approved, and must meet a certification requirement that they have an experienced training nurse in charge of training (42 CFR 405.2102(r)(4) and 405.2162(a). Furthermore, we believe that medical professionals are responsive to the need to provide good care. It is in the financial interest of the facilities to train the patients well so that they can be successful home patients and not be referred back to the facility where they are more expensive to treat.

Access to Care.

Comment: Many patients expressed fear that facilities will be forced to close, depriving patients of access to care.

Response: We do not expect this to happen. We believe the rate is high enough for efficient facilities to provide care. There is a potential for increased home dialysis care, which will increase facilities' profit. Facilities that are isolated and essential will be eligible for higher rates under the exception process and thus the patient will not be left without a dialysis facility in his or her area. As discussed below, we are also providing a new certification procedure for temporary emergency facilities in cases where existing facilities close for some reason. This latter procedure will allow us to authorize the immediate opening of efficient facilities to replace any inefficient facilities that close because of the new rates.

Promoting Home Dialysis.

Comment: Many commenters, especially patients, expressed fear that patients who are unsuitable for home treatments, because they are too ill, unintelligent, or have a poor environment, will be forced to go home anyway.

Response: There are successful home programs in all settings (inner city and rural), with all types of population bases. Program experience shows that home dialysis can be done in these situations. Some commenters told us of how their attitude toward home dialysis, and their patients' ability to perform home dialysis, has evolved over the past few years from being totally against, to being in favor of, more widespread use of home dialysis. More important, though, for those patients who misunderstood or were misinformed about the objectives of these regulations, is the fact that we are not, and never proposed, requiring patients to dialyze at home. The ultimate

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responsibility for this decision rests between patients and their physicians. Physicians and facilities cannot force patients to dialyze at home if they are unable or unwilling. As we pointed out in the NPRM, we expect that 30–40 percent of patients can be dialyzed at home, which means that the majority of patients will continue to receive dialysis services in a facility.

Comment: Some commenters recommended that our regulations ensure that home patients received the necessary services, arguing that facilities have a financial incentive to increase profits by not furnishing all of the services necessary for home patients. One commenter recommended that all the service requirements of the current target rate program be retained under the new composite rate.

Response: We explained above why we did not include the costs of furnishing home aides in calculating our rates. Facilities are required, under 42 CFR 405.2163, to furnish all other necessary dialysis services. This certification requirement serves the same function as the specific service requirements under the target rate agreement. Facilities are reviewed periodically to ensure that they meet all certification requirements. Patients with problems may contact their patient representative on the ESRD Network Council, or the Health Standards and Quality offices of our regional offices.

Comment: A number of commenters objected that we should not promote CAPD. They claim that is not only more expensive than home hemodialysis, but is medically unproven and possibly unsafe.

Response: We are not promoting CAPD. It has been used as an example only in so far as it is one mode of home dialysis therapy and the statute requires us to promote home dialysis. To the extent that it is more expensive than other modes of home dialysis, the incentives created by the composite rate should result in relatively greater use of the other, competing, modes. As for its safety, we consulted with a panel of experts and their consensus was that, as with all modes of diaslysis treatment, it was safe and effective for suitable patients. By this time, CAPD is in wide use (as of December 31, 1981 there were 4347 CAPD patients, accounting for 45.9 percent of all home patients) and the program generally covers items and services that are commensurate with generally accepted medical practice.

C. Dialyzer Reuse

Introduction.

The ESRD community is currently divided on the issue of whether it is safe to reuse dialyzers, which is one way a facility can reduce per treatment costs. In the NPRM, we explained that we were neutral on this issue; we are neither supporting nor prohibiting it in these final regulations.

Comment: Some commenters stated that, in order to increase efficiency and reduce costs, facilities should reuse dialyzers.

Response: We have no authority to require reuse. However, if a facility decides to reuse dialyzers, it will retain the savings from that practice.

Comment: Other commenters claimed that reuse is unproven and unsafe. It was also noted that some States have constraints on reuse.

Response: HCFA is neutral on reuse. Reuse is prevalent in Europe and many facilities in the United States reuse. Preliminary studies show that reuse is successful where it is done properly. Nevertheless, we do not presently require or prohibit reuse. We will continue to study dialyzer reuse, and to monitor outcomes of those facilities that reuse dialyzers, in order to determine whether we should revise the program's health and safety, as well as reimbursement, requirements with respect to dialyzer reuse.

Comment: Some commenters suggested that we set sa separate payment rate for facilities that reuse dialyzers.

Response: We set composite rates based on the audits of randomly selected facilities. Twenty-five percent of the independent facilities in the audits reused dialyzers, and their costs were included in setting the rates. We cannot set separate rates for reuse because this would be impractical, since some patients in a facility may reuse, and some may not. In addition, some facilities may choose to use the savings from reuse to offset some other excessive cost in their operation. Under the prospective reimbursement system, we do not intend to adjust individual facilities' rates to their actual costs, because this removes the incentive to be efficient.

D. Prospective Rates for Self-Care Dialysis Training

Self-care dialysis training services are services that train ESRD patients to perform dialysis in the facility or in the home with little or no professional assistance, and train other individuals to assist patients in performing dialysis. Self-care training services are furnished under Medicare by dialysis facilities that are specifically approved to furnish these services. In addition, we expect many facilities that are not so approved will be able to purchase training services from approved ESRD training facilities.

Under Medicare, self-care dialysis training sessions have always been reimbursed based on a screen that is $20 more than the screen amount applicable to outpatient maintenance dialysis, except when an exception has been approved. In the absence of reliable cost data to the contrary, we will reimburse each self-dialysis and home dialysis training session by an amount equal to the facility's per treatment prospective rate exclusive of any exception amounts for outpatient maintenance dialysis plus an additional $20 per session. Facilities that have justifiable costs greater than this will be able to apply for an exception. (See above.) Based on data submitted through the new cost reports, and in applications for exceptions, we will continue to review whether this figure should be adjusted.

E. Prospective Reimbursement Rates for Peritoneal Dialysis and New Dialysis Techniques

Under Medicare, peritoneal dialysis has always been subject to the same reimbursement rules as hemodialysis sessions in the facility. As a result of medical consultations, we established an equivalence between peritoneal dialysis and hemodialysis. In the absence of cost data to the contrary, we set the reimbursment for intermittent peritoneal dialysis sessions at the same level as for hemodialysis. However, sometimes peritoneal dialysis was furnished in a single extended session of 30 hours or more in a week, in place of three separate sessions. Because the labor, overhead and supplies were more related to the total time in dialysis than the number of separate sessions, we reimbursed the extended session the same as three normal dialysis sessions in a week. Further case experience indicated the need for another intermediate reimbursement level to correspond to changing medical patterns. As a result, we provided that peritoneal dialysis sessions of 20 hours duration furnished twice per week be reimbursed at a rate equivalent to one and one-half times the payment for a hemodialysis session.

We have also set equivalencies for applying the prospective payment rates to continuous ambulatory peritoneal dialysis (CAPD) and other new techniques of dialysis. We included the costs of these treatment modes in our calculation of the weighted costs per treatment of home dialysis. CAPD is furnished on a continuous basis, not in discrete sessions, and therefore we cannot pay on a per session basis. We will pay for CAPD on a weekly basis, setting the weekly payment rate for CAPD at three times the per treatment incentive payment rate (corresponding to the usual hemodialysis schedule of three sessions per week) for the ESRD facility through which monitoring and support services are furnished. We will pay for continuous cycling peritoneal dialysis (CCPD) and other techniques on the same basis.

F. Bad Debts

In the NPRM, we proposed to pay Medicare bad debts for both hospital-based and independent facilities in a single payment at the end of a facility's cost reporting year. We received no opposition to this, but a number of commenters expressed confusion on how this would work.

Medicare bad debts, which are defined and governed by regulations at 42 CFR 405.420, are those deductible and coinsurance amounts for which beneficiaries are liable and which, when uncollectible, result in providers being reimbursed less than costs. Since, under reasonable cost reimbursement, costs of covered services furnished beneficiaries are not to be borne by individuals not covered by Medicare, the program will pay that part of uncollectible deductible and coinsurace amounts that brings the total of a provider's reimbursement up to the costs of these services. Conversely, since the statute requires that the program pay only for the costs of services related to care of benficiaries, reimbursement for bad debts is limited in that we will not pay any amounts that would result in total reimbursement exceeding a provider's Medicare reasonable costs. In addition, to claim Medicare bad debts, a provider must have attempted to collect the amounts in accordance with program requirements.

Under retrospective cost reimbursement, we have allowed providers, including hospitals with dialysis facilites, to make a specific write-off of Medicare bad debts, for which we have made make a special payment at the end of the provider's accounting period. Under part B reasonable charge reimbursement, independent facilities have been expected to absorb bad debts within the level of their charges. However, under the prospective reimbursement system we have decided to treat bad debts the same for both hospital-based and independent facilities in order to treat all facilities similarly with respect to a consideration that does not depend on their status as hospital-based or independent.

We considered the possibility of including an amount for bad debts in the prospective payment rate, but have decided against it. Instead, we plan to pay all dialysis facilities 100 percent of their allowable Medicare bad debts (related to maintenance dialysis treatments), up to their reasonable costs, in a separate payment at the end of each facility's cost accounting period. Hospitals must keep their ESRD related Medicare bad debts separate from other Medicare bad debts for this purpose. This process works as follows:

1. We determine the dialysis facility's Medicare reasonable cost. This is the reasonable and necessary cost related to covered patient care services furnished to Medicare beneficiaries, as shown on the annual Medicare cost report (HCFA 2552, for hospitals; HCFA 265 for independent facilities).

2. We determine the dialysis facility's Medicare revenue. This would equal the total program payment (80 percent of the facility's prospective payment rate times the number of treatments furnished, after first subtracting applicable deductible amounts) plus the deductible and coinsurance (20 percent of the rate) amounts actually collected.

3. We determine the amount of the facility's unrecovered cost by subtracting revenue from total reasonable cost. If the facility's revenue exceeds its cost, it has no unrecovered cost and is not eligible to receive payment for Medicare bad debts.

4. If the facility has some unrecovered reasonable costs, we determine whether the facility has met the program requirements in attempting to collect its unpaid deductible and coinsurance amounts.

5. If the facility meets these requirements, the program then pays the facility the lesser of:

(a) its unrecovered Medicare cost; or

(b) the uncollectible deductible and coinsurance amounts.

The following example illustrates the potential different outcomes of this process.

Assume that we have four facilities, each differing from the others only in their costs. Each facility furnishes 4000 dialysis treatments per year, at a prospective rate of $130 per treatment. Each receives a program payment of $104 per treatment (80 percent of the payment rate, with the beneficiary liable for the remaining 20 percent), yielding revenues of $416,000 per year. Each facility is unable to collect an average of $4 per treatment in deductible and coinsurance obligations, resulting in revenue from copayment of $88,000 per year, and a total uncollectible copayment of $16,000. Each facility's total revenue from Medicare and beneficiaries; payments would be $504,000.

The four facilities in our illustration have the following average costs per treatment (CPT), total annual allowable Medicare costs, total costs and total revenue from Medicare program and beneficiaries payments (total revenue).

Facility	CPT	Total costs	Total revenue
A	$124	$496,000	$504,000
B	126	$12,000	$504,000
C	130	$520,000	$504,000
D	132	$528,000	$504,000

Assuming all collection requirements were met, we would subtract total Medicare revenue from total costs for each of these facilities, giving us the unrecovered Medicare costs, if any. We would then pay, as allowable Medicare bad debts, the lesser of unrecovered cost (total costs minus total revenue) or uncollectible copayment. The result would be as follows:

Facility	Uncollectible deductible and coinsurance	Unrecovered cost	Payable bad debts
A	$16,000	0	0
B	16,000	$8,000	$8,000
C	16,000	16,000	16,000
D	16,000	24,000	16,000

VI. Special Purpose Renal Dialysis Facilities

Pub. L. 92–603 authorized the Secretary to prescribe health and safety regulations for facilities that furnish dialysis services. Regulations were published as Conditions for Coverage of Suppliers of End-Stage Renal Disease Services (41 FR 22507; June 3, 1976), Subpart U of Medicare regulations (42 CFR Part 405). Subpart U contains the health and safety standards which ESRD facilities must meet to be approved to receive Medicare reimbursement.

These amendments to Subpart U permit approval of special purpose renal dialysis facilities, which will be defined as units approved on a short-term basis to furnish dialysis services to a group of patients otherwise unable to obtain treatment. We will approve special purpose facilities for two purposes: (1) to serve ESRD patients in a vacation area that is too remote from existing approved facilities, or that is near an approved facility that does not have sufficient available capacity to serve a

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number of vacationing patients; and (2) to serve ESRD patients on an emergency basis when approved permanent facilities close due to natural disasters, strikes, or bankruptcies and the backup facilities in the area cannot accommodate the patients of the closed facilities. (This latter provision will enable us to ensure continuous access to care in the event that an approved permanent facility is closed because it cannot achieve adequate revenues under the prospective reimbursement system.)

The typical patient undergoing treatment under the ESRD program requires dialysis three times a week—each treatment requiring several hours for completion. Due to the requirement for regular and prolonged treatments, patients must limit their activities in such a way that they can regularly achieve access to an approved facility where they can receive dialysis. In addition, a patient may be extremely inconvenienced if the facility he or she customarily uses either closes or reduces services. For these reasons, any facility closing, or patient travel away from the patients residential area, requires careful planning so that alternate treatment facilities will be available to patients when needed. (Many patients are sufficiently active and well enough rehabilitated so that access to dialysis is the one major consideration restricting their activities. This consideration has hampered many persons planning vacations with their families and prevented individuals from taking vacations on their own.)

Subpart U regulations (section 405.2102(h) provided that the ESRD facility furnishes services on its main premises, or the ESRD facility furnishes services on its main premises, or on its other premises that are: (1) contiguous with or in immediate proximity to the main premises, and (2) under the direction of the same professional staff and governing body as the main premises. Until now, ESRD patients have been able to go to vacation areas only if there were approved facilities with sufficient capacity to treat them or if they were able to defray the entire treatment cost at an uncertified facility. Although vacation dialysis programs (i.e., summer camps, etc.) have generally been sponsored by approved dialysis facilities, reimbursement has not been made because the programs are not in the immediate proximity to the main premises.

On January 15, 1981, we published in the **Federal Register** (46 FR 3794) a Notice of Proposed Rule Making to amend Subpart U regulations to:

- Provide for approval of a facility that furnishes training and support services for self-dialysis and/or home dialysis as the only service;
- Adapt the requirements to a recently developed treatment technique known as continuous ambulatory peritoneal dialysis (CAPD);
- Provide for approval of special purpose renal dialysis facilities; and
- Require open staffs in ESRD facilities.

The provision on special purpose dialysis facilities, was one of the four main provisions of that proposed regulation. Provision was made for a 60-day comment period on the proposed regulation changes. The comments we received during this period are now being analyzed. We expect to issue a final rule, taking into consideration public comments, in the future on all provisions except the provision for special purpose dialysis facilities. However, we wish to amend as soon as possible the regulations to permit approval of facilities furnishing emergency and vacation dialysis, which will further ensure that continuous access to care will be available to ESRD patients even if some facilities close during the implementation of the prospective reimbursement system. Therefore, we are publishing final regulations now which apply to special purpose dialysis facilities.

The NPRM stated that we had received inquiries regarding the feasibility of approving for Medicare reimbursement dialysis services provided to ESRD beneficiaries on a short term basis for special rehabilitative or emergency purposes when those beneficiaries cannot be accommodated by facilities approved under the present regulations. The following two examples illustrate the circumstances under which we would approve a special purpose facility.

In many cases existing ESRD facilities are too remote from vacation areas or too near capacity to serve vacationing patients. Accordingly, some hospitals and universities have developed programs which provide dialysis services to these patients while they are on extended vacations. These programs include both transient or mobile units in State parks and fixed location units such as children's camps. All proposals which we have received to approve these types of units as special purpose dialysis facilities emphasize the importance of these units in programs designed to assist ESRD patients and their families toward the goals of total rehabilitation and a normal lifestyle. The availability of these units allows patients some respite from severely restricted lifestyles caused by the need for dialysis treatments three times a week at a single location.

We will also approve special purpose dialysis units when these units are necessary to accommodate patients on an emergency, short term basis. Examples of these emergencies are facility closings due to strikes or bankruptcies when the backup facilities to the closed facilities cannot accommodate the patients of the closed facilities.

In response to the Notice of Proposed Rule Making, we received 23 public comments which discussed the proposed special purpose dialysis facility provisions. There were no comments which opposed the concept of a need by ESRD patients for vacations dialysis programs.

Some of the commenters felt that special purpose vacation dialysis programs should be limited to facilities approved to furnish other dialysis services. These comments have some merit in that approved facilities offering other services may have fewer administrative problems such as staffing a remote vacation dialysis unit. We expect that special purpose dialysis programs will continue to be sponsored by such approved facilities; we will, however, permit approval of a special purpose dialysis facility meeting all requirements even if approved to furnish other dialysis services.

A few commenters opposed the provision that would place a time limitation of not more than 6 consecutive months of operation in any 1 calendar year on approval for special purpose dialysis facilities. The general thrust of these comments was that a time limitation would be administratively cumbersome, particularly as written in the proposed rule. We believe that the time limitation is necessary to emphasize the temporary nature of special purpose facilities, and to prevent unnecessary proliferation of, and possible abuse of, this category of approval. It was suggested that the time limitation apply only to a "fixed location"; we have decided not to accept this suggestion because it would not provide the needed flexibility of some vacation dialysis programs. As a result of other comments, we have changed the proposal to permit greater flexibility. The time permitted has been changed from 6 months to 8 months, and the limitation to consecutive months has been removed. All ESRD facilities will continue to be reviewed for approval on an annual basis.

There were several comments that questioned the need for the proposed rule and stated that present regulations could permit approval of existing ESRD facilities to furnish dialysis services at remote locations. We believe, however, that the existing regulations present impediments, including the requirements related to furnishing dialysis services on the premises, network participation, and on-going management of patient care. As indicated above, we have decided not to require special purpose renal facilities to comply with all present regulatory provisions, and amendments to the regulations are therefore necessary.

As evidenced in this preamble, we are concerned about the costs of furnishing dialysis, and this is especially so in reference to vacation programs. We will apply the same reimbursement rules, prospective payment rates, and exception criteria to special purpose renal facilities as we apply to permanent facilities. Every special purpose renal dialysis facility will have its own separate provider number whether it is an independent facility or is affiliated with an approved permanent facility. Reimbursement will not exceed that which would be available to a permanent dialysis facility operating in the same geographic area with normal utilization rates. (Additionally, a permanent facility that has transferred patients to a special dialysis facility control could not qualify for an exception to the extent that increased costs at the permanent facility were due to reduced utilization.) A special purpose renal facility will need to furnish cost data to us in accordance with sections 405.406, 405.541, and 405.2133.

The following discussion covers each change to subpart U.

1. "Definitions". These regulations define a special purpose dialysis facility and revise the definition for "furnishes on the premises." We are allowing for the approval of new dialysis facilities which are specifically designed to provide dialysis on a time-limited basis for emergency purposes or in connection with special rehabilitative programs. We have required time-limited approvals to prevent the bypassing of the regular approval process. These amendments are strictly intended to supply temporary dialysis services for either emergencies or vacation services and not to allow facilities to randomly open satellite stations.

In order to allow an approved renal dialysis facility or renal dialysis center to provide services at rehabilitative locations services similar to those vacation services offered by a special purpose facility, we have revised the definition of "furnishes on premises." This amendment allows approved renal dialysis facilities or centers to develop their own programs at special rehabilitative locations.

Facilities which offer rehabilitative programs away from the main premises are now eligible for reimbursement as long as the rehabilitative program is approved by HCFA. Again, we have specified that approvals for rehabilitative locations are time-limited in nature in order to prevent the proliferation of unnecessary satellite units and the overreliance on the special exception intended for emergency and vacation locations.

2. "Types and duration of classification according to utilization rates." The special purpose facility must comply with the same requirements for minimal utilization rates (MUR) as any other approved dialysis facility. Due to the time-limited approval of special purpose dialysis facilities, the rate will be computed for the actual time that the facility is operational. A special purpose facility that does not meet established MUR may qualify for a time-limited exception to the rate under the criteria specified in 42 CFR § 405.2122(b).

3. "Special Purpose Renal Dialysis Facilities." This new condition adds a new type of approved dialysis facility which is designed to provide special rehibilitation services or emergency services. These types of units allow patients respite from severely restricted lifestyles by providing the opportunity to vacation in areas which have previously been inaccessible. These units also provide necessary services on an emergency, short term basis in cases where facility closings are due to natural disasters, strikes, or bankruptcies.

This regulation requires the special purpose facility to meet all conditions for dialysis facilities, with the exception of sections 405.2132, 405.2134, and 405.2137. Compliance with § 405.2132 (fulfillment of service needs in a network) is not required because of the short range, transient nature of the population to be served in such units. This requirement applies only to the ongoing permanent needs of the network to provide adequate services for the dialysis population residing within network boundaries, and as such, is not appropriate for special purpose facilities.

Compliance with § 405.2134 (membership in a network) is not required for basically the same reasons. The temporary nature of the facility and the high turnover of patients make membership in a network impractical and administratively burdensome. Moreover, since these facilities do not have responsibility for the long term care of their patients, we think that it is inappropriate for them to participate in setting and implementing network goals and objectives, particularly those for transplantation and home dialysis. We see these units as fulfilling important program goals and objectives such as patient rehabilitation. We expect to be able to collect whatever data are necessary to monitor their performance in fostering program goals and in providing quality care through the survey process and through the requirement of § 405.2133 for furnishing data and information for ESRD program administration.

In lieu of compliance with the requirements of § 405.2137 for patient long-term program and patient care plan, we are substituting a requirement which requires the special purpose renal dialysis facility to consult with the patient's physician. This is to assure that care provided in the special purpose facility is consistent with the program and plan maintained at the patient's permanent facility, as required under § 405.2137. In our opinion, this requirement assures continuity of care.

In developing our proposal for special purpose renal dialysis facilities, we considered requiring these facilities to operate directly under the auspices of a renal dialysis facility, approved under the present regulations. However, we were concerned that such a proposal might limit competition in providing special rehabilitative or emergency dialysis services. Since we are requiring special purpose dialysis facilities to meet all health and safety standards, we feel the need for a direct operating agreement with an approved dialysis facility is unnecessary. We are, of course, requiring that all special purpose facilities comply with the requirements of § 405.2160 that a renal dialysis facility have in effect an affiliation agreement or arrangement with a renal dialysis center for backup services.

We are limiting approval to 8 months in any given calendar year. This time limitation is necessary to emphasize the seasonal nature of such facilities, and to prevent unnecessary proliferation of, and possible abuse of, this category of approval. We do not think that these units need to operate for a longer period. Most of the special rehabilitative programs are designed to operate for only a limited period. In addition, the 8-month time frame is particularly important in the application of this provision in emergency situations. The 8-month time frame provides us with

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enough time to either arrange permanent alternative placement for patients or to successfully resolve the emergency, yet it is short enough to prevent possible abuse by parties seeking to provide dialysis services through overreliance on the special exception intended for emergency and vacation locations.

The final requirement relates to those patients who are treated in a special purpose facility. We only allow those patients who would be unable to be dialyzed in the area to be treated by the special purpose facility. The regulation prevents the proliferation of temporary units which would not be subject to the application processes applicable to regular facilities, and possibly take patients from operational facilities in the same geographical area. This regulation also essentially limits special purpose facilities to areas in which there are limited dialysis resources.

VII. Implementation, Effective Date, and Transition Period

Introduction

In the NPRM, we announced that we were planning to implement the prospective systems on the date the final regulations were published and that we would pay all facilities under this prospective reimbursement system for ESRD services furnished on or after the effective date of these final regulations, regardless of when their accounting periods begin.

Comment: A number of commenters stated that making the new system effective on the date of publication would result in chaos. Most intermediaries and facilities said they could not possibly adjust their operations immediately, and this would result in an interruption in payments.

Response: In light of the statutory effective date and the general ability of dialysis facilities to provide dialysis services at the rates adopted, we do not believe that is is necessary or appropriate to delay effectiveness of the new rates for an extended period of time. We have, however, changed the effective date to allow a period after the publication date, which should provide sufficient time for inefficient facilities to make some adjustment and to begin institution of any more basic changes that may be necessary. During that time, we will develop instructions and training classes for regional office, intermediary and carrier personnel, explaining how the new system will work. It will provide time for intermediaries and carriers to compute and notify facilities and physicians of their new payment rates, and to inform facilities of the new system. It will also allow some time for facilities to adjust their operation and billing systems. And finally during this period of time, we must notify all home dialysis beneficiaries of the new reimbursement system. They will be given opportunity to continue to deal directly with the program, as the majority are now doing, or to come under the composite rate system.

Comment: Several commenters recommended that the change-over to the new system be done gradually, to give facilities a chance to adjust, implement improved cost controls, and develop training and home programs.

Response: Originally, the incentive system was, by law, to be effective on July 1, 1979. The industry has known for a long time that reimbursement would change. Nevertheless, we are delaying implementation and limiting the effect of the wage index for the first two years. Facilities that have legitimate higher costs can request an exception.

VIII. Miscellaneous

A. Clearance of Reporting Requirements

Section 405.441 of these regulations contains reporting and recordkeeping requirements subject the Paperwork Reduction Act of 1980 (Pub. L. 96–511). These requirements are being implemented by cost reporting forms that have already been approved by the Office of Management and Budget. Since these requirements have been approved, § 405.441 will be effective with the other provisions of these regulations. Hospital-based dialysis facilities will fulfill these requirements by completing supplemental worksheet I of form HCFA 2552, their annual cost report (OMB approval number 0938–0050; effective for cost reporting periods beginning after December 8, 1980). Independent dialysis facilities will fulfill these requirements by completing their new annual cost report, form HCFA 265 (OMB approval number 0938–0236; effective for cost reporting periods ending after September 30, 1981).

B. Other Changes

The following regulations text includes sections not discussed in this preamble. We are only making conforming revisions to these sections, not substantive changes. Effective for cost reporting periods beginning after December 8, 1980, each hospital with a dailysis facility must include the costs of that facility on supplemental worksheet I. of its annual cost report. (Before that date, this information was reported on supplemental worksheet E.3.) Effective for cost reporting periods ending after September 30, 1981, each independent facility must file a new annual cost report (Form HCFA 265).

In addition to the changes made here, we have considered making a general reorganization of most regulations related to ESRD. For example, we could remove all ESRD rules from Subparts D and E, and place them instead in Subpart U, which includes regulations on ESRD networks and certifications standards. If we did this, we might also subdivide Subpart U with center headings such as those we have used in 42 CFR Part 405, Subpart T. Although we have not made these changes in these final rules, we believe this centralization of ESRD regulations would be helpful to those who must use them, and would appreciate comments on how best to do this, and on which regulations should be so centralized.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. 42 CFR Part 405, Subpart B is amended as set forth below:

The authority citation for Subpart B reads as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, 1871, 1881 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 301–312, 325, 327, 331, 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

1. Section 405.231 is amended by reprinting without change the introductory text of paragraph (p) and paragraphs (p)(1) through (p)(3) and revising paragraph (p)(4), to read as follows:

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

* * * * *

(p) Effective October 1, 1978, home dialysis services, supplies, and equipment, as follows:

(1) *Dialysis equipment,* purchase or rental, installation, and maintenance of all equipment necessary for home dialysis, and the reconditioning of this equipment. Dialysis equipment includes (but is not limited to) artificial kidney and automated peritoneal dialysis machines, and support equipment such as blood pumps, bubble detectors, and other alarm systems.

(2) *Items and supplies required for dialysis,* including (but not limited to) dialyzers, syringes and needles, forceps, scissors, scales, sphygmomanometer with cuff and stethoscope, alcohol wipes, sterile drapes, and rubber gloves.

(3) *Home dialysis support services furnished by an ESRD facility,* including periodic monitoring of the patient's home adaptation (in accordance with a plan as required by § 405.250(c)), emergency visits by qualified provider or facility personnel, routine dialysis monitoring tests specified in § 405.2163(b), routine diagnostic tests, routine diagnostic laboratory tests, personnel costs associated with the installation and maintenance of dialysis equipment, testing and appropriate treatment of water, and ordering of supplies on an ongoing basis.

(4) *Services of trained home aides,* if furnished before August 1, 1983, by a facility that has an agreement to receive target rate reimbursement under § 405.691; and

* * * * *

2. In section 405.240, the undesignated introductory paragraph is reprinted without change, paragraphs (g) and (h) are revised, and a new paragraph (i) is added, as follows:

§ 405.240 Payment of supplementary medical insurance benefits: amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

* * * * *

(g) One hundred percent of the reasonable cost for purchase, installation, maintenance, and reconditioning for subsequent use of home dialysis equipement furnished before August 1, 1983, by an ESRD facility that has an agreement with HCFA under § 405.690 (For equipment furnished on or after August 1, 1983, the equipment and services will be paid in accordance with paragraph (i) of this section.);

(h) Eighty percent of the target reimbursement rate for items and services furnished before August 1, 1983, by an ESRD facility that has an agreement with HCFA under § 405.691, except for items and services that are reimbursed under an agreement in accordance with paragraph (g) of this section (these items and services furnished on or after August 1, 1983, will be paid in accordance with paragraph (i) of this section.); and

(i) With regard to items and services specified in section 405.231, (o) and (p) furnished on or after August 1, 1983:

(1) Except as specified under paragraph (i)(2) of this section, eighty percent of the per treatment prospective reimbursement rate established under § 405.439 for outpatient maintenance dialysis furnished by ESRD facilities approved in accordance with Subpart U of this part.

(2) Where an individual who is a home dialysis patient elects to obtain his or her home dialysis supplies or equipment (or both) from a party other than an approved ESRD facility, then reimbursement is made in accordance with paragraphs (b) or (c) of this section.

B. 42 CFR Part 405, Subpart D is amended as set forth below:

The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

1. The table of contents for Part 405, Subpart D, is amended by revising the title of Subpart D, revising §§ 405.438 and 405.440, and adding new §§ 405.439 and 405.441, to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

* * * * *

Sec.

405.438 Reasonable costs of home dialysis equipment furnished between October 1, 1978, and July 31, 1983.

405.439 Payments for covered outpatient maintenance dialysis treatments.

405.440 Target rate reimbursement for home dialysis services furnished between April 1, 1979 and July 31, 1983.

405.441 Recordkeeping and cost reporting requirements for outpatient maintenance dialysis.

* * * * *

2. The title of Subpart D is revised to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

* * * * *

3. Section 405.402 is amended by revising paragraph (g) to read as follows:

§ 405.402 Cost reimbursement; general.

* * * * *

(g) The Health Care Financing Administration is authorized to issue temporary instructions modifying the provisions of this subpart to the extent it finds appropriate for cost reporting periods ending after June 30, 1973, in order to implement sections 201 (Coverage for Disability Beneficiaries Under Medicare) and 2991 (Chronic Renal Disease Considered to Constitute Disability) of Pub. L. 92–603. In so doing, rules may be developed for establishing limits on costs and services above which reimbursement shall be made only upon appropriate justification. Rules implementing these provisions of Pub. L. 92–603 apply for renal dialysis items and services furnished before August 1, 1983. Items and services furnished on or after that date are reimbursed and reported under §§ 405.439 and 405.441 respectively. For special rules concerning health maintenance organizations, (HMO's) and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

4. Section 405.438 is amended by revising the title and paragraphs (a) and (c)(5) to read as follows:

§ 405.438 Reasonable costs of home dialysis equipment furnished between October 1, 1978, and July 31, 1983.

(a) *Principle.* Effective for equipment furnished between October, 1, 1978 and July 31, 1983, approved providers of services and ESRD facilities that have an agreement with HCFA under § 405.690 of this part will be reimbused under Part B of Medicare for the full reasonable cost (without regard to the deductible and co-insurance) of the purchase, installation, maintenance, and reconditioning for subsequent use of artifical kidney and automated peritoneal dialysis machines, including supportive equipment (see § 405.231(p)), which are used exclusively by beneficiaries dialyzing at home. (See § 405.439 for rules applicable to equipment furnished on or after August 1, 1983.)

* * * * *

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(c) *Computation of allowable cost.*

* * * * *

(5) No allowance for depreciation may be taken on equipment purchased under this section (see § 405.415 for rule, specifying allowable depreciation costs).

* * * * *

5. A new § 405.439 is added to read as follows:

§ 405.439 Payments for covered outpatient maintenance dialysis treatments.

(a) *Basis and purpose.* This section implements section 1881 (b)(2) and (b)(7) of the Social Security Act by:

(1) Setting forth the principles and authorities under which HCFA is authorized to establish a prospective reimbursement system for outpatient maintenance dialysis furnished in or under the supervision of an ESRD facility approved under Subpart U of this part (referred to as "facility" in this section). For purposes of this section and § 405.441, outpatient maintenance dialysis means outpatient dialysis, home dialysis and self-dialysis and home dialysis training as defined in § 405.2102 (f)(2)(ii), (f)(2)(iii), and (f)(3), and includes all items and services specified in section 405.231 (o) and (p).

(2) Providing for procedures and criteria under which a facility may receive an exception to the prospective payment rates established under this section; and

(3) Establishing procedures and criteria for a facility to appeal its reimbursement under the prospective reimbursement system.

(b) *Principles of prospective reimbursement.*—(1) Under prospective reimbursement, payments for outpatient maintenance dialysis are based on rates set prospectively by HCFA.

(2) All approved ESRD facilities must accept the prospective payment rates established by HCFA as payment in full for covered outpatient maintenance dialysis.

(3) HCFA will publish the methodology used to establish rates and changes in payment rates in the **Federal Register**, as provided in paragraph (i)(2) of this section.

(c) *Prospective rates for hospital-based and independent ESRD facilities.*—(1) In accordance with section 1881(b)(7) of the Act, HCFA will establish prospective rates by a methodology that:

(i) Differentiates between hospital-based facilities and independent ESRD facilities;

(ii) Effectively encourages efficient delivery of dialysis services; and

(iii) Provides incentives for increasing the use of home dialysis.

(2) For purposes of rate-setting and reimbursement under this section, HCFA will consider any facility that does not meet all of the criteria of a hospital-based facility to be an independent facility. A determination under this paragraph is an initial determination under section 405.1502.

(3) For purposes of rate-setting and reimbursement under this section, HCFA will determine that a facility is hospital-based if—

(i) The facility and hospital are subject to the bylaws and operating decisions of a common governing board. All authority in management flows from this governing board, which has final administrative responsibility, approves all personnel actions, appoints medical staff, and carries out similar management functions.

(ii) The facility's director or administrator is under the supervision of the hospital's chief executive officer and reports through him or her to the governing board.

(iii) The facility personnel policies and practices conform to those of the hospital.

(iv) The administrative functions of the facility (that is, records, billing, laundry, housekeeping, and purchasing) are integrated with those of the hospital.

(v) The facility and hospital are financially integrated, as evidenced by the cost report, which must reflect allocation of overhead to the facility through the required step-down methodology.

(4) In determining whether a facility is hospital-based, HCFA will not consider:

(i) An agreement between a facility and a hospital concerning patient referral;

(ii) A shared service arrangement between a facility and a hospital; or

(iii) The physical location of a facility on the premises of a hospital.

(d) *Amount of payments.*—(1) If the beneficiary has incurred the full deductible applicable under Part B of Medicare before the treatment, the intermediary will pay the facility 80 percent of its prospective payment rate.

(2) If the beneficiary has not incurred the full deductible applicable under Part B of Medicare before the treatment, the intermediary will subtract the amount applicable to the deductible from the facility's prospective rate, and will pay the facility 80 percent of the remainder, if any.

(e) *Bad debts.*—(1) HCFA will reimburse each facility its allowable Medicare bad debts, up to the facility's costs as determined under Medicare principles, in a single lump sum at the end of the facility's cost reporting period.

(2) A facility must attempt to collect deductible and coinsurance amounts owed by beneficiaries before requesting reimbursement from HCFA for uncollectible amounts. Regulations at § 405.420 specify the efforts facilities must make.

(3) A facility must request reimbursement for uncollectible deductible and coinsurance amounts owed by beneficiaries by submitting an itemized list of all specific non-collections related to covered services.

(f) *Procedures for requesting exceptions to payment rates.*—(1) All payments for outpatient maintenance dialysis furnished at or through facilities will be made on the basis of prospective payment rates, without exemption.

(2) If a facility projects on the basis of prior year cost and utilization trends that it will have an allowable cost per treatment higher than its prospective rate set under this section, and if these excess costs are attributable to factors related to one or more of the criteria in paragraph (g) of this section, the facility may request HCFA to approve an exception to that rate and set a higher prospective payment rate.

(3) This higher payment rate will be subject to the rules governing the amount of payment in paragraph (d) of this section.

(4) A facility must request an exception to its payment rate within 180 days after:

(i) It is notified of its prospective payment rate; or

(ii) An extraordinary event with substantial cost effects, as described in paragraph (g)(4) of this section.

(5) The facility is responsible for demonstrating to HCFA's satisfaction that the requirements of this section, including the criteria in paragraph (g), are met in full. That is, the burden of proof is on the facility to show that one or more of the criteria are met, and that the excessive costs are justifiable under the reasonable cost principles set forth in this subpart. The burden of proof is not on HCFA to show that the criteria are not met, and that the facility's costs are not allowable.

(6) When requesting an exception to its payment rate, a facility must submit to HCFA its most recently completed cost report as required under § 405.441, and whatever statistics, data, and budgetary projections are determined by HCFA to be needed to determine if the exception is approvable. HCFA may audit any cost report or other information submitted. The materials submitted to HCFA must:

(i) Separately identify elements of cost contributing to costs per treatment in excess of the facility's payment rate;

(ii) Show that all of the facility's costs, including those costs that are not directly attributable to the exception criteria, are allowable and reasonable under the reasonable cost principles set forth in this subpart.

(iii) Show that the elements of excessive cost are specifically attributable to one or more conditions specified by the criteria set forth in paragraph (g) of this section; and

(iv) Specify the amount of additional reimbursement per treatment the facility believes is required in order to recover its justifiable excess costs.

(7) HCFA will accept an exception request on the date that HCFA concludes that it has received all materials necessary to determine if the exception is approvable.

(8) In determining the facility's payment rate under the exception process, HCFA will exclude all costs that are not allowable under the reasonable cost principles set forth in this subpart.

(9) Except for exceptions approved under paragraph (g)(4) of this section, a prospective exception payment rate approved by HCFA will apply for the period from the date the exception request was accepted until the earlier of:

(i) The date the circumstances justifying the exception rate no longer exist, or

(ii) The end of the 12-month period during which the announced rate was to apply.

(10) A prospective exception payment rate approved by HCFA under paragraph (g)(4) of this section will apply from the date of the extraordinary event until the end of the 12-month period during which the announced rate was to apply, unless HCFA determines that another date is more appropriate. If HCFA does not extend the exception period, and the facility believes that it continues to require an exception to its rate, the facility must reapply in accordance with paragraph (f) of this section.

(g) *Criteria for approval of exception requests.* HCFA may approve exceptions to an ESRD facility's prospective payment rate if the facility demonstrates with convincing objective evidence that its total per treatment costs are reasonable and allowable under § 405.441, and that its per treatment costs in excess of its payment rate are directly attributable to any of the following criteria—

(1) *Atypical service intensity (patient mix).* A substantial proportion of the facility's outpatient maintenance dialysis treatments involve atypically intense dialysis services, special dialysis procedures, or supplies that are medically necessary to meet special medical needs of the facility's patients. The facility is able to demonstrate clearly that these services, procedures or supplies and its per treatment costs are prudent and reasonable when compared to those of facilities with a similar patient mix. Examples that may qualify under this criterion are more intense dialysis services that are medically necessary for patients such as:

(i) Patients who have been referred from other facilities on a temporary basis for more intense care during a period of medical instability, and who return to the original facility after stabilization;

(ii) Pediatric patients, who require a significantly higher staff-to-patient ratio than typical adult patients; or

(iii) Patients with medical conditions that are not commonly treated by ESRD facilities, and that complicate the dialysis procedure.

(2) *Isolated essential facility.* The facility is the only supplier of dialysis in its geographical area, its patients cannot obtain dialysis services elsewhere without substantial additional hardship, and its excess costs are justifiable. HCFA will consider local permanent residential population density, typical local commuting distances for medical services, volume of treatments, and dialysis facility usage by area residents other than the applying facility's patients, in determining whether an exception requested on this basis is approvable.

(3) *Education costs.* The facility has excess costs attributable to an approved nursing education program or intern-resident program as specified in 42 CFR 405.421. The amount of the increase in the facility's rate is limited to the amount that is properly allocated to the outpatient dialysis department, and to what is reasonable when compared to the costs of other similar facilities that have educational programs.

(4) *Extraordinary circumstances.* The facility incurs excess costs beyond its control due to a fire, earthquake, flood, or other natural disaster. HCFA will not recognize such costs in cases when a facility chose not to maintain adequate insurance protection against such losses (through the purchase of insurance, the maintenance of a self-insurance program, or other equivalent alternative) or chose not to file a claim for losses covered by insurance, or not to utilize its self-insurance program.

(5) *Self-dialysis Training Costs.* The facility incurs per treatment costs for furnishing self-dialysis and home dialysis training that exceed the facility's payment rate for such training sessions.

(6) *Frequency of Dialysis.* The facility has a substantial proportion of patients who dialyze less frequently than three times per week. Per treatment payment rates granted under this exception will be no more than the amount that results in weekly reimbursement per patient equal to three times the facility's prospective composite rate, exclusive of any exception amounts.

(h) *Appeals.*—(1) *Appeals under section 1878 of the Act.* A facility that disputes the amount of its allowable Medicare bad debts reimbursed by HCFA under paragraph (e) of this section may request a review from the intermediary or the Provider Reimbursement Review Board (PRRB) in accordance with subpart R of this part.

(2) *Other Appeals.* A facility that has requested higher payment per treatment in accordance with paragraph (f) of this section may request a review from the intermediary of the PRRB if HCFA has denied the request in whole or in part. In such a case, the procedure in subpart R of this part will be followed to the extent that it is applicable. THE PRRB, subject to review by the Secretary under § 405.1875, shall have the authority to determine whether the HCFA action under review conformed to the provisions of paragraph (f).

(3) *Procedure.*—(i) The facility must request a review within 180 days of the date of the decision on which review is sought.

(ii) The facility may not submit to the intermediary or the PRRB any additional information or cost data that were not submitted to HCFA at the time the facility requested an exception to its prospective payment rate.

(4) *Determining amount in controversy.* For purposes of determining PRRB jurisdiction under Subpart R for the appeals described in paragraph (h)(2) of this section—

(i) The amount in controversy per treatment will be determined by subtracting the amount of program payment from the amount the facility requested under paragraph (f) of this section; and

(ii) The total amount in controversy will be calculated by multiplying the amount per treatment by the projected estimated number of treatments for the exception request period (as specified in paragraphs (f) (7) and (8) of this section).

(i) *Notification of changes in rate-setting methodologies and payment rates.*

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(1) HCFA or the facility's intermediary will notify each facility annually of its payment rate. This notice will include changes in individual facility payment rates resulting from corrections or revisions of particular geographic labor cost adjustment factors.

(2) Changes in payment rates resulting from incorporation of updated cost data, or general revisions of geographic labor cost adjustment factors, will be announced by notice published in the **Federal Register** without opportunity for prior public comment. Other revisions of the rate-setting methodology will be published in the **Federal Register** in accordance with the Department's established rulemaking procedures.

6. Section 405.440 is amended by revising the title and paragraphs (a) and (g)(1) to read as follows:

§ 405.440 Target rate reimbursement for home dialysis services furnished between April 1, 1979 and July 31, 1983.

(a) *Purpose.* This section is effective for items and services furnished between April 1, 1979 and July 31, 1983. (After that period, payment is made under § 405.439.) This section implements section 1881(b) (4) and (6) of the Social Security Act by specifying:

(1) The conditions under which approved ESRD facilities and providers may receive payment for home dialysis services (as specified in § 405.231(p)) under an optional target reimbursement rate per treatment; and

(2) How the target rate will be determined and applied.

* * * * *

(g) *Limitations on rate.* (1) For service furnished before January 1, 1982, the target reimbursement rate shall not exceed 70 percent of the national average payment before application of the coinsurance requirement, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year. For services furnished on or after January 1, 1982, the rate shall not exceed 75 percent of the national average payment.

* * * * *

7. A new § 405.441 is added to read as follows:

§ 405.441 Recordkeeping and cost reporting requirements for outpatient maintenance dialysis.

(a) *Purpose and scope.* This section implements section 1881(b)(2)(B)(i) of the Act by specifying recordkeeping and cost reporting requirements for ESRD facilities approved under Subpart U of this part. The records and reports will enable HCFA to determine the costs incurred in furnishing outpatient maintenance dialysis as defined in section 405.439(a)(1). These reporting requirements have been approved by the Office of Management and Budget. The approval numbers are 0938–0050, for form HCFA–2552, and 0938–0236 for form HCFA–265.

(b) *Recordkeeping and reporting requirements.*

(1) Each facility must keep adequate records and submit the appropriate HCFA-approved cost report in accordance with §§ 405.406 and 405.453, which provide rules on financial data and reports, and adequate cost data and cost finding, respectively.

(2) The cost reimbursement principles set forth in this subpart (beginning with § 405.415, Depreciation, and excluding the principles listed in paragraph (b)(4) of this section), apply in the determination and reporting of the allowable cost incurred in furnishing outpatient maintenance dialysis treatments to patients dialyzing in the facility, or incurred by the facility in furnishing home dialysis services, supplies, and equipment.

(3) Allowable cost is the reasonable cost related to dialysis treatments. Reasonable cost includes all necessary and proper expenses incurred by the facility in furnishing the dialysis treatments, such as administrative costs, maintenance costs, and premium payments for employee health and pension plans. It includes both direct and indirect costs and normal standby costs. Reasonable cost does not include costs that:

(i) Are not related to patient care for outpatient maintenance dialysis;

(ii) Are for services or items specifically not reimbursable under the program;

(iii) Flow from the provision of luxury items or services (items or services substantially in excess of or more expensive than those generally considered necessary for the provision of needed health services); or

(iv) Are found to be substantially out of line with other institutions in the same area that are similar in size, scope of services, utilization, and other relevant factors.

(4) The following principles of this subpart do not apply in determining adjustments to allowable costs as reported by ESRD facilities:

(i) Section 405.429, Return on equity capital of proprietary providers;

(ii) Section 405.430, Inpatient routine nursing salary cost differential;

(iii) Section 405.436, Reimbursement of organ procurement agencies (OPA) and histocompatibility laboratories;

(iv) Section 405.451, Cost related to patient care (except for the principles stated in paragraph (b)(3) of this section); and

(v) Sections 405.454, Payment to providers, through § 405.488, Effect of principles.

C. 42 CFR Part 405, Subpart E is amended as set forth below:

1. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842(b) and (h), 1861(b), 1861(v), 1871, 1881, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395(a), 1395u(b) and (h), 1395(b), 1395x(v), 1395hh, 1395rr, and 1395xx).

2. The table of contents for Part 405, Subpart E is amended by revising §§ 405.541 and 405.544, to read as follows:

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

* * * * *

405.541 Criteria for determination of reasonable charges for items and services furnished by nonprovider ESRD facilities before August 1, 1983.

* * * * *

405.544 Payment for home dialysis equipment, supplies, and support services.

* * * * *

3. Section 405.502 is amended by revising paragraph (e) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(e) *Determination of reasonable charges under the End-Stage Renal Disease (ESRD) Program.*—(1) *General.* Reasonable charges for renal-related items and services (furnished in connection with transplantation or dialysis) must be related to costs and allowances that are reasonable when the treatments are furnished in an effective and economical manner.

(2) *Nonprovider (independent) dialysis facilities.* Reasonable charges for renal-related items and services furnished before August 1, 1983 must be determined related to costs and charges prior to July, 1973, in accordance with the regulations at § 405.541. Items and services related to outpatient maintenance dialysis that are furnished after that date are paid for in accordance with §§ 405.439 and 405.544.

(3) *Provider services and (hospital-based) dialysis facilities.* Renal-related items and services furnished by providers, or by ESRD facilities based in hospitals, before August 1, 1983 are paid for under the provider reimbursement

provisions found generally in Subpart D of this part. Items and services related to outpatient maintenance dialysis that are furnished after that date are paid for in accordance with §§ 405.439 and 405.544.

(4) *Physicians' services.* Reasonable charges for renal-related physicians' services must be determined considering charges made for other services involving comparable physicians' time and skill requirements, in accordance with regulations at §§ 405.542 and 405.543.

(5) *Health maintenance organizations (HMOs).* For special rules concerning the reimbursement of ESRD services furnished by risk-basis HMOs, or by facilities owned or operated by or related to such HMOs by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

* * * * *

4. Section 405.541 is amended by revising the title, removing the undesignated introductory material and revising paragraphs (a), (e) and (f) to read as follows:

§ 405.541 Criteria for determination of reasonable charges for items and services furnished by nonprovider ESRD facilities before August 1, 1983.

(a) *Determination of a facility's customary charge.*

(1) This section applies to payment for items and services furnished by a nonprovider (independent) ESRD facility after June 30, 1973 and before August 1, 1983. (Payment for items or services furnished on or after that date will be made under §§ 405.439 and 405.544.) This section applies in place of the reasonable charge criteria in § 405.503.

(2) The customary charge of a facility for outpatient maintenance dialysis is determined based on the weighted average of reimbursements from all parties made to the facility for dialysis treatments furnished during the 12-month period preceding July 1, 1973.

(3) If a customary charge cannot be determined in this basis because the facility was not in operation during the 12-month period preceding July 1, 1973, the reimbursable amount will be determined considering the facility's proposed schedule of charges and the charges of comparable facilities in the area.

(4) Whichever method is used to determine a facility's customary charge, the amount payable is subject to the limitation described in paragraphs (b) and (c) of this section.

* * * * *

(e) *Adjustment of reimbursable amount in case of unusual hardship.* Before August 1, 1983, a facility which can demonstrate unusual hardship because of the amount of payment made under the ESRD program may submit documentation of its costs and request a determination with respect to an equity adjustment in the payment. For rules governing exceptions to payment rates effective after that date, see § 405.439(f).

(f) *Required cost data.*—(1) Nonprovider ESRD facilities are required to furnish adequate cost information, in accordance with section 1833(e) of the Act (42 U.S.C. 1395(e)). This information will be used for the following purposes:

(i) Determination of rates of reimbursement for outpatient maintenance dialysis treatments and other reasonable and medically necessary services furnished in connection with these treatments.

(ii) Justification of requests made for adjustments in reimbursement rates under paragraph (e) of this section.

(iii) Accumulation of data for overall program evaluation.

(2) The cost information required under paragraph (f)(1) of this section shall be furnished by the nonprovider facilities in accordance with the cost reporting, recordkeeping, and audit requirements set forth in § 405.406.

(3) This requirement applies to all cost reporting periods ending before August 1, 1983. For cost reporting rules that apply to reporting periods ending on or after that date, see § 405.441.

(5) Section 405.542 is amended by revising the undesignated introductory material and redesignating it as paragraph (a), and revising and redesignating subsequent paragraphs. As revised, § 405.542 reads as follows:

§ 405.542 Criteria for determination of reasonable charges for physicians' services rendered to renal dialysis patients.

(a) *Principle.* Physicians' services to renal dialysis patients are reimbursable if the services are otherwise covered by the Medicare program and if they are reasonable and medically necessary. Physicians' services furnished between July 1, 1973 and July 31, 1983 may be reimbursed under either the "Initial Physician Reimbursement Method" described in paragraph (b) of this section or, if the physician so elects, under the "Physician Monthly Capitation Payment Method" described in paragraph (c) of this section. Physicians' services furnished on or after August 1, 1983 are reimbursable only under the monthly capitation method as described in paragraph (c) of this section. This section applies to all physicians' services furnished to outpatient maintenance dialysis patients in either a nonprovider (independent) or a provider (hospital-based) ESRD facility, or to patients dialyzing at home.

(b) *Initial physician reimbursement method, effective for services furnished before August 1, 1983.* Under this method, supervisory services, as defined in paragraph (b)(1) of this section, provided by physicians to outpatient maintenance dialysis patients are reimbursable to the facility by the intermediary as a facility service part of the dialysis session if the physician has actually furnished the service. Physicians' administrative services are considered to be facility costs (see paragraph (b)(2) of this section) included in the rates of payment for dialysis treatments and are reimbursable to the facility. Nonroutine services rendered to patients during and related to the dialysis procedure (see paragraph (b)(3)(i) of this section) and services which must be rendered at a time other than during the dialysis procedure (see paragraph (b)(3)(ii) of this section) are reimbursable to the physician (or to the beneficiary) by the carrier in accordance with the reasonable charge criteria set forth in § 405.502 (a) through (d). Physicians' services rendered to hospital inpatients who were not admitted solely to receive maintenance dialysis and to patients who are self-dialyzing at home are also reimbursable under these reasonable charge criteria.

(1) *Supervisory services defined.* Supervisory services for patients who are receiving maintenance dialysis or self dialysis training in a facility are those physicians' services which are related to the care of the patient and the need for medical management over the period of time the patient is on maintenance or training dialysis. They are non-episodic services which are furnished during the dialysis session; they reflect the facility's responsibility to provide services under the general supervision of a physician. They include all patient care services not specifically defined as nonroutine in paragraph (b)(3)(i) of this section. Supervisory services include, at least all of the following when medically appropriate:

(i) Being available to patients and to staff for consultation on the care of the patients;

(ii) Overseeing the performance of dialysis on individual patients, including but not limited to review of laboratory tests and adjustments of dialysis procedures;

(iii) Monitoring the patient's medical status and vital signs, including needed adjustments in medications;

(iv) Determining the need for supplies and medications and authorizing them;

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(v) Reviewing dietary issues and modifying dietary control as needed;
(vi) Evaluating the appropriateness of the patient's proposed treatment modality;
(vii) Reviewing psychosocial issues;
(viii) Making pre- and post-dialysis examinations where medically appropriate; and
(ix) Repeated insertions of a catheter for patients on maintenance peritoneal dialysis who are not provided an indwelling catheter

(2) *Administrative services defined.* The administrative services that are rendered by physicians and that are directly related to the support of the facility are a part of the facility's cost or charge for dialysis. These services are differentiated from supervisory services and other physicians' services related to patient care because they are not related directly to the patient's care, but are of benefit to all of the patients as a whole as well as to the facility. Examples of such services include staff training, participating in the management of the facility, advising on procurement of facility supplies, supervising staff for other than direct patient care services, and staff conferences.

(3) *Services not included in supervisory or administrative services.* Physician services not considered as supervisory services (or administrative services) are:

(i) Services rendered during dialysis which are nonroutine i.e., declotting of shunts, needle insertions into fistulae, supervision of blood transfusions, care during immediately life-threatening complications related to the dialysis procedure, and care of nonrenal conditions; and (ii) services which must be rendered at a time other than during the dialysis procedure, e.g., monthly and semi-annual examinations to review health status and treatment.

(c) *Physician monthly capitation payment method.* All physician services, other than those specified in paragraph (c)(1) of this section, rendered to each outpatient maintenance dialysis patient (regardless of the patient's mode of or setting for dialysis) will be reimbursed by the carrier on a monthly capitation basis. Payment of the monthly amount, subject to the deductible and coinsurance, for all such services provided for that month is made by the carrier either to the physician, if the physician accepts assignment, or to the patient, if the physician does not accept assignment. This reimbursement method recognizes the need of patients on maintenance renal dialysis for continuing medical management over relatively long periods of time, and is responsive to physicians' charging patterns in their localities. The physician must provide to a patient all physician services not listed in paragraph (c)(1) of this section that are required by the patient in a month to qualify for this reimbursement in that month.

(1) *Services not included in monthly payment.* Physician services not covered by the monthly payment, which may be reimbursed in accordance with the usual reasonable charge rules, are limited to:

(i) Declotting of shunts.

(ii) Covered physicians' services furnished by another physician during periods when the patient or his attending physician is not available for outpatient services as set out in paragraph (c)(3) of this section.

(iii) Needed physician services which are rendered either by the physician providing renal care or by another physician and which are beyond those related to the treatment of the patient's renal condition and which are not incidental to services during a dialysis session or office visit necessitated by the renal conditions. The physician should provide documentation that the illness is not related to the renal condition and that added visits are required. The carrier's medical staff, acting also on the basis of medical consultation obtained by the carrier as may be appropriate, determines whether additional reimbursement is warranted for treatment of the unrelated illness.

(iv) Covered physician services furnished to hospital inpatients by a physician who elects not to continue the capitation payment method through the period of the inpatient stay.

(2) *Reduction of monthly payment.* The monthly payment amount is reduced in proportion to the number of days the patient is: hospitalized and the physician elects to bill separately for services furnished during hospitalization; or not attended by the physician or his or her substitute for any reason, including when the physician is not available to provide patient care or when the patient is not available to receive such care.

3. *Determination of monthly payment amount.* The factors used in determining the monthly payment amounts will be related to program experience and to the charging practices of comparable physicians for comparable services. The factors will be reevaluated periodically on the basis of program experience and may be adjusted as necessary to reflect changes in these charging practices and modes of furnishing services and to assure fairness. Revisions to the monthly amounts will be published in the **Federal Register** in accordance with the Department's established rulemaking procedures.

(d) *Physician reimbursement for self-dialysis and home dialysis training.* Reimbursement for physicians' services rendered to dialysis patients undergoing self-dialysis and home dialysis training will be limited to a flat amount, to be determined from program experience—and reviewed periodically—for each patient under the physician's supervision during the training course, subject to the deductible and coinsurance provisions. Payment will be made upon completion of the training course, and will be in addition to any amounts payable under either of the reimbursement methods, described in paragraphs (b) and (c) of this section, for physicians' services rendered to a renal dialysis patient. Where the training course is not completed, e.g., the patient can no longer be trained, payment will be proportionate to the time spent in training. All those physicians' services determined to be required to create the capacity for self-dialysis and home dialysis are covered by this payment.

6. Section 405.544 is revised to read as follows:

§ 405.544 Payment for home dialysis equipment, supplies, and support services

(a) *Equipment and supplies.*—(1) Equipment and supplies furnished to patients before August 1, 1983:

(i) Are reimbursable on a reasonable cost basis in accordance with Subpart D of this part if they are furnished by an ESRD facility that does not have an agreement with HCFA under §§ 405.690 (for purchase, installation, maintenance, and reconditioning of home dialysis equipment) or 405.691 (for target rate reimbursement for home dialysis services); or

(ii) Are reimbursable on a reasonable charge basis in accordance with § 405.502 (a) through (d) if they are not furnished by or through an ESRD facility.

(2) Equipment and supplies furnished to patients on or after August 1, 1983:

(i) Are reimbursable only under the prospective payment rates established under § 405.439, except as provided in paragraphs (a)(2)(ii) or (a)(2)(iii) of this section;

(ii) Are reimbursable to a party other than an approved ESRD facility on a reasonable charge basis in accordance with § 405.502 (a) through (d) if the home dialysis patient elects, in accordance with procedures established by HFCA, to obtain his or her home dialysis equipment, supplies, or both from a supplier other than an approved ESRD facility. If the home dialysis patient elects to obtain either equipment or supplies, but not both, from a supplier other than an approved ESRD facility, then the one obtained through the approved ESRD facility is reimbursable on a reasonable cost basis in accordance with Subpart D of this part; or

(iii) If equipment is furnished under an agreement under § 405.690 (for purchase, installation, maintenance, and reconditioning of home dialysis equipment), the equipment and related services are reimbursable on a reasonable cost basis under § 405.436. In this case supplies are reimbursable on the basis of prorated prospective payment rates established under § 405.439, unless paragraph (a)(2)(ii) of this section applies.

(b) *Support services.*—(1) Support services furnished to patients before August 1, 1983:

(i) Are reimbursable on a reasonable cost basis in accordance with Subpart D of this part if they are furnished by a hospital-based ESRD facility that does not have an agreement with HCFA under section 405.691 (for target rate reimbursement for home dialysis services); or

(ii) Are reimbursable on a reasonable charge basis in accordance with § 405.502 (a) through (d) if they are furnished by an independent ESRD facility that does not have an agreement with HCFA under section 405.691 (for target rate reimbursement for home dialysis services).

(2) Support services furnished to patients on or after August 1, 1983:

(i) Are reimbursable only under the prospective payment rates established under § 405.439, except as provided in paragraph (b)(2) (ii) or (iii) of this section;

(ii) If the patient elects to obtain his or her home dialysis equipment, supplies, or both as described in paragraph (a)(2)(ii) of this section, support services furnished to the patient by a hospital-based ESRD facility are reimbursable on a reasonable cost basis in accordance with Subpart D of this part, and support services furnished by an independent ESRD facility are reimbursable on a reasonable charge basis in accordance with § 405.502 (a) through (d); or

(iii) If equipment is reimbursable under paragraph (a)(2)(iii) of this section, then support services are reimbursable on the basis of prorated prospective payment rates established under § 405.439 unless paragraph (b)(2)(ii) of this section applies.

D. 42 CFR Part 405, Subpart F is amended as follows:

1. The authority citation for Subpart F is revised to read as follows:

Authority: Secs. 1102, 1816, 1842, 1861(u), 1864, 1866, 1871, and 1881 of the Social Security Act, 49 Stat. 647 as amended, 79 Stat. 297–299, 79 Stat. 309–312, 79 Stat. 322; 79 Stat. 326; 79 Stat. 327–329; 79 Stat. 331; 80 Stat. 849; 81 Stat. 852; 81 Stat. 863; 81 Stat. 942; 42 U.S.C 1302, 1395 et seq., unless otherwise noted.

2.The table of contents for Part 405, Subpart F is amended by revising § 405.690 and 405.691, to read as follows:

Subpart F—Notice, Election and Agreements

* * * * * *

405.690 Agreement with ESRD facilities for reimbursement without regard to deductibles and coinsurance for home dialysis equipment furnished before August 1, 1983.

405.691 Agreements with approved providers or ESRD facilities for reimbursement on a target reimbursement rate basis for home dialysis supplies, equipment, and support services furnished before August 1, 1983.

3. Section 405.690 is amended by revising the titles and the undesignated introductory paragraphs as follows:

§ 405.690 Agreements with ESDR facilities for reimbursement without regard to deductibles and coinsurance for home dialysis equipment furnished before August 1, 1983.

As provided by section 1881(e) of the Act and § 405.438 of this part, HCFA may make agreements with approved ESRD providers and facilities to reimburse them for the reasonable cost of furnishing home dialysis equipment and supplies specified in § 405.231(p)(1), without regard to deductible and coinsurance provisions of this part. These agreements are effective only for equipment furnished before August 1, 1983.

* * * * * *

4. Section 405.691 is amended by revising the title and paragraph (a), and removing paragraph (c) through (e), as follows:

§ 405.691 Agreements with approved providers or ESRD facilities for reimbursement on a target reimbursement rate basis for home dialysis supplies, equipment, and support services furnished before August 1, 1983.

(a) *General requirement.* As provided by section 1881(b)(4) and (5) of the Act and § 405.440 of this part, HCFA may execute agreements for reimbursement on a target reimbursement rate basis with approved providers or ESRD facilities which demonstrate their ability to furnish efficiently the full scope of services, including where necessary, the services of trained home dialysis aides as specified in § 405.231(p)(4). The agreement shall be effective with respect to services rendered on or after the date it is accepted by HCFA. (See § 405.440 for conditions for target rate reimbursement, and § 405.439 for payment for renal dialysis, services on or after August 1, 1983.)

* * * * * *

E. 42 CFR Part 405, Subpart U is amended as set forth below:

The authority citation for Subpart U reads as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 Social Security Act; 49 Stat. 647, as amended, 79 Stat. 325, 331, 332, and 340; 42 U.S.C. 625(g), 1302, 1395x, 1395y (a), 1995hh, 1395kk, and 1395rr unless otherwise noted.

1. The table of contents for Part 405, Subpart U is amended by adding new § 405.2164 to read as follows: Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

* * * * * *

405.2164 Conditions for coverage of special purpose renal dialysis facilities.

* * * * * *

2. Section 405.2102 is amended by adding paragraph (e)(5) and revising paragraph (h) as follows:

§ 405.2102 Definitions.

* * * * * *

(e) *ESRD facility.*

* * * * * *

(5) *Special purpose renal dialysis facility.* A renal dialysis facility which is approved under § 405.2164 to furnish dialysis at special locations on a short-term basis to a group of dialysis patients otherwise unable to obtain treatment in the geographical area. The special locations must be either special rehabilitative (including vacation) locations serving ESRD patients temporarily residing there, or locations in need of ESRD facilities under emergency circumstances.

* * * * * *

(h) *Furnishes on the Premises.* The ESRD facility furnishes services on its main premises; or on its other premises that are (1) contiguous with or in immediate proximity to the main premises, and under the direction of the same professional staff and governing body as the main premises, or (2) approved on a time-limited basis as a special purpose renal dialysis facility.

* * * * * *

3. A new section 405.2164 is added to read as follows:

§ 405.2164 Conditions for coverage of special purpose renal dialysis facilities.

(a) A special purpose renal dialysis facility must comply with all conditions

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for coverage for renal dialysis facilities specified in §§ 405.2130 through 405.2164, with the exception of §§ 405.2132, 405.2134, and 405.2137.

(b) A special purpose renal dialysis facility must consult with a patient's physician to assure that care provided in the special purpose dialysis facility is consistent with the patient's long-term program and patient care plan required under § 405.2137.

(c) The period of approval for a special purpose renal dialysis facility may not exceed 8 calendar months in any calendar year.

(d) A special purpose renal dialysis facility may provide services only to those patients who would otherwise be unable to obtain treatments in the geographical areas served by the facility.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 22, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: March 23, 1983.

Margaret M. Heckler,

Secretary.

Note.—Appendices I and II will not appear in the Code of Federal Regulations.

Appendix I—Regulatory Impact and Flexibility Analysis

A. Introduction

Executive Order 12291. E.O. 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" would:

- Have an annual effect on the national economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

We estimate that several alternatives of the prospective reimbursement system could reduce Federal Government expenditures by 100 million dollars or more in the first 12 months of implementation. Further, nearly all alternatives would result in significantly reduced gross revenues for the ESRD dialysis service industry. We believe that the incentives established by these regulations will strongly benefit competition, productivity and innovation.

Regulatory Flexibility Act of 1980. The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. If a regulation would have a significant impact on a substantial number of small entities, we must publish an analysis describing that impact. This analysis must indicate the purpose and reason for the regulations, the number of small businesses to which it would apply, reporting and recordkeeping requirements, possible overlap and conflict with other Federal rules, and a description of possible alternative means of accomplishing the stated objectives.

The average reported annual costs of the independent facilities in our audit sample was $1.3 million. The average reported costs for sampled hospitals was $.76 million. None had over 100 employees. Since most dialysis facilities, both independent and hospital-based, are small, and since this regulation will impact significantly these facilities, a regulatory flexibility analysis must be performed.

Paperwork Reduction Act. The Paperwork Reduction Act (Pub. L. 96-511) requires that all reporting and recordkeeping requirements contained in both new and existing regulations minimize the burden on persons who will provide information. Since this regulation includes reporting and recordkeeping requirements, the following analysis deals with these matters in conjunction with the other impacts expected of the prospective reimbursement system.

B. Nature of the Program

The Social Security Amendments of 1972 (Pub. L. 92-603) provided Medicare coverage for end-stage renal disease (ESRD) patients who meet certain entitlement requirements. Benefits include kidney transplants and other necessary hospitalization and maintenance dialysis treatments performed in a dialysis facility or in the patient's home.

A number of studies and public hearings indicate that the program has been generally successful in protecting renal disease patients against the catastrophic costs of needed care. However, the major problem of the ESRD program is its increasing expenditures, caused in large part by: (1) The high rates Medicare pays for dialysis in facilities; (2) the lack of incentives to encourage Medicare patients to opt for less expensive methods of treatment such as kidney transplants and home dialysis; (3) significant growth in the ESRD population, and (4) the repetitive nature of the treatment for a chronic condition.

ESRD program payments from the Supplementary Medical Insurance Trust Fund have climbed steadily to more than 9 percent of total Medicare Part B benefit payments in 1979. Thus, as of 1979, a relatively large portion of Medicare Part B benefits went to only about 50,000 ESRD beneficiaries, while the remainder was distributed among more than 23 million mostly aged beneficiaries.

Characteristics of the ESRD Industry. This industry was virtually created by the 1972 legislation. Before 1972 there were only around 200 ESRD facilities throughout the country providing outpatient maintenance dialysis services. Today there are over 1200. These facilities are largely dependent on Federal government payments for their existence. Over 90 percent of all dialysis patients are Medicare beneficiaries. The Medicare program pays 80 percent of the cost or charge of outpatient dialysis for these patients. Additional Federal money is infused into the ESRD industry through the State Medicaid programs. Most of the State Medicaid programs pay the remaining 20 percent of the facility cost or charge for those patients that meet their eligibility requirements.

Within this framework, however, two different approaches to service delivery have developed—hospital-based units and independent facilities. While their respective shares of the market are almost equal, there are distinct differences between the two types of suppliers.

For example, hospital-based units are smaller on the average than independent facilities. Our 1980 audit data indicate the average number of stations is 7.5 per hospital facility and 13.2 for independents. Similarly, the average output, in terms of treatments per unit, for hospitals was slightly over half of the average output per independent facility. Thus, while the total output is similar, the individual units used to produce services consist of many small producers in the case of hospitals, and fewer but larger independent producers. They also differ in the proportion of their home dialysis patients, with 23.5 percent of hospital-based and 10.5 percent of independent patients dialyzing at home.

Another important distinction lies in the geographic distribution of facilities. Independents tend to locate in certain geographic areas, whereas the hospital sector is more evenly dispersed. 1982 data show that 50 percent of all independents are located in six States (California, Florida, Pennsylvania, Virginia, Texas and Illinois). Nine States, mostly with less urbanized areas, have no independent facilities.

Because of the uneven distribution of independents, any prospective reimbursement system will have varying impacts depending on location. The most obvious example would be a State, such as South Dakota, which has no independent facilities and a low area wage index. If there were no exception process, this combination of factors could result in dire consequences for beneficiaries if the proposed rate was insufficient to permit hospitals to continue furnishing dialysis services.

There are also significant geographic differences in furnishing home dialysis. Certain States have a much greater percentage of their patients dialyzing at home, compared to other States. Sometimes there are dramatic differences between contiguous States. For example, Washington has 54 percent of its patients on home dialysis, while California has only 9 percent, and Indiana has a 44 percent home population as compared to 6 percent in Illinois. In addition, some States, such as New York and Maryland, have established programs that furnish all necessary supplies and equipment for home patients.

We would have liked to analyze quantitatively the relative geographic effect of the prospective reimbursement system, but, as noted elsewhere, we do not have enough cost data on independent facilities, and we have no useful information on the effect of paying hospitals less than the current screen of $138 per treatment.

Contrast between hospitals and independents is also apparent in the recent growth in the number of independent producers entering the market, where the hospital sector has shown little change:

	1978	1979	1980	September 1981	September 1982
Hospital facilities	638	645	649	654	691
Independents	275	330	405	466	514

The financial structure of the competing suppliers is also dissimilar. Over three-fourths of all independents are private, for-profit entities, while only 5 percent of hospital units fall into this category.

Finally, over half of the independent facilities are members of chain organizations. The largest chain organization owns or operates approximately one-third of the total independent facilities and provides approximately 1.5 million outpatient dialysis treatments per year. There are very few hospitals that are members of chain organizations.

Who Is Affected by These Changes?

Although we do not have adequate data to quantify all the costs and benefits of the changes we are making, we can identify the most affected groups. Many of these groups will experience both some benefit and some cost as a result of these regulations.

We expect that the major groups benefited will be:

- The more efficient hospitals and outpatient care facilities that provide dialysis services;
- Manufacturers of dialysis equipment;
- Dialysis patients and their families;
- Home dialysis aides;
- Medicare beneficiaries; and
- Taxpayers.

The primary benefit sought, that is, savings over the projected future cost of the previous reimbursement system, will accrue directly to the Federal government and indirectly to all present and prospective Medicare beneficiaries, since this will restrain the growth of the cost of the ESRD program and protect the supplemental medical insurance trust fund by restraining the accelerating outflow of funds.

Dialysis patients will benefit in several ways, although these benefits will not accrue to all patients or be evenly distributed. First, their coinsurance obligation, that is, the requirement under the Social Security Act that they be liable for 20 percent of the charges for covered services furnished to them, will be reduced or retained at the present level to the extent that their payment rates are lessened or maintained. Second, there are many positive effects of dialysis in the home. These include increased personal responsibility for and control of treatments; scheduling of dialysis treatments at the patient's convenience; eased access to care; reduced traveling; reduced need to use the lesser-preferred treatments such as extended peritoneal dialysis; and intangible benefits, such as the comfort and security that patients experience in dialyzing at home.

We also expect that some patients currently in home dialysis will benefit from being relieved of ordering supplies themselves, since prospective payments may afford facilities an opportunity to increase their revenues by performing this function.

In addition, the encouragement of home dialysis will enable more new ESRD patients to take advantage of early entitlement provisions. These provide that patients who begin a course of training for home dialysis may be excepted from the required three-month waiting period for Medicare entitlement if certain conditions are met.

These benefits to dialysis patients will often also benefit their families, especially in reducing expenses and travel.

The dialysis facilities themselves will benefit in several ways, although these benefits will not accrue to all facilities or be evenly distributed. Prospective reimbursement will clearly provide an opportunity for efficient and economical facilities to maximize their net proceeds. Facilities that currently have active home dialysis programs will have a competitive advantage, while those that do not have a substantial home program will benefit less.

Dialysis machine manufacturers will experience an expanded market, since only one patient uses a machine placed in a home, but machines in facilities may be used to dialyze several individuals during a week.

We expect the following groups will experience some costs as a result of proposed changes:

- Less efficient hospitals and outpatient care facilities that provide dialysis services;
- Some physicians treating dialysis patients; and
- Some current users of home dialysis and their families.

The less efficient dialysis facilities will experience the major adverse effects, in that inefficient and high-cost facilities that do not qualify for an exception to their payment rates may have costs greater than their revenues in the initial implementation period. Further, if we are successful in reducing the average payment per treatment under the prospective reimbursement system, the projected aggregate revenues of dialysis facilities will be reduced by an amount equal to our projected budget savings. However, the resulting pressure to reduce costs below payment rates, as well as the opportunity to retain the amount of payment in excess of costs, is central to the prospective system that we are implementing.

Our changes in physician reimbursement will have mixed results, with some physicians benefited but most adversely affected, although not very substantially. The changes will reduce payment options available to

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physicians treating dialysis patients by eliminating "initial method" reimbursement. We will pay for all physicians' routine dialysis services on a monthly capitation basis, combining home and in-facility services under a single payment rate. In some cases, this may result in a reduction of revenue, although doctors who treat relatively high proportions of home patients may benefit form these changes.

Although we expect that the majority of patients will benefit from these regulations, some patients will experience increased costs. Patients now dialyzing at home will have increased co-insurance obligations, since the composite rate will be higher than the current home dialysis charges of some facilities. However, since the co-insurance obligations of many patients are covered under State Medicaid programs (which would experience net savings due to the decreased obligations of other patients), we do not expect this effect to be substantial. Further, home dialysis patients may choose not to receive equipment and supplies through a facility, and thereby avoid co-insurance increases resulting from rate increases.

Many commenters now dialyzing at a facility expressed concern that being forced to dialyze at home would result in increased utility expenses, decreased quality of care, and an increased burden on family members. We believe these concerns are unfounded. While we are encouraging home dialysis and believe it to be beneficial to many patients now dialyzing in a facility, these regulations will not force any individual to choose home dialysis. Therefore, those patients who, in consultation with their physician, decide that they prefer continued in-facility dialysis may continue with in-facility dialysis. Only those patients who are persuaded that home dialysis offers greater net benefits will change the location of dialysis. The purpose of this regulation is to assure that, in assisting patients to make an informed decision, physicians and facilities will be unbiased because they are free from adverse reimbursement consequences if a patient chooses home dialysis.

Some commenters expressed concern that facility closures would leave them effectively unable to choose in-facility dialysis because of increased travel time to the nearest facility. The increase in facilities, even since the announcement of our proposed rates in November 1981, confirms our belief that facilities will be able to operate at these rates, and that facilities that close will be replaced by new, more efficient facilities. Further, we have provided an exception to the prospective payment rates for isolated essential facilities to prevent inappropriate facility closures.

Tightening the rate of payment and increasing the incentives for efficiency will result in pressures on the ESRD manufacturers and suppliers as facilities economize and seek to lower their costs.

Overall Effects. We expect the prospective reimbursement system to accomplish two major objectives which, though not without effects that may seem adverse to some parties, will be of sufficient benefit to offset greatly any costs that result. These objectives are (1) to encourage home dialysis to the greatest extent feasible for the ESRD patient population, and (2) to encourage economy and efficiency in furnishing dialysis services, thereby significantly decreasing the average cost per treatment, and accuring substantial budget savings over what we project would be incurred by continutation of the current payment system. The objectives are closely related, since we expect increasing home dialysis to contribute to cost reduction because it is a less expensive way to deliver treatment.

As of 1982, only 17 percent of all ESRD treatments were performed in a patient's home. Although we have made no specific projection of the dynamic responses the ESRD industry would make to our proposed prospective composite rates, many experts belive that under such an incentive system, this population could approach 30 to 40 percent within 5 to 7 years. We doubt that more than that is feasible or desirable on a national basis since many individuals are too sick or do not have the help and resources necessary to dialyze at home. This increase in home dialysis will result in generally improved quality of life for home patients and their families, and the accompanying autonomy they achieve may improve many patients' degree of rehabilitation.

These changes in the reimbursement system will also accrue to the Federal government substantial savings over projected budget expenditures under the previous payment methods. This benefit is, in a sense, offset by the fact that these savings represent a reduction of expected aggregate revenues for dialysis facilities. However, we believe that many of these facilitites have been over-reimbursed by previous payment methods, and that our historical expenditure level has not been completely justified by the services furnished and the benefits experienced. Therefore, we expect these changes to yield significantly greater net benefits than the previous system. Since we do not expect any reduction in quality of care, the improved cost-effectiveness of the dialysis delivery system justifies these changes.

C. Analysis of Alternatives

The following section sets forth our analysis of the comparative reimbursement and program savings impacts of certain alternative methodologies we considered. The costs and savings figures in the following analyses are based on the following assumptions:

- For purposes of this analysis, we have assumed the prospective reimbursement system will be implemented July 1983.
- For the remaining months of FY 1983, we project that ESRD beneficiaries will receive approximately 2.0 million treatments in facilities, and 0.4 million treatments at home (2.4 million treatments, total).
- Also in FY 1983, hospital-based facilities will furnish treatments to approximately 24,500 in-facility patients and 8,000 home patients, and independent facilities will furnish treatments to 27,600 in-facility patients and 3,400 home patients.
- If no prospective reimbursement system were established, the costs of the current payment method would increase by both the growth in treatments and, in the case of hospitals reimbursed on a cost basis, by a 5 percent annual inflation factor.
- In all alternative methods (except the continutation of the current system as it affects independent facilities) we would pay all facilitites their allowable Medicare bad debts, up to their unrecovered Medicare cost.
- The costs and savings for each alternate are projected on the basis of the average, weighted-per-treatment payment for our audit sample of 67 hospital-based and 38 independent facilities. This weighting adjusts the results both for the effects of the area wage index and the number of treatments furnished in each facility of the sample.
- For all alternatives, we project that the incremental increase in administrative costs over the previous system, including audits, exceptions approval, and cost report review, will be about $300,000 per year. The savings have not been adjusted to show this, since it would not affect the comparability of the projections.
- If no prospective reimbursement system were implemented, continuation of the present payment system would result in $295 million in incurred program costs for dialysis services during the remaining months of FY 1983.

In making these assumptions, we did not allow for hypothetical dynamic changes that may occur in the ESRD marketplace in response to implementation of the prospective reimbursement system, because we did not have an adequate basis on which to project dynamic responses. Therefore, we did not assume any growth of independent facilities beyond that which we can project from historicl data. Neither do our projected savings include adjustments to account for any expected acceleration of the trend for more patients to dialyze at home. Other dynamic responses which may reasonably be expected to occur, but which are not included in our projections, would be reductions in the unit cost of furnishing dialysis, and expansion of or market entry of new efficient types of dialysis facilities. Therefore, to the degree the following estimates are based on conservative assumptions, we expect our savings figures are underestimated.

Alternative Rate-Setting Options. Section 2145 of Pub. L. 97–35 states that the Secretary may implement an alternative to the composite rate methodology if detailed analysis shows it is more effective in encouraging the efficient delivery of dialysis services and promoting home dialysis. The main alternative to a composite rate available for consideration would be to set a separate rate for home dialysis. (We had previously considered several other options, combining rates for hospitals and independents, but this is not permitted under section 2145. Although this legal constraint does not preclude us from analyzing other alternatives, since Executive Order 12291 permits it, we did not present such analysis because the other alternatives would not have a range of effects substantially outside those of the options examined below.)

Option A: Three separate rates for home dialysis, and for independent and hospital-based in-facility dialysis. This alternative to the composite rate would essentially entail three rates: one for hospital-based in-facility dialysis, another for independent in-facility dialysis, and a third for home dialysis. The base cost components for in-facility dialysis would be set at the median of the labor and nonlabor costs we obtained from our audit data and would be set independently of the home rate. This would result in average payment rates of $140 per treatment for hospitals and $111 for independents. The home rate would be set at the maximum home dialysis target rate, as established by the 1981 Reconciliation Act at 75 percent of the national average payment for in-facility dialysis. Since 1979, the target rate has been set by law at the maximum of 70 percent of the national average payment for in-facility dialysis. This five percent increase in the home dialysis rate amounts to an average increase of $9 per treatment ($116–$107). This method would reimburse approximately 49 percent of both groups below their current costs per treatment.

The projected average, high, and low payment rates per treatment resulting from this method are given in the table below. The high and low rates are based on area wage indexes for the continental United States.

	Average [1]	High	Low
Hospital-Based In-facility	$140	$177	$119
Independent In-facility	111	136	97
Home Dialysis	116	130	104

[1] These projected average payment rates are somewhat less than those estimated in the NPRM. This is primarily the result of applying the latest BLS data. We have also refined our methodology for these estimations in order to make it more accurate.

This would have no significant impact on the copayment obligations of beneficiaries currently dialyzing at home, but would, based on the average payment rate noted above, reduce the obligations of hospital-based dialysis patients by $1192 per year, and of independent patients by $775 per year. The aggregate effect would result in significant overall reductions in these obligations, which would benefit State Medicaid programs and private insurers as well as the beneficiaries and their families. The following table shows the effects this option would have on coinsurance obligations for a full year, based on the number of patients we project will be treated in FY 1983.

	Number of patients	Average reduction per patient	Total reduction (millions)
Hospital-Based	24,500	$1192	$29.2
Independent	27,600	775	21.4
Home	11,400	179	2.0
Total	63,500	829	52.6

Further, the Federal government would realize extensive reductions in incurred costs in Fiscal Year 1983 and subsequent years, as follows:

[Millions]

Fiscal year	Projected costs [1]		Projected savings
	Present system	Option A	
1983 (July to September)	$295	$255	$40
1984	1,270	1,040	230
1985	1,370	1,080	290
1986	1,455	1,120	335
1987	1,535	1,155	380
1988	1,605	1,180	425

[1] These projections are based on the average payment rates shown above and are rounded to the nearest $5 million. In addition, they do not assume dynamic responses to the incentive proposals. See the above discussions concerning our assumptions.

This option would realize larger savings than the methodology we are implementing. This would result primarily from setting the independent in-facility rates on the basis of independent costs only. Since the majority of in-facility treatments are furnished in independent facilities, this produces significantly greater savings, but at the expense of many of the most efficient and economical facilities. Further savings would be incurred under this option as a result of the statutory cap on the target payment rate for home dialysis.

In addition to the savings that would be realized, the main advantage of this option is that the home rate would follow the present law for target rate reimbursement. However, it may be argued against this method that—

1. The present target rate system (set at 75 percent of the average in-facility dialysis payment) has little voluntary participation (20 out of the over 1200 facilities have agreements) and we do not know whether a 5 percent rate increase would change this.

2. Both the logic of the composite rate and our cost data suggest this alternative cannot satisfy the two statutory tests that the alternative both be more efficient and promote home dialysis more effectively. If home and in-facility dialysis were reimbursed at separate rates, and home dialysis were reimbursed at less than what the composite rate would have been, this alternative would not appear to promote home dialysis more effectively than the composite rate. On the other hand, if the home rate were set higher than the composite rate, then we would be paying out more than under the composite rate and the alternative would not be as efficient as the composite rate.

3. Under section 1881(b)(8), the target payment rate for home dialysis is limited to a maximum of 75 percent of the per treatment cost of in-facility dialysis. This would reduce flexibility and may result in a gradual lowering of

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the home rate if the in-facility rate drops.

4. A major disadvantage of this option is that it would so greatly and rapidly reduce reimbursement to independent facilities that it would very likely have a substantial impact on the availability of services. As a result, we would have to grant a considerable number of exceptions.

Option B: Composite rates for home and in-facility dialysis based on median costs of all facilities. This option, and others that may be similar to it in effect, is clearly preferred in the statute. As discussed above, under this method we would pay each dialysis facility a certain rate per treatment for all dialysis session furnished, whether in the facility or at home. The independent rates would be based on the median costs per treatment for all audited facilities, adjusted for the proportion of independent patients dialyzing at home and for geographic differences on labor costs. The hospital rates would be similarly adjusted by area wage indexes and the proportion of hospital patients dialyzing at home and would, in addition, incorporate two other adjustments representing the differences between hospital costs and data and those of the independent facilities, as explained in section III. H. of this preamble.

The average, high, and low payment rates per treatment under this option are given in the table below. The high and low rates are based on area wage indexes for the continental United States.

	Average[1]	High	Low
Hospital-Based Composite	$131	$158	$114
Independent Composite	127	157	106

[1] These projected average payment rates are somewhat less than those estimated in the NPRM. This is primarily the result of applying the latest BLS data. We have also refined our methodology for these estimations in order to make it more accurate.

These rates would result in reimbursing 48 percent of all hospital-based facilities and 29 percent of all independent facilities at a rate per treatment below their current costs for in-facility dialysis. (Note that these projected impacts do not take into account the transitional implementation of the area wage indexes (limiting the lower indexes to no less than 0.9, and limiting the maximum payment per treatment to $138). This transition practice will have little or no discernible effect on the average payment rates or overall savings, since the effects of the two limits offset each other. Nineteen percent of all facilities will benefit by limiting the area wage index to no less than 0.9. Only 8 percent of all facilities are expected to be adversely affected by limiting the maximum per treatment payment to $138.)

This would affect beneficiary copayment obligations in two ways. First, based on the overall decrease in the average payment and the predominance of in-facility dialysis, most beneficiaries, especially those dialyzing in a facility, would experience significant reductions in their coinsurance obligations. However, because of the change from separate home and in-facility rates to composite rates, many beneficiaries already dialyzing at home would experience an increase if their treatments were reimbursed under the composite rate, since the composite rates would be significantly higher than current payment levels for home dialysis. (A beneficiary would retain the right to bill independently for supplies and equipment, in which case support services furnished by a facility would be reimbursed on a fee-for-service basis.) The amount of increase per patient would vary according to whether the related facility were independent or hospital-based. The annual effect on beneficiary coinsurance obligations, based on the average payments given above, would be as follows:

Location	Type of facility	
	Hospital-based	Independent
Home	+$268[1]	+$149[1]
In-facility	−1,341	−298

[1] This does not take into account the beneficiary's option to bill independently.

Despite the coinsurance increase for home dialysis, the aggregate savings for all patients would still be great, as shown in the following chart, based on numbers of patients for FY 1983, yielding an average savings per beneficiary of about $606 per year.

	Number of patients	Average change per patient	Total coinsurance change (millions)
Hospital-based	24,5000	−$1,341	−$32.9
Independent	27,600	−298	−8.2
Home-Hospital	8,000	+268	+2.1
Home Ind.	3,400	+149	+0.5
Total	63,500	−606	−38.5 (Net reduction)

In FY 1983 and subsequent fiscal years, we estimate savings to the Federal government over previous methods would be as follows:

[Dollars in millions]

Fiscal year	Projected costs[1]		Projected savings
	Present system	Option B	
1983 (July–September)	$295	$270	$25
1984	1270	1090	180
1985	1370	1110	260
1986	1455	1150	305
1987	1535	1185	350
1988	1605	1210	395

[1] These projections are based on the average payment rates shown above and are rounded to the nearest $5 million. These are our actuary's most recent estimates.

The exception process will be tightened compared to historic treatment of exceptions for hospital-based facilities. Projected savings are calculated based on rates remaining at the same level; however, the rates will be reevaluated periodically.

Like Option A, this option has a considerable amount of savings, although not as much as Option A. Unlike Option A, however, it does not create those legal problems discussed above. Another advantage of this option is that it phases in the prospective reimbursement system less abruptly than Option A, especially for independent facilities. This option is more likely to accelerate the growth in the number of independents than Option A. Finally, this option would encourage use of home dialysis more than Option A, since the composite rate paid for both home and in-facility dialysis is higher than the home (that is, target) rate under Option A.

Option C: An alternative method of treating cost data for deriving composite rates. We did consider a different methodology for setting composite rates.

Under this option, rates for independent facilities would be based on a percentage of the median cost of the audited independent facility data and the same percentage of the median audited cost of providing home dialysis. These two cost factors would be split into labor/nonlabor portions and weighted by the percentage of patients in each setting. Rates for hospital-based facilities would be based on the same data *plus* a difference in hospital overhead costs of $7.50.

This option could have dollar impacts similar to those of Option B, above, and would have many of that option's advantages. However, we did not adopt this methodology because, by failing to include the hospital cost experience, it may less appropriately reflect the cost

experience of the entire ESRD program than the option we have selected.

D. Impact of Proposed Changes in Physician Reimbursement

To the extent our data allows, we have projected the probable impacts of these regulations on paying for physicians' renal services only on a monthly capitation basis (discontinuing the initial method that pays on a per treatment basis). Due to problems in identifying and enumerating the affected physicians and their characteristics, our projections are limited to the aggregate impacts. At present, we are not able to assess the effects our proposal would have on individuals or particular groups of physicians. We welcome any comments or information that would contribute to our consideration of these effects when we issue a final rule.

The following section sets forth our analysis of the reimbursement and program savings impacts of our proposed rate-setting methodology as compared to continuation of the current payment methods. The costs and savings figures are based on assumptions listed in paragraph C., above, and the following additional assumptions:

- For purposes of this analysis, we have assumed that the proposed capitation system will be implemented beginning July, 1983.
- In FY 1983, payments to physicians who were under the initial method of reimbursement would average $210 per month for in-facility patients and $25 per month for home patients.
- In FY 1983, the average monthly payments to physicians under the current alternative reimbursement method would be $220 for in-facility treatment and $154 for home treatment.
- In FY 1983, 26.5 percent of all in-facility treatments and 27 percent of all home treatments would be reimbursed under the initial method; 73.5 percent of all in-facility treatments and 73 percent of all home treatments would be reimbursed under the alternative method.
- If the previous system (initial and alternative methods) of reimbursement were continued throughout the remainder of FY 1983, the cost of those payment methods would be $25 million.
- For the purpose of the savings estimates, we are holding the capitation payment levels constant. We would review the payment levels regularly with our review of the prospective payment rates for facility services.

Projected Impact on Aggregate Payments. As discussed above, under the new capitation payment system, we will pay each physician a constant monthly amount for each patient he or she treats, regardless of whether the patient dialyzes in-facility or at home. This payment will vary according to local prevailing charges from a low of $144 per month to a high of $220 per month, averaging $184 per month.

When compared to previous payment levels, it is clear that this payment level will result in a significant reduction in the amounts paid for physician services related to in-facility treatment. However, it will also result in an even larger *increase* in the amounts paid for services to home patients. As a result, the effect on an individual physician would be dependent on the proportion of patients dialyzing at home. Physicians with no home patients could experience a significant reduction in gross revenues related to dialysis services, while others, with larger home practices, could be significantly benefited.

We project subsequent fiscal year impacts as follows:

[Dollars in millions]

Fiscal year	Projected costs[1]		
	Present systems	Proposed systems	Projected savings
1983 (July–September)	$25	$25	$0
1984	130	120	10
1985	135	125	10
1986	145	130	15
1987	150	135	15
1988	150	135	15

[1] These projections are based on the average payment rates shown above, and are rounded to the nearest $5 million. These are our actuary's most recent estimates.

Note that these figures represent only a portion of the total revenues of the affected physicians. In addition to these capitation payments, they will continue to bill fee-for-service for nonroutine services to their dialysis patients. Most of these physicians have other sources of income, such as patients other than their chronic dialysis patients, although proportions would vary widely. Further, many of these physicians receive payment for administrative services from the dialysis facilities with which they are affiliated.

Comparative Administrative Costs. The prospective system will be much simpler to administer than the current one. By eliminating the initial method, we end the complexity of having parallel systems. We will reduce the number of bills to be processed, by shifting a number of physicians from a per treatment to a per month payment basis. In addition, all bills will be processed through the carriers, simplifying the identification of duplicate payments, which will yield further savings.

Other Effects. The current payment methods have produced significant incentives for physicians to treat dialysis patients in the facility. By ending the disincentive to treat dialysis patients in their homes, we expect that each physician may be able to treat a greater number of patients. Although under current regulations (set forth at 42 CFR 405.2162(b)) a physician is not required to be present for every session, even in a facility, expert advice has informed us that a physician can care for 10 home patients using the same time and personal resources it would take to care for 7 in-facility patients. By shifting as many patients to home care as feasible (considering available assistance and support, quality of care, and standards of medical practice), the current physician population could reasonably care for a patient population increased by 5 to 10 percent.

E. Impact of Other Provisions

Some of the provisions of these final regulations are not included in this impact analysis, since we believe their overall effects will be negligible. For example, we expect that the extension of coverage to ESRD services furnished by special purpose renal facilities will result in approval of between 5 and 25 such facilities, while those patients served by a special purpose facility approved on a time-limited basis for emergency purposes will certainly not consider those services insignificant, in terms of the costs of the entire program the economic effects are small. Similarly, while some patients may now be able to have their dialysis at a vacation site reimbursed, with some unquantifiable benefit to themselves and further benefit to the facility, since the reimbursement rules are the same for those facilities as for permanent certified facilities, the program result is neutral.

F. Burden and Cost of the Proposed Recordkeeping and Reporting Requirements

The recordkeeping and reporting requirements of these regulations will apply to all ESRD services furnished by the facility. These include outpatient dialysis, self-care dialysis training, and home dialysis services, supplies, and equipment. We believe that these rules merely clarify previously existing requirements. New cost reporting forms, developed under our previous regulations, have been approved by the Office of Management and Budget and implemented. The new cost report form for independent renal dialysis facilities (HCFA 265; OMB approval number

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0938-026) is effective for cost reporting periods ending after September 30, 1981. The new supplemental work sheet I of the hospital cost report form (HCFA 2552; OMB approval number 0938-0050)) is effective for cost reporting periods beginning after December 8, 1980.

As discussed above, these requirements will make no significant additional demands on facilities, as the new cost report forms are already in use and each facility must already keep the records that are needed to comply with these requirements. The changes resulting from this rule will clarify the application of the principles of Subpart D. This will benefit facilities without adding recordkeeping costs or reporting burden.

Appendix II—Area Wage Indexes

We have calculated a wage index for each of about 362 areas. These areas are divided into three categories: New England County Metropolitan Areas (NECMAs), Standard Metropolitan Statistical Areas (SMSAs) and rural areas. (For each State, there is one rural area, comprising all counties in that State that are not included in a NECMA or SMSA.) These are standard geographical classifications used for many types of reports and analyses.

The area wage index is essentially very simple. First, we calculated the national average wage level for all hospital workers, combining data from all geographic areas. Second, we calculated a separate local average wage level for each SMSA, NECMA, and rural area. We then divided each local average by the national average. This computation resulted in a set of index values that show the relation of wages in each area to wages nationally.

In developing the wage index, we have used approximate, rather than actual, index values for 40 areas. (These approximate values are identified by asterisks.) We made this change because the BLS has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than 3 hospitals. To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. These approximate values are either equal to, or greater than, the wage index values that would be calculated based on the actual data. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the incentive payment rates significantly, and will assure that no facility's payment is reduced because actual data for its area are unavailable.

We expect, on the basis of experience, that we will occasionally need to revise a particular index to reflect improved data or the correction of reporting problems. When this occurs, we will notify the intermediaries and facilities affected, but we will not publish a notice in the **Federal Register**, as we would if we were revising all the indexes.

TABLE I.—WAGE INDEX FOR URBAN AREAS

Urban area (SMSA or NECMA)	Wage index
Abilene, TX	.8360
Akron, OH	1.0997
Albany, GA	*.8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0483
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2653
Anchorage, AK	1.5992
Anderson, IN	.9850
Anderson, SC	.8712
Ann Arbor, MI	1.2663
Anniston, AL	.8662
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.6481
Asheville, NC	1.0033
Athens, GA	.8811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9462
Austin, TX	1.0156
Bakersfield, CA	1.1813
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0366
Bay City, MI	*1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	*.9181
Benton Harbor, MI	.8639
Billings, MT	*.9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY-PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.9430
Bloomington, IN	*.9160
Bloomington-Normal, IL	.9168
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1387
Bradenton, FL	*.9286
Bremerton, WA	.8993
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.9784
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	*.9554
Caguas, PR	.6007
Canton, OH	.9637
Casper, WY	*1.0632
Cedar Rapids, IA	*.9418
Champaign-Rubane-Rantoul, IL	1.0359
Charleston-North Charleston, SC	1.0333
Charleston, WV	1.0669
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0694
Chattanooga, Tennessee-Georgia	.9965
Chicago, IL	1.2013
Chico, CA	1.0813
Cincinnati, OH-KY-IN	1.0959
Clarksville-Hopkinsville, TN-KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0690
Columbia, MO	1.1961
Columbia, SC	.9674
Columbus, GA-AL	.9196
Columbus, OH	1.0803
Corpus Christi, TX	.9762

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (SMSA or NECMA)	Wage index
Cumberland, MD-W VA	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	*.8960
Davenport-Rock Island-Moline, IA-IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	*1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.9685
Duluth-Superior, MN-WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8765
Elkhart, IN	*.9160
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9604
Eugene-Springfield, OR	.9554
Evansville, IN-KY	1.0438
Fargo-Moorhead, ND-MN	1.0057
Fayetteville, NC	.8155
Fayetteville-Springdale, AR	*.8747
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Myers, FL	.9369
Fort Smith, AR-OK	.9318
Fort Walton Beach, FL	*.7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.9316
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1438
Glens Falls, NY	.9078
Grand Forks, ND-MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	*.9406
Greeley, CO	*1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greenville-Spartanburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middleton, OH	1.0708
Harrisburg, PA	1.0808
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8509
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV-KY-OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	*1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	*.9059
Janesville-Beloit, WI	.8812
Jersey City, NJ	1.1350
Johnstown, PA	1.0642
Joplin, PA	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO-KS	.9646
Kenosha, WI	*1.1136
Killeen-Temple, TX	.9185
Kingsport-Bristol, TN-VA	.8975
Knoxville, TN	.9087
Kokomo, IN	1.0083
La Crosse, WI	*.9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718
Laredo, TX	.8631
Las Cruces, NM	*.7737
Las Vegas, NV	1.2134
Lawrence, KS	*.9679
Lawton, OK	*.9619
Lewiston-Auburn, ME	*.8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury, Park, NJ	1.0278

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (SMSA or NECMA)	Wage index
Longview, TX	.8757
Lorain-Elyria, OH	1.0436
Los Angeles-Long Beach, CA	1.3174
Louisville, KY-IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	*.9782
Mansfield, OH	.9359
Mayaguez, PR	.5902
McAllen-Pharr-Edinburg, TX	.8288
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9652
Memphis, TN-AR-MS	1.0594
Miami, FL	1.1623
Midland, TX	*1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN-WI	1.0099
Mobile, AL	.9490
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	*.9595
Muskegon-Norton Shores-Muskegon Heights, MI	.9808
Nashville-Davidson, TN	1.0498
Nassau-Suffolk, NY	1.2886
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Seyreville, NJ	1.0618
New Haven-Waterbury-Meriden, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9842
New York, NY-NJ	1.3979
Newark, NJ	1.2061
Newark, OH	*.9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA-NC	1.0327
Northeast Pennsylvania	1.0447
Ocala, FL	*.9418
Odessa, TX	*.9296
Oklahoma City, OK	1.0161
Olympia, WA	*1.0540
Omaha, NE-IA	.9859
Orlando, FL	.9890
Owensboro, KY	*.9803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	*.8856
Parkersburg-Marietta, WV-OH	1.0064
Pascagoula-Moss Point, MS	*1.1283
Paterson-Clifton-Passaic, NJ	1.0829
Pensacola, FL	.9236
Peoria, IL	1.1136
Petersburg-Colonial Heights-Hopewell, VA	.9327
Philadelphia, PA-NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	*.7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR-WA	1.1208
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9408
Pueblo, CO	1.0859
Racine, WI	.8987
Raleigh-Durham NC	1.0364
Reading, PA	1.0092
Redding, CA	1.0671
Reno, NV	*1.3337

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (SMSA or NECMA)	Wage index
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernadino-Ontario, CA	1.2201
Roanoke, VA	.9048
Rochester, MN	1.0438
Rochester, NY	1.0571
Rockford, IL	1.0550
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8638
St. Joseph, MO	1.0264
St. Louis, MO-IL	1.0367
Salem, OR	1.0834
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	.8521
San Antonio, TX	.9595
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.6906
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4336
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.8679
Shreveport, LA	1.0540
Sioux City, IA-NE	.9975
Sioux Falls, SD	.9242
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0298
State College, PA	*1.1383
Steubenville-Weirton, OH-WV	.9905
Stockton, CA	1.3466
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahassee, FL	*.9462
Tampa-St. Petersburg, FL	1.0066
Terre Haute, IN	.8856
Texarkana-TX-Texarkana, AR	1.1761
Toledo, OH-MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9893
Utica-Rome, NY	.9977
Vallejo-Fairfield-Napa, CA	1.6758
Victoria, TX	.8608
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Portersville, CA	1.4467
Waco, TX	.8347
Washington, DC-MD-VA	1.1908
Waterloo-Cedar Falls, IA	.8884
Wausau, WS	*.9566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV-OH	.9953
Wichita, KS	1.0412
Wichita Falls, TX	.8576
Williamsport, PA	.9690
Wilmington, DE-NJ-MD	1.1092
Wilmington, NC	.9005

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (SMSA or NECMA)	Wage index
Worcester-Fitchburg-Leominster, MA	.9943
Yakima, WA	.9982
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1283

* Approximate value for area.

TABLE II.—WAGE INDEX FOR RURAL AREAS

State (all non-SMSA and non-NECMA counties)	Wage index
Alabama	.8167
Alaska	1.4136
Arizona	.9160
Arkansas	.7921
California	1.0862
Colorado	.8515
Connecticut	1.0658
Delaware	*.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8965
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9928
Massachusetts	1.0870
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9558
New Mexico	.9235
New York	.9070
North Caroline	.8810
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9586
Pennsylvania	1.0426
Puerto Rico	.6438
Rhode Island	*.9762
South Carolina	.8184
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8808
Virginia	.8484
Washington	.9453
West Virginia	.9298
Wisconsin	.8291
Wyoming	.9782

*Approximate value for area.

[FR Doc. 83-12825 Filed 5-6-83; 3:58 pm]

BILLING CODE 4120-03-M

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federal register

Wednesday
May 11, 1983

Part III

Environmental Protection Agency

Chemical Information Rules; Automatic Reporting

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ISS
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004J, FRL 2326-1; SH-FRL 2326-1]

Chemical Information Rules; Automatic Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating an amendment to the Toxic Substances Control Act section 8(a) Preliminary Assessment Information rule (47 FR 26992). This amendment provides that all chemicals and mixtures designated by the Interagency Testing Committee (ITC) for testing consideration will be made subject to reporting by their manufacturers under the Preliminary Assessment Information rule without a separate proposal and comment. The chemicals will be added to the rule by the Agency at the same time the ITC report is published. Reporting by manufacturers will be required 90 days after the rule amendment issued by EPA is published in the **Federal Register**. Automatic reporting will speed the information gathering process and help the Agency in making its decisions on testing within the one-year mandated period.

EFFECTIVE DATE: June 10, 1983.

FOR FURTHER INFORMATION CONTACT: For further information on this rule, or to obtain copies of the Preliminary Assessment Information—Manufacturer's Report (EPA Form No. 7710-35), contact: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420.

I. Introduction

EPA promulgated the Preliminary Assessment Information rule for reporting by chemical manufacturers in the **Federal Register** of June 22, 1982 (47 FR 26992). Those companies which manufactured, produced, or imported one of the approximately 250 chemical substances listed were to report general production, use, and exposure data to the Agency by November 19, 1982. At that same time three amendments to the rule were proposed for comment. We are promulgating one of those amendments by adding § 712.30(c). The other two amendments will be promulgated in separate actions. In addition, we are revising § 712.30(a) to discuss how EPA will treat voluntary reporting. This latter revision is a nonsubstantive conforming amendment. The amendment that is being promulgated originally proposed that manufacturers of chemicals designated for testing in the future by the Interagency Testing Committee automatically report preliminary assessment information.

II. Automatic Reporting on Future ITC Designations

Following publication of the ITC report, the Agency will issue a regulation requiring the reporting of preliminary assessment information by manufacturers of chemical substances and mixtures designated by the ITC. The rule will become effective 30 days after the regulation is published in the **Federal Register**. Manufacturers are to complete and submit EPA Form No. 7710-35 within 60 days of the effective date of the rule amendment.

Each of these rule amendments will only change the Preliminary Assessment Information rule by adding chemicals; the reporting requirements will not be changed without notice and comment.

The chemical substances or mixtures which will be automatically added are those the ITC has designated for testing consideration by the Agency. Within one year after the ITC designates a chemical for testing, EPA either must initiate rulemaking to require testing under section 4 of TSCA or publish its reasons for not initiating rulemaking. Because of the short time allowed for this decision, the Agency must proceed as rapidly as possible to gather relevant data on designated chemicals.

Data received from the Preliminary Assessment Information rule will supplement available data, including existing test data, and provide a comprehensive data base with which to support a testing decision. Further, this information will be helpful to the Agency in evaluating data submitted in response to a test rule by providing a preliminary basis for evaluating the likelihood that human or environmental exposures may achieve levels found to cause adverse effects in tests.

In order to achieve maximum utility for the time-constrained test rule development process, EPA needs all data for internal review within four months after the initial ITC designation. This requires the Agency to add chemicals to the rule by issuing for publication in the **Federal Register** a final rule amendment promptly upon receipt of the ITC's report designating additional substances or mixtures for priority treatment. The rule becomes effective 30 days after it is promulgated; all submissions will be due 60 days after the effective date. Typically, the Agency would expect to receive all report within 100 days after the ITC report is received. This allows the Agency about two weeks to review a substantial amount of the data before the four-month point at which a preliminary decision is made as to whether to require testing.

In some infrequent cases, the Agency will need to work with incomplete data on the substance involved until about six months after receipt of the ITC's designation. This is because processors of a chemical may be required to report to the Agency after manufacturer reporting if insufficient information is recived from the manufacturers. An amendment under section 8(a) of TSCA providing for such processor reporting was proposed on June 22, 1982 (47 FR 27009) and a final amendment now is being developed. We anticipate requiring processor reporting very infrequently, and on few chemicals, so that there will be few instances in which EPA will have incomplete data for any interval of time.

This final amendment for automatic reporting does not allow for public comment on the need for reporting on individual chemicals designated for the ITC. Many commenters on the proposed rule objected to the issuance of a reporting rule without a notice and comment provision. The Agency understands these concerns; however, it is paramount that data be reported to the Agency as soon as possible so that assessments can be completed within the statutorily mandated one year time-frame specified in section 4(e) of TSCA. The Agency addressed this issue previously in the final TSCA section 8(d) regulation (47 FR 38784).

One of the major concerns commenters has about automatic reporting was that reporting requirements may be duplicative if the information had already been reported voluntarily to the ITC or EPA. Companies which submit data voluntarily to the ITC are encouraged to report those data using a Preliminary Assessment Information—Manufacturer's Report (EPA Form No. 7710-35). The Agency agrees that reporting may be duplicative in some instances. We have therefore developed an option whereby data submitted voluntarily to either the ITC or EPA on the appropriate for may be acceptable to the Agency in lieu of section 8(a) reporting if certain conditions are met.

EPA suggests that a company which submits a Manufacturer's Report to the ITC simultaneously send a copy of the form to EPA. A company that does submit a form to EPA before the effective date of a rule amendment adding a subject chemical will not be required to submit a current Manufacturer's Report upon the effective date of the amendment, provided that the data on the previously submitted form is no more than three years old as of the effective date. The company will still be required to notify the Agency, in writing and during the reporting period, about the earlier submission. The notification letter should also certify under oath that the data are still current, accurate, and complete. Such a letter should state that there have been no major changes in the production volume of the subject chemical or the chemical process used in producing the chemical. If this is not the case, the submitter must include an updated form.

Alternatively, a company which voluntarily submits a Manufacturer's Report only to the ITC will be allowed to submit a copy of the original Report to EPA when the subject chemical is added by amendment to the section 8(a) rule. The company will not be required to submit a new Report on the chemical. The manufacturer will be required to provide EPA with written notification that the form being used is a copy of the form given to the ITC. All other requirements concerning verification and certification of data, described in the previous paragraph, will be applicable in this case.

The Agency continues to encourage voluntary reporting. We believe that such reporting plays a vital role in providing the ITC and EPA with invaluable fundamental data so that decisions can be made on a more informed basis. Companies wishing to submit voluntary data to the ITC but not use the Preliminary Assessment Information form may continue to do so. However, this form must be used for all submissions to EPA to satisfy the reporting requirements under the section 8(a) rule.

Another concern raised by some commenters was that information provided in public comments on the proposed addition of a chemical to the section 8(a) rule might convince the Agency that section 8(a) reporting on that chemical was unnecessary. The automatic reporting provision would obviate such cases. Based on its experience in evaluating ITC-designated chemicals to date, and on its review of comments on previously proposed section 8(a) Preliminary Assessment Information reporting proposals, EPA projects such situations to occur rarely, if at all. If a firm subject to section 8(a) reporting on a chemical added to the rule through the automatic reporting approach believes reporting on that chemical is unnecessary, the firm should promptly submit to the Agency its reasons for that belief. The chemical may then be removed from the rule at the Agency's discretion, for good cause. The Agency will issue a rule amendment for publication in the **Federal Register** when withdrawing a chemical from the rule. This amendment will remove the chemical from the reporting requirements of 40 CFR 712.30 and provide the reasons for that removal.

Only those chemicals which are designated by the ITC for testing decisions within 12 months are subject to the automatic reporting provision at this time. The Agency is considering the inclusion for automatic reporting of those chemicals which the ITC recommends for consideration but does not designate for EPA response within one year. However, before requiring such reporting, the Agency will propose this new provision for comment.

III. Who Must Report

Manufacturers who qualify as small with respect to the previously prescribed standards are exempt from this rule (see 40 CFR 712.25(c)). EPA has separately proposed a generic definition of small manufacturers for TSCA section 8(a) rules (June 23, 1982; 47 FR 27208). When the final generic small manufacturers definition is issued, EPA plans to amend 40 CFR 712.25(c) to incorporate the generic definition. Periodically, the Agency will change the dollar values in the generic exemption standards, if necessary, to reflect inflation.

IV. Economic Impact

Since no chemicals are listed with the amendment at this time, there are no specific associated costs. However, with each addition of chemicals, estimated economic impacts will be calculated and made available. Figures will vary depending on the number of chemicals that are designated by the ITC.

Employing the analysis prepared for the Preliminary Assessment Information rule promulgated on June 22, 1982, as well as other relevant data, we have estimated the impact of this amendment on firms that must report and upon the Agency in terms of reporting and data processing costs. Since the average number of designations has been six per ITC report, we estimate that each amendment adding chemicals to the rule will cost manufacturers a total of approximately $9,300 and will require about 300 burden-hours. The cost to the Agency will be negligible ($800 per ITC report for data processing).

V. Rulemaking Record

The public record for this rule is a continuation of the record (OPTS-82004) for the Preliminary Assessment Information rule published in the June 22, 1982, issue of the **Federal Register** (47 FR 26992). All documents, including the index to this public record, are available to the public in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days (Rm. E-107, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing the rule.

VI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it will not have an effect of $100 million or more on the economy. This regulation has no associated costs at this time. However, it is expected to have a one-time total cost for each addition of ITC chemicals to the rule of less than $10,000. It will not have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Consistent with the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, small manufacturers have been defined and excluded from manufacturer reporting requirements. The average cost of reporting for a manufacturer is estimated to be less than $1,500.

In view of the exemptions and the small cost per company, the Agency finds that this rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. The reporting provisions in this amendment have been approved by OMB during their proposal stage (June 1982, under control number

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2000-0420), along with two other amendments which include the following: chemicals from the Sixth through Ninth ITC Reports and reporting requirements for the processors of these chemicals.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

(Sec. 8(a), Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2607))

Dated: May 2, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 712—[AMENDED]

Therefore, 40 CFR 712.30 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 712.30 Chemical lists and reporting periods.

(a)(1) Persons subject to this Subpart B must submit a Preliminary Assessment Information Manufacturer's Report for each chemical substance or mixture that is listed or designated in this section. (OMB control number 2000-0420.)

(2) Unless a respondent has already prepared a Manufacturer's Report in conformity with conditions set forth in paragraph (a)(3) of this section, the information in each Manufacturer's Report must cover the respondent's latest complete corporate fiscal year as of the effective date. The effective date will be 30 days after the **Federal Register** publishes a rule amendment making the substance or mixture subject to this Subpart B.

(3) Persons subject to this Subpart B need not comply with the requirements of paragraph (a)(2) of this section if they meet either one of the following conditions:

(i) The respondent has previously and voluntarily provided EPA with a Manufacturer's Report on a chemical substance or mixture subject to this Subpart B, which contains data for a one-year period ending no more than three years prior to the effective date described in paragraph (a)(2) of this section. Respondents meeting this condition must notify EPA by letter of their desire to have the voluntary submission used in lieu of a current data submission and must verify the completeness and current accuracy of the voluntarily submitted data. Such letters must contain the following language: "I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported on the form." Notification letters must be submitted prior to the reporting deadline. (OMB control number 2000-0420.)

(ii) The respondent has previously submitted a Manufacturer's Report on a chemical substance or mixture subject to this Subpart B to the Interagency Testing Committee, but not to EPA, and that Report contained data for a one-year period ending less than three years prior to the effective date described in paragraph (a)(2) of this section. Respondents meeting this condition must submit a copy of the Manufacturer's Report to EPA, and must submit an accompanying letter notifying EPA of the respondent's intent that the submission be used in lieu of a current Manufacturer's Report. The notification letter must verify the completeness and current accuracy of the voluntarily submitted data. Such a letter must contain the following language: "I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported on the form." The submission must be made prior to the reporting deadline. (OMB control number 2000-0420.)

* * * * *

(c) Chemical substances and mixtures that have been designated by the Interagency Testing Committee, established under TSCA section 4(e), for EPA's testing consideration within one year, are subject to this subpart 30 days after EPA issues a regulation listing the chemical substance or mixture in the **Federal Register**. A Preliminary Assessment Information—Manufacturer's Report must be submitted for each chemical substance and mixture within 60 days after the effective date. At EPA's discretion, a designated substance or mixture may be withdrawn, for good cause, from the rule's reporting requirements prior to the effective date.

* * * * *

[FR Doc. 83-12733 Filed 5-10-83; 8:45 am]

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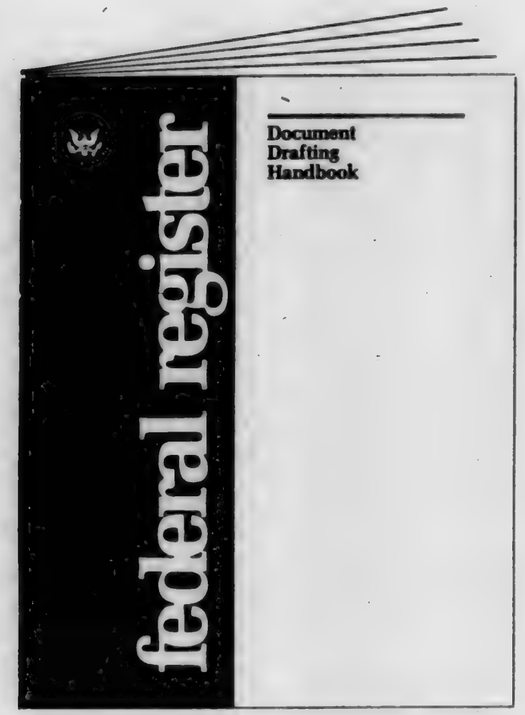

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Federal Register
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Thursday, May 12, 1983

Presidential Documents

Title 3—

The President

Proclamation 5058 of May 6, 1983

Older Americans Month, 1983

By The President of the United States of America

A Proclamation

Throughout our history, the American people have held a special place in their hearts for our older citizens.

From this Nation's earliest days, when the wisdom and eloquence of our elder statesmen played such an important role in the creation of our Republic, to this era of renewed private sector initiative, where so many of our senior citizens toil in volunteer armies of community service across the land, older Americans remain a vital force in our national life.

We recognize that no single group in our society has done more to build America and to shape our national character than our nearly thirty-three million older citizens. We treasure their continuing involvement and the unique understanding they bring to us. Their wisdom, experience, insights, and accomplishments merit an invaluable place in our culture and economy.

Through hard work and creativity, our older Americans have made enormous contributions throughout their lives to preserve our way of life and our standard of living.

Now we must keep faith with them.

It is our responsibility to protect them by reducing inflation—that monster which eats at savings and pensions and destroys the independence and well-being of our older Americans.

Of particular importance to our older citizens is the integrity of their pension funds. The recent rise in business confidence and the resulting surge in the net worth of investments have significantly increased the value of America's pension funds. These developments remind us that the most important step we can take for all Americans, but especially our senior citizens, is to follow economic policies that will create noninflationary growth.

It is also our responsibility to keep faith with our older citizens by guaranteeing a secure and stable social security system so they might live in dignity. The recent amendments to the Social Security Act assure the elderly that America will always uphold the promises made in troubled times a half-century ago.

The future of our older Americans should be as sweet as the memories of their youth. I believe the future for our older citizens holds as much promise as the achievements of their past. In this twenty-first annual observance of Older Americans Month, we celebrate that potential.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1983 as Older Americans Month. I ask public officials at all levels, community agencies, educators, the clergy, the communications media, and the American people to take this opportunity to honor older Americans and to consider how we may make it possible for them to enjoy their later years.

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IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-12902
Filed 3-10-83; 2:29 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5059 of May 10, 1983

Flag Day and National Flag Week, 1983

By the President of the United States of America

A Proclamation

Two hundred eight years ago, the first distinctive American flags were flown over the colonial defenses during the Battle of Bunker Hill. One flag was an adaptation of the British Blue Ensign while the other had a new design. Both flags bore a pine tree, symbol of the struggle colonial Americans undertook to wrest their land from the forests.

As the colonials moved toward a final separation from Britain, other flags with various symbols appeared to inform the world of the hopes, dreams, and challenges of the new Nation. Many of the early American flags carried such mottoes as "Liberty or Death" or "Don't Tread on Me" to reflect the courage and quest for freedom which motivated our forefathers and gave birth to our Nation.

Two years after the Battle of Bunker Hill, the Continental Congress chose a flag which, tellingly, expressed the unity and resolve of the patriots who had banded together to seek independence. The delegates voted "that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation." Two centuries later, with the addition of thirty-seven stars, this flag still symbolizes our shared commitment to freedom and equality. It carries a message of hope to the downtrodden, opportunity to the oppressed, and peace to all mankind.

As challenges face our Nation today, the "Stars and Stripes" continues to remind each of us of the sacrifices and determination which built this Nation. It signals the great land of opportunity that our forefathers carved out of the wilderness and gave their lives to make free so many years ago.

Now it is our responsibility to remember the great price that has been paid to keep our flag flying free today and our privilege to ensure that it will keep flying free for future generations.

To commemorate the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue an annual proclamation calling for its observance and the display of the flag of the United States on all Government buildings. The Congress also requested the President, by a joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate June 14, 1983, as Flag Day and the week beginning June 12, 1983, as National Flag Week, and I direct the appropriate officials of the Government to display the flag on all government buildings during that week. I also urge all Americans to observe Flag Day, June 14, and National Flag Week by flying the "Stars and Stripes" from their homes and other suitable places.

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I also urge the American people to celebrate those days from Flag Day through Independence Day, set aside by Congress as a time to honor America (89 Stat. 211), by having public gatherings and activities at which they can honor their country in an appropriate manner.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-12990
Filed 5-11-83; 10:05 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegation of Authority; Authority To Act as Secretary of Agriculture

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to add the position of Assistant Secretary for Administration to the list of officials who serve as Acting Secretary in the absence or unavailability of the Secretary of Agriculture.

EFFECTIVE DATE: May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, United States Department of Agriculture, Washington, D.C., (202) 447-6035.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

2. Section 2.5 is amended by revising paragraph (b) to read as follows:

§ 2.5 Order in which Officers of the Department shall act as Secretary.

* * * * *

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, and the Under Secretary for Small Community and Rural Development, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Marketing and Inspection Services, the Assistant Secretary for Economics, the Assistant Secretary for Science and Education, the Assistant Secretary for Governmental and Public Affairs, and the Assistant Secretary for Administration shall act as Secretary in the order in which they have taken office as an Assistant Secretary. In the event that any two or more Assistant Secretaries shall have taken office on the same date they shall act as Secretary in the order listed herein.

* * * * *

Done this 9th day of May 1983, at Washington, D.C.

John R. Block,
Secretary of Agriculture.

[FR Doc. 83-12819 Filed 5-11-83; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 578]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 13–May 19, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202-447-5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982-83. The

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marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on May 10, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.878 is added as follows:

§ 907.878 Navel orange regulation 578.

The quantities of navel oranges grown in California and Arizona which may be handled during the period May 13, 1983, through May 19, 1983, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 11, 1983.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-13090 Filed 5-11-83; 11:52 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 571

[No. 83-243]

Sale of Branches

Dated: April 26, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations governing the sale of branch offices and the transfer of savings accounts. Sales and transfers by and to institutions whose accounts are insured ("insured institutions") by the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation") will be subject to new application and review procedures. The Board believes the new procedures will allow it to examine supervisory, accounting, and legal issues related to these transactions without substantial interference with the operation of an insured institution or delay in the implementation of its business decisions. The Board is also affording accountholders the opportunity to object to their accounts being transferred to uninsured institutions. Finally, the Board is also protecting rights of accountholders of mutual institutions. These amendments clarify the procedures applicable to sales and transfers of assets and liabilities.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Penfield Starke, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, [202] 377–6453.

SUPPLEMENTARY INFORMATION: On February 18, 1983, the Board proposed to amend §§ 563.22 and 571.5 of its regulations (12 CFR 563.22, 571.5) to clarify the Board's application and review procedures with regard to sales and transfers of assets and account liabilities by and to institutions whose accounts are insured by the Corporation. *See* Board Resolution No. 83–88 (48 FR 8460; March 1, 1983).

Although the Board believes that all such transactions should undergo staff review and Board consideration, the proposal attempted to limit the review to essential matters. The proposed regulation would have required a purchasing institution to submit information sufficient for the Board to make findings on antitrust, Community Reinvestment Act ("CRA") (12 U.S.C 2901–2905), and supervisory issues. Under the proposal, the Board's concern with regard to nonsupervisory selling institutions was limited to the accounting treatment used and assurances that the transaction was negotiated at arm's length. These procedures would allow most nonsupervisory transactions to be automatically approved within 30 days from the date of filing. However, the Board has greater concern with sales by institutions in poor financial condition, and the proposal would have required evidence from the seller demonstrating that the transaction is part of a plan to improve the institution's financial condition rather than an effort to forestall imminent collapse of the institution. In connection with its proposed procedures for the sale of branches, the Board also specifically requested comment on whether an accountholder whose account is being transferred to an institution the accounts of which are not insured by an agency of the federal government should be advised of the proposed transfer and be given the option of maintaining the account in the selling institution. After a review of the public comments submitted in response to the proposal and further staff consideration and analysis, the Board has adopted the regulation substantially as proposed with the modifications discussed below.

The Board received five comments on the proposed rule. Two were from state-chartered savings and loan associations, one each from a state supervisor, a federally chartered association, and an individual. Most commenters agreed that the proposed regulation would serve a valid purpose but felt that the review process should be restricted to reduce the burden of application. Several commenters suggested that a *de minimis* standard be applied to exempt small sales from the application process Other commenters suggested that only sellers with low net-worth ratios should be required to apply to the Board for approval. Another commenter suggested that sale of mutual accountholders' savings to a stock-type entity would be adversely affected by denying the accountholders their ownership rights. None of the comments received by the Board addressed the issue of notice to accountholders whose accounts would be transferred to an uninsured institution.

'De Minimis' Transactions

The Board has considered the suggestion of several commenters that sales of branches not exceeding a certain percentage of the selling institution's assets be exempt from Board review. In light of its experience in reviewing branch sale transactions on a case-by-case basis, the Board believes that such a standard would be extremely difficult to apply equitably because a sale that is *de minimis* in one instance may have material consequences in another. Problems have also arisen as to the yardstick that would be appropriate in measuring a transaction. For example, using the measure of a percentage of the selling institution's assets, large increases in a purchaser's asset or liability size or large decreases in a seller's liabilities would not be reviewed if the selling institution were relatively large. With these considerations in mind, the Board does not believe that a *de minimis* standard can be effectively implemented.

The intended result of the proposed procedures was to reduce the application burden for all transfer transactions. In connection with the adoption of those procedures today, the Board has directed its staff to refine the transfer application so that it would only require information that the Board believes is essential to assess the merits of the transaction and that the Board is required by statute to review. Therefore, the information required from the buyer will be limited to that necessary to the Board to make findings on antitrust, CRA, and supervisory grounds. In fact, the application will require very little information from the purchasing institution other than information typically generated by such a transaction. The Board can make findings under the antitrust laws with internal information once it is given notice of the parties involved and branches or liabilities to be transferred. Review of CRA considerations will entail an analysis of current CRA statements and a brief description of new market areas, and supervisory considerations can be reviewed by analyzing the specifics of the transaction and its effect on the general financial condition of the buying institution. Therefore, in light of the minimal requirements placed on all branch sale or transfer purchases, the Board believes that the suggestion for an even more limited review standard should not be adopted.

Seller's Application

The Board's proposal would have required that all FSLIC-insured institutions that enter into agreements to sell branches, of transfer deposits outside the ordinary course of business, file certain information to and receive approval from the Board. Two commenters suggested that the Board only require submissions by selling institutions that are in poor financial condition. Applications of nonsupervisory institutions are already significantly more limited in the scope of review than those required to be filed in supervisory cases. The proposal would have required three kinds of information from nonsupervisory sellers; (1) Accounting information, (2) a board-of-directors resolution, and (3) noninducement affidavits. The submission of a resolution and affidavits would not significantly burden the selling institution. The accounting information required would be limited to: a detailed breakdown of the assets and liabilities transferred and their contract rates; the market value of each asset and liability transferred; discount rates used; details of the calculation of the amount of profit or loss from the transaction; and information showing the effect of the transfer on the institution's cost of money and yield on assets. An opinion will be required by an independent accountant stating that the proposed accounting will conform with generally accepted accounting principles.

While the described information is not minimal, it is information that should be prepared by the selling institution's accountants as a part of the transaction and should be readily available to the selling institution. Moreover, given the Board's previously expressed concerns in the areas of accounting treatment of branch sale transactions, the Board believes that it is appropriate that such accounting information be filed in all transactions.

Affected Accountholders

The proposal requested comments concerning the treatment of accountholders whose accounts would be adversely affected by a branch sale transaction. The Board noted that one possible adverse effect in a branch sale could be the loss of federal insurance on an account transferred to a uninsured institution. Despite the fact that there were no comments received on this subject, the Board believes it is appropriate to adopt a rule requiring that such an accountholder losing federal insurance be advised of the proposed transfer and be given the option to retain the account in the selling institution.

The Board has also considered the suggestion that an accountholder of a mutual institution whose account would be transferred to a stock institution be protected from the loss of any inchoate ownership interest in the institution. The Board has adopted detailed regulations, Part 563b of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation (12 CFR Part 563b), regarding conversions of institutions from the mutual to the stock form of organization, which appropriately protect the rights of the accountholders. A sale of branches is not such a significant corporate event, however, that a conversion subject to those conversion regulations is effectuated. Of course, if a conversion to stock form by an institution were disguised as a sale of branches, the transaction would still be governed by the conversion regulations.

Nevertheless, an accountholder whose account is transferred in connection with a branch sale could still be affected by that transfer. A mutual accountholder would be entitled to a *pro rata* share of the mutual institution's equity upon liquidation; an accountholder of a stock institution is merely a creditor and would have no rights in liquidation beyond the account balance. Therefore, the sale of an account by a mutual institution with positive net worth to a stock institution might be viewed as depriving the accountholder of ownership rights. In order to insure that accountholders are not aggrieved by such a transaction, the Board is requiring that the affected accountholders be given notice and opportunity to object to transfer of accounts in a fashion similar to a transfer to an uninsured institution. Thus, the accountholders would not be forced to give up their ownership rights in the mutual institution.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated into the supplementary information accompanying the rule.

2. *Small entities to which the rule will apply.* The rule would apply to all FSLIC-insured institutions.

3. *Impact of the proposed rule on small institutions.* The rule would add new application requirements and amend existing ones for all FSLIC-insured institutions engaging in the sale or purchase of branch offices or the assumption of savings account liabilities. Small institutions must meet the same requirements as larger institutions, but the rule may have a disproportionate effect on larger institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rules.* The basic regulatory requirements included in the rule concern the Board's review of the sale and purchase of branch offices and assumption of savings account liabilities by any FSLIC-insured institution. The

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Board believes that the review is necessary in order to assess certain supervisory, antitrust, and CRA concerns discussed elsewhere in the supplementary materials, and that the standards accurately reflect the Board's intended policy for review. It would not be possible to eliminate or modify these requirements for small entities without causing the Board to have insufficient information to act on certain applications.

List of Subjects in 12 CFR Parts 563 and 571

Savings and loan associations.

Accordingly, the Board hereby amends Parts 563 and 571, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Amend § 563.22 by revising the title; revising the first sentence of paragraph (a); redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively; adding new paragraph (b); revising new paragraphs (c) and (d); revising the introductory sentence of new paragraph (f); and adding new paragraphs (g) and (h) as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

(a) No insured institution (which for purposes of this section shall not include a Federal institution the deposits of which are insured by the Federal Deposit Insurance Corporation) may increase its accounts of an insurable type: (1) as part of any merger or consolidation with another institution, (2) through the purchase of assets, or (3) through the assumption of liabilities without application to and approval by the Corporation.* * *

(b) No insured institution (which for purposes of this section shall not include a Federal institution the deposits of which are insured by the Federal Deposit Insurance Corporation) may at any time make a transfer, as defined in § 571.5(a) of this subchapter, of assets or savings account liabilities without application to and approval by the Corporation. Application for such approval shall be upon forms prescribed by the Corporation and shall contain such information as the Corporation may require.

(c) Applications filed pursuant to paragraph (a) of this section shall follow the procedures set forth in § 543.2 of this Chapter, except that: (1) The required newspaper publication of notice of application shall be made in the communities in which the home offices of each of the parties to the transaction are located; and (2) applicants may additionally mail such notice to the voting members of each institution within the time specified in § 543.2(d).

(d) The requirements of paragraph (c) of this section do not apply to any merger, consolidation, purchase of assets, or assumption of liabilities: (1) Authorized by the Corporation to be instituted for supervisory reasons, or (2) involving an interim Federal association or an interim state-chartered institution if the resulting institution is immediately acquired in accordance with the procedures set forth in § 584.4 of this Chapter.

* * * * *

(f) Corporation approval of mergers that may not occur automatically under paragraph (e) of this section, including those which entail modifications of the plan of merger, consolidation, purchase of assets, or assumption of savings account liabilities, may be given by the Board's Principal Supervisory Agent in those cases where paragraph (e) does not apply because:

* * * * *

(g) Unless the context otherwise requires, in paragraphs (e) and (f) of this section: (1) The word "merger" shall also mean "purchase of assets" and "assumption of savings account liabilities"; (2) the term "resulting institution" shall also mean "acquiring institution"; and (3) the terms "merging institution" and "acquired institution" shall also mean "selling institution."

(h)(1) Applications filed pursuant to paragraph (b) of this section shall be deemed approved automatically by the Corporation 30 calendar days after the Principal Supervisory Agent sends written notice to the applicant that the application is complete, unless:

(i) The Principal Supervisory Agent raises objection(s) to the valuation or accounting treatment of the proposed transaction; or

(ii) The Principal Supervisory Agent determines that the financial condition of the selling institution does not satisfy minimum net-worth levels set forth in § 571.5 (k) (2) of this subchapter.

(2) Corporation approval of transactions that may not occur automatically under paragraph (h)(1) of this section may be given by the Principal Supervisory Agent in those cases where paragraph (h)(1) does not apply because the Principal Supervisory Agent objects to the valuation or accounting treatment of the proposed transaction.

2. Amend § 571.5 by revising the title, revising paragraphs (a), (b)(1), (b)(3), (b)(4), the first two sentences of (c)(1), (c)(2), (d)(1), (d)(2), (d)(6), (e), (g), and (i), and adding new paragraphs (j) and (k), as follows:

§ 571.5 Mergers and transfers of assets and liabilities.

(a) *General policy.* This is a statement of the Federal Home Loan Bank Board's general policy on merger and transfer proposals. It does not ordinarily apply to mergers and transfers instituted for supervisory reasons. The term "merger" includes consolidations, and the term "transfers" means transfers in bulk not made in the ordinary course of business, including the transfer of assets and savings account liabilities, purchase of assets, and assumption of savings accounts and other liabilities. Potential merger and transfer applicants are encouraged to review proposed transactions with the Supervisory Agent prior to proceeding with the formal application process. Generally, the Board regards mergers or transfers primarily as business decisions to be made by the institutions involved.

(b) *Legal considerations*—(1) *General.* Conformity under law and regulation is a precondition to approval by the Board. Applicable laws and regulations include the Federal antitrust laws (the Clayton and Sherman Acts), section 408 (regulation of holding companies) of the National Housing Act, the Community Reinvestment Act of 1977, applicable State law, and the Board's own regulations. To enable the Board to make a legal evaluation of the possible anticompetitive impact of proposed mergers and transfers, applicants are required to submit certain information on Board-prescribed forms available at each Federal Home Loan Bank and such other information as may be requested by the Supervisory Agent. In any case in which the Supervisory Agent believes it clear that no antitrust or competitive problem exists, a merger or a transfer proposal may be submitted with relevant partial information short of the complete data called for by the schedules.

* * * * *

(3) *Antitrust considerations.* The Board will examine the impact of the merger or transfer on competition under the relevant antitrust laws and will only deny a merger or transfer on competitive grounds if the merger or transfer will be likely to violate those laws. This analysis will be done for each relevant geographic market. All firms reasonably competitive with the business of the parties to the subject transaction will be taken into account in determining deposit and loan market statistics and the competitive consequences of the merger or transfer. * * *

(4) *Convenience and needs.* The Board will also examine the extent to which the transaction will affect the convenience and needs of the communities to be served and the impact, if any, on operating efficiency of the resulting or purchasing institution.

(c) *Managerial and financial aspects.* (1) *Managerial aspects.* The Board's primary requirement is that the resulting or purchasing institution have the managerial and financial resources to operate successfully. The experience and the performance record of the persons to be in control or in key managerial positions will be evaluated as to the probability of sound operation of the resulting or purchasing institution.

* * *

(2) *Financial aspects.* The overall operations and financial condition will be reviewed to determine the resulting or purchasing institution's prospects of generating sufficient income to meet competition, making the required transfers to reserves, and conducting its affairs essentially free of supervisory concern. The adequacy of the net worth of the resulting or purchasing institution, relative to the risks inherent in its assets, and economic and other factors will be considered. Intangible assets will be closely reviewed.

(d) *Factors relating to fairness and disclosure of the plan.* The Board will review the fairness and disclosure of a merger or transfer proposal on the basis of the following criteria:

(1) *Equitable treatment.* The plan should be equitable to all concerned—savings accountholders, borrowers, creditors, and stockholders (if any) of each institution—giving proper recognition of and protection to their respective legal rights and interests. The plan will be closely reviewed for fairness where the merger or transfer does not appear to be the result of arm's length bargaining or, in the case of a stock institution, where controlling stockholders are receiving different consideration from other stockholders.

(2) *Full disclosure.* The application should make full disclosure of all written or oral agreements or understandings by which any person or company will receive, directly or indirectly, any money, property, service, release of pledges made, or other things of value, whether tangible or intangible, in connection with the merger or transfer.

* * * * *

(8) *Fees paid in connection with mergers and transfers.* The application should state the name of each person or firm rendering legal or other professional services in connection with merger or transfer. The fee expected to be paid to each such person or firm should be stated, together with a description of the services being performed, the time expected to be spent in performing such services, the hourly rate or other basis used for determining the fee, and any relationship between such person or firm and an institutional party to the transaction. If a finder's or similar fee is to be paid in connection with the merger or transfer, the application should fully justify the payment and amount of the fee and state the name of the person or firm to whom the fee is to be paid. No finder's or similar fee should be paid to any officer, director, or controlling person of an institution which is a party to the transaction.

(e) *Accounting for goodwill.* The proposed treatment of goodwill in connection with the merger or transfer must be fully described in the application. The computation and amortization of goodwill should be in accordance with accounting policies of the Board in effect at the time the application is filed.

* * * * *

(g) *Noninducement affidavits.* The application should include a noninducement affidavit on a Board-prescribed form signed by each senior officer, director, and controlling person of each institution which is a party to the transaction and each attorney or law firm regularly serving such institution.

* * * * *

(i) *Tax liability.* In a merger, a tax ruling from the Internal Revenue Service or a tax opinion will be required.

(j) *Transfers.* In addition to the other requirements of this section applicable to the parties involved in transfer transactions, the application of an insured institution which is a party to a transfer should provide a description of: (1) The assets and liabilities subject to transfer and their contract rates; (2) any discount rates used; (3) the market value of the assets and liabilities subject to transfer; and (4) the effect of the transfer on the institution's cost of money and yield on assets.

(k) *Sale of assets or liabilities.*—(1) *Accounting and valuation.* The application of an insured institution selling assets or account liabilities will be reviewed under valuation and accounting standards established by the Board.

(2) *Notice to accountholders.* Notice of a proposed account transfer and the option of retaining the account in the transferring institution shall be furnished to an affected accountholder (i) by an insured institution transferring account liabilities to an institution the accounts of which are not insured by the Corporation, the Federal Deposit Insurance Corporation, or the National Credit Union Share Insurance Fund; and (ii) by any mutual insured institution transferring account liabilities to a stock insured institution. The required notice shall allow affected accountholders at least 30 days to consider whether to retain their accounts in the transferring institution.

(3) *Supervisory concerns.* The Corporation will closely review a transfer of assets and savings account liabilities entered into by an insured institution with regulatory net worth, as defined in § 561.13 of this subchapter, calculated prior to the consummation of the transaction and without the benefit of inclusions permissible under Part 572 of this subchapter, of 0.5% or less of all liabilities. An application by such an institution should demonstrate that the proposed transaction is beneficial to the short-term and long-term viability of the institution, that the transfer was negotiated at arm's length and that the transfer is not detrimental to the interests of the Corporation.

(Sec. 408, 94 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260; as amended (12 U.S.C. 1725, 1728, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 83-12748 Filed 5-11-83; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-17; Amdt. 39-4560]

Airworthiness Directives; Detroit Diesel Allison; Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17B, and -B17C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD)

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superseding AD 77-18-03. The new AD requires inspecting and replacing slotted third stage turbine wheels installed in Detroit Diesel Allison (DDA) Model 250-C20, -C20B, -C20C(T63-A-720), -B17, -B17B, and -B17C engines and restricts the N1 and N2 operating ranges. The AD is needed to prevent possible partial blade and/or shroud separation of slotted third stage turbine wheels.

DATE: Effective date—June 13, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 14 CFR 39.13 effective on June 13, 1983.

ADDRESSES: The applicable service bulletin may be obtained from Detroit Diesel Allison, Divison of General Motors Corporation, Indianapolis, Indiana 46206. Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that slotted third stage turbine wheels, whether full or center slot, crimped or uncrimped, have encountered partial blade and/or shroud separation before reaching their scheduled life limit of 4,550 operating hours. This partial blade and/or shroud separation can result in loss of engine power. Detroit Diesel Allison (DDA) issued Commercial Engine Alert Bulletin CEB-A-1174/1146 on April 20, 1981, which requires inspecting and replacing slotted third stage turbine wheels per a phase-down schedule. Additionally, CEB-A-1174/1146 requires that all slotted third stage wheels not be operated between 90 percent and 96 percent N2 (including autorotation and flight idle) except during transients, while maintaining safe flight practices, and restricts engine N1 speeds during ground operation. Compliance to date with the N1/N2 operating restrictions, reduced life limits and required inspections has significantly reduced the occurrence of partial blade and/or shroud separations. The amendment will require mandatory compliance with CEB-A-1174/1146 to preclude the possibility of engine power loss resulting from operating slotted third stage turbine wheels to their life limit and to preclude operations in the restricted N1/N2 ranges.

The proposed amendment to require mandatory compliance with CEB-A-1174/1146 was published in the **Federal Register**, 47 FR 43073, as a Notice of Proposed Rulemaking on September 30, 1982.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

List of Subjects in 14 CFR Part 39

Engines, Propellers, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Detroit Diesel Allison: Applies to all Model 250-C20, -C20B, C20C(T63-A-720), -B17, -B17B, and -B17C engines equipped with the following slotted third stage turbine wheels:

Part No.	Type of Shroud
6887113	Full slot.
6888633	Full slot.
6888663	Crimped full slot.
6888551	Center slot.
6888567	Center slot.
6888733	Center slot.
6888743	Center slot.
6888753	Center slot.
6888763	Center slot.
6888823	Crimped full slot.
6888364	Crimped full slot.
6888408	Crimped center slot.
6888415	Crimped center slot.
6888416	Crimped center slot.
6888417	Crimped center slot.
6888418	Crimped center slot.
6888419	Crimped center slot.

Accomplish the following to prevent possible engine power loss resulting from partial blade and/or shroud separation of slotted third stage turbine wheels:

1. Compliance required, as indicated, unless already accomplished:

a. Remove, inspect, reintroduce into service where applicable, and ultimately retire affected turbine wheels in compliance with the schedule and instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-1174/1146, Revision 2 dated September 15, 1982, or later FAA approved revisions.

2. Compliance required within 60 days after the effective date of this AD, unless already accomplished:

a. Placards, markings, or flight manual changes shall be provided to flight crews to avoid sustained operation of all affected engines between 90 and 96 percent N2, except during transients, while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine-out simulation on multiengine aircraft.

b. During all ground operation of affected turbine wheels installed in 250-C20, -C20B, -C20C(T63-A-720) engines, the engine N1 speed must be maintained at ground idle, except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

c. During all ground operation of affected turbine wheels installed in 250-B17, -B17B, -B17C engines, the engine N2 speed must be maintained below 90 percent N2 r.p.m., except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

Upon request of the operator, and equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region. The Detroit Diesel Allison Commercial Engine Alert Bulletin CEB-A-1174/1146, Revision 2 dated September 15, 1982 identified and described in this directive are incorporated herein and made by reference a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents may also be examined at the Office of Regional Counsel, FAA New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

This AD supersedes Amendment 39-3011, 42 FR 43969, AD 77-18-03.

This amendment becomes effective June 13, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note:—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), on the basis that the total cost impact is under $6 million. It is certified that the final rule will not have a significant economic impact on a substantial number of small entities because of the phase-down schedule of compliance and because the cost of the action is less than $5,000 per engine which is nominal compared to the overall cost of the aircraft involved or the cost of rebuilding the entire engine if the correction is not made in time.

A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 82-ANE-17, 12 New England, Executive Park, Burlington, Massachusetts 01803.

Note:—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on April 27, 1983. The referenced Bulletin is available at the Federal Register.

Issued in Burlington, Massachusetts, on March 21, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-12415 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-4R-AD; Amendment 39-4647]

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. Models MU-2B-25/-26/-30/-35/-36 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain serial numbered Mitsubishi Heavy Industries, Ltd. (MHI) Models MU-2B-25/-26/-30/-35/-36 airplanes which supersedes AD 77-13-12, Amendment 39-2937 (45 FR 32520). This superseded AD required a one-time inspection and modification, as necessary, of the strobe light conduit tube installations on these airplanes. Subsequent to the issuance of AD 77-13-12, MHI has revised MU-2 Service Bulletin 174, referenced in AD 77-13-12, to recommend modification of the conduit tube installation and initial and repetitive inspections of the unmodified conduit tube at intervals of 100 hours time-in-service. This additional action will preclude fuel leaks into the strobe light assemblies and reduce the potential for explosion and fire.

DATE: Effective date: May 17, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 174C, dated October 2, 1981, applicable to this AD may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aircraft Works, 10, OYE-CHO, MINATO-KU, NAGOYA, JAPAN or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901. This document may also be examined in Room 7108, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Manager, Aircraft Certification Field Office, ANM-170H, P.O. Box 50246, Honolulu, Hawaii 96850, Telephone (808) 546-8650 or 546-8658; or Larry Werth, Foreign FAR 23 Section, ACE-109, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The issuance of AD 77-13-12, Amendment 39-2937, was based upon reports received by the manufacturer, of cracks in the strobe light conduit tube in the wing tip fuel tanks on certain Model MU-2 airplanes. As a result of these reports, MHI issued MU-2 Service Bulletin No. 174, dated September 29, 1976, and the Japan Civil Aviation Bureau (JCAB), issued AD No. TCD-1370-76 incorporating the requirements of this bulletin.

The FAA found that the condition addressed by this Service Bulletin and JCAB AD No. TCD-1370-76 was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 77-13-12 which required a one-time inspection and modification, if necessary, of the strobe light conduit tube installations on MHI Models MU-2B-25/-26/-30/-35/-36 airplanes. Subsequently, the manufacturer has received additional reports of cracks and fuel leaks in the strobe light conduit tube assemblies. As a result MHI has issued MU-2 Service Bulletin No. 174C, dated October 2, 1981, which recommended modification of the conduit tube and an initial and 100-hour repetitive inspection of this component. The JCAB has issued AD No. TCD-1370A-81, dated November 5, 1981, applicable to Mitsubishi MU-2 airplanes operated in Japan which makes the modifications and inspections prescribed in this revision of the bulletin mandatory on these airplanes.

This action corresponds to the issuance of an AD by the FAA on airplanes certified for operation in the United States. The FAA relies upon the certification of the JCAB combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of MU-2 Service Bulletin No. 174C, dated October 2, 1981, and the mandatory classification of this Service Bulletin by the JCAB in their AD No. TCD-1370A-81, dated November 5, 1981.

Based on the foregoing, the FAA has determined that the condition addressed by the manufacturer's Service Bulletin No. 174C and JCAB AD No. TCD-1370A-81 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD superseding AD 77-13-12 is being issued which requires initial and repetitive inspections and modification of the strobe light conduit tubes in the wing tip fuel tanks on certain serial numbered MHI Models MU-2B-25/-26/-30/-35/-36 airplanes in accordance with Mitsubishi Heavy Industries, Ltd., MU-2 Service Bulletin No. 174C dated October 2, 1981.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Mitsubishi Heavy Industries, LTD: Applies to Models MU-2B-25 and -26 (serial numbers 239 through 328; except serial numbers 313, 321, and airplanes having a serial number with the suffix "SA") and Models MU-2B-30, -35, and -36 (serial numbers 501, 504, and 548 through 673; except serial numbers 652, 661 and airplanes having a serial number with the suffix "SA") airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent fuel or fuel vapors from entering the wing tip strobe light assemblies, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD and thereafter at intervals not to exceed 100 hours time-in-service from the last inspection, inspect the strobe light conduit tubes in the wing tip fuel tanks as detailed in MU-2 Service Bulletin No. 174C dated October 2, 1981 (hereafter referred to as the SB), Item 1—Inspection for Leakage. If leaks are found, prior to further flight, modify the tip tank conduit tube in accordance with Item 2—Rework Procedure, of the SB.

(b) On or before September 1, 1983, modify the tip tank conduit tubes in accordance with Item 2—Rework Procedure, of the SB.

(c) When Item 2—Rework Procedure of the SB is accomplished, the repetitive inspection

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required by paragraph (a) is no longer required.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(e) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Field Office, ANM–170H, Federal Aviation Administration, P.O. Box 50240, Honolulu, Hawaii 96850.

This AD supersedes AD 77–13–12, Amendment 39–2937.

This amendment becomes effective on May 17, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1566(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note:—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on April 29, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-12574 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91–100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 21022A, 800 Independence Avenue SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace, Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 426–3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666 *et seq.* (March 13, 1981). In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669; March 13, 1981) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR Nos. 44 through 44–6, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAMs under that secton.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

In consideration of the foregoing, section 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 3/528.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as Amended; Docket No. 21022A)

* * * * *

FDC 3/628 Emergency Flight Rules—April 29–May 5. Reservation/Flight Plan Filing Rule—Houston, Texas/Offshore Oil Technology Conference, effective March 25, 1983, 2155 Greenwich Time.

The Offshore Oil Technology Conference event is expected to add a significant number of IFR aircraft operations to the air traffic control (ATC) system. To accommodate this traffic without excessive delays, increased ATC staffing and IFR arrival/departure reservations will be required.

Current rules issued under Special Federal Aviation Regulations (SFAR) 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR Rule departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This program does not facilitate accommodation planning.

Pilots proposing nonscheduled general aviation flight to the designated Houston airports will be excluded from the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the designated Houston airports will also be required under this rule. The reservation requirements of this rule are in lieu of the GAR Rule to help facilitate accommodation planning.

Reservations for VFR flight will not be required. However, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly.

Pursuant to SFAR 44, as amended, and Federal Aviation Regulations § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of the following airports (whether used as a primary or alternate) during the effective periods of this rule without a reservation issued under this rule: Houston Intercontinental, William P. Hobby.

2. The effective periods of this rule are May 2 through May 5, daily from 0700 to 2159 Central Daylight Time (CDT).

3. Each person planning IFR flights under this rule shall comply with, in lieu of the GAR Rule, the following requirements:

(a) Reservations may only be requested after 1400 GMT on April 29, 1983.

(b) An arrival reservation to the Houston Intercontinental and William P. Hobby Airports is required and may only be obtained from the Central Flow Control Facility (telephone (202) 382–6866).

(c) A departure reservation from the Houston Intercontinental and William P. Hobby Airports is required and may only be obtained from the Houston FSS (telephone (713) 644–8361).

(d) A flight plan may only be filed after receiving a reservation, but must be filed at least 4 hours prior to the proposed departure time.

4. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 3/641 Emergency Flight Rules May 23–June 1. Flight Plan Filing—Indianapolis, Indiana/INDY 500 Reservation Rule, effective March 29, 1983, 1440 Greenwich Time.

The INDY 500 event is expected to cause approximately 1400 IFR aircraft operations to be added to the air traffic control (ATC) system. To accommodate this traffic without excessive delays and inconvenience to the public, increased ATC staffing and reservations will be required.

Current rules issued under SFAR 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal concentrated arrival demand for a special designation. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision doesn't facilitate accommodation planning.

Pilots proposing nonscheduled general aviation flight to the Indianapolis area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Indianapolis area will be required, and advance request and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Indianapolis area.

Pursuant to the Special Federal Aviation Regulation No. 44, as amended, and Federal Aviation Regulations Section 91.100, the following rule is effective immediately to provide for the safe, orderly handling, and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of Indianapolis area during the effective periods of this rule without a reservation issued under this rule.

2. The Indianapolis area includes the airspace within a 30-nautical-mile radius of Indianapolis, Indiana, and includes the following airports:

Indianapolis International (IND)
Speedway (354)
Metropolitan (418)
Mt. Comfort (2IN2)
Brownsburg (I01)
Eagle Creek (I14)
Terry (I52)
Brookside (I21)
Skyway (5I1)
Lebanon (6I4)

The effective periods are as follows:

Arrivals: May 27, 1300 G.m.t. to May 29, 1600 G.m.t.—excluding the hours between 0300 and 1100 G.m.t.

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Departures: May 29, 2000 G.m.t. to June 1, 0300 G.m.t.—excluding the hours between 0300 and 1100 G.m.t.

4. Each person planning IFR flights under this rule shall comply with, in lieu of the GAR, the following:

(a) Reservations may only be requested after 1400 GMT on May 23, 1983.

(b) An arrival reservation to the Indianapolis area is required and must be obtained from the Central Flow Control Facility (telephone (212) 382–3366).

(c) A departure reservation from the Indianapolis area is required and must be obtained from the Indianapolis FSS (telephone (317) 244–3310).

(d) Flight plans may only be filed after receiving a reservation, but must be filed at least 4 hours prior to the proposed departure time.

(e) Flight plans for flight from the Indianapolis area must be filed with Indianapolis FSS.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 3/671 Emergency Flight Rules —IFR Flight Plan Filing/General Aviation Reservation Rule effective April 1, 1983, 2145 Greenwich Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation (GAR) Rule with respect to certain operations. On March 14, 1983, several ARTCC's were added to the lists that currently allow inter- and intra-ARTCC operations without requiring reservations under this rule. The situation is such now that more turboprop operations can be conducted without a reservation. However, existing restrictions under the GAR Rule remain in effect for operations from certain airports that are capacity controlled by SFAR 44 as amended.

Accordingly, pursuant to SFAR–44, as amended, and § 91.100 of the Federal Aviation Regulations, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO-approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Intra-ARTCC—

(1) effective immediately, flights in the Albuquerque, Atlanta, Boston, Denver, Jacksonville, Kansas City, Los Angeles, Memphis, Oakland, Salt Lake City, Seattle, or Washington, ARTCC's airspace;

(2) effective immediately, turboprop flights in the Ft. Worth or Houston ARTCC's airspace; and

(3) effective 0600 local time on the date specified, flights in any of the following ARTCC's airspace—

(a) April 4, 1983—Cleveland (turboprops only);

(b) April 11, 1983—Miami;

(c) May 16, 1983—Houston;

(d) May 16, 1983—Ft. Worth;

(e) June 20, 1983—Cleveland;

(f) July 1, 1983—New York City;

(g) August 22, 1983—Minneapolis;

(k) August 22, 1983—Chicago; and

(l) August 22, 1983—Indianapolis.

L. Inter-ARTCC—

(1) effective immediately, flights within the airspace of any of the following groups:

(a) Seattle, Salt Lake City, and Oakland; and

(b) Albuquerque, Kansas City, and Memphis.

(2) effective 0600 local time on the dates specified, flights within the airspace of any of the following groups—

(a) April 4, 1983—Cleveland and Boston (turboprops only);

(b) April 11, 1983—Atlanta, Jacksonville, and Washington;

(c) May 16, 1983—Seattle, Salt Lake City, Oakland, and Los Angeles;

(d) May 16, 1983—Atlanta, Jacksonville, Washington, and Miami;

(e) June 20, 1983—Albuquerque, Kansas City, Memphis, and Denver;

(f) July 1, 1983—New York City and Boston;

(g) July 25, 1983—Atlanta, Jacksonville, Washington, Miami, and Houston;

(h) September 1, 1983—Albuquerque, Kansas City, Memphis, Denver, and Ft. Worth; and

(i) September 9, 1983—Minneapolis, Chicago, Indianapolis, Cleveland, New York City, and Boston.

5. Notwithstanding 4K and 4L above, this rule applies to flights from airports that are capacity controlled by SFAR 44, as amended.

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC NOTAM 3/528.

Issued in Washington, DC, on May 2, 1983.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 83-12447 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 249

[Economic Regulation Docket 33725; ER-1214A]

Preservation of Air Carrier Records

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Approval of Extension of Record Retention Requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board has extended the record retention requirements prescribed for air carriers in ER–1214 (46 FR 25414, May 6, 1981). The Office of Management and Budget approved the extension of these requirements through April 30, 1986, under OMB No. 3024–0006.

DATES: Effective: April 8, 1983. Adopted: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 249

Record retention requirements.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12518 Filed 5-11-83; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1610, 1615, and 1616

Standards for the Flammability of Clothing Textiles and Children's Sleepwear; Final Enforcement and Administrative Rules

AGENCY: Consumer Product Safety Commission.

ACTION: Final rules.

SUMMARY: The Commission issues on a final basis rules for the enforcement and administration of the Flammable Fabrics Act (FFA) regarding the use of tests other than the ones set forth in the flammability standards for clothing textiles (16 CFR Part 1610) and for children's sleepwear (16 CFR Parts 1615 and 1616) for purposes of supporting guaranties of items subject to those standards, and to demonstrate compliance with the pre-market testing requirements of the children's sleepwear standards. The rules interpret the phrase "reasonable and representative tests," as used in section 8 of the FFA, to include any alternate test utilizing apparatus or procedure other than those set forth in the flammability standards for clothing textiles or children's sleepwear, if the alternate test is as stringent as, or more stringent than, the test in the applicable standard. Additionally, the rules implementing the children's sleepwear standards provide that, subject to the same conditions, such alternate tests may also be used for purposes of complying with the requirements of the children's sleepwear standards for pre-market testing by manufacturers and importers of fabrics and garments subject to those standards. The purpose of these rules is to set forth conditions under which persons and firms required to perform testing to support guaranties of items subject to these standards, and for purposes of compliance with the children's sleepwear standards, may use test apparatus or procedures other than those set forth in the applicable standard.

EFFECTIVE DATE: The rules will become effective on June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6400.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) require that articles of wearing apparel and fabrics used or intended for use as clothing textiles must not exhibit "rapid and intense burning" when tested in accordance with that standard. The clothing textiles standard describes a test apparatus, and sets forth the procedure to be used for testing. The clothing textiles standard is generally applicable to all items of wearing apparel, and fabrics used for such apparel, for both children and adults.

However, children's sleepwear garments in sizes 0 to 14, and fabrics which are intended for use in making such garments, are subject to the more stringent requirements of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR Part 1615) or the Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14 (16 CFR Part 1616).

Both of the children's sleepwear standards require that garments and fabrics which are subject to their requirements must self-extinguish when exposed to an open flame ignition source.

In order to comply with the children's sleepwear standards, manufacturers, importers, and other persons (such as converters) initially introducing items subject to the children's sleepwear standards into commerce must regularly test items from current production. The sleepwear standards prescribe the apparatus and procedure to be used for performing tests of fabrics and garments subject to their provisions. See 16 CFR 1615.4(a), (f), and (g); and 16 CFR 1616.5. The standards prescribe pass/fail criteria at 16 CFR 1615.3(b), and 1616.3(b). Both standards require that persons and firms subject to their provisions must group items into production units, and test samples from each production unit. See 16 CFR 1615.4(b), (c), and (d); and 16 CFR 1616.4. The schedules for sampling and testing set forth in the sleepwear standards are called "sampling plans."

The manufacture for sale, importation into the United States, or introduction in commerce of any item of wearing apparel or fabric which fails to comply with an applicable flammability standard violates section 3 of the FFA (15 U.S.C. 1192) and section 5 of the Federal Trade Commission Act (FTCA, 15 U.S.C. 45). Such a violation may give rise to an administrative order to cease and desist from further violation of the FFA and FTCA, as well as to a civil action in the United States District Court under provisions of the FFA for injunction, or for seizure of items which fail to comply with an applicable standard of flammability.

In addition to seeking an administrative order, or initiating civil actions for violation of an applicable flammability standard, the FFA, and the FTCA, the Commission may also proceed under section 7 of the FFA (15 U.S.C. 1196) to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8(a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. (A guaranty does not provide the holder any defense to an administrative action for an order to cease and desist from further violation of the applicable standard, the FFA, and the FTCA, nor to any civil action for injunction or seizure brought under the FFA.)

Among the requirements established for a guaranty by section 8(a) of the FFA is that it must be based upon "reasonable and representative tests" conducted in accordance with the applicable standard. Section 8(b) of the FFA (15 U.S.C. 1197(b)) prohibits the issuance of a "false guaranty."

Application for Use of Alternate Test Apparatus

By letter dated July 11, 1975, the William Carter Company, a manufacturer of children's sleepwear, requested approval of an alternate test apparatus for use in testing fabrics and garments subject to the children's sleepwear standad for sizes 7 through 14 (16 CFR Part 1616) under provisions of § 16.16.5(a) of that standard. (2) [1] That section of the standard states:

§ 1616.5 Test procedure.

(a) *Apparatus.* The following apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Products Safety Commission.

The Carter application included a description of the alternate test apparatus, and a comparison of results from testing two types of fabrics using both the alternate test apparatus, and the apparatus described in the standard. Carter claimed that the comparative test data demonstrated that use of the alternate test apparatus produced results which were equivalent to, or more stringent than, the results obtained from testing using the apparatus described in the standard. The application from Carter also stated that use of the alternate test apparatus would reduce the time required for testing by one-half to two-thirds. (2)

After reviewing the data included in the Carter application, the Commission staff concluded that Carter's analysis of the equivalency of test results was correct with regard to the two specific fabrics which were the subject of Carter's comparative testing program. (5) However, the staff lacked the

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 16th Street, NW., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

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resources needed to duplicate the apparatus described in the Carter application and verify that it would produce results equivalent to those obtained using the apparatus described in the standard on fabrics representative of the entire range used in the production of children's sleepwear. (8)

Related Petition

On July 8, 1980, Milliken Research Corporation submitted a petition (FP 80–3) requesting the Commission to amend the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) to allow use of an alternate test utilizing different apparatus and procedure, than those specified in the clothing textiles standard.(10)

Unlike the sleepwear standard, the clothing textiles standard does not require manufacturers, importers or other firms introducing items subject to that standard into commerce to test items from current production. All that is required for compliance with the clothing textiles standard is that any item subject to its provisions must not exhibit "rapid and intense burning" if tested by the Commission.

Although manufacturers are not required to perform testing in order to comply with the clothing textiles standard, if they issue guaranties of items subject to that standard, the guaranty must be based on "reasonable and representative tests" conducted in accordance with that standard. A memorandum of a telephone conversation on November 20, 1980, between a member of the Commission staff and the author of the Milliken petition indicates that Milliken desired to use the alternate test for purposes of supporting guaranties of fabrics subject to the clothing textiles standard. (13)

The Commission staff prepared a briefing package which recommended that the Commission grant the relief requested in the petition from Milliken by allowing persons and firms issuing guarantees to use alternate apparatus for testing to support guaranties if items subject to the clothing textiles standard, rather than by amending that standard to change the apparatus to be used for testing by the Commission. (9) The staff briefing package also recommended that the Commission act on Carter's application for approval of alternate test apparatus by issuance of a similar interpretation of the children's sleepwear standards and the FFA to allow use of alternate test apparatus and procedures under certain conditions. (9)

The sleepwear standard for sizes 7 through 14 makes provision for use of test apparatus other than the equipment specified in that standard, as noted above. The sleepwear standard for sizes 0 through 6X has no specific provision authorizing or prohibiting the use of alternate test apparatus or procedure by persons and firms required to perform testing under that standard.

In the **Federal Register** of February 6, 1978 (43 FR 4853), the Commission amended the sleepwear standard for sizes 0 through 6X to make its requirements for flame resistance of fabrics and garments substantively identical to those of the standard for sizes 7 through 14. (1) The Commission staff is aware that many firms which manufacture sleepwear produce fabrics and garments which are subject to both the standard for sizes 0 through 6X and the standard for sizes 7 through 14. For these reasons, after considering the request from Carter for approval of alternate test apparatus and the petition from Milliken Corporation, the staff recommended that the Commission authorize use of alternate test apparatus and procedures under the same conditions for persons and firms required to perform testing under the sleepwear standard for sizes 0 through 6X as well as the standard for sizes 7 through 14.

After consideration of the request of the William Carter Company, the petition from Milliken Research Corporation, the staff briefing package, and an oral briefing by the staff, the Commission voted to approve the staff's recommendations. (13, 14)

Proposed Rules

In the **Federal Register** of May 17, 1982 (47 FR 21081), the Commission published three proposed rules interpreting section 8(a) of the FFA and the flammability standards for clothing textiles and children's sleepwear to allow use of alternate apparatus and procedures by manufacturers and importers when testing to support guaranties of items subject to those standards, provided that a test utilizing such alternate apparatus or procedure is as stringent as, or more stringent than, a test utilizing the apparatus and procedure specified in the applicable standard. (17) The proposed rules interpreting the children's sleepwear standards also authorized use of alternate apparatus and procedures, subject to the same condition, for purposes of compliance with the requirements for pre-market testing in those standards.

The three proposed rules set forth the following provisions applicable to use of alternate test apparatus and procedures:

(1) Persons or firms desiring to use an alternate test apparatus or procedure must have in their possession test data or other information to demonstrate that a test using that apparatus or procedure is as stringent as, or more stringent than, a test using the apparatus and procedure specified by the applicable standard prior to use of such alternate apparatus or procedure to support guaranties or for purposes of compliance with the sleepwear standards.

(2) The Commission will consider a test utilizing alternate apparatus or procedure to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedure specified by the applicable standard if, when testing identical specimens, a test utilizing the alternate apparatus or procedures yields failing results as often as, or more than, a test utilizing the apparatus and procedures specified in the applicable standard.

(3) Written application for Commission approval to use alternate test apparatus or procedures is not required, and the Commission will not act on any individual request for approval of an alternate test apparatus or procedure.

All three proposed rules stated that the Commission will test fabrics and garments subject to the three standards using the apparatus and procedure specified in the applicable standard for purposes of determining compliance with the requirements of the FFA and the three standards. (17)

The proposals also solicited information responsive to the following questions:

1. Would manufacturers and importers use alternate apparatus or procedures for testing under the conditions set forth in the proposals?

2. If so, what savings in the costs or hours required for testing are anticipated?

3. Could the proposed rules be modified to increase savings in the dollar or hourly costs of testing? (17)

Comments

In response to the proposals of May 17, 1982, the Commission received eight written comments: three from manufacturers of items subject to flammability standards; four from associations of manufacturers of such items; and one from a public interest group.

Comments from two associations of manufacturers expressed agreement with and support for the proposals. (19, 23) These comments express the view that the proposed rules, if issued, on a final basis, would not reduce the level of protection afforded by the three flammability standards, and have the potential to reduce costs and time required for testing. One comment observed that the rules would not impose any substantial burden on any new firm, because they allow use of the apparatus and procedures specified in the applicable standard if a firm elects to use them. (23)

The remainder of the comments expressed concern about or objection to one or more provisions of the proposed rules. The following issues were raised by those comments.

Economic Advantage to Larger Firms

Two manufacturers state that only the larger companies would be in a position to develop and implement tests using alternate apparatus or procedures. These commenters express concern that one effect of final rules based on the proposals would be to place smaller companies at a competitive disadvantage. (18, 21)

The Commission anticipates that larger firms most likely will be among the first to develop alternate apparatus and procedures for testing. However, economic information available to the Commission indicates that the cost advantage which larger firms may realize will be relatively small. (28) Additionally, the Commission believes that many small firms will be able to develop alternate test apparatus or procedures, or use alternate test equipment and procedures developed by larger firms, if such test methods could lead to a significant cost savings. (28) For these reasons, the Commission concludes that the possible cost advantage to larger firms which might result from issuance of final rules will have relatively little impact on competition within the affected industries.

Effect of Rules on Product Liability Actions

Comments from one manufacturer and one association of manufacturers oppose issuance of the proposed rules because the commenters believe the rules would weaken the position of garment manufacturers in product liability suits. (21, 25) These comments express concern that persons manufacturing garments from fabrics which are the subject of guaranties would not be able to determine if the guaranties were supported by tests using the apparatus and procedures specified by the applicable standards, or by tests using alternate apparatus or procedures.

Another association of manufacturers commented that issuance of the proposed rules on a final basis could create confusion in the defense of product liability actions. (22) This comment indicated that in view of the possibility of product liability actions, many manufacturers would continue to use only the apparatus and procedures specified by the applicable standard. This comment requests clarification about the effect of issuance of the rules on defense of product liability suits. (22)

These comments reflect a concern that items guarantied on the basis of tests using alternate apparatus or procedures will not necessarily meet the requirements of the applicable standard when tested using the apparatus and procedures specified in that standard. These comments seemingly overlook those provisions in the proposals which require that persons or firms using alternate apparatus or procedures must have test results or other information to demonstrate the equivalent stringency of tests using alternate apparatus or procedures with tests conducted with the apparatus and procedures specified in the applicable standard before such alternate apparatus or procedure may be used for the purpose of supporting guaranties or performing pre-market testing required by the children's sleepwear standards. (17)

Additionally, these comments apparently do not consider the possibility that use of alternate apparatus or procedures under the conditions specified in the rules could lead to increased testing of items subject to flammability standards if alternate tests could be performed more quickly or at less cost than tests using the apparatus and procedures specified by the applicable standard. In such an event, compliance with flammability standards might be improved. (28)

Like the proposals of May 17, 1982, the rules issued below state that for purposes of determining compliance with the three standards, the Commission will use the apparatus and procedures specified by the applicable standard. The rules issued below do not alter any requirement contained in the three standards.

Consequently, to the extent that compliance with the applicable standard may be an issue in a product liability suit, the resolution of that issue would require testing with the apparatus and procedure specified by that standard. The Commission observes that no provision of the rules issued below prohibits the purchaser of an item which is subject to a flammability standard to require as a condition of sale a guaranty which is supported by tests conducted with the apparatus and procedures specified in the applicable standard.

Commission Approval of Alternate Apparatus and Procedure

A comment from an association of manufacturers urges the Commission to modify the proposals to allow use of alternate test apparatus and procedures only when approved in advance by the Commission. (25) This comment observes that the sleepwear standard for sizes 7 through 14 contains explicit provisions for Commission approval of alternate apparatus prior to use by persons and firms subject to that standard. See 16 CFR 1616.5(n). This comment states that prior approval by the Commission would give greater assurance to garment manufacturers that the fabrics they purchase will meet the requirements of the applicable standard. This comment acknowledges that such an approach would add to the workload of the Commission. (25)

Similarly, comments from two manufacturers state that if any change to the test apparatus or procedure is made, it should be one to prescribe a single apparatus and procedure for use by all manufacturers. These comments express concern that a proliferation of alternate test apparatus and procedures may result if the proposed rules are issued on a final basis. (18, 20)

As noted above, the Commission began this proceeding after receiving two separate requests for approval of alternate test apparatus. (2, 10)

The basic problem with Commission approval of alternate apparatus or procedures for use by all manufacturers is that the Commission lacks the staff and monetary resources to perform the extensive testing necessary to assure that the alternate apparatus or procedure will yield results equivalent to those obtained using the apparatus and procedure specified in the standard when testing all of the fabrics currently in use which might be subject to the standard in question. (29)

The rules issued below place the burden of demonstrating equivalency of test results from the alternate apparatus on the person or firm that will derive the benefit from using the alternate apparatus or procedure. Additionally, that person or firm need not demonstrate that use of the alternate apparatus or procedure will produce equivalent results on the entire universe of fabrics or garments which may be subject to the standard. Instead, equivalency of test results must only be established with regard to the fabrics or garments being manufactured or guarantied by the person or firm desiring to use the alternate apparatus or procedure.

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The Commission has taken an approach regarding use of alternate laundering procedures when testing fabrics and garments subject to the children's sleepwear standards which is similar to that of the proposed rules for use of alternate test apparatus or procedure. (29) This approach places responsibility on the person or firm desiring to use an alternate laundering procedure to develop test data to show equivalent stringency of the alternate laundering procedure for the fabrics of garments which that person or firm proposes to test using the alternate laundering procedure. See 16 CFR 1615.32 and 1616.32.

The Commission's rules for use of alternate laundering procedures have been in effect since 1977. Based on its experience with the rules governing use of alternate laundering procedures, the Commission concludes that the rules issued below regarding use of alternate test apparatus and procedures and practicable for both the Commission and the affected industries.

Enforcement of Standards

A comment from a public interest group expresses concern that the rules, as proposed, might weaken the Commission's ability to enforce the standards, particularly the clothing textiles standard (16 CFR Part 1610). (24)

All three proposals contained provisions to the effect that the Commission will continue to test fabrics and garments using the apparatus and procedure specified by the applicable standard. All three proposals had additional language stating that the Commission "may consider" failing results from compliance tests "as evidence" of a violation of the applicable standard and the FFA. (17) See proposed §§ 1610.40(g); 1615.35(e), 1615.36(d); 1616.35(f), 1616.36(d).

The comment under consideration states that under the FAA, a failing compliance test would be proof of failure, not just evidence. To correct this problem, this comment suggested alternative language for proposed § 1610.40(g) to the effect that the Commission will test fabrics and garments for compliance with the standard using the apparatus and procedures set forth in the standard, and will regard as irrelevant any evidence that the fabric or garment passed an alternate test. This comment states that the rules should provide that evidence of passing results from an alternate test will be considered by the Commission only with regard to issues of good faith, knowledge, or willfulness. (24)

The Commission observes that when it considers an alleged violation of the FFA, it takes into account all relevant evidence. As this comment suggests, the principal evidence of a violation will continue to be tests conducted by the Commission using the equipment and procedures specified by the applicable standard. Although the extensive language change requested by this comment does not appear to be necessary, the Commission agrees that its position in enforcement actions would be improved by changing the sections which are the subject of this comment to state that the Commission "will consider" failing results of compliance testing as evidence of a violation of the applicable standard and the FFA. That change appears in the rules issued below.

Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposal on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the proposal, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

In the notice of May 17, 1982, the Commission stated that it had certified that the proposed rules would not have a significant economic impact on a substantial number of small entities if issued on a final basis. In that notice, the Commission observed that the proposed rules would not add any new requirement for any person or firm issuing guaranties for items subject to the flammability standards for clothing textiles or children's sleepwear, or for manufacturers or importers of items subject to the children's sleepwear standards. Rather, the proposal would allow persons and firms currently subject to existing requirements for testing to use apparatus and procedures other than those specified in the applicable standard under the conditions specified in the proposals.

The Commission published the proposals after receiving requests from manufacturers who claimed that use of an alternate test apparatus would reduce their costs of testing. After the rules issued below become effective, those firms and any others currently required to perform testing in order to support guaranties or comply with the requirements of the children's sleepwear standards will have the option of using alternate apparatus or procedures under the conditions set forth in the rules.

However, if any person or firm concludes that use of an alternate apparatus or procedures, under the conditions specified in the rules, will not reduce testing costs or offer any other advantage, that person or firm is free to continue using the apparatus and procedures specified in the applicable standard.

The Commission received and considered comments to the effect that the rules issued below may give a competitive advantage to larger firms to the detriment of small firms. The Commission has concluded that any advantage to larger firms which may result from issuance of these rules will not be significant, for the reasons set forth in the discussion of comments.

Environmental Considerations

As stated in the notice of proposal, the Commission's environmental review procedures state at 16 CFR 1021.5(c)(1) that issuance, amendment or revocation of rules for product performance normally has little or no potential for affecting the human environment.

The Commission does not foresee any special or unusual circumstances surrounding the rules issued below. For this reason, neither an environmental assessment or an environmental impact statement is required.

List of Subjects in 16 CRR Part 1610

Clothing, Consumer protection, Flammable materials, Records, Textiles, Warranties.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Textiles, Warranties.

Conclusion and Promulgation

After consideration of written comments on the proposed rules, analysis of those comments by the Commission staff, and other relevant information, the Commission concludes that the rules authorizing use of alternate test apparatus and procedures should be issued on a final basis, with the modification discussed above, to become effective on June 13, 1983.

Therefore, in accordance with the provisions of the Flammable Fabrics Act (sec. 5, Pub. L. 90–189, 81 Stat. 569 (15 U.S.C. 1194)) and the Consumer Product Safety Act (sec. 30, Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079)), the Commission hereby amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter B as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Part 1610, Subpart B is amended by adding a new § 1610.40 to read as follows:

§ 1610.40 Use of alternate apparatus, procedures, or criteria for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) The Standard for the Flammability of Clothing Textiles (the Standard) prescribes apparatus and procedures for testing fabrics and garments subject to its provisions. See 16 CFR 1610.4. The Standard prescribes criteria for classifying the flammability of fabrics and garments subject to its provisions as "Normal flammability, Class 1," "Intermediate flammability, Class 2," and "rapid and intense burning, Class 3." See 16 CFR 1610.3. Sections 3 and 4 of the Flammable Fabrics Act, as enacted in 1953 and amended in 1954, prohibits the manufacture for sale, importation into the United States, or introduction in commerce of any fabric or article of wearing apparel subject to the Standard which exhibits "rapid and intense burning" when tested in accordance with the Standard. See 16 CFR Part 1609.

(c) The Commission recognizes that for purposes of supporting guaranties, "reasonable and representative tests" could be either the test in the Standard, or alternate tests which utilize apparatus or procedures other than those in the Standard. This § 1610.40 sets forth conditions under which the Commission will allow use of alternate tests with apparatus or procedures other than those in the Standard to serve as the basis for guaranties.

(d)(1) Persons and firms issuing guaranties that fabrics or garments subject to the Standard meet its requirements may base those guaranties on any alternate test utilizing apparatus or procedures other than those in the Standard, if such alternate test is as stringent as, or more stringent than, the test in the Standard. The Commission considers an alternate test to be "as stringent as, or more stringent than" the test in the Standard if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in the Standard. Any person using such an alternate test must have data or information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in the Standard.

(2) The data or information required by this paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be in the possession of the person or firm desiring to use such alternate test before the alternate test may be used to support guaranties of items subject to the Standard.

(3) The data or information required by paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be retained for as long as that alternate test is used to support guaranties of items subject to the Standard, and for one year thereafter.

(Approved by Office of Management and Budget under control number 3041–0024)

(e) Specific approval from the Commission in advance of the use of any alternate test using apparatus or procedures other than those in the standard is not required. The Commission will not approve or disapprove any specific alternate test utilizing apparatus or procedures other than those in the Standard.

(f) Use of any alternate test to support guaranties of items subject to the Standard without the information required by this section may result in violation of section 8(b)), of the FFA (15 U.S.C. 1197(b)), which prohibits the furnishing of a false guaranty.

(g) The commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that:

(1) The manufacture for sale, importation into the United States, or introduction in commerce of the fabric or garment which yielded failing results was in violation of the Standard and of section 3 of the FFA; and

(2) The person or firm using the alternate test as the basis for a guaranty has furnished a false guaranty, in violation of section 8(b) of the FFA.

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZE 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart B is amended by adding new § 1615.35 and § 1615.36 to read as follows:

§ 1615.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1615.4 (b), (c) and (d). The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1615.4 (e), (f), and (g). The Standard prescribes pass/fail criteria at 16 CFR 1615.3(b).

(b)(1) By issuance of this § 1615.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedures is as stringent as, or more stringent than, a test utilizing the apparatus and procedures specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternate apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the Standard.

(2) The data or information required by this paragraph (b) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the Standard.

(3) The information required by this paragraph (b) of this section must be retained by the person or firm using the alternate test apparatus or procedure for as long as that apparatus or procedure is used for purposes of compliance with

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the Standard, and for a period of one year thereafter.

[Approved by Office of Management and Budget under control number 3041–0027.]

(c) Written application to the Commission is not required for approval of alternate test apparatus or procedure, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedure.

(d) Use of any alternate test apparatus or procedure without the data or information required by paragraph (b), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(e) The Commission will test fabrics and garments subjects to the Standard for compliance with the requirements of the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence of a violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C 1192).

§ 1615.36 Use of alternate apparatus or procedures for tests for guaranty purposes

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1615.31(f) of the regulations implementing the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1615.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1615.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedures under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74)

Part 1616, Subpart B is amended by adding new §§ 1616.35 and 1616.36 to read as follows:

§ 1616.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1616.4. The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1616.5. The Standard prescribes pass/fail criteria at 16 CFR 1616.3(b).

(b) Section 1616.5(a) states that alternate test apparatus may be used by persons or firms required to perform testing under the Standard "only with prior approval" of the Commission.

(c)(1) By issuance of this § 1616.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedure is as stringent as, or more stringent than, a test utilizing the apparatus and procedure specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard, if when testing identical specimens, a test utilizing alternative apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the standard.

(2) The data or information required by this paragraph (c) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the standard.

(3) The information required by this paragraph (c) of this section must be retained by the person or firm using the alternate test apparatus or procedures for as long as that apparatus or procedure is used for purposes of compliance with the standard, and for a period of one year there after.

[Approved by Office of Management and Budget under control number 3041–0027.]

(d) Written application to the Commission is not required for approval of alternate test apparatus or procedures, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedures.

(e) Use of any alternate test apparatus or procedures without the data or information required by paragraph (c), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(f) The Commission will test fabrics and garments subject to the standard for compliance with the requirements of the standard using the apparatus and procedures set forth in the standard. The Commission will consider any failing results from compliance testing as evidence of a violation of the standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

§ 1616.36 Use of alternate apparatus or procedures for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1616.31(e) of the regulations implementing the Standard

for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1616.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1616.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedure under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission will consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(b))

Dated: May 6, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. **Federal Register** notice amending Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X, and Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14; 8 pages; February 6, 1978 (43 FR 4849).

2. Letter from the William Carter Company to Secretary, Consumer Product Safety Commission, requesting approval for use of alternative test apparatus for purposes of testing for compliance with children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616), with attachments; 38 pages; July 11, 1975.

3. Memorandum from Bernard Schwartz, OSCA, to Distribution concerning request from Carter for approval of alternate test apparatus; 1 page; August 14, 1975.

4. Memorandum from Margaret L. Neily, BESB, to Bernard Schwartz, OSCA, commenting on Carter request for approval of alternate test apparatus; 2 pages; September 12, 1975.

5. Memorandum from Ralph Madison, BESB, to Bernard Schwartz, SCAT, concerning Carter request for approval of alternate test apparatus; 1 page; September 12, 1975.

6. Log of telephone conversation between Bernard Schwartz, OSCA, and O. P. Beckwith, William Carter Company, concerning Carter request for approval of alternate test apparatus; 1 page; October 23, 1975.

7. Memorandum from Bernard Schwartz, OSCA, to Bureau of Engineering Sciences, requesting review of attached memorandum from Bureau of Economic Analysis, with attachments; 4 pages; May 25, 1976.

8. Memorandum from Margaret Neily, BESB, to Bernard Schwartz, OSCA, responding to memorandum of May 25, 1976, concerning economic analysis of Carter request for approval of alternate test apparatus, with attachment; 8 pages; August 26, 1976.

9. Staff briefing package prepared by Elaine A. Tyrrell, Office of Program Management addressing Milliken Petition, FP 80–3; 5 pages; December 11, 1980. The tabs to this package are listed separately.

10. TAB A, petition from Milliken Research Corporation (FP 80–3) requesting amendment of the Standard for the Flammability for Clothing Textiles to allow use of alternate test apparatus; 4 pages; July 1, 1980.

11. TAB B, memorandum from Stephen Lemberg, Assistant General Counsel to Office of the Secretary concerning FP 80–3; 2 pages; July 30, 1980.

12. TAB C, memorandum from Liz Jones, Division of Regulatory Management concerning FP 80–3; 4 pages; October 29, 1980.

13. Memorandum from Allen F. Brauninger, OGC, to Commission, transmitting staff briefing package on FP 80–3, with attachments; 5 pages; January 5, 1981.

14. Vote sheet concerning FP 80–3, from Allen F. Brauninger, OGC, to Commission; 2 pages; January 5, 1981.

15. Minutes of Commission meeting of January 14, 1981, recording Commission vote to grant FP 80–3; 2 pages; January 16, 1981.

16. Staff briefing package prepared by L. J. Sharman, Office of Program Management, concerning use of alternate test apparatus in flammable fabrics standards; 8 pages; February 14, 1983. The tabs to this package are listed separately.

17. TAB A, **Federal Register** notice proposing rules to allow use of alternate apparatus and procedures for testing under the flammability standards for clothing textiles and children's sleepwear; 13 pages; May 17, 1982 (47 FR 21081).

TAB B, comments on proposed rules:

18. Comment from the Jaunty Textile Corp., 1 page, June 21, 1982.

19. Comment from National Association of Hosiery Manufacturers; 2 pages; July 8, 1982.

20. Comment from Uniroyal, Inc.; 1 page; June 30, 1982.

21. Comment from Bates Nitewear Company; 2 pages; July 15, 1982.

22. Comment from National Knitwear Manufacturers Association; 1 page; July 15, 1982.

23. Comment from American Textile Manufacturers Institute; 1 page; July 16, 1982.

24. Comment from Citizens' Committee for Fire Protection; 2 pages; July 14, 1982.

25. Comment from American Apparel Manufacturers Association; 5 pages; July 29, 1982.

26. TAB C, chart summarizing comments; 2 pages; undated.

TAB D, Staff analysis of comments on proposed rules:

27. Memorandum from Liz Gomilla, CARM, to L. J. Sharman, OPM, concerning comments on proposed rules; 2 pages; September 14, 1982.

28. Memorandum from Dale Ray, ECCP, to L. James Sharman, OPM, concerning comments on proposed rules; 3 pages; September 24, 1982.

29. Memorandum from Pat Fairall, ESMT, to Margaret Neily, ESMT, concerning comments on proposed rules; 2 pages; October 1, 1982.

30. TAB E, draft **Federal Register** notice to issue final rules; 24 pages; undated.

[FR Doc. 83-12882 Filed 5-11-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. 1

[FHWA Docket No. 83–4, Notice No. 6]

Truck Size Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of modifications and cancellation of certain interim designated highways.

SUMMARY: The FHWA made an interim designation of each State's Federal-aid primary system highways on April 5, 1983. These roads were to be made available to certain size trucks from April 6 until issuance of the final regulation pursuant to the requirements of the Surface Transportation Assistance Act (STAA) of 1982. By this notice, the FHWA provides modifications to the interim designated highway networks for the States of Alaska, Arizona, Florida, Louisiana, Michigan, New Jersey, Oklahoma, Rhode Island, Texas, and Virginia.

EFFECTIVE DATE: The modification are effective May 12, 1983, and will expire upon designation of the final network.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, Federal

Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On April 5, 1983, FHWA issued a policy statement (48 FR 14844) that provided an interim designation of primary system highways on which commerical motor vehicles with dimensions authorized by sections 411 and 416 of the STAA of 1982 (Pub. L. 97-424, as amended by Pub. L. 98-17) may be permitted to operate from April 6, 1983, until issuance of final regulations. The policy statement also provided that modifications to the interim designated network would be made under certain circumstances.

The designated routes in the Appendix to this notice supersede those routes designated in the April 5, 1983, policy statement. On May 3, 1983, (48 FR 20022), modifications were made in the designations for eleven States. At this time the FHWA is announcing modifications of the designations in ten additional States. Highlights of the State-by-State modifications follow.

—Alaska—Portions of AK 1 and AK 2 are removed from the interim system.
—Arizona—A portion of US 60 in Salt River Canyon has been removed.
—Florida—Since Florida has instituted an action in the United States District Court to enjoin the April 5 interim designations in that State, the FHWA is cancelling the interim designation of those primary system highways that had not been designated by the State. The agency will address the interim designation for qualifying primary system highways in Florida in a proceeding, which will be instituted in the near future.
—Louisiana—Portions of Routes US 71 and LA 1, which were designated by the State, were inadvertently excluded from the April 6 listing and are now included.
—Michigan—Portions of MI 50 and MI 52 are removed from the interim system.
—New Jersey—Routes US 206 and NJ 15 have been removed from the interim system. Portions of US 9 have been deleted and US 130 and NJ 109 added to the interim system.
—Oklahoma—Several corrections and additions have been made.
—Rhode Island—Routes RI 114, US 6, and RI 138 have been deleted from the interim system and changes made in the designation of RI 78.
—Texas—Several corrections to the April 5 designation have been made.
—Virginia—Effective May 3, 1983, and until July 1, 1983, or further notice, commercial motor vehicles with dimensions authorized by the STAA may operate on the highways designated in the April 5, 1983, policy statement (48 FR 14844) and all other Federal-aid primary highways in the State only when granted a special permit by the State. The State of Virginia shall issue a special permit without charge and within 24 hours of application. The denial of any application will specifically set forth the geometric or structural reasons upon which the denial is issued. Granting of special permits shall not be unreaonably denied. Applications for the special permit and further information may be obtained by calling the Virginia Department of Highways at (804) 786-2787, or by writing to the following address: Mr. C. O. Leigh, State Maintenance Engineer, Virginia Department of Highways and Transportation, 1221 East Broad Street, Richmond, Virginia 23219. When requesting a permit, applicants must provide the following information:

- Name and address of company or individual making request.
- License number of trailer or vehicle to be placed on permit.
- Origin and destination of the vehicle, including the routing of the vehicle while in Virginia.

No permits are required for the Interstate highways system in Virginia.

In the April 5, 1983, Policy Statement, and the May 3, 1983, Notice of Modification we indicated that a notice of proposed rulemaking (NPRM) for the final system would be published. The continuing discussions with several States have been helpful but have necessitated a delay in our anticipated schedule. The NPRM will be published in the near future, but at this time we are unable to estimate a publishing date. In the interim, we would again call attention to the Docket established in the February 3 Policy Statement (48 FR 5210) and we would encourage interested parties to continue to forward comments to that Docket.

Issued on: May 10, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

BILLING CODE 4910-22-M

APPENDIX-MODIFIED LIST FOR CERTAIN STATES

ARIZONA

Posted Route No.	From	To	Miles
AZ 360	I-10 Phoenix	AZ 87 Mesa	7.4
US 60	I-10 Brenda	I-17 Phoenix	129.4
US 60	AZ 87 Mesa	Globe	72
AZ 69	US 89 Prescott	I-17	33.5
US 70	US 60 Globe	New Mexico St. Line	122
US 80	AZ 92 Bisbee	New Mexico St. Line	71.7
AZ 84	I-10 Picacho	AZ 87	0.7
AZ 85	I-10 Gila Bend	I-10	36.5
AZ 85	I-10 Avondale	I-17	13.5
AZ 87	AZ 84 Picacho	AZ 387	25.6
AZ 87	AZ 93 Chandler	US 60	14.4
AZ 93	I-10	AZ 87 Chandler	6.6
AZ 187	I-10	AZ 387	0.3
AZ 287	AZ 87 Coolidge	US 89 Florence	9.7
AZ 387	AZ 187	AZ 87	6.9
US 89	I-10 Tucson	US 60	85.3
US 89	AZ 69 Prescott	I-40	49.9
AZ 90	I-10	Utah St. Line	138
AZ 92	AZ 90 Sierra Vista	AZ 92 Sierra Vista	32.2
US 95	Mexican Border	US 80 Bisbee	33.8
US 160	US 89 Tuba City	I-8 Yuma	24.3
AZ 169	AZ 69 Dewey	New Mexico St. Line	159.4
AZ 189	Mexican Border	I-17	15.1
AZ 504	US 160	I-19 Nogales	3.8
US 666	I-10	New Mexico St. Line	4.2
US 666	US 60	US 70 Safford	33.5
US R-666	Mexican Border	I-40	89
US 163	US 160 Kayenta	US 80 Douglas	1.1
US 177	US 60	Utah St. Line	24
US 60	US 60	I-40	47
		I-40	47

ALASKA

Posted Route No.	From	To
AK 1	Anchorage	Palmer
AK 2	Fairbanks	Delta Jct.
AK 3	Palmer at Jct. AK 1	Fairbanks at Jct. AK 2

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FLORIDA

Posted Route No.	From	To
FL 202 J. Turner Butler Blvd.	I-95 in Jacksonville	San Pablo Road

LOUISIANA

Posted Route No.	From	To
LA 1	US 71 in Alexandria	US 71 near Shreveport
LA 7	I-20	US 79 in Minden
LA 8	Texas St. Line	LA 28 near Leesville
LA 10	Proposed I-49 near Beggs	US 71 Lebeau
LA 14	US 90	I-210 in Lake Charles
LA 15	US 65 Clayton	US 80 in Monore
LA 28	LA 8 near Leesville	US 84 near Archie
US 65	Mississippi St. Line	LA 15 Clayton
US 65	I-20 in Tallulah	Arkansas St. Line
US 71	US 190 near Krotz Springs	US 165 in Pineville
US 71	LA 1 near Shreveport	Arkansas St. Line
US 79	LA 7 in Minden	Arkansas St. Line
US 80	LA 15	US 165 in Monore
US 84	LA 28 near Archie	US 65 in Ferriday
US 90	US 167 in Lafayette	New Orleans
US 165	I-10 near Iowa	Arkansas St. Line
US 167	US 71	Arkansas St. Line
US 171	US 90 in Lake Charles	US 80 in Shreveport
LA 511	LA 3132	US 71 in Shreveport
LA 3094	US 80	US 71 in Shreveport
LA 3132	I-20	LA 511 in Shreveport
LA 3052	LA 24 near Houma	US 90 near Raceland
LA 3	I-20	I-220 in Bossier City
LA 13	US 90	I-10 in Crowley
LA 20	LA 24 near Thibodaux	LA 1 in Thibodaux
LA 23	Deer Range	US 90 Bus. in Gretna
LA 24	US 90 in Houma	LA 20 near Thibodaux
LA 30	LA 42	LA 73 in Baton Rouge
LA 39	I-10 in New Orleans	La 46 near Poydras
LA 45	US 90 Bus. in Marrero	LA 3134 near Marrero
LA 46	LA 39 in New Orleans	LA 47 in Chalmette
LA 47	LA 46 in Chalmette	Proposed I-510 in New Orleans
LA 48	US 90	LA 49 near New Orleans
US 61	US 90 in New Orleans	Mississippi St. Line
LA 67	LA 408 in Baton Rouge	Baker
US 80	LA 72 in Bossier City	I-20 in Minden
LA 83	US 90 near Baldwin	LA 182 in Baldwin
US 90 Bus.	US 90 near Westwego	Mississippi River Bridge
LA 108	LA 27 in Sulphur	I-10 in Maplewood
LA 137	I-20	US 80 in Rayville
US 167	LA 14 Bypass in Abbeville	I-10 in Lafayette
US 190	Eunice	LA 1032 in Denham Springs
US 190	I-55	LA 443 in Hammond
US 190	LA 21 in Covington	LA 22 near Chinchuba
LA 408	US 61	LA 67 in Baton Rouge
LA 433	I-10	US 11 in Slidell

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Posted Route No.	From	To
LA 526	LA 3132	I-20 in Shreveport
LA 3002	I-12	US 190 in Denham Springs
LA 3021	LA 39	US 90 in New Orleans
LA 3032	LA 1 in Shreveport	US 71 in Bossier City
LA 3040	The Houma Tunnel	LA 24 in Houma
LA 3064	LA 427	LA 73 in Baton Rouge
LA 3105	US 71	US 80 in Bossier City
LA 3134	LA 45	LA 45 near Marrero
LA 3211	US 90	LA 182 near Franklin
LA 1	South of Plaquemine	US 190 north of Port Allen
LA 1	South Alexandria	US 167 Alexandria
US 71	LA 612 in Curtis	I-20 in Bossier City

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MICHIGAN

Posted Route No.	From	To
MI 1	US 10 Bus and 175 Bus.	Adams Street Detroit
US 2	Wisconsin St. Line	International Boundary
MI 3	Clark Street and 175 in Detroit	MI 29 and I-94
MI 4	US 24	Orchard Lake Road
MI 5	Oakland-Wayne Co. Line	I-96
US 8	US 2 Iron Mountain	Wisconsin St. Line
US 10	Ludington	Detroit
US 12	Michigan Indiana St. Line	Detroit
MI 13	I-69 Lennon	MI 57
MI 13	US 10 Bay City	US 23 Standish
MI 14	I-94	I-275
MI 15	I-75 Clarkston	MI 25 Bay City
MI 18	US 10	MI 61 Gladwin
MI 20	US 31 White Cloud	MI 37 New Era
MI 20	US 27 Mt. Pleasant	US 10 Midland
MI 21	I-96 near Grand Rapids	MI 25 Port Huron
US 23	Ohio St. Line	Mackinac Bridge
MI 24	I-75 Connector near Lake Orion	MI 21 Lapeer
MI 24	MI 46	MI 81 Caro
US 24	Ohio St. Line	I-75 Pontiac
MI 26	US 45	MI 38
MI 27	I-75	US 23 Cheboygan
US 27	Indiana St. Line	I-75 North Higgins Lake
MI 28	US 2 Wakefield	I-75
US 31	Indiana St. Line	Manistee
US 31	MI 37 Grawn	South Approach of Mackinac Bridge
MI 32	Hillman	Alpena
MI 33	Mio	Fairview
US 33	Indiana St. Line	I-196
MI 35	US 2 and US 41 Escanaba	US 2 and US 41
MI 36	127 Mason	Dansville
MI 37	MI 55	US 31 and MI 72 Traverse City
MI 37	I-96 Grand Rapids	MI 46 Kent City
MI 38	US 45	US 41 Baraga
MI 39	Lafayette Street Lincoln Park Detroit	US 10
MI 40	Allegan	US 31 Bus. I-196 Holland
US 41	Wisconsin St. Line	Houghton
MI 43	MI 37 Hastings	I-69 Lansing
US 45	Wisconsin St. Line	Rockland
MI 46	Cedar Springs	Port Sanilac
MI 47	MI 46	US 10
MI 50	MI 43 and MI 66 Woodbury	Eaton Rapids
MI 50	South of US 127	I-75
MI 50	North of US 127	I-94

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Posted Route No.	From	To
MI 51	Niles	I-94
MI 52	Ohio St. Line	US 12
MI 52	I-96	MI 46
MI 53	MI 3	MI 25 Port Austin
MI 55	US 31 Manistee	US 131 Cadillac
MI 55	US 27	I-75
MI 55	MI 65	US 23 Tawas City
MI 56	MI 13 and MI 21	MI 54 Bus.
MI 57	US 131	US 27
MI 57	MI 52	I-75
MI 59	US 10 Bus. Pontiac	I-94
MI 60	MI 62 and Cassopolis	I-69 US 27
MI 61	MI 115	US 27 Harrison
MI 61	MI 18 Gladwin	US 23 Standish
MI 62	Indiana St. Line	US 12
MI 64	US 2	US 2
MI 64	MI 28	MI 28
MI 65	US 23 Omer	MI 55
MI 65	MI 72	MI 32
MI 65	Posen	US 23
MI 66	Indiana St. Line	US 12
MI 66	Battle Creek	MI 78
MI 66	MI 43	MI 46
MI 66	US 131 Mancelona	US 131 Kalkaska
MI 67	US 41 Trenary	MI 94 Chatham
MI 68	US 31, US 131 Petoskey	US 23 Bus. Rogers City
MI 69	US 2, US 141 Crystal Falls	MI 95 Segola
MI 72	I-75	US 23 Harrisville
MI 78	MI 66	I-69, US 27
MI 81	MI 24 Caro	MI 53
MI 82	MI 37	US 131
MI 83	Frankenmuth	MI 54
MI 84	I-75	MI 25
MI 85	I-75	I-75 Detroit
MI 89	Allegan	US 131
MI 90	MI 43	MI 43
MI 94	US 41	MI 28
MI 95	US 2	US 41, MI 28
MI 102	I-96, I-696	I-94
MI 103	Indiana St. Line	US 12
MI 104	US 31	I-96
MI 115	US 27	MI 22
MI 117	US 2	MI 28
MI 123	I-75	MI 28
US 127	Ohio St. Line	US 27
US 131	Indiana St. Line	US 31 Petoskey
US 141	Wisconsin St. Line	US 41, MI 28
MI 142	MI 25	MI 53
MI 205	Indiana St. Line	US 12
US 223	US 23	US 12

NEW JERSEY

Posted Route No.	From	To
US 9	Lewes Ferry	Jct. NJ 109
NJ 83	US 9 Clermont	NJ 47 South Dennis
NJ 47	NJ 83 South Dennis	NJ 55 Port Elizebeth
NJ 55	NJ 47 Port Elizebeth	US 40 Malaga
US 40	NJ 55 Malaga	NJ 47 Malaga
NJ 47	US 40 Malaga	I-295 Westville Grove
Atlantic City Expressway	Baltic Avenue in Atlantic City	NJ 42 Turnersville
NJ 42	Atlantic City Expressway at NJ 168 Washington	I-295 Bellmawr
US 322	Pennsylvania St. Line	US 130 Bridgeport
US 130	US 322 Bridgeport	I-295 Logan Turnpike
US 130	NJ 44 West Deptford	I-295 West Deptford
New Jersey Turnpike	I-295 Deepwater	I-95 Exit 6 Manefield
NJ 38	NJ 34 Wall	NJ 35 Belmar
NJ 18	US 1 New Brunswick	NJ 36 Eatontown
US 1	Pennsylvania St. Line	I-95 Edison
NJ 440	I-95 Edison	New York St. Line at Outer Bridge
US 22	Pennsylvania St. Line Phillipsburg	I-78 Greenwich
US 22	US 206 Raritan	I-78 Newark
US 202	Pennsylvania St. Line	I-287 Raritan
NJ 495	I-95 Secaucus	I-495 Weehawken
NJ 3	US 1 North Bergen	US 46 Clifton
US 46	I-80 at NJ 23 Wayne	NJ 3 Clifton
NJ 17	I-80 Hackensack	New York St. Line
US 130	I-295 Bordentown	I-195 Hamilton
NJ 109	US 9	Garden State Parkway
US 9	Garden State Parkway access at Swainton	Jct. NJ 83 at Clermont

The following two sections of the New Jersey Turnpike are part of the Interstate System, but are unsigned. We are publishing this since the public may be unaware of this.

New Jersey Turnpike	Pennsylvania St. Line	Exit 6 Mansfield
New Jersey Turnpike	Exit 6 Mansfield	Exit 10 Edison

OKLAHOMA

Posted Route No.	From	To
US 56	New Mexico St. Line	Kansas St. Line
US 54	Texas St. Line	Kansas St. Line
US 59	US 270 Heavener	I-44 Afton
US 59	OK 10 Welch	Kansas St. Line
US 60	Texas St. Line	US 283 Ellis Co.
US 60	US 81 Pond Creek	US 59 Ottawa Co.
US 62	Texas St. Line	US 281 Lawton
US 64	US 56 Boise City	OK 8 Alfalfa County
US 64	US 81 Enid	I-35 Noble Co.
US 64	OK 99 Pawnee County	US 69 Muskogee
US 66	US 69 Commerce	Kansas St. Line
US 62	US 69 Muskogee	Arkansas St. Line
US 70	US 81 Waurika	Arkansas St. Line
US 81	Texas St. Line	Kansas St. Line
US 83	OK 3 Bryan's Corner	Kansas St. Line
US 75	Texas St. Line	Kansas St. Line
US 169	I-244 Tulsa	Kansas St. Line
US 177	US 70 Dickson	US 60 Ponca City
US 69	US 75 Atoka	Kansas St. Line
US 77	OK 11 Kildare	Kansas St. Line
US 183	Texas St. Line	US 270 Seiling
US 271	US 270 Wister	US 59 Poteau
US 270	US 177 Tecumseh	Arkansas St. Line
US 259	Texas St. Line	US 270 Lefiore Co.
US 281	OK 5 Walters	Kansas St. Line
US 271	OK 3 Antlers	Arkansas St. Line
US 283	Texas St. Line	Kansas St. Line
US 287	Texas St. Line	Colorado St. Line
OK 3	US 56 Guymon	US 177 Shawnee
OK 3W	US 177 Asher	OK 99 Ada
OK 3	OK 99 Ada	Arkansas St. Line
OK 15	US-283 Shattuck	US-64 Enid
OK 33	US 183 near Custer City	Arkansas St. Line
OK 34	I-40 Elk City	US 64 Harper Co.
OK 8	OK 58 Fairview	US 64 Alfalfa Co.
OK 11	US 64 Cherokee	US 77 north of Ponca City
OK 11	OK 99 Osage County	OK 20 Skiatook
OK 45	US 281 Woods Co.	OK 8 Alfalfa Co.
OK 51A	US 270 Watonga	OK 58 Major Co.
OK 53	OK 76 Fox	I-35 Springer
OK 58	OK 51 A	OK 8 Fairview
OK 5	US 183 Frederick	OK 33 Walters
OK 67	US 75 Glenpool	US 64 Bixby
OK 29	US 81 Marlow	I-35 near Wynnewood
OK 76	OK 7 Ratliff City	OK 53 Fox
OK 7	I-35 near Davis	OK 1 Johnston Co.
OK 7	US 281 Lawton	OK 76 Ratliff City

Posted Route No.	From	To
OK 6	US 283 Greer Co.	I-40 Elk City
OK 9	OK 44 Lone Wolf	US 177 Tecumseh
OK 9	US 69 Pittsburg Co.	US 59 LeFlore Co.
OK 39	OK 9 Tabler	OK 3W Asher
OK 44	US 283 Greer Co.	9 Lonewolf
OK 53	OK 5 Walters	US 81 Comanche
OK 36	OK 5 Tilman Co.	US 281 near Lawton
OK 18	OK 51 Payne Co.	US 60 Osage Co.
OK 1	OK 7 Johnston Co.	US 270 Calvin
OK 20	OK 11 Skiatook	US 75 Tulsa County
OK 48	I-44 Bristou	US 64 Pawnee Co.
OK 51	I-35 Payne Co.	Muskogee Turnpike/ Tulsa County
OK 51	Muskogee Turnpike Wagoner County	US 62 Tahlequah
OK 16	US 75 Preston	US 64 Jamesville
OK 10	OK 2 Welch	US 59 Miami
OK 2	US 60 Vinita	OK 10 Welch
OK 2	US 271 Clayton	I-40 Warner
OK 19	I-35 Paul's Valley	OK 3W Ada
OK 99	US 70 Madill	OK 11 Osage Co.
OK 199	I-35 Ardmore	US 70 Oakland
Cimarron Turnpike	I-35 Noble Co.	US 64 at OK 48
Museogee Turnpike	OK 51 Broken Arrow	I-40 Webers Falls
US 271	Texas St. Line	US 70 Hugo
Indian Nation Turnpike	US 70 Hugo	I-40 Henryetta
Cimarron Turnpike Connection	US 77 north of Stillwater N.E.	Cimarron Turnpike

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TEXAS

Posted Route No.	From	To
US 59	I-35 Laredo	Arkansas St. Line at Red River
US 62	New Mexico St. Line	Oklahoma St. Line
US 62	New Mexico St. Line	Jct. US 87 Lubbock
US 67	US 87 San Angelo	Jct. US 84 Santa Anna
US 69	TX 87 Port Arthur	I-20 near Tyler
US 75	Jct. I-30 Dallas	Oklahoma St. Line
US 77	Mexico Border	I-35 Waco
US 82	US 87 Lubbock	Jct. US 277 Seymour
US 82	Jct. US 287 near Henrietta	US 75 Sherman
US 83	US 77 in Hartlinger	Jct. I-35 Laredo
US 83	Jct. US 67 Bellinger	I-20 Abilene
US 84	New Mexico St. Line	I-20 near Roscoe
US 84	US 67 Santa Anna	I-35 Waco
US 87	US 67 San Angelo	I-27 in Lubbock
US 87	I-40 Amarillo	New Mexico St. Line
US 90	US 277 Del Rio	I-35 San Antonio
US 183	I-35 Austin	US 80 Goldthwaite
US 259	US 59 Nacogdoches	Oklahoma St. Line
US 277	US 277 Spur Del Rio	US 67 San Angelo
US 277	I-20 Abilene	Oklahoma St. Line
US 281	US 83 Pharr	I-37 near Three Rivers
US 290	I-10 near Mountain Home	I-610 Houston
US 287	I-40 Amarillo	I-35W Ft. Worth
US 385	I-10 Ft. Stockton	US 62 Seminole
US 285	New Mexico St. Line	I-20 Pecos
TX 19	I-30 Sulphur Springs	US 271 Paris
US 81	US 287 Bowie	Oklahoma St. Line
US 283	US 287	Oklahoma St. Line
US 83	US 83	US 60
US 62	US 83	Oklahoma St. Line
US 287	Dumas	Oklahoma St. Line
US 54	Dalhart	Texhoma
US 277 Spur	US 277 Del Rio	Mexico Border
US 271	TX 19 Paris	Oklahoma St. Line

[FR Doc. 83-12864 Filed 5-11-83; 8:45 am]
BILLING CODE 4910-22-C

RHODE ISLAND

Posted Route No.	From	To
RI 78	RI 3	US 1 near Westerly
US 1	RI 78 near Westerly	RI 4 Allenton
RI 4	US 1 Allenton	I-95 Warwick
RI 24	RI 114 Portsmouth	Massachusetts St. Line
RI 37	I-295 Cranston	I-95 near Pawtuxet
RI 195	I-295 Johnston	RI 10 Providence
RI 10	RI 195 Providence	I-95 Cranston
RI 146	I-95 Providence	Massachusetts St. Line

Coast Guard

33 CFR Part 117

[CGD9 83-01]

Drawbridge Operation Regulations; Sheboygan River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Sheboygan, Wisconsin, the Coast Guard is revising the regulations governing the operation of the 8th Street highway bridge, mile 0.69, over the Sheboygan River in Sheboygan, Wisconsin, by permitting the City of Sheboygan to only open the draw of the 8th Street bridge every 20 minutes (10 minutes before the hour, 10 minutes after the hour and on the half-hour) from 6 a.m. to 10 p.m., Monday through Saturday; on Sundays and legal holidays, from 6 a.m. to 10 p.m., the bridge will be opened on signal. This change is being made because of an increase in both marine and land traffic. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522–3993.

SUPPLEMENTARY INFORMATION: On February 10, 1983, the Coast Guard published a Proposed Rule in the **Federal Register** (FR 6137) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated February 25, 1983. Interested parties were given until March 28, 1983, on both documents, to submit comments.

Drafting Instructions: The principal persons involved in drafting this amendment are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and LCDR J.A. Blocher, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Comments: No comments were received from the **Federal Register** or Ninth Coast Guard District Public Notice.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), at 48 FR 6137 (February 10, 1983). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted, Since this rule will better serve both land and marine traffic because the scheduled opening time is before and after the hour, instead of on the hour when vehicle traffic is heaviest, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAW BRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.652 to read as follows:

§ 117.652 Sheboygan River, Wis.; Eighth Street Bridge at Sheboygan, Wis.

(a) From May 1 through October 30, from 6 a.m. to 10 p.m., including Sundays and legal holidays, the draw shall open on signal except that: (1) From 6:10 a.m. to 7:10 p.m., Monday through Saturday, the draw need only open every 20 minutes (10 minutes after the hour, on the half-hour and 10 minutes before the hour).

(b) At all other times the draw shall open on signal if at least two hours notice is given.

(c) Public vessels of the United States, state or local government vessels used for public safety, and vessels seeking shelter from rough weather shall be passed through the draws of this bridge as soon as possible even though the closed periods are in effect.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that they can be easily read, a copy of the regulations in this paragraph together with a notice stating exactly how the representative may be reached in order to give a two hour notice during times specified in paragraph (b) of this section.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.48(c)(5), 33 CFR 1.05–1(g)(3)).

Dated: April 29, 1983.

Henry H. Bell,

Rear Admiral, U. S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-12777 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Hampton Roads, VA, Regulation 83-08]

Safety Zone Regulations; Elizabeth River, Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard has established a safety zone in the Elizabeth River, Portsmouth, Virginia. The zone is needed to protect watercraft and their occupants from possible damage during the transit and placement of submerged sections of the new tunnel from Portsmouth to Norfolk, Virginia, and will be effective whenever such transit or placement occurs. Entry into this zone during effective times is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 7:00 PM, Eastern Daylight Savings Time, 29 April 1983. It terminates when tube "F" of the new Portsmouth to Norfolk tunnel has been placed, or on 1 October 1983, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. Six, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441–3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants.

Drafting Information

The drafter of this regulation is Lieutenant Commander W. K. Six, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the transit and placement of the tunnel sections, no watercraft will be permitted to enter, remain in, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF–FM channels 16 and 13. This action is necessary due to the hazards

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involved in moving a large fabricated tunnel section in a restricted waterway such as the Elizabeth River, which movement will effectively close the navigable channel. This rule is in response to a request by the Jones-Schiavone Construction Company for Coast Guard assistance in providing traffic control and vessel escorts for the transit and placement of the tunnel sections. This action is designed to prevent damage to watercraft and injury to their occupants in the event of collision with a tunnel section or construction equipment and will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T519 to read as follows:

§ 165.T519 Safety Zone: Elizabeth River, Portsmouth, Virginia.

(a) *Location.* The waters of the Southern Branch of the Elizabeth River within a 500 yard radius of the Jones-Schiavone Company lay-barge, in approximate position 36–50–12N, 76–17–40W, constitute a safety zone whenever the Jones-Schiavone Construction Company is moving or placing a fabricated section of the new Portsmouth to Norfolk tunnel. This safety zone will commence at 7:00 PM, Eastern Daylight Savings Time, 29 April 1983, and will terminate when tube "F" of the tunnel has been placed, or on 1 October 1983, whichever occurs first.

(b) The Coast Guard Marine Safety Office, Hampton Roads, Virginia will notify the maritime community of periods when this safety zone will be effective through Notice to Mariners and other normal means of notification.

(c) *Regulations.*—(1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: April 29, 1983.

D. C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, U.S. Coast Guard.

[FR Doc. 83-12778 Filed 5-11-83; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AW035PA; A-3-FRL 2340-3]

Approval of Revision to the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves alternative emission reduction plans (bubbles) for boilers at three sources in Pennsylvania. These bubbles allow for more economical operation of the boilers with no degradation of air quality. The Pennsylvania Department of Environmental Resources (DER) requested the approval of these bubbles in a letter of June 8, 1982. These bubbles were proposed in a **Federal Register** notice of September 29, 1982 (47 FR 42760).

DATE: Effective on June 13, 1983.

ADDRESSES: Copies of the SIP revision are available for inspection during normal business hours at the following locations:

U.S. EPA, Air Programs and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Gary L. Triplett

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address listed for U.S. EPA above, or at (215) 597–8309.

SUPPLEMENTARY INFORMATION: DER held a public hearing on these bubbles on June 17, 1982. EPA proposed approval of these bubbles on September 29, 1982 (47 FR 42760) in a concurrent processing procedure. No significant changes were made and no comments were received which significantly affected the approvability of these bubbles.

The bubbles involve several boilers at each of three plants in Pennsylvania. At each plant, one or two boilers will burn natural gas to offset higher emissions of sulfur dioxide from the remaining boilers. No net increases in emissions will occur at any plant. In addition, the emission points are located close together and the emissions increases will occur at sources with equal or higher effective plume heights. Therefore, no modeling was required for any of these bubbles.

These bubbles are being approved for the Scott Paper Company in Chester, Pa., Arbogast and Bastian, Inc., in Allentown, Pa.; and J. H. Thompson, Inc., in Kennett Square, Pa. Details of each of these bubbles were noted in the **Federal Register** of September 29, 1982, proposing approval of these bubbles. For more information, see this notice.

EPA has reviewed these bubbles according to the proposed Emissions Trading Policy of April 7, 1982, 47 FR 15076, and is today approving these bubbles.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit court by July 11, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

Authority: 42 U.S.C. 7401–7642.

Dated: May 4, 1983.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the **Federal Register** on July 1, 1982.

Lee L. Verstandig,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020, (c) (54) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(54) Revisions submitted by the Commonwealth of Pennsylvania on June 8, 1982 consisting of alternative emission reduction plans for Scott Paper Company in Chester, Pa., Arbogast and Bastian, Inc., in Allentown, PA, and J. H. Thompson, Inc., in Kennett Square, PA.

[FR Doc. 83-12727 Filed 5-11-83; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. G–47]

Use of Cash To Procure Emergency Passenger Transportation Services Costing More Than $100

AGENCY: Office of Plans, Programs, and Financial Management, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation revises the Federal Property Management Regulations to grant agency heads or their designated representatives authority to approve emergency cash purchases of passenger transportation services exceeding $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR). This revision will eliminate the requirement for agencies to request a written exemption from the Administrator of General Services for the emergency cash purchase of transportation services exceeding $100. Removing this restriction will reduce the administrative burden on Federal agency heads and GSA.

DATES:

Effective date: May 12, 1983.

Expiration date: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202–786–3014).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Background

A notice of proposed rulemaking was published in the **Federal Register** of March 30, 1982 (47 FR 13387), inviting comments from interested parties. The proposed rule transferred from GSA to Federal agencies authority to approve cash purchases of passenger transportation services exceeding $100. Subsequent to that notice, GSA has received increasing numbers of exemption requests involving not only cash purchases in excess of $100, but apparent violations of Government travel regulations. Some of these violations have been on a recurring basis. This leads us to believe that certain agencies may be abrogating their travel management responsibilities. It would not be prudent to entrust such agencies with the broad exception authority of this proposed rule. Accordingly, we have decided not to implement the proposed rule, but to adopt this temporary regulation which is of more limited scope. This temporary regulation permits agency heads or their designated representatives the flexibility to approve emergency cash purchases of passenger transportation services exceeding $100 but requires GSA approval for non-emergency situations. The temporary regulation also establishes procedures by which GSA may review and audit both emergency and non-emergency cash purchases of transportation exceeding $100.

(31 U.S.C. 3726; Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter G to read as follows:

April 20, 1983.

Federal Property Management Regulations Temporary Regulation G–47

To: Heads of Federal agencies

Subject: Use of cash to procure emergency passenger transportation services costing more than $100

1. *Purpose.* This regulation revises the Federal Property Management Regulations to grant agency heads or their designated representatives the authority to approve emergency cash purchases of passenger transportation services costing more than $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires 2 years from date of publication in the **Federal Register.**

4. *Applicability.* This regulation applies to all Government agencies that are subject to the audit authority of GSA under 31 U.S.C. 3726.

5. *Background.* FPMR Amendment G–43, July 6, 1977, transmitted Part 101–41 to establish the policy and procedures governing the documentation and audit of payments for domestic and foreign freight and passenger transportation services furnished for the account of the United States. Section 101–41.203–2 of the regulation contains information pertaining to the use of cash to procure passenger transportation services. Normally, the GTR is used for the procurement of such services; however, agencies have the option of requiring travelers to use cash instead of GTR's where the passenger transportation services cost more than $10 but do not exceed $100 for each authorized trip. Cash may not be used for passenger transportation services that cost over $100 unless exempted in writing by the Administrator of General Services. This revision will eliminate the requirement for agencies to obtain a written exemption from GSA for emergency cash purchases of transportation.

6. *Revised policy.* Section 101–41.203–2 is revised to read as follows:

§ 101–41.203–2 Use of cash.

(a) Cash shall be used to procure all passenger transportation services costing $10 or less, exclusive of Federal transportation tax, and to pay air excess baggage charges of $15 of less for each leg of a trip, unless special circumstances justify the use of a GTR or GEBAT. Agencies have the option of requiring travelers to use cash to procure passenger transportation services from, to, or between points in the United States, including Alaska and Hawaii, and its possessions or trust territories, where such services cost more than $10 but do not exceed $100, exclusive of Federal transportation tax, for each trip authorized on an offical travel authorization. GTR's shall be used to procure all passenger transportation services costing in excess of $100 unless otherwise exempted in accordance with paragraph (b) or (c) of this section.

(b) Under emergency circumstances, where the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize travelers to exceed the $100 limitation when procuring passenger transportation services.

(1) Delegation of authority for authorizing and approving the use of cash in excess of $100 for the procurement of emergency

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transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances. These delegations of authority shall be made in writing and copies retained to permit monitoring of the system. These records of delegations of authority shall be available for examination by GSA auditors.

(2) To justify the use of cash in excess of $100 instead of GTR's when procuring passenger transportation services, both the Government agency head, or his or her designated representative, and the traveler shall certify on the travel voucher the reasons for this use.

(3) Subsequent to traveler reimbursement, copies of travel authorizations, ticket coupons, and any ticket refund applications, or SF 1170's, Redemption of Unused Tickets, must be forwarded for audit to the General Services Administration (BWAA/C), Attention: Code E, Washington, D.C. 20405.

(4) Travel vouchers shall be maintained in the agency to be available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see § 101–11.404–2), provides instructions for the disposal of these travel vouchers.

(5) In the absence of written authorization or approval, travel shall be purchased in accordance with policies and procedures prescribed in applicable Government travel regulations. The traveler shall be responsible for all additional costs involved for this travel, such as the use of foreign-flag carriers, first-class travel, or more costly modes. The traveler should be aware that the use of a GTR may be required to obtain certain discount fares and to comply with the mandatory provisions of FPMR Temporary Regulations (A Series) governing the use of contract airline service between designated city-pairs. Cash shall not be used to circumvent the regulations governing airline city-air contracts.

(c) Under non-emergency circumstances, where use of a GTR is possible, heads of agencies, or their designated representatives, may request an exemption from the Administrator of General Services.

(1) Requests must be made in writing, may only be for individual travel itineraries, and must fully explain why an exemption should be granted. Simple traveler convenience will not be cause for GSA approval. For the purpose of performing a fare audit, requests must also include copies of travel authorizations, ticket coupons, and any ticket refund applications, or SF 1170's associated with the travel in question.

(2) Travelers may not be reimbursed for non-emergency use of cash to procure passenger transportation services costing more than $100 unless written approval is granted by GSA.

(d) Suspected travel management errors and/or misroutings which result in higher travel costs to the U.S. Government will be reported to the appropriate military or civil agency travel manager for corrective action with the violating agency.

(e) Agencies shall not impose a financial hardship on travelers by requiring their use of personal funds to purchase the services set forth in paragraph (a) of this section but shall provide the funds through travel advances.

(f) Travelers using cash to purchase individual passenger transportation services shall procure such services directly from carriers and shall account for those expenses on their travel vouchers, furnishing passenger coupons or other evidence as appropriate in support thereof. Moreover, travelers shall assign to the Government the right to recover any excess payments involving carriers' use of improper rates. That assignment is preprinted on the travel voucher and shall be initialed by the traveler.

(g) Travelers using cash to procure passenger transportation services shall be made aware of the provisions of § 101–41.209–4 concerning a carrier's liability for liquidated damages because of failure to provide confirmed reserved space. Also, travelers using cash shall adhere to the regulations of the General Accounting Office (4 CFR 52.2) regarding the use of U.S.-flag vessels and air carriers. (See § 101–41.203–1(b).)

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–12730 Filed 5–11–83; 8:45 am]

BILLING CODE 6820–34–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51–4

Workshop Responsibilities

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped

ACTION: Final rule.

SUMMARY: The Committee amends its regulations (a) to require workshops to comply with the applicable compensation and employment standards prescribed by the Secretary of Labor and (b) to clarify the requirement that workshops must pay to their central nonprofit agencies the fee specified in § 51–3.5.

EFFECTIVE DATE: May 12, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 15, 1983, the Committee published a proposed rule (48 FR 6728) to amend § 51–4.3 of 41 CFR 51–4. The background and reasons for the changes were described in the notice announcing the proposed rule.

One comment was received on the proposed rule indicating that it was an attempt to impose regulations retroactively. The commenter recommended a number of additional amendments in Parts 2 and 3 of the Committee's regulations. As indicated in the background discussion on the proposed rule relating to the payment of the central nonprofit agency fee, the purpose of the proposed change was to clarify the long-standing requirement that participating workshops must pay to their central nonprofit agencies the fee specified in § 51–3.5, and, therefore, the requirement to pay the fee already exists. The additional changes recommended by the commenter, while related to the subject of the central nonprofit agency fee, are not appropriate for consideration in connection with these proposed changes. They may be appropriate for consideration as separate actions at a later time.

Another commenter stated that the proposed change pertaining to the requirement for workshops to pay a central nonprofit agency fee was not a "clarification" but a new provision of the regulations. As indicated in the discussion on the proposed rule, the requirement regarding the payment of central nonprofit agency fees has been in effect for participating workshops since 1938.

A third commenter questioned the proposed changes on the basis that there are no statutory provisions in the Committee's Act (41 U.S.C. 46–48c) which specifically address compliance with employment and compensation standards or payment of central nonprofit agency fees. As indicated in the discussion of the proposed rule, workshops participating in the Committee's program are required by other statutes to meet the compensation and employment standards prescribed by the Secretary of Labor. Under the proposed rule, when the Department of Labor notifies the Committee that a workshop is not in compliance with the employment or compensation standards established by the Secretary of Labor, the Committee will have the authority to limit or withdraw that workshop's authorization to produce commodities or provide services under its Act. This change would preclude the incongruous situation of a workshop's being permitted to continue receiving benefits under the Committee's program while failing to comply with the standards prescribed by the Secretary of Labor regarding the pay or working conditions of its blind or other severely handicapped employees. The Committee's Act (41 U.S.C. 47(c)) requires the Committee to designate one or more central nonprofit agencies. The Act also authorizes the Committee to "make rules and regulations regarding * * * such matters as may be necessary to carry out the purpose" of the Act (41 U.S.C. 47(d)(1)). The change regarding payment of central nonprofit agency fees ensures the continued financial support the central nonprofit agencies require in order for them to carry out their functions as defined by statute and regulation. Both of the proposed changes are clearly necessary to carry out the purposes of the Act.

Two comments were received endorsing the changes and one inquiry was received regarding the Committee's role in enforcing compliance with compensation and employment standards set by the Secretary of Labor. The correspondent was informed that the Committee would not be involved in enforcing compensation and employment standards, since, by law, such enforcement is the responsibility of the Secretary of Labor.

I certify that this is not a major rule under Executive Order 12291 and would not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 41 CFR Part 51–4

Government procurement.

Accordingly 41 CFR Part 51–4 is amended as follows:

PART 51–4 —[AMENDED]

1. Section 51–4.3 is amended by revising (a)(5) and adding a new paragraph (a)(8) to read:

§ 51–4.3 Responsibilities.

(a) * * *

(5) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor.

* * * * *

(8) Upon receipt of payment by the Government for commodities produced or services provided under the Act, pay to the central nonprofit agency the fee specified by § 51–3.5.

* * * * *

(41 U.S.C. 46–48c)

C. W. Fletcher,

Executive Director.

[FR Doc. 83–12750 Filed 5–11–83; 8:45 am]

BILLING CODE 6820–33–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[Gen. Docket No. 80–183; RM–2365; RM–2750; RM–3047; RM–3068; FCC 83–146]

Allocation of Spectrum in 928/941 MHz Band and Establishment of Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has issued its *Memorandum Opinion and Order on Reconsideration* (Part 2), of its *Report and Order*, in General Docket 80–183, 89 FCC 2d 1337, 47 FR 24557 (1982), which allocated 3 MHz of spectrum for private and common carrier one-way paging stations. The non-network paging issues were resolved in the *Memorandum Opinion and Order on Reconsideration* (Part 1), FCC 82–503, released November 16, 1982. This Order adopts the rules and policies for the implementation of network paging in the 900 MHz band. On reconsideration, the Commission has allocated all three frequencies for nationwide paging and it has adopted a two-step regulatory process in which one carrier or group of carriers will be licensed on each network frequency with the responsibility for organizing the network and then local carriers can affiliate with a network organizer by adhering to its proposal. In addition, the Commission has preempted state authority over technical standards, entry, and rate regulations for the three network frequencies.

EFFECTIVE DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632–6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

Memorandum Opinion and Order on Reconsideration (Part 2)

In the matter of amendment of Parts 2 and 22 of the Commission's rules to allocate spectrum in the 928–941 MHz band and to establish other rules, policies, and procedures for one-way paging stations in the Domestic Public Land Mobile Radio Service; General Docket No. 80–183; RM–2365, RM–2750, RM–3047, RM–3068.

Adopted April 7, 1983.
Released: May 4, 1983.

By the Commission. Commissioner Jones concurring in the result; Commissioner Fogarty absent.

I. Preliminary Statement

1. We have before us informal comments and four petitions for reconsideration [1] of our *First Report and Order* (the *Order*) in General Docket 80–183, allocating three MHz of spectrum from 929 to 932 MHz for private radio and common carrier one-way paging systems.[2]

2. On November 16, 1982, we released a *Memorandum Opinion and Order on Reconsideration (Part 1)*, FCC 82–503, resolving issues pertaining to the local, non-network frequencies and deferring reconsideration of network (regional or nationwide) issues to a subsequent Order. With respect to the non-network frequencies, we affirmed the requirement of need showings for existing carriers requesting an additional paging frequency, and we adopted a fixed forty-mile separation criterion for purposes of determining whether an applicant is entitled to an initial or additional paging frequency without demonstrating need. We also waived the submissions of topographic maps and profile graphs with 900 MHz paging applications.

3. We now address issues which pertain to the network frequencies. All four petitioners request that we change the network policies and procedures adopted in the *First Report and Order*. Page America and UTS also request that we preempt state authority over

[1] Petitions were filed by Telocator Network of America (Telocator); Mobile Communications Corporation of America (MOCA); Page America Communications, Inc. (Page America); and Beep-Beep Page, Inc. (Beep-Beep Page). Informal comments were filed by American Telephone and Telegraph Company (AT&T) and United Telephone System, Inc. (UTS).

[2] 89 FCC 2d 1337.

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technical, entry, exit and rate regulations for the three network frequencies. We agree with the petitioners that certain changes are necessary and will better serve the public interest. Therefore, as discussed below, we have decided to alter the regulatory framework for network paging and preempt state authority for the three network frequencies.

II. Background

A. Current Network Paging Policy and Procedures

4. In our *First Report and Order*, we allocated three frequencies for common carriers to use to provide inter-city network paging.[3] An inter-city network paging system would enable a subscriber to receive pages when outside his local service area. If the subscriber travels to an area that is part of an inter-city system, he could be paged through the radio common carrier (RCC) or wireline carrier in that area.

5. Of the three network frequencies, one was restricted to nationwide use and the other two were designated for either nationwide and/or regional paging. Extended cut-off procedures (six months from public notice of the first filing on a channel) were adopted for all three channels, with a single date applicable to the nationwide-channel and different dates applicable for each region on the regional channels.

6. In addition, because of the limited frequencies devoted to network paging, we decided to require network licensees to share these frequencies instead of licensing only one applicant on a frequency. In an effort to encourage sharing agreements, we determined that applicants must reach unanimous agreement as to the method of interference-free use and technical operation of the frequencies within one year, or all applications would be rejected and those applicants would be barred from reapplying for those frequencies for one year. We also decided to prohibit local paging on the network frequencies. However, if after a three-year period the non-network frequencies were exhausted, any nonassigned network frequencies could be applied for and use for local paging.

B. Pleadings

7. The petitioners request numerous changes in the regulatory framework for network paging. MCCA and Telocator argue that all three frequencies should be designated for nationwide use, since a nationwide network has the capacity to service both nationwide and regional demand. Telocator and MCCA claim that under our present allocation, the Commission will simultaneously receive both regional and nationwide applications for each frequency. They argue that this will create severe practical and regulatory problems and will only complicate the applicants' task of reaching unanimous agreement as to interference-free sharing of the frequencies. Moreover, MCCA asserts that with the Commission's recent lowband frequency allocations, licensees have already assembled many regional paging systems and do not need frequencies exclusively for that purpose.

8. All four petitioners reject the unanimity concept as unrealistic and unworkable. They argue that it is unrealistic to assume that applicants will voluntarily resolve the complex technical, financial and managerial problems associated with network paging. MCCA, Telocator and Page America emphasize the distinctions between licensing considerations and the technical decisions involving signaling format and network protocol. They argue that it is unreasonable to expect applicants with differing goals and interests to agree unanimously to all aspects of network paging operation. Moreover, the petitioners claim that the unanimity requirement will encourage obstructionists or applicants wishing to obtain unwarranted concessions from those seriously interested in providing network paging to the public.

9. Telocator and MCCA also object to the cut-off procedures adopted in the *First Report and Order*. They argue that the 180 day cut-off period gives applicants who are seriously interested in providing network paging a short period to prepare applications, while "me too" applicants or obstructionists are given twice as long to prepare mutually exclusive applications. Further, MCCA claims that the cut-off procedures will result in smaller cities receiving network service on a much delayed schedule because time and economics will force applicants to first file applications for network paging authority in major markets. Thus, applicants who fail to file for the smaller cities and towns initially will be precluded from doing so for the entire year that the applicants negotiate organization of the network.

10. Further, MCCA and Page America assert that the cut-off period coupled with a three year reversion for local paging will be the death knell of network paging. MCCA claims that at least one year-and-a-half will be required to complete one cycle of network paging applications: 180-day cut-off period, followed by one year of negotiation. Since MCCA believes that network paging will be provided first to major markets and will progressively spread to smaller communities, it is concerned that it might take two cycles, or more than three years, for smaller communities to obtain network paging. Therefore, since petitioners believe that allowing local paging on network frequencies would frustrate this service, they are concerned that smaller communities might never obtain nationwide paging.

11. All four petitioners propose alternative regulatory schemes for the network frequencies. Beep-Beep Page, Inc. suggests that we adopt a plurality proposal similar to that implemented in Docket 21039, 77 FCC 2d 212, 215 (1980).[4] Page America suggests a two level approach. It claims that on one level the local licensees of nationwide paging frequencies should agree upon a method of coordinating interference-free sharing of the frequencies, and on a second level agreement should be reached among the managers of the network services.[5] It proposes that we issue construction permits to qualified applicants soon after the cut-off date and condition the permits on the establishment of a frequency sharing plan. With respect to the network managers, Page America suggests that we not require them to cooperate with one another, or file any applications with the Commission since the network plan will be included with the affiliate's applications. It also recommends that the carriers licensed on the nationwide paging frequency be allowed to affiliate with more than one manager.

12. Telocator recommends a "hybrid" form of rulemaking. It suggests that all applicants desiring to operate inter-city networks submit applications pursuant to Section 214 of the Act,[6] containing

[3] The three common carrier frequencies allocated for network paging service are 931.8875, 931.9125 and 931.9325 MHz. *See* revised 47 CFR 22.501(p)(1), in Appendix A of this Order.

[4] Under a plurality plan, if unanimous agreement as to technical coordination is not reached by a certain deadline, the plan supported by the largest group of applicants that reach an agreement would be placed on public notice and opened to comments. Subsequently, the Commission can adopt the plurality plan if it is found to be reasonable and non-discriminatory. All pending applications could then be amended to comply with the accepted form of technical coordination.

[5] Page America's proposal is vague. It does not explain who the "Managers" are, or what they should agree to and why.

[6] Although AT&T concurs with Telocator's hybrid rulemaking approach, it states that Section 214 applications are not necessary because the radio license granted under Title III of the Communications Act carries with it Section 214 authority if the lines constructed and operated are the same as those that would be the subject of a Section 214 application. Communications Satellite Corp., 20 FCC 2d 405, 411 (1969); Domestic Fixed Satellite Transponder Sales, 88 FCC 2d 1419, 1424 (1982).

information including applicant's legal, technical and financial qualifications; its sharing concept; its ability to initially serve 30 metropolitan areas and expand nationwide; and its ability to accommodate both nationwide and regional service on one frequency. The Commission would then issue a public notice listing qualified applicants. The public notice would trigger 30-day periods for comments and reply comments, which would culminate in the Commission's adoption of rules and policies for initiation of inter-city service and licensing of network stations. Telocator states further, that if a negotiated settlement is not reached for operating on the three network channels, the Commission should select the plurality proposal which best serves the public interest, convenience and necessity.

13. MCCA proposes a two-step regulatory process, in which the problem of organizing each channel is solved initially and then the processing of applications for individual stations becomes routine. MCCA suggests that we distinguish between two types of network paging entities, the network organizer and the network operator. The network organizer for each channel would be an RCC or affiliated group of RCC's and would be responsible for defining the signaling format and network protocol for its channel. On the other hand, the network operator would be licensed on one of the three network channels, would interconnect with the existing network and would conform its application to the technical standards established by the network organizer.

14. In the first step, MCCA proposes that the Commission accept applications on a date certain, 90 days after adoption of the Reconsideration Order, only from applicants seeking to organize a network channel. MCCA details the information which should be included in the application. This list is similar to the information requested by Telocator in its proposal; however, it also includes the mode of operation for the network channel, types of service offered, signaling format and network interconnection scheme, and the method by which the applicant would provide open and nondiscriminatory access to the network. MCCA further suggests that if fewer than three network applications are filed, the excess channels could either revert to local use or be held in reserve. If more than three network applications are filed, and if the applicants are unable to align themselves into three groups, MCCA proposes that we conduct written hearings to select the three superior proposals. Further, approximately ninety days after selection of the three network organizers, the Commission should accept applications for the local network paging stations. Each local applicant would be free to select the network with which it wishes to affiliate.

III. Discussion

15. We have decided to modify our network paging rules with respect to the channel designations and licensing policies and procedures. When we adopted the network policies in our *First Report and Order*, we were aware of the demand for inter-city paging, but we were unpersuaded by the proposals before us. The petitioners have outlined network proposals which differ significantly from the plan adopted in our *First Report and Order*. Moreover, two groups of experienced carriers have publicly announced proposals to establish nationwide paging systems significantly different from what was contemplated at the time of the *First Report and Order*.[7] Based upon the proposals now before us, we find that certain revisions to the regulatory framework will result in less burdensome procedures, and will lead to the establishment of more economic and efficient network paging systems. We turn first to channel designations and licensing policies, and then to application and authorization procedures.

A. Channel Designations and Licensing Policies

16. We agree with Telocator and MCCA that all three frequencies should be designated as nationwide channels.[8] In the *First Report and Order* we designated two of the three channels for nationwide or regional use in the belief that we would thereby "offer users a greater choice of service." We also expressed the view that many potential users might desire service just within a particular geographic region, such as Washington/Baltimore, rather than between regions or nationwide. However, after reviewing the petitions for reconsideration, we are persuaded that regional service can be provided on the nationwide networks and that separate regional systems on two of the channels will result in less efficient use of the spectrum and will engender difficult licensing and frequency coordination problems.

17. The regional systems we envisioned were modest expansions of the wide-area systems in existence today throughout the Northeast Corridor and other parts of the country. It is quite possible to construct a new regional system by interconnecting transmitters on a single frequency in the newly allocated 35, 43 or 900 MHz channels. In fact, a number of the hundreds of applicants for the lowband and 900 MHz channels have proposed exactly that. Our substantive requirements for network applicants, discussed below, assure that regional paging will be available to augment existing wide area service on local paging channels. Therefore, we find no need to set aside channels specifically for regional paging on the ground that such demand as may exist can readily be satisfied by both wide-area and network systems.

18. A second major change we will adopt is MCCA's proposal to license the three network channels to three common carrier "network organizers" whose services will be distributed through local "network operators" in each community. The "network organizer" will be a common carrier or group of common carriers who will organize the network, *i.e.*, determine among other things, the mode of operation, signaling format, interconnection and interference-free sharing schemes, and who will be licensed by the Commission. The "network operator" will be a local common carrier who agrees to coordinate with the technical parameters of a network organizer, and who will provide network services to its subscribers.

[7] One group consists of MCI Communications, Metromedia, Communications Industries and American Express. They propose to offer "national electronic message delivery service," primarily over MCI's long distance network and the local distribution facilities of the partners. The other group consists of MCCA and National Public Radio (NPR), which would use excess capacity in NPR's earth stations and satellite transponders for intercity distribution, with local distribution handled by any local paging company that wished to join the network. Our mention of these proposals in no way indicates our approval of them. No action has or will be taken on these proposals until they are submitted in conjunction with the procedures articulated in this Order.

[8] Local paging was prohibited on the three network frequencies in the *First Report and Order*, at para. 29. None of the petitioners requested that we allow local paging on the network frequencies and we continue to believe that local use of these frequencies could stifle their development for network use at least in the initial period of development. *But see* para. 25, *infra*. Nevertheless, once the network frequencies are licensed and in operation, economic or operational efficiency may militate in favor of loosening the absolute prohibition against local service. We will entertain requests from the three network licensees to provide local paging as long as it can be offered without displacing or otherwise reducing the quality of service to nationwide customers.

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19. We believe, based on the information before us at this time, that this "carrier's carrier" approach is the easiest and most effective way to implement network paging. Unlike the plan adopted in our *First Report and Order* or the proposal submitted by Telocator, Page America and Beep-Beep Page, MCCA's plan no longer relies on interference-free sharing arrangements among potential competitors (whether by unanimity or plurality agreement) as prerequisites to network implementation. This eliminates the complicated and time-consuming cut-off procedures and negotiation periods associated with sharing arrangements. One licensee will be responsible for organizing each network and detailing the legal and financial arrangements and technical parameters of the system. We are hopeful that licensing three separate network organizers—as opposed to requiring sharing among all or a plurality of applicants—will foster technically diverse, competitive networks to the benefit of the public.

20. Under this structure, we tentatively find that the "network operators" should be afforded open and nondiscriminatory access to the network paging systems. In essence, there will be three intercity network systems whose services will be retailed through local outlets. Under our previous plan, the issue of nondiscriminatory access was insignificant because anyone who wanted to participate in nationwide service had an opportunity to share a frequency. Now that we will choose only three network licensees from a potentially large number of mutually exclusive applicants, there appears to be justification for ensuring the right of local operators to feed traffic into the networks and to participate in the distribution of traffic originating outside their service areas to the extent that it is technically feasible. If we do not, the network organizers will theoretically be able to select individual local operators, to exclude all local participants except those already affiliated with the network organizers, or to give their affiliates and subsidiaries favored treatment. We tentatively find that ceding such comprehensive control over local operation to the three organizers would not be in the public interest.

21. On the other hand, affording local carriers open and nondiscriminatory access, provided they agree to abide by the network organizer's technical specifications, will encourage competition at the local level and will increase the diversity of user choices. We also foresee benefits to paging subscribers in smaller cities and towns who will be able to obtain access to a network through a local paging company which might not otherwise have chosen to participate in the network under our previous plan for sharing. In sum, we believe the plan advanced by MCCA, with some modifications, is preferable to any other plan we have considered in terms of expediting service to the public, fostering competition in the provision of network services, and reducing the administrative burdens on the applicants and the Commission.

22. Our network licensing policies are only tentative at this time because we want to solicit further comment on the nondiscriminatory access feature in our companion Further Notice of Proposed Rulemaking. There may be significant operational or economic reasons, of which we are not now aware, militating against the nondiscriminatory access requirement. It may also be that nondiscriminatory access is not necessary to assure a competitive environment for nationwide paging because substitutable services will be available to consumers. These substitutes could influence the three network licensees to offer and price their services competitively in the absence of nondiscriminatory access, which is, after all, nothing more than unrestricted resale of network service. We do not, however, want to delay the licensing process while we continue to consider the access question. Accordingly, applicants should prepare their applications based on the assumption that the policies stated here will become final. Should we later decide not to require nondiscriminatory access, we will allow those who have filed timely applications an opportunity to amend. No new applications will be accepted after the cut-off date established here regardless of our disposition of the issues in the Further Notice.

B. How the System Works

23. As presently conceived, nationwide paging works fairly simply. The nationwide subscriber has a telephone number assigned to him in his home area by the local carrier (network operator) from whom he takes service. When he travels, he leaves the number with persons who need to reach him, for example, his employer. The employer initiates the page by dialing the local number. The network operator recognizes the number as a nationwide paging number and sends it through terrestrial facilities to the network licensee (network organizer) at the network control center. At that point the signal is routed over the network to terminal points in every city in which the network organizer operates. (The page can also be sent to selected cities, depending upon the configuration of the network.) From there, the page is transmitted over terrestrial links to the transmitters of participating network operators and then over the air to the subscriber's paging receiver. Because nationwide and local paging do not share the same frequency, the subscriber initially has to have two pagers for local and network service. However, dual frequency pagers are now under development and should soon obviate the need for two pagers.

C. Application and Authorization Procedures

24. To effectuate the revised plan for network paging, we will adopt MCCA's two-step process, with some minor modifications. First, we will accept applications from, and license, the common carrier network organizers as set forth below. The organizers will control the use of the frequencies and will have all the rights and responsibilities under the Act and the Commission's Rules associated with such control. Second, we will accept abbreviated applications from, and authorize, the local paging companies who have chosen to participate in a network. These companies will have no right to use the frequency other than in the manner specified by the organizer. As explained below, the application form for local operators will be abbreviated, and only a minimum amount of technical information will be required.[9]

25. Those seeking to organize a network must submit their applications no later than 90 days after publication of this Order in the **Federal Register**. At the close of the 90 day period, we will review the applications to determine their acceptability for filing, and we will then issue a Public Notice announcing any mutually exclusive applications and beginning the thirty day pleading period.[10] If fewer than three applications are received, we will hold the remaining channels in reserve to revert to local use if they are not used for network paging within three years as provided in the *First Report and Order*. If more than three applications are received, as expected, and if the applicants do not align themselves into three groups under the procedures in Section 22.29 of the

[9] *See* para. 25, *infra*.

[10] Applicants should *not* designate a specific channel in their applications. All applications filed for the three network channels will be deemed mutually exclusive because we consider the channels to be fungible. *Contrast* Digital Electronic Message Service, 88 FCC 2d 1716 (1982).

Rules, the three licensees will be selected by whatever comparative selection process is in effect at the time.[11]

26. Because only three network licenses are available, we agree with MCCA that the network organizers ought to submit something more than bare-bones applications on Form 401.[12] These networks are likely to be complex and expensive to organize and construct, so it is important for us to examine financial and technical ability in evaluating the applications. Furthermore, to insure that the networks are truly nationwide in scope, we find that there should be a minimum number of communities served from the initiation of service. Telecator suggested 30 cities, but we believe that may be too many considering this is a new service with which no one has any experience. We find instead that it is reasonable to require each applicant initially to propose to serve at least fifteen metropolitan areas of its choice, and to submit its plans demonstrating how it will expand service nationwide [13] within two years of the start of service. We will define "metropolitan areas" as the Standard Metropolitan Statistical Areas (SMSAs) listed in the U.S. Department of Commerce's Statistical Abstract of the United States—1981 (102 Ed.) at pp. 920–925. We do not anticipate updating this SMSA list or accepting markets from any other source.[14] The following is a summary of the information that must be filed as part of the application:

(a) The applicant's projected costs of organizing and constructing the network and its technical and financial ability to start up and operate the network;

(b) The proposed mode of operation and technical plan for implementing the network channel, including but not limited to the types of services offered, signaling format and network interconnection plan; [15]

(c) The method and extent to which the proposed network would provide for interference-free operation on the channel in each local area;

(d) The method by which the applicant would provide open and nondiscriminatory access to its network;

(e) The initial service proposal for at least fifteen Standard Metropolitan statistical Areas;

(f) The applicant's plans for expanding network service from its initial markets to nationwide coverage within two years from the initiation of service;

(g) A model tariff showing, among other things, how it intends to provide nondiscriminatory access to network operators; [16] and

(h) How the public interest, convenience and necessity would be served by a grant of the particular application.

27. The second stage of processing will be the licensing of the local operators on the network organizer's frequencies. Immediately after selection of the network organizers, we will begin taking applications from the local participants, the network operators.[17] We contemplate issuing a Public Notice formally establishing the opening application date; there will be no cut-off date because there is no mutual exclusivity. This licensing requirement is only necessary to insure compliance with our technical rules for transmitters and antenna structures. Accordingly, from carriers who already hold FCC licenses for paging or two-way mobile service, we will require only that pages 1 through 3 and the signature on page 6 of the Form 401 be submitted. These applicants may also omit answers to items 12, 13, 14, 15, 24, 25, 27, and 28, unless answers are needed to correct out-of-date information on file with the Commission. However, new entrants must complete the entire form to enable us to assess all of their qualifications to be Commission Licensees. One additional requirement for all applicants will be a statement on the Form 401, asserting their willingness to comply with the network organizer's technical specifications. We anticipate that this type of *pro forma* licensing will speed service to the public with a minimum of paperwork for the Commission and the applicants.[18]

D. Federal Preemption

28. In our *First Report and Order*, we decided not to preempt state authority for the 900 MHz frequencies. We concluded that since paging systems are basically local in nature, the states should not be preempted form decisions concerning entry, technical and rate regulations for paging common carriers.

29. In their petitions, Page America and UTS urge the Commission to preempt state authority with respect to entry, technical, and rate regulation for the three network frequencies.[19] Page America argues that by prohibiting local service on these frequencies we have created a new interstate communications service, and the states should be prohibited from regulating the operations on these three frequencies. It claims that without federal preemption, the development of an effective and feasible nationwide paging service will be delayed and its growth may be prevented. We believe Page America and UTS have raised valid concerns.

30. Federal preemption may occur in two instances. First, Congress may either expressly order preemption in a statute or implicity command preemption by the statute's structure and purpose. Second, valid federal regulation may preempt state law or regulation whenever the state action creates an obstacle to the implementation of the purpose of the federal regulation. *Fidelity Federal Saving and Loan Association v. de la Cuesta*, ——U.S. ——, 73 L.ED. 2d 664, 675 (1982). *See also, Florida Lime and Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 141 (1963), *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). The second situation exists in this proceeding. We have created a new nationwide communications service pursuant to our statutory authority. Because state regulation over the technical standards,

[11] We do not rule out random selection at this time; however, we anticipate receiving disparate proposals, which may militate in favor of traditional or modified comparative procedures.

[12] It is not necessary for applicants to demonstrate need for network service because we found such need when we allocated three channels in our *First Report and Order*.

[13] By "nationwide" we do not mean literally everywhere in the country. We leave it to the applicants to forecast demand for service; however, we anticipate that the scope of the network service proposed by each applicant could be a comparative criterion in awarding licenses.

[14] There are no minimum coverage areas or any similar requirements as there are in the cellular radio rules, 47 CFR § 22.901 *et seq*. Applicants need only propose at least one nationwide transmit/receive point within their chosen SMSAs.

[15] As part of the proposal, each applicant is expected to describe how it will achieve efficient use of its channel.

[16] Our approach to rate regulation is still under consideration. *See* paras. 29 and 30, *infra*. Consequently, applicants may not be able to formulate comprehensive tariff proposals by the filing deadline. We will accept model tariffs after the filing deadline as amendments to applications if we have not decided upon the method of rate regulations before then.

[17] Since our ultimate decision on access requirements will affect the licensing of local operators, we will not accept stage two applications until that question is resolved. However, if we retain the open access requirement, the network operator would be free to affiliate with any or all of the network organizers licensed, as long as it agrees to adhere to the specifics of each carrier's network paging proposal. Furthermore, there would be no requirement's as to the number of markets an individual operator may serve.

[18] These applications will be granted without a formal comparative hearing pursuant to § 22.32(b) because the applications are not mutually exclusive, nor subject to comparative consideration. The accepted applications will be listed in an informative public notice and will be subject to petitions to deny under Section 22.30 of the rules.

[19] The method and extent of our rate regulation is discussed in an accompanying Further Notice of Proposed Rulemaking. This Notice requests comments on various tariff procedures for both the network organizers and operators.

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entry, and rate regulation could seriously impede the development of this service, we believe such state regulation must give way to the paramount federal interest.

31. This new nationwide paging service is being authorized pursuant to both Title III and Title II of the Communications Act of 1934, as amended. Under Title III of the Act, the Commission has broad authority to regulate all communications by radio. That authority includes the power to "classify radio stations," to "prescribe the nature of the service to be provided by each class of licensed stations," to "study new uses for radio," and to "encourage the larger and more effective use of radio in the public interest." 47 U.S.C. 303 (a), (b), and (g). Furthermore, Section 301 of the Act explicity grants this Commission sole authority to license radio facilities.[20] Under Title II of the Act, the Commission has broad authority to regulate interstate common carriers, whether or not they use radio facilities. Pursuant to Title II, the Commission regulates: (1) Entry into and exit from interstate service, (2) rates and regulations governing the offering of interstate service, and (3) interconnection between carriers for the provision of joint or "through" interstate service. 47 U.S.C. 201–105, 214. The courts have recognized a broad discretion in the Commission with respect to the manner in which it exercises its Title II powers to achieve statutory objectives.[21] Of course, the Commission's Title II authority over interstate common carriers does not extend so far as to extinguish legitimate state regulation of purely intrastate common carrier communications. 47 U.S.C. 152(b).[22] The Commission's authority over interstate common carriage, however, is comprehensive and does extend to facilities and services that might be located wholly within a single state if those facilities and services are essential or integral parts of interstate communications.[23]

32. In accordance with this statutory authority, we are creating the subject nationwide paging service. Because paging services have historically been local in nature, the states have traditionally regulated paging common carriers. Network paging, however, will be predominantly an interstate service, which may also address intrastate demands. In an effort to assure nationwide service, we have imposed two significant requirements upon any entity proposing to offer nationwide service. First, we have initially prohibited local paging on these frequencies. Although network organizers will be permitted to request permission to offer local paging on a secondary basis, such service offerings will not be the ordinary situation and will not be permitted to displace natiowide service. Second, and possibly more important, we are requiring that the three network licensees demonstrate the capability both to serve 15 SMSAs initially and to expand paging service nationwide within two years. Furthermore, in an effort to increase competition in this new market, we are tentatively requiring that the network operators be afforded open and nondiscriminate access to any or all nationwide channels. Regardless of whether that requirement is retained, it is essential to the interstate development of nationwide paging that the network organizer and its operators be afforded access to all cities and states it desires to serve. To achieve the rapid implementation of nationwide service and these policy objectives, we believe our regulation of the service must preempt state regulation with respect to entry, technical standards, and rate regulation for the three network frequencies.[24]

33. Preemption of state entry regulation is necessary for several reasons. Initially, as noted above, access for paging operators to every city and state is crucial to our network scheme. If the states restrict entry, implementation of this service will be frustrated. Depending upon how the network is organized, full nationwide coverage might be thwarted if carriers in particular cities are denied entry. State entry regulation also could delay the implementation of this new service as well as increase the carrier's expense of providing it. We realize that because this service has some intrastate characteristics the states may have an interest in how it is provided. The states, like other interested parties, may raise their concerns with this Commission whenever these entities apply for licenses.

34. We are also asserting federal primacy over technical standards for the network paging service. Nationwide operators will be required to comply with the technical parameter specified by the network organizer, including but not limited to the mode of operation, signaling format, network interconnection and method of interference free sharing. The assurance of compatible operation of equipment on an interstate and nationwide basis for the three frequencies is essential to the success of this service. State licensing requirements could add additional and possibly conflicting network technical specifications that would defeat the nationwide plan.

35. Finally, our action cannot coexist with state rate regulations of the three network organizers. The nationwide systems can be used for both interstate and intrastate communications.[25] Although the states generally regulate intrastate communications, they must stand aside when, as here, it is technically and practicably impossible to separate the two types of communications for tariff purposes.[26] Furthermore, we have issued an accompanying Further Notice of Proposed Rulemaking which solicits comments on the extent and method of rate regulation for the network operators. The scope of any preemption vis-a-vis the network operators' rates will be resolved in that proceeding.

36. We note that our preemption of state regulation in this instance is consistent with precedent. The preemptive effect of valid Commission actions over state regulation when it could interfere with interstate communications has consistently been recognized by the Courts. *Orth-Vision*, 69 FCC 2d 657 (1978), *aff'd sub nom.*

[20] In particular, Section 301 provides that "no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under and in accordance with this Act and with a license on that behalf granted under the provisions of the Act." 47 U.S.C. § 301.

[21] *E.g.*, AT&T v. FCC, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 878 (1978); Philadelphia Television Broadcasting Co. v. FCC, 359 F.2d 282 (D.C. Cir. 1966); *Cf.* Computer & Communications Industry Association v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *petitions for cert. filed* (U.S. February 9 and 10 1983) (Nos. 82–1331, and 82–1352); Telocator Network of America . FCC, 691 F.2d 525 (D.C. Cir. 1982). Additionally Section 221(b) reserves to the states jurisdiction over telephone exchanges which serve single multi-state areas. North Carolina Utilities Commission v. FCC *supra* at 1045.

[22] *See* National Association of Regulatory Utility Commissioners v. FCC, 533 F.2d 601 (D.C. Cir. 1976) (NARUC II) (Opinion of Wilkey, J.).

[23] Computer & Communications Industry Association v. FCC, *supra*; People of California v. FCC, 567 F.2d 84 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1010 (1978); Puerto Rico Telephone Co. v. FCC, 553 F.2d 694 (1st Cir. 1977); North Carolina Utility Commission v. FCC, 552 F.2d 1036 (4th Cir.), *cert. denied*, 434 U.S. 874 (1977) (NCUC II). *See also* New York Telephone Co. v. FCC, 631 F.2d 1069 (2d Cir. 1980); General Telephone Co. of the Southwest v. FCC, 449 F.2d 846 (5th Cir. 1971).

[24] *See* n. 18 *supra*.

[25] For example, a nationwide system can be used to communicate intrastate from San Francisco to Los Angeles, as readily as it can be used interstate from San Francisco to New York.

[26] *See* Computer & Communications Industry Association v. FCC, *supra* at 215; North Carolina Utility Commission v. FCC, 537 F. 2d 787 (4th Cir.), *cert. denied*, 429 U.S. 1027 (1976); North Carolina Utility Commission v. FCC, 552 F. 2d (4th Cir.), *cert. denied*, 434 U.S. 874 (1977).

New York State Commission on Cable Television v. FCC & USA, 669 F. 2d 58 (2d Cir. 1982); *Telerent Leasing Corp.*, 45 FCC 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission v. FCC*, 537 F. 2d 787 (4th Cir.) *cert. denied*, 429 U.S. 1027 (1976). Further it is well established that the Commission may assert jurisdiction over facilities that are wholly within a single state if local services cannot be easily and practicably separated from interstate services supplied through the same facilities. *People of State of California v. FCC*, 567 F. 2d 84 (D.C. Cir. 1976), *cert denied*, 434 U.S. 1010 (1978); *North Carolina Utilities Commission v. FCC*, 552 F. 2d 1036 (4th Cir.) *cert. denied*, 434 U.S. 874 (1977).

37. In conclusion, we find that federal preemption in this case is necessary if our policies are to succeed. State regulation could impede the development and provision of this new, innovative, and primarily interstate telecommunications service.

E. Other Matters

38. In the *Memorandum Opinion and Order on Reconsideration (Part 1)*, we waived the submissions of § 22.15(j)(8) topographic maps and § 22.115 profile graphs, and we added the requirement that maps on a scale of 1:250,000 be submitted. For the sake of clarity, we have rewritten the applicable rules to reflect these changes. *See* Appendix A.

IV. Conclusion

39. This is the first time that common carrier frequencies have been devoted exclusively to nationwide inter-city paging systems. We decided to reject the burdensome and time-consuming extended cut-off procedures and unanimity sharing agreements adopted in the *First Report and Order*. We also reject the complex licensing and coordination problems associated with authorizing separate regional and nationwide networks. One network organizer will be licensed on each frequency. This licensee will have thoroughly devised a method for technical interconnection and interference-free coordination among carriers. Then any local common carrier who wishes to provide network services will be authorized to affiliate with one or more network organizers by adhering to the licensee's proposal. We believe that this two-step regulatory process is workable and will promote the Commission's goals of competition and diversification. We are confident that it will implement nationwide paging in the most efficient and expeditious manner possible

V. Ordering Clauses

40. Accordingly, it is ordered, that the petitions for reconsideration are granted to the extent set forth herein, and are otherwise denied.

41. It is further ordered, that pursuant to the authority found in Section 154(i), 301 and 303(r) of the Communications Act of 1934, as amended, Part 22 of the Commission's Rules and Regulations are amended as specified in Appendix A. These amendments shall become effective June 13, 1983.

42. It is further ordered, that applications by the applicants desiring to organize a network frequency will be accepted 90 days after this Order is published in the **Federal Register.**

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

1. 47 CFR 22.501(p) (1) and (2) are revised to read as follows:

§ 22.501 Frequencies.

* * * * *

(p)(1) For assignment to based stations of communication common carriers for use exclusively in providing a one-way signaling service (center frequency of 25 khz band).

931.0125 MHz	931.5125 MHz
931.0375 MHz	931.5375 MHz
931.0625 MHz	931.5625 MHz
931.0875 MHz	931.5875 MHz
931.1125 MHz	931.6125 MHz
931.1375 MHz	931.6375 MHz
931.1625 MHz	931.6625 MHz
931.1875 MHz	931.6875 MHz
931.2125 MHz	931.7125 MHz
931.2375 MHz	931.7375 MHz
931.2625 MHz	931.7625 MHz
931.2875 MHz	931.7875 MHz
931.3125 MHz	931.8125 MHz
931.3375 MHz	931.8375 MHz
931.3625 MHz	931.8625 MHz
931.3875 MHz	931.8875 MHz [1]
931.4125 MHz	931.9125 MHz [1]
931.4375 MHz	931.9375 MHz [1]
931.4625 MHz	931.9625 MHz [1]
931.4875 MHz	931.9875 MHz

[1] Reserved for stations engaged in providing nationwide network paging service; as provided for in § 22.527.

(2) Specification of frequency in application. (i) *Non-network:* An applicant for a new, non-network frequency in the band 929–932 MHz will not specify a frequency in its appplication. It may specify its non-network frequency preference, but the Commission is not bound by such requests. (ii) *Network:* An applicant wishing to organize a network frequency will not specify a frequency preference in its application but must make the showings required by § 22.527. The subsequent applications filed by the affiliating, local common carriers should specify the specific network channel it desires.

2. Part 22 is amended by adding new § 22.527 to read as follows:

§ 22.527 Channel assignment policies for 900 MHz one-way signaling channels reserved for stations engaged in providing network signaling service.

(a) An applicant wishing to organize a network signaling channel should not specify a particular channel in its application.

(b) The applicant shall submit to the Commission copies of agreements, if any, and system diagrams and plans illustrating how applicant proposes to utilize the desired network signaling channel. Applications filed pursuant to this paragraph must contain at a minimum the following:

(1) Technical standards describing the types of one-way communications to be provided, the signaling format under which individual receivers may be selectively signaled, and the network protocol under which all stations licensed or subsequently licensed on the desired network signaling channel may be connected or interconnected for the purposes of exchanging or delivering signaling messages for transmission by such stations.

(2) Description of how the proposed system and the technical standards described in paragraph (b)(1) of this section will not discriminate as to access, cost, or otherwise between applicant and the local operators for the desired network paging channel.

(3) Description of how the proposed network would provide for interference-free operation on the channel in each local area.

(4) Description of applicant's technical and financial qualifications to construct the proposed system and to develop and implement the technical standards described in paragraph (b)(1) of this section. Such financial qualifications shall satisfy the requirements of § 22.917.

(5) Description of how applicant with others, will provide network signaling service to at least fifteen standard metropolitan statistical areas initially and to how it will expand network services to the entire nation within two years.

(6) A model tariff showing, among other things, how it intends to provide nondiscriminatory access to network operators; and

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(7) Description of how the public interest, convenience and necessity will be served by a grant of the application.

3. 47 CFR 22.15 is amended by revising (j)(8) and (j)(10) to read as follows:

§ 22.15 Technical content of applications

(j) * * *

(8) Topographic maps (see also § 22.216) showing the information set forth in paragraphs (j)(8) (i) and (ii) of this section are required in all Part 22 services except for 900 MHz one-way paging applications which is governed by paragraph (j)(8) (iii) of this section.

(i) Exact station location,

(ii) Location of radials used in determining elevation of average terrain,

(iii) Exact station location should be plotted on a map with a scale of 1:250,000 and the reliable service area should be depicted by a 20-mile radius for each base station.

(9) * * *

(10) For 900 MHz one-way applications, the profile graphs referred to in § 22.116 are not required.

* * * * *

[FR Doc. 83-12715 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 30408-54]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 4 to the fishery management plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Amendment 4 is necessary to provide sufficient amounts of fish to U.S. fishermen fishing commercially in groundfish fisheries, to take advantage of harvestable Pacific cod while they are available, and to allow foreign groundfish fleets access to narrow fishing grounds along the Aleutian Islands where fishing is more practicable. This action is intended to support U.S. fishermen harvesting underutilized groundfish stocks and to provide for fuller utilization of any harvestable groundfish by U.S. and foreign fishermen.

EFFECTIVE DATE: May 9, 1983.

ADDRESS: A copy of the final regulatory flexibility analysis for this rule is available from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT:
Susan J. Salveson, 907-586-7230

SUPPLEMENTARY INFORMATION:

Background

Amendment 4 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island Area (FMP) was partially approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on October 28, 1982. Proposed rules to implement the approved parts of this amendment were published in the **Federal Register** on December 6, 1982, and comments were invited until January 20, 1983. No comments were received. The approved parts: (1) Adjust the domestic annual harvest (DAH), joint venture processing (JVP), and the total allowable level of foreign fishing (TALFF) amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species;" (2) increase the acceptable biological catch (ABC), optimum yield (OY), and reserve amounts for Pacific cod and for the "other species" category and increase the TALFF for Pacific cod; and (3) expand the area in which foreign fishing may be conducted in the fishery conservation zone.

One part that was disapproved would have authorized the Secretary to issue field orders adjusting fishing seasons and areas for conservation and management reasons. This part was disapproved because the amendment failed to specify adequately the procedures, limits, and types of responses that could be made in issuing such orders.

The principal aspects of Amendment 4 are described fully in the proposed rule. In addition, Amendment 4 makes the following technical changes to the FMP: (a) Consolidates the description of areas closed to foreign fishing, designates and depicts those areas, and reformats the rationale for such areas; (b) corrects or clarifies the geographical coordinates for two of the management areas; (c) adds a description of the four fishing areas and clarifies the depiction thereof; (d) clarifies the description of the fishery management area; (e) clarifies the substance of Amendment 1a and depicts the salmon savings area; (f) clarifies the specifications of domestic annual processing (DAP), domestic non-processed fish, and JVP amounts; (g) deletes references to halibut in various tables; (h) corrects the base optimum yield (OY) for "other species" that should have been increased by 1,000 metric tons (mt) (to 75,249 mt), or five percent of the 20,000 mt increase in Pacific cod OY, by virtue of Amendment 2; and (i) amends the coordinates for one area closed to foreign fishing.

The changes in OY, DAH, JVP, reserve, and TALFF for the species affected by Amendment 4 are summarized in the table below. The specifications are the same as those contained in the proposed rule as corrected on December 23, 1982 (47 FR 57306). This table will serve as notice of the changes to be effected by Amendment 4 in lieu of an amendment to the "TALFF table" which formerly was codified as Appendix 1 to 50 CFR 611.20, but which was removed by a final rule apearing at 47 FR 44264 (October 7, 1982).

Species	Species code	Areas	OY	DAH*	DAP	JVP	DNP	Reserve	TALFF
Pollock	701	Bering Sea [1]	1,000,000	74,500	10,000	64,000	500	50,000	875,500
Yellowfin sole	720	"	117,000	31,200	1,000	30,000	200	5,850	79,950
Other flat fish	129	"	61,000	11,200	1,000	10,000	200	3,050	46,750
Pacific cod	702	"	120,000	43,265	26,000	17,085	200	6,000	70,735
Atka mackerel	207	"	24,800	14,500	0	14,500		1,240	9,060
Other species [2]	499	"	77,314	7,800	1,400	6,000	400	3,866	85,648

* "DAH = DAP + JVP + DNP.

[1] Bering Sea means fishing areas, I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.

[2] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin octopus, and all other finfish and marine invertebrates except those listed in the table and "unallocated species." See 611.93(b)(1)(iii) for the definition of "unallocated species."

The continental shelf between 170°00'W. longitude and 172°00'W. longitude is very narrow, making it impracticable to fish for groundfish in this area seaward of 12 nautical miles from the baseline used to measure the U.S. territorial sea. For this reason, Amendment 4 allows both foreign trawling and longlining between three and 12 nautical miles from the baseline in the area: (1) Bounded by 170°00'W. longitude and 172°00'W. longitude on the south side of the Aleutian Islands, and (2) bounded by 170°30'W. longitude and 172°00'W. longitude on the north side of the Aleutian Islands. In addition, Amendment 4 allows foreign longlining between three and 12 nautical miles from the baseline in the area bounded by 170°00'W. longitude and 170°30'W. longitude on the north side of the Aleutian Islands. Foreign trawling is prohibited in the latter area to avoid gear conflicts and grounds-preemption problems between U.S. crab fishermen who fish this area and foreign trawl fleets.

Finally, one set of coordinates for the Winter Halibut Savings area is modified to conform with coordinates specified for that area in the preliminary fishery management plan for this fishery.

Classification

The Assistant Administrator has determined that the approved parts of this amendment to the FMP are necessary and appropriate for the conservation and management of fishery resources in the Bering Sea and Aleutian Islands area, and that the action is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act), other provisions of the Magnuson Act, and other applicable law. He has, therefore, under sections 304 and 305 of the Magnuson Act given final approval to Amendment 4 except for that part relating to the field order authority.

The Assistant Administrator has determined that the final regulations implementing Amendment 4 will not significantly affect the quality of the human environment. This determination was based on an environmental assessment that was filed with the Environmental Protection Agency on March 3, 1982. Accordingly, a supplement to the FEIS for the FMP is not required.

The Assistant Administrator also has determined that implementation of this amendment will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulations at 15 CFR Part 930, Subpart C.

The Administrator of NOAA has determined that this final rulemaking is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, since the sector of the U.S. fishing industry concerned with groundfish from the Bering Sea and Aleutian Islands is too small for these measures to have a significant effect on the economy. By providing additional amounts of groundfish for domestic harvest, Amendment 4 benefits the domestic groundfish fishery and encourages its development.

The Administrator has determined that the final regulations implementing Amendment 4 will have a significant economic impact upon a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The following is a summary of the final regulatory flexibility analysis.

The increase in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" results in an 87,150 mt increase in the total JVP available to domestic fishermen. The mean exvessel value of these species to domestic fishermen fishing for joint venture operations had recently been about $141 per mt. The additional total gross revenues to about 30 U.S. vessels that may deliver groundfish to foreign processors in 1983 could approach $12.3 million.

The increases in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" result in corresponding decreases in the TALFF amounts for these species. If all of the 87,150 mt total decrease in the TALFF were harvested by foreign fishermen, the revenue to the U.S. Treasury through foreign fishing fees in 1983 could be about $3.8 million. A comparison with actual total foreign catches in 1982, however, shows that for each of the individual species' TALFFs being decreased, the adjusted TALFFs would have been sufficient to provide for the 1982 catches, except for pollock. The 1982 total foreign pollock catch exceeded the adjusted TALFF by about 28,000 mt. If the same amount of foreign effort and capacity is applied in 1983 as in 1982, and if availability of stocks allow for a similar fishery, the total foreign catch in 1983 could be short by about 28,000 mt of pollock. The U.S. Government would lose only about $868,000 in foreign fees that it would have charged for pollock, instead of $3.8 million. This potential loss, however, could be offset by the proposed 39,235 mt increase in TALFF for Pacific cod, an higher value species for which the 1983 poundage fee is $60 per mt. The loss of revenue to the U.S. Government from the reduced pollock TALFF would be compensated for if foreign nations were to harvest only about 15,000 mt of the Pacific cod TALFF increase. Any additional harvest of Pacific cod would yield a net increase in revenue.

The Assistant Administrator finds good cause not to delay the effective date of this final rule under 5 U.S.C. 553(d) for the following reasons: (1) The intended effects of this rule are to support U.S. fishermen harvesting underutilized groundfish stocks and to provide for fuller utilization of certain harvestable groundfish by foreign fishermen; (2) the increases in DAH for pollock, yellowfin sole, "other flatfish", atka mackerel, and "other species" are necessary in view of expected 1983 harvests by U.S. fishermen; (3) the increase in the OY for Pacific cod is necessary for full utilization of a stock while it is available; (4) ample opportunity for involvement was accorded the public during public hearings and the 45-day public comment period; and (5) both the U.S. and foreign fishing sectors are aware of and expect these changes, and (6) immediate relief of a current foreign fishing restriction is necessary to promote fuller utilization of available fishery resources.

This final rulemaking does not contain a collection of information requirement or involve any collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 675

Fish, Fisheries, Reporting requirement.

Dated: May 6, 1983.

Roland F. Smith,

Acting Director, Office of Data and Information Management, National Marine Fishery Service.

For the reasons set out in the preamble, 50 CFR Parts 611 and 675 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation of Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.93 is amended by revising paragraphs (c)(2)(i) and (c)(3)(i) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *

(2) * * *

(i) Trawling by foreign vessels between 3 and 12 nautical miles from

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the baseline used to measure the territorial sea is allowed (A) at all times in the areas bounded by 170°00′ W. longitude and 172°00′ W. longitude south of the Aleutian Islands and by 170°30′ W. longitude and 172°00′ W. longitude north of the Aleutian Islands; (B) from July 1 through December 31 on Petrel Bank; and (C) from May 1 through December 31 in other areas west of 176°30′ W. longitude. Petrel Bank is bordered by straight lines connecting the following coordinates in the order listed:

Latitude	Longitude
52°51′ N.	176°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	176°30′ W.
52°51′ N.	176°30′ W.

* * * * *

(3) * * *

(i) Longlining by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed west of 170°00′ W. longitude.

* * * * *

3. In addition to the amendments set forth above, § 611.93 is amended by removing the second set of coordinates, "52°40′ N. latitude, 170°00′ W. longitude," in paragraphs (c)(2)(ii)(C) and (c)(3)(ii), and inserting in their place "52°46′ N. latitude, 170°00′ W. longitude."

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for Part 675 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. Section 675.20(a) is amended by revising Table 1 to read as follows:

§ 675.20 General limitations

* * * * *

TABLE 1.—BERING SEA AND ALEUTIAN ISLANDS FISHERY OPTIMUM YIELDS AND INITIAL DAHS, TALFFS, AND RESERVES

[In metric tons]

Reference: Species group and subarea [1]	OY	Reserve	Initial DAH	Initial TALFF
Pollock:				
Bering Sea	1,000,000	50,000	74,500	675,500
Aleutians	100,000			100,000
Yellowfin sole	117,000	5,850	31,200	79,950
Turbots	90,000	4,500	1,075	84,425
Other flatfishes	61,000	3,050	11,200	46,750
Pacific cod	120,000	6,000	43,265	70,735
Pacific ocean perch:				
Bering Sea	3,250	162	1,380	1,708
Aleutians	7,500	375	1,380	5,745
Other rockfish	7,727	500	1,550	5,677
Sablefish:				
Bering Sea	3,500	350	700	2,450
Aleutians	1,500	150	700	650
Atka Mackerel	24,800	1,240	14,500	9,060
Squid	10,000	500	50	9,450
Other species	77,314	3,866	7,800	65,648
Total	1,623,591	76,543	189,300	1,357,748

[1] Bering Sea = Fishing Areas I, II, and III combined. Aleutians = Fishing Area IV. Includes territorial waters.

* * * * *

[FR Doc. 83-12730 Filed 5-9-83; 2:17 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Change in List of Countries to Which Reserve Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on enlarging the list of countries eligible for reserve pool sales. The current list includes all countries outside the Western Hemisphere and Greenland. The proposed change would add all countries in Central and South America and adjacent islands except the Caribbean Islands. The change in the list is brought about by a recent change in the industry's export merchandising program to include the additional countries. The export program is intended to increase California raisin exports. The proposal was recommended by the Raisin Administrative Committee, which works with the USDA in administering the marketing order.

DATE: Comments must be received by July 11, 1983.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposal is to expand the list of countries to which raisin handlers may sell reserve raisins to permit sales to countries in Central and South America and adjacent islands, except the Caribbean Islands. This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201—989.231). The Subpart is operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601.674).

Currently, all countries outside the Western Hemisphere and Greenland are eligible outlets for reserve raisins.

The proposed change in the list would conform it with the industry's expanded export merchandising program and permit the later replacement of exports to the additional countries with reserve raisins. Pursuant to § 989.66(f) of the order, reserve raisins can be used to replace exports of free tonnage to countries listed in § 989.221.

Canada, Mexico, and the Caribbean Islands were excluded from the merchandising program because the industry feared that any exports to these countries would be transshipped to the United States. The likelihood of this happening with exports to the countries proposed to be added to the list is unlikely because of high freight rates and tariffs.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

PART 989—[AMENDED]

The proposal is to revise § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.210—989.221) to read as follows:

§ 989.221 Countries to which sale and export of reserve raisins may be made by handlers.

Pursuant to § 989.67(c), the Committee shall sell reserve raisins to handlers for export to all markets in the world except to the following: The United States, Canada, and Mexico and all islands adjacent to these countries, and all of the Caribbean Islands north of the 12th parallel, but not excluding those islands on the continental shelf of South America.

Dated: May 6, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-12717 Filed 5-11-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 23634]

Flight Time, Duty Time, and Rest Requirements for Flight Crewmembers Utilized by Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to form advisory committee for regulatory negotiation.

SUMMARY: The FAA is considering the establishment of an advisory committee to develop a report including a recommended rulemaking proposal concerning flight time, duty time, and rest requirements for flight crewmembers engaged in air transportation. The committee would develop its recommendation using a negotiation process. The committee would be comprised of persons who represent the interests affected by the flight time rules, such as persons representing flight crewmembers, air carriers, air taxis, and the public.

DATE: Comments and suggestions must be received on or before June 10, 1983.

ADDRESS: Comments and suggestions concerning the membership of the advisory committee, the issues that it should consider, the interests affected, the procedures that should be followed and any other matters relating to such a

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committee may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23634, 800 Independence Avenue, SW., Washington, D.C.

or delivered to:

Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments and suggestions may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

FAA Contact: Edward P. Faberman, Deputy Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-3773

Convenor/Mediator: Nicholas A. Fidandis, Director, Mediation Services, Federal Mediation and Conciliation Service, Washington, D.C. 20247, Telephone: (202) 653-5240.

SUPPLEMENTARY INFORMATION:

Background

Section 601(a)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1421(a)(5)) requires that the Administrator of the FAA prescribe reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service or airmen, and other employees, of air carriers. The FAA's flight and duty time regulations implementing this statutory requirement have remained essentially unchanged for approximately 30 years. During this span of time there have been dramatic changes in the equipment and operating practices of air carriers. The flight and duty time regulations also have become a matter of contention between carriers on the one hand and employees, particularly employee organizations, on the other. The agency has been involved in litigation over the meaning of certain phrases in those regulations and has issued more than 1,000 pages of interpretations, mostly in response to requests from employees or employee organizations. Of all the provisions of the Federal Aviation Regulations, the flight and duty time requirements have proven to be the most prolific source of requests for interpretations.

Recent efforts by the agency to clarify and update these regulations commenced in 1975. Two notices of proposed rulemaking (NPRM) were issued proposing to revise and simplify the Parts 121 and 135 flight and duty time regulations. Notice No. 77-17 (42 FR 43490; August 29, 1977) contained several proposals to revise the flight and duty time regulations applicable to air taxi operators in Part 135. Similar proposals applicable to air carriers operating under Part 121 were contained in Notice No. 78-3 (43 FR 8070; February 27, 1978). The basic objective of these proposals was to reduce the amount of regulatory material on flight and duty time requirements and to simplify the regulations.

After extensive review and analysis of the comments received on the flight and duty time proposals in Notice Nos. 77-17 and 78-3, the FAA issued a consolidated supplemental notice of proposed rulemaking (Notice No. 78-3B) (45 FR 53316; August 11, 1980) which refined the earlier proposals and covered both Parts 121 and 135. The comments received on Notice No. 78-3B reflected that virtually all affected segments of the air transportation community opposed one or more aspects of the proposals. In light of the comments received, the FAA was not able to fully delineate the safety benefits or the costs associated with the proposals. In the view of the above circumstances Notice No. 78-3B was withdrawn (46 FR 32413; June 22, 1981).

After a period of reassessment, the FAA published a new proposal (Notice No. 82-4) (47 FR 10748; March 11, 1982) to amend the air carrier flight and duty time limitations contained in Parts 121 and 135. As was the case with previous notices, Notice No. 82-4 was greeted with considerable criticism and opposition by the Airline Pilots Association, Alaskan operators, and rotorcraft operators, to name only a few. The latest proposal, therefore, also was withdrawn (47 FR 51585; November 16, 1982).

The agency has found, in attempting to revise the flight and duty time regulations, that conflicts exist on a number of issues between the views of air carriers and those of their flight crewmembers. On certain issues, widely disparate views have been submitted for flight crewmembers themselves depending upon the types of operations in which they are involved, their geographical location, and the type of aircraft operated. For example, some Part 135 pilots have criticized the absence of a monthly limitation on Part 135 flight time. In sharp contrast, other Part 135 pilots vigorously oppose a monthly flight time limitation on the theory that it restricts their ability to earn a living in a peak demand or seasonal flying environments.

Differences are by no means confined to a central issue such as a monthly flight time limitation. For example, flight crewmembers operating under Part 121 contend that the definition of "deadhead" transportation should include not only transporation by air, but also surface transportation between airports in the same metropolitan area, such as the Newark, Laguardia, and Kennedy Airports in the New York City area. Differences also exist among operators over the kind of rules that are needed.

The FAA's experience with attempted rulemaking to improve the flight and duty time regulations convinces the agency that the time has come for a new approach to solve the complex issues that have confronted the agency, air carriers, and flight crewmembers for many years. That new approach is Regulatory Negotiation (RN), a procedure recommended by the Administrative Conference of the United States (ACUS) (Recommendation 82-4, "Procedures for Negotiating Proposed Regulations," 47 FR 30708, June 16, 1982) for handling certain regulatory actions. To ensure its legality, RN would be carried out by an advisory committee created under the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. app. 1. The purpose of RN is to have representatives of all affected interests fully discuss the issues under conditions that would provide incentives to narrow or eliminate their differences and to negotiate a proposed rule acceptable to each interest. The recommendation by the committee should be of a proposal which reflects appropriate rulemaking objectives including Executive Order 12291. The agency would take part in the discussions. Additionally, to facilitate this process, the agency will utilize the services of an impartial convenor/mediator to conduct RN. While the agency is hopeful that this process will result in the issuance of an NPRM that would be acceptable to most parties, the agency is committed to improving the existing regulation.

If this process fails, the agency would issue a new NPRM based upon the complete regulatory record including the record of this process.

Regulatory Negotiation

The increasing complexity of some Government regulations compounded by what some see as an increased formalization of the written rulemaking process can make it difficult for an agency to develop a sound regulatory solution to some problems. The standard process often leads to participants developing adversarial relationships with each other. In this more formal structure, they may take extreme positions, withhold information from one another, or attack the legitimacy of

opposing positions. The give and take sometimes necessary to develop a workable solution is not always possible through the comment and reply process. Public comments are often focused on finding problems with the proposals of others rather than helping to develop creative solutions.

With these problems in mind, participants often tell the agency that a "better rule could be developed if we could all just sit around a table and work it out." As the Administrative Conference has pointed out:

> Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interest, all within the contours of the substantive statute.

As a result of research on this problem, the Administrative Conference adopted Recommendation 82-4. The Administrative Conference's recommendation is essentially that agencies consider assembling a group of representatives of all affected interests who would be encouraged to reach consensus on a resolution of the issues and to draft, for the agency head's consideration, the text of a proposed regulation. Recognizing the experimental nature of this approach, we agree with this recommendation. We have set forth below a set of suggested procedures that we believe will provide a mechanism by which the benefits of negotiation can be achieved. We also believe that the procedures provide the appropriate safeguards suggested by the Administrative Conference, "to ensure that affected interests have the opportunity to participate, that the resulting rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious."

Procedures and Guidelines

The following proposed procedures and guidelines would apply to this process, subject to appropriate changes made as a result of comments received on this notice or as are determined to be necessary during the negotiating process. It should be noted that several necessary preliminary steps have already been taken.

1. *Convenor/Mediator:* Nicholas Fidandis, Director, Mediation Services, Federal Mediation and Conciliation Service, will act as convenor/mediator. The FAA, in consultation with the convenor/mediator, will set up the negotiating group. Upon determination by the FAA (in consultation with the convenor/mediator) of the appropriate negotiating group, the convenor/mediator, a neutral third-party, will conduct the RN process and help it run smoothly. This individual is not involved with the substantive development or enforcement of this regulation. The convenor/mediator will chair the actual negotiations, participate in the "negotiations," and be expected to offer alternative suggestions toward the desired consensus. He may also ask the parties to present additional material or to reconsider their position. Because he is "neutral" with respect to the end result, he can make some of the objective decisions that are necessary in determining the feasibility of negotiaiton for particular issues and in determining potential interests and participants.

2. *Feasibility:* The FAA and the convenor have examined the issues and interests involved and we have made a preliminary inquiry among representatives of the identified interests to determine whether it is possible to reach agreement on: (a) Individuals to represent those interests, (b) the preliminary scope of the issues to be addressed, and (c) a schedule for developing a notice of proposed rulemaking. The issues and interests are listed in subsequent sections of this document. On the basis of the regulatory history of the rulemaking and the preliminary inquiry, the convenor and the FAA believe that regulatory negotiation could be successful with respect to the development of a flight and duty time proposal and that the potential participants listed below could adequately represent the affected interest.

3. *Participants:* The number of participants in the negotiating group should not exceed 15; a number larger than this could make it difficult to have effective negotiations. One purpose of the present notice is to assist the convenor and the identified interests to determine whether other interests, who would not be adequately represented by the proposed participants, may be substantially affected by the proposed rule to be developed. However, we do not believe that each potentially affected individual or organization must have its own representative. Rather, each interest should be adequately represented by the selected parties. To ensure a balanced group, we will make every effort to ensure that no one interest has more than a third of the members of the negotiating committee.

4. *Good Faith:* Participants must be willing to negotiate in good faith. In this regard, it is important that senior individuals within each organization be designated to represent that organization. This applies to the FAA as well, and the agency has designated Kenneth Hunt, Director, Office of Flight Operations, as its representative or his alternate, William Brennan, Manager, Air Transportation Division. No individual is required to "bind" the interests he or she represents, but the individual should be at a high enough level within their organization to "carry a lot of weight." The FAA plans to issue the negotiated proposal in a notice of proposed rulemaking unless it is inconsistent with the statutory authority of the agency or other statutory requirements, or it is not appropriately justified. It is expected that, during the negotiating process, the participants will communicate to their respective organizations the progress of the negotiations. For the process to be successful, the interests represented should be willing to accept the final product of the advisory committee.

5. *Notice of Intent to Establish Advisory Committee and Request for Comment:* In accordance with the requirements of the Federal Advisory Committee Act, an agency of the Federal government cannot establish or utilize a group of people in the interest of obtaining advice or recommendations unless that group is chartered as a Federal advisory committee in accordance with the requirements of the statute. It is the purpose of this notice to indicate our intent to create a Federal advisory committee as well as to—

a. Identify the issues we believe are involved in the rulemaking.

b. Identify the interests we believe are affected by those issues.

c. Identify the participants we have initially determined will adequately represent those interests in the negotiations; and

d. Ask for comment on the use of regulatory negotiation for this rulemaking and on whether the issues, parties, procedures, and guidelines are adequate and appropriate.

6. *Requests for Representation:* If, in response to this notice, an additional person or interest requests membership or representation in the negotiating group, the agency, in consultation with the convenor, would determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be adequately represented by an individual already in the negotiating group, and (iii) whether, in any event, the requester should be added to the group or whether interests can be consolidated and still provide adequate representation.

7. *Final Notice:* After evaluating comments and requests for

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representation received as a result of this notice, the FAA would issue a final notice announcing the establishment of the Federal advisory committee, unless it determines that such action is inappropriate after reviewing the comments. After the Federal advisory committee is appropriately chartered, and notice is published in the **Federal Register**, the negotiation process would begin.

8. *Administrative Support and Meetings:* Staff support would be supplied by the FAA. Meetings, at least initially, would be held in the Washington, D.C., area.

9. *Consensus:* The goal of the negotiating process is consensus. Generally, consensus means that each interest should concur in the result. In this regard, a professional mediation service will be provided by the convenor/mediator to facilitate the negotiation process.

10. *Record of Meetings:* In accordance with the requirements of the Federal Advisory Committee Act, the FAA would keep a record of all meetings of the advisory committee. This record would be placed in the public docket for this rulemaking. Meetings of the committee would generally be open to the public, subject to space availability, and would be announced in the **Federal Register** before being held.

11. *Committee Procedures:* Under the general guidance and direction of the convenor and subject to any applicable legal requirements, the committee would establish the detailed procedures for committee meetings that it deemed most appropriate.

12. *Notice of Proposed Rulemaking:* The objective of the committee is to prepare a report containing a notice of proposed rulemaking (NPRM) and preamble. The FAA would provide drafting assistance to the committee. The report should also describe the factual material on which the group relied. If consensus is not obtained on some issues, the report should identify the areas of agreement, the areas in which consensus could not be reached, and the reasons for nonagreement. It is expected that, to the extent possible, the participants would address economic and regulatory flexibility requirements.

13. *Agency Action on NPRM:* The FAA would issue the proposed rule as prepared by the committee unless the agency finds that it is inconsistent with the statutory authority of the agency or other statutory requirements or it is not appropriately justified. In that event, the agency would explain its reasons for its decision. If the agency wishes to modify the negotiated proposal, it would do so in a way that allows the public to distinguish its modifications from what the group proposed.

14. *Final Rule:* After the comments have been received on any notice of proposed rulemaking, the advisory committee would review the comments to determine whether its original recommendations to the agency should be modified. Any necessary changes would be negotiated by the committee in the same manner as the NPRM. The committee would prepare a final report, including a preamble responding to public comment and a proposed final rule. The final rule is the sole responsibility of the Administrator of the FAA. It must be stressed that the Administrator wants to use the regulatory negotiation process and intends to use any negotiated rule on which there is a committee consensus, if it is practicable and legally proper for him to do so.

Major Issues That Would Be Considered in RN on Flight and Duty Time Limitations

The FAA has closely analyzed the dockets on prior notices of proposed rulemaking and has identified what it believes to be the major issues to be considered in RN. They are listed below. Persons who desire to suggest additional issues that should be considered during RN may do so by submitting comments and suggestions in the manner described under the paragraph entitled **"ADDRESS."** Other regulatory issues would be considered by the committee as they arise.

1. Number of Rules.

a. Should there be two rules, one for air carriers under Part 121 and another for air taxi and commuter operators under Part 135?

b. Should commuter air carrier rules be different from the rules for other Part 135 operators?

2. Flight Time and Duty Time Limitations.

a. Should both flight time and duty time limits be proposed?

b. Should the amount of allowable flight time and duty time vary in proportion to crew size?

c. Should there be weekly and monthly flight time and duty time limitations under Part 121?

d. Should there be an annual flight time limitation under Part 121?

e. Should Part 135's theoretical 300 hours per month of permitted flight time be reduced? If so, to what?

f. Should factors such as crossing time zones and the number of landings and takeoffs be considered in establishing flight time limitations.

3. Definition of Duty Time.

a. How should duty time be defined?

b. Should reserve or standby status be considered duty time?

c. Should travel by surface means between airports be permitted during a rest period?

4. Rest Provisions.

a. Should a normal minimum daily rest period be established for all operations? How long should it be?

b. For overnight, away-from-domicile, short turnarounds, should a minimum rest period be prescribed? What should it be? If a short rest period is prescribed, should a longer rest period be required upon return to domicile?

c. If a duty period is lengthy (e.g., in excess of 10 hours), should a lengthy rest period (e.g., 16 hours) be required. If so, when would it be required to be given?

d. Under Part 135, in the absence of a required 1 day off in 7 days, should a certain number of rest days be required after a given number of consecutive duty days? If so, what should be the number of days in each case?

5. Deviation Authority.

a. Should Part 135 have a built-in deviation authority provision for unusual operations? (e.g., hospital helicopter flights; highly seasonal activities such as Alaska, cannery, and harvest operations, etc.)

6. Basis for Calculating Flight and Duty Time Limitations.

a. Should a benchmark of calendar months or, instead, any 30 consecutive days be used?

Interests Involved in Flight and Duty Time Requirements

The following interests should be represented in negotiations to develop new flight and duty time requirements:

1. Commercial operators, including—
   a. Non-scheduled charter operators.
   b. Domestic air carriers.
   c. International air carriers.
   d. Rotorcraft operators.
   e. Short-haul scheduled operators.
   f. Short-haul non-scheduled operators.
   g. Operators subject to special operating conditions (e.g., weather, limited operating hours and months).
2. Flight crewmembers, including pilots and flight engineers, with similar subinterests as operators.
3. Federal Government.
4. Public/Consumer.

Comments and suggestions on this list of interests should be submitted as explained in the **"ADDRESS"** paragraph above.

Parties that Could be Part of the RN Process

The advisory committee would recommend an NPRM to the FAA. Therefore, it is important that the advisory committee be comprised of persons who possess substantial expertise and divergent viewpoints on the various issues which would be presented to it for discussion and preparation of recommendations.

They must also adequately represent their interests and be able to "speak for them" to the fullest extent possible. The following is a list of possible representatives which the FAA and the convenor have tentatively identified.

1. Federal Aviation Administration.
2. National Air Carrier Association.
3. National Air Transportation Association (NATA).
4. Air Line Pilots Association (ALPA).
5. Allied Pilots Association.
6. Flight Engineers International Association.
7. Alaska Air Carriers Association.
8. Aviation Consumer Action Project (ACAP).
9. Air Transport Association (ATA).
10. A representative (to be identified) of scheduled air carriers whose interests are not represented by ATA.
11. Regional Airline Association.
12. Helicopter Association International.

Comments and suggestions on this tentative list of representatives may be submitted as explained under the paragraph entitled **"ADDRESS."** Others who believe they should be a party to these proceedings should submit requests to the same location explaning who they represent and how they can represent and interest that would not be adequately represented by the parties listed above.

Tentative Schedule

In accordance with the importance the FAA attaches to the flight and duty time rulemaking, the FAA plans to expedite the processing of any rule changes. The FAA believes that the use of RN should facilitate these plans by providing a consensus proposal and by providing for the imput of interested persons early in the rulemaking process. The FAA hopes to be able to establish an advisory committee by June 15, 1983. The first meeting to the Advisory Committee is tentatively scheduled for June 29, 1983. The location and the time for the meeting will be announced at a later date. A regulatory proposal in the form of an NPRM from the committee, together with any required economic analyses, would be expected by August 15, 1983. In order to eliminate the possibility of disagreement during Office of the Secretary (OST) and Office of Management and Budget (OMB) review of the notice that is required under DOT rulemaking procedures and Executive Order 12291, the FAA has already taken steps to ensure the involvement of OST and OMB during the process. The FAA would hope to issue the NPRM by September 15, 1983, with a 30-day period for public comment being provided. The development of any final rule would, of course, depend on the comments received and their consideration by the advisory committee, but the FAA would strive to complete action on the NPRM by the end of 1983.

Failure of Advisory Committee To Agree on Recommendations

In the event the advisory committee is unable to reach a consensus on a proposed NPRM for submission to the FAA, the agency will proceed with prompt development of a NPRM proposing such changes in the flight and duty time regulations as the FAA deems appropriate.

Because of the importance we attach to developing an NPRM on this matter, and to prevent the possibility that anyone would attempt to use the RN process simply to delay the development of an NPRM, the Administrator has directed that the committee be dissolved if it cannot reach agreement by the middle of August. Earlier dissolution will occur if the convenor recommends or the agency believes that it will be impossible to meet the deadline because of a lack of sufficient progress.

Issued in Washington, D.C., on May 9, 1983.

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 83-12814 Filed 5-9-83; 4:46 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

Extension of Time on Proposed Customs Regulations Amendments Relating to Customhouse Brokers

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a Customs proposal to amend the Customs Regulations relating to customhouse brokers. A document inviting the public to comment on the proposal was published in the **Federal Register** on April 7, 1983 (48 FR 15154). Comments were to have been received on or before June 6, 1983. A national association has requested Customs to extend the period for the submission of comments claiming that because of the many issues raised and the need to solicit comments from its members throughout the United States, additional time is needed to prepare and submit thorough comments. Customs believes the request has merit. Accordingly, the period of time for the submission of written comments is extended to July 5, 1983.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Margaret M. O'Rourke, Chairperson, Customs Headquarters Task Force on Broker Licensing and Regulation, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8074.

Dated: May 6, 1983.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 83-12748 Filed 5-11-83; 8:45 am]

BILLING CODE 4820-02-M

POSTAL SERVICE

39 CFR Parts 447 and 956

Code of Ethical Conduct for Postal Employees; Post-Employment Activities; Rules of Practice in Proceedings Relative to Disciplinary Action For Violation of Restrictions on Post-Employment Activity

AGENCY: Postal Service.

ACTION: Proposed rules.

SUMMARY: The Postal Service proposes a number of amendments to its Code of Ethical Conduct. The first of these amendments would eliminate the specific dollar limit by which "nominal" value or amount is defined in several sections relating to the prohibition on the acceptance of gifts. A second would add new sections to the Code to implement the provisions of 18 U.S.C. 207 by establishing rules and procedures to: (1) Permit the communication of scientific and technological information to the Postal Service by certain former postal employees, and (2) impose administrative sanctions upon former postal employees who violate the provisions of subsections (a)–(c) of section 207. The third amendment would add a new section to the Code to govern

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the submission by postal employees of the financial disclosure reports as required by Title II of the Ethics in Government Act, Public Law 95–521. The Postal Service also proposes to adopt rules of practice in proceedings relating to the imposition of the administrative sanctions to which reference is made above.

DATE: Comments must be received on or before June 11, 1983.

ADDRESS: Written comments should be sent to Assistant Ethical Conduct Officer, Law Department, Room 1P–602, United States Postal Service, Washington, D.C. 20260–1113. Comments will be available for public inspection and photocopying in Room 1P–602 475 L'Enfant Plaza West, SW., Washington, D.C., from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Hawley, (202) 245–4584.

SUPPLEMENTARY INFORMATION: Among the provisions of the Postal Service's Code of Ethical Conduct is a section which imposes restrictions on the acceptance by postal employees of gifts of goods or services in any form from persons whose economic interests may be affected by the Postal Service. These restrictions, although intentionally stringent, are not absolute. the Postal Service recognizes, as does Executive Order 11222, the provisions of which the Code implements, that under some circumstances the acceptance of gifts or benefits, which a literal application of the Code would not allow, may properly be permitted. For example, a postal employee may accept a birthday gift from his brother, even though the latter is a Postal Service contractor, so long as it is clear that it is the family relationship, and not the business relationship, which is the motivation for the gift. In other instances when the gift is of little economic value, a rigid prohibition upon acceptance seems unnecessary to protect the integrity of public service and indeed may give the appearance of trivializing the principle involved. The term "nominal value" is used in several paragraphs of § 447.24 to describe gifts of this nature. "Nominal value" is defined with respect to gifts in existing § 447.81(h) as an item of no greater retail value than $2.00. The Postal Service considers that this specific dollar figure, which was adopted in 1974, is today unrealistic as a maximum acceptable level even for items of little economic worth. Experience, moreover, teaches that any fixed dollar figure is likely to be rendered obsolete by the passage of even a relatively short period of time. The Postal Service therefore proposes to delete the section of the Code which defines the term, § 447.81(h), and the reference in § 447.23(b)(2) to the $2.00 figure, leaving "nominal value" to the common understanding of the term. Section 447.81(h) also defines "nominal value" with respect to food and refreshment in terms of what an employee would ordinarily spend if paying his own bill. While this statement does not suffer from the same defect as the dollar figure, we do not consider it essential to define only this limited aspect of the term.

It is certainly not intended in deleting this definition to abandon the principle that nominal value means having little economic worth. It is the very lack of economic worth that makes the acceptance of a gift of nominal value permissible. We think, however, that the term must derive its meaning from the circumstances in which it is applied, from reasonable social conventions where they exist, and in the final analysis from sound judgment and common sense as to what is, and what is not, appropriate.

As a second amendment to the Code, the Postal Service proposes two new sections relating to the post-employment activities of postal employees and the statutory limitations on them imposed by 18 U.S.C. 207. One proposed section, 39 CFR 447.33, summarizes these limitations. It also implements subsection 18 U.S.C. 207(f) by establishing procedures which enable former postal employees, otherwise barred by other provisions of section 207 from communicating with the Postal Service, lawfully to furnish scientific or technological information to the Postal Service. Similarly it implements the statutory authority of the Postmaster General under certain circumstances to exempt a former employee having outstanding qualifications in a scientific or other technical discipline from the restrictions of section 207 so that he may participate with the Postal Service for the benefit of the national interest.

The other proposed section in this part, § 447.34, establishes rules and procedures in implementation of subsection 207(j), which authorizes an agency to impose administrative sanctions upon former employees who violate subsections (a)–(c) of section 207. Complementing this section would be a new Part 956 which establishes rules of practice to govern the conduct of a hearing in the Postal Service's Judicial Officer Department in the event that a former employee, faced with administrative sanctions pursuant to § 447.34, should seek a hearing. Together, these provisions would establish a framework for the administrative imposition of fair and appropriate sanctions, in the manner contemplated by Congress in enacting subsection 207(j).

Of particular significance is proposed § 447.34(e) which authorizes specific sanctions. These are of three kinds: denial of the right to appear before or communicate with the Postal Service as a representative of another for up to five years; debarment from contracting or entering into other business arrangements with the Postal Service directly or as a subcontractor for up to five years; or the cancellation of an existing contract, subcontract or other business arrangement with the Postal Service that was affected by a violation of 207. It is contemplated that any sanctions would be carefully tailored to the nature of the conduct in violation of section 207 which was the occasion for initiating the proceeding. For example, the extended ban on acting in a representative capacity would be appropriate for a violation that involved representation of others. Cancellation of an existing contract, however, or a ban on future contracts would be appropriate if needed to ensure that a former employee not benefit in that manner from agency action which may have been influenced by his or her misconduct.

It should be noted that, because the Postal Service has other procedures which generally apply to debarment from contracting and disputes involving existing contracts, it is necessary to coordinate the procedures established by § 447.34 and Part 956 with those other procedures. To this end § 447.34(f) provides that the proposed procedures would supersede those of Part 957 and govern proceedings involving debarment from contracting when the proposal to debar is based on an alleged violation of section 207. On the other hand the proposed procedures would not govern in the event it is proposed to cancel a contract on the grounds of such an alleged violation. In the former instance, because the alternative procedural rights of the respondent are based on Postal Service regulations and are not significantly different from those of Part 956, we think it appropriate to have Part 956 control. In the latter, however, the rights of the holders of existing contracts are affected by the Contract Disputes Act of 1978, Pub. L. 95–563, 41 U.S.C. 601 *et seq.*, which, of course, is not subject to variance by regulation. Rather than create uncertainty as to which set of procedures governs, § 447.34(f)(2) unequivocally provides that the usual procedures for resolving contract disputes are to be followed even though the cancellation of a contract is based upon an alleged violation of section 207.

The Postal Service expects that normally only one form of sanction would be imposed in any instance, that it would be the one of the three herein discussed most closely related to the violation, and that the period of time for which the sanction would be in force would reflect the severity of the violation. The regulation, however, like the statute, would permit as a sanction "such other action as may be appropriate to the violation." This clearly dispels the notion that the Postal Service is rigidly limited to these forms of sanctions when some other sanction is more appropriate.

The third proposed amendment to the Code adds a new section which implements with respect to Postal Service employees the public financial disclosure requirements of title II of the Ethics in Government Act, Pub. L. 95–521. Title II requires all employees in the Executive Branch of the Government who are paid at a rate equivalent to GS–16 to file with their employing agency a report, available to the public, of their personal financial interests. Proposed § 447.42 applies the statutory terms to the circumstances of the Postal Service, identifying those employees who are required to file reports and providing for the filing, review, retention and availability to the public of the reports. A related editorial amendment to § 447.41(a), as amended, substitutes for a reference to Pub. L. 95–521 a reference to proposed § 447.42, as the authority requiring certain postal employees to file financial disclosure reports.

For the above reasons the Postal Service proposes to amend title 39, Code of Federal Regulations, as follows:

List of Subjects in 39 CFR Parts 447 and 956

Conflict of interests, Government employees, Administrative practice and procedure, Postal Service.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. In § 447.24, paragraph (b)(2) is revised to read as follows:

§ 447.24 Conflicts of interest—gifts, entertainment, and favors.

* * * * *

(b) * * *

(2) Accept unsolicited advertising and promotional items, such as a pen, pencil, note pad, or calendar of nominal value;

2. Add new §§ 447.33 and 447.34 reading as follows:

§ 447.33 Post-employment activities.

(a) Restrictions on the post-employment activities of persons who have been employed by the Postal Service are imposed by section 207 of title 18, United States Code. In general, the restrictions contained in 207(a) permanently prohibit appearance as an agent or attorney before Federal agencies or courts on behalf of a private party in any particular matter in which the employee participated in some substantial way while a postal employee. Section 207(b) generally prohibits for two years after leaving postal employment the representation of a private party before Federal agencies or courts in any particular matter that was under the employee's official responsibility within one year prior to leaving postal employment. Section 207(c), which applies only to a limited number of the Officers of the Postal Service, designated as Senior Employees, generally prohibits any appearance before or communication with the Postal Service, with an intent to influence any Postal Service action, for one year after leaving the Postal Service.

(b) Criminal sanctions of imprisonment and fines are provided for violations of section 207. The Attorney General of the United States is responsible for initiating criminal prosecution of persons believed to have violated that statute. To this end, on receipt of information regarding a possible violation of section 207, and after having determined that such information appears substantial, the Ethical Conduct Officer shall expeditiously furnish this information to the Chief Inspector who shall bring it to the attention of the Criminal Division, Department of Justice, and to the Director, Office of Government Ethics. Any investigation or administrative action conducted thereafter by the Postal Service should be coordinated with the Department of Justice to avoid prejudice to any criminal prosecution, unless the Department has determined that it does not intend to initiate such prosecution.

(c) The Postal Service may impose administrative sanctions in the case of a violation of section 207, even though criminal prosecution is not sought. Regulations governing the imposition of these sanctions, which may include prohibiting the former employee for up to five years from appearing before or communicating with the Postal Service, are contained in § 447.34 below. Rules of practice before the Judicial Officer Department in proceedings arising under these regulations are found in Part 956.

(d) Notwithstanding the prohibitions described above, section 207 permits certain types of communications. Any former postal employee may:

(1) Give testimony under oath and make statements required to be made under penalty or perjury (section 207(h));

(2) Appear before or communicate with a Federal agency or court on a matter of a personal and individual nature, such as personal income taxes or retired pay (section 207(i)); or

(3) If he receives no compensation other than established witness fees, make a statement based on his special knowledge (section 207(i)).

(e) In accordance with section 207(f), the prohibitions of section 207(a)–(c) do not apply to the making of communications by former employees solely for the purpose of furnishing scientific or technological information to the Postal Service under the following circumstances:

(1) The former employee shall submit to the Ethical Conduct Officer a notice in writing stating the nature of the restriction that is applicable to him and describing his participation in behalf of the Postal Service which gives rise to the restriction. He shall summarize briefly the information he wishes to communicate and shall describe the circumstances under which he intends to communicate the information. The Ethical Conduct Officer may approve the proposed communication, either as submitted by the former employee or with such modification as he deems necessary to protect the public interest.

(2) A former employee having outstanding qualifications in a scientific, technological or other technical discipline may be exempted from the restrictions of section 207(a)–(c) if the Postmaster General, after consultation with the Director, Office of Government Ethics, makes a certification which is published in the **Federal Register**. The certification shall state that the former postal employee has outstanding qualifications in a scientific, technological or other technical discipline; that he is acting with respect to a particular matter which requires such qualifications; and that the national interest would be served by the former employee's participation.

§ 447.34 Administrative enforcement procedures.

(a) Whenever the Ethical Conduct Officer determines that there is reasonable cause to believe that a former employee has violated section 207 (a), (b) or (c) of title 18, United States Code, in any matter affecting the Postal Service, he may initiate an

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administrative disciplinary proceeding by sending to the former employee, hereinafter referred to as the respondent, notice of proposed disciplinary action as provided in this part.

(b) The notice shall inform the respondent of the subsection that he is alleged to have violated and of the basis for the allegation in sufficient detail to enable him to prepare an adequate defense. It shall also inform him of the disciplinary action which is proposed, of his right to a public hearing on the allegation, and of the method of requesting a hearing.

(c) Except as provided in paragraph (f)(2) below, a respondent may, within 20 days following the receipt of the notice of proposed disciplinary action, file an answer with the Recorder in the Postal Service's Judicial Officer Department. The answer shall be in writing and shall comply with the Rules of Practice provided in Part 956 of this title, which shall govern all subsequent proceedings in the Judicial Officer Department.

(d) If no answer is filed, the allegations of the notice shall be taken as admitted and the proposed disciplinary action shall become effective as the final agency decision. The Ethical Conduct Officer may, however, at the expiration of the period for filing an answer or any time thereafter, for good cause, mitigate or remit all or any part of a proposed disciplinary action or a sanction imposed by a final agency decision following default. If an answer is filed, the final agency decision shall be rendered pursuant to Part 956.

(e) Disciplinary action taken in accordance with a final agency decision may consist of:

(1) Prohibiting the respondent from making on behalf of any other person (except the United States) any formal or informal appearance before or, with the intent to influence, any oral or written communication to the Postal Service on any matter of business for a period not to exceed five years;

(2) Excluding the respondent from entering into any contract, lease, permit or other business arrangement with, or any subcontract involving, the Postal Service for a reasonable, specified period of time, not to exceed five years;

(3) Cancelling any contract, lease, permit, or other business arrangement between, or any subcontract involving, the Postal Service and the respondent, affected by a violation of section 207; or

(4) Such other action as may be appropriate to the violation upon which it is based.

(f)(1) In the event that the proposed disciplinary action is that authorized by paragraph (e)(2) of this section, relating to exclusion from entering into contracts, the provisions of this section and of Part 956 shall govern to the exclusion of the provisions of, and of any rights or procedures which might otherwise be available to the respondent pursuant to, Section 1, part 6 of the Postal Contracting Manual and or Part 957 of this title.

(2) In the event that the proposed disciplinary action is that authorized by paragraph (e)(3) of this section, relating to the cancellation of contracts, the proposed disciplinary action shall be handled as a contract dispute subject to Part 955.

(g) A final agency decision imposing disciplinary action is subject to judicial review, as provided in 18 U.S.C. 207(j), as enacted by Pub. L. 95–521.

3. Revise § 447.41(a)(1) and add new §447.42 to read as follows:

§447.41 Confidential statements.

(a) *Employees required to file statements.* (1) Each employee who is in one or more of the following categories (other than a special employee or one required by §447.42(a) to file a Financial Disclosure Report for Executive Branch Personnel (Standard Form 278)) shall file a Confidential Statement of Employment and Financial Interests (Postal Service Form 2417):

* * * * *

§447.42 Public financial disclosure reports.

(a) *Employees required to submit reports.* Each employee who is in one or more of the following categories shall submit a financial disclosure report as prescribed by the Director, Office of Government Ethics, (hereinafter, the Director), currently on Standard Form 278, in accordance with this section.

(1) The Postmaster General.

(2) The Deputy Postmaster General.

(3) The Ethical Conduct Officer.

(4) Each administrative law judge.

(5) Each employee whose basic rate of pay is equal to or greater than the rate of basic pay for the first step of GS–16.

(b) *Person with whom reports should be filed and time for filling.* (1) Financial disclosure reports required under this section shall be filed with the Ethical Conduct Officer. Reports are due as follows:

(i) Within 30 days of assuming a position described in paragraphs (a)(1) through (a)(4) of this section, unless the employee has, within 30 days prior to assuming that position, left another position in which he or she has filed a current report;

(ii) Within 30 days of the effective date of an increase in the rate of basic pay to the level described in paragraph (a)(5) or of an initial appointment at such a rate;

(iii) Within 30 days of the termination of employment with the Postal Service, by retirement or otherwise, unless the employee enters a similarly covered position with another agency in the Executive Branch of the Government;

(iv) Within 30 days of the effective date of an absolute decrease in the rate of basic pay which causes the rate of basic pay of the employee to be less than the current rate of basic pay for the first step of GS–16; and

(v) On or before May 15 of each year when he or she has been in one of the categories in paragraph (a) of this section for more than 60 days during the previous calendar year.

(2) The Ethical Conduct Officer may, for good cause shown, grant to an employee or class of employees an extension of up to 45 days. An additional extension of up to 45 days may be granted by the Director for good cause shown. An employee requesting such an additional extension shall submit in writing a statement of specific reasons for the extension to the Ethical Conduct Officer who shall transmit the request with his comments to the Director.

(c) *Information required to be reported—reporting forms.* (1) Instructions as to the extent of the information to be provided in the report are included with the report form. More detailed instructions may be found in title 5, Code of Federal Regulations, Part 734.

(2) Each report submitted to the Ethical Conduct Officer shall be a full and complete statement, on the form prescribed by the Director and in accordance with instructions issued by him. The form currently in use is Standard Form 278.

(3) The basic categories of information to be included in the report are: Income from sources other than the Postal Service; interests in property; purchases, sales and exchanges of property; gifts and reimbursements; liabilities; positions held; and relations with other employers.

(d) *Reviewing reports and remedial action.* (1) Financial disclosure reports filed in accordance with the provisions of this section shall within 60 days after the date of filing be reviewed by the Ethical Conduct Officer, who shall either approve the report, or make an initial determination that a conflict or appearance thereof exists. In conducting this review, the Ethical Conduct Officer

may utilize the assistance of the reporting employee's Associate Ethical Conduct Officer or his or her designee.

(2) If the reviewing official considers that additional information is needed to complete the report or to allow an adequate review to be conducted, the official shall request the reporting employee to furnish that information by a specified date. The reporting employee shall promptly comply with that request.

(3) If the reviewing official determines initially that a conflict or the appearance of a conflict exists, he shall proceed as provided in § 447.32, relating to remedial action.

(4) The Ethical Conduct Officer shall refer to the Postmaster General the name of any employee he or she has reasonable cause to believe has wrongfully failed to file a report or has wrongfully falsified or failed to report required information.

(5) The Postmaster General may take any appropriate personnel or other action in accordance with applicable law or regulations against any employee whose name is so referred. He shall cause the Chief Inspector to refer to the Attorney General the name of any employee he has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to report required information.

(e) *Custody of and public access to reports.* (1) Retention of reports. Each report filed with the Ethical Conduct Officer shall be retained by him for a period of six years. After the six-year period the report shall be destroyed unless needed in connection with an investigation then pending.

(2) Availability for public inspection. Each report shall, within 15 days after it is received, be available for inspection by, or a copy of it shall be furnished to, any person who makes a written application stating:

(i) The person's name, occupation and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That the person is aware of the prohibitions on the obtaining or use of the report, as set forth in section 205(c)(1) of Pub. L. 95–521, the Ethics in Government Act.

The application shall be available to the public throughout the remainder of the period during which the report itself is available to the public. A reproduction fee of 10 cents per page shall be charged if the aggregate number of pages furnished to or for the benefit of a person or related persons exceeds 30.

(3) Official Position Description. A copy of the official position description of the position held by the reporting employee shall, if available, be attached by the Ethical Conduct Officer to each report. If an official position description is not available, but another form of position description is, the latter shall be attached. A copy of the position description shall be available or furnished to the public together with the report to which it pertains.

(f) *Waiver regarding certain personal gifts.* An individual seeking an exemption pursuant to subsection 202(a)(2)(D) of Pub. L. 95–521, the Ethics in Government Act (to exempt one or more gifts from aggregation under the provisions of said subsection) shall file a request with the Director which sets forth the identity and occupation of the donor; a statement that the relationship between the donor and the reporting individual is purely personal in nature; and a statement that neither donor nor any person or organization for whom the donor actually works or serves as a representative conducts business with, or is subject to regulation by, or is directly affected by action taken by the agency by which the reporting individual is employed. In the event that the immediately preceding statement cannot be made without qualification, the reporting individual may indicate such qualifications along with a statement demonstrating that he or she plays no role in any official action which might directly affect the donor or any organization for which such donor works or serves as a representative. Such a request will be made publicly available if, and at the time, it is granted.

§ 447.81 [Amended]

4. In § 447.81, paragraph (h) is removed, and paragraphs (i) and (j) are redesignated (h) and (i) respectively.

5. Add new Part 956 reading as follows:

PART 956—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DISCIPLINARY ACTION FOR VIOLATION OF RESTRICTIONS ON POST-EMPLOYMENT ACTIVITY

Sec.

956.1 Authority for rules.
956.2 Scope of rules.
956.3 Definitions.
956.4 Initiation of proceedings.
956.5 Answer.
956.6 Hearing election.
956.7 Notice of hearing.
956.8 Reply.
956.9 Service and filing documents for the record.
956.10 Respondent's failure to appear at the hearing.
956.11 Amendment of pleadings.
956.12 Continuances and extensions.
956.13 Hearings.
956.14 Appearances.
956.15 Presiding officer.
956.16 Burden of proof and evidence.
956.17 Discovery—depositions.
956.18 Interrogatories to parties, admission of facts, and production of documents.
956.19 Transcript.
956.20 Proposed findings and conclusions.
956.21 Decisions.
956.22 Exceptions to initial decision or tentative decision.
956.23 Judicial Officer.
956.24 Motion for reconsideration.
956.25 Modification or revocation of orders
956.26 Computation of time.
956.27 Official record.
956.28 Ex parte communications.

Authority: 18 U.S.C. 207(j), 39 U.S.C. 204, 401.

§ 956.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. 204, 401).

§ 956.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the Postal Service pertaining to proposed disciplinary action initiated under § 447.34 of this title.

§ 956.3 Definitions.

(a) The term "Ethical Conduct Officer" has the same meaning as in § 447.31 of this title and includes his authorized representative.

(b) "Respondent" means any individual who has been served a written notice of proposed disciplinary action pursuant to § 447.34 of this title.

(c) The "Recorder" means the Recorder of the U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

§ 956.4 Initiation of proceedings.

(a) The Ethical Conduct Office shall initiate a proceeding by serving upon the proposed respondent a written notice of proposed disciplinary action in the manner hereinafter (§ 956.9(d)) provided for the service of all other papers.

(b) The notice shall:

(1) State that disciplinary action is being considered;

(2) Inform the respondent of the subsection of section 207 (18 U.S.C. 207) that he is alleged to have violated and of the basis of the allegation;

(3) Inform the respondent of the disciplinary action which is proposed;

(4) Advise the respondent that he may oppose the proposed disciplinary action by filing an answer within 20 days following receipt of the notice;

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(5) State that the disciplinary action will not become effective until after a final agency decision is issued;

(6) Inform the respondent of the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no answer is filed within 20 days following the receipt of the notice, the proposed disciplinary action set forth in the notice shall become the final agency decision without further notice to the respondent.

§ 956.5 Answer.

Within 20 days from receipt of the notice of proposed disciplinary action, the respondent may file an answer setting forth simple, concise, and direct statements admitting, denying or explaining each of the allegations set forth in the notice.

§ 956.6 Hearing election.

Either party may, within 10 days following the filing of the respondent's answer, request a hearing. If a timely request is not made, the case shall be submitted on the record without a hearing. Submission of the case without a hearing does not relieve the parties of the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may be employed to supplement the pleadings which constitute the record. The presiding officer may permit such submission to be supplemented by oral argument (transcribed if requested) and by proposed findings of fact and conclusions of law.

§ 956.7 Notice of hearing.

(a) When a request for a hearing is filed, a notice of hearing, stating the time and place thereof and advising the respondent of the consequences of a failure to appear at the hearing, will be issued (see § 956.10). In setting a hearing date, due regard shall be given to the respondent's need for:

(1) Adequate time to prepare a defense properly; and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation. Subject to those considerations, whenever practicable, the hearing date shall be within 30 days of the date of the notice of hearing.

(b) The notice of proposed disciplinary action and the answer together with the reply, if any, shall become the pleadings in any proceeding in which a hearing is held.

§ 956.8 Reply.

Not more than 15 days from the service of the answer, the Ethical Conduct Office may submit a reply.

§ 956.9 Service and filing of documents for the record.

(a) Each party shall file with the Recorder pleadings, motions, orders and other documents for the record. The Recorder shall cause copies to be served promptly on other parties to the proceeding and on the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by these rules or by order of the presiding officer to be filed by a specified date shall be filed with the Recorder on or before such date. The filing date shall be entered thereon by the Recorder.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered or certified mail, return receipt requested, or by causing said notice to be personally served on the proposed respondent by an authorized representative of the Postal Service. In the case of personal service, the person making service shall if possible secure from the proposed respondent or his agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. If the person upon whom service is made will not acknowledge receipt, the person effecting service shall execute a statement, showing the time, place and manner of service, which shall constitute evidence of service. The acknowledgment, statement, or return receipt, when service is effected by mail, shall be made a part of the record by the Ethical Conduct Officer. The date of delivery, as shown by the acknowledgment or statement of personal service or the return receipt, shall be the date of service.

§ 956.10 Respondent's failure to appear at the hearing.

If the respondent shall fail to appear at the hearing, the presiding officer shall receive the Ethical Conduct Officer's evidence and render a decision without requirement of further notice to the respondent.

§ 956.11 Amendment of pleadings.

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing: Provided, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed disciplinary action are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service on a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 956.12 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 956.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, D.C. 20260, or other locations designated by the presiding officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the notice of hearing. He shall support his request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at the place designated in the notice of hearing.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevance of the evidence to be offered.

§ 956.14 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter).

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed disciplinary action shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of the respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the respondent.

(e) After an answer has been filed pursuant to the rules in this part, the Law Department shall represent the Ethical Conduct Office in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such department who has been assigned to handle the case on its behalf.

§ 956.15 Presiding officer.

(a) The presiding officer shall be an Administrative Law Judge qualified in accordance with law. The Chief Administrative Law Judge shall assign cases under this part upon rotation so far as practicable. The Judicial Officer may, for good cause found, preside at the reception of evidence upon request of either party.

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conferences for the purposes of the settlement or simplification of issues by the parties;

(8) Permit oral argument by any party;

(9) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(10) Render an initial decision, if the presiding officer is not the Judicial Officer, which becomes the final agency decision unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decison;

(11) Take such other and further action as may be necessary properly to preside over the proceeding and render decision therein.

§ 956.16 Burden of proof and evidence.

(a) Each party may introduce and examine witnesses and submit physical evidence. The Ethical Conduct Officer has the burden of proof in any proceeding under this part and must establish a violation by a preponderance of the evidence.

(b) Except as otherwise provided in these rules, the Federal Rules of Evidence shall be applicable to the hearings conducted under this part. Such rules may be relaxed, however, to the extent that the presiding officer deems proper to insure a fair hearing.

(c) Testimony shall be under oath or affirmation, and witnesses shall be subject to cross-examination.

(d) Agreed statements of fact may be received in evidence.

(e) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(f) Each party may present oral argument.

§ 956.17 Discovery—depositions.

(a) The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense; and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) After an answer has been filed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of the testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specifiy whether the purpose of the deposition is discovery or for use as evidence.

(c) The time, place, and manner of taking depositions shall be mutually agreed by the parties or, failing such agreement, governed by order of the presiding officer.

(d) No testimony taken by depositions shall be considered as part of the evidence in a hearing unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may, in his discretion, receive depositions as evidence in supplementation of that record.

(e) Each party shall bear its own expenses associated with the taking of any deposition.

§ 956.18 Interrogatories to parties, admission of facts, and production of documents.

(a) After an answer has been filed, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by § 956.17.

(b) After an answer has been filed, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) Upon motion of any party showing good cause therefor, and upon notice, the presiding officer may order the other party to produce and permit the inspection and copying or photocopying of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the dicovery of admissible evidence. If the parties cannot themselves agree thereon, the presiding officer shall specifiy just terms and conditions in making the inspection and making the copies and photographs.

§ 956.19 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the reporter and the Postal Service.

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§ 956.20 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing may, unless the presiding officer orders otherwise, submit proposed findings of fact, conclusions of law and supporting reasons, either in oral or written form at the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless ordered otherwise by the presiding officer, the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless an extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 956.21 Decisions.

(a) A written initial decision by an Administrative Law Judge shall be rendered with all due speed. The initial decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. The initial decision shall become the final decision of the Postal Service unless an appeal is taken in accordance with § 956.22.

(b) When the Judicial Officer presides at the hearing, he shall issue a final or a tentative decision. Such decision shall include findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record, and an appropriate order. A tentative decision shall become the final decision of the Postal Service unless exceptions are filed in accordance with § 956.22.

§ 956.22 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by an Administrative Law Judge, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the Administrative Law Judge's written initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's written tentative decision.

(c) Upon receipt of the brief on appeal from an initial decision of an Administrative Law Judge, the Recorder shall promptly transmit the record to the Judicial Officer. The date for filing the reply to a brief on appeal or to a brief in suppport of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(d) Briefs on appeal or in support of exceptions and replies thereto shall be filed in quadruplicate with the Recorder and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited, with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of, or in opposition to, each exception taken, together with specific references to the pertinent parts of the record and the legal or other authorities relied upon.

(e) Unless permission is granted by the Judicial Officer, no brief on appeal or in support of exceptions shall exceed 50 printed or 100 typewritten pages double spaced.

(f) The Judicial Officer will extend the time to file briefs only upon motion for good cause found. The movant shall be promptly notified of the Judicial Officer's decision on the motion.

§ 956.23 Judicial officer.

The Judicial Office is authorized:

(a) to act as presiding officer at hearings;

(b) to render tentative decisions;

(c) to render final decisions of the Postal Service;

(d) to refer the record in any proceedings to the Postmaster General or the Deputy Postmaster General who will make the final decision of the Postal Service; and

(e) to revise or amend these rules of practice. In determining appeals from initial decisions or exceptions to tentative decisions, the entire official record will be considered before a final decision of the Postal Service is rendered. Before rendering a final decision of the Postal Service, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 956.24 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and law relied upon in support of said motion. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the motion.

§ 956.25 Modification or revocation of orders.

A party against whom an order has been issued may file an application setting forth reasons which he believes warrant the modification or revocation of the order. The Recorder shall transmit a copy of the application to the Ethical Conduct Officer who shall file a written reply. A copy of the reply shall be sent to the applicant by the Recorder. The Judicial Officer, in his discretion, may hold a hearing on the issues raised by the application. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 956.26 Computation of time.

A designated period of time under the rules of this part excludes the day the period begins and includes the last day of the period unless the last day is a Saturday or Sunday or legal holiday, in which event the period runs until the close of business on the next business day.

§ 956.27 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 956.28 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

(39 U.S.C. 401, 18 U.S.C. 207(j))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-12856 Filed 5-11-83; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Interest Assessment on Overcharges (Receivables)

AGENCY: Office of Plans, Programs, and Financial Management, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to enable GSA to assess interest on overcharges issued to transportation carriers for freight and passenger services furnished for the account of the United States. This amendment is necessary in order to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States as required by the Debt Collection Act of 1982, Pub. L. 97-365.

DATE: Written comments must be received by July 11, 1983.

ADDRESS: Comments should be sent to the General Services Administration (BWCP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: The GSA has determined that this proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this proposed rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this proposed rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101-41 as follows:

Subpart 101-41.5—Claims by the United States Relating to Transportation Services

Section 101-41.502(b)(3) is added to read as follows:

§ 101-41.502 Examination of payments and initiation of collection action.

* * * * *

(b) * * *

(3) Overcharges issued in accordance with § 101-41.502(b)(1) are subject to the assessment of a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Treasury will publish such rate each year not later than October 31 to become effective on the first day of the next calendar quarter, and may revise the rate quarterly. Interest accrues as follows: (i) From the voucher payment date to the Notice of Overcharge date when refund is postmarked within 30 days of the date of the Notice of Overcharge; (ii) from the voucher payment date to the date of payment of the amount due when refund is not postmarked within 30 days of the date of the Notice of Overcharge; and (iii) from the voucher payment date to the date of deduction action by offset when such action is taken. The rate of interest to be charged shall be the rate in effect on the date from which interest accrues, and shall remain fixed at that rate for the duration of the indebtedness. Charges to cover the cost of processing and handling delinquent claims, and a penalty charge, not to exceed 6 per centum per annum, will be assessed for failure to pay any portion of a debt more than 90 days past the date of the Notice of Overcharge.

* * * * *

(31 U.S.C. 952, 31 U.S.C 3726 and 40 U.S.C. 486(c)).

Dated: April 13, 1983.

Raymond A. Fontaine,

Assistant Administrator.

[FR Doc. 83-12735 Filed 5-11-83; 8:45 am]

BILLING CODE 6820-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket NO. FEMA 6492]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 83-4041, beginning on page 7214, in the issue of Friday, February 18, 1983, make the following correction: On page 7223, in the entry for Ohio, Clarington, Monroe County, Ohio River, the "Elevation in feet (NGVD)" which reads "624" should read "642".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78-50; FCC 83-177]

Telecommunications Services for the Deaf and Hearing Impaired

AGENCY: Federal Communications Commission.

ACTION: Order terminating notice of inquiry proceeding.

SUMMARY: Commission terminates Notice of Inquiry proceeding re Telecommunications Services for the Deaf and the Hearing Impaired which sought comments with respect to the telecommunications needs of the deaf and the hearing impaired. The inquiry was terminated in CC Docket No. 78-50, largely because of provisions of the Telecommunications for the Disabled Act of 1982 (Disabled Act). That legislation requires the Commission to make essential telephones hearing aid compatible and to ensure reasonable access by the hearing impaired to telephone service. In addition, the Commission does not require a reduction in long distance rates for users of telecommunications devices for the deaf (TTYs) because competition in the interexchange market has reduced rates and AT&T offers a discount to deaf TTY users. Finally, the Commission does not require TTYs to be provided in conjunction with pay telephones because portable TTYs are available which can be used with coin telephones and the Disabled Act is designed in part to promote access to such devices.

FOR FURTHER INFORMATION CONTACT: Gregory J. Vogt, Enforcement Division, Common Carrier Bureau, Federal Communications Commission,

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Washington, D.C. 20554. Telephone No. (202) 632-4890.

Memorandum Opinion and Order

In the matter of Telecommunications Services for the deaf and hearing impaired; CC Docket No. 78-50.

See 2-21-78; 43 FR 7263.

Adopted April 27, 1983.

Released May 3, 1983.

By the Commission: Commissioner Jones absent.

I. Introduction

1. This inquiry was instituted in February 1978 in order to examine the telecommunications needs of the deaf and the hearing impaired, the adequacy of existing telecommunications services for such persons, and the feasibility of improving such services. 67 FCC 2d 1602 (1978). In view of the Telecommunications for the Disabled Act of 1982, Pub. L. 97-410, 97th Cong., 2d Sess., signed into law on January 3, 1983, and due to changed circumstances we are terminating this proceeding. *See Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons*, CC Docket No. 83-427, FCC 83-176 (adopted April 27, 1983) (*Disabled NPRM*).

2. We initiated this proceeding in Docket 78-50 to obtain information which would be of assistance in exercising our statutory responsibility to determine what actions, if any, were feasible to foster additional use of communications services by the disabled. The notice also stated that this inquiry would provide "a nationwide forum whereby communications common carriers and other vendors of communications related equipment could interact with the deaf community in order to better understand their communications needs" and could provide a repository for comments with respect to research efforts which have been or might be undertaken to improve telecommunications services for the deaf and the hearing impaired.

3. We have received a substantial number of formal and informal comments which are of significant value to all individuals and organizations that may be concerned with the telecommunications needs of the deaf and the hearing impaired.[1] *See* Appendix A for list of commenting parties. Many parties have noted that the telecommunications needs of the deaf are quite distinct from those of persons who have less severe hearing impairments. Persons who can distinguish spoken words with the assistance of special equipment, such as a hearing aid, use the telephone for voice communications in essentially the same manner as persons with unimpaired hearing. Persons who cannot distinguish spoken words with the assistance of any mechanical device necessarily must rely upon data communications and visual terminals.

4. Many deaf persons rely upon teletypewriters (TTYs or TDDs), alternatively named telecommunications devices for the deaf, to satisfy their telecommunications needs. The utility of the deaf TTY system is limited because some TTYs are not compatible with computer terminals. At the time the comments were filed, the absence of operator and directory assistance also limited the utility of the deaf TTY system. AT&T has subsequently established a toll free 800 number to provide such services to both Bell and independent telephone company customers. In addition, many comments suggested that interstate MTS rates should be reduced for deaf TTY users. AT&T recently revised that tariff to include special rates for deaf TTY users.

5. Several circumstances have caused us to terminate this proceeding. Most importantly, Congress enacted the Disabled Act. That Act is designed to promote access to telephone service by the hearing impaired. It is also designed to enable telephone companies to accommodate the communications needs of persons whose speech, hearing, sight or mobility is impaired. Pursuant to the terms of the Act we have today adopted a Notice of Proposed Rulemaking in CC Docket 83-427, which will result in rules to implement the Act. *See Disabled NPRM*. Some of the issues which were originally raised in CC Docket 78-50 were addressed by Congress in the Disabled Act and those issues will therefore be left to CC Docket 83-427 for resolution. Those issues raised in Docket 78-50 include: (1) Whether the Commission should adopt technical standards to achieve hearing-aid compatibility in telephone terminal equipment; (2) whether any regulatory impediments prevent technological improvement in services or equipment for the hearing impaired, (3) whether and what types of communications services should be improved for the deaf, (4) whether any Commission action could be taken to reduce the high cost of obtaining deaf TTYs, (5) whether we should resolve incompatibility problems between Baudot code TTYs and those which operate on the ASCII format, and (6) whether government funded research and development with respect to ways to improve the deaf TTY system is needed.

6. Two other issues raised in Docket 78-50 are resolved in this Order. Commission action at this time appears unnecessary on the proposal to reduce MTS rates for TTY users due to carrier actions. Finally, we also consider whether we should require TTYs to be provided in conjunction with coin telephones.

II. Discussion

A. Issues Addressed by the Disabled Act

7. A major focus of the Disabled Act is to promote access by the hearing impaired to hearing-aid compatible telephones. In achieving that goal, the Act requires the Commission to adopt or approve technical standards defining such hearing-aid compatibility. Disabled Act, § 610(c). Thus, Congress has resolved the issue raised in the Notice of Inquiry in the Docket 78-50 proceeding whether or not to establish such standards.

8. In addition, the Notice of Inquiry asked commenting parties whether there existed any regulatory barriers which prevented technological innovation in services for the deaf. Section 610(e) requires that any regulations issued pursuant to the Act be framed to avoid inhibiting technological achievements. Therefore, there is no need to further address this issue in this proceeding.

9. Furthermore, the Notice raised the question of whether a need exists for telephone companies to provide the following services for deaf customers using TTYs: operator, directory and business office assistance, and recorded messages. Carrier services for deaf TTY users were quite limited at the time the comments were filed. The AT&T comments stated that it was in the process of establishing consumer assistance offices for each operating company which would provide business office and directory assistance services for TTY users. No telephone company was providing operator assistance services to deaf TTY users at the time we instituted this Inquiry. The absence of operator assistance services precluded deaf TTY users from placing any type of call that requires operator assistance.

10. AT&T subsequently established regional centers that do provide operator, directory and business office assistance to deaf TTY users. AT&T has advised us that these operator assistance services are available 24 hours a day, that such services are offered through a single nationwide toll-free number, (800) 855-1155, and that the services are available to both Bell and independent telephone company customers. Although it appears that carrier action has ameliorated somewhat the need for additional services for deaf TTY users, it is not clear the extent to which current services are offered and whether the Commission should continue to rely on the voluntary cooperation of only one carrier, AT&T, to provide such services. Therefore, this issue will be addressed in the context in which it is raised by the Disabled Act. *See Disabled NPRM*, para. 11.

11. This Notice of Inquiry further raised the question of whether there was any Commission action which could reduce the high cost of obtaining a TTY. At the time comments were filed in this proceeding, TTYs for the deaf cost between $300 and $800. Any reduction in costs for those TTYs would expand the use of the network for the deaf.

12. In the Disabled Act, Congress determined that the most cost-effective method of providing specialized CPE for the deaf is under state-sponsored programs whereby state public utility commissions permit equipment costs to be recovered in the tariff rates for communications services. The implementation of the Act should go far to promote the availability of such devices because the cost of obtaining TTYs could be subsidized, lowering the costs for individual deaf persons. See Disabled Act, §610(g); *Disabled NPRM*, paras. 28-35. Therefore, we find it unnecessary to further address the high cost of obtaining TTYs in this proceeding.

13. In addition, the comments filed in this proceeding indicated that the usefulness of existing standard deaf TTY equipment was limited because many of those devices are incompatible with other types of TTYs and computers which have communication capabilities. Around 1967 the deaf began to rely upon used teletypewriters donated by AT&T, Western Union and others, using a specially designed acoustic coupler which allowed the user to transmit and receive teletypewriter messages over the standard telephone network. Teletypewriters employed the five bit Baudot code with a half duplex modem. Eventually, some devices were developed employing the eight bit ASCII code with a full duplex modem, which is also the standard employed with most personal computer terminals. Generally, those persons with Baudot code TTYs cannot communicate with devices using the ASCII code, and vice versa, although some of the newer deaf devices can transmit and receive in either code. *See* "Telecommunications Devices for the Deaf", *Telephone Engineer & Management*, at p. 69, October 1, 1980.

14. At the time comments were filed, the general consensus appeared to be that the deaf will be relying primarily upon TTYs to satisfy their interactive telecommunication needs for a substantial period of time and that efforts to improve telecommunications services for the deaf should accordingly be directed at making TTY communications less costly and more effective. Nevertheless, technological advances which have occurred since the time comments were filed in this proceeding, particularly the proliferation of personal computers, have cast substantial doubt on that conclusion. Particularly given significant price reductions for personal computers over the last few years and the ability of these terminals to communicate with other ASCII-compatible equipment, there is significantly less reason to conclude that TTYs which employ the Baudot code will be the primary means of the future for the deaf to communicate over the nationwide telephone network.

15. Even if most deaf TTY users will not be interested in interacting with computers, they will probably be interested in communicating with hearing persons who acquire ASCII compatible computers. Many of these computers will also be used as communications terminals. The deaf would probably realize benefits in the long-run if they used TTYs to communicate with persons who have ASCII computer terminals.

16. Some comments state that the incompatibility problem will eventually solve itself without any governmental intervention. Many deaf persons will acquire dual capacity devices, which are presently available during a transition period. The Baudot terminals will eventually cycle themselves out of existence and both deaf and hearing persons will then acquire ASCII only devices. The proliferation of cheap personal computers should also reduce the need for government action to solve compatibility problems.

17. The Disabled Act, by providing for Commission-promulgated rules which would ensure access to telephone service by the hearing impaired, requires that we address the problem of whether customer premises equipment (CPE) used by the deaf provides them with reasonable access to telephone service. The potential TTY incompatibility problem may limit such access. In light of the provisions of the Disabled Act and because the comments received in this Notice of Inquiry are now almost four years old, we are seeking updated comments with respect to this potential incompatibility problem in the context of the CC Docket 83-427 proceeding. The consideration of this issue in this proceeding is therefore terminated.

18. Finally, many comments also suggest that government research funds should be provided to finance the development of an inexpensive ASCII or dual capability TTY which the deaf could use. Congress has established a regulatory framework in the Disabled Act for the provision of TTYs. Congress has determined that carriers should decide, with state regulatory guidance, what equipment to offer disabled persons. Disabled Act, section 610(g). In light of this Congressional scheme, we conclude that no further Commission action, other than to implement the Act, is warranted. The Act should be one mechanism to provide research and development funds for communications CPE for the disabled since states may authorize carriers to recover such costs in the rates for communications services. Thus, in conjunction with privately sponsored and government-funded research efforts, the Disabled Act can further technological advances in CPE needs of the deaf.

B. Toll Rates for TTY Use

19. We have received over sixty formal or informal comments which express the belief that toll rates should be reduced for TTY communications by deaf users. Some suggested that hearing persons who use TTYs to communicate with deaf persons should also qualify for reduced rates. Since this Inquiry was instituted, long distance service has been the subject of increasing competition. This competition has reduced rates substantially below what they were in 1978. Thus, reduced long distance rates are available for hearing, as well as deaf, users of TTYs.

20. In addition, AT&T has a tariff in effect at this Commission that offers reductions in interstate MTS rates for deaf TTY users. *See* AT&T Tariff FCC No. 283, § 3.1[c][4]. In view of the fact that reduced long distance rates are available to most telephone users, including deaf TTY users, and because of AT&T's action giving deaf TTY users discounted long distance rates, no purpose would be served by conducting further proceedings to determine whether this Commission should adopt rules that would prescribe reduced rates for deaf TTY users.

[1] These comments are available for public inspection in the Docket Reference Room in the Commission's Offices at 1919 M Street NW., Washington, D.C.

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C. Use of Coin Telephones

21. The initial Notice invited interested persons to comment upon the need for pay TTYs which the deaf could use to place calls from coin telephones. We received a number of comments from deaf individuals and organizations that said such pay TTYs would be extremely useful to the deaf and that a particular need exists in places such as rail, bus and airline terminals. Most of these comments suggested that the telephone companies provide the pay TTYs. The comments indicate that no telephone company provides pay TTYs and none of those companies has any present plans to provide them.

22. The AT&T comments state that the provision of pay TTYs is not "currently feasible" and that its experience with coin telephones indicates that any pay TTY would have to be placed in a "secure and attended location." GTE says that its experience with the effects of "environmental stresses, abuse and vandalism" upon regular coin telephones demonstrates that carrier provision of pay TTYs would be "economically prohibitive." The Reply of the National Center for Law and the Deaf says that public TTYs could be placed in many sheltered, supervised areas such as libraries, government buildings and police stations.

23. Congress has determined pursuant to the Disabled Act that carriers and state public utility commissions should decide such matters. Section 610(g) of the Act permits state commissions to allow carriers to subsidize the provision of specialized CPE needed by disabled persons from revenues from rates for communications services. The legislative history of the Act makes clear that the subsidy should be restricted to "those persons, to institutions which serve them, and to associates who require compatible equipment regularly in order to communicate with them." House Report No. 97–888, 97th Cong., 2d Sess., at 13 (1982). In those institutions which serve the deaf, a state-sponsored subsidy program could provide access to such pay TTYs. *See Disabled NPRM*, paras. 33–35. Thus, the Act encourages states to devise ways to make available TTYs for use in conjunction with public coin telephones.

24. Furthermore, many of the newer TTYs are operated by means of acoustic couplers to directly interface with the telephone network through any standard telephone and are light enough to be easily transportable. *See* "Telecommunications Devices for the Deaf," *Telephone Equipment & Management*, at p. 73, October 11, 1980. Portable TTYs would enable the deaf to use coin telephones when they are away from home. Any state-sponsored program for subsidized CPE offerings could easily take portability characteristics into account in promoting access by the hearing impaired to specialized CPE needed to use residential, business and coin telephones.

III. Ordering Clauses

25. Accordingly, it is hereby ordered, that pursuant to Section 4(i) and 4(j) of the Communications Act of 1934, as amended (47 U.S.C. 154 (i) and (j)), this Inquiry is terminated.

26. It is further ordered, that the AT&T motion, dated May 5, 1980, for leave to file supplemental comments is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—List of Parties Filing Formal Comments

Pennsylvania School for the Deaf
Joseph W. Sendelbaugh
Westchester County Office for the Handicapped
International Association of Parents of the Deaf & International Parents Organization
Fire Department Headquarters, City of Quincy, Massachusetts
Rhode Island School for the Deaf
Hearing Industries Association
Denver Commission on the Disabled
Phonics Corp.
National Association of the Deaf
Krown Research
Specialized Systems, Inc.
Greater Los Angeles Council on Deafness, Inc.
ESSCO Communication, Inc.
William Sound Corp.
National Technical Institute for the Deaf
Robert H. Weitbrecht
Rudolph V. Lutter, Jr.
Atlantic Research Corp.
John L. Brosnan
John D. Messina
Otto J. Menzel
Gallaudet College
U.S. Department of Health, Education & Welfare
John Marley
National Association for Hearing & Speech Action
RF Applications, Inc.
National Center for Law and the Deaf
United States Independent Telephone Association
GTE Service Corp.
Westchester Community Services for the Hearing Impaired
MCI Carriers
American Telephone & Telegraph Co.
Telenet Communications Corp.
Alexander Graham Bell Association for the Deaf, Inc.
Teletypewriters for the Deaf, Inc.
Stromberg-Carlson Corp.
Metrovision Amateur Television Club
Digital Broadcasting Crop.
Organization for the Use of the Telephone, Inc.
United Church of Christ
Electronic Industries Association
American Speech & Hearing Association
E. Marshal Wick
Massachusetts Council of Organizations Serving the Deaf
Edgar Bloom, Jr.
Teletyrm Corp.
Micon Industries
Campaign Media Consultants, Inc.
Washington Department of Social and Health Services
Advocacy Services for the Deaf

[FR Doc. 83-12714 Filed 5-11-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 2 and 22

[Gen. Docket No. 80-183; RM-2365; RM-2750; RM-3047; RM-3068; FCC 83-145]

Amendment of the Commission's Rules To Allocate Spectrum in the 928–941 MHz Band and To Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: In a companion decision the Commission adopted rules and policies to govern the licensing and use of three nationwide paging frequencies in the 900 MHz band, *Memorandum Opinion and Order on Reconsideration (Part 2)*, Gen. Doc. 80–183, FCC 83–145. The Commission considered the record insufficient to adopt final rules on two issues. Therefore, in the *Further Notice*, the Commission solicits comments on the method and extent of rate regulation for the network participants and whether to retain the requirement of open and nondiscriminatory access for the network operators.

COMMENT DATE: Comments are due by June 10, 1983 and replies by July 11, 1983.

ADDRESS: Send comments to—Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632–6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

Further Notice of Proposed Rulemaking

In the matter of amendments of Parts 2 and 22 of the Commission's rules to allocate

spectrum in the 928–941 MHz Band and to establish other rules, policies, and procedures for one-way paging stations in the domestic public land mobile radio service; Gen. Doc. No. 80–183, RM–2365, RM–2750, RM–3047, RM–3068.

Adopted April 7, 1983.

Released: May 4, 1983.

By the Commission: Commissioner Fogarty absent; Commissioners Jones and Sharp concurring in the result.

1. In a companion decision adopted today,[1] we set forth policies and rules governing licensing and use of three frequencies previously allocated for nationwide network paging at 900 MHz.[2] We decided to license three "network organizers" whose services will be distributed in each community served by carriers operating locally ("network operators"). We also tentatively required open and nondiscriminatory access by the network operators to the network channels. Under that access plan, the network operators will be subject only to the minimal federal regulation necessary to assure technical compliance with the underlying network, avoidance of harmful electrical interference, and proper lighting and marking of antenna structures. Because paging networks will be nationwide in scope and predominantly will transmit interstate messages, we preempted state regulation of technical standards, entry and exit. We did not believe, however, that the record was sufficient to enable us to determine the method of rate regulation which will best satisfy the public interest. Accordingly, in this Further Notice we solicit comments on that issue. We also solicit comment on the issue of open and nondiscriminatory access for the network operators.

Tariff Options

2. *Option 1.* Under this option, we would require each of the three common carrier network licensees to file a tariff with the Commission in accordance with the Communications Act and Part 61 of the Commission's rules. This tariff would set forth the terms, conditions and end-to-end charges applying for through service to the ultimate user. In other words, the licensee would file the total charges for the service applicable to the ultimate user. The network licensees would be obligated to file exception rates, if any, of each local carrier on a case-by-case basis. This approach would be relatively simple and efficient because the multitude of carriers providing network service at the local level would not have to file tariffs individually. Revenues would be divided between the network licensees and local network operators pursuant to contractual arrangements. We would contemplate preempting state tariff regulation under this option because the Commission would regulate the rates.

3. *Option 2.* Under this option, which is similar to Option 1, we would also require each of the common carrier network licensees to file a tariff with the Commission in accordance with the Communications Act and Part 61 of the rules. The tariff, which also would apply to the ultimate user, would separately set forth the charges of the network licensee for the haul between its operating centers. The charges assessed by the local network operator for its haul between the ultimate user and the licensee's operating center could be handled in either of two ways. They could be filed by the licensee in its own tariff on behalf of the local operator, or they could be published in the local operator's state tariff and referenced in the FCC tariff. In each case, the local operator would be listed in the licensee's tariff as an "other participating carrier." We recognize that this option might be more burdensome and complex than Option 1.

4. *Option 3.* This option would be to regulate the rates of the network organizers for the haul between cities at the federal level and leave to the states the regulation of the rates for local access to the network as well as the long distance intrastate rates of the network organizers. It would, however, impose an additional burden on the local network operators and the network organizers because they would have to file tariffs in many jurisdictions rather than with this Commission alone. There is already substantial variance among the states in the ways they do or do not regulate local paging rates and charges. This approach may create confusion, delay and inconsistent treatment from state to state. In addition, it does not adequately recognize that network paging is predominantly interstate and, therefore, outside the jurisdiction of state regulatory authorities.

5. *Option 4.* Under this option the Commission would regulate the carrier-to-carrier rates of the three network organizers, but we would forbear from regulating the rates charged by the network operators to their customers for local distribution of network service. With only three network organizers, the marketplace may not be sufficiently competition to justify forbearance regaring the inter city, long-haul rates. On the other hand, open, nondiscriminatory access to the networks by local carriers would assure vigorous competition by the local operators. Given sufficient competition, no public purpose would be served by either state or federal scrutiny of the charges levied by the local operators on top of the network organizer's charges. Implicit in this proposal is our tentative opinion that we can both forbear from regulating preempt state regulation based on the predominantly interstate character of network paging.

6. *Option 5.* This final option is similar to the fourth option except that we would forbear from regulating the rates and charges of both the network organizers and the network operators. To adopt this approach, we would have to be satisfied that, even with only three network organizers, the marketplace is sufficiently competive that regulatory oversight of rates would not advance the public interest. A disadvantage of this option is the absence of any oversight of the network organizers to assure their compliance with the nondiscriminatory access requirement of our concurrent decision. Nevertheless, our complaint procedures would remain available to carriers who may be denied access to a network. New para. F–12 on attached sheets.

Open Access Requirement

7. In deciding to require open and nondiscriminatory access to the three network channels by the local network operators, we recited the public interest benefits expected to flow from that policy. *Reconsideration Order Part 2, supra* note 1, at paras. 20–21. However, we also recognized that there may be important operational or economic reason militating against nondiscriminatory access. *Id.* at para. 22. Moreover, competition sufficient to relieve much of our concern over potential monopoly pricing may exist even absent an access requirement. We decided, consequently, to make our access requirement tentative rather than final and to solicit further comment on this issue here. Interested persons are directed to address only the narrow question of whether we should remove the nondiscriminatory access requirement and not to reargue other issues which have been considered and resolved. We are also interested in how The access policy might be interrelated

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[1] Memorandum Opinion and Order on Reconsideration (Part 2), Gen. Doc. No. 80–183, FCC 83–145 (Reconsideration Part 2).

[2] In this docket, we have allocated 3 MHz of spectrum (929–932 MHz) for private radio and common carrier paging. Three of the forty common carrier channels derived from the 3 MHz block are reserved for nationwide network paging. *See* First Report and Order, 89 FCC 2d 1337 (1982), *reconsideration* (Part 1), FCC 82–503, released November 16, 1982.

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with the tariff options raised in this Further Notice.

Regulatory Flexibility Act—Initial Analysis

8. *Reasons for Action and Objective.* We have solicited comments on the tariff issue to help the Commission determine what method of rate regulation for 900MHz nationwide frequencies will best serve the public interest. The objective is to implement practical and effective tariff procedures and, thus, to provide expeditious nationwide paging service to the public.

9. *Legal Basis.* The authority for this proposed rulemaking is contained in Sections 4 and 303 of the Communications Act of 1934, as amended.

10. *Small Entities Affected and Potential Impact.* The impact of the rules adopted will be on all common carriers interested in offering the nationwide paging service to their subscribers. The option chosen will have no impact upon the tariff procedures and attendant paperwork requirements for the network participants.

11. *Reporting, Record-Keeping and Compliance.* Depending upon the option chosen, the participants will either be relieved of filing tariffs or will be directed to file them with the states or Federal Communications Commission. The rulemaking does not involve any additional reporting requirements other than those typically associated with rate regulation.

12. *Alternatives that Would Lessen Impact.* One proposed option is to both preempt state rate regulation and forbear from regulating the rates and charges of both the network organizers and operators. This option would eliminate all tariff filing and reporting requirements.

13. Interested parties are invited to submit written comments on their views concerning what method of rate regulation will best satisfy the public interest, and whether or not the requirement of open and nondiscriminatory access should be changed, to the Federal Communications Commission, Washington, D.C. 20554.

14. Comments should be submitted in accordance with Rule Section 1.419, 47 CFR § 1.419. Comments should be submitted by June 10, 1983, Reply Comments by July 11, 1983. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR § 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-12713 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 61

[CC Docket No. 82-122]

Interconnection Arrangements Between and Among Domestic and International Record Carriers; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order & Request for Further Comments; Extension of comment/reply comment period.

SUMMARY: In an order released April 11, 1983, CC Docket No. 82-122 (48 FR 16708, April 19, 1983), the FCC requested comments on methods for applying the requirement of full and equal interconnection mandated by the Record Carrier Competition Act of 1981 to differences in access provided by record carriers. Comments were due in fifteen days. The FCC now grants a request for an additional two weeks to file comments, in response to a filed motion.

DATES: Comments are now due by May 18, 1983. Reply comments are due by June 2, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Daniel Grosh, Common Carrier Bureau, (202) 632-6917.

Order

In the matter of interconnection arrangements between and among the Domestic and International Record Carriers; CC Docket No. 82-122.

Adopted: April 29, 1983.
Released: May 3, 1983.
By the Chief, Common Carrier Bureau:

A request by RCA Global Communications, Inc. for extension to time to file comments with respect to single stage-double stage dialing access is granted. Comments presently due on or before May 4 will now be due May 18. Reply comments will be due June 2, 1983.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-12716 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 41390]

California-Toronto/Montreal Service Case; Second Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-titled proceeding will be held on May 12, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 5, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-12803 Filed 5-11-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-5-53; Docket 41354]

Delta Air Lines, Inc.; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 83-5-53, Docket 41354.

SUMMARY: The Board is issuing an order directing all interested persons to show cause why the certificate of Delta Air Lines, Inc. for Route 27-F should not be amended to delete its authority to provide the foreign air transportation of persons, property and mail between Burlington, Vermont and Montreal, Quebec, Canada.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be deleted as described in the order cited above, shall, no later than May 31, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41354, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all persons named in the service list for Docket 41354 (which can be obtained from the Docket Section).

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions.

To get a copy of the complete order, request if from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Krevor (202) 673-5203, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-12804 Filed 5-11-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 30505-75]

Grants for Small Business International Marketing Programs

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Fiscal Year—1983 matching grants program.

SUMMARY: As required by Title III of Pub. L. 96-481, the Commerce Department's International Trade Administration is carrying out a program awarding matching grants of up to $100,000 to defray the costs incurred in establishing Small Business International Marketing Programs. The purpose of the individual Small Business International Marketing Programs will be to increase U.S. new-to-market/new-to-export sales by providing (at the most local level practical) export assistance and services to small businesses interested in pursuing export sales. Grants totaling $950,000 will be awarded under this program. Grant application are now being solicited.

DATES: Grants applications must be postmarked or received on or before June 24, 1983. Mailed applications received after June 24, but on or before close of business June 28, 1983, will be considered as on time, if mailed on or before June 24, 1983, as evidenced by the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. It is important to ask Postal Officials for a date stamp.

ADDRESSES: Grant applications and modifications thereof shall be enclosed in sealed envelopes with the applicant's name and address on the face of the envelope. Mailed applications should be addressed to the appropriate United States Commercial Service District Office listed below or to: Don Stow, Small Business Grants Coordinator, Small Business Export Development Assistance Program, International Trade Administration, Room 2800A, U.S. Department of Commerce, Washington, D.C. 20230.

Hand-delivered proposals may be taken to the Small Business Grants Coordinator at the above address or to the appropriate U.S. Commercial Service District Office listed below. These will be accepted daily between 9:00 and 5:00 p.m. except Saturdays and Sundays, or Federal holidays. Hand-delivered proposals will *not* be accepted after 5:00 p.m. on June 24, 1983. Receipt of proposals will be acknowledged by letter.

Alabama

Gayle C. Shelton, Jr., Director, U.S. Commercial Service District Office, Suite 200-201, 908 South 20th Street, Birmingham, Alabama 35205 (205) 254-1331

Alaska

Blaine D. Porter, Director, U.S. Commercial Service District Office, 701 C Street, P.O. Box 32 Anchorage, Alaska 99513 (907) 271-5041

Arizona

Donald W. Fry, Director, U.S. Commercial Service District Office, Suite 2950 Valley Bank Center, 201 North Central Avenue, Phoenix, Arizona 85073 (602) 261-3285

Arkansas

Lon Hardin, Director, U.S. Commercial Service District Office, Suite 635 Savers Federal Building, 320 W. Capitol Avenue, Little Rock Arkansas 72201 (501) 378-5794

California

Daniel J. Young, Director, U.S. Commercial Service District Office, Room 800, 11777

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San Vincente Boulevard, Los Angeles, California 90049 (213) 209–6707
Betty D. Neuhart, Director, U.S. Commercial Service District Office, Federal Building, Box 36013, 450 Golden Gate Avenue, San Francisco, California 94102

Colorado

Donald L. Schilke, Director, U.S. Commercial Service District Office, Room 119, U.S. Customhouse, 721–19th Street, Denver, Colorado 80202 (303) 837–3246

Connecticut

Eric B. Outwater, Director, U.S. Commercial Service District Office, Room 610–B, Federal Office Building, 450 Main Street, Hartford, Connecticut 06103 (203) 244–3530

Florida

Ivan A. Cosimi, Director, U.S. Commercial Service District Office, 821, City National Bank Building, 25 West Flagler Street, Miami, Florida 33130 (305) 350–5267

Georgia

Daniel M. Paul, Director, U.S. Commercial Service District Office, 1365 Peachtree Street, NE., Suite 600, Atlanta, Georgia 30309 (404) 881–7000
James W. McIntire, Director, U.S. Commercial Service District Office, 222 U.S. Courthouse, P.O. Box 9746, 125–29 Bull Street, Savannah, Georgia 31412 (912) 944–4204

Hawaii

Steven K. Craven, Director, U.S. Commercial Service District Office, 4106 Federal Building, P.O. Box 50026, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850 (808) 546–8694

Illinois

Joseph F. Christiano, Director, U.S. Commercial Service District Office, 1406 Mid Continental Plaza Building, 55 East Monroe Street, Chicago, Illinois 60603 (312) 353–4450

Indiana

Mel R. Sherar, Director, U.S. Commercial Service District Office, 357 U.S. Courthouse & Federal Office Building, 46 East Ohio Street, Indianapolis, Indiana 46204 (317) 269–6214

Iowa

Jesse N. Durdan, Director, U.S. Commercial Service District Office, 817 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309 (515) 284–4222

Kentucky

Donald R. Henderson, Director, U.S. Commercial Service District Office, Room 636B, U.S. Post Office and Courthouse Building, Louisville, Kentucky 40202 (502) 582–5066

Louisiana

Raymond E. Eveland, Director, U.S. Commercial Service District Office, 432 International Trade Mart, No. 2 Canal Street, New Orleans, Louisiana 70130 (504) 589–6546

Maryland

Carroll F. Hopkins, Director, U.S. Commercial Service District Office, 415 U.S. Customhouse, Gay and Lombard Streets, Baltimore, Maryland 21202 (301) 962–3560

Massachusetts

Francis J. O'Connor, Director, U.S. Commercial Service District Office, 10th Floor, 441 Stuart Street, Boston Massachusetts 02116 (617) 223–2312

Michigan

Raymond R. Riesgo, Director, U.S. Commercial Service District Office, 445 Federal Building, 231 West Lafayette, Detroit, Michigan 48226 (313) 226–3650

Minnesota

Glenn A. Matson, Director, U.S. Commercial Service District Office, 218 Federal Building, 110 South Fourth Street, Minneapolis, Minnesota 55401 (612) 725–2133

Mississippi

Mark E. Spinney, Director, U.S. Commercial Service District Office, Jackson Mall Office Ctr., Ste. 3230, 300 Woodrow Wilson Blvd., Jackson, Mississippi 39213 (601) 960–4388

Missouri

Donald R. Loso, Director, U.S. Commercial Service District Office, 120 South Central Avenue, St. Louis, Missouri 63105 (314) 425–3302–4
Mr. James D. Cook, Director, U.S. Commercial Service District Office, Room 1840, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–3142

Nebraska

Mr. George H. Payne, Director, U.S. Commercial Service District Office, Empire State Bldg., 1st Floor, 300 South 19th Street, Omaha, Nebraska 68102 (402) 221–3664

Nevada

Joseph J. Jeremy, Director, U.S. Commercial Service District Office, 1755 E. Plumb Lane, No. 152, Reno, Nevada 89502 (702) 784–5203

New Jersey

Thomas J. Murray, Director, U.S. Commercial Service District Office, Capitol Plaza, 8th Floor, 240 West State Street, Trenton, NJ 08608 (609) 989–2100

New Mexico

William E. Dwyer, Director, U.S. Commercial Service District Office, 505 Marquette Avenue, NW., Suite 1015, Albuquerque, New Mexico 87102 (505) 766–2386

New York

Robert F. Magee, Director, U.S. Commercial Service District Office, 1312 Federal Building, 111 West Huron Street, Buffalo, New York 14202 (716) 846–4191
Arthur C. Rutzen, Director, U.S. Commercial Service District Office, Room 3718, Federal Office Building, 26 Federal Plaza, Foley Square, New York, New York 10278 (212) 264–0634

North Carolina

Joel B. New, Director, U.S. Commercial Service District Office, 203 Federal Building, West Market Street, P.O. Box 1950, Greensboro, North Carolina 27402 (919) 378–5345

Ohio

Gordon B. Thomas, Director, U.S. Commercial Service District Office, 9504 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202 (513) 684–2944
Zelda W. Milner, Director, U.S. Commercial Service District Office, Room 600, 666 Euclid Avenue, Cleveland, Ohio 44114 (216) 522–4750

Oklahoma

Ronald L. Wilson, Director, Oklahoma International Exporters Services, U.S. Commercial Service District Office, 4024 Lincoln Boulevard, Oklahoma City, Oklahoma 73105 (405) 231–5302

Oregon

Lloyd R. Porter, Director, U.S. Commercial Service District Office, Room 618, 1220 SW. 3rd Avenue, Portland, Oregon 97204 (503) 221–3001

Puerto Rico

J. Enrique Vilella, Director, U.S. Commercial Service District Office, Room 659 Federal Building, San Juan (Hato Rey) Puerto Rico 00918 (809) 753–4555

Pennsylvania

Robert E. Kistler, Director, U.S. Commercial Service District Office, 9448 Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106 (215) 597–2866
William M. Bradley, Director, U.S. Commercial Service District Office, 2002 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222 (412) 644–2850

South Carolina

Johnny E. Brown, Director, U.S. Commercial Service District Office, Strom Thurmond Federal Building, Suite 172, 1835 Assembly Street, Columbia, South Carolina 29201 (803) 765–5345

Tennessee

Bradford H. Rice, Director, U.S. Commercial Service District Office, Suite 1427, One Commerce Plaza, Nashville, Tennessee 38103 (901) 521–3213

Texas

C. Carmon Stiles, Director, U.S. Commercial Service District Office, Room 7A5, 1100 Commerce Street, Dallas, Texas 75242 (214) 767–0542
Felicito C. Guerrero, Director, U.S. Commercial Service District Office, 2625 Federal Building Courthouse, 515 Rusk Street, Houston, Texas 77002 (713) 226–4231

Utah

Stephen P. Smoot, Director, U.S. Commercial Service District Office, U.S. Courthouse, 350 S. Main Street, Salt Lake City, Utah 84101 (801) 524–5116

Virginia

Philip A. Ouzts, Director, U.S. Commercial Service District Office, 8010 Federal Building, 400 North 8th Street, Richmond, Virginia 23240 (804) 771–2246

Washington

Eric C. Silberstein, Director, U.S. Commercial Service District Office, Room 706, Lake Union Building, 1700 Westlake Avenue, North Seattle, Washington 98109 (206) 442–5616

West Virginia

Roger L. Fortner, Director, U.S. Commercial Service District Office, 3000 New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25301 (304) 343–6181

Wisconsin

Russell H. Leitch, Director, U.S. Commercial Service District Office, Federal Building, U.S. Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 (414) 291–3473

Wyoming

Lowell O. Burns, Director, U.S. Commercial Service District Office, 8007 O'Mahoney Federal Center, 2120 Capitol Avenue, Cheyenne, Wyoming 82001 (307) 772–2151

FOR FURTHER INFORMATION CONTACT: Application kits are available from the appropriate District Office of the United States Commercial Service as listed above. For further information contact Don Stow (202) 377–2474.

SUPPLEMENTARY INFORMATION: The Small Business Export Development Assistance Program is established under section 302 of Pub. L. 96–481, 94 Stat. 2331 (15 U.S.C. 649b). The program is designed to test and refine the theory that a matching grant program to local entities is an effective method for encouraging the development of Small Business International Marketing Programs which will in turn provide export assistance to small business concerns interested in pursuing export sales. The program is listed in the Catalog of Federal Domestic Assistance under number 11.108.

One grant will be awarded in each of the ten regions of the Department of Commerce. Each grant recipient will act as an intermediary, utilizing its own and Federal funds to establish and maintain an organization which will provide export assistance to a number of small businesses in its locality. The grants are not intended to help only one small business, but rather to provide support services, through the grantee, to a number of small businesses in the grantee's region.

Under this program, the Commerce Department is authorized to make grants to a State government or agency or instrumentality thereof, any Small Business Administration-designated "Small Business Development Center", any for-profit small business, any non-profit organization, any regional commission or any combination of such entities. In 1982, grants totaling $1.95 million were awarded to 16 organizations.

The International Trade Administration is now soliciting applications (proposals) for the 1983 program for matching grants of up to $100,000. Appplication kits may be obtained by contacting local U.S. Commercial Service District Offices. Grantees selected under the 1982 program are not eligible to apply for grants under the 1983 program.

The completed application package (original plus 2 copies must include: (a) An application (Standard Form 424). The use of this form has been approved by OMB. The OMB approval number is 0625–0124. It expires October 31, 1984. (b) a concise description of the proposed Small Business International Marketing Program for which the application is being made; (c) a proposed budget; and (d) other supporting data.

To be considered, applications must be received or postmarked no later than June 24, 1983. The review process will begin June 30, 1983. Awards will be made by the end of September, 1983. The agreement between the selected organizations and the Federal Government will be a grant.

At the time of award of grants, grantees will be required to sign standard certifications and assurances related to: equal opportunity, fair labor standards, political activity of program employees, etc. In addition, successful applicants may be required to prepare and submit other standard government grant forms.

The final decision regarding the award of grants will be made by the Assistant Secretary for Trade Development.

This solicitation does not commit the Government to pay any cost incurred in the preparation of a proposal.

General Conditions

a. Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective application are not desired and may be construed as an indication of the applicant's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual and other presentation aids are neither necessary nor wanted.

b. At the discretion of the Department of Commerce, a pre-award survey of successful applicants may be required.

Preparation of Applications and Proposal Content

The application shall contain a concise description of the proposed activities to be undertaken by the Small Business International Marketing Program to be established under this grant. The description should be precise, factual, and complete.

The Budget section of each application shall present projected expenditures for the Program showing salaries including benefits, consultants, contract services, travel and per diem, space costs and other rentals, supplies, postage, telephone and telex, printing, etc. The specific format to be used is included in the Application Kit.

The following information supplementing the projected budge must be provided in a separate section:

a. Explanation of sources of grantee's matching cash share (see definition section below for more details).

b. Explanation of sources of grantee's matching in-kind share, if any (see definition section below for more details). Note: Grantees' matching cash and in-kind shares may be raised from any sources except from other Federal funding or from prospective or actual clients, subject to the restrictions below. The Commerce Department reserves the right to verify the applicant's sources of funds by an audit made immediately after the grant award.

c. Explanation of program income, if any.

d. Proposed hourly rate and estimated annual program hours for each member of the staff. Hourly rate should include benefits. Note: Names and resumes of proposed professional level staff members must be included with the application. If these individuals are not available at the time of the grant award, substitutions must be submitted to the Grants Coordinator for approval prior to appointment. All resumes should contain the person's date and place of birth, educational institutions attended with dates, and previous and current job responsibilities and titles listed in chronological order showing dates positions were held.

e. A description and justification of that portion of work to be contracted out, if any. Include a task description, the proposed cost, and the means of selection for each individual contract.

f. System for determining per diem rates. Standard U.S. Government per diem schedule is acceptable. Copies are available on request from the Grants Coordinator.

g. A statement that all resources, whether their own or from other sources, that they apply to this program (i.e., their matching share) represent an increase in funds above the amount they would have spent in the absence of a

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grant to promote small business exports during the grant period.

h. A statement showing the nature and timing of expected program accomplishments and means by which such accomplishments should be measured.

i. An organization chart for the Small Business International Marketing Program showing position titles and the designated person's name, where known. The chart should show how the proposed organization relates to the applicant's existing organization structure.

j. Statement of projected incremental export sales resulting from the proposed Small Business International Marketing Program and explanation of how these sales will be achieved.

k. Explanation of how the applicant's proposal will enable its Small Business International Marketing Program to become self-sustaining (i.e., for how long, from what sources and in what amounts will the applicant have resources to enable it to continue the Small Business International Marketing Program after the grant agreement terminates).

Freedom of Information Act

The information submitted in the application or with supporting documents will be subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. It is intended that information concerning the identity of applicants, the number of applications, and the status of application evaluation shall not be made publicly available prior to award of grants under this Program, except as may be required to be publicly released by statute (under the FOIA).

Scope of Work

The purpose of the individual Small Business International Marketing Programs established under the Small Business Export Development Assistance Program is to increase U.S. new-to-market/new-to-export sales by providing export assistance and services to small businesses at the most local level practical.

In view of the above and in concert with other requirements set forth in the legislation each Small Business International Marketing Program must:

(a) *Program:* Develop a program which can deliver the services required by the legislation, specifically:

(1) *Counseling:* Counseling of small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(2) *Market Analyses:* Providing market analyses of the export potential of small business concerns; and

(3) *Contacts:* Developing contacts with potential foreign customers and distributors for small businesses and their products, including arrangements and sponsorship of various overseas trade promotion activities (foreign trade missions, trade fair participation, etc.) through which small business concerns can meet with identified potential customers, and organizations, interested in licensing or joint ventures.

(b) *Full-Time Staff Director:* Appoint a full-time staff director to manage program activities.

(c) *Access to Export Specialists:* Have access to export specialist to counsel and to assist small business clients in international marketing when such expertise is not available in house.

(d) *Geographical Area To Be Served:* Identify the geographical area to be served—i.e., in which cities, counties or states will the small businesses be located that the applicant will assist?

(e) *Number of Firms To Be Assisted:* Identify the number of firms to be assisted and the nature of assistance to be given.

(f) *Advisory Board:* No later than 60 days after accepting the grant award, establish an advisory board of nine members to be appointed by the staff director of the program, not less than five members of whom shall be small business persons or representatives of small business associations. Each advisory board shall elect a chairperson and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(g) *Program Time Frame:* Implement and operate the program proposed in the grantee's application for assistance for 12 months commencing no later than December 1, 1983.

Evaluation of Applications

The Scope of Work above describes the required activities to be undertaken by the selected organizations. Each applicant's proposal should respond in the *same sequence shown* in the Scope of Work to each point in the Scope of Work. Each proposal will be evaluated, against the evaluation factors specified below. In the development of the proposal, applicants should carefully consider the criteria against which the applications will be evaluated. For example, if an applicant doesn't demonstrate in the proposal how the program will become self-sustaining at the end of the grant period, then the evaluators will be forced to give a low mark for this evaluation factor. Similarly, inadequate information on personnel qualifications may result in low scores by evaluators.

Evaluation Factors and Weight Assigned each Factor out of 100:

(The numbers show the relative weight to be given to each of the 6 evaluation factors when determining the applicant's total score)

Evaluation factor	Weight
a. Potential for proposal resulting in new-to-market/new-to-export sales of small businesses. Of particular interest will be those proposals having the ability to generate substantial sales within the 12-month grant period	25
b. Comprehensiveness and responsiveness of the proposal to this entire solicitation and applicant's recognition of overall program objectives. Logic and realism of the proposal in reaching objectives in the Scope of Work and the degree to which the proposal may incorporate innovative approaches to achieve program goals including value of additions to the Scope of Work, if any	30
c. Staff quality. Experience, education, background of the Staff Director and his/her demonstrated competence for performing and directing the work set forth in the application. Also, experience, education, background, and record of past accomplishment of other members of the staff	25
d. Logic for utilization of personnel and other resources including resources available through existing trade development programs	5
e. Cost Effectiveness. Projected program achievements compared to projected program expenditures	5
f. Potential that project will become self-sustaining at the end of the grant period	10
Total weight	100

Payments

Upon signing the Grant Agreement, grantees will be eligible to request the initial payment. Subsequent payments will be based on reports detailing expenditures against and progress related to the proposed budget and program as set forth in the Grant Agreement. An equal amount of the Grantees matching share must be expended before subsequent payments will be issued.

Furnished Property

No material, equipment, labor, or facilities will be furnished free of charge by the Department of Commerce for the purpose of performance under this program.

Definitions

a. *Small Business:* A small business concern for the purpose of this solicitation is a concern, of 250 or less employees, which is not dominant in its field. This definition applies both to applicants which may be small, for-profit businesses and to clients which must be small businesses. Any exception to this requirement must be approved in writing by the Small Business Grants Coordinator.

Note.—Small business applicants should indicate "Small Business" in Block 6K of Standard Form 424.

b. *New to Market/New to Export:* New-to-Export-sales are sales by a firm which has not sold its product(s) or service(s) in any foreign country. A firm already engaged in exporting is considered as being "New-to-Market" each time it successfully enters a new country market. "Entry" is accomplished through the sale of product(s)/service(s), or the appointment of a sales agent or distributor. However, occasional sales resulting from unsolicited orders or sales made by another firm acting on its own behalf rather than on behalf of or at the direction of the firm in question, do not constitute "entry". Although a firm can be New-to-Market any number of times, it can be New-to-Market in a particular country only once.

c. *Grantee's Matching Cash Contributions:* These are the grantee's cash outlays and include payments for goods and services applicable to the grant. *Also included* are salary and other costs paid for or reimbursed by the grantee for work applicable to the grant.

d. *Grantee's Matching In-Kind Contributions:* These contributions represent the value of the grantee's non-cash resources dedicated to the program.

Note.—The criteria for determining the allowability of cash and in-kind contributions made by grantees are contained in Attachment F to OMB Circular A–102 for grants made to State and local governments, in Attachment E to OMB Circular A–110 for grants made to all other applicants including for-profit organizations).

e. *Tourism Component of the Small Business International Marketing Program.* It is *not* intended that grants be used exclusively for the promotion of foreign tourism in the United States. However a grantee may have clients that are exclusively engaged in promoting foreign tourism in the United States. Manufacturers, producers of services, and businesses engaged in attracting foreign tourists to the U.S. are all legitimate clients of proposed Small Business International.

Marketing Programs. Successful applicants must demonstrate in their proposal the ability *and* intent to carry out the *complete* Scope of Work *including the provision of export counseling and assistance in the traditional sense.* Applications aimed exclusively or principally towards tourism promotion are not acceptable. At least 51 percent of the grantee's clients must be small businesses from other than the tourism promotion sector.

Specific Restrictions

a. Not more than one-third of Federal funds awarded under this solicitation may be used for personnel salaries and benefits. A larger portion of the grantee's matching share may be used for personnel salaries and benefits.

b. *No portion of any Federal funds* awarded under this solicitation may be used to directly underwrite any small business participation in foreign trade missions abroad, but such federal funds *may* be used to underwrite small business participation in foreign trade shows abroad.

In this regard a trade mission is defined as a group of business persons traveling together to several overseas locations for one or two day stops with product literature or samples which might be carried in a brief case. A trade show is defined as an event where the business persons travel separately to a given show in one location overseas where their products would be on display in a booth for approximately one week.

c. A sum equal to the amount of the grant awarded under this solicitation must be provided from souces other than the Federal Government. This non-Federal additional amount known as the matching share, shall not include any amount of direct or indirect costs or in-kind contributions paid for under any other Federal program. Nor shall indirect costs or in-kind contributions from other non-Federal sources exceed 50 per cent of the matching share—stated otherwise, at least 50 percent of the matching share must be in cash or the equivalent of cash (see definition above).

d. No portion of the grantee's matching share may be contributed by clients of its proposed Small Business International Marketing Program.

e. Grantees may not charge their clients a fee or solicit or accept a contribution of any kind or authorize or allow any one affiliated with the grant program, including contractors, to charge the grantee's clients a fee or solicit or accept a contribution for services rendered under the program except as stated below under Program Income.

f. No portion of the Federal funds or the matching share may be used to pay salaries or expenses of the nine member advisory board.

g. Members of the Advisory board may not simultaneously be employees, clients and/or paid consultants of the Small Business International Marketing Program, nor employees of the U.S. Department of Commerce or any U.S. Government Agency, nor may they work for or hold a financial interest in the grantee's organization.

Other Regulations

State and local governments will be subject to the Uniform Administrative Requirements for Grants-in-Aid as set forth in Office of Management and the Budget (OMB) Circular A–102 Revised. All other applicants will be subject to the Uniform Administrative Requirements for Grants-in-Aid as set forth in OMB Circular A–110.

The budget should be prepared in accordance with appropriate Office of Management and the Budget Cost Principles. OMB Circular A–87 shall be used for state and local governments. OMB Circular A–21 shall be used for educational institutions. OMB Circular A–122 shall be used by all other applicants. However, notwithstanding the provisions of OOMB Circular A–122, for-profit organizations are limited to an indirect cost rate of 100 percent. Free copies of the above circulars are available on request from the Small Business Grants Coordinator at the address specified above or by telephone on (202) 377–2474.

Reporting

Program and financial reports will be required quarterly during the grant period. Grantees will be required to furnish such information as is deemed appropriate to complete the Congressionally required program evaluation. Such evaluation and information required shall be limited to that information necessary for:

(a) Determining the impact of "small business international marketing programs" on those small businesses assisted;

(b) Determining the amount of new-to-market/new-to-export sales generated by small businesses assisted through such programs; and

(c) Making recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure.

Grantees will be provided with instructions on how to complete the

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final report at the time of the grant award.

Program Income

Grantees may charge clients participating in the program for assistance and services, but such income may *not* be used to reduce the matching share; and furthermore, such income must be limited to and collected on the basis of an appropriate percentage of export income generated as a direct result of participation in the program, i.e. as a commission.

If applicants expect to generate program income by charging a commission, the basis for such income must be fully explained in the application including rates to be charged. Funds so collected must be accounted for and reported on. All such "program income" earned during the grant period and for twelve months thereafter that is attributable to assistance provided under the grant shall be retained by the grantee and added to the funds committed to the program and shall be used to further program objectives. Provided that, if the program income is not expended within eighteen months after the expiration of the grant, it shall be remitted to the Government in proportion to the Government's financial contribution to the total project cost. *If clients are to be charged (i.e., a commission), applicants must include projections of amounts to be collected in the grant period and for 12 months thereafter.*

Restrictions on Purchase of Non-Expendables

Grantees may not use Federal or matching share funds for the purchase of non-expendables such as real property, vehicles or other capital assets or furniture, office equipment, etc. However, grantees may use funds from other sources (i.e., funds not dedicated to this Small Business International Marketing Program) to purchase equipment or other non-expendables and the fair-market rental value may be included as part of their matching share in-kind contribution.

Other Funding Sources

Federal-share funds granted for this program shall not be used to replace any financial support previously provided or assured from any other source. The existing and projected level of expenditure by the Grantee for small business export assistance shall be increased in order to match the Federal grant funds.

Fees and Profits

Applicants may not charge the Federal Government a fee or profit under the grant award.

Federal Export Development Assistance

All applicants must state if they currently receive or have applied for funds from any Federal agency to support export development programs similar to or incorporating elements of the Small Business International Marketing Program. List the program name, amount of funds awarded or requested, Federal agency involved, and name and phone number of the Federal contact person.

Type of Entities

The Small Business International Marketing Programs for which grants will be awarded under this solicitation may be (but do not have to be) independent legal entities. However, operations and records must be sufficiently separated from other activities to be able to account for all expenditures made from Federal grant or matching funds.

Government Not Committed To Pay Costs

This solicitation does not commit the Government to pay any cost incurred in the preparation of a proposal.

OMB Circular A-95

To comply with the provisions of OMB Circular A-95 which requires the coordination of Federal assistance programs with the states, each applicant must submit a copy of their completed Standard Form (SF) 424 application, attached to either the complete proposal or a one page summary of the proposal, to the appropriate state clearinghouse listed in the application kit. Applicants should include a statement that clearinghouse comments on the proposal should be sent to Don Stow, Small Business Grants Coordinator, Room 2800A, U.S. Department of Commerce, Washington, D.C. 20230.

Checklist

The Department of Commerce will not comment on the quality or completeness of applications prior to final submission. However the application kit contains a checklist of required information provided to help applicants make certain their application is complete and to assist evaluators in finding the required information. *Each applicant must submit a completed checklist.* Failure to furnish a completed checklist will result in the application being declared nonresponsive and thus not eligible for evalution and award.

Paul T. O'Day,

Acting Assistant Secretary for Trade Development.

[FR Doc. 83-12291 Filed 5-11-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Standard and Poor's 100 Stock Price Index Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange ("CME") has applied for designation as a contract market in the Standard and Poor's 100 Stock Price Index. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before June 13, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME Standard and Poor's 100 Stock Price Index futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. [202] 254-7303.

A copy of the terms and conditions of the CME proposed S&P 100 Stock Price Index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CME in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CME in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by June 13, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 9, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-12754 Filed 5-11-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Information Collection in Support of DoD Acquisition Management Systems and Data Requirements Control List (AMSDL) DoD 5000.19-L Vol II

The DoD awards approximately 12 million annual contracts for supplies/services and hardware. Information Collection Requests contained in these contracts, for which each contractor is reimbursed, number 2,600 and are listed in the AMSDL for repetitive use. The majority of DoD Information Collection Requests are contained in approximately 5,000 annual contracts of $1.0 million or more. These Information Collection Requests from the Public (contractors) are necessary for the Government to support the design, test, manufacture, training, operation, maintenance, rebuild and logistical support of items of Defense material being acquired under the provisions of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 1,983,800 responses; 218,218,000 hours (preliminary estimate).

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone: (202) 697-1195.

A copy of the information collection proposal may be obtained from James D. Richardson, DMSSO, II Skyline Place, Suite 1403, 5203 Leesburg Pike, Falls Church, VA., 22041, telephone: (703) 756-2340/1.

Dated: May 9, 1983.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 83-12782 Filed 5-11-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Information Collection in Support of DoD Contractual Actions

The DoD issues approximately 13 million contractual actions annually. Information Collection from the Public in support of the DoD Acquisition Process is necessary for the Government to evaluate contractor(s) and supplier(s) approach to support contractual actions for services, supplies and hardware in conformance with the requirements of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 26,000,000 responses; 416,000,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone: (202) 697-1195.

A copy of the information collection proposal may be obtained from Charles W. Lloyd, OUSDRE(AM)DARS, Room RE840, 400 Army Navy Drive, Washington, D.C. 20301, telephone: (202) 697-7287.

Dated: May 9, 1983.

M. S. Healy,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 83-12783 Filed 5-11-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-01-NG]

Natural Gas Import/Export and Northwest Pipeline Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Changed Circumstances in Existing Authorization.

SUMMARY: Northwest Pipeline Corporation ("Northwest") filed an application on March 2, 1983, with the Economic Regulatory Administration (ERA) notifying ERA of its proposal for a deferred exchange of natural gas with Westcoast Transmission Company Limited ("Westcoast") and requesting that an order be issued authorizing Northwest to carry out the exchange. Under the deferred exchange arrangement, Northwest would import natural gas under its existing authorization for seasonal storage at the Jackson Prairie Storage Project (Jackson Prairie) in Lewis County, Washington, for the account of British Columbia Hydro and Power Authority ("B.C. Hydro"), rather than for delivery to Northwest's system supply.

Under the Northwest proposal, up to 50,572 Mcf per day of Canadian natural gas will be delivered to or withdrawn from storage, but the total volume held

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in storage at any one time will not exceed 1, 719,468 Mcf of natural gas and volumes received for storage will be balanced by withdrawals over the five-year term of the proposal. Withdrawal of natural gas will be accomplished by displacement with stored volumes being delivered to Northwest's system supply concurrently with delivery of equivalent volumes by Westcoast directly to B.C. Hydro with a corresponding reduction in the volumes otherwise deliverable to Northwest under its existing import authorization.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration; Department of Energy, Forrestal Building, Room GA–007, RG–43, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9482.

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6667.

Background

Northwest is currently authorized to import up to 809,000 Mcf of Canadian natural gas per day through the import point near Sumas, Washington, pursuant to a series of authorizations issued by the Federal Power Commission (FPC).

On November 25, 1955, the FPC issued an Opinion and Order in Docket No. G–8932 (14 FPC 157) granting authority to Pacific Northwest Pipeline Company ("Pacific Northwest") to import up to 303,462 Mcf of natural gas per day through the import point near Sumas, Washington, for resale to customers in the United States. Upon merger of Pacific Northwest into El Paso Natural Gas Company ("El Paso"), this import was continued by El Paso under authority granted in Docket No. G–13019 (22 FPC 1091 and 28 FPC 7). El Paso's authorization was amended by FPC orders in Docket No. CP70–136 (43 FPC 723, May 12, 1970, and 45 FPC 252, February 9, 1971), which amendments increased the daily import authorization to the currently authorized level of 809,000 Mcf per day. On September 21, 1973, the FPC, in Docket No. CP73–332 (50 FPC 825), authorized Northwest to acquire and operate the facilities of El Paso's Northwest System Division and to continue the importation of gas from Westcoast as El Paso's successor in interest, under the same conditions as those prevailing under the authorizations issued to El Paso in Docket No. CP70–136.

Changed Circumstance

Northwest proposes a deferred exchange of existing authorized import volumes, whereby, from May through September, Westcoast would deliver natural gas paid for by B.C. Hydro to Northwest at Sumas, Washington. Northwest would then transport the gas for storage in space held by The Washington Water Power Company ("Water Power") at Jackson Prairie. Water Power has agreed to release part of their storage space to B.C. Hydro. During the subsequent heating season, October through April, Northwest would withdraw the gas stored for the account of B.C. Hydro for Northwest's system supply, but assess transportation charges to B.C. Hydro as if Northwest were transporting the gas to Westcoast at Sumas, Washington, for delivery to B.C. Hydro. Northwest further asserts that the actual flow of natural gas during withdrawal from storage is accomplished by displacement with natural gas from Jackson Prairie being withdrawn by Northwest for system supply in exchange for delivery from Westcoast directly to B.C. Hydro of equivalent volumes of natural gas which would be subtracted from the volumes otherwise deliverable by Westcoast to Northwest.

Northwest indicates that B.C. Hydro will play for the natural gas at the time of delivery to Northwest for storage at the commodity price agreed upon in 1987 between B.C. Hydro and Westcoast for domestic deliveries at Huntington, British Columbia. Northwest pays for the gas it withdraws from storage at the time of delivery into its system supply at the current price applicable to natural gas purchased from Westcoast and imported through the Sumas import point.

Northwest states that it does not propose to import or export volumes in excess of those currently authorized. The proposal has been structured specifically to preclude any expansion or extension of existing authorized imports or exports by all parties. Northwest notes that the deferred exchange is for the purpose of providing off-peak storage of natural gas within reasonable proximity to B.C. Hydro's distribution system. Northwest further states that volumes of natural gas received into storage in the United States would be balanced by withdrawals over the term of the proposed project commencing on May 1, 1983, and continuing until April 30, 1988, and thereafter on a year-to-year basis.

Procedural Matters

Any person wishing to become a party to the proceeding and thus to participate as a party in any conference or hearing which might be convened must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed not later than 4:30 p.m., May 27, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northwest's application is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Issued in Washington, D.C., on May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–12877 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–008]

Long Island Lighting Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 15, 1983, Long Island Lighting Company (LILCO), 250 Old Country Road, Mineola, New York 11501, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 2.0 billion cubic feet of natural gas which is expected to displace the use of approximately 8,000 barrels of No. 2 fuel oil (0.30 percent sulfur) and 280,000 barrels of residual fuel oil (0.37 percent sulfur) per year at its E. F. Barrett Electric Plant in Island Park, New York, and approximately 37,000 barrels of residual fuel oil (0.37 percent sulfur) per year at its Glenwood Electric Plant in Glenwood Landing, New York.

The eligible seller of the natural gas is New York State Electric and Gas Corporation, 4500 Vestl Parkway, East Binghamton, New York 13902. The gas will be transported by Tennessee Gas Pipeline Company, Tenneco Building, P.O. Box 2511, Houston, Texas 77001.

Notice of that application was published in the **Federal Register** (48 FR 18867, April 26, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed LILCO's application for certification in accordance with 10 CFR Part 595 and the policy consideration expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that LILCO's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–12878 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–009]

Gates Rubber Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 21, 1983, The Gates Rubber Company (GATES), 999 South Broadway, Denver, Colorado 80217, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 1,480,000 Mcf per year of natural gas which is expected to displace the use of approximately 1,650,000 gallons (39,285 barrels) of No. 2 fuel oil (0.80 percent sulfur) and 7,410,000 gallons (176,428 barrels) of No. 6 fuel oil (0.90 percent sulfur) per year at its rubber manufacturing facility in Denver, Colorado.

The eligible seller of the natural gas, as amended on April 28, 1983, is Western Gas Processors, 10701 Melody Drive, Northglenn, Colorado 80234. The gas will be transported by Montana-Dakota Utilities Company, 400 North 4th Street, Bismarck, North Dakota 58501, and Colorado Interstate Gas Company, Box 1087, Colorado Springs, Colorado 80944. The local distribution company will be Public Service Company of Colorado, 243 Lipan Street, Denver Colorado 80223.

Notice of that application was published in the **Federal Register** (48 FR 18866, April 26, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed GATES' application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that GATES' application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed informaton, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 6, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–12732 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Form EIA–7A, Coal Production Report; Extension of Comment Period

AGENCY: Energy Information Administration, U.S. Department of Energy.

ACTION: Extension of comment period on the revision of the Form EIA–7A, "Coal Production Report," to May 31, 1983.

SUMMARY: The comment period for the Form EIA–7A, "Coal Production Report," is extended to May 31, 1983, from the original due date of April 30, as published in the 48 FR 13226–13235, dated March 30, 1983. This extension is in response to requests of several interested members of the coal industry and the National Coal Association.

DATES: Written comments must be submitted by May 31, 1983.

ADDRESS: Send comments to Harriet M. Tarver at the address listed below.

FOR FURTHER INFORMATION CONTACT:

To obtain additional information or copies of the EIA–7A, contact Ms. Harriet M. Tarver, Coal Division, MS: 2F–021, Energy Information Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–9723.

Issued in Washington, D.C., May 6, 1983.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 83–12870 Filed 5–11–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP83–74–000]

Robert Abrams et al. v. Tennessee Gas Pipeline Co.; Notice of Complaint

May 6, 1983.

In the matter of Robert Abrams, as Attorney General of the State of New York, Joseph Gerace, as County Executive for Chautauqua County, and Edward J. Rutkowski, as County Executive of Erie County, Complainants, v. Tennessee Gas Pipeline Company, Defendant.

Take notice that on April 20, 1983, a complaint was filed pursuant to Section 5 of the Natural Gas Act, 15 U.S.C. § 717d, and Order 141 of the Federal Energy Regulatory Commission (Commission) as amended by Order 359, 18 CFR § 1.6. Complainants seek to have the Commission reform certain practices and contracts of the defendant, including "take-or-pay" contract clauses, which are unjust, unreasonable, and preferential and which result in the imposition by defendant of unlawful, unjust, reasonable, and preferential rates and charges in violation of Sections 4 and 5 of the Natural Gas Act, 15 U.S.C. §§ 717 c and d and in violation of the lowest reasonable rate

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requirement of Section 5. Complainants allege that defendant has imprudently purchased large amounts of expensive gas while reducing its purchases of far less expensive gas. The Commission has jurisdiction over this complaint under Sections 1(b) and 5 of the Natural Gas Act, 15 U.S.C. §§ 717 b and d. Jurisdiction is not invoked solely by reason of a first sale and therefore NGPA 601(a)(1) does not apply.

Complainants are Robert Abrams, as Attorney General of the State of New York, who appears on behalf of the people of the State of New York, Joseph Gerace, as County Executive for Chautauqua County, who appears on behalf of the people of Chautauqua County, and Edward J. Rutkowski, as County Executive of Erie County, who appears on behalf of the people of Erie County.

Defendant Tennessee Gas Pipeline Company (Tennessee) is engaged both in the transportaion of gas in interstate commerce and in the sale in interstate commerce of such gas for resale. It is a natural gas company within the meaning of Section 1a of the Natural Gas Act, 15 U.S.C. § 717a, and is subject ot the jurisdiction of the Commission. Tennessee is a division of Tenneco, Inc.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12774 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-476-000]

Connecticut Light and Power Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Central Vermont Public Service Corporation (CVPS). The Agreement, dated as of January 20, 1983, provides for the NU Companies to sell to CVPS excess power from the system of the NU Companies ("system power") that may be available on a daily or weekly basis. CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to CVPS only when it was economic for them to do so.

CVPS would accept such an offer only if it was economic for CVPS to do so.CVPS will pay a capacity charge to the NU Companies for each transaction in an amount equal to the kilowatthours of system capacity utilized by the NU Companies to supply system power to CVPS during a transaction, times a rate negotiated between the parties prior to each transaction, not to exceed $0.0175 per kilowatthour. CVPS will also pay any energy charge to the NU Companies for each transaction in an amount equal to the kilowatthours provided by the NU Companies during such transaction times an energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide power at the time a transaction is agreed to by the parties.

CL&P requests an effective date of January 20, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon WMECO and CVPS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12775 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-286-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 22, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83-286-000, a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon in place a lateral line and metering facilities and the gas service through said facilities at Amax Phophate, Incorporated's Teneroc Plant located in Lakeland, Polk County, Florida, under the authorization issued in Docket No. CP82-553-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the 3½-inch lateral line and metering facilities used to serve the Teneroc Plant are no longer required since the plant closed down and the land on which the plant was located has been dedicated to the State of Florida for a park. Applicant therefore proposes the abandonment of such facilities and service to the plant.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 358.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb

Secretary

[FR Doc. 83-12784 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-288-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 22, 1983, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. GP83-288-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes the addition of a delivery point to Peoples Gas System (Peoples) in Plantation, Broward County, Florida, under the authorization issued in Docket No. CP82-553-00 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of an additional deliver point to Peoples to allow for more efficient distribution of natural gas on the Peoples' system. It is stated that gas entitlements would not be increased. Further it is asserted that the cost of the additional delivery point would be 100 percent reimbursed by Peoples.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12785 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-235-000]

Lebanon Methane Recovery, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On March 28, 1983, Lebanon Methane Recovery, Inc., (Applicant), 920 Rosstown Road, Lewisberry, Pennsylvania 17339, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On April 21, 1983 additional information was filed.

The facility, located in Lebanon County, Pennsylvania, will use as its primary energy sources biomass, in the form of biomethane obtained from a sanitary landfill. No coal, gas or oil will be used in the facility. The electric power production capacity of the facility will be 2,000 kilowatts. The owner of the facility does not own any other biomass-fueled small power production facility located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to interevene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12787 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-238-000]

Moon Lake Water Users Association; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On March 31, 1983, Moon Lake Water Users Association (Applicant), of P.O. Box 235, Roosevelt, Utah 84066, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric facility will be located near the Big Sand Wash Reservoir in Duchesne County, Utah. The power production capacity of the facility will be 1,700 kilowatts. There are no other hydroelectric facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12788 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-478-000]

Oklahoma Gas & Electric Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Agreement with Cimarron Electric Cooperative for a new point of delivery under its FERC Electric Tariff to be designated Marshall #2.

OG&E requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR §§ 385:211, 385.214). All such motions or protests must be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

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intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12768 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-474-000]

Pennsylvania Power & Light Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 2, 1983, the Pennsylvania Power & Light Company (PP&L) tendered for filing as a Supplement to Rate Schedule FERC No. 68 an executed agreement dated as of April 15, 1983 between PP&L and UGI Corporation (UGI). This supplement will increase PP&L's charges by changing the return on equity component in the cost of service formula used to compute charges to UGI. This supplement will increase PP&L's charges to UGI by $529,529 or 4.2% due to the aforementioned change in the return on equity component in the cost of service formula used to compute charges to UGI. This supplement will increase PP&L's charges to UGI by $529,529 or 4.2% due to the aforementioned change in the return on equity component.

PP&L requests an effective date of April 22, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon UGI and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-12769 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-14-000]

Phelps Dodge Corp.; Notice of Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Ajo, Arizona facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12770 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-13-000]

Phelps Dodge Corp.; Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Bisbee, Arizona facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12771 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-12-000]

Phelps Dodge Corp.; Notice of Petition for Adjustment

May 6, 1983.

On April 25, 1983, Petitioner, Phelps Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment under rules issued under Section 201(a) of the Natural Gas Policy Act wherein Phelps Dodge Corporation would be exempted from paying incremental pricing surcharges attributable to gas consumed at Phelps Dodge's Tyrone, New Mexico facility. Petitioner also requests interim relief effective April 1, 1983.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12772 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-477-000]

Public Service Company of New Mexico; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, the Public Service Company of New Mexico (PNM) tendered for filing a peaking capacity sales agreement entitled "Service Schedule I—Peaking Capacity Sales", between PNM and Plains Electric Generation and Transmission Cooperative, Inc., (Plains). Such agreement is to become a party of the PNM and Plains Master Interconnection Agreement (PNM Rate Schedule FPC No. 31).

PNM is to sell a minimum of 15 megawatts and up to a maximum of 50 megawatts of peaking capacity from its three (3) Reeves Generating Station Units. Service is to commence on June 1, 1983, subject to FERC acceptance, at 15 megawatts and continue through May 31, 1989.

Copies of the filing were served upon Plains and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12773 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-475-000]

Sierra Pacific Power Co.; Notice of Filing

May 6, 1983.

The filing Company submits the following:

Take notice that Sierra Pacific Power Company (Sierra) on April 25, 1983, tendered for filing proposed changes in its FERC Electric Tariff (Volumes 1 and 2).

This filing involves a wheeling agreement between Wells Rural Electric Company (Wells) and Sierra. The agreement consolidates two previous wheeling agreements between Wells and CP National Corporation, which agreements were assumed by Sierra upon its acquisition of CP National Corporation's Elko, Nevada and Winnemucca, Nevada service territories on April 1, 1982. The new agreement also increases the wheeling demand charge under the contracts to cover the cost of reconductoring of a portion of the lines involved. The loss calculation is also increased to cover losses caused by new loads. The wheeling limit for both delivery points involved in the contract was raised, and a penalty charge instituted for any usage in excess of that limit.

Sierra requests an effective date of February 18, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12775 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-73-000]

State of North Dakota v. Northern Natural Gas Company Division of InterNorth, Inc. and Midwestern Gas Transmission Co.; Notice of Complaint, Petition for Declaratory Order, and Request for Evidentiary Hearing of the State of North Dakota

May 6, 1983.

Take notice that on April 14, 1983, the State of North Dakota, by and through counsel Robert O. Wefald, Attorney General, State of North Dakota, and Frederick L. Miller, Jr. and J. Cathy Lichtenberg, Special Assistant Attorneys General for the State of North Dakota, filed a Complaint, Petition For Declaratory Order, And Request For Evidentiary Hearing Of the State Of North Dakota (Complaint) alleging facts and circumstances that constitute a basis for the Complaint and entitle Petition to relief pursuant to the Natural Gas Act, 15 U.S.C. § 717 *et seq.* as hereinafter described.

This Complaint is filed pursuant to Sections 4, 5, 13 and 14 of the Natural Gas Act, 15 U.S.C. §§ 717c, 717d, 717l and 717m and Rules 206 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission.

North Dakota accordingly files this Complaint against Northern Natural Gas Company and Midwestern Gas Transmission Company in its *parens patriae* or sovereign capacity as guardian of the health, welfare, and property of its citizens.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12776 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-256-000]

Whisky Run Energy Partners Ore. Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On April 13, 1983, Whisky Run Energy Partners, Ore. Ltd. (Applicant), of 50 California Street, Suite 3300, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind facility is located in Coos Bay, Oregon. The generating capacity of the facility is 1,250 kilowatts. There are no other wind facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

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intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12780 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-262-000]

Winchester Water Control District, and Elektra Power Corp.; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 6, 1983.

On April 19, 1983, Winchester Water Control District, and Elektra Power Corporation (Applicant) 744 San Antonio Road, Palo Atlo, California 94303, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectic facility will be located at the Winchester Dam on the North Umpqua River, near Winchester, Douglas County, Oregon. The power production capacity of the facility will be 1,500 kilowatts. There are no other hydroelectric facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12780 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-57-000]

United Gas Pipe Line Company; Settlement Conference

May 6, 1983

Take notice that on May 19, 1983, at 10:00 a.m. and extending to May 20, 1983, a settlement conference will be convened in the above-captioned docket. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, 285 North Capitol Street, NE., Washington, D.C. 20426.

The number of the hearing or conference room where the conference will be convened will be posted on the second floor bulletin board by 9:30 a.m. on May 19, 1983.

All interested parties and Staff are invited to attend.

The Staff states that all parties should consider its previous suggestion that it might save time for all interested participants if parties with substantial counter-proposals to proposals already offered on March 18, 1983, would circulate their proposals to participants prior to the settlement conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12779 Filed 5-11-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51466; TSH-FRL 2362-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eighteen PMNs and provides a summary of each.

DATES: Close of review period:

PMN 83-680, 83-681 and 83-682—July 27, 1983.

PMN 83-683, 83-684, 83-685 and 83-686—July 30, 1983.

PMN 83-687 and 83-688—July 31, 1983.

PMN 83-689, 83-690, 83-691, 83-692 and 83-693—August 1, 1983.

PMN 83-694, 83-695, 83-696 and 83-697—August 2, 1983

Written comments by:

PMN 83-680, 83-681 and 83-682—June 27, 1983.

PMN 83-683, 83-684, 83-685 and 83-686—June 30, 1983.

PMN 83-687 and 83-688—July 1, 1983.

PMN 83-689, 83-690, 83-691, 83-692 and 83-693—July 2, 1983.

PMN 83-694, 83-695, 83-696 and 83-697—July 3, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51466]" and the specific PMN Number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-680

Manufacturer. Confidential.

Chemical. (G) Hydroxyethylaminoethylated tannin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 13 workers, up to 1 hr/da, up to 125 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr release to water. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83-681

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. (G) Urethane copolymers. Prod. range: Confidential.

Toxicity Data. Acute oral: 3.1 ml/kg; Acute dermal: > g/kg; Irritation: Skin—Severe, Eye—Minimal; Inhalation: 0.750 mg/l; Ames Test: Non-mutagenic.

Exposure. Manufacture: dermal, a total of 29 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-682

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. (G) Urethane copolymers. Prod. range: Confidential.

Toxicity Data. Acute oral: 4.4 g/kg; Acute dermal:>2 g/kg; Irritation: Skin—Maximum mean daily store of 4.0 for erythema and 0.6 for edema, Eye—Minimal; Skin sensitization: Sensitizer.

Exposure. Manufacture: dermal, a total of 29 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-683

Manufacturer. Farchan Laboratories, Inc.

Chemical. (S) 1-ethynyl-1-cyclopentanol.

Use/Production. (S) Site-limited intermediate and industrial R&D reagent. Prod. range: Confidential.

Toxicity Data. Acute oral: 500 mg/kg; Irritation: Skin—Mild, Eye—Strong; Ames Test: Non-mutagenic; Skin sensitization: Not a sensitizer.

Exposure. manufacturer and processing: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW and incineration.

PMN 83-684

Manufacturer. Farchan Laboratories, Inc.

Chemical. (S) 1,4-bis(1-hydroxy cyclopentyl) butadiyne.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 98 mg/kg (male), 139 mg/kg (female); Irritation: Skin—Non-irritant, Eye—Mild:, Ames Test: Non-mutagenic; Skin sensitization: Not a senitizer.

Exposure. manufacture, processing and use: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW and incineration.

PMN 83-685

Manufacturer. Rohm and Haas Company.

Chemical. (G) [(Substituted phenyl)Hydrazono]substituted oxoheteromonocycle.

Use/Production. (S) Intermediate for agricultural chemical. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; Ames Test: Non-mutagenic.

Exposure. manufacture, processing and disposal: dermal, a total of 30 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10-1000 kg/yr to water. Disposal by incineration.

PMN 83-686

Importer. Confidential.

Chemical. (G) Modified ethylene—tetrafluoroethylene copolymer.

Use/Import. (S) Wire and cable coating and chemical and electrical process equipment used for industrial, commercial, and consumer use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing and disposal: dermal, a total of 33 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 100-12,000 kg/yr released to land. Disposal by landfill.

PMN 83-687

Manufacturer. National Starch and Chemical Corporation.

Chemical. (G) Carboxylated vinylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >23.07 g/kg; Acute dermal: >110.25 g/kg; Irritation: Skin—Mild, Eye—Minimal; Human Insult Patch Test: Not an irritant; 20 day subacute dermal: No significant adverse findings.

Exposure. Manufacture: inhalation, a total of 50 workers, negligible.

Environmental Release/Disposal. Release is negligible. Disposal in accordance with existing regulations.

PMN 83-688

Manufacturer. American Cyanamid Company.

Chemical. (G) Substituted acrylamide copolymer.

Use/Production. Confidential Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 50 workers, up to 24 hrs/da, up to 365 da/yr.

Environmental Release/Disposal. Release is minimal. Disposal by POTW.

PMN 83-689

Manufacturer. Confidential.

Chemical. (G) Water reducible alkyd resin.

Use/Production. (S) Industrial water reducible paint vehicle. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 4 workers, up to 2 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by incineration.

PMN 83-690

Manufacturer. Confidential.

Chemical. (G) Quaternary salt of a polymer of methyl methacrylate, butyl acrylate, and substituted methacrylate.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, less than 9 workers, up to 24 hrs/da, up to 350 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to water. Disposal by POTW.

PMN 83-691

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benzothiazole salt.

Use/Production. (G) A minor constituent in an article for commercial and consumer use. Prod. range: 100 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation, minimal.

Environmental Release/Disposal. Release to air and water is negligible. Disposal by biological treatment system and incineration.

PMN 83-692

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benzothiazole salt.

Use/Production. (G) A minor constituent in an article for commercial and consumer use. Prod. range: 5-10 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal and inhalation, minimal.

Environmental Release/Disposal. Release to air and water is negligible. Disposal by incineration.

PMN 83-693

Manufacturer. AZS Chemical Company.

Chemical. (S) N,N'-diaminopropyl ethyl piperazine.

Use/Production. (S) Industrial inhibitor, lube oil and asphalt additive. Prod. range: 25,000-1,000,000 kg/yr.

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Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 6 workers, up to 8 hrs/da, up to 3 da/yr.
Environmental Release/Disposal. No release.

PMN 83-694

Importer. Confidential.
Chemical. (G) Polyester of phthalic anhydride and polyhydric saturated alcohols.
Use/Import. (S) Commercial ball pen inks. Import range: 10,000–40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal and inhalation, a total of 8 workers, up to 1 hr/da, up to 44 da/yr.
Environmental Release/Disposal. Release is unknown.

PMN 83-695

Manufacturer. Confidential.
Chemical. (G) Copolymer of vinyl amides.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83-696

Manufacturer. Confidential.
Chemical. (G) Dimer fatty acids, monocarboxylic acid, and polyamines polymer, modified with an acrylic acid copolymer.
Use/Production. (S) Solvent-based flexographic printing inks. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: inhalation, a total of 2 workers, up to 1 hr/da, up to 18 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by biological treatment system and approved landfill.

PMN 83-697

Manufacturer. Confidential.
Chemical. (G) Fatty acid alkyd based polymer.
Use/Production. (G) Open use. Prod. range: 20,000–500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation and ocular, a total of 111 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10 to more than 10,000 kg/yr to land. Disposal by incineration and approved landfill.

Dated: May 9, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-12732 Filed 5-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket Nos. 83-432 and 433, File Nos. BPET-820709KE and BPET-820824KT]

Applications etc.; Black Television Workshop of Santa Rosa, Inc. and Bay North Educational Television, Inc.; For Construction Permit; Hearing Designation Order

Adopted: April 27, 1983.
Released: May 5, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Black Television Workshop of Santa Rosa, Inc. (BTW) [1] and Bay North Educational Television, Inc. (Bay North) [2] for authority to construct a new non-commercial educational television broadcast station on Channel 62, Santa Rosa, California.

2. On August 24, 1982, Sonoma Broadcasting, Inc., Licensee of Station KFTY(TV), Santa Rosa, California, filed a petition to deny BTW's application on the grounds that BTW specified KFTY's transmitter site for its proposed station. The petitioner alleges that it has not authorized BTW to use its site. On March 3, 1983, BTW amended its application to specify a different site. The petition to deny will, therefore, be dismissed as moot.[3]

3. Bay North indicates, in response to Section V-C, Item 16, FCC Form 301, that construction of the proposed station would not be a major environmental action within the meaning of § 1.1305 of the Commission's Rules, That section of the Rules defines construction of a television tower of over 300 feet above ground level (AGL) as a major action, subject to certain exceptions not applicable here. The applicant proposes a tower 457 feet AGL. The construction would, therefore, be a major environmental action. Accordingly, the applicant will be required to submit an environmental narrative statement to the presiding Administrative Law Judge within 30 days of the date of release of this Order.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the extent to which each applicant's proposed operation will be integrated into the overall cultural and educational objectives of the respective applicants;

2. To determine the manner in which each applicant's proposed operation meets the needs of the community to be served;

3. To determine whether the factors in the record demonstrate that one applicant will provide a superior non-commercial educational broadcast service;

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That the petition to deny filed by Sonoma Broadcasting Inc., is dismissed as moot.

7. It is further ordered, That Bay North shall submit, pursuant to § 1.1311 of the Commission's Rules, to the presiding Adminstrative Law Judge within 30 days after the release of this Order, an environmental narrative statement.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

[1] On October 20, 1982, BTW amended its application to change from an unincorporated assocation to a corporation and to change its name from Black Television Workshop.

[2] A Petition for Leave to Amend was filed by Bay North on December 14, 1982. The amendment pertains to additional information regarding the directors. For good cause shown, the petition is granted and amendment is accepted.

[3] Petitioner also alleged that there would be overlap with a TV station proposed by BTW to operate on Channel 22, Cotati, California, but that application has been dismissed.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-12709 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-436, File No. BPCT-821221KG, et al.]

Applications, etc.; Golden Valley Communications (Limited Partnership), et al.; Hearing Designation Order

Adopted: April 28, 1983.
Released: May 5, 1983.

In re applications of Golden Valley Communications (limited partnership), Oroville, California, MM Docket No. 83-436, File No. BPCT-821221KG; Jane A. Filler, Dora Clapp and James E. Auel, d.b.a., Oroville Television, Oroville, California, MM Docket No. 83-437, File No. BPCT-821221KI; Gridley Community Television of Oroville [1] Oroville, California, MM Docket No. 83-438, File No. BPCT-821221KJ; Patricia Luz Gonzalez, and Douglas Jones, d.b.a. Oroville Communications 28, Ltd.,[2] Oroville, California, MM Docket No. 83-439, File No. BPCT-821221KK; for construction permit.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 28, Oroville, California; "Petitions to Deny" the applications of Oroville Television and Oroville Communications 28, Ltd., filed by the State of California and the United States Forest Service; and related pleadings.

2. Two of the applicants, Oroville Television and Oroville Communications 28 Ltd., have each specified "Bloomer Hill" as its transmitter site. On February 17, 1983, and February 18, 1983, "petitions to deny" the applications were filed by the United States Forest Service and the State of California, respectively. The petitioners are concerned that a high-power broadcast station would cause objectionable interference to their public safety communications facilities. These facilities apparently are microwave stations and land mobile radio systems operated by Federal and State agencies.

3. The frequency separation of Channel 28 (554–560 MHz) and the petitioners' facilities is so great (a minimum of 84 MHz) that objectionable interference is not likely to occur. However, in the event that interference does occur as a result of the operation of a Channel 28 broadcast facility, the Commission relies on its long standing policy that the "newcomer" is responsible, financially and otherwise, to effect corrective measures. Accordingly, the "petitions to deny" will be denied. However, since the potentially affected radio facilities involve the safety of life and property, the successful permittee for Channel 28, in Oroville, California is cautioned to take adequate measures *during its equipment test stage* to identify and correct any objectionable interference caused by its operations. This may require meetings and coordination with the potentially affected radio services users (prior to conducting equipment tests) as well as the allocation of time and resources to employ effective corrective measures should interference occur.[3]

4. Golden Valley Communications (Golden) and Gridley Community Television of Oroville (Gridley) are both 9 miles short-spaced to the reference point for Channel 29, Sacramento, California. Golden has not requested a waiver of § 73.610(d) of the Commission's Rules; Gridley has. The other two applicants have proposed transmitter sites that are consistent with the minimum separation requirements. Accordingly, an issue will be specified with respect to the short-spacing of Golden and Gridley's proposed transmitter sites.

5. The Commission is not in receipt of the Federal Aviation Administration's study for the tower proposed by Oroville Television. Consequently, no determination has been made that the tower height and location proposed would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Golden Valley Communications and Gridley Community Television of Oroville whether each of their proposed transmitter sites is consistent with the minimum mileage separation requirements of § 73.610 of the Rules, and if not, whether circumstances exist which would warrant a waiver of the Rule.

2. To determine with respect to Oroville Television whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That the "Petitions to Deny" filed by the United States Forest Service and the State of California ARE DENIED.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

[1] Applicant amended its application on March 16, 1983, to change its name from Gridley Community Television.

[2] Applicant amended its application to change its limited partner. Since the transfer of the limited partner's interests does not affect control of the partnership, the amendment does not constitute a transfer of control and it is not, therefore, a major amendment. *Anax Broadcasting, Incorporated,* 87 FCC 2d 484 (1981).

[3] The State of California also alleges that the proposed "Bloomer Hill" transmitter site will obstruct the Dept. of Forestry's fire lookout line-of-sight visibility. In the absence of any additional supporting information, the issue will be denied. We note that no such allegation has been made by the Forest Service itself.

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11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-12710 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-434. File No. BPCT-820827KH; and MM Docket No. 83-435. File No. BPCT-821027KE]

Applications, etc. Mid Shore Resources, Inc. and Norwell Broadcasting Co.; for a Construction Permit for a New Television Station on Channel 46, Norwell, Massachusetts; Hearing Designation Order

Adopted: April 27, 1983.

Released: May 5, 1983.

By the Chief, Mass Media Bureau:

1. The Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (1) the above-captioned mutually exclusive applications of Mid Shore Resources, Incorporated ("Mid Shore" or "petitioner") Norwell, Massachusetts and Norwell Broadcasting Company ("Norwell Broadcasting") Norwell, Massachusetts; [1] (2) a motion to dismiss and a petition to deny the Norwell Broadcasting application, filed by Mid Shore on December 21, 1982, and January 5, 1983, respectively; and (3) responsive pleadings thereto.

2. *The Mid Shore Pleadings.* In its motion to dismiss, Mid Shore contends that the Norwell Broadcasting application should be dismissed as not substantially complete and thus unacceptable for filing. Although it is acknowledged that all sections of the application were completed when originally filed, the petitioner maintains that the information contained therein was so incorrect, contradictory, confusing "and so anticipatory of the allowance of liberal amendments by the Commission to gain the level of grantability, as to render its acceptability for filing completely absent." Further, Mid Shore contends that because of these deficiencies, Norwell Broadcasting should not be permitted to amend its application.

3. The standards for determining whether an application is sufficiently complete to be acceptable for filing are well established. What is required is not *total* completeness, but *substantial* completeness. *Miami STV, Inc.*, FCC 80-204, 47 RR 2d 556, released May 2, 1980. *See also Peoria Community Broadcasters, Inc.*, 79 FCC 2d 311 (1980); *K & L Communications, Inc.*, 70 FCC 2d 1987; *KALE, Inc.*, 56 FCC 2d 1033 (1975). *Central Florida Enterprises, Inc.*, 22 FCC 2d 260 (1970). A substantially complete application may be acceptable for filing purposes and yet not demonstrate the requisite qualifications for grant. *James River Broadcasting Corp. v. F.C.C.*, 399 F. 2d 581 (1968). It is undisputed that all sections of the Norwell Broadcasting application were completed when tendered. The petitioner's dispute here involves matters relating to legal and comparative qualifications, not acceptability. It is unnecessary at this time to determine whether Norwell Broadcasting's application is sufficient to demonstrate that it is fully qualified to receive a construction permit. Our acceptance of the application for filling merely means that it has been subject to administrative examination and found to be complete so as to enable the staff to begin processing procedures. Section 73.3564 of the Commission's Rules; *KALE, Inc., supra*, at 1034. Alleged deficiencies of the nature set forth by the petitioner are fairly typical of the many applications filed for construction permits the are routinely accepted for filing and later corrected by amendment. In fact, on January 7, 1983, Norwell Broadcasting properly amended its application as a matter of right pursuant to Section 73.3522(b) of the Commission's Rules. [2] Inasmuch as the application was substantially complete when filed and meets the criteria for acceptance, the motion to dismiss will be denied.

4. In the petition to deny, Mid Shore charges that the Norwell Broadcasting application was filed not to acquire a construction permit, but rather "* * * with the singular intention of exacting a settlement for consideration paid" in exchange for dismissing its application. However, Mid Shore has not supported its allegations with an affidavit of one with personal knowledge of the facts alleged, as required by Section 309(d)(1) of the Communications Act of 1934, as amended, nor submitted any other specific evidence to support its claim. Therefore, there is no basis to act on this allegation. The remainder of the petition to deny, comprises, in essence, a pre-designation petition to specify issues. Since such issues pleadings are no longer permitted, the petition to deny and pleadings related thereto will be dismissed. *Revised Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 214 (1979). This action is without prejudice to Mid Shore, however, as it will have an opportunity to raise such allegations, if warranted, pursuant to § 1.229 of the Commission's Rules.

5. Since we have not received a determination from the Federal Aviation Administration that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

6. Norwell Broadcasting proposes to operate with maximum visual effective radiated power (ERP) of more than 1000 kilowatts from a site located within 250 miles of the Canadian border. The proposal poses no interference threat to United States stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). Accordingly, in the event of a grant of the Norwell Broadcasting application, the construction permit shall be appropriately conditioned.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to the proceeding with respect to issue 1.

10. It is further ordered, That the motion to dismiss filed by Mid Shore Resources, Incorporated, is denied, and its petition to deny is dismissed.

11. It is further ordered, That, in the event of a grant of the Norwell Broadcasting Company application, the construction permit shall be conditioned as follows:

Operation with maximum visual effective radiated power in excess of 1000 kilowatts shall not commence absent Canadian consent.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a) (2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Sevices Division, Mass Media Bureau.

[FR Doc. 83-12709 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Common Carrier Communications Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Common Carrier Communication Subcommittee of the National Industry Advisory Committee (NIAC) to be held Thursday, May 26, 1983. The Subcommittee will meet at AT&T Long Lines, 1120 20th Street, NW., Washington, D.C. at 9:30 a.m.

Purpose: To consider emergency communications matters.

Agenda: As follows:

1. Opening remarks by Chairman.
2. Continuation of the deliberations of the Subcommittee's May 5, 1983 meeting.
3. Other business.
4. Adjournment.

Any member of the public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634-1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-12843 Filed 5-11-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Manufacturers Hanover Corp. and Redmond Bancorp.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York (finance and insurance activities; Connecticut): To continue to hold the shares of Manufacturers Hanover Financial Services of Connecticut, Inc. ("MHFS") after MHFS engages in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as would be made or acquired by a finance company under Connecticut law; and offering credit related life insurance and credit accident and health insurance at a new location in West Hartford, Conneticut. These insurance activities are permissible under sections 601 (A) and (D) of the Garn- St Germain Depository Institutions Act of 1982. MHFS presently engages in these activities from an office in Wallingford, Connecticut. The application is only to continue to hold the shares of MHFS after MHFS engages in these activities at a different location servicing an expnaded service area; the application does not involve the commencement of any new activities at the new location. The office will serve customers in the State of Connecticut. Comments on this application must be received not later than June 6, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Redmond Bancorp*, Redmond, Washington (lending and servicing activities; western United States): Through its wholly-owned subsidiary, Redmond Mortgage Company, Redmond, Washington, will engage in the financing, refinancing, buying, selling, servicing and warehousing of all types of real estate loans secured by mortgages and trust deeds. These include, but are not limited to, single-family residences, apartments, condominiums, town houses, industrial and commercial real estate loans. These activities will be conducted from an office in Redmond, Washington, serving the western United States. Comments on this application must be received not later than June 6, 1983.

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[1] By amendment filed on January 7, 1983, the Commission was advised, *inter alia*, that Pepsi Cola Bottling Company of Alton, Inc., in whose name the application was tendered, transferred its interest to Norwell Broadcasting, a general partnership comprised of the two individuals noted as principals in the originally tendered application. The amendment is a minor change in that there is no change in the ownership interest of the principals.

[2] The petitioner has provided no support for its contention that Norwell Broadcasting should not be permitted to amend its application as a matter of right. Moreover, although the petitioner maintains that the amendment constitutes a prohibited 50% change in its originally proposed coverage area, Norwell Broadcasting has demonstrated that its amended proposal is a "minor change" in that the coverage area was changed by 44%. Therefore, no further discussion of these allegations is warranted.

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Board of Governors of the Federal Reserve System, May 6, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-12861 Filed 5-11-83; 8:45 am]
BILLING CODE 6210-01-M

Miners National Bancrop, Inc. and Memphis Bancshares, Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Miners National Bancorp, Inc.*, Pottsville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Miners National Bank of Pottsville, Pottsville, Pennsylvania. Comments on this application must be received not later than June 6, 1983.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Memphis Bancshares, Inc.*, Memphis, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Memphis, Texas. Comments on this application must be received not later than June 1, 1983.

Board of Governors of the Federal Reserve System, May 6, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-12860 Filed 5-11-83; 8:45 am]
BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to acquire 100 percent of the voting shares of the successor by merger to Commercial Bankshares, Inc., Griffin, Georgia. Comments on this application must be received not later than May 26, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.
James McAfee,
Associate Secretary of the Board
[FR Doc. 83-12821 Filed 5-11-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Potomac Bancorp, Inc.*, Keyser, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Keyser, Keyser, West Virginia. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.
James McAfee,
Associate Secretary of the Board
[FR Doc. 83-12822 Filed 5-11-83; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The organizations identified in the notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its bank holding company subsidiary, *Barclays Bank International Limited*, London, England (leasing activities; Georgia and Alabama): To engage through their subsidiary, BarclaysAmerican/Leasing, Inc., ("BAL"), in lease financing of personal property by means of leases that meet the standards of Section 225.4(a)(6) of Regulation Y. This activity would be conducted from an office of BAL to be relocated from Chamblee, Georgia, to Norcross, Georgia, serving Georgia and Alabama. Comments on this application must be received not later than June 8, 1983.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Virginia National Bankshares, Inc.*, Norfolk, Virginia (financing and insurance activities; Florida): To engage, through a subsidiary known as VNB Equity Corporation, in the following activities: making, acquiring, and servicing, for its own account or for the account of others, loans secured principally by second mortgages on real property, and acting as an agent in the sale of credit life insurance and accident and health insurance in connection with such loans. Such activities will be conducted from an office in Plantation, Florida and will serve Plantation and the surrounding area. Comments on this application must be received not later than June 7, 1983.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Central Pacific Corporation*, Bakersfield, California (data processing services and management consulting; California and Arizona): To engage, through its subsidiary, CPC Financial Corporation, in data processing of financial and banking data of affiliated companies and others, and in management consulting to affiliated and non-affiliated bank and non-bank depository institutions. These activities would be conducted from an office in Bakersfield, California, serving the states of California and Arizona. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-12823 Filed 5-11-83; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Ultramar Public Ltd. Co. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction and Waiting Period Terminated Effective—

(1) Transaction Number 83-0220 Ultramar Public Limited Company's proposed acquisition of all voting securities of Pittston Petroleum, Incorporated (The Pittston Company, UPE)—April 21, 1983
(2) Transaction Number 83-0254, GFI/Knoll International Holding Company's proposed acquisition of voting securities of Sotheby Parka Bernet Group p.l.c.—April 21, 1983
(3) Transaction Number 83-0205, The Dun & Bradstreet Corporation's proposed acquistion of all voting securities of McCormack & Dodge Corporation—April 22, 1983
(4) Transaction Number 83-0257, Alpha Sierra, Incorporated's proposed acquistion of assets of Baxter Travenol Laboratories, Incorporated—April 22, 1983
(5) Transaction Number 83-0258, Duckwall-ALCO Stores Incorporated's proposed acquisition of all voting securities of Sterling Stores Company, Incorporated—April 21, 1983
(6) Transaction Number 83-0249, Occidental Petroelum Corporation's proposed acquiation of certain voting securities of The Southland Corporation—April 21, 1983
(7) Transaction Number 83-0247, The Southland Corporation's proposed acquistion of all voting securities of Cities Service RMT Corporation—(Occidental Petroleum Company UPE)—April 21, 1983
(8) Transaction Number 83-0259, InterNorth, Incorporated's proposed acquisition of all voting securities of Belco Petroleum Corporation—April 27, 1983
(9) Transaction Number 83-0270, Jefferson Smurfit Group Limited's proposed acquisition of voting securities of The Diamond Match Company (Sir James Goldsmith, UPE)—April 28, 1983
(10) Transaction Number 83-0229, Texaco, Incorporated's proposed acquisition of certain voting securities of Pogo Producing Company—April 11, 1983
(11) Transaction Number 83-0276, Austin Industries, Incorporated's proposed acquisition of all voting securities of National Valve and Manufacturing Company (Henry E. Haller, Jr., UPE)—April 28, 1983
(12) Transaction Number 83-0268, Hughes Properties, Inc.'s proposed acquisition of all assets of Sands Hotel and Casino, Incorporated (Pratt Hotel Corporation, UPE)—April 28, 1983
(13) Transaction Number 83-0240, Heizer Corporation's proposed acquisition of all voting securities of Sea Pines Company—April 28, 1983

For further information contact: Patricia A. Foster, Compliance, Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

By direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 83-12729 Filed 5-11-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given

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that the National Committee on Vital and Health Statistics (NCVHS), established pursuant to 42 U.S.C. 242(k), section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday, June 13, 1983, at 9:00 a.m. and Tuesday, June 14, at 9:00 a.m., in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Agenda items for discussion will include continuing discussion of priority needs in health data, discussion of Committee structure and discussion of progress on selected statistical activities. Agenda items are subject to change as priorities dictate.

Further information regarding this Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301–436–7051.

Dated: April 29, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83-12820 Filed 5-11-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Village of Chalkyitsik, Alaska; Ordinance Prohibiting the Introduction, Possession, and Sale of Intoxicating Beverages

April 27, 1983.

This Notice is published in accordance with authority delegated by the Secretary of Interior to the Assistant Secretary-Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Chalkyitsik Liquor Ordinance relating to the application of the Federal Indian Liquor Laws within an area of Indian country was duly adopted by the Chalkyitsik Village Council on March 18, 1982. The Chalkyitsik Liquor Ordinance reads as follows:

John E. Fritz,

Acting Assistant Secretary, Indian Affairs.

Code of Village Regulations

Chalkyitsik, Alaska

Chapter 10—Definitions and Scope

10.01 *Enabling Action:* Pursuant to the authority granted to the Village Council under Article III of the Bylaws of the Village of Chalkyitsik, the village council enacts the following to be the code of village regulations.

10.05 *Village Regulations, Purpose:* To set forth a code of village regulations that will govern the conduct of people within the boundaries of the Chalkyitsik village townsite so that no infringement will be made upon individual rights or the peace and dignity of the people, the village, and the State of Alaska.

10.10 *Village Regulations:* Are the rules that all persons shall obey when within the boundaries of the Chalkyitsik village townsite. Regulations shall be enacted by the council to protect the life, property, and welfare of the people and village. New rules may be enacted to the regulations by the council as the need arises.

10.15 *Chalkyitsik Village Boundaries:* The boundaries of the Chalkyitsik village townsite shall be the boundaries as surveyed and marked by the Bureau of Land Management as shown on the plat marked Chalkyitsik Townsite.

10.20 *Village Council:* For the purpose of these regulations, the village council shall mean the council members as provided under Article VII of the Bylaws of the Village of Chalkyitsik.

10.30 *Village Member:* A village member shall be as defined under Article IV of the Bylaws of the Village of Chalkyitsik and shall include all stockholders of the Chalkyitsik Native Corporation.

10.40 *Village VPSO:* For the purposes of these regulations, the Village Public Safety Officer shall be a person appointed or so designated by the village council, and shall serve at the pleasure of the Council.

10.50 *Dry Village:* A dry village shall mean that no alcoholic beverages shall be transported to, sold, or consumed by any person or persons within the boundaries of the Chalkyitsik village townsite.

10.55 *Alcohol, or Intoxicating Beverages:* Shall include all forms of alcohol of intoxicating beverages which are manufactured, sold, and commonly used for human consumption.

10.60 *Hallucinogenic Drugs and Substances:* Shall include all those drugs and substances which are illegal under state and federal laws.

10.65 *Possession:* Possession shall mean on his person, under his control, or on his property. It shall also mean on her person, under her control, or on her property.

10.70 *Weapons:* Weapons shall mean all high powered rifles, shotguns, hand guns, and knives, or any other instruments that are dangerous when used against or to the disadvantage of any person or persons.

10.75 *Surface Vehicles:* Surface vehicles shall include all motor vehicles driven within the boundaries of the Chalkyitsik village townsite.

10.80 *Speed:* Shall mean the rate of motion of any surface motor driven vehicle within the boundaries of the Chalkyitsik village townsite.

10.85 *Summer Months:* Shall be from the last day of school in the spring to the first day of school in the fall.

10.90 *Minors:* Shall include all persons under the age of eighteen (18).

Chapter 20—Liquor Control

Purpose of this regulation is to provide for a dry village as clearly mandated by the people in the form of a petition against the drug and alcohol abuse and the resulting disorder and problems which occur as a direct result of such abuse.

20.01 *Regulation:* No person or persons will transport to, or cause to be transported to the Village of Chalkyitsik, intoxicating liquor for the purpose of selling or consuming such intoxicating liquor within the boundaries of the Chalkyitsik village.

20.05 *Possession:* No person or persons will possess by consumption or otherwise intoxicating liquor within the boundaries of the Chalkyitsik village.

20.10 *Complaints and Enforcement:* This chapter shall be enforced as a civil matter under Sec. 90.20 of this code. In addition, to village enforcement of this chapter, a person unlawfully introduces, possesses and/or sells intoxicating beverages contrary to 18 U.S.C. § 1161 (or any subsequently enacted law relating to federal regulation of intoxicating beverages in Indian county) by

(a) introducing, selling or possessing intoxicating beverages within the Indian country of the Village of Chalkyitsik contrary to this chapter, and

(b) such a determination is found pursuant to the tribal judicial code, and

(c) said person fails to comply with a duly entered tribal court order.

The First Chief of the Village of Chalkyitsik is hereby authorized to request federal enforcement of 18 U.S.C. § 1161 (or any subsequently enacted federal regulation of intoxicating beverages in Indian country) in the event that this section is violated.

Certification

I, *James Nathaniel, Sr.* hereby certify that the Code of Village Regulations was revised and approved by the Chalkyitsik Village Council at a duly called meeting of this 17th day of January, 1983.

James Nathaniel, Sr.,

1st Chief.

Attest: Robin Thomas.

[FR Doc. 83-12693 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[A-18560]

Arizona; Order Providing for Opening of Public Lands: Correction

May 4, 1983.

In Federal Register Document 80-27949 appearing on Page 60028 in the issue of September 11, 1980, make the following changes:

The legal description for T. 6 N., R. 2 E., Section 27 is changed to read "E½W½",

The legal description for T. 7 N., R. 2 E., Section 26 is changed to read "lots 4, 5, 6, 22, 23, 25, 26, lots 35 and 36 (formerly lots 11 and 12), lots 55, 56, 57, 58, NE¼NW¼, N½NE¼SE¼NW¼, S½SW¼SE¼NW¼, SE¼SE¼NW¼ (formerly E½NW¼)".

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-12701 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18560]

Arizona; Order Providing for Opening of Public Lands

May 4, 1983.

1. By Order P-150 dated May 6, 1976, the Federal Power Commission (now the Federal Energy Regulatory Commission) vacated the land withdrawal in its entirety for Power Project 150 of May 24, 1921, August 26, 1921, May 12, 1922, April 18, 1936, and May 5, 1952, as to the following described lands:

Gila and Salt River Meridian, Arizona

All portions of the following tracts lying within 20 feet of the centerline of the transmission line location shown on maps designated as Exhibit J(1), Sheets 1 to 8, inclusive, and entitled "Map of Location of Transmission Line of the Pacific Gas and Electric Company", and filed in the office of the Federal Power Commission on May 16, 1921:

T. 3 N., R. 2 E.,
Sec. 11, SE¼SE¼;
Sec. 14, NE¼NE¼.
T. 4 N., R. 2 E.,
Sec. 1, W½SW¼;
Sec. 12, W½W½;
Sec. 13, W½W½;
Sec. 25, W½NW¼.
T. 5 N., R. 2 E.,
Sec. 3, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 11, W½NW¼, SW¼;
Sec. 14, E½W½;
Sec. 23, E½W½;
Sec. 26, SW¼NE¼, E½NW¼, NE¼SW¼, W½SE¼;
Sec. 35, NW¼NE¼, SE¼NE¼.
T. 6 N., R. 2 E.,
Sec. 22, SW¼NW¼.
T. 7 N., R. 2 E.,
Sec. 35, NW¼NW¼.
T. 8 N., R. 2 E.,
Sec. 3, lot 1;
Sec. 22, SW¼SW¼;
Sec. 27, NW¼NW¼, SE¼SW¼, W½SW¼.
T. 9 N., R. 2 E.,
Sec. 25, S½SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼.
T. 9 N., R. 3 E.,
Sec. 19, SE¼SE¼;
Sec. 20, SE¼NE¼, NE¼SW¼, S½SW¼.

The areas described aggregate approximately 34 acres in Maricopa and Yavapai Counties.

2. The surface estate of the lands described in paragraph 1 has been conveyed out of Federal ownership. Therefore, these lands will not be open to operation of the public land laws.

3. Of the lands described in paragraph 1, the mineral estate in the following described lands was reserved to the United States and remains under the jurisdiction of the Bureau of Land Management:

T. 7., R. 2 E.,
Sec. 35, NW¼NW¼.

The area described aggregates approximately one area in Maricopa County.

4. At 10:00 a.m. on May 10, 1983, the land described in paragraph 3 shall be open to the operation of the United States mining laws, subject to valid existing rights and the requirements of applicable law.

5. The land described in paragraph 3 has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-12700 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Phoenix District Advisory Council; Meeting

The first meeting of the newly-appointed Phoenix District Advisory Council will be held June 15, 1983, between 9:00 a.m. and 5:00 p.m. The meeting will be held at the District Headquarters, 2929 West Clarendon Avenue, Phoenix, Arizona. The Council has been established by, and will be managed according to, the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:

1. Introduction of Council members.
2. Discussion of agenda, meeting objectives and function of the Council.
3. Discussion of District organization, resources, and current activities.
4. Issues and programs in the Lower Gila, Kingman, and Phoenix Resource Areas.
5. Election of officers.
6. Public comment and statements.
7. Discussion of Council objectives.
8. Future meetings and agenda topics.

The meeting is open to the public. Interested persons may make oral statements to the Council between 3:30 p.m. and 4:00 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by June 10 1983. Depending on the number of persons wishing to make an oral statement, a per-person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within thirty days following the meeting.

For further information contact Jean Ghigo, (602) 241–2903.

Dated: May 4, 1983.

William K. Barker,

District Manager.

[FR Doc. 83-12699 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado: Filing of Plats of Survey

May 5, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., May 5, 1983.

Sixth Principal Meridian

T. 9 N., R. 79 W.

The plat representing the dependent resurvey of a portion of the east and north boundaries, subdivisional lines, and the subdivision of section 13, and

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the survey of the subdivision of certain sections, T. 9, N., R. 79 W., Sixth Principal Meridian, Colorado, Group 683, was accepted April 20, 1983.

This survey was excecuted to meet certain administrative needs of this Bureau.

T. 25 S., R. 58 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 25 S., R. 58 W., Sixth Principal Meridian, Colorado, Group 549, was accepted April 27, 1983.

This survey was excecuted to meet certain administrative needs of the U.S. Forest Service.

New Mexico Principal Meridian

T. 40 N., R. 11 E.

The plat representing the dependent resurvey of a portion of the south, east, and west boundaries and a portion of the subdivisional lines, T. 40 N., R. 11 E., New Mexico Principal Meridian, Colorado, Group 716, was accepted April 12, 1983.

T. 41 N., R. 11 E.

The plat representing the dependent resurvey of a portion of the south, boundary of Luis Maria Baca Grant No. 4 (north boundary), the Tenth Standard Parallel North (south boundary), the west boundary and a portion of the subdivisional lines, and the subdivision of section 23, T. 41 N., R. 11 E., New Mexico Principal Meridian, Colorado, Group 716, was accepted April 12, 1983.

These survey were excecuted to meet certain administrative needs of the Bureau of Reclamation.

T. 48 N., R. 17 W.

The plat, in 5 sheets, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 26, and certain mineral surveys, and the survey of the subdivision of section 26, and certain tracts, T. 48 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group 729, was accepted April 21, 1983.

This survey was excecuted to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Harold R. Martin,

Chief, Division of Operations.

[FR Doc. 83-12004 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20087]

Realty Action; Competitive Sale of Public Lands; Cassia County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-20087, Competitive Sale of Public Lands In Cassia County, Idaho.

SUMMARY: The following land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of the tract is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976. The lands will be offered for sale at public auction for no less than the appraised fair market value indicated below. Both sealed and oral bids will be accepted.

Legal description	Acres	Value
T. 15 S., R. 24 E., B.M. Sec. 22: SW¼NE¼	40	$5,000

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year perod.

The lands will be subject to the following reservations when patented:

1. Ditches and Canals.
2. Oil and Gas and Geothermal rights.
3. Oil and Gas lease I-18032.

The public auction will be held on July 27, 1983 at 1:30 p.m.

ADDRESSES: The public auction will be held at the Burley District Office, 200 South Oakley Highway, Burley, Idaho 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from Nick Cozakos, District Manager at the above address, or by calling (208) 678-5514.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Nick James Cozakos.

Dated: May 2, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83-12705 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13733]

Realty Action—Lease of Public Lands in Shasta County, Calif.

The following-described land has been identified as suitable for lease under Section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732, at no less than fair market value.

Legal Description: T. 32 N., R. 5 W., Section 30, M.D.M., California, as described by metes and bounds on Exhibit A.

Acreage: Approximately 0.61 acres.

Rental Value: $390 year (estimated).

The above-described land is being offered as a direct, noncompetitive lease to William Dowell, owner of the improvements (house and garage) on the lease tract. The subject lands are adjacent to Iron Mountain Road approximately four miles west of Redding.

The subject lands were previously leased to W. E. and Libby Alexander. Mr. Dowell acquired the improvements from Mrs. Alexander subsequent to Mr. Alexander's death.

This decision notice is based on the following reasons:

1. The land is not of national significance and not essential to any Bureau of Land Management program.

2. The proposed action will not have any significant (including controversial) effects on the human and natural environment.

3. The proposed use is in conformance with the existing land use plan.

For a period of 45 days from this notice, interested parties may submit comments on the proposed lease or its environmental consequences to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: May 4, 1983.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 83-12708 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19182]

Realty Action; Modified Competitive Sale of Public Lands; Lemhi County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-19182, Modified Competitive Sale of Public Lands in Lemhi County, Idaho.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($8,000).

T.21N.,R.23E., Boise Meridian
Section 14: N½SW¼W¼,
Section 15: SE¼NE¼NE¼,SE¼SE¼NE¼
Total, 40 acres

The land will be sold at public auction by modified competitive bidding. William B. Swahlen, Rt. 1, Salmon, Idaho 83467 owner of all adjacent property, will have a preference right to purchase the land. Such a preference is being offered because he has access to the tracts and has used the land for agricultural production. Several irrigation ditches also cross through the tract and are used in conjunction with his adjacent farming operation.

The location and physical characteristics of this isolated tract make it difficult and uneconomic to manage as public land. The sale is consistent with the Bureau's planning for the area. The land has not been used and is not required for any federal purpose. Disposal would best serve the public interest by facilitating proper land use planning and development. The sale would enhance land use compatibility with adjoining private land.

Patent, when issued, will contain the following reservations:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

2. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

3. All valid existing rights and reservations of record including: (a) Oil and gas lease I-16485

4. The right of the United States or its permittees or licensees to enter upon, occupy, and use any or all of such lands for power purposes under Section 24 of the Federal Power Act for Power Site Reserve 595 (E.O. dated April 4, 1917).

The sale will be held at the Salmon BLM District Office, Highway 93 South, Salmon, Idaho on Thursday, July 21, 1983 at 3:00 p.m.

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $8,000. Bids must be for all the land in the specified tract.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, prior to a 3:00 p.m. bid opening on July 21, 1983. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale, I-19182". If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing. The drawing, if required shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Modified Bidding: For a period of 30 days following the date of the sale, William B. Swahlen will have a preference right to purchase the land by meeting the highest bid. If he meets the highest bid, the land will be sold to him, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Thursday at the same hour and place and continued on each succeeding Thursday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

FOR FURTHER INFORMATION CONTACT: *Inquiries:* Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Salmon District Office, Highway 93 South, Salmon, Idaho. For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Kenneth G. Walker,

District Manager.

[FR Doc. 83-12006 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19181]

Realty Action; Modified Competitive Sale of Public Lands; Lemhi County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-19181, Modified Competitive Sale of Public Lands in Lemhi County, Idaho.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat.

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2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($12,000):

T. 21 N., R. 23 E., Boise Meridian
Section 10: W½NE¼, SE¼NW¼
Total, 120 acres

The land will be sold at public auction by modified competitive bidding. Bolton Ranch, Inc. Rt. 1, Box 14 and William B. Swahlen, Rt. 1, both of Salmon, Idaho 83467, are the adjoining landowners who will have a preference right to purchase the tract. This preference is being offered because there is no public access to the tract and both Bolton Ranch and Mr. Swahlen have access.

Mr. Swahlen has used this land as part of his adjoining livestock operation. This tract is also fenced in with Swahlen's private land. A modified sale would afford compatible future uses and resolve the unauthorized livestock use without jeopardizing the present uses.

The location and physical characteristics of this isolated tract make it difficult and uneconomic to manage as public land. The sale is consistent with the Bureau's planning for the area. The land has not been used and is not required for any federal purpose. Disposal would best serve the public interest by facilitating proper land use planning and development. The sale would enhance land use compatibility with adjoining private land.

Patent, when issued, will contain the following reservations:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

2. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

3. All valid existing rights and reservations of record including:

(a) Oil and gas lease I–16485.

(b) The right of the United States or its permittees or licensees to enter upon, occupy, and use any or all of such lands for power purposes under Section 24 of the Federal Power Act for Power Site Reserve 595 (E.O. dated 4/4/1917).

The sale will be held at the Salmon BLM District Office, Highway 93 South, Salmon, Idaho on Thursday, July 21, 1983 at 1:00 p.m.

Bidder *Qualifications:* The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $12,000. Bids must be for all the land in the specified tract.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, prior to a 1:00 p.m. bid opening on July 21, 1983. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale, I–19181". If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing. The drawing, if required shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00 Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Modified Bidding: For a period of 30 days following the date of the sale, Bolton Ranch, Inc. and William B. Swahlen will have a preference right to purchase the land by meeting the highest bid. They will determine the division of the land. If no agreement is reached the authorized officer will determine the division. If either or both of them meet the highest bid, the land will be sold to them, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final Details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Thursday at the same hour and place and continued on each succeeding Thursday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

FOR FURTHER INFORMATION CONTACT:

Inquires: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Salmon District Office, Highway 93 South, Salmon, Idaho. For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Kenneth G. Walker,

District Manager.

[FR Doc. 83–12607 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

[ES 24622, Survey Group 121]

Minnesota; Filing of Plat of Survey

1. On December 6, 1979, the plat representing the survey of an island in T. 59 N., R. 26 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 59 N., R. 26 W.,
Tract No. 37.

2. Tract No. 37 rises about 5 feet above the ordinary high water mark of Smith Lake and is composed of glacial till and boulders up to 4 feet in diameter. Its edaphic character is entirely similar to the mainland, supports the same vegetation and has always been vegetated similarly to the upland surrounding the lake. This is evidenced by old pine stumps which were in excess of 20 inches in diameter when cut many years ago; these stumps indicate an age of 90 years by growth ring count. The age of these stumps and the elevation and composition of the soil show conclusively that the island existed in 1858 when Minnesota was admitted into the Union and all subsequent dates.

3. The Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

4. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83–12684 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

[ES 32055, Survey Group 142]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of one island in T. 34 N., R. 30 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 34 N., R. 30 W.,
Tract No. 37.

2. The island Tract No. 37 rises about 7 feet above the ordinary high water mark of Stickney Lake and is composed of glacial till parent material. Timber on the island consists of ash, basswood, willow, aspen, elm, oak, and cedar. Trees up to 24 inches in diameter and 100 years of age were found on the island. Tree stumps ranging up to 30 inches in diameter were found on the island.

3. The elevation of the island, age of timber, presence of large tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83–12685 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

[ES 32056, Survey Group 142]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of one island in T. 35 N., R. 31 W., Fourth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 35 N., R. 31 W.,
Tract No. 37.

2. The island Tract No. 37 rises 4 feet above the ordinary high water mark of Mississippi River and is composed of glacial till parent material. The character of the island is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of silver maple, willow, ash, and elm. The largest of the dominant trees on the island is a silver maple measuring 30 inches in diameter and is approximately 100 years of age.

3. This island was noted in the 1859 survey by Robert D. Lancaster, Deputy Surveyor. This fact, along with the elevation of the island, age of timber, similarity of timber succession on the island and adjacent surveyed lands, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858, when Minnesota was admitted into the Union, and at all subsequent dates.

4. Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). Therefore, it is held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83–12686 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

[ES 32057, Survey Group 150]

Minnesota; Filing of Plats of Survey

1. On October 5, 1982, the plats representing the survey of two islands in Cedar Lake in T. 46 N., R. 27 W., Fourth Principal Meridian, Minnesota, were accepted. They will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omitted from the original survey.

Fourth Principal Meridian, Minnesota

T. 46 N., R. 27 W.,
Tract Nos. 37 and 38.

2. Tract No. 37 rises about 5 feet above the ordinary high water mark of Cedar Lake and is composed of glacial till parent material with large granite boulders. The character of this island is similar in all respects to that of the adjacent surveyed lands. Timber consists of cedar, oak, basswood, ash, and elm. An oak tree which measured 20 inches in diameter was aged at 90 years. Tree stumps were also found on the island.

The island Tract No. 38 rises about 3 feet above the ordinary high water mark of Cedar Lake and is composed of glacial till parent material with large granite boulders. The character of this tract is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of ash, elm, basswood, willow, and dogwood. A willow tree measuring 20 inches in diameter was aged at 80 years old. Tree stumps were found on this Tract.

3. The elevation of the islands, age of timber, presence of tree stumps, similarity of timber succession on the islands and mainland, composition of the soil and character of the channels, show conclusively that these Tracts of land existed as islands in 1858 when Minnesota wad admitted into the Union, and at all subsequent dates.

4. The areas described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

5. All inquiries relating to these islands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83–12687 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

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[ES 32045, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of an island in Perch Lake, T. 131 N., R. 38 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 131 N., R. 38.,
Tract No. 37.

2. Tract No. 37 rises about 4 feet above the ordinary high water mark of Perch Lake, and is composed of glacial till parent material with large granite boulders. The character of the island is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of birch, aspen, oak, basswood, willow, and ash. Tree stumps were found on the Tract No. 37.

3. The elevation on the island, age of tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, how conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The island described above was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Mineral Operations.

[FR Doc. 83-12086 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32046, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of two islands in Lake Mason in T. 134 N., R. 43 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omited form the original survey.

Fifth Principal Meridian, Minnesota

T. 134 N., R. 43 W.,
Tracts 37 and 38.

2. The island Tract No. 37 rises about 15 feet above the ordinary high water mark of Lake Mason, and is composed of glacial till parent material. Timber consists of elm, oak, basswood, ash, willow, cedar, and aspen. An elm tree measuring 27 inches in diameter was found on this Tract and is aged at approximately 135 years. Tree stumps were found on the island.

Tract No. 38 rises about 12 feet above the ordinary high water mark of Lake Mason and is composed of glacial till parent material. Timber consists of elm, ash, oak, willow, basswood, box elder, cottonwook, birch, and balsam poplar. An elm tree measuring 24 inches in diameter was aged at about 120 years.

3. The elevation of the islands, age of timber, similarity of timber succession on the islands and mainland, composition of the soil and character of the channel, show conclusively that these Tracts of land existed as islands in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The areas described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

5. All inquiries relating to these lands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12089 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32051, Survey Group 144]

Minnesota; Filing of Plat of Survey

1. On October 8, 1982, the plat representing the survey of an island in Tom's Lake, T. 1231 N., R. 39 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on June 27, 1983.

The island listed below describes the land omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 131 N., R. 39 W.,
Tract No. 37.

2. The island Tract No. 37 rises about 10 feet above the ordinary high water mark of Tom's Lake, and is composed of glacial till parent material with large granite boulders. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of elm, oak, ash, basswood, aspen, willow, and ironwood. An oak tree measuring 14 inches in diameter was found on the island and was aged at approximately 80 years. Tree stumps were found on the Tract.

3. The elevation of the island, age of timber, presence of large tree stumps, similarity of timber succession on the island and mainland, composition of the soil and character of the channel, show conclusively that this body of land existed as an island in 1858 when Minnesota was admitted into the Union, and at all subsequent dates.

4. The island described above was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore held to be public land.

5. All inquiries relating to this island should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12090 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32052, Survey Group 132]

Minnesota; Filing of Plat of Survey

1. On October 6, 1982, the plat representing the survey of 5 islands in T. 117 N., R., 30 W., Fifth Principal Meridian, Minnesota, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m. on June 27, 1983.

The islands listed below describe the lands omitted from the original survey.

Fifth Principal Meridian, Minnesota

T. 117 N., R. 30 W.,
Tracts 37, 38, 39, 40, and 41.

2. Tract No. 37 rises about 8 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and granite boulders up to 4 feet in diameter. Its character is similar in all respects to that of the adjacent surveyed lands. Timber consists of oak, elm, ash, cottonwood, box elder, and willow. An elm tree measuring 20 inches in diameter and was aged at about 80 years. Old tree stumps were found on the island.

The island Tract No. 38 rises about 6 feet above the ordinary high water mark

of Cedar Lake, and is composed of glacial till and outcrops of granite. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of oak, elm, ash, basswood, and cottonwood. The ground cover consists of dense growth dogwood and willow. An elm tree measuring 20 inches in diameter was aged at approximately 80 years. Old tree stumps were found on this Tract.

Tract No. 39 rises about 6 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and outcrops of granite. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of elm, ash, box elder, basswood, cottonwood, aspen, and willow. The ground cover consists of dense growth willow. Old stumps were found on the island. An elm tree measuring 20 inches in diameter was aged at approximately 80 years.

The island Tract No. 40 rises about fi feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till and granite boulders ranging up to 5 feet in diameter. Its character is similar in all respects to that of the adjacent surveyed lands. Timber on the island consists of oak, elm, ash, basswood, box elder, and willow. The ground cover consists of dense growth snowberry and willow. An elm tree measuring approximately 16 inches in diameter was aged at approximately 70 years. Tree stumps were found on the island.

Tract No. 41 rises about 10 feet above the ordinary high water mark of Cedar Lake, and is composed of glacial till. Its character is similar in all respects to that of the adjacent surveyed lands. Timber consists of ash, elm, oak, and basswood. The ground cover consists of willow and snowberry shrubs. An elm tree measuring 16 inches in diameter was aged at approximately 80 years. Tree stumps 30 inches in diameter and aged at approximately 150 years were found on the island.

3. The elevation of the islands, presence of old stumps, similarity of timber succession on the islands and mainland, composition of the soil and character of the channel, show consclusively that these bodies of land existed as islands in 1858 when Minnesota was admitted in to the Union, and at all subsequent dates.

4. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore held to be public land.

5. All inquiries relating to these islands should be sent to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before June 27, 1983.

Jeff O. Holdren,

Deputy State Director for Lands and Minerals Operations.

[FR Doc. 83-12961 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-84-M

[M 56116]

Conveyance of Public Lands; Montana

May 5, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Lands, Montana.

SUMMARY: Notice is hereby given that, pursuant to Section 206 of the Act of October 21, 1976, the following described public lands were transferred to various private parties in exchange for certain other lands or interests in lands:

Principal Meridian, Montana

John R. Hughes

T. 13 N., R. 24 E.,
Sec. 2, NW¼SE¼.
40 acres.

A. Russell and Betty Ann Gjerde

T. 14 N., R. 24 E.,
Sec. 23, NE¼NW¼;
Sec. 33, NE¼SW¼;
Sec. 35, NW¼NW¼, NE¼SW¼.
160 acres.

George Poetter or Alice Poetter

T. 16 N., R. 20 E.,
Sec. 35, NE¼SE¼.
40 acres.

Tom Duffy

T. 16 N., R. 21 E.,
Sec. 25, SE¼.
160 acres.

Bruce Brown or Shirley Brown

T. 17 N., R. 17 E.,
Sec. 12, NW¼NW¼.
40 acres.

Eleanor L. Fields

T. 17 N., R. 21 E.,
Sec. 34, SE¼NW¼.
40 acres.

William D. Snapp

T. 18 N., R. 17 E.,
Sec. 20, SW¼SW¼.
40 acres.

M. R. Norman, et al.

T. 19 N., R. 17 E.,
Sec. 21, SE¼SE¼;
Sec. 22, SE¼NW¼;
Sec. 27, SW¼NW¼.
120 acres.

Gail Barnes or Patricia Barnes

T. 19 N., R. 17 E.,
Sec. 25, NW¼NW¼;
Sec. 26, SE¼NE¼.
80 acres.

Sherry Arntzen

T. 19 N., R. 19 E.,
Sec. 14, W½W½.
160 acres.

J. A. Martin

T. 19 N., R. 19 E.,
Sec. 18, S½NE¼, N½SE¼.
160 acres.

Roger Siroky

T. 19 N., R. 23 E.,
Sec. 30, Lots 1 & 2.
76.12 acres.

Harold W. Kinkelaar

T. 22 N., R. 20 E.,
Sec. 20, W½NE¼, SE¼NE¼.
120 acres.

Teigen Land and Livestock Co., Inc.

T. 14 N., R. 26 E.,
Sec. 8, NW¼NW¼.
40 acres.

Manuel Ranch, Inc.

T. 15 N., R. 29 E.,
Sec. 21, W½NW¼.
80 acres.

Roland R. and Ramona A. Sohn

T. 19 N., R. 28 E.,
Sec. 32, NW¼SE¼.
40 acres.

Floyd J. Zonto

T. 21 N., R. 9 E.,
Sec. 5, Lot 2.
T. 22 N., R. 9 E.,
Sec. 33, SW¼NW¼.
81.20 acres.

Leo M. and Beverly J. Faber

T. 27, N., R. 16 E.,
Sec. 5, SW¼SE¼;
Sec. 7, Lot 3, NE¼SW¼.
111.25 acres.

Robert E. and Emma M. Broun

T. 26 N., R. 11 E.,
Sec. 4, SW¼NW¼, NW¼SW¼;
Sec. 5, SE¼NE¼.
120 acres.

JPS Ranches

T. 13 N., R. 12 E.,
Sec. 4, SW¼NW¼;
Sec. 31, NE¼SW¼.
80 acres.

Circle Bar Guest Ranch, Inc.

T. 13 N., R. 12 E.,
Sec. 19, Lots 1 and 2.
79.84 acres.

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William A. Meeks, Jr.
T. 17 N., R. 11 E.,
Sec. Sec. 1, Lots 1 and 4.
79.47 acres.

Robert and Jean Anderson
T. 18 N., R. 11 E.,
Sec. 2, E½SE¼, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 9, SW¼SE¼;
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, W½NW¼, NW¼SW¼;
Sec. 12, SE¼NW¼, NE¼SW¼;
Sec. 13, Lot 4;
Sec. 15, NW¼NW¼.
560.27 acres.

Gordon M. Ecker
T. 18 N., R. 11 E.,
Sec. 13, Lots 5, 6, NW¼SE¼.
119.46 acres.

Sarah A. Arnott
T. 13 N., R. 12 E.,
Sec. 32, SE¼NW¼.
40 acres.

Warren E. and Ruth Anne Weaver
T. 19 N., R. 27 E.,
Sec. 32, NE¼SE¼.
40 acres.

Ray C. and Erna A. Ramberg
T. 31 N., R. 18 E.,
Sec. 29, SW¼NE¼.
40 acres.

Arthur Burns
T. 34 N., R. 21 E.,
Sec. 6, SE¼NE¼, NW¼SE¼.
80 acres.

Louis and Della F. Modic
T. 34 N., R. 24 E.,
Sec. 23, SE¼NE¼; SW¼SW¼;
Sec. 26, S½NE¼, S½;
Sec. 27, SE½SE½.
520 acres.

Rodney Hofeldt
T. 28 N., R. 19 E.,
Sec. 29, NW¼SE¼;
Sec. Sec. 30, W½SE¼.
120 acres.

Douglas Hofeldt
T. 29 N., R. 22 E.,
Sec. 4, Lots 1, 2, 3, 4.
T. 30 N., R. 22 E.,
Sec. 28, Lot 12.
83.70 acres.

Wasyl Hryckiw
T. 32 N., R. 22 E.,
Sec. 5, SW¼NW¼.
40 acres.

Thomas E. Maxwell
T. 26 N., R. 11 E.,
Sec. 1, SE¼NE¼, SE¼NW¼.
80 acres.

Kenneth C. and Neil Glass
T. 19 N., R. 16 E.,
Sec. 5, Lot 4.
36.49 acres.

Wilson J. and Virginia F. Richards
T. 19 N., R. 22 E.,
Sec. 19, NE¼NW¼.
40 acres.
Total acreage: 3,747.8.

The purpose of this notice is to inform the public interested state and local government officials of the issuance of the conveyance documents.

Edgar D. Stark,
Chief, Lands Adjudication Section.
[FR Doc. 83-12698 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

[M 55146]

Montana; Order Providing for Opening of Public Lands

May 3, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: M 55146, Order Providing for Opening of Public Lands in Rosebud and Custer Counties, Montana.

SUMMARY: Pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to the United States:

Principal Meridian, Montana
T. 12 N., R. 44 E.,
Sec. 12, ALL.
T. 12 N., R. 45 E.,
Sec. 6, Lots, 1, 2, 3, 4, 5, 6 and 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots, 1, 2, 3 and 4, E½, E½W½;
Sec. 8, NW¼SW¼, N½SE¼; and
Sec. 18, NE¼, N½SE¼, SE¼SE¼.
Aggregating 2,136.19 acres

The grantor reserved all right and title to all minerals existing on the lands, except coal where it was reserved to the United States in the original patent.

This order restores the land acquired by the United States to the operation of the public land laws generally. At 9 a.m. on June 20, 1983, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on June 20, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Edgar D. Stark,
Acting Deputy State Director, Division of Lands and Renewable Resources.
[FR Doc. 83-12692 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

[N-37749]

Nevada; Proposed Withdrawal and Opportunity for Public Meeting

On May 3, 1983, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

A parcel of land within the S½NW¼ of Section 1, T. 34 N., R. 55 E., MDM, Elko County, Nevada, and more particulary described as follows:
Beginning at the point of intersection of the east-west quarter-section line of said Section 1 and the newly adopted southerly right-of-way line of former U.S. Highway 40 (now 40 feet southeasterly from centerline of said highway), as Corner No. 1, from which point the West quarter-section corner of said Section 1 bears S. 89°08'02" W. 570.09 feet.
thence along said new ritght-of-way, from a tangent bearing N. 36°31'09" E. on a curve to the right, with a radius of 9960 feet, through a central angle of 0°36'59" an arc distance of 112.95 feet, to Corner No. 2,
thence continuing along said new right-of-way N. 39°10'08" E. 474.25 feet to Corner No. 3,
thence N.. 89°08'02" E. 849.20 feet to Corner No. 4,
thence S. 0°51'58" E. 450.00 feet to Corner No. 5, a point on the east-west quarter-section line of said Section 1,
thence along said line S. 89°08'02" W. 1226.43 feet to Corner No. 1, the point of beginning.

The area described contains 10.7 acres in Elko County.

The purpose of the proposed withdrawal is to reserve the land for use as the Bureau of Land Management Elko office complex which will consolidate three existing facilities into one administrative site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with regulations set forth in 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. Construction of the administrative site will be permitted during this segregative period under a right-of-way authorization.

All communications in connection with this proposed withdrawal should be addressed to the Deputy State Director, Operations, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

May 3, 1983.

Wm. J. Malencik,
Deputy State Director, Operations.
[FR Doc. 83-12702 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202–395–7340.

Title: 30 CFR Part 221.37, Site Security on Federal and Indian (except Osage) Oil and Gas Leases.

Bureau Form Number: None.

Frequency: Nonrecurring.

Discription of Respondents: Lessees and/or operators of Federal and Indian (except Osage) Oil and Gas resources.

Annual Respondents: 201, 080.

Annual Burden Hours: 94, 809.

Bureau Clearance Office (alternate): Linda Gibbs, 202–653–8853.

Dated: April 12, 1983.

James M. Parker,
Associate Director, Bureau of Land Management.
[FR Doc. 83-12704 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

[M-58045]

Realty Action: Exchange of Public and Private Lands in Valley County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–58045, Exchange of Public and Private Lands in Valley County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana
T. 36 N., R. 41 E.
Sec. 7: N½SE¼
Aggregating 80 acres of public land

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana
T. 35 N., R. 37 E.
Sec. 26: N½NE¼
Aggregating 80 acres of private land

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire private lands for enhancement of the Bureau's grazing, wildlife and recreation programs. In return, an isolated parcel of public land would be transferred to private ownership. The value of the lands are equal. The proposed exchange will benefit public needs and improve manageability of public lands. The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 4 U.S.C. 945, for the lands being transferred out of Federal ownership.

2. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

3. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and has been discussed with local officials. The public interest will be well served by completion of this exchange.

Segregation: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

Dated: May 6, 1983.

James Barnum,
Acting District Manager.
[FR Doc. 83-12741 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

[W-81125]

Conveyance; Non-Competitive Sale of Public Land in Sweetwater County, Wyoming

May 4, 1983.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), the City-School Joint Recreation Board, Green River, Wyoming, has purchased, by noncompetitive sale, and received a patent for the following described public land in Sweetwater County, Wyoming, for use as a city/school public recreation complex:

Sixth Principal Meridian
T. 18 N., R. 107 W.,
Sec. 34, NE¼SE¼NE¼.
Aggregating 10.00 acres.

James L. Edlefsen,
Chief, Branch of Land Resources.
[FR Doc. 83-12740 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-84-M

Escondido Project Area; Realty Action for Public Lands in San Diego County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty action and Recreation and Public Purposes Classificaftion and Lease and or Patent of Public Lands in San Diego County.

SUMMARY: Notice is hereby given that the City of Poway, has submitted an application to lease (with option to patent) five parcels of public land for equestrian riding and hiking trail system park.

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The following described land has been examined and classified as suitable for lease and or patent under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 74) as amended (43 U.S.C. 869 et. seq.):

T. 13 S., R. 1 W., San Bernardino Meridian
Sec. 17, S½ SE¼;
Sec. 20, NE¼, NE¼, S½ NE¼, E½ SW¼ SE¼;
Sec. 27, N½ SW¼;
Sec.28, SE¼ SW¼, S½ SE¼, NE¼ SE¼;
Sec.33, NE¼, NE¼ NW¼, S½ NW¼;
Sec.34, S½ SE¼, NW¼ SE¼, SW¼ NE¼ SE¼, S½ SE¼ NE¼ SE¼;
T. 14 S., R. 1 W., San Bernardino Meridian
Sec. 1, W½ SW¼;
Sec. 2, Lot 4 (40.34A), S½ NE¼, SE¼ SW¼, SE¼;
Sec. 3, Lot 3 (41.02A), Lot 4 (40.64A);
Sec. 11, N½, N½ SW¼, SE¼ SW¼;
Sec. 12, W½ NW¼;
Total, 1,877 acres

The decision/notice is based on the following reasons:

1. The lands have been found to be valuable for public purposes and/or recreational uses.
2. The land is not of national significance and not essential to any Bureau of Land Management Program.
3. The proposed use is in conformance with the existing land use plan.
4. The proposed action will have no significant (including controversial) effects on the human and natural environment.
5. Leasing of the above described lands to the City of Poway will serve important public purposes. (i.e., Provide land for riding and hiking trails, open space and watershed protection, outdoor classroom for local education institutions.)
6. The subject lands are isolated and receive only custodial management.
7. The classification, lease and/or patenting of the land to the City of Poway, California is in conformance with the Secretary of the Interior's "Good Neighbor Program."

DATES: Interested parties may submit comments until 60 days after this notice is published. Send comments to the District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this Recreation and Public Purposes Application, including the environmental assessment, land report, terms, conditions, and special stipulations that will be included in the lease is available for review at the California Escondido Project Office at 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The classification and granting of the lease for a maximum period of 25 years with the option to purchase/patent the land will not be adverse to any known public or private interests.

Classification of these lands to the City of Poway, California, under the provisions of the above cited authority segregates them from all appropriations, including locations under the mining laws, except as to applications under the Mineral Leasing Laws.

This Recreation and Public Purposes Application is consistent with Bureau of Land Management policies and planning and has been discussed with state and local officials.

Petition for classification CA–13066 is approved as to the land described above.

Name of Petitioner: City of Poway, by its Mayor.

Type of Petition: Recreation and Public Purposes Act of June 14, 1926, as amended.

Dated: April 29, 1983.

Hugh Reicken

Acting Associate District Manager.

[FR Doc. 83–12730 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

[Exchange CA 12957]

Public Lands in Humboldt County, California; Realty Action; Correction

In FR Doc. 82–19770, pages 31755 and 31756 of the Thursday, July 22, 1982 issue, the lands applied for are corrected to add Lot 2; Sec. 35, T. 11½ N., R. 3 E., Humboldt Meridian. Total acreage is changed to contain 917.22 acres, vice 866.61 acres.

The publication of this correction in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consumated before the end of that period.

Detailed information concerning the exchange, including the environmental analysis and the record of non-federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

All remaining sections of publication FR Doc. 82–19770 for Exchange CA 12957 are correct and remain effect.

John W. Lahr,

Area Manager, Eureka Resource Area, Ukiah District Office.

[FR Doc. 83–12736 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Migratory Bird Hunting and Conservation Stamp Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 1983 contest.

SUMMARY: The Service announces the 1983 Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest to select the stamp design for the 1984–85 hunting seasons. Regulations governing the contest are contained in 50 CFR Part 91.

DATES: This year's contest will be held on Tuesday, November 8th and Wednesday, November 9th, beginning at 9:00 a.m. each day. Entries may be received any time after July 1, but must be received or postmarked no later than midnight of October 1.

ADDRESSES: This year's contest will be held in the Department of the Interior Auditorium, 18th & C Streets, NW., Washington, D.C.

Requests for copies of the contest regulations and Reproduction Rights Agreement and entries should be sent to Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Anastasi, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; Telephone 202–343–5508.

SUPPLEMENTARY INFORMATION:

Background

Under the Migratory Bird Hunting and Conservation Act, 16 U.S.C. 718 requires migratory bird hunters that are 16 years of age or older to possess a Federal migratory bird hunting and conservation stamp. Under the authority contained in 5 U.S.C. 301 and 31 U.S.C. 483a, the U.S. Fish and Wildlife Service conducts an annual contest to select the design for the following years's hunting seasons. The contest is open to the public.

Ineligible species.

As provided by 50 CFR 91.14, the dominant feature of the design of each eligible entry may not be a species that

was selected for the Stamp during the preceeding five years. Accordingly, the following species are ineligible as the dominant feature for the 1983 contest:

Green-winged teal
Mallard
Ruddy duck
Canvasback
Pintail

Dated: May 3, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–12734 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Biscayne National Park, Flordia; Boundary Revision

Section 101 of the Act of June 28, 1980, (94 Stat. 599), established Biscayne National Park and further authorized the Secretary to make minor revisions in the boundary.

Notice is given that the boundary of Biscayne National Park has been revised, pursuant to the Act, to encompass lands as are depicted on boundary map number 169–80,004, dated May 1981, prepared by the Division of Cartography, Big Cypress Land Office, of the Southeast Region Office of the National Park Service. The revisions to the botndary are along the west and south boundary lines.

This map is on file and available for inspection in the administrative office of the Biscayne National Park, P.O. Box 1369, Homestead, Florida 33030, and in the Offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 16, 1982.

Neal G. Grise,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 83–12762 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–70–M

Boston National Historical Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Boston National Historical Park Advisory Commission. The matters to be discussed at this meeting include:

1. Report from Site Liaison Subcommittee
2. Report from Education Subcommittee
3. Commendant's House Preservation and Use
4. Report from Budgeting and Priorities Subcommittee
5. NPS Management Efficiency Programs
6. Water-Chelsea Connector Construction Impacts
7. Update on Hoosac Pier plans
8. Plans to improve handicapped access to Faneuil Hall
9. Freedom Trail signing, striping, and litter control
10. Plans for 1983 visitor season
11. Review and discussion of park administration

DATE: May 24, 1983, 11 a.m. to 3 p.m.

ADDRESS: Boston National Historical Park Visitor Center, 4th Floor Conference Room, 15 State Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Hugh D. Gurney, Superintendent, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109 (617–242–5644).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463. The Commission was established by Pub. L. 93–431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

Herbert S. Cables, Jr.,

Regional Director, North Atlantic Region.

[FR Doc. 83–12751 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, June 18, 1983, at 1:00 p.m. at the District 18 Fire Company, North Branch, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Majorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Cumberland/North Branch Development Concept Plan
2. Old and New Business
3. Superintendent's Report
4. Park Land Protection Plan
5. Committee Reports
Plans and Projects Committee
Recreation Policies and Issues Committee
Resource Protection Committee
6. Public Comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: May 5, 1983.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 83–12763 Filed 5–11–83; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Protect Our Wetlands and Duck Resources Task Force; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Protect Our Wetlands and Duck Resources (POWDR) task Force will be held on Friday, May 27, 1983, at 9:00 a.m. at Ormond Plantation, 10 Villere Drive, Destrehan, Louisiana.

The purpose of the Task Force is to identify and implement, where possible, innovative methods and measures to conserve wetlands, particularly for migratory bird habitat. This includes the identification of opportunities to encourage private landowners, businesses, and State and local governments to participate in the conservation of wetlands.

The purpose of the Task Force meeting is to discuss recent public and private initiatives in the wetlands conservation area. The tentative agenda

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consists of: (1) A status report on the Protect Our Wetlands and Duck Resources Act of 1983 (introduced in the U.S. House of Representatives as H.R. 2268 on March 23, 1983, and in the U.S. Senate as S.978 on April 5, 1983); (2) a report on Task Force public information activities; (3) discussion of possible initiatives in the tax incentives area; and, (4) discussion of new initiatives.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further infromation about the meeting may contact Kathryn Yasueda, Staff Assistant, Office of the Secretary, Department of the Interior, Washington, D.C. 20240 (202/343–4203). minutes of the meeting will be available for public inspection from the address, above, approximately one month after the meeting.

Dated: May 9, 1983.

Emily S. DeRocco;

Assistant to the Secretary, Department of the Interior.

[FR Doc. 83-12747 Filed 5-11-83; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Investigation & Suspension Docket No. M-29788]

Charge for Shipments Moving on Order-Notify Bills of Lading; National Railroad Freight Committee and Railroad Interterritorial Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: The previously established due date for comments of May 11, 1983 extended at 48 FR 17407, April 22, 1983, on the requirement that rules and charges unrelated to classification and not prescribed by the Commission be removed from the classification where the scope of the pertinent agreement is limited to classification making has been extended 40 days for Section 10706(a) Application No. 12 and Section 5(b) Application No. 5. The original notice in this proceeding was published at 47 FR 11572, March 17 1982.

DATE: Comments must be received by June 20, 1983.

ADDRESSES: Send comments (original and 15 copies) to: Section 10706(a) Application No. 12; Section 5(b) Application No. 5, Interstate Commerce Commission, Office of Proceedings, Room 5444, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: The Commission, in Investigation and Suspension Docket No. M–29788, *Charge For Shipments Moving on Order-Notify Bill of Lading*, —— I.C.C. —— (served March 22, 1983), ordered, among other matters, that all rail freight classifications either: (1) comply with the Commission's policy, as set forth concerning the National Motor Freight Classification; or (2) submit comments under their approved 5b [49 U.S.C. 10706(a)] agreements.

By petition filed April 20, 1983, the rail carrier members of the National Railroad Freight Committee Agreement and the Railroad Interterritorial Agreement have requested an extension of time to June 20, 1983, for the filing of their comments. Petitioners state that the extension is necessary to permit further review and evaluation of the Commission's decision in I&S M–29788.

Since the Commission's decision in I&S M–29788 may have important ramifications to petitioners and they were neither participants nor parties to I&S M–29788, their request for an extension will be granted. For all other persons affected by the Commission decision in I&S M–29788, the due date for comments remains May 11, 1983 [48 FR 17407 (April 22, 1983)].

It is ordered:

The petition is granted. The time for filing comments in Section 10706(a) Application No. 12 and Section 5(b) Application No. 5 is extended to June 20, 1983.

Decided: May 6, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12719 Filed 5-11-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs; Pittsburgh and Lake Erie Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washingont, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
921	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–19 (Waste paper)	1	5–5–83
922	Seaboard System Railroad, Inc., ICC–SBD–C–0062 (Chemicals)	2	5–6–83

[1] Review Board No. 1, Members Parker, Chandler and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12599 Filed 5-11-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

[1] Note: Tariff supplements advancing contract's effective date shall refer to these decisions for authority.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property , freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team 3 at (202)275–5223.

Volume No. OP3–194

Decided: May 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–685, filed April 21, 1983. Applicant: ALEXANDER INTERNATIONAL, 225 Broadway, Suite 2100, San Diego, CA 92101. Representative: Kenneth D. Polin (same address as applicant) (619) 234–1966. As a *freight forwarder*, in connection with the transportation of *household goods, baggage and used automobiles*, between points in the U.S.

MC 10345 (Sub-107), filed April 19, 1983. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph St., Lansing, MI 48917. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5630. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Peugeot Motors of America, Inc., of Lyndhurst, NJ.

MC 69405 (Sub-2), filed April 21, 1983. Applicant: W. W. WARREN TRANSFER & STORAGE CO., a corporation, 3111 N. Santa Fe, Oklahoma City, OK 73118. Representative: Dean Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118. Transporting *such commodities*, used in the construction, maintenance, and operation of tele-communication systems, between points in AR, KS, MO, OK, and TX.

MC 117765 (Sub-328), filed April 19, 1983. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., Oklahoma City, OK 73106 (405) 528–3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CT, DE, FL, GA, ID, ME, MD, MA, MT, NV, NH, NJ, NY, NC, OR, PA, RI, SC, UT, VT, VA, WA, WV, and DC.

MC 139084 (Sub-14), filed April 11, 1983. Applicant: TOTRAN TRANSPORT LTD., Nisku Business Park, POB 4830, South Edmonton, Alberta, Canada T6E 5G7. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111 (801) 531–1300. Transporting *Mercer commodities* and *machinery*, between points in the U.S. (except AK and HI), on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in ME.

MC 142864 (Sub-36), filed April 15, 1983. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215–3339, (614) 464–4103. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts(s) with Fleming Companies, Inc., of Oklahoma City, OK.

MC 148044 (Sub-5), filed April 15, 1983. Applicant: JANICE PATRICIA MARTIN, d.b.a. J. D. MARTIN TRUCKING CO., Rt. 4, Box 251–A, Rocky Mount, VA 24151. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2616.

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Transporting *lumber and wood products* and *building materials*, between points in AL, GA, MS, NC, SC, and VA, on the one hand, and, on the other, those points in the United States in and east of WI, IA, MO, AR, and TX.

MC 149284 (Sub-8), filed April 18, 1983. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *such commodities* as are dealt in or used by retail and chain grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Drackett Products Company, of Cincinnati, OH.

MC 153615 (Sub-2), filed April 15, 1983. Applicant: SMITH TRANSFER COMPANY, INC., P.O. Box 531, Wilson, NC 27893. Representative: Kin D. Mann, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 160884 (Sub-2), filed April 18, 1983. Applicant: JACKET CARRIERS, INC., 83 Longview Ave., White Plains, NY 10605. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165015 (Sub-1), filed April 19, 1983. Applicant: CHARLES WILLIS & SONS TRUCKING COMPANY, 2523 Old Savannah Rd., Augusta, GA 30906. Representative: Michael B. Hagler, P.O. Box 1477(13), Augusta, GA 30913, (404) 724–0171. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with InCon, an Indian Head Company, of Columbia, SC.

MC 165065, filed April 15, 1983. Applicant: UNDERWOOD TRUCKING CO., INC., P.O. Box 649, Grantsville, WV 26147. Representative: John M. Friedman, 2930 Putnam Ave., POB 426, Hurricane, WV 25526, (304) 562–3460. Transporting *petroleum, natural gas, and their products*, between points in WV, on the one hand, and, on the other, points in OH and PA, under continuing contract(s) with W. P. Brown Enterprises, Inc., of Byesville, OH, and American Refining Group, Inc., of Indianola, PA.

MC 167434, filed April 15, 1983. Applicant: R. L. OWENS, INC., Old Homestead Hwy., Swanzey Center, NH 03431. Representative: Albert J. Cirone, Jr., 23 Bank St., Lebanon, NH 03766, (603) 448–1330. Transporting *classes A, B and C explosives, blasting materials, blasting supplies and related products* used in connection with explosives, between points in MA, ME, NH, VT, CT, RI and NY, under continuing contract(s) with Hercules Incorporated of Wilmington, DE. Condition: The authority granted here is limited in point of time to a period of five (5) years from the date of issuance.

MC 167475, filed April 18, 1983. Applicant: PUGH BROS. CONSTRUCTION, INC., P.O. Box 70, St. Maries, ID 83861. Representative: Ronald Pugh (same address as applicant), (208) 245–4170. Transporting *lumber and wood products*, between points in ID, on the one hand, and, on the other, points in MT, WA, ND, SD, MN, CO, UT, and WY, under continuing contract(s) with Regulus Stud Mills, Inc., of St. Maries, Id.

MC 167515, filed April 18, 1983. Applicant: D & S TRUCKING, 44 6th Ave., W., Kalispell, MT 59901. Representative: Lee A. Diesen (same address as applicant), (406) 755–5810. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc. of Medford, OR.

MC 167535, filed April 18, 1983. Applicant: A.T.I. ENTERPRISES, LTD., d.b.a. ASCHE TRANSFER, P.O. Box 200, Shannon, IL 61078. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the *Report in Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in IL, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, LA, MI, MS, NC, OH, SC, TN, VA and WV.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–269

Decided: May 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 51146 (Sub-869), filed April 29, 1983. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant), (414) 496–7623. Transporting *such commodities* as are dealt in or used by department and home improvement stores, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors and retailers of the above described commodities.

MC 145466 (Sub-8), filed April 27, 1983. Applicant: BERYL WILLITS, d.b.a. WILLIES GRAIN, 1145 33rd Ave., Greeley, CO 80631. Representative: Beryl Willits (same address as applicant), (303) 352–1243. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 146336 (Sub-34), filed April 29, 1983. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609–109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45536, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with I–T–E Electrical Products, a div. of Siemens-Allis, Inc., of Columbus and Decatur, GA.

MC 147087 (Sub-8), filed April 28, 1983. Applicant: W. L. GOOD TRUCKING, INC., Mingo, IA 50168. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *liquid fertilizer*, between points in Polk and Story Counties, IA, on the one hand, and, on the other, points in KS, NE, and OK.

MC 151446 (Sub-3), filed April 29, 1983. Applicant: CHARLES R. HEYL d.b.a. C.R.H. DELIVERY, 9382 Tilles, St. Louis, MO 63144. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting *pulp, paper and related products and printed matter*, between St. Louis, MO, on the one hand, and, on the other, points in IN, IA, and KY.

MC 154907 (Sub-8), filed April 27, 1983. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transportating *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Super Value Stores, Inc., of Minneapolis, MN, Viking Food Stores, Inc., of Muskegon, MI, Sunshine Biscuits, Inc., of East Grand Rapids, MI, Hi-Life Packing Company, of Hamilton, MI, Oceana Canning Company, of Shelby, MI, and Asta Traffic Services, of Eden, NY, and Best Brands, of St. Paul, MN.

MC 167666, filed April 27, 1983. Applicant: CONE MILLS CORPORATION, 1201 Maple St., Greensboro, NC 27405. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1124. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Intermodal Consolidating Services, Inc., of Bridgewater, NJ, Co-Am Transport Services, Inc., of Charlotte, NC, and Charles McAlpin Brokerage, Inc., of Decatur, AL and (2) *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chem Mark, Inc. of Bound Brook, NJ, and Dexter Chemical Corporation of Bronx, NY.

Volume No. OP4–274

Decided: May 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 146976 (Sub-9), filed April 4, 1983. Applicant: FOREWAY TRANSPORTATION, INC., 1413 Randall, P.O. Box 301, Coopersville, MI 49404. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI, (616) 399–3400. Transporting (1) *aluminum articles*, and (2) *food and related products*, between points in AL, CT, DE, GA, IA, IL, IN, KY, ME, MA, MD, MN, MI, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, WI, FL, MS, AR, LA, TX, OK, KS, NE, and DC.

MC 163457, filed April 28, 1983. Applicant: JOWIN EXPRESS, INC., 1498 Highway 13 N, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting (1) *brick and tile*, between Plant City, FL, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, ID, IL, IN, KS, KY, LA, MI, MS, MO, MT, NV, NM, NC, OH, OK, OR, SC, TN, TX, UT, VA, WA, WV, and WY, (2) *post poles and pilings*, between points in Forrest County, MS, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KY, KS, LA, MI, MO, NE, OH, OK, TN, and WI, and (3) *asphalt roofing*, between points in Lauderdale County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MO, NC, TN, TX and SC.

Volume No. OP4–275

Decided: May 5, 1983.

By the Commission, Review Borad No. 2, Members Carleton, Williams, and Ewing.

MC 167606, filed April 25, 1983. Applicant: COLLINS FOODSERVICE, 145 Willow Ave., City of Industry, CA 91746. Representative: Timothy J. Brandon (same address as applicant) (213) 961–9851. Transporting *foodstuffs, groceries and grocery house supplies, paper and paper articles, and materials and supplies used in the manufacture, distribution and sale of the above-named commodities*, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12720 Filed 5–11–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-364N)]

Rail Carriers; Conrail Abandonment in Jeannette, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission has exempted Elliott Turbomachinery Co., Inc., which will acquire and operate 0.7 mile of railroad in Jeannette, PA, from 49 U.S.C. Subtitle IV.

DATES: Exemption effective on May 12, 1983. Petitions to reopen must be filed by June 1, 1983.

ADDRESSES: Send pleadings referring to Docket No. AB–167 (Sub-No. 364N) to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative, Charles F. Hildebrand, Elliott Turbomachinery Co., Inc., Jeannette, PA 15644.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4350 (DC Metropolitan area) or toll free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12718 Filed 5–11–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Eli Lilly Industries, Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 13, 1982, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00780, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene (9273).

Any other such applicant and any person who is presently registered with the DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than June 13, 1983.

Dated: May 4, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83–12746 Filed 5–11–83; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 83–2]

Hawkins Rexall Drug, Inc., Madison, North Carolina; Hearing

Notice is here by given that of December 6, 1982, The Drug Enforcement Administration, Department of Justice, issued to Hawkins Rexall Drug, Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AH3165962, issued under 21 U.S.C. 823.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, May 24, 1983, in Courtroom No. 2, U.S. Bankruptcy Court, Meyers Law Center, 101 W. Sycamore Street, Greensboro, North Carolina.

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Dated: May 4, 1983.

Francis M. Mullen, Jr.

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-12744 Filed 5-11-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Smith Kline and French Laboratories; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 2, 1983, Smith Kline and French Laboratories, Division of Smithkline Beckman Corporation, 1530 Spring Garden Street, Philadelphia, Pennsylvania 19101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

	Schedule
Drug:	
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than June 13, 1983.

Dated: May 4, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-12745 Filed 5-11-83; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Decay Heat Removal Systems; Cancellation

The ACRS Subcommittee on Decay Heat Removal Systems scheduled for May 18, 1983 in Room 1046, 1717 H Street, NW, Washington, DC has been *cancelled* indefinitely. Notice published Monday, May 2, 1983 (48 FR 19801).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: May 6, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-12784 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Electrical Systems; Meeting

The ACRS Subcommittee on Electrical Systems will hold a meeting on May 26, 1983 in Room 1167, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the generic implications of the scram breaker failures at the Salem Nuclear Power Plant.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, May 26, 1983—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. EDT.

Dated: May 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-12785 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-348]

Alabama Power Company; Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Alabama Power Company (the licensee). The relief relates to the inservice testing program for the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The ASME Code requirements are incorporated by reference to the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of May 2, 1983.

The relief permits the licensee to test certain designated pumps and valves in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see: (1) The application for relief dated May 1, 1979, as revised November 15, 1979, April 21, 1980, July 16, 1981, and October 25, 1982, (2) The Commission's letter dated May 2, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of May 1983.

For the Nucler Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-12786 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 78 and 44 to Facility Operating License Nos. DPR-51 and NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit Nos. 1 and 2 respectively, located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to require an audit of Emergency Preparedness Programs and the Safeguards Contingency Plans (Security Plan) at a frequency of at least once per twelve (12) months.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

For further details with respect to this action, see: (1) The application for amendments dated March 15, 1983, (2) Amendment Nos. 78 and 44 to Facility Operating License Nos. DPR-51 and NPF-6, and (3) the Commission's letter dated April 29, 1983. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of April 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-12787 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment was effective as of the date of issuance.

The amendment clarifies and modifies the emergency diesel generator load block application timing criteria.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The applications for amendment dated August 12, 1980 and February 3, 1983, (2) Amendment No. 45 to Facility Operating License No. NPF-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12788 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois.

This amendment consists of a deletion of License Condition 2.C.(28) and changes the Technical Specifications to incorporate the approved alternative Rad/Chem Technician qualification. The amendment is effective as of the date of issuance.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment and in the safety evaluation in support of the Amendment. Prior public notice of the

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license amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 11, 1983; (2) Amendment No. 14 to License No. NPF-11, and (3) the related safety evaluation in support of the Amendment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of May 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-12760 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The changes to the Technical Specifications were made to clarify and modify surveillance requirements and limiting conditions for operation for degraded grid voltage protection equipment and procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 10, 1982, (2) Amendment No. 58 to License No. DPR-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12761 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

GPU Nuclear Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) in issued Amendment No. 21 to Facility Operating License No. DPR-73, issued to GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the licensee).

Operating License No. DPR-73 formerly authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) located in Dauphin County, Pennsylvania, but that authorization was limited, by an Order for Modification of License dated July 20, 1979 to maintaining the facility in its present safe shutdown condition; 44 FR 45271 (August 1, 1979). This amendment effects changes to License No. DPR-73 with respect to the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications. Specifically, this amendment consists of changes to Appendix B of Operating License No. DPR-73 pertaining to the following: (1) Eliminate activities that are duplicated in the licensee's National Pollutant Discharge Elimination System (NPDES); (2) eliminate those programs that have been satisfactorily completed (Section 4 special studies); (3) eliminate those programs that are not related to monitoring the integrity of the river system in relation to the cleanup; (4) modify the General Ecological Survey (Section 3.1.2.a.1); (5) eliminate the erosion control inspection section; and (6) eliminate the discussion on herbicide use.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

We have determined that the amendment does not authorize a change in effluent types or total amounts or an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the amendment involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 25, 1982 and amended by letter dated January 24, 1983, (2) Amendment No. 21 and License No. DPR-73 consiating of changes in the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 6th day of May 1983.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Acting Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12762 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Modification of January 13, 1981 and September 15, 1982 Orders

I

The Nebraska Public Power District (The licensee) is the holder of Facility Operating License No. DPR-46 which authorizes the licensee to operate the Cooper Nuclear Station at power levels not in excess of 2381 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

On January 13, 1981 the Commission issued an Order modifying the License requiring (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661: and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9286) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than September 30, 1982, or, if the plant is shutdown on that date, before the resumption of power thereafter. On September 15, 1982 the Commission issued an Order modifying the completion date specified in Section V of the January 13, 1981 Order. The Order, published in the **Federal Register** on September 27, 1982 (47 FR 42478) changed the completion date to prior to the start of Cycle 9 (at the completion of the licensees 1983 refueling outage).

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria significant progress has been made and it was the intent of the licensee to meet the extension date specified in the September 15, 1982 Order. However, as identified in an April 29, 1983 letter, unacceptable welds on Mark I containment modifications performed in 1982 have been found which are under evaluation and may require corrective measures.

This potential rework of an existing modification would be the only item identified in the Mark I Long Term Program not completed. All of the major Modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping will have been completed. All of the torus attached piping modifications and minor modifications will have also been completed.

The Commission believes that since all the modifications will have been completed except for the rework of an existing modification most of the intended margins of safety of the containment systems will have been achieved. In consideration of the range of modification completion dates presented in SECY-81-678 that was approved by the Commission, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has therefore determined to modify the January 13, 1981 Order, as modified by the Order of September 15, 1982, to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect that exemption to General Design Criteria 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

The Commission has determined that good cause exists for the extension of the exemption, that such extension is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption," as modified by the Order of September 15, 1982, is hereby changed to read as follows: "Not later that 90 days after the start of Cycle 9." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 30 days of the date of publication of this Order in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant Extension of Exemption," should be changed to "Not later than 90 days after the Start of Cycle 9."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Date at Bethesda, Maryland this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12763 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Northeast Nuclear Energy Company, et al.; Issuance of Amendments To Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 91 to Provisional Operating License No. DPR-21, and Amendment No. 86 to Facility Operating License No. DPR-65, to The Connecticut Light and Power Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees), which amended the licenses for operation of Millstone Nuclear

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Power Station, Units 1 and 2 (the facilities) located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments amend the Millstone 1 and 2 licenses to reflect the merger of The Connecticut Light and Power Company (CL&P) and The Hartford Electric Light Company. Accordingly, the results of this action indicate CL&P and Western Massachusetts Electric Company as having authority to possess Millstone Station, Units 1 and 2, and the Northeast Nuclear Energy Company remaining as the responsible entity for operation of the facilities. With respect to Unit 1 only, this action also involves: (1) A change to Section 5.1 of the Technical Specifications, and (2) reissuance of the operating license in its entirety for clarity and format purposes only.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to these actions, see: (1) The application for amendments dated December 8, 1982, (2) Amendment No. 91 to License No. DPR–21 and Amendment No. 86 to License No. DPR–65, and (3) the Commission's related letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83–12796 Filed 5–11–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–275]

Pacific Gas and Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR–76 issued to the Pacific Gas and Electric Company (the licensee), for Diablo Canyon Nuclear Power Plant, Unit No. 1 (the facility) located in San Luis Obispo County, California. The amendment is effective as of the date of issuance.

The amendment extends the period relief from specific technical specifications for an additional 45 days (from May 6, 1983 to June 20, 1983) to allow for the movement of loads in excess of 2,500 pounds in order to make certain modifications in the Fuel Handling Building.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 21, 1982, and supplemental letter dated April 29, 1983 (2) Amendment No. 5 to Facility Operating License No. DPR–76, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83–12795 Filed 5–11–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commissioin (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications on Fxy to remove the cycle dependent values of Fxy as a function of core height and provide these Fxy values by means of a Peaking Factor Limit Report.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 31, 1983, (2) Amendment No. 19 to License No. DPR–75, and (3) the Commission's related

Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–12798 Filed 5–11–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Co.; Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–70 and Amendment No. 20 to Facility Operating License No. DPR–75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments change the partial power multiplier from 0.2 to 0.3

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for FΔH.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated October 5, 1982, (2) Amendment Nos. 52 and 20 to License Nos. DPR–70 and DPR–75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 83–12797 Filed 5–11–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Co.; Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR–70 and Amendment No. 21 to Facility Operating License No. 75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments raise the trip set points and allowable value of the steam generator water level low low reactor trip.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notices of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) the application for amendments dated May 4, 1983, (2) Amendment Nos. 53 and 21 to License Nos. DPR–70 and DPR–75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–12796 Filed 5–11–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR–77 and Amendment No. 17 to Facility Operating License No. DPR–79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the Technical Specifications related to the Upper Head Injection (UHI) accumulator water level setpoint and tolerances. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the

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Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated March 28, 1983, (2) Amendment No. 28 to Facility Operating License No. DPR–77 with Appendix A Technical Specification page change; (3) Amendment No. 17 to Facility Operating License No. DPR–79 with Appendix A Technical Specification page change; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 28 and Amendment No. 17 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-12799 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendment To Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR–77 and Amendment No. 19 to Facility Operating License No. DPR–79 issued to the Tennessee Valley Authority (the licensee), which revises the licenses for operation of the Sequoyah Nuclear Plant, Units 1 and 2, (the facility) located in Hamilton County, Tennessee. The amendments are effective 90 days after the date of issuance and are to be implemented in accordance with the provisions of 10 CFR 73.40(b) and 10 CFR 73.55(b)(4).

The amendments revise license conditions to include the Commission-approved Guard Training and Qualification Plan and the Safeguards Contingency Plan as part of the licenses.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filings dated June 23, 1982, consist of Safeguards Information required to be protected from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see: (1) Amendment No. 30 to Facility Operating License No. DPR–77; (2) Amendment No. 19 to Facility Operating License No. DPR–79; (3) the related Safety Evaluation Report; and (4) the Commission's related letter to the licensee dated MAY 5, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of the above items may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4 Division of Licensing.

[FR Doc. 83-12800 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Application for Operating License

May 6, 1983.

From June 13–17, 1983 the Atomic Safety and Licensing Board (Board) will continue its evidentiary hearing in this case at the Metro Center Hotel, 600 Commerce Street, Fort Worth, Texas 76102. This phase of the hearing is concerned with a staff study (the Construction Appraisal Team or "CAT" study) of quality assurance at Comanche Peak.

Ordinary hours of hearing will be from 9 a.m. to 5 p.m., subject to periodic recesses and to extension of hours in order to complete the hearing during the scheduled time period. Members of the public are invited to attend. Because the Board's time is expected to be dedicated to the receipt of evidence, there are no plans for permitting limited appearance statements during this sessions of hearings.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 83-12801 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Unit 2); Revised Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Carolina Power & Light Company (the licensee) is the holder of Facility Operating License No. DPR–62 which authorizes the operation of the Brunswick Steam Electric Plant, Unit 2 (the facility) at steady-state power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Brunswick County, North Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82–05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82–10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(F) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82–05 by letters dated April 23, June 24, July 1, and December 6, 1982; the licensee responded to Generic Letter 82–10 by letters dated June 9, and December 6, 1982. In these letters, the licensee made schedular commitments for the completion of each of the remaining items. Based on these commitments, the NRC issued the "Order Confirming Licensee Commitments on Post-TMI Related Issues" dated March 14, 1983 for Brunswick Steam Electric Plant, Unit 2.

By letter dated April 1, 1983 Carolina Power and Light Company requested relief from the commitment dates contained in said Order for three items for Brunswick Unit 2. The specific items are II.B.3, Post Accident Sampling, capability; II.F.1.1, Accident Monitoring, noble gas effluent monitors; and II.F.1.5, Accident Monitoring, continuous indication of containment water level. Carolina Power & Light Company requested that these completion dates be changed from June 1, 1983 to September 30, 1983.

The need for this schedular change resulted from the delayed completion of the outage work on Brunswick Unit 1, which required the diversion of resources from Unit 2 that were originally committed to completion of these items on Unit 2. With the completion dates extended to September 30, 1983 Carolina Power and Light Company plans to complete those portions of the installation requiring an outage during the ten-day outage scheduled for Unit 2 on April 9, 1983. At the end of that outage the installation will have progressed to the following extent: Post Accident Sampling, 95% installed; Noble Gas Effluent Monitors, 60% installed and Containment Water Level Instrumentation, 80% installed. The balance of the installation and testing would be completed by September 30, 1983. We have reviewed the proposed schedule for installation of these modifications, the potential need for the subject instrumentation during the period from June 1, 1983 to September 30, 1983 and the augmented interim instrumentation and procedures that are presently in place for monitoring the pertinent plant conditions in the event of an accident. We have concluded that the licensee has made reasonable progress toward installation of the subject instrumentation and that the interim measures that have been established are adequate to permit continued operation of Brunswick Unit 2 until September 30, 1983 when the subject instrumentation shall be fully operational.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that the licensee shall: Implement and maintain Post-TMI related items II.B.3, II.F.1.1 and II.F.1.5 described in the licensee's submittals noted in Section III herein no later than September 30, 1983.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon expiration of the time within which a hearing may be requested.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12719 Filed 5-11-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Implementation of Permanent Rates for Regular Bulk Third-Class Mail

AGENCY: Postal Service.

ACTION: Notice of Implementation of Permanent Rates For Regular Bulk Third-Class Mail.

SUMMARY: The Governors of the Postal Service have approved a recommendation from the Postal Rate Commission to implement permanent rates for regular bulk third-class mail, and the Board of Governors has directed that the changes are to be implemented at 12:01 a.m., May 22, 1983. The rates are contained in the Appendix to this notice.

EFFECTIVE DATE: 12:01 a.m., May 22, 1983.

FOR FURTHER INFORMATION CONTACT: Frances G. Beck, Associate General Counsel, Office of Rates and Classification Law (202) 245–4600.

SUPPLEMENTARY INFORMATION: On July 9, 1982, the Court of Appeals for the Second Circuit issued an opinion in *Time, Inc.*, v. *United States Postal Service*, 685 F. 2d 760 (2d Cir. 1982) holding, among other things, that the current rates for bulk third-class mail could be maintained only if reinstituted by the Board of Governors as temporary

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rates pursuant to 39 U.S.C. section 3641. In accordance with the Court's decision, the Board or Governors of the Postal Service met on August 3, 1982. By resolution, the Board of Governors specified that the rates in effect would be considered temporary rates effective August 20, 1982, under the provisions of 39 U.S.C. section 3641.

Subsequently, on February 16, 1983, the Governors of the United States Postal Service rejected a recommended decision by the Postal Rate Commission on permanent bulk third-class rates. Following the rejection, the Postal Rate Commission reconsidered its recommendation. The Recommended Decision upon Reconsideration, issued on April 18, 1983, was considered by the Governors of the United States Postal Service at their meeting on May 3, 1983. The Governors approved the rates recommended for regular bulk third-class mail and the Board of Governors directed that the changes be implemented at 12:01 a.m., May 22, 1983. Pending their further study of the matter, the Governors took no action on the recommended third-class bulk nonprofit rates. There will be no change in the rates paid by nonprofit mailers at this time. The Governors said: "The temporary full rates not in effect for nonprofit third-class bulk mail shall, therefore, remain in effect until they expire by action of law on May 22, at which time the full rates will revert to those in effect before March 22, 1981. In accordance with current law, however, the effective rates paid by the mailers shall be maintained at their current levels until October 1, 1983."

The Governors' decisions, the record of the Commission's hearings, and the Commission's recommended decisions may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decisions and the Commission's recommended decisions are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

(39 U.S.C. 3625)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

APPENDIX.—THIRD-CLASS MAIL, REGULAR BULK

Bulk rate structure [1]	Full rates (Cents)
Per-pound, required presortation	45.
Per-pound, presorted to 5-digits	45 less 1.7 per piece.

APPENDIX.—THIRD-CLASS MAIL, REGULAR BULK—Continued

Bulk rate structure [1]	Full rates (Cents)
Per-pound, presorted to carrier route	45 less 3.6 per piece.
Minimum-per-piece, required presortation	11.0.
Minimum-per-piece, presorted to 5-digits	9.3.
Minimum-per-piece, presorted to carrier route.	7.4.

[1] A fee of $40.00 must be paid once each calendar year for each bulk mailing permit.

[FR Doc. 83-12707 Filed 5-11-83; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Procurement Requests
(2) Form(s) submitted: Request for Proposal
(3) Type of request: Existing collection in use without an OMB control number
(4) Frequency of use: On occasion
(5) Respondents: Business or other for-profit, Non-profit institutions, Small businesses or organizations
(6) Annual responses: 665
(7) Annual reporting hours: 4247
(8) Collection description: The collection obtains the information needed from bidders to award contracts for services or equipment.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503

William A. Ozikowski,

Director of Planning and Information Management.

[FR Doc. 83-12737 Filed 5-11-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 7d–(b)(8) (i), (iii) and (viii) under the Investment Company Act of 1940 which concerns the condition and arrangements pursuant to which Canadian management investment companies may register under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

The potential respondents are all investment companies registered under the Investment Company Act of 1940 and investment advisers of such companies.

Agency Clearance Officer—Kenneth Fogash (202) 272–2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension
Rule 7d–1(b)(8) (i), (iii) and (viii) [17 CFR 270.7d–1(b)(8) (i), (iii) and (viii)]
SEC File No. 270–176

Submit comments to OMB Desk Officer: Robert Veeder 202–395–4814.

George A. Fitzsimmons,

Secretary.

May 5, 1983.

[FR Doc. 83-12805 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a voluntary survey on the utility of the 1982 concise SEC Annual Report to Congress.

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

New
Annual Report to Congress, Readership Survey
No. 270–276

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

May 6, 1983.

[FR Doc. 83-12806 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 31a–1 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by registered investment companies.

The potential respondents are all investment companies registered under the Investment Company Act of 1940, certain majority-owned subsidiaries thereof, and banks and transfer agents that maintain and preserve records on behalf of registered investment companies.

Agency Clearance Officer—Kenneth Fogash (202) 272–2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C., 20549.

Extension
Rule 31a–1 [17 CFR 270.31a–1]
SEC File No. 270–173

Submit comments to OMB Desk Officer: Robert Veeder 202–395–4814.

George A. Fitzsimmons,

Secretary.

May 5, 1983.

[FR Doc. 83-12807 Filed 5-11-83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13217; (811-722)]

Scudder Special Fund, Inc.; Application Pursuant to Section 8(f) of the Act and Rule 8f–1 Thereunder for an Order Declaring That Applicant Has Ceased To Be an Investment Company

May 5, 1983.

Notice is hereby given that Scudder Special Fund, Inc. ("Applicant") (345 Park Avenue, New York, New York 10154), registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on November 24, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below.

Applicant states that it registered under the Act on June 1, 1956, by filing a registration statement on Form N–8B–1 pursuant to Section 8(b) of the Act. Applicant further states that it filed a registration statement on Form S–5 pursuant to the Securities Act of 1933 on May 11, 1956. It was incorporated under the laws of Delaware.

Applicant represents that, pursuant to a plan of merger approved by its Board of Directors on May 17, 1982, and by a majority of its shareholders on September 17, 1982, it transferred all of its securities and other assets, on September 30, 1982, to Scudder Capital Growth Fund, Inc. ("Capital Growth"), a registered investment company. Applicant further represents that it has filed a Certificate of Merger pursuant to the General Corporation Law of the State of Delaware and recorded a copy of the certificate in the Office of the Records of New Castle County, Delaware. Applicant states that, pursuant to the Merger, its shareholders became shareholders of Capital Growth, Applicant's corporate existence ceased, and Capital Growth commenced offering its shares to the public on a continuous basis.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect. Rule 8f–1 under the Act prescribes Form N–8F as the form for application for an order, pursuant to Section 8(f) of the Act, where, as here pertinent, a registered investment company has merged or consolidated with another registered investment company.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 30, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12808 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–19728; File No. SR–OCC–83–7]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corporation Relating to a Proposed Revision of the Method Used To Calculate the Amount of Contributions by Clearing Members to OCC's Clearing Fund

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1), notice is hereby given that on April 15, 1983, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The Options Clearing Corporation ("OCC") proposes to amend its rules as set forth below. *Italics* indicate material proposed to be added to OCC's existing rules and brackets indicate material to be deleted from existing rules.

RULES

Chapter X.—Clearing Fund
Contributions, Amount of Contributions

Rule 1001. (a) The contribution to the Stock Clearing Fund of each Stock Clearing Member (except recently admitted Clearing Members whose contributions are fixed pursuant to Article VIII of the By-Laws) for each calendar month shall be the greater of (x) $10,000, or (y) such Clearing Member's proportionate share of an amount equal to [7%] *5%*, or such greater percentage as the Board of Directors shall from time to time prescribe by resolution, of the average daily [value] *aggregate margin requirement in respect* of the stock option contracts outstanding

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during the [three] preceding calendar month[s].

(b) The contribution to the [Debt] *Non-Equity* Securities Clearing Fund of each [Debt] *Non-Equity* Securities Clearing Member (except recently admitted Clearing Members whose contributions are fixed pursuant to Article VIII of the By-Laws) for each calendar month shall be the greater of (x) $100,000, or such greater amount as the Board of Directors may from time to time prescribe by resolution applicable to all [Debt] *Non-Equity* Securities Clearing Members, or (y) such Clearing Member's proportionate share of an amount equal to [7%] *5%*, or such greater percentage as the Board of Directors shall from time to time prescribe by resolution, of the average daily [value] *aggregate margin requirement in respect* of the [debt] *non-equity* securities option contracts outstanding during the [three] preceding calendar month[s].

(c) For the purposes of this Rule, the average daily [value] *aggregate margin requirement in respect* of stock option contracts or [debt] *non-equity* securities option contracts, as the case may be, outstanding during the [three] preceding calendar month[s] shall be determined by (i) determining, for each business day during the [three] preceding calendar month[s], the sum of [the] *all* daily *margin required to be deposited on such business day by all Clearing Members pursuant to Rules 601, 602, and 609* [options marking prices (determined in accordance with Chapter VI of the Rules) of all short positions in such option contracts maintained with the Corporation at the close of such business day]; (ii) calculating the sum of the amounts determined in step (i), and (iii) dividing the sum arrived at in step (ii) by the aggregate number of business days in such [three] preceding calendar month[s]. A Clearing Member's proportionate share shall be a fraction, the numerator of which shall be the daily average number of stock option or [debt] *non-equity* securities option contracts, as the case may be, held by such Clearing Member in open long and short positions with the Corporation during the [three] preceding calendar month[s], and the denominator of which shall be daily average number of stock option or [debt] *non-equity* securities option contracts, as the case may be, held by all Clearing Members in open long and short positions with the Corporation during such [three] preceding calendar month[s].

Interpretations and Policies

1. The Board of Directors of the Corporation has prescribed that, at the present time, the percentage amount referred to in paragraphs (a) and (b) of this Rule 1001 shall be 7% of the average daily aggregate margin requirement with respect to stock and non-equity securities options, respectively.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed revision of Rule 1001 would base Clearing Members' contributions to OCC's Clearing Funds on aggregate margin requirements rather than open interest value. OCC believes that this change will relate the size of the Clearing Funds more closely to OCC's actual risks. It is contemplated that the change will reduce the size of Clearing Fund contributions and therefore reduce the burden on OCC's Clearing Members. Contributions would be based upon 30-day rather than 90-day averages of daily aggregate margin requirements in order that the size of the Clearing Funds will increase and decrease more rapidly in response to changes in aggregate margin requirements.

The proposed rule change is consistent with Section 17A(b)(3) (A), (D), and (F) of the Act because it provides for the safeguarding of securities and funds in OCC's custody, provides for the equitable allocation of Clearing Fund contributions, and protects investors and the public interests by providing for Clearing Funds that are sufficient to cover any anticipated loss by OCC through the default of a Clearing Member and are more reasonably related to OCC's actual risks.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 4, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12800 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19723; File No. SR-PSE-83-09]

Self-Regulatory Organization; Proposed Rule Change by the Pacific Stock Exchange Inc., Relating to the Increase of Option Positions and Exercise Limits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 29, 1983, the Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or "Exchange") proposes to amend Rule VI, Sections 5 and 6, of the Rules of its Board of Governors. The proposed amendments relate specifically to Rule VI, Section 5, Commentary .05 and .06, and Rule VI, Section 6, Commentary .01 (Brackets indicate deleted language; italics indicates added language.)

Rule VI, Section 5

Commentary .05

The current position limits established pursuant to Section 5 follow: aggregate positions shall be [2,000] *2,500 or 4,000* contracts on the same side of the market in the same underlying stock [.] , *which limit is determined in accordance with Commentary .06.* These position limits shall include [2,000] *2,500 or 4,000* long call options, or [2,000] *2,500 or 4,000* short put options, or any combination thereof not to exceed an aggregate of [2,000] *2,500 or 4,000* contracts, and [2,000] *2,500 or 4,000* short call options, or [2,000] *2,500 or 4,000* long put options, or any combination thereof not to exceed an aggregate of [2,000] *2,500 or 4,000* contracts. *Whether a limit is 2,500 or 4,000 option contracts shall be determined in the manner described in Commentary .06 below.*

Rule VI, Section 5

Commentary .06

The position limit shall be 4,000 contracts for options: (i) on an underlying stock which had trading volume of at least 20,000,000 shares during the most recent six-month trading period; or (ii) on an underlying stock which had trading volume of at least 15,000,000 shares during the most recent six-month trading period and has at least 60,000,000 shares currently outstanding. The position limit shall be 2,500 contracts for all other options.

The Exchange will review the volume and outstanding share information of all underlying stocks on which options are traded on the Exchange every six months to determine which limit shall apply. The 4,000 contract limit will be effective on the date set by the Exchange, while any change from a 4,000 contract limit to a 2,500 contract limit will take effect after the last expiration then trading, unless the requirement for a 4,000 contract limit is met at the time of the intervening six-month review.

Rule VI, Section 6

Commentary .01

The exercise limits established pursuant to this Section shall be [2,000] *2,500 or 4,000* option contracts of any particular class of options and it shall be the responsibility of each member organization accepting orders for the purchase (in opening transactions) of option contracts of a class of options dealt in on the Exchange to inform its customers of the applicable exercise limits and not to accept any exercise of an option contract from any customer in any instance in which such member organization has reason to believe that such customer, acting alone or in concert with others, has exceeded or is attempting to exceed such exercise limits. *Whether an exercise limit is 2,500 or 4,000 option contracts shall be determined in the manner described in Rule VI, Section 5, Commentary .06.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase position and exercise limits for stock options in order to add to market depth and liquidity.

Position and exercise limit rules were originally adopted by option exchanges in order to minimize the manipulative potential which could result from the accumulation of large option positions. In 1978, the Special Study of the Options Market ("Study") recognized a number of significant problems which resulted from the position limit rule restrictions, including the inability of large portfolio managers to utilize options as a vehicle to properly balance a portfolio's risk and potential reward. The Study recommended that existing Exchange Rules, which limited the size of option positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of re-examination of position limits, as suggested in that Study, the Exchange proposed rule changes which were adopted in October 1980 to raise position and exercise limits from 1,000 to 2,000 contracts. In view of the increased use of the options markets and the experience gained during the two years since the position limits were increased in 1980, the Exchange believes that it is appropriate at this time to again increase position and exercise limits.

In its 1980 release approving position and exercise limit increases, the Commission made the following statements (Release No. 34-17237) that the Exchange believes also apply to the current proposal to increase limits:

> • • • There is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibly propose and effectively evaluate possible further modificaitons • • •

It should be noted that position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail larger financial risks, position limits are cumbersome and ineffective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose; namely, suitability, margin, and net capital rules.

The change from 2,000 to 2,500 option contracts is minimal, especially in view of the Exchange's experience to date

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with the 2,000-contract limit. The change from 2,000 to 4,000 option contracts involves standards that are a protection against possible manipulation. These standards insure that only option contracts having an underlying stock that has either very high trading volume or high trading volume and a high number of shares outstanding will receive the higher limit. The standards mean that the options and stocks involved are significantly less susceptible to manipulation. To be eligible for the 4,000-contract limit, either the most recent six-month trading volume of the underlying stock must have totaled at least 20,000,000 shares; or the most recent six-month trading volume of the underlying stock must have totaled at least 15,000,000 shares and the underlying stock must have at least 60,000,000 shares currently outstanding.

Every six months, the Exchange will review the status of underlying stocks for options traded on the Exchange to determine which limit should apply. Two new lists shall be published and distributed to all members and member firms. The 4,000 limit will be effective on the date set by the Exchange, which date will allow time for appropriate notice to be given. Any change from a 4,000 to a 2,500 limit will take effect after the last expiration then trading, unless the requirement for a 4,000 limit is met at the time of the intervening six-month review.

The basis for this proposed rule change is Section 6(b)(5) of the 1934 Act, in that the proposed change would increase market depth and liquidity, which is in the public interest, while continuing to protect investors from manipulative activity.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12810 Filed 5-11-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2080; Amdt. #1]

Mississippi; Declaration of Disaster Loan Area

Declaration #2080 (See 48 FR 18969) is amended in accordance with FEMA's declaration of April 16, 1983, to include Copiah, Pearl River, Simpson, and Covington Counties and the adjacent Counties of Claiborne and Pike in the State of Mississippi. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on June 16, 1983, and for economic injury until the close of business on January 16, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 4, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-12811 Filed 5-11-83; 8:45 am]

BILLING CODE 8025-01-M

Paperwork Reduction Policies Affecting Small Business; Hearing and Request for Comments

The Chief Counsel for Advocacy will conduct six public hearings on small business paperwork burdens. The goal of the hearings is to assess the impact of the Paperwork Reduction Act of 1980 (PRA) on the small business community and to explore ways to provide greater relief from paperwork burdens.

Written comments or personal appearances are requested. Statements should respond to issues listed below but need not be limited by the list. One of the most difficult problems in assessing the effectiveness of paperwork control is the lack of specific information from small businesses. This notice and the public hearings seek to develop specific information.

Written comments by persons who will not be testifying at a hearing must be received by July 15, 1983. Requests to present an oral statement must be made two weeks in advance of the particular hearing, and witnesses are urged to make two copies of their testimony available to the Chief Counsel at the hearing.

Interested parties should submit two copies of their comments, suggestions, or other information about Federal paperwork and paperwork reduction policies to Mr. Frank S. Swain, Chief Counsel for Advocacy, U.S. Small Business Administration, Room 1012, 1441 "L" Street, NW., Washington, D.C. 20416. Attention: Paperwork Hearings.

To schedule testimony at one of the hearings, contact Dr. Philip Nicoll, Senior Advocate for Paperwork Policy, at the Office of Advocacy, U.S. Small Business Administration, Room 1012, 1441 "L" Street, NW., Washington, D.C. 20416, phone (202) 634-6180.

The dates and cities scheduled are:

Monday, June 6, 1983, Tampa, Florida
Wednesday, June 15, 1983, Dallas, Texas
Wednesday, June 22, 1983, Indianapolis, Indiana
Thursday, June 30, 1983, Boston, Massachusetts
Wednesday, July 13, 1983, San Francisco, California
Friday, July 15, 1983, Seattle, Washington

For exact times and places, call (202) 634-6180.

1. Reason for These Hearings

The Paperwork Reduction Act (PRA) was passed by Congress in 1980 to systematize and reduce Federal information collection and recordkeeping requirements. The Act marks the recognition of the increasing burden of duplicative government forms, reports and recordkeeping requirements.

Studies show that small businesses in particular are disproportionately burdened by Federal paperwork requirements. Since many paperwork burdens are the same for all companies regardless of size, small businesses' ability to compete is disproportionately affected by the paperwork aspects of regulation.

The PRA made several important changes in the law. It centralized Federal paperwork authority in the Office of Management and Budget and created the Office of Information and Regulatory Affairs (OIRA). The Act set goals for reduction of Federal paperwork by 25 percent from April 1981 to April 1983. It also provided that no person could be penalized for not complying with a Federal information collection requirement unless the requirement has been cleared by OMB and has been assigned an OMB clearance number.

The PRA authorized the OIRA to function until September 30, 1983, and Congress is currently considering reauthorization of the OIRA. The Chief Counsel for Advocacy has been charged by Congress with developing information to correct small business problems and is authorized by law to hold hearings for these purposes (Pub. L. 94-305, Sections 203(5) and 204(5)). Thus, the Chief Counsel seeks assistance from the public in gauging the progress made toward controlling regulations and paperwork through the Paperwork Reduction Act as well as other regulatory reform efforts. In addition the Chief Counsel oversees agency compliance with the Regulatory Flexibility Act, which directs agency analyses of both regulatory and paperwork burdens.

2. Who Should Comment or Testify?

Small business owners, small business organizations, or other individuals who can provide personal examples, statistical information, or other information or perceptions about trends in paperwork burdens affecting business at the Federal and state levels. For example, persons with experience with paperwork burdens related to the following would be particularly appropriate: Tax, government contracting, environmental, health and safety regulation, licensing, periodic business censuses, regulation of transportation, communications, banking or energy and construction.

3. Issues to Address

Information is welcome on any aspect of small business paperwork and recordkeeping policy, but specific responses for the following questions will be especially appreciated.

1. Have business-related Federal recordkeeping or reporting burdens increased or decreased since 1981?

2. Which paperwork requirements impose the greatest burdens on business? Please provide specific information on the costs imposed by the particular paperwork requirement or operational limitations. Are these changes that should be made in the paperwork requirement?

3. Are there examples where paperwork burdens have been reduced since 1981? What was the impact of these changes? Describe any initiatives by Federal agencies to involve small business in paperwork policy decisions.

4. Have state and local paperwork burdens changed since 1981? Please explain. Have states adopted paperwork requirements dropped by Federal agencies?

5. Is repetitious paperwork imposed by different units of the same agency or department, or by more than one agency or department of Federal or state government? Please describe.

6. Are you familiar with the public protection provision of the Paperwork Act? Do you know of Federal forms or recordkeeping requirements that do not bear an OMB clearance number? Document each one.

7. Are there changes that you would recommend in the Government's response to the paperwork problems of small businesses?

Dated: May 9, 1983.

Frank S. Swain,

Chief Counsel for Advocacy.

[FR Doc. 83-12812 Filed 5-11-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-023]

Certificate of Alternative Compliance; Notice of Certificate Granted for the 270' WMEC Class

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Pursuant to paragraph (c), Section 1605, Title 33 of the United States Code, notice of certification of alternative compliance granted to the 270' WMEC class of Coast Guard cutters is hereby made.

On January 5, 1983, the 270' Famous class was granted an exemption from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) vertical and horizontal positioning requirements for masthead lights. These exemptions were made under authority of Rule 1(e) of 72 COLREGS and Sec. 6 of the International Navigational Rules Act of 1977 (91 Stat. 309, 33 U.S.C. 1605).

Rule 23 of 72 COLREGS requires vessels over 50 meters in length to carry a forward and after masthead light. Section 2 of Annex I to 72 COLREGS requires the forward masthead light to be carried not less than 11.6 meters (the maximum beam of the vessel) above the hull. The 270' WMEC class cannot meet this requirement because of its special construction and purpose.

The 270' class is equipped with an optical sight connected to its COMDAC system. This sight is located directly aft of the forward mast location. If the forward light is placed at the required height, it would interfere with the operation of the sight. The alternative vertical position for the forward masthead light is approximately 10.7 meters above the main deck. This is the closest possible compliance with the positioning requirements of Section 2 of Annex I to 72 COLREGS without interfering with the special function of the vessel.

Section 3 of Annex I to 72 COLREGS specifies a minimum horizontal distance between the two masthead lights of half the vessel's length. The 270' WMEC class cannot meet this requirement because of its special construction and purpose.

The helicopter hangar and flight deck limit the separation on the after end of the vessel and the gun mount on the forward deck limits separation between the masthead lights to about 16.4 meters. This is the closest possible compliance with the positioning requirements of Section 3 of Annex I to 72 COLREGS without interfering with the special function of the vessel.

The vessels in the 270' class include, but are not limited to, the following:
CGC BEAR (WMEC 901)
CGC TAMPA (WMEC 902)
CGC HARRIET LANE (WMEC 903)
CGC NORTHLAND (WMEC 904)
CGC SPENCER (WMEC 905)
CGC SENECA (WMEC 906)
CGC ESCANABA (WMEC 907)
CGC TAHOMA (WMEC 908)
(WMEC 909)

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(WMEC 910)
(WMEC 911)
(WMEC 912)
(WMEC 913)

A copy of the Certificate of Alternative compliance and documentation are available for inspection at Coast Guard Headquarters, Office of Navigation, Room 1006, 2100 Second St. S.W., Washington, D.C. 20593, between the hours of 8 a.m. and 3:30 p.m., Monday through Friday.

Dated: May 4, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83-12755 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Updated Report of the Fleet Status and Compliance Plans of U.S. Domestic Aircraft Operators as They Move Toward Compliance with the FAA's Aircraft Noise Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The table below summarizes the fleet compliance status as of January 1, 1977 (approximately the date the regulation was issued), the status as of April 1, 1980, January 1, 1981, January 1, 1982, January 1, 1983, and fleet projections for the phased compliance deadline of January 1, 1985. When the regulation was issued, slightly over 20 percent of the U.S. fleet met the FAA noise standards. As of January 1, 1983, almost 73 percent of the fleet complied and that percentage will reach 86 percent by January 1, 1985.

DISCUSSION: In December 1976, the FAA issued Subpart E of Part 91 of the Federal Aviation Regulations [14 CFR Part 91] which prescribes noise limits for U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates. These requirements prohibit domestic operation in the United States of affected airplanes after specified dates, with full compliance required by January 1, 1985.

In November 1980, the FAA issued a final rule (adopting Title III of the Aviation Safety and Noise Abatement Act of 1979) to extend these same noise compliance requirements to all operators of affected aircraft in the United States, whether U.S. or foreign registered. This rule also provided for exemptions to extend the compliance deadline for two-engine airplanes (DC-9, Boeing 737, BAC 1-11, and SE-201) to January 1, 1985 (for over 100 seats) or to January 1, 1988 (for 100 or fewer seats) as protection for small community service.

To ensure that all domestic operators are taking appropriate steps to meet the noise compliance requirements, the FAA amended 14 CFR Part 91 in December 1979, to require the operators of affected turbojet airplanes to provide the current status of their fleets and their plans for achieving timely and continuing compliance. The first summary report on Fleet Noise Compliance was published on July 17, 1980 (45 FR 48011), the second on August 6, 1981 (46 FR 40126), and the third on July 8, 1982 (47 FR 29754). This report is an update to that publication.

As originally issued, the FAA noise compliance regulation required full compliance by January 1, 1985. To date, the FAA has issued exemptions for 488 two-engine airplanes as protection for small community service. These exemptions were issued to 33 operators and extend the compliance dates to January 1, 1985, for 130 airplanes and to January 1, 1988, for 358 airplanes.

The table also indicates the pace at which U.S. operators are moving the four-engine narrowbody models (Boeing 707 and 720, DC-8) from domestic service. All of these will be gone by January 1, 1985, except for 75 stretch DC-8's, which are currently planned for reengining.

Information in the compliance plans submitted by many of the operators included future additions to their fleets. Where available, these data have been incorporated in the table. However, operators are not required to provide this type of information to the FAA under this program and, as a consequence, this table is not indicative of total future airplane purchases or the total future U.S. fleet.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, AEE-110, Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 755-9027.

Issued in Washington, D.C., on April 28, 1983.

Richard N. Tedrick,

Acting Manager, Noise Abatement Division, AEE-100.

NOISE COMPLIANCE FLEET PROJECTIONS

Airplane type	Jan. 1, 1977		Apr. 1, 1980		Jan 1, 1981		Jan 1, 1982		Jan 1, 1983		Jan 1, 1985	
	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying	Total airplanes	Number complying
A300	0	0	14	14	19	19	25	25	30	30	34	34
BAC 1-11	33	0	44	0	44	0	57	0	51	0	46	10
B707	277	0	190	0	147	0	84	0	80	0	0	0
B720	21	0	12	0	11	0	9	0	5	0	0	0
B727	842	186	1,082	540	1,076	648	1,138	764	1,079	1,067	1,068	1,068
B737	150	7	224	71	229	82	247	109	281	140	315	204
B747	112	35	141	121	146	132	151	150	148	148	151	151
CONVAIR	25	11	8	0	8	0	8	0	4	0	0	0
DC-8	224	0	164	0	161	0	143	2	123	21	75	75
DC-9	367	32	400	74	405	83	476	111	509	166	533	322
DC-10	124	124	146	146	152	152	162	162	165	165	166	166
L1011	81	81	91	91	93	93	110	110	117	117	110	110
SE210	0	0	6	0	6	0	4	0	2	0	1	0
B757	0	0	0	0	0	0	0	0	2	2	33	33
B767	0	0	11	0	0	0	0	0	19	19	89	89
BA146	0	0	0	0	0	0	0	0	0	0	6	6
Total	2,256	465	2,522	1,057	2,497	1,209	2,614	1,433	2,619	1,895	2,627	2,269
Percent		20.6		41.9		48.4		54.8		72.4		86.4

[FR Doc. 83-12675 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. 82-17, Notice 2]

Alternate Designs for Bridges; Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of policy statement.

SUMMARY: This notice provides a statement of FHWA policy on the development of alternate designs for major bridges to be constructed with Federal-aid highway funds. A proposed policy statement was published on October 18, 1982, in order to solicit public comments. Those comments as well as revisions to the proposed policy statement are discussed under the heading **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Mr. F. D. Sears, Review and Analysis Branch Bridge Division, (202) 472-7680, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1979, the FHWA issued a Technical Advisory (TA) entitled Alternate Bridge Designs. This Technical Advisory was intended to stimulate competition in the design of safe and economical bridge structures and, at the same time, through the competitive bidding process, to take advantage of the prevailing economic conditions which will provide a finished structure at the lowest possible cost without sacrificing safety, quality, or aesthetics.

A memorandum was issued to all Regional Federal Highway Administrators on April 22, 1981, to strengthen FHWA's effort in promoting the use of alternate bridge designs among all State and local governments, including those that have adopted certification acceptance. On September 23, 1981, a second memorandum to all Regional Federal Highway Administrators requested each division office to review and revise its administrative procedures to ensure that alternate bridge designs would be incorporated in all major bridge projects. Guidelines were presented in still a third memorandum on June 16, 1982, to all Regional Federal Highway Administrators, so that FHWA field offices could take appropriate measures to assure themselves that the spirit and intent of alternate bridge designs were being followed.

On October 18, 1982, the FHWA published a notice of a proposed policy statement (47 FR 46403) on alternate bridge designs. The intent of this notice was to replace the current TA with a consolidated formal FHWA policy on Alternate Bridge Designs and to invite public comment thereon. This notice establishes a policy on alternate bridge design based on comments made to the docket as well as a further review.

Discussion of Comments

Sixty-eight comments were received in response to the proposed policy statement. Comments were submitted by representatives from the following interest groups: 43 government agencies (36 State, 6 local, and one Federal), 10 trade associations, 6 consulting firms, 6 contractors, and one private citizen.

A primary issue addressed by those submitting comments was the scope of the application of the proposed policy. Fourteen respondents indicated that the policy should only be applied to major bridges. Three respondents indicated that there should be no restrictions as to application. Eight respondents indicated a variety of estimated construction costs above which the policy should apply with the highest amount being $10 million. Although not specifically indicated in the October 18 Notice, it had been the intent of the FHWA that the policy would emphasize major bridges. Accordingly, the final policy statement has been revised to reflect the application to major bridges as defined in the Federal-Aid Highway Program Manual (FHPM 6-1-2-1).[1]

Another issue addressed concerned the requirements that States obtain documented concurrence of noncompetitiveness from industry to waive alternate design. Twenty-one respondents indicated opposition to such a requirement citing the difficulty and potential lack of objectivity in obtaining such concurrence. The FHWA agrees with the comments and for this reason, the final policy statement is revised to delete the requirement of documented concurrence.

Seventeen respondents addressed the utilization of value engineering clauses. While two respondents indicated that value engineering need not be applied, 10 respondents indicated that value engineering should apply at the design stage, while five indicated it should be applied during the construction stage. The final policy statement has been revised to encourage value engineering at the design stage. With regard to preliminary plan approval, 21 respondents commented that State expertise in bridge type selection should be recognized as a factor in reaching preliminary bridge plan approval decisions. The FHWA agrees with the comments made and for this reason, the final policy statement has been revised to reflect and acknowledge such State studies.

Upon further review, the provisions on specific construction methods within design documents and maintenance which were proposed in the October 18 Notice have been deleted. The deletions are being made because the povisions are considered not to be appropriately related to the policy being established. The provision on consideration of competitive materials and structural types has been simplified. Finally, a provision is added which states that the established policy shall not be interpreted to exclude consideration of alternate designs for any other type or classification of structure when appropriate.

Based upon the aforementioned analysis and discussion of comments made to the docket, the FHWA is establishing a policy to encourage alternate designs and strategies in the process of selecting the type of bridge to be constructed.

The final FHWA policy is as follows:

1. Preliminary plan development for major bridges should be based on engineering and economic evaluation of acceptable alternate designs. The definition of a major bridge is contained in the Federal-Aid Highway Program Manual (FHPM 6-1-2-1).

2. Alternate designs should consider the utilization of competitive materials and/or structural types.

3. Economic evaluation of preliminary estimates should take into consideration, to the maximum extent possible, the relative accuracy of estimates for state-of-the-art type methods of construction.

4. When comparative economic estimates are reasonably close to each other, two or more complete sets of contract documents should be prepared and advertised.

5. Value engineering at the design stage should be strongly encouraged.

6. Options should be considered for structure components (piling, expansion

[1] The FHPM is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. Major bridges are bridges estimated to cost more than $5 million, or having spans in excess of 150 feet, or viaduct type of structures whose total length is in excess of 1,000 feet. This criterion applies to individual units of separated dual bridges.

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joints, bearings, prestressing systems, etc.).

7. A determination of FHWA approval and participation in the development of alternate or single project plans, specifications and estimates for major bridges will be made after evaluation of a State's submittal of preliminary bridge plans and cost studies. Recognizing that the States are experienced and have broad expertise in factors pertinent to bridge type selection in their States, the FHWA will review comprehensive State studies and subsequent recommendations as a primary factor in reaching preliminary bridge plan approval decisions.

At the some time, FHWA approvals will be based upon the need to ensure safe, efficient and cost effective bridge projects which meet the aesthetic and structural requirements of the site and are based upon the latest, proven technology and techniques.

8. The submittal of preliminary bridge plans for approval should be accompanied by the State's plan for developing the project to completion (horizontal or vertical stage construction, number of contracts, etc.).

9. This policy shall not be interpreted as deterring any State or FHWA field office from considering alternate designs for any other type or classification of structure which they would consider appropriate.

This policy is written with the intent of taking advantage of the evolving state-of-the-art of bridge construction and fluctuating economic conditions in the market place while not compromising sound engineering, safety, quality control, or aesthetics.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The Procedures as provided by OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and project apply to this program.)

Issued on: May 5, 1983.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-12734 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; San Mateo County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project on Route 1 in San Mateo County, California.

FOR FURTHER INFORMATION CONTACT: David Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California, 95809, telephone (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare a draft environmental impact statement (EIS) on the proposed solutions to road failure on Route 1 at Devil's Slide. The limits of the proposed action run from Half Moon Bay Airport to Linda Mar Boulevard in the City of Pacifica, a distance of 7 miles.

The EIS will discuss the no project alternative and three route alternatives: the bypass alignment adopted by the California Highway Commission; a bypass alignment in the general vicinity of Martini Creek; and the existing Route 1 alignment. For the adopted and Martini Creek alignments, two design alternatives are under consideration.

1. Construction of a 2-lane highway with slow-vehicle lanes on grades; and

2. Construction of a 4-lane, ultimate 6-lane, freeway.

The existing alignment alternative will only provide a continuance of the existing 2-lane highway by realignment in the immediate vicinity of Devil's Slide.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal.

A public scoping meeting was held on March 10, 1983, at the Farallone View Elementary School in Montara. Notice of the meeting was published in the *San Mateo Times*, the *Pacific Tribune*, and the *Half Moon Bay Review*. Another scoping meeting for local, State, and Federal agencies is scheduled for May 26, 1983, at 10:00 a.m., in Room 22, Caltrans District Office, 150 Oak Street, San Francisco, California. Public agencies involved with this project will be notified by mail of this meeting.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address given above.

Issued on: May 3, 1983.

James H. Lamb,

Acting District Engineer, Sacramento, California.

[FR Doc. 83-12742 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Dockets HS-83-1 through HS-83-7]

Petition for Exemption From the Hours of Service Act

Correction

In FR Doc. 83-11615 appearing on page 19812 in the issue of Monday, May 2, 1983, the date at the beginning of the sixteenth line of column two should have read, "June 10, 1983."

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

Calendar of Meetings for International Harmonization of Safety Standards

The National Highway Traffic Safety Administration (NHTSA) will continue its participation during this year in the international meetings to harmonize U.S. and foreign motor vehicle safety standards. These meetings will be conducted by the Group of Experts on the Construction of Vehicles (WP29) under the Inland Transport Committee of the United Nation's Economic Commission for Europe (ECE) and the eight groups of Rapporteurs of the WP29. The NHTSA participates in all of the rapporteur meetings except those on Pollution which are presented by the Enviornmental Protection Agency (EPA).

This calendar consists of those meetings in which the NHTSA and the EPA will provide representation and in which the public interest is expected. It is published for information and planning purposes and the meeting dates and places are subject to change. Inquiries or comments relating to specific meetings should be made at least two weeks preceding that meeting.

FOR FURTHER INFORMATION CONTACT: Francis J. Turpin, Office of Vehicle Safety Standards, (NRM-10), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-2212.

May 31-June 3, 1983

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-second Session—Rome, Italy

June 16-17, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-second Session—Geneva, Switzerland

June 20-24, 1983

Group of Experts on the Construction of Vehicles (WP29), Seventieth Session—Geneva, Switzerland

July 12-15, 1983

Group of Rapporteurs on Protective Devices (GRDP), Thirteenth Session—Geneva, Switzerland

August 23-25, 1983

Group of Rapporteurs on Crashworthiness (GRCS), Thirteenth Session—Geneva, Switzerland

August 30-September 2, 1983

Group of Rapporteurs on Pollution and Energy (GRPE), Eighth Session—Geneva, Switzerland

September 6-8 or September 20-22, 1983

Group of Rapporteurs on Noise (GRB), The actual dates of the meeting await confirmation by the Chairman of GRB, Twelfth Session—Rome, Italy

October 4-7, 1983

Group of Rapporteurs on Lighting and Light Signalling (GRE), Eleventh Session—The Hague, Netherlands

October 27-28, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-third Session—Geneva, Switzerland

October 31-November 4, 1983

Group of Experts on the Construction of Vehicles (WP29), Seventy-first Session—Geneva, Switzerland

November 8-11, 1983

Group of Rapporteurs on General Safety Provisions (GRSG), Forty-third Session—Frankfurt, Germany

November 15-18, 1983

Group of Rapporteurs on Safety Provisions on Motor Coaches and Buses (GRSA), Twenty-eight Session—Edinburgh, United Kingdom

December 6-9, 1983

Group of Rapporteurs on Brakes and Running Gear (GRRF) Fourteenth Session—Geneva, Switzerland

The following meetings took place earlier this year:

January 18-20, 1983

Group of Rapporteurs on Crashworthiness (GRCS), Twelfth Session—Geneva, Switzerland

February 8-10, 1983

Group of Rapporteurs on Pollution and Energy (GRPE), Seventh Session—Geneva, Switzerland

February 22-25, 1983

Group of Rapporteurs on Protective Devices (GRDP), Twelfth Session—Rome, Italy

March 10-11, 1983

Ad Hoc Meeting on the Program of Work of the WP29, Twenty-first Session—Geneva, Switzerland

April 6-8, 1983

Group of Rapporteurs on Brakes and Running Gear (GRRF), Thirteenth Session—Geneva, Switzerland

Issued on May 4, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-12425 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 83-04; Notice 1]

Planning for Safety Priorities; 1983 Safety Priorities Plan

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of availability and request for comment.

SUMMARY: This notice announces the availability of the NHTSA publication, "Planning for Safety Priorities: 1983 Safety Priorities Plan," and invites the public to submit comments. The plan presents NHTSA's program priorities in three basic categories: Highway and traffic safety, vehicle crashworthiness and vehicle crash avoidance. The plan also describes the significant safety problems, which were derived from analyses of NHTSA's statistical data bases, and the method and procedures used in establishing the safety priorities.

DATE: Deadline for submission of comments is July 5, 1983.

ADDRESSES: Interested persons may obtain a copy of the plan free of charge by contacting: Office of Administrative Operations (NAD-51), National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, SW., Washington, D.C. 20590; (202-426-0874).

All comments should refer to the docket and notice numbers and be submitted to: Docket Section (NAD-52) Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8:00 a.m. through 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Ellen Kranidas, Director, Office of Planning and Analysis, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, SW., Washington, D.C. 20590; (202-426-1600).

SUPPLEMENTARY INFORMATION: Previously, NHTSA has published multi-year plans for rulemaking, highway safety, and research and development. In contrast to past plans, the Safety Priorities Plan embodies a conscibus, coordinated and carefully devised balance between motor vehicle and highway safety types of activity. The agency has, for the first time, systematically focused one planning effort on the entire spectrum of known available or potential solutions. Instead of the more traditional compartmentalized approach to different aspects of the problem (i.e., highway and motor vehicle), this year-long planning effort has brought all agency resources together to address the same issues at the same time.

Some of the measures examined in this plan are immediate and short term, capable of being adopted now. Others, especially those involving extensive research, are of longer duration, or still in the planning process. In all cases, however, NHTSA's assessment of current safety priorities reflects the agency's concern that our national resources be directed at those activities and targets of opportunity which have the most realistic prospect of success.

The highway safety portion of the agency's planning exercise has led to greater emphasis than ever before on two aspects of driver/operator and passenger concern: Alcohol and drug impairment, and failure to use existing occupant restraint technology. Together, these areas of concern account for more than one-half of all accidents, and more than one-half of all fatalities and injuries in those accidents which do occur. The effects of improvements in these areas can be major, immediate and achievable through existing technology and vehicle equipment.

The agency has also accelerated its exploration of ways to improve motor vehicle safety technology. Expanding data collection and analysis activities are enabling NHTSA to better understand the causes of motor vehicle accidents and the manner in which people are injured when a crash does occur.

As a result, NHTSA can attempt to lessen the incidence of accidents and the severity of injuries through vehicle crash avoidance and crashworthiness activities, respectively. The top

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priorities in the former area include vehicle lighting and braking improvements—particularly in the area of heavy truck braking—and in the latter area include steering assembly, side impact protection and vehicle interior improvements.

The safety priorities outlined in this plan are the result of a careful analysis by the agency of the Nation's safety problems, and the costs and benefits of alternative solutions to them. Although the agency is already undertaking development of the safety improvements described herein, the priority setting process, which is also described in detail, is ongoing and dynamic. It allows changes to be made in response to new accident data or research results and sets an orderly, disciplined and comprehensive set of criteria for the making of such changes.

Thus, this plan is also being published for public comment so that the agency may benefit from the expertise of those many persons and organizations concerned with highway safety.

(Secs. 401 et seq., Pub. L. 97-35, 95 Stat. 357 (23 U.S.C. 401 et seq.) and secs. 101 et seq., Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1381 et seq.); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on May 4, 1983.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 83-12272 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions; List

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes June 14, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9038-N	E. I. Du Pont De Nemours & Company, Wilmington, DE.	49 CFR 173.301(d)	To authorize shipment of tetrafluoroethylene, inhibited, classed as a flammable gas in DOT Specification 3A2400 and 3AA2400 cylinders, interconnected by means of manifolding. (Mode 1.)
9039-N	Badger Welding Supplies, Inc., Madison, WI	49 CFR 173.34(e)(15)(i)	To authorize DOT Specification 3A and 3AA cylinders which are 35 years old or older to be hydrostatically tested every 10 years instead of every 5 years for shipment of those commodities authorized in 3A or 3AA cylinders. (Mode 1.)
9040-N	The Continental Group, Inc., Lombard, IL	49 CFR 173.249a (d)(3)	To manufacture, mark and sell non-DOT specification plastic lined fiber drums with non-removable plastic top heads for shipment of certain corrosive liquids. (Modes 1, 2, and 3.)
9041-N	Hercules Incorporated, Wilmington, DE	49 CFR 173.100 (bb), 175.3	To authorize shipment of devices, in specially designed packagings, containing small amounts of explosive described as detonating fuze, Class C. (Modes 1, 4.)
9042-N	Noury Chemical Corporation, Burt, NY	49 CFR 173.221	To authorize shipment of a Tert-Butyl Cumyl peroxide classed as an organic peroxide in DOT Specification 57 portable tanks. (Mode 1.)
9043-N	Ozelle Harrington Trucking Company, Benson, AZ.	49 CFR 173.154(a)(18)	To authorize shipment of ammonium nitrate, solution, classed as an oxidizer, in cargo tanks comparable to DOT Specification MC-307, except they have a design pressure of less than 25 psi. (Mode 1.)
9044-N	O'Neal, Jones & Feldman, Inc., St. Louis, MO	49 CFR 172.400, 173.25(a), 175.30(a)(3)	To authorize shipment of limited quantities of a poison B liquid, n.o.s. in specially designed composite type packaging without labeling. (Modes 1, 4, and 5.)
9045-N	International Paper Company, New York, NY	49 CFR 173.154, 173.245b, 173.365	To manufacture, mark and sell non-DOT specification six-sided corrugated fiberboard drums not to exceed 30 gallon capacity for shipment of various flammables, oxidizers and Class A poisonous solids. (Modes 1, 2.)
9046-N	Schenectady Chemicals, Inc., Schenectady, NY.	49 CFR 173.245	To authorize shipment of certain corrosive liquids, n.o.s. in DOT Specification 57 portable tanks. (Mode 1.)
9047-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.124(a), 175.3	To authorize use of copper-bearing (brass) valves in DOT Specification cylinders and DOT Specification 5p drums containing ethylene oxide. (Modes 1, 2, 3, and 4.)
9048-N	Emerson Electric Company, Statesboro, GA	49 CFR 173.119, 173.304, 173.315	To manufacture, mark and sell meter proving units to be affixed to a truck or trailer used to calibrate meters containing liquid hydrocarbon products. (Mode 1.)
9049-N	U.S. Steel Supply Container, Chicago, IL	49 CFR 178.134-4	To authorize use of 256 DOT Specification 37M steel drums of 55 gallon capacity which were inadvertently embossed as DOT Specification 37A, for shipment of those commodities authorized in DOT Specification 37M. (Modes 1, 2.)
9050-N	United Executive Jet, Inc., Chesterfield, MO	49 CFR 172.101, 175.30	To authorize carriage of ammunition for small-arms with explosive projectile, Class A explosive via cargo-only aircraft. (Mode 4.)
9051-N	Amerex Corporation, Trussville, AL	49 CFR 178.60-19	To manufacture, mark and sell DOT Specification 4B cylinders with markings stamped on the skirt or footstand of the cylinders, for shipment of those commodities presently authorized in DOT Specification 4B cylinders. (Modes 1, 2, 3, 4, and 5.)
9052-N	Chemical Handling Equipment Co., Inc., Detroit, MI.	49 CFR Part 173, Subpart D, Subpart F, 173.266.	To manufacture, mark and sell non-DOT specification 225 gallon rotationally molded polyethylene portable tanks enclosed in a metal cage, for shipment of those corrosive liquids and hydrogen peroxide presently authorized in DOT Specification 34 and certain flammable liquids. (Modes 1, 2.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9053-N	Delaware Valley Industrial Gases, Inc., Waterford Works, NJ.	49 CFR 173.34(L)	To authorize the rebuilding of DOT Specification 4 series cylinders in accordance with procedures approved initially by the Bureau of Explosives. (Modes 1, 2, 3, 4, and 5.)
9054-N	Florida Drum Company, Inc., Pine Bluff, AR	49 CFR 173.119, 173.125, 173.256, 173.266(b), Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification 55-gallon polyethylene containers, for shipment of certain corrosive liquids, including those presently authorized in DOT Specification 34; hydrogen peroxide; classed as an oxidizer, and ethyl and methyl alcohol, classed as flammable liquids. (Modes 1, 2, and 3.)
9055-N	Welchem, Inc., Houston, TX	49 CFR 173.119, 173.245	To authorize shipment of various flammable liquids or corrosive materials (oil well treating compounds) contained in 6 separate 60 gallon steel tanks firmly mounted on the chassis of a truck. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 3, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-12023 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "p" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes May 26, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
2587-X	Mansfield Oxygen Corp., Mansfield, OH.	2587
2709-X	U.S. Department of Defense, Washington, DC.	2709
3109-X	Hydraulic Research Textron, Pacoima, CA.	3109
3630-X	Mallinckrodt, Inc., Paris, KY	3630
4262-X	Schlumberger Well Services, Houston, TX.	4262
4719-X	Dow Chemical Co., Freeport, TX.	4719
5022-X	U.S. Department of Defense, Washington, DC.	5022
5022-X	United Technologies Corp., Sunnyvale, CA.	5022
5022-X	Aerojet Strategic Propulsion Co., Sacramento, CA.	5022
5062-X	Dow Chemical Co., Plaquemine, LA.	5062
5208-X	Monsanto Co., St. Louis, MO	5208
5600-X	Amoco Oil Co., Whiting, IN	5600
5600-X	Ozark-Mahoning Co., Tulsa, OK.	5600
5662-X	Great Lakes Chemical Corp., El Dorado, AR.	5662
6016-X	Livingston Medical Products Co., Modesto, CA.	6016
6126-X	Rhone-Poulenc Inc., Monmouth Junction, NJ.	6126
6477-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6477
6536-X	Wonder Corporation of America, Norwalk, CT (see footnote 1).	6536
6712-X	Air Products and Chemicals, Inc., Allentown, PA.	6712
6738-X	Texas Eastman Co., Longview, TX.	6738
6759-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	6759
6759-X	Austin Powder Co., Cleveland, OH.	6759
6824-X	Bio-Lab, Inc., Congers, GA	6824
7060-X	Charles R. Wall, d.b.a. HZm RAM Air, Cornelius, OR.	7060
7062-X	Born Free Plastics, Inc., Houston, TX.	7062
7262-X	M-R Plastics and Coatings, Inc., Maryland Heights, MO.	7262
7413-X	Chilton Metal Products Division, Chilton, WI (see footnote 2).	7413
7440-X	Roux Laboratories, Inc., Jacksonville, FL.	7440
7755-X	Varian Associates, Inc., Palo Alto, CA.	7755
7866-X	W.M. Barr and Co., Inc., Memphis, TN.	7866
7943-X	Alstar Co., Saugus, CA	7943
7943-X	All Pure Chemical Co., Tracy, CA.	7943
7943-X	Hass Chemicals, Inc., Saugus, CA.	7943
7966-X	The Enterprise Companies, Wheeling, IL.	7966
8051-X	Meuser-Werke GmbH, Brul, West Germany, NY (see footnote 3).	8051
8123-X	Texas Instruments Inc., Dallas, TX.	8123
8129-X	ARCO Dhemical Co., Newtown Square, PA.	8129
8129-X	The American Recovery Co., Baltimore, MD.	8129
8129-X	Ecofio, Inc., Bladensburg, MD	8129
8129-X	Findly Chemical Disposal, Inc., Riverside, CA.	8129
8181-X	Labelmaster, Chicago, IL	8181
8196-X	GCS Container Service, SA, Chiasso, Switzerland.	8196
8232-X	G.C.S. Container Service, Chiasso, Switzerland.	8232
8308-X	Caspersen, Inc., Glencoe, IL	8308
8308-X	Associated Couriers, Inc., Maryland Heights, MO.	8308
8511-X	E. I. du Pont de Nemours & Co., Wilmington, DE.	8511
8511-X	Interox America, Houston, TX	8511
8552-X	Brenner Tank, Inc., Fond du Lac, WI.	8552
8573-X	All Pure Chemical Co., Tracy, CA (see footnote 4).	8573
8573-X	Alstar Co., Saugus, CA (see footnote 5).	8573
8573-X	Hass Chemicals, Inc., Saugus, CA (see footnote 6).	8573
8578-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	8578

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Application No.	Applicant	Renewal of exemption
8583–X	Process Engineering, Inc., Plaistow, NH.	8583
8645–X	Austin Powder Co., Cleveland, OH.	8645
8709–X	Delta Drum, Inc., Crete, IN (see footnote 7).	8709
8842–X	HTL Industries, Inc., Duarte, CA (see footnote 8).	8842
8859–X	AVM Corp., Pittsburgh, PA	8859
8871–X	Chase Bag Co., Oak Brook, IL (see footnote 9).	8871
8877–X	Allied Chemical, Morristown, NJ (see footnote 10).	8877
8921–X	Hoover Universal, Inc., Beatrice, NE (see footnote 11).	8921
9034–X	Airco Industrial Gases, Riverton, NJ (see footnote 12).	9034
9037–X	Great Lakes Chemical Corp., West Lafayette, IN (see footnote 13).	9037

[1] To modify exemption by reducing nominal thickness of metal containers from 0.31 mm to 0.28 mm.

[2] To authorize water as an additional mode of transportation.

[3] To authorize poison B liquids, n.o.s. and flammable liquids/poisonous, n.o.s. and other poisons or flammable liquids, as additional commodities.

[4] To reissue exemption as shipper oriented rather than manufacture, mark and sell.

[5] To reissue exemption as shipper oriented rather than manufacture, mark and sell.

[6] To reissue exemption as shipper oriented rather than manufacture, mark and sell.

[7] To authorize shipment of certain flammable liquids/corrosive, n.o.s., classed as flammable liquids, as additional commodity.

[8] To change the wall stress at the minimum specified test pressure from 50,000 psi to 60,000 psi.

[9] To authorize water as an additional mode of transportation.

[10] To authorize DOT specification 12A fiberboard box as additional container for up to 1 gallon glass bottles of certain flammable liquid/corrosive, n.o.s. and corrosive liquids, n.o.s.

[11] To authorize ethyl and methyl alcohols and aqueous solutions, classed as flammable liquids and 52% or less hydrogen peroxide solution, classed as an oxidizer, as additional commodities.

[12] To authorize water as an additional mode of transportation.

[13] To authorize shipment of methyl bromide and methyl bromide mixtures in non-DOT specification foreign made cylinders.

Application No.	Applicant	Parties to exemption
4453–P	Seco, Inc., Greenwood, AR	4453
6397–P	CP Chemicals, Inc., Sewaren, NJ.	6397
6762–P	Brooks Scientific Inc., Cleveland, OH.	6762
6874–P	Valley Forge International Co., (USA), Diablo, CA.	6874
7052–P	K–V Associates, Inc., Falmouth, MA.	7052
7076–P	Brooks Scientific, Inc., Cleveland, OH.	7076
8084–P	E. I. du Pont de Nemours & Co., Wilmington, DE (see footnote 1).	8084
8111–P	Reuter-Stokes, Inc., Cleveland, OH.	8111
8129–P	Borg-Warner Chemicals, Inc., Parkersburg, WV.	8129
8129–P	The Curators of the University of Missouri, Columbia, MO.	8129
8129–P	Union Carbide Corp., Danbury, CT.	8129
8129–P	Reichold Chemicals, Inc., So. San Francisco, CA.	8129
8129–P	Ford Aerospace Communication Corp., Palo Alto, CA.	8129
8129–P	Midwest Research Institute, Kansas City, MO.	8129
8248–P	Air Products and Chemicals, Inc., Allentown, PA.	8248
8445–P	Union Carbide Corp., Danbury, CT.	8445
8554–P	St. Lawrence Explosives Corp., Adams Center, NY.	8554
8554–P	Minnesota Explosives Co., Bemidji, MN.	8554
8708–P	Tricel, Inc., Morgan Hill, CA	8708
8870–P	Everpure, Inc., Westmont, IL	8870
8877–P	Union Carbide Corp., Danbury, CT.	8877
8937–P	Dow Chemical Co., Freeport, TX.	8937
9052–P	Clawson Tank Co., Clarkson, MI.	9052

[1] Request party status and to authorize rail and cargo vessel as additional modes of transportation

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 5, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83–12094 Filed 5–11–83; 8:45 am]

BILLING CODE 4910–60–M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, April 25–April 29, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between April 15, 1983 and April 29, 1983 to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Stree SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under the Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirments. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between April 25, 1983, and April 29, 1983.

DOT No: 2138
OMB No: 2120–0035
By: Federal Aviation Administration
Title: Statement of Qualifications (DAR–DMIR–DER–DPRE–DME)
Forms: FAA Form 8110–14
Frequency: As Required
Respondents: Aviation specialists in five work areas
Need/Use: Information collected is used to determine eligibility of applicants leading to appointment as a parachute rigger, mechanic examiner, engineering representative, inspector, airworthiness representative

DOT No: 2150
OMB No: 2126–0008
By: National Highway Traffic Safety Administration
Title: Vehicle Owner's Questionnaire Survey, Interviews
Forms: None
Frequency: On Occasion
Respondents: Individuals or households
Need/Use: Solicits information from certain vehicle owners to determine whether a safety defect exists in motor vehicles/equipment or tires.

DOT No: 2151
OMB No: 2127–0042
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 576, Record Retention
Forms: None
Frequency: On Occasion
Respondents: Motor Vehicle Manufacturers
Need/Use: Manufacturers retain complaints, reports and other records or motor vehicle malfunctioning that may be related to safety, and may be used to investigate reported defects or noncompliances.

DOT No: 2152
OMB No: 2125–0076
By: Federal Highway Administration
Title: Written Notice of Death After Filing Accident Report
Forms: Form MCS–5OT or 50B
Frequency: On Occasion
Respondents: Motor carriers operating in interstate or foreign commerce
Need/Use: Motor carriers must give written notice of death to the Federal Highway Administration, if death occurs within 30 days as a result of a reported accident.

DOT No: 2153
OMB No: 2127–0051
By: National Highway Traffic Safety Administration
Title: Vehicle Identification Number, Standard 115 Report
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of autos, buses and trucks
Need/Use: To standardize identification of each motor vehicle in event there is a recall for defect or noncompliance.

DOT No: 2154
OMB No: 2120–0098
By: Federal Aviation Administration
Title: Airplane Operator Security—FAR 108
Forms: FAA Form 1650–17, X-ray Systems Radiation Leakage Report (Baggage Inspection)
Frequency: As required
Respondents: Holders of FAA operating certificates for scheduled or charter passenger operations of over 30-seat capacity
Need/Use: Civil Aviation Security Programs require X-ray systems for baggage. Radiation surveys are needed to ensure that X-ray systems used in the security screening of baggage meet applicable performance standards without excessive X-ray leakage.

DOT No: 2155
OMB No: 2115–0051
By: United States Coast Guard
Title: Operation and Recordkeeping Requirements for Cranes and Drilling Rigs Offshore
Forms: None
Frequency: On Occasion
Respondents: Oil companies, drilling contractors, and construction companies operating facilities with cranes on the outer continental shelf.
Need/Use: These information requirements serve as a source for verification of plans, maintenance, testing, and operator qualifications for cranes on the Outer Continental Shelf (OCS), facilities, Mobile Offshore Drilling Units (MODUs), and a few industrial vessels. Information requirements to become effective with publication of the final rule, estimate publication October 1984.

DOT No: 2156
OMB No: 2137–0029
By: Research and Special Programs Administration
Title: Application for Exemption
Forms: None
Frequency: Nonrecurring
Respondents: State and local governments; shippers and carriers of hazardous materials; manufacturers of containers for hazardous materials
Need/Use: To obtain information from entities wishing to obtain an exemption from the hazardous materials regulations. Information is used by the office of Hazardous Materials' staff to evaluate requests to determine if they must be granted or denied.

DOT No: 2157
OMB No: None
By: United States Coast Guard
Title: Subchapter Q—Manufacturers Test Reports (46 CFR), Safety Valves, Fusible Plugs, and Flame Arrestors
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of safety valves, fusible plugs, and flame arrestors
Need/Use: Requirements imposed upon the manufacturers of the specified safety devices for submission of drawings and tests reports are necessary to determine whether the items meet minimum levels of safety and performance, and also serve to identify approved items.

DOT No: 2158
OMB No: 2127–0050
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 574, Tire Identification and Recordkeeping
Forms: 2 formats are permitted
Frequency: On Occasion
Respondents: Manufacturers of tires, tire dealers and purchasers
Need/Use: This regulation requires tire manufacturers' outlets to secure and record names and addresses of purchasers of new tires so that the purchasers can be notified in case of a safety recall; independent tire dealers will no longer be required to maintain records but will provide a postcard to be forwarded to the manufacturer by the purchaser of the tire.

DOT No: 2159
OMB No: 2127–0049
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 575, Consumer Information Regulations
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of motor vehicles/equipment/tires
Need/Use: Regulation establishes a system by which information on the performance and safety of new motor vehicles and new tires is made available to prospective purchasers directly, and by compiled reports available to consumers to comparison shop.

Issued in Washington, D.C., on May 4, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–12357 Filed 5–11–83; 8:45 am]

BILLING CODE 4910–62–M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board For Rehabilitation Research and Development; Meeting

In accordance with Public Law 92–463, the Veterans Administration gives notice of a meeting of the Scientific

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Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Marriott Hotel, 1221 22nd Street, N.W., Washington, DC 20037, July 6 and 7, 1983, beginning at 9 a.m. on Wednesday and 9 a.m. on Thursday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the July 6th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications. This review involves oral review and discussion of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigator. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with Section 552b, Subsections (c)(4), (c)(6), and (c)(9)(B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs under Section 10(d) of Public Law 92-463 as amended by Section 5(c) of Public Law 94-409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Dr. Larry P. Turner, Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420 (Phone: (202) 389-5177), at least 5 days before the meeting.

Dated: May 5, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-12757 Filed 5-11-83; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Health Services Research and Development; Meeting

The Veterans Administration gives notice under the provisions of Public Law 92-463 that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development will be held at Executive House, 1515 Rhode Island Ave. NW. (at Scott Circle), Washington, DC on June 3, 1983. The meeting will open at 8:30 a.m. and adjourn at 3 p.m. The purpose of the meeting will be to develop general advice to the Director, Health Services Research and Development Service regarding the administration of that Service's research program.

The meeting will be open to the public to the seating capacity of the room. Members of the public may submit written statements or questions to the Chairman, David Levine, M.D., for consideration by the Committee. Such members of the public may be asked to clarify submitted material prior to its consideration by the Committee.

Dated: May 5, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-12758 Filed 5-11-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 93
Thursday, May 12, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), May 17, 1983.

PLACE: Commission Conference Room No. 200, second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-4-FOIA-51-SE, concerning a request for documents from a closed age discrimination charge file.
4. Freedom of Information Act Appeal No. 83-02-FOIA-031-MK, concerning a request for documents from a case file.
5. Regulations Implementing Section 4(g) of the Age Discrimination in Employment Act (TEFRA).

CLOSED:

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Withdrawal of prior Commissioners Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTRACT PERSON FOR MORE INFORMATION: Treava McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued May 10, 1983.

[S-665-83 Filed 5-12-83; 4:12 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From May 12th Open Meeting

May 9, 1983.

The following item has been delted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the May 12, 1983, Open Meeting and previously listed in the Commission's Notice of May 5, 1983.

Agenda, Item No., and Subject

Policy—2—*Title:* Amendment of FM Table of Assignments regarding Helena, Montana (BC Docket No. 80-523). *Summary:* The Commission will review a Broadcast Bureau decision which assigned four Class C FM channels to Helena, Montana and will review a petition for stay.

Issued: May 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-675-83 Filed 5-10-83; 10:11 am]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 17, 1983 at 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, May 19, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive Presidential Primary Matching Payments
Explanation and justification governing collecting agents and joint fundraising
Proposed revisions to Presidential Election Campaign Fund Regulations
Procedures for processing of civil penalties received by the FEC
Finance Committee report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-664-83 Filed 5-10-83; 4:00 pm]

BILLING CODE 6715-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 20842, May 9, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 11, 1983, 10 a.m.

CHANGE IN THE MEETING: The following item has been added to the agenda:

Item No., Docket No. and Company

CP-6. TC82-43-002, Kansas-Nebraska Natural Gas Company, Inc.

Kenneth F. Plumb,

Secretary.

[S-665-83 Filed 5-10-83; 3:53 pm]

BILLING CODE 6717-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., May 18, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 82-58: Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade—Consideration of status of proceeding and petition of Sea-Land Service to intervene.
2. Petition of the Drug and Toilet Preparation Traffic Conference, Inc. for Clarification of the Refund Order issued in Docket No. 81-10.
3. Docket No. 80-22: International Paper Company v. Seatrain Pacific Services, S.A., et al.—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-676-83 Filed 5-10-83; 2:15 pm]

BILLING CODE 6730-01-M

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6

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–23]

TIME AND DATE: 2:30 p.m., Tuesday, May 24, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain radar detectors and accompanying owner's manuals (Docket No. 935).
5. Investigation 751–TA–7 (Salmon Gill Fish Netting from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–662–83 Filed 5–10–83; 3:37 pm]

BILLING CODE 7020–02–M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–22A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 20533, May 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. Tuesday, May 17, 1983.

CHANGES IN THE MEETING: Deletion of an item originally scheduled for this meeting (item to be added to the agenda for Tuesday, May 24, 1983, at 2:30 p.m.):

Item No. 6—Investigation 751–TA–7 (Salmon Gill Fish Netting from Japan)—briefing and vote.

In conformity with 19 CFR 201.37(b), Commissioners Eckes, Stern, and Haggart determined by unanimous consent that Commission business requires the change in subject matter by deletion of the agenda item, affirmed that no earlier announcement of the deletion was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–663–83 Filed 5–10–83; 3:38 pm]

BILLING CODE 7020–02–M

8

MISSISSIPPI RIVER COMMISSION.

Cancellation Notice

TIME AND DATE: 9 a.m., May 16, 1983.

PLACE: On board *MV Mississippi* at Foot of Eighth Street, Cairo, IL. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been cancelled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S–677–83 Filed 5–10–83; 2:20 pm]

BILLING CODE 3710–GX–M

9

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 17, 1983.

PLACE: On board MV *Mississippi* at City Front, Vicinity of Beale Street, Memphis, TN. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been cancelled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S–678–83 Filed 5–10–83; 2:20 pm

BILLING CODE 3710–GS–M

10

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 20, 1983.

PLACE: On board MV *Mississippi* at Foot of Prytania Street, New Orleans, LA. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been canceled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S–679–83 Filed 5–10–83; 2:44 pm]

BILLING CODE 3710–GX–M

11

MISSISSIPPI RIVER COMMISSION

Cancellation Notice

TIME AND DATE: 9 a.m., May 18, 1983.

PLACE: On board MV *Mississippi* at City Front, Greenville, MS. This meeting of the Mississippi River Commission, as advertised on Monday, April 25, 1983, page 17693, has been canceled. The magnitude of the flood situation throughout the Lower Mississippi Valley makes it imperative that all energies and resources be directed toward combating the flood situation.

[S–680–83 Filed 5–10–83; 2:44 pm]

BILLING CODE 3710–GX–M

12

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 16, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, May 17:*

10:00 a.m.:
Discussion/Possible Vote on Contested Issues in Callaway (Closed—Exemption 10)

2:00 p.m.:
Discussion/Possible Vote on Full Power Operating License for McGuire-2 (Public Meeting)

ADDITIONAL INFORMATION:

Discussion of Steps to Decision in TMI–1 Restart scheduled for May 10, *cancelled.*
Discussion of Management-Organization and Internal Personnel Matters scheduled for May 11, *cancelled.*
On May 4 the Commission voted 5–0 to hold Discussion and Possible Actions on Indian Point, to be held on May 5.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.
May 10, 1983.

[S–681–83 Filed 5–10–83; 3:21 pm]

BILLING CODE 7590–01–M

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federal register

Thursday
May 12, 1983

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Initial and Permanent Program Regulations; Prime Farmland; Final Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 716, 779, 783, 785, and 823

Surface Coal Mining and Reclamation Operations; Initial and Permanent Program Regulations: Prime Farmland

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending the special initial and permanent program permit application and performance standard rules for surface coal mining and reclamation operations on prime farmland. These rules will reduce the burden of previous rules, minimize duplication, comply with court orders, and provide for internal consistency by: (1) Combining the reconnaissance-inspection requirements with the permit-application requirements, (2) providing a limited exemption for lands occupied by coal-preparation plants and support facilities, (3) modifying provisions for soil removal and stockpiling, and (4) establishing new procedures for determining success in the restoration of soil productivity. In addition, in response to a court directive, OSM is removing the April 3, 1983, prime farmland "grandfather" exemption cutoff date from the initial and permanent regulatory programs.

EFFECTIVE DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5954.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Rules Adopted and Responses to Comments.
III. Procedural Matters.

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmland as defined in Section 701(20) of the Act. Permit-application information, and approval requirements are contained in Sections 507(b)(16), 508(a)(2)(C), 508(a)(5), and 510(d) of the Act.

Section 507(b)(16) of the Act requires permit applications to contain a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmland. Section 508(a)(2)(C) of the Act requires permit applications to contain a statement of the productivity of the land prior to mining, including the appropriate classification as prime farmland. Section 508(a)(5) of the Act requires that the reclamation plan submitted as part of the permit application include a plan for soil reconstruction, replacement, and stablization, pursuant to Section 515(b)(7) of the Act. Furthermore, Section 510(d)(1) of the Act provides that the regulatory authority, after consultation with the Secretary of Agriculture, shall grant a permit to mine on prime farmland if it finds in writing that the operator has the technological capability to restore such mined areas, within a reasonable time, to levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil-reconstruction standards in Section 515(b)(7) of the Act.

Statutory performance standards specifically for prime farmland are found in Sections 515(b)(7) and 519(c)(2) of the Act. Section 515(b)(7) of the Act sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. In addition, Section 519(c)(2) of the Act states that performance bonds shall not be released until soil productivity for prime farmland has returned to levels of yield equivalent to those of nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 507(b)(16) of the Act.

These rules revise OSM's special permit-application requirements and performance standards for surface coal mining operations on prime farmland as previously set forth in 30 CFR 716.7, 779.27, 783.27, and 785.17 and 30 CFR Part 823. The proposed rules were published at 47 FR 19076 on May 3, 1982. The preamble to the proposed rules explained many of the changes in detail and is incorporated as part of this preamble.

Throughout the development of these rules, OSM has solicited public comments and recommendations. A preproposal draft of these rules was provided to State regulatory authorities and other interested parties. Several interagency meetings were held with the Soil Conservation Service (SCS) of the U.S. Department of Agriculture (USDA) relative to its role in providing soil-survey standards, permit-review procedures, and soil-reconstruction specifications for prime farmland soils as required by Sections 507(b)(16), 510(d)(1), and 515(b)(7) of the Act. OSM made provisions to hold, upon request, public hearings and public meetings. OSM convened public hearings in Denver, Colorado, on June 16, 1982, and in Springfield, Illinois, on June 23, 1982.

The public comment period closed on August 25, 1982. It was subsequently reopened again on September 7, 1982, and closed on September 10, 1982, in response to congressional interest on the proposed rules.

More than 50 individuals and organizations representing State regulatory authorities, conservation agencies, educational institutions, Federal agencies, private industry, environmental interests, and private citizens offered in excess of 200 individual comments which were carefully considered in developing these final rules.

These final rules include changes to both the permit-application requirements and the performance standards for prime farmland.

II. Discussion of Rules Adopted and Responses to Comments

Deletion of §§ 779.27 and 783.27

The previous rules had three sections (§§ 779.27, 783.27, and 785.17) that contained information and permit-application requirements for prime farmland. Previous §§ 779.27 and 783.27 contained nearly identical procedures for surface and underground mining activities to identify prime farmlands through a pre-application investigation. Section 785.17 established permit application requirements for prime farmland. These final rules amend § 785.17 to incorporate the requirements of §§ 779.27 and 783.27. Sections 779.27 and 783.27 have been deleted. This reorganization relieves regulatory authorities and operators of the unnecessary burden of searching several rules to determine their permit requirements on prime farmland.

Two commenters objected to the proposal to consolidate previous §§ 779.27 and 783.27 under § 785.17(b). One of these commenters stated that the proposed changes and consolidation would significantly weaken the Federal rules by allowing the State regulatory authority to require much fewer data than presently required by the SCS for prime farmland indentification. The commenter also objected that the advisory role of the SCS to the regulatory authority is not mandatory, thus allowing the State regulatory authority alone to determine what constitutes an appropriate

reconnaissance inspection. By allowing this, the commenter felt the proposed rule failed to establish minimum national standards.

Close coordination between the SCS and the regulatory authority within each State is necessary in order to have an effective prime farmland reclamation program. OSM intends that the administrative and technical process of the reconnaissance inspection developed by the regulatory authority in consultation with the SCS will become part of the State regulatory program and will be set forth in sufficient detail to describe the reconnaissance-inspection requirement. Section 785.17(b) requires the regulatory authority to consult with the SCS in determining the nature and extent of the required reconnaissance inspection. Thus, the advisory role of the SCS is mandatory in keeping with Section 510(d)(1) of the Act. However, the regulatory authority is required to make the final determination.

The rules will not be weakened through the collection of fewer data because the permit application must contain sufficient information to support the findings regarding the identification of prime farmland. The standards for identifying prime farmland have not been softened. Moreover, the SCS monitors the results of reconnaissance inspections.

The preservation of prime farmland requires criteria which allow State programs to reflect differences among the eastern, midwestern, and western coal areas. Extreme differences in prime farmland size, configuration, and management exist between these coal areas; therefore, personnel within each State who are most familiar with the region are best qualified to protect prime farmland. OSM and SCS will maintain close review of State regulatory programs and provide appropriate guidance where necessary.

OSM has generally adopted the proposed rules as the new final rules for the reasons described in this preamble and the preamble to the proposed rules at 47 FR 19076 (May 3, 1982).

Where changes have been made from the proposal, these changes are explained in the discussion that follows:

A. Section 785.17(b) Application contents: Reconnaissance inspection

Final § 785.17(b)(1) requires that every permit application contain the results of a reconnaissance inspection to determine if prime farmland soils exist. This reconnaissance inspection could be a review of an existing soil survey or, if none is available, an onsite field survey. The nature and extent of the reconnaissance inspection will be determined by the regulatory authority and the SCS within each State. These requirements are necessary to comply with Section 507(b)(16) of the Act. OSM has adopted § 785.17(b)(1) as proposed, except that the word "State" has been deleted because the term "regulatory authority" is proper and more inclusive.

One commenter felt that the proposed rule would weaken the process for identifying prime farmland by eliminating reconnaissance inspections. OSM has not eliminated the requirement for reconnaissance inspections but rather has transferred this requirement from §§ 779.27 and 783.27 to § 785.17.

Two commenters supported the concept of a State-by-State determination of prime farmland soils and soil-reconstruction standards and the proposed coordination between the States and SCS in defining the nature and extent of the reconnaissance inspection. They felt this would eliminate the burden of applying general, nationwide criteria and would allow the States to consider local conditions more accurately. These rules do not eliminate nationwide criteria as the commenter suggests, but they do allow necessary consideration of local conditions.

Another commenter felt that the SCS and the regulatory authority must obtain public input when they determine the nature and extent of the reconnaissance inspection. This commenter stated that any reconnaissance-inspection requirement imposed by the regulatory authority should be based upon facts which clearly demonstrate the necessity for the standard and which give all parties an opportunity to contribute to the decision-making process.

Public input into each permit application is provided for in the permitting process. This input can include comments on the appropriate nature and extent of reconnaissance inspections. Additionally, public input can be provided in the development and amendment of State programs, and any additional standards that may be deemed necessary by the regulatory authority based on local conditions can be included as an aspect of the State program.

Final § 785.17(b)(2) as adopted is unchanged from the proposed rule and simply requires the applicant to submit a statement to the effect that no prime farmland historically used for cropland was found during the reconnaissance inspection and to include the basis upon which such a conclusion was reached.

One commenter supported the requirement that only a statement and the basis for conclusion by the operator is needed to verify that no prime farmland soils exist. Other commenters suggested that OSM delete the last sentence of proposed Paragraph (b)(2) and replace it with the negative-determination requirements of previous § 779.27(b), amended to allow a negative conclusion if the area of prime farmland soil is an economically unusable farming unit because of size, shape, or location. One commenter asserted that: (1) The previous criteria provide valuable guidance to operators in attempting to ascertain the presence or absence of prime farmland; (2) the circumstances for small areas, odd shapes, or isolated locations of prime farmland are recognized by the Secretary of Agriculture in the description of prime farmland at 7 CFR 657.5; (3) the approved North Dakota State program recognizes that a "viable economic unit" is an integral component of prime farmland identification; and (4) Congress was concerned that those prime farmland acreages that do not comprise more than 10 percent of the surface area should not be considered prime farmland for the purposes of the permitting requirements and performance standards.

OSM recognizes that the criteria in previous § 779.27(b) provide guidance in describing the nature and extent of the reconnaissance inspection. However, the level of detail in establishing criteria for the existence of prime farmland must be developed within each State because of the variety of soil surveys that may be used in any one prime farmland region, the progress of completion of soil surveys within each State, and the type of prime farmland soils found. The previous soil-survey negative-determination criteria were merely limits of the National Cooperative Soil Survey (NCSS) in describing and mapping prime farmland soils. These limits still apply, but the SCS will tailor these NCSS limits to the prime farmland soils found in each State. Therefore, the guidance will not only be available but will in fact be specifically tailored for each State.

OSM and SCS are aware of the general reference to the economics of prime farmland contained in 7 CFR 657.5(a)(1), which states that prime farmland "* * * has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed * * *." This is a general statement about prime farmland and is not specifically related to size. More specific physical and chemical qualities of prime farmland soils, set forth in 7 CFR 657.5(a)(2), are utilized to locate prime farmland soils. Soils with

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these physical and chemical soil qualities in areas with an adequate growing season and moisture supply consistently produce sustained high yields of crops and are one principal measure in the identification of prime farmland.

The State of North Dakota has included the concept of a viable economic unit in its State surface mining law (N.D. Cent. Code § 38–14.1–02, 22. "Prime farmland") and regulations (N.D. Admin. Code § 69–05.2–01–02, 100. "Prime farmlands") and regulation amendment I, July 30, 1982, (N.D. Admin. Code § 69–05.2–01–01., 114. "Viable economic unit"). However, this is not the basis upon which the SCS identifies and maps prime farmland soils. The North Dakota State regulatory program, including the above-mentioned provisions concerning viable economic units, was approved by the Secretary with the caveat that the determination of whether land constitutes prime farmland would be made by the State Conservationist of the SCS (45 FR 82220, Dec. 15, 1980). The Secretary approved the program because the State regulations provide for SCS determination of prime farmlands. Complexes of prime farmland soils exist in North Dakota which are difficult to delineate from an agronomic standpoint. The SCS and the regulatory authority in North Dakota have agreed upon a method of soil handling for both prime farmland and non-prime farmland soils. OSM and SCS are aware of the special prime farmland conditions within North Dakota and are satisfied that North Dakota regulations will result in the restoration of the productive capacity of prime farmland soils and should be consistent with the regulations adopted today.

The Conference Report to the Act notes that the Senate bill contained a provision that "[a]ny mine application whose area in prime farmlands exceeded 10 percent of the total area included in the application would have to demonstrate that such lands would be restored to full productivity" (House Report No. 95–493, July 12, 1977, p. 105). The House bill contained no such provision and the conferees did not include the 10-percent provision in the Act. OSM believes an across-the-board exemption for small areas of prime farmland soils is not warranted because of the vast differences in prime farmland value, crops, and farmland uses throughout the country. For instance, 10 acres of tobacco land in Indiana, 200 acres of corn in Illinois, and 640 acres of wheat in North Dakota represent considerably different prime farmland uses and values. These differences can best be described by agriculturalists and the regulatory authority within each State. Soil surveys used for operational conservation planning will be the basis for locating and sizing small prime farmland units. This is discussed more fully below in reference to § 785.17(b)(3).

The permit-application and approval process for any particular proposed operation will likely be reviewed by the SCS because the SCS has the major responsibility for the conservation of prime farmland soils and has local offices in nearly every county of the United States. Also, the USDA, in cooperation with other Federal agencies, is identifying the effects of Federal programs on the conversion of prime farmland to nonagricultural uses as required by Subtitle I of the Farmland Protection Policy Act of 1981, Pub. L. 97–98. OSM is taking full advantage of the location and responsibilities of the SCS to be assured that prime farmland soils are preserved in accordance with the Act.

Final § 785.17(b)(3) requires that where the reconnaissance inspection indicates that there may be prime farmland, the applicant must determine if a soil survey used for operational conservation planning, as defined by the SCS, exists for these lands and whether soil-mapping units within the proposed permit area have been designated as prime farmland. Where no soil survey exists, the applicant is responsible for providing a soil survey of the proposed permit area.

One commenter believed that the SCS soil surveys are not of adequate scale and suggested using a scale of 1:6,000. OSM and SCS cannot accept the use of a scale of 1:6,000 or other alternative scale for soil surveys when identifying and locating prime farmland soils. Soil surveys used by the SCS for operational conservation planning have been identified by the SCS as the soil survey needed to identify and locate prime farmland soils. the scale of these soil surveys ranges between 1:15,840 (4 inches per mile) and 1:24,000 and is in accordance with the standards of the NCSS.

Two commenters suggested that § 785.17(b)(3) be placed ahead of § 785.17(b)(1) because it is easier to check SCS soil-survey maps for prime farmland soils and then to check only those areas for historical cropland use, rather than the reverse.

The adopted order of these paragraphs is appropriate because the soil-survey information will likely be more readily available than data on historical cropland use. The rule adopted would not preclude the method of investigation described by the commenter. A determination that prime farmland does not exist for the purposes of the Act can be based upon either historical cropland use or a soil survey. One commenter also stated that the requirement to conduct a soil survey should be clarified to apply only to the permit area and include only prime farmland soil. OSM agrees with this comment and has modified the rule language accordingly. To be consistent with the opinion in *In re: Permanent Surface Coal Mining Regulation Litigation*, Civ. No. 79–1144, Mem. opin. at 39 (February 26, 1980), the language has been changed to require that a soil survey be made "If no soil survey exists, * * * of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland."

Final § 785.17(b)(3) (i) and (ii), respectively, direct applicants to submit a statement that no prime farmland exists if none is found or to comply with the permit-application provisions where prime farmland soils are present. No comments were received on these sections and they are unchanged from the proposed rule.

B. Section § 785.17(c) Application contents

Final § 785.17(c) sets forth the permit-application requirements if prime farmland soils are located within the proposed permit area.

One commenter asked that before any future mining is approved, all soil surveys be available and that up-to-date production levels for crops be established. This commenter did not want any prime farmland surface mined unless each acre will be returned to its present capability. OSM and SCS agree with this commenter and continue to require soil surveys and crop yields for prime farmland that is to be disturbed.

Final § 785.17(c)(1) specifies that soil surveys used in permit applications must meet the standards of the NCSS. The SCS has the primary national responsibility in maintaining soil-survey standards, and OSM and SCS have clarified the requirements of the NCSS by referencing the SCS National Soils Handbook (U.S. Soil Conservation Service, 1962) in the rule as an acceptable guide to the NCSS. This handbook maintains current procedures for conducting soil surveys to the standards of the NCSS and is available in all SCS area and State offices. Its inclusion in the rule is to provide notice of easily accessible information to clarify the standards of the NCSS.

Final § 785.17(c)(1)(i) incorporates by reference USDA Handbooks 18 and 436 (U.S. Soil Conservation Service, 1951, 1975) that contain procedures to the standards of the NCSS. OSM and SCS have clarified SCS's responsibilities with respect to the NCSS by stating that the SCS established NCSS standards as well as maintains updated procedures for conducting these soil surveys through the National Soils Handbook. OSM does not consider this a substantive change to these rules. Two commenters pointed out that the Director's approval within this section needs to be updated. The date of the Director's approval for incorporation by reference has been updated.

One commenter wanted § 785.17(c)(1)(i) deleted because the commenter felt it unnecessary for OSM to commit itself to publishing notices in the **Federal Register** of changes to the NCSS. OSM and SCS find it desirable to maintain one standard for soil surveys as required by Section 507(b)(16) of the Act. These standards are those of the NCSS. All materials submitted to the **Federal Register** under "incorporation by reference" must be updated periodically as required by 1 CFR Part 51.

Final § 785.17(c)(1)(ii) delineates more specifically the requirements for soil surveys. This section lists soil properties which must always be described for each prime farmland soil within the permit area and makes it clear that the SCS is to determine the content of representative soil-profile descriptions including, but not limited to, soil-horizon depth, pH, and soil densities. The applicants may use other soil-profile descriptions from the local area if approved by the SCS.

One commenter requested additional language in § 785.17(c)(1)(ii) to assure that the regulatory authority has authority to require additional information on other physical and chemical properties of the soil to establish that the operator has technological capability to restore the permit area to the soil-reconstruction standards. OSM has added the following sentence to provide this clarification: "The regulatory authority may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil-reconstruction standards of Part 823 of this chapter."

One commenter wanted the regulatory authority, rather than the SCS, to have responsibility for approving soil-profile descriptions. OSM believes that such approval is the proper responsibility of the Secretary of Agriculture. The SCS is the lead agency for the NCSS and as such has the responsibility to maintain soil-survey criteria for prime farmland soils. These criteria, in the form of physical and chemical properties of soil, are to be given to the regulatory authority by the SCS. This is in keeping with the Secretary of Agriculture's responsibilities under Sections 507(b)(16) and 510(d)(1) of the Act. The regulatory authority, in cooperation with the SCS, will use these soil-survey specifications in determining if the soil surveys submitted by applicants are adequate and, ultimately, in approving permits for areas containing prime farmland.

Another commenter pointed out that the proposed rule would require more stringent soil descriptions than the previous rule. OSM does not agree that these rules are more stringent, because the standards of the NCSS have always been the standards for soil surveys. The term "soil survey" was, and continues to be, defined in terms of the NCSS. (See the definition of "soil survey" in 30 CFR 701.5.)

Another commenter requested using "average densities" rather than "range of densities" in determining soil profiles. This commenter also pointed out the need to prepare new soil descriptions because the SCS does not routinely collect soil-density information with representative soil-profile descriptions. OSM and SCS believe that the "range of soil densities" required in the final rule provides better information for use by the regulatory authority than "average densities" would, because soil densities are reported in ranges in the soil survey. Also, a range is more realistic and makes more technical sense than an average, which is a single number. OSM and SCS agree with the commenter that at times some additional information on soil densities will have to be collected by the operator to supplement existing soil surveys.

Three comments requested deletion of properties associated with the soil description such as pH and soil densities because: (1) The operator would probably gather this data anyway, (2) these data are not mentioned in the Act or in USDA Handbook 18, (3) there is no need for these data if an equal or higher productivity standard is met, and (4) the procedures undertaken by operators to achieve the requirement would be expensive and time consuming. The final rule retains this listing of soil properties. The three elements of the soil profile—soil-horizon depths, pH, and soil densities—have been added as a requirement to the previous rules because OSM and SCS believe such information is essential for determining the adequacy of all proposed soil-reconstruction plans. One of these commenters felt that OSM has wrongly assumed that soil density is an important soil property, stating that there is no accurate way to define soil density and that there are no studies or technical justification to support OSM's approach. OSM and SCS do not agree with this commenter and point out that density data are required because it is well established that increased soil densities result in decreased crop yields, thereby guaranteeing failure when measured against the "equal or higher level of yield" standard of Section 510(d)(1) of the Act. (Guernsey and others, 1978, pp. 69–79).

Final § 785.17(c)(2) requires the operator to submit a plan which gives soil-reconstruction, replacement, and stabilization methods to be used on prime farmland soils. This plan is required by Section 508(a)(5) of the Act. The purpose of this plan is to assist the regulatory authority and the SCS in evaluating the technological capability of the operator to reconstruct prime farmland soils to the specifications of Part 823. This new final rule is unchanged from the proposed rule.

One commenter supported the proposed rule change in § 785.17(c)(2) by stating that to demonstrate the capacity to comply with the performance standards would be less burdensome and more flexible and practical than attempting to specifically identify all the detailed requirements given in Part 823. Another commenter felt that more information should be required to judge the technological capability of an operator to return prime farmland to its original capability. This commenter wanted OSM to require information such as the proposed method and type of equipment to be used for removal, storage, and replacement of prime farmland soils. The commenter believed the deletion from previous § 785.17(b)(2) of the method and equipment to be used violated Section 507(b)(7) of the Act.

Previous § 785.17(b)(2) duplicates § 780.11(a) and is therefore unnecessary. The operation plan under § 780.11 must include a description of the method of coal mining, engineering techniques, and equipment to be used for all operations. This section fully implements Section 507(b)(7) of the Act, and there is no need to duplicate it in the special permit-application rules for prime farmland which supplement the general requirements. The regulatory authority in consultation with the SCS can require

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more detailed information on the proposed method and type of equipment as needed on a site-by-site basis.

Final § 785.17(c)(3) requires that the applicant provide agricultural-school studies or other scientific data to demonstrate that the proposed method of reclamation will be successful. These studies and data are to be applicable to the prime farmland soil under investigation. Where soil mixing is a proposed reclamation technique, data must be provided to demonstrate that the proposed mix of soil will achieve levels of yield equal to, or higher than, those on nonmined prime farmland in the surrounding area.

Several commenters suggested that crop yields required in proposed § 785.17(c)(3) be modified by the phrase "in the surrounding area" rather than by the phrase "as existed before mining" in order to conform with the language used in Section 510(d)(1) of the Act. OSM agrees that this change is appropriate as it removes ambiguity and makes clear that applicants must demonstrate the ability to meet the standard of Section 510(d)(1) of the Act. This clarification does not otherwise alter the interpretation of § 785.17(c)(3).

Another commenter felt that a permit should not be approved until there is documentation, through field trials conducted since passage of the Act, to establish that equivalent crop yields can be achieved. Another commenter felt that conclusive proof that the required crop yields will be met must be specified and that the burden of proof should lie with the SCS. OSM agrees that documented field trials will more than likely be used for the demonstration required by § 785.17(c)(3). Because of the many variables involved in describing the adequacy of research plots and the duration of applicable research efforts, the regulatory authority and the SCS must review and evaluate the conditions under which agricultural-school studies or other scientific data were made. However, the operator is responsible for making the required demonstration.

One commenter opposed deletion of the parenthetical reference to water management from this section because this kind of documentation is the only basis upon which approval of mining of prime farmland can be made.

OSM does not agree with the commenter's assertion that this change was either significant or substantive. The term "management" under the previous rule and the rule as adopted includes water management, pesticide management, proper use of fertilizers, use of appropriate crop varieties and rotations, and whatever other management practices are commonly accepted for the locality. OSM has deleted the parenthetical reference to water management to eliminate redundancy and to avoid listing all the applicable forms of management.

Final § 785.17(c)(4) is a new section that requires that the applicant include in the reclamation plan the established productivity under high levels of management of each prime farmland soil to be mined. This prime farmland soil productivity is routinely documented within the SCS soil surveys and is readily available from SCS offices.

Originally, § 785.17(b)(8) required a permit application for prime farmlands to include in the reclamation plan current estimated yields under a high level of management for each soil to be mined. The rule further set these estimated yields as the target yields by which reclamation success on prime farmland was to be judged. This use of high levels of management to set reclamation standards was remanded to the Secretary in *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79-1144, Mem. opin. at 5 (D.D.C., May 16, 1980). The court held that permit approval and bond release depend upon a showing of revegetation success based only on equivalent levels of management and that the Secretary could only require the high levels of management standard in the reclamation-plan information rule. On August 4, 1980 (45 FR 51549), OSM suspended § 785.17(b)(8) insofar as it requires a demonstration in the permit application of current estimated yields under a high level of management. The proposed rule would have deleted all reference to high levels of management in either the reclamation plan or as a standard for permit approval or bond release (47 FR 19076, May 3, 1982).

One commenter supported the deletion of the "high levels of management" information requirement of previous § 785.17(b)(8), because that langauge went too far in establishing high management yields as a reclamation target. However, this commenter pointed out that Section 508(a)(2)(C) of the Act requires that reclamation plans provide information on the productivity of land prior to mining, including average yields under high levels of management. The commenter suggested that this requirement should be retained for informational purposes relative to Section 508(a)(2)(C) only. OSM agrees with this commenter and is retaining the informational requirements of Section 508(a)(2)(C) of the Act by establishing a new final § 785.17(c)(4) patterned after the language of the Act.

C. Omission of previous § 785.17 (b)(4) and (b)(6)

One commenter opposed the deletion of previous § 785.17(b)(4) because without it the regulatory authority's ability to locate and monitor separate soil stockpiles as required in Section 515(b)(7)(B) of the Act would be inhibited. OSM is deleting this paragraph because it repeats the minimum requirements for reclamation and operation plans under 30 CFR Parts 780 and 784. These parts require that the reclamation-plan portion of the permit application show the location of each topsoil and subsoil storage area. Since § 823.12 (c)(1) and(c)(2) require the operator to store the topsoil separately from the B and C horizons, and both separately from other soil, the general permit-application rules are sufficient to provide the regulatory authority with all the information it needs to monitor separate soil stockpiles. Redundancy is eliminated by removing this section.

Previous § 785.17(b)(6), which required plans for seeding or cropping the final-graded prime farmland soils, was proposed to be deleted in its entirety. One commenter opposed the deletion of § 785.17(b)(6) on the grounds that it would weaken the regulatory authority's ability to evaluate whether plans for seeding or cropping are consistent with reconstruction plan which will apply equivalent levels of management. OSM has deleted this section because it duplicated other reclamation- and operation-plan requirements of Parts 780 and 784. Because the standard for determining revegetation success on prime farmland is to achieve levels of yield equivalent to yields on nonmined land of the same soil type in the surrounding area under equivalent levels of management, the reclamation plan submitted under § 780.18 or § 784.13 will have to show how the applicant plans to meet that standard. Therefore, previous § 785.17(b)(6) is not needed to ensure that the standards of Section 510(d)(1) of the Act are met.

D. Section 785.17 (d) and (e) Consultation With the Secretary of Agriculture and Issuance of Permit

Final § 785.17(d) has been reorganized to clarify the responsibilities of the Secretary of Agriculture under this section. This paragraph is consistent with the previous interpretation of the responsibilities of the USDA and the SCS regarding prime farmland matters.

Final § 785.17(d)(1) recognizes that the Secretary of Agriculture has certain responsibilities with respect to prime farmland soils and that these responsibilities have been assigned to the SCS State Conservationist within each State. The title "Administrator" in the proposal was changed to "Chief" to be consistent with the current SCS position title.

Final § 785.17(d)(2) requires that the State Conservationist provide to the regulatory authority a list of prime farmland soils and their locations, physical and chemical characteristics, crop yields, and other data that are necessary to adequately support prime farmland soil descriptions. OSM has added this paragraph, with SCS concurrence, to clarify the responsibilities of the State Conservationist in providing prime farmland soil-survey information to the regulatory authority.

Final § 785.17(d)(3) requires that the State Conservationist assist the regulatory authority in describing the nature and extent of the reconnaissance inspection. This is the same requirement as § 785.17(b)(1) and is repeated here to consolidate and clarify the responsibilities of the State Conservationist.

Final § 785.17(d)(4) requires that the regulatory authority consult with the SCS State Conservationist before approving any permits concerning prime farmland. The State Conservationist will provide review and comment on the proposed method of soil reconstruction. Where the State Conservationist considers the soil-reconstruction methods inadequate, he or she will suggest revisions which will result in more complete and adequate reconstruction.

Two commenters supported the expanded role of the SCS, while another commenter suggested that OSM further strengthen the SCS role with the regulatory authority. One of these commenters felt that there may be a timing problem because this rule will be finalized before the SCS and regulatory authority can establish soil-reconstruction specifications and determine the nature and extent of the reconnaissance inspection. This commenter felt these rules should have an extended effective date that will provide time for coordination between the SCS and the regulatory authority. OSM recognizes that this coordination will take time. However, OSM and SCS have already begun discussions of how the rules would be implemented and believe that there is no need to postpone the effective date. Furthermore, the Secretary of Agriculture's role is clear in this section and no modification is necessary.

Another commenter requested deletion of Paragraphs (d) and (e) and their replacement by a new Paragraph (d) which would incorporate the requirements of Section 510(d)(1) of the Act. This commenter also objected to requiring the applicant to negotiate with both the regulatory authority and the SCS. Section 515(b)(7) of the Act requires the Secretary of Agriculture to establish soil-reconstruction specifications. The Secretary of Agriculture has assigned this responsibility to the Chief of the SCS. Section 785.17(d) requires the regulatory authority, not the applicant, to consult with the SCS for review of prime farmland reclamation plans. Implementation of the soil-reconstruction specifications is the responsibility of the regulatory authority in consultation with the SCS. Although this rule does not preclude the applicant from dealing directly with the SCS, the applicant is not required to negotiate with the SCS. The final rule retains paragraphs (d) and (e).

One commenter requested language to make it clear that this section applies only to areas to be mined and reclaimed and does not apply to underground mines. Section 510(d)(1) of the Act requires that the special prime farmland permit-approval standards, including consultation with the Secretary of Agriculture, apply whenever the area proposed to be mined contains prime farmland. The language of the proposed rule has been retained because it is consistent with this statutory language. Contrary to the commenter's assertion, the prime farmland provisions of the Act do apply to disturbed areas associated with underground mining. The permit requirements of Sections 506, 507, 508, and 510 of the Act apply to any surface coal mining operation, which, as defined by Section 701(28) of the Act, includes the surface effects of underground mining. Likewise, the performance standards of Section 515 of the Act (through the operation of Section 516(b)(10) of the Act) and bond-release provisions of Section 519 of the Act apply to any surface coal mining operation, including the surface effects of underground mining. The U.S. District Court for the District of Columbia also held that the Secretary does have the authority to apply the prime farmland rules to the surface effects of underground mining. *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79-1144, Mem. Opin. at 3, (D.D.C., May 16, 1980). The language of the proposed rule has not been removed as suggested by the commenter.

Final § 785.17(e)(2) requires that, before a permit is issued, the regulatory authority must find that, the permit incorporates the contents of the soil-reclamation plan submitted by the applicant under § 785.17(c) after consideration of revisions as suggested by the SCS State Conservationist. OSM has changed the reference from the Secretary of Agriculture to the State Conservationist in keeping with § 785.17(d)(1). This is not a substantive change from the proposed rule.

E. Part 823 Special Permanent Program Performance Standards

Part 823 sets forth soil-removal, storage, and replacement specifications, as well as specifications for revegetation and restoration of soil productivity for prime farmland soils that are disturbed. Some prime farmland soils do not need to be restored according to these special performance standards because of exemptions in § 823.11 that are based upon historical use, grandfather rights, construction of an approved water body, or the existence of a long-term preparation plant or support facility. However, the general performance standards and bond-release provisions do apply to those areas or facilities that qualify for the exemption.

One commenter felt that the prime farmland performance standards should be as exacting (or more so) as the standards for designating lands as unsuitable for surface coal mining.

Section 522 of the Act sets forth the State planning process for the designation of lands as unsuitable for surface coal mining. Under this section, the regulatory authority determines whether any lands are unsuitable for certain types of surface coal mining operations based upon a technical and economic feasibility study of achieving the reclamation requirements of the Act or based upon other criteria in Section 522(a)(3) of the Act. Sections 515(b)(7) and 519(c)(2) of the Act provide explicit performance standards for the mining and reclamation of prime farmland. In addition, the permitting sections, as discussed previously, clearly condition approval of a prime farmland permit on a demonstration that the performance standards can and will be met. These prime farmland standards are independent of the unsuitability provisions and should not be confused with that separate process. OSM has therefore rejected the commenter's suggestion.

Final § 823.1 delineates the scope and purpose of Part 823 and provides that the special environmental protection

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performance standards, reclamation standards, and design standards apply to surface coal mining and reclamation operations on prime farmland. No comments were received on this section. This final rule is not changed from the proposed rule.

F. Section 823.4 Responsibilities

Final § 823.4 is a new section which sets forth the responsibilities of the SCS and the regulatory authority with respect to the establishment and regulation of specifications for removal, storage, replacement, and reconstruction of prime farmland soils. The responsibilities outlined in this section have been consolidated here for clarity and are not new.

Final § 823.4(a) requires that the SCS within each State establish specifications for prime farmland soil removal, storage, replacement, and reconstruction. This was proposed as § 823.14(a) and has been moved to § 823.4(a) to clarify the responsibilities of the USDA as required by Section 515(b)(7) of the Act.

Final §823.4(b) requires that the regulatory authority within each State utilize the soil-reconstruction specifications established by the SCS to carry out its responsibilities regarding the prime farmland soil-removal, storage, replacement, and reconstruction provisions of § 785.17 and the criteria and schedule for release of performance bonds under 30 CFR Subchapter J. This new paragraph consolidates and clarifies the responsibilities of the regulatory authority required by Sections 510(d)(1) and 519(c) of the Act.

Several commenters expressed concern with respect to the requirement that the SCS establish soil-reconstruction specifications. Two commenters supported this requirement, while five commenters objected. Two of the latter group felt that it would be confusing if the SCS set these specifications and that the role of the SCS and regulatory authority must be clarified. Two other commenters felt that to have the SCS set these specifications was not within the spirit or intent of the concept of State primacy. Another commenter felt that the proposed rules place an inappropriate amount of responsibility on the SCS for levels of crop yield. This commenter felt that any appropriate USDA agency would provide greater flexibility in the development of the reclamation plan. Another commenter questioned whether the SCS could maintain the responsibility for these specifications.

OSM and SCS point out that Sections 507(b)(16) and 515(b)(7) of the Act require the Secretary of Agriculture to establish soil-survey standards and soil-removal, storage, replacement, and reconstruction specifications for prime farmlands to be mined and reclaimed. In order to best meet the special needs of each State with respect to prime farmland soil-reconstruction and mining methods, OSM and SCS have agreed that detailed soil-reconstruction specifications must be determined on a State-by-State basis, whereas the permanent program rules, which are national in scope, should be limited to identifying general elements of concern in soil reconstruction. The SCS is primarily responsible for locating, describing, and establishing standards and specifications and otherwise identifying prime farmland soils. It has had many years of experience and is best qualified to establish and maintain the prime farmland soil-reconstruction specifications on a State-by-State basis. Also, SCS maintains data on crop yields for prime farmland soils, OSM is adding § 823.4(a) as a result of comments received requesting clarification of the role of the SCS in establishing the performance standards under Part 823.

G. Section 823.11 Applicability

Final § 823.11 sets forth exclusions from the prime farmland performance standards for: (1) Coal preparation plants, support facilities, and roads actively used over long periods of time which affect a minimal amount of land, (2) approved water bodies, and (3) prime farmland not historically used as cropland and "grandfathered" prime farmland.

One commenter objected to giving States greater flexibility to grant variances from the prime farmland soil-reconstruction specifications. This commenter felt that the new rules would increase the likelihood that inadequate soil-reconstruction practices would be used and thereby jeopardize a successful restoration of prime farmland productivity. OSM disagrees with this commenter. More flexibility at the State level is needed to incorporate the specific requirements of local conditions and thereby ensure successful restoration of each particular prime farmland soil.

Final § 823.11(a) excludes from the special prime farmland performance standards land occupied by coal preparation plants, support facilities, and roads associated with surface and underground mines, in accordance with the decision in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C., May 16, 1980), pp. 1–3. The Court evaluated the preservation of the A and B or C soil horizons with respect to compacted soil horizons and the ability of the operator to alleviate this compacted condition with deep tillage. The District Court ruled that the prime farmland performance standards of the Act do apply to the surface effects of underground mining operations but suggested that a limited exemption be made for surface facilities which are actively used for extended periods of time and which affect a minimal amount of land. OSM has extended this exclusion to preparation plants, support facilities, and roads of surface mines which will be actively used over long periods of time because of the similarity of such long-term uses and their effects for both types of mining.

The Court pointed out that the Act's reclamation standards technically apply where construction of roads and support facilities removes the topsoil of prime farmland. The Court also noted, however, that an operator may need only to engage in deep tilling to restore the soil productivity of the prime farmland where support facilities have compacted the B or C soil horizons. The Court recognized that the chief surface intrusions from underground mining activities stem from support facilities such as roads, loading structures, coal-processing plants, and stockpiles.

The Court also noted that one difference between surface and underground mines is the extended period of time that most underground mines are in operation. The extended period of time which support facilities must be actively used in order to qualify for this exemption was discussed by the Court as being 20 to 40 years. The Court indicated, without elaboration, that support facilities utilizing a minimal amount of land should be allowed an exemption. The Court further noted (footnote 4, p. 3) that the operator would still be required to engage in a preapplication investigation (reconnaissance inspection) and comply with the applicable permit and bonding requirements.

The general topsoil rules require that all topsoils be removed from areas to be disturbed in mining and reclamation including areas utilized by support facilities (§§ 816.22 and 817.22). OSM generally agrees that it is better to leave the B and C soil horizons in place and alleviate a compacted condition with deep tillage or other methods. However, some support facilities such as waste areas, machine repair areas, and coal processing areas may chemically alter the B or C soil horizons drastically, thus decreasing or eliminating the soil productive capacity. The B or C soil horizons should be protected from chemical contamination if necessary to

achieve the applicable vegetative cover and productivity required by §§ 816.116 and 817.116. The operator may choose to remove and store the B or C soil horizons and replace them at a future date, or the operator may choose to place a protective barrier between the support facility causing chemical contamination and the B or C soil horizons. In addition, under final § 816.22(a)(3), the regulatory authority may require that the B and C horizons be separately removed, segregated, stockpiled, and replaced to ensure retention of soil capabilities. Thus, where the exemption of § 823.11(a) applies, OSM is requiring that the operator protect the productive capacity of the soils in accordance with §§ 816.22 or 817.22 where the permanent retention of these facilities or roads has not been included as part of the approved postmining land use.

One commenter suggested that the surface-facility exemption should also apply to the investigative aspects (preapplication investigation) of the rules. OSM has not accepted the suggestion. The District Court specifically held that the operator must comply with the investigative aspects of these rules.

Five commenters supported extending the exemption to both surface and underground mining activities. They felt that this was a logical extension and provided adequate flexibility. Two commenters opposed the exemption for surface mining support facilities. They felt that: (1) The soil horizons could be removed and utilized elsewhere in the permit area, whereas this is not possible with underground mines because there is little other disturbed area, and (2) this extension of the exemption was illegal because it exceeded the limited exemption suggested by the District Court.

OSM has evaluated the criteria for determining when a surface facility associated with an underground mine should be exempted and has concluded that the criteria apply equally well to such facilities associated with surface mines. Surface mines often use the same types of facilities as underground mines and for comparable periods of time. OSM has decided, therefore, to extend the exemption to surface mines, not just because of the Court order but because a reasonable construction of the prime farmland sections of the Act does not require that they be applied to "areas" where their special protections would be to no avail. The commenter also objected that such an exemption was not needed for surface mine support facilities because they are not actively used over an extended period of time. The commenter has misconstrued the limiting elements of the exemption. All coal preparation plants, support facilities, or roads are not exempted under § 823.11(a); only those that are actively used over extended periods of time and which affect a minimal amount of land are exempted. If these conditions are not met, then the prime farmland rules do apply to the preparation plant, support facility, or road. Furthermore, it is irrelevant to the applicability of soil-reconstruction standards at a particular location that the soil horizons at that location could be used elsewhere.

Two commenters felt that the provisions of Part 823 for prime farmland soil reconstruction, revegetation, and restoration of soil productivity should apply to "areas to be mined" as stated in Section 510(d)(1) of the Act or areas to be "mined and reclaimed" as stated in Section 515(b)(7) of the Act. One of these commenters would have liked to exclude underground mining activities and surface facilities and surface mining activities that do not involve drilling, blasting, or mining unless expressly indicated or required by the regulatory authority in a permit. Another commenter wished to ensure that Part 823 does apply where mining will result in the removal of overburden. OSM reasserts its long-standing position that Part 823 applies to all surface coal mining operations on prime farmland, including surface impacts incident to underground mining, except for those situations set forth in § 823.11. Even if an operation would qualify for an exemption under § 823.11, the permit-application requirements of § 785.17 and the general bond-release requirements of Subchapter J apply. See *In re: Permanent Surface Mining Regulation Litigation, supra*, at 3 N.4.

OSM specifically requested comment on the proposed prime framland rules with respect to the type of support facilities which should be exempt, the duration of their use, and the maximum size of the land area that could be affected. OSM received more than 25 comments regarding this request.

Many commenters suggested that one or more of the following be included in the definition of support facilities: Air shafts, adits, bath houses, battery storage and recharge sheds, coal storage areas (clean and raw coal), disposal and storage areas for waste, equipment storage areas, fan sites, garage areas, hoist buildings, loading docks, office buildings, access roads, main haul roads, water treatment plants, parking lots, power substations, preparation plants, refuse sites, repair sheds, shafts, shop areas, shipping areas, processing and loading facilities, supply yards, tipples, and minor facilities.

Two commenters felt that such an exemption is appropriate for life-of-the-mine support facilities, including roads, because these facilities disturb a minimal amount of land and there is no other area to which the disturbed soil horizons can be transferred. Another commenter suggested that long-term as well as secondary support facilities be included in the exemption. Another commenter felt that only minor support facilities should be exempted and that the area disturbed by these minor facilities should be accommodated and assigned a crop productivity index to be compared to the crop-productivity index of the entire area.

The term "support facilities" is defined in proposed § 701.5 (47 FR 27693, June 25, 1982) to mean those facilities resulting from, or incident to, surface coal mining operations. This term and the terms "coal preparation plants" and "roads" describe those surface facilities which are exempted under § 823.11(a) from the special prime farmland performance standards. The term "coal preparation plant" will be defined in § 701.5 rather than "coal processing plant." It will mean a facility where coal is processed to separate coal from its impurities. In its May 16, 1980, opinion, the Court included coal processing plants in the same category as support facilities. *Id* at p. 2. The two definitions in § 701.5 include nonexclusive lists of facilities that may qualify. Such facilities are exempted only if they affect a minimal amount of land and are actively used over an extended period of time. Facilities such as coal and waste storage areas, tipples, and processing facilities may be considered support facilities but may not be exempt under § 823.11(a) if they are used for a short period of time or cover a large area. The determination of these limits has been left to the regulatory authority, which can better evaluate these time and area factors on the basis of local conditions.

OSM has added roads to the exemption because the District Court referred to roads as deserving treatment similar to support facilities. Since the definition of support facilities in § 701.5 does not include roads, they must be listed separately in the rule. To be exempted, roads must meet the same conditions as support facilities.

OSM does not believe that a crop-productivity index is appropriate for defining the class of exempt facilities, because the suggested method is too cumbersome to be an effective national

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rule. Regulatory authorities may choose to use such an index to determine whether a particular facility affects a minimal amount of prime farmland.

Two commenters suggested that the duration of active use to qualify for this exemption should be 10 or more years. One of these commenters added that long-term support facilities could easily be in use for this period of time. The District Court ruled that OSM's rules were arbitrary where they commanded operators to segregate the topsoil and the underlying soil horizons for 20 to 40 years in situations where reclamation will affect a minimal amount of land. OSM recognizes that many different kinds of support facilities are utilized regionally over differing lengths of time, depending upon mining methods. The regulatory authority should use its discretion in selecting the duration of time for actively used support facilities to qualify for this exemption, keeping in mind the context in which the court created the exemption.

Many commenters asked for clarification of the phrase "minimal amount of land." It was suggested variously that 2 acres, 5 acres, and 20 acres or less be the size exempted. Another commenter felt that the aggregate productive potential of prime farmland in the permit area should not be reduced by more than 2 percent.

One commenter felt that a minimal amount of prime farmland for siting and construction of support facilities should be exempt, whereas another commenter felt that the size of the area to be exempted should be determined by the regulatory authority using such factors as: (1) The practicality of locating the facilities in areas other than prime farmland, (2) the nature of the facilities, (3) the extent to which the operator's plans minimize the use of prime farmland, and (4) the impact on surrounding prime farmland.

Another commenter reported that the ratio of the area mined to the area of surface facilities for three large underground mines in Illinois varied between 33 to 1 and 44 to 1. Another commenter reported that support facilities and water bodies could take up as much as one third of coal mine sites. No supporting data were provided by either commenter.

As pointed out by these commenters, the acreage used for support facilities could vary considerably between the type of facility under consideration, location, and mining method utilized. For example, a comprehensive review of Illinois lands affected by underground coal mining was published in 1977 (Nawrot and others, 1977). Disturbance from past underground coal mining activity totaling 6,955.9 acres was present at 700 abandoned underground coal mine sites in 55 Illinois counties. Affected acreage included gob, slurry, tipple, water impoundments, and offsite affected areas and was unequally distributed among the 55 counties, depending upon the size and kind of mining operation. Eleven counties accounted for 80 percent of the affected acreage, with an average of 21.4 acres for 263 mine sites. In contrast, 44 counties accounted for 19.2 percent of the affected acreage, with an average of 3.0 disturbed acres for 437 mine sites.

Because site locations, mining methods, and kinds of support facilities are highly variable, OSM believes that the regulatory authority should establish the maximum area which may be exempted. The factors suggested by commenters should be helpful in making the required determinations. If in practice the exemption provided by § 823.11(a) leads to abuse or is inconsistently applied by different States, OSM will provide further guidance.

Final § 823.11(b) provides an exemption from Part 823 where water bodies have been approved as an alternative postmining land use by the regulatory authority. These water bodies must meet the requirements for construction of permanent and temporary impoundments of §§ 816.49 and 817.49 of this chapter and must be designed and constructed to minimize the loss of prime farmland.

Three commenters were opposed to the exemption for water bodies as an alternative land use after mining. They felt that this exemption was in direct conflict with § 785.17(e)(1), which requires that the postmining land use be cropland. One commenter claimed that exempting approved water bodies from the prime farmland performance standards would violate the Act. The commenter relied on the statement by the U.S. Supreme Court that "Congress presumably concluded that allowing variances from the prime farmland provisions would undermine the effort to preserve the productivity of such lands." *Hodel v. Indiana*, 101 S. Ct. 2376, 2387 (1981). The commenter believed that this statement shows that the Supreme Court determined that Congress intended that there be no variances from the prime farmland restoration standards of the Act.

OSM remains unconvinced that the *Hodel* opinion is dispositive of the issue. The Court held that the plantiffs had not clearly shown that the prime farmland provisions were not rationally related to a legitimate governmental purpose. *Id.* at 2386. The statement quoted by the commenter was not made in the context of a challenge to a narrowly prescribed variance established by OSM under a related statutory provision. It was not essential to the holding that the prime farmland provisions were not unconstitutional on their face.

As noted by the commenter, the assertion that no variances from the prime farmland standards are allowed is not precisely correct. For example, the U.S. District Court for the District of Columbia has held that there should be an exception in the rules for certain surface facilities. *In Re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79-1144, (D.D.C. May 16, 1980) at 3. By implication there must also be an implied exception to the standards of the Act for such support facilities.

The prime farmland provisions of the Act are not completely independent of the other performance standards of the Act. In fact, all of the other performance standards apply to prime farmland except the general topsoil and revegetation standards, which are replaced by the more specific prime farmland standards. Among these other performance standards which apply to prime farmland is Section 515(b)(8) of the Act, which allows the operator to create permanent impoundments if certain standards are met. The so-called exemption to the prime farmland soil-reconstruction standards is really just a recognition that if the impoundment performance standards are met, then there is no need to reconstruct the soil on the area which will be inundated. OSM has added the requirement that the regulatory authority determine that any water body approved must be designed and constructed to minimize loss of prime farmland to ensure that construction of such water bodies does not become merely a means to avoid application of the prime farmland standards.

Final § 823.11(c) sets forth prime farmland exemptions based upon the "historical use" clause and the "grandfather" clause of § 785.17(a). Four commenters supported the establishment of a cutoff date for grandfathered prime farmlands. No comments were received relative to the proposed language of this section, and the proposed rule has been adopted with minor change.

On July 30, 1982, OSM adopted an interim final rule establishing April 3, 1983, as the termination date for all so-called "grandfather" exemptions to the prime farmland performance standards. 47 FR 32939, July 30, 1982. On September 10, 1982, the U.S. District Court for the District of Columbia issued an order in *Peabody Coal Company et al. v. Watt*, Civ. Nos. 81-0645, 81-0693, 81-2875 and 81-0706, declaring the grandfather cutoff date rule to be unlawful and void and enjoining the Secretary from implementing the rule. (See 47 FR 44116, October 6, 1982.) In compliance with that order and the Memorandum Opinion filed by the Court on December 3, 1982, OSM has deleted the grandfather cutoff date at § 716.7(a)(2) of the initial program rules and § 785.17(a)(5) of the permanent program rules.

H. Section 832.12 Soil Removal and Stockpiling

Final § 823.12 has been reorganized from the proposed rule, a new paragraph (a) has been added, and the other paragraphs have been redesignated.

Final § 823.12(a) requires prime farmland soils to be removed from the areas to be disturbed before drilling, blasting, or mining.

Two commenters suggested that the introductory paragraph of § 823.12 point out that prime farmland soils must be removed only where overburden is excavated for the mining of coal. One of these commenters referenced a previous OSM brief which stated that the Part 823 soil-removal requirements applied only to areas to be affected by operations that involve removal of the soil horizons. This commenter stated that unless this change is made, the rule would require removal of soil horizons from unmined lands within the permit area. OSM has clarified the final rule by addition of new Paragraph (a) which requires that soil be removed from all disturbed areas. In this respect, the prime farmland rules are no different from the general topsoil rules, under which the topsoil must be removed from areas to be disturbed.

Final § 823.12(b) references the requirements of § 823.14(b) in determining the depth of soil and soil materials to be used and stored for later soil reconstruction.

Final § 823.12(c)(1) requires the removal of the topsoil or substitute material and, if not utilized immediately, the stockpiling of this soil separately from spoil and other excavated materials including the other soil horizons.

The proposal used the phrase "entire A horizon" rather than the word "topsoil." The Illinois Department of Mines and Minerals suggested that OSM modify its use of soil horizon terms to conform to the new classification established by the SCS. The original definition of topsoil in § 701.5 included the A horizon only. The A horizon contained a number of subclassifications including the A1 and A2 subhorizons. The use of the term "A horizon" in Section 515(b)(7) of the Act encompasses both the A1 and A2 subhorizons. Recently, the SCS has redesignated the A2 subhorizon as a separate master horizon identified as the E horizon. Thus, to ensure consistency between the two agencies, OSM will revise the topsoil definition to specifically include both the A and E horizons, when the final topsoil rules are published. To avoid confusion as to which horizons should be removed and stored separately, OSM has changed all references in these prime farmland rules from the term "A horizon" to the word "topsoil" to clarify that those soil materials which Congress intended to be removed as the A horizon will continue to be removed, stored, and replaced as the surface soil layer on prime farmland. This change in terminology has no substantive effect.

OSM proposed to allow use of substitute soil materials if such materials would "create a final soil having an equal or greater productive capacity than that which existed prior to mining."

One commenter supported the wording "equal or greater productive capacity." Another commenter suggested that the rule limit the use of substitute material to that which will have a "greater productive capacity" in keeping with the statutory language of Section 515(b)(7)(A) of the Act. OSM has accepted this comment and has revised the final rule accordingly.

Final § 823.12(c)(2) requires the removal of the B or C horizons or other suitable soil material. If not utilized immediately, this material must be stockpiled separately from spoil and other excavated materials, including the topsoil. Combinations of such materials are allowed where they have been shown to be equally or more favorable for plant growth then the B horizon.

One commenter requested changing the proposed reference to "B and C" horizons to "B or C" horizon to conform to Section 515(b)(7)(B) of the Act, which requires that the operator "segregate the B horizon of the natural soil, or underlying C horizons * * *." OSM agrees that the suggested language is consistent with the Act, and the final rule reflects this change. Another commenter stated that a mix of B and C soil horizons should not be allowed until actual proof is provided that the mix will produce equal or greater yields. A second commenter pointed out that mixing of B and C soil horizons is common practice in the State of Illinois, yet there is no verification that the mixed soil horizons will achieve equal or greater productivity. Another commenter reported crop yields of 129 bushels of corn per acre on a 100-acre experimental plot in Illinois through the mixing of the B and C soil horizons. Another commenter suggested regulatory language that quoted Section 515(b)(7)(B) of the Act. A final commenter supported the proposed rule and stated it would be less burdensome in actual practice and more beneficial to the environment of a greater productive capacity can be proven with soil-horizon mixing. OSM and SCS are aware of soil-mixing studies in Illinois which are showing promising results. (McSweeney and others, 1981; Fehrenbacher and others, 1982; Jansen, 1982). The final rule adopts language from Section 515(b)(7)(B) of the Act and allows mixing of soil materials where the combinations have been shown to be equally or more favorable for plant growth than the B horizon.

Final § 823.12(d) requires that soil stockpiles be placed within the permit area where they will not be disturbed or subject to excessive erosion. When stockpiles are left in place for more than 30 days, the general topsoil-storage performance standards of §§ 816.22 or 817.22 of this chapter apply. No comments were received on proposed § 823.12(c) (which is the corresponding provision of the proposed rule), and the language of final § 823.12(d) is essentially the same as proposed.

I. Section 823.14 Soil Replacement

Final § 823.14(a) requires that the SCS establish soil-reconstruction specifications within each State on the basis of standards of the NCSS. These specifications must include, at a minimum, physical and chemical characteristics of reconstructed soils, soil descriptions containing soil-horizon depths, soil densities, soil pH, and any other specifications set by the SCS. These specifications must be sufficient to create a final soil capable of achieving yields equal to or higher than those of nonmined prime farmland in the surrounding area.

One commenter asked OSM to encourage the Secretary of Agriculture to publish specifications for prime farmland soil reconstruction in the **Federal Register**. OSM has recommended to the SCS that they publish these specifications for public review.

One commenter wanted to include provisions for draining ponded water within 24 hours after a maximum rainfall event of 10-year frequency. Another commenter proposed a new paragraph that would provide detailed

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requirements that the operator restore the following soil parameters to premining conditions: density, texture, porosity, permeability, pH, exchange capacity, and water-holding capacity. This commenter stated that such standards were necessary if OSM intended to remove the moist-bulk-density standard. OSM and SCS believe that, where appopriate, specifications for the listed parameters should be part of the soil-reconstruction specifications established within each State by the SCS and the regulatory authority. Thus, they need not be part of this rule. The same commenter requested OSM to spell out more closely how the soil-reconstruction standards would be applied in practice, in lieu of the bulk-density standard. This commenter pointed out that where soil-horizon replacement is practiced in soil reconstruction, the standards can be fairly easily applied since the postmining soil should be similar to the premining soil. However, where mixing of profiles is done in soil reconstruction, OSM should spell out more specifically how the premining soil characteristics will be used as a standard for soil reconstruction.

OSM and SCS agree that where soil mixing is appoved, the quantity of various soil materials and methods utilized in mixing is important and must be spelled out in detail in the reclamation plan so that equal or higher levels of productivity may be achieved. However, the specific details of utilizing substitute materials and mixing of soil materials must be evaluated on each site by the regulatory authority and the SCS. National rules attempting to set the means for achieving the performance standard would serve no useful purpose because of the diversity of soils and reconstruction methods that may be utilized.

One commenter wanted to make sure that the regulatory authority has input into the formulation of these specifications so that they address the concerns of the regulatory authority. Section 515(b)(7) of the Act requires that the Secretary of Agriculture develop specifications for removal, storage, replacement, and reconstruction of prime farmland soils. The SCS, acting for the Secretary of Agriculture, recognizes that close coordination with the regulatory authority is necessary in order that a sound prime farmland restoration program is developed. The SCS is taking positive action within each State to assure that the regulatory authority has ample input into the soil-reconstruction specifications.

Another commenter pointed out that soil-description data should not be referenced as "standards," stating that the parameters listed are useful guidelines for assuring soil quality. This commenter also stated that postimining soil will never be precisely the same immediatley following mining as it was before mining and that the optimum conditions for postmining soils are best determined on a site-specific basis. OSM and SCS agree that the use of the word "standard" in this instance is not appropriate and have changed the word "standard" to "specification" for soil reconstruction to be consistent with Section 515(b)(7) of the Act. Also, OSM and SCS are aware that the postmining soil condition will never be precisely the same as the premining soil condition. However, this should not prevent the operator from achieving equivalent levels of yield as nonmined prime farmland in the surrounding area, as required by Section 519(c)(2) of the Act.

One commenter did not believe that studies show consistent relationships between soil density and productivity, and thus, thought soil density should not be used as a soil-reconstruction criterion. This commenter felt that a rigid set of standards for various soil parameters will not provide for the necessary trade-offs among physical and chemical soil properties when evaluating a soil-reconstruction plan. For these reasons, this commenter suggested that premining soil parameters be informational material for the regulatory authority to use in evaluating prime farmland reconstruction plans and for evaluation of soil reconstruction in the field.

OSM and SCS do not agree with this commenter with respect to his evaluation of consistent relationships between soil density and productivity. One established consistent relationship between soil density and productivity of the soil is that, given like soils, soil productivity decreases as soil density increases. (Guernsey and others, 1979; Smith, 1981) OSM and SCS agree, however, that a rigid set of national specifications for soil parameters will not provide for the necessary trade-offs among physical and chemical soil properties. This is why OSM and SCS have required, in § 785.17(c)(1)(ii), a "range of soil densities" to be reported in the soil survey.

Under § 823.14(a), the SCS will establish the soil-reconstruction specifications within each State to be consistent with the standards of the NCSS. These premining prime farmland soil specifications are to be used before issuing a permit in evaluating the technological capability of the operator to return prime farmland soils to their premining capability and for evaluation of prime farmland soil reconstruction after mining has taken place for release of the performance bond under Subchapter J.

Another commenter wanted to delete references to "or greater productive capacity" in proposed Part 823 because: (1) The operator should not be required to reclaim the land to a higher productive capacity and (2) returning the land to equal productivity meets the intent of the Act.

Section 510(d)(1) of the Act requires that the regulatory authority make a finding prior to issuing a permit to mine prime farmland that: (1) The operator has the technological capability to restore the mined land to levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area and (2) he or she can meet the soil-reconstruction specifications of Section 515(b)(7) of the Act. Because the finding under Section 510(d)(1) of the Act ties the achievement of equal or higher levels of yield to meeting the soil-reconstruction specifications, achievement of such yields is the goal of § 823.14(a). However, operators are not required to achieve higher levels of yield because the standard is equal *or* higher levels of yield. However, for prime farmland topsoil-substitute materials to be approved under § 823.12(c)(1), the operator must show that the topsoil substitute materials will have a greater productive capacity.

Final § 823.14(b) requires, in general, that the depth of reconstructed prime farmland soils be 48 inches. Specifications for greater or lesser depths will be provided to the regulatory authority by the SCS based upon the soil survey and established crop yields to assure the restoration of soil productivity. The reference in the proposed rule to specification of soil-horizon depths by the SCS to the regulatory authority has been removed from this paragraph and placed in new §§ 823.4(a) and 785.17(d)(2) as a general requirement of soil-reconstruction specifications.

Three commenters expressed concern with respect to the root-inhibiting layers found in prime farmland soils. These commenters felt that where root-inhibiting layers are found at less than 48 inches of soil depth, a 48-inch depth of soil material should be replaced regardless, because: (1) The degree of inhibition of roots and the resulting effect on crop productivity is highly variable, (2) the disturbance of prime

farmland soils in the mining and reclamation process requires that a greater depth of soil be replaced, (3) the literature does not support reconstructed soil depths of less than 48 inches, (4) unless a soil layer actually prevents root penetration, there is no justification to limit the reconstructed depth to the top of that restrictive layer, and (5) the use of the proposed language will result in sharply different reclamation work among the States.

OSM and SCS recognize the fact that root-inhibiting layers exist in soils and are highly variable with respect to their physical and chemical makeup and their effect on crop yields. Because of this high degree of variability, OSM and SCS agree that the SCS within each State must determine the soil-horizon depths to be utilized in prime farmland soil reconstruction. In this manner, site-specific variables can best be addressed. Also, coordination across State lines is currently done with SCS soil surveys, thus reducing drastic differences in soil-reconstruction specifications between States. OSM and SCS have further clarified the concept of root-inhibiting layers by specifying in the rule that soil horizons which restrict or prevent roots from further penetration and have little or no beneficial effect on soil productive capacity will be considered inhibiting. In keeping with the preamble of the proposed rule (47 FR 19079, May 3, 1982), the depth requirement of this section is a general requirement, to be delineated more specifically by the SCS on the basis of the soil survey.

OSM and SCS agree that a depth of at least 48 inches of soil is normally necessary to assure that the required soil productivity is restored; however, root-inhibiting soil layers do occur in a few prime farmland soils at lesser depths and must be recognized. Where these restrictive soil layers exist at depths of less than 48 inches, the process of excavating and stockpiling horizons and reconstructing the soils can create a soil that has better characteristics because it lacks these natural restrictive layers.

Another commenter wanted "48 inches" changed to "40 inches" to conform to the prime farmland definition in 7 CFR 657.5. The 40-inch depth of prime farmland soil referred to in 7 CFR 657.5 is the basic depth that SCS uses to evaluate the physical and chemical properties of the soil to determine if the soil qualifies as prime farmland. The 48-inch depth of soil specified in these rules reflects the depth of soil needed to sustain high crop yields found for prime farmland soils and also reflects soil-reconstruction experiences of two major agricultural States, Illinois and North Dakota (see their State programs, which are listed under "Reference Materials") which have many years of experience in reconstructing mined agricultural lands. Researchers in Iowa found that a depth of at least 48 inches is required to attain county average yield levels. (Drake and Ririe, 1981) Other commenters supported the 48-inch standard and noted that: (1) At least 48 inches is required for adequate water retention, (2) at least that much soil is needed to assure an acceptable soil depth after erosion losses, and (3) 48 inches of soil is needed to assure that operators achieve the required restoration of soil productivity in a reasonably prompt manner.

Two commenters objected to the proposal to delete the scarification requirement of previous § 823.14(b). They felt that: (1) It has proven beneficial in the past to provide a physical transition between soil horizons in order to promote root penetration and water retention and percolation, and (2) scarification is just one method used to reduce compaction and it would be appropriate to allow other methods of loosening the soil. Another commenter supported the proposed deletion because the rule was unnecessary and burdensome.

OSM and SCS recognize that confusion exists with respect to the distinction between scarification of spoil material before replacement of soils for root growth and soil tillage to alleviate compaction. Previous § 823.14(b) required that scarification take place in a manner consistent with §§ 816.102(e) and 817.102(e) before any soil material was placed on graded spoil. This requirement was intended specifically to minimize erosion and topsoil instability. Previous § 823.14(c) required the placement of soils in a manner that avoided excessive compaction. One method of accomplishing this is soil tillage. This requirement applied to prime farmland soils placed upon scarified spoil materials. Under these final rules, the operator must still replace prime farmland soils with proper compaction, as determined by the SCS from the soil survey. However, the requirement for scarification of the interface between spoil and prime farmland soils has been eliminated, because slippage control is not always necessary on relatively level prime farmland.

Final § 823.14(c) requires that the operator replace and regrade the soil horizons with proper compaction and uniform depth. Tillage can continue to be performed to alleviate compacted soil conditions. This final rule is unchanged from the proposed rule.

One commenter stated that in § 823.14(c) OSM has presented a common-sense approach to the compaction problem. Two other commenters felt that the use of bulk density in measuring soil compaction should not be deleted from the rules. One commenter felt that "proper compaction" was not well enough defined. Another commenter noted that: (1) Compaction had a detrimental physical effect on vegetative growth and crop yields and (2) the single most useful and reliable quantitative measure of compaction is bulk density. The commenter added that bulk density should be measured for the entire depth to which plant roots extend and that there is no optimal bulk density for all soils, because of the variability of silt, sand, clay, and organic matter. For these reasons, this commenter felt that it is critical that bulk density be measured before mining.

OSM and SCS agree that compaction of soil horizons does decrease vegetative growth and crop yields (Guernsey and others, 1979, pp. 69–79) and that there is no optimal bulk density for all soils because of the differences in the makeup of soils (Smith, 1981). For these reasons, soil density has been retained as a soil-reconstruction specification to be specified by the SCS within each State. The SCS within each State will determine what constitutes "proper compaction" and whether or not bulk density will be the measure of soil density.

Final § 823.14(d) requires that the operator replace the B horizon, C horizon, or other suitable material which must be removed to the thickness which meets the minimum depth requirements to restore soil productivity. Comments received relative to B or C soil-horizon mixing are answered earlier in this preamble in the discussion of § 823.12(c)(2). Final § 823.14(d) is unchanged from the proposed rule.

Final § 823.14(e) requires that the operator replace the topsoil materials to a thickness equal to, or exceeding that of, the original surface soil layer. This final rule is unchanged from the proposed rule.

One commenter wanted to change the term "equal or exceed" to the term "not less than." This commenter stated that the operator should not be required to exceed the thickness of the original surface. OSM agrees with this comment but is not changing the language because the phrase "equal or exceed"

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does not require the final surface soil layer to exceed the original thickness.

J. Section 823.15 Revegetation and Restoration of Soil Productivity

Final § 823.15 provides special ground-cover and cropping requirements which apply to surface coal mining operations on prime farmland. The heading of previous § 823.15 has been changed to include "restoration of soil productivity," which more accurately identifies the content of the section. The introductory paragraph of the previous section has not been adopted because the requirements in the remainder of the section are self-explanatory.

On commenter wanted a sentence added clearly stating that the burden of proof is on the operator to prove that the land has been restored.

Section 823.15 applies to all surface coal mining and reclamation operations on prime farmland, except for that exempted under § 823.11. It is the operator's responsibility to meet all of the applicable performance standards in Chapter VII, including the ground-cover and cropping requirements. In addition, the operator cannot obtain the complete release of the performance bond until he or she demonstrates compliance with § 823.15 and the corresponding requirement in Subchapter J.

Final § 823.15(a) requires that the soil surface be stabilized with a vegetative cover or other means to control soil loss through erosion following soil replacement. This final rule is unchanged from the proposed rule.

One commenter wanted a soil-erosion control system added. Another commenter suggested adding a sentence requiring the regulatory authority to approve erosion-control plans before final grading. Further specificity in this regard is not necessary. Section 823.15(a) provides a performance standard that requires erosion control. In addition, the reconstruction plan required under § 785.17(c)(2) adequately covers erosion control and provides the regulatory authority and operator with a planning tool for alleviating potential problems.

Final § 823.15(b) imposes a general requirement that prime farmland soil productivity be restored. It contains eight paragraphs specifying how the operator must comply with that requirement, including an average-yield requirement. These eight paragraphs contain the requirements that were proposed in § 823.15 (b) and (c).

Three commenters agreed that crops should be grown to prove restoration of soil productivity and stated that this is the only way to meet the requirements of the Act. Several commenters quoted the District Court's opinion of February 26, 1980, which held that the Act did not require operators to actually farm the land. *In re: Permanent Surface Mining Regulation Litigation*, Mem. opin. at 59, (D.D.C. Feb. 28, 1980). Two of these commenters wanted to change the language so that cropping is an optional method of showing that the restored land has been returned to the capability of achieving levels of yield equivalent to those of surrounding unmined land within a reasonable time. Three of these commenters proposed the use of a soil survey as acceptable for bond-release purposes. One commenter asked that ground cover or cropping be deleted because such a requirement was too narrow a standard on the basis of the Court's opinion.

Although the District Court's decision of February 26, 1980, appears to prohibit OSM from requiring that actual crop yields be used as the means for determining the success of soil reconstruction, the May 16, 1980, decision appears to support such a requirement. See *In re: Permanent Surface Mining Regulation Litigation, Mem. opin.* at 5–6, (D.D.C. May 16, 1980). In light of these apparent conflicting decisions, OSM has adopted the guidance provided in the later May 16, 1980, decision. Therefore, § 823.15(b) requires that crops be grown to demonstrate the restoration of soil productivity. OSM has determined that cropping is the only method currently available to test the restoration of the productivity of prime farmland soils because insufficient research has been published that demonstrates the reliability of any other method.

One commenter was concerned that the proposed rule increased the likelihood that inadequate soil-reconstruction practices will be used and therefore will jeopardize the successful restoration of prime farmland productivity. Another commenter expressed concern that reference areas can be easily mismanaged so that the lowest amount of yield is realized on the reference areas and that management levels and crop-yield data can easily be manipulated so that the crop record used will be substantially lowered. The regulatory authority and the SCS will be able to detect inadequate soil-reconstruction practices and prevent any mismanagement and manipulation of yields. Moreover, the performance standards of § 823.15 are sufficiently detailed and explicit to ensure restoration of premining productivity. In addition, the requirements to demonstrate soil productivity and the criteria for bond release also ensure successful restoration.

Another commenter pointed out that mining and reclamation methods which would optimize restoration are still to be developed. This commenter's understanding was that an agronomist at the University of Illinois has predicted a dim future for crop productivity on surface mined lands where B and C horizon mixing is allowed.

The commenter's conclusion about yields of reclaimed lands where B and C soil horizons are mixed cannot be fully supported by the agronomist's data. These data show that yields for some of the reconstructed soil plots are nearly the same as for similar soils in adjoining areas that have not been mined. (Jansen, 1982.) Of course, § 823.12(c)(2) does not allow the mixing of the B and C horizons unless the operator can demonstrate that such a mixture will be equally or more favorable for plant growth than the B horizon. The referenced studies would certainly be relevant to the evaluation of any proposal to mix horizons, as would any additional studies or information submitted by the operator.

Final § 823.15(b)(1) requires that the period for measuring soil productivity of the reconstructed soil that is necessary for bond release be initiated within 10 years after completion of soil replacement.

One commenter asked that a time limit of 18 months be established between final grading and soil replacement so that the operator will perform soil replacement concurrently with reclamation. OSM does not agree with this proposed change. The purpose of § 823.15(b)(1) is to establish the latest date by which proof of soil productivity must begin. A time limit to assure timely reclamation is not needed because the soil-reconstruction plan required under § 785.17(c)(2) must be approved by the regulatory authority, and unreasonable delays in such a plan should not be approved. In addition, under §§ 816.100 and 817.100, all operators are required to proceed with reclamation efforts, including topsoil replacement, as contemporaneously as practicable with mining.

One commenter asked what would happen if, after 10 years had passed, the regulatory authority found that the soil productivity was not restored for a specific permit area.

Under § 823.15(b)(1) the period for measuring soil productivity is to begin within 10 years. If a crop-rotation sequence is followed, it could be as much as 15 or 16 years after soil replacement before the required minimum 3 crop-year measurement period is completed. If at that time the operator has failed to achieve equivalent or higher yields, alternative reclamation approaches could be used by the operator or, in some situations, the remaining portion of the bond could be forfeited to ensure reclamation completion.

Final § 823.15(b)(2) requires that for proof of soil productivity, a reference crop be grown on a representative sample or on all of the mined and reclaimed prime farmland area. Also, the measurement of soil productivity for bond release must utilize a statistically valid sampling technique at a 90-percent statistical confidence level as approved by the regulatory authority in consultation with the Soil Conservation Service.

The proposed rule would have required that crops be grown on any portion of the disturbed area that is prime farmland historically used as cropland. Eight commenters were concerned about the meaning of "any portion of" with respect to disturbed prime farmland historically used as cropland. Four commenters suggested that the use of sound statistical sampling methods be required for measuring the success of soil productivity.

The phrase "any portion of" is not being adopted. OSM and SCS have agreed that the amount of prime farmland area used to grow crops for proof of soil productivity could include the entire mined and reclaimed prime farmland area or a portion of the mined and reclaimed prime farmland area which would result in a statistically valid sample at a 90-percent confidence level. Because of the wide variation of acceptable crop sampling techniques which are utilized over coal-producing areas, OSM and SCS have left the selection of these statistically valid sampling techniques to the regulatory authority in consultation with the SCS. Also, this requirement for a statistically valid sample is needed to ensure that proof of successful reclamation is judged uniformly and is consistent with the general revegetation performance standards of §§ 816.116 and 817.116.

One commenter was concerned that the proposed rule will allow a lesser standard to be used to determine productivity because he feels it will not require test yields on a site-specific basis. OSM points out that the requirements of this section specify that site-specific tests of yield utilize a representative sample of the disturbed area or the entire disturbed area.

Final § 823.15(b)(3) specifies that the measurement period for determining the average annual crop production (yield) for proving soil productivity for bond release is a minimum of 3 crop years. The substance of this final rule is unchanged from the proposed rule.

Three commenters supported 3 nonconsecutive crop years for the 3-year period for proving soil productivity. One commenter was concerned about the meaning of "average annual crop production" and noted that this period of time is verb short and that yields during such short periods will fluctuate widely. Under final § 823.15(b)(3), the 3 crop years need not necessarily be consecutive years. They could be 3 crop years in a particular crop-rotation sequence. "Average annual crop production" means the average yield of the specified crop during the 3 crop years used for the test.

OSM and SCS realize that this time period is short and that yields could fluctuate widely. However, the reference yields on nonmined prime farmland in the surrounding area should also fluctuate accordingly, thus allowing a comparison of yields. Furthermore, possible adjustments based on other factors described below will allow meaningful comparisons of yields.

Section 823.15(b)(4) requires that the level of management utilized during the specified measurement period be the same as that used on nonmined prime farmland in the surrounding prime farmland area. OSM has imposed this requirement to be consistent with Section 519(c)(2) of the Act.

One commenter was concerned that this section does not adequately define standards for levels of management. The regulatory language that has been adopted implements and is consistent with Section 519(c)(2) of the Act, which requires management levels to be the same as those used on nonmined prime farmland in the surrounding area. Therefore, no additional language is needed. Another commenter wanted the level of management to be discretionary with the operator. Because Section 519(c)(2) requires equivalent management practices as a condition of bond release, use of the permissive "may" as suggested rather than the mandatory "shall" would be inconsistent with the Act.

Final § 823.15(b)(5) requires that proof of soil productivity for bond release be based upon achieving levels of yield equal to, or higher than, those of the reference crop established for the same period. This section has been changed from the proposed rule to remove the obsolete term "soil type." In its place, the phrase "similar texture or slope phase of the soil series" is used. This is not a substantive change but more accurately describes the reference soils.

One commenter wanted to encourage States to adopt their own yield-measurement systems. OSM points out that this is the intent of the final rule, which specifies that the State regulatory authority in consultation with the SCS in each State will adopt yield-measurement systems.

Another commenter wanted clarification that averaging of different crop yields is not allowed. The final language precludes averaging the yields of different kinds of crops, by requiring comparison to the reference crop.

Two commenters pointed out that in some situations it may be impossible to find the same crop growing on the same soil type within close proximity for the purpose of comparison. One of these commenters felt that it would make more practical and technical sense to use a similar soil type for the sake of comparison. Another commenter requested updating the obsolete term "soil type." OSM agrees and the final rule reflects these changes.

Final § 823.15(b)(6) requires that the reference crop selected for proof of soil productivity be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are selected as the reference crop and two or more row crops are produced in the local area, the reference crop should be the row crop requiring the greatest rooting depth. This section has been changed from the previous rules to require at least one deep-rooted crop to be used as a reference crop in the 3-year period for proving soil productivity.

Several commenters wanted to delete the last sentence of this paragraph in order to allow crop rotations with alfalfa or other hay crops. OSM and SCS have determined that this sentence does not preclude the use of hay crops in rotation with row crops during the period for proving soil productivity. Also, OSM and SCS note that hay crops are included in the definition of cropland in § 701.5. Use of perennial plants for hay is within the regulatory authority's discretion if those kinds of crops are among the crops most commonly produced on surrounding prime farmland. One commenter wanted to delete this section, because there is sufficient authority in proposed § 823.15(c)(2) to require the demonstration of productivity using a management system which is at the same level of management used in the surrounding prime farmland areas. OSM and SCS do not agree. This section is needed to specify selection of reference crops. Three commenters supported the proposed rule, but one stated that more

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than one reference crop could be used for the 3-year proof period. OSM and SCS agree that more than one reference row crop or hay crop could be used in the 3-year proof period. This would take advantage of existing crop rotations during the test period.

Final § 823.15 (b)(7) and (b)(8), pertaining to the determination of reference-crop yields, were proposed under § 823.15(c)(3) but have been separated and renumbered for clarity.

Final § 823.15(b)(7)(i) provides that current yield records of representative local farms may be utilized as one of the two means of establishing the reference crop yield standard for bond release. The SCS must concur in the use of the standard. OSM and SCS have clarified this paragraph to include only current yield records of farms in the surrounding area.

One commenter wanted the States to have the power to adopt measures which would utilize a site-specific system to measure productivity which reflected actual crop production of similar unmined soils. OSM and SCS believe that § 823.15(b) allows the use of such a system.

Final § 823.15(b)(7)(ii) provides that the average county yields for a crop year recognized by the USDA may be utilized as the other of the two means of establishing the crop-yield standard for bond release. The SCS will adjust these yields to reflect the productivity of individual prime farmland soils.

Thus, under final § 823.15(b)(7) (i) and (ii), the reference crop could be on a reference area of a surrounding area of prime farmland or the reference crop could be a statistical standard generated by the SCS from USDA county averages. OSM and SCS have broadened the USDA sources from which these yield standards may be taken, including average county yields established by sources other than the USDA Statistical Reporting Service (SRS) as proposed. The USDA and SCS remain an integral part of the determination of the reference-crop yield. This change was made on the basis of commenters' expressed concern that other sources of crop-yield data be recognized. Sources of crop data such as State Departments of Agriculture, universities, and all USDA agencies are appropriate for determining reference-crop yields as long as these sources of data are approved by the regulatory authority and adjusted by the SCS to reflect the productivity of individual prime farmland soils.

One commenter asked whether USDA SRS average yields are the same as those of the State Departments of Agriculture. Another commenter wanted to use the formula developed by the Illinois Department of Agriculture. USDA SRS yields are compiled in cooperation with the State Departments of Agriculture and both would be appropriate for use under § 823.15(b)(7). Two commenters objected to adjusted yields, while another commenter wanted the rule to make clear that adjustments to county average yields should take into account differences in yield within prime farmland soils. Section 823.15(b)(7)(i) provides the option to compare yields with similar adjacent lands. If this option is used, adjustments in USDA yields may not be needed. Yield data from surrounding prime farmland soils may not be readily available, and for this reason the option of using adjusted county average yields is provided.

Final § 823.15(b)(8) allows crop yields to be adjusted, with SCS concurrence, for disease, pest, and weather-induced seasonal variations and for specific differences in management practices where the overall management practices of the crops being compared are equivalent. This section has been modified from the proposed rule which would have included only seasonal variations caused by weather. Adjustments in reference yields for disease and pests could be needed to account for unusual conditions in the measurement period that are beyond an operator's control and that skew comparisons.

The allowance in § 823.15(c)(8)(ii) for differences in specific management practices recognizes that there are many individual crop-management variables, any one of which could appreciably change crop yields. Some of these practices include time and depth of planting; time, depth, and kind of tillage or whether tillage is needed at all; pesticide and fertilizer management; irrigation and drainage management; and time of harvest. Although Section 519(c)(2) of the Act requires that bond release for soil productivity be based upon "equivalent management practices," it would be difficult to find, no less compare, reference crops from which every management decision is identical with those for the crop on the reconstructed soil. Moreover, to require the monitoring of every management practice would not be technically sound from a regulatory standpoint because of the number of variables and uncertainties involved and the lack of methods and measures to compare these uncertainties. OSM has decided that the most practical solution is to require reference crops with overall equivalent management practices but to allow yield adjustments, if necessary, to account for differences in specific practices that could appreciably affect yield.

One commenter stated that this section is not needed because county average yields include adjustments for weather. OSM has determined that this section is needed to account for local management alternatives and variations of disease, pests, and weather that may affect an otherwise successful crop year.

Another commenter favored adjustments for disease and pest-induced variations because disease and pest infestations vary in impact and location in the same or similar ways that weather can. This change has been accepted because OSM and SCS agree that these factors potentially can have a large local effect on crop yields. Another commenter wanted "in consultation with the Soil Conservation Service" retained in this section. OSM has determined that this change is appropriate and is requiring SCS concurrence for such adjustments.

K. Reference Materials

Reference materials (on file in OSM's Administrative Record) used to develop these final rules are as follows:

Drake, L. D., and Ririe, G. T., 1981, A low-cost method of reclaiming strip-mined land in Iowa to agriculture: Environmental Geology, Chapter 3, pp. 267–279

Fehrenbacher, D. J., Jansen, I. J., and Fehrenbacher, J. B., 1982, Corn root development in constructed soils on surface-mined land in western Illinois: Soil Science Society of America Journal, Vol. 46, pp. 353–359.

Guernsey, Lee, Mausel, Paul, Oliver, John, and Smith, D. F., 1979, Technical guidance for evaluating crop yields during the premining and reclamation processes, Volume II: Unpublished report, 84 pp.

Jansen, I. J., 1982, unpublished notes.

McSweeney, K., Jansen, I. J., and Dancer, W.S., 1981, Subsurface horizon blending: An alternative strategy to B horizon replacement for the construction of post-mine soils: Soil Science Society of America Journal, Vol. 45, No. 4.

Nawrot, J. R., and others, 1977, Illinois lands affected by underground mining for coal: Cooperative Wildlife Research Laboratory, Southern Illinois University, Carbondale/Illinois Institute for Environmental Quality, pp. 43–56.

Smith, D. F., 1981, Soil compaction, a question of how much: Unpublished OSM report.

State of Illinois, 1982, Permanent regulatory program: **Federal Register**, Vol. 47, No. 105, pp. 23858–23883.

State of North Dakota, 1980, Permanent regulatory program: **Federal Register**, Vol. 45, No. 242, pp. 82214–82248.

U.S. 95th Congress, 1977, Surface Mining Control and Reclamation Act of 1977: 1st Session, House of Representatives, House Report No. 95–493, Conference Report (to accompany H.R. 2).

U.S. Soil Conservation Service, 1951, Soil survey manual (amended): U.S. Department of Agriculture Handbook 18, 503 pp.

U.S. Soil Conservation Service, 1975, Soil Taxonomy—A basic system of soil clarification for making and interpreting soil surveys (amended): U.S. Department of Agriculture Handbook 436, 754 pp.

U.S. Soil Conservation Service, 1982, National Soils Handbook: U.S. Department of Agriculture, various paginations.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*]

The reasons underlying this determination are as follows:

This rule would not have inimical effects on the competitive position, investment or productivity of United States coal operators, or on employment in the coal industry. The Department certifies that this rule would affect a proprtionately small number of operators and the impact would be correspondingly small.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in its "Final Environmental Impact Statement, OSM–EIS–1: Supplement," in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final EIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW, Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, DC 20240.

This preamble serves as the record of decision under NEPA. The following differences are noted between this final rule and the preferred alternative in Volume III of the EIS.

1. This rule removes the grandfather exemption cutoff date. Although the April 3, 1983, cutoff date was included in Volume III of the EIS, its removal is analyzed in the EIS text.

2. A number of editorial and minor substantive changes have been made for clarity including the reorganization of §§ 785.17(c)(3), 785.17(d)(4), 823.12, and 823.15. These changes are within the scope of the EIS analysis.

3. This final rule adds coal preparation plants affecting a minimal amount of land to the exemption from Part 823 for "support facilities" in § 823.11(a) that was included in the preferred alternative. The analysis of the exemption in the EIS was premised upon an expansive reading of the term "support facilities" and thus is only slightly affected by the inclusion of coal preparation plants.

4. The final rule clarifies when adjustments of reference crop yields for management variations under § 823.15 will be allowed. This change does not alter the EIS analysis.

Federal Paperwork Reduction Act

The information-collection requirements in § 785.17 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029–0040. OSM has codified the OMB approval under new § 785.10 (47 FR 33683, August 4, 1982) and has received new OMB approval of these information-collection requirements.

The information required by § 785.17 will be used by the regulatory authority to determine whether the applicant can meet the prime farmland performance standards of Part 823. The information required by § 785.17 is mandatory.

Approval of Other Agencies

Section 510(d)(1) of the Act states that, under regulations issued by the Secretary with the concurrence of the Secretary of Agriculture, the regulatory authority shall follow certain procedures in granting permits for surface coal mining operations on prime farmland. The regulations concerning issuance of permits on prime farmland have been developed in consultation with the Secretary of Agriculture in accordance with Section 510(d)(1). By letter dated April 11, 1983, the Secretary of Agriculture, through his authorized representative, Chief, Soil Conservation Service, concurred with the prime farmland provisions of the regulations.

Section 516(a) of the Act states that the Secretary shall promulgate rules and regulations directed toward the surface effects of underground mining activities and requires that such rules and regulations shall not conflict with or supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 or any regulation issued pursuant thereto. The written concurrence of the head of the department which administers the Act is required before final rules may be promulgated. By letter dated April 5, 1983, concurrence has been obtained from the head of the Mine Safety and Health Administration, which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine and Safety Act of 1969.

List of Subjects

30 CFR Part 716

Coal mining, Environmental protection, Surface mining, Underground mining.

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 823

Agriculture, Coal mining, Environmental protection, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 716, 779, 783, 785, and 823 are amended as set forth herein.

Dated: March 30, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 716—SPECIAL PERFORMANCE STANDARDS

§ 716.7 [Amended]

1. In § 716.7, Paragraph (a)(2)(iv) is removed.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 779.27 [Removed]

2. Section 779.27 is removed.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 783.27 [Removed]

3. Section 783.27 is removed.

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PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

§ 785.17 [Amended]

4. In § 785.17, paragraph (a)(5) is removed.

5. In § 785.17, Paragraph (b) is revised; Paragraphs (c) and (d) are redesignated as Paragraphs (d) and (e), respectively; new Paragraph (c) is added; and newly redesignated Paragraphs (d) and (e)(2) are revised to read as follows:

§ 785.17 Prime farmland.

* * * * *

(b) *Application contents: Reconnaissance inspection.*

(1) All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The regulatory authority in consultation with the U.S. Soil Conservation Service shall determine the nature and extent of the required reconnaissance inspection.

(2) If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the applicant shall submit a statement that no prime farmland is present. The statement shall identify the basis upon which such a conclusion was reached.

(3) If the reconnaissance inspection indicates that land within the proposed permit area may be prime farmland historically used for cropland, the applicant shall determine if a soil survey exists for those lands and whether soil mapping units in the permit area have been designated as prime farmland. If no soil survey exists, the applicant shall have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. Soil surveys of the detail used by the U.S. Soil Conservation Service for operational conservation planning shall be used to identify and locate prime farmland soils.

(i) If the soil survey indicates that no prime farmland soils are present within the proposed permit area, paragraph (b)(2) of this section shall apply.

(ii) If the soil survey indicates that prime farmland soils are present within the proposed permit area, paragraph (c) of this section shall apply.

(c) *Application contents: Prime farmland.* All permit applications for areas in which prime farmland has been identified within the proposed permit area shall include the following:

(1) A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 "Soil Taxonomy" (U.S. Soil Conservation Service, 1975) as amended on March 22, 1982 and October 5, 1982, and 18, "Soil Survey Manual" (U.S. Soil Conservation Service, 1951), as amended on December 18, 1979, May 7, 1980, May 9, 1980, September 11, 1980, June 9, 1981, June 29, 1981, November 16, 1982. The U.S. Soil Conservation Service establishes the standards of the National Cooperative Soil Survey and maintains a National Soils Handbook which gives current acceptable procedures for conducting soil surveys. This National Soils Handbook is available for review at area and State SCS offices.

(i) U.S. Department of Agriculture Handbooks 436 and 18 are incorporated by reference as they exist on the date of adoption of this section. Notices of changes made to these publications will be periodically published by OSM in the **Federal Register.** The handbooks are on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C., at each OSM Technical Center and Field Office, and at the central office of the applicable State regulatory authority, if any. Copies of these documents are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock Nos. 001–000–02597–0 and 001–000–00688–6, respectively. In addition, these documents are available for inspection at the national, State, and area offices of the Soil Conservation Service, U.S. Department of Agriculture, and at the **Federal Register** library, 1100 L Street, NW., Washington, D.C. Incorporation by reference provisions were approved by the Director of the **Federal Register** on June 29, 1981.

(ii) The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the U.S. Soil Conservation Service, including, but not limited to, soil-horizon depths, pH, and the range of soil densities for each prime farmland soil unit within the permit area. Other representative soil-profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the State Conservationist, U.S. Soil Conservation Service. The regulatory authority may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil-reconstruction standards of Part 823 of this chapter.

(2) A plan for soil reconstruction, replacement, and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of Part 823 of this chapter.

(3) Scientific data, such as agricultural-school studies, for areas with comparable soils, climate, and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area.

(4) The productivity prior to mining, including the average yield of food, fiber, forage, or wood products obtained under a high level of management.

(d) *Consultation with Secretary of Agriculture:*

(1) The Secretary of Agriculture has responsibilities with respect to prime farmland soils and has assigned the prime farmland responsibilities arising under the Act to the Chief of the U.S. Soil Conservation Service. The U.S. Soil Conservation Service shall carry out consultation and review through the State Conservationist located in each State.

(2) The State Conservationist shall provide to the regulatory authority a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland soil descriptions.

(3) The State Conservationist shall assist the regulatory authority in describing the nature and extent of the reconnaissance inspection required in paragraph (b)(1) of this section.

(4) Before any permit is issued for areas that include prime farmland, the regulatory authority shall consult with the State Conservationist. The State Conservationist shall provide for the review of, and comment on, the proposed method of soil reconstruction in the plan submitted under paragraph (c) of this section. If the State Conservationist considers those methods to be inadequate, he or she shall suggest revisions to the regulatory authority which result in more complete and adequate reconstruction.

(e) * * *

(2) The permit incorporates as specific conditions the contents of the plan submitted under paragraph (c) of this section, after consideration of any revisions to that plan suggested by the State Conservationist under paragraph (d)(4) of this section;

* * * * *

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

6. Part 823 is revised to read as follows:

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

Sec.

823.1 Scope and purpose.
823.4 Responsibilities.
823.11 Applicability.
823.12 Soil removal and stockpiling.
823.14 Soil replacement.
823.15 Revegetation and restoration of soil productivity.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

§ 823.1 Scope and purpose.

This part sets forth special environmental protection performance, reclamation, and design standards for surface coal mining and reclamation operations on prime farmland.

§ 823.4 Responsibilities.

(a) The U.S. Soil Conservation Service within each State shall establish specifications for prime farmland soil removal, storage, replacement, and reconstruction.

(b) The regulatory authority within each State shall use the soil-reconstruction specifications of paragraph (a) of this section to carry out its responsibilities under § 785.17 and Subchapter J of this chapter.

§ 823.11 Applicability.

The requirements of this part shall not apply to—

(a) Coal preparation plants, support facilities, and roads of surface and underground mines that are actively used over extended periods of time and where such uses affect a minimal amount of land. Such uses shall meet the requirements of Part 816 of this chapter for surface mining activities and of Part 817 of this chapter for underground mining activities;

(b) Water bodies that have been approved by the regulatory authority as an alternative postmining land use in accordance with §§ 773.15, 780.23, 784.15, 816.133, and 817.133 of this chapter, as applicable, and where the regulatory authority has determined that the water bodies will be designed and constructed to minimize the loss of prime farmland. Such water bodies shall meet the requirements of §§ 816.49 and 817.49 of this chapter; or

(c) Prime farmland that has been excluded in accordance with § 785.17(a) of this chapter.

§ 823.12 Soil removal and stockpiling.

(a) Prime farmland soils shall be removed from the areas to be disturbed before drilling, blasting, or mining.

(b) The minimum depth of soil and soil materials to be removed and stored for use in the reconstruction of prime farmland shall be sufficient to meet the requirements of § 823.14(b).

(c) Soil removal and stockpiling operations on prime farmland shall be conducted to—

(1) Separately remove the topsoil, or remove other suitable soil materials where such other soil materials will create a final soil having a greater productive capacity than that which exist prior to mining. If not utilized immediately, this material shall be placed in stockpiles separate from the spoil and all other excavated materials; and

(2) Separately remove the B or C horizon or other suitable soil material to provide the thickness of suitable soil required by § 823.14(b). If not utilized immediately, each horizon or other material shall be stockpiled separately from the spoil and all other excavated materials. Where combinations of such soil materials created by mixing have been shown to be equally or more favorable for plant growth than the B horizon, separate handling is not necessary.

(d) Stockpiles shall be placed within the permit area where they will not be disturbed or be subject to excessive erosion. If left in place for more than 30 days, stockpiles shall meet the requirements of § 816.22 or 817.22 of this chapter.

§ 823.14 Soil replacement.

(a) Soil reconstruction specifications established by the U.S. Soil Conservation Service shall be based upon the standards of the National Cooperative Soil Survey and shall include, as a minimum, physical and chemical characteristics of reconstructed soils and soil descriptions containing soil-horizon depths, soil densities, soil pH, and other specifications such that reconstructed soils will have the capability of achieving levels of yield equal to, or higher than, those of nonmined prime farmland in the surrounding area.

(b) The minimum depth of soil and substitute soil material to be reconstructed shall be 48 inches, or a lesser depth equal to the depth to a subsurface horizon in the natural soil that inhibits or prevents root penetration, or a greater depth if determined necessary to restore the original soil productive capacity. Soil horizons shall be considered as inhibiting or preventing root penetration if their physical or chemical properties or water-supplying capacities cause them to restrict or prevent penetration by roots of plants common to the vicinity of the permit area and if these properties or capacities have little or no beneficial effect on soil productive capacity.

(c) The operator shall replace and regrade the soil horizons or other root-zone material with proper compaction and uniform depth.

(d) The operator shall replace the B horizon, C horizon, or other suitable material specified in § 823.12(c)(2) to the thickness needed to meet the requirements of Paragraph (b) of this section.

(e) The operator shall replace the topsoil or other suitable soil materials specified in § 823.12(c)(1) as the final surface soil layer. This surface soil layer shall equal or exceed the thickness of the original surface soil layer, as determined by the soil survey.

§ 823.15 Revegetation and restoration of soil productivity.

(a) Following prime farmland soil replacement, the soil surface shall be stabilized with a vegetative cover or other means that effectively controls soil loss by wind and water erosion.

(b) Prime farmland soil productivity shall be restored in accordance with the following provisions:

(1) Measurement of soil productivity shall be initiated within 10 years after completion of soil replacement.

(2) Soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop determined under Paragraph (b)(6) of this section. A statistically valid sampling technique at a 90-percent or greater statistical confidence level shall be used as approved by the regulatory authority in consultation with the U.S. Soil Conservation Service.

(3) The measurement period for determining average annual crop production (yield) shall be a minimum of 3 crop years prior to release of the operator's performance bond.

(4) The level of management applied during the measurement period shall be the same as the level of management used on nonmined prime farmland in the surrounding area.

(5) Restoration of soil productivity shall be considered achieved when the average yield during the measurement

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period equals or exceeds the average yield of the reference crop established for the same period for nonmined soils of the same or similar texture or slope phase of the soil series in the surrounding area under equivalent management practices.

(6) The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one of the reference crops.

(7) Reference crop yields for a given crop season are to be determined from—

(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service; or

(ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

(8) Under either procedure in Paragraph (b)(7) of this section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service, for—

(i) Disease, pest, and weather-induced seasonal variations; or

(ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

[FR Doc. 83-12876 Filed 5-11-83; 8:45 am]
BILLING CODE 4310-05-M

federal register

Thursday
May 12, 1983

Part III

Department of Defense

Corps of Engineers, Department of the Army

Proposal to Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 322, 323, 325, 327, 328 and 330

Proposal To Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

AGENCY: Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to amend the Corps of Engineers permit regulations for controlling certain activities in the waters of the United States. These amendments are being proposed to bring about more efficient, effective operation of the Corps' regulatory program and to implement the May 7, 1982, decisions of the Presidential Task Force on Regulatory Relief, while still carrying out fully the statutory requirements. The Task Force directed the Army to reduce uncertainty and delay, give the states more authority and responsibility reduce conflicting and overlapping policies, expand the use of general permits and redefine and clarify the scope of the permit program. The nationwide permits issued on July 22, 1982 (47 FR 31794) would be modified by adding additional conditions to address special water quality and coastal zone management concerns and to highlight any regional modifications made by division engineers. The headwaters and isolated waters nationwide permit would be modified to reimpose the 10-acre lake limitation as existed prior to July 22, 1982. Two new nationwide permits are being proposed to reduce duplication with other Federal agency programs and to authorize certain activities considered in the authorization of Federal expenditures for Corps of Engineers projects. The modification to the existing permits and the two new permits would become effective only after public comment and opportunity to request a public hearing and determination that these proposals are in the public interest. The existing nationwide permits at 33 CFR 330 continue in effect until July 22, 1987. However, based on public comment, some of those permits may be modified or revoked if analysis required by 33 CFR 325.7 so indicates. In that connection, states are being given the opportunity to update the certification of all the nationwide permits at 33 CFR 330 pursuant to Section 401 of the Clean Water Act and Section 307(c) of the Coastal Zone Management Act.

DATE: Written comments must be received by July 11, 1983.

ADDRESS: Office of the Chief of Engineers, ATTN: DAEN–CWO–N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. Bernie Goode, Regulatory Branch, (202) 272–0199.

SUPPLEMENTARY INFORMATION:

Why Revisions to the Regulations Are Being Proposed

Executive Order 12291, signed by the President on February 17, 1981, established the Presidential Task Force on Regulatory Relief to advise the Federal agencies in reducing unnecessary regulatory burdens.

During the summer of 1981 the Presidential Task Force identified the Corps Regulatory Program as one requiring review. On August 1, 1981, an interagency working group headed jointly by the Office of Management and budget and the Department of the Army began an intensive review of the sections 10 and 404 permit programs for the Presidential Task Force. On May 7, 1982, the Presidential Task Force completed its review of these programs and announced the initiation of administrative reforms. A synopsis of the administrative reforms follows:

Deciding most permit applications within 60 days; streamlining the existing agreements between the Corps and other Federal agencies to minimize the number of applications elevated for higher review and to allow differences of opinion on applications that raise major issues to be resolved within 90 days; and increasing the number and type of activities covered by general permits.

Strengthening the Federal-state partnership by speeding up each State's responses to Corps permit applications, issuing state program general permits in those cases where existing state or local regulatory programs generally accomplish the same results as the Corps' program, and deferring to states and local governments on those issues that are properly their concern.

Reducing conflicting and overlapping policies by recognizing documentation and decisions made by other agencies within their areas of responsibility, reducing complexity within our own regulations which may tend to impede the reform measures and, clarifying the scope of the section 404 permit program.

Implementation of Final Regulations

Final Regulations will be issued following receipt of comments on these proposed rules. Appropriate consideration will be given to comments received on both these proposed rules and the Interim Final Regulations, issued on 22 July 1982.

The Proposed Changes

Part 320—General Regulatory Policies

Section 320.4(a)(1): "Considerations of property ownership" would be explicitly expressed as a factor of the public interest. This has always been a basic tenet of Corps policy and has been implicit in previous regulations. The statement that "No permit will be granted unless its issuance is found to be in the public interest", would be changed to "A permit will be granted unless its issuance is found to be contrary to the public interest." The intent of this change is to recognize that within the context of the public interest review, an applicant's proposal is presumed to be acceptable unless demonstrated by the government not to be. However, particular note must be made of Section 404 permit applications and the evaluation under the 404(b)(1) guidelines, 40 CFR 230, which carries the statutory presumption that a discharge of dredged or fill material is environmentally harmful unless the applicant can demonstrate otherwise. Failure to rebut that 404(b)(1) presumption is cause for the district engineer to find that the proposal is contrary to the public interest. However, if that presumption is successfully rebutted, or if the activity does not involve Section 404 or Section 103 of the Ocean Dumping Act, it will be presumed to be in the public interest unless demonstrated to be otherwise, subparagraph (2)(iii) of 320.4(a) on the extent and permanence of beneficial or detrimental effects would also be changed to require a likelihood of occurrence rather than a speculative analysis.

Section 320.4(g): The policy statement currently titled, "Interference with adjacent properties or water resource projects, would be renamed, "Consideration of property ownership," and subparagraph (1) added to reinforce our policy on reasonable use of private property. If this new subparagraph is adopted, existing subparagraphs (1) through (4) would be renumbered (2) through (5), respectively.

Section 320.4(b)(5)(c), (m), (n) and (o): All references to "great weight" and other language that would prejudge the significance of a particular factor of the public interest in any given case would be deleted. Section 320.4(a)(1) discusses the general public interest balancing process which requires that all factors which may be relevant must be considered. The "weight" of each factor is determined by its importance and relevance to the particular proposal. Thus, a factor may be given great weight on one proposal while it may not be as important on another.

Section 320.4(j)(2): This section would be revised to emphasize that state and local government decisions on state and local matters will be supported unless there are specific issues of overriding national importance.

Section 320.4(p), (q), and (r): Policy statements would be added to recognize that environmental and economic benefits must be considered in a public interest balance when they are present; a statement expressing (for the first time) the Corps' mitigation policy would also be added.

Part 322—Structures and Work and

Part 323—Permits for Discharges of Dredged or Fill Material Into Waters of the United States

Sections 322.2(f)(2) and 323.2(n)(2): Both sections deal with the definition of general permits. A change is proposed to revise and clarify the definition to respond to concerns raised in comments on the interim final regulations published on July 22, 1982 (47 FR 31794). The change involves the requirements of Section 404(e) for general permit activities to be similar and have minimal individual and cumulative effects. Several questions were raised also about how the general permit would affect EPA's potential transfer of the Section 404 program to the states. At this point, it should be noted that both concerns, i.e., 404(e) compliance and state transfer, are derived from Clean Water Act requirements and, as such, do not affect the definition at Section 322.2(f) which is for Section 10 actions under the River and Harbor Act of 1899. However, we have decided for consistency and clarity in the program to use the same definition for both Section 10 and Section 404 authorities. As to compliance with Section 404(e), we intend that any general permit which is designed to avoid unnecessary duplication should be issued only in those instances where regulation by the Corps is duplicative of regulation by another agency and where reduction of intensity of Corps regulation from individual case review to general permit would result in essentially no difference in the ultimate decision on the project. Hence, the effect of removing the more intensive review by the Corps would result in only minimal impacts individually and cumulatively. Certain requirements would have to be met with respect to how the programs duplicate each other and any general permits issued would be subject to appropriate conditions, the discretionary authority to override the general permit and require individual review when necessary and also to the Corps' and EPA's enforcement authorities. Therein lies the response to the question of whether this would be a de facto transfer to the states. Federal jurisdiction would not be removed or turned over to the states or to other agency programs. The level of intensity of Corps regulation would be reduced in those situations adequately controlled by others, and the full level of intensity would be maintained where necessary. Full enforcement authority at the Federal level would be continued in all instances.

Section 323.2(a): In response to the many public concerns and the Presidential Task Force directives, we are proposing to clarify the scope of the Section 404 permit program. In approaching this task, we recognize the legal restraints against *changing* the scope of our jurisdiction and we therefore, restricted our consideration to alternative ways of *clarification* of the overall definition of "Waters of the United States." We looked particulatly at numerous ways to redefine/clarify the definition of "wetlands." One suggestion was to use the presence of water covering the wetland for a duration of 15% of the time. Another involved the use of the so-called multi-parameter approach which places emphasis on the presence of the three parameters of hydrology, vegetation, and soils. We concludedthat such added dimensions to the existing definition would not provide clarification in the sense that the Task Force intended. Our intense search for clarification, involving these and several other alternatives, has caused us to take another hard look at our current definition of Waters of the United States and to propose at this time that we clarify it simply by setting the definition apart in a separate and distinct Part 328 of the regulation and including in that part all of the definitions of terms related to the scope of the Section 404 permit program. Additionally, we have provided a new mechanism and a new subsection (328.7) within which we would place future clarification of the jurisdictional scope of the program for unusual areas such as the Arctic Tundra which don't fit neatly into a generic definition. We believe that this new Part 328 is a positive response to the Task Force mandate. Part 328 incoroprates the definitions previously found in 323.3(a) thru (d), (g), and (h). Those sections would be deleted if Part 328 promulgated. The current EPA Section 404(b)(1) guidelines contain a different definition of waters of the United States and of discharges of fill material. We have reached agreement with EPA that the definitions should be identical and will ensure that future regulations will be consistent.

Part 325—Permit Processing

Several minor changes would be made to address what and when additional information is requested of the applicant, to provide for a reasonable comment period, to allow combining permit documentation and to require documentation of overriding significant national issues. In addition to these changes, the following changes would be made to this Part:

Section 325.1f): No change to the fee structure itself is proposed, but we would eliminate the requirement that the applicant sign the permit before the district engineer does in order to reduce existing unnecessary delays.

Section 325.2(b)(1)(ii): This would provide that normally 30 days from the date of the public notice would be a reasonable time for the states to act on the Sectin 401 water quality certification. However, reasonable consideration would be given to time extensions on the individual case or class of activity at the request of the certifying agency.

Section 325.2(b)(2)(ii): This would provide for agreements between the Corps and state coastal zone agencies which would reduce delays caused by undertainties of the status of the Coastal Zone Management Certification at the end of the comment period.

Section 325.2(d)(4): This section which allows the district engineer to act prior to actions of other regulatory agencies would be revised to make the timing of the district engineer's decision consistent with other requirements of these regulations.

Sections 325.2(e)(1) and 325.5(b)(2): This would establish a procedure whereby minor Section 404 discharges could be authorized by a Letter of Permission (LOP) in the same manner as has existed for minor Section 10 activities. We would add another limitation on all LOP's requiring the activities to be of a nature that would qualify for a "categorical exclusion" under the NEPA regulations. This publication of proposed rules provides the notice and opportunity for hearing under Section 404(a)(1) for those section 404 actions meeting the LOP criteria.

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Section 325.4: We are proposing to expand the authority to condition permits to provide for the first time, for either on-site or off-site mitigation under certain circumstances. We are also specifying in this Section that the district engineer would not require bonds that are duplicated by other agencies.

Section 325.9: This new section would clarify the district engineer's authority to determine the area defined by the term "navigable waters of the United States" and "waters of the United States". This authority would not include determinations of navigability pursuant to Part 329 which remain under the division engineer's authority, nor would it include Section 404 jurisdictional determinations made by the EPA under its authority. Division engineers will determine if the degradation of destruction of isolated waters would affect interstate commerce and thereby qualify as waters of the United States, based on a report of findings prepared by the district engineer.

Part 327—Public Hearing

Sections 327.4(b) and 327.11(a): These sections would be revised to allow the acknowledgement of form letters or petitions by a single letter to the person or organization responsible for initiating the from letter or petition.

Part 328—Definition of Waters of the United States

We propose to add this new part as discussed in Part 323.2 above.

Part 330—Nationwide Permits

Since a few states have indicated they may choose to deny Section 401 certification for some of the nationwide permits, we would add a condition to all of the nationwide permits requiring that if the state denies the 401 certification for the nationwide permit, an individual 401 state water quality certification or waiver must be obtained before the activity is authorized by the nationwide permit. We would also add a condition to the nationwide permits that requires compliance with regional conditions developed by the division engineer in accordance with § 330.7 and one that requires a coastal zone management consistency certification if a state does not concur with the Corps' finding that the nationwide permit is consistent with the approved state coastal zone program and desires to make individual consistency determinations. District engineers would be required to keep the public informed of those states which have denied water quality certification and/or coastal zone consistency and where additional regional conditions are applied.

Section 330.2(c): A definition of natural lakes larger than 10 acres would be added because of the change proposed in § 330.4 below.

Sections 330.4(a) (1) and (2): Since we published the Interim Final Rules on July 22, 1982, there have been concerns raised regarding the inclusion of natural lakes larger than 10 acres within the nationwide permits for certain waters. In response to that concern, we are considering reinstating the 10-acre lake limit for areas covered by these nationwide permits. In other words, 404 discharge activities in lakes less than 10 acres would, under this proposal, continue to be permitted (subject to certain conditions), but 404 discharges in lakes larger than 10 acres would not be covered by these nationwide permits.

Sections 330.5(a) (26) and (27): We are proposing two new nationwide permits, (26) to reduce unnecessary duplication with other Federal agencies and (27) to reduce duplication within the Corps of Engineers for non-Corps activities when those activities have been considered during the project planning and must be constructed in order to provide the public benefits for which the project has been justified. The proposed permits are similar in that during the planning, review and authorization for other Federal Activities and for Corps projects, all Federal statutes apply. NEPA documentation is developed, Fish and Wildlife Coordination Act requirements are met, and endangered species, wild and scenic rivers, cultural resources and other matters of national interest are addressed. These permits would eliminate that review taking place a second time. We would, however, require a specific review under Section 404(b)(1) guidelines for each case as that review is not necessarily provided for under other agency programs or for the non-Federal development adjacent to Corps projects.

Section 330.7(a): This new sub-section would provide division engineers with discretionary authority to add individual conditions to nationwide permits on a case-by-case basis when there is mutual agreement between the permittee and the division engineer or when determined necessary based on conditions of a state's 401 certification.

Section 330.9—This new section would provide a procedure to handle state water quality certification of activities covered by a nationwide permit if a state initially denies the water quality certification for the nationwide permit but later certifies it for specific individual cases or classes of activities. If this section is adopted, we would delete footnotes 1 and 7 in the July 22, 1982, regulation and renumber the remaining footnotes.

Section 330.10: This new section provides clarification that in order to activate the nationwide permit, in some states, the applicant must provide the district engineer with a coastal zone management consistency certification, and the state must concur with the certification.

Public Comments

We welcome public comment on the two new nationwide permits, the reinstatement of the 10-acre lake limitation on the nationwide permits at Section 330.4, and proposed modifications to all of the nationwide permits. However, it is not necessary to repeat any comments that were submitted in response to the July 22, 1982, interim final regulations as they will be considered prior to publication of final regulations. Public comment will help us decide whether to issue the two nationwide permits and to modify or revoke any of the existing nationwide permits.

401 Certification of the Nationwide Permits

Prior to publication on July 22, 1982, of the Corps' interim final regulations on the permit program, only the State of Wisconsin had denied Section 401 certification of some of the nationwide permits involving discharges. All other states waived certification. In response to the July 22, 1982 interim final regulations, several states which had waived certification indicated that they may now wish to deny 401 certification for some of the nationwide permits. Although we continue to believe that most states will confirm waiver of 401 certification or will provide new certification, we are allowing all states to reconsider 401 certification of the nationwide permits. Only those 401 certifications denied or issued before publication of the final regulations will be accepted. Upon publication of the final regulations, all other certifications will be considered to be waived.

Coastal Zone Management

Several states have indicated in response to the July 22, 1982, publication that some or all of the nationwide permits are inconsistent with or require an individual determination to verify consistency with their state-approved coastal zone management programs. While all states had waived consistency certification in connection with those July regulations and we continue to believe that the nationwide permits appropriately administered are consistent with CZM plans, we are allowing all states to reevaluate their consistency determinations and to advise us of their conclusions prior to publication of the final regulations in mid 1983. Consistency will be presumed for all states which do no indicate to the contrary.

Assessment of Cumulative Impacts (Reporting)

Concerns have been raised that the nationwide permit system lacks adequate monitoring capability, particularly with regard to cumulative impacts. In publishing the interim final regulations on July 22, 1982, we decided not to impose a case-by-case reporting requirement as some people had suggested because we believe that in most locations, there are other, more efficient and effective means of tracking any potential cumulative impacts. That does not preclude division engineers from including case-by-case reporting as a regional condition of any of the nationwide permits where it is found to be necessary and appropriate. Nevertheless, we solicit further views on the need for a reporting requirement, whether there is a threshold size of fill below which reporting would not be necessary, and whether other management mechanisms such as statistical surveys, periodic reports from state or local agencies with similar programs, or other measures may provide more appropriate controls.

Public Hearing Requests

Any person may request a public hearing on the two proposed nationwide permits, proposed modifications to the existing nationwide permits, or the proposal to allow letters of permission to be issued for minor 404 activities. If the Corps determines that a public hearing or hearings would assist in making a decision on either of the nationwide permits, proposed modifications to the existing nationwide permits, or the 404 letter of permission proposal, a 30 day advance notice will be published in the **Federal Register** advising interested parties of the date(s) and location(s) for the hearing(s).

Nationwide Permits Documentation

The Corps will prepare findings of fact and environmental documentation before issuing either of the nationwide permits. The documentation will include that required by the EPA guidelines adopted under Section 404(b)(1) of the CWA. The Corps will issue these permits only if they are found to be in the public interest and in compliance with the 404(b)(1) guidelines.

Note 1.—The Department of the Army has determined that the proposed regulation revisions do not contain a major proposal requiring the preparation of a regulatory analysis under E.O. 12291.

Note 2.—The term "he" and its derivatives used in these regulations is generic and should be considered as applying to both male and female.

List of Subjects

33 CFR Part 320

Environmental protection, intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 322

Continental shelf, Electric power, Navigation, Water pollution control, Waterways.

33 CFR Part 323

Navigation, Water pollution control, Waterways.

33 CFR Part 325

Administrative practice and procedure, Intergovernmental relations, Environmental protection, Navigation, Water pollution control, Waterways.

33 CFR Part 327

Administrative practice and procedure, Navigation, Water pollution control, Wateways.

33 CFR Part 328

Waters of the United States.

33 CFR Part 330

Navigation, Water pollution control, Waterways.

Dated: May 6, 1983.

Approved:

Robert K. Dawson,

Deputy, Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army proposes to amend 33 CFR Parts 320, 322, 323, 325, 327, 330 and add Part 328 as set forth below:

Authority: 33 U.S.C. 401 et seq., 33 U.S.C. 1344, 33 U.S.C. 1413.

PART 320—GENERAL REGULATORY POLICIES

1. Section 320.4 is amended by revising paragraphs (a)(1), (a)(2)(iii), (b)(5), (c), the title and introductory text of (g), (g)(1), (j)(2), (m), (n), and (o)(3) and by adding paragraphs (p), (q), and (r) to read as follows:

§ 320.4 General policies for evaluating permit applications.

* * * * *

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. A permit will be granted unless its issuance is found to be contrary to the public interest.

(2) * * *

(iii) The extent and permanence of beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited.

(b) *Effect on wetlands.* * * *

(5) In addition to the policies expressed in this subpart, the Congressional policy expressed in the Estuary Protection Act, Pub. L. 90–454, and state regulatory laws or programs for classification and protection of wetlands will be considered.

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (§ 320.3(e) of this section) Corps of Engineers officials will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which is to be performed, with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application.

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(g) *Consideration of property ownership.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) An inherent aspect of property ownership is a right to reasonable private use and development. This principle will be recognized as a factor in the public interest review process.

* * * * *

(j) *Other Federal, state, or local requirements.* * * *

(2) The primary responsibility for determining local matters such as zoning and land use reats with state, local, and tribal governments. The district engineer will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance. Such issues would include but are not necessarily limited to national security, navigation, national economic development, water quality, and national energy needs. Whether a factor has overriding importance will depend on the degree of impact in an individual case.

* * * * *

(m) *Water supply and conservation.* Water is an essential resource, basic to human survival, economic growth, and the natural environment. Water conservation requires the efficient use of water resources in all actions which involve the significant use of water or that significantly affect the availability of water for alternative uses, including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements. Action affecting water quantities are subject to Congressional policy stated in Section 101(g) of the Clean Water Act that the authority of states to allocate water quantities shall not be superseded, abrogated, or otherwise impaired.

(n) *Energy conservation and development.* Energy conservation and development are major national objectives. District engineers will give high priority to permit actions involving energy projects.

(o) *Navigation.* * * *

(3) Protection of navigation in all navigable waters of the United States continues to be a primary concern of the Federal government.

* * * * *

(p) *Environmental benefits.* Some activities that require Department of the Army permits result in beneficial effects to the quality of the enviornment. The district engineer will weigh these benefits as well as environmental detriments along with other factors of the public interest.

(q) *Economics.* When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed and, therefore, the proposal is economically viable and there is a need for it in the marketplace. The economic benefits of many projects are important to the local community and contribute to needed improvements in the local economic base, affecting such factors as employment, tax revenues, community cohesion, community services, and property values. Many projects also contribute to the National Economic Development (NED) which are increases in the net value of the national output of goods and sevices.

(r) *Mitigation.* (1) Inherent in the Corps' decisionmaking process is the requirement to consider measures to mitigate adverse impacts of a proposed activity. When reviewing permit applications district engineers will consider practicable mitigation measures that are not inconsistent with the accomplishment of the applicant's basic purpose.

(2) Mitigation measures identified by the district engineer will be considered as part of the public interest balancing process. District engineers are authorized to condition permits for appropriate mitigation in accordance with 33 CFR Part 325.4. If mitigation is found to be necessary in order for a proposal to be in the public interest but cannot be accomplished either through another program outside the scope of the Corps' regulatory program or cannot be required under 33 CFR Part 325.4, then the permit should be denied.

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

2. Section 322.2 is amended by revising paragraph (f) (2) to read:

§ 322.2 Definitions.

* * * * *

(f) * * *

(2) The general permit would promote government efficiency by reducing duplication of effort with other local, state, and Federal programs where the following comparisons are shown between the Corps regulatory program and the other agency program:

(i) The environmental effects of the difference between the Corps decision and the other agency decision are likely to be individually and cumulatively minimal.

(ii) The programs are similar in the following respects:

(A) Scope of jurisdiction.

(B) Types of activities involved.

(C) Standards of review.

(D) Enforcement capability.

(E) Public involvement.

(iii) Such permits may also be issued for other agency programs which have some dissimilarities where reasonable and manageable conditions can be developed to insure that the substantive requirements of paragraph (f)(2) (i) and (ii) of this section are met.

* * * * *

PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

3. Section 323.2 is amended by revising pragraphs (a) and (n)(2) to read:

§ 323.2 Definitions.

* * * * *

(a) The term "waters of the United States" [1] means:

(1) The Territorial Seas;

(2) All waters that are part of a surface tributary system to and including navigable waters of the United States; and

(3) Isolated waters and their tributaries, the degradation or destruction of which could affect interstate or foreign commerce.

See 33 CFR Part 328 for a more complete definition of this term.

(n) * * *

(2) The general permit would promote government efficiency by reducing duplication of effort with other local, state, and Federal programs where the following comparisons are shown between the Corps regulatory program and the other agency program:

(i) The environmental effects of the differences between the Corps decision and the other agency decision are likely to be individually and cumulatively minimal.

(ii) The programs are similar in the following respects:

(A) Scope of jurisdiction.

(B) Types of activities involved.

(C) Standards of review.

(D) Enforcement capability.

(E) Public involvement.

(iii) Such permits may also be issued for other agency programs which have some dissimilarities where reasonable and manageable conditions can be developed to insure that the substantive

[1] The terminology used by the CWA is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity, and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout this regulation.

requirements of paragraph (n)(2) (i) and (ii) of this section are met.

* * * * *

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

4. Section 325.1 is amended by revising paragraphs (d)(1), (e), and (f) to read:

§ 325.1 Application for permits.

* * * * *

(d) *Content of application.* (1) Generally, the application must include a complete description of the proposed activity including necessary drawings, sketches or plans sufficient for public notice (the applicant is not expected to submit detailed engineering plans and specifications); the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other Federal, interstate, state or local agencies for the work, including all approvals received or denials already made. See also § 325.3 for information required to be in public notices. District and division engineers are not authorized to develop additional information forms but may request specific information on a case-by-case basis (See § 325.1(e)).

* * * * *

(e) *Additional information.* In addition to the information indicated in paragraph (d), of this section, the applicant will be required to furnish only such additional information as the district engineer deems essential to make a public interest determination. Such additional information may include environmental data and information on alternate methods and sites as may be necesary for the preparation of the required environmental documentation.

(f) *Fees.* Fees are required for permits under Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charge for permit applications when the proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise. The final decision as to the basis for a fee (commercial vs. non-commercial) shall be solely the responsibility of the district engineer. No fee will be charged if the applicant withdraws the application at any time prior to issuance of the permit or if the permit is denied. Collection of the fee will be deferred until the proposed activity has been determined to be in the public interest. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions, general permits or letter of permission. Agencies on instrumentalities of Federal, state, or local governments will not be required to pay any fee in connection with permits.

5. Section 325.2 is amended by revising paragraph (a)(3), (a)(6), (b)(1)(ii), (b)(2)(ii), (d)(2)—(d)(5), and (e)(1) to read:

§ 325.2 Processing of applications.

(a) *Standard procedures.* * * *

(3) The district engineer will consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged, and they will be made a part of the administrative record of the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the district engineer may seek the advice of that agency. All substantive comments must be furnished the applicant for his information and any resolution or rebuttal he may propose. The applicant may voluntarily elect to contact objectors in an attempt to resolve objections but will not be required to do so. The district engineer will not delay processing of the application unless the applicant requests a reasonable delay, not to exceed 30 days, to provide additional information or comments. If the district engineer determines, based on comments received, that he must have the views of the applicant to make a public interest determination, the applicant will be given the opportunity to furnish his views to the district engineer (see § 325.2(d)(3)).

* * * * *

(6) After all above actions have been completed, the district engineer will determine, in accordance with the record and applicable regulations, whether or not the permit should be issued. He shall prepare a statement of findings (SOF) or, where an EIS has been prepared, a record of decision (ROD), on all permit decisions. The SOF or ROD shall include the district engineer's views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or with the criteria for dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), if applicable, and the conclusions of the district engineer. The SOF or ROD shall be dated, signed, and included in the record prior to final action n the application. Where the district engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the SOF or ROD. If a district engineer makes a decision on a permit aplication which is contrary to state or local decisions (33 CFR Part 320.4(j)(2)), the district engineer will document in the SOF or ROD the significant national issues and explain how they are overriding in importance. If a permit is warranted, the district engineer will determine the special conditions, if any, and duration which should be incorporated into the permit. In accordance with the authorities specified in § 325.8 of this Part, the district engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final EIS or environmental assessment, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed by the Chief of Engineers. District and division engineers will notify the applicant and interested Federal and state agencies that the application has been forwarded to higher headquarters. The district or division engineer may, at his option, disclose his recommendation to the news media and other interested parties, with the caution that it is only a recommendation and not a final decision. Such disclosure is encouraged in permit cases which have become controversial and have been the subject of stories in the media or have generated strong public interest. In those cases where the application is forwarded for decision in the format prescribed by the Chief of Engineers, the report will serve as the SOF or ROD. District engineers may, and are encouraged to, combine the SOF, environmental assessment, and findings of no significant impact (FONSI), 404(b)(1) guideline analysis,

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and/or the criteria for dumping of dredged material in ocean waters into one or more documents.

(b) *Procedures for particular types of permit situations.*

(1) * * *

(ii) No permit will be granted until required certification has been obtained or has been waived. Waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within thirty days after receipt of such a request unless the district engineer determines a shorter or longer period is reasonable for the state to act. In determining whether or not a waiver period has commenced or waiver has occurred, the district engineer will verify that the certifying agency has received a valid request for certification. If, however, special circumstances identified by the district engineer require that action on an application be taken within a more limited period of time, the district engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement or certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than thirty days, the district engineer, based on information provided by the certifying agency, will determine a longer reasonable period of time, not to exceed one year, at which time a waiver will be deemed to occur.

(2) * * *

(ii) If the applicant is not a Federal agency and the application involves an activity affecting the coastal zone, the district engineer shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved state coastal zone management program. Upon receipt of the certification, the district engineer will forward a copy of the public notice (which will include the applicant's certification statement) to the state coastal zone agency and request its concurrence or objection. If the state agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the district engineer shall not issue the permit until the state concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the Coastal Zone Management Act or is necessary in the interest of national security. If the state agency fails to concur or object to a certification statement within six months of the state agency's receipt of the certification statement, state agency concurrence with the certification statement shall be conclusively presumed. District engineers will seek agreements with state CZM agencies that no comment by the agency during the public notice comment period will be considered as a concurrence with the certification.

* * * * *

(d) *Timing of processing of applications.* * * *

(2) The comment period on the public notice should be for a reasonable period of time within which interested parties may express their views concerning the permit. The comment period should not be more than 30 days nor less than 15 days from the date of the notice. The comment period will vary depending on the routine or non-controversial nature of the proposed activity, communication opportunities, and the district engineer's experience. However, if circumstances warrant, the district engineer may extend the comment period up to an additional 30 days. When a district engineer anticipates that a comment period less than 30 days will not aid in a processing time of less than the normal 60 days because of constraints beyond his control (see § 325.2(d)(3) below), he will normally provide a 30-day comment period.

(3) District engineers will decide on all applications not later than 60 days after receipt of a complete application unless: (i) Precluded as a matter of law or procedures required by law (see below), (ii) the case must be referred to higher authority (see § 325.8 of this Part), (iii) the comment period is extended, (iv) a timely submittal of information or comments is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 60-day period. Once the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended. For example, if the comment period is extended by 30 days, the district engineer will, absent other restraints, decide on the application within 90 days of receipt of a complete application. Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the National Historic Preservation Act, the Preservation of Historical and Archeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the Marine Protection, Research and Sanctuaries Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, consultation, special studies and testing which may prevent district engineers from being able to decide certain applications within 60 days.

(4) Once the district engineer has sufficient information to make his public interest determination, he should decide the permit application even though other agencies which may have regulatory jurisdiction have not yet granted their authorizations except where such authorizations are, by Federal Law, a prerequisite to making a decision on the Army permit application. Permits granted prior to other (non-prerequisite) authorizations by other agencies should, where appropriate, be conditioned in such manner as to give those other authorities an opportunity to undertake their review without the applicant biasing such review by making substantial resource commitments on the basis of the Army permit. In unusual cases, the district engineer may decide that due to the nature or scope of a specific proposal, it would be prudent to defer taking final action until another agency has acted on its authorization. In such cases, he may advise the other agency of his position on the Army permit while deferring his final decision.

(5) The applicant will be given a reasonable time, not to exceed 30 days, to repond to requests of the district engineer. The district engineer may make such requests by certified letter and clearly inform the applicant that if he does not respond with the requested information or a justification why additional time is necessary, then his application will be considered withdrawn or a final decision will be made whichever is appropriate. If additional time is requested, the district engineer will either grant the time, make a final decision, or consider the application as withdrawn.

(e) *Alternative procedures.* Division and district engineers are authorized to use alternative procedures as follows:

(1) *Letters of permission.* In those cases subject to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act in which, in the opinion of the district engineer, the proposed work would be minor, would not have significant individual or cumulative impact on environmental values, should encounter no appreciable opposition, and would qualify as a "categorical exculusion" (see 33 CFR 230, Appendix B), the district engineer may omit the publishing of a public notice and authorize the work by a letter of permission. However, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and state, as required by the Fish and Wildlife Coordination Act. The letter of permission will not be used to authorize the transportation of dredged material for purposes of dumping it in ocean waters. The letter of permission form is specified in § 325.5 of this part.

* * * * *

6. Section 325.3 is amended by revising paragraph (a)(14) to read:

§325.3 Public Notice.

(a) *General.* * * *

(14) The comment period based on § 325.2(d)(2).

* * * * *

7. Section 325.4 is revised to read:

§ 325.4 Conditioning of permits.

(a) District engineers are authorized to add special conditions to permits when those conditions meet all of the following requirements:

(1) Are necessary to satisfy a legal requirement, necessary to protect the public interest, or practicable and justifiable to avoid or mitigate other than minor adverse effects on fish and wildlife resources which occur within waters of the United States;

(2) Are directly related to the impacts of the proposal and are appropriate to the scope and degree of the impacts of concern;

(3) (i) Can be accomplished on site or;

(ii) May be accomplished off-site for mitigation of significant losses which are specifically identifiable, reasonably certain to occur, and of importance to the human environment;

(4) Do not duplicate local, state, or Federal programs or authorities which are established to achieve the objective of the desired condition;

(5) Are reasonably enforceable; and

(6) An agreement, enforceable at law, between the applicant and the party (ies) concerned with the resource use is not practicable.

(b) District engineers may add conditions, exclusive of paragraph (a) of this section, at the applicant's requests or to clarify the applicant's proposal.

(c) *Bonds.* If the district engineer has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government aganist any loss as a result of corrective action it might take. District engineers will not require bonds which duplicate local, state, or other Federal bonds.

8. Section 325.5 is amended by revising paragraph (b)(2) to reed:

§ 325.5 Forms of permits.

* * * * *

(b) * * *

(2) *Letters of permission.* A letter of permission will be issued where procedures of § 325.2(e)(1) have been followed. It will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions form, ENG Form 1721, will be attached and will be incorporated by reference into the letter of permission. For Section 404 activities, the letter of permission will, in appropriate cases, include a special condition indicating that the letter of permission will be effective when issuance or waiver of 401 certification has occurred. District engineers will seek from the states, where appropriate, generic issuance of waiver of 401 certification for classes of activities and/or waterbodies which may be subject to letter of permission procedures.

* * * * *

9. Section 325.9 is added to read:

§ 325.9 Authority to determine jurisdiction.

District engineers are authorized to determine the area defined by the terms "navigable waters of the United States" and "waters of the United States" except:

(a) When a determination of navigability is made pursuant to 33 CFR Part 329.14 (division engineers have this authority);

(b) When EPA makes a Section 404 jurisdiction determination under its authority; or

(c) When a determination must be made that an isolated waterbody is a water of the United States. Division engineers will determine if the degradation or destruction of such waters would affect interstate commerce based on a report of findings prepared by the district engineer.

PART 327—PUBLIC HEARINGS

10. Section 327.4 is amended by revising paragraph (b) to read:

§ 327.4 General policies.

* * * * *

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a Department of the Army permit application or on a Federal project, that a public hearing be held to consider the material matters in issue in the permit application or Federal Project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the district engineer may expeditiously attempt to resolve the issues informally. Otherwise, he shall promptly set a time and place for the public hearing, and give due notice thereof, as prescribed in § 327.11 of this Part below. Requests for a public hearing under this paragraph shall be granted unless the district engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The district engineer will make such a determination in writing and communicate his reasons therefor to all requesting parties. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

* * * * *

11. Section 327.11 is amended by revising paragraph (a) to read:

§ 327.11 Public notice.

(a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice should normally provide for a periodd of not less than 30 days following the date of public notice during which time interested parties may prepare themselves for the hearing. Notice shall also be given to all Federal agencies affected by the proposed action and to state and local agencies and other parties having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and published in newspapers of general circulation. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

* * * * *

12. Part 328 is added to read:

PART 328—DEFINITION OF WATERS OF THE UNITED STATES

Sec.

328.1 Purpose.
328.2 General definition.
328.3 Definitions.
328.4 Territorial seas.
328.5 Navigable waters of the United States and their surface tributaries.
328.6 Isolated waters.

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Sec.
328.7 Supplemental clarifications.

Authority: 33 U.S.C. 1344.

§ 328.1 Purpose.

The terminology used by Section 404 of the Clean Water Act is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout 33 CFR Parts 320–330. This regulation defines the term "waters of the United States" as it is used to define authorities of the Corps of Engineers under the Clean Water Act. It also prescribes the policy, practice, and procedures to be used in determining the extent of the jurisdiction of the Corps of Engineers and in answering inquiries concerning "waters of the United States." This definition does not apply to authorities under the River and Harbor Act of 1899 (see CFR Parts 322 and 329).

§ 328.2 General definition.

(a) Waters of the United States are:

(1) The Territorial Seas;

(2) All waters that are part of a surface tributary system to and including navigable waters of the United States; and

(3) Isolated waters and their tributaries, the degradation or destruction of which could affect interstate or foreign commerce.

(b) Waters of the United States do not include the following man-made waters:

(1) Non-tidal drainage and irrigation ditches excavated on dry land.

(2) Irrigated areas which would revert to upland if the irrigation ceased.

(3) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 123.11(m)).

(4) Artificial lakes or ponds created by excavation and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

(c) *Natural changes in lateral limits of Waters of the United States.* Permanent changes of the shoreline configuration result in similar alterations of the boundaries of the waters of the United States. Thus, gradual changes which are due to natural causes and are perceptible only over some period of time constitute changes in the bed of a waterbody which also change the boundaries of the waters of the United States. For example, changing sea levels or subsidance of land may cause some areas to become waters of the United States while siltation or a change in drainage may remove an area from waters of the United States.

§ 328.3 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" mean those waters that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR Part 329 for a more complete definition of this term.)

(b) The term "adjacent" means bordering, contiguous, or immediately neighboring and having a resonably perceptable surface or subsurface hyrodologic connection to a water of the United States.

(c) The term "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of liter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(d) The term "high tide line" means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide.

(e) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(f) The term "inundation" means a condition in which water temporarily or permanently covers a land surface.

(g) The term "saturated" means a condition in which all voids (pores) between soil particles are temporarily or permanently filled with water to the soil surface.

(h) The term "prevalence of vegetation" means those rooted emergent plants that comprise at least 50% of the dominant species within a plan community.

(i) The term "typically adapted" means normally or commonly suited to a given set of environmental conditions.

§ 328.4 Territorial seas.

Territorial seas for the purposes of the Clean Water Act are measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters extending seaward a distance of three nautical miles.

§ 328.5 Navigable waters of the United States and their surface tributaries.

(a) Tidal Waters of the United States include all waters subject to the ebb and flow of the tide landward to the high tide line and seaward to the outer limit of the territorial seas. (Non-tidal coastal wetlands are included in paragraph (b) of this section. The lateral limits of jurisdiction in tidal waters extends to the high tide line which may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(b) Non-tidal Waters of the United States includes all non-tidal navigable waters of the United States as defined in 33 CFR Part 329, all surface tributaries to those wates, and tributaries to tidal wates. (This includes non-tidal coastal wetlands.) The lateral limits of jurisdiciton:

(1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark, or

(2) When adjacent wetlands are present, the jurisdiction includes those wetlands.

§ 328.6 Isolated waters.

Isolated waters includes waters such as lakes, rivers, streams (including intermittent streams) mudflats, sandflats, lakes, or natural ponds that are not part of a surface tributary system to or themselves determined to be navigable waters of the United States where the use, degradation or destruction of the waterbody could affect interstate or foreign commerce.

(a) This definition includes any such waters:

(1) Which are interstate waters including interstate wetlands; or

(2) Which are used by interstate of foreign travelers for recreational or other purposes; or

(3) From which fish or shellfish are taken and sold in interstate or foreign commerce; or

(4) Which are used for industrial purposes by industries in interstate commerce.

(b) *Lateral limits of jurisdiction.* (1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark.

(2) In the case of wetlands themselves or wetlands adjacent to other isolated waters, the jurisdiction includes those wetlands.

§ 328.7 Supplemental clarifications.

The District Engineer may recommend to the Chief of Engineers that certain unique areas be more fully described in the Federal Regulations. Such descriptions would be published in the **Federal Register** for comment and, if appropriate, added as subsections to this section.

PART 330—NATIONWIDE PERMITS

13. Section 330.2 is amended by adding paragraph (c) to read:

§ 330.2 Definitions.

* * * * *

(c) Natural lakes larger than 10 acres means those naturally occurring waterbodies with a minimum of 5 acres of open water which including contiguous wetlands comprise a minimum of 10 acres.

14. Section 330.4 is amended by revising paragraphs (a) (1) and (2) and by adding paragraphs (b) (7)–(9) and (c) to read:

§ 330.4 Nationwide permits for discharges into certain waters.

(a) *Authorized discharges.* * * *

(1) Non-tidal rivers, streams and their impoundments including adjacent wetlands, but excluding natural lakes larger than 10 acres that are located above the headwaters.

(2) Other non-tidal waters of the United States that are not part of a surface tributary system to interstate waters or to navigable waters of the United States excluding natural lakes greater than 10 acres in surface area.

(b) *Conditions.* * * *

(7) In certain instances, an individual state water quality certification must be obtained or waived (See 330.9).

(8) Compliance with regional conditions which may have been added by division engineers (See Section 330.7(a)).

(9) In certain instances, an individual state coastal zone management consistency certification must be concurred in by a state (See Section 330.10).

(c) Natural lakes larger than 10 acres are not included in the nationwide permits identified in paragraph (a) of this seciton. Discharges of dredged or fill material into such lakes must be authorized by individual or regional permits unless covered by one or more of the nationwide permits listed in § 330.5 or exemption under 33 CFR Part 323.4.

15. Section 330.5. is amended by adding paragraphs (a)(26), (a)(27), and (b) (10)–(12) to read:

§ 330.5. Nationwide permits for specific activities.

(a) *Authorized activities.* * * *

(26) Structures, work, and discharges of dredged or fill material associated with projects undertaken, funded or authorized by another Federal agency or department where that agency or department determines that the structure, work, or discharge will not cause significant degradation of the waters of the United States through application of the 404(b)(1) guidelines, the appropriate district engineer has been furnished a copy of the agency's determination of no significant degradation, and the district engineer has made a determination that the proposal conforms to 404(b)(1) guidelines. (Sections 10 and 404)

(27) Structures, work, and discharges for facilities adjacent to Corps of Engineers civil works projects where justification for the Federal expenditure was based on construction of specific adjacent facilities, those facilities are constructed within a reasonable time of completion of the Federal project, and the district engineer conducts a case-by-case Section 404 (b)(1) guidelines analysis. (Sections 10 and 404.)

(b) *Conditions.* * * * * *

(10) In certain instances, an individual state water quality certification must be obtained or waived. (See § 330.9)

(11) Compliance with regional conditions which may have been added by division engineer. (See § 330.7(a))

(12) In certain instances, an individual state coastal zone management consistency certification must be concurred in by a state. (See § 330.10)

16. Section 330.7 is revised to read as follows:

§ 330.7 Discretionary authority.

Except as provided in paragraph (c)(ii) of this section division engineers, on their own initiative or upon recommendation of a district engineeer, are authorized to modify nationwide permits by adding individual or regional conditions or to override nationwide permits by requiring individual permit applications. Discretionary authority will be based on concerns for the aquatic environment as expressed in the guidelines published by EPA pursuant to section 404(b)(1). (40 CFR Part 230)

(a) *Individual conditions.* Division engineers ae authorized to modify nationwide permits by adding individual conditions on a case-by-case basis applicable to certain activities within their division. Individual conditions may be added either:

(1) In instances where there is mutual agreement between the district and the permittee or

(2) When the state requires individual 401 certification and the district or division engineer determines, consistent with Sections 325.4 and 330.9, that the conditions in the certification should be applied to the nationwide permit. A copy of the written notice of modification will be forwarded to the Office of the Chief of Engineers, ATTN: DAEN-CWO-N.

(b) *Regional conditions.* Division engineers are authorized to modify nationwide permits by adding conditions on a generic basis applicable to certain activities or specific geographic areas within their divisions. In developing regional conditions, division and district engineeers will follow standard permit processing procedures as prescribed in 33 CFR Part 325 applying the evaluation criteria of 33 CFR Part 320 and appropriate parts of 33 CFR Parts 321, 322, 323, and 324. A copy of the statement of findings will be forwarded to the Office of the Chief of Engineers, ATTN: DAEN-CWO-N. Division and district engineers will take appropriate measures to inform the public at large of the additional conditions.

(c) *Individual permits.* In nationwide permit cases where additional individual or regional conditioning may not be sufficient to protect the aquatic environment or where there is not sufficient time to develop such conditions under paragraphs (a) or (b) of this section, the division engineeer may require individual permit applications on a case-by-case basis. Where time is of the essence, the district engineer may telephonically recommend that the division engineer assert discretionary authority to require an individual permit application for a specific activity. If the division engineer concurs, he may verbally authorize the district engineer to implement that authority. Both actions will be followed by written confirmation with copy to the Chief of Engineers (DAEN-CWO-N). Additionally, after notice and opportunity for public hearing, division engineers may recommend to the Chief

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of Engineers that individual permit applications be required for categories of activities, or in specific geographic areas. The division engineeer will announce the decision to persons affected by the action. The district engineer will then regulate the activity or activities by processing an application(s) for individual permit(s) pursuant to 33 CFR Part 325.

17. Section 3309 is added to read:

§ 330.9 State water quality certification.

In certain instances where a state has denied the 401 water quality certification for a particular nationwide permit, that permit does not authorize the activity until an individual state water quality certification has been obtained or waived for that activity. In such instances, the applicant must furnish the district engineer with a copy of the 401 certification or a copy of the application to the state for a 401 certification. If a state fails to act on an application for a 401 certification within 30 days of receipt of the application, then a waiver will be presumed. If the state issues a conditioned 401 certification, the district engineer should review such conditions in light of Section 325.4. While the district engineer is not required to automatically adopt conditions in a 401 certification, those conditions found to be in compliance with Section 325.4 should be cited as individual conditions in a letter sent to the applicant, with the explanation that authority for the proposed activity is subject to those individual conditions. Upon receipt of the 401 certification (or waiver) and after determining whether individual conditions should be imposed on the proposed activity, the district engineer will notify the applicant that the requirement for certification has been complied with and work may proceed as long as the permittee complies with all of the conditions of the nationwide permit. District engineers will take appropriate measures to inform the public of which states or waterbodies and for which nationwide permits such individual certification is required.

18. Section 330.10 is added to read:

§ 330.10 Coastal zone management consistency determination.

In certain instances where a state has not concurred in a particular nationwide permit as being consistent with its coastal zone management plan, that permit does not authorize the activity until the applicant has furnished to the district engineer a coastal zone management consistency certification pursuant to Section 307 of the Coastal Zone Management Act and the state has concurred with it. District engineers will take appropriate measures to inform the public of which states or waterbodies and for which nationwide permits such individual certification is required. If a state does not act on an applicant's consistency statement within six months after receipt by the state, consistency shall be presumed.

[FR Doc. 83-12712 Filed 5-11-83; 8:45 am]
BILLING CODE 3710-92-M

federal register

Thursday
May 12, 1983

Part IV

Federal Communications Commission

Low Power Television Proceeding; Miscellaneous Actions

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[BC Docket No. 78-253; RM-2846; RM-3109; FCC 83-129]

The Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein denies the bulk of the petitions for reconsideration filed with respect to the Commission's Report and Order in BC Docket No. 78-253—the Commission's low power television proceeding. However, the instant action also grants limited reconsideration with regard to certain aspects of the Report and Order, clarifies portions of that Order, and changes several Commission rules primarily in order to shorten and simplify the renewal and transfer forms for low power and translator stations and to facilitate the rapid implementation of the low power service.

DATE: Rules changes will become effective on June 13, 1983; FCC Forms changes will become effective upon approval by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman, Mass Media Bureau (202) 632-3894.

List of Subjects

47 CFR Part 73

Auxiliary television stations.

47 CFR Part 74

Television.

Memorandum Opinion and Order

In the matter of an inquiry into the future role of low power television broadcasting and television translators in the National Telecommunications System, BC Docket No. 78-253, RM-2846, RM-3109.

Adopted: March 31, 1983.

Released: May 6, 1983.

By the Commission.

1. The Commission has before it for consideration various petitions seeking reconsideration and/or clarification of our *Report and Order* authorizing the low power television service.[1] *Report and Order*, FCC 82-107, 47 FR 21468 (published May 18, 1982) (hereinafter referred to as "*Report and Order*"). Also before the Commission are various oppositions, comments and replies concerning those petitions.[2]

Background

2. Proposed on September 9, 1980, the rule changes adopted in the *Report and Order* permit TV translator stations to originate programming and operate on a subscription basis. During the pendency of this proceeding, the Commission continued to accept and process translator applications, including applications accompanied by waiver requests to include low power features. However, in April 1981, the Commission had to stop accepting most new translator applications due to the volume of interim applications filed. In July 1981, the Commission issued a *Further Notice of Proposed Rule Making* in this docket, requesting comments on prohibited overlap standards that would facilitate automated processing of the pending applications.

3. The rules adopted in the *Report and Order* limit low power stations to ten watts power on VHF channels and 1,000 watts on UHF channels. Stations may operate on any VHF or UHF channel meeting the desired-to-undesired signal ratios specified in the new rules. These contour overlap engineering standards are designed to ensure that the secondary spectrum priority of low power stations is strictly maintained. Secondary status means that low power stations may not create objectionable interference to full service television stations nor to land mobile radio stations operating on UHF Channels 14 through 20 pursuant to the Commission's sharing scheme. A low power station causing interference to a full service station or a protected land mobile station must correct the problem or cease operation. The Commission also adopted automated engineering standards for low power applications processing.

4. The low power service, as established in the *Report and Order*, is subject to minimum regulation. There are no ownership restrictions, ascertainment or program log requirements, minimum hours of operation or program regulations, other than those imposed by statute. The Commission also declined to impose a requirement that cable systems carry the signals of low power stations. The cable carriage requirement had been imposed for certain traditional translator stations, because they were considered to be extensions of full power local stations in their area. However, mandatory cable carriage would not be warranted for low power stations, since they have no local programming requirement. To authorize new stations in this service, the Commission established a curtailed paper hearing process. Only minority ownership and diversity of control of the media were to be considered in the comparative hearing.[3]

5. The petitions for reconsideration and/or clarification of the *Report and Order* raise a broad range of issues concerning the implementation of the low power television service. Petitioners take issue with the establishment of comparative criteria to resolve mutually exclusive applications for low power stations. Various petitioners argue for the addition and/or deletion of comparative criteria established in the *Report and Order*. Noncommerical broadcasting petitioners request the reservation of channels for public television stations and an interference priority for public broadcasters on reserved channels that are available for low power use.

6. Some petitioners request changes in the Commission's allocation criteria for the service, including consideration of terrain shielding, changes in channel spacing requirements, power limits and methods of calculating contours. The petitions also raise the issue of sharing low power spectrum with land mobile communcations uses. Other technical matters raised in various pleadings include the imposition of operator requirements on low power stations and limitations on interference caused to cable systems and Multipoint Distribution Service (MDS) stations. Issues of retransmission consent and mandatory cable carriage were also raised. With regard to the processing of low power applications, petitioners raised questions concerning the freeze on applications and the interim processing of those requests. Petitioners also asked for changes in the handling of amendments to low power applications that constitute major modifications, and they make suggestions on the format of new and renewal application forms for the low power service.

7. The various petitions, oppositions, comments and replies will be treated herein on an issue-by-issue basis. Moreover, as appropriate, this *Order* will effectuate various rule and form changes that are warranted, as a result of the pleadings before us and our own review of and experience with the *Report and Order*.

Comparative Criteria

8. The *Report and Order* stated that we hoped to have statutory authorization to use a lottery procedure in lieu of comparative hearings to resolve mutually exclusive low power TV applications. However, at the time, we had no lottery procedures, and the *Report and Order* devised hearing procedures and comparative preferences for use in low power TV cases. Lotteries were not yet authorized at the time the Petitions for Reconsideration were filed, but such procedures are now permitted, and the Commission has today concluded a rule making to implement them.[4] In this context, we need only briefly describe the comparative procedures established in the *Report and Order* and the related arguments on reconsideration.

9. When necessary, the hearings contemplated in the *Report and Order* were to be conducted largely on paper, with prehearing discovery conducted or oral testimony taken only when the Administrative Law Judge deemed it necessary. The comparative criteria adopted in the *Report and Order* were (1) diversification of control of the media of mass communications and (2) over fifty percent minority ownership.

10. NAB argues that the *Notice of Proposed Rule Making*, 45 FR 69178 (October 17, 1980), did not give adequate notice that diversification of control was being considered as a comparative factor or that encouraging new entrants was a primary goal of the authorization process. CPB and IBN argue that the *Notice* indicated that the Commission would award a preference for noncommerical applicants, but the Commission failed to alert parties that it might retreat from that position, as we did in the *Report and Order*. AWRT requests inclusion of a comparative preference for applicants that are over 50 percent female owned, and Dick Dowart requests inclusion of a preference for the handicapped.

11. The Administrative Procedure Act requires notice of "the terms or substance of the proposed rule or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3). Notice need only be sufficient to apprise interested parties fairly of the issues involved, and promulgation of a rule different from an original proposal does not necessitate the opportunity for further comment, so long as the rule is a logical outgrowth of the notice and comments. *Consolidation Coal Co.* v. *Costle*, 604 F. 2d 239, 248 (4th Cir. 1979); *BASF Wyandotte Corp.* v. *Costle*, 598 F. 2d 637 (1st Cir. 1979). In our *Notice of Proposed Rule Making, supra*, at 69189, we stated:

> We note that our staff recommended the three criteria as a 'first draft' set of preferences, and propose them in that spirit. We shall carefully consider comments that advance other approaches to the comparative process.

Thus, our actions with regard to comparative preferences were within the scope of the *Notice* or a logical outgrowth of the *Notice*.

12. The petitions requesting the inclusion or exclusion of individual comparative preferences are affected by the legislation authorizing the lottery.[5] Congress expressed its "intention and expectation" that the lottery be used for low power television and specified that the two preferences of diversification and minority ownership be used. *See* H. Rep. No. 97-765. Furthermore, Congress in 309(1)(3)(c)(ii) defines "minority group" as "Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders." We have adopted rules to implement a lottery procedure for LPTV in our action today in Gen. Docket No. 81-768. See *Report and Order* in Gen. Docket 81-768, adopted March 9, 1983, 48 FR —. Thus, AWRT's petition advocating a preference for female ownership, Dick Dowart's petition advocating a preference for the handicapped, NAB's petition objecting to the diversity preference, those portions of the CPB and IBN petitions advocating a noncommercial preference and IBN's request that we clarify the definition of minority ownership in the case of a non-profit entity will be denied. Comparative preferences and definitions have been established in the lottery proceeding.[6]

Noncommercial Channel Reservation

13. Low power channels are allocated on a demand basis. There is no table of allotments, and no channels are reserved for noncommercial low power use. Applicants simply select a vacant channel and provide an engineering showing that the proposed facility will not cause objectionable interference. In the *Report and Order* we eliminated the preference for educational rebroadcast on reserved channels which previously had given noncommericial translators an absolute priority over commercial translators on channels reserved for full power noncommercial applicants.

14. CPB requests that the Commission reconsider and reserve channels for noncommercial applicants in the top 100 markets. CPB claims that the Commission's records do not support the conclusion that there are adequate vacant noncommercial channels in these markets. Rather a table would provide noncommercial educational applicants sufficient time to prepare their applications. CPB proposes that the table self-retiring after 3 or 4 years. In the alternative, CPB suggests that the Commission suspend all "A" list cut-off dates set during the proceeding to provide potential noncommercial licensees with the opportunity to organize and prepare applications for filing.

15. NAPTS and Rocky Mountain request a priority with respect to interference protection for noncommercial operators on channels listed in the Television Table of Assignments reserved for noncommercial use. NAPTS alleges that a commercial operator can preclude a low power noncommercial operator on a reserved channel. NAPTS claims this

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[1] The petitions are as follows: (1) Petition for Partial Reconsideration filed by American Women in Radio and Television, Inc. (AWRT); (2) Petition for Partial Reconsideration filed by Bogner Broadcast Equipment Corp. (Bogner); (3) Petition for Reconsideration filed by the Corporation for Public Broadcasting (CPB); (4) Petition for Reconsideration filed by Dick Dowart; (5) International Broadcasting Network's (IBN) Petition for Reconsideration; (6) A document entitled "Comments of Law Enforcement Administrators Telecommunications Advisory Committee" (LEATAC); (7) Los Angeles County Sheriff Department's Petition for Reconsideration (LA Sheriff) and "Additional Comments to the Previously filed Petition for Reconsideration" filed by the LA Sheriff; (8) Petition for Reconsideration filed by Microband Corporation of America (Microband); (9) Petition for Partial Reconsideration filed by the National Association of Broadcasters (NAB); (10) Petition for Reconsideration filed by the National Association of Public Television Stations (NAPTS); (11) Petition for Reconsideration filed by Neighborhood TV Company; (12) Petition for Reconsideration filed by the National Translator Association (NTA); (13) Petition for Reconsideration filed by the Rocky Mountain Corporation for Public Broadcasting; and (14) Petition for Reconsideration filed by the Television Center, Inc. (TV Center).

[2] A list of all such pleadings is attached as Appendix A.

[3] The Commission also indicated its intention to utilize a lottery for low power proceedings if such a procedure was permitted by amendment to the Communications Act. The Communications Amendments Act of 1982 (Pub. L. 97-259), enacted September 13, 1982, included authority to utilize lotteries with preferences for minority ownership and diversity. To implement this legislation, the Commission adopted a *Second Notice of Proposed Rule Making* in Gen. Docket No. 81-768, FCC 82-420, adopted September 23, 1982, released October 7, 1982.

[4] *Report and Order* in Gen. Docket No. 81-768, FCC 83—, adopted March 9, 1983.

[5] The Communications Amendments Act of 1982, Pub. L. 97-259, Section 115, enacted September 13, 1982, amended Section 309(i) of the Communications Act of 1934, as amended, 47 U.S.C. 309(i).

[6] The IBN petition correctly points out that an applicant that has received a grant through the lottery procedure would suffer a diversity disadvantage in all subsequent lotteries. Thus, it may be possible that an applicant would be at at disadvantage for its first choice facility by virtue of succeeding in the lottery for some other lower choice station. Of course, the applicant could resolve this dilemma by withdrawing its application from consideration in the "less desirable" lottery.

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frustrates the Congressional mandate to make public telecommunications services available to all citizens of the United States, in that it will make it more difficult for public television operators to expand service to remote areas through the use of translators. NAPTS also complains that the Commission's action will inhibit the use of existing reserved channels to initiate service with low power stations and develop them into full service stations as additional support becomes available. Rocky Mountain argues that unless the Commission affords noncommercial translators and low power stations a priority on channels reserved for noncommercial use, they will not be able to get funding. It takes exception to the Commission's reasoning, *i.e.*, that noncommercial channels are still reserved for full service use and that noncommercial stations can engage in revenue producing activities. Rocky Mountain asserts that there is no justification or support for fulltime noncommercial stations in Rocky Mountain's area, and many noncommercial licensees choose not to engage in revenue producing activities.

16. We continue to believe that channel reservation is not feasible in a demand service such as low power television. Furthermore, the reasoning that channels must be reserved in order to give noncommercial applicants time to get financing overlooks the relatively low cost of the stations. Therefore, we reject CPB's suggestion that we create reserved noncommercial low power television channels in the top 100 markets. We similarly are not persuaded that it would be in the public interest to give an interference protection priority to educational translators or low power stations that use unoccupied channels reserved for full power noncommercial operation. Such a priority would unnecessarily complicate the engineering determinations that have to be made in the processing of low power and translator applications. More importantly, it would put commercial low power applicants at a distinct disadvantage, having to protect noncommercial operators on reserved channels, but accepting interference from such operations under certain circumstances. We can think of no public interest benefit that would justify the added work to the Commission and the cost to commercial operators. Of course, all low power and translator operations on reserved or unreserved channels remain secondary to and must protect full service operations on those channels.[6]

17. The Commission has previously denied a petition for reconsideration [7] and a Motion for Stay of Interim Processing [8] relating to CPB's suggestion that, as an alternative to reserved channels, we suspend all "A" list cut-off dates set during the proceeding to provide noncommercial applicants an opportunity to organize and prepare applications for filing. In our *Order* denying the Motion for Stay, we noted that our application procedures required only that a financial proposal be submitted, not that an actual funding grant be approved. Therefore, we did not believe that noncommercial applicants were so disadvantaged as to require suspension of the "A" cut-off dates. As previously indicated, the relatively low cost of effectuating the low power service would indicate that any special considerations for noncommerical operations were unnecessary. Indeed, as we have previously pointed out, several noncommercial applicants managed to meet the cut-off date indicating that noncommercial applicants had sufficient time.

Technical Issues

18. Petitioners raised various technical questions ranging from the allocation of spectrum for LPTV on a shared basis to the requirements for technical expertise in the operation of LPTV stations. Those issues will be considered herein seriatim.

Spectrum Sharing

19. Low power and translator applicants may select any channel between 2 and 69, subject to our technical rules including protection to land mobile stations that share frequencies with broadcast users. The LA Sheriff's Department has filed a rule making petition (RM–3975) requesting creation of a public safety band between 470 and 512 MHz (UHF Channels 14–20). Presently, Channels 14–20 are shared by broadcasting and land mobile radio services. *Second Report and Order*, Docket No. 18261, 30 F.C.C. 2d 221 (1971); *Fifth Report and Order*, Docket No. 18261, 48 F.C.C. 2d 360 (1974).

20. The LA sheriff requests that we defer any licensing on television Channels 14 through 20 until the study period set forth in PR Docket No. 82–10 is completed and its recommendations acted upon.[9] The Sheriff states there is a significant need for land mobile frequencies as evidenced by current applications and the rapid depletion of the 800 MHz allocation and claims that if low power television stations are granted on Channels 14–20, it will be difficult to reallocate this portion of the spectrum to land mobile. APCO urges that the Commission amend the rules in the low power proceeding to prohibit licensing of low power stations until full consideration is given to the issues raised in RM–3975 and PR Docket No. 82–10. APCO states that the Commission's primary obligation to promote safety of life and property through the use of wire and radio communications requires this action.

21. We are not persuaded that we should withhold Channels 14–20 from low power television at this time. The *Interim Report* did predict increasing spectrum needs for land mobile uses. It noted, however, that new technologies exist that may alleviate this scarcity. The Commission will continue to study land mobile needs and the Sheriff's petition for rule making (RM–3975) noted *supra*. The question in RM–3975 is how the spectrum should be allocated as between broadcasting (including full power as well as low power stations) and land mobile. If those channels are allocated to land mobile, the allocation of new full power as well as new and existing low power stations would be affected. Low power stations, being secondary, are on notice that their use may be preempted by that action. Licensing low power stations on these channels will not prejudice the rule making or the studies in Docket No. 82–10. Therefore, we will deny the Sheriff's petition. Similarly, we do not believe this is the proper forum to act on NTA's suggestion that land mobile should be removed from this portion of the spectrum entirely. Eliminating such sharing would involve spectrum allocation decisions beyond the scope of this proceeding. However, it is our intention to continue the procedure, instituted in the *Report and Order*, whereby all low power TV grants within 100 miles of the ten largest U.S. cities (120 miles in California) are coordinated by the Mass Media Bureau and the Private Radio Bureau. In this manner, we can assure that new low power stations will not unduly foreclose the Commission's options in Gen. Docket No. 82–10. This course of action will be revisited, as appropriate, after Commission action in that proceeding. In the interim, we do not believe that the coordination process will unduly impede low power TV service.

[7] *Memorandum Opinion and Order*, FCC 81–15, 47 FR 28714, released January 15, 1981.

[8] *Order* denying motion for stay, FCC 81–52, released February 6, 1981; see also *Little Rock Television Company* v. *FCC*, 646 F. 2d 1271 (8th Cir. 1981) (*per curiam*).

[9] In September, 1982, the Planning Staff of the Private Radio Bureau released its *Interim Report on Future Private Land Mobile Telecommunications Requirements (Interim Report)*. This report was the culmination of a proceeding, instituted by a January 20, 1982, *Notice of Inquiry*, designated PR Docket No. 82–10. Also the Commission's staff has completed another study announced in our *Report and Order* to determine the possibility of broadcast-land mobile sharing in major urban markets. *Report and Order* at 21479.

Power, Protected Contours and Terrain Shielding

22. Low power stations and translators must protect existing stations from interference. They are limited in transmitter power output to 10 watts VHF and 1,000 watts UHF. VHF stations operating on channels in the Television Table of Assignments may use 100 watts. Applicants must make a showing that their proposed facility will not cause objectionable interference. The potential for such interference is predicted using desired-to-undesired (D/U) field strength ratios set forth in the *Report and Order*. We therein declined to consider terrain shielding in determining interference protection.

23. IBN claims that the protected contour values set forth in the rules are too high and that the power limits, particularly the limitation on the output power of VHF transmitters, are too low. NTA asks that we consider terrain shielding. NTA claims that the Commission staff would not be overburdened if it: (1) Required the applicant to make a terain shielding showing and notify other licensees or applicants that terrain shielding is a factor in interference protection and (2) conditioned the grant on the accuracy of the shielding study.

24. IBN has provided no information to establish that our protected contour values are too high or that the power limits are too low. Rather, IBN has simply expressed disagreement with our judgment. The power limits and protected contours established in the *Report and Order* were designed to provide low power stations with service areas that would be large enough to provide a potentially adequate economic base for the station's viability, but not so large as to overly restrict the number of stations we could authorize. Thus, the limits were set to provide the opportunity for the best and most diverse service to the public with the minimum of delays occassioned by the need to resolve mutual exclusivities. IBN has failed to allege any facts which would alter the balance thus struck in the *Report and Order*.

25. As to protection to full service stations, the *Report and Order* stated that if we were to "receive a well documented complaint that an authorized low power station impairs regular reception of a full service signal outside the full service station's Grade B contour, this could be a ground for corrective action against the low power licensee, depending upon an evaluation of the situation." *Report and Order, supra* at 21497. However, we also indicated that, generally, we would use the Grade B contour as the standard for protected service. Thus, interference beyond the protected contour would not constitute an indirect modification of license of the full service station, entitling it to a hearing under Section 316 of the Communications Act.[10] Nevertheless, a full service station complaining of interference would be a party in interest under Section 309 of the Communications Act [11] entitled to file a Petition to Deny substantiating the alleged harm.

26. We do not believe that we can consider terrain shielding in evaluating low power applications. Initially, we note that there is no universally accepted method of predicting the effects of terrain shielding. It would be beyond the scope of this proceeding to adopt a general terrain correction factor, even if we had sufficient information to enable us to do so. Under these circumstances, any attempt to allow for terrain shielding would embroil us in disputes that may not be susceptible to resolution by accepted standards and would therefore frustrate our efforts to expedite grant of low power licenses. Accordingly, we will not consider terrain shielding in the processing of low power TV applications at this time.

Fourteen Channel Spacing.

27. In our *Report and Order* we prohibited pairs of co-located translators or low power television stations from operating with fourteen channel spacing. NTA argues that the Commission should allow fourteen channel spacing between low power stations and asserts that a number of translators operate on such spacing. We are not persuaded that the prohibition of fourteen channel spacing shoud be eliminated. To avoid interference, fourteen channel spacing requires not only that the stations are authorized to radiate essentially the same field strength, but also that the stations must be maintained equally. If stations are commonly owned, they are likely to interfere only with each other. Nevertheless, we believe it more appropriate to prohibit fourteen channel spacing at this time. Our experience with low power TV indicates that efficient authorization of new service to the public requires automated processing. Fourteen channel spacing for co-owned stations would be incompatible with out automated technical processing. Of course, such applications could be processed by hand, but we do not believe that the benefits of fourteen channel spacing outweigh the cost of hand processing in terms of delays in authorization of service to the public. Therefore, at this time, we will not permit operation of new translators or low power stations at fourteen channel spacing.

Operator Requirements

28. In our *Report and Order*, at 21490, we stated that we believe that Section 318 of the Communication Act requires that all originating stations have an operator holding at least a Restricted Radio Telephone Operator's Permit in continuous attendance during local originations. The operator must be at the transmitter site, remote control point or program source. During retransmissions via microwave, the operator requirement can be fulfilled by observing the low power station signal on a conventional receiver for fourteen continuous minutes each day. See § 74.734(b). IBN seeks clarification of the requirement, arguing that the rules should not require the presence of a licensed operator during retransmission of microwave fed signals, including those received via satellite, or during the insertion of a brief station identification or public service announcement.

29. *The Report and Order in Docket No. 20539*, 67 F.C.C. 2d 209 (1977) made it clear that television translator stations could use a satellite or terrestrial common carrier microwave feed provided that the translator station remained a rebroadcast device. Therefore, using such a feed would not, under our current rules, constitute program origination if the receiving station merely used the feed to enable it to rebroadcast simultaneously a television broadcast station. Section 74.784(a) and (c). Any programming received from microwave fed signals (including signals from a satellite) other than simultaneous rebroadcast of a television broadcast station would be

[10] Section 316 of the Communications Act requires the Commission to notify and to provide the opportunity for a hearing to any station the license of which is being modified directly or indirectly. See *NBC* v. *FCC (KOA)*, 132 F 2d 545 (1942), *aff'd*. 319 U.S. 239 (1943); *L.B. Wilson, Inc.* v. *FCC*, 170 F. 2d 793 (1948).

[11] Section 309 of the Communications Act allows parties in interest to file petitions to deny. Such petitions must contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that grant of the application would not be in the public interest.

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considered local origination under our current rules. However, we do not believe it should be considered local origination for purposes of the operator requirements. We do not consider it necessary for an operator to be in attendance unless the program source signal is under the control of the licensee. Therefore, we are amending § 74.701 to define local origination as those types of program origination in which the parameters of the program source signal are under the control of the low power television station licensee. Examples of local origination are transmission of signals generated at the transmitter site and transmission of programs reaching the transmitter site by television studio transmitter link (STL) stations. However, "origination" does not include signals obtained from terrestrial or satellite common carrier microwave feeds or signals rebroadcast from other low power television stations. See Appendix B.

30. Moreover, according to § 74.731(f), station identification announcements, emergency messages or requests for funds are not considered originated programs, provided such inserts meet the requirements of § 74.731(f) (in the case of requests for funds or emergency messages), or § 74.783 (in the case of station identification). Furthermore, we believe that public service announcements should not constitute local origination within the scope of § 74.701(g), so long as such announcements conform to the requirements of § 74.731(f). Therefore, we shall amend the rules accordingly.

Interference Protection

31. Various petitions have raised issues concerning the potential interference from low power stations to cable television systems and Multipoint Distribution Systems (MDS). With regard to cable systems, § 74.703(d) of the Commission's rules establishes a "first in time, first in right" policy. NTA urges elimination of the prohibition imposed by § 74.703(d). Petitioner argues that the requirement that low power television stations provide protection to CATV systems using a VHF channel as the input from a set-top converter to the TV set is unexpected and is in conflict with the Commission's policy of permitting cable's use of the spectrum based on non-preclusion of broadcast use. NTA also asserts that the policy is unnecessary since the prohibition on adjacent channel over the air transmissions would always leave a channel open for CATV use.

32. NTA has failed to provide any reason that the Commission should reconsider the "first in time, first in right" policy in cases of interference at the input channel of a cable system using a converter. Contrary to NTA's assertion, this rule should not have been unexpected and does not conflict with the Commission's policy of permitting cable's use of the spectrum based on its non-preclusion of broadcast use. Based on that policy, we denied requests from cable operators that we limit low power television to the UHF frequencies and, in general, denied formal protection to cable systems. *Report and Order*, paragraphs 43 and 45. We noted, however, that in the case of the input channel of a cable system using a converter, the preclusive effect would be minimal ("foreclosing at most one VHF channel from local use by translators or low power stations" *Report and Order*, at 21479). We stated that it is in the public interest to protect the expectation of continued service instead of permitting its degradation by a later applicant. *Id.* Moreover, the issue of cable/low power interference was raised in our *Notice of Proposed Rule Making*. Thus, the adopted rule stems logically from the *Notice*. *See BASF Wyandotte Corp.* v. *Costle, supra*. In view of the above, the portion of NTA's petition requesting reconsideration of § 74.703(d) is denied.

33. MDS stations also use a VHF channel input from their converter to a subscriber's set, but the *Report and Order* accorded no protection from LPTV stations. Microband requests that the Commission provide MDS the same "first in time, first in right" protection from interference from low power television that it provides for cable. We believe that MDS operators, like cable operators, should settle most interference disputes privately. However, in the case of an input channel already in use by an MDS operator, it would be in the public interest to protect the expectation of continued service rather than allow degradation by a later applicant. This would be consistent with the protection afforded cable. Therefore, we will grant Microband's petition and amend § 74.703(d) to include this protection. Moreover, the same situation could exist with regard to an input channel used by stations in the Instructional Television Fixed Service (ITFS), and we will afford similar protection to those licensees. See Appendix B.

Retransmission Consent and Cable Carriage

34. Low power stations are permitted to originate programming to an unlimited degree, but are not required to originate any programming. Thus, LPTV stations may retransmit the programming of other stations, provided they have consent to do so. IBN and NTA ask that we specifically permit translator stations to retransmit the programming of low power stations. Since translator stations have no programming requirements, they are free to retransmit a low power station's programming provided they have the appropriate consent to do so.[13] However, any TV translator rebroadcasting the signal of a low power TV station would itself be considered a low power station for the purposes of the rules.

35. Under the present rules, cable systems must carry certain local full service stations, commercial translators over 100 watts and educational translators over 5 watts within a 35-mile radius of the cable system. *See* §§ 76.55(c) (1) and (2); 76.57(a)(2); 76.59(a)(5); and 76.61(a)(3). In our *Report and Order* we declined to extend the mandatory carriage to low power television stations. IBN and NTA request that the Commission apply its cable "must carry" rules to low power television claiming that unless cable carries low power stations they will not be able to compete with those stations that are carried. The rules which require the mandatory carriage of local stations by cable systems were designed to further the goals of our allocation plan, which, in turn, was designed to provide local television service to the entire country. *Cable Television Report and Order*, 36 F.C.C. 2d 143, 173 (1972). At that time, translators were considered extensions of local stations in the same area. Thus, certain translators were entitled to mandatory carriage. On the other hand, low power stations are not extensions of nearby full service stations; they are not part of the allocations plan, and they have no programming requirements. Thus, there is no reason to require carriage by cable systems. Under these circumstances, we believe the marketplace is the appropriate vehicle for determining whether a cable system would select a low power station for carriage.

Processing Issues

36. In September, 1980, the Commission established procedures for handling translator and low power television applications pending the outcome of the rule making. *Notice of Interim Processing*, 45 FR 62004 (published September 17, 1980). In April of 1981, with approximately 5,000 applications on file; and with insufficient staff and computer capability to handle them, the Commission stopped accepting new applications except: existing translators seeking to leave channels 70 through 83; existing translators seeking to change channels to eliminate interference to full service stations; or new proposals to serve areas currently receiving fewer than two full service stations. *Order Imposing Freeze*, 46 FR 26062 (published May 11, 1981).

[13] We are simultaneously amending our operator requirements to make clear that retransmission of low power stations will not be considered local origination for purposes of the rules.

37. When we adopted the *Report and Order*, we did not lift the freeze, but we did change the freeze exemptions slightly. Applications were grouped into categories by market size. Those applicants proposing to locate their transmitting antennas more than 55 miles from any of the 212 FCC-ranked television market were placed in Tier I and are now freeze exempt. The freeze exemption for proposals to serve areas currently receiving fewer than two full service stations was eliminated. Applicants other than those in Tier I were grouped in Tiers II and III by market size. Under the tiered system, processing of the first tier must be completed before processing of the second tier begins, and so on.[14] The freeze would be lifted only for the limited purpose of receiving competing applications to the applications published on cut-off lists.

38. NTA argues that the Commission should reconsider its decision to use the three-tier processing plan. NTA proposes that we permit the continued filing and processing of applications which propose to serve areas that receive fewer than two full-service stations. Our tiered processing is designed to minimize the impact of low power applications on Commission resources and speed implementation of new service. The "less than two station" exemption had the potential to strain our resources and delay authorizations because it required an individualized engineering judgment for each application claiming this exemption. Our new standard identifies the most rural markets, which include most underserved areas. This standard can be handled by computer, thus minimizing delays in authorization. Therefore, we will deny that portion of NTA's request to reinstate our freeze exemption for areas with fewer than two full service stations.[15]

[14] However, applications that were accepted before the freeze and were cut off, will be processed with Tier I applications, even though they may now be classified as Tier II or III.

[15] In the *Report and Order* we stated that we did not intend to issue any further cut-off lists until we processed all pending applications for low power stations. However, completion of the processing of the pending applications will require the services of a sophisticated computer system which we are in the process of implementing. In the interim, we will be issuing new cut-off lists as appropriate.

Interim Processing

39. The interim processing rules provided for the consideration and grant of low power applications during the pendency of the rule making. Neighborhood urges the Commission to reject the principle of interim processing and declare that only those low power applications filed after the effective date of the new rules will be accepted against a translator application that would ordinarily have been granted before the authorization of low power service. Neighborhood claims that the practice of accepting applications before adoption of the *Report and Order* prejudged the issue and delayed grant of Neighborhood's applications for translator stations to be interconnected by satellite.

40. The Commission has previously considered petitions for reconsideration of the interim processing procedure. *Memorandum Opinion and Order*, 84 F.C.C. 2d 713 (1981). There, we thoroughly discussed the propriety of our interim processing standards. We concluded that a freeze on translator applications would deprive the public of needed service, but to accept only conventional translator applications with no waiver requests would invite abuse in that applicants desiring low power service could apply for a translator and upgrade later. We also noted that the exposure to the interim applications would enhance our ability to respond to the issues raised in the low power proceeding, and similar interim procedures had been approved. *Kessler* v. *F.C.C.*, 326 F. 2d 673 (D.C. Cir. 1963), *Buckeye Cablevision* v. *F.C.C.*, 438 F. 2d 948 (6th Cir. 1971), and *Meredith Broadcasting* v. *F.C.C.*, 365 F. 2d 912 (D.C. Cir. 1966).

41. Neighborhood claims the low power interim policy differed from other interim procedures in other services. We do not find this argument persuasive. Interim procedures must differ somewhat due to many factors, including differences in the service involved. Neighborhood also complains about our refusal to reconsider the 15 station limit in our *Memorandum Opinion and Order*, FCC 81–175, released June 25, 1981. Petitioner claims this limit was imposed to stall its attempt to form a new network. The 15 station limit was necessary to maintain our flexibility during the pendency of the rule making. The interim standard would permit the possible adoption of ownership limits without substantial grandfathering problems engendered by interim processing without ownership limits. Thus, the interim limit was eliminated when we determined not to impose ownership rules.

42. Neighborhood also argues that the Commission wrongfully prejudged low power, and the Commission should help Neighborhood create its new network of "family" programming. However, it is clear that this proceeding was not prejudged. The *Report and Order* provides ample reason for creation of the serice and is not dependent on the existence of low power stations authorized under the interim process, and the *Notice* clearly alerted applicants that their grants were conditioned upon final authorization of low power television. Moreover, there is no basis for preferring Neighborhood's programming proposals over any others. The *Report and Order*, imposed minimum of program content regulations on low power television stations so that they may be responsive to marketplace conditions. *Report and Order*, at 21490. Since we favor no particular programming, we cannot favor Neighborhood's plan over other proposals.

Major Modifications

43. The *Report and Order* classified any change in frequency, transmitting antenna system, antenna height, antenna location exceeding 200 meters, authorized power, or community or area to be served as a major change for translators or low power television stations. Moreover, the *Report and Order* indicated that an ownership change would not constitute a major modification. A major change sends an application back to the beginning of the processing line where it is again subject to competing applications.

44. Several petitioners, including Bogner, NTA and Television Center, request reconsideration of the criteria for a major change. Television Center claims that the criteria encompass many routine changes that will not affect other parties, and they will prevent settlements by penalizing small technical changes. Television Center argues that the major modification standard will not motivate applicants to make small changes to correct mutual exclusivities. Bogner claims that unless the major change definition is changed, petitions to deny will be filed against maintenance type changes. Bogner argues that existing translator stations which fall within Tiers II and III would be precluded from making such improvements for a lengthy period. NTA

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also argues that the definition should be changed to accommodate those with a legitimate need to make a change.

45. NTA suggests that the following not be major changes: any change to resolve interference, a change in location because of non-availability of the specified site, a reduction in antenna height or effective radiated power (ERP), or an increase in ERP if protection standards are met. Television Center proposes that the Commission treat as major only modifications in the transmitter location greater than three kilometers. According to Television Center's plan, minor changes could be approved only after 30 days notice and the opportunity for petitions to deny. Bogner suggests that we treat modifications of facilities that would not increase the signal range of the station in any horizontal direction as minor.

46. Upon reconsideration, we believe that classification of modifications that would not increase the signal range in any horizontal direction as minor would facilitate maintenance type changes and changes to eliminate interference without creating new interference or preclusion. Therefore, we are adopting Bogner's suggestion. Section 73.3572 of the Commission's Rules is amended accordingly. The remaining requested changes might permit additional preclusion or cause actual interference, due to local factors, even though applications for such changes might meet our general protection standards. *See Report and Order, Supra* at 21475. Although Television Center's suggested 30 day notice provision would deal with the problem of actual interference, it would also delay changes that wouldn't create a problem. Accordingly, we will deny those requests for reconsideration.

47. We also believe that the implementation of the lottery requires alteration of our view of ownership changes. We can no longer ignore changes of more than 50% of an applicant's ownership, Particularly where such changes could affect the applicants' lottery preference. Thus § 73.3572(b) of the rules will govern ownership changes for low power applicants. We are also amending § 74.732(d) of the rules to make it clear that major modifications will require a new cut-off list and afford an opportunity for the filing of competing applications. See Appendix B.

Renewal Form

48. The *Report and Order* indicated the Commission's intent to use an abbreviated license renewal application form for translator and low power television licensees. To this end, the current translator renewal form (FCC Form 348) has been streamlined in conformity with the Commission's actions regarding full service stations. See *Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees,* FCC 81–146, 46 FR 26236, published May 11, 1981, reconsideration denied, 87 F.C.C. 2d 1127. A sample of the revised FCC Form 348 is attached as Appendix C. We have decided not to include any engineering questions in the revised form. Rather than routinely requiring the submission of engineering data at renewal time, the Commission believes—as in the case of full service stations—that operation in full compliance with our engineering requirements can be ensured through the on-site monitoring program administered by the Field Operations Bureau and through reliance upon the participation of the public and affected licensees in promptly bringing serious infractions of our technical rules to the Commission's attention. Moreover, certain questions that have yielded only marginally useful information have been deleted. These include, Question 6, Section I and Questions 7, 8, 10 and 11, Section II of former Form 348. Pursuant to our earlier decision not to impose restraints on cable/translator cross ownership, former Question 9, Section I, is no longer necessary. Finally, former Questions 1 and 9 of Section II have been combined into a single, optional question and Questions 3, 7 and 8 of Section I have been revised to parallel the litigation and citizenship questions asked of renewal applicants of full service stations, *e.g.,* Questions 2 and 3, Section II, FCC Form 303–C. See Appendix C.

Voluntary Assignment or Transfer of Control Application

49. To minimize the number of forms necessary to the new service, we have revised the present FCC Form 345 "Assignment of Translator Stations" to include applications for transfer of control, which are presently filed on FCC Form 315 "Transfer of Control. See Appendix D. The retitled Form 345, "Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station or a Low Power Television Station," should also be used for any associated auxiliary stations, such as translator microwave relay stations and UHF translator booster stations. Revised FCC Form 345 should not be used to request approval of the assignment or transfer of any other type of broadcast station. If a licensee or permittee of a full service station is also selling its translator or auxiliary authorizations along with its primary station, it should utilize the FCC Form 314, 315 or 316 filed for the primary station. In the case of an involuntary assignment or transfer of control of a translator or low power television station, FCC Form 316 may still be used. We have made editorial changes to § 73.3540, Application for voluntary assignment or transfer of control, to reflect the revision of Form 345. See Appendix B.

Other Matters

50. Our consideration of the petitions dealt with herein caused us to carefully review our *Report and Order* establishing the low power TV service. As a result of that review, our experiences in processing low power applications and the problems encountered in setting up the automated system for future processing, we have determined that several modifications to the low power rules are necessary. These modifications, based on the entire record to date, will facilitate the rapid implementation of the low power service and the ability of low power stations to provide television service to the public. The rule changes discussed below are reflected, as appropriate, in Appendix B.

51. At paragraph 47 of the *Report and Order,* we addressed the eligibility of low power TV licensees for licenses in the various classes of auxiliary stations used to originate and/or relay programs from remote sites. However, § 74.632 of the rules was not amended to reflect the eligibility of low power licensees as discussed in paragraph 47. This oversight is corrected herein by appropriate amendments to § 74.632 (a) and (e) to reflect the eligibility of low power licensees. See Appendix B.

52. Pursuant to our review of the comments, we discovered that various of the Commission's administrative "housekeeping" rules, included in subpart H of Part 73 of our rules, and presently applicable to all conventional broadcast services, are also relevant to the low power television service. The subjects of these rules range from where to file applications (§ 73.3572) to the requirements for special field test authorizations (§ 73.1515). Application of these rules to the low power TV service would add no regulatory burden to applicants or licensees but merely would formally apply practices and procedures to the low power service that are presently being followed in broadcast practice and rules. Some rules only partially apply to the low power service and, consequently, only the relevant subsections of those rules have been made applicable.[15] Additionally, we have made applicable § 73.653, Operation of TV aural and visual transmitters, which provides that TV aural and visual transmitters shall not be operated separately except in limited situations.

53. We also have found that other existing full service and low power TV rules are inadequate to resolve specific conditions or situations unique to the newer service and, therefore, some rules must be amended. For example, we believe that the protection criterion for full service television, the Grade B contour as defined in § 73.683 and applied to the low power service in § 74.705, is inadequate to forestall the potential interference to full service TV from the new service. Rather than establishing a new contour value for protection of full service television, a more realistic protection contour could be established by using the maximum radiation value and the horizontal radiation pattern in calculating the Grade B contour instead of taking into account the depression angle corrections as specified in § 73.684 of Part 73. This should help ensure that no interference should occur from low power to areas receiving the prescribed signal level for Grade B. (Ch 2–6, 47 dbu; Ch 7–13, 56 dbu; and Ch 14–69, 64 dbu). Therefore, we are amending § 74.705 to reflect the new protection standard.[16]

54. Further, prior to the adoption of the protected contour concept for LPTV and TV translators, our interference determinations were made on a case-by-case basis. However, with the adoption of the new rules, and considering that we currently have over 8000 applications pending, we can no longer use this technique. Instead, we must perform detailed studies that involve determinations of the exact locations of predicted protected and interfering contours. In our work since the *Report and Order* was adopted, we have discovered that we have particular problems in acquiring sufficient data for those existing and proposed conventional translator and low power television operations with directional antennas. We have concluded that the existing rules [subsections (e) and (f) of § 73.685] are not sufficient for these new requirements, although they have served admirably in the context of minimum distance separations and the Table of Assignments. Therefore, we are adopting specific requirements concerning the information which must be submitted by applicants proposing directional antennas. These requirements apply to full service applicants as well, because we need to determine the location of the protected contours of full service stations as well as those for LPTV and TV translator operations. We note that we are in the process of requesting this information from many existing licensees and permittees. Therefore, we are amending § 73.685 for full service and § 74.735 to specify that the required data be properly filed.

55. Finally, despite two previous concerted attempts, we have encountered serious difficulty in obtaining necessary technical data pertaining to existing translator licensees and permittees. This information, required to ascertain the protected contours of existing licensees, is an essential, preliminary step to the further allocation by computer processing of new low power and television translator stations. Due to the absolute necessity of determining protected contours for existing licensees and permittees, we have amended § 74.707(a)(1) of the Rules by adding a note establishing specified mileage contours, relating to authorized power, for translator licensees and permittees which have not heretofore submitted this data in response to our repeated requests.

Conclusion

56. Accordingly, it is ordered, That the Motion of CPBC to accept its late filed reply is granted.

57. It is further ordered, That the petition filed by LEATAC is dismissed for failure to comply with § 1.429(h) of the Commission's rules.[17]

58. It is also ordered, That the petitions of AWRT, Dowart, NAB, CPB, NTA, The Television Center, The L.A. Sheriff's Department, Neighborhood, NAPTS and Rocky Mountain are denied.

59. It is further ordered, That the petitions of Bogner and Microband are granted.

60. It is also ordered, That the petition of IBN is granted as to operator requirements but otherwise denied.[18]

61. It is further ordered, That §§ 73.685(f), 73.3540(c) and (e), 73.3572(a)(1), 74.632, 74.701, 74.703(d), 74.705(a), 74.707(a), 74.731(f), 74.732(d), 74.734(a), 74.735(c), 74.766(e) and 74.780 of the Commission's Rules are amended as set forth in Appendix B, effective June 13, 1983; and FCC Forms 348 and 345 are amended as set forth in Appendices C and D, effective upon approval by the Office of Management and Budget.

62. Finally, it is ordered, That parties to this proceeding and all low power television applicants are referred to our *Report and Order* in the lottery proceeding (Gen. Docket 81–768) which establishes significant application processing procedures for low power television.

63. Authority for these actions is contained in §§ 1, 4(i), 303 (b), (c), (g) and (r) and 403 of the Communications Act of 1934, as amended, and §§ 1.3, 1.412 and 1.429 of the Commission's Rules.

64. For further information concerning this proceeding, contact Barbara Kreisman, Mass Media Bureau, (202) 632–3894.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

The following comments on the petitions for reconsideration were filed:

"Opposition to Petitions for Reconsideration" filed by the National Association of Broadcasters;

"Statement in Support of Partial Reconsideration" filed by McKenna, Wilkinson & Kittner (MWK);

"Opposition to Petitions for Reconsideration" filed by National Cable Television Association (NCTA);

"Comments in support of Petition for Reconsideration" filed by the University of North Carolina (The University);

"Comments" filed by W. L. McIver, Jr.;

"Statement of the Association of Maximum Service Telecasters, Inc.";

"Comments in Support of Reconsideration of National Association of Business and Educational Radio, Inc." (NABER); and

[15] For example, § 73.3525(c) provides specific procedures where there are two or more mutually exclusive applications pending involving a determination pursuant to Section 307(b) of the Communications Act and a settlement agreement is filed by the applicants. Since we determined that Section 307(b) will not apply to this service, subsection (c) of § 73.3525 is not made applicable.

[16] Although this approach is adequate to protect the great majority of full service stations, there will be circumstances in which the results will not fully protect a station utilizing mechanical beam tilt. Low power applicants are cautioned to consider the standards set forth in § 73.683 in calculating the necessary protection of full service stations. Failure to do so could result in a complaint of interference from the full service station.

[17] The arguments presented by LEATAC also were presented in properly filed petitions for reconsideration, and have therefore been discussed herein.

[18] IBN states that it objects to the Commission's failure to adopt rules encouraging the growth of new networks. It also states that it objects to these Commission rules which delay service to urban areas and to the delays in processing applications. IBN does not state which rules it would like to see instituted or abolished in this respect. Therefore, this portion of IBN's petition is denied due to lack of specificity.

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"Comments on the Los Angeles Sheriff's Petition to Deny Low Power UHF–TV Licenses and Petition to Reconsider BC Docket No. 78–253" filed by the California Peace Officers' Association (CPOA).

The following replies were filed:

"Reply Comments of the National Association of Broadcasters";

"International Broadcasting Network's Reply to Oppositions to its Petition for Reconsideration";

"Reply of Associated Public-Safety Communications, Inc."; and

"Reply Comments" submitted by California Public Broadcasting Commission (CPBC) (late filed).

Appendix B

PART 73—[AMENDED]

1. Section 73.685 is amended by revising paragraph (f) to read as follows:

§ 73.685 Transmitter location and antenna systems.

* * * * *

(f) Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to true North. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(3) A tabulation of the relative field pattern required in (2), above. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(4) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(5) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 7" x 10") using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10-nth. All vertical plane patterns must be plotted on unglazed letter-size rectangular coordinate paper. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(6) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

* * * * *

2. Section 73.3540 is amended by revising paragraph (c), removing existing subparagraph (d)(1), redesignating existing paragraph (e) as paragraph (f) and adding new paragraph (e) to read as follows:

§ 73.3540 Application for voluntary assignment or transfer of control.

* * * * *

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 314 "Assignment of License" or FCC Form 316 "Short Form" (See paragraph (f) below).

(d) * * *

(e) Application for consent to the assignment of construction permit or license or to the transfer of control of a corporate licensee or permittee for an FM or TV translator station, a low power TV station and any associated auxiliary stations, such as translator microwave relay stations and UHF translator booster stations, only must be filed on FCC Form 345 "Application for Transfer of Control of Corporate Licensee or Permittee, or Assignment of License or Permit for an FM or TV translator Station, or a Low Power TV Station."

3. Section 73.3572 of the FCC Rules is amended by revising subparagraph (a)(1) to read:

§ 73.3572 Processing of TV broadcast, low power TV, translator station applications.

(a) * * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or station location, or any change in the power or antenna location or height above average terrain (or combination thereof) that would result in a change of 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) In the case of low power TV and TV translator stations authorized under Part 74, it is any change in:

(i) Frequency (output channel) assignment;

(ii) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line;

(iii) Antenna height;

(iv) Antenna location exceeding 200 meters;

(v) Authorized operating power; or

(vi) Community or area to be served. However, if the proposed modification of facilities, other than a change in frequency, will not increase the signal range of the station in any horizontal direction, the modification will not be considered a major change. Provided further that the FCC may, within 15 days after the acceptance of any other application for modification of facilities advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

* * * * *

§ 74.632 [Amended]

4. a. The first sentence in paragraph (a) of § 74.632 is revised to read as follows:

"A license for a TV pickup, TV STL, or TV relay station will be issued only to licensees of TV broadcast stations and, on a secondary basis, licensees of low power TV stations."

b. The first sentence in paragraph (e) of § 74.632 is revised to read as follows:

"A license for a TV translator relay station will be issued only to licensees of low power TV and TV translator stations."

5. Section 74.701 is amended by adding new paragraph (h) to read as follows:

§ 74.701 Definitions

* * * * *

(h) *Local origination:* Program origination if the parameters of the program source signal, as it reaches the transmitter site, are under the control of the low power TV station licensee. Transmission of television program signals generated at the transmitter site constitutes local origination. Local origination also includes transmission or programs reaching the transmitter site via television STL stations, but does not include transmission of signals obtained from either terrestrial or satellite common carrier microwave feeds or low power stations.

6. Section 74.703 is amended by revising paragraph (d) to read:

§ 74.703 Interference.

* * * * *

(d) When a low power TV or TV translator station causes interference to a CATV system by radiations within its assigned channel at the cable headend or on the output channel of any system converter located at a receiver, the earlier user, whether cable system or low power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference. When a low power TV or TV translator station causes interference to an MDS of ITFS system by radiations within its assigned channel on the output channel of any system converter located at a receiver, the earlier user, whether MDS system or low power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference.

* * * * *

7. Section 74.705 is amended by revising paragraph (a) to read as follows:

§ 74.705 TV broadcast station protection.

(a) The TV broadcast station protected contour will be its Grade B contour signal level as defined in § 73.683 and calculated from the authorized maximum radiated power (without depression angle correction), the horizontal radiation pattern, height above average terrain in the pertinent direction, and the appropriate chart from § 73.699.

* * * * *

8. Section 74.707 is amended by inserting the following text after paragraph (a)(1)(iii) to preceed paragraph (b):

§ 74.707 Low power TV and TV translator station protection.

(a) * * *

(1) * * *

(iii) * * *

Existing licensees and permittees that did not furnish sufficient data required to calculate the above contours by April 15, 1983 are assigned protected contours having the following radii:

Up to 0.001 kW VHF/UHF—1 mile (1.6 km) from transmitter site

Up to 0.01 kW VHF; up to 0.1 k/W UHF—2 miles (3.2 km) from transmitter site

Up to 0.1 kW VHF; up to 1 kW UHF—4 miles (6.4 km) from transmitter site

New applicants must submit the required information: they cannot rely on this table.

* * * * *

9. Section 74.731 is amended by revising paragraph (f) to read as follows:

§ 74.731 Purpose and permissible service.

* * * * *

(f) A locally generated radio frequency signal similar to that of a TV broadcast station and modulated with visual and aural information may be connected to the input terminals of a television broadcast translator or low power station for the purposes of transmitting still photographs, slides and voice announcements. The radio frequency signals shall be on the same channel as the normally used off-the-air signal being rebroadcast. When transmitting originations concerning financial support or public service announcements, connection of the locally generated signals shall be made automatically either by means of a time switch or upon receipt of a control signal from the TV station being rebroadcast designed to actuate the switching circuit. The switching circuit will be so designed that the input circuit will be returned to the off-the-air signal within 30 seconds. The connection for emergency transmissions may be made manually. The apparatus used to generate the local signal which is used to modulate the translator or low power station must be capable of producing a visual or aural signal or both which will provide acceptable reception on television receivers designed for the transmission standards employed by TV broadcast stations. The visual and aural materials so transmitted shall be limited to emergency warnings of imminent danger, to local public service announcements and to seeking or acknowledging financial support deemed necessary to the continued operation of the station. Accordingly, the originations concerning financial support and PSAs are limited to 30 seconds each, no more than once per hour. Acknowledgements of financial support may include identification of the contributors, the size and nature of the contribution and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

10. Section 74.732 is amended by revising paragraph (d) to read as follows:

§ 74.732 Eligibility and licensing requirements.

* * * * *

(d) The FCC will not act on applications for new low power TV or TV translator stations or for changes in facilities of existing stations when such changes will result in a major change until at least 30 days have elapsed since the date of which "Public Notice" is given by the FCC of acceptance for filing of such application, in order to afford an opportunity for competing applications to be filed.

* * * * *

11. Section 74.734 is amended by revising the introduction of paragraph (a) to read:

§ 74.734 Attended and unattended operation.

(a) In all circumstances other than during local origination (see § 74.701(h)), during which the operator must be in continuous attendance at the transmitter site, at a remote control point or at the program source, low power TV and TV translator stations may be operated without a licensed radio operator in attendance if the following requirements are met:

* * * * *

12. Section 74.735 is amended by revising paragraph (c) to read as follows:

§ 74.735 Power limitations.

* * * * *

(c) No limit is placed upon the effective radiated power that may be obtained by the use of horizontally or vertically polarized directive transmitting antennas, providing the provisions of §§ 74.705, 74.707 and 74.709 are met. Applications proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. It is *not* acceptable to label the antenna with only a generic term such as "Yagi" or "Dipole". A specific model number must be provided. In the case of individually designed antennas with no model number, or in the case of a composite antenna composed of two or more individual antennas, the antenna should be described as a "custom" or "composite" antenna, as appropriate. A full description of the design of the antenna should also be submitted.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0° corresponds to the maximum radiation of the directional antenna or, alternatively in the case of a symmetrical pattern, to the line of symmetry. The 0° on the plot should be referenced to the actual azimuth with respect to true North.

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(3) A tabulation of the relative field pattern required in (2), above. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10°. In addition, tabulated values of all maximas and minimas, with their corresponding azimuths, should be submitted.

(4) Horizontal plane radiation pattern showing the effective radiated power, in dBk, for each direction.

(5) All horizontal plane patterns must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 7" x 10") using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10-nth. Values of field strength on any pattern less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale.

(6) The horizontal plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna composed of two or more individual antennas, not the patterns for each of the individual antennas, must be submitted.

* * * * *

13. Section 74.766 is amended by revising paragraph (e) to read as follows:

§ 74.766 Low power TV and TV translator operator requirements.

* * * * *

(e) An operator holding any class of FCC operator license or permit, except the Marine Operator Permit, must be on duty in charge of the transmitting apparatus of a low power TV station during all period of local origination as defined in § 74.701(g).

14. Section 74.780 is revised to read as follows:

§ 74.780 Broadcast regulations applicable to translators and low power stations.

The following rules are applicable to TV translator stations and low power TV stations:

Section 73.653—Operation of TV aural and visual transmitters.
Section 73.658—Affiliation agreements and network program practices; territorial exclusivity in nonnetwork program arrangements.
Part 73, Subpart G—Emergency Broadcast System
Section 73.1201—Station identification.
Section 73.1205—Fraudulent billing practices.
Section 73.1206—Broadcast of telephone conversations.
Section 73.1207—Rebroadcasts.
Section 73.1208—Broadcast of taped, filmed or recorded material.
Section 73.1211—Broadcast of lottery information.
Section 73.1212—Sponsorship identification; list retention; related requirements.
Section 73.1216—Licensee conducted contests.
Section 73.1510—Experimental authorizations.
Section 73.1515—Special field test authorizations.
Section 73.1615—Operation during modifications of facilities.
Section 73.1635—Special temporary authorizations (STA).
Section 73.1650—International broadcasting agreements.
Section 73.1680—Emergency antennas.
Section 73.1940—Broadcasts by candidates for public office.
Section 73.2080—Equal employment opportunities (for low power television stations only).
Section 73.3511—Applications required.
Section 73.3512—Where to file; number of copies.
Section 73.3513—Signing of applications.
Section 73.3514—Content of applications.
Section 73.3517—Contingent applications.
Section 73.3518—Inconsistent or conflicting applications.
Section 73.3519—Repetitious applications.
Section 73.3525(a), (b), (d), (f), (g), (h) and (i)—Agreements for removing applications conflicts.
Section 73.3538(a)(1)(3)(4), (b)(2)—Applications to make changes in existing station.
Section 73.3541—Application for involuntary assignment or transfer of control.
Section 73.3542—Application for temporary authorization.
Section 73.3544—Application to obtain a modified station license.
Section 73.3545—Application for permit to deliver programs to foreign stations.
Section 73.3561—Staff consideration of applications requiring Commission action.
Section 73.3562—Staff consideration of applications not requiring action by the Commission.
Section 73.3568—Dismissal of applications.
Section 73.3572—Application processing.
Section 73.3587—Informal objections.
Section 73.3593—Designation for hearing.
Section 73.3599—Forfeiture of construction permit.
Section 73.3601—Simultaneous modification and renewal of license.
Section 73.3603—Special waiver procedure applicable to applications.
Section 73.3612—Annual employment report (for low power television stations only).

Appendix C

United States of America, Federal Communications Commission, Washington, D.C. 20554

Application for Renewal of License for Translator or Low Power Television Broadcast Station

1. Name of applicant

Street Address

Call Letters
City
State
Zip Code

2. This application is for: —— FM Translator —— TV Translator —— LPTV—

3. Have the Annual Employment Reports (FCC Form 395) of the LPTV applicant been filed with the Commission as required by Section 73.3612 of the rules?
—— Yes —— No
If No, attach as Exhibit No. and explanation.

4. Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?
—— Yes —— No
If No, attach as Exhibit No. and explanation.

5. Since the filing of the applicant's last renewal application for this station or other major application, has an adverse finding been made, a consent decree been entered or final action been approved by any court or administrative body with respect to the applicant or parties to the application concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony; lotteries; unlawful restraints or monopolies; unlawful combinations; contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination?
—— Yes —— No
If Yes, attach as Exhibit No. —— a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition of litigation.

6. If the applicant is rebroadcasting the signals of another TV or FM station,
(a) Identify the station being broadcast by:
—— Call Sign —— Channel No. —— Location
(b) Has the required retransmission consent been obtained?
—— Yes —— No
If No, attach as Exhibit No. an explanation.

The Applicant hereby waives any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The Applicant acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this —— day of ——— 19—

Name of Applicant
By Signature
Title

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT, U.S. CODE, TITLE 18, SECTION 1001

Question-by-Question Guidelines (FCC Form 348)

1. The name of the applicant should be stated exactly as it appears on the station's existing license. The current street address or post office box used by the applicant for receipt of Commission correspondence should be set forth.

2. The applicant should specifically indicate the nature of the station for which renewal is requested. See Rules 74.1201(a), 74.701(a), and 74.701(f) for the definitions of a FM translator, TV translator, and LPTV broadcast station, respectively.

3. Every LPTV station with five or more full-time employees must file an employment report on or before May 31 of each year.

4. Aliens, foreign governments and corporations, and corporations of which any officer or director is an alien or of which less than 80% of the capital stock is owned or voted by U.S. citizens, are prohibited from holding a broadcast station license. Where a corporate licensee is directly or indirectly controlled by another corporation, of which any officer or more than 25% of the directors are aliens or of which less than 75% of that corporation's stock is owned or voted by U.S. citizens, the Commission must consider whether denial or renewal would serve the public interest. Licensees are expected to employ reasonable, good faith methods to ensure the accuracy and completeness of their citizenship representations.

5. This question is limited to adverse actions and judgments adjudicated or entered into within the preceding license term. Reportable activities consist of judgments or decrees, including settlement, consent, and like agreements, where the misconduct occurred either in the operation of the station for which renewal is requested or in the conduct of the other broadcast and non-broadcast activities of the renewal applicant and parties to that application, such as all partners and all corporate officers, directors, and stockholders with a 10% or more ownership interest in the applicant.

6. Section 325(a) of the Communications Act of 1934, as amended, prohibits any broadcast station from rebroadcasting the program (or any part thereof) of another broadcasting station without the express authority of the originating station.

****FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT****

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUB. L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3).

Appendix D

Federal Communications Commission,
Washington, D.C. 20554

Instructions for FCC Form 345

Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station

(FCC Form 345 Attached)

Instructions and Information

1. This form is to be used to apply for a transfer of control of a corporate licensee or permittee, or assignment of license or permit, for an FM or TV translator station, or a low power television station. It should also be used for any associated auxiliary stations, such as translator microwave relay stations (see § 74.602) and UHF translator booster stations (see § 74.733). DO NOT USE THIS FORM if a commonly owned or controlled primary station is filing an application for transfer of control or an assignment of a permit or license. In that case, the application of the licensee or permittee of the primary station will include all translator/auxiliary authorizations when filing its application on FCC Form 314, 315 or 316, whichever is applicable.

2. Prepare and file three copies of the attached form with the Federal Communications Commission, Washington, D.C. 20554.

3. Number any exhibits serially in the spaces provided in the body of the form. Each exhibit must be dated and clearly indicate whether it was prepared by the assignor/transferor (seller) or the assignee/transferee (buyer).

4. Information requested in the attached form already on file with the Commission need not be refiled in this application, provided (1) the information was submitted by or on behalf of the parties to this application; (2) the information is identified fully by reference to the file number (if any), the FCC form number, and the filing date of the application or other form, along with the page or paragraph referred to; and (3) the party states, "No change since date of filing." The material so identified will be considered incorporated in the attached application. The incorporated application or other form will thereafter be open to public inspection in its entirety.

5. The name of the assignor/transferor must be stated exactly as it appears on the authorization to be transferred or assigned.

6. For a corporation or government entity, the name of the assignee/transferee must be set out as the full, official name; for a partnership, the names of all partners and the name under which the partnership does business; for an unincorporated association, the name of the association, the name of an executive officer and the office held.

7. BOTH PARTIES TO THE TRANSACTION MUST SIGN THE APPLICATION in the spaces provided. Depending on the nature of the applicant, the application should be signed as indicated: for a sole proprietor, personally; for a partnership, by a general partner; for a corporation, by an officer; for an unincorporated association, by a member who is an officer; for a government entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in case of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowleige, counsel shall separately set forth the reasons for believing that such statements are true.

8. Before filling out this application, the assignee/transferee should familiarize itself with the Communications Act of 1934, and with Parts 1 and 74 of the Commission's Rules.

9. Parties to the application. *If the applicant is an individual,* that person is a party to this application. *If the applicant is a partnership,* each general and limited partner (including "silent" partners) having an interest of one percent or more in profits is a party to the application. *If the applicant is a corporation,* all officers and directors, and all persons or entities who are the beneficial or record owners or have the right to vote any capital stock, membership or ownership interests of one percent or more, or subscribers to such interests, shall be considered parties to this application. If any corporation or other legal entity owns stock in the applicant, its officers, directors and persons or entities who are the beneficial or record owners or have the right to vote capital stock, membership or ownership interests of one percent or more, or subscribers to such interest, of that entity shall also be considered parties to this application. *For any other applicant,* all executive officers, members of the governing board and owners or subscribers to membership or ownership interests of one percent or more in the applicant.

10. United States Citizenship. Section 310 of the Communications Act requires that United States citizens must control broadcast stations, including FM and TV translator

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stations, and low power television stations. Specifically, the FCC cannot assign or transfer a license or construction permit to an alien or the representative of an alien, to a foreign government or a representative of a foreign government, or to a corporation organized under the laws of a foreign government. Similarly, the FCC cannot transfer a license or construction permit to a corporate applicant that has any alien officers or directors, or that has more than 20 percent of its capital stock owned or voted by aliens or their representatives, foreign governments or their representatives, or by a corporation organized under the laws of a foreign country. Finally, if the corporate applicant is directly or indirectly controlled by another corporation, the FCC cannot grant a transfer or assignment application if the other corporation has any officer who is an alien, or more than 25 percent of the directors are aliens, or more than 25 percent of its stock is owned or voted by aliens or their representatives, foreign governments or their representatives, or a corporation organized under the laws of a foreign country. The applicant must determine the citizenship of each officer and director. It must also determine the citizenship of each person who owns or votes shares. For large corporations, a sample survey using a recognized statistical method is acceptable for determining the citizenship of those who own or vote shares.

11. Applicants seeking to acquire a low power television station, whether by assignment of license or permit, or by transfer of control, are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, an applicant that proposes to employ five or more full-time station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives and Hispanics.) This is submitted to the Commission as the Model EEO Program Form. If minority group representation in the available labor force is less that five percent in the aggregate, a program for minority group members is not required. A program must be filed, however, for women because they comprise a significant percentage of virtually all labor forces. If an applicant proposes to employ less than five full-time employees, no EEO program for women or minorities need be filed. Guidelines for developing an Equal Employment Opportunity program are set forth as a separate Model EEO Program.

12. Public Notice Requirement:

(1) Section 73.3580 of the Commission's Rules requires that applicants for assignment or transfer of a construction permit or license give local notice in a newspaper of general circulation in the community in which the station is located. Local notice is also required to be broadcast over the station, if it is capable of originating such an announcement. However, if the station is the only operating station in its broadcast service which is located in the community involved, publication of the notice in a newspaper is not required, if the announcement can be broadcast. This public notice requirement also applies with respect to major amendments, as defined in Section 73.3578(b) of the Rules.

(2) Completion of publication may occur within 30 days before or after tendering of the application. Compliance or intent to comply with the public notice requirements must be *certified* in this application. The information that must be contained in the notice of filing is described in Paragraph (g) of Section 73.3580 of the Rules. Proof of publication need not be filed with this application.

13. Be sure all necessary information is furnished and all paragraphs are fully answered. If any portions of the application are not applicable, state so specifically. Defective or Incomplete Applications May Be Returned Without Consideration.

14. Do not file this information and instruction sheet with the application.

FCC Notice to Individuals Required by the Privacy Act

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose(s) for which the information will be used is to determine if the benefit requested is consistent with the public interest.

The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing.

If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

The Foregoing Notice is Required by the Privacy Act of 1974, Pub. L. 93–579, December 31, 1974, 5 U.S.C. 552a(e)(3).

United States of America, Federal Communications Commission, Washington, D.C. 20554

Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment or License or Permit, for an FM or TV Translator Station, or a Low Power Television Station

(Carefully read the instructions before filling out the form. Do not file the instructions)

Section I–Assignor/Transferor

1. Application for:

A. ☐ Consent to assignment or ☐ Consent to transfer of control

B. For a ☐ television translator, ☐ FM translator, or ☐ a low power television station.

2. Name of Assignor/Transferor:

Street Address ——————
City ——————
State ——————
Zip Code ——————
Telephone No. ——————
(include area code)

3. Authorization which is proposed to be assigned or transferred

(a) Call letters

(b) Location

4. Note.—Where licensee or permits have been granted to entities claiming preferences in the lottery selection process, the license or permit must ordinarily be held for a period of at least one year from the beginning of program tests. Is the assignor or transferor in compliance with this requirement? Yes—— No——. If no, submit as Exhibit —— an appropriate showing. See section 73.3597 of the Commission's Rules.

5. Call letters of any auxiliary stations which are to be assigned:

6. Attach as Exhibit No. —— a copy of the contract or agreement to assign the property and facilities of the station. If there is only an oral agreement, reduce the terms to writing and attach. The material submitted must include the complete agreement between the parties.

7. State in Exhibit No. —— whether the assignor, or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of the assignor's stock has had any interest in or connection with any dismissed and/or denied application; or any FCC license that has been revoked.

The Exhibit should include the following information: (i) name of party with such interest; (ii) nature of interest or connection, giving dates; (iii) call letters or file number of applications; or docket number; (iv) location.

8. Since the filing of the assignor's/transferor's last renewal application for the authorization being assigned or transferred, or other major application, has an adverse finding been made, a consent decree been entered or adverse final action been approved by any court or administrative body with respect to the assignor/transferor or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of assignor's/transferor's stock, concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony; lotteries; unlawful restraints or monoplies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices: or discrimination? —— Yes —— No

If Yes attach as Exhibit No. —— a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition or current status of the matter.

Section II—Assignee/Transferee

1. Name of Assignee/Transferee
Street Address ——————
(or other identification)
City ——————
State ——————
Zip Code ——————
Telephone No. ——————
(include area code)

2. Assignee/Transferee is:

. —— an individual; —— a general partnership; —— a limited partnership; —— a corporation; —— other.

3. If the applicant is an unincorporated association or a legal entity other than an individual, partnership or corporation, describe in Exhibit No.—— the nature of the applicant.

4. (a) Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments? —— Yes —— No

(b) Will any funds, credit, or other consideration for construction, purchase or operation of the station be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents? —— Yes —— No

If Yes, provide particulars as Exhibit No. ——.

5. (a) Has an adverse finding been made, adverse final action taken or consent decree approved by any court or administrative body as to the applicant or any party to the application in any civil or criminal proceeding brought under the provisions of any law related to the following: any felony; lotteries; unlawful restraints or monopolies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination? (See instruction 9 for the definition of a "party" to this application.) —— Yes —— No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in 5.(a)? —— Yes —— No

If the answer to (a) or (b) above is YES, attach as Exhibit No. —— a full disclosure concerning the persons and matters involved, identifying the court or administrative body and the proceeding (by dates and file numbers), stating the facts upon which the proceeding was based or the nature of the offense committed, and disposition or current status of the matter.

6. The applicant certifies that sufficient net liquid assets are on hand or available from committed sources to consummate the transaction and operate the facilities for three months. —— Yes —— No

7. The applicant certifies that: (a) it has a reasonable assurance of present commitments from each donor, from each party agreeing to furnish capital, from each bank, financial institution or others agreeing to lend funds, and from each equipment supplier agreeing to extend credit; (b) it has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions and equipment suppliers) have sufficient net liquid assets to meet these commitments; and (c) it can and will meet all contractual requirements as to collateral, guarantees, and capital investment or donations: —— Yes —— No

For Low Power Television Applicants Only.

8. Low power television stations must offer a broadcast program service: a nonprogram service is not permitted. Therefore, submit as Exhibit No. —— a brief description, in narrative form, of the proposed program service.

9. Does the low power television applicant propose to employ five or more fulltime employees? —— Yes —— No

If the answer is YES, the applicant must include an EEO program called for in the separate Five Point Model EEO Program.

Assignee's/Transferee's Certification

The Assignee/Transferee hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The Assignee/Transferee acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The Assignee/Transferee represents that this application is not filed by it for the purpose of impeding, obstructing or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the Assignee/Transferee has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

Willful False Statements Made on This Form Are Punishable by Fine and Imprisonment

U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignee's/transferee's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this day of , 19
Name of Assignee/Transferee ——————
Signature ——————
Title ——————

Assignor's/Transferor's Certification

1. Has or will the assignor/transferor comply with the public notice requirement of Section 73.3580 of the Rules? ——Yes ——No

The Assignor/Transferor acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The Assignor/Transferor represents that this application is not filed by it for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the Assignor/Transferor has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

Willful False Statements Made on This Form Are Punishable by Fine and Imprisonment

U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignor's/transferor's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this day of , 19
Name of Assignor/Transferor ——————
Signature ——————
Title ——————

United States of America, Federal Communication Commission; Washington, D.C. 20554

Model EEO Program

1. Name of Applicant ——————
Street Address ——————
City ——————
State ——————
Zip Code ——————
Telephone No. ——————
(Include Area Code)

2. This form is being submitted in conjunction with:

☐ Application for Construction Permit for New Station
☐ Application for Assignment of License
☐ Application for Transfer of Control

(a) Call letters (or channel number or frequency)

——————

(b) Community of License
City ——————
State ——————

(☐) Service: AM ☐ FM ☐ TV ☐ Other (Specify) ☐

Instructions

Applicants seeking authority to construct a new low power television broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, and applicant who proposes to employ five or more fulltime station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asians or Pacific Islanders, American Indians or Alaskan Natives and Hispanics.) This is submitted to the Commission as the Model EEO Program. If minority group representation in the available labor force is less than five percent *(in the aggregate)*, a program for minority group members is not required. In such cases, a statement so indicating must be set forth in the EEO model program. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ less than five fulltime employees, no EEO program for women or minorities need be filed.

Guidelines for a Model EEO Program and a Model EEO Program are attached.

Note.—Check appropriate box, sign the certification below and retun to FCC.

☐ Station will employ less than 5 fulltime employees; therefore no written program is being submitted.

☐ Station will employ 5 or more fulltime employees. Our 5 point program is attached.

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Certification

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this ——— day of ———, 19—.

Signature ———

Title ———

Willful false statements made on this form are punishable by fine and imprisonment, U.S. Code, Title 18, Section 1001.

FCC Notice to Individuals Required by the Privacy Act

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information.

The foregoing notice is required by the Privacy Act of 1974, Pub. L. 93–579, December 31, 1974, 5 U.S.C. 552a(e)(3).

Guidelines to the Model EEO Program

The model EEO program adopted by the Commission for construction permit applicants, assignees and transferees contains five sections designed to assist the applicant in establishing an effective EEO program or its station. The specific elements which should be addressed are as follows:

I. General Policy

The first section of the program should contain a statement by the applicant that it will afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of minorities and women in the relevant available labor force.

II. Responsibility for Implementation

This section calls for the name (if known) and title of the official who will be designated by the applicant to have responsibility for implementing the station's program.

III. Policy Dissemination

The purpose of this section is to disclose the manner in which the station's EEO policy will be communicated to employees and prospective employees. The applicant's program should indicate whether it: (a) intends to utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate governmental agencies; (b) will post a notice which informs job applicants and employees that the applicant is an equal opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and (c) will seek the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it proposes to utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

IV. Recruitment

The applicant should specify the recruitment sources and other techniques it proposes to use to attract minority and female job applicants. Not all of the categories of recruitment sources need be utilized. The purpose of the listing is to assist the applicant in developing specialized referral sources to establish a pool of minorities and women who can be contacted as job opportunities occur. Sources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.

V. Training

Training programs are not mandatory. Each applicant is expected to decide, depending upon its own individual situation, whether a training program is feasible and would assist it in its effort to increase the pool of available minority and female applicants. Additionally, the applicant may set forth any other assistance it proposes to give to students, schools or colleges which is designed to be of benefit to minorities and women interested in entering the broadcasting field. The beneficiary of such assistance should be listed, as well as the form of assistance, such as contributions to scholarships, participation in work study programs, and the like.

Model Equal Employment Opportunity Program

I. General Policy

It will be our policy to provide equal employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It will also be our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have adopted an Equal Employment Opportunity Program which includes the following elements:

II. Responsibility for Implementation

(Name/Title) ———, will be responsible for the administration and implementation of our Equal Employment Opportunity Program. It will also be the responsibility of all persons making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III. Policy Dissemination

To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts will be made:

( ) The station's employment application form will contain a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, State or Federal agency if they believe they have been the victims of discrimination.

( ) Appropriate notices will be posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, State, or Federal agency if they believe they have been the victims of discrimination.

( ) We will seek the cooperation of unions, if represented at the station, to help implement our EEO program and all union contracts will contain a nondiscrimination clause.

( ) Other (specify)

IV. Recruitment

To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration in filling job vacancies, we propose to utilize the following recruitment procedures:

( ) We will attempt to maintain systematic communication, both orally and in writing, with a variety of minority and women's organizations to encourage the referral of qualified minority and female applicants. Examples of organizations we intend to contact are:

———

———

( ) In addition to the organizations noted above, which specialize in minority and female candidates, we will deal only with employment services, including State employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services are:

———

———

( ) When we recruit prospective employees from educational institutions such recruitment efforts will include area schools and colleges with significant minority and female enrollments. Educational institutions to be contacted for recruitment purposes are:

———

———

( ) When utilizing media for recruitment purposes, help-wanted advertisements will always include a notice that we are an Equal Opportunity Employer and will contain no indication, either explicit or implied, of a preference for one sex over another.

( ) When we place employment advertisements in printed media some of such advertisements will be placed in media which have significant circulation or are of particular interest to minorities and women. Examples of publications to be utilized are:

———

———

( ) We will encourage employees, particularly minority and female employees, to refer minority and female candidates for existing and future job openings.

V. Training

( ) Station resources and/or needs will be such that we will be unable or do not choose to institute specific programs for upgrading the skills of employees.

( ) We will provide on-the-job training to upgrade the skills of employees.

( ) We will provide assistance to students, schools or colleges in programs designed to enable minorities and women to compete in the broadcast employment market on an equitable basis:

School or Other Beneficiary

———

Proposed Form of Assistance

———

( ) Other (Specify)

———

[FR Doc. 83–12711 Filed 5–11–83; 8:45 am]

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May 12, 1983

Part V

Department of Transportation

Research and Special Programs Administration

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket Nos. IRA-20 through IRA-27]

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau (MTB), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Nuclear Assurance Corporation (NAC), as an agent of Atomic Energy of Canada, Ltd., arranges for the transportation of spent nuclear fuel from Chalk River, Ontario, to a United States Department of Energy facility at Savannah River, South Carolina. In doing so, NAC is subject to radioactive materials transportation safety regulations issued by the Federal government as well as by the States of Michigan, New York and Vermont and certain political subdivisions thereof. NAC has petitioned DOT for administrative rulings as to whether certain of these non-Federal requirements are inconsistent with, and thus preempted by, the Hazardous Materials Transportation Act (HMTA) and the regulations issued thereunder. Since the Department is on notice of additional transportation requirements affecting radioactive materials routing options, the decision has been made in accordance with 49 CFR 107.209(b) to subject these to the same analysis as those for which NAC submitted inconsistency ruling applications.

DATES: Comments received on or before July 8, 1983, will be considered before an inconsistency ruling is issued.

ADDRESSES: The applications and any comments received may be reviewed in the Dockets Branch, Materials Transportation Bureau, Room 8426, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments on any of the docketed items described in this Notice may be submitted to the Dockets Branch at the above address. The correct Docket Number (IRA–) must be indicated in your submission. A signed original and three copies of each submission are required. A copy of each comment must also be sent in accordance with the following:

Comments Re:	Send copy to:
All dockets	Mr. Larry Danese Manager, Cask Operations Nuclear Assurance Corporation 5720 Peachtree Parkway Norcross, GA 30092
IRA-20	Mr. Donald A. DeVito Director, Office of Disaster Preparedness New York State Division of Military and Naval Affairs Public Safety Building New York State Campus Albany, NY 12226
IRA-21	Col. Gerald L. Hough, Director Department of State Police 714 S. Harrison Road East Lansing, MI 48823 and Dr. Gloria R. Smith, Director Michigan Department of Public Health 3500 North Logan Street Lansing, MI 48909
IRA-22	Mr. Dean Pineles Office of the Governor Pavilion Office Building Montpelier, VT 05602
IRA-23	Mr. Joseph E. Pauquette Director of Operations New York State Thruway Authority 200 Southern Boulevard Albany, NY 12201
IRA-24	Mr. James P. McGuinness Executive Director Ogdensburg Bridge and Port Authority Ogdensburg, NY 13669
IRA-25	Mr. Augustus Maracher, Chairman St. Lawrence County Board of Legislators Court Street Canton, NY 13617
IRA-26	Mr. Russell Wilcox Executive Director Thousand Islands Bridge Authority P.O. Box 428 Collins Landing, Alexandria Bay, NY 13607
IRA-27	Mr. Edward E. Cobb Chairman, Planning Committee The County of Jefferson 175 Arsenal Street Watertown, NY 13601

The fact of submission of copies to the appropriate parties is to be certified at the time the comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment regarding Docket No. have been sent to Mr. Larry Danese and at the addresses noted in the **Federal Register** publication.")

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street SW., Washington, D.C. 20590, (Tel: 202/755–4972)

SUPPLEMENTARY INFORMATION:

1. Preemption Under the HMTA

The HMTA (49 U.S.C. 1801–1812) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or in a regulation issued under (the HMTA)." However, section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent requirement of a State or political subdivision thereof ceases to be preempted if, upon the application of an appropriate State agency, the Secretary of Transportation determines that such requirement (1) provides an equal or greater level of protection to the public than the HMTA or regulations issued thereunder and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201–107.225. These regulations provide for the issuance of inconsistency rulings and non-preemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a requirement of a State or political subdivision thereof and a requirement of the HMTA or regulations issued under the HMTA. The determination of whether a State of political subdivision requirement is inconsistent is based on consideration of the factors set forth at 49 CFR 107.209(c):

(1) Whether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the State or political subdivision requirement is an obstacle to the accomplishement and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with a Federal requirement, the State or locality may seek a non-preemption determination, i.e., waiver of preemption pursuant to section 112(b) of the HMTA (49 U.S.C. 1811(b)).

2. Federal Routing Regulations

On January 19, 1981, the Department issued a final rule entitled, "Radioactive Materials; Routing and Driver Training Requirements," commonly known by its docket number, "HM–164." In relevant part, the rule provided that highway carriers of large quantity radioactive materials (including spent nuclear fuel) are required to use "preferred routes," which are defined as Interstate System highways or alternative highway routes designated by the States that provide an equal or greater level of safety as compared with the Interstate System (49 CFR 177.825(b)).

The rulemaking had been initiated largely in response to a proliferation of State and local restrictions on the transportation of radioactive materials. The final rule was based on the Department's general conclusions that "the public risks in transporting these materials by highway are too low to justify the unilateral imposition by local governments of bans and other severe restrictions on the highway mode of transportation"; and "public safety can

be improved through a nationally uniform rule that ensures the use of available highway routes that are known to be safe for large quantity radioactive materials."

As described above, under the preemptive scheme of the HMTA, State and local requirements that are inconsistent with the HMTA and the regulations issued under it, are preempted. In order to assist the public in interpreting and applying this preemptive scheme in the context of HM–164, the final rule included an appendix to 49 CFR Part 177 setting forth the Department's views regarding the preemptive effects of the rule (46 FR 5317). This appendix provides that the Department generally regards State and local requirements to be inconsistent if they:

- prohibit the highway transport of large quantity radioactive materials without providing for an alternative highway route for the duration of the prohibition;
- require additional or special personnel, equipmernt, or escort;
- require additional or different shipping paper entries, placards, or other hazard warning devices;
- require filing route plans or other documents containing informaiton that is specific to individual shipments;
- require prenotification;
- require acident or incident reporting other than as immediately necessary for emergency assistance; or
- unnecessarily delay transportation.

3. Background

Nuclear Assurance Corporation (NAC), as an agent of Atomic Energy of Canada, Ltd. (AECL), arranges for the transportation of spent nuclear fuel from Chalk River, Ontario, to a U.S. Department of Energy (DOE) facility at Savannah River, South Carolina. AECL has a contract with DOE for reprocessing nuclear fuel which is part of an overall agreement between the United States and Canada for the assured supply of enriched uranium for the Canadian research reactors. In the process of arranging for the transportation of spent fuel, NAC has encountered a variety of State and local transportation regulations which have impacted its routing options. NAC's description of these regulations and their impacts is as follows.

Until 1979, the spent fuel was shipped to the DOE reprocessing facility by truck entering the U.S. by way of the Ogdensburg (NY) Bridge across the St. Lawrence River. In 1980, the Ogdensburg Bridge and Port Authority adopted rules and regulations which banned shipments of radioactive materials. Concurrently, St. Lawrence County, at the foot of the bridge, enacted a ban on commercial spent fuel shipments. The bridge authority has since amended its rules to incorporate the provisions of the St. Lawrence County law.

Subsequently, in 1981 and 1982, NAC requested and received Nuclear Regulatory Commission (NRC) approval for five routes entering the U.S. in Michigan, New York and Vermont. After the Michigan route was approved, rules governing the transportation of radioactive materials were adopted by both the Michigan Fire Safety Board and Department of Health. NAC alleges that the rules established packaging, planning, information and equipment requirments more stringent than those required by Federal agencies for spent fuel shipments. Moreover, NAC asserts that the net effect of the Michigan requirements was to prevent spent fuel shipments from entering Michigan by way of the approved routes.

As a result of the Michigan requirements, a ban by the New York Thruway Authority, and a permit requirement based on substantial insurance coverage imposed by the Thousand Islands Bridge Authority and incorporated in a Jefferson County (NY) Resolution on regulating the transport of radioactive materials, NAC turned to the use of a land crossing in Vermont. This route was used without incident for eight of eleven planned shipments. However, when confidential information regarding transport schedules was released, the Governor of Vermont called upon NAC to interrupt the series of shipments in order to preclude possible civil action. Shortly thereafter, NAC was notified by the Governor that Vermont did not intend to permit further through shipments of spent fuel until such time as the responsible Federal agencies established and enforced a uniform national policy regarding such shipments.

Following the prohibition in Vermont, NAC established a sixth route through New York. This route was intended to accomplish the remaining three shipments in the series. Prior to NAC's use of this route, however, the Governor of New York directed his representative to send a notice advising NAC to suspend spent fuel shipments through New York "pending development of a policy applied uniformly, nationwide, covering transportation of radioactive materials."

Docket No. IRA–20 (New York State)

1. Facts

By letter dated October 8, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether an order issued by the State of New York is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) and the regulations issued thereunder. The complete text of the order is as follows:

October 7, 1982
Nuclear Assurance Corporation
24 Executive Park West
Atlanta, Georgia 30329

You are hereby advised to suspend proposed shipments of spent fuel rods through New York State from Chalk River, Canada via two non-interstate routes in the urban areas of Albany-Schenectady-Troy and Binghamton pending development of a policy applied uniformly, nationwide, covering transportation of radioactive materials.

[Signed]
Donald A. DeVito
Governor's Designated Representative

NAC contends that the requirements imposed by the order are inconsistent with the intent and the language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to certain sections of the HMR which deal with highway routing of radioactive materials. In support of the proposed use of non-interstate routes, NAC cites 49 CFR 177.825(a) (which states that the requirement for operating on routes that minimize radiological risk does not apply when there is only one practicable highway route available) and 49 CFR 177.825(b) (which allows a motor vehicle to deviate from a preferred route to pick up, deliver or transfer a large quantity package of radioactive materials). As further argument that the New York order is inconsistent, NAC cites Appendix A to 49 CFR Part 177 (which states that a State routing rule is inconsistent with Part 177 if it prohibits transportation of large quantity radioactive materials by highway between two points without providing an alternate route for the duration of the prohibition).

Pursuant to 49 CFR 107.205(a), the Governor's Designated Representative submitted comments on behalf of the State of New York regarding the application for an inconsistency ruling. The State contends that its order is fully consistent with the HMTA and the regulations issued thereunder. In support of this contention, the State cites 49 CFR 177.285(b)(1) (which requires a motor vehicle carrying a large quantity package of radioactive materials to operate over a "preferred route", i.e., an Interstate System highway or a State-designated alternate

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route). Pointing out that there are no State-designated alternate routes selected by New York, the State contends that the "preferred route" in New York is the Interstate System of highways. Moreover, the State contends that NAC's proposed use of non-interstate routes does not constitute an allowable deviation under any of the conditions set forth under 49 CFR 177.285(b). Finally, the State contends that there is a route available to NAC which is entirely interstate and is, thus, a "preferred route" under the terms of the HMR. That route involves transport through Vermont and across New York on Interstate Route 84. The State concluded its comments on the application by asserting that NAC is not relieved of the regulatory requirement of using preferred routes in New York merely because the actions of another State have created difficulties in the use of preferred routes.

2. Public Comment

Comments should be restricted to the following issue: Whether the letter sent to NAC on October 7, 1982, constitutes a State requirement which is inconsistent with the HMTA and the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the order on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–20) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16952, 44 FR 75566 (Appeals at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Commenters are reminded to indicate Docket No. IRA–20 on their submissions and to comply with the distribution and certification requirements described in the section entitled **ADDRESSES** supra.

Docket No. IRA–21 (Michigan)

1. Facts

By letter dated October 13, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether the State of Michigan Radioactive Materials Transportation Rules (Sections R29.551–29.560 of the State Fire Safety Board (SFSB) Rules and Sections R325.5801–325.5810 Michigan Department of Public Health (DPH) Rules) are inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder.

Pursuant to 49 CFR 107.205(a), the State of Michigan submitted comments regarding the application for an inconsistency ruling. The State asserted, inter alia, that the application was invalid with regard to the DPH rules, since the rules referenced by NAC were only draft rules. The State provided copies of the DPH rules which had become effective on July 14, 1982, and the Department determined that there were insufficient differences between the draft and final rules to void NAC's application. Accordingly, the effective SFSB and DPH rules are appended to this notice as Appendices A and B respectively.

NAC contends that the SFSB and DPH rules are inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to 49 CFR Parts 173 and 177. NAC contends that the State rules are inconsistent because they require, among other things: prenotification; the filing of route plans, contingency plans and other documents; the use of additional special communications equipment; and the performance of packaging tests in addition to those required by the Nuclear Regulatory Commission and the Department of Transportation. The requirements for plan and document filing, it is contended, are in addition to those prescribed in the HMR.

In its comments on the application, the State contends that the rules are reasonable and necessary to ensure compliance with Federal and State safety regulations and to ensure adequate and timely emergency response. With regard to its requirements for the filing of emergency plans and the performance of packaging tests, Michigan contends that its "major bridges" pose a unique local safety problem which justifies the more stringent State requirements.

2. Public Comment

Comments should be restricted to the following issue: Whether the State of Michigan Radioactive Materials Transportation Rules are inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the Michigan rules on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–21) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeals at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211); and the SFSB and DPH rules which are provided as Appendices A and B to this notice.

Commenters are reminded to indicate Docket No. IRA–21 on their submissions and to comply with the distribution and certification requirements described in the section entitled **ADDRESSES** supra.

Docket No. IRA–22 (Vermont)

1. Facts

By letter dated October 14, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether an order issued by the Governor of Vermont is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder. The complete text of the order is as follows:

October 8, 1982.
Nuclear Assurance Corporation,
24 Executive Park West,
Atlanta, Georgia 30329

This is to advise you that the State of Vermont does not intend to permit any further shipments of spent fuel through Vermont until such time as the responsible federal agencies establish and enforce a uniform national policy regarding such shipments. Vermont will not be placed at a disadvantage because of actions in other states which ban or have the effect of banning shipments in violation of applicable federal law. More specifically, Vermont may not be used as a route until the federal Department of Transportation and the Nuclear Regulatory Commission fulfill their legal responsibilities with respect to any statutes, regulations or ordinances in the states of Michigan and New York that are inconsistent with preemptive federal law and have the effect of forcing shipments through this state.

Since you stopped shipments through Vermont on September 3, 1982, Vermont Secretary of Transportation Tom Evslin has written Drew Lewis, Secretary of the U.S. Department of Transportation, expressing our strong concerns regarding the unfair impact on Vermont resulting from the actions of these other states. We are confident now that Mr. Lewis and other responsible federal officials understand the serious nature of the issue and plan to take necessary action to remedy the inequities that now exist.

I must advise you that if you were to plan shipments through Vermont in the meantime, I would seek all legal remedies available to me to stop the shipments, including an immediate injunction.

I hope I have clearly stated my position on this matter. If you should have any questions, I would expect to hear from you immediately.

Sincerely,
[Signed]
Richard A. Snelling,
Governor

NAC contends that the requirements imposed by the order are inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to certain sections of the HMR which deal with highway routing of radioactive materials. In support of its proposed use of Interstate Route 91, NAC cites 49 CFR 177.825(b) which requires a motor vehicle containing a package of large quantity radioactive material to operate over "preferred routes" (i.e. an Interstate System highway or a State-designated alternate route). As further support of its contention that the Vermont order is inconsistent, NAC cites Appendix A to 49 CFR Part 177 which articulates the DOT policy that a State routing rule is inconsistent with Part 177 if it prohibits transportation of large quantity packages of radioactive material by highway between two points without providing an alternate route for the duration of the prohibition.

Pursuant to 49 CFR 107.205(a), the State of Vermont submitted comments regarding NAC's application for an inconsistency ruling. The State contends that: (1) the letter to NAC dated October 8, 1982, does not constitute a state routing rule; (2) Vermont's rules regarding the shipment of nuclear wastes are fully consistent with Federal requirements; and, (3) the letter is merely a statement of intent to seek equitable relief to avoid bearing the brunt of radioactive materials transportation "until such time as the federal government resolves the problems created by the regulations in New York and Michigan which seem clearly inconsistent with DOT regulations."

2. Public Comments

Comments should be restricted to the following issue: Whether the letter sent to NAC on October 8, 1982, constitutes a State requirement which is inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the Vermont letter on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–22) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Commenters are reminded to indicate Docket No. IRA–22 on their submissions and to comply with the distribution and certification requirements described in the section **ADDRESSES** supra.

Docket No. IRA–23 (New York State Thruway)

1. Facts

By letter dated October 20, 1982, Nuclear Assurance Corporation (NAC) applied for an administrative ruling on the question of whether the prohibition on irradiated reactor fuel shipments over facilities operated by the New York State Thruway Authority is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder. The prohibition is contained in Section 102.1(q) of Chapter III, Title 21, Official Compilation of Codes, Rules and Regulations of the State of New York:

Part 102. Limitations on Use of the Thruway System

102.1 Prohibited uses of the Thruway.
Use of the Thruway system and entry thereon is prohibited at all times, with the noted exceptions:

* * * * *

(q) Vehicles carrying radioactive materials except under such procedures as may be adopted by the authority board, and as thereafter amended, from time to time, by the department of operations with the approval of the chairman.

NAC contends that the prohibition is inconsistent with the intent and language of both the HMTA and the Hazardous Materials Regulations (HMR) issued thereunder. Specific reference is made to 49 CFR 177.825(b) which requires a motor vehicle carrying a large quantity package of radioactive material to operate on a "preferred route", i.e., an Interstate System highway or a State-designated alternate route. NAC asserts that the Thruway System is a part of the Interstate System, that the State has not designated a preferred route, and that the prohibition therefore conflicts directly with 49 CFR 177.825(b). NAC further contends that the prohibition is inconsistent with the terms of the DOT policy statement which appears as Appendix A to 49 CFR Part 177. Appendix A states, inter alia, that a State or local routing rule is inconsistent with 49 CFR Part 177 if it prohibits or otherwise restricts transportation of large quantity radioactive materials on routes authorized by Part 177.

Pursuant to 49 CFR 107.205, NAC mailed a copy of the application to the New York State Thruway Authority. At this time, no comments regarding the application have been received from the Thruway Authority.

2. Public Comment

Comments should be restricted to the following issue: Whether the prohibition set forth in Section 102.1(q) of the regulations of the New York State Thruway Authority is inconsistent with the HMTA or the regulations issued thereunder.

Since the application is for an inconsistency ruling and not for a non-preemption determination, comments regarding the effect of the prohibition on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriare at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–23) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Commenters are reminded to indicate Docket No. IRA–23 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA–24 (Ogdensburg Bridge)

1. Facts

The Ogdensburg Bridge and Port Authority (OBPA) is a public benefit corporation of the State of New York which operates a number of transportation facilities including the

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Ogdensburg-Prescott International Bridge (Ogdensburg, New York-Prescott, Ontario). The OBPA performs as an independent, self-supporting agency in administering and developing its facilities.

In 1980 the OBPA unanimously adopted rules and regulations governing the Ogdensburg Bridge which included a prohibition on shipments of radioactive materials. The rules went into effect on August 29, 1980, following receipt by the New York Secretary of State for inclusion as Chapter LXV, Sections 5700–5799 of the New York Code of Rules and Regulations (NYCRR).

Before the rules became effective, the U.S. Department of State submitted comments urging the OBPA not to adopt the proposed rules on the basis of the detrimental impact the proposed prohibition of radioactive material shipments would have on U.S. foreign policy and nuclear non-proliferation policy. At the time the Department of State submitted its comments, the Ogdensburg Bridge was used for shipments of highly enriched uranium to Canada for use in its research program and for the return of spent fuel to the U.S. for reprocessing. Pointing out that the return of spent fuel was integral to U.S. policy, as it enabled the U.S. to control the supply of this material and thereby prevent the proliferation of nuclear explosive devices, the Department of State asserted that transportation restrictions such as that proposed (and ultimately adopted) by the OBPA would seriously impede this policy. Recognizing that the proposed rules arose from a concern about potential health and safety impacts of radioactive materials transportation, the Department of State urged the OBPA to continue to work with the U.S. Department of Transportation and the Nuclear Regulatory Commission to resolve any concerns about these shipments.

In proposing the prohibition on radioactive materials transportation, OBPA had expressed concerns not only about safety, but also about indemnification in the event of a transportation accident. In correspondence initiated before the prohibition was adopted as a final rule and continuing for some time thereafter, the State Department assured the OBPA that nuclear insurance coverage and U.S. and Canadian nuclear indemnification statutes adequately and specifically protected the OBPA properties and operations. According to the State Department, the Price-Anderson Act (42 U.S.C. 2014, 2210) and implementing indemnity agreements provided broad protection for the OBPA in the event of a nuclear incident arising out of the transportation of radioactive materials to and from Department of Energy (DOE) facilities such as the reprocessing plant in Savannah River, South Carolina. Consistent with Price-Anderson, DOE's contract with the operator of the Savannah River reprocessing facility contained nuclear hazards indemnity articles which provided up to $500 million in protection for public liability resulting from a nuclear incident arising from the transportation within the U.S. of source, special nuclear, or by-product material to or from the Savannah River Plant. The indemnity extended not only to the party with whom the contract was executed, but also to any other party (including the OBPA) who might be liable to the public in connection with an incident (42 U.S.C. 2014(t)).

In April of 1981, the OBPA informed the State Department that it was willing to reconsider the original request to remove the ban on the transport of radioactive materials, on condition that: (1) OBPA received definite assurances that nuclear insurance coverage and U.S. and Canadian nuclear indemnification statutes adequately and specifically protected its properties and operations; and (2) OBPA received verification that an application for a Certificate of Emergency Transport had been submitted to and approved by the St. Lawrence County Emergency Services Coordinator-Civil Defense Director. The State Department subsequently provided the required assurances concerning indemnification. However, due to time constraints, scheduled shipments had proceeded by alternate routes.

In September of 1981 the OBPA amended its rules by deleting the prohibition on radioactive materials transportation and establishing new regulations by which such transportation would be allowed. The new rules, as set forth in sections 5701.3 and 5702.1–5702.3 of Chapter LXV of the New York Code of Rules and Regulations, are provided as Appendix C to this notice. Essentially, the rules: incorporate the provisions of St. Lawrence County Local Law No. 10 (see Appendix D); require prior approval by the OBPA of insurance coverage and/or indemnification provisions; and reserve to the OBPA the right to specify the time of crossing, to provide any escort deemed necessary and to obtain full compensation for the costs associated with the clearance and crossing of radioactive materials.

Shortly after the OBPA adopted the amended rules, Federal regulations on highway transportation of radioactive materials became effective. As set forth in 49 CFR 177.825, carriers of large quantity radioactive material are required to operate over preferred routes", i.e., Interstate System Highways or alternate routes designated by a State routing agency in accordance with DOT guidelines. The Ogdensburg Bridge is not part of an Interstate System highway and the State of New York has not designated preferred routes. Therefore, at this time, use of the Ogdensburg Bridge for transportation of large quantity radioactive material would constitute a violation of the HMR. Nevertheless, the Ogdensburg Bridge is an international crossing which was used without incident in the past for transportation of large quantity radioactive material and which must therefore receive serious consideration as a possible preferred route at such time as New York chooses to designate preferred routes. Therefore in accordance with 49 CFR 107.209(b), notwithstanding that application for a ruling has not been filed, the Department has elected to issue an administrative ruling on the issue of whether or not the radioactive materials transportation rules of the OBPA would be inconsistent (with the HMTA or the regulations issued thereunder) if the Ogdensburg Bridge were designated as part of a preferred route.

2. Public Comment

Comments should be restricted to the following issue: Whether the radioactive materials transportation rules of the OBPA would be inconsistent (with the HMTA or the regulations issued thereunder) if the Ogdensburg Bridge were designated as part of a preferred route.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of the OBPA rules on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA–24) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the Price-Anderson Act (42 U.S.C. 2014, 2210); the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201–107.211); the radioactive materials transportation rules of the OBPA (Appendix C); and St. Lawrence County Local Law No. 10 (Appendix D).

Commenters are reminded to indicate Docket No. IRA–24 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA–25 (St. Lawrence County)

1. Facts

On August 11, 1980, the St. Lawrence County (NY) Board of Legislators adopted Local Law No. 10 for the year 1980, which was duly published in accordance with Section 24 of the County Law of the State of New York. Local Law No. 10 established the requirement that any party seeking to transport large quantity/high level radioactive materials within St. Lawrence County obtain a Certificate of Emergency Transport from the St. Lawrence County Emergency Services Coordinator-Civil Defense Director, which Certificate "will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns." (Local Law No. 10 is appended to this notice as Appendix D.)

St. Lawrence County lies at the foot of the international bridge linking Ogdensburg, New York, and Prescott, Ontario. Thus, any restriction on transportation in St. Lawrence County imposes an equal restriction on international transportation over the Ogdensburg Bridge. It appears that the effect of Local Law No. 10 has been to redirect shipments of radioactive materials to other routes.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive materials which became effective on February 1, 1982. As set forth at 49 CFR 177.825, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or alternate routes designated by a State routing agency in accordance with DOT guidelines. No Interstate System highways run through St. Lawrence County and the State of New York has not designated preferred routes. Therefore, at this time, transportation of large quantity radioactive material through St. Lawrence County would constitute a violation of the HMR. Nevertheless, transportation of large quantity radioactive material across the Ogdensburg Bridge and through St. Lawrence County occurred without incident in the past and this route must therefore receive serious consideration as a possible preferred route at such time as New York chooses to designate preferred routes. Therefore, in accordance with 49 CFR 107.209(b), notwithstanding that application for a ruling has not been filed, the Department has elected to issue an administrative ruling on the issue of whether or not Local Law No. 10 would be inconsistent (with the HMTA or the regulations issued thereunder) if non-Interstate System highways within St. Lawrence County were designated as part of a preferred route.

2. Public Comment

Comments shall be restricted to the following issue: Whether the requirements set forth in Local Law No. 10 would be inconsistent (with the HMTA or the regulations issued thereunder) if non-Interstate System highways within St. Lawrence County were designated as part of a preferred route.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of Local Law No. 10 as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA–25) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881) 46 FR 18918 (Appeal at 47 FR 18457) 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Departments's issuance of inconsistency rulings (49 CFR 107.201–107.211); and St. Lawrence County Local Law No. 10 of 1980 which is provided as Appendix D to this notice.

Commenters are reminded to indicate Docket No. IRA–25 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA-236 (Thousand Islands Bridge)

1. Facts

The Thousand Islands Bridge Authority (TIBA) is responsible for the operation and maintenance of the Thousand Islands Bridge, an international crossing which links Collins Landing, New York, and Ivy Lea, Ontario. By letter dated March 22, 1982, the TIBA applied to the Department of Transportation for a non-preemption determination regarding its rules and regulations governing the shipment of radioactive material across the Thousand Islands Bridge. As set forth at 49 CFR 107.215(b)(4), any application for a non-preemption determination must contain an express acknowledgment by the applicant that the rule in question is inconsistent with the HMTA or the regulations issued thereunder. Such acknowledgment is not required if the rule has been determined inconsistent by a court of competent jurisdiction or in an inconsistency ruling issued under 49 CFR 107.209. Neither of these exceptions applied to the rules governing the Thousand Islands Bridge. Therefore, when the TIBA, upon direct request, declined to acknowledge the inconsistency of the rules for which it had requested a non-preemption determination, the Department suspended action on the matter.

The relevant sections of the TIBA regulations are contained in sections 5503.2 and 5503.3 of Chapter LXIII, Title 21, Official Compilation of Codes, Rules and Regulations of the State of New York:

5503.2 Types of vehicles excluded. Vehicles loaded in such a manner or with such materials or so constructed or equipped as possibly to endanger persons or property or likely to render the use of the facilities unsafe, shall be excluded from use of the facilities, and the transportation of any such vehicle is hereby prohibited. Without limiting the foregoing, the following types of vehicles come within the meaning of this section and shall be denied use of the facilities:

* * * * *

(n) vehicles which would be excluded from passage without a special permit or escort, under section 5503.3 of this Part, and for which no such permit has been issued or no such escort provided;

* * * * *

5503.3 Vehicles requiring special permits or escorts. (a) No vehicle falling within any of the following categories shall be permitted to use the facilities unless a special permit therefor is issued by the authority employee in charge and, if required as a condition of such permit, a special escort is provided and fees therefor paid, viz:

* * * * *

(6) vehicles transporting explosives, radioactive materials or other dangerous commodities; and

(7) vehicles which have recently carried explosives, radioactive materials or other dangerous commodities and show any evidence of residue of such materials or commodities.

(b) In determining whether or not such special permit should be issued or, if issued, what conditions should apply thereto, such authority employee in charge may confer

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with the authority's consulting engineers, counsel and-or whatever other specialists or regulatory agencies he may consider appropriate in the circumstances, but such determination in any given situation shall be the sole and exclusive judgment of such authority employee in charge and final and binding upon all persons.

Specifc requirements are set forth in the "Application for Permit to Transport Nuclear Materials via the Thousand Islands Bridge" which is provided as Appendix E to this notice. The application requires shipment-specific information, establishes insurance requirements, and reserves to the TIBA, at its sole discretion, the right to accept or reject the application for transit.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive materials which became effective on February 1, 1982. Essentially, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or State-designated alternate routes. In Appendix A to 49 CFR Part 177, the Department articulated its policy concerning the relationship between State and local rules and the Federal routing rules contained in Part 177. Appendix A states, inter alia, that a State or local transportation rule is inconsistent with Part 177 in it requires filing route plans or other documents containing information that is specific to individual shipments or unnecessarily delays transportation.

The question of whether the rules governing radioactive materials transportation across the Thousand Islands Bridge are inconsistent resurfaced in October of 1982. In a letter to the Department, Nuclear Assurance Corporation cited "a permit requirement for an arbitrary, but substantial, insurance coverage at the Thousand Islands Bridge" as one of several factors restricting the availability of routes for transporting spent nuclear fuel from Chalk River, Ontario to a DOE reprocessing facility at Savannah River, South Carolina. Therefore, notwithstanding that application for an inconsistency ruling has not been filed, the Department has elected, in accordance with 49 CFR 107.209(b), to issue an adminstrative ruling on the question of whether or not the radioactive materials transportation rules of the TIBA are inconsistent with the HMTA or the regulations issued thereunder.

2. Public Comment

Comments shall be restricted to the following issue: Whether the radioactive materials transportation regulations of the TIBA are inconsistent with the HMTA or the regulations issued thereunder.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of the TIBA regulations as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application (Docket No. IRA–26) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201–107.211); the regulations governing the transport of nuclear materials via the Thousand Islands Bridge (21 NYCRR 5503.2–5503.3); and the application for transit permit which is provided as Appendix E of this notice.

Commenters are reminded to indicate Docket No. IRA–26 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Docket No. IRA–27 (Jefferson County)

1. Facts

By letter dated May 13, 1982, Jefferson County (NY), notified the Department of Transportation of its adoption of Resolution No. 81 "Regulating the Transport of Radioactive Materials Through Jefferson County". Resolution No. 81 (which is provided as Appendix F to this notice) established a number of conditions affecting radioactive materials transportation, including prenotification, prohibition during certain dates and weather conditions, escort requirements and adoption of the permit system promulgated by the Thousand Islands Bridge Authority.

Jefferson County lies at the foot of the international bridge linking Ivy Lea, Ontario with Collins Landing, New York, and connecting with Interstate Route 81. Thus, any restriction on transportation in Jefferson County imposes an equal restriction on international transportation which may operate over the Thousand Islands Bridge and Interstate Route 81.

The Department of Transportation issued regulations (49 CFR 177.825) regarding highway routing of large quantity radioactive material which became effective on February 1, 1982. Essentially, the regulations require carriers of large quantity radioactive material to operate over "preferred routes", i.e., Interstate System highways or State-designated alternate routes. In Appendix A to 49 CFR Part 177, the Department articulated its policy concerning the relationship between State and local rules and the Federal routing rules contained in Part 177. Appendix A states, inter alia, that a State or local transportation rule is inconsistent with Part 177 if it requires prenotification, escort or unnecessary delay.

Because the transportation regulations of Jefferson County could affect the use of an international bridge and an Interstate System highway, the Department has elected, in accordance with 49 CFR 107.209(b), to issue an administrative ruling on the question of whether or not Resolution No. 81 is inconsistent with the HMTA or the regulations issued thereunder.

2. Public Comment

Comments shall be restricted to the following issue: Whether the requirements set forth in Resolution No. 81 of Jefferson County constitute a local rule which is inconsistent with the HMTA or the regulations issued thereunder.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of Resolution No. 81 as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on this issue (Docket No. IRA–27) should examine the HMTA (49 U.S.C. 1801–1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171–179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881), 46 FR 18918 (Appeal at 47 FR 18457), 47 FR1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201–107.211); and Jefferson County Resolution No. 81 which is provided as Appendix F to this notice.

Commenters are reminded to indicate Docket No. IRA–27 on their submissions and to comply with the distribution and certification requirements described in the section entitled **"ADDRESSES"** supra.

3. Public Comment

This notice invites public comment on any or all of eight separate dockets. Because of the number of issues raised, their complexity and the extent of their interrelatedness, it is imperative that commenters comply with the foregoing instructions concerning distribution, certification, and identification by docket number (IRA–20 through IRA–27). Submissions containing comments on more than one docket should clearly indicate, by the use of sub-headings or similar techniques, the number of the docket to which each comment refers.

Submissions which do not comply with the procedures described herein may not be considered.

Issued in Washington, D.C., on May 6, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

Appendix A.—Department of State Police; State Fire Safety Board; Radioactive Material Transportation

Filed with the Secretary of State on June 28, 1982. These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the state fire safety board by section 3c of Act No. 207 of the Public Acts of 1941, as amended, being § 29.3c of the Michigan Compiled Laws).

R 29.551 Definitions.

Rule 1. As used in these rules:

(a) "Department of public health" means the state department of public health created by section 425 of Act No. 380 of the Public Acts of 1965, as amended, being § 16.525 of the Michigan Compiled Laws.

(b) "Major bridge" means a structure which has a span from shore to shore of more than 250 meters or which spans water which has a maximum depth of more than 15 meters.

(c) "NRC" means the United States nuclear regulatory commission.

(d) "Radioactive material" means irradiated reactor fuel and radioactive wastes that are large quantity radioactive materials as defined in 49 CFR § 173.389(b).

R 29.552 Modification.

Rule 2. The state fire marshal may modify the application of these rules upon a finding that the variation would not result in an undue hazard to life or property.

R 29.553 Application; procedure; content.

Rule 3. Application for approval to transport radioactive material in Michigan shall be submitted in duplicate to the operations division of the department of state police not less than 15 days before the date of the proposed shipment. Upon receipt, the operations division shall immediately forward the information to the fire marshal division and the department of public health. The application shall include all of the following, as applicable:

(a) The proposed route of travel, specifying all of the following:

(i) Each road or rail to be used by route number, name, or other identification.

(ii) Each major bridge to be traversed.

(iii) Each waterway to be traversed for transport by vessel.

(iv) The reasons for the choice of the proposed route of travel from the site of origin to the receiver of the radioactive material, including the designation of alternative routes and the reasons for the selection of the proposed route and the rejection of alternative routes.

(b) The proposed means of conveyance.

(c) The names, addresses, and emergency telephone numbers of the shipper, carrier, and receiver of the radioactive material, including the individual to contact for current shipment information.

(d) A description of the shipment as specified in the provisions of 49 CFR § 172.203(d).

(e) The estimated date and time of all of the following, as applicable:

(i) The departure of the radioactive material from the site of origin.

(ii) The arrival of the radioactive material at the Michigan boundary or at its final destination if the destination is within Michigan.

(iii) The departure of the radioactive material from Michigan.

(f) Attestation to the fact that the vehicle has been safety inspected within a period of 6 months prior to the date of the proposed shipment for compliance with 49 CFR § 396 or Act No. 300 of the Public Acts of 1949, as amended, the Michigan Vehicle Code, by a law enforcement agency acceptable to the state fire marshal and that evidence of such inspection shall be carried in the vehicle.

(g) Copies of any required NRC approval of the proposed route of travel, and any other NRC licensing action specific to the shipment, such as an import license or a license to transport.

(h) A copy of the emergency plan for the carrier which describes procedures to be taken in an emergency to eliminate or minimize the radiation exposure of the public. The plan shall include notification of the state police operations division upon implementation of the plan.

(i) For transport over a major bridge or on a vessel, provisions to submit the proposed recovery plan to the state fire marshal for approval before beginning recovery efforts.

(j) A certification that the shipment will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

R 29.554 Communications.

Rule 4. (1) Radioactive material shall not be transported on a highway or over a major bridge in this state unless the transporting vehicle, or a vehicle accompanying the transporting vehicle, is equipped with continuous 2-way communications by radiotelephone or other means acceptable to the state fire marshal with land-based stations familiar with, and capable of assisting in the implementation of, the emergency plan required by R 29.553(h).

(2) Radioactive material shall not be transported by rail or waterway in this state unless the transporting vehicle or vessel is equipped with communications equipment acceptable to the state fire marshal. Such equipment shall be used for making appropriate notification of any incident which may occur.

R 29.555 Transportation approval; criteria.

Rule 5. Radioactive material shall not be transported in this state without the written approval of the state fire marshal. All of the following criteria shall be satisfied before approval is granted:

(a) The application requirements of R 29.553 have been fulfilled.

(b) The application has been approved in writing by the department of public health.

(c) Certification has been made by a person that the shipment is an will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

(d) The plan required by R 29.553(h) is acceptable to the state fire marshal and the department of public health.

(e) A certificate of compliance for the container has been issued by the NRC, and the container has been tested and approved for hypothetical accident conditions pursuant to the provisions of 10 CFR 71.36.

(f) For transport over a major bridge, the container has been tested and certified, by an agency acceptable to the state fire marshal, to pass a puncture test as described in the provisions of 10 CFR 571.36, except that the free drop, as described in the provisions of 10 CFR part 71, appendix B2, shall equal or exceed the height of the bridge roadway from the water, and the puncture test shall be immediately followed by an immersion test at a depth of water equal to or exceeding the maximum depth of water under the major bridge and for a period of time at least as long as the planned time for recovery.

(g) For transport on a waterway, the container has been tested and certified, by an agency acceptable to the state fire marshal, to pass an immersion test at a depth of water equal to or in excess of the maximum depth of water along the route of travel and for a period of time at least as long as the planned time for recovery.

R 29.556 Approval notification.

Rule 6. Upon granting approval to transport, the state fire marshal shall notify the applicant, in writing, before the shipment of the radioactive material and shall include any conditions or limitations to the approval as determined necessary by the state fire marshal and the department of public health.

R 29.557 Transport notification of department of state police.

Rule 7. Unless otherwise specified in the approval notification, the carrier, driver, or operator transporting radioactive material shall notify the operations division of the department of state police as follows:

(a) Of any schedule change that differs by more than 6 hours from the schedule information previously furnished.

(b) Of any incident causing a delay in the transport of the radioactive material through Michigan.

(c) Of any implementation of the emergency plan submitted pursuant to R 29.553(h). A person implementing the emergency plan shall immediately notify the department of state police.

R 29.558 Schedule information; confidentiality.

Rule 8. Radioactive material shipment schedule information provided to the state fire marshal shall be confidential, except that

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the information may be shared with other governmental agencies as required by law or when deemed necessary to protect the public health and safety. The confidentiality requirement shall terminate 10 days after a shipment has entered or originated within the state for a single shipment whose schedule is not related to the schedule of any subsequent shipment or 10 days after the last shipment has entered or originated within the state for a series of shipments whose schedules are related.

R 29.559 Transport inspection.

Rule 9. Shipments of radioactive material may be inspected by the state fire marshal for compliance with applicable state and federal statutes, rules, and regulations.

R 29.560 Adoption of federal regulations.

Rule 10. (1) The following provisions of the Code of Federal Regulations are adopted by reference in these rules:

(a) 10 CFR § 71.36.

(b) 49 CFR § 172.203(d).

(c) 49 CFR § 173.389(b).

(2) The provisions specified in subrule (1) of this rule may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at cost, or from the office of the State Fire Safety Board, 7150 Harris Drive, Lansing, Michigan 48913, at cost.

Appendix B.—Department of Public Health; Division of Radiological Health; Radioactive Material Transportation

Filed with the Secretary of State on June 29, 1982. These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the department of public health by section 9 of Act No. 360 of the Public Acts of 1965, as amended, and sections 2226, 2233, and 13521 of Act No. 368 of the Public Acts of 1978, as amended, being §§ 16.109, 333.2226, 333.2233, and 333.13521 of the Michigan Compiled Laws)

R 325.5801 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the department of public health.

(b) "Major bridge" means a structure which has a span from shore to shore of more than 250 meters or which spans water which has a maximum depth of more than 15 meters.

(c) "NRC" means the United States nuclear regulatory commission.

(d) "Person" means a person as defined in section 1106 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.1106 of the Michigan Compiled Laws, or a governmental entity as defined in section 1104 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.1104 of the Michigan Compiled Laws.

(e) "Radioactive material" means irradiated reactor fuel and radioactive wastes that are large quantity radioactive materials as defined in 49 C.F.R. § 173.389(b).

(f) "State fire marshal" means the state fire marshal of the department of state police as defined in Act No. 207 of the Public Acts of 1941, as amended, being § 29.1 et seq. of the Michigan Compiled Laws.

R 325.5802 Exemptions.

Rule 2. Upon application therefore or upon its own initiative, the department may grant such exemptions from the requirements of these rules as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

R 325.5803 Application; procedure; content.

Rule 3. Application for approval to transport radioactive material in Michigan shall be submitted to the department through the operations division of the department of state police not less than 15 days before the date of the proposed shipment. An application shall include all the following, as applicable:

(a) The proposed route of travel, specifying all of the following:

(i) Each road or rail to be used by route number, name, or other identification.

(ii) Each major bridge to be traversed.

(iii) Each waterway to be traversed for transport by vessel.

(iv) The reasons for the choice of the proposed route of travel from the site of origin to the receiver of the radioactive material, including the designation of alternative routes and the reasons for the selection of the proposed route and the rejection of alternative routes.

(b) The proposed means of conveyance.

(c) The names, addresses, and emergency telephone numbers of the shipper, carrier, and receiver of the radioactive material, including the individual to contact for current shipment information.

(d) A description of the shipment as specified in the provisions of 49 C.F.R. § 172.203(d).

(e) The estimated date and time of all of the following, as applicable:

(i) The departure of the radioactive material from the site of origin.

(ii) The arrival of the radioactive material at the Michigan boundary or at its final destination if the destination is within Michigan.

(iii) The departure of the radioactive material from Michigan.

(f) Attestation to the fact that the vehicle has been inspected within a period of 6 months prior to the date of the proposed shipment for compliance with the provisions of 49 C.F.R. § 396 or Act No. 300 of the Public Acts of 1949, as amended, being § 257.1 et seq. of the Michigan Compiled Laws, by a law enforcement agency acceptable to the state fire marshal, and that evidence of such inspection shall be carried in the vehicle.

(g) Copies of any required NRC approval of the proposed route of travel and any other NRC licensing action specific to the shipment, such as an import license or a license to transport.

(h) A copy of the emergency plan for the carrier which describes procedures to be taken in an emergency to eliminate or minimize the radiation exposure of the public. The plan shall include a provision for notification of the state police operations division upon implementation of the plan.

(i) For transport over a major bridge or on a vessel, provisions to submit the proposed recovery plan to the department for approval before beginning recovery efforts.

(j) A certification that the shipment will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

R 325.5804 Communications.

Rule 4. Communications capability shall be provided as specified in R 29.554.

R 325.5805 Transportation approval; criteria.

Rule 5. Radioactive material shall not be transported in this state without the written approval of the department. All of the following criteria shall be satisfied before approval is granted:

(a) The application requirements of R 325.5803 have been fulfilled.

(b) Certification has been made by a person that the shipment is and will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment.

(c) A plan required by R 325.5803(h) has been determined to be acceptable to the department.

(d) A certificate of compliance for the container has been issued by the NRC, and the container has been tested and approved for hypothetical accident conditions pursuant to the provisions of 10 CFR 71.36.

(e) For transport over a major bridge, the container has been tested and certified, by an agency acceptable to the department, to pass a puncture test as described in the provisions of 10 CFR 71.36, except that the free drop as described in the provisions of 10 CFR part 71, appendix B2, shall equal or exceed the height of the bridge roadway from the water, and the puncture test shall be immediately followed by an immersion test at a depth of water equal to or exceeding the maximum depth of water under the major bridge and for a period of time at least as long as the planned time for recovery.

(f) For transport on a waterway, the container has been tested and certified, by an agency acceptable to the department, to pass an immersion test at a depth of water equal to or in excess of the maximum depth of water along the route of travel and for a period of time at least as long as the planned time for recovery.

R 325.5806 Approval notification.

Rule 6. Upon granting approval to transport, the department shall notify the applicant and the state fire marshal, in writing, before the shipment of the radioactive material and shall include any conditions or limitations to the approval as determined necessary by the department.

R 325.5807 Transport notification of department of state police.

Rule 7. Unless otherwise specified in the approval notification, the carrier, driver, or operator transporting radioactive material shall notify the operations division of the department of state police of all of the following:

(a) Any schedule change that differs by more than 6 hours from the schedule information previously furnished.

(b) Any incident causing a delay in the transport of the radioactive material through Michigan.

(c) Any implementation of the emergency plan submitted pursuant to R 325.5803(h). A person implementing the emergency plan shall immediately notify the department of state police, which shall notify the department.

R 325.5808 Schedule information; confidentiality.

Rule 8. Radioactive material shipment schedule information provided to the department shall be confidential, except that the information may be shared with other governmental agencies as requird by law or when deemed necessary to protect the public health and safety. The confidentiality requirement shall terminate 10 days after a shipment has entered or originated within the state for a single shipment whose schedule is not related to the schedule of any subsequent shipment or 10 days after the last shipment has entered or originated within the state for a series of shipments whose schedules are related.

R 325.5809 Transport inspection.

Rule 9. Shipments of radioactive material may be inspected by the department for compliance with applicable state and federal statutes, rules, and regulations.

R 325.5810 Adoption of federal regulations

Rule 10. (1) The following provisions of the Code of Federal Regulations are adopted by reference in these rules:

(a) 10 CFR 71.36.

(b) 49 CFR 172.203(d).

(c) 49 CFR 173.389(b).

(2) The provisions specified in subrule (1) of this rule may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at cost, or from the Department of Public Health, 3500 N. Logan Street, Lansing, Michigan 48909, at cost.

Appendix C.—Radioactive Materials Transportation Rules of the Ogdensburg Bridge and Port Authority

Chapter LXV, New York Code of Rules and Regulations

§ 5701.3 Vehicles requiring special permits or escorts. No vehicle falling within any of the following categories shall be permitted to use the facilities unless a special permit therefor is issued by the Authority Employee in charge, and, if required as a condition of such permit, a special escort is provided and fees, including consulting engineering services if required, therefor paid, in advance, viz:

* * * * *

(f) Vehicles which are transporting or have recently carried explosives, radioactive materials or other dangerous commodities and show any evidence or residue of such materials or commodities.

* * * * *

In determining whether or not such special permits should be issued or, if issued, what conditions should apply thereto, such Authority Employee in charge may confer with the Authority's consulting engineers, counsel and/or whatever other specialists or regulatory agencies he may consider appropriate in the circumstances, but such determination in any given situation shall be the sole and exclusive judgment of such Authority Employee in charge and final and binding upon all persons. Application for a special permit shall be made at least 48 hours in advance of the proposed crossing. If permission is granted, the Authority shall specify the time of the crossing.

§ 5702.1 No vehicle transporting radioactive materials shall be permitted to use the facilities unless the provisions of the St. Lawrence County Local Law No. 10 Regulating the Transportation of Radioactive Materials Through St. Lawrence County shall be fully satisfied and a valid Certificate of Emergency Transport issued for the shipment, if applicable.

§ 5702.2 In addition to the Certificate of Emergency Transportation, responsible state or federal agencies and the carrier shall submit for Authority's prior approval evidence of proper insurance coverage and/or an acceptable indemnification and hold harmless agreement.

§ 5702.3 As a condition of the special permit or escort set forth in 5701.3, the Authority shall specify the time of crossing, provide escort if deemed necessary and be fully compensated for any and all costs associated with the clearance and crossing of the radioactive materials.

Appendix D.—St. Lawrence County Local Law No. 10 for the Year 1980; Local Law Regulating the Transportation of Radioactive Materials Through St. Lawrence County

Be it enacted by the Board of Legislators of the County of St. Lawrence as follows:

Section 1: The St. Lawrence County Legislature hereby regulates the transportation of nuclear materials specified below in or through St. Lawrence County for the purposes of protecting the health and safety of residents until such time as adequate information is made available by Federal and State agencies responsible for radioactive materials to prepare an adequate emergency response plan.

Section 2: A Certificate of Emergency Transport issued by the St. Lawrence County Emergency Services Coordinator-Civil Defense Director shall be required for each shipment of any of the following materials:

1. Plutonium isotopes in any quantity exceeding 2 grams, or 20 curies.

2. Uranium enriched in the isotope U235 exceeding 20 percent of the total uranium content in quantities where the U235 content exceeds one kilogram.

3. Any actinides (elements with atomic number 89 or greater) the activity of which exceeds 20 curies.

4. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements whose activity exceeds 20 curies.

5. Any quantity of radioactive material specified as a "large quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71 and as amended entitled "Packaging of Radioactive Materials for transport", with the exception of Co-60 used for medical radiation therapy or medical research.

Section 3: A Certificate of Emergency Transport may be issued by the Civil Defense Director-Emergency Services Coordinator in consultation with the County Sheriff upon submission of a written request at least five working days prior to the expected date of transport. The written request must include:

1. The nature of the material transported and the possible danger therefrom.

2. The route of transport.

3. The date and time of shipment through the County.

4. Specific emergency response procedures which would be required in case of an accident.

5. A non-refundable payment for one-hundred dollars, payable to St. Lawrence County Treasurer's Department.

Section 4: A Certificate of Emergency Transportation will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns. Economic considerations alone will not be acceptable as justification for the issuance of said certificate.

Section 5: Said Certificate of Emergency Transport will be valid for a period not to exceed 72 hours and must be in posession of the driver of the vehicle while travelling through St. Lawrence County, and must be presented upon request.

Section 6: Violators of any part of this law shall be subject to a fine of not less than one thousand dollars nor more than five thousand dollars.

Section 7: The provisions of this article shall not apply to radiation sources shipped by or for the United States government for military or national security purposes or which are related to national defense and nothing herein shall be construed to require the disclosure of any defense information or restricted data as defined in Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

Appendix E.—Application for Permit To Transport Nuclear materials via the Thousand Islands Bridge

General Information

Your firm _____ has requested by letter dated _____ a permit to use the Thousand Islands Bridge System for the period of _____ to _____ for the purpose of transporting _____ materials.

In order for this Authority to consider the application, the information set forth below must be submitted by your firm.

In addition to the above, the Authority, at its sole discretion, has the right to accept or reject the application for transit.

REQUEST FOR PERMIT TO CROSS THE THOUSAND ISLANDS BRIDGE SYSTEM (check one)

☐ From Collins Landing, New York to Ivy Lea, Ontario

☐ From Ivy Lea, Ontario to Collins Landing, New York

Application Date _____

Name of Company _____

Street Address _____

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City ——— State or Province

The company set forth above acknowledges and certifies that with the knowledge of an escort requirement and associated fee that it hereby requests permission to transport the following product.

Product ———
Quantity (lbs.) ———

Note.—A Commodity Data Sheet must be submitted with this application by the Company which more fully describes the product. Failure to include an approved Commodity Data Sheet shall cause the application to be denied.

The Company has contracted to transport the commodity set forth in this application with the firm listed below. The Company submits as set forth below the vehicle data which is required in order for this application to be considered.

Name of Transport Company ———
Street Address ———
City ——— State or Province

Type of Vehicle ———
Gross Vehicle Weight ———
Number of Axles ——— Vehicle Length ———
Vehicle Width ——— Vehicle Height ———

The Company hereby acknowledges that the insurance requirements for the transport of nuclear materials as set forth below must be fully met prior to consideration of the application. In addition, an authorization of transit shall not be issued by the Authority unless the requirements set forth for both United States territory and Canadian territory have been satisfied.

General Information

Applicant shall provide a Certificate of Insurance which shall include not less than thirty (30) days written notice of cancellation of the certified insurance to the Thousand Islands Bridge Authority, Collins Landing, Alexandria Bay, New York 13607.

Insurance Requirements for United States Territory

The certificate holder shall be the Thousand Islands Bridge Authority.

Whichever of the following is applicable shall be certified:

(1) A U.S. Suppliers & Transporters Liability Policy with a limit of liability not less than $160,000,000 each occurrence. Such certificate of insurance shall certify that Amendatory Endorsement NY49 is part of the policy. The named insured shall be the permittee unless the permittee has a contract of haulage with the named insured, in which event the certificate of insurance shall include legal evidence of the contractual relationship. If the permittee has such a contractual arrangement with more than one shipper, such a certificate shall be required for each shipper.

(2) If the permittee has a contract of haulage with an operator of a nuclear facility licensed by the United States Nuclear Energy Commission, the certificate of insurance shall be for a U.S. Facilities Liability Policy with a limit of liability not less than $160,000,000 each occurrence. The named insured shall be the licensee and the certificate of insurance shall contain legal evidence of the contractual relationship between the permittee and the licensee. Such a certificate shall be required for each licensee with whom the permittee has a contract of haulage.

(3) In the event the permittee has a contract of haulage with an agency of the United States government exempt from the nuclear insurance requirements of U.S. federal statute, legal evidence of an indemnity agreement between such U.S. agency and the permittee shall be filed. Such evidence shall include the Thousand Islands Bridge Authority as an entity for indemnification by the U.S. government agency. Thirty days written prior notification of termination of the indemnification agreement shall be required by the Authority.

Ten days written prior notice of a shipment shall be required prior to issuance of an authorization of transit. Such notice shall include the owner or orginator of the shipment in order for the Authority to verify the documentation required in sections 1, 2 or 3 above is on file with the Authority.

The Company hereby submits the following and as attached as evidence of meeting the United States Insurance Requirements.

———
———
———

Insurance Requirements for Canadian Territory

The certificate holder shall be the Thousand Islands Bridge Authority, agent for, and the St. Lawrence Seaway Authority in right of Canada.

Whichever of the following is applicable shall be certified.

(1) A Canadian Suppliers & Transporters Liability Policy with a limit of liability of not less than $75,000,000 each occurrence. Amendatory Endorsement equivalent to U.S.—No. NY49 shall be certified as being part of the policy. The named insured shall be the permittee unless the permittee has a contract of haulage with the named insured in which event legal evidence of the contractual relationship shall be part of the certificate.

(2) In the event the permittee has a contract of haulage with a facility licensed under the Atomic Energy Control Act of Canada, with certificate of insurance shall certify a Canadian Facilities Liability Policy with the named insured being the licensee. The certificate shall include legal evidence of the contractual relationship between the named insured and the permittee. The limit of liability shall be not less than $75,000,000 each occurrence.

(3) In the event the permittee has a contract of haulage with an agency of the Canadian government exempt from the insurance requirements contained in the Nuclear Liability Act of Canada, in lieu of a certificate of insurance legal evidence of an indemnification agreement between the permittee shall be provided. Such evidence shall also include legal evidence that the indemnification agreement extends to include the Thousand Islands Bridge Authority as agent for, and the St. Lawrence Seaway Authority in right of Canada.

Ten days written prior notice of a shipment shall be required prior to issuance of an authorization of transit. Such notice shall include the owner or originator of the shipment in order for the Authority to verify the documentation required in sections 1, 2 or 3 above is on file with the Authority.

The Company hereby submits the following and as attached as evidence of meeting the Canadian Insurance Requirements.

———
———
———

Applicant Certification

I, (name) ———, acting as (position) ———, do hereby certify that the information submitted is true and correct. In addition, the Company has authorized me to submit same on their behalf and with their full knowledge.

———
Signature

———
Company

———
Address

———
Phone Number

Authority Notice

The Authority has reviewed your application for permit to cross the Thousands Islands Bridge System as outlined in this application and dated ———. Your application submitted under the name of ——— Company has been: (check one)

☐ Approved
☐ Denied

Reasons for denial: ———
———
———
———

This permit under #——— shall be valid from ——— to ——— 19—.

In notifying the Authority of a transcript request, please refer to the permit number set forth above in all correspondence. *A transit request must be submitted for each shipment.* The transit request must be received in the offices of the Authority ten (10) days prior to the scheduled shipment, so to allow a proper review of your general permit and to schedule the escort service.

The Authority shall in writing notify the Company representative as shown on the application within 48 hours after receipt of the date and time that transit will be permitted. In addition and at the same time the Company will be notified of the toll charge as well as the escort fee which must be paid at the time of transit. A copy of this notice must be delivered by the Company to the toll attendant at the time of the approved crossing. The determination as to the date and time of the crossing shall be made solely by the Thousands Islands Bridge Authority.

Russell Wilcox,

Executive Director, Thousand Islands Bridge Authority, Collins Landing, Alexandria Bay, New York 13607; phone: 315–482–2501.

Appendix F—Resolution No. 81; Regulating the Transport of Radioactive Materials Through Jefferson County

By Supervisor Edward E. Cobb, Chairman, Planning Committee

Whereas the Federal Hazardous Materials Transportation Act (HMTA) provides for over-the-road transport of radioactive materials; and

Whereas recent pronouncements by federal officials identify Interstate 81 as a route for the transport of said materials; and

Whereas Federal regulations make provision for the imposition of local controls which would enhance public safety and not unreasonably restrain or prohibit the transport of said materials: Now, therefore, be it

Resolved, That the Jefferson County Board of Supervisors does hereby put the United States Department of Transportation and Nuclear Regulating Commission on notice that the transport of radioactive waste through and within Jefferson County is conditioned on compliance with the following provisions: That 24 hour prior notification of said transport be duly given to appropriate Jefferson County officials; that front and rear escort service be provided; that said transport only be made during the six month period from May through October; that no movement of said material be made on holidays or during periods of inclement weather; and that the permit system as promulgated by the Thousand Islands Bridge Authority regulating the movement of radioactive materials through the Bridge System be recognized and fully adhered to by the Federal Government and/or agents thereof.

Further resolved, That the Clerk be directed to forward copies of this resolution to the United States Department of Transportation, the Nuclear Regulating Commission, the Nuclear Assurance Corporation, Congressman David O'B. Martin, Governor Hugh L. Carey, the New York State Department of Transportation, Senator H. Douglas Barclay, Assemblyman H. Robert Nortz, U.S. Senator Alfonso M. D'Amato, and U.S. Senator Daniel P. Moynihan.

Seconded by Supervisor:

John C. Kiechle

John Fiorentino

State of New York
County of Jefferson

Jennie M. Adsit

Mark Freeman

I, the undersigned, Clerk of the Board of Supervisors of the County of Jefferson, New York, do hereby certify that I have compared the foregoing copy of Resolution No. 81 of the Board of Supervisors of said County of Jefferson with the original thereof on file in my office and duly adopted by said Board at a meeting of said Board on the 4th day of May, 1982 and that the same is a true and correct copy of such Resolution and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 4th day of May, 1982.

James Merritt,

Clerk, Board of Supervisors, Jefferson County.

[FR Doc. 83-12756 Filed 5-11-83; 8:45 am]

BILLING CODE 4910-60-M

VOL
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ISS
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federal register

Thursday
May 12, 1983

Part VI

Department of Energy

Federal Energy Regulatory Commission

Natural Gas Policy Act of 1978; Determinations by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 888]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 6, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission purusant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED MAY 6, 1983

VOLUME 888

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	04/15/83	JA: TX			
8332225	F-04-063182	4224931631		102-3		GOLDAPP #2	ALICE DEEP CROCKETT	480.0	TENNESSEE GAS PIP
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/15/83	JA: TX			
8332251	F-7C-64855	4238300000		108		BOYD "32"	CALVIN (DEAN)	50.0	UNION TEXAS PETRO
-AKERS AND FULTZ INC				RECEIVED:	04/15/83	JA: TX			
8332263	F-09-064520	4223700000		108		J D CRAFT #6			
8332244	F-09-064524	4223700000		108		J D CRAFT #8	MARINA-MAG (CONGLOMER	2.0	CITIES SERVICE CO
8332240	F-09-064477	4223700000		108		ROY CHERRYHOMES C WELL #2	MARINA-MAG (CONGLOMER	5.5	CITIES SERVICE CO
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	04/15/83	JA: TX	MARINA MAG	3.4	CITIES SERVICE CO
8332389	F-04-66085	4221531188		103		YOUNG GAS UNIT WELL #4-L			
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/15/83	JA: TX	LOS TORRITOS NORTH (S	150.0	
8332265	F-04-65080	4213136896		102-4		ARCO HUMBLE FEE GAS UNIT #4			
8332328	F-08-65935	4200333364		103		EMMA COWDEN #107	E SEVEN SISTERS	2190.0	TEXAS EASTERN TRA
8332197	F-04-060583	4213134897		103		HAGIST GAS UNIT I #2	COWDEN N (STRAWN)	47.0	EL PASO NATURAL G
8332221	F-04-65283	4235532033		103		STATE 45-47 UNIT #4707 U	HAGIST RANCH (WILCOX	1375.0	NATURAL GAS PIPEL
8332329	F-08-65936	4200333300		103		UNIVERSITY 11 SECTION 13 B-5	MUSTANG ISLAND WEST (	600.0	UNITED GAS PIPELI
-BANLEE ENERGY				RECEIVED:	04/15/83	JA: TX	MARTIN (CLEARFORK LO)	14.0	PHILLIPS PETROLEU
8332390	F-7B-66086	4209331865		102-4		4-WAY FARMS #2 (103416)			
-BARNHART CO				RECEIVED:	04/15/83	JA: TX	B L E (DUFFER)	17.0	SOUTHWESTERN GAS
8332212	F-03-062265	4215731393		102-3		HARRISON INTERESTS LTD UNIT #2			
-BLAKE MAHMAN				RECEIVED:	04/15/83	JA: TX	KATY SOUTH (FIRST WIL	730.0	HOUSTON PIPE LINE
8332377	F-09-66064	4249700000		108		H W STRICKLAND #4			
-BOBBY BONNER				RECEIVED:	04/15/83	JA: TX	DARNER HAMMON (BEND C	0.0	CITIES SERVICE CO
8332281	F-08-65399	4200333352		103		ARGO KNIGHT #1			
-C & K PETROLEUM INC				RECEIVED:	04/15/83	JA: TX	FUHRMAN MASCHO	6.0	PHILLIPS PETROLEU
8332245	F-08-066601	4243100000		103		FOSTER 33-7			
-CALIX CORP				RECEIVED:	04/15/83	JA: TX	CONGER (PENN)	0.0	VALERO TRANSMISSI
8332273	F-01-65309	4217731356		102-4		JONES #1 RR ID #08596			
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/15/83	JA: TX	PEACH CREEK (AUSTIN C	145.0	
8332221	F-09-062987	4249700000		103		D P DUNN #2			
8332206	F-03-061433	4204100000		102-2		DALIO #1	BOONESVILLE (BEND COM	0.0	NATURAL GAS PIPEL
8332320	F-04-65902	4227331320		108		G P WARDMER #138	KURTEN (WOODBINE)	0.0	
-CHEVRON U S A INC				RECEIVED:	04/15/83	JA: TX	STRAITON	0.0	TENNESSEE GAS PIP
8332298	F-09-65506	4209732138		103		BAUGH UNIT #1			
8332184	F-03-055479	4236130314		102-4		POWELL LUMBER CO #1	SIVELLS BEND	19.0	
8332381	F-8A-66068	4241532307		103		SACROC UNIT #11-14	LONG PRAIRIE (11,800'	547.5	VALERO TRANSMISSI
8332382	F-8A-66069	4241532304		103		SACROC UNIT #118-14	KELLY - SNYDER	41.0	EL PASO NATURAL G
8332379	F-8A-66066	4241532313		103		SACROC UNIT #33-15	KELLY - SNYDER	117.0	EL PASO NATURAL G
8332380	F-8A-66067	4241532315		103		SACROC UNIT #86-12	KELLY - SNYDER	110.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:	04/15/83	JA: TX	KELLY - SNYDER	24.0	EL PASO NATURAL G
8332177	F-06-051174	4234730650		102-4		JACKSON E #1			
8332176	F-06-049971	4234730657		102-4		LEE E-1	APPLEBY N (TRAVIS PEA	307.0	LIBERTY NATURAL G
-CLAYTON W WILLIAMS JR				RECEIVED:	04/15/83	JA: TX	APPLEBY N (TRAVIS PEA	294.0	LIBERTY NATURAL G
8332200	F-03-060709	4214900000		102-2		ANTON PIETSCH UNIT #1			
-COATES ENERGY TRUST				RECEIVED:	04/15/83	JA: TX	GIDDINGS (A/C GAS)	0.0	VALERO TRANSMISSI
8332227	F-04-063394	4250531581		103		ANGELINA GARCIA TREVINO ET AL #4			
							SAN RAFAEL (MARTINEZ)	82.0	VALERO INTERSTATE

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CONOCO INC				RECEIVED:	04/15/83	JA: TX			
8332388	F-08-66084	4210931663		103		RAMSEY "46" #7 (27636)	GERALDINE (DELAWARE 3	13.1	EL PASO NATURAL G
-CORDOVA RESOURCES INC				RECEIVED:	04/15/83	JA: TX			
8332346	F-7B-66005	4213332875		103		NORTH PIONEER UNIT #1002	EASTLAND COUNTY REGUL	12.1	EL PASO HYDROCARB
8332344	F-7B-66003	4213332893		103		NORTH PIONEER UNIT #1102	EASTLAND COUNTY REGUL	2.9	EL PASO HYDROCARB
8332345	F-7B-66004	4213332548		103		NORTH PIONEER UNIT #1505	EASTLAND COUNTY REGUL	0.4	EL PASO HYDROCARB
-CORPENING ENTERPRISES				RECEIVED:	04/15/83	JA: TX			
8332297	F-09-65503	4223732126		108		BRYANT #1			
8332295	F-09-65500	4223731946		108		L B SMITH #1	HOEFLE (POOL)	6.0	SOUTHWEST GAS PIP
8332296	F-7B-65501	4236730889		108		RISCKY-MONTGOMERY #2	JACK COUNTY REGULAR	5.0	TEXAS UTILITIES F
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	04/15/83	JA: TX	TOTO (STRAWN LOWER)	3.0	TEXAS UTILITIES F
8332275	F-02-65318	4229732928		103		J W MCCLELLAND #4			
-DELTA DRILLING CO				RECEIVED:	04/15/83	JA: TX	WEST OAKVILLE (SLICK	73.0	DELHI GAS PIPELIN
8332293	F-7C-65492	4210500000		108		HELBING "18" #1			
-DELTA OIL & GAS CO				RECEIVED:	04/15/83	JA: TX	OZONA (CANYON)	0.0	NORTHERN NATURAL
8332289	F-7B-65462	4242900000		108		ELLIS-ROBBINS RRC #18068			
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/15/83	JA: TX	STEPHENS COUNTY REGUL	0.0	WARREN PETROLEUM
8332336	F-08-65945	4222732439		102-4		ROYCE WALKER #1-2			
-DIRKS PETROLEUM CORP				RECEIVED:	04/15/83	JA: TX	BIG SPRING	115.0	GETTY OIL CO
8332337	F-02-65948	4202531545		108		AUSTIN E BROWN #1B			
8332338	F-02-65949	4202531546		108		AUSTIN E BROWN #2B	RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
8332339	F-02-65950	4202531554		108		AUSTIN E BROWN #3B	RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
8332340	F-02-65951	4202531567		108		AUSTIN E BROWN #4B	RAGSDALE N (1100')	18.0	TEXAS EASTERN TRA
-DYNE OIL & GAS INC				RECEIVED:	04/15/83	JA: TX			
8332176	F-10-65956	4242130235		103		SPARKS-BROWDER #1	TEXAS HUGOTON	0.0	DIAMOND SHAMROCK
-EDWIN L & BERRY R COX				RECEIVED:	04/15/83	JA: TX			
8332205	F-04-061426	4247933411		102-4	107-TF	ALLEY #1	GATO CREEK	730.0	
8332231	F-04-063657	4235531983		102-4		STATE TRACT 750 #1	TULE LAKE M E	500.0	
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/15/83	JA: TX			
8332178	F-10-064701	4217923702		108-PB		DARSEY #2	PANHANDLE WEST	30.5	EL PASO NATURAL G
8332182	F-10-054499	4217923711		108-PB		HANNER #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8332181	F-10-054313	4217923712		108-PB		HERRINGTON #1	PANHANDLE WEST	14.0	EL PASO NATURAL G
8332179	F-10-052825	4217923713		108-PB		HESS #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8332192	F-10-058236	4217923728		108-PB		JOHNSTON #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8332218	F-10-060670	4248320071		108		LAYCOCK 3-B	PANHANDLE - EAST	19.0	EL PASO NATURAL G
8332180	F-10-052827	4217923735		108-PB		MAGEE #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8332166	F-10-029850	4208726179		108-PB		MCDOWELL #5	PANHANDLE EAST	0.0	EL PASO NATURAL G
8332196	F-10-060460	4208726180		108-PB		MCDOWELL #6	PANHANDLE EAST	0.0	EL PASO NATURAL G
8332169	F-10-037519	4217923744		108-PB		REEVES #1	PANHANDLE WEST	16.0	EL PASO NATURAL G
-ENERGETICS INC				RECEIVED:	04/15/83	JA: TX			
8332385	F-10-66072	4237530896		103		MASTERSON G-47 (03839)	PANHANDLE (RED CAVE)	36.5	COLORADO INTERSTA
8332384	F-10-66071	4237530897		103		MASTERSON G-48 (03839)	PANHANDLE (RED CAVE)	52.6	COLORADO INTERSTA
8332383	F-10-66070	4237530894		103		MASTERSON G-49 (03839)	PANHANDLE (RED CAVE)	88.9	COLORADO INTERSTA
-ENRE CORP				RECEIVED:	04/15/83	JA: TX			
8332249	F-09-64704	4212100000		102-4		DUESSEN-DUNN UNIT #1	MONTEATH (ATOKA UPPER	281.0	TEXAS UTILITIES F
-EXXON CORPORATION				RECEIVED:	04/15/83	JA: TX			
8332236	F-03-063992	4205132319		102-2		COOKS POINT UNIT 6 #2	GIDDINGS (AUSTIN CHAL	68.0	FERGUSON CROSSING
8332261	F-08-64947	4200333398		103		ELIZABETH ARMSTRONG D #1	MEANS	15.0	
8332208	F-06-061640	4218330545		102-4	107-TF	JOHN BEN SHEPPERD GAS UNIT B #1	GLADEWATER S (HAYNESV	730.0	TEJAS GAS CORP
8332314	F-06-065869	4226130617		103		K R SAN JOSE DE LA PARRA 36-D103596	CALANDRIA (I-46)	400.0	ARMCO STEEL CORP
8332199	F-03-060691	4215731298		103		KATY GAS FIELD UNIT #2 W-64	KATY S (FIRST WILCOX)	547.0	ARMCO STEEL CORP
8332392	F-04-66114	4226130764		102-4		KING RANCH BADENO 12 (163747)	SAN JOSE SOUTH (M-41)	1033.0	ARMCO STEEL CORP
8332301	F-04-65561	4227331727		102-4		KING RANCH TIJERINA A-76 (08935)	T-C-B EAST (20-I-3)	15.0	ARMCO STEEL CORP
8332183	F-06-054608	4240100000		102-2	107-TF	L W MINOR GAS UNIT #1 #1	OAK HILL NW (COTTON V	730.0	ARMCO STEEL CORP
8332324	F-04-64708	4226730834		102-4		MRS A M K BASS "B" 17-F	KELSEY DEEP (ZONE 18-	750.0	TRUNKLINE GAS CO
8332238	F-06-064184	4236531429		103	107-TF	NELLE DWENS #3	CARTHAGE (COTTON VALL	400.0	TEJAS GAS CORP
8332304	F-7C-65614	4223532022		103		PEARL WILLIAMS B #13	DOVE CREEK SOUTH (650	10.0	
8332308	F-04-65560	4204730726		102-4		RJK JR TR LOS MUERTOS PAS 34 887352	EL AZUL (M-42)	250.0	ARMCO STEEL CORP
8332288	F-8A-65455	4216532468		103		ROBERTSON CLEARFORK UNIT #5403	ROBERTSON M (CLEAR FO	15.0	PHILLIPS PETROLEU
-FARGO ENERGY CORP				RECEIVED:	04/15/83	JA: TX			
8332223	F-03-063092	4205132375		102-2		FREEMAN UNIT N-1	BIG A TAYLOR	1080.0	PHILLIPS PETROLEU
-FGB OIL CORP				RECEIVED:	04/15/83	JA: TX			
8332207	F-7B-061525	4288332604		102-2	103	MILLER RANCH #1	COLEMAN COUNTY REGULA	257.9	STRIGINE GAS CO
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	04/15/83	JA: TX			
8332269	F-06-65181	4200131342		102-4		J W MILLS "A" #1	PURT WEST (RODESSA 10	73.0	ESPERANZA PIPELIN
-GENE ROBERTSON OIL CO				RECEIVED:	04/15/83	JA: TX			
8332306	F-09-65685	4223733163		103		DR JAGODA A-1 RRC# 20472	MARINA-MAG (CONGL)	11.0	LONE STAR GAS CO
-GETTY OIL COMPANY				RECEIVED:	04/15/83	JA: TX			
8332219	F-03-062741	4204100000		102-2		C W MOODY #1-L	N BRYAN (GEORGETOWN)	0.0	FERGUSON CROSSING
8332363	F-06-66035	4236500000		108		C W STANFORD #1 RRC LEASE NO 00126	CARTHAGE	7.0	TEXAS GAS TRANSMI
8332178	F-03-052392	4204100000		102-2		G F CARTER #1	N BRYAN (GEORGETOWN)	0.0	FERGUSON CROSSING
8332185	F-06-055643	4236500000		103	107-TF	HARRIS-HARDIN #1	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8332360	F-06-66032	4236500000		108		LAGRONE BROTHERS RRC LEASE #00117	CARTHAGE	13.0	TEXAS GAS TRANSMI
8332361	F-06-66033	4236500000		108		LAURA YOUNGBLOOD #1 RRC 10098	CARTHAGE (TRAVIS PEAK	5.0	UNITED GAS PIPELI
8332359	F-06-66031	4236500000		108		LEAMON CREECH #1 RRC LEASE #00108	CARTHAGE	13.0	TEXAS GAS TRANSMI
8332362	F-06-66034	4236500000		108		R P DAVIDSON #1 RRC LEASE NO 00110	CARTHAGE	4.0	UNITED GAS PIPELI
8332386	F-8A-66079	4221900000		103		SYLVESTER #3	LEVELLAND	18.0	AMOCO PIPELINE CO
8332322	F-06-65907	4236500000		108		W B POWELL #1 RRC ID # 30184	CARTHAGE (L PETTIT)	14.0	TEXAS GAS TRANSMI
8332364	F-06-66036	4236500000		108		WERNER-WATKINS #1 RRC LEASE #00133	CARTHAGE	14.0	TEXAS GAS TRANSMI
8332164	F-06-024968	4236500000		103		WHITFIELD UNIT "A" #1	CARTHAGE (TRAVIS PEAK	0.0	UNITED GAS PIPELI
-GRUY MANAGEMENT SERVICE CO				RECEIVED:	04/15/83	JA: TX			
8332224	F-03-063132	4248131989		103		M DORRIS LEVERIDGE UNIT WELL #3	BERNARD EAST (7700')	0.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	04/15/83	JA: TX			
8332352	F-09-64921	4223734875		103		I O YATES WELL #20	BOONSVILLE (CADDO CON	11.0	NATURAL GAS PIPEL
8332350	F-7C-66019	4238332427		103		STATE "WH" WELL #5	AMIGO (SAN ANDRES)	17.7	NORTHERN NATURAL
8332351	F-7C-66020	4238332428		103		STATE "WH" WELL #2	AMIGO (SAN ANDRES)	27.9	NORTHERN NATURAL
8332214	F-08-062481	4237133989		103		WINFIELD-MILLIM WELL #1	USM (QUEEN)	17.0	NORTHERN NATURAL
-HARRIS R FENDER				RECEIVED:	04/15/83	JA: TX			
8332266	F-06-65095	4242330626		102-4		PINEDALE LAKE CO INC #1	DRISKELL LAKE (RODESS	35.0	LONE STAR GAS CO
-HEXAGON OIL & GAS INC				RECEIVED:	04/15/83	JA: TX			
8332277	F-7B-65369	4216330777		102-4	103	CALLAWAY #1	LIBERTY OAK (BIG SALI	193.0	INTRASTATE GATHER
-HINTON PRODUCTION COMPANY				RECEIVED:	04/15/83	JA: TX			
8332186	F-05-056011	4246730532		102-4		JOHNSON #1	MARTINS MILL (RODESSA	500.0	LONE STAR GAS CO
-HUFFCO PETROLEUM CORP				RECEIVED:	04/15/83	JA: TX			
8332267	F-04-65122	4213136101		103		D C WIEDERKEHR #1	EAST 76 (WILCOX) FIEL	122.0	TENNESSEE GAS PIP
8332258	F-04-64716	4213136101		102-4		D C WIEDERKEHR #1	EAST 76 (WILCOX) FIEL	122.4	TENNESSEE GAS PIP
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/15/83	JA: TX			
8332172	F-03-048268	4214900000		102-2	103	MARY BELLE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-HUNT OIL COMPANY				RECEIVED:	04/15/83	JA: TX			
8332286	F-08-65437	4227329952		102-4		BRINDLEY-COWDEN #1	MOORE (DEEP FSLM)	54.0	EL PASO HYDROCARB
8332299	F-08-65546	4227329971		102-4		BRINDLEY-COWDEN #2	MOORE (DEEP FSLM)	54.0	EL PASO HYDROCARB
8332220	F-06-062846	4236531393		102-2	107-TF	LUKE MOTLEY UNIT #3	CARTHAGE (COTTON VALL	0.0	DELHI GAS PIPELIN
-INDIAN WELLS OIL CO				RECEIVED:	04/15/83	JA: TX			
8332387	F-7C-66081	4241331269		103	107-TF	TAYLOR #3	PAGE RANCH (CANYON)	0.0	NORTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-JAMES E WOLDEN						
8332283	F-84-861265	4235532069		RECEIVED:		04/15/83 JA: TX
-KIMBARK OIL & GAS CO			103			R MORGAN PROPERTIES
8332282	F-88-65402	4217331351		RECEIVED:		04/15/83 JA: TX
8332283	F-88-65403	4217331360	103			EMSERCH-FRYSAK "A" 02
-L M YOUNG				RECEIVED:		04/15/83 JA: TX
8332272	F-7B-65298	4204933603	102-A			R J GOODALL "B" 05
-LOUISIANA CAMPBELL ENERGY CORP				RECEIVED:		04/15/83 JA: TX
8332241	F-83-864495	4248132625	102-A			M D CORBETT 04
-MARALO INC				RECEIVED:		04/15/83 JA: TX
8332348	F-88-66015	4200333294	103			LARIO SLOAN 02
8332347	F-88-66014	4200333144	103			LARIO SLOAN 03
-MCFARLANE OIL CO INC				RECEIVED:		04/15/83 JA: TX
8332276	F-82-65368	4246900000	103			PICKERING & ROOS 033-C
-MCIVER INC				RECEIVED:		04/15/83 JA: TX
8332217	F-7B-862596	4208333197	102-A			WINNIE MAYNES 03
-MIM-TEX EXPLORATION CORP				RECEIVED:		04/15/83 JA: TX
8332213	F-7B-862317	4209330859	102-A			GLOVER 01 (19199)
-MITCHELL ENERGY CORPORATION				RECEIVED:		04/15/83 JA: TX
8332187	F-89-838535	4249700000	108-ER			BILBERRY-MCCLURE 05 35493
8332188	F-89-856615	4249700000	108-ER			CLARA D RICHARDSON 02 8070437
8332171	F-7B-847765	4236700000	108-ER			G D WILEY 04 891453
8332175	F-89-850698	4249700000	108-ER			J T MEADOWS 01 828739
8332198	F-89-860673	4249700000	108-ER			L L BURRESS 01
8332165	F-89-827892	4249700000	108-ER			OTIS MEEKS 01 28740
8332193	F-89-859648	4249700000	108-ER			W A KINDLE 01
-MORROW RESOURCES INC				RECEIVED:		04/15/83 JA: TX
8332266	F-7C-864819	4245131123	102-2	103		BROWN 011
-MW OIL CO				RECEIVED:		04/15/83 JA: TX
8332375	F-88-66861	4247532564	103			UNIVERSITY DR 02
8332376	F-88-66862	4247532563	103			UNIVERSITY DR 03
-MW STEWART/EAGLE PETROLEUM				RECEIVED:		04/15/83 JA: TX
8332242	F-82-864588	4246900000	102-A			WILLIAM RAY II 01
-NATURAL GAS AMADARKO INC				RECEIVED:		04/15/83 JA: TX
8332202	F-10-861163	4229531171	103			LOESCH 01
8332215	F-10-862526	4235731206	102-A			PLETCHER 1-20
8332216	F-10-862527	4229531235	102-A			SCHULTZ 3-173
8332201	F-10-861132	4229531177	103			SELL 1-588
-NEWTON OIL & GAS CORP				RECEIVED:		04/15/83 JA: TX
8332226	F-84-863245	4247933429	103	107-TF		BARREDA 04
8332289	F-84-861923	4247900000	103	107-TF		PALAFOX EXPL CO "B" 03
-NICHOLAS PETROLEUM				RECEIVED:		04/15/83 JA: TX
8332418	F-7B-66148	4205932271	102-A			BRASHEAR 4-C 01 (883452)
8332417	F-7B-66139	4205932821	102-A			CUNNINGHAM 01 (878105)
8332416	F-7B-66138	4205932112	102-A			CUNNINGHAM 02 (882189)
8332415	F-7B-66137	4205932111	102-A			CUNNINGHAM 03 (882139)
8332414	F-7B-66136	4205932230	102-A			CUNNINGHAM 4-C 01 (882677)
8332413	F-7B-66135	4205932101	102-A			FORBES 01 (8864213)
8332412	F-7B-66134	4205932124	102-A			FORBES 02 (16552)
8332411	F-7B-66133	4205932272	102-A			FORBES 3-B 01 (16497)
8332410	F-7B-66132	4205932083	102-A			GAGE 01 (882458)
8332407	F-7B-66129	4205932043	102-A			GLOVER -A- 02 (14713)
8332409	F-7B-66131	4205932044	102-A			GLOVER 01 (14712)
8332408	F-7B-66130	4205932113	102-A			GLOVER 04 (882133)
8332406	F-7B-66128	4205932085	102-A			IRVIN 01 (14711)
8332405	F-7B-66127	4205932109	102-A			IRVIN 02 (882140)
8332404	F-7B-66126	4205932084	102-A			JONES 01 (14983)
8332403	F-7B-66125	4205932110	102-A			JONES 02 (889976)
8332402	F-7B-66124	4205932314	102-A			MCCLURE 1-A 01 (16569)
8332397	F-7B-66119	4205932329	102-A			MCCLURE 1-B 01 (16088)
8332401	F-7B-66123	4205932315	102-A			MCCLURE 2-A 01 (15894)
8332396	F-7B-66118	4205932330	102-A			MCCLURE 2-B 01 (15866)
8332400	F-7B-66122	4205932459	102-A			MCCLURE 3-A 01 (15865)
8332399	F-7B-66117	4205932456	102-A			MCCLURE 3-B 01 (16591)
8332399	F-7B-66121	4205903240	102-A			MCCLURE 4-A 01 (15863)
8332394	F-7B-66116	4205932455	102-A			MCCLURE 4-B 01 (16219)
8332398	F-7B-66120	4205932496	102-A			MCCLURE 5-A 01 (16485)
-NOW PETROLEUM CO				RECEIVED:		04/15/83 JA: TX
8332330	F-89-65938	4223734567	102-A			M P HOEFLE "B" 05 22571
-OJB INC				RECEIVED:		04/15/83 JA: TX
8332287	F-7C-65445	4218500000	103			CHILDRESS 22-2
-PANHANDLE ENERGY CORP				RECEIVED:		04/15/83 JA: TX
8332319	F-10-65892	4206531289	103			MICHELLE "M" 01 (ID# 052977)
8332317	F-10-65890	4206531290	103			MICHELLE "M" 02 (ID# 052977)
8332318	F-10-65891	4206531291	103			MICHELLE "M" 03 (ID# 052977)
-PAUL DE CLEVA				RECEIVED:		04/15/83 JA: TX
8332194	F-89-859936	4212100000	103			GIBBS 01
-PEEJAY EXPLORATION INC				RECEIVED:		04/15/83 JA: TX
8332264	F-7B-65864	4213333533	103			SIBLEY 01
-PEND OREILLE OIL & GAS CO				RECEIVED:		04/15/83 JA: TX
8332268	F-84-65164	4240931676	102-A			TEX MED PROF BLDG CORP 02
-PENNZOIL PRODUCING COMPANY				RECEIVED:		04/15/83 JA: TX
8332284	F-86-65423	4200500000	108			JOHN REDDITT 01
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		04/15/83 JA: TX
8332321	F-10-65906	4217900000	108			GATSY 04
-PYRO ENERGY CORP				RECEIVED:		04/15/83 JA: TX
8332237	F-84-864176	4224731423	102-A			C MESTEMA '391' 01
-R C HAGENS				RECEIVED:		04/15/83 JA: TX
8332222	F-84-863872	4247933465	102-2			F LOPEZ 01
-RIDGE OIL CO				RECEIVED:		04/15/83 JA: TX
8332233	F-7B-863687	4213334333	102-A	103		COOPER 01
8332228	F-7B-863491	4213334430	102-A	103		J C MARRELL 01
8332315	F-7B-65879	4213334456	103			MCDONALD 01
8332316	F-7B-65880	4213334438	102-A	103		MAMIE WALKER 02
8332228	F-7B-863939	4242933458	102-A	103		RODGERS 01
8332234	F-7B-863718	4213334439	102-A	103		SQUYRES 01
-SAG ENERGY INC				RECEIVED:		04/15/83 JA: TX
8332263	F-7B-65809	4236732424	102-A			FORD UNIT 01
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:		04/15/83 JA: TX
8332366	F-83-86842	4219931809	102-A			WALKER PETTIT KIRBY 04
-SEGREST-WARD JOINT VENTURE				RECEIVED:		04/15/83 JA: TX
8332173	F-86-848810	4218300000	103	107-DP		TRUDIE BRUTON 01
-SHELL OIL CO				RECEIVED:		04/15/83 JA: TX
8332313	F-10-63865	4234100000	108			KELLY 01-2

FIELD NAME	PROD	PURCHASER
WILDCAT	158.0	VICTORIA GAS CORP
SPRABERRY (TREND AREA	18.5	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	18.5	PHILLIPS PETROLEU
DALE (CADDO)	24.0	EL PASO HYDROCARB
SPANISH CAMP (FRIO 41	182.5	NATURAL GAS PIPEL
DEEP ROCK (PENN)	1.0	PHILLIPS PETROLEU
DEEP ROCK (PENN)	6.0	PHILLIPS PETROLEU
PLACEDO WEST (3900)	0.0	TENNECO CHEMICALS
TRICKHAM CROSSCUT	0.0	LONE STAR GAS CO
GORMAN EAST (MARBLE F	18.0	LONE STAR GAS CO
BOONSVILLE (CONSOLIDA	13.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	11.4	NATURAL GAS PIPEL
CARTER CREEK (BEND CO	11.6	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
K M B (STRAWN)	0.0	LONE STAR GAS CO
WICKETT SOUTH (YATES)	16.0	CABOT PIPELINE CO
WICKETT SOUTH (YATES)	0.0	CABOT PIPELINE CO
WILDCAT	0.0	
BRADFORD (CLEVELAND)	182.0	TRANSWESTERN PIPE
PERRYTON WEST (MORROW	146.0	PHILLIPS PETROLEU
LEAR (MORROW UPPER)	240.0	TRANSWESTERN PIPE
NORTMRUP (CLEVELAND)	145.0	TRANSWESTERN PIPE
LAS TIENDAS (OLMOS)	500.0	TEJAS GAS CORP
LAS TIENDAS (OLMOS)	146.0	LONE STAR GAS CO
NICHOLAS (DUFFER)	52.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	94.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	20.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	33.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	12.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	16.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	4.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	22.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	108.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	42.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	105.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	30.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	30.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	39.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	78.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	31.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	39.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	55.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	145.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	67.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	31.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	129.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	18.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	9.0	EL PASO HYDROCARB
ANTELOPE SE (MARBLE F	65.0	SOUTHWESTERN GAS
OZONA (CANYON SAND)	36.0	VALERO TRANSMISSI
PANHANDLE CARSON	50.0	GETTY OIL CO
PANHANDLE CARSON	40.0	GETTY OIL CO
PANHANDLE CARSON	40.0	GETTY OIL CO
WILDCAT	0.0	LONE STAR GAS CO
EASTLAND COUNTY REGUL	41.0	NORTHERN GAS PROD
PORTLAND S	1022.0	HOUSTON PIPELINE
PLATT/PETTIT LOWER	11.0	TEXAS EASTERN TRA
PANHANDLE GRAY	0.0	
COYOTE W (6000') PROP	0.0	AMERICAN PIPELINE
WILDCAT	182.0	ESPERANZA TRANSPO
RANGER NW (MARBLE FAL	14.4	COMPRESSOR RENTAL
RANGER (BLACK LIME WE	13.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	37.1	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	9.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	43.2	COMPRESSOR RENTAL
MOBY DICK (CONGL)	98.0	SOUTHWESTERN GAS
SOUR LAKE E (KIRBY)	635.0	TEJAS GAS CORP
WILLOW SPRINGS-MACKEY	0.0	ARKANSAS LOUISIAN
PANHANDLE WEST	14.8	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8332309	F-88-65861	4247500000	108			SEALY SMITH FOUNDATION 030
8332307	F-8A-65859	4216500000	108			S WASSON CLEARFORK UT NO 74035
8332308	F-08-65860	4213500000	108			THOMAS-B-TRACT 1 HO 17
8332312	F-08-65864	4213500000	108			TXL-D- 06
8332311	F-08-65863	4213500000	108			TXL-E- 04
8332310	F-08-65862	4213500000	108			TXL-E-03
-SHORTES V M & MABEL F Q				RECEIVED:		04/15/83 JA: TX
8332353	F-7B-66023	4208300000	102-2			R M TOBIN 05
-SO-TEX PETROLEUM, INC.				RECEIVED:		04/15/83 JA: TX
8332294	F-7B-65498	4244132308	102-A			JANET BURNS 01
-SOJOURNER DRILLING CORP				RECEIVED:		04/15/83 JA: TX
8332374	F-7B-66056	4241734838	102-A			WALKER-BUCKLER BA-3 (103286)
-SONAT EXPLORATION COMPANY				RECEIVED:		04/15/83 JA: TX
8332168	F-06-837332	4241930324	103			PICKERING LUMBER CO 08-9
-SOUTHEASTERN RESOURCES CORP				RECEIVED:		04/15/83 JA: TX
8332323	F-7B-65908	4213334227	102-A			M K COURTNEY "A" 05 (18887)
-SOUTHLAND ROYALTY CO				RECEIVED:		04/15/83 JA: TX
8332326	F-88-65913	4243131239	103			FLINT ESTATE "A" 03
8332325	F-88-65912	4246131966	103			ONEAL SAN ANDRES UNIT 066
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		04/15/83 JA: TX
8332334	F-88-65943	4200300000	108			ATLANTIC HOLT 03
8332332	F-88-65941	4249500000	108			BROWN ALTMAN A/C-7 07
8332391	F-89-66111	4227531298	102-A			FANT EST "2A" 03
8332262	F-81-64986	4212732410	103			FROST NATL BANK TRUSTEE 031
8332331	F-81-65948	4213730000	108			HOMER RUDASILL 03
8332333	F-84-65942	4242700000	108			I T GARCIA 03
8332327	F-88-65927	4249500000	108			J B WALTON 05
8332247	F-06-864647	4236531486	103	107-TF		LLOYD MOORE GAS UNIT 02
8332335	F-81-65944	4213700000	108			S A SHANKLIN 01
-SUPERIOR OIL CO				RECEIVED:		04/15/83 JA: TX
8332191	F-82-858178	4228531660	102-2	107-TF		ALBERT SMOLIK 01
8332190	F-84-857310	4247932872	107-TF			DANIEL FLORES 04
8332204	F-83-861378	4205132332	102-2	103		J D EDWARDS 02
-TENNECO OIL COMPANY				RECEIVED:		04/15/83 JA: TX
8332341	F-10-65967	4242130215	108			FUENTES 01-109
8332342	F-10-65968	4242100000	108			J L HASS 01
-TEXACO INC				RECEIVED:		04/15/83 JA: TX
8332189	F-8A-856966	4250132044	103			ROBERTS UNIT #2727
8332230	F-08-863529	4243131243	103			STERLING "M" FEE 05
-TEXAS CRUDE INC				RECEIVED:		04/15/83 JA: TX
8332229	F-8A-863518	4216500000	103			CAIN 01-10 WELL
8332378	F-8A-66065	4216500000	103			NORMAN 05-9
-THE ANSCHUTZ CORPORATION				RECEIVED:		04/15/83 JA: TX
8332239	F-84-864191	4204731221	102-A			STELLA CASEY 01
-TOT RICHARDS DOZER INC				RECEIVED:		04/15/83 JA: TX
8332280	F-7B-65396	4244733098	102-A			DARLA JANICE 06
-TXO PRODUCTION CORP				RECEIVED:		04/15/83 JA: TX
8332278	F-08-65373	4237133774	103			ARCO "75" 04
8332195	F-02-860001	4239131317	103			MARBERRY B-6
8332235	F-06-863763	4206730399	102-A			SIMPSON "D" 02
8332211	F-7B-862059	4241734827	103			WALKER-BUCKLER 72 "A" 01
-U S OPERATING INC				RECEIVED:		04/15/83 JA: TX
8332285	F-03-65428	4228731300	103			BLANDINA 01 RRC ID# N/A
-UNION EXPLORATION				RECEIVED:		04/15/83 JA: TX
8332279	F-7B-65387	4205932782	102-A			WILLIAM -61- 01 (103817)
-UNION OIL COMPANY OF CALIF				RECEIVED:		04/15/83 JA: TX
8332343	F-08-66002	4237100000	108			AUBREY PRICE 01
8332290	F-01-65468	4210534329	102-2			WAYNE WEST RANCH "A" 03
-USEMCO INC				RECEIVED:		04/15/83 JA: TX
8332303	F-7B-65573	4236732313	103			BATEMAN 01
8332302	F-7B-65572	4236732246	103			HODGES 02
-VALWOOD PRODUCTION CO				RECEIVED:		04/15/83 JA: TX
8332188	F-03-856928	4205131864	102-2	103		LEWIS 01
-VANDERBILT RESOURCES CORPORATION				RECEIVED:		04/15/83 JA: TX
8332259	F-01-64884	4217731367	102-A			PETTUS-A 03
-VERNON E FAULCONER INC				RECEIVED:		04/15/83 JA: TX
8332291	F-06-65472	4236500000	108			M C CLINE 1-T RRC 0029484
8332292	F-06-65473	4236500000	108			O B PATTON 1-T RRC 0834031
-W J WHITT				RECEIVED:		04/15/83 JA: TX
8332324	F-7B-65989	4241734646	102-A			PARRISH 03 (18557)
-W W WEST				RECEIVED:		04/15/83 JA: TX
8332270	F-7C-65237	4239932212	102-A			WLK-GORDON BROOKSHIER 03
-WAGNER & BROWN				RECEIVED:		04/15/83 JA: TX
8332274	F-08-65310	4243131268	103			RAY "A" 09-31
-WALTER D CLINE JR				RECEIVED:		04/15/83 JA: TX
8332305	F-02-65625	4217531694	103			SOUTH TEXAS CHILDRENS HOME 02
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		04/15/83 JA: TX
8332356	F-08-66027	4210330608	108			J B TUBB "A" 018
8332349	F-08-66018	4246131959	103			MCELROY RANCH CO "G" WELL 019
8332357	F-08-66028	4210332293	108			W N WADDELL 01165
8332365	F-08-66038	4210332284	108			W N WADDELL 01167
8332355	F-08-66026	4210332559	108			W N WADDELL 01184
8332260	F-08-64934	4210333032	103			W N WADDELL 01256
8332354	F-08-66024	4210332969	103			W N WADDELL 01272
8332373	F-08-66055	4210302451	108			W N WADDELL 0160
8332372	F-08-66054	4210302453	108			W N WADDELL 0162
8332371	F-08-66053	4210301700	108			W N WADDELL 0230
8332370	F-08-66052	4210301715	108			W N WADDELL 0245
8332369	F-08-66051	4210302266	108			W N WADDELL 0825
8332368	F-08-66050	4210310426	108			W N WADDELL 0898
8332358	F-08-66030	4210310820	108			W N WADDELL 0922
-WEATHERBEE PETROLEUM INC				RECEIVED:		04/15/83 JA: TX
8332232	F-7B-863676	4242933478	103			DAUGHERTY 04
-WHITEHEAD PRODUCTION CO INC				RECEIVED:		04/15/83 JA: TX
8332367	F-89-66049	4223700000	108			ELLIS 01 RR ID# 086778
-WILLIAM M SIEGEL				RECEIVED:		04/15/83 JA: TX
8332393	F-89-66115	4207732790	102-A			MILLER 22845
-WINN EXPLORATION/DULCE CO				RECEIVED:		04/15/83 JA: TX
8332254	F-01-64874	4250731811	102-A			PRYOR RANCH 0120
8332258	F-01-64878	4250731818	102-A			PRYOR RANCH 0140
8332257	F-01-64877	4250731847	102-A			PRYOR RANCH 0154
8332256	F-01-64876	4250731852	102-A			PRYOR RANCH 0155
8332255	F-01-64875	4250731875	102-A			PRYOR RANCH 0159
8332252	F-01-64871	4250731860	102-A			PRYOR RANCH 0176
8332253	F-01-64872	4250731885	102-A			PRYOR RANCH 0178

FIELD NAME	PROD	PURCHASER
MONAHANS (CLEAR FORK)	1.8	EL PASO NATURAL G
WASSON 72	9.3	COLTEXO CORP
TXL (SAN ANDRES)	1.9	SHELL OIL CO
TXL (SAN ANDRES)	3.6	SHELL OIL CO
TXL (SAN ANDRES)	8.4	SHELL OIL CO
TXL (DEVONIAN)	6.9	SHELL OIL CO
COLEMAN COUNTY REGULA	30.0	EL PASO HYDROCARB
SO-TEX (FRY)	46.0	UNION TEXAS PETRO
ROCKWELL (GARDNER)	41.0	DELMI GAS PIPELIN
JOAQUIN FIELD (TRAVIS	875.0	SOUTHERN NATURAL
JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
CONGER (PENN)	27.0	VALERO TRANSMISSI
MCELROY	1.8	PHILLIPS PETROLEU
COWDEN NORTH	8.3	AMOCO PRODUCTION
EMPEROR-DEVONIAN	5.0	WEST TEXAS GATHER
FANT	16.0	SUN GAS TRANSMISS
PEARSALL (AUSTIN CHAL	14.0	HOUSTON PIPE LINE
ROCKSPRINGS WEST (CAN	20.0	VALERO INTERSTATE
FLORES (SULLIVAN UPPE	6.0	
KERMIT	0.0	CABOT CORP
CARTHAGE	0.0	DELMI GAS PIPE LI
ROCKSPRINGS WEST (CAN	12.0	VALERO INTERSTATE
N WORD (EDWARDS)	0.0	
SCHWARZ	0.0	TRANSCONTINETAL G
GIDDINGS (AUSTIN CHAL	0.0	
TEXAS - HUGOTON	15.0	PHILLIPS PETROLEU
TEXAS-HUGOTON	10.0	PHILLIPS PETROLEU
WASSON	0.0	SHELL OIL CO
CONGER (PENN)	0.0	VALERO TRANSMISSI
TEX-FLOR/WOLFCAMP	6.5	PHILLIPS PETROLEU
TEX-FLOR (WOLFCAMP)	18.3	PHILLIPS PETROLEU
FALFURRIAS	415.0	ESPERANZA TRANSMI
JANICE (SADDLE CREEK)	31.0	M S T GATHERING C
CHENOT (WOLFCAMP)	100.0	DELMI GAS PIPELIN
MCFADDIN (4500)	0.0	UNITED GAS PIPELI
AVINGER (PETTIT)	0.0	DELMI GAS PIPELIN
ROCKWELL (CONGL UPPER	250.0	DELMI GAS PIPELIN
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
FIDDLERS GREEN (COOK)	22.0	LONE STAR GAS CO
GOMEZ NW (WOLFCAMP)	11.0	EL PASO NATURAL G
MASSIE (STRAWN)	300.0	INTRASTATE GAS CO
POOLVILLE SW (CONGL 4	175.0	LONE STAR GAS CO
POOLVILLE SW (CONGL 4	140.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
PEACH CREEK (AUSTIN C	50.0	VALERO TRANSMISSI
BETHANY (TRAVIS PEAK)	18.6	UNITED GAS PIPELI
BETHANY (TRAVIS PEAK)	17.7	UNITED GAS PIPELI
BIRTHDAY (MORAN)	43.0	LONE STAR GAS CO
SAXON	0.0	LONE STAR GAS CO
CONGER (PENN)	140.2	TEXAS UTILITIES F
MARSHALL 2620	10.7	LONE STAR GAS CO
SAND HILLS (JUDKINS)	5.4	EL PASO NATURAL G
MCELROY RANCH (WOLFCA	59.0	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.9	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.8	EL PASO NATURAL G
SAND HILLS (JUDKINS)	15.1	EL PASO NATURAL G
SAND HILLS NW (TUBB)	128.8	EL PASO NATURAL G
SAND HILLS (WICHITA A	6.2	EL PASO NATURAL G
SAND HILLS (JUDKINS)	2.9	EL PASO NATURAL G
SAND HILLS (JUDKINS)	9.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	9.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	1.8	EL PASO NATURAL G
SAND HILLS (JUDKINS)	4.7	EL PASO NATURAL G
SAND HILLS (JUDKINS)	6.4	EL PASO NATURAL G
SAND HILLS (JUDKINS)	5.9	EL PASO NATURAL G
WILDCAT	96.0	LONE STAR GAS CO
PERRIN EAST (5400' CO	18.2	NATURAL GAS PIPEL
DEER CREEK "ISRAEL 50	518.0	FAGADAU ENERGY CO
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI

VOL 48 ISS 93 MAY 12 1983 UMI

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
						C:	103 Denied by JA
79-02762	WH	Caulkins Oil Company	State C Comm.	329	12-12-80	C:	102-3 approved
81-06136	OK	May Petroleum Inc.	Rose #1	774	11-22-82	C:	102-3 & 103 approved
83-04109	OK	Samson Resources	Love #1	774	11-22-82	C:	102-3 & 103 approved
83-04120	OK	Samson Resources	Louise #1	802	01-06-83	C:	108 & 108-ER approved
83-11597	OK	Kaiser Francis Oil Co.	Schroeder Estate #1-23	826	02-09-83	C:	102-2; 102-4 & 103 approved
83-17679	TX	Mitchell Energy	Bragg #1	826	02-09-83	C:	Well Name
83-17691	TX	SIDCO	Bragg #1	828	02-18-83	C:	107-DW approved; not 107-TF
83-18196	OH	Whitman Oil & Gas Corp.	Mary & Comer Naught #1	829	02-18-83	C:	107-TF approved; not 107-DW
83-18351	PA	Mitch-Well Energy Inc.	Ronald F & Patricia D Burdick #1	830	02-18-83	C:	107-TF approved, not denied
83-18578B	OH	B-J Inc.	A. Johnson #1	832	02-18-83	C:	107-TF approved; not 103CS
83-18939	PA	Cabot Oil & Gas	Clifford Reid #1	834	02-24-83	C:	102-4 & 103 approved
83-19321	TX	Marshall Exp. Inc.	Rettig #1	837	03-01-83	C:	Applicant Name
83-20217	LA	TXO Production Corp.	Alexander C #1	837	03-01-83	C:	108 approved; not 103
83-20224	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #327	837	03-01-83	C:	108 approved; not 103
83-20279	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #331	837	03-01-83	C:	108 approved; not 103
83-20284	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #30	837	03-01-83	C:	108 approved; not 103
83-20285	LA	Mid Louisiana Gas Co.	MLGC Fee Gas #48	837	03-01-83	C:	103 & 107-TF approved
83-20304	LA	Reliance Trusts	Manville #3	837	03-01-83	C:	103 approved; not 108
83-20321	LA	Maddox Petroleum	Manville 808 #1	838	03-01-83	C:	Well Name
83-20433	US(NM)	El Paso Natl. Gas Co.	SJ-32-5 Unit #3	839	03-04-83	C:	107-PE approved; not 107-TF
83-20627	TX	Enserch Exp. Inc.	E. G. Coleman #1	839	03-04-83	C:	Well Name
83-20642	TX	Retana Oil Corp.	Hammond "A" #5-C	839	03-04-83	C:	102-2, 103 & 107-TF approved
83-20656	TX	Superior Oil Company	Granberry W. M. #1	840	03-04-83	C:	102-4 & 103 approved
83-20793	OK	Holden Energy Corp.	Locke #1	842	03-09-83	C:	108-ER approved; not 108
83-21365	OK	Phillips Petroleum	George "A" #1	843	03-11-83	C:	107-PE approved; not 107-TF
83-21529	WV	John S. Wold	Buzzard Ranch Co 7-1	843	03-11-83	C:	102-3 & 107-TF approved
83-21570	NM	Yates Petroleum Corp.	Bitter Lake "FX" State #1	843	03-11-83	C:	102-3 & 107-TF approved
83-21571	NM	Yates Petroleum Corp.	Roadrunner "VT" St #1	844	03-11-83	C:	102-2 approved; not 103
83-21599	TX	Indian Wells Oil Co.	Richey #42A #6	844	03-11-83	C:	Well Name
83-21632	TX	Wian Exp./Dulce Co.	Pryor Ranch #65	845	03-11-83	C:	Well Name
83-21798	OK	Montgomery Exp. Co.	McQuown #4-19	845	03-11-83	C:	108-ER approved; not 108
83-21822	OK	Kaiser-Francis Oil Co.	Albert #1-7	846	03-11-83	C:	Well Name
83-22200	LA	K-B Exploration Co.	Iberville Land Co. No. 1	846	03-11-83	C:	107-PE approved; not 107-TF
83-22112	PA	Vincent Kutch	Holmes #1	846	03-11-83	C:	107-PE approved; not 107-TF
83-22131	PA	Fox Oil & Gas Inc.	F M Sloan #1	847	03-17-83	C:	Well Name
83-22222	TX	Am. Quasar Pet. Co.	O P K #1-L	848	03-17-83	C:	Applicant Name
83-22525	KS	Irex Corporation	Nash #1-21	848	03-17-83	C:	Applicant Name
83-22532	KS	Ben Springer	Stice #2	848	03-17-83	C:	Applicant Name
83-22534	KS	Ben Springer	South Howell #3	848	03-17-83	C:	Applicant Name
83-22547	KS	Ben Springer	Stigenwalt #1	848	03-17-83	C:	Applicant Name
83-22548	KS	Ben Springer	Stigenwalt #2	848	03-17-83	C:	Applicant Name
83-22549	KS	Ben Springer	Stice #1	848	03-17-83	C:	Applicant Name
83-22454	KS	Ben Springer	North Plumley #3	848	03-17-83	C:	Applicant Name
83-22455	KS	Ben Springer	North Plumley #2	848	03-17-83	C:	Applicant Name
83-22486	KS	Ben Springer	Stigenwalt #3	848	03-17-83	C:	Applicant Name
83-22507	KS	Integrated Energy	Helen Haines #1	849	03-22-83	C:	108 approved; not 108-PB
83-22807	US(NM)	Conoco Inc.	Elliott B-15 #1	854	03-24-82	C:	108-ER approved; not 108
83-24284	US(WY)	Midlands Gas Corp.	Federal #1 0351	859	04-05-83	C:	102-2 & 107-TF approved
83-25278	NM	Yates Petroleum Corp.	Rock House "VF" St #1	859	04-05-83	C:	102-2 & 107-TF approved
83-25279	NM	T.H. McElvain Oil & Gas Properties	Rattlesnake St. #1	859	04-05-83	C:	102-2 & 107-TF approved
83-25280	NM	Fred Pool Operating Co.	J.C. Hall #1	856	03-28-83	C:	107-DW approved; not 107-TF.
83-24577	OH	BPC Drilling Program 82-A	Hohman #1	856	03-28-83	C:	107-TF denied by JA
83-24591	OH	Discovery Oil LTD	Elwood Stout #2	856	03-28-83	C:	107-TF approved; not 107-DP
83-24611	OH	Dusty Drilling Co., Inc.	J. Sidwell #3	857	03-28-83	C:	107-PE approved; not 107-TF
83-24780	WY	Sohio Petroleum Co.	South Sand Draw #4	861	04-05-83	C:	108-ER approved; not 108
83-25607	TX	Sun Expl. & Prod. Co.	Scaligeon Unit #1-92	862	04-05-83	C:	103 approved; not 102-4
83-26051	TX	Harris Exploration Co.	C.W. Webb #2	862	04-05-83	C:	103 approved; not 102-2
83-26106	TX	WHD Inc.	Tom #1 (27253)	864	04-06-83	C:	Well Name
83-26640	KS	Southland Royalty Co.	Adams #6-11	864	04-06-83	C:	108 denied by JA
83-26643	NM	Amerada Hess	Ida Wimberly #14 (Dual)	864	04-06-83	C:	Well Name
83-26864	WY	Belco Petroleum Corp.	BFMV 15-28	865	04-12-83	C:	103 approved, not denied
83-26961	OH	B-J Inc.	C. E. Willey #4	865	04-12-83	C:	103 approved, not denied
83-26960	OH	B-J Inc.	C. E. Willey #3	865	04-12-83	C:	103 approved, not denied
83-26959	OH	B-J Inc.	C. E. Willey #2	865	04-12-83	C:	103 approved, not denied
83-26958	OH	B-J Inc.	C. E. Willey #1	865	04-12-83	C:	102-2 approved; not 102-4
83-27086	OK	TXO Production Corp.	Ted Johnson #1	865	04-12-83	C:	108-ER approved, not 108
83-27183	US(CO)	Amer. Resources Mgt. Co.	SC #11-1	865	04-12-83	C:	103 & 107-TF approved
83-27192	US(CO)	ARCO Oil & Gas	Southern Ute 22-3 32-8	865	04-12-83	C:	103 approved; not 102-4
83-27214	MS	Pruet Production Co.	Vyron Womack 1-3 #1	866	04-12-83	C:	107-TF denied by JA
83-27507	WY	Amer. Penn Energy Inc.	D.V. Valentine #1 (1445)	868	04-18-83	C:	102-4 & 103 approved
83-28010	OK	Rex R. Moore Jr.	Conell #1	870	04-18-83	C:	Well Name
83-28283	US(NM)	El Paso Nat. Gas Co.	San Juan 27-4 Unit #85	871		C:	Well Name
83-28640	TX	Exxon Corporation	JB Tubb B #30-L				

DEPARTMENT OF ENERGY

[Volume 889]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 6, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after pubication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS
ISSUED MAY 6, 1983
VOLUME 889

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS CONSERVATION									
-AMERICAN RESOURCES MANAGEMENT CORPO		RECEIVED:	04/18/83	JA: CO					
8332543	82-1151	0510307763		108		LOWELL BRADY T C 823-3	TRAIL CANYON	10.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO		RECEIVED:	04/18/83	JA: CO					
8332421	82-818	0500107804		102-2		ABBOTT FARMS INC #1	KRAUTHEAD	224.0	CRYSTAL OIL CO
8332424	82-807	0500107805		102-2		CHARLES COFFELT #1	KRAUTHEAD	821.0	CRYSTAL OIL CO
8332422	82-816	0500107751		102-2		ELEANOR ARNOLD #1	KRAUTHEAD	1460.0	CRYSTAL OIL CO
8332423	82-713	0500107977		102-2		ELEANOR ARNOLD "B" #1	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332428	82-811	0500107785		102-2		GEORGE SAUTER #1	KRAUTHEAD - MUDDY D S	657.0	CRYSTAL OIL CO
8332444	82-803	0500107793		102-2		JACOB ZEILER #1	BASELINE	50.0	CRYSTAL OIL CO
8332425	82-711	0500506415		102-2		PRITCHETTE-GREEN #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332426	82-710	0500506429		102-2		PRITCHETTE-GREEN "B" #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332427	82-712	0500506434		102-2		PRITCHETTE-GREEN UNIT "C" #1	POLLEN - MUDDY J SAND	50.0	VESSELS GAS PROCE
8332429	82-822	0500107894		102-2		UPRR 60 PAN AM "C" #2	BASELINE	50.0	CRYSTAL OIL CO
8332430	82-821	0500107902		102-2		UPRR 60 PAN AM "C" #3	BASELINE	50.0	CRYSTAL OIL CO
8332431	82-824	0500107903		102-2		UPRR 60 PAN AM "C" #4	BASELINE	50.0	CRYSTAL OIL CO
8332432	82-809	0500107904		102-2		UPRR 60 PAN AM "C" #5	BASELINE	50.0	CRYSTAL OIL CO
8332433	82-820	0500107809		102-2		UPRR 60 PAN AM "D" #1	BASELINE	50.0	CRYSTAL OIL CO
8332434	82-823	0500107891		102-2		UPRR 60 PAN AM "D" #2	BASELINE	50.0	CRYSTAL OIL CO
8332435	82-819	0500107892		102-2		UPRR 60 PAN AM "D" #3	BASELINE	50.0	CRYSTAL OIL CO
8332436	82-813	0500107893		102-2		UPRR 60 PAN AM "D" #4	BASELINE	50.0	CRYSTAL OIL CO
8332437	82-814	0500107964		102-2		UPRR 60 PAN AM "D" #5	KRAUTHEAD	58.0	CRYSTAL OIL CO
8332438	82-708	0500107978		102-2		UPRR 60 PAN AM "E" #1	KRAUTHEAD	50.0	CRYSTAL OIL CO
8332439	82-817	0500107968		102-2		UPRR 60 PAN AM "E" #2	KRAUTHEAD	50.0	CRYSTAL OIL CO
8332440	82-808	0500107937		102-2		UPRR 60 PAN AM "F" #1	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332441	82-812	0500107936		102-2		UPRR 60 PAN AM "F" #2	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332442	82-815	0500108021		102-2		UPRR 60 PAN AM "F" #3	KRAUTHEAD	70.0	CRYSTAL OIL CO
8332443	82-802	0500107989		102-2		UPRR 60 PAN AM "H" #1	FENCE POST	70.0	CRYSTAL OIL CO
8332446	82-731	0500107976		103		W E POPE UNIT "B" #1	QUAIL	70.0	PANHANDLE EASTERN
-COLTON CO		RECEIVED:	04/18/83	JA: CO				72.0	
8332447	82-844	0500107844		103		THOMPSON-PRICE #1			
-DAVIS OIL COMPANY		RECEIVED:	04/18/83	JA: CO			WILDCAT	15.0	PANTERA ENERGY CO
8332448	82-673	0512310375		103		HENDERSHOT STATE #1			
-ENERGY MINERALS CORPORATION		RECEIVED:	04/18/83	JA: CO			RIDGE	98.0	PANTERA ENERGY CO
8332419	82-875	0508707675		102-2		BILLINGS #1	SPINDLE	14.0	COLORADO INTERSTA
8332544	82-1148	0512309557		108		BRETT #3	WAITE LAKE	12.0	DAMSON OIL CORP
8332545	82-1147	0512309924		108		DOC #1	KIOWA CREEK	18.0	DAMSON OIL CORP
8332546	82-1146	0512308639		108		DUFF 23-31	RIDGE	13.0	PANTERA ENERGY CO
8332420	82-876	0508707627		102-2		SAILSBERY #1			
-ENERGY OIL INC		RECEIVED:	04/18/83	JA: CO			LOVELAND	230.0	PANHANDLE EASTERN
8332449	82-681	0512310274		103		IHNEN #2	LOVELAND	225.0	PANHANDLE EASTERN
8332450	82-737	0512310652		103		IHNEN #3	LOVELAND	225.0	PANHANDLE EASTERN
8332451	82-655	0512310273		103		STROH #1			
-EXCEL ENERGY CORP		RECEIVED:	04/18/83	JA: CO			WATTENBERG	200.0	PANHANDLE EASTERN
8332485	82-858	0512310503		107-TF		FT ST VRAIN #12	WATTENBERG	200.0	PANHANDLE EASTERN
8332486	82-859	0512310456		107-TF		FT ST VRAIN #13	WATTENBERG	200.0	PANHANDLE EASTERN
8332487	82-857	0512310383		107-TF		KURTZ #1			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332488	82-918	0512310698		107-TF		QUARTER CIRCLE #1	WATTENBERG	200.0	PANHANDLE EASTERN
-FARM-RANCH EXPLORATION CORP				RECEIVED:	04/18/83	JA: CO			
8332489	82-683	0500107799		107-TF		WESSELS TRUPP-MITCHEM #2	ZENITH	150.0	PANHANDLE EASTERN
-H L WILLETT				RECEIVED:	04/18/83	JA: CO			
8332535	82-947	0512310680		107-TF		BEIERLE #1-A	WATTENBERG	300.0	PANHANDLE EASTERN
8332536	82-913	0512310373		107-TF		WARNER #1	WATTENBERG	660.0	PANHANDLE EASTERN
-IMPACT ENERGY INC				RECEIVED:	04/18/83	JA: CO			
8332452	82-694	0512305671		103		IMP #1 COTTONWOOD-ST 16 T-9N R-56W	COTTON VALLEY	7.0	KM ENERGY INC
-J M HUBER CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332490	82-921	0512506760		107-TF		BOLLONG #12-1	REPUBLICAN	20.0	K W ENERGY INC
8332491	82-746	0512506765		107-TF		BROWN #13-1	WILDCAT	20.0	K W ENERGY INC
8332492	82-885	0512506752		107-TF		JEWELL #9-1	REPUBLICAN	20.0	K W ENERGY INC
8332493	82-1022	0512506728		107-TF		MEIS #30-1	WILDCAT	20.0	K W ENERGY INC
8332494	82-1052	0512506729		107-TF		WENGER #13-1	WILDCAT	20.0	K W ENERGY INC
-J-W OPERATING COMPANY				RECEIVED:	04/18/83	JA: CO			
8332495	82-923	0512506784		107-TF		T BROPHY #30-14	OLD BALDY	495.0	K W ENERGY INC
8332496	82-993	0512506785		107-TF		T BROPHY #31-19	WAVERLY	288.0	K W ENERGY INC
-K C OPERATIONS				RECEIVED:	04/18/83	JA: CO			
8332497	82-868	0512309987		107-TF		REICHERT 9-2J	WATTENBERG	20.0	PANHANDLE EASTERN
-LIFESTYLE ENERGY CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332453	82-906	0500107552		103		DANFORD-CHAMPLIN #1-24	BUCKHORN	9.0	WESTERN GAS SYSTE
8332454	82-905	0500107601		103		DANFORD-CHAMPLIN #2-24	BUCKHORN	9.0	WESTERN GAS SYSTE
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	04/18/83	JA: CO			
8332455	82-978	0512310427		103		BECKY #2-6	WATTENBERG	0.0	PANHANDLE EASTERN
8332456	82-977	0501306115		103		CATTELL #1-10	WATTENBERG	60.0	PANHANDLE EASTERN
8332457	82-976	0501306090		103		CULVER #3-17	WATTENBERG	36.0	PANHANDLE EASTERN
8332458	82-975	0501306102		103		CULVER #4-9	WATTENBERG	65.0	PANHANDLE EASTERN
8332460	82-974	0501306068		103		DAWSON #10-1	WATTENBERG	0.0	PANHANDLE EASTERN
8332459	82-973	0501306087		103		DAWSON #2-10	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332461	82-972	0512310044		103		EDSTROM GAS UNIT #1	WATTENBERG	73.0	PANHANDLE EASTERN
8332463	82-970	0501306061		103		ERTL #18-2	BOULDER VALLEY	0.0	PANHANDLE EASTERN
8332462	82-969	0501306086		103		ERTL #5-18	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332464	82-968	0501306069		103		GRAHAM #22-2	BOULDER VALLEY	75.0	PANHANDLE EASTERN
8332465	82-967	0512310227		103		HANSEN #16-1	WATTENBERG	0.0	PANHANDLE EASTERN
8332466	82-965	0513060730		103		IANNACITO #1-6	WILDCAT	12.0	PANHANDLE EASTERN
8332467	82-966	0501306080		103		KANE #20-10	WILDCAT	73.0	PANHANDLE EASTERN
8332468	82-964	0501306049		103		LEYNER #15-1	BOULDER VALLEY	72.0	PANHANDLE EASTERN
8332498	82-300	0512310083		107-TF		LONGMONT FARMS GAS UNIT "B" #1	WATTENBERG	125.0	PANHANDLE EASTERN
8332469	82-963	0501306038		103		LYNCH #1	WILDCAT	90.0	PANHANDLE EASTERN
8332470	82-961	0501306088		103		MACY #2-3	WATTENBERG	75.0	PANHANDLE EASTERN
8332471	82-962	0501306051		103		MACY #3-1	WILDCAT	72.0	PANHANDLE EASTERN
8332472	82-960	0501306085		103		OSBORNE #1	BOULDER VALLEY	82.1	PANHANDLE EASTERN
8332473	82-959	0512310252		103		PLATTEVILLE #1-19	WATTENBERG	145.0	PANHANDLE EASTERN
8332474	82-958	0501306033		103		THRONDSON #2	WATTENBERG	73.0	PANHANDLE EASTERN
8332475	82-917	0501306102		103		TYLER #1-4	WEST WATTENBERG	36.5	PANHANDLE EASTERN
8332499	82-916	0501306102		107-TF		TYLER #1-4	WEST WATTENBERG	36.5	PANHANDLE EASTERN
8332476	82-957	0501306062		103		VON REYN #9-1	BOULDER VALLEY	72.0	PANHANDLE EASTERN
8332477	82-956	0500108027		103		WARREN #1-2	WATTENBERG	36.0	PANHANDLE EASTERN
-MIDLANDS GAS CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332547	82-834	0512506550		108		PAPPENHEIM 1-7X	REPUBLICAN	19.0	K W ENERGY INC
-MOUNTAIN PETROLEUM LTD				RECEIVED:	04/18/83	JA: CO			
8332553	82-1137	0512506032		108-PB		ROSE #1-19	BEECHER ISLAND	0.0	K W ENERGY INC
8332554	82-1075	0512506032		108-PB		STATE #1-16	BEECHER ISLAND	0.0	K W ENERGY INC
8332555	82-1187	0512506046		108-PB		STATE 1-29	BEECHER ISLAND	0.0	K W ENERGY INC
8332556	82-1186	0512506052		108-PB		STRANGWAYS #A-1	BEECHER ISLAND	0.0	K W ENERGY INC
-MURPHISON TRUSTS				RECEIVED:	04/18/83	JA: CO			
8332549	82-1076	0506705579		108		BLOCK 8 WELL #1-26	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	04/18/83	JA: CO			
8332500	82-1033	0504506413		107-TF		BATTLEMENT #1	RULISON MESAVERDE	7.5	NORTHWEST PIPELIN
8332501	82-633	0508906365		108		BRUDER #1	GREAT DIVIDE LEWIS	42.0	NORTHWEST PIPELIN
8332503	82-1031	0504506211		107-TF		CLOUGH #9	RULISON MESAVERDE	6.5	NORTHWEST PIPELIN
8332502	82-1094	0504506250		107-TF		CLOUGH 102	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332510	82-1101	0504506218		107-TF		CLOUGH 105	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332503	82-1095	0504506232		107-TF		CLOUGH 108	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332504	82-1096	0504506229		107-TF		CLOUGH 115	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332505	82-1097	0504506258		107-TF		CLOUGH 119	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332506	82-1099	0504506257		107-TF		CLOUGH 120	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332507	82-1103	0504506241		107-TF		CLOUGH 126	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332508	82-1098	0504506384		107-TF		CLOUGH 128	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332509	82-1100	0504506206		107-TF		GOLDING 138	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332511	82-1102	0504506251		107-TF		MCNARY #107	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8332512	82-1104	0504506224		107-TF		RULISON 122	RULISON WASATCH	73.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/18/83	JA: CO			
8332550	82-1093	0506706258		108		BONDAD 33-9 #19A	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-PETROQUEST INC				RECEIVED:	04/18/83	JA: CO			
8332513	82-980	0512310517		107-TF		STATE "C" #14-36	WATTENBERG	7.0	PANHANDLE EASTERN
8332514	82-705	0512300000		107-TF		ZIMBELMAN #22-23	WATTENBERG	34.5	
-REX MONAHAN				RECEIVED:	04/18/83	JA: CO			
8332548	82-1078	0507500000		108		MINNIE SMITH #1	WEST PEETZ	0.0	K W ENERGY INC
-SAMSON OIL COMPANY				RECEIVED:	04/18/83	JA: CO			
8332478	82-733	0500906349		103		E R VANCE #1-2	PLAYA	0.0	PANHANDLE EASTERN
-ST MICHAEL EXPLORATION CO				RECEIVED:	04/18/83	JA: CO			
8332445	82-1013	0512310511		102-2		ULLMAN FARMS #19-3	SEVEN CROSS	54.8	NORTHERN NATURAL
-STELBAR OIL CORP INC				RECEIVED:	04/18/83	JA: CO			
8332516	82-899	0512109805		107-TF		B MAGGARD #3-11	DE NOVA	50.0	NATURAL GAS PIPEL
8332515	82-901	0512109798		107-TF		GREEN #1	DENOVA	15.0	NATURAL GAS PIPEL
8332517	82-889	0512109811		107-TF		MCCAULEY #1-22	WILDCAT	20.0	NATURAL GAS PIPEL
8332518	82-895	0512109302		107-TF		PRICE #1-12	DENOVA	30.0	NATURAL GAS PIPEL
8332519	82-891	0512109733		107-TF		PRICE #1-13	DENOVA	15.0	NATURAL GAS PIPEL
8332520	82-897	0512109803		107-TF		PRICE #2-13	DENOVA	30.0	NATURAL GAS PIPEL
8332521	82-893	0512109804		107-TF		PRICE #3-18	DENOVA	50.0	NATURAL GAS PIPEL
8332522	82-903	0512109801		107-TF		TUNSTEAD-DEVILLIER #1	DENOVA	15.0	NATURAL GAS PIPEL
-TEXAS AMERICAN OIL CORP				RECEIVED:	04/18/83	JA: CO			
8332484	82-438	0500107279		103		FRANKLIN WALLACE #1	SPINDLE	4.1	PANHANDLE EASTERN
8332479	82-837	0500107648		103		JOHN EHLER #16	SPINDLE	9.9	PANHANDLE EASTERN
8332480	82-838	0500108085		103		JOHN EHLER #17	SPINDLE	34.3	PANHANDLE EASTERN
8332481	82839	0500108086		103		JOHN EHLER #18	SPINDLE	70.8	PANHANDLE EASTERN
8332482	82-836	0500108087		103		JOHN EHLER #19	SPINDLE	35.4	PANHANDLE EASTERN
8332483	82-835	0500108088		103		JOHN EHLER #20	SPINDLE	56.2	PANHANDLE EASTERN
-THE SAND HILLS SOCIETY				RECEIVED:	04/18/83	JA: CO			
8332552	82-1080	0512109343		108-ER		KANCO FARMS #1	LONGKNIFE	0.0	NATURAL GAS PIPEL
-VESSELS OIL & GAS COMPANY				RECEIVED:	04/18/83	JA: CO			
8332523	82-293	0500506444		107-TF		AINSWORTH #1	FAIRWAY	103.0	FAIRWAY GAS PROCE
8332525	82-943	0501306053		107-TF		BAILEY #1-A	WEST WATTENBERG	730.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332526	82-291	0500506498		107-TF		FMC #1	FAIRWAY	7.7	FAIRWAY GAS PROCE
8332527	82-288	0500506445		107-TF		FRIEND & MEYER #1	FAIRWAY	60.0	FAIRWAY GAS PROCE
8332528	82-292	0500506466		107-TF		FRIEND & MEYER #2	FAIRWAY	60.0	FAIRWAY GAS PROCE
8332529	82-290	0500107798		107-TF		MITCHEM MITCHELL #1-A	ZENITH	64.0	PANHANDLE EASTERN
8332530	82-289	0500107964		107-TF		MITCHEM MITCHELL #1-B	ZENITH	83.0	PANHANDLE EASTERN
8332532	82-263	0500506435		107-TF		PRITCHETTE GREEN #2	POLLEN	36.0	FAIRWAY GAS PROCE
8332533	82-932	0501306116		107-TF		ROSS "G" UNIT #1	WATTENBERG	733.0	PANHANDLE EASTERN
8332524	82-294	0500506409		107-TF		VESSELS AMOCO UPRR #11-9	FAIRWAY	28.0	AMOCO PRODUCTION
8332531	82-261	0500506417		107-TF		VESSELS PRITCHETTE GREEN #1	POLLEN	75.0	FAIRWAY GAS PROCE
8332534	82-262	0500107994		107-TF		WAILES #1	FIRECREEK	113.0	PANHANDLE EASTERN
-YUMA COUNTY OIL CO				RECEIVED:	04/18/83	JA: CO			
8332537	83-766	0512506269		107-TF		JER #1-9	OLD BALDY	38.0	CITIES SERVICE GA
8332538	82-765	0512506796		107-TF		JER 2-9	OLD BALDY	50.0	CITIES SERVICE GA
8332539	82-764	0512506797		107-TF		JER 3-9	OLD BALDY	50.0	CITIES SERVICE GA
8332540	82-769	0512506780		107-TF		YUMA COUNTY OIL CO 1-10	OLD BALDY	50.0	CITIES SERVICE GA
8332541	82-768	0512506781		107-TF		YUMA COUNTY OIL CO 2-10	OLD BALDY	50.0	CITIES SERVICE GA
8332542	82-767	0512506782		107-TF		YUMA COUNTY OIL CO 3-10	OLD BALDY	50.0	CITIES SERVICE GA

OKLAHOMA CORPORATION COMMISSION

-AMCANA OIL CORP				RECEIVED:	04/14/83	JA: OK			
8332609	19850	3511721331		103		PRIVETT #1-35	BRYAN	36.0	COLORADO GAS COMP
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332605	19698	3503920652		102-2		ENGLES #1	SOUTH THOMAS	220.0	TRANSOK PIPELINE
-ANR PRODUCTION CO				RECEIVED:	04/14/83	JA: OK			
8332612	19867	3501521159		102-2		OKLAHOMA STATE #1-13	M E EAKLEY	474.5	
-BERRY TOM D				RECEIVED:	04/14/83	JA: OK			
8332593	20972	3511921874		103		BRATCHER #6		9.0	ARCO OIL & GAS CO
-BONRAY ENERGY CORP				RECEIVED:	04/14/83	JA: OK			
8332581	19936	3508322077		103		BRISCOE 16-1	S MULHALL	91.3	EASON OIL CO
8332580	19935	3508322059		103		GALLAWAY 14-1	S MULHALL	90.0	EASON OIL CO
-BUNKER EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332602	18354	3505121212		102-3		HOLLY SUE #1-25	SOUTH CHITWOOD SPRING	0.0	ARKANSAS LOUISIAN
-CLARK RESOURCES INC				RECEIVED:	04/14/83	JA: OK			
8332578	18210	3507323574		103		MCVICKER 13-1	SOONER TREND	140.0	CONOCO INC
8332585	20950	3509322551		103		MONSEES 6-1	SOONER TREND	48.0	CITIES SERVICE GA
8332599	20951	3507330276		108		RACHEL 27-1	SOONER TREND	14.4	EXXON CO USA
-D & G EXPLORATION CO				RECEIVED:	04/14/83	JA: OK			
8332572	20012	3514321967		102-2		ARMSTRONG #1		0.0	DIAMOND *S* GAS S
8332573	20013	3514322089		102-2		FORBES #1		0.0	DIAMOND *S* GAS S
8332567	20007	3514321655		102-2		JOHNSON #1		0.0	DIAMOND *S* GAS S
8332566	20006	3514321721		102-2		JOHNSON #2		0.0	DIAMOND *S* GAS S
8332565	20005	3514321763		102-2		JOHNSON #3		0.0	DIAMOND *S* GAS S
8332569	20009	3514322126		102-2		JOHNSON #4		0.0	DIAMOND *S* GAS S
8332568	20008	3514322139		102-2		JOHNSON #5		0.0	DIAMOND *S* GAS S
8332571	20011	3514322031		102-2		JOHNSON #6		0.0	DIAMOND *S* GAS S
8332570	20010	3514322061		102-2		MCGEE #1			
-D & G GAS & OIL CO				RECEIVED:	04/14/83	JA: OK			
8332592	20971	3504723162		103		JOHNSON #4	ELKHORN	150.0	EASON OIL CO
-DAVIS OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332598	19897	3512920698		102-2 103		BOAL #1-14	CROSS RANCH	0.0	TRANSOK PIPELINE
-DAWN ENERGY CO				RECEIVED:	04/14/83	JA: OK			
8332618	19852	3515321296		103		LAND COMMISSIONERS #1-13	SOUTHWEST SHARON	219.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/14/83	JA: OK			
8332559	21874	3509322524		103		LESLIE SWART #1	WAUKOMIS	110.0	PETRO-LEWIS CORP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/14/83	JA: OK			
8332562	22295	3500906805		108-PB		STATE OF OKLAHOMA A #1	ERICK SOUTH - BROWN D	31.0	EL PASO NATURAL G
-ENERGY SERVICES INC				RECEIVED:	04/14/83	JA: OK			
8332604	18907	3515321204		102-4		BROWN #32-1	HARMON NORTHWEST	224.0	PRODUCER'S GAS CO
8332603	18906	3515321347		102-4		FORD #29-1A	NORTHWEST HARMON	73.0	PRODUCER'S GAS CO
-ENTEX PETROLEUM INC				RECEIVED:	04/14/83	JA: OK			
8332582	19917	3508320683		103		REID #1	N W RUSSELL	0.0	EASON OIL CO
-H G & G INC				RECEIVED:	04/14/83	JA: OK			
8332607	19848	3505320717		103		KRITTENBRINK #1-20	RICH VALLEY	0.0	FARMLAND INDUSTRI
-HARPER OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332583	19975	3503920515		102-2		STUCKER #1	W ARAPAHO	360.0	
-HESTON OIL CO				RECEIVED:	04/14/83	JA: OK			
8332601	07436	3504700000		108		LANDWEHR 35-1	W ENID	12.0	OKLAHOMA GAS & EL
-HOLD OIL CORP				RECEIVED:	04/14/83	JA: OK			
8332587	19938	3506120498		102-2		KRUGER #1-17	BROOKEN	488.0	ARKANSAS LOUISIAN
-INEXCO OIL COMPANY				RECEIVED:	04/14/83	JA: OK			
8332586	19869	3512920734		102-4		SHALLER TRUST #1	TURNER NORTH	110.0	DELHI GAS PIPELIN
-JMAC ENGINEERING INC				RECEIVED:	04/14/83	JA: OK			
8332575	21036	3508121690		103		BULLARD #1		0.1	SWAB CORP
-L E JONES PRODUCTION COMPANY				RECEIVED:	04/14/83	JA: OK			
8332559	20968	3501922521		103		SABINE #1	SHO-VEL-TUM	63.0	MOBIL OIL CORP
-LEEDE OIL & GAS INC				RECEIVED:	04/14/83	JA: OK			
8332561	21106	3501121673		103		KREDE #1	SQUAW CREEK	480.0	TRANSOK PIPE LINE
-MAHAN-ROWSEY INC.				RECEIVED:	04/14/83	JA: OK			
8332576	21037	3502720549		103		B-F #1	SOUTH MOORE	550.0	SUN GAS CO
-NOBLE OPERATING INC				RECEIVED:	04/14/83	JA: OK			
8332590	20969	3509322437		103		ELEANOR #2	S BADO	0.0	PHILLIPS PETROLEU
8332591	20970	3501121649		103		NEUFELD #1	ALTONA	0.0	
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	04/14/83	JA: OK			
8332558	21073	3501722351		103		MILLER #2 (017-60407-1)	YUKON	100.0	PHILLIPS PETROLEU
-PIONEER PRODUCTION CORPORATION				RECEIVED:	04/14/83	JA: OK			
8332606	19800	3514900000		102-3		HICKLIN #1-9	ELK CITY	0.0	EL PASO NATURAL G
-READING & BATES PETROLEUM CO				RECEIVED:	04/14/83	JA: OK			
8332564	19994	3503900000		102-2		MULLINS #1-34			
-RICKS EXPLORATION CO				RECEIVED:	04/14/83	JA: OK	PITTS CREEK	370.0	
8332557	23951	3501521398		107-DP		VERMA #1			
-SABINE PRODUCTION COMPANY				RECEIVED:	04/14/83	JA: OK	SOUTH FT COBB	3576.0	EL PASO NATURAL G
8332600	20980	3509321613		108		STATE 1-36		0.0	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	04/14/83	JA: OK			
8332584	19982	3506120539		102-4 103		PERRY UNIT #1	NORTHWEST KEOTA	793.8	ARKANSAS LOUISIAN
-SELLERS RESOURCES CORP				RECEIVED:	04/14/83	JA: OK			
8332608	19849	3503700000		103		JIM SHIDELER #1	CUSHING	30.0	ARCO OIL & GAS CO
-SENECA OIL CO				RECEIVED:	04/14/83	JA: OK			
8332585	19862	3504321368		102-4 103		MARTIN #1-23		146.0	TRANSOK PIPE LINE
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	04/14/83	JA: OK			
8332579	19785	3508321951		103		DR BAILEY #1	EAST GUTHRIE	18.0	CHAMPLIN PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/14/83	JA: OK	EAKLEY EAST	105.0	EL PASO NATURAL G
8332563	19986	3501521234		102-2		GEORGE W LASLEY #1			
-TENNECO OIL COMPANY				RECEIVED:	04/14/83	JA: OK			

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-KODDS PETROLEUM CORPORATION				RECEIVED:		04/14/83 JA: OK			
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8332617		4708703575		103		PARKER #1	MALTON DISTRICT	18.0	ROARING FORK GAS
8332619		4708703578		103		R ASBURY #1	SPENCER DISTRICT	18.0	COLUMBIA GAS TRAN
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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:		04/15/83 JA: WV			
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-BEREA OIL AND GAS CORPORATION				RECEIVED:		04/15/83 JA: WV			
8332644		4700121658		103		MCCULLOUGH #1	VALLEY	19.5	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:		04/15/83 JA: WV			
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-CHESTERFIELD CORP				RECEIVED:		04/15/83 JA: WV			
8332620		4709702430		103		LIPSCOMB #2 47-097-2430	MEADE	0.0	COLUMBIA GAS TRAN
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8332640		4701501996		103		ELK RIVER LUMBER COMPANY #5	PLEASANTS DISTRICT	73.0	CABOT CORP
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-J C BAKER & SONS INC				RECEIVED:		04/15/83 JA: WV			
8332614		4700701658		108		LAKE & HOPKINS	SALT LICK DIST	18.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:		04/15/83 JA: WV			
8332642		4706700588		103		JOHN RADER SW-411	HAMILTON	19.0	CONSOLIDATED GAS
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Part VII

Department of Commerce

International Trade Administration

Trade Fair Certification Program; Support of Privately-Organized Domestic and International Trade Events

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DEPARTMENT OF COMMERCE

International Trade Administration

Trade Fair Certification Program; Support of Privately-Organized Domestic and International Trade Events

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Trade Fair Certification Program.

SUMMARY: This notice sets forth objectives, circumstances and application review criteria associated with the Department's program to recognize and support privately organized trade fairs. This notice also describes procedures for organizers wishing to apply for consideration for certification or desiring further information or assistance.

DATE: These administrative procedures are effective May 1, 1983.

ADDRESSES: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. David Earle, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, (202/377-2525).

SUPPLEMENTARY INFORMATION: As part of its mission to foster, promote and develop U.S. commerce, the Department has for many years developed and managed trade exhibitions abroad, sponsored "U.S. Pavilions" in foreign-managed trade events, and assisted U.S. firms participating in domestic trade shows to meet with potential foreign buyers, agents and distributors. While this activity will continue as an important Department function, it is our policy to encourage the private sector to undertake the development and execution of trade fairs—both in the U.S. and abroad—to an extent consistent with ensuring quality opportunities for U.S. firms to obtain export market exposure for their products and services.

In keeping with this policy, the Department has recently implemented the Trade Fair Certification Program. Under the program, private sector trade show organizers are encouraged to apply for certification for overseas or domestic trade events (including the "U.S. Pavilion" or other designated United States section at exhibitions featuring the products or services of more than one nation). Certification of an event is one-time, e.g. an organizer seeking certification for a recurring event must submit a new application for certification for each occurrence of the event.

As part of its regular planning process, the Department's International Trade Administration develops a schedule of trade promotion events that it feels represents an annually balanced, worldwide trade promotion program. If certification is granted for a USDOC scheduled event, the Department transfers responsibility for that event to the organizer and agrees to provide various support services, in lieu of direct participation by the Department of Commerce. Events need not have been part of the Department's schedule of planned promotion events to be proposed for and receive certification. The Department will not certify an event if it appears that withdrawal of U.S. Government participation would be contrary to the public interest.

Because of limited resources available to support certified events, the Department must limit certification to those events, which in it judgment, most clearly and best meet the Department's program objectives and general selection criteria. For this reason, a decision not to certify a particular event should not be viewed as a finding that the event will not be successful and beneficial in promoting U.S. exports.

The Trade Fair Certification Program involves no transfer of funds to the private sector. Travel and per diem costs incurred by Departmental personnel in direct support of a certified event will, as a general rule, be borne by the organizer, as will the major costs for promotional and marketing assistance.

Certificate and Logo. Each successful applicant is provided a certificate designating the particular event as being certified by the U.S. Department of Commerce. The applicant is also provided copies of an official Trade Fair Certification Program logo for use in advertising and promotional materials. Certification is intended to indicate that the Department has found the event to be a leading international trade event worthy of the participation of U.S. exporting firms and patronage by foreign customers. Certification is not intended—nor may it be characterized—as a U.S. Government guarantee of the success of the event or the proper performance of the undertakings of the organizer as to participants or other persons or organizations. Nor does certification imply an official endorsement of one trade fair organizer over others.

Department of Commerce Support of Certified Events. The support provided for certified events will differ depending on the specific needs identified by the organizer and the Department. Services may include special overseas marketing efforts by staff of the Foreign Commercial Service (FCS), such as contacting key foreign government and private sales prospects, presence of FCS officers at overseas events; publicity in appropriate Departmental periodicals; and promotion of U.S. firms' participation in the event by Export Development (ED) industry specialists in Washington, and/or trade specialists in U.S. Commercial Service (USCS) District Offices.

General Criteria for Awarding Certification. Subject to Departmental budget and resource constraints, certification will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

a. *The event must be a leading internationally-oriented trade show or exhibition in the industry it represents.* In applying this criterion, the Department may consider such factors as:

(i) The degree to which the event is recognized as a showplace for the latest technology or techniques in an industry or a commercially recognized category of goods or services;

(ii) Whether the event provides a unique opportunity for export promotion within a particular market;

(iii) Whether the event can attract substantial numbers of U.S. industry participants and overseas visitors; and

(iv) Whether such participants are likely to exhibit products or services adequately representing U.S. industry in the particular field involved—the theme should be sufficiently broad to represent the U.S. industry.

b. *The event must have outstanding potential for export promotion.* In applying this criterion, the Department will consider:

(i) Whether the industry or target market of the event promises to attract substantial numbers of foreign buyers of U.S. products or services; and

(ii) Whether the "marketability" of the products or services to be exhibited—the sale potential in the market area and suitability of the products or services to promotion by the exhibition technique—adequately justify U.S. Government support.

c. *The event must be one whose promotion and support would be consistent with the Department's overall export promotion program and its priorities for allocation of trade promotion resources.* In applying this criterion, the Department will consider such factors as the theme, timing and location of the event, and whether under the relevant circumstances, USDOC support would contribute to a balanced annual trade promotion program.

d. *The applicant for certification must demonstrate:*

(i) Financial capability and personnel resources sufficient to guarantee planning and implementation of a successful event, including, but not limited to having an established U.S. office for recruitment of participants;

(ii) Experience or other qualifications in trade fair management; and

(iii) A business commitment to develop and execute the trade event. In particular, the applicant must provide documentation showing a firm agreement committing both the applicant and the lessor of exhibit space at the event to lease and provide the space necessary to accommmodate a "U.S. Pavilion" to consist of a minimum of twenty (20) individual U.S. exhibits. Leasing arrangements for such space cannot be made contingent on certification of the event by the Department;

(iv) The ability and commitment to provide a comprehensive show management and marketing effort, including efforts to attract participation by small and medium-sized, or new-to-market companies; and

(v) The ability and commitment to satisfy U.S. exhibitors' needs by delivering exhibition services comparable to those provided at Department of Commerce organized trade exhibitions.

Specific Department of Commerce Actions and Responsibilities. For certified events, the Department of Commerce will:

a. Authorized the use of a Department of Commerce "Trade Fair Certification" logo and other USDOC approved references which indicate that the United States Government recognizes the show.

b. Designate an Export Development industry project officer to work with the organizer regarding marketing promotion. This project officer will assist the organizer and in the case of overseas events, work with the Export Development Office (EDO), to implement the organizer's market promotion program.

c. Advise all USCS District Offices, U.S. Embassies, Consulates and other interested organizations, including trade associations, Chambers of Commerce, etc., that the Department of Commerce has recognized the exhibition under the Certification Program.

d. Provide a letter accepting the show under the Certification Program and a suggested news release for the organizer to use in public relations campaigns/activities.

e. *For domestic exhibitions,* at the request of the organizer, (the ED industry officer) will assist in marketing the event through the following actions:

(i) Provide the organizer with mailing labels and an indication of quantity and foreign language requirements for organizer's dispatch of promotional brochures to interested posts; and

(ii) Obtain from the show producer "copy" for an advertisement that is sufficient for a one page (or less) free advertisement in Commercial News USA, and arrange for its placement in the publication.

f. *For overseas exhibitions,* at the request of the organizer, (the Department will) assist in marketing the event through the following actions:

(i) The EDO will furnish the organizer with a list of key local government entities, associations, distributors, agents, etc., prepared by the post;

(ii) Resources permitting, USFCS officers will assist marketing promotion meetings with local representatives of U.S. companies participating in the event, and make personal calls on key potential business contacts on behalf of U.S. companies participating in the event; and

(iii) The International Economic Policy (IEP) country desk officer will provide, on request, and to the extent available, pertinent market or other information requested by the organizer.

g. Encourage potential exhibitors, either in the normal course of their counseling of U.S. firms or through contacts with business or trade associations, to take advantage of the event, and respond to inquiries regarding opportunities afforded by the event.

h. Upon the request of the organizer, provide a Commerce representative or representatives for duty at the show. (A USDOC officer is required at all domestic events.) The period of time and nature of support required are to be specifically identified in the organizer's application. Commerce may at its discretion and expense provide an additional officer for domestic events and an officer for overseas events.

Specific Responsibilities of the Organizer. Subject to any specific agreement between the Department and the organizer, the responsibilities of the organizer of a certified event are as follows:

a. Designate an individual on the organizer's staff to work on all aspects of the show with Department of Commerce personnel assigned to coordinate activities for the exhibition.

b. Provide the following exhibitions services:

(i) Display space comparable with industry standards for trade events;

(ii) Overall exhibition design and fabrication, and individual display stand design and construction;

(iii) Forwarding and exhibit set-up services including, but not limited to: unloading participants' equipment at the exhibition site; delivery to the participants' booth, unpacking, placement in display area, storing packing crates, repacking and loading for onward shipment, customs clearance (overseas events only); and any other services required to assure the prompt and orderly receipt and dispatch of materials in and out of an exhibition site;

(iv) Installation of a display system, chairs, tables, standard company identification and standard agent identification signs;

(v) Normal utilities and hook-up services; and

(vi) Assistance in hiring interpreters, clerical personnel or booth attendants required by participants. All fees to be charged to participants for standard and supplementary services must be stated in the organizer's application.

c. Provide, for any overseas event, an identified "U.S. Pavilion" large enough to contain exhibits of at least 20 U.S. firms or 75% of the target number of participants stated in the application, whichever is larger.

d. Undertake, as appropriate, a comprehensive promotional campaign to include, at a minimum, but not be limited to: special trade showings, conferences and meetings to attract importers, distributors, agents, buyers and end-users to the exhibition. For domestic events, as appropriate, the organizer must produce multilingual promotion brochures or other literature and an Export Interest Directory (a published listing of exhibitors who have expressed an interest in meeting with foreign buyers which includes, but is not limited to the following information: firm name, product line and nature of business interest—joint venture, licensing, distributorship, direct sales) for distribution to overseas posts and end users.

e. For all events, provide at no cost to the U.S. Government, an International Business Center (IBC) (in foreign exhibitions, this center must be in the "U.S. Pavilion"). The IBC will be in a prominent and easily accessible location, where contracts between U.S. exhibitors and foreign customers can be

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facilitated by a U.S. Government representative. At a minimum, this center must facilitate the receipt of messages and be conductive to "one-on-one" business meetings between participants and contacts. The organizer must also make available or assist in securing services (including translation services), foreign customer registration, and assist in arranging appointments between U.S. exhibitors and foreign customers.

f. Include small- and medium-sized U.S. firms in recruitment mailings and solicitations.

g. Subject to Departmental guidelines, pay per diem and travel-related expenses for U.S. Department of Commerce employees whom the organizer has agreed will be present.

h. Provide statistical or other information of a non-proprietary nature requested by the Department within 60 days of the event for use in evaluating the success of the event and the effectiveness of support provided by the Department. Such information may include, but not be limited to: number of visitors, off-the-floor sales, number of attendees at seminars, etc. Along with this information, the organizer will furnish three (3) copies of the Export Interest Directory to the Department (for domestic events only).

When, Where, and How to Apply for Trade Fair Certification. Applications for certification should be received by the Department at least one (1) year before the scheduled date of the event. To ensure the availability of Department resources and to fully anticipate workload associated with support provided to organizers, the Department may reject any application received later than that date. An application is not considered to have been received for purposes of this rule until it is complete in all material respects.

Brenda L. Ebeling

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83-12780 Filed 5-11-83; 8:45 am]

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federal register

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Federal Register
(ISSN 0097-6326)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The President

Proclamation 5060 of May 11, 1983

National Amateur Baseball Month, 1983

By The President of the United States of America

A Proclamation

The game of baseball originated in the United States of America approximately 150 years ago and quickly became a fixture of community life. Today baseball diamonds dot parks, playgrounds, and schoolyards across the land, and virtually every village, town, and neighborhood has its own team, or teams. No summer would be complete without its schedule of games and championship playoffs.

Baseball is affectionately known as the "national pastime" because of its popularity as both a participant and spectator sport. Some 19 million children, youths, and adults play amateur baseball in the United States, and many millions more attend amateur contests as spectators each year. This vast program is made possible by generous contributions of time, effort, and financial support by millions of individuals representing business, fraternal, civic, religious and service organizations.

Baseball has achieved its greatest popularity and highest level of perfection in the United States, but it is rapidly gaining acceptance elsewhere. In Europe, and in Japan and other Far Eastern countries, there is growing recognition of baseball's great entertainment value and its effectiveness as a means of instilling those qualities of teamwork and fair play that are essential to good citizenship. This recognition is reflected in the fact that baseball will be a part of the 1984 Olympic Games in Los Angeles.

Because amateur baseball plays such an important role in our lives, and because millions of Americans are involved in the game as players, fans, and supporters, it is fitting that we should celebrate this uniquely American activity.

In recognition of the wholesome recreation, good sportsmanship, competitiveness, and teamwork so necessary in developing good citizenship which the game of baseball affords, the Congress of the United States, by House Joint Resolution 175 (P.L. 98–16), has designated the month of May 1983 as "National Amateur Baseball Month" and has authorized and requested the President to issue a proclamation in observance of that month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1983 as National Amateur Baseball Month, and I call upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities, so as to testify to the great and significant value of amateur baseball to the American way of life.

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IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-13110
Filed 5-12-83; 11:06 am]
Billing code 3195-01-M

Editorial Note: For the President's remarks of May 11, 1983, on signing Proclamation 5060, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 19).

Presidential Documents

Executive Order 12420 of May 11, 1983

Incentive Pay for Hazardous Duty

By the authority vested in me as President of the United States of America by Public Law 97-60 and Section 301(a) of Title 37 of the United States Code, and in order to define the scope of two additional categories of hazardous duty, it is hereby ordered as follows:

Section 1. Executive Order No. 11157 of June 22, 1964, as amended, is further amended by adding the following new subsections to Section 109 of Part I:

"(h) The term "duty involving frequent and regular exposure to highly toxic pesticides" shall be construed to mean duty performed by members who, while under competent orders assigning such members to the entomology, pest control, pest management, or preventive medicine functions of a uniformed service for a period of 30 consecutive days or more, are required to perform in any calendar month a fumigation task utilizing (1) phosphine, sulfuryl fluoride, hydrogen cyanide, methyl bromide, or (2) a fumigant of comparable high acute toxicity and hazard potential.

"(i) The term "duty involving laboratory work that utilizes live dangerous viruses or bacteria" shall be construed to mean primary duty performed by members who work with micro-organisms (1) that cause disease (A) with a high potential for mortality, and (B) for which effective therapeutic procedures are not available, and (2) for which no effective prophylactic immunization exists, while such members are assigned by competent orders for a period of 30 consecutive days or more to participate in or conduct applied or basic research that is characterized by a changing variety of techniques, procedures, equipment, and experiments.".

Sec. 2. This Order shall be effective as of October 1, 1981.

Ronald Reagan

THE WHITE HOUSE,
May 11, 1983.

[FR Doc. 83-13117
Filed 5-12-83; 11:07 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Elimination of Cost as Factor for Reimbursement to Child Care Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: Public law 97–35, the Omnibus Budget Reconciliation Act of 1981, enacted August 13, 1981, altered the Child Care Food Program (CCFP) and made several substantive changes. One major change was to eliminate the Federal requirement that reimbursement to institutions be limited to the cost of producing the meals served. This final rule will delete the following provisions of the May 11, 1982 (47 FR 20144), proposal: (1) Definition of net cash resources; (2) requirement to implement operating balances (net cash resources) into the CCFP; (3) requirement for State agencies (SA's) to establish and maintain an addition financial management system; (4) SA's responsibility to monitor and review the net cash resources of participating institutions; and (5) institutions' requirement to collect and maintain documentation of their net cash resources.

EFFECTIVE DATE: June 13, 1983.

ADDRESSES: The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Ms. Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 756–3880.a

Copies of all written comments on the proposed rule are available for review during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Walstrom, Chief, Policy and Program Development Branch, at the above address or by telephone at (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This final rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this final rule does not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

On May 11, 1982, the Department published a proposed rule in the **Federal Register** (47 FR 20144) to eliminate the Federal requirement that costs be considered as a factor in reimbursement to child care centers. The proposal was designed to implement Section 819(k) of Pub. L. 97–35, which eliminated the requirement that reimbursement to institutions be limited to the cost of producing the meals served in child care centers. However, State agencies could still elect to reimburse these institutions according to the lesser of costs or meals times rates. The method chosen by the State agency was to be applied to all institutions participating in the CCFP in that State.

To comply with the mandate of the law, the Department removed the references to costs as a limiting factor on payments in the proposed rule. The proposal also included definitions of net cash resources and nonprofit food service. The new definitions required participating institutions to maintain revenue and expenditure records to substantiate the nonprofit status of their food service. The proposal further required the State agencies to be responsible for reviewing and monitoring the institution's nonprofit food service and net cash resources to ensure that the resources do not exceed three months' normal operating cost. In addition, State agencies would have been required to establish and maintain financial management systems conforming to the standards enumerated in the Department regulations (7 CFR Part 3015, Subpart H), which remain in effect. Moreover, the Department eliminated the Federal requirement that centers report their operating costs on the monthly claim for reimbursement.

Effective January 1, 1982, States were able to determine which of the two methods of reimbursement they would apply to centers, either: (1) Meals by type times the appropriate rate of reimbursement or costs, whichever is lesser; or (2) meals by type times the appropriate rate of reimbursement. The Department has found in the past that centers have generally received maximum reimbursement rates for meals served. This optional requirement to report costs included in the proposal would not have posed an implementation problem. In response to the May 11 proposal, the Department received 35 comments from State agencies, FNS Regional Offices, sponsors, advocacy groups, and government agencies. All comments were analyzed, summarized, and catalogued according to the regulatory section to which they referred so that the comments could be systematically analyzed and considered during the development of the final rule.

An overwhelming majority of the commenters expressed their concerns with the inclusion of the National School Lunch Program (NSLP) definitions of operating balances (net cash resources) and nonprofit food service in the CCFP regulations. It was noted by the commenters that these terms were not relevant to the CCFP and that adopting them would pose a tremendous hardship on the CCFP institutions and administering agencies.

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In addition, the majority of commenters agreed that these additional requirements involving operating balances and nonprofit food service would: (1) Definitely increase the administrative burden on the institutions to maintain records of net cash resources to justify nonprofit status; (2) require institutions to keep separate bank accounts for the food service operations; and (3) require institutions to monitor their net cash resources, ensuring that the three months' normal operating balance is not exceed.

More than half of the commenters recommended that all references related to the requirements to monitor and review for net cash resources be deleted in the final rule. The administrative burden to monitor and review the institutions' resources for excessive balances, along with yet another recordkeeping process, would also incease State agency staff time. Furthermore, the requirement to monitor and review the resources of an institution would require a more in-depth knowledge and understanding of cash balances and general accounting procedures. Such expertise is greater than what is currently required of a Program reviewer.

The Department received a number of comments that the provision in the proposed rule regarding net cash resources was in direct opposition to the intent of Congress, which was to simply remove cost as a limitation on reimbursement. The commenters also expressed concern that the proposed provision regarding net cash resources (operating balances) would increase the paperwork burden on both the institution and the State agency rather than decrease it, which is not the intent of the Paperwork Reduction Act of 1980. Moreover, many commenters believed that the proposed Program regulations on net cash resources appeared more complicated and complex than the existing CCFP regulations. Besides the proposed regulation being cumbersome, many commenters felt the rule was not cost effective.

Statutory and Other Program Changes

Although the proposed rule presented the discussion on the amendments by regulatory sections, the comments received were more primarily on the one area of defining net cash resources (operating balances) and the burdens this provision would place on administering agencies and participating institutions.

1. *Definition:* The Department received 20 comments concerning the various references throughout the proposed rule on net cash resources and nonprofit food services. Many commenters expressed opposition to the definition of net cash resources, specifically concerning advances. In general, they wanted to know what was to be considered available monies when establishing the level of net cash resources. The commenters indicated that advances are *loans* to the participating institutions. These advances could possibly cause the institutions to exceed the three months' operating balance required in the proposed rule.

Some commenters were also concerned that the operating balance would be affected by start-up monies. The Department wishes to point out that in the proposed definition of net cash resources, start-up monies were inadvertently included. While these monies can be considered as part of funds an institution can receive, only sponsoring organizations of day care homes receive such funds. Therefore, such comments were not valid as this rule will not affect those institutions which are sponsoring organizations of day care homes. Such institutions are the only ones eligible to receive start-up monies under the CCFP. The Department regrets any confusion that this definition may have caused.

2. *State agency requirements.* The Department received 28 comments discussing the potential problems with the States reviewing and monitoring the institutions' net cash resources. The proposed requirement was to ensure that the institutions' resources did not exceed the three months' normal operating balance limit, and, if such resources exceeded this limitation, corrective action might be deemed necessary by the SA's.

First, many commenters felt that Program reviewers do not have the expertise to determine if the net cash resources of participating institutions exceed a three months' normal operating balance. To evaluate and compare whether an institution has funds in excess of this limitation, the SA's would be forced to spend additional time determining whether there are excessive funds. This extra time would place a burden on States, in addition to their already limited resources and staff. Furthermore, it was suggested that this procedure should be performed by accountants or auditors, who are trained to make such an assessment.

Second, several commenters indicated that this requirement would increase their review burden. One commenter noted that the increase in burden would roughly triple the necessary man hours for the SA's to complete a review, increase training requirements, and require the development of additional materials for the institutions. Thus, the proposal would have a significant staffing impact with only minimal Program benefit. Furthermore, according to the commenters, the expenditures by both the SA's and the institutions in auditing and monitoring would be excessive nationwide when compared to the savings that would be garnered.

In addition to the review and monitoring requirement, the SA's would be reponsible for establishing and maintaining a financial management system which would incorparate net cash resources. Several of the commenters stated that this requirement would necessitate an increase in paperwork and recordkeeping which could not be justified by either cost effectiveness or benefit to the Program. Very few commenters indicated that they agreed with the level of flexibility given the SA's in determining when and how to monitor and review the net cash resources. Some commenters further suggested that the proposal was actually lacking in flexibility and wanted further clarification of their responsibility in this area. Many of the commenters indicated that the proposal on net cash resources appeared to be in direct opposition to the intent of Congress, which was to simply remove cost as a limitation on reimbursement. They also believed that the proposed requirements necessary to fulfill the provisions on net cash resources were not in compliance with the Paperwork Reduction Act of 1980.

Several commenters have pointed out that, although numerous references are made in the proposed preamble to allow the States the option to choose the type of reimbursement for their individual State, the actual provision was not in the proposed rule. This provision was inadvertently omitted from the proposed rule and has been inserted in this final rule.

3. *Institution requirements.* In addition to the concerns of the commenters regarding State agency requirements, the commenters were also concerned about the problems institutions would face in maintaining and documenting net cash resources.

The majority of the commenters agreed that the approach the proposed rule implements would significantly increase the institutions staff time and resources. At present, most institutions maintaining a general account from which all bills are paid, and they do not keep a separate bank account specifically earmarked for the CCFP food service. The proposed provision would indicate that a separate bank account would be necessary basically to assure the nonprofitability of the food service. The commenters pointed out that since most CCFP institutions purchase basic food staples somewhat irregularly, costs can vary greatly from one month to another. Further, since Food Service Equipment Assistance Funds have been eliminated from the Program, in those few instances where funds are accumulated, the institutions may use such funds to replace broken or inadequate pieces of small equipment. If their ability to accumulate funds is so severely curtailed, they will be unable to take advantage of wholesale food and equipment purchase opportunities.

Furthermore, according to the commenters, monitoring net cash resources in the CCFP would be a financial strain on the institution, since current food service reimbursements have been decreased. Generally, participating institutions use funds from other sources to cover those food costs not reimbursed by the CCFP. At present, institutions do not need to account for such non-Program funds under the CCFP. The institutions would have been forced to establish another recordkeeping system to identify all revenue and expenditures, which would create an increase in staff workloads and be extremely confusing for most institution staff.

Many sponsors indicated that their costs far exceeded the maximum reimbursement allowed for preparing a reimbursable meal. Considerable time and administrative money would be spent in monitoring. In most cases, the cost for implementing this additional requirement would not only take away from the quality of the meal, but also would result in the institution requiring and the administering agency providing additional technical assistance.

In response to the concerns mentioned above, the Department has either deleted or revised those proposed provisions that require the institutions to collect, maintain, and document their net cash resources. The provisions which have been changed are discussed below.

(a) *Definition of net cash resources.* The Department has considered the comments submitted in response to the proposed definitions and has decided to delete the definition of net cash resources in § 226.2. However, the definition of nonprofit food service has been retained. The Department believes that the institution must also ensure that all Program reimbursement funds are used solely for the conduct of the food service operation, or to improve the food service, principally for the benefit of the enrolled children.

(b) *State agency administrative responsibilities.* In the proposed rule, section 226.6(k) required State agencies, as part of their Program review of financial management standards, to also review the net cash resources of the institution. Since the Department is deleting the proposed definition of net cash resources, the proposed provision in this section no longer is applicable. Therefore, this section has been retained as stated in the final CCFP regulations published on August 20, 1982 (47 FR 36524).

(c) *State agency responsibilities for financial management.* The Department proposed to require the State agencies to be responsible for monitoring the net cash resources and the nonprofit status of the food service program of participating institutions. In the event such resources were in excess of the three months' normal operating cost, the State agencies would be required to take corrective actions.

Section 226.7(b) is not being revised as proposed but is being retained as stated in the final CCFP regulation August 20, 1982 (47 FR 36524) which requires the State agencies to adhere to the Uniform Federal Assistance Regulations, 7 CFR Part 3015. The Department has also included an additional sentence requiring the SA's to review the institutions' documentation to ensure that all Program reimbursement funds are used solely for the conduct of the food service, or to improve the food service, principally for the benefit of the enrolled children.

(d) *State agency adjustment of claims.* The Department proposed to eliminate section 226.9(c). The purpose of this section has been to allow State agencies to reassign payment rates for lunches and suppers claimed on an institution's final claim for the fiscal year. With the elimination of the Federal requirement that reimbursement include a comparison of costs to rates, it was felt that this purpose was no longer served. Deleting this provision did not allow States flexibility to adjust final claims under either reimbursement option. Also, it was determined that including an explanation of each reimbursement option would be helpful to States and institutions. Therefore, in § 226.9, a new paragraph (c) has been added which provides this explanation, and the old paragraph (c) has been revised and redesignated as paragraph (d). These changes should clarify each method of reimbursement and the adjustment of final claims under both reimbursement options.

(e) *Institution provision.* In the proposed rule, § 226.15(e) was amended to require the institutions, as part of their established recordkeeping procedures, to maintain documentation of their net cash resources to ensure that the level of resources does not exceed three months' normal operating cost for the nonprofit food service. However, this section has been revised to simply require the institutions, as part of their established recordkeeping procedures, to maintain documentation of their nonprofit food service to ensure that all Program reimbursement funds are used: (1) Solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the enrolled children.

(f) *Sponsoring organization provisions.* The proposed rule amended § 226.16(h) by eliminating the references to Program costs as a limiting factor in reimbursing child care centers. While this provision is being retained, the Department has revised it in the final rule to allow for States to choose the optional method of reimbursement.

In addition, participating institutions will still be required to maintain records of Program reimbursement and expenditures for the food service operation for review and audit purposes, regardless of the manner in which the State agency elects to reimburse according to costs from requiring that related Program costs be entered on the claim for reimbursement. This information may be necessary to the States as a means of targeting technical assistance needs, planning audit activity, and monitoring the Programs' nonprofit status. Therefore, although the Department is revising the rule to eliminate some of the accountability procedures, it is not expected that this change will encourage waste or abuse of Program funds.

List of Subjects in 7 CFR Part 226

Child care centers, State agencies and Institutions.

PART 226—[AMENDED]

Accordingly, the Department is amending 7 CFR Part 226 as follows:

1. Section 226.2 is amended by adding the definition of "nonprofit food service" in alphabetical order, to read as follows:

§ 226.2 Definitions.

* * * * *

"Nonprofit Food Service" means all food service operations conducted by the institution principally for the benefit of enrolled children, from which all of the Program reimbursement funds are

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used solely for the operation or improvement of such food service.

* * * * *

2. Section 226.7, paragraph (b) is amended by adding a new sentence at the end to read as follows:

§ 226.7 [Amended]

* * * * *

(b) * * * State agencies or FNSRO's, where applicable, shall also have a system in place for monitoring and reviewing the institutions' documentation of their nonprofit status to ensure that all Program reimbursement funds are used: (1) solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the enrolled children.

* * * * *

3. Section 226.9, paragraph (c) is redesignated paragraph (d) and revised and a new paragraph (c) is added to read as follows:

§ 226.9 Assignment to rates of reimbursement for centers.

* * * * *

(c) States have two methods of reimbursing institutions. The method chosen by the State agency must be applied to all institutions participating in the CCFP in that State. These methods are:

(1) Meals times rates payment, which involves reimbursing an institution for meals served at the assigned rate for each meal. This method entails no comparison to the costs incurred by the institution for the meal service; and,

(2) Meals times rates or actual costs, whichever is the lesser, which involves reimbursing an institution for meals served at the assigned rate for each meal or at the level of the costs actually incurred by the institution for the meal service. This method does entail a comparison of the costs incurred to the meal rates, with the costs being a limiting factor on the level of reimbursement an institution may receive.

(d) In those States where the State agency has chosen the option to implement a meals times rates payment system State-wide, the State agency may elect to pay an institution's final claim for reimbursement for the fiscal year at higher reassigned rates of reimbursement for lunches and suppers; however, the reassigned rates may not exceed the applicable maximum rates of reimbursement established under § 210.11(b) of the National School Lunch Program regulations. In those States which use the method of comparing meals times rates or actual costs, whichever is lesser, the total payments made to an institution shall not exceed the total net costs incurred for the fiscal year.

4. The first sentence of § 226.11(d) is revised to read as follows:

§ 226.11 Program payments for child care centers and outside-school-hours care centers.

* * * * *

(d) If the State agency elects to reimburse its institutions according to the lesser of rates or actual costs, total Program payments to an institution during any fiscal year, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the Program. * * *

* * * * *

5. Section 226.15 is amended by removing the period at the end of paragraph (e)(10) adding a semi-colon and adding a new paragraph (e)(11), to read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) Recordkeeping.* * *

(11) Maintain documentation of nonprofit food service to ensure that all Program reimbursement funds are used: (i) Solely for the conduct of the food service operation; or (ii) to improve such food service operations, principally for the benefit of the enrolled children.

* * * * *

6. Section 226.16, paragraph (h) is amended by removing the period at the end of the paragraph, adding a semi-colon, and inserting a new phrase to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(h) * * * ; except in those States where the State agency has chosen the option to implement a meals times rates payment system. In those States which implement this optional method of reimbursement, such disbursements may not exceed the rates times the number of meals documented at each facility during any fiscal year.

* * * * *

(Secs. 810, 819 and 820, Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981; Sec. 2, Pub. L. 95–627, Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1979))

Dated: May 6, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-12830 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 411]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 15–21, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on May 10, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.711 is added as follows:

§ 910.711 Lemon Regulation 411.

The quantity of lemons grown in California and Arizona which may be handled during the period May 15, 1983, through May 21, 1983, is established at 300,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-13125 Filed 5-12-83; 11:49 am]

BILLING CODE 3410-02-M

7 CFR Part 916

[Peach Regulation 2, Amdt. 1]

Fresh Peaches Grown in Georgia; Amendment of Quality and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment relaxes quality regulations for shipments of Georgia peaches to nonadjacent markets for the period May 9 through August 31, 1983 by suspending minimum grade requirements, which are essentially that such peaches grade at least 85 percent U.S. No. 1. The amendment continues the minimum size requirement of 1⅝ inches in diameter and requires that the peaches be mature. The amendment removes all such requirements with respect to shipments to adjacent markets. Such action recognizes the composition of the crop and current and prospective marketing conditions.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Georgia peach crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, an Order No. 916, as amended (7 CFR Part 916), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on information submitted by the Industry Committee established under this marketing order, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Shipments of Georgia peaches, except peaches in bulk to adjacent markets (The States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and that portion of Louisiana which is east of the Mississippi River) are currently required to grade at least 85 percent U.S. No. 1 quality with additional allowances for damage and decay, and be at least 1⅝ inches in diameter, as well as be inspected and certified as meeting such requirements. Sections 916.54 and 916.400 require that peach shipments be mature.

The committee met on April 12, 1983, to consider supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1983 season Georgia peach crop. The committee recommended that for the 1983 season peaches shipped to other than adjacent markets be mature and measure at least 1⅝ inches in diameter. The committee also recommended that all shipments of peaches to adjacent markets be exempt from these requirements. The committee recommended these requirements based on an appraisal of the current and prospective growing and marketing conditions for this season's Georgia peach crop. The Georgia peach production area is one of the first each season to market an appreciable amount of fresh peaches. During the early weeks of the season there is a tendency to ship inmature and smaller size fruit. Shipment of such fruit at this time tends to adversely affect consumer demand, with resultant depressing effects on grower returns. Specification of minimum size and maturity requirements for shipments to other than adjacent markets is necessary to promote orderly marketing of shipments from the 1983 crop. Peach producing states surrounding Georgia do not have mandatory quality requirements for peaches shipped to fresh markets. Exemption of peach shipments to adjacent markets from grade, size and maturity requirements allows an additional outlet for fruit not meeting the requirements for nonadjacent markets. The committee unanimously adopted and has submitted to the Secretary a marketing policy for the 1983 season Georgia peach crop including an analysis of supply and demand factors having a bearing on the marketing of the crop.

The regulation currently in effect (Peach Regulation 2; 47 FR 32513; July 28, 1982) was issued July 23, 1983, on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Relaxation of current regulation for Georgia peaches is applicable to the 1983 season only. The committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Georgia peaches. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice,

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engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this final rule is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the revisions of the quality and size requirements at an open meeting, at which the committee, without opposition, recommended implementation of the requirements specified in this final rule. This final rule relieves restrictions on the handling of peaches, and handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 918

Marketing Agreements and Order, Peaches, Georgia.

PART 918—[AMENDED]

Therefore, § 918.325 is amended by adding a new paragraph (e) to read as follows: (Paragraph (e) of § 918.325 expires August 31, 1983, and will not be published in the annual Code of Federal Regulations).

§ 918.325 Peach Regulation 2

* * * * *

(e) Notwithstanding the provisions in paragraphs (a), (b), and (c), of this section, during the period May 9, 1983, through August 31, 1983, no handler shall ship peaches to destinations, other than those in the adjacent markets, unless such peaches are mature as provided in § 918.400, and are not smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: May 9, 1983.

D.S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-12866 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 967

Celery Grown in Florida; Reestablishment and Reapportionment of Committee Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule reduces the number of members serving on the Florida Celery Committee from sixteen to twelve, to reflect the declining number of celery producers and handlers in Florida. The reduction in committee size eliminates three positions in the South Florida District and one position in the Central Florida District.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action relates to industry representation on the marketing order administrative committee and will not significantly affect costs for the handlers regulated under the program.

Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967), regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for its local administration.

The order currently provides for a committee of sixteen members and their alternates. One member represents the public, and the remaining fifteen are industry representatives. Due to a decline in the number of Florida celery growers and handlers, it has been difficult to fill all positions on the committee. For this reason, the order was recently amended to authorize the reestablishment of the number of industry members on the committee.

After careful consideration of all relevant factors, including the total number of growers and handlers currently active in the production area, the committee unanimously recommended that it be reestablished to consist of twelve members by reducing the number of industry representatives from 15 to 11. Such a change will result in more efficient administration of the program.

The committee further recommended that this reduction be accomplished by eliminating three positions in the South Florida District and one position in the Central Florida District. Representation of the other groups remains unchanged. The committee has determined that such a reapportionment will provide adequate and equitable industry representation in view of the current distribution of celery production and shipments among the five established groups.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the following reestablishment and reapportionment of committee membership will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) this change in committee membership should become effective sufficiently in advance of nomination meetings for the 1983–84 Florida Celery Committee scheduled for mid-June; (2) it was unanimously recommended by the committee and its contents have been widely discussed within the celery industry; and (3) notice was given in the **Federal Register** allowing interested persons to file written comments and none was received.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

Sections 967.135 and 967.136 are added to read as follows:

§ 967.135 Reestablishment of committee.

Pursuant to § 967.25(b), the Florida Celery Committee is reestablished to consist of 12 members, including eleven producer or handler members and one public member.

§ 967.136 Reapportionment of committee membership.

Pursuant to § 967.27(g), industry membership on the Florida Celery Committee shall be reapportioned among groups as follows:

(a) Group 1—Two members and their alternates.

(b) Group 2—Two members and their alternates.

(c) Group 3—Two members and their alternates.

(d) Group 4—Two members and their alternates.

(e) Group 5—Three members and their alternates.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 10, 1983, to become effective upon publication.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-12868 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This Final Rule establishes the terms and conditions under which producers acting through area marketing associations may receive price support on eligible peanuts through warehouse storage loans for the 1982 through 1985 crops of peanuts. These regulations are necessary for the administration of the price support program for peanuts. The peanut program is conducted in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended. The provisions of this final rule were addressed in an Interim Rule issued in June of 1982. With a few exceptions, the provisions of this final rule are the same as those contained in the Interim Rule. Changes which are made by this final rule principally involve the terms which must be contained or may be omitted in contracts for additional peanuts, the procedure of assessing penalties under the regulations, and a deletion of a provision of the Interim Rule concerning the substitution of additional peanuts or quota peanuts which had been crushed.

EFFECTIVE DATE: May 31, 1983.

FOR FURTHER INFORMATION CONTACT: David Kincannon (ASCS), 202–382–0154. The Final Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This Final Rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The information requirements contained in this regulation and information requests authorized by the regulation have been reviewed and approved under OMB Number 0560–0024.

The title and number of the Federal assistance program to which this rule applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Interim Rule, which established regulations governing 1982 through 1985 Crop peanut warehouse storage loans and handler operations, was published in the **Federal Register** on June 29, 1982 (47 FR 28069). The 60-day comment period on the Interim Rule ended on August 30, 1982.

The regulations set forth in the Interim Rule and this Final Rule are essentially the same as those governing the 1981 and prior crop years which are codified at 7 CFR 1446.1 through 1446.17. Accordingly, the administration of warehouse storage loans and handler operations has been changed only slightly from the manner in which such matters were administered for previous crop years. However, the original Interim Rule and this Final Rule have implemented several modifications which have been made to reflect changes brought about by the Agriculture and Food Act of 1981, Pub. L. 97–98, 95 Stat. 1213, to improve the overall administration of the program, and to address recommendations received during the comment period.

The most significant changes which have been made in the regulations for warehouse storage loans and handler operations for the 1982 through 1985 crops of peanuts, as compared with those which governed previous crop years, are as follows:

1. *Definitions.* As compared to the regulations involving previous crop years, the regulations governing the 1982 through 1985 crop years have been revised to reflect the statutory amendments which were made by the 1981 Act which permit "additional peanuts" (non-quota peanuts) to be grown on non-traditional peanut producing farms and in non-traditional peanut producing areas, and which permit peanut-flaking (in some instances) to be considered as domestic crushing. In addition, the provisions of the regulations relating to the use of peanuts as seeds have in some instances been modified insofar as determining whether the retention of such peanuts on the farm for seed shall be considered as a domestic edible use for quota purposes. In addition, the following definitional changes were made in the interim rule.

(a) The term "additional peanuts" is defined in the regulations governing the 1982 through 1985 crop years to include all peanuts marketed from a farm for which no poundage quota has been established.

(b) For the 1982 through 1985 crops of peanuts, the definition of crushing includes, among other things, peanuts processed into flakes for uses other than traditional domestic edible uses.

(c) The definition of "domestic edible use" has been revised to exclude seed-uses of peanuts where the seeds are unique strains that are not commercially available and which are used to produce green peanuts. In this regard, the term "green peanuts" is specifically defined as those peanuts which are marketed exclusively for use as boiled peanuts.

2. *Completion date for contracting additional peanuts for crushing or export.* Section 359(j) of the 1938 Act, as amended, mandates that contracts between handlers and producers must be submitted for approval to the Secretary of Agriculture prior to April 15 of the year in which the crop is produced. That date is incorporated in this final rule.

3. *Availability of warehouse storage loans.* Section 106A(3)(A) of the 1949 Act requires that the Secretary make warehouse storage loans available in each of the three traditional producing areas through area marketing associations. This final rule specifies that loans for the 1982 through 1985 crop years will be made available in the following areas through the following associations:

(a) For the Southeastern area which includes the traditional peanut-producing areas encompassing the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers, loans will be made through the GFA Peanut Association of Camilla, Georgia.

(b) for the Southwestern area which includes the traditional peanut-producing areas encompassing the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas, loans will be made through the

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Southwestern Peanut Growers Association of Gorman, Texas.

(c) For the Virginia-Carolina area which includes the traditional peanut areas encompassing the states of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee/Congaree-Broad Rivers, loans will be made through the Peanut Growers Cooperative Marketing Association of Franklin, Virginia.

In view of the 1981 amendments to the 1949 Act, which had the effect of broadening the areas in which additional peanuts can be grown beyond traditional peanut-growing regions, warehouse storage loans will also be available to producers of additional peanuts which are grown outside the States named above. All peanuts submitted for loans must be delivered to an approved warehouse located in the marketing area where the peanuts were grown. The schedule which assigns all non-traditional growing regions to one of the three general marketing areas has been modified slightly from the schedule contained in the Interim Rule to cover all territories and possessions of the United States, and the District of Columbia. The modified schedule of assignments is as follows:

(a) Alaska, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming and all territories and possessions of the United States not otherwise assigned are assigned to the Southwest marketing area;

(b) Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin and the District of Columbia are assigned to the Virginia-Carolina marketing area; and

(c) Puerto Rico and the U.S. Virgin Islands are assigned to the Southeast marketing area.

Regulations governing farm-stored loans for all areas of the country are contained in 7 CFR Part 1421.

4. *Immediate buyback of additional peanuts.* The regulations governing the 1981 crop and previous crops which are found at 7 CFR 1446.7, provided that for additional peanuts to be purchased under the "immediate buyback" procedure, the applicable Inspection Certificate and Sales Memorandum was required to be signed by the producer to indicate that the peanuts were available for immediate buyback. Experience has shown, however, that it is often an inconvenience for the producer to sign the Inspection Certificate and Sales Memorandum for each "buyback" purchase. To expedite the delivery of additional peanuts which are available for "immediate buyback" purchase, the regulations governing this procedure have been revised from those which were applicable for the 1981 and previous crop years. This final rule provides that eligibility for "immediate buyback" is established by the farm operator when an application is made for the marketing card (ASCS–1002). The stamp "eligible for buyback" will be placed on the marketing card when it is issued only with the approval of the farm operator, or with the approval of a properly authorized agent of the farm operator if a Power of Attorney (ASCS–211) is on file. Multiple marketing cards may be issued when producers wish only a portion of their additional peanuts to be available for "immediate buyback" purchase. Producers may also apply for supplemental cards if, after having been issued a marketing card, the producer decides to change the eligibility status of any remaining additional peanuts to be marketed.

5. *Procedures for the Assessment of Penalties Against Handlers.* Section 359 of the 1938 Act, as amended, requires that penalties be assessed against handlers who fail to comply with the statutory or regulatory requirements for the handling and disposition of additional peanuts. The procedures for the assessment and collection of such penalties, as well as the appeal rights of handlers, have been clarified in this final rule.

Summary of Comments and Analysis

1. *General.* A total of 72 comments were received from individuals, firms, and organizations. There were 19 comments from grower organizations, 11 from Members of Congress, 11 from individual producers, 8 from general farm organizations, 7 from handler organizations, 3 from individual handlers, and 13 from other entities. There were 5 respondents who supported the Interim Rule as it was issued and made no suggestions for changes. Of this group, 4 specifically supported the continuation of the Segregation 2 and 3 transfer provision contained in the Interim Rule.

2. *Segregation 2 and 3 transfer provision.* The Interim Rule allowed producers who are unable to fill their quota to transfer additional loan peanuts to the quota loan pool. This provision is helpful to producers when drought or other circumstances beyond the producers' control cause their peanuts to grade as Segregation 2 or 3, thus causing the peanuts to be ineligible for price support at the quota loan rate. The transfer allowance is also an effective mechanism for preventing Segregation 3 peanuts from illegally entering the domestic consumption market by encouraging such peanuts to be marketed through the loan program. A number of comments were received with respect to this provision prior to the issuance of the Interim Rule and have been included for consideration in the development of the Final Rule. There were 27 comments in support of the transfer provision as it was issued in the Interim Rule and this provision has been adopted in this final rule.

3. *Export restrictions to Mexico and Canada.* The Interim Rule continued regulations in force for previous crop years which defined Mexico and Canada as ineligible countries for the purpose of exporting contract additional peanuts in the form of peanut products. This regulation was promulgated to protect against the possibility of contract additional peanuts being processed into products in the United States, exported to Canada or Mexico, and then imported back into the U.S. in competition with quota peanuts for a share of the domestic market.

With the exception of those instances where additional peanuts may be substituted for quota peanuts which have been or will be exported, under the two-tiered price support program, additional peanuts may be used in the domestic market only if purchased from CCC loan stocks at the quota support level plus handling costs. This means that peanut products may be offered in the domestic market only if they are: (1) Processed from quota peanuts; (2) processed from additional peanuts loan stocks priced at the quota support level; or (3) processed from imported peanuts brought into the United States within applicable import quota levels. Contract additional peanuts and products made from such peanuts are required by section 359(j) of the 1938 Act, as amended, to be exported or crushed into peanut oil.

In recent years, the incentive for the reentry of peanuts made from restricted peanuts has become substantial. During the 1978 through 1981 crop years, prices for contract additional peanuts were near the quota loan rates, thereby making it relatively uneconomical to export, process, and import the products back into the domestic U.S. market. However, recent legislation and weak world market prices, together with the exclusion of peanut products from existing import quotas, now provide a substantial potential for the reimportation into the U.S. of peanut products made from contract peanuts purchased at prices lower than statutory minimum U.S. domestic edible prices.

Section 108A of the 1949 Act provides that the minimum quota support level is $550 per short ton for the 1982 crop of peanuts. In addition, the national average quota support rate for each of the 1983, 1984 and 1985 crops of quota peanuts shall be the national average quota support rate for the previous crop, adjusted to reflect any increase in the national average cost of production, excluding any increase in the cost of land. However, in no event can the national average quota support rate for any such crop exceed by more than 6 percent the national average quota support rate for the previous crop. The additional support level, however, continues to be based mainly on crushing value and was established at $200 per ton for 1982. For the 1983 crop, the Secretary has announced that the support level for additional peanuts will be $185 per short ton. Data collected by the Department has indicated that 1982 crop contract additional peanuts were purchased for export by handlers at prices ranging from $200 to $450 per ton. Those figures are $100 to $350 per ton below the quota loan rate and this price spread is substantially wider than the $20 to $50 per ton spread experienced during 1978–1981 crop years.

Seven respondents requested that the provisions of these regulations be revised to allow U.S. firms to export contract additional peanuts in the form of peanut products to Canada and Mexico. The respondents argue that removal of the restriction on the export of contract additional peanuts to these countries is warranted in order that the respondents can compete in foreign markets with foreign companies. However, the Department believes that these restrictions should be continued. First, these restrictions apply only to sales of peanut products to Canada and Mexico insofar as foreign markets are concerned. Second, these restrictions on the export of contract additional peanuts will be continued at this time because removal of the restrictions could entail serious harm to the quota price support program as a result of the displacement of quota peanuts with peanut products which had been purchased at prices which were below the level of quota price support. This raises the possibility of substantial interference with the quota price support program and creates the potential for material losses of public funds committed to the program. To the extent that quota peanuts are displaced, quota stocks may ultimately have to be crushed into oil and meal at prices substantially lower than the quota loan rate. Under the 1938 Act, as amended, the Secretary is required to control and regulate contracts for additional peanuts. The exercise of that power, for the reasons given, warrants, in the Department's view, that the restriction be continued at this time, as provided in this final rule. However, the Department believes that additional consideration of this issue is warranted. In order to highlight this issue and obtain additional public participation, the Department intends to issue a notice which will allow all parties an opportunity to comment on whether further action should be taken to retain, remove or expand the restriction to include other countries.

4. *Handler liability for liquidated damages.* Current regulations provide that liquidated damages will be assessed against a handler who exports additional peanuts and peanut products which are made from additional peanuts if such peanuts or products are reentered into the U.S. These liquidated damages will be assessed regardless of whether the handler was directly involved in the reentry of the peanuts or peanut products. Several handlers and handler organizations have recommended that handlers who exported peanuts or peanut products which are subsequently reentered into the U.S. should not be held liable for liquidated damages with respect to the reentry of such peanuts or products. The price differential that now exists between quota peanuts and contract additional peanuts, however, provides a strong economic incentive for importers to purchase additional peanuts on the international market and to reenter such peanuts or peanut products made from these peanuts into the domestic market. The respondents suggest that rather than assessing liquidated damages against the exporting handler, such damages should be assessed against the person or firm directly responsible for the reentry of the peanuts or peanut products. In this respect, the respondents argue that they lose control of the exported peanuts, have no means to control whether the buyer reenters such peanuts, and, therefore, should be free of liability. Nonetheless, the exporters have the responsibility to inform their customers of restrictions on contract additional peanuts and on peanut products made from additional peanuts and to take such measures as are necessary to ensure compliance. For that reason, it remains appropriate to continue to assert liability for liquidated damages against the handler contracting with the producers for the peanuts. Accordingly, these provisions have not been revised.

5. *Tolerance for screen size variations for the substitution of additional and quota peanuts.* Under the provisions of the Interim Rule, handlers are allowed to substitute additional peanuts into the domestic market for quota peanuts that have previously been exported. In addition, handlers are permitted to substitute additional peanuts into the domestic market against a letter of credit—to cover potential damages to CCC—and later export an equivalent quantity of quota peanuts. The major benefit of substitution is that it enables shellers or handlers to move quota peanuts into export markets before they are in a position to begin processing contract additional peanuts. When contract additional peanuts are subsequently processed, the shelled outturn of the peanuts is supervised by a representative of the Secretary to ensure that substitution involves peanuts of the same crop, type, area, an screen size as the peanuts for which the replacement is made.

Several handlers have suggested that shellers be allowed a 5 percent tolerance in screen size variation when substituting additional peanuts into the domestic market for previously exported quota peanuts or where substitution is made in those instances where a letter of credit is established as specified above. They further suggest that if a general 5 percent tolerance is not allowed, such an allowance should nonetheless be allowed where a larger screen size was exported (within the 5 percent tolerance range), the contention being that there should not be any damage in those instances to the price support program. To allow such tolerances as the respondents seek would, however, still permit the handler involved in such substitutions to exercise some selectivity in adjusting sales of contract additional peanuts and quota peanuts between the domestic and export markets. Even where smaller screen size peanuts are moved into the domestic market through the mechanism of substitution, this would produce an unfair competitive advantage for some handlers to the disadvantage of those handlers competing in the same markets and milling smaller screen size peanuts but with low or nonexistent contract additional peanut purchases. For this reason, the tolerance suggestion has not been adopted at this time.

6. *Supervision of contract additional peanuts.* Under the provisions of the Interim Rule, nonphysical supervision of

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contract additional peanuts is no longer available. Nonphysical supervision was permitted for the 1981 crop of peanuts. However, experience with this method of supervision demonstrated several serious flaws. First, handlers have realized shelled outturn that differed substantially from the sample shellings made at the time of loadout. Particularly, more splits have resulted from the commercial shelling process which, in practice, produced substitutions of different qualities of peanuts between the domestic and export markets than would have been the case if nonphysical supervision had not been permitted. The consequent adjustments have required undue and otherwise unnecessary substitutions of peanuts between quota peanut stocks and additional peanut stocks, thereby producing an unwarranted complication in the administration of the program and unneeded adjustments in the actual marketings of peanuts to the possible competitive detriment of other handlers. In addition, the nonphysical supervision option effectively permitted handlers to designate shelled lots for export or crushing without regard to whether such lots were originally designated as quota or as contract additional peanuts. Thus, whenever shelled peanut lots, irrespective of their origin, failed quality standards or have been lost or damaged, handlers have designated these lots as meeting the disposition requirements of contract additional peanuts. This has made it impossible to actually verify with accuracy whether contract additional peanuts are, in fact, entering the domestic edible market through unwarranted substitutions.

Although several respondents favored retaining nonphysical supervision, the larger number of respondents addressing this issue favored the elimination of nonphysical supervision. Thus, the requirement in the Interim Rule that all phases of the handling and disposition of contract additional peanuts must be supervised by a representative of the association has been adopted in the final regulations without change. This leaves the program with the same method of supervision which was applicable for the 1980 crop and prior crop years.

In addition to other modifications already identified, several other minor changes from the provisions of the Interim Rule of June 29, 1982, have been made. They are as follows:

(1) *Contracts for additional peanuts for crushing or export.* Beginning with the 1983 crop year, the requirements for county committee approval of a contract for additional peanuts, Form CCC–1005, have been reduced to what is considered minimally necessary to qualify as a contract. Producers and handlers will be allowed, however, to incorporate previously required items as they mutually agree. The items no longer required for County committee approval include the producer's farm number, the clause on failure to deliver due to conditions beyond the control of the producer, the statement of liens or prior interests, a statement regarding the type of peanuts contracted, and the handler agreement to handle and dispose of the contracted peanuts in accordance with the regulations of 7 CFR Part 1446. These changes should simplify the actual contracting process, as well as simplifying the county committee approval of such contracts.

(2) *Substitution of quota and additional peanuts.* The Interim Rule permits, with the prior approval of the association, additional peanuts to be substituted into the domestic market for farmers stock quota peanuts of the same crop, type, quality, and area that had previously been exported or crushed. When nonphysical supervision was allowed, substitution into the domestic market of quota peanuts which had been crushed was permitted because of factors peculiar to nonphysical supervision. It has become apparent that it is not possible to adequately monitor the quality of quota peanuts which are crushed. This has meant that additional peanuts of edible quality could enter the domestic edible market replacing quota peanuts which had been previously crushed regardless of whether the crushed quota peanuts were themselves of edible quality. If a handler is permitted to crush quota peanuts which do not meet the edible quality standards instead of additional peanuts which are required to be exported or crushed, the handler has an unfair advantage in the marketplace over handlers who do not have access to additional peanuts since a handler executing a peanut marketing agreement must either crush or export for crushing any peanuts not meeting edible quality standards. Accordingly, this final rule provides that additional peanuts may be substituted only for quota peanuts which have been previously exported.

(3) *Procedure for Assessment of Penalties and liquidated damages against handlers.* The Interim Rule provided that any notice of assessment of a penalty or liquidated damages was to be issued by the Director, Tobacco and Peanuts Division. Since these provisions involve matters related to CCC support operations, it has been determined that the more appropriate official to assess such penalties and liquidated damages is a CCC Contracting Officer. Thus, this final rule assigns to CCC contracting officers the responsibility for assessing penalties and liquidated damages.

Likewise, this final rule provides that any administrative appeals involving the assessment or reduction of penalties or liquidated damages must be filed with the Executive Vice President of CCC rather than the Deputy Administrator, State and County Operations, ASCS.

Section 1446.59(e) of the Interim Rule contained a typographical error in setting forth the number of days within which a handler must submit a written appeal of a penalty assessment. That error has been corrected to provide for 15 days for submission of the appeal rather than 45 days.

In addition, a number of the provisions of the Interim Rule have been revised for clarity purposes only. Since these revisions affect a number of sections, it has been determined that the Interim Rule published at 47 FR 28069 should be revised and republished in its entirety, except for conforming changes made to the regulations governing the 1979–1981 crop years which have been adopted as a final rule as published.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price Support Programs, Warehouse.

Final Rule

Accordingly, the Interim Rule published at 47 FR 28069 is hereby adopted as a Final Rule except that the regulations at 7 CFR 1446.50 *et seq.* are revised as follows:

Subpart—General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

General

Sec.

1446.50 General statement.
1446.51 Administration.
1446.52 Definitions.

Handler Operations

1446.53 Handler responsibilities.
1446.54 Contracts for additional peanuts for crushing and exportation.
1446.55 Commingling of quota and additional peanuts.
1446.56 Use of additional peanuts as domestic edible peanuts.
1446.57 Compliance requirements for handlers of contract additional peanuts
1446.58 Supervision and handling of contract additional peanuts.
1446.59 Assessment of penalties and liquidated damages against handlers

Warehouse Storage Loans

Sec.

1446.60 Availability of warehouse storage loans.
1446.61 Pooling and distribution of net gains.
1446.62 Producer indebtedness.
1446.63 Eligible producer.
1446.64 Eligible peanuts.
1446.65 Disposition of Segregation 3 peanuts and liquidated damages.
1446.66 Producer transfers of additional loan stocks to quota pools.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 101, 106A, 401 *et seq.*, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421 *et seq.*); Sec. 359, 375, 52 Stat. 31, 64, as amended (7 U.S.C. 1358, 1375), unless otherwise noted.

Subpart—General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

General

§ 1446.50 General statement.

(a) *Scope.* This subpart sets forth the terms and conditions under which producers and handlers may trade in the 1982 through 1985 crops of peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1982 through 1985 crops of farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts are considered additional peanuts and shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged as collateral for price support loans under the terms of this subpart. Annual notice of determinations will specify support rates, and, where necessary, supplements to this subpart will specify other terms and conditions not contained in this subpart. Specific terms and conditions relating to contracts for sales of peanuts under loan will be set out in announcements issued by the Commodity Credit Corporation (CCC).

(b) *Price support advances.* Producers may obtain price support at the rates specified in the applicable annual Notice of Determination through the applicable association. Each association will make appropriate price support loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loans will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations setting forth the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers for any crop of farmers stock peanuts will be published separately in the **Federal Register.**

§ 1446.51 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, the Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendment or supplement thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee, from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

§ 1446.52 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them by this section unless the context or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The price support rate applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan acitivites and which is selected and approved for such activities by the Secretary.

(e) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States, within the Department of Agriculture.

(f) *Compliance regulations.* The regulations in Part 718 of this title, issued by the Administrator, ASCS, and effective for the applicable crop.

(g) *Contract additional peanuts.* Additional peanuts for crushing or exportation, or both, for which a contract has been entered into between a handler and producer in accordance with § 1446.54.

(h) *County committee.* The body of persons elected within a county as the county committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation (ASC) county and community committees in Part 7 of subtitle A of this title of the Code of Federal Regulations, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabilization and Conservation Committee shall, insofar as applicable, perform the functions of the county committee. For other areas without a regular county committee available for handling such matters as would normally fall to a county committee, the functions of the county committee shall be performed by the Deputy Administrator for State and County Operations or the person or body to whom such functions shall be delegated by the Deputy Administrator.

(i) *County office.* The office of the county ASC committee where records for the farm are kept.

(j) *Crushing.* The processing of peanuts: (1) To extract oil for food uses and meal for feed uses; or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(k) *Domestic edible use.* Domestic edible use means, for the purpose of regulations found in this subpart: (1) Use of peanuts for milling to produce domestic food peanuts (including the processing of peanuts into flakes for traditional domestic edible uses); (2) use of peanuts for seed, exluding unique strains which are not commercially available and which are used for the production of green peanuts; and (3) use of peanuts on a farm.

(l) *Edible export standard for contract additional peanuts.* Raw shelled or inshell peanuts of any crop exported for human consumption meeting such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness, as are specified in the outgoing quality regulations for such crop set forth in the Marketing Agreement for Peanuts No. 146: *Provided,* That peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements shall be considered as meeting such requirements if the handler

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certifies to the association that such deviations are: (i) Acceptable to the export buyer, and (ii) fall within the range of deviations allowable under the Marketing Agreement.

(m) *Effective farm poundage quota.* The effective farm poundage quota for the applicable crop of peanuts as defined in the poundage quota and marketing regulations, Part 729 of this title.

(n) *Eligible country.* Any destination outside the United States, except that, neither Canada nor Mexico shall be considered an eligible country for the purpose of exporting peanut products other than treated seed peanuts.

(o) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a destination outside the United States and for which a statement, which is signed by the handler and specifies the name and address of the consignee, is made available to the association or CCC, or, upon request by the association or CCC, for which a consignee receipt is made available to the association or CCC.

(p) *Extra large kernels.* Shelled Virginia type peanuts which are "whole" and free from "foreign material", "damage", and "minor defects" as such terms are defined in the U.S. Standards for shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 20/64 by 1 inch openings.

(q) *Farm.* A farm, as defined in Part 719 of this title.

(r) *Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(s) *Flaked peanuts.* Raw contract additional peanuts which are colloid milled (finely ground), stabilized to prevent rancidity, and drum dried into flake form. Flaked peanuts, to be considered as peanuts used for crushing under these rules, may only be used in approved products or uses, those being the processing of flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses. Products approved for use include, but are not limited to, bases for meat and cheese flavored sandwich spreads, meat analogs, extenders for certain types of luncheon meats, extenders for scrambled eggs, and other products as approved by CCC or the association.

(t) *Form ASCS–1007 and Form FV–95.*—(1) *Form ASCS–1007.* The Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form FV–95.* The Federal-State Inspection Service Peanut Inspection Notesheet.

(u) *Fragmented peanuts.* Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish 15/64 x 3/4 inch slot; Runner 16/64 x 3/4 inch slot, and Virginia 15/64 x 1 inch slot.

(v) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(w) *Handler.* Any person or firm, or subdivision thereof, registered with ASCS for the purpose of acquiring peanuts for resale, domestic consumption, exportation, or crushing, through a business of buying and selling peanuts.

(x) *Inspector.* A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(y) *Loan value.* The amount of the price support loan advance which may be obtained by a producer from the association under this subpart with respect to a lot of eligible farmers stock peanuts, computed for quota or additional peanuts, as applicable, on the basis of weight, quality, and the support values announced for such type.

(z) *Lot.* That quantity of farmers stock peanuts for which one ASCS–1007 or other inspection certificate is issued. For farmers stock peanuts delivered to the association for a price support loan advance, a lot shall consist of not more than the contents of one vehicle, or two or more vehicles containing a total of approximately 24,000 pounds.

(aa) *Marketing card.* Form ASCS–1002 issued each year in accordance with Part 729 of this title by ASCS county offices to producers for use in marketing peanuts of the applicable crop. Each Form ASCS–1002 shall indicate: (1) The farm operator's eligibility for quota price support; (2) the pounds that may be marketed as quota peanuts; (3) the pounds of additional peanuts contracted and the handler number of the contracting handler; and (4) the eligibility of additional peanuts for immediate buyback.

(bb) *Marketing penalties.* The penalties prescribed in the poundage quota and marketing regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations and are effective for the applicable crop.

(cc) *Marketing regulations.* Regulations in Part 729 of this title, effective for the applicable crop.

(dd) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(ee) *Net weight.* That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts: (1) Foreign material; and (2) moisture (i) in excess of seven percent in the traditional peanut-producing States of the Southwestern and Southeastern areas, those being Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, that part of South Carolina in the southeastern area, and Texas; or (ii) in excess of eight percent for peanuts grown in any other location.

(ff) *Peanut meal.* Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(gg) *Peanut products.* Any products, other than peanut oil and meal, manufactured or derived from peanuts such as, but not limited to, peanut candy, peanut butter, and peanut granules.

(hh) *Peanut receiving and warehouse contract.* Form CCC–1028 (Identity Preserved), Form CCC–1028–A (Commingled Storage), or any other form approved by CCC for the purpose of receiving and warehousing peanuts.

(ii) *Peanut segregations.*—(1) *Segregation 1.* Farmers stock peanuts which: (i) Have at least 99 percent peanuts of one type; (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage; (iii) are free from any offensive odor; and (iv) are free from visible Aspergillus flavus mold.

(2) *Segregation 2.* Farmers stock peanuts which are free from visible Aspergillus flavus mold and which either: (i) Have less than 99 percent peanuts of one type; or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage; or (iii) have an offensive odor. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure, as provided in § 1446.56(a) of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3.* Farmers stock peanuts which have visible Aspergillus flavus mold. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure as provided in § 1446.56(a), such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(jj) *Pools.* Accounting pools established by the association and for which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(kk) *Quota peanuts.* For purposes of the regulations found in this subpart, peanuts which are: (1) Eligible for domestic edible uses; and (2) marketed or considered marketed from a farm as quota peanuts, but not in excess of the farm poundage quota.

(ll) *Quota support rate.* The price support rate applicable to quota peanuts.

(mm) *Raw peanuts.* Inshell peanuts, shelled peanuts, or blanched peanuts which have not passed through any other processing operations.

(nn) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner type: $^{15}/_{64}$ x $^{3}/_{4}$ inch slot;
Spanish type: $^{15}/_{64}$ x $^{3}/_{4}$ inch slot;
Virginia type: $^{15}/_{64}$ x 1 inch slot.

(oo) *Type.* The generally known types of peanuts (i.e., Runner, Spanish, Valencia, and Virginia), as defined in the poundage quota and marketing regulations, Part 729 of this title.

(pp) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(qq) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(rr) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent shells damaged by: (1) Discoloration; (2) cracks or broken ends; or (3) both discoloration, and cracks or broken ends.

Handler Operations

§ 1446.59 Handler responsibilities.

(a) *Examination of producers' marketing cards.* All handlers shall examine producers' marketing cards and record each purchase or delivery of peanuts as required in Part 729 of this title and in accordance with procedures established by ASCS. Any peanuts delivered by producers under an additional peanut contract (Form CCC–1005) in excess of the provisions of such contract shall be considered as having been marketed as quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at the time of delivery.

(b) *Purchase records.*—(1) *Purchases of quota peanuts on which an ASCS–1007 is prepared.* Each handler shall maintain records of the peanuts purchased and sold. The records shall contain, at a minimum, the following information: (i) The State and county code; (ii) the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler; (iii) the quantity and type of peanuts; (iv) the date of purchase; and (v) the applicable ASCS–1007 serial number. The handler shall imprint forms ASCS–1007 and FV–95 with the farm identification card, the peanut buyer's card, and the buying point card.

(2) *Purchases of quota peanuts from producers on which an ASCS–1007 is not prepared.* The handler shall immediately transmit a record of such purchase to CCC. Such record shall show the name and address of the producer, State and county code, farm number, the handler's name, address and registration number, buying point, any marketing penalty collected, the type and quantity of peanuts purchased, and the date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing, and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained by a handler in such a manner that will enable the association or CCC, ASCS, or any other representative of the Secretary to readily reconcile the quantities, grades, and qualities of all peanuts acquired and disposed of by such a handler. Records concerning the acquisition and disposal of contract additional peanuts must also be kept in such a manner that the association or CCC, ASCS, or any other representative of the Secretary can readily determine whether there has been compliance with the provisions of this subpart.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.54 Contracts for additional peanuts for crushing and exportation.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers to buy additional peanuts from producers for crushing or exportation, or both: *Provided however,* That producers approved as producer-handlers under Part 1421 of this title, for the purpose of immediate buyback of their additional peanuts, may not contract with themselves. All contracts for sales of additional peanuts shall be completed on Form CCC–1005 and submitted to the county office for approval prior to April 15 of the year in which the crop is produced. Such contracts cannot be sold or traded, except under the terms and conditions specified in paragraph (b) of this section.

(1) Contracts in order to be approved by the county committee shall include at least the following:

(i) The name and address of the producer;

(ii) The State and County code of the State and County in which the additional peanuts are to be produced;

(iii) The name, and address of the handler, and registration number;

(iv) The amount of Segregation 1, Segregation 2, or Segregation 3 peanuts in pounds;

(v) The contract price shown as a percentage of the quota peanut support rate;

(vi) The signature of the producer; and

(vii) The signature of the handler or authorized agent of the handler.

(2) Contracts Form CCC–1005 (1–22–82), may contain but are not required to contain for approval, the following:

(i) The farm serial number of the farm;

(ii) The type of peanuts;

(iii) A requirement of disclosure by the producer of any liens on the peanuts on date of delivery;

(iv) A provision that the producer shall not be liable for failure to deliver against such contract an amount of peanuts in excess of the actual production of such type and quality on the farm. In the case of harvested peanuts, however, the producer shall be free of his delivery obligation only so long as delivery of such peanuts is prevented solely because of external

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source such as drought, fire, lightning, inherent explosion, windstorm, tornado, flood or other act of God, or any other condition beyond the control of the producer; or

(v) The signature of the farm operator.

(b) *Contract transfers and delivery of contracted peanuts to other handlers.* If a handler is unable to perform under contracts with producers for the purchase of additional peanuts because of conditions beyond the handler's control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producer may agree to the delivery of the peanuts to other handlers under the terms of the original contract or under modified terms. Such transfers shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such transfer will not impair the effective operation of the peanut program.

(c) *Contract transfers and transfer of delivery obligations to other producers.* If a producer is unable to fully perform under the terms of a contract with a handler for the purchase of additional peanuts because of conditions beyond the prouducer's control including, but not limited to, farm reconstitutions (combinations and divisions), insolvency, bankruptcy or death, the handler and the producer or his succesor-in-interest may agree to a modification of the contract or to the substitution of another producer either under the original terms of the contract or modified terms: *Provided however,* That where there is a substitution of another producer, the original contract price and quantity provided for in the contract may not be changed. Such modifications or transfers of contract obligations shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such modifications or transfers will not impair the effective operation of the peanut program. Contract modifications other than changes in producer, owner, or operator, may be approved by the county ASCS office in accordance with instructions issued by ASCS.

(d) *Deliveries under optional provisions of the contract.* Contracts may also specify, in addition to other matters, the terms and conditions of delivery of the peanuts covered in the contract. Such terms and conditions may include, but are not limited to, multiple delivery dates, priorities of delivery, specifications regarding quality, and variation in prices for time of delivery and/or quality of the peanuts actually delivered.

(e) *Contracts between handlers.* Handlers may contract with other handlers to transfer liability for exporting or crushing contract additional peanuts. Such contracts must contain the following agreement:

> I agree that I will either export or crush the peanuts delivered under this contract as provided in Part 1446, Subpart-General Regulations Governing 1982 through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations, as amended, by August 31 following the calendar year in which the crop is grown, except that if the final date for export or crushing is extended by the Commodity Credit Corporation to November 30 of that year, I agree to dispose of such peanuts by November 30 of that year, and that, upon my failure to do so, I shall be subject to a marketing quota penalty as specified in such regulations on all such peanuts which have not been so crushed or exported. I further agree that if I contract with another Handler to market any such peanuts, I shall include as part of the contract the agreement contained herein, and upon my failure to do so, I may be subject to a marketing quota penalty, as specified in the regulations on all such peanuts.

(f) *Inspection of contract additional peanuts.* The type and quality of each lot of contract additional peanuts delivered under contract shall be determined by an inspector when such peanuts are delivered by a producer.

(g) *Contracts for 1982 crop additional peanuts.* Contracts between producers and handlers for 1982 crop additional peanuts entered into prior to April 15, 1982, and meeting the requirements of the regulations then in effect (Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, 7 CFR Part 1446), shall be considered as having met the requirements for such contracts which are set forth in this subpart. However, such contracts and the peanuts which are the subject of such contracts shall otherwise be governed by the terms and conditions set forth in this subpart. All references contained in such contracts to the General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, or portions thereof, shall be deemed to be references to this subpart.

§ 1446.55 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practices and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date and place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar-value-out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.56 Use of additional peanuts as domestic edible peanuts.

(a) *"Immediate Buyback" purchase.* During harvest season, a handler shall have the right to purchase additional peanuts from the association for domestic edible use at buying points owned or controlled by such handler at prices equal to 100 percent of the quota loan value of such peanuts plus handling charges. The purchase (i.e., the "immediate buyback" purchase) may be made only from the association and only on the date such peanuts were delivered by the producer as collateral for a price support loan. The "immediate buyback" purchase shall be valid and accepted by the association only if the marketing card (ASCS–1002) is stamped "eligible for buyback". The handler shall: (1) As an agent for the association, advance to the producer price support from CCC funds for the peanuts at the additional loan rate; (2) pay to the producer from his own funds any agreed premiums for the delivery of such peanuts by the producer to the handler; and (3) forward to the association a check payable from his own funds to CCC for the peanuts in an amount equal to the quota loan value of the peanuts, as well as any handling charges. The check and applicable ASCS–1007 will identify the peanuts as additional peanuts that may be used for domestic edible use and those documents must be transmitted to the association (as evidenced by a postmark) not later than the third workday (excluding Saturdays, Sundays, and Federal holidays) following the day the peanuts were inspected. Such receipts will be credited to the additional loan pool for such peanuts.

(b) *Purchases of Quota and Additional Peanuts Subsequent to Delivery.* Handlers may also purchase quota or additional peanuts for the loan pool for domestic edible use after delivery by producers to the association, under terms and conditions established by the association and CCC. The minimum price for such purchases shall be the applicable carrying charges plus: (1) Not less than 105 percent of the quota loan value of the peanuts if paid for not later than December 31 of the marketing year; or (2) not less than 107 percent of the quota loan value if paid for after December 31 of the marketing year.

§ 1446.57 Compliance requirements for handlers of contract additional peanuts.

(a) *Records.* All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or exportation to an eligible country in accordance with the conditions set forth in this subpart. All handler's records shall be subject to a review by the association, CCC, ASCS, or other representatives of the Secretary of Agriculture to determine compliance with the provisions of this subpart. Refusal to make such handler's records available to the association, CCC, ASCS, or other representative of the Secretary or the failure of such records to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart for which a penalty may be assessed against the handler in accordance with § 1446.59. Reviews of handler records shall be made by the association in accordance with guidelines established by CCC.

(b) *Excess marketings of quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of quota farmers stock peanuts purchased by the handler during the applicable marketing year and those purchased in accordance with the provisions of § 1446.56, regardless of whether additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold, expect that such penalty may be reduced in appropriate circumstances under the terms set forth in § 1446.59, which also prescribes the manner in which penalties will be assessed.

(c) *Marketing in the U.S. of peanut products made from contract additional peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that the handler marketed in the United States, including its territories and possessions and the District of Columbia, any peanut products made from any crop of contract additional peanuts. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the quantity of peanut products imported and sold, except that such penalties may be reduced in appropriate circumstances under the terms set forth in § 1446.59, which also prescribes the manner in which penalties will be assessed.

(d) *Storage requirements for contract additional peanuts prior to processing.*—(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan, and contract additional peanuts. In such case, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage, except when such peanuts are purchased from the association for domestic edible use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar-value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value of the peanuts for Virginia-type peanuts and 3.5 percent for all other peanut types. However, if such additional contract peanuts are graded out and accounted for prior to February 1 of the year following the year in which the peanuts were grown, the adjustment of the dollar value for shinkage shall be 3.5 percent for Virginia-type and 3.0 percent for all other peanuts.

(2) *Identity preserved storage.* Contract additional peanuts stored "identity preserved" shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices and instructions provided by CCC.

(3) *Penalties.* Failure to store and account for peanuts in accordance with the requirements of this paragraph shall constitute noncompliance with this subpart for which a penalty may be assessed in accordance with § 1446.59.

(e) *Disposition of contract additional peanuts.*—(1) *Disposition.* Handlers shall dispose of all contract additional peanuts, either by exportation, crushing, or substitution, in accordance with the requirements and procedures of § 1446.58.

(2) *Final disposition date.* Handlers shall dispose of all contract additional peanuts by August 31 of the year following the calendar year in which the crop was grown.

(3) *Extension of final disposition date.* The final disposition date shall be extended to November 30 of the year following the calendar year in which the crop was grown if, by August 31, the handler:

(i) Furnishes information to the association showing that the contract additional peanuts have been milled and positive lot identified;

(ii) Furnishes the association with the name and location of the contract additional peanuts; and

(iii) Provides a written statement to the association agreeing to pay for any supervision costs which are incurred with respect to contract additional peanuts after August 31.

(4) *Disposition following an extension.* The identical contract additional peanuts with respect to which a request for extension of the final disposition date has been granted by the association or CCC must be disposed of by exportation or crushing in conformity with the requirements of § 1446.58. Such contract additional peanuts may not be disposed of through the substitution procedures set forth in § 1446.58(d).

(5) *Penalties.* The failure of a handler to dispose of contract additional peanuts by the final date for disposition in accordance with the requirements of this subpart shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed against the handler in accordance with the provisions of § 1446.59.

§ 1446.58 Supervision and handling of contract additional peanuts.

The handler must arrange for and the association will conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, milling, blanching, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts or any person or firm otherwise receiving contract additional peanuts, shall be deemed to have agreed that authorized

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representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises of the handler when such peanuts are being received, shelled, cleaned, bagged, sealed, weighted, graded, stored, milled, blanched, crushed, packaged, shipped, sized, processed into flaked peanuts or other products, or otherwise handled.

(2) May inspect such peanuts and the oil, meal, and other products thereof; and

(3) May inspect the premises, facilites, operations, books, and records of the handler to the extent necessary to determine that such peanuts have been handled in accordance with this subpart.

(b) *Notifying the association.* Before moving or processing any contract additional peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The contract additional peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, exportation, processing into peanut flakes, or processing into peanut products to be exported. Except as otherwise authorized by the association, such peanuts will be considered as having been crushed or exported only if positive lot identity has been maintained in the following manner:

(1) *Transportation.* The peanuts shall be transported from the storage location in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identity.

(d) *Substitution of quota and additional peanuts.*—(1) *Substitution of quota peanuts which have been exported.*

(i) *Farmers stock peanuts.* The identical contract additional farmers stock peanuts shall be handled in accordance with the provisions of this section, except that with prior notification to and approval of the association, farmers stock quota peanuts of the same crop, type, quality, and area may be exported in place of such additional peanuts.

(ii) *Milled peanuts.* The identical contract additional milled peanuts shelled under supervision of the association shall be disposed of in accordance with this section, except that with prior notification to and approval by the association, such peanuts may be used to replace, in domestic edible use, quota peanuts of the same crop, type, area, and screen size, which have been previously exported. The quota peanuts exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts.

(2) *Use of additional peanuts for domestic edible uses prior to substitution.* Additional peanuts may be used for domestic edible use with prior notification and approval of the association and upon presentation to the association of an irrevocable letter of credit in an amount which is not less than 120 percent of the quota support rate for any portion of the lot for which substitution has not been approved in accordance with paragraph (d)(1) of this section. Such letter of credit shall be issued in a form and by a bank which is acceptable to CCC. The handler shall subsequently deliver to the association satisfactory evidence that a like amount of quota peanuts of appropriate screen sizes have been handled as contract additional peanuts and exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after the final date for export as established in § 1446.57(e)(2) or 15 days prior to the expiration of the letter of credit, whichever occurs first. If satisfactory evidence is not presented by such date, CCC may authorize the association to draw against the letter of credit the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this subpart.

(3) *Time limitations.* Substitution may not be requested or approved with respect to contract additional peanuts for which the final disposition date has been extended in accordance with § 1446.57(e)(3).

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(f) *Domestic sale or transfer of contract additional peanuts.*—(1) *Farmers stock peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the association for written approval. Such approval must be obtained prior to any physical movement of the peanuts by the handler from the buying point. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush (including processing into flakes in those instances where such processing may be considered as crushing under § 1446.52(a)) or export the contract additional peanuts as raw peanuts or peanut products in accordance with the terms and conditions of this subpart. Approval of such contracts may be made before or after delivery of the peanuts to the handler by the producer.

(2) *Milled peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the association for written approval. Approval must be obtained prior to any physical movement of the peanuts by the handler. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush (includes processing into flakes if approved by the association or CCC) or export the contract additional peanuts in accordance with the terms and conditions of this subpart.

(g) *Disposal of contract additional peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exportation to an eligible country as follows:

(1) All kernels may be crushed domestically; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels: (i) Crushed domestically, or (ii) exported for crushing, if fragmented; or

(4) All of the peanuts may be exported as farmers stock peanuts; or

(5) The peanuts may be exported to an eligible country as peanut products if such peanuts meet edible export standards; or

(6) The peanuts may be processed into peanut flakes for those domestic uses approved by CCC or the Association to be considered as a crushing use under the terms of § 1446.52(a) if such peanuts meet domestic edible quality standards; or

(7) The peanuts may be exported as milled or inshell peanuts.

(h) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion and appropriate completion thereon of the following statement: "This shipment consists of lots of meal which contains aflatoxin ranging from —— to —— PPB and averaging —— PPB."

(i) *Final dates for scheduling supervision.* Contract additional farmers stock peanuts shall be scheduled for supervision by the Association during the normal marketing period but not later than July 31 of the calendar year following the calendar year in which the crop was grown, unless prior approval of a later date has been made by the association.

(j) *Exportation provisions.*—(1) *Exportation to a U.S. Government agency.* Except for the exportation of raw peanuts to the military exchange services for processing outside the United States, the exportation of peanuts in any form by or to a United States Government agency shall not be considered as exportation to an eligible country, but shall instead be considered a domestic edible use of such peanuts. However, sales to a foreign government which are financed with funds made available by a United States agency, such as the Agency for International Development, will not be considered sales to a United States Government agency if the peanuts are not purchased by the foreign buyer for transfer to a United States agency.

(2) *Exportation of contract additional peanuts.*—All contract additional peanuts which are not crushed domestically (including approved processing into flakes) and which are eligible for exportation shall be exported in accordance with the provisions of this subpart to an eligible country as peanuts or peanut products.

(3) *Reentry transshipment and liquidated damages.*—(i) *Reentry transshipment.* Additional peanuts and peanut products made from such peanuts which have been exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by a handler to be diverted or transshipped to other than an eligible country in any form or product. If contract additional peanuts or peanut products made from such peanuts are reentered into the United States, the handler shall, except in cases where the handler's liability is transferred under a valid good-faith transfer executed in accordance with the regulations of this part, be liable for liquidated damages as specified in paragraph (j)(3)(ii) of this section. Liability for liquidated damages arising out of purchases of loan additional peanuts (peanuts purchased from inventories of additional peanuts pledged as price support loan collateral) are governed by the terms of announcements issued by CCC describing the terms and conditions of such sales.

(ii) *Liquidated damages.* Any handler receiving contract additional peanuts shall be deemed to have agreed that: CCC may incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts or products made from such peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; the amount of such damages will be difficult, it not impossible, to ascertain exactly; and, with respect to any such peanuts or the products of such peanuts which are reentered into the United States or diverted to or transshipped to other than an eligible country, such handler shall pay to CCC, as liquidated damages and not as a penalty, the amount by which the national quota support rate for the applicable crop year exceeds the national additional peanut support rate, for that year on a per pound basis for each pound of peanuts or peanut products reentered. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(iii) *Waiver or reduction of liquidated damages.* The liquidated damages specified in paragraph (j)(3)(ii) of this section may be reduced or waived if the Executive Vice President of CCC, or his designee, determines that such waiver or reduction will not impair the effective operation of the peanut price support program. Such reduction or waiver may contain such terms and conditions as the Executive Vice President of CCC or his designee determines to be appropriate and necessary for effectuating the purposes of the peanut price support program.

(4) *Evidence of exportation.* The handler shall furnish the association or CCC with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after the final disposition date provided in § 1446.57(e):

(i) *Exportation by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Exportation by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts or peanut meal or products exported), supplemented by a copy of the Shipper's Export Declaration or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(iii) *Exportation by air.* A copy of the Airway Bill (showing the weight of the peanuts, peanut meal, or peanut products exported, the consignee and shipper) and other documentation acceptable to the association.

(iv) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee or, upon request by the association of CCC, a copy of the consignee receipt.

(k) *Penalties.* Failures to obtain required supervision from the association, or failure to handle and dispose of contract additional peanuts in accordance with the provisions of this section, shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed in accordance with § 1446.59.

§ 1446.59 Assessment of penalties and liquidated damages against handlers.

(a) *Penalty liability.* A handler shall be subject to the penalty provisions of this subpart for any or all of the following violations:

(1) Failure to keep or make available records in accordance with § 1446.57(a);

(2) Excess marketings of quota peanuts, as set forth in § 1446.57(b), including any marketing of imported peanut products made from contract additional peanuts as set forth in § 1446.57(c) or any marketing of imported peanut products made from additional peanuts purchased from the inventory of CCC loan collateral peanuts;

(3) Failure to store and account for contract additional peanuts in accordance with the requirements of § 1446.57(d);

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(4) Failure to dispose of contract additional peanuts in accordance with this subpart by the final disposition date in accordance with § 1446.57(e); or

(5) Failure to obtain supervision of or to handle contract additional peanuts as required by § 1446.58.

(b) *Liquidated damages.* The liability for, and the amount of liquidated damages shall be determined in accordance with § 1446.58(j)(3).

(c) *Penalty rate and amount.* The penalty rate shall be equal to 120 percent of the basic quota support rate for the applicable crop year for the type of peanuts involved in the violation for which the penalty is being assessed. The amount of the penalty shall be equal to the penalty rate times the quantity of peanuts: (1) For which records have not been properly kept or made available; (2) marketed as excess quota marketings; (3) not properly stored; (4) not properly disposed of; (5) not properly supervised or handled; or (6) determined by CCC to have been necessary to produce the quantity of peanut products made from contract additional peanuts imported and sold in the United States.

(d) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty or liquidated damages by a CCC contracting officer. Such notice shall state the basis for the assessment of the penalty or liquidated damages, and shall advise the handler of the handler's appeal rights under this subpart.

(e) *Appeals.* A handler who is dissatisfied with the penalties or liquidated damages assessed by the CCC contracting officer may file a written request for reconsideration of the assessment with the CCC contracting officer. Such request must be made no later than 15 days after the handler receives the notice of assessment. If the handler is dissatisfied with the determination, the handler may appeal such determination by submitting a written notice of appeal to the Executive Vice President of CCC, within 15 days of the issuance of a determination of reconsideration by the contracting officer. Except as otherwise provided herein, such appeal shall be conducted in accordance with the appeal regulations set forth in Part 780 of this title.

(f) *Request for reductions of penalties or liquidated damages.*—(1) *Form of request.* A handler may request a reduction in the amount of the penalties or liquidated damages which have been assessed. Such a request shall be treated as an appeal under paragraph (e) of this section, and must comply with the requirements of that section. The handler may simultaneously contest liability for the penalty or liquidated damages and, in the alternative, request that the penalty or liquidated damages be reduced.

(2) *Reduction criteria.*—(i) *Liquidated damages.* The criteria for reducing liquidated damages shall be those which are set forth in § 1446.58(j)(3)(iii).

(ii) *Penalties.* A penalty may be reduced if the Executive Vice President of CCC or his designee, determines that the violation for which the penalty was assessed was done unintentionally or unknowingly by the handler and that a reduction in the amount of the penalty would not impair the effective operation of the price support program for peanuts. The provisions of this paragraph shall be applicable only to handlers who made a good faith effort to comply fully with the terms and conditions of the program.

(3) *Limitations.* The amount of a penalty may not be reduced to less than an amount which is equal to 40 percent of the basic quota support rate for the applicable crop year times the quantity of peanuts involved in the violation. There shall be no limitation on the amount by which an assessment of liquidated damages may be reduced.

Warehouse Storage Loans

§ 1446.60 Availability of warehouse storage loans.

(a) *Loans to associations.* CCC will make warehouse storage price support loans to the associations specified in paragraph (b) of this section which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. Such loans will mature on demand.

(b) *Associations and areas.* Price support advances will be available through:

(1) The GFA Peanut Association of Camilla, Georgia, for the Southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(2) The Southwestern Peanut Growers Association of Gorman, Texas, for the Southwestern area consisting of all other territories and possessions of the United States not listed in paragraphs (b)(1) or (b)(3) of this section, and the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming;

(3) The Peanut Growers Cooperative Marketing Association of Franklin, Virginia, for the Virginia-Carolina area consisting of the District of Columbia, and the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available.* Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouseman to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require Warehousemen to: (1) Examine the producers' marketing cards to determine price support eligibility; (2) make entries on the marketing card as required by Part 729 of this title; and (3) record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts or contract additional peanuts are delivered, the balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of such warehouses may be obtained from the office of the appropriate association or from State or county ASCS offices.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge the peanuts delivered to the association by the producer to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to the producer.* For each lot of peanuts delivered, the association will make a price support advance to the producer in an amount equal to the support value of such peanuts in accordance with procedures established by CCC. However, in addition to marketing quota penalties and the deductions specified in § 1446.62, any assessments or excise taxes imposed by State law will be deducted from such advances and paid to the proper State authorities. In addition, the Southwestern Peanut Growers Association may, upon the prior agreement of the producer, deduct from such advance an amount which is approved by CCC, not to exceed $1 per net weight ton of peanuts upon which such advance was made, and which is to be used in financing its peanut related activities outside the price support program.

(h) *Fraud by the producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a price support loan advance shall render the producer subject to criminal prosecution under applicable Federal statutes. In addition to any liability under criminal or civil fraud statutes, the producer shall be personally liable to CCC for the amount of the loan advance and for all costs which CCC incurred as a result of the producer's fraudulent representation, together with interest upon such amounts at the rate per annum equal to the rate of interest which was charged CCC by the Treasurer of the United States on the date the price support loan advance was made. The producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

(i) *Ineligible peanuts.* Any person who causes ineligible peanuts (as defined in § 1446.64), to be placed in the loan program shall pay to CCC, as liquidated damages, the amount by which the average quota or additional loan rate (whichever is applicable) for that type of peanuts exceeds the market price for such type for crushing, as determined by CCC. Such person shall pay such amount to CCC promptly upon demand. Liquidated damages under this subsection may be reduced by the Executive Vice President, CCC, or his designee based upon a consideration of the following factors: (1) Whether the person causing ineligible peanuts to be placed in the loan program made a good faith effort to ensure that ineligible peanuts were not pledged as loan collateral; (2) the degree of damage or potential damage to the price support program; (3) the nature and circumstances of the violation; (4) the extent of the violation; and (5) any other pertinent information.

§ 1446.61 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts under loan. Bright hull and dark hull Valencia peanuts produced in the southwest area shall be considered as different types for purposes of establishing pools under this section. Net gains on peanuts in each pool shall be distributed to each producer in proportion to the value of peanuts placed in the pool by the producer, except that any distribution of net gains with respect to additional peanut pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer. In addition, the proceeds due to any producer from any pool shall be reduced by the amount of any losses which are incurred by CCC with respect to peanuts which are transferred from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool shall consist of:

(1) the net gains which are in excess of the loan indebtedness on quota peanuts and other costs or losses which are incurred by CCC as the result of such peanuts being placed in the pool by a producer, plus

(2) an amount from the net gains on additional peanuts sold into domestic food and related uses which is equal to the losses incurred in disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary, sales for crushing.

(b) *Additional pool.* Net gains for peanuts in the additional pool shall consist of:

(1) The net gains which are in excess of the loan indebtedness on additional peanuts and other costs or losses which are incurred by CCC as the result of such peanuts being placed in the pool by a producer, less

(2) An amount of the net gains from the additional pool allocated to the quota pool to offset any loss on that pool which is attributable to additional peanuts being used in domestic edible use.

§ 1446.62 Producer indebtedness.

(a) *Facility and drying equipment loans.* If an installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan and the amount due is recorded on the producer's marketing card, any amount due the producer under this subpart, after deduction of payments due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on county debt record.* If the producer is indebted to CCC, Farmers Home Administration, or to any other agency of the United States, and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amount due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

§ 1446.63 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a State, political subdivision of a State, or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreage as required by Part 718 of this title shall be eligible for price support at the quota loan rate unless the late-filed report was accepted by the county ASC committee. In addition, no producer shall be eligible for price support at the quota loan rate if the producer has filed an erroneous report of crop or land use acreage unless: (1) The determined acreage does not differ from the reported acreage by more than the tolerance established by Part 718 of this title; or (2) the county ASC committee determines that the producer acted in good faith in reporting the crop or land use acreage.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate or of a

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ward or of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustees shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements: (1) The right of majority has been conferred on such minor by court proceedings or by statute; (2) a guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had such minor been an adult.

§ 1446.64 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) *Quota support.* Peanuts eligible for quota support are peanuts which meet the following requirements. The peanuts:

(1) Must be Segregation 1 peanuts;

(2) Must contain not more than 10 percent moisture and which, if mechanically dried, contain at least 6 percent moisture;

(3) Must contain no more than 10 percent foreign material;

(4) Must be free and clear of all liens and encumbrances, including any landlord's liens, unless acceptable waivers are obtained;

(5) Must, if delivered to the association in bags in the Southwestern area, be in new or thoroughly cleaned used bags which: (i) Are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, (ii) are free from holes, (iii) are finished at the top with either the selvage edge of the material, a binding, or a hem, and (iv) are uniform in size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

(b) *Additional support.* Peanuts eligible for additional support are peanuts which meet the following requirements. The peanuts:

(1) Must contain not more than 10 percent moisture;

(2) Must contain not more than 10 percent foreign material, except that such peanuts may contain more than 10 percent foreign material, if the handler agrees to purchase such peanuts for domestic edible use as provided in § 1446.56(a).

(3) Must be free and clear of all liens and encumbrances, including landlord's liens, unless acceptable waivers are obtained;

(4) Must, if delivered to the association in bags in the Southwestern area, be in new or thoroughly cleaned used bags which: (i) Are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, (ii) are free from holes, (iii) are finished at the top with either the selvage edge of the material, a binding, or a hem, and (iv) are uniform in size with approximately 2 bushel capacity;

(5) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(6) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

Peanuts which are graded as Segregation 2 or 3 and which, because they contain more than 10 percent moisture and/or foreign material, would otherwise not be considered acceptable for loans under the provisions of (b)(1) and (b)(2) will nonetheless be considered eligible for loans, provided that all other conditions of this section are met, if: the level of moisture does not exceed a level determined to be acceptable by the association; the local crushing market for peanuts is such that the peanuts can be crushed within a reasonable time, as determined by the association; and the producer has made a bona fide effort, as determined by the association, to clean and dry such peanuts prior to offering such peanuts for loan.

(c) *Ownership requirement.* In addition to the requirements set out above, the beneficial interest in all peanuts of all segregations tendered for support as either quota or additional peanuts must be in the producer who delivers them to the association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interests of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether his interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the appropriate county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC.

§ 1446.65 Disposition of Segregation 3 peanuts and liquidated damages.

(a) *Disposition of Segregation 3 peanuts.* Any producer who has a lot of farmers stock peanuts classified by the inspector as Segregation 3 peanuts shall:

(1) Deliver the peanuts to the association subject to the conditions set forth in this subpart for loan at the additional loan rate;

(2) Deliver such lot as contract additional peanuts subject to the provisions of § 1446.54;

(3) Sell such peanuts as quota peanuts subject to the conditions set forth in this subpart to a handler who is a signer of the peanut marketing agreement or to any handler in the event that such peanuts are seed peanuts produced under the auspices of a State agency if the handler to whom the peanuts are sold has signed a supervision supplement to the warehousing contract with the area marketing association; or

(4) Retain the lot for seed.

(b) *Failure to Properly Dispose of Segregation 3 Peanuts.* If the producer does not dispose of or market such peanuts as provided above on the date of inspection, such producer shall be ineligible for continued quota price support for the rest of the marketing year on all peanuts at the close of business on the day of the inspection.

(c) *Retention of Segregation 3 Peanuts for Seed.* If the producer elects to retain a lot for seed, the producer shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that the peanuts are being retained for seed. The producer shall be given a copy of the ASCS–1007 as a record showing the quantity and quality factors of the peanuts and must store such peanuts separate from other peanuts on the farm. The producer shall notify CCC when such peanuts are used and otherwise account for the disposition of such peanuts. Should it later be determined that such peanuts are unfit for seed use, the producer may, after receiving prior approval from the county office, sell such peanuts for crushing as quota peanuts without benefit of price support.

(d) *Liquidated damages.* Any producer participating in the price support loan program shall be deemed to have agreed that: CCC will incur serious and substantial damage to its program to support the price of peanuts if Segregation 3 peanuts are disposed of other than in the manner prescribed by CCC; the amount of such damages will be difficult, if not impossible, to ascertain exactly; and, with respect to any lot of peanuts which is pledged as collateral for a quota price support loan but which is ineligible for such loan, or any lot of peanuts which is pledged as collateral for a quota price support loan by a producer after the producer has disposed of any lot of Segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, such producer shall pay to CCC as liquidated damages and not as a penalty, the difference between the quota loan rate and the additional loan rate (on a per pound basis) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.60(i) relating to the producer's liability shall not be applicable to such peanuts. However, the producers retain such liability as the producer may have under any applicable civil or criminal fraud statute.

§ 1446.66 Producer transfers of additional loan stocks to quota pools.

Producers may transfer Segregation 2 and Segregation 3 additional loan peanuts to the quota loan pool after the producer has completed marketing and returned his marketing card to the county office. Such transfer may not exceed the smaller of the effective farm poundage quota minus the production of Segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided,* That the pool proceeds due such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any Segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for Segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers who are eligible to transfer additional loan peanuts to the quota loan pool in accordance with the provisions of this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketings of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer must indicate to the county office the net weight and applicable Form ASCS–1007 numbers for the peanuts to be transferred. Such pounds shall be considered as marketing of quota peanuts, the applicable ASCS–1007 shall be appropriately adjusted and the producer will be advanced the appropriate difference between the additional and quota support rates.

Signed at Washington, D.C., on May 10, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83–12952 Filed 5–12–83; 8:45 am]

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Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Withdrawal of REA Specification for Direct Burial Telephone Cable (Air Core), PE–23

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by withdrawing Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23. A review of the current specifications and practices in rural telephony revealed that the product covered in this specification has little or no utility in today's modern telecommunications systems. Filled cables are now used in applications for which this product was intended. As the product is no longer used, there is no valid reason to maintain the specification.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background—While useful in the past, the product covered by this specification has little or no utility in today's modern telecommunication system because of the increasing use of filled cables in similar applications. As the product is no longer produced in significant quantities, and rural telecommunications systems are no longer using it, withdrawal of this specification will permit a reduction in government paperwork with virtually no impact on the private sector.

A Notice of Proposed Rulemaking was published in the **Federal Register** on February 15, 1983, Volume 48, Number 32, page 6718. However, no public comments were received in response to the notice.

In view of the above, the Administrator hereby amends 7 CFR Part 1701, Appendix A—REA Bulletins, by withdrawing Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: May 6, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83–12950 Filed 5–12–83; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 231

Arrival-Departure Manifests and Lists; Supporting Documents; Revised Requirements

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates certain manifest requirements for carriers transporting aliens. In addition, procedures for manifests required by air and sea carriers are simplified to eliminate collection of unnecessary information and thus reduce their paperwork requirements.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048
For Specific Information: Lawrence J. Weinig, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–2680

SUPPLEMENTARY INFORMATION: After careful review of the Service's information collecting requirements under section 231 of the Act (8 U.S.C. 1221), it has been determined that the manifest procedures and reporting requirements for commercial passenger carriers can be simplified to reduce the paperwork burden imposed under the Act.

Under this rule, use of Form I–418, Passenger List-Crew List, is no longer required as a passenger manifest and its use is now limited to crewmember manifests. Both sea and air carriers will continue to use Form I–92, Aircraft/Vessel Report, for passenger manifests.

Additionally, Form I–94, Arrival/Departure Record, is not required for arriving or departing resident aliens and immigrants; however, use of Form I–94 is still required for nonimmigrants. Also, crewmembers are still required to use Form I–95AB, Crewman's Landing Permit, for multiple entries.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule is limited to revising procedures which reduce the paperwork reporting burden upon the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of Section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 231

Air carriers, Aliens, Crewmen, Inspections, Maritime carriers, Passenger vessels.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 231—ARRIVAL-DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

In Part 231, §§ 231.1 and 231.2 are revised to read as follows:

§ 231.1 Arrival manifest for passengers.

(a) *Requirement for manifest.* The master, captain, or agent of every vessel or aircraft arriving in the United States from a foreign place or outlying possession of the United States shall present an arrival manifest to the immigration officer at the port or entry. The manifest must be in the form of a separate Arrival/Departure Record, Form I–94, prepared on board for each passenger except: United States citizens, lawful permanent resident aliens of the United States, and immigrants to the United States. In addition, a properly completed Aircraft/Vessel Report, Form I–92, must be submitted for each arriving aircraft vessel which is transporting passengers. Manifests are not required by vessels or aircraft arriving directly from Canada on a trip originating in that country or arriving in the Virgin Islands of the United States directly from a trip originating in the British Virgin Islands.

(b) *In-Transit Passengers.* An Arrival/Departure Record, Form I–94, is not required for an arriving, through-flight passenger at a United States port provided:

(1) The passenger will depart directly to a foreign place or outlying possession of the United States on the same flight;

(2) The number of through-flight passengers is noted on the Aircraft/Vessel Report, Form I–92, for the flight;

(3) The flight is inspected at a port of entry designated in paragraph 214.2(c) of this chapter;

(4) The carrier is signatory to an Immediate and Continuous Transit Agreement, Form I–426; and

(5) All through-flight passengers remain on board the aircraft or in a separate area under the direction and control of the Service during the ground time.

(c) *Progressive Clearance.* Inspection of arriving passengers may be deferred at the request of the carrier to an onward port of debarkation. Authorization for this progressive clearance may be granted by the Regional Commissioner when both the initial port of entry and the onward port are within the same regional jurisdiction, but when the initial port of entry and onward port are located within different regions, requests for progressive clearance must be authorized by the Assistant Commissioner for Inspections. When progressive clearance is requested, the carrier shall present Form I–92 in duplicate at the initial port of entry. The original Form I–92 will be processed at the initial port of entry, and the duplicate noted and returned to the carrier for presentation at the onward port of debarkation.

(d) *Preparation of Arrival/Departure Record, Form I–94.* Air and sea carriers shall be responsible to ensure that a properly completed From I–94 is presented to the immigration inspector at the port of entry for each arriving passenger except those passengers who do not require a Form I–94 under paragraph (a) of this section. The following classes of aliens are not required to complete the departure portion of the form I–94 if they are entering the U.S. for business or pleasure under section 101(a)(15)(B) of the Act, and intend to remain in the United States for less than six months:

(1) Citizens of Canada or British dependent territories citizens, Bermuda, and

(2) Residents of Canada or Bermuda having common nationality with Canadian nationals or British dependent territories citizens, Bermuda.

§ 231.2 Departure manifest for passengers.

The master, captain, or agent of every vessel or aircraft departing from the United States for a foreign place or outlying possession of the United States shall present a departure manifest to the immigration officer at the port of departure. The manifest must be in the form of a properly completed departure portion of Form I–94, Arrival/Departure Record, for each person on board except for United States citizens, and lawful permanent resident aliens of the United States. No manifest is required for a vessel or aircraft departing on a trip directly for and terminating in Canada, or departing from the United States Virgin Islands driectly to the British Virgin Islands on a trip terminating in the British Virgin Islands. Whenever possible, the departure Form I–94 used shall be the same form given the alien at the time of arrival in the United States. Carriers shall endorse the Form I–94 with the departure information on the reverse of the form. Additionally, a properly completed Aircraft/Vessel Report, Form I–92, must be completed for each departing aircraft and each departing vessel which is transporting passengers. Submission of Forms I–94 and I–92 to the immigration officer shall normally be accomplished within 48 hours of the departure, exclusive of Saturdays, Sundays, and legal holidays. Failure to submit departure manifests within this time period shall be regarded as failure to comply with section 231(d) of the Act, unless prior authorization for delayed delivery of the departure manifest is obtained from the district director. A nonimmigrant alien departing on an aircraft proceeding directly to Canada on a flight terminating in that country should surrender any Form I–94 in his/her possession to the airline agent at the port of departure. Aircraft manifests should not include I–94 forms for in-transit passengers referred to in paragraph (b) of § 231.1.

(Secs. 103, 231 of the immigration and Nationality Act, as amended; (8 U.S.C. 1103, 1221))

Dated: April 22, 1983.

Andrew J. Carmichael, Jr.,
Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83–12980 Filed 5–12–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82–054]

Treatment of Horses From Countries Affected with CEM

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document revises the conditions which States must meet in order to receive stallions over 731 days of age imported from countries in which CEM exists. This action is necessary to prevent the introduction and dissemination of CEM into the United States.

DATES: Effective date: May 13, 1983. Comment date: Comments must be received on or before July 12, 1983.

ADDRESS: Written comments to T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:
Dr. M. R. Crane, VS, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an annual effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. Saul T. Wilson, Jr., Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. These amendments are necessary to protect the United States from the introduction and dissemination of CEM, and should be made effective immediately in order to accomplish this purpose.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.**

Comments have been solicited for 60 days after publication of this documents, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule will only affect those importers interested in importing stallions from countries in which CEM exists. It is anticipated that approximately 60 such stallions will be imported during calendar year 1983. This compares with approximately 40,000 horses of all classes imported into the United States in fiscal year 1982.

Alternatives

The following alternatives were considered: (1) To not amend the regulations, and (2) to amend the regulations as set forth in this document. The present regulations present unnecessary risks of the introduction and dissemination of CEM into the United States which are eliminated by these amendments. Also, these amendments relieve restrictions by permitting specimens collected from mares used to test stallions for CEM to be sent to USDA-approved laboratories. Accordingly, alternative 2 was selected.

Background

On January 4, 1980, a document was published in the **Federal Register** (45 FR 1003–1006) which established the conditions which States must meet in order to be approved to receive stallions over 731 days of age imported from countries in which CEM exists. These conditions were intended to eliminate unnecessary risks of the introduction and dissemination of CEM into the United States. Upon further consideration, the Department believes that these conditions still present unnecessary risks, and that these risks must be eliminated. Therefore, in order to eliminate unnecessary risks regarding the introduction and dissemination of CEM into the United States, this document amends the conditions which States must meet in order to be approved to receive stallions over 731 days of age imported from countries in which CEM exists. Each amendment made by this document is discussed in detail below.

The introductory clause in § 92.4(a)(6) is amended to conform a cross reference in that clause to the style presently required in the Document Drafting

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Handbook published by the Office of the Federal Register. Other nonsubstantive changes are made for clarity.

Present § 92.4(a)(6)(ii) is renumbered § 92.4(a)(6)(ii)(A) and is amended to correct a typographical error. As presently written § 92.4(a)(6)(ii) requires that an approved State to receive stallions from CEM contries quarantine certain specified imported stallions until such stallions have been treated in accordance with the provisions of paragraph "(a)(6)(ii)." The treatment required prior to release from such quarantine is, however, set forth in § 92.4(a)(6)(iii). Therefore, the reference contained in present § 92.4(a)(6)(ii) to "(a)(6)(ii)" is amended to read "(a)(6)(iii)." Other nonsubstantive changes are made to conform cross references in § 92.4(a)(6)(ii) to the style presently required in the Document Drafting Handbook published by the Office of the Federal Register and to remove redundant language.

Further, a new § 92.4(a)(6)(ii)(B) is added to require that in order to be approved to receive stallions over 731 days of age imported for permanent entry from countries in which CEM exists (as listed in § 92.2(i)(1)), the State must agree to quarantine all mares used to test stallions for CEM until the mares have been released from quarantine in accordance with new § 92.4(a)(6)(iii)(C)(*4*). The Department believes that the quarantine of such mares until the provisions for release have been met is necessary to prevent the possible interstate dissemination of CEM. The substantive aspects of the provisions under which mares used to test stallions for CEM may be released from quarantine are discussed below.

The introductory clause in § 92.4(a)(6)(iii) is amended to conform cross references in that clause to the style presently required in the Document Drafting Handbook published by the Office of the Federal Register.

Further, the present introductory clause in § 92.4(a)(6)(iii) requires that to be approved to receive stallions over 731 days of age from countries in which CEM exists, the State must have laws and regulations to ensure that stallions are treated in a manner specified in the remainder of § 92.4(a)(6)(iii). This document amends the introductory clause in § 92.4(a)(6)(iii) to give a State the option as to whether to have laws or regulations requiring the specified treatment. This amendment is made because it is not necessary that a State have both laws and regulations requiring a specified treatment. As long as the treatment is required and such requirements have the force and effect of law this Department has no interest in whether such requirements take the form of laws enacted by the State legislature or regulations promulgated by a State agency or both.

Present § 92.4(a)(6)(iii)(A) requires that in order to be approved to receive stallions over 731 days of age from countries in which CEM exists, a State must have laws and regulations which require that on 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion be thoroughly cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent surgical scrub chlorhexidine and then thoroughly coated (packed) with an ointment of not less than 0.2 percent nitrofurazone under the monitoring of a State or Federal veterinarian and performed by an accredited veterinarian. This document amends the extent of oversight of the treatment by requiring that the treatment be done under the direct supervision of a State veterinarian rather than that the treatment be monitored by a State or Federal veterinarian. The present requirement that a State or Federal veterinarian monitor the treatment has been misinterpreted to not require the physical presence of a State or Federal veterinarian during the treatment described above. Therefore, in order to clarify the intent of this regulation, this document amends § 92.4(a)(6)(iii)(A) to require direct supervision of the treatment by a State veterinarian. This amendment clarifies the requirement that a veterinarian employed by the State in which the stallion is located be physically present during all aspects of the treatment of the stallion required in § 92.4(a)(6)(iii)(A).

This document also amends the oversight required in § 92.4(a)(6)(iii)(A) by requiring that the oversight be performed by a State veterinarian rather than providing individuals with the option of having the oversight performed by a State or Federal veterinarian. This option has been deleted because this Department no longer has adequate personnel available to perform the function involved.

Present § 92.4(a)(6)(iii)(A) is further amended to require that prior to the treatment of the stallion one specimen each shall be taken from the prepuce, the fossa glandis and the urethral sinus of the stallion and cultured for CEM. This requirement is added for two reasons. First, it will provide this Department information regarding the numbers of stallions and the origins of stallions which are affected with CEM when they enter this country. Present § 92.2(i)(2)(iv) requires that stallions over 731 days of age from countries in which CEM exists must be accompanied by a certificate signed by a salaried veterinary officer of the national government of the country of origin stating that certain specified things were done or not done with respect to the stallion.

Should the information provided by the cultures performed prior to treatment of the stallion in the United States indicate a pattern of CEM affected stallions entering this country from a particular country of origin, the Department will have an opportunity to consult with the national veterinary service of that country in an attempt to remedy any deficiencies which may exist in their treatment of such stallions.

The second reason for adding the requirement that specimens be taken from the stallion and cultured prior to the treatment presently required in § 92.4(a)(6)(iii)(A) is to provide State officials with information regarding the disease status of each stallion to be treated. If a culture indicates that a particular stallion is affected with CEM prior to the stallion being treated, this will enable the State veterinarian supervising such treatment and the accredited veterinarian performing such treatment to be particularly conscientious with respect to the treatment required in § 92.4(a)(6)(iii)(A). It should be noted however, that the treatment required by § 92.4(a)(6)(iii)(A) is required no matter what results are obtained by culturing the specimens taken prior to treatment.

Present § 92.4(a)(6)(iii)(A) is further amended by deleting footnote 5a and the reference thereto. The reference to footnote 5a appears directly after the term "accredited veterinarian", and the footnote informs the reader that the term "accredited veterinarian", as used in § 92.4(a)(6)(iii)(A), is defined in Title 9, Code of Federal Regulations, Part 160. This footnote and reference thereto are no longer necessary because the term "accredited veterinarian" is defined in Title 9, Code of Federal Regulations, § 92.1(aa), and this definition is applicable to the term as used in § 92.4(a)(6)(iii)(A). The deletion of the footnote and reference thereto is not substantive because the definition of the term "accredited veterinarian" in § 92.1(aa) is identical to the definition in Title 9, Code of Federal Regulations, Part 160.

Present § 92.4(a)(6)(iii)(B) is amended by renumbering the section as § 92.4(a)(6)(iii)(B)(*2*) and revising the paragraph as discussed below. A new § 92.4(a)(6)(iii)(B)(*1*) is added which requires that mares to be used to test stallions for CEM must be permanently

identified with the letter "T" before such mares are used for testing stallions for CEM. This identification is necessary to aid State officials in determining the identity of mares which must be placed under quarantine in accordance with § 92.4(a)(6)(ii)(B) as discussed above, and in determining the identity of mares which have already been used to test stallions for CEM. (As discussed below, mares may not be used to test stallions for CEM twice).

New § 92.4(a)(6)(iii)(B)(*1*) specifies that the marking shall be applied to the mare by a Veterinary Services inspector, State inspector or an accedited veterinarian. The Department believes that this restriction on the identity of those who may apply the mark is necessary to ensure that the mares to be used to test stallions for CEM will be identified properly.

New § 92.4(a)(6)(iii)(B)(*1*) also amends the regulations to require that the mares be marked with a hot iron, freezemarking or lip tattoo. These methods of marking ensure that the mark will be permanent and easy to identify as the letter "T." Further, new § 92.4(a)(6)(iii)(B)(*1*) requires that if a hot iron or freezemarking is used, the marking shall not be less than 2 inches high and shall be applied to the left shoulder or left side of the neck of the mare. If a lip tattoo is used, the marking must not be less than 1 inch high and three-fourths of an inch wide and must be applied to the inside surface of the upper lip of the mare. These requirements regarding the size and location of the marking are necessary to ensure that mares to be used to test stallions for CEM can be quickly and easily identified.

As stated above, this document renumbers present § 92.4(a)(6)(iii)(B) as § 92.4(a)(6)(iii)(B)(*2*). In addition, new § 92.4(a)(6)(iii)(B)(*2*) is amended in three respects.

First, the present regulations refer to the scrubbing and packing (of the stallion) required in "(1)". The reference to "(1)" is a typographical error which is amended in this document to refer the reader to the scrubbing and packing required in "paragraph (a)(6)(iii)(A)."

Second, the present regulations require, among other things, that stallions over 731 days of age from countries in which CEM exists must be bred to two mares qualified prior to breeding as apparently free from CEM. After such breeding the mares are required to be tested to determine the CEM disease status of the stallion. This document amends new § 92.4(a)(6)(iii)(B)(*2*) to prohibit the use of mares which have been used to test stallions for CEM previously and to prohibit the use of mares which have been bred after the time specimens were taken or samples drawn from the mares to qualify the mares as apparently free from CEM. These two additional requirements for mares to be used to test stallions for CEM are necessary to ensure that the mares used to test the stallion for CEM are not affected with CEM prior to being used to test the stallion. The additional requirements will prevent the possible spread of CEM to stallions by mares which are used to test the stallion for CEM. Further, such mares found positive for CEM after being used to test a stallion for CEM, will constitute a more reliable indication of the source of infection.

Third, minor nonsubstantive changes are made for ease of reading.

Section 92.4(a)(6)(iii)(C)(*3*) is amended by making certain editorial, nonsubstantive changes for clarity and ease of reading.

Present § 92.4(a)(6)(iii)(C)(*4*) is redesignated at §§ 92.4(a)(6)(iii)(D)(*1*) and 92.4(a)(6)(iii)(D)(*2*) and revised as discussed below.

As explained above, this document adds a requirement that in order to be approved to receive stallions from countries in which CEM exists, a State must agree to quarantine all mares used to test stallions for CEM. This quarantine is necessary to prevent the possible interstate dissemination of CEM. This document adds a new provision designated as § 92.4(a)(6)(iii)(C)(*4*) which provides conditions under which a State may release a mare used to test a stallion for CEM. The Department believes that each condition under which the mares in question may be released from quarantine will assure that the mare does not disseminate CEM.

First, new § 92.4(a)(6)(iii)(C)(*4*)(*i*) provides that mares which have been used to test stallions for CEM may be released from quarantine if they are found negative on all cultures and tests required to be performed on specimens collected from the mare to determine the CEM disease status of the stallion. Specifically, those tests and cultures set forth in §§ 92.4(a)(6)(iii)(C)(*1*), 92.4(a)(6)(iii)(C)(*2*), and 92.4(a)(6)(iii)(C)(*3*). This Department believes that should each of the cultures and tests referred to be negative there is little likelihood that the mare is affected with CEM, and, therefore, she may be released from quarantine.

Second, new § 92.4(a)(6)(iii)(C)(*4*)(*ii*) provides that mares which have been used to test stallions for CEM may be released from quarantine if an accredited veterinarian performs an ovariectomy on the mare under the supervision of a State veterinarian. An ovariectomy prevents a mare from going into heat and thereby prevents breeding. Therefore, the risk of the mare disseminating CEM is minimal and the mare may be released from quarantine. To ensure that the ovariectomy is performed correctly this new paragraph requires that the operation be performed by an accredited veterinarian and be directly supervised by a State veterinarian. Direct supervision requires physical presence.

Third, new § 92.4(a)(6)(iii)(C)(*4*)(*iii*) provides that any mare used to test a stallion for CEM may be released from quarantine if the mare has been treated and handled in accordance with § 92.4(a)(9)(iii). Section § 92.4(a)(9)(iii) sets forth the treatment and handling necessary to ensure that mares are not affected with CEM. If a mare quarantined pursuant to § 92.4(a)(6)(ii)(B) is subjected to the treatment and handling set forth in § 92.4(a)(9)(iii) the risk is minimal that she is affected with CEM, and therefore, the mare may be released from quarantine.

Fourth, new 92.4(a)(6)(iii)(C)(*4*)(*iv*) provides that any mare used to test a stallion for CEM may be released from quarantine if the mare is moved directly to slaughter without unloading en route, is euthanized or dies. A dead mare or a mare disposed of in any such manner will not have an opportunity to breed and will not have an opportunity to disseminate CEM, and, therefore, the quarantine may be removed.

As stated above, present § 92.4(a)(6)(iii)(C)(*4*) is redesignated as §§ 92.4(a)(6)(iii)(D)(*1*) and 92.4(a)(6)(iii)(D)(*2*). Present § 92.4(a)(6)(iii)(C)(*4*) requires that all cultures and tests of the mares used to test the stallion must be negative for CEM before the stallion may be released from detention. This requirement is retained in new § 92.4(a)(6)(iii)(D)(*1*) and only minor nonsubstantive changes are made for ease of reading.

Present § 92.4(a)(6)(iii)(C)(*4*) also requires that if any CEM culture or test required by § 92.4(a)(6)(iii) is positive, the stallion shall not be released from quarantine and shall be retreated and retested as required by Title 9, Code of Federal Regulations, Part 92. This requirement is set forth in new § 92.4(a)(6)(iii)(D)(*2*) with one minor change. The reference to retreatment and retesting as required by Title 9, Code of Federal Regulations, Part 92, is amended to require retreatment and retesting as required by § 92.4(a)(6)(iii). The reference in the present regulations to the entire part is in error

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Present § 92.4(a)(6)(iii)(D) requires that all tests and cultures required by § 92.4(a)(6)(iii) shall be conducted at the National Veterinary Services Laboratories, Ames, Iowa. Present § 92.4(a)(6)(iii)(D) is redesignated as § 92.4(a)(6)(iii)(E)(*1*) and amended to allow CEM tests and cultures to be conducted not only at the National Veterinary Services Laboratories, Ames, Iowa, but also at any other laboratory approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests. The provision regarding approval for other laboratories to conduct CEM cultures and tests is added because the Department believes that other laboratories which meet the standards required before approval to conduct CEM cultures and tests is granted will provide results on such cultures and tests which are as reliable as those provided by the National Veterinary Services Laboratories. If other laboratories are approved, those which are closer to the point of collection of specimens to be tested or cultured for CEM will, in many cases, receive the specimens sooner than they would be received by the National Veterinary Services Laboratories, and the reliability of the results from such cultures or tests will thereby be improved.

In this regard, new § 92.4(a)(6)(iii)(E)(*2*) requires that all specimens submitted to the National Veterinary Services Laboratories or an approved laboratory must be accompanied by a statement indicating the date and time of the collection. To be eligible for testing or culture, the specimen must be received by the laboratory within 48 hours of collection. Specimens deteriorate over time, and those which are received more than 48 hours after collection do not yield reliable results with respect to CEM.

New § 92.4(a)(6)(iii)(E)(*3*) provides an address to which anyone may write to obtain a list of laboratories approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests and the standards which must be met for a laboratory to be placed on or remain on the approved list.

New § 92.4(a)(6)(iii)(E)(*4*) provides that the Deputy Administrator, Veterinary Services, may refuse to grant approval to or may withdraw approval from a laboratory which does not meet the standards necessary for approval. This new section requires that the notification of the refusal to grant approval or the withdrawal of approval must be in writing and is effective upon service of the notification upon an official of the laboratory, pending the outcome of any hearing and judicial review thereof, unless otherwise ordered by the Administrator, Animal and Plant Health Inspection Service. If there is a material dispute of fact, the laboratory shall be afforded an opportunity for a hearing with respect to the merits or validity of the refusal to grant approval to or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the hearing by the Administrator, Animal and Plant Health Inspection Service.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 92.4, paragraph (a)(6) of the introductory clause up to and including the colon is revised as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.[5]

(a) * * *

(6) In order to be approved to receive stallions over 731 days of age pursuant to § 92.2(i)(2)(iv) the following conditions shall be met:

* * * * *

§ 92.4 [Amended]

2. § 92.4, paragraph (a)(6)(ii) is redesignated (a)(6)(ii)(A) and revised to read as follows:

(a) * * *

(6) * * *

(ii)(A) The State must agree to quarantine all stallions over 731 days of age imported from countries listed in § 92.2(i)(1), pursuant to § 92.2(i)(2)(iv), until the stallions have been treated in accordance with paragraph (a)(6)(iii) of this section.

* * * * *

3. In § 92.4, a new paragraph (a)(6)(ii)(B) is added to read as follows:

(a) * * *

(6) * * *

(ii) * * *

(B) The State must agree to quarantine all mares used to test stallions for CEM until the mares have been released from quarantine in accordance with paragraph (a)(6)(iii)(C)(*4*) of this section.

* * * * *

4. In § 92.4, paragraph (a)(6)(iii), the introductory clause up to and including the colon is revised as follows:

(a) * * *

(6) * * *

(iii) The State must have laws or regulations requiring that stallions over 731 days of age imported from countries listed in § 92.2(i)(1) pursuant to § 92.2(i)(2)(iv) have been treated in the following manner:

* * * * *

5. In § 92.4(a)(6)(iii)(A) footnote 5a is removed.

6. In § 92.4, paragraph (a)(6)(iii)(A) is revised to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(A) One specimen each shall be taken from the prepuce, the fossa glandis, and urethral sinus of the stallion and be cultured for CEM. After the specimens have been cultured for CEM, on 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion shall be thoroughly cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent surgical scrub chlorhexidine and then thoroughly coated (packed) with an ointment of not less than 0.2 percent nitrofurazone by an accredited veterinarian under the direct supervision of a State veterinarian.

* * * * *

7. In § 92.4, paragraph (a)(6)(iii)(B) is revised by redesignating the present paragraph as (a)(6)(iii)(B)(*2*) and adding a new paragraph (a)(6)(iii)(B)(*1*) to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(B)(*1*) *Identification of test mares.* Mares to be used to test stallions for CEM shall be permanently identified before the mares are used for such testing with the letter "T." The marking shall be permanently applied by an inspector, State inspector, or accredited veterinarian who shall use a hot iron, freezemarking or a lip tattoo. If a hot iron or freezemarking is used, the marking shall not be less than two inches high and shall be applied to the left shoulder or left side of the neck of the mare. If a lip tattoo is used, the marking shall not be less than one inch high and three-fourths of an inch wide and shall be applied to the inside surface of the upper lip of the mare.

* * * * *

8. In § 92.4, a new paragraph (a)(6)(iii)(B)(*2*) is revised to read as follows:

(*2*) After a period of seven days following the fifth consecutive day of scrubbing and packing required in paragraph (a)(6)(iii)(A) of this section, the stallion shall be bred to two mares which have not been previously used to test stallions for CEM, which are qualified prior to breeding as apparently free from CEM and which have not been bred from the time specimens were taken from the mares to qualify the mares as apparently free from CEM. To qualify as apparently free from CEM, each mare shall be tested with negative results by a complement fixation (CF) test for CEM and specimens taken from each mare shall be cultured negative for CEM. For culture, one specimen each shall be collected during estrus from the endometrium of the uterus, clitoral sinuses and clitoral fossa. After an interval of not less than seven days, one specimen each shall be collected from the cervix, clitoral sinuses and clitoral fossa.

* * * * *

9. In § 92.4, paragraph (a)(6)(iii)(C)(*3*) is revised to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(C) * * *

(*3*) Two blood serum samples obtained at intervals of not less than seven days between the 15th to 40th day after the day of breeding shall be tested by the complement fixation (CF) test for CEM.

* * * * *

10. In § 92.4, paragraph (a)(6)(iii)(C)(*4*) is revised to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(C) * * *

(*4*) A mare which has been used to test stallions for CEM may be released from quarantine only if:

(*i*) The mare is found negative for CEM on all cultures and tests required under paragraphs (a)(6)(iii)(C)(*1*), (a)(6)(iii)(C)(*2*), and (a)(6)(iii)(C)(*3*) of this section; or

(*ii*) The mare is subjected to an ovariectomy by an accredited veterinarian under the direct supervision of a State veterinarian; or

(*iii*) The mare is treated and handled in accordance with paragraph (a)(9)(iii) of this section; or

(*iv*) The mare is moved directly to slaughter without unloading enroute, is euthanized or dies.

* * * * *

11. In § 92.4, paragraph (a)(6)(iii)(D) is revised to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(D)(*1*) A stallion may be released from quarantine only if all cultures and tests of specimens from the mares used to test the stallion for CEM, are negative for CEM.

(*2*) If any culture or test required by this paragraph is positive for CEM, the stallion shall be retreated and retested in accordance with this paragraph.

* * * * *

12. In § 92.4, a new paragraph (a)(6)(iii)(E) is added to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(E)(*1*) All tests and cultures required by this paragraph shall be conducted at the National Veterinary Services Laboratories, Ames, Iowa, or at a laboratory approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests.

(*2*) All specimens submitted to the National Veterinary Services Laboratories or an approved laboratory for CEM culture or testing shall be accompanied by a statement indicating the date and time of collection. To be eligible for CEM culture or testing the specimen must be received by the National Veterinary Services Laboratories or approved laboratory within 48 hours of collection.

(*3*) A list of laboratories approved to conduct CEM cultures and tests and the standards which must be met to attain and retain approval are available from the Deputy Administrator, Veterinary Services, APHIS, USDA, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(*4*)(*i*) The Deputy Administrator, Veterinary Services, may refuse to grant approval to or may withdraw approval from a laboratory to conduct CEM cultures and tests if the Deputy Administrator, Veterinary Services, determines that the laboratory does not meet the standards necessary for approval.

(*ii*) The Deputy Administrator, Veterinary Services, shall send a written notice to an official at the laboratory which shall state the reasons for the refusal to grant approval to the laboratory to conduct CEM cultures and tests or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. If there is a material dispute of fact, the laboratory shall be afforded an opportunity for a hearing with respect to the merits or validity of the refusal to grant approval to or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the hearing by the Administrator, Animal and Plant Health Inspection Service. The refusal to grant approval to or the withdrawal of approval from a laboratory to conduct CEM cultures and tests shall be effective upon service of the notification on an official of the laboratory and shall continue in effect pending the outcome of any hearing and any judicial review thereof, unless otherwise ordered by the Administrator, Animal and Plant Health Inspection Service.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 3rd day of May, 1983.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-12951 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1983-14]

Disclaimer Notices

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On March 2, 1983 (48 FR 8809), the Commission published the text of revisions to its regulations at 11 CFR 110.11(a) which govern the inclusion of disclaimer notices in political advertising and communications. The Commission announces that these regulations are effective as of May 13, 1983.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW, Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation

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within 30 days after its transmittal, the Commission may finally prescribe the regulation in question. The regulations made effective by this notice were transmitted to Congress on February 25, 1983. Thirty legislative days expired in the Senate as of April 21, 1983 and in the House as of April 27, 1983.

Announcement of Effective Date

11 CFR 110.11(a), as published at 48 FR 8809–8810, is effective as of May 13, 1983.

Dated: May 6, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-12882 Filed 5-12-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 556, 590 and 591

[No. 83-242]

Preemption of State Due-on-Sale Laws

Dated: April 28, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") has implemented § 341 of the Garn-St Germain Depository Institutions Act of 1982, which provides for federal preemption of state laws restricting the right of any lender to exercise its contractual obligation to declare immediately due and payable sums secured by the lender's security instrument if all or any part of the real property securing the loan is sold or transferred without the lender's prior written consent. To that end, the Board has revised its existing regulations and issued new regulations regarding preemption of state laws restricting the use of due-on-sale clauses with respect to both federally and non-federally chartered lenders. The revisions: (1) Describe real property lenders subject to the statute and regulations; (2) restate the preemption of state laws with respect to all federally chartered institutions; (3) provide for preemption of state law for lenders holding real property loans not originated by federally chartered institutions; (4) provide a "window period" during which loans originated or assumed by lenders other than federally chartered institutions will be subject to state law or judicial decision prohibiting exercise of due-on-sale clauses; (5) describe specific circumstances in which no lender shall exercise due-on-sale clauses; and (6) provide notice that the Board will issue interpretations of the statute upon receipt of written requests.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Gwenn Hibbs, Deputy Director, Legislative Counsel (202–377–6448), or Anne K. Scully, Attorney, Legislative Counsel (202–377–6460), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 341 of the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Pub. L. No. 97–320, 96 Stat. 1469, 1505, provides for federal preemption of state laws restricting the right of lenders to exercise their contractual right to declare a real property mortgage due and payable, pursuant to a due-on-sale clause, if all or any part of the real property is sold or transferred without the lender's prior written consent. The statutory preemption is, however, subject to a "window-period" which excepts certain loans originated or assumed after state action which (by statute, constitutional provision or judicial decision) restricted the enforcement of due-on-sale clauses.

Section 341(e)(1) of the Act authorized the Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, to issue regulations and to publish interpretations to implement the national policy governing the preemption of state laws restricting the exercise of due-on-sale clauses by both federally and non-federally chartered lenders. Prior to enactment of the Act on October 15, 1982, the Board had promulgated regulations affirming the right of federal associations to exercise due-on-sale clauses notwithstanding restrictive state laws, subject to certain enumerated limitations (12 CFR 545.8–3 (f) and (g), 556.9(c) (1976)).

The Board proposed on January 13, 1983, to revise and amend its regulations to implement the preemption established by the Act. (Board Resolution No. 83–17, 48 FR 2373, January 19, 1983). The proposed regulations restated and clarified, where necessary, the basic statutory framework set out in section 341 of the Act and consolidated and simplified existing provisions of §§ 545.8–3 (f) and (g) and 556.9. In addition, the Board requested comment on the appropriateness of the proposed clarifications and amplification of the statutory framework and whether the proposals adequately served the stated regulatory objectives.

The Board received 59 comment letters to its proposal: 17 from law firms, 24 from financial institutions, 11 from national and state trade associations, 2 from federal and state regulatory agencies, 3 from other corporations, and 2 from individuals. Generally, the commenters approved of the proposed regulations as providing a sound basis for the exercise of due-on-sale clauses, especially where the rules clarified several perceived statutory ambiguities. However, the Board received some comments recommending revision of certain provisions of the proposed regulations. Generally, these comments requested that the Board: (1) Specifically identify the window-period states and define the commencement date of a given state's window-period; (2) clarify the extent to which the borrower's and lender's expectation of enforcement of due-on-sale clauses in pre-window-period loans should be honored even though the Act does not appear to address the matter; (3) clarify whether state laws lengthening foreclosure procedures following the exercise of due-on-sale clauses are preempted or whether they are laws creating window-periods; (4) clarify the right of a lender in a window-period state to enforce a due-on-sale clause if a transferee does not meet customary credit standards; (5) clarify whether loans originated by service corporations of federal associations should be treated as originated by federal associations for purposes of federal preemption of window-period loans; (6) reconsider its proposal to limit the exceptions to the exercise of due-on-sale clauses set forth in section 341(d) of the Act to owner-occupied property; (7) specify enforcement methods available to lenders to prevent subsequent transfers of property that has been transferred into an inter vivos trust; and (8) reconsider the proposed prohibition on assessment of prepayment penalties in the event a lender exercises its option under a due-on-sale clause.

The Board has considered the comments and has determined to adopt the regulation substantially as proposed. However, in response to major issues raised by commenters regarding certain proposed provisions and in order to eliminate confusion and controversy with respect to application of those provisions, the Board has clarified the definition of window-period loan; has adopted a revised list of state-law restrictions that create a window period; and has clarified, where necessary, language contained in the Act regarding the issues of customary credit standards, transfers made to inter vivos trusts, and enforcement of due-on-sale clauses contained in various real estate devices.

Definitions

Due-on-Sale Clause—"Sale or Transfer" of Property

The Board has modified the definition of "due-on-sale clause" in § 591.2(b) of the final regulation to clarify the scope of what constitutes a "sale or transfer" of property for purposes of enforcing a due-on-sale clause. Several commenters suggested including a regulatory definition of "sale or transfer" to provide explicitly that the due-on-sale clause may be invoked not only upon sales or transfers of all or any part of the secured property, but also in response to the various devices that have been used to circumvent a due-on-sale clause, the Board has therefore established in the final regulation a definition of "sale or transfer" which includes various categories of real estate financing techniques considered to be "sales or transfers" for purposes of the exercise of a due-on-sale clause. In particular, consistent with section 341(d)(4) of the Act, which prohibits the exercise of a due-on-sale clause upon the granting of a leasehold interest of three years or less not containing an option to purchase, the Board has defined a "leasehold interest with a term greater than three years" as a "sale or transfer" for "due-on-sale" purposes.

"Lender." Section 591.2(g) of the final regulation expands the list of entities enumerated in the statutory definition of lender expressly to include insurance companies and federal and state chartered credit unions. The Board emphasizes that this list is intended to be representative and not exclusive. Failure to enumerate a specific entity in the regulation should not be interpreted to mean that such entity is excluded from coverage under section 341 of the Act and the applicable rules.

"Loan Secured by Lien on Real Property." The Board has modified final § 591.2(h) by deleting the proposed requirement that a leasehold interest in real property extend five years beyond the maturity of the loan. The proposed definition paralleled the definition of the same term in § 590.2 (usury preemption) of the Board's regulations. Additionally, Board regulations (12 CFR 545.32(c), Board Resolution No. 83–241, April 26, 1983) defining this term in the context of lending practices of federal associations also require that if security property is a leasehold, it must extend or be subject to extension at the option of the association for at least five years beyond the maturity of the loan. See also 12 CFR 541.14 (1979).

The requirement under Part 545 is intended to ensure that federal associations will have an interest of substantial value to protect a leasehold loan if there is a default by the borrower at or near the maturity date. In the context of defining terms applicable to due-on-sale preemption by all lenders, including state-chartered financial institutions and lenders such as finance companies, mortgage bankers, and other corporate entities, however, the Board believes it is inappropriate to impose its security requirements for federal associations in defining leasehold loans qualified for due-on-sale enforcement. These loans, subject to applicable regulation by state or other federal authorities, will therefore qualify for federal due-on-sale preemption.

Window-Period Loan

Commenters addressing the window-period loan definition generally requested the Board to clarify or revise the proposal in six areas, to: (1) Identify explicitly window-period states and beginning dates; (2) clarify the status of land-sale installment contracts; (3) clarify if window-periods were created by state law fully prohibiting enforcement or merely restricting enforcement of due-on-sale clauses; (4) clarify if window-periods cover all loans made or assumed during the period, or only the types of loans expressly protected by state decision or statute; (5) clarify the beginning and ending dates of the window-period if a state has rescinded its restrictions on due-on-sale clauses prior to October 15, 1982; (6) clarify the need to record an alleged window-period transfer.

a. *Defining the Window Period.* Consistent with the literal language and legislative history of the Act section 341(c)(1), proposed § 591.2(p) defined a window-period loan as one "made or assumed" during the period beginning on the date a state prohibited, by statute or judicial decision, "the unrestricted exercise of due-on-sale clauses" and ending on October 15, 1982.

The Board declined to identify expressly such states in its proposed rule, but solicited comments as to whether five broad categories of state law should be regarded as the types which, as a matter of federal law, "prohibited the unrestricted exercise" of due-on-sale clauses and created window-periods within the meaning of Act section 341(c)(1). While many comments approved this approach, with modifications, others urged the Board to promulgate a list of window-period laws and starting dates to eliminate confusion and conflicting interpretations. Upon consideration of these comments, the Board is incorporating in the final window-period loan definition a modified version of the five "categories" outlined in its proposal.

The Board is cognizant of the dilemma for lenders created by ambiguous state laws. However, the Board has determined that it would be inappropriate, at this time, to analyze and interpret various state laws by listing window-period states and the beginning dates of those window-periods. It is anticipated, however, that the Board's Office of General Counsel will render advisory opinions interpreting such state laws. This decision accords with the legislative history of the Act, which clearly evinces Congressional intent that the interpretation of window-period laws is a matter best left to state interpretation and state judicial decision. S. Rep. No. 536, 97th Cong., 2d Sess. 22, 58–59 (hereafter "S. Rep.").

The Board's adoption of the "categories" approach will provide a uniform framework to guide lenders in determining if a state law is of the type Congress intended to create a window-period. At the same time, this approach honors Congressional deference to state action. Ultimately, state attorneys general and courts must decide whether a particular state law or judicial decision is within the purview of the Act as implemented by the Board's regulation. New subparagraph (3) of final § 591.2(p) accordingly establishes two categories of state laws which create window-periods, substantially revising the five categories originally proposed.

The first two proposed categories (pertaining to laws permitting due-on-sale enforcement where the lender's security interest is impaired, and laws allowing due-on-sale enforcement where a person who assumes the loan fails to meet customary credit standards) are consolidated and retained in the final regulation as § 591.2(p)(3)(i). The Board has refined the language of the latter category to reference laws allowing exercise of a due-on-sale clause if the transfer impairs the "likelihood of repayment." The Board believes that this broad concept is inclusive of the proposal language regarding a transferee failing to meet "customary credit standards." Together with the fourth proposed category (designated as § 591.2(p)(3)(ii) in the final rule), pertaining to laws limiting interest rate increases upon assumption, these types of laws comprise the exclusive list of state laws that trigger a window-period. If a state law does not fall into one of the two categories, it does not create a window-period. Such a law would be preempted pursuant to Act § 341(b) (1)–

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(2) however, if it imposed any other burden on the lender's effective use of the due-on-sale option.

The Board's final definition of window-period law categories also clarifies whether a particular type of foreclosure statute is preempted or is of a type creating a window-period. For example, a statute may provide for a longer than normal redemption period for foreclosures of property following enforcement of a due-on-sale clause by a lender, unless the transfer impairs the lender's security interest or likelihood of repayment. Consistent with the legislative history of the Act, the Board has determined that such a foreclosure statute is preempted by the Act and by the final rules. 128 Cong. Rec. S. 12235 (daily ed. September 24, 1982) (statement of Sen. Garn). However, such a foreclosure statute does not create a window-period because it does not fall within the two categories of state laws listed in the final rule that establish a window-period. In those instances where a lender otherwise subject to such a law has not provided for its right to enforce a due-on-sale clause vis-a-vis foreclosure in the contract, the lender must look to other state statutes governing real property foreclosure for its remedies.

The third proposed category (state laws that condition the use of due-on-sale clauses on the existence of "legitimate grounds") has been deleted in the final regulation. The Board believes that the proposed language was overly vague and could have invited conflicting interpretations. Moreover, the same concept is embodied in other provisions referring to laws restricting exercise of due-on-sale clauses to transfers which impair the lender's security interest or the likelihood of repayment.

The fourth proposed category (state laws which restrict or disallow interest-rate changes during the term of the loan, or upon assumption) has been redesignated as subparagraph (3)(ii) of § 591.2(p), and modified to include only those laws that require the lender to accept an assumption without an interest-rate change or with an interest-rate change below the lender's current market interest rate for similar loans. Several commenters expressed concern that the language of the proposal could be interpreted to include laws not related to due-on-sale enforcement or not substantially restricting it, such as usury laws and laws designed to prohibit or restrict the creation of adjustable-rate mortgages. The modification of the proposed language reflects the intent of the Act and will not create window-periods in states whose laws were not intended to affect due-on-sale clause enforcement.

The fifth proposed category (laws which limit the fee a lender may charge for transfer of a loan) has been eliminated in the final regulation. As several commenters noted, limiting the fees a lender may charge for transfer does not substantially impair enforcement of a due-on-sale clause (although the lender's cost of doing business may increase as a result). While the legislative history of section 341 of the Act specifically notes that state law restrictions "prohibit[ing] the full exercise of due-on-sale clauses by limiting the fee lenders can charge for transfer of a loan." (S. Rep. at 23) are of the type that might create window-periods, the Board believes that Congress did not intend to create a window-period based on laws which did not substantially impair enforcement.

b. *Land Sale Contracts.* Several California commenters requested clarification of the commencement date established for determining window-period loans in that state because of the impact of the definition upon the status of installment land-sale contract transactions. Generally, the commenters agreed with the definition of the commencement date for determining window-period loans as the date when state law or judicial decision prohibited the exercise of due-on-sale clauses upon the *outright transfer of property.* However, they expressed concern over apparently conflicting commencement dates for window-period loans created by the California Supreme Court which, in 1974, limited the exercise of due-on-sale clauses in loans on property transferred by installment land-sales contracts and, in 1978, limited due-on-sale enforcement as to property transferred by outright sale. The commenters noted that, absent clarification regarding the window-period commencement date for installment land-sales transactions, lenders could retroactively enforce due-on-sale clauses based on transfers by installment land sales in California between 1974 and 1978. The commenters argued that such a result seemed inconsistent with Congress' intent, in creating window-periods under Act section 341(c), to protect homebuyers who "relied on state due-on-sale restrictions and reasonably believed they had assumable loans." S. Rep. at 22.

The Board is aware of the apparent inconsistencies created by the definition of window-period in the proposed regulation. However, the Board believes that the definition is clearly in accordance with the requirements of the Act. First, section 591.2(a) which defines "assumed" to include transfers of real property by installment land-sales contracts, is based on explicit guidance in the legislative history of the Act. S. Rep. at 22. Second, the legislative history explicitly defines and clarifies the language of section 341(c)(1) as follows: "The window-period begins on the date the state law prohibited 'the unrestricted exercise of due-on-sale clauses *upon outright transfers of the property*'." S. Rep. at 22 (emphasis added). Congress based its definition on the U.S. Supreme Court decision in *Fidelity Federal Savings and Loan Association* v. *De La Cuesta,* 102 S. Ct. 3014, 3031 n.24 (1982). Thus, in a footnote to this statement, Congress directly addressed the various California Supreme Court decisions, including both the 1974 and 1978 cases regarding due-on-sale limitations, and cited as "instructive" the ruling of the U.S. Supreme Court in *De La Cuesta* that it was not until 1978 that the lender's right to accelerate a loan in response to an "outright transfer" was limited to cases where the security was impaired. *Id.* at n.1. In view of this ligislative history, the Board believes that it was Congress' intent to extend window-period protection only to assumptions of land-sales contracts after 1978 in California, notwithstanding the anomalies which might result.

c. *State Law Prohibition or Restriction on Exercise.* Under section 591.2(p) of the proposed regulation, a window-period is created on the date a state law or judicial decision prohibits the "*unrestricted* exercise of due-on-sale clauses * * *." (emphasis added). A number of commenters requested that the Board delete the work "unrestricted" in the final definition to conform to the statutory language of section 341(c)(1) of the Act. Section 341(c)(1) of the Act defines a window-period loan as one subject to a state law or decision "*prohibiting* the exercise of due-on-sale clauses." In the commenters' view, the proposed definition was inappropriate because it broadened the criteria to be used in the determination of the window-period. Arguably, the proposed definition would either increase the number or expand the duration of window-periods because it would allow an interpretation of the window-period to include times when any partial restriction on enforcement of due-on-sale clauses existed under state law.

The Board does not agree, for several reasons, with the commenters' interpretation that Congress intended a window-period to exist only where exercise of a due-on-sale has been "prohibited" absolutely. First, the legislative history of section 341 refutes this reasoning. It clearly provides that:

> The window-period begins on the date the state law prohibited the *unrestricted exercise* of due-on-sale clauses upon outright transfers of the property. In states with judicial restrictions which purport to *retroactively restrict* due-on-sale enforcement, the window-period would not begin until the date of the judicial decision.

S. Rep. at 22. (emphasis added). Moreover, other references in the legislative history to the meaning of the word "prohibit" evince Congressional intent that it include prohibition of the "full exercise" of the clause or the limitation of the enforcement of the clause in various instances, such as impairment of the lender's security interest. Second, this conclusion is also supported by the Board's survey of those state laws tentatively identified as creating window-periods by the legislative history of Act section 341 and the comments received. None of these states, either by statute or judicial decision, absolutely prohibit the exercise of due-on-sale clauses. Instead, the statutes and judicial decisions are generally of the type which prohibit acceleration unless the lender can show that the transfer would impair its security interest or the likelihood of repayment. Were the Board to adopt an "absolute prohibition" approach in defining window-period loans, it would effectively eliminate all window-periods, in contravention of the legislative history. Therefore, the Board has retained the concept of a law prohibiting "unrestricted exercise" in defining "window-period loan" in the final rule.

d. *Types of Loans Covered by Window-Period Laws.* Section 341(a)(3) of the Act and proposed § 591.2(1) define a real property loan to include, among other types, a loan secured by a residential manufactured home, whether considered real or personal property. Several commenters noted that in many states, mobile home lending is a personal-property-secured transaction rather than a real property secured transaction. The commenters also noted that personal property transactions in most states are governed by the Uniform Commercial Code section 9-311, which specifically validates due-on-sale clauses in personal-property-secured transactions. The commenters observed that the result of the Act and the proposed rule would be to give mobile home borrowers an exemption from exercise of due-on-sale clauses which was never in effect under applicable state law. Other comments raised similar questions about state laws restricting due-on-sale clauses but expressly limited in application to narrow categories of loans on residential property used as the borrower's principal residence.

In the Board's view, a loan falls within the ambit of window-period protection only if it is the specific category of loan to which state legislative action or judicial decision applied in prohibiting the unrestricted exercise of due-on-sale clauses. Thus, while the legislative history clearly indicates that the due-on-sale *preemption* applies to mobile homes regardless of whether they are designated as real or personal property, S. Rep. at 57, Congress also indicated that the basic purpose of the window-period was to treat fairly home buyers who "relied on state law restrictions and reasonably believed they had assumable loans." S. Rep. at 22. Conversely, the legislators did not intend to create window-periods for loans never subject to state law restrictions. This "limited reliance" principle is reaffirmed in the legislative history of Act section 341(c), which declares that states are not authorized to expand the kinds of loans subject to the window-period. S. Rep. at 23.

Consistent with the reliance principle underlying Act 341(c), the Board has modified § 591.2(p) to apply only to those loans which are of the *type* the state law creating the window-period intended to protect. This interpretation is reflected in § 591.2(p)(1), referring to window-period loans as those "subject to" the state law creating the window-period.

Finally, the Board believes that this reliance principle, along with the principle that states may not retroactively expand the scope of the window-period, would require that a state judicial decision creating the window-period include language expressly holding a due-on-sale clause unenforceable, rather than merely commenting on unenforceability in *dicta.*

e. *Beginning/Ending Date of Window Period.* The definition of window-period in § 591.2(p) of the final rule has been modified from the proposal to clarify that the date upon which a window-period commences in a particular state is the *later* of the date upon which a state statute restricting the exercise of a due-on-sale clause becomes *effective* or is adopted, in the event that any of those states have delayed effective dates.

The Board is also revising the final definition to provide that a window-period ends on the *earlier* of October 15, 1982, or the date a state law rescinded a prior statutory or judicial restriction on the enforcement of due-on-sale clauses. The Board believes that this revision is consistent with Congressional intent to protect only a borrower's reasonable expectations and reliance on the contract terms as they existed at the time of origination or assumption of the loan, and not to extend or to create a window-period in a state where none existed under state law. S. Rep. at 22.

f. *Recording of Window-Period Loans.* The Board is incorporating in its final definition of window-period loans under § 591.2(p) a "sunset date" for transfers of loans qualifying for window-period treatment pursuant to section 341(c)(1) of the Act. In order to be afforded the protection of the window-period provision, a sale or transfer of real property made on or before October 15, 1982, must be recorded either prior to or not more than 60 days after October 15, 1982. The Board believes that this modification will prevent fraudulent backdating or nonrecordation of transfer documents.

Preemption—Loans Originated by Federal Associations

The proposed rule provided that a federal association, as to any real property loan orignated or to be originated by it, may include a due-on-sale clause in the contract between it and the borrower and may enforce the clause if title or any interest therein is transferred "by the borrower," without the prior written consent of the association. The Board recognizes that there may be instances in which a transferor who is a successor or assignee of the borrower may not be technically obligated under the loan instruments. Accordingly, the Board is striking the words "by the borrower" from final § 591.3(a), to ensure that the basic preemption will extend to any transfer by any party with an equitable or legal ownership interest in the property securing the loan. This change is consistent with the literal language of the Act's definition of due-on-sale clause and corresponding § 591.2(b).

The Board is also modifying proposed § 591.3(a) to affirm that a federal association *continues* to have the authority to include a due-on-sale clause in any real property loan originated by it. Under the proposal, the language could have been read to create only a prospective right. This clarification affirms the Board's longstanding preemption policy in this area, beginning with its interpretation of a 1948 regulation requiring federal associations to include in their loan contracts provisions for "full protection to" the

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federal association. *See* 12 CFR 545.6–11 (1975); Advisory Opinion of Federal Home Loan Bank Board, Resolution No. 75-647, *In the Matter of Schott v. Mission Federal Savings and Loan Association;* 41 FR 6283, 6285 (1976); 48 FR 2373 (1983).

The Board has clarified proposed § 591.3(b) to indicate that the right to exercise a due-on-sale clause in any loan originated by a federal association shall be exclusively governed by the terms of the loan contract except as such right is *otherwise* modified by the exceptions set forth in § 591.5. The Board has also made a technical revision in § 591.3(b) by changing the word "association" to "lender" in the last clause of that paragraph for consistency of reference.

In response to requests by several commenters, the Board has clarified that loans originated by service corporations of federal associations are not necessarily exempted from the window-period provisions, as are federal associations by Act section 341(c)(2)(C). The language of the Act exempts only those loans originated by federal associations from the window-period provisions. Further, the legislative history does not appear to reflect Congressional intent to extend such treatment to federal associations' service corporations, which by their very definition are separate legal entities. Finally, previous Board regulations regarding federal preemption of state due-on-sale prohibitions conferred the right to include a due-on-sale clause only on federal associations and no mention was made of service corporations.

Preemption—Other Lenders

The title of final § 591.4 has been changed from "Other lenders" to "Loans originated by lenders other than federal associations" to clarify that the provisions apply with respect to all other lenders holding loans not originated by federal associations. The heading change also clarifies any regulatory ambiguity that may have arisen in the provisions of §§ 591.3 and 591.4.

Regarding preemption applicable to non-window-period loans under both §§ 591.3 and 591.4, several lenders requested clarification of a lender's right to impose non-contract conditions as a condition for waiving a due-on-sale clause. Both the Act and the relevant rule as proposed provided for preemption in non-window-period loans by stating that the lender's exercise of the due-on-sale clause "shall be *exclusively* governed by the loan contract." (emphasis added). In the Board's view, the preemptive mandate of section 341(b)(2) is not intended to supersede applicable state contract law concerning rights of a lender ancillary to waiver of a valid due-on-sale clause, and not substantially limiting the economic benefit of the option. Thus, section 341(b)(2) does not prohibit a lender from imposing any non-contractual term as a condition of waiving a due-on-sale clause, if state law governing enforcement of the contract would permit such a requirement.

Additionally, several commenters raised the issue of whether the Board should adopt language paralleling the statutory language of "encouragement" of allowing "blended rate" assumptions for federal associations or other lenders notwithstanding preemption of state law restricting due-on-sale enforcement. The Board believes that the statutory language of Act section 341(b)(3) is permissive; a lender, at its discretion, may offer blended rates to the borrower, upon the exercise of the lender's option under a due-on-sale clause, but the Act imposes no mandatory obligation upon lenders to offer such blended rates. Therefore, the final regulation imposes no such condition.

The Board has also made several changes in the language of proposed § 591.4(b)(1) to clarify ambiguities regarding the Act's treatment of window-period loans. In addition, the Board wishes to clarify the extent to which a state may "otherwise regulate such contracts". The legislative history of section 341(c)(1)(A) of the Act clearly indicates that a state having a window-period can shorten the three-year window-period or even repeal existing due-on-sale restrictions. However, states cannot *2retroactively* extend the window-period, nor can a state expand the type of loan to which the window-period applies. S. Rep. at 22.

A second change affecting window-period loans involves the Board's interpretation of Act 341(c)(2)(A), permitting lenders subject to window-period laws to invoke a due-on-sale clause if a transferee fails to meet "customary credit standards." The Board has added new paragraph (d) to § 591.4 in response to several commenters' requests for clarification regarding: (1) What constitutes "customary standards" that an institutional or private lender may apply with respect to window-period loans; and (2) whether a lender may apply the "customary standards" in effect as of the time of transfer of the property subject to the loan, or whether the lender is limited to the creditworthiness standards that it applied at the time of loan origination.

The legislative history of the Act states that lenders have the right to require transferees of window-period loans to meet to customary credit standards which are applicable to loans secured by similar property. In addition, the legislative history provides that a lender may require a transferee to provide customary information and "completion of its customary credit application" upon transfer of a window-period loan. S. Rep. at 24, 57. Consistent with this statement of intent, the Board has modified § 591.4 by adding a new paragraph (d)(1)(i) to identify customary credit standards for lenders who make real property loans in the ordinary course of business (e.g., banks, savings and loans and other institutional lenders).

The Board has also modified § 591.4 by adding new paragraph (d)(1)(ii) to identify customary credit standards for noninstitutional lenders and other real property sellers. Literally, the broad definition of "lender" in the Act contemplates imposition of customary credit standards by private persons who, as creditors, are subject to the terms of the Act but who are not in the business of making real estate loans. Such individuals will not have credit-worthiness standards which they usually apply to loans secured by similar property (the standard provided for an institutional lender) because they will not deal in a volume of transactions sufficient to establish any "customary" standards. In order to create uniform standards imposed by private lenders, to the extent practicable, final § 591.4(d)(1)(ii) permits a private seller or lender to impose the credit standards customarily applied by other similarly situated lenders or sellers in the geographic market within which the transaction occurs.

New § 591.4(d)(1)(i) and (ii) require that the application of customary credit standards by both institutional and non-institutional lenders shall be those in effect as of the time of *transfer* of the loan securing the real property.

Another issue arising under the "customary credit standard" exception to use of due-on-sale clauses in window-period loans involves the respective duties of borrower and lender when a transfer is contemplated. A number of comments raised the point that a lender's right to accelerate under section 341(c)(2)(A) would be meaningless if a transferee or prospective transferee refuses to cooperate. Because credit reporting agencies generally require a written release from a borrower before

providing a credit report, a noncooperative transferee could prevent a lender from making the determination that the transferee has failed to meet its customary credit standards. Such a result would clearly contravene Congressional intent in creating the customary credit standard provision for window-period loans. Accordingly, the Board has provided in the final language (§ 591.4(d)(2)) that a lender may exercise its due-on-sale clause *either* if: (1) The transferee fails to meet the lender's customary credit standards; or (2) upon a transfer, the transferee fails to provide information necessary for the lender to approve or disapprove the loan, within 15 days or the lender's written request.

New § 591.4(d)(3) also ensures that a lender must respond in good faith to a credit application of a transferee by acting to approve or disapprove the transfer within 30 days of receiving the credit application and any related credit information it may have requested.

Finally, new § 591.4(d)(4) clarifies that the right to invoke a due-on-sale clause when a transferee fails to meet customary credit standards is not intended to be exclusive of any other exceptions or qualifications currrently available in states which have window-periods. That is, the customary credit standards qualification is available to lenders holding window-period loans in addition to any other rights accorded the lender regarding assumptions in states restricting due-on-sale exercise (such as the right to impose a limited transfer fee or limited increase in interest rate upon assumption).

Limitation on Exercise of Due-on-Sale Clauses

Borrower-Occupied Homes. Consistent with Act section 341(d)(1), proposed § 591.5(b) set forth a list of statutory restrictions on the exercise of due-on-sale clauses for real property loans originated by all lenders, including window-period loans. The Board further noted in the preamble that it proposed to modify the statutory scheme by providing that the restrictions listed in the statute would apply only to loans made on homes occupied or to be occupied by the borrower. While the Board has carefully evaluated comments objecting to this limitation, it has determined to retain this principle in accordance with its belief that this approach is most consistent with the Congressional purpose of restricting due-on-sale exercise to protect consumers. S. Rep. at 24–25. A structural and historical analysis of the exemptions also supports the Board's interpretation that they apply only to borrower-occupants. To a large extent, the exemptions in the Act are extracted directly from the Board's existing due-on-sale regulations and statements of policy in which the exemptions were intended only to apply to borrower-occupants. In light of the Board's pre-existing interpretation and expressed intent regarding these exemptions and the subsequent restatement of those exemptions in the Act, the Board believes that applying the restrictions only to borrower-occupied home loans is most consistent with the intent of Congress. Accordingly, loans on all property other than borrower-occupied homes are not subject to the restrictions set out in final § 591.5(b).

Secondary Liens. Final § 591.5(b)(1)(i) clarifies that the limitation on the exercise of a due-on-sale clause in the event of the creation of a secondary lien or encumbrance does not include a transfer of the property pursuant to a contract for deed.

The Board believes that if a contract-for-deed transfer were considered to be a subordinate lien or encumbrance within the meaning of section 341(d)(1) of the Act, it would effectively create a loophole which would render the Act meaningless. Moreover, such a clarification is consistent with prior opinions of the Board and case law. Therefore, the final regulation indicates that the creation of a vendor's or vendee's interest in a contract for deed does not fall within the limitations of section 341(d)(1) of the Act.

In addition, as a technical matter, the Board has modified the language of the proposal to cover liens not relating to "a transfer of *rights* of occupancy in the property" to conform to the literal language of Act section 341(d)(1).

Leasehold Interest. Final § 591.5(b)(1)(iv), regarding the limitation on enforcement of a due-on-sale clause with respect to the granting of a leasehold interest, has been adopted as proposed. One commenter queried when an owner must occupy the property to avoid acceleration under this provision. In the Board's view, the requirement of owner-occupancy applies only at the time the loan securing the property was initially made, not at the time the owner enters into a lease with a tenant.

Inter Vivos Trusts. The Board has modified proposed § 591.5(b)(1)(vi), pertaining to limitation of due-on-sale enforcement upon transfer of the property to an *inter vivos* trust. As proposed, the lender could not enforce its due-on-sale clause upon a transfer to an *inter vivos* trust where the borrower is and remains the beneficiary and occupant of the security property. Several commenters noted that some states, such as Illinois, authorize transfers of property into so-called land trusts, where a trustee holds only legal title to the property. They expressed concern that transfers of property into a land trust could result in permanent incapacity of leaders' due-on-sale enforcement rights because the beneficiary of the trust is free to direct the sale of the beneficial interest without any public record (legal title remains with the trustee) or notice to the lender (trustee cannot reveal transfer absent consent of beneficiary). The commenters argued that, unless the Board modified the proposed rule to provide specific protection for lenders, the rule provided a means by which borrowers could circumvent a due-on-sale clause.

The Board agrees that lenders should be allowed to protect their legitimate right to exercise a due-on-sale clause against such transfers. The legislative history of Act § 341(d) indicates that the exceptions against exercise of due-on-sale clauses are not intended to allow borrowers to circumvent the right of the lender to exercise its option under a valid due-on-sale clause. S. Rep. at 24–25. Consistent with this clear Congressional directive and the Board's broad authority to issue regulations implementing the Act, the Board has modified the final rule to provide that the *inter vivos* trust exemption will not apply if a borrower refuses to provide reasonable means acceptable to the lender by which the lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupancy.

Technical Changes. The Board has modified proposed § 591.5(b)(1)(iii) to correct a typographical error. The final subdivision reads "* * * or operation of law *on* the death * * *," rather than "* * * or operation of law *or* the death * * *."

Prepayment Penalties. The Board has determined to eliminate a proposed limitation in § 591.5(b)(2), which would have precluded a lender from imposing prepayment penalties in the event of exercise of a due-on-sale clause. However, the final regulation retains the ban on the imposition of prepayment penalties on loans originated by federal associations after July 31, 1976, and prior to the effective date of the final rule. This approach is consistent with prior Board policy and ensures that holders of loans originated during that period will not be prejudiced by retroactive application of the new policy eliminating the proscription, as implemented in the final regulation.

Notwithstanding the elimination of the proscription on assessments of

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prepayment charges, however, all lenders must comply with the pre-disclosure requirements regarding such charges imposed on federal associations by § 545.33(f)(1)(ii). The Board believes that this revision is within the scope of its authority and discretion, and is consistent with its decision to permit federal associations to determine their own prepayment policies in its final regulations implementing the new thrift lending authority under Act sections 321–330 (Resolution No. 83–241, April 26, 1983).

While the Board has determined not to impose federal restrictions on the imposition of prepayment (or equivalent) fees in conjunction with the exercise of due-on-sale clauses, lenders must consult state law to determine the validity of such practices. The legislative history of the preemptive language in Act section 341(b) indicates that Congress intended to preempt only those state laws interfering with a lender's effective enforcement of a due-on-sale clause as a means of increasing the yield on older low-interest mortgages in portfolio, at the time the loans are transferred. S. Rep. at 21, 22, 23, 57. While the ability to impose a prepayment or equivalent fee upon due-on-sale acceleration may be of some economic benefit to the lender, it is in no sense essential to effective use of the due-on-sale clause for the purpose of raising portfolios yields to current market rates.

Consequently, lenders should carefully review applicable state statutes and judicial decisions in this area. The Board notes that, to date, when mortgage instruments contain both a prepayment penalty and a valid due-on-sale clause, the courts have denied enforcement of the prepayment penalty upon a sale by a mortgagor leading the lender to accelerate the debt. The rationale in these cases is that the lender's election to accelerate renders the payment a "postpayment"—one made after maturity of the loan—that by definition is not a "prepayment" of the mortgage debt. *See, e.g., Slevin Container Corp. v. Provident Fed. Sav.*, 98 Ill. App. 646, 424 N.E.2d 939 (1981).

The Board has modified § 591.5(b)(3) of the proposed rule to clarify that the term "assumption" describes a written agreement between the lender and the borrower's successor in interest in which the latter agrees to be obligated under the terms of the loan. Such a change in language was made to avoid the possible interpretation of the term "assumption" as including transfers of real property "subject to" a mortgage or similar lien pursuant to the definition of "assumed" in § 591.2(a) of the final rule.

The Board has also modified proposed § 591.5(b)(3) by incorporating an additional sentence regarding the legal effect of waiver of a lender's due-on-sale option pursuant to the prospective transferee's agreement to assume the loan at a higher interest rate. This sentence is simply a recodification of the last sentence of prior Board regulation 12 CFR 545.8–3(g). Thus, a lender which waives exercise of the due-on-sale clause pursuant to paragraph (b)(3) will be required to release the original borrower from all contractual obligations under the mortgage, and will be deemed to have made a new loan to the existing borrower's successor in interest. The Board believes this reaffirmation of prior Board policy is an appropriate means of preventing any uncertainty or confusion regarding the legal status of the parties upon such a transfer.

Effective Date

The Board has determined that the full 30-day delay of effective date following publication of the regulations pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because: (1) They relieve restrictions imposed on lenders by state laws restricting due-on-sale clause exercise, and (2) it is in the public interest to provide as expeditiously as possible uniform guidelines pertaining to preemption of state due-on-sale clause restrictions. The rules will therefore take effect on May 10, 1983.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated elsewhere into the supplementary information regarding the rule.

2. *Small entities to which the rule will apply.* The final rule will apply to all federally-chartered and insured depository institutions, all state-chartered and state-insured depository institutions, and all other government or corporate entities who fall within the definition of "lender" in Pub. L. 97–320 section 341(a)(2).

3. *Impact of the rule on small businesses.* The rule will not have a disproportionate effect on small businesses. By creating competitive parity between all lenders as to the use of due-on-sale clauses, the rule will benefit small lenders. The rule would have no significant economic impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* Any inconsistent state or federal law or regulation is superseded by the Board's rule, and in particular by the regulatory authority granted exclusively to the Board under subsection (e)(1) of section 341 Pub. L. 97–320. That subsection grants the Board broad authority to promulgate regulations governing preemption of due-on-sale clauses by all lenders making real property loans. Any overlapping or inconsistency will be eliminated through revisions of other law after implementation of this rule.

5. *Alternatives to the rules.* Most of the provisions are mandated by statute; moreover, to the extent that alternatives to the rules were considered, they are discussed elsewhere in the supplementary information.

Regulatory Analysis

The elements of regulatory analysis for major regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated in the supplementary information regarding the rule.

List of Subjects in 12 CFR Part 591

Savings and loan associations, Banks, banking, Mortgages.

Accordingly, the Board hereby amends Part 556, Subchapter C, and Part 590, Subchapter G, and adds new Part 591 to Subchapter G, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 556—STATEMENTS OF POLICY

§ 556.9 [Amended]

1. Amend § 556.9 by removing paragraph (b)(1) and redesignating the text of paragraph (b)(2) thereof as paragraph (b), and removing paragraphs (c), (d), (e) and (f) thereof.

2. Revise the title of Subchapter G as follows:

Subchapter G—Preemption of State Lending Restrictions

PART 590—PREEMPTION OF STATE USURY LAWS

3. Amend § 590.2 by revising paragraph (g), as follows:

§ 590.2 Definitions.

* * * * *

(g) "Residential manufactured home" shall mean a manufactured home as defined in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6), which is or will be used as a residence.

* * * * *

4. Revise paragraph (e) of § 590.4 as follows:

§ 590.4 Consumer protection rules for federally-related loans, mortgages, credit sales and advances secured by first liens on residential mobile homes.

* * * * *

(e) *Balloon payments.*—(1) *Federal associations.* Federal association creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residential manufactured homes, and such loans shall be governed by the provisions of this section and § 545.33(f) of this Chapter.

(2) *Other creditors.* All other creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residential manufactured homes to the extent authorized by applicable Federal or state law or regulation.

* * * * *

5. Add a new Part 591, as follows:

PART 591—PREEMPTION OF STATE DUE-ON-SALE LAWS

Sec.

591.1 Authority, purpose, and scope.
591.2 Definitions.
591.3 Loans originated by Federal associations.
591.4 Loans originated by lenders other than Federal associations.
591.5 Limitation on exercise of due-on-sale clauses.
591.6 Interpretations.

Authority: Sec. 5, 48 Stat. 132 (12 U.S.C. 1464), as amended by Sec. 401, 94 Stat. 160; Sec. 311, 97 Stat. 1496; Sec. 341, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

§ 591.1 Authority, purpose, and scope.

(a) *Authority.* This part contains regulations issued under section 5 of the Home Owners' Loan Act of 1933, as amended, and under section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

(b) *Purpose and scope.* The purpose of this permanent preemption of state prohibitions on the exercise of due-on-sale clauses by all lenders, whether Federally- or state-chartered, is to reaffirm the authority of Federal savings and loan associations to enforce due-on-sale clauses, and to confer on other lenders generally comparable authority with respect to the exercise of such clauses. This Part applies to all real property loans, and all lenders making such loans, as those terms are defined in § 591.2 of this Part.

§ 591.2 Definitions.

For the purposes of this Part, the following definitions apply:

(a) "Assumed" includes transfers of real property subject to a real property loan by assumptions, installment land sales contracts, wraparound loans, contracts for deed, transfers subject to the mortgage or similar lien, and other like transfers.

(b) "Due-on-sale clause" is a contract provision which authorizes the lender, at its option, to declare immediately due and payable sums secured by the lender's security instrument upon a sale of transfer of all or any part of the real property securing the loan without the lender's prior written consent. For purposes of this definition, a "sale or transfer" means the conveyance of real property of any right, title or interest therein, whether legal or equitable, whether voluntary or involuntary, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three years, lease-option contract or any other method of conveyance of real property interests.

(c) "Federal association" has the same meaning as provided in § 541.8 of this Chapter.

(d) "Federal credit union" means a credit union chartered under the Federal Credit Union Act.

(e) "Home" has the same meaning as provided in § 541.14 of this Chapter.

(f) "Insured institution" has the same meaning as provided in § 561.1 of this Chapter.

(g) "Lender" means a person or government agency making a real property loan, including without limitation, individuals, Federal associations, state-chartered savings and loan associations, national banks, state-chartered banks and state-chartered mutual savings banks, Federal credit unions, state-chartered credit unions, mortgage banks, insurance companies and finance companies which make real property loans, manufactured-home retailers who extend credit, agencies of the Federal government, any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, and any assignee or transferee, in whole or part, of any such persons or agencies.

(h) "Loan secured by a lien on real property" means a loan on the security of any instrument (whether a mortgage, deed of trust, or land contract) which makes the interest in real property (whether in fee, or in a leasehold or subleasehold) specific security for the payment of the obligation secured by the instrument.

(i) "Loan secured by a lien on stock in a residential cooperative housing corporation" means a loan on the security of: (1) A security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; and (2) an assignment of the borrower's interest in the proprietary lease of occupancy agreement issued by such organization.

(j) "Loan secured by a lien on a residential manufactured home, whether real or personal property," means a loan made pursuant to an agreement by which the party extending the credit acquires a security interest in the residential manufactured home.

(k) "Loan originated by" a Federal association or other lender means any loan for which the lender makes the first advance of credit thereunder, provided that such lender then held a beneficial interest in the loan, whether as to the whole loan or a portion thereof, and whether or not the loan is later held by or transferred to another lender.

(l) "Real property loan" means any loan, mortgage, advance or credit sale secured by a lien on real property, the stock or membership certificate allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property.

(m) "Residential manufactured home" has the same meaning as provided in § 590.2(g) of this Subchapter.

(n) "Reverse mortgage" is any instrument providing periodic payments to homeowners based on accumulated equity, whether the payments are made directly by the lender, through purchase of an annuity through an insurance company or in any other manner. The loan may be due either upon a specific date or when a specified event occurs, such as the sale of the property or death of the borrower.

(o) "State" means the several states, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(p)(1) A "window-period loan" is a real property loan, not originated by a Federal association, which was made or assumed during a window-period created by state law and subject to that law, which loan was recorded, at the time of origination or assumption, before October 15, 1982, or within 60 days thereafter (December 14, 1982).

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(2) The window-period begins on:

(i) The date a state adopted a law (by means of a constitutional provision or statute) prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to the state law creating the window-period, or the effective date of a constitutional or statutory provision so adopted, whichever is later; or

(ii) The date on which the highest court of the state rendered a decision prohibiting such unrestricted exercise (or if the highest court has not so decided, the date on which the next highest appellate court rendered a decision resulting in a final judgment which applies statewide), and ends on the earlier of the date such state law prohibition terminated under state law or October 15, 1982.

(3) Categories of state law which create window-periods by prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to such state law restrictions include laws or judicial decisions which permit the lender to exercise its option under a due-on-sale clause only where:

(i) The lender's security interest or the likelihood of repayment is impaired; or

(ii) The lender is required to accept an assumption of the existing loan without an interest-rate change or with an interest-rate change below the market interest rate currently being offered by the lender on similar loans secured by similar property at the time of the transfer.

§ 591.3 Loans originated by Federal associations.

(a) With regard to any real property loan originated or to be originated by a Federal association, as a matter of contract between it and the borrower, an association continues to have the power to include a due-on-sale clause in its loan instrument.

(b) Except as otherwise provided in § 591.5 of this Part with respect to any such loan made on the security of a home occupied or to be occupied by the borrower, exercise by any lender of a due-on-sale clause in a loan originated by a Federal association shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and borrower shall at all times be fixed and governed by that contract.

§ 591.4 Loans originated by lenders other than Federal associations.

(a) With regard to any real property loan originated by a lender other than a Federal association, as a matter of contract between it and the borrower, the lender has the power to include a due-on-sale clause in its loan instrument.

(b) Except as otherwise provided in paragraph (c) of this section and § 591.5 of this Part, the exercise of due-on-sale clauses in loans originated by lenders other than Federal associations shall be governed exclusively by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by that contract.

(c)(1) In the case of a window-period loan, the provisions of paragraph (b) of this section shall apply only in the case of a sale or transfer of the property subject to the real property loan and only if such sale or transfer occurs on or after October 15, 1985: *Provided*, that: (i) With respect to real property loans originated in a state by lenders other than national banks, Federal associations, and Federal credit unions, a state may otherwise regulate such contracts by state law enacted prior to October 16, 1985, in which case paragraph (b) of this section shall apply only if such state law so provides; and (ii) with respect to real property loans originated by national banks and Federal credit unions, the Comptroller of the Currency or the National Credit Union Administration Board, respectively, may otherwise regulate such contracts by regulations promulgated prior to October 16, 1985, in which case paragraph (b) shall apply only if such regulation so provides.

(2) A lender may not exercise its options pursuant to a due-on-sale clause contained in a window-period loan in the case of a sale or transfer of property securing such loan where the sale or transfer occurred prior to October 15, 1982.

(d)(1) Prior to the sale or transfer of property securing a window-period loan subject to the provisions of paragraph (c) of this paragraph,

(i) Any lender in the business of making real property loans may require any successor or transferee of the borrower to supply credit information customarily required by the lender in connection with credit applications, to complete its customary credit application, and to meet customary credit standards applied by such lender, at the date of sale or transfer, to the lender's similar loans secured by similar property.

(ii) Any lender not in the business of making loans may require any successor or transferee of the borrower to meet credit standards customarily applied by other similarly situated lenders or sellers in the geographic market within which the transaction occurs, for similar loans secured by similar property, prior to the lender's consent to the transfer.

(2) The lender may exercise a due-on-sale clause in a window-period loan if:

(i) The successor or transferee of the borrower fails to meet the lender's credit standards as set forth in paragraphs (b)(1) (i) and (ii) of this section; or

(ii) Upon transfer of the security property and not later than fifteen days after written request by the lender, the successor or transferee of the borrower fails to provide information requested by the lender pursuant to paragraph (d)(1) (i) or (ii) of this section, to determine whether such successor or transferee of the borrower meets the lender's customary credit standards.

(3) The lender shall, within thirty days of receipt of a completed credit application and any other related information provided by the successor or transferee of the borrower, determine whether such successor or transferee meets the customary credit standards of the lender and provide written notice to the successor or transferee of its decision, and the reasons in the event of a disapproval. Failure of the lender to provide such notice shall preclude the lender from exercise of its due-on-sale clause upon the sale or transfer of the property securing the loan.

(4) The lender's right to exercise a due-on-sale clause pursuant to this paragraph is in addition to any other rights afforded the lender by state law regulating window-period loans with regard to the exercise of due-on-sale clauses and loan assumptions.

§ 591.5 Limitation on exercise of due-on-sale clauses.

(a) *General.* Except as provided in §§ 591.4 (c) and (d)(4) of this Part, due-on-sale practices of Federal associations and other lenders shall be governed exclusively by the Board's regulations, in preemption of and without regard to any limitations imposed by state law on either their inclusion or exercise including, without limitation, state law prohibitions against restraints on alienation, prohibitions against penalties and forfeitures, equitable restrictions and state law dealing with equitable transfers.

(b) *Specific limitations.* With respect to any loan on the security of a home occupied or to be occupied by the borrower,

(1) A lender shall not (except with regard to a reverse mortgage) exercise its option pursuant to a due-on-sale clause upon:

(i) The creation of a lien or other encumbrance sub-ordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property: *Provided*, that such lien or encumbrance is not created pursuant to a contract for deed;

(ii) The creation of a purchase-money security interest for household appliances;

(iii) A transfer by devise, deacent, or operation of law on the death of a joint tenant or tenant by the entirety;

(iv) The granting of a leasehold interest which has a term of three years or less and which does not contain an option to purchase (that is, either a lease of more than three years or a lease with an option to purchase will allow the exercise of a due-on-sale clause);

(v) A transfer, in which the transferee is a person who occupies or will occupy the property, which is: (A) A transfer to a relative resulting from the death of the borrower; (B) a transfer where the spouse or child(ren) becomes an owner of the property; or (C) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property; or

(vi) A transfer into an *inter vivos* trust in which the borrower is a and remains the beneficiary and occupant of the property, unless, as a condition precedent to such transfer, the borrower refuses to provide the lender with reasonable means acceptable to the lender by which the lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupancy.

(2) A lender:

(i) Which is a Federal association and which originates a loan after July 31, 1976, and before [May 10, 1983], shall not impose a prepayment charge or equivalent fee in connection with acceleration of the loan by exercise of a due-on-sale clause;

(ii) Which originates a loan on or after [May 10, 1983] may impose a prepayment charge or equivalent fee in connection with acceleration of the loan by exercise of a due-on-sale clause, provided that, at the time of origination of the loan, the lender complies fully with the disclosure requirements for Federal associations set forth in § 545.33(f)(1)(ii) of this Chapter.

(3) A lender waives its option to exercise a due-on-sale clause as to a specific transfer if, before the transfer, the lender and the existing borrower's prospective successor in interest agree in writing that the successor in interest will be obligated under the terms of the loan and that interest on sums secured by the lender's security interest will be payable at a rate the lender shall request. Upon such agreement and resultant waiver, a lender shall release the existing borrower from all obligations under the loan instruments, and the lender is deemed to have made a new loan to the existing borrower's successor in interest.

(i) The waiver and release apply to all loans secured by homes occupied by borrowers made by a Federal association after July 31, 1976, and to all loans secured by homes occupied by borrowers made by other lenders after the effective date of this regulation.

(4) Nothing in paragraph (b)(1) of this section shall be construed to restrict a lender's right to enforce a due-on-sale clause upon the subsequent occurrence of any event which disqualifies a transfer for a previously-applicable exception under that subparagraph.

(c) *Policy considerations.* Paragraph (b) of this section does not prohibit a lender from requiring, as a condition to an assumption, continued maintenance of mortgage insurance by the existing borrower's successor in interest, whether by endorsement of the existing policy or by entrance into a new contract of insurance.

§ 591.6 Interpretations.

The Board periodically will publish Interpretations under Section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, 1505–1507, in the **Federal Register** in response to written requests sent to the Secretary to the Board, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 341, 96 Stat. 1469, 1505–1507; Reorg. Plan No. 3 of 1947; 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–12669 Filed 5–12–83; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 444, 448, and 455

[Docket No. 79N–0341; DESI Nos. 8615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs; Confirmation of Effective Dates and Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective dates and further amendment.

SUMMARY: The Food and Drug Administration is confirming the effective dates of amendments to the antibiotic drug regulations announced in the **Federal Register** of May 28, 1982, and is further amending the regulations to provide accepted standards for a particular formulation that was inadvertently omitted from the May 28, 1982 final rule.

DATES:

The amendment announced in this final rule is effective May 13, 1983.

Comments, objections, and requests for hearing by June 13, 1983.

Data, information, and analyses to justify a hearing by July 12, 1983.

ADDRESS: Objections and requests for hearing, supporting data and information, and other comments should be identified with the docket number appearing in the heading of this document and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1982 (47 FR 23440), as part of actions classifying various ophthalmic steroid/anti-infective combination drug products as effective and announcing conditions for their further marketing, the Director of the Bureau of Drugs and Biologics amended the antibiotic drug regulations to require a minimum of 10,000 units per milliliter or units per gram (units/mL or g) of polymyxin B in all ophthalmic combinations that contain this component. The Director also amended the antibiotic regulations to provide for the certification (now accepted public standards, see 47 FR 39155) of ophthalmic combination products that has been released pending a final determination of their effectiveness. In response to the amendments, one objection was filed but was later withdrawn. Therefore, the effective dates of the May 28, 1982 final rule are hereby confirmed.

In reviewing the products affected by the conclusions regarding steroid/anti-infective combination drug products, the Director noted that no standards had been announced for Burroughs Wellcome's Cortisporin Ophthalmic Ointment (NDA 50–416) or Kasco-Efco's Bacitracin-Polymyxin-Neomycin with Hydrocortisone Ophthalmic Ointment (NDA 60–731) each containing bacitracin zinc, neomycin sulfate, polymyxin B

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sulfate (10,000 units/g), and hydrocortisone. At one time, these products contained 5,000 units/g of polymyxin B and were classified in the **Federal Register** of August 29, 1980 (45 FR 57776), as lacking substantial evidence of effectiveness because of their polymyxin B level. The August 29, 1980 notice also stated that these products would be regarded as effective if reformulation to contain 10,000 units/g. Although these products were reformulated to contain 10,000 units/g of polymyxin B, the May 28, 1982 final rule inadvertently omitted standards for these drugs. Therefore, § 448.313b of the antibiotic regulations (21 CFR 448.313b) is hereby further amended to provide standards for these drugs. Because this additional amendment is not controversial and provides notice of accepted standards for marketed products already in compliance with the standards, notice and comment procedure for the action and a delayed effective date are found unnecessary and not in the public interest.

List of Subjects

21 CFR Part 444

Antibiotics, Oligosaccharide.

21 CFR Part 448

Antibiotics, Peptide.

21 CFR Part 455

Antibiotics.

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5110) and redelegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.78 and 47 FR 26913 published in the **Federal Register** of June 22, 1982), the July 7, 1982 effective date for the amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment, and new §§ 444.342j and 444.342k, as announced in the May 28, 1982 final rule, is confirmed; the February 22, 1983 effective date for the amendments to §§ 444.342b, 444.342h, 444.342i, and 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and the amendment to § 455.310d, as announced in the May 28, 1982 final rule, is confirmed; and Part 448 is amended in § 448.313b by revising the section heading and paragraph (a)(1)(i) and (ii) and by adding new paragraph (a)(1)(iii), to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone acetate ophthalmic ointment.

(a) * * *

(1) * * *

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate;

(ii) 500 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B; or

(iii) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 10 milligrams of hydrocortisone.

* * * * *

Any person who will be adversely affected by the amendments to § 448.313b announced in this final rule may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before June 13, 1983; a written notice of participation and request for hearing and (2) on or before July 12, 1983 the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and granting or denying of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except comments from an individual, must be filed in four copies. An individual submitting only comments may submit one copy. All submissions must be identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (address given above).

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective Date. This amendment is effective May 13, 1983.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: May 6, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-12845 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Southern Micro-Blenders, Inc., providing for manufacturing a 10-gram-per-pound tylosin premix. The 10-gram-per-pound premix is used to make complete feeds for swine, cattle, and chickens. In addition, the firm is added to the list of sponsors of approved NADA's.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–4913.

SUPPLEMENTARY INFORMATION: Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, is the sponsor of NADA 133–833 submitted on its behalf by Elanco Products Co. This NADA provides for use of premixes containing 40 or 100 grams per pound of tylosin (as tylosin phosphate) or granulated tylosin concentrate to make a 10-gram-per-pound premix which is used to make complete feeds for swine, beef cattle, and broiler, replacement, and layer chickens. The feed is used as in 21 CFR 558.625(f)(1) (i) through (vi). The basis of approval is discussed in the freedom of information (FOI) summary. The NADA is approved and the regulations are amended to reflect the approval.

In addition, the sponsor has not been previously added to the list of sponsors of approved NADA's in 21 CFR 510.600(c). The list is amended to add this sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406	049685

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
049685	Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(80) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(80) To 049685: 10 grams per pound; paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. May 13, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 6, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12849 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Methylprednisolone and Aspirin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) sponsored by The Upjohn Co. providing for safe and effective use of methylprednisolone and aspirin tablets as an anti-inflammatory and analgesic agent in dogs. FDA is further amending the regulations to specify those conditions of use for which approval of applications for identical or similar products need not include certain effectiveness data. A previously approved supplemental NADA reflects compliance with the conclusions of National Academy of Sciences/National Research Council Drug Efficacy Study Implementation (NAS/NRC–DESI) evaluation of the product.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, is sponsor of NADA 11–700 providing for oral use of a tablet containing methylprednisolone and aspirin as an anti-inflammatory and analgesic agent in dogs. The NADA was originally approved on May 21, 1959. The product was the subject of a NAS/NRC–DESI notice in the **Federal Register** of March 20, 1969 (34 FR 5448). The notice stated that NAS/NRC had concluded, and FDA had concurred, that the product was probably effective as an anti-inflammatory and analgesic in treating dogs for myositis, arthritis, ocular inflammation, otitis, dermatitis, and allergic conditions; but that no documentation had been provided to substantiate the label claim that it is advantageous to combine methylprednisolone with aspirin or any salicylate.

By letter dated March 13, 1969 to the firm, FDA indicated that certain changes would be necessary in the package insert. The letter further stated that "While we believe both compounds are effective when used alone, data will need to be submitted to show an added effect when in combination." The firm was provided 6 months to make the necessary changes in the insert labeling or to submit additional information supporting the labeling used.

The Upjohn Co. responded by submitting a supplemental NADA which provided the requested changes in the insert labeling. The supplement was approved September 12, 1969. Accordingly, the NAS/NRC–DESI status of the product was upgraded to effective. The regulations are amended to codify Upjohn's previously approved NADA and to specify the NAS/NRC-approved conditions of use.

For approval of NADA's for identical or similar products having the same conditions of use, applications need not include efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*), but approval may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC-reviewed generic drugs. The guidelines are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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This action, codification of a previously approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting the approval. Because the NADA was approved before July 1, 1975, the sponsor was not required to submit a summary of the safety and effectiveness data and information in accordance with the freedom of information provisions of §514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part, 520 is amended by adding new § 520.1409, to read as follows:

§ 520.1409 Methylprednisolone, aspirin tablets.

(a) *Specifications.* Each tablet contains 0.5 milligram of methylprednisolone and 300 milligrams of aspirin.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *NAS/NRC status.* The conditions of use have been NAS/NRC reviewed and found effective. New animal drug applications for approval of drugs for these conditions of use need not include effectiveness data specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(d) *Special considerations.* (1) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(2) Systemic therapy with methylprednisolone is contraindicated in animals with tuberculosis, chronic nephritis, peptic ulcer, or Cushingoid syndrome. The presence of diabetes mellitus, osteoporosis, predisposition to thrombophlebitis, hypertension, congestive heart failure, or renal insufficiency necessitates carefully controlled use of corticosteroids.

(3) Anti-inflammatory action of corticosteroids may mask signs of infection.

(e) *Conditions of use*—(1) *Amount.* Dogs under 15 pounds, ¼ to 1 tablet daily; 15 to 60 pounds, 1 to 2 tablets daily; 60 pounds and over, 2 tablets daily.

(2) *Indications for use.* As an anti-inflammatory and analgesic agent in dogs.

(3) *Limitations.* Administer total daily dose in divided doses 6 to 10 hours apart, with a light feeding. When response is attained, dosage should be gradually reduced until maintenance level is achieved. Do not administer to cats. Do not overdose. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. May 13, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 6, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12848 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 520 and 524

Oral Dosage Form New Animal Drugs not Subject to Certification; Cyclothiazide Tablets; Ophthalmic and Topical Dosage Form New Animal Drugs not Subject to Certification; Flurandrenolide With Neomycin Sulfate Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing those regulations reflecting approval of a new animal drug application (NADA) providing for use of cyclothiazide tablets in dogs for their diuretic and saluretic effects and another NADA providing for use of an ointment containing flurandrenolide and neomycine on dogs for topical management of allergic dermatitis, otitis externa, and superficial pyoderma. The sponsor, Elanco Products Co., requested the withdrawal of approvals.

EFFECTIVE DATE: May 23, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 13–547 for Renazide Tablets and NADA 13–133 for Corderm Ointment, both sponsored by Elanco Products Co., a Division of Eli Lilly & Co., is withdrawn. This document amends the animal drug regulations by removing 21 CFR 520.526 and 524.1000 that reflect approval of the NADA's.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cummulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 520

Animal drugs, oral use.

21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 520 and 524 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.526 [Removed]

1. Part 520 is amended by removing § 520.526 *Cyclothiazide tablets.*

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1000 [Removed]

2. Part 524 is amended by removing § 524.1000 *Flurandrenolide with neomycin sulfate ointment.*

Effective date. May 23, 1983.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e)).)

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12845 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Glycopyrrolate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by A. H. Robins Co. providing for use of glycopyrrolate injection as a preanesthetic agent in cats.

EFFECTIVE DATE: May 13, 1983

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4330.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., Research Laboratories, 1211 Sherwood Ave., Richmond, VA 23220, filed a supplement to NADA 101–777 providing for safe and effective use of glycopyrrolate injection for intramuscular use in cats as a preanesthetic agent.

A. H. Robins presently holds an approval for intramuscular, intravenous, and subcutaneous use of the drug in dogs as a preanesthetic agent. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplement. The Bureau required, and the sponsor submitted, safety and effectiveness studies to support the supplement. The supplement is approved and the regulations are amended to reflect the approval for the use of the product in cats. The regulations are also being amended to delete the reference to the preservation used in the product which need not be specified since it is not an active ingredient.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by revising § 522.1066 to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1066 Glycopyrrolate injection.

(a) *Specifications.* Each milliliter of aqueous solution contains 0.2 milligram of glycopyrrolate.

(b) *Sponsor.* See No. 000031 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is indicated as a preanesthetic agent in dogs and cats.

(2) It is administered intravenously, intramuscularly, or subcutaneously in dogs and intramuscularly in cats at a dosage level of 5 micrograms per pound of body weight (0.25 milliliter per 10 pounds of body weight).

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. May 13, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)).)

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12846 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 0

[Docket No. R-83-990]

Standards of Conduct for HUD Employees

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the regulations prescribing Standards of Conduct for HUD employees, to bring the post-employment restrictions into conformity with the Ethics in Government Act of 1978. In accordance with section 207 of that Act, the rule also provides that persons who must file financial disclosure statements under the Act are exempt from filing additional financial disclosure reports. Finally, the rule removes the Appendix to the regulations, which lists positions for which persons must file confidential statements of employment and financial interests.

EFFECTIVE DATE: June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. David D. White, Assistant General Counsel for Administrative Law, Office of General Counsel, Room 10252, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–7137. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Ethics in Government Act of 1978, Pub. L. 95–521, provides for public financial disclosure by certain Government officials. Title V of the Act, as amended, revises the provisions of 18 U.S.C. 207 relating to the activities of former Government employees. As a result, HUD is amending 24 CFR Part 0 to revise its post-employment regulations and certain financial disclosure regulations, to conform to the provisions of the Act.

Major Provisions

1. Section 0.735–213, "Prohibited activities by former employees," has been made obsolete by the Ethics in Government Act. Accordingly, this rule revises § 0.735–213 to reflect the amendments to 18 U.S.C. 207 effected by title V of the Act and to refer to regulations of the Office of Personnel Management implementing those amendments.

2. This rule amends § 0.735–403 to exempt persons required to file statements under the Ethics in Government Act of 1978 from filing any additional financial disclosure reports. This is consistent with section 207 of that Act.

3. As part of the Department's efforts to promote regulatory simplicity, this rule streamlines § 0.735–409 and removes the Appendix at the end of Part 0. The Appendix lists positions for which incumbent employees must file confidential financial disclosure reports under Subpart D of Part 0. In the future, the list of positions will not be published as an Appendix to Part 0. The rule also deletes references to the Appendix contained in §§ 0.735–401 and 0.735–404.

Since all of the changes made by this rule relate to agency management or personnel, the requirements for notice of

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proposed rule making contained in 5 U.S.C. 553(b) are not applicable to this rule. Accordingly, these amendments are being adopted by final rule, to become effective as provided above, without an opportunity for public comment on the changes made by the rule.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusion for internal administrative procedures set forth in paragraph (k) of § 50.20, the preparation of an Environmental Impact Statement or a Finding of No Significant Impact is not required for this rule.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects only Government employees and is not expected to have any economic impact on small entities.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 0

Conflict of interest.

PART 0—[AMENDED]

Accordingly, the Department amends 24 CFR Part 0) by:

1. Revising § 0.735–213 to read as follows:

§ 0.735–213 Prohibited activities by former employees.

(a) No former employee, including a former special Government employee, after terminating Government employment, shall knowingly act as agent or attorney for, or otherwise represent, any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person to any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which matter such employee participated personally and substantially as a Department employee.

(b) No former employee, including a former special Government employee, within two years after terminating employment by the United States, shall knowingly act as agent or attorney for or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any person to any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, if such matter was actually pending under the employee's official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

(c) No former Senior Employee, as defined in 5 CFR § 737.3(a)(6), within two years after terminating employment by the United States, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance before any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which matter he or she participated personally and substantially.

(d) For a period of one year after terminating employment by the United States, no former Senior Employee, other than a special Government employee who serves for fewer than sixty days in a calendar year, shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with the intent to influence, make any written or oral communication on behalf of anyone to the Department or any of its officers or employees, in connection with any particular Government matter, whether or not involving a specific party, which is pending before the Department, or in which it has a direct and substantial interest.

(e) The prohibitions set forth in paragraphs (a) through (d) of this section will be applied in accordance with regulations of the Office of Government Ethics as set forth in 5 CFR Part 737.

2. Revising the introductory language of paragraph (b) and paragraphs (c) and (d) of § 0.735–401 to read as follows:

§ 0.735–401 Employees required to submit statements.

* * * * *

(b) Employees classified at GS–13 or above who are in positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to: * * *

(c) Employees classified at GS–13 or above who are in positions which the Department has determined have duties and responsiblities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive order, and this part.

(d) Employees classified below GS–13 who are in positions which otherwise meet the criteria in paragraphs (b) or (c) of this section. These positions have been approved by the Office of Government Ethics as exceptions that are essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts-of-interest situation.

3. Revising paragraph (b) of § 0.735–403 to read as follows:

§ 0.735–403 Employees not required to submit statements.

* * * * *

(b) A statement of employment and financial interest is not required by this subpart from the Secretary; a full-time member of a committee, board, or commission appointed by the President; or a person required to file a financial disclosure report under the Ethics in Government Act of 1978 (the Act). These employees are subject to separate reporting requirements under Section 401 of Executive Order 11222 or Title II of the Act.

4. Revising § 0.735–404 to read as follows:

§ 0.735–404 Time and place for submission of employees' statements.

(a) An employee required to submit a statement of employment and financial interest as required in § 0.735–401 shall submit that statement on Form HUD–844 (Revised) to the official designated in paragraph (b) of this Section not later than thirty days after the employee's entrance on duty, and annually as provided in § 0.735–405.

(b) All employees shall submit their statements to the Assistant General Counsel for Administrative Law, or to any other Deputy Counselor who may be designated by the Department Counselor. Such statements shall be enclosed in sealed envelopes marked "Standards of Conduct—Department Counselor-Administratively Confidential."

5. Revising § 0.735–409 to read as follows:

§ 0.735–409 Confidentiality of employees' statements.

Each statement of employment and financial interest, and each supplementary statement, shall be held in confidence by the Department. To insure this confidentiality:

(a) The Department Counselor or his or her designee shall review and retain employees' statements;

(b) Officials and employees designated under paragraph (a) of this Section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purposes of this Part; and

(c) The Department may not disclose information from a statement except as the Office of Personnel Management or the Secretary may determine for good cause shown.

Appendix [Removed]

6. Removing the Appendix, *List of Positions Subject to Subpart D.*

Authority: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)) (18 U.S.C. 207) The Ethics in Government Act of 1978 (Pub. L. 95–521).

Dated: May 9, 1983.

Samuel R. Pierce, Jr.

Secretary, Department of Housing and Urban Development.

[FR Doc. 83–12957 Filed 5–12–83; 8:45 am]

BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R–83–1096]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary of Housing—Federal Housing Commissioner; HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I mobile home loans, combination and mobile home lot loans, property improvement loans, and historic preservation loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Jim L. Anderson, Director, Operations Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202–755–6880).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on property improvement loans have been lowered from 16.00 percent to 15.50 percent, the finance charge on mobile home loans lowered from 14.50 percent to 14.00 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 14.00 percent to 13.50 percent. The maximum charge on historic preservation loans has been lowered from 16.00 percent to 15.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS SUBPART A—ELIGIBILITY REQUIREMENTS—PROPERTY IMPROVEMENT LOANS

1. Section 201.4(a) is revised to read as follows:

§ 201.4 Financing charges

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 15.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

2. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 14.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

3. Section 201.1511(a), subparagraph (1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* * * *

(1) 13.50 percent per annum.

* * * * *

Subpart E—Eligibility Requirements—Historic Preservation Loans

4. Section 201.1625(a) is revised to read as follows:

§ 201.1625 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge, exclusive of fees and charges as provided by paragraph (b) of this section, which may be directly or indirectly paid to, or collected by the insured in connection with the loan transaction, shall not exceed an 15.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

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(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 35354(d))

Dated: May 5, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-12868 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242 and 244

[Docket No. R-83-1095]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner; HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rates on insured loans. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA insured home mortgage insurance programs has been lowered from 12.00 percent to 11.50 percent for level payment (including operative builder) and from 12.00 percent to 11.75 percent for graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been lowered from 13.00 percent to 12.50 percent. The maximum interest rate for multifamily construction and Title X land development loans has been lowered from 14.00 percent to 12.50 percent.

The secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242 and 244

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

4. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum. Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the 12.50 percent rate, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

5. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the

applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

6. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

Supart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

7. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

8. Section 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

9. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

10. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

Subpart C—Eligibility Requirement—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

11. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) On or after May 9, 1983, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50

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percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

12. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

13. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

14. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

15. Section 235.540 paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after May 9, 1983, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

16. Section 236.15 paragraph (a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) Effective on or after may 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

17. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

18. Section 242.33 paragraph (a) is revised to read as follows:

§ 242.33 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

19. Section 244.45 paragraph (a) is revised to read as follows:

§ 244.45 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

(Sec. 3(a), 82 Stat. 113 (12 U.S.C. 1709–1); sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: May 5, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-12989 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-27-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning June 1, 1983. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after June 1, 1983, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). Appendix B to the regulation, which contains formulas for valuing different types of benefits, sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before April 1, 1983 (46 FR 26765, 46 FR 31257, 46 FR 38693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273, 47 FR 51393, 47 FR 56134, 48 FR 1715).

On March 15, 1983, the PBGC published rates for plans that terminate on or after April 1, 1983 (48 FR 10819). That rate has remained in effect until now and will remain in effect for plan terminations through the end of May, 1983. At this time, however, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after June 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that

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will terminate on or after February 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 41 of Appendix B is revised and Rate Set 42 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G," for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred annuities				
	On or after	And before		k_1	k_2	k_3	n_1	n_2
41	4–1–83	6–1–83	9.50	1.0675	1.0750	1.0400	7	8
42	6–1–83		9.25	1.0850	1.0725	1.0400	7	8

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-13007 Filed 5-12-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Program; Removal of Condition of Approval and Consideration of Additional Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by (1) removing a condition of approval of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), regarding a plan for the processing of permit applications; (2) approving additional amendments to the Kentucky program, relating to hydrologic information in permit applications and incidental boundary revisions; and (3) creating two new conditions of approval, relating to the deferral of contemporaneous reclamation and the definition of "principal shareholder."

EFFECTIVE DATE: The removal of this condition and the approval of these program amendments are effective on May 13, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone (606) 233–7327.

SUPPLEMENTARY INFORMATION:

Background on the Kentucky Program Submission and Conditional Approval

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register.**

Deficiency (1) of the Kentucky program for which the Secretary required correction as a condition of approval is as follows:

(1) Kentucky did not have a plan which includes: (1) A process for prompt completeness determinations of permit applications from existing operators who expect to continue mining past the eighth month of primacy; (2) assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until being issued an approved permit, and (3) a policy that permit applications for new areas will not be given priority for processing over those for existing operations which are continuing to mine under the interim program when such existing mine applications are one year or older.

Submission of Material To Satisfy Condition and Additional Program Amendments and Revisions

On May 28 and July 29, 1982, OSM received from the Commonwealth of Kentucky material intended to satisfy conditions (b) and (c). On May 28, 1982, OSM also received, pursuant to the 30 CFR 732.17 State program amendment procedures, certain revisions to the State regulations and laws. Further, on June 18, 1982, OSM received from Kentucky a letter attempting to clarify certain statements in the May 18, 1982 **Federal Register** notice (47 FR 21404–21435) announcing the approval of the State program.

One of the points made in the clarification letter is that on page 21426 of the May 18, 1982, notice in Item No. 3, related to permitting, in response to a public comment, the Secretary defined "incidental boundary revisions" as incidental to whatever revision is being sought. Kentucky interprets its statute to allow boundary revisions incidental to the mining operation as a whole.

OSM published a notice in the **Federal Register** on July 23, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected these deficiencies, and whether the Secretary should approve the additional amendments and clarifications to the State program (47 FR 31890–31896). The public comment period ended August 23, 1982. A public hearing was held on August 12, 1982. OSM published a second notice in the **Federal Register** on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (47 FR 38536–39537). The public comment period ended October 8, 1982. A public hearing scheduled for September 22, 1982, was not held because no one expressed a desire to present testimony.

On January 4, 1983 (48 FR 245–252), OSM published a notice in the **Federal Register** which: (1) Removed and amended certain conditions; (2) approved certain other program amendments; (3) deferred Secretarial action on the following proposed Kentucky rule revisions: 405 KAR 7:020 Section 1(86), 8:050 Section 2, 16:020 Section 4 and 16:190 Section 2(2); (4) deferred Secretarial action on the following proposed Kentucky statutory revisions: KRS 350.060 Sections 5(21) and 5(22), 350.093 Section 10(2), and 350.062(9), contained in Senate Bill 218; (5) approved certain clarifications to the Kentucky program contained in the letter from the State, dated June 18, 1982; (6) deferred Secretarial action on the clarification in the June 18, 1982, letter relating to incidental boundary revisions; and (7) deferred Secretarial action on whether the material submitted by Kentucky satisfies condition (1).

Subsequent to the close of the second public comment period, OSM Field Office personnel and Kentucky regulatory officials met in executive session on November 5, 1982, and November 8, 1982 (Administrative Record KY–471). Kentucky has submitted clarifying material to OSM in letters, dated October 29, 1982, November 5, 1982, and December 17, 1982. Further, Kentucky has issued Reclamation Advisory Memorandum #53, dated November 17, 1982, and #55, dated December 1, 1982 (Administrative Record KY–475). The summaries of these two meetings, the two reclamation advisory memoranda and the new material submitted by Kentucky relate to certain of the items listed above on which the Secretary deferred action in the January 4, 1983 **Federal Register** notice, as follows:

(a) Revisions to KRS 350.050 Section 5(g) and 405 KAR 7:020 Section 1(86).

(b) Revisions to 405 KAR 16:020 Section 4.

(c) Revisions to KRS 350.093 Section 10(2).

(d) Revisions to KRS 350.062 (9).

(e) The satisfaction of condition (1), and

(f) The clarification in the June 18, 1982, letter relating to incidental boundary revisions.

Secretary's Findings

1. The Secretary finds the following material submitted by Kentucky satisfies condition (1): The program amendment procedures submitted on July 29, 1982; the further information contained in the letters dated November 5 and 8, 1982; the information obtained at meetings between OSM Field Office personnel and Kentucky regulatory officials on November 5 and 8, 1982 (Administrative Record KY–471); and the procedures set forth in Reclamation Advisory Memorandum #53, dated November 17, 1982, and Memorandum #55, dated December 1, 1982 (Administrative Record KY–475). These materials, taken together, provide:

(1) A process for prompt completeness determinations of permit applications from existing operators who expect to continue mining past the eighth month of primacy. This process is described in detail in Technical Reclamation Memorandum #53, Memorandum #55, and the material submitted on July 29, 1982.

(2) Assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until being issued an approved permit. This policy is specifically stated in Technical Memorandum #53 and in the material submitted on July 29, 1982.

(3) A policy that permits applications for new areas will not be given priority for processing over those from existing operations which are continuing to mine under the interim program when such existing mine applications are one year old or older. In the material submitted on July 29, 1982, Kentucky states that, "For those applications still in the backlog as of P+20 (1/18/84), the first priority of review will become the backlog of applications with new permanent program permits taking a second priority." Since P+20 represents 20 months from primacy, it is also the date on which applications from existing operations will be one year old as applications are due 8 months from primacy, and almost all applications were complete as of 8 months from primacy. Thus, permit applications for new areas will not be given priority for processing over those from existing operations when such existing mine applications are one year old or older.

2. The Secretary finds that the following program amendments submitted by Kentucky on May 28, 1982, and as further clarified, are not fully consistent with SMCRA and hereby imposes additional conditions of program approval related thereto:

a. Amendments to KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) to change the definition of "principal shareholder" to, "any person who is the record or beneficial owner of ten (10) percent or more interest of the applicant." As explained in the letter, dated November 5, 1982, the Kentucky definition may require reporting in an instance when individuals own more shares of voting stock in a corporation which has issued voting and non-voting stock; but the Kentucky definition applies to owners of non-voting stock because it is based on ownership and not classes of voting stock as in the Federal definition at 30 CFR 770.5 and SMCRA Section 507(b)(4). Thus, individuals owning 10 percent of non-voting stock would be identified in the application, whereas under the Federal standard such individuals need not be identified.

Because the revised Kentucky definition would allow permit applications to not identify persons owning 10 percent of the outstanding voting shares of a class of stock in all instances, it is not consistent with SMCRA Section 507(b)(4). That section of SMCRA is clear in its requirement that for corporate applicants, each person owning 10 percent or more of a class of voting stock must be identified. Thus, the Secretary finds KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) to be inconsistent with SMCRA Section 507(b)(4).

On April 12, 1983, the State was advised of the need to amend KRS 350.060 Section 5(g) and 405 KRS 7:020 Section 1(86) so that these provisions are consistent with SMCRA Section 507(b)(4).

By letter dated April 14, 1983, the State agreed to amend its statute by May 1, 1984 and its regulations by October 31, 1984. In the interim, Kentucky agreed to require reporting in a manner consistent with SMCRA Section 507(b)(4), and to require corporate operators to amend their permit applications to include the identification of appropriate individuals.

b. Amendments to KRS 350.093 Section 2 and 405 KAR 16:020 Section 4 to allow an operator to defer contemporaneous reclamation requirements if the operator can demonstrate that the deferment is necessary to address adverse conditions, combined surface and underground activities, or coal

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marketing problems. Such deferments may not exceed an aggregate of 30 months.

SMCRA Section 515(b), in part, provides:

(b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—(16) insure that all reclamation efforts proceed *in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations* . . . (Emphasis added.)

The Secretary finds that the Kentucky amendments only partially provide that reclamation efforts proceed in an "environmentally sound manner" as required by SMCRA Section 515(b)(16). First, by the terms of KRS 350.093 Section 10(2) and 405 KAR 16:020 Section 4(4), the department is required to periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation. Second, in a letter dated December 17, 1982 (Administrative Record KY–477), Kentucky states that it intends to consider any site granted a contemporaneous reclamation deferment as an active site, thus requiring monthly partial and quarterly complete inspections Further, where an inspection indicates that remedial measures should be taken which may involve partial or total withdrawal of the deferment, the need for abatement will supersede such deferment.

The Secretary also finds that these amendments are only partially consistent with the requirement that reclamation efforts proceed "as contemporaneously as practicable with surface coal mining operations." 405 KAR 16:020 Section 4 and KRS 350.093 Section 10(2) allow the deferment of coal removal and contemporaneous reclamation only if the permittee can demonstrate at least one of the following:

1. Adverse conditions including weather, labor and other conditions are present which are clearly beyond the permittee's control. If reclamation is delayed under any of these circumstances, such reclamation would still occur as contemporaneously as "practicable" with mining operations because the permittee would be unable to proceed with reclamation until such adverse conditions no longer existed.

2. Combined surface and underground mining activities subject to the provisions of 405 KAR 8:050 Section 7 and 405 KAR 20:020, and other mining operations pursuant to KRS 350.080 are involved. This deferment of contemporaneous reclamation is also provided for in SMCRA Section 515(b)(16).

3. Coal marketing problems are present. While this deferment is not listed in the category of "adverse conditions", the Secretary believes that it is the same in effect. The alternative to deferment of reclamation may very well be abandonment of the site since the permittee will likely not be able to afford reclamation activities. Under Kentucky's amendments, the site will be inspected on a regular basis so that it is maintained in an environmentally sound manner. By keeping the operator in control of the site, the State will be spared bond forfeiture action and the necessity of hiring a third party to perform the reclamation.

In the discussion of the OSM rule, 30 CFR 816.100, regarding contemporaneous reclamation in the March 13, 1979 **Federal Register** notice at 44 FR 15225, it is stated:

The Office considered an alternative approach of attempting to quantify the term "contemporaneously", for all activities and to enumerate maximum delay periods after which, if an activity has not been undertaken, this standard would be breached. This alternative approach was rejected, in favor of general language. The alternative selected should allow the regulatory authority the necessary flexibility to approve mine plans with varying reclamation timetables, based on specific site conditions.

The Secretary finds, however, that these amendments are not sufficiently clear as to the State's discretion and control in allowing such deferrals. Further, to the extent that the provisions of KRS 350.093(2) allow the State to grant deferrals from the distance criteria of contemporaneous reclamation requirements, the statute is inconsistent with SMCRA Section 515(b)(16). Therefore, the Secretary conditions his approval of these amendments on Kentucky submitting material to provide:

(1) Clarification that at all times the applicant for a reclamation deferral pursuant to KRS 350.093 Section 2 has the burden of proof in establishing the need for such a deferral;

(2) Criteria that operators must meet in order to obtain such deferrals;

(3) A requirement that the applicant must demonstrate that: (a) reclamation on the site is contemporaneous as of the date of the request for deferral; and (b) the distance requirements of 405 KAR 16:020 Section 2, regarding backfilling and grading requirements, will be met during the period of deferral;

(4) Re-evaluation of the bond on all deferrals issued to assure sufficiency thereof.

Further, Kentucky must agree that all deferrals previously issued will be re-evaluated on the basis of this condition and, in the interim, the State will meet the terms of this condition as a matter of policy.

On April 12, 1983, the State was advised of the need to amend its statute by May 1, 1984, and its regulation by October 31, 1984, to meet this condition. By letter dated April 14, 1983, the State agreed to so amend its program. In the interim, Kentucky agreed to satisfy the terms of this condition as a matter of policy.

3. The Secretary finds that program amendments to KRS 350.062(g) submitted by Kentucky on May 28, 1982, and as further clarified, are fully consistent with SMCRA and hereby approves them. These amendments state that the Kentucky Department for Natural Resources and the Environment shall not unreasonably deny or delay a permit application if certain hydrologic information contained in the application is processed or analyzed in a manner different from prescribed technical guidelines if such manner contains a sampling and testing program based on all available information on a site-specific basis. Further, certain hydrologic information requirements in the application may be waived if the information is already available to the State. In the November 5, 1982, meeting between OSM and Kentucky personnel (Administrative Record KY–471), Kentucky stated such waivers apply only to test borings and core samples and not to any other data required to be supplied under KRS 350.062(3). As clarified, the amendment is consistent with SMCRA Section 507(b)(15) and is no less effective than 30 CFR 779.14(B)(3).

4. The Secretary finds the statement regarding incidental boundary revisions in the June 18, 1982, letter from the State to be acceptable, and hereby approves it as a clarification to the Kentucky program. In that letter, Kentucky stated that its law allows boundary revisions incidental to the mining operation as a whole. Further, by letter, dated October 29, 1982, Kentucky clarifies its interpretation of an "incidental boundary revision." First, as stated in Kentucky's definition of the term, such a revision must be necessary for reasons unforeseen at the time the original application was prepared, and must be small in relation to the permit area. The cumulative acreage may not exceed: 1) 10% of the permit area or 5 acres, whichever is less, when the extension includes new areas from which coal will be removed, or 2) 10% of the permit area or 2 acres, whichever is less, when the extension is for new areas not involving coal extraction.

Second, all incidental boundary revisions entailing the extraction of additional coal are subject to the requirements for major revisions under the State's rules. 405 KAR 8:010 Section 20(2)(b) provides: "Major revisions shall be subject to all the requirements of Sections 5, 7 through 12, 13(1), 13(2), 14(1) through 14(6), 14(8), 14(10) through 14(15), 15, 16, 18, and 24." An examination of the listed requirements reveals that all major revisions are subject to all of the public participation requirements and almost all of the findings required to be made by the regulatory authority upon the issuance of a permit.

Third, all incidental boundary revisions not entailing the extraction of additional coal are subject to the requirements for minor revisions under the State's rules. 405 KAR 8:010 Section 20(3)(a) provides: "All revisions which are not determined by the department to be major revisions are minor revisions. Minor revisions shall be subject to Sections 5, 7, 12, 13(1), 13(2), 14(1) through 14(6), 14(8), 14(10) through 14(15), 15, 16(1), 16(3), 16(4)(a), 16(5), 18 and Section 24." An examination of the listed requirements reveals that all minor revisions are subject to almost all of the public participation requirements and almost all of the findings required to be made by the regulatory authority upon the issuance of a permit. The only requirements missing from those for major revisions are contained in 405 KAR 8:010 Sections 16(2), (4)(b) and (6), and are: (1) The department need not provide copies of written findings of any permit conferences; (2) the department need not publish a summary of its decision in the newspaper; and (3) the department need not notify the city or county of the land to be affected.

For these reasons, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent: (1) With the State's authority to establish guidelines for a determination of the scale or extent of a revision request under SMCRA Section 511(a)(2), and (2) with SMCRA Section 511(a)(3).

Kentucky has incorporated this definition of "incidental boundary revision" in its regulations at 405 KAR 7:020 Section 1(57). On January 27, 1983, OSM published a notice in the **Federal Register** (48 FR 3779–3780), requesting public comment on this proposed amendment to the Kentucky program. The decision on the regulation will be made at a later date.

Public Comments

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) expressed its concern that the State's use of "incidental boundary revisions" will allow additional lands to be bootstrapped onto permit areas in a deliberate and impermissible fashion. Further, ARDFK states that OSM cannot, under SMCRA Section 511, approve incidental boundary revisions where the objective is the extension of the permit area.

The Secretary believes that Kentucky's definition of "incidental boundary revisions" is limited enough by its own terms to allay any fears that there will be proportionately large areas bootstrapped onto permit areas. For the reasons set forth above in Finding 4, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent with SMCRA Section 511.

2. ARDFK comments that the material submitted by Kentucky fails to satisfy condition (1) as it: (1) Allows for a backlog of permit applications for transition operations from the interim program by January 18, 1984, 20 months after primacy, and (2) provides that new applications may take priority in processing over applications from transition operations before the backlog of applications from transition operations has been reduced or controlled through the first 20 months of primacy.

First, the Secretary never established an absolute cutoff date of 20 months for processing the applications from transition operations. The 20 month period was set as a goal to be attained. The Secretary imposed condition (1), "to ensure that the goals for receipt and review of complete applications are not pushed forward indefinitely because of work on new applications . . . ." (47 FR 21417, Finding 17.19). It was always contemplated that Kentucky's plan for transition to primacy would have to be based on the realities of processing such a large number of applications from transition operations. The Secretary continues to believe that it is most important that Kentucky adequately review applications and issue permits only after thorough consideration, rather than rush applications through to meet an absolute deadline.

Second, Kentucky's plan for transition to primacy and the Secretary's imposition of a condition do not prohibit the State from giving priority to the processing of new permit applications. In the November 5, 1982, meeting between OSM and Kentucky personnel (Administrative Record KY–471), the State indicated that it does not anticipate a backlog of new permits that could not be considered along with priority interim permits.

On these bases and for the reasons set forth above in Finding 1, the Secretary finds that Kentucky has submitted material to satisfy condition (1).

3. ARDFK objects to Kentucky's definition of "principal shareholder" at KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86), claiming that these amendments are less inclusive because they do not include those individuals who own less than 10 percent of the aggregate interest of the applicant entity, but who in fact have a substantial interest in terms of control and decisional authority. Further, ARDFK states that these amendments are not in accordance with SMCRA Section 507(b)(4).

For the reasons set forth above in Finding 2(a), the Secretary agrees with the commenter, and finds KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) not to be consistent with SMCRA Section 507(b)(4).

4. ARDFK asserts that the amendments to KRS 350.093 Section 2 and 405 KAR 16:020 Section 4, regarding contemporaneous reclamation, are in direct violation of SMCRA. According to the commenter, SMCRA is clear that reclamation, including backfilling, grading, replacement of topsoil, and revegetation occur as soon in time as possible following coal removal. SMCRA provides only one variance from this requirement where the applicant proposes to combine surface mining and underground operations, and submits specific, feasible plans for the underground operations. ARDFK states that the amendment is overboard in allowing up to 30 months delay in reclamation for coal marketing problems. ARDFK maintains that Kentucky has attempted to remedy the illegality of these provisions by allowing a simultaneous deferral of coal removal so that the State can argue that reclamation is occurring in a contemporaneous manner when coal removal resumes. According to ARDFK, this attempt does not save the provisions because the legislative history of SMCRA clearly reflects a concern with allowing unreclaimed surface disturbances to remain for any time beyond that physically necessary for removal of the exposed seam.

The commenter states further that the deferral of reclamation or coal removal is in violation of the mining and reclamation plan requirements of SMCRA, and has none of the safeguards of 30 CFR 785.18 or Part 818 for soil and

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topsoil protection, protection against off-site impacts, and none of the aspects of planning that accompany concurrent surface and underground operations. ARDFK asserts that such deferral lacks the aspects of planning and limited scope and duration of the permissible variance. The lack of planning by operators seeking such deferrals should not be rewarded with further exemptions from planning to avoid evironmental impacts.

ARDFK adds that these deferrals constitute a wide-open waiver with no environmental safeguards. Further, the power to grant these deferrals is in the State field offices so there is no mechanism for accountability. At a minimum, there should be review and concurrence by the OSM field office.

The Secretary believes that some of the commenter's concerns are provided for by the fact that reclamation must be contemporaneous as of the time of the approval of the deferral, and that these sites will continue to be inspected on a monthly basis. In regard to planning, the operator seeking a deferral must plan in order to meet the conditions required for granting a deferral. Finally, as set forth above in Finding 2(b), the Secretary finds KRS 350.093 Section 2 and 405 KAR 16:020 Section 4 to be unacceptable in their present form, and has conditioned his approval of these amendments upon further clarifications as described in that finding.

5. ARDFK further objects to the amendments regarding the deferral of contemporaneous reclamation as follows:

a. There is no delineation between waivers for market conditions and those for unmarketability of the coal itself (high sulfur, high ash, etc.).

The Secretary does not believe that such a delineation could ever be made, or that it should. Given the vagaries of the market, one cannot totally define why particular types, grades or qualities of coal cannot be sold at any one time, other than the fact that no one is willing to buy it at what is an economic price to the producer. Therefore, all such problems are ones of coal marketing. The Secretary believes that if the conditions he has imposed on these amendments are satisfied, Kentucky's program will be consistent with SMCRA and no less effective than the Federal regulations.

b. There is no regulatory authority for withdrawal of the deferral on other grounds, once issued.

The Secretary disagrees with this comment. KRS 350.050(1) and (5) enumerate the enforcement and inspection authority of the department. KRS 350.130 describes the consequences to an operator of noncompliance with an order of the department. The Kentucky regulations of 405 KAR 12:020 spell out the State's enforcement powers. The Secretary believes that these enforcement powers constitute sufficient authority for the withdrawal of any deferral, and would only approve these amendments on that basis.

6. ARDFK charges that 30 CFR 732.17(h)(6) requires that OSM make a decision on all program amendments within 30 days of the close of the public comment period, and that OSM has exceeded the 30-day periods for these amendments which closed on August 23 and October 8, 1982. Instead, OSM did not approve some amendments until January 4, 1983, and deferred the rest until they could be "cured" by Federal rule change.

The Secretary admits that OSM did not meet the 30-day requirement in 30 CFR 732.17(h)(6). Kentucky submitted an amendment package which was extremely large and complex, and contained both amendments to meet conditions and unsolicited amendments. The number and complexity of the issues raised by these amendments required additional time, and for certain amendments, eventually necessitated the submission of further, clarifying material from the State.

Two amendments, regarding the definition of preparation plants and augering on premined lands, raise issues OSM has been working on for years. OSM is presently in rulemaking in these areas, and the Secretary feels that it would be unwise for him to reach a decision regarding Kentucky's amendments prior to his final decision on the Federal rules. The final Environmental Statement (January 1983), discussing the alternatives under consideration in these rule revisions, reveals the complexity and the number of choices in these areas.

7. ARDFK makes a number of demands to enforce a recent OSM memorandum as follows:

a. Request an inventory by Kentucky of all "coal marketing deferrals."

The Secretary believes that the conditions he has imposed on these amendments in Finding 2(b), above, adequately meet the commenters' request. Further, OSM is continuing to review these deferrals as part of its oversight responsibility.

b. Take appropriate enforcement action against deferrals.

OSM intends to take appropriate enforcement action where it detects violations.

c. Require Federal permits for all off-site crushing and sizing facilities.

As explained in response to comment number 6, above, OSM,'s jurisdicton regarding preparation plants is presently under rulemaking. The Secretary also believes that Kentucky's amendment is not clearly inconsistent with existing Federal law or regulations. Therefore, the Secretary finds that it would be inappropriate to require Federal permits for all off-site crushing and sizing facilities in Kentucky at this time.

d. Require Kentucky to ask operators to amend their permit applications to include owners of 10% of any class of stock.

The Secretary agrees with this comment, and has required Kentucky operators to so amend their permit applications (See Finding 2(a), above).

e. Take appropriate steps to cure other deficiencies in the Kentucky program.

When such deficiencies are detected, OSM will take appropriate steps to cure them.

8. ARDFK charges that OSM offered statutory language to the Kentucky legislature regarding these amendments, and acquiesced in the enactment of statutes on the definition of a preparation plant and the granting of contemporaneous reclamation deferrals.

OSM did testify before the Kentucky legislature regarding these amendments, but warned the State Legislature that any decision by OSM, on amendments submitted by the State would be subject both to analysis by OSM and to public comments. Thus, OSM never approved any amendments prior to their submission.

9. The Kentucky Coal Association commented supporting the State's interpretation of its law as allowing incidental boundary revisions to the mining operation as a whole, but felt that such revisions should be limited to 10 percent of the permit area acreage with no 5-acre maximum.

For the reasons set forth in Finding 3, above, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent with SMCRA Section 511. Since Kentucky has not submitted an amendment limiting such revisions as the Coal Association urges, it is unnecessary to comment on such a proposal.

Approval of Amendment To Satisfy Condition and Additional Program Amendments

Accordingly, condition (1) is hereby removed.

Revisions to the following Kentucky statutory provision is hereby approved pursuant to 30 CFR 732.17: KRS 350.062(9), contained in Senate Bill No. 218. The statements in the June 18 and October 29, 1982, letters, regarding incidental boundary revisions are approved as a clarification to the Kentucky program.

30 CFR 917.11 is amended to indicate approval of the program amendment and clarifications, and to impose two new program conditions, regarding contemporaneous reclamation deferrals and the definition of "principal shareholder." 30 CFR 917.10 incorporates approval of the corresponding amendment and clarifications. The removal of this condition and the approval of the additional amendment and clarifications to the Kentucky program are effective May 13, 1983.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental document need be prepared on this rulemaking as State program decisions are exempt from compliance with the National Environment Policy Act, 42 U.S.C. 4321 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: May 9, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

Part 917 of title 30 is amended as follows:

§ 917.11 [Amended]

1 Section 917.11 is amended by removing and reserving paragraph (l).

2. Section 917.11 is amended by adding paragraphs (m) and (n) as follows:

* * * * *

(m) Termination of the approval found in 30 CFR 917.10 will be initiated unless Kentucky submits to the Secretary: By May 1, 1984, copies of enacted laws amending KRS 350.093(2) consistent with SMCRA Section 515(b)(16); and by October 31, 1984, copies of promulgated regulations amending 405 KAR 16:020 Section 4 to be no less effective than 30 CFR 816.101. Specifically, changes to the law and regulations must provide:

(1) Clarification that at all times the applicant for a reclamation deferral pursuant to KRS 350.093 Section 2 has the burden of proof in establishing the need for such a deferral;

(2) Criteria that operators must meet in order to obtain such deferrals;

(3) A requirement that the applicant must demonstrate that: (i) reclamation on the site is contemporaneous as of the date of the request for deferral; and (ii) the distance requirements of 405 KAR 16:020 Section 2, regarding backfilling and grading requirements, will be met during the period of deferral; and

(4) Re-evaluation of the bond on all deferrals issued to assure sufficiency thereof.

Further, all deferrals previously issued will be re-evaluated on the basis of this condition; and in the interim, the State will meet the terms of this condition as a matter of policy.

(n)(1) Termination of the approval found in 917.10 will be initiated unless Kentucky submits to the Secretary: (i) by May 1, 1984, copies of enacted laws amending KRS 350.060 Section 5(g) to be consistent with SMCRA Section 507(b)(4); and (ii) by October 31, 1984, copies of promulgated regulations amending 405 KAR 7:020 Section 1(86) to be no less effective than 30 CFR 770.5.

(2) In the interim, the State has agreed to require: (i) reporting in a manner consistent with SMCRA Section 507(b)(4), and (ii) corporate operators to amend their permit applications to include the identification of appropriate individuals.

§ 917.15 [Amended]

3. Section 917.15 is amended to add the following paragraph (c):

* * * * *

(c) The following amendments are approved effective on May 13, 1983. Revisions submitted on May 28, 1982, to KRS 350.062(9) and KRS 350.093 Section 2, contained in Senate Bill No. 218; Revisions submitted on May 28, 1982, to 405 KAR 16:020 Section 4.

[FR Doc. 83-12980 Filed 5-12-83; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2328-8; Docket No. ME 586]

Approval and Promulgation of Implementation Plans; Maine; Revision to the Ozone Attainment Plan, Pioneer Plastics

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Maine Department of Environmental Protection (DEP). This revision will reduce volatile organic compound (VOC) emissions from Pioneer Plastics, Auburn, Maine. The intended effect of this action is to reduce VOC emissions in an area where air quality is worse than National Ambient Air Quality Standards for ozone. We are approving this action under Section 110 of the Clean Air Act.

EFFECTIVE DATE: July 31, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at the U.S. Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408 and the Maine Department of Environmental Protection, State House, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, (617) 223-5130.

SUPPLEMENTARY INFORMATION: EPA is approving a revision that requires Pioneer Plastics, a paper coating operation located in Auburn, Maine, to install a volatile organic compound (VOC) incinerator that will reduce VOC emissions by at least 85%. EPA considers this reduction to be reasonably available control technology because it is consistent with the Control Technology Guidelines (CTG's) published by EPA in May, 1977. Except for the issues discussed below, this revision and EPA's rationale for approving it are discussed in detail in

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the Notice of Proposed Rulemaking published on October 18, 1982 (47 FR 46335) and will not be restated here.

In the NPR we stated that we would approve the air emissions license issued to Pioneer Plastics as a SIP revision. However, in this final action we are approving only the license conditions that limit VOC emissions. All other conditions of the license are not pertinent to the ozone attainment plan. EPA and DEP have determined that the effective date of this action, July 31, 1983, is as expeditious as practicable.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1983. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a) and Section 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note—Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 4, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

Part 52 of Chapter, I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.1020 is amended by adding paragraph (c)(18) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(18) On May 12, 1982 and February 11, 1983 the Maine Department of Environmental Protection submitted an emission limit contained in an air emissions license which requires Pioneer Plastics, Auburn, Maine to reduce its volatile organic compound emissions by at least 85%.

[FR Doc. 83-12817 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 59, Supp. 1]

Subcontracting Report Forms, Standard Forms 294 and 295

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of Federal Procurement Regulations Temporary Regulation 59 (46 FR 33270, June 29, 1981). This extension reflects the continued applicability of Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report, to provide a basis for evaluating the effectiveness of subcontracting programs. The effect will be to continue the requirement to use these forms until further refinements are made and published in a permanent amendment to the FPR.

DATES:

Effective date: April 1, 1983.

Expiration date: This regulations will continue in effect until April 1, 1985, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (202–523–4768).

CHAPTER 1—[AMENDED]

In 41 CFR Chapter 1, FPR Temporary Regulation 59, Supplement 1 is added to the appendix at the end of the chapter.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Federal Procurement Regulations, Temporary Regulation 59, Supplement 1

To: Heads of Federal agencies

Subject: Subcontracting report forms, Standard Forms 294 and 295

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 59.

2. *Effective date.* This regulation is effective April 1, 1983.

3. *Expiration date.* FPR Temporary Regulation 59 and this supplement will expire on April 1, 1985, unless canceled earlier.

4. *Explanation of changes.* Paragraph 3 of FPR Temporary Regulation 59 is revised to delete the expiration date of April 1, 1983, and to prescribe the revised expiration date which appears in paragraph 3, above.

Dated: May 5, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-12876 Filed 5-12-83; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6519]

Suspension of Community Eligibility Under the National Flood Insurance Program; Arkansas et al.

AGENCY: Federal Emergency Management Agency, FEMA

ACTION: Final Rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6 month, 90 days, and 30 days notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Arkansas: Pulaski	Unincorporated areas	050179	Mar. 6, 1979, emergency, July 16, regular, 1981, May 16, 1983, suspended.	July 16, 1981	May 16, 1983.
Colorado: Gunnison	Gunnison, city of	080080	June 18, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Dec. 26, 1975	Do.
Illinois: Jackson	Grand Tower, city of	170300	Apr. 30, 1974, emergency, May 16, 1983, regular, May 16, 1983, suspended.	June 8, 1979	Do.
Franklin	West Frankfort, city of	170239	May 13, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 13, 1978	Do.
Kansas: Barton	Great Bend, city of	200019	Feb. 24, 1977, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Mar. 19, 1976	Do.
Maryland: Worcester	Ocean City, town of	245207	June 18, 1971, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Feb. 6, 1976	Do.
Massachusetts: Worcester	Fitchburg, city of	250304	July 9, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 3, 1975	Do.
Kalamazoo	Portage, city of	260577	May 20, 1976, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Sept. 19, 1975	Do.
Missouri: Jefferson	Unincorporated areas	290606	June 10, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	July 29,1980	Do.
New Jersey: Ocean	Island Heights, borough of	340374	Sept. 6, 1974, emergency, June 15, 1979, regular, May 16, 1983, suspended.	July 19, 1974, Dec. 12, 1975 and June 15, 1979.	Do.
Bergen	Norwood, borough of	340057	May 30, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	July 23, 1976	Do.
New York: Steuben	Avoca, village of	360765	July 5, 1974, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Mar. 5, 1976	Do.
Nassau	Baxter Estates, village of	360459	July 15, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 24, 1975	Do.
Steuben	Cohocton, town of	360771	May 6, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	May 28, 1976	Do.
Do	Cohocton, village of	360556	Jan. 15, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Jan. 2, 1976	Do.
Wayne	Galen, town of	361225	Aug. 2, 1976, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Nov. 19, 1976	Do.
Nassau	Lawrence, village of	360476	June 27, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Aug. 6, 1976	Do.
Oneida	New York Mills, village of	360537	May 23, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	June 7, 1974	Do.
Greene	Prattsville, town of	360296	Nov. 14, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Apr. 11, 1975	Do.
Nassau	North Hempstead, town of	360482	Dec. 17, 1971, emergency, Apr. 1, 1980, regular, May 16, 1983, suspended.	Apr. 15, 1977	Do.
Westchester	Rye, city of	360931	Apr. 23, 1974, emergency, Apr. 1, 1980, regular, May 16, 1983, suspended.	Apr. 1, 1980	Do.
Tennessee: Knox	Knoxville, city of	475434	Aug. 14, 1970, emergency, May 1, 1970, regular, May 16, 1983, suspended.	Feb. 11, 1977	Do.
Do	Unincorporated areas	475433	Aug. 14, 1970, emergency, July 23, 1971, regular, May 16, 1983, suspended.	Mar. 18, 1977	Do.
New Hampshire: Sullivan	Newport, town of	330161	May 12, 1975, emergency, Apr. 18, 1983, regular, May 16, 1983, suspended.	June 18, 1980	Do.

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State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Michigan: Calhoun	Battle Creek, city of	260051	July 2, 1977, emergency, Apr. 4, 1983, regular, May 16, 1983, suspended.	Nov. 7, 1985	Do.
Minnesota: Marshall	Stephen, city of	270273	Apr. 26, 1974, emergency, Sept. 16, 1982, regular, May 15, 1983, suspended.	June 4, 1976 and May 17, 1974	May 15, 1983.
Illinois: Tazewell	Marquette Heights, city of	170650	Dec. 2, 1982, emergency, May 16, 1983, suspended.	Sept. 28, 1979	May 16, 1983.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 6, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12800 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6517]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; California et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
California: Fresno County	Colvis, city of	060044	790212, emergency; 830316, regular.	770823
Colorado: Delta County	Paonia, town of	080045	750610, emergency; 830316, regular.	740524
Iowa: Cedar County	West Branch, city of	190058	751215, emergency; 830316, regular.	740301
Kansas: McPherson County	McPherson, city of	200217	750320, emergency; 830316, regular.	740315
New Jersey: Mercer County	East Windsor, township of	340244	731219 emergency; 830316, regular.	740215
New York: Steuben County	Bath, village of	360767	730413, emergency; 830316, regular.	770915
Suffolk County	Belle Terre, village of	361532	760323, emergency; 830316, regular.	741227
Herkimer County	Dolgeville, village of	360301	750327, emergency; 830316, regular.	740215
Wayne County	Lyons, village of	360891	751006, emergency; 830316, regular.	740503
Niagara County	Niagara Falls, city of	360506	730509, emergency; 830316, regular.	740329
Erie County	Orchard Park, town of	360255	750801, emergency; 830316, regular.	740609

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Westchester County	Ossining, town of	361241	751120, emergency; 830316, regular.	770225
Ulster County	Rochester, town of	360861	750401, emergency; 830316, regular.	740821
Montgomery County	St. Johnsville, town of	360456	770309, emergency; 830316, regular.	740816
Wayne County	Walworth, town of	361228	800117, emergency; 830316, regular.	741213
Tioga county	Waverly, village of	361343	740627, emergency; 830316, regular.	741101
Ohio: Lucas County	Lucas County [2]	390354	770304, emergency; 830316, regular.	770520
Pennsylvania: York County	Warrington, township of	422232	790531, emergency; 830316, regular.	741227
Tennessee: Rutherford County.	Smyrna, town of	470169	741107, emergency; 830316, regular.	740531
Texas: Dallas County	Dallas, city of	480171	700630, emergency; 830316, regular.	750110
Virginia: Chesterfield County	Chesterfield County [2]	510035	730126, emergency; 830316, regular.	750110
New Jersey: Sussex County	Lafayette, township of	340532	751124, emergency; 830316, regular.	741220
Warren County	Liberty, township of	340489	760121, emergency; 830316, regular.	740809
Burlington County	Mansfield, township of	340102	750724, emergency; 830316, regular.	740726
Bergen County	Moonachie, borough of	340053	750430, emergency; 830316, regular.	740628
Sussex County	Walpack, township of	340456	770816, emergency; 830316, regular.	770722
New York: Cattaraugus County	Carrollton, town of	360063	770218, emergency; 830316, regular.	740920
Chautauqua County	Forestville, village of	361501	770218, emergency; 830316, regular.	770701
Broome County	Maine, town of	360051	750616, emergency; 830316, regular.	740517
Pennsylvania: Carbon County	Lausanne, township of	421454	800109, emergency; 830316, regular.	750103
Berks County	North Heidelberg, township of	421086	761223, emergency; 830316, regular.	740913
New Jersey: Hudson County	Secaucus, town of	340226	720204, emergency; 830325, regular.	731005
Cumberland County	Upper Deerfield, township of	340175	750325, emergency; 830325, regular.	740802
California: San Mateo County.	Brisbane, city of	060314	720407, emergency; 830329, regular.	740524
Vermont: Franklin County	Swanton, village of	500060	750910, emergency; 830383, regular.	830316

Total is:

[1] Key for reading 4th column (effective date): First two digits designate the year; Middle two digits designate the month; Last two digits designate the day.

[2] Disaster Community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 2, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12801 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[FR Docket No. 80–144; SS Docket No. 78–145; FCC 83–199]

Amendment of the Commission's Rules To Delete Those Provisions That Limit the Entry of New Stations Into the VHF Public Coast Station Market, and To Require Applicants for Public Coast Stations To Meet Certain Financial Qualifications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends Part 81 to delete exclusivity provisions, require applicants for public coast stations to construct and operate within 8 months and declines to impose a requirement that applicants meet certain financial qualifications. These actions were staff initiated and were intended to improve public coast station service.

EFFECTIVE DATE: June 13, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

List of Subjects in 47 CFR Part 81

Coast stations.

Report and Order

Proceedings Terminated

In the matter of amendment of the Commission rules to delete those provisions that limit the entry of new stations into the VHF public coast station market; and amendment of Part 81 of the Commission's rules to require applicants for public coast stations to meet certain financial qualifications; PR Docket No. 80–144, SS Docket No. 78–145.

Adopted: April 27, 1983.

Released: May 6, 1983.

By the Commission: Commissioner Jones absent.

1. On April 24, 1980, the Commission released a Notice of Proposed Rule Making in PR Docket No. 80–144 (45 FR

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28781) proposing to delete from its rules Section 81.303(b). This rule section provides territorial market protection to the licensees of existing stations. Prior to issuing the Notice of Proposed Rule Making in PR Docket No. 80–144, the Commission had released, on May 9, 1978, a Notice of Proposed Rule Making in SS Docket No. 78–145 (43 FR 20026) to amend its rules to require an applicant for a new public coast station to demonstrate its financial ability to construct the station and to operate the station for one year. Because this rule would operate to restrict entry into the VHF public coast station market, the Commission felt that it should be reconsidered in the context of the proposal to delete § 81.303(b). Thus it reopened the comment periods in SS Docket No. 78–145 to run concurrently with the comment period in PR Docket No. 80.144. The Commission has received comments and reply comments on both proposals and the comment periods are now closed.

Background

2. Public coast radiotelephone stations are land stations in the maritime mobile service that are open to public correspondence. In general these stations are interconnected to the public wireline telephone system. By utilizing the services of these stations, ships may make and receive telephone calls to and from any telephone which has access to the nationwide telephone network, including calls overseas and to other ships. Public coast stations are classified under the Commission's rules as "high seas", "regional" or "local service (VHF)" depending upon the frequency bands from which their channel assignments are drawn. The important difference among these classes of stations is the distance over which each can communicate.

3. Local service (VHF) public coast stations, which are the subject of PR Docket No. 80–144, provide service which is local in coverage. These stations operate in the VHF–FM band of 156–162 MHz and are capable of good transmission quality over distances up to 30–80 kilometers (20–50 miles). Generally, propagation in the marine VHF band follows a nearly line-of-sight path between the antennas of the two stations desiring to communicate with each other. Thus, VHF coverage is limited by the height of the antennas of the two stations communicating.

4. Under present Commission rules, there are nine VHF public correspondence channels which are assigned on a priority basis to public coast station applicants. Initially, only one public correspondence channel is assigned to a station. The channels are assigned on a priority basis as set forth in § 81.304(b)(22). Channels 26 and 28 are assigned interchangeably as the first priority number and are considered the primary public correspondence channels. The Commission will attempt to assign one of these two channels to a public coast station before it assigns one of the remaining seven channels. If channel occupancy reaches a certain level, the Commission will allow an additional channel.

5. Because of the limited range of VHF and the number of VHF channels available, local service (VHF) public coast stations offer greater possibilities for superior marine radiotelephone communications along the seacoasts and inland waterways than the other two classes with longer range propagation.[1] Stations can be spaced along the coast and waterways at intervals necessary to eliminate interference between stations operating on the same channel. The short range characteristic of the stations allows the same channel to be used at many different localities, thus, making more stations possible. Moreover, the fact that there are nine different VHF public correspondence channels permits a maximum of nine different stations to be located relatively close to each other.

6. Because marine VHF–FM radio communication developed later than marine communication in the medium and high frequencies, the local service (VHF) public coast stations were the last of the three classes of stations to be established. Even after marine VHF–FM radio communication became feasible, new applicants were reluctant to establish VHF public coast stations until traffic potential became sufficient to sustain the expense of operating such facilities. On the other hand, vessel owners were reluctant to invest in VHF radio installations which would not, in the absence of sufficient VHF public coast stations, afford them the communication service they required. To remedy this situation, the Commission amended its rules to encourage the use of marine VHF and to relieve the congestion that was becoming prevalent on the medium and high frequencies. First, the rules were amended to require ship stations having the capacity to communicate with regional service coast stations to also have the capacity to communicate with local service VHF coast stations. Further, the Commission prohibited communications to regional stations by vessels within range of local service stations. Second, in Docket No. 19360, the rules were amended to limit overlap of the coverage areas between local service (VHF) stations to not more than 20%, with certain exceptions.[2]

7. This latter amendment, which is set forth in Section 81.303(b) of the Commission's rules, was explicitly intended to offer protection to existing stations from the encroachment on their service areas by applicants for new stations. It bars the application for a public coast station which would duplicate more than 20% of the service area of an existing station, with two exceptions. The first exception, § 81.303(b)(1), requires a showing by the applicant that the proposed station would be at least 30 miles from the existing station and would primarily serve another boating locality. A boating locality is a port, marina or harbor with docking facilities for not less than 10 commercial or 50 noncommercial radio equipped vessels. The second exception, § 81.303(b)(2), requires a detailed showing that the channel occupancy rate of the existing station exceeds 50% during its busiest hours of operation.

8. When discussing this amendment in Docket No. 19360, the Commission stated that "we believe these new stations should be given a reasonable opportunity to commence and continue operations and, along with earlier stations, become economically viable. As our VHF program develops and the nature and extent of the need for additional types of service becomes more clear we can reconsider the matter".[3] Since Docket 19360 was adopted and released, local service (VHF) public coast stations have become well established along the seacoasts and inland waterways of the contiguous 48 states. They provide the public correspondence service that most small noncommercial and recreational vessels now use. Commercial vessels and their related interests also use these stations extensively.

[1] High seas public coast stations provide a telecommunication service which is world-wide in coverage. This service is primarily used by ocean-going vessels for both commercial and personal traffic. Regional public coast stations provide coastal harbor service. The coverage varies widely with the time of day and other factors which affect propagation such as season, atmospheric conditions, sun spots, etc. Distances in excess of 1000 miles are possible at certain times, but may be limited to less than 100 miles at other times.

[2] Report and Order, Docket No. 19360, 35 FCC 2d 842 (1972).

[3] Id. at 848.

Deletion of § 81.303(b)

PR Docket No. 80–144

9. In the Notice of Proposed Rule Making in PR Docket No. 80–144, the Commission proposed to delete from the rules § 81.303(b) and its two exceptions. The Commission felt that this would provide multiple coverage, especially in high density areas, thus permitting a choice of service to users which would operate to reduce costs and generally improve service. Under this proposal, applicants desiring to establish public coast stations and to compete in a specific service area would be licensed until the nine channels are exhausted without regard to duplication of service. Channels would be assigned on a first-come first-served basis, and no showing of channel occupancy would be required of an applicant intending to establish a new station in the service area of an existing station.

10. The proposed rule changes substantially differ from the existing scheme. The proposed changes favor new entry. The existing rules disfavor new entry. This is so because an applicant for a first frequency in a market where there is an existing station presently needs to show a 50 percent frequency occupancy at the existing station under § 81.303(b)(2). An existing station, however, to be eligible for an additional frequency, must make a 40 percent occupancy showing under § 81.304(b)(22)(ii). Thus, an existing station is always eligible for an additional frequency before a new applicant is eligible for its first frequency assignment.

11. Under the proposed rule changes, which we are adopting, new entry is favored because a new station applicant need make only a general public interest showing while an existing station must make the 40 percent occupancy showing before it can obtain an additional frequency. Many existing coast station operators understandably strongly opposed this arrangement. Moreover, many comments by existing coast station licensees suggested that they be given preferences in applying for remaining frequencies on the theory that they be given an incentive to improve their services. We feel that the marketplace, particularly a competitive one, should provide adequate incentive to do so.

12. We believe that competition and free entry are in the public interest where the circumstances warrant it. The VHF public coast station market is such a case. The capital cost of entering this market is relatively low, allowing ease of entry if there are no regulatory barriers. Many existing coast station licensees, suggested that the Commission should not adopt competition and free entry "in the abstract" but should consider the peculiar aspects of the coast station market structure, the peculiarities of interconnect arrangements and the potential for "cream skimming" due to such factors as seasonal traffic peaks. We are reluctant to reflect such considerations in our rules. These variables may not be universally found in all markets. In most cases, we expect that the availability of more than one service offeror to a ship in a given area will result in either lower costs or improved services. This should be particularly the case in the maritime service where the special needs and characteristics of the maritime communicator are more likely to be responded to in a competitive environment. However, these applications will continue to be subject to and processed in accordance with Section 309 of the Act.

Thus any existing station will continue to be able to petition to deny a specific application based on facts peculiar to a given situation which would raise a substantial and material question of fact whether the public interest would be served by the grant of the application. See Section 1.962 of our rules.

13. To alleviate the concerns of existing coast stations about speculative or undercapitalized entry we are adopting a rule which will require all recipients of these frequencies to place them in operation within eight months of grant. This was suggested to us in the comments as a deterrent to speculative or undercapitalized new entry. This approach has been successfully used in the land mobile and maritime services with respect to initial frequency assignment.

14. One of the commenters expressed the concern that easing entry might invite "captive use" of these frequencies, that is limited coast station eligible might apply for these duplex, dedicated frequencies with no real intention of being open for public correspondence.[4] We do not believe this is a serious concern. This abuse is theoretically possible under the existing rule yet we have no evidence that it has occurred. Moreover, the rules clearly require stations of this class to be open to the public. Failure to provide a public correspondence service would be grounds for forfeiture of the license.

[4] A limited coast station is a private station on land which communicates only with the licensee's vessels for business or operational purposes. It is not open to public correspondence.

15. One of the commenters suggested that in easing entry, the Commission should also ease exit where automated interconnected systems, such as the one authorized on the Mississippi River, will compete with the current manually operated system. We are not adopting this suggestion at this time because we feel it is premature.[5] It appears there will remain some demand for manual service. Whether the demand will be sufficient to support all existing manual stations is unclear because we have no experience where automated and manual operations have been in direct competition for a large number of vessels. As we acquire experience in this area, we will be willing to revisit this concern.

16. One commenter, station WAH, suggested that it be given special protection from competitive entry because it uniquely receives competition from foreign coast station operations. We are not adopting this suggestion because we do not believe that foreign competition is materially different from domestic competition in the context of this rule making.

Financial Qualifications

SS Docket No. 78–145

17. In SS Docket No. 78–145, the Commission proposed to amend its rules to require an applicant for a new public coast station to demonstrate financial ability to construct the station and to operate the station for one year.

This standard had been applied to past applicants for public coast stations and, in effect, had become Commission policy.[6] This rulemaking would have incorporated this policy into the rules. Of the eight commenters responding to our original proposal to incorporate the financial standard for public coast station applicants into the rules, four supported it without any changes while the other four recommended certain

[5] Pursuant to Section 214 of the Communications Act, 47 U.S.C. 214, coast station licensees may discontinue service by obtaining from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.

[6] See *In the Matter of West Indies Communications, et al.*, Docket No. 19367, 33 FCC 2d 851, 853 (1979); the Review Board stated that the test to determine the financial qualifications of a public coast station applicant should be: "(1) that it has available sufficient funds for construction, and (2) that the operation can be financed for a period of one year after construction." The one year test was taken from the standard the Commission established for commercial broadcast applicants. The standard for commercial broadcast applicants has subsequently been shortened to three months and is merely certified to by the applicant, see *In the Matter of Revision of Application for Construction Permit for Commercial Broadcast Stations*, released October 19, 1981, FCC 81–278, at page 2.

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modifications to ease the standards. In response to our reopening of Docket 78–145 for additional comment, four commenters addressed the issue and all favored some form of financial qualification.

18. We feel that adoption of the proposed financial showing might constitute a potential barrier to entry into this service particularly with respect to VHF local service stations, many of which are licensed to relatively small scale entrepreneurs. They would certainly impose additional paperwork burdens on applicants. We feel that the eight month requirement to construct and begin operation should be a deterrent to "frequency hoarding" or undercapitalized speculative entry. Further, ordinary business prudence will operate to discourage frivolous ventures. For these reasons, we are not adopting the rule amendments proposed in Docket 78–145.[1]

19. For the reasons set forth above, it is ordered, That the rule amendments proposed in Docket 78–145 are not adopted and the proceeding is terminated.

20. It is further ordered, That the proposed amendments to § 81.303 of the rules in Docket 80–144, as modified above, are adopted effective June 13, 1983, in accordance with the attached appendix and the proceeding is terminated.

21. For further information on this proceeding, contact Robert DeYoung at (202) 632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 81.61 is revised to read as follows:

§ 81.61 Time in which station is placed in operation.

In those cases in which a new license is issued, or in which additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within 8 months from the date of the grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

§ 81.303 [Amended]

2. In § 81.303, paragraphs (b), (d) and (e) are removed and designated [Reserved].

[FR Doc. 83–12864 Filed 5–12–83; 8:45 am]

BILLING CODE 6712–01–M

[1] The Commission has also eliminated the financial qualifications requirement in the Public Mobile Radio Services, see Report and Order, CC Docket No. 80–55, adopted September 10, 1980, 82 FCC 2d 152.

Proposed Rules

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Miscellaneous Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes several editorial changes and clarifications to the August 20, 1982, final Child Care Food Program (CCFP) regulations. In addition, some substantive changes to those regulations are being proposed. The number of reviews of child care facilities which State agencies are required to conduct is reduced. The appeal process is clarified. The application of alternate approval procedures in backlog situations is rescinded. Limitations are placed on the State agency's authority to waive certain overclaims. Restrictions on sponsoring organizations' use of interest bearing accounts are removed. State agencies' administrative flexibility is increased in several areas. Family-style meal service is presented as an option for institutions. Certain institution responsibilites with respect to licensing and tax-exempt status are emphasized.

Interested parties are invited to comment on this proposal.

DATES: Comments must be received on or before July 12, 1983 to be assured of consideration in the final rule.

ADDRESS: Written comments should be sent to Beverly Walstrom, Chief, Policy and Program Development Branch, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom or Mary Lou Wheeler at the above address or by telephone at (703) 756–3888. Copies of all written comments will be made available for review during business hours at Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Classification

This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping requirements that are included in this proposed rule will be submitted for approval to the Office of Management and Budget OMB). They are not effective until OMB approval has been obtained.

Background

The Child Care Food Program (CCFP) is authorized by Section 17 of the National School Lunch Act. The Department is now proposing to clarify and amend several provisions in the Child Care Food Program regulations in response to recommendations from those involved in Program administration.

1. Review Requirements

At the present time, State agencies are required by Federal regulations at 7 CFR 226.6(k) to review 33.3 percent of all institutions annually. With respect to centers, the State agency is to review 15 percent of all child care centers under each sponsoring organization reviewed, and 10 percent of the first 1,000 homes and five percent of all homes over 1,000 operated by each sponsoring organization reviewed. The Department finds, however, that this requirement strains the resources of many State agencies to the point that they have insufficient staff time to respond to special review problems. For example, it is frequently desirable to have reviewers make more than one visit to large sponsors, problem facilities or new facilities, but because of the necessity to meet the review requirements in the regulations, it is not possible to make additional visits. Moreover, the workload posed by the current requirement sometimes does not allow sufficient time for detailed and thorough reviews.

In response to this situation, the Department is proposing to reduce the State agency monitoring requirements in § 226.6(k). The Department proposes to require States to review 15 percent of the sponsor's first 25 centers or three centers, whichever is less, provided at least one center is reviewed. If the sponsor has more than 25 centers, the State agency will review eight percent of the centers in excess of 25, up to a maximum of 25 reviews. The review requirements for sponsors of day care homes are proposed as follows: 10 percent of the first 50 homes, with a minimum of two reviews (unless the sponsor operates only one home), seven percent of the next 150 homes, five percent of the next 800 homes, and two percent of all remaining homes. Under this system, the number of reviews required of State agencies would be reduced for nearly all sponsors. The greatest reductions, however, would be in the case of very large sponsors. For example, when reviewing a sponsor with 500 homes, the State agency would be required to review 30 homes rather than the 50 currently required, a reduction of 40 percent.

These reductions will allow State agencies greater flexibility to reallocate their resources to such areas of the Program as training, technical assistance or administration, which, in turn, can result in a more efficient and effective operation. The Department does not believe that Program accountability will be compromised by this change. Reviews of centers will be only slightly reduced. While the reduction in home reviews is somewhat greater, the Department's experience suggests that trends in a sponsor's operations can be determined from a smaller number of reviews. Moreover, States will have greater flexibility to concentrate review activity in problem areas or to follow up on corrective action. In many cases, therefore, this

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provision will actually enhance Program accountability.

The Department is proposing to revise the specified content of reviews. Currently, § 226.6(K) specifies that Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards, and non-discrimination regulations. In order to provide State agencies with greater flexibility, the Department is proposing to amend the rule to require that State agencies conduct reviews to ensure compliance with the CCFP regulations and with any applicable instructions of FNS and the Department.

The Department is also proposing to amend § 226.16 (d) (4) (ii), the requirements for sponsoring organizations to review the day care homes they sponsor. The current regulations require that each home be visited by the sponsor at least three times annually. However, the Department considers that the number of visits can be varied to some degree, depending upon the extent to which individual providers need assistance from the sponsor. Some providers need to be visited more often than three times a year, while others do not need such frequent visits. The Department is proposing, therefore, that with FNSRO approval, State agencies may allow sponsors to make an average of three annual visits to their homes, provided that each home is visited at least twice a year. FNSRO approval of a State agency's request to exercise this option will be based on a finding that the ability to reallocate visits will enable affected sponsors to allocate their resources more efficiently and to manage their providers more effectively.

2. Interest Bearing Accounts

Section 226.16(j) requires sponsoring organizations to maintain all Program payments in non-interest bearing accounts between the date of receipt from the State agency and the date of disbursement. This provision was intended to ensure that advance payments and start-up payments were not misused by participants but were disbursed in accordance with Program regulations. However, Departmental Regulations (7 CFR 3015) do not establish such a restriction for State agency administered programs. Therefore, the Department is proposing to delate this paragraph from the regulations. Sponsors wishing to open interest bearing accounts will be subject to the laws and policies of the States in which they operate, unless they are participating in a Program administered directly by FNS. In these latter cases, sponsors will be subject to OMB circulars, which require that any interest earned on advance payments or start-up payments must be returned to FNS.

3. Appeals Procedures

The Department is proposing to clarify several provisions dealing with appeals. First, in § 226.6(j)(3) the Department proposes to emphasize that the State agency may, if it chooses, be represented at the appeal proceeding. The Department never intended that the State agency should be excluded from these proceedings. The State agency's presence can, in fact, prevent needless confusion, because a representative can explain the State's reason for taking the action being reviewed and can answer questions posed by the review official. As a result of this amendment, the Department is also proposing to amend paragraph (j)(4) to require that the State agency, as well as the appellant, be given 10 days notice of the time and place of any hearing.

Second, in § 226.6(j)(9) the Department is proposing to clarify the procedure governing reimbursement for meals served during appeals of terminations. At the present time, terminated institutions which appeal the termination action and continue serving meals according to CCFP regulations during the period of the appeal are eligible for reimbursement for those meals regardless of the outcome of the appeal. The Department is proposing to allow reimbursement in these instances only if the institution's appeal is successful; whenever the appeal officer sustains the State agency's termination action, reimbursement will not be paid. This policy is already in affect in the Summer Food Service Program, and the Department considers it desirable to have appeal procedures as consistent as possible for the two programs. Moreover, institutions are terminated only if they have been found to be seriously deficient and have failed to correct their deficiency within a reasonable period of time. Since the grounds for termination frequently involve financial mismanagement or fraud, the Department does not believe it is prudent to continue paying Program monies to such institutions unless an administrative review has determined that the State agency acted improperly in terminating the institution. This amendment will not impose an inordinate hardship on institutions which were improperly terminated, since they will receive reimbursement for eligible meals served. This provision will, however, prevent reimbursement for meals served by institutions which are seriously deficient in their operation of the Program.

The Department also proposes to amend § 226.6(j) to specify that States which have their own appeal procedures may use these procedures rather than the CCFP procedures, as long as the following conditions are fulfilled: (1) Appellants are assured of a fair and impartial hearing before an independent offical, at which they are allowed to be represented by legal counsel, (2) decisions are rendered in a timely manner, (3) appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend, and (4) adequate notice is given of the place, date and procedures of the hearing.

Also, the Department is proposing to steamline the appeal procedure by requiring State agencies to advise participants of the appeal procedures only once each year rather than each time an appealable action is taken, as is currently the case. The Department believes that all participants in the Program must be aware of the proper procedures to be followed in requesting an administrative review of a State agency's action. The Department also recognizes, however, that providing a complete description of the appeal process each time an appealable action is taken can be very time consuming for the State agency without providing necessary information to the participant. Therefore, the Department is proposing to amend paragraph (j) to require State agencies to advise participants annually of all appeal procedures. The Department recommends that this information be made available with other application renewal material. Paragraph (j)(1) will then be revised to delete the requirement that the appeal procedure be explained each time an adverse action is taken. The proposed revision, however, will still require State agencies to advise participants of their right to appeal each time an adverse action is taken.

Finally, a change has been made in this rule in order to clarify the status of Federal audit findings as they relate to the appeals process. Section 226.6(j) lists various types of State agency actions which may be appealed. These include the review of a denial of an application for participation, a denial of a start-up payment or an advance payment, a denial of a claim for reimbursement, or a termination action, among others.

The review procedure is intended to provide administrative redress to participants who believe they have been adversely affected by arbitrary or capricious State agency actions. In some instances, however, action must be taken because of situations or events beyond the jurisdiction of a State agency, specifically as a result of Federal Audit findings.

It was never intended that, under the appeals procedures, State hearing officials would be able to waive Federal Claims against State agencies by overturning the State's action which has been taken against an institution as a result of Federal audit findings. While the hearing official's determination is the final administrative determination to be afforded to the appellant, only the Secretary has the authority to adjust, settle, compromise or deny any Federal claim arising under the Program. Federal claims against a State cannot be dismissed by State hearing officials.

This rule, therefore, proposes a new provision (§ 226.6(j)(11)), which clarifies that when an appeal results in the dismissal of a claim against a sponsor which the State agency asserted based upon Federal audit findings, FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(b).

4. Audit Disregard

The proposed regulation would amend § 226.8(e) to allow FNS or the Office of the Inspector General to disregard an overpayment which does not exceed $100. In the case of State agency administered programs, the amount will be established by State law, regulations or procedures. The level in the current regulations ($35) has not been adjusted for several years, and the Department is proposing this change in recognition of that fact. The disregard level for the Summer Food Service Program (SFSP) is $100. The Department considers, therefore, that raising the level for the CCFP is appropriate at this time.

5. Meal Requirements

The Department is proposing to make three amendments to the meal pattern requirements, all of which represent clarifications of existing policies. The first two amendments are minor editorial changes. In discussing supplements, the current regulations state in § 226.20(a)(3) that "supplemental food shall be served between other meal types * * *" This statement could be interpreted as prohibiting supplemental food in the morning or evening. The Department did not intend such a prohibition, however, and this proposed rule deletes the words "be served between other meal types and." It must be noted, however, that the time restrictions governing meal service would still apply. Secondly, § 226.20(d)(2) currently indicates that additional food may be served for lunches and suppers but makes no mention of supplements. There was no intention to leave supplements out of this passage, and the Department is proposing to correct this oversight.

Finally, the proposed regulations state the department's position that family style meal service may be employed by institutions. The CCFP has long been recognized as a means not only for providing nutritious meals to children, but also for helping them to develop good eating habits which they will retain in later years. Both of these nutritional objectives can be effectively pursued through family style meal service, especially when those objectives are stressed by supervising adults through personal example and assistance to children during the meal. While no provision on family style service appears in the current regulations, the Department did not intend to preclude institutions from employing this technique, provided that meal requirements are observed. Therefore, the Department is proposing to add § 226.20(o) for clarification.

6. Waiver of Claims

Section 226.14(b) authorizes State agencies to waive disallowances or collection of overpayments for meal pattern violations in the case of institutions which prepare their own meals if the State determines that the institution has taken appropriate corrective action. This provision was intended to give State agencies a degree of flexibility to deal with situations in which the interests of the Program would be served through corrective action. This authority, however, does not extend to overpayments established by Federal audits. Federal audits are independent of the State, and the findings of those audits are beyond the State's jurisdiction. Therefore, the Department is adding a statement to this provision specifying that a State's waiver authority may not be exercised if the overpayment in question was established by a Federal audit. this prohibition extends to situations in which an administrative review officer dismisses a claim against an institution which has been asserted because of a Federal audit finding. As noted in the discussion of appeal provisions above, FNS may assert a claim against the State agency in such situations.

7. Eligibility Requirements

The Department is proposing two amendments which affect eligibility criteria. The proposed amendment to § 226.6(d)(1) is designed to ensure that institutions admitted to the Program on the basis of Federal approval by another program continue to maintain a safe and healthy environment for children. The Department has traditionally allowed institutions to satisfy the licensing/approval criterion for Program eligibility by demonstrating that they are participating in another Federal program, such as Head Start. This policy was adopted because institutions must meet performance standards in order to be admitted to these programs, and these standards require participants to obtain State or local licensing, where available. It has come to the Department's attention, however, that institutions participating in Federal programs have occasionally continued their participation in those programs despite having had their licenses revoked. As a result, they have continued to participate in the CCFP as well. This situation has the potential of permitting participation by institutions whose environments are detrimental to the health and safety of enrolled children, and the Department considers that it has an obligation to ensure that Program benefits are made available only to institutions which offer high quality child care. Therefore, the Department is proposing in § 226.6(d)(1)(i) that institutions will not be eligible for the CCFP unless they maintain their compliance with State or local licensing requirements where available, regardless of participation in other Federal programs. Institutions which are found to be no longer in compliance with licensing requirements will be disqualified from the CCFP unless they obtain licensing.

The second proposal amends § 226.15(a) to clarify the situation when an institution is moving toward obtaining tax-exempt status from the Internal Revenue Service (IRS). Currently, institutions which have not yet received their nonprofit certification from IRS may participate pending consideration of their applications. If IRS has not acted within 12 months, the institution is terminated from the CCFP unless it can demonstrate that it has complied with all requests from IRS for additional information. Ultimately, the responsibility for obtaining evidence of compliance rests with the institution, not with the administering agency. There has, however, been some confusion on this point. Therefore, the Department is proposing to add a clarification to § 226.15(a) emphasizing that obtaining evidence of compliance is the institution's responsibility.

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8. Administrative Flexibility/Program Simplification

Finally, the Department is proposing several amendments designed to increase State agencies' flexibility in administering the Program, to simplify Program administration and to reduce paperwork.

a. *Readmission of seriously deficient institutions.* The first proposal is intended to give State agencies greater authority in determining when to readmit institutions which have been terminated because they have been seriously deficient in operating the Program. Currently, § 226.6(c) specifies that an institution which has been terminated because it has been seriously deficient shall not be eligible to participate in the Program for the remainder of the fiscal year of its termination and the next two fiscal years unless the State agency, with FNS concurrence, determines that appropriate corrective action has been taken. Some State agencies have expressed concern that this passage can be interpreted as requiring the institution's readmission after the second subsequent fiscal year regardless of whether or not the serious deficiency has been corrected. The Department has no wish to restrict State agencies' ability to enforce the provisions of the regulations. Since serious deficiencies warranting termination generally involve fiscal mismanagement or health and safety violations, the Department considers that institutions which have such problems and do not correct them should not be permitted to operate in the Program. Therefore, the sentence specifying a waiting period for readmission to the Program is being deleted in order to emphasize that institutions terminated for serious deficiencies cannot be readmitted to the Program unless they satisfy the State that corrective action has been taken.

b. *Health/sanitation and fire/safety inspections.* A second proposal aimed at Program simplification involves the health, fire and safety permits required of facilities which are admitted to the Program using the alternate approval provision. Currently, § 226.6(d)(2)(C) (1) and (2) require either current health/sanitation and fire/building safety permits or satisfactory reports of inspections conducted by local authorities within the past 12 months. It has come to the Department's attention, however, that local authorities will not always conduct health or fire and safety inspections annually. Consequently, many facilities which have been admitted to the Program after an initial inspection can find themselves threatened with termination despite the fact that they are maintaining a healthful and safe environment for children. Therefore, to avoid unnecessary complications for both facilities and State agencies, the Department is proposing to replace the 12 month requirement with a 36 month requirement in both passages. This change will allow State or local officials a greater degree of flexibility to determine what constitutes a current permit or approval while still ensuring that facilities are inspected periodically.

c. *Commodities/cash-in-lieu of commodities.* The Department is proposing to delete the provision in § 226.6(g) of the current regulations permitting institutions to switch from receiving commodities to receiving cash or vice versa during the school year. Because commodities are provided in advance to State distributing agencies on the basis of the initial annual preferences stated by institutions, it is highly unlikely that any distributing agency would approve an institution's request for a switch during the school year. The current option, therefore, serves only to create additional paperwork for State agencies and State distributing agencies to no purpose.

d. *Corrective action plans.* Currently, § 226.7(c) requires State agencies to submit a plan for correcting serious deficiencies noted during management evaluations within 60 days of receiving the management evaluation report. The Department considers that the 60-day time limit may be too restrictive in some cases, depending on the nature and extent of the deficiency. The Department is proposing, therefore, to allow a greater time limit for submission of corrective action plans when the State demonstrates good cause as to why such plans cannot be developed within 60 days. The Department considers that this provision will allow for greater flexibility on the part of both the States and FNS in correcting serious and complicated deficiencies.

e. *Sponsor/home agreements.* Section 226.18(b) of the regulations currently requires State agencies to develop written agreements for sponsoring organizations to execute with their day care providers. These agreements specify the rights and responsibilities of both parties and cover such areas as training, review activity, meal pattern responsibility, etc. The Department considers such agreements essential to the proper administration of the day care home segment of the CCFP. However, it is not always necessary for State agencies. In many instances, it can be advantageous for sponsors to have the authority to develop their own agreements. For example, many State and county government organizations already have their own agreements, which can be as effective as an agreement developed by the State agency. Therefore, in the interest of potential paperwork reduction for State agencies and increased State and local flexibility, the Department is proposing to make the development of sponsor/home agreements a State option. State agencies can elect to continue developing this agreement, or States may require that sponsors develop the agreement themselves, subject to the approval of the State agency.

The current regulations at § 226.18(b)(8) also specify that sponsor/provider agreements shall contain a clause permitting either party to terminate the agreement for reasons of convenience at any time. This provision was intended to cover situations in which a sponsor could no longer continue its operations or a home provider no longer wished to participate in the Program. It has come to the Department's attention, however, that in some situations, providers are terminating their association with one sponsor and executing new agreements with another sponsor with little or no notice and without cause. While the Department does not wish to abridge providers' freedom to change sponsors, it must be noted that such a situation increases the potential for dual participation of homes in the Program. It can, moreover, be unfair to sponsors, who project their budgets over an entire year, based on the number of homes they expect to administer, and often incur expenses early in the year for training and materials. If, after incurring these expenses, sponsors lose a substantial number of homes, it might not be possible for them to recoup their outlays. For these reasons, some States have indicated that they wish to limit terminations for convenience, and the Department is proposing to amend § 226.18(b)(8) to specify that States may take such action if they so elect. The Department emphasizes that this amendment would not affect the right of either party to terminate the agreement for cause. The Department considers that this latter clause sufficiently protects providers in the event their sponsor is not fulfilling its responsibilities.

f. *Alternate approval in backlog situations.* Section 226.6(d)(4) of the current regulations requires State agencies to apply alternate approval criteria to otherwise eligible facilities which have applied for licenses but have not received determinations because of a backlog at the licensing agency. This provision was intended to mitigate situations in which facilities offering adequate child care might be delayed in receiving CCFP benefits through no fault of their own. The Department's experience has shown, however, that this provision creates a significant administrative burden for State agencies. Moreover, this requirement places the State agency in the untenable position of deciding on the adequacy of facilities for which licensing is available. The Department believes this function should rest solely with licensing agencies. Therefore, since this employment of alternate approval is not mandated by the legislation governing the CCFP, the Department is proposing to rescind this provision. The Department will also delete the reference to this provision in § 226.6(d)(3)(iii).

9. Clarifications/Editorial Changes

The Department is proposing two editorial amendments. The first of these would specify in § 226.6(m) that institutions are responsible for ensuring that all deficiencies identified during reviews are corrected. This passage is somewhat ambiguous, as currently written, and the Department is proposing this minor amendment in order to avoid any possible misunderstanding. The second such amendment is intended to streamline the regulations by deleting the list of items in § 226.6(b) which are required to be considered during the application approval process. Since all of these annual requirements are discussed in detail in § 226.6(e), the Department does not consider that their reiteration in § 226.6(b) serves any useful purpose.

10. State Agency Review Systems

While the Department is not proposing a specific amendment at this time, it wishes to receive comments on whether or not States should be permitted the option to substitute their own review systems for the review requirements in § 226.6(k), provided they first receive approval from the Food and Nutrition Service (FNS). The Department considers that such a provision could better enable States to respond to their own unique situations. For example, State agencies may wish to develop a system of statistical sampling which is reliable but does not correspond to the minimum requirements in these regulations, or for some States fewer visits may be justified because most of the State's sponsors operate effectively and efficiently.

Listing of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

PART 226—[AMENDED]

Accordingly, the Department is proposing to amend 7 CFR 226 as follows:

1. By amending § 226.6 as follows: Revising paragraph (b); in paragraph (c), revising the third sentence; in paragraph (d), adding a clause at the end of paragraph (1)(i), in paragraphs (2)(i)(C)(*1*) and (2)(i)(C)(*2*), replacing the phrase "within the past 12 months" with "within the past 36 months"; in paragraph (3), placing a period after the word "standards" in clause (ii) of the second sentence, and removing clause (iii); and removing paragraph (d)(4); in paragraph (g), removing the last sentence; in introductory paragraph (j), adding two sentences after the first sentence and revising the last sentence; revising paragraph (j)(1); in paragraph (j)(3), adding a sentence at the end of the present text; revising paragraph (j)(4); placing a period after the word "action," removing the word "and," and adding a clause at the end of the third sentence in paragraph (j)(9); and adding a new paragraph (j)(11); in paragraph (k), removing the third and fourth sentences and adding four new sentences; and revising the first sentence of paragraph (m), to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(b) *Application approval.* Each State agency shall establish an application procedure to determine the eligibility under this part of applicant institutions, and facilities for which applications are submitted by sponsoring organizations. State agencies, by written consent of the State agency and the institutions, shall renew agreements with institutions not less frequently than annually. A State agency may not execute an agreement to be effective during two fiscal years but may nevertheless establish an ongoing renewal process for the purpose of reviewing and approving applications from participating institutions throughout the fiscal year. Any institution applying for participation in the Program shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If an institution submits an incomplete application, the State agency shall notify the institution within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Any disapproved applicant shall be notified of its right to appeal under paragraph (j) of this section.

(c) *Denial of applications and termination of institution.* * * * Following such termination, the institution shall not participate in the Program until such time as the State agency, with FNS concurrence, determines that the institution has taken appropriate corrective action to prevent recurrence of the deficiencies that led to termination from the Program. * * *

(d) *Licensing/Approval.* * * *

(1) *General.* * * *

(i) Are licensed or approved by Federal, State, or local authorities, provided that institutions which are approved for Federal programs on the basis of State or local licensing shall not be eligible for the Child Care Food Program if they are out of compliance with licensing requirements; or

* * * * * *

(2) *CCFP child care standards.*

(i) * * *

(C) *Safety and Sanitation. (1)* A current health/sanitation permit or satisfactory report of an inspection conducted by local authorities within the past 36 months shall be submitted.

(2) A current fire/building safety permit or satisfactory report of an inspection conducted by local authorities within the past 36 months shall be submitted.

* * * * * *

(g) *Commodity distribution.* The State shall annually inquire as to the preference of each institution for commodities or cash-in-lieu of commodities. Each institution electing cash-in-lieu of commodities shall receive such payments. Each institution which elects to receive commodities shall have commodities provided to it unless the State agency, after consultation with the State commodity distribution agency, demonstrates to FNS that distribution of commodities to the number of such institutions would be impracticable. The State agency may then, with the concurrence of FNS, provide cash-in-lieu of commodities for all institutions. A State agency request for cash-in-lieu of all commodities shall be submitted to FNS not later than May 1 of the school year preceding the school year for which the request is made. The State agency shall, by June 1 of each year, submit a list of institutions which have elected to

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receive commodities to the State commodity distribution agency, unless FNS has approved a request for cash-in-lieu of commodities for all institutions. The list shall be accompanied by information on the average daily number of lunches and suppers to be served to children by each such institution.

* * * * *

(j) *Institution appeal procedures.* * * * State agencies may use State appeal procedures provided they meet the following requirements: Appellants are assured of a fair and impartial hearing before an independent official at which they may be represented by legal counsel, decisions are rendered in a timely manner, appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend in person, and adequate notice is given of the place, date and procedures of the hearing. The State's procedures for conducting administrative reviews shall be made available in writing to all participants at least once each year. If the State has not established appeal procedures or the procedures do not meet these four criteria, the State agency shall observe the following procedures at a minimum:

(1) The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action;

* * * * *

(3) * * * A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;

(4) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

* * * * *

(9) * * * Institutions electing to continue operating while appealing terminations shall not be reimbursed for any meals served during the period of the appeal if the State agency's action is upheld; and

* * * * *

(11) In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State agency based upon Federal audit findings, FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(c).

(k) *Program assistance.* * * * Program reviews shall assess institutional compliance with the provisions of this Part and with any applicable instructions of FNS and the Department. The State agency shall annually review 33.3 percent of all institutions, including reviews of facilities operated by sponsoring organizations. With respect to sponsors of centers, the State agency shall review as follows: for the first 25 centers, the lesser of three centers or 15 percent of the Program's centers (with a minumum of one center) shall be reviewed; for all remaining centers, eight percent of the centers in excess of 25 shall be reviewed, up to a maximum of 25 centers reviewed. For sponsors of day care homes, the State agency shall review 10 percent of the first 50 homes, with a minumum of two reviews (unless the sponsor has only one home), seven percent of the next 150 homes, five percent of the next 800 homes, and two percent of all homes over 1,000. * * *

* * * * *

(m) *Child Care Standards Compliance.* The State agency shall, when conducting administrative reviews of child care centers, outside-school-hours care centers, and day care homes approved by the State agency under paragraph (d)(3) of this section, determine compliance with the child care standards used to establish eligibility, and the institution shall ensure that all violations are corrected. * * *

* * * * *

2. In § 226.7(c), by adding a sentence between the second and third sentences, to read as follows:

§ 226.7 State agency responsibilities for financial management.

* * * * *

(c) *Management Evaluations and Audits.* * * * If a State makes a showing of good cause, however, FNS may allow more than 60 days in which to submit a plan. * * *

* * * * *

3. By revising the first sentence of § 226.8(e), to read as follows:

§ 226.8 Audits.

* * * * *

(e) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. * * *

* * * * *

4. By amending § 226.14 as follows: by adding a new sentence to the end of paragraph (b), to read as follows:

§ 226.14 Claims against institutions.

* * * * *

(b) * * * However, the State agency shall not disregard any overpayments or waive collection action arising from the findings of Federal audits.

* * * * *

5. By amending § 226.15 as follows: In 226.15(a) by adding a sentence between the second and third sentences, to read as follows:

§ 226.15 Institution provisions.

(a) *Tax-exempt status.* * * * It shall, however, be the responsibility of the institution to document that it has complied with all requirements of IRS and has provided all information requested. * * *

* * * * *

6. By amending § 226.16 as follows: By revising paragraph (d)(4)(ii); by removing paragraph (j), and by redesignating paragraph (k) as paragraph (j) to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(d) * * *

(4) * * *

(ii) Three times each year at each day care home, provided at least one review is made during each day care home's first four weeks of Program operations and not more than six months elapse between reviews. However, subject to FNSRO approval, based on a finding that improved efficiency and more effective management warrant such approval, State agencies may allow some or all of their sponsors to conduct reviews an average of three times each year per day care home, provided that each day care home is reviewed at least twice each year and at least one review is made during each day care home's first four weeks of Program operations; and

* * * * *

7. By amending § 226.18 as follows: Adding a new sentence after the second sentence of introductory paragraph (b) and revising paragraph (b)(8), to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) * * * The agreement may be developed either by the State agency or, if the State agency elects, by the sponsor with the approval of the State agency. * * *

* * * * *

(8) The right of the sponsoring organization or the day care home to terminate the agreement for cause or, subject to stipulations by the State agency, convenience; and

* * * * *

8. By amending § 226.20 as follows: In introductory paragraph (a)(3), by removing the words "be served between other meal types and"; in paragraph (d)(2), by revising the title; and by adding paragraph (o) to read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(3) Supplemental food shall contain two of the following four components:

* * * * *

(d) *Additional food* * * *

(2) Lunch, supper or supplemental food. * * *

* * * * *

(o) *Family-style meal service.* Meals may be served in a family-style setting.

(Sec. 2, Pub. L. 95-627, 92 Stat, 3603, 42 U.S.C. 1766 and Pub. L. 97-35)

Dated: May 6, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-12919 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Petition for Alien To Perform Temporary Services or Labor

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would transfer the authority to make determinations on temporary labor certifications for the island of Guam from the Secretary of Labor to the Governor of Guam. This change will provide for closer control on the certification process and provide for local informational input to a greater degree.

DATE: Comments must be in writing and received on or before June 15, 1983.

ADDRESS: Please submit comments in duplicate to the Commissioner, Immigration and Naturalization Service, 425 I Street, NW., Room 7100, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: The present 8 CFR 214.2(h)3)(i) vests the Secretary of Labor with the authority to make determinations of availability and adverse impact on the local labor market of the importation of temporary workers (H-2's) to the United States under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act, 8 U.S.C 1101(a)(15)(H)(ii). These temporary labor certifications are used by prospective employers to support petitions for the importation of temporary laborers. While the service ultimately must judge availability and impact questions, considerable weight is given to the Secretary's determinations. Generally, only in a case when the Secretary issues a notice that the certification cannot be made, will the Service make an independent determination, and even then, will consult with the Secretary prior to rendering a decision.

Because of its unique geographic location and the local conditions in Guam, accurate appraisal of prevailing wages and the impact of imported labor has been difficult to determine. The Governor of Guam has suggested that local conditions can best be appraised through closer examination of those conditions on a local basis. Consultation with the Secretary of Labor has resulted in his concurrence with the Governor's proposal.

It is anticipated that under this proposed change the Governor of Guam will establish a system which would include a designated governing body to make determinations of prevailing wages and availability of U.S. resident workers, as well as adverse impact determinations concerning the importation of temporary foreign labor. The regulation would transfer this function currently performed by the Secretary of Labor to the Governor of Guam or his designated representative. The Commissioner of Immigration and Naturalization, in consultation with the Secretary of Labor, will determine the suitability and validity of the Governor's systems for making the required determinations. Any proposed changes to the systems must be reported to the Commissioner for review and approval prior to implementation.

This proposed change will not materially affect determinations for temporary labor certifications in Guam, but merely transfers the authority to do them.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule, if promulgated, will not have significant impact on a substantial number of small entities. The proposed rule will not be a major rule as defined in section 1(b) of E.O. 12291. It will not have an effect on the economy of $100 million or more; result in an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports, Visas.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

In § 214.2, it is proposed to revise paragraph (h)(3) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(3) *Petition for alien to perform temporary service or labor.*—(i) *Labor certifications, general.* Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect wages and working conditions of workers in the United States similarly employed, or a notice that such certification cannot be made, shall be attached to every nonimmigrant visa petition to classify an alien under section 101(a)(15)(H)(ii) of the Act, except for employment on Guam. If there is attached to the petition a notice from the Secretary of Labor or his designated representative that certification cannot be made, the petitioner shall be permitted to present countervailing evidence that qualified persons in the United States are not available and that the employment

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policies of the Department of Labor have been observed. All such evidence submitted will be considered in the adjudication of the petition.

(ii) *Labor certifications, Guam.* Every nonimmigrant visa petition filed on behalf of an alien for classification under section 101(a)(15)(H)(ii) of the Act for employment on Guam shall be accompanied by either:

(A) Certification from the Governor of Guam or his designated representative stating that qualified residents in the United States are not available to perform the required services and that the employment of a nonimmigrant alien will not adversely affect the wages and working conditions of United States resident workers who are similarly employed on Guam; or

(B) A notice detailing the reasons why the certification required in paragraph (h)(3)(ii)(A) of this section cannot be made.

(iii) *Criteria for Guam labor certifications.* The Governor of Guam shall establish systematic methods for determining the prevailing wage rates and working conditions for individual occupations on Guam and for making labor certification determinations. The wages and working conditions determination need only be made for those occupations where a prospective employer requests a certification to file with a nonimmigrant visa petition based on section 101(a)(15)(H)(ii) of the Act. The wages and working conditions system must consider the prevailing wage rates and working conditions for occupations in both the private and public sectors, in Guam and/or in the "United States", as defined in section 101(a)(38) of the Act, and may not consider wages and working conditions outside of the United States. The system must require that the prospective employer:

(A) Advertise the availability of the position for a minimum of 3 consecutive days in the newspaper of largest circulation on Guam;

(B) Place a job offer with an appropriate agency or the Governor's designated representative at least 30 days in advance of the need for the services to commerce;

(C) Report to the appropriate agency or Governor's designated representative the names of all United States resident workers who applied for the position, indicating those hired or the job-related reasons for not hiring;

(D) Offer all special considerations to all United States resident workers that the employer provides to nonimmigrant workers such as the payment of transportation expenses;

(E) Meet the prevailing wage rates and working conditions determined under the wages and working conditions system by the Governor or his designated representative; and,

(F) Agree to meet all Federal and State requirements relating to employment, such as nondiscrimination, occupational safety, and minimum wage requirements.

(iv) *Approval and publication of employment systems on Guam.* The systems and any modifications of the systems must be approved by the Commissioner of Immigration and Naturalization prior to implementation. If the Commissioner, in consultation with the Secretary of Labor, finds the systems or modified systems meet the requirements of this subsection, the Commissioner shall publish them in the **Federal Register**, and the Governor shall publish them as a public record in Guam. The Governor shall notify the Commissioner of all determinations under the wages and working condition system, including the specific data used in the computations. This information must be submitted quarterly beginning on the first day following the third full month after approval of the wages and working conditions system.

(v) *Multiple beneficiaries.* When the petitioner seeks the services of more than one beneficiary and all the beneficiaries are not included in a single certification, a separate visa petition must be submitted for the beneficiary or beneficiaries covered in each certification.

(vi) *Statement of need.* A statement shall be furnished with the visa petition describing in detail the situation or conditions which make it necessary to bring the alien to the United States, and whether the need is temporary, seasonal, or permanent; if temporary or seasonal, the statement shall indicate whether the situation or conditions are expected to be recurrent.

* * * * *

(Secs. 103 and 214, Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1184))

Dated: February 17, 1983.

Alan C. Nelson,

Commissioner, Immigration and Naturalization.

[FR Doc. 83-12960 Filed 5-12-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Ch. V

Proposed Rules Under The Wagner-Peyser Act (29 U.S.C. 49 et seq.)

AGENCY: Employment and Training Administration, Labor.

ACTION: Advance notice of proposed rulemaking; notice of availability of document.

SUMMARY: This advance notice alerts interested persons to forthcoming rulemaking and offers an opportunity to request informational, draft copies of proposed rules covering the Wagner-Peyser Act (29 U.S.C. 49 et seq.), as amended by Title V of the Job Training Partnership Act (Pub. L. 97-300). Release of the draft regulations is intended to alert interested persons to issues which will be submitted for public comment in the forthcoming proposed rules.

ADDRESS: Requests for draft copies, including self-addressed envelope and/or mailing label, should be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, 601 D Street, NW., Room 9000, Washington, D.C. 20213. Attention: Patrick J. O'Keefe, Acting Administrator, Office of Strategic Planning and Policy Development.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone: (202) 376-6600.

SUPPLEMENTARY INFORMATION: On October 13, 1982, the President signed the Job Training Partnership Act, Pub. L. 97-300. This statute includes amendments to the Wagner-Peyser Act (29 U.S.C. 49 et seq.). These amendments take effect October 1, 1983.

To provide basic program planning information as early as possible, the Department is making available to interested persons, upon written request, a preliminary draft of the proposed regulations implementing the Wagner-Peyser Act, as amended. Release of the draft regulations is intended to alert interested persons to issues which will be submitted for public comment in the forthcoming proposed rules.

Signed this 9th day of May 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-12940 Filed 5-12-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 148

[Docket No. 82N-0261]

Quick Frozen Peaches; Termination of Consideration of Codex Standard

Correction

In FR Doc. 83-8299 beginning on page 14001 in the issue of Friday, April 1, 1983, make the following corrections on page 14002, the first column:

1. In the first line, insert "20204" immediately following "Washington, D.C.".

2. In the fourth line, the date "September 3, 1882" should read "September 3, 1982".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendments.

SUMMARY: The VA (Veterans Administration) is proposing to amend its adjudication regulations to implement pertinent provisions of the Veterans' Compensation, Education, and Employment Amendments of 1982. These regulatory changes will affect the definition of active duty for training, extend burial allowance eligibility, increase special monthly compensation for certain blinded veterans, and extend dependency and indemnity compensation eligibility to certain surviving spouses and children.

DATES: Comments must be received on or before June 13, 1983. We propose to make these changes effective October 1, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 23, 1983. Any person visiting Central Office for the purpose of inspecting comments will be received by the Central Office Veterans' Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Robert M. White (202) 389-3005.

SUPPLEMENTARY INFORMATION: The Veterans' Compensation, Education, and Employment Amendments of 1982, Pub. L. 97-306, amended title 38, United States Code, requiring several regulatory changes in Part 3 of Title 38 CFR. A discussion of pertinent provisions of this new law is presented below together with the proposed regulatory changes required for implementation.

Section 113 of the new law amended 38 U.S.C. 101(22) to include within the definition of the term "active duty for training" any duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10, United States Code. Effective October 1, 1982, it also repealed 38 U.S.C. 403 which previously provided, among other things, for dependency and indemnity compensation eligibility for survivors of ROTC members who died as a result of annual training duty to which they had been ordered for a period of 14 days or more.

The effect of this new provision is to confer veteran status on all Senior ROTC members who are disabled as a result of injury or disease incurred or aggravated during such specified duty, or who die as a result of such duty as long as they are discharged or released therefrom under conditions other than dishonorable. This status makes such members basically eligible for disability compensation and makes their survivors basically eligible for dependency and indemnity compensation.

This new provision applies only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982. In addition, Senior ROTC members who become eligible for veterans' benefits based on this provision of law are no longer eligible for benefits under subchapter I of chapter 81 of title 5, United States Code.

To implement section 113 we propose to amend 38 CFR 3.6(c)(4). The current language of subparagraph (4) will be deleted in its entirety and new language will be substituted indicating that duty to which a member of a Senior ROTC program is ordered for the purpose of field training or a practice cruise is included within the definition of active duty for training.

Section 112 of the new law corrected a technical error in 38 U.S.C. 410(b)(1) relating to eligibility for death benefits at the rate payable for DIC (dependency and indemnity compensation). Section 410(b)(1) previously granted such eligibility if a veterans' nonservice-connected death was not the result of his or her own willful misconduct and if the veteran was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that was rated totally disabling for a specified period of time.

An opinion by the VA General Counsel (Op. G.C. 2-81) published on May 21, 1981, held, however, that 38 U.S.C. 410(b)(1) "does not provide a basis for finding entitlement to survivors' benefits where a veteran, at death, had been in receipt of compensation for total disability but not for the requisite duration solely because of VA error in the rating assigned." Therefore, the requirements of § 410(b)(1) have been amended to include as basically eligible the survivors of veterans who were entitled to receive compensation at the total disability rate for the specified period, but who, for some reason, were not actually in receipt of such benefits.

Although this amendment to 38 U.S.C. 410(b)(1) is effective October 1, 1982, it also has retroactive application to those who would have been entitled to DIC payments for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if this amendment had taken effect on October 1, 1978. We propose to implement this new provision by appropriately amending 38 CFR 3.22(a)(2).

Section 111(a) of Pub. L. 97-306 increased the rate of special monthly compensation payable for service-connected blindness without light perception in both eyes to the rate payable under 38 U.S.C. 314(n). The rate of special monthly compensation payable for this degree of blindness is now equal to the rate payable for anatomical loss of both eyes.

Under the authority of 38 U.S.C. 314(p) the rate payable under § 314(n) was previously granted in cases of bilateral blindness without light perception only if accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement. Since those additional conditions are no longer required for entitlement under § 314(n), we propose to implement this new provision by amending 38 CFR 3.350(d) to include the

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disability of blindness without light perception in both eyes as one of the entitling criteria and by deleting 38 CFR 3.350(f)(2)(iv) which is no longer appropriate.

Since bilateral blindness without light perception has been equated for special monthly compensation purposes with anatomical loss of both eyes, we also propose to amend 38 CFR 3.350(f)(2)(ii) and (iii) to reflect that blindness without light perception in one eye is the equivalent of anatomical loss of one eye for the purposes of subdivisions (ii) and (iii). The proposed amendments required by section 111(a) of the new law will be effective October 1, 1982.

Section 111(b) of the new law has amended 38 U.S.C. 314(p) to provide, in part, that "[i]n the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and * * * has also suffered service-connected total deafness in one ear or service-connected anatomical loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate."

In presenting the compromise agreement on this legislation to the House of Representatives, the Chairman of the House Veterans' Affairs Committee stated with regard to section 111(b) that "[w]e feel this increased compensation is warranted because the loss of an extremity has a far greater impact on a blinded veteran's mobility than such loss would have on an individual who has not lost his or her sight." 131 Cong. Rec. H 7774 (daily ed. Sep. 28, 1982) (remarks of Rep. Montgomery). Based on this statement, it seems clear that the purpose of this amendment to 38 U.S.C. 314(p) was to increase the rate of special monthly compensation payable for the specified disability combinations above the rate formerly authorized by law or regulation.

We propose to implement section 111(b) of Pub. L. 97–306 by amending 38 CFR 3.350(f)(2)(v), as redesignated subdivision (iv), to include three new provisions. This amendment will provide that veterans with service-connected blindness in both eyes accompanied by service-connected loss or loss of use of one hand, or loss or loss of use of one foot which by itself or in combination with another compensable disability would be ratable at 50 percent or more will be entitled to the next higher statutory rate (or next higher intermediate rate if already entitled to an intermediate rate), and that veterans with service-connected blindness in both eyes accompanied by service-connected loss or loss of use of one foot which is ratable at less than 50 percent, and which is the only other compensable disability, will be entitled to the next higher intermediate rate (or next higher statutory rate if already entitled to an intermediate rate).

These proposed amendments would be consistent with current rating procedures and would provide increased special monthly compensation to all veterans with the specified disability combinations. These changes will be effective October 1, 1982.

Section 403 of the law provides for burial allowance eligibility in the case of a deceased veteran who had wartime service or was discharged or released from active duty because of a service incurred or aggravated disability, and whose body is held by a State (or political subdivision of a State) if the VA determines that there is no next of kin or other person claiming the body of the deceased veteran and there are insufficient resources available to cover the burial and funeral expenses. This provision reestablishes in certain cases the burial allowance eligibility previously lost under the provisions of the Omnibus Budget Reconciliation Act of 1981.

We propose to implement section 403 by appropriately amending 38 CFR 3.1600 and 3.1601. In addition, we have amended 38 CFR 3.1603 to clarify that it applies only to the authority for burial of unclaimed bodies where eligibility is not based on the new provisions of 38 U.S.C. 902(a)(2). These amendments will apply with respect to burial and funeral expenses incurred after September 30, 1982.

Section 404 of Pub. L. 97–306 provides burial allowance eligibility in the cases of veterans who die in an institution where they were receiving nursing home care under the authority of 38 U.S.C. 620 at the expense of the United States at the time of death. This amendment is effective with respect to deaths occurring after September 30, 1982. We propose to implement section 404 by appropriately amending 38 CFR 3.1600 and 3.1605.

The Administrator hereby certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that the proposed regulations would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these proposed regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these proposed regulation changes are nonmajor for the following reasons:

(1) They will not have an effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.101, 64.109, and 64.110.)

Approved: May 2, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

1. In § 3.6, paragraph (c)(4) is revised as follows:

§ 3.6 Duty periods.

* * * * *

(c) *"Active duty for training".* * * *

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10, United States Code (38 U.S.C. 101(22); Pub. L. 97–306, 96 Stat. 1429); and

* * * * *

2. In § 3.22, paragraph (a)(2) (introductory portion preceding subdivision (i)) is revised as follows. The introductory portion of paragraph (a) is shown for reader convenience.

§ 3.22 Benefits at DIC rates in certain cases when death is not service-connected.

(a) *Entitlement criteria.* Benefits authorized by section 410(b) of title 38, United States Code shall be paid to a deceased veteran's surviving spouse (see § 3.54(c)(2)) or children in the same manner as if the veteran's death is service connected when the following conditions are met:

* * * * *

(2) The veteran was in receipt of or for any reason (including receipt of military retired or retirement pay or correction of a rating after the veteran's death based on clear and unmistakable error) was not in receipt of but would have been entitled to receive compensation at the time of death for a service-connected disablement that either:

* * * * *

3. In § 3.350, paragraphs (d) (introduction), (d)(4) and (f)(2) are revised as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for any of the conditions which follow.
Amputation is a prerequisite except for loss of use of both arms and blindness without light perception in both eyes. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

* * * * *

(4) Anatomical loss of both eyes or blindness without light perception in both eyes.

* * * * *

(f) *Intermediate or next higher rate.*
* * *

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate between 38 U.S.C. 314 (l) and (m).

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate equal to 38 U.S.C. 314(m).

(iii) Blindness of one eye having only light perception and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate between 38 U.S.C. 314 (m) and (n).

(iv) Blindness in both eyes rated under 38 U.S.C. 314 (l), (m) or (n), or under the intermediate or next higher rate provisions outlined above, when accompanied by:

(*a*) Service-connected total deafness in one ear, will afford entitlement to the next higher intermediate rate or if the veteran is already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 314, but not higher than the (o) rate; or

(*b*) Bilateral deafness rated at no less than 40 percent, and the hearing impairment in one or both ears is service connected, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or if the veteran is already entitled to an intermediate rate to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*c*) Service-connected loss or loss of use of one hand, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*d*) Service-connected loss or loss of use of one foot which by itself or in combination with another compensable disability would be ratable at 50 percent or more, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*e*) Service-connected loss or loss of use of one foot which is ratable at less than 50 percent and which is the only compensable disability other than bilateral blindness, will afford entitlement to the next higher intermediate rate or, if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C 314, but in no event higher than the rate for (o). (38 U.S.C. 314(p); Pub. L. 97–306, 96 Stat. 1429)

* * * * *

4. Section 3.1600 is amended as follows:

(a) By removing the word "and" and inserting the word "or" at the end of paragraph (b)(2)(ii).

(b) By adding a new paragraph (b)(3) and redesignating the former paragraph (b)(3) as paragraph (b)(4) and by revising paragraph (c) so that the added and revised material reads as follows. The introductory portion of (b) is shown for reader convenience.

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed $300 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to $150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

* * * * *

(3) The deceased was a veteran of any war or was discharged or released from active military, naval, or air service for a disability incurred or aggravated in line of duty, and the body of the deceased is being held by a State (or a political subdivision of a State), and the Administrator determines

(i) That there is no next of kin or other person claiming the body of the deceased veteran, and

(ii) That there are not available sufficient resources in the veteran's estate to cover burial and funeral expenses; and (38 U.S.C. 902(a); Pub. L. 97–306, 96 Stat. 1429)

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 902)

(c) *Death while properly hospitalized.* If a person dies from non-service-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed $300 for the actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. For burial allowance purposes, the term "hospitalized by the Veterans Administration" means admission to a Veterans Administration facility (as defined in 38 U.S.C. 601(4)) for hospital, nursing home, or domiciliary care under the authority of 38 U.S.C. 610 or 611(a), or admission (transfer) to a nursing home under the authority of 38 U.S.C. 620 for nursing home care at the expense of the United States. (38 U.S.C. 903(a)) (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.

5. Section 3.1601 is amended as follows:

(a) By adding a parentheses around the words "other than a § 3.1604(d) claimant" in the introductory portion of paragraph (b).

(b) By adding paragraph (b)(5) as follows:

§ 3.1601 Claims and evidence.

* * * * *

(b) *Supporting evidence.* * * *

(5) *Entitlement under § 3.1600(b)(3).* In addition to the other evidentiary requirements of this subparagraph, there must be written certification over the signature of a responsible official of the State (or political subdivision of the State) where the body was held that—

(i) There is no next of kin or other person claiming the body of the deceased veteran, and

(ii) There are not available sufficient resources in the veteran's estate to cover burial and funeral expenses. (38

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U.S.C. 902(a); Pub. L. 97-306, 96 Stat. 1429)

6. Section 3.1603 is revised as follows:

§ 3.1603 Authority for burial of certain unclaimed bodies.

If the body of a deceased veteran is unclaimed, there being no relatives or friends to claim the body, and there is burial allowance entitlement which is not based on § 3.1600(b)(3), the amount provided for burial and plot or interment allowance will be available for the burial upon receipt of a claim accompanied by a statement showing what efforts were made to locate relatives or friends. The question of escheat of any part of such deceased veteran's estate is not a factor in such a claim. Burial allowance may be authorized for cost of disinterment and reburial of unclaimed remains originally accorded pauper burial but not for initial expenses of a burial in a potter's field. Burial in a prison cemetery is not considered a pauper burial.

7. Section 3.1605 (the introductory portion preceding paragraph (a)) is amended by adding the cross reference "(see § 3.1600(c))" after the words "authority of the Veterans Administration" at the end of the first sentence.

[FR Doc. 83-12915 Filed 5-12-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[SWH-FRL 2361-2]

Financial Responsibility Requirements for Facilities Handling Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent and request for comments.

SUMMARY: Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*, the Environmental Protection Agency is beginning the process of identifying classes of facilities involved in the production, treatment, storage or disposal of hazardous substances, and assessing the risk of injury associated with the production, treatment, storage or disposal of hazardous substances at those classes of facilities, for purposes of promulgating financial responsibility requirements. The purpose of this notice is to inform the public of those activities and invite comments on the issues involved.

DATE: Comments will be accepted until July 12, 1983.

ADDRESS: Comments may be mailed to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Docket 108(b), Financial Responsibility Requirements for Facilities."

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund hotline, Office of Solid Waste (WH-562, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (800) 424-9346, or in Washington, D.C., 382-3000.

For information on the work being done by EPA contact: Peter Guerrero, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-4604.

SUPPLEMENTARY INFORMATION:

I. Background

Section 108(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA" or "the Act") requires that, not earlier than December 11, 1985, the President begin to promulgate financial responsibility requirements for classes of facilities involved in the production, transportation, treatment, storage and disposal of hazardous substances. Hazardous substances, as defined in the Act, include not only hazardous wastes identified or listed under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), but also a variety of substances regulated under the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act. A hazardous substance may be flammable, corrosive or explosive; it may cause cancer, physical disability or serious illness in people; it may cause damage to animals, plants, or other parts of the environment.

Under the section 108(b) requirements, the owner or operator of a facility involved in the production, treatment, storage or disposal of hazardous substances would be required to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the hazardous substances at the facility. EPA does not expect that these financial responsibility standards will duplicate financial responsibility requirements under RCRA (see 40 CFR 264.140-264.151 and 265.140-265.151) by requiring that an owner or operator demonstrate financial responsibility twice for the same risks.

Section 108(b)(1) further requires that the President publish a notice in the **Federal Register** by December 11, 1983, identifying those classes of facilities for which requirements will be first developed. Priority is to be accorded to those classes of facilities, owners, and operators which present the highest level of risk of injury.

Executive Order 12316, issued on August 14, 1981, delegated authority under section 108(b) for transportation-related facilities to the Department of Transportation. The Environmental Protection Agency was delegated the authority for all other facilities covered by section 108(b).

II. Request for Comments

In order to gather information for the development of a **Federal Register** notice identifying classes of facilities, owners, and operators, and to encourage public participation in this process, the Environmental Protection Agency is today inviting comments on the issues outlined below as well as related issues which respondents may wish to bring to the attention of the Agency. All policies mentioned below are intended only as examples; they are not recommendations by the Agency.

III. Issues

A. What Sources of Data Exist to Help Identify Types of Facilities Involved in the Production, Treatment, Storage or Disposal of Hazardous Substances?

EPA is not at this time seeking to identify specific facilities at which hazardous substances are handled. Rather, the Agency seeks to identify industries, types of facilities, and processes which involve the production, treatment, storage or disposal of hazardous substances. EPA recognizes that its own data collection efforts and regulatory programs are a major source of information on hazardous substances. However, EPA is interested in any additional sources of information which may help the Agency determine the types of facilities covered by section 108(b) of CERCLA.

B. How Should the Population of Facilities Be Divided Into Classes?

Once the Agency has identified the types of facilities involved in the production, treatment, storage and disposal of hazardous substances, the Agency expects to divide these facilities into classes. The reason for this is twofold. First, section 108(b) requires that the Agency identify the classes of facilities for which financial requirements will be first developed. Second, classification may help EPA to assign similar financial requirements to facilities which present similar risks. In order to evaluate classification systems, EPA would like comments on the following questions:

i. What criteria should be used to select a classification system, and how should those criteria be weighted? For instances, classification systems could be evaluated on the basis of their ability to divide the facility population into a manageable number of classes, to reduce to a minimum the variation in risk of injury within classes, and to classify a facility quickly, with a minimal need for new information. If one system does not prove best in relation to all the criteria, then the criteria must be weighted or ranked in order of importance in order to select a classification system.

ii. What alternatives might be used for classifying facilities? It is possible to divide the population of facilities in many different ways. for instance, facilities could be classified according to their Standard Industrial Classification (SIC) codes so that all hazardous substance facilities in a given industry would be subject to the same financial responsibility requirement. Facilities also could be classified according to the types of hazardous substances present at the facility, the proximity to human population, and other factors or combinations of factors.

C. What Constitutes Risk of Injury?

Section 108(b) requires that EPA rank classes of facilities according to the risk of injury associated with the production, treatment, storage or disposal of hazardous substances. Therefore, EPA expects to examine the meaning of the term "risk of injury."

As mentioned above, the term "hazardous substance" includes a wide variety of substances with many different effects on human health, welfare, and the environment. In addition to the effects of the substances themselves, the potential for adverse effects may depend on such factors as the design and environmental setting of the facility, the quantity of the substance present at the facility, the proximity and density of human population, and the environmental pathways which the substance may contaminate and travel through (air, soil, surface water, ground water). The potential for and extent of injury may further depend on the degree and duration of exposure, as well as the type of exposure (inhalation, ingestion, or external exposure to skin or eyes).

The ability of the Agency to consider all possible adverse effects and all possible scenarios of exposure to hazardous substances form production, treatment, storage or disposal facilities is constrained both by the limits of technical knowledge as well as by the limits of available time and resources to perform the required analyses. Therefore, EPA would like comments on at least the following questions:

i. What types of effects upon human health, welfare, and the environment should be included in the definition of "injury"? What effects, if any, are so minor as to be not worth considering?

ii. What factors contribute to the risk that a hazardous substance will cause injury? What factors are most important in determining risk of injury, and what factors, if any, make a negligible contribution to risk?

D. How Should "Risk of Injury" Be Used To Rank Classes of Facilities?

The potential for damage to human health, welfare, and the environment will vary from one facility to another, even among similar facilities handling similar hazardous substances. However, in ranking classes of facilities in order of risk of injury, EPA expects to assess the risk associated with classes of facilities, not individual sites. The following questions are of particular importance:

i. What sources of data exist on the effects of exposure to hazardous substances, the sources and causes of releases of hazardous substances, and other issues of importance in the assessment of risk of injury?

ii. What type of system is most appropriate for assessing the risk of injury associated with a class of facilities? Should a class be characterized by the safest facilities, the most dangerous facilities, an average of the two extremes, or by some other method? What, if any, risk assessment systems or models mights be of use to EPA in these analyses?

IV. Conclusion

EPA is issuing this notice in order to encourage public comment and participation, and to clarify for the public some of the important issues in listing and ranking classes of facilities, owners and operators covered by section 108(b) of CERCLA. Members of the public are urged to comment on the issues outlined above, and on any other issues relatd to section 108(b) of CERCLA. In particular, we invite suggestions for alternative approaches, opinions on their strengths and weaknesses, and discussion of sources of data.

List of Subjects in 40 CFR Part 320

Air pollution control chemicals, hazardous materials, intergovernmental relations, natural resurces, oil pollution, reporting and recordkeeping requirements, superfund, waste treatment and disposal, water pollution control, water supply.

Dated: April 29, 1983.

Lee M. Thomas,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 83-12823 Filed 5-12-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 83-429; FCC 83-204]

Amendment of Part 83 of the Commission's Rules To Implement the First Set of Amendments to the Safety of Life at Sea (SOLAS) Convention of 1974 and Conform Commission Rules in Other Matters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice to inform the public and to propose rules implementing the first set of amendments adopted by the International Maritime Organization (IMO) at the 45th Session of its Maritime Safety Committee and address other treaty related matters. The amendments will modify the 1974 Safety of Life at Sea (SOLAS) Convention to provide a VHF radio watch on vessels outside harbor and port areas.

DATES: Comments must be received on or before June 13, 1983, and Reply Comments must be received on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert C. McIntyre, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 83

Communication equipment, Marine safety, Vessel, Distress.

In the matter of Amendment of Part 83 of the Commission's rules to implement the first set of amendments to the Safety of Life at Sea Convention of 1974 and conform Commission rules in other treaty matters; PR Docket No. 83-429.

Adopted: April 27, 1983.

Released: May 6, 1983.

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By the Commission: Commissioner Jones absent.

Summary

1. In this Notice of Proposed Rule Making we propose to amend Part 83 of the Commission's rules to implement the first set of amendments to the Safety of Life at Sea (SOLAS) Convention of 1974 adopted by the International Maritime Organization (IMO), and to align the Commission's rules concerning daily testing of the reserve transmitter in accordance with the SOLAS Convention. The proposed rules are contained in Appendix A.

Implementation of Amendments to SOLAS Convention

2. The 1974 SOLAS Convention came into force May 25, 1980,[1] replacing and abrogating the 1960 SOLAS Convention which was signed in London on June 17, 1960.[2] The 1974 SOLAS Convention modified the articles of the convention relating to the amendment process and included in the regulations all the draft amendments developed during the 1960–1974 period to improve the safety of life at sea.

3. Amendments adopted by the expanded Maritime Safety Committee (MSC) of the IMO come into force in a prescribed period of time, nominally two years, without further action required on the part of Contracting Governments.[3] The first set of amendments will come into force on September 1, 1984. The Commission in this notice is proposing rules which provide for implementation of that portion of the first set of amendments to the 1974 SOLAS Convention which were not brought into force by a previous Commission action.[4] The new IMO Chapter IV regulations which are part of this first set of amendments to the 1974 SOLAS Convention are attached as Appendix B. This document is provided in order to aid commenters in responding to this notice.

VHF Watch and Radio Logs Proposals

4. The requirements for a Channel 16 (156.8 MHz) aural watch (See Appendix B, Regulation 8) and the VHF radio log requirements (See Appendix B, Regulation 19) were not addressed in the earlier Commission action in Docket 21089. IMO has determined that a Channel 16 watch would improve the Safety of vessels navigating outside ports and harbors in the same way that the existing bridge-to-bridge radiotelephone operations on Channel 13 aid vessels operating on the navigable waters of the United States—by making available an agreed channel for communication between the bridges of proximate vessels. We recognize that vessels on international voyages, particularly while traveling the high seas away from ports, harbors and coastal areas, will generally be widely separated and out of VHF communication range. Nevertheless, it is important that should the need arise, a common channel should be agreed upon to provide immediate bridge-to-bridge communications.

5. We considered whether this watch should additionally be made applicable to vessels subject to Parts II and III of Title III of the Communications Act of 1934, as amended. These vessels are generally engaged in voyages which ply the same waters as those vessels subject to the SOLAS Convention. Further, vessels on domestic voyages operate primarily in congested coastal waters and have a greater need for bridge-to-bridge communications than vessels on high seas voyages. For these reasons the appended rules require that vessels subject to Part II and III, Title III of the Communications Act of 1934, as amended, maintain a Channel 16 watch when in the open sea outside port and harbor areas.

6. We expect that these rules will significantly improve safety at sea and not impose an economic burden on vessels which are expected to become subject to these watch requirements. Vessels subject to the Communications Act or the Bridge-to-Bridge Radiotelephone Act are required under the present rules to fit with a VHF installation and most, if not all, such installations will operate on Channel 16. Vessels subject to the 1974 SOLAS Convention are required under the present rules to fit with a VHF installation and such installations will operate on Channel 16. We are proposing to permit the watch requirement to be satisfied by using VHF installations which meet the requirements of the Part III of Title III of the Communications Act, Bridge-to-Bridge Radiotelephone Act or the 1974 SOLAS Convention. With regard to the VHF watch we have permitted the watch requirements to be satisfied by monitoring Channel 16 with a receiver having a properly adjusted squelch circuit to reduce the amount of noise on the bridge which could possibly affect the safety of navigation. We do not envisage satisfaction of the watch requirement to be burdensome to the vessel owner or operator.

7. The log requirements for ship VHF radiotelephone stations subject to the Communications Act of 1934 or to the provisions of the SOLAS Convention of 1974 have been designed to minimize the burden on operators and still provide the necessary information required of stations used for safety purposes. We propose to require:

Entry of safety related communications;

The times when the watch is begun, interrupted, and ended;

A daily statement concerning the operating condition of the VHF radiotelephone equipment;

Details of service or maintenance work.

These log requirements are the same as those presently specified for vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act.

Conforming Commission Rules in Other Matters

8. In other matters relating to the SOLAS Convention it has come to the Commission's attention that the tests required in the Commission's rules (§ 83.449(a)(4)) concerning reserve installations are not in agreement with the convention (See Chapter IV, Regulation 10(s)). The Commission's rules require that the reserve transmitter be tested prior to a vessel's departure from a port and on each day the vessel is outside a port or harbor. The SOLAS Convention requires such tests if the transmitter is not used daily for communications and permits use of a suitable artificial antenna when testing of the reserve transmitter is required. The convention also requires the transmitter to be tested at least once during each voyage with the reserve antenna if it is installed. The Commission in reviewing this matter is of the opinion that the test procedure set forth in the convention is acceptable and somewhat more flexible than our existing rules in Part 83. We are proposing to modify the Commission's rules to align them with the less stringent requirements of the SOLAS Convention.

9. The proposed amendments to the Commission's rules as set forth in the attached Appendix A are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303(r).

[1] Docket 80–67, Report and Order adopted June 25, 1980, FCC 80–360, 45 FR 46409.

[2] Docket 15034, Report and Order adopted October 30, 1963, FCC 63–1002, 28 FR 11689.

[3] These amendments will automatically come into force in the United States without specific Senate ratification.

[4] Docket 21089, Report and Order, adopted March 15, 1979, FCC 79–162, 44 FR 18501. In this proceeding the Commission considered the IMO Resolution A. 335 concerning fitting of radiotelegraph ships with radiotelephone stations to be such a significant improvement in safety that Resolution A. 335 was implemented prior to being mandatorily required by the 1974 SOLAS Convention.

Comments

10. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's Staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed rules will not have a significant economic on a substantial number of small entities. Most vessels subject to these rules are operated by large concerns rather than small businesses. Additionally, because the large majority of vessels currently possess adequate equipment to comply with these rules, no additional cost should be incurred.

14. Regarding questions on matters in this document contact Robert C. McIntrye, 202/632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

William J. Tricario,

Secretary.

Appendix A

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.202 footnotes 1 and 2 are removed; paragraphs (a), (b) and (c) are revised to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

(a) Each ship of the United States which is equipped with a radiotelegraph station for compliance with Part II of Title III of the Communications Act shall while being navigated in the open sea outside a harbor or port:

(1) Keep a continuous and efficient watch on 500 kHz by means of radio officers. In lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, an efficient watch on 500 kHz shall be maintained by means of a radio officer for at least 8 hours per day in the aggregate, i.e., for at least one-third of each day or portion of each day that the vessel is navigated in the open sea outside of a harbor or port;

(2) Keep a continuous and efficient watch on the radiotelephone distress frequency 2182 kHz from the principal radio operating position or the room from which the vessel is normally steered. A radiotelephone distress frequency watch receiver having a loudspeaker and a radiotelephone auto-alarm facility shall be used to keep the continuous watch on 2182 kHz if such watch is kept from the room from which the vessel is normally steered. Except that the radiotelephone auto-alarm facility may only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(3) Keep a continuous and efficient watch on the VHF distress frequency 156.8 MHz from the room from which the vessel is normally steered. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operating or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of a properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or efficiency of the required watch on the VHF distress frequency. This watch need not be maintained:

(i) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(ii) When the vessel is participating in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the VTS frequency.

(b) Each cargo ship of the United States which is equipped with a radiotelephone station for compliance with Part II of Title III of the Communications Act shall while being navigated outside of a harbor or port;

(1) Keep a continuous and efficient watch on 2182 kHz in the room from which the vessel is normally steered while at sea, whenever such station is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew of the vessel who has been designated by the master to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. A radiotelephone watch receiver having a loudspeaker and a radiotelephone auto alarm facility shall be used to keep the continuous watch on 2182 kHz. Except that the radiotelephone auto alarm facility may

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only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(2) Keep a continuous and efficient watch on the VHF distress frequency 156.8 MHz from the room from which the vessel is normally steered. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operation or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained:

(i) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(ii) When the vessel is participating in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the VTS frequency.

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous and efficient watch on 2182 kHz while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. A VHF watch shall be kept on 156.8 MHz whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. The use of a properly adjusted squelch is not considered to adversely affect the continuity or the effectiveness of the required watch on the VHF distress frequency. The VHF watch need not be maintained:

(1) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(2) When the vessel is participating in a Vessel Traffic Service (VTS) System as required or recommended by the U.S. Coast Guard and an efficient watch is being maintained on the VTS frequency.

2. In § 83.203 the heading is revised and a new paragraph (d) is added to read as follows:

§ 83.203 Watch required on vessels subject to the Safety Convention.

* * * * *

(d) Each ship of the United States subject to the Safety Convention shall maintain a continuous and efficient watch while being navigated in the open sea outside a harbor or port on the VHF distress frequency 156.8 MHz. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operation or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained:

(1) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency.

(2) When the vessel is participating in the system described in paragraph (c) of this section or in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the frequency appropriate to one of these systems.

3. In § 83.368 paragraph (e) is revised to read as follows:

§ 83.368 Radiotelephone station log.

* * * * *

(e) The log of the bridge-to-bridge station required by the vessel Bridge-to Bridge Radiotelephone Act and the log of ship VHF radiotelephone stations subject to Part II of Title III, of the communications Act of 1934 or to the provisions of the Safety Convention shall include the following entries:

* * * * *

4. In § 83.449 paragraph (a)(4) is revised to read as follows:

§ 83.449 Tests of reserve installation and automatic radiotelegraph alarm signal keyer.

(a) * * *

(4) On days when not used for communication the reserve transmitter energized by the reserve power supply shall be tested by actual operation when connected to the main antenna, an artificial antenna or a reserve antenna (if installed, the reserve antenna must be used at least once each voyage), noting antenna currents:

* * * * *

5. In Subpart BB the title is revised to read as follows:

Subpart BB—VHF Radiotelephone Stations Provided for Compliance With Part II of Title III of the Communications Act or the Provisions of the Safety Convention

6. In § 83.851 paragraph (a) is revised to read as follows:

§ 83.851 VHF radiotelephone station.

(a) The provisions of this subpart are applicable to the VHF radiotelephone station required to be provided on all passenger ships irrespective of size and all cargo ships of 300 gross tons and upwards subject to Part II, Title III of the Communications Act or to the Safety Convention. Vessels subject only to the Communications Act may use VHF radiotelephone installation complying with the Bridge-to-Bridge Radiotelephone Act in Subpart X of this Chapter provided that the equipment can transmit and receive on 156.8 MHz.

* * * * *

Appendix B.—Chapter IV.—Radiotelegraphy and Radiotelephony

The following new Regulation is added:

Regulation 4–1.—VHF radiotelephone installation

(a) Passenger ships irrespective of size and cargo ships of 300 tons gross tonnage and upwards shall be fitted with a VHF radiotelephone installation complying with the provisions of Regulation 17.

(b) The provisions of Regulation 17 shall also apply for VHF radiotelephone installations required by a Contracting Government for all ships to which Chapter V applies navigating in an area under its jurisdiction and for which a VHF radiotelephone installation is not made compulsory by paragraph (a).

The existing text of Regulation 7 is replaced by the following:

Regulation 7.—Watches—radiotelephone

(a) Each ship which is fitted with a radiotelephone station in accordance with Regulation 4 shall, for safety purposes while at sea, maintain continuous watch on the radiotelephone distress frequency in the place on board from which the ship is usually navigated, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

(b) Each ship referred to in paragraph (a) shall carry qualified radiotelephone operators (who may be the master, an officer or a member of the crew) as follows:

(i) if of 300 tons gross tonnage and upwards but less than 500 tons gross tonnage, at least one operator;

(ii) if of 500 tons gross tonnage and upwards but less than 1,600 tons gross tonnage, at least two operators. If such a ship carries one radiotelephone operator exclusively employed for duties related to radiotelephony, a second operator is not obligatory.

(c) Each ship which in accordance with Regulation 3 or Regulation 4 is fitted with a radiotelegraph station shall, while at sea, maintain continuous watch on the radiotelephone distress frequency in a place to be determined by the Administration, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

The existing text of Regulation 8 is replaced by the following:

Regulation 8.—Watches—VHF radiotelephone

Each ship which is fitted with a VHF radiotelephone installation in accordance with Regulation 4–1 shall at sea maintain a continuous listening watch on the navigating bridge:

(i) on 156.8 MHz (channel 16) when practicable; and/or

(ii) for such periods and on such channels as may be required by the Contracting Government referred to in Regulation 4–1(b).

Regulation 10.—Radiotelegraph installations

The existing text of paragraph (g) is replaced by the following:

(g–1) The main and reserve transmitters shall, when connected to the main antenna, have a minimum normal range as specified below, that is to say, they must be capable of transmitting clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over the specified ranges.* (Clearly perceptible signals will normally be received if the R.M.S. value of the field strength at the receiver is at least 50 microvolts per metre.)

	Minimum normal range in miles	
	Main transmitter	Reserve transmitter
All passenger ships and cargo ships of 1,600 tons gross tonnage and upwards	150	100
Cargo ships below 1,600 tons gross tonnage	100	75

(g–2) The radiotelegraph installation shall include facilities for radiotelephone transmission and reception on the radiotelephone distress frequency. This requirement may be fulfilled by including such facilities in the main or reserve installation or other installed equipment. The transmitter power and receiver sensitivity of the radiotelephony part of the installation shall comply with Regulation 16(c)(i) and (f) respectively if that part is fitted after September 1, 1986. For installations fitted prior to that date, such transmitter power and receiver sensitivity shall be as determined by the Administration. The location and other conditions of the radiotelephony facilities required by this Regulation shall be as determined by the Administration, except when they form part of the main or reserve radiotelegraph installation.

In the absence of a direct measurement of the field strength the following data may be used as a guide for approximately determining the normal range:

A. In the case of antennae other than self-supporting types.

	Metre-amperes [1]
Normal range in miles:	
200	128
175	102
150	76
125	58
100	45
75	34

[1] The product of the distance (in metres) from the highest part of the antenna to the deepest load water-line and the antenna current (in amperes).

The values given in the second column of the table correspond to an average value of the ratio

$$\frac{\text{effective antenna height}}{\text{maximum antenna height}} = 0.47$$

This ratio varies with local conditions of the antenna and may vary between about 0.3 and 0.7.

B. In the case of self-supporting transmitting antennae:

	Metre-amperes [2]
Normal range in miles:	
200	305
175	215
150	150
125	110
100	85
75	55

[2] The product of the distance (in metres) from the highest part of the antenna to the deepest load water-line and the current (in amperes) measured at the base of the radiating portion of the antenna. The values given in the second column are based on the propagation curves given in CCIR Recommendation 368–2 and also the method, experimental results and calculations in CCIR Report 502–1 and Opinion 43–1. The necessary value of metre-amperes varies considerably with local conditions of the antenna.

The existing text of sub-paragraph (h)(iv) is replaced by the following:

(h)(iv)(1) The radiotelephone transmitting facility required by paragraph (g–2) shall be fitted with an automatic device for generating the radiotelephone alarm signal, so designed as to prevent actuation by mistake, and complying with the requirements of Regulation 16(e). The device shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message. For installations fitted prior to September 1, 1986, the fitting of automatic devices for generating the radiotelephone alarm signal shall be as determined by the Administration.

(2) Arrangements shall be made to check periodically the proper functioning of the automatic device for generating the radiotelephone alarm signal on frequencies other than the radiotelephone distress frequency using a suitable artificial antenna. An exception shall be made for radiotelephone emergency equipment having only the radiotelephone distress frequency in which case a suitable artificial antenna shall be employed.

Note: While all reasonable steps shall be taken to maintain the apparatus in an efficient condition, malfunction of the radiotelephone transmitting facilities required by this Regulation shall not be considered as making the ship unseaworthy or as a reason for delaying the ship in ports where repair facilities are not readily available.

The existing text of sub-paragraph (1)(ii) is deleted.

The existing text of sub-paragraph (m)(iv) is replaced by the following:

(m)(iv) The VHF installation in accordance with the provisions of Regulation 17(c);

Regulation 18.—Radiotelephone installations

The existing text of paragraph (b) is amended by deleting A3H, A3A and A3J.

The existing text of paragraph (c) is replaced by the following:

(c)(i) In the case of cargo ships of 300 tons gross tonnage and upwards but less than 1,600 tons gross tonnage the transmitter shall have a minimum normal range of 150 miles, i.e. it shall be capable of transmitting clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over this range.*

*In the absence of field strength measurements, it may be assumed that this range will be obtained by a power in the antenna of 15 watts (unmodulated carrier) with an antenna efficiency of 27 percent for double sideband emissions or 60 watts peak envelope power for single sideband full carrier emissions when 100 percent modulated by a single sinusoidal oscillation. (Clearly perceptible signals will normally be received if the R.M.S. value of the field strength produced at the receiver by an unmodulated carrier is at least 25 microvolts per metre for double sideband and single sideband full carrier emissions.)

(ii) In the case of existing installations using double sideband emissions on cargo ships of 300 tons gross tonnage and upwards but less than 500 tons gross tonnage, the transmitter shall have a minimum normal range of at least 75 miles.

The existing text of sub-paragraph (j)(iv) is replaced by:

(iv) the VHF installation in accordance with the provisions of Regulation 17(c).

The existing text of Regulation 17 is replaced by the following:

Regulation 17.—VHF radiotelephone installation

(a) The VHF radiotelephone installation shall be in the upper part of the ship complying with the provisions of this Regulation and comprising a transmitter and receiver, a source of energy capable of actuating them at their rated power levels, and an antenna suitable for efficient radiating and receiving signals at the operating frequencies.

(b) On board passenger ships irrespective of size and cargo ships of 500 tons gross

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tonnage and upwards it shall be possible to operate the VHF radiotelephone installation from a source of energy which is situated in the upper part of the ship and has sufficient capacity for at least six hours of operation.

(c) The Administration may authorize the use of the reserve source of energy of the radiotelegraph installation or the radiotelephone installation respectively referred to in Regulation 10(m) and Regulation 16(j) to supply the VHF radiotelephone installation. In this case the reserve source of energy is required to be of a capacity sufficient to operate simultaneously the VHF radiotelephone installation and:

(i) the reserve radiotelegraph transmitter and receiver for at least six hours unless a switching device is fitted to ensure alternate operation only; or

(ii) the radiotelephone transmitter and receiver for at least six hours unless a switching device is fitted to ensure alternate operation only.

(d) The VHF radiotelephone installation shall conform to the requirements laid down in the Radio Regulations for equipment used in the VHF maritime mobile radiotelephone service and shall be capable of operation on those channels specified by the Radio Regulations and as may be required by the Contracting Government referred to in Regulation 4–1(b).

(e) The Contracting Government referred to in Regulation 4–1(b) shall not require the transmitter R.F. carrier power output to be greater than 10 watts. The annual shall, in so far as is practicable, have an unobstructed view in all directions.*

*For guidance purposes, it is assumed that each ship is fitted with a vertically polarized unity gain antenna at a nominal height of 9.15 m above water, a transmitter R.F. power output of 10 watts, and a receiver sensitivity of 2 microvolts across the input terminals for 20 dB signal-to-noise ratio.

(f) Control of the channels required for navigational safety shall be immediately available on the navigating bridge convenient to the conning position and, where necessary, facilities should be available to permit radiocommunications from the wings of the navigating bridge.

Regulation 19.—Radio logs

The following paragraph is added to the existing text and the existing paragraph (c) is relettered as paragraph (d):

(c) On each ship fitted with a VHF radiotelephone installation in accordance with Regulation 4–1:

(i) the entries required by the Radio Regulations shall be recorded in the radio log in accordance with the requirements of the Administration;

(ii) a summary of all communications relating to distress, urgency and safety traffic shall be recorded in the ship's log.

[FR Doc. 83–12883 Filed 5–13–83; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of Utah Prairie Dog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to reclassify the Utah prairie dog from Endangered to Threatened status under the Endangered Species Act of 1973, and to issue a special regulation that would allow a maximum of 5,000 animals of the species to be taken annually between June 1 and December 31 in parts of the Cedar and Parowan Valleys in Utah under a permit system developed by the Utah Division of Wildlife Resources. Such taking would be in the best interest of the conservation of the Utah prairie dog, and would not be allowed to be inconsistent with the conservation of the populations in question. The populations have increased substantially in recent years, and are now straining the carrying capacity of available habitat. They are thus vulnerable to outbreaks of disease (sylvatic plague) such as have occurred among overcrowded rodents elsewhere. There is also a serious conflict developing between these populations and human agricultural interests, which will result in antagonism from local ranchers, and possibly mass illegal killing of the prairie dogs as unwanted nuisances. A program of transplanting to public land has not been able to relieve population pressures, and regulated taking is now seen as the only way to relieve the situation. Comments from the public are solicited on this proposal.

DATE: Comments on this proposed rule must be submitted by July 12, 1983. Requests for a public hearing must be received by June 27, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments to Regional Director, U.S. Fish and Wildlife Service, Region 6, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80255. Comments and materials relating to this rule are available for public inspection by appointment during business hours at the Service's Regional Office in Denver. Requests for a public hearing should be addressed to the Regional Director at the above address.

FOR FURTHER INFORMATION CONTACT: Regional Director, U.S. Fish and Wildlife Service, Region 6, Denver, Colorado (303/234–2209), or John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Utah prairie dog (*Cynomys parvidens*) was listed as an Endangered species on June 4, 1973 (38 FR 14678), pursuant to the Endangered Species Conservation Act of 1969. On November 5, 1979, the Utah Division of Wildlife Resources petitioned the U.S. Fish and Wildlife Service to remove the Utah prairie dog from the U.S. list of Endangered and Threatened wildlife. The Service has found that this petition contains substantial data, and warrants the present proposal to reclassify the species from Endangered to Threatened status.

The Utah prairie dog is a burrowing rodent in the squirrel family (Sciuridae) that occurs only in southern Utah. Its total numbers have fallen from an estimated 95,000 individuals in the 1920's to a 1982 spring estimate of about 10,000 adults (Note.—Actual census counts are about half the size of the estimates cited in this proposal, since only about half the animals are above ground at the time of a census count). This decline was caused by disease, habitat alteration, and poisoning by people because the prairie dog was considered to compete with domestic livestock for forage. At present, the Utah prairie dog is still threatened over much of its range by loss of habitat to human residential and agricultural development.

The Utah prairie dog, however, is not in danger of extinction. Despite the above problems, the over-all numbers of the species appear to have been relatively stable since 1972. The total area occupied by the Utah prairie dog at present encompasses some 456,000 acres. The spring estimate of the number of adult animals in the Cedar and Parowan Valleys (encompassing about 113,000 acres) in eastern Iron County, actually increased from 1,200 in 1976 to 7,300 in the spring of 1982. It should be clearly noted at this point that these population estimates are deceptive. They are based on early spring censuses and constitute only the adult animals that have successfully survived the winter. In the summer, after the young are born and become active, the numbers of Utah prairie dogs are much higher. This is the time at which it is necessary to reduce population pressures in the Cedar and Parowan Valleys. Female Utah prairie dogs give

birth to an average of 4.8 young in April (Pizzimenti and Collier, 1975). Assuming that half the adult population is female and each produces an average annual litter of only 4 young, the total adult and juvenile population of the species throughout its whole range in the summer would be at least 30,000 animals (5,000 adult females × 4 pups + 10,000 adults). In the Cedar and Parowan Valleys alone, the summer population would be well in excess of 20,000 animals (3,650 females × 4 pups + 7,300 adults). The adult prairie dogs cease surface activity in late August and September, but the young animals continue surface activity and feeding for several months thereafter. These young prairie dogs suffer a high mortality rate in the fall and winter, but those that do survive over the winter contribute to the steady increase in the numbers of adult Utah prairie dogs noted since 1976. The problem that has developed is that the large number of juvenile animals present during the summer in the Cedar and Parowan Valleys is straining the carrying capacity of available habitat there, and each year there may be an increasing danger of the outbreak of disease (sylvatic plague) among them. Moreover, there is serious conflict in the Cedar and Parowan Valleys between the Utah prairie dog and human agricultural interests. About 62 percent of all Utah prairie dog colonies occurred on private land in 1982; about 88 percent of the total number of animals occurred on private land. In the Cedar and Parowan Valleys, 98 percent of all prairie dogs occur on private land. The major crop on this private land is alfalfa, which is also a preferred food of the prairie dog. Crop losses are extensive where large prairie dog towns have developed; the mounds of the animals damage haying equipment, and the burrows drain irrigated fields. It is estimated that the large summer populations of these prairie dogs cost local ranchers 1.5 million dollars annually in crop losses and damage to equipment.

Farmers in the area traditionally poisoned, shot, or trapped nuisance prairie dogs. Since the Utah prairie dog has been protected by the Endangered Species Act of 1973, however, these methods of control have no longer been legal. Damage in the Cedar and Parowan Valleys has now reached the point at which there is genuine concern that local ranchers might take illegal means of securing relief. Such means, which in the past have included poisoning, could prove severely damaging to the remaining Utah prairie dog populations, and might bring about the extinction of the species.

In an effort to relieve the over population problems, the Utah Division of Wildlife Resources removed 2,437 animals from the Cedar and Parowan Valleys between 1976 and 1980 for transplanting onto public lands. Although many of these animals apparently did not survive, the transplantation program, along with discovery of previously unrecorded colonies, has increased the number of known active prairie dog towns on public lands from 11 in 1976 to 35 in 1982. Meanwhile, the number of active towns on private land increased from 40 in 1976 to 57 in 1982. The transplantation program obviously has not been able to keep pace with the growing prairie dog population in the Cedar and Parowan Valleys, and new sites for reintroduction are limited. It therefore appears that population pressures in this area are now such that regulated taking is necessary for the management and a proper conservation of the species. The present proposal recognizes the biological fact that the Utah prairie dog is a Threatened rather than Endangered species, and would permit the State of Utah to authorize certain individuals to legally take up to 5,000 animals annually between June 1 and December 31, in delineated portions of the Cedar and Parowan Valleys when such take is necessary for the conservation and management of the Utah prairie dog. Also, the State will continue to live-trap prairie dogs on private lands and reestablish them on Federal lands as has been its practice since the mid–1970's

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act.

These factors and their application to the Utah prairie dog are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Utah prairie dog once ranged from Pine Valley in Iron and Beaver Counties, to the foothills of the Aquarius Plateau in the east, and from northern Washington and Kane Counties on the south to as far north as Nephi, Utah. Today the species is confined to disjunct areas in southwestern Utah. In the 1920's, it was estimated that there were 95,000 Utah prairie dogs, whereas today (1982) the spring estimate is around 10,000 adult animals. Among other factors, habitat destruction and modification for agricultural and residential uses were important in reducing the range and population of the species. Nevertheless, the population now appears to have been increasing since 1972, and transplants of individuals by State authorities has increased the range since then. At present (1982), the species occurs in an area encompassing some 450,000 acres of land, and about 38 percent of the colonies are located on public land. Although the total number of animals is still small, and the range reduced, the Utah prairie dog is not now in danger of extinction, but it must be closely monitored and managed to assure that it does not become Endangered.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or Predation.* Rodent populations are subject to sylvatic plague where conditions of overpopulation exist. In Utah's Cedar and Parowan Valleys, the Utah prairie dog population is now crowded and there may be a possibility of this disease erupting among the animals. Although an outbreak of sylvatic plague would probably not result in the species' extinction, it could lead to its becoming endangered.

D. *Inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* In the Cedar and Parowan Valleys, localized high population levels of the Utah prairie dog reportedly result in crop losses and damage to equipment amounting to some 1.5 million dollars annually. State authorities have not been able to relieve the situation by live-trapping and transplanting individual animals, and there is increasing concern that local ranchers will resort to illegal measures of control. This could pose a serious threat to the populations in the Cedar and Parowan Valleys and, since overall numbers and range are quite small, to the species as a whole.

Effect of the Proposal if Published as a Final Rule

This proposal would reclassify the Utah prairie dog from Endangered status to Threatened status, pursuant to the

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Endangered Species Act of 1973, as amended. Accordingly, there would be some modification of the conservation measures already in effect for this species. The prohibitions of 50 CFR 17.31 for Threatened species are essentially the same as those for Endangered species (illegal to take, import or export, ship in interstate commerce or in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce; and illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken), except that "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take those threatened species of wildlife which are covered by an approved Cooperative Agreement to carry out conservation programs." The State of Utah has such a cooperative agreement that covers the Utah prairie dog. Also, in accordance with 50 CFR 17.32, permits for Threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Section 4(d) of the Act states that whenever any species is listed as a Threatened species, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. A special regulation is proposed herewith for the Utah prairie dog that would apply only to the populations in certain delineated portions of the Cedar and Parowan Valleys in Iron County, Utah. Taking in these delineated areas would be carried out in accordance with Utah State law, through a permit system established by the Utah Division of Wildlife Resources. The number of animals taken annually could not exceed 5,000 and must be taken between June 1 and December 31. Permits would allow controlled shooting, trapping, and drowning in specified areas monitored by the Division. Taking could not include the use of chemical toxicants, since no such materials are registered for control of the species. This taking would be permitted as a conservation measure since the prairie dogs are overcrowding their habitat in these valleys, and population pressures cannot be relieved in any other way. Given the fact that the total population (juveniles and adults) in these valleys probably exceeds 20,000 animals during the summer, the maximum allowed take of 5,000 animals would not jeopardize the survival of the prairie dog population in the Cedar and Parowan Valleys. In addition, the Service would reserve the right to immediately halt any take of Utah prairie dogs if at any time it received substantive information that such take was proving detrimental to survival of the species. The number of animals taken, their location, and the methods of take employed would have to be reported at 90 day intervals to the U.S. Fish and Wildlife Service. The information collection requirement contained in § 17.40(g)(2) does not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

The State of Utah will continue its annual census count of Utah prairie dogs and submit data it obtains through these counts to the Service each year. The provisions of section 7(a) of the Endangered Species Act would continue to apply to the Utah prairie dog throughout its range. All Federal agencies would be required to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of the species. Other provisions of the Act, including those for land acquisition (Section 5) and financial assistance to States (Section 6) also would continue to apply to all populations of the Utah prairie dog.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this species. Therefore, any data, comments, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Final promulgation of regulations on the Utah prairie dog will take into consideration the comments and any additional data received by the Service, and such information may lead it to adopt final regulations that differ from the proposal.

Also, the Service is requesting information on environmental and other impact that would result from the reclassification of the Utah prairie dog, and information on possible alternatives to the measure.

The Endangered Species Act has provisions for public hearings if requested, in writing, within 45 days of the date of this proposal. Requests should be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80255.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 [implemented at 40 CFR Parts 1500 through 1508].

References

Heggen, A.W. and R.H. Hasenyager. 1979. Annual Utah prairie dog progress report to U.S. Fish and Wildlife Service by Utah Division of Wildlife Resources. Unpubl. Rep. Salt Lake City, Utah: Div. Wildl. Resour.

Pizzimenti, J.J. and C.D. Collier. 1975. *Cynomys parvidens*. *Mammalian Species*, 58:1–2.

Turner, B. 1979. An evaluation of the Utah prairie dog (*Cynomys parvidens*). Unpubl. Rep. prepared for the Utah Div. of Wildl. Resour., 53 pp.

Utah Division of Wildlife Resources. No date. Draft Utah prairie dog recovery plan. Draft document submitted to U.S. Fish and Wildlife Service in 1982.

Additional information pertinent to this proposed rule was received from the following agencies: Utah Division of Wildlife Resources, U.S. Bureau of Land Management, U.S. Forest Service, National Park Service, Mr. Ivan Matheson, Utah State Senator.

Primary Authors

The primary authors of this rule are William C. White, U.S. Fish and Wildlife Service (Retired), Federal Building, Room 1311, 125 South State Street, Salt Lake City, Utah 84138 (801/524–5634), and John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Title 50 of the U.S. Code of Federal Regulations as set forth below.

1. The authority citation for Part 17 reads as follow:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.11 by revising the entry on the Utah prairie dog to read as follows:

§ 17.11 [Amended]

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Prairie dog, Utah	*Cynomys parvidens*	U.S.A. (UT)	Entire	T	6	N/A	17.40(g)

3. It is proposed to amend § 17.40 by adding a new paragraph (g) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(g) Utah prairie dog (*Cynomys parvidens*)—(1) Except as noted in paragraph (g)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the Utah prairie dog.

(2) A Utah prairie dog may be taken under a permit issued by the Utah Division of Wildlife Resources, in accordance with the laws of the State of Utah, in the following areas of Cedar Valley and Parowan Valley, Iron County, Utah (Salt Lake Meridian): T33S R8W, T33S R9W, T34S R8W, T34S R9W, T34S R10W, T34S R11W, T35S R10W, T35S R11W, T36S R11W, T36S R12W, T37S R12W, T38S R12W: *Provided*, that such taking does not exceed 5,000 animals annually, and that such taking is confined to the period from June 1 to December 31. The following information must be reported every 90 days to the U.S. Fish and Wildlife Service Regional Office, Denver Federal Center, Denver, Colorado 80225, or to any other address designated by the Service: Name and address of each person holding an active permit; reason for issuance of each permit; number, location, and method of take for all Utah prairie dogs taken during the reporting period; and any other information requested by the Service. The information collection requirement contained in § 17.40(g)(2) does not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

(3) If the Service receives substantive evidence that taking relative to paragraph (g)(2) of this section is inconsistent with the conservation of Utah prairie dog population in the designated area, it may immediately prohibit or restrict such taking.

Dated: April 12, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–12877 Filed 5–12–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Fishery of the South Atlantic; Availability of a Fishery Management Plan and Request for Comments

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council has submitted the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic for Secretarial review and is requesting comments from the public. Copies of the plan may be obtained from the address below.

DATE: Comments on the plan should be submitted on or before July 22, 1983.

ADDRESSES: All comments should be sent to Jack T. Brawner, Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Copies of the plan are available upon request from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407–4699.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton (Regional Plan Coordinator), 813–893–3721.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended, (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan, must immediately publish a notice that the plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan.

This plan proposes measures for managing the domestic commercial and recreational fisheries for species in the snapper-grouper fishery of the South Atlantic. On August 20, 1982, the Environmental Protection Agency published a notice of availability of a draft environment impact statement for this plan (47 FR 36468).

Regulations proposed by the Council and based on this plan are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: May 9, 1983.

Joe P. Clem,

Acting Chief, Fisheries Process Division, National Marine Fisheries Service.

[FR Doc. 83–12879 Filed 5–12–83; 8:45 am]

BILLING CODE 3510–22–M

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Notices

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Flue-Cured Tobacco Referendum Results: 1983 Through 1985 Crops of Tobacco

ACTION: Notice of Results of Marketing Quota Referendum for 1983 Through 1985 Crops of Flue-Cured Tobacco.

SUMMARY: This notice proclaims the results of a marketing quota referendum for flue-cured tobacco which was held on December 16, 1982, in accordance with Section 312(c) of the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"). The referendum was conducted in order to determine whether producers of flue-cured tobacco favor or oppose marketing quotas. Since flue-cured tobacco producers did not disapprove national marketing quotas, such quotas will be in effect for the three marketing years 1983–1984, 1984–1985, and 1985–1986.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". This notice has been classified as "not major" since it will not result in: (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

On November 30, 1982, the Secretary of Agriculture announced that national marketing quotas would be in effect for flue-cured tobacco for the three marketing years beginning on July 1, 1983, subject to approval by flue-cured tobacco producers voting in a referendum. On December 16, 1982, such a referendum was conducted. Section 312(c) of the 1938 Act provides that if more than one-third of such producers voting in the referendum oppose national marketing quotas, such results shall be proclaimed by the Secretary and national marketing quotas shall not be in effect.

Since the only purpose of this notice is to announce the results of the referendum, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referendum are set forth below:

Results of the National Marketing Quota Referendum for the 1983 Through 1985 Crops of Flue-Cured Tobacco

(1) *Referendum period.* The national marketing quota referendum for the 1983–1984, 1984–1985, and 1985–1986 marketing years for flue-cured tobacco was held on December 16, 1982, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary, by State, of the result of the referendum:

FLUE-CURED TOBACCO

State	Yes	No	Total
Alabama	100	0	100
Florida	1,576	116	1,692
Georgia	6,828	521	7,349
North Carolina	67,218	4,676	71,894
South Carolina	11,527	383	11,910
Virginia	9,969	1,361	11,330
Totals	[1]97,218	[2]7,057	104,275

[1] Allegations of voting irregularities were made in Franklin, Harnett, Nash, Randolph and Wilson Counties in North Carolina. Since such a large majority of those producers voting approved marketing quotas, the "yes" votes in these counties have been excluded in order to determine whether the result of the referendum was affected by voting irregularities. The approval rate would have been slightly higher had the "yes" votes in the afore-mentioned counties been included.

[2] This figure includes "no" votes in the 5 counties in North Carolina where the vote was disputed.

(3) *Marketing quotas will be in effect for the 1983 through 1985 crops of flue-cured tobacco.* Since not more than one-third of the producers of flue-cured tobacco voting in the referendum did not vote to disapprove national marketing quotas, and since the 1982–1983 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect, a national marketing quota shall be in effect for flue-cured tobacco for the marketing years 1983–1984, 1984–1985, and 1985–1986.

Authority: (Sec. 312(c), 52 Stat. 46, as amended, 7 U.S.C. 1312(c)).

Signed at Washington, D.C. on May 5, 1983.

Everett Rank,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-12570 Filed 5-12-83; 8:45 am]
BILLING CODE 3410-05-M

Soil Conservation Service

Colonel Town Community Camp, Public Water-Based Recreation RC&D Measure, New Hampshire; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Colonel Town Community Camp, Public Water-Based Recreation RC&D Measure, Coos County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G, Durham, New Hampshire, 03824, telephone 603–868–7581.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Richard L. Porter, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for public-water-based recreation. The planned works of improvement include rehabilitating a one-quarter acre pond; spring development for water supply; and, subsurface drainage of a playfield.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Richard L. Porter.

No administrative action on implementation of the proposal will be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 28, 1983.

Richard L. Porter,
State Conservationist.

[FR Doc. 83-12695 Filed 5-12-83; 8:45 am]
BILLING CODE 3410-16-M

Lake Pleasant Critical Area Treatment Measure; Resource Conservation and Development Program, Massachusetts; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Pleasant Critical Area Treatment Measure, Franklin County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Rex O. Tracy, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, Massachusetts, 01002, telephone (413) 256–0442.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Rex O. Tracy, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns controlling erosion and sedimentation along a 250 foot long section of Hannegan Brook as described in the Lake Pleasant Critical Area Treatment RC&D Measure Plan. The planned works of improvement include the installation of: two rock riprap headwalls, 300 cubic yards of fill, 150 cubic yards of rock riprap and 250 feet of subsurface drainage pipe.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rex O. Tracy.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: May 6, 1983.

Rex O. Tracy,
State Conservationist.

[FR Doc. 83-12743 Filed 5-12-83; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 14–83]

Foreign-Trade Zone 81—Portsmouth, New Hampshire; Application for Special-Purpose Subzone at Manchester Manufacturing Plant in Colebrook

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the New Hampshire Port Authority, grantee of Foreign-Trade Zone 81, requesting authority for a special-purpose subzone at the facilities of Manchester Manufacturing, Inc. (MMI) in Colebrook, New Hampshire, within the Norton Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 5, 1983. The applicant is authorized to make this proposal under Section 271–A:11 of the New Hampshire RSA.

On January 20, 1983, the Board authorized the Port Authority to establish a foreign-trade zone (Board Order 207, 48 FR 4308, 1/31/83) in Portsmouth and a subzone at Nashua Corporation facilities in Nashua and Merrimack. The general-purpose zone covers 10 acres at the Port of Portsmouth.

The proposed subzone will comprise MMI's 180,000 square foot manufacturing and warehousing facility, employing some 160 persons, and located on a 15-acre site in the Colebrook Industrial Park. The company manufactures children's outerwear from domestic piece goods, and warehouses some imported apparel. This request is part of MMI's plans to expand its operations relating to the warehousing of imported apparel of all types. In expanding its operations at the plant, the company would undertake the repair and ornamenting of imported garments.

Zone procedures would be used to defer the payment of Customs duties and are being requested to provide a Customs setting for the inspection and repair of imported garments prior to entry. This would result in a greater utilization of the plant, helping to make the company more competitive as a warehouse center for its major retail customer. By increasing the capacity utilization of the Colebrook facility, unit overhead costs on both manufacturing and warehousing operations will be reduced. The resulting lower costs will help this plant regain its competitive

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position as a manufacturer in relation to the company's plants abroad, leading to a potential increase in employment of 100 persons.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer St., Boston, MA 02210; and Colonel Carl B. Sciple, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Rd., Waltham, MA 02254.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customhouse, Norton, VT 05907

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Ave. NW., Washington, D.C. 20230.

Dated: May 6, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83-12980 Filed 5-12-83; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held on June 1, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 5611, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Subcommittee was established to study the fiber optic communications equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

For further information contact Mrs. Margaret Cornejo, 202-377-2583.

Dated: May 9, 1983.

Milton Baltas,
Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-12982 Filed 5-12-83; 8:45 am]
BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held on June 2, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committee Advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The committee will meet only in executive session to discuss matters properly classified under Exective Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

A Notice of Determination to close meetings or portion of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

For further information contact Mrs. Margaret Cornejo 202-377-2583.

Dated: May 9, 1983.

Milton Baltas,
Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-12983 Filed 5-12-83; 8:45 am]
BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determinations; Certain Stainless Steel Products From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determinations.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod (certain stainless steel products). The estimated net subsidy is 15.44 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigations at the request of the petitioners in accordance with section 704(g) of the Tariff Act of 1930, as amended (the Act). If the final determinations by the ITC are negative, the suspension agreement shall have no force or effect. If the final determinations by the ITC are affirmative, the suspension agreement shall remain in force.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-0171.

SUPPLEMENTARY INFORMATION:

Final Determinations

Based upon our investigations, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Act, are being provided to manufacturers, producers, or exporters in Brazil of certain stainless steel products. For purposes of these investigations, the following programs are found to confer subsidies:

- IPI export credit premium.
- Preferential working capital financing for exports.
- Income tax exemption for export earnings.
- Long-term loans.
- IPI rebates for capital investment.

- Industrial Development Council (CDI) program.
- Accelerated depreciation for capital goods manufactured in Brazil.

We have determined the estimated net subsidy on certain stainless steel products from Brazil to be 15.44 percent *ad valorem*.

The Department and the government of Brazil have entered into a suspension agreement. If the final ITC determinations are affirmative, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On June 16, 1982, the Department received a petition from A1 Tech Specialty Steel Corporation, Carpenter Technology Corporation, Colt Industries, Inc., Crucible Specialty Metals Division, Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels and Republic Steel Corporation, filed on behalf of the U.S. industry producing certain stainless steel products. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

We found the petition to be sufficient and on July 6, 1982, we initiated countervailing duty investigations (47 FR 30274). We stated that we expected to issue preliminary determinations by September 9, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until November 15, 1982 (47 FR 40202).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On August 2, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or are threatening to materially injure, a U.S. industry (47 FR 36038).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on July 21, 1982. On November 1, 1982, we received the response to that questionnaire.

On November 15, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of certain stainless steel products under six programs. The programs preliminarily found to confer subsidies were:

- Industrialized Products Tax (IPI) export credit premium.
- Preferential working capital financing for exports.
- Income tax exemption for export earnings.
- Long-term loans.
- IPI rebates for capital investment.
- Industrial Development Council (CDI) program.

Notice of the preliminary affirmative countervailing duty determinations was published on November 19, 1982 (47 FR 52207). We directed the U.S. Customs Service to suspend liquidation of all entries of the certain stainless steel products entered or withdrawn from warehouse, for consumption on or after November 19, 1982, and to require the posting of a cash deposit, or bond, or other security in the amount of 12.5 percent of the f.o.b. value of the merchandise.

On December 28, 1982, the Department and the government of Brazil initialed a proposed agreement to suspend the countervailing duty investigations involving certain stainless steel products from Brazil. The basis for the proposed agreement was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of certain stainless steel products to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we consulted with the petitioners and provided them a copy of the proposed agreement. We received comments on the proposed agreement and addressed them in the notice announcing the suspension of the investigations.

On January 27, 1983, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the **Federal Register** on February 2, 1983 (48 FR 4703). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of certain stainless steel products to the United States.

By letter of February 22, 1983, counsel for the petitioners requested that the investigations be continued under section 704(g) of the Act. Therefore, we are required to complete the investigations and issue final determinations.

Scope of Investigations

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod. For a further description of these products, see Appendix A to this notice.

There are five known producers and exporters in Brazil of certain stainless steel products to the United States. We have received information from the government of Brazil regarding three of these companies, Companhia Acos Especiais Itabira (ACESITA), Acos Finos Piratini S/A (PIRATINI), and Acos Villares S/A (VILLARES), which represented approximately 99 percent of Brazilian exports of certain stainless steel products to the United States in calendar year 1981.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for ACESITA and PIRATINI, and February 1, 1981 to January 31, 1982 for VILLARES. We have referred to these periods as fiscal year 1981 in this notice.

In its response, the government of Brazil provided data for the applicable periods.

Changes Since the Preliminary Determinations

We preliminarily determined that the program "accelerated depreciation for capital goods manufactured in Brazil" was not used by manufacturers, producers or exporters in Brazil of certain stainless steel products. However, after analysis of the information received during verification which took place during December 13-17, 1982, we have determined that one company, VILLARES, benefitted from that program. We also found additional benefits under the long-term loan program. These major changes as well as others which have resulted from alterations in calculations necessitate modification of the export tax established pursuant to the suspension agreement. Such subsequent determinations are provided for under the terms of the agreement. By letter of March 29, 1983, we notified the government of Brazil that such changes may occur as the result of these determinations. We will officially notify the government of Brazil of these determinations so that they may adjust the export tax accordingly.

Analysis of Programs

I. *Programs Determined to Confer Subsidies.* We have determined that subsidies are being provided to

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manufacturers, producers, or exporters in Brazil of certain stainless steel products under the programs described below.

A. *Industrialized Products Tax (IPI) Export Credit Premium.* Under this program the bank involved in the export transaction reimburses in cash to the exporter a percentage of the "adjusted" f.o.b. invoice price of the exported merchandise. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981. Since the IPI export credit premium program is designed to promote exports and is tied to export performance, we have determined that the program is an export subsidy and therefore is countervailable. The program has also been found to be countervailable in previous countervailing duty investigations involving Brazilian products.

Exporters of certain stainless steel products are eligible for the maximum IPI export credit premium, which, up until March 30, 1982, was 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise.

Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

To determine the amount of benefit, we calculated the value of the IPI credits as of the date of shipment rather than the date of receipt and did not take into account the devaluation of the cruzeiro, in accordance with section 771(6)(B) of the Act. We then divided the value of the IPI credits by the value of exports and calculated a subsidy of 14.53 percent.

This rate is premised on an IPI export credit premium of 15 percent during the period for which we were measuring subsidization.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent. When there is a fundamental change in the benefit from a program after the period of investigation, which is applicable to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program. On this basis, we calculated a current subsidy of 10.65 percent *ad valorem.*

B. *Preferential Working Capital Financing For Exports: Resolution 674.* Under this program companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. Since this program is designed to promote exports and is tied to export performance, we have determined that such financing is an export subsidy and therefore is countervailable. This program has also been found to be countervailable in previous investigations involving Brazilian products.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports.

To determine the value of loans in existence under this program during 1981, we prorated any loans that straddled other years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. In the review period the rate for discounting sales of accounts receivable was 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received and dividing the result by the value of exports, we calculated a subsidy of 1.85 percent *ad valorem.*

On February 11, 1983, the government of Brazil notified the Department that the Banco do Brasil rate for discounting accounts receivable had increased from 59.6 percent to 72 percent effective January 3, 1983. In addition, effective January 11, 1983, the tax on financial transactions was reduced from 6.9 percent to 4.6 percent. These changes result in a subsidy rate differential of 32.6 percent rather than 22.5 percent as stated above. Consequently, since the rate established for purposes of the suspension agreement is prospective, we will use 32.6 percent as the applicable differential in determining the subsidy rate from this program for determination of the net subsidy rate which must be offset by an export tax under the terms of the agreement.

C. *Income Tax Exemption For Export Earnings.* Exporters of certain stainless steel products are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit. Since the program is designed to promote exports and is tied to export performance, we have determined that it is an export subsidy and therefore is countervailable. This program has also been found to be countervailable in previous investigations involving Brazilian products.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. VILLARES received benefits under this program in 1981. By dividing the benefit received by the value of exports of the companies under investigation, we calculated a subsidy of 0.55 percent *ad valorem.*

D. *Long-term loans.* Long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions, such as the National Bank for Economic Development (BNDE) and FINAME, a program of BNDE for the purchase of capital equipment manufactured in Brazil. Generally, these loans are fully indexed to the inflation rate in Brazil and are made at fixed real interest rates. The index used for these loans is the ratio established for the Readjusted Bonds of the National Treasury (ORTN). FINAME loans are granted through commercial banks rather than directly from BNDE and carry higher real interest rates than BNDE loans.

VILLARES received direct BNDE loans. As in previous steel countervailing duty investigations, we have determined that BNDE loans, when fully indexed, are not made at preferential rates. We compared the BNDE loan rates to a constructed benchmark based on the real interest rates of the only private long-term loans commercially available in Brazil—foreign currency loans. Such loans are granted at the London Interbank Offered Rate (LIBOR) plus a certain percentage or spread over LIBOR. Since LIBOR loans are continually readjusted at the prevailing interest rates, we constructed the benchmark by calculating the average real interest component of LIBOR-plus-spread on long-term loans to Brazil for the period 1977–81 during which these BNDE loans were made. We then compared that average real interest rate to the rates at which the long-term BNDE loans were made. Our comparison showed that all the fully-indexed BNDE loans were made at rates above the benchmark. Therefore, we have determined that such BNDE loans are not countervailable.

However, some long-term cruzeiro loans have been granted that are not fully indexed. Under a program instituted in 1975 and no longer in operation, BNDE granted loans that were adjusted at only 20 percent of the variation in ORTN. These loans were granted only to certain sectors of the economy, including the iron and steel industry, for implementing "priority projects." Because they were granted to a group of enterprises or industries we have determined that the program is countervailable. We have also found this program countervailable in previous cases involving Brazilian products.

VILLARES has been granted such a loan and still has an outstanding balance on this loan. We calculated the interest portion of the benefit to VILLARES for this loan as the difference between the amount actually paid in fiscal year 1981 and the amount which would have been paid had the loan been fully adjusted. Even though principal repayments have yet begun for this VILLARES loan, the principal balance is recalculated yearly subject to the 20 percent limit on monetary correction. Therefore, VILLARES benefited from an abatement in principal as well as a reduction in interest. We divided the sum of VILLARES' interest and principal benefits by total sales of all companies under investigation and calculated subsidy of 1.38 percent *ad valorem.*

FINAME loans have been received by ACESITA, PIRATINI, and VILLARES and are available to a wide variety of sectors in Brazil. The steel industry has received such loans in proportions similar to other large capital-intensive industries in Brazil. This appears to be warranted by the capital requirements of such industries. In addition, numerous other sectors also received loans from FINAME during this period. Based on the general availability of these fully-indexed loans, we have determined that they do not confer a subsidy.

E. *IPI rebates for capital investment.* Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital. Benefits under this program are received only by the steel sector. Because they are received by a specific industry, we have determined that the benfits are countervailable. We have also found this program countervailable in previous cases involving Brazilian products.

PIRATINI received benefits under this program from 1977 to 1981, while ACESITA and VILLARES continue to receive them. With the enactment of Decree Law 1843 (December 1980), PIRATINI must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBRAS, the government holding company to which PIRATINI belongs, to increase its capital.

In these investigations, we considered the amount rebated each year as an untied grant received in that year. As such, we have allocated the grants over 15 years. Under our grant methodology, we determine the present value of grants in order to calculate the current value of the benefit to the grant recipient. The calculation of the present value of funds received is a mechanism for allocating money received in one year to other years and is calculated using a discount rate. For these determinations, we determine that the most appropriate discount rate is the "risk-free" rate as indicated by the secondary market rate for long-term government debt in the country under investigation. The foundation of a country's interest rate structure is usually its government's debt interest rate (the risk-free rate). In this methodology, we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (greater than $50 million) and specifically tied to pieces of capital equipment. Where the grant was small (generally less than one percent of the company's gross revenues and tied to items generally expensed in the year purchased, such as wages or purchases of materials), we have allocated the subsidy solely to the year of the grant receipt. We construe that a grant is "tied" when the intended use is known to the subsidy giver and so acknowledged prior to or concurrent with the bestowal of the subsidy. All other grants, such as in this case, are allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S.

To calculate the benefit, we have taken the amount rebated in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in that month, added the monthly ORTN amounts to determine the amount of the grant in each year and

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used as the discount rate for each year the interest rate of 4 percent on ORTN-indexed long-term government debt. The total benefit in ORTN for fiscal year 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for the 1981 fiscal year. The benefit of this subsidy is 0.80 percent *ad valorem*.

F. *Industrial Development Council (CDI) program.* This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for certain industrial projects approved by the CDI. Because benefits under the program are limited to "approved" development projects we have determined that they were granted to a group of enterprises or industries and are countervailable. We have also found the CDI program countervailable in previous countervailing duty investigations involving Brazilian products.

Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. ACESITA received such benefits during 1981. By dividing the benefit received by the total value of sales of the companies under investigation, we calculated a subsidy of 0.18 percent *ad valorem*.

G. *Accelerated depreciation for capital goods manfactured in Brazil.* This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. This program is authorized by the same legislation as the previous CDI program, is likewise countervailable and has been found to be countervailable in previous countervailing duty investigations involving Brazilian products.

During verification we found that VILLARES used the accelerated depreciation provisions of this program. The benefit of such a program is reduced taxable income and a subsequent reduction in tax liabilities. In a program of this kind, benefits connot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. VILLARES claimed that they could have depreciated at a higher "normal" rate than that actually used to compute its tax liability for the 1980 fiscal year thus offsetting any subsidy that they might receive under this program. However, we used the actual amount of accelerated depreciation claimed by VILLARES in excess of the normal depreciation that was used by VILLARES in that year. To calculate the benefit to VILLARES, we determined the amount by which depreciation under this program exceeded normal depreciation, multiplied that amount by 35 percent, the corporate tax rate in Brazil, and then divided the result by the total value of sales for the 1981 fiscal year of the companies under investigation. The *ad valorem* benefit of this subsidy is 0.03 percent.

II. *Program Determined not to Confer Subsidies.* We have determined subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain stainless steel products under the following program.

Transportation subsidies from preferential port rates. The government of Brazil, in its response to our questionnaire, states that none of the exporters of certain stainless steel products receive preferential port rates. At verification we examined shipping documents for Brazilian and non-Brazilian carriers, compared the freight rates and port charges to published schedules and found that the rates paid by steel exporters were not preferential and therefore not countervailable.

III. *Programs Determined not to be Used.* We have determined that the following programs were not used by the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

A. *The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX).* BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: a reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil states that since manufacturers of certain stainless steel products export only a small portion of their production, they are not in a position to make the required export commitments. We found that non of the companies under investigation received benefits from this program with respect to certain stainless steel products.

B. *Export financing under Resolution 68.* This program provides financing for the export of Brazilian goods for a minimum period of 181 days. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price for the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. We found that none of the exporters of certain stainless steel products used Resolution 68 to finance exports.

C. *Transportation subsidies from preferential rail rates.* We found that exporters of certain stainless steel products almost exclusively utilize trucks to ship their products to the ports of exportation because of the low tonnages of these shipments.

Verification

In accordance with section 776(a) of the Act, we verified data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturers' records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). There was no request for a public hearing and no written views were received. We received comments on the suspension agreement and addressed those comments in the notice announcing the suspension of the investigations (48 FR 4703).

Suspension of Liquidation

The suspension of liquidation of entries of certain stainless steel products pursuant to the preliminary affirmative determinations was terminated upon publication of the notice of suspension of the investigations.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of certain stainless steel products from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will have no force or effect and these investigations will be terminated. If, however, the ITC determines that such injury does exist, the suspension agreement shall remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

These determinations are published in accordance with section 705(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

Appendix A—Certain Stainless Steel Products From Brazil

For purpose of these investigations:

1. The term "*stainless steel wire rod*" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.020 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS) or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term "*hot-rolled stainless steel bars*" covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA).

3. The term "*cold-formed stainless steel bars*" covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA. Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Allow steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element

[FR Doc. 83-12931 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Determination of Sales at Less Than Fair Value; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that industrial nitrocellulose from France is being sold in the United States at less than fair value. The U.S International Trade Commission (ITC) will determine within 75 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. Industry.

EFFECTIVE DATE: May 13, 1983

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Stuart Keitz, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3601/0171).

SUPPLEMENTARY INFORMATION:

Case History

On July 2, 1982, we received a petition from Hercules Incorporated (Hercules) of Wilmington, Delaware, the only domestic producer of industrial nitrocellulose. The petition alleged that industrial nitrocellulose from France is being, or is likely to be, sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. The petitioner also alleged sales in the home market at prices below the cost of production. After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on July 28, 1982 (47 FR 32557). On August 16, 1982, the ITC subsequently found that there was a reasonable indication that imports of industrial nitrocellulose from France were materially injuring or were threatening to materially injure a United States industry (47 FR 37314). On Novermber 26, 1982, we published a notice determining that this case was "extraordinarily complicated," as defined in section 733(c)(1)(B) of the Act (47 FR 53441). Therefore, we extended the period for making the preliminary determination by 14 days until, December 23, 1982.

A questionnaire was presented to Societe Nationale des Poudres et Explosifs (SNPE), the respondent in this case, and to its attorney, on August 5, 1982. Responses were received on September 10 and 16, 1982. A verification was conducted at SNPE's plant in Berqerac, France from October 18–20, 1982, and at the headquarters of SNPE in Paris, France, on October 21 and 22, 1982. The home market cost of production section of the response was verified for a second time from February 18 through 24, 1983. On December 23, 1983, we preliminarily determined that industrial nitrocellulose from France is not being sold, or is not likely to be sold, in the United States at less than fair value (47 FR 57308).

Our notice of preliminary determination provided interested parties with an opportunity to submit views orally and in writing. On March 30, 1983, we held a public hearing.

On March 1, 1983, we published a notice extending the period for making the final determination until May 9, 1983, at the request of the petitioner in accordance with section 735(a)(2)(B) of the Act (48 FR 1529).

Scope of the Investigation

The product covered by this investigation is industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen. It should not be confused with explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. It is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the Tariff Schedules of the United States Annotated.

Approximately three percent of total sales to the U.S. were of butyl nitrocellulose. Since this was such a small quantity and since the cost for producing this product is different from the remaining 97 percent of sales, we disregarded these sales for purposes of the fair value investigation.

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The period of investigation for French industrial nitrocellulose sold in the United States is from January 1 to June 30, 1982.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of industrial nitrocellulose, because SNPE sold all of its merchandise to unrelated parties in the U.S. prior to the date of importation.

We calculated purchase price based on the c.i.f., delivered, packed price to unrelated purchasers. We made deductions for ocean freight, insurance, foreign inland freight, and U.S. inland freight.

Foreign Market Value

In calculating foreign market value we used home market sales prices or constructed value in accordance with section 773 of the Act.

The petitioner alleged that sales in the home market were at prices below the cost of producing industrial nitrocellulose. We examined production costs which included all appropriate costs for materials, labor and general expenses. Sales below the cost of production were found to be made for each of the grades of industrial nitrocellulose examined. Where sales of any grade of the merchandise under investigation were made over an extended period of time in substantial quantities, and at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis in accordance with section 773(b) of the Act. For certain grades, we found that sufficient sales of industrial nitrocellulose were made at or above the cost of production and, therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. For certain other grades of industrial nitrocellulose, we found that sales which were made above the cost of production were inadequate as a basis for the determination of foreign market value and consequently, we used the constructed value of the merchandise for these grades of industrial nitrocellulose to determined their foreign market value.

Where we used constructed value as a basis for foreign market value, we calculated it to include the costs of materials, fabrication, general expenses, profit and the cost of packing. The amount added for general expenses was the statutory minimum of 10 percent of the sum of material and fabrication costs, because the statutory minimum was higher than the actual general expenses. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses because the actual profit was less than 8 percent.

Home market prices were based on the f.o.b. or delivered, packed price to unrelated purchasers. We made deductions, where appropriate, for inland freight, and rebates. Adjustments were made, where appropriate, for differences in warranty expense, credit expense, the cost of the merchandise being compared, and the cost of packing. Adjustments for differences in physical characteristics were based on differences in the cost of materials, labor, and directly-related factory overhead. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with § 353.15(c) of the Commerce Regulations.

Adjustments were claimed for institutional advertising expenses and quality control costs. We did not allow these adjustments since they were not directly related to the sales under consideration as required by section 353.15 of the Commerce Regulations.

Technical assistance expense was allowed as part of the offset for U.S. commission sales as an indirect selling expense and not as a circumstance of sale adjustment for all home market sales as claimed by the respondent.

Verification

In accordance with section 776(a) of the Act, we verified the information from SNPE which was used in this determination. We verified the information received on cost of production, sales, and the adjustments claimed. We were granted access to the books and records of SNPE. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information. The home market cost of production section of the response was verified for a second time by Alexander Grant & Co.

Results of Investigation

We made fair value comparisons on all U.S. sales reported by SNPE. We have found tht the foreign market value exceeded the United States price on 31.13 percent of the merchandise sold. These margins ranged from 0 to 12.26 percent. The overall weighted-average margin on all industrial nitrocellulose sales is 1.38 percent.

Petitioner's Comments

Comment 1

The Department of Commerce (DOC) has failed to allocate sufficient financing expenses to SNPE's cost of producing industrial nitrocellulose. The DOC's cost of production analysis should include all sales financing expenses that are directly related to home market sales of industrial nitrocellulose. An alternative would be to allocate all SNPE sales financing expenses in such a way as to take account of the fact that there are likely to be no financing expenses in selling to the Government of France and to related customers.

DOC position

When the DOC computes a cost of production, all costs, including finance expenses, are included. The DOC accepts the accounting practices of a respondent in making allocations for gneral, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Since financing expenses have been allocated to the cost of production of industrial nitrocellulose by SNPE in accordane with their normal allocation methods, the amounts of these expenses have been accepted by the DOC.

Comment 2

SNPE has allocated indirect selling expenses over all products including those sold to the Government of France and related customers. The DOC should allocate SNPE's indirect selling expenses solely over sales to unrelated customers.

DOC position

The DOC verification established that SNPE inaccuretely allocated indirect selling expenses over the value of all nitrocellulose including sales of the military grade to related parties. Based on our findings, SNPE has reallocated these expenses solely to industrial notrocellulose based on relative sale value of the products sold by the Bergerac plant sales department. (The Bergrac plant is the only SNPE facility which produces industrial nitrocellulose). This reallocated amount is included in the cost of production.

Comment 3

SNPE has understated its research and development (R & D) costs for industrial nitrocellulose. The DOC should reallocate SNPE's R & D costs over all of the products produced by the company.

DOC position

In their response, SNPE deviated from their normal accounting practice by adjusting the R & D allocations to industrial nitrocellulose to exclude R & D they believe to have been associated with other product groups. The DOC accepts the accounting allocations of the responding firm for general, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Consequently, we have recomputed the allocation for R & D in accordance with SNPE's normal accounting practices by spreading the R & D expenses over all products and have used this figure in calculating the cost of production for our final determination.

Comment 4

The DOC should permit adjustments only for differences in circumstances of sale directly related to the sales under consideration.

DOC position

In accordance with § 353.15 of the Commerce Regulations, the DOC has not allowed adjustments for differences in circumstances of sale which are not directly related to the sales of industrial nitrocellulose under consideration.

Comment 5

NSPE is selling industrial nitrocellulose in France at prices which do not permit it to recover all of its fully allocated costs of production. The DOC should use the best available information in determining the cost of production, because SNPE failed to give the DOC its profit and loss statement for industrial nitrocellulose as requested in the questionnaire.

DOC position

The DOC's antidumping questionnaie requested financial statements, if they are prepared for the merchandise under investigation. SNPE has stated that it maintains profit and loss statements on a plant basis, not by product, and, therefore, one is not avialable for the merchandise under consideration. However, the detailed cost of production data and profit figures submitted by SNPE were verified twice by the DOC. Consequently, we are satisfied in using the data provided by SNPE, modified in accordance with DOC standards.

Comment 6

SNPE has deviated from its normal accounting practices in reporting to the DOC its depreciation costs on a straight-line basis rather than by an accelerted methodology.

DOC position

In their response, SNPE deviated from their normal accounting pactice by calculating depreciation on a straight-line basis. The DOC accepts the usual accounting practices of a respondent as long as those practices are acceptable under the Generally Acceptable Accounting Principles in the country of production. A respondent may not deviate from its normal accounting practices unless DOC determines that their standard methodology is inappropriate. Since this is not the case, DOC has used the accelerated method in calculating depreciation costs as reflected in SNPE's financial statement.

Respondent's Comments

Comment 1

An adjustment should be made for the differences in the commercial levels of trade between the United States and France.

DOC position

To date, SNPE has not produced information which establishes that a price differential exists in the home market for industrial nitrocellulose or other merchandise of the same class or kind sold at different levels of trade. Such information, if provided, must establish that the differences in the prices are the result of differences in cost of selling at one level of trade as compared to the other. Since no evidence has been received by the DOC which would satisfy the standards of § 353.19 of the Commerce Regulations in this regard, we have not made a level of trade adjustment in making our final determination.

Comment 2

Expenses for technical services should be allowed as an adjustment to the foreign market value as part of the indirect selling expense offset where comparisons are made with U.S. sales involving commissions.

DOC position

The DOC has allowed this offset in accordance with section 353.15 of the Commerce Regulations.

Comment 3

R & D expenses unrelated to industrial nitrocellulose, but related solely to other products or product lines should not be imputed to the cost of production of industrial nitrocellulose. Therefore, the DOC should use R & D expenses reallocated to the products to which they actually apply.

DOC position

See DOC position in petitioner's comment 3.

Comment 4

The straight-line method of calculating depreciation costs more accurately reflects actual production costs than an accelerated method. Therefore, the DOC should use depreciation costs developed through a straight-line methodology.

DOC position

See DOC position in petitioner's comment 6.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that industrial nitrocellulose from France is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) and section 733(d)(1) and (2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial nitrocellulose from France. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margin is 1.38 percent.

ITC Notification

We are notifying the ITC and making available to it all non-privileged and non-confidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury

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or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on industrial nitrocellulose from France entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

[FR Doc. 83-12829 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Negative Countervailing Duty Determination; Fresh Asparagus From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Final Negative Countervailing Duty Determination.

SUMMARY: We have determined that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Mexico of fresh asparagus, as described in the "Scope of Investigation" section of this notice.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Julia E. Hatchcox, Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Mexico of fresh asparagus, as described in the "Scope of Investigation" section of this notice.

Case History

On November 3, 1982, we received a petition from the California Asparagus Growers' Association, Washington Asparagus Growers' Association, Michigan Asparagus Growers' Association, and Imperial Valley Asparagus Growers' Association, filed on behalf of the fresh asparagus industry in the United States. The petition alleges that the government of Mexico bestows bounties or grants upon the production or exportation of fresh asparagus within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on November 23, 1982, we initiated a countervailing duty investigation (47 FR 53934).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. Under this section, where as here the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On December 6, 1982, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On December 22, 1982, we presented a letter clarifying certain points in our questionnaire to the government of Mexico in Washington, D.C.

On December 17, 1982, we received from the government of Mexico a request for the postponement of the preliminary determination to the extent permitted by the law. The government of Mexico made this request upon the basis that the case is "extraordinarily complicated" under section 703(c)(1)(B) of the Act.

On January 7, 1983, we announced our intention to postpone the preliminary countervailing duty determination involving fresh asparagus until not later than February 22, 1983 (48 FR 2157). We determined, under section 703(c)(1)(B) of the Act, that the case is extraordinarily complicated because the alleged subsidy practices are numerous and complex, because the issues involved are novel, and there are numerous firms whose activities must be investigated. We determined that the parties concerned were cooperating, and that additional time was necessary to make the preliminary determination.

On January 14, 1983, we received from the government of Mexico a response to our contervailing duty questionnaire regarding fresh asparagus. In accordance with our procedures, we sent on February 9, 1983, a supplemental questionnaire to the government of Mexico. We also informed the petitioners and other interested parties that they had additional time to comment. On February 16, 1983, we received from the government of Mexico the response to our supplemental questionnaire regarding fresh asparagus. We also received comments from the counsel for California Asparagus Growers' Association, Washington Asparagus Growers' Association, Michigan Asparagus Growers' Association, and Imperial Valley Asparagus Growers' Association on February 14, 1983, and a letter from counsel for the Imperial Valley Asparagus Growers' Association including additional allegations regarding the provision of water at subsidized rates, and government operation of and construction of irrigation facilities.

On February 22, 1983, we issued our preliminary determination in this investigation (48 FR 8830). We preliminarily determined that no benefits which constitute bounties or grants within the meaning of the countervailing duty law were being provided to producers or exporters in Mexico of fresh asparagus.

We preliminarily determined that producers or exporters of fresh asparagus did not use or were not eligible for the following programs:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Certificados de Promocion Fiscal (CEPROFI).
- Import duty reductions and exemptions on raw materials and auxiliary materials physically incorporated into the exported product.
- Sistema Alimentario Mexicano (SAM).
- Preferential loans granted to Mexican agriculture through the Fund Established in Relation to Agriculture (FIRA); the Guarantee and Development Fund for Agriculture, Livestock and Poultry (FONDO); and the National Bank of Rural Credit.
- Discounts on fertilizers, insecticides, seeds and fuels.

We preliminarily determined that the following program was suspended and not used recently:

- Certificado de Devolucion de Impuestos Indirectos (CEDI).

We preliminarily determined we need additional information regarding the following programs:

- Government financing and operation of irrigation projects, including water provided by the government at subsidized rates.

- Investment credits for acquisitions by purchasers located in border areas of new machinery and equipment manufactured of Mexico.
- Credits to promote increased employment or to maintain pre-devaluation employment.
- Special incentives for producers or exporters if they are companies establishing manufacturing plants in border areas.
- Accelerated depreciation for the construction of wholesale warehouses in the border area.

On March 9, 1983, we presented another supplementary questionnaire to the Mexican government.

From March 21 to 31, 1983, we verified the response of the Mexican government to our questionnaries regarding fresh asparagus. During the course of verification, we verified the elements contained in our March 9, 1983 questionnarie to the Mexican government. The Mexican government provided a formal response to this questionnarie on April 11, 1983.

On April 20, 1983, we requested that the Mexican government provide us with further information regarding the government's participation in the construction or operation of irrigation projects. The Mexican government provided us with that information on April 26, 1983. The material related to the construction of such irrigation facilities is material published by the Mexican Secretaria de Agricultura y Recursos Hydraulicos.

Scope of Investigation

The product covered by this investigation is fresh asparagus, current classifiable under item 137.9520 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The period for which we are measuring subsidizations January 1, 1982 to September 30, 1982.

Analysis of Programs

I. Programs for which Producers or Exporters of this Product Are Not Eligible.

A. *Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).* FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico Acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks on export financing loans to the extent of the loans. In previous final countervailing duty determinations regarding Mexico, we have found the FOMEX program to confer benefits constituting bounties or grants.

We verified that producers or exporters of fresh asparagus are not eligible for FOMEX financing because FOMEX is not permitted to provide loans for agricultural products; and, according to the Rules of FOMEX, published August 10, 1979, by the Banco de Mexico, S.A., does not do so. We verified that only manufactured articles may qualify for FOMEX financing, and that the producers or exporters of fresh asparagus do not receive benefits under the FOMEX program.

b. *Certificados de Promocion Fiscal (CEPROFI).* In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits called CEPROFI's are used to promote the NIDP goals, which include increased employment, regional decentralization, industrial development, and the promotion of small and medium-sized firms.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. In previous final countervailing duty determininations regarding Mexico, we have found that certain types of CEPROFIs provide benefits constituting bounties or grants.

As a result of our verification, we determine that producers or exporters of fresh asparagus are not eligible under the CEPROFI program for any benefits. According to the "Accord Establishing Priority Industries for the Granting of Fiscal Stimulants" published in the March 9, 1979 *Diario Oficial,* the only category of fruits or vegetables eligible for benefits under the CEPROFI program is processed fruits and vegetables. We verified that no producer or exporter of fresh asparagus received benefits under the CEPROFI program.

C. *Certificado de Devolucion de Impuestos Indirectos (CEDI).* CEDI is a tax certificate that was issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation were used, a percentage of the c.i.f. value of the exported product. The CEDIs were non-transferable and could be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

We determined in past cases that the CEDI program was countervailable. The government of Mexico notified us that as of August 25, 1982, it discontinued the eligibility of all products for the CEDI program. We have determined in other recent cases that the CEDI certificates were not being issued and that, according to an August 25, 1982 decree published in the *Diario Oficial,* the CEDI program had been suspended. Based on our verification, we determine that producers or exporters of fresh asparagus were not eligible for and did not receive benefits constituting bounties or grants under the CEDI program, and would not be eligible if it were reactivated in its past form.

d. *The Sistema Alimentario Mexicano (SAM) Program.* According to publicly available information, the SAM program, established in April 1980, was an effort on the part of the Mexican government to guarantee a minimum level of nutrition for the Mexican populace and to achieve independence for Mexico in the food sector. In order to achieve this minimum level of nutrition, the SAM program focusea upon the production, processing, marketing and consumption of those items defined by the National Institute of Nutrition as being included in the "basic food basket" for Mexico. In order to foster the availability of basic food products, the SAM program provided numerous services, including the inputs for these basic foods, increasing the guaranteed prices for basic foodstuffs, increasing credit to the agricultural sector and developing technology suitable to the needs of Mexico's small farmers.

Petitioners alleged that under the SAM program, Mexican producers or exporters of fresh asparagus received the following benefits which could constitute bounties or grants: (a) Duty reductions for producers on imports of raw materials for the production and distribution of goods covered by the SAM program; (b) tax credits for investments in vehicles used to distribute basic goods; (c) reductions on business income tax rates for companies

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in the agricultural sector or such companies which process their basic product; (d) preferential loans granted to Mexican agriculture; (e) credits for crop insurance and marketing reorganization; (f) credits to producers selling products at prices fixed by the government.

During the course of our verification, we found that only producers of specified basic foods were eligible for SAM. Asparagus is not considered by the Mexican government to be a basic food and was not included on the list of foods eligible for assistance under SAM. Furthermore, we found that only products designated by the Mexican government and included in this list of basic foods were eligible for SAM benefits as outlined in the April 17, 1980, *Diario Oficial* Announcement of the establishment of the program. We also verified at the company/association level that producers and exporters of fresh asparagus did not receive benefits under the SAM program.

Since asparagus is not considered a basic food crop in Mexico, producers or exporters of this product were not eligible for benefits under SAM. We determine that producers or exporters of fresh asparagus were not eligible for and did not receive under SAM benefits which might have constituted bounties or grants. In addition, we found that the SAM program was terminated effective January 19, 1983, as announced in the *Diario Oficial*.

E. *Investment Credits for New Machinery.* Under the CEPROFI program, the government of Mexico provides tax credits for the purchase of Mexican-made machinery or equipment and fixed investment in new industries. As previously noted, producers or exporters of fresh asparagus are not eligible for benefits under CEPROFI. We verified that such tax credits are an integral part of the CEPROFI program. We determine that producers or exporters of fresh asparagus in Mexico are not eligible for and did not receive investment credits for new machinery under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such incentive benefits under any other practice.

F. *Credit to Promote Employment.* Under the CEPROFI program, the Mexican government provides tax credits for the generation of employment. Producers or exporters of fresh asparagus are not eligible for benefits under CEPROFI. We verified that such tax credits are an intergal part of the CEPROFI program, and that producers or exporters of fresh asparagus from Mexico are not eligible for tax credit and did not receive such credits for generating increased employment under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such incentive benefits under any other practice.

G. *Accelerated Depreciation for Construction.* Petitioners alleged that producers or exporters of fresh asparagus may be eligible for accelerated depreciation for the construction of wholesale warehouses in the border area. We found that accelerated depreciation is available to industries located in the border areas. We also found that such depreciation is not limited to the construction of wholesale warehouses. Producers of non-processed agricultural products, including producers of fresh asparagus, are not eligible for such accelerated depreciation since their income tax, unlike that of industry, is determined on the basis of a percentage of their expenses. Therefore, we determine that producers or exporters of fresh asparagus are not eligible to receive accelerated depreciation benefits and do not receive such benefits.

We verified that producers of fresh asparagus fall within the tax category established by the Mexican government for vegetables for export. Because of their inclusion in this tax category, producers or exporters of fresh asparagus pay taxes based on the highest percentage of their expenses. Agricultural products which are not exported are subject to lower tax rates in accordance with the tax laws of Mexico. Therefore, we determine that producers or exporters of fresh asparagus receive no preference under this tax system.

We determine that producers or exporters of fresh asparagus do not receive such benefits from accelerated depreciation under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such benefits under any other Mexican government program.

H. *Preferential Loans Granted to Mexican Agriculture.* 1. *Fund Established in Relation to Agriculture (FIRA).* FIRA is a series of trusts administered by the Bank of Mexico. The Guarantee and Development Fund for Agriculture, Livestock, and Poultry (FONDO) is one of these trusts. FIRA trusts were established to support the farming and livestock sectors and agriculture-related areas through the provision of fixed asset investment loans and working capital loans. According to "The FIRA Credit Policy" published by the Banco de Mexico S.A., FIRA trusts are permitted to provide assistance only in the production of basic foods. FIRA provides: (a) short term financing for up to two years; (B) medium and long term financing up to 15 years, and (c) technical assistance for basic food production. The trusts under FIRA guarantee up to 80 percent of the loans granted by the banking system to low-income producers of basic foods. FONDO, a specialized trust, encourages credit institutions to finance producers of basic foods. According to publicly available information, it does this through financial backing and technical assistance.

We verified that FIRA and its subordinate trusts were established to provide assistance in the production of basic foods. Producers or exporters of fresh asparagus are not eligible for assistance through FIRA and its trusts. We determine that producers or exporters of fresh asparagus are not eligible for and do not receive any benefits under FIRA or any of its subordinate trusts.

2. *National Rural Credit Bank.* The National Rural Credit Bank, which administers the Fund for the Developement and Support of Agricultural Industry, is controlled by the Mexican government and receives its funds exclusively from federal sources. The purpose of this entity is to promote the development of agricultural-related industries. To accomplish this goal, the National Rural Credit Bank provides technical and financial support for the industrialization and commercialization of basic products. According to a recent internal Mexican government document obtained during verification, we found that fresh asparagus is not designated as a basic product by the Mexican government; therefore, producers and exporters of fresh asparagus are not eligible for any financing through the National Rural Credit Bank. Only producers of those products designated as basic products may receive short-term financing for purchases of raw materials and medium-term financing for purchases of farm equipment.

Based on our verification, we determine that producers or exporters of fresh asparagus are not eligible for and do not receive financing through the National Rural Credit Bank.

I. *Discounts On Fuels.* On December 28, 1978, a presidential decree established the conditions and requirements whereby certain industries which ivest in specified regions (such as the border areas), could obtain discounts on certain fuels. Only those industries eligible for CEPROFI could receive such discounts. As previously noted, fresh asparagus is not eligible for benefits under CEPROFI. Therefore, asparagus producers were not eligible for such discounts. Moreover we verified the fuel discount decree was cancelled on November 30, 1982, thus terminating the fuel discount benefit. We determine that producers or exporters of fresh asparagus did not receive and were not eligible during the period of investigation for benefits under the fuel discount decree.

J. *Import Duty Reductions and Exemptions and Incentives for the Establishment of Plants in the Border Areas.* Based on our verification, we found that these two programs are interrelated. Plants established in border areas may qualify for import duty reductions or exemptions on items designated by the government to be in short supply in Mexico. These reductions or exemptions are temporary and are available only to industry and to certain agro-industries which produce processed agricultural products. Such reductions or exemptions are not available to unprocessed agricultural proudcts, including fresh asparagus. We determine that producers or exporters of fresh asparagus in Mexico do not receive and are not eligble for these benefits.

K. *Discounts on Insecticides.* Under the SAM program, producers of specified basic foodstuffs could benefit from a discount on insecticides. Producers or exporters of fresh asparagus were not eligible to receive such benefits under the now terminated SAM program since asparagus is not considered a basic food. Furthermore, producers or exporters of fresh asparagus purchase their insecticides from private sources. We found no evidence that producers or exporters of fresh asparagus receive any discounts on purchases of insecticides under any Mexican government programs.

L. *Discounts on Seeds.* Under the SAM program, producers of specified basic foodstuffs could benefit from a discount on seeds purchased. As previously noted, producers or exporters of fresh asparagus were not eligible for benefits under the now terminated SAM program, since fresh asparagus is not considered a basic food in Mexico. Producers or exporters of fresh asparagus do not purchase their seeds from any government organization, but rather use seeds produced by their own crops. We found no evidence that producers or exporters of fresh asparagus are eligible for or received any discounts on purchases of seeds under any Mexican government programs.

II. *Programs Determined Not To Be Countervailable.* A. *Provision of Water.* Currently there are 77 water districts in Mexico. Water allocation decisions in each district are made by a committee composed of representatives of various government agencies, including the Secretaria de Agricultura y Recursos Hydraulicos (SARH), and representatives of local farmers and agricultural associations. These committees prepare annual plans which allocate, based on water supply, the amount of land available for the production of various crops.

Such plans are coordinated at the national SARH headquarters in Mexico City. In addition, each of these committees establishes the water rates for its district.

Approximately 100 percent of water used in the Caborca, Sonora area comes from private wells, while approximately 99 percent of water used in the Guanajuato area comes from private wells. These are two of the asparagus-producing areas in Mexico. Currently, according to Mexican government regulations, new wells may be established only in order to replace old wells which are no longer serviceable. The Mexican government does not provide any assistance in the construction of new wells.

In the Mexicali, Baja California asparagus-producing region, water for irrigation is from two sources. These are government-owned or private wells and the Colorado River. Most of the water used in this area comes from wells, whether govenment operated or private. Water from the Colorado River is allocated beween the United States and Mexico based on an international treaty. An international entity consisting of both U.S. and Mexican representatives allocates the water from the Colorado River. This water, plus that obtained through underground pumping from wells, is used for agricultural, industrial and residential purposes.

Counsel for one of the petitioners alleges that producers of agricultural products receive water at rates subsidized by the Mexican government.

In the Mexicali, Baja California asparagus-producing region, water rates differ according to use; there are different rates for water used for agricultural purpose, water used for industrial purposes, or residential consumption. The rate for water used for agricultural purposes is approximately 50% less than the rate for water used for industrial and residential purposes. This uniform low rate applies, however, to the water used for all agricultural purposes in this area. Preferential rates are not provided to the producers of any one agricultural product. We do not consider the provision of water at a uniform rate to all agricultural producers in this region to be a benefit, which would constitute a bounty or grant, because we consider the agricultural sector to constitute more than a single group of industries within the meaning of the Act. The provision of low cost water is generally available to the entire agricultural sector of this water district and not specifically targeted toward asparagus production. Therefore, we determine that the provision of water at a uniform rate to the agricultural sector of this water district does not provide to producers or exporters of fresh asparagus a benefit which constitutes a bounty or grant.

B. *Construction and Operation of Irrigation Facilities.* Petitioners alleged that the Mexican government has, and still does, invest in the construction and operation of irrigation facilities. The government of Mexico does participate, through inputs of capital from domestic and international sources, in the construction and upkeep of irrigation facilities. This participation does not confer a bounty or grant provided only to a specific industry or group of industries.

Facilities provided through government participation in such projects are available for use by the agricultural sector as a whole. Agricultural production in the Mexicali, Baja California area depends upon irrigation facilities which use water from private or government operated wells, or from the Colorado River. Some of these activities involve international cooperation with the United States in using the Colorado River as a source of water for irrigation. Although the Mexican government has participated in the construction and operation of irrigation projects in this area, these projects are not specifically targeted to asparagus. Indeed, asparagus comprises less than one percent of the total agricultural production of that area. Instead, wheat and barley comprise a larger portion of the agricultural products grown in the Mexicali area. Irrigation facilities in the Mexicali area except for privately-owned wells, exist for and are use by the entire agricultural sector of this area.

In addition, irrigation projects financed by or operated with government assistance are not limited to a specific region. Consistent with judicial and administrative decisions, we have found that where benefits are bestowed by a government under various regional development programs to industries in specified development areas, those benefits can constitute

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bounties or grants within the meaning of the countervailing duty law.

Here, the Mexican water projects, such as those in the areas where the asparagus at issue is produced, are not limited to specific, targeted regions; they are constructed throughout Mexico. The location of such projects is determined by obvious considerations of the amenability of an area to irrigation in the context of normal agricultural needs and practices. We have ascertained that funds have been expended throughout Mexico for such projects, including improvements to existing facilities. Such expenditures do not constitute subsidies by reason of any regional character.

Further in this case, as explained in this notice, the incentive programs provided by the Mexican government for regional development purposes (such as accelerated depreciation for construction or the elements of the CEPROFI program) are not available to producers or exporters of fresh asparagus.

C. *Discussion on Fertilizers.* Fertilizantes Mexicanos, S.A. (Fertimex), a country-wide, state-owned monopoly, produces and distributes the ingredients for most of the fertilizer used in Mexico. We verified that fertilizer ingredients used in Mexico but not produced by Fertimex are imported. The prices for fertilizer are set on a national level and published in the *Diario Oficial*. The prices set for fertilizer are established on a country-wide basis, and are not established or adjusted on either a regional or product basis. Thus, fertilizer is available at a uniform price to all agricultural producers throughout Mexico. No discounts are granted on either a regional or product basis. We determine that producers or exporters of fresh asparagus do not receive benefits which constitute bounties or grants through the Mexican government's system of setting prices for fertilizers.

Petitioner's Comments

Comment 1

Petitioners believe that bounties or grants are being provided to producers of fresh asparagus in Mexico through processors in Mexico of canned asparagus. Petitioners believe that such bounties are passed on to the growers of fresh asparagus.

DOC Position

We found that the fresh asparagus producers or exporters involved in this case have no relationship with any asparagus processors in Mexico. They instead concentrate solely on marketing the fresh product. Since asparagus producers and asparagus processors are not related, such transactions would not result in a benefit for producers or exporters of fresh asparagus.

Comment 2

Petitioners stated that the Mexican government has targeted expenditures on irrigation projects to the northwestern area of the country in order to promote the production of high value products, including vegetables.

DOC Position

Irrigation facilities in the northwest of Mexico are generally available to the entire agricultural sector, with the exception of privately funded wells. The construction and operation of government irrigation projects in northwestern Mexico is not part of any regional development plan established by the Mexican government. Rather the Mexican government, in a normal function of government, has contributed significant assistance to irrigation projects throughout Mexico.

Comment 3

Petitioners alleged that the Mexican government provides in the asparagus producing areas low cost water to agricultural products which are of high value and which can be exported.

DOC Position

We found that water rates were provided to the entire agricultural sector at uniform rates within a district, for example, the Mexicali, Baja California area. We found no evidence that producers of high value export products received water at lower rates than producers of other agricultural products. Thus, we found that a specific industry or group of industries of the agricultural sector was not provided with special water rates as a result of any government-sponsored development program.

Comment 4

Petitioners claimed that the current operation of Mexico's irrigation system gives preferential status to vegetables, including asparagus. It is irrelevant whether or not such irrigation facilities were originally constructed with the intent to favor asparagus production.

DOC Position

Again, we found that irrigation facilities in the asparagus-producing regions are generally available to all agriculture. Therefore, asparagus producers and exporters do not thereby receive a bounty or grant.

Comment 5

Petitioners alleged that the Mexican government provides credit facilities to assist in agricultural production for export.

DOC Position

As stated in this notice, we found no instances or evidence that producers or exporters of fresh asparagus receive or are eligible for any government-sponsored credit facilities. We found that producers or exporters of fresh asparagus are not eligible and did not receive (a) financing through FOMEX, (b) credit benefits under SAM, or (c) financing under the Fund Established in Relation to Agriculture or the National Rural Credit Bank.

Comment 6

Petitioners alleged that the Mexican government has targeted particular products, including fresh asparagus for export, and has provided to producers of these crops preferential access to inputs.

DOC Position

As stated in sections I–I, I–K, I–L and II–C of this notice, we found that no producer or exporter of fresh asparagus received any type of discount on such inputs as fertilizers, insecticides, fuels, or seeds.

Respondent's Comments

Comment 1

Fresh asparagus has never been included in any list of products eligible for FOMEX financing. FOMEX provides financing only for manufactured products, and fresh asparagus is not a manufactured product.

DOC Position

FOMEX is not permitted to provide loans for agricultural products and, according to its rules of operation, does not do so.

See Section I–A of this notice.

Comment 2

The SAM program was established to foster the availability of basic food products in Mexico, and, at no time, has fresh asparagus been considered by the Mexican government as a basic food item eligible for SAM benefits. Further, the SAM program has been discontinued.

DOC Position

The SAM program was established to foster the increased production of basic food items in an attempt for Mexico to become independent of imports of these basic foods. Fresh asparagus is not considered a basic food item, and, therefore, producers or exporters of fresh asparagus were not eligible to receive benefits through the SAM program. As noted, the SAM program has been discontinued. See Section I–D of this notice.

Comment 3

The CEPROFI program was designed to assist, through the provision of tax credits against federal taxes, firms carrying out investments in certain industrial activities. Producers or exporters of fresh asparagus are not eligible for nor have they received any benefits under the CEPROFI program.

DOC Position

We agree. See Section I–D, E, F, G, I of this notice.

Comment 4

The CEDI program is no longer in operation, and producers or exporters of fresh asparagus were not eligible for CEDI even when it was operational.

DOC Position

We agree. See Section I–C of this notice.

Comment 5

Fresh asparagus producers or exporters have not received fuel discounts and were not eligible for fuel discounts. Furthermore, this program is no longer in effect.

DOC Position

We agree. See Section I–I of this notice.

Comment 6

Producers and exporters of fresh asparagus in Mexico have not received and are not eligible for financing through FIRA and the National Bank of Rural Credit.

DOC Position

We agree. See Section I–H of this notice.

Comment 7

Producers and exporters of fresh asparagus are not eligible for and have not received any benefits from the law permitting accelerated depreciation.

DOC Position

We agree. See Section I–G of this notice.

Comment 8

Producers or exporters of fresh asparagus do not receive discounts on purchases of seeds as they do not purchase seeds from any concern or agency of the Mexican government.

DOC Position

We verified that producers or exporters of fresh asparagus use seeds produced by their own crops. See Section I–L of this notice.

Comment 9

Fertilizers are available at a single price in Mexico, and there is no variation in this price based upon region or crop. There are no preferential prices for producers or exporters of fresh asparagus.

DOC Position

We agree. See Section II–C of this notice.

Comment 10

Producers or exporters of fresh asparagus do not benefit from preferential water rates, or government construction and operation of irrigation facilities.

DOC Position

We do not consider the provision of water at a uniform rate to all agricultural producers in a region to be a benefit. Producers or exporters of fresh asparagus do not receive a benefit through government construction and operation of irrigation facilities since, in this case, these facilities are generally available to the entire agricultural sector.

See Sections II–A and II–B of this notice.

VI. Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During the verification we followed normal procedures, including inspection of documents with government officials, and on-site inspection of the records and operations of producers and exporters of fresh asparagus.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). Counsel for the petitioners requested a hearing in this investigation; however, a hearing was not held as the request was not made in a timely manner, and counsel indicated that no one from the requesting firm would be present at the hearing. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered. We are hereby concluding our investigation regarding this case.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

[FR Doc. 83-12930 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–27. Applicant: University of California, Department of Pathology, La Jolla, CA 92093. Instrument: Camera for Electron Microscope. Manufacturer: Siemens Corp., West Germany. Intended use of instrument: See Notice on page 53083 in the **Federal Register** of November 24, 1982.

Comments: No comments have been received with respect to this application

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The accessory is being furnished by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the Department of Health and Human Services in its memorandum dated April 4, 1983 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic accessory.

The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the accessory is intended to be used.

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(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-12934 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments; National Aeronautics and Space Administration, et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Program Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00326R. Applicant: National Aeronautics and Space Administration, Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: Excimer Laser System, Model EMG-101E and Accessories. Manufacturer: Lambda Physik, West Germany. Application is a resubmission, notice of which was published in the **Federal Register** of September 20, 1982.

Docket No. 83-179. Applicant: Sutter Community Hospitals, Sutter Memorial Hospital, 28th & L Streets, Sacramento, CA 95819. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for the investigation of ultrastructure of surgical pathology tissues to determine the existence of diseased states. The information will culminate in pathological diagnosis for the patient and instruction in pathology for students at the University of California Medical School. Application received by Commissioner of Customs: April 26, 1983.

Docket No. 83-194. Applicant: University of Alabama in Birmingham, Comprehensive Cancer Center, NMR Core Facility, CHSB B-31, Birmingham, AL 35294. Instrument: NMR Spectrometer, Model WH-400. Manufacturer: Bruker Instrument, Inc., West Germany. Intended use of instrument: The instrument is intended to be used for studies of biomolecules including proteins, peptides, nucleic acids, polysaccharides, phospholipids, steroids and complexes of these molecules with each other, with metals and with drugs. Studies of intact cells *in vitro* will also be conducted. The objective of these studies will be to define the conformation-activity and structure activity relationships of the various biomolecules and pharmacologically active agents. Application received by Commissioner of Customs: March 29, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-12884 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; National Zoological Park, Smithsonian Institution; Receipt of Modification

Notice is hereby given that National Zoological Park, Smithsonian Institution, Washington, D.C. requests a modification to Permit No. 346 issued under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder requests additional authority to collect sea lion pups found dead in the study area and to stomach lavage up to 80 sea lion pups for physiologic studies.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D. C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 6, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12969 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Hubbs-Sea World Research Institute; Issuance of Permit To Take Marine Mammals

On March 8, 1983, Notice was published in the **Federal Register** (48 FR 9680), that an application had been filed with the National Marine Fisheries Service by the Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109, for a permit to take beluka whales (*Delphinapterus leucas*) for scientific research.

Notice is hereby given that on May 5, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to the Hubbs-Sea World Research Institute, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Steeet, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 5, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12900 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Massachusetts Cooperative Fishery Research Unit; Receipt of Modification Request to Permit No. E12

Notice is hereby given that Mr. Boyd Kynard, Acting Leader, Massachusetts Cooperative Fishery Research Unit, Holdsworth Hall, University of Massachusetts, Amherst, Massachusetts 01003, has requested a modification of Permit No. E12 issued on June 10, 1976 (41 FR 24621) as amended on August 19, 1977, October 26, 1977, and June 25, 1980, under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the National Marine Fisheries regulations governing endangered fish and wildlife permits (50 CFR Part 222).

Permit No. E12 authorizes an unspecified number of shortnose sturgeon *(Acipenser brevirostrum)* may be captured and observed, but not more than one hundred (100) shortnose sturgeons, at least 16" in length are to be tagged.

The Permit Holder is request to capture up to 300 juvenile sturgeons less than 16" long and tag up to thirty (30) with Atkins or radio tags.

Written data, views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within thirty (30) days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: May 6, 1983.

Robert B. Brumsted,

Action Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12991 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94-265, as amended), will hold public meetings to review and discuss the status of the Billfish Fishery Management Plan (FMP), Spiny Lobster FMP, Amendment #1, and the Precious Corals FMP; discuss the status of the draft 5-year plan; discuss foreign fishing and foreign and domestic enforcement of the Billfish Preliminary Fishery Management Plan and the Spiny Lobster FMP: discuss the status of FY 83 administrative and programmatic budgets, as well as other Council business.

DATES: May 23-24, 1983 (9 a.m. to 4 p.m., on May 23; 9 a.m. to 1 p.m., on May 24).

ADDRESS: The public meetings will take place at the Ala Moana Americana Hotel, Hibiscus Room, 410 Atkinson Drive, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96183, Telephone: (808) 523-1368.

Dated: May 10, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-12998 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: June 15, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 1680

Belt, Aircraft Safety
1680-00-725-5927

SIC 0782

Grounds Maintenance, Area 12
"NOSTRA", Naval Weapons Station, Yorktown, Virginia

SIC 7349

Janitorial/Custodial, Naval and Marine Corps Reserve Center, Newport News, Virginia

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 83-12910 Filed 5-12-83; 8:45 am]

BILLING CODE 6820-33-M

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Procurement List 1983; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 13, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 23, 1982, August 6, 1982, October 29, 1982, January 7, 1983, February 4, 1983, February 22, 1983, February 25, 1983, March 4, 1983, and March 18, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 31915, 47 FR 34161, 47 FR 49066, 48 FR 859, 48 FR 5290, 48 FR 7491, 48 FR 8114, 48 FR 9331, and 48 FR 11484) of proposed additions to and deletion from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 5660

Fasteners, Fence Post
5660–00–148–7251

Class 7910

Pad, Floor Polishing Machine
7910–00–820–7991
7910–00–820–7989
7910–00–820–7990
7910–00–820–9926
7910–00–820–9925
7910–00–820–9924
7910–00–820–9898
7910–00–820–7997
7910–00–820–7996

(For GSA Regions 1, 2, 3, 4, 5 and National Capital (w))

7910–00–820–9903
7910–00–820–9904
7910–00–820–9905
7910–00–820–9900
7910–00–820–9901
7910–00–820–9899
7910–00–820–9922
7910–00–820–9918
7910–00–820–9917
7910–00–820–9916
7910–00–820–9915
7910–00–820–9914
7910–00–820–9913
7910–00–820–9912
7910–00–820–9911
7910–00–820–9910

(Total Government Requirements)

Class 8465

Strap, Mail Tray
P.S. Item No. 01067

SIC 0782

Grounds Maintenance (Landscaping and Landscape Maintenance, and Minor Irrigation System Repair and Installation), Naval Weapons Center, China Lake, California
Grounds Maintenance, U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington

SIC 7349

Janitorial Service, Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho
Janitorial/Custodial, Federal Building and U.S. Courthouse, 101 First Street, S.E., Cedar Rapids, Iowa
Janitorial/Custodial, Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland
Janitorial Service, U.S. Army Reserve Center and U.S. Readiness Group, Fort Snelling, Minnesota
Janitorial Service, Building 20, Building 34, Naval Air Station, Whidbey Island, Oak Harbor, Washington
Janitorial/Custodial, Yakima Firing Center, Yakima, Washington

SIC 7369

Commissary Shelf Stocking, Naval Air Station, Moffett Field, California
Commissary Shelf Stocking, Naval Air Station, Barbers Point, Oahu, Hawaii
Commissary Shelf Stocking, Naval Base, Pearl Harbor, Hawaii
Commissary Shelf Stocking, Naval Station, Roosevelt Roads, Puerto Rico
Commissary Shelf Stocking, Puget Sound Naval Shipyard, Bremerton, Washington

SIC 9199

Administrative Services, Department of Commerce, Herbert Hoover Building, 14th & Constitution Avenue, NW., Washington, D.C.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from the Procurement List 1983:

Class 8120

Cap, Compressed Gas Cylinder
8120–00–170–0076
8120–00–178–9814

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 83–12911 Filed 5–12–83; 8:45 am]

BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 83–2]

Prehearing Conference; Honeywell, Inc., A Corporation

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Prehearing Conference.

DATE: This notice announces a prehearing conference to be held in the matter of Honeywell, Inc. on May 27, 1983 at 10:00 a.m.

ADDRESS: The prehearing conference will be in the Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800.

SUMMARY: Notice of Prehearing Conference. Please take notice that a prehearing conference in this proceeding will be held at 10:00 a.m., on May 27, 1983, in the Third Floor Hearing Room, 1111–18th Street, NW., for the purposes outlined in 16 CFR 1025.21(a). The Presiding Officer will be Administrative Law Judge David G. Oringer. The issues to be considered may include any or all of the following:

(1) Petitions for leave to intervene;

(2) Motions, including motions for consolidation of proceedings and for certification of class actions;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amending the pleadings;

(5) Stipulations and admissions of act and of the content and authenticity of documents;

(6) Oppositions to notices of depositions;

(7) Motions for protective orders to limit or modify discovery;

(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;

(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;

(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;

(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;

(12) Consideration of offers of settlement;

(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties; and

(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings.

Dated: May 9, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–12878 Filed 5–12–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Regulatory Permit Action Draft Environmental Impact Statement (DEIS) for a Log Transfer Facility at Cube Cove, Chatham Strait, on Admiralty Island, Alaska

AGENCY: Army Engineer District, Alaska, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. A Department of Army (DA) Public Notice No. NPACO 071–OYD–2–810133, Chatham Strait 92, was circulated for public review May 15, 1981 concerning a proposal by Shee Atika, Incorporated to construct a log transfer facility in Cube Cove, Chatham Strait, on the Northwestern shore of Admiralty Island. The DA permit was issued April 7, 1982 and an application for modification of this permit has been submitted. Concerns expressed by the public have resulted in suspension of the permit pending the completion and findings of the EIS. The proposed project includes: a combined rock fill and floating breakwater, a continuous chain transfer system, an A frame, stifflegs, a barge loading ramp, a bulkhead, a small dock and mooring bouys. The facility is to support Shee Atika's land management activities on adjacent lands.

2. Alternatives for the proposed action will include but not be limited to the following: floating breakwater, solid fill breakwater, combined solid fill and floating breakwater, different numbers and locations of continuous chain transfer facilities, configuration of barge loading facilities, log rafting, barge transport, floating camp, upland camp, sites in other coves and no action.

3. a. Several public hearings and meetings have been held concerning this project. Scoping of the DEIS will include continued coordination with interested local, State and Federal agencies and other interested parties. Scoping meetings are tentatively scheduled for June 7, 1983 in Sitka, Alaska and June 8, 1983 in Angoon, Alaska. Information contained in the Department of Army permit file will be considered along with factual information submitted during the scoping process. Interested parties are urged to actively participate in the scoping process by submitting their concerns to the Alaska District as soon as possible.

b. Anticipated issues to be addressed include but are not limited to: alternatives, socio-economic impacts, land use, the effects on subsistence, water quality, marine flora and fauna, endangered species, cultural resources, and aesthetics, and measures to minimize adverse impacts.

4. The DEIS is expected to be available for public and agency review in early 1984.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Resources Section, U.S. Army Engineer District, Alaska, Pouch 898, Anchorage, Alaska 99506.

Dated: May 3, 1983.

Neil E. Saling,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–12885 Filed 5–12–83; 8:45 am]

BILLING CODE 3710–HL–M

Department of the Air force

USAF Scientific Advisory Board; Meeting

May 4, 1983.

The USAF Scientific Advisory board Aeronautical Systems Division Advisory Group will meet at Wright-Patterson Air Force Base, Ohio on June 6–7, 1983. The purpose of the meeting will be to review selected programs and projects relating to the missions of the Aeronautical Systems Division. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–12882 Filed 5–12–83; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

May 4, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on the Potential Military Utility of a Manned National Space Station will meet at the Pentagon, Washington, DC on June 23–24, 1983. The purpose of the meeting will be to draft a final report. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–12883 Filed 5–12–83; 8:45 am]

BILLING CODE 3910–01–M

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Office of the Secretary

Defense Science Board Summer Study Panel on Aircraft Survivability in NATO; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Aircraft Survivability in NATO scheduled for 9–10 May 1983 as published in the **Federal Register** (Vol. 48, No. 72, Wednesday, 13 April, 1983, FR Doc. 83–9761) has been postponed to 15–16 June 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–12985 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Summer Study Panel on Conventional Munitions; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Conventional Munitions scheduled for 12–13 May 1983 as published in the **Federal Register** (Vol. 48, No. 72, Wednesday, 13 April, 1983, FR Doc. 83–9762) has been postponed to 15–16 June 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83–12987 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Summer Study Panel on Joint Service Acquisition Programs; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Joint Service Acquisition Programs scheduled for 19–20 May 1983 as published in the **Federal Register** (Vol. 48, No. 87, Wednesday, May 4, 1983, FR Doc. 83–11875) has been postponed to 24 May 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–12986 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Transition Program for Refugee Children; Application Notice for Fiscal Year 1983

AGENCY: Office of Bilingual Education, ED.

ACTION: Application Notice for Fiscal Year 1983.

Applications are invited for grants under the Transition Program for Refugee Children.

Authority for this program is contained in Section 412(d)(1) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (Pub. L. 96–212), and the Refugee Assistance Amendments of 1982 (Pub. L. 97–363).

(8 U.S.C. 1522(d)

Eligible applicants are State educational agencies.

This program supports educational activities designed to meet the special needs of eligible refugee children and to enhance their transition into American society.

Closing date for transmittal of applications: An application for grant must be mailed or hand delivered by July 29, 1983.

Applications delivered by mail: An application sent by mail must be addressed to Dr. R. Rudy Cordova, Director Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as a proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered on at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, Room 421, Reporters Building, 300 7th Street, SW., Washington, D.C.

The Division of State and Local Programs will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The regulations (34 CFR 538.20(a)) for the Transition Program for Refugee Children provide in part that, to receive a grant under the program, a State educational agency must submit a count of the number of eligible children in its State taken on a date specified by the Secretary in a notice published in the **Federal Register**. The Secretary establishes any day within the period of May 1, 1983 through May 27, 1983 as the date on which a State educational agency shall conduct a count of the children eligible for assistance under the Transition Program for Refugee Children.

A grant is made to a State educational agency based on the number of eligible children enrolled in public and nonprofit private schools in the State, using the weighting factors announced in this notice. Using the same formula, the State educational agency awards subgrants to local educational agencies in its State that proposed to serve eligible children within their jurisdictions. As provided in 34 CFR 538.20, the State educational agency makes subgrants to local educational agencies within 60 days after the State receives the grant award funds. When a local educational agency does not apply to serve its eligible children, the State educational agency provides services directly to those children or arranges for provision of services to those children through subgrants, contracts, and cooperative agreements with other public and private nonprofit organizations, agencies, and insitutions.

Awards under this program are to provide educational services to eligible children during the 1983–1984 school year.

Weighting factors: Section 538.31 of the program regulations authorizes the Secretary to announce the weighting factors to be used in distributing funds under this program. For the award of fiscal year 1983 funds, the Secretary uses the following formula for fund distribution:

Recently of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	3	5
2 to 3	0	3
3 to 4	0	0
More than 4	0	0

Available funds: It is expected that approximately $16.6 million will be available for grants to State educational agencies. These funds are the fiscal year 1983 appropriation.

It is estimated that these funds will provide aproximately $250 of assistance per eligible child. However, the approximate amount of funds available per eliogible child may increase or decrease depending on the total number of eligible children that the States report.

These estimates, however, do not bind the U.S. Department of Education to specific numbers of grants or to the amount of any grant.

Application forms: Application forms and program information packages will be mailed to all State educational agencies. Additional forms and program information packages may be obtained by writing to the Division of State and Local Programs, Office of Bilingual Education and Miniority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed four pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Transition Program for Refugee Children (34 CFR Part 538) published on January 14, 1981 (46 FR 3378).

(2) Regulations governing the Refugee Resettlement Program (45 CFR Part 400) published on September 9, 1980 (45 FR 59818).

(3) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 76, 77 and 78), except as otherwise provided in 324 CFR Part 538.

Further information: For further information, contact the Application Coordinator for the Transition Program for Refugee Children in the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. Telephone (202) 245–2962. (8 U.S.C. 1522(d))

(Catalog of Federal Domestic Assistance Number 84.146, Transition Program for Refugee Children)

Dated: May 5, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–12924 Filed 5–12–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License; Pan American Energy Corp.

Notice is hereby given of an intent to grant to Pan American Energy Corporation of Los Alamos, New Mexico, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 3,786,858, entitled "Method of Extracting Heat From Dry Geothermal Reservoirs." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this Notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this Notice, and will grant the license if, after expriation of the 60-day notice period, and after consideration, written responses to this Notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C., on this 6th day of May 1983.

R. Tenney Johnson,

General Counsel.

[FR Doc. 83–12908 Filed 5–12–83; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

[Case No. F–007]

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures from Honeywell, Inc.

AGENCY: Department of Energy.

SUMMARY: Today's notice publishes a Petition for Waiver" from Honeywell, Inc. (Honeywell), requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. Honeywell is requesting the allowance to use an alternate test procedure in its testing of furnaces and boilers equipped with a Honeywell "Integrated Control System" (ICS). DOE is soliciting comments, data, and information respecting the petition.

DATE: DOE will accept comments, data, and information not later than June 13, 1983.

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F–007, Mail Station CE–113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy Office of Conservation and Renewable Energy, Mail Station CE–113.1, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–9127

Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Station GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252–9513.

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SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 93 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR § 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data.

On January 7, 1983, Honeywell filed a Petition for Waiver from DOE test procedures for furnaces. Specifically, the petitioner believes that the use of the existing furnace test procedure will not accurately evaluate a furnace or boiler equipped with Honeywell's Integrated Control System (ICS). Honeywell claims that its ICS is a control system that will provide efficiency enhancement through control of multiple burner firing rates and circulator run time. The multiple burner firing rate is the aspect of the system that constitutes the substance of the request. Honeywell's petition includes a suggested method of weighing the Annual Fuel Utilization Efficiency (AFUE) values at two firing rates in lieu of the currently prescribed provisions which only allow evaluation at the highest firing rate. Honeywell believes this weighted average method will accurately evaluate the performance of any furnace or boiler equipped with the ICS. Honeywell requests the allowance to use the weighted average method, including the use of the specific weighting factor of 16 percent fuel consumption at high fire.

Pursuant to paragraph (b) of 10 CFR § 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data and information respecting the petition, particularly with regard to the appropriateness of the weighted AFUE method and the weighting factors suggested by Honeywell (i.e. 16% high fire, 84% lowfire).

Issued in Washington, D.C. April 18, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary Conservation and Renewable Energy.

January 7, 1983.

Mr. Joseph Trible,

Assistant Secretary for Conservation, and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585

Dear Mr. Trible: This is a request for waiver, for Honeywell only, from the Consumer Product Test Procedure as specified in 10 CFR Part 430, amended on September 26, 1980, for application to furnaces and boilers using a Honeywell Integrated Control System (ICS).

Appendix N to Subpart B of 10 CFR Part 430 specifies the test procedure to determine the relative efficiency of manufacturers' appliances. Section 430.24 of Subpart B prohibits a manufacturer from representing energy efficiency of products unless based on results obtained as specified in Appendix N to Subpart B. We believe this test procedure will not accurately evaluate a furnace or boiler equipped with an ICS.

In addition to many control and diagnostic functions, the Honeywell ICS provides multiple burner firing rates with fuel/air ratio control, as well as circulator overrun on warm-air furnaces. Our testing on over 20 appliances shows the strategy will increase AFUE by up to four percentage points with the rationale that the appliance is 70% oversize for the structural (Ref.: 10 CFR Part 430, Appendix N to Subpart B).

Appendix A gives a system overview of the multiple firing rate circulator overrun control methods.

Appendix B suggests an alternate test procedure to accommodate these efficiency enhancement features.

Appendix C describes a computation procedure for determining the fraction of time the burner operates at high fire, assuming 60 seconds of high fire operation at the start of each thermostat cycle.

Honeywell is requesting the allowance to use the weighted average method specified in Appendix B, including the use of the weighing factor of 16% fuel use at high fire.

Your consideration of this request for waiver from the Consumer Product Test Procedure will be very much appreciated.

Best regards,

Ralph Torborg

cc: Mr. John Talbot, Consumer Product Efficiency Branch, Conservation and Solar Energy, U.S. Department of Energy, Washington, D.C. 20585

Mr. Esher Kweller, National Bureau of Standards, Building 202, Room 204, Washington, D.C. 20234

Mr. Jack Langmead, GAMA, 1901 North Fort Meyer Drive, P.O. Box 9245, Arlington, VA 22209

Mr. John Woodworth, Hydronics Institute, 35 Russo Place, Berkely Heights, NJ 07922

Mr. Jack H. Hollingsworth, ASHRAE, 31081 Aliso Circle, South Laguna, CA 92677

Appendix A—System Overview Integrated Control System (ICS)

The Honeywell Integrated Control System is an advanced technology system that provides overall control of a gas-fired furnace or boiler by incorporating all necessary control functions.

The logic functions are performed by a microprocessor located within the System Control Module. This module contains the electronics required to interface the system components with the microprocessor. The system uses a two-stage gas valve with a redundant actuator. Proof of flame is provided by a conventional flame rod. The system utilizes a solid state temperature sensor which indirectly controls the circulator during normal operation, or shuts off the gas valve if an over-temperature condition exists.

Combustion air is controlled by a power combustion blower (PCB) assembly with an electronic speed control module to provide high or low combustion air. By controlling the speed of the PCB and the gas valve, the System Control Module can control combustion air and fuel for two-stage firing.

With this system, the capability to control the quantity of combustion air and gas independent of each other has significant safety, reliability and efficiency results. By executing ignition with high air and low gas (low F/A ratio) the possibility of flame-roll out from the vestibule is eliminated. Tests show that with a low F/A ratio, a smooth, quiet ignition is assured even after a 15 minute delay. This is because the F/A ratio goes below the ignition point rapidly as the distance off the burner surface increases. Once ignition is established, the system goes to high-fire to reduce the time the heat exchanger is exposed to corroding condensation with obvious reliability advantages.

- On forced warm air systems, it stays in high-fire for 60 seconds maximum or until the plenum temperature sensor reaches 140°F (but30 second minimum). Normally, this will result in a 60 second high-fire start.
- For hydronic systems, the boiler goes to high-fire on a call for heat and remains in high-fire until the H_2O temperature reaches 105°F (but 30 second minimum). Thus, the system may remain in high-fire each cycle for as little as 30 seconds or for several minutes depending on the mass of the boiler and return water temperature. For our calculations of high-fire fuel use, we assumed 60 seconds of high-fire operation at the start of each thermostat cycle. At all but very light loads, the return water would still be warm at the start of a heating cycle and would quickly be above 105°F even for relatively massive boilers. One minute of high-fire start, therefore, seems reasonable.

After the high-fire start the system goes to low-fire. If low-fire is inadequate to handle the load, the system automatically returns to high-fire.

The system utilizes a conventional single stage thermostat; but contains a special thermostat algorithm that operates the gas valve and the induced draft blower so as to efficiently match the heating load while maintaining a constant F/A ratio. The system will operate at a low firing rate, except after ignition as stated above and during conditions of morning setup or during exceptionally cold weather.

Two stage operation is controlled by a counter. If the call for heat remains on, in 10 minutes the counter will reach its maximum count and call for high-fire and high air. When the call for heat goes away, the burner shuts down and the counter resets to zero.

Circulator overrun operates as follows:

- On forced warm air systems, the circulator turns on 60 seconds after start-up or when the plenum temperature reaches 140° F, whichever occurs first. After the heat request is satisfied, the circulator continues to run until the warm air plenum temperature sensor drops to 95° F.
- After a call for heat on hydronic systems, the circulator comes on when the boiler H_2O temperature rises above 105° F. The circulator shuts down when the thermostat is satisfied.

Appendix B—Proposed Alternate Test Procedures

1. Perform entire test as specified in Appendix N to Subpart B contained in 10CFR, Part 430, with burner set at rated high-fire input. Circulator should be controlled by the ICS.
2. Repeat above test with appliance operating at its low-fire input.
3. Determine fraction of heating season fuel consumed at high-fire input (see Appendix C).
4. Determine the effective AFUE as follows:

AFUE (effective) = X (AFUE High) + (1–X) (AFUE Low)

Where X = % fuel used during high-fire operation = 16%

Example:

AFUE @ High-Fire—80%
AFUE @ Low-Fire—82%
% Time @ High-Fire—16%
AFUE (effective) = (.16×80) + (.84 × 82) = 81.7%

Appendix C

The fraction of heating season fuel consumed by the appliance at high-fire can be determined for various low-fire (derate) conditions. Low-fire derate is defined as the percent reduction form high-fire. In the ICS, low-fire output is about 60% of high-fire output (40% derate). The calculation procedure in Table 1 was used to determine the fraction of fuel consumed at high-fire for the ICS.

In the calculation procedure, the following assumptions were made:

(a) Burner starts each thermostat cycle at high-fire for 60 seconds.

(b) Thermostat cycling rate for the ICS with two stage firing is three cycles per hour @ 50% load.

(c) National average weather (Pittsburgh).

(d) Appliance is 70% oversize.

(e) Both steady state and cycling efficiency follow the trend shown in Figue 1.

(f) Cycling efficiency is Independent of cycling rate and/or thermostat load (Figure 2).

The heating season was divided into outdoor temperature "bins" (see Table 1). ΔT is the indoor/outdoor temperature difference, i.e., the difference between 65°F and the average of the "bin". Thus, ΔT represents the heating load in degrees. The heating season hours in each "bin" were determined from Pittsburgh (national average) weather data. The percentage load at high fire (H) is the ratio of the heating load, ΔT, to the temperature rise achievable by the appliance if it is on continously. The outdoor design temperature for Pittsburgh is 1°F (based on ASHRAE data, Pittsburgh airport temperature exceeds 1°F, 99% of the time during December, January, and February). The design load is thus 64°F (65°F–1°F). The temperature rise achievable by the appliance, assuming 70% over- size, is then 109°F (64°F × 1.7).

Thus, to calculate Col. 4, Table 1:

$H = \Delta T/109°F$

The next column "Total Hours Required (high-fire only)" shows the hours in each "bin" that the appliance must operate in high-fire to satisfy the load (Col. 3 × Col. 4).

The load at combined high-low fire (F_o) is defined in terms of the load at high fire (H) by the following expression:

$$F_o = \frac{0.68\sqrt{0.462 - 0.32H}}{0.016} \quad (1)$$

The derivation of Equation 1 proceeds as follows:

The average energy output of a heating appliance a combined high-low fire for each temperature "bin" (Table 1) must be equal to the average output at high fire only (to satisfy the space heating demand).

$OUTPUT_{HI} = OUTPUT_{HI\text{-}Lo}$ (1a)

The average energy output is also equal to the instantaneous output at high fire (Q_{HI}) times the load at high fire (H)

$OUTPUT_{HI} = Q_{HI}H$ (1b)

At combined high-low fire, the energy output for one thermostat cycle is as follows:

$OUTPUT_{HI\text{-}Lo}/C = Q_{HI}\tau_1 + Q_{Lo}(\tau_{on} - \tau_1)$

where:

C = thermostat cycling rate
τ_1 = on time/cycle at Hi Fire
τ_{on} = on time/cycle for combined Hi-Lo Fire

Defining: $R = Q_{Lo}/Q_{HI}$

$OUTPUT_{HI\text{-}Lo} = C\,[Q_{HI}\tau_1 + RQ_{HI}(\tau_{on} - \tau_1)]$

From equations 1a and 1b:

$Q_{HI}H = C\,[Q_{HI}\tau_1 + RQ_{HI}(\tau_{on} - \tau_1)]$

Then:

$H = C\,[\tau_1 + R(\tau_{on} - \tau_1)]$ (2)

Now, to find an expression for the thermostat cycle-rate, C, in terms of the two-stage firing load, F_o, we must consider the operation of a typical thermostat with thermal or electronic anticipation. As discussed in "Guide to Room Thermostats," *Appliance Manufacturer*, Sept. 1971, p. 89, a thermostat consists of a temperature sensitive differential switch (e.g., mercury bulb with bi-metal) that receives some form of feedback or "anticipation.". The anticipator response may be treated as a first-order lag and the resulting differential equation may be solved at the make and break points of the differential switch to determine τ_{on} and C as a function of percent heating load. F_o, as shown in Figure 3. The resulting expressions, however, are transcendental functions of F_o which must be solved iteratively. An approximation of this function which allows a closed form solution is given by:

$C = 4C_{oo}F_o(1 - F_o)$ (3)

where C_{oo} = thermostat cycle rate of half-load; e.g., three cycles per hour.

Equation 3 was obtained through a second order curve fit to curve C in Fig. 3.

The thermostat on-time is easily found, knowing F_o and C by noting:

$$F_o = \frac{\tau_{on}}{\tau_{on} + \tau_{off}}$$

$$C = \frac{1\ \text{cycle}}{\tau_{on} + \tau_{off}}$$

$$\tau_{on} = F_o(\tau_{on} + \tau_{off}) = \frac{F_o}{C} \quad (4)$$

Solving equations 2, 3, & 4 simultaneously gives equation 5, given the following:

$C_{oo} = 3$ cy/hr
$\tau_1 = 1/60$ hr
$R = 0.6$
$H = 0.6\,F_o - 0.08\,F_o$
(5)

Solving equation (5) using the quadratic formula gives equation (1). The negative value of the square root quantity must be used because the positive value results in a load greater than 100%.

F_o is calculated from Equation 1 and is tabulated for each "bin" in Table 1. The cycling rate (C) is then determined from equation 3 and shown in Table 1, Col. 7. The cycles per year (Col. 8) are equal to the cycles/hr. times the heating season hours in each temperature "bin".

The thermostat cycling rate (C) was calculated assuming a cycling rate of three cycles per hour at 50% load. A Honeywell T87 thermostat, with the anticipation set to match the gas valve current at high-fire, would cycle six times per hour at 50% load. However, at low-fire, because of the reduced anticipation current (one less gas valve operator), the thermostat will cycle three times per hour at 50% load. For solid state thermostats (no thermal anticipation) the cycling rate should be set at three cycles per hour (50% load).

The use of a two-stage firing control enables the use of a slower cycling thermostat to produce comfort conditions (i.e., room temperature fluctuations) identical

to a single stage firing control with a faster cycling thermostat. This is because the two stage control operates at low-fire, and hence at a lower capacity, for most of the heating season. As shown in Figure 4 (this figure is an unpublished extension of a study entitled "Analytical Predictions of Residential Electrical Heating System Performance," by Lorne W. Nelson and John L. Magnussen, *IEEE Transaction on Industry Applications*, Vol. 1A-10, No. 6, Nov./Dec. 1974), space temperature swings are 1) inversely proportional to the first order time constant which approximates the dynamic response of the appliance's heat output rate from a cold startup and 2) inversely proportional to the on/off cycling rate at half load. Additional unpublished studies have shown that space temperature swings are 1) directly proportional to the capacity of the appliance or appliance heating stage being cycled and 2) independent of load between 20%–80%. Thus, a given appliance operated at five cycles per hour at high-fire (Ref. DOE test procedure NBSIR 78–1543, page A–9) could be operated at three cycles per hour at a 40% derate firing rate with negligible difference in space temperature swings (as shown in Figure 4) for a given appliance time constant.

Moreover, derating a given appliance increases the appliance time constant (smaller heat input rate for the same thermal mass) which reduces space temperature swings even further. Therefore, an appliance normally operated by a 5–6 cycle per hour thermostat could be operated by a three cycle per hour thermostat with two stage control with no noticeable effect on homeowner comfort.

The existing DOE test procedure is based on a thermostat cycling rate of five cycles per hour at 50% load. The test procedure also is based on a load of 22.5%. With the ICS, the duty cycle will be considerably higher because the appliance will operate at low-first most of the heating season. Also, the cycling rate will be lower (as described above). With a power-combustion-blower equipped heating appliance the effect of thermostat cycling rate and % load on the energy performance is very small due to low off-cycle losses (see Figure 2). The DOE test procedure, then, will give accurate representation of the energy performance of a heating system equipped with an ICS.

Referring again to Table 1, the hours accumulated in high-fire start up (60 seconds each thermostat cycle) are calculated for each "bin" based on the number of thermostat cycles per year. This data is shown in Table 1, Col. 9. When low-fire is inadequate to supply the required heat, the control system reverts to high-fire.

For the ICS with a 40% derate, low-fire (with a 60 second high-fire start each burner cycle) will satisfy the heating demand for all but the two "coldest" temperature "bins" (The maximum Δ° satisfied by low fire (60% of high fire output) is $0.6 \times 109°F = 65°F$.) Since these "bins" represent less than 0.5% of the heating season hours, they were ignored.

The total hours the appliance operates at high-fire is then simply the hours accumulated during the 60 second high-fire starts. The ratio of the total high-fire start hours (218.2) to the hours required to satisfy the entire heating season load at high-fire (1,372.7) determines the fraction of fuel used at high-fire. For the ICS, this fraction was determined to be 0.16; i.e., 16% of the annual fuel consumption is consumed with the heating appliance operating at high-fire. The effective seasonal efficiency (AFUE) can then be determined from the procedure described in Appendix B.

TABLE 1.—PROCEDURE FOR DETERMINING PERCENT HIGH FIRE FUEL USE AT 40 PERCENT LOW-FIRE DERATE

Pittsburgh Weather 70 percent Oversize

Temperature Bins (F)	ΔT	Heating season hours	(H) Hi-fire percent load	Total Hr. required (Hi-fire only)	(F_H)Hi/Lo combined percent load	Thermostat C		60 Second Hi-fire start (hours)
						Cycle/Hr.	Cycle/Yr.	
60 to 64	3	823	2.8	23.0	4.4	0.5	412	6.9
55 to 59	8	691	7.3	50.4	10.6	1.13	781	13.0
50 to 54	13	643	11.9	76.5	18.1	1.80	1,157	19.3
45 to 49	18	583	16.5	96.2	25.0	2.25	1,312	21.9
40 to 44	23	624	21.1	131.7	32.5	2.63	1,641	27.4
35 to 39	28	680	25.7	174.8	40.0	2.87	1,952	32.5
30 to 34	33	784	30.3	237.6	47.5	2.98	2,336	38.9
25 to 29	38	541	34.9	188.8	55.0	2.95	1,596	26.6
20 to 24	43	326	39.4	136.3	62.5	2.80	969	16.2
15 to 19	48	226	44.0	99.4	70.6	2.48	560	9.3
10 to 14	53	163	48.6	79.2	85.0	1.52	248	4.1
5 to 9	58	82	53.2	43.6	87.5	1.30	107	1.8
0 to 4	63	40	57.8	23.1	96.3	0.45	18	0.3
−5 to (−1)	68	15	62.4	9.4	100.6	0	0	
−10 to (−6)	73	4	67.6	2.7	115.0	0	0	
Total				1,372.7				218.2

High-Fire Fuel Use:

$$\frac{218.2}{1371.7} = .16$$

BILLING CODE 6450-01-M

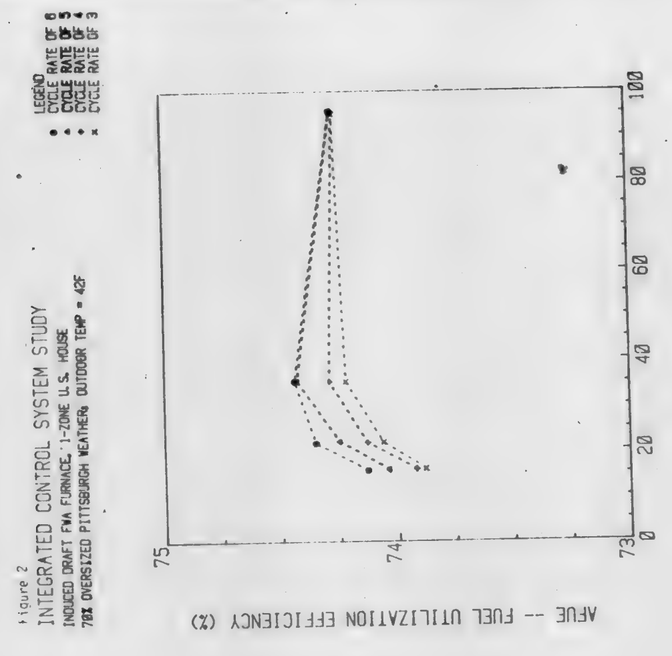

Figure 2

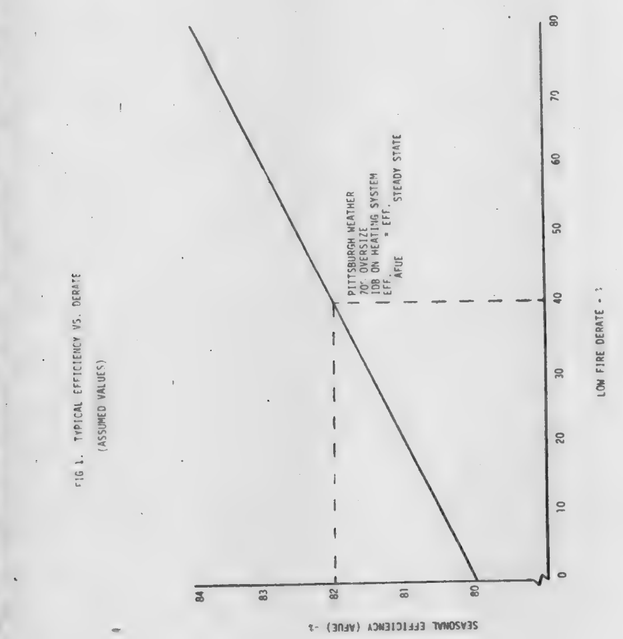

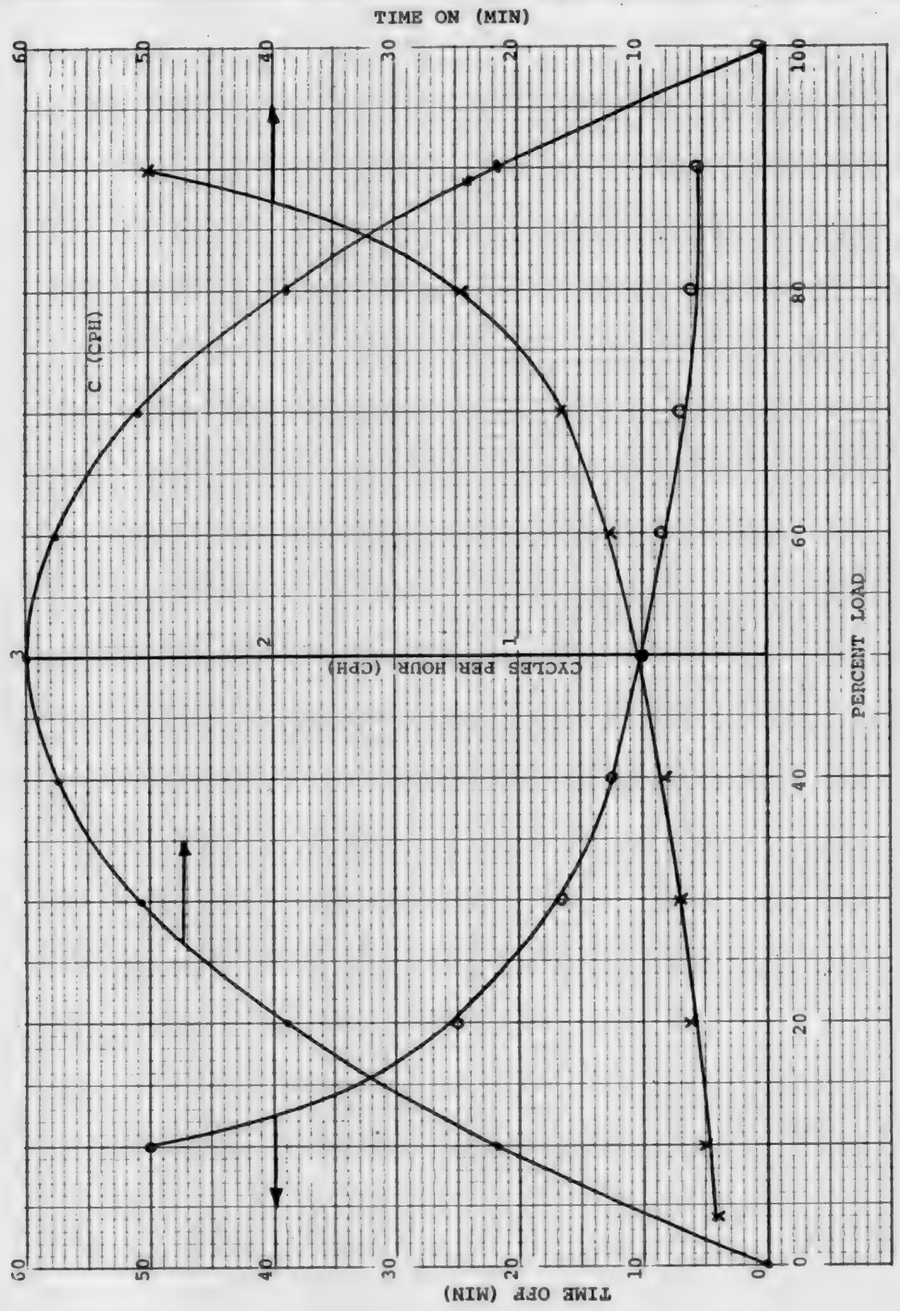

FIGURE 3 THERMOSTAT CYCLE RATE VERSUS LOAD

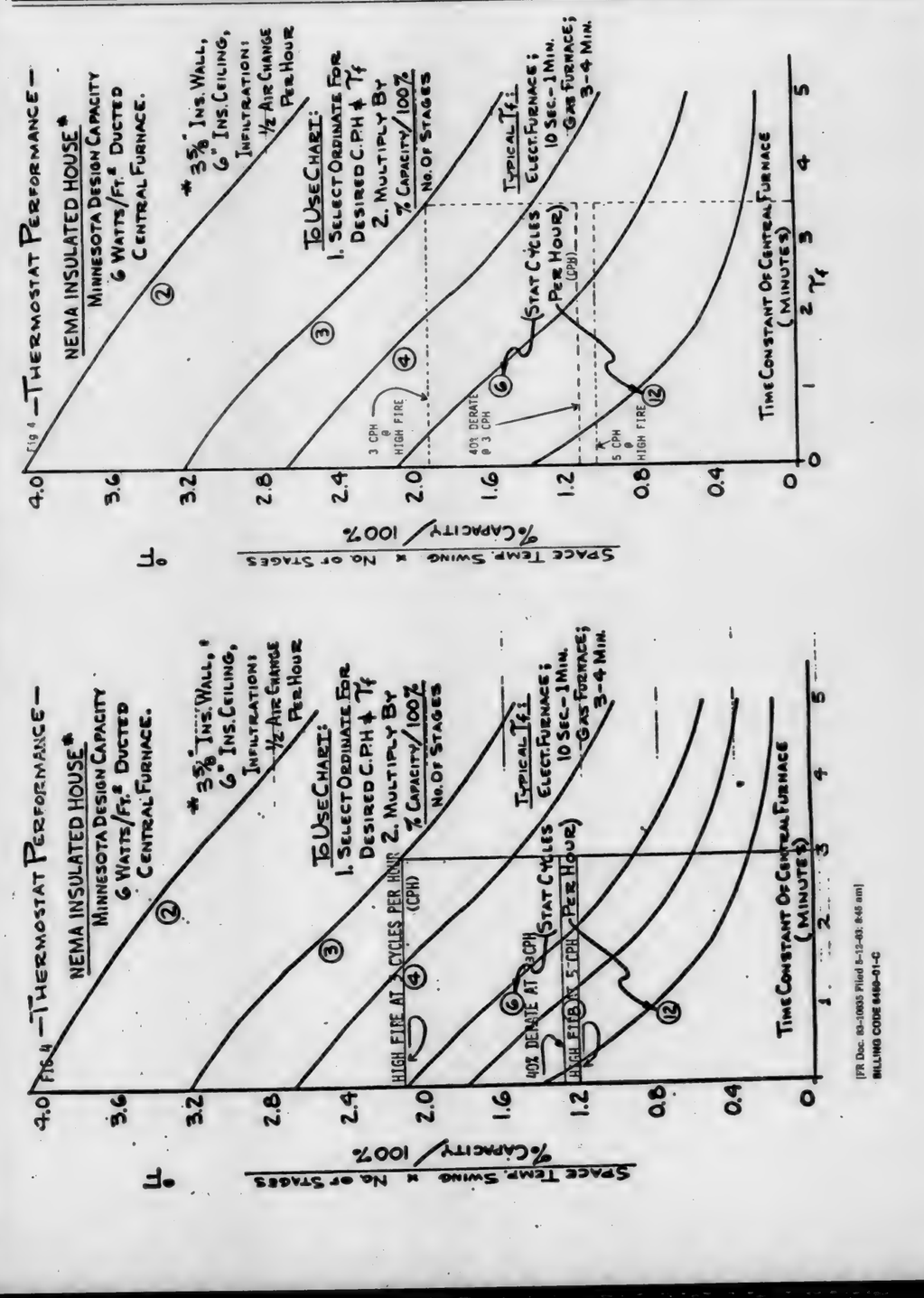

[FR Doc. 83-12693 Filed 5-12-83; 8:45 am]
BILLING CODE 6450-01-C

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Federal Energy Regulatory Commission

[Docket No. TA83-2-21-001 (PGA83-2, IPR83-2)]

Arkansas Louisiana Gas Co.; Compliance Filing

May 9, 1983.

Take notice that on April 29, 1983, Arkansas Louisiana Gas Company (Arkla) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3, Rate Schedule X-26, Second Substitute Thirty-Second Revised Sheet No. 185, Second Revised Sheet No. 187A and Third Revised Sheet No. 187C, to become effective April 1, 1983.

Arkla states that this filing is in compliance with Ordering Paragraphs (C) and (D) of the Commission's order dated March 31, 1983, which required Arkla to file tariff sheet changes on exchange gas within a 30-day period. This filing also makes certain reductions in cost projections in the supporting work sheets and summary sheets of the PGA filing concerning reductions in costs for certain deep deregulated gas and certain tight formation gas.

Arkla states that copies of the filing were mailed to the one customer, Northwest Central Pipeline Company, served under Arkla's Rate Schedule X-26.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12824 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-32-001]

Colorado Interstate Gas Co.; Proposed Changes in Rates Under Purchased Gas Adjustment Clause Provisions

May 9, 1983.

Take notice that Colorado Interstate Gas Company (CIG) on April 29, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective May 1, 1983. The filing proposes to decrease the rates charged to its jurisdictional customers by 25 cents per Mcf or approximately $73.4 million. CIG states that the proposed rate reduction results from decreases in gas purchased costs which it expects to obtain through the exercise by CIG of "market-out" provisions in gas purchase contracts covering the sale of Natural Gas Policy Act of 1978 (NGPA) Section 107 gas and renegotiation with certain producer suppliers of contract price and minimum take provisions. Northwest Pipeline Corporation has also recently filed in Docket No. TA83-3-37 (PGA83-3) to reduce its rates to CIG due to a reduction of the Canadian export border price.

CIG also requests waivers of the Natural Gas Act, the Commission's regulations thereunder, and its tariff provisions in order to make this special rate reduction filing and for it to be effective as of May 1, 1983. CIG says that good cause exists for such waiver since it and its customers are encountering difficulties in marketing gas at present price levels.

Copies of CIG's filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12825 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6268-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

May 9, 1983.

Take notice that Energenics Systems, Inc. (Energenics), Permittee for the proposed Vega Dam Project No. 6268, requested by petition dated April 12, 1983, that its preliminary permit be surrendered. The preliminary permit was issued on November 2, 1982, and would have expired on May 31, 1984. Energenics has determined that hydroelectric development is infeasible due to a lack of adequate head and flow.

The surrender of the preliminary permit for Project No. 6268 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12826 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-480-000]

Florida Power & Light Co.; Filing

May 9, 1983.

The filing Company submits the following:

Take notice that on April 27, 1983, Florida Power & Light Company (FPL) tendered for filing seven (7) Exhibits A which provide for the contract demands for Florida Keys Electric Cooperative, Inc.; Fort Pierce Utilities Authority; City of Homestead; Lake Worth Utilities Authority; Utilities Commission, City of New Smyrna Beach; City of Starke; and City of Vero Beach.

The proposed effective date for the contract demands for Florida Keys, New Smyrna Beach, and Starke is March 1, 1982; the proposed effective date for the contract demand for Fort Pierce is April 1, 1983; and the proposed effective date for the contract demands for Homestead, Lake Worth and Vero Beach are June 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12827 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-40-000]

Idaho Power Co.; Notice of Application

May 9, 1983.

Take notice that on May 2, 1983, Idaho Power Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the Applicant to (a) finance the construction of the Applicant's 50% undivided interest in certain pollution control facilities at the North Valmy Power Plant Unit No. 2 through a loan agreement with Humboldt County, Nevada (the "County") which provides for the issuance by the County of not to exceed $55,000,000 aggregate principal amount, from time to time, outstanding of pollution control revenue notes, the loan of the proceeds to Applicant in return for the issuance of a note of the Applicant to the County, and (b) the assumption of liability as guarantor of the principal of and interest on the notes of Humboldt County, issued in an amount not to exceed $55,000,000 and having maturities not later than May 15, 1990.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before May 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12828 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-270-000]

K N Energy, Inc.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 12, 1983, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-270-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate an additional delivery point to an existing direct sale customer, Nebraska Public Power District (NPPD), under the authorization issued in Docket Nos. CP83-140-000 and CP83-140-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that NPPD has requested a change in delivery points by adding a new delivery point in the vicinity of Sutherland, Nebraska, for the delivery of gas for use in NPPD's Gerald Gentleman Power Plant at that location. It is asserted that the cost of constructing the new delivery point and appurtenant facilities including approximately 6.5 miles of 6-inch lateral pipeline would be reimbursed by NPPD.

Applicant explains that NPPD has requested that deliveries of gas to the Ogallala, Nebraska, plant be moved to the Sutherland delivery point. It is indicated that NPPD intends to cease operation of its Ogallala plant as of June 30, 1983, but that some additional gas deliveries would be required for a period of time for maintenance or for sale demonstration purposes. Applicant asserts that NPPD's combined usage at the Ogallala and Sutherland plants would not exceed the present annual volumetric limitation of 747,953 Mcf.

Applicant states that gas at the Sutherland plant would be used for flame stabilization, ignition fuel and auxiliary boiler fuel for back-up space heating.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-12829 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-54-000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 9, 1983.

Take notice that on May 2, 1983, Louisiana-Nevada Transit Company (Louisiana) tendered for filing proposed changes in its FERC Gas Tariff Volume I. The proposed changes are to reflect changes in purchased gas cost as provided in the company's Purchase Gas Adjustment Clause applicable to its Rate Schedule No. G-1 and X-2. The change provides for a total adjustment of 18.86¢ per Mcf including a deferred gas cost adjustment of (1.66)¢ per Mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 20.52¢ per Mcf.

Louisiana states that copies of the filing were served upon the company's jurisdictional customer and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12830 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-262-000]

Michigan Wisconsin Pipe Line Co.; Application

May 9, 1983.

Take notice that on April 5, 1983, Michigan Wisconsin Pipe Line Company

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(Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-262-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Transmission Corporation (Tetco) from Vermilion Parish, Louisiana, to St. Landry Parish, Louisiana, pursuant to an agreement dated November 9, 1982, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mich Wisc states that Tetco has an available supply of gas in the South Riceville Field in Vermilion parish pursuant to a gas purchase contract with Cornell Oil Company, *et al.*, dated April 1, 1982. Mich Wisc indicates that it would transport up to 2,600 Mcf per day (contract demand) at a rate of $1.31 per Mcf of contract demand. Mich Wisc states that it would receive the gas at a proposed interconnection of its lateral pipeline facilities with Tetco's proposed line near the source of the gas in Vermilion Parish and would deliver equivalent volumes at an existing interconnection of Mich Wisc and Tetco's pipeline facilities in St. Landry Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practive and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mich Wisc to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12831 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP76-91-014]

Montana-Dakota Utilities Co.; Compliance Filing

May 9, 1983.

Take notice that on April 29, 1983, Montana-Dakota Utilities Company (MDU) submitted a filing in compliance with Article VII(3) of the *Amendment of Stipulation and Agreement in Settlement of Remaining Issues*, as filed by MDU on December 4, 1981, and approved by the Commission on February 19, 1982. MDU's filing includes the following:

Article VIII(3)(a): MDU's calculation of deliverability life. (Schedule A)

Article VIII(3)(b): MDU's average cost of purchased gas for on-system and off-system customers from the Co.'s two most recent PGA filings with the FERC. (Schedule B)

Article VIII(3)(c): MDU's average cost per MCF of the highest priced 15 percent, by volume, of the gas purchased from producers for sale to on-system customers, as separately determined from each of MDU's two most recent PGA filings with the FERC. (Schedule B)

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12833 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-63-001]

National Fuel Gas Supply Corp.; Filing of Motion To Place Into Effect Revised Tariff Sheets

May 9, 1983.

Take notice that on April 29, 1983, National Fuel Gas Supply Corporation (National Fuel) submitted for filing, pursuant to Section 4(e) of the Natural Gas Act, as amended, and Section 154.67 of the Regulations of the Federal Energy Regulatory Commission thereunder, a motion to place the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, into effect as of May 1, 1983, subject to refund:

Substitute Forty-second Revised Sheet No. 4 [1]
First Revised Sheet No. 8a

Through its motion, National Fuel also seeks to place into effect the following sheets to its FERC Gas Tariff, First Revised Volume No. 2, as of May 1, 1983, subject to refund:

Third Revised Sheet No. 282
Third Revised Sheet No. 302
Third Revised Sheet No. 322
Third Revised Sheet No. 342

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12834 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-481-000]

New England Power Co.; Tariff Amendment

May 9, 1983.

The filing Company submits the following:

Take notice that on April 27, 1983, New England Power Company (NEP) submitted for filing an amendment to its FERC Electric Tariff, Original Volume Number 3, in order to make provision for wheeling services performed on the Primary Distribution systems of its Rhode Island and New Hampshire affiliates, The Narragansett Electric Company and Granite State Electric Company.

NEP requests an effective date of June 27, 1983 and requests waiver of the Commission's Regulations for good cause shown.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 385.214). All such motions or protests should be filed on or before May 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12835 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-170-001]

Niagara Interstate Pipeline Co.; Amendment

May 9, 1983.

Take notice that on March 25, 1983, Niagara Interstate Pipeline System (Applicant), Tenneco Building, 1010 Milam, Houston, Texas 77001, filed in Docket No. CP83-170-001 an amendment to its application filed in Docket No. CP83-170-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a reduction in the volumes of natural gas to be transported and modifications of the facilities to be constructed and operated, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its pending application filed January 25, 1983, in Docket No. CP83-170-000 seeks authorization to construct and operate a natural gas pipeline and related facilities extending from the U.S.-Canadian border near Niagara Falls, New York, to a point close to the Leidy storage field near Tamarack, Pennsylvania, and to transport natural gas through these facilities for Algonquin Gas Transmission Company (Algonquin), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Texas Eastern Transmission Corporation (TETCO) and Transcontinental Gas Pipe Line Corporation (Transco). Such facilities, it is asserted, would include approximately 48.6 miles of 48-inch pipeline from the Canadian border to East Aurora, New York, and approximately 112.7 miles of 42-inch pipeline from East Aurora to Tamarack, Pennsylvania, together with 21,000 horsepower of compression at East Aurora and 38,000 horsepower of compression at Tamarack. According to Applicant, the estimated cost of the proposed facilities is $417,817,000.

Applicant states that the facilities and services proposed in its application were designed to accommodate the transportation of the volumes of natural gas which the shippers and others had sought authority to import from Canada in related applications that were pending before the Commission. Applicant proposed to transport 2,518,763 Mcf of gas per day for the shippers.

Applicant states that on January 27, 1983, the Canadian National Energy Board (NEB) issued a decision which authorized the export of lesser volumes at Niagara Falls than had been requested. It is further stated that as a result of that decision Applicant is amending its application to reflect alteration of its proposed facilities and services consistent with the decreased volumes authorized for export.

Applicant states that in view of the reduced volumes which the NEB has authorized for export the design of Applicant's system has been modified in two principal respects. First, it is asserted that the portion of Applicant's system from the Niagara River crossing to East Aurora would now consist of a 42-inch pipeline instead of the 48-inch pipeline previously proposed. Applicant further states that its system would include a single compressor station of approximately 11,600 horsepower at Tamarack in lieu of the two larger stations that had been proposed.

Applicant states that it now seeks authority to transport maximum daily volumes of up to 50,979 Mcf for Algonquin, up to 500,000 Mcf for Tennessee, up to 151,979 Mcf for TETCO, and up to 614,822 Mcf for Transco.

Applicant states that the estimated total cost of the proposed facilities, as modified, is $322,513,000. Applicant proposes to project finance the cost of these facilities and states that it still would attempt to obtain a 75 percent/25 percent debt/equity capital structure.

Applicant states that it proposes to provide service under revised versions of its proposed pro forma Rate Schedule-FERC Gas Tariff and of the proposed form of service agreement under that rate schedule.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

[1] Forty-second Revised Sheet No. 4 has been amended so as to adjust the proposed rates to reflect the applicable surcharge adjustments.

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385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore file need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12836 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-9-000 (PGA83-2)]

Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; Rate Change Under Tariff Rate Adjustment Provisions

May 9, 1983.

Take notice that on May 4, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) tendered for filing Substitute Eighth Revised Sheet No. 21 to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1983.

Tennessee states that the purpose of the revised tariff sheets is to reduce Tennessee's gas rates pursuant to Section 2 of Article XXIII of the General Terms and Conditions of its FERC Gas Tariff to reflect implementation of the emergency gas purchase policy which Tennessee made effective May 1, 1983.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12837 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-268-000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 11, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-268-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to increase the capacity of an existing delivery point to Valley Gas Company (Valley Gas) under the authorization issued in Docket No. CP82-535-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to increase the capacity of its existing M&R Station No. 1189 located in Blair County, Pennsylvania. It is asserted that Applicant and Valley Gas are preparing to execute a superseding service agreement providing for the purchase by Valley Gas of quantities of natural gas under Applicant's Rate Schedules CS-D, DCQ-D and I-D which would reflect an increase in the maximum daily delivery obligation at M&R Station No. 1189 from 395 dt equivalent to a 3,542 dt equivalent. It is stated that there would be no changes in the maximum daily delivery obligation at the other delivery points listed in the superseding service agreement. It is stated that the natural gas quantities delivered would be utilized as general system supply by Valley Gas. Applicant states that it would be reimbursed for the cost of enlarging M&R Station No. 1189 by Penn Fuel Gas, Inc., a holding company for Valley Gas.

It is submitted that sales of natural gas to Valley Gas would be performed pursuant to Applicant's Rate Schedule CS-D, DCQ-D and I-D and that Applicant's existing tariff does not prohibit the expansion of M&R Station No. 1189. It is stated that the modifications would have no effect on Applicant's peak day or annual deliveries and total volumes covered under the current service agreement with Valley Gas would not be changed. Further, it is asserted that the proposed modification would be accomplished without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12838 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-131-001]

Texas Eastern Transmission Corp.; Petition To Amend

May 9, 1983.

Take notice that on April 19, 1983, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-131-001 a petition to amend the order issue May 14, 1982, in Docket No. CP82-131-000, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for New Jersey Natural Gas Company (New Jersey) for an additional six months, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Tetco proposes to extend the existing transportation service to New Jersey for a period of up to six months at an increased transportation quantity of up to 1,000 dt equivalent of natural gas per day pursuant to the terms and conditions of a gas transportation agreement between Tetco and New Jersey dated April 4, 1982.

It is asserted that Tetco would charge New Jersey its presently effective TS-1 basic rate per dt equivalent delivered under Tetco's Rate Schedule TS-1; provided, however, for all gas transported and delivered hereunder which, when added to the quantities of natural gas delivered to New Jersey under Tetco's Rate Schedule TS-1, non-firm SS-II and other transportation agreements, exceed the combined total curtailment of natural gas sales to New Jersey under all of Tetco's firm sales rate schedules, New Jersey would pay Tetco the applicable effective TS-1 excess rate per dt equivalent delivered under Tetco's Rate Schedule TS-1.

It is asserted that Tetco is now authorized to transport up to 300 dt equivalent of gas per day but that New Jersey has acquired a share in the production of several wells drilled in western New York State which it desires to have transported to help fulfill its need for a greater natural gas supply.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12839 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-58-002]

Texas Gas Pipe Line Corp.; Tariff Sheet Filing

May 9, 1983.

Take notice that on May 2, 1983, Texas Gas Pipe Line Corporation (Texas Gas), pursuant to § 154.38 of the Commission's Regulations under the Natural Gas Act, filed a Ninth Revised Sheet No. 4a to its FERC Gas Tariff, Second Revised Volume No. 1. Texas Gas states that the filed tariff sheets relate to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the tariff. More specifically, Ninth Revised Sheet No. 4a reflects a net decrease under that currently being collected to 9.69¢ (at 14.65 psia) to be effective June 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are availale for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12840 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-256-000]

Texas Sea Rim Pipeline, Inc.; Application

May 9, 1983.

Take notice that on March 29, 1983, Texas Sea Rim Pipeline, Inc. (Applicant), P.O. Box 4100, The Woodlands, Texas 77380, filed in Docket No. CP83-256-000 pursuant to Sections 311(a)(1) and 311(a)(2) of the Natural Gas Policy Act of 1978 an application for authorization to transport natural gas for a term in excess of two years by means of its 12-inch intrastate pipeline and its 14-inch interstate pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its 12-inch intrastate pipeline has been transporting the State of Texas' royalty gas produced from State Pooled Unit Block 14L, Sabine Pass Area, offshore Texas (Block 14L) and that its interstate pipeline has been transporting. The Superior Oil Company's (Superior), natural gas which is produced from Block 14L as well as transporting Natural Gas Pipeline Company of America's (Natural) volumes produced by Superior from the Sabine Pass Area Block 9 Field, offshore Texas. Applicant asserts that due to declining pressures in some of the offshore wells, onshore compression is required and that volumes currently flowing through its intrastate line will have to be transported through its interstate line and volumes currently flowing through its interstate line will have to be transported through its intrastate line. Under the proposed transportation arrangement, Applicant's 14-inch interstate line would be used to hook up all of the wells requiring compression with onshore compression facilities. The 12-inch intrastate line would transport gas from the remaining wells not requiring compreasion, it is asserted.

Applicant states that the 14-inch interstate line would transport approximately 8,000,000 Mcf over the remaining life of the field on behalf of the 12-inch intrastate line. It is stated that this gas will be received at Superior Offshore Platform No. 2 in Block 14L, and delivered to United Texas Transmission Company (UTTCO), at the tailgate of Applicant's onshore facilities in Jefferson County, Texas. Further, it stated that the 12-inch intrastate line would in turn transport approximately 90,000,000 Mcf over the remaining life of the field for the 14-inch interstate line. This gas will be received at Superior offshore platform No. 1 in Block 14L, and delivered to Natural at an existing delivery point in Jefferson County, Texas, it is submitted.

Applicant requests Commission approval of the proposed transportation services for a period of seven years at which time it is anticipated that the field will be depleted. The transportation services would commence upon receipt of a Commission order authorizing the services proposed in this application. The rate to be charged by the 14-inch interstate line to Natural for dry gas deliveries of the Sabine Pass Block 9 production is yet undertermined pending completion of rate settlement issues in Applicant's Docket No. CP81-438-000. It is stated that currently, a rate of 5.37 cents per Mcf is being charged subject to refund in that docket. Applicant states that the rate to be charged by the 12-inch intrastate line would be the 11.0 cents per Mcf rate as authorized by the Texas Railroad Commission for the volumes delivered for UTTCO's account at the onshore delivery point. Applicant states that both the 12-inch intrastate and the 14-inch interstate lines have sufficient capacity to perform such transportation services and to meet their other system obligations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a

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motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12841 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-11-004 and RP83-30-004]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

May 9, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on April 29, 1983 tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff. Transco states that the purpose of its filing is to revise its tariff relating to the minimum bill provisions of Transco's CD and ACQ Rate Schedules consistent with Artice XI of the Settlement Agreement in Docket Nos. RP83-11 and RP83-30, which Settlement Agreement was approved by Commission letter order issued April 28, 1983.

Transco states that certain minor modifications to the applicable tariff sheets submitted with the Settlement Agreement filed by Transco on April 13, 1983 are necessary to give effect to the provisions of Article XI whereunder Transco's minimum bill charges are to be revised to eliminate the cost of gas, fuel component, and all surcharges.

Transco has requested that its filing in this case be made effective on May 1, 1983 and it requests a waiver of notice requirement in order to implement the proposed changes as of the date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12842 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 18 Through April 22, 1983

During the week of April 18 through April 22, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 6, 1983

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

Cladouhos & Brashares, 4/22/83; *HFA-0121*

Cladouhos & Brashares filed an Appeal from a partial denial by the Acting disclosure Officer of the DOE Office of Special Counsel of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Disclosure Officer had failed to adequately explain how the withheld material meets the test set forth by the federal courts in determining the applicability of Exemption 4. Accordingly, the matter was remanded to the Disclosure Officer for a revised determination.

Edward T. Cotham, Jr., 4/18/83; *HFA-0127*

Edward T. Cotham, Jr. filed an Appeal from a partial denial by the Office of Special Counsel of the Economic Regulatory Administration of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In the course of reviewing Cotham's Appeal, the Office of Special Counsel indicated that it no longer believed there was any statutory grounds for withholding the relevant portions of the requested document. Accordingly, the Appeal was granted.

Request for Exception

State of Alaska, 4/19/83; *HEE-0028*

The State of Alaska filed an Application for Exception from the provisions of 10 CFR Parts 450 and 455 in which the state sought permission to apply for federal grant which would enable it to reduce consumption and associated costs of conventional energy resources in certain public care institutions. In considering the request, the DOE found that exception relief was warranted because Alaska is uniquely and adversely affected by the "ten minor person requirement" of § 455.2. Accordingly, exception relief was granted.

Motion for Discovery

Jack E. Guenther Double U Oil Co., 4/18/83; *HRD-0012, HRD-0008*

On November 10, 1981 Jack E. Guenther, and Double U Oil Co. (petitioners) filed Motions for Discovery in connection with Proposed Remedial Orders issued to them on July 28, 1982, and June 1, 1981, respectively. In their motions the petitioners requested various documents relating to: (i) the term "property"; (ii) the DOE's authority to assess interest and to order the payment of refunds to the U.S. Treasury; (iii) the allocation of overcharges; (iv) the proper interpretation of 10 CFR 210.62(C) and; (v) the identity of DOE employees consulted in the enforcement process. On April 18, 1983, the OHA issued a Decision and Order denying the petitioners' requests in their entirety.

Interlocutory Order

Texaco Inc., 4/21/83; *HRZ-0145*

Texaco Inc. sought reconsideration of an OHA order directing it to file a Statement of Legal Objections to a Proposed Remedial Order that was issued to the firm on May 1, 1979, by the Office of Special Counsel. Finding that Texaco had failed to show any good cause for rescinding the prior Order, OHA denied the motion.

Refund Applications

Alfred B. Alkek/Adams Resources and Energy, Inc., 4/18/83; *FR6-10*

On April 23, 1982, William L. Theisen filed an Application for Refund pursuant to a Decision and Order issued on April 8, 1982 in *Office of Enforcement*, 9 DOE ¶82,553 (*Alkek/Adams*). In his application, Theisen sought a portion of the funds obtained by the DOE through a consent order entered into by McFarland Energy, Inc. These funds were later consolidated into the *Alkek/Adams* proceeding. In considering the request, the DOE found that Theisen was not eligible for a refund because he had not demonstrated that he had suffered an injury due to McFarland's alleged regulatory violations. Accordingly, Theisen's Application for Refund was denied.

Standard Oil Company (Indiana)/ Bigane Oil Company, et al., 4/22/83; *RF21-954 et al.*

The DOE issued a Decision and Order concerning 43 Applications for Refund filed by consumers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 43 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $29,380.

Standard Oil Company (Indiana)/ Hank's Amoco, 4/18/83; *RF21-6115*

The DOE issued a Supplemental Order concerning a March 2, 1983 Decision and Order issued to Hwy 55 Standard, Hank's Amoco (Hank's) and a number of other retailers of Amoco gasoline. *See Standard Oil Company (Iniana)/Hwy 55 Standard*, 10 DOE ¶85,070 (1983). In the March 2 Decision and Order, the DOE had concluded that Hank's should receive a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In the Supplemental Order, the DOE reduced the refund to Hank's based on revised data which the firm had submitted.

Standard Oil Co. (Indiana)/ Laclede Gas Company, 4/20/83; *RF21-4396*

Laclede Gas Company (Laclede) filed an Application for Refund pursuant to 10 C.F.R. Part 205, Subpart V, seeking a portion of the $72 million obtained by the DOE through a consent order entered with Standard Oil Company (Indiana) ("Amoco"). In its application, Laclede requested a refund on volumes of NGL's it sold directly to consumers as a regulated utility. In considering Laclede's claim, the DOE determined that Laclede's statement of how it would pass the refund on to its customers met the requirement established in *Office of Special Counsel: In the Matter of Standard Oil Company (Indiana)*, 10 DOE ¶85,048 (1982). Accordingly, the DOE granted Laclede's refund application.

Refund Application

Vickers Energy Corporation/Meramec Oil Company, Vickers Energy Corporation/ Delano Oil Company, April 19, 1983; RF1-254, RF1-255

The DOE issued a Decision and Order concerning Applications for Refund filed by Meramec Oil Company and Delano Oil Company, motor gasoline resellers, which sought portions of the Vickers Energy Corporation consent order fund. Meramec and Delano sought refunds based upon purchases of Vickers motor gasoline that exceeded the small claim threshold figure of 50,000 gallons per month, and therefore submitted detailed information concerning their business operations. After analyzing this information, the DOE found that Meramec and Delano constituted a single "firm" under the applicable regulations and concluded that they were injured by the alleged overcharges and should receive a combined refund based upon the volume of their Vickers motor gasoline purchases for which they made a showing of injury. Accordingly, the Applications for Refund were granted in part.

Vickers Energy Corp./Zephyr, Inc., April 18, 1983; RF1-21

Zephyr, Inc. filed an Application for Refund in the Vickers Energy Corporation Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. Zephyr requested a refund on the basis of its entire purchases of motor gasoline from Vickers during the period May 1976 through March 1979. The firm purchased more than 50,000 gallons of motor gasoline from Vicker in each month of the consent order period. In reviewing the refund appication, the OHA found that Zephyr failed to provide detailed market information regarding the operation of the firm as a whole. The OHA determined that information regarding Zephyr's firmwide operation was a necessary prerequisite to establishing its eligibility for a refund in order to determine the extent of any injury it might have suffered as a result of Vickers' alleged regulatory violations. In addition, Zephyr failed to provide any data to support its claim that it received a lower profit on its sales of Vickers product than on its sales of non-Vickers product. Zephyr's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 50,000 gallons of motor gasoline per month.

Dismissals

The following submissions were dismissed:

Name and *Case No.*

Bender Oil Co., RF21-4329
Broderick Teaming Co., RF21-1592
By Pass 76, RF21-4094
F. A. McNeal, Inc., RF21-5973
Grigsby Oil & Gas, HRO-0104
Jerry R. Wingo, RF21-995
John Bunning Transfer Co., Inc., RF21-4435
Johnson Oil Co., RF21-5360
Kenosha Auto Transport Corp., RF21-5738
McCartan Oil Co., RF21-5561
Stuart T. Adler, RF21-0989
T&S Refining Co., HRO-0009, HRD-0039
Townsend, Gerald D., HFA-0135
Verndale Public Schools, RF21-5316
Vermont Morgan Corp., HRO-0041

[FR Doc. 83-0158 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders Week of April 25 through April 29, 1983

During the week of April 25 through April 29, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Andrew Douglas Churchman, April 26, 1983; HFA-0128

Andrew Douglas Churchman filed an Appeal from a denial by the Privacy Act Officer (PAO) of the Alburquerque Operations Office of a Request for Information which he had submitted under the Privacy Act. In considering the Appeal, the DOE found that although the deleted portions of the documents responsive to Churchman's request were originally generated by the Office of Personnel Management (OPM), they were now included in records maintained by the DOE, and therefore releasable by the DOE under the Privacy Act. As a result, the matter was remanded to the PAO of the Albuquerque Operations Office for a new determination.

SRE Inc., April 29, 1983; HFA-0131

SRE, Inc. filed an Appeal from a partial denial by the Freedom of Information Authorizing Official of the DOE Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that both of the documents which were initially withheld under exemption 5 were pre-decisional and deliberative intra-agency memoranda prepared in connection with an audit of SRE's performance under a DOE Grant project, and therefore should not be released to the public. The Appeal was accordingly denied.

W. R. Thomason Inc., April 29, 1983; HFA-0133

W. R. Thomason Inc. (Thomason) filed an Appeal from a partial denial by the Manager of the DOE's Idaho Operation Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Manager properly withheld certified payroll records found to be responsive to Thomason's request under 5 U.S.C. 552(b) (4) and (6). The Decision and Order also determined that Thomason's claim that the original search for responsive material was deficient was moot, since the Manager had located additional information and had agreed to release it to the applicant. The Appeal was therefore denied.

Tierra Engineering Consultants, Inc., April 29, 1983; HFA-0126

Tierra Engineering Consultants, Inc. filed an Appeal from a partial denial by the POI Authorizing Official of the Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Evaluation Board's score sheet was a pre-decisional, deliberative intra-agency document which was properly withheld under Exemption 5 and that release of the document would be contrary to the public interest. Accordingly, the DOE determined that the Appeal should be denied.

Remedial Order

American Pacific International, Inc., 4/25/83; BRO-1423

American Pacific International, Inc. objected to a Proposed Remedial Order which the Western District Office of Enforcement issued to the firm on January 9, 1981. In the Proposed Remedial Order, the Western District found that API had sold motor gasoline and crude oil at prices exceeding the maximum lawful prices under the DOE regulations. The DOE concluded that the Proposed Remedial Order should be issued as a final Order. The important issues discussed in the Decision and Order include the application and constitutionality of the "new item rule," 10 CFR 212.111.

Request for exception

Somerset Refining, Inc., 4/29/83; BEE-1500

Somerset Refining, Inc. filed an Application for Exception from the provisions of 10 C.F.R. 211.67 in which the firm sought exception relief from the Entitlements Program. In considering the request, the DOE found that exception relief was necessary for the fourth

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quarter of 1980, during which the crude oil cost disparity that the firm experienced caused the firm to incur operating losses. Accordingly, exception relief was granted.

Refund Applications

Standard Oil Co. (Indiana)/Bob Tansel American, 4/27/81; RF21-7060, RF21-7061

On March 14, 1983, the Office of Hearings and Appeals issued a Decision and Order approving refunds from the Standard Oil Company (Indiana) consent order fund for 59 claimants. *Standard Oil Co. (Indiana)/Crova Sales & Service, Inc.*, 10 DOE ¶85,079 (1983). One of those claimants, Bob Tansel American, was granted refunds for two motor gasoline retail stations. Subsequent to the issuance of the Decision, it was determined that due to an arithmetic error the refunds approved for both stations were too high. Accordingly, the DOE issued a new Decision modifying the original refund amounts.

Standard Oil Co. (Indiana)/Craven Oil Co., Inc., 4/27/83; RF21-1442

The DOE issued a Decision and Order concerning 137 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 137 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $371,689.

Standard Oil Co. (Indiana)/Edward J. Fleming, et al., 4/29/83; RF21-775 et al.

The DOE issued a Decision and Order concerning 114 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 114 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $85,236.

Standard Oil Co. (Indiana)/J.S. Pate Oil Co., Inc., 4/27/83; RF21-1446

The DOE issued a Decision and Order concerning 107 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 107 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $59,703.

Standard Oil Co. (Indiana)/Nelms Oil Company, et al., 4/29/83; RF21-212 et al.

The DOE issued a Decision and Order concerning 94 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 94 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $107,012.

Dismissals

The following submissions were dismissed:

Name and Case No.

Albert H. Brunell—RF21-4547
Alfred J. Snyder—RF21-4316
Augustin Auto Repair—RF21-2909
Barber Oil Company—RF21-4593
Barber Oil Co., Inc.—RF21-4703
Beaupain Oil Co.—RF21-3399
Bennett Oil Co., Inc.—RF21-4697
Bert Johanson Const.—RF21-3467
Blomberg Oil Co.—RF21-3480
Broadway Texaco—RF21-2533
Burken Oil Company—RF21-5364
Capital Realty—RF21-4548
Cedar Oil Co.—RF21-3553
Charles J. Goodman—RF21-1682
City of Ashby—RF21-5767
Colschen Oil Co., Inc.—RF21-4144
Crotzer Electrical—RF21-0924
David Wilson—RF21-2889
Donald P. Miller—RF21-2607
Donna Cobb Kwiatkowski—RF21-4567
Evans Oil Co.—RF21-5377
Foley Motor Sales—RF21-0973
Grone Bros., Inc.—RF21-5583
Haglund Oil Co.—RF21-4154
Harold Clarke—RF21-3865
Hayes Oil Co.—RF21-4003
Hudspeth Oil Co.—RF21-4000
Insta-Homes, Inc.—RF21-3526
James Williams Oil Company—RF21-4018
Joan F. Urie—RF21-4296
Kirby L. Askew—RF21-4427
Kline Oil Co., Inc.—RF21-4146
Les Petersen Oil Co.—RF21-4399
London & Associates—RF21-0130
Louise Prevenas—RF21-3446
Luebbering Oil Co., Inc.—RF21-3483
Magnolia Public Sch.—RF21-4750
Manders Oil Co.—RF21-5405
Newman Oil Co.—RF21-4010
Niagara Frontier Trans. Authority—RF21-3752
O'Connor Funeral Home—RF21-3895
Oren A. Sosbe—RF21-6202
P. J. Garvey Ctg.—RF21-2911
Parish Petroleum Dist. Co.—RF21-3979
Reilly & Sons, Inc.—RF21-3874
Richard M. Perkins—RF21-4323
Robert G. Schlesinger—RF21-1901
Robert L. Kwiatkowski—RF21-4566
Robert R. Lisk—RF21-5888
Robert Stewart—RF21-4162
Stoecker Oil Co., Inc.—RF21-4419
Stoskopf Oil Co., Inc.—RF21-4303
Street Oil—RF21-4097
Thomas Alfini—RF21-3006
Thomas H. Hutchinson—RF21-2547
Thomas N. Baker—RF21-5280
Thomas Yount—RF21-4686
Trowbridge Oil Co.—RF21-3404
Van Gundy Oil Co.—RF21-3326
Van Manen Oil Co., Inc.—RF21-4468
Walter R. Grimes—RF21-0957
Wieland Oil Co.—RF21-4680
Winans Oil Co.—RF21-2920
Wood Oil Co.—RF21-4089
Zook, Inc.—RF21-4112

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 5, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-12861 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of March 14 Through March 18, 1983

During the week of March 14 through March 18, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Environmental Policy Institute, 3/16/83; HFA-0116

Environmental Policy Institute (EPI) filed an Appeal from a denial by the Director of the Division of Freedom of Information and Privacy Acts Activities of a Request for a waiver of search and copying fees to be incurred in responding to a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the firm was a bona fide public interest group, that there was a current public interest in the subject matter to which the requested documents pertained, and that the information contained in the documents was likely to be disseminated to the public. Accordingly, EPI's Appeal was granted.

Motion for Discovery

Exxon Company, U.S.A., Cities Service Company, 3/14/83; HED-0113, HEJ-0036, HED-0111, HEJ-0035

On March 11, 1983, Exxon Company, U.S.A. submitted a Motion for Discovery and Protective Order in connection with a Proposed Decision and Order issued to Husky Oil Co. of Delaware on February 4, 1983, in Case No. BEX-0210. Cities Service Company also submitted a Motion for Discovery and Protective Order related to the same Proposed Decision and Order. In their Motions, the intervenors requested Husky's confidential data in the record of the current exception proceeding, BEX-0210, and several prior Husky proceedings. In considering the Motions, the DOE determined that Husky's financial data was material and relevant to an evaluation of the appropriateness of exception relief tentatively granted to Husky under the Delta standards. Accordingly, the Motions filed by Exxon and Cities Service were granted.

Interlocutory Orders

Office of Special Counsel, 3/17/83; HRZ-0011

The Office of Special Counsel sought a determination that Texaco Inc. had waived any privileges attaching to certain documents identified by the firm in response to an OSC discovery motion on the ground that the firm's invocation of affirmative defenses put its state of mind at issue. In considering OSC's request, the DOE found that Texaco had withdrawn those defenses. Accordingly, the Motion was denied.

Texaco Inc. 3/15/83; HRZ-0138, HRR-0049

Texaco Inc. sought reconsideration of two discovery orders issued by the DOE. In one motion, Texaco sought reconsideration of a denial of a motion to compel the OSC to supplement a response to a Texaco interrogatory. In considering Texaco's request, the DOE found that the interrogatory had been fully answered. Accordingly, the request was denied. In a separate motion, Texaco sought reconsideration of an order rescinding certain discovery it was granted. In considering this request, the DOE found that the discovery had become irrelevant in light of the decision of the Temporary Emergency Court of Appeals in *DOE v. Louisiana*, 690 F.2d 180 (TECA 1982). Accordingly, this request was denied.

Refund Applications

OKC Corporation, Sooner Transport Corporation, Bestway Marketing Company, Leo's-Winstead's, Inc., 3/17/83; RF13-4, RF13-11, RF13-20

Each of the applicants indicated above filed an Application for Refund pursuant to 10 CFR Part 205, Subpart V, in which the firm claimed a portion of the $4.75 million obtained by the DOE from OKC Corporation pursuant to a Consent Order which settled DOE allegations that OKC had overcharged purchasers of crude oil, residual fuel oil and refined petroleum products. *See Office of Enforcement: In the Matter of OKC Corp.*, 9 DOE ¶82,551 (1982) (*OKC*). In considering these applications, the DOE determined that the applicants, each of which claimed purchases of refined products from OKC no greater than an average of 50,000 gallons per month, had met the standards set forth in the *OKC* Decision and Order and in the Subpart V regulations. Accordingly, these applications were granted.

Standard Oil Company (Indiana)/Crova Sales & Service, Inc. et al., 3/14/83; RF21-32 et al.

The DOE issued a Decision and Order concerning 59 Applications for Refund from branded retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). Each retailer therefore submitted detailed information concerning its Amoco purchase volumes. After analyzing this information, the DOE concluded that each of the 59 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases during the consent order period. Accordingly, these applications were granted in full.

Standard Oil Company (Indiana)/Jones Oil Company, Inc., et al., 3/18/83; RF21-1115, et al.

The DOE issued a Decision and Order concerning 180 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel* 10 DOE ¶85,048 (1982). Each applicant therefore submitted detailed information concerning its purchases of Amoco gasoline. After analyzing this information, the DOE concluded that each of the 180 applicants should receive a refund based upon it Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $703,738.

Standard Oil Co. (Indiana)/Jones Oil Company, Inc., et al., 3/18/83; RF21-1116, et al.

The DOE issued a Decision and Order concerning 133 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). Each applicant therefore submitted detailed information concerning its purchases of Amoco middle distillates. After analyzing this information, the DOE concluded that each of the 133 applicants should receive a refund based upon its Amoco middle distillate purchases. The refunds granted in this proceeding totalled $93,366.

Standard Oil Co. (Indiana)/Strickland Service Standard et al., 3/15/83; RF21-2951 et al.

The DOE issued a Decision and Order concerning 155 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 155 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $158,745.

Standard Oil Co. (Indiana)/Westland Standard II et al., 3/17/83; RF21-1906 et al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 67 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $63,360.

Vickers Energy Corporation/Marvin R. Gillaspy, d.b.a. Marv's Vickers Service; Vickers Energy Corporation/Bob Cox, d.b.a., Bob's Vickers, 3/18/83; RF1-297, RF1-309

The DOE issued a Decision and Order concerning Applications for Refund filed by Marvin R. Gillaspy d.b.a. Marv's Vickers Service and Bob Cox d.b.a. Bob's Vickers, both retailers seeking a portion of the Vicker Energy Corporation Consent Order Fund. They elected to apply for a refund based upon the small claim procedures established for purchasers of less than 50,000 gallons per month of Vickers motor gasoline. After analyzing these two claims, the DOE concluded that each of the applicants should receive a refund based upon the total volume of his Vickers motor gasoline purchases. Accordingly, each application was granted.

Vickers Energy Corporation/The Service Oil Company, 3/14/83; RF1-25

The DOE issued a Decision and Order concerning an Application for Refund filed by The Service Oil Company, a reseller and retailer seeking a portion of the Vickers Energy Corporation Consent Order Fund. Service Oil elected to apply for a refund based upon purchases of Vickers motor gasoline exceeding the 50,000 gallons per month threshold established for small claims, and therefore submitted detailed information concerning its operations during the consent order period. After analyzing this information, the DOE concluded that Service Oil should receive a refund based upon the volume of its Vickers motor gasoline purchases for which it made a showing of injury. Accordingly, the application was granted in part.

Dismissals

The following submissions were dismissed:

Name and Case No.

Bill Forney, Inc.—BRO-1450
Elmer Buhrke—RF21-0798
D. Karl Burkel—RF21-0835
D. Karl Burkel—RF21-0837
Duke Heating Oil, Inc.—HEE-0041
Peter A. Dreifuss—RF21-3426
Flinn's Standard Service—RF21-2194
Earl Hamann—RF21-2577
Mr. Doyle & Mrs. Wanda Hunt—RF21-1822
Thomas Kee—RF21-0677
Ernest Kolben—RF21-2823
Oliver Meyer—RF21-2054
Joseph Pavelish—RF21-0975
Herman S. Pihl—RF21-2087
Gladys M. Plant—RF21-1664
Richard Rhodes—HFA-0120
Wilburt Wahl—BRO-1524

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of

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May 5, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-12882 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project, California; Rate Order

Correction

In FR Doc. 83-11064, beginning on page 18874 in the issue of Tuesday, April 26, 1983, make the following corrections:

1. On page 18875, second column, the **Federal Register** citation in the sixteenth line of the last paragraph should have read, "43 FR 60636" and the Code of Federal Regulations citation in the last line should have read, "10 CFR Part 903".

2. On page 18879, first column, the third line of the first complete paragraph should have read, "all energy used over 249 kWh per kW per month" and the second line of the last (incomplete) paragraph should have read, "is $0.35 per kW per month, and the".

3. On page 18880, third column, the next to last line should have read, "MW in 1983, and from 889 MW, to 1,140".

4. On page 18884, first column, the third and fourth entries in the second column of the table should have read, "Oct. 1, 1984" and "Nov. 1, 1985" respectively.

5. On page 18884, second column, the last italicized heading should have read, "Schedule of Rates for Nonfirm Transmission Service" and the sixth from last line of the column should have read, "*Applicable:* To nonfirm transmission service".

6. On page 18884, third column, the second line of the first complete paragraph should have read, "Transmission service on an intermittent basis for three-phase".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59125; TSH-FRL 2367-3]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by May 31, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59125]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-51

Close of Review Period. June 15, 1983.

Importer. Confidential.

Chemical. (G) Modified ethylene=tetrafluoroethylene copolymer.

Use/Import. (S) Wire and cable coating, chemical process equipment parts, parts for electrical equipment. Import range: 500 kg/minimum—5000 kg/maximum.

Toxicity Data. No data submitted.

Exposure. Processing and disposal: dermal, a total of 8 workers, up to 9 hrs/da, up to 14 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by landfill.

TME 83-52

Manufacturer. PPG Industries, Inc.

Chemical. (G) Aromatic carbonate.

Use/Production. (S) Monomer to produce cured thermoset articles. Prod. range: 4,000 lbs/max.

Toxicity data. Acute oral: 1.116 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Moderate, Eye—Minimal.

Exposure. No direct exposure except during sampling.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW) and incineration.

Dated: May 9, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-12723 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2362-7]

Availability of Environmental Impact Statements Filed May 2 Through May 6, 1983 Pursuant to 40 CFR Part 1506.9

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5075 or 382-5076.

Corps of Engineers:
- EIS# 830233, D Suppl, COE, NY, Conesus Lake Flood Damage Reduction, Livingston County, due: 6/30/83
- EIS# 830238, Final, COE, MS, Krebs Lake Channel Navigation Improvements, Jackson County, due: 6/13/83

Department of the Interior:
- EIS# 830234, Draft, BLM, WY, Divide Resource Area Livestock Grazing Management Program, due: 7/11/83
- EIS# 830240, Draft, BLM, SEV, UT, CO, Uinta-SW Utah Coal Region Development, Round Two Leasing, due: 7/6/83
- EIS# 830243, Draft, BLM, MT, Headwaters, Resource Area Resource Management Program, due: 8/5/83
- EIS# 830232, Final, BLM, WY, Newcastle Resource Area Livestock Grazing Management Program, due: 6/13/83
- EIS# 830239, Draft, IBR, SEV, NV, AZ, Hoover Dam Powerplant Increased Generating Power, Modification, due: 8/8/83

Department of Transportation:
- EIS# 830241, Draft, FHW, IA, Des Moines CBD Loop Arterial Construction, Polk County, due: 7/5/83
- EIS# 830242, Draft, FHW, OH, I-490 Gap Closure, West 10th Street to I-77, Cuyahoga County, due: 6/27/83

Environmental Protection Agency:
- EIS# 830236, Draft, EPA, MA, Kingston WWT and Collection Facilities, Approval & Grant, Plymouth Co, due: 6/27/83

Department of Housing and Urban Development:
- EIS# 830235, Final, HUD, CA, Northwood Residential Subdivision, Mortgage Insurance, King County, due: 6/13/83

Department of Agriculture:
- EIS# 830237, Draft, AFS, NM, Western Spruce Budworm Management Program, Santa Fe National Forest, due: 7/1/83

Amended Notice:
- EIS# 800799, Draft, FHW, ND, Columbia Rd. Improvement, Gateway Dr. to S Forks Rd., Grand Forks Co., Published FR 10/31/80—Officially withdrawn.

Dated: May 10, 1983.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 83-12993 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. 26058-CL-P-(5)-82 etc.]

GTE Mobilnet of San Jose, Inc., et al.; Hearing

In re Applications of; GTE MOBILNET OF SAN JOSE, INC., File No. 26058-CL-P-(5)-82, ADVANCED MOBILE PHONE SERVICE, INC. For a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the San Jose, California, Standard Metropolitan Statistical Area (SMSA), File No. 26025-CL-P-(3)-82.

In re Applications of McCaw Communications of San Jose, Inc., CC Docket No. 83-476; File No. 26120-CL-P-(6)-82, Cellular Mobile Systems of California, Inc., File No. 26192-CL-P-(7)-82, Cellular Network, Inc., File No. 26087-CL-P-(5)-82, Intrastate Radio Telephone, Inc. of San Francisco, File No. 26125-CL-P-(5)-82, California Celcom Communications Corporation, File No. 26154-CL-P-(5)-82; For a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Jose, California, Standard Metropolitan Statistical Area; designating applications for consolidated hearing on stated issues.

Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing

Adopted: April 26, 1983

Released: May 6, 1983.

By the Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are (a) the captioned applications of GTE Mobilnet of San Jose, Inc. (GTE), Advanced Mobile Phone Service, Inc. (AMPS), McCaw Communications of San Jose, Inc. (McCaw), Cellular Mobile Systems of California, Inc. (CMS), Cellular Network, Inc. (Cellnet), Intrastate Radio Telephone, Inc. of San Francisco (Intrastate), and California Celcom Communications Corporation (Celcom), to construct cellular radio systems to serve the San Jose, California, Standard Metropolitan Statistical Area (SMSA), and (b) various motions, petitions, and pleadings related to the applications.

2. As discussed below, after carefully reviewing the applications and related pleadings, we find that the public interest will be served by our approving the GTE/AMPS settlement agreement and granting the GTE application. Concerning the five nonwireline applications, we find all applicants except McCaw and Cellnet to be fully qualified to construct and operate a cellular system in San Jose. Since the proposals of McCaw, CMS, Cellnet, Intrastate, and Celcom to use the same frequencies in the same geographical area are mutually exclusive, a comparative proceeding will be held to determine which of the applicants would best serve the public interest. For the reasons discussed below, we are designating financial issues against the McCaw application and against the Cellnet application.

McCaw Application

3. *Financial qualifications.* Petitioner CMS challenges the applicant's financial showing, arguing that neither the parent company nor its San Jose subsidiary (the applicant) has demonstrated the availability of necessary funds. The McCaw financial showing is complex, involves a number of different investors, and is closely linked to cellular applications filed by sister companies in three other markets. CMS attacks each portion of the financial showing, arguing that each financial arrangement is defective in some fashion. We will discuss below the applicant's financing plan for all four markets and dispose of the particular questions raised.

4. We discuss at this point the corporate structure of the applicant and its parent, as well as the applicant's principal investors. The applicant, McCaw Communications of San Jose, Inc. (McCaw), is one of four subsidiaries of the parent McCaw Cellular Communications, Inc. (MCCI). Three other subsidiaries of MCCI have filed applications in San Francisco, Denver, and Kansas City. The parent MCCI is in turn owned by McCaw RCC, whose principal shareholders are McCaw Communications Companies, Inc. (MCC); Daniels & Associates Inc.; and the Centennial Fund. These three shareholders have made equity commitments to MCC for investment in the four cellular subsidiaries. In addition, a back-up equity commitment has been made by Affiliated Publications, Inc. (API), to be made available if any of the three equity contributors should be unable to meet their respective commitments. API owns forty-five percent of McCaw Communications Companies, Inc. (MCC). To recapitulate, three investors (MCC Daniels and Centennial) have made equity commitments to MCCI, parent of the applicant McCaw. Similar commitments have been made through the same corporate structure to the three sister companies of McCaw of San Jose. Additionally, a back-up equity commitment has been made by API, principal in MCC. In addition to the equity financing described above, MCCI also relies on a $35 million bank loan from Continental Bank. The various forms of financing are discussed below.

5. Estimated cost of construction and first year operating expenses for each system are as follows:

San Jose	$10,252,000
San Francisco	18,838,000
Denver	13,877,000
Kansas City	12,881,000
Total	55,848,000

6. *MCC equity contribution.* The first equity contribution is a $5 million subscription from McCaw Communications Companies, Inc.

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(MCC). The applicant has submitted a letter from MCC stating that MCC "* * * hereby commits $5 million of equity capital, based on all four of your applications being successful." The letter also makes *pro-rata* apportionments to the four markets, in the event the applicant is not successful in every market in which it applied. By way of demonstrating the availability of $5 million, the applicant has submitted a balance sheet of MCC (Application, Exhibit 10, Appendix B, Item 5). The petitioner contends that the equity backer's net liquid assets are less than $5 million, so the funds are not available. The long-standing Commission standard for demonstrating availability of an applicant's finances has been net liquid assets, that is, the excess of current assets over current liabilities. *Advanced Mobile Phone Service, Inc. et al. (Chicago Order),* 91 FCC 2d 512 (1982); *Central Texas Broadcasting Co.,* 74 FCC 2d 393, 401–02 (1979); *Merrimack Valley Broadcasting Co.,* 82 FCC 2d 166, 168–69, 174–75 (1980); *WVOC Inc.,* 32 FCC 2d 765 769 (Rev. Bd. 1971); *The Tuscarawas Broadcasting Co.,* 4 FCC 2d 466, 468 (Rev. Bd. 1966). The balance sheet (application, Appendix B, Item 5) shows current assets of $2,562,685, and current liabilities of $1,650,309. Net liquid assets are thus $912,376, which is insufficient to meet the $5 million equity commitment.[1] The applicant argues that stockholder-subscribers, as distinguished from applicants, are not held to the net liquid assets standard where the subscribers' total assets are vastly in excess of the commitment. McCaw cites *Tel-Page Corp. of Wisconsin,* 46 RR 2d 668, 672 (1979), and *Radio Dispatch Corp.,* 61 FCC 2d 425 (Rev. Bd. 1976). In our view, however, the net liquid assets standard must be applied to cellular applications based on the *Chicago Order,* where the Commission explicitly adopted it. The MCC balance sheet shows total assets of $23 million. There is no way to determine how much of the total is easily convertible to cash or how much of the total may already be committed to other projects or liabilities of the firm. We conclude, therefore, that only $912,000 in net liquid assets has been shown to be available from MCC.

7. *Daniels equity contribution.* The second $5 million equity contribution is from Daniels & Associates, Inc. (Daniels). Daniels relies on a $5 million letter of credit from the American Security Bank. The petitioner questions whether the funds are in fact available from the bank since the letter includes a "covenants clause" in which the bank refers to "standard business covenants generally utilized in loans secured by cable TV systems, including debt to cash flow and debt to subscribers limitations." The Petitioner contends that the applicant has not included the specifics of these restrictions and consequently has failed to show that Daniels can meet these bank limitations, whatever they may be. After examining the letter of credit, however, we conclude that the funds are available. The letter specifies that the funds are to be used for McCaw's cellular systems. The letter also specifies interest rate, terms of the loan, and security interest. The covenants appear to be reasonable and customary and do not, in and of themselves, cast doubt on the availability of the loan. We find, therefore, that $5 million in equity funding is available to the applicant from Daniels. *See Multi-State Communications v. FCC,* 590 F. 2d 1117, 1119 (D.C. Cir. 1978), *cert. denied* 440 U.S. 959 (1979).

8. *Centennial equity contribution.* The third $5 million equity commitment is from the Centennial Fund. Centennial relies on a balance sheet (Application, Exhibit 10, Appendix B, Item 4.1) to demonstrate its ability to meet the equity commitment. The petitioner argues that the balance sheet demonstrates that the funds are not available. In its reply, the applicant has submitted additional information further explaining the items on the balance sheet. The balance sheet indicates that Centennial has $75,000 cash and temporary investments of $3.9 million which we consider to be liquid assets.[2] However, the Centennial balance sheet also relies on other assets which we cannot conclude are liquid. Specifically, Centennial lists $6.7 million in subscribed capital, not yet paid to centennial. In its reply, the applicant indicates that the capital subscriptions will be paid in two equal installments on March 31, 1983, and March 31, 1984. These anticipated payments cannot be considered as liquid assets. We therefore conclude that $4.65 million in equity $3.9 million plus $75,000) is available from Centennial.

9. *API back-up equity funding.* For the reasons discussed above, we find the following amounts of equity funding are available to the applicant: $912,000 from MCC, $5 million from Daniels, and $4.65 million Centennial. Thus, out of a $15 million equity commitment, we find that $10.56 million is available. This leaves an equity deficiency of $4.44 million, which we correct to $5.44.[3] As a precautionary measure, the applicant has submitted a back-up source of equity funding from Affiliated Publications, Inc. (API), whereby API guarantees to provide any of the $15 million which may not be available from three equity participants. To demonstrate the availability of these back-up funds, API has submitted a balance sheet (Exhibit 10, Appendix B, Item 2.1, p. 18). The petitioner contends that the balance sheet fails to demonstrate the availability of the funds. After reviewing the balance sheet, however, we conclude that the funds are available. API's current assets are $40.5 million. Current liabilities are $18.3 million. The Commission's longstanding standard in determining financial qualificiations is net liquid assets, the difference between current assets and current liabilities. In this case, the difference is $22.2 million. We are unable, however, to credit 100 percent of the $40.5 million current assets figure because it includes $24.8 million in accounts receivable. In previous orders where such accounts have been aged, we have permitted 75 percent of such accounts to be included in calculating net liquid assets. *See Atlanta Order, supra,* para. 13. *See also Kaiser Broadcasting,* 62 FCC 2d 246 (1977). The McCaw application includes no information as to whether these accounts have been aged or in general how collectible those accounts actually are. We are therefore unable to conclude that at least 75 percent of these accounts (or $16.8 million) are available to API to meet its back-up equity commitment. The applicant's shortfall, however, is only $5.44 million, approximately 22 percent of all accounts receivable. Even without a showing of aging of these accounts, we will consider that this small percentage of the accounts receivable are collectible and therefore conclude that API has at least $5.44 million available to meet its backup commitment. On this basis, we conclude that the $16 million equity commitment is available to McCaw, in light of the back-up funding available from API.

10. *Equipment financing.* In two markets (Kansas City and Denver), the commitments of equity and loans are insufficient to cover projected costs. Each of the applications for these two markets also contains a letter from an equipment supplier which offers to furnish cellular equipment and provides a financing schedule whereby in each market, $3.2 million in equipment payments are deferred for a total of $6.4 in equipment financing (Direct Case, Exhibit 10, App. A, Item 4). The two equipment financing arrangements are crucial, because without the deferred payments of $6.4 million, the applicant's available funds are insufficient to cover projected costs. The petitioners argue that the equipment financing arrangement is fatally defective because the supplier's letter commits the applicant to purchase 3,000 mobile units and this purchase is not included in the applicant's projected costs. In its reply, the applicant states that a closer reading of the equipment supplier's letter reveals that the applicant is not obligated to purchase the mobile units but may instead utilize a third party leasing arrangement. This in fact is the applicant's intention, as stated in the application (Exhibit 8, Appendix A, p. 13). The allegation, however, is relevant to our assessment of the applicant's basic financial qualifications. Section 22.917 of our rules does not require that the cost of mobile equipment be included in an applicant's financial projections. *See Metrocom of St. Louis et al. (St. Louis Order),* CC Mimeo 2045, released January 28, 1982, at para. 10. The mobile equipment will be leased in the quantity needed by subscribers. Related costs will therefore be covered by revenues or subscribers' deposits. The Commission has traditionally sanctioned this type of financing and has credited the full amount of credit to the applicant. *See, e.g., Merrimack Valley Broadcasting, Inc.,* 82 FCC 2d 166, 167–68 (1980). We therefore conclude that adequate funds are available to cover projected costs in these markets.

11. *Continental Bank Loan.* The applicant submits a letter from the Continental Illinois National Bank committing $35 million in credit to the parent MCCI. The petitioner CMS questions whether the bank letter is sufficiently detailed to demonstrate the availability of the funds. After reviewing the letter, we conclude that the applicant has failed to demonstrate that the $35 million in credit is available. Although exact details such as interest rates and payment terms are not absolutely required, the applicant must submit sufficient information for the Commission to make its reasonable assurance determination. *See Multi-State, supra.* The bank letter specifies no interest rate but instead states that the rate is "* * * to be negotiated at the time of FCC approval." Application, Exhibit 10, Appendix A, Item 2.1. Although the letter provide for quarterly payments over an eight year period, it furnishes no information as to the dollar amount of these payments. Under these circumstances, we cannot conclude that the Continental Bank letter provides reasonable assurance. *See Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order),* CC Mimeo 1882, released January 21, 1983, at para. 6.

12. *Accuracy of cost estimates.* CMS questions the accuracy of McCaw's projected costs because the applicant's technical proposal makes reference to using microwave links and yet does not include the cost for such facilities in its projected costs. McCaw responds, however, that the proposed microwave links will not be installed prior to the fifth year of installation, so the cost of these facilities was logically omitted from the projected costs of construction and first year operation costs. The details of the application support this explanation. *See* Direct Case, Exhibit 8, Appendix, A. 4, in which telephone control and telephone interconnect costs are provided for in the financial projections for the construction period and first year of operation. The cost estimates appear to be reasonable, and the petitioner has failed to raise any serious question that has not been adequately explained by McCaw in its Opposition.

13. *Conclusion.* For the reasons discussed above, the applicant has failed to demonstrate that the $35 million loan is available. We will therefore designate an issue as to whether McCaw is financially qualified in San Jose and in the three other markets (San Francisco, Denver, and Kansas City) where McCaw applied. We have chosen to designate in this order a Financial issue as to McCaw's entire financing arrangement because we believe this approach is the most efficient way to consider the various McCaw applications, *i.e.,* it can be detemined whether McCaw has financing for one market, or all four markets, or some number in between. McCaw will at that point have greater discretion for deciding how many (and which) applications to prosecute. The alternative is to examine each application on a case-by-case basis. This approach duplicates the efforts of all parties and (in the event that McCaw can demonstrate the availability of some but not all of its financial arrangement) depends not on which applications McCaw prefers to prosecute but on the luck of the draw as to which markets are examined (and in what order) by the Commission. We will therefore examine in hearing the overall financial package of McCaw (*i.e.,* the availability of the $35 million loan) and, depending on how much funding is available, permit McCaw to modify or dismiss other applications accordingly.[4] The Administrative Law Judge may use our summary procedures to resolve this financial issue if McCaw submits an amendment submitting a bank letter which meets our "reasonable assurance" test or submits an amendment otherwise showing reasonable assurance of sufficient funds to cover its proposals.

14. *Technical qualifications.* Petitioner objects that McCaw has failed to demonstrate that microwave control facilities are available, so the application is defective. McCaw has responded by filing a corrective amendment to reflect that the applicant will use microwave facilities only during the fifth year and will use wireline control facilities during the construction period and first four years of operation. This intent is in fact reflected in the application which bases cost estimates on wireline control facilities. Direct Case, Exhibit 8, Appendix A–10. Additionally, McCaw has in its reply submitted copies of correspondence which shows that the applicant has already coordinated an 11 GHz microwave control system so that it will be available when the applicant is ready to phase it in. We therefore conclude that McCaw has fully responded to the questions raised by the petitioner, and we find the applicant technically qualified.[5]

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[1] The current assets figure in the balance sheet is not broken down into sub-categories such as cash and accounts receivable. Nor is any information provided as to the nature of any such accounts (whether they have been aged for collection purposes). We are thus unable to determine what portion of any accounts receivable may be counted as part of net liquid assets. *See Celcom Communications Corp. of Georgia, et al.* (Atlanta Order), CC Mimeo 1988, released January 26, 1983, at para. 13. Our determination is not changed, however, since the net liquid assets are insufficient even if 100% of current assets are counted.

[2] In its reply, McCaw explains that the temporary investments are short term (thirty days or less) certificates of deposit. These instruments are clearly liquid.

[3] The application gives the figure $15 million as the total equity commitment from the parent company to the four McCaw subsidiaries. We note that the actual equity requirement is $16 million: $3.25 million in San Jose, $6.25 million in San Francisco, $3.25 million in Kansas City, and $3.25 million in Denver. The deficiency of $4.1 million in available financing must, therefore, be corrected to $5.1 million.

[4] In the other markets where McCaw has filed (San Francisco, Denver, and Kansas City), any applicant whose proposal is electrically mutually exclusive with McCaw's application may file a motion for limited intervention on the financial issue in this proceeding

[5] In any event, we have held that the absence of information about microwave channels does not render an application defective. Metrocom of St. Louis, *et al.* (St. Louis Order), CC Mimeo 2045, released January 28, 1983, at para. 5.

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CMS

15. *CGSA extension* CMS' proposed CGSA extends into the central San Francisco SMSA. Pursuant to Rule Section 22.903(a), a CGSA may not extend into another central SMSA. Therefore, we will require that CMS file a conforming amendment to bring the nonconforming CGSA and 39 dBu contour four Cell Nos. CAO1003, 91004, and 91005, into compliance with the rules. The amended 39 dBu contours shall not cover any area in the SMSA not previously covered by the noncomforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumatance, brief extensions of time may be granted at the discretion of the Administrative Law Judge.[6]

16. *Cost estimates.* Petitioner questions the accuracy of the applicant's cost estimates, arguing that the total system will cost $9.2 million, whereas CMS has only $3.45 million available and has estimated its equipment costs at only $3 million. In its reply CMS states that, although a fully expanded multiple-site system will involve equipment costs in excess of $3 million, CMS plans initially to construct a 7-cell system, to use this system during the first year of operation, and to construct additional cells as user demand increases. CMS states that its cost estimates were based on the equipment for a 7-cell system rather than for the larger system contemplated subsequent to the first year of operation. The petitioner argues that the Commission's cellular rules require that cost estimates for construction expenses include all equipment involved in a fully developed system, even if the expanded system will not initially be constructed. We reject this interpretation. The rules contemplate a construction period and operations following construction. The Commission also contemplates that licensees will expand their systems. One of the comparative criteria for judging competing cellular applicants is how the applicants intend to expand their systems in order to meet increasing demand. CMS has properly included in its cost estimates the equipment which it intends to construct prior to commencing operations. These figures do not appear to be unreasonable, and the petitioner has not made any showing which draws into question the accuracy of these figures. We conclude that the applicant's cost estimates are reasonable and will not designate an issue on this basis.

17. *Financial qualification.* The petitioner also questions whether the applicant has adequate funds available to construct and operate its proposed system. The Commission has already concluded that the Graphic Scanning corporation, CMS' parent, is financially qualified to construct and operate cellular systems in all thirty markets, including San Jose, for which CMS has applied. *See Chicago Order, supra,* at paras. 6–12. Additionally, the San Jose application includes a letter (Appendix VIII–C) dated June 2, 1982, from the parent comany to CMS committing $6,400,000 for the CMS San Jose cellular system. The letter specifically states that none of these funds have been committed to other cellular system applications or to other projects. We find that this satisfies the requirement of section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere, and we find CMS financially qualified to construct and operate the proposed cellular system in the San Jose market.

Cellnet Application

18. *Financial qualifications.* Petitioner CMS questions the accuracy of Cellnet's estimated costs for construction and first year of operation. CMS contends tht the applicant has furnished different and conflicting figures for these costs in various parts of the application and direct case. In its reply, Cellnet asserts that the petitioner's arguments are based on a misunderstanding of the figures presented in the application. the Cellnet reply includes a detailed analysis of its estimated construction costs and operational expenses for the first year. After reviewing the application and the explanatory materials in Cellnet's reply, we conclude that the applicant's cost estimate complies with the cellular rules.[7]

19. CMS further questions whether Cellnet has funds available to cover its estimated construction ($5,370,000) and first year operating ($1,605,000) costs. Cellnet relies on several sources which are discussed below. The funding arrangements for Cellnet's San Jose application also include funds for Cellnet's San Francisco application; Cellnet estimates construction costs for the San Francisco application at $15,058,000 and first year operating costs at $4,353,000. *See* Item 47, San Francisco application; Exhibit 14, application. Thoma testimony, direct Case; reply to CMS petition to deny, at pages 8 and 10. We will examine in this order the funding for both applications.

20. *Continental Bank Loan.* In Exhibit 14, Appendix 3 to its application, Cellnet submits a $5 million letter of credit from Continental Illinois National Bank (Continental Bank). CMS questions whether the bank letter is sufficiently detailed to demonstrate the availability of the funds. After reviewing the letter, we conclude that it does not provide reasonable assurance that funds are available. Although exact details such as interest rates and payment terms are not absolutely required, the applicant must submit sufficient information for the Commission to make its reasonable assurance determination. *See Multi-State, supra.* the bank letter specifies no interest rate but instead states that the rate is "* * * to be negotiated at the time of FCC approval." Although the letter provides for quarterly payments over seven (possibly eight) years, it furnishes no information as to the dollar amount of these payments. Under these circumstances, we cannot conclude that the Continental Bank letter provides reasonable assurance. *See Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order),* CC Mimeo 1882, release January 21, 1983, at para. 6. A similar letter of credit for $15 million is submitted in Celnet's San Francisco application. For the same reason, we conclude that these funds have not been shown to be available.

21. *Equity funding.* Cellnet also furnishes a letter making a $1.7 million equity commitment to Pagenet from the Golder, Thoma fund (GTF) a venture capital firm. Application, Exhibit 14, Appendix 2. GTF holds a majority interest in Pagenet. One of the general partners of GTF, Mr. Carl D. Thoma, is Chairman of the Board and Chief Financial Officer of both the parent Pagenet and the applicant Cellnet. The petitioner argues that the applicant has not demonstrated the ability of the investor (GTF) to meet its commitment to the parent, nor that the parent is committed to pass these funds on to the applicant subsidiary. The petitioner cites language in the application where Pagenet describes other planned acquisitions and argues that the applicant fails to show that the funds advanced will not be diverted to these other projects. Initially, we reject the contention that the parent will for some reason unspecified by the petitioner fail to use equity funds for their stated purpose. Which is to construct a cellular system in San Jose. We also reject the contention that the parent Pagenet may commit these funds to other projects than the San Jose celluar system. The application contains a certification that none of the funds listed (including the equity commitment to Pagenet) are committed to any other project, including any other cellular application. Exhibit 14, Appendix 2. We do not require more. The petitioner has presented no factual materials to cause us to question this certification. The applicant's showing complies with the requirements of section 22.917(b). *See Chicago Order, supra,* at para. 6. We conclude, however, that the applicant Cellnet has failed to demonstrate the availability of the equity funding from the investor GTF. In its reply, Cellnet submits an affidavit from the principal of GTF and a letter from an attorney representing GTF. See Appendx A and attachment I, Cellnet reply. These materials state that the GTF funding is based on cash commitments from the limited partners comprising GTF. Although the attorney's letter states that the limited partner's commitments are unconditional, irrevocable, and subject only to 20 days notice, these contributions have not yet been paid and cannot be considered by GTF (or the applicant) as cash or other liquid assets. We therefore conclude that the $1.7 million equity funding has not been shown to be available to Cellnet.

22. The letter committing $1.7 million equity funding for the San Jose application also commits $5 million for the San Francisco Cellnet application. For the same reasons as discussed above, we conclude that the application has not shown these funds to be available for the San Francisco proposal.

23. The San Jose application also relies on a $300,000 cash advance from Pagenet. The petitioner disputes the availability of these funds. In its reply, however, the applicant submits an affidavit from a principal of Pagenet stating that the $300,000 has in fact been transferred to the applicant. This moots the petitioner's objections.

24. For the reasons discussed above, we find that Cellnet has provided reasonable assurance that $300,000 is available. Since this amount is not sufficient to cover the applicant's construction and first-year operating costs in San Jose, we will designate a financial qualification issue. Because we have also concluded that the $20 million financing for Cellnet's San Francisco proposal has not been shown to be available, we will at the same time designate an issue in this proceeding for that market. We believe this approach is the most efficient for the same reasons as discussed above as regards the McCaw application.[8] Aslo as in the case of McCaw, the Administrative Law Judge may use our summary procedures to resolve the financial qualifying issue if Cellnet submits an amendment in response to our findings here.

25. *Cell-splitting plan.* The petitioner argues that the Cellnet application has failed adequately to indicate the basis which will be used to determine whether sufficient congestion exists to warrant cell-splitting, and that the application does not comply with Section 22.913(a)(5). The application states (Exhibit 23) that the applicant will determine when cell-splitting is warranted based on market study forecasts, monitoring of system user statistics compiled through actual operating experience, and Grade of Service design limits. These design limits require a service objective of P.02. The application goes on to explain this service objective in detail. We conclude that Cellnet has complied with the requirements of Section 22.913(a)(5) and will not designate a qualifying issue on this basis. *See Advanced Mobile Phone Service, Inc. et al. (Philadelphia Order),* CC Mimeo 1882, released January 21, 1983, at para. 31. Cell-splitting plans and proposed system expansion may be examined in the comparative portion of this proceeding to the extent relevant to the issues designated in this order. *Report and Order* CC Docket No. 79–318, 86 FCC 2d 469 at 502–03 (1981); *Advanced Mobile Phone Service, Inc. et al. (Buffalo Order),* CC Mimeo 1320, released December 14, 1982, at para. 20.

Celcom Application

26. *Site Availability.* Petitioner CMS argues that Celcom has not demonstrated the availability of the proposed sites, referring to language in the application (Exhibit No. 4) where Celcom states that it will own or lease each of the proposed sites. CMS contends that this language indicates that Celcom has not finalized arrangements to make sites available as required by the rules. We have examined the application, however, and conclude that Celcom has reasonable assurance that sites are available. In its application, Celcom has identified each of the site locations and showed their coordinates. In its reply Celcom further indicates that, based on signed statements from the owners or their agents, Celcom has a good faith belief that all cell sites are available. The petitioner has not demonstrated that any of the sites would not be available to Celcom. Absent specific evidence rebutting Celcom's showing, we find that Celcom has adequately demonstrated site availability. *See Philadelphia Order, supra.*

27. *Financial qualifications.* CMS argues that Celcom has not adequately demonstrated its costs and has not shown the availability of sufficient funds to meet its costs. The petitioner questions the accuracy of the applicant's estimates of operating expenses. In its reply, the applicant provides a detailed analysis of its cost projections including operating expenses. The information submitted in the application and the reply pleading is not unreasonable on its face and meets the requirements of the cellular rules. The petitioner has presented nothing to cause us to question the applicant's estimates. Concerning the availability of adequate funds, the petitioner refers to a letter of credit (Appendix C, Exhibit No. 5) from the Michigan National Bank, offering to serve as the lead bank in a consortium of banks which would lend the applicant up to $15 million. The letter identities the participating banks and contains the basic payment terms and the formula for the interest rate. The petitioner argues that there is no indication that the banks would in fact participate in the consortium. These same arguments were raised against Celcom in Pittsburgh and Atlanta and were rejected in our recent *Pittsburgh Order* and *Atlanta Order.*[9] Further, Celcom has submitted a letter from the Michigan National Bank which unequivocally states that all three banks have agreed to participate and that the loan is adequately secured. Accordingly, no further consideration of this issue is warranted.

[6] On August 17, 1982 CMS submitted amendments to modify its CGSA. Since we are directing a specific amendment to cover this problem, we are returning the amendments under separate cover. A "Motion to Strike" the amendments was filed by Celcom. Because of our action returning the amendments the Celcom "Motion to Strike" is dismissed as moot.

[7] The petitioner's misunderstanding of certain parts of the application is grounded primarily in confusion over the unusual format of the Cellnet application, which bases cost estimates on the third year of operation rather than the first. Additionally, the application includes second and third columns of figures which adjust cost estimates for inflation. While there may be sound business reasons (as explained in the reply) for this approach, we note the difficulty in determining from the application's format whether the financial showing complies with the rules. The applicant's reply has significantly clarified the information contained in the application.

[8] Any applicant in the San Francisco market whose proposal is electrically mutually exclusive with Cellnet's application may file a motion for limited intervention on the financial issue in this proceeding.

[9] Advanced Mobile Phone Service, Inc. *et al.* (Pittsburgh Order), CC mimeo 1169, released December 6, 1982; Celcom Communications Corp. of Georgia *et al.* (Atlanta Order), CC Mimeo 1969, released January 20, 1983, at paras. 3–6.

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Intrastate Application

28. *Technical issues.* Petitioners Celcam and CMS attack the Intrastate application on a number of technical grounds. They argue that the application violates Section 22.909(a)(2) for proposing a control point outside the San Jose CGSA without requesting Commission approval. They further contend that, had the applicant requested Commission approval for such remote control facilities, the request would have been denied because such facilities, having additional points of interconnection, are more prone to service outages and service degradation. The petitioners also question whether the applicant will provide operating personnel on duty during normal rendition of service, as required by Section 22.909(a)(2). Celcam further argues that Intrastate's proposed CGSA impermissibly extends into the central SMSA of San Francisco and also into the Santa Cruz SMSA.

29. First, we reject the view that Intrastate's application violates Section 22.909(a)(2) by proposing remote control points. The rule states that "[t]he location of the control point may not be moved beyond the boundary of the authorized service area without prior Commission approval." It does not say that an applicant may not propose, and receive approval for, a remote control point. The *Report and Order*, in which the rule was adopted, does not address the rationale for the rule. Consequently, we must look at it in the context of Part 22, generally, and Section 22.513, specifically. Traditionally, the control point and the message center (defined in Section 22.2) were at the same location—the transmitter site. Developments in technology enabled carriers to automate their systems and to move control points to remote locations in the interest of economic or technical efficiency. The Commission was concerned, however, that the message center not be moved because local customers might have had to pay toll charges to reach the message centers. In that vein, Section 22.513 allows a control point, message center or contro! point/message center to be located outside the service area as long as the customer can access the system with a local call. More recently in its *Revision and Update of Part 22*, 47 FR 43, 842 (1982), the Commission proposed to delete Section 22.513 upon finding tentatively that marketplace competition provided adequate protection from excessive charges. *Id.* at 43, 878–79. In today's environment, there is neither an economic nor a technical reason for arbitrarily restricting the choice of control point location. The petitioners here have presented no evidence that Intrastate's choice will adversely affect the public, and we do not find any reason to include a qualifying or comparative issue based on the control point location.

30. Second, we reject the contention that the application extends into the San Francisco SMSA. In its reply, Intrastate states that it has re-examined its calculations and confirmed that no such extension exists. The petitioner Celcom has submitted no calculations or contour maps to support its allegation. Under the circumstances, we will accept the materials submitted by Intrastate in its application and reply. Concerning the alleged extension into the Santa Cruz SMSA, we have examined the amount of 39 dBu contour overlap and determined that it constitutes approximately 12 per cent of the cell site in question. The overlap area is mountainous, uninhabited area and unlikely to interfere with the service area which cellular applicants will propose to cover in the Santa Cruz area. The applicant has directionalized its antenna in order to minimize overlap. Furthermore, Intrastate explains in its application that, in order to econimize on construction costs, it chose to use a single antenna site on a high mountain instead of multiple sites at lower elevations. We conclude that the overlap is *de minimis* and that any necessary frequency coordination will be minimal. *See Memorandum Opinion and Order on Further Reconsideration*, 90 FCC 2d 571 (1982) at para. 20.

31. Finally, we reject the argument that the application is defective for not providing operating personnel as required by the rules. In its reply, Intrastate explains that it will have operators on duty at the control point during regular workdays and during other hours will monitor the system from its message and alarm center. Monitoring personnel will be able to telephone or page maintenance personnel in the event of a malfunction. This arrangement complies with the requirements of Section 22.909(a)(2). In view of the above, we conclude that Intrastate is technically qualified to construct and operate a cellular system in San Jose.

32. *Financial qualifications.* CMS contends that, in describing its financing arrangements, Intrastate has revealed that its proposal violates the cellular rules by proposing a *consolidated* cellular system to serve both the San Jose and San Francisco markets instead of separate systems for each market, as required by the rules.

33. We have examined the pertinent language in Intrastate's financial showing (Application, Exhibit 15, pp. 1–2). We conclude that the petitioner's argument is based on a misreading of the application. The applicant states:

> [IRTS] is proposing to build an initial thirteen-cell system in the San Francisco—Oakland SMSA and an initial five-cell system in the San Jose SMSA. If it is the successful applicant in both SMSA's, [IRTS] will consolidate the facilities into a single eighteen-cell system with a common switch at Hayward, California.

Clearly, Intrastate proposes separate systems and, only if the successful applicant in both markets, will Intrastate at that point in the future seek Commission approval to modify its facilities into a consolidated system. Intrastate's separate proposals for San Jose and San Francisco are thus in compliance with our rules and do not violate our prohibition against regionalized proposals which include more than one SMSA. Nor does the fact that Intrastate's single financing package to cover the proposals in both markets violate our rules. Section 22.917(b) states that resources used to demonstrate an applicant's financial ability cannot include funds committed to another project or committed to another cellular application. This rule was intended to prohibit double commitment of the same funds, not to prohibit applicants from obtaining one financing package to cover all cellular ventures. Nothing in the application or in the pleadings leads us to believe that funds committed to the San Jose proposal are also committed either to the San Francisco proposal or any other venture. Accordingly, we will not designate a financial issue on this basis.

34. CMS also questions the cost estimates submitted by Intrastate. These estimates use an incremental cost analysis, showing the increase in costs above Intrastate's present RCC business costs which will result from Intrastate's cellular operations. The petitioner argues that an applicant is not permitted to use such an incremental cost analysis without providing the Commission with evidence that this approach is a reasonable way to estimate costs. We reject this view. Intrastate estimates construction expenses for the San Jose system at $2,300,000. Application, Exhibit 15, Attachment E. This figure includes a cellular central office, cell sites, system spares, installation costs, and miscellaneous expenses. First year operation costs are estimated at $541,904. Exhibit 15, Attachment F. This figure includes maintenance and repairs, salaries, telephone expense, office supplies, sales and advertising, depreciation and amortization, loan service, taxes, and other expenses. These categories are further itemized into 27 sub-categories. The figures and the cost analysis are not unreasonable on their face. The petitioner has presented no factual materials which call any specific item into question. The fact that, in arriving at these estimates, the applicant considered the increment in costs to run its existing facilities, does not compel a different result. The Commission has in the past sanctioned an applicant's reliance on its operating experience in estimating expenses and revenues. *See Cohen & Siegel*, 68 FCC 2d 702 (1978). Accordingly, we will not designate an issue on this basis.

35. Petitioner CMS also questions the availability of certain equity funding listed in the Intrastate application. We find it unnecessary to examine this matter, however, since, even without the equity funding, Intrastate has $10 million available to cover its construction and first year operating costs. The petitioner does not contest the availability of these funds, which will cover projected expenses of both the San Jose and San Francisco systems proposed by Intrastate. The $10 million funding is based on a letter dated June 4, 1982, from the Chase Manhattan Bank committing up to $10 million to Intrastate for cellular systems in San Jose and San Francisco. The letter specifies interest rate and payment period. We conclude that these funds are available to the applicant for the stated purpose, and we find Intrastate is financially qualified in both San Jose and San Francisco. Any financial issues unique to Intrastate's San Francisco proposal will be disposed of in the order which discusses that market.

GTE Application

36. GTE is the remaining applicant for Block B (wireline) in the San Jose market under the terms of a Limited Partnership Agreement submitted on October 19, 1982. This Agreement is one of a series of similar agreements by which AMPS and GTE, which had filed in 15 of these markets, together with 18 other wireline companies, proposed to settle their electrically mutually exclusive applications in 18 of the top 30 markets. Pursuant to the terms of the Agreements, AMPS will operate cellular systems in twelve markets and GTE will operate cellular systems in six markets, including San Jose. Each partner will continue to prosecute its cellular applications in its specified markets, while the other partners to the agreements will withdraw any applications in those markets. A Limited Partnership Agreement virtually identical to the San Jose Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order)*, FCC 83——, released April —, 1983. We find the Commission's decision to be dispositive of all objections to the San Jose Agreement itself.[10]

37. GTE also submitted a "Request for Waiver or Acceptance of Amendments," along with amendments filed Sept. 13, 1982. The filing related to service contour overlaps of the GTE San Jose proposal into the San Francisco SMSA. We find it unnecessary to rule on the pleading or amendments. GTE also filed a cellular proposal for the San Francisco SMSA.[11] The two systems proposed by GTE are fully coordinated. Because there is no other wireline applicant for the proposed coverage of the San Francisco SMSA, and because there is no real possibility of harmful electrical interference, there is no need to require GTE to amend its application or shrink its 39 dBu contours to avoid overlap into the San Francisco SMSA. *See Advanced Mobile Phone Service, Inc. (New York Order)*, CC Mimeo 2418 released February 18, 1983, at para. 41. Accordingly, the "Request for Waiver or Acceptance of Amendments" will be dismissed as moot, and the amendments will be returned under separate cover.

Conclusions

38. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems, except to the extent discussed here. We are requiring CMS to bring its application into conformance with the rules as specified in this order. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding.

39. Accordingly, *it is ordered*, pursuant to Section 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership Agreement filed by GTE Mobilnet of San Jose, Incorporated, and Advanced Mobile Phone Service, Inc. *is granted* and the accompanying Limited Partnership Agreement is *approved*.

40. *It is further ordered*, That the amendment to the GTE Mobilnet of San Jose, Inc., application *is accepted*, that the amendment is exempted from the cut-off provisions under Section 22.31(e)(3) and (4); and the amended GTE application, File No. 28058–CL–P–(5)–82, is granted.

41. *It is further ordered*, That the request for withdrawal of the application filed by Advanced Mobile Phone Service, Inc., File 28025–CL–P–(3)–82, IS GRANTED and the application is dismissed.

42. *It is further ordered*, That GTE's "Request for Waiver or Acceptance of Amendments" IS DISMISSED as moot, and the related amendments will be returned under separate cover.

43. *It is further ordered*, That the authorization is conditioned upon GTE's filing an amendment to the Limited Partnership Agreement which eliminates the language contained in Section 11.1 of the Agreement, imposing restraints on the alienation of partnership interests.[12]

44. *It is further ordered*, Pursuant to Section 309 of the Communications Act of 1934, as amended, that the above-captioned applications are designated for hearing in a consolidated proceeding, upon the following issues:[13]

(a) To determine whether McCaw Cellular Communications, Inc. (MCCI), has a $35 million loan available from the Continental Illinois National Bank and is financially qualified to construct and

[10] The Commission required the deletion of one provision of the Los Angeles Agreement which restrained alienation of partnership interests. We also require deletion of that provision here. *See* para. 43, *infra*.

[11] Both AMPS and GTE have filed cellular applications for the San Francisco SMSA. Pursuant to a proposed settlement agreement between the two parties, GTE has filed an amendment to its application. Both the original and the modified GTE application are fully coordinated with the GTE San Jose application.

[12] The Commission will hold issuance of GTE's authorization until the amendment is received by the Mobile Services Division, Common Carrier Bureau. We also remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

[13] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants other than McCaw and Cellnet. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). Except as noted, we have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of California, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 23, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of California, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals.

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operate for one year its four proposed cellular systems;

(b) To detemine whether Cellular Network, Inc., and its parent Pagenet have equity funding available from the Golder, Thoma Fund of $1.7 million for San Jose and $5 million for San Francisco, as well as a loan from the Continental Illinois National Bank of $5 million for San Jose and $15 million for San Francisco, and is financially qualified to construct and operate for one year its four proposed cellular systems;

(c) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[14] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(d) to determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[15]

(e) to determine on a comparative basis the nature and extent to the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[16] and

(f) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

45. *It is further ordered,* That the burden of proceeding with the introduction of evidence upon the financial qualification issue, and the burden of proof, shall be upon McCaw Communications of San Jose, Inc., and upon Cellular Network, Inc.

46. *It is further ordered,* That CMS is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under Section 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issues designated against McCaw and Cellnet shall be determined by the judge in the judge's discretion.

47. *It is further ordered,* That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[17]

48. *It is further ordered,* That the applicants shall file written notices of appearances under Section 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

49. *It is further ordered,* That the hearing shall be held according to the procedures specified in Section 22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

50. *It is further ordered,* That exceptions to the initial decision of the Administrative Law Judge under Section 1.276 of the Commission's Rules shall be taken directly to the Commission.

51. *It is further ordered,* That except to the extent granted here, the Petitions to Deny filed by the various parties ARE DENIED, and the Celcam Motion to Strike *is dismissed* as moot.

52. *It is further ordered,* That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's basic qualifications to hold a cellular license following a final decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.,* FCC 82-391 released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

53. *It is further ordered,* That the GTE authorization and any other authorization granted as a result of this proceeding shall be conditioned upon the obtaining of the appropriate antenna structure clearances.

54. This Order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority,* FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those Sections. See also Rule 1.4(b)(2).

55. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-12855 Filed 5-12-83; 8:45 am]

BILLING CODE 6712-01-M

[14] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions as well as highways and areas likely to have high mobile usage characteristics, indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[15] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502-03.

[16] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[17] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended § 409(c) [47 U.S.C. § 409(c)]; Administrative Procedure Act § 554(d) (5 U.S.C. § 554(d)); Section 1.221 of the Commission's Rules.

FEDERAL EMERGENCY MANAGEMENT AGENCY

California; Notice of Major Disaster and Related Determinations

[FEMA-682-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-682-DR), dated May 5, 1983, and related determinations.

DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Sweall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter of May 5, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.,* Public Law 93-288) as follows:

I have determined that the damage in certain areas of the State of California, resulting from an earthquake occurring on May 2, 1983, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The City of Coalinga in Fresno County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12867 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-678-DR]

Mississippi; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Mississippi (FEMA-678-DR), dated April 16, 1983, and related determinations.

DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Mississippi dated April 16, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1983.

Covington County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12866 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-236]

United Federal Savings and Loan Association, Sarasota, Florida; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Notice is hereby given that on April 27, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board") acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 2 to the mutual-to-stock conversion application of United Federal Savings and Loan Association, Sarasota, Florida ("Association"). The application had been approved by the Board by Resolution No. 81-458, dated August 12, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Post Office Box 56527, Atlanta, Georgia 30343.

Dated: May 4, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-12868 Filed 5-12-83; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

Intent to Prepare a Supplement to the Final Environmental Impact Statement, Number ETN 78002, dated December 7, 1978, for the Renovation of Union Station, Nashville, Tennessee.

AGENCY: General Services Administration.

ACTION: Notice.

Purpose: The Supplement will evaluate the environmental impacts associated with the proposed discontinuation of the renovation of Union Station, Nashville, Tennessee, and the subsequent transfer of the property to the Disposal Division, General Services Administration, where no disposal action will be taken until all laws and regulations are appropriately addressed.

Direct Comments or Inquiries to: Barbara B. Bishop, Office of Public Buildings and Real Property (4PEP), General Services Administration, 75 Spring Street, SW., Atlanta, Georgia 30303, (404) 221-3080.

Alternatives Considered: The alternatives being considered are:

a. No action;

b. Continued renovation of Union Station; or

c. Declaration of Union Station excess to the needs of the General Services Administration.

Environmental Issues: The significant environmental issues to be discussed in the Supplement include the following:

a. Historic preservation, including reference to Section 106 of the National Historic Preservation Act of 1966 and the Memorandum of Agreement between the Advisory Council on Historic Preservation (ACHP), the Tennessee State Historic Preservation Officer (SHPO), and the General Services Administration. This issue includes weatherizing the building in order to protect the historically and architecturally significant elements of the structure. Another issue to be addressed will be to set forth constraints to protect the significant historical and architectural elements of this National Landmark building should a decision be made to excess Union Station.

b. Potential health hazards from the potential presence of asbestos insulation on building piping.

c. Potential health hazards from the probable presence of the fungus *Histoplasma capsulatum* which causes a respiratory disease called histoplasmosis. The fungus is commonly found in soil containing bird droppings. Testing for the presence of this fungus is currently being conducted at the Union Station site.

d. Potential health hazards from the known presence of the fungus *Cryptococcus neoformans* which grows in pigeon manure. The fungus causes a disease in humans known as meningitis. The disease attacks the covering of the brain and central nervous system and has a 50 percent mortality rate. The Centers for Disease Control has confirmed the presence of this fungus in Union Station within the last 30 days.

e. Potential health hazards from the probable presence of the fungus

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Cryptococcus neoformans in the train shed which is connected to Union Station by a concourse. The shed is not owned by the General Services Administration. Any development of Union Station will or may be impacted by the probable presence of this fungus in the train shed.

Copies of the Supplement will be available in the near future. A scoping meeting is not planned; therefore, comments and suggestions concerning the Supplement are invited from all affected and interested parties and should be received in writing as soon as possible, but not later than fifteen (15) days after publication of the Notice in the Federal Register.

Dated: May 5, 1983.

Donald F. Layfield,

Regional Administrator of General Services.

[FR Doc. 83-12801 Filed 5-12-83; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services-Tuberculosis Control Clinical Trial; Availability of Funds for Fiscal Year 1983

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1983 for Cooperative Agreements for a Tuberculosis Control Clinical Trial. This program is authorized by Section 301 of the Public Health Service Act (42 U.S.C. 241), as amended, Catalog of Federal Domestic Assistance Number 13.283.

Eligible applicants for this program are the official public health agencies of State and local governments and other public and private organizations.

Because of the limited funds available in Fiscal Year 1983, consideration for awarding funds will be limited to agencies or institutions that treated, in each of the preceding 2 years, at least 25 tuberculosis patients that would have met the eligibility requirements as stated in the CDC protocol "Short-Course Chemotherapy of Pulmonary Tuberculosis-U.S. Public Health Service Therapy Trial 21" (Study 21 Protocol).

Applicants must demonstrate that tuberculosis cooperative agreement funds will be used primarily for providing services necessary to enroll and treat eligible tuberculosis patients, as outlined in the Study 21 Protocol, and for ensuring that those patients are montiored for compliance with the assigned therapy regimens.

Evaluation and ranking of applications will be based on the following factors:

1. The estimated number of study eligible patients to be enrolled annually. Justification for the estimate should be provided. Applicants estimating that they will enroll fewer than 25 eligible patients annually will not be considered for awards.

2. Evidence of an applicant's capability to successfully meet the responsibilities of participating treatment centers, as listed on page 7 of the study protocol.

3. Evidence that the applicant has access to a mycobacteriology laboratory that has the expertise and willingness to provide all of the services required in the study protocol.

4. The exent to which an applicant's budget request is reasonable and consistent with the intended use of funds made available through a cooperative agreement.

5. Evidence that an applicant has access to adequate facilities, staff, and supplies to meet the requirements of the study protocol.

6. Evidence of the applicant's ability to monitor patients' compliance with thereapy and to take appropriate action (as specified in the protocol) when noncompliance is identified.

Purpose and Cooperative Activities

A. *Purpose.* The primary purpose of this multicenter clinical trial is to compare the efficacy, toxicity, and acceptability of a 6-month regimen of isoniazid (I) and rifampin (R), supplemented with pyrazinamide (Z) for the first 2 months, with a control regimen of 9 months of I and R in patients with pulmonary tuberculosis. The secondary purpose of this trial is to determine the acceptability of supervised twice-weekly therapy for patients who fail to adhere to the self-administered daily regimens. The study will be conducted in accordance with the Study 21 Protocol.

B. *Cooperative Activities.* The collaborative and programmatic involvement of recipients of funds and of CDC is as follows:

1. *Recipient Activities.* Each treatment center shall perform the following activities:

a. Participate in the conduct of the study to determine if the 6-month regimen is effective, safe, and acceptable therapy for pulmonary tuberculosis in accordance with the Study 21 Protocol.

b. Identify and select patients 18 years of age and older with newly diagnosed pulmonary tuberculosis, obtain informed consent, and conduct diagnostic medical workup, including cheat X-ray, sputum examination, complete blood count, and blood chemistries. All study participants must meet specified criteria for the diagnosis of pulmonary tuberculosis, as well as other criteria outlined in the protocol. The above information will be forwarded to CDC for approval and assignment of each patient to a study regimen.

c. Administer protocol drugs and conduct appropriate followup monitoring for response to therapy and the development of adverse drug reactions.

d. Collect and process sputa for acid-fast smear and mycobacterial culture and perform followup blood tests to monitor for drug toxicity. Ship positive mycobacterial cultures to CDC for drug susceptibility testing.

e. Assure accuracy and reliability of information collected and recorded on study forms. Submit study data to CDC as collected.

2. *Centers for Disease Control Activities.* CDC will perform the following activities:

a. Design the study including: Statistical program systems requirements, specifications, development, and implementation, and statistical analysis of all data.

b. Randomly assign patients to study regimens.

c. Provide required reporting forms, strips for isoniazid urine tests, and letters and trophies used as achievement awards.

d. Provide a computer-generated weekly diary which lists all patients in a center who should be scheduled for visits that week and the procedures and reports required at that visit.

e. Receive reports and evaluate regimens. This includes coding, keypunching, error-editing, program testing, and production of tables for anylsis of all data generated, and preparation of interim and final reports based upon information and data collected from all participating centers.

f. Periodically visit each center to discuss progress of the study and adherence to the protocol.

g. Perform drug susceptibility tests on mycobacterial isolates as required by the protocol and speciate all organisms found to be drug resistant.

It is anticipated that enrollment of patients will continue for up to 2 years. Patients will be followed for an additional 2 years after completion of treatment. Quarterly reports will be prepared by CDC and sent to all participating treatment centers. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

During Fiscal Year 1983, approximately $180,000 will be available to fund two or three new cooperative agreements and 10 to 12 continuation awards. Individual project awards are expected to range from $7,000 to $20,000.

Applications should be submitted for a 1-year budget period and a 1- to 2-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties.

Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to the clincal trial. Project funds may not be used to supplant funds supporting existing tuberculosis control services provided by a State or locality, or to support construction costs.

New applications for a cooperative agreement must include a narrative which summarizes: (1) The background and need for project support including information that relates to factors by which the applications will be evaluated; (2) the objectives of the proposed project which are consistent with the purpose of the clinical trial and which are specific, measurable, realistic, and time-framed; (3) the methods which will be employed to accomplish the objectives (of special importance will be the methods used to monitor and insure patients' compliance with therapy); (4) the methods which will be employed to evaluate the successfulness of enrolling eligible patients; (5) fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project; and (6) any other information which will support the request for assistance.

Continuation applications need to provide only new short-term objectives for the new budget period; and progress report on activities performed during the prior budget period; a description of any changes in the method of operation, need for cooperative agreement support, and evaluation procedures compared to information provide in previous applications; and fiscal and other supporting information as indicated in (5) and (6) in the preceding paragraph.

The original and one copy of application must be submitted to the address in 1.a. below on or before 4:30 p.m. (e.d.t.) on July 5, 1983. Applicants may meet the deadline by either delivering or mailing the application on or before the date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or use U.S. Postal Service express mail, or certified mail, and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physcially received at the place specified in paragraph 1. above before close of business on or before the deadline date (4:30 p.m. e.d.t., July 5, 1985).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974, as amended, or to intergovernmental review pursuant to Executive Order 12372.

Information on application procedures, copies of application forms, copies of the Study 21 Protocol, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, at the address in paragraph 1.a. above, or by calling (404) 262-6575, or FTS 236-6575. Technical assistance may be obtained from Mr. Donald E. Kopanoff, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-2523, or FTS 236-2523.

Dated: May 4, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83-12803 Filed 5-12-83; 8:45 am]
BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 83M-0138]

Alcon Laboratories, Inc.; Premarket Approval of OPTI-CLEAN™ Cleaning Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the OPTI-CLEAN™ Cleaning Solution sponsored by Alcon Laboratories, Inc., Fort Worth, TX. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by June 13, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 2, 1982, Alcon Laboratories, Inc., Fort Worth, TX, submitted to FDA an application for premarket approval of the OPTI-CLEAN™ Cleaning Solution for use in a heat or chemical lens care system to clean daily or extended wear soft (hydrophilic) contact lenses with 55 percent or less water content. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On April 7, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-925, 90 Stat. 539-583), cleaning solutions for use in cleaning hydrophilic contact lenses were regulated as new drugs. Because the amendments broadened the definition of

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the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such cleaning solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 10, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition for approval, that sponsors of applications for premarket approval of soft contact lenses or the cleaning solutions for the above use comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labelling of the OPTI-CLEAN ™ Cleaning Solution states that the solution is indicated for use in a heat or chemical lens care system to clean daily or extended wear soft (hydrophilic) contact lenses with 55 percent or less water content. Sponsors of any such soft (hydrophilic contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with such an approved soft contact lens, the sponsor of each such lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to the new cleaner that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(3)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 505(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 13, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 5, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12721 Filed 5-12-83; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 80N-0276; DESI 7630]

Drugs for Human Use; Certain Anabolic Steroids, Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of four new drug applications for certain anabolic steroid products for which FDA offered an opportunity for hearing, but for which no hearing was requested. The products lack substantial evidence of effectiveness.

EFFECTIVE DATE: June 13, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific drug product should be identified with Docket No. 80N-0276 and reference number DESI 7630 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 18, 1983 (48 FR 2206), the Director of the National Center for Drugs and Biologics revoked the temporary exemption (37 FR 266231) for the continued marketing of certain anabolic steroid drug products. The manufacturers of these products had not complied with the marketing conditions announced on October 31, 1980 (45 FR 72292). The notice also proposed to withdraw approval of the new drug applications, including conditionally approved abbreviated applications, that provide for these products and offered an opportunity for a hearing on the proposal. The basis of the proposal was a lack of substantial evidence of effectiveness.

Products for Which No Hearing Was Requested

Because the holders of the following new drug applications did not request a hearing, approval of the applications is now being withdrawn.

1. NDA 8-736; Methylandrostenediol Aqueous Suspension containing methandriol 25 or 50 mg/mL; Maurry Biological Co., Inc., South Western Ave., Los Angeles, CA 90047.

2. NDA 11-761; Adroyd Tablets containing oxymetholone 2.5, 5, or 10 mg/tablet; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950.

3. NDA 12-226; Dianabol Tablets containing methandrostenolone 2.5 or 5 mg/tablet; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

4. NDA 12-733; Anadrol Tablets containing oxymetholone 2.5 mg/tablet; Syntex Laboratories, Inc., 3401 Hillview Ave., Stanford Industrial Park, Palo Alto, CA 94304.

(This notice does not affect Anadrol-50 Tablets, containing oxymetholone 50 mg/tablet, marketed by Syntex for use in the treatment of certain anemias.)

Approval of the new drug applications for the following anabolic steroids was withdrawn in previous Federal Register notices, at the request of the applicants because they had discontinued marketing the products. (The January 18, 1983 notice incorrectly stated the reasons for the previous actions withdrawing approval.) These products were named in the January 18 notice offering an opportunity for a hearing because the question of the effectiveness of the drugs had not previously been resolved and neither those applicants nor firms marketing identical, similar, or related drugs had had an opportunity to request a hearing on that decision or on issue relating to the legal status of the products. No hearing on these products has been requested.

1. NDA 7-630; Stenediol Injection containing methandriol 25 or 50 mg/mL; Organon, Inc., 375 Mount Pleasant Ave., West Orange, NJ 07052.

2. NDA 10-400; Nilevar Tablet containing norethandrolone 10 mg/tablet; G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.

3. NDA 11-019; Nilevar Injection containing norethandrolone in sesame oil, 25 mg/mL; G. D. Searle & Co.

4. NDA 11-638; Nilevar Drops; containing norethandrolone 8.3 mg/mL; G. D. Searle & Co.

Any drug products that are identical, related, or similar to one of the eight products name above and are not the subject of an approved application are covered by the applications listed above, and are subject to this notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the Federal Register of June 22, 1982) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications listed above were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling. Therefore, pursuant to this finding, approval of application numbers 8-736, 11-761, 12-226, and 12-733 and all amendments and supplements applying to them is withdrawn effective June 13, 1983. Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Products for Which Hearing Was Requested

This notice does not apply to the products that are the subject of the following conditionally approved abbreviated new drug applications, the holders of which have requested hearings. These products will be addressed in a future Federal Register notice.

1. ANDA 87-465; Methandrostenolone 2.5 mg tablets; Bolar Pharmaceutical Co. Inc., 130 Lincoln St., Copiage, NY 11726.

2. ANDA 87-466; Methandrostenolone 5 mg tablets; Bolar Parmaceutical Co. Inc.

3. ANDA 87-945; Methandrostenolone 5 mg tablets; Par Parmaceutical Inc., 12 Industrial Ave., Upper Saddle River, NJ 07458.

4. ANDA 87-951; Methandrostenolone 2.5 mg tablets; Par Parmaceutical Inc.

Products for Which Exemption Has Not Been Revoked

The six products covered by the NDA's and the conditionally approved ANDA's listed below are still subject to the exemption identified above and the action taken in this notice does not apply to them. Nandrolone phenpropionate which was listed in the January 18, 1983 notice as still exempt was the subject of a subsequent Federal Register notice (48 FR 11515) which revoked the exemption.

1. NDA 12-885; Winstrol Tablets containing stanozolol 2 mg/tablet; Winthrop Laboratories, Division of Sterling Drug Inc., 90 Park Ave., New York, NY 10016. (Note: NDA 13-268 for Winsteroid Tablets (stanozolol) listed in the June 24, 1970 notice has been assimilated into NDA 12-885 at the request of the holder because both NDA's cover the same product.)

2. NDA 13-132; Deca-Durabolin Injection containing nandrolone decanoate 50 mg/mL, 100 mg/mL, or 200 mg/mL (previous notices listed the 50 mg/mL strength only); Organon, Inc.

3. ANDA 86-385; Nandrolone Decanoate 50 mg/mL; Carter Glogau Laboratories, Inc., 5160 W. Bethany Home Rd., Glendale, AZ 85301.

4. ANDA 86-598; Nandrolone Decanoate 100 mg/mL; Carter Glogau Laboratories, Inc.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.82 and 47 FR 26913 published in the Federal Register of June 22, 1982).

Dated: May 2, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-12284 Filed 5-12-83; 8:45 am]
BILLING CODE 4160-01-M

Elanco Products Co., Corderm Ointment, Renazide Tablets, Tylan Boluses, and Methagon Tablets; Withdrawal of Approval of NADA'S

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of four new animal drug applications (NADA's) providing for use of the following products: (1) Corderm Ointment, a corticosteroid/antibiotic for canine use; (2) Renaxide Tablets, a canine diuretic; (3) Tylan Boluses, an antibiotic for intrauterine use in beef cattle; and (4) Methagon Tablets, a corticosteroid for canine and feline use in certain dermatoses. The sponsoring firm, Elanco Products Co., requested the withdrawal of approvals.

EFFECTIVE DATE: May 23, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, is sponsor of the following four NADA's: (1) NADA 13-133, Corderm Ointment (Flurandrenolide/neomycin), originally approved on September 27, 1962, for use on dogs for topical management of allergic dermatitis, otitis externa, and superficial pyoderma which may be threatened or complicated by bacterial infections; (2) NADA 13-547, Renazide Tablets (cyclothiazide), originally approved on May 24, 1963, for use in dogs for its diuretic and saluretic effects; (3) NADA 13-730, Tylan Boluses (tylosin base), originally approved on July 10, 1963, for treating intrauterine infections in beef cattle; and (4) NADA 33-240, Methagon Tablets (flumethasone), originally approved December 1, 1966, for use in dogs and cats to help control the pruritis, irritation, and inflammation associated with certain dermatoses.

By letter of October 7, 1982, to the Bureau of Veterinary Medicine, Elanco

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requested withdrawal of approval of the NADA's because the products are not being manufactured or marketed and the firm has no intention of marketing them in the future.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's and all supplements for NADA 13–133, Corderm Ointment; NADA 13–547, Renazide Tablets; NADA 13–730, Tylan Boluses; and NADA 33–240, Methagon Tablets, is hereby withdrawn, effective May 23, 1983.

Approval of NADA's 33–240 and 13–730 have not been codified in the Code of Federal Regulations, but approval of NADA's 13–547 and 13–133 is reflected in § 520.526 *Cyclothiazide tablets* and § 524.1000 *Flurandrenolide with neomycin sulfate ointment.* In a separate document published elsewhere in this issue of the **Federal Register**, the agency is removing those sections that reflect approval of the NADA's.

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12344 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Panel on Review of Allergenic Extracts

Date, time, and place. June 3 and 4, 9 a.m., Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, June 3, 9 a.m. to 10 a.m.; open committee discussion, June 3, 10 a.m. to 5 p.m., June 4, 8:30 a.m. to 1:30 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of allergenic products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, or issues pending before the committee.

Open committee discussion. The committee will continue the reevaluation of allergenic biological products previously classified in Category IIIA, the designation for those licensed biological products judged to have insufficient available data to classify as safe and effective, but which should remain licensed pending completion of further testing as provided in 21 CFR 601.25(e). The products are being reclassified under the procedures described in the **Federal Register** of October 15, 1982 (47 FR 46138) and 21 CFR 601.26. Allergenic extracts of pollens, molds, basidiomycetes, insects, foods, house dust, and inhalant allergens will be discussed.

Dematologic Drugs Advisory Committee

Date, time, and place. June 13, 9 a.m., Conference Rms. G and H, Parklawn, Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; David Bostwick, National Center for Drugs and Biologics (HNF–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6798.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of dermatological disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss ketoconazole (NDA 18–533, Janssen Pharmaceutica) and lindane (NDA 6–309, Reed and Carnrick, Inc.).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meetings are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: May 9, 1983.

William F. Randolph,

Acting Assistant Commissioner for Regulatory Affairs.

[FR Doc. 83-12347 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation: Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

Date: Friday, May 20, 1983, 10 a.m. to 12 m.

Address: Federal Bldg., Rm. 3300–10, 6th and Arch Sts., Philadelphia, PA 19106.

For further information contact: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, 2d and Chestnut Sts., Philadelphia, PA 19106, 215–597–0837.

Houston Station, chaired by Anthony J. Whitehead, Chief. The topics to be discussed are Health Quackery and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, May 25, 1983, 10 a.m. to 12 m.

Address: Food and Drug Administration, 1440 North Loop, Suite 250, Houston, TX 77009.

For further information contact: Sheryl Lunnon-Baylor, Consumer Affairs Officer, Food and Drug Administration, 1440 North Loop, Suite 250, Houston, TX 77009, 713–229–3530.

Boston District Office, chaired by Frederick R. Carlson, District Director. The topics to be discussed are Updates on Insulin and Nutrition Labeling and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Thursday, May 26, 1983, 10 a.m. to 12:30 p.m.

Address: New England Dairy and Food Council, 155 Legion Way, Cranston, RI 02910.

For further information contact: Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617–223–5857.

Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are the Reclassification of Prescription to Nonprescription or Over-the-Counter (OTC) Status and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, June 1, 1983, 9:30 a.m. to 11:30 a.m.

Address: United Way Bldg., 2059 Atwood St., Madison, WI 53704.

For further information contact: Blanche Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–725–2121.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

May 9, 1983.

[FR Doc. 83-12348 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N–0154]

International Drug Scheduling; Convention of Psychotropic Substances; Benzodiazepines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests interested persons to submit data or comments concerning abuse potential, actual abuse, and medical usefulness of 12 "benzodiazepine" or "minor tranquilizer" drugs. This information will be considered in preparing a response from the United States to the World Health Organization (WHO) regarding the abuse liability of these drugs. WHO will use this information to consider whether to recommend that international restrictions be placed on these drugs. Benzodiazepines are used to treat anxiety or seizure disorders and have a tranquilizing action on the central nervous system. This notice requesting information is required by law.

DATE: Comments by June 13, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: The United States is a party to the 1971 Convention on Psychotropic Substances. Article 2 of the Convention on Psychotropic Substances provides that if a party to that Convention or WHO has information about a substance that is not yet under international control, which in its opinion may require such control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion.

The Controlled Substances Act (CSA) (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) provide that, when WHO notifies the United States under Article 2 of the Convention on Psychotropic Substances that it has information that may justify adding a drug or other substance to one of the schedules of that Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of the Department of Health and Human Services (HHS). The Secretary of HHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments to assist HHS in preparing scientific and medical evaluations about the drug or substance.

Normally, the **Federal Register** notice is published after the Secretary of HHS receives a notice from WHO on behalf of the Secretary-General identifying substances that WHO will consider recommending for possible international control. The United Nations notice usually contains a call for the submission of information on the abuse potential of each identified substance and also requests the submission of any other pertinent or relevant data. FDA has learned from the Department of State that WHO has forwarded such a notice concerning the 12 benzodiazepine substances named below.

Although the official notification from WHO on behalf of the Secretary-General has not been received by the Secretary of HHS, FDA is publishing this **Federal Register** notice at this time to give interested persons a full 30 days to comment on the United Nations' request and at the same time to allow FDA, on behalf of HHS, adequate time to review any submissions from interested persons and to transmit to the United Nations the requested material by July 15, 1983.

When the official United Nation's notification is received by the Department of State and forwarded to HHS it will be published in a subsequent **Federal Register** notice as required by the Controlled Substances Act [21 U.S.C. 811(d)(2)(A)].

Therefore, as required by section 201(d)(2)(A) of the Controlled Substances Act [21 U.S.C. 811(d)(2)(A)], FDA on behalf of HHS invites interested persons to submit data or comments regarding the named benzodiazepine drugs. The 12 minor tranquilizer drugs are clotiazepam, delorazepam, ethyl loflazepate, etifoxine, haloxazolam, loprazolam, lormetazepam, pirenzepine, proprizepine, tibezonium, tofisopam, and zopiclone.

None of these drugs are currently commercially available in the United States nor are any of them currently controlled domestically under the CSA. Also, none of the 12 drugs listed above are currently scheduled internationally.

Data and information received in response to this notice will be included in the materials that HHS forwards to WHO, through the Secretary of State, for WHO's consideration in deciding whether to recommend international control of any of these drugs. Such control could limit, among other things, the manufacture and distribution (import/export) of these drugs, and could impose certain recordkeeping requirements on them.

HHS will not make any recommendations to WHO regarding whether any of these 12 drugs should be subjected to international controls. Rather, HHS will defer such consideration until WHO has made official recommendations to the Commission on Narcotic Drugs, which

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are expected to be made in the fall of 1983. Any HHS position regarding international control of these drugs will be preceded by another **Federal Register** notice soliciting public comment on the WHO recommendations, as required by 21 U.S.C. 811(d)(2)(B).

Interested persons may, on or before June 13, 1983, submit to the Dockets Management Branch (address above) written comments regarding this action. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Note.—In the **Federal Register** of April 10, 1981 (46 FR 21447) and May 7, 1982 (47 FR 19793), FDA requested the submission of information similar to the information requested by this notice for 27 other benzodiazepine drugs. In the April 1981 document, FDA requested information about chlordiazepoxide, clonazepam, clorazepate, diazepam, flurazepam, lorazepam, medazepam, nitrazepam, oxazepam, oxazolam, prazepam, and temazepam.

WHO recommended these 12 drugs for international control by the Commission on Narcotic Drugs (CND) at the February 1982 CND meeting. At that CND meeting, however, a vote on these 12 drugs was deferred pending a WHO review of additional substances.

In the May 1982 document, FDA requested information about alprazolam, bromazepam, camazepam, clobazam, cloxazolam, estaolam, fludiazepam, flunitrazepam, halazepam, ketazolam, nimetazepam, nordazepam, pinazepam, tetrazepam, and triazolam. Fourteen of these 15 drugs along with the 12 drugs listed in the April 1981 document were recommended for international control be WHO to the CND at the February 1983 meeting. (WHO did not recommend international control of halazepam.) At that 1983 meeting, however, none of the 26 drugs recommended for control by WHO (of the 27 considered by WHO) received a sufficient number of votes at the CND to be controlled under the treaty. All the previously considered drugs (from April 1981 and May 1982) and the 12 drugs that are the subject of this notice are now expected to be considered together by WHO when making its recommendations to the CND for the possible international control of each member of the entire class at the February 1984 meeting.

The information and comments submitted in response to the April 10, 1981 and May 7, 1982 notices on these other 27 benzodiazepine drugs have been retained by FDA. Thus, it is not necessary for interested persons to resubmit those data for these other 27 drugs. However, any new information on these other 27 drugs, i.e., information generated since those notices were published or information not previously submitted, may be submitted to the Dockets Management Branch (address above).

Dated: May 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12844 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 78P-0173 et al]

Availability of Approved Variances for Laser Light Shows

Correction

In FR Doc. 83-8235 beginning on page 14042 in the issue of Friday, April 1, 1983, make the following corrections in the table on page 14044:

1. In Docket No. 82P-0234, in the column designated "Demonstration laser products", the last line which reads "Contain Class IIIb Helium-Neon Lasers." should read "Contain Class III Helium-Neon Lasers."

2. In Docket No. 82P-0296, in the column designated "Effective date/ termination date", the entry should read "Sept. 20, 1982, Sept. 20, 1992."

BILLING CODE 1505-01-M

[Docket Nos. 76N-0366 and 83C-0102]

Color Additives; Denial of Petition for Listing of D&C No. 17 for Use in Ingested Drugs and Cosmetics; Withdrawal of Petition for Use in Cosmetics Intended for Use in the Area of the Eye

Correction

In FR Doc. 83-8419 beginning on page 14045 in the issue of Friday, April 1, 1983, make the following corrections:

1. On page 14045, the third column, the second complete paragraph, the fifth line, the word "Orange" should appear immediately following "D&C".

2. On page 14046, the first column, the sixth complete paragraph, the fourteenth line which reads "announcing in this issue of the" should read "announcing the expiration of the".

3. On the same page, in the same column, the last paragraph, the seventh line should read "dinitrophenylazo)-2-naphthol."

BILLING CODE 1505-01-M

Public Health Service

Title V of the Public Health Service Act; Miscellaneous Delegation of Authority

Correction

In the correction appearing on page 19232 in the issue of Thursday, April 28, 1983, in the second column, the reference to "Section 301" should have read "Section 501".

BILLING CODE 1505-01-M

Office of the Secretary

Delegation of Authority Under Social Security Act, As Amended

Notice is hereby given that on April 18, 1983, the Secretary of Health and Human Services delegated to the Inspector General, with the authority to redelegate: (1) The authorities for controlling fraud and abuse in the Department's health care financing program under sections 1128, 1156(b), 1160(b) (as set forth prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248), and 1862(d) (1) and (2) of the Social Security Act, as amended; and (2) the authorities to take action under sections 1866(b)(2) (D), (E), and (F), and to take actions under section 1866(c)(1) with respect to actions taken under section 1888(b)(2) (D), (E), and (F). The authorities to conduct hearings and to issue regulations were excluded from the delegation.

The Secretary also rescinded previous delegation of these authorities to the Administrator, Health Care Financing Administration.

The delegation provides the Inspector General with additional authority to investigate allegation of fraud and abuse in the Department's health care financing programs and to suspend or exclude certain health care practitioners and providers of health care services from participation in these programs.

Dated: May 3, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-12906 Filed 5-12-83; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-83-1239]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection To OMB

Proposal: CDBG Special Quarterly Status Report.
Office: Community Planning and Development.
Form Number: None.
Frequency of Submission: Quarterly.
Affected Public: State or Local Governments.
Estimated Burden Hours: 19,260.
Status: New.
Contact: Bob Duncan, HUD (202) 755-6306, Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 28, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-12947 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1240]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information, (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Initial Study of Community Housing Resource Board Program.
Office: Housing.
Form Number: None.
Frequency of Submission: Single-Time.
Affected Public: Individuals or Households.
Estimated Burden Hours: 90.
Status: New.
Contact: Judson L. James, HUD, (202) 426-1520 Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 11, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-12948 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6986-A, AA-6986-B]

Alaska Native Claims Selection; Cape Fox Corp.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Cape Fox Corporation for

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approximately 428 acres. The lands involved are within T. 74 S., R. 90 E., and T. 75 S., R. 92 E., Copper River Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Ketchikan Daily News, upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 13, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Managment, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901; Sealaska Corporation, One Sealaska Plaza, Suite 400; Juneau, Alaska 99801.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-12886 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 782]

California; Filing of Plat of Survey

May 6, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, California

T. 10 N., R. 7 E.

2. This plat, representing the metes-and-bounds survey of Tract 42, T. 10 N., R. 7 E., Humboldt Meridian, under Group No. 782, California, was accepted April 27, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the U.S. Department of Agriculture, Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12888 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

California; Filing of Plat of Survey

May 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 16 N., R. 8 E.

2. This supplemental plat of the NW¼ of section 2, T. 16 N., R. 8 E., Mount Diablo Meridian, was accepted April 26, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12889 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

[Group 727]

California Filing of Plat of Survey

May 6, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, California

T. 4N., R. 1W., T. 5N., R. 1W.

2. These plats, representing the (1) reestablishment of the record meander lines and survey of accretion and present meander lines of the Pacific Ocean and Humboldt Bay in section 6, T. 4N., R. 1W., and (2) the dependent resurvey of a portion of the south boundary and subdivisional lines, and the reestablishment of the record meander lines, the extension survey of the south boundary over accreted land, the survey of the subdivision and present meanders of the Pacific Ocean and Humboldt Bay, section 31, and Parcel A in section 6, T. 4N., R. 1W., and section 31, T. 5N., R. 1W., Humboldt Meridian, under Group No. 727, California, were accepted April 25, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12890 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

California; Use Fee Schedule for Permitted Recreation Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, California; Special Recreation Permit Fees.

SUMMARY: The document establishes the fee schedule for permitted recreation related activities which occur on Federal lands managed by the Bureau of Land Management in California.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT: John Skibinski, Outdoor Recreation Planner, Bureau of Land Management, (916) 484-4701.

SUPPLEMENTARY INFORMATION: Costs associated with Special Recreation Permit management have risen dramatically over the past several years, as have the costs associated with providing and maintaining the services, facilities and the natural resources where permitted recreation activities occur. In order to continue with a viable recreation use permit program, a greater portion of those costs must be borne by groups and/or individuals who derive the greatest direct benefits from the Bureau's recreation permit programs.

On May 28, 1982, California BLM announced the proposed 1983 recreation fee increases through news releases and other means requesting comments on the proposed fee increases until June 15, 1982. An extension on the comment period was requested by the interested public and was granted until July 15, 1982. After review of the public comments presented, the California State Director found it to be in the best interest of the United States to increase recreation fees. With respect to river management fees, this decision will provide consistency in California between the two major federal land use agencies, the U.S. Forest Service and the BLM.

Pursuant with Section 304 of Pub. L. 94-579 of 1976 (43 U.S.C. 1734) and regulations in 43 CFR 8372.4, the following fees apply:

1. Commercial use fees (other than permits for events that are both commercial and competitive) for all recreation use on rivers managed by the Bureau in California are $3.00 per user day except for the following rivers:

	Fee/user day
South Fork of the American River	$1.50
Sacramento River	2.00

2. Competitive use fees for off road vehicle events and other activities (includes competitive commercial events) are $2.00 per user day or five percent of the gross receipts, whichever is greater;

3. Special area (individual/group/family use permits) fees are $2.00 per user day where the authorized officer determines that fees are required;

4. Noncommercial, noncompetitive (over 50 vehicles) off road vehicle use fees are $2.00 per user day.

The authorized BLM officer may charge higher fees than those listed in the categories above when the anticipated costs of processing, issuing, and monitoring the permit would exceed the minimum fee.

For the purpose of this fee schedule, a "user day" is defined as one person/user in any part of a calendar day. User days are based on actual participants, not spectators, unless the spectators are required by the permittee to pay a fee.

Dated: May 6, 1983.

Ed Hastey,

State Director.

[FR Doc. 83-12894 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

[M-53572]

Montana; Realty Action—Exchange

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M-53572, Exchange of Coal Interests in McCone County.

SUMMARY: The following Federal coal interests hereinafter described as the North Tract have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579.

PRINCIPAL MONTANA MERIDIAN

		Acres	
T20N, R44E			
US	24	400	NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T20N, R45E			
US	2	679.2	Lots 1 thru 4, S½N½, S½.
US	4	626.76	Lots 1 thru 3, S½N½, S½.
US	8	800	NE¼, E½NW¼, SW¼NW¼, S½.
US	10	640	All.
US	18	400	E½, E½SW¼.
US Sec.	20	640	All.
US	30	628.8	Lots 1 thru 4, E½, E½W½.
US	32	640	All.
US	33	40	SW¼SW¼.
T19N, R45E			
US Sec.	4	240.96	Lots 1 thru 4, S½NW¼.
T20N, R46E			
US Sec.	6	630.57	Lots 1 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T21N, R45E			
US Sec.	22	280	NW¼SW¼, S½SW¼, SE¼.
US	26	640	All.

PRINCIPAL MONTANA MERIDIAN—Continued

		Acres	
T21, R45E (o.)			
US	32	400	S½NE¼, S½.
US	34	640	All.

Total acres of Federal coal 8,126.29.

In exchange for coal interests in these lands, the United States will acquire from Meridian Land & Mineral Company, a wholly owned subdivision of Burlington Northern, Inc., coal interests in the following described lands, hereinafter described as the South Tract:

PRINCIPAL MONTANA MERIDIAN

		Acres	
T18N, R44E			
BN Sec.	1	639.44	Lots 1 thru 4, 2½N½, S½.
BN	3	640.04	Lots 1 thru 4, S½N½, S½.
BN	5	640.48	Lots 1 thru 4, S½N½, S½.
BN	9	640	All.
BN	11	640	All.
T19N, R44E			
BN Sec.	1	640.32	Lots 1 thru 4, S½N½, S½.
BN	3	641.08	Lots 1 thru 4, S½N½, S½.
BN	5	40	SE¼SE¼.
BN	9	640	All.
BN	11	520	N½, SW¼, NE¼SE¼.
BN	13	120	N½NE¼, SE¼NE¼.
BN	15	640	All.
BN	17	360	E½, NE¼NW¼.
BN	21	640	All.
BN	23	640	All.
BN	27	640	All.
BN	33	640	All.
BN	35	640	All.
T19N, R45E			
BN Sec.	7	631.88	Lots 1 thru 4, E½, E½W½.
BN	17	40	NW¼NW¼.
T20N, R44E			
BN Sec.	33	240	E½SW¼, SE¼.
BN	35	640	All.

Total acres of BN coal 11,553.24.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the Montana State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final decision of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the affected public lands or interest in lands from settlement, sale, lease, location and entry under the public land laws, including the mining laws but not from

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exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

This exchange is in the public interest and provides better land management by blocking up the existing checkerboard coal ownership pattern.

The exchange will be made subject to:

1. The reservation to the United States of all minerals except coal in the Federal estate being transferred.
2. All valid existing rights of record.
3. Satisfactory evidence that qualified surface owner consents are available for the lands overlying the federal coal to be exchanged in the North Tract. It must also be shown that qualified surface owner consents are available overlying all coal in the South Tract, with the exception of State owned coal.
4. The Federal Government will require a one percent (1 percent) freestanding royalty on the total production in the North Tract.
5. A four year delay stipulation will be required preventing Meridian from filing for a mine plan or facility siting permit to allow the successful federal bidder an opportunity to develop and organize plans.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Dated: May 6, 1983.

Bruce G. Whitmarsh,

Acting District Manager.

[FR Doc. 83-12887 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Advisory Committee on Minerals Accountability; Monthly Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of monthly meeting.

SUMMARY: The purpose of the Advisory Committee on Minerals Accountability is to develop over a 1-year period an expanded policy of cooperation with States and Indian tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis. The purpose of the Advisory Committee meeting will be to have industry representatives address the Committee on any subject and to voice any complaints or opinions concerning the Royalty Management Program.

The meeting will be open to the public. However, facilities and space to accommodate attendees are limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file with the Advisory Committee a written statement concerning the matters to be discussed.

Notice of the next monthly meeting will be published 15 days before the meeting is to take place.

DATE: Wednesday, May 25, 1983, 9:00 a.m.

ADDRESS: Holiday Inn Golden Gateway, 1500 Van Ness Avenue, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th & C Streets, N.W., Room 4216, Washington, D.C. 20240, telephone: (202) 343-3526.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982 (Order No. 3071).

The Committee will have one or more Executive Sessions at this meeting.

Dated: May 11, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

[FR Doc. 83-13021 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Trail Markers; Michigan et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national scenic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, Michigan, Minnesota, New York, North Dakota, Ohio, Pennsylvania; intent to utilize trail markers bearing a distinctive symbol to mark segments of the North Country National Scenic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the North Country National Scenic Trail route established as a component of the National Trails System by Pub. L. 96-199, March 5, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Chidlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national scenic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol, (figure 1) approved by the North Country National Scenic Trail Advisory Council, and to assure against its use for other than the purpose of marking the scenic trail route the National Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for outdoor recreation and conservation purposes.

(Figure 1)

Trail markers bearing the symbol will be erected at appropriate points where the North Country National Scenic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the North Country National Scenic Trail route crosses non-Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 3, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-12914 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

Trail Markers; North Carolina et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national historic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, North Carolina, South Carolina, Tennessee, Virginia; intent to utilize trail markers bearing a distinctive symbol to mark segments of the Overmountain Victory National Historic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the Overmountain Victory National Historic Trail route established as a component of the National Trails System by Pub. L. 96-344, September 8, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Childlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national historic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol, (figure 1) approved by the Overmountain Victory National Historic Trail Advisory Council, and to assure against its use for other than the purpose of marking the historic trail route the Natioal Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for historical purposes.

(Figure 1)

Trail markers bearing the symbol will be erected at appropriate points where the Overmountain Victory National Historic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the Overmountain Victory National Historic Trail route crosses non-Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 4, 1983.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 83-12912 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

Trail Markers; Wisconsin et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national scenic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, Wisconsin, intent to utilize trail markers bearing a distinctive symbol to mark segments of the Ice Age National Scenic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the Ice Age National Scenic Trail route established as a component of the National Trails System by Pub. L. 96-370, October 3, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Chidlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national scenic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol (figure 1) approved by the Ice Age National Scenic Trail Advisory Council, and to assure against its use for other than the purpose of marking the scenic trail route the National Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for outdoor recreation and conservation purposes.

(Figure 1)

Trail markers bearing the symbol will be erected at appropriate points where the Ice Age National Scenic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the Ice Age National Scenic Trail route crosses non-

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Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 4, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-12913 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-sixth meeting of the Board for International Food and Agricultural Development (BIFAD) on June 1–2, 1983.

On June 1, from 5:30 p.m. to 7:30 p.m. the Board will meet with the BIFAD Support Staff to prepare for the June 2 meeting and consider future staff actions. This meeting will be held in Room 710, National Association of State Universities and Land Grant Colleges, 1 Dupont Circle, Washington, D.C. The meeting will continue from 8:00 a.m. to 8:45 a.m. on June 2, in Room 1207, New State Department Building, 22nd and C Street, NW., Washington, D.C.

On June 2, the regular BIFAD meeting will be held to consider: a report on development and implementation of AID policy on advanced development countries; a staff study of the process for matching university resources and AID project needs; BIFAD recommendations on the study of incentives for university involvement in Title XII programs; university standards of performance on AID projects; increasing use of historically Black Colleges and Universities in AID projects; a status report on SECID resource conservation and utilization project in Nepal; AID policy on "Women in Development"; and a report on activities of the Joint Committee on Agricultural Research and Development (JCARD). This meeting will begin at 9:00 a.m.; recess at 12:00 noon, and reconvene from 1:30 to 3:15 p.m. It will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C.

The meetings are open to the public. Any interested person may attend, may file written statements with the board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring futher information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: May 9, 1983.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 83-12825 Filed 5-12-83; 8:45 am]

BILLING CODE 6116-01-M

Housing Guaranty Program; Investment Opportunity; Barbados

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans to the Government of Barbados (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans, amounting to Fifteen Million Dollars ($10,000,000), will be used to finance shelter projects for low income families residing in Barbados. The following is the name, address, and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Barbados

Project: 538–HG–002—$10,000,000 Ministry of Finance, Government Headquarters, Bay Street, Bridgetown Barbados
Attention: Martin Cox or Ralph Carvallo
Telephone: (809) 61671 or 63688

Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. Following its discussions with interested investor, the Borrower will decide upon a procedure for selecting an investor and will inform interested investors of the procedure to be followed.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate estabished by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: April 6, 1983.

Sean P. Walsh,

Deputy Director (Acting), Office of Housing and Urban Programs.

[FR Doc. 83-12838 Filed 5-12-83; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

IJC Meetings on Great Lakes Water Uses

The diversions and consumptive uses of Great Lakes waters will be the subject of public meetings to be held in seven Great Lakes communities by the International Joint Commission this June.

The Canadian and United States governments have welcomed the decision of the IJC to initiate a public consultation process on diversions and consumptive uses. Information obtained from the comments of those interested in the matter will be considered by the Commission in preparing a report to the Governments of Canada and the United States pursuant to a Reference received from the Governments in 1977.

Discussion will focus on the report of the International Great Lakes Diversions and Consumptive Uses Study Board, a technical Board of advisors to the Commission, as well as on its broader policy implications, but will also be open to any related issues.

The Board's report to the Commission, released last year, concluded that the greatly increasing consumptive use of Great Lakes water by a wide variety of interests will have a significant effect on the levels of the Lakes in future years, and should be monitored.

In addressing the diversions aspect, the Board found that present diversion rates could be modified without structural changes at existing locations, but concluded that managing diversions to raise extreme low lake levels was not feasible. The Board also concluded that these diversion rates could not be managed to reduce extreme high levels without causing an overall long-term economic loss. The Board did not have a mandate to investigate speculative large scale diversions out of the Great Lakes Basin.

An earlier series of public workshops assisted the Board in preparing its technical report. The present meetings are expected to expand the public discussion. Citizens of both countries may participate in either Canada or the United States. The public is encouraged to send written comments to IJC offices if unable to attend.

The Commission encourages any persons having opinions or points of views on diversions and consumptive uses to participate. Prepared briefs will also be received as is customary, but they should be summarized for verbal presentation.

The following is the schedule and locations:

June 7, 1983—Chicago, Illinois, American Congress Hotel, 532 South Michigan Avenue, Sessions beginning at: 2 p.m. and 7 p.m.

June 8, 1983—Duluth, Minnesota, Radisson Hotel, 505 West Superior Street, Sessions beginning at: 2 p.m. and 7 p.m.

June 9, 1983—Windsor, Ontario, Cleary Auditorium, 201 Riverside Drive West, Sessions beginning at: 2 p.m. and 7 p.m.

June 13, 1983—Cleveland, Ohio, Cleveland Engineering Society, 3100 Chester Avenue, Sessions beginning at: 2:30 and 7 p.m.

June 14, 1983—Rochester, New York, Rochester Inst. of Technology, Webb Auditorium, Sessions beginning at: 2:00 and 7 p.m.

June 15, 1983—Toronto, Ontario, Harbourfront, York Quay Centre, 235 Queen's Quay West, Sessions beginning at: 2:00 and 7 p.m.

June 16, 1983—Cornwall, Ontario, Cornwall Civic Complex, 100 Water Street East, Sessions beginning at: 2:00 and 7 p.m.

Dated: May 10, 1983.

David A. La Roche,

Secretary, United States Section.

[FR Doc. 83-12844 Filed 5-12-83; 8:45 am]

BILLING CODE 4710-14-M

INTERSTATE COMMERCE COMMISSION

[No. 38895] [1]

Motor Carriers; International Transport, Inc., et al.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 47 Fed. Reg. 55537 (December 10, 1982) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATE: Comments are due on May 31, 1983. The provisional exemption of petitioners' future contracts will become final on June 15, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38895, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins, (202) 275–7181

[1] This proceeding embraces the following petitions for exemption from tariff filing requirements: No. 38895, International Transport, Inc.; No. 38897, Quality Operations, Inc.; No. 38903, Wilson Certified Express, Inc.; No. 38906, Otto Feldt, Inc.; No. 38908, Bowman Transportation, Inc.; No. 38912, K.J. Transportation, Inc.; No. 38920, L.B.C. Truck Line, Inc.; No. 38922, Mercury Tanklines Limited; No. 38926, Ridgefield Park Transport Co. Inc.; No. 38927, P&P Trucking Company, Inc.; No. 38928, Refrigerated International Cargo Haulers, Inc.; No. 38932, National Transportation, Inc.; No. 38934, Processed Beef Express, Inc.; 38935, Trafik Services, Inc.; No. 38937 Central Transport, Inc.; No 38938, Willard D. Van Zuiden Trucking, Inc.; No. 38939, Carnaco Transport, Inc.; No. 38942, Quad City Spotting Service, Inc.; No. 38943, J.R.S. Leasing Charter, Inc.; No. 38944, National Freight, Inc.; No. 38945, Mr. Frank Inc.; No. 38947, Capstan Transportation Co.; No. 38952, Nu-Car Carriers, Inc. or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 6, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12861 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 38990 et al.] [1]

Motor Carriers; James S. Batt, d.b.a. Batt Trucking—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 48 Fed. Reg. 6423 (February 11, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATES: Comments are due on May 31, 1983. The provisional exemption of petitioners future contracts will become final June 15, 1983, unless in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38990 et al., Room 2139, Interstate Commerce Commission,

[1] This proceeding embraces 18 petitions for exemption filed by motor contract carriers: No. 38990, James S. Batt, d/b/a Batt Trucking; No. 38992, W. R. BATTLES, d/b/a Jobbers Freight Service; No. 38993, Enterprise Transporation Company; No. 38994, Lykes Transport, Inc.; No. 38995, Romer, Inc.; No. 38996, Service Transportation, Inc.; No. 38997, Associated Transport Service, Inc. No. 39000, Trans Continental Transport, Inc.; No. 39003, Aladdin, Inc.. No. 39004, Warehouse Freight, Inc.; No. 39006, Illinois Auto Delivery, Inc., d/b/a Auto Delivery Company; No. 39008, Warehouse Transportation Company, Inc.; No. 39009, Gemini Trucking, Inc.; No. 39011, Catawba Trucking Co., Inc.; No. 39012, Allstate Carriers, Inc.; No. 39013, Winters Trucking Inc.; No. 39014, Jodan Transport, Inc.; No. 39017, Signal Delivery Service, Inc.

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Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Robin Williams, (202) 275–7697
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 5, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-12880 Filed 5-12-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 13, 1983. Petitions for reconsideration must be filed by June 2, 1983. Petitions for stay must be filed by May 23, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Woods (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further informaton, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll–Free outside the DC area.

Agatha L. Mergenovich,
Secretary.

MC–F–15108, RONALD AND FLORENCE WHITEFORD—continuance in control exemption—WHITEFORD NATIONALEASE, INC, d.b.a. DEDICATED TRUCK SERVICE AND WHITEFORD TRUCK LINES, INC. Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: Alki E. Scopelitis, 1301 Merchants Plaza East Tower, Indianapolis, IN 46204. Pleadings should refer to No. MC–F–15108. Decided: May 3, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C 11343(b)(2), the continuance in control of Whiteford Nationalease, Inc., doing business as Dedicated Truck Service (MC–164764) by Whiteford Truck Lines, Inc. (MC–136635). By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett, Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

MC–F–15151, DICK IRVIN, INC.—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, ID 83701. Pleadings should refer to No. MC–F–15151. Decided: May 6, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Dick Irvin, Inc. of the interstate operating rights of Shoemaker Trucking Company contained in Docket No. MC–138875 [Sub-Nos. 55, 74F, 93F, 108F, 116F, 127F, 147F, 214F, 239F, 277F, 298, and 299, and paragraphs (1)(m), (7)(g), (13), (16), (19), (22), (45)(b), (45)(d), (51), and (56) of Sub-No. 312X]. By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate

MC–F–15092, APPLE CITY EXPRESS, INC.—purchase exemption—SPECTOR RED BALL, INC. Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioners' representatives for Spector: J. Raymond Chesney, 3177 Irving Blvd., P.O. Box 47407, Dallas, TX 75247. For Apple City: L. W. Ward, P.O. Box AB, Murphysboro, IL 62966. Pleadings should refer to No. MC–F–15092. Decided: May 6, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Apple City Express, Inc., (MC–159973) of that portion of the operating authorities of Spector Red Ball, Inc., set forth in Certificate No. MC–2229, Sub-No. 171, authorizing the transportation of general commodities (with exceptions), over a regular route extending between Memphis, TN, and New Orleans, LA, those portions of Sub-No. 257 at pages 2 through 26, authorizing the regular route transportation of general commodities (with exceptions) and certain specified commodities, and certain limited irregular route transportation, serving numerous points in named midwestern and southern States, those portions of Sub-No. 119 at sheets 1 through 8 and 10 through 14, authorizing the regular route transportation of general commodities (with exceptions) and certain specified commodities, serving named points in Arkansas, Louisiana, and Mississippi, that portion of Sub-No. 254 at sheet 5, authorizing the transportation of refractories, serving points in three named Missouri counties as off-route points, that portion of Sub-No. 258 at sheet 2, authorizing the transportation of general commodities (with exceptions), serving Raymond, MS, and named plant sites in Whitley County, IN, and near Henderson, TN, as off-route points, that portion of Sub-No. 259 at sheet 5, authorizing the transportation of general commodities (with exceptions), serving Frankfort, IN, as an off-route point, that portion of Sub-No. 260 at sheets 3 through 5, authorizing the transportation of general commodities (with exceptions, serving named facilities near Nashville, TN, as an off-route point, and operating over specified alternate routes in Illinois and Kentucky, that portion of Sub-No. 265 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving named facilities near Brownsville, TN, as an off-route point, and the transportation of lawn and garden equipment and specified related commodities, serving named facilities near Sebastopol, MS, as an off-route point, that portion of Sub-No. 266 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving named facilities near Murray, KY, as an off-route point and serving Prentiss, MS, as an off-route point, that portion of Sub-No. 267 at sheet 5, authorizing service at Lexington, TN, as an off-route point, that portion of Sub-No. 269 at sheet 3, authorizing the transportation of general commodities (with exceptions), serving Calvert City, KY, as an off-route point, that portion of Sub-No. 131 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving specified points in Louisiana and Texas, that portion of Sub-No. 182 at sheet 2, authorizing the transportation of general commodities (with exceptions), serving named points in Mississippi and Louisiana over specified alternate routes, and the following certificates authorizing the regular route transportation of general commodities (with exceptions): Sub-Nos. 54 and 116, authorizing service at named Arkansas and Louisiana points, Sub-Nos. 126, 130, and 145, authorizing service at named Louisiana points, Sub-Nos. 136, 139, and 140, authorizing service at named off-route points in Mississippi, and Sub-Nos. 148, 150, 168, 187, and 230, authorizing service at named off-route points in Louisiana. By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83-12880 Filed 5-12-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitnesses-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–210

Decided: May 4, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 155743, filed April 27, 1983. Applicant: VENEER CHIP TRANSPORT, INC., 7117 40th West–#7, Tacoma, WA 98466. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055, 206–235–1111. Transporting (1) for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157132, filed April 28, 1983. Applicant: FREEDOM TRANSPORT, INC., 33 N.E. Middlefield Rd. #111, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to Team 3 at (202) 275–5223

Volume No. OP3–203

Decided: May 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

MC 167455, filed April 15, 1983. Applicant: INTER-CONTINENTAL CUSTOM BROKERS, INC., d.b.a. ICCB, 406 North Oak Street, Inglewood, CA 90301. Representative: Samuel PLON (same address as applicant), (213) 674–9376. As a *broker* of *general commodities* (except household goods) between points in the U.S.

Please direct status inquiries about the following to Team 5 at (202) 275–5223

Volume No. OP5–214

Decided: April 29, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167449, filed April 15, 1983. Applicant: FRANK H. LOWRY, 21 Heron Drive, Marlboro, NJ 07746. Representative: George A. Olsen, P.O.

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Box 357, Gladstone, NJ 07934, (201) 234–0301. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–218

Decided: April 29, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 162789, filed April 22, 1983. Applicant: MAJESTIC TOURS AND CHARTER, INCORPORATED, P.O. Box 9384, 1445 Continental Dr., Holly Hill, FL 32017. Representative: Ervin Ross, Jr., 430 Jabaly St., Daytona Beach, FL 32014, (904) 255–4615. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 164899 (Sub-1), filed April 22, 1983. Applicant: UNITED STATES MOVING & STORAGE CORP., 350 Coney Island Ave., Brooklyn, NY 11218. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167488, filed April 19, 1983. Applicant: FREEMAN BUS CORPORATION, 122 Eames Rd., Watertown, NY 13601. Representative: Robert C. Freeman, Jr. (same address as applicant), 315–788–1900. Transporting *passengers* in charter and special operations, beginning and ending at points in Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Saratoga, Seneca, St. Lawrence, Warren and Wayne Counties, NY, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167518, filed April 19, 1983. Applicant: PILGRAM CONSOLIDATORS, INC., 1029 Pearl St. Brockton, MA 02401. Representative: Joseph Glasson, 94 Braemoor Road, Brockton, MA 02401, (617) 587–5656. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167519, filed April 20, 1983. Applicant: JOHN B. CAMPBELL, d.b.a. CAMPBELL LIMOUSINE, 1926 Columbia Pike, Apt. #1, Arlington, VA 22204. Representative: John B. Campbell (same address as applicant), (703) 521–2624. Transporting *passengers*, in charter and special operations, between points in MD, VA, and DC.

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167549, filed April 21, 1983. Applicant: JERRY JONES, d.b.a. PIONEER FREIGHT LINES, P.O. Box 3983, Central Point, OR 97502. Representative: Jerry Jones, 508 Fairmont, Medford, OR 97501, 503–772–8708. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–221

Decided: May 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167448, filed April 15, 1983. Applicant: TYMAN M. WELLS, 2955 D½ Road, Grand Junction, CO 81501. Representative: Tyman M. Wells (same address as applicant), (303) 242–7362. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167538, filed April 19, 1983. Applicant: SIR RICHARDS LIMOUSINE SERVICES, INC., 35 Allen Lane, Hammonton, NJ 08037. Representative: Jerry A. Casser, 80 Main St., West Orange, NJ 07052, (201) 736–9800. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167579, filed April 21, 1983. Applicant: LLOYD MATTIX, d.b.a. MATTIX AND SONS, 4928 Foxfire Trail, Middleton, WI 53562. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589, (608) 873–8929. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, (3) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, and (4) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167598, filed April 20, 1983. Applicant: SECURITY STORAGE & MOVING SERVICE OF ALBANY, INC., 913–915 Roosevelt Ave., Albany, GA 31702. Representative: G. Harold Posey, P.O. Box 566, Columbus, GA 31902, 404–324–2910. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12866 Filed 5–12–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30158]

Rail Carriers; The Atchison, Topeka and Santa Fe Railway Co.; In Lease Exemption—Toledo, Peoria and Western Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C 11343, the Atchison, Topeka and Santa Fe Railway Company's lease of an 11.7–mile Line to the Toledo, Peoria and Western Railroad Company. The lease involves Santa Fe's line between milepost 36.6 at Pekin Junction and milepost 48.3 near Morton, IL.

DATES: This exemption shall be effective on June 13, 1983. Petitions to stay the effectiveness of this decision must be filed by May 23, 1983. Petitions for reconsideration must be filed by June 2, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30158 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: May 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett concurred except for the third ordering paragraph. Commissioner Andre would not have imposed a deadline for consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12862 Filed 5–12–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-No. 144)]

Rail Carriers; Chicago and North Western Transportation Company—Abandonment—in Waukesha, Jefferson, and Dane Counties, WI; Notice of Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 48.2-mile rail line between Waukesha, WI (milepost 20.6) and Cottage Grove, WI (milepost 71.0) in Waukesha, Jefferson, and Dane Counties, WI. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (throughly subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12865 Filed 5–12–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-No. 99)]

Rail Carriers; Illinois Central Gulf Railroad Company—Abandonment—in Smith and Jones Counties, MS; Notice of Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its 10.3 mile rail line between milepost 131.5 near Taylorsville, Smith County, MS, and milepost 141.8 at Soso, Jones County, MS. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12863 Filed 5–12–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 67)]

Rail Carriers; Seaboard System Railroad, Inc.—Abandonment—in Orange County, FL; Notice of Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc. to abandom its 10.33-mile rail line from milepost AVB–832.07 near Ococee, to milepost AVB–821.74 at Dr. Phillips, in Orange County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–12864 Filed 5–12–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 40 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions

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stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–210–FC

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81344. By decision of May 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1161, Review Board Number 2 approved the transfer to transferee B & B FORWARDING, INC., Torrance, CA, of Permit FF–623, issued March 8, 1983, to transferor, B & B FOREST PRODUCTS d.b.a. B & B FORWARDING, Torrance, CA, authorizing the transportation as a freight forwarder, in connection with the transportation of household goods, baggage, and transportation equipment, between points in the U.S. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036.

MC–FC–81411. By decision of May 6, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 2, approved the transfer to CHRISTIAN CARRIERS, INC. (corporation), Buena Park, CA, of authority issued to RAYMOND W. GILLIAN AND JOSEPH L. MONDERINE, d.b.a. R & L PROPERTIES, CHRISTIAN CARRIERS (partnership) Buena Park, CA, in Certificate MC–153842, , issued June 1, 1982, authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Orange County, CA, and extending to points in the United States. Representative Raymond W. Gilligan, 5871 Altura Blvd., Buena Park, CA, 90620.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–FC–276

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81445, filed April 29, 1983. By decision of May 5, 1983 issued under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR Part 1161, Review Board Number 3 approved the transfer to Joseph Merola d.b.a. Transport Service, Pardeesville, PA, of Certificate No. MC–158956, issued March 28, 1983, to Joseph Callavini (An Individual), Lattimer, PA, authorizing the transportation of paper and paper products, between points in Columbia County, PA and Gregg County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517 (717) 344–8030.

Please direct Status inquiries about the following to Team 5 at (202) 275–7289.

Volume No. OP5–FC–216

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81437. By decision of May 5, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, Review Board Number 1 approved the transfer to ACTION DELIVERY SERVICE, INC., Grand Prairie, TX, of Certificates Nos. MC–150088 Subs 1, 2, 3, 4, 5, 6, 7, 8, and 10, and Permit No. MC–150088 Sub 9, issued September 17, 1981, April 22, 1981, February 9, 1981, February 9, 1981, March 3, 1981, August 7, 1981, November 19, 1981, June 30, 1982, July 6, 1982, and June 17, 1982, respectively, to STERLING TRANSPORT DIVISION, INC., (A. William Brackett, Trustee in Bankruptcy) Grand Prairie, TX, authorizing the transportation of household appliances, air conditioning units, television sets and stands, between points in Pulaski County, AR, on the one hand, and, on the other, points in TX and OK; such commodities as are dealt in or used by retail, variety or department stores, between Memphis, TN, and points in CO, KS, MO, LA, TX, AR, and OK; specified food products between points in named counties in TX, and points in AR, LA, OK, and NM; carpet from points in Hempstead County, AR, to points in Dallas and Tarrant Counties, TX; malt beverages between points in named counties in TX, on the one hand, and, on the other, points in named counties in AR; general commodities, with exceptions, between points in Dallas County, TX, on the one hand, and, on the other, points in TX; and general commodities, with exceptions, between points in the U.S. under continuing contract(s) with Sterling Warehousing & Distribution, Inc., of Grand Prairie, TX. An application for TA has been filed. REPRESENTATIVES: A. William Brackett, Attorney for Transferee, 623 South Henderson, 2nd floor, Fort Worth, TX 76104; and Daniel J. Sherman, Trustee in Bankruptcy, 509 North Montclair, Dallas, TX 75201.

Agatha L. Mergenovich,

Secretary.

[FR Doc 83-12922 Filed 5-12-83; 8:46 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Florida Rock Industries, Inc., 155 East 21st Street, Jacksonville, FL 32206.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Rich-E-Mix Concrete Products, Inc., 155 East 21st Street, Jacksonville, FL 32206

Virginia Concrete Company, Inc., 155 East 21st Street, Jacksonville, FL 32206

Cardinal Concrete Company, 155 East 21st Street, Jacksonville, FL 32206

Florida Rock & Tank Lines, Inc., 155 East 21st Street, Jacksonville, FL 32206

Commonwealth Aggregates, Inc., 155 East 21st Street, Jacksonville, FL 32206

Motor Fuel Carriers, Inc., 155 East 21st Street, Jacksonville, FL 32206

Maryland Rock Industries, Inc., 155 East 21st Street, Jacksonville, FL 32206

Breton Bay Water Transportation Co., 155 East 21st Street, Jacksonville, FL 32206.

1. Parent corporation and address of principal office: Fluor Corporation, 3333 Michelson Drive, Irvine, California 92730.

2. Directly and indirectly wholly owned subsidiaries which will participate in the operations and states of incorporation:

(i) Aftermarket Diesel, Inc., a South Carolina corporation
(ii) Deer Park Equipment Company, a California corporation
(iii) Fluor Alaska, Inc., an Alaska corporation
(iv) Fluor Canada Ltd.-Fluor Canada Ltee., a Canada corporation
(v) Fluor Constructors, Inc., a California corporation
(vi) Fluor Distribution Companies, Inc., a California corporation
(vii) Fluor Engineers, Inc., a California corporation
(viii) Fluor Northwest, Inc., an Alaska corporation
(ix) Fluor Pipe and Piling Company, a Delaware corporation
(x) Fluor Power Services, Inc., a Delaware corporation
(xi) Fluor Supply Company, a Texas corporation
(xii) Kilsby-Roberts Co., an Illinois corporation
(xiii) Liquefied Coal Development Corporation, a California corporation
(xiv) Republic Supply Company of California (The), a California corporation.

1. Parent corporation and address of principal office: Guttman Oil Company, Speers Road, Belle Vernon, PA 15012

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Mid-Penn Refining Company, a Pennsylvania corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12921 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB–1; Sub-152]

Chicago and North Western Transportation Company—Abandonment—in Blackhawk and Tama Counties, IA; Findings

On April 15, 1983, the Commission issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its 9.3-mile rail line between milepost 28.8 near Buckingham and milepost 38.1 near Hicks, in Blackhawk and Tama Counties, IA. The abandonment certificate will become effective 15 days after this publication unless the Commission also finds that (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13044 Filed 5-13-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Fiscal Year 1984 Final Planning Estimates for Wagner-Peyser Activities

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces fiscal year 1984 Final Planning Estimates for Wagner-Peyser Activities.

FOR FURTHER INFORMATION CONTACT: Richard C. Gilliland, Director, United States Employment Service (Attention: TEEPP) 601 D Street, NW., Washington, D.C. 20213, Telephone: 202/376–6289.

SUPPLEMENTARY INFORMATION: Section 6(b)(5) of the Wagner-Peyser Act, as amended by Pub. L. 97–300, October 13, 1982, requires that the Secretary shall provide final planning estimates to all States not later than May 15, of the fiscal year preceding the year in which the fund will be used. Preliminary planning estimates were made available on March 15 (48 FR 10950), as required by statute.

The revisions to the Act also require that at least 97 percent of the funds appropriated for allotments to States be distributed by the formula provisions contained in Sections 6(a) and (b) of the Act. An amount not to exceed 3 percent of the sums available for allotment shall be reserved by the Secretary in accordance with Section 6(b)(4).

The statute requires that FY 1983 payments available to the States be used to compute each State's relative share of FY 1983 resources. State specific allocation data and fiscal data contained in approved FY 1983 State plans were used for this purpose. Identifiable activities not authorized under the amended legislation were excluded from the data base.

The FY 1984 appropriation request for Wagner-Peyser activities subject to the formula allotment requirements of Section 6 is $707,993,000. Of this amount, $1,712,498 is allotted to Guam and the Virgin Islands in accordance with Section 6(a); $685,040,712 is allotted to States in accordance with the formula in Section 6(b). Calendar year 1982 (January 1982–December 1982) average annual civilian labor force and unemployment data were used in making the formula calculations. The final planning estimates reflect changes to the data base made as a result of recent benchmarking by the Bureau of Labor Statistics.

The Secretary reserved $21,239,790 under the provision of Section 6(b)(4); the distribution of these funds is included in these final planning estimates. Of this total, $8,573,620 was allocated to the 12 States whose relative share decreased from FY 1983 to FY 1984 and which have a civilian labor force (CLF) below 1 million and are below the median CLF density. These States are held harmless at 100 percent of their FY 1983 relative share. The remaining $12,666,120 was distributed to the remaining 23 States losing in relative share from FY 1983 to FY 1984.

Further information regarding the allocation methodology is available upon request.

Signed at Washington, D.C., on May 1, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

WAGNER-PEYSER ALLOTMENTS TO STATES, FISCAL YEAR 1984, FINAL PLANNING ESTIMATES, MAY 13, 1983

	Allotment
Alabama	10,771,686
Alaska	7,567,282
Arizona	8,178,473
Arkansas	8,421,763
California	66,803,683
Colorado	8,274,956
Connecticut	8,216,033
Delaware	1,677,595
District of Columbia	6,250,675
Florida	23,784,486
Georgia	13,200,109
Hawaii	3,366,094
Idaho	6,427,076
Illinois	31,114,484
Indiana	14,729,629
Iowa	10,812,489
Kansas	8,718,786
Kentucky	9,131,883
Louisiana	10,260,332
Maine	3,622,121
Maryland	10,983,492
Massachusetts	15,048,479
Michigan	26,846,562
Minnesota	12,181,021
Mississippi	9,329,118
Missouri	13,081,643
Montana	5,231,011
Nebraska	6,312,158
Nevada	5,105,729
New Hampshire	2,385,570
New Jersey	18,729,130
New Mexico	5,840,141
New York	65,244,286
North Carolina	15,248,747
North Dakota	5,348,351
Ohio	29,561,576
Oklahoma	14,917,812
Oregon	10,441,707
Pennsylvania	31,386,222
Puerto Rico	6,879,066
Rhode Island	3,052,358
South Carolina	8,272,105
South Dakota	4,920,761
Tennessee	12,054,904
Texas	45,159,532
Utah	10,748,886
Vermont	2,315,634
Virginia	13,119,715
Washington	12,843,433
West Virginia	4,624,964
Wisconsin	13,366,077
Wyoming	3,835,102
Guam	314,734
Virgin Islands	1,397,764
National total	707,993,000

[FR Doc. 83-13070 Filed 5-12-83; 8:45 am]

BILLING CODE 4510-30-M

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Occupational Safety and Health Administration

[V-83-2]

Block 67 Limited

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order. (2) Grant of interim order.

SUMMARY: This notice announces the application of Block 67 Limited, for variance and interim order pending a decision on the application for variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning the design requirements of powered platforms for exterior building maintenance.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is May 13, 1983. The last date for interested persons to submit comments is June 13, 1983. The last date for affected employers and employees to request a hearing on the application is June 13, 1983.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. & Constitution Ave., NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: 202-523-7183.

Or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffen Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor, Occupational Safety and Health Administration, 2320 LaBranch Street, Room 2118, Houston, Texas 77004

Notice of Application

Notice is hereby given that Block 67 Limited, s/Gerald D. Hines Interests, 2100 Post Oak Tower, Houston, Texas, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior building maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: Texas Commerce Tower in United Energy Plaza, 600 Travis Street, Houston, Texas 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Part II and III of ANSI A120.1-1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1980, since the building height is approximately 1000 feet.

The applicant proposes to use a system of intermittent stabilization of his Type "F" (four-point suspension) powered platform on the the southwest building facade to prevent horizontal translation of the platform with respect to the face of the building. The system will consist of stainless steel round head machine screws, threaded into stainless steel building anchors located in the facade's spandrel panel at every third floor (approximately 40 feet) from the ninth to the fifty-fourth floor, and at every other floor (approximately 26 feet) from the fifty-fourth floor to the seventy-second floor. They are spaced horizontally, in vertical rows, to allow a stabilization for each of the two suspension wire ropes near each end of the platform. The stablization attachment, a quick connect—quick disconnect tie, each containing a fixed length lanyard and two nylon rollers to allow positioning of the suspension wire ropes vertically parallel to the face of the building, will be attached to each anchor as each elevation of tie-in anchorage is reached during tthe decent of the working platform. The process will be reversed as the platform ascends. The removal will be assured in that the platform will be provided with electrical interlocks to interrupt power to its hoist(s) in the event either interlock contacts a stabilizer during the ascent of the platform. The platform will also be equipped with building facade rollers.

The platform has been designed for two modes of operation on the building's southwest facade. The first is the main 40 foot by 2½ foot platform, which will be used for window cleaning and light maintenance of the curtain wall area between the two end buttresses. The second mode is a small auxiliary triangular shaped platform, approximately 54 inches by 80 inches overall, which will be secured on the inboard side at one or the other end of the main platform, to allow the triangular shaped masonry buttresses to be occasionally serviced. The maximum projection inboard will be 54 inches. The appendage platform will be positively secured to the main platform by L-shaped hooks and gravity lock pins.

The applicant contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than June 13, 1983. In addition, employers and employees who believe thay would be affected by a grant or denial of the variance may request a hearing on the application no later than June 13, 1983, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a decision is made on the application for variance.

It has been determined that an interim order from 29 CFR 1910.66(b)(3) shall be issued. Therefore, it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059) that Block 67 Limited is hereby subject to the following conditions in lieu of complying with 29 CFR 1910.66(b)(3) of the Occupational Safety and Health Standards:

1. The employer shall assure that all procedures required for the proper functioning of the intermittent stabilization system are carried out, in particular the requirement for connecting the lanyards attached to the suspension ropes to the building anchors during the descent of the platform.

2a. The main platform shall be no greater than 40 feet in length nor 2½ feet in width.

2b. The main platform with its appendage shall not be more than 40 feet long and 7 feet in overall width at the appendage.

3. The weight of the platform (no load) shall be no less than 1500 pounds.

4. The platform shall have openings or gaps to facilitate upward air flow.

5. The suspension rope angulation shall be designed into the suspension system and the tie-in lanyard so that the platform shall exert a minimum pressure of approximately 8 pounds against the face of the building.

6. The anchors in the face of the building shall be spaced vertically a maximum distance of 43 feet apart. The minimum tensile strength of the anchor bolt shall be 600 pounds.

7. The powered platform shall not be operated when the wind velocity is 25 miles per hour or greater. At the very least, an instrument which will accurately measure wind velocity shall be located on the roof of the building.

8. Operators shall be provided with full-body, parachute-type, harnesses, which include leg straps, connected to a lanyard of no greater than 3 feet in length. This lanyard shall, in turn, be connected by means of an automatic blocking rope grab to a horizontal wire rope fastened in a taut manner across the rear of the platform. The ends of this wire rope shall be secured to structural members of the platform, and the mid-point of the rope secured to the rear guardrail. This system, consisting of the harness, the lanyard, the anchorage points, and any additional hardware involved, shall at a minimum be capable of withstanding a static load of 5000 pounds.

9. The platform shall be provided with a sensing device that will interrupt its power supply in the event that the platform contacts the tie-in lanyard assembly, to prevent further ascent and ensure that the lanyard assembly can be disengaged from the building anchor.

10. The intermittent stabilization system including its building anchor, shall have a factor of safety of 4 against failure.

11. Operators shall have knowledge of and training in the operation of the intermittent stabilization system.

12. The employer shall comply with all provisions in this interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of 29 CFR 1910.66.

Block 67 Limited shall give notice of this grant of interim order to employees affected thereby by the same means required to be used to inform them of the application for variance. This interim order shall become effective on May 13, 1983. The Assistant Secretary may revoke this interim order at any time if the applicant does not comply with any requirement of the interim order or the relevant standards; or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C., this 10th day of May 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-12926 Filed 5-12-83; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Mine Safety and Health Administration
Safety Defect Record of Self-Propelled Equipment
MSHA 422R
Other—each shift equipment is to be used
Businesses or other institutions; small business or organization
SIC: Multiple
14,900,000 responses; 2,731,666 hours

Requires operator before placing self-propelled equipment into operation to make a visual and operational check of various primary operating systems affecting safety, i.e., brakes, lights, tires,

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steering, and related items. Any safety defects found are reported to the responsible supervisor who is required to make a record of the reported defects and schedule repairs of same.

Ventilation Tests and Examinations in Underground Coal Mines
MSHA 222R, 223R, 226R, 227R, 228R
Other and weekly
Businesses or other institutions; small business or organization
SIC 111 and 121
4,173,698 responses; 1,893,200 hours
3 forms

Standards require that main fans be inspected daily; that preshift examinations be made for hazardous conditions; that examinations be made weekly for hazardous conditions, including tests for methane and for compliance with mandatory health and safety standards; that weekly tests be made of air entering the main intakes and leaving the main returns, etc.; and that tests be made at 4-hour intervals for methane.

Inspections of Fire-Fighting Equipment
MSHA 419R
On occasion
Businesses or other institutions; small business or organization
SIC: Multiple
14,900 responses; 715,200 hours

Firefighting equipment inspection needs vary with the type of equipment, use, environmental exposure, and manufacturer's recommendations. Inspections are necessary to assure protection intended when the need arises. The equipment involved includes firefighting trucks, hoses, hydrants, fittings, extinguishers, sprinklers, etc.

Rock Bolt Test Procedures and Rock Bolt Anchorage Capacity Tests
MSHA 418R
On occasion
Businesses or other institutions; small business or organization
SIC: Multiple
450 responses; 7,200 hours

Rock bolting is an acceptable method of ground support in a majority of the strata encountered in underground mines. The anchorage method varies with the strata and individual methods may vary within a single mine. Each anchorage method must be tested to assure the ultimate competency of the ground and to prevent ground tested to assure the ultimate competency of the ground and to prevent ground falls.

First Aid Training for Supervisory Employees
MSHA 219R
Annually
Businesses or other institutions; small business or organization
SIC: 111 and 121
5,419 responses; 2,710 hours

Used in training new employees in fundamentals of first aid and to practice such in event of a mine accident to prevent furhter injury to a miner.

Extension (Burden Change)

Employment Standards Administration
Homework Handbook
WH–75
Other—varies
Individuals or households
Small business or organization
30,000 responses; ½ hour; 1 form (recordkeeping handbook)

This handbook is needed to provide a record of the hours worked and wages paid to industrial homeworkers covered by the Fair Labor Standards Act. This record is reviewed to insure that these workers receive the minimum and overtime wages to which they are legally entitled.

Reinstatement

Occupational Safety and Health Administration
Diving Related Recordkeeping 29 CFR Part 1910; 1910.217g
On occasion
Business or other institutions
Small business or organization
SIC: 739, 131, 162, 373
406,200 responses; 109,250 hours

This regulation is necessary to help insure safe decompression of divers who are exposed to hyperbaric conditions.

Mine Safety and Health Administration
Weekly Inspections of Fire Suppression Devices
MSHA 230R
Weekly
Businesses or other institutions; small business or organization
SIC: 111 and 121
117,045 responses; 287,516 hours

Standard requires that firefighting equipment be maintained and available and operable at all times. The records indicate that emergency safety equipment has been inspected as required and reduces the possibility of equipment failure in an emergency.

Escapeways and Escape Facilities
MSHA 225R
Weekly
Businesses or other institutions; small business or organization
SIC: 111 and 121
194,554 responses; 194,554 hours
One form

Requires examination of escapeway routes by a certified person. The information is used to ensure compliance with safety regulations.

Record of Results of Examinations of Self-Rescuers
MSHA 243R
Quarterly
Businesses or other institutions; small busines or organization
SIC: 111 and 121
10,404 responses; 11,028 hours

Requires operators to record and make available results of examinations of self-rescuers. The information is used to ensure that the self-rescuers are in a safe, usable condition.

Signed at Washington, D.C. this 6th day of May, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–12928 Filed 5–12–83; 8:45 am]

BILLING CODE 4510–43–M

LIBRARY OF CONGRESS

American Folklife Centers Board of Trustees; Meeting

In accordance with Pub. L. 94–463, the Board of Trustees of the American Folklife Center announces its meeting to be held in two sessions: one, on Thursday afternoon, June 2, 1983 from 2–4:30 p.m., and another on Friday Morning, June 3, 1983, from 9:30–1:00 p.m., in the Whittall Pavilion of the Library of Congress. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Streb, American Folklife Center (202) 287–6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 83–12901 Filed 5–12–83; 8:45 am]

BILLING CODE 1410–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Quality Assurance During Construction; Meeting

The ACRS Subcommittee on Quality Assurance During Construction will hold a meeting on June 1, 1983, Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff., Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendence.

The agenda for subject meeting shall be as follows:

Wednesday, June 1, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittee will be briefed by the NRC Staff on its quality assurance initiatives, including those related to the "Ford Amendment" of Pub. L. 97–415. The Subcommittee will also review the priorities given in NUREG–0933, A Prioritization of Generic Safety Issues, to generic items related to construction quality assurance. Finally, the Subcommittee will discuss with the Institute of Nuclear Power Operations (INPO), INPO's efforts related to construction quality assurance (e.g., Construction Projects Evaluation Program).

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. David C. Fischer, (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: May 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–12937 Filed 5–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–313 and 50–368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amended Nos. 79 and 46 to Facility Operating License Nos. DPR–51 and NPF–6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications (TS) for operation of Arkansas Nuclear One, Unit Nos. 1 and 2 respectively (the facilities), located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments revise the TS to require verification of leak rate testing of the purge valves.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 17, 1981 and March 12, 1982, as supplemented March 16, 1983, (2) Amendment Nos. 79 and 46 to Facility Operating License Nos. DPR–51 and NPF–6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–12938 Filed 5–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. NPF–6 issued to Arkansas Power & Light Company (the Licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment was effective as of the date of issuance.

The amendment revises the Environmental Technical Specifications (Appendix B to Facility Operating License), to delete the requirement for remote aerial surveillance monitoring and to delete the requirement to conduct bird impaction event studies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other

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than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated February 15, 1983, (2) Amendment No. 47 to Facility Operating License No. NPF-6, and (3) the Commission's Environmental Impact Appraisal dated May 5, 1983 and (4) the Commission's letter dated May 5, 1983. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12930 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment provides for the removal of the chlorine detectors from the control room air intakes because the main source of chlorine at the site no longer exists.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 9, 1983 (2) Amendment No. 57 to License No. DPR-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12940 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

Niagara Mohawk Power Corp., et al.,[1] Nine Mile Point Nuclear Station, Unit 2; Receipt of Application for facility operating License; Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating License; and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for a facility operating license from the Niagara Mohawk Power Corporation, acting for itself and as agent for Rochester Gas & Electric Corporation, Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation and Long Island Light Company (the applicants) for a facility operating license. Niagara Mohawk Power Corporation has sole responsibility for design, procurement, construction, operation and all related functions with respect to Nine Mile Point Nuclear Station, Unit 2, a boiling water nuclear reactor (the facility) located on the southeast shore of Lake Ontario, in the town of Scriba, Oswego County, New York. The reactor is designed to operate at a core power level of 3323 megawatts thermal, with an equivalent net electrical output of approximately 1080 megawatts.

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the applicants filed an environmental report as part of the application. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York 12224 and Central New York Regional Planning and Development Board, Midtown Plaza, 700 East Water Street, Syracuse, New York 13210.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

The Commission will consider the issuance of a facility operating license to the applicants which would authorize the Niagara Mohawk Power Corporation to posses, use and operate the Nine Mile Point Nuclear Station Unit 2 in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's applications for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the

[1] Rochester Gas & Electric Corporation, Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation and Long Island Lighting Company

application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-112, issued by the Commission on June 24, 1974.

With regard to Executive Order 11988, Floodplain Management, (See Volume 42, **Federal Register** 26921, 1977) the Nine Mile Point Nuclear Station Unit 2 facility must identify structures and construction activities located on the floodplain. The subject of floodplain management will be discussed in the Commission's environmental statement referenced above.

Prior to issuance of an operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the contruction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By June 13, 1983 the applicants may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceeding" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board, will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, DC by June 13, 1983. A copy of the petition must also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner & Wetterhahn, P. C., Suite 1050, 1747 Pennsylvania Avenue, NW, Washington, DC 20006, Attention: Troy B. Conner, Jr., Esquire, attorney for the applicants. Any requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(iv) and 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating license, including the Final Safety Analysis Report and the Environmental Report, forwarded on April 6, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating license; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of the proposed operating license and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 2nd day of May 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-12941 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment To Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Facility Operating License No. DPR-65, issued to The

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Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which temporarily revised the Technical Specifications (TS) for operation of the Millstone Nuclear Power Station Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment was effective upon the date of its issuance.

The amendment added a footnote to 3.9.4.a to allow the use of a temporary equipment hatch door to maintain containment integrity during fuel movement or core alterations while the Unit is shutdown for Cycle 6 refueling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated April 25, 1983, (2) Amendment No. 85 to License No. DPR-65 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12942 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-42 and DPR-60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue County, Minnesota.

II.

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III. of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. Specifically, Subsection III.G.2 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III

By letter dated June 30, 1982 as supplemented by letter dated October 22, 1982, the licensee requested an exemption from the requirements of Subsection III.G.2 of Appendix R in nine (9) fire areas, as follows.

Train A Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 31

Train B Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 32

Auxiliary Building Ground Floor Level Unit 1, Fire Area 58

Auxiliary Building Ground Floor Level Unit 2, Fire Area 73

Auxiliary Building Mezzanine Level Unit 2, Fire Area 74

Unit 1 Normal Switchgear Room, Fire Aea 37

Auxiliary Building Operating Level Unit 1, Fire Area 60

Auxiliary Building Operating Level Unit 2, Fire Area 75

Auxiliary Building Mezzanine Level Unit 1, Fire Area 59

The acceptability of the exemption request for five of these fire areas is addressed below. More details are contained in the NRC staff's related Safety Evaluation (SE) dated May 4, 1983, which is included herein by reference.

IV

Train A Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 31

Train B Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 32

The licensee requested and exemption from Subsection III.G.2 to the extent that these areas lack twenty feet separation free of intervening combustibles between components of redundant trains needed for safe shutdown or one hour fire rated enclosure of one of the redundent trains.

Fire Area 31 contains Motor Control Centers MCC-2A1 and 2A2, #12 (motor-driven Unit 1) and #22 (turbine-driven Unit 2) Auxiliary Feedwater Pumps, #123 Instrument Air Compressor with associated equipment, and "A" Train Hot Shutdown Panel for Units 1 and 2. One of the two motor control centers (either 2A1 or 2A2) is necessary for safe shutdown as are the auxiliary feedwater pumps. It should be noted, however, that opposite train pumps are located in Fire Area 32, thereby ensuring separation by 3-hour fire rated barriers. Of the three instrument air compressors, one is located in Fire Area 31, representing Division A. The other two compressors (Division B) are located in Fire Area 32, again providing separation by 3-hour fire rated barriers.

Fire Area 32 contains Motor Control Centers MCC-1A1 and MCC-1A2 (only one of which is necessary for safe shutdown), #11 (turbine driven, Unit 1) and #21 (motor driven, Unit 2) Auxiliary Feedwater Pumps, #121 and #122 Instrument Air Compressors with associated equipment, and "B" train Hot Shutdown Panel for Units 1 and 2.

The safe shutdown evaluation identified the coexistence of redundant power and control cables required for safe shutdown with less than twenty feet horizontal separation. The redundant cables are installed in open horizontal cable trays between 16 and 18 feet above the floor, and within 3 feet of the ceiling. The redundant cables cross over one another and are separated by approximately one foot at the crossover. The licensee proposes to install thermal barriers on the top and bottom of the Division B cable trays and wrap all Division B conduits in one-hour fire rated barriers. By letter dated October 22, 1982, the licensee proposed to modify the existing automatic sprinkler systems presently installed at the ceiling level, to also provide area sprinkler coverage in accordance with NFPA-13 below the cable trays and piping in the areas.

The combustibles in Fire Area 31 are lubricating oil and cable insulation. The combustibles comprise a fuel load of 10,714 BTU/sq. ft., which if totally consumed, would correspond to a fire severity of 8 minutes on the ASTM E-119 standard time temperature curve.

The combustibles in Fire Area 32 are lubricating oil and cable insulation. The combustibles comprise a fuel load of 16,954 BTU/sq. ft., which if totally consumed, would correspond to a fire severity of 12 minutes on the ASTM E-119 standard time temperature curve.

The fire protection in these areas consists of automatic sprinklers, ionization smoke detectors, nearby standpipe hose stations that could service both fire areas and portable fire extinguishers. Other features in these areas offering compensation for the lack of 20 feet separation or one hour barriers are the thermal shield installed on both the top and bottom of the Division B cable trays. The thermal shields are not considered equivalent to a one-hour fire rated barrier, as they may only inhibit fire damage for several minutes. However because of the low in-situ combustible fuel loads, we find for anticipated transient combustible exposure fires the thermal shields will protect the Division B cable trays from direct flame impingement or a descending hot layer for a reasonable time period until the automaic sprinklers installed at the ceiling level and below the cable trays are activated to mitigate the effects of the fire.

In addition, the low in-situ fuel load in conjunction with the proposed thermal shields provides reasonable assurance that the automatic detection and sprinkler systems will be activated before the redundant cables are damaged.

Based on our evaluation, we conclude that with the modifications proposed by the licensee and the existing level of safety in the Train A and Train B Hot Shutdown Panel, Instrument Air and Auxiliary Feedwater Pump Rooms (Fire Areas 31 and 32) are equivalent to the requirements specified in Subsection III.G.2 of Appendix R and therefore the licensee's exemption request is granted for these fire areas.

Unit 1 Normal Switchgear Room, Fire Area 37; Auxiliary Building Operating Level Unit 1, Fire Area 60; Auxiliary Building Operating Level Unit 2, Fire Area 75

These areas do not comply with subsection III.G.2 because they do not have an automatic fire suppression system. There is no alternative shutdown capability independent of these areas. Fire protection in these areas consists of ionization smoke detectors standpipe hose stations, and portable fire extinguishers. In addition all redundant motor control centers and associated cables entering and leaving these areas are horizontally separated by at least 20 feet or more.

The licensee justifies the request for the exemption from Subsection III.G.2 on the basis of (1) all cables are qualified to IEE-383, (2) the in-situ combustible loadings are light, and (3) ionization smoke detection is provided in each area.

We agree with the licensee that, because there are negligible in-situ combustibles in these areas, any postulated fire would be limited to transient combustible material. Hazardous quantities of transient combustibles would not be expected in these fire areas for several reasons. First, the areas are not adjacent to or near any major plant traffic route. Second, maintenance and operations in these areas do not involve the use of combustible materials. Third, accessibility to these areas is restricted to personnel performing essential duties in the areas because of potential radiation hazards. On this basis, we agree with the licensee that any fires in these areas resulting from transient combustibles would be of limited severity and duration. The installed early warning detection system would be able to promptly detect incipient fire conditions, and the separation between redundant trains in each area will maintain the intergrity of the cables and equipment until the fire brigade is able to respond and to extinguish the fire. The fire brigade should be capable of reaching each of these areas within a few minutes after an alarm is received in the control room. It is our opinion that this combination of protective features provides reasonable assurance that one train of equipment necessary for safe shutdown will be maintained free of fire damage.

Based on our evaluation, the level of existing protection for Fire Areas 37 Unit 1 Normal Switchgear Room, Fire Area 60 Auxiliary Building Operating Level, Unit 1 and Fire Area 75 Auxiliary Building Operating Level, Unit 1 provides a level of fire protection equivalent to the requirements specified in Subsection III.G.2 of Appendix R. Therefore, the exemption from the requirements specified in Subsection III.G.2 for these fire areas is granted.

V.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Subsection III.G.2 of Appendix R to 10 CFR Part 50 to the extent discussed in Section IV above.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 4th day of May, 1983.

For the Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12943 Filed 5-12-83 8:45 am]

BILLING CODE 7590-01-M

[Docket No. P-564A]

Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit No. 1); Order

May 9, 1983.

The Northern California Power Agency has moved for leave to

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withdraw its appeal from the January 19, 1983 memorandum and order of the Administrative Law Judge in this antitrust proceeding. LBP–83–2, 17 NRC ——. The motion is *granted*. Accordingly, our April 20, 1983 order scheduling the appeal for oral argument on May 18, 1983 is hereby *vacated*.

It is so ordered.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83–12944 Filed 5–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 47 and 30 to Facility Operating License Nos. NPF–4 and NPF–7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the audit frequencies of the North Anna Power Station Emergency Plan and Security Plan and their implementing procedures to provide for a review at least once per twelve (12) months by the Quality Assurance Department. The amendments are administrative in nature and do not involve a safety related matter.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in these license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 22, 1982; (2) Amendment Nos. 47 and 30 to Facility Operating License Nos. NPF–4 and NPF–7 and (3) the Commission's related letter dated May 4, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83–12945 Filed 5–12–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. [50–266 and 50–301]

Wisconsin Electric Power Co.; Issuance of Amendment to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR–24 and Amendment No. 78 to Facility Operating License No. DPR–27 Issued to Wisconsin Electric Power Company (the Licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective upon the date of issuance.

The amendments allow temporary isolation of the shared motor driven auxiliary feedwater pumps for a unit during periods of startup, shutdown and surveillance testing provided the turbine driven auxiliary feedwater pumps are operable and capable of automatically delivering flow.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments does not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 24, 1983, (2) Amendment Nos. 73 and 78 to License Nos. DPR–24 and DPR–27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–12946 Filed 5–12–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Annual Report; Notice of Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 41 CFR Part 101–6, notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1982 Annual Report.

The report summarizes the activities and recommendations of the Committee to the Director, Office of Personnel Management in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1982.

Single copies of the report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Office of Personnel Management, Room 1340, 1900 E Street, N.W., Washington, D.C. 20415.

The report may be otherwise examined and/or copies obtained at the above office and address between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, legal holidays excluded.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

May 6, 1983.

[FR Doc. 83–12880 Filed 5–12–83; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13224; 812–5421]

Bankers National Life Insurance Co. et al.; Application for Order Granting Exemptions

May 9, 1983.

Notice is hereby given that Bankers National Life Insurance Company ("Bankers National"), Bankers National Variable Account B ("Variable Account B"), a separate account registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and BNL Securities Inc. (collectively, "Applicants"), 1559 Littleton Road, Parsippany, N.J. 07054, filed an application on January 5, 1983 and amendments thereto on March 16, 1983, April 15, 1983, and May 2, 1983 for an order of the Commission pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the transactions described in the application and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application and amendments on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant provisions.

Bankers National established Variable Account B for the purpose of funding certain variable annuity contracts which it intends to offer. Purchase payments under the contracts less a front-end sales load and applicable permium taxes, are allocated to a sub-account of Variable Account B investing in either the BNL Money Market Portfolio or the BNL Government Securities Portfolio of the Bankers National series Trust (the "Portfolios"). Contractowners will be permitted to transfer accumulated contract values between sub-accounts. Applicants state that the following deductions will be made from contract values: (i) A contract administrative charge of $36.00 per contract on each contract anniversary or upon total redemption of a contract prior to a contract anniversary; (ii) a mortality risk premium equal on an annual basis to 0.75% of the daily net asset value of Variable Account B; (iii) a transfer processing fee of $5.00 for each transfer; and (iv) any applicable premium taxes.

Applicants assert that the mortality risk premium is reasonable in relation to the risk assumed under the contracts, is consistent with the protection of investors in that it is designed to be competitive while not exposing Bankers National to undue risk of loss, and falls within the range of similar charges under comparable variable annuity products. In this respect, applicants represent that they reviewed the prospectuses of several comparable products to determine whether the charges were reasonable in relation to industry practice. Bankers National has examined other comparable variable annuity contracts and has determined that the mortality risk premium is less than or equivalent to the risk charges assessed in those other contracts. Applicants represent that they have reviewed the contracts and registration statements of other separate accounts offering variable annuity contracts with comparable provisions and guarantees, which include pre-retirement death benefits, guaranteed annuity rates, non-guaranteed administrative charges and mortality charges. Based upon this review, applicants have concluded that the mortality risk premium is fair and reasonable. Applicants further represent that they will maintain and preserve at their offices, available to the Commission, the list of variable annuity contracts reviewed by them and the description of the basis upon which Applicants determined those contracts to be comparable. Applicants further represent that the contract administrative charge and transfer processing fee have been set at a level no higher than the estimated actual costs of administering the contracts and without expectation of profit.

Section 6(c) of the Act provides, in pertinent part, that the Commission may exempt any person from any provision of the Act or its rules and Regulations if and to the extent necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request, pursuant to that provision, that they be granted exemptions from the provisions of sections 26(a) and 27(c) to allow: (i) The assets of variable account B to be held by the custodian, First Pennsylvania Bank, in open account in lieu of actual share certificates, and under an agreement that does not create a trust; (ii) deduction of the mortality risk premium; (iii) deduction of the contract administrative charge; (iv) the imposition of the transfer processing fee; and (v) deduction for premium taxes. Applicants also request exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the imposition of the full contract administrative charge upon total redemption prior to a contract anniversary date.

Finally, Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to the extent requested to permit the transfer between the Portfolios described in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12976 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organization; Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 9, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and

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Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Moog, Inc.
Class A Common Stock, $1 Par Value (File No. 7-6626)
UAL, Inc.
Convertible Preferred Series B, No Par Value (File No. 7-6627)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 31, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12971 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22926; 70-6821]

Central Power and Light Co.; Proposed Issuance and Sale of Adjustable Rate Preferred Stock at Competive Bidding

May 6, 1983.

Central Power and Light Company ("CP&L"), 120 North Chaparral St., Corpus Christi, Texas 78401, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

By prior order in this proceeding (HCAR No. 22873, March 8, 1983), the Commission authorized CP&L to issue and sell $100 million principal amount of first mortgage bonds and reserved jurisdiction over a proposal to issue and sell up to 500,000 shares of preferred stock at competitive bidding, with a fixed dividend rate, in one or more series from time to time through December 31, 1983. The declaration has now been amended to seek authorization to sell all or part of the preferred stock either with a fixed dividend rate or an adjustable dividend rate, depending on market conditions at the time of sale.

With regard to the adjustable rate preferred stock, the dividend rate for the initial dividend payment period will be a fixed percentage. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage ("reset-amount") above or below the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period. In no event will the effective annual dividend rate, as adjusted in any quarter, be less than 5% or greater than 15%.

In the event that any series of preferred stock is sold with an adjustable dividend rate, the terms of such series will include a prohibition for five years against redeeming such series with funds derived from the issuance of equity or debt securities at a lower effective cost of financing than the effective annual dividend cost to CP&L based upon the initial dividend rate for the appropriate series.

CP&L intends to issue and sell the preferred stock through a primary shelf registration program in accordance with Rule 415 of the Securities Act of 1933 (17 CFR 230.417). When specific provisions relating to the initial dividend period and the reset amount have been determined, except as indicated hereafter, CP&L proposes to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). CP&L states, however, that the sales of additional preferred stock may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, CP&L may amend this filing to seek an exemption from Rule 50 to offer the preferred stock through either negotiated or private sales.

The declaration, as amended by the post-effective amendment, and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by June 1, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12982 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13221; 812-5506]

Fidelity Tax Exempt Money Market Trust; Application for Order Granting Exemption

May 6, 1983.

Notice is hereby given that Fidelity Tax Exempt Money Market Trust ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified management investment company, filed an application on March 24, 1983, and an amendment thereto on April 29, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission amending a previous order dated December 26, 1979 (Investment Company Act Release No. 10999), which exempted the Applicant from Section 2(a)(41) of the Act and the provisions of Rules 2a-4 and 22c-1 thereunder. The requested amended order would grant an exemption from Section 12(d)(3) of the Act to permit Applicant to acquire rights to sell its portfolio securities to broker-dealers and would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit it to value such rights in the

manner proposed in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

The application states that under the previous order Applicant may compute its net asset value per share according to the amortized cost method subject to certain conditions, including, inter alia, a requirement that Applicant neither (a) purchase any instrument with a remaining maturity of greater than one year (except that Project Notes may have a maturity not to exceed 375 days), nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. Applicant states that the conditions contained in its existing order comply in all respects with proposed Rule 2a-7 under the Act.

Applicant now requests that the previous order be amended to permit it to purchase securities together with a right to resell then to brokers or dealers at an agreed upon price or yield within a specified period prior to the maturity date of such securities ("stand-by commitments") and to value such commitments in the manner proposed in the application. Applicant states that it intends to enter into stand-by commitments solely for the purpose of maintaining portfolio liquidity. It represents that its acquisition of stand-by commitments will not affect the valuation or assumed maturity of the underlying municipal obligations which would continue to be valued at amortized cost.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, the stand-by commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Applicant at any time or during specified periods prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks and broker-dealers who, in the judgment of the Board of Trustees, present an minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Applicant.

The Applicant states that it intends to acquire stand-by commitments solely to facilitate portfolio liquidity and does not intend to exercise its rights thereunder for trading purposes. Applicant further states that since it values its municipal obligations on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of its portfolio securities inappropriate. In the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities may, in the discretion of the Trustees, be valued on the basis of available market information and held to maturity. In such event, however, Applicant expects to refrain from exercising the stand-by commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

If necessary and advisable, the Applicant states that it will pay for the stand-by commitments, either separately in cash or by paying a high price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in Applicant's portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

It is contended that the acquisition of stand-by commitments will not affect the Applicant's net asset value per share and will not pose new investment risks. It is further contended that it is difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, it is expected that Applicant's Trustees will determine that stand-by commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. Where the Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the maturity of portfolio security shall not be considered shortened or otherwise affected by any stand-by commitment to which such security is subject.

Applicant represents that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan and that the risk of loss that would result from the failure of a broker or dealer to fullfill its obligation under the stand-by commitment is not qualitatively different from the risk of loss faced by an investment company holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. It is contended that Applicant's acquisition of stand-by commitments will not meaningfully expose its assets to the entrepeneurial risks of the investment banking business. Applicant further states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its share, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

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For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12994 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19747; File No. SR-OCC-83-10]

Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 21, 1983, the Options Clearing Corporation ("OCC") filed with the Securities Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change reduces the fees applicable to clearing options on Government National Mortgage Association certificates, U.S. Treasury bills, bonds and notes, bank certificates of deposit, foreign currencies, stock indices, and other underlying non-equity instruments on which OCC may undertake to issue, clear and settle options in the future. The proposal, which reduces the fees for market-maker/specialist scratch trades from $.05 contract to $.015 per contract and for all other trades from $.40 to $.075 per contract, is designed to reflect more accurately the operating costs of OCC's non-equity options system based on current and anticipated volume levels. OCC believes that the proposed fee schedule allocates reasonable fees in an equitable manner among OCC's Clearing Members since the costs associated with the clearance of non-equity options are borne by those Clearing Members that participate in the clearance of non-equity options. Accordingly, OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested person are invited to submit written datn, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street N.W., Washington, D.C. 20549. Reference should be made to File No. SR-OCC-83-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in acordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspectin and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12976 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19746; File No. SR-NSCC-83-5]

Filing and Immediate Effectiveness of a Proposed Rule Change by the National Securities Clearing Corporation.

May 9, 1983.

The National Securities Clearing Corporation ("NSCC") filed a proposed rule change on April 20, 1983, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that establishes the Funds Only Settlement service ("FOSS"). Under new NSCC Rule 41, NSCC participants must use FOSS to effect New York City delivery to, and receipt from other NSCC participants of items not related to securities ("FOSS items"), *e.g.*, marks-to-the-market related to member-to-member stock loan activity. Previously, NSCC participants used NSCC's Envelope Settlement Service ("ESS") to effect delivery and receipt of those items. FOSS items will not include securities or due bills. Thus, the effect of the proposal is to create a physically and legally separate delivery vehicle for FOSS items and to permit ESS to be used exclusively for the delivery of securities-related items.

FOSS's proposed operating procedures contained in new NSCC Rule 41 are almost identical to the procedures for ESS in NSCC Rule 9, § 1. For example, FOSS items, like ESS items, will be delivered inside envelopes with attached credit lists. FOSS envelopes and credit lists, however, will be distinctively colored for easy identification. The only significant procedureal differences between ESS and FOSS are that (1) FOSS envelope deliveries can be made for the present only at NSCC's New York City facilities; (2) each FOSS envelope may be used to charge the account of a single receiving NSCC participant and can contain no more than five different FOSS items; and (3) a receiving NSCC participant, in the case of any irregularity or error, may adjust the questioned FOSS item directly with the delivering NSCC member.

In addition, the proposal amends NSCC's Statement of Policy respecting NSCC's guarantee of ESS debits or credits. Previously, NSCC indicated in the Statement that NSCC would not guarantee debits and credits regarding items not related to securities which had been delivered or received through ESS. Under the proposal, the Statement is amended to clarify that NSCC's guarantee for securities-related debits and credits extends only to ESS items and does not cover items processed through FOSS.

Finally, the proposal includes FOSS fees and adjusted ESS fees. For each FOSS envelope delivered, received or reclaimed, NSCC will charge $.35 per envelope. NSCC has increased its per envelope ESS delivery charge from $.35 to $.45 during the "night zone," from $.50 to $.65 during the "early a.m. zone" and from $1.00 to $1.25 during the "late a.m. zone." NSCC states in its filing that these fee revisions are necessary because certain costs connected with ESS, such as bar code reader equipmen., guard service and insurance, do not apply to FOSS, and, as a result, will need to be spread over reduced ESS activity. The propsed FOSS fees reflect the lower estimated costs for operating FOSS independently from ESS.

NSCC believes that FOSS will benefit both NSCC and its participants in several ways. First, NSCC believes that separation of FOSS from ESS will enable NSCC to monitor more effectively the value of ESS activity, payment of which is guaranteed by NSCC under its Rules. Because of this enhanced monitoring capability, NSCC should be able to track more accurately its potential financial exposure from ESS activity. Second, because NSCC's potential financial exposure should be more readily identifiable, NSCC should be able to tailor its safeguarding mechanisms to that exposure, *e.g.*, NSCC might be able to adjust the portion of its participants' clearing fund obligations related to ESS usage. Third, because of the proposal, NSCC should be better able to locate and control pending ESS and FOSS items and to take appropriate action under its Rules regarding those items. *See, e.g.*, NSCC Rules 9 and 12. As a result, NSCC and its participants should have enhanced protection against financial exposure from participant default.

In its proposal, NSCC states that the proposed rule change is consistent with the Securities Exchange Act of 1934 in that the proposal will facilitate the prompt and accurate clearance and settlement of securities transactions, while assuring the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-83-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12979 Filed 5-12-83; 8:45 am]

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[Release No. 19744; SR-MSTC-82-19; SR-MCC-82-15]

Midwest Securities Trust Company ("MSTC") and Midwest Clearing Corporation ("MCC"); Order Approving Proposed Rule Change

May 9, 1983.

On September 10 and October 4, 1982, MSTC and MCC, respectively, filed with the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(2) ("Act") and Rule 19b-4 thereunder, proposed changes to MSTC's and MCC's audit rules. These changes provide that: (1) the annual financial statements of MSTC and MCC be audited in accordance with generally accepted auditing standards by a firm of independent public accountants selected by MSTC's and MCC's Board of Directors, respectively; and (2) a study and evaluation of the system of internal accounting control pertaining to participants' security positions and related money balances be conducted on an annual basis by independent public accountants in accordance with standards established by the American Institute of Certified Public Accountants. MSTC's and MCC's existing rules and proposed changes are identical to one another and each consist of two sections.

Notice of the proposed rule changes together with their substantive terms was given, with regard to MSTC, by publication of a Commission Release (Securities Exchange Act Release No. 19615, March 18, 1983) and by publication in the **Federal Register** (48 FR 12879, March 28, 1983) and with regard to MCC, by publication of a Commission release (Securities Exchange Act Release No. 19614, March 18, 1983) and by publication in the **Federal Register** (48 FR 12880, March 28, 1983).

The amendments to the first section of MSTC's Rule 17 and MCC's Rule 23 adopt the language of the American Institute of Certified Public Accountants with respect to the auditing of financial statements of corporations.

The amendments to the second section provide that a study and evaluation of the system of internal accounting control pertaining to participants' security positions and related money balances be conducted annually by independent public accountants in accordance with standards established by the American Institute of Certified Public Accountants. These changes expand the scope of work performed by MSTC's and MCC's independent public accountants. The amendments also allow MSTC and MCC flexibility in the timing and degree of physical count and confirmation verification of participants' security positions and open transactions. This procedure is consistent with the manner in which other clearing agencies perform count and confirmation verification. Additionally, MSTC and MCC have stated that the language "participants' security positions and related money balances" encompasses all activities that they perform for their participants and, in particular, all activities performed within the MST System. The MST System is an automated securities processing and reporting system that provide a variety of services for MSTC's and MCC's participants, including trade recording and processing, settlement, depository and other special services.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act. In addition, the Commission finds that the proposed rule changes are consistent with the guidelines as set forth in Securities Exchange Act Release No. 16900 regarding the registration of clearing agencies and, in particular, with respect to the scope and period of the study and evaluation of the system of internal accounting control.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12973 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 19743; SR-MSRB-82-11]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

May 9, 1983.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington, D.C., 20036, submitted on July 23, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to require the managing underwriter of a new issue of municipal securities to ensure that an application is made for the assignment of CUSIP numbers to the new issue and to ensure that the assigned CUSIP numbers are affixed to or imprinted on the certificates of a new issue. It is the MSRB's belief that the generalized use of the CUSIP numbering system in the clearance and processing activities of the municipal securities industry will contribute to the improved efficiency of such activities and will enable dealers to place greater reliance on the CUSIP identification of these securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18959, August 13, 1982) and by publication in the **Federal Register** (47 FR 36737, August 23, 1982). All written statements filed with the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public in the Commission's Public Reference Room.

Of the seven comment letters received by the Commission on the proposed rule change five supported[1] and two opposed, the proposed rule change.[2] The two commentators opposed to the proposed rule change view the eligibility criteria for assignment of CUSIP numbers as being overly inclusive. Under the proposed rule, the managing underwriter will be required to obtain a CUSIP number for any new issue which meets one of the following criteria:[3] (1) the par value of the issue is at least $500,000; (2) the par value of the issue is at least $250,000 and the issuer has outstanding debt in excess of $250,000; or (3) the issuer has outstanding debt in excess of $500,000, and a CUSIP subscriber requests assignment of a number to an issue regardless of par amount. Both commentators noted that, in their experience, bond issues of $500,000 are marketed locally and are frequently bought by one investor who keeps the issue until maturity, thus assignment of CUSIP numbers would impose a cost without a commensurate benefit. While this observation applies to any bond issue which is bought and held to maturity by one investor, the goal of the proposed rule is to affix CUSIP numbers to as large a universe as is practicable thereby encouraging the use of and reliance upon CUSIP numbers. Indeed, when the MSRB first published this proposed rule change,[4] a number of commentators felt that the proposed eligibility criteria would omit a substantial number of new issues and thereby limit the effectiveness of the rule. In light of these views, the MSRB decided to leave the eligibility criteria as initially proposed and consider changing the eligibility criteria as a separate matter.[5]

The MSRB also received a comment letter raising a potential anticompetitive aspect of the proposed rule change.[6] The commentator questioned the appropriateness of requiring underwriters to provide the information required by Rule G–34 solely to the CUSIP Service Bureau rather than providing the information to "all interested parties." The MSRB, in its contract with the CUSIP Service Bureau,[7] addressed this concern. The contract provides for limited use of the information provided pursuant to Rule G–34.[8] If the information is to be used for any other purpose or made available to any other person, the CUSIP Service Bureau is required to make the information available to all interested parties at the same time.

The commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requiremnts of Section 15B of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12972 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[1] Letter from Eleanor L. Bissinger, Executive Vice President, Lebenthal and Co., Inc. to Donald F. Donahue, MSRB, dated August 18, 1982; letter from Frank S. Penna, Vice President, National Bank of North America to Donald F. Donahue, MSRB, dated August 4, 1982; letter from Arthur J. Kalita, Executive Director, Public Securities Association to Georga A. Fitzsimmons, Secretary, SEC, dated September 10, 1982; letter from Gloria Rice, InterFirst Bank to MSRB, dated September 10, 1982; letter from Clemens G. Hrounda, Bond Operations Officer, Continental Bank to Donald F. Donahue, dated September 7, 1982.

[2] Letter from Ray T. Reed, President, First Securities Company to Sarah Ackerson, Securities and Exchange Commission ("SEC"), dated August 19, 1982; letter from R. Mack Brow, President, First Midstate Inc. to Donald F. Donahue, Deputy Executive Director, MSRB, dated August 12, 1982.

[3] Issues of local assessment bonds or notes of one year or less to maturity are excepted.

[4] The proposed rule change was published in the *MSRB Reports* in January 1982 for comment from the MSRB membership and other interested parties. Such publication for comment is referred to as the "exposure draft." In response to the exposure draft, the MSRB received 21 comment letters, 20 of which favored the proposed rule change.

[5] On May 3, 1983, the MSRB published a proposed modification of the eligibility criteria for public comment.

[6] *See* 15B(b)(2)(C).

[7] Letter from Anthony M. Madolini, Chairman, MSRB to CUSIP Servie Bureau, Standard and Poor's Corporation, dated March 10, 19883.

[8] The information provided is to be usee solely for the purpose of assigning and disseminating CUSIP numbers.

[9] 17 CFR 200.30–3(a)(12).

[Release No. 19742; SR-MSRB-83-2]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

May 9, 1983.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, submitted on March 8, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to require inclusion of the CUSIP number on the customer confirmation for any municipal issue to which a CUSIP number has been assigned. The MSRB believes that the rule change will promote more accurate identification of and more efficient transfer of municipal securities held by customers.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 19647, April 4, 1983) and by publication in the **Federal Register** (48 FR 15357, April 8, 1983). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission received one comment letter on the proposed rule change, which was in favor of the change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12970 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[1] 17 CFR 200.30–3(a)(12).

[Release No. 19636A; SR-PSE-83-3]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 9, 1983.

On January 28, 1983, Securities Exchange Act Release No. 19636 was issued approving a proposed rule change by the Pacific Stock Exchange, Inc. ("PSE") 618 Spring Street, Los Angeles, CA 90014, to amend PSE Options Floor Procedure Advice B–6, concerning a market maker's use of floor brokers to effect transactions for the market maker's account. The advice was amended to provide, among other things, that a market maker "if possible" prepare a written order ticker. The **Federal Register** publication of the release, 48 FR 14796, April 5, 1983, incorrectly referred to a "floor broker" as the subject of this exchange requirement; the correct designation should be "market maker".

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George a. Fitzsimmons,

Secretary.

[FR Doc. 83–12980 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19222; 811–699]

Pligrowth Fund, Inc.; Application for Order

May 6, 1983.

Notice is hereby given that Pligrowth Fund, Inc. ("Applicant"), Two Shell Plaza, 777 Walker, Suite 2000, Houston, TX 77002, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on January 24, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware and registered under the Act on November 11, 1955. The application further states that on March 22, 1982, Applicant's Board of Directors approved a Plan and Agreement of Merger ("Plan") pursuant to which Applicant and Southwestern Investors, Inc., would be merged into Plitrend Fund, Inc. ("Merger"). On June 11, 1982, a Notice of a Special Meeting of Stockholders, Prospectus/Proxy Statement, and Proxy Card were mailed to holders of record of Applicant's capital stock as of May 26, 1982. At that Special Meeting, held on July 23, 1982, Applicant's stockholders approved and adopted the Plan, and the Merger was consummated on July 26, 1982. The application also states that Applicant has no assets and no shareholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12988 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19739; File No. SR–AMEX–82–22, Amdt. No. 3]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Stock Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 2, 1983 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" of the "Exchange") is amending File No. SR–AMEX–82–22 to make certain revisions to the "Information Technology" index and the "Oil and Gas" index, which were proposed in that submission as underlying indices for Exchange-traded options. The Exchange is also redesignating the "Information Technology" index as the "Computer Technology" index.

The Exchange is also proposing to establish $100 million equivalent value as the ceiling for position limits (to be expressed in terms of numbers of option contracts) which the Exchange may establish in respect of options on industry indices. (For the purpose of establishing position limits, the dollar value of a position is deemed to be the product of the current index group value and the index multiplier times the

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number of contracts on the same side of the market.)

In addition, the Exchange is proposing to adopt a Commentary under its rule governing stock index option trading rotations, halts and suspensions (Rule 918C) to provide that, in the case of options on an industry index, an opening trading rotation may not be commenced until underlying stocks accounting for at least 50% of the aggregate market value of all of the stocks on which the index is based have opened for trading in the primary market(s) for such stocks, and that trading in such options will be halted if trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the current index group values.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of adjusting the group of stocks comprising the proposed "Information Technology" index as originally filed is to concentrate the focus of the index more specifically on corporations which are strongly involved in the computer industry. The index has, accordingly, been redesignated as the "Computer Technology" index. The "Oil and Gas" index has been modified to add Texas Oil and Gas Corp., and to delete General American Oil.

The Exchange is proposing to fix $100 million equivalent dollar value as the ceiling for industry index option position limits in order to establish position limits for industry index options at a level which would bear an appropriate relationship to position limits which the Commission has approved for options on broad-market stock indices and for options on individual stocks. With respect to the Oil and Gas and Computer Technology index options, the Exchange is proposing to establish 8,000 contracts as the initial position and exercise limits.

[1] Although the Commission has approved minimum customer margin requirements applicable to "uncovered" short positions in options on broad market indices, the appropriate margin for options on industry indices has not yet been determined. *See* Securities Exchange Act Release Nos. 19587 (especially footnote 17) and 19686 (March 10, 1983 and April 18, 1983), 48 FR 11193 and 17425 (March 16, 1983 and April 22, 1983). *See* File Nos. SR-CBOE-82-20 and SR-Amex-82-20.

The Exchange is proposing to adopt the standards herein proposed regarding openings and trading halts for industry index options because Rule 918C contemplates that the Exchange will establish such standards for each stock index option approved for trading on the Exchange, and the Exchange believes that the proposed standards are comparable to those adopted in regard to other stock index options.[1]

The Exchange believes that the implementation of trading in industry index options and, in particular, in options on the proposed Computer Technology and Oil and Gas indices, under the Exchange's general rules governing stock index options (Part V, Section 11 of the Exchange's rules) as proposed to be amended by this submission would be consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange. Such trading would specifically comport with Section 6(b)(5) of the Act, in that members of the public would be provided with useful new hedging and trading opportunities under a scheme of regulation designed to facilitate the maintenance of a fair and orderly market, prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 6, 1983.

George A. Fitzsimmons,

Secretary.

Exhibit A.—Computer Technology Index (Previously designated as "Information Technology" Index)

Chart I attached hereto lists the stocks included in the Computer Technology index, together with information as to the exchanges on which they are listed, the exchanges on which options on those stocks are traded, and the price per share, number of shares outstanding, and market value of each stock. Italics indicate the names of stocks which have been added to the Information Technology index in connection with converting that index into the Computer Technology index.

Chart II lists the stocks which have been deleted from the Information Technology index in connection with converting that index into the Computer Technology index, together with the same categories of information included in Chart I.

CHART I—COMPUTER TECHNOLOGY INDEX

Company	Stock exchange listed	Options listed	Shares outstanding (in millions)	Stock price, April 28, 1983	Market value (in billions)
Amdahl Corporation	A	C	17.33	44½	0.77
Automatic Data Processing, Inc	N	Phil	34.17	36	1.23
Burroughs Corporation	N	A/C	42.08	46⅝	1.97
Commodore International Limited	N	Phil	15.21	89¾	1.36
Computer Sciences Corporation	N	C	13.46	18⅝	.25
Control Data Corporation	N	C	37.15	48¾	1.80
Cray Research, Inc	N	Pac	13.68	37	.51
Data General Corporation	N	Pac	10.99	83	.89
Datapoint Corporation	N	C	19.97	19¾	.38
Digital Equipment Corporation	N	A/C	95.35	115⅝	6.40
Electronic Data Systems Corporation	N	Phil	28.90	59¾	1.71
Hewlett-Packard Company	N	C	125.35	77½	9.72
Honeywell, Inc	N	C	22.70	103¼	2.34
International Business Machines Corporation	N	C	600.46	117½	70.33
Lanier Business Products, Inc	N		14.98	13¼	.20
Mohawk Data Sciences Corporation	N	Pac	13.40	16⅝	.22
Motorola, Inc	N	A	38.09	108	4.11
National Semiconductor Corporation	N	A/C	23.40	32½	.76
NBI, INC	N		9.88	36⅝	.36
NCR Corporation	N	C	26.56	119¾	3.17
Paradyne Corporation	N	C	14.46	24	.35
Prime Computer, Inc	N	A	29.79	30¼	.90
Sperry Corporation	N	C	45.16	35¼	1.59
Storage Technology Corporation	N	C	39.36	21⅝	.72
Tandy Corporation	N	A/C	103.86	61¼	6.36
Telex Corporation (The)	N	A	13.84	24	.33
Texas Instruments, Incorporated	N	C	23.58	145⅝	3.43
Tymshare, Inc	N	Phil	11.92	18⅝	.22
Wang Laboratories, Inc. (B)	A	Pac	112.64	37¾	4.25
Xerox Corporation	N	C/Pac	84.51	45¼	3.82

CHART II.—STOCKS DELETED FROM INFORMATION TECHNOLOGY INDEX

Company	Stock exchange listed	Options listed	Shares outstanding (in millions)	Price Apr. 28, 1983	Market value (in billions)
Apple Computer	O		57.12	50¼	2.84
Barry Wright Corporation	N		8.55	26¼	.22
Dataproducts Corporation	A	P	8.83	23¾	.21
Dennison Manufacturing Company	N		9.30	30	.28
Intel Corp	O		44.45	47¼	2.10
Management Assistance, Inc	N		8.30	13⅜	.11
Minnesota Mining & Manufacturing Company	N	C	117.41	85⅝	10.04
Modular Computer Systems, Inc	N		5.30	13⅜	.07
Pitney-Bowes, Inc	N	A	16.20	64	1.04
Tandem	O		37.37	28	1.05
Triad Systems	O		7.20	21	.15

[FR Doc. 83-12974 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19675A; File No. SR-NASD-83-1]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 20, 1983, the National Association of Securities Dealers, Inc. ("Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to supplement its earlier notice published in 48 FR 17166 (April 21, 1983) and solicit comments on the additional issues presented in this notice.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds a new section to Schedule D to Article XVI of the Association's By-Laws for the purpose of implementing a system for the exchange of information on direct participation program (primarily limited partnership) securities ("System"). The provisions of the proposed rule change describe qualifications for subscribers to the System and the securities on which information may be entered into the System.

II. Self Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these comments may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change is the result of many months study by the Association's Real Estate Committee of possible means for developing a system for the exchange of information on direct participation program securities, during which a survey of members was conducted in early 1980 to determine interest in such a System. Almost 20

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percent of the membership responded, with 69 percent favoring establishment of a System.

In order to implement such an information system, the Association is proposing to amend Schedule D to Article XVI of the Association's By-Laws to incorporate certain technical rules as new Part XV. This proposed rule change is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Securities Exchange Act of 1934, as amended ("Exchange Act").

Description of System

The proposed rule change would enable the Association to establish an "electronic bulletin board" that will provide a means of communications for an exchange of information but no execution capability. Broker/dealers participating in the System will not be required to maintain firm, continuous or two-sided quotations and will not necessarily function as market-makers in the normal sense. The System will be accessed through NASDAQ terminals and will provide subscribing members with on-line ability to enter and update indications of interest in any security approved for the System and to query a data base to review information on individual securities or groups.

Analysis of Proposed Amendment to Schedule D to By-Laws

Following is a discussion of the provisions of proposed Part XV to Schedule D.

Section A: General

Section A contains a general prohibiton on the entry of information into the System except in accordance with the proposed rule.

Section B: Definitions

Section B incorporates definitions of "direct participation program system," "eligible broker/dealer," "authorized security," and "trading unit" into the proposed rule. The terms defined in Section B are, for the most part, self-explanatory. The term "trading unit" is defined to be the minimum number of direct participation program securities which can be transferred as a unit pursuant to the terms contained in the partnership agreement of the program.

Section C: Eligible Broker/Dealers

Paragraph 1 of Section C sets forth the qualifying criteria which a broker/dealer must meet in order to be considered eligible to enter information into the System. The first two criteria, Subparagraphs 1.a. and b., are the familiar requirements that a broker/dealer must be registered with the Securities and Exchange Commission and a member in good standing of the Association, as well as qualified with the Association to conduct a general securities business or a business in direct participation programs.

Subparagraph 1.c. of Section C requires that a broker/dearler must maintain net capital of at least $25,000 to be eligible to enter information into the System. The Association's interpretation of the $25,000 net capital requirement relates only to actual capital held and not to the firm's ability to hold customer funds or securities. Under this interpretation, a firm can elect to participate in the System by obtaining the requisite additional capital, although the firm is not qualified to handle customer funds and securities.

In addition, the Association has determined that broker/dealers unable to meet the $25,000 net capital standard may be able to arrange to have access to the system through other broker/dealers. Under this interpretation, a firm without sufficient net capital may be able to enter into a relationship with a firm with the requisite $25,000 net capital to clear the transaction in the System.

Paragraph 2 of Section C establishes the general requirement that a broker/dealers entering information into the System must have reasonable grounds to believe that the information represents a bona fide indication of interest in the purchase or sale of a trading unit of securities. In addition, where the indication of interest is for the sale of a trading unit, the broker/dealer must have reasonable grounds to believe that the unit will be transferred to a purchaser.

Section D: Authorized Securities

Paragraph 1 of Section D requires that the security be issued by a direct participation program and be currently registered under Section 12(g) of the 1934 Act; that the issuer be current in its reporting requirements under the 1934 Act; that the partnership have issued and outstanding at least 10,000 trading units owned by not less than 300 persons; and that at least one broker/dealer stands ready to enter information into the System on the security.

Paragraph 2 of Section D describes the circumstances under which an otherwise eligible security shall not be authorized for entry into the System and an authorized security will be subject to suspension or cancellation of its authorization. Such circumstances include the suspension of the security from being traded over-the-couter, failure by the issuer to promptly disclose to the public any material information which may affect the value of its securities or influence investors' decisions, and the fact that the security is no longer registered under Section 12(g) of the 1934 Act. Paragraph 2 of Section D also includes the restriction that an eligible security is not authorized where the security is the subject of a public offering which has not yet been terminated.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will promote competition to the extent that the System will provide a more efficient means to publicize offers to buy or sell partnership securities, resulting in a more efficient pricing mechanism for such securities. At the same time, the proposed rule change will have an impact on competition to the extent that only members of the Association qualified to deal in direct participation program securities that maintain net capital of at least $25,000 will be eligible to enter information into the System, while other members of the Association and non-members will not be similarly eligible. However, the Association believes that the burden imposed is not unduly burdensome or inappropriate in light of the regulatory objectives sought to be achieved in furtherance of the Association's obligations under the Exchange Act.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for member comment in Notice to Members 82–13 (March 9, 1982). The Association received a total of 18 comments on the rule proposal. After due consideration of the comments received, the Board of Governors approved an amended version of the rule. The Commission, however, is particularly interested in receiving comments on the following matters which were among the issues raised in the comment letters.

1. Should the issuer of a DPP security be involved in the decision concerning whether to include the Security in the System?

2. Is the requirement of 10,000 trading units an appropriate standard for determining if a DPP should be authorized for entry into the System?

3. Should restrictions apply to when a broker/dealer can enter quotes for an Approved Security into the System: during the public offering, after the public offering, or after a specified "seasoning period" following the offering?

4. Will the inclusion of an Approved Security in the System and the subsequent secondary trading of the security affect its tax status as a partnership?

5. Is the requirement of a minimum of $25,000 worth of net capital for a Qualified Member appropriate or should the amount be greater or lower?

6. If a DPP contain a provision whereby the issuer will buyback interests in the DPP at a specified price, should the quotes entered into the System be no lower than the "buy-back" price or should such quotes, at least, indicate the estimated buy-back price?

7. In light of the fact that the value of a DPP security is often dependent on a particular investor's tax objectives, will broker-dealers have a resonable basis for the submission of priced indications of interest?

8. Should the System display trade information (*e.g.*, price, time or size of the last transaction) concerning the prior sales of an Approved Security?

9. Due to the possibility that different units of the same DPP may have different tax bases, should information on a security inserted into the System include details regarding the current tax bases of the units offered for sale?

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this Notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 9, 1983.

[FR Doc. 83-12975 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22931; 70-6863]

Southwestern Electric Power Co.; Proposal To Issue and Sell Pollution Control Bonds; Exception From Competitive Bidding

May 9, 1983.

Southwestern Electric Power Company ("SWEPCO") P.O. Box 1106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to Sections 6(a), 7, 9(a)(1), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(5) promulgated thereunder.

By order dated August 20, 1981 (HCAR No. 22171), the Commission authorized SWEPCO to enter into an Installment Sale Agreement ("Agreement") with the Sabine River Authority of Texas (the "District"), an instrumentality of the State of Texas. Pursuant to the Agreement, the District would finance certain pollution control facilities for a SWEPCO generating plant being contructed near Hallsville, Texas. The District issued $72,500,000 of 11½% Pollution Control Revenue Bonds in September 1981, due October 1, 1984 (the "1981 Bonds"). SWEPCO pledged revenues to the District to cover the costs of the 1981 Bonds. Republic Bank Dallas N.A. is Trustee under the bond indenture. The bonds were payable from and secured by SWEPCO's pledge of revenue. After construction of the facilities, title to the facilities will automatically vest in SWEPCO.

SWEPCO seeks Commission authorization to enter into an Amendment to the Agreement ("Amendment") for the issuance and sale of additional bonds ("Bonds") prior to October 1, 1984, to refinance the 1981 Bonds and to cover additional facilities costs. The Bonds will bear interest payable semi-annually and will mature within 30 years. The District will issue and sell the Bonds through negotiation pursuant to an Underwriting Agreement, subject to SWEPCO's approval. SWEPCO will not be a party to the underwriting agreement, but will make certain representations to the underwriters. The terms and conditions of the Bonds will be determined by negotiation. The Amendment will contain an unsecured commitment by SWEPCO to pay the District at specified times amounts sufficient to cover the Bonds' debt service, including principal, interest, and redemption premiums, as well as other District expenses associated with the Bonds. The Bonds will be special obligations of the District payable only out of SWEPCO's payments under the Amendment and are not general obligations of the District.

SWEPCO requests an exception from the competitive bidding requirements of Rule 50 pursuant to subsection 50(a)(5) because the District's Bonds are being issued and sold by the District through its selected underwriters.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 2, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12977 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 22927; 70-6820]

West Texas Utilities Co.; Proposal To Issue and Sell Adjustable Rate Preferred Stock at Competitive Bidding

May 6, 1983.

West Texas Utilities Company ("West Texas"), 301 Cypress, Abilene, Texas 79601, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

By prior order in this proceeding (HCAR No. 22916, April 20, 1982), West Texas was authorized to issue and sell at competitive bidding up to 250,000 shares of preferred stock, with a fixed dividend rate, from time to time during the period ending December 31, 1983. The declaration has now been amended to seek authorization to sell all or part of the preferred stock either with a fixed dividend rate or an adjustable dividend rate, depending on market conditions at the time of sale.

With regard to the adjustable rate preferred stock, the dividend rate for the initial dividend payment period will be a fixed percentage. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage ("reset amount") above or below the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period. In no event will the effective annual dividend rate, as adjusted in any quarter, be less than 5% or greater than 15%.

In the event that any series of preferred stock is sold with an adjustable dividend rate, the terms of such series will include a prohibition for five years against redeeming such series with funds derived from the issuance of equity or debt securities at a lower effective cost of financing than the effective annual dividend cost to West Texas based upon the initial dividend rate for the appropriate series.

West Texas intends to issue and sell the preferred stock through a primary shelf registration program in accordance with Rule 415 of the Securities Act of 1933 (17 CFR 230.415). When specific provisions relating to the initial dividend period and the reset amount have been determined, except as indicated hereafter, West Texas proposes to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). West Texas states, however, that the sales of additional preferred stock may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, West Texas may amend this filing to seek an exemption from Rule 50 to offer the preferred stock through either negotiated or private sales.

The declaration, as amended by the post-effective amendment, and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 1, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues or fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 12981 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. PA-7]

Privacy Act of 1974; Amendments to System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of amendments to the system of records.

SUMMARY: The Commission is amending two systems of records governing maintenance of employee performance appraisal related documents in order to conform the rules to new regulations concerning government-wide maintenance of Employee Performance File ("EPF") systems recently adopted by the Office of Personnel Management.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Laurie Schaffer, Office of the General Counsel (202) 272-2453.

SUPPLEMENTARY INFORMATION: The Commission today announces amendments to its System of Records (the "System") published[1] pursuant to the Privacy Act of 1974.[2] the amendments, which are effective immediately, change two sections of the System: SEC-47, concerning Office of Personnel Code of Conduct and Employee Performance Files;[3] and SEC-50, concerning Office of Personnel Position Classification files.[4] The amendments are necessary in order to conform the Commission's system with recent amendments to Office of Personnel Management ("OPM") regulations governing maintenance and use of personnel records by federal agencies.[5]

Prior to the amendments to federal personnel regulations enacted by OPM, records and files maintained by the Commission to implement its employee performance appraisal plan were considered part of the government-wide Privacy Act system of records, identified as OPM/GOVT-1, General Personnel Records.[6] Recently OPM determined that performance appraisal records of government employees should be categorized as a new system of records in order to facilitate accurate description of the categories of records in personnel folders, identify the purposes for which such records are maintained and narrow the scope of permissible routine uses of the information. Performance appraisal records, whether maintained in an envelope in lieu of a separate file or in automated or microform versions, are considered part of a new system of records, identified as OPM/GOVT-2 and may be disclosed only according to routine uses promulgated in the OPM/GOVT-2 EPF system notice.[7]

Accordingly, in order to avoid duplicative designations, the Commission is amending the System to delete certain categories, and routine uses of records and to change the method of record retrieval. The following categories of records are being deleted from SEC-47: (1) Initial performance evaluations; (2) employee questionnaires; (3) reports on employees completing their probationary year; and (4) award recommendations. The categories of records which are being deleted from SEC-50 are: (1) organization charts and (2) annual performance rating and position classification certifications. In addition, the category entitled "super-grade position submissions" in SEC-50 is being changed to "supergrade history file." Amendments to the sections in SEC-47 and 50 concerning routine uses and retention and retrieval are also being made to reflect the changes in the categories.[8]

SEC-47 and SEC-50 as amended are set forth below.

1. In "Categories of records" remove paragraphs (a) through (d) and redesignate paragraphs (e) through (g) as paragraphs (a) through (c).

2. In "Routine uses of records" remove paragraphs (1) through (5) and redesignate paragraphs (6) through (13) as paragraphs (1) through (8); revise newly redesignated paragraph (1).

3. Revise paragraph titled "Retention and disposal".

4. In "Systems manager(s) and address" remove "500 North Capitol" and add "450 5th Street, NW."

5. In "Notification procedure" remove "1100 L Street" and add "450 5th Street."

6. In "Records source categories" remove paragraphs (a) through (d) and redesignate paragraphs (e) through (g) as paragraphs (a) through (c).

As amended, SEC-47 reads as follows:

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[1] *See* 41 FR 41550 (September 22, 1976).

[2] 5 U.S.C. 552a(e)(4)(1974). *See* 5 CFR 293, Subpart D which requires each agency to establish and maintain an Employee Performance File Record System.

[3] *See* 41 FR 41590 (September 22, 1976).

[4] *See* 41 FR 41593 (September 22, 1976).

[5] *See* Office of Personnel Management, Federal Personnel Bulletin 293-20 (February 22, 1982); *see also* 47 FR 3231 (January 22, 1982).

[6] *See* 45 FR 76415 (November 25, 1980).

[7] *See* 47 FR 3232 (January 22, 1982).

[8] The routine uses that are being deleted are those which reflect the internal purposes for which the Commission uses the records. However, these deletions are not intended to restrict the Commission's use of the records. Under the Privacy Act of 1974 (5 U.S.C. 552a), records may be disclosed to officers and employees of the SEC who have a need for the record in performance of their duties without the requirement that the internal agency uses be published.

SEC-47

SYSTEM NAME:

Office of Personnel Code of Conduct and Employee Performance Files—SEC.

SYSTEM LOCATION:

Securities and Exchange Commission, Washington, D.C. 20549. Such records also may be maintained in other Offices and Divisions in the Commission and Regional and Branch Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees, past and present.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes information in the following categories of records:

(a) Adverse action cases, regulatory appeal files, grievances and complaints relating to an employee; (b) Code of conduct files-established under SEC employee conduct regulations (17 CFR 200.735-1 et seq.): Rule 2—Outside employment material; Rule 3—Employee securities transactions; Rule 4—Actions in cases of personal interest; Rule 5—Negotiations for private employment; Rule 6—Practice by former members and employees of the SEC; Rule 7—Employee Debts; Rule 9—Statements of employment and financial interest (GS 15's and above); Rule 10—Statements of employment and financial interest (Special Employees); (c) Investigatory materials gathered in connection with the individual's initial appointment to the agency as well as materials gathered in connection with investigations into allegations of employee misconduct.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and the information contained in these files may be used for the following:

1. Assigned Office of Personnel Staff uses records in category (b) above to verify employee compliance with SEC Conduct Regulations.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records n category (a) are retained 2 years and then discarded. Records in category (b) are kept for 5 years and then discarded. When employee leaves the SEC, his/her conduct files are stored for 2 years by the Office of Records and then destroyed; the computer listing of his/her securities transactions is destroyed upon his/her separation from the SEC. The Rule 6 file, established when a former employee returns to practice before the SEC, is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Room at 450 5th Street, NW., Washington, D.C., or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

* * * * *

RECORD SOURCE CATEGORIES:

Records in category (a) are obtained from the supervisor/manager(s) initiating action, employee concerned and his/her designated representative; and other individuals making complaints; records in category (b) are obtained from employee concerned. Employee concerned submits information re: Rules 2-6 and 9-10. Both alleged creditor and employee concerned submit information in Rule 7 (employee debts) file. Information in category (c) is gathered, where practicable, from the individual as to whom the information pertains and other individuals including former employers and associates, friends, co-workers, relatives, neighbors. Information may also be received from Federal, State or local law enforcement authorities or other governmental agencies.

1. In "Categories of records" remove paragraphs (c) through (e) and add new paragraph (c).

2. In "Routine uses of records" remove paragraphs (3) and (5), redesignate paragraph (4) as paragraph (3) and paragraphs (6) through (1) as paragraphs (4) through (8).

3. Revise paragraph titled "Retrievability".

4. In "System manager(s) and address" remove "500 North Capitol Street" and add "450 5th Street, NW."

5. In "Notification procedures" remove "1100 L Street" and add "450 5th Street". As amended. SEC-50 reads as follows:

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SEC–50

SYSTEM NAME:

Office of Personnel Position Classification Files—SEC.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains the following categories of records: (a) Official position descriptions; (b) classification and audit reports; and (c) super-grade history file.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS OF USERS AND THE PURPOSES OF SUCH USE.

These records and the information contained in these records may be used as follows:

1. Official position descriptions indicate the duties to be performed by employees, in particular grade or pay positions and are utilized in connection with position management and control and for organizational job alignment purposes.

2. Classification and audit reports are used to indicate to employees, supervisors, and administrative assistants how title, grade, and series for a particular job was determined.

3. Super-grade history file contains information about the establishment and staffing of positions in grades GS–16, 17, and 18. They are used for historical reference.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Position descriptions are retrieved by number or title; other data is retrieved by name.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Room at 450 5th Street, NW., Washington, D.C. or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

* * * * *

Dated: May 2, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12988 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–0318]

Glover Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On November 26, 1982, a notice was published in the **Federal Register** (Vol. 47, No. 228), stating that Glover Capital Corporation, 655 Deep Valley Drive, Suite 320, Rolling Hills Estates, California 90274 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09–0318 to Glover Capital Corporation on March 29, 1983, to operate as a small business investment company, pursuant to the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–12985 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–5454]

Roedal Associates, Ltd.; Issuance of Small Business Investment Company License

On December 22, 1982, a Notice was published in the **Federal Register**, (47 FR 57185) stating that an application had been filed by Roedal Associates, Ltd., 77–51 141st Street, Flushing, New York 11367, with the Small Business Administration (SBA), pursuant to the Regulations governing small business investment companies (13 CFR Part 107. 102 (1983)) for a license as a Section 301(d) small business investment company.

Interested parties were given until the close of business January 6, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–5454 to operate as a Section 301(d) company.

(Catalog of Federal Domestic Assistance, Program number 59.011 Small Business Investment Companies)

Dated: May 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–12983 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0321]

Sunbelt Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by:

Applicant: Sunbelt Capital Corporation.

Address: 14255 North 76th Place, Scottsdale, Arizona 85260.

Proposed Private Capital: $510,000.

Area of Operations: State of Arizona.

The officers, directors and stockholder of the applicant are a follows:

Bruce L. Vinci, 6332 East Maverick, Paradise Valley, Arizona 85253, President, Director, 100%

Brian Burch, 4415 East Kelton Lane, Phoenix, Arizona 85032, Vice President, Secretary and Treasurer, Director

Paul F. Muscenti, 6011 North Second Street, Phoenix, Arizona 85021, Director

Joseph P. Martori, 2609 Beekman Place East, Phoenix, Arizona 85016, Director

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Scottsdale, Arizona.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–12987 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0265]

Sunwestern Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On December 20, 1982, a notice was published in the **Federal Register** (Vol. 47, No. 224), stating that Sunwestern Capital Corporation, Suite 816, South Tower, 2720 Stemmons Freeway, Dallas, Texas 75207 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 06/06–0265 to Sunwestern Capital Corporation on March 7, 1983, to operate as a small business investment company, pursuant to the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–12986 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2083]

Utah; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the counties of Utah, Carbon and Emery, Utah, constitute a disaster area because of damage resulting from severe storms, landslides, and flooding beginning on or about April 12, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1983, and for economic injury until the close of business on January 29, 1983, at the address listed below: U.S. Small Business Administration, 125 South State Street, Room 2237, Salt Lake City, Utah 84138–1195, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are:

	Percent
Homeowners with credit available elsewhere	11.500
Homeowners without credit available elsewhere	5.750
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Business (EIDL) without credit available elsewhere	8.000
Other (non-profit organization including charitable and religious organizations	11.375

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 3, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83–12982 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 09/09–0322]

Wesco Capital, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by:

Applicant: Wesco Capital, Ltd.

Address: 3471 Via Lido, Suite 204, Newport Beach, California 92663.

Proposed Private Capital: $530,000.

Area of Operations: State of California.

The General Partners of the Applicant are as follows:

Peter J. Madigan, 938 Via Lido Soud, Newport Beach, California 92663, General Partner

Lido Financial, Inc. Corporate General Partner

Peter J. Madigan, 938 Via Lido Soud, Newport Beach, California 92663, President, Vice President and Director

T. James Herrmann, 601 E. Promontary Drive, Newport Beach, California 92660, Director,

Freda D. Wilt, 1027 East Angeleno, Burbank, California 91502, Secretary and Treasurer and Director,

Mr. Peter J. Madigan and Lido Financial, Inc., the General Partners, will be the only persons, corporations, partnerships trusts or other entities that will own directly or indirectly 10 or more percent of the Applicant's Private Capital.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Newport Beach, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–12906 Filed 5–12–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On May 9, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury

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Department Clearance Officer, Room 309, 1625 "I" Street, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0115.
Form Number: 1099 Misc.
Title: Statement for Recipients of Miscellaneous Income.
OMB Number: 1545–0715.
Form Number: 1099–B.
Title: Statement for Recipients of Proceeds from Broker or Barter Exchange Transactions.
OMB Number: 1545–0108.
Form Number: 1096.
Title: Annual Summary and Transmittal of U.S. Information Returns.
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,
Acting Departmental Reports Management Officer.

[FR Doc. 83–12802 Filed 5–12–83; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.
ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of an extended form. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96–511 applies.

ADDRESSES: Requests for further information, including copies of the proposed form and supporting documents may be obtained from Patricia Viers, agency clearance Officer (004A2), Veterans Administration, 810 Vermount Avenue, NW, Washington DC, 20420 (202) 389–2146. Comments and questions about the items on this list should be directed ot the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Veterans Administration, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 4, 1983.

By direction of the Administrator:

Dominick Onorato,
Associate Deputy Administrator for Information Resources Management.

Extended Form

(1) Department of Medicine and Surgery.
(2) Blood Donor Registration Form.
(3) VA Form 10–2420.
(4) On occasion.
(5) Prospective blood doners.
(6) 36,000 responses annually.)
(7) 5 minutes.
(8) Not applicable under 3504(H).

[FR Doc. 83–12875 Filed 5–12–83; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Monday, May 16, 1983, 10:00 a.m.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:
Compliance Status Report.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

The staff will brief the Commission on the status of various compliance matters.

(For a recorded message containing the latest agenda information: call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 30307, 301–492–6800.

[S–699–83 Filed 5–11–83; 9:51 am]
BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 9, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Coporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of First Amercian Bank for Savings, Boston, Massachusetts, an insured mutual savings bank, for consent to acquire the assets of and assume the liability to pay deposits made in Workingmen's Co-Operative Bank, Boston, Massachusetts, a non-federally-insured institution, and to establish the eight existing offices of Workingmen's Co-Operative Bank as branches of First American Bank for Savings.

Application of Heritage Bank, Anaheim, California, for consent to convert into a non-FDIC-insured institution.

Request of West Olympia Bank, Los Angeles, California, for reconsideration of a previous denial of an application for consent to establish a branch to be located at 901 South Western Avenue, Los Angeles, California.

Request of Fideliety Bank & Trust Company (In Organization), Salem, New Hampshire, for modification of conditions imposed in granting Federal deposit insurance.

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum and resolution re: Proposed revision of the delegations of authority relating to personnel matters.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of one meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 9, 1983.

Federal Deposit Insurance Corporation.
Noyle L. Robinson,
Executive Secretary.

[S–698–83 Filed 5–11–83; 12:34 pm]
BILLING CODE 6714–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 11, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:
In addition to the previously announced meeting, the Commission will also consider and act upon the following:
2. Jay Montoya v. Valley Camp of Utah, Inc., Docket No. WEST 82–41–D; Petition for Discretionary Review. (Issues include whether the judge erred in dismissing the miner's discrimination complaint.)
It was determined by a unanimous vote of Commission that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5632.

[S–691–83 Filed 5–11–83; 2:30 pm]
BILLING CODE 6735–01–M

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, May 18, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 10, 1983.

James McAfee,
Associate Secretary of the Board.

[S–690–83 Filed 5–10–83; 4:30 pm]
BILLING CODE 6210–01–M

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5

NATIONAL SCIENCE BOARD

DATE/TIME:

May 18, 1983 3:00; p.m. Open Session
May 19, 1983 1:00; p.m. Open Session
May 19, 1983 3:15; p.m. Closed Session
May 19, 1983 4:00; p.m. Open Session

PLACE: National Science Foundation, 1800 G Street, N.W. Washington, D.C.

STATUS: Changes to previously published announcement.

An item has been added to the Open Session scheduled for Thursday, May 19, from 1:00 p.m. to approximately 2:30 p.m. The item will be: Supercomputers in Research Activities.

Matters to be considered at the Open Session on Thursaday, May 19, beginning at 4:00 p.m. remain as previously announced.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, 202/357–9582.

[S–690–83 Filed 5–11–83; 1:53 pm]

BILLING CODE 7555–01–M09

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 21234 May 11, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on June 2, 1983.

CHANGES IN THE MEETING: This meeting has been rescheduled for June 9, 1983, at 10 a.m.

Date: May 11, 1983.

[S–692–83 Filed 5–11–83; 3:38 p.m.]

BILLING CODE 7600–01–M

7

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 10:00 a.m., May 21, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10:00: Meeting—Board of Regents
(1) Approval of Minutes, 14 March 1983; (2) Faculty Appointments; (3) Report—Admissions; (4) Report—Associate Dean for Operations—Budget; (5) Report—President, USUHS—(a) Awards, (b) Graduate Education, (c) Benefits Program Update, (d) Change in General Procedures and Delegations—Committee Structure, (e) Defense Officer Personnel Management Act, (f) Foundation for the Advancement of Military Medicine, (g) Certification to Receive Degrees
New Business

SCHEDULED MEETING: July 25, 1983.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board, 202/695–1052.

Dated: May 10, 1983

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[S–667–83 Filed 5–11–83; 9:00 am]

BILLING CODE 3810–01–M

federal register

Friday
May 13, 1983

Part II

Environmental Protection Agency

Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures; Final Rule and Notice Form

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-50002G; TSH-FRL 2998-5]

Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and notice form.

SUMMARY: This rule establishes premanufacture notice requirements and review procedures under section 5 of the Toxic Substances Control Act ("TSCA" or "the Act"). Section 5 of TSCA requires persons to notify EPA at least 90 days before manufacturing or importing a new chemical substance for commercial purposes. On January 10, 1979, EPA proposed a rule and forms to implement the section 5 notice requirements; the rule and forms were reproposed in part on October 16, 1979, and supplemented by a processor reporting proposal on August 15, 1980 and a clarification of importer reporting requirements on September 23, 1980. In this notice, EPA is issuing a final rule and notice form. The notice requirements and procedures established in this rule will replace the Interim Policy under which EPA has been conducting the new chemical notice review program since it began on July 1, 1979.

DATE: This rule is effective July 12, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), in Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

OMB Control Number 2070-0012.

This preamble discusses EPA's approach to implementing TSCA section 5 notice requirements, the provisions of this rule, and the contents of the notice form. EPA has also prepared several documents in support of this rule, including a Regulatory Impact Analysis, EPA's Response to Comments on Premanufacture Notice Requirements and Review Procedures for New Chemical Substances, and an Instructions Manual for Premanufacture Notification of New Chemical Substances ("Instructions Manual"). These documents are available from the Industry Assistance Office, Office of Toxic Substances (OTS), at the address above.

Following is an index to the remainder of this preamble.

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I. Introduction

A. Statutory Framework

Under section 5(a) of TSCA, 15 U.S.C. section 2604(a), persons must notify EPA at least 90 days before manufacturing or importing a new chemical substance for commercial purposes. A new chemical substance, as defined in section 3(2) of the Act, is any chemical substance that is not included on the list, or "Inventory," of existing chemical substances, compiled by EPA under TSCA section 8(b). EPA first published the TSCA Chemical Substance Inventory on June 1, 1979, and amended it in July 1980 and May 1982, with Cumulative Supplements. The Inventory is also regularly updated by the addition of new chemical substances which have undergone section 5 review and have entered commercial production.

Section 5(d)(1) of the Act specifies information that submitters must provide in section 5(a) notices: (1) test data in their possession or control; (2) descriptions of health and environmental effects data that they know or can reasonably ascertain; and (3) known or reasonably ascertainable information on chemical identity; proposed categories of use; proposed volume of production; byproducts resulting from manufacture, processing, use, or disposal; workplace exposure; and manner or method of disposal. Section 5(b) of the Act imposes additional data requirements for chemical substances subject to testing rules under section 4 and for chemicals that EPA, by rule under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Once EPA receives a section 5 notice, EPA has 90 days to review it, unless for good cause EPA extends the review period under section 5(c) for up to an additional 90 days. During the review period, EPA may act under section 5(e) or 5(f) to regulate the production or use of the new chemical substance. Section 5(e) authorizes EPA to prohibit or limit the manufacture (including import), processing, distribution in commerce, use, or disposal of a new chemical substance until information sufficient to evaluate its health and environmental effects is provided. EPA can take this action if it determines that the available information is insufficient for a reasoned evaluation and either (1) the substance may present an unreasonable risk of injury to health or the environment, or (2) the substance will be produced in substantial quantities and there may be significant or substantial human exposure to the substance or substantial release to the environment. Under section 5(f), EPA may regulate a new chemical substance if it finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance will present an unreasonable risk of injury to health or the environment.

If EPA has not prohibited manufacture or import of the chemical substance during the review period, these activities may begin as soon as the review period expires, subject to restrictions or testing requirements imposed during the review period. When manufacture or import begins and the notice submitter provides a notice of commencement, EPA adds the substance to the inventory. Thereafter, any person may manufacture or import the substance without submitting a section 5 notice to EPA (unless EPA has issued a significant new use rule on the chemical under section 5(a)(2)).

Certain chemicals are exempt from the section 5 notice requirements. They include categories of substances excluded from the TSCA definition of chemical substance: tobacco and tobacco products; nuclear materials; firearms and ammunition; and substances used solely as pesticides, foods, food additives, drugs, or cosmetics. In addition, section 5(h) authorizes exemptions from section 5 notice requirements for new chemical substances produced for test marketing or research and development, and for substances which exist temporarily as a result of a chemical reaction in the manufacture or processing of another chemical substance to which there is no human or environmental exposure. Also, under section 5(h)(4) EPA may, upon application and by rule, exempt the manufacturer or importer of any new chemical substance from all or part of the section 5 requirements if the Agency determines that the manufacture, processing, distribution in commerce, use, and disposal of the substance will not present an unreasonable risk of injury to health or the environment.

Section 5(d)(2) of the Act requires EPA to publish certain information on section 5 notices in the **Federal Register**, including at the least: (1) information on the identity and uses of the new substance, (2) a description of test data submitted under section 5(b), and (3) the results of the tests. In addition, at the beginning of every month, EPA must publish a list of: (1) new chemical substances undergoing section 5 review and (2) new chemical substances for which the notice review periods have expired since the previous monthly **Federal Register** notice.

Under section 14 of the Act, EPA is prohibited from disclosing confidential business information submitted under TSCA, including section 5, except in certain circumstances. Specifically, EPA may disclose confidential business information if it determines that disclosure is necessary to protect human health or the environment against an unreasonable risk of injury to health or the environment, and, to the extent necessary, if the information is relevant in any proceeding under the Act. Also, EPA is not prohibited from disclosing health and safety studies (including underlying data) on chemical substances for which a section 5 notice was received. However, the Act does not authorize EPA to reveal any such data that would disclose confidential processes or portions of a mixture.

B. Background

Section 5 notice requirements went into effect on July 1, 1979, 30 days after the publication of the Initial Inventory. On that date, persons who intended to manufacture new chemical substances, or import them in bulk, became subject to section 5 notice requirements. On July 30, 1980, EPA published a Cumulative Supplement to the Initial Inventory, which included chemical substances reported by processors and users and substances imported as part of mixtures or articles. This supplement, together with the Initial Inventory, make up the Revised Inventory. Thirty days after publication of the Revised Inventory, on August 30, 1980, section 5 notice requirements went into effect for persons who imported new chemical substances as part of a mixture. Under the Interim Policy and this final section 5 notice rule, importers of new chemical substances as part of an article are not subject to the section 5 notification requirements.

Since section 5 notice requirements went into effect, EPA has operated the notice review program under an Interim Policy. In the preamble to the January 10, 1979, proposed section 5 notice rule, EPA announced its Interim Policy for handling notices submitted before the publication of the Inventory. EPA modified this policy in an Interim Policy Statement published in the **Federal Register** of May 15, 1979 (44 FR 28564). This statement extended the Interim Policy's coverage to all notices filed before the effective date of the final section 5 rule and notice form.

EPA issued a Revised Interim Policy Statement in the **Federal Register** of November 7, 1980 (45 FR 74378). This statement clarified the May 15 statement and discussed in more detail the type of information EPA expected to receive in notices, EPA's interim procedures for handling confidential information, and procedures for submitting and reviewing test-marketing exemption applications. The operation of the review program under the Interim Policy is discussed later in this preamble.

EPA proposed a rule to implement section 5 notice requirements in the **Federal Register** of January 10, 1979 (44 FR 2242). This proposal included a description of the applicability of section 5 requirements, the general procedures for submitting notices, information requirements in the notices, and EPA's procedures for processing information in notices, including confidential business information. EPA also proposed notice forms for manufacturers, importers, foreign manufacturers and suppliers, and processors and customers.

In response to public comment on the January 10 proposal, EPA reproposed certain parts of the rule and forms in the **Federal Register** of October 16, 1979 (44 FR 59764). In particular, the reproposal shortened the notice form, reducing the information required; it revised procedures for asserting and substantiating claims of confidentiality; and it revised the proposed supplemental reporting requirement under section 8(a) of TSCA. In addition, EPA proposed in the **Federal Register** of August 15, 1980 (45 FR 54642) that persons notify EPA before they processed for TSCA commercial purposes substances that were manufactured or imported for purposes exempt from TSCA reporting. In the **Federal Register** of September 23, 1980, EPA proposed a clarification of reporting responsibilities of importers in the January proposal (45 FR 63806). Finally, EPA issued a statement in the **Federal Register** of July 2, 1982 (47 FR 28969) stating that, under the Interim Policy, submitters were no longer required to substantiate confidentiality claims at the time a notice is submitted.

With this notice, EPA is now promulgating final section 5 notice requirements and review procedures. This rule modifies the earlier proposals

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in light of EPA's experience under the Interim Policy and public comments on the rule. The rule will become effective 30 days after publication of this notice. Until then, EPA will continue to operate the notice review program under the Interim and Revised Interim Policy Statements.

II. General Approach to Notice Review

In conducting its review of a new chemical substance, EPA assesses the risks associated with all phases of the life cycle of the substance, including its manufacture, import, processing, distribution in commerce, use, and disposal. The review is based on information provided by the submitter in the notice and on information EPA may obtain elsewhere, for example, in the literature searches on new substances and their structural analogues that EPA conducts as part of its new chemical review. However, it is ultimately the notice submitter's responsibility to provide enough information for an adequate risk assessment.

In conducting its review, EPA considers a number of different factors, including the potential toxicity of the substance which is determined from test data submitted in the notice or obtained elsewhere, data on structural analogues, and structure-activity analyses. EPA also reviews the potential for humans and the environment to be exposed to the substance during uses proposed by the notice submitter. Also, because EPA must assess the "reasonableness" of any risk, it considers such nonrisk factors as the possible economic benefits of the substance and the availability of substitutes—or whether a substance is intended as a substitute for a more toxic substance.

Because the Act explicitly requires EPA to assess risks associated with the entire life cycle of new chemicals, EPA evaluates both the new chemical substance and related substances, such as impurities, byproducts, degradation products, unintended reaction products, and other chemical substances associated with the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance, even if these related substances are on the Inventory.

On the basis of its assessment, EPA may take action during the review period under section 5(e) to regulate the substance while EPA obtains more data, or under section 5(f) to regulate manufacturing, processing, distribution in commerce, use, or disposal, if EPA determines that the substance will present an unreasonable risk. EPA may also issue a follow-up reporting requirement under section 5(a)(2) or 8(a) or regulate the chemical under section 5(b)(4) (risk list). EPA, however, can regulate a substance only if it takes positive action, either by order or by rule. Without such action during the review period, a substance can enter commercial production unregulated under TSCA. As a result, section 5 of the Act does not establish a registration program, and EPA has not in any sense "approved" substances that have passed through review without regulation.

From commencement of the notice review program on July 1, 1979, to March 31, 1983, EPA received 2,201 valid premanufacture notices. Of the total number, the review period had expired on 1,878 and 777 had entered commercial production. In addition, EPA reviewed 196 test-marketing exemption applications under section 5(h)(1) of the Act and granted 173 such exemptions. During this period, EPA issued seven section 5(e) orders regulating the production of 18 new chemical substances pending the development of additional data, and entered into voluntary control agreements with the submitters of 49 notices. In addition, submitters withdrew nine section 5 notices in the face of likely regulation.

Under the Interim Policy, EPA has gained experience in reviewing notices, which it has used in developing the final section 5 notice rule, and it has established review procedures that will continue when this rule is effective. The following sections outline our general review procedures for notices on new chemicals.

A. Notice Review Process

The notice review process established by EPA has six major phases: prenotice communication, process start-up, initial review, detailed review, regulatory response, and process closeout. All new chemicals are not subject to each phase.

1. *Prenotice Communication.* The EPA Office of Toxic Substances, which is responsible for the section 5 notice review program, employs a Prenotice Communications Coordinator to assist persons preparing a notice or considering the submission of a notice. The Prenotice Communications Coordinator provides guidance on a wide variety of topics, and refers persons to the appropriate EPA staff members for guidance on other questions. Topics for prenotice inquiries include the scope of TSCA and this rule, the contents of the TSCA Chemical Substance Inventory, the notice form, section 5 exemptions, premanufacture testing, confidentiality and generic name development, and notice review procedures.

The Prenotice Communications Coordinator can be reached by telephone at 202–382–3745 or by writing to the Prenotice Communications Coordinator, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

2. *Process Start-up.* Process start-up begins when EPA receives a notice. The OTS Document Control Officer assigns a premanufacture notice number to the notice and acknowledges the receipt of the notice to the submitter. The acknowledgment includes the date when the OTS Document Control Office received the notice. The 90-day review period begins on the date of receipt.

During process start-up, OTS staff review the notice to determine whether the substance and proposed uses are subject to section 5 notice requirements and whether all required information has been submitted. In addition, the Chemical Substance Inventory is searched to ensure that a section 5 notice is required, and the **Federal Register** notice required under section 5(d)(2) is prepared. This notice includes the identity of the new chemical substance; the premanufacture notice number; the name of the submitter; information on production, exposure, and use; and test results. Information claimed as confidential is omitted from the notice or masked by generic descriptions. At the same time, the OTS Reading Room establishes a public file containing a nonconfidential version of the notice.

A Notice Manager is assigned to each notice. The Notice Manager coordinates the review and serves as the EPA contact on all matters concerning the notice. Persons wishing to contact the managers of particular notices can obtain their names and telephone numbers from the Prenotice Communications Coordinator.

3. *Initial Review.* During the initial review period, EPA identifies chemical substances which require more detailed review and which are candidates for possible regulatory action. During this phase, EPA conducts a preliminary analysis of the chemical identity, physical and chemical properties, proposed uses, potential toxicity, environmental effects, human exposure, environmental release, and economic benefits. EPA uses the information contained in the notice, in certain cases searches the scientific literature for data on the substance and related substances, and, when necessary, seeks additional information from the submitter. Initial review ends when the staff reviews available risk data and nonrisk information and decides whether more detailed review is necessary, possibly in support of an action under section 5(e) or 5(f), or under other sections of the Act.

4. *Detailed Review.* During detailed review, the Agency assesses the concerns it identified during initial review. EPA also examines the benefits to society of the new chemical substance and the availability of substitutes. After assessing the risks and certain nonrisk information, EPA analyzes possible regulatory or other control measures. If necessary, EPA extends the notice review period under section 5(c).

5. *Regulatory Response.* After completion of its detailed review, EPA may decide to regulate the substance during the review period. It may issue an order under section 5(e) if EPA finds that the substance may present an unreasonable risk of injury to health or the environment, or that it may be produced in substantial quantities, pending the development of additional data. EPA may control the substance under section 5(f) if it finds that the substance will present an unreasonable risk. EPA may also identify the substance as a candidate for regulation under section 5(a)(2), 5(b)(4), or 8.

6. *Process Closeout and Entry on the Inventory.* If EPA does not take action to regulate a substance during the review period, the submitter may manufacture or import the new chemical substance without restriction, as soon as the notice review period expires. The submitter must notify EPA by letter when manufacture or import begins. This letter must be sent to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M Street, SW., Washington, D.C. 20460. This notice of commencement must contain: the specific identity of the chemical substance, its premanufacture notice number, and the date when manufacture or import begins. When EPA receives this letter, the substance is added to the Inventory.

B. Test-Marketing Exemption Applications

Under section 5(h)(1) of the Act, persons may apply for an exemption from section 5(a) or 5(b) reporting requirements to manufacture or import a new chemical substance for test-marketing purposes. EPA may grant an exemption if the applicant shows to EPA's satisfaction that the test-marketing activities will not present any unreasonable risk of injury to health or the environment. Therefore, EPA must make an affirmative finding that the test marketing will not present any unreasonable risk, and manufacture or import cannot begin until EPA grants the exemption. This standard differs from the finding EPA must make to take regulatory action on a new chemical under section 5(e); to act under section 5(e), EPA must conclude only that there may be an unreasonable risk. Under section 5(h)(6), EPA has only 45 days to approve or deny an exemption application. This limits the extent to which EPA can gather information beyond that contained in the test-marketing application.

To ensure an adequate review, test-marketing exemption applicants should include in their applications, at a minimum: (1) all existing data regarding health and environmental effects of the substance, including physical/chemical properties or, in the absence of such data, a discussion of toxicity based on structure-activity relationships and relevant data on chemical analogues; (2) the maximum amount to be manufactured or imported for test marketing; (3) the maximum number of persons who may be provided the substance during test maketing; (4) the maximum number of persons who may be exposed to the substance as a result of test marketing; (5) information on estimated duration and routes of exposure; and (6) a description of the test-marketing activity, including the length of time that will be required and how the activity may be distinguished from full-scale commercial production and from research and development. These items are set out in § 720.38(b) of the final rule.

C. Regulatory Actions

By March 31, 1983, EPA had issued seven orders under section 5(e) to control a total of 18 new chemical substances. The first three orders would have prohibited production of the new substances pending the development of further information. However, in each of the three cases, the manufacturer or importer withdrew its notice from review, rather than allow the order to go into effect. EPA also issued four consent 5(e) orders. These consent orders allow manufacture of the new chemical substance under specific restrictions pending the development of additional information. In addition, nine section 5 notices have been withdrawn by submitters in the face of likely regulation under section 5(e) or 5(f), but before orders were actually issued.

EPA has also reached voluntary agreements with a number of notice submitters rather than taking formal regulatory action. By March 31, 1983, the submitters of 19 notices had agreed to conduct testing in response to EPA concerns. Measures to control exposure, including labeling, Material Safety Data Sheets, and worker protection devices, where agreed to by the submitters of 30 notices, and the review periods for an additional 43 notices were suspended in response to EPA's concerns, to allow the submitters time to develop additional information voluntarily.

III. Provisions of the Rule

This unit discusses the provisions of the rule and specifically points out where these provisions differ from the January 1979, October 1979, and August 1980 proposals. In a separate document, Response to Comments on the Premanufacture Notice Requirements and Review Procedures, EPA discusses in more detail its response to comments on the earlier proposals. The Response to Comments is available in the OTS Public Reading Room.

A. Applicability

1. *Who Must Report.* Section 720.22 of the rule specifies who is subject to the section 5 notice requirements. These provisions closely follow those proposed in January 1979, which were based on the reporting requirements for the Initial Inventory. A detailed discussion of who must report follows.

a. *U.S. manufacturers.* Persons who intend to produce or manufacture a new chemical substance in the United States for a commercial purpose must submit a notice. Only manufacturers that are incorporated, licensed, or doing business in the United States may submit a notice. Persons who extract a new chemical substance from a previously existing substance, or a complex combination of substances, are manufacturers of that new chemical substance.

EPA has revised the definition of "manufacturer" in the final rule to include certain persons who contract with a manufacturer to make a chemical substance (sometimes known as "toll manufacture"). Under the definition in the final rule, a person who contracts with a manufacturer is also a manufacturer if the substance is manufactured or produced exclusively for that person, and that person specifies the identity of the substance and controls the total amount produced and the basic technology for the plant process. In this situation, the person who contracts with the actual manufacturer must submit the notice. This provision does not apply to the person who simply orders a specific chemical or a chemical with certain properties from a manufacturer. Instead, this provision only applies to the

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situation where the person not only specifies the chemical identity, but spells out the basic process for making the chemical (althought the actual manufacturer may make adjustments in the specified process that are necessary to adapt the process to the manufacturer's own equipment.)

The rule further restricts this provision to persons who have an exclusive relationship with the manufacturer (i.e., the manufacturer does not sell the chemical to anyone else). As a result, the person placing the order also determines the total amount to be manufactured. Therefore, if more than one person orders the new chemical, neither of them has specified the total amount to be manufactured and neither is responsible for submitting the notice; instead, the person who actually manufactures the chemical must submit the notice.

EPA has added this provision to deal with the situation in which one person decides to manufacture a specified amount of a certain chemical using a certain process, but contracts with a manufacturer to actually make the chemical. In this case, EPA believes the person contracting with the manufacturer is the most knowledgeable party and should be responsible for submitting the notice. EPA recognizes, however, that the actual manufacturer will often have extensive information that would be useful to EPA in its review of the new chemical. Therefore, EPA strongly encourages joint submissions (see § 720.40(e)) in this situation. Since both persons involved in the transaction are manufacturers, both are liable for the manufacture of the new chemical if a notice has not been submitted, or the review period has not expired.

EPA did not adopt the proposed requirement that manufacturers of new chemicals solely for export submit notices under section 5(a) of the Act. ("Manufacture solely for export" is defined in § 720.3(s) of the rule.) Instead, EPA will soon propose that manufacturers of chemicals solely for export submit notices to EPA under section 8(a) prior to manufacture. EPA eliminated the requirement that manufacturers of new chemical substances solely for export submit a section 5 notice in response to comments that questioned EPA's legal authority to require such reporting. These comments will be addressed more fully in the preamble to the proposed section 8(a) reporting rule for export-only chemicals.

The definition of "manufacture solely for export" places certain restrictions on domestic activity. The manufacturer of an export-only chemical may process it only at sites under the control of the manufacturer. Distribution in commerce is limited to the activities necessary to export the chemical. Also, the manufacturer of an export-only chemical may not use the chemical for any purpose, except in small quantities solely for research and development.

b. *Importers.* Under § 720.22(b) of this rule, persons who intend to import a new chemical substance for a commercial purpose are subject to section 5 notice requirements. This includes chemicals imported in bulk or as part of a mixture. Because it would be enormously difficult for an importer to determine the identity and Inventory status of each chemical substance in imported articles (e.g., automobiles), the rule does not require persons to submit notices on new substances imported as part of articles. However, new chemicals imported in containers used for transportation or for other purposes are imported in bulk, not as part of an article, and are subject to the notice requirements.

EPA has eliminated the separate importer notice forms; importers must now complete the general notice form. In their notices, however, importers are required to provide information only on exposure which occurs within the United States.

In the January 1979 proposal and in § 720.3(1) of this rule, EPA defines importer to include the person primarily liable for the payment of duties, the consignee, the importer of record, the actual owner, and any transferee. This definition, which is adopted from the definition of the U.S. Customs Service of the Treasury Department, is consistent with other definitions of importer issued under the Act.

Several commenters on the January 1979 proposal suggested that EPA's definition of importer did not adequately indicate which party in an import transaction was responsible for submitting a section 5 notice. In response to these comments, EPA clarified importer reporting responsibilities under section 5 in the **Federal Register** of September 23, 1980 (45 FR 63806). This clarification has been incorporated into the final rule in § 720.3(z) and § 720.22(b).

Under § 720.22(b), the "principal importer" in any transaction leading to the import of a new chemical substance must submit a section 5 notice. The principal importer is the first importer who selects the new chemical substance and determines the total amount to be imported. The principal importer must know that the substance will be imported, and only a person incorporated, licensed, or doing business in the United States may submit the notice. Occasionally, no one person may fit this definition exactly. In this case, the Prenotice Communications Coordinator should be contacted to determine the appropriate person to submit the notice. Otherwise, the incorrect party may submit the notice, and the notice review period will not begin to run until EPA determines who should have submitted the notice and that person actually submits it. Early consultation with the Prenotice Communication Coordinator will avoid this delay. If import of a new chemical substance occurs before the principal importer submits a notice and the review period expires, all importers involved in the transaction are liable.

The following paragraphs further explain the definition of principal imported.

i. *Selecting the chemical substance to be importer.* The principal importer selects the new chemical substance for import. Selecting the substance to be imported includes selecting it by a trade name or generic name as well as by its specific chemical identity. Therefore, the principal importer need not know the specific chemical identity of the imported substance. If the specific chemical identity of the new chemical substance is known only to the foreign manufacturer or supplier, and the manufacturer or supplier does not wish to reveal the identity to the U.S. importer, it can report the identity directly to EPA. (See § 720.40(e) of the rule.) In this way, foreign companies can protect confidential business information. In any case, however, EPA must know the identity of the substance before the review period can begin.

Importers, like manufacturers, are responsible for determining whether their substances are on the Inventory and therefore whether they are new chemical substances subject to section 5 notice requirements. A principal importer that does not know the identity of a chemical substance it intends to import may have its foreign manufacturer or supplier, or some other person, report the chemical identity to EPA using the *bona fide* procedures described in § 720.25 of the rule. The principal importer would provide the evidence of a *bona fide* intent to import the chemical. EPA will then search the Inventory for the substance. If a notice is required, EPA will inform the importer. As a result, confidential chemical identity will be protected, and importers need not file unnecessary notices.

ii. *Knowing that the substance will be imported.* A principal importer must know that the new chemical substance will be imported into the United States, rather than manufactured domestically. If a person orders a new chemical substance directly from a foreign firm, EPA will consider that person to know that he or she is importing the substance. If a person orders a chemical from a U.S. firm and does not know and has no reason to know that the U.S. firm will fill the order by importing a new chemical, the person would not be subject to notification requirements or liable under section 15 for failure to submit a notice. In that case, the U.S. firm filling the order would be required to report.

iii. *Specifying the total amount to be imported.* The principal importer specifies the total amount of the chemical substance to be imported. If orders are collected from several customers, the person who collects the orders is the person who specifies the total amount to be imported and is subject to the notice requirements of this rule. Individual customers of the principal importer do not specify the total amount, even though one might have a disproportionately large order.

iv. *Incorporated, licensed, or doing business in the United States.* A principal importer must be incorporated, licensed, or doing business under the laws of the United States.

c. *Processors.* In August 1980, EPA proposed that persons be required to submit a section 5 notice to EPA before they processed for TSCA commercial purposes substances previously exempt from reporting. Specifically, this applied to byproducts; tobacco and tobacco products; nuclear materials; substances used solely as pesticides, firearms, ammunition, foods, food additives, drugs, and cosmetics; substances manufactured before January 1, 1975, and not processed and reported for the Inventory after that date; research and development (R and D) chemicals; and substances granted test-marketing exemptions.

EPA proposed processor notification requirements to close a gap in section 5 rules. EPA recognized that not many chemicals would be subject to notification requirements under this portion of the rule; however, EPA saw a need to review the risks associated with the processing and use of previously exempt substances for TSCA purposes before these activities occurred.

Persons who commented on the proposal argued that the requirement was unnecessary for R and D and test-marketed substances. They argued that manufacturers of test-marketed substances know how persons who buy the substances are using them because this information is necessary to make sure they are in compliance with the terms of the particular exemption. Also, manufacturers of R and D chemicals often know how their customers are using these chemicals. Therefore, EPA has eliminated the processor notification requirement for R and D and test-marketed substances. Of course, if a company that manufactures or imports a chemical for R and D or test-marketing purposes learns that its customer is using the chemical substance for nonexempt commercial purposes, manufacture or import of the chemical substance for sale to that customer for that purpose must cease until a section 5 notice is submitted and the review period expires.

EPA now also believes processor notification is inappropriate for nuclear materials, tobacco, and tobacco products because these substances are exempt from TSCA, regardless of how they are used. In addition, EPA believes that notification by processors of pesticides for nonexempt commercial uses is unnecessary because the uses of registered pesticides are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Of course, if a person intends to manufacture a pesticide for nonpesticide uses, these uses would not be subject to FIFRA. However, in this case, the manufacturer would be required by the statute to notify EPA under section 5(a)(1)(A) if the substance were not on the Inventory.

EPA also believes that notification for the processing of food and food additives for nonexempt purposes is unnecessary. These substances will already have been approved for human ingestion by the Food and Drug Administration (FDA). FDA also has jurisdiction over cosmetics and devices, as defined by the Federal Food, Drug, and Cosmetic Act. Therefore, EPA believes that notification by processors of food, food additives, and cosmetics is unnecessary, especially since persons would still be required under section 5(a)(1)(A) to notify EPA before they manufactured these substances for nonexempt uses.

Finally, EPA believes that processor notification requirements are unnecessary for the nonexempt processing of byproducts which have no separate commercial purpose. As is true of R and D and test-marketed substances, the manufacturer of a byproduct is expected to know of any nonexempt uses planned by its customer. In such cases, the byproduct would then be manufactured for a commercial purpose and the manufacturer would be required to submit a notice. Notification requirements are also unnecessary for nonexempt processing of substances which have not been manufactured since January 1975, since such processing rarely occurs.

Based on public comments and its reevaluation of the proposal, EPA now believes that processor notice requirements are unnecessary. Therefore, EPA has not included these requirements in the final rule.

d. *Agents and joint submitters.* Under § 720.40(e) of the rule, persons required to submit a section 5(a) notice may designate an agent to submit the notice for them. Both the person originally subject to the notice requirements and the agent must sign the certification on the form. Therefore, both persons are responsible for false or misleading statements in the notice. The person originally subject to the notice requirements remains responsible for the submission to EPA of all required information known to or reasonably ascertainable by him or her and all test data in the person's possession or control.

Persons may also submit joint section 5(a) notices to EPA. For example, a principal importer may ask other parties in the U.S., such as customers, to complete certain sections of the form if they have relevant information. All persons submitting the notice must sign the certification on the form. They must also assert all confidentiality claims according to the procedures of this rule. However, the person responsible for the notice under section 5(a) is not absolved of statutory notice requirements by arranging a joint submission. This person is required to complete all mandatory sections of the form, to the extent that he or she knows or can reasonably ascertain the required information, even if another person also submits a certain section. If a joint notice is submitted, the notice review period will not begin until EPA has received all required parts of the notice. Therefore, the person subject to the notice requirements should indicate to EPA who else will be submitting parts of the notice and identify those parts. EPA will acknowledge receipt of the notice when it has received submissions from all of the joint submitters.

2. *What chemical substances must be reported.* Section 5(a)(1)(A) of the Act requires persons to notify EPA before manufacturing or importing any new chemical substance, except for substances exempt under section 5(h). New chemical substances are chemical substances not included in the TSCA

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Chemical Substance Inventory compiled and updated under section 8(b).

Under section 3(2) of TSCA and § 720.3(e) of the rule, chemical substances are defined as any organic or inorganic substance of particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any element or uncombined radical. However, the following substances are excluded from the TSCA definition of chemical substance: mixtures; tobacco and tobacco products; nuclear materials; firearms and ammunition; and substances used solely as pesticides, foods, food additives, drugs, and cosmetics.

Manufacturers and importers are responsible for determining whether a substance is a new chemical substance under TSCA and therefore whether they are subject to section 5 notice requirements. The published Inventory will enable persons to determine whether many specific chemical substances have been entered on the list and therefore are not new. However, in difficult cases, EPA will assist persons in ascertaining whether specific substances are on the Inventory.

If a chemical substance is listed on the public Inventory under a generic name to mask its confidential identity, persons will not be able to determine if a specific substance falling into that category is a new chemical substance. Therefore, under § 720.25(b) of the rule, EPA has established procedures for informing persons whether a substance they intend to manufacture or import is a substance on the confidential Inventory, or whether it is a new substance subject to the section 5 notification requirements. Under these procedures, persons requesting this information from EPA first must demonstrate a *bona fide* intent to manufacture or import the substance by submitting the items listed in § 720.25(b)(2). These items have not changed from the proposed rule, except that the person need not have a sample of the substance available. EPA has found that samples are unnecessary to establish a person's intent to manufacture or import the chemical or to determine whether the chemical substance is on the Inventory. If an importer cannot provide certain requested items related to chemical identity because its foreign manufacturer or supplier claims them confidential, the importer can request the foreign manufacturer or supplier to send them directly to EPA.

EPA will respond to these inquiries within 30 days of receipt of a complete request. If the Agency determines that a substance is not on the Inventory, it will notify the person submitting the *bona fide* inquiry that a section 5 notice must be submitted before the substance is manufactured or imported. If EPA determines that the substance is on the Inventory, it will inform the person that a notice is not required. At the same time, EPA will inform the person who originally submitted the confidential substance for the Inventory that another person has demonstrated a *bona fide* intent to manufacture or import the substance and has been notified that the substance is on the confidential Inventory.

3. *Exempt chemical substances.* Section 5(h) of the Act exempts, or authorizes EPA to exempt, certain chemical substances from section 5 notice requirements. In §§ 720.36 and 720.38 of this rule, EPA clarifies several of these exemptions. The sections have not been substantively changed from the corresponding sections of the January 1979 proposal. The most important of the exemptions are discussed below.

a. *Small quantities solely for research and development.* Chemical substances manufactured or imported only in small quantities solely for research and development (R and D) are exempted from section 5 notice requirements if the submitter complies with § 720.36 of this rule.

Like the Inventory reporting rules, this rule defines "small quantities solely for research and development" as quantities that are not greater than reasonably necessary for scientific experimentation, research, or analysis (including activities associated with product development). As the Inventory rule and support documents indicate, research and development activities include tests of physical, chemical, production and performance characteristics. The chemical must be used by, or directly under the supervision of, a technically qualified person. The manufacturer or importer must evaluate information on the chemical and inform all persons engaged in experimentation, research, or analysis on the new chemical substance of any risk to health.

The section 5 notice rule deletes a note included in the Inventory definition. The note provided that, for purposes of the Inventory, any substance manufactured, imported, or processed in quantities of less than 1,000 pounds a year would be presumed to be manufactured solely in small quantities for R and D, unless the submitter could certify that the substance was used for purposes unrelated to R and D.

This note was intended to provide guidance for manufacturers in evaluating low volume chemicals to determine whether they were eligible for the Inventory. If the note were included in the section 5 notice rule, however, it might be misconstrued to mean that section 5 notices are not required for any substance produced in quantities of less than 1,000 pounds a year, or that section 5 notices must be submitted for all substances produced in quantities greater than 1,000 pounds a year. This deletion does not change the R and D exemption of the Inventory reporting rule, but it eliminates a possible source of misunderstanding about how substances qualify for such exemptions. In the future, the Agency may clarify the R and D exemption by establishing a more precise definition of "small quantities" for specific substances or groups of substances.

The final rule makes clear the manufacturer's responsibility under section 5(h)(3) to ensure that certain persons are notified of any risk to health that the manufacturer believes may be associated with R and D activities on a substance. This notification must go to all persons engaged in experimentation, research, or analysis on the substance, including manufacture, processing, use, transport, storage, or disposal of the substance for research and development purposes. The technically qualified individual supervising the R and D activities must ensure that the notice to these persons is adequate. The rule does not prescribe methods of notification. Rather, it identifies certain acceptable procedures, and leaves it to the individual manufacturers or importers to ensure that they adequately inform all the persons who must be notified.

Section § 720.36(d) states that, upon request, manufacturers and importers must make available to EPA any information evaluated by the manufacturer or importer in determining the need for notification. This provision differs from § 720.38(d) of the proposed rule which would have required the manufacturer or importer to make this information available to any person exposed to the R and D substance, as well as EPA. EPA has dropped this requirement because it reduces the burden on manufacturers or importers since making this information available to persons exposed to the R and D substance often would require preparation of nonconfidential summaries, and possible disclosure of sensitive information such as medical records. This change will not endanger the health of exposed persons since they will be notified of any risk by the

manufacturer or importer. In addition, EPA will have access to this information, so it can ensure that the notification of exposed persons is adequate.

The R and D provisions apply to all substances manufactured or imported after the effective date of the final rule, including substances manufactured or imported earlier under the R and D exemption. Therefore, persons that have been manufacturing or importing a chemical under a R and D exemption before the effective date of the final rule cannot continue to manufacture, import, process, distribute in commerce, use, or dispose of this chemical under the exemption until they have complied with all the requirements described in § 720.36.

b. *Test-marketing exemptions.* Section 5(h)(1) of TSCA and § 720.38 of this rule authorizes EPA, upon application, to grant exemptions from any requirements of section 5(a) or 5(b) of the Act for test-marketing purposes. To grant such an exemption, the Agency must find that the test marketing will not present any unreasonable risk of injury to health or the environment. Section 5(h)(6) and § 720.38(d) provide that EPA must either approve or deny the application within 45 days of its receipt and must publish a notice of its decision in the **Federal Register.** If EPA grants an exemption, it may impose restrictions on the test-marketing activities. The manufacturer or importer must submit a section 5 notice for activities beyond those permitted under the exemption.

In Unit II.B. of this preamble, EPA provides guidance to persons submitting test-marketing exemption applications and describes the information these applications should include.

c. *Nonisolated intermediates.* Under § 720.30(g)(8) of the rule, "any nonisolated intermediate" is not subject to the notice requirements. Intermediates are defined in § 720.3(n) as substances that are consumed in whole or in part in chemical reactions used for the intentional manufacture of other substances or mixtures, or that are intentionally present for the purpose of altering the rate of such reactions. Under § 720.3(w), a nonisolated intermediate is an intermediate that is not intentionally removed from the equipment in which it is manufactured.

This definition modifies the definition of intermediate in the Inventory reporting rule (40 CFR Part 710). Under the Inventory rule, substances that were not intentionally removed from the equipment in which they were manufactured were not considered intermediates and were not subject to the reporting requirements of the Inventory rule. In the section 5 notice rule, EPA has defined these substances as intermediates, but has exempted them from reporting requirements as "nonisolated intermediates." The change in definition is only for the sake of clarity, and does not change the status of these substances.

EPA is exempting nonisolated intermediates for several reasons. First, such substances are often extremely difficult to identify; in developing the reporting rule for the TSCA Inventory, EPA received numerous comments on this point. Second, because exposure to such substances generally is limited, they generally pose little risk to human health and the environment. Third, in excluding nonisolated intermediates from the Inventory, the Inventory reporting rule stated that these and other excluded substances will not be subject to the section 5 notice requirements. (See § 710.4(d).)

d. *Byproducts.* This rule expands the definition of byproduct contained in the Inventory rule to include substances which are formed without a separate commerical purpose during the processing, use, and disposal of the new chemical. Section 5(d)(1)(A) of the Act authorizes EPA to require information on such substances. This expanded definition is consistent with the definition of "byproduct" proposed in January 1979. Under both the proposed rule and the final rule, substances which were not eligible for inclusion on the Inventory are not subject to the section 5 notice requirements.

B. Information Submissions

1. *Scope of information requirements.* On January 10, 1979, EPA proposed notice requirements which included a notice form requiring reporting of detailed information on production, processing, use, and exposure of a new chemical substance. The mandatory section of the form was designed to give EPA enough information to conduct a detailed review for possible regulatory action under section 5(e) or 5(f). The form included an optional section, asking for information on industrial hygiene, engineering safeguards, and certain nonrisk factors. Based on public comments on the January proposal and EPA's early experience in reviewing notices, EPA reproposed a shortened form on October 16, 1979. This proposed form was designed to require only information needed for an initial assessment of a new chemical substance. Under both proposals, if EPA determined that it needed more information from the submitter or other persons, it could ask those persons to submit it voluntarily, or it could require the information through mandatory supplemental reporting under section 8 ("letter-writing" authority) or action under section 5(e).

In revising the information requirements for the final rule, EPA has considered the comments received on the previous proposals and EPA's information needs identified in its review of over 2,200 notices under the Interim Policy. The requirements are limited to (1) information clearly specified in the statute in sections 8(a)(2) (A) through (G) except (E), and (2) other information that is essential to the initial review of the potential health and environmental risks presented by a new substance and which reasonably falls within the intent of section 5(d)(1).

This rule further reduces the information requirements from those of the October 1979 proposal. Several commenters on the October 1979 proposal stated that EPA failed to require information identified in the January 1979 proposal as necessary for review of the risks associated with new chemicals. EPA agrees that much of this information can be important in the review of a new chemical substance. However, the Agency does not believe it is reasonable to require all such information for every substance reviewed under section 5 since EPA has found that detailed information is necessary only after it identifies a specific risk concern. The information required on the final notice form is sufficient for EPA to identify substances of potential concern and to determine what additional information is needed in those cases for which more detailed review is necessary.

Under the Interim Policy, EPA has contacted submitters during the review period and requested that they supply additional information when this information was important for its review. Submitters have been generally cooperative in providing the information. In developing this rule, EPA has assumed that such cooperation will continue in the future. Failure to supply such information when it is important to the review may unnecessarily complicate the review, and may result in extension of the review period under section 5(c). If EPA does not receive the information it believes is necessary for review, it will take action under section 5(e), when appropriate, to regulate the substance pending submission of the information.

Notice submitters must provide all information requested in the form to the extent that they know or can reasonably ascertain it. Submitters are also required to provide test data in their possession

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or control and descriptions of other data known to or reasonably ascertainable by them, if those data concern the environmental or health effects of the substance. These requirements are described in more detail in the following sections. In addition to required information, submitters may provide EPA with any other information they believe should be considered in its review of the substance. The notice is incomplete, and the review period will not begin, unless information in the notice form and attachments is in English, except that published scientific literature submitted with the notice need not be translated.

The Importer Form proposed in October 1979 has been incorporated into the general notice form resulting in a single form that will be used by all submitters reporting under section 5(a)(1)(A). This change will simplify notification for submitters since they will have to become familiar with only one form and there will be no confusion as to which form should be submitted. EPA recognizes that some importers may not have the same amount of information available to them as domestic manufacturers. Importers, just as domestic manufacturers, need only submit information specified on the form to the extent that they know or can reasonably ascertain it. Importer notices, however, will be held to the same standard as domestic notices in determining whether the notice is complete or whether action under section 5(e) is necessary to obtain additional information.

The units below discuss the level of detail required in completing the form, and other general issues.

a. *Known to or reasonably ascertainable by.* Section 5(d)(1)(A) of the Act requires that notices contain certain information on chemical identity, use, and exposure insofar as it is "known to the person submitting the notice or insofar as reasonably ascertainable." This rule defines known or reasonably ascertainable information as "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know." In response to commenters who believed that the phrase "or could obtain without unreasonable burden or cost" is unclear, EPA has dropped this phrase from the definition. This is not a substantive change, however, since such information is included in "information that a reasonable person . . . might be expected to possess, control or know." Therefore under the new definition, just as it is in the proposed definition, cost and burden are factors in determining whether information is known to or reasonably ascertainable by the submitter.

Many commenters on the January and October proposals expressed difficulty in determining what information EPA considers to be "reasonably ascertainable." Specifically, they were uncertain about the effort that EPA expects them to make in obtaining certain types of information, and what would constitute an "unreasonable burden or cost." In two parts below—" Information From Other Persons" and "Test Data"—EPA discusses in more detail its interpretation of "reasonably ascertainable" in specific contexts. Also, in Unit C.1.c. below, "Incomplete Submissions," EPA briefly describes notices received under the Interim Policy that did not contain "reasonably ascertainable" information. However, EPA believes that it is not possible to define "know to or reasonably ascertainable" more explicitly.

Also, as discussed in the preamble to the October 1979 proposal, a detailed definition of "reasonably ascertainable" may result in inequitable treatment of notice submitters. What would be a reasonable effort for one company under certain circumstances might be extremely burdensome for the same company under different circumstances, or for another company in the same situation. The meaning of this phrase will depend on the specific circumstances surrounding the development of the new chemical. The nature of the substance, the projected sales volume and profit, and the size of the company are factors in determining what information can reasonably be obtained. Therefore, EPA believes that "reasonably ascertainable" can be defined only on a case-by-case basis and that notice submitters must be responsible for deciding when and how to obtain required data, and when required information is not reasonably ascertainable. Certainly, in most instances, data-gathering that is so costly as to preclude commercialization is not reasonable.

To minimize the burden on submitters, EPA has dropped the provision in the proposed rule that would have required submitters to provide a brief description of their procedures for identifying data that are known to or reasonably ascertainable by them. EPA believes this provision is unnecessary; EPA generally can judge from the notice itself whether it includes information that is known to or reasonably ascertainable by the submitter. EPA will also check this as part of its compliance inspections.

b. *Information from other persons.* In many cases, persons other than the notice submitter may have information necessary or useful for EPA's review. For example, processors and other customers may have information on exposure associated with use or release, and foreign manufacturers and suppliers may have information on chemical identity, impurities, and health and safety data. Some of this information must be submitted because it is considered to be in the submitter's possession or control, for example, information that the submitter's parent company or subsidiary has if the related company was involved with R and D, test marketing, or commercial development of the new chemical. Other information may be reasonably ascertainable by the submitter, if not already known, and therefore also must be included in the notice.

EPA, however, has not adopted the requirement proposed in January 1979, that submitters contact customers and ask them to submit a Processing and Consumer Use Form. EPA also has eliminated the request in the October 1979 form that submitters report the number of customers intending to use the new chemical substance in ways not known to the submitter and to report the percentage of production volume allocated to those customers during the first three years of production. The form does, however, ask submitters to estimate how much of the substance will be manufactured or imported for each known category of use.

EPA has eliminated mandatory customer contact because information from processors and other customers often is not necessary for substances that do not undergo detailed review. EPA has found that when this information is necessary, EPA reviewers can generally obtain it either informally from the submitter or from the published literature. Submitters, however, are still encouraged to obtain use and exposure data from potential customers for inclusion in the notice. The more complete the information in a notice, the less likely it is that EPA will need to seek more information later, possibly requiring an extension of the review period under section 5(c), or regulatory action to obtain information under section 5(e).

The elimination of mandatory customer contact will reduce the burden on submitters and their customers without significantly reducing the effectiveness of EPA's review. By requiring the submitter to estimate how much of a substance will be manufactured for known uses, EPA will be able to determine whether processing and use are likely to cause a problem, or whether more information is needed.

In the final rule, EPA has also eliminated the requirement that importers contact foreign manufacturers and suppliers, since much of the information they could provide (e.g., exposure to workers and release to the environment outside the U.S.) is not subject to EPA's review, and EPA generally does not have the authority to require foreign companies to report. More importantly, EPA believes that under the notice requirements in the final rule, the principal importer will contact its foreign manufacturer or supplier when necessary to obtain required information. For instance, if the principal importer does not know the specific identity of the new substance, it will contact the foreign manufacturer to obtain it; otherwise, the submission will be incomplete and EPA will not review it. Of course, the principal importer is encouraged to have its foreign manufacturer or supplier submit any other information useful for review to the importer or directly to EPA.

c. *Test data and other data.* Section 720.50 of the rule describes notice requirements for test data and other data related to the health and environmental effects of a new chemical substance. Under section 5(d)(1)(B) of the Act, submitters must report all test data related to health and environmental effects which is in their possession or control. Under section 5(d)(1)(C), they must provide a description of "any other" health and environmental effects data which they know of or can reasonably ascertain.

Health and environmental effects data on both the new chemical substance and related substances are necessary for an effective evaluation of risks that may be presented by a new substance. Therefore, the requirements to submit data apply to both the new chemical substance and related chemicals. Related chemicals include impurities, byproducts, degradation products, unintended reaction products, and other chemical substances related to the manufacture, processing, distribution in commerce, use, or disposal of the new substance.

To eliminate unnecessary reporting, § 720.50(c) imposes lesser requirements for data on related chemicals than are imposed for data on the new substance itself. Unlike the October 1979 proposed rule, the final rule does not limit the reduced requirements to related chemicals on the Inventory. Instead, they apply to all related chemicals, regardless of their Inventory status. The submitter is not required to provide published data on these substances because EPA can obtain the data elsewhere, regardless of whether or not they are on the Inventory. Therefore, submitters need only describe unpublished data on related chemicals.

i. *Definition of test data.* Section 720.3(gg) defines "test data." Tests, in EPA's definition, include both formal and informal tests and experiments. However, EPA no longer includes recorded observations, monitoring, or measurements as "tests"; instead, these would be "test data" if they were obtained in the course of a test or experiment. EPA believes this change more closely reflects the general understanding of these terms. Test data also include objectives, experimental methods and materials, protocols, results, and data analyses of tests and experiments, as well as raw data and other information relevant to the development and analysis of the data.

In the January 1979 proposal, the definition of "test data" included risk assessments. The final rule eliminates this provision, since EPA no longer believes that an analysis of the risk presented by the combined effects of hazard and exposure is described by the word "test." EPA has also eliminated the word "study" from the final definition of "test data" for the same reasons. Risk assessments are more appropriately included within the term "health and safety study," which is defined in § 720.3(k). EPA has added risk assessments to the examples of health and safety studies listed in § 720.3(k)(2).

In addition to reflecting more adequately the use of the term "test data" in the Act, the new definition will reduce the burden on submitters. Since risk assessments are now "other data" under the final rule, not "test data," submitters need only describe risk assessments which are known or reasonably ascertainable. Under the proposal, submitters were required to provide copies of all risk assessments which were in their possession or control.

The new definition of "test data," and the reduced reporting requirements which result, will not significantly affect EPA's ability to review the risk presented by new substances. If a risk assessment described by the submitter is needed for review, EPA will ask the submitter to provide it voluntarily. If the submitter does not provide it, EPA may extend the review period or take action to obtain it under section 5(e) of the Act.

ii. *Notice requirements for test data.* Section 720.50(a)(2) of the rule requires submitters to provide full reports on test data in their possession or control that are relevant to the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. These include data on the new chemical substance in pure form, technical grade, and formulated form. The rule requires a full report to be submitted for data on health effects, ecological effects, environmental fate characteristics, monitoring data, and physical and chemical properties related to health and environmental effects.

A full report must include experimental methods and materials, results, discussion and data analyses, conclusions, references, and the name and address of the laboratory that developed the data. EPA has dropped the requirement that the submitter provide data in a specified "full report format"; any format is acceptable if it includes the items listed. If the test data have been published in the open scientific literature, § 720.50(a)(3)(ii) authorizes submitters to provide only a standard literature citation. This provision reduces the requirements of the January 1979 proposal, which allowed submitters to cite articles containing test data only if the periodical in which the articles appeared was listed in Appendix I of the proposed form. Any other test data in the submitter's possession or control may be submitted in summary form. However, the submitter must provide a full report upon request by EPA.

Sections 720.50 (a)(4)(i) and (b)(4) of the rule exempt incomplete reports (e.g., from ongoing studies) from the full report requirements. However, submitters must describe the nature and objective of any incomplete study, report, or test; name and address of the laboratory developing the data; progress to date; types of data collected; significant preliminary results; and anticipated completion date. In addition, if the study or report yields significant preliminary or final results before the end of the notice review period, and if the results were not submitted with the notice, the submitter must provide the relevant study, report, or test results to the OTS Document Control Officer within 10 days of receipt; but in no event later than 5 days before the end of the notice review period. If the information becomes available during the last 5 days of the review period, the submitter must immediately inform its EPA contact for that notice by telephone. (See "New Information" below.)

iii. *Possession or control.* In the final rule, EPA has retained the definition of

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"possession or control" proposed on January 10, 1979. Several commenters on the January proposal suggested that this definition would impose an undue burden on notice submitters, while others believed that EPA's definition did not go far enough. EPA, however, believes that its proposed definition is appropriate. Under this definition, the Agency is likely to obtain all relevant data without imposing an unreasonable burden. In particular, by limiting the definition to affiliated companies associated with the development of the new chemical substance, EPA has focused the information requirement on the companies most likely to have relevant data and to profit from the new substance. Comments on "possession or control" are addressed more specifically in EPA's Response to Comments, which is available in the Public Reading Room.

iv. *Other data known to or reasonably ascertainable by the submitter.* Section 5(d)(1)(C) requires submitters to describe "any other data," including data from health and safety studies, on health and environmental effects that they know or can reasonably ascertain. In § 720.50(b) of the rule, EPA interprets "any other data" to be (1) test data not in the submitter's possession or control but known to or reasonably ascertainable by the submitter, and (2) any data, other than test data, that the submitter possesses, controls, knows, or can reasonably ascertain. For example, if the submitter knows of toxicity or environmental fate data in the possession or control of another person, the submitter is required under section 5(d)(1)(C) and § 720.50(b) to describe those data to EPA. If the data have been published in the open literature, the submitter need only provide a standard citation. If the data have not been published, or the study is incomplete, the submitter need only describe the data and provide a summary of the results (if available), or provide the names and addresses of persons who have the data.

The final rule requires less information to describe data from incomplete studies than was required by the January 1979 proposal. EPA recognizes that information such as a study's nature and purpose, progress to date, and significantly preliminary results on another persons's ongoing study will seldom be available to the submitter. Also, as a result of the revised definition of "test data," discussed in Unit B.1.c.i. above, risk assessments are "other data" under the final rule, and must be described to EPA as required by § 720.50(b).

Section 720.50(b)(1)(ii) clarifies EPA's interpretation of "known to or reasonably ascertainable" as it applies to data submitted under section 5(b)(1)(C). In this context, known to or reasonably ascertainable includes data known to employees or other agents associated with research and development, test marketing, or commercial marketing of a new chemical substance. These data include data learned by employees as a result of discussions, symposia, and scientific articles.

v. *Data that need not be submitted.* Efficacy data and monitoring data on exposure of human or ecological populations outside the United States need not be submitted. In addition, persons are not required to resubmit any data previously submitted to EPA, as long as they were not claimed confidential. Submitters should identify the data previously submitted, the date it was submitted, and the EPA office which received it. However, it is sometimes difficult or time-consuming for the Office of Toxic Substances to obtain such information from other EPA offices in time to complete its review. Therefore, EPA encourages submitters to include all relevant information with the notice.

Relevant data previously submitted to another Federal agency must be included with the section 5 notice. This represents a change from the proposed rules which would not have required notices to include information already submitted to other agencies. EPA made this change because experience under the Interim Policy indicates that it is difficult to obtain information from other agencies in time to analyze and use it during the 90-day review period. EPA does not believe this change will be burdensome to submitters, since relatively few data described or submitted as part of section 5 notices have been previously submitted to other Federal agencies.

d. *New information or data.* During the notice review period, submitters may obtain additional information that may be relevant to EPA's review. Section 720.40(f) of the rule requires submitters to provide EPA with this information if it materially adds to, changes, or makes significantly more complete the information contained in the original notice. Examples of information that must be submitted under this provision include: preliminary or final results of health and environmental effects tests not previously known to the submitter, or not complete at the time of notice submission; new uses not described in the notice; significant increases in estimated production volume; new information significantly adding to information on chemical identity (e.g., significant changes in impurity levels, new information characterizing complex reaction products or polymers); and similar information.

The proposed rule would have required this information to be submitted to EPA "immediately." Commenters asked for more specific guidance on how long they would have to submit new information. The final rule now specifies that the information must be submitted within 10 days of receipt, but no later then 5 days before the end of the review period. If the information becomes available during the last 5 days of the review period, the submitter must telephone its EPA contact for the notice "immediately." EPA interprets this to mean as soon as possible, generally within 24 hours.

2. *Section-by-Section Review of the Notice Form.* The following paragraphs describe the major differences between the form proposed on October 16, 1979, and the final form issued with this rule.

a. *Submitter identification.* This section remains generally the same as in the October form. However, submitters are now asked to provide prenotice communication, *bona fide* request, and test-marketing exemption numbers to help coordinate the Agency's review. The parent company no longer must be identifed because the Agency believes that it can be obtain this information from the submitter during the review period in the few instances it is needed.

The form also eliminates the requirement that submitters state the intended date of commencement of manufacture or import and submit evidence of intent to manufacture if the intended date is more than 3 years after the date of the notice. EPA agrees with commenters that the submitter's certification on the form is sufficient evidence of intent to manufacture or import. However, EPA generally encourages manufacturers and importers to submit notices as close as is feasible to 180 days before manufacture or import is expected to begin, since early notices are more likely to have more complete information.

b. *Chemical identity.* For the most part, the requirements for information on the new substance's identity remain the same as in the October 1979 proposal. However, manufacturers and importers of new polymers must provide slightly different information than that specified in October. Instead of providing the range of composition of

each monomer in the polymer, manufacturers need only estimate the typical composition of the monomers and other reactants, e.g., catalysts and initiators. This information is necessary to evaluate fully the composition of the polymer. Submitters also must provide a representative structural diagram. The Agency has found that the majority of submitters have been able to develop such diagrams. To define further the composition of the new polymer, submitters must provide an estimate of the percent of the polymer composition below 500 and 1,000 molecular weight and describe how the estimates were made. The Agency believes that such information is essential to characterize fully the unique identity of the new polymer and its associated risks.

The rule requires that manufacturers provide at least one generic name for the substance, when chemical identity has been claimed confidential. EPA agrees with commenters that the requirement to provide three names, contained in the October proposal, is unnecessary, since the three names generally mask the identity of the substance to a similar degree. EPA encourages submitters to consult with EPA to develop a useful generic name before submitting the notice. If EPA determines that the generic name provided with the notice is inadequate, submitters will be required to develop a new name when the identity is added to the Inventory upon commencement of manufacture.

In general, the specific chemical identity of a substance is a critical element of the notice. If a submission does not adequately provide this information, EPA will determine that it is incomplete. If the submitter does not know the identity of a new chemical substance—for example, because it imports the substance under a trademark or makes it from unknown reactants—the submitter may authorize another person to report the specific identity or information that allows EPA to determine the identity. The submission, however, will be considered incomplete and the review period will not begin until EPA receives this information. For a discussion of incomplete submissions, see Unit III.C.1.e. below.

c. *Production and use information.* This rule requires reasonable estimates of the maximum production volume during the first year of production and the maximum 12-month production volume during the first 3 years of production. EPA believes that these projections provide sufficient information to perform its exposure assessment and economic analysis. The proposed rule would have required submitters to report both maximum and minimum projections for each of the first 3 years of manufacture. Since EPA's review of notices under the Interim Policy has typically focused on the first year production volume and anticipated maximum volume, more detailed requirements are not justified.

The final rule requires information on the intended categories of use of the new substance in a level of detail similar to that contained in the January proposal. However, it does not require that the submitter consult the standard use classification system developed by EPA for providing its use description. EPA believes that the general concepts of "function" and "application" provide an appropriate method of categorizing uses. A description of use in terms of the substance's chemical function and the general application of that function will provide EPA with sufficient information to identify the populations exposed to the new substance and the nature of that exposure. The submitter also must provide the estimated percent of production volume devoted to each category of use.

Many commenters stated that EPA does not have the authority to require information beyond the broadest category of use (e.g., surfactant, photographic chemical) or that use information, at the level of detail required, is not typically known by the manufacturer. EPA disagrees. The category of use description required under these rules is consistent with the general intent under section 5(d)(1) to provide EPA with the information necessary for review. Adequate information on the use of a substance is critical in the evaluation of the potential risks associated with human exposure to and environmental release of the new substance in that use. EPA has found that the information required in this section is the minimum necessary to conduct a review of such risks. In addition, EPA has found that such information is available to the great majority of notice submitters because substances are typically manufactured for a particular use.

Under section 5(d)(2) of the Act, EPA must issue the uses or intended uses of a new substance for publication in the **Federal Register**. EPA will publish the use as reported in the notice unless it is claimed confidential. Consistent with the Act's requirements and the October proposal, this rule requires manufacturers who claim use to be confidential to provide a nonconfidential (generic) use description which EPA can issue for publication in the **Federal Register**.

d. *Hazard information.* This rule retains the requirement to submit a copy or reasonable facsimile of any hazard information which will be provided to workers or customers, e.g., a Material Safety Data Sheet. Several commenters stated that hazard information is not required under section 8(a)(2). EPA believes that such information falls clearly within the requirements of section 5(d)(1)(C) of the Act since it provides data on the potential exposure and health effects of the new substance. Such information has been an important factor in EPA's evaluation of new substances under the Interim Policy.

e. *Transportation and detection methods.* EPA has eliminated proposed questions on transport and detection methods. Again, experience indicates that data in response to these questions is not especially useful in notice review.

f. *Human exposure and environmental release information.* EPA has retained the requirement that submitters describe the manufacture and processing operations involving the new chemical substance at sites they control. Commenters on the October proposal stated that providing this information would be unduly burdensome and might jeopardize the confidentiality of process information. However, in its review of notices under the Interim Policy, EPA has found the process description necessary to make qualitative estimates of potential workplace exposure, to estimate the amounts of the new substance and byproducts released, and to evaluate estimates provided in other parts of the form. EPA has also found that process descriptions based on known or reasonably ascertainable information may be developed by submitters in less time than was originally anticipated, and that OTS procedures adequately protect any confidential business information contained in the notice.

In response to these comments, however, the Agency has reduced the amount of information it will require in the process description from the requirement proposed in October. EPA does not require that a mass balance of materials entering and leaving major unit operations and chemical conversions be provided, nor must submitters report the methods of transfer of materials and whether the operations are open or closed to the workplace. Based on its experience under the Interim Policy, EPA has found that identification of major unit operations and chemical conversions, identity and mass of materials entering

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the process, and points of release of the new substance is sufficient for its initial review and is information known to or reasonably ascertainable by submitters.

The sections of the form on occupational exposure to and environmental release of the new substance are largely unchanged from the October form. Instead of requiring the specific routes by which workers will be exposed, submitters need only identify the activities of workers. This more generic approach will still provide EPA with a more accurate indication of exposure potential. Submitters also are not required to provide estimates of the concentration of the new substance in the workplace because EPA can make such estimates from the process description to the extent necessary for its initial review. Submitters are now required to identify the type of control technology used to control environmental release since control equipment is frequently used and since manufacturers typically have identified the equipment that will be used by the time the notice is submitted. The final rule does not require estimates of the duration of release for each point of release. EPA will instead use reasonable estimates based on the duration of the process in its release analysis.

g. *Sites controlled by others.* The section on industrial sites controlled by others has been modified to require general information on the activities of customers who process and use the new chemical substance. Submitters must provide a narrative description of processing and activities focusing on those aspects which relate to the potential for human exposure and environmental release of the new chemical substance to the extent that they know or can ascertain this information.

The October proposal would have required submitters to provide the same quantitative estimates for sites controlled by others as for the sites which they controlled themselves. However, manufacturers typically do not have such detailed quantitative information on activities not under their control. Furthermore, the specific circumstances of customers' operations may vary, and all customers may not yet be known, so that it may be difficult to make quantitative estimates. The narrative description required in the form will provide sufficient information for EPA to evaluate potential worker exposure and environmental release at customers' sites for EPA's initial review, and allow identification of additional information needs where the Agency has identified a specific concern. In this case, EPA may contact the submitter or possible customers to obtain additional information.

h. *Consumer and commercial user exposure.* EPA has eliminated this section from the final form. Thus, manufacturer estimates of exposure that would result from commercial and consumer use of the new chemical substances or final products containing the new substance are not required. EPA intends to use the information provided in the "use" section of the form and other information, such as production volume, physical/chemical properties, and its own knowledge of typical commercial and consumer exposure scenarios, to evaluate commercial and consumer exposure. EPA's experience under the Interim Policy indicates that it can conduct such an evaluation where the submitter provides the information required in other sections of the form.

i. *List of attachments.* The list of attachments is generally the same as it was in the October form. For a discussion of test data requirements, see Unit III.B.1.c. of this preamble.

j. *Optional information.* The final form does not contain a detailed optional information section as was proposed in the January 1979 form. EPA believes such a detailed section may limit the information that might be submitted and, by identifying specific questions, may make optional information seem mandatory. The Instructions Manual describes generally those items in which additional information would be most helpful in EPA's review. For example, submitters may wish to provide information on relative risk, process chemistry, efficacy, additional exposure and environmental release information, industrial hygiene, engineering safeguards, use restrictions, and economic and other benefits of the new substance. Information in these areas may eliminate the need for extensive communication between EPA and the submitter during the review period and may reduce the possibility of an extension of the notice review period under section 5(c) or regulation under section 5(e) or 5(f). Although submitters are encouraged to submit optional information, they are in no way required to do so.

k. **Federal Register** *notice.* EPA has eliminated the section of the October form which requested information for the section 5(d)(2) **Federal Register** notice. Sections for generic descriptions of confidential chemical identity and category of use have been moved to other parts of the form. In compiling the section 5(d)(2) notice, the Agency will assemble the necessary information from the various parts of the notice. For a further discussion of generic descriptions, see Unit III.D. of this preamble.

l. *Confidentiality claims.* Submitters may assert claims of confidentiality for any information on the notice form and any attachments to the form, although they should note that under section 14(b), claims for information in health and safety studies will be denied unless disclosure would reveal process information, proportions of a mixture, or information unnecessary to interpret the study. (See Unit III.D.4) Instructions for making claims are given on the form. If chemical identity or use is claimed confidential, the submitter must provide a generic chemical name or generic use that is as specific as possible.

EPA no longer requires substantiation of confidentiality claims when the notice is submitted. However, any submitter that claims information confidential must supply two copies of the notice: One complete copy, and one "sanitized" copy with all confidential information deleted. EPA will put the sanitized copy in the public record. The notice is incomplete, and the review period does not begin, until EPA has received both the complete notice and the sanitized notice. EPA explains its confidentiality policy in more detail in Unit III.D. of this preamble.

C. Notice and Review Procedures

1. *Submission and Processing of Notices.*

a. *Acknowledgement of receipt.* Under § 720.65(a), EPA will acknowledge receipt of each notice by letter to the submitter. The 90-day notice review period begins on the date of receipt indicated on the letter of acknowledgement.

b. *Consolidated notices.* In the course of reviewing section 5 notices under the Interim Policy, groups of notices were often submitted for substances which were similar in structure and use. These notices contained a large amount of duplicative information, such as exposure, release, or use data. In response to requests for relief from submitters, EPA has developed procedures for submission of a "consolidated" notice. Persons who intend to manufacture or import two or more structurally related new chemical substances may contact the Prenotice Communications Coordinator to obtain approval to submit a single "consolidated" section 5 notice for the related substances. The submitter must identify each new chemical substance individually; a consolidated notice cannot be submitted for an open-ended

category of chemicals. A consolidated section 5 notice is suitable for chemical substances with the same or similar uses and for which there are similar test data or other information. Manufacturers may not submit a consolidated notice on a series of intermediates and a final product in a given process because these chemicals do not sufficiently share common test data or other information.

EPA will not accept a consolidated notice unless the submitter has contacted the Prenotice Communications Coordinator to determine whether the group of chemicals are sufficiently similar that they are suitable for review in a consolidated notice. EPA encourages submitters to submit consolidated notices when appropriate; such notices will reduce the burden on the submitter of preparing multiple section 5 notices sharing common information. Consolidated notices also will improve the efficiency and consistency of EPA's review by allowing the staff to review structurally related chemicals, and the data and other information that are common to them, at the same time.

c. *Incomplete submissions.* Under § 720.65(c) of this rule, EPA may determine that a submission is incomplete, and therefore does not constitute a notice under section 5 of the Act. For example, failure to provide chemical identity or otherwise to supply information required in the notice form, if that information is known to or reasonably ascertainable by the submitter, will result in a submission that does not constitute a notice. A submission is incomplete if all information (except information published in the scientific literature) is not in English or test data and other data are not complete. A submission is also incomplete if the submitter claims information confidential and does not submit a second copy of the notice from which all confidential information has been deleted. The review period will not begin until the submission is complete.

If a submission is incomplete, EPA may first request the missing information from the submitter by telephone. If the submitter does not provide it quickly, EPA will inform the submitter in writing within 30 days of receiving the submission that it is incomplete. However, if EPA obtains additional information during the notice review period, from the submitter or elsewhere, that indicates the original submission was incomplete, EPA may declare the notice incomplete within 30 days of receiving the new information.

Under § 720.65(c) (4) and (5), submitters may file objections to an EPA finding that a submission is incomplete with the Director of the Office of Toxic Substances ("the Director"). The Director, or his or her delegate, will determine whether the original submission was complete or incomplete, or will modify the requirements for completing the submission. If the Director affirms that the original submission was incomplete, the notice period will not begin to run until EPA receives the missing information. If the Director finds that the original submission was complete, the 90-day review period will resume on the date that EPA notifies the submitter that the notice is complete. Therefore, if EPA informed the submitter that the notice was incomplete on the 15th day, the day after EPA finds the notice was complete would be the 16th day. However, if EPA can complete its review by the date 90 days from the date of the original submission, the Director may inform the submitter that the review period began when EPA received the original notice and has run without interruption. EPA recognizes that resuming the review period on the date EPA notified the submitter that the submission was incomplete may conceivably delay the start of manufacture or importation in some cases; however, EPA has an overriding responsibility to conduct an adequate review which ensures against a potential risk to human health or the environment. EPA will avoid delaying the starting date whenever possible.

If EPA identifies a minor problem in the submission, such as failure to date it or a typographical error that renders an entry ambiguous, it may, under § 720.65(b), ask the submitter to correct the notice. The submitter is under no obligation to make the correction, but failure to do so may cause EPA to extend the review period under section 5(c) of the Act. Of course, if the submitter corrects the minor problem, EPA may still extend the period under section 5(c) if good cause otherwise exists.

The final rule modifies the procedures for incomplete submissions proposed in January 1979. Under the proposed procedures, submitters had no formal appeal procedures if EPA determined that a submission did not meet the standards for review, and the review period for submissions with minor errors could be stopped until the errors were corrected. EPA has changed these requirements in response to comments and because of its experience under the Interim Policy.

EPA, however, disagrees with commenters who argued that EPA has no authority to determine that a submission is incomplete, and that EPA's only remedy is section 5(e). The Act explicitly requires the submitter to provide certain information in a section 5(a) notice that is known to or reasonably ascertainable by the submitter. A submission that fails to meet the minimum statutory requirements, therefore, is not a complete notice under the Act, and EPA is justified in refusing to review it. Section 5(e) is not an appropriate remedy for this situation. The purpose of section 5(e) is to allow EPA to regulate new chemical substances "pending the development of information" necessary for a reasoned evaluation of health and environmental effects. Its purpose is not to gather information that the submitter already knows or can reasonably ascertain and that is required by the Act to be submitted in the initial notice.

Under the Interim Policy, EPA has received several submissions that, it believed, did not include required information that was known or reasonably ascertainable by the submitter and which therefore did not meet the statutory requirements. For example, one submission did not include the molecular structure of the new chemical substance. EPA scientists determined that representative molecular structures for the substance were in fact known to or reasonably ascertainable by the submitter, because a knowledgeable chemist would be able to derive the structure from process information. Therefore, the notice review period did not begin until this information was provided to EPA.

In another case, the submitter described the category of use of a new chemical substance only as "photographic chemical" without specifying its end use in terms of its function and application (e.g., reducing agent in developer solution). The term "photographic chemical" was inadequate for EPA's assessment of potential human exposure and environmental release. In a third type of problem, submitters often have described the chemistry of the manufacturing operation without indicating the order and type (e.g., distillation, mixing) of the manufacturing steps. For example, manufacturers of coatings for manufactured parts have sometimes failed to provide information on coating operations at sites they do not control. In such cases, if EPA staff cannot quickly obtain the information from the submitter in response to a telephone request, EPA will declare the notice incomplete and the review period will not begin until EPA receives the information.

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d. *Extension of review period.* Section 5(c) of the Act provides that EPA may extend the 90-day review period for up to an additional 90 days for good cause. Section 720.75(c) of this rule provides that EPA will notify the submitter if EPA extends the period and gives examples of circumstances that EPA believes could constitute good cause for extension. EPA will also issue for publication a **Federal Register** notice when it extends a review period under section 5(c). The notice will describe the extension and give the reasons for it.

e. *Suspension of review period.* Section 720.75(b) of this rule provides that a notice submitter may voluntarily suspend the running of the review period at any time, but only if the Director, or his or her delegate, agrees. If the Director does not agree, EPA will notify the submitter and the review period will continue to run. The suspension must be for a specified period of time. If the notice submitter makes the request orally, the Director may grant a suspension for 15 days. EPA will send the submitter a written confirmation of the suspension if it is granted orally. The Director will extend the suspension if the OTS Document Control Officer receives a written confirmation of the request within 15 days of the approved oral request. In this case, the running of the review period is suspended as of the date of the confirmed oral request. The notice submitter also may request a suspension in writing. In this case, the suspension begins the date the Document Control Officer receives the request, if EPA approves the request.

Under the Interim Policy, EPA has found suspension of the review period may be beneficial when questions concerning a new chemical substance that arise during the notice review period can be adequately addressed by the notice submitter. Suspension of the review period is often helpful in these cases because a submitter may not be able to respond to EPA's concerns within the review period, even if EPA extends the period to 180 days under section 5(c). For example, in one instance the Agency needed more detailed use and exposure information which the submitter was able to obtain from potential customers. In other cases, the notice review period was suspended to allow time for voluntary health effects testing, and for chemical analysis to determine the levels of certain impurities. Voluntary suspensions benefit both EPA and notice submitters because they save EPA resources and often eliminate the need for regulatory action.

f. *Closeout and commencement of manufacture.* Under § 720.75(d), EPA will notify submitters when the notice review period has ended, if EPA has not taken action under section 5(e) or 5(f) of the Act. EPA will inform submitters that they can begin manufacture or import for commercial purposes. This action does not constitute EPA approval or certification of the substance and does not preclude later regulatory action by EPA. Submitters may begin to manufacture or import a new chemical substance after the close of the review period, even if they have not been notified by EPA that the review period has ended. In the final rule, EPA has dropped the notice of continuing review proposed in January 1979, since the closeout notification can serve the same purpose, i.e., informing the submitter of any concerns EPA may have about the new chemical substance, and any regulatory actions being considered. Also, there is no obligation that EPA inform a submitter that it is contemplating regulation of the new chemical substance.

Section 720.102 requires that submitters notify EPA when they begin to manufacture or import the new chemical substance, so EPA may add the substance to the Inventory. The submitter must provide chemical identity, premanufacture notice number, and the date that manufacture or import for commercial purposes begins. EPA proposed this requirement in January 1979 and believes that most notice submitters to date have notified EPA when they began manufacture or import. However, any persons who already have begun to manufacture or import a chemical substance after undergoing notice review, but who have not yet submitted a notice of commencement or manufacture, must submit the notice by the effective date of this rule to allow EPA to update the Inventory.

2. *Supplemental Reporting.* In January 1979, EPA proposed supplemental reporting ("letter-writing") authority which would have enabled EPA to obtain additional written information on a new chemical substance or related chemicals during the notice review period. EPA also proposed an analogous provision for requesting health and safety studies. EPA based its authority to obtain certain information known to or reasonably ascertainable by the submitter and others on section 8 of the Act. Even after the scope of reporting was narrowed in the October 1979 reproposal, many commenters objected to the supplemental reporting provisions, arguing that EPA does not have authority to require such reporting.

Since the reporting requirements in the final rules are reduced from those in the proposed rules, the ability of EPA to obtain additional information during the review period is especially important. While EPA still believes it has the authority under section 8 to obtain additional information from the submitter and others who may have information about the new chemical substance during the notice review period, EPA has not adopted supplemental reporting authority because it has proved unnecessary to an effective section 5 notice review program. EPA also has eliminated the provision for requesting health and safety studies on the new chemical substances or related chemicals. EPA has found that telephone calls to submitters are generally adequate to obtain additional information during the notice review period. In the occasional case where a submitter is unwilling to provide the information, EPA has the option of taking action under section 5(e) (regulation of a new chemical substance pending development of new information) or section 11 (subpoena authority). Although these actions are more resource-intensive and time-consuming than a supplemental reporting request, such formal actions will rarely be necessary. However, EPA is prepared to act under these authorities when submitters do not provide the necessary information.

3. *Actions Under Sections 5(e) and 5(f).* In the final rule, EPA has deleted §§ 720.36 and 720.37 of the January 1979 proposal, which described EPA's procedures for taking action under sections 5(e) and 5(f). It is not necessary to include these provisions in the rule, because many of the procedures are already set out in the statute, and because submitters will be notified of the remaining procedures when EPA takes action against a specific substance. In dropping these sections, EPA has deleted the provision that would allow it to notify persons other than the notice submitter, who would be affected by the order, of the basis of a proposed section 5(e) or 5(f) action. Many commenters objected to this provision, arguing that only the notice submitter could be subject to a section 5(e) or 5(f) order. EPA will notify only those persons subject to a section 5(e) or 5(f) order, and it will allow only those persons to file objections to the order. Of course, any person who uses a new chemical substance that the person knows or has reason to know was manufactured, imported, processed, or distributed in commerce in violation of a section 5(e) or 5(f) order is in violation of section 15 of TSCA.

EPA has also eliminated § 720.37(b)(6) of the January 1979 proposal, which provided that EPA would consider subsequent notice submissions for substances subject to a section 5(f) order to be applications for modification or revocation of the order, rather than section 5 notices. This section was eliminated because EPA recognizes that a subsequent submission for a chemical substance subject to a section 5(f) order might describe different conditions of exposure which might not present an unreasonable risk. Therefore, EPA will consider these submissions to be section 5 notices, and they will undergo review.

4. *Recordkeeping.* The final rule retains the provision in the proposed rule that requires notice submitters to retain documentation of information in the notice. This would include the sources of information provided in the notice, e.g., production volume estimates in marketing plans. Submitters also must keep records of production volume for the first three years of production and the date of commencement of manufacture or import, and documentation of this information. In addition, submitters must keep copies of "other data," which they were required to describe in § 720.50(b), if they are in the submitter's possession or control. This information must be retained for 5 years from the date of commencement of manufacture.

EPA has dropped the provision that the submitter retain health and safety data referenced in the notice for 30 years. EPA believes this provision is unnecessary because the submitter must include these data, or a standard literature citation to these data, with its notice. Therefore, EPA will already have the data in its own files.

Persons who manufacture or import a chemical substance under the terms of an R and D exemption must retain documentation of compliance with the exemption requirements, including copies of the information they used to determine the need to make any notification of risk to health or to persons exposed to the chemicals. This information must be retained for 5 years from the final date of manufacture or import under the exemption.

Persons who are granted a test-marketing exemption application must retain documentation of information submitted in the notice. They also must document compliance with any restrictions EPA imposes when it grants the exemption. This information must be retained for five years from the final date of manufacture or import under the exemption.

5. *Compliance and Inspections.* It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of new chemical substances without complying with section 5 and this rule is a violation of section 15. When more than one manufacturer or importer is involved in a transaction, each one is liable for manufacture or import of a new chemical substance if a notice has not been submitted or the review period has not expired, even though only one person involved in each transaction (e.g., the principal importer) may submit the notice.

Section 15 of TSCA makes it unlawful for any person to: (i) Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this rule.

(ii) Fail or refuse to establish and maintain records or to permit access to or copying of records as required by the Act or a rule promulgated under the Act.

(iii) Fail or refuse to permit entry or inspection as required by section 11.

Violators may be subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of this rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of the rule and the seizure of chemical substances manufactured or processed in violation of the rule.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 apply to "any person" who violates various provisions of TSCA. Thus, in actions under section 16, EPA may, at its discretion, proceed against individuals, such as corporate officials, as well as the companies themselves. In particular, this includes individuals who report false information or who cause it to be reported.

EPA will also direct its resources to detecting violations of other aspects of the section 5 notice rule, particularly the terms of exemptions for research and development and for test marketing.

EPA will conduct inspections under section 11 of TSCA to assess compliance with the requirements of section 5 and this final rule. Inspectors will compare the information in the submitter's notice with the actual conditions of manufacture or import to verify that the information was correct, estimates were reasonable, and any exposure controls described in the notice are in place.

D. Confidentiality

The Act recognizes the importance to industry of maintaining the confidentiality of certain business information; section 14 allows a submitter to claim confidentiality for any information submitted to EPA under the Act. However, the Act also makes clear that the public interest in chemical regulation must also be considered, and in certain cases, outweighs the protection of confidential business information. Thus, section 14 also provides that health and safety studies may be revealed and that any confidential information may be revealed if necessary to protect health or the environment from an unreasonable risk of injury.

Certain provisions of section 5 also highlight EPA's responsibility to provide meaningful information to the public concerning new chemical substances. Section 5(d)(1) states explicitly that a section 5 notice must be made available for "examination by interested persons," subject to the confidentiality provisions of section 14. Further, section 5(d)(2) requires EPA to issue for publication a **Federal Register** notice upon receipt of each section 5 notice, that identifies the chemical substance, lists the intended uses, and describes test data, also subject to the confidentiality provisions of section 14. More generally, the Act includes a variety of provisions under which citizens can petition EPA to take particular actions on section 5 notices. These provisions indicate that Congress intended informed citizen involvement in review of new chemical substances, although EPA is to be the primary decisionmaker. Public participation cannot be effective unless meaningful information is made available to interested persons.

In addition to these responsibilities which are related directly to the Act, EPA has general responsibilities under the Freedom of Information Act (FOIA). Under the FOIA, persons may request disclosure of any information submitted in a notice. When such a request is made, EPA, in accordance with the

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procedures of 40 CFR Part 2, Subpart B, must review information which is claimed confidential to determine whether it is entitled to confidential treatment. If EPA determines that the information is confidential and therefore does not disclose it, the FOIA requester may bring an action in Federal court to review EPA's decision.

The confidentiality provisions in the final rule take into account various requirements under the Act, including the need: (1) to provide nonconfidential information to the public, (2) to give EPA information it needs to respond to FOIA requests, (3) to allow persons to assert claims of confidentiality with the minimum burden, and (4) to reduce uncertainty about the criteria EPA will use in making its confidentiality determinations. In determining the final confidentiality provisions, EPA also considered its experience with section 5 notices under the Interim Policy as well as comments received on the January 1979 and October 1979 proposals. EPA believes these provisions represent a balance between the industry's need for confidentiality of business information and the public interest in having access to information about new chemicals.

1. *Assertion of Confidentiality Claims.* A person may assert a claim of confidentiality for any information submitted to EPA. Submitters must assert the claim when they submit the confidential information. If the information to be claimed confidential is contained on the notice form, submitters must assert their claims by marking the box on the form adjacent to the item. To assert a claim for information in an attachment to the form, submitters must clearly mark all confidential items in the attachment.

Any submitter that claims information confidential must provide two copies of its submission: a complete copy of the notice including all confidential information and a "sanitized" copy in which all confidential information has been deleted. EPA will assume that the submitter has prepared a sanitized copy that accurately deletes any information claimed confidential. EPA will place the submitter's sanitized copy in the public file. If the submitter does not provide a sanitized copy, the submission is incomplete and the notice period will not begin. EPA believes this provision is in the best interest of the submitter, the public, and EPA.

Alternatively, if the submitter does not provide the sanitized copy with the notice, EPA could consider the submission complete and allow the submitter to provide the sanitized version early in the notice review period. However, this would deprive the public of access to the notice information for a significant portion of the review period. EPA could also prepare the sanitized copy itself. However, this would require substantial EPA resources and there is a chance that EPA inadvertently would not delete all of the information claimed confidential. In addition, EPA believes it is more efficient for the submitter, which is more familiar than EPA with the nature, extent, and rationale for the claims, to prepare the sanitized copy. EPA also considered the alternative of putting the entire notice, including information claimed confidential, in the public file if the submitter did not provide a sanitized version. However, EPA believes this would be unnecessarily harsh. Therefore, EPA believes that treating the notice as incomplete until it receives the sanitized version is the most equitable policy.

2. *Generic Information.* A submitter that claims chemical identity or use confidential must provide generic information for release to the public. By requiring generic chemical names and uses, EPA can meet its obligation to provide the public with important information on the risks of new substances without revealing confidential business information. EPA requires that the generic information be provided on the notice form so it can include this information in the section 5(d)(2) **Federal Register** notice. If EPA had to request the generic information after it received the notice, or develop the generic information itself, EPA could not meet the requirement that the **Federal Register** notice be published 5 days after EPA receives the notice form.

Unlike the proposed rule, the final rule does not state that the generic chemical name must disclose "toxicologically significant information to the maximum extent possible"; instead, the generic name should reveal the substance's chemcial identity to the maximum extent possible. EPA has found that, prior to a substantive review of the hazard potential of a new substance, it is often difficult to identify toxicologically significant portions of the molecule. Therefore, at the beginning of the notice review period, it is more useful to require instead that the chemical identity be revealed as fully as possible. The generic use should also be as specific as possible. EPA encourages submitters to contact the EPA Prenotice Communications Coordinator to discuss appropriate generic names and uses before actually submitting the notice.

The proposed rule would have required that submitters provide three generic chemical names with the section 5 notice; however, the final rule requires only one. EPA's experience in the section 5 program has shown that three names are not necessary since, generally, all three names provided are similar in specificity. EPA will publish the generic name given in the notice in the section 5(d)(2) **Federal Register** notice. However, when the manufacturer or importer submits a notice of commencement of manufacture using the same generic name, EPA may determine that the generic name is more generic than necessary to protect confidential chemical identity. EPA will then propose a more specific name. If that name is unacceptable, the submitter must explain why EPA's name would disclose confidential business information and propose an alternative. EPA will publish the submitter's alternative name if it is acceptable. Otherwise, EPA will put the generic name it devised on the public Inventory, 30 days after giving notice to the submitter.

EPA has not adopted the proposed requirement that submitters provide generic information on physical/chemical properties (in terms of ranges) and submitter's identity (in terms of geographic location, annual sales, and type of company) if they are claimed confidential. EPA made this change in response to commenters who stated that it is difficult to develop generic descriptions of physical/chemical properties and submitter's identity which provide useful information without disclosing confidential business information. Also, unlike chemical identity and category of use, EPA is not required to issue any information concerning physical/chemical properties or the submitter's identity for publication in the **Federal Register**. Therefore, generic information on these categories is not necessary.

3. *Substantiation of Claims.* The final rule does not require substantiation of any confidentiality claims when a section 5 notice is submitted. However, a confidentiality claim for chemical identity must be substantiated when the notice of commencement of manufacture is submitted.

This approach reflects a substantial modification of the confidentiality procedures proposed in January 1979 and October 1979. The January proposal would have required submitters to substantiate confidentiality claims at the time of submission only for chemical identity and health and safety data, while the October proposal would have required substantiation of all confidentiality claims at the time of submission (though it allowed assertion and substantiation by category.) EPA believed that this "up-front" substantiation would be necessary to allow EPA to respond to FOIA requests in a timely manner.

Under the Interim Policy, submitters were encouraged to substantiate all confidentiality claims when the notice was submitted; if they did not substantiate their claims, EPA sent a letter requesting substantiation. EPA changed this policy in a notice published in the **Federal Register** of July 3, 1982 (47 FR 28969). In that notice, EPA explained that because EPA had not received large numbers of FOIA requests, "up-front" substantiation of claims was not necessary to make timely responses to FOIA requests. Also, the substantiation requirement had not reduced the number of confidentiality claims as expected. The final rule adopts the same policy. EPA will request substantiation for information submitted in section 5 notices only when it receives an FOIA request for the information claimed confidential, or when EPA has its own reasons for making a final confidentiality determination, for example, when EPA is contemplating regulatory action. By not requiring "up-front" substantiation of all claims, submitters will not have to incur the burden of substantiation unnecessarily.

The final rule requires submitters to substantiate claims of confidentiality for chemical identity at the time a notice of commencement of manufacture or import is submitted, and provides that EPA may disclose a chemical identity claimed as confidential but not accompanied by adequate substantiation. As EPA stated in the Interim Policy of May 15, 1979, all information submitted to EPA under the section 5 notice program before the effective date of the final rule will become subject to the confidentiality policies of this rule (45 FR 28567). The Interim Policy does not require submitters to substantiate claims of confidentiality when the notice of commencement is submitted, although EPA encourages them to do so. As a result, EPA has received notices of commencement in which chemical identity was claimed confidential without any accompanying substantiation. Under the final rule, these chemical identities could be disclosed when it goes into effect.

In the May 1979 Interim Policy EPA stated that it would give submitters "ample opportunity to update or modify confidentiality claims prior to becoming subject to any new requirements." EPA believes that 45 days after the effective date of this rule is an ample period for submitters with unsubstantiated claims of confidentiality of chemical identity in notices of commencement of manufacture or import to substantiate those claims. EPA will notify each affected person by letter. If EPA has not received substantiation for the claim within 45 days after the effective date of this rule, it may place the specific chemical identity on the public Inventory consistent with EPA's general procedures for handling confidential information in 40 CFR Part 2.

4. *Health and Safety Studies.* Section 14(a) of TSCA prohibits EPA from disclosing confidential business information reported under the Act except in certain specific circumstances. Section 14(b), however, states that EPA is not prohibited from disclosing health and safety studies of substances for which section 5 notification is required, unless disclosure reveals confidential processes or portions of a mixture. Therefore, EPA cannot refuse to disclose such information in response to an FOIA request, and EPA will deny any claim of confidentiality for the protocol, data, analysis, and results in a health and safety study if the submitter does not establish that disclosure would reveal the following confidential information: (1) process information, (2) portions of a mixture, or (3) information unrelated to the effects of the substance on human health and the environment.

In some submissions, chemical identity may be claimed confidential and attachments to the notice form may contain health and safety studies on the new chemical. EPA will disclose the specific chemical identity that is the subject of those studies if disclosure of chemical identity: (1) is necessary to interpret the health and safety study, and (2) would not reveal confidential process or mixture information. Disclosure of chemical identity is discussed in more detail below.

5. *Specific Chemical Identity.* A major issue in this rulemaking has been the confidentiality of the specific chemical identity that is the subject of a section 5 notice. This issue is of particular concern when health and safety studies are submitted for the substance. Under section 14(b) of TSCA, EPA may not withhold from the public data from health and safety studies unless the data would disclose confidential manufacturing or processing processes or the proportions of specific chemical substances in a mixture. The disclosure requirement applies to data in the study and data underlying the study.

As EPA stated in the January 1979 proposal, the Agency considers the specific chemical identity always to be part of a health and safety study even when it does not appear in the study. Consequently, the chemical identity would be subject to the disclosure requirements of section 14(b). However, in many cases the chemical identity is one of the most commercially sensitive pieces of information in the section 5 notice. Because of the substantial concern expressed by industry about the harm of disclosing confidential chemical identities, EPA explored ways of limiting the commercial harm of such disclosure while still meeting the requirements of section 14(b) of TSCA and providing the public with adequate information about health and safety studies.

In January 1979, EPA proposed that confidential chemical identities would not be released prior to commencement of manufacture or import, even when health and safety studies had been submitted in the notice. After commencement of manufacture, chemical identity would be disclosed if health and safety studies had been submitted and the identity was not exempt under section 14(b) by virtue of revealing a confidential process or confidential proportions of substances in a mixture. Because of the sensitivity of this issue, under its Interim Policy, EPA has honored claims of confidentiality for specific chemical identity, even when health and safety studies have been submitted, reserving a final decision on the issue for this final rule.

This issue generated a great deal of comment. Industry has expressed its concerns about disclosure of confidential chemical identities at any time, while public interest groups and others are concerned that health and safety studies would be meaningless without knowledge of the specific chemical identity involved. In an attempt to meet both these concerns, EPA has chosen an approach that balances the need for confidentiality, the need to understand health and safety studies, and the provisions of TSCA.

Under § 720.85 of the rule, in the absence of any health and safety studies, chemical identity will be held confidential as long as it meets the general tests for confidentiality in 40 CFR Part 2. This is true both before and after commencement of manufacture or import. Under § 720.90(c) of the rule, if any health and safety studies have been submitted for the chemical substance in question, the specific chemical identity will be held confidential only if disclosure would reveal confidential manufacturing or processing processes or the confidential proportions of

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substances in a mixture, or if the specific chemical identity is not necessary to interpret any of the studies.

This solution will result in disclosure of a confidential chemical identity only when it is necessary to interpret a health and safety study, unless disclosure would reveal confidential process or mixture information that is protected under section 14(b). This meets concerns expressed by both industry and public interest groups. Industry was concerned that a rule mandating disclosure even when disclosure would not serve any public interest would unnecessarily penalize companies conducting health and safety studies. One the other hand, public interest groups were concerned that disclosure of health and safety studies without the identity of the substance involved would be meaningless if knowledge of the specific identity were necessary to understand the study. Under this approach, companies will be able to present arguments that disclosure of the specific chemical identity is not necessary to interpret a study and, at the same time, members of the public requesting access to studies will be able to argue why disclosure of the specific identity is necessary.

- This solution to the issue of confidential chemical identities also has an impact on development of generic chemical names. Companies that claim specific chemical identity confidential in their notices who wish to argue that knowledge of the specific identity is not necessary to interpret their health and safety studies are encouraged to choose generic names which are sufficiently specific to interpret their health and safety studies. Sufficiently specific generic names will tend to support arguments that disclosure of the specific chemical identity is not necessary to understand the study.

IV. Related Rulemaking and Other Actions

A. Section 5(h)(4) Exemptions

Under section 5(h)(4), EPA may, upon application and by rule, exempt manufacturers or importers from all or part of the requirements of section 5 if it determines that the manufacture, import, processing, distribution in commerce, use, or disposal of a new chemical substance will not present an unreasonable risk of injury to health or the environment. Based on its experience in the section 5 review program to date, EPA has promulgated one section 5(h)(4) exemption rule and proposed two others.

EPA promulgated an exemption for new chemicals used in certain instant photographic and peel-apart film articles, published in the **Federal Register** of June 4, 1982 (47 FR 24308). Persons may manufacture these chemicals without undergoing the full 90-day section 5 review, as long as the manufacturer uses certain exposure controls.

EPA also proposed rules to exempt certain site-limited intermediates, low volume chemicals, and polymers, which were published in the **Federal Register** of August 4, 1982 (47 FR 33896). The proposed exemption for site-limited intermediates and chemicals manufactured at 10,000 kg or less per year would exempt these chemicals if they do not have certain adverse health or environmental effects and the manufacturer or importer submits a short notice to EPA 14 days before manufacture begins. A qualified expert would assess the new chemical (unless it was manufactured at 1,000 kg or less per year) to ensure that it met the exemption criteria. The polymer exemption would allow manufacture or import of certain new polymers as long as EPA is notified when manufacture begins. Other new polymers would undergo an abbreviated 14-day section 5 notice review.

EPA is reviewing the comments on these proposed exemptions and intends to issue final exemption rules in mid-1983. If the provisions of the final rules are similar to the provisions in the proposed rules, EPA expects that approximately 60 percent of all new chemicals will qualify for one or more of these exemptions.

B. New Chemical Follow-Up Rules

EPA will promulgate follow-up reporting rules on certain new chemical substances under section 5(a)(2) and 8(a) of TSCA. Such rules will allow EPA to obtain information on selected new chemical substances after they have entered commercial production, and to reassess certain new chemical substances before they are produced for new uses that may significantly increase their risk to human health or the environment.

EPA has proposed significant new use rules (SNURs) and section 8(a) rules for chemical substances in the **Federal Register** and will continue to do so. A SNUR requires persons to notify EPA 90 days before they manufacture, import, or process the substances subject to the rules for a significant new use, as defined by the rule. The same reporting requirements, review procedures, and authorities that apply to notices for new substances apply to SNUR notices. However, if after receipt of a SNUR notice, EPA does not act to regulate the chemical, it must state its reasons in the **Federal Register**. Section 8(a) rules require limited reporting of information; these rules will be used primarily to monitor changes in exposures to chemicals of concern.

Follow-up is an important complement to the section 5 notice review program, which is necessarily limited by the nature of notices on new substances and the section 5 review process. Notices describe the specific uses for which the submitter intends to manufacture or import a new chemical substance and the exposures associated with the intended methods of manufacture, processing, uses, and disposal. EPA will generally base its review and any regulation under section 5(e) or 5(f) on these uses and exposures. In some cases, a substance may raise concern, but the exposure predicted from the information in the notice may not present a significant risk. In these cases, EPA might not take action against the substance during the review period. However, once such a substance has completed section 5 review and has entered commerce, anyone may manufacture, import, or process it for any use without EPA review, even a use likely to result in high levels of exposure that would significantly increase risk. In such a case, EPA might require reporting under a SNUR or section 8(a) rule to ensure review and the opportunity to control these risks before they occur.

C. Testing Guidelines

EPA issued premanufacture testing guidelines which were published in the **Federal Register** of January 27, 1981 (46 FR 8985). In these guidelines, EPA recommends that notice submitters use the Organization for Economic Cooperation and Development (OECD) Minimum Premarket Data set as a starting point in setting up a testing program for new chemicals. EPA is not requiring these data, and a submission that does not contain them would be complete if it otherwise meets the requirements of the Act. Instead, EPA intends that submitters use the testing guidelines flexibly, tailoring their evaluations of new chemicals to the specific new chemicals in question. EPA also encourages submitters to follow any Good Laboratory Practices issued under TSCA.

V. Related Documents

A. Response to Comments

During this rulemaking, EPA has solicited public comment on several proposals and other public documents. These include the January 10, 1979, proposed rule (44 FR 2242); the October 16, 1979, proposed rule (44 FR 59764); the methodology for the Economic Impact Analysis (44 FR 39450); the proposed processor reporting requirement (45 FR 54642); the clarification of the importer definition (45 FR 63806); the draft Regulatory Analysis and the proposed Economic Impact Analysis (45 FR 74945); and the notice on substantiation of confidentiality claims (47 FR 28969). EPA received numerous comments from individual companies, trade associations, labor unions, public interest organizations, and other groups and individuals. These comments were carefully considered in developing the final rule.

EPA has prepared a detailed Response to Comments on the Premanufacture Notice Requirements and Review Procedures for New Chemical Substances. In this document, EPA has summarized the major comments that it received on the documents listed above and gives its response to each. The Response to Comments is available in the Public Reading Room.

B. Instructions Manual

EPA is also distributing an Instructions Manual for Premanufacture Notification of New Chemical Substances. All persons subject to section 5 notice requirements, or who believe that these requirements may apply to them, should obtain a copy of this manual from the OTS Industry Assistance Office. In the manual, EPA describes: (1) EPA's statutory authority under section 5 of the Act; (2) section 5 reporting requirements; (3) EPA notice review procedures; (4) procedures for asserting and substantiating confidentiality claims; and (5) instructions for completing the notice form.

VI. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a rule is "major" and therefore subject to the Regulatory Impact Analysis requirement. EPA considers this rule to be major. Although the rule will not have an annual effect on the economy of $100 million or more, the costs of complying with the rule will result in an increase in costs for chemical manufacturers and photographic companies, and there may be some effects on innovation. Also, EPA will incur certain costs to conduct the notice review program. EPA based its classification of this rule as "major" on various studies conducted on the cost of compliance with section 5 notice requirements and the effect of these requirements on new chemical innovation. EPA has prepared a Regulatory Impact Analysis to accompany this rule which summarizes these studies.

EPA included brief regulatory analyses of the January 1979 and October 1979 proposed rules in the preambles to those rules. In November 1980, EPA issued an extensive draft Regulatory Analysis. The Regulatory Impact Analysis that accompanies this rule compares the notice form proposed by EPA in October 1979, a form proposed by the Chemical Manufacturers Association (CMA) in 1979, an in-house draft form comparable to the form required in this rule, and the final form. The Regulatory Impact Analysis concludes that the primary economic effect of the final form is that industry's cost is between $5 million and $12 million annually to complete the notices. These costs are similar to the costs of the CMA form and considerably less than the costs of EPA's October 1979 form.

The Analysis also concludes that while the October 1979 form makes it easier for EPA to identify problem chemicals and take action, the probability of EPA identifying these problem chemical is not significantly lower with the other forms. Thus the incremental benefits of the lengthier October 1979 form are small.

The third major finding of the Regulatory Impact Analysis concerns the distributional effect of the existing notice review program. Based on data from several industry-commissioned surveys and on data in confidential section 5 notice files, it appears that there has been no significant reduction in the number of new chemical innovations since 1979 among the largest companies, but limited data suggest that there probably has been a decline in innovation activity by smaller companies, which tend to produce low volume chemicals. To help reduce this effect on small companies, EPA employs consultants to assist them in preparing notices, at no expense to the submitters.

The fourth major finding of the Analysis is that promulgation of the proposed section 5(h)(4) exemptions to the section 5 notification program would reduce the annual cost to industry of complying with section 5 notification requirements by 19 to 30 percent, to between $4.2 and $9.1 million annually. In addition, the proposed exemptions will significantly reduce the burden of the new chemical review requirements on small firms. If EPA promulgates the provisions in the proposed exemption rules, there will be cost savings of 11 to 35 percent of total notification costs for firms with sales less than $100 million annually.

These findings on cost to submitters were reached by calculating the cost of filing the notice form, the cost of delay (the present value of profits delayed because of the notice review process), the cost of maintaining confidentiality, and the cost of implementing voluntary controls on the manufacturing, processing or marketing of a particular new substance when requested by EPA. The benefit findings were based on EPA's analysis of each case in which it took action on a new chemical substance, to determine what types of information were critical to the decision to seek controls and whether that information would be required on all four forms. If the information would not have been in the submission and if EPA would not have identified the problem through telephone contact or other means, the potential for adverse health effects occasioned by not identifying the problem were determined. The Regulatory Impact Analysis is available for review in the Public Document Room.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VII. Applicability of Paperwork Reduction Act and Regulatory Flexibility Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions in this rule must be submitted for approval to the Office of Management and Budget (OMB). The Agency previously submitted information collection requirements to OMB under the Premanufacture Notification (PMN) Interim Policy which were assigned OMB control number 2000-0054. The information collection requirements in this final rule were approved by OMB and assigned OMB control number 2070-0012.

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has assessed the impact of this rule on small businesses. In various analyses of the chemical industry, small business has been defined in numerous ways, particularly in terms of annual sales levels. To account for different interpretations of the term "small business" within the chemical industry, the Agency analyzed the effect of this rule using two annual sales levels to define small, $30 million and $100 million.

EPA estimates that firms with sales less than $30 million per year will

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absorb about 7 percent of total industry-related costs to comply with this rule, or about $0.36 to $0.91 million annually. Firms with sales less than $100 million per year will incur about 13 percent of total industry costs, or about $0.67 to $1.69 million annually. The proposed exemptions will substantially reduce the reporting burden for small companies, however. Taken together, the proposed exemption rules would reduce total program costs for firms with sales less than $30 million and $100 million per year by 11 to 33 percent and 11 to 35 percent, respectively.

VIII. Public Record

EPA has established a public record for this rulemaking (docket number OTS–50002), which is available for inspection in Rm. E–107, 401 M St. SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes all the information considered by EPA in developing this rule except for confidential business information which has been segregated. While part of the record, such information is not available to the public.

The list below describes the information in the record. This list, in accordance with section 19(a)(13) of the Act, identifies the complete rulemaking record:

1. USEPA–OTS. Premanufacture Notification Requirements and Review Procedures. Notice of Proposed Rulemaking.

2. USEPA–OTS. Premanufacture Notification Requirements and Review Procedures: Support Document.

3. USEPA–OTS. Impact of TSCA Premanufacturing Review Requirements (EPA 230/2–12/76–005).

4. Seven working drafts of proposed 40 CFR Part 720 dated from June 20, 1978 to December 3, 1978; three working drafts of the preamble to proposed 40 CFR Part 720 dated from October 28, 1978, to December 3, 1978; eight working drafts of the proposed Premanufacture Notice Form dated from July 30, 1978, to December 3, 1978; two working drafts of the Premanufacture Notice Form for Importers dated from October 5, 1978, to December 3, 1978; three working drafts of the Premanufacture Notice Form for Foreign Manufacturers/Suppliers dated from October 5, 1978, to December 3, 1978; and one draft of the Processing and Consumer Use Form dated December 3, 1978.

5. USEPA–OTS. Reproposal of Premanufacture Notice Forms and Provisions of Rules; Notice of Proposed Rulemaking.

6. USEPA–OTS. Impact of TSCA Proposed Premanufacturing Notification Requirements; contract No. 68–014717.

7. Working drafts of the proposed Premanufacture Notice Forms dated June 28, 1979, July 13, 1979, and August 7, 1979.

8. EPA Documents distributed at the meetings of the Administrator's Toxic Substances Advisory Committee (ATSAC), August 14, 1979, and September 25, 1979.

9. EPA materials on the planned reproposal of the Premanufacture Notice Forms distributed at the Embassy Officials Briefing, September 11, 1979.

10. USEPA–OTS. Premanufacture Notification and Review: Economic Impact.

11. USEPA–OTS. Proposed Processor Reporting Requirements. Notice of Proposed Rulemaking.

12. USEPA–OTS. Cost Estimations of Alternative Processor Notification Requirements; contract no. 68–01–5878.

13. USEPA–OTS. Premanufacture Notification and Review Procedures: Clarification of Importer Reporting Responsibilities.

14. USEPA–OTS. Draft Regulatory Analysis. Premanufacture Notification and Review Procedures.

15. USEPA–OTS. Proposed Economic Impact Analysis of Proposed Section 5 Notice Requirements; contract no. 68–01–5878.

16. USEPA–OTS. Regulatory Impact Analysis of Section 5 Notice Requirements; contract no. 68–01–5878.

17. USEPA–OTS. Response to Comments on New Chemical Notice Requirements & Review Procedures.

18. All factual information and raw data of any sort considered during the rulemaking.

19. EPA correspondence to persons outside EPA concerning this rule.

20 Correspondence (including comments on the proposed rule) received from persons outside EPA before the close of the comment periods, and correspondence received after the close of the comment periods if considered.

21. EPA memoranda summarizing meetings and telephone conversations with outside persons relevant to the development of this rulemaking.

The docket of the record detailing its specific contents is available in the OTS Reading Room.

List of Subjects in 40 CFR Part 720

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting requirements.

Dated: April 26, 1983.

Lee L. Verstandig,

Acting Administrator.

Therefore, 40 CFR Chapter I is amended by adding Part 720 to read as follows:

PART 720—PREMANUFACTURE NOTIFICATION

Subpart A—General Provisions

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720.1 Scope.
720.3 Definitions.

Subpart B—Applicability

720.22 Persons who must report.
720.25 Determining whether a chemical substance is on the Inventory.
720.30 Chemicals not subject to notification requirements.
720.36 Exemptions for research and development.
720.38 Exemptions for test marketing.

Subpart C—Notice Form

720.40 General.
720.45 Information that must be included in the notice form.
720.50 Submission of test data and other data concerning the health and environmental effects of a substance.
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Subpart D—Disposition of Notices

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720.62 Notice that notification is not required.
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720.70 Notice in the Federal Register.
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Subpart E—Confidentiality and Public Access to Information

720.80 General provisions.
720.85 Chemical identity.
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720.90 Data from health and safety studies.
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Subpart F—Commencement of Manufacture or Import

720.102 Notice of commencement of manufacture or import.

Subpart G—Compliance and Inspections

720.120 Compliance.
720.122 Inspections.
Appendix A—Premanufacture Notice for New Chemical Substances

Authority: Toxic Substances Control Act, 15 U.S.C. 2604, 2607, 2613.

Subpart A—General Provisions

§ 720.1 Scope.

This Part establishes procedures for the reporting of new chemical substances by manufacturers and importers under section 5 of the Toxic Substances Control Act, 15 U.S.C. 2604. The rule defines the persons and chemical substances subject to the reporting requirements, prescribes the contents of section 5 notices, and establishes procedures for submitting notices. The rule also establishes EPA policy regarding claims of confidentiality for, and public disclosure of, various categories of information submitted in connection with section 5 notices (OMB Control No. 2070–0012).

§ 720.3 Definitions.

(a)(1) For the purposes of this Part, the terms "cosmetic," "device," "drug," "food," and "food additive" have the meanings contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, and the regulations issued under it. In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 *et seq.*; meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60 *et seq.*; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033 *et seq.*

(2) The term "pesticide" has the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.* and the regulations issued under it.

(3) The terms "byproduct material," "source material," and "special nuclear material" have the meanings contained in the Atomic Energy Act of 1954, 42 U.S.C 2014 *et seq.* and the regulations issued under it.

(b) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

(c) "Article" means a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 720.36(g)(5), except that fluids and particles are not considered articles regardless of shape or design.

(d) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(e) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical, except that "chemical substance" does not include:

(1) Any mixture.

(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide.

(3) Tobacco or any tobacco product.

(4) Any source material, special nuclear material, or byproduct material.

(5) Any pistol, firearm, revolver, shells, or cartridges.

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(f) "Commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce between a place in a State and any place outside of such State.

(g) "Customs territory of the United States" means the 50 States, Puerto Rico, and the District of Columbia.

(h) "Director" means the Director of the EPA Office of Toxic Substances.

(i) "Distribute in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold after introduction into commerce.

(j) "EPA" means the U.S. Environmental Protection Agency.

(k) "Health and safety study" or "study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological, or other studies of a chemical substance or mixture, and any test performed under the Act. Chemical identity is always part of a health and safety study.

(1) Not only is information which arises as a result of a formal, disciplined study included, but other information relating to the effects of a chemical substance or mixture on health or the environment is also included. Any data that bear on the effects of a chemical substance on health or the environment would be included.

(2) Examples include:

(i) Long- and short-term tests of mutagenicity, carcinogenicity, or teratogenicity; data on behavioral disorders; dermatoxicity; pharmacological effects; mammalian absorption, distribution, metabolism, and excretion; cumulative, additive, and synergistic effects; acute, subchronic, and chronic effects; and structure/activity analyses.

(ii) Tests for ecological or other environmental effects on invertebrates, fish, or other animals, and plants, including: acute toxicity tests, chronic toxicity tests, critical life stage tests, behavioral tests, algal growth tests, seed germination tests, plant growth or damage tests, microbial function tests, bioconcentration or bioaccumulation tests, and model ecosystem (microcosm) studies.

(iii) Assessments of human and environmental exposure, including workplace exposure, and impacts of a particular chemical substance or mixture on the environment, including surveys, tests, and studies of: biological, photochemical, and chemical degradation; air, water, and soil transport; biomagnification and bioconcentration; and chemical and physical properties, e.g., boiling point, vapor pressure, evaporation rates from soil and water, octanol/water partition coefficient, and water solubility.

(iv) Monitoring data, when they have been aggregated and analyzed to measure the exposure of humans or the environment to a chemical substance or mixture.

(v) Any assessments of risk to health and the environment resulting from the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance.

(l) "Importer" means any person who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the United States. "Importer" includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144. (See "principal importer.")

(m) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(n) "Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of another chemical substance(s) or mixture(s), or that is intentionally present for the purpose of altering the rates of such chemical reactions.

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(o) "Inventory" means the list of chemical substances manufactured or processed in the United States that EPA compiled and keeps current under section 8(b) of the Act.

(p) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

(q) "Manufacture" means to produce or manufacture in the United States or import into the customs territory of the United States.

(r) "Manufacture or import for commercial purposes" means:

(1) To import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer or importer, and includes, among other things, "manufacture" of any amount of a chemical substance or mixture:

(i) For commercial distribution, including for test marketing.

(ii) For use by the manufacturer, including use for product research and development or as an intermediate.

(2) The term also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Byproducts and impurities without separate commercial value are nonetheless produced for the purpose of obtaining a commercial advantage, since they are part of the manufacture of a chemical substance for commercial purposes.

(s) "Manufacture solely for export" means: to manufacture for a commercial purpose solely for export from the United States under the following restrictions on domestic activity:

(1) Processing is limited solely to sites under the control of the manufacturer.

(2) Distribution in commerce is limited to purposes of export.

(3) The manufacturer may not use the substance except in small quantities solely for research and development.

(t) "Manufacturer" means a person who imports, produces, or manufactures a chemical substance. A person who extracts a component chemical substance from a previously existing chemical substance or a complex combination of substances is a manufacturer of that component chemical substance. A person who contracts with a manufacturer to manufacture or produce a chemical substance is also a manufacturer if (1) the manufacturer manufactures or produces the substance exclusively for that person, and (2) that person specifies the identity of the substance and controls the total amount produced and the basic technology for the plant process.

(u) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except "mixture" does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are not new chemical substances, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water, so long as the nonhydrated form is itself not a new chemical substance.

(v) "New chemical substance" means any chemical substance which is not included on the Inventory.

(w) "Nonisolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the chemical substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

(x) "Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency or instrumentality of the Federal Government.

(y) "Possession or control" means in possession or control of the submitter, or of any subsidiary, partnership in which the submitter is a general partner, parent company, or any company or partnership which the parent company owns or controls, if the subsidiary, parent company, or other company or partnership is associated with the submitter in the research, development, test marketing, or commercial marketing of the chemical substance in question. (A parent company owns or controls another company if the parent owns or controls 50 percent or more of the other company's voting stock. A parent company owns or controls any partnership in which it is a general partner.) Information is included within this definition if it is:

(1) In the submitter's own files including files maintained by employees in the course of their employment.

(2) In commercially available data bases to which the submitter has purchased access.

(3) Maintained in the files in the course of employment by other agents of the submitter who are associated with research, development, test marketing, or commercial marketing of the chemical substance in question.

(z) "Principal importer" means the first importer who, knowing that a new chemical substance will be imported rather than manufactured domestically, specifies the identity of the chemical substance and the total amount to be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(aa) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of a mixture or article containing the chemical substance or mixture.

(bb) "Processor" means any person who processes a chemical substance or mixture.

(cc) "Small quantities solely for research and development" (or "small quantities solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed solely for research and development that are not greater than reasonably necessary for such purposes.

(dd) "State" means any State of the United States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

(ee) "Technically qualified individual" means a person or persons (1) who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision, (2) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.

(ff) "Test data" means data from a formal or informal test or experiment, including information concerning the objectives, experimental methods and materials, protocols, results, data analyses, recorded observations, monitoring data, measurements, and conclusions from a test or experiment.

(gg) "Test marketing" means the distribution in commerce of no more than a predetermined amount of a chemical substance, mixture, or article containing that chemical substance or mixture, by a manufacturer or processor, to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution of that chemical substance, mixture, or article in commerce.

(hh) "United States," when used in the geographic sense, means all of the States.

Subpart B—Applicability

§ 720.22 Persons who must report.

(a) (1) Any person who intends to manufacture a new chemical substance in the United States for commercial purposes must submit a notice unless the substance is excluded under § 720.30.

(2) If a person contracts with a manufacturer to manufacture or produce a new chemical substance, and (i) the manufacturer manufactures or produces the substance exclusively for that person, and (ii) that person specifies the identity of the substance, and controls the total amount produced and the basic technology for the plant process, that person must submit the notice. If it is unclear who must report, EPA should be contacted to determine who must submit the notice.

(3) Only manufacturers that are incorporated, licensed, or doing business in the United States may submit a notice.

(b)(1) Any person who intends to import a new chemical substance into the United States for commercial purposes must submit a notice, unless the substance is excluded under § 720.30 or unless the substance is imported as part of an article.

(2) When several persons are involved in an import transaction, the notice must be submitted by the principal importer. If no one person fits the principal importer definition in a particular transaction, the importer should contact EPA to determine who must submit the notice for that transaction.

§ 720.25 Determining whether a chemical substance is on the Inventory.

(a) A new chemical substance is a chemical that is not on the Inventory.

(b)(1) A chemical substance is listed on the Inventory by specific chemical name if its identity is not confidential. If its identity is confidential, it is listed by specific name in the confidential portion of the Inventory. The confidential chemical substance is also listed on the public Inventory by a generic name which masks the specific identity. A person who intends to manufacture or import a chemical substance not listed on the Inventory by specific chemical name may ask EPA whether the substance is included on the confidential Inventory. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture or import the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture or import a chemical substance, the person who proposes to manufacture or import the substance must submit to EPA:

(i) The specific chemical identity of the substance that the person intends to manufacture or import.

(ii) A signed statement that the person intends to manufacture or import that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture or import the chemical substance.

(iv) An elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer cannot provide all the information required by paragraph (b)(2) of this section because it is claimed confidential business information by its foreign manufacturer or supplier, the foreign manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer or importer under this paragraph to determine whether it has a *bona fide* intent to manufacture or import the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this Chapter or the information requested under § 720.85(b)(3)(iii).

(5) If the proposed manufacturer or importer has shown a *bona fide* intent to manufacture or import the substance, and provide sufficient unambiguous chemical identity information so EPA can make a conclusive determination of the chemical substance's Inventory status, EPA will search the confidential Inventory and inform the proposed manufacturer or importer whether the chemical substance is on the confidential Inventory.

(6) If the chemical substance is found on the confidential Inventory, EPA will notify the person(s) who originally reported the chemical substance that another person has demonstrated a *bona fide* intent to manufacture or import the substance and therefore was told that the chemical substance is on the Inventory.

(7) A disclosure of a confidential chemical identity to a person with a *bona fide* intent to manufacture or import the particular chemical substance will not be considered a public disclosure of confidential business information under section 14 of the Act.

(8) EPA will answer an inquiry on whether a particular chemical substance is on the confidential Inventory within 30 days after receipt of a complete submission under paragraph (b)(2) of this section (OMB Control No. 2070–0012).

§ 720.30 Chemicals not subject to notification requirements.

The following substances are not subject to the notification requirements of this Part:

(a) Any substance which is not a "chemical substance" as defined in § 720.3(e).

(b) Any mixture as defined in § 720.3(u).[1]

(c) Any new chemical substance which will be manufactured or imported in small quantities solely for research and development under § 720.36.

(d) Any new chemical substance which will be manufactured or imported

[1] A new chemical substance that is manufactured or imported as part of a mixture is subject to the requirements of this Part. This exclusion applies only to a mixture as a whole and not to any chemical substances which are part of the mixture.

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solely for test-marketing purposes under an exemption granted under § 720.38.

(e) Any new chemical substance manufactured solely for export.

(f) Any new chemical substance which is manufactured or imported under the terms of a rule promulgated under section 5(h)(4) of the Act.

(g) Any byproduct if its only commercial purpose is for use by public or private organizations that (1) burn it as a fuel, (2) dispose of it as a waste, including in a landfill or for enriching soil, or (3) extract component chemical substances from it for commercial purposes. (This exclusion only applies to the byproduct; it does not apply to the component substances extracted from the byproduct.)

(h) The chemical substances described below: (Although they are manufactured for commercial purposes under the Act, they are not manufactured for distribution in commerce as chemical substances per se and have no commercial purpose separate from the substance, mixture, or article of which they are a part.)

(1) Any impurity.

(2) Any byproduct which is not used for commercial purposes.

(3) Any chemical substance which results from a chemical reaction that occurs incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which results from a chemical reaction that occurs incidental to storage or disposal of another chemical substance, mixture, or article.

(5) Any chemical substance which results from a chemical reaction that occurs upon end use of another chemical substance, mixture, or article such as an adhesive, paint, miscellaneous cleanser or other housekeeping product, fuel additive, water softening and treatment agent, photographic film, battery, match, or safety flare, and which is not itself manufactured or imported for distribution in commerce or for use as an intermediate.

(6) Any chemical substance which results from a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints, or any other chemical substance formed during the manufacture of an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that occur as described elsewhere in this paragraph.

(7) Any chemical substance which results from a chemical reaction that occurs when (i) a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or defoamer, dispersant, precipitation inhibitor, binder, emulsifier, deemulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent functions as intented, or (ii) a chemical substance, which is intended solely to impart a specific physiochemical characteristic, functions as intended.

(8) Any nonisolated intermediate.

§ 720.36 Exemptions for research and development.

(a) This Part does not apply to a chemical substance if:

(1) The chemical substance is manufactured or imported only in small quantities solely for research and development.

(2) The manufacturer or importer (i) evaluates the chemical substance in accordance with paragraph (b) of this section, and (ii) notifies all persons engaged in experimentation, research, or analysis on the new chemical substance, including the manufacture, processing, use, transport, storage, and disposal of the substance associated with research and development activities, of any risk to health, identified under paragraph (b) of this section, which may be associated with the substance, in accordance with paragraph (c) of this section. A technically qualified individual must ensure the adequacy of the notification.

(3) The chemical substance is used by, or directly under the supervision of, a technically qualified individual.

(b)(1) The manufacturer or importer must evaluate any information or test data in its possession or control to determine whether there is reason to believe there is any risk to health associated with the chemical substance. This information must include:

(i) Any information concerning any significant adverse reaction by persons exposed to the substance which may reasonably be associated with such exposure.

(ii) Any information provided to the manufacturer or importer by a supplier or any other person concerning a health risk believed to be associated with the substance.

(2) In addition, the manufacturer or importer must determine whether the substance is subject to any rule or order proposed or promulgated under section 4, 5, or 6 of the Act; or the notice requirements of section 8(e) of the Act. In addition, the manufacturer or importer must ascertain whether EPA, under section 5(h)(3) of the Act, has determined that any risk to health may be associated with the substance.

(c) The manufacturer or importer must assure that persons are notified by means of a container labeling system, conspicuous placement of notices in areas where exposure may occur, written notification to each person, or any other method of notification which adequately informs persons of risks which the manufacturer or importer has reason to believe may be associated with the substance, as determined under paragraph (b) of this section. The adequacy of the notification is the responsibility of the manufacturer or importer. If the importer is not the manufacturer, it is the importer's responsibility to make the necessary evaluation and notification of any risks to health which may be associated with the substance. In making such evaluations, the importer must obtain that information described in paragraph (b) of this section which is reasonably ascertainable.

(d) Upon request, the manufacturer or importer must make available to EPA any information evaluated by the manufacturer or importer in determining the need for notification under paragraph (a)(2)(ii) of this section.

(e) The requirements for this exemption apply to all new chemical substances, including chemical substances manufactured or imported under such an exemption before the effective date of this rule.

§ 720.38 Exemptions for test marketing.

(a) Any person may apply for an exemption to manufacture or import a new chemical substance for test marketing. EPA may grant the exemption if the person demonstrates that the chemical substance will not present an unreasonable risk to injury to health or the environment as a result of the test marketing.

(b) Persons applying for a test-marketing exemption should provide the following information:

(1) All existing data regarding health and environmental effects of the chemical substance, including physical/chemical properties or, in the absence of such data, a discussion of toxicity based on structure-activity relationships (SAR) and relevant data on chemical analogues.

(2) The maximum quantity of the chemical substance which the applicant will manufacture or import for test marketing.

(3) The maximum number of persons who may be provided the chemical substance during test marketing.

(4) The maximum number of persons who may be exposed to the chemical substance as a result of test marketing, including information regarding duration and route of such exposures.

(5) A description of the test-marketing activity, including its length and how it can be distinguished from full-scale commercial production and research and development.

(c) In accordance with section 5(h)(6) of the Act, after EPA receives an application for exemption under this section, the Agency will file with the Office of the Federal Register a notice containing a summary of the information provided in the application, to the extent it has not been claimed confidential.

(d) No later than 45 days after EPA receives an application, the Agency will either approve or deny the application. Thereafter, EPA will publish a notice in the **Federal Register** explaining the reasons for approval or denial.

(e) In approving an application for exemption, EPA may impose any restrictions necessary to ensure that the substance will not present an unreasonable risk of injury to health and the environment as a result of test marketing (OMB Control No. 2070-0012).

Subpart C—Notice Form

§ 720.40 General.

(a) *Use of the notice form.* Each person who is required by Subpart B to submit a notice must complete, sign, and submit a notice containing the information in the form and manner set forth in EPA Form No. 7710-25 [3] under Appendix A of this part. Except as otherwise provided in Subpart C, each notice must be submitted with all referenced attachments. The information on the form and all attachments (unless the attachment appears in the open scientific literature) must be in English. All information submitted must be true and correct.

(b) *When to submit a notice.* Each person who is required to submit a notice must submit the notice at least 90 calendar days before manufacture or import of the new chemical substance for commercial purposes begins.

(c) *Where to submit a notice.* Each person who submits a notice must submit it to the address listed on the notice form.

(d) *General notice requirements.* Each person who submits a notice must provide the information described in § 720.45 and specified on the notice form, to the extent such information is known to or reasonably ascertainable by the submitter. In accordance with § 720.50, the notice must also include any test data in the submitter's possession or control and descriptions of other data which are known to or reasonably ascertainable by the submitter and which concern the health and environmental effects of the new chemical substance.

(e) *Agency or joint submissions.* (1) A manufacturer or importer may designate an agent to submit the notice. Both the manufacturer or importer and the agent must sign the certification on the form.

(2) A manufacturer or importer may authorize another person, (e.g., a foreign manufacturer or supplier, or a toll manufacturer) to report some of the information required in the notice to EPA on its behalf. If separate portions of a joint notice are not submitted together, the submitter should indicate which information will be supplied by another person and identify that person. The other person must submit the information on the appropriate part of the notice form. The manufacturer or importer and any other person supplying the information must sign the certification provided on their respective notice forms.

(3) If EPA receives a submission which does not include information required by this rule, which the submitter indicates that it has authorized another person to provide, the notice review period will not begin until EPA receives that information.

(f) *New information.* During the notice review period, if the submitter possesses, controls, or knows of new information that materially adds to, changes, or otherwise makes significantly more complete the information included in the notice, the submitter must that information to the address listed on the notice form within ten days of receiving the new information, but no later than five days before the end of the notice review period. The new submission must clearly identify the submitter and the notice to which the new information is related. If the new information becomes available during the last five days of the notice review period, the submitter must immediately inform its EPA contract for that notice by telephone.

(g) *Chemical substances subject to a section 4 test rule.*

(1) Except as provided in paragraph (g)(3) of this section, if (i) A person intends to manufacture or import a new chemical substance which is subject to the notification requirements of this Part, and (ii) The chemical substance is subject to a test rule promulgated under section 4 of the Act before the notice is submitted, section 5(b)(1) of the Act requires the person to submit the test data required by the testing rule with the notice. The person must submit the data in the form and manner specified in the test rule and in accordance with § 720.50. If the person does not submit the test data, the submission is incomplete and EPA will follow the procedures in § 720.65.

(2) If EPA has granted the submitter an exemption under section 4(c) of the Act from the requirement to conduct tests and submit data, the submitter may not submit a notice until EPA receives the test data.

(3) If EPA has granted the submitter an exemption under section 4(c) of the Act and if another person previously has submitted the test data to EPA, the exempted person may either submit the test data or provide the following information as part of the notice:

(i) The name, title, and address of the person who submitted the test data to EPA.

(ii) The date the test data were submitted to EPA.

(iii) A citation for the test rule.

(iv) A description of the exemption and a reference identifying it.

(h) *Chemical substances subject to a section 5(b)(4) rule.* (1) If a person (i) intends to manufacture or import a new chemical substance which is subject to the notification requirements of this part and which is subject to a rule issued under section 5 (b)(4) of the Act; and (ii) is not required by a rule issued under section 4 of the Act to submit test data for the substance before the submission of a notice, the person must submit to EPA data described in paragraph (h)(2) of this section at the time the notice is submitted.

(2) Data submitted under paragraph (h)(1) of this section must be data which the person submitting the notice believes show that the manufacture, processing, distribution in commerce, use and disposal of the substance, or any combination of such activities, will not present an unreasonable risk of injury to health or the environment (OMB Control No. 2070-0012).

§ 720.45 Information that must be included in the notice form.

Each person who submits a notice must include the information specified in the notice form to the extent it is known to or reasonably ascertainable by the submitter. However, no person is required to include information which relates solely to exposure of human or

[3] Copies may be obtained from: Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW. Washington, D.C. 20460.

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ecological populations outside of the United States. The notice form requires the following information relating to the manufacture, processing, distribution in commerce, use, and disposal of the new chemical substance:

(a)(1) For substances whose composition can be represented by a definite structural diagram (class 1 substances), the notice must provide the chemical name (preferably Chemical Abstracts Service (CAS) or International Union of Pure and Applied Chemistry (IUPAC) nomenclature), the molecular formula, CAS Registry Number (if available), and a structural diagram.

(2) For chemical substances that cannot be fully represented by a structural diagram (class 2 substances), the notice must provide the chemical name, the CAS Registry Number (if available), and molecular formula. The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if the number is available). The notice must include a partial or incomplete structural diagram if possible. Chemical names for such substances should be developed according to the guidelines in the TSCA Chemical Substance Inventory, Initial Inventory, Volume 1.

(3) For polymers, the notice must identify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number (if available). The notice must indicate the typical percent of each monomer and other reactant in the polymer (by weight percent of total polymer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if possible. The notice must provide estimates of the minimum number-average molecular weight of the polymer and the amount of low weight species below 500 and below 1,000 molecular weight and describe how the estimates were obtained.

(b) The impurities anticipated to be present in the substance by name, CAS Registry number, and weight percent of the total substance.

(c) Known synonyms or trade names of the new chemical substance.

(d) A description of the byproducts resulting from the manufacture, processing, use, and disposal of the new chemical substance.

(e) The estimated maximum amount to be manufactured or imported during the first year of production and the estimated maximum amount to be manufactured or imported during any 12-month period during the first three years of production.

(f) A description of intended categories of use by function and application, the estimated percent of production volume devoted to each category of use, and the percent of the new substance in the formulation for each commercial or consumer use.

(g) For sites controlled by the submitter:

(1) The identity of sites where the new substance will be manufactured, processed, or used.

(2) A process description of each manufacture, processing, and use operation which includes a diagram of the major unit operations and chemical conversions, the identity and entry point of all feedstocks, and the points of release of the new chemical substance.

(3) Worker exposure information, including worker activities, physical form of the new substance to which workers may be exposed, the number of workers, and the duration of activities.

(4) Information on release of the new substance to the environment, including the quantity and media of release and type of control technology used.

(h) For sites not controlled by the submitter, a description of each type of processing and use operation involving the new chemical substance, including identification of the estimated number of processing or use sites, situations in which worker exposure to and/or environmental release of the new chemical substance will occur, the number of workers exposed and the duration of exposure, and controls which limit worker exposure and environmental release.

§ 720.50 Submission of test data and other data concerning the health and environmental effects of a substance.

(a) *Test data on the new chemical substance in the possession or control of the submitter.* (1) Except as provided in paragraph (d) of this section, each notice must contain all test data in the submitter's possession or control which are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance or any mixture or article containing the new chemical substance, or any combination of such activities. This includes test data concerning the new chemical substance in a pure, technical grade, or formulated form.

(2) A full report or standard literature citation must be submitted for the following types of test data:

(i) Health effects data.

(ii) Ecological effects data.

(iii) Physical and chemical properties data.

(iv) Environmental fate characteristics.

(v) Monitoring data and other test data related to human exposure to or environmental release of the chemical substance.

(3)(i) If the data do no appear in the open scientific literature, the submitter must provide a full report. A full report includes the experimental methods and materials, results, discussion and data analysis, conclusions, references, and the name and address of the laboratory that developed the data.

(ii) If the data appear in the open scientific literature, the submitter need only provide a standard literature citation. A standard literature citation includes author, title, periodical name, date of publication, volume, and page numbers.

(4) (i) If a study, report, or test is incomplete when a person submits a notice, the submitter must identify the nature and purpose of the study; name and address of the laboratory developing the data; progress to date; types of data collected; significant preliminary results; and anticipated completion date.

(ii) If a test or experiment is completed before the notice review period ends, the person must submit the study, report, or test to the address listed on the notice form, as specified in paragraph (a)(3)(i) of this section, within ten days of receiving it, but no later than five days before the end of the review period. If the test or experiment is completed during the last five days of the review period, the submitter must immediately inform its EPA contact for that notice by telephone.

(5) For test data in the submitter's possession or control which are not listed in paragraph (a)(2) of this section, a person is not required to submit a complete report. The person must submit a summary of the data. If EPA so requests, the person must submit a full report within ten days of the request, but no later than five days before the end of the review period.

(6) All test data described by paragraph (a) are subject to these requirements, regardless of their age, quality, or results.

(b) *Other data concerning the health and environmental effects of the new chemical substance that are known to or reasonably ascertainable by the submitter.* (1) Except as provided in paragraph (d) of this section, any person who submits a notice must describe the following data, including any data from a health and safety study, if the data are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the new chemical

substance, of any mixture or article containing the new chemical substance, or of any combination of such activities:

(i) Any data, other than test data, in the submitter's possession or control.

(ii) Any data, including test data, which are not in the submitter's possession or control, but which are known to or reasonably ascertainable by the submitter. For the purposes of this section, data are known to or reasonably ascertainable by the submitter if the data are known to any of its employees or other agents who are associated with the research and development, test marketing, or commercial marketing of the substance.

(2) Data that must be described include data concerning the new chemical substance in a pure, technical grade, or formulated form.

(3) The description of data reported under this paragraph must include:

(i) If the data appear in the open scientific literature, a standard literature citation, which includes the author, title, periodical name, date of publication, volume, and pages.

(ii) If the data are not contained in the open scientific literature, a description of the type of data and summary of the results, if available, and the names and addresses of persons the submitter believes may have possession or control of the data.

(4) All data described by this paragraph are subject to these requirements, regardless of their age, quality, or results; and regardless of whether they are complete at the time the notice is submitted.

(c) *Data concerning related chemicals.* A person must submit test data or descriptions of other data concerning impurities, byproducts, degradation products, unintended reaction products, or other chemical substances or mixtures related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance only if the data have not been published in the open scientific literature. The submitter may either submit these data with the notice or describe them in accordance with § 720.50(b)(3)(ii), rather than providing a full report.

(d) *Data that need not be submitted—*(1) *Data previously submitted to EPA.* (i) A person need not submit any data previously submitted to EPA with no claims of confidentiality if the notice includes the office or person to whom the data were submitted, the date of submission, and, if appropriate, a standard literature citation as specified in paragraph (a)(3)(ii) of this section.

(ii) For data previously submitted to EPA with a claim of confidentiality, the person must resubmit the data with the notice and any claim of confidentiality, under § 720.80.

(2) *Efficacy data.* This Part does not require submission of any data related solely to product efficacy. This does not exempt a person from submitting any of the data specified in paragraph (a), (b), or (c) of this section.

(3) *Non-U.S. exposure data.* This Part does not require submission of any data which relates only to exposure of humans or the environment outside the United States. This does not exclude nonexposure data such as data on health effects (including epidemiological studies), ecological effects, physical and chemical properties, or environmental fate characteristics.

§ 720.57 Imports.

(a) Except as otherwise provided in this section, the provisions of this Subpart C apply to each person who submits a notice for a new chemcial substance which he or she intends to import for a commercial purpose. In addition, each importer must comply with this section.

(b) EPA will hold the principal importer, or the importer that EPA determines must submit the notice when there is no principal importer under § 720.22(b) (2), liable for complying with this Part, for completing the notice form and for the completeness and truthfulness of all information which it submits.

Subpart D—Disposition of Notices

§ 720.60 General.

This subpart establishes procedures that EPA will follow in reviewing notices.

§ 720.62 Notice that notification is not required.

When EPA receives a notice, EPA will review it to determine whether the chemical substance is subject to the requirements of this Part. If EPA determines that the chemical substance is not subject to these requirements, EPA will notify the submitter that section 5 of the Act does not prevent the manufacture or import of the substance and that the submission is not a notice under this Part (OMB Control No. 2070–0012).

§ 720.65 Acknowledgment of receipt of a notice; errors in the notice; incomplete submissions; false and misleading statements.

(a) *Notification to submitter.* EPA will acknowledge receipt of each notice by sending the submitter a letter that identifies the premanufacture notice number assigned to the new chemical substance and the date on which the review period begins. The review period will begin on the date the notice is received by the Office of Toxic Substances Document Control Officer. The acknowledgment does not constitute a finding by EPA that the notice, as submitted, is in compliance with this Part.

(b) *Errors in the notice.* (1) Within 30 days of receipt of the notice, EPA may request that the submitter remedy errors in the notice. The following are examples of such errors:

(i) Failure to date the notice form.

(ii) Typographical errors that cause data to be misleading or answers to any questions to be unclear.

(iii) Contradictory information.

(iv) Ambiguous statements or information.

(2) In the request to correct the notice, EPA will explain the action which the submitter must take to correct the notice.

(3) If the submitter fails to correct the notice within 15 days of receipt of the request, EPA may extend the notice period under section (5)(c) of the Act, in accordance with § 720.75(c).

(c) *Incomplete submissions.* (1) A submission is not complete, and the notification period does not begin, if:

(i) The wrong person submits the notice form.

(ii) The submitter does not sign the notice form.

(iii) Some or all of the information in the notice or the attachments are not in English, except for published scientific literature.

(iv) The submitter does not use the notice form.

(v) The submitter does not provide information that is required by section 5(d)(1) (B) and (C) of the Act and § 720.50.

(vi) The submitter does not provide information required on the notice form and by § 720.45 or indicate that it is not known to or reasonably ascertainable by the submitter.

(vii) The submitter does not submit a second copy of the submission with all confidential information deleted for the public file, as required by § 720.80(b)(2).

(viii) The submitter does not include any information required by section 5(b)(1) of the Act and pursuant to a rule promulgated under section 4 of the Act, as required by § 720.40(g).

(ix) The submitter does not submit data which the submitter believes show that the chemical substance will not present an unreasonable risk of injury to health or the environment, if EPA has listed the chemical substance under

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section 5(b)(4) of the Act, as required in § 720.40(h).

(2)(i) If EPA receives an incomplete submission, the Director, or his or her delegate, will notify the submitter within 30 days of receipt that the submission is incomplete and that the notice review period will not begin until EPA receives a complete notice.

(ii) If EPA obtains additional information during the notice review period that indicates the original submission was incomplete, the Director, or his or her delegate, may declare the submission incomplete within 30 days after EPA obtains the additional information and so notify the submitter.

(3) The notification that a submission is incomplete under paragraph (c)(2) (i) or (ii) of this section will include:

(i) A statement of the basis of EPA's determination that the submission is incomplete.

(ii) The requirements for correcting the incomplete submission.

(iii) Information on procedures under paragraph (c)(4) of this section for filing objections to the determination or requesting modification of the requirements for completing the submission.

(4) Within ten days after receipt of notification by EPA that a submission is incomplete, the submitter may file written objections requesting that EPA accept the submission as a complete notice or modify the requirements necessary to complete the submission.

(5)(i) EPA will consider the objections filed by the submitter. The Director, or his or her delegate, will determine whether the submission was complete or incomplete, or whether to modify the requirements for completing the submission. EPA will notify the submitter in writing of EPA's response within ten days of receiving the objections.

(ii) If the Director, or his or her delegate, determines, in response to the objection, that the submission was complete, the notice review period will be deemed suspended on the date EPA declared the notice incomplete, and will resume on the date that the notice is declared complete. The submitter need not correct the notice as EPA originally requested. If EPA can complete its review within 90 days from the date of the original submission, the Director, or his or her delegate, may inform the submitter that the running of the review period will resume on the date EPA originally declared it incomplete.

(iii) If the Director, or his or her delegate, modifies the requirements for completing the submission or concurs with EPA's original determination, the notice review period will begin when EPA receives a complete notice.

(d) *Materially false or misleading statements.* If EPA discovers at any time that person submitted materially false or misleading statements in the notice, EPA may find that the notice was incomplete from the date it was submitted, and take any other appropriate action.

§ 720.70 Notice in the Federal Register.

(a) *Filing of* **Federal Register** *notice.* In accordance with section 5(d)(2) of the Act, after EPA receives a notice, EPA will file with the Office of the Federal Register a notice including the information specified in paragraph (b) of this section.

(b) *Contents of notice.* (1) In the public interest, the specific chemical identity listed in the notice will be published in the **Federal Register** unless the submitter has claimed chemical identity confidential. If the submitter claims confidentiality, a generic name will be published in accordance with § 720.85(a)(3).

(2) The categories of use of the new chemical substance will be published as reported in the notice unless this information is claimed confidential. If confidentiality is claimed, the generic information which is submitted under § 720.87(b) will be published.

(3) A list of data submitted in accordance with § 720.50(a) will be published. In addition, for test data submitted in accordance with § 720.40(g), a summary of the data will be published.

(4) The submitter's identity will be published, unless the submitter has claimed it confidential.

§ 720.75 Notice review period.

(a) *Length of notice review period.* The notice review period specified in section 5(a) of the Act runs for 90 days from the date the Document Control Officer for the Office of Toxic Substances receives a complete notice, or the date EPA determines the notice is complete under § 720.65(c), unless the Agency extends the period under section 5(c) of TSCA and paragraph (c) of this section.

(b) *Suspension of the running of the notice review period.* (1) A submitter may voluntarily suspend the running of the notice review period if the Director or his or her delegate agrees. If the Director does not agree, the review period will continue to run, and EPA will notify the submitter. A submitter may request a suspension at any time during the notice review period. The suspension must be for a specified period of time.

(2) A request for suspension may be made in writing to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M Street SW., Washington, D.C. 20460. The suspension also may be made orally, including by telephone, to the submitter's EPA contact for that notice. EPA will send the submitter a written confirmation that the suspension has been granted (OMB Control No. 2070–0012).

(i) An oral request may be granted for 15 days only. To obtain a longer suspension, the Document Control Officer for the Office of Toxic Substances must receive written confirmation of the oral request. The notice review period is suspended as of the date of the oral request.

(ii) If the submitter has not made a previous oral request, the running of the notice review period is suspended as of the date of receipt of the written request by the Document Control Officer for the Office of Toxic Substances.

(c) *Extension of notice review period.* (1) At any time during the notice review period, EPA may determine that good cause exists to extend the notice review period specified in paragraph (a) of this section.

(2) If EPA makes such a determination, EPA will:

(i) Notify the submitter that EPA is extending the notice review period for a specified length of time, and state the reasons for the extension.

(ii) Issue a notice for publication in the **Federal Register** which states that EPA is extending the notice review period and gives the reasons for the extension.

(3) The initial extension may be for a period of up to 90 days. If the initial extension is for less than 90 days, EPA may make additional extensions. However, the total period of extensions may not exceed 90 days for any notice.

(4) The following are examples of situations in which EPA may find that good cause exists for extending the notice review period:

(i) EPA has reviewed the notice and determined that there is a significant possibility that the chemical substance will be regulated under section 5(e) or section 5(f) of the Act, but EPA is unable to initiate regulatory action within the initial 90-day period.

(ii) EPA has reviewed the submission and is seeking additional information.

(iii) EPA has received significant additional information during the notice review period.

(iv) The submitter has failed to correct a notice after receiving EPA's request under § 720.65(b).

(d) *Notice of expiration of notice review period.* EPA will notify the submitter that the notice review period has expired or that EPA has completed its review of the notice. Expiration of the review period does not constitute EPA approval or certification of the new chemical substance, and does not mean that EPA may not take regulatory action against the substance in the future. After expiration of the statutory notice review period, in the absence of regulatory action by EPA under section 5(e), 5(f), or 6(a) of the Act, the submitter may manufacture or import the chemical substance even if the submitter has not received notice of expiration.

(e) *Withdrawal of a notice by the submitter.* (1) A submitter may withdraw a notice during the notice review period. A statement of withdrawal must be made in writing to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460. The withdrawal is effective upon receipt of the statement by the Document Control Officer (OMB Control No. 2070–0012).

(2) If a manufacturer or importer which withdrew a notice later resubmits a notice for the same chemical substance, a new notice review period begins.

§ 270.78 Recordkeeping

(a) Any person who submits a notice under this Part must retain documentation of information in the notice, including (1) other data, as defined in § 720.50(b), in the submitter's possession or control; and (2) records of production volume for the first three years of production or import, the date of commencement of manufacture or import, and documentation of this information. This information must be retained for five years from the date of commencement of manufacture of import.

(b) Persons who manufacture or import a chemical substance under the terms of a research and development exemption must retain documentation of compliance with the exemption, including copies of the information they used to determine the need to make any notification of risk to health under § 720.36 for five years from the final date of manufacture or import under the exemption.

(c) Any person who obtains a test-marketing exemption under this Part must retain documentation of information in the application and documentation of compliance with any restrictions imposed by EPA when it granted the application. This information must be retained for five years from the final date of manufacture or import under the exemption (OMB Control No. 2070–0012).

Subpart E—Confidentiality and Public Access to Information

§ 720.80 General provisions.

(a) A person may assert a claim of confidentiality for any information which he or she submits to EPA under this Part.

(b) Any claim of confidentiality must accompany the information when it is submitted to EPA.

(1)(i) For information submitted on the notice form, the claim(s) must be asserted on the form in the manner prescribed on the notice form.

(ii) When a person submits information in an attachment, the claim(s) must be asserted in the attachment as described on the notice form.

(2) The person must submit two copies of each notice form and any attachments if any information is claimed confidential.

(i) One copy of the form and attachments must be complete. In that copy, the submitter must mark the information which is claimed confidential in the manner prescribed on the notice form.

(ii) The second copy must be complete except that all information claimed as confidential in the first copy must be deleted. EPA will place the second copy in the public file.

(iii) If the submitter does not provide the second copy, the submission is incomplete and the notice review period does not begin to run until EPA receives the second copy, in accordance with § 720.65(c)(vi).

(c) EPA will disclose information that is subject to a claim of confidentiality asserted under this section only to the extent permitted by the Act, this Subpart, and Part 2 of this Title.

(d) If a notice submitter does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public and place it in the public file without further notice to the submitter (OMB Control No. 2070–0012).

§ 720.85 Chemical identity.

(a) *Claims applicable to the period prior to commencement of manufacture or import.* (1)(i) A person who submits information to EPA under this Part may assert a claim of confidentiality for the chemical identity of the new chemical substance. This claim will apply only to the period prior to the commencement of manufacture or import for commercial purposes. A submitter may assert this claim only if the submitter believes that public disclosure prior to commencement of manufacture or import of the fact that anyone intends to manufacture or import the specific chemical substance for commercial purposes would reveal confidential business information.

(ii) If the notice includes a health and safety study concerning the new chemical substance and if the claim for confidentiality with respect to the chemical identity is denied in accordance with § 720.90(c), EPA will deny a claim asserted under this paragraph.

(2) Any person who asserts a claim of confidentiality for chemical identity under this paragraph must provide one of the following items at the time the notice is submitted:

(i) The generic name which was accepted by EPA in the prenotice consultation conducted under paragraph (a)(3) of this section.

(ii) One generic name that is only as generic as necessary to protect the confidential chemical identity of the particular chemical substance. The name should reveal the specific chemical identity to the maximum extent possible. The generic name will be subject to EPA review and approval at the time a notice of commencement is submitted.

(3)(i) Any person who intends to assert a claim of confidentiality for the chemical identity of a new chemical substance may seek a determination by EPA of an appropriate generic name for the substance before submitting a notice. For this purpose, the person should submit to EPA:

(A) The chemical identity of the substance.

(B) A proposed generic name(s) which in only as generic as necessary to protect the confidential chemical identity of the new chemical substance. The name(s) should reveal the chemical identity of the substance to the maximum extent possible.

(ii) Within 30 days, EPA will inform the submitter either that one of the proposed generic names is adequate or that none is adequate and further consultation is necessary.

(4) If a submitter claims chemical identity to be confidential under this paragraph, and if the submitter complies with paragraph (a)(2) of this section, EPA will issue for publication in the **Federal Register** notice described in § 720.70 the generic name proposed by the submitter or one agreed upon by EPA and the submitter.

(b) *Claims applicable to the period after commencement of manufacture or*

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import. (1) Any claim of confidentiality under paragraph (a) of this section is applicable only until the substance is manufactured or imported for commercial purposes and becomes eligible for inclusion on the Inventory. To maintain the confidential status of the chemical identity when the substance is added to the Inventory, a submitter must reassert the confidentiality claim and substantiate the claim in the notice of commencement of manufacture required uner § 720.102. A submitter may not claim the chemical indentity confidential for the period after commencement of manufacture or import unless the submitter claimed the chemical identity confidential for the period prior to commencement of manufacture or import under paragraph (a) of this section.

(2)(i) A person who believes that public disclosure of the fact that anyone manfactures or imports the new chemical substance for commercial purposes would reveal confidential business information may assert a claim of confidentiality under this paragraph.

(ii) If the notice includes a health and safety study concerning the new chemical substance, and if the claim for confidentiality with respect to the chemical identity is denied in accordance with § 720.90(c), EPA will deny a claim asserted under this paragraph.

(3) Any person who asserts a confidentiality claim for chemical identity must:

(i) Comply with the requirements of paragraph (a)(3) of this section regarding submission of a generic name.

(ii) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture or import the chemical substance the fact that the particular chemical substance is included on the confidential Inventory for purposes of notification under section 5(a)(1)(A) of the Act.

(iii) Have available for the particular chemical substance, and agree to furnish to EPA upon request:

(A) An elemental analysis.

(B) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the chemical substance.

(iv) Provide a detailed written substantiation of the claim, by answering the following questions:

(A) What harmful effects to your competitive position, if any, do you think would result if EPA publishes on the Inventory the identity of the chemical substance? How could a competitor use such information given the fact that the identity of the substance otherwise would appear on the Inventory of chemical substances with no link between the substance and your company or industry? How substantial would the harmful effects of disclosure be? What is the casual relationship between the disclosure and the harmful effects?

(B) For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(C) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential for purposes of the Inventory?

(D) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured on imported for a commercial purpose by anyone?

(E) Is the fact that someone is manufacturing or importing this chemical substance for commercial purposes available to the public, e.g., in technical journals or other publications; in libraries; or in State, local, or Federal agency public files?

(F) What measures have you taken to prevent undesired disclosure of the fact that you are manufacturing or importing this substance for a commercial purpose?

(G) To what extent has the fact that you are manufacturing or importing this chemical substance for a commercial purpose been disclosed to others? What precautions have you taken in regard to these disclosures? Has this information been disclosed to the public or to competitors?

(H) In what form does this particular chemical substance leave the site of manufacture, e.g., as part of a product; in an effluent or emission stream? If so, what measures have you taken to guard against discovery of its identity?

(I) If the chemical substance leaves the site of manufacture in a product that is available to either the public or your competitors, can they identify the substance by analyzing the product?

(J) For what purpose do you manufacture or import the substance?

(K) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, copies of such determinations must be included in the substantiation.

(L) If the notice includes a health and safety study concerning the new chemical substance, the submitter must also answer the questions in § 720.90 (b) (2).

(4) If the submitter does not meet the requirements of this paragraph, EPA will deny the claim of confidentiality.

(5) (i) EPA will publish a generic name on the public Inventory if:

(A) The submitter asserts a claim of confidentiality in accordance with this pargraph.

(B) No claim for confidentiality of the specific chemical identity as part of a health and safety study has been denied in accordance with Part 2 of this Title or § 720.90.

(ii) Publication of a generic name on the public Inventory does not create a category for purposes of the Inventory. Any person who has a *bona fide* intent to manufacture or import a chemical substance which is described by a generic name on the public Inventory may submit an inquiry to EPA under § 720.25 (b) to determine whether the particular chemical substance is included on the confidential Inventory.

(iii) Upon receipt of a request described in § 720.25 (b), EPA may require the submitter which originally asserted confidentiality for a chemical substance to submit to EPA the information listed in paragraph (b) (3) (iii) of this section.

(iv) Failure to submit any of the information required under paragraph (b) (3) (iii) of this section within ten days of a request by EPA under this paragraph is a waiver of the original submitter's confidentiality claim. In this event, EPA may place the specific chemical identity on the public Inventory without further notice to the original submitter.

(6) If a submitter asserts a claim of confidentiality under this paragraph, EPA will examine the generic chemical name proposed by the submitter.

(i) If EPA determines that the generic name proposed by the submitter is only as generic as necessary to protect the confidential identity of the particular chemical substance, EPA will place that generic name on the public Inventory.

(ii) If EPA determines that the generic name proposed by the submitter is more generic than necessary to protect the confidential identity, EPA will propose in writing, for review by the submitter, an alternative generic name that will reveal the chemical identity of the chemical substance to the maximum extent possible.

(iii) If the generic name proposed by EPA is acceptable to the submitter, EPA will place that generic name on the public Inventory.

(iv) If the generic name proposed by EPA is not acceptable to the submitter, the submitter must explain in detail why disclosure of that generic name would reveal confidential business information and propose another generic name which is only as generic as necessary to protect the confidential identity. If EPA does not receive a response from the submitter within 30 days after the submitter receives the proposed name, EPA will place EPA's chosen generic name on the public Inventory. If the submitter does provide the information requested, EPA will review the response. If the submitter's proposed generic name is acceptable, EPA will publish that generic name on the public Inventory. If the submitter's proposed generic name is not acceptable, EPA will notify the submitter of EPA's choice of a generic name. Thirty days after this notification, EPA will place the chosen generic name on the public Inventory.

§ 720.87 Categories or proposed categories of uses of a new chemical substance.

(a) A person who submits information to EPA under this Part on the categories or proposed categories of use of a new chemical substance may assert a claim of confidentiality for this information.

(b) A submitter that asserts such a claim must:

(1) Report the categories or proposed categories of use of the chemical substance.

(2) Provide, in nonconfidential form, a description of the uses that is only as generic as necessary to protect the confidential business information. The generic use description will be included in the **Federal Register** notice described in § 720.70.

(c) The person must submit the information required by paragraph (b) of this section in the manner specified in the notice form.

§ 720.90 Data from health and safety studies.

(a) *Information other than specific chemical identity.* Except as provided in paragraph (b) of this section, EPA will deny any claim of confidentiality with respect to information included in a health and safety study, unless the information would disclose confidential business information concerning:

(1) Processes used in the manufacture or processing of a chemical substance or mixture.

(2) In the case of a mixture, the portion of the mixture comprised by any of the chemical substances in the mixture.

(3) Informaton which is not in any way related to the effects of a substance on human health or the environment, such as the name of the submitting company, cost or other financial data, product development or marketing plans, and advertising plans, for which the person submits a claim of confidentiality in accordance with § 720.80.

(b) *Specific chemical identity.* (1) *Claims applicable to period prior to commencement of manufacture.* A claim of confidentiality for the period prior to commencement of manufacture or import for the chemical identity of a chemical substance for which a health and safety study was submitted must be asserted in conjunction with a claim asserted under § 720.85(a).

(2) *Claims applicable to period after commencement of manufacture or import for commercial purposes.* To maintain the confidential status of the chemical identity of a chemical substance for which a health and safety study was submitted after commencement of manufacture or import, the claim must be reasserted and substantiated in conjunction with a claim under § 720.85(b). In addition to the questions set forth in § 720.85(b)(3)(iv) of this Part, the submitter must answer the following questions:

(i) Would disclosure of the chemical identity disclose processes used in the manufacture or processing of a chemical substance or mixture? Describe how this would occur. In responding to the question in § 720.85(b)(3)(iv)(A), explain what harmful competitive effects would occur from disclosure of this process information.

(ii) Would disclosure of the chemical identity disclose the portion of a mixture comprised by any of the substances in the mixture? Describe how this would occur. In responding to the question in § 720.85(b)(3)(iv)(A), explain what harmful competitive effects would occur from disclosure of this information.

(iii) Do you assert that disclosure of the chemical identity is not necessary to interpret any of the health and safety studies you have submitted? If so, explain how a less specific identity would be sufficient to interpret the studies.

(c) *Denial of confidentiality claim.* EPA will deny a claim of confidentiality for chemical identity under paragraph (b) of this section, unless:

(1) The information would disclose processes used in the manufacture or processing of a chemical substance or mixture.

(2) In the case of a mixture, the information would disclose the portion of the mixture comprised by any of the substances in the mixture.

(3) The specific chemical identity is not necessary to interpret a health and safety study.

(d) *Use of generic names.* When EPA discloses a health and safety study containing a specific chemical identity, which the submitter has claimed confidential, and if the Agency has not denied the claim under paragraph (c) of this section, EPA will identify the chemical substance by the generic name selected under § 720.85. (OMB Control No. 2070–0012)

§ 720.95 Public file.

All information submitted with a notice, including any health and safety study and other supporting documentation, will become part of the public file for that notice, unless such materials are claimed confidential. In addition, EPA may add materials to the public file, subject to Subpart E of this Part. Any of the nonconfidential material described above will be available for public inspection in the Office of Toxic Substances Public Reading Room, Rm. E–107, 401 M St., SW., Washington, DC 20460, during normal business hours.

Subpart F—Commencement of Manufacture or Import

§ 720.102 Notice of commencement of manufacture or import.

(a) *Applicability.* Any person who commences to manufacture or import a new chemical substance for a commercial purpose for which that person previously submitted a section 5 notice under this Part must submit a notice of commencement of manufacture or import.

(b) *When to report.* (1) If manufacture or import for commercial purposes begins on or after the effective date of this rule, the submitter must submit the notice to EPA on the first day of such manufacture or import.

(2) If manufacture or import for commercial purposes began or will begin before the effective date of this rule, the submitter must submit the notice by the effective date of this rule.

(c) *Information to be reported.* The notice must contain the following information: specific chemical identity, premanufacture notice number, and the date when manufacture or import commences. If the person claimed chemical identity confidential in the commencement notice, and wants the identity to be listed on the confiden*ial

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Inventory, the claim must be reasserted and substantiated in accordance with § 720.85(b). Otherwise, EPA will list the specific chemical identity on the public Inventory (OMB Control No. 2070–0012).

Subpart G—Compliance and Inspections

§ 720.120 Compliance.

(a) Failure to comply with any provision of this Part is a violation of section 15 of the Act (15 U.S.C 2614).

(b) A person who manufactures or imports a new chemical substance before a notice is submitted and the notice review period expires is in violation of section 15 of the Act even if that person was not requied to submit the notice under § 720.22 of this Part.

(c) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5 of this rule is a violation of section 15 of the Act (15 U.S.C. 2614).

(d) Failure or refusal to establish and maintain records or to permit access to or copying of records, as required by the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(e) Failure or refusal to permit entry or inspection as required by section 11 is a violation of section 15 of the Act (15 U.S.C. 2614).

(f) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirements of any provision of this rule may be subject to penalties calculated as if they never filed their notices.

(g) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this rule or act to seize any chemical substance manufactured or processed in violation of this rule or take other actions under the authority of section 7 of this Act (15 U.S.C. 2606) or section 17 or this Act (15 U.S.C. 2616).

§ 720.122 Inspections.

EPA will conduct inspections under section 11 of the Act to assure compliance with section 5 of the Act and this rule, to verify that information submitted to EPA under this rule is true and correct, and to audit data submitted to EPA under this rule.

BILLING CODE 6560-50-M

Appendix A—Premanufacture Notice for New Chemical Substances

O.M.B. No. 2070-0012: Approval Expires 3-3-86

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE FOR NEW CHEMICAL SUBSTANCES

AGENCY USE ONLY

Date of receipt

When completed send this form to:

DOCUMENT CONTROL OFFICER
OFFICE OF TOXIC SUBSTANCES, TS-793
U.S. E.P.A.
401 M STREET, SW
WASHINGTON, D.C. 20460

Document control number | EPA case number

Enter the total number of pages in the Premanufacture Notice ⟶

GENERAL INSTRUCTIONS

You must provide all information requested in this form to the extent that it is known to or reasonably ascertainable by you. Make reasonable estimates if you do not have actual data.

Before you complete this form, you should read the "Instructions Manual for Premanufacture Notification" (**Instructions Manual**).

Part I. GENERAL INFORMATION

You must provide the chemical identity of the new chemical substance, even if you claim the identity as confidential. You may authorize another person to submit the identity for you, but your submission will not be complete and review will not begin until EPA receives this information.

Part II. HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

You may need additional copies of part II, sections A and B if there are several manufacture, processing, or use operations that you will describe in the notice. You should reproduce these sections as needed.

Part III. LIST OF ATTACHMENTS

You should attach additional sheets if you do not have enough space on the form to answer a question fully. In part III, list these attachments, any test data or other data, and any optional information that you include in the notice.

OPTIONAL INFORMATION

You may include in the notice any information that you want EPA to consider in evaluating the new substance. The **Instructions Manual** identifies categories of optional information that you may want EPA to review.

CONFIDENTIALITY CLAIMS

You may claim any information in this notice as confidential. To assert a claim on the form, mark (X) the confidential box next to the information that you claim as confidential. To assert a claim in an attachment, circle or bracket the information you claim as confidential. If you claim information in the notice as confidential, you must provide a sanitized version of the notice, including attachments, to EPA with your submission. For additional instructions on claiming information as confidential, read the **Instructions Manual.**

Indicate below the categories of information you have claimed as confidential in the notice.

1 ☐ SUBMITTER IDENTITY
2 ☐ CHEMICAL IDENTITY
3 ☐ PRODUCTION VOLUME
4 ☐ USE INFORMATION
5 ☐ PROCESS INFORMATION
6 ☐ PORTIONS OF A MIXTURE
7 ☐ OTHER INFORMATION

TEST DATA AND OTHER DATA

You are required to submit all test data in your possession or control and to provide a description of all other data known to or reasonably ascertainable by you if these data are related to the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. Standard literature citations may be submitted for data in the open scientific literature. Complete test data, not summaries of data, must be submitted if they do not appear in the open literature. Following are examples of test data and other data. You should submit these data according to the requirements of §720.50 of the Premanufacture Notification Rule (40 CFR Part 720).

Test data

- **Environmental fate data**
  - Spectra (UV, visible, and infrared)
  - Density of liquids and solids
  - Water solubility
  - Melting point/melting range
  - Boiling point/boiling range
  - Vapor pressure
  - Partition coefficient, n-octanol/water
  - Biodegradation
  - Hydrolysis (as a function of pH)
  - Photochemical degradation
  - Adsorption/desorption to soil types
  - Dissociation constant
  - Other physical/chemical properties
- **Health effects data**
  - Mutagenicity
  - Carcinogenicity
  - Teratogenicity
  - Acute toxicity
  - Repeated dose toxicity
  - Metabolism studies
  - Sensitization
  - Irritation
- **Environmental effects data**
  - Microbial and algal toxicity
  - Terrestrial vascular plant toxicity (e.g., seed germination studies, growth inhibition)
  - Acute and chronic toxicity to animals (e.g., fish, birds, mammals, invertebrates)

Other data

- **Risk assessments**
- **Structure/activity relationships**
- **Test data not in the possession or control of the submitter**

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CERTIFICATION

I certify that to the best of my knowledge and belief:

1. The company named in part I, section A, subsection 1a of this notice form intends to manufacture or import for a commercial purpose, other than in small quantities solely for research and development, the substance identified in part I, section B.

2. All information provided in this notice is complete and truthful as of the date of submission.

3. I am submitting with this notice all test data in my possession or control and a description of all other data known to or reasonably ascertainable by me as required by §720.50 of the Premanufacture Notification Rule.

		Confidential
Signature of authorized official	Date	
Signature of agent — *(if applicable)*	Date	

Part I — GENERAL INFORMATION

Section A — SUBMITTER IDENTIFICATION

Mark (X) the "Confidential" box next to any subsection you claim as confidential.

			Confidential
1a. Person submitting notice	Name of authorized official	Title	
	Company		
	Mailing address (number and street)		
	City, State, ZIP code		
b. Agent *(if applicable)*	Name of authorized official	Title	
	Company		
	Mailing address (number and street)		
	City, State, ZIP code		
c. *If you are submitting this notice as part of a joint submission, mark (X) this box.* → ☐			
2. Technical contact	Name	Title	
	Company		
	Mailing address (number and street)		
	City, State, ZIP code	Telephone: Area code / Number	
3. If you have had a prenotice communication (PC) concerning this notice and EPA assigned a PC Number to the notice, enter the number →		*Mark (X) if none* → ☐	
4. If you have submitted a test-marketing exemption (TME) application for the chemical substance covered by this notice, enter the TME number assigned by EPA →		*Mark (X) if none* → ☐	
5. If you have submitted a bona fide request for the chemical substance covered by this notice, enter the bona fide request number assigned by EPA →		*Mark (X) if none* → ☐	
6. Type of Notice — *Mark (X)*	1 ☐ Manufacture	2 ☐ Import	

Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION

Mark (X) the "Confidential" box next to any item you claim as confidential.

Complete either item 1 or 2 as appropriate. Complete all other items.

If another person will submit chemical identity information for you, mark (X) the box at the right. → ☐ Identify the name, company, and address of that person in a continuation sheet.

Confidential

1. **Class 1 or 2 chemical substances** (for definitions of class 1 and class 2 substances, see the **Instructions Manual**)

a. Class of substance — *Mark (X)* 1 ☐ Class 1 2 ☐ Class 2

b. Chemical name (preferably CAS or IUPAC nomenclature)

c. Molecular formula and CAS Registry Number (if known)

d. For a class 1 substance, provide a structural diagram. For a class 2 substance — (1) List the immediate precursor substances with their respective CAS Registry Numbers. (2) Describe the nature of the reaction or process. (3) Indicate the range of composition and the typical composition (where appropriate). (4) Provide a representative structural diagram (if possible).

☐ *Mark (X) this box if you attach a continuation sheet.*

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Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION — Continued

2. Polymers (For a definition of polymer, see the **Instructions Manual**.)

Confi-dential

a. Indicate the **lowest** number-average molecular weight composition of the polymer you intend to manufacture. Indicate the **maximum** weight percent of low molecular weight species below 500 and below 1,000 absolute molecular weight of that composition. Describe the methods of measurement or the bases for your estimates.

☐ *Mark (X) this box if you attach a continuation sheet.*

b. You must make separate confidentiality claims for monomer or other reactant identity, composition information, and residual information. Mark (X) the "Confidential" box next to any item you claim as confidential.

(1) — Provide the chemical name and CAS Registry Number of each monomer or other reactant used in the manufacture of the polymer.
(2) — Indicate the **typical** weight percent of each monomer or other reactant in the polymer.
(3) — Mark (X) the identity column if you want a monomer or other reactant used at two weight percent or less to be listed as part of the polymer description on the TSCA Chemical Substance Inventory.
(4) — Indicate the **maximum** weight percent of each monomer or other reactant that may be present as a residual in the polymer as manufactured for commercial purposes.

Monomer or other reactant and CAS Registry Number (1)	Confi-dential	Typical composition (2)	Identity *Mark (X)* (3)	Confi-dential	Maximum residual (4)	Confi-dential
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	

☐ *Mark (X) this box if you attach a continuation sheet.*

c. Provide a representative structural diagram of the polymer, if possible.

☐ *Mark (X) this box if you attach a continuation sheet.*

Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION — Continued

3. Impurities

(a) — Identify each impurity that may be reasonably anticipated to be present in the chemical substance as manufactured for commercial purposes. Provide the CAS Registry Number if available. If there are unidentified impurities, enter "unidentified."
(b) — Estimate the **maximum** weight percent of each impurity. If there are unidentified impurities, estimate their total weight percent.

Impurity and CAS Registry Number (a)	Maximum percent (b)	Confi-dential
	%	
	%	
	%	
	%	
	%	
	%	
	%	

☐ *Mark (X) this box if you attach a continuation sheet.*

4. Synonyms — Enter any synonyms for the new chemical substance identified in subsection 1 or 2.

Confi-dential

☐ *Mark (X) this box if you attach a continuation sheet.*

5. Trade identification — List trade names for the new chemical substance identified in subsection 1 or 2.

☐ *Mark (X) this box if you attach a continuation sheet.*

6. Generic chemical name — If you claim chemical identity as confidential, enter the generic chemical name that you developed with EPA during prenotice communication. If you have not developed a generic name with EPA, provide a generic name that reveals the specific chemical identity of the new chemical substance to the maximum extent possible. Read the TSCA Chemical Substance Inventory, Initial Inventory, Volume I for guidance on developing generic names.

☐ *Mark (X) this box if you attach a continuation sheet.*

7. Byproducts — Describe any byproducts resulting from the manufacture, processing, use, or disposal of the new chemical substance at sites you control. Provide the CAS Registry Number if available.

Byproduct (1)	CAS Registry Number (2)	Confi-dential

☐ *Mark (X) this box if you attach a continuation sheet.*

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Part I — GENERAL INFORMATION — Continued

Section C — PRODUCTION, IMPORT, AND USE INFORMATION

Mark (X) the "Confidential" box next to any item you claim as confidential.

1. Production volume — Estimate the **maximum** production volume during the first 12 months of production. Also estimate the **maximum** production volume for any consecutive 12-month period during the first three years of production.

Maximum first 12-month production (kg/yr)	Maximum 12-month production (kg/yr)	Confidential

2. Use Information

You must make separate confidentiality claims for the description of the category of use, the percent of production volume devoted to each category, the formulation of the new substance, and other use information. Mark (X) the "Confidential" box next to any item you claim as confidential.

a. (1) — Describe each intended category of use of the new chemical substance by function and application.
(2) — Estimate the percent of total production for the first three years devoted to each category of use.
(3) — Estimate the percent of the new substance as formulated in mixtures, suspensions, emulsions, solutions, or gels as manufactured for commercial purposes at sites under your control associated with each category of use.
(4) — Mark (X) whether the use is site-limited, industrial, commercial, or consumer. Mark more than one column if appropriate.

Read the **Instructions Manual** for examples.

Category of use (1)	Confidential	Production (percent) (2)	Confidential	Formulation (percent) (3)	Confidential	Mark (X) appropriate column(s) (4) Site-limited	Industrial	Commercial	Consumer	Confidential
		%		%						
		%		%						
		%		%						
		%		%						

☐ *Mark (X) this box if you attach a continuation sheet.*

b. Generic use description — If you claim any category of use description in subsection 2a as confidential, enter a generic description of that category. Read the **Instructions Manual** for examples of generic use descriptions.

☐ *Mark (X) this box if you attach a continuation sheet.*

3. Hazard Information — Include in the notice a copy or reasonable facsimile of any hazard warning statement, label, material safety data sheet, or other information which will be provided to any person regarding protective equipment or practices for the safe handling, transport, use, or disposal of the new chemical substance. List in part III any hazard information you include.

☐ *Mark (X) this box if you attach hazard information.*

Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

Section A — INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER

Complete section A for each type of manufacture, processing, or use operation involving the new chemical substance at industrial sites you control.

Mark (X) the "Confidential" box next to any item you claim as confidential.

1. Operation description

a. Identity — Enter the identity of the site at which the operation will occur. (Confidential)

Name

Site address (number and street)

City, County, State, ZIP code

If the same operation will occur at more than one site, enter the number of sites. → Identify the additional sites on a continuation sheet.

☐ *Mark (X) this box if you attach a continuation sheet.*

b. Type — Mark (X) 1 ☐ Manufacturing 2 ☐ Processing 3 ☐ Use

c. Amount and Duration — *Complete 1 or 2 as appropriate*

1. Batch	Maximum kg/batch	Hours/batch	Batches/year
2. Continuous	Maximum kg/day	Hours/day	Days/year

d. Process description
(1) Diagram the major unit operation steps and chemical conversions.
(2) Provide the identity, the approximate weight (by kg/day or kg/batch), and entry point of all feedstocks (including reactants, solvents, and catalysts).
(3) Identify by number the points of release to the environment of the new chemical substance.

☐ *Mark (X) this box if you attach a continuation sheet.*

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Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE — Continued

Section A — INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER — Continued

2. Occupational Exposure

You must make separate confidentiality claims for the description of worker activity, physical form of the new chemical substance, number of workers exposed, and duration of activity. Mark (X) the "Confidential" box next to any item you claim as confidential.

(1) – Describe the activities in which workers may be exposed to the new chemical substance. Include activities in which workers wear protective equipment.
(2) – Indicate the physical form(s) of the new chemical substance at the time of exposure.
(3) – Estimate the maximum number of workers involved in each activity.
(4) and (5) – Estimate the maximum duration of the activity for any worker in hours per day and days per year.

Worker activity (1)	Confidential	Physical form(s) (2)	Confidential	Maximum number (3)	Confidential	Maximum duration Hrs/day (4)	Maximum duration Days/yr (5)	Confidential

☐ *Mark (X) this box if you attach a continuation sheet.*

3. Environmental Release and Disposal

You must make separate confidentiality claims for the release number and the amount of the new chemical substance released and other release and disposal information. Mark (X) the "Confidential" box next to each item you claim as confidential.

(1) – Enter the number of each release point identified in the process description, part II, section A, subsection 1d(3).
(2) – Estimate the amount of the new chemical substance released directly to the environment or into control technology (in kg/day or kg/batch).
(3) – Identify the media (air, land, or water) to which the new substance will be released from that release point.
(4) – Describe control technology, if any, that will be used to limit the release of the new substance to the environment. For releases disposed of on land, characterize the disposal method.
(5) – Identify the destination(s) of releases to water.

Release Number (1)	Amount of new substance released (2)	Confidential	Media of release (3)	Control technology (4)	Confidential

(5) Mark (X) the destination(s) of releases to water. 1 ☐ POTW (publicly owned treatment works) 2 ☐ Navigable waterway 3 ☐ Other – *Specify* _____

☐ *Mark (X) this box if you attach a continuation sheet.*

Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE — Continued

Section B — INDUSTRIAL SITES CONTROLLED BY OTHERS

Complete section B for each type of processing or use operation involving the new chemical substance at sites you do not control.

To claim information in this section as confidential, circle or bracket the ***specific*** *information that you claim as confidential.*

Operation description

Describe the typical processing or use operation. Identify the unit operation steps which may occur during the operation. Estimate the number of sites at which the operation is likely to occur. Identify situations in which worker exposure to and/or environmental release of the new chemical substance may occur. Estimate the percent of new chemical substance as formulated in products manufactured for commercial purposes in the operation or as used in the operation. Estimate the number of workers exposed and the duration of exposure. Identify controls which limit worker exposure and environmental release if typically used. Identify byproducts which may result from the operation.

☐ *Mark (X) this box if you attach a continuation sheet.*

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Part III — LIST OF ATTACHMENTS

Attach continuation sheets for sections of the form and test data and other data (including physical/chemical properties and structure/activity information), and optional information after this page. Clearly identify the attachment and the section of the form to which it relates, if appropriate. Number consecutively the pages of the attachments. In the column below, enter the inclusive page numbers of each attachment.

Mark (X) the "Confidential" box next to any attachment **name** you claim as confidential. Read the **Instructions Manual** for guidance on how to claim any information in an attachment as confidential. You must include with the sanitized copy of the notice form a sanitized version of any attachment in which you claim information as confidential.

Attachment name	Attachment page number(s)	Confidential

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82-3001	Feb. 5, 1983
CT81-3032	May 15, 1981
Hawaii: HI83-5104	Mar. 18, 1983
Iowa:	
IA82-4030	June 18, 1982
IA82-4048	Oct. 1, 1982
Ohio:	
OH83-2006	Feb. 11, 1983
OH83-2013	Feb. 25, 1983
Texas:	
TX83-4002	Jan. 7, 1983.
TX83-4003	Jan. 7, 1983.
TX83-4004	Jan. 7, 1983.
TX83-4005	Jan. 7, 1983.
TX83-4026	Apr. 8, 1983.
Utah UT83-5108	Mar. 25, 1983.
West Virginia WV83-3000	Mar. 11, 1983.
New York, Conn., Dela., Ne., Md., Mass., N.H., N.J., Pa. & R.I.	NY-83-3013 Apr. 29, 1983.
New York: NY81-3062	Sept. 11, 1981
Indiana: IN83-2031	Apr. 22, 1983

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR82-4006 (AR83-4040)	Feb. 12, 1982
AR82-4036 (AR 83-4037)	July 9, 1982
AR82-4038 (AR 83-4039)	July 23, 1982
AR82-4039 (AR 83-4037)	July 23, 1982
Indiana: IN83-2016 (IN83-2032)	Feb. 11, 1983
Iowa: IA81-4101 (IA83-4035)	Dec. 11, 1981
Maryland: MD81-3056 (MD83-6017)	Aug 14, 1981
New Hampshire: NH82-3009 (NH83-3011).	Feb. 26, 1982
New Mexico: NM82-4043 (NM83-4036)	Aug. 27, 1982
Ohio:	
OH83-2040	Aug. 20, 1982
OH82-2045 (OH83-2041)	Aug. 13, 1982
OH83-2010 (OH 83-2039)	Feb. 11, 1983.
Wisconsin: WI80-2084 (WI83-2041)	Sept 26, 1980

Signed at Washington, D.C. this 6th day of May 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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Modification Page 2

	Basic Hourly Rates	Fringe Benefits
DECISION NO. OH83-2006 - Mod. #4 (48 FR 6459-February 11, 1983) Statewide, Ohio		
Change:		
Bricklayers & Stonemasons:	$15.49	$1.87
Area 2	17.13	2.94
Area 3	17.94	2.12
Area 8	15.59	3.23
Area 9	18.59	4.12
Area 14	15.95	2.83
Area 15	15.95	2.86
Area 16	16.54	2.44
Area 17	16.06	1.55
Area 19	15.95	3.23
Area 24	14.78	2.04
Carpenters & Piledrivermen:		
Area 2:		
Carpenters	15.05	2.58
Piledrivermen	15.70	2.58
Area 5:		
Carpenters	15.05	2.58
Piledrivermen	15.70	2.58
Area 11:		
Piledrivermen	17.91	2.73
Area 12:		
Piledrivermen	17.91	2.73
Area 13:		
Carpenters; Piledrivermen	17.91	2.73
Electricians:		
Area 1:		
Electricians	17.90	2.63
Cable Splicers	18.40	2.64
Area 11	17.10	3.42
Area 17	19.83	3.36
Area 18:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
Ironworkers:		
Area 3:		
Within 15 miles radius of Local Union Office #290	16.86	2.95
Outside 15 miles radius of Local Union Office #290	17.01	2.95
Area 4	15.00	6.09
Area 5	18.78	2.32
Area 7	19.62	3.12
Area 9	15.33	3.15

	Basic Hourly Rates	Fringe Benefits
Painters:		
Area 4:		
Brush	$18.46	$3.22
Bridge and Open Steel; Closed Steel over 55';	19.16	3.22
Closed Steel below 55'	18.86	3.22
Spray		
Area 5:		
Brush	15.60	
Spray	16.25	
Area 6:		
Brush	14.00	1.75
Roller	14.50	1.75
Spray	15.00	1.75
Bridges	15.50	1.75
Area 10:		
Brush	14.75	1.00
Spray	15.45	1.00
Area 11:		
Brush; Roller	17.62	1.00
Structural Steel	18.02	1.00
Spray; Sandblast	18.12	1.00
Area 13:		
Brush	14.94	2.67
Structural Steel	15.24	2.67
Spray	15.44	2.67
Plumbers; Steamfitters and Pipefitters:		
Area 4:		
Plumbers	19.43	3.22
Area 5	14.38	3.77
Area 7	18.50	2.50
Area 12:		
Within 12 miles radius of 3rd and Main Streets, Dayton, Ohio	18.56	4.68
Outside 12 mile radius of 3rd and Main Streets, Dayton, Ohio	18.81	4.68
Area 17:	16.45	3.10
Line Construction:		
Area 8:		
Linemen	17.90	2.63
Cable Splicers	18.40	2.64
Groundmen	12.53	2.44
Area 9:		
Cable Splicers	15.99	3.37
Linemen	17.10	3.42
Line Equipment Operators	14.84	3.31
Groundmen; Truck Drivers	11.24	3.14

	Basic Hourly Rates	Fringe Benefits
DECISION NO. CT82-3001 - MOD. #13 (47 FR 5612 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONN.		
CHANGE: ELECTRICIANS: AREA 5	17.20	3.05+a 3.75%
DECISION NO. CT81-3032 - MOD. #26 (46 FR 20740 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.		
CHANGE: SHEET METAL WORKERS	16.69	3.25+3%
DECISION NO. HI83-5104 - Mod. #1 (48 FR 11610 - March 18, 1983) Statewide, Hawaii	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$14.61	$5.61
Cement Masons:	14.18	5.55
Cement Masons		
Troweling Machine Operators	14.33	5.55
Landscape and Irrigation Laborers:		
Group 1	8.87	2.52
Group 2	8.13	2.52
Group 3	6.26	2.52
Roofers	15.30	4.93

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IA82-4030 - MOD. #15 (47 FR 26537 - 6/18/82) Black Hawk, Carro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa		
CHANGE:		
Carpenters:		
Zone 1:		
Carpenters, soft floor layers, piledrivermen	$ 9.00	2.78
Millwrights	9.60	2.78
Cement masons - Zone 1	9.00	2.50
Ironworkers - Zone 1	10.70	1.96
Laborers:		
Zone 1 - Group 1	7.35	1.60
Group 2	7.50	1.60
Group 3	7.70	1.60
DECISION NO. IA-82-4048 - MOD. #5 (47 FR 43517 - 10/1/82) Woodbury County, Iowa		
CHANGE:		
Line Construction:		
GROUP 1 - Lineman; all tree removal; all "set" fixtures	15.65	.65+b+ 7%
GROUP 2 - Special equipment operations (hole digging machines; all tractors, transmission line pole hauling & setting equipment)	12.99	-
GROUP 3 - Blaster	12.52	-
GROUP 4 - Groundman	10.17	-
GROUP 5 - Groundman-truck driver	10.33	-
GROUP 6 - Pole treating truck driver	10.02	-
GROUP 7 - Pole treating specialist	12.05	-

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DECISION NO. OH83-2013 - MOD. 82 (48 FR 8230 - February 25, 1983) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake & Lorain Cos.	$10.29	$4.24
Bricklayers; Stonemasons:		
Cuyahoga Co.	18.39	4.12
Lake Co.	17.34	2.12
Cement Masons:		
Cuyahoga Co.	19.45	2.89
Electricians:		
Cuyahoga & Lorain (Columbia Twp.) Cos.	19.83	3.36
Stark Co.:		
Commercial Building	17.10	3.42
Ironworkers:		
Ashtabula (NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (Ravenna Arsenal Ordnance Depot), & Summit Cos.:		
Ornamental; Reinforcing; & Structural	19.62	3.12
Sheeters	19.87	3.12
Stark Co.	18.78	2.32
Line Construction		
Cuyahoga & Lorain (Columbia Twp.) Cos.:		
Cable Splicers; Equipment Ops.; Linemen	20.00	1.55
Truck Drivers (Winch) Groundmen	13.00	1.305
Stark Co.:		
Cable Splicers	15.99	3.37
Linemen	17.10	3.42
Truck Drivers; Groundmen	11.24	3.14
Line Equipment Ops.	14.84	3.31
Marble Setters; Terrazzo Workers & Tile Setters:		
Cuyahoga Co.:		
Marble Setters; Terrazzo Workers	18.50	4.12

	Basic Hourly Rates	Fringe Benefits
Painters:		
Ashtabula, Cuyahoga, Lake, Portage (N. of East West Turnpike), & Summit (N. of East West Turnpike), & Lorain (NE part) Cos.:		
New Commercial Buildings:		
Brush; Roller; Paperhanger	$18.46	$3.22
Sandblasting; Spray; & Cleaning Steel Below 55 ft.	18.86	3.22
Tapers	18.16	3.22
Commercial Building Repaint:		
Brush; Roller; Paperhanger	17.46	3.22
Sandblasting; Spray; & Cleaning Steel Below 55 ft.	17.86	3.22
Tapers	18.16	3.22
Residential:		
Brush; Roller; Paperhanger	15.06	3.22
Sandblasting; Spray; & Cleaning Steel Below 55 ft.	15.46	3.22
Tapers	15.76	3.22
Pipefitters; Plumbers; & Steamfitters:		
Portage & Summit Cos. (S. of #303, except Corporate Limits of Hudson):		
Commercial Building	16.45	3.10
Plumbers:		
Ashtabula, Cuyahoga, Lake, Portage (N. of #303), & Summit (N. of #303) Cos.	19.43	3.22
Roofers:		
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	20.28	2.30
Sheet Metal Workers:		
Ashtabula, Cuyahoga, & Lake Cos.	18.96	3.63
Laborers:		
Ashtabula Co.:		
Group 1	16.40	
Group 2	16.75	
Group 3	16.90	
Group 4	16.95	
Group 5	17.05	
Group 6	17.15	
Group 7	17.25	
Group 8	17.30	

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DECISION NO. OH83-2013 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 11:		
Cable Splicers; Equipment Operators; Linemen	$20.00	$1.55
Groundmen	13.00	1.305
Area 15:		
Linemen	18.16	2.33+k
Technicians	18.59	2.28+k
Cable Splicers	22.03	2.57+k
Operator; Class 1	13.33	2.00+k
Operator; Class 2	13.41	1.84+k
Groundmen	11.50	1.68+k
Area Descriptions:		
Painters:		
Area 6: Belmont, Harrison, and Jefferson Counties		
Plumbers; Steamfitters; and Pipefitters:		
Area 7: Butler and Warren Counties		
Add:		
Painters:		
Area 20:		
Brush; Bridges; Steel; Guard Rails	15.24	1.95
Area Description for Area 20: Monroe, Morgan, Noble and Washington Counties		
Omit:		
Painters:		
Area 19:		
Paperhangers (ONLY)		
Plumbers; Steamfitters; Area 19 (All Originally issued rates and Area Description)		

	Basic Hourly Rates	Fringe Benefits

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DECISION NO. OH83-2013 (Cont'd):	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers (Cont'd):		
Cuyahoga Co.:		
Group 1	$16.54	$4.30
Group 2	16.69	4.30
Group 3	16.74	4.30
Group 4	16.79	4.30
Group 5	16.84	4.30
Group 6	17.02	4.30
Group 7	17.04	4.30
Group 8	17.19	4.30
Group 9	18.04	4.30
Lake Co.:		
Group 1	16.80	2.65
Group 2	17.05	2.65
Stark Co.:		
Group 1	14.16	2.70
Group 2	14.36	2.70
Group 3	14.46	2.70
Group 4	14.76	2.70

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DECISION #TX83-4002-MOD.84 (48 FR 931 - 1/7/83) Armstrong,Carson,Castro, Childress,Collingsworth, Dallam,Deaf Smith,Donley,Gray,Hansford, Hartley,Hemphill,Hutchinson,Lipscomb,Moore, Ochiltree,Oldham,Potter, Randall,Roberts,Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons	11.00	1.00
Carpenters:		
Zone 1 - Carpenters	14.45	.81
Millwrights	14.80	.81
Ironworkers - Zone 1	13.90	3.00
Laborers - Group 1	8.25	1.35
Group 2	8.40	1.35
Painters:		
Group 1	12.75	.50
Group 2	12.87	.50
Group 3	13.50	.50
OMIT:		
Painters - Group 4	12.20	.50

DECISION #TX83-4003-MOD.83 (48 FR 935 - 1/7/83) Bexar County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters	12.75	2.63
Millwrights	13.05	2.63

DECISION #TX83-4004-MOD.76 (48 FR 936 - 1/7/83) Galveston & Harris Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Galveston County:		
Group 1	14.945	3.06
Group 2	15.195	3.06
Group 3	14.19	3.06

DECISION #TX83-4005-MOD.82 (48 FR 934 - 1/7/83) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers:		
Group 1	7.51	.70
Group 2	7.78	.70
Group 3	7.71	.70
Group 4	7.86	.70
Group 5	8.11	.70

DECISION NO. MT83-5108 - Mod. 84 (48 FR 12651 - March 25, 1983) Statewide, Utah	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 11:		
Zone 1:		
Electricians	$14.25	$2.00+ 3-3/8%
Technicians	14.50	2.00+ 3-3/8%
Cable Splicers		

DECISION NO. WY83-3000 Mod. No. 3 (48 FR 10565 - March 11, 1983) Statewide, West Virginia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Highway Construction:		
Group 1	$14.63	2.45
Group 2	13.59	2.45
Group 3	12.66	2.45
Group 4	12.36	2.45
Group 5	11.55	2.45
Group 6	11.08	2.45

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DECISION NO. NY83-3013 - MOD. #1
(48 FR 19560 - April 29, 1983)
CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA & RHODE ISLAND

CHANGE:

Heading reference to the decision superseded by NY83-3013 by replacing reference to "Decision No. NY81-3073" with reference to "Decision No. NY81-3075"

	Basic Hourly Rates	Fringe Benefits

	Basic Hourly Rates	Fringe Benefits

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DECISION NO. NY81-3062 - MOD. #5
(46 FR 45530 - Sept. 11, 1981)
WESTCHESTER CO., NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	19.3675	3.02
BOILERMAKERS	19.09	.04+32%
BRICKLAYERS, CEMENT MASONS, PLASTERERS, POINTERS, CAULKERS, CLEANERS & STONE MASONS	15.85	4.47+a
CARPENTERS		
Building	15.35	4.735
DOCKBUILDERS	16.35	7.03
ELECTRICIANS	17.45	.02+26%
GLAZIERS	16.75	5.35
IRONWORKERS		
Ornamental	15.93	7.55
Structural	15.00	11.32
LABORERS (HEAVY & HIGHWAY)		
Blasterers, blaster (quarry master) Joy drillers, concrete form aligner, concrete form and curb form highway (steel), deck winches on screws, jumbo driller	12.10	.82+18% +a
Asphalt curb machine operator, jeeper operator, pavement breaker operator rock scalers, power saw operator, bit grinder or grinders, barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller, railroad spike puller, pumps and their operation, pneumatic tools and service of air power, gunniting	12.55	.82+18% +a
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and	11.45	.82+18% +a
Carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and waterproofing	11.30	.82+18% +a
Joy driller's helper, wagon driller helper, air track driller helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nurserymen, dump men	11.20	.82+18% +a
Wrecking:		
Blasterers	12.20	.82+18% +a
Barmen and burner	11.20	.82+18% +a
Barmen helpers and laborers	11.55	.82+18% +a
Shaft and Tunnel in Free Air		
Blasters	12.35	.82+15% +a
Concrete setters	12.95	.82+18% +a
Form setters	12.05	.82+18% +a
Miners, drill runners air, tuggers, chippers, pneumatic tools and source of air-power pumps and their operations and vibrator operators	11.85	.82+18% +a
Puddlers	11.80	.82+18% +a
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe reliners and boring	11.70	.82+18% +a
Laborers	11.45	.82+18% +a
Powder carriers, signalmen	11.40	.82+18% +a
Brakemen, outside laborers	11.35	.82+18% +a

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	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush	12.65	2.78
Spray	13.65	2.78
Tapers	13.45	2.78
Steel & swing stage, boatswain chair	14.46	2.78
PLUMBERS	16.68	5.043+b
POWER EQUIPMENT OPERATORS (Building Construction):		
GROUP I - A	18.8525	1.20+a+ 18.25%
GROUP I - B	17.035	1.20+a+ 18.25%
GROUP II	17.94	1.20+a+ 18.25%
GROUP III-A	17.2975	1.20+a+ 18.25%
GROUP III-B	15.9775	1.20+a+ 18.25%
GROUP IV-A	17.015	1.20+a+ 18.25%
GROUP IV-B	15.835	1.20+a+ 18.25%
GROUP V-A	16.0125	1.20+a+ 18.25%
GROUP V-B	14.6925	1.20+a+ 18.25%
GROUP VI-A-1	20.22	1.20+a+ 18.25%
GROUP VI-A-2	19.3675	1.20+a+ 18.25%
GROUP VI-A-3	18.3675	1.20+a+ 18.25%
GROUP VI-A-4	19.0825	1.20+a+ 18.25%
GROUP VI-A-5	23.0825	1.20+a+ 18.25%
GROUP VI-A-6	16.5125	1.20+a+ 18.25%
GROUP VI-A-7	22.7975	1.20+a+ 18.25%
GROUP VI-B-1	13.7125	1.20+a+ 18.25%
GROUP VI-B-2	14.6775	1.20+a+ 18.25%
GROUP VI-B-3	13.7275	1.20+a+ 18.25%
GROUP VI-B-4	16.91	1.20+a+ 18.25%
GROUP VII	18.855	1.20+a+ 18.25%

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Heavy & Highway):		
GROUP I-A	17.25	1.20+b+ 17.75%
GROUP II-A	16.45	1.20+b+ 17.75%
GROUP III-A	16.33	1.20+b+ 17.75%
GROUP IV-A	15.20	1.20+b+ 17.75%
GROUP IV-B	13.33	1.20+b+ 17.75%
GROUP V-A-1	18.45	1.20+b+ 17.75%
GROUP V-A-2	17.70	1.20+b+ 17.75%
GROUP V-A-3	20.70	1.20+b+ 17.75%
GROUP V-A-4	17.45	1.20+b+ 17.75%
GROUP V-A-5	16.83	1.20+b+ 17.75%
GROUP V-A-6	20.95	1.20+b+ 17.75%
GROUP V-A-7	15.20	1.20+b+ 17.75%
GROUP V-A-8	16.29	1.20+b+ 17.75%
GROUP V-1	13.33	1.20+b+ 17.75%
GROUP V-2	12.50	1.20+b+ 17.75%
ROOFERS	13.25	6.14
SHEET METAL WORKERS	15.65	.13+33%
SPRINKLER FITTERS	16.92	2.83
SOFT FLOOR LAYERS:		
Soft Floor Layers	16.37	5.93
Hand Sewers	10.52	5.93
ADD:		
STEAMFITTERS:		
Steamfitters	16.16	.96+ 34.5%
Refrigeration (combined compressor tonnage not over 5 tons) & air conditioning (water cooled not over 10 tons) & air conditioning (air cooled, not over 15 tons)	10.75	3.03

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Decision No. IN83-2031
Mod # 1
(48 FR 17503 - April 22, 1983)
Statewide, except Lake Laporte, Porter & St. Joseph Counties

CHANGE:

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS:		
Area 17	$17.06	2.56
Area 18	17.00	2.93
POWER EQUIPMENT OPERATOR:		
Area 1:		
Group 1	15.16	4.28
Group 2	13.55	4.28
Group 3	12.28	4.28
Group 4	10.86	4.28
Area 3:		
Group 1	15.50	2.40
Group 2	13.78	2.40
Group 3	12.86	2.40
Group 4	11.36	2.40
Area 4:		
Group 1	16.65	2.60
Group 2	10.50	2.60
Area 5:		
Group 1	15.45	2.20
Group 2	13.55	2.20
Group 3	11.87	2.20
TRUCK DRIVERS:		
Group 1	12.81	96.50a
Group 2	12.76	96.50a
Group 3	12.71	96.50a
Group 4	12.66	96.50a
Group 5	12.61	96.50a
Group 6	12.56	96.50a
Group 7	12.51	96.50a
Group 8	12.46	96.50a
Group 9	12.41	96.50a
Group 10	12.36	96.50a
Group 11	12.31	96.50a
Group 12	12.21	96.50a

CLASSIFICATION DEFINITIONS:
LABORERS:
Group 2 - Add Concrete Conveyor Assembly Man

CLASSIFICATION DEFINITIONS (Cont'd)
POWER EQUIPMENT OPERATORS:
CHANGE:
Area 1 to Area 5
Group 1 - ADD:
Self-Propelled Widener
CHANGE:
Areas 2 and 3 to Areas 1, 2 & 3
Group 4 - ADD:
Bituminous Paver
DELETE:
Area 5

	Basic Hourly Rates	Fringe Benefits

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SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: SEBASTIAN, CRAWFORD & WASHINGTON
DECISION NO. AR83-4040 DATE: Date of Publication
SUPERSEDES DECISION No. AR82-4006 dated February 12, 1982 in 47 FR 6547
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

SEBASTIAN AND CRAWFORD COS.	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	14.15	.69
CARPENTERS:		
Carpenters	11.19	1.54
Millwrights-Piledrivermen	12.65	1.54
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	14.79	3%+1.35
Cable splicers	15.04	3%+1.35
ELEVATOR CONSTRUCTORS	13.19	2.69+A
ELEVATOR CONSTRUCTORS HELPERS	70%JR	2.69+A
ELEVATOR CONSTRS. PROBATIONARY HELPERS	50%JR	
IRONWORKERS	14.60	2.37
LINE CONSTRUCTION:		
Lineman-Operator	14.04	3%+1.35
Cable splicers	14.29	3%+1.35
Powderman	90%JR	3%+1.35
Truck driver	75%JR	3%+1.35
Groundman	65%JR	3%+1.35
PAINTERS:		
Roller work, sheetwork, finishing by machinary	9.15	
Brush	8.65	
Spray	9.15	
Swing stage work	9.65	
Sandblasting-steam cleaning	12.50	.64
PLASTERERS	13.66	1.24
PLUMBERS-STEAMFITTERS	11.91	.30
ROOFERS	14.08	3%+1.93
SHEET METAL WORKERS	14.57	2.83
SPRINKLER FITTERS		
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.24	1.40
Group III	11.76	1.40
Group IV	9.76	1.40

WASHINGTON COUNTY:	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 9.00	
CARPENTERS	7.92	
CEMENT MASONS	7.67	
ELECTRICIANS	9.51	
GLAZIERS	7.60	
IRONWORKERS	6.87	
LABORERS:		
Common	5.23	
Mason tenders	5.67	
Plasterers tender	7.45	
PAINTERS	8.00	
PLASTERERS	11.22	
PLUMBERS-PIPEFITTERS	11.46	1.14
ROOFERS	7.50	
SHEET METAL WORKERS	7.51	
TILE SETTERS	7.90	
TRUCK DRIVERS	6.05	12%
POWER EQUIPMENT OPERATORS:		
Asphalt finishing	6.15	17%
Asphalt pavers	6.05	12%
Asphalt rakers	5.40	12%
Asphalt Dist. operators	5.82	11%
Bulldozers	5.95	16%
Backhoe	5.47	
Cranes	6.87	
Rollers	5.40	12%
Motor patrol operator	6.50	
Foundation drill operator	7.29	
Scrapers	5.75	15%

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO. AR83-4040 Page 2
SEBASTIAN AND CRAWFORD COUNTIES ONLY

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

FOOTNOTES: (APPLICABLE TO SEBASTIAN AND CRAWFORD COUNTIES ONLY)

A - 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rates; plus seven paid holidays.
New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Day.

WELDERS--received rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: PULASKI AND JEFFERSON
DECISION NO. AR83-4037 DATE: Date of Publication
SUPERSEDES DECISION #AR82-4036 dated July 9, 1982 in 47FR29974 and #82-4039 dated July 9, 1982 in 47FR29975
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	13.05	1.44
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	14.70	3%+2.35
Cable splicers	14.825	3%+2.35
ELEVATOR CONSTRUCTORS:		
Journeyman	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helpers	50%JR	
GLAZIERS	10.48	.25
IRONWORKERS	13.20	2.21
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Lineman-Operators	15.20	B
Cable splicers	15.325	B
Groundman	65%JR	B
Winch equipment	73%JR	B
E-3/8+1.85		
MARBLE, TILE & TERRAZZO WORKERS	11.35	.80
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.00	.63
Spray gun operators and sandblasters	11.60	.63
All skeleton steel and all work on stages, structural steel over 30 feet high	11.25	.63
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS:		
Jefferson County	13.97	1.98
Pulaski County:		
Within 10 Mi. radius of Pulaski County Courthouse	14.90	1.53
Over 10 miles from Pulaski County Courthouse	14.95	1.53

	Basic Hourly Rates	Fringe Benefits
ROOFERS	$11.91	.30
SHEET METAL WORKERS	14.08	3%+1.93
SPRINKLER FITTERS	14.57	2.83
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40

FOOTNOTES:
A. 6 mos. to 5 years - 6%; over 5 years - 8% of basic hourly rate; plus seven paid holidays.

PAID HOLIDAYS:
A-New Years Day
B-Memorial Day
C-Independence Day
D-Labor Day
E-Thanksgiving Day
F-Day after Thanksgiving
G-Christmas Day

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO. AR83-4037 Page 2

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

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SUPERSEDEAS DECISION

STATE: ARKANSAS
DECISION NO. AR83-4039
COUNTY: UNION AND OUACHITA
DATE: Date of Publication
SUPERSEDES DECISION NO. AR82-4038 dated July 23, 1982 in 47 FR 32032
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS	12.50	1.60
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electrical contracts $20,000 or less:		
Electricians	15.09	3-1/4%
Cable splicers	15.39	3-1/4%
Electrical contracts over $20,000:		
Electricians	15.88	3-1/4%
Cable splicers	16.18	3-1/4%
IRONWORKERS	13.25	1.91
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Electrical contracts $20,000 or less:		
Linemen-Operators	15.09	3-1/4%
Cable splicers	15.39	3-1/4%
Electrical contracts over $20,000:		
Linemen-Operators	15.88	3-1/4%
Cable splicers	16.18	3-1/4%
Electrical contracts $20,000 or less and over $20,000.00:		
Groundman	65%JR	3-1/4%
Truck drivers	70%JR	3-1/4%
Winch operator	80%JR	3-1/4%
PAINTERS:		
Brush, roller, sheet rock work and paperhanging	$ 9.00	
Spray and sandblasting	9.875	
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS	14.75	1.65
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	13.04	3%+1.62
SPRINKLER FITTERS	14.57	2.83

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sideboms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ARKANSAS
DECISION NO. AR83-4038
COUNTY: GARLAND, CLARK & HOT SPRINGS
DATE: Date of Publication
SUPERSEDES DECISION NO. AR82-4039 dated July 23, 1982 in FR 32033
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS:		
Clark & Garland Counties	12.75	.60
Hot Springs County	12.30	.79
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	13.17	3%+1.80
Cable splicers	13.295	3%+1.80
ELEVATOR CONSTRUCTORS:		
Journeyman	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helper	50%JR	
IRONWORKERS	13.20	1.91
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Linemen	13.17	3%+1.80
Cable splicers	13.295	3%+1.80
Groundman	64%JR	3%+1.80
Truck drivers (with winch)	80%JR	3%+1.80
Truck drivers (flat bed)	64%JR	3%+1.80
PAINTERS:		
Brush and roller	$ 9.25	
Paperhanging	9.75	
Sheet rock (tape & float only)	9.75	
Stage and steel	11.25	
Spray and sandblasting	12.50	
Painters operating any kind of taping or floating machine	13.00	
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS:		
Within 10 miles of Garland County Courthouse	13.07	1.98
10 miles and over from Garland County Courthouse	13.97	1.98
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.24	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	14.08	3%+1.93
SPRINKLER FITTERS	14.57	2.83
TILE LAYERS (Garland and Clarke Counties)	12.75	.60

FOOTNOTES:
A - 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rate, plus seven paid holidays.
PAID HOLIDAYS:
New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day, Day after Thanksgiving Day and Christmas Day.

WELDERS—receive rate prescribed for craft performing operation to which welding incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sideboms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

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SUPERSEDEAS DECISION

STATE: Indiana

COUNTIES: Lake, LaPorte, Porter and St. Joseph

DECISION NO. IN83-2032

DATE: Date of Publication

Supersedes Decision No. IN83-2016, dated February 11, 1983 in 48 FR 10574

Description of Work: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$18.00	3.03
Area 2	17.21	2.73
BOILERMAKERS	18.83	3.405
BRICKLAYERS : Stonemasons, Caulkers, Pointers and Cleaners:		
Area 1	17.05	3.25
Area 2	15.72	3.37
CARPENTERS:		
Area 1:		
Carpenters & Piledrivermen	17.10	3.57
Millwrights	17.20	3.57
Area 2:		
Carpenters, Millwrights & Piledrivermen	16.15	2.43
CARPENTERS (Heavy & Highway)		
Area 2	14.76	2.65
CEMENT MASONS:		
Area 1	17.36	2.93
Area 2	17.37	2.93
Area 3	16.13	2.09
Area 4	18.00	2.16
CEMENT MASONS (Heavy & Highway Construction):		
Area 1	17.00	2.93
Area 2	17.00	2.93
Area 3	14.21	3.54
Area 4	17.06	2.56
ELECTRICIANS:		
Area 1	17.55	2.24
Area 2	18.46	12½%
Area 3	17.55	14.3%
ELEVATOR CONSTRUCTORS:		
Area 1	18.305	2.33+ a&b
Area 2	16.11	2.465 +a&b
ELEVATOR CONSTRUCTORS' HELPERS:		
Area 1	70%JR	2.33+ a&b
Area 2	70%JR	2.465 +a&b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
GLAZIERS:		
Area 1	15.55	1.65
Area 2	13.42	16%
IRONWORKERS:		
Area 1	17.80	3.67
Area 2	15.40	4.56
MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS:		
Area 1:		
Marble Setters & Terrazzo Workers	17.05	3.25
Tile Setters	16.95	3.25
Area 2	13.75	2.72
PAINTERS:		
Area 1	14.70	2.39
Area 2:		
Brush	14.85	2.27
Drywall Tapers	15.05	2.27
Paperhangers	15.10	2.27
Area 3:		
Brush	13.00	
Spray	14.00	
Area 4	12.94	1.63
PLASTERERS:		
Area 1	15.35	2.93
Area 2	15.89	2.24
PLUMBERS:		
Area 1	16.05	3.05
Area 2	16.73	1.61
Area 3	15.93	2.45
PIPEFITTERS:		
Area 1	18.00	3.00
Area 2	15.93	2.45
ROOFERS:		
Area 1	16.91	2.40
Area 2:		
Composition	14.60	2.03
Slate & Tile	15.10	2.03
SHEET METAL WORKERS:		
Area 1	17.15	3.19
Area 2	16.16	2.16
SPRINKLER FITTERS	16.67	2.73

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POWER EQUIPMENT OPERATORS: (Building Construction)	Basic Hourly Rates	Fringe Benefits
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70
Area 2:		
Group 1	16.40	3.95
Group 2	15.50	3.95
Group 3	15.05	3.95
Group 4	14.25	3.95
Group 5	13.45	3.95
POWER EQUIPMENT OPERATORS: (Heavy & Highway Const.)		
Area 1 & Area 2		
Group 1	16.30	3.55
Group 2	15.85	3.55
Group 3	15.40	3.55
Group 4	14.20	3.55
Group 5	13.15	3.55
POWER EQUIPMENT OPERATORS: (Underground, Sewer & Water Construction)		
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Area 1:		
Lineman & Equipment Op. (4)	17.38	.65+ 8.5%
Equipment Operator (3)	16.43	.65+ 8.5%
Equipment Operator (1)	13.47	.65+ 8.5%
Powderman, Equipment Mechanic	13.17	.65+ 8.5%
Senior Groundman, Truck Driver w/Winch	11.22	.65+ 8.5%
Groundman Truck Driver w/winch	10.79	.65+ 8.5%
Groundman Truck Driver W/O Winch	9.45	.65+ 8.5%
Groundman	8.85	.65+ 8.5%
Area 2:		
Lineman, Groundman Equipment Operator Crawler Type Equipment Larger than D-4	18.74	.65+ 8.5%
Groundman Truck Driver W/O Winch	15.73	.65+ 8.5%
Groundman Truck Driver W/O Winch	14.93	.65+ 8.5%
Groundman	14.33	.65+ 8.5%
Area 3:		
Linemen, Equipment Op. Crawler type Equip. Larger than D-4	15.94	.45+ 8%
Groundman Truck Driver W/Winch	12.86	.45+ 8%
Groundman TRuck Driver W/O Winch	12.52	.45+ 8%
Groundman	11.96	.45+ 8%

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction		
Area 1:		
Group 1	13.23	1.89
Group 2	13.43	1.89
Group 3	13.53	1.89
Group 4	14.23	1.89
Area 2:		
Group 1	12.98	1.89
Group 2	13.18	1.89
Group 3	13.28	1.89
Group 4	13.98	1.89
Area 3:		
Group 1	11.73	1.89
Group 2	11.93	1.89
Group 3	12.03	1.89
Group 4	12.73	1.89
LABORERS:		
Heavy & Highway Construction:		
Area 1:		
Group 1	12.40	1.94
Group 2	12.55	1.94
Group 3	12.60	1.94
Group 4	12.70	1.94
Group 5	13.25	1.94
Area 2:		
Group 1	10.98	1.94
Group 2	11.13	1.94
Group 3	11.18	1.94
Group 4	11.28	1.94
Group 5	11.83	1.94

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Heavy & Highway Const.)		
LaPorte & St. Joseph Cos.		
Group 1	12.81	96.50a
Group 2	12.76	96.50a
Group 3	12.71	96.50a
Group 4	12.66	96.50a
Group 5	12.61	96.50a
Group 6	12.56	96.50a
Group 7	12.51	96.50a
Group 8	12.46	96.50a
Group 9	12.41	96.50a
Group 10	12.36	96.50a
Group 11	12.31	96.50a
Group 12	12.21	96.50a
(Building, Heavy & Highway Construction)		
Lake & Porter Cos.		
Group 1	12.35	2.35
Group 2	12.55	2.35
Group 3	12.75	2.35
Group 4	12.95	2.35
Group 5	12.95b	2.35

FOOTNOTES:
a - Per Week, Per Employee
b - Plus $.20 per axle for each axle over six (6)

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AREA DESCRIPTIONS

ASBESTOS WORKERS

Area 1 - Lake & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

BRICKLAYERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

CARPENTERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

CEMENT MASONS

Area 1 - Lake County, Gary Area and Porter Co. (N 2/3 including Valparaiso)
Area 2 - Remainder of Lake County

Area 3 - St. Joseph County
Area 4 - LaPorte County and Remainder of Porter County

ELECTRICIANS

Area 1 - Lake County
Area 2 - LaPorte and Porter Counties
Area 3 - St. Joseph County

GLAZIERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

ELEVATOR CONSTRUCTORS

Area 1 - Lake & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

IRONWORKERS

Area 1 - Lake, Porter and LaPorte (West of a line 3 miles East of Rt. 421 parallel to Rt. 421) Cos.
Area 2 - St. Joseph & LaPorte (remainder of Co.)Counties

MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

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AREA DESCRIPTION (CONT'D)

PAINTERS

Area 1 - West ½ of Lake County
Area 2 - East ½ of Lake Co., LaPorte County, West of Hwy. 39 including Michigan City
Area 3 - LaPorte County, Michigan City only
Area 4 - St. Joseph County & LaPorte County East of Hwy. 39

PLASTERERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

PLUMBERS

Area 1 - Lake County
Area 2 - LaPorte (excluding Michigan city) and Porter county
Area 3 - LaPorte Co. (Michigan City) and St. Joseph County

PIPEFITTERS

Area 1 - Lake, LaPorter and Porter Counties
Area 2 - St. Joseph County

ROOFERS

Area 1 - Lake, & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

SHEET METAL WORKERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

LABORERS (Building Construction)

Area 1 - Lake Co. & Porter Co. (North of U.S. Hwy. 20)
Area 2 - LaPorte Co. & Porter Co. (South of U.S. Hwy. 20)
Area 3 - St. Joseph County

LABORERS (Heavy & Highway Construction)

Area 1 - Lake County
Area 2 - LaPorte, Porter & St. Joseph Counties

POWER EQUIPMENT OPERATORS (Bldg., Heavy & Highway Construction)

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

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AREA DESCRIPTION (CONT'D

LINE CONSTRUCTION

Area 1 - Calumet Area, Lake County (North of U. S. 30)
Area 2 - Remainder of Lake County
Area 3 - LaPorte, Porter and St. Joseph Counties

CLASSIFICATION DEFINITIONS

LABORERS (HEAVY & HIGHWAY CONSTRUCTION)

Group 1 - Construction Laborer, Carpenter Tender, Fence Erector, Grade Checker, Guard Rail Erector, Continuous Steel Rod or Mat Installer, Wire Mesh Layer, Joint Man (Mortar, Mastic, and all other types), Lighting Installer (Permanent or Temporary), Lineman for Automatic Grade Maker on Paving Machines, Mortar Man, Multi- Plate Erector, Rip-Rap Installer (All products and matertials) Road Marking and Delineation Laborer, Setting and Placing of all Precast Concrete Products, Sign Installation including supporting structure, Spraying of all Epoxy, Curing Compound, or like material
Group 2 - Air Tool, Power Tool, and Power Equipment Operator, Asphalt Lute Man, Asphalt Raker Man, Batch Truck Dumper, Bridge Hand Rail Erector, Handlor (Bulk or Bag Cement), Chain Saw Man, Concrete Puddler, Concrete Rubber, Concrete Saw Operator, Core Drill Operator, Eye Level, Hand Blade Operator, Hydro Seeder Man, Motor Driven Georgia Buggy Operator, Power Driven Compactor or Tamper Operator, Power Saw Operator, Pumpcrete Assembly Man, screed Man or screw Man on Asphalt Paver, Rebar Installer, Sand blaster Man, Sealer applicator for asphalt, (toxic), Setting and Placing Prestressed on Precast Concrete Structural Members, Side Rail Setter (for Sidewalks, Side Ditches, Radii, and Pavements), Spreader Box Tender (Manual or Power Driven), Straw Blower Man, Subsurface Drain and Culvert Pipe Layer, transverse and Longitudinal Hand Bull Float Man, Concrete Conveyor Assembly Man
Group 3 - Horizontal Boring and Jacking Man, Jackman and Sheetman, Pipe Grade Man, winch and Windlass Operator
Group 4 - Conduit Installer, Cutting Torch Burner, Laser Beam, Aligner, Manhole Erector, Sewer Pipe Layer, Water Line Installer - Temporary or Permanent, Welders (Electric or Oxy-Acetylene)
Group 5 - Air Track and Wagon Drillman, Concrete Finisher, Dynamite and Powder Man

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CLASSIFICATION DEFINITIONS

LABORERS (BUILDING CONSTRUCTION)

AREAS 1 and 2

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleanors; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders in Area I and 1A; Portable Water Pumps with Discharge up to 3 inches

Group 2 - Waterproofing; Hauling of Creosote Lumber or like treated material (ex railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Op.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth Compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump crete Assemblers; Core Drills Op.; Cement; Lime or Silica Clay Handlers; Handling of toxic Materials Damaging to Clothing Pneumatic Spikers; Deck Engine & Winch Op.; Water Maine & Cable Ducking; Screed Man or Screw Op; on Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler

Group 3 - Plaster Tenders; Mason Tenders ex in area I &1A; Motar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason ex Area I & IA; Water Blast Mach. Op.

Group 4 - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

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CLASSIFICATION DEFINITIONS

LABORERS (BUILDING CONSTRUCTION CONT'D)

AREA 3

Group 1 - Building & Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers & Cleaners; Waterboys & Toolhousemen; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; all Portable Water Pumps with discharge up tm three (3) inches; Plaster Tenders

Group 2 - Waterproofing; Handling of Creosote Lumber of like treated material; (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen & Sheetmen working Ditches deeper than six (6) feet in depth; Laborers working in ditches (6) feet in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) & Sewer Pipe Layer (metallic or non-metallic); Motor driven wheelbarrows and Concrete Buggies Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials; Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winches Operators; Water Nain & Cable Ducking (metallic and non-metallic) Screed Man on Screw Operator on Asphalt Paver; Chain and Demolitmn Saw opesators; Concrete Conveyor Assemblers

Group 3 - Waster Blast Machine Operator; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

Group 4 - Dynamite Men; Drillers-Air Track or Wagon Drilling for explmeives

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

AREA 1

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (Requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe (Endloader with Backhoe bucket over ¼ cu. yd.), Combination Tugger Hoist & Air Tugger, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Paver 27E cu. ft. & under, Concrete Pump with boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Crete Crane, Derricks-All, Derricks-Traveling, Forklift-Lull Type, Fork Lift-10 tom & over, Hoists-1,2, & 3 Drum, Hoist-2 Tugger one Floor, Hydraulic Boom Truck, Locorotives-All, Motor Patrol, Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Slip Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors

Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination Backhoe (Endloader with Backhoe bucket ½ cu. yd. & under), Engineer acting as Conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drilling Machines, Hoists-All Elevators, Hoists-Tugger Single Drum, Post Hole Digger, Rollers-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trunks

Group 3 - Concrete Mixer (two bag & over), Conveyor-Portable, Steam Generators, Tractors-Farm & Similar Type, Air Compressor-small 150 and under (1 to 5 not to exceed a total of 300 feet), Air Compressor - large over 150, Combination - Small Equipment Operator, Forklift - under 10 ton, Generator, Pumps (1 to 3 not to exceed a total of 300 feet), Pumps-Well Points, Welding Machines (2 thru 5), Winches-4 Electric Drill Winches

Group 4 - Heaters-Mechanical (1 to 5), Oiler, Switchmen

AREA 2

Group 1 - Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (requires two Engineers), Boiler and Throttle Valve) Boring Machine (Road), Caisson Rigs, Central Redi-Mix Plant Concrete Conveyor Systems, Concrete Power over 27E cu. ft., Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Pumps (truck mounted), Concrete Tower, CranesAll, Cranes-Hammerhead, Creter Cranes, Derricks-All, Forklift capable of hoisting and mechanically moving forks horizontally, Grader-Elevating, Highlift Shovels or

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) (CONT'D)

Front End Loader Hoists-Two or more drums, Locomotives-All, Motor Patrol, Pile Drivers and Skid Rig, Pre-stress Machine, Rock Drill (self-propelled), Rock Drill (truck mounted) Scoops - Tractor drawn, Slip-Form Paver, Tournapull, Tractor with Boom and Side Boom, Trenching Machines 12 or more inches in width

Group 2 - Combination Backhoe Front End Loader Machine with backhoe bucket or with attachments

Group 3 - Air Compressor 600 cu. ft. and over, Bobcat (over 3/4 cu. yd.), Boilers, Broom-All Powered Propelled, Bull Dozers, Compressor and Throttle Valve, Concrete Breaker (truck mounted), Concrete Mixer of more than 21 cu. ft. capacity, Forklift with a fixed or tilt mast, Greaser Engineer, Hoists-One drum, Hydraulic Boom Truck, Post-Hole Digger (vehicle mounted), Pump Cretes- (Squeese crete type pumps, Gypsum Bulker and Pump), Boilers-All, Steam Generators, Stone Crushers, Straddle Buggies, Tractors, Winch Truck with "A" Frame

Group 4 - Buck Hoists, Combination - Small Equipment Operator, Conveyor-Portable, Grouting Machines, Hoist Elevators Mat'l & Personnel, Hydraulic Power Units Grouting and Pile Driving, Stud Welder, Trenching Machines less than 12 inches in width, Welding Mamhines 8 through 15

Group 5 - Bobcat (up to and including 3/4 cu. yd.), Compressor over 210 cu. ft. and less than 600 cu. ft., Generators - over 50 KW, Heaters-Mechanical, Hoists-All Elevator (perm. installation), Hoist-Automatic, Hoist-Tugger Single Drum, Oilers, Pumps-Well Points and Electric Sumersibles, Small Bucket Tired Fnd Loaders ¼ cu. yd. and under, Tractors-Farm Type, Welding Machines (2 through 8)

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY CONSTRUCTION

AREA 1 & AREA 2

Group 1 - Auto Patrol - Maintainer, Automatic Dry Batch Plant, Automated Concrete Placer, Automated Sub-Grader, Automated Slip Form Paver, Automated Finish Machine, Combination Backhoe, Front Endloader Machine (¼ cu. yd. backhoe bucket or over mr with attachment), Combination Backhoe (1 cu. yd. backhoe bucket or over or with attachments), Ballast Regulator (R.R.),, Belt Loader - Stationary, Boring Machine (road), Bulldozer, Concrete Mixer - 27 cu. ft. or over, Concrete Pump, Concrete Pump Truck Mounted, Concrete Breaker Truck Mounted,Concrete Breaker Self-Propelled, Core Drilling Machine, Cranes and Backhoes-All attachments, Cranes-Hammerhead, Creter Crane, Derricks, Derricks Traveling, Dredge Engineer, Dredge Operator, Formless Curb and Gutter Machine 36 inches and over, Formless Curb and Gutter Machine under 36 inches, Gradall and Machines of a like nature, Guard Rail Post Driver Truck Mounted, Lead Greaser, Helicopter, Highlift Shovel 3 yds. and over, Hoist 1 drum, Hoist 2 & 3 drum, Hydraulic Power Units (grouting, pile driving and extracting), Locomotive Operator, Mechanic - Welder, Mucking Machine, Panelboard Concrete Plant (Central Mix Type), Paver-Hetherington, Pile Driver - Skid or Crawler, Road Paving Mixer, Rock Drill Crawler or Skid Rig, Rock Drill Truck Mounted, Ross Carrier, Roto Mill Grinder 36" and over, Roto Mill Grinder less than 36", Throttle Valve & Compressor or Clever Brooks Type Combination, Throttle Valve and Fireman Combination or Horizontal or Upright Boiler, Tournapull or similar type Equipment, Tractor - Boom, Tractor Drawn Belt Loader, Tractor Drawn Belt Loader with attached pusher (requires two engineers),Trench Machine, Tug Boat Operator, Wheel Excavator, Winch Truck with "A" Frame, Scoops, Tournapulls or similar types machine used in tandem (Add $1.00 to Class 1 hourly rate for each machine attached thereto)

Group 2 - Combination Backhoe Front End Loader Machine with less than ¼ cu. yd. backhoe bucket or with att., Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Bridge Deck Finisher, Concrete Mixer-less than 27 cu. ft., Greaser, Highlift Shovel under 3 cu. yds., Jersey Spreader or Base Paver, Pavement Bump Grinder (Self-Propelled), Roller-(Asphalt-Waterbound-Macadam-Bituminous Macadam-Brick Surface), Sheepfoot Roller (Self-Propelled) with blade, Surface Heater and Planer, Tamper (Multiple Vibrating-Asphalt-Waterbound Macadam-Bituminous Macadam-Brick Surface), Tractor-Push, Tractor with Scoop, Widener-Apsco or similar type

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

Group 3 - Assistant Plant Engineer, Back Filler, Bituminous Distributor, Broom and Belt Machine, Bull Float, Concrete Finishing Machine, Concrete Screader-Power Driven, Digger (Post-Hole, Power Driven), Finishing Machine and Bull Float, Forklift, Form Grader, Form Tamper (Motor Driven), Multiple Tamping Machine, Paving Breaker, Roller (Earth & Subbase Material), Roller Sheepfoot (Self Propelled), Sub-Grader, Tamper-Multiple Vibrating-Earth and Subbase Material, Tractaire, Tractaire with Drill, Tractor (with all drawn attachments except Backhoe and including highlift, Endloader of 1 cu. yd. capacity and less),

Group 4 - Air Compressor, Conveyor-All, Fireman on Boiler, Generator, Assistant Mechanic, Power Curing Spraying Machine Self-Propelled, Broom-Self-Propelled, Seaman Tiller, Spike Machine (R.R.), Striping Machine (Paint, Self-Propelled), Throttle Valve, Welding Machine, Well Points Systems,

Group 5 - Assistant Greaser, Deck Hand, Hetherington Driver, Mechanical Heater (1 to 5), Outboard or Inboard Motor Boat, Oiler, Power Saw-Concrete-Power Driven, Truck Crane Oiler-Driver, Water Pump, Helper on C.M.I. and similar type equipment, Grasscutter,

POWER EQUIPMENT OPERATORS - UNDERGROUND, SEWER & WATER CONSTRUCTION

AREA 1

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe-Endloader with Backhoe Bucket over ¼ cu. yd., Combination Tugger Hoist & Air Compressor, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Paver 27E cu. ft. & under, Concrete Pump with Boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Creter Cranes, Derricks - All, Derricks-Traveling, Forklift-Lull Type, Forklift-10 ton & over, Hoists-1,2, & 3 drum, Hoist-2 Tugger one floor, Hydraulic Boom Truck, Locomotives-All, Motor Patrol,

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POWER EQUIPMENT OPERATORS - UNDERGROUND, SEWER & WATER CONSTRUCTION

AREA 1 (CONT'D)

Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self propelled), Rock Drill (Truck Mounted), Slip-Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors,

Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination, Backhoe - Endloader with Backhoe Bucket ¼ cu. yd. & under, Engineer acting as conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drillings Machines, Hoists-All Elevators, Hoists-Tugger single drum, Post Hole digger, Roller-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trucks

Group 3 - Concrete Mixer (2 Bag & Over), Conveyor-Portable, Steam Generators, Tractor-Farm & Similar Type, Air Compressor - Small 150 and under (1 to 5 not to exceed a total of 300 feet), Air Compressor - large over 150, Combination - small equipment operator, Forklift - under 10 ton, Generator, Pumps (1 to 3 not to exceed a total of 325 feet), Pumps-Well Points, Welding Machines (2 thru 5), Winches-4 Electric Drill Winches

Group 4 - Heaters-Mechanical (1 to 5), Oilers, Switchmen

TRUCK DRIVERS
LaPORTE & ST. JOSEPH COUNTIES

Group 1 - Acey Wagons over 3 Buckets

Group 2 - Acey Wagons to and including 3 Buckets

Group 3 - Tandem-tandem Semi-Trucks; Truck Mechanics and Welders; Heavy Equipment Type Water Wagon over 5,000 gallons; tri-Axle Trucks pulling Tilt-Top Trailers; Low Boys, Tandem-tandem Axle

Group 4 - Tri-Axle Trucks; Tandem Axle Trucks; Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, athey Wagons, or similar equipment over 12 cu. yd.; Tandem Axle Trucks pulling Tilt-Top Trailers; Low Beys; Tandem Axle, Tri-Axle Patch

Group 5 - Tandem "Dog-Legs"; Semi-Mater Trucks; Sprinkler Trucks; Heavy Equipment Type Water Wagons 5,000 Gallons & Under

Group 6 - Truck Mounted Pavement Breakers; Tandem Trucks over 15 Ton Payload; Single Axle Semi-Trucks; Farm Tractors hauling material; equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hub Bottom DUmp, Tournatrailers, Torunarockers, Athey Wagons or similar Equipment 12 Cubic yds. & under; Mixer Trucks, All Types; Single Axle Trucks pulling Tilt-Top Trailer; Lowboys, Single Axle

Group 7 - Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one man)

Group 8 - Single Axle Dog-Legs; Tandem Trucks or Dog Legs; Winch Trucks or A Frames used for Transportation; Batch Trucks Wet or Dry over 3(34E) Batches-Grease and Maintenance Truck Servicing Tandem axle Trucks

Group 9 - Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributmrc, (two man)

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CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK DRIVERS (CONT'D)

Group 10 - Single Axle Straight Trucks; Wet or Dry 3 (34E) Batches or less; Grease & Maintenance Trucks Servicing Single Axle Trucks

Group 11 - Tenders; Greasers; Tire Men; Batch Board Tenders

Group 12 - Pick-Up Trucks

TRUCK DRIVERS
LAKE & PORTER COUNTIES

Group 1 - 2 & 3 Axle

Group 2 - 4 Axle

Group 3 - 5 Axle

Group 4 - 6 Axle

Group 5 - Over 6 Axles

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SUPERSEDEAS DECISION

STATE: Iowa
COUNTY: Pottawattamie
DECISION NO: IA83-4035
DATE: Date of Publication
Supersedes Decision NO. IA81-4101, dated 12/11/81 in 46 FR 60754.
DESCRIPTION OF WORK: Building Projects in entire County (does not imclude single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	16.68	3.06
Boilermakers	16.12	2.825
Bricklayers & Stonemasons	14.88	2.05
Carpenters:		
Carpenters	14.57	2.10
Piledrivermen	14.705	2.10
Millwrights	14.85	2.10
Cement Masons	13.85	1.85
Electricians	15.74	3.05+ 3-1/2%
Elevator Constructors:		
Mechanics	15.30	2.69+a
Helpers	70%JR	2.69+a
Helpers (Probationary)	50%JR	
Glaziers	14.73	1.74
Ironworkers	12.60	1.40
Laborers:		
Common Laborers	11.96	1.55
Mason Tenders; Mortar Mixers; Pipelayers	12.135	1.55
Buggymobile Operators	12.30	1.55
Plasterers' Tenders	12.345	1.55
Lime Construction:		
Group 1 - Lineman;all rigs setting assembled "H" fixtures,steel & concrete transmission structures	15.65	.65+ 7-1/2% +b
Group 2 - Special equipment operations (hole digging machines,all tractors,transmission line pole hauling & setting equipment other than assembled "H" fixtures	12.99	.65 7-1/2% +b
Group 3 - Blaster	12.52	.65 7-1/2% +b
Group 4 - Groundman	10.17	.65 7-1/2% +b
Line Construction:(Cont'd		
Group 5 - Groundman, Truck Driver	10.33	.65+ 7-1/2% +b
Group 6 - Pole Treating truck driver	10.02	.65+ 7-1/2% +b
Group 7 - Pole Treating Specialist	12.05	.65+ 7-1/2% +b
Painters:		
Brush, Paperhangers	10.60	.25
Highwork,spray,stage, structural steel	11.15	.25
Plasterers	15.42	1.43
Plumbers	14.59	3.00
Power Equipment Operators		
Group 1	13.47	2.20
Group 2	13.215	2.20
Group 3	11.52	2.20
Group 4	10.695	2.20
Roofers:		
Slate, tile	12.25	1.45
Composition	11.95	1.45
Helpers (handling roofing materials,erecting & dismantling scaffold for roofers & removing & cleaning up old roof	50%JR	1.45
Sheet Metal Workers	17.45	1.28
Sprinkler Fitters	16.47	2.83
Steamfitters	15.64	2.20
Terrazzo Workers, Tile Setters & Marble Setters	15.37	.85
Terrazzo, Tile & Marble Setters Finishers	13.80	

FOOTNOTES:

a - Employer contributes 8% of basic hourly rate for over 5 years service & 6% of basic hourly rate for 6 Months to 5 years service as Vacation Pay Credit; Seven Paid Holidays A thru G

b - Seven Paid Holidays A thru G

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PAID HOLIDAYS

A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Cranes, incl. those being used as backhoe, dragline, clamshell, etc.; tower cranes; electric overhead cranes; truck cranes & cherry pickers 12-1/2 ton & over rated capacity;derricks; piledrivers & extractors; caisson rigs; sideboom & winch truck used for erection of structural steel & moving & setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen); meshanis

Group 2 - 1 & 2 drum hoists; air & electric tuggers (on power plants or setting steel or grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); sideboom & winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes & cherry pickers (under 12-1/2 ton); concrete mixers (1 yd. & over); ditching machines (8" & over); fork lifts (on steel erection & machinesy moving or hoisting above one complete story); concrete pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal); working boat (tug, tow, etc.); group greaser

Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; fork lifts (other than Group No.2); gunnite machine;self-propelled rollers; stump chippers; self-propelled tampers; air & electric tuggers (other than above); ditching machine under 8", pile threader; firemen (boiler)

Group 4 - Mechanical heaters; truck crane dirvers; permanent elevators; air compressors (one or a combination of 400 cfm or more; pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; generator (75 KW & over); dewatering pumps; boat used for personnel transport or as a safety boat

Unlisted classifications needed for work not included within the scope of the classifications listed maybe added after award only as provided in the labor standards ontract clauses (29 CFR, 5.5(a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: MARYLAND — LOCATION: BALTIMORE CITY
DECISION NO.: MD83-3017 — DATE: DATE OF PUBLICATION
Supersedes Decision No. MD81-3056 dated August 14, 1981 in 46 FR 41325
DESCRIPTION OF WORK: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	14.78	2.07
CARPENTERS	13.80	2.11
CEMENT MASONS	9.57	2.12
ELECTRICIANS	16.60	3.5% +2.70
IRONWORKERS:		
Structural & Reinforcing	14.48	4.14
Fence Erectors	14.13	4.14
LABORERS:		
Laborers	7.75	1.075
Power Tool Operators	7.85	1.075
Pipelayers, Wagon Drill Operators, Air Track Drillers, Burners (demolition)	8.25	1.075
Mason Tenders & Mortar Mixers (brick & stone work only)	10.45	1.075
Jackhammer Operators - 80# and over	8.00	1.075
LINE CONSTRUCTION:		
Linemen, Cable Splicers, Digging and Equipment Operators	15.00	8-1/4% +.70
Truck with winch, truck with poles or steel handling	10.05	8-1/4% +.70
Truck without winch	9.38	8-1/4% +.70
Groundman	9.45	8-1/4% +.70
PAINTERS:		
Brush and Roller Steel, spray, swinging stages, boatswain chair sand & waterblasting, steam cleaning, and epoxies	13.30	2.29
Ames tool - bazooka	14.05	2.29
SIGN ERECTORS	14.30	2.29
	9.18	4%+a+b

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Pick-up	9.86	2.50+ c+d
Dump, water, fuel, and lube trucks, sweeper, boring machine and miscellaneous equipment	10.14	2.50+ c+d
Drop frame goosenemk and trailer	10.39	2.50+ c+d
Euclid wagon and dumpster	10.54	2.50+ c+d
POWER EQUIPMENT OPERATORS:		
Group I	12.70	2.30
Group II	12.07	2.30
Group III	11.34	2.30
Group IV	10.00	2.30

FOOTNOTES:

a - Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Good Friday, Friday after Thanksgiving and employee's birthday.

b - Vacation: One week per year after 1 year of service, 2 weeks after 3 years of service and 3 weeks after 10 years of service.

c - Paid Holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and employee's birthday, providing employee has worked one day and was available for work during the holiday week.

d - Vacation: Employees who have worked 100 days in the previous contract year and have 1 year of service, 1 week's paid vacation; 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Backfiller, backhoe, batching plants, cableway, Case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), grader, gradall, hoist (2 active drums or more), pile driving machine, power crane, power shovel, repair mechanic, standards guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whimley rig and bulldozers (E-9 or equivalent and above).

Group II - Asphalt spreader, bull float, Case type hoe (with a front end bucket 1-1/4 yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.), finishing machine, front end loader (under 1-3/4 yds.), grout pump, hi-lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), subgrader, well-drill and all bulldozers except D-9 or equivalent and above.

Group III - Compressors, conveyors, firemen, fueltruck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines, wellpoint system and all power rollers except on hot mix asphalt.

Group IV - Oilers (all types)

SUPERSEDEAS DECISION

STATE: New Hampshire — COUNTIES: Rockingham and Stafford
DECISION NUMBER: NH83-3011 — DATE: Date of Publication
Supersedes Decision No. NH82-3009 dated February 26, 1982, in 47 FR 8519
DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.56	$3.31
BOILERMAKERS	18.25	3.295
BRICKLAYERS; CEMENT MASONS: Marble Masons, Plasterers, Stonemasons, Tile Setters and Terrazzo Workers	13.14	1.92
CARPENTERS:		
Area 1: Carpenters and Soft Floor Layers	15.96	3.37
Area 2: Carpenters and Soft Floor Layers	12.61	1.55
Piledrivers, Wharf and Dock Buildings and Millwrights	13.46	1.55
Area 3: Carpenters and Soft Floor Layers	12.61	1.55
Piledrivers, Dock Builders and Millwrights	13.46	1.55
ELECTRICIANS:		
Area 1	15.40	3%+1.30
Area 2	14.87	3%+2.65
Area 3	15.35	3%+.83
Area 4	15.40	3%+1.30
ELEVATOR CONSTRUCTION: Constructors	13.88	2.180+ a+b
Helpers	9.72	2.180+ a+b
IRONWORKERS: Structural, Ornamental and Reinforcing	15.23	3.19

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen	$12.00	$1.45+c +3-3/8%
Equipment Opeators	10.20	1.45+c +3-3/8%
Groundman	9.60	1.45+c +3-3/8%
Driver Groundman	7.80	1.45+c +3-3/8%
PAINTERS:		
Area 1:		
New Construction: Brush and Taper	14.31	2.91
Sandblasting and Spray	15.31	2.91
Repaint Rate: Brush and Tapers	12.81	2.91
Sandblasting and Spray	13.81	2.91
Steel, New and Repaint Rates	16.83	1.91
Area 2:		
Commercial and Industrial	11.85	.25
Sandblasting and Spray	13.35	.25
Structural Steel	12.75	.25
Area 3:		
Commercial and Industrial	11.85	2.91
Sandblasting, Spray and Tender	13.85	2.91
Structural Steel	12.75	2.91
PLUMBERS and STEAMFITTERS:		
Area 1	17.67	2.70
Area 2	15.05	2.72
Area 3	15.60	2.10
Area 4	15.60	2.10
ROOFERS	7.80	
SHEET METAL WORKERS	14.60	2.33
SPRINKLER FITTERS	14.37	2.83

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction:		
Rockingham County:		
Group 1	$10.13	$2.35+d
Group 2	10.34	2.35+d
Group 3	10.86	2.35+d
Group 4	11.43	2.35+d
Group 5	10.49	2.35+d
Heavy Construction: Rockingham County (including the Townships of Auburn, Candia, Chester, Danville, Deerfield, Derry, London Derry, Raymond, Sandown, Windham, Hampstead and Freemont):		
Group 1	8.25	2.35+d
Group 2	8.75	2.35+d
Group 3	9.00	2.35+d
Tunnel-Free Air Operation:		
Heavy Construction:		
Rockingham County:		
Group 1	11.41	2.35+d
Group 2	11.63	2.35+d
Group 3	11.75	2.35+d
Group 4	12.18	2.35+d
Building & Heavy Constr:		
Stafford County:		
Group 1	10.13	2.35+d
Group 2	10.34	2.35+d
Group 3	10.49	2.35+d
Group 4	10.86	2.35+d
Group 5	11.43	2.35+d
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Class 1	17.61	1.81+e
Class 2	17.49	1.81+e
Class 3	14.78	1.81+e
Class 4	16.09	1.81+e
Class 5	13.13	1.81+e
Class 6	13.92	1.81+e
Boom lenghts including jib- over 150' additional $.61; over 185' additional $.99; over 210' additional $1.38; over 250' additional $2.10; over 295' additional $2.92 Per Hour		

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Heavy Construction:		
Class 1	$17.61	$1.81+f
Class 2	19.22	1.81+f
Class 3	17.49	1.81+f
Class 4	14.78	1.81+f
Class 5	16.09	1.81+f
Class 6	13.13	1.81+f
Class 7	13.92	1.81+f
Boom length including jib- over 150' additional $.28; over 185' additional $.55; over 320' additional $.83; over 275' additonal $1.10 Per Hour		
Marine Construction:		
Class 1	13.41	2.36+g
Class 2	14.64	2.36+g
Class 3	13.36	2.36+g
Class 4	13.29	2.36+g
Class 5	11.22	2.36+g
Class 6	12.23	2.36+g
Class 7	8.97	2.36+g
Class 8	10.54	2.36+g
Boom length including jib - over 150' additional $.25; over 185' additional $.50; over 220' additional $.75; over 275' additional $1.00 Per Hour		
TRUCK DRIVERS:		
Class 1	6.41	1.30+h
Class 2	6.64	1.30+h
Class 3	6.87	1.30+h
Class 4	7.02	1.30+h

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WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day
b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day
c. Holidays: Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays
d. Holidays: Memorial Day, Independence Day; and Thanksgiving Day provided employee works the scheduled work days before and after each holiday
e. 10 Paid Holidays: New Year's Day; Memorial Day; Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day
f. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Columbus Day; Veterans' Day; and Fast Day
g. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday, Patriot's Day; Columbus Day; and Veteran's Day, provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the Holidays
h. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; and Columbus Day, provided employee works 2 days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first day assigned following the holiday.

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Rockingham County (Township of Salem)
Area 2: Remainder of Rockingham County
Area 3: Stafford County

ELECTRICIANS:
Area 1: Rockingham County (Townships of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan, South New Market and New Fields)
Area 2: Rockingham County (Townships of Kingston, Kensington, North Kingston, Hampstead, North Plaistow, Westville, Atkinson, North Salem and Salem)
Area 3: Remainder of Rockingham County
Area 4: Stafford County

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Rockingham County (Township of Salem)
Area 2: Remainder of Rockingham County
Area 3: Stafford County

PLUMBERS and STEAMFITTERS:
Area 1: Rockingham County (Townships of Plainstow, Atkinson, Danville, Hampstead, and Kingston)
Area 2: Rockingham County (Townships of Salem and Windham)
Area 3: Remainder of Rockingham County
Area 4: Stafford County

GROUP DESCRIPTIONS

LABORERS
Building Construction
Rockingham County

Group 1: Laborers

Group 2: Plasterers Tenders

Group 3: Drillers, Pavement Breakers, Pneumatic Tool Operators; Chipping Gun Operators; Blasters and Powdermen

Group 4: All other Pneumatic Tool Operators, on Boiler and Stack Work

Group 5: Pipelayers, Fence and Guard Rail Erectors

Heavy Construction
Rockingham County (Townships of Auburn, Candia, Chester, Chester, Deerfield, Derry, London Derry, Raymond, Sandown, Windham, Hempstead and Freemont)

Group 1: Laborers and Pipelayers

Group 2: Pneumatic Tool Operator, Drillers, Pavement Breakers, Electric Chipping Hammers, used for Laborers work

Group 3: Blasters and Powdermen

LABORERS (Cont'd)

Tunnel - Free Air Operation (Heavy Construction)
Rockingham County

Group 1: Change House Attendant

Group 2: Laborers Topside

Group 3: Miners Helpers, Tunnel Laborers, Shaft Laborers; All other Men

Group 4: Miners, Motormen, Mucking Machine Operators, Nozzlemen, Grout Men, Cable Tenders, Shaft and Tunnel Steel and Rod Men, Concrete Workers, Form Erectors, Form Movers and Strippers, Cage Tenders, and Bellmen

Building and Heavy Construction
Stafford County

Group 1: Laborers

Group 2: Plasterers Tenders

Group 3: Boilers, Stack Work, Pneumatic Tool Operator, Drillers, Pavement Breakers, Electric Chipping Operator, Blasterers, Powdermen and Creosote Work

Group 4: Pipelayers, Fence and Guardrail Erectors

Group 5: Pneumatic Tool on Boiler and Stack Work

POWER EQUIPMENT OPERATORS
Building Construction

Class 1: Shovels, Cranes, Truck Cranes, Cherry Pickers; Dragline, Trench Hoe, Backhoe, 3 Drum Machine, Derricks, Pile, Elevator Tower Hoist, Gradall, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Fork Lift Auger, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Pumpcrete Machine

Class 2: Master Mechanics

Class 3: Sonic or Vibratory Hammer, Grader, Scraper, more than 21 yds., struck, Tandem Scraper, Concrete Pump, Bulldozer, Scraper 21 yds. struck or less, Portable Steam Boiler, Portable Steam Generator, Roller, Spreader, Tamper, Asphalt Paver, Mechanics, Maintenance

Class 4: Assistant Engineers (Fireman)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Class 5: Pumps (1-3 grouped), Compressor, Welding Machines (1-3 grouped), Generator, Concrete Vibrator, Lighting Plant, Heater (power driven 1-5), Wellpoint (operating and installing), Syphons-Pulsometers, Concrete Mixers, Valves controlling Permanent Plant Air or Steam Conveyor; Jackson type Tamper Cranes and Gradalls, Oiler (other than Truck Cranes and Gradalls)

Class 6: Oilers on Truck Cranes and Gradalls

Heavy Construction

Class 1: Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Hoist, Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines; Elevating Graders, Shovels Dozers (when used for digging or loading), Front End Loaders (when used for digging or loading), Mucking Machines (when used as in Shafts and Tunnels), Shaft Hoists, Steam Engineers, Backhoe, Gradalls and Cableways

Class 2: Master Mechanics

Class 3: Grader, Scrapers, more than 21 yds., Struck and Tandem Scrapers, Bulldozers, Scrapers 21 yds., Struck or less, Grout Pumps, Portable Steam Boilers, Roller, Spreaders, Asphalt Pavers, Locomotive and Tampers Self-propelled or Tractor-drawn, Mechanics, Maintenance, Sonic or Vibratory Hammers

Class 4: Pumps (1-3 grouped), Compressors Welding Machine (2)(1-3 grouped) Generator, Lighting Plants, Heaters (power driven (105), Syphons, Pulsometers, Concrete Mixers, Valves controlling Permanent Plant Air or Steam, Conveyors, Wellpoint System (operating and installing)

Class 5: Assistant Engineers (Firemen)

Class 6: Oilers (other than Truck Cranes and Gradalls)

Class 7: Oiler on Truck Cranes and Gradalls

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POWER EQUIPMENT OPERATORS (Cont'd)
Marine Construction

Class 1: Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, two or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoist, Pavement Breaker, Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grader, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill, Post Hole Hammer, Post Hole Digger for Lift

Class 2: Swinger Engine

Class 3: Sonic Vibratory Hammer, Grader, Scraper (over 21 yds. struck), Tandem Scraper Concrete Pump, Bulldozer, Scraper (21 yds. struck or less)

Class 4: Portable Steam Boiler, Portable Steam Generator, Roller, Tractor Mechanic (maintenance), Concrete Mixer with Side Loader

Class 5: Assistant Engineer (Fireman)

Class 6: Pump, Compressor, Welding Machine, Heater (power driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (power by independent engine and attached to Pile Drivers), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer

Class 7: Oiler (other than Truck Cranes and Gradall)

Class 8: Oiler on Truck Crane and Gradall

TRUCK DRIVERS

Class 1: Two Axle Equipment

Class 2: Three Axle Equipment including Low Beds

Class 3: Special Earth Hauling Equipment other than Conventional type on the Road Truck and Semi-trailers, Trailer Dumps

Class 4: Off Highway

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM83-4036 DATE: Date of Publication
SUPERSEDES DECISION NO. NM82-4043 dated August 27, 1982 in 47FR38032
DESCRIPTION OF WORK: Streets, highway, utility and light engineering construction shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athletic fields, highway bridges, median channels and grade separations involving highways; parks, golf courses, viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling telephone and electrical transmission lines and site preparations which are part of streets, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as lift stations, inlets, manholes, sewer lagoons, septic tanks and service outlets (stubouts), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$7.40	.44
CEMENT MASONS	7.08	.26
IRONWORKERS:		
Reinforcing	7.49	.50
Structural	8.24	1.29
LABORERS:		
Group I	4.92	.35
Group II	5.22	.35
Group III	5.22	.35
Group IV	5.62	.35
COMMERCIAL LINE WORK-AREA A		
LINEMEN-TECHNICIANS		
Zone I	15.90	P
Zone II	17.33	P
Zone III	18.29	P
Zone IV	20.03	P
CABLE SPLICERS		
Zone I	17.49	P
Zone II	18.92	P
Zone III	19.88	P
Zone IV	21.62	P
EQUIPMENT OPRS. (includes Helicopter operator)		
Zone I	15.10	P
Zone II	16.73	P
Zone III	17.49	P
Zone IV	19.29	P
EQUIPMENT MECHANIC (includes Helicopter Mechanic) & POWERMAN:		
Zone I	13.83	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK-AREA A (cont.'d)		
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	$11.29	P
Zone II	12.72	P
Zone III	13.68	P
Zone IV	15.42	P
P—3-1/2%+$2.00		
COMMERCIAL LINE WORK-AREA B		
LINEMEN-TECHNICIANS		
Zone I	10.15	3½%+.60
Zone II	11.60	3½%+.60
CABLE SPLICERS		
Zone I	10.40	3½%+.60
Zone II	11.85	3½%+.60
EQUIPMENT OP/(includes Helicopter Operators:		
Zone I	9.64	3½%+.60
Zone II	11.02	3½%+.60
EQUIPMENT MECHANIC (includes Helicopter Mechanic & POWERMAN		
Zone I	8.93	3½%+.60
Zone II	10.21	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3½%+.60
Zone II	8.24	3½%+.60
COMMERCIAL LINE WORK-AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3½%+.60
Zone II	15.15	3½%+.60
Zone III	15.30	3½%+.60
Zone IV	15.55	3½%+.60
CABLE SPLICERS		
Zone I	15.05	3½%+.60
Zone II	15.50	3½%+.60
Zone III	15.65	3½%+.60
Zone IV	15.90	3½%+.60

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	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK-AREA C (cont'd)		
EQUIPMENT OPERS. (Includes helicopter (operator):		
Zone I	$13.28	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
EQUIPMENT MECHANIC (includes helicopter mechanic)		
Zone I	13.68	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	13.62	3½%+.60
POWERMAN		
Zone I	13.23	3½%+.60
Zone II	13.23	3½%+.60
Zone III	13.38	3½%+.60
Zone IV	13.62	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½%+.60
Zone II	10.89	3½%+.60
Zone III	11.04	3½%+.60
Zone IV	11.29	3½%+.60
LINE CONSTRUCTION-UTILITY FOR ELECTRIC AND TELEPHONE UTILITIES REA CO-OPS, RAILROADS AND MUNICIPALITIES		
Linemen-Technician	13.90	3½%+1.30
Cable splicers	14.87	3½%+1.30
Equipment op. (includes helicopter operator)	12.10	3½%+1.30
Equipment mechanic (includes helicopter mechanic)	12.10	3½%+1.30
Powderman	11.68	3½%+1.30
Groundmen & Jackhammer op.	9.50	3½%+1.30
PAINTERS:		
Brush	7.96	.44
Spray	7.74	.20
POWER EQUIPMENT OPERATORS:		
Group I	7.32	.26
Group II	7.52	.26
Group III	8.10	.26
Group IV	8.12	.26
Group V	8.12	.26
Group VI	8.27	.26
Group VII	8.32	.26
Group VIII	8.47	.26
Group IX	8.97	.26
Group X	9.77	.26

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Distributor (asphalt)	$6.37	.26
Dump or batch trucks:		
Under 8 CY	5.97	.26
8 CY and under 16 CY	6.17	.26
Diesel-powered transport	6.57	.26
Flat bed, 1½ ton	5.97	.26
Flat bed, over 1½ ton	6.17	.26
Lowboy, heavy equipment	6.57	.26
Lowboy, light equipment	6.37	.26
Off-highway hauler	6.37	.26
Pick-up truck 3/4 ton or under	5.97	.26
Trailer or semi-trailer dump and transit-mix & warehouseman	5.97	.26

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

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CLASSIFICATION AREA AND ZONE DEFINITIONS

LABORERS:
GROUP I
Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers
GROUP II
Wagon, air track, drill and diamond drillers' tender (outside)
GROUP III
Air and power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touch-up-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman; scaler; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)
GROUP IV
Gunite pumpcreteman and nozzleman; multiplate setter; pipelayer; manhole builder; Powderman-blaster-make up

COMMERCIAL LINE WORK
AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry. DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico.

ZONE I
Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Projoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone ONLY, Zone 2 shall extend up to 10 miles beyond zone 1, Zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

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CLASSIFICATION AREA AND ZONE DEFINITIONS (Cont'd)

COMMERCIAL LINE WORK(cont'd)
AREA B - Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I
That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area withi a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the Post Office in Alamogordo, New Mexico.
ZONE II
All other areas of the jurisdiction except those specified in 1
AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from the main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0 to 12 miles ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles ZONE IV - 40 miles and beyond

POWER EQUIPMENT OPERATORS
GROUP I - Concrete paving curing machine
GROUP II - Belt type conveyors (material and concrete); broom (self-propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brake-man; front end lander (2 CY or less); fireman; oiler screedman; roller (pull type); mulching machine; roller (self-propelled)
GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub-grader; tractor with backhoe attachment; subgrade or base finisher, power plant (electric general or welding machine)
GROUP IV Bulldozer (including self-propelled roller with dozer attachment); batch ot continous mix plant (concrete soil-cement or asphalt); roller (steel wheel); front end loader (2 CY thru 10 CY); scraper operator; motor grader
GROUP V - Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" imtake or over); winch truck; hmist (50 drawbar HP or over)
GROUP VI - Concrete paver mixer; hoist (2 drum and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; frontend loador (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)
GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concreto paving logitudinal float; gunite machine; refsigerator; jumbo formor drilling stage; slusher; comcrete paving spreader; pumpcrete machine; grout pump operator

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

POWER EQUIPMENT OPERATORS (cont'd)
GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 cy); cranes (crawler or mobile) over 40 tons
GROUP IX - Belt loader (CMI types) overator; derrick cableway
GROUP X - Pipemobile operator; mole operator

WELDERS--receive rate prescribed for craft performing operation to whish welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards con-ract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Ohio COUNTY: Lucas
DECISION NUMBER: OH83-2040 DATE: Date of Publication
Supersedes Decision No. OH82-2044 dated August 20, 1982, in 47 FR 36520
DESCRIPTION OF WORK: Building and Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.50	$2.48
BOILERMAKERS	19.15	3.155
BRICKLAYERS; MARBLE SETTERS; and STONEMASONS	16.935	2.99
CARPENTERS; MILLWRIGHTS and PILEDRIVERMEN	17.91	2.73
CEMENT MASONS	15.50	2.12
ELECTRICIANS:		
Commercial:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
Residential	12.48	2.76
ELEVATOR CONSTRUCTORS:		
Mechanics	17.37	2.69+ a+b
Helpers	70%JR	2.69+ a+b
Probationary Helpers	50%JR	
GLAZIERS	15.89	2.37
IRONWORKERS	17.75	3.44
LATHERS	17.91	2.73
LINE CONSTRUCTION:		
Linemen	19.16	2.33+c
Cable Splicers	22.03	2.57+c
Technicians	18.59	2.28+c
Operator - Class 1	15.33	2.00+c
Operator - Class 2	13.41	1.84+c
Groundmen	11.50	1.68+c
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS	14.42	1.06
PAINTERS:		
Commercial:		
Brush; Drywall Tapers and Finishers; and Paperhangers	14.90	3.36
Bridge; Railings; Powerhouse; Refinery Tanks Pressure Cleaning; Sandblasting; and Spray	15.15	3.36
	15.45	3.36
Residential	13.56	3.36
PLASTERERS	$18.02	$ .71
PLUMBERS; STEAMFITTERS; and PIPEFITTERS	17.90	3.42
ROOFERS	16.50	3.09
SHEET METAL WORKERS	16.825	3.64
SOFT FLOOR LAYERS:		
Commercial	16.09	2.91
Residential	13.41	2.36
SPRINKLER FITTERS	17.67	2.83
TERRAZO WORKERS and TILE SETTERS	17.40	1.36
LABORERS:		
Group 1: Unskilled	14.43	2.71
Group 2: Mason Tenders	14.51	2.71
Group 3: Gunnite Pot Men	14.63	2.71
Group 4: Mortar Mixers	14.58	2.71
Group 5: Concrete Pump Nozzle Men; All Power Driven Tools; and Power Buggies	14.585	2.71
Group 6: Pipe Layers; Bellmen; Bottom Men for Fire Brick Work only; Bottom Man over 6 ft.; Shoring and Cribbing	14.685	2.71
Group 7: Nozzle Operators for Gunnite Work; Miners w/o pressure	15.34	2.71
Group 8: Plasterers' Tenders and Mixers	14.30	2.71
Group 9: Car Pushers	14.77	2.71
Group 10: Winch Operators	14.56	2.71
Group 11: Caisson over 25 ft.	14.89	2.71
Group 12: Muckers w/o pressure	14.87	2.71

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
GROUP A	17.24	3.02
GROUP B	17.08	3.02
GROUP C	16.73	3.02
GROUP D	15.92	3.02
GROUP E	15.59	3.02
GROUP F	13.38	3.02

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Well & Pump Work (Incl. Drilling & Repair of All Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells)		
Well Driller & Pump Installer	8.10	.61 +d+e

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - A-Frame; Rotary Drills Used on Caisson Work for Foundations and Sub-Structure Work; Boiler or Compressor Operator Mounted on Crane (Piggyback Operation); Boom Truck (All Types); Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps; Cranes (All Types); Derricks (All Types); Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator when Hoisting Builders Materials; Hoes (All Types); Hoisting Engines (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives (All Types); Maintenance Engineer (Mechanic or Welder); Mixers Paving (multiple Drum); Mobile Concrete Pumps with Boom; Panelboard (All Types on Site); Pile Driver; Power Shovels; Side Booms; Slip Form Pavers; Straddle Carriers (Building Construction on Site); Hammerhead Tower Cranes; Trench Machines (over 24" Wide); Tug boat
GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoopn; Power Scrapers; Push Cat
Group C - Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators; Man Lift; Power Boilers (Over 15 lbs. Pressure); Pump Operators Installing Well Points or Other Type of Dewatering System; Pumps (4" and over discharge); Submersible Pumps (4" and over discharge); Trenchers 24" and under
GROUP D - Compressors on Building Construction; Conveyors (Building Material) Generators; Gunnite Machines; Mixers (Capacity more than one Bag); Mixers (One Bag Capacity, Side Loader); Post Driver; Post Hole Diggers; Pavement Breaker (Hydraulic or Cable); Road Widening Trencher; Rollers; Welder Operator

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DECISION NO. OH83-2040

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (CONT'D)

GROUP E - Backfillers & Tampers; Batch Plant; Bar and Joint Installing Machines; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machines; Crushers; Deck Hands; Drum Firemen (Asphalt); Farm Type Tractors Pulling Attachments; Finishing Machines; Form Trenchers; High Pressure Pumps Over ½" Discharge; Hydro Seeders; Self-Propelled Power Spreader; Self-Propelled Sub-grader; Tire Repairmen; Tractors Pulling Sheeps Foot Roller or Grader; Vibratory Compactors (with Integral Power)

GROUP F- Oiler; Tenders; Inboard & Outboard Motor Boat Launch; Light Plant Operator; Power Driven Heaters (oil Fired); Power Boilers (less than 15 lbs. Pressure); Pumps Under 4" Discharge; Submersible Pumps Under 4" Discharge

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Seven Paid Holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Ten Paid Holidays: A through F, Good Friday, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve
d. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve; & Christmas Day
e. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 weeks' paid vacation; 11th continuous calendar year - 3 weeks' paid vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Mahoning and Trumbull
DECISION NUMBER: OH83-2041
DATE: Date of Publication
Supersedes Decision No. OH82-2045, dated August 13, 1982 in 47 FR 35431
DESCRIPTION OF WORK: Building and Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.24	$2.43
BOILERMAKERS	17.255	3.305
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; and STONEMASONS:		
Area 1	15.74	2.70
Area 2	15.69	1.75
CARPENTERS; LATHERS:		
Commercial Building	14.76	3.44
Residential	13.28	3.44
CEMENT MASONS:		
Area 1	16.13	1.95+a
Area 2	16.56	1.46+a
ELECTRICIANS:		
Area 1	18.23	2.77
Area 2	17.90	3.06
Area 3:		
Commercial Building	17.10	3.42
Residential (4 units only)	11.86	2.57
ELEVATOR CONSTRUCTORS:		
Mechanics	16.10	2.465+b+c
Helpers	70%JR	2.465+b+c
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	14.95	2.91
INSULATORS:		
Residential	8.51	3.44
IRONWORKERS	16.01	3.16
LINE CONSTRUCTION:		
Area 1:		
Linemen; Cable Splicer; Operator - Pole Digging Equipment	18.70	2.29
Groundmen	14.96	1.97
Area 2:		
Linemen	17.10	3.42
Cable Splicer	15.99	3.37
Line Equipment Operators	14.84	3.31
Groundman; Truck Driver	11.24	3.14
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS:		
Area 1	$17.92	
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:		
Area 1	14.405	
MILLWRIGHTS;		
PILEDRIVERMEN	15.61	3.44
PAINTERS:		
Brush; Dipping; Hydro Jet Cleaning; Paperhangers; Roller; Steamcleaning; Wall Washing; and Waterproofing	15.04	2.66
Spray; Epoxy-mastic (Brush and Roller)	15.54	2.66
Drywall Taping	15.19	2.66
Open Structural Steel	15.25	2.66
PLASTERERS:		
Area 1:		
Commercial	15.61	.83
Residential	13.27	.83
Area 2:		
Commercial	16.52	.93
Residential	12.95	.83
PLUMBERS; STEAMFITTERS; and PIPEFITTERS:		
Area 1	16.61	2.72
Area 2	15.92	3.83
ROOFERS	15.73	2.43
SHEET METAL WORKERS	15.14	1.64
SOFT FLOOR LAYERS:		
Commercial	14.17	3.44
Residential	12.75	3.44
SPRINKLER FITTERS	17.67	2.83
LABORERS:		
Group 1	13.60	2.70
Group 2	13.72	2.70
Group 3	13.84+	2.70
Group 4	13.90	2.70
Group 5	13.92	2.70
Group 6	13.97	2.70
Group 7	14.00	2.70
Group 8	14.10	2.70
Group 9	14.20	2.70

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
Commercial Building:		
Group 1	$15.46	$2.36
Group 2	14.77	2.36
Group 3	14.13	2.36
Group 4	13.72	2.36
Group 5	13.62	2.36
Group 6	15.73	2.36

Residential:	Basic Hourly Rates	Fringe Benefits
Group 1	$14.46	$2.36
Group 2	13.77	2.36
Group 3	13.13	2.36
Group 4	12.72	2.36
Group 5	12.62	2.36
Group 6	14.73	2.36

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. $25.00 per Employee per year
b. 7 Paid Holidays: A through F, and Day after Thanksgiving
c. Employer contributes 8% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 6% for employee in business less than 5 years

AREA DESCRIPTIONS

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; and STONEMASONS:
Area 1: Mahoning County and City of Youngstown
Area 2: Trumbull (Remainder of County)

CEMENT MASONS:
Area 1: Mahoning and Trumbull (Townships of Hubbard and Liberty) Cos.
Area 2: Trumbull County (Remainder of County)

ELECTRICIANS:
Area 1: Mahoning (Milton Township) and Trumbull (excluding Hubbard and Liberty Townships) Counties
Area 2: Mahoning (excluding Milton and Smith Townships) and Trumbull (Hubbard and Liberty Townships) Counties
Area 3: Mahoning County (Smith Township)

GLAZIERS:
Area 1: Except South of Route #224 in Mahoning County

LINE CONSTRUCTION:
Area 1: Mahoning (excluding Smith Township) and Trumbull Counties
Area 2: Mahoning County (Smith Township)

MARBLE SETTERS; TERRAZZO WORKERS; and TILE SETTERS:
Area 1: Mahoning County

MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS and TILE SETTERS' FINISHERS:
Area 1: Mahoning (excluding Smith Township) and Trumbull Counties

PLASTERERS:
Area 1: Mahoning and Trumbull (Liberty and Hubbard Townships) Counties
Area 2: Trumbull County (Remainder of County)

PLUMBERS; STEAMFITTERS; and PIPEFITTERS:
Area 1: Mahoning and Trumbull (Hubbard and Liberty Townships) Counties
Area 2: Trumbull County (-xcluding Hubbard and Liberty Townships)

LABORERS

Group 1: Asphalt Paving; Building and Construction; Carpenter Tenders and Railroad Construction Laborers

Group 2: All Machine Driven Tools, Electric, Gas, or Air and Operation of all; Pumps under 4"; All Men working in Concrete such as Pouring, Puddling, Raking and Conveying- Scaffold Help; Jackhammer Operator; Mason Tender; Mortar Mixer (Hand or Machine); Scrap Iron Burning and Spikers

Group 3: All Work done by Laborers 7 ft. or more in Depth; Hod Carrier

Group 4: Laborers (except Jackhammer) Working on Repair of Blast Furnaces or Coke Plant and Auxiliary Facilities

Group 5: Jackhammer Operator in Trench or Shaft; Jack Hammer on Blast Furnace or Coke Plant; Laser Beam Operator; Muckers; Pipelayers; Powder and Dynamite; and Tunnel and Caisson

Group 6: Ram Wight

Group 7: Gunniting and Sandblasting; Miner Air Tool; Pump Crete Operations; and Wrench Man

Group 8: Lancing

Group 9: Bellman; Hook Up Men

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CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; Backfiller W/Drag Attachments; Boat Derricks; Boat Tug; Boring Mach. Attached to Tractor; Bullcalm; Bulldozer; C.M.I. Road Builder & similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall-Scraper or Scoop; Chicago Boom; Compactor w/Blade Attached; Concrete Spreader Finisher Comb., Crane; Crane-Stationary or Climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist- Monorail; Hoist-Stationary & Mobile Tractor; Hoists -2 or 3; Jackall; Jumbo Mach.; Kocal or Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester w/Boom; Mucking Mach.; Paving-Asphalt Finishing Mach.; Paver-Road Concrete; Paver-Slip Form; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Reigs-Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor W/Attachments; Truck-Boom; Truck-Tire-Assigned to Job; Trench Mach.; Tunnel Machine (Mark 21 Java or Similar); Whirley

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O Boom; Cleaning Mach.- Pipeline Type; Coating Mach-Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Greaser Truck Op.; Grout Pump; Gunnite Mach.; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Firemen; Power Broom; Refrigeration Plant; Sasgen Derricks; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Hoist-Single Drum; Soil Stabilizer (Pump Type); Spray Cure Mach.-Self Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I. or Similar Type; Tugger Hoist

CLASS III - Batch Plant-Job related; Boiler Op.; Compressor (125 CFM or over); Curb Builder (Self-propelled); Generator-Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Machine, Pin Puller; Pulverizer; Pump; Road Finishing Machine (Pulltype); Roller; Saw-Concrete-Self-Propelled; Spray Cure Machine-Motor Powered; Spreader (Side driver shoulder attachment); Tractor; Trencher-Form; Water Blaster

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 ft. or under other than servicing Bricklayers; Deck Hand; Drill Wagon; Generator Sets; Heaters-Portable Power (2 to 5); Mechanic; Jacks Hydraulic (Railroad); Ladavator; Roller (Walk behind 1 ton or over); Steam Jenny; Syphons; Tenders; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oiler

CLASS VI - Rigs-Pile Driving or Caisson Type

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH83-2039 DATE: Date of Publication
Supersedes Decision No. OH83-2010, dated February 11, 1983 in 48 FR 6469
DESCRIPTION OF WORK: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories)

*ADAMS, ALLEN, ASHLAND, AUGLAIZE, BELMONT, BROWN, BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON, COLUMBIANA, COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FAIRFIELD, FAYETTE, FRANKLIN, FULTON, GALLIA, GEAUGA, GREENE, GUERNSEY, HAMILTON, HANCOCK, HARDIN, HARRISON, HENRY, HIGHLAND, HOCKING, HOLMES, HURON, JACKSON, JEFFERSON, KNOX, LAWRENCE, LICKING, LOGAN, MADISON, MARION, MEDINA, MEIGS, MERCER, MIAMI, MONROE, MONTGOMERY, MORGAN, MORROW, MUSKINGUM, NOBLE, OTTAWA, PAULDING, PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS, SANDUSKY, SCIOTO, SENECA, SHELBY, TUSCARAWAS, UNION, VAN WERT, VINTON, WARREN, WASHINGTON, WAYNE, WILLIAMS, WOOD, & WYANDOT

ASBESTOS WORKERS	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER (Twps. of Fairfield, Rangover, Liberty, Milford, Morgan, Oxford, Ripley, Ross, St. Clair, Union & Wayne), CLERMONT, HAMILTON, HIGHLAND, & WARREN (Twps. of Deerfield, Hamilton, Harlan, Salem, Union, & Washington) COS.	$16.99	3.64
ALLEN, DEFIANCE, MERCER, PAULDING, VAN WERT, & WILLIAMS COS.	15.90	2.05
ASHLAND, COSHOCTON, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	17.75	2.24
AUGLAIZE, BUTLER (Middletown & Vic.), CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) COS.	18.76	2.48
BELMONT, JEFFERSON, & MONROE COS.	16.13	3.64
CARROLL, COLUMBIANA, & HARRISON COS.	17.24	2.43
CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GUERNSEY, HARDIN, HOCKING, KNOX, LICKING, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, ROSS, UNION, & VINTON COS.	18.12	3.78
ERIE (E½), GEAUGA, & HURON COS.	18.29	4.24
ERIE (W½), FULTON, HANCOCK, HENRY, OTTAWA, PUTNAM, SANDUSKY, SENECA, WOOD & WYANDOT COS.	17.50	2.48
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, SCIOTO, & WASHINGTON COS.	15.60	1.73
BOILERMAKERS		
ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GREENE, GUERNSEY, HAMILTON, HIGHLAND, HOCKING, JACKSON, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MORGAN, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, VINTON, & WARREN COS.	16.35	4.815
ALLEN, ASHLAND, AUGLAIZE, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FULTON, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, SHELBY, UNION, VAN WERT, WILLIAMS, WOOD, & WYANDOT COS.	19.15	3.155

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BOILERMAKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
BELMONT, MONROE, & WASHINGTON COS.	18.45	2.715
CARROLL, COSHOCTON, GEAUGA, HARRISON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE COS.	17.255	3.305
COLUMBIANA & JEFFERSON COS.	14.93	2.93
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:		
ADAMS, & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	15.49	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.) & WYANDOT (Except Crawford, Ridge, Richland & Tymochtee Twps.) COS.	17.13	2.94
BELMONT, JEFFERSON (Warren & Mt. Pleasant Twps. & Village of Dillonvale), & MONROE COS.	14.67	2.34
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers & Gratis Twps.) & WARREN COS.	16.575	1.99
CARROLL, COLUMBIANA (Twps. of Knox, Butler, West, & Hanover) & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, & LOGAN COS.	15.59	3.23
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (East Liverpool, Wayne, Franklin, Madison, St. Clair, & Yellow Creek Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	15.74	2.70
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DARKE, MIAMI, & SHELBY COS.	15.95	3.23
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that Part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM, & WILLIAMS COS.	15.85	2.86
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.:		
Bricklayers; Caulkers; Cement Blocklayers; Cleaners; Pointers; & Stonemasons	16.54	2.44
Rubble Work	15.74	2.44
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY	15.83	3.03
FAYETTE, PIKE, & ROSS COS.	16.06	1.55
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysbury Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids Twps.) COS.	16.935	2.99
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65+a
GREENE, MONTGOMERY & PREBLE (except Dixon, Israel, Lanier, Somers, & Gratis Twps.) COS.	15.95	3.23
HARRISON, JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Salineville Twps. & village of Dillonvale) COS.	14.78	2.04

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	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS (CONT'D)		
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.	18.59	4.12
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	16.72	2.67
MEDINA (Litchfield, Chatham, Harrisville, Homer, & Spencer Twps.) CO.	18.05	.81+b
MOBLE (Brookfield, Noble, Center, Sharon, Olive, Enoch, Stock, Elk, & Jackson Twps.) & WASHINGTON COS.	15.05	2.05
CARPENTERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	15.05	2.58
ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS.	16.45	2.75 +c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS.	16.10	2.625
CARROLL, TUSCARAWAS, & WAYNE COS.	15.68	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, HENRY, PAULDING & WILLIAMS COS.	17.26	1.81
FULTON, HANCOCK (Except city of Fostoria), & WOOD (Except city of Fostoria) COS.	17.91	2.73
GEAUGA COUNTY	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.60	2.21
MEDINA COUNTY	16.26	2.88
CEMENT MASONS		
ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	15.86	.65
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, & VAN WERT COS.	12.25	1.50
ASHLAND, CRAWFORD, MARION, MORROW, RICHLAND, & WYANDOT (Exclu. Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	14.35	2.20
BELMONT, HARRISON, & JEFFERSON COS.	15.03	1.18
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.28	2.55
CARROLL & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.73	1.87
COLUMBIANA CO.	16.13	1.95+d
DEFIANCE, PAULDING, & WILLIAMS COS.	16.05	2.30
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, KNOX, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, & UNION COS.	15.00	2.20

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	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (CONT'D)		
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	15.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM, & WOOD (Exclu. Perry & Bloom Twps.) COS.	15.50	2.12
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES, & WAYNE (Except Milton & Chippewa Twps.) COS.	13.98	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union, & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
MEDINA (Except Litchfield, Chathan, Homer, Harrisville & Spencer Twps.) CO.	16.64	1.92
MONROE, NOBLE, & WASHINGTON COS.	12.26	2.08
ELECTRICIANS		
ADAMS, JACKSON (Bloomfield, Franklin, Hamilton, Jefferson, Liek, Madison, & Scioto Twps.), PIKE (Camp Creek, Marion, Newton, Scioto, & Sunfish), & SCIOTO COS.	17.03	3.32
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.	16.00	2.75
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.) KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, & Antrim Twps.) COS.	16.98	2.30
BELMONT COUNTY:		
Electricians	15.03	4.49
Cable Splicers	15.28	4.50
BROWN, CLERMONT, & HAMILTON COS.:		
Up to & Incl. 18 mi. radius of Hamilton Co. Court House, Cincinnati	17.75	3.17
Over 18 mi. radius up to & Incl. 21. mi. radius of Hamilton Co. Court House, Cincinnati	18.05	3.18
Over 21 mi. radius up to & Incl. 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.15	3.185
Over 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.30	3.19
BUTLER, & WARREN (Deerfield, Hamilton, Harlan, Hansie, Salem, Turtle Creek, Union, & Washington Twps.) COS.:		
Electricians	17.90	2.63
Cable Splicers	18.40	2.64
CARROLL (N¼ Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.	17.10	3.42
CARROLL (S ¼ Exclu. Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.:		
Electricians	18.00	7.74
Cable Splicers	18.50	7.855
CHAMPAIGN, CLARK, & MADISON (Pike, Paint, Somerford, Union, & Stokes Twps.) COS	15.89	3.42

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	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D)		
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Twps. of Wayne, Clear Creek, & Franklin Twps.) COS.:		
Electrical Communications Installers within 11 mi. radius of 3rd & Main Street, Dayton	16.98	2.34
Electrical Communications Installers beyond 11 mi. radius of 3rd & Main Street, Dayton	17.21	2.35
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.) CO.:		
Electricians	13.30	3.02
Cable Splicers	13.70	3.03
COLUMBIANA (Butler, Fairfield, Perry, Salem, & Unity Twps.) CO.	17.90	3.06
COSHOCTON, GUERNSEY, KNOX (Clay, Jackson, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks Twps.) COS.	15.95	2.53
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Canaan, Darby, Deer Creek, Fairfield, Jefferson, Monroe, Oak Run, Pleasant & Range Twps.), PICKAWAY (Darby, Circleville, Harrison, Jackson, Madison, Monroe, Washington, Muhlenberg, Scioto & Walnut Twps.), & UNION COS.:		
Electricians	16.90	2.59
Cable Splicers	17.50	2.605
ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarkfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.) COS.	17.05	1.51
FAYETTE, HIGHLAND, HOCKING, JACKSON (Cmal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Except Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Electricians	17.30	1.58
Cable Splicers	18.60	1.62
GALLIA CO.:		
Electricians	17.82	3.29
Cable Splicers	18.71	3.32
GEAUGA (Russell, Chester, & Bainbridge Twps.) CO.	19.83	3.36
GEAUGA (Auburn, Middlefield, Parkman & Troy Twps.) CO.	18.23	2.77
GEAUGA (Rem. of Co.) CO.:		
Electricians	17.93	2.42
Cable Splicers	18.18	2.43
LAWRENCE CO.:		
Electricians	17.32	3.28
Cable Splicers	18.19	3.31
MEDINA (Litchfield, & Liverpool Twps.) CO.	18.20	2.96
MEDINA (Rem. of Co.) & WAYNE (N½) COS.:		
Electricians	17.69	2.94
Cable Splicers	18.93	2.975
MEIGS, MONROE, MORGAN, NOBLE, VINTON (Brown, Knox, Madison, Vinton, & Wilkesville Twps.), & WASHINGTON COS.:		
Electricians	16.25	4.56
Cable Splicers	16.50	4.57

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	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, DARKE, GREENE, HAMILTON, HIGHLAND, MIAMI, MONTGOMERY, PREBLE, & WARREN COS.:		
Elevator Constructors	15.65	2.33 +e&f
Helpers	70%JR	2.33 +e&f
Helpers (Prob.)	50%JR	
ALLEN, AUGLAIZE, DEFIANCE, MERCER, PAULDING, PUTNAM, VAN WERT, & WILLIAMS COS.:		
Elevator Constructors	14.15	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
ASHLAND, CHAMPAIGN, CLARK, COSHOCTON, CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, PERRY, PICKAWAY, RICHLAND, ROSS, SHELBY, TUSCARAWAS, UNION, & VINTON COS.:		
Elevator Constructors	16.385	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
BELMONT, CARROLL, GUERNSEY, HARRISON, JEFFERSON, MONROE, NOBLE, & WASHINGTON COS.:		
Elevator Constructors	15.07	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
COLUMBIANA COUNTY:		
Elevator Constructors	16.10	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
ERIE, GEAUGA, & HURON COS.:		
Elevator Constructors	18.01	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
FULTON, HANCOCK, HENRY, OTTAWA, SANDUSKY, SENECA, WOOD, & WYANDOT COS.:		
Elevator Constructors	17.37	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Elevator Constructors	17.095	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
MEDINA & WAYNE COS.:		
Elevator Constructors	16.76	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
GLAZIERS		
ADAMS, BROWN, BUTLER (Hamilton & Vic.), CLERMONT, CLINTON (S½), HAMILTON, HIGHLAND (S. Part), & WARREN (Lebanon & South) COS.	16.36	1.51
ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY (N. Part), VAN WERT, & WYANDOT (Western Part) COS.	11.70	1.00
ASHLAND, CRAWFORD, HURON (S½), KNOX, MARION, RICHLAND & WYANDOT (E. Part) COS.:		
Outside Replacement	12.08	.51
Outside All Other Work	12.58	.51

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GLAZIERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
BELMONT, GUERNSEY, HARRISON, & JEFFERSON COS.	11.90	2.12
BUTLER (Exclu. Hamilton & Vic.), CHAMPAIGN, CLARK, CLINTON (N½), DARKE, FAYETTE (W½), GREENE, HIGHLAND (N. Part), MIAMI, MONTGOMERY, PREBLE, SHELBY (S. Part), WARREN (N. of Lebanon) COS.	15.78	1.01 +g
CARROLL, COSHOCTON, HOLMES, MEDINA (S½), TUSCARAWAS, & WAYNE COS.	14.43	3.06
COLUMBIANA COUNTY	14.95	2.91
DEFIANCE, ERIE (NW Tip to Rte. #4), FULTON, HENRY, OTTAWA, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	15.89	2.37
DELAWARE, FAIRFIELD, FAYETTE (E½), FRANKLIN, HOCKING, JACKSON, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, PIKE, ROSS, UNION & VINTON COS.	14.64	1.01
ERIE (Exclu. NW Tip to Rte. #4), GEAUGA, HURON (N½), & MEDINA COS.	18.03	2.61
IRONWORKERS		
ADAMS (E½), GALLIA, JACKSON (S½), LAWRENCE, PIKE (S½), & SCIOTO COS.:		
Up to 10 mi. from Union Hall in Ashland, Ky.	17.23	3.11
10 to 60 mi. from Union Hall in Ashland, Ky.	17.56	3.11
Over 60 mi. from Union Hall in Ashland, Ky.	19.52	3.11
ADAMS (W½), BROWN, BUTLER (S½), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (Exclu. E. 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall),& WARREN (S½) COS.:		
Reinforcing	16.18	3.12
Ornamental; Structural	16.28	3.18
Fence Erectors	14.65	3.18
ALLEN (S½), AUGLAIZE, BUTLER (N½), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (Exclu. S. of a line drawn from Blanchester to Lynchburg), DARKE, GREENE, HIGHLAND (Inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3), MERCER (S½), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N½) COS.:		
Within 15 mi. radius of Local Union Office #290	16.86	2.95
Outside 15 mi. radius of Local Union Office #290	17.01	2.95
ALLEN (N½), DEFIANCE (Except Portion S. of a Line drawn from where Rte. 66 meets the N. Line through Independence to the E. Co: border), MERCER (N½), PAULDING, PUTNAM (Except Portion N. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), VAN WERT & WILLIAMS (Except Portion E. of a line drawn from Pioneer thru Stryker to the S. Border) COS.	15.00	6.09
ASHLAND, CARROLL, COSHOCTON (Exclu. Portion W. of a line beginning at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, TUSCARAWAS, & WAYNE COS.	18.78	2.32
CHAMPAIGN (E 1/3), CLARK (E½), COSHOCTON (W. of a line Beg. at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), CRAWFORD (S. of Rte 30),		

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IRONWORKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
FAYETTE, HARDIN (Except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), HOCKING, JACKSON (N½), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line Starting at Adams Mill going to Adamsville & going from Adamsville thru Blue Rock to the S. Border), PERRY, PIKE (N½), ROSS, VINTON, & WYANDOT (S. of Rte. #30) COS.	16.10	3.90
CRAWFORD (Area bet. lines drawn from where Hwy #598 & #30 meet thru N. Liberty to the N. Border & from said Hwy junction point due w. to the Border), DEFIANCE (S. of a line drawn from where Rte. #66 Meets the N. Line thru Independence to the E. Co. Border), ERIE (W. 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 mi. S. of the N. line on the E. line), HENRY, HURON (W. of a line drawn from the N. Border thru Monroeville & Willard), OTTAWA, PUTNAM (E. of a line drawn from the N. Border down thru Miller City to where #696 meets the S. Border), SANDUSKY, SENECA, WILLIAMS (E. of a line drawn from Pioneer thru Stryker to the S. Border), WOOD, & WYANDOT (Area N. of Rte. #30) COS.	17.75	3.44
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COS.	16.00	3.90
COLUMBIANA (Exclu. portion E. of a line from Damascus to Highlandtown), ERIE (Exclu. W. 1/3), GEAUGA (Except portion E. of a line from Austinburg to Middlefield & South), HURON (Exclu. portion W. of a line drawn from the N. Border through Monroeville & Willard), & MEDINA COS.	19.62	3.12
COLUMBIANA (E. of a line from Damascus to Highlandtown), & GEAUGA (E. of a line from Austinburg to Middlefield & S.) COS.	16.01	3.16
FRANKLIN CO.	15.85	3.90
MEIGS, MORGAN, NOBLE, & WASHINGTON COS.	15.33	3.15
BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE, & MUSKINGUM (Except portion W. of a line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the S. Border) COS.	13.96	5.59
LATHERS		
AUGLAIZE, BUTLER (N½), CHAMPAIGN (W½), CLARK (W½), CLINTON (N½), FAYETTE (W½), LOGAN (W½), MERCER, & WARREN (N½) COS.	13.39	.41
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
CLERMONT, HAMILTON, HIGHLAND (Except NE Tip), & WARREN (S½) COS.	15.72	2.625

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LATHERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, HENRY, PAULDING, & WILLIAMS COS.	17.26	1.81
ERIE & HURON COS.	16.30	.01
FULTON, HANCOCK, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	17.91	2.73
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS		
ADAMS & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER, & VAN WERT COS.:		
Tile Setters	14.69	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.), & WYANDOT (Except Crawford, Ridge, Richland, & Tymochtee Twps.) COS.	17.13	2.94
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers, & Gratis Twps.), & WARREN COS.:		
Marble Setters	16.285	1.97
Terrazzo Workers; & Tile Setters	16.235	1.97
CARROLL & TUSCARAWAS COS.:		
Marble Setters	14.82	2.55
Terrazzo Workers	14.74	2.55
Tile Setters	14.65	2.55
CHAMPAIGN, CLARK, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE (Except Dixon, Israel, Lanier, Somers, & Gratis Twps.), & SHELBY COS.	14.67	2.00
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	17.92	
COLUMBIANA (St Clair, Madison, Wayne, Franklin, Washington, Yellow Creek, & Liverpool Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM & WILLIAMS COS.:		
Marble Setters	15.85	2.86
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	16.75	.20
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Ridge, Tymochtee, Crawford, & Richland Twps.) COS. & ISLAND IN LAKE ERIE NORTH OF SANDUSKY	15.83	3.03
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysburg, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Marble Setters	16.935	2.99
FULTON (Except Fulton, Amboy, & Swan Creek Twps.), & WOOD (Except Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Terrazzo Workers; & Tile Setters	17.40	1.36

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MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
GALLIA & MEIGS COS.:		
Terrazzo Workers; Tile Setters	16.15	1.00
GEAUGA CO.	18.12	2.65+a
HARRISON, & JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Saline-ville Twps. & the Village of Dillonvale) COS.:		
Tile Setters	14.53	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.:		
Marble Setters; Terrazzo Workers	18.59	4.12
Tile Setters	19.155	3.00
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.77	2.57
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
NOBLE (Brookfield, Noble, Creek, Sharon, Olive, Enoch, Stock, Elk, Jackson, & Jefferson Twps.) & WASHINGTON COS.:		
Marble Setters & Tile Setters	15.05	2.05
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS & TILE SETTERS' FINISHERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, FAYETTE, GALLIA, HAMILTON, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, VINTON, WARREN, & WASHINGTON COS.:		
Finishers & Grinders	15.98	
Marble Sanders; Polishers; Sawyers; & Waxers	16.145	
Terrazzo Base Grinders (while Operating base grinding machine)	16.40	
ALLEN, DEFIANCE, FULTON, HENRY, PAULDING, PUTNAM, WILLIAMS , & WOOD (Exclu. Perry & Bloom Twps.) COS.	14.42	1.06
ASHLAND, GEAUGA, MEDINA (Exclu. Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & RICHLAND COS.:		
Marble Setters' Finishers	16.54	2.50
Terrazzo Workers' Finishers	16.57	2.50
Tile Setters' Finishers	16.54	2.50
AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Finishers	10.84	
Base Machine	11.68	
CARROLL & TUSCARAWAS COS.:		
Terrazzo workers' Finishers	12.86	2.55
Terrazzo Grinders	14.20	2.55
Tile Setters' Finishers	12.74	2.55
COLUMBIANA, COSHOCTON, HARRISON, HOLMES, JEFFERSON, & WAYNE (Exclu. Milton & Chippewa Twps.) COS.	14.405	
DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS.:		
Finishers	14.00	
Terrazzo Floor Grinders	14.15	
Terrazzo Base Grinders	14.35	
HANCOCK, OTTAWA, DANDUSKY, SENECA, WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	11.08	3.03
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.27	2.57
MILLWRIGHTS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	17.36	2.32

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
MILLWRIGHTS (CONT'D)		
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT & WYANDOT COS.	15.70	2.58
ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.63	4.18
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.36	2.59
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.44	2.65
CARROLL, TUSCARAWAS, & WAYNE COS.	16.16	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	17.11	3.11
DEFIANCE, ERIE (W of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	17.91	2.73
HOCKING, VINTON & WASHINGTON COS.	15.07	2.46
PAINTERS		
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.:		
Brush; Exterior Bldgs. under 25 ft.; Paper or Wall Covering; Taping & Washing	13.35	1.03
Floor Sanding; Power Tools; Rollers; & Swing Stage	13.85	1.03
Burning; Sandblasting; Spray & Steamcleaning	14.35	1.03
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT, & WILLIAMS COS.:		
Brush; Drywall Taping; & Rollers	13.05	1.59
Wall Covering	13.30	1.59
Sandblasting; Spray; & Steamcleaning	13.55	1.59
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS.:		
Brush; Cleaner; Roller; & Washer	13.70	.95
Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer	14.45	.95
BELMONT, HARRISON, & JEFFERSON COS.:		
Brush	12.60	1.75
Roller	13.10	1.75
Spray	13.60	1.75
Taping	14.75	1.75
BROWN, CLERMONT, & HAMILTON COS.:		
Brush; Paperhanging; Roller; Taping; Wall Covering; & Washing	16.25	1.00
Steamcleaning	16.40	1.00
Spray	16.75	1.00
Hopper Tender; Sandblasting; & Waterblasting	17.15	1.00
BUTLER & WARREN COS.:		
Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing	15.58	h
Hopper Tender; Sandblasting & Spray	16.58	h
CARROLL, HOLMES, TUSCARAWAS & WAYNE COS.:		
Brush; Rollers	15.01	2.10
Paperhangers	15.11	2.10
Drywalls	15.41	2.10
Spray	15.51	2.10
CHAMPAIGN, CLARK, LOGAN, & MADISON COS.:		
Brush	14.75	1.00
Drywall Tapers & Finishers	15.10	1.00
Spray	15.45	1.00

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Brush; Roller	17.62	1.00
Drywall Taping & Spackling; & Wallcovering	17.97	1.00
Structural Steel Cleaning; Sandblast; & Spray	18.02	1.00
COLUMBIANA CO.:		
Brush; Hydro-jet Cleaning; Paperhanging; Roller; Steam Cleaning; Wallwashing; & Waterproofing	15.04	2.66
Drywall Taping	15.19	2.66
Open Structural Steel Spray	15.25	2.66
	15.54	2.66
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, PICKAWAY, ROSS & UNION COS.:		
Drywall Sanders	14.69	2.67
Brush; Paperhangers; Rollers; & Wall Washing	14.94	2.67
Structural Steel	15.24	2.67
Drywall Tapers & Finishers	15.34	2.67
Spray	15.44	2.67
Sandblasting; Steam Cleaning	15.64	2.67
ERIE, HANCOCK, HURON, SANDUSKY, SENECA, & WYANDOT COS.:		
Old Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	13.80	1.70+i
Drywall & Paperhangers	14.05	1.70+i
Sandblasting; & Spray	14.30	1.70+i
New Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	15.30	1.70+i
Drywall & Paperhangers	15.55	1.70+i
Sandblasting; & Spray	15.80	1.70+i
FULTON, HENRY, OTTAWA, & WOOD COS.:		
Brush; Drywall Tapers & Finishers; Paperhangers; Spray & Sandblasting Pot Tenders	14.90	3.36
Pressure Cleaning; Sandblasting; & Spray	15.45	3.36
GALLIA, LAWRENCE, MEIGS & VINTON COS.:		
Brush; Roller	12.55	.70+j
Drywall Tapers & Paperhangers	13.50	.70+j
Spray; Taping Finishers	13.25	.70+j
GEAUGA CO.:		
Brush; Paperhangers & Rollers	18.46	3.22
Spray	18.86	3.22
HOCKING CO.:		
Brush; Roller; Washing; Wallcovering; & Paperhanging	14.50	
Open Structural Steel Taping; Beding; Finishing & Sanding	15.00	
Spray; Sandblasting; Hopper Tender; Swing Stage; & Window Jacks	15.25	
KNOX, LICKING, MUSKINGUM, & PERRY COS.:	15.50	
Brush	11.00	
Spray	12.00	
MEDINA CO.:		
Brush; Paperhangers; & Rollers	15.25	2.42
Structural Steel; Drywall Finishers & Tapers	16.00	2.42
Spray	16.10	2.42
MONROE, MORGAN, NOBLE & WASHINGTON COS.:		
Brush; Roller; Paperhanging & Taping	14.36	1.95
Spray; Sandblasting	15.13	1.95
PILEDRIVERMEN		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	14.55	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	15.70	2.58
ASHLAND, CRAWFORD, ERIE, (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.70	4.11
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.47	3.15

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
PILEDRIVERMEN (CONT'D)		
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.10	2.625
CARROLL, TUSCARAWAS, & WAYNE COS.	16.16	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, ERIE (N. of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	17.91	2.73
HOCKING, VINTON, & WASHINGTON COS.	14.90	2.21
PIPEFITTERS; PLUMBERS; & STEAMFITTERS		
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.:		
Within 10 mi. radius of Portsmouth	17.00	2.85
Over 10 and within 20 mi. radius of Portsmouth	17.25	2.85
Over 20 and within 35 mi. radius of Portsmouth	17.35	2.85
Over 35 mi. radius of Portsmouth	17.60	2.85
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY, & VAN WERT COS.	17.30	2.20
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, MORROW, RICHLAND, & WYANDOT COS.	17.85	2.73
BELMONT, & MONROE (N. of Rte #78) COS.	14.38	3.77
BROWN, CLERMONT, HAMILTON, & WARREN (S 1/3 of Co.) COS.:		
Pipefitters; Steamfitters	17.51	3.86
Plumbers; Gas Fitters	16.32	3.42
BUTLER & WARREN COS.	18.50	2.50
CARROLL (Ross, Monroe, Union, Lee, Orange, Perry, & Loudon Twps.), COSHOCTON, GUERNSEY, HOLMES, MORGAN (S. to State Rte. #78 & from McConnelsville W. on State Rte. #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS COS.	17.99	1.81
CARROLL (Exclu. Ross, Monroe, Lee, Union, Orange, Perry, & Loudon Twps.), & WAYNE COS.	15.92	2.31 +k
CHAMPAIGN, CLARK, GREENE (Ross, Cedarville, Jefferson, Ceasar Creek, & New Jasper Twps.), LOGAN, & MADISON (W. of Rte. #38, incl. city of London) COS.	17.40	2.22
CLINTON, DARKE, FAYETTE, GREENE (Exclu. Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper Twps.), MIAMI, MONTGOMERY, & PREBLE COS.:		
Within 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	18.56	2.98
Outside 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	18.81	2.98
COLUMBIANA CO. (Exclu. Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427)	16.61	2.72
COLUMBIANA (Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427), HARRISON, & JEFFERSON COS.	17.57	5.36
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	17.90	3.42

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON (E. of Rte. #38 not incl. city of London), MARION, PERRY, PICKAWAY, ROSS, & UNION COS.	17.85	2.54
GEAUGA, & MEDINA (N. of #18, exclu. city of Medina) COS.:		
Pipefitters; Steamfitters	17.67	3.18
GEAUGA, & MEDINA (N. of #18 & Smith Rd.) COS.:		
Plumbers	19.43	3.22
MEDINA (S. of #18, exclu. City of Medina) CO.	16.45	3.10
MEIGS, MONROE (S. of Rte. #78), MORGAN (S. of Rte. #76), & WASHINGTON COS.	16.04	1.73
PLASTERERS		
ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	15.86	.65
ALLEN, AUGLAISE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MERCER, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, UNION, & VAN WERT COS.	15.56	1.33
BELMONT, HARRISON, & JEFFERSON COS.	14.68	1.15
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.645	1.27
CARROLL & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	18.20	.80
COLUMBIANA CO.	15.61	.83
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	15.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM & WOOD (Exclu. Perry & Bloom Twps.) COS.	18.02	.71
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES & WAYNE (Except Milton & Chippewa Twps.) COS.	17.98	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	18.05	.81 +b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.36	1.91
ROOFERS		
ADAMS, GALLIA, GUERNSEY, JACKSON, LAWRENCE, MEIGS, MORGAN, MUSKINGUM, NOBLE, PIKE, SCIOTO, & VINTON COS.	13.50	.65
ALLEN, AUGLAIZE, CHAMPAIGN, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, PERRY, PICKAWAY, PUTNAM, ROSS, UNION, VAN WERT, & WYANDOT COS.	16.16	2.28
ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	16.44	2.41
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	13.81	1.00
BROWN, BUTLER, CLERMONT, HAMILTON & WARREN COS.	17.52	1.53
CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Composition, Damp, & Waterproof	16.00	1.90
Slate, Tile & Asbestos	16.22	1.90

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ROOFERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING, WILLIAMS & WOOD COS.	16.50	3.09
ERIE, GEAUGA, HURON, OTTAWA, SANDUSKY, & SENECA COS.	20.28	2.30
SHEET METAL WORKERS		
ADAMS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GUERNSEY, HOCKING, JACKSON, KNOX, LAWRENCE, LICKING, MADISON, MARION, MEIGS, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, ROSS, SCIOTO, UNION, & VINTON COS.	15.65	2.97 +1
ALLEN, AUGLAIZE, BUTLER, CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, VAN WERT, WARREN & WYANDOT COS.	16.22	2.94 +1
ASHLAND, CARROLL, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	15.17	2.14 +1
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	14.07	1.98
BROWN, CLERMONT, HAMILTON, & HIGHLAND COS.	16.94	2.12
COLUMBIANA CO.	15.14	1.64
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SENECA, WILLIAMS, & WOOD COS.	16.825	3.64
ERIE, HURON, & SANDUSKY COS.	13.91	2.11
GEAUGA CO.	18.96	3.63
WASHINGTON CO.	12.48	1.33
SOFT FLOOR LAYERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM UNION, VAN WERT, & WYANDOT COS.	15.05	2.58
ASHLAND, CRAWFORD, ERIE, HURON, OTTAWA, RICHLAND, SANDUSKY, & SENECA COS. & the portion of the city of Fostoria located in HANCOCK & WOOD COS.	16.45	2.75+ c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	13.00	2.075
CARROLL, TUSCARAWAS, & WAYNE COS.	15.51	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.30	2.67
DEFIANCE, FULTON, HANCOCK (Except city of Fostoria), HENRY, PAULDING, WILLIAMS & WOOD (Except city of Fostoria) COS.	16.09	2.91
GEAUGA	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.20	2.21
MEDINA CO.	15.61	3.09 +m
SPRINKLER FITTERS		
GEAUGA, & MEDINA (N. of #18, exclu. City of Medina) COS.	17.67	3.18
REMAINING COS.	17.67	2.83

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LABORERS	Basic Hourly Rates	Fringe Benefits
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Group 1 - Bottom man; Building & Construction Laborers; Carpenters Tenders; Mason Tenders; Mortar Mixers; Pipelayers; Plasterers' Tenders; Sheeting & Shoring Men	12.06	2.70
Group 2 - Air & Machine Driven Tool Op.; Asphalt Rakers & Smoothers; Burning & Cutting Torches; Chain Saws; Form Setters (Street & Highway); Hand Spikers & Powered Concrete Buggies	12.31	2.70
Group 3 - Gunnite Men Machine Op.; Gunnite Nozzlemen; Powdermen & Blasters	12.58	2.70
ALLEN, AUGLAIZE, MERCER, PAULDING, PUTNAM, SHELBY & VAN WERT COS.:		
Group 1 - Building Laborers, Laser Beam; Power Wheelbarrow or Power Buggy	11.85	2.70
Group 2 - All Machine Driven Tools (Gas, Electric, Air); Asphalt Rakers; Caisson; Cement Finishers' Tenders; Cofferdam; Demolition; Packers; Pot Tenders; Pump Man Under 4" Discharge; Spikers by Hand (Railroad); Tamper; Torch Man; Tunnel Vibrators; & Cement Rakers	12.00	2.70
Group 3 - Blaster Tender; Cylinder, Shaft; Jackhammer; Manhole Builders; Mason Tenders; Mortar Mixers; Plasterers' Tenders; Sewer Bottom Man; Sewer Pipelayer; Sewer, Water Conduit; Gas, Oil Pipeline, except Mainlines; Wagon Drill Tender; Blaster-Powderman; Gunnite Ops.; Muckers & Miners (Tunnel & Caisson) Free Air; Sandblasters; & Wagon Drill Ops.	12.15	2.70
ASHLAND, CRAWFORD, KNOX, MORROW & RICHLAND COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tender; Guard Rail Erector; & Tool Cribmen	12.46	1.70
Group 2 - Air & Power Driven Tools; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipe Layer; Plasterer Tender; Powder Men; Scaffold Builder; Stonemason Tender; Swinging Scaffold; & Tunnel Laborers	12.66	1.70
Group 3 - Gunnite Op.	13.06	1.70
CARROLL, COSHOCTON, HOLMES, TUSCARAWAS, & WAYNE COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen & Utility Construction	14.16	2.70
Group 2 - Air & Power Driven Tools; Bottom Men; Burner on Demolition; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Setup Man; Mucker; Pipelayer; Plasterer Tender; Pow-		

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
der Men & Dynamite Blasters; Scaffold Building; Swinging Scaffold; & Tunnel Laborer	14.36	2.70
Group 3 - Mason Tender; Mortar Mixer; & Stonemason Tender	14.66	2.70
Group 4 - Gunnite Op.	14.76	2.70
BELMONT CO.:		
Group 1 - Laborers; Carpenter Tender; Demolition Workes; Landscape Laborer	11.72	1.65
Group 2 - Powderman Tender; Semi-Skilled Laborer; Scaffold Builders; Grade Checker; Brick Masons Tenders; Plasterer Tenders; Cement Finishers Tenders; Stone Masons Tenders; Lathers Tenders; Tile Setters Tenders; Mortar Mixer; Jackhammer Operators; Vibrator Operators; Tamper Operators; Pavement Buster Operator; Chipping and Peening Hammer Operators; Air Siphon and Air Pump Operators; Riprap Finishers; Concrete Saw Operators; Concrete Technician; Power Saw Operators; Chain Saw Operators; Motorized Buggy Operators; Pipe Layers Tenders; Drill Operators Tenders; Sheeters and Shorers; Post Hole Digger Operators; Asphalt Rakers; Lance and/or Water Blaster Operators; Blacksmith Tender; Batch House Scale Operators; Mastic Asphalt; Nozzlemen for Gunnite or Sandblasting; Ride or Walk Roller Tampers	12.02	1.65
Group 3 - Blacksmith; Powderman; Air Track Operator; Pipe Layer (Including Laser Beam Set Up) Burner	12.37	1.65
BROWN, CLERMONT, CLINTON & HAMILTON COS.:		
Group 1	14.45	2.25
Group 2	14.55	2.25
Group 3	14.60	2.25
Group 4	14.65	2.25
Group 5	14.80	2.25
Group 6	14.95	2.25
Group 7	15.20	2.25
Group 8	13.92	2.25
Group 9 (See Page 28)	14.07	2.25
BUTLER & WARREN COS.:		
Common Laborers	12.59	2.35
Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op.	12.69	2.35
Mason Tenders; Mortar Mixers; & Scaffold Builders	12.92	2.35
Concrete Pumps & Hose Men; Gunnite Operator; & Sandblasters	12.94	2.35
CHAMPAIGN, CLARK, & LOGAN COS.:		
Group 1 - Carpenters' Tenders; Laborers	10.95	2.70
Group 2 - Air & Machine Driven Tool Ops.; Asphalt Raker & Tamper; Barko & Chain Saw; Bottom Man; Gunnite Machine Op. & Nozzle Man; Hand Spikers; Jackhammer; Power Concrete & Buggies; Sewer Pipelayers; & Wagon Drill	11.20	2.70
Group 3 - Mason Tenders; Mortar Mixers; & Plasterers' Tenders	11.35	2.70
Group 4 - Miners & Muckers for Tunnel & Caisson; Powdermen & Blasters	11.45	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
COLUMBIANA, HARRISON, & JEFFERSON COS.:		
Group 1 - Carpenters' Tenders; General Laborers	12.30	2.70
Group 2 - Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Op.; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stonemasons, & Tile Setters	12.47	2.70
Group 3 - Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Concrete Busters; Panel Cleaning Machine Operators; Pipelayer & Tenders Working in Ditches or Tunnels & Hand Spikers on Railroads, & Laborers Handling Concrete for Test or Working with Tar, Acid & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders	12.50	2.70
DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Group 1 - Laborers	13.39	2.70
Group 2 - All Machine & Power Driven Tools; Chipping Hammers; Power Buggies; Railroad Spikers by Hand; Swinging Scaffold over 15 ft.; & Vibrators	13.54	2.70
Group 3 - Air Drill; Batter Board Setter & Bottom Men; Jackhammer; Man Hole Builders; Sandblasters; & Sewer Pipelayers	13.59	2.70
Group 4 - Caisson Work; Scaffold W/Power Tools	13.64	2.70
Group 5 - Torch Man on Wrecking	13.69	2.70
Group 6 - Caisson Work W/Jackhammer	13.84	2.70
Group 7 - Gunnite Operator; Wagon Drill Operator, and Blaster - Powder Man	13.89	2.70
Group 8 - Tenders for Bricklayers and Masons	13.99	2.70
Group 9 - Tenders for Lathers and Plasterers	14.06	2.70
DEFIANCE, FULTON, HENRY, & WILLIAMS COS.:		
Group 1 - Carpenter Tenders; Cement Finishers' Tenders; Laborers	12.57	2.70
Group 2 - Gunnite Pot Man; Mason Tenders	12.69	2.70
Group 3 - All Power Driven Tools & Buggies	12.72	2.70
Group 4 - Burners, Torchmen & Nozzlemen for Concrete Pumps	12.715	2.70
Group 5 - Plasterers' Tenders	12.745	2.70
Group 6 - Bellman; Bottom Man; & Brick Expeditor	12.805	2.70
Group 7 - Car Pusher	12.86	2.70
Group 8 - Mucker W/O Pressure	12.975	2.70
Group 9 - Nozzle Operator Gunnite Work	13.22	2.70
DELAWARE, HANCOCK, HARDIN, MARION, SENECA, & WYANDOT COS.:		
Group 1 - Building & Construction Laborer; Tool Cribman; Carpenter Tender; Finisher Tender; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	13.01	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 2 - Bottom Men; Scaffold Builder; Tunnel Laborer; Pipelayer; Air & Power Driven Tool; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Worker; Mortar Mixer; Form Setter; Mason Tender; Plasterer Tender; Hod Carrier; Laser Beam Set-up Man; & Stonemason Tender	13.21	2.70
Group 3 - Gunnite Oper.	13.61	2.70
ERIE, HURON, OTTAWA, & SANDUSKY COS.:		
Group 1 - Building & Construction Laborer; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen; & Utility Construction Laborer	13.61	2.70
Group 2 - Air & Power Driven Tool; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipelayer; Plasterer Tender; Powder Men & Dynamite Blaster; Scaffold & Swinging Scaffold & Tunnel Laborer	13.81	2.70
Group 3 - Gunnite Oper.	14.21	2.70
FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, MADISON, PICKAWAY, & UNION COS.:		
Group 1 - Carpenter Tenders; Cleaning, Debris; Cleaning of all Material; Common Laborers; Conveyor Belt; General Clean Up; Handling & Conveying All Material; Landscape; Loading and Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Salamander; Sod Layers; Washing of All Windows; & Wire Mesh Handlers or Setters	12.24	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders (Swinging Scaffold); Asphalt and Blacktop Rakers; Bottom Man; Brick Tenders; Caisson Bottom Man; Cement Mason Tender; Concrete Saw Operator, and Brush Feeders on Pulverizers; Forklift Operator; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun, Burners; Mortar Mixers & Operator; Pipe Layers; Plasterers' Tenders; Power Buggy Operator; Power Driven Tools; Power Wheelbarrow Operator; Sand and Vacuum Cleaning; Sandblasting of Concrete; Stone Mason Tender; Vibrator Man; Wagon and Churn Drill Operators; & Wall Wrecker & Bar Man on Demolition	12.54	2.70

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	Basic Hourly Rates	Fringe Benefits
GEAUGA CO.:		
Group 1 - Equipment Replacing Wheelbarrow & Concrete Buggy; Laborers & Tenders	16.54	4.50
Group 2 - Fire Brick Tenders; Power Driven Tools & Vibrators; Sewer & Utilities Laborers	16.69	4.50
Group 3 - Acetylene Burner; Jackhammer; & Mucker	16.74	4.50
Group 4 - Air Track and Wagon Drill; & Swinging Scaffold	16.79	4.50
Group 5 - Mason Tender Handling Carbon block & Bottom Block Material	16.94	4.50
Group 6 - Gunite Operating Machines of all types	17.02	4.50
Group 7 - Blasters, Shooters Caisson, Well, Cylinder, Cofferdam & Mine Workers without Air; Acid Brick Tenders	17.04	4.50
Group 8 - Top man on Free Standing Radial Stack; Bellman & Bottom Man in Blast Furnace & Stove	17.19	4.50
Group 9 - Lansing Burners	18.04	4.50
LICKING CO.:		
Group 1 - All Portable Heaters; Carpenter Tender; Cleaning of All Material; Common Laborers; Conveyor Belt; General Clean-up Incl. Vacuum Cleaning; Handling and Conveying All Material; Landscape; Loading & Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Sod Layers; Washing of all Windows; Water Pumps up to & Incl. 4" Intake	12.24	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders; Asphalt & Blacktop Rakers; Bottom Man; Brick Tender; Brush feeders on Pulverizers; Burners; Cement Mason Tender; Concrete saw Operators; Fork Lift Operators; Gunnite Nozzleman; Jackhammer Operator; Laser Gun; Mortar Mixer & Operator; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemason Tender; Swinging Scaffold; Vibrator Man; Wagon & Churn Drill Operators; Wall Wrecker & Bar Man on Demolition; Welders on Demolition	12.54	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
MEDINA CO.:		
Group 1 - Carpenter Tenders; Common Laborers; Concrete Bucket Tenders; Landscape Laborers; Mason Tender; & Welder Tenders	14.07	2.76
Group 2 - Air Driven Boring Machine; Asphalt Raker; Hook-up Man on Demolition Work; Material Mixer; Paving Bed Maker; Power Tools (Air, Gas or Electric); Scaffold Erector; Structural Precast Erector; Tamper Operator; & Wire Mesh Handler	13.77	2.76
Group 3 - Basco Type Tampers; Bob Cat or Similar; Bottom Man; Burners; Form Setters; Hod Carriers; Jackhammer; Muckers - Tunnel; Pipelayers; Power Buggy or Power Wheelbarrow; Power Saws; & Rock Drillers	13.72	2.76
Group 4 - Dynamite Men; Gunnite Nozzlemen; Pump Nose Nozzlemen; Structural Precast & Welder & Layout; Tunnel Miners; & Water Line Caulkers	13.57	2.76
MONROE, MORGAN, & WASHINGTON COS.:		
Unskilled	12.70	2.70
Semi-Skilled	13.05	2.70
GUERNSEY, MUSKINGUM, NOBLE, & PERRY COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Planters (Landscape); Plumbers Tenders & Tree Trimmers	12.57	2.70
Group 2 - Air & Machine Driven Tool Operators; Asphalt Plant Aggremeter Operator; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers; & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand spikers Operators; Jackhammer Operator; Mason Tenders; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Op.; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Men; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Operator; Yarners & Wrench men	12.67	2.70
Group 3 - Brick Droppers; Loop Tenders; & Powdermen or Blasters	12.92	2.70
ROSS & VINTON COS.:		
All Water Pumps Up to & Incl. 3" Intake; Clean-up incl. Vacuum Cleaning; Cleaning Debris; Common Laborers; Conveyor Belt; Handling & Conveying All Materials; Landscape; Loading & Un-Loading All Trucks; Man on Bucket Pouring of All Concrete; Sod Layers; & Washing of all Windows	11.07	2.70
Air or Electrical Pneumatic Tool Operators; All Scaffold Builders (Swinging Scaffolds); Asphalt		

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
& Blacktop Rakers; Bottom Man; Brick Tenders; Brush Feeders on Pulverizers; Burners; Carpenters' Tenders; Cement Masons' Tenders; Concrete Saw Operators; Forklift Operators; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun; Mortar Mixer & Operators; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemasons' Tenders; Vibrator Man; Wagon & Churn Drill Operators; Wall Wreckers & Bar Man on Demolition; Welders on Demolition	10.87	2.70
WOOD CO.:		
Unskilled Laborers	14.43	2.71
Plasterers' Tenders; Mixers	14.30	2.71
Mason Tenders	14.51	2.71
All Power Driven Tools & Buggies	14.585	2.71
Gunnite Pot Men	14.63	2.71
Mortar Mixers	14.58	2.71
Pipelayers	14.685	2.71
LINE CONSTRUCTION		
ADAMS, GALLIA, JACKSON (Bloomfield, Franklin, Hamilton, Lick, Jefferson, Scioto, & Madison Twps.), LAWRENCE, MEIGS, PIKE (Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), SCIOTO, & VINTON (Brown, Knox, Madison, Vinton, & Wilksville Twps.) COS.:		
Cable Splicers	20.14	2.90
Linemen	18.31	2.84
Operators: All Mechanized Equipment	14.65	2.71
Groundmen	11.90	2.62
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.:	Basic Hourly Rates--	Fringe Benefits
Linemen	16.67	1.28
Equipment Operators	15.00	1.225
Groundmen; Truck Drivers	10.96	1.08
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Twps.) COS.:		
Equipment Operators; Linemen	16.98	2.36
Line Truck Driver	10.18	2.13
Groundmen	11.03	2.16
BELMONT CO.:		
Linemen; Technicians	15.03	4.45
Cable Splicers	15.28	4.46
Groundmen	12.02	4.36
BROWN, CLERMONT, & HAMILTON COS.:		
ZONE I - Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Operators	17.75	3.17
Groundmen	13.31	3.015
ZONE II - Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.05	3.18
Groundmen	13.61	3.03
ZONE III - Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.15	3.185
Groundmen	13.71	3.03

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONE IV - Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Mashine Ops.	18.30	3.19
Groundmen	13.86	3.035
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) CMS.:		
Linemen	17.90	2.63
Cable Splicers	18.40	2.64
Groundmen	12.53	2.44
CARROLL (N & Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Greene & Wayne Twps.) COS.:		
Cable Splicers	15.99	3.37
Line Equipment Ops.	14.84	3.31
Groundmen; Tsuck Drivers	11.24	3.14
Linemen	17.10	3.42
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON & JEFFERSON COS.:		
Linemen; Line Equipment Ops.; Truck Drivers	18.00	7.65
Cable Splicers	18.50	7.86
Groundman	11.70	4.97
CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ope.; Linemen	20.00	1.55
Groundmen	13.00	1.305
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen	16.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.49
Line Truck with Winch or Pole & Steel Handling	12.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	10.19	2.26
COLUMBIANA CO. (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):		
Cable Splicers	13.70	3.08
Linemen; Heavy Equipment Ops.	13.30	2.99
Groundmen & Truck Drivers	11.90	2.68
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), & GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy) COS.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	16.70	2.29
Groundmen	14.96	1.97
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:		
Cable Splicers; Equipment Op.; Linemen	17.24	1.30
Groundmen	10.25	1.06
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
Linemen	19.16	2.33 +n
Technicians	18.59	2.28 +n
Cable Splicers	22.03	2.57 +n
Operator Class I	15.33	.00 +n
Operator Class II	13.41	1.84 +n
Groundmen	11.50	1.68 +n
DELAWARE, MADISON (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:		
Cable Splicers; Equipment Ops. & Linemen	18.32	1.34
Groundmen	10.25	1.06
ERIE & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.) COS.:		
Cable Splicers; Equipment Ops. & Linemen	17.05	1.58
Truck Driver (Winch) Groundman	11.08	1.37
Groundman	11.08	1.37
FAIRFIELD, KNOX (Butler, College, Clay, Harrison, Hilliard, Jackson, Morgan, Milford, Miller, & Pleasant Twps.), & LICKING COS.:		
Cable Splicers; Linemen; Ops.: All Mechanized Equipment	16.50	1.28
Groundmen - Truck Driver	13.08	1.16
Groundmen	10.09	1.05
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Exclu. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Cable Splicers	18.60	1.65
Linemen; Equipment Ops.	17.30	1.605
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
FRANKLIN CO.:		
Cable Splimers; Linemen	15.83	1.25
Operators	13.84	1.18
Groundmen	10.25	1.06
GEAUGA (Exclu. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) CO.:		
Cable Splicers; Equipment Ops. & Linemen	17.93	2.98
Truck Drivers (Winch) Groundman; Groundman	11.65	2.76
MEDINA (Litchfield, & Liverpool Twps.) CO.:		
Cable Splicer; Equipment Op.; & Linemen	18.20	3.04
Truck Drivers (Winch) Groundman; Groundman	11.83	2.81
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & WAYNE (Northern ½ of Co.) COS.:		
Linemen	17.69	2.99
Cable Splicers	18.93	3.03
Equipment Operators	13.27	2.83
Truck Drivers; Groundman	8.85	2.68

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DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
MONROE, MORGAN, NOBLE, & WASHINGTON CO.:		
Cable Splicers; Linemen; & Equipment Operators	17.24	1.20
Groundman	10.25	.96
TRUCK DRIVERS		
ADAMS, BROWN, HIGHLAND, JACKSON, LAWRENCE (W. of Coal Grove & W. of St. Rt. 775), PIKE, ROSS, SCIOTO, & VINTON COS.:		
Group 1 - Autos; Bus (inclu. Equip. used for hauling men, materials, & tools); Dumps up to 2 tons; Flat Bed (single axle vehicles under 2 tons); Fuel; Jeeps; & Pickups	12.82	44.00q
Group 2 - Dumps over 2 Tons; Tandems; Forklift (inclu. Mason Tending Work); Truck Mechanic or Tender; Semi-tractor; Lowboy; Euclid; Dumpsters; End Dumps; Hopper-type Waster & Material Trucks; Truck with Hydraulic Attachments	13.93	44.00q
ALLEN, AUGLAIZE, DEFIANCE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY, UNION, & VAN WERT COS.:		
Lowboys	9.60	44.00q
Tenders	8.60	44.00q
BELMONT, JEFFERSON (N. to Short Creek), & MONROE COS.:		
Pickups; Tenders	11.30	78.35q
Mechanic Tenders	11.31	78.35q
Flatbed Material Trucks; Dumps & Semi-Dumps	11.35	78.35q
Tank Truck (Straight & Semi)	11.38	78.35q
Semi-Tractor Trailers	11.40	78.35q
Pole Trailer	11.50	78.35q
Agitator & Mixer Trucks (Up to 5 cu. yds.)	11.58	78.35q
Euclids; Dumpsters; Turnarockers; Ross Carriers; & Athey Wagons	11.63	78.35q
Agitator & Mixer Trucks (Over 5 cu. yds.)	11.66	78.35q
Lowboy Trailer; Winch; Fork & Distributor Trucks (Front & Back End) & Truck Crane	11.93	78.35q
A-Frame	12.00	78.35q
Mechanics	12.03	78.35q
BUTLER & WARREN COS.:		
Group 1- Jeeps; Pickups; & Single Axle Trucks	13.06	92.00q
Group 2 - Fork Lifts; Tandem Axles; Dumps, Tandem Axles; & Winch Trucks	13.21	92.00q
Group 3 - Semi Combination & Combination of Hauling Units	13.31	92.00q
Group 4 - Drag & Low-Boys	13.47	92.00q
Group 5 - Euclids; Mechanics	13.51	92.00q
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Straight Flat & Dumps; Winches	9.58	r,s&t
Ready Mix Dump Crete	9.64	r,s&t
Tandems & Tractor Trailer Combination	9.69	r,s&t
Euclids to & including 12 yds.	9.75	r,s&t
Euclids over 12 yds.	10.11	r,s&t
COLUMBIANA CO.:		
Group 1 - Dumps; Stake Body; Batch; Flat Bottom; & Pickups	13.22	1.41+ 51.00q
Group 2 - Semis; Tandems	13.44	1.41+ 51.00q
Group 3 - Carry Alls; Euclid Wagon; D.W. 10 Caterpillar (or equivalent)	13.69	1.41+ 51.00q
Group 4- Tractor Trailer (Low Boy)	13.79	1.41+ 51.00q

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DECISION NO: OH83-2039	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
DELAWARE, FAYETTE, FRANKLIN, MADISON, PICKAWAY & ROSS COS.:		
Dumps & Straight Tandem & Semi-Farm Tractor Lowboy	13.65	43.00q
	13.75	43.00q
	13.85	43.00q
GALLIA, LAWRENCE (E. of Ohio State Rte. 775) & MEIGS COS.:		
Group 1 - Truck Tenders; Pickups; Station Wagons; Panel Trucks; Flat-body Material Truck; Dump Trucks (Up to 5 cu. yd.)	14.99	1.00+u
Group 2 - Tank Truck (straight); Dump Trucks (5 cubic yds. and over); Agitator or Mixer Trucks (up to 5 cubic yds); and Flat Bed Tandems	15.29	1.00+u
Group 3 - Winch Trucks; Fork Trucks; Distributor Trucks (front end and back end); Truck Crane; Monorail Truck	15.34	1.00+u
Group 4 - Mechanic's Tender	15.41	1.00+u
Group 5 - Agitator or Mixer Truck (5 cubic yds. and over)	15.47	1.00+u
Group 6 - Tri-Axle Dump Trucks; Hydraulic Lift Tailgate Truck & Farm Type Tractors; End Dumpsters; Turnarockers; Ross Carriers; Athey Wagon or Similar Equipment; A-Frame; Hydro-lift; Dual Purpose Trucks; Semi-Dump; Semi-trailer; Semi-Tank and Lowboy Trailers; Mechanics	15.77	1.00+u
Group 7 - Master Mechanic	16.08	1.00+u
HARRISON & JEFFERSON (S. to Short Creek) COS.:		
Group 1 - Truck Tenders	10.76	39.50q
Group 2 - Mechanic Tenders	10.77	39.50q
Group 3 - Flatboy Material Trucks; Dumps & Semi Dumps	10.81	39.50q
Group 4 - Tanks Trucks (Straignt & Semi)	10.84	39.50q
Group 5 - Semi-Trailers & Tractor Trailers	10.86	39.50q
Group 6 - Euclids; Dumpster; Turnarockers; Ross Carrier; Athey Wagon	11.09	39.50q
Group 7 - Lowboy Trailers; Winches; A-frames; Forks; Distributors (Front & Back End); & Truck Cranes	11.39	39.50q
Group 8 - Mechanics	11.49	39.50q
WASHINGTON COUNTY:		
Group 1 - Pickups; Station Wagons; Panel Trucks	13.29	v
Group 2 - Flat Body Material Trucks (Straight Jobs); Dump Truck (up to 5 cu. yds.); Mechanic Tenders; Tank Truck (Straight)	13.39	v
Group 3 - Dump Trucks (5 cu. yds. & over); Semi-Dump Trucks; Semi-Trailers; Agitators or mixed Trucks (up to 5 cu. yds.); Monorail	13.54	v
Group 4 - Low Boy Trailers; Winch Trucks; Fork Truck; Distributor Trucks (Front and Back end); Truck Crane; Agitators or Mixer Trucks (5 cu. yds. & Over); Hydraulic Tail Gate; Farm Type Tractors	13.69	v

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
Group 5 - Euclids; Dumpsters; Turnarockers; Ross Carriers; Athey Wagons or similar Equipment; A-frame; Hydrolift; Dual Purpose Trucks	13.94	v
Group 6 - Mechanics	14.04	v
Group 7 - Master Mechanics	14.19	v
POWER EQUIPMENT OPERATORS:		
All Counties, except Columbiana: Well & Pump Work (Incl. Drilling & Repair of all Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells)		
Well Driller & Pump Installer	8.10	.61 +o+p
COLUMBIANA COUNTY:		
CLASS I	15.46	2.36
CLASS II	14.77	2.36
CLASS III	14.13	2.36
CLASS IV	13.72	2.36
CLASS V	13.62	2.36
CLASS VI	15.73	2.36

Basic Hourly Rates	Fringe Benefits

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CLASSIFICATION DEFINITIONS

LABORERS

BROWN, CLERMONT, CLINTON, & HAMILTON COUNTIES

GROUP 1 - Common Laborers; Cement Masons' Tenders; Hand Operated Mechanical Mule; & Mechanical Sweeper
GROUP 2 - Bottom Man; Pipelayer
GROUP 3 - Burning Torch Operator; Concrete Pump Hose Man; Jackhammer; Mechanical & Air Tamper Operator; Mechanical Concrete Buggies; Power Operated Mechanical Mule; Vibrator Man
GROUP 4 - Bottom Jackhammer Man; Mason Tenders; Plasterers' Tenders; Stonemasons' Tenders
GROUP 5 - Plaster Mixer Pump Operator
GROUP 6 - Tunnel Laborer
GROUP 7 - Gunnite Nozzle Operator
GROUP 8 - Demolition Construction - Wrecking Laborers
GROUP 9 - Demolition Construction - Jackhammer Man; Burner; & Wall Man

POWER EQUIPMENT OPERATORS

COLUMBIANA COUNTY

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backfiller W/Drag Attachment; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; Boat Derrick; Boat Tug; Boring Mach. Attached to Tractor; Bullclam; Bulldozer; C. M. I. Road Builder & Similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall - Scraper or Scoop; Chicago Boom; Compactor W/Blade Attached; Concrete Spreader Finisher Comb.; Crane; Crane-Stationary or Climbing; Crane-Electric Overhead Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (not trencher or road widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Mach.; Kocal and Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester W/Boom; Mucking Mach.; Paving-Asphalt Finishing Mach.; Paver Road Concrete; Paver-Slip Form; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Rigs- Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/Attachments; Trench Mach.; Trucks-Boom; Truck Tire-Assigned to Job; Tunnel Machine (Mark 21 Java or Similar); Whirley

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

COLUMBIANA COUNTY (CONT'D)

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O-Boom; Cleaning Mach.- Pipeline Type; Coating Mach.- Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Grease Truck Op.; Grout Pump; Gunnite Mach.; Hoist-Single Drum; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Saugen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Soil Stabilizer (Pump Type); Spray Cure Mach. Self-Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I or Similar Type; Tugger Hoist
CLASS III - Batch Plant-Job Related; Boiler Op.; Compressor (125 CFM or Over); Curb Builder (Self-Propelled); Generator-Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Mach.; Pin Puller; Pulverizer; Pump; Road Finishing Mach. (Pulltype); Roller; Saw-Concrete-Self-Propelled; Spray Cure Mach.-Motor Powered; Spreader (Side Driver Shoulder Attachment); Tractor; Trencher Form; Water Blaster
CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 Feet or Under Other Than Servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heater-Portable Power (2 to 5); Jacks Hydraulic (Railroad); Ladavator; Roller (Walk Behind 1 Ton or Over); Steam Jenny; Syphons; Tender Mechanic; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)
CLASS V - Oiler
CLASS VI - Rigs-Pile Driving or Caisson Type

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POWER EQUIPMENT OPERATORS

	ZONE I Basic Hourly Rates	ZONE II Basic Hourly Rates	ZONE III Basic Hourly Rates	Fringe Benefits
GROUP A	$17.24	$16.96	$17.52	3.02
GROUP B	17.08	16.80	17.37	3.02
GROUP C	16.73	16.44	17.02	3.02
GROUP D	15.92	15.66	16.24	3.02
GROUP E	15.59	15.33	15.92	3.02
GROUP F	13.38	13.13	13.74	3.02

ZONE I: Allen, Ashland, Belmont, Carroll, Coshocton, Defiance, Fulton, Guernsey, Hancock, Hardin, Harrison, Henry, Holmes, Jefferson, Monroe, Noble, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Tuscarawas, Van Wert, Washington, Wayne, Williams, & Wood Counties
ZONE II: Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Crawford, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, Warren, & Wyandot Counties
ZONE III: Erie, Geauga, Huron, & Medina Counties

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP A - A-Frames; Boiler or Compressor Operator mounted on Crane (Piggy-Back Operation); Boom Truck; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Hammerhead Tower Cranes; Helicopter Operator and Helicopter Winch Operator When Hoisting Builders Materials; Hoes; Hoisting Engines (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple drum); Mobile Concrete Pumps with Boom; Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson work for Foundations and Sub-Structure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); Tug Boat

GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; Push Cat

GROUP C - Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators; Man Lift; Power Boilers (over 15 lbs. Pressure); Pump Operators Installing Well Points or other Type of Dewatering System; Pumps (4" and Over Discharge); Subermersible Pumps (4" and Over Discharge); Trenchers 24" and under

GROUP D - Compressors on Building Construction; Conveyors (Building Material); Generators; Gunnite Machines; Mixers (Capacity more than One Bag); Mixers (One Bag Capacity, side Loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; Rollers; Welder Operator

GROUP E - Backfiller & Tamper; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machine; Cleftplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (asphalt); Farm Type Tractors Pulling Attachments; Finishing Machines; Form Trenchers High Pressure Pumps Over 4" Discharge; Hydro Seeders; Self-Propelled Power Spreader; Self Propelled Sub-Grader; Tire Repairman; Tractors Pulling Sheeps Foot Roller or Grader; Vibratory Compactor (with Integral Power)

GROUP F - Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Boiler (Less than 15 lbs. Pressure); Pumps under 4" discharge Boiler (Less than 15 lbs. Pressure); Pumps under 4" Discharge Submersible Pumps under 4" Discharge; Tenders

DECISION NO. ■■83-2039

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. $75.00 per year
b. 2 paid holidays: C & D
c. 2 paid holidays: C & D
d. $25.00 per year
e. 7 paid holidays: A through F and Day after Thanksgiving
f. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.
g. 3 paid holidays: D, E, & F
h. $25.00 per year
i. $50.00 per year
j. 6 paid holidays: A, C, E, F, Decoration Day, & Veterans' Day
k. 1 paid holiday: D, providing the employee has worked 5 consecutive days before and after the holiday.
l. 3% of gross earnings to SASNI
m. $150.00 per year
n. 10 paid holidays; A through F; Good Friday; Day After Thanksgiving Day; Christmas Eve & New Year's Eve
o. 9 paid holidays: A through F, plus Good Friday; Friday after Thanksgiving Day; & Christmas Eve
p. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year-2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation
q. Per employee per week
r. $55.50 per week per employee
s. 1 year's employment - 1 week's paid vacation; 7 years' employment - 2 weeks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period
t. An Employee who has been on the payroll 30 days or more & has worked his last scheduled workday witnin 7 calendar days before his next scheduled workday within 7 calendar days after New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hours' pay for said holidays.
u. $305.50 per employee per month
v. $197.17 per employee per month

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTIES: Statewide - See Area Descriptions on Page 9
DECISION NO.: WI83-2041
DATE: Date of Publication
Supersedes Decision No. WI80-2084 dated September 26, 1980 in 45 FR 64058
DESCRIPTION OF WORK: Heavy, Tunnel, Sewer & Water Line Construction

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
Area 1	$15.90	1.54
Area 2	13.22	2.19
Area 3	12.75	2.09
Area 4	13.83	2.45
Area 5	14.77	1.95
Area 6	14.24	2.25
Area 7	15.52	3.10
Area 8	14.24	2.25
Area 9	15.05	1.60
Area 10	15.53	1.95
Area 11	13.05	2.35
CARPENTERS & PILEDRIVERMEN:		
Area 1		
Carpenters	12.95	2.30
Piledrivermen	13.15	2.30
Area 2		
Carpenters	15.59	2.21
Piledrivermen	15.74	2.21
Area 3		
Carpenters	14.16	2.11
Piledrivermen	14.25	2.11
Area 4		
Carpenters	14.56	1.71
Piledrivermen	14.65	1.71
Area 5		
Carpenters	13.29	2.12
Piledrivermen	13.49	2.12
Area 6		
Carpenters	14.30	3.83
Piledrivermen	16.03	3.20
Area 7		
Carpenters & Piledrivermen	14.00	2.80
Area 8		
Carpenters & Piledrivermen	16.36	3.10
Area 9		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
CEMENT MASONS:		
Area 1	15.85	.70
Area 2	15.90	1.54
Area 3	13.80	2.30
Area 4	12.38	3.75
Area 5	13.46	1.85
Area 6	12.67	1.65
CEMENT MASONS: (Cont.)		
Area 7	14.38	1.50
Area 8	12.72	2.19
Area 9	12.25	2.09
Area 10	12.55	2.35
Area 11	14.45	1.85
Area 12	13.18	1.95
Area 13	14.71	1.55
Area 14	13.93	
ELECTRICIANS:		
Area 1	15.59	1.10 + 6%
Area 2	15.66	12½%
Area 3		
Contracts - $50,000 or greater	14.23	2.00 + 4%
Contracts - under $50,000	12.81	2.00 + 4%
Area 4	15.31	.75 + 9½%
Area 5	15.13	.75 + 9½%
Area 6	17.50	.71 + 3 3/4%
Area 7	15.79	1.30 + 3%
Area 8	15.58	.72 + 13.2%
Area 9	15.54	1.19 + 12 3/4%
Area 10	15.16	1.88 + 14%
Area 11	15.75	19%
Area 12	17.50	.70 + 3%
Area 13	16.11	1.88 + 14%
IRONWORKERS:		
Area 1	15.11	1.96
Area 2	15.22	3.22
Area 3	16.27	5.00
Area 4	17.00	4.375
Area 5	16.05	1.59
Area 6	14.08	2.85

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Statewide		
Lineman	15.47	.65+9½%
Heavy Equipment Operator	13.92	.65+9½%
Equipment Operator	12.38	.65+9½%
Heavy - Groundman - Truck Driver	10.83	.65+9½%
Light - Groundman - Truck DRiver	10.06	.65+9½%
Groundman	8.51	.65+9½%
PAINTERS:		
Area 1		
Brush-Roller	13.85	.50
Spray-Sandblast-Water-blast-Power Tool or High Work above 50'	14.60	.50
Area 2		
Brush-Roller	13.00	.15+5%
Spray-Sandblast	13.50	.15+5%
Structurmal Steel	14.00	.15+5%
Area 3		
Brush-Roller	14.05	1.00
Spray-Sandblast-Strmstural Steel-Swing Stage	14.43	1.00
Area 4		
Brush-Roller	11.975	2.25
Swing Stage	12.175	2.25
Structural Steel	12.125	2.25
Spray	12.725	2.25
Area 5		
Brush-Roller	12.53	1.00
Structural Steel	12.80	1.00
Spray-Sandblast	13.22	1.00
Swing Stage	12.85	1.00
Area 6		
Brush-Roller	14.61	1.40
Structural Steel-Spray-Sandblast-Swing Stage	15.21	1.40
Area 7		
Brush-Roller	13.10	1.75
Swing Stage	13.55	1.75
Structural Steel-Bridges-Spray	14.10	1.75
Sandblast	13.35	1.75
Area 8		
Brush-Roller	11.90	
Booster Tanks-Steel Bridges	13.40	
Structural Steel-Steel Work-Swing Stage over 40'-Spray	12.40	
Sandblast	12.90	
PAINTERS: (Cont.)		
Area 9		
Brush-Roller	11.75	
Structural Steel	12.35	
Spray-Sandblast	12.75	
Swimg Stage	14.00	
Area 10		
Brush-Roller	13.10	3.26
Sandblast-Spray(Toxic Materials)	13.85	3.26
Spray(Regular Materials)	13.60	3.26
Structural Steel-Bridge	13.45	3.26
Swing Stage(Less than 80')	13.25	3.26
Swing Stage(80' or more)	13.35	3.26
Area 11		
Brush-Roller	13.35	1.55
Spray w/out Air Hood	13.85	1.55
Spray w/Air Hood-Sandblast	14.10	1.55
High Work over 50'	13.85	1.55
Area 12		
Brush-Roller	12.70	2.15
Swing Stage	12.90	2.15
Structural Steel	12.85	2.15
Spray-Sandblast	13.45	2.15
Area 13		
Brush-Roller	10.30	1.60
Spray	10.80	1.60
Steeples-Stacks	10.80	1.60
Swing Stage over 30'	10.70	1.60
PLUMBERS:		
Area 1	16.60	2.75
Area 2	14.49	3.55
Area 3	14.97	3.09
Area 4	16.82	2.63
Area 5	17.25	2.21
Area 6	15.48	3.19
Area 7	17.00	2.10
Area 8	17.50	1.40
Area 9	16.54	1.95 + .003%
Area 10	14.53	2.92
Area 11	15.49	4.09
Area 12	15.65	3.02
Area 13	16.26	2.07
Area 14	15.51	3.50

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	Basic Hourly Rates	Fringe Benefits
LABORERS- HEAVY CONSTRUCTION:		
Area 1		
Group 1	10.63	3.49
Group 2	10.73	3.49
Group 3	10.78	3.49
Group 4	10.83	3.49
Group 5	10.88	3.49
Group 6	10.98	3.49
Group 7	11.03	3.49
Group 8	11.28	3.49
Area 2		
Group 1	10.75	2.43
Group 2	10.88	2.43
Group 3	10.90	2.43
Group 4	10.95	2.43
Group 5	11.00	2.43
Group 6	11.10	2.43
Group 7	11.15	2.43
Group 8	11.40	2.43
Group 9	11.50	2.43
Area 3		
Group 1	10.15	3.03
Group 2	10.25	3.03
Group 3	10.30	3.03
Group 4	10.35	3.03
Group 5	10.40	3.03
Group 6	10.50	3.03
Group 7	10.55	3.03
Group 8	10.80	3.03
Group 9	10.90	3.03
Area 4		
Group 1	10.80	1.53
Group 2	10.85	1.53
Group 3	10.90	1.53
Group 4	10.95	1.53
Group 5	11.00	1.53
Group 6	11.05	1.53
Group 7	11.25	1.53
Area 5		
Group 1	9.88	3.49
Group 2	9.93	3.49
Group 3	9.98	3.49
Group 4	10.03	3.49
Group 5	10.08	3.49
Group 6	10.13	3.49
Area 6		
Group 1	10.52	1.53
Group 2	10.57	1.53
Group 3	10.62	1.53
Group 4	10.67	1.53
Group 5	10.72	1.53
Group 6	10.77	1.53
Group 7	10.97	1.53

	Basic Hourly Rates	Fringe Benefits
LABORERS- SEWER, TUNNEL & WATER: (OPEN CUT):		
Areas 1 & 5		
Group 1	12.04	3.69
Group 2	12.16	3.69
Group 3	12.21	3.69
Group 4	12.58	3.69
Group 5	13.07	3.69
Group 6	13.23	3.69
LABORERS (TUNNEL-FREE AIR):		
Areas 1 & 5		
Group 1	12.16	3.69
Group 2	12.21	3.69
Group 3	12.58	3.69
Group 4	12.68	3.69
Group 5	13.07	3.69
Group 6	13.17	3.69
Group 7	13.23	3.69
LABORERS (TUNNEL-COMPRESSED AIR):		
Areas 1 & 5		
Group 1	12.16	3.69
Group 2	12.99	3.69
Group 3	13.08	3.69
Group 4	13.18	3.69
Group 5	13.57	3.69
Group 6	13.67	3.69
Group 7	13.73	3.69
POWER EQUIPMENT OPERATORS- HEAVY CONSTRUCTION: Statewide		
Group 1	14.02	2.60
Group 2	13.76	2.60
Group 3	13.67	2.60
Group 4	13.59	2.60
Group 5	13.51	2.60
Group 6	13.47	2.60
Group 7	13.38	2.60
Group 8	13.26	2.60
POWER EQUIPMENT OPERATORS- SEWER, TUNNEL & WATER:		
Area 1		
Group 1	15.12	3.20
Group 2	14.57	3.20
Group 3	14.21	3.20
Group 4	13.84	3.20
Group 5	13.40	3.20
Group 6	13.05	3.20

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS- SEWER, TUNNEL & WATER: (Cont.)		
Area 2		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90
TRUCK DRIVERS:		
Area 1		
Group 1	11.25	.35+a
Group 2	11.40	.35+a
Area 2		
Group 1	11.25	.35+b
Group 2	11.40	.35+b
Area 3		
Group 1	11.25	.35+c
Group 2	11.40	.35+c
WELL DRILLERS	13.47	2.20

FOOTNOTES:
a - $100.50 per week
b - $92.68 per week
c - $91.25 per week

LABORERS CLASSIFICATIONS
HEAVY CONSTRUCTION
AREAS 1,2, & 3

Group 1: Bituminous Workers (Shoveler, Loader, Utility Man); Demolition & Wrecking Laborer; Guard Rail & Fence Builder; Reinforcing Steel Setter (Pavement); Stone Handler; Tree Trimmer; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Bituminous Workers (Dumper, Ironer, Smoother, Tamper); Batch Truck Dumper or Cement Handler; Concrete Handler

Group 3: Chain Saw Operator; Demolition Buring Torch Laborer; Joint Sawer & Filler (Pavement); Vibrator or Tamper Operator (Mechanical - Hand Operated); (Areas 2 & 3 only - Pipelayer Crew (sewer, water) Topman)

Group 4: Air Tool Operator (Hand Operated)

Group 5: Strike Off Man

Group 6: Form Setter (Curb, Walk & Pavement); (Areas 2 & 3 only - Pipelayer Crew (sewer, water) Bottom Man)

Group 7: Bituminous Worker (Raker & Luteman)

Group 8: Powderman; Blaster

Group 9: Areas 2 & 3 only - Pipelayer Crew (sewer, water) Pipelayer

DECISION NO: WI83-2014 (Cont'd)

LABORERS CLASSIFICATIONS (Cont'd)
HEAVY CONSTRUCTION
AREA 4 & 6

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Strike Off Man; Joint Sawer or Filler (Pavement); Concrete Handler; Demolition & Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (Pavement); Stone Handler; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (Hand Operated); Vibrator or Tamper Operator (Mechanical - Hand Operated); Batch Truck Dumper or Cement Handler; Pipelayer Crew (sewer, water) Topman

Group 4: Chain Saw Operator; Demolition Burning Torch Laborer; Form Setter (Curb, Walk & Pavement)

Group 5: Powderman; Blaster

Group 6: Bituminous Worker (Raker & Luteman); Pipelayer Crew (sewer, water) Bottom Man

Group 7: Pipelayer Crew (sewer, water) Pipelayer

AREA 5

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Concrete Handler; Conduit Layer; Demolition & Wrecking Laborers; Guard Rail Builder; Joint Sawer or Filler (Pavement); Landscaper; Multiplate Culvert Assembler; Reinforcing Steel Setter (Pavement); Stone Handler; Strike Off Man; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (Hand Operated); Batch Truck Dumper or cement Handler; Vibrator or Tamper Operator (Mechanical - Hand Operated)

Group 4: Chain Saw Operator; Demolition Burning Torch Laborers; Formsetter (Curb, Walk & Pavement)

Group 5: Powderman; Blaster

Group 6: Bituminous Workers (Raker & Luteman)

DECISION NO WI83-2014 (Cont'd)

LABORERS CLASSIFICATIONS
SEWER, TUNNEL & WATER WAGE CLASSIFICATIONS
OPEN CUT

Group 1: Paving Laborer

Group 2: General Laborer on Surface; Topman

Group 3: Mud Mixer

Group 4: Bottom Digger; Miscellaneous Bottom Man; Welder on Surface; Mucker; Form Stripper

Group 5: Concrete Manhole Builder; Caisson Worker; Miner; Pipelayer; Rock Driller; Joint Man; Timber Man; Concrete Brusher; Bracer in Trench Behind Machine; Tight Sheeting; Concrete Formsetter; Shoveler; Jack Hammer Operator

Group 6: Blaster

TUNNEL - FREE AIR

Group 1: Tower Man; General Laborer on Surface

Group 2: Saw Man; Top Man

Group 3: Form Strippers; Car Pusher

Group 4: Mucker; Dinkey; Welder (rate on Surface)

Group 5: Concrete Manhole Builder; Concrete Buster; Jack Hammer Operator; Caisson Worker; Pipelayer; Joint Man; Braceman; Nozzle Man on Gunite; Timber Man; Concrete Brusher

Group 6: Mucking Machine; Miner; Mining Machine; Welder; Rock Driller

Group 7: Blaster

TUNNEL - COMPRESSED AIR

Group 1: General Laborer on Surface

Group 2: Lock Tender on Surface

Group 3: Form Stripper; Car Pusher

Group 4: Mucker; Dinkey

Group 5: Lock Tender in Tunnel; Concrete Buster; Jack Hammer Operator; Caisson Worker; Pipelayer; Joint Man; Braceman; Nozzle Man on Gunite; Timber Man; Concrete Brusher

Group 6: Mucking Machine; Miner; Mining Machine; Welder; Rock Driller

Group 7: Blaster

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CLASSIFICATIONS
POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

Group 1: Bituminous Paver or Plant; Concrete Breaker - Truck Mounted (heavy); Crane; Derrick; Dragline; Dredge; Piledriver; Power Shovel; Material Hoist; Mixer or Paver (21 c.f. or over); Roller (over 5 tons); Stabilizing Mixer (self-propelled); Trenching Machine; Tractor, Side Boom (heavy); Concrete Pavement Spreader - Heavy Duty (rubber tired); Hydraulic Backhoe; Asphalt Plant Engineer; Automatic Slipform Concrete Placer; Automatic Subgrader (concrete); Batch Mixer Portable; Caisson Rigs; Central Mixer Concrete; Dredge Engineer; Batch Plant Engineer (concrete); Central Mix Plant (concrete); Percussion or Rotary Drilling Machine; Grader or Motor Patrol; Loading Machine (conveyor); Mechanic or Welder; Heavy Duty Equipment; Tractor (Scraper, Dozer, Pusher, Loader); Tugger; Endloader; Asphalt Heater & Planer; Boatmen; Bump Cutter & Grooving Machine; Milling Machine; Shoulder Widener; Winches & A-Frames; Tube Finisher; Screed (Bituminous Paver)

Group 2: Mixer - Concrete (less than 21 c.f.); Pump - Concrete; Roller - Steel (5 tons or less)

Group 3: Shouldering Machine; Self-Propelled Chip Spreader

Group 4: Concrete Breaker & Tamper (light); Concrete Spreader; Finishing Machine; Mechanical Float; Curing Machine; Power Subgrader; Joint Sawer (multiple blade); Launch; Roller (pneumatic tired) - Self-Propelled; Tractor (mounted or towed compactors & light equipment); Tractor - Endloader (rubber-tired), light; Forklift; Belting Machine; Burlap Machine; Jeep Digger Mulcher; Texturing Machine

Group 5: Fireman; Environmental Burner

Group 6: Air Compressor; Drilling or Boring Machine (mechanical heavy); Greaser, Heavy Equipment, Leadman; Tank Car Heaters; Stump Chipper; Curb Machine Operator; Concrete Proportioning Plants; Generators; Mudjack

Group 7: Crusher or Screening Plant; Screed (Milling Machine); Automatic Belt Conveyor & Surge Bin; Pneumatic Tired Roller; Farm Tractor Towed; Pug Mill

Group 8: Oiler; Pump (over 3"); Surge Bin Drilling Machine Helper

DECISION NO. WI83-2014 (Cont'd)

CLASSIFICATIONS
POWER EQUIPMENT OPERATORS
SEWER, TUNNEL & WATER
AREAS 1 & 2

Group 1: Cranes; Shovel; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Piledrivers; Skid Rigs; Dredge Operators & Traveling Crane (bridge type); Concrete Paver (over 27E); Concrete Spreaders & Distributor; Concrete Pumps(Area 1 only)

Group 2: Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor (over 40 h.p.); Bulldozer (over 40 h.p.); Endloader (over 40 h.p.); Forklift (25' or over); Motor Patrol; Scraper Operator; Sideboom, Straddle Carrier; Mechanic & Welder; Bituminous Plant & Paver Operator; Roller (over 5 tons); Percussion Drill Operator; Rotary Drill Operator; Blaster; Trencher (wheel type or chain type having over 8" bucket); Elevator; Milling Machine (Area 1 only)

Group 3: Backfiller; Concrete Auto Breaker (large); Concrete Finishing Machines (road types); Roller (rubber-tired); Concrete Batch Hopper, Concrete Conveyor Systems; Concrete Mixers (14S or over); Screw Type Pumps; Gypsum Pumps; Grout Pumps; Tractor; Bulldozer; Endloader (under 40 h.p.); Pumps (well points); Trencher (chain type having bucket 8" & under); Industrial Locomotives; Roller (under 5 tons); Fireman (piledrivers & derricks);Concrete Pump(Area 2)

Group 4: Hoists (automatic); Forklift (12' to 25'); Tampers-Compactors (riding types); Assistant Engineer; A-Frames & Winch Trucks; Concrete Auto Breakers; Hydrohammers (small); Brooms & Sweepers; Hoists (tuggers); Stump Chipper (large); Boats (tug, safety, work barges & launch)

Group 5: Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor; Post Hole Digger; Stone Crushers & Screening Plants; Fireman (asphalt plants); Air Compressor (400 CFM or over-Area 1); Augers (vertical & horizonal); Generators(150 KW & over - Area 1); Air. Electric, Hydraulic Jacks (slipform); Prestress Machines; Bobcats; Roiler Operators (temperary heat); Forklift (12' & under); Screed Operator-Milling Machine (Area 1 only); Compressor (300 CFM or over-Area 2)

Group 6: Generators (under 150 KW- Area 1 only);Combination Small Equipment Operators; Compressor (under 400 CFM- Area 1); Welding Machines; Heaters (mechanical); Pumps; Winches (small electric); Oiler & Greaser; Rotary Drill Helper; Conveyor; Generators (over 150 KW - Area 2 only); Compressor (under 300 CFM- Area 2)

TRUCK DRIVER CLASSIFICATIONS

Group 1: Truck Drivers-2 axle; Mechnics Helper - Truck

Group 2: Truck Drivers 3 or more axles; Euclids or Dumptor units; Mechanics - Truck

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AREA DESCRIPTIONS

BRICKLAYERS & STONEMASONS

Area 1 - BARRON, BUFFALO, BURNETT (S½), CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, ST. CROIX, SAWYER, TREMPELEAU (N½) & WASHBURN (S½) COUNTIES

Area 2 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMONIE, ONEIDA, PORTAGE, PRICE, SHAWANO (N½ - N of Townships of Wittenberg & Gresham), TAYLOR, VILAS & WOOD COUNTIES

Area 3 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, SHAWANO (Remainder of County), SHEBOYGAN, WAUPACA, WASHARA & WINNEBAGO COUNTIES

Area 4 - GREEN, LaFAYETTE & ROCK COUNTIES

Area 5 - KENOSHA, RACINE & WALWORTH COUNTIES

Area 6 - DANE, GRANT, IOWA & RICHLAND COUNTIES

Area 7 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 8 - COLUMBIA & SAUK COUNTIES

Area 9 - CRAWFORD, JACKSON, JUNEAU, LaCROSSE, MONROE, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 10- ASHLAND, BAYFIELD, BURNETT (Remainder of County), DOUGLAS, IRON & WASHBURN (Remainder of County) COUNTIES

Area 11- DODGE & JEFFERSON COUNTIES

CARPENTERS

Area 1 - ASHLAND, BAYFIELD (E. of Hwy 63 - a straight line from the City of Drummond to the Lake Superior Shore), & IRON (S 1/3 excluding Mercer) COUNTIES

Area 2 - GREEN, JEFFERSON (S. of I-94), RACINE (W. of Hwy 7S), ROCK & WALWORTH COUNTIES

Area 3 - KENOSHA COUNTY

Area 4 - RACINE (Remainder of County) COUNTY

Area 5 - FLORENCE, IRON (Remainder of County) & MARINETTE (N.1/3) COUNTIES

Area 6 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 7 - BAYFIELD (Remainder of County)& DOUGLAS COUNTIES

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CARPENTERS (Cont'd)

Area 8 - BURNETT (SW corner), PIERCE (NW corner), POLK (W¼), & ST. CROIX (W¼)

Area 9 - Remainder of Counties

CEMENT MASONS:

Area 1 - BAYFIELD, DOUGLAS, PRICE, SAWYER & WASHBURN COUNTIES

Area 2 - BARRON, BURNETT, CHIPPEWA, DUNN, POLK, RUSH & ST. CROIX COUNTIES

Area 3 - DANE, GREEN, IOWA, LaFAYETTE & ROCK COUNTIES

Area 4 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 5 - BULLALO (N½), EAU CLAIRE, JACKSON (N½), PEPIN, PIERCE, TREMPELEAU (N½ including townships of Independence & Whitehall) COUNTIES

Area 6 - KENOSHA & RACINE COUNTIES

Area 7 - BUFFALO (S½), CRAWFORD, JACKSON (S½), JUNEAU, LA CROSSE, MONROE, RICHLAND, TREMPEAULEAU (S½) 7 VERNON COUNTIES

Area 8 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, SHAWONA (NW panhandle), TAYLOR, VILAS & WOOD COUNTIES

Area 9 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, SHAWONA (Remainder of County), SHEBOYGAN, WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

Area 10- DODGE & JEFFERSON COUNTIES

Area 11- COLUMBIA & SAUK COUNTIES

Area 12- WALWORTH COUNTY

Area 13- ASHLAND & IRON COUNTIES

Area 14- GRANT COUNTY

ELECTRICIANS:

Area 1 - CALUMET (except township of New Holstein),GREEN LAKE (township of Berline, Seneca & St. Marie), MARQUETTE (townships of Crystal Lake, Neshkoro, Newton & Springfield),OUTAGAMIE, WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

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ELECTRICIANS (Cont'd):

Area 2 - BARRON, BULLALO (Maxville, Canton, Mondovi, Naples, Nelson, Modena, Gilmantown, Dover, Alma, Lincoln, Montana & Belvidere Townships), BURNETT (Grantsburg, Wood River, Daniels, Sire, Lafollette, Dewey, Anderson, Trade Lake & Roosevelt Townships), CHIPPEWA, CLARK (Thorp, Withee, Hixon, Hoard, Worden, Roseburg, Longwood, Green Grove, Butler, Hend, Warner, Beaver Foster, Hendren, Eaton, Loyal, Sief, Weston, York, Mentor, Hewett, Pine Valley, Grant, Dewhurst, Levis & Washburn Townships), DUNN, EAU CLAIRE, JACKSON (Garfield, Cleveland, Northfield, Gorden, Valley, Alma, Curron, Hixton Townships), PEPIN, PIERCE, POLK, PRICE (Flambeau, Worchester, Emery, Elk, Georgetown, Harmony, Hackett, Kennon, Catawba, Ogeman, Prentice, Kmmx, Hill, Spirt Townships), RUSK, ST.CROIX, SAWYER (Edgewater, Meteor, Wiergor, Meadow Brook Townships), TAYLOR, TREMPEALEAU (Albion, Unity, Sumner, Chimney, Rock, Hale, Burnside, Lincoln, Pigeon Townships), & WASHBURN (Evergreen, Spooner, Bashaw, Beaver Brook, Madge, Barronett, Sarona, Long Lake & Birchwood Townships) COUNTIES

Area 3 - FLORENCE (Townships of Aurara, Commonwealth, Fern, Florence & Homestead), MARINETTE (Niagura Township)

Area 4 - BROWN, DOOR, KEWAUNEE, MANITOWOC (except Township of Schleswig), OCONTO, MARINETTE (Amsberg, Athelstance, Beaver, Grover, Lake, Middle Inlet, Peshtigo, Porterfield, Pond, Silver Cliff, Stephenson, Wagner & Wausaukee Townships), MENOMINEE (that portion E. of a line 6 miles W. of the W. boundary of Oconto County), SHAWANO (Birnamwood, Richmond, Pella, Alman, Westcott, Belle Plain, Bartelme, Washington, Waukechon, Red Springs, Green Valley, Hartland, Wittenberg, Germania, Angelica, Morris, Fairbanks, Navarino, Seneca, Grant, Lessor, Herman & Maple Grove Townships)

Area 5 - ADAMS, CLARK (Remainder of County), FLORENCE (Remainder of County) FOREST, JUNEAU, LANGLADE, LINCOLN, MARATHON, MARINETTE (Remainder of County), MENOMINEE (Remainder of County), ONEIDA, PORTAGE, SHAWANO (Remainder of County, WOOD & VILAS COUNTIES

Area 6 - KENOSHA COUNTY

Area 7 - BUFFALO (Remainder of County), CRAWFORD, GRANT, JACKSON (Remainder of County) LA CROSSE, MONROE, RICHLAND, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 8 - DODGE (Watertown & Emmett Townships), GREEN, JEFFERSON, LaFAYETTE, RACINE (Burlington Townships - that portion 2½ miles E. of the W. boundary of Burlington Township & 1½ miles S. of the W. boundary to 3½ miles N. of the S. boundary of Burlington Township), ROCK & WALWORTH COUNTIES

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ELECTRICIANS (Cont'd):

Area 9 - COLUMBIA, DANE, DODGE (Remainder of County), FOND DU LAC (Township of Waupun), GREEN LAKE (Remainder of County), IOWA, MARQUETTE (Remainder of County), & SAUK COUNTIES

Area 10- CALUMET (Township of New Holstein), FOND DU LAC (except Township of Waupun), MANITOWOC (Remainder of County), & SHEYBOYGAN COUNTIES

Area 11- ASHLAND, BAYFIELD, BURNETT (Remainder of County), DOUGLAS, IRON, PRICE (Remainder of County), SAWYER (Remainder of County) & WASHBURN (Remainder of County) COUNTIES

Area 12- RACINE (Remainder of County) COUNTY

Area 13- MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

IRONWORKERS:

Area 1 - GRANT (SW edge including Cassville & Dickeyville)

Area 2 - ASHLAND, BAYFIELD, BURNETT (NE 2/3 excluding Grantsburg), DOUGLAS, FLORENCE (NW¼), FOREST (NW¼), IRON, LINCOLN (NW 2/3), ONEIDA, PRICE, RUSK (NE¼), SAWYER, TAYLOR NE corner), VILAS & WASHBURN COUNTIES

Area 3 - BROWN, CALUMET, DODGE (E 1/3), DOOR, FLORENCE (Remainder of County), FOND DU LAC (E 2/3), FOREST (E½), KENOSHA, KEWAUNEE, MANITOWOC, MARINETTE, MENOMINEE (E½), MILWAUKEE, OCONTO (E 3/4), OUTAGAMIE (E 3/4), OZAUKEE, RACINE, SHAWANO (E 1/3), SHEBOYGAN, WALWORTH NE Corner), WASHINGTON, WAUKESHA & WINNEBAGO (E½)COUNTIES

Area 4 - GREEN (SE 1/3), ROCK (S 3/4) & WALWORTH(SW 2/3)COUNTIES

Area 5 - BARRON, BUFFALO, BURNETT (Remainder of County), CHIPPEWA, CLARK (NW¼), DUNN, EAU CLAIRE, JACKSON (NW¼), LA CROSSE NW corner), PEPIN, PIERCE, POLK, RUSK (Remainder of County), ST. CROIX, TAYLOR (Remainder of County) & TREMPEALEAU COUNTIES

Area 6 - Remainder of Counties

PAINTERS:

Area 1 - FLORENCE, FOREST , IRON, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA & VILAS COUNTIES

Area 2 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, PRICE, RUSK, ST. CROIX, SAWYER, TREMPEALEAU & WASHBURN COUNTIES

DECISION NO. WI83-2041 (Cont'd)

PAINTERS (Cont'd):

Area 3 - BROWN, DOOR, KEWAUNEE, OCONTO & SHAWANO (E 1/3) COUNTIES

Area 4 - WALWORTH & KENOSHA COUNTIES

Area 5 - ADAMS, CLARK, CRAWFORD, JACKSON, JUNEAU, LA CROSSE, MONROE, PORTAGE, TAYLOR, VERNON & WOOD COUNTIES

Area 6 - ASHLAND, BAYFIELD, BURNETT & DOUGLAS COUNTIES

Area 7 - COLUMBIA, DANE, DODGE, GRANT, GREEN, IOWA, LaFAYETTE, RICHLAND, ROCK & SAUK COUNTIES

Area 8 - CALUMET (except that part that is in the City of Appleton & the village of Stockbridge)& MANITOWOC COUNTIES

Area 9 - MARINETTE COUNTY

Area 10- JEFFERSON, MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 11- CALUMET (Remainder of County), FOND DU LAC, GREEN LAKE, MARQUETTE, OUTAGAMIE, SHAWANO (Remainder of County), WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

Area 12- RACINE COUNTY

Area 13- SHEBOYGAN COUNTY

PLUMBERS:

Area 1 - CALUMET (NW section - N. of city of Stockbridge & W. of Hwy. 57), MENOMINEE, OUTAGAMIE, SHAWANO, WAUPACA, WINNEBAGO (NE section - E. of Hwy. 45 as far S. as Ct. Trnk C.) COUNTIES

Area 2 - BARRON, BUFFALO (N 2/3), CHIPPEWA, CLARK, DUNN, EAU CLAIRE, JACKSON (N 1/3), PEPIN, PIERCE, POLK, PRICE, RUSK, ST. CROIX, TAYLOR & TREMPEALEAU (N¼) COUNTIES

Area 3 - ADAMS, CALUMET (S. portion - S. of a line drawn along County Hwy E from the lake to Manitowoc Co.), DODGE (except city of Watertown), FOND DU LAC, GREEN LAKE, MANITOWOC (City of Kiel only), SHEBOYGAN, WAUSHARA & WINNEBAGO (Remainder of County) COUNTIES

Area 4 - BROWN, CALUMET (Remainder of County), DOOR, KEWAUNEE, MANITOWOC (Remainder of County) & OCONTO COUNTIES

Area 5 - DODGE (City of Watertown), ROCK, GREENE, JEFFERSON & LaFAYETTE COUNTIES

Area 6 - KENOSHA & WALWORTH COUNTIES

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PLUMBERS (Cont'd):

Area 7 - BUFFALO (Remainder of County), CRAWFORD, GRANT, JACKSON (Remainder of County), JUNEAU, LA CROSSE, MONROE, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 8 - FLORENCE, FOREST, LANGLADE, LINCOLN, MARATHON, ONEIDA & VILAS COUNTIES

Area 9 - COLUMBIA, DANE, IOWA, MARQUETTE, RICHLAND & SAUK COUNTIES

Area 10- MARINETTE COUNTY

Area 11- MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 12- RACINE COUNTY

Area 13- PORTAGE & WOOD COUNTIES

Area 14- ASHLAND, BAYFIELD, BURNETT, DOUGLAS, IRON, SAWYER & WASHBURN COUNTIES

LABORERS:

Area 1 - MILWAUKEE & WAUKESHA COUNTIES

Area 2 - RACINE COUNTY

Area 3 - KENOSHA COUNTY

Area 4 - DANE COUNTY

Area 5 - OZAUKEE & WASHINGTON COUNTIES

Area 6 - Remaining Counties

POWER EQUIPMENT OPERATORS:

Area 1 - KENOSHA, MILWAUKEE, OZAUKEE, RACINE, WASHINGTON & WAUKESHA COUNTIES

Area 2 - Remaining Counties

TRUCK DRIVERS:

Area 1 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 2 - RACINE & KENOSHA COUNTIES

Area 3 - Remaining Counties

[FR Doc. 83-12838 Filed 5-12-83; 8:45 am]
BILING CODE 4510-27-C

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federal register

Friday
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Part IV

Department of the Interior

Bureau of Land Management

Grazing Regulations; Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

Amendments to the Grazing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking to amend Title 43 Part 4100 of the Code of Federal Regulations follows publication of a notice of intent to propose regulations to further streamline Bureau procedures for managing grazing on the public lands, which appeared in the **Federal Register** on December 9, 1982 (47 FR 55402). The proposed rulemaking would revise and amend the existing regulations in implementation of a policy of regulatory reform which aims to minimize regulatory burdens on the public. It also responds to comments that were received as a result of the notice of intent to propose rulemaking. This proposed rulemaking further clarifies and streamlines existing regulations and simplifies and improves procedures. Some sections have been reorganized to make the regulations easier to understand.

DATE: Comments by July 12, 1983. Comments received after this date may not be considered as part of the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

Comments will be accepted on any provision under Part 4100 of Title 43 of the Code of Federal Regulations. Comments that are received will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Billy Templeton or Ronald Wenker, Division of Rangeland Resources (202) 653–9193.

SUPPLEMENTARY INFORMATION: A key goal of the President's Executive Order 12291, published February 17, 1981 (46 FR 13193), required the identification and removal of needless, burdensome and counterproductive regulations. The regulations for 43 CFR Part 4100 published on September 21, 1982 (47 FR 41702), eliminated many provisions which were unnecessary, obsolete, or excessively burdensome to the public. This proposed rulemaking is a continuation of the effort to make the regulations in 43 CFR Part 4100 as clear as possible. It also eliminates or revises additional provisions which have been identified as being cumbersome, burdensome, or difficult to understand.

Comments on 43 CFR Part 4100 were solicited from the general public and major rangeland interest groups by publication of a notice of intention to propose rulemaking which requested comments and suggestions for simplifying and improving the regulations.

Comments which were received were considered during the development of this proposed rulemaking.

This proposed rulemaking also makes a number of editorial changes to clarify the regulations or make then easier to read and understand. The following discussion summarizes the proposed amendments and provides an explanation of specific changes:

Section 4100.0–3 Authority.

Section 4100.0–3 as rewritten in the proposed rulemaking would streamline the existing regulations. Existing citations of authority would remain but descriptive language would be removed. This revision would make no change in the authority of the Bureau of Land Management to manage grazing on the public lands.

Section 4100.0–5 Definitions.

The proposed rulemaking would eliminate six definitions of terms which are in common use and are well understood by the general public. The proposed rulemaking would also revise 11 definitions, generally to clarify them.

Section 4100.2 Grazing preferences.

Section 4110.2 would be revised by the proposed rulemaking to more clearly indicate the priority for allocation of grazing preference among users, and would clarify responsibilities of all parties involved in a transfer of grazing preferences. The proposed amendment would also remove some redundant language and make minor editorial changes to the existing regulations. Section 4110.2–4 would be removed from the regulations and its provisions incorporated more appropriately in the BLM Manual.

Section 4110.3 Changes in available forage.

Section 4110.3–1 would be revised to clarify the criteria used in allocating additional forage available for livestock grazing. Specific procedural guidance is removed from §§ 4110.3–1 and 4110.3–2 for streamlining purposes and will be placed in the BLM Manual, which is the appropriate location for specific procedural guidance. Section 4110.3–2 would be reworded to reaffirm that monitoring would be used to collect adequate, reliable data prior to the initiation of a five year adjustment period. This recognizes that a one-point-in-time survey or forage inventory without monitoring support is not considered adequate, reliable data to serve as a basis for forage allocation decisions.

Because the provisions for implementing both increases and decreases in available forage over a 5—year period are identical, those provisions presently pertaining to implementation of increases or decreases in available forage found in §§ 4110.3–1 and 4110.3–2 have been consolidated and incorporated into a new section, § 4110.3–3, Implementation of changes in available forage. In order to better organize the existing regulations, § 4120.3, Temporary modifications and closures to livestock use, has also been incorporated into this new section.

Section 4110.4 Changes in public land acreage.

This section would be amended to provide for a two year notification whenever a grazing permit or lease is cancelled in whole or in part. Provisions relating to compensation for a permittee's or lessee's interest in authorized range improvements have been modified to be consistent with the Federal Land Policy and Management Act 43 U.S.C. 1701 *et seq.*)

Section 4110.5 Conflicting applications.

For improved organization, this section would be removed and incorporated in § 4130.1–1 which deals specifically with applications.

Section 4120.1 Allotments.

This section is duplicative of specific language in § 4120.2–1 and is more appropriately placed in the BLM Manual. A new revised section, § 4120.2–1, Cooperative management agreements, would be written into the regulations. The new section would provide for greater incentives for private investments in practices that will improve rangeland productivity.

Sections 4120.2, 4120.2–1 and 4120.2–2 Terms and conditions.

Sections 4120.2, 4120.2–1 and all of 4120.2–2 would be removed and placed in § 4130.6 for better organization. Paragraph (b) of § 4120.2–1 would be removed because it is redundant.

Paragraph (c) of 4120.2–1 would be revised to make it more consistent with language in Section 402(a) of the Federal Land Policy and Management Act. Paragraph (d) of § 4120.2–1 would be removed because it is not necessary to state that the Bureau of Land Management will modify permits or leases in accordance with law.

Section 4120.2–3, Allotment management plans, would be redesignated as § 4120.2, Allotment management plans. This section would also be revised to eliminate redundancy and to clarify that completed allotment management plans shall be incorporated into the terms and conditions of affected grazing permits and leases.

Section 4120.3 Temporary modification and closures to livestock use.

This section would be restructured for greater clarity and portions of it would be moved to § 4110.3–3 for better organization. Paragraphs which contain specific procedural guidance are removed because they would be more appropriately placed in the Bureau Manual.

Section 4120.4 Ownership and identification of livestock.

This section would be reorganized by moving paragraph (a) to § 4130.5, deleting paragraphs (b) and (c), and moving paragraph (d), with minor editorial revisions, to § 4130.5(c).

Section 4120.5 State livestock requirements.

This section would be placed in § 4130.5(b) for better organization.

Section 4120.6 Range improvements.

This section would be redesignated as § 4120.3, Range improvements. Section 4120.6–1 would be redesignated § 4120.3–1, Conditions for range improvements. Section 4120.6–2, Cooperative agreements, would be redesignated § 4120.3–2, Cooperative agreements, and revised to indicate that anyone may enter into a cooperative agreement with the Bureau of Land Management. Section 4120.6–3, Range improvement permits, would be redesignated § 4120.3–3, and redundant language would be removed.

Section 4120.6–4, Standards, design and stipulations, would be redesignated § 4120.3–4 and revised for clarity.

Section 4120.6–5, Assignment of range improvements, would be redesignated § 4120.3–5. Section 4120.6–6, Removal and compensation for loss of range improvements, would be redesignated § 4120.3–4, and paragraph (c) removed for more consistency with language in the Federal Land Policy and Management Act. Language in paragraph (d) would be revised for consistency with the language in the form used by the Bureau of Land Management to document a cooperative agreement.

Section 4120.6–7, Contributions, is redesignated as § 4120.3–7.

Section 4120.7 Cooperation in management.

This section is deleted because it is unnecessary to reiterate what is specifically expressed as general policy and guidance in the Federal Land Policy and Management Act.

Section 4120.8 Special rules.

This section would be redesignated as § 4120.4 for better organization.

Section 4130.1 Applications.

This section would be revised by adding new sections, § 4130.1–1, Changes in grazing use, and § 4130.1–2, Conflicting applications, which would provide specific criteria by which the authorized officer may make allocation of additional livestock forage or additional acreage which may become available, or when more than one qualified applicant applies for livestock grazing use.

Section 4130.2 Grazing permits or leases.

This section would be reorganized for greater clarity to remove redundant sections and to add a new paragraph (e) providing for issuance of permits or leases incorporating the percentage of public land livestock use or permits or leases which may include private land offered under exchange-of-use agreements.

Section 4130.3 Free-use grazing permits.

This section would be modified to make citations consistent with revisions in other sections of the regulations, and to remove redundant language.

Section 4130.4 Other grazing authorizations.

Paragraphs (b), (c) and (d) of § 4130.4–1 would be deleted because they are redundant to § 4130.4–1(a).

Section 4130.5 Fees.

This section would be redesignated as § 4130.7, Fees. Procedural guidance found at § 4130.5–1(a) would be removed. Other changes would be made to allow after-the-fact billings under cooperative management agreements. Guidance for billing procedures would be deleted and will be incorporated in the Bureau Manual.

A new section, § 4130.5(b), Ownership and identification of livestock, would be added and would incorporate § 4120.4, Ownership and identification of livestock. Section 4120.4(a) would be redesignated § 4130.5(a). Section 4120.5, State livestock requirements, would be redesignated as § 4130.5(b) and would retain its present title. Section 4120.4(d) would be redesignated § 4130.5(c).

Section 4130.5–2, Refunds, and § 4130.5–3, Service charge, are redesignated as §§ 4130.9–2 and 4130.9–3, respectively. This change is made to improve the organization of the regulations.

Section 4130.6 Changes in Grazing Use.

The provisions found in this section of the regulations would be moved to new § 4130.1–1, Changes in grazing use.

Section 4130.7 Pledge of permits or leases as security for loans.

This section would be redesignated as § 4130.8. No further changes would be made to this section.

Subpart 4140. Prohibited Acts.

Section 4140.1 Acts prohibited on public lands.

This section would be revised by modifying language at § 4140.1(a)(3) to allow supplemental feeding unless otherwise specified in permits or leases. A change will also be made by removing § 4140.1(b) (7) and (8). This change would show that grazing preferences should not be cancelled for violations of other Federal or State laws or regulations which are unrelated to these proposed regulations.

Section 4150.2 Notice and order to remove.

A change would be made in paragraph (c) of this secton to remove guidance concerning handling of unauthorized horse or burro use. Such guidance is procedural in nature and would be more appropriately placed in the Bureau of Land Management Manual.

Section 4150.3 Settlement.

This section is revised for greater clarity and to remove cumbersome language.

Section 4150.4 Impoundment and disposal.

Paragraph (c) of this section would be removed because it is procedural guidance which is more appropriately placed in the BLM Manual. Section 4150.4–3 would also be revised to

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eliminate procedural guidance which will be placed in the BLM Manual.

Section 4160.1 Proposed decision.

This section would be revised to streamline the regulations and to place procedural guidance in the BLM Manual. The proposed rulemaking eliminates the provision which enables interests other than an applicant, permittee, or lessee to protest a proposed decision concerning alleged violations of the terms and conditions of a permit or lease or of these regulations. Additional changes would be made which conform citations to other citations in these proposed regulations.

Section 4160.3 Final decisions.

The requirement in paragraph (b) of this section that the authorized officer shall serve his final decision on any other known affected interest apart from the protestant or his agent would be removed.

Paragraphs (d) and (e) of this section would be removed by this proposed rulemaking. These paragraphs contain specific guidance concerning the implementation of final decisions regarding terms and conditions of grazing leases and permits. Such specific guidance is not appropriately placed in these regulations since it pertains to instructions and procedures which are directed primarily to BLM personnel responsible for implementing these regulations. Such guidance is more appropriately placed in the BLM Manual.

Section 4160.4 Appeals.

This section is revised to eliminate redundant language and to clarify that any person whose interest is adversely affected by a final decision of the authorized officer may appeal that decision before an administrative law judge under § 4.470 of this title.

Section 4170.1 Civil penalties

Section 4170.1–3, Federal or State laws or regulations, would be removed by this proposed rulemaking. The section to which this section refers, § 4140.1 (b)(8), also would be removed by this proposed rulemaking. Therefore, § 4170.1–3 is no longer necessary.

The primary author of this proposed rulemaking is Ronald Wenker, Division of Rangeland Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a major rule within the meaning of Executive Order 12291.

The Department of the Interior has further determined that the proposed regulations will not have significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 801 et seq.). Any impacts on small entities as a result of this proposed rulemaking will be positive since the proposed regulations reduce the burden of complying with Federal regulations for use of the public lands for grazing livestock.

The information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned the following approval numbers:

Grazing Application 1004–0005, Range Improvement Permit 1004–0019; Exchange-of-Use Agreement 1004–0020; Grazing Preference Statement 1004–0041; Grazing Application—Perference Summary and Transfer 1004–0047; Grazing Application—Authorized Agent 1004–0049; Actual Grazing Use Record, 1004–0051; and Cooperative Agreement 1004–0068.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management.

Under the authority of the Taylor Grazing Act of 1943 (43 U.S.C. 315 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Public Ranglands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), it is proposed to amend subpart 4100, 4110, 4120, 4130, 4140, 4150, 4160, and 4170 of Part 4100, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 4100—[AMENDED]

§ 4100.0–3 [Amended]

1. Section 4100.0–3 is amended by:

a. Revising paragraph (a) to read:

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a–315r).;

* * * * *

b. Revising paragraph (b) to read:

* * * * *

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d).; and

d. Redesignating paragraph (e) as paragraph (f) and inserting a new paragraph (e) to read:

* * * * *

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

2. Section 4100.0–5 is amended by:

a. Amending the definition of "affected interest" by removing the work "potentially" where is appears and by removing the word "or" after the words "proposed action" where it appears, inserting the word "and" and removing all of the sentences after the first sentence; and

b. Amending the definition of "allotment management plan" by removing the word "document" where it appears and replacing it with the word "documented" and removing the word "operations" where it appears and replacing it with the word "grazing";

c. Amending the definition of "cancellation" by removing the word "Cancellation" where it appears and replacing it with the words "Cancelled or cancellation";

d. Amending the term "certified actual use" by removing the word "Certified";

e. Removing the definition of "class of livestock" in its entirety;

f. Amending the definition of "consultation, cooperation and coordination" by inserting a period after the word "disputes" where it appears and deleting all thereafter;

g. Removing the definition of "contiguous land" in its entirety;

h. Revising the definition of "grazing fee year" to read:

" 'Grazing fee year' means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year";

i. Removing the definition of "indigenous animal" in its entirety;

j. Amending the definition of "land use plan" by removing the word "decision" where it appears and inserting the word "prepared" following the word "document", placing a period after the word "Act" and removing all thereafter;

k. Removing the definition of "livestock or kind of livestock" in its entirety;

l. Amending the definition of "livestock grazing capacity" by inserting the word "estimated" before the word "number" and by removing the phrase "on the public lands";

m. Removing the definition of "modification" in its entirety;

n. Removing the definition of "other lands under Bureau of Land Management control" in its entirety;

o. Amending the definition of "public lands" by removing the phrase "lands located on the Outer Continental Shelf" where it appears;

p. Amending the definition of "service area" by removing all after the first sentence;

r. Amending the definition of "supplemental feed" by removing the word "harvest" where it appears;

s. Removing the definition of "suspended preference" in its entirety; and

t. Revising the definition of "suspension" to read:

* * * * *

" 'Suspension' means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee."

* * * * *

§ 4110.2–1 [Amended]

3. Section 4110.2–1 is amended by removing "§ 4100.0–5(g)" where it appears and replacing it with "§ 4100.0–5.".

§ 4110.2–2 [Amended]

4. Section 4110.2–2 is amended by inserting the word "existing" after the word "among" in paragraph (a).

§ 4110.2–3 [Amended]

5. Section 4110.2–3 is amended by:

a. Amending § 4110.2–3(a)(2) by removing the citation "§ 4120.6" where it appears and replacing it with the citation "§ 4120.3"; removing the citation "§ 4120.6–5" where it appears and replacing it with the citation "§ 4120.3–5"; inserting a period after the phrase "range improvement permits" and removing all thereafter;

b. Removing § 4110.2–3(d) in its entirety;

c. Redesignating § 4110.2–3(e) and 4110.2–3(f) as § 4110.2–3(d) and 4110.2–3(e), respectively; and

d. Redesignating § 4110.2–3(g) as § 4110.2–3(f) and revising it to read:

* * * * *

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application.

§ 4110.2–4 [Removed]

6. Section 4110.2–4 is revised by removing it in its entirety.

§ 4110.3–1 [Amended]

7. Section 4110.3–1 is amended by:

a. Amending § 4110.3–1(a) by removing the citation "§ 4130.6" where it appears and replacing it with the citation "§ 4130.1–1";

b. Amending § 4110.3–1(c) by removing the word "may" where it appears and replacing it with the word "shall"; removing the word "or" at the end of paragraph (c)(1); removing the word "or" at the end of paragraph (c)(2); and removing "§ 4110.5" in paragraph (c)(3) and replacing it with "§ 4130.1–1"; and

c. Removing § 4110.3–1(d) in its entirety.

§ 4110.3–2 [Amended]

6. Section 4110.3–2 is amended by:

a. Removing § 4110.3–2(c) in its entirety;

b. Removing § 4110.3–2(d) in its entirety; and

c. Removing § 4110.3–2(e) in its entirety.

7. A new section 4110.3–3 is added to read:

§ 4110.3–3 Implementation of changes in available forage.

(a) Permanent increases in the allocation of livestock forage (see (4110.3–1(b)) or suspensions of preference (see § 4110.3–2(b)) shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

(b) Suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title."

8. Section 4110.4 is amended by:

§ 4110.4–1 [Amended]

a. Amending § 4110.4–1 by removing "4110.5" where it appears and replacing it with "4130.1–2";

§ 4110.4–2 [Amended]

b. Amending § 4110.4–2(b) by removing the words "in whole" where they appear; removing the word "for" after the word "compensation" and replacing it with the phrase ", but not to exceed"; inserting a comma after the word "value" and removing "§ 4120.6–6" and replacing it with "§ 4120.3–6".

§ 4110.5 [Removed]

9. Section 4110.5 is amended by removing it in its entirety.

§ 4110.5 [Redesignated from § 4110.6]

10. Section 4110.6 is amended by redesignating it as section 4110.5.

§§ 4120.1, 4120.2, and 4120.2–1 [Removed]

11. Subpart 4120 is amended by:

a. Removing § 4120.1 in its entirety;

b. Removing § 4120.2 in its entirety; and

c. Removing § 4120.2–1 in its entirety.

§ 4120.2–2 [Removed]

12. Section 4120.2–2 is revised by removing it in its entirety and adding a new § 4120.1 to read as follows:

§ 4120.1 Cooperative management agreements.

The Bureau of Land Management (BLM) may enter into a cooperative management agreement with a permittee, lessee, or association when the BLM has determined that resource conditions in the allotment are compatible with the program objectives and the permittee, lessee or association has demonstrated good rangeland management practices. The cooperative management agreement shall specify that the permittee, lessee, or association may manage livestock grazing on the allotment as they determine appropriate to maintain or improve the resource conditions and to meet specific management objectives. The agreement shall provide for evaluations to

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determine the effectiveness of the specific management objectives.

§ 4120.2–3 [Amended]

13. Section 4120.2–3, Allotment management plans, is amended by:

a. Redesignating § 4120.2–3 as § 4120.2;

b. Revising the introductory, text to read:

Livestock grazing management practices may be applied on allotments through the preparation of allotment management plans. When allotment management plans are developed, the following provisions apply:

* * * * *

c. Amending paragraph (a) by removing the second sentence;

d. Removing "§ 4120.2–1" from paragraph (a) and replacing it with "§ 4130.6";

e. Removing the phrase "prescribe a system of grazing designed" from the third sentence of paragraph (a) and replacing it with the phrase "describe the livestock grazing practices necessary";

f. Revising paragraph (b) to read:

* * * * *

b. Private and State lands shall be included in allotment management plans with the consent or at the request of the party(ies) who owns or controls those lands.;

* * * * *

g. Removing paragraph (c) in its entirety;

h. Redesignating paragraph (d) as paragraph (c) and revising it to read:

* * * * *

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.;

* * * * *

j. Removing paragraph (e) in its entirety; and

k. Removing paragraph (f) in its entirety.

§ 4120.3 [Amended]

14. Section 4120.3 is amended by removing it in its entirety and adding the following new §§ 4120.3, 4120.3–1, 4120.3–2, 4120.3–3, 4120.3–4, 4120.3–5, 4120.3–6, and 4120.3–7 to read as follows:

§ 4120.3 Range improvements.

§ 4120.3–1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4130.6–2 of this title.;

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

§ 4120.3–2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objective within a designated allotment. The cooperative ageement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremovable improvements shall be in the United States.

§ 4120.3–3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvement authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3–4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of the transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.3–6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer serving the purpose for which they were installed or if they fail to meet the criteria under section 4120.3–4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessees interest therein.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.3–7 Contributions.

The authorized officer may accept contributions of labor, material,

equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

15. Section 4120.4 is amended by removing it in its entirety and inserting a new section to read:

§ 4120.4 Special rules.

When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

§§ 4120.5, 4120–6 through 4120.6–7, 4120.7 and 4120.8 [Removed]

16. Section 4120.5 is removed in its entirety.

17. Sections 4120.6 through 4120.6–7 are removed in their entirety.

18. Sections 4120.7 and 4120.8 are removed in their entirety.

19. Section 4130.1 is amended by removing the word "timely" where it appears;

20. Two new sections, 4130.1–1 and 4130.1–2 are added to supart 3140 to read:

§ 4130.1–1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affecting grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which required the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7–3 of this title.

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1–2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of §4110.3–1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(1)(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 [Amended]

21. Section 4130.2 is amended by:

a. Removing paragraph (a) in its entirety;

b. Redesignating paragraph (b) as paragraph (a) and revising it to read:

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.6 of this title.;

* * * * *

c. Redesignating paragraph (c) as paragraph (b);

d. Redesignating paragraph (d)(1) as paragraph (c) and removing paragraphs (d) (2), (3) and (4);

(f) Redesignating paragraph (e) as paragraph (d), removing paragraph (d)(1) in its entirety, redesignating paragraph (d)(2) as paragraph (d)(1) and amending it by removing the word "his" where it appears and replacing it with the word "the", by removing paragraph (d)(3) in its entirety and by redesignating paragraph (d)(4) as paragraph (d)(2); and

g. Adding paragraph (e) to read:

* * * * *

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.6–2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4–1).

§ 4130.3 [Amended]

22. Section 4130.3 is amended by removing "§ 4110.5" where it appears and replacing it with § 4130.1–2".

§ 4130.4–1 [Amended]

23. Section 4130.4–1 is amended by removing paragraphs (b), (d), and (e) in their entirety and redesignating paragraph (c) as paragraph (b).

24. Section 4130.5 is amended by removing it in its entirety and adding a new section to read:

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade, and number of bulls, and health and sanitation requirements; and

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

25. Section 4130.6 is revised to read:

§ 4130.6 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

26. A new section, § 4130.6–1, Mandatory terms and conditions, is added to read:

§ 4130.6–1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

27. A new section § 4130.6–2, Other terms and conditions, is added to read:

§ 4130.6–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assists in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

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(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction, establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.8 [Redesignated from § 4130.7]

28. Section 4130.7 is amended by redesignating it as § 4130.8 and adding new §§ 4130.7, 4130.7–1, 4130.7–2 and 4130.7–3 to read as follows:

§ 4130.7 Fees.

§ 4130.7–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(d) Fees are due upon issuance of the billing notice and shall be paid in full prior to grazing use except where an allotment management plan or cooperative mamagement agreement providing for later payment has been incorporated into a permit or lease.

§ 4130.7–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refundes shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease amount the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.7–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in th Federal Register.

§ 4140.1 [Amended]

29. Section 4140.1 is amended by:

a. Amending paragraph (a)(3) by removing the words "without authorization" and inserting the words "in violation of the terms and conditions of the lease or permit";

b. Amending paragraph (b)(1) (iv) by removing § 4120.4(d)" and replacing it with § 4130.5(c)";

c. Removing paragraph (b)(7) in its entirety; and

d. Removing paragraph (b)(8) in its entirety and redesignating paragraphs (9) through (11) as paragraphs (7) through (9) respectively.

§ 4150.2 [Amended]

30. Section 4150.2 is amended by:

a. Amending paragraph (b) by removing "§ 4150.5" and replacing it with "§ 4150.4"; and

b. Removing paragraph (c) in its entirety.

31. Section 4150.3 is revised to read:

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful, repeated nonwillful, willful, or repeated willful. Where violations are repeated nonwillful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for all settlements shall include: the full value for all damages to the public lands and other property of the United States; all expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.4; and shall include the amount due the United States for unauthorized grazing use as described in paragraphs (a), (b) or (c) of this section.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For repeated nonwillful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For willful and repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section."; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160.1–2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4–1 [Amended]

32. Section 4150.4–1 is amended by removing paragraph (c) in its entirety.

§ 4150.4–2 [Amended]

33. Section 4150.4–2 is amended by removing "§ 4150.4–1(c)" where it appears.

§ 4150.4–3 [Amended]

34. Section 4150.4–3 is amended by removing the second, third, and fourth sentences.

§ 4160.1–1 [Amended]

35. Section 4160.1–1 is amended by deleting the word "The" at the beginning of the first sentence and replacing it with the phrase "In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the", and by removing paragraphs (a), (b) and (c) in their entirety.

§ 4160.1–2 [Amended]

36. Section 4160.1–2 is amended by removing "§ 4130.5–1" where it appears and replacing it with "§ 4130.7–1".

§ 4160.2 [Amended]

37. Section 4160.2 is amended by removing the words "or other adversely affected interests" from the first sentence.

§ 4160.3 [Amended]

38. Section 4160.3 is amended by:

a. Amending paragraph (b) by placing a period after the word "both" in the second sentence and deleting the remainder of the sentence;

b. Amending paragraph (c) by removing the last sentence in the paragraph and replacing it with the sentence "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."; and

c. Removing paragraphs (d) and (e) in their entirety.

§ 4160.4 [Amended]

39. Section 4160.4 is amended by removing the phrase "applicant, permittee, or any other".

§ 4170.1–3 [Removed]

40. Section 4170.1–3 is amended by removing it in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 19, 1983.

[FR Doc. 83–12850 Filed 5–12–83; 8:45 am]

BILLING CODE 4310–84–M

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federal register

Friday
May 13, 1983

Part V

Federal Emergency Management Agency

State Plan for Carrying Out Emergency Food and Shelter Program

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FEDERAL EMERGENCY MANAGEMENT AGENCY

State Plan for Carrying Out Emergency Food and Shelter Program

May 6, 1983.

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice set out the text of a plan by which the Federal Emergency Management Agency will distribute $50,000,000 to States and Territories for the purpose of delivering emergency food and shelter to needy individuals, as provided for in Public Law 98–8.

The grants to States were awarded by April 22, 1983.

DATE: April 22, 1983.

FOR FURTHER INFORMATION CONTACT: Agnes Mravcak, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472.

Richard W. Krimm,

Assistant Associate Director, State and Local Programs and Support.

Foreword

This plan has been prepared to provide guidance to Federal, and State agencies and local entities involved in the distribution of funds for delivery of emergency food and shelter to needy individuals as authorized by Pub. L. 98–8.

The information, guidance and procedures contained in this plan pertains to the distribution of $50 million to States and eventually local entities in accordance with Pub. L. 98–8. A separate plan will be prepared for the distribution of funds through a National Board consisting of the United Way of America, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross and FEMA. The representative from FEMA will chair the Board. All funds provided for emergency food and shelter under Pub. L. 98–8 are to be awarded within 30 days after enactment.

Any questions from State agencies or local entities should be directed to the appropriate FEMA Regional Director.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

1.0 *INTRODUCTION*

Public Law 98–8, signed by the President on March 24, 1983, provides for emergency expenditures that will meet urgent needs and protect and add to the national wealth by providing productive jobs, not make-work, for women and men; providing for the indigent and homeless through fiscal year 1983; and accomplishing other purposes. Under this law, the Federal Emergency Management Agency (FEMA) is responsible for carrying out an Emergency Food and Shelter Program.

A total of $100 million has been appropriated for this program. Half of this appropriation ($50 milion) is to be provided as a grant for use by a National Board, which will be chaired by FEMA and consist of representatives of the United Way of America; the National Conference of Catholic Charities; the Council of Jewish Federation, Inc.; the Salvation Army; the National Council of Churches; the American Red Cross; and FEMA. The remaining half ($50 million) will be used to provide food and shelter through grant to the States which will distribute funds to local recipients. All grants are to be awarded within 30 days after enactment of Pub. L. 98–8; all funds are to be expended by the end of Fiscal Year 1983.

1.1 *Purpose*

This plan sets forth responsibilities of the Federal and State agencies involved in the distribution of funds for delivery of and shelter to needy individuals under the Emergency Food and Shelter Program. This plan includes FEMA's policies and procedures for awarding grants to the States in administering this Emergency Food and Shelter Program.

1.2 *Scope*

This plan is applicable to the Federal, State and local organizations and personnel involved in State grant process under the Emergency Food and Shelter Program.

1.3 *Objectives*

A. Ensure that grants are awarded to States for the purposes of carrying out a program of shelter and food distribution within the States within the time period allotted under Pub. L. 98–8.

B. Structure orderly and responsible policies and procedures for awarding the grants to the States.

1.4 *Lead Agency Responsibility*

FEMA is responsible for carrying out an Emergency Food and Shelter Program as defined in Pub. L. 98–8.

2.0 *Concept of Operations*

2.1 Planning Assumptions

A. Funds will be distributed according to procedures set forth in Section 674 of Pub. L. 97–35, Omnibus Budget and Reconciliation Act of 1981, disregarding Subsection (B) of Section (a)(1).

B. Grants will be made in accordance with terms and conditions as established by FEMA in this Plan.

C. Administrative costs will be limited to 2% of the grant amounts. No more than half of these administrative costs will be used for State audit costs; the remainder will be used for administrative costs incurred by local recipients.

D. All grants will be awarded by FEMA by April 23, 1983 (within 30 days of enactment of Pub. L. 98–8).

E. All funds will be expended for food and shelter assistance by September 30, 1983.

2.2 *General Guidelines*

a. Grant Award Process: Funding for this portion of the program will be in the form of grants from FEMA to the States. Grants will be awarded through a document specifying the terms and conditions of the grant and signed by FEMA and the States.

B. Activities of Designated State Agency: As requested in the notification letter, a State agency is to be selected by the State to manage its Emergency Food and Shelter Program. This agency will be the focal point for management and administration of the Emergency Food and Shelter Program in the State. In administering the program, the State is expected to identify and select target areas for assistance; identify and select local recipient organizations; receive and disburse funds; monitor assistance provided; and coordinate and report on program activities.

The State agency shall identify selection criteria used and provide monthly progress reports. Further information on reporting is provided in Section 3 of this Plan.

In administering the Emergency Food and Shelter Program, the State, also is expected to adhere to the intent of the law in its selection of target areas as described in these guidelines. Likewise every effort should be made to identify local recipient organizations (such as United Way agencies, the Salvation Army, Community Action agencies and church organizations) in target areas which can deliver food and shelter assistance in an efficient and timely manner.

The designated State agency also is expected to coordinate its activities to the extent possible with the National Board activities. This coordination will help to ensure the emergency provision of food and shelter assistance reaches as many critical areas as possible.

C. State Designation of a State Representative: The Governor shall designate a State representative who will execute documents and coordinate emergency food and shelter assistance activities for the State. The representative will serve as the primary State contact and official liaison with FEMA.

D. Designation of Target Areas: The areas designated to receive assistance under the Emergency Food and Shelter Program should be those in which it can be demonstrated that food and shelter needs are most urgent, based on the latest statistics on unemployment, poverty, etc. Areas of need may include areas where there is an increase of recently unemployed persons, areas with new pockets of poverty, areas of long-term unemployment (including areas where the long-term unemployed may not be reflected in unemployment statistics because the entitlement period has passed), and areas of existing poverty. Areas to receive assistance will be selected without discrimination.

E. Selection of Recipient Organizations: In distributing funds to local areas, States should select private, nonprofit voluntary organizations (including churches) which have an accounting system and are nondiscriminatory. Local units of governments also may be selected.

In selecting local recipient organizations consideration must be given to the demonstrated capability of the organization to provide food and shelter assistance, in a timely and efficient manner. Local organizations to receive and provide the assistance will be determined by the designated State agency.

Each local recipient organization should complete a certification verifying its intent to use the funding for food and sheltering purposes. A sample certification for this purpose is provided along with the grant award. (See Annex 2–5).

F. Determination of Grant Amounts: 1. Program Funds: The amount of the grant for each State will be determined through the procedure for determining allotments to States in Section 674 of Pub. L. 97–35, disregarding Subsection (B) of Section 674(a)(1). Each State's allotment is listed in Annex 1. In addition, the Indian set-aside portion available to certain States is a portion of each State's allotment determined by using the tribes who have directly applied to Department of Health and Human Services (HHS) for Office of Community Affairs funding, the incidence of rural Indian poverty, and the State's poverty population. For those States where there is no established set-aside, funds are nevertheless available to Indian tribes (see Subsection 2.4A.6 of this Plan). Additionally, the State also may award funds beyond the set-aside portion.

2. Administrative Costs: State and local administrative costs associated with the program are limited to 2% of the total State grant amount. No part of the appropriation shall be expended for the administrative costs of FEMA or any other Federal agency. No more than half of the 2% administrative cost will be available to the State. This amount will cover expenses associated with State audit of the Emergency Food and Shelter Program. The balance will be available to local recipient organizations for administrative costs associated with providing assistance under this program. Eligible administrative costs are covered in Subsection 2.3 of this Plan.

G. Audit Requirements: States shall complete an audit of the program within 45 days of the date that all funds are expended. This audit should follow General Accounting Office standards and principles and the report should be forwarded to the appropriate FEMA Regional Office for review. For further information see Annex 2–2, Paragraph 5A.

2.3 *Eligibility of Costs*

This appropriation is primarily intended for the purchase of food and provision of shelter; however, in supplementing current available resources, the following guidance is provided.

A. Eligible program costs include, but are not limited to,

1. purchase of food for mass feeding;

2. supplies incidental to feeding (such as utensils or pots and pans);

3. expenses associated with mass shelter (such as cots and blankets); and

4. emergency lodging costs (i.e., hotel or motel expenses) only if the local recipient provides emergency shelter by using a voucher or cash payment system and only where the need arises.

B. Eligible administrative costs include, but are not limited to,

1. printing and reproduction (to advertise program availability);

2. State audit services; and

3. operating expenses associated with expanded services (such as utilities or leasing costs).

C. Ineligible costs include, but are not limited to,

1. rent or mortgage subsidies, cash payments (except for emergency lodging costs as noted above), and real property and equipment purchase (land, building, or major equipment)

2. administrative costs such as procurement services, travel, personnel services (salaries, overtime, fringe benefits), budgeting and payroll preparation.

2.4 *Roles and Responsibilities*

A. State responsibilities include:

1. designation of a lead State agency and contact,

2. review and acceptance of grant program terms and conditions,

3. distribution of funds and program guidelines to local recipient organizations,

4. program status monitoring and submission of monthly program reports to the FEMA Regional Office,

5. coordination of assistance with the National Board, and other organizations as necessary, and

6. coordination with the Bureau of Indian Affairs or State Indian advisory sources to determine an equitable distribution of funds for those States which do not have an established set-aside.

B. FEMA responsibilities include the following:

1. *National Office*—

(a) development of guidelines and criteria for implementation and administration of the Emergency Food and Shelter Program,

(b) policy direction and interpretation of the provision of the law regarding State implementation,

(c) technical guidance to Regional Offices,

(d) award of grants to the States,

(e) review of monthly State program reports and preparation of final program summary report,

(f) audit oversight, and

(g) coordination with the Office of Community Services (HHS) and other agencies as appropriate.

2. *Regional Offices*—

(a) issuance of notification of the Emergency Food and Shelter Program to Governors,

(b) liaison with the designated State contacts,

(c) delivery of grant award documents to States,

(d) assistance to the States in expediting completion of the grant award package and transmittal of the completed package to FEMA National Office,

(e) oversight of State implementation of the program,

(f) compilation and analysis of monthly program reports submitted by the States,

(g) submittal of monthly State program reports to FEMA National Office, and

(h) coordination with States and Regional Inspector General for Audit on audit procedures and findings.

3.0 *PROGRAM MONITORING REQUIREMENTS*

3.1 *Reporting*

The State is expected to provide monthly program status reports to the appropriate Regional Office so that it can monitor the timeliness of program delivery in the State. Reports should

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include information on funds disbursed and names and locations of local recipient organizations. A suggested report format with instructions is provided in Annex 2–4.

3.2 *Recordkeeping*

In order to facilitate audits and enable reporting to the Congress, the State is expected to establish and maintain records on how each target area was selected to receive assistance. These records should include the type and source of information used in making each selection, the amount of grant monies allocated to each area, and the local organization chosen to deliver the assistance.

BILLING CODE 6718-01-M

Annex 1

$50,000,000 FEMA Supplemental Appropriation Using CSBG Formula March 16, 1983

CSBG No.	STATES	Total Appropriation	Indian Set-aside	Net to States
	TOTAL	$50,000,000	$302,103	$49,697,897
01	ALABAMA	960,375	5,901	954,474
02	ALASKA	157,107	36,215	120,892
04	ARIZONA	490,530	79,891	410,639
05	ARKANSAS	708,215		708,215
06	CALIFORNIA	4,642,305	3,732	4,638,573
08	COLORADO	453,100	552	452,548
09	CONNECTICUT	628,430		628,430
10	DELAWARE	125,000		125,000
11	DIST. OF COLUMBIA	854,980		854,980
12	FLORIDA	1,512,960		1,512,960
13	GEORGIA	1,400,670		1,400,670
15	HAWAII	217,192		217,192
16	IDAHO	134,452	2,557	131,895
17	ILLINOIS	2,459,052		2,459,052
18	INDIANA	757,957		757,957
19	IOWA	563,420		563,420
20	KANSAS	424,535	516	424,019
21	KENTUCKY	878,127		878,127
22	LOUISIANA	1,222,385	3,331	1,219,054
23	MAINE	273,830	451	273,379
24	MARYLAND	714,125		714,125
25	MASSACHUSETTS	1,297,737	400	1,297,337
26	MICHIGAN	1,928,630	1,755	1,926,875
27	MINNESOTA	626,460		626,460
28	MISSISSIPPI	827,892	1,696	826,196
29	MISSOURI	1,440,562		1,440,562
30	MONTANA	187,643	12,994	174,649
31	NEBRASKA	362,973	1,371	361,602
32	NEVADA	125,000	1,913	123,087
33	NEW HAMPSHIRE	140,855		140,855
34	NEW JERSEY	1,426,280		1,426,280
35	NEW MEXICO	333,915	49,408	284,507
36	NEW YORK	4,518,688	1,717	4,516,971
37	NORTH CAROLINA	1,385,895	24,918	1,360,977
38	NORTH DAKOTA	125,000	7,850	117,150
39	OHIO	2,029,100		2,029,100
40	OKLAHOMA	665,368	15,856	649,512
41	OREGON	417,148	353	416,795
42	PENNSYLVANIA	2,204,430		2,204,430
44	RHODE ISLAND	290,083		290,083
	Puerto Rico	2,193,102		2,193,102
45	SOUTH CAROLINA	800,805	629	800,176
46	SOUTH DAKOTA	161,540	24,899	136,641
47	TENNESSEE	1,025,878	1	1,025,878
48	TEXAS	2,506,825		2,506,825
49	UTAH	202,910	4,941	197,969
50	VERMONT	145,780		145,780
51	VIRGINIA	833,310		833,310
53	WASHINGTON	625,968	17,340	608,628
54	WEST VIRGINIA	582,628		582,628
55	WISCONSIN	633,848	917	632,931
56	WYOMING	125,000		125,000
60	AMERICA SAMOA	29,862		29,862
66	GUAM	28,263		28,263
72	PUERTO RICO			
78	VIRGIN ISLANDS	39,040		39,040
79	Trust Territories	135,130		135,130
69	No. Mariana Is.	17,705		17,705

CSA Form 0-213a (Formerly OEO Form 0-213a) April 80 STATE WORKSHEET (Alphabetical)

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Annex 2-1 S-A-M-P-L-E

FEDERAL EMERGENCY MANAGEMENT AGENCY

ASSISTANCE AWARD/AMENDMENT FOR COMPREHENSIVE COOPERATIVE AGREEMENT

1. AGREEMENT NO.	2. RECIPIENT NO.	3. TYPE OF ACTION	4. AMENDMENT NO.
	N/A	☒ AWARD ☐ AMENDMENT	N/A

5. RECIPIENT AND ADDRESS	6. ISSUING FEMA OFFICE AND ADDRESS
State Department of Community Action 5 State Street, Suite 201 Wasington, D.C. 20906	State & Local Programs & Support Directorate Office of Disaster Assistance Programs 500 C Street, SW Washington, DC 20472

7. NAME OF RECIPIENT PROJECT MANAGER	PHONE NO.	8. NAME OF FEMA PROJECT COORDINATOR	PHONE NO.
John Jones	301-946-3316	Dennis Kwiatkowski	202-287-0550

9. EFFECTIVE DATE OF THIS ACTION	10. METHOD OF PAYMENT
April 5, 1983	☒ LETTER OF CREDIT, LOC NO. 58-00-_____ ☐ REIMBURSEMENT BY TREASURY CHECK ☐ ADVANCE CHECK

11. DESCRIPTION OF ACTION

a. *(Indicate funding data for awards or financial changes)*

PROGRAM NAME ABBREVIATION	ACCOUNTING DATA (FARS CODE) XX-X-XXXX-XXXX-X-XXXX	MAXIMUM FEMA FUNDING	CUMULATIVE OBLIGATION BEFORE THIS ACTION	AMOUNT FOR THIS ACTION OBLI/(DECOBLI)	NET CUMULATIVE OBLIGATION AFTER THIS ACTION	CUMULATIVE NON-FEDERAL COMMITMENT
EFS	83-0-4100-4100-2-3100	$100,000	-0-	$100,000	-0-	-0-

b. *(Describe changes other than funding data or financial changes)*

Award of funds is based on the State's compliance with guidelines and terms and conditions in the FEMA Emergency Food and Shelter Plan.

12. RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO THE FEMA REGIONAL OFFICE IN BLOCK 6.

☒ YES ☐ NO

13. RECIPIENT SIGNATORY OFFICIAL *(Name and Title)* — DATE

State Official authorized to apply for award. — Self explanatory

14. FEMA SIGNATORY OFFICIAL *(Name and Title)* — DATE

BILLING CODE 6718-01-C

Annex 2-2—Financial Terms and Conditions

GENARAL PROVISIONS FOR COOPERATIVE AGREEMENTS

1. *Definitions:*

a. The term "Recipient" refers to the State.

b. The term "Instrument" refers to the grant agreement.

c. The term "Assistance Officer" (AO) refers to the individual delegated the authority by FEMA to execute and/or administer this instrument.

2. *Amendments:*

This instrument may be amended at any time by a written modification. Amendments which reflect the rights and obligations of either party shall be executed by both the Government and the recipient. Administrative amendments such as changes in appropriation data may be issued unilaterally by the AO.

3. *Cash Depositories:*

a. Any money advanced to the recipient under the terms of this instrument must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally secured.

b. Consistent with the national goal of expanding the opportunities for minority business enterprises, the recipient and its subreciepients are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, D.C. 20230.

4. *Retention and Custodial Requirements for Records:*

a. Financial records, supporting documents, statistical records, and all other records pertinent to this instrument shall be retained for a period of three years, with the following exceptions:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property, if any, acquired with Federal funds shall be retained for three years after its final disposition.

(3) When records are tansferred to or maintained by FEMA, the three-year retention requirement is not applicable to the recipient.

b. The retention period starts from the date of the submission of the recipient of the final expenditure report.

c. FEMA will request transfer of certain records to its custody from the recipient rating party when it determines that the records possess long-term retention value. The recipient shall make such transfers as are requested. However, In order to avoid duplicate recordkeeping, FEMA may make arrangements with the recipient to retain records at the point of use, for those that are continuously needed during the progress of work.

d. The Director of FEMA and the Controller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, and its subgrantees, to make audits, examinations, excerpts and transcripts.

5. Financial Management Systems:

The recipient shall maintain a financial management system that provides for the following:

a. Accurate, current and complete discolsures of the financial results of this instrument in accordance with General Provision 6 entitled "Financial reporting Requirements."

b. Records that identify adequately the source and application of funds for Federally supported activities. These reports shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays and incomes.

c. Effective control over and accountability for all funds, property and other assets.

d. A comparison of acutal outlays with budgeted amounts and the relationship of specific performance and costs incurred.

e. Procedures to minimize the time elapsing between the transfer of funds to the recipient and disbursement by the recipient when advances of letters-of-credit are used.

f. Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of the FEMA Emergency Food and Shelter Plan.

g. Accounting records that are supported by source documentation.

h. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

The recipient shall require its recipients to adopt the standards above except for the requirements in paragraph (e) regarding the use of the letters-of-credit method and that part of subparagraph (a) regarding reporting forms and frequencies prescribed in General Provision 6.

5A. *Audit Requirements:*

a. State governments shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits.

b. The provisions hereunder do not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent audits arranged for by recipients meet the General Accounting Office (GAO) and standard, the FEMA Inspector General shall rely on them, and any additional audit work shall build upon the work already done.

c. Audits shall be made in accordance with the GAO Standards for Audits of Governmental Organizations, Programs, Activities and Functions, the guidelines for Financial and Compliance Audits of Federally Assisted Programs, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

d. The State shall complete an audit of the program within 45 days of the date that all funds are expended.

e. The auditor shall promptly notify the cognizant agency and recipient management officials above the level of involvement of any irregularities include discovered. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

f. Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by FEMA of the need to extend the retention period. The audit workpapers shall be made available upon request to FEMA or its designees and the General Accounting Office or its designees.

5B. *Letter of Credit:*

a. To finance the operations of the recipient under this instrument.

b. Cash advances to the recipient shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advance shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

c. Letter-of credit will be established by FEMA.

d. The letter-of-credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated

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funds in good faith thereunder in executing this agreement.

e. The recipient commits itself to:

(1) Initiating cash drawdowns only when actually needed for its disbursements;

(2) Timely reporting of cash disbursements and balances; and

f. Procedures for establishment and operation of a letter-of-credit are contained in FEMA Manual 2700.1, Letter of Credit Policies AND Procedures. A copy of this manual can be obtained by writing the following address: Federal Emergency Management Agency, Office of the Comptroller, Accounting Division, 500 C. Street SW., Washington, DC 20472.

6. *Financial Reporting Requirements:*

a. Recipient shall submit an original and two copies of a final Financial Status Report (Standard Form 269) within 90 calendar days after the end date of the grant.

b. The recipient shall submit an original and two copies of a Federal Cash Transaction Report (Standard Form 272) 15 working days following the end of each monthly reporting period.

5B. *Letter of Credit:*

a. To finance the operations of the recipient under this instrument.

b. Cash advances to the recipient shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advance shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

c. Letter-of-credit will be established by FEMA.

d. The letter-of-credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing this agreement.

e. The recipient commits itself to:

(1) Initiating cash drawdowns only when actually needed for its disbursements;

(2) Timely reporting of cash disbursements and balances; and

f. Procedures for establishment and operation of a letter-of-credit are contained in FEMA Manual 2700.1, Letter of Credit Policies and Procedures. A copy of this manual can be obtained by writing the following address:

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b. The recipient shall submit an original and two copies of a Federal Cash Transaction Report (Standard Form 272) 15 working days following the end of each monthly reporting period.

7. *Closeout Procedures:*

a. The following definitions shall apply:

(1) Closeout—the closeout of this instrument is the process by which FEMA determines that all applicable administrative actions and all required work of the instrument have been completed by the recipient and FEMA.

(2) Date of completion—the date on which all work under the instrument is completed or the date in the award document, or any supplement or amendment thereto (including termination notices subject to the clause entitled Suspension and Termination Procedures), on which Federal assistance ends.

(3) Disallowed costs—disallowed costs are those charges to the instrument that the AO determines to be unallowable in accordance with the applicable Federal cost principles or other conditions contained in the instrument.

b. The parties shall close out this instrument in accordance with the following procedures:

(1) The recipient shall immediately refund any balance of unobligated (unencumbered) funds that FEMA has advanced or paid and that is not authorized by FEMA to be retained by the recipient for use in other instruments.

(2) The recipient shall submit to AO within 90 days after completion of this instrument all financial and other data required by the AO to closeout the instrument. The AO may grant extensions when requested by the recipient.

(3) In the event a final audit has not been performed prior to the close out of the instrument, FEMA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

8. *Suspension and Termination Procedures:*

a. The following definitions shall apply:

(1) Termination—termination of this instrument means the cancellation of Federal assistance, in whole or in part, under the instrument at any time prior to the date of completion.

(2) Suspension—the suspension of this instrument is an action by the AO that temporarily suspends Federal assistance under the instrument pending corrective action by the recipient or pending a decision to terminate the instrument by FEMA.

9. *Subgrant.* As FEMA's grantee, the State has responsibility for assuring the proper administration of subgrants to include:

(1) Proper conduct of the financial affairs of a subgrantee insofar as they relate to a project for which grant funds have been made available; and

(2) Default in which the State may be held accountable for improper use of grant funds.

(3) As subgrant applications are approved by the State, subgrantees will receive formal statements of award evidencing such action and indicating the amount of the subgrant and any special conditions of the grant.

(4) Recipients of subgrants will make all applications for Federal funds to the State. Such applications will be in accordance with the subgrant regulations and procedures of the State.

(5) All subgrants made by the State are subject to the conditions of this instrument.

Annex 2–4—Emergency Food and Shelter Program Monthly Report

Report No.: _____
State: _____
Report Date: _____
Amount of State Grant $ _____
Total funds disbursed $ _____
Grant funds remaining $ _____

RECIPIENT ORGANIZATION DATA

	Name	Location of organization	Grant dollars this report	Cumulative dollars received
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
Total				$—

Comments: _____

Instructions: The completed report shall be submitted to appropriate FEMA Regional Office within 10 days of the end of the month. Make the report cumulative by adding entries as new awards are made. Add extra pages as appropriate, retaining the item numbers as first reported.

Annex 2–5—Recipient Organization Certification (Sample)

This document certifies our organization meets the requirements of a local recipient organization. It is non-profit, has an accounting system and practices non-discrimination. Furthermore, we certify funds received from the (State) Emergency Food and Shelter Program fund will be expended in accordance with guidelines established for such purposes.

Organization Name

Signature of Certifying Official
Date

[FR Doc. 83–12888 Filed 5–12–83; 8:45 am]
BILLING CODE 6718–01–M

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federal register

Friday
May 13, 1983

Part VI

Department of Health and Human Services

Public Health Service

National Demonstrations of Adolescent Family Life Programs; Announcement of Availability of Grants

VOL
48
ISS
94
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Grants for National Demonstrations of Adolescent Family Life Programs

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for National Demonstrations of Adolescent Family Life Programs. These grants are for demonstration projects which test new approaches to providing care services for pregnant adolescents and adolescent parents, prevention services to reach adolescents before they become sexually active, or a combination of care and prevention services as authorized by Title XX of the Public Health Service Act (42 U.S.C. 300z, *et seq.*). The demonstration projects must be national in scope, include a number of sites or test areas in different States and Regions and permit systematic comparisons.

DATE: Applications must be postmarked or received at the above address on June 14, 1983 by 4:30 p.m.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Adolescent Pregnancy Programs, Room 702, 300 7th Street, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Donald Underwood, (202) 472–5588 or (202) 245–7473.

SUPPLEMENTARY INFORMATION: Title XX of the Public Health Service Act, 42 U.S.C. 300z *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. This notice announces the availability of approximately $750,000 in funding for national demonstration projects. It is anticipated that up to 4 projects can be funded with the largest being about $400,000. We summarize below the statutory background of the grant program and describe the procedures for applying for grants pursuant to this notice.

Statutory Background

Title XX authorizes grants for three types of demonstration projects: (1) projects which provide "care services" only (i.e., services for the provision of care to pregnant adolescents and adolescent parents); (2) projects which provide "prevention services" only (i.e., services to prevent adolescent sexual relations), and (3) projects which provide a combination of care and prevention services. The specific services (termed "necessary services") which may be funded under Title XX are the following:

(1) Pregnancy testing and maternity counseling;

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(3) Primary and preventive health services including prenatal and postnatal care;

(4) Nutrition information and counseling;

(5) Referral for screening and treatment of venereal disease;

(6) Referral to appropriate pediatric care;

(7) Educational services relating to family life and problems associated with adolescent premarital sexual relations, including:

(a) Information about adopting;

(b) Education on the responsibilities of sexuality and parenting;

(c) The development of material to support the role of parents as the provider of sex education; and

(d) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concering self-discipline and responsibility in human sexuality;

(8) Appropriate educational and vocational services and referral to such services;

(9) Referral to licensed residential care or maternity home services;

(10) Mental health services and referral to mental health services and to other appropriate physical health services;

(11) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(12) Consumer education and homemaking;

(13) Counseling for the immediate and extended family members of the eligible person;

(14) Transportation;

(15) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors; (and)

(16) Family planning services * * * (Sec. 2002(a)(4)[1]

[1] Statutory citations are to Title XX of the Public Health Service Act.

Under the statute, the services described in subparagraphs (1), (4), (5), (7), (8), (13), (14), and (15) above are "prevention services". (Sec. 2002(a)(8)). Grantees which provide "care services" must provide those "necessary services" which are "core services". (Sec. 2002(a)(5)). In accordance with Sec. 2002(b), the regulations promulgated under Title VI of the Health Services and Centers Amendments of 1978 must presently be used to determine which of the above services are core services. Accordingly, the services described in subparagraphs (1), (2), (3), (4), (5), (6), and (7) above are core services. In addition, the referrals described by subparagraphs (8) and (10) are also core services. The services described in subparagraph (16) are core services when suitable and appropriate family planning services are not otherwise available in the community.

This announcement seeks applications from organizations which can develop and implement a national demonstration in sites throughout the country. These demonstrations will systematically test a model or models in a number of sites or test areas in different States and regions. Projects should use field experiments, quasi-experimental or experimental designs, or other innovative research methods in order to determine program effects, both short- and long-term in client populations. Applications should include:

(1) A description of the project objectives and a detailed explanation of how the program design will be suitable for testing the hyotheses chosen for examination.

(2) A description of sites and organizations to be involved in the implementation of the demonstration program. Evidence should be provided of the organization's ability to conduct the demonstration project in the designated sites and to provide rigorous evaluation of the data.

(3) an overall evaluation plan which tests the objectives of the demonstration project. This design should identify the critical issues to be examined; define the relationships among key variables; and propose relevant hypotheses, outcome measures, associated data requirements, comparison/control group recruitment strategies, and statistical methods to be employed.

All projects must fulfill the applicable statutory requirements for care, prevention or combination projects.

Eligible Applicants

Any public or private nonprofit organization or agency which meets the requirements of section 2002(a)(3) is eligible to apply for a grant.

Application Requirements

Applications must be submitted on the forms supplied in the application kits available from the Office of Adolescent Pregnancy Program (OAPP). Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of the legislation governing this program will be sent to applicants as part of the application kit package. Program regulations are presently being developed, and applicants will be expected to revise their applications to comply with any regulations issued. In the interim, applicants should use the legislation, and the proposed regulations which it is expected will be published shortly, to guide them in developing their applicants. All applicants should review and must comply with the requirements for applications in 2006(a). Awards will be made only to those applicants who have met all applicable statutory requirements.

Applicants may submit proposals that provide for demonstrations of care services only, prevention services only or a combination of care and prevention services. Applicants proposing to provide a combination of care and prevention services should submit budget requests that provide a clear delineation between funds allocated for prevention services and funds allocated for care services.

Section 2006(b)(1) requires each grantee to expend at least one percent but not more than 5 percent of the funds received under Tilte XX on evaluation of the project. While the statute allows waiver of the 5% limit on evaluation (see Section 2006(b)(1)), waivers are rarely granted. Therefore, applicants who anticipate evaluation costs in excess of the limit should exhaust all possible alternative sources of funds before considering requesting a waiver for an evaluation amount 'n excess of 5%.

Applicants for combination grants should include provision for evaluating both prevention and care components.

In addition to the above, applicants for grants must meet the following requirements:

(1) *Requirements for Review of an Application by the Governor.* Section 2006(e) of the Public Health Service Act requires that—

> Each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this Title.
>
> The Governor shall submit to the applicant comments on any such application within the period of sixty days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

An applicant may comply with this requirement by submitting a copy of the grant application to the Governors of the States in which the proposed sites are located at the same time the application is submitted to OAPP. To inform the Governors' offices of the reason for the submission, a copy of this notice should be attached to the application. The Governors have sixty days in which to provide comments to the applicant.

The applicant must provide a copy of the comments or verification that there were no comments to the above address by August 29, 1983.

(2) *Circular A–95 Notification Process.* In order to comply with the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to OAPP, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to State Clearinghouses. Some State and Areawide Clearinghouses provide their own forms on which this information is to be submitted.

Applicants are advised to contact the appropriate State Clearinghouses (listed at 42 FR 210, January 10, 1977) for detailed information on meeting the A–95 requirements. It is strongly recommended that the Clearinghouses be notified as soon as a decision is made to apply for a grant. The application can be submitted to the Clearinghouses concurrently with the submission to OAPP. Clearinghouse comments or verification that no comments were made within the period available can be submitted to OAPP no later than August 29, 1983.

(3) *Health Systems Agency (HSA) Review.* In order to comply with the HSA review requirements under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001–2(e), as amended, applicants must contact the HSA's responsible for the areas to be served by the proposed project to determine whether or not the HSA desires to review the application. If so, a copy of the apllication must be submitted to each HSA for review no later than June 14, 1983. Applicants are advised to contact the local HSA's as soon as a decision is made to apply for a grant for detailed information on meeting this review requirement. Applications will not receive a formal review by OAPP without satisfying this requirement.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the applicable statutory requirements will not be accepted for review in this grant cycle. Applicants will be so notified, and the applications will be returned. All other applications will be subjected to competitive review and assessment.

Eligible applications will be reviewed and assessed to determine which applications best meet the applicable statutory requirements, come within the statutory priorities, and promote the purpses of the act. When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications.

Dated: May 9, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83–12905 Filed 5–12–83; 8:45 am]

BILLING CODE 4160–17–M

VOL
48
ISS
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13
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federal register

Friday
May 13, 1983

Part VII

Department of Health and Human Services

Public Health Service

Family Planning Services Delivery Improvement Research; Announcement of Availability of Grants

VOL 48 ISS 94 MY 13 1983 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Grants for Family Planning Services Delivery Improvement Research

AGENCY: Office of Family Planning, PHS, HHS.

ACTION: Notice.

The Office of Family Planning (OFP) of the Public Health Service invites research grant applications on a range of topics about which greater knowledge is needed as a basis for improving the delivery of family planning services. Section 1004(a) of Title X of the Public Health Service Act authorizes grants to public or non-profit private entities for research projects in the field of program implementation related to family planning services (Catalogue of Federal Domestic Assistance No. 13.974).

This request for applications is for a single competition with a specified deadline (June 20, 1983) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposals review and award decisions will take place during the Summer, 1983. The earliest start date for grants would be October 1, 1983, and proposals should be written with that date in mind.

In this RFA, several areas of research have been identified where current knowledge is inadequate from the viewpoint of delivery of family planning services. These research areas are the portion of the FY 1983 service delivery improvement research agenda that is especially suitable for field-initiated research studies. Other areas are suitable for directed activities which will be commissioned through Requests for Proposals or conducted through interagency agreements.

I. Research Areas

The specific areas identified for research in this RFA cover a broad range of topics of interest to those concerned with the improvement of family planning service delivery. Imaginative, rigorous research on any of these topics should yield results that will contribute to the goal of better family planning service delivery.

The topic areas identified for service delivery improvement research by this RFP are as follows:

1. What are the particular family planning needs of underserved subgroups of the low-income population? What are the personal, cultural, and institutional factors which influence whether or not individuals in these groups obtain needed family planning services from the public or private sector? What efforts are currently being made by family planning clinics to address the problems related to these factors?

2. What factors influence family planning clinic patients still desiring family planning to "drop out" of clinics? What are the socioeconomic, demographic, and ethnic characteristic of clients associated with clinic discontinuance? What are the clinic characteristics and procedures associated with discontinuance? What happens to the individuals still desiring family planning who do not return for further clinic services? What is being done to improve the continued use of family planning clinics by poor women who discontinue for clinic-associated reasons? What assistance do family planning clinics provide clients to promote their continuation of effective contraception, if still desired, after clinic attendance ceases?

3. What are the managerial and organizational factors involved in the provision of effective and efficient services to poor women in a family planning program and its clinics? What differences exist in these managerial and organizational factors by such variables as type of low-income client served, effectiveness, cost, quality, and location in which services are delivered?

4. What various configurations of staff are associated with optimal provision of family planning services for poor women in different clinic settings? What are the problems that family planning clinics experience in establishing and maintaining optimal staffing patterns, including the provision of continuing professional education for staff?

5. What are the different types of counseling available through family planning clinics? What cost variations exist with regard to the different types of counseling approaches? Are there variations in counseling approaches and costs according to client characteristics? How successful are the different counseling approaches in assisting clinic clients to plan their families?

6. What are the costs of providing services at family planning clinics? How do these costs differ by the kinds of services provided, the differences in the characteristics of the clients, and variations in the types and locations of the clinics? What has been done to reduce these costs while still maintaining the quality of services provided to poor women?

7. What is the role of the private physician in the provision of family planning services to poor women? What are the types and costs of family planning services obtained by poor women from private physicians? Why do some poor women go to private physicians for family planning services while others go to family planning clinics? Under what circumstances do some of these women change from one type of provider to another?

8. What is the current nature of infertility problems among poor women? What factors are associated with this condition? What type and amount of infertility services do poor women receive in the public and private sectors? What are the costs and outcomes associated with the treatment of each infertility problem category? How does each of the above vary by individual characteristics?

9. What have been the most effective ways of involving males in family planning in the public and private sectors? What are the costs of different modes of male family planning involvement and what are associated differences in outcomes, including the male's influence on his partner's effective use of contraceptives?

When addressing the subject of poor women in the research areas above, every effort should be made to distinguish between those individuals below 100 percent of poverty and those between 100 and 150 percent of poverty.

II Research Scope

This RFA encourages a variety of social science and other scholarly approaches and methodologies in the study of the research questions posed above. A program goal is to develop a broad research base, but limited available funds may preclude funding in all nine areas. The program is committed to funding only proposals that excel in meeting the review criteria enumerated in Section V below and that show substantial promise of producing results that will have relevance for policy-makers and service providers.

Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. The question of how findings from the study sample can be generalized to larger populations served by family planning services programs should be addressed.

In order to make data available to other interested scholars and policy-makers as quickly and broadly as possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited only after: (1) appropriate deletions have been made to protect the personal privacy of subjects and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal, and applications should include a plan for making the data-sets available to a public use data archive or the Office of Family Planning.

III. Mechanism of Support

Research grants are authorized under Section 1004(a) of the Public Health Service Act (42 U.S.C. 300a–2(a)). Because a variety of approaches would represent valid responses to this RFA, it is anticipated that direct costs will range from approximately $10,000 to $100,000 per award year. While all applications in that cost range will be considered equally on their scientific merits, OFP wishes to encourage applications with total direct costs below $20,000 as a way of stimulating (1) participation by new investigators, (2) test applications of innovative research techniques, and (3) creative use of existing data sets or ongoing data collection systems. A program goal will be to fund projects both above and below $20,000 direct costs so that a variety of approaches is supported. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. As much as $0.7 million dollars may be available for grants in fiscal year 1983 under this announcement, and as many as 7–14 research grants may be awarded.

IV. Eligibility

This competition is open to any public or non-profit private institution or agency. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

V. Review Criteria

The review of applications is governed by Title 42 CFR Part 52. Review criteria include:

(1) Scientific merit and significance of the project;

(2) Competency of proposed staff in relation to the type of research involved;

(3) Feasibility of the project;

(4) Reasonableness of proposed budget period in relation to the proposed research;

(5) Amount of grant funds necessary for completion, and adequacy of applicant's resources available for project;

(6) Adequacy of methodology proposed to carry out the research; and,

(7) The adequacy of the proposed means for protecting against adverse effects upon humans, animals, or the environment, where an application involves activities which could have such effects.

VI. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed.

No review is required under OMB Circular A–95, or by a Health Planning Agency.

An original and 25 copies of the application must be received before 4:30 p.m. Eastern time, on June 20, 1983. Applications should be sent or delivered to Division of Research Grants, National Institutes of Health (NIH), Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205. Type across the top of the face page: THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RFA ENTITLED "FAMILY PLANNING SERVICES DELIVERY IMPROVEMENT RESEARCH." A copy of the full proposal should be sent to: Donald Underwood, Office of Grants Management, Office of Population Affairs, Reporters Building, Room 612, 300 7th Street, SW., Washington, D.C. 20201.

If you have questions regarding this RFA, please contact Dr. Patricia Thompson, OFP, at 202/472–7916.

Dated: May 9, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc 83–12908 Filed 5–12–83: 8:45 am]

BILLING CODE 4160–17–M

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federal register

Friday
May 13, 1983

Part VIII

Department of Health and Human Services

Public Health Service

Research on Adolescent Family Life; Announcement of Availability of Grants

VOL 48 ISS 94 MY 13 1983 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Grants for Research on Adolescent Family Life

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.
ACTION: Notice.

The Office of Adolescent Pregnancy Programs (OAPP) of the Public Health Service invites research grant applications for investigations of adolescent premarital sexual relations and adoption.

Title XX of the Public Health Service Act authorizes research concerning adolescent premarital sexual relations, contraceptive use, pregnancy, and childrearing. This RFA addresses that portion of the research agenda appropriate to field-initiated research studies. The RFA identifies the scope of OAPP interest in these questions but does not require that proposals conform to narrowly specified research requirements.

This request for applications is for a single competition with a specified deadline (June 20, 1983) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposal review and award decisions will take place during the Summer, 1983. The earliest start date for grants would be October 1, 1983; and proposals should be written with that date in mind.

I. Background

The Adolescent Family Life Demonstration Projects Act (Title XX, Public Health Service Act) widened the concern of the Federal Government with adolescent pregnancy and parenting. The Act provides for research concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy, and childrearing.

The research areas outlined in this RFA are: (1) family, peer, and institutional influences on adolescent premarital sexual relations; and (2) factors affecting trends and differentials in the proportion of adolescent mothers who place their babies for adoption.

II. Research Areas

A. *Family, Peer and Institutional Influences on Adolescent Premarital Sexual Relations.* Little is known about the family, peer and institutional influences on the initiation and continuation of adolescent premarital sexual relations or differences in those influences by ethnicity, sex, age, socio-economic status or other variables. There is also inadequate understanding of these influences on youth today as compared to those in the past. Accordingly, the RFA seeks proposals for research on these questions:

1. *What information and values do families, peers, and institutions convey about adolescent premarital sexual relations and how are they conveyed?*

Adolescents learn about sexuality from many sources. Of these, parents, peers, and institutions appear to be among the most important. Yet little systematic information is available on the transmission of information and values through families, peers, and institutions. Studies should focus on the process by which families, peers, and institutions convey sexual information and values as well as on their content.

2. *How important is each influence on adolescent premarital sexual relations, and how do these influences interact?*

Research should examine the effects of family, peer, and institutional influences on adolescent decisions to delay, engage in, or discontinue sexual relations. In particular, we should examine which influences are most important when adolescents are faced with conflicting information and pressures about sexual values and behavior. Studies should focus on links among family, peer, and institutional influences, and which of these influences have the greatest effect on the initiation and continuation of adolescent premarital sexual relations, taking into account adolescent cognitive, emotional, and moral development.

B. *Adoption.* The proportion of pregnant adolescents who choose to make an adoption plan for their babies is low. Many explanations have been offered, including the acceptability of single parenting, the availability of welfare services, and the rise in abortion. While these factors may have had an impact, there is evidence it is a more complex phenomenon. For example, some recent research suggests that the availability of adoption-related services (such as maternity homes) has been declining for a number of years. Further, a study of school-based services for pregnant adolescents reveals that some officials do not see it as their responsibility to offer adolescents counseling on adoption.

Research in the area of adolescent pregnancy and adoption is limited. We know little about the rate of adoption of children born to adolescents in the past. The lack of research on adoption and adolescents, and on differences in adoption practices by ethnicity, socio-economic status and demographic factors, limits our ability to develop better programs and policy. Accordingly, OAPP requests applications for research on factors affecting trends and differentials in the proportion of adolescent mothers who place their children for adoption. The proposed research should attempt to answer one or more questions of the following types.

1. What are the characteristices of the adoption service delivery system? What are the number and types of adoption service providers (such as, public agency, private agency, or independent agents) and how are they related to one another? How has the service delivery system changed over time?

2. How many and what kinds of persons want to adopt children, considering such factors as education, income, ethnicity, marital history, and fertility history? What factors affect their decision to adopt? How do they enter the adoption service delivery system, and what is their experience in the system?

3. What characteristics of adolescent mothers are related to their decision about making an adoption plan? Does the proportion who make an adoption plan vary among major population subgroups? If so, does such variation reflect different attitudes toward adoption or different access to adoption services? How do career plans and life-goals affect the adoption decisionmaking process of these young mothers? What beliefs do they have about adoption and how did they acquire them? How do their beliefs about adoption affect their decision-making about adoption?

III. Research Scope

This RFA encourages all applicable social science and other scholarly approaches to the study of the research questions it poses. Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. Proposals should indicate how data and analysis from such activities will advance scientific understanding of the larger research questions. Also, applications should discuss implications of the proposed study for current issues of policy and program management: to what issues is the study relevant? How might it clarify those issues? How could the study findings be communicated effectively to policy-makers and program managers? Could findings from the study sample be generalized to the larger populations affected by policy and served by programs? It is the goal of the program to develop a research base in all research areas and subareas described in the RFA. An attempt will be made to fund an array of proposals so that the program goal is achieved.

In order to make data available to other interested scholars and policy-makers as quickly and broadly as possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited with OAPP. Data sets will be deposited only after: (1) Appropriate deletions have been made to protect the personal privacy of subjects, and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal and applications should include a plan for making the data sets available to a public use data archive or OAPP.

IV. Mechanism of Support

This program will award research grants under Title XX, Public Health Service Act (Adolescent Family Life Demonstration Project Act, 42 U.S.C. 3002, *Catalog of Federal Domestic Assistance*, 13.111). Because a variety of approaches would represent valid responses to this RFA, it is anticipated that direct costs will range from approximately $10,000 to $100,000 per award year. While all applications in that cost range will be considered equally on their scientific merits, OAPP especially seeks applications with total direct cost below $20,000 in order to encourage (1) Participation by new investigators, (2) application of innovative research techniques, and (3) creative use of existing data sets or ongoing data collection systems. An attempt will be made to fund projects both above and below $20,000 direct cost so that the goal of diversity in research approaches is achieved. Under Title XX, no project may incur direct costs beyond $100,000 unless OAPP obtains a special waiver from the Secretary of Health and Human Services, and only if the Secretary determines that: "(A) Exceptional circumstances warrant such waiver and that the project will have national impact; or (B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title." Sec. 2008(a)(3).

By statute, the total project period of the proposal must not exceed 5 years and no project will receive an initial award for more than a year. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. As much as $0.6 million may be available for grants in Fiscal Year 1983 under this announcement, and as many as 10–15 research grants may be awarded.

V. Eligibility

This competition is open to any corporation, public or private institution or agency, including corporations operated for profit. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

VI. Review Criteria

The review of applications is governed by Title 42 CFR Parts 52 and 52h. Under those regulations, the following review criteria will be taken into consideration: "(a) The significance and originality from a scientific or technical standpoint of the goals of the proposed research; (b) the adequacy of the methodology proposed to carry out the research; (c) the qualification and experience of the principal investigator and proposed staff; (d) the reasonable availability of resources necessary to the research; (e) the reasonableness of the proposed budget and duration in relation to the proposed research; (f) where an application involves activities which could have an adverse effect upon humans, animals or the environment, the adequacy of the proposed means for protecting against or minimizing such effects." (Title 42 CFR, 52h.8)

VII. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed. No review is required under OMB Circular A–95, nor by a Health Planning Agency, unless the proposed research would establish a demonstration project for purposes of collecting data.

An original and 25 copies of the applications must be postmarked before 4:30 p.m. Eastern time, on June 20, 1983. Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Type across the top of the face page: THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RFA ENTITLED "ADOLESCENT FAMILY LIFE." A copy of the full proposal should be sent to Donald Underwood, Office of Grants Management, Office of Population Affairs, Reporters Building, Room 612, 300 7th Street SW., Washington, D.C. 20201. If you have questions regarding this RFA please contact Dr. Gerry Hendershot, OAPP, at (202) 472–7916.

Dated: May 9, 1983.

Majory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83–12907 Filed 5–12–83; 8:45 am]
BILLING CODE 4160–17–M

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MY
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federal register

Friday
May 13, 1983

Part IX

Department of Education

Expected Family Contribution for the Pell Grant Program; Final Regulations and Expected Family Contribution Schedule for the Self-Help Grant Program; Republication of Proposed Rule

VOL
48
ISS
94
MAY
13
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UMI

DEPARTMENT OF EDUCATION

34 CFR Part 690

Expected Family Contribution for the Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for determining a student's expected family contribution under the Pell Grant Program for the 1984–85 award year. These regulations are authorized by section 482 (b) and (c) of the Higher Education Act of 1965, as amended (HEA) and section 6 of the Student Financial Assistance Technical Amendments Act of 1982, Pub. L. 97–301. The expected family contribution schedule is used to determine the amount of a student's Pell Grant award.

EFFECTIVE DATE: These regulations are expected to take effect on June 15, 1983. If you want to know the effective date of these rules, call or write the contact person listed below. It should be noted, however, that these regulations apply only to Pell Grants to be made for the period of July 1, 1984 through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education [Room 4318, ROB–3] 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION:

General Background

On March 21, 1983 (48 FR 11910) the Secretary published in the **Federal Register** a Notice of Proposed Rulemaking setting forth alternative regulations for determining the expected family contribution under the Self-help Grant Program (Alternative A) and under the Pell Grant Program (Alternative B). The legislation to authorize the Self-help Grant Program and provide for the implementation of Alternative A was submitted to Congress on March 17, 1983. Congress has not yet acted upon this legislation. Alternative B is published as the final regulation because Alternative A is not statutorily authorized at this time. If Congress provides legislation to authorize the proposed Self-help Grant Program, the Secretary will promptly publish Alternative A as the final regulation. However, until that time, these proposed rules are republished in this issue of the **Federal Register** for information purposes.

The Secretary urges Congress to enact the enabling legislation for the Self-help Grant Program which will provide grants to needy undergraduate students and will restore the traditional responsibility of the student and parent in meeting educational costs. The Self-help Grant proposal incorporates a reduction of data elements in determining need so that funds will be distributed more accurately and will be preserved for those who are truly qualified. The Self-help Grant Program is designed to assure equity by targeting awards to the most economically disadvantaged students, by relating the level of awards directly to the family's ability to contribute to educational costs, and by making awards more sensitive to the cost of education.

By improving award accuracy and by distributing funds more equitably, a $3,000 maximum grant can be provided under the President's budget request of $2.7 billion.

In the 1983–84 award year Congress appropriated $2.4 billion to provide a maximum grant of $1800 which could meet up to 50 percent of the cost of education. Without changes to the existing law, Alternative B, here published as the final regulation, would cost $3.4 billion to provide the authorized maximum grant of $2,500 and meet up to 65 percent of the cost of education. The regulation is based on the need analysis provisions found in paragraphs (a), (b), and (c) of Section 482 of the Higher Education Act of 1965, as amended, and on sections 4 and 6 of Pub. L. 97–301.

The Education Amendments of 1980 (Pub. L. 97–374) made substantial changes in the statutory language of the formula that determines the expected family contribution for the Pell Grant Program. Many of these changes, such as the exclusion of home equity, and the use of State and local taxes, apply to the 1984–85 award year even though they were not incorporated in the 1982–83 and 1983–84 Family Contribution Schedules because Congress mandated an alternative formula for those award years.

The items described below are changes in the formula from the 1983–84 Pell Grant Family Contribution Schedules.

Changes to Income Assessment

I. Treatment of Dependent Student Income

For 1983–84, the contribution from a dependent student's income was based on the income he or she received during the calendar year prior to the first calendar year of the award year (i.e., income for 1982 for the 1983–84 award year). This is called base year income. However, in those cases where the student estimated that his or her income for the school year would not exceed 60 percent of the actual income reported for the base year, the Pell Grant formula automatically used the student's estimated income in the computation of the student's eligibility. The income was assessed, after an offset had been subtracted, at the rate of 75 percent for single students and 25 percent for married students.

For 1984–85, the Secretary will add dependent student income to parental income and that total income will then have the appropriate family size offset applied to it that would otherwise have been applied only to the parental income. The offset for the student's basic living cost is already included in the family's household size offset. The dependent student income offset that has been used in the past will be eliminated. All dependent student income will now be assessed, although, at a lower rate. This change reflects the Secretary's interest in promoting the concept of a self-help contribution from students who apply for financial assistance. Most students will now contribute a portion of their income to meet educational expenses.

In the 1984–85 award year, estimated dependent student income will not be used in determining the student's eligibility when the student estimates that his or her income during the school year will not exceed 60 percent of the actual income reported for the base year.

II. Multiple Assessment Rates for Family Income

The Secretary is required to set a series of rates for discretionary income. Discretionary income is the income that remains after income taxes and all of the other offsets are subtracted from the total income of the family. For 1983–84, the first $5,000 was assessed at 11 percent, the second $5,000 was assessed at 13 percent, the third $5,000 was assessed at 18 percent, and discretionary income above $15,000 was assessed at 25 percent. For 1984–85 the first $15,000 of discretionary income will be divided into three amounts. The first $5,000 is assessed at 18 percent, the second $5,000 is assessed at 20 percent and the third $5,000 is assessed at 25 percent. These same assessment rates will apply to married independent students and unmarried independent students with dependents. Single independent students with no dependent children will have their incomes assessed at 75 percent.

III. Updating of the Family Size Offsets To Account for Inflation

The provisions of section 6(c) of Pub. L. 97–301 requires that the family size offsets for the 1984–85 award year shall be based upon the offsets used in the 1983–84 award year, adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, rounded to the nearest $100. The percentage change must be the percentage difference between the arithmetic mean for the period of October 1, 1981, through September 30, 1982, and the arithmetic mean for the period of October 1, 1982, through September 30, 1983. Public Law 97–301 directs the Secretary to publish the family size offset tables for 1984–85 immediately after the Secretary of Labor publishes the Consumer Price Index for September, 1983. Therefore, the family size offsets will be published in the **Federal Register** at that time.

IV. Social Security Educational Benefits

In 1983–84, Social Security educational benefits were not considered in determining a student's eligibility for a Pell Grant as a result of Section 5 of Pub. L. 97–301. For the 1984–85 award year, the Secretary is required by section 482(b)(3) of the HEA to assess all Social Security educational benefits received during the 1984–85 award year as income in determining a student's expected family contribution.

V. Use of Income Taxes as an Offset Against Income

The Education Amendments of 1980 amended section 482(b) of the HEA to require that "Federal, State and local taxes paid or payable with respect to * * * income" be considered. Thus, State and local income taxes as well as Federal income taxes are subtracted from income. In 1983–84, only Federal income taxes were subtracted.

Changes in Asset Assessment

I. Asset Treatment for Dependent Students

For 1983–84, the Family Contribution Schedule provided an asset reserve of up to $25,000 against the parent's principal place of residence, $25,000 against other personal assets, and $80,000 against farm and/or business assets. However, the total asset reserve for a family was limited to $100,000 against all of their assets. Section 482(b)(5) of the HEA requires that home equity shall be excluded from assets, so there is no longer a need for an asset reserve against the parent's principal place of residence. For 1984–85, the parents of dependent children will have an asset reserve of $10,000 against personal assets and $80,000 against farm and/or business assets with remaining assets above these asset reserve amounts to be assessed at five percent.

The treatment of assets specified in the current law for the 1984–85 award year applies to the assets of both the student and the parents. Thus, an asset reserve would be applied against the combined assets of the parents and the student. However, since parental assets will be assessed at five percent and the student's assets at 33 percent, the asset reserve of $10,000 will be applied first against the parental assets. If the parents do not have $10,000 of net assets, they will not need the entire asset reserve. In that case, the amount of asset reserve that they do not need will be applied against the student's assets. Dependent students will only rarely own farms or business of their own. Thus, there is not a parallel treatment of farm and business assets for dependent students. Rather, the farm and business asset reserve of $80,000 will be applied only to the parental assets.

II. Asset Treatment for Independent Students

Married independent students and independent students with dependents will have an asset reserve of $10,000 against personal assets and $80,000 against farm and/or business assets with remaining assets above this reserve amount to be assessed at five percent. As in the past, there will be no asset reserve for single independent students. The assets of a single independent student will be assessed at 33 percent.

Definition of an Independent Student. The definition of an independent student has been removed from the Family Contribution Schedule. A new definition, which will be more stringent for most undergraduate students, will be published as a Notice of Proposed Rulemaking (NPRM) in the Student Assistance General Provisions regulations. The new definition that results from the NPRM will become effective in the 1984–85 award year.

Campus-based Programs Need Analysis Systems. Section 4 of Public Law 97–301 authorizes the Secretary to continue approving separate systems of need analysis for the Supplemental Educational Opportunity Grant, College Work-Study and National Direct Student Loan Programs in the 1984–85 award year.

Comments and Responses. Many comments were received by the Department of Education in response to the proposed rules regarding the new Self-Help Grant Program, which was published as Alternative A in the March 21, 1983 Notice of Proposed Rulemaking (NPRM). Since Alternative A will not be published as a final regulation at this time, the Secretary is only responding to comments that pertain to Alternative B. If the Self-Help Grant Program is enacted by Congress, the Secretary will respond to the comments on Alternative A, at the time a final regulation is published for that program. The following is a summary of the comments received for Alternative B and the Secretary's responses to these comments.

Comment

Several commenters requested information about the appropriation for the Pell Grant Program under Alternative B and the maximum award for Pell Grants under this Alternative.

Response

The Administration has only submitted legislative and budget proposals for the Self-Help Grant Program, which will encompass and extend the goals of the Pell Grant and other student financial assistance grant programs. The proposed funding level for the Self-Help Grant Program is $2.7 billion. No Administration proposals regarding the funding level for the Pell Grant Program have been submitted. While these final regulations only address the determination of the expected family contribution for a student who applies for a Pell Grant, and do not establish the maximum award for that program, the Higher Education Act of 1965, as amended specifies that the maximum award will be $2,500, and that awards can cover up to 65 percent of the cost of attendance. If the Pell Grant Program is fully funded under those provisions, and under these final regulations, it would cost $3.4 billion.

Comment

Several commenters inquired about the data elements that are included in Alternative B of the NPRM, which is the alternative published in this final regulation.

Response

The same data elements that were used in the 1983–84 award year expected family contribution schedules will also apply to the 1984–85 award year expected family contribution

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schedules with the following exceptions: home equity and the income to be earned by the dependent student and spouse during the award year have been deleted; state and local taxes and the student's Social Security educational benefits have been added.

Comment

Many commenters objected to the increase in assessment rates on discretionary income for parents, and students who are married or who have other dependents. Two commenters suggested the increase was being used as a rationing device for distributing Pell Grant funds. Other commenters were concerned that these higher assessment rates would exclude from eligibility many students from middle income families.

Response

The Secretary believes that this increase in assessment rates is in keeping with the Administration's new emphasis upon self-help. Most students who will be ineligible because of the increase would have received small awards or would be more likely to have access to alternative sources of financial assistance. Although some students from middle income families will not be eligible, many students in this category may still qualify. For example, a dependent student from a family of four with one family member in college and assets below the asset reserve level will have an expected family contribution of $1600 if the family income is approximately $21,000.

Comment

A few commenters objected to including a student's Social Security educational benefits as income in determining the expected family contribution. These commenters stated that by the 1984–85 award year, these benefits will only represent 25 percent of the amount provided in August 1981 and only a small percentage of students will still qualify for these benefits, which are being phased out. They also pointed out that the treatment of these benefits has changed several times within the past few years.

Response

Section 482(b)(3) of the Higher Education Act of 1965, as amended, requires the Secretary to take into account any amount paid under the Social Security Act. These benefits were not included in 1983–84 award year because Public Law 97–301 required the Secretary to use the same family contribution schedules for that year that were used in the 1982–83 award year, the year for which Public Law 97–92 mandated that such benefits be treated outside of the Pell Grant expected family contribution formula.

Comment

Two commenters objected to the reduction in the asset reserves. One of these commenters was concerned about the effect of this reduction on farm families.

Response

The final regulation has been changed in response to those comments. For the 1983–84 award year, all equity above $25,000 in the family principal place of residence was assessed. For the 1984–85 award year, home equity is completely excluded. The farm and business asset reserve will be $80,000 with a five percent assessment rate applied to net assets above the reserve figure. And, there will also be a $10,000 reserve against personal assets.

Comment

A few commenters objected to the change in the treatment of dependent student income. One commenter favored retaining the method used in the 1983–84 award year for assessing dependent student income. Other commenters suggested that the additional offset for dependent student income should not be eliminated. Another commenter suggested that the incomes of all family members enrolled in postsecondary education should be combined.

Response

The treatment of dependent student income, as proposed in the NPRM has not been changed. Dependent student income will be added to parental income and that total income will then have the appropriate family size offset applied to it that would otherwise have been applied only to the parental income. The elimination of the additional offset for student income reflects the Secretary's interest in promoting the concept of a self-help contribution from students who apply for financial assistance. While in the past, the income of some dependent students was completely protected by a separate offset, most students will now contribute a portion of their income to meet educational expenses.

The suggestion that the income of a student's siblings who are in college should be included has not been adopted because the income earned by siblings is not usually available to the student. That income generally will be needed in its entirety by the siblings for their own expenses.

Comment

One commenter suggested that financial aid administrators should be allowed to develop their own budgets for determinng a student's cost of attendance. Another commenter requested information about the cost of attendance levels for the Pell Grant Program for the 1984–85 award year.

Response

Section 3 of Public Law 97–301 states that the cost of attendance criteria used for Pell Grants in the 1983–84 and 1984–85 award years, shall be the same as those criteria in effect for the 1982–83 award year. Thus, the method of calculating the cost of attendance will remain the same.

Comment

A few commenters suggested that changes to the Pell Grant Program should be minimized, and one commenter suggested that the family contribution schedules used in the 1983–84 award year should be updated and applied to the 1984–85 award year.

Response

Some of the changes to the previous family contribution schedule, such as the elimination of home equity, and the use of State and local taxes reflect the requirements of the current law. Other changes, such as combining dependent student income with parental income, represent revisions which the Secretary believes will improve the assessment of the family's ability to pay for a student's educational expenses. It should be noted that relatively few modifications have been made to the 1983–84 family contribution schedules.

Comment

One commenter suggested that the incomes of both parents who have separated should be included unless there has been a legal separation.

Response

This suggestion has not been adopted. Requiring a legal separation would be unreasonable and unfair to many low income families who may not be able to afford the expenses of a legal proceeding and who are most in need of financial assistance. The separated parent who is no longer residing in the student's home is not more likely to support the student than is a legally separated parent.

Comment

A commenter has suggested that an exception should be made to the requirement that the spouse's income must be included for refugee families when one spouse is not permitted to leave a foreign country.

Response

In a formula-based program, such as the Pell Grant Program, it is only possible to account for general trends or circumstances that affect a significantly large portion of the population. The separations that rise due to restrictions on emigration from a foreign country or immigration into the United States are more appropriately handled on a case-by-case basis, which is afforded to students who apply for the campus-based programs.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations establish the formula for determining student eligibility for financial assistance under the Pell Grant Program. They do not have an impact on small entities.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student Aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Numbers 84.063, Pell Grant Program)

Dated: May 10, 1983.

T. H. Bell,

Secretary of Education.

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations by revising Subparts C and D to read as follows:

PART 690—PELL GRANT PROGRAM

* * * * *

Subpart C—Expected Family Contribution for a Dependent Student

Sec.

690.31 Indicators of financial strength.
690.32 Special definitions.
690.33 Effective family income.
690.34 Computation of the expected family contribution from the effective family income.
690.35 Computation of the expected contribution from parental assets.
690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.
690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).
690.38 Computation of the total expected family contribution.
690.39 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

690.41 Indicators of financial strength.
690.42 Special definitions.
690.43 Effective family income.
690.44 Computation of the expected family contribution from the effective family income.
690.45 Computation of the expected contribution from the assets of the independent student (and spouse).
690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.
690.47 Extraordinary circumstances affecting the expected family contribution determination.

* * * * *

Authority: Section 482 (b), (c), of the Higher Education Act of 1965, as amended by Pub. L. 97–301, 20 U.S.C. 1089.

Subpart C—Expected Family Contribution for a Dependent Student

§ 690.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student:

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s);

(b) The number of family members in the household of the student's parent(s);

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education;

(d) The assets of (1) the student and his or her spouse, and (2) the student's parent(s);

(e) The unusual medical expenses of the student's parents;

(f) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed, and

(g) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(20 U.S.C. 1099(b))

§ 690.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, real estate (except the student's or parent's single principal place of residence), income producing property, as well as business assets and farm assets as defined below in this section. However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, and

(c) Any other property held in trust for the student or his or her family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means:

(a) The student;

(b) The student's spouse;

(c) Any of the student's dependent children;

(d) Dependent children of the student's parents including those children who are deemed to be dependent students when applying for title IV aid; and

(e) Other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents for the 1984–85 award year.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 690.33.

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"Employment expense offset" means an allowance to meet expenses related to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means—as indicated by the Secretary on an approved application for a Pell Grant—(a) the tax on income paid to the U.S. Government or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Local income tax" means the tax on income paid to a town, city, county, or other local municipality.

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code and that were paid in 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case the expenses reported are those paid in 1984.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

"State income tax" means the tax on income paid to one or more of the 50 States of the United States, or to the District of Columbia.

(20 U.S.C. 1089).

§ 690.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State, and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section and § 690.39,

(1) The sum received in 1983 by the student, his or her spouse, and his or her parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of Title 38 of the United States Code;

(B) Social Security educational benefits received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students;

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of Title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student, or to the student's parents for the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student, his or her spouse, or his or her parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1983 or 1984, the student—

(1) Has received or will receive financial assistance of more than $750 in either of those years from that spouse; or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

(h) The annual adjusted family income does not include any student financial assistance except those veterans or Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.34 Computation of the expected family contribution from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parent's discretionary income by deducting the following offsets from the effective family income:

(1)(i) A family-size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **FEDERAL REGISTER** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(ii) In determining the family-size the following rules apply—

(A) If the parents are not divorced or separated, family members include the student's parents and the dependents of the student's parents.

(B) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(C) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (a)(1)(ii)(B) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income. The expenses that may be reported are those expenses paid by the student, his or her spouse and his or her parents during 1983 unless the student files an application with the secretary under the provisions of § 690.39. In that case, the expenses reported will be those paid in 1984. The expenses of both parents are included only if the income of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income is subject to inclusion.

(3) An employment expense offset calculated as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.32) income earned by work of the parent with the lesser earned income.

(ii) If a parent qualifies as a surviving spouse or head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is the figure for 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1983 unless the student an application with the Secretary under the provisions of § 690.39. In that case, the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
$0 to $5,000	18% of discretionary income.
$5,001 to $10,000	$900 + 20% of amount over $5,000.
$10,001 and above	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Public Law 97–301, section 6(c))

§ 690.35 Computation of the expected contribution from parental assets.

The expected contribution from parental assets is determined in the following manner:

(a) If the parental assets do not include farm or business assets, deduct $10,000 from the net value of parental assets.

(b) If the parental assets include farm or business assets, deduct: (1) $80,000 from the net value of the farm and business assets, and (2) $10,000 from the net value of non farm and non business assets.

(c) If the result obtained under paragraphs (a), (b)(1), or (b)(2) of this section is a negative amount, the expected contribution shall be zero.

(d) The expected contribution from parental assets equals five percent of the total of the results obtained in paragraphs (a) or (b) of this section.

(e) If the calculation of discretionary income required by § 690.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (d) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(f)(1) If the student's parents are separated or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 690.33, the assets of that parent's spouse shall also be incuded.

(20 U.S.C. 1089)

§ 690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined in § 690.34 is added to the amount expected from parental assets as determined in § 690.35.

(b)(1) For each grant, the combined expectation determined under paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of post-secondary education during the award year for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.34(a)(1).

(20 U.S.C. 1089)

§ 690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the assets of the dependent student (and spouse) is determined in the following manner:

(1) Determine the student's asset reserve by subtracting the amount of his or her parent's nonfarm and nonbusiness assets from $10,000. If the result is negative, it shall be changed to zero.

(2) Deduct the asset reserve calculated in paragraph (a)(1) of this section from the student's (and spouse's) net assets. If the result is negative, it shall be changed to zero.

(3) The expected contribution from the net assets of the dependent student (and spouse) equals 33 percent of the remainder obtained in paragraph (a)(2) of this section.

(b) If the married dependent student is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.38 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

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(a) The expected contribution from the effective family income and parental assets as determined under § 690.36, and

(b) The expected contribution from the student's (and spouse's) assets as determined under § 690.37.

(20 U.S.C. 1089)

§ 690.39 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) for effective family income, if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g. a work-study job, that did not produce reportable income, would not be included.

(2) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability, or (ii) a natural disaster.

(3) A parent or stepparent whose income must be reported under § 690.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support.

(4) The parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 690.33 for this condition to apply, or

(5) A parent or stepparent whose 1983 income must be reported under § 690.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 690.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent shall include the income specified in § 690.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on a previously submitted application if the student or his or her family has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

Subpart D—Expected Family Contribution for an Independent Student

§ 690.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse;

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education;

(d) The assets of the student and spouse;

(e) The unusual medical expenses of the student and spouse;

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code; and

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(20 U.S.C. 1089)

§ 690.42 Special definitions.

The definitions of "assets", "business assets", "family size offset", "farm assets", "Federal income tax", "legal guardian", "local income tax", "medical expense", "net assets", "parent", and "State income tax" are set forth in § 690.32.

"Dependent of the student" means:

(a) The student's spouse (unless separated or divorced from the student);

(b) Any of the student's or spouse's children who are deemed to be dependent students (with respect to the student or spouse) when filing for title IV aid;

(c) Other dependent children of the student or spouse; and

(d) Other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than half of their support from the student or spouse for the 1984–85 award year.

"Effective family income" is described in § 690.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(20 U.S.C. 1089)

§ 690.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 690.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student;

(2) One-half of any veterans benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S. C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determinig the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial asssitance except those veterans and Social Security benefits cited in subparagraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1)(i) A family size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(ii) In detemining the family size, the following rules apply—

(A) Family members normally include the student and spouse and their dependents.

(B) However, if the student is divorced or separated, the spouse (exspouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the expenses reported will be those paid in 1984. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset calculated as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their income reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.43) income earned by work of the person with the lesser earned income.

(ii) If a student qualifies as a surviving spouse or head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is that figure for 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependents—

Discretionary income	Expected contribution
Any positive amount	75% of that amount.

(2) For an independent student with dependents including a spouse—

Discretionary income	Expected contribution
$0 to $5,000	16% of discretionary income.
$5,001 to $10,000	$900 + 20% of amount over $5,000
$10,001 and above	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Public Law 97–301, section 6(c))

§ 690.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the assets do not include farm or business assets, deduct $10,000 from the net value of those other assets.

(2) If the assets include farm or business assets, deduct: (i) $80,000 from the net value of the farm and business assets, and (ii) $10,000 from the net value of non farm and non business assets.

(3) If the result obtained under subparagraphs (b)(1), (b)(2)(i), or (b)(2)(ii) of this section is a negative amount, it shall be changed to zero.

(4) The expected contribution from the assets of the independent student with dependents equals five percent of the total of the results obtained in paragraphs (b)(1) or (b)(2) of this section.

(5) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(4) of this section shall be reduced by the amount of that negative discretionary income, but not to an amount below zero.

(6) If the married independent student with dependents is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in program of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 690.44 is added to the amount expected from assets as determined in § 690.45.

(b) For each grant, the combined expectation determined in paragarph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

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Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.44(a).

(20 U.S.C. 1089)

§ 690.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks) in a job that produced reportable income, and is no longer employed full-time.

(2) A spouse whose 1983 income from work must be reported under § 690.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work study job, that did not produce reportable income, would not be included.

(3) The student or spouse whose 1983 income from work must be reported under § 690.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster.

(4) The student or spouse whose income must be reported under § 690.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare and court ordered child support.

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this condition if he or she already was separated at the time the original application was submitted.

(6) A spouse whose 1983 income must be reported under § 690.43 has died after he or she submitted an application for 1984–85, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 690.43(b)(1) (i), (ii) and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix

Introduction

The Secretary is proposing several legislative amendments to the Higher Education Act of 1965, including the creation of a new Self-help Grant Program. The proposed rules for the Self-help Grant Program are republished in this issue of the **Federal Register** for information purposes.

Description of the New Self-help Grant Program

The Secretary is proposing legislation for a new Self-help Grant Program for the 1984–85 award year that will, if enacted, encompass and extend the goals of the Pell Grant, Supplemental Educational Opportunity Grant, and State Student Incentive Grant Programs.

The Self-help Grant Program is designed to provide grant aid as a supplement to the family's and student's self-help contributions toward educational costs at postsecondary institutions. The Administration's Fiscal Year 1984 budget request provides for full funding of awards of up to $3,000 for qualified students. As the cost of education increases, students will qualify for larger Self-help Grant awards and will also be asked to make a larger self-help contribution. Therefore, while restoring some of the responsibility for educational costs to the student and family, substantial grant aid is provided to ensure not only access *to* but a wider choice *of* institutions, particularly for low-income students.

There will be two elements for determining a student's financial eligibility for the Self-help Grant Program. The first element will be the expected family contribution as determined by this proposed regulation. The second element will be a self-help contribution from the student which will be included in the award calculation.

The expected family contribution will incorporate several legislative changes which will focus need analysis on the five most significant indicators of family income. The changes will therefore increase the accuracy of applicant reported data, and will allow for a more complete verification of such data.

The calculation used in determining the student's award will, in general, provide for a minimum self-help expectation of $800 or 40 percent of the cost of attendance. The expectation rises as the cost of attendance increases.

The calculation used to determine a student's grant under this new program will be the lesser of the following:

—Cost of attendance minus $800 minus expected family contribution;

—Cost of attendance minus 40 percent of cost of attendance minus expected family contribution;

—Maximum grant minus expected family contribution;

—$1,200 plus 25 percent of cost of attendance minus expected family contribution.

Cost of attendance not met by the family contribution or the grant represents the student's self-help contribution. The student's self-help contribution can be met either through work earnings, loans, or scholarships.

The allowable cost of attendance for the new program will be direct educational costs (tuition and fees) plus an allowance for indirect costs ($3,000 for students not living at home and $1,500 for students living at home). Except for these numerical changes in the indirect cost allowances, the cost of attendance regulations for the Self-help Grant Program will be identical to the current Pell Grant cost of attendance regulations. The cost of attendance regulations for the Self-help Grant will be published later in the year.

The Self-help Grant Program has a number of advantages over the existing Pell Grant Program. Under the new program all students will have a greater opportunity to attend the postsecondary institution of their choice because students will be able to qualify for larger awards at higher cost schools. Under current law, a low income student's Pell Grant would remain the same at any institution with a cost of attendance above $3,600, as its maximum award is $1,800. Under the new program, a student's Self-help Grant would continue to increase up to a cost of attendance of $7,200. The maximum Self-help Grant will be $3,000 for the 1984–85 award year.

Although the Supplemental Educational Opportunity Grant is currently available to some students to meet expenses at higher cost institutions, many postsecondary institutions that participate in the Pell Grant Program do not participate in the Supplemental Educational Opportunity Grant (SEOG) Program. Thus many low income students are currently denied access to higher cost institutions that do not participate in the SEOG Program, even though these same students are eligible to receive a Pell Grant. This restriction would not exist under the Self-help Grant Program. A similar problem of restricted access to certain postsecondary institutions exists under the State Student Incentive Grant Program.

Another advantage to the new grant program is that it more equitably distributes federal financial assistance to students at a wider range of public and private institutions. Under the current Pell Grant Program the grant award for two students with the same expected family contribution is the same at any institution with any cost of attendance above $3,600. Under the new program these two students' grant awards can vary with cost of attendance up to $7,200. In the new Self-help Grant Program, the student's contribution requirement also varies depending upon the cost of attendance.

The Self-help Grant award calculations will reduce the grants of middle income students attending low cost schools as compared to other students at the same institutions who have a higher financial need. Under the existing program, two students attending the same low cost institution may receive the same award even though one student is from a low income family and another student is from a middle income family.

Proposed Statutory Changes to the Expected Family Contribution Schedule

To strengthen the integrity of the new grant program, the Secretary is proposing several legislative changes to the schedule of expected family contributions to improve the delivery system for the new program.

There is an urgent need to verify the accuracy of applicant data. This need is based upon the findings of several studies conducted by both GAO and the Department of Education. Most recently a Department of Education study calculated the rate of error in Pell Grant awards during the 1980–81 award year. These findings (based on a sample of 4,000 Pell Grant applications and award calculations by 305 financial aid officers) estimated that approximately $340 million in overpayments and $51 million in underpayments were made to students due to inaccurate information supplied by applicants. This error rate indicates an obvious need for radical changes in order to substantially reduce payment errors.

Simpler and more verifiable applicant data can be expected to reduce these large payment errors and increase program equity. Therefore, the Secretary is proposing to reduce the number of data elements that would be used to determine a student's award from 22 to 5. This reduction would leave those elements that are the most significant indicators of income, easiest to verify, and least prone to applicant error. The remaining five data elements are:

1. Adjusted Gross Income.
2. Federal taxes paid.
3. Household size (based on tax exemptions).
4. Non-taxable income.
5. Liquid assets.

The data elements that the Secretary proposes to delete include: business assets, farm assets, home assets, unusual medical expenses, tuition for elementary and secondary education, the number of family members enrolled in postsecondary education, and income of the dependent student.

The advantage of using the five retained data elements is that applicants are less likely to misreport data that require exact figures and that can be verified. It may be argued that the deleted elements in the existing formula are needed to develop an accurate picture of a student's true need. However, the accuracy of this information has been so unreliable that the use of this additional data has adversely affected the determination of need. For example, misreporting of home equity, household size and the number of family members enrolled in postsecondary education had an associated net dollar error of $85 million in the Department's study. The goal of attaining an accurate picture of a student's need comes into question when the use of additional data elements yields such unreliable figures.

Although the taxable income of the dependent student can be verified if the income that is included in the expected family contribution is from the base year, estimated income is often used instead because the income of a dependent student varies substantially from one year to the next. This problem has been resolved by eliminating dependent student income from the calculation of an expected family contribution. However, it should be noted that the income of the dependent's spouse will be included in the expected family contribution.

Dependent student income is taken into account by the student's self-help contribution, which can range from $800 to $4,200. In 1981–82, only 17 percent of the single dependent students received incomes above their $2,650 income offset. Dependent student income that is not taken into account by the self-help contribution will, in many cases, be considered under the student asset (savings) component of the expected family contribution.

The Department's study also indicates that those students who have been misreporting information overwhelmingly do so for their own benefit. Restricting the data elements to those which can be easily verified should improve the accuracy of reported financial information and result in a more equitable distribution of funds.

In addition to being easier to verify and less prone to error than the other data elements, the five retained data elements are the major indicators of wealth for a family. Thus, the use of only those five data elements will not affect the goal of assisting students from low-income families. A formula that requires additional data elements may reduce the expected family contribution of middle income families, but those additional data elements have little effect on families with discretionary incomes that are already very low. There will be some students from middle income families with unusual financial circumstances that are not taken into account by this simpler formula. However, institutions may take these circumstances into account in determining awards from the College Work-Study Program and the need for a Guaranteed or National Direct Student Loan.

[FR Doc. 83-13038 Filed 5-12-83; 8:45 am]
BILLING CODE 4000-01-M

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DEPARTMENT OF EDUCATION

34 CFR Part 691

Expected Family Contribution Schedule for the Self-Help Grant Program

AGENCY: Department of Education.

ACTION: Republication of proposed rules.

SUMMARY: The Secretary of Education is reprinting the proposed rules for the Self-Help Grant Program published in the **Federal Register** on March 21, 1983 (48 FR 11913–11917). These regulations reflect proposed legislative changes to the schedule of expected family contribution for the Pell Grant Program. The proposed rules would improve the delivery system for the new program. The Secretary is also publishing final regulations for the Pell Grant Program in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education (Room 4318, ROB–3) 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 472–4300.

List of Subjects in 34 CFR Part 691

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Dated: May 11, 1983.

Gary L. Jones,

Under Secretary of Education.

The Secretary has proposed to amend Title 34 of the Code of Federal Regulations by adding a new Part 691 to read as follows:

PART 691—SELF-HELP GRANT PROGRAM

Alternative A

Subparts A–B—[Reserved]

Subpart C—Expected Family Contribution for a Dependent Student

Sec.

691.31 Indicators of financial strength.
691.32 Special definitions.
691.33 Effective family income.
691.34 Computation of the expected family contribution from the effective family income.
691.35 Computation of the expected contribution from parental liquid assets.
691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).
691.37 Computation of the total expected family contribution.
691.38 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

691.41 Indicators of financial strength.
691.42 Special definitions.
691.43 Effective family income.
691.44 Computation of the expected family contribution from the effective family income.
691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).
691.46 Computation of the total expected family contribution.
691.47 Extraordinary circumstances affecting the expected family contribution determination.

Subparts E–H [Reserved]

Alternative A

Subparts A and B [Reserved]

§ 691.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for a dependent student:

(a) The effective incomes of the student's parents and the student's spouse;

(b) the number of family members in the household of the student's parents; and

(c) The liquid assets of (1) the student and his or her spouse, and (2) the student's parents.

(Pub. L. 98–)

§ 691.32 Special definitions.

For purposes of this subpart:

"Dependent of the student's parents" means the student, the student's spouse and other persons who have been claimed on a 1983 Federal income tax return as a dependent by the parents, the student and the student's spouse. If the parents have not filed a 1983 Federal income tax return at the time of application, "dependent of the student's parents" means the student, the student's spouse, and other persons who were eligible to be claimed in 1983 by the parents, the student, and student's spouse under the Internal Revenue Code of 1954.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 691.33.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," developed by the Social Security Administration.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under Subtitle A of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Liquid assets" means cash on hand including amounts in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, mutual funds and other securities.

"Net assets" means the current market value at the time of application of the assets included in the definition of "liquid assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

(Pub. L. 98–)

§ 691.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section, and § 691.38.

(1) The sum received in 1983 by the student's parents and the student's spouse, if any, from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code;

(B) Social Security educational benefits received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code.

(3) The Social Security educational benefits to be paid to the student, or to the student's parents for the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in 1983, the student—

(1) Has received financial assistance of more than $1,000 from that spouse; or

(2) Has lived for more than six weeks in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance except those veterans and Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(Pub. L. 98—)

§ 691.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the family's discretionary income by deducting a family size offset from the effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) Determine the family size by applying the following rules—

(1) If the parents are not divorced or separated, family members include the student's parents and the dependents of the student's parents.

(2) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and the dependents of that parent. However, if both parents claimed the same person on a joint tax return, that person is dependent on the parent who will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(3) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (b)(2) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income. Dependents of the new spouse are determined by the same criteria that apply to dependents of the student's parent in paragraph (b)(2) of this section.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
0 to $5,000	18 percent of discretionary income.
$5,001 to $10,000	$900+20 percent of amount over $5,000.
$10,001 and above	$1,900+25 percent of amount over $10,000.

(Pub. L. 98—)

§ 691.35 Computation of the expected contribution from parental liquid assets.

The expected contribution from parental liquid assets is determined in the following manner:

(a) Deduct $10,000 from the net value of the parental liquid assets. If this subtraction produces a negative number, it shall be changed to zero.

(b) Multiply the result obtained in paragraph (a) of this section by ten percent.

(c) If the calculation of discretionary income required by § 691.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (b) of this section, shall be reduced by the amount of that negative discretionary income. If this substraction produces a negative number, the expected contribution shall be zero.

(d)(1) If the student's parents are separated or divorced and not remarried, only the liquid assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 691.33, the liquid assets of that parent's spouse shall also be included.

(Pub. L. 98—)

§ 691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student or a married dependent student (and spouse) with no dependent children equals 33 percent of the amount of those net liquid assets.

(b) The expected contribution from the net liquid assets of the dependent student (and spouse) with dependent children is determined in the following manner.

(1) Deduct an asset reserve of $10,000 from the net liquid assets. If the result is negative, the expected contribution shall be zero.

(2) Multiply the remainder obtained in paragraph (b)(1) of this section by ten percent.

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(c) If a married dependent student is separated, only his or her net liquid assets shall be considered.

(Pub. L. 98—)

§ 691.37 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.34;

(b) The expected contribution from parental assets as determined under § 691.35; and

(c) The expected contribution from the student's (and spouse's) assets as determined under § 690.36.

(Pub. L. 98—)

§ 691.38 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested), if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(2) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability, or (ii) a natural disaster;

(3) A parent or stepparent whose income must be reported under § 691.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(4) The parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparents' income must have been reportable on the previous application under section 691.33 for this condition to apply; or

(5) A parent or stepparent whose 1983 income must be reported under § 691.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 691.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent and spouse shall include the income specified in § 691.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98—)

Subpart D—Expected Family Contribution for an Independent Student

§ 691.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse; and

(c) The liquid assets of the student and spouse.

(Pub. L. 98—)

§ 691.42 Special definitions.

The definitions of "family size offset", "Federal income tax", "legal guardian", "liquid assets", "net assets", and "parent", are set forth in § 691.32.

"Dependent of the student" means the student's spouse, and other persons who have been claimed on the 1983 Federal income tax return as a dependent by the student and student's spouse. If the student has not filed a 1983 Federal tax return at the time of application, "dependent of the student" means the student's spouse and other persons who were eligible to be claimed in 1983 by the student and student's spouse under the Internal Revenue Code of 1954.

"Effective family income" is described in § 691.43.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(Pub. L. 98—)

§ 691.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d) and (e) of this section and § 691.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support paymnents and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under Chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*)

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veteran's and social security benefits cited in paragraphs (b)(2) and (3) of this section.

(Pub. L. 98–)

§ 691.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting a family-size offset from the effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) Determine the family-size by applying the following rules—

(1) Family members include the student, spouse and other persons who have been claimed or could have been claimed in 1983 as a dependent for Federal income tax purposes by the student and spouse.

(2) If the student is divorced or separated, (i) the spouse (ex-spouse) and his or her dependents are not counted in the family size, and

(ii) If both the student and spouse claimed the same person on a joint tax return, that person is dependent on the student rather than the spouse if the student will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amount	75 percent of that amount.

(2) For a married independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amoung	50 percent of that amount.

(3) For an independent student with dependent children—

Discretionary income	Expected contribution
0 to $5,000	18 percent of discretionary income.
$5,001 to $10,000	$900 + 20 percent of amount over $5,000.
$10,001 and above	$1,900 + 25 percent of amount over $10,000.

(Pub. L. 98—)

§ 691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of an independent student with no dependent children equals 33 percent of the amount of those net liquid assets.

(2) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's net liquid assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependent children, the expected contribution from the net liquid assets of the student (and spouse) is determined in the following manner:

(1) Deduct $10,000 from the net value of liequid assets. If this subtraction produces a negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(2) Multiply the results obtained in paragraphs (b)(1) of this section by ten percent.

(3) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(2) of this section shall be reduced by the amount of that negative number, the expected contribution shall be zero.

(c) If a married independent student with dependents is separated, only his or her liquid assets shall be considered.

(Pub. L. 98–)

§ 691.46 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.44 and

(b) The expected contribution from liquid assets as determined under § 691.45.

(Pub. L. 98–)

§ 691.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) An independent student may submit an application to the Secretary for determination of his or expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks during 1983) in a job that produced reportable income and is no longer employed full-time;

(2) A spouse whose 1983 income from work must be reported under § 691.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(3) The student or spouse whose 1983 income from work must be reported under § 691.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster;

(4) The student or spouse whose income must be reported under § 691.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits.

A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this section if he or she was already separated at the time of original filing;

(6) A spouse whose 1983 income must be reported under § 691.43 has died after he or she submitted an application for 1984–85; or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 691.42 has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 691.43(b)(1)(i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98–)

Subparts E–H [Reserved]

[FR Doc. 83-12886 Filed 5-12-83; 8:45 am]
BILLING CODE 4000-01-M

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federal register

Friday
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Part X

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

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OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of May 1, 1983 of 20 rescission proposals and 74 deferrals contained in the first seven special messages of FY 1983. These messages were transmitted to the Congress on October 1, and December 7, and 16, 1982, and January 5, February 1, March 9, and April 21, 1983.

Rescissions (Table A and Attachment A)

Twenty rescission proposals totaling $1,554 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of May 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of May 1, 1983, $3,663.4 million in 1983 budget authority was being deferred from obligation and another $9.6 million in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** listed below:

Vol. 47, FR p. 44524, Thursday, October 7, 1982
Vol. 47, FR p. 55602, Friday, December 10, 1982
Vol. 47, FR p. 57230, Wednesday, December 22, 1982
Vol. 48, FR p. 1266, Tuesday, January 11, 1983
Vol. 48, FR p. 5474, Friday, February 4, 1983
Vol. 48, FR p. 11244, Wednesday, March 16, 1983
Vol. 48, FR p. 18978, Tuesday, April 26, 1983

David A. Stockman,
Director.

TABLE A.—STATUS OF 1983 RESCISSIONS

	Amount (in millions of dollars)
Rescissions proposed by the President	$1,554.0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	[1] 1,554.0

[1] These rescission proposals are still considered to be pending before the Congress, even though the 45-day clock has expired.

TABLE B.—STATUS OF 1983 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President	$13,454.2
Routine Executive releases (-$6,393.5 million) and adjustments ($579.8 million) through May 1, 1983	5,813.7
Overturned by the Congress	9,967.6
Currently before the Congress	[1] 3,672.9

[1] This amount includes $9.6 million in outlays for a Department of the Treasury deferral (D83-16B).

Attachments.

BILLING CODE 3110-01-M

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF MAY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs BA	R83- 2		15,133	2 1 83		15,133	4 13 83
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			15,133			15,133	
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities BA	R83- 3		1,927	2 1 83		1,927	4 13 83
Soil Conservation Service							
Watershed and flood prevention operations BA	R83- 4		68,995	2 1 83		68,995	4 13 83
Resource conservation and development BA	R83- 5		5,600	2 1 83		5,600	4 13 83
Agricultural Cooperative Service							
Salaries and expenses BA	R83- 6		779	2 1 83		779	4 13 83
DEPARTMENT OF AGRICULTURE TOTAL BA			77,301			77,301	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction BA	R83- 1		2,000	12 16 82		2,000	3 25 83
DEPARTMENT OF COMMERCE Total BA			2,000			2,000	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R83- 7		133,925	2 1 83		133,925	4 13 83
School assistance in federally affected areas BA	R83- 8		5,000	2 1 83		5,000	4 13 83
Special programs and populations BA	R83- 9		56,639	2 1 83		56,639	4 13 83
Indian education BA	R83- 10		16,128	2 1 83		16,128	4 13 83
Off. of Bilingual Educ. & Minority Lang. Affairs							
Bilingual education BA	R83- 11		43,523	2 1 83		43,523	4 13 83
Office of Postsecondary Education							
Guaranteed student loans BA	R83- 12		900,000	2 1 83		900,000	4 13 83
Higher and continuing education BA	R83- 13		68,941	2 1 83		68,941	4 13 83

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ATTACHMENT A STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF MAY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics							
BA	R83- 14		6,225	2 1 83		6,225	4 13 83
DEPARTMENT OF EDUCATION TOTAL BA			1,230,381			1,230,381	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper. of low income housing proj							
BA	R83- 15		69,000	2 1 83		69,000	4 13 83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			69,000			69,000	
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction							
BA	R83- 16		63,600	2 1 83		63,600	4 13 83
DEPARTMENT OF THE INTERIOR TOTAL BA			63,600			63,600	
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal-aid highways (trust fund)							
BA	R83- 17		23,200	2 1 83		23,200	4 13 83
Coast Guard							
Nat'l recreat boat safety & facil. improv.							
BA	R83- 18		5,000	2 1 83		5,000	4 13 83
DEPARTMENT OF TRANSPORTATION TOTAL BA			28,200			28,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R83- 19		45,000a	2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA			45,000				
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank							
BA	R83- 20		23,400	2 1 83		23,400	4 13 83
OFF BUDGET FEDERAL ENTITIES TOTAL BA			23,400			23,400	
TOTAL BA			1,554,018			1,508,018	

a This is A rescission of FY 1985 funds

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB/AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
LEGIS. APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs								
Appalachian regional development programs								
BA	D83- 40	10,000		2 1 83				10,000
International Security Assistance								
Foreign military sales credit								
BA	D83- 21	165,000		12 7 82				
BA	D83- 21A		1,010,000	2 1 83	-525,000			650,000
Economic Support Fund								
BA	D83- 22	554,720		12 7 82				
BA	D83- 22A		1,347,130	2 1 83	-1,715,996		551,150	737,004
Military assistance								
BA	D83- 29	11,650		12 7 82				
BA	D83- 29A		221,350	2 1 83	-207,650		14,650	40,000
International Development Assistance								
Functional development assistance programs								
BA	D83- 1	8,129		10 1 82	-8,129			
LEGIS. APPROPRIATED TO THE PRESIDENT TOTAL BA		749,499	2,578,480		-2,456,775		565,800	1,437,004
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Emergency feed/feed assistance programs								
BA	D83- 36	7,000		1 5 83		-7,000		
Soil Conservation Service								
Watershed and flood prevention operations								
BA	D83- 41	10,329		2 1 83				10,329
Animal and Plant Health Inspection Service								
Salaries and expenses								
BA	D83- 34	2,134		12 16 82				
BA	D83- 34A		4,066	2 1 83				6,200
Forest Service								
National forest system								
BA	D83- 12	108,035		2 1 83	-21,022			87,013
Timber salvage sales								
BA	D83- 2	10,002		10 1 82				
BA	D83- 2A		3,105	2 1 83				13,107
Forest, brush disposal								
BA	D83- 3	44,575		10 1 82	-10,042		1,229	35,762
DEPARTMENT OF AGRICULTURE TOTAL BA		182,075	7,171		-31,064	-7,000	1,229	152,411
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs								
BA	D83- 43	181,900		2 1 83		-181,900		
Economic development revolving fund								
BA	D83- 37	25,350		1 5 83	-25,350			
International Trade Administration								
Operations and administration								
BA	D83- 44	20,100		2 1 83		-20,100		
Participation in U.S. expositions								
BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	D83- 71	2,965		4 21 83				2,965
Construction								
BA	D83- 45	3,000		2 1 83				3,000
Promote and develop fishery products and research								
BA	D83- 5	30,619		10 1 82	-30,619			
National Bureau of Standards								
Scientific & technical research & services								
BA	D83- 38	6,500		1 5 83				6,500

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ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY / BUREAU/ ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
DEPARTMENT OF COMMERCE TOTAL BA		273,790			96,540	-202,000		15,250
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy BA DB3 16		2,400,000		2 1 83	2,400,000			
Military construction								
Military construction, all services BA DB3 6 BA DB3 6A		64,063	1,166,415	10 1 82 12 7 82	792,078			438,400
Family Housing, Defense								
Fam'l. Housing, Defense BA DB1 21		161,640		12 7 82	58,370			103,270
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		2,625,703	1,166,415		3,250,448			541,670
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Construction, General BA DB3 17		180,000		2 1 83				180,000
Wildlife Conservation, Military Reservations								
Wildlife conservation BA DB3 7		1,061		10 1 82	6		-50a	1,005
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		181,061			6		50	181,005
DEPARTMENT OF ENERGY								
Atomic Energy, Defense Activities								
Atomic energy defense activities BA DB3 70		50,000		3 9 83				50,000
Energy, Programs								
Energy supply R&D operating expenses BA DB3 72		16,226		4 21 83	6,000a			10,226
Energy supply, R&D plant and capital equip BA DB3 48		91,107		2 1 83	28,595			62,512
Fossil energy, research and development BA DB3 8 BA DB3 8A BA DB3 73		20,136 8,750	b	10 1 82 2 1 83 4 21 83	15,136			5,000 8,750
Fossil energy, construction BA DB3 49 BA DB3 49A		20,000	6,000	2 1 83 4 21 83				26,000
Energy conservation BA DB3 24 BA DB1 74		22,803 4,500		12 7 82 4 21 83	22,803			4,500
Strategic Petroleum Reserve BA DB3 50		57,400		2 1 83		57,400		
Departmental Administration								
Depart'l admin., operating expenses BA DB3 51		21,767		2 1 83				21,767
Depart'l admin., plant & capital equipment								

ATTACHMENT B STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY / BUREAU/ ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
BA	DB3 52	12,693		2 1 83				12,693
DEPARTMENT OF ENERGY TOTAL BA		324,382	6,000		-71,534	-57,400		201,448
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Alcohol Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital BA DB3 9		9,714		10 1 82				9,714
Office of Assistant Secretary for Health								
Special foreign currency program BA DB3 10		6,420		10 1 82				6,420
Social Security Administration								
Limitation on administrative expenses BA DB3 53		9,633		2 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA		25,767						25,767
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs BA DB3 54		3,081,153		2 1 83		-3,081,153		
Payments for operation of low income housing BA DB3 30		150,000		12 7 82	150,000			
Community Planning and Development								
Community development grants BA DB1 31		221,000		12 7 82	221,000			
Urban development action grants								
BA DB3 32 BA DB1 32A		234,000	10,000	12 7 82 1 5 83		-244,000		
Urban homesteading BA DB1 33		8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		3,694,153	10,000		-379,000	-3,325,153		
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses BA DB3 25		2,545		12 7 82	-2,545			
National Park Service								
Land acquisition and state assistance BA DB3 11 BA DB3 11A		30,000	3,000	10 1 82 2 1 83				33,000
Minerals Management Service								
Payments from proceeds, sale of water BA DB3 39		48		1 5 83				48
Bureau of Indian Affairs								
Administration of territories BA DB3 55		3,188		2 1 83				3,188
DEPARTMENT OF THE INTERIOR TOTAL BA		35,781	3,000		-2,545			36,236
DEPARTMENT OF JUSTICE								
Law enforcement								
Organized crime drug enforcement BA DB3 56		13,656		2 1 83				13,656
Legal Activities								
Salaries and expenses BA DB3 35		16,330		12 16 82				16,330

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ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNT IN THOUSANDS OF DOLLARS / AGENCY / BUREAU / ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
DEPARTMENT OF JUSTICE								
TOTAL BA		29,986						29,986
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to international organizations								
BA 083: 57		8,111		2 1 83				8,111
Other								
Emergency refugee and migration assistance fund								
BA 083: 12		37,692		10 1 82			-1,844c	35,848
U.S. Delegation, science and technology agreements								
BA 083: 58		2,000		2 1 83				2,000
DEPARTMENT OF STATE								
TOTAL BA		47,803					-1,844	45,959
DEPARTMENT OF TRANSPORTATION								
Urban Mass Transportation Administration								
Urban mass capital fund								
BA 083: 59		229,000		2 1 83		228,000		
Federal Aviation Administration								
Construction, Washington National Airports								
BA 081: 59		500		2 1 83				500
Civil supersonic aircraft development termination								
BA 083: 13		46		10 1 82				46
Facilities & equip. (Airport & Airway trust fund)								
BA 081: 14		158,485		10 1 82				
BA 083: 14A			566,751	2 1 83				725,236
Grant-in-aid								
Airport development, noise, & capacity improv								
BA 083: 61		40,000		2 1 83				40,000
DEPARTMENT OF TRANSPORTATION								
TOTAL BA		428,031	566,751			228,000		765,782
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA 083: 15		106,474		10 1 82				
BA 083: 15A			305	12 7 82	-2,372		273	104,680
O 083: 16		7,909		10 1 82				
O 083: 16A			6,537	12 7 82				
O 083: 16B			1,498	3 9 83	-20,761		14,378	9,561
Federal Law Enforcement Training Center								
Construction								
BA 081: 17		3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY								
TOTAL BA		109,552	305		2,372		273	107,758
TOTAL O		7,909	8,035		20,761		14,378	9,561
NATIONAL AERONAUTICS & SPACE ADMINISTRATION								
Research and development								
BA 083: 26		34,500		12 7 82				34,500

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNT IN THOUSANDS OF DOLLARS / AGENCY / BUREAU / ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
GENERAL ADMINISTRATION								
Construction, major projects								
BA 083: 27		4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loans to DC for capital investment								
BA 083: 18		38,832		10 1 82	-38,832			
Interstate Commission on the Potomac River Basin								
Payment to Interst Comm on Potomac Riv Basin								
BA 083: 28		12		12 7 82	-12			
Inner City Business Development Corporation								
Small business investment development fund								
BA 083: 19		17,949		10 1 82				
BA 083: 19A			4,409	12 16 82				22,358
National Railroad Retirement Board								
Payment to the railroad retirement account								
BA 083: 20		240		10 1 82				
BA 083: 20A			250	2 1 83				490
Small Business Administration								
Business loan and investment fund								
BA 083: 62		143,000		2 1 83		-143,000		
Small business investment revolving fund								
BA 083: 63		3,000		2 1 83		-3,000		
Disaster loan and surety contract guar. revolv								
BA 083: 64		1,000		2 1 83		-1,000		
Water Resources Rationalizing Stud. Commission								
Salaries and Expenses								
BA 083: 65		282		2 1 83				282
Tennessee Valley Authority								
Tennessee valley authority fund								
BA 083: 66		47,271		2 1 83				47,271
United States Information Agency								
Salaries and expenses (spec for curr prog)								
BA 083: 67		1,344		2 1 83				1,344
Acquis. and construction of radio facilities								
BA 083: 68		12,437		2 1 83				12,437
United States Railway Association								
Payment for purchase of conrail securities								
BA 083: 69		84,000		2 1 83	-83,600			100
OTHER INDEPENDENT AGENCIES								
TOTAL BA		349,367	4,659		-122,444	-147,000		84,582
TOTAL BA		9,095,450	4,342,781		-6,372,728	-3,967,553	565,408	3,663,358
TOTAL O		7,909	8,035		-20,761		14,378	9,561

- Net amount was released prior to transmittal of the special message reporting the withholding of $15,226,000
- This revision is a technical adjustment that did not increase the amount deferred
- This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. All unobligated balances are being withheld from obligation.

[FR Doc. 83-13074 Filed 5-12-83; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

Listing of Public Laws

Last Listing May 6, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 2600 / Pub. L. 98–28 To dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton. (May 10, 1983; 97 Stat. 188) Price: $1.75.

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Federal Register
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Proclamation 5061 of May 12, 1983

National Parkinson's Disease Week, 1983

By the President of the United States of America

A Proclamation

Nearly half a million Americans suffer from Parkinson's disease, a progressive disorder of the nervous system. We know now that their symptoms of tremor and muscle stiffness are related to a chemical deficiency in the part of the brain that controls movement, but there is far more to learn about this disease.

Several drugs developed since World War II have enabled thousands of Parkinson's patients to function more fully. Rigorous research is still needed, however, to provide more information about this disease and to develop new and improved therapies. Scientists must continue to explore possible causes of Parkinson's disease and search for ways to prevent the disorder or lessen its effect.

Many of the scientists studying Parkinson's disease receive support from the Federal government through the National Institute of Neurological and Communicative Disorders and Stroke and privately through four voluntary organizations: the American Parkinson Disease Association, the National Parkinson Foundation, Inc., the Parkinson's Disease Foundation, and the United Parkinson Foundation. I commend these voluntary groups and the scientists who devote their efforts toward conquering this disease. I also note the courage and resourcefulness of Parkinson's disease patients in overcoming their disorder and in helping other patients and families deal with the effects of this disease.

In order to emphasize the role of research in conquering Parkinson's disease and encourage continued private and Federal support of this research, the Congress, by Senate Joint Resolution 62, has designated the week beginning May 15, 1983 as "National Parkinson's Disease Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 15, 1983 as National Parkinson's Disease Week. I urge physicians, scientists, and government and private agencies concerned with Parkinson's disease to sponsor activities which will inform Americans about this illness and the need for continued research.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th. day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-12384
Filed 5-13-83; 10:21 am]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12421 of May 12, 1983

Presidential Commission on the Conduct of United States-Japan Relations

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to create a Commission to develop recommendations with respect to the conduct of relations between the United States and Japan, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Presidential Commission on the Conduct of United States-Japan Relations. The Commission shall be composed of no more than eight members appointed or designated by the President from among citizens of the United States. The President shall designate a Chairman from among the members of the Commission.

(b) The members of this Commission will constitute the United States membership of the bi-national Advisory Group on United States-Japan Relations to be established by the two Governments.

Sec. 2. *Functions.* (a) The Commission shall develop recommendations with respect to the conduct of the United States-Japan relations. The Commission shall examine both the bilateral and multilateral dimensions of the relationship of the two countries with a view to identifying issues requiring resolution and opportunities for expanded cooperation, and make recommendations on ways by which the United States and Japan can better carry out their common responsibilities aimed at promoting world peace and prosperity.

(b) The Commission shall develop its recommendations within the framework of the Advisory Group on United States-Japan Relations. This Group will address the question of how the United States and Japan can better fulfill their long-term responsibilities for world peace and a healthy international economy, and how current issues of mutual concern affect those long-term prospects.

(c) To pursue its goals in connection with participation in the Advisory Group on United States-Japan Relations, the Commission may conduct studies, hearings, and meetings as it deems necessary; assemble and disseminate information, and issue reports and other publications; and coordinate, sponsor, or oversee projects, studies, events, and other activities it deems necessary or desirable.

(d) The Commission shall submit its recommendations to the President and the Secretary of State from time to time as it deems appropriate, but in any case shall submit its initial recommendations within 12 months after the Advisory Group on United States-Japan Relations formally has begun its deliberations, or before the date of termination of the Commission, whichever occurs earlier.

Sec. 3. *Administration.* (a) Members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

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(b) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information and advice on the conduct of United States-Japan relations as it may require for the purpose of carrying out its functions.

(c) The Department of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff and other support services, and pay such expenses as may be necessary for the effective performance of its functions.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), which are applicable to the Commission, except that of reporting annually to the Congress, shall be performed by the Secretary of State in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate one year from this date.

Ronald Reagan

THE WHITE HOUSE,
May 12, 1983.

[FR Doc. 83-13265
Filed 5-13-83; 10:22 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Approval of Amendment No. 2 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule further amends the handling regulation, § 979.304 to permit shipments of all melons in experimental bulk boxes and in pony cartons of specified sizes. It will provide information for the industry concerning the economic feasibility of making shipments in this manner while continuing to provide the consumer with melons of acceptable quality at reasonable prices.

EFFECTIVE DATE: May 10, 1982.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-2615.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 979) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581-0076.

This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

During the previous season the committee recommended and the Secretary approved the shipment of honeydew melons in bulk containers having dimensions of four feet long by four feet wide by two feet deep and smaller cartons of specified sizes. At this season's organizational meeting, the committee recommended including cantaloups under this authority for experimental shipments. The bulk container is intended to serve as a display for the retailer so that the melons need not be unpacked. The committee believes that since this type of bulk bin is of a relatively modest size, it may improve efficiency and reduce costs while still providing substantially greater protection than if melons were piled directly in the bed of a truck or trailer.

Handlers may also ship melons in pony cartons of specified demensions. Pony cartons are smaller than cartons presently authorized but serve the same purpose.

Inasmuch as the inspection and grade requirements of the melons so packed remain unchanged, this amendment will not permit the bulk shipments of questionable quality melons that were prevalent in the area prior to inception of the order. Handlers using these bulk containers shall provide the committee with such information as it deems necessary to properly evaluate the merits of these experimental containers.

Findings. After consideration of all relevant matters, it is found that the following amendment will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) to maximize benefits to producers, this amendment should apply to as many shipments as possible during the shipping season, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area melons.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

Section 979.304 *Handling regulation* (47 FR 13118; March 29, 1982) is hereby amended by removing the words "of honeydew melons" from subparagraphs (e)(3) and (f)(5).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 10, 1983, to become effective May 10, 1983.

D. S. Kuruloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-13050 Filed 5-13-83; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0467]

Interest on Deposits; Regulation Q; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the designated parishes of Louisiana.

EFFECTIVE DATE: April 20, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On April 20, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Louisiana parishes of Ascension, East Baton Rouge, East Feliciana, Jefferson, Livingston, Orleans, Pointe Coupee, St.

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Bernard, St. Tammany, Tangipahoa, and Washington major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the severe storms and flooding beginning on or about April 1, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to April 20, 1983, and will remain in effect until 12 midnight, October 21, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Foreign Banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the Louisiana parishes directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, May 10, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13022 Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 217

[Docket No. R-0468]

Regulation Q; Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by earthquakes in the California city of Coalinga.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On May 5, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the California city of Coalinga a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the earthquakes beginning on or about May 2, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 5, 1983, and will remain in effect until 12 midnight, November 5, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the California city of Coalinga directly affected by the earthquakes, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, May 10, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13022 Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 23259; Special Conditions No. 23-ACE-1]

Special Conditions; Lear Fan Model 2100 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued under §§ 21.16 and 21.101(b) of the Federal Aviation Regulations (FAR) to the Lear Fan Research Limited Partnership (Lear Fan) for the Lear Fan Model 2100 airplane. The Lear fan Model 2100 airplane will have novel or unusual design features associated with the use of advanced composite materials for primary flight structure, location of the propeller, location of the engines, unique propulsion drive system, and high altitude flight operation for which the regulations do not contain adequate or appropriate safety standards. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the Lear Fan Model 2100 airplanes because of novel or unusual features.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, 601 E. 12th Street, Room 1656, Federal Office Building, Kansas City, MO 64106, Telephone: (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The certification basis for the Lear Fan Model 2100 airplane is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965, through Amendment 23-27, effective November 19, 1980; Part 36 of the FAR, effective December 1, 1969, through Amendment 36-12; Special Federal Aviation Regulation 27, effective February 1, 1974, through Amendment 27-4; and Special Conditions No. 23-ACE-1.

Background

On December 15, 1977, Lear Fan Research, Limited Partnership, Box 60000, 14505 Mt. Anderson, Reno, NV 89506 (formerly, Lear Avia Corporation), filed an application for a type certificate for the Lear Fan Model 2100 airplane under Part 23 of the FAR. In accordance with § 21.17(b) of the FAR, an application for a type certificate is effective for three years for a Part 23 airplane. The Lear Fan type certificate application expired on December 15, 1980. Two subsequent extensions of the type certificate (TC) applications were granted in accordnce with § 21.17(c)(2) of the FAR, and Lear Fan has elected to comply with Part 23 of the FAR as amended through Amendment 23-27, effective November 19, 1980. The Model 2100, a small, low-wing, Y-tail, pressurized airplane with a graphite/epoxy composite airframe, is powered by two turboshaft engines whose output shafts are coupled to a transmission which, in turn, drives a single four-bladed pusher propeller. The engines are Pratt & Whitney Model PT6B-35F, and each is rated at 650 shaft horsepower. The basis airframe structure is made of a graphite/epoxy composite material with adhesive bonding utilized as the primary means of assembly. The empennage is a Y-tailed configuration with a tail bumper incorporated in the lower fin. The aircraft seating configuration provides for eight passengers, and two pilot seats. The maximum takeoff weight is 7350 pounds and the proposed maximum certificated operating altitude is 41,000 feet. The stall speed in the landing configuration is approximately 84 knots, indicated at maximum takeoff weight.

Discussion of Comments

The applicant and other interested persons have been given an opportunity to participate in the making of these Special Conditions, and all comments received have been fully considered. Four letters, with substantive comments, were received in response to Notice No. SC-82-CE.

One commenter interpreted the words in the background section of the notice, "* * * and to support a finding by the Administrator that no feature or characteristic of the airplane makes it unsafe for the category in which certification is requested," to be beyond the scope of § 21.16 of the FAR. It was not the intent of the FAA to use this as a reason for issuing special conditions and these words are not included in these final special conditions.

One commenter, citing that pusher propellers, two engines driving one propeller, and the use of composite materials for primary airframe structure are not totally new to general aviation, questioned the necessity for Special Conditions in the case of the Lear Fan Model 2100 airplane. The FAA does not concur. The materials, construction processes, and propulsion arrangement used in the Lear Fan airplane were not envisioned when the current regulations for small airplanes were promulgated and, in the case of materials and construction processes, adequate information was not available to formulate such standards. While airworthiness standards for propulsion systems with two engines driving a single rotor are included in rotorcraft regulations, they are not present in the rules governing small airplanes. Furthermore, the materials, construction processes, and propulsion arrangement used in the Lear Fan Model 2100 airplane have not been previously approved by FAA for small airplanes. Because these design features of the Lear Fan Model 2100 airplane are novel and unusual with respect to the applicable airworthiness rules, the FAA determined that Special Conditions are necessary.

One commenter, contending that the combined set of requirements in proposed Special Conditions A., D., J., K., and T. place an unrealistic burden on the certification effort, because they collectively are outside the level of safety intended by Part 23 of the FAR, recommended deletion of proposed Special Condition A. because its intent is coverd in proposed Special Conditions D., J., K., and T. The FAA does not concur with this recommendation. While proposed Special Condition paragraph A.1. refers to endurance tests specified in proposed Special Condition J., proposed Special Condition paragraph A.2. includes tests which are not part of proposed Special Conditions D., K., or T. and are not otherwise called out in the Lear Fan Special Conditions. These are necessary due to the unique arrangement of the propulsion drive system where the tail cone is subjected to engine thrust, gyroscopic, and vibratory loads as well as reactive loads between the engines and the transmission. Another commenter recommended relocating proposed Special Condition paragraph I.1., which defines the "propulsion drive system," to Special Condition A. The FAA also noted that the words "propeller drive system" were used in the titles for proposed Special Conditions A., I., and J. and in other parts of these Special Conditions. Accordingly, proposed Special Condition paragraph I.1. is moved to the beginning of Special Condition A. Special Condition paragraphs I.2.(a), -(b), and -(c) are redesignated I.1., -2., and -3., respectively; appropriate revisions are made to assure "propulsion drive system" is used consistently throughout these Special Conditions, and Special Condition paragraphs A.1. and A.2. are adopted substantively as proposed.

One commenter recommended replacing the word "critical" with the word "normal" in proposed Special Condition paragraph C.1. because any condition which would collapse the tail skid would be critical and compliance with proposed Special Condition paragraph C.2. would not be possible. The FAA agrees that the word "critical" is inappropriate for describing takeoff and landing configurations. Accordingly, Special Condition paragraph C.1. is revised to reflect the airplane's maximum pitch attitude attainable in takeoff or landing configuration.

One commenter recommended redefining the propulsion drive system to delete those components between the engines and the transmission. It was contended that, in their current form, proposed Special Conditions D., E., F., G., and H. cover elements of the propulsion drive system that are redundant and thus the philosophy appears to go beyond the level of safety envisioned in Part 23 of the FAR. The FAA does not concur. The Lear Fan propulsion drive system is similar to those used in rotorcraft multiengine rotor drive systems for which the airworthiness standards include all parts necessary to transmit power from the engines to the rotor. Accordingly, Special Conditions D., E., F., G., and H. are adopted as proposed.

One commenter, citing that the FAA had no definition for the phrase "extremely remote," recommended using a numerical value for probability of catastrophic failure in proposed Special Conditions E., F., G., and H. The numerical value recommend was whatever is equivalent to current Part 23 multiengine airplane catastrophic failure rates. The FAA does not concur. The term "extremely remote" is used in §§ 23.613, 23..933, and 23.937 of the FAR and the term retains the same meaning as in these sections. Accordingly, Special Conditions E., F., G., amd H. are adopted as proposed.

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One commenter recommended removing the words "multiengine aircraft" and substituting the words "multiengine propulsion drive system" in proposed Special Condition paragraphs I.2.(a) and K.2. The FAA concurs and, accordingly, the special conditions are revised as recommended. Also, Special Condition subparagraphs I.2.(a), –(b), and –(c) are redesignated as explained in the revision to Special Condition A.

One commenter, citing that Part 23 of the FAR allows manual shutdown of an engine if performance requirements can be met, recommended removing the word "automatically" from proposed Special Condition subparagraph I.2.(b). The FAA does not concur. Recognition of an engine failure in an airplane with the Lear Fan's propulsion arrangement would be extremely difficult when compared with independent engine drive systems as is common on airplanes with wing-mounted engines. Accordingly, the special condition is adopted as proposed. The same commenter pointed out that proposed Special Condition subparagraphs I.2.(a) and I.2. (b) require that a clutch be used to disengage a failed engine while the remaining engine continues to drive the propeller. It was stated that this feature is important to the Lear Fan Model 2100, but is not necessary for coaxial designs. The FAA is unaware of the basis for this comment on coaxial designs. Because the comment is not applicable to this rulemaking issue, the FAA will not respond to it. Any question relating to such coaxial designs will be handled when, and if, such a design is presented for approval.

One commenter stated that the maximum rate of decelerations and accelerations of the engines in proposed Special Condition subparagraph J.2.(b) needs clarification because, as presently stated, it could include throttle slams or rotating machinery inertial limits or both. The FAA concurs and, accordingly, Special Condition subparagraph J.2.(b) is revised to appropriately describe maximum rate.

One commenter, contending that the propeller pitch limits are normally never reached except at the edges of the flight envelope, recommended changing the word "pitch" to "RPM" in proposed Special Condition subparagraph J.3.(a). The purpose of these tests, which the applicant intends to conduct on the ground, is to reach the propeller blade angles that exist at the edges of the flight envelope. Propeller RPM is controlled by a governor which is set at a constant speed and due to this configuration there will not be a minimum RPM during the test. Because the Lear Fan does not have a conventional cockpit propeller control lever, as was inferred in the proposed Special Conditions, it will be necessary to modify the system to obtain such maximum and minimum propeller pitch positions for these tests. Therefore, the FAA does not occur with the recommendation, however, Special Condition subparagraphs J.3.(a) and J.3.(b) are revised to resolve the ambiguity.

One commenter contested the requirement in proposed Special Condition paragraph K.3. for a 120% overspeed test and recommended overspeed requirements consistent with Parts 23 and 33 of the FAR. The FAA does not occur. These overspeed tests are reasonable and consistent with what the FAA has found necessary in approving the qualification of gear boxes of similar design and operating environment. Accordingly, the special condition is adopted as proposed.

One commenter, contending that proposed Special Condition paragraph L.2. is not necessary in view of the requirements in Special Conditions A., D., J., K., and T., recommended deletion of proposed Special Condition paragraph L.2. The FAA does not concur. Special Conditions A., D., J., K., and T. do not specify determination of critical shafting speed. Accordingly, Special Condition L. is adopted as proposed.

One commenter recommended deletion of proposed Special Condition M. because the design features of the airplane already included an independent lubrication system for the transmission (propeller gear reduction box). The FAA does not concur. These Special Conditions must supplement the existing rules for all novel and unusual futures affecting safety. The fact that the designer recognized this safety issue and planned for this necessary feature before the Special Conditions were developed, does not eliminate the need to formalize the requirement. Without this Special Condition, a future modification of the airplane could involve a gear box lubrication system that is dependent upon the engine lubrication system. Accordingly, the special condition is adopted as proposed.

One commenter questioned if proposed Special Condition N. applied to the engine power transmission as well as the propeller transmission. Special Condition N. was intended to apply only to the propeller transmission because the engine transmission is already covered by § 23.1041 of the FAR. Accordingly, in consideration of this comment, the special condition is revised to specify the propulsion drive system.

One commenter interpreted proposed Special Condition O. to apply to engine accessories and suggested, that unless a hazardous condition could be shown, the proposed Special Condition should be withdrawn. The FAA did not intend this Special Condition to apply to engine accessories because they are already included under § 23.1163 of the FAR. This Special Condition requirement is, however, consistent with airworthiness standards for similar applications in rotorcraft transmissions. Accordingly, to clarify the issue, Special Condition O. is revised to specify the propulsion drive system transmission.

One commenter, contending that loss of oil pressure is tantamount to a low oil quantity warning, suggested that the low oil quantity warning requirement of proposed Special Condition paragraph P.2. may be redundant in view of the oil pressure warning required by Special Condition parapraph P.1. The FAA does not concur. These two warning devices are intended to detect probable malfunctions which can be independent of each other and which require different degrees of corrective action. For example, a low oil pressure warning could indicate impending pump failure and require an immediate landing while a low oil quantity warning due to excessive loss of oil may allow the pilot a wider choice of options, including continued flight to the intended destination. The same commenter pointed out that if such a warning is necessary for minimum operational oil quantity, the Airplane Flight Manual (AFM) should define the quantity in its Limitations Section. The FAA concurs and the Limitations Section will also include emergency procedures to be taken in the event of a low oil quantity warning. The same commenter raised the question as to whether the oil temperature gauge required in Special Condition paragraph P.4. could serve as an oil temperature warning device. The FAA has determined that, in the case of the Lear Fan where high oil temperature could be an indication of impending loss of function of the transmission, total power failure, and structural damage to the airplane, an early detection of this condition is essential. Accordingly, the special condition is adopted as proposed.

One commenter, contending that proposed Special Condition paragraph R. appeared to go beyond the intent of Amendment 23–26 in affecting instructions for continued airworthiness.

recommended deleting proposed Special Condition R. This was not the intent of the FAA; however, the issue was resolved when Lear Fan applied for an extension on the type certificate application and subsequently agreed to comply with Part 23 of the FAR through Amendment 23–27, effective November 19, 1980. Accordingly, proposed Special Condition R. is deleted and Special Conditions S., T., U., V., W., X., Y., and Z. are redesignated R., S., T., U., V., W., X., and Y., respectively.

One commenter, in response to the propeller disc conspicuity requirements of proposed Special Condition S., questioned why visibility in normal daylight ground conditions is any more critical than in twilight or nighttime conditions and asked for a complete FAA rationale supporting the requirement. The FAA agrees that a hazard exists whenever the propeller is turning and, ideally, it would be desirable to have the propeller disc visible under all lighting conditions. However, a propeller disc that is visible in daylight conditions is also more likely to be visible in other lighting conditions existing at an airport where line personnel are present. It would impose a severe burden on an applicant to provide aircraft lighting for the propeller and it would also be difficult to duplicate lighting conditions other than daylight for making a determination of compliance. A similar situation existed during development of the present regulation for rotorcraft tail rotor conspicuity. The rule which originally required the tail rotor disc to be visble in "normal ground conditions" was subsequently amended (effective February 25, 1968) to clarify its intent by changing the wording to "normal daylight ground conditions." The public participated in a subsequent 1979 rotorcraft airworthiness review and did not present any rotor disc conspicuity proposals during those meetings. Accordingly, the special condition is adopted as proposed.

One commenter recommended rewording proposed Special Condition T. to define what is meant by "continuation of torque" and to relate the probability of failure to all causes, rather than to failures of single elements. The same commenter recommended substitution of the numerical value of 10^{-6} for failures from all causes and in lieu of the expression "not likely to occur in the system component's service life." The FAA does not concur with these recommendations. Horsepower, torque, thrust, RPM, and gas temperature all are terms used in referring to power output of turbine engines. In the case of the Lear Fan airplane, where propeller RPM is set at a fixed speed and only controllable over a narrow range from the cockpit, torque is the primary power indication to the pilot and was chosen to describe power transmitted to the propeller. With regard to probability analysis, the FAA regulations are intended to be objective as far as possible, and assigning quantitative values for reliability would defeat that purpose. Accordingly, except for minor editorial changes, the special condition is adopted as proposed.

One commenter recommended that proposed Special Condition V. be revised to require the applicant to show that ice shed from the fuselage, wing, and empennage forward of the propeller would have no adverse effect on the propeller. The FAA does not concur. If it can be shown that the ice protection system will not allow ice to accumulate on these surfaces, it should not be necessary to subject the propeller to shed ice. Accordingly, the special condition is adopted as proposed.

Two commenters, contending that proposed Special Condition Y., which requires two discharges of fire extinguishing agent for each engine, is beyond the safety standards envisaged in Part 23 of the FAR, voiced their objections to the requirement. One commenter agreed that the engine installation arrangement warranted a fire protection system but believed a one-shot discharge would provide the necessary safety standard. The other commenter pointed out many military airplanes, including the Cessna Model T–37, have engines buried in the fuselage and the Cessna T–37 is without an unusual fire history. Also, neither the Cessna T–37 nor the Cessna C–337, which both have engines buried in the fuselage, have fire extinguishing systems. In addition Part 23 regulations do require a fire shield and a fire detection system. This commenter argued that a fire in the aft fuselage is not less safe than a fire in a wing necalle which is typically close to fuel tanks. The FAA does not agree that these special conditions are beyond the safety standards envisaged in Part 23 of the FAR. The design safety considerations for military airplanes differ so greatly from those for civil aircraft that the comparison comment is not considered relevant. As an example, some of the military airplanes with engines buried in the fuselage rely on parachutes or even ejections seats for crew evacuation in an emergency. There are no U.S. civil certificated airplanes with engines buried in the fuselage. Even in the Cessna Model 337, the aft engine is not buried but appended on the fuselage and is separated from the cabin with a conventional firewall much in the same manner as the forward engine. Furthermore, the Cessna 337 fuselage structure is in parallel with the tail rather than in series as it is in the Lear Fan Model 2100 airplane. The FAA's rationale behind the dual discharge system is that metallic components in the engine compartment can heat up and subsequently reignite fuel fumes after the first fire has been extinguished. While the fire shield is required to resist the fire for 15 minutes, the airplane might not be that close to a suitable airport in the event of such a fire. Also, § 23.1182 of the FAR only applies to protection of components in nacelle areas behind the engine compartment firewall. In the case of the Lear Fan, fuselage structure could be immediately adjacent to the fire shield. Furthermore, a sustained fire could cause structural damage to the fuselage and subsequent loss of the airplane. Accordingly, the special condition is adopted as proposed.

Two commenters stated that the FAA lacked justification for proposed Special Condition Z. which requires design precautions be taken to minimize hazards to the airplane in the event of an engine rotor burst. One commenter recommended that this requirement be deleted because engine manufacturers are required to show the improbability of rotor failure and current PT–6 engine service safety records are satisfactory. This commenter assumed that proposed Special Condition T. applied to the engines and argues that proposed Special Condition Z., in its current form, makes compliance with proposed Special Condition T. impossible. This is not the case because proposed Special Conditon T. only applies to the propulsion drive system. The other commenter stated that the FAA did not offer an explanation of why this engine configuration warrants any more consideration than airplanes with wing-mounted engines. All engines certificated under Part 33 of the FAR must be designed to provide for containment of damage from rotor *blade* failure. For those engines having a certification basis which includes Amendment 33–6 to Part 33 of the FAR, it must be shown by *analysis* that any probable malfunction, or any probable single or multiple failure, or any probable improper operation of the engine, will not cause the engine to catch fire, burst (penetrate the case), or lose its shutdown capability. The regulations only require design and

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analysis to provide for containment of turbine and compressor blades, but do not address containment of turbine and compressor rotors. In the case of the PT-6 engine, whose certification basis does not include Amendment 33-6, analysis of probable malfunctions, failures or improper operation of the engine was not required. The FAA's chief concern in proposing this special condition is the fact that, unlike engine installations in wing nacelles, debris from rotor burst in a fuselage buried engine could damage the rudder, elevator, their associated control mechanisms, electrical wires or components, hydraulic components or lines, or inflict severe structural damage to the fuselage. Accordingly, the special condition is adopted as proposed.

In the proposal, Airframe and Flight Special Conditions were grouped together with Propulsion Special Conditions and were identified by the letters AA., AB., etc. In these final special conditions, the identification is changed as follows: AA. and AC. are not Airframe Special Conditions A. and B. AB. is deleted and AD. is now the only Flight Special Condition.

One commenter stated that proposed Special Condition AA appeared to restrict the applicant from using the fatigue strength criteria presently in Part 23 of the FAR, and because of the broad scope of technical requirements in the proposal, the applicant is faced with an enormous burden in certificating the Model 2100 airplane. The commenter believes that the FAA should justify the technical and economic basis for what is construed as a significant departure from the level of safety envisaged in Part 23 of the FAR. It was not the intent of the FAA to go beyond the level of safety, but rather to provide an equivalent level of safety for the Model 2100 to that envisaged for Part 23 airplanes in § 23.571 *Pressurized cabin* and § 23.572 *Wing and associated structure*. Current criteria was developed for metals which have similar strength properties for in-plane and out-of-plane loads, known toughness properties, and known durability which has been established by many years of testing and experience. In contrast, graphite composite materials being used on the Lear Fan airplane exhibit widely varying strength properties for in-plane and out-of-plane loads as well as toughness properties and durability that differ significantly from commonly used metals. Furthermore, composite materials are known to be susceptible to damage during manufacture and in service while metals, when built into airplane structure as envisaged in §§ 23.571 and 23.572 of the FAR, are not likely to be so adversely affected. Because of these major differences in material physical properties, a thorough investigation is necessary to determine the ability of the Lear Fan's airframe to withstand repetitive loads as well as damage likely to occur. The FAA has determined that, at this time, damage tolerance criteria is the only method that can readily be used to accomplish the necessary investigation for repetitive loads and damage. If subsequent information, not now available to the FAA, justifies use of different criteria, the applicant may elect, or if necessary, be required to comply with that criteria. Such action would be by amendment to these special conditions. Accordingly, the special condition is adopted as proposed.

Two commenters addressed proposed Special Condition AC. One stated that although the requirements were extracted from Part 25 of the FAR, they were lower than those of the British Civil Aviation Authority in the context of "outward opening doors." Inasmuch as a recommendation for change to the requirement was not made, the FAA cannot provide a definitive response. However, the FAA has determined that the proposed special condition provides a level of safety equivalent to that established for Part 23 airplanes. Another commenter stated that providing ships' lighting for checking security of access panels at night would unnecessarily add to product cost when a flashlight is required equipment for night flight. The FAA concurs and, accordingly, the wording of proposed Special Condition AC. (now designated Airframe Secial Condition B.2.) is revised to allow use of a flashlight or equivalent lighting source.

One commenter stated that proposed Special Condition AD. does not indicate the way in which the operator should use the buffet onset information provided in the flight manual. This information is intended to show the operator those altitudes, airspeeds, weights, and center of gravity locations which the airplane may be capable of attaining by virtue of its performance but which should be avoided due to buffet onset. Accordingly, the special condition is adopted with the additional requirement that the information be provided in the flight manual.

One commenter stated that the transmission should have the capability of operation following total loss of oil, sufficient to safely complete the flight and that this should be confirmed by representative tests. The FAA does not concur. The rationale supporting FAA's position is that the transmission instrumentation will inform the pilot that a lubrication discrepancy exists so that appropriate action can be taken. Accordingly, the special conditions are adopted without the implied requirement.

One commenter suggested that, in cases where the safety assessment is satisfied by claiming integrity for the parts, it is expected sufficient manufacturing controls will insure that production parts are represented by the parts used for substantiation testing. Special conditions are developed for and limited to airworthiness standards when the applicable regulations do not contain adequate or appropriate standards because of novel or unusual design features of an airplane. Thus, manufacturing controls are not within the scope of special conditions. Accordingly, the special conditions are adopted without the implied requirement.

Lists of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 23

Air transportation, Aircraft, Aviation safety, Safety, Tires.

Adoption of the Special Conditions

In consideration of the foregoing, the following special conditions are issued to the Lear Fan Research, Limited Partnership, for type certification of the Lear Fan Model 2100 airplane.

Special Propulsion Conditions

A. *Propulsion Drive System.* The propulsion drive system includes all parts necessary to transmit power from the engines to the propeller. This includes couplings, universal joints, drive shafts, supporting bearings for shafts, brake assemblies, clutches, the transmission, any attached accessory pads or drives and any cooling fans that are attached to, or mounted on, the propulsion drive system. In addition to the airframe proof of structure requirements of § 23.307(a) of the FAR, the proof of compliance with strength requirements for critical load conditions must include the following:

1. Dynamic and endurance tests of the propulsion drive system as specified in Paragraph J. of these special conditions.

2. Flight stress measurement tests, or analysis supported by flight stress measurement tests, including ground run-up and taxi tests, to determine dynamic loads that affect the propeller and propulsion drive system.

B. *Design Limitations.* In the absence of specific regulations concerning Design Limitation of Stength Requirements and Loads, the following values must be established to show compliance with structural requirements:

1. The drive system and propeller RPM ranges with power on and power off.

2. The rotational speed ratios between each powerplant and each connected rotating component.

C. *Ground Clearance.* In addition to the propeller clearance requirements of § 23.925 of the FAR, the following apply, as appropriate:

1. The airplane must be designed such that the propeller will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during takeoffs and landings.

2. If a tail skid is provided to show compliance with Paragraph 1. of Special Condition C:

(a) Sutiable design loads must be established for the tail skid, and

(b) The tail skid and its suporting structure must be designed to withstand those loads.

D. *Fatigue Evaluation.* In the absence of specific regulations, the fatigue evaluation of each portion of the propulsion drive system structure, (this includes propeller, propeller drive systems between the engines and propeller hubs and their related primary attachments) the failure of which could be catastrophic, must be identified and must be evaluated under Special Condition E., F., G., or H. The following apply to each fatigue evaluation:

1. The procedure for the evaluation must be approved.

2. The locations of probable failure must be determined.

3. Inflight measurement, or analysis supported by inflight measurement tests, must be included in determining the following:

(a) Loads or stresses in all critical conditions throughout the operating envelope for which approval is requested.

(b) The effect of altitude upon these loads or stresses.

4. The loading spectra must be as severe as those expected in operation and must be based on loads or stresses determined under paragraph 3. of Special Condition D.

E. *Fatigue Tolerance Evaluation.* It must be shown that the fatigue tolerance of the propulsion drive system structure ensures that the probability of catastrophic fatigue failure is extremely remote without establishing replacement times, inspection intervals, or other procedures.

F. *Replacement time Evaluation.* It must be shown that the probability of catastrophic fatigue failure of the propulsion drive system is extremely remote within established replacement times.

G. *Failsafe Evaluation.* The following apply to failsafe evaluations of the propulsion drive system:

1. It must be shown that all partial failures will become readily detectable under inspection procedures established for this purpose.

2. The interval between the time when any partial failure becomes readily detectable under paragraph 1. of Special Condition G. and the time when any such failure is expected to reduce the remaining strength of the structure to limit or maximum attainable loads (whichever is less), must be determined.

3. It must be shown that the interval determined under paragraph 2. of Special Condition G. is long enough, in relation to the established inspection intervals and related procedures, to provide a probability of detection great enough to ensure that the probability of catastrophic failure is extremely remote.

H. *Combination of Replacement Time and Failsafe Evaluations.* A propulsion drive component may be evaluated under a combination of Special Conditions F. and G. For such components, it must be shown that the probability of catastrophic failure is extremely remote with an approved combination of replacement time, inspection intervals, and related procedures established under Special Conditions F. and G.

I. *Propulsion Drive System Design and Control.* In the absence of specific regulations, the following shall apply as appropriate:

1. Each propulsion drive system must be arranged so that the propeller and its control will continue to be operated by the remaining engine if any engine fails.

2. Each multiengine propulsion drive system must incorporate a unit for each engine to automatically disengage that engine from the propeller if that engine fails.

3. If the transmission is torque limited, a means to prevent exceeding the torque limit must be provided unless shown by design and tests that the torque limit cannot be exceeded.

J. *Propulsion Drive System and Control Mechanism Tests.* In the absence of a specific regulation, the following applies:

1. *Endurance Tests, General.* The propulsion drive system (as defined in Special Condition A.) and propeller control mechanism must be tested, as prescribed in paragraphs 2. through 8. of Special Condition J., for at least 200 hours plus the time required to meet paragraphs 9. and 10. of Special Condition J. For the 200-hour portion, these tests must be conducted as follows:

(a) Twenty each, ten-hour test cycles consisting of the test times and procedures in paragraphs 2. through 8. of Special Condition J.

(b) The tests must be conducted on the aircraft except, in lieu thereof, a representative portion of the aft fuselage may be used to conduct all or a portion of these tests if determined appropriate.

(c) The test torque must be determined by actual powerplant limitations.

(d) The test torque must be absorbed by the actual propeller to be installed or an FAA approved alternate.

2. *Endurance Tests, Takeoff Torque Run.* The takeoff torque run endurance test must be conducted as follows:

(a) The takeoff torque run must consist of a one-hour run on both engines at the torque corresponding to takeoff power, but with engine power setting alternately cycled every five minutes to as low an engine idle speed as practicable. Differential power is to be applied such that one engine is at takeoff setting and the other engine is at idle setting.

(b) Deceleration and acceleration of the engines and/or of individual engines and drive systems must be done at the maximum rate. (This corresponds to a one-second movement of the power lever from idle to takeoff setting and one second from takeoff setting to idle in accordance with § 33.73 of the FAR).

(c) The time duration of both engines at takeoff power setting must total one hour and does not include the time required to go from takeoff to idle and back to takeoff speed.

3. *Endurance Tests, Maximum Continuous Run.* Three hours of continuous operation at the torque corresponding to maximum continuous power and speed must be conducted as follows:

(a) The propeller must be operated at a minimum of 15 times each hour between test configuration maximum and minimum pitch positions of the propeller, except that the change in pitch position movements need not produce loads exceeding the maximum loads encountered in flight.

(b) The minimum and maximum pitch position must be held for at least 10 seconds and the rate of change of pitch position must be at least as rapid as that for normal operation.

4. *Endurance Tests; 90 Percent of Maximum Continuous Run.* One hour of continuous operation at the torque

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corresponding to 99 percent of maximum continuous power must be conducted at maximum continuous rotational propeller speed.

5. *Endurance Tests; 80 Percent of Maximum Continuous Run.* One hour of continuous operation at the torque corresponding to 80 percent of maximum continuous power must be conducted at the minimum rotational propeller speed intended for this power.

6. *Endurance Tests; 60 Percent of Maximum Continuous Run.* Two hours of continuous operation at the torque corresponding to 60 percent of maximum continuous power must be conducted at the minimum rotational propeller speed intended for this power.

7. *Endurance Tests; Engine Malfunctioning Run.* It must be determined whether malfunctioning of components such as the engine fuel or ignition systems, or whether unequal engine power can cause dynamic conditions detrimental to the drive system. If so, a suitable number of hours of operation must be accomplished under those conditions, 1 hour of which must be included in each cycle and the remaining hours of which must be accomplished at the end of the 20 cycles. If no detrimental condition results, an additional hour of operation in compliance with paragraph 2. of Special Condition J. must be conducted.

8. *Endurance Tests; Overspeed Run.* One hour of continuous operation must be conducted at the torque corresponding to maximum continuous power and at the maximum rotational propeller speed expected in service, assuming that speed and torque limiting devices, if any, function properly.

9. *Endurance Tests; One Engine-Out Application.* A total of at least 400 full differential power applications, including those specified in paragraphs 2. and 7. of Special Condition J, (120 engine power setting cycles in each of paragraphs 2. and 7. totaling 240 cycles) must be made at takeoff torque and RPM. If during these tests, it is found that a critical dynamic condition exists, an investigative assessment to determine the cause shall be performed throughout the torque speed range. In each of the remaining 160-engine power setting cycles (160 per engine drive branch) a full differential power application must be performed and the drive shaft of the engine-out must be at rest.

10. Any components affected directly and/or indirectly by any existing flight loads must be investigated for the same flight conditions as is the propeller and their service lives must be determined by fatigue tests or by other acceptable methods. In addition, an acceptable level of safety must be provided for:

(a) Each component in the propeller drive system whose failure would cause an uncontrolled landing; and

(b) Each component common to both engines of the aircraft.

11. Each part tested, as prescribed in Special Condition J., must be in a serviceable condition at the end of the tests. No intervening disassembly which might affect test results may be conducted.

K. *Additional Drive System Tests.* Additional dynamic, endurance, and operational tests and vibratory investigations necessary must be performed to determine that the drive mechanism is safe. The following tests and conditions apply:

1. If the torque output of both engines to the transmission can exceed the highest engine or transmission torque limit, and that output is not directly controlled by the pilot under normal operating conditions (such as where the primary engine power control is accomplished through the propeller control), the following test must be conducted. Under conditions associated with all engines operating, make 200 applications, for 10 seconds each, of a torque that is at least equal to the lesser of:

(a) The maximum torque used in meeting paragraph 2. of Special Condition J. plus 10 percent; or

(b) The maximum torque attainable under probable operating conditions, assuming that torque limiting devices, if any, function properly.

2. For a multiengine propulsion drive system under conditions associated with each engine, in turn, become inoperative, apply to the remaining transmissin inputs the maximum torque attainable under probable operating conditions, assuming that torque limiting devices, if any, function properly. Each transmission input must be tested at this maximum torque for at least 15 minutes.

3. Overspeed test. The drive system must be subjected to 50 overspeed runs, each 30 ± 3 seconds in duration at a speed of at least 120 percent of maximum continuous speed or other maximum overspeed that is likely to occur in service, plus a suitable margin approved by the Administrator for that overspeed condition. These runs must be conducted as follows:

(a) Overspeed runs must be alternated with stabilizing runs of from 1 to 5 minutes duration each 60 to 80 percent of maximum continuous speed.

(b) Acceleration and deceleration must be accomplished in a period no longer than 10 seconds and the time for changing speeds may not be deducted from the specified time for the overspeed runs.

(c) Overspeed runs must be made with the propellers in the flattest pitch for smooth operation.

4. The test prescribed in Special Condition paragraphs K.1. and K.3. must be conducted on the aircraft and the torque must be absorbed by the propeller to be installed, except other ground or flight test facilities with other appropriate methods of torque absorption may be used if the conditions of support and vibration are no less severe than the conditions that would exist during a test on the aircraft.

5. Each part tested, as prescribed in this section, must be in a serviceable condition at the end of the tests. No intervening disassembly which might affect test results may be conducted.

L. *Shafting Critical Speed.* In the absence of a specific regulation, the following applies:

1. The critical speeds of any shafting must be determined by demonstration except that analytical methods may be used if reliable methods of analysis are available for the particular design.

2. If any critical speed lies within, or close to, the operating ranges for idling and power-on conditions, the stresses occurring at that speed must be within safe limits. This must be shown by tests.

3. If analytical methods are used and show that no critical speed lies within the permissible operating ranges, the margins between the calculated critical speeds and the limits of the allowable operating ranges must be adequate to allow for possible variations between the computed and actual values.

M. *Oil System.* In addition to the requirements in § 23.1011 of the FAR, the oil for components of the propeller drive system that require continuous lubrication must be sufficiently independent of the lubrication systems of the engines to ensure operation with any engine inoperative.

N. *Cooling System.* In addition to the requirements of § 23.1041 of the FAR, there must be cooling provisions to maintain the fluid temperatures in the propulsion drive transmission within safe values under any critical ground and flight operating conditions. Compliance must be shown by ground and flight tests.

O. *Transmission.* In addition to the requirements of § 23.1163 of the FAR, torque limiting means must be provided on all accessory drives that are located on the propulsion drive system in order to prevent the torque limits established for those drives from being exceeded.

P. *Transmission Instruments.* In addition to the requirements of § 23.1305 of the FAR, the following instruments must be provided for the powerplant transmission:

1. An oil pressure warning device for each pressure-lubricated gear box to indicate when the oil pressure falls below a safe value.

2. A low oil quantity warning indicator for the propeller drive gear box, if lubricant is self-contained.

3. A chip detector warning light system for the propeller gear box.

4. An oil temperature warning device to indicate unsafe oil temperatures in the propeller drive gear box.

5. A tachometer for the propeller.

Q. *Propulsion Drive System Limitation.* In lieu of the requirements of § 23.1521 of the FAR, the following apply to the propulsion drive system:

1. General—The propulsion drive system limitations must be established so that they do not exceed the corresponding limits approved for the engine, propeller, and drive system components.

2. Takeoff operation must be limited by the following:

(a) The powerplant maximum rotational speed (RPM). The maximum rotational propeller speed may not be greater than the values determined by the drive system type design or the maximum value shown during type tests;

(b) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitations of the transmission with all engines operating;

(c) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitation of the transmission with one engine inoperative; and

(d) The time limit for the use of the power, gas temperature, and speed corresponding to the limitations established in above subparagraphs 2 (a), (b), and (c).

3. Continuous operation must be limited by the following:

(a) The powerplant maximum rotational speed (RPM). The maximum rotational propeller speed may not be greater than the values determined by the drive system type design maximum value and shown during type tests;

(b) The powerplant maximum allowable gas temperature. The maximum allowable power or torque for each engine considering the power input limitations of the transmission with all engines operating;

(c) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitations of the transmission with one engine inoperative;

(d) The maximum allowable temperatures for the transmission oil; and

(e) A low oil quantity warning.

4. Fuel designation must be established so that it is not less than that required for the operation of the engines within the limitations in paragraphs 2. and 3. of Special Condition Q.

5. Ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum ambient atmosphere temperature at which compliance with the cooling provisions of §§ 23.1041 through 23.1045 of the FAR is shown.

R. *Propeller Marking.* In the absence of a specific regulation, the propeller must be marked so that its disc is conspicuous under normal daylight ground conditions.

S. *Propulsion Drive System Reliability.* In lieu of the propulsion drive system complying with the requirements in § 23.903(c), and in the absence of a specific regulation for twin-engine, single propeller airplanes, the installed propulsion drive system must be:

1. Designed so that continuation of torque to the propeller is assured after any probable failure of any single engine or element in the propeller drive system; and

2. Examined in detail to determine all components and their failure modes which would be critical to the continued safe flight and landing of the airplane. For each component and its failure modes identified by this examination it must be shown:

(a) By appropriate test that such a failure is not likely to occur in the system component's service life established by these tests; or,

(b) That the system is designed so continued safe flight and landing can be accomplished after occurrence of the failure.

T. *Propeller Pitch Control.* In the absence of a specific regulation, the following applies to the propeller pitch control:

1. No loss of normal propeller pitch control may cause hazardous overspeed of the propeller under all intended operations.

2. Each propeller pitch control and pitch locking (safety) device must be subjected in tests to cyclic loading that simulates the frequency and any amplitude to which the components would be subjected during 1000 hours of propeller operations.

3. Compliance with paragraph 2. of Special Condition T. may be shown by a rational analysis based on the results of tests on similar components.

U. *Propeller Protection.* In the absence of a specific regulation, all areas of the fuselage, wings, and empennage forward of the aft mounted propeller that are likely to accumulate ice during all operating conditions must be suitably protected to prevent ice formation or it must be shown that ice shed will have no adverse effect on the propeller.

V. *Engine to Transmission Drive Shaft Protection.* In the absence of a specific regulation, there must be provisions to minimize the hazards resulting from failure of an engine to transmission drive shaft such that the flight can be continued to a safe landing.

W. *Engine Inoperative Indication.* In the absence of a specific regulation, a positive means must be provided to indicate an engine is inoperative, or it must be determined that required instruments will readily alert the pilot when an engine is inoperative.

X. *Fire Extinguisher System.* Due to novel installation of the engines in the aft fuselage, and in the absence of a specific regulation, it must be demonstrated by actual or simulated flight tests that an engine fire will be contained within the engine compartment after recognition of a fire occurrence and flammable fluids are turned off; or a fire extinguisher system must be installed. If a fire extinguishing system is installed, the following applies.

1. Except for combustion, turbine, and tail pipe sections of turbine engine installations that contain lines or components carrying flammable fluids or gasses for which it is shown that a fire originating in these sections can be controlled, there must be a fire extinguisher system serving each fire zone.

2. The fire extinguisher system, the quantity of the extinguisher agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires. It must be shown by either actual or simulated flight tests that under critical airflow conditions in flight, the discharge of the extinguishing agent in each designated fire zone specified in paragraph 3. of Special Condition X. will provide an agent concentration capable of extinguishing fires in that zone and of minimizing the probability of reignition. Two discharges must be provided, each of which provides adequate agent concentration.

3. The designated fire zones are as follows:

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(a) The complete powerplant compartment in which no isolation is provided between the engine power section and the engine's accessory section;

(b) The compressor and accessory sections; and

(c) Combustor, turbine, and tailpipe sections that contain lines or components carrying flammable fluids or gasses.

4. Fire extinguisher agents must meet the following requirements:

(a) Be capable of extinguishing flames emanating from any burning of fluids or other combustible materials in the area protected by the fire extinguishing system;

(b) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored; and

(c) If any toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors (from leakage during normal operation of the airplane or as a result of discharging the fire extinguisher on the ground or inflight) from entering any personnel compartment even though a defect may exist in the extinguisher system. This must be shown by tests.

5. Fire extinguishing agent container must meet the following requirements:

(a) Have a pressure relief to prevent bursting of the container by excessive internal pressure;

(b) The discharge end of each discharge line from a pressure relief connection must be located so the discharge of the fire extinguishing agent would not damge the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter;

(c) Have a means for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning;

(d) The temperature of each container must be maintained, under intended operating conditions, to prevent the pressure in the container from falling below that necessary to provide an adequate rate of discharge, or rising high enough to cause premature discharge; and

(e) If a pyrotechnic capsule is used to discharge the fire extinguishing agent, each container must be installed so that temperature conditions will not cause hazardous deterioration of the pyrotechnic capsule.

6. Fire extinguishing system material must meet the following requirements:

(a) No material in any fire extinguishing system may react chemically with any extinguising agent so as to create a hazard; and

(b) Each system component in an engine compartment must be fireproof.

Y. *Rotor Burst Damage to Adjacent Components.* In addition to the requirements of FAR § 23.903, design precautions must be taken to minimize the hazards to the airplane in the event of an engine rotor burst.

Special Airframe Conditions

A. Damage-Tolerance and Fatigue Evaluation of Composite Structures. In lieu of complying with §§ 23.571 and 23.572 of the FAR, primary structure (the failure of which could result in catastrophic loss of the airplane) in the wing, wing carrythrough, wing attaching structure, pressurized cabin, aft fuselage, and the empennage must be evaluated to damage tolerance criteria prescribed in paragraphs 1. through 7. of Airframe Special Condition A., unless shown to be impractical; in which case the aforementioned structure must be evaluated in accordance with the criteria in paragraph 8. of Airframe Special Condition A.

1. The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, large area manufacturing defects (e.g. bond defects), or damage from discrete sources under repeated loads expected in service (between the time at which the damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration) must be established by analysis supported by tests or by tests.

2. The damage growth, between initial detectability and the value selected for residual strength demonstrations, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operations and maintenance personnel.

3. Instructions for Continued Airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable, by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

4. Loads spectra, load truncation, test proposals, and the locations and types of damage considered in the damage tolerance evaluations must be established and be approved by the Administrator or his authorized representative.

5. The structure of the pressurized cabin must be shown by analysis supported by residual strength tests or residual strength tests to, (a) be able to withstand critical limit flight loads (considered as ultimate loads) with the combined effects of normal operating pressures and expected external aerodynamic pressures with the extent of damage consistent with the results of the damage tolerance evaluations and, (b) the expected external aerodynamic pressures in 1 g flight combined with a cabin differential pressure equal to 1.1 times the normal operating differential pressure without any other load.

6. The wing, wing carry-through, wing attaching structure, aft fuselage, and empennage primary structure must be shown by (a) residual strength tests, or (b) analysis supported by residual strength tests to be able to withstand critical limit flight loads (considered as ultimate loads) with the extent of damage consistent with the results of the damage tolerance evaluations

7. The effects of material variability and environmental conditions (e.g., time, temperature, humidity, erosion, ultra-violet radiation, chemicals) on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

8. For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests or analysis supported by tests to be able to withstand the repeated loads of variable magnitude expected in service.

B. *Doors and Access Panels.* In addition to the requirement of §§ 23.783 and 23.807 of the FAR, each outward opening external door and access panel must comply with the following:

1. There must be a means to lock and safeguard each external door and access panel against opening in flight (either inadvertently by persons or as result of mechanical failure or failure of a single structural element either during or after closure). Each normally used external door in the pressure cabin must be openable from both inside and outside the airplane.

2. There must be a provision for direct visual inspection of the locking mechanism by crewmembers to determine, under operational lighting conditions using a flashlight or equivalent lighting source, whether all external passenger, baggage, and cargo doors for which the initial opening movement is outward, are fully closed and locked. In addition, there must be a visual warning means to signal the appropriate flight crewmembers if any external passenger, baggage, and cargo door is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable.

3. There must be a means for direct visual inspection by crewmembers of the attachment/latching devices for access panels to determine, under operational lighting conditions using a flashlight or equivalent lighting source, whether access panels are properly closed and/or attached.

Special Flight Conditions

Buffet Onset Envelope

In addition to the requirements of §§ 23.251 and 23.1585 of the FAR, with the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or mach number, weight, and altitude for which the airplane is to be certificated. The buffet onset envelopes determined must be furnished as information in the POH/AFM for this airplane. This information will include envelopes of load factor, speed, altitude, and weight which provides a sufficient range for normal operations. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b))

Issued in Kansas City, MO on May 2, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-13093 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-34-AD; Amdt. 39-4649]

Airworthiness Directives; Piper Models PA-24-400, PA-30 and PA-39 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Models PA-24-400, PA-30 and PA-39 airplanes which requires installation of an improved fuel selector valve strainer housing, placards prescribing, in detail, preflight fuel system drainage procedures and makes mandatory existing manufacturer's recommendations on fuel system maintenance. Service reports and incidents/accidents involving water contamination of the fuel systems indicate some owners/operators are not following recommended maintenance/operating practices in this area. The AD will reduce water contamination and the fuel system's sensitivity to this contamination.

DATES: Effective date: June 15, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Letter No. 589, dated August 18, 1971, and Service Spares Letter SP-282, dated November 15, 1968, applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Raymond J. O'Neill/P. Perrotta, Propulsion Section, ANE-174, FAA, New York Aircraft Certification Office, Federal Building, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring installation of an improved fuel selector valve strainer housing, placards prescribing, in detail, preflight fuel system drainage procedures and making mandatory existing manufacturer's recommendations on fuel system maintenance on certain Piper Models PA-24-400, PA-30 and PA-39 airplanes was published in the **Federal Register** on December 23, 1982, 47 FR 57295, 57296. The proposal resulted from service and accident reports which indicated that the present level of maintenance given the fuel systems and the preflight procedures followed by some owners/operators were not assuring the continued airworthiness of these airplanes. The manufacturer made available a conical-shaped stainless steel fuel selector valve strainer housing having improved moisture and sediment drainage characteristics and recommended installation of this part on affected airplanes in Piper Service Letter No. 589 dated August 18, 1971. However, a relatively small percentage of the owners/operators of these airplanes have installed this improved part. The manufacturer also made available in Service Letters, Service Manuals, Owners Handbook and/or Pilots Operating Manuals, as applicable, maintenance and operating procedures which, if observed, will control water/contamination in the fuel systems. The manufacturer believes, and the FAA concurs, that adherence to existing manufacturer's recommendation is necessary to assure their continued airworthiness. The failure to do so has adversely affected the level of safety in the operation of these airplanes.

Intefested persons have been afforded an opportunity to comment on the proposal.

The only comment received was from the airplane manufacturer who did not disagree in principle with the issuance of the AD but had certain objections to or suggestions regarding the context of the adopted rule. It noted the following:

(1) Paragraph (A) of the AD is essentially the same information as appears in Piper service manuals and Service Letter 851.

(2) Paragraph (B) is erroneously applicable to all PA-30 and PA-39 airplanes since some of these airplanes were equipped with the conical-shaped stainless steel fuel selector valve strainer housing when produced or may have been field retrofitted with this component.

(3) Installation of the aforementioned housing should not be made mandatory unless poor maintenance (of the fuel system) is obvious by conditions found during compliance with AD 79-12-08.

(4) Space may not be available to locate the placards containing the information required by the AD and offered alternate wording which would take up less space.

As to Comment (1), the FAA concurs but, in the total context of Piper Service Letter 851, which also speaks to interport leakage tests and frequently refers to freezing temperatures or conditions, the importance of periodic drainage of the housing is obscured. Therefore, paragraph (A) of the AD is necessary to clearly establish mandatory periodic cleaning and inspection procedures of the fuel selector valve and will be included in the adopted rule.

Regarding comment (2), the FAA concurs and paragraph (B) is being revised accordingly.

The FAA does not concur with comment (3) because the configuration of the conical housing is such that drainage of the sump is improved and makes the fuel system more tolerant to water contamination.

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The FAA recognizes the validity of comment (4) but believes that the placards can either be located in the specified area prescribed by the AD or sufficient latitude is permitted by the AD wording to install the placards in a location that meets the intent of the AD. However, the AD will authorize use of an alternate placard which refers to the drainage instructions contained in Piper Service Letter 851, Part B, Items 2a and 2b.

Accordingly, the final rule will reflect the changes discussed above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to Models PA–24–400 (S/Ns 26–2 through 28–148); PA–30 (S/Ns 30–2 through 30–2000); and PA–39 (S/Ns 39–1 through 39–155) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent retention of water contamination and deterioration of the fuel system, accomplish the following:

(A) Within the next 50 hours time-in-service after the effective date of this AD and at intervals not exceeding 50 hours time-in-service thereafter, clean and inspect the fuel selector valve strainer filter on all airplanes listed in the applicability statement for water accumulation, contamination and corrosion of the fuel strainer filter components in accordance with the following procedures:

(1) Gain access to the fuel strainer installation by removing the floor panel in the center section of the fuselage (PA–30, PA–39) or between the two front seats (PA–24–400).

(2) Remove, drain and clean fuel strainer housing and filter discs in accordance with the following procedures:

a. Separate filter housing from selector valve assembly by removing attaching screws.

b. Remove the filter disc assembly from stem by compressing filter retainer spring and removing retainer washer.

c. In the event that contamination is found, flush fuel tanks and selector valves and clean filter assemblies using the following procedures:

(i) Plug open ends of filter disc to prevent disc dirt from entering.

(ii) Wash the disc with suitable cleaner or solvent. Heavy dirt, lint or dust deposits may be removed from disc with a soft bristle paint brush.

(iii) Drain or blow off cleaning fluid and remove plugs.

(iv) Inspect bowl gasket and disc filter for damage and replace if necessary.

(B) Within the next 100 hours time-in-service after the effective date of this AD, replace the existing fuel selector strainer filter housing on the Model PA–30 (S/Ns 30–2 through 30–17744), airplanes with Piper P/N 757187 conical-shaped stainless steel strainer housing in accordance with Piper Service Letter No. 589, dated August 16, 1971.

Note.—This may have been previously accomplished per Piper Service Spares Letter No. SP–289 or Service Letter No. 560.

(C) Within the next 50 hours time-in-service after the effective date of this AD, fabricate and install a permanent placard as described below having letters with ⅛ inch minimum height on the inside of the hinged access door or adjacent location clearly visible to the pilot during his preflight check.

(1) On Model PA–24–400 airplanes the placard must read as follows:

"THE FUEL SYSTEM SHALL BE DRAINED DAILY PRIOR TO FIRST FLIGHT AND AFTER REFUELING TO AVOID THE ACCUMULATION OF WATER OR SEDIMENT USING THE FOLLOWING PROCEDURES:

a. Move the quick drain valve handle to full aft position to open the strainer quick drain for a few seconds with the fuel cell selector on each cell, including the auxiliary tanks. Allow enough fuel to flow to clear lines as well as the strainer. Positive fuel flow shut-off can be observed through the clear plastic tube.

b. Ensure that the drain valve positively closes.

c. If it is not possible to observe fuel draining through the clear plastic tube because of a loss in its transparency, replace with a new tube.

CAUTION: When draining any amount of fuel, care should be taken to ensure that no fire hazard exists before starting engine".

(2) On Model PA–30 and PA–39 airplanes, the placard must read as follows:

"THE FUEL SYSTEM SHALL BE DRAINED DAILY PRIOR TO FIRST FLIGHT AND AFTER REFUELING TO AVOID THE ACCUMULATION OF WATER OR SEDIMENT USING THE FOLLOWING PROCEDURE:

a. Pull up on the knob located in the center of the selector valves to open the strainer quick drain for a few seconds with the fuel tank selector on the main tank, then change the tank selector to each auxiliary tank and repeat the process. Allow enough fuel to flow to clear the lines as well as the strainer. Positive fuel flow shut-off can be observed through the clear plastic tube which carries the fuel overboard.

b. Ensure that the drain valve positively closes.

c. If it is not possible to observe fuel draining through the clear plastic tube because of a loss in its transparency, replace with a new tube.

CAUTION: When draining any amount of fuel, care should be taken to ensure that no fire hazard exists before starting engine".

(D) If insufficient space is available to contain placards with the above information, the following placard may be substituted.

"BEFORE THE FIRST FLIGHT OF EACH DAY AND AFTER REFUELING DRAIN THE FUEL SYSTEM IN ACCORDANCE WITH PIPER SERVICE LETTER 851 PART B, ITEM 2.a. AND 2.b.

(E) The fabrication and installation of the placards required by paragraph (C) or (D) of this AD may be accomplished by the owner/operator of the airplane who must make an entry in the Airplane Maintenance Record indicating compliance with paragraph (C) or (D) of the AD.

(F) The intervals between repetitive inspections required by this AD may be adjusted up to 10 hours time-in-service to allow them to be accomplished concurrent with other scheduled maintenance on the airplane.

(G) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(H) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE–170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on June 15, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this regulation only involves 2,045 airplanes at an approximate cost of $130 for only 1744 of these airplane or a total one-time fleet cost of $226,720. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri, on May 5, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–12870 Filed 5–13–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–ASW–2 Amdt. 39–4646]

Airworthiness Directives; Bell Model 222 Helicopters, S/N 47006 Through 47089

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires a mandatory retirement life on the main rotor trunnion and a mandatory retirement life reduction on the main rotor mast on Bell Model 222 helicopters, S/N 47006 through 47089. The AD is needed to prevent main rotor mast or trunnion failure which could result in loss of the helicopter.

DATES: Effective May 23, 1983.

Compliance Schedule—As prescribed in body of AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877–2080.

SUPPLEMENTARY INFORMATION: The FAA has determined, based on fatigue tests, that a mandatory retirement life must be established for the main rotor mast trunnion, and that under certain conditions, the present retirement life of the main rotor mast is too high. This could result in fatigue failure of the components which could cause loss of the helicopter. Since this condition is likely to exist or develop on helicopters of this type design, an Airworthiness Directive is being issued which establishes a mandatory retirement life on the main rotor trunnion, P/N 222–010–154–101, and under certain conditions, a reduction of the mandatory retirement life of the mast assembly, torquemeter, P/N 222–040–002–103 (Note: the main rotor mast is part of the mast assembly, torquemeter, on Bell Model 222 helicopters, S/N 47006 through 47089.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this Amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Bell Helicopter Textron, Inc.: Amendment 39–4646 applies to Bell Model 222 helicopters, S/N 47006 through 47089, certificated in all categories (Airworthiness Docket No. 83–ASW–2).

Compliance is required as indicated.

To prevent fatigue failure of the main rotor trunnion, P/N 222–010–154–101, and mast assembly, torquemeter, P/N 222–040–002–103, which could result in loss of a helicopter, accomplish the following:

(a) For main rotor trunnions, P/N 222–010–154–101, with 2400 or more hours' time in service on the effective date of this AD, retire the main rotor trunnion within the next 100 hours' time in service.

(b) For mast assemblies, torquemeter, P/N 222–040–002–103, with 3500 or more hours' time in service on the effective date of this AD, retire the mast assembly, torquemeter within the next 100 hours' time in service if it is utilized exclusively with trunnion, P/N 222–010–154–101.

(c) For main rotor trunnions, P/N 222–010–154–101, with less than 2400 hours' time in service on the effective date of this AD, retire the main rotor trunnion at 2500 hours.

(d) For mast assemblies, torquemeter, P/N 222–040–002–103, with less than 3500 hours' time in service on the effective date of this AD, retire the mast assembly, torquemeter at 3600 hours if it is utilized exclusively with trunnion, P/N 222–010–154–101.

(e) For mast assemblies, torquemeter, P/N 222–040–002–103, which are used with both trunnions, P/N 222–010–154–101 and P/N 222–010–154–111, determine the retirement life by dividing the time the main rotor mast has been in service with trunnion, P/N 222–010–154–101, by 0.72 and adding the result to the time in service with trunnion, P/N 222–010–154–111. When this total time exceeds 5000 hours, retire the mast assembly, torquemeter.

(f) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Southwest Region, Federal Aviation Administration.

(g) In accordance with FAR 21.197, flight is permitted to a base where the requirements of this AD may be accomplished.

(Bell Helicopter Alert Service Bulletin No. 222–82–17 pertains to this subject)

This amendment becomes effective May 23, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation only involves 84 aircraft at a cost of $4710 to each aircraft. Therefore, I certify that this action, Airworthiness Docket No. 83–ASW–2, is not a "major rule" under Executive Order 12291, and Amendment 39–4646 is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on April 29, 1983.

Richard L. Fallor,

Acting Director, Southwest Region.

[FR Doc. 83–12869 Filed 5–13–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–40–AD; Amdt. 39–4650]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 767 airplanes which requires inspection of the Type A entry and service door latching mechanism and, if necessary, rigging of the latching mechanism. The AD is needed to assure that the doors do not open inadvertently when the airplane is not pressurized.

DATE: Effective May 25, 1983. compliance as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable Service Bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Young, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 767–2516. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There has been one incident where the entry door came open on landing rollout and another report of the interior handle moving from the closed position during flight. In the first incident, the cockpit warning light did not illuminate and the interior handle closed properly when the interior and exterior door handles were out of sequence. Failure to detect the out of sequence condition was due to an improperly rigged latching mechanism. This action is needed to prevent inadvertent opening of doors. Since this condition could exist on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and, if necessary, rigging the Type A entry and service doors.

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Since a situation exists which requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 767 airplanes listed in Boeing Alert Service Bulletin 767–52A7 Revision 1, dated April 7, 1983, or later FAA approved revisions. To prevent the inadvertent opening of the airplane passenger or service door, accomplish the following:

A. Within the next 10 days after the effective date of this AD, unless already accomplished, perform the maintenance check of paragraph A of Section III of Boeing Alert Service Bulletin 767–52A7 Revision 1 dated April 7, 1983, or later FAA approved revisions. Doors which fail to meet this check must accomplish the check of paragraph A.2. of Section III of the Boeing Alert Service Bulletin, prior to each flight until rigged in accordance with paragraph B of this AD.

B. Within 30 days after the effective date of this AD, unless already accomplished, passenger or service doors that do not meet the maintenance check of paragraph A of this AD must be rigged in accordance with paragraph B of the Boeing Alert Service Bulletin.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 25, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.— The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on May 5, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–12867 Filed 5–13–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83–ASW–18; Amdt. No. 39–4645]

Airworthiness Directives; Robinson Helicopter Company Model R–22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Robinson Helicopter Company Model R–22 series helicopters by individual telegrams. The AD requires the actuation RPM setting for the low RPM warning horn and light to be raised and a low-rotor RPM warning light to be installed on all R–22 helicopters. The AD is needed to prevent abnormally low-rotor RPM which could result in tail boom strikes by the main rotor.

DATES: Effective May 23, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T822351 issued October 29, 1982, which contained this amendment. Compliance required before further flight after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505. Copies of the service bulletins are contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Don Watt, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone: (213) 536–6381.

SUPPLEMENTARY INFORMATION: On October 29, 1982, telegraphic AD T822351 was issued and made effective immediately as to all known U.S. owners and operators of certain Robinson Helicopter Company Model R–22 helicopters. The AD required the actuation RPM setting for the low RPM warning horn and light be raised and a low-rotor RPM warning light be installed on all R–22 helicopters. Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued October 29, 1982, to all known U.S. owners and operators of Robinson Helicopter Company Model R–22 helicopters. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Robinson Helicopter Company: Applies to Model R–22 series helicopters certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To detect an early low rotor RPM condition in either power on or power off flight and to miminize the possibility of severe main rotor flapping due to abnormally low rotor RPM, accomplish the following, prior to further flight unless already accomplished:

a. Reset main rotor RPM sensor to activiate low rotor RPM warning horn and caution light at 94 to 96 percent according to the instructions in Robinson Helicopter Company Mandatory Service Bulletin No. 25, dated October 26, 1982, or FAA approved equivalent.

b. Install a caution light in conjunction with the existing warning horn to provide additional low rotor RPM indication. The installation must be made in accordance with Robinson Helicopter Company Mandatory Service Bulletin No. 24, dated October 23, 1982, or FAA approved equivalent. Low rotor RPM caution light, either factory installed or Robinson retrofit kit, previously installed is acceptable.

Note.—A low rotor RPM caution light which meets the requirements of paragraph b. was incorporated on all production rotorcraft affecting helicopter S/N 251 and subsequent.

c. Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Office, Hawthorne, California.

d. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of modifications required by this AD.

This amendment becomes effective May 23, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T822351, issued October 29, 1982, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Fort Worth, Texas, on April 28, 1983.

Richard L. Failor,

Acting Director, Southwest Region.

[FR Doc. 83–12868 Filed 5–13–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASO–14]

Alteration of Control Zone and Transition Area, Kinston, North Carolina; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects the descriptions of the amended Kinston, North Carolina, control zone and transition area. The final rule published in the Federal Register (48 FR 16039) on Thursday, April 14, 1983, altered the Kinston control zone and transition area by revising the coordinates of the airport and the airport name. When the transition area was redefined, the incorrect geographical coordinates of the airport were erroneously listed. The purpose of this amendment is to correct the defectively written final rule. Since this action is editorial in nature, further notice and public procedure are not necessary. The effective date of this correction coincides with the effectivity of the original amendment. To avoid confusion, the complete description, as corrected, is presented in the text of this corrective amendment.

EFFECTIVE DATE: 0901 G.m.t., June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 and § 71–181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., June 9, 1983, as follows:

Kinston, NC—Revised

By amending 71.171 in the description of the Kinston, NC, control zone by deleting the words, "Stallings Field (Lat. 35°19'36"N., long. 77°37'02"W.)", and substituting for them the words, "Eastern Regional Jetport at Stallings Field (Lat. 35°19'38"N., Long 77°37'01"W.)."

By amending 71.181 in the description of the Kinston, NC, transition area by deleting the words, "Stallings Field (Lat. 35°19'40"N., long. 77°36'55"W.)", and substituting for them the words, "Eastern Regional Jetport at Stallings Field (Lat. 35°19'36"N., Long 77°37'01"W.)."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 5, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83–12874 Filed 5–13–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–AEA–4]

Alteration of Control Zone; Harrisburg, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will correct a typographical error in the description of the Harrisburg, Pennsylvania Control Zone. The western extension to the control zone was described as extending 6.5 miles from runway 26 when, in fact, the proper dimension should be 8.2 miles. This correction is essential to assure that aircraft utilizing the approach and departing the airport are given proper airspace protection.

EFFECTIVE DATE: May 16, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official docket may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430, Telephone: (212) 995–3390.

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SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the dimension of the western extension of the control zone so as to increase the area from 6.5 miles to 8.2 miles.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the description since the present extension does not provide the necessary airspace protection.

Therefore, I find that notice of public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than thirty (30) days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., as follows:

Harrisburg, Pennsylvania. Amended:

So as to delete the phrase "west end of Runway 26 to 6.5 miles" and insert in lieu thereof "west end of Runway 26 to 8.2 miles".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on April 25, 1983.

Brian J. Vincent,

Acting Director, Eastern Region.

[FR Doc. 83-13082 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23630; Amdt. No. 1242]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION:

This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a national Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective August 4, 1983*

Santa Monica, CA—Santa Monica Muni, VOR Rwy 3, Amdt. 7, cancelled

** * * Effective June 23, 1983*

Mountain Home, AR—Baxter County Regional, VOR-A, Amdt. 6
Lexington, KY—Blue Grass, VOR-A, Amdt. 4
Madisonville, KY—Madisonville Muni, VOR Rwy 23, Amdt. 7
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 17, Amdt. 14
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 23, Amdt. 15
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 35, Amdt. 14
Duluth, MN—Sky Harbor, VOR-A, Original
Columbia, MO—Columbia Regional, VOR Rwy 20, Amdt. 8
Albany, NY—Albany County, VOR/DME Rwy 1, Amdt. 8
Albany, NY—Albany County, VOR Rwy 1, Amdt. 16
Albany, NY—Albany County, VOR/DME Rwy 28, Amdt. 4
New York, NY—LaGuardia, VOR-A, Amdt. 12
New York, NY—LaGuardia, VOR-C, Amdt. 5
Duncan, OK—Halliburton Field, VOR Rwy 35, Amdt. 7
Port Isabel, TX—Port Isabel—Cameron County, VOR-A, Amdt. 3
Port Isabel, TX—Port Isabel—Cameron County, VOR/DME Rwy 17, Original cancelled
Port Isabel, TX—Port Isabel—Cameron County, VOR/DME-B, Original,
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Fld, VOR-A, Amdt. 10
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Fld, VOR/DME Rwy 18, Amdt. 4
Lone Rock, WI—Tri-County, VOR-A, Amdt. 4

** * * Effective May 4, 1983*

Norfolk, VA—Norfolk Intl, VOR/DME Rwy 5, Amdt. 3
Jaffrey, NH—Jaffrey Muni—Silver Ranch, VOR-A, Amdt. 4

** * * Effective April 22, 1983*

Marshfield, MA—Marshfield, VOR-A, Amdt. 4
Wentzville, MO—Wentzville, VOR/DME-A, Amdt. 1

** * * Effective April 12, 1983*

Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 1, Amdt. 2
Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 9, Amdt. 2
Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 19, Amdt. 2
Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 27, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23618, Amdt. No. 1241 to Part 97 of the Federal Aviation Regulations (Vol. 48 FR No. 88 Page 20223; Dated May 5, 1983) under § 97.23 effective June 9, 1983, which is hereby amended as follows:

Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 19, Admt. 2; change to Wilmington, DE—Greater Wilmington-New Castle County, VOR Rwy 19, Amdt. 3, effec. 9 JUN 83.
Newark, NJ—Newark INTL, VOR/DME-B, Original is rescinded.

2. By amending § 95.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective June 23, 1983*

Kalamazoo, MI—Kalamazoo Muni, LOC BC Rwy 17, Amdt. 15
Duncan, OK—Halliburton Field, LOC Rwy 35, Amdt. 1
Duncan, OK—Halliburton Field, LOC BC Rwy 17, Amdt. 1

** * * Effective June 9, 1983*

Columbia, MO—Columbia Regional, LOC BC Rwy 20, Amdt. 7

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective June 23, 1983*

Lexington, KY—Blue Grass, NDB Rwy 4, Amdt. 15
Kalamazoo, MI—Kalamazoo Muni, NDB Rwy 35, Amdt. 16
New York, NY—LaGuardia, NDB Rwy 4, Amdt. 35
Wilkesboro, NC—Wilkes County, NDB Rwy 24, Amdt. 4
Houston, TX—Lakeside, NDB Rwy 33, Amdt. 1
Blanding, UT—Blanding Muni, NDB Rwy 35, Amdt. 4

** * * Effective June 9, 1983*

Chicago, IL—Chicago-O'Hare Intl, NDB Rwy 14R, Amdt. 20
Columbia, MO—Columbia Regional, NDB Rwy 2, Amdt. 6

** * * Effective April 12, 1983*

Wilmington, DE—Greater Wilmington-New Castle County, NDB Rwy 1, Amdt. 15

4. By amending § 97.29 ILS/MLS SIAPs identified as follows:

** * * Effective June 23, 1983*

Lexington, KY—Blue Grass, ILS Rwy 4, Amdt. 9
Lexington, KY—Blue Grass, ILS Rwy 22, Amdt. 5
Kalamazoo, MI—Kalamazoo Muni, ILS Rwy 35, Amdt. 18
Albany, NY—Albany County, ILS Rwy 19, Amdt. 18
Springfield, OH—Springfield Muni, ILS Rwy 24, Original

** * * Effective June 9, 1983*

Chicago, IL—Chicago-O'Hare Intl, ILS Rwy 14R, Amdt. 27
Columbia, MO—Columbia Regional, ILS Rwy 2, Amdt. 9

** * * Effective May 4, 1983*

Norfolk, VA—Norfolk Intl, ILS Rwy 5, Amdt. 19

** * * Effective April 12, 1983*

Wilmington, DE—Greater Wilmington-New Castle County, ILS Rwy 1, Amdt. 17

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective June 23, 1983*

Atlanta, GA—Fulton County Airport-Brown Field, RADAR-1, Amdt. 15
Kalamazoo, MI—Kalamazoo Muni, RADAR-1, Amdt. 7
Albany, NY—Albany County, RADAR-1, Amdt. 14

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective June 23, 1983*

Lone Rock, WI—Tri-County, RNAV Rwy 27, Amdt. 4

** * * Effective June 9, 1983*

Columbia, MO—Columbia Regional, RNAV Rwy 20, Amdt. 3

** * * Effective April 12, 1983*

Wilmington, DE—Greater Wilmington-New Castle County, RNAV Rwy 9, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

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keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on May 13, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 83-12873 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1406

Provision of Performance and Technical Data for Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues a rule requiring that certain performance and technical data be supplied with coal and wood burning stoves, freestanding fireplaces, and similar appliances in order that consumers will be aware of important safety information concerning the installation, operation, and maintenance of these appliances. Part of the required data is in the form of labeling on the device, and the rule also requires that complete installation, operation, and maintenance directions be provided with the appliance. Sales catalogs and other point of sale literature shall contain information as to minimum safe distances that should be maintained between the appliance and combustibles. To help the Commission confirm that manufacturers are complying with the rule, the Commission at a later time will issue a requirement that manufacturers must provide to the Commission copies of the notice on the appliance and of the directions, as well as an explanation of how the appropriate clearance distances were determined. These reporting requirements have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act.

DATES: The Commission has established that the rule shall become effective October 17, 1983. The required safety and performance data (§ 1406.4 (a) and (b)) shall be furnished with all subject appliances that are manufactured on or after October 17, 1983, or that are first introduced into commerce in the United States after May 16, 1984, regardless of the date of manufacture. Copies of the required data shall be provided to the Commission by November 16, 1983, or within 30 days after any change in the data or introduction of a new model. (This requirement will be issued after it is approved by OMB.) The requirement applicable to sales catalogs and point of sale literature (§ 1406.4(c)) shall be effective May 16, 1984.

ADDRESSES: All materials the Commission has that are relevant to this proceeding, including the documents listed in Appendix III of this notice, may be seen in, or copies obtained from, the Office of the Secretary, 5th Floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6400.

SUPPLEMENTARY INFORMATION:

A. Background

The energy shortage and attendant high heating costs have motivated consumers to search for cheaper kinds of fuel. Wood, both as a primary and a supplemental fuel, has enjoyed a particular revival. Sales of wood burning stoves have tripled since 1974. Accompanying this revival, however, has been a concern about the safe use of these devices.

On January 24, 1977, the Commission received a petition from Adam Paul Banner of Midland, Michigan (Petition No. AP 77-2), stating that many fires and resultant injuries occur due to improper installation of certain coal and wood burning appliances, stoves, and freestanding fireplaces. He requested that the Commission issue a rule requiring that labeling as to the minimum safe clearance to combustibles (such as walls and furnishings) and the type of chimney required for any wood burning stove or similar appliance, or freestanding fireplace be (a) permanently attached on an embossed metal plate to each unit, (b) be printed in all sales literature, and (c) be printed on all display or shipping cartons.

At that time, the readily available data were inconclusive as to whether the statements requested by Mr. Banner addressed an unreasonable risk of injury associated with these appliances. On February 2, 1978, the Commission deferred action on the petition and directed the staff to provide additional information.

The petition was again considered by the Commission on March 14, 1979, and May 30, 1979, and on June 7, 1979, the Commission granted the petition. The Commission directed the staff to develop a rule under section 27(e) of the Consumer Product Safety Act, 15 U.S.C. 2076(e), that would require installation and maintenance labeling for coal and wood burning stoves and similar appliances, and freestanding fireplaces and would require each manufacturer to specify minimum clearances to combustibles and the type of chimney required. Also, the staff was directed to develop options for other types of installation and maintenance information materials (such as cartons or instruction manuals). The proposed rule was published on November 17, 1980 (45 FR 76018).

B. Development of the Rule

In order to determine the type of performance and technical data that would enable consumers to learn how their appliances should be selected, installed, operated, and maintained, the Commission's staff examined the available data on fires associated with coal and wood burning appliances.

In recent years, steeply rising fuel costs have led to a revival of wood heating in residences throughout the United States. This rise in popularity, however, has been accompanied by a dramatic increase in house fires caused by wood burning appliances and their venting systems. The most recent estimates put the 1981 toll for solid fuel heating equipment at about 130,100 fires, 290 deaths, and $265 million in property loss, based on data from the National Fire Protection Association (NFPA) and the U.S. Fire Administration. [Kale, D., *Fires in Woodburning Appliances*, U.S. CPSC, December 1982.] This estimate of fires in 1981 represents a 95 percent increase over 1978. *Ibid.* Such fires constitute about 18 percent of all residential structural fires in the United States. *Ibid.*

Data from the U.S. Fire Administration also provide information on the types of solid-fuel appliances involved in these fires. While chimney fires and fires attributed to various appliances are reported in separate categories, Commission research indicates that these categories are not mutually exclusive, in that the appliance and its venting components are all part of the same system. If it is assumed that the number of chimney fires and associated casualties indicated by the national estimates can be attributed to specific types of solid fuel appliances in the same proportion as the number of fires associated with each type of appliance, it can be estimated that in 1981 there were approximately 71,000 fires in wood stoves and their venting systems. This number of fires would result in about 160 deaths, 1200 injuries, and $112.8 million in property loss. [Memo from B. Harwood, WPHA, to N. Marchica, Ex-P, "Chimney Fires in Wood Stoves", U.S. CPSC, November 30, 1982.]

CPSC's in-depth investigations provide additional information about the specific causes of fires in wood burning appliances. Data from a September 1981 study conducted by CPSC indicate that in wood stoves, fires were more often related to the installation and use of the chimney or chimney connector than to the stove itself. [*See*, Harwood B. and Kale, D., *Fires Involving Fireplaces, Chimneys and Related Appliances*, U.S. CPSC, Sept. 1981.]

A major cause of fires in wood or coal stoves and in chimneys and chimney connectors for solid-fueled equipment was improper installation, primarily installing the devices too close to combustibles, which are then ignited by the heat from the stove, chimney, or connector. *Id.* Combustibles can include permanent items such as walls and ceilings and semi-permanent items such as carpets and draperies. In addition, combustibles can include movable items such as furnishings that may be placed too close to the appliance, resulting in ignition of the furnishings. *Id.*

Other major causes of fires associated with coal and wood burning appliances included the use of an unsuitable chimney, particularly single-wall chimney connector pipe, or the improper installation of the chimney or connector. *Id.* Proper installation requires the use of a "thimble" or other special methods where the chimney or connector passes through a combustible wall or ceiling, in order to provide needed insulation and separation from the adjacent combustible material. *Id.* Specific floor protection upon which the appliance is installed may be required in order to protect combustible flooring against heat from the appliance or embers falling out of the appliance onto combustibles. *Id.*

Other hazard patterns involve the lack of proper maintenance of the appliance. Wood tars (creosote) can condense in chimneys and chimney connectors when wood is burned. If the accumulation of creosote is not removed periodically, or if the appliance is overfired, the creosote can ignite and cause a very hot fire in the chimney or connector. *Id.* Regular inspection is required to ensure that excessive creosote has not accumulated. Also, the chimney and connector should be periodically inspected to ensure the chimney's inner liner has not buckled, that holes or cracks have not developed in the chimney or connector, and that these pieces are properly fastened together.

Other hazards are related to improper operation of the appliance. If too much fuel, or the wrong type of fuel, is added, the appliance can be overfired, resulting in ignition of creosote in the chimney or connector or excessive temperatures in the appliance, chimney, or connector. Also, the use of flammable liquids to start the fire in these appliances causes a number of injuries. *Id.*

Thus, fires associated with wood burning appliances account for a significant portion of the residential fires in the United States today. Available data indicate that over three-fourths of the factors contributing to uncontrolled fires in wood stoves involved improper installation, use, or maintenance of the appliance or its venting system. Such factors could be addressed if the user and installer were provided with adequate information about these areas of concern.

C. Description of the Rule

For the purposes of this rule, the term "coal and wood burning appliances" includes coal and wood burning fireplace stoves, room heater/fireplace stove combinations, cookstoves and ranges, and radiant and circulating heaters. It does not include central heating units, masonry fireplaces and chimneys, fireplace inserts, or factory built fireplaces (zero clearance fireplaces), since these do not appear to present the same hazards of installation and operation as do the generally smaller or freestanding appliances covered by the rule. The definitions for these types of appliances are found at § 1406.3 of the rule.

In order to reduce the risk of injury currently associated with coal and wood burning appliances, and to enable consumers to better judge the comparative safety of different appliances for their intended installation, § 1406.4(a)(1) of the rule requires that such appliances bear a legible notice containing the following performance and technical data:

1. Appropriate minimum clearances from combustibles to avoid the occurrence of fire. The clearances shall include:

(a) Distance(s) from the back and sides of the appliance, and the chimney connector, to walls, stated in diagrammatic form.

(b) Distance(s) to be maintained between the chimney connector and ceilings, in either diagrammatic or written form.

2. Type and dimensions of floor protection, if necessary to protect combustible floors.

3. Type of chimney and chimney connector to be used with the appliance.

4. Identification of parts or precautions required for passing a chimney through combustible walls or ceilings or for passing a chimney connector through combustible walls.

5. A statement that the appliance should not be overfired and a description of at least one condition which signals overfiring.

6. A statement of how often the chimney and chimney connector should be inspected and that it should be cleaned when necessary.

7. Information explaining that the appliance should be installed and used only in accordance with the manufacturer's directions.

8. A statement that the owner should contact local building or fire officials about restrictions and installation inspection requirements.

9. A statement that furnishings and other combustible materials should be kept "a considerable distance" from the appliance.

10. A description of the types of fuel suitable for use in the appliance.

11. A name and address of the manufacturer, importer, or private labeler to which the owner can write for a copy of the manufacturer's directions or for additional information, and a sufficient identification of the appliance model so that the appropriate information can be supplied.

The part of the written notice involving installation shall be located so that it is conspicuous before the appliance is installed. The remainder of the written notice contains operation and maintenance information and must be readily visible during normal use of the appliance (§ 1406.4(a)(3)). A label on the back of the stove would not be considered "readily visible" during normal use if the stove is suitable for installation with its back within a few feet of the wall. A label is considered to be readily visible during normal use even though it is not in a readily visible location on the outside of the stove if it is readily visible within compartments or behind doors that are used during the normal operation of the appliance. Thus, if a compartment door must be opened

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in order to fuel the appliance or remove ashes from the appliance, a notice that is readily visible when the door is opened is considered "readily visible during normal use." Therefore, the portion of the notice required to be readily visible during normal use could be on the inner surface of the door, on a readily visible inner surface of the compartment, or on an outer surface of the appliance that is covered by an overlapping door when the door is closed.

As explained above, the remainder of the written notice required to be on the appliance need only be conspicuous before installation. Thus, this portion of the notice could be on the back of an appliance that can be installed so close to a wall that the back would not be readily seen during normal use of the appliance.

These general principles concerning the conspicuousness and visibility of the data being provided can be satisfied by either (1) a single label that is both conspicuous before installation and readily visible during normal use or (2) two (or more) label, at least one label that concerns installation and that is conspicuous before installation and at least one other label that concerns operation and maintenance and that is readily visible during normal use. The "one label" format has the advantages of being potentially cheaper and of providing all information in one place. The "two label" format has the advantage of potentially providing more consumer awareness of the operation and maintenance information after the appliance is installed, since this information would all be on one simpler label that would not have installation information competing for the consumer's attention. Also, if a manufacturer wished, the two label format can be used to reduce the degree to which a large, readily visible label might interfere with the esthetic design of the stove.

After considering the comments on the proposal, discussed below, the Commission recommends the "two label" format since the needed operation and maintenance information would not be diluted by the presence of installation data that are not needed after the appliance is installed. However, either the "one label" or the "two label" format will comply with the rule.

The notice must be permanent so that it will remain legible for the maximum expected useful life of the appliance in normal operation (§ 1406.4(a)(4)). The following are examples of labeling methods that may meet these requirements:

1. Molding the notice into the casting of the appliance body.
2. Etching, stamping, or engraving a metal plate that is riveted or screwed to the appliance.
3. Stamping or engraving the notice into the metal body of the appliance.

Other types of labels could be used provided they are likely to remain attached and legible for the useful life of the appliance.

The rule also requires manufacturers to provide complete installation, operation, and maintenance directions which include descriptions of the consequences that can occur from failure to install, use, and maintain the appliance properly (§ 1406.4(b)).

The directions are required to have a specified notice at the beginning that is intended to emphasize the importance of following the directions and of contacting local building or fire officials about restrictions and installation inspection requirements (§ 1406.4(b)(1)). The directions are required to include all the information required to be in the notice on the appliance (§ 1406.4(b)(4)) and also to include step by step installation directions, including all necessary information regarding parts and materials (§ 1406.4(b)(2)). The installation directions shall also include a direction to refer to the chimney and chimney connector manufacturers' instructions and to local building codes for installation through combustible walls or ceilings.

The directions are also required to include a clearly identified section containing complete use directions (§ 1406.4(b)(3)), including what types of fuel(s) can be used and how to fire the unit to avoid fire hazards. The instructions must also include a clearly identified section containing complete maintenance directions (*Id.*), including how and when to clean the chimney and chimney connector. Information about the use of flammable liquids should also be included (*Id.*) The directions are required to be in legible English and in readily understandable language (§ 1406.4(b)(4)). A recommended outline for the directions is given in Appendix II to the rule.

The labeling and directions requirements apply to all of the subject appliances that are manufactured after October 17, 1983, and to all of the subject appliances that are first distributed in United States commerce after May 16, 1984 regardless of the date of manufacture (§ 1406.1(c)(1)). The reasons these dates were chosen are explained below in section F of this notice, which discusses the effective date of the rule.

In order that consumers may select an appliance that is suitable for their intended use and compare the safety of different appliances for their specific installations, all sales catalogs and other point of sale literature are required to include the appliance clearance information and the statement that local building or fire officials should be consulted concerning restrictions and installation inspection requirements (§ 1406.4(c)). Since some sales literature may be printed far in advance of its expected use, this requirement will go into effect May 16, 1984, which is one year after the requirements for labeling and instructions (§ 1406.1(c)(2)).

The proposed rule would require manufacturers to provide to the Commission copies of the written notice and directions required by the rule. Under the proposal, manufacturers would also provide to the Commission a statement of how the clearance distances that are required by the rule to be stated on the appliance were determined. Submission of these data is required so the staff can determine (1) that the specific statements required by the rule are present, (2) that other types of information required by the rule but not required to be in specific language, are present, and (3) whether the clearance distances stated appear appropriate or whether further investigation is necessary.

The proposed requirement that this information be submitted to the Commission constitutes a "collection of information" as that term is defined in the Paperwork Reduction Act, 44 U.S.C. 3502(4). Since these requirements were proposed before the effective date of the Paperwork Reduction Act, the specific provisions of that Act concerning rules that contain a collection of information requirement, 44 U.S.C. 3504(h), are not applicable. However, under § 3507, the Commission may not conduct or sponsor a collection of information subject to the Act unless the agency has submitted the proposed information collection request to the Director of the Office of Management and Budget (OMB) for approval. The Commission has submitted the proposed requirements to OMB for approval and will issue the requirements as a final rule after they are approved by OMB. The Commission expects to issue the reporting requirements with an effective date of November 16, 1983, which is one month after the requirements for labeling and directions become effective for newly manufactured appliances.

The text of the reporting requirement that will be issued after approval by OMB is set forth below:

§ 1406.5 Performance and technical data to be furnished to the Commission.

Manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3(a) shall provide to the Commission the following performance and technical data related to performance and safety:

(a) *Written notice.* Manufacturers shall provide to the Commission copies of the written notice required by § 1406.4(a). If the written notice is provided to purchasers in a way, such as by casting or stamping the notice into the stove, that makes it impractical to furnish a sample of the actual notice to the Commission, the manufacturer will provide an actual size copy of the notice and a description of the forming process.

(b) *Directions.* Manufacturers shall provide to the Commission a copy of the directions required by § 1406.4(b).

(c) *Rationale.* Manufacturers shall provide to the Commission a statement of how the distances to combustibles required to be stated by § 1406.4(a)(1) were determined. In addition, the manufacturer will state the type of appliance, its fuel, size, and weight, and the material of which it is constructed, unless this information is included in the directions submitted under paragraph (b) of this section.

(d) *General.* (1) The information required to be under paragraph (a) through (c) of this section shall be submitted for each distinct design or model of appliance manufactured. An appliance will be considered to be a distinct design or model if it differs from other appliances of the same manufacturer by functional differences such as performance, weight, size, or capacity. Differences in cosmetic or other nonfunctional features do not require the submission of additional information.

(2) The written notice, directions, and rationale shall be provided to the Associate Executive Director for Compliance and Administrative Litigation, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207, by———, 1983, or, in the event of a subsequent change in the component materials or design features that could cause the model to require different clearances from combustibles or a different type of chimney, or if a new product is introduced into United States commerce, within 30 days after the change or introduction.

D. Comments on the Proposal

In response to the proposal of November 17, 1980, the Commission received 76 written comments and also received oral comment from 9 persons at a public meeting on December 2, 1980. About half of the comments that were received were in favor of the Commission issuing a mandatory rule requiring labeling and/or instructions for these appliances, but some of the commenters suggested changes in the proposed requirements or suggested additional appliances or information that should be covered by the rule. Most of these favorable comments were from fire safety officials or persons with no stated affiliation with the stove and heater industry.

Slightly over ⅓ of the comments opposed the rule, usually because the commenter believed that adequate information was already being supplied, that labeling or instructions would not be effective, or that a mandatory rule would undercut voluntary certification efforts that address more factors relating to the safety of these appliances than were addressed by the proposed rule. Most of the comments opposing the rule were from persons associated with the affected industry, such as manufacturers or dealers, or with testing or certifying organizations.

The remainder of the comments did not express an opinion on whether the Commission should issue a mandatory rule, but suggested certain changes or additions to the proposed requirements.

The substance of the comments and the Commission's response to them are set forth below.

1. *Scope of the rule.* A number of comments indicated that the rule should apply to other appliances in addition to the coal and wood buring appliances listed in the proposal. One commenter suggested a uniform label on all heating appliances, including those fueled by gas, oil, electricity, kerosene, coal, and wood. Other commenters indicated that the rule should apply to other coal and wood burning appliances such as fireplace inserts, prefabricated fireplaces, and central heating appliances.

One commenter noted that although there was less of a chance of installation clearance errors with fireplace inserts, other requirements of the proposed rule would apply equally to such inserts. A commenter noted that the definition of "fireplace inserts" in the proposal could include appliances whose functional operation is not different from totally freestanding units. Furthermore, this commenter noted that since the installation of fireplace inserts makes inspection of the flue system especially difficult, label warnings pertaining to periodic inspection of the flue gas system were even more important, especially for units designed for air-starved operation which may generate considerable quantities of creosote deposit. Another commenter noted that installation of some fireplace inserts can cover intake openings for chimney cooling air and suggested a ban of such units.

Another commenter suggested that the hazard of carbon monoxide should be addressed by labeling on stovepipe showing when the damper is open or shut.

The primary goal at the beginning of development of the proposed rule was to ensure that information relating to installation clearance distances and type of chimney required was made available for freestanding solid fuel heating appliances. Information relating to other hazards associated with freestanding appliances was included in the proposed requirements where it seemed likely that provision of the information would be effective in reducing a particular hazard. The Commission recognizes that some of the information required by the rule would also be useful in relation to types of appliances not now subject to the rule. However, the fire incident data presently available to the Commission do not clearly indicate that the potential benefits of expanding the scope of the rule would bear a reasonable relationship to the costs and other possible adverse effects of a mandatory rule. Furthermore, the degree to which such information is already provided on other types of appliances is not known. In addition, any expansion of the scope of the rule to a significant number of other appliances would have to be proposed for public comment, which would then have to be analyzed. This would delay substantially the issuance of the proposed requirements that the Commission has determined are needed at this time.

The Commission is currently conducting a project to more fully evaluate the safety aspects of other types of solid fuel heating appliances, including the types mentioned by the commenters on the proposed rule. If this investigation shows that the other types of appliances would benefit from some of the labeling and instructions provided in the rule issued below, such additional requirements could be proposed after all issues relating to such requirements are fully considered. In the meantime, the Commission does not believe that the requirements applicable to the stoves and heaters covered by the proposal should be delayed while additional work to determine the appropriateness of extending the scope of the rule is conducted. Therefore, the Commission declines to expand the scope of the rule at this time, but these issues will be considered further during the ongoing project discussed above.

2. *Voluntary actions are preferable.* A number of comments stated that existing voluntary standards and labeling programs already adequately address the hazards and that issuance of the rule would either be unnecessary or would discourage manufacturers from participating in existing testing

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programs. In order to examine these comments, a brief explanation of the way in which voluntary standards and labeling programs are used is in order [See 11/26/82 briefing package, Tab E.]

There are two Underwriters Laboratories standards applicable to the appliances to be covered by the rule: UL 737 concerns fireplace stoves, and UL 1482 concerns solid fuel type room heaters. These standards contain performance requirements for determining the appropriateness of recommended clearance distances and also contain labeling and instructions requirements. UL provides a testing and certification service for manufacturers, and a label indicating that the model involved has been tested and approved by UL is placed on each appliance.

There are also other laboratories that will test appliances to the applicable UL standard and certify that the appliance meets the performance requirements of the UL test.

Still other testing laboratories will test for other certifying organizations but do not give certification themselves.

There are also certifying organizations that do not test but that evaluate the test reports from other laboratories as the basis for their certification.

Other than UL, the certifying groups may have different labeling requirements from those specified by UL.

These test programs may be used to satisfy the requirements of state and local jurisdictions that have building codes that require that only appliances that have received certification, or listing, from a suitable testing organization may be installed in that jurisdiction.

a. *Effect on use of testing and certifying organizations.* Some of the commenters expressed the belief that a mandatory rule would tend to discourage the use of the testing and certifying organizations described above. They argued that some manufacturers of the stoves and heaters subject to the rule would forego having their products tested in the hope that a label meeting all CPSC requirements, possibly in conjunction with claims that the appliance "meets all federal safety requirements" or the like, would be accepted by state and local building inspectors as complying with local codes.

However, the Commission does not believe that the rule will have the effect postulated by these commenters. Industry groups and certifying organizations have been very successful in the past in increasing the percentage of the market that is tested and in having local jurisdictions require listing as a condition for meeting the local code. If these efforts are continued, there is no reason to think that state and local officials will be misled into thinking that the CPSC labeling requirement is intended to be a substitute for existing code requirements and certification programs. However, to reduce any possibility that this might occur, the Commission has added a statement of the purpose of the rule in § 1406.1(b) which makes it clear that the rule is not intended to replace any voluntary standards applicable to these appliances or to replace any state or local requirements applicable to the installation, use, or maintenance of such appliances, provided, of course, that such requirements are not inconsistent with the rule.

b. *Preemption of state and local requirements.* Other comments argued that the rule would preempt state and local requirements applicable to these solid fuel appliances. However, as pointed out in the proposal, the provision of section 26(a) of the CPSA, 15 U.S.C. 2075(a), relating to invalidation of state and local laws that address a risk of injury that has been addressed by a consumer product safety standard does not apply to this rule. This is because this rule is being issued under section 27(e) of the act, 15 U.S.C. 2076(e), and is thus not a consumer product safety standard, which, as that term is defined in section 3(a)(2) of the act, must be issued under sections 7 and 9. Also, as explained above, the Commission has concluded that the rule will not have the practical effect of eliminating state or local codes.

c. *Adequacy of present practices.* A number of commenters contended that a mandatory rule was not needed because a large portion of stoves currently sold are labeled in accordance with voluntary testing and certification programs. The Commission's staff has estimated that in 1978 about 29 percent of the estimated 1500 models on the market were tested according to the procedure contained in the applicable UL standard. [Tab H–1, briefing package of 6/9/81.] The Commission was unable to estimate the number of stoves these models represented.

As noted above, the UL standard contains performance requirements and also has labeling and instructions requirements that include a statement of the distance the appliance should be installed from combustible walls. However, the information required by the versions of the UL standards that were in effect at the time of the proposal did not include all the information that is required by the proposed rule. Furthermore, when appliances are tested by independent laboratories other than UL, those laboratories or other certification groups may not require all the information stated in the UL labeling and instructions requirements and may impose their own labeling requirements. [CPSC staff briefing package dated 11/26/82, Tabs C and D.]

Since a substantial portion of the market for these appliances was not subject to labeling requirements, and since the labeling requirements that did exist did not require all the information that the Commission deemed necessary, the Commission proposed its mandatory labeling and instructions rule.

In 1981, the Commission reviewed the comments received on the proposal, and other available information, and concluded that there appeared to have been a large increase in the number of stoves that are tested by UL.

In the case of UL-tested stoves, the individual manufacturer pays a user's fee for each UL label used. For this reason, a count of the user's fees paid reflects the number of labels affixed during a given period. In 1978, UL sold about 76,000 such labels. [Tab H–1, briefing package of 6/9/81.] Thus, less than 7 percent of total estimated stove sales were UL listed in 1978. In 1980, about 100 firms, listing 190 separate models, purchased and used 723,000 UL labels. This represents about 72 percent of the estimated total U.S. sales of 1 million stoves in 1980. While some of these labeled stoves were not sold in 1980 and remain in inventory, it appeared that the bulk of 1980 production was UL tested and labeled.

Some other independent testing facilities also sell their labels directly to manufacturers. However, these labels may be purchased in bulk for later application. The total number of these labels sold, therefore, may not be the same as the number which would be affixed during a specific period. A number of testing firms contacted in 1980 were unable to differentiate label sales by the intended appliance. Also, some firms include stoves with other appliances, such as boilers, furnaces, and fireplace inserts, and were unable to estimate the number of labels affixed to the coal and wood burning appliances covered by this rule. However, three laboratories were able to estimate the number of labels which would have been affixed to coal and wood stoves in 1980. These three firms sold about 62,000 labels which were believed to be affixed to the subject stoves during 1980. Other testing firms were unable, or unwilling, to provide quantity information.

After considering the available information, the Commission staff

estimated that 70 to 85 percent of the total number of these stoves produced in 1980 were labeled.

In addition, Underwriters Laboratories proposed to amend their standards applicable to these appliances, UL 737 and UL 1482, to respond to the areas addressed by the proposed rule that were not addressed by their present standards.

In view of the apparent increase in the extent to which voluntary labeling efforts were being utilized and the expected upgrading of the voluntary labeling content to address the hazards addressed by the proposal, the Commission accepted a staff recommendation to delay consideration of a final rule while the staff evaluated the scope of the voluntary efforts to provide adequate labels and instructions.

As part of its investigation of the extent of voluntary efforts to address the need for safety information with these appliances, the staff conducted a limited survey in retail stores. See briefing package dated 11/26/82, Tabs D and E. This survey indicated that an estimated 77 percent of stoves on the market in February of 1982 were certified by a testing laboratory or other certifying organization and that 75 percent of these stoves were labeled with clearance information. While only a few 1982 model stoves were found in this survey, the survey indicated that 95 percent of the 1982 stoves were certified and labeled with clearance information.

The survey also showed, however, that a much smaller percentage of the stoves surveyed were actually certified by UL than had been predicted previously. This difference is thought to be due to the fact that the earlier estimate of the number of stoves produced in 1980 may be as much as 60 percent lower than the number actually produced. [Tab H, briefing package of 11/26/82.]

The 1982 survey conducted by the staff showed that 17 certifying organizations other than UL had certified stoves in the survey. Six laboratories identified in the survey were later asked about their requirements for solid fuel stove labels and instruction manuals. [Tab E, briefing package of 11/26/83.] These laboratories were chosen either because of the percentage of certified stove models or the number of stove sales attributed to models certified by them as the result of the survey. Additionally, updated information was requested from one building code group identified in 1981 as having labeling requirements that differed from the CPSC requirements. *Ibid.*

Requirements for the test standard were found to be uniform. All of the organizations contacted indicated that the use UL 737, Standard for Fireplace stoves, and UL 1482, Standard for Solid Fuel Type Room Heaters, as test standards and as guides for instruction manual content. The staff's survey also found that wood stove manufacturers usually included an owner's manual with each appliance.

The CPSC rule requires that all appliances should be accompanied by directions that include:

a. A specified safety notice on the first page of the booklet.

b. Step-by-step installation directions, including an explanation of consequences which could result from failure to install the appliance properly, and a statement that the installer should refer to the instructions provided by the chimney and chimney connector manufacturer.

c. Use directions, including how to fire the appliance; information about the use of flammable liquids; maintenance directions including how and when to clean the chimney and chimney connector; and a description of the consequences that could result from failure to use or maintain the appliance properly.

The UL requirements are different because:

a. There is no general safety notice,

b. There is no specific reference to a requirement for directions for joining the chimney and chimney connector through a combustible wall,

c. The distance to be kept between the heaters and furnishings is not a specified requirement, but is included in the requirement for "clearance to combustible materials," and

d. There is no explanation of the consequences of not following the installation and use instructions.

However, the Commission has a concern over two aspects of the UL instructions requirements. The first is related to the CPSC requirement that information be provided on the installation of chimney connectors and chimneys. The Commission requires that the directions include an explanation of methods to join safely the chimney connector to the chimney and to pass these parts through a combustible wall or ceiling, as appropriate. The UL requirement, on the other hand, simply states that the directions must include the parts and materials required and the step-by-step process for installing a room heater, accessories, and its chimney connector. The Commission believes that this should be more specific, since the UL requirement could be interpreted as requiring instructions only for the connection to the appliance. Secondly, the Commission believes that the section of the UL requirement relating to inspection for creosote build-up does not adequately explain how to inspect the system, and the frequency of inspection recommended (every two months) may be to long in some cases.

Instruction booklets prepared by 19 manufacturers or importers were obtained during the retail survey. The majority (12) of the booklets covered 1981 stove models, and most of the booklets provided some installation, use, and maintenance information. However, none of the booklets provided all of the information that would be required by the CPSC proposal. Two of the 19 booklets contained a safety notice at the beginning of the booklet. Seventeen of the booklets contained some installation information; however, only nine of the booklets contained step by step installation directions as specified in the proposed rule, and only four of the booklets mentioned the potential fire hazard resulting from improper installation. Many of the booklets stated that a UL-listed chimney should be used, but only two firms directed the reader to the installation instructions provided by the chimney and chimney connector manufacturer. One firm that manufactures the chimney and chimney connector that must be used with its appliance provided complete chimney installation directions. Eight other booklets discussed the use of a thimble or connector through a combustible wall or ceiling. However, these eight provided insufficient information for the installer to make the connection properly. This is consistent with the Commission's concern, expressed above, about the UL 1482 voluntary standard.

Sixteen of the 19 booklets reviewed provided directions for firing the appliance, and 10 booklets cautioned against the use of flammable liquids to start or freshen-up the fire. Seventeen of the booklets provided some maintenance information, although only 9 of the booklets provided directions for cleaning the chimney and chimney connector, and only 7 of the booklets mentioned the consequences of improper use and installation.

Based on this information, the Commission concludes that not only do the UL instructions requirements lack information in several areas required by the CPSC proposed rule, but that many stove manufacturers do not conform to even these instruction requirements.

Changes to the Underwriters Laboratories' requirements for labels specified in UL 737 and UL 1482 have

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made the UL and CPSC requirements similar. However, the CPSC rule requires that a label statement to keep furnishings and other combustible materials a considerable distance from the appliance be readily visible during heater use. The UL standards require that a statement of the clearances to combustible materials from the back and sides of the appliance and the chimney connector be visible after installation, but this would not be given the prominence of other use information which UL 1482 requires to be "visible while feeding fuel." UL 1482 does require a "hot surfaces" label which includes the statement "keep children, clothing and furniture away"; however, this statement appears to be intended to warn against the danger of contact with the heater's surface and not against the danger of ignition due to heat radiated from the heater. Accordingly, it does not state that furnishing and other combustibles should be kept a considerable distance from the appliance. The UL "hot surfaces" label is required to be on the front of the heater unless the heater incorporates a means for observing the fuel burning process within the heater (such as by a closed-window type of port), in which case the label can be on the back of the stove. Thus, the UL requirements for fireplace stove labels do not specifically mention furnishings and do not require that the label be readily visible during normal use. The UL requirements for solid-fuel type room heaters, while mentioning furniture, do not address the same hazard as the CPSC label and need not be readily visible if a window or similar feature is provided.

In addition, variations were found in the labeling requirements of the laboratories other than UL. Two laboratories indicated that they test for other certifying organizations and use the label required by these organizations. Three laboratories indicated that they require a UL content label with some differences in the use of words or diagrams, or both, for giving clearance information. The laboratory identified in the survey as having certified the largest percentage (31.3%) of stoves sold indicated that their labeling requirements varied. A check of the label on the largest selling model certified by this laboratory revealed that this label had very little of the information required for the CPSC label. Information missing from this label included:

a. Statement to keep furnishings a considerable distance from the appliance;

b. Clearance of chimney connector from walls;

c. Floor protection materials and dimensions;

d. Type of chimney and chimney connector needed;

e. Precautions needed when joining a chimney and chimney connector through combustible walls; and

f. Statements on overfiring, frequency of inspection and cleaning of chimney connectors and chimneys, contacting building officials, and installation according to manufacturer's directions.

The building code group's label had not changed since 1981. They still did not require: (a) statements to keep furnishings a considerable distance from the appliance; (b) the type of chimney; (c) precautions needed to join a chimney and chimney connector through a combustible wall; and (d) statements about contacting the local building official and installing the appliance according to manufacturer's directions.

After considering the results of the staff investigation into the extent of voluntary provision of safety information in labels and instructions, the Commission concludes that there are significant differences between the requirements of the Commission's rule and the labels and instructions that are now being utilized by the manufacturers of the subject appliances. Furthermore, the large number of certifying organizations and differing state and local requirements appear to make it impractical to obtain adequate and uniform labels and instructions by any means other than a mandatory rule. Therefore, the Commission concludes that the rule issued below is necessary to provide the data to the purchasers of these appliances that they need in order to safely install, operate and maintain these appliances.

d. *Local codes as an alternative.* Other comments implied that a more effective way to obtain safety for these appliances would be to encourage adherence to local codes. The Commission agrees that safety would be improved if all stove installations were inspected and approved by a qualified building inspector. However, there is little information to indicate that efforts in this direction would be an adequate substitute for a mandatory rule.

During fiscal years 1979 and 1980, the Commission conducted 46 investigations of fires in wood and coal stoves. The subject of local permits or codes was mentioned in 14 of these investigation reports. Seven of these reports indicated that no local permit was required or issued; 4 said that permits were required by local codes but none was issued for the stoves in question; 2 indicated that it was not known whether a permit was required, but none was issued; and only 1 report concerned a stove that had been inspected and approved by a local building inspector.

While these reports do not provide a statistically valid sample, it appears that fires occur less often where an inspection program is carried out. However, the reports also indicate that in a substantial number of cases, local inspection programs do not prevent fires in such appliances. Furthermore, inspections of stove installations do not ensure that adequate information on operation and maintenance is available to the users of the stove. Therefore, the Commission concludes that reliance on local code provisions alone is not sufficient and that the mandatory labeling rule is still needed to address these risks of injury.

e. *Effective use of Commission resources.* Other comments suggest that the rule should not be issued in its present form because administration of the rule would require an inordinate amount of Commission resources and a high level of expertise. However, the Commission does not believe this will be the case. The duty of providing correct information on the label falls primarily on the manufacturer of the appliance. CPSC compliance staff then will make a preliminary determination of the adequacy of the data provided. Situations involving either an absence of supporting data or information that deviates significantly from usual industry guidance for the appliance involved can be referred to the Commission's engineering staff for further investigation. The Commission's staff estimates that the preliminary screening should not take more than 1 or 2 hours per model and that it should not be necessary to test more than 5 to 10 models per year. This amount of effort seems reasonable in view of the risks involved in the installation, operation, and use of this product.

f. *Use of private laboratories.* One comment suggested that private laboratories could perform the label inspection and verification outlined in the proposed rule. As noted above, the Commission encourages the voluntary use of existing testing and certification organizations and expects that many manufacturers and importers will obtain independent testing and certification services. However, the Commission does not intend for the rule to have the adverse economic impact on manufacturers that might be caused by requiring third party laboratories to test all manufacturers' models. Furthermore, the Consumer Product Safety Act contains no express authority for such a requirement.

g. *Effect on dealers' safety efforts.* One comment suggested that the rule would result in a decrease in dealers' taking the responsibility for providing adequate information to their customers. Although the information provided as a result of the rule should make it easier for dealers to be certain that purchasers are provided with adequate information, there is no reason to believe that the existence of the rule would make dealers less concerned for the safety of their customers. Furthermore, for those dealers or other sales outlets that do not now provide sufficient information or expertise, the rule should increase the information available to consumers.

h. *HUD minimum property standards.* The Commission is also aware of a rule promulgated by the Department of Housing and Urban Development on January 17, 1983 (48 FR 1954). This rule, which became effective on March 9, 1983, requires that solid fuel room heaters and fireplace stoves used in the newly-constructed dwellings to which HUD Minimum Property Standards apply be tested and labeled according to Underwriters Laboratories voluntary standards UL 1482 and UL 737, and bear other specific information in addition to that required by the CPSC rule. Products so tested and labeled would meet most provisions of the Commission's rule, and the two rules are not inconsistent.

The Commission believes, however, that a relatively small number of installations of such products would be affected by HUD's rule, and that there would not be a significant increase in the general level of label use among manufacturers and importers of these appliances because of the HUD rule. Therefore, the Commission believes that its rule is necessary to provide information to all purchasers of these products. [Tab B, briefing package of 3/25/83.]

3. *Alternative activities.* A number of comments suggested activities other than providing labels and instructions that the Commission might engage in to address the risks of injury addressed by the proposal. In some cases, the commenters intended that the suggested activities would be a substitute for issuing a final rule based on the proposal, and in other cases the activities could be in addition to the requirements of the proposed rule.

a. *Research.* Some comments suggested that the Commission should conduct additional research into fire hazards and/or collect and publish statistics about fires. The Commission agrees that such activities are desirable, and, to the extent resources are available, the Commission regularly sponsors research, conducts hazard analyses, and makes reports and safety educational materials available to the public. The rule issued below is one way in which information can be provided to the particular members of the public that need the information. While useful, the suggested additional general educational activities would not be an adequate substitute for the notification required by the rule, which would be furnished to every purchaser of appliances subject to the rule.

b. *Information to previous purchasers.* Some commenters suggested that information such as that required by the rule should be furnished to persons who bought stoves before the rule was issued. The Commission agrees that some appliances are incorrectly installed or are being inadequately maintained or improperly operated because the owners were not furnished information that is required by the rule. Hopefully, some of the owners of these stoves can be reached by information and education campaigns conducted by the Commission, other federal and state agencies, industry groups, and appliance manufacturers. However, the Commission has insufficient data to conclude that the benefits of requiring the notification of each known prior purchaser of these types of appliances would justify the costs of such action. In addition, the inclusion of such a requirement, if authorized, would require a reproposal of the rule, thereby delaying the providing of other needed information. Therefore, the Commission has not adopted this commenter's suggestion.

c. *Requirement for listing.* One commenter suggested that the best way to ensure adequate information to the consumer would be to require that all appliances subject to the rule must be listed with Underwriters Laboratories and that this requirement should be enforced by local jurisdictions. However, the Commission has no authority to issue such a requirement. As far as attempting to achieve this by state and local action is concerned, it would be a massive undertaking to work with each local jurisdiction that could be affected by such a program to attempt to persuade them to undertake this activity. Furthermore, Commission in-depth investigations indicate that a substantial number of stoves are installed without complying with existing local requirements. Thus, this alternative would not be an adequate substitute for the rule that is issued below.

d. *Mandatory acknowledgment by consumers.* Another commenter thought that dealers should be required to give information to purchasers, who would then be required to sign an acknowledgment that they had received the information. However, the Commission has no authority to issue such a requirement. Even if it did, or if such a program could be instituted voluntarily or by local jurisdictions, the establishment and administration of such a program would entail tremendous resources. Thus, this does not seem to be a practical way for the Commission to address the problem.

4. *Comment on the substance of the rule.* A number of comments were received on the substance of the proposed rule. Some of these comments concerned the specific requirements that were contained in the proposal. Others suggested additional information they thought should be in the rule.

a. *Comments on the proposed requirements.* (i) *Chimney and chimney connector.* A few comments concerned the proposed requirement that the label include a statement of the proper type(s) of chimney and chimney connector to be used with the appliance. These comments stated that it was difficult to identify the proper chimney or chimney connector and that enough information to be of value could not be put on a label.

The Commission does not agree with these comments. The required information should ensure that the chimney and chimney connector are of suitable design and construction to withstand the temperature of the flue gases and other probable environmental stresses and that the inside dimensions are suitable to adequately vent the products of combustion. Generally, these data can be conveyed with 2 or 3 pieces of information. For both components, a minimum inside diameter should be specified. For chimneys, there are recognized performance ratings that can be used to specify the design and construction that the manufacturer intends to recommend. For example, terms such as "residential" indicate that the chimney should be suitable for residential use with flue gas temperatures that do not exceed 1000° F. [However, the Commission understands that the National Fire Protection Administration will soon propose to raise the temperature requirements for "residential" chimneys.] Chimney connectors can be specified by the material and thickness.

Although the Commission concludes that this information can be readily supplied on a label, in order to avoid the

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type of misunderstanding evidenced by these comments, a fuller explanation of what is required than was stated in the proposal has been provided in § 1406.4(a)(1)(iii) of the rule, and a specific example of acceptable designations has been provided in Figs. 1 and 2.

The proposed wording for § 1406.4(a)(1)(iv) required that the label bear an "identification of parts or precautions required for passing a chimney or chimney connector through combustible walls or ceilings." In the final rule, this language has been changed to read "identification of parts or precautions required for passing a chimney through combustible walls or ceilings or for passing a chimney connector through combustible walls." This change more precisely reflects the contents of NFPA 211–5–7.2, which states that chimney connectors should not be passed through ceilings. There has been no change in the example of a statement that would comply with the requirement of § 1406.4(a)(1)(iv).

(ii) *Chimney cleaning information.* Several comments concerned the proposed requirement for label information stating "how often the chimney and chimney connector should be inspected and cleaned." The comments pointed out that it is not practical to state a single period at which creosote should be cleaned since the amount of creosote deposited can depend on type of fuel and the method of operation of the stove.

The example given in the proposal of a statement that would comply with this requirement (Figs. 1 and 2) does not conflict with the thrust of these comments. The acceptable example stated: "PREVENT CREOSOTE FIRE: Inspect Chimney Connector and Chimney Twice Monthly and Clean if Necessary." Thus, a statement of a particular time period for creosote cleaning is not required. The requirement has been reworded to make this point clearer.

Comments also stated that the proposal provided no guidance on when creosote buildup would have reached the point that cleaning was indicated. However, from the information available to the Commission, there does not appear to be any level of creosote buildup that can be deemed absolutely safe, and the rule should serve to make users aware of the need to inspect regularly so they will become aware of any buildup that occurs.

(iii) *Overfiring.* One comment stated that it was not possible to overfire a listed stove and that the proposed requirement for a label statement concerning overfiring was not necessary. This comment would prefer requiring that stoves be listed.

The Commission does not agree that a listed stove cannot be overfired and therefore believes that the warning concerning overfiring is needed even for listed stoves. In addition, as discussed above, the Commission does not have authority to require a manufacturer to list all of its stoves with a third party testing or certifying organization. Therefore, the Commission disagrees with this comment.

Another comment stated that it was not possible to put enough information about overfiring on a label and that a simple warning would be misleading.

Although the Commission agrees that it is impractical to put all available information about overfiring on a label, it is important that consumers be reminded of the hazard of overfiring. This goal will be accomplished by the requirement of the final rule that the label contain a statement that the appliance not be overfired and a description of *at least 1* condition that signals overfiring. The proposed wording has been modified in the final rule to make it clear that the label need not include a description of *every* condition that could signal overfiring.

(iv) *Instructions to install only according to manufacturers' directions.* One comment implied that the proposed requirement that the label state that the appliance should be installed only according to the manufacturer's instructions was inadequate because instructions accompanying stoves that are not tested and listed by a recognized testing laboratory may have inappropriate directions. The commenter states that unlisted appliances should be installed according to code.

The Commission agrees with the intent of this comment, but does not believe that it is possible, in the space available on a label, to adequately describe which stoves should be considered "listed by a recognized testing lab." However, in order to respond to this commenter's concern, the Commission has changed the wording of the proposal to indicate that the appliance should be installed and used only in accordance with the manufacturer's instructions *and local building codes.*

(v) *Information on shipping carton.* The proposal contained a requirement that the following notice shall appear legibly and conspicuously on the packaging or carton of the appliance or on the container for parts supplied by the manufacturers: REMINDER—READ THE ENCLOSED INSTALLATION DIRECTIONS.

One commenter stated that the location of such a reminder should be left up to the manufacturer and that a warning tag on one of the handles of the stove, which the homeowner would see before and during the installation, would be more effective.

Upon reconsideration, the Commission has decided to delete this requirement. The fact that the portion of the labeling concerning installation is required to be conspicuous before installation should bring that label to the attention of the installer. That label refers specifically to the instructions and also conveys enough information so that the installer would probably realize that installation is sufficiently complicated that it is desirable to refer to the instructions. Thus, the Commission cannot conclude that whatever slight additional benefit might result from the additional reminder is worth the added cost of providing it.

(vi) *Safety notice in instruction book.* One commenter stated that the "safety notice" required to be at the beginning of the instructions by § 1406.4(b)(1) did not contain enough information to meet the evolving requirements imposed by the courts in product liability litigation. This commenter overlooks the fact that the rule does not prevent the manufacturer from including any additional information that he or she may desire. In order to emphasize this point, the final rule has included a statement that the manufacturer may choose to add other information to this notice.

This commenter also stated that provisions of the statement could consititute "overlabeling" that could result in a " 'defect' under strict liability law." The Commission disagrees. Since the mandatory federal rule issued below would invalidate inconsistent state laws, the provision of the required statement by a manufacturer could not, in itself, be the basis for a valid product liability claim.

(vii) *Sales literature, catalogs, etc.* A number of comments addressed the proposed requirement that all "sales literature, catalogs, and point of sale advertisements" for the appliance that are provided by the manufacturer shall legibly and conspicuously include (1) a statement of the appropriate minimum clearances from the back and sides of the appliance to walls and (2) a statement that the owner should contact local building or fire officials about restrictions and installation inspection requirements in the owner's area.

One comment suggested that this information should be included in point of sale information but should not be required in advertising that appears in printed or other media.

The intent of requiring the provision of this information is to help ensure that purchasers will not inadvertently order an appliance that is not suitable for the available space or for the user's intended application. Thus, the requirement need only apply to literature, etc., that can be reasonably expected to form the basis for a final consumer decision to purchase a particular model without the need to obtain additional information. Possibly the best examples of the type of situation intended to be covered are catalogs containing order forms to be mailed and point of sale literature. Normal promotional advertising in newspapers or other media would not be subject to this requirement. Thus, it appears that the proposed rule conforms to the intent of this comment. However, the wording of the final rule has been changed to delete the word "advertisements" and to more clearly point out the intent of the rule.

Another comment stated that it was not clear whether the requirement applied to other than manufacturers' literature. This rule is being issued under section 27(e) of the CPSA, which states that the Commission may require certain information to be provided *by manufacturers* to prospective purchasers, to the first purchasers for purposes other than resale (consumers), and to the Commission. This section provides no express authority to issue requirements binding on parties other than manufacturers, and the rule issued below does not apply to such parties. Thus, the rule applies to literature printed or distributed by manufacturers. It does not apply to literature, advertisements, etc., provided in the first instance by independent distributors, dealers, and retail outlets. By specifying that the requirement is applicable to the materials provided by manufacturers, the Commission believes the intent of the rule is clear.

One comment stated that it would not be feasible to get all the information required by this provision on a catalog page. The Commission disagrees with this view. The following statement would comply with this requirement.

Minimum clearances to walls: ——— in. back,———in. sides.

Contact local building or fire officials about restrictions and installation inspection requirements.

The latter part of the statement need not be repeated for each model, where there is more than one model shown on each page. Thus, the additional information supplied under this requirement would be a minor addition to the information that would have to be provided anyway in order for the literature, etc., to be the type of literature that is covered by the requirement [i.e., suitable as the basis of the order of a specific stove].

Another comment suggested that the literature suggest that the reader write for information on clearances. However, this approach would be inconsistent with the purpose of the literature covered by the requirement, i.e., that of being the basis for an immediate order of a particular model. Accordingly, the Commission has not adopted this suggestion.

(viii) *Specification of clearances to walls.* One commenter argued that in the labels and instructions, the requirement for stating appropriate clearances from the "sides" of the appliance was indefinite. This was due to the fact that stoves vary widely in their configurations and because one side of the stove may require a different clearance than the other, as where there is a door on the side of the stove. The commenter suggested that instead the clearance should be stated from the edge of the chimney connector. Although it is difficult to see how this change would help clarify the situation where a stove requires different clearances on one side than the other, the change is not needed. If the position of the chimney connector is fixed with relation to the sides of the stove, specifying the clearance from the edge of the chimney connector to a wall on the side of the stove would in fact establish the clearance from the side of the stove and thus would comply with the rule. Furthermore, if the manufacturer could not specify the point on the side from which the clearance should be measured, the distance from another point would have to be specified. Also, both the proposed and final rules require that clearances be stated from the back and sides of the stove and from the chimney and chimney connector to walls. Although, in some cases, these distances could all be stated by reference to the same place on the stove, information that has the effect of establishing each distance must be provided.

(ix) *Furnishings.* Comments were received arguing that the separate requirement to state the clearance to furnishings should be deleted, either because it was identical to the clearance to other combustibles or because there is no test method established to determine the appropriate clearance.

Many consumers probably do not appreciate the fact that furnishings such as chairs, sofas, drapes, and rugs can present a fire hazard when exposed to radiated heat from a stove or heater, in the same manner as do combustible walls, floors, or ceilings. The proposed requirement for a separate statement of clearances to furnishings was intended to insure that consumers are aware of the need to keep these items away from the appliances subject to the rule. As these commenters point out, however, there is no widely accepted test for determining the appropriate clearance distances for furnishings. A representative of Underwriters Laboratories has indicated to the Commission's staff that before UL would incorporate a requirement for a clearance distance to combustibles to furnishings into the UL standard, they would have to develop an appropriate test procedure, at considerable expense. [Log of meeting on February 28, 1983.] Also, the inclusion of another test would increase the cost of testing to appliance manufacturers and ultimately to consumers. At this time, the Commission lacks data showing that the benefits of this particular requirement would be sufficient to warrant these additional expenditures.

Furthermore, if the Commission required the statement of a clearance distance that could not be confirmed by a test under the applicable UL standard, manufacturers might be inclined to forego having their products tested to the UL standard, whether at UL or at other laboratories that test to that standard. This result is also one that the Commission does not intend as a consequence of its rule.

For the reasons given above, the Commission has decided not to require a statement of a particular distance that furnishings should be kept from an appliance. However, the Commission believes that there is still a need for consumers to be advised of the hazard of placing furnishings too close to the appliance. Therefore, in the final rule the requirement has been changed to require a statement that furnishings and other combustible materials should be kept a considerable distance from the appliance. This should provide useful information to the consumer and at the same time should satisfy the concerns expressed by these commenters concerning the specification of a particular distance.

(x) *Test methods.* Several commenters indicated their belief that the rule should specify particular test methods for determining the appropriate clearance distances. Some of these commenters believed that the Commission should require the use of these test methods and others thought

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that examples of suitable test methods should be given.

At the present time, the Commission has no information that would indicate that the testing standards presently used by the industry would not provide information that would comply with this rule. However, other standards, or the result of experience with the installation of particular stoves at particular distances, could also produce the required information. The Commission's staff has not thoroughly evaluated the adequacy of the existing performance standards for the stoves and heaters subject to this rule, and to do so would delay substantially the implementation of this rule and result in unnecessary fires that could be prevented if consumers are provided with the information required by the rule as soon as is reasonably possible. In addition, the Commission is reluctant to specifically recommend particular voluntary standards that have not been thoroughly evaluated by its staff.

Furthermore, it is possible that recommending a particular test method could have the effect of motivating manufacturers to test appliances by that method even though the manufacturer already states appropriate clearance that were obtained by other means or by using conservative estimates. This could have the unintended effect of increasing the cost of the rule without a corresponding increase in safety. (Although some commenters suggested that merely issuing the rule would have this effect, the Commission does not believe there would be any need for a manufacturer who already knew the appropriate distances to have his stoves specifically tested because the Commission issues a rule requiring a statement of distances.)

Furthermore, the Commission wishes to avoid the possibility that requiring or recommending particular standards could inhibit the development of improved standards as knowledge about the causes and prevention of fires increases.

Some commenters, however, expressed the belief that not specifying a test method would result in some manufacturers stating clearances that are subjective or inadequate. The Commission does not believe this is likely to occur. The rule's requirement that the manufacturers state their reasons for selecting the particular distances stated would discourage manufacturers from stating distances that are too "optimistic." In addition, the Commission's staff can independently evaluate clearances that seem unusually small for the type of appliance involved. These factors should prevent the occurrence of the situation feared by these commenters.

For these reasons, the Commission declines to require or recommend the use of particular test methods for determining the appropriate clearance distances that the rule requires.

(xi) *Labels.* A number of comments addressed the proposed requirements that labels stating necessary installation, operation, and maintenance information be on the stove.

(*A*) *One label vs. two label formats.* As explained above in section C of this notice, the label information reguired by this rule can be provided either on one label that is readily visible after installation or on two or more labels; one (or more) label(s) that contain the information relating to installation and that is conspicuous before installation (but that may be inconspicuous or not visible after installation) and (at least) another label that contains the information relating to operation and maintenance of the appliance and that is readily visible after installation. In the proposal, the Commission asked for comment on whether it should recommend one of these formats.

The comments generally supported the two label format. One comment contended that the two label format should be required. Other comments expressed a preference for the two label format but indicated that manufacturers should have the choice of using either label format. Comments opposing the two label format seem to be actually intended to oppose the requirement that some of the information be readily visible in normal use. In view of the comments, and because of the advantages of the two label format in allowing the operation and maintenance information to be more understandable (since the installation information would not be competing for the reader's attention) and in permitting a smaller readily visible label that would not detract unduly from the appearance of the exterior of the stove, the final rule recommends that manufacturers use the two label format in complying with this rule. However, as indicated in the proposal, the rule's requirements are satisfied by either the one label or two label format.

(*B*) *Amount of label information.* Some comments indicated that too much information was being required on the label and that therefore the safety information would not be readily communicated to the consumer. One comment suggested that for this reason no label should be required, but that instead the information should be required in an instruction booklet to be supplied with the appliance.

The Commission believes that the examples of complying labels given in Figures 1 and 2 below show clearly that the amount of information required on these labels is not so great as to significantly detract from the consumer's ability to notice and understand the information provided. This is especially true if the manufacturer uses the two label format described above. Therefore, the Commission has retained in the final rule basically all the information that was required by the proposal.

(*C*) *Legibility.* A number of comments were directed at the rule's requirement that the label be "legible." One comment suggested that the Commission should specify a minimum type size that should be used on the label in order to insure that the label is legible.

The Commission does not believe that such a requirement would achieve the commenter's intended result. The rule's requirement that the notice on the appliances be legible could be affected by a number of factors. Among these are type size, type style, the width or uniformity of the lines used to form the words and diagrams in the notice, the contrasts in color or texture between the words or diagrams in the notice and the background on which they are placed, and the arrangement of the information within the label or with respect to other features on the appliance. In requiring that the notice be legible, the Commission has not attempted to establish specifications for the various factors that could affect the legibility of the notice. However, the legibility requirement means that the content of the notice must be presented in such a manner that it can be readily determined by a person looking at the notice. Labels that cannot be quickly and easily read will not comply with this requirement.

Another comment stated that the indication in the proposal that molding the label into the body of a cast stove would satisfy the requirement that the label be permanent should be deleted because molded labels would be illegible. However, there is no need to delete this section, since if the quality or contrast of a molded label on a particular appliance is such that the label is not legible, as described above, the label would not comply with the rule even though it is permanent.

(*D*) *Location.* A number of comments were received opposing the proposal's requirement that the label information concerning operation and maintenance must be "readily visible during normal use." These comments indicated that the presence of a label on the front of the appliance would detract from the appearance of the stove.

The Commission does not agree with these comments. The requirement that the operation and maintenance information be readily visible during normal use is needed to ensure that the persons actually operating the stove are reminded of the proper practices in order to avoid the fires that are now occurring due to improper practices. It is unreasonable to expect that a person will remember all the necessary operation and maintenance information for the entire useful life of these appliances, which can be for many years. In addition, the persons responsible for the operation and maintenance may never see labels that are not readily visible and may not have seen the instruction manual at the time of original installation. Therefore, the Commission concludes that the requirement that the operation and maintenance information be readily visible during normal use is essential in order to accomplish the safety purpose of the rule.

The concern raised by these commenters as to the potential adverse effect of this requirement on the appearance of the stove is also believed to be unwarranted. The size of the label needed to convey the information required to be readily visible during normal use can actually be quite small if the two label format is used, as shown in Fig. 1. Furthermore, the rule does not require that this label be in the most conspicuous location but merely that it be readily visible during normal use of the appliance. Thus, the label could be located to one side or toward the bottom of the appliance, as long as it remains readily visible. Finally, § 1406.4(a)(3) of the rule states that a label will be deemed to be readily visible during normal use if it is readily visible within stove compartments or under overlapping covers or doors in locations that will be seen at some time during normal use, such as when loading fuel or removing ashes. This provision allows yet another means for manufacturers of decorative stoves to avoid any excessive adverse effect of the label location requirement on the appearance of their product.

Another comment stated that allowing operation and maintenance information labels inside of compartments was not feasible since such labels would become unreadable. These comments apparently assume that the labels would be exposed to the direct heat or fire of the firebox in these locations. However, this is not necessarily the case.

The rule has a separate requirement that the required labels be provided so that they will "remain legible for the maximum expected useful life of the appliance in normal operation." If a label would be discolored, damaged, or otherwise rendered illegible by heat or fire, another location or type of label would have to be selected. Therefore, no change in the rule is needed in response to this comment.

(*E*) *Permanence.* Most of the comments that mentioned the requirement that labels be permanent agreed with the requirement.

One commenter asked that the rule be amended "to allow for flexibility in the use and attachment of different materials, such as metallic foil, for the labeling information."

The preamble of the proposal gave some examples of types of labels that could satisfy the requirement that the label be permanent. Section 1406.4(a)(4) of the rule, however, merely requires that the label "shall be provided so that it will remain legible for the maximum expected useful life of the appliance in normal operation." Other types of labels than those specifically mentioned in the preamble as examples of suitable types may be used if in fact they are capable of remaining legible for the maximum expected useful life in normal use. Therefore, the suggested amendment is unnecessary.

(*F*) *Written and/or diagrammatic information.* The proposal stated that the appropriate minimum clearances to combustibles that would be required to be on the label should be stated in both written and diagrammatic form. The Commission agrees with the two comments that disagreed with the redundancy of this requirement, and the redundancy has been eliminated from the final rule.

One of these comments indicated that because of the potential variations of clearances in different installation configurations, the clearance information should be listed in the label, and more complete diagrams could be supplied in the instructions. The other comment indicated that the more graphic the label, the more effective it would be in communicating the required information to the consumer.

The Commission agrees with this latter comment. This is especially the case when the appliance is being reinstalled in a different location and the original instruction manual may not be available. Accordingly, the final rule indicates that the distance from the back and sides of the appliance and the chimney connector, to *walls* must be stated in diagrammatic form.

However, the required statement of the clearance to be maintained between the chimney connector and *ceilings* is less subject to variations and is easier to understand in written form than are the side and back clearances to walls. Furthermore, any extra space required to indicate the connector-to-ceiling clearance in diagrammatic form may not be warranted by any extra communication value, compared to supplying this information in written form. Therefore, the final rule specified that the connector-to-ceiling clearances may be stated in either written or diagrammatic form.

If different back and side clearances are required in different installation configurations, the manufacturer could either provide the requisite number of diagrams or supply one or more diagrams with the greater clearances and also provide a label statement referring the reader to the instructions for special cases where smaller clearances could be used. Therefore, since the concern of the commenter who wished for this information to be listed in written form can be satisfied in another way, the Commission concludes that the extra ease of understanding of side and back clearances in diagram form warrants such a requirement in the final rule.

(*G*) *Meaning of "combustible."* A commenter argued that the requirement that the clearance to "combustible walls" be stated on the label was confusing since the reader would be unlikely to realize the meaning of "combustible" in this context. Walls that have a brick or tile facing over wood framing are "combustible" for the purposes of these clearances since the heat will be transmitted through the facing to the wood. Therefore, inclusion of the term "combustible walls" in specifying the clearance could encourage persons to install the appliance at lesser distances when the outer surface of the wall is not one that a layman would consider combustible.

The proposal did not expressly require that the label use the word "combustible" in stating this distance; it only required that the distance stated *be* that to combustible walls. However, the examples of acceptable labels did use this terminology. Since the Commission agrees with the substance of this comment, the final rule has been changed so that the examples of acceptable labels now state the clearances to walls and ceilings without using the qualifying word "combustible." In addition, the body of the rule has eliminated the term "combustible" in the specific requirements for clearances to walls and ceilings, but the introductory portion of the requirement still indicates that the

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clearances to be provided are those to "unprotected combustibles." This should help reduce the possiblity of confusion pointed out by this comment.

(H) *Overfiring.* One commenter opposed the proposed requirement that the label contain a "statement that the appliance should not be overfired, and a description of the condition[s] which signal[s] overfiring" because a caution against overfiring could result in operation of the appliance in a damped-down manner that would increase the production of creosote due to operation at a low flue temperature.

The Commission does not believe there is any reason to conclude that a warning against overfiring, especially when accompanied by a statement of one or more specific symptons of overfiring, would result in insufficient burning, thereby creating a related creosote hazard. Consumers are unlikely to mistake normal burning for overfiring and therefore to restrict the fuel or air supply so that insufficient burning results. On the contrary, the warning is intended to prevent actual overfiring without a realization of the hazard involved. Therefore, the Commission concludes that this comment is speculative and that no change in the rule is needed to address this possibility.

b. *Suggested additional requirements*

(1) *Type of fuel required.* Two comments stated that consumers should be notified of the types of fuel that are suitable for use in the appliance.

The proposal included a requirement that the instruction manual contain a statement of the types of fuel that may be used in the appliance. After considering the comments, the Commission has concluded that this information should also be included on the label that is required to be readily visible during normal use. While a requirement for this statement on the label was not included in the proposal, it was required in the instructions and is related to the hazard of overfiring and the appropriate clearance distances that were addressed in the proposed label requirements. Therefore, the Commission concludes that this additional requirement is within the scope of the proposal.

(2) *Disposal of ashes.* The proposal required complete use and maintenance directions to be provided in the directions. This general requirement would include a statement of how to safely dispose of ashes, and a statement addressing this hazard was included in the recommended format and wording for the directions stated in Appendix II to the proposal. A major insurance company suggested more complete language for this direction, and the Commission has included similar language in Appendix II to the final rule. However, this type of statement is not being required on the label since the Commission has no information indicating that the risk of fire from improper disposal of ashes is as high as the other risks addressed by the label.

(3) *Type of wood to burn.* One commenter stated that the label should indicate what type of wood to burn in the appliance.

The Commission, however, does not believe that there is suffcient information available on the safety ramifications of burning different types of wood in these appliances to warrant such a requirement. Therefore, the Commission has not adopted this suggestion.

(4) *Instructions on what to do when a chimney fire occurs.* A commenter suggested that information should be provided on what a consumer should do if a chimney fire occurs. While the Commission agrees that such information could be valuable, the precise content of the advice could be somewhat controversial. For example, should the directions tell the homeowner to shut off air to the stove first, or should the first action be a call to the fire department? Should the consumer remain in the house and try to smother the fire in the appliance, or would it be safer to leave the home and await the arrival of the fire department? Particularly in view of these types of uncertainties, the Commission probably could not adopt such a requirement without a reproposal of the rule. In addition, the Commission does not know the extent to which the lack of such information may be responsible for avoidable injuries or property damage. For these reasons, the Commission is not adopting this requirement at this time.

(5) *Information on the efficiency of stoves.* Several commenters stated that information on the efficiency of the appliances subject to the rule, or on the heat output that the appliance could achieve with a specific fuel, should be provided. The Commission declines to adopt this suggestion since it was not proposed and since the Commission's statutory authority under section 27(e) of the CPSA to require manufacturers to furnish information to consumers must be related to the safety of the product and not merely to providing useful information on the cost, performance, or efficiency of a product.

(6) *Other miscellaneous operating information.* One commenter indicated that he believed the following information should be on the feeder door of a wood or voal stove.

"1. Do not use explosive or highly flammable fuels to start fire. (Actually, corn cobs soaked in kerosene are the best.)

2. Before refueling stove, be sure to open chimney vent. (This avoids excessive smoking out of the door).

3 Do not burn trash/garbage in the stove. (Paper trash can be extremely dangerous in that it burns very quickly and escapes fragments into the chimney.)

4. Keep all clothing and furniture at least ———ft. away.

5. Check thermostat setting before retiring for night."

This commenter also urged that the following information should be provided on a second label located either on the inside of the protective shield door (outer stove cover) or "on the back side beside the thermostat."

"1. Use caution in reloading the stove. Reload only when the fire is burned down. Open chimney draft vent when doing so. Never use flammable fuels on ashes or smouldering logs.

2. Shake ashes daily and remove at regular intervals.

3. Check for creosote buildup in the stove pipes by tapping them lightly with the wood poker regularly. You can tell when there is a buildup and the pipes need cleaning them.

4. Avoid continual opening and shutting of the stove feeder door.

5. Learn how to start the initial fire in a cold stove by using small, dry materials and putting larger pieces stacked so to promote burning.

6. Keep a tea kettle filled with water on top of the stove to avoid dry air.

7. Follow all installation directions when setting up the stove:

a. Is the stove pipe unit firmly attached to the chimney entrance with a small wire?

b. Are the stove pipe sections firmly entered into each other?

c. Is there a protective flood shield underneath the stove?"

d. Is there protective asbestos or tin on the walls beside the stove?

Some of the suggested labeling does not relate to safety concerns and is thus beyond the Commission's authority to require. Much of the other information could be useful and would properly be included in the instructions. However, the Commission does not believe that the information suggested in this comment is as valuable as the information that is otherwise required by the rule to be on a label. To require the lengthy additional material suggested by this commenter would result in a label that was so large and contained so much information as to be unreasonably unsightly and contain so much information that consumers would either not read the label or the impact of any particular piece of information on the consumer would be greatly diluted. Therefore, the Commission will not take the action requested in this comment.

(7) *Installation of stoves in zero-clearance fireplaces.* One comment indicated that fires could occur as a result of installing wood or coal burning stoves in zero-clearance fireplaces. The commenter suggested that stove labels should state that a fire code violation may occur if the unit is installed inside a zero-clearance fireplace.

This comment appears to refer to fireplace inserts, which are not covered by the proposed rule. If the comment is viewed as applying to the appliances covered by the proposed rule, the Commission has insufficient data about this hazard to warrant a conclusion that the requested warning statement is needed. Accordingly, the Commission has not adopted this suggestion.

(8) *Glass in stoves.* One commenter wrote to say that he had several glass inserts for his stove break in use and that he had heard of a number of other persons that had the same difficulty. He suggested that an asbestos cushioning strip could solve the problem. Also, a glass manufacturer wrote to provide additional information on the care of glass used in stoves.

Although the Commission appreciates being advised of the potential problem with glass breakage in stoves, the rule being issued below does not address particular problems that may be present in a particular brand of stoves. Furthermore, although the information provided by the glass manufacturer is interesting and should be provided by the stove manufacturer in a proper case, the rule issued below leaves to the stove manufacturer the responsibility for the exact wording and amount of necessary information for the use and maintenance of stoves with glass. Other brands of glass may need additional or different advice.

(9) *Confidentiality of test data.* The proposed rule (§ 1406.5) would require manufacturers to submit to the Commission a statement of how the clearance distances required by the rule were determined. One commenter stated that the proposed rule did not provide any protection against disclosure of test data submitted to the Commission to a party who requested it under the Freedom of Information Act. The commenter stated that the rule should provide such protection.

In general, the Commission does not have the authority to withhold information requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552, unless the information fits into one of the exemptions provided in 5 U.S.C. 552(b). The exemption that could fit the situation described by this commenter is in paragraph (4) of that section, which concerns "trade secrets and commercial or financial information obtained from a person and privileged or confidential." If the information submitted fits into this category, under 15 U.S.C. 2055(a)(2), the Commission would be prohibited from disclosing it. Therefore, exemption (3) of the FOIA would also be applicable. Disclosure of trade secrets and certain other types of confidential information is also prohibited by 18 U.S.C. 1905. Furthermore, under 15 U.S.C. 2055 (with certain exceptions), the Commission may not release information that would enable the public to readily ascertain the identity of a manufacturer or private labeler of a consumer product unless (1) the Commission notifies the manufacturer or private labeler of the intended disclosure, (2) provides them an opportunity to comment, and (3) takes the reasonable steps provided in 15 U.S.C. 2055(b). This section provides such party with an opportunity to seek an injunction barring the disclosure if the party believes the information to be disclosed is inaccurate.

These statutory procedures should provide adequate protection against the disclosure of test data submitted to the Commission under the requirement of 16 CFR 1406.5. Therefore, no changes in the rule are needed in this regard. (As discussed above, § 1406.5 is not being issued at this time, but will be issued after the requirement has been approved by the Office of Management and Budget.)

5. *Effective date.* The Commission received a number of comments concerning the effective date of the rule. The rationale for the effective date of the rule is explained in section F of this notice.

The proposed rule would have applied to all subject appliances that would be *first introduced into commerce in the United States* after the effective date of the rule. The Commission received several comments asking that the rule should apply instead to all subject appliances *manufactured* after the effective date. These commenters feared that a rule applicable to first introduction into commerce could require the relabeling of appliances that were being kept in manufacturers' inventory and were not shipped until after the effective date.

As noted in the proposal, the Commission selected the effective date in the proposal on the basis of information indicating that manufacturers did not keep substantial amounts of inventory and that the rule would not require potentially costly retrofitting of the label to previously manufactured appliances. However, the information currently available to the Commission indicates that this may not always be the case.

The Commission believes that the rule should become effective as soon as is reasonably possible in order that consumers will begin receiving the needed information as soon as possible. However, as explained in the proposal, the keying of the effective date to the first introduction into commerce was primarily to simplify the task of determining which appliances were subject to the rule.

In order to avoid the problem noted by these commenters, the final rule has been changed so that the rule will apply initially only to appliances manufactured after the effective date, which is five months after the date of issuance of the rule. In order that the Commission's compliance tasks may eventually take advantage of an easier to determine effective date keyed to first introduction into commerce, the final rule also provides that the rule shall in addition apply to any subject appliance first introduced into commerce in the United States after May 16, 1984, which is twelve months after the rule is issued, regardless of the date of manufacture. This period should be sufficient so that no extensive retrofitting of previously-manufactured, non-complying products will be required.

Comments were also received concerning the amount of time after issuance of the rule that would be appropriate for the effective date. The proposal would have applied to stoves manufactured in the U.S. or imported after about four months from the date of issuance. Representatives of the Wood Heating Alliance have indicated to the Commission's staff that a period of four months would be required in order for manufacturers to design the necessary labels and instruction manuals, obtain the approval of their certifying organization to use the modified materials, order and receive the materials, and incorporate them into current production. The Commission agrees that this is a reasonable period. In addition, the Commission concluded that foreign manufacturers would require an additional month for shipment of their products to the U.S. Therefore, the Commission has

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established that the rule shall become effective October 17, 1983, which is 5 months after the issuance of the rule.

The effective date of the final rule is one month longer after issuance than the date originally proposed. This is because the final rule is becoming effective during the peak period of production, whereas at the time of proposal it was estimated that the changes in labels and instructions could be incorporated well before the beginning of seasonal production. The need to change labels and instruction manuals during a production run requires the additional time. [The Commission staff's findings concerning the effective date are set forth in the briefing package dated 3/25/83, Tab B.]

6. *Authority to issue the rule.* The rule is issued under section 27(e) of the Consumer Product Safety Act, 15 U.S.C. 2076(e), which authorizes the Commission to "by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of this Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to * * * [consumers]."

One commenter questioned the Commission's authority to issue the rule under section 27(e), implying that the information required by the rule does not fit within "the plain, obvious and rational meaning of performance and technical data," which is the test established in *Southland Mower Co. v. CPSC*, 619 F.2d 499 (5th Cir. 1980). The commenter noted that the Commission's authority to issue its chlorofluorocarbon propellant labeling requirement, 16 CFR Part 1401, under section 27(e) was being challenged in *United States v. Falcon Safety Products* (D. N.J., No. 80–1590). That case, however, ultimately upheld the Commission's action. The Commission concludes that labeling and directions for the installation, operation, and maintenance of the appliances subject to this rule come within the plain, obvious, and rational meaning of performance and technical data and that the rule is properly issued under section 27(e).

E. Economic Impact of the Rule [1]

The average finished cost for purchase and installation of appliances covered by the rule is between $800 and $1,000. The direct cost of providing the written notice on the appliance and the required directions would be approximately $1.85 per stove. Another element of cost for some manufacturers would be testing of the stove to determine or confirm the appropriate clearances. Not all manufacturers will have to perform such testing, however, since many manufacturers already know the appropriate clearances from previous tests or from past experience with the product. In one typical example examined by the Commission's staff, the cost attributable to this testing could be considered to be about $0.20 per unit. Therefore, the staff believes that the cost of the rule to producers of these coal and wood burning appliances should not exceed about $2.05 per stove. Depending on the markup on the additional costs, the increased cost to consumers could be as much as $2.80 per stove. Many manufacturers are now labeling stoves and have already incurred some of those costs; thus, the average per stove cost of the rule could be less than $2.80. The cost of providing copies of the written notice and directions to the Commission is expected to be negligible. The total annual cost of the rule to consumers may be up to about $4.5 million. The rule is not expected to lead to a significant reduction in the number of these appliances purchased each year.

The cost stated above could be somewhat higher if manufacturers give the written notice by two labels instead of one. On the other hand, many manufacturers already provide a label and/or will not need to test their product, and the costs to these manufacturers should be substantially lower than those stated above.

However, the rule is expected also to result in savings due to reductions in property damage, death, and injuries associated with the products subject to the rule.

It has been estimated that fires directly attributable to these stoves and their venting systems caused some $113 million in property damages in 1981. [Kale, D., *Fires in Woodburning Appliances*, U.S. CPSC, December 1982.] Although the Commission is unable to estimate the degree to which the rule may reduce fire incidents, a reduction of 5 percent (or possibly less) in these property damages alone would offset the total yearly cost of the rule.

In 1981, an estimated 160 deaths were attributed to fires associated with coal and wood burning stoves. *Ibid.* Based on available fire incident data, an estimated 1200 fire-related injuries were associated with these articles in 1981. *Id.* There are significant economic and social costs of the deaths and injuries associated with these products. Any reduction in these injuries and deaths would result in significant benefits to consumers.

The Commission further concludes that the rule is not a major action that would have any significant effect on the environment. Thus, no environmental impact assessment is required.

F. Effective Date [2]

1. *Labels and directions.* The Commission estimates that a period of up to 4 months after issuance of this rule will be needed in order for manufacturers to do any testing needed to determine or confirm the appropriateness of clearance distances, develop and acquire the required labels and directions or modify existing ones, print the appropriate directions booklets, and incorporate the means to provide the labels into their normal production procedures. Although the traditional seasonality of production has been replaced with production to meet orders for most firms, some companies continue to produce these appliances year round. In either case, a four-month period after publication of the final rule should be sufficient for all domestic manufacturers to comply with the rule as to newly manufactured appliances. Importers of appliances, however, must also allow for the time required for the appliances to be shipped from the country of manufacture to the United States. The Commission estimates that this shipping time would not exceed another 30 days. Therefore, a 5 month period for an effective date as to newly manufactured appliances should allow both domestic and foreign manufacurers to comply with the rule with a minimum disruption of production.

However, it is often easier to determine the date when an appliance was first introduced into commerce in the United States than it is to determine when the appliance was manufactured. Therefore, an effective date that is keyed to the date of initial introduction into commerce in the United States makes it easier for the Commission's compliance staff to determine which appliances are subject to the rule and to prove this fact if such is necessary in an action based on noncompliance with the rule. Therefore, the rule is also being made effective as to all of the subject appliances that are first introduced into commerce in the United States after May 16, 1984. This date is 7 months after the effective date applicable to newly manufactured appliances in order to reduce the possibility that potentially costly retrofitting might be required for stoves that were manufactured before October 17, 1983, but not initially introduced into commerce in the United States until a later date. [This retrofitting could cost up to $25 per stove, according to industry estimates.]

For the purpose of this rule, a product manufactured outside the United States is first introduced in U.S. commerce when it is first brought within a U.S. port of entry. A product manufactured in the U.S. is first introduced in U.S. commerce when it is shipped by the manufacturer or delivered to the next purchaser, whichever comes first.

Although these effective dates will require prompt action on the part of a number of manufacturers, the Commission believes that it is important to have the rule go into effect as soon as is reasonably possible in view of the fact that the production season for the 1983–1984 winter season begins in about May of 1983. The Commission would like for as many as possible of the stoves produced for the coming season to comply with this rule in order to reduce the injuries, deaths, and property damages that occur as the result of not providing consumers with adequate information on the installation, operation, and maintenance of these appliances.

2. *Catalogs and point of sale literature.* The requirement that catalogs and point of sale literature for the appliance that are provided by the manufacturer shall legibly and conspicuously state the appropriate minimum clearances from the back and sides of the appliance to walls and contain a direction to contact local building or fire officials about restrictions and installation inspection requirements will become effective for all such publications that are provided by the manufacturer on or after May 16, 1984. This additional time is needed since these types of publications are often prepared far in advance of their intended use and the Commission wishes to avoid imposing the possible increase in cost of requiring the replacement of catalogs and point of sale literature that were prepared before the rule was issued.

3. *Submission of labels, directions, and rationale for clearances to the Commission.* As discussed above in section C of this notice, "Description of the Rule", the Commission intends to issue proposed § 1406.5 after the requirement is approved by the Office of Management and Budget. If this occurs, the Commission intends that this information would be submitted to the Commission by November 16, 1983 or within 30 days of the introduction of a new model of appliance that is subject to this rule.

G. Effect on State and Local Requirements

Many jurisdictions have requirements for installation of these appliances, inspections for the completed installation, testing and certifications programs, and labeling requirements. However, as discussed above in section D of this notice, "Comments on the Proposal," the information available to the Commission indicates that these local requirements are not sufficiently widespread or enforced that the existence of these requirements would remove the need for the regulation that is issued below.

The existence of state and local regulations in this area, however, raises the question of the degree to which the Commission's action my affect the application of state and local requirements. Section 26(a) of the act, 15 U.S.C. 207(a), provides that where a federal consumer product safety standard is in effect, state and local governments do not have the authority to establish or to continue in effect a different safety standard or regulation designed to deal with the same risk of injury as the federal standard. This statutory effect on state and local government regulations, known as preemption, applies only to a "consumer product safety standard", which is defined in section 7(a) of the act, 15 U.S.C. 2056(a). The statutory preemption provision is not applicable to a disclosure requirement issued under section 27(e), since the disclosure requirement is not a consumer product safety standard (which is issued under sections 7 and 9 of the act, 15 U.S.C. 2056, 2058). Interested persons should be aware, however, that even though the statutory preemption provision would not apply, there may be instances where certain state or local government actions could be preempted under other legal principles. However, the Commission does not intend that the rule would preempt any state or local requirements that are not inconsistent with the rule, even though the state or local requirements concern the same risk of injury addressed by the rule. Of course, any state or local requirements that were inconsistent with the rule would be invalid.

H. Penalties

Failure to comply with this regulation is a prohibited act, as specified in section 19(a)(9) of the CPSA, 15 U.S.C. 2068(a)(9), and could lead to civil and criminal penalties under sections 20 and 21 of the CPSA, 15 U.S.C. 2069, 2070. Section 21 provides criminal penalties for violations after notice, consisting of fines of not more than $50,000 and imprisonment for not more than one year. Section 20 provides for a civil penalty not to exceed $2,000 for each violation, with a maximum civil penalty of $500,000 for any related series of violations. In addition, section 22 of the act, 15 U.S.C. 2071, authorizes the Commission to obtain an injunction from a United States district court to restrain a violation of the notification requirement.

I. Statutory Findings

The rule is issued under section 27(e) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2076(e). This section of the act authorizes the Commission to require manufacturers of consumer products to provide the Commission with such performance and technical data related to performance and safety as may be required to carry out the purposes of the act. Section 27(e) also authorizes the Commission to require manufacturers of consumer products to give notification of such performance and technical data to prospective purchasers at the time of original purchase and to the first purchaser for purposes other than resale, as it determines necessary to carry out the purposes of the act. As provided in section 2(b) of the CPSA, 15 U.S.C. 2051(b), two of the purposes of the act are (a) to protect the public against unreasonable risks of injury associated with consumer products and (b) to assist consumers in evaluating the comparative safety of consumer products.

1. *Protecting the public from unreasonable risks of injury.* The estimates of fire incidents that are associated with coal and wood burning appliances show that there is a substantial risk associated with their use. This risk can be addressed by the requirements of the rule proposed below at a minimal cost to the consumer. Providing this information to consumers should reduce the number of improperly installed appliances and increase the number of consumers who know how to properly operate and maintain these devices. The Commission therefore concludes that there is an unreasonable risk of injury associated with those coal

[1] The Commission staff's report concerning the economic impact of the rule is contained at Tab B of the briefing package dated 3/25/83.

[2] The Commission staff's findings concerning the effective date are contained in Tab B of the briefing package dated 3/25/83.

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and wood burning appliances that do not provide the notices and directions provided for in Part 1406 below.

2. *Comparative safety.* The requirements of this rule will aid the public in determining which appliances can be safely installed in the space available. This knowledge facilitates the consumer's choice of an appliance to suit his or her installation situation.

Therefore, in order to carry out the purposes of the CPSA to protect the public against unreasonable risk of injury and to assist the public in evaluating the comparative safety of consumer products, the Commission concludes that it is necessary to require manufacturers of these products to provide the notifications described in Part 1406 as set forth below.

Accordingly, under provisions of the Consumer Product Safety Act (secs. 2, 27(e), Pub. L. 92–573, 86 Stat. 1207, 1228; 15 U.S.C. 2051, 2076(e)), the Commission amends Title 16, Chapter II, of the Code of Federal Regulations by adding to Subchapter B a new Part 1406.

List of Subjects in 16 CFR Part 1406

Advertising, Consumer protection, Fire prevention, Housing standards, Labeling.

PART 1406—COAL AND WOOD BURNING APPLIANCES—NOTIFICATION OF PERFORMANCE AND TECHNICAL DATA

Sec.

1406.1 Scope, purpose, and effective date.
1406.2 Background.
1406.3 Definitions.
1406.4 Requirements to provide performance and technical data by written notice to purchasers and prospective purchasers.
1406.5 [Reserved]

Authority: Secs. 2, 27, Pub. L. 92–573, 86 Stat. 1207, 1228 (15 U.S.C. 2051, 2076).

§ 1406.1 Scope, purpose, and effective date.

(a) *Scope.* This Part 1406 requires manufacturers, including importers, of coal and wood burning appliances, as defined in § 1406.3(a), to provide consumers with a specified notification concerning the installation, operation, and maintenance of the appliances. The notification is intended to provide consumers with technical and performance information related to the safety of the appliances.

(b) *Purpose.* This regulation is intended to reduce the unreasonable risk of injury from fire associated with inadequate information provided with coal and wood burning appliances. This rule does not replace any voluntary standards applicable to these appliances or any state or local requirements applicable to the installation, use, or maintenance of such appliances that are not inconsistent with this rule. Thus, for example, a local code could require the actual installation of appliances at different distances from combustibles than those specified on the label required by this rule, and voluntary standards or local codes could require labeling or instructions in addition to those required by this rule. The fact that a product complies with this regulation is not intended to be a substitute for the performance tests and other criteria established by listing organizations whose approval is required to meet some state or local requirements applicable to these appliances.

(c) *Effective date.* (1) Except as provided in paragraph (c)(2) of this section, manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3(a) must comply with this regulation with respect to stoves that are manufactured or imported after October 17, 1983, or that are first introduced into United States commerce after May 16, 1983, regardless of the date of manufacture. For the purposes of this rule, an appliance is manufactured when no further assembly of the appliance is required (i) before shipment by the manufacturer or (ii), if the product is not so shipped, before delivery to the first purchaser. A product manufactured in the United States (U.S.) is first introduced into U.S. commerce when it is shipped by the manufacturer or delivered to the next purchaser, whichever comes first. A product manufactured outside the U.S. is first introduced into U.S. commerce when it is first brought within a U.S. port of entry.

(2) The requirements of § 1406.4(d) apply to sales catalogs and point of sale literature provided by manufacturers after May 16, 1984.

§ 1406.2 Background.

(a) Fire data analyzed by the Consumer Product Safety Commission disclose a number of incidents involving coal and wood burning appliances. Many of these cases involve improper installation of the appliances, especially where they are installed with insufficient clearances to adjacent combustibles such as walls, ceilings, floors, draperies, carpets, or furnishings. Another common installation problem involves the use of improper types of chimneys or chimney connectors and insufficient clearances between these devices and combustibles. Other incidents involve improper operation of the appliance, such as by overfiring it or using flammable liquids to start the fire. Still other incidents occur when appliances are improperly maintained and develop mechanical defects or excessive deposits of flammable creosote.

(b) After considering the available data on the causes of fires in these appliances, the Commission concludes that there is an unreasonable risk of injury associated with appliances that are sold without notifying consumers of the information they need to prevent many of these occurrences. Accordingly, the Commission has determined that disclosure of the information required by § 1406.4 is necessary to help the Commission in carrying out the purposes of the Consumer Product Safety Act of (1) helping to protect the public against unreasonable risks of injury associated with consumer products and (2) assisting consumers in evaluating the comparative safety of consumer products.

§ 1406.3 Definitions.

For the purposes of this rule:

(a) "Coal and wood burning appliances" means fireplace stoves, room heater/fireplace stove combinations, cookstoves and ranges, and radiant and circulating heaters. It does not include central heating units, masonry fireplaces and chimneys, fireplace inserts, or factory built fireplaces (zero clearance fireplaces).

(b) "Central heating units" include boilers, furnaces, and furnace add-ons. These appliances are designed to be connected to hot water distribution or ductwork systems for heating several rooms. The furnace add-on converts an existing gas, oil, or electric heating system to one capable of using solid fuel as well as its original fuel.

(c) A "chimney" is a vertical or nearly vertical enclosure containing one or more passageways called flue passages for conveying combustion wastes to the outside atmosphere.

(d) A "chimney connector" is the stovepipe which connects the appliance flue with the chimney flue.

(e) "Cookstoves and ranges" are chimney connected solid fuel burning appliances that are used primarily for cooking. In addition to the firechamber, there may be one or more ovens or warmer compartments and several removable cooking space pothole lids. The intensity of the fire is controlled by damper and draft regulators.

(f) A "factory built fireplace" is a firechamber and chimney assembly consisting entirely of factory made parts. It is designed for component assembly without requiring field construction. These "zero clearance" units are fabricated for safe installation against combustible surfaces and for burning fireplace fuel.

(g) "Fireplace inserts" are heating units that fit into a fireplace and connect to the fireplace flue. These units function like radiant and circulating heaters.

(h) A "fireplace stove" is a freestanding, chimney-connected firechamber which is constantly open to view. It is designed to burn regular fireplace fuel and function as a decorative fireplace.

(i) A "masonry chimney" is a chimney field-constucted of solid masonry units, brick, stones, or reinforced concrete.

(j) A "masonry fireplace" is an open firechamber built into a structure along with a chimney and hearth. It is constructed of solid masonry units such as bricks, stones, or reinforced concrete.

(k) "Radiant and circulating heaters" have firechambers which may be airtight [1] or non-airtight and are available in a number of sizes, shapes, and designs. The firechamber is closed in use, but there may be a window of specially formulated glass for viewing the fire. Drafts and dampers are used to control the burning process. There may be a secondary combustion chamber, baffles, a thermostat, a blower, or other components which function to improve combustion efficiency or to control heat output. The primary function of these appliances is as space heaters. However, some have lift-off cooking pothole lids, and the top surface of most can be used for cooking. The fuel may be wood, coal, or both. Radiant heaters transmit heat primarily by direct radiation. Circulating heaters have an outer jacket surrounding the fire chamber. Air enters from the bottom, is warmed by passing over the fire chamber, and exits at the top. Movement is by natural convection or forced air circulation.

(l) A "room heater/fireplace stove combination" is a freestanding, chimney-connected fire chamber with doors. It is designed to be used to burn fireplace fuels with the firechamber either open or closed to view. This appliance functions as a decorative fireplace when the doors are open and as a non-airtight heater when the doors are closed.

[1] An airtight stove is defined as "A stove in which a large fire can be suffocated by shutting the air inlets, resulting ultimately in a large mass of unburned fuel remaining in the stove." Jay W. Shelton, *Wood Heat Safety*, Garden Way Publishing, Charlotte, Vermont (1979), p. 160.

§ 1406.4 Requirements to provide performance and technical data by written notice to prospective purchasers and purchasers.

Manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3 shall give notification of performance and technical data related to performance and safety to prospective purchasers at the time of original purchase and to the first purchaser of such products for purposes other than resale, in the manner set forth below:

(a) *Written notice on appliance.* (1) The appliance shall bear a legible notice containing the following performance and technical data.

(i) Appropriate minimum clearances from unprotected combustibles to avoid the occurrence of fire.[2] The clearances shall include:

(A) Distance from the back and sides of the appliance, and the chimney connector, to walls, stated in diagrammatic form.

(B) Distance to be maintained between the chimney connector and ceilings, in either diagrammatic or written form.

(ii) Type and dimensions of floor protection, if necessary to protect combustible floors.

(iii) Proper type(s) of chimney and chimney connector to be used with the appliance. This information should include the proper designations so that the chimney and chimney connector are of suitable design and construction to withstand the temperature of the flue gases and other probable environmental stresses and so that the inside dimensions are suitable to adequately vent the products of combustion. See Figs. 1 and 2 for examples of an acceptable designation for a chimney and chimney connector.

(iv) Identification of parts or precautions required for passing a chimney through combustible walls or ceilings or for passing a chimney connector through combustible walls. The following statement is an example of one that complies with this requirement:

> Special methods are required when passing through a wall or ceiling. See instructions or building codes.

(v) A statement not to overfire the appliance, and a description of at least 1 condition which signals overfiring.

(vi) A statement of how often the chimney and chimney connector should be inspected and that it should be cleaned when necessary.

(vii) Information explaining that the appliance should be installed and used only in accordance with the manufacturer's directions and local building codes.

(viii) A direction to contact local building or fire officials about restrictions and installation inspection requirements.

(ix) A statement that furnishings and other combustible materials should be kept a considerable distance from the appliance.

(x) The types of fuel suitable for use in the appliance.

(xi) The name and address of the manufacturer, importer or private labeler to which the owner can write for a copy of the manufacturer's directions or for additional information, and a sufficient identification of the appliance model so that the appropriate information can be supplied.

(2) No specific wording is required on the written notice, but the information shall be printed in legible English in clear and readily understandable language. Examples of acceptable labels are given in Figs. 1 and 2, Appendix I.

(3) The written notice shall be placed in a location that is conspicuous before the appliance is installed. In addition, the written information required by paragraphs (a)(1)(v), (a)(1)(vi), (a)(1)(ix), and (a)(1)(x) of this section shall be readily visible during normal use of the appliance. A label on the back of the stove would not be considered "readily visible" during normal use if the stove is suitable for installation with its back within a few feet of the wall. Locations within compartments or behind doors or panels may be readily visible during normal use if the location is readily visible when the door or panel is opened or removed and the door or panel must be opened or removed, or the compartments used, as part of the normal operating procedures for the appliance. An example of a notice format where the information required to be readily visible during normal use is separated from the remainder of the notice is given in Fig. 1, Appendix I. The Commission recommends the use of this 2 label format in order to provide more consumer awareness of the operation and maintenance information after the appliance is installed, since this information would be on a simpler label that would not have installation information competing for the consumer's attention.

(4) The written notice shall be provided so that it will remain legible

[2] Appropriate distances are to be determined by the manufacturer. The Commission expects that test procedures utilized by a nationally recognized testing organization would be suitable for determining appropriate distances.

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for the maximum expected useful life of the appliance in normal operation.

(b) *Directions.* All appliances covered by this rule shall be accompanied by directions that include the following technical and performance information:

(1) The following notice shall be placed on the first page of the document(s) containing the directions and at the beginning of the directions:

SAFETY NOTICE: IF THIS ——— IS NOT PROPERLY INSTALLED, A HOUSE FIRE MAY RESULT. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS. CONTACT LOCAL BUILDING OR FIRE OFFICIALS ABOUT RESTRICTIONS AND INSTALLATION INSPECTION REQUIREMENTS IN YOUR AREA.

This statement shall be conspicuous and in type that is at least as large as the largest type used on the remainder of the page, with the exception of the logo and any identification of the manufacturer, brand, model, and similar designations. At the manufacturer's option, other information may be added to this notice.

(2) Step by step installation directions shall be provided, including all necessary information regarding parts and materials. This information shall include an explanation of the consequences which could result from failure to install the appliance properly. These directions shall include a direction to refer to the chimney and chimney connector manufacturers' instructions and local building codes for installation through combustible walls or ceilings.

(3) These directions shall also include a clearly identified section containing complete use directions, including what types of fuel(s) can be used and how to fire the unit to avoid fire hazards, and a clearly identified section containing complete maintenance directions, including how and when to clean the chimney and chimney connector. A statement that flammable liquids should not be used with the appliance shall also be included where applicable. These sections shall contain a description of the consequences that could result from failure to use or maintain the appliance properly.

(4) The directions required by paragraphs (b)(2) and (b)(3) of this section shall include all the information required by paragraph (a)(1) of this section and shall be in legible English in readily understandable language. A recommended outline for the directions is given in Appendix II.

(c) *Catalogs and point of sale literature.* Literature for the appliance that is intended to induce an immediate order or sale (such as catalogs and point of sale literature) and that is provided by the manufacturer, shall legibly and conspicuously include the information required by paragraph (a)(1)(viii) of this section and shall state the appropriate minimum clearances, to avoid the occurrence of fire, from the back and sides of the appliance to walls.

Note.—General advertising would not be subject to this requirement.

Appendix I.—Recommended Format and Wording for Written Notice

The following are examples of formats and suggested wording for the written notice required by § 1406.4(a). Information to be supplied by the manufacturer is indicated by underlined blank spaces or by asterisks. The Commission recommends the "two label" format shown in Fig. 1.

BILLING CODE 6355-01-M

Fig.1 - Example of how written notice requirements are satisfied with two labels. Label (A) is located so that it is conspicuous before installation. Label (B) is located so that it is readily visible during normal use. Insert appropriate information or numbers at "*". Words or diagrams should be changed to suit particular appliance.

(A)

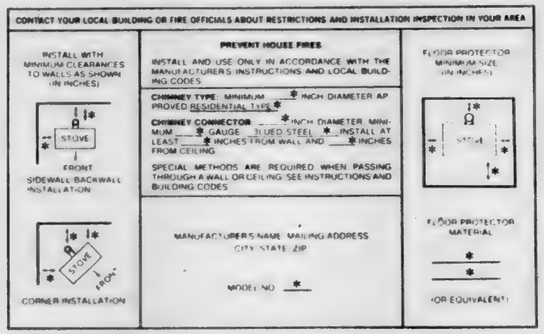

(B)

PREVENT CREOSOTE FIRE. INSPECT CHIMNEY CONNECTOR AND CHIMNEY TWICE MONTHLY AND CLEAN IF NECESSARY

DO NOT OVERFIRE. IF UNIT OR CHIMNEY CONNECTOR GLOWS, YOU ARE OVERFIRING.

KEEP FURNISHINGS AND OTHER COMBUSTIBLE MATERIALS A CONSIDERABLE DISTANCE AWAY FROM APPLIANCE

TYPE OF FUEL: WOOD ONLY *

Fig. 2 - Example of how written notice requirements are satisfied by a single label that is readily visible during normal use of the appliance and conspicuous before installation. Insert appropriate information or numbers at "*". Words or diagrams should be changed to suit particular appliance.

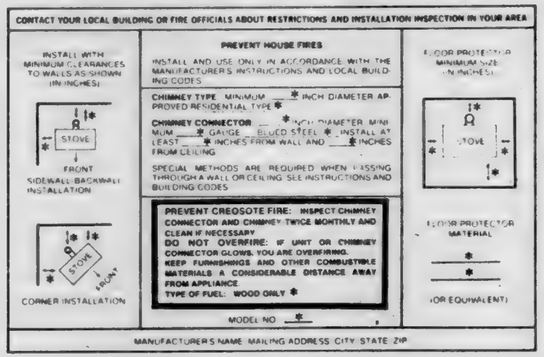

BILLING CODE 6355-01-C

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Appendix II.—Recommended Outline for Directions

The following is a recommended outline for the directions required by § 1406.4(b). This outline is a guide and should not be considered as including all of the information that may be necessary for the proper installation, use, and maintenance of the appliance since the necessary information may vary from product to product.

"HOW TO INSTALL, USE, AND MAINTAIN YOUR ———"

I. Safety Precautions

A. The Safety Notice required by this rule.

• "SAFETY NOTICE: IF THIS ——— IS NOT PROPERLY INSTALLED, A HOUSE FIRE MAY RESULT. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS. CONTACT LOCAL BUILDING OFFICIALS ABOUT RESTRICTIONS AND INSTALLATION INSPECTION REQUIREMENTS IN YOUR AREA."

B. Statements of other important safety messages, including:

• "Creosote may build up in the chimney connector and chimney and cause a house fire. Inspect the chimney connector and chimney at least twice monthly and clean if necessary."

• "Overfiring the appliance may cause a house fire. If a unit or chimney connector glows, you are overfiring."

• "Never use gasoline or other flammable liquids to start or 'freshen up' a fire."

• "Dispose of ashes in a metal container."

II. Installation Instructions

A. The parts and materials required, including:

• The size and type of chimney to which the appliance is to be connected.

• The size and thickness or gage of metal of the chimney connector.

• The thimble or type of connection through a combustible wall or ceiling.

B. The step-by-step directions for installing the appliance and its accessories, chimney connector, and chimney. The directions would include:

• clearances from the appliance and chimney connector to combustibles,

• methods to safely join the chimney connector to the chimney and how to pass these parts through a combustible wall or to pass the chimney through a ceiling.

• the joining of two or more parts to constitute a safe assembly such as attaching and securing the chimney connector to the appliance and to each adjoining section, and,

• where required, the parts or materials to be used for the floor protector (hearth). The minimum areas to be covered and their relation to the appliance should be stated.

III. Use Instructions

A. Recommendations about building and maintaining a fire, warnings against overfiring, and condition(s) that signal(s) overfiring.

B. Caution against the use and storage of flammable liquids, as follows: "Do not use gasoline, gasoline-type lantern fuel, kerosene, charcoal lighter fluid, or similar liquids to start or 'freshen up' a fire in this appliance. Keep these flammable liquids well away from this appliance while it is in use."

C. Explanation about the use or nonuse of grates, irons and or other methods of supporting the fuel.

D. How to use manual or thermostatic controls.

E. Explanation about the use of any electrical assemblies including care and routing of power supply cord.

F. Caution about disposing of ashes, as follows:

"Disposal of Ashes

Ashes should be placed in a metal container with a tight fitting lid. The closed container of ashes should be placed on a noncombustible floor or on the ground, away from all combustible materials, pending final disposal. The ashes should be retained in the closed container until all cinders have thoroughly cooled."

G. Keep furnishings and other combustible materials away from appliance.

IV. Maintenance Instructions

A. How to inspect and maintain the appliance, chimney, and chimney connector.

B. Explanation about the formation and removal of creosote buildup in the chimney connector and chimney as follows:

"Creosote Formation and Need for Removal"

When wood is burned slowly, it produces tar and other vapors, which combine with moisture to form creosote. Creosote vapors condense in the relatively cool chimney flue, and creosote residue accumulates on the flue lining. When ignited, this creosote make an extremely hot fire.

The chimney connector and chimney should be inspected at least twice monthly during the heating season to determine if creosote buildup has occurred.

If creosote has accumulated, it should be removed to reduce the chance of a chimney fire."

C. Explain how to remove creosote.

V. References

A. The name and address of the manufacturer or private labeler from which the owner can obtain additional information if needed. Include other sources of information as appropriate.

B. The manufacturer's or private labeler's catalog designations, model numbers or the equivalent for the appliance and related parts.

§ 1406.5 [Reserved]

Dated: May 9, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Relevant Documents [1]

The Wood Burner's Encyclopedia, Jay W. Shelton and A. B. Shapiro, 1976, p. 70; Vermont Crossroads Press, Waitsfield, Vermont 05673.

Manual on Clearances for Heat Producing Appliances, NFPA No. 89m—1976.

United States International Trade Commission Report on Cast-Iron Stoves, July 1977, Pub. No. 826, ITC, Washington, D.C.

Correspondence, A. P. Banner, asking about petition, 7/3/77.

Correspondence, H. P. Ewell to A. P. Banner, suggesting telephone contact, 7/18/77.

Memo, H. P. Ewell, 7/28/77, Petition dated 6/21/77 from Adam Paul Banner.

Correspondence, R. A. Danca, to A. P. Banner, acknowledgement of petition AP77–2, 8/2/77.

Correspondence, A. P. Banner, petition filing under Acts, 8/7/77.

Memo, H. P. Ewell, 8/25/77, transmitting copy of reply to Mr. Banner's letter.

Correspondence, D. S. Lemberg, to A. P. Banner, petition filing under Acts, 8/25/77.

Correspondence, A. P. Banner, additional information, 9/4/77.

Correspondence, S. Lemberg to A. P. Banner, 12/19/77.

Briefing package on AP77–2; Petition from A. P. Banner Concerning Labeling for Coal and Wood Burning Stoves and Appliances, M. Gulak and T. Rogers, 12/27/77.

Tab A—Petition AP77–2, 6/21/77 with additional materials, 7/18/77.

Tab B—Office of General Counsel Guidance Memo, H. Ewell, 7/28/77.

Tab C—Comments on Petition, W. Mathers, Human Factors, 10/28/77.

Tab D—Petition AP–77–2, Labeling Solid Fuel Stoves, A. M. Thomas, Engineering, 10/28/77.

Tab E—Solid Fuel Stove Standards, D. Mackay, 10/14/77.

Tab F—Economics Comments, A. Slobodow, 10/20/77.

Tab G—Compliance Comments, L. Jones, 9/21/77.

Tab H—Memo, M. J. Schoem, 10/12/77 with Fact Sheet #34, Space Heaters and Wood and Coal Burning Heating Stoves.

Memo, M. Gulak and T. Rogers, 1/10/78, alternative option, Petition AP 77–2

U. L. Proposed First Edition of the Standard for Solid Fuel Type Room Heaters, UL 1482, and Proposed Effective Date, 1/31/78.

Record of Commission Action, 2/2/78, dissemination of instructional information

Correspondence from E. H. Sincerbox, Chenango Co-Operative Insurance Company, Relating to Woodburning Stove Safety, 2/21/78

Memo, G. P. Anikis and M. Gulak, 2/24/78, Disseminating instructional information on Coal and Woodburning Stoves.

Log of Meeting, 2/27/78, meeting with industry.

Correspondence, S. E. Dunn to A. P. Banner, describing deferral of decision on petition, 3/2/78.

Memo, H. Ewell, 3/3/78, Memo from OPM Entitled "Disseminating instructional information on Coal and Woodburning Stoves."

Briefing package on Petition AP 77–2, Coal and Woodburning Stoves, 12/11/78.

[1] The Relevant documents list will not be shown in the CFR.

Tab A—Department of Agriculture Press Release on Solid Fuel, Appliances, 1/19/78

Tab B—Human Factors Memos, 3/6/78 and 10/28/77.

Tab C—Engineering Memos, 2/24/78 and 4/24/78

Tab D—Economic Analysis Memo, 5/18/78

Tab E—Letter from B. Kravitz, Fireplace Institute, relating to industry activities, 3/9/78

Letter from Gas Appliance Manufacturers Association, 5/9/78

Tab F—Engineering memo 5/11/78

National Conference of States on Building Codes and Standards, Inc. 5/16/78

Building Officials and Code Administrators International, Inc. 5/26/78

Tab G—Engineering Memos, 8/25/78 and 8/30/78.

Correspondence from A. B. Shapiro, Wood Energy Institute, relating to installation standards, 12/27/78.

Oregon Wood Burning Fire Incidents, January & February 1979.

Fuelwood and Wood Burning Stoves, Special Circular 249. The Pennsylvania State University, Cooperative Extension Service, University Park, PA 16802.

How to Choose A Wood Burning Appliance, Pennsylvania State University, Cooperative Extension Service.

Safety Information to Prevent Chimney Fires, Pennsylvania State University, Cooperative Extension Service.

Memo, H. Ewell, 1/4/79, Petition AP 77–2; Coal and Woodburning Stoves.

Briefing package on Petition AP 77–2, Coal and Woodburning Stoves, I. L. Greif, 2/16/79 with attachments.

—Memo, Hazard Identification Update, 2/6/79

—Correspondence, UL, Report of Meeting of Underwriters Laboratories Inc. Industry Advisory Conference for Fireplaces, Fireplace Stoves and Solid Fuel Type Rooms Heaters and Proposed Effective Dates, 1/18/79

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CC9-80-2	11-3-80	Dr. and Mrs. R. T. Reed, New Carlisle, Ohio.
CC9-80-3	11-25-80	Centre Region Code Enforcement, State College, Pa.
CC9-80-4	11-26-80	August West Chimney Sweep, Richison Ind., Inc., Kettering, Ohio.
CC9-80-6	11-26-80	Nancy Kirk, Upper Darby, Pa.
CC9-80-7	11-26-80	Mrs. Dons Genther, Pennsauken, N.J.
CC9-80-8	11-26-80	Mrs. A. L. Cramer, Kettering, Ohio.
CC9-80-9	11-26-80	Anne Burner, Dayton, Ohio
CC9-80-10	11-26-80	Gregory S. Rhoads, Lewisburg, Ohio.
CC9-80-11	11-26-80	Mr. William M. Fischer, Beerverwalk, Ohio.
CC9-80-12	11-26-80	Mrs. Lloyd A. Ramsey, Perkasie, Pa.
CC9-80-13	11-25-80	City of Bedford, Bedford, Va.
CC9-80-14	12-2-80	Vermont Castings, Inc., Randolph, Vermont.
CC9-80-15	12-5-80	J. Sargeant Comm. College, Ashland, Va.
CC9-80-16	12-8-80	Virginia Cooperative Extension Service, Blacksburg, Va.
CC9-80-17	12-15-80	Main Line Stove, Bala Cynwyd, Pa.
CC9-80-18	12-16-80	State of New Mexico, Santa Fe, New Mexico, Energy and Minerals Dept.
CC9-80-19	12-17-80	Charles H. Kelley, Bernice, La.
CC9-80-20	12-17-80	Bear River Community Action Agency, Logan, Utah.
CC9-80-21	12-17-80	New River Community Action, Inc., Christiansburg, Va.
CC9-80-22	12-17-80	North American Industries, Inc., Walla Walla, Washington.
CC9-80-23	12-23-80	Aadselgrib Advertising Co., Portland, Oreg.
CC9-80-24	12-23-80	The Virginia Division of Forestry, Charlottesville, Va.
CC9-80-25	12-23-80	Monticello Area Community Action Agency Community Programs, Charlottesville, Va.

Comment	Date	Correspondent
CC9-80-26	12-23-80	Northeast Missouri Community, Action Agency, Kirksville, Missouri.
CCo9-80-27	12-29-80	Consumers Union, Mount Vernon, N.Y.
CC9-80-28	12-29-80	Commonwealth of Pa., Dept. of Agriculture, Harrisburg, Pa.
CC9-80-29	12-30-80	Arrowhead Economic Opportunity Agency, Virginia, Minn.
CC9-80-30	12-30-80	Gerald L. Griswold, Scappoose, Oreg.
CC9-80-31	12-30-80	West Virginia University, Div. of Agriculture, Forestry and Community Development, Morgantown, West Virginia.
CC9-80-32	12-30-80	Old Country Stoves, Bend, Oreg.
CC9-80-33	1-8-81	Haynes Equipment Corp., Unionville, Conn.
CC9-80-34	12-30-80	David W. Day, Portland, Oreg.
CC9-80-35	12-30-80	David Bruce, Juneau, Alas.
CC9-80-36	12-30-80	West Central Minn., Communities Action, Inc., Elbow Lake, Minn.
CC9-80-37	12-30-80	Anchor Tools & Woodstoves, Inc., Portland, Oreg.
CC9-80-38	12-30-80	The Delmar Co., Charlotte, N.C.
CC9-80-39	12-31-80	Larry Miller, Macon, Miss.
CC9-80-40	12-31-80	Locke Stove Co., Kansas City, Missouri.
CC9-80-41	1-2-81	Underwriters Laboratories, Inc., Northbrook, Ill.
CC9-80-42	1-2-81	Wood Heating Alliance, Washington, D.C.
CC9-80-43	1-2-81	Community Action Program, Belknap-Merrimack Counties, Inc., Concord, N.H.
CC9-80-44	1-5-81	Washington Stove Works, Everett, Washington.
CC9-80-45	1-5-81	The City of Oregon, Fire Marshal Fire Prevention Div., Portland, Oreg.
CC9-80-46	1-6-81	Corning Glass Works, Corning, N.Y.
CC9-80-47	1-7-81	Commonwealth of Virginia, County of Prince William, Manassas, Va.
CC9-80-48	1-7-81	Gulf Coast Community Services Association, Houston, Tex.
CC9-80-49	1-7-81	Jody James Eckan, Ottawa, Kans.
CC9-80-50	1-7-81	Dept. of Energy, Salem, Oreg.
CC9-80-51	1-7-81	Atlanta Stove Works, Inc. and d/b/a Birmingham Stove & Range Co., Atlanta, Ga.
CC9-80-52	1-8-81	Gary Cassill & Assoc., Inc., Summer, Wash.
CC9-80-53	1-8-81	International Conference of Building Officials, Whittier, Calif.
CC9-80-54	1-8-81	Irons in the Fire, Portland, Oreg.
CC9-80-55	1-8-81	Economic Opportunity Corp., Ithaca, N.Y.
CC9-80-56	1-8-81	North County Stove Works, Helena, Mont.
CC9-80-57	1-13-81	Nationwide Insurance, Columbus, Ohio.
CC9-80-58	1-21-81	The Woodburners, Applegate, Oreg.
CC9-80-59	1-21-81	Fireplace Distributors of Idaho, Oakley, Idaho
CC9-80-60	1-29-81	B & B Stoves, Inc., Elkton, Md.
CC9-80-61	2-2-81	Nelson & Small, Inc., Manchester, New Hampshire.
CC9-80-62	2-2-81	J. C. Penney Co., Inc., New York, N.Y.
CC9-80-63	2-2-81	National Retail Merchants Association, New York, N.Y.
CC9-80-64	2-2-81	Energy Alternatives, Inc., Wood Energy Association, Tualitin, Oreg.
CC9-80-65	2-4-81	American Retail Federation, Washington, D.C.
CC9-80-66	2-4-81	Martin Industries, Florence, Ala.
CC9-80-67	2-4-81	F. A. Gardner Electric, Albuquerque, N.M.
CC9-80-42A	2-10-81	Wood Heating Alliance, Washington, D.C.
CC9-80-44A	2-6-81	Washington Stove Works, Everett, Wash.
CC9-80-68	2-9-81	National Assoc. of Independent Insurers, Des Plaines, Ill.
CC9-80-69	2-9-81	W. J. Thompson, Deerfield, Ill.
CC9-80-70	2-11-81	Wood'n Heat, Clear Lake, Iowa.
CC9-80-71(1)	2-13-81	Mrs. L. F. McDonald, Suwannee, Fla.
CC9-80-72(L)	2-17-81	Apache Stove, G & G Stove Distributors, Inc., Marshville, N.C.
CC9-80-73(L)	2-13-81	Tennessee Valley Authority, Chattanooga, Tenn.
CC9-80-74(L)	2-19-81	Griffin Furniture & Appliance, Inc., Marshville, N.C.
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Memo, B. Harwood, National Projections of Losses from Residential Fires Involving Heating Equipment (1979), 11/30/81

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Tab A—Fires Involving Fireplaces, Chimneys, and Related Appliances, B. Harwood and D. Kale, 9/81

Tab B—Memo, J. Clones, The Use of Solid Fuel Burning Heating Systems and Appliances in the Home, 9/17/81

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—Memo, B. Harwood, National Projections of 1980 Fire Losses Involving Heating Equipment, 12/10/81

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Correspondence, M. Jorgenson and L. Dosedlo, UL, CPSC Report Dated 9/1981, Covering Investigation of Fires Involving Fireplaces, Chimneys, and Related Appliances, 4/15/82
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Correspondence, C. Keithley, Wood Heating Alliance, Contacts with certifying laboratories, 1/14/83
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Tab C—Memo, W. A. Mathers, Wood Stove Year End Report, 12/23/82
Tab D—Memo, E. Perry, Wood and Coal Burning Heating Equipment, 1/10/83
Tab E—Memo, E. F. Johnson, Wood Heating Appliance Information Report, 1/19/83
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Speech, N. H. Steorts, "Label We Must", 3/13/83
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791113HIA0131	801213BOS0110
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791116HIA0106	801224HIA2022
791120HIA0111	801229HIA3024
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791206HIA0164	810102HIA1047
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800206HIA0102	810203MIN5046
800208HIA0104	810206CEP1046
800211CEP0804	810206SFO5034
800307HIA0101	810210BOS0207
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800312CEP0102	810210HIA1124
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800409HIA0103	810217HIA2139
800415HIA0104	810217SEA0238
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[FR Doc. 83–12728 Filed 5–13–83; 8:45 am]
BILLING CODE 6355–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Emergency Interim Rules; Rules Relating to Reparation Proceedings

AGENCY: Commodity Futures Trading Commission.

ACTION: Promulgation of interim rules and Statement of Interpretation.

SUMMARY: On January 11, 1983, amendments to Section 14 of the Commodity Exchange Act (the "Act") were enacted effective May 11, 1983. Among other things the amendments narrow the class of persons against whom reparations actions may be brought and enable the Commission to adopt rules of procedure to streamline the entire reparations process. Section 14(a) of the Act, as so amended, will permit reparations claims to be filed based on violations of the Act or the Commission's rules committed only by persons who are registered with the Commission. Previously, reparations claims could also be brought based on violations committed by persons who, although not registered under the Act, had engaged in activities requiring them to be registered. Section 14(b) of the Act, as amended, authorizes the Commission to "promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious adminstration of * * * [Section 14 of the Act]."

The Commisson is amending § 12.21 of its Reparation Rules, 17 CFR 12.21, effective May 11, 1983, to bring the rule into conformity with new Section 14(a) of the Act. In so doing, the Commission also is stating its interpretation concerning the class of persons who may be sued in reparations on and after the effective date of the amendment to Section 14(a). The Commission also has determined to amend § 12.1 of the Rules Relating to Reparation Proceedings to make clear that the balance of the reparations rules will continue to apply to proceedings pending on May 11, 1983, or instituted thereafter, until the Commission revises those rules with new rules of procedure promulgated pursuant to new Section 14(b) of the Act. Although the Amendments to Reparation Rules 12.1 and 12.21 become effective on May 11, 1983, the Commission nevertheless invites public comment on these amendments and the matters discussed herein.

DATE: Interim rules are effective on May 11, 1983; comments must be received on or before July 15, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention of the Secretariat. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Raisler, Acting General Counsel, or Edward S. Geldermann, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 2254–9880.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to the enactment of the Futures Trading Act of 1982,[1] Section 14(a) of the Commodity Exchange Act provided: "Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person who is registered *or required to be registered* under * * * this Act may, at any time within two years after the cause of action accrues, apply to the Commission * * * [for an award]." (Emphasis added.) Thus, prior to the 1982 amendments, Section 14(a) permitted reparation claims to be filed against registrants as well as persons who, although not registered under the Act, had engaged in activities requiring them to be registered. Recognizing that "unregistered firms and individuals often file in bankruptcy, are distitute, or have disappeared by the time a claim is asserted, resulting in uncollectible reparations awards," and that claims against such persons "delay the entire reparations process," H.R. Rep. No. 565, 97th Cong., 2d Sess. 56 (1982), *see also* S. Rep. No. 384, 97th, Cong., 2d Sess. 48 (1982), Congress, in its amendments to Section 14(a), omitted the phrase "or required to be registered" in order to limit reparations complaints to those concerning violations committed by persons registered under the Act.

Because § 12.21 of the Commission's existing Reparation Rules, 17 CFR 12.21, currently permits reparation claims to be filed for violations committed against both registrants and those "required to be registered," that rule must be revised to conform with amended Section 14(a) of the Act, which becomes effective on May 11, 1983. Accordingly, the Commission has determined to adopt an amendment to § 12.21, which omits any reference to persons "required to be registered" in defining the class of persons against whom reparation claims may be filed.[2]

Section 14(a) of the Commodity Exchange Act, as amended by Section 231 of the Futures Trading Act of 1982, provides:

> Any person complaining of any violation of any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.

Although it is clear that on May 11, 1983 claims may be filed in reparations only alleging violations of the Act or Commission's rules committed by registrants, a question has arisen whether the registered status of a person against whom a claim is filed must exist at the time the violation occurs, or at the time when the complaint is filed. The Commission interprets Section 14(a) as creating a cause of action whenever there has been a "violation of any provision of this Act * * * by any person who is registered," causing loss to another person. Accordingly, the critical inquiry will be whether the person against whom the reparation claim is filed was registered at the time of the alleged violation.

In practical terms, as long as a complainant has alleged a violation of the Act, or Commission regulation or order, committed by a person who was registered at the time of the violation, the Commission will regard such person as a "person who is registered" within the meaning of Section 14(a) of the Act. Accordingly, the Commission may exercise its reparations jurisdiction over that person as to any claim filed against him within two years after the cause of action accrues, even though, for example, the alleged violator may have permitted his registration to lapse before the claim is filed.[3]

[1] Pub. L. No. 97–444, 96 Stat. 2294 (January 11, 1983).

[2] The Commission has also determined to delete from Section 12.21 references to the different classes of commodity professionals who are subject to registration requirements as well as the provisions of law under which they are required to register. This change is consistent with the language of amended Section 14(a) of the Act which no longer contains references to specific categories of registrants.

[3] Conversely, the Commission normally will not exercise its reparations jurisdiction over a person

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Under Section 4m of the Act, 7 U.S.C. 6m, certain dealers, processors, brokers, or sellers in cash market transactions in agricultural commodities and non-profit general farm organizations who provide advice on agricultural commodities are exempt from having to register as a commodity trading advisor. Nevertheless Section 4m provides that such persons are subject to proceedings in reparations. Nothing in the 1982 amendments has affected this provision of the Act. Thus, after May 11, 1983, the Commission will continue to hear reparations claims filed against persons who, at the time of the violation, were exempt from registration pursuant to Section 4m of the Act. Section 12.21 has been modified to make this clear.

Finally, Section 14(b) of the Act, as amended, authorizes the Commission to "promulgate such rules, regulations and orders as it deems necessary or appropriate for the effective and expeditious administration of * * * [Section 14]." Section 14(b) continues:

> [n]otwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.

On February 15, 1983, the Commission published in the **Federal Register** advance notice of proposed rulemaking concerning rules to be promulgated pursuant to Section 14(b). 48 FR 6720. Although the Commission expects to publish notice of proposed rules in the near future, the new rules will not be ready for final adoption on May 11, 1983. Accordingly, the Commission has determined to amend § 12.1 of the Reparation Rules to provide that these rules shall continue to be applicable to reparation proceedings pending on May 11, 1983, or commenced thereafter, until the Commission adopts its new rules.

II. Basis for Emergency Adoption of Interim Regulations

The Administrative Procedure Act, 5 U.S.C. 553, generally provides that a notice of proposed rulemaking must be published in the **Federal Register** and that an opportunity for comment be afforded to the public when an agency proposes new regulations. However, the notice and comment requirements do not apply to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. The Commission's interpretation concerning the class of registered persons who may be sued in reparations after the effective date of amended Section 14(a) of the Act, *see* Part I above, even if considered to be a "rule" within the purview of the Administrative Procedure Act, is wholly "interpretative" in nature, and thus, not subject to section 553's notice and comment requirements. Moreover, the Commission's amendments to §§ 12.1 and 12.21 of the Rules Relating to Reparation Proceedings are related solely to agency organization, procedure or practice. Nevertheless, the Commission invites public comment on the amendments and any matters discussed herein. Such comments must be received by the office of the Secretariat by July 15, 1983.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")[4] requires that agencies, in proposing rules, consider their impact on small businesses. Section 3(a) of the RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title * * * for which the agency provides an opportunity for notice and public comment."[5] As the amendments to §§ 12.1 and 12.21 announced in this Release have not been effected pursuant to 5 U.S.C. 553(b), they are not "rules" as defined in the RFA and the analysis or certification specified in that Act do not apply.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

PART 12—[AMENDED]

In consideration of the foregoing, and pursuant to sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(j) and 12a(5), the Commission hereby amends Chapter 12 of Title 17 of the Code of Federal Regulations by revising §§ 12.1 and 12.21 as follows:

1. Section 12.1 of the Reparation Rules is revised to read as follows:

§ 12.1 Scope and applicability of rules of practice relating to reparation proceedings.

These rules of practice are applicable to reparation proceedings pursuant to section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18. The rules in this part shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties to the proceedings envisioned by the Commodity Exchange Act, as amended. These rules shall continue to apply to reparation proceedings pending on May 11, 1983, and to all proceedings commenced thereafter until further rule, regulation or order of the Commission.

2. The introductory paragraph of § 12.21 of the Reparation Rules is revised to read as follows:

§ 12.21 Complaint.

Any person complaining of any violation of any provision of the Act or any rule, regulation, or order thereunder by any person who is registered with the Commission under the Act or who is exempt from registration as a commodity trading advisor by virtue of the second sentence of Section 4m of the Act, may, at any time within two years after the cause of action accrues, apply to the Commission for a reparation award by petitioning the Commission to determine the amount of damage, if any, to which the complainant is entitled as a result of the violation and to issue an order directing the offender to pay that amount to the complainant on or before a date fixed by the order: Provided that no such application shall be considered with respect to claims that arise prior to January 23, 1975.

* * * * *

Issued in Washington, D.C. on May 11, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-13059 Filed 5-13-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance Benefits; Lump-Sum Death Payment Changes, Changes in Month Benefits Begin, Termination of Mother's and Father's Benefits When Child Attains Age 16, Change in Benefits to Students

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These rules implement sections 2202, 2203, 2205 and 2210 of Pub. L. 97-35. These provisions: (1) Eliminate payment of the lump-sum death payment on the basis of the payment of burial expenses; (2) Change the first month of entitlement for a retired worker under age 65, the spouse, under age 65, of a retired or disabled worker, and certain children to the first month throughout which they each meet the requirements for entitlement; (3) Terminate mother's and father's benefits and wife's and husband's benefits based on child "in-care" when the child becomes 16 years of age; and (4) Pay benefits to students in elementary and secondary schools to age 19, phase out benefits to certain students age 18 or over attending post-secondary schools, and end payment of benefits to all other students age 18 or over attending post-secondary schools after July 1982.

DATES: These rules are effective May 16, 1983, but the statutory changes which the regulations reflect are generally effective on earlier dates.

FOR FURTHER INFORMATION CONTACT: Dave Smith, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7338.

SUPPLEMENTARY INFORMATION:

Lump-Sum Death Payment Changes

The amendments to the regulations implement section 2202 of Pub. L. 97-35 by changing the manner in which lump-sum death payments are made effective with respect to deaths after August 1981. Under the new provision, such payments are only payable to certain surviving relatives of the deceased. Burial expenses are no longer a factor in determining entitlement to the lump-sum death payment. Where death occurs after August 1981, the lump-sum death payment will be made to the widow or widower of the deceased who was living in the same household as the deceased at the time of death. If no such person survives, payment will be made to the widow or widower who is entitled (or would have been entitled had a timely application been filed) to monthly benefits on the work record of the deceased for the month of death. Persons entitled to divorced spouse's benefits do not qualify. If no such widow or widower survives, the payment will be made to the surviving children who are entitled (or would have been entitled had a timely application been filed) to benefits on the work record of the deceased for the month of death. If no such spouse or child survives the worker, no lump-sum death payment will be made.

Changes in Month Benefits Begin

The amendments to the regulations implement section 2203 of Pub. L. 97-35. The amendments affect the first month of entitlement for a person filing for retirement or spouse's benefits who becomes age 62 after August 1981. The person must be age 62 for a full month or, in the case of a spouse under age 62, must have a child "in-care" throughout a full month.

Thus, an individual born on the first or second day of the month (attainment of age 62 on the last day of the preceding month or the first day of the current month) could be entitled to benefits for the month of his or her 62nd birthday. Birth on any other day of the month would preclude entitlement for the month in which the birthday occurs since the individual would not be age 62 for the entire month. Similarly, a spouse filing to receive benefits on the basis of having an entitled child "in-care" cannot be first entitled for a month unless a child was "in-care" for every day of that first month.

Effective September 1981, a claimant for child's monthly benefits based on the earnings of a living worker can become entitled effective only with the first full month throughout which he or she meets all the requirements. Thus, a child must have the appropriate relationship to the worker, be dependent on the worker, be unmarried, be under age 18 or age 18 or over and a student, or be disabled throughout the entire month to be entitled for that month. There are some exceptions to this provision relating to students, stepchildren, grandchildren, stepgrandchildren, and certain deemed children.

Termination of Certain Benefits When Child Attains Age Sixteen

The amendments to the regulations implement section 2205 of Pub. L. 97-35. Under this provision, entitlement to wife's and husband's benefits based on child "in-care" and to mother's and father's benefits will terminate when the child "in-care" becomes 16 years of age, unless the child is disabled. Under the previous law, these benefits were terminated when the child became age 18, unless the child was disabled. For a person entitled to these benefits for August 1981, there is a grace period which ends when the child becomes age 18, or in September 1983, whichever comes first. For all other persons the provision is effective immediately.

Changes in Benefits to Students

The amendments to the regulations implement section 2210 of Pub. L. 97-35. Under this provision, benefits terminate at age 19 to a child who attends an elementary or secondary school, effective with benefits payable for the month of August 1982. A student who first became entitled to a child's benefit after August 1981 and who was in full-time attendance at a post-secondary school by July 1982 can receive benefits from age 18 through age 21 but only for months before August 1982. A student who was entitled to a child's benefit for August 1981 and was in full-time attendance at a post-secondary school before May 1982 can receive benefits from age 18 through age 21, but those benefits will be gradually reduced and phased out. Under the "phase out" provision, no benefits are payable for May through August beginning in 1982. After August 1981, benefits are figured without regard to changes in the cost-of-living. Benefits for September 1982 through April 1983 will be reduced by 25 percent; benefits for September 1983 through April 1984 will be reduced by 50 percent; benefits for September 1984 through April 1985 will be reduced by 75 percent; and no benefits will be payable for months after April 1985.

We have also made a minor technical change in § 404.346(b) to indicate that a spouse by a deemed marriage may qualify for benefits if the legal spouse loses his or her status as such under State law. The current regulation does not clearly state this provision which is in section 216(h)(1)(B)(i) of the Social Security Act.

Minor technical changes were also made in §§ 404.315(a) and 404.320(b)(2) to correct cross-references.

Comments Received Following Publication of Notice of Proposed Rulemaking

We received eight comments from seven sources. A single response follows the listing of the following five comments.

Comment: Although the parent's benefits stop when the child reaches the age of 16, the parents have a legal responsibility to the minor until the child reaches the age of 18. The Social Security benefits should continue to be paid to the parents until the child reaches the age of 18. Continuation of parent's benefits would enable the parent to continue to fulfill his or her duties as a full-time homemaker.

Comment: The phase out of Social Security benefits to students attending post-secondary schools has a dramatic impact on the number of students applying for financial aid. This is aggravated by the Federal reduction in the amount of funds available to

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who, although not registered at the time when the violation occurred, later does become registered, and is registered at the time a complaint is filed.

[4] Pub. L. No. 96-354, 94 Stat. 1164 (1980), 5 U.S.C. 601 *et seq.*

[5] 5 U.S.C. 601(2).

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institutions to award to needy students seeking to develop employable skills.

Comment: The phase out of Social Security benefits to students attending post-secondary institution is the calloused act of an insensitive Federal agency in dealing with the poorest element of our society.

Comment: Many children of disabled and deceased parents have been able to obtain a post-secondary education because they were eligible for student benefits. The Social Security Administration should not terminate these benefits when a child reaches the age of 18. The benefits should remain the same as the former program or at least the Administration should extend child's benefits to full-time (post-secondary) students to age 19 to give students a chance to get a start on their education.

Comment: A commenter objected to the "reduction" of the lump-sum death payment as being unfair.

Response: The regulations objected to by the foregoing comments merely apply provisions mandated by Pub. L. 97–35. The regulations do not grant or deny rights or do not impose obligations which do not already exist in the statute; hence, they may not be changed without legislation.

Comment: Three commenters reflected a misunderstanding as to the circumstances under which adult children may receive the lump-sum death payment under the new provisions.

Response: Under the statute, surviving children may receive the lump-sum death payment only if no widow or widower qualifies for the payment *and* only if such surviving children were eligible for benefits, (as a child, disabled adult child, or student) on the work record of the deceased worker for the month of his or her death.

Regulatory Procedures

Economic Impact: (Executive Order 12291 and Regulatory Flexibility Act)

These regulations merely conform the existing rules to the changes legislated by Pub. L. 97–35. Although the law created substantial changes in the structure of certain benefits in the Old-Age, Survivors and Disability Insurance program, the resulting impact was solely the result of legislation and is in place and effective regardless of regulatory action on our part. Therefore, these regulations do not "result in" a cost impact of $100 million or more or otherwise trigger the criteria for a major rule established in Executive Order 12291.

Similarly, although these changes may adversely affect some small entities, such as funeral homes and educational institutions, such impact is not the result fo these regulations. Therefore, we certify that promulgation of these regulations will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis as provided in Pub. L. 96–354, The Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

These amendments are issued under the authority contained in sections 202, 205, 216, and 1102 of the Social Security Act, as amended; Secs. 2202, 2203, 2205 and 2210 of Pub. L. 97–35; 49 Stat. 623, as amended; 53 Stat. 1362, as amended; 49 Stat. 647, as amended; 64 Stat. 510, as amended; 42 U.S.C. 402, 405, 416, and 1302. These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, Survivors, and Disability Insurance.

Dated: February 23, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 28, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE SURVIVORS AND DISABILITY INSURANCE (1950—)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.311 is revised to read as follows:

§ 404.311 When entitlement to old-age benefits begins and ends.

(a) You are entitled to old-age benefits at age 65 beginning with the first month covered by your application in which you meet all the requirements for entitlement.

(b) You are entitled to old-age benefits if you have attained age 62, but are under age 65, beginning with the first month covered by your application throughout which you meet all the requirements for entitlement.

(c) Your entitlement to benefits ends with the month before the month of your death.

2. Section 404.330 is amended by revising paragraphs (a)(1) and (c) to read as follows:

§ 404.330 Who is entitled to wife's or husband's benefits.

You are entitled to benefits as the wife or husband of an insured person who is entitled to old-age or disability benefits if—

(a) * * *

(1) Your relationship to the insured as a wife or husband has lasted at least 1 year. (You will be considered to meet the one year duration requirement throughout the month in which the first anniversary of the marriage occurs.)

* * * * *

(c) You are age 62 or older throughout a month and you meet all other conditions of entitlement, or you are the insured's wife or husband and have "in your care" (as defined in §§404.348–404.349), throughout a month in which all other conditions of entitlement are met, a child who is entitled to child's benefits on the insured's earnings record and the child is either under age 16 or disabled; and

* * * * *

3. Section 404.331 is amended by revising paragraphs (c) and (d) to read as follows:

§ 404.331 Who is entitled to wife's or husband's benefits as a divorced spouse.

* * * * *

(c) You are not married. (For purposes of meeting this requirement, you will be considered not to be married throughout the month in which the divorce occurred);

(d) You are age 62 or older throughout a month in which all other conditions of entitlement are met; and

* * * * *

4. Section 404.332 is amended by revising paragraphs (a) and (b)(4) and adding paragraph (c) to read as follows:

§ 404.332 When wife's and husband's benefits begin and end.

(a) You are entitled to wife's or husband's benefits beginning with the first month covered by your application throughout which you meet all the other requirements for entitlement under § 404.330 or § 404.331.

(b) * * *

(4) If you are under 62 years old, the child who was in your care becomes age 16 (unless disabled) or is otherwise no longer entitled to child's benefits. (See paragraph (c) of this section if you were entitled to wife's or husband's benefits

for August 1981 on the basis of having a child in care.)

* * * * *

(c) If you were entitled to wife's or husband's benefits for August 1981 on the basis of having a child in care, your entitlement will continue until September 1983, until the child reaches 18 (unless disabled) or is otherwise no longer entitled to child's benefits, or until one of the events described in paragraph (b)(1), (2), (3), (5), (6) or (7) of this section occurs, whichever is earliest.

5. Section 404.339 is amended by revising paragraph (e) to read as follows:

§ 404.339 Who is entitled to mother's or father's benefits.

* * * * *

(e) You have "in your care" the insured's child who is entitled to child's benefits and he or she is under 16 years old or is disabled. Sections 404.348 and 404.349 described when a child is "in your care."

6. Section 404.340 is amended by revising paragraph (e) to read as follows:

§ 404.340 Who is entitled to mother's or father's benefits as a surviving divorced spouse.

* * * * *

(e) You have "in your care" the insured's child who is under age 16 or disabled, is your natural or adopted child, and is entitled to child's benefits on the insured person's record. Sections 404.348 and 404.349 describe when a child is "in your care."

7. Section 404.341 is amended by revising paragraph (b)(2) and adding paragraph (c) to read as follows:

§ 404.341 When mother's and father's benefits begin and end.

* * * * *

(b) * * *

(2) The child "in your care" becomes age 16 and not disabled or is otherwise no longer entitled to child's benefits. (See paragraph (c) of this section if you were entitled to mother's or father's benefits for August 1981.)

* * * * *

(c) If you were entitled to spouse's benefits on the basis of having a child in care, or to mother's or father's benefits for August 1981, your entitlement will continue until September 1983, until the child reaches 18 (unless disabled) or is otherwise no longer entitled to child's benefits, or until one of the events described in paragraph (b)(1), (3), (4) or (5) of this section occurs, whichever is earliest.

8. Section 404.346 is amended by revising paragraph (b) to read as follows:

§ 404.346 Your relationship as wife, husband, widow or widower based upon a deemed valid marriage.

* * * * *

(b) *Entitlement based upon a deemed valid marriage.* To be entitled to benefits as the result of a deemed valid marriage, you and the insured must have been living in the same household (see § 404.347) at the time the insured died or, if the insured is living, at the time you apply for benefits. You may not be entitled to benefits as the result of a deemed valid marriage if at the time you apply, another person is or has been entitled to benefits as the wife, husband, widow, or widower of the insured and this person is a wife, husband, widow, or widower under State law as explained in § 404.345. If this person loses his or her status as a wife, husband, widow or widower under State law you may become entitled to benefits. Also, if after your entitlement, we find that another person is the wife, husband, widow, or widower of the insured under State law as explained in § 404.345, your entitlement will end with the month before the month in which this determination is made.

9. Section 404.348 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 404.348 When a child living with you is "in your care."

* * * * *

(b) The child is 16 years old or older and not disabled;

(c) The child is 16 years old or older with a mental disability, but you do not actively supervise his or her activities and you do not make important decisions about his or her needs, either alone or with help from your spouse; or

(d) The child is 16 years old or older with a physical disability, but it is not necessary for you to perform personal services for him or her. Personal services are services such as dressing, feeding, and managing money that the child cannot do alone because of a disability.

10. Section 404.349 is amended by revising the material in paragraph (a)(2) preceding paragraph (a)(2)(i), and paragraphs (a)(3) and (b)(4) to read as follows:

§ 404.349 When a child living apart from you is "in your care."

(a) * * *

(2) The child is under 16 years old, you supervise his or her activities and make important decisions about his or her needs, and one of the following circumstances exist:

* * * * *

(3) The child is 16 years old or older, is mentally disabled, and you supervise his or her activities, make important decisions about his or her needs and help in his or her upbringing and development.

(b) * * *

(4) The child is 16 years old or older, is mentally competent, and either has been living apart from you for 6 months or more or begins living apart from you and is expected to be away for more than 6 months;

* * * * *

11. Section 404.350 is amended by revising paragraph (e) to read as follows:

§ 404.350 Who is entitled to child's benefits.

* * * * *

(e) You are under age 18, you are 18 years old or older and have a disability that began before you became 22 years old, or you are 18 years or older and qualify for benefits as a full-time student as described in § 404.367 or § 404.369.

12. Section 404.351 is amended by revising paragraph (a) to read as follows:

§ 404.351 Who may be reentitled to child's benefits.

* * * * *

(a) The first month in which you qualify as a full-time student. (See §§ 404.367 and 404.369).

* * * * *

13. Section 404.352 is amended by revising paragraphs (a), the introductory text of (b) and (b)(1) to read as follows:

§ 404.352 When child's benefits begin and end.

(a) *When benefits begin.* (1) If the insured is deceased, you are entitled to child's benefits beginning with the first month covered by your application in which you meet all other requirements for entitlement.

(2) If the insured is living, you are entitled to child's benefits beginning with the first month covered by your application:

(i) *Throughout* which you meet all the other requirements for entitlement if your first month of entitlement is September 1981 or later; or

(ii) *In* which you meet all the other requirements for entitlement if your first month of entitlement is before September 1981.

(b) *When benefits end.* Your entitlement to benefits ends with the

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month before the month in which one of the following events first occurs:

(1) You become 18 years old, unless you are disabled or a full-time student. If you become 18 years old and you are disabled, you entitlement ends, subject to the exception in paragraph (c) of this section, with the second month following the month in which your disability ends. If you become 18 years old and you qualify as a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you became age 19 (age 22 in certain situations described in § 404.369). If you become age 19 in a month in which you have not completed the requirements for, or received, a diploma or equivalent certificate from an elementary or secondary school, your entitlement will end with the month in which the quarter or semester in which you are enrolled ends if you are required to enroll for each quarter or semester. If the school you are attending does not have a quarter or semester system which requires reenrollment, your benefits will end with the month you complete the course or, if earlier, the first day of the third month following the month in which you become 19 years old.

* * * * *

§ 404.353 [Amended]

14. In § 404.353, the reference in the last sentence of paragraph (a) is changed from "§ 404.304" to §§ 404.304 and 404.369".

15. Section 404.355 is amended by revising paragraph (c) to read as follows:

§ 404.355 Who is the insured's natural child.

* * * * *

(c) Your mother has not married the insured but the insured is your father and he has either acknowledged in writing that you are his child, been decreed by a court to be your father, or been ordered by a court ot contribute to your support because you are his child. For purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), the written acknowledgment, court decree, or court order will be condsidered to have occurred on the first day of the month in which it actually occurred if you are entitled on the earnings record of a retirement beneficiary.

* * * * *

16. Section 404.357 is revised to read as follows:

§ 404.357 Who is the insured's stepchild.

You may be eligible for benefits as the insured's stepchild if, after you birth, your natural or adopting parent married the insured. The marriage between the insured and your parent must be a valid marriage under State law or a marriage which would be valid except for a "legal impediment" described in § 404.346(a). If the insured is alive when you apply, you must have been his or her stepchild for at least 1 year immediately preceding the day you apply. For purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), you will be considered to meet the one year duration requirement throughout the month in which the anniversary of the marriage occurs. If the insured is not alive when you apply, you must have been his or her stepchild for at least 9 months immediately preceding the day the insured died. This 9-month requirement will not have to be met if the marriage between the insured and your parent lasted less than 9 months under the conditions described in §404.335(a)(2).

17. Section 404.358 is amended by revising paragraph (a) to read as follows:

§ 404.358 Who is the insured's grandchild or stepgrandchild.

(a) *Grandchild and stepgrandchild defined.* You may be eligible for benefits as the insured's grandchild or stepgrandchild if you are the natural child, adopted child, or stepchild of a person who is the insured's child as defined in §§ 404.355–404.357, or § 404.359. Additionally, for you to be eligible as a grandchild or stepgrandchild, your natural or adoptive parents must have been either deceased or under a disability, as defined in § 404.1501(a), at the time your grandparent or stepgrandparent became entitled to old-age or disability benefits or died; or if your grandparent or stepgrandparent had a period of disability that continued until he or she became entitled to benefits or died, at the time the period of disability began. If your parent is deceased, for purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), your parent will be considered to be deceased as of the first day of the month of death.

* * * * *

18. Section 404.366 is amended by revising the heading, revising paragraph (c), and adding paragraph (d) to read as follows:

§ 404.366 "Contributions for support," "one-half support," and "living with" the insured defined—determining first month of entitlement.

* * * * *

(c) *"Living with" the insured.* You are living with the insured if you ordinarily live in the same home with the insured and he or she is exercising, or has the right to exercise, parental control and authority over your activities. You are living with the insured during temporary separations if you and the insured expect to live together in the same place after the separation. Temporary separations may include the insured's absence because of active military service or imprisonment if he or she still exercises parental control and authority. However, you are not considered to be living with the insured if you are in active military service or in prison. If "living with" is used to establish dependency for your eligibility to child's benefits and the date your application is filed is used for establishing the point for determining dependency, you must have been living with the insured throughout the month your application is filed in order to be entitled to benefits for that month.

(d) *Determining first month of entitlement.* In evaluating whether dependency is established under paragraphs (a), (b), or (c) of this section, for purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), we will not use the temporary separation or temporary interruption rules.

19. Section 404.367 is revised to read as follows:

§ 404.367 When you are a "full-time elementary or secondary school student".

Beginning August 1982 you may be eligible for child's benefits if you are a full-time elementary or secondary school student. You are a full-time elementary or secondary school student if you meet all the following conditions:

(a) You attend a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located;

(b) You are in full-time attendance in a day or evening non-correspondence course and are carrying a subject load which is considered full-time for day students under the institution's standards and practices, with scheduled attendance at the rate of at least 20 hours per week and a course of study which is at least 13 weeks in duration. For purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), if you are entitled as a student on the basis of attendance at an elementary or secondary school, you will be considered to be in full-time attendance for a month during any part of which you are in full-time attendance;

(c) You are not being paid while attending the school by an employer who has requested or required that you attend the school; and

(d) You are in grade 12 or below.

20. Section 404.368 is revised to read as follows:

§ 404.368 When you are considered a full-time student during a period of nonattendance.

If you are a full-time student, your eligibility may continue during a period of nonattendance (including part-time attendance) if all the following conditions are met:

(a) The period of nonattendance is 4 consecutive months or less;

(b) You show us that you intend to resume your studies as a full-time student at the end of the period or at the end of the period you are a full-time student; and

(c) The period of nonattendance is not due to your expulsion or suspension from the school.

21. A new § 404.369 is added to read as follows:

§ 404.369 Special rules for entitlement to child's benefits if you are a full-time student for months before August 1982.

(a) *Full-time student for months before August 1982.* You are a full-time student for purposes of benefits for months before August 1982 if:

(1) You are under age 22;

(2) You are attending an educational institution as defined in paragraph (b) of this section;

(3) You are enrolled in noncorrespondence courses and carrying a subject load that is considered full-time for day students under the practices and standards of the educational institution. If you are enrolled in a junior college, college, or university, your course of study must last at least 13 weeks. If you are enrolled in any other educational institution, your course of study must last at least 13 weeks and your scheduled attendance must be at least 20 hours a week. If your full-time attendance either begins or ends in a month, you will be considered a full-time student for that month. You will not be considered a full time student in the month you graduate if you complete your course of study and stop carrying a full-time subject load in a month before the month preceding the month you graduate; and

(4) You are not being paid while attending the educational institution by an employer who has requested or required that you attend the school.

(b) *Educational institution defined.* An educational institution is a school (including a technical, trade, or vocational school), junior college, college, or university that meets any one of the following conditions:

(1) It is operated or directly supported by the United States, by any State or local government, or by a political subdivision of any State or local government;

(2) It is approved by a State agency or subdivision of the State or accredited by a State or nationally recognized accrediting body. A nationally recognized accrediting body is one determined to be such by the U.S. Secretary of Education. A State-recognized accrediting body is one designated or recognized by a State as the proper authority for accrediting schools, colleges, or universities. Approval by a State agency or subdivision includes approval of a school, college, or university as an educational institution or approval of one or more of the courses offered by a school, college or university; or

(3) It is a nonaccredited school, college, or university, but its credits are accepted by at least 3 educational institutions that have been accedited by a State or nationally recognized accrediting body.

(c) *When benefits can be paid after July 1982 based on attendance at a school other than an elementary or secondary school.* If you meet the conditions for entitlement to student benefits for months before August 1982 as explained in paragraphs (a) and (b) of this section, but do not meet the conditions for entitlement beginning in August 1982 (see § 404.367), your benefits will end with July 1982 unless you meet the following requirements:

(1) You have attained age 18;

(2) You are not under a disability;

(3) You were entitled to child's benefits (as a child, student or disabled child) for August 1981; and

(4) You were in full-time attendance as described in paragraph (a)(3) of this section at a post-secondary school for any month before May 1982. (A post-secondary school is any school which meets the definition of an educational institution as defined in paragraph (b) of this section but is not an elementary or secondary school as defined in § 404.367(a).)

(d) *Limitations on payments for months after July 1982.* If you are entitled to child's benefits based on the requirements of paragraphs (a) and (c) of this section, your benefit amount (prior to any reduction due to the family maximum or deduction on account of work) will be subject to the following limitations:

(1) You will receive no benefits for May through August beginning with calendar year 1982;

(2) Your benefit for September 1982 through April 1983 will be 75 percent of the benefit to which you were entitled for August 1981;

(3) Your benefit for September 1983 through April 1984 will be 50 percent of the benefit to which you were entitled for August 1981;

(4) Your benefit for September 1984 through April 1985 will be 25 percent of the benefit to which you were entitled for August 1981;

(5) You will receive no benefit for months after April 1985; and

(6) If your student benefits continue beyond July 1982 but later end for any reason, you may not become reentitled to student benefits.

§ 404.390 [Amended]

22. Section 404.390 is amended by changing the reference in the last sentence from "§ 404.392" to "§§ 404.392 and 404.393".

23. Section 404.391 is amended by revising the heading and introductory language to read as follows:

§ 404.391 Who is entitled to the lump-sum death payment as a widow or widower who was living in the same household.

You are entitled to the lump-sum death payment as a widow or widower who was living in the same household if—

* * * * *

24. Section 404.392 is redesignated as § 404.393, § 404.393 is redesignated as § 404.394, § 404.394 is redesignated as § 404.395, and a new § 404.392 is added to read as follows:

§ 404.392 Who is entitled to the lump-sum death payment when there is no widow or widower who was living in the same household—death occurs after August 1981.

(a) *General.* If the insured individual dies after August 1981 and is not survived by a widow or widower who meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

(1) To a person who is entitled (or would have been entitled had a timely application been filed) to widow's or widower's benefits (as described in § 404.335) or mother's or father's benefits (as described in § 404.339) on the work record of the deceased worker for the month of that worker's death; or

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(2) If no person described in (1) survives, in equal shares to each person who is entitled (or would have been entitled had a timely application been filed) to child's benefits (as described in § 404.350) on the work record of the deceased worker for the month of that worker's death.

(b) *Application requirement.* A person who meets the requirements of paragraph (a)(1) of this section need not apply to receive the lump-sum death payment if, for the month prior to the death of the insured, that person was entitled to wife's or husband's benefits on the insured's earnings record. Otherwise, an application must be filed within 2 years of the insured's death.

25. The heading and introductory language of § 404.393 as redesignated are changed to read as follows:

§ 404.393 Who is entitled to the lump-sum death payment when there is no widow or widower who was living in the same household—death occurs before September 1, 1981.

If the insured individual dies before September 1, 1981 and is not survived by a widow or widower who meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

* * * * *

26. The reference in the first sentence of the text of § 404.394 as redesignated is changed from "§ 404.392" to "§ 404.393".

§ 404.315 [Amended]

27. Section 404.315(a) is amended by changing the reference from "§ 404.116" to "§ 404.130".

§ 404.320 [Amended]

28. Section 404.320(b)(2) is amended by changing the reference from "§ 404.116" to "§ 404.130".

[FR Doc. 83-13053 Filed 5-13-83; 8:45 am]
BILLING CODE 4190-11-M

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20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Withdrawal of Applications of Deceased Claimants

AGENCY: Social Security Administration, HHS.
ACTION: Final rule.

SUMMARY: The Social Security Administration is amending its regulations on withdrawal of applications for benefits. The applications affected are those for old-age benefits that would be reduced because of the worker's age. Currently, even if the worker dies before we take action to pay the first of the reduced old-age benefits for which he or she applied, the amount of the widow's or widower's benefits must be limited because the worker was technically entitled to reduced benefits. These regulations will remedy this by permitting the person eligible for widow's or widower's benefits based on the worker's earnings to withdraw the worker's application if the worker died before we certified his or her benefit entitlement to the Treasury Department for payment.

EFFECTIVE DATE: These regulations are effective on May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6629.

SUPPLEMENTARY INFORMATION:

Background

Our existing regulations permit one person, under certain conditions, to withdraw another person's application for social security benefits but only if the person whose application is being withdrawn is alive at the time the withdrawal request is filed.

This was a reasonalbe requirement until Congress amended the law to require limitation of the amount of widow's or widower's benefits if the worker was ever entitled to old-age benefits that were reduced because of his or her age (under 65). Since then there have been instances in which the worker died after applying for reduced benefits, and thus the widow's or widower's benefits were limited, even though the worker died before we certified his or her entitlement to the Treasury Department for payment of any benefits whatsoever. This is because the worker is technically "entitled" to benefits as soon as he or she meets all the requirements for benefits which includes filing an application for those benefits.

We do not believe it was the intent of Congress to limit the widow's or widower's benefit amount where the worker met the technical requirements for entitlement, including the filing of an application, but then died before we actually certified his or her entitlement to the Treasury Department for payment.

New Regulations

There is no statutory provision governing withdrawal of an application for benefits. Accordingly, it is left wholly to the discretion of the Secretary of Health and Human Services to establish criteria for a valid withdrawal of an application. Since under the current law and regulation the worker's entitlement to reduced retirement benefits, regardless of whether actually paid to the worker, will permanently limit the benefit amount payable to the widow or widower, these regulations allow the withdrawal of the application after the worker's death, but only if the worker died before we certified the worker's entitlement to the Treasury Department for payment. The withdrawal may be accomplished by the person eligible for widow's or widower's benefits or by someone else on the widow's or widower's behalf, but requires the consent of any other individual who would lose benefits as a result of the withdrawal.

Public Comments

In order to obtain the public's views and comments before proceeding with these amendments, we published a Notice of Proposed Rule Making in the **Federal Register** on September 28, 1982 (47 FR 42587). The public was invited to submit comments pertaining to the proposed amendment within a period of 60 days from the date of publication of the notice. The comment period closed on November 27, 1982. There were no comments received during the comment period.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. We estimate that by the end of the fifth year from the time that this regulation is first implemented, the Federal cost for the payment of the full amount of benefits to survivors affected by the regulation would be approximately $3 million. Any resulting administrative costs would be negligible.

Paperwork Reduction Act—These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance. Our form SSA-521, Request for Withdrawal of Application, has OMB approval under control number 0960-0015.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Accordingly, this regulation is adopted without change as set forth below.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

(Secs. 202(j), 205 and 1102 of the Social Security Act, as amended (49 Stat. 623, as amended; 53 Stat. 1362, as amended; 49 Stat. 647, as amended; 42 U.S.C. 402(j), 405, and 1302))

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805 Social Security Survivors Insurance)

Dated: March 21, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Part 404 of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

In § 404.640, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added, to read as follows:

§ 404.640 Withdrawal of an application

* * * * *

(c) *Request for withdrawal filed after the claimant's death.* An application may be withdrawn after the claimant's death, regardless of whether we have made a determination on it, if—

(1) The claimant's application was for old-age benefits that would be reduced because of his or her age;

(2) The claimant died before we certified his or her benefit entitlement to the Treasury Department for payment;

(3) A written request for withdrawal is filed at a place described in § 404.614 by or for the person eligible for widow's or widower's benefits based on the claimant's earnings; and

(4) The conditions in paragraphs (b)(2) and (3) of this section are met.

* * * * *

[FR Doc. 83-13052 Filed 5-13-83; 8:45 am]
BILLING CODE 4190-11-M

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20 CFR Parts 404 and 416

[Regulations No. 4, 16]

Disability and Blindness; Determination of Certain Impairment-Related Work Expenses for Substantial Gainful Activity Purposes and for Purposes of Determining Countable Earned Income

AGENCY: Social Security Administration, HHS.
ACTION: Final rule.

SUMMARY: These rules implement section 302 of Pub. L. 96-265 which concerns certain impairment-related work expenses incurred on or after December 1, 1980, by disabled persons applying for or receiving benefits under the disability insurance program and the supplemental security income (SSI) program. Under these programs, a person who is able to do substantial gainful activity (SGA) is not considered disabled. In determining whether a person has done SGA we consider that person's services and earnings. In determining the amount of earnings for this purpose, regulations in effect for periods prior to December 1980 provide that we deduct the person's impairment-related expenses only if they are incurred solely because of his or her work. These regulations provide that the cost to the individual of impairment-related items and services which the individual needs in order to work, where the expenses were incurred on or after December 1, 1980, will be deducted from earnings even though the items and services also help that individual carry out normal functions of daily living. For the purpose of determining a person's eligibility and benefit amount for SSI, there is an exclusion from income of the first $20 of any income received in a month. Also excluded is $65 of earned income and one-half a person's earned income (not otherwise excluded) in a month. (In the Notice of Proposed Rule Making that preceded these final regulations, we used quarterly amounts in § 416.1112. In these final regulations we are using monthly amounts in accordance with Pub. L. 97-35 which established retrospective monthly accounting effective April 1, 1982. This amendment to the Social Security Act requires eligibility for SSI payments to be determined on a monthly rather than a quarterly basis. A Notice of Proposed Rule Making revising § 416.1112 was published on October 29, 1981 (46 FR 53449).) The regulations provide that we will also exclude from a disabled SSI recipient's earned income the same types of expenses that are deductible under the SGA provision. These impairment-related work expenses will be deducted after excluding $65 of earned income but before excluding one-half of what remains. However, a disabled individual must have countable income within the Federal SSI limit (currently $284.30 per month) without benefit of the work expense exclusion before the exclusion can apply. Once an individual qualifies under the basic Federal income limit for any month after November 1980, he or she continues to qualify for exclusion of work expenses for all subsequent consecutive months in which the Federal income limit or the income limit for federally administered optional State supplementation is met. If an individual later fails to meet the higher of these limits, he or she no longer qualifies for the work expense exlusion until the Federal SSI income limit is again met without benefit of the work expense exclusion.

EFFECTIVE DATE: These regulations are effective May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Dave Smith, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7336.

SUPPLEMENTARY INFORMATION:

We published a Notice of Proposed Rule Making on January 6, 1982 (47 FR 642). Comments received are discussed in this preamble.

What Expenses May Be Deducted

We define the kinds of impairment-related items or services which are considered under this work incentive provision. We do not, however, present an all-inclusive list of such items and services because such a list would impose unintended limitations.

The regulations include definitions of the items and services for which expenses are deductible. The expenses for these items and services are considered extraordinary in that the individual, because of his or her impairment(s), must have or use the items or services in order to overcome functional limitations which would otherwise preclude his or her working or getting to and from work.

We will deduct certain transportation costs including the costs of modifications to vehicles, driver assistance, taxicabs and other hired vehicles when other means of transportation are not accessible. We considered deducting both the cost of a vehicle modification and the purchase price of the vehicle if it is needed to get to and from work. We rejected the option of deducting the purchase price because automobiles and vans are widely used by most members of the

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public and their purchase is a common expense incurred by both disabled and nondisabled individuals. We decided that only the cost of the modification would meet the "extraordinary cost" standard and therefore decided to deduct only those costs. In addition, we have included a mileage allowance for both modified and unmodified vehicles. In the case of an unmodified vehicle, we will deduct the mileage allowance only where a disabled person has no choice, solely because of his or her impairment, but to drive to work. This allowance will be based on the national average costs of operating an automobile based on data provided by the Federal Highway Administration. The current rates range from 15 cents a mile to 26 cents a mile depending on the type of vehicle used. We will update the mileage allowance periodically.

We have provided that payment by a disabled person for attendant care services will be deductible only for services performed at work, going to and from work, or in preparing the individual to go to work and assisting the person in returning from work. Where a disabled person pays a member of his or her family for the performance of attendant care services, the payment will be deductible only if the family member suffers economic loss by reducing or termination his or her own employment or self-employment.

We have provided for a deduction of the cost of residential modifications under certain limited circumstances. Where the individual is employed outside the home, we will deduct only the cost of those changes to the exterior of the residence which enable the individual to get to work (e.g., exterior ramp for a wheel-chair confined person or special exterior railings or pathways for someone who requires crutches). Where the individual works at home, we provide for the deduction of modifications that pertain specifically to the working space in the home. Such costs, however, cannot be deducted as impairment-related work expenses if they are deducted by a self-employed person as business expenses.

We have provided for deduction of expenses for non-medical appliances and equipment (those which are not ordinarily used for medical purposes) only where it can be established that there is an impairment-related and medically verified need for the item because it is essential for the control of the disabling condition. Determinations regarding these types of expenses will be made on the facts of each case.

We have provided that the costs of drugs and medical services are deductible if they are used by the individual to control his or her impairment in order that the individual may work.

Relationship of Expenses to Period of Work

For the purpose of determining SGA we have provided that a payment toward the cost of an item can be deducted if payment is made in a month the person is working (including work in a sheltered workshop), regardless of when the actual purchase was made. We have provided that costs for services can be deducted if payment for the services is made in a month the person is working, provided that the services are received in a month the person is working. Thus, the payment must coincide with the person's earnings as well as his or her receipt of the services. For the purpose of determining the SSI payment amount, we have provided that a payment toward the cost of an item or service can be deducted if payment is made in the month the earned income is received for work performed while the individual utilized the impairment-related item or service. Recognizing that individuals may make purchases in anticipation of work, we provided for the allocation of amounts spent for non-expendable items in the 11 months preceding the first month or work. The payments will be allocated over the 12-consecutive month period beginning with the month of payment. However, only that portion of the payment which is allocated to work months is deductible. In this instance, in order to place the individual on an equal footing with persons who make purchases while working, we will consider the duductible amount to have been paid in the first month of work for the purpose of determining SGA and in the first month earned income is received for the purpose of determining the SSI payment amount. Accordingly, the amount will be deducted in that month or allocated over the 12-consecutive month period beginning with that month. The allocation process is explained in more detail in subsequent paragraphs. In no instance will expenses incurred before December 1, 1980, be deductible, though expenses incurred after November 1980 as a result of a contractual or other arrangement entered into before December 1980, are deductible.

When Expenses May Be Deducted

We have provided that impairment-related work expenses will generally be deductible when paid. If an item or service is paid for on a regular, periodic basis (e.g. monthly), those payments will be deductible in the months in which they are made. **We identify these as recurring expenses. If an item or service** is paid for at one time, we will deduct the amount of that payment when made or allocate the payment equally over a 12-consecutive month period beginning with the month of payment, whichever the individual selects. If a downpayment is made, we will deduct it when paid or allocate it equally over a 12-consecutive month period, or over the payment period involved if it is less than 12 months, beginning with the month of payment, whichever the individual selects. We identify these as nonrecurring expenses. We will use a special rule when the purchase involves both a recurring and nonrecurring expense.

We considered deducting each nonrecurring payment in the month paid. Where the expense, which could be large, is deducted entirely in the month paid, the person could be found engaging in SGA the following month (and would, therefore, not be disabled). Since SGA determinations are generally based on average earnings over an extended period of time, it is reasonable to allocate nonrecurring payments whenever it would be more beneficial to the disabled person to do so. Moreover, failure to allocate a large expense could discourage a disabled individual from obtaining an item or service needed for him or her to work. The question of the length of the period over which to allocate nonrecurring payments presented several options. We could allocate a one-time payment or downpayment over the item's useful life, but we did not feel it administratively feasible to determine the useful life of an item on a case-by-case basis. We could also allocate downpayments over the length of the installment contract, but this approach could result in unequal treatment of individuals in situations where they purchased identical items. We decided to allocate non-recurring payments over a period of 12 months because it parallels the period used to measure earnings for other program purposes, e.g., the 12-month period is the length of time an impairment must last for a person to be disabled, the 12-month retirement test period, and under the Internal Revenue Code, the 12-month tax year. Also, for SSI payment purposes, a relationship to need could not be reasonably established beyond a 12-month period. We did not choose a shorter period (e.g., 3 months or 6 months) because disability evaluation is generally concerned with the inability to work over an extended period rather than a short, isolated period.

What Kinds of Payments May Be Deducted

In order for impairment-related work expenses to be deductible, they must be paid for in cash or by check rather than in kind. The law states that deductions will be made only where the individual pays for the item or service. We consider this limitation to mean that the individual must pay an actual dollar amount "out-of-pocket" for the impairment-related item or service. Further, we believe this interpretation makes the best use of scarce dollar resources available to SSA to administer the disability program.

Limitations On Deductions of Expenses

Section 302 of Pub. L. 96–265 states with regard to the expenses that "the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe." In its report (No. 96–408) on H.R. 3236 the Senate Finance Committee stated on page 51:

> The committee intends that any such limits not be based on arbitrary conceptions of what amounts are reasonable but rather reflect actual prevailing costs of various categories of impairment-related expenses.

We have related the amounts paid for certain items and services to the prevailing charges listed for the same items and services in the Medicare guidelines under Part B of title XVIII of the Act (Health Insurance for the Aged and Disabled) where the Medicare information is readily available. That information is regularly used to determine reasonable charges for purposes of reimbursement under the Medicare program. We will consider an amount reasonable if it is no more than the prevailing charge established under that title. We will deduct an amount in excess of that charge where the individual shows that it is consistent with the standard or normal charge for the same or similar item or service in the individual's community. For items and services that are not covered by the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which those guides cannot be used because the information is not readily available, we will consider as reasonable the actual costs paid, subject to the standard charge in the individual's community for the same or similar items or services.

We considered allocating deductions based on the time spent working and not working where the item or service is needed for both purposes. We decided to limit the deduction for attendant care to the costs of services performed by the attendant while the individual is at work, getting to and from work, and at home preparing the individual to go to work and assisting the individual in returning from work. In the case of medical devices, equipment and medical services, we decided to permit deduction of the full out-of-pocket costs rather than to allocate the deductions because it is impossible to establish a rational and fair standard for determining the extent to which the costs of an artificial limb, a pacemaker, or hemodialysis, for instance, are work-related.

Comments Received Following Publication of Notice of Proposed Rulemaking

We received comments from 13 sources including 8 private non-profit organizations, 4 State agencies and one individual. Each source commented on one or more provisions of the regulations. For ease of comprehension we have condensed, summarized or paraphrased the comments and have grouped them according to the subject and issues raised. We have tried, to the extent possible, to present the comments and our responses in the order in which the regulations are organized.

Comment: The final regulations should make it clear that for the purpose of determining SGA the impairment-related work expenses are always allowable, i.e., initially as well as for continuation.

Response: We placed the rules on impairment-related work expenses in the portion of the regulations dealing with SGA, beginning with § 404.1571 and § 416.971. These sections specify the following: "The work that you have done *during any period in which you believe you are disabled* may show that you are able to work at the substantial gainful activity level." (Underscoring added.) Thus, the regulations make it clear that impairment-related work expenses must be considered initially as well as for continuation.

Comment: To be deductible, the expense should be directly related, rather than incidentally related, to the individual's ability to work. Therefore, individual determinations may have to be made in some cases as to what constitutes a work-related expense, rather than only using the arbitrary lists of covered or noncovered items.

Response: We agree with this comment. As stated under Supplementary Information, we are defining the *kinds* of impairment-related items or services which will be considered, rather than establishing an all-inclusive list of these items and services which would impose unintended limitations. Where items or services are identified in the rules, we specify that they are examples. Examples are provided to enable the reader to more readily understand the rule. Decisions as to the deductibility of impairment-related work expenses will be made on an individual basis.

Comment: You allow as impairment-related work expenses payments for attendant care services performed by family members who have given up their jobs or reduced their hours of work. You should also recognize the family member who performs attendant care services which prevent him or her from seeking employment.

Response: When a family member sustains an economic loss as a result of providing attendant care, we can reasonably assume that the services were performed with the expectation of remuneration and we would allow a deduction for the payment. We cannot make this assumption in the absence of an economic loss. In writing the rules, we had to recognize that it is common for individuals to perform personal services for members of their families based on familial considerations rather than in expectation of payments.

Comment: The definition of "family member" in §§ 404.1576(c)(1)(iii) and 416.976(c)(1)(iii) is too broad and would discourage the use of those relatives most likely to be able to assist the disabled person. The definition of a family member should be changed to include only those relatives that live with the disabled person.

Response: If the definition were changed as suggested, a relative not living with the disabled person would not be considered to be a family member for purposes of this provision. As a result, any payment to that relative for attendant care services would be deductible whether or not he or she sustains an economic loss in order to provide the services. In our response to the preceding comment we explained that the rule on deductions for these payments to relatives is based on our recognition that individuals often perform services for relatives without expectation of pecuniary gain. In order to avoid deductions in cases of gratuitous services we included the economic loss condition. Although consideration of a relative's place of residence in determining the deductibility of payments would be easier to administer, it would be inconsistent with the aforementioned policy. The fact that a relative may not live with the disabled person should not be determinative of whether the deduction is allowed. The crucial factor is whether an economic loss is suffered.

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Comment: The requirement that for payments to family members to be deductible the family member must suffer an economic loss should be applicable only to family members living in the household of the disabled person. While we understand the desire to avoid allowing deductions for services performed by family members living in the household who suffer no economic loss by performing the services, we believe the application of such a stringent criterion to family members not living in the household will, in many instances, defeat the purpose of section 302.

Response: Our response to the preceding comment also applies to this comment. As we interpret this comment it differs from the foregoing only to the extent that the economic loss condition would be applicable when the relative performing the services lives in the household of the recipient, which implies that the household is the property of the disabled person. Again, we do not believe this distinction is significant enough to warrant a change in the rule.

Comment: The regulations should clarify whether a deduction for payment to a family member should be allowed if the family member's normal working hours did not include the times in which the personal attendant services were rendered.

Response: We did not contemplate that it would be necessary to show a correlation between the time the family member performed the attendant care services and the time he or she normally worked. Even though the services may be performed during other than the normal working hours, the family member may, for example, have reduced his or her hours of work in order to obtain the rest needed to care for the disabled person. Thus, it is sufficient if the family member generally establishes that his or her work terminated or was reduced in order to perform the services. We believe the language in the regulations adequately covers this provision.

Comment: Under attendant care, the discussion about assistance with personal services at home in preparation for going to and from work should include deductions for payments to individuals who monitor and administer a visually handicapped individual's insulin.

Response: We have adopted the essence of this suggestion and have revised §§ 404.1576(c)(1)(ii) and 416.976(c)(1)(ii) to include an example which permits this type of deduction to be made.

Comment: Attendant care expenses should be deductible for assistance rendered in shopping, cooking, housekeeping, washing, ironing, and for assistance rendered on nonwork days, since a severely disabled person requires all of these services, every day, to sustain life.

Response: The law permits the deduction of the cost of only those impairment-related items and services which can be *directly associated with enabling a person to work even though the items and services are also needed to carry out the person's normal daily functions. The items or services mentioned cannot be so directly associated. Thus, their costs are generally beyond the scope of this provision.*

Comment: Limiting allowable attendant care deductions to services performed at work, going to and from work, or in preparing the individual to go to work and assisting the person in returning from work seems unreasonable and represents an overly restrictive interpretation of the law. Attendant care costs should be allowable up to and including bedtime, at least on working nights.

Response: Our response to the preceding comment would also apply here. Ordinarily, it can be expected that services within this context that are provided a disabled person upon his or her return home from work would require no more than 1 or 2 hours. However, where it can be shown that services of a longer duration are required to enable the individual to work, and not primarily associated with sustaining or facilitating the person's life, their costs would be deductible.

Comment: In §§ 404.1576(c)(4) and 416.976(c)(4), the term "visual aids" should be changed to either "vision aids" or "optical aids" to more accurately reflect what is intended, i.e., aids designed to enhance sight. Add to the examples in these sections, "sensory aids for the blind," meaning technological devices which have been developed to produce synthetic speech or braille which enables blind persons to use computers, calculators, and word processing equipment. In §§ 404.1576(c)(6) and 416.976(c)(6), change "seeing-eye dog" (which is a dog tra...ed by a specific dog school) to the more generic term, "dog guide."

Response: We have revised the pertinent sections of part 404 as recommended. As the blind are not subject to an SGA test under title XVI we did not make the changes in part 416. The types of expenses referred to are deductible for title XVI payment purposes under § 416.1112.

Comment: Under payments for drugs and services, include as an example immunosuppressive medications that kidney transplant patients regularly take to protect against graft rejection.

Response: We have adopted this suggestion. Sections 404.1576(c)(5)(ii) and 416.976(c)(5)(ii) have been revised to include the additional example.

Comment: Several commenters felt that all or part of the purchase price of a van or automobile needed to get to work should be allowed as an impairment-related work expense. Reasons given are (1) public transportation is not available to disabled consumers, so they have no option other than to purchase a vehicle, (2) disabled persons must have reliable (and, therefore, new) vehicles which are very expensive, and (3) the Department of Rehabilitation will not modify a vehicle which is more than 2 years old.

Response: While public transportation may not be available to the disabled, this may also be true for the nondisabled. We recognize that vans and automobiles are necessary for some disabled individuals to get to work. However, automobiles and vans are widely used by most members of the public and their purchase price is a common expense incurred by both the disabled and nondisabled. Thus, this expense is not "extraordinary," as is the cost of the modification to the vehicle. To account for the situation where the disabled person must, because of his or her impairment, use an automobile or van to get to and from work, we have provided for a mileage allowance.

Comment: The mileage allowance rates may be too low when the actual costs of operating a modified vehicle are considered. Actual costs should cover depreciation of the vehicle and equipment, insurance costs, and actual operating costs. The impairment-related work expense provision should coincide with the Internal Revenue Service provision which allows for the deduction of actual costs.

Response: Depreciating a vehicle has the same effect as deducting its cost. As indicated in the preceding response, the cost of the vehicle is not considered "extraordinary" and would not, therefore, be deductible. Likewise, the cost of regular equipment cannot be depreciated. However, if the equipment is part of a structural or operational modification that is critical to the operation or usage of the vehicle and is directly related to the individual's impairment, its cost is extraordinary and, therefore, deductible. In this event, a mileage allowance is deductible in addition to the actual cost of the modification. In response to the recommendation that actual operating costs be deductible, this suggestion was thoroughly considered in the development of the regulations. We believe that the tendency for most people would be to not keep accurate records of their actual expenditures. And it would be difficult for us to evaluate the accuracy of those records. For administrative reasons we decided to use mileage rates established by the Federal Highway Administration. These rates are based upon data which include the costs of gas, oil, maintenance, parking, insurance, and taxes.

Comment: Deduct, under residential modifications, the cost of minor plumbing and electrical modifications that may be required for installation of dialysis equipment.

Response: These types of expenses are associated with a medical device and would be deductible. We have added paragraph (7) to § 404.1576(c) and to § 416.976(c) to reflect that these types of expenses are deductible.

Comment: The sections dealing with the relationship of expenses to the period of work seem unnecessarily complex and potentially troublesome for both disabled people and the Social Security Administration. In addition, it seems unreasonable to require that all bills, in order to be deductible, be paid during a working month. We suggest that the wording be changed to state that bills must be paid not later than the end of the month following when they were incurred. This allows for normal billing procedures. An individual should not be penalized for legitimately incurred work expenses in the previous month because of an inability to pay for services in the same month in which the services were rendered.

Response: The reason these rules seem to be complex is that the rules for determining SGA are different than the rules for determining the SSI payment amount. The amount of earnings from work that an individual performed may show that he or she engaged in SGA. Therefore, in determining whether an individual engaged in SGA, we are concerned with when the income (for the work) was "earned," rather than with when it was received by the individual. On the other hand, eligibility for SSI payments is dependent in part on the amount of income available to the individual. Therefore, for the purpose of determining the SSI payment amount, we are concerned with when the income is received, rather than with when it was earned by the individual.

The impairment-related work expense rules have been formulated on the basis of the preceding considerations. Thus, for the purpose of determining SGA we provide that the cost of an item or service is generally deductible if payment is made in a month the person is working. On the other hand, for the purpose of determining the SSI payment amount we provide that the cost of an item or service is generally deductible if payment is made in the month the income (for the work) is received.

Comment: The proposed rules allow for deductions only at the rate of prevailing charges under Medicare. The Medicare prevailing charge rates are too low and do not permit deducting the cost of custom-made devices and equipment which the individual needs. The actual amount paid should be allowed as a deduction.

Response: The Medicare prevailing rates are not an absolute standard. As specified in the rules, any time the actual cost exceeds the Medicare rate, the disabled person will have an opportunity to demonstrate that the amount paid is consistent with the standard or normal charge for the same or similar item or service in the individual's community. Where this can be established, the actual amount paid will be deductible.

Comment: A blind person may deduct different work expenses in the SSI program than in the disability insurance program. Also, the rules for deducting work expenses of blind SSI recipients are different than the rules for deducting work expenses of regular disabled SSI recipients. Therefore, § 404.1576(f)(4) should be clarified.

Response: Section 302 of Pub. L. 98–265 expressly provides the impairment-related work expense exclusion for the disabled (*not* the blind) under the SSI program. In addition, under the SSI program, the blind are not subject to an SGA test. Consequently, only those blind workers who are filing for or are receiving title II disability insurance benefits are affected by these rules.

Comment: If an employed SSI recipient cannot certify substantial work-related expenses, there is little incentive to work with the disregarding of only the first $65 a month of earned income before deducting one-half of the remaining earnings. A solution would be to liberalize the SGA amount under SSI to a level at, or approaching, the current $500 a month level under disability insurance for blind persons.

Response: The earnings test for SGA purposes which applies to persons who are filing for or receiving SSI benefits (title XVI) because of disability is the same as that which applies to persons who are filing for or receiving title II benefits because of a disability other than blindness. The test of whether a person is disabled is the same for the title XVI program as for the title II program and it would be inconsistent and inequitable to apply different SGA tests. Recognizing that blind persons face special problems with respect to employement, Congress, in 1977, provided higher SGA earnings amounts for the blind under title II. However, the Conference Report (Senate Report No. 95–612 and House of Representatives Report No. 95–837, 95th Congress, First Session) made clear that this more liberal SGA level should not be applied to persons disabled by impairments other than blindness. (Since the title XVI blind are not subject to an SGA test, this new level applies only to title II blind.) Application of this higher level to nonblind persons would clearly be contrary to Congressional intent. Under the SSI program all earnings, whether by a blind person or by a disabled person, are also evaluated under the income and resources provisions of the law. Eligibility for benefits and the amount of the benefit payable are dependent in part upon the amount of a person's income. As the amount of a person's countable income rises, his or her benefit payment is reduced. This evaluation is independent of the determination as to whether a person is doing SGA.

Comment: The SGA rules for the blind are in § 404.1584. But § 404.1584 does not provide that impairment-related work expenses can be excluded from earnings. Therefore, § 404.1584(d) should incorporate by reference § 404.1576 to make it clear that impairment-related work expenses of blind people can be subtracted from their income.

Response: This suggestion has been adopted. We have revised § 404.1584(d) to include the recommendation and to explain by cross-reference that subsidies described in § 404.1574(a)(2) and amounts described in § 404.1575(c) if an individual is self-employed should also be excluded.

Comment: Two commenters objected to the provisions of § 416.1112(c)(5) which provide (1) that the impairment-related work expense exclusion cannot be applied until countable income without benefit of the exclusion is within the Federal SSI limit, and (2) that if subsequently the countable income after the exclusion exceeds the Federal SSI limit or the federally administered optional State supplement limit, the individual no longer qualifies for the exclusion until his or her countable income without the exclusion is again within the Federal limit. It is felt that this provision will present an undue hardship on a disabled worker and,

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therefore, a disincentive to employment. A provision must be made to protect employed individuals who temporarily fail to incur an impairment-related work expense (e.g., an individual misses work about 3 weeks in a month and during that time did not have transportation expenses he would normally have) so that their eligibility for the impairment-related work expense exclusion would continue.

Response: Section 1612(b) of the Act (as amended by section 302(b) of Pub. L. 96-265) specifically states that the impairment-related work expense exclusion applies ". . . For purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility." Therefore, the limitation in question is mandated by law. However, it affects use of the exclusion only for purposes of computing a person's countable earned income in determining SSI eligiblity and benefit amount. The limitation does not affect deduction of impairment-related work expenses for purposes of determining whether the person is performing SGA.

Comment: Any attempt to "nibble away" at the meager income of SSI recipients is opposed. A policy which takes away from those persons least able to give should be reconsidered.

Response: The purpose of these rules is to implement a change in the law. This change in the law provides that the cost to an individual of certain items and services which are needed in order to work can be deducted from the individual's earnings. The deduction can be made for the purpose of determining whether the individual engaged in SGA and for the purpose of determining the individual's SSI payment amount. This is a liberalizing change intended to encourage people to return to work. It can increase, but never decrease, the benefits of an SSI recipient.

Regulatory Procedures

Executive Order No. 12291—This regulation does not meet the criteria for a major rule as that term is defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Estimated program costs (titles II and XVI combined) for fiscal years 1982, 1983, 1984, and 1985 are $12 million, $17 million, $22 million and $28 million, respectively. Estimated administrative costs are less than $1 million each year.

Paperwork Reduction Act—These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance. The reporting forms needed to implement this provision have been approved by OMB already: SSA Nos. 820 and 821 (OMB approval No. 09-60-0059) and SSA No. 3945 (OMB approval No. 09-60-0108).

Regulatory Flexibility Act—We certify that these regulations do not have a significant economic impact on a substantial number of small entities because these rules only affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not necessary.

List of Subjects

20 CFR Part 404.

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416.

Administrative practice and procedure, Aged, Blind, Disabled, Public-Assistance programs, Supplemental Security Income (SSI).

(Secs. 205, 223, 1102, 1612, 1614, and 1631, Social Security Act, as amended; Sec. 302 of Pub. L. 96-265; 53 Stat. 1368, as amended; 70 Stat. 815, as amended; 49 Stat. 647, as amended; and 86 Stat. 1468, 1471, 1475, as amended; 94 Stat. 450, 451; 42 U.S.C. 405, 423, 1302, 1382a, 1382c and 1383)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.807 Supplemental Security Income)

These amendments are hereby adopted as set forth below.

Dated: March 4, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

1. In § 404.1574, paragraph (a)(4) is removed and paragraph (b) is revised to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

* * * * *

(b) *Earnings guidelines.* (1) *General.* If you are an employee, we first consider the criteria in paragraph (a) of this section and § 404.1576, and then the guides in paragraphs (b) (2), (3), (4), (5), and (6) of this section.

* * * * *

2. In § 404.1575, paragraph (c) is revised to read as follows:

§ 404.1575 Evaluation guides if you are self-employed.

* * * * *

(c) *What we mean by substantial income.* After your normal business expenses are deducted from your gross income to determine net income, we will deduct the reasonable value of any unpaid help, any soil bank payments that were included as farm income, and impairment-related work expenses described in § 404.1576 that have not been deducted in determining your net earnings from self-employment. We will consider the resulting amount of income from the business to be substantial if—

(1) It averages more than the amounts described in § 404.1574(b)(2); or

(2) It averages less than the amounts described in § 404.1574(b)(2) but the livelihood which you get from the business is either comparable to what it was before you became severely impaired or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar business as their means of livelihood.

* * * * *

3. A new § 404.1576 is added to read as follows:

§ 404.1576 Impairment-related work expenses.

(a) *General.* When we figure your earnings in deciding if you have done substantial gainful activity, we will subtract the reasonable costs to you of certain items and services which, because of your impairment(s), you need and use to enable you to work. The costs are deductible even though you also need or use the items and services to carry out daily living functions unrelated to your work. Paragraph (b) of this section explains the conditions for deducting work expenses. Paragraph (c) of this section describes the expenses we will deduct. Paragraph (d) of this section explains when expenses may be deducted. Paragraph (e) of this section describes how expenses may be allocated. Paragraph (f) of this section explains the limitations on deducting expenses. Paragraph (g) of this section explains our verification procedures.

(b) *Conditions for deducting impairment-related work expenses.* We will deduct impairment-related work expenses if—

(1) You are otherwise disabled as defined in §§ 404.1505, 404.1577 and 404.1581–404.1583;

(2) The severity of your impairment(s) requires you to purchase (or rent) certain items and services in order to work;

(3) You pay the cost of the item or service. No deduction will be allowed to the extent that payment has been or will be made by another source. No deduction will be allowed to the extent that you have been, could be, or will be reimbursed for such cost by any other source (such as through a private insurance plan, Medicare or Medicaid, or other plan or agency). For example, if you purchase crutches for $80 but you were, could be, or will be reimbursed $64 by some agency, plan, or program, we will deduct only $16;

(4) You pay for the item or service in a month you are working (in accordance with paragraph (d) of this section); and

(5) Your payment is in cash (including checks or other forms of money). Payment in kind is not deductible.

(c) *What expenses may be deducted.*

(1) *Payments for attendant care services.* (i) If because of your impairment(s) you need assistance in traveling to and from work, or while at work you need assistance with personal functions (e.g., eating, toileting) or with work-related functions (e.g., reading, communicating), the payments you make for those services may be deducted.

(ii) If because of your impairment(s) you need assistance with personal functions (e.g., dressing, administering medications) at home in preparation for going to and assistance in returning from work, the payments you make for those services may be deducted.

(iii)(A) We will deduct payments you make to a family member for attendant care services only if such person, in order to perform the services, suffers an economic loss by terminating his or her employment or by reducing the number of hours he or she worked.

(B) We consider a family member to be anyone who is related to you by blood, marriage or adoption, whether or not that person lives with you.

(iv) If only part of your payment to a person is for services that come under the provisions of paragraph (c)(1) of this section, we will only deduct that part of the payment which is attributable to those services. For example, an attendant gets you ready for work and helps you in returning from work, which takes about 2 hours a day. The rest of his or her 8 hour day is spent cleaning your house and doing your laundry, etc. We would only deduct one-fourth of the attendant's daily wages as an impairment-related work expense.

(2) *Payments for medical devices.* If your impairment(s) requires that you utilize medical devices in order to work, the payments you make for those devices may be deducted. As used in this subparagraph, medical devices include durable medical equipment which can withstand repeated use, is customarily used for medical purposes, and is generally not useful to a person in the absence of an illness or injury. Examples of durable medical equipment are wheelchairs, hemodialysis equipment, canes, crutches, inhalators and pacemakers.

(3) *Payments for prosthetic devices.* If your impairment(s) requires that you utilize a prosthetic device in order to work, the payments you make for that device may be deducted. A prosthetic device is that which replaces an internal body organ or external body part. Examples of prosthetic devices are artificial replacements of arms, legs and other parts of the body.

(4) *Payments for equipment.* (i) *Work-related equipment.* If your impairment(s) requires that you utilize special equipment in order to do your job, the payments you make for that equipment may be deducted. Examples of work-related equipment are one-hand typewriters, vision aids, sensory aids for the blind, telecommunication devices for the deaf and tools specifically designed to accommodate a person's impairment(s).

(ii) *Residential modifications.* If your impairment(s) requires that you make modifications to your residence, the location of your place of work will determine if the cost of these modifications will be deducted. If you are employed away from home, only the cost of changes made outside of your home to permit you to get to your means of transportation (e.g., the installation of an exterior ramp for a wheelchair confined person or special exterior railings or pathways for someone who requires crutches) will be deducted. Costs relating to modifications of the inside of your home will not be deducted. If you work at home, the costs of modifying the inside of your home in order to create a working space to accommodate your impairment(s) will be deducted to the extent that the changes pertain specifically to the space in which you work. Examples of such changes are the enlargement of a doorway leading into the workspace or modification of the workspace to accommodate problems in dexterity. However, if you are self-employed at home, any cost deducted as a business expense cannot be deducted as an impairment-related work expense.

(iii) *Nonmedical appliances and equipment.* Expenses for appliances and equipment which you do not ordinarily use for medical purposes are generally not deductible. Examples of these items are portable room heaters, air conditioners, humidifiers, dehumidifiers, and electric air cleaners. However, expenses for such items may be deductible when unusual circumstances clearly establish an impairment-related and medically verified need for such an item because it is essential for the control of your disabling condition, thus enabling you to work. To be considered essential, the item must be of such a nature that if it were not available to you there would be an immediate adverse impact on your ability to function in your work activity. In this situation, the expense is deductible whether the item is used at home or in the working place. An example would be the need for an electric air cleaner by an individual with severe respiratory disease who cannot function in a non-purified air environment. An item such as an exercycle is not deductible if used for general physical fitness. If it is prescribed and used as necessary treatment of your impairment and necessary to enable you to work, we will deduct payments you make toward its cost.

(5) *Payments for drugs and medical services.* (i) If you must use drugs or medical services (including diagnostic procedures) to control your impairment(s) the payments you make for them may be deducted. The drugs or services must be prescribed (or utilized) to reduce or eliminate symptoms of your impairment(s) or to slow down its progression. The diagnostic procedures must be performed to ascertain how the impairment(s) is progressing or to determine what type of treatment should be provided for the impairment(s).

(ii) Examples of deductible drugs and medical services are anticonvulsant drugs to control epilepsy or anticonvulsant blood level monitoring; antidepressant medication for mental disorders; medication used to allay the side effects of certain treatments; radiation treatment or chemotherapy for cancer patients; corrective surgery for spinal disorders; electroencephalograms and brain scans related to a disabling epileptic condition; tests to determine the efficacy of medication on a diabetic condition; and immunosuppressive medications that kidney transplant patients regularly take to protect against graft rejection.

(iii) We will only deduct the costs of drugs or services that are directly related to your impairment(s). Examples of non-deductible items are routine annual physical examinations, optician services (unrelated to a disabling visual impairment) and dental examinations.

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(6) *Payments for similar items and services.* (i) *General.* If you are required to utilize items and services not specified in paragraphs (c) (1) through (5) of this section but which are directly related to your impairment(s) and which you need to work, their costs are deductible. Examples of such items and services are medical supplies and services not discussed above, the purchase and maintenance of a guide dog which you need to work, and transportation.

(ii) *Medical supplies and services not described above.* We will deduct payments you make for expendable medical supplies, such as incontinence pads, catheters, ace bandages, elastic stockings, face masks, irrigating kits, and disposable sheets and bags. We will also deduct payments you make for physical therapy which you require because of your impairment(s) and which you need in order to work.

(iii) *Payments for transportation costs.* We will deduct transportation costs in these situations:

(A) Your impairment(s) requires that in order to get to work you need a vehicle that has structural or operational modifications. The modifications must be critical to your operation or use of the vehicle and directly related to your impairment(s). We will deduct the costs of the modifications, but not the cost of the vehicle. We will also deduct a mileage allowance for the trip to and from work. The allowance will be based on data compiled by the Federal Highway Administration relating to vehicle operating costs.

(B) Your impairment(s) requires you to use driver assistance, taxicabs or other hired vehicles in order to work. We will deduct amounts paid to the driver and, if your own vehicle is used, we will also deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(C) Your impairment(s) prevents your taking available public transportation to and from work and you must drive your (unmodified) vehicle to work. If we can verify through your physician or other sources that the need to drive is caused by your impairment(s) (and not due to the unavailability of public transportation), we will deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(7) *Payments for installing, maintaining, and repairing deductible items.* If the device, equipment, appliance, etc., that you utilize qualifies as a deductible item as described in paragraphs (c) (2), (3), (4) and (6) of this section, the costs directly related to installing, maintaining and repairing these items are also deductible. The costs which are associated with modifications to a vehicle are deductible. Except for a mileage allowance, as provided for in paragraph (c)(6)(iii) of this section, the costs which are associated with the vehicle itself are not deductible.)

(d) *When expenses may be deducted.* (1) *Effective date.* To be deductible an expense must be incurred after November 30, 1980. An expense may be considered incurred after that date if it is paid thereafter even though pursuant to a contract or other arrangement entered into before December 1, 1980.

(2) *Payments for services.* A payment you make for services may be deducted if the services are received while you are working and the payment is made in a month you are working. We consider you to be working even though you must leave work temporarily to receive the services.

(3) *Payments for items.* A payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if payment is made in a month you are working. See paragraph (e)(4) of this section when purchases are made in anticipation of work.

(e) *How expenses are allocated.* (1) *Recurring expenses.* You may pay for services on a regular periodic basis, or you may purchase an item on credit and pay for it in regular periodic installments or you may rent an item. If so, each payment you make for the services and each payment you make toward the purchase or rental (including interest) is deductible in the month it is made.

Example. B starts work in October 1981 at which time she purchases a medical device at a cost of $4,600 plus interest charges of $720. Her monthly payments begin in October. She earns and receives $400 a month. The term of the installment contract is 48 months. No downpayment is made. The monthly allowable deduction for the item would be $115 ($5520 divided by 48) for each month of work during the 48 months.

(2) *Nonrecurring expenses.* Part or all of your expenses may not be recurring. For example, you may make a one-time payment in full for an item or service or make a downpayment. If you are working when you make the payment we will either deduct the entire amount in the month you pay it or allocate the amount over a 12 consecutive month period beginning with the month of payment, whichever you select.

Example. A begins working in October 1981 and earns $525 a month. In the same month he purchases and pays for a deductible item at a cost of $250. In this situation we could allow a $250 deduction for October 1981, reducing A's earnings below the SGA level for that month.

If A's earnings had been $15 above the SGA earnings amount, A probably would select the option of projecting the $250 payment over the 12-month period, October 1981–September 1982, giving A an allowable deduction of $20.83 a month for each month of work during that period. This deduction would reduce A's earnings below the SGA level for 12 months.

(3) *Allocating downpayments.* If you make a downpayment we will, if you choose, make a separate calculation for the downpayment in order to provide for uniform monthly deductions. In these situations we will determine the total payment that you will make over a 12 consecutive month period beginning with the month of the downpayment and allocate that amount over the 12 months. Beginning with the 13th month, the regular monthly payment will be deductible. This allocation process will be for a shorter period if your regular monthly payments will extend over a period of less than 12 months.

Example 1. C starts working in October 1981, at which time he purchases special equipment at a cost of $4,800, paying $1,200 down. The balance of $3,600, plus interest of $540, is to be repaid in 36 installments of $115 a month beginning November 1981. C earns $500 a month. He chooses to have the downpayment allocated. In this situation we would allow a deduction of $205.42 a month for each month of work during the period October 1981 through September 1982. After September 1982, the deduction amount would be the regular monthly payment of $115 for each month of work during the remaining installment period.

Explanation:

Downpayment in 10/81	$1,200	
Monthly payments 11/81 through 09/82	1,265	
	12) 2,465	=$205.42

Example 2. D, while working, buys a deductible item in July 1981, paying $1,450 down. However, his first monthly payment of $125 is not due until September 1981. D chooses to have the downpayment allocated. In this situation we would allow a deduction of $225 a month for each month of work during the period July 1981 through June 1982. After June 1982, the deduction amount would be the regular monthly payment of $125 for each month of work.

Explanation:

Downpayment in 07/81	$1,450	
Monthly payments 09/81 through 06/82	1,250	
	12) 2,700	=$225

(4) *Payments made in anticipation of work.* A payment toward the cost of a deductible item that you made in any of the 11 months preceding the month you started working will be taken into account in determining your impairment-related work expenses. When an item is paid for in full during the 11 months preceding the month you started working the payment will be allocated over the 12-consecutive month period beginning with the month of the payment. However, the only portion of the payment which may be deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for in 3 monthly installments of $200 each, the total payment of $600 will be considered to have been made in the month of the first payment, that is, 3 months before the month work began. The amount would be $450 ($600 divided by 12, multiplied by 9). The deductible amount, as determined by these formulas, will then be considered to have been paid in the first month of work. We will deduct either this entire amount in the first month of work or allocate it over a 12-consecutive month period beginning with the first month of work, whichever you select. In the above examples, the individual would have the choice of having the entire $450 deducted in the first month of work or of having $37.50 a month ($450 divided by 12) deducted for each month that he works over a 12-consecutive month period, beginning with the first month of work. To be deductible the payments must be for durable items such as medical devices, prostheses, work-related equipment, residential modifications, nonmedical appliances and vehicle modifications. Payments for services and expendable items such as drugs, oxygen, diagnostic procedures, medical supplies and vehicle operating costs are not deductible for purposes of this subparagraph.

(f) *Limits on deductions.* (1) We will deduct the actual amounts you pay towards your impairment-related work expenses unless the amounts are unreasonable. With respect to durable medical equipment, prosthetic devices, medical services, and similar medically-related items and services, we will apply the prevailing charges under Medicare (Part B of Title XVIII, Health Insurance for the Aged and Disabled) to the extent that this information is readily available. Where the Medicare guides are used, we will consider the amount that you pay to be reasonable if it is no more than the prevailing charge for the same item or service under the Medicare guidelines. If the amount you actually pay is more than the prevailing charge for the same item under the Medicare guidelines, we will deduct from your earnings the amount you paid to the extent you establish that the amount is consistent with the standard or normal charge for the same or similar item or service in your community. For items and services that are not listed in the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which such guides cannot be used because the information is not readily available, we will consider the amount you pay to be reasonable if it does not exceed the standard or normal charge for the same or similar item(s) or service(s) in your community.

(2) Impairment-related work expenses are not deducted in computing your earnings for purposes of determining whether your work was "services" as described in § 404.1592(b).

(3) The decision as to whether you performed substantial gainful activity in a case involving impairment-related work expenses for items or services necessary for you to work generally will be based upon your "earnings" and not on the value of "services" you rendered. (See §§ 404.1574(b)(6) (i) and (ii), and 404.1575(a)). This is not necessarily so, however, if you are in a position to control or manipulate your earnings.

(4) The amount of the expenses to be deducted must be determined in a uniform manner in both the disability insurance and SSI programs.

(5) No deduction will be allowed to the extent that any other source has paid or will pay for an item or service. No deduction will be allowed to the extent that you have been, could be, or will be, reimbursed for payments you made. (See paragraph (b)(3) of this section.)

(6) The provisions described in the foregoing paragraphs of this section are effective with respect to expenses incurred on and after December 1, 1980, although expenses incurred after November 1980 as a result of contractual or other arrangements entered into before December 1980, are deductible. For months before December 1980 we will deduct impairment-related work expenses from your earnings only to the extent they exceeded the normal work-related expenses you would have had if you did not have your impairment(s). We will not deduct expenses, however, for those things which you needed even when you were not working.

(g) *Verification.* We will verify your need for items or services for which deductions are claimed, and the amount of the charges for those items or services. You will also be asked to provide proof that you paid for the items or services.

4. In § 404.1584 paragraph (d) is revised to read as follows:

§ 404.1584 Evaluation of work activity of blind people.

* * * * *

(d) *Evaluation of earnings.* The law provides a different earnings test for substantial gainful activity of people who are blind. We will not consider that you are able to engage in substantial gainful activity on the basis of earnings unless your monthly earnings average more than $334.00 in 1978; $375.00 in 1979; $417.00 in 1980; $459.00 in 1981; and $500.00 in 1982. (Sections 404.1574(a)(2), 404.1575(c) and 404.1576 are applicable in determining the amount of your earnings.) Thereafter, an increase in the substantial gainful activity amount will depend on increases in the cost of living. For work activity performed intaxable years before 1978, the earnings considered enough to show an ability to do substantial gainful activity are the same for blind people as for others.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

5. In § 416.974, paragraph (a)(4) is removed and paragraph (b) is revised to read as follows:

§ 416.974 Evaluation guides if you are an employee.

* * * * *

(b) *Earnings guidelines.* (1) *General.* If you are an employee, we first consider the criteria in paragraph (a) of this section, and § 416.976, and then the guides in paragraphs (b) (2), (3), (4), (5), and (6) of this section.

* * * * *

6. In § 416.975, paragraph (c) is revised to read as follows:

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§ 416.975 Evaluation guides if you are self-employed.

* * * * *

(c) *What we mean by substantial income.* After your normal business expenses are deducted from your gross income to determine net income, we will deduct the reasonable value of any unpaid help, any soil bank payments that were included as farm income, and impairment-related work expenses described in § 416.976 that have not been deducted in determining your net earnings from self-employment. We will consider the resulting amount of income from the business to be substantial if—

(1) It averages more than the amounts described in § 416.974(b)(2); or

(2) It averages less than the amounts described in § 416. 974(b)(2) but the livelihood which you get from the business is either comparable to what it was before you became severely impaired or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar business as their means of livelihood.

* * * * *

7. A new § 416.976 is added to read as follows:

§ 416.976 Impairment-related work expenses.

(a) *General.* When we figure your earnings in deciding if you have done substantial gainful activity, and in determining your countable earned income (see § 416.1112(c)(5)), we will subtract the reasonable costs to you of certain items and services which, because of your impairment(s), you need and use to enable you to work. The costs are deductible even though you also need or use the items and services to carry out daily living functions unrelated to your work. Paragraph (b) of this section explains the conditions for deducting work expenses. Paragraph (c) of this section describes the expenses we will deduct. Paragraph (d) of this section explains when expenses may be deducted. Paragraph (e) of this section describes how expenses may be allocated. Paragraph (f) of this section explains the limitations on deducting expenses. Paragraph (g) of this section explains our verification procedures.

(b) *Conditions for deducting impairment-related work expenses.* We will deduct impairment-related work expenses if—

(1) You are otherwise disabled as defined in §§ 416.905–416.907;

(2) The severity of your impairment(s) requires you to purchase (or rent) certain items and services in order to work;

(3) You pay the cost of the item or service. No deduction will be allowed to the extent that payment has been or will be made by another source. No deduction will be allowed to the extent that you have been, could be, or will be reimbursed for such cost by any other source (such as through a private insurance plan, Medicare or Medicaid, or other plan or agency). For example, if you purchase crutches for $80 but you were, could be, or will be reimbursed $64 by some agency, plan, or program, we will deduct only $16;

(4) You pay for the item or service in accordance with paragraph (d) of this section; and

(5) Your payment is in cash (including checks or other forms of money). Payment in kind is not deductible.

(c) *What expenses may be deducted.* (1) *Payments for attendant care services.* (i) If because of your impairment(s) you need assistance in traveling to and from work, or while at work you need assistance with personal functions (e.g., eating, toileting) or with work-related functions (e.g., reading, communicating), the payments you make for those services may be deducted.

(ii) If because of your impairment(s) you need assistance with personal functions (e.g., dressing, administering medications) at home in preparation for going to and assistance in returning from work, the payments you make for those services may be deducted.

(iii)(A) We will deduct payments you make to a family member for attendant care services only if such person, in order to perform the services, suffers an economic loss by terminating his or her employment or by reducing the number of hours he or she worked.

(B) We consider a family member to be anyone who is related to you by blood, marriage or adoption, whether or not that person lives with you.

(iv) If only part of your payment to a person is for services that come under the provisions of paragraph (c)(1) of this section, we will only deduct that part of the payment which is attributable to those services. For example, an attendant gets you ready for work and helps you in returning from work, which takes about 2 hours a day. The rest of his or her 8 hour day is spent cleaning your house and doing your laundry, etc. We would only deduct one-fourth of the attendant's daily wages as an impairment-related work expense.

(2) *Payments for medical devices.* If your impairment(s) requires that you utilize medical devices in order to work, the payments you make for those devices may be deducted. As used in this subparagraph, medical devices include durable medical equipment which can withstand repeated use, is customarily used for medical purposes, and is generally not useful to a person in the absence of an illness or injury. Examples of durable medical equipment are wheelchairs, hemodialysis equipment, canes, crutches, inhalators and pacemakers.

(3) *Payments for prosthetic devices.* If your impairment(s) requires that you utilize a prosthetic device in order to work, the payments you make for that device may be deducted. A prosthetic device is that which replaces an internal body organ or external body part. Examples of prosthetic devices are artificial replacements of arms, legs and other parts of the body.

(4) *Payments for equipment.* (i) *Work-related equipment.* If your impairment(s) requires that you utilize special equipment in order to do your job, the payments you make for that equipment may be deducted. Examples of work-related equipment are one-hand typewriters, visual aids, telecommunication devices for the deaf and tools specifically designed to accommodate a person's impairment(s).

(ii) *Residential modifications.* If your impairment(s) requires that you make modifications to your residence, the location of your place of work will determine if the cost of these modifications will be deducted. If you are employed away from home, only the cost of changes made outside of your home to permit you to get to your means of transportation (e.g., the installation of an exterior ramp for a wheel-chair confined person or special exterior railings or pathways for someone who requires crutches) will be deducted. Costs relating to modifications of the inside of your home will not be deducted. If you work at home, the costs of modifying the inside of your home in order to create a working space to accommodate your impairment(s) will be deducted to the extent that the changes pertain specifically to the space in which you work. Examples of such changes are the enlargement of a doorway leading into the work space or modification of the work space to accommodate problems in dexterity. However, if you are self-employed at home, any cost deducted as a business expense cannot be deducted as an impairment-related work expense.

(iii) *Nonmedical appliances and equipment.* Expenses for appliances and equipment which you do not ordinarily use for medical purposes are generally not deductible. Examples of these items are portable room heaters, air conditioners, humidifiers, dehumidifiers, and electric air cleaners. However, expenses for such items may be deductible when unusual circumstances clearly establish an impairment-related and medically verified need for such an item because it is essential for the control of your disabling condition, thus enabling you to work. To be considered essential, the item must be of such a nature that if it were not available to you there would be an immediate adverse impact on your ability to function in your work activity. In this situation, the expense is deductible whether the item is used at home or in the working place. An example would be the need for an electric air cleaner by an individual with severe respiratory disease who cannot function in a non-purified air environment. An item such as an exercycle is not deductible if used for general physical fitness. If it is prescribed and used as necessary treatment of your impairment and necessary to enable you to work, we will deduct payments you make toward its cost.

(5) *Payments for drugs and medical services.* (i) If you must use drugs or medical services (including diagnostic procedures) to control your impairment(s), the payments you make for them may be deducted. The drugs or services must be prescribed (or utilized) to reduce or eliminate symptoms of your impairment(s) or to slow down its progression. The diagnostic procedures must be performed to ascertain how the impairment(s) is progressing or to determine what type of treatment should be provided for the impairment(s).

(ii) Examples of deductible drugs and medical services are anticonvulsant drugs to control epilepsy or anticonvulsant blood level monitoring; antidepressant medication for mental disorders; medication used to allay the side effects of certain treatments; radiation treatment or chemotherapy for cancer patients; corrective surgery for spinal disorders; electroencephalograms and brain scans related to a disabling epileptic condition; tests to determine the efficacy of medication on a diabetic condition; and immunosuppressive medications that kidney transplant patients regularly take to protect against graft rejection.

(iii) We will only deduct the costs of drugs or services that are directly related to your impairment(s). Examples of non-deductible items are routine annual physical examinations, optician services (unrelated to a disabling visual impairment) and dental examinations.

(6) *Payments for similar items and services.* (i) *General.* If you are required to utilize items and services not specified in paragraph (c)(1) through (5) of this section but which are directly related to your impairment(s) and which you need to work, their costs are deductible. Examples of such items and services are medical supplies and services not discussed above, and transportation.

(ii) *Medical supplies and services not described above.* We will deduct payments you make for expendable medical supplies, such as incontinence pads, catheters, bandages, elastic stockings, face masks, irrigating kits, and disposable sheets and bags. We will also deduct payments you make for physical therapy which you require because of your impairment(s) and which you need in order to work.

(iii) *Payments for transportation costs.* We will deduct transportation costs in these situations:

(A) Your impairment(s) requires that in order to get to work you need a vehicle that has structural or operational modifications. The modifications must be critical to your operation or use of the vehicle and directly related to your impairment(s). We will deduct the costs of the modifications, but not the cost of the vehicle. We will also deduct a mileage allowance for the trip to and from work. The allowance will be based on data compiled by the Federal Highway Administration relating to vehicle operating costs.

(B) Your impairment(s) requires you to use driver assistance, taxicabs or other hired vehicles in order to work. We will deduct amounts paid to the driver and, if your own vehicle is used, we will also deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(C) Your impairment(s) prevents your taking available public transportation to and from work and you must drive your (unmodified) vehicle to work. If we can verify through your physician or other sources that the need to drive is caused by your impairment(s) (and not due to the unavailability of public transportation), we will deduct a mileage allowance as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(7) *Payments for installing, maintaining, and repairing deductible items.* If the device, equipment, appliance, etc., that you utilize qualifies as a deductible item as described in paragraphs (c)(2), (3), (4), and (6) of this section, the costs directly related to installing, maintaining and repairing these items are also deductible. (The costs which are associated with modifications to a vehicle are deductible. Except for a mileage allowance, as provided for in paragraph (c)(6)(iii) of this section, the costs which are associated with the vehicle itself are not deductible.)

(d) *When expenses may be deducted.* (1) *Effective date.* To be deductible an expense must be incurred after November 30, 1980. An expense may be considered incurred after that date if it is paid thereafter even though pursuant to a contract or other arrangement entered into before December 1, 1980.

(2) *Payments for services.* For the purpose of determining SGA, a payment you make for services may be deducted if the services are received while you are working and the payment is made in a month you are working. We consider you to be working even though you must leave work temporarily to receive the services. For the purpose of determining your SSI monthly payment amount, a payment you make for services may be deducted if the payment is made in the month your earned income is received and the earned income is for work done in the month you received the services. If you begin working and make a payment before the month earned income is received, the payment is also deductible. If you make a payment after you stop working, and the payment is made in the month you received earned income for work done in the month you received the services, the payment is also deductible.

(3) *Payment for items.* For the purpose of determining SGA, a payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if payment is made in a month you are working. For the purpose of determining your SSI monthly payment amount, a payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if the payment is made in the month your earned income is received and the earned income is for work done in the month you used the item. If you begin working and make a payment before the month earned income is received, the payment is also deductible. If you make a payment after you stop working, and the payment is made in the month you received earned income for work done in the month you used the item, the payment is also deductible. See paragraph (e)(4) of this section when purchases are made in anticipation of work.

(e) *How expenses are allocated.* (1) *Recurring expenses.* You may pay for services on a regular periodic basis, or you may purchase an item on credit and pay for it in regular periodic installments or you may rent an item. If so, each payment you make for the services and each payment you make

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toward the purchase or rental (including interest) is deductible as described in paragraph (d) of this section.

Example. B starts work in October 1981 at which time she purchases a medical device at a cost of $4,800 plus interest charges of $720. Her monthly payments begin in October. She earns and receives $400 a month. The term of the installment contract is 48 months. No downpayment is made. The monthly allowable deduction for the item would be $115 ($5520 divided by 48) for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes) during the 48 months.

(2) *Nonrecurring expenses.* Part or all of your expenses may not be recurring. For example, you may make a one-time payment in full for an item or service or make a downpayment. For the purpose of determining SGA, if you are working when you make the payment we will either deduct the entire amount in the month you pay it or allocate the amount over a 12 consecutive month period beginning with the month of payment, whichever you select. For the purpose of determining your SSI monthly payment amount, if you are working in the month you make the payment and the payment is made in a month earned income is received, we will either deduct the entire amount in that month, or we will allocate the amount over a 12 consecutive month period, beginning with that month, whichever you select. If you begin working and do not receive earned income in the month you make the payment, we will either deduct or begin allocating the payment amount in the first month you do receive earned income. If you make a payment for services or items after you stopped working, we will deduct the payment if it was made in the month you received earned income for work done in the month you received the services or used the item.

Example. A begins working in October 1981 and earns and receives $525 a month. In the same month he purchases and pays for a deductible item at a cost of $250. In this situation we could allow a $250 deduction for both SGA and SSI payment purposes for October 1981, reducing A's earnings below the SGA level for that month.

If A's earnings had been $15 above the SGA earnings amount, A probably would select the option of projecting the $250 payment over the 12-month period, October 1981–September 1982, giving A an allowable deduction of $20.83 a month for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes) during that period. This deduction would reduce A's earnings below the SGA level for 12 months.

(3) *Allocating downpayments.* If you make a downpayment we will, if you choose, make a separate calculation for the downpayment in order to provide for uniform monthly deductions. In these situations we will determine the total payment that you will make over a 12 consecutive month period beginning with the month of the downpayment and allocate that amount over the 12 months. Beginning with the 13th month, the regular monthly payment will be deductible. This allocation process will be for a shorter period if your regular monthly payments will extend over a period of less than 12 months.

Example 1. C starts working in October 1981, at which time he purchases special equipment at a cost of $4,800, paying $1,200 down. The balance of $3,600, plus interest of $540, is to be repaid in 36 installments of $115 a month beginning November 1981. C earns and receives $500 a month. He chooses to have the downpayment allocated. In this situation we would allow a deduction of $205.42 a month for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes) during the period October 1981 through September 1982. After September 1982, the deduction amount would be the regular monthly payment of $115 for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes) during the remaining installment period.

Explanation:

Downpayment in 10/81	$1,200	
Monthly payments 11/81 through 09/82	1,285	
	12) 2,485	= $205.42

Example 2. D, while working, buys a deductible item in July 1981, paying $1,450 down. (D earns and receives $500 a month.) However, his first monthly payment of $125 is not due until September 1981. D chooses to have the downpayment allocated. In this situation we would allow a deduction of $225 a month for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes) during the period July 1981 through June 1982. After June 1982, the deduction amount would be the regular monthly payment of $125 for each month of work (for SGA purposes) and for each month earned income is received (for SSI payment purposes).

Explanation:

Downpayment in 07/81	$1,450	
Monthly payments 08/81 through 06/82	1,250	
	12) 2,700	= 225

(4) *Payments made in anticipation of work.* A payment toward the cost of a deductible item that you made in any of the 11 months preceding the month you started working will be taken into account in determining your impairment-related work expenses. When an item is paid for in full during the 11 months preceding the month you started working the payment will be allocated over the 12-consecutive month period beginning with the month of the payment. However, the only portion of the payment which may be deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for with a one-time payment of $600, the deductible amount would be $450 ($600 divided by 12, multiplied by 9). Installment payments (including a downpayment) that you made for a particular item during the 11 months preceding the month you started working will be totaled and considered to have been made in the month of your first payment for that item within this 11 month period. The sum of these payments will be allocated over the 12-consecutive month period beginning with the month of your first payment (but never earlier than 11 months before the month work began). However, the only portion of the total which may be deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for in 3 monthly installments of $200 each, the total payment of $600 will be considered to have been made in the month of the first payment, that is, 3 months before the month work began. The deductible amount would be $450 ($600 divided by 12, multiplied by 9). The amount, as determined by these formulas, will then be considered to have been paid in the first month of work for the purpose of determining SGA and in the first month earned income is received for the purpose of determining the SSI monthly payment amount. For the purpose of determining SGA, we will deduct either the entire amount in the first month of work or allocate it over a 12 consecutive month period beginning with the first month of work, whichever you select. In the above examples, the individual would have the choice of having the entire $450 deducted in the first month of work or of having $37.50 a month ($450 divided by 12) deducted for each month that he works over a 12-consecutive month period, beginning with the first month of work. For the purpose of determining the SSI payment amount, we will either deduct the entire amount in the first month earned income is received or allocate it over a 12-consecutive month period beginning with the first month earned income is received, whichever you select. In the above examples, the individual would have the choice of having the entire $450 deducted in the first month earned income is received or of having $37.50 a month ($450 divided by 12) deducted for each month he receives earned income (for work) over a 12-consecutive month period, beginning with the first month earned income is received. To be deductible the payments must be for durable items such as medical devices, prostheses, work-related equipment, residential modifications, nonmedical appliances and vehicle modifications. Payments for services and expendable items such as drugs, oxygen, diagnostic procedures, medical supplies and vehicle operating costs are not deductible for purposes of this subparagraph.

(f) *Limits on deductions.* (1) We will deduct the actual amounts you pay towards your impairment-related work expenses unless the amounts are unreasonable. With respect to durable medical equipment, prosthetic devices, medical services, and similar medically-related items and services, we will apply the prevailing charges under Medicare (Part B of Title XVIII, Health Insurance for the Aged and Disabled) to the extent that this information is readily available. Where the Medicare guides are used, we will consider the amount that you pay to be reasonable if it is no more than the prevailing charge for the same item or service under the Medicare guidelines. If the amount you actually pay is more than the prevailing charge for the same item under the Medicare guidelines, we will deduct from your earnings the amount you paid to the extent you establish that the amount is consistent with the standard or normal charge for the same or similar item or service in your community. For items and services that are not listed in the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which such guides cannot be used because the information is not readily available, we will consider the amount you pay to be reasonable if it does not exceed the standard or normal charge for the same or similar item(s) or service(s) in your community.

(2) Impairment-related work expenses are not deducted in computing your earnings for purposes of determining whether your work was "services" as described in § 416.992(b).

(3) The decision as to whether you performed substantial gainful activity in a case involving impairment-related work expenses for items or services necessary for you to work generally will be based upon your "earnings" and not on the value of "services" you rendered. (See §§ 416.974(b)(6) (i) and (ii), and 416.975(a)). This is not necessarily so, however, if you are in a position to control or manipulate your earnings.

(4) The amount of the expenses to be deducted must be determined in a uniform manner in both the disability insurance and SSI programs. The amount of deductions must, therefore, be the same for determinations as to substantial gainful activity under both programs. The deductions that apply in determining the SSI payment amounts, though determined in the same manner as for SGA determinations, are applied so that they correspond to the timing of the receipt of the earned income to be excluded.

(5) No deduction will be allowed to the extent that any other source has paid or will pay for an item or service. No deduction will be allowed to the extent that you have been, could be, or will be, reimbursed for payments you made. (See paragraph (b)(3) of this section.)

(6) The provisions described in the foregoing paragraphs of this section are effective with respect to expenses incurred on and after December 1, 1980, although expenses incurred after November 1980 as a result of contractual or other arrangements entered into before December 1980, are deductible. For months before December 1980 we will deduct impairment-related work expenses from your earnings only to the extent they exceeded the normal work-related expenses you would have had if you did not have your impairment(s). We will not deduct expenses, however, for those things which you needed even when you were not working.

(g) *Verification.* We will verify your need for items or services for which deductions are claimed, and the amount of the charges for those items or services. You will also be asked to provide proof that you paid for the items or services.

8. In section 416.1112, paragraph (c)(5) is redesignated (c)(7) and paragraph (c)(6) is redesignated as (c)(8). Paragraph (c)(4) is revised and new paragraphs (c)(5) and (c)(6) are added to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) *Other earned income we do not count.* We do not count as earned income—

* * * * *

(4) $65 of earned income in a month;

(5) Earned income you use to pay impairment-related work expenses described in § 416.976, if you are disabled (but not blind) and under age 65 or you are disabled (but not blind) and received SSI as a disabled person for the month before you reached age 65. (However, if your countable income without benefit of the exclusion exceeds the Federal SSI limit when we determine your initial eligibility, we cannot apply this provision until your countable income without benefit of this exclusion is within the Federal SSI limit.) Once you qualify for the exclusion of impairment-related work expenses, you continue to be entitled to the exclusion for all subsequent consecutive months in which your countable income after the exclusion is within the Federal SSI limit or, if applicable, the higher income limit for an optional supplement which we administer for the State where you live. If in a subsequent month your countable income after the exclusion exceeds either of these limits, you no longer qualify for the exclusion until your countable income without benefit of this exclusion is again within the Federal limit);

(6) One-half of remaining earned income in a month;

(7) Earned income used to meet any expenses reasonably attributable to the earning of the income if you are blind and under age 65 or if you receive SSI as a blind person for the month before you reach age 65. (We consider that you "reach" a certain age on the day before that particular birthday.); and

(8) Any earned income you receive and use to fulfill an approved plan to achieve self-support if you are blind or disabled and under age 65 or blind or disabled and received SSI as a blind or disabled person for the month before you reached age 65. See §§ 416.1180 through 416.1182 for an explanation of plans to achieve self-support and for the rules on when this exclusion applies.

9. In section 416.1124, paragraph (c)(11) is revised to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—

* * * * *

(11) Any unearned income you receive and use to fulfill an approved plan to achieve self-support if you are blind or disabled and under age 65 or blind or disabled and received SSI as a blind or disabled person for the month before you reached age 65. See §§ 416.1180 through 416.1182 for an explanation of plans to achieve self-support and for the rules on when this exclusion applies.

[FR Doc. 83-13061 5-13-83; 8:45 am]
BILLING CODE 4190-11-M

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20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind and Disabled, Rounding of Supplemental Security Income Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rule with request for comments.

SUMMARY: We are revising our regulations on how Supplemental Security Income (SSI) benefit amounts are established, to take account of section 182 of Pub. L. 97–248, the "Tax Equity and Fiscal Responsibility Act of 1982" which amends section 1617 of the Social Security Act. Under these revised regulations, SSI Federal benefit rates (FBRs), which are adjusted annually to reflect changes in the cost of living, will be rounded to the next lower whole dollar amount. The regulations provide that after future cost-of-living adjustments (COLAs) in SSI benefits have been calculated, the FBRs payable, when not in a whole dollar amount, will be rounded to the next lower whole dollar amount.

DATES: Although these rules are being issued as final regulations effective May 16, 1983, we will consider any comments we receive by July 15, 1983 and will revise these regulations if public comment warrants it.

ADDRESS: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Fred Miranda, Legal Assistant, 3–B–4 Operations Building, Baltimore, Maryland 21235, (301) 594–7341.

SUPPLEMENTARY INFORMATION:

Background

These regulations affect the monthly SSI benefit amounts that we pay. Our existing regulations, as did the law prior to October 1, 1982, provide that SSI FBRs, which are changed annually to reflect COLAs, are rounded to the next higher ten cents. Though the effect of the rounding of benefits on any one recipient is minimal, its overall impact is marked. Each time the COLA is computed, it is based on the previous higher rounded benefit amount. Consequently, over time, this upward rounding procedure has had a compounding effect that results in benefit rates and thus benefit payments that are higher than the COLAs alone would have caused. Accordingly, the cumulative effect of rounding benefit rates upward has been costly.

Section 182 of Pub. L. 97–248, which was enacted on September 3, 1982, provides, effective October 1, 1982, that the FBR's under title XVI of the Social Security Act be rounded to the next lower dollar whenever there is a COLA in the benefits payable which does not result in a whole dollar amount being paid. Under section 182, COLAs in subsequent years are to be based on the preceding year's unrounded Federal benefit rates and income eligibility amount. As a result there would be no singnificant detrimental cumulative effect on the benefits of individuals who, year after year, have their SSI benefits rounded downward.

The Revised Regulations

The revised regulations provide, whenever there is a COLA in the benefits payable under title II of the Social Security Act, that the SSI benefits payable to eligible individuals and couples (see §§ 416.410–416.414, and § 416.531) will likewise be increased, and that the monthly Federal benefit rates which result from any such COLA in SSI benefits will be rounded to the next lower dollar. They also provide that the COLAs in subsequent years will be based on the unrounded Federal benefit rates of the previous year.

Effective Dates

The statutory amendment on the rounding down of SSI benefit rates is effective October 1, 1982. The revised regulations are effective May 16, 1983.

Final Rule

Generally, it is the Department's policy to use notice and comment procedures in the development of rules. However, under the Administrative Procedure Act (5 U.S.C. 553(b)(B)), an agency for good cause may issue rules without using notice and public comment procedures. One such situation arises, as in this case, when the statute is so explicit that policy formulation is not required. Accordingly, we find that publication of a notice of proposed rulemaking is "unnecessary" because the statutory provision upon which the regulations are based allows for no discretion. Therefore, these rules are being issued as final rules and will become effective on the date they are published in the **Federal Register.**

Regulatory Procedures

Executive Order No. 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation because they will not have an annual effect on the economy of $100 million and will not cause increases in costs or prices. The anticipated savings in fiscal years 1983 and 1984 are $5 million and $14 million respectively (assuming the Congress does not delay the July 1983 COLA). Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980—These regulations impose no additional reporting and recordkeeping requirement requiring Office of Management and Budget clearance.

Regulatory Flexibility Act—We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: March 4, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Service.

PART 416—[AMENDED]

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart D of Part 416 reads as follows:

Authority: Sec. 1102, 1611, 1612, 1617, and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat 1468, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1382a, and 1383); Sec. 182 of Pub. L. 97–248, 96 Stat. 404.

2. Section 416.405 is amended to read as follows:

§ 416.405 Cost-of-living adjustments in benefits.

Whenever benefit amounts under title II of the Act (Part 404 of this chapter) are increased by any percentage effective with any month as a result of a determination made under section 215(i) of the Act, each of the dollar amounts in effect for such month under §§ 416.410, 416.412, 416.413, 416.414, and 416.531, as specified in such sections or as previously increased under this section, shall be increased by the same percentage. The result when not a multiple of $12 on an annual basis shall be rounded to the next lower multiple of $12 on an annual basis. The percentage increase shall be applied to the amounts which were derived pursuant to this section before having been rounded as described above.

[FR Doc. 83–13090 Filed 5–13–83; 8:45 am]

BILLING CODE 4810–11–M

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Privacy Act of 1974; Final Rule Exempting a System of Records From Certain Requirements

AGENCY: Office of the Secretary, Office of the General Counsel, Treasury.

ACTION: Final rule.

SUMMARY: On January 5, 1983, the Department of the Treasury published a proposed rule which would amend 31 CFR 1.36, 48 FR 481. The rule would (1) change the name of a system of records, Treasury/OS 00.144, from "Civil Litigation Records" to "Treasury Interagency Automated Litigation System (TRIALS)", (2) exempt TRIALS from the application of certain parts of the Privacy Act in accordance with 31 CFR 1.23(c) and 1.36, and (3) amend § 1.36 to reflect TRIAL's operational characteristics. No comments were received concerning the proposed rule; this publication will thus promulgate the final rule.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT: Stephanie Dick, Office of the Assistant General Counsel (Enforcement & Operations), Room 2000, Main Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: The existing system of records, Civil Litigation Records, is a manual system. The Office of the General Counsel has revised and supplemented this system through automation. The revised system, TRIALS, is essentially a computerized indexing version of the Civil Litigation Records System. TRIALS is a case-management index which provides summary data on Treasury non-tax litigation and administrative proceedings. This document amends 31 CFR 1.36 to reflect the existence of the revised system.

As required by Executive Order 12291, it has been determined that this rule is not a "major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it has been determined that this rule does not have a significant impact on a substantial number of small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department of the Treasury has made a determination that this proposed rule will not impose new recordkeeping, application, reporting or other types of information collection requirements.

Authority: 5 U.S.C. 552a.

List of Subjects in 31 CFR Part 1

Privacy.

Dated: April 28, 1983.

Cora P. Beebe,

Assistant Secretary (Administration).

Promulgation of Regulations

Title 31 CFR 1.36 of Subpart C is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1.36 [Amended]

* * * * *

Office of the Secretary

Office of the General Counsel

Noted Exempting a System of Records from Requirements of the Privacy Act.

(a) *In general.* The General Counsel of the Treasury exempts the system of records entitled "Treasury Interagency Automated Litigation System (TRIALS)" from the provisions of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a. The manual part of this system of records contains information or documents relating to litigation or administrative proceedings involving or concerning the Department or its officials, and includes pending, active and closed files. The manual records consist of copies of pleadings, investigative reports, information compiled in reasonable anticipation of a civil action or proceeding, legal memoranda, and related correspondence. Pleadings which have been filed with a court or administrative tribunal are matters of public record and no exemption is claimed as to them. The computerized part of the system contains summary data on Treasury Department non-tax litigation and administrative proceedings, *e.g.*, plaintiff, defendant, attorney, witness, judge and/or hearing officer names, type of case, relief sought, date, docket number, pertinent dates, and issues. The purpose of the exemptions is to maintain the confidentiality of investigatory materials compiled for law enforcement purposes; information compiled in reasonable anticipation of a civil action a proceeding is exempt from access under section (d)(5) until the file is closed; thereafter section (k)(2) may apply in part to the information. Legal memorandum and related correspondence contain no personal information and are not subject to disclosure under section 552a. Determinations concerning whether particular information contained in this system is exempt from disclosure will be made at the time a request is received from an individual to gain access to information pertaining to him.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k), and pursuant to the authority vested in the General Counsel by 31 CFR 1.23(c).

(c) *Name of System.* Treasury Interagency Automated Litigation System (TRIALS).

* * * * *

[FR Doc. 83–12864 Filed 5–13–83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Glacier Bay National Park and Preserve, Alaska; Protection of Humpback Whales

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On April 6, 1983, the National Park Service, Department of the Interior, published in the **Federal Register** (48 FR 14976) a proposed rule to extend on a limited basis the existing temporary regulations for the protection of the humpback whale, an endangered species, at Glacier Bay National Park and Preserve. The affected regulations define terms, limit large and small vessel entry into Glacier Bay, place certain operating restrictions on all vessels within the Bay, and restrict certain commercial fishing activities at

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the mouth of Glacier Bay. The proposed extension was made available for public review and comment for a period of thirty (30) days following publication in the **Federal Register**, and ending on May 6, 1982. Comments received consideration during preparation of the final rule. As a result of this rulemaking process, a final regulation is being published to extend the regulations applicable to vessel entry and operation for three and one-half months, *i.e.*, through August 31, 1983, and to extend the regulations applicable to certain commercial fishing activities through December 31, 1983. The extension gives the National Park Service time to review research being prepared by the National Marine Fisheries Service, and subsequently issue, as necessary, permanent regulations which may be less or more stringent according to the conclusions of the research. Minor technical changes reflecting a name change of the park are also incorporated in the final rule.

EFFECTIVE DATE: May 15, 1983.

FOR FURTHER INFORMATION CONTACT: Donald D. Chase, Chief of Operations, Glacier Bay National Park and Preserve, P.O. Box 1089, Juneau, Alaska 99802, Telephone: (907) 586–7137.

SUPPLEMENTARY INFORMATION:

Background

Glacier Bay, a marine body of water within Glacier Bay National Park, has been recognized since the early 1950's as a summer feeding ground for the humpback whale, a declining species placed on the Endangered Species List in 1970. Research showed an average of 20 to 25 whales used the Bay in the several years prior to 1978 for summer feeding. In 1978 and 1979 this pattern was drastically altered when whales entered the Bay, but shortly after abandoned it, leaving only three or four whales that spent the entire summer. On August 6, 1979, the National Park Service requested a formal consultation with the National Marine Fisheries Service (NMFS) to assess the problem, in accordance with the Endangered Species Act. NMFS concluded that the uncontrolled increase of vessel traffic, particularly of erratically traveling charter and pleasure craft, may have altered humpback behavior and that a continued increase was likely to jeopardize the existence of the humpback in Southeast Alaska. NMFS recommended that the amount of vessel traffic should be restricted to 1976 levels, that additional research be conducted, and that regulations should be developed that would address vessel routing, maneuvering, and speed.

Existing Regulations

Responding to NMFS conclusions and recommendations, the National Park Service promulgated regulations, 36 CFR 7.23(b)–(d), on May 15, 1980 (45 FR 32228), to remain in effect three years from the date of publication. In summary, these regulations limit the entry of cruise ships into Glacier Bay to 89 vessels during the whale season (June 1 through August 31), with not more than two entries per day. Without regard to size or kind of vessel, all motorized vessels are prohibited from intentionally positioning themselves within ¼ mile of a whale, or otherwise pursuing or attempting to pursue a whale. Requirements are also established to govern operations in the event of a vessel-whale encounter to restore the ¼ mile separation safely and with as little disturbance to the whale as possible. Finally, the superintendent is authorized to designate areas in Glacier Bay as "whale waters" where vessels must maintain a constant speed (not to exceed 10 knots) and course, except to avoid coming within ¼ mile distance from a whale.

On the same day the above regulations were published, interim rules were published (46 FR 32234) to limit the adverse impact of small vessels on whales within Glacier Bay, and to prohibit commercial harvesting of four major organisms upon which humpback whales feed. Under this regulation small vessel entries into Glacier Bay are limited to 538 during the whale season. The final rule, 36 CFR 7.23(e)–(f), was published in the **Federal Register** on December 30, 1980 (45 FR 85741) and became effective September 1, 1981. A further amendment pertaining to the collection of the information necessary to the issuance of small-vessel entry permits, as authorized by 36 CFR 7.23(e), was published October 13, 1981 (46 FR 50370) and codified as 36 CFR 7.23(g).

Rule Extension

The existing regulations were intended to be temporary until more conclusive research on the whales at Glacier Bay could be completed. At that time, the National Park Service would again request formal consultation with the National Marine Fisheries Service to review the research and seek recommendations. The Park Service would then propose any changes necessary in the regulations based upon the conclusions of the research. NMFS has indicated that the final research reports will not be completed and available to the National Park Service until the approximate time the existing temporary regulations expire on May 15, 1983. This makes it impossible to review the research data, reinitiate a consultation with NMFS, and develop regulations that properly address the results. The extension of regulations should not be construed to signify any premature conclusions about the need for or nature of any future rulemaking. As necessary, a permanent regulation, which may be more or less stringent than that now in effect, will be promulgated based on NMFS' research reports. Expiration of the regulations was not considered feasible since an unregulated situation, as the NMFS biological opinion states, may have created the disruption in humpback behavior, which the Endangered Species Act and other laws required the National Park Service to address.

Consequently the National Park Service is extending paragraphs (b)–(e), applicable to vessel entries and operations for three and one-half months, *i.e.*, through August 31, the end of the 1983 whale season. Paragraph (c)(1)(ii) is amended to reflect the extension by revising the phrase "For 1981 and 1982" to read "For 1981, 1982, and 1983."

Paragraph (f), relating to the fishing of certain food species important to the humpback whale, is extended through December 31, 1983. This latter extension represents an effort to protect food stock for whales during the longer fishing season.

A technical revision is also included at this time, *i.e.*, changing the name "Glacier Bay National Monument" to "Glacier Bay National Park and Preserve" where it appears in the title and text of section 7.23. This change conforms to the redesignation of the park pursuant to the Alaska National Interest Lands Conservation Act (94 Stat. 2371).

Public Participation

It is the policy of the Department of the Interior that, whenever practicable, the public will be afforded an opportunity to participate in the rulemaking process. During the 30-day comment period ending May 6, 1983, the National Park Service received no letters or telephone calls concerning the extension of the temporary regulations. Consequently, the final rule published here is identical to that appearing April 6 in the **Federal Register**.

Drafting Information

The following persons participated in the writing of this regulation: Arthur Eck, Division of Visitor Services, National Park Service; Maureen Finnerty, Division of Visitor Services, National Park Service; Molly Ross, Division of Conservation and Wildlife, Office of the Solicitor; all in Washington, D.C.

Paperwork Reduction Act

The information collection requirement contained in 36 CFR 7.23 has been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The regulations impose no new costs on small entities, nor are any new indirect or nonquantifiable costs anticipated. Thus, the aggregate effect of this extension on small entities is not considered significant. Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the National Park Service determined that these temporary regulations do not represent a major Federal action significantly affecting the quality of the human environment, which would require the preparation of an Environmental Impact Statement. An Environmental Assessment and Finding of No Significant Impact were prepared for the original regulation. These documents, which hold equally for the proposed extension, are available at the address listed at the beginning of this rulemaking.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); Alaska National Interest Lands Conservation Act (Pub. L. 96–487; 94 Stat. 2371).

List of Subjects in 36 CFR Part 7

National parks.

§ 7.23 [Amended]

In consideration of the foregoing, § 7.23 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

1. Paragraphs (b), (c), (d), and (e) are extended to remain in effect through August 31, 1983, and paragraph (f) is extended to remain in effect through December 31, 1983.

2. Paragraph (c)(1)(ii) is amended by removing the phrase "For 1981 and 1982" and inserting, in its place, the phrase "For 1981, 1982 and 1983".

3. Section 7.23 is further amended by removing the words "Glacier Bay National Monument" and inserting, in their place, the words "Glacier Bay National Park and Preserve" in the title of the section and in paragraphs (b)(5), (b)(8), and (e)(3).

4. Paragraph (a)(1) is amended by removing the work "monument" and inserting, in its place, the words "park and preserve".

Dated: May 11, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-13111 Filed 5-13-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL 2262-6]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations: Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On July 21, 1982 (47 FR 31588), EPA proposed rulemaking to revise the total suspended particulate (TSP) and ozone National Ambient Air Quality Standards (NAAQS) designations for certain Illinois counties based on a request from the State of Illinois to redesignate these areas and supporting data the State submitted under the Clean Air Act (Act). Designations can be changed if sufficient data are available to warrant the change. This notice responds to the public comments received on the notice of proposed rulemaking and finally approves the revision of the TSP designation of all or portions of the following 19 counties: Knox, Peoria, Tazewell, Cook, DuPage, Lake, Will, Kane, Jo Daviess, Monroe, Madison, St. Clair, Bureau, Putnam, DeKalb, Winnebago, Jefferson, Williamson and Sangamon Counties.

This notice also finally approves the revision of the ozone designation of the following 13 counties: Adams, Boone, DeKalb, Grundy, Kankakee, Kendall, LaSalle, McHenry, Macoupin, Peoria, Sangamon, Tazewell and Will.

EFFECTIVE DATE: This final rulemaking becomes effective on June 15, 1983.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

In the July 21, 1982, Notice of Proposed Rulemaking (47 FR 31588), EPA proposed to revise the TSP designation of townships in 19 Illinois counties as follows: From primary and secondary nonattainment to only secondary nonattainment: Knox County-Galesburg and Henderson Townships; Peoria County-Richwoods Township; Tazewell County-Cincinnati, Elm Grove, Pekin and Washington Townships; Cook County-Jefferson, Lakeview, Rogers Park, Oak Park, Palos and Proviso Townships; DuPage County-Lisle Township; Will County-Crete and Troy Townships; Jo Daviess County-East Galena, West Galena and Rawlins Townships; Monroe County-T.1N–R.10W, T.1N–R.11W, T.1S–R.10W and T.2S–R.10W; Madison County-Alhambra, Collinsville, Edwardsville, Fort Russel, Foster, Hamel, Helvetia, Jarvis, Marine, Moro, Omphghent, Pin Oak, Saline and St. Jacob Townships; St. Clair County-Freeburg, Lebanon, Millstadt, O'Fallon, Smithton and Stookey Townships.

From secondary nonattainment to attainment: Cook County-Evanston Township; Lake County-Antioch, Shields, Grant, Wauconda and Waukegan Townships; Will County-Monee Township; Kane County-Dundee Township; Jo Daviess County-Hanover Menominee, Pleasant Valley, Rush, Stockton, Vinegar Hill and Warren Townships; Monroe County-all Townships other than T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, T.2S–R.10W, T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Bureau County-all Townships not already classified as

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attainment; Putnam County-Hennepin Township, DeKalb County-except for DeKalb and Mayfield Townships all Townships are now attainment; Winnebago County-Rockford Township; Jefferson County-all Townships not already classified attainment; Williamson County-West Marion Township.

From primary and secondary nonattainment to attainment: DuPage County-Milton, Wayne and Winfield Townships; Jo Daviess County-Apple River, Council Hill, Elizabeth, Guilford, Rice, Scales Mound, Thompson and Woodbine Townships; Monroe County-T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Madison County-Leef, New Douglas and Olive Townships; St. Clair County-Englemann, Fayetteville, Lenzburg, Marissa, Mascoutah, New Athens and Prairie du Long Townships.

From unclassified to secondary nonattainment: Sangamon County-Springfield Township.

From unclassified to attainment: Sangamon County-all Townships other than Springfield.

From attainment to secondary nonattainment: Will County-Wilmington Township.

At the same time, EPA proposed to revise the ozone designations in 13 Illinois counties as follows: From nonattainment to attainment: Adams, Kankakee, LaSalle, McHenry, Peoria, Sangamon and Will Counties.

From nonattainment to attainment unclassified: Boone, DeKalb, Grundy, Kendall and Tazewell Counties.

From attainment unclassified to nonattainment: Macoupin County.

A number of public comments were received in response to the notice of proposed rulemaking. A general comment in support of this proposed rulemaking was submitted by an Illinois public utility. Additional comments were received from a metropolitan planning commission, a public interest group and from the State of Illinois. These comments and EPA's response are summarized below. EPA's detailed response to the public comments is contained in EPA's technical support document which is available at the locations listed at the front of this notice.

TSP Designation Comments

The State of Illinois presented the only detailed comments on the proposed changes in TSP designations. The State's comment letter of August 18, 1982, requested that EPA change the TSP attainment status designations for Hampton and Moline Townships in Rock Island County, and Derinda Township in Jo Daviess County. These changes were not proposed for rulemaking action in EPA's July 21, 1982, proposed rulemaking. EPA will publish a rulemaking notice on the attainment status of these counties in the near future.

The State's comment letter also pointed out that Prarie du Long Township and Mascoutah Township were incorrectly spelled as Maccoutah Township and Prairie du Long Township in EPA's Notice of Proposed Rulemaking. These errors have been corrected in this final rulemaking. Because these errors are considered minor and did not obscure the intent of the proposed rulemaking, EPA completes its final rulemaking today without an additional proposal.

EPA final Determination: Based on a request from the State of Illinois, EPA's technical review and consideration of the public comments received, EPA revises the TSP designation of townships in 19 Illinois counties as follows: From primary and secondary nonattainment to only secondary nonattainment: Knox County-Galesburg and Henderson Townships; Peoria County-Richwoods Township; Tazewell County-Cincinnati, Elm Grove, Pekin and Washington Townships; Cook County-Jefferson, Lakeview, Rogers Park, Oak Park, Palos and Proviso Townships; DuPage County-Lisle Township; Will County-Crete and Troy Townships; Jo Daviess County-East Galena, West Galena and Rawlins Townships; Monroe County-T.1N–R.10W, T.1N–R.11W, T.1S–R.10W and T.2S–R.10W; Madison County-Alhambra, Collinsville, Edwardsville, Fort Russel, Foster, Hamel, Helvetia, Jarvis, Marine, Moro, Omphghent, Pin, Oak, Saline and St. Jacob Townships; St. Clair County-Freeburg, Lebanon, Millstadt, O'Fallon, Smithton and Stookey Townships.

From secondary nonattainment to attainment: Cook County-Evanston Township; Lake County-Antioch, Shields, Grant, Wauconda and Waukegan Townships; Will County-Monee Township; Kane County-Dundee Township; Jo Daviess County-Hanover, Menominee, Pleasant Valley, Rush, Stockton, Vinegar Hill and Warren Townships; Monroe County-all Townships other than T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, T.2S–R.10W, T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Bureau County-all Townships not already classified as attainment; Putnam County-Hennepin Township; DeKalb County-except for DeKalb and Mayfield Townships, all Townships are now attainment; Winnebago County-Rockford Township; Jefferson County-all Townships not already classified attainment; Williamson County-West Marion Townships.

From primary and secondary nonattainment to attainment: DuPage County-Milton, Wayne and Winfield Townships; Jo Daviess County-Apple River, Council Hill, Derinda, Elizabeth, Guilford, Rice, Scales Mound, Thompson and Woodbine Townships; Monroe County-T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.8W; Madison County-Leef, New Douglas and Olive Townships; St. Clair County-Englemann, Fayetteville, Lenzburg, Marissa, Mascoutah, New Athens and Prairie du Long Townships.

From unclassified to secondary nonattainment: Sangamon County-Springfield Township.

From unclassified to attainment: Sangamon County-all Townships other than Springfield.

From attainment to secondary nonattainment: Will County-Wilmington Township.

Ozone Designation Comments

A number of comments were submitted recommending changes to the proposed ozone designation changes. These comments are summarized below along with EPA's response.

Comment: The proposed rulemaking was based entirely on pre-1982 ozone data since no data from the 1982 ozone season were available at the time of the rulemaking. A public interest group comments that ozone standard exceedances have occurred in Will (0.147 ppm, August 16th), Kankakee (0.134 ppm, August 16th) and McHenry (0.135 ppm, August 15th) Counties during 1982. The commentor, therefore, considers EPA's proposed rulemaking for these counties to be premature and incorrect.

Response: EPA's ozone standard guidelines ("Guideline for the Interpretation of Ozone Air Quality Standards," EPA–450/4–79–003) recommend consideration be given to the most recent available data.

On November 5, 1982, IEPA transmitted 1982 ozone monitoring data for McHenry, Will and Kankakee Counties. These data agree with the data supplied by the commentor, but indicate that no further exceedances have been recorded in 1982 at any of these sites. That is, these sites have all recorded just one exceedance in 1982. The ozone air quality standard allows exceedances, but requires that the annual average expected number of exceedances (averaged over as many as three years) be no more than 1.0. These data indicate that EPA should proceed with final rulemaking to designate the McHenry, Will and Kankakee Counties to attainment for ozone.

Comment: The public interest group comments that EPA's proposed rulemaking is premature because meteorology during the 1979–1981 period has not been conducive to ozone formation. The commentor considers the meteorology during this period to be atypical, and recommends delaying rulemaking, particularly for Kankakee, McHenry and Will Counties.

Response: As pointed out in the "Guidelines for the Interpretation of Ozone Air Quality Standards," EPA recognizes the existence of the positive and negative impacts on ozone formation due to fluctuating variations in meteorology. EPA consequently uses multiple years of air quality data in evaluating redesignations in an effort to average out these impacts of meteorology variations. On the other hand, use of too many years or data introduces complications caused by changes in precursor emissions. EPA considers 3 years to be long enough to average out the impacts of most meteorological variations and yet short enough that the entire period will have approximately the same emissions level. For these reasons, EPA uses the most recent three years of ozone data, where available, as the test of an area's attainment status. It is, therefore, inappropriate to delay rulemaking on the basis of an assumed nonconduciveness of the current meteorology for ozone formation.

Comment: The State and a metropolitan planning commission comment that based on three years of monitoring data in each county, the Counties of Rock Island and Winnebago should be redesignated to attainment for ozone. The State also comments that, based on one year of exceedance-free monitoring data and their rural nature, the Counties of Effingham, Jefferson and Warren should be redesignated to attainment for ozone. In support of the use of only one year of monitoring data for redesignation to attainment, the State cites rulemaking (November 20, 1981, **Federal Register**, 46 FR 57046) of such a nature by Region IV of EPA.

Response: In making its proposed rulemaking of July 21, 1982, EPA determined that no rulemaking was required for Rock Island, Winnebago, Effingham, Jefferson and Warren Counties because these areas are currently codified (40 CFR Part 81) as "cannot be classified or better than national standards" for ozone.

A distinction between attainment and unclassified, however, can be made for these counties on the basis of monitoring data. EPA agrees with the State that these areas can be considered to be attainment. The monitored ozone concentrations in these counties meet the requirements of EPA for classification as attainment, however, no formal designation change in Part 81 is required since all these counties are presently designated attainment/unclassifiable.

Comment: The State comments that EPA should redesignate to attainment a number of counties without ozone monitors. In support of this comment, the State cited rulemaking in the September 23, 1981 and November 20, 1981 **Federal Register** (46 FR 46929 and 46 FR 57046), as well as letters to the States of Kentucky, Mississippi and South Carolina, in which EPA stated that data from an ozone monitor are representative of a 50 kilometer radius area around the monitor. The letters further stated that counties without monitoring may be designated based on monitoring data from adjoining counties if more than 50 percent of the area of the county in question falls within the "representative" area(s) of coverage of the nearby monitor(s).

Response: EPA notes that no formal national policy exists for evaluating the ozone attainment status for counties in which no monitor is located. IEPA is also correct in noting that certain redesignations by EPA have been based on an assumption that ozone monitors are representative of a 50 kilometer radius circle. In response to IEPA's comment, EPA reevaluated the guidelines that should be used to assess the attainment status of the various Illinois counties.

Monitoring studies are not available to indicate what area can be represented by an ozone monitor. It is, therefore, necessary to make case-by-case judgments about the representativeness of monitors. Clearly, as acknowledged by IEPA, the area represented by a monitor must be homogeneous; e.g., the entire area must be rural. The area must also be "homogeneous" with respect to distance from urban areas. For example, a monitor which is 60 kilometers downwind of a city is not representative of locations 20 kilometers downwind of the city. This example illustrates the fact that monitors are representative of larger areas in rural, unindustrialized States and are representative of smaller areas in States with greater population density and more concentrated industry.

Assumptions concerning attainment status in unmonitored rural counties must ultimately be made on a case-by-case basis. EPA Region V has reconsidered the situation in the State of Illinois and concluded that it is appropriate in this State to use a 50 kilometer radius circle as a guideline for the typical representativeness of ozone monitors. This guideline is modified under two sets of circumstances.

1. Counties bordering major urban nonattainment areas will not be judged attainment without monitoring data from the counties themselves. (Until data are available, these counties will be judged on a case-by-case basis taking into account all available meteorological data and the data from nearby monitors.)

2. Counties without monitoring data located between a county or counties with monitor(s) showing attainment and a county or counties with monitor(s) showing nonattainment will be judged on a case-by-case basis taking into account all available meteorological data.

The decision on the attainment status of counties without monitoring data must be made on a case-by-case basis. However, in all cases in this rulemaking, the above guidelines were found to lead to the best assumption about attainment status.

It may be noted that Region V is in agreement with IEPA that most rural unmonitored counties can be considered to be in attainment of the standard. EPA agrees with the State that when the above criteria are applied in the counties of Boone, Grundy, Tazewell, De Kalb and Kendall, which EPA had proposed to classify as unclassified, these counties can now be considered to be attainment.

The State's comment letter also requested that EPA change the ozone attainment status designation for Williamson County to attainment. This change was not proposed for rulemaking action in EPA's July 21, 1982, proposed rulemaking. EPA will publish a rulemaking notice on the attainment status of Williamson County in the near future.

EPA Final Determination: Based on a request from the State of Illinois, EPA's technical review and consideration of the public comments received, EPA revises the ozone designation in Part 81 of the Code of Federal Regulations of Adams, Boone, De Kalb, Grundy, Kankakee, Kendall, La Salle, McHenry, Peoria, Sangamon, Tazewell and Will Counties from nonattainment to attainment-unclassifiable, and Macoupin County for attainment/unclassifiable to nonattainment.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any

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comments for OMB to EPA, and any EPA response, are available for public inspection at the EPA Region V office listed in the front of this notice.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Sec. 107(d) of the Act, as amended (42 U.S.C.7407))

Dated: May 2, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES—ILLINOIS

Part 81 of Chapter 1, Title 40 of the Code Federal Regulations is amended as follows:

§ 81.314 [Amended]

1. The TSP and Ozone portions of § 81.314 are revised to read as follows:

Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Illinois				
AQCR 65:				
Knox County		X		
Peoria County:				
Peoria	X	X		
Limestone	X	X		
All other twps		X		
Tazewell County:				
Fondulac	X	X		
Groveland	X	X		
All other twps		X		
Woodford County:				
El Paso				X
Kansas				X
All other twps		X		
Fulton County				X
Hancock County				X
Henderson County				X
Mason County				X
McDonough County				X
Warren County		X	X	
AQCR 66:				
McLean County:				
Bloomington		X		
Normal		X		
All other twps				X
Coles County				X
Vermillion				X
Champaign				X
Clark				X
Cumberland				X
De Witt				X
Douglas				X
Edgar				X
Ford				X
Iroquois				X
Livingston				X
Moultrie				X
Piatt				X
Shelby				
AQCR 67:				
Cook County:				
Hyde Park	X	X		
Lake	X	X		
North Town	X	X		
South Town	X	X		
West Town	X	X		
Berwyn	X	X		
Calumet	X	X		
Cicero	X	X		
Lyons	X	X		
Riverside	X	X		
Stickney	X	X		
Thornton	X	X		
Worth	X	X		
Schaumburg				X
Barrington				X
Evanston				X
New Trier				X
All other twps		X		
AQCR 67:				
Du Page County:				
Bloomington		X		

Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Downers Grove		X		
Lisle		X		
Milton				X
Naperville		X		
Wayne				X
Winfield				X
All other twps	X	X		
Kankakee County:				
Essex				X
Norton				X
Pilot				X
All other twps		X		
Kendall County		X		
Lake County:				
Antioch				X
Shields				X
Grant				X
Wauconda				X
Waukegan				X
All other twps		X		
Will County:				
Channahon		X		
Crete		X		
DuPage	X	X		
Florence		X		
Frankfort		X		
Green Garden		X		
Homer		X		
Jackson		X		
Joliet	X	X		
Lockport	X	X		
Manhattan		X		
New Lenox		X		
Peotone		X		
Plainfield		X		
Troy		X		
Wheatland		X		
Wilmington		X		
Wilton				X
All other twps				X
Grundy County:				
Aux Sable Twp			X	
Morris Twp			X	
All other twps				X
Kane County:				
Aurora		X		
Elgin		X		
All other twps				X
McHenry County				X
AQCR 68:				
Jo Daviess County:				
Derinda		X		
East Galena		X		
Rawlins		X		
West Galena		X		
All other twps				X
AQCR 69:				
Henry County				X
Rock Island County:				
Blackhawk	X	X		
Hampton	X	X		
Moline	X	X		
Rock Island	X	X		
South Moline	X	X		
South Rock Island	X	X		
All other twps				X
Whiteside County:				
Clyde		X		
Colome		X		
Genesee		X		
Hopkins		X		
Hume		X		
Jordan		X		
Lyndon		X		
Montomorency		X		
Mount Pleasant		X		
Prophetstown		X		
Sterling		X		
All other twps				X
Carroll County				X
Mercer County				X
AQCR 70:				
Monroe County:				
T.1N–R.10W		X		
T.1N–R.11W		X		
T.1S–R.10W		X		
T.2.S–R.10W		X		
All other twps				X
Madison County:				
Alton	X	X		
Granite City	X	X		
Nameoki	X	X		

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Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Venice	X	X		
Wood River	X	X		
Leal				X.
New Douglas				X.
Olive		X		
All other twps.				
St. Clair County:				X.
Englemann				X.
Fayetteville				X.
Lenzburg				X.
Marissa				X.
Mascoutah				X.
New Athens				X.
Prairie du Long		X		
Freeburg		X		
Lebanon		X		
Millstadt		X		
Olallen		X		
Smithton		X		
Stookey				X.
Bond County				X.
Clinton				X.
Randolph				X.
Washington County				X.
AQCR 71:				
Bureau County				
LaSalle County:		X		
Deer Park		X		
Dimmick		X		
LaSalle	X	X		
Ottawa		X		
Peru		X		
Utica		X		
Waltham				X.
All other twps.				X.
Lee County				X.
Putnam County				X.
Marshall County				X.
Stark County				
AQCR 72:				
Massac County:		X		
T.15S.-R.4E		X		
T.16S.-R.4E				X.
All other twps.				X.
Pope County:				X.
All twps.				X.
Alexander County				X.
Johnson County				X.
Pulaski County				X.
Union County				
AQCR 73:				
DeKalb County:		X		
DeKalb		X		
Mayfield				X.
All other twps.				X.
Stephenson County				
Winnebago County:				X.
All other twps.				X.
Boone County				X.
Ogle				
AQCR 74:				
Jefferson County:				X.
All twps.				
Williamson County:				X.
All twps.				X.
Clay County				X.
Crawford				X.
Edwards				X.
Effingham				X.
Fayette				X.
Franklin				X.
Gallatin				X.
Hamilton				X.
Hardin				X.
Jackson				X.
Jasper				X.
Lawrence				X.
Marion				X.
Perry				X.
Richland				X.
Saline				X.
Wabash				X.
Wayne				X.
White				
AQCR 75:				
Adams County:		X		
Ellington		X		
Melrose		X		
Riverside				X.
All other twps.				
Macon County:	X	X		
Decatur				

Designated area	Does not meet primary	Does not meet secondary	Cannot be classified	Better than national standards
Hickory Point		X		
All other twps.				X.
Menard County:				
Petersburg East		X		
Petersburg North		X		
Petersburg South		X		
All other twps.				X.
Sangamon County:				
Springfield		X		
All other twps.				X.
Brown County				X.
Calhoun County				X.
Cass County				X.
Christian County				X.
Greene County				X.
Jersey County				X.
Logan				X.
Macoupin				X.
Montgomery				X.
Morgan				X.
Pike				X.
Schuyler				X.
Scott				X.

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Illinois		
AQCR 65:		
Fulton County		X.
Hancock County		X.
Henderson County		X.
Knox County		X.
McDonough County		X.
Mason County		X.
Peoria County		X.
Tazewell County		X.
Warren County		X.
Woodford County		X.
AQCR 66:		
Champaign County		X.
Clark County		X.
Coles County		X.
Cumberland County		X.
De Witt County		X.
Douglas County		X.
Edgar County		X.
Ford County		X.
Iroquois County		X.
Livingston County		X.
McLean County		X.
Moultrie County		X.
Piatt County		X.
Shelby County		X.
Vermilion County		X.
AQCR 67:		
Cook County	X	
Du Page County	X	
Grundy County		X.
Kane County	X	
Kankakee County		X.
Kendall County		X.
Lake County	X	
McHenry County		X.
Will County		X.
AQCR 68:		
Jo Daviess County		X.
AQCR 69:		
Carroll County		X.
Henry County		X.
Mercer County		X.
Rock Island County		X.
Whiteside County		X.
AQCR 70:		
Bond County		X.
Clinton County		X.
Madison County	X	
Monroe County	X	
Randolph County		X.
St. Clair County	X	
Washington County		X.
AQCR 71:		
Bureau County		X.
La Salle County		X.
Lee County		X.
Marshall County		X.
Putnam County		X.

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Stark County		X.
AQCR 72:		
Alexander County		X.
Johnson County		X.
Massac County		X.
Pope County		X.
Pulaski County		X.
Union County		X.
AQCR 73:		
Boone County		X.
De Kalb County		X.
Ogle County		X.
Stephenson County		X.
Winnebago County		X.
AQCR 74:		
Clay County		X.
Crawford County		X.
Edwards County		X.
Effingham County		X.
Fayette County		X.
Franklin County		X.
Gallatin County		X.
Hamilton County		X.
Hardin County		X.
Jackson County		X.
Jasper County		X.
Jefferson County		X.
Lawrence County		X.
Marion County		X.
Perry County		X.
Richland County		X.
Saline County		X.
Wabash County		X.
Wayne County		X.
White County		X.
Williamson County	X	
AQCR 75:		
Adams County		X.
Brown County		X.
Calhoun County		X.
Cass County		X.
Christian County		X.
Greene County		X.
Jersey County		X.
Logan County		X.
Macon County		X.
Macoupin County	X	
Menard County		X.
Montgomery County		X.
Morgan County		X.
Pike County		X.
Sangamon County		X.
Schuyler County		X.
Scott County		X.

[FR Doc. 83-12728 Filed 5-13-83 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-1-FRL 2363-5]

Approval of State Hazardous Waste Management Program for Phase I Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program for Phase I Interim Authorization.

SUMMARY: The Territory of Guam has applied for Interim Authorization Phase I. EPA has reviewed Guam's application for Phase I Interim Authorization, and has determined that Guam's hazardous waste program is substantially equivalent to the Federal Program covered by Phase I. The Territory of Guam is hereby granted Interim Authorization for Phase I to operate the Territory's hazardous waste program in lieu of Phase I of the Federal program.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Gary Lance, Toxics & Waste Programs Branch, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974-8125.

SUPPLEMENTARY INFORMATION

I. Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended [RCRA], to protect human health and the environment from hazardous waste. The Act [RCRA] includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive Final Authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in

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which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the January 26, 1981, **Federal Register** (45 FR 7965), the Environmental Protection Agency announced that States could apply for Components A and B of Phase II of Interim Authorization. Component C was announced in the **Federal Register** July 26, 1982, (47 FR 32274). Component A, analogous to Federal regulations published in the **Federal Register** January 12, 1981, (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, analogous to Federal regulations published in the **Federal Register** January 23, 1982, (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, analogous to Federal regulations published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting land disposal facilities.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 271, Subpart B as amended at 48 FR 14257, April 1, 1983.

II. Discussion

On November 10, 1982, the Territory of Guam submitted its complete application for Phase I Interim Authorization. In the January 5, 1983 **Federal Register** (48 FR 483), EPA announced the availability for public review of the Guam application. EPA also indicated that if significant public interest was expressed, EPA would hold a public hearing on the application on February 24, 1983. However, no public comments were received on the Territory's application and on February 7, 1983, EPA determined that significant interest did not exist in holding the public hearing.

After detailed review of the final Guam Interim Authorization application, EPA transmitted comments to the Guam EPA on February 17, 1983. These comments requested additions and revisions to the program Description, Attorney General's Statement, Memorandum of Agreement and Authorization Plan portions of the Interim Authorization application.

On March 21, 1983, the Territory of Guam submitted amendments to the above mentioned portions of the Interim Authorization application. The following summarizes the most significant of these comments and the State's responses:

(1) The Attorney General needed to demonstrate that the Territory of Guam has the authority to implement the Federal regulations where the Territory's regulations are less stringent or lacking. In a letter dated March 15, 1983, the Acting Attorney General indicated that Guam does have the necessary statutory authority to implement the Federal regulations where the Territory's regulations are less stringent or lacking. Also, the Territory of Guam has agreed in the revised Memorandum of Agreement to utilize the Federal regulations where Guam's hazardous waste regulations are lacking or are not substantially equivalent to the Phase I Federal regulations. Furthermore, Government Code Section 24201.1 provides for the promulgation of emergency regulations if the adoption or repeal of a regulation is necessary to comply with Federal law.

(2) The Attorney General needed to cite the statutory authority which allows the Territory to apply the Federal interim status regulations. The revised Attorney General's statement demonstrates that Guam does have the statutory authority to apply the Federal interim status standards pursuant to G.C. Section 57172(a)(7). In addition, Guam EPA pursuant to G.C. Section 24201.1 has amended Section VIII, A of Guam's Hazardous Waste Management Regulations to provide that until a permit is issued by the Administrator to operate a hazardous waste management facility, all existing facilities on Guam must meet the requirements contained in 40 CFR Part 265.

(3) The Attorney General needed to cite the specific statutory authority which allows the Territory to adopt Federal regulations by reference. The revised Attorney General's statement indicates that if a government agency, such as GEPA, desires to adopt Federal regulations by reference, all that is required is compliance with the rulemaking procedures of the Administrative Adjudication Law. Additionally, there is no Territorial law that prohibits Guam from adopting Federal regulations by reference.

(4) The Attorney General needed to provide a citation to the Guam statute which allows the Territory of Guam to share confidential information with EPA especially during ongoing enforcement actions. The revised Attorney General's statement indicates that the Territory of Guam has adequate authority pursuant to Section 6 of the Guam Code Annotated (G.C.A.) to share confidential information with EPA.

III. Decision

EPA has reviewed the complete application for Phase I Interim Authorization from the Territory of Guam and has determined that the Territory's program is "substantially equivalent" as defined in 40 CFR Part 271, Subpart B, to the Phase I Federal program. In accordance with Section 3006(c) of RCRA, the Territory of Guam is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Guam will be subject to the Territory of Guam's hazardous waste program in lieu of the Federal hazardous waste program (40 CFR Parts 260–263 and 265) and will not again be subject to Phase I of the Federal program unless: (1) The Territory fails to amend its Phase I submission to include all of the components of Phase II Interim Authorization by the deadline specified in 40 CFR 271.122(c), or (2) the State fails to obtain Final Authorization by the deadline specified in Section 3006(c) of RCRA and implementing regulations, or (3) authorization is withdrawn for good cause by EPA pursuant to Section 3006(e) of RCRA.

IV. Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

V. Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the Territory of Guam. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: April 21, 1983.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-13081 Filed 5-13-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-17; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to allow motor vehicles to be equipped with a new two-lamp rectangular sealed beam headlamp system. The individual lamps in the system will be smaller than those currently allowed in two-lamp systems. The new headlamps have external dimensions identical to those of headlamps used in four-lamp rectangular headlamp systems. The headlamps are required to be designed to conform to performance levels of the presently existing Federal standards met by other headlamps.

DATE: Effective date of the amendment: June 15, 1983. Because of the necessity of manufacturers to meet tooling deadlines, it is found for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: Chrysler Corporation petitioned for rulemaking to amend Standard No. 108 to permit the use of a new, smaller, rectangular dual-beam sealed beam headlamp in a two-lamp system. The lamp, which was developed by Wagner Electric Corporation, has the same external dimensions as the rectangular headlamps used in four-lamp systems, and is designed to meet the same photometric requirements as the larger lamp currently used in rectangular two-lamp systems.

The change was requested by Chrysler in order to allow aerodynamic improvements in vehicle front end designs which will result in increased fuel economy. The current four-lamp system of units of identical size is limited in application because of infringement of the extra pair of headlamps upon the amount of grille area required for engine cooling. This will become increasingly critical as the front edges of cars become more rounded in designs planned by the industry for vehicles to be introduced in the mid-1980's.

The new system will use halogen bulbs from Type 2B headlamps, the reflector from the current Type 2A headlamp, and a modified lens. In addition, the lamp ground terminal will be rotated 45 degrees to ensure that Type 1A or Type 2A lamps cannot be inserted as replacements.

To meet the agency's previously expressed concern over proliferation of headlamp types and the consequent possibility that some of them may not be readily available, Chrysler's suppliers, Wagner, General Electric, and GTE Sylvania, have reported that the lamp will be distributed to the field through their normal distribution centers and marketing channels. Thus, the lamps will be available at "well over ten thousand retail sales outlets". Service Parts Division at all of Chrysler's 20 parts depots would stock the new headlamps to supply dealers nationwide.

Because the new headlamp would be derived basically from components of current headlamps, Chrysler estimated that there will be a "considerable" cost decrease over the current larger halogen dual rectangular lamps.

Chrysler also argued that the environmental effects of the new system are all positive, and include reduction in both fuel consumption and raw materials used in lamp manufacture. It is aware of no alternatives which would produce the same level of public benefits.

NHTSA granted the Chrysler petition on October 8, 1982, and published a notice of proposed rulemaking on October 14, 1982 (47 FR 45890).

The agency, in essence, asked three questions in the proposal—whether the performance of a small two-lamp system can meet the needs of motor vehicle safety, whether it would not be better to require such a system to "conform" to the specified requirements instead of being only "designed to conform" with them, and whether the addition of a new headlamp type to the existing types would over-burden the existing distribution system so that replacement headlamps would be difficult to find.

In response to the proposal, NHTSA received 14 comments, including one from Chrysler. Virtually all supported an amendment which would allow the new system; virtually all opposed the proposal that the new headlamp be required to "conform" to specified requirements.

In response to an earlier notice (Request for comments, August 31, 1961; 46 FR 43,719) on new headlighting systems, several commenters had expressed concern about the implications of the possible changes for the simplicity and ease of manufacturing headlamps. In terms of these considerations, the optimum headlamp appears to be one having a relatively large diameter and a single beam. If a headlamp is smaller, contains more then one beam or has a noncircular shape, its photometrics are more difficult to control. Two of those parties who had previously criticized the concept of a system using smaller headlamps, BMW and Koito, did not comment on the current proposal. Volkswagen of America, a previous critic, voiced no objection to the smaller headlamp *per se*, though indicating its preference lay in other directions. California Highway Patrol concurred with the proposal but asked whether the smaller lamp could produce as good a roadlighting beam as a larger headlamp with the same size filament.

NHTSA has carefully reviewed all comments. The fact that the new smaller headlamp is required to meet the same photometric requirements as those of other sizes should ensure that roadway lighting on either high or low beam is sufficient for motor vehicle safety. NHTSA anticipates that manufacturers of these headlamps will maintain quality controls sufficient to insure that the photometrics of any lamp chosen at random will meet the minimum required for each headlamp, even if these controls are more rigorous than those required for a four-lamp system. Sealed beam lighting technology is wel' proven in practice, and lamps whose

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dimensions are identical to those which would be used in the new headlamp system have been produced for almost ten years now. Thus, problems inherent in start-up production should be reduced to a minimum. NHTSA has concluded that, in spite of theoretical objections, the new lamps should provide equivalent performance while allowing manufacturers to improve vehicle aerodynamics by locating them to best advantage.

Commenters expressed almost universal opposition to the agency's proposal to require that the new lamps "conform" instead of being "designed to conform" with the requirements for those lamps. Because minor deviations at individual test points are not discernible to the naked eye, the commenters believed that very little real safety advantage would accrue from an approach requiring strict adherence to the performance specifications. (The agency is not willing to accept this argument without further study.) Further, commenters argue that the cost of lamps would increase. Similarly, the commenters stated that the administration burden on the agency would increase because manufacturers finding individual test point failures of a marginal nature would petition under Part 556 for determinations that they were inconsequential as they relate to motor vehicle safety and thus exempt from the statutory requirement for recall and remedy of noncomplying vehicles and equipment. These potential problems have been avoided under the "design to conform" requirements applicable to currently permitted headlamp systems since NHTSA has allowed random occasional failures without concluding that a lamp is noncompliant. Noting that the Society of Automotive Engineers is currently developing a headlamp performance standard, General Electric recommended that NHTSA review the SAE work and consider a new Federal standard instead of attempting to require strict compliance with existing performance requirements.

After reviewing these comments, NHTSA has concluded that if a requirement for strict compliance is to be introduced, it should be done simultaneously for all lamps, not just for one size of headlamp. Therefore, the agency has not adopted this portion of the proposal at this time but believes that the issue of "conform" versus "design to conform" should be considered in the future as a separate issue.

Because six types of headlamps in four sizes are currently permitted under Standard No. 108 and being offered in the United States, the agency raised the issue of proliferation, i.e., whether permitting an additional type would lead to replacement difficulties, either as a result of the failure of supply outlets to carry the new size, or as a result of the discontinuation of a currently permitted, less popular size to make way for the new headlamp. Truck Safety Equipment Institute expressed its concern that the new lamp would be available only through Chrysler dealerships and therefore its cost would tend to be high.

NHTSA has reviewed the proliferation issue and has concluded that the addition of a new type of headlamp should not create a problem. Current rectangular headlamps received wide availability soon after introduction in 1974 and 1977. Given the precedent of this tradition of availability, it is assumed that a similar pattern will evolve if the new lamp is allowed since it is made using parts from existing lamps and similar production machinery. It is true that it will take time for a supply of replacement lamps to become as available as current headlamps. However, Chrysler stated that its dealers will have replacement lamps and that its lamp suppliers are prepared to supply sufficient quantities quickly to handle both production and field replacement markets. Changing to a new design headlamp may cause occasional difficulties in the initial period of introduction, but reasonable solutions appear to be available to eliminate any safety related problems.

Under the amendment issued today, the new headlamp is identified as "2E1", in accordance with the lighting code currently used by Standard No. 108. The amendment specifies that 2E1 headlamps meet the dimensional specifications for Type 2A headlamps (SAE Standard J571d) except that the ground terminal is rotated clockwise 45 degrees. The 2E1 headlamp is required also to meet all requirements of SAE Standard J579c and subreferenced standards applicable to Type 2 headlamp units (these are basically the photometric, beam pattern, and beam color requirements, and laboratory test specifications). The maximum design wattage is 12.8 volts, 70 watts for upper beam, and 60 watts for lower beam. The lamp is also allowed for use on motorcycles.

NHTSA has considered the impacts of this amendment and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures and that neither a regulatory impact analysis nor a full regulatory evaluation is required. The amendment imposes no additional requirements and thus no additional costs. Instead, it permits manufacturers greater flexibility in selecting the design of headlighting systems.

NHTSA has analyzed this amendment for the purposes of the National Environmental Policy Act. The amendment may have a small positive effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would be reduced. No impact on safety is anticipated.

The agency has also considered the impacts of this amendment in relation to the Regulatory Flexibility Act. I certify that this amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. As already noted, the amendment does not impose additional requirements. Further, manufacturers of motor vehicles and headlamps, those affected by the amendment, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will be affected only to the extent that they select vehicles equipped with the new headlamps. Even in those cases, they will not be significantly affected since the price of new vehicles and headlamps will be minimally impacted.

The engineer and lawyer primarily responsible for this proposal are Jere Medlin and Taylor Vinson, respectively

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Ruber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps Reflective Devices, and Associated Equipment*, is amended as follows:

1. New paragraphs S4.1.1.13, S4.1.1.14, and S4.1.1.15 are added to paragraph S4.1.1 to read:

S4.1.1.13 Instead of headlamps designed to conform to the requirements of Table 1 and Table III, a passenger car, multipurpose passenger vehicle, truck, or bus may be equipped with two white headlamps that are designed to conform to:

(a) the requirements of SAE Standard J571d "Dimensional Specifications for Sealed Beam Headlamp Units", June 1976, that apply to Type 2A sealed beam headlamp units, except that the designation "2A" shall not appear on the lens, and the ground terminal shall be rotated clockwise 45 degrees; and

(b) the requirements of SAE Standard J579c "Sealed Beam Headlamp Units for Motor Vehicles", December 1974, and subreferenced standards, that apply to Type 2 headlamp units;

(c) SAE Standard J580a "Sealed Beam Headlamp Assembly"; February 1974.

S4.1.1.14 The lens of each headlamp that conforms with paragraph S4.1.1.13 shall be marked with the symbol "DOT" (printed horizontally) or "DOT" (printed vertically) which shall constitute a certification that the headlamp conforms to all applicable Federal motor vehicle safety standards, and shall be labelled 2E1.

S4.1.1.15 At a voltage of 12.8 volts, the maximum design wattage for the upper and lower beams of each Type 2E1 headlamp shall be 70 watts for the upper beam and 60 watts for the lower beam.

2. The word "four" in S4.1.1.34 is removed.

3. The chart in S4.1.1.34 is revised by adding at the end thereof:

System	Headlamp types	Number of headlamps
5	Type 2E1	1

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on May 9, 1983

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-12995 Filed 5-13-83 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Addition of Loxahatchee National Wildlife Refuge to the List of Open Areas for Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Loxahatchee National Wildlife Refuge to the list of open areas for big game hunting. The Director has determined that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the major purposes for which the Loxahatchee National Wildlife Refuge was established. The hunting of big game, subject to additional special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT: James W. Pulliam, Jr., Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring St., SW, Atlanta, GA 30303; Telephone (404) 221-3588, or James Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343-4311.

SUPPLEMENTARY INFORMATION: John Oberheu, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring St., SW, Atlanta, GA 30303; Telephone (404) 221-3538, and Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343-4306 are the primary authors of this final rulemaking.

General

National Wildlife Refuges are closed to hunting until officially opened by rulemaking. The Director may open refuge areas to hunting upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for development, operation, and maintenance of the permitted forms of recreation.

On September 22, 1982, a proposed rulemaking was published (47 FR 41792) to add nine national wildlife refuges, including Loxahatchee National Wildlife Refuge, to the list of open areas for migratory game birds, upland game, and big game. Action has already been taken regarding the other eight areas. A public hearing regarding the proposal to open the Loxahatchee National Wildlife Refuge to big game hunting was held in Lake Worth, Florida on October 12, 1982. The public was also provided a 30-day comment period.

The public comments, both written and oral, raised a number of substantive issues. The closing date for public comments left little time for completing the hunt procedural requirements, including promulgation of special rules for this hunt, or time for scheduling the first hunt during the 1982-83 hunting season. Rather than holding a late hunt that would be outside the regular State season, it was decided, in cooperation with the State Game and Fresh Water Fish Commission, to delay the hunts until the 1983-84 season. This will provide adequate time for further study and additional comment before final decisions are made on hunt restrictions and access methods.

Response To Comments Received

A total of 108 written comments were received relative to this proposed rulemaking. In addition, a total of 58 individuals presented comments at a public hearing which was held on October 12, 1982. Letters were received from nine organizations and 96 individuals opposing the proposal. Three organizations wrote letters endorsing the proposed hunt. At the public hearing six organizations, 18 individuals and one State Agency presented statements favoring the proposal; twenty-two organizations and seven individuals presented statements opposing the proposal. Three individuals presented statements at the hearing, but gave no opinion on the proposal. A careful review of all these public comments, both written and verbal, identified a number of substantive issues concerning the proposed rulemaking. The Service notes that, prior to the actual hunt, it will promulgate special regulations defining the hunt's conditions and limits. Many comments addressed the contents of special regulations rather than the issue in this rulemaking, which is classifying the refuge as open to hunting and thus available for special rulemaking. The actual hunt will not be permitted until suitable special regulations have been drafted and put into effect. The following is a listing of each substantive issue, followed by the Service's response:

1. Several individuals and organizations stated that the hunt is being improperly proposed in Critical Habitat of the Everglade Kite.

Service Response: There is no law, regulation or policy which prohibits hunting one animal in critical habitat of another. However, it is the intent of the Service that forthcoming hunt regulations will be devised that will prevent any adverse effect by hunters on kites or kite habitat.

2. Several organizations raised the issue that the hunt as proposed will adversely affect two endangered species, the Florida Panther and the Everglade Kite.

Service Response: Special regulations can be devised to preclude adverse impact on these species. From the best information available there are no resident panthers on the refuge, and

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there is only occasional use by transient animals. Though kite use of the refuge is more common, there have been few recent records of kite use in the northern half of the refuge. The chance of deer hunters directly affecting or harming kites is almost non-existent.

3. Several organizations made the point that the curly-leaf fern is a very rare plant presently known to exist in no other place than on Loxahatchee Refuge, that it is a Category 1 candidate for the Federal endangered species list, and that hunter use of the refuge will endanger the continued existence of this plant.

Service Response: Special regulations, which will be implemented prior to the hunt, will assure that the curly-leaf fern is given whatever protection is found to be necessary.

4. Several organizations stated that the recovery teams for the endangered Florida Panther and Everglade Kite did not provide comments on a hunt proposal which included use of air boats.

Service Response: There is no regulation or policy which requires recovery team review of proposed Service actions such as this one. Service biologists have reviewed the proposal in acordance with the requirements of Section 7 of the Endangered Species Act. They have determined there will be no effect on the Florida panther. A biological opinion prepared for the impacts on the Everglade Kite concluded that the action is not likely to jeopardize the continued existence of the Kite, or result in the destruction or adverse modification of its critical habitat.

5. Several organizations stated that funds are not available for holding the hunt as required by the Refuge Recreation Act.

Service Response: The Loxahatchee Refuge budget for 1983 includes $125,000 in Interpretation and Recreation Program funds which are designated for administration of public use. Administrative costs of a deer hunt at the Loxahatchee National Wildlife Refuge would come from these funds.

6. Several groups made the point that the cost of developing and holding a deer hunt at Loxahatchee Refuge is so great in comparison to the small number of hunters that would be benefited, that the cost-benefit ratio is extremely unfavorable.

Service Response: Fish and Wildlife Service policy given in 8 RM 5.4C is that "Economic feasibility will not be the sole determination in qualifying or disqualifying a particular hunt." It is also Service policy that as long as the costs are reasonable, the Service will maintain a liberal attitude with regard to economic justification.

7. Several organizations indicated that there is only a small deer herd and no "harvestable surplus." Section (2a)(5) of the cooperative agreement between the Service and the Water Management District does not permit harvesting of wildlife unless there are "surplus stocks of game."

Service Response: The term "surplus stock" implies that the important consideration is that resident populations of game, fish and furbearers not be depleted below levels required by a balanced conservation program. The term does not imply that an excess beyond what a refuge can biologically support is required before harvest can be considered. Though the Loxahatchee deer herd is not large, a limited harvest which does not exceed annual recruitment or threaten the continued existence or health of the herd, clearly constitutes harvesting "surplus stock." It is reasonable to assume that harvest of no more than an annual increment of population increase would have no lasting impact on the herd.

8. A number of organizations pointed out that airboat access should not be permitted because there is no way that restrictions against hunting from a moving airboat can be enforced.

Service Response: Hunt restrictions and access methods have not been decided and will be given further study. These will be determined in the special rules which will be promulgated prior to the hunt.

9. At least one organization expressed concern that the opening of deer hunting on Loxahatchee Refuge may provide incentive for some indivuduals to intentionally burn portions of the refuge to improve deer habitat or facilitate deer hunting.

Service Response: Starting such a fire would be a Federal felony, punishable by up to five years' imprisonment and a $5,000 fine (18 U.S.C 1855). Irrational acts are possible in any public use of refuges, but the probability here is undemonstrated.

10. Several organizations and individuals suggested that airboat use within that portion of the area that has been closed to all such activity may adversely affect the natural vegetation of the refuge by creating trails, modifying plant succession at the edges of tree islands, and causing spread of aquatic weeds such as water hyacinth.

Service Response: Hunt restrictions and access methods have not been decided and will be given further study prior to promulgating special rules. The area, pathways and intensity of airboat use, if any, may be limited in those rules in order to minimize or avoid these risks if they prove substantial.

11. Numerous commentors expressed concerns that hunting on a "refuge" is a violation of the complete protection for animals that such designation intended.

Service Response: National Wildlife Refuges were established primarily to safeguard species, populations and their habitats, not each individual animal. As provided in the National Wildlife Refuge System Administration Act of 1966 (as amended) and other applicable laws, hunting is consistent with the concept of providing habitat for healthy populations of wildlife and is compatible with sound wildlife management principles and practices. The Service believes that public hunting is a legitimate recreational activity and that hunting need not be restricted to situations where wildlife populations exist in "excessive" numbers (i.e., used as a corrective tool). On the other hand, sound wildlife management produces populations sufficiently healthy to sustain regulated harvests.

12. Numerous groups and individuals expressed their opinion that the proposed action is a major Federal action significantly affecting the quality of the human environment, thus requiring the preparation of an Environmental Impact Statement.

Service Response: A Finding of No Significant Impact was made February 11, 1983. The environmental impact assessment and the need for a full Environmental Impact Statement will be considered again when hunt methods and procedures are proposed.

13. Several individuals suggested that the northern portion of the refuge, since it is the last remaining tract of undisturbed habitat in the northern Everglades, should be preserved and perpetuated.

Service Response: Special regulations will limit the number of hunters, dates of hunting, and area to be hunted to insure that the proposed hunt will be in conformance with statutory authorities. Significant alteration of habitat is not expected, and should it occur, appropriate steps would be taken to stop future damage. The Service agrees that this remnant of Everglades habitat should be preserved, and will not permit actions which destroy it.

14. At least two organizations suggested that the Loxahatchee deer herd has been in balance with available habitat ever since the refuge was established. A hunt could, by selectively removing certain segments of the deer population, adversely affect the naturally evolved population structure.

Service Response: A "one-day-for-each hunter" hunt will tend to randomize take. A hunter with a one-day season is less likely to pass up a doe. The density of the deer is about one per two hundred acres which will further prevent entire sex or age classes of the population from being removed.

15. Several individuals suggested that the dates of the hunt are so late that some of the bucks will have lost antlers and the does will be carrying large fetuses.

Service Response: Both Service and State wildlife biologists agree that, ideally, the hunt should be scheduled during October/November. Though the original proposal would have scheduled the first hunts in December or January, this was due to the constraints for completing new hunt implementation. Since hunts have now been postponed, it will be possible to schedule them during the most perferred period.

16. Several commentors suggested that since the Loxahatchee deer herd has remained in balance with its habitat for so long, it constitutes a valuable model from which deer population dynamics that are undisturbed by man can be evaluated and that hunting will destroy that value.

Service Response: Although this value is recognized, no one to date has undertaken a comprehensive study of this deer herd's population dynamics, and we are unaware of any plans by any individual or agency to do so. Biological information obtained from animals taken during the hunt will provide some of the first data on population dynamics, reproductive physiology and general health of the herd. The deer population is not truly undisturbed by man as the refuge is managed as a water storage and flood control area. Water level regimes have been adopted which eliminated the extreme fluctuations which occurred under natural conditions, creating artificially maintained habitat conditions. In addition, the deer herd is affected by suburban development and agricultural lands on the periphery of the refuge.

17. One State Agency commented that the hunt regulations prohibit any movement of airboats under power between the hours of 7:30 a.m. and 2:00 p.m. making it impossible for hunters who make an early kill to bring it out so that it could be cooled and processed before the meat spoils.

Service Response: Hunt restrictions and access methods have not been decided and will be given further study.

18. Several commentors suggested that non-toxic shot should be required.

Service Response: The special regulations will list permitted firearms and ammunition types. The Service originally considered requiring use of shotguns with buckshot. That proposal is subject to modification in the special regulations, which may prohibit buckshot. If the use of buckshot is not permitted, the potential for lead poisoning associated with the proposed hunt will be minimal due to the larger size and reduced number of projectiles. Furthermore, non-toxic shot is not available in shot sizes that would be effective in harvesting deer.

19. One organization pointed out that an off-road recreational need/demand study has not been prepared in accordance with section 8 RM 7.5 of the Refuge Manual.

Service Response: Whether airboats will or will not be permitted will be determined in the special regulations. Although a management study as outlined in section 8 RM 7.5 of the Refuge Manual was not conducted, *per se*, the factors that would be included in such a study were included in the environmental assessment and hunt plan which considered administration, enforcement, added costs, manpower, and related items. Administration of permits, control of use, and the probable impact of off-road vehicles on wildlife and the habitat are also described in those documents. In view of the comprehensive nature in which these effects are addressed in the environmental assessment and hunt plan, a need demand study as outlined in the Refuge Manual is redundant and unnecessary.

20. Several commentors raised the issue that the hunt would adversely affect sandhill cranes in that it would disturb them during nesting.

Service Response: Any such distrubance would relate mostly to airboat use; the special regulations may establish controls on the dates, times, and areas of use as necessary. The exact sandhill crane production is not known; however, only a few cranes are produced on the refuge each year. Sandhill crane courting and nesting activity normally begins in December. The impact of the disturbance associated with the hunt will be mitigated by scheduling the hunts in the early portion of the State hunting season prior to sandhill crane courting and nesting activity.

21. Several commentors indicated that the hunt would disturb roost of wading birds and other wildlife.

Service Response: Disturbance to wading birds and other wildlife would be temporary. Hunt restrictions and methods have not been decided and will be given further study before distribution of special regulations.

22. Several commentors suggested that the environmental assessment does not lead to the selected alternative.

Service Response: The Preferred Alternative (Number 4) would open the northern 35 percent of the refuge to controlled deer hunting. Impacts would be identical to those described in Alternatives 1 and 2. Alternative 4 would make the opportunity to hunt available to a broader spectrum of the hunting public than Alternative 1 or 2. Impacts can be mitigated by the use of special regulations, including limiting the number of boats and hunt days, regulating operating hours and prohibiting both shooting from a moving boat and boat traffic on tree islands. By restricting hunting to the north end of the refuge, conflicts with other users will be minimized. The alternatives are described in the environmental assessment in sufficient detail to permit the comparison of their merits. The environmental consequences are identified and analyzed without passing judgement on whether they are beneficial or adverse. The decisionmaker is not required to select the alternative which causes the least environmental impact. The environmental assessment that has been prepared provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. The assessment constitutes the agency's compliance with the National Environmental Policy Act when a determination has been made that an evironmental impact statement is not required. The environmental impact assessment will be re-evaluated prior to a final decision on hunt methods and procedure.

Conformance with Statutory and Regulatory Authorities

Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act authorizes the Secretary to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access when he determines that such uses are compatible with the major purposes for which such areas were established.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is

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practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that funds be made available for the development, operation, and maintenance of these permitted forms of recreation.

The Loxahatchee National Wildlife Refuge was established on June 8, 1951 through a Cooperative and License Agreement with the Central and Southern Florida Flood Control District for use ". . . as a Wildlife Management Area and to promote the conservation of wildlife, fish, and game and for other purposes embodying the principles and objectives of planned multiple land use. The current refuge objectives are (1) To provide habitat and protection for endangered, rare and threatened species; (2) To develop and manage habitat for a full spectrum of wildlife indigenous to this area, including both major wintering and migratory species, and resident species; (3) To preserve segments of unique wildlife habitats; (4) To provide compatible conservation education and wildlife-oriented recreation; and (5) To enhance the aesthetic values of the refuge.

The ". . . conservation of wildlife, fish, and game . . ." is the primary purpose for which the refuge was established and the regulated hunting of deer is clearly compatible with that purpose. Management of the deer herd would include imposing regulations to control the magnitude and timing of the harvest so as to insure that a healthy viable population continues to reside on the area.

In 1983, $125,000 has been allocated in the Interpretation and Recreation Program for the Loxahatchee Refuge, a portion of which will be used to administer the hunting program. The opening of the refuge to big game hunting will be consistent with all applicable laws and compatible with the principles of sound wildlife management and will otherwise be in the public interest. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976 and an environmental assessment which has been prepared for this action.

NEPA consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976, and notice of availability was published in the **Federal Register** on November 19, 1976, (41 FR 51131), pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, [42 U.S.C. 4332(2)(C)].

An environmental assessment was prepared for this proposed action and is available for public inspection and copying in Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail, addressing the Director at the address above. The environmental impact assessment will be re-evaluated prior to a final decision on hunt methods and procedures.

A determination has been made that the proposal to open Loxahatchee National Wildlife Refuge to big game hunting will not have a significant effect on the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. This determination is based on the following: (1) This opening directly affects only a single refuge in one State; (2) The opening is pursuant to a long-standing congressional authorization to open refuges to hunting, and makes no significant change of existing policies nor does it set a precedent for future ones; (3) Hunting is an accepted tool of scientifically based wildlife management and, properly administered will cause no long term adverse effects to wildlife populations. No geological or meteorological changes are likely to be caused. No permanent changes to the features of the land itself are envisioned. No relocation of persons, homes or commercial property is involved; (4) Opening the refuge to the potential for a hunt will not have any direct effect on the environment; and (5) Annual deer hunts will be governed by special regulations which the public will have an opportunity to comment on. The hunt proposal indicates a number of possible special regulations, not all of which may in fact prove necessary or advisable but do illustrate the variety of precautions and regulatory mechanisms which are available once the refuge is added to the list of areas open to big game hunting. These possible regulations do, however, make it clear that merely adding the Loxahatchee National Wildlife Refuge to the list of areas open for big game hunting will not commit the Service to a measure which leads to a significant effect on the environment. Accordingly, the preparation of an Environmental Impact Statement is not required.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Economic Effect

This regulation will not, of iself, have any economic effect. The addition of a refuge to the list of refuges open for hunting is unlikely to affect any economic resources. The actual hunt will not be permitted prior to promulgation of special rules for such hunt, at which time the economic impact if any, of the hunt can be appraised. Therefore, the Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 and that this document will not have a significant economic effect on a substantial number of small entities under the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

PART 32—HUNTING

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of Loxahatchee National Wildlife Refuge, Florida, in § 32.31 as follows:

§ 32.31 List of open areas; big game.

* * * * *

Florida

* * * * *

Loxahatchee National Wildlife Refuge

* * * * *

(16 U.S.C. 460k, 668dd)

Dated: February 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-13086 Filed 5-13-83; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 95
Monday, May 16, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

[Docket No. AO–160–A61]

Milk in the Middle Atlantic Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal by a federation of six cooperative associations to amend the Middle Atlantic milk marketing order. The proposal would lower the pooling requirements for reserve processing plants operated by either a cooperative association or a federation of cooperative associations. The proponent federation has requested that the proposal be adopted on a expedited basis so that an amendment can be made effective beginning September 1, 1983. The proponent contends that the proposal is necessary because of marketing problems associated with an increasing reserve supply of milk.

DATE: The hearing will convene on May 25, 1983.

ADDRESS: The hearing will be held at the Holiday Inn, Independence Mall, 400 Arch St. (4th & Arch), Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn, Independence Mall, 400 Arch St. (4th & Arch), Philadelphia, PA 19106 beginning at 9:30 a.m., e.d.t., on May 25, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Middle Atlantic marketing area. In view of the request for expedited action, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to the proposals.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statuatory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1004

Milk Marketing Orders, Milk Dairy Products.

PART 1004—[AMENDED]

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Pennmarva Dairymen's Federation, Inc: Proposal No. 1

Revise § 1004.7(d) (1) and (2) to read as follows:

§ 1004.7 Pool plant.

* * * * *

(d) * * *

(1) A reserve processing plant operated by a cooperative association a* which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 30 percent of the total milk of member producers during the month.

(2) A reserve processing plant operated by a federation of cooperative associations at which milk of member producers of the cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation plant(s) to, and the milk of member producers of the cooperatives physically received at, pool plants pursuant to § 1004.7(a) is not less than 30 percent of the combined milk of member producers of the cooperatives during the month.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service: Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Joseph D. Shine, P.O. Box 710, Alexandria, VA 22313 or from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex

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particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Middle Atlantic Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on May 11, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-13079 Filed 5-13-83; 8:45 am]

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7 CFR Part 1007

[Docket No. AO-336-A21]

Milk in the Georgia Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal by a cooperative association to amend the Georgia Federal milk marketing order. The proposal would exempt from pooling any milk received from dairy farmers and disposed of as an aseptically processed fluid milk product (UHT milk) for export to any area located outside the continental United States. Proponent contends that the changes are needed to compete effectively in the export market for UHT milk.

DATE: The hearing will convene June 1, 1983.

EFFECTIVE DATE: The hearing will be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Hapeville, Georgia 30354, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Hapeville, Georgia 30354, beginning at 9:30 a.m., local time, on Wednesday, June 1, 1983, with respect to the proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Georgia marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1007

Milk marketing orders, Milk, Dairy products.

PART 1007—[AMENDED]

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.

Proposal No. 1. Revise the introductory text of § 1007.13 "Producer Milk" to read as follows:

§ 1007.13 Producer milk.

Except as provided in § 1007.21, "producer milk" means the skim milk and butterfat contained in milk of a producer that is:

* * * * *

Proposal No. 2. Add a new § 1007.21 "Exempt Milk" to read as follows:

§ 1007.21 Exempt milk.

"Exempt milk" means milk received at a pool plant in bulk form from a dairy farmer who produced it, or a cooperative association, to the extent of the quantity of any skim milk and butterfat disposed of in the form of an ultra-high temperature fluid milk product packaged in aseptic containers for export to any area located outside the continental United States; provided that, the dairy farmer, or cooperative association, by written notice to the market administrator and the receiving handler, elected non-producer status for such milk beginning with the month in which the election was made and continued for each subsequent month until cancelled in writing.

Proposal No. 3. In § 1007.44, paragraph (a)(2) is revised as follows:

§ 1007.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and,

(ii) receipts of exempt milk,

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 4. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from the hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 49025, Atlanta, Georgia 30359, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Diary Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Georgia Marketing Area

Procedural Matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D. C., on May 10, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-13043 Filed 5-13-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-19-AD]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require repetitive inspections and repair or replacement, as necessary, of the flap beam spigots on the No. 1 left and right-hand flap beams on British Aerospace Model BAC 1-11 200 and 400 series airplanes. The AD also provides an optional modification which eliminates the repetitive inspection requirement. Several cases have been reported of broken flap beam spigots due to fatigue. Spigot failures would weaken the flap beam support structure and may result in the flap binding.

DATE: Comments must be received no later than July 5, 1983.

ADDRESS: The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-19-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace BAC 1-11 Alert Service Bulletin No. 53-A-PM805 as mandatory. Spigot failures on the No. 1 left and right-hand fuselage mounted flap beams have been reported. Laboratory analysis done by British Aerospace Corporation determined that the spigot failures resulted from fatigue. Each fuselage mounted flap beam has two spigots which transfer longitudinal flap loads to the fuselage. The failure of one spigot will eventually lead to failure of the second spigot and loss of flap beam integrity and result in binding of the inboard flap. British Aerospace issued BAC 1-11 Alert Service Bulletin No. 53-A-PM5805 to detect and correct spigot failures.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection, and repair if necessary, of spigots on the No. 1 left and right-hand fuselage mounted flap beams.

The proposed AD includes an optional modification which, if accomplished, eliminates the repetitive inspection requirement and constitutes terminating action for AD.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 62 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts ae estimated at $400 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $161,910 to U.S. owners. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive.

British Aerospace:

Applies to Model BAC 1-11 200 and 400 series airplanes, certificated in all categories. To prevent failure of the No. 1 left and right side fuselage mounted flap beam on aircraft that have not incorporated Modification No. PM5805, accomplish the following unless previously accomplished:

A. Inspect and repair or replace parts, as necessary, the forward and aft spigots of the No. 1 flap beam in accordance with paragraph 2. Accomplishment Instructions, of British Aerospace Alert Service Bulletin No. 53-A-PM5805, Issue 2, dated May 4, 1982, per the following schedule:

1. For aircraft which have accumulated 27,000 or more landings on the effective date of the AD, compliance is required prior to the accumulation of 30,000 lands, or within the next 1,000 landings, whichever occurs later.

2. For aircraft which have accumulated less than 27,000 landings on the effective date of the AD, compliance is required prior to the accumulation of 18,000 landings, or within the next 3,000 landings, whichever occurs later.

B. Repeat the actions of paragraph A., above, at intervals not to exceed 6,000 landings.

C. Terminating action to this AD is accomplished by incorporating modification No. PM5805.

D. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

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E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on May 5, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-12872 Filed 5-13-83; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 83-ASW-24]

Proposed Alteration of Control Zone: Houston William P. Hobby Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the control zone at Houston William P. Hobby Airport, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the William P. Hobby Airport. This action is necessary since there is a proposed SIAP to Runway 35 using the Hobby VOR and additional airspace is required northeast of the airport for the protection of aircraft executing a SIAP to Runway 22.

DATE: Comments must be received on or before June 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart F § 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the control zone at Houston William P. Hobby Airport will necessitate an amendment to this subpart. This amendment will be required at Houston William P. Hobby Airport, TX, since there is a proposed change in IFR procedures to the Houston William P. Hobby Airport, and a review of the designated airspace for Runway 22 revealed that a 1-mile extension is required to the northeast.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Houston William P. Hobby Airport, TX [Revised]

Within a 5-mile radius of the Houston William P. Hobby Airport (latitude 29°38'44" N., longitude 95°16'42" W.) and within 2 miles each side of Hobby VOR (latitude 29°39'00" N., longitude 95°16'44" W.) 056° radial extending to 5.5 miles northeast of the VOR; and within 2 miles each side of the Hobby VOR 142° radial extending to 6 miles southeast of the VOR; and within 2 miles each side of the Hobby VOR 191° radial extending to 7.5 miles south of the VOR; excluding that airspace designated as the Houston Ellington AFB, TX, control zone.

(Sec. 207(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on May 2, 1983.

Richard L. Failor,

Acting Director, Southwest Region.

[FR Doc. 83-12871 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

Proposed Customs Regulations Amendment Relating to Acceptance of Uncertified Checks From Customhouse Brokers

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Customs Regulations provide that an uncertified check drawn by an interested party shall be accepted by Customs for the payment of duty provided certain conditions are met. An uncertified check, drawn by a customhouse broker (broker) licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for the deposit of estimated duties. This document proposes to amend the regulations to provide that a broker, not licensed in the district where an entry is filed, also is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for the entry transactions on behalf of an importer, provided the broker has on file a power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored. The purpose of this proposal is to relieve brokers of the unnecessary burden of requiring them to submit certified checks.

DATE: Comments must be received on or before July 15, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Darrell D. Kast, Chief, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Section 141.1(b), Customs Regulations (19 CFR 141.1(b)), provides, in part, that the liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States. An "importer", as defined in § 101.1(k), Customs Regulations, (19 CFR 101.1(k)), means the person primarily liable for the payment of any duties or an authorized agent acting on his behalf.

Section 111.1(b), Customs Regulations (19 CFR 111.1(b)), defines customhouse broker to mean a person who is licensed under Part 111 to transact Customs business on behalf of others.

Pursuant to section 111.2, Customs Regulations (19 CFR 111.2), a broker must obtain a separate license to transact the business of a broker, for each Customs district in which he desires to conduct business.

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), which relates to the collection of Customs duties, taxes, and other charges provides that an uncertified check drawn by an interested party on a national or state bank or trust company of the United States, shall be accepted by Customs if the check is acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository. Further, an uncertified check can be accepted only if there is on file with the district director an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in this manner. Section 24.1(a)(3) also provides that in determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

Under this regulation, an uncertified check, drawn by a broker licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for the deposit of estimated duties. However, a question has been raised as to whether a broker, tendering an uncertified check to Customs for deposit of estimated duties for entries filed by another broker on behalf of an importer in a district in which the tendering broker is not licensed, is an authorized agent of the importer and therefore, an interested party for the purpose of the acceptance of the payment by Customs.

In a ruling dated March 11, 1982, Customs held that a broker not licensed in a district where an entry is filed is an authorized agent of the importer for the purpose of acceptance of the broker's uncertified check for the deposit of estimated duties for entry transactions made by another broker on behalf of the importer if the unlicensed broker holds a power of attorney from the importer which is unconditioned geographically for the performance of ministerial acts.

Traditionally, most powers of attorney are limited geographically to particular districts, districts in which the importer is importing merchandise. In order to allow a broker to tender an uncertified check in districts in which he is not qualified, an unlimited power of attorney from the client-importer is necessary.

This ruling relieves a broker of an unnecessary burden in that the broker, not licensed in a district in which his client may file an entry, would no longer always be required to obtain a certified check for the payment of duties.

Customs believes it is necessary to incorporate the holding of this ruling into § 24.1 to assure uniformity of application by district directors and better inform brokers and broker associations of this practice.

This document proposes to amend § 24.1(a)(3) to provide that a broker, not licensed in the district where an entry is filed, is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for entry transactions provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

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Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), It is hereby certified that the proposed regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 1, 19 Stat. 247, 249 (19 U.S.C. 197); section 1, 36 Stat. 965 (19 U.S.C. 198), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 641, 46 Stat. 759, as amended (19 U.S.C. 1641), section 648, 46 Stat. 762 (19 U.S.C. 1648).

List of Subjects in 19 CFR Part 24

Customs duties and inspection, Imports, Accounting.

Proposed Amendment

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

It is proposed to amend § 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), by adding a new sentence at the end of the paragraph to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) * * *

(3) * * * For purposes of this paragraph, a customhouse broker, not licensed in the district where an entry is filed, is an interested party for the purpose of Customs acceptance of such broker's own check, provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

William von Raab,

Commissioner of Customs.

Approved: April 27, 1983.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-13057 Filed 5-13-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 101

Proposed Customs Regulations Amendments Relating to the Customs Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by consolidating the ports of entry of Trout River, Chateaugay, and Fort Covington, New York, into a single port of entry with its headquarters at Trout River, New York. If adopted, this proposed change would eliminate duplication of port functions and permit better control of staffing resources without impairing services to area businesses or the general public. It would enable Customs to obtain more efficient use of its personnel, facilities, and resources.

DATE: Comments must be received on or before July 15, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Renee De Atley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry are locations (seaports, airports, or land border ports) where Customs officers are assigned to accept entries of merchandise, collect duties, clear passengers, examine baggage, and enforce the customs laws and related laws.

In the list of Customs regions, districts, and ports of entry set forth in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), Trout River, Chateaugay, and Fort Covington, New York, are listed as ports of entry in the Ogdensburg, New York, district of the Northeast Region. Since 1972, the Chateaugay and Fort Covington ports have been under the administrative jurisdiction of the port director of Customs at Trout River. This has resulted in an improvement in the overall management of these three ports, as well as a considerable cost savings due to a reduction of management and clerical support personnel.

However, inasmuch as Chateaugay and Fort Covington are still listed as ports of entry in the table of Customs organization in § 101.3, there remains considerable duplication of effort and severe restrictions on manpower utilization.

After a comprehensive study of the ports of Trout River, Chateaugay, and Fort Covington, Customs has concluded that the most efficient and effective use of its resources would be made by formally consolidating these three ports into one port with its headquarters at Trout River. This change would eliminate duplication of port functions and permit better control of staffing resources without impairing services to area businesses or the general public. The existing Customs work force would be retained.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization and functions (Goverment agencies).

Proposed Regulations Amendments

PART 101—GENERAL PROVISIONS

1. It is proposed to amend § 101.3(b), Customs Regulations (19 CFR 101.3(b)), by removing Chateaugay and Fort Covington from the list of Customs ports of entry, and by indicating that Chateaugay and Fort Covington are part of the consolidated port of Trout River. The entry for "Trout River (T.D. 56074), would be revised to read "Trout River (Chateaugay, Fort Covington, T.D. 56074,)".

2. It is proposed to amend § 101.4(c), Customs Regulations (19 CFR 101.4(c)), by removing Chateaugay as the port of entry having supervision over the Customs station of Churubusco, N.Y., and by inserting Trout River in its place.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. There will be no reduction in Customs service as a result of this change.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this change relates to the organization of the Customs Service, pursuant to section 1(a)(3) of Executive Order 12291, it will not result in a regulation or rule subject to the Executive Order.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: April 27, 1983.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-13058 Filed 5-13-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Limit on Future Effect of Applications and Related Changes in Appeals Council Procedures

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to revise our regulations on the validity of an application filed before the first month the claimant meets all the requirements for Old-Age, Survivors, and Disability Insurance benefits or Supplemental Security Income benefits, and our regulations on acceptance of evidence in administrative appeals. The changes are based on section 306 of the Social Security Disability Amendments of 1980.

Under these proposed regulations, if a person files an application before the first month in which all the requirements for benefits are met, the application will be a valid application only if all the requirements are met before the administrative law judge makes a hearing decision. If there is no hearing decision (for example, the claimant does not request a hearing or the request is dismissed), the claim will be allowed only if the claimant meets all the requirements before a final determination is made. We also propose to change our regulations on the administrative appeals process to provide that the Appeals Council will not consider evidence submitted after the issuance of a hearing decision by an administrative law judge. However, the right to submit new and additional evidence at the reconsideration level or in a hearing before an administrative law judge would not be affected in any way by this proposed change in Appeals Council procedures.

DATES: Your comments will be considered if we receive them no later than July 15, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7452.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations affect Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits under the Social Security Act (the Act), but not special age 72 benefits. Our existing regulations on applications for both OASDI benefits (including applications for a period of disability) and SSI benefits provide that an application filed before the first month in which the claimant meets all the requirements for benefits is valid until a final decision on the claim is made by us or a court. If the claimant meets all the requirements before a final decision on the application is made, we presently treat the application as if it had been filed in the month the claimant first met all the requirements.

For a claimant dissatisfied with our initial determination, SSA's administrative appeals process provides generally for (1) reconsideration of the initial determination, (2) a hearing before an administrative law judge (ALJ), and (3) review by the Appeals Council. Section 306 of Pub. L. 96–265, the Social Security Disability Amendments of 1980, limits the prospective effect of applications for OASDI benefits. (Exception: An application for special age 72 payments must still be filed no more than 3 months before the first month all requirements are met.) Under section 306, if a person files an application for OASDI benefits after June 30, 1980, and appeals our determination on it beyond the hearing level, the claimant must show that all the requirements for the benefits were met before the hearing decision in order to have us treat the application as if it had been filed in the month all the requirements were first met. If the claimant first meets all requirements after the date of the hearing decision, he or she must file a new application in order to get benefits.

Congress did not amend the SSI title of the Act (title XVI) because, unlike the OASDI title (title II), it leaves the period of validity for an application to be determined through regulations. However, the Senate Finance Committee report on Pub. L. 96–265

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(Senate Report No. 96-408, 96th Congress, 1st Session, p. 57 (1979)) states that the Committee expects us to apply the same rules to SSI applications as to OASDI applications. Consequently, we are proposing the same rules for title XVI as for title II.

In enacting section 306 of Pub. L. 96-265, Congress indicated that its purpose was to permit the Secretary to issue regulations requiring that the Appeals Council consider only the evidence which had been considered by the administrative law judge. Under existing regulations the Appeals Council, in deciding whether to review a hearing decision and in actually reviewing it, considers any new and material evidence submitted. The House Committee on Ways and Means stated that "the amendment . . . would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative ALJ hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect." (House Report No. 96-100, 96th Congress, 1st Session, p. 14 (1979)).

These proposed regulations implement only section 306 of the Social Security Disability Amendments of 1980 and do not reflect the change in the law made by section 181 of Pub. L. 97-248 (Tax Equity and Fiscal Responsibility Act of 1982), effective October 1, 1982, which will be implemented separately along with numerous other regulatory changes required by Pub. L. 97-248. The latter section requires that SSI benefits for the first month of eligibility be prorated by the number of days in the month there is an effective application. (Prior to this change in the law, an application for SSI benefits was considered to be effective as of the first day of the month in which the application was filed.)

The Proposed Regulations

The proposed regulations provide that if an application for OASDI benefits, including a period of disability, or SSI benefits is filed before the applicant satisfies the requirements for the benefits or the period of disability, the application continues to be valid until the hearing decision is issued. However, if there is no hearing decision (for example, the claimant does not request a hearing or the hearing request is dismissed under § 404.967 or § 416.1457), the application continues to be valid only until we make a final determination on the application. Thus, if the claimant first meets the requirements after the date of the hearing decision, he or she would have to file a new application to establish entitlement.

In accord with congressional intent, the proposed regulations would also provide that the Appeals Council will not consider any additional evidence submitted after the hearing decision. This would be true both when the Appeals Council is deciding whether to review the hearing decision, either on the claimant's request for review or on its own initiative, and after it actually undertakes review of the hearing decision. If the Appeals Council receives new evidence not contained in the hearing record, it will return the additional evidence to the claimant. The claimant will be informed that if he or she wishes to have that evidence considered, he or she may either submit the evidence to the administrative law judge and request reopening of the hearing decision (if the evidence is material to the hearing decision), or file a new application. Additional evidence will be material to the hearing decision if it related to the claimant's eligibility for the period prior to the hearing decision, that is, the period for which the claimant's application was in effect. However, if the additional evidence related to the claimant's eligibility after the date of the hearing decision, a new application must be filed in order for us to consider that evidence.

The proposed changes would have no effect on the claimant's ability to submit new or additional evidence either at the reconsideration level or in a hearing before an administrative law judge. At either of these levels, the claimant would still be allowed to submit additional evidence and will still receive a completely new and independent determination or decision based on the record, including the additional evidence.

The proposed regulations would help remedy the situation in which, as described by the Senate Finance Committee report, a disability claimant "can continue to introduce new evidence at each step of the appeals process, even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application." We expect these regulations to promote more expeditious and orderly resolution of cases at the hearing stage and make Appeals Council review more genuinely appellate in nature.

The proposed regulations would not affect the authority of the Appeals Council to send a case back to an ALJ to remedy an insufficiently documented case or other defect. When this happens, the original hearing decision is set aside, so that additional evidence could then be entered into the record and the application would be valid until the new hearing decision is issued.

Further, under existing rules on reopening and revising a determination or decision (§§ 404.987 ff. and 416.1487 ff.), additional evidence relating to the claimant's eligibility for periods prior to the hearing decision might be considerd by an ALJ where the claimant requests reopening of the hearing decision. Thus, under these proposed regulations, if a claimant wishes to have new evidence considered after the date of a hearing decision, he or she would be required either to submit the new evidence to the ALJ for possible reopening (if the evidence relates to a period prior to the ALJ decision), or to file a new application.

Effective Dates

The statutory amendment is effective with respect to OASDI applications filed after June 30, 1980. An OASDI application filed before July 1, 1980, would be valid until the final decision on it is made, even if this occurs after June 30, 1980. The effective date of the new rule on the prospective life of SSI applications, however, will be the date of publication of the final regulations. For SSI claims, this means that only applications filed on or after the effective date of the regulations will be subject to the new provision limiting the prospective life of applications. If someone files applications under both programs between June 30, 1980, and the effective date of these regulations, the OASDI application would be subject to the new rule on prospective life, while the SSI application would still be subject to the old rule.

With respect to the changes in Appeals Council procedures, some evidence is already excluded from consideration by the Council under the 1980 statutory amendments. Specifically, the Council is no longer permitted to consider evidence relating to the time period following the administrative law judge's hearing decision in title II cases involving applications filed after June 30, 1980. The proposed regulations, further limiting the evidence that the Council can consider, would affect all title II and SSI applications filed on or after the effective date of the regulations.

The proposed changes in the regulations governing title II applications (20 CFR Part 404, Subpart G) and the title II administrative review process (20 CFR Part 404, Subpart J) would also affect entitlement to Medicare benefits. Under 20 CFR 404.601, persons wishing to become entitled to Medicare benefits are referred to the provisions of Subpart G governing title II applications "[s]ince the application form and procedures for filing a claim under this subpart are the same as those used to establish entitlement to Medicare benefits under 42 CFR Part 405." Except as specified in 42 CFR 405-701 ff., the provisions of Subpart J which govern the title II administrative review process are expressly made applicable to matters involving entitlement to Medicare benefits under 42 CFR 405.701(c).

Regulatory Procedures

Executive Order 12291—These proposed regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. While they will generate some program savings and some administrative costs and savings, we estimate the costs and savings both at less than $1 million annually.

Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—These proposed regulations impose no reporting/recordkeeping requirements.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a singificant economic impact on a substantial number of small entities because these rules will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Secs. 205(a), 1102, 1631(c)(1), (d)(1), and (e)(1), Social Security Act, as amended; sec. 306 of Pub. L. 96-265; 42 U.S.C. 405(a), 1302, 1383(c)(1), (d)(1), and (e)(1); 53 Stat. 1368, as amended; 49 Stat. 647, as amended; 86 Stat. 1475, as amended; and 94 Stat. 457)

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Program; 13.800, Medicare—Hospital Insurance; 13.801, Medicare—Supplementary Medical Insurance; 13.802, Social Security—Disability Insurance; 13.803, Social Security—Retirement Insurance; 13.805, Social Security—Survivors Insurance; and 13.807, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance, Social Security Administration.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: February 9, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Parts 404 and 416 of 20 CFR are proposed to be amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart G of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act and sec. 5 of Reorganization Plan No. 1 of 1953; 53 Stat. 1368, 49 Stat. 647, and 67 Stat. 631 (42 U.S.C. 405 and 1302 and 5 U.S.C. Appendix).

2. Section 404.620(a) is revised to read as follows:

§ 404.620 Filing before the first month you meet the requirements for benefits.

(a) *General rule.* If you file an application for benefits (except special age 72 payments) before the first month you meet all the other requirements for entitlement, the application will remain in effect until we make a final determination on your application unless there is a hearing decision on your application. If there is a hearing decision, your application will remain in effect until the hearing decision is issued.

(1) If you meet all the requirements for entitlement while your application is in effect, we may pay your benefits from the first month that you meet all the requirements.

(2) If you first meet all the requirements for entitlement after the period for which your application was in effect, you must file a new application for benefits. In this case, we may pay you benefits only from the first month that you meet all the requirements based on the new application.

* * * * *

3. The authority citation for subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102, Social Security Act and sec. 5 of Reorganization Plan No. 1 of 1953; 53 Stat. 1368, 49 Stat. 647, and 67 Stat. 631 (42 U.S.C. 405 and 1302 and 5 U.S.C. Appendix).

4. The third sentence of § 404.900(b) is revised to read as follows:

§ 404.900 Introduction.

* * * * *

(b) *Nature of the administrative review process.** * * Subject to the limitation on Appeals Council consideration of additional evidence (see § 404.976(b)), we will consider at each step of the review process any information you present as well as all the information in our records.* * *

5. Section 404.970 is revised to read as follows:

§ 404.970 Cases the Appeals Council will review.

The Appeals Council will review a case if—

(a) There appears to be an abuse of discretion by the administrative law judge;

(b) There is an error of law;

(c) The action, findings, or conclusions of the administrative law judge are not supported by substantial evidence; or

(d) There is a broad policy or procedural issue that may affect the general public interest.

6. Section 404.976(b) is revised to read as follows:

§ 404.976 Procedures before Appeals Council on review.

* * * * *

(b) *Evidence.* The Appeals Council will consider only the evidence in the hearing record. If the Appeals Council decides that more evidence is needed, it will vacate the hearing decision and remand the case to an administrative law judge to receive further evidence and issue a new decision. If the Appeals Council receives new evidence not contained in the hearing record, it will return the additional evidence to you, with an explanation that you may either submit that evidence to the administrative law judge for consideration under the rules for reopening and revising a decision (§ 404.987ff..) if the evidence relates to a period prior to the hearing decision, or file a new application.

* * * * *

§ 404.979 [Amended]

7. Section 404.979 is amended by removing the phrase "and any additional evidence received" from the first sentence.

PART 416—[AMENDED]

8. The authority citation for Subpart C of Part 416 reads as follows:

Authority: Secs. 1102, 1611, and 1631 of the Social Security Act; 49 Stat. 647, 86 Stat. 1466, and 86 Stat. 1475 (42 U.S.C. 1302, 1382, and 1383).

9. Section 416.330 is revised to read as follows:

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before the first month you meet all the other requirements for eligibility,

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the application will remain in effect until we make a final determination on your application unless there is a hearing decision on your application. If there is a hearing decision, your application will remain in effect until the hearing decision is issued.

(a) If you meet all the requirements for eligibility while your application is in effect, we may pay you benefits from the first month that you meet all the requirements.

(b) If you first meet all the requirements for eligibility after the period for which your application was in effect, you must file a new application for benefits. In this case, we may pay you benefits only from the first month that you meet all the requirements based on the new application.

10. The authority citation for Subpart N of Part 416 reads as follows:

Authority: Secs. 1102, 1631(c), and 1633 of the Social Security Act; 49 Stat. 647, 86 Stat. 1475, and 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

11. The third sentence of § 416.1400(b) is revised to read as follows:

§ 416.1400 Introduction.

* * * * *

(b) *Nature of the administrative review process.* * * * Subject to the limitation on Appeals Council consideration of additional evidence (see § 416.1476(b)), we will consider at each step of the review process any information you present as well as all the information in our records. * * *

12. Section 416.1470 is revised to read as follows:

§ 416.1470 Cases the Appeals Council will review.

The Appeals Council will review a case if—

(a) There appears to be an abuse of discretion by the administrative law judge;

(b) There is an error of law;

(c) The action, findings, or conclusions of the administrative law judge are not supported by substantial evidence; or

(d) There is a broad policy or procedural issue that may affect the general public interest.

13. Section 416.1476(b) is revised to read as follows:

§ 416.1476 Procedures before Appeals Council on review.

* * * * *

(b) *Evidence.* The Appeals Council will consider only the evidence in the hearing record. If the Appeals Council decides that more evidence is needed, it will vacate the hearing decision and remand the case to an administrative law judge to receive further evidence and issue a new decision. If the Appeals Council receives new evidence not contained in the hearing record, it will return the additional evidence to you, with an explanation that you may either submit that evidence to the administrative law judge for consideration under the rules for reopening and revising a decision (§§ 416.1487ff.) if the evidence relates to a period prior to the hearing decision, or file a new application.

* * * * *

§ 416.1479 [Amended]

14. Section 416.1479 is amended by removing the phrase "and any additional evidence received" from the first sentence.

[FR Doc. 83-13084 Filed 5-13-83; 8:45 am]

BILLING CODE 4190-11-M

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20 CFR Parts 404 and 416

[Regs. No. 4, 16]

Federal Old-Age, Survivors, and Disability Insurance Benefits Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed rules revise procedures for processing certain cases where a person's benefits are being stopped because he or she has been found to be not disabled or blind, as defined in the law. Existing policy provides that a person's disability ceases as of the earliest date he or she does not meet the appropriate tests of disability or blindness, as established by medical or other evidence. These rules will provide, for the majority of such cases, that the month of cessation (i.e., the last month in which a person is still considered disabled) will be no earlier than the month in which we mail a notice to the beneficiary saying that the information we have shows that he or she is not disabled or blind. Generally, a person whose benefit payment is stopped under these rules will not be asked to repay any benefits paid to him or her for prior months, since his or her disability will not be considered to have "ceased" until the month notice is sent.

These proposed rules will apply to persons receiving benefits because of disability or blindness under title II or title XVI of the Social Security Act.

DATE: Comments must be received on or before July 12, 1983.

ADDRESSES: Written comments should be sent to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7337.

SUPPLEMENTARY INFORMATION: These proposed changes provide that in certain cases where a person's benefits are being stopped for medical reasons, disability will be found to have ceased as of the month notice is mailed to the person.

Because of the nature and complexity of the evidence on which we rely when a person's disability benefit payments are being terminated for medical reasons, it has sometimes been difficult for us to establish with precision a past date on which a person's disability or blindness ended. A determination that a person's disability ended at an earlier date can be made under existing regulations even though the beneficiary may not have been fully aware that, at the earlier point in time, medical and vocational evidence showed that he or she had regained the capacity to perform substantial gainful activity. The proposed changes amend the regulations to provide that the month that we mail a notice to the beneficiary in medical cessation cases that he or she is no longer considered disabled, generally will be the month of cessation (i.e., the last month in which a person is still considered disabled). A person receives benefits for the month of cessation, which under these proposed regulations is the month of mailed notification to a beneficiary, and the two succeeding months. Since generally under these proposed regulations disability will not be considered to have ceased earlier than the month in which we mail an appropriate notice to the person, a person will not have to repay any benefits received for months before the month of notification.

Background

Present regulations provide that a person's disability ceases as of the earliest month the medical or other

evidence on file shows that he or she is able to do substantial gainful activity. A person receives benefits for the month of cessation and the two succeeding months. Any benefits paid to a person beyond those three months are considered to be overpayments and the person is required to repay them unless the repayment can be waived under the provisions of sections 204(b) and 1631(b) of the Social Security Act (42 U.S.C. 404 and 1383) and implementing regulations, sections 404.506 and 416.550 (20 CFR 404.506 and 416.550).

Regulatory Provisions

The proposed regulations will apply to recipients of title II disabled worker's insurance benefits, disabled child's benefits, disabled widow(er)'s and disabled surviving divorced spouse's benefits, and title XVI supplemental security income benefits based on disability or blindness. Because it is generally possible to establish precise dates when we are terminating a person's benefits for other than medical reasons alone, we will continue to make retroactive cessations, where applicable, for anyone whose disability or blindness is found to have ceased because he or she—

(1) Returned to work and demonstrated the ability to do substantial gainful activity;

(2) Was asked to give us medical or other information or to go for a physical or mental examination by a certain date and refused to do so;

(3) Has failed to keep us advised of his or her whereabouts and we are unable to find the person;

(4) Has failed, without a good reason, to follow treatment prescribed by his or her physican that can be expected to restore his or her ability to work;

(5) Was told by his or her physician at an earlier date that his or her condition had improved or that he or she could return to work, and the earlier date is supported by the medical evidence; or

(6) Returned to full-time work with no significant medical limitations and the condition had been expected to improve.

These proposed regulations will provide that generally a person's disability will not be found to have ceased earlier than the month in which we mail a written notice to him or her saying that the information we have shows that he or she is not disabled. Generally, the month of notice will be considered the month of cessation unless one of the six above exceptions applies. These proposed changes amend §§ 404.1579, 404.1586, 404.1594, 416.986, and 416.994 to reflect this revised policy.

Other changes to §§ 404.1579, 404.1586, 404.1594, and 416.994 were published as proposed rules on October 19, 1982 (47 FR 46535). Those proposed changes reflect section 303 of Pub. L. 96-265, the Social Security Disability Amendments of 1980, which extends the length of time a disability beneficiary may test his or her ability to work. Those changes are not the subject of these proposed regulations and are not reflected in those sections as published with this Notice of Proposed Rulemaking.

Executive Order 12291

These proposed regulations have been reviewed under Executive Order 12291. Because they do not create costs of $100 million or more yearly, or otherwise meet the threshold of the Executive Order, we have determined that they do not constitute a major rule, and that a regulatory impact analysis is not required.

These proposed regulations implement a change which responds to long-standing criticism of SSA's policy of making retroactive termination of benefits (and requiring repayment of the overpaid amount) where a person medically recovers sometime prior to the date SSA makes the determination that medical recovery has occurred. After reviewing the policy in this area we have decided that for previously unajudicated cases, instead of determining that a person has medically recovered in the past and must therefore repay us benefits, it is better policy, when the evidence as to the date of recovery in the past may be uncertain and the delay in making the determination is the fault of the system and not the individual, to terminate benefit payments on a more current basis. While this change will cause some increase in benefit payments because we will be making fewer retroactive cessations, the change, overall, is not expected to have any significant cost impact. Further, because of the reduction in the number of overpayments and, therefore, the number of overpayment recovery actions undertaken, this proposed change will result in some administrative savings.

Paper work Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules primarily affect only individuals. They will have some affect on those States that supplement the Federal Supplemental Security Income benefit. However, a regulatory flexibility analysis required under Pub. L 96-354, the Regulatory Flexibility Act, is not necessary.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program.)

List of Subjects

20 CFR Part 404.

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Suplemental Security Income (SSI).

Dated: Feburary 3, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

2. In § 404.1579, paragraph (a) is revised to read as follows, a new paragraph (b) is added, and present paragraphs (b), (c), and (d) are redesignated as paragraphs (c), (d) and (e) respectively:

§ 404.1579 Why and when we will find that your disability has ended.

(a) *If you are not disabled.* If you are entitled to disability benefits as a disabled widow, widower, or surviving divorced spouse, we will find that your

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disability ended in the earliest of the following months—

(1) The month your impairment, based on current medical evidence, no longer exists or is not an impairment listed in Appendix 1 or is not equal to a listed impairment; but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not disabled;

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, your impairment was not an impairment listed in Appendix 1 or was not equal to a listed impairment;

(3) The month you do substantial gainful activity; or

(4) The month in which you return to full-time work, with no significant medical restrictions, and we expected your impairment to improve (see § 404.1591).

(b) *If you do not follow prescribed treatment.* If your physician has prescribed treatment for you that can restore your ability to work, you must follow that treatment in order to be paid benefits. If you are not following that treatment and you do not have a good reason for failing to follow that treatment (see § 404.1530), we will find that your disability has ended. The month in which your disability will be found to have ended will be the first month in which you failed to follow the prescribed treatment.

* * * * *

3. In § 404.1586, paragraph (a) is revised to read as follows, a new paragraph (c) is added, and present paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e) and (f) respectively:

§ 404.1586 Why and when we will stop your cash benefits.

(a) *When you are not entitled to benefits.* If you become entitled to disability cash benefits as a statutorily blind person, we will find that you are no longer entitled to benefits beginning with the earliest of—

(1) The month your vision, based on current medical evidence, does not meet the definition of blindness (and any remaining impairments do not make you unable to do substantial gainful activity considering your age, education and work experience), but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not disabled;

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, your vision does not meet the definition of blindness and that you are able to do substantial gainful activity;

(3) If you are under age 55, the month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); or

(4) If you are age 55 or older, the month (following completion of a trial work period) when your work activity shows you are able to use, in substantial gainful activity, skills and abilities comparable to those of some gainful activity which you did with some regularity and over a substantial period of time. The skills and abilities are compared to the activity you did prior to age 55 or prior to becoming blind, whichever is earlier.

* * * * *

(c) *If you do not follow prescribed treatment.* If your physician has prescribed treatment for you that can restore your ability to work, you must follow that treatment in order to be paid benefits. If you are not following that treatment and you do not have a good reason for failing to follow that treatment (see § 404.1530), we will find that your disability has ended. The month in which your disability will be found to have ended will be the first month in which you failed to follow the prescribed treatment.

* * * * *

4. In § 404.1594, paragraph (b) is revised to read as follows, a new paragraph (c) is added, and present paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e) and (f) respectively:

§ 404.1594 Why and when we will find that your disability has ended.

* * * * *

(b) *Disabled workers and persons disabled since childhood.* If you are entitled to disability cash benefits as a disabled worker or to child's insurance benefits, we will find that your disability ended in the earliest of the following months—

(1) The month your impairment, based on current medical or other evidence, no longer exists or is such that you are able to do substantial gainful activity, but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not disabled;

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, you are able to do substantial gainful activity;

(3) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period);

(4) The month in which you actually do substantial gainful activity (where you are not entitled to a trial work period); or

(5) The month in which you return to full-time work, with no significant medical restrictions, and we expected your impairment to improve (see § 404.1591).

(c) *If you do not follow prescribed treatment.* If your physician has prescribed treatment for you that can restore your ability to work, you must follow that treatment in order to be paid benefits. If you are not following that treatment and you do not have a good reason for failing to follow that treatment (see § 404.1530), we will find that your disability has ended. The month in which your disability will be found to have ended will be the first month in which you failed to follow the prescribed treatment.

* * * * *

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart I of Part 416 reads as follows:

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act; 49 Stat. 647, as amended, 86 Stat. 1471, as amended by 88 Stat. 52, 86 Stat. 1475; 42 U.S.C. 1302, 1382c, and 1383.

2. In § 416.986, paragraphs (a) and (b) are revised to read as follows:

§ 416.986 Why and when we will find that you are no longer entitled to benefits based on statutory blindness.

(a) *If your vision does not meet the definition of blindness.* If you become entitled to payments as a statutorily blind person and your statutory blindness ends, your eligibility for payments generally will end two months after your blindness ends. We will find that your statutory blindness has ended beginning with the earliest of the following months—

(1) The month your vision, based on current medical evidence, does not meet the definition of blindness, but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not now blind;

(2) The month in which your physician tells you that your vision has improved or that you are not blind, and the medical evidence shows that, as of that month, your vision does not meet the definition of blindness; or

(3) The first month in which you fail to follow prescribed treatment that can restore your ability to work (see § 416.930).

(b) *If you were found blind as defined in a State plan.* If you became eligible for payments because you were blind as defined in a State plan, we will find that your blindness has ended beginning with the earlier of—

(1) The first month in which your vision, as shown by medical or other evidence, does not meet the criteria of the appropriate State plan or the first month in which your vision does not meet the definition of statutory blindness (§ 416.981), whichever is later, and in neither event earlier than the month in which we mail you a notice saying that we have determined that you are not now blind under a State plan or not now statutorily blind, as appropriate; or

(2) The month in which your physician tells you that your vision has improved or that you are not blind, and the medical evidence shows that, as of that month, your vision does not meet either the criteria of the appropriate State plan or the definition of statutory blindness (§ 416.981).

* * * * *

3. In § 416.994, paragraphs (b), (c), and (e) are revised to read as follows:

§ 416.994 Why and when we will find that your disability has ended.

* * * * *

(b) *Disabled persons age 18 or over.* If you are age 18 or older, we will find that your disability ended in the earliest of the following months—

(1) The month your impairment, based on current medical or other evidence, no longer exists or is such that you are able to do substantial gainful activity, but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not disabled;

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, you are able to do substantial gainful activity;

(3) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period);

(4) The month in which you actually do substantial gainful activity (where you are not entitled to a trial work period);

(5) The month in which you return full-time work, with no significant medical restrictions, and we expected your impairment to improve (see § 416.991); or

(6) The first month you fail to follow prescribed treatment that can restore your ability to work (see § 416.930).

(c) *Disabled persons under age 18.* If you are under age 18, we will find that your disability ended in the earliest of the following months—

(1) The month your impairment, based on current medical evidence, is not an impairment listed in Appendix 1 of Subpart P of Part 404 of this chapter or is not equal to a listed impairment, but not earlier than the month in which we mail you a notice saying that the information we have shows that you are not disabled;

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, your impairment is now such that it is not listed in Appendix 1 of Subpart P of Part 404 of this chapter or is not equal to a listed impairment; or

(3) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period).

* * * * *

(e) *Persons who were found disabled under a State plan.* If you became entitled to benefits because you were found to be disabled under a State plan, we will find that your disability ended in the earlier of the following months—

(1) The month in which your disability, as shown by current medical or other evidence, does not meet the criteria of the appropriate State plan or the month in which your disability ended under the provisions of paragraphs (b), (c), or (d) of this section, whichever is later, and, unless otherwise indicated under the provisions of paragraphs (b), (c), or (d), not earlier than the month in which we mail you a notice saying that you are not now disabled under a State plan or not now disabled under the provisions of paragraphs (b), (c), or (d) of this section, as appropriate; or

(2) The month in which your physician tells you that your condition has improved or that you are able to work and the medical evidence shows that, as of that month, you are able to do substantial gainful activity

[FR Doc. 83-13055 Filed 5-13-83; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 466]

Altus Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Arkansas to be known as "Altus." This proposal is the result of a petition from Mr. Mathew J. Post, a grape grower in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable industry to label wines more precisely, and will help consumers to better identify the wines they purchase.

COMMENT DATE: Written comments must be received by June 30, 1983.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 466).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Steve Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decison ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names

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of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

ATF has received a petition proposing an area near the town of Altus, Arkansas, as a viticultural area to be known as "Altus." The area extends for a length of about five miles, along a plateau situated between the Arkansas River bottomlands and the high peaks of the Boston Mountains. The width of the area is about four miles. The proposed boundaries encompass a total area of between 12,000 and 13,000 acres.There are about 800 acres of grape plantation on vineyards in the proposed area. There are four wineries now operating in the proposed area.

The petitioner claims that the proposed viticultural area is known by the name of "Altus" and is associated with grape growing for the following reasons:

(a) The official stationery of the city of Altus, Arkansas, declares that city to be the "wine capital" of the State.

(b) Wines produced at the area's four wineries (all located within a mile of the Altus Post Office) have won national and international awards.

(c) Labels of all four wineries bear the name "Altus" as part of their mailing address.

(d) Bumper plates used on the first automobiles in town bear the name, "Altus," and the legend, "The grapes grow best."

(e) An article by Joe Crump, entitled "Vintage Memories," appearing in the *Southwest Times Record* of June 25, 1981, discussed "Altus, the village known for its wine."

(f) The stationery of the local St. Joseph's Farmer Club, whose address is Altus, Arkansas, states: "Best flavored grapes grown in the country. Campbell's Early, Delaware and Niagara a specialty."

(g) The Rev. Placidus Oeschsle, a local parish priest from 1897 to 1935, wrote the following in 1930, in a work entitled "Historical Sketch of the Congregation of Our Lady of Perpetual Help":

> Some of our pioneers came from winemaking countries, and started to plant vineyards. Grapegrowing became a very profitable industry, and Altus was soon famous for its good wine.
>
> Our grape festivals are an attraction for thousands of visitors * * * After many years of experimenting with hundreds of varieties, only a few proved commercially valuable. Today, mostly Campbell's Early, Delaware, Niagara, Brighton, and Banner, and a few others are cultivated for market * * * The grapes of Altus are famous, and are shipped all over the country.

The petitioner claims that the proposed viticultural area is distinguished from the surrounding area for the following reasons:

(1) The moderating climatological effects of the Boston Mountains protect the area from the harshest of winter's weather.

(2) The elevation of the plateau above the surrounding river and creek valleys creates a microclimate wherein cold air is funneled down to the Arkansas River in the spring and fall. Thus, as the petitioner states, "It has been observed that growers in the hills around Altus enjoy additional frost-free growing days because the colder air sinks to the river valley, and forces warmer air into the hills in the early spring and late fall."

(3) The soils of the Altus region (known as the Linker-Mountainburg association) are distinctive in that within Arkansas they are found only along the edge of the Boston Mountains. These soils, states the petitioner, "are fine to gravelly in texture, sandy to silty loams, and slightly to strongly acid." It is implied that these soils are particularly suited to viticulture.

The boundaries of the proposed viticultural area may be found on five U.S.G.S. topographic maps in the 7.5 minute series: Ozark Quadrangle, Coal Hill Quadrangle, Hartman Quadrangle, Hunt Quadrangle, and Watalula Quadrangle. The boundaries are described in the proposed § 9.77.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, because the value of the proposed viticultural area designation is intangible and subject to influence by other unrelated factors. Further, the proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Altus viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Steve Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.77 to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.77 Altus.

Par. 2. Subpart C of 27 CFR Part 9 is amended by adding § 9.77, which reads as follows:

§ 9.77 Altus.

(a) *Name.* The name of the viticultural area described in this section is "Altus."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Altus viticultural area are five U.S.G.S. maps in the 7.5 minute series. They are titled:

(1) Ozark Quadrangle, 1966.
(2) Coal Hill Quadrangle, 1961.
(3) Hartman Quadrangle, 1961.
(4) Hunt Quadrangle, 1963.
(5) Watalula Quadrangle, 1973.

(c) *Boundary*—(1) *General.* The Altus Viticultural area is located in Arkansas. The starting point of the following boundary description is the crossing of the Missouri Pacific Railroad over Gar Creek, near the Arkansas River at the southeast corner of the city of Ozark, Arkansas (on the Ozark Quadrangle map.)

(2) *Boundary Description:*

(i) From the crossing of the Missouri Pacific Railroad over Gar Creek, following the railroad tracks eastward to the crossing over Horsehead Creek (on the Hartman Quadrangle map.)

(ii) From there northward along Horsehead Creek to the merger with Dirty Creek (on the Coal Hill Quadrangle map.)

(iii) From there generally northwestward along Dirty Creek to Arkansas Highway 352 (where Dirty Creek pases under the highway as a perennial stream—on the Hunt Quadrangle map.)

(iv) From there along Highway 352 westward to Arkansas Highway 219 (on the Watalula Quadrangle map.)

(v) Then southward along Highway 219 to Gar Creek (on the Ozark Quadrangle map.)

(vi) Then southeastward along Gar Creek to the beginning point.

Approved: May 2, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-12953 Filed 5-13-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 9-83-04]

Drawbridge Operations Regulations; Manitowoc River, WI; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule, correction.

SUMMARY: This document corrects a typographical error in FR 83-9138 appearing on page 15165 in the **Federal Register** of Thursday, April 7, 1983, relating to drawbridge operations on the Manitowoc River, Wisconsin.

In 33 CFR 117.650(b)(1) "4:30 p.m." on lines two and three should be corrected to read "4:30 a.m."

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199 (216-522-3993).

Dated: April 29, 1983.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-12857 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH-A-1-FRL 2351-4]

Approval and Promulgation of Air Quality Implementation Plans, New Hampshire; Group I VOC Source Compliance Schedules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan revisions submitted by the State of New Hampshire. These revisions will reduce emissions from major sources of volatile organic compounds (VOC's) in the State. The intended effect of this action is to satisfy conditions for Part D plan requirements for nonattainment areas under Section 172(b)(2) of the Clean Air Act.

DATES: Comments must be received on or before June 15, 1983.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2311, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, MA 02203 and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223-5130.

SUPPLEMENTARY INFORMATION: On February 3, 1983 (48 FR 4972), EPA proposed to sanction the Southern New Hampshire Air Quality Control Region by imposing a moratorium on new construction, because the State had failed to meet all the requirements of its 1979 State Implementation Plan (SIP) for ozone (see 48 FR 5015). EPA proposed sanctions for two reasons.[1] First, the State had not yet satisfied the condition for approval of this SIP which required the submission of approvable compliance schedules for stationary sources of volatile organic compounds (VOC) (see 45 FR 24872, April 11, 1980). Second, the State had not submitted a fully approvable regulation for the Group II VOC source category of

[1] The reader is referred to 48 FR 4972 and the supporting documentation for a complete discussion of the reasons. This information is available for inspection at the location listed under **ADDRESSES**.

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miscellaneous metal parts coaters (see 47 FR 58231, December 30, 1982).

Group I Compliance Schedules

The State submitted permits with compliance schedules for the nine sources affected by the condition in 45 FR 24872 on May 2, 1980 and May 16, 1980. However, EPA found at that time that not all of these permits were approvable, because of the technique the State used to determine whether a control strategy was equivalent to reasonably available control technology (RACT).

We approved four compliance schedules which satisfied RACT in the December 17, 1982 **Federal Register** (47 FR 56497). New Hampshire submitted updated permits and more information to determine approvability for Markem Corp. and Oak Materials Group on December 23, 1982, for Nashua Corp.'s Merrimack facility on December 30, 1982, for Ideal Tape Co. on January 19, 1983, and for Essex Group on March 18, 1983.

The Ideal Tape, Markem, and Essex Group permits restrict total VOC emissions from the affected coating lines to less than 100 tons per year. Therefore, these facilities are no longer major sources, and under EPA rural nonattainment area policy RACT is no longer required on these sources. Markem's permit gives the company until September 30, 1983 to complete its conversion of certain products to water-based coatings, and limits VOC emissions to 90 tons for 1983 and to 65 TPY thereafter. The Markem compliance schedule is approvable. The Essex Group permits limit the total emissions from the facility to less than 100 TPY. The Essex Group permits are approvable. Therefore, EPA concurs that these sources are not major, not required to meet RACT and, therefore, are not subject to the condition that approvable compliance schedules be submitted into the federally approved SIP.

Oak Materials' permit requires 90 percent overall control of VOC emissions through use of an incinerator. The RACT emission limit of 2.9 lbs. VOC/gal. coating is based upon an 81 percent level of control of the VOC emissions generated by a source. Therefore, Oak Materials' compliance schedule is acceptable as RACT or better.

Nashua Corp.'s permit limits VOC emissions at its Merrimack facility to 106 TPY. Although this facility remains a major source and so must still meet the requirements of RACT, the company maintains that the controls now in place represent RACT. The information submitted by Nashua shows that one coating line is achieving RACT through the use of a carbon adsorber and solvent recovery system with a daily total control efficiency of 85 percent, while the other line has converted almost entirely to water-based coatings which results in 100 percent control for all but approximately 6 percent of its operating days. The State has demonstrated that it is not reasonable on a technological or an economic basis to require the source to install further controls for this remaining 6 percent, considering the expense and efforts the source has already undergone and the amount of control already achieved. EPA concurs that the control program in place constitutes RACT for this source.

For a more detailed analysis of the compliance schedules for these sources, refer to the Technical Support Document available at the locations listed in the ADDRESSES section.

New Hampshire held a full public hearing on the Oak Materials, Essex Group and Markem permits on March 20, 1980. On May 15, 1980, the State held a hearing on the Ideal Tape and Nashua Corp. permits. No comments were received on the compliance schedules at these hearings. Of the revised permits only Markem was submitted to a public hearing on December 16, 1982 before the Air Resources Commission, because only Markem sought to extend its original compliance schedule beyond the December 31, 1982 deadline in New Hampshire Code of Administrative Rules—Air 1204.21(h), "Compliance Schedules." The permits for Oak Materials, Ideal Tape, Essex Group and Nashua Corp. were reissued by the Air Resources Agency without full proceedings (30 day notice, certification of notice, opportunity to comment), since under Air 205.02(a), "Public Notice of Application," the State found there were no significant increases or changes in stationary source emissions from those specified in the initial public notices. EPA agrees with the State that the control strategies and compliance deadlines in the present permits for Oak Materials and Nashua Corp. were put before the public in the 1980 hearings. In a permit for Ideal Tape dated April 15, 1982, and in a permit for Essex Group dated March 17, 1983, the State has limited emissions to less than 100 TPY VOC. As a result of these restrictions we feel that neither Ideal Tape nor Essex Group requires further hearings. Neither has to satisfy the April 11, 1980 condition to apply RACT as expeditiously as possible (45 FR 24872), and yet both have reduced their actual emissions. EPA is using this notice to provide an opportunity for the public to offer comments on these compliance schedules, and upon EPA's processing of the permits involved.

Proposed Action: EPA is proposing to approve the emission limits and compliance schedules for Oak Materials Group, Ideal Tape Co., Markem Corp., Essex Group, and Nashua Corp.'s Merrimack facility, and to remove the condition at 52.1527(a)(2) to submit operating permits with compliance schedules for each existing major VOC source.

EPA proposes to accept the permits for Ideal Tape Co., Essex Group and Markem Corp. as certification that these sources are no longer major, and so not subject to RACT. With final approval, the State will have satisfied the outstanding condition on its 1979 Ozone SIP. Therefore, this basis for sanctions proposed at 48 FR 4972 with respect to the Southern New Hampshire Air Quality Control Region will no longer apply.

Group II CTG Source Categories

In the December 30, 1982 **Federal Register** (47 FR 58231) EPA took no action on the Group II VOC source category of miscellaneous metal parts coaters because the State Regulation Air 1204.17 is not consistent with EPA guidance. In the February 3, 1983 **Federal Register** (48 FR 4872) this deficiency was noted as one of the reasons for proposing sanctions for the Southern New Hampshire Air Quality Control Region.

On March 8, 1983 the State of New Hampshire submitted a letter certifying that it has no major sources in this source category. Thus, the regulation is not necessary for inclusion in the federal SIP, and this basis for sanctions no longer applies.

Proposed Action: Remove the Part D—no action codified at 40 CFR 52.1527(c)(2) regarding miscellaneous metal parts coaters.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: April 8, 1983.

Lester A. Sutton, P.E.,

Regional Administrator, Region I.

[FR Doc. 83-13060 Filed 5-13-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-3-FRL 2363-4]

Virginia's Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Management Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of Public Hearing and Public Comment Period.

SUMMARY: Today EPA is announcing the availability for public review of the Virginia Application for Phase II, Components A & B, Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application. This is in accordance with agency regulations to protect human health and the environment from improper management of hazardous waste, including the provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization.

DATES: If significant public interest is expressed, a public hearing is scheduled for Thursday, June 16, 1983 at 7:30 p.m. EPA reserves the right to cancel the public hearing if significant public interest is not communicated by telephone or in writing by Monday, June 6, 1983. EPA will determine by Wednesday, June 8, 1983 whether there is significant interest to hold the public hearing. The Commonwealth of Virginia will participate in any public hearing held by EPA on this subject. Regardless of whether a public hearing is held, all written comments on the Virginia Phase II, Components A and B, Interim Authorization application must be received by the close of business on Friday, June 24, 1983.

ADDRESSES: To find out if EPA will hold a public hearing on Virginia's application based on EPA's decision that there is significant public interest in such a hearing, write or telephone after June 8, 1983, the EPA contact person listed below. Copies of the Virginia Phase II, Components A and B, Interim Authorization application are available during normal business hours at the following addresses for inspection and copying: Virginia Department of Health, James Madison Building—9th Floor, 109 Governor Street, Richmond, Virginia 23219 (804) 786–5271 (contact: Dr. Wladimir Gulevich). U.S. EPA Headquarters Library (PM211A), 401 M Street SW., Washington DC 20460 (202) 382–5926 (contact: Gloria Butler). U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–0580 (contact: Diane McCreary). Written comments should be sent to Patricia Corbett, State Programs Section (3AW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–7938. If significant public interest is expressed, and EPA decides to hold the public hearing on Thursday, June 16th, 1983 at 7:30 p.m., it will be held in the Metropolitan Room, Best Western Executive Motor Hotel, 5215 West Broad Street, Richmond, Virginia.

FOR FURTHER INFORMATION CONTACT: Patricia Corbett, State Programs Section (3AW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–7938.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The Commonwealth of Virginia received interim authorization for Phase I on November 3, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste mangement facilities. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. The Commonwealth of Virginia is applying for Phase II, Components A and B, Interim authorization which would enable them to permit storage and treatment in containers and tanks and to permit hazardous waste incinerators in lieu of the Federal program.

A full description of the requirements and procedures for state interim authorization is included in 40 CFR Part 271, Subpart F, as amended, by 47 FR 32377. As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, if significant public interest exists, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: May 9, 1983.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-13069 Filed 5-13-83; 8:45 am]

BILLING CODE 6560-50-M

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30510-82]

Foreign Fishing, Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 7 to the fishery management plan for the Groundfish Fishery of the Bering Sea/Aleutian Islands Area. The intended effects of this action are (1) to alleviate some of the restrictive measures placed on foreign longline fleets in order to provide them with ample opportunity to harvest their groundfish allocations, and (2) to provide an incentive to foreign longline vessels to minimize their incidental take of Pacific halibut, a prohibited species in the foreign groundfish fisheries.

DATES: Comments are invited until June 24, 1983.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Individual copies of the amendment and the environmental assessment may be requested from the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) was implemented January 1, 1982 (46 FR 63295, December 31, 1981), by the NOAA Assistant Administrator for Fisheries (Assistant Administrator) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Eight amendments to the FMP have been adopted by the North Pacific Fishery Management Council (Council). The notice of final approval and implementation of Amendments 1a and 2 was published January 12, 1982 (47 FR 1295), and that for Amendment 4 is under review. Amendment 5 was approved by the Assistant Administrator on December 30, 1982, and proposed rules are pending. Amendment 6 is being prepared by the Council for submission to the Secretary of Commerce (Secretary). Amendments 1 and 3 are currently undergoing Secretarial review.

Amendment 7 to the FMP is the subject of this action and was adopted by the Council at its September 1982 meeting. This amendment would modify current restructions on foreign longline operations in the Winter Halibut Savings Area (WHSA). This proposed rule is published under section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97-453, which requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the amendment and regulations. Consequently, publication of this proposed rule does not indicate that the amendment it would implement has been determined to be consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, is required to take into account the data, views, and comments received from interested persons during the 75-day comments period starting from receipt of the amendment on April 11, 1983.

The FMP currently forbids foreign longline vessels to fish landward of the 500 meter depth contour in the WHSA from December 1 through May 31. This provision was originally intended to protect Pacific halibut, a prohibited species in foreign groundfish operations, when juvenile Pacific halibut concentrate in the WHSA during winter months. Amendment 7 would alleviate this restriction on the foreign longline fishery until the total incidental catch of Pacific halibut by foreign longline vessels in the Bering Sea and Aleutian Islands area reached 105 metric tons (mt) during the 12-month period of June 1 through May 31. At that time, the restriction on the incidental catch of Pacific halibut by foreign longline vessels would be reimposed. Thus, if the incidental catch of Pacific halibut taken by foreign longline vessels in the Bering Sea and Aleutian Islands area reaches 105 metric tons (mt) between June 1 and November 30, the WHSA will be closed to foreign longline fishing landward of the 500 meter depth contour for the 6-month period December 1 through May 31. If the incidental catch limit of 105 mt is reached between December 1 and May 31, the restriction will be reimposed for whatever remains of that 6-month period.

From 1977 through 1981, the foreign groundfish fishery in the Bering Sea and Aleutian Islands area was governed by a preliminary fishery management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (PMP) prepared by the Secretary. The PMP contained no restriction on foreign longline operations in the WHSA. Under the PMP, foreign longline vessels caught an average of 140 mt of Pacific halibut annually during the 4-year period 1978-81.

Since the FMP was implemented in 1982, representatives for the Japanese longline industry have argued that the 500 meter depth restriction in the WHSA will hinder the harvest of the industry's Pacific cod allocations. They further argued that relative to trawl operations, the foreign longline fishery has little impact on the Pacific halibut resource and requested that the restriction be eliminated from the regulations implementing the FMP.

In considering their request, the Council noted current U.S. observer information which indicated the incidental catch rate of Pacific halibut in foreign groundfish operations (number of Pacific halibut per metric ton of groundfish caught) is generally highest in the longline fishery. In terms of total catch, however, more Pacific halibut is taken as incidental catch in foreign trawl operations than is taken by other methods. further, the mortality rate of halibut caught on longline gear is only about 25 percent, compared to a 100 percent mortality of Pacific halibut caught in foreign trawl operations.

In view of the relatively small absolute catch of Pacific halibut by foreign longline vessels and the low mortality of those halibut that are caught, the Council decided that the current restriction on foreign longline operations in the WHSA should not be rescinded, but could be revised. The Council determined, therefore, that when the total incidential take of Pacific halibut by all foreign longline vessels in the Bering Sea and Aleutian Islands area reached 105 mt over the 12-month period of June 1 through May 31, the 500 meter depth restriction on longline operations in the WHSA would be reimposed for the remainder of the 6-month period December 1 through May 31. The 105 mt catch limit is 75 percent of the average 1978-81 take of Pacific halibut by foreign longline vessels. The 500 meter depth restriction was retained by the Council because the incidence of Pacific halibut per metric ton of groundfish is much higher in waters shallower than 500 meters.

In order to avoid grounds preemption problems and gear conflicts, foreign longliners have historically fished in the WHSA during winter months when foreign trawl operations are excluded. The limit on Pacific halibut interceptions proposed by this amendment should provide an incentive to foreign longline vessels to keep their Pacific halibut catch below the 105 mt level so they may continue their longline operations in the WHSA throughout the December 1 through May 31 period.

Representatives for the Japanese longline industry have indicated that the 105 mt catch limit for Pacific halibut should not be so burdensome as to prevent foreign longline fleets from catching their groundfish allocations.

Apportionment of the 105 mt limit on Pacific halibut among those foreign nations which conduct longline operations in the Bering Sea and Aleutian Islands area is not feasible. As a result, a nation's longline fleet could be excluded from fishing landward of the 500 meter depth contour in the WHSA under this proposal because of a high incidental take of Pacific halibut by longline vessels from other nations. Further, although this amendment would not likely be effective until August 1983, foreign nations would be held accountable for their total Pacific halibut catch in the entire management area as of June 1, 1983. Comments on whether this issue should be of particular concern are also requested. Comments should be submitted to the Alaska Regional Director at the address noted above.

Classification

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act as amended by Pub. L. 97-453, require the Secretary to publish this proposed rule 30 days after its receipt. Consequently, publication of these proposed rules does not indicate that the amendment they would implement has been determined to be consistent with the national standards, other provisions of the Magnuson Act and other applicable law. The Secretary, in making that determination, is required to take into account the data, views, and comments received from interested persons during the 75-day comment period running from receipt of the amendment. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Assistant Administrator has determined that Amendment 7 will not significantly affect the quality of the human environment. This determination was based on an environmental assessment which will be filed with the Environmental Protection Agency on May 12, 1983. Accordingly, a supplement to the environmental impact statement for the FMP is not required. You may obtain a copy of the environmental assessment at the address above. The Council has determined that the rule to implement Amendment 7 will be consistent, to the maximum extent practicable, with the approved Coastal Zone Management Program of Alaska. The determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

The Administrator of NOAA (Administrator) has determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291, because the amount of Pacific halibut lost to foreign longline operations is too small for the proposed action to have a significant economic effect on the U.S. Pacific halibut industry. For purposes of this action, the environmental assessment was found to contain information adequate for this decision.

Based upon the environmental assessment, the General Counsel of the Department of Commerce has certified to the Small Business Administration that the rule to implement Amendment 7 will not have a significant economic impact upon a substantial number of small domestic entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The following is a summary of the analysis presented in the environmental assessment on the impacts of the proposed rule on the socioeconomic environment.

The net loss incurred by the U.S. Pacific halibut fishery as a result of the incidental take of Pacific halibut by foreign longline operations is not significant. The specific methodology employed in estimating the net loss is summarized in the environmental assessment. Under the proposed rule, the discounted real present value of the loss to the U.S. Pacific halibut industry in terms of gross ex-vessel earnings would be only $44,378 per year. This loss becomes relatively minor when compared to the total ex-vessel value of recent U.S. Pacific halibut quotas in the Bering Sea and Aleutian Islands area (International Pacific Halibut Commission (IPHC) regulatory area 4) and distributed among the total number of U.S. vessels commercially fishing for Pacific halibut in this area. The 1983 quota of 2.6 million pounds for Pacific halibut in IPHC area 4 1983 is a 73 percent increase over the 1.5 million pound quota established for 1982, when approximately 105 U.S. vessels commercially fished for Pacific halibut in this area. Assuming that at least 105 U.S. vessels would continue to commercially fish for Pacific halibut in IPHC area 4 during 1983, the ex-vessel discounted present value loss per vessel under the proposed rule may approach $423. This loss per vessel would decrease if there is an increase in the number of U.S. vessels commercially fishing for Pacific halibut in IPHC area 4 during 1983. This loss is not significant when compared to the average gross ex-vessel earnings of $19,129 per vessel that could be accrued if the entire 1983 Pacific halibut quota established for IPHC area 4 is harvested.

The Council approved Amendment 7 despite the resulting loss, albeit minor, to domestic fishermen because the amendment achieves an appropriate balance between the need to protect Pacific halibut while promoting the full use of Pacific cod. In adopting Amendment 7, the Council also considered the extent to which those foreign nations that engage in longline operations in the management area have (1) cooperated with the United States in contributing to, or fostering the growth of a sound and economic domestic groundfish fishing industry, including transferring harvesting technology that benefits the domestic industry, (2) made foreign markets available to domestic fish or fishing products, (3) advanced new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from domestic fishermen, and (4) traditionally engaged in longline fishing for Pacific cod in the management area.

Because those foreign nations that would be affected by this amendment have cooperated with the United States in promoting development and growth of groundfish fishing through joint ventures, including transferring harvesting technology, and purchasing U.S.-caught groundfish for import to foreign nations, and have traditionally engaged in Pacific cod fishing in the management area, the Council judged that this amendment conveys an overall benefit to the United States in terms of international trade.

Finally, the proposed rule does not contain a collection of information requirement or involve any collection of information within the meaning of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

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Dated: May 11, 1983.

Carmen J. Blondin,

Acting Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For reasons set out in the preamble, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.93 is amended by revising paragraph (c)(3)(ii) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *

(3) * * *

(ii) When U.S. observer information or other reliable reported statistics indicate that foreign longline vessels have intercepted 105 metric tons of Pacific halibut in the entire management area during the 12-month period June 1 through May 31, the Regional Director shall prohibit further longlining by foreign vessels for the remainder of the 6-month period December 1 through May 31 in water less than 500 meters deep in the area designated under paragraph (c)(2)(ii)(C) of this section.

* * * * *

[FR Doc. 83-13087 Filed 5-13-83; 8:00 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 95
Monday, May 16, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Decision Notice and Finding of No Significant Impact; Cooperative Federal-State Spruce Budworm Demonstration Project, Vermont, 1983

An environmental assessment (EA) that discusses the proposed budworm management demonstration project in Vermont has been prepared. In this project, the Vermont Department of Forests, Parks and Recreation in cooperation with the USDA Forest Service proposes to establish demonstration areas exhibiting silvicultural, utilization/marketing and foliage protection methods to the forestry community. Other alternatives considered in the Environmental Analysis were: Foliage protection with the biological insecticide *Bacillus thuringiensis (B.t.)*; silvicultural and utilization/marketing activities; and no action. A detailed explanation of each alternative, the environmental consequences and the criteria used to evaluate them may be found in the Environmental Assessment (pp. 5–10).

The goal of the proposed demonstration project is to reduce the vulnerability and susceptibility of spruce-fir stands to spruce budworm damage. Demonstration activities will be concentrated in the towns of Hyde Park, Eden, Wolcott, Greensboro, Hardwick, Walden, Stannard, and Wheelock in the counties of Lamoille, Orleans, and Caledonia, Vermont.

Decision Notice

It is my decision to provide Federal financial assistance for foliage protection and silvicultural assistance in Vermont's proposed demonstration project in FY 1983 (Alternative 3). This alternative was selected because it best meets Vermont's long- and short-term needs in managing the forest resources; promotes the creation of budworm resistant residual and future forests; and provides for continuous deer management and foliage protection in silviculturally treated stands. As required by the National Environmental Policy Act (NEPA), this decision is based on an environmental analysis, and the proposed Vermont demonstration project meets all USDA Forest Service special project criteria for financial assistance. The duration of the project is ten years. However, financial assistance for the current year does not imply that Federal assistance will be provided in future years.

Finding of No Significant Impact

I have determined that the proposed demonstration project, based on the analysis described in the Environmental Assessment, is not a major Federal action and will not cause significant environmental impacts or adverse effects. Therefore, an environmental impact statement will not be prepared. This determination was made considering the following factors: (a) EPA and Vermont have approved *B.t.* insecticides for the proposed use, and applicable State and Federal laws will be followed; (b) any physical and biological effects are limited to the proposed demonstration areas; (c) there will be no adverse effects on any endangered plants or animals known to inhabit the affected environment; and (d) there are no apparent adverse cummulative or secondary effects.

Copies of the Environmental Assessment are available for public review at the following offices:

Agency of Environmental Conservation, Department of Forests, Parks and Recreation, Montpelier, Vermont 05602.

USDA Forest Service, Northeastern Area, State and Private Forestry, P.O. Box 640, Louis C. Wyman Forestry Sciences Laboratory, Durham, New Hampshire 03824.

USDA Forest Service, Northeastern Area, State and Private Forestry, 370 Reed Road, Broomall, Pennsylvania 19008.

Implementation may take place immediately after the date of this decision. This decision is not subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: May 9, 1983.

Thomas N. Schenarts,

Area Director, Northeastern Area, State and Private Forestry.

[FR Doc. 83-13028 Filed 5-13-83; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

New York Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 10:00a and will end at 12:00p, on May 26, 1983, at the Jacob K. Javits Building, 26 Federal Plaza, in Room 305B, New York, New York, 10278. The purpose of this meeting is to conduct a press conference to release the Committee's report of a conference held in June 1982 on Bigotry and Violence in New York State.

Persons desiring additional information should contact the Chairperson, Robert J. Mangum, 420 East Twenty-Third Street, New York, New York, 10010, (212) 420–3935 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 10, 1983.

John L. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-13068 Filed 5-13-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invitation for Applications From New Firms for a Portion of the 1983 Virgin Islands Watch Quota

New firms are invited to apply for 400,000 units of the 1983 Virgin Islands duty-free watch quota (see 15 CFR Part 303). This amount is part of the 639,375 units which remained unallocated after

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the 1983 allocation among existing firms in the Virgin Islands (see the notice in the May 3, 1983 issue of the **Federal Register**, 48 FR 19922).

For application forms and instructions, interested firms should write to the Statutory Import Programs Staff, Room 1523, U.S. Department of Commerce, Washington, D.C. 20230.

After a qualifying application has been received, an announcement will be published in the **Federal Register** establishing a closing date for further applications 30 days from the date of such notice. If the Departments do not receive a qualifying application prior to September 1, this invitation shall then expire. Contact Frank Creel, (202) 377–1660, for further information.

Background

The Secretaries of Commerce and the Interior are jointly responsible for making annual duty-free allocations to watch producers in the U.S. insular possessions (Pub. L. 97–446). These allocations authorize insular watch producers to enter specified amounts of watches and watch movements assembled in the possessions free of duty under general headnote 3(a) of the Tariff Schedules of the United States.

In 1983, 3,000,000 units were available for allocation to Virgin Islands producers. Existing producers, however, requested the allocation of only 2,360,625 units, leaving 639,375 units unallocated.

We have determined that it is in the best interest of the Virgin Islands economy to reserve 239,375 units of the unallocated portion for possible future use. First, it is possible that the firms receiving allocations in April underestimated their 1983 needs and may need additional amounts later this year. Second, other firms which ceased operations in 1981 or 1982 are eligible under the 1983 rules to receive special allocations if they resume operations by June of this year (or, potentially, later this year if they so petition the Departments pursuant to 15 CFR 303.11.)

The remaining 400,000 units, as explained above, are set aside for possible allocation to new entrants.

The number of new entrants selected to receive portions of the amount set aside will depend on the number and quality of the applications received. The Departments may decide that none of the applications received offers reasonable prospect of additional benefits to the Virgin Islands economy, or they may decide several applications offer such prospect. The Departments will also review applications during this period from firms which may be unable to establish operations during calendar year 1983 but wish to be considered for possible allocations in 1984.

In accordance with § 303.5(b) of Part 303, we have determined that:

(1) The established industry is not able to utilize all of the available quota;

(2) The amount being set aside is sufficient to support viable operations in 1983 for up to several new entrants, and there will be adequate quota in 1984 to support operations for a substantially enlarged industry (as many as fifteen firms have operated in the Virgin Islands in the past, and Pub. L. 97–446 authorized the Departments to adjust the total annual amount of the quota within specified ranges);

(3) The entry of new firms would strengthen the competitive character of the established industry, offer additional employment opportunities, and increase manufacturing activity in the territory: and

(4) The existing industry is not likely, in the anticipated market conditions, to be adversely affected by the addition of new firms.

Persons who may be interested in applying for a new entrant allocation are encouraged to read the governing regulations in 15 CFR Part 303, with particular attention to §§ 303.2(a)(5), 303.2(b)(1), 303.5(a)(4), 303.5(b), and the appendix, (48 FR 17580, April 25, 1983), which contains the special provisions for calendar year 1983. The information they will be required to provide includes, but is not limited to, the applicant's "financial capacity, production and marketing experience, proposed source of parts and components, affiliation with other business entities in the watchmaking and watchmarketing industry, proposed degree of assembly, proposed wage rates by job classification, and the applicant's intentions with regard to the number of units to be assembled and shipped duty-free into the customs territory, establishing or acquiring a local production facility, and seeking territorial tax exemptions or other local industrial incentive benefits." Applicants may also be required to describe the type of assembly operations they plan (conventional, quartz analog, or mixed) and their planned capital expenditures. We also advise interested persons that the Departments intend to adopt in 1984 minimum assembly requirements in addition to the existing Customs requirements (45 FR 37324 (1980)) and that these requirements are likely to include nearly complete assembly of quartz analog watches (see 48 FR 264 and 48 FR 7187 (1983) for more discussion of these points.)

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff, Department of Commerce.

[FR Doc. 83–13091 Filed 5–13–83; 8:45 am]

BILLING CODE 4310–10–M 3510–25–M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Castor Oil Products From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

The Department of Commerce has conducted an administrative review of the countervailing duty order on certain castor oil products from Brazil. The review covers the period January 1, 1980, through December 31, 1980. As a result of the review, the Department has preliminarily determined the net subsidy to be 2.22 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Edward Haley, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 62487) the final results of its last administrative review of the countervailing duty order on certain castor oil products from Brazil (42 FR 8634, March 16, 1976) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are hydrogenated castor oil and 12-hydroxystearic acid, imported directly or indirectly from Brazil. Such imports are currently classifiable under items 178.2000, 490.2650 and 490.2670 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980 and three programs found countervailable in the original investigation: preferential financing for exports, income tax exemptions for export earnings, and an export credit premium for the Industrial Products Tax ("IPI").

There are two known exporters of this merchandise to the United States, Ceralit A.A. Industria E Comercio and Sociedade Algodoeira Do Nordeste Brasil, S.A. ("Sanbra").

Analysis of Programs

(1) *Preferential Financing for Exports.* Under this program companies are declared eligible by the Department of Foreign Commerce of the Banco Central do Brasil ("CACEX") to receive working capital loans at preferential rates. These loans have a duration of up to one year. Each firm producing castor oil products can obtain preferential financing for up to 20 percent of the value of its previous year's exports.

We calculated the subsidy under this program by multiplying the value of loans outstanding under the program during the period by the differential between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, only that portion extending past January 1, 1980 was included in our calculation. We similarly prorated loans extending past December 31, 1980.

The commercial rate for short-term working capital is the rate established by the Banco do Brasil for discounting sales of accounts receivable. We chose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital in normally raised within the Brazilian financial system through the sales of accounts receivable. The commercial rate includes tax on financial transactions, from which loans under the preferential financing program are exempt, and varied from 25.08 to 37.98 percent during the period April 23, 1979 to December 31, 1980.

During 1980, Ceralit and Sanbra had loans outstanding under Resolutions 515 (effective February 8, 1979) and 602 (effective March 5, 1980) of the Banco Central do Brasil. The effective annual rate for loans granted under these resolutions ranged from 8.70 percent to 26.39 percent and the differential between the commercial and preferential rates ranged from 16.38 percent to 11.59 percent. We calculated the benefit conferred by the program for 1980 to be 2.09 percent *ad valorem*.

With the publication of successor Resolution 674, effective January 22, 1981, there was an increase in potential benefits under the program. The effective rate of interest for loans under this resolution is 44 percent. The comparable rate for discounting sales of accounts receivable is now 72 percent plus a 4.60 percent tax on financial transactions. The differential is 32.60 percent.

To estimate the potential benefit and cash deposit of estimated countervailing duties for this program, we summed the prorated value of loans outstanding during 1980 and found an actual use rate of 16.80 percent. We then multiplied the current 32.60 percent differential between the benchmark commercial and preferential interest rates by the loan use rate to fine a potential benefit under this program of 5.48 percent *ad valorem*.

(2) *Income Tax Exemptions for Export Earnings.* Exporters of certain castor oil products are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We therefore preliminarily determine the benefit from this program to be 0.13 percent *ad valorem* for 1980.

(3) *IPI Export Credit Premium.* The Brazilian government eliminated the IPI export credit premium on December 7, 1979, but reinstated it on April 1, 1981. As a result, this program provided no benefit during the review period. Currently, the Government of Brazil collects a tax on exports of certain castor oil products to the United States which fully offsets the benefit received under this program. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential subsidy under this program is zero percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the net subsidy conferred during 1980 is 2.22 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 2.22 percent of the f.o.b. invoice price on all shipments of certain Brazilian castor oil products exported on or after January 1, 1980 and on or before December 31, 1980.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 5.61 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 7, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–13041 Filed 5–13–83; 8:45 am]

BILLING CODE 3510–25–M

Ferrochrome From South Africa; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On March 28, 1983, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on ferrochrome from South Africa. The review covered the period April 11, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the total bounty or grant to be 0.40 percent *ad valorem*, a rate the Department considers to be *de minimis*.

Interested parties were invited to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results.

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EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 12762) the preliminary results of its administrative review of the countervailing duty order on ferrochrome from South Africa (46 FR 21155, April 9, 1981). The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by the review is ferrochrome, imported directly or indirectly from South Africa. Such imports were classifiable during the period of review under items 606.2200, 606.2400 and 923.18 of the Tariff Schedules of the United States Annotated. The review covers the period April 11, 1981 through December 31, 1981, and the following programs: (1) Preferential railroad rates provided by the South African Transport Services for export shipments, (2) the Central Government Rebate of railage charges, (3) Categories A, B, C and D of the Export Incentives Program, (4) Industrial Development Corporation loans given at preferential rates for the purpose of developing export capacity, and (5) tax benefits received under a program which provides for "beneficiation" allowances for base mineral processing.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review. We determine that the total bounty or grant for the period is 0.40 percent *ad valorem*. Because the total bounty or grant is less than 0.50 percent and therefore *de minimis*, the Department will instruct the Customs Service not to assess countervailing duties on any shipments of ferrochrome from South Africa entered, or withdrawn from warehouse, for consumption on or after April 11, 1981 and exported on or before December 31, 1981.

Further, the Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

The Department is now beginning the next administrative review of the order. The suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 7, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-13039 Filed 5-13-83; 8:45 am]

BILLING CODE 3510-25-M

Oleoresins of Paprika From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on oleoresins of paprika from Spain. The review covers the period July 1, 1980 through June 30, 1981. As a result of the review, the Department has preliminarily determined the net subsidy to be 1.00 percent *ad valorem* for the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Victoria Marshall, Office of Compliance, Room B–099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 11916) the final results of its last administrative review of the countervailing duty order on oleoresins of paprika from Spain (44 FR 11214, February 28, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are oleoresins of paprika, imported directly or indirectly from Spain. Such imports are currently classifiable under item 450.2010 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1980 through June 30, 1981, and the following programs: (1) A rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportacion; and (2) an operating capital loans program.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion ("the DFE"). Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both accumulated IGTE indirect taxes and final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by the Department. The rebate of two final stage taxes, the parafiscal tax on export licenses and the tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

Based upon our analysis of the DFE and the allowable indirect taxes, we preliminarily determine that an overrebate upon export existed during the period July 1, 1980 through December 31, 1980. As of January 1, 1981, the Spanish government increased the IGTE turnover tax rate on business transactions from 2.40 to 3.80 percent while maintaining the previous rate for the export rebate. We preliminarily find that the change in aggregate indirect tax incidence eliminated the overrebate. Therefore, the net subsidy attributable to this program during the period July 1, 1980 through June 30, 1981 is 0.57 percent.

On January 1, 1982, the Spanish government further increased the IGTE rate to 4.60 percent, while once again keeping the DFE unchanged. As a result of the changes, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties that the overrebate has been eliminated.

(2) Operating Capital Loans. The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. Until March 1981, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.50 percent below the legally established commercial interest rate of 9.50 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining four months in the review period, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.48 percent after March 1.

The Spanish government provided actual loan amounts outstanding during the period under this program. After prorating for the interest rate differentials prevailing during the period of review, we preliminarily determine the net subsidy conferred under this program to be 0.43 percent *ad valorem* for the period July 1, 1980 through June 30, 1981.

To determine the cash deposit of estimated countervailing duties for this program, we estimated a 10 percent actual usage rate by dividing the value of the loans outstanding during the period by the value of exports during the same period. Multiplying the estimated usage rate by the 1982 interest rate differential of 9.38 percent, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy attributable to this program is 0.94 percent *ad valorem*.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during the period July 1, 1980 through June 30, 1981 by the two programs is 1.00 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.00 percent of the f.o.b. invoice price on all shipments of Spanish oleoresins of paprika exported on or after July 1, 1980 and on or before June 30, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.94 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 7, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-13040 Filed 5-13-83; 8:45 am]

BILLING CODE 3510-25-M

Sugar From the European Communities; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on sugar from the European Communities. The review covers the period July 1, 1980 through June 30, 1981. There were no known shipments of this merchandise to the United States during the period of review. As a result of this review, the Department has preliminary determined the amount of the net subsidy to be 7.1¢ per pound. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Larry Hample, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1981, The Department of Commerce ("the Department") published in the **Federal Register** (46 FR 46984) the final results of its last administrative review of the countervailing duty order on sugar from the European Communities (43 FR 33239, July 31, 1978) and announced its intent to conduct the next administrative review by the end of July 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is sugar from the European Communities ("EC"). Sugar is currently classifiable under items 155.2025, 155.2045 and 155.3000 of the Tariff Schedules of the United States Annotated. The review covers the period July 1, 1980 through June 30, 1981, and one countervailable program:

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restitution payments made under the Guidance and Guarantee Fund which, in turn, is operated under the Common Agricultural Policy ("CAP") of the EC. During the period of review, the EC consisted of Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxemburg, the Netherlands, the United Kingdom, and Greece.

Analysis of Program

The restituion payments made under the CAP vary in amount and are granted only when the world price of sugar as established in international markets is lower than the EC "threshold price". Under the Guidance and Guarantee Fund program, not all sugar exported from the EC benefits from the same level of export subsidies. Sugar produced in, and exported from, the EC is classified in one of three production quotas: A, B and C quota sugars. Only A and B quota sugars are eligible for restitution payments.

The EC provided no response to our questionnaire of October 27, 1981, nor was our follow-up request for information adequately answered. Thus, we are using data developed by an independent statistical gathering organization and the United States Department of Agriculture as the best information available.

There were no known shipments of this merchandise during the period of review.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the rate of net subsidy conferred by the restitution payments program is 7.16¢ per pound of sugar for the period July 1, 1980 through June 30, 1981.

Accordingly, as provided for by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 7.16¢ per pound on all shipments of sugar from the EC entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administration review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 7, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-13042 Filed 5-13-83; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

President's Private Sector Survey on Cost Control

AGENCY: Office of the Secretary, Commerce.

ACTION: Change in Meeting Notice of the Subcommittee of the President's Private Sector Survey on Cost Control.

SUMMARY: This amends the agenda of a meeting notice published on May 2, 1983 (48 FR 19769).

The draft report from the Boards/Commissions—Business Task Force was not released to the public on May 6 and will not be included in the agenda for discussion at the May 17 meeting as initially planned. The report will be released and discussed at a later time which will be announced in the **Federal Register**.

All other information concerning the meeting remains unchanged.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Executive Committee of the President's Private Sector Survey on Cost Control, telephone: (202) 466–4665.

Dated: May 9, 1983.

Marilyn S. McLennan,

Chief, Information Policy and Management Division Office of the Secretary.

[FR Doc. 83-13079 Filed 5-13-83; 8:45 am]

BILLING CODE 3510-CW-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 3, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee of the advanced Tactical Fighter (AFT) Technology will meet at the Institute for Defense Analyses, Alexandria, VA, on June 8–10, 1983. The purpose of the meeting will be to receive briefings from contractors who are involved in technology development. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13035 Filed 5-13-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 3, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on Software will meet at Hanscom AFB, MA, on June 9–10, 1983. The purpose of the meeting will be to review the software intensive systems development experiences of the Electronic Systems Division. The meeting will convene at 8:00 a.m. and adjourn at 4:30 p.m. each day.

The meeting will be open to the public; however, any person seeking presentation time on the agenda should submit the topic, academic and/or industrial credentials associated with the topic, and a letter of justification to the Secretariat below.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13036 Filed 5-13-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 3, 1983.

The USAF Scientific Advisory Board Advanced Tactical Fighter Program Supportability Panel will hold a meeting on June 15, 1983 from 8:30 a.m. to 4:00 p.m., at Wright-Patterson Air Force Base, Ohio, in the AFALD Commander's Conference Room, Room 233, Building 15, Area B.

The group will receive classified briefings and hold classified discussions on the Advanced Tactical Fighter Program. The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof and may be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13037 Filed 5-13-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Executive Committee of the Intergovernmental Advisory Council on Education; Closed Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of the Executive Committee of the Intergovernmental Advisory Council on Education meeting. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: June 2, 1983.

ADDRESS: Department of Education, 400 Maryland Avenue SW., Room 3073, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Executive Committee meeting will be closed to the public to review applications for the position of Executive Director of the Intergovernmental Advisory Council on Education. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c) (2) and (6)). Discussion will include consideration of the qualifications and fitness of the applicants and will touch upon matters that would disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

Signed at Washington, D.C., on Wednesday, May 11, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83-13066 Filed 5-13-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP83–59–002]

Lone Star Gas Co., a Division of ENSERCH Corp.; Petition To Amend

May 10, 1983.

Take notice that on April 18, 1983, Lone Star Gas Company, a Division of ENSERCH Corporation (Petitioner), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP83–59–002 a petition to amend the order issued February 22, 1983, in Docket Nos. CP83–59–000 and CP83–59–001 so as to authorize the construction and operation of sales taps to serve residential, commercial, and industrial customers which are not presently served by Petitioner at other locations, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is primarily engaged in the distribution of natural gas at retail through its interstate facilities. In the conduct of this business, Petitioner states, it operates an integrated pipeline system including gathering, transmission and distribution facilities in the states of Texas and Oklahoma. Petitioner requests authority under its blanket certificate to provide retail natural gas service upon request to residential, commercial, and industrial customers located along its system. Such service would be subject to prior notice procedures substantially similar to those set forth in §§ 157.205 and 157.211 of the Commission's Regulations, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13031 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83–280–000]

Lone Star Gathering Co.; Application

May 10, 1983.

Take notice that on April 18, 1983, Lone Star Gathering Company (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP83–280–000 an application pursuant to Section 79(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Natural Gas Pipeline Company of America (NGPL), under an existing transportation agreement from an additional delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to transport natural gas for NGPL under an existing transportation agreement, as amended on March 11, 1983, from an additional delivery point that is mutually agreeable to both parties. It is asserted that Applicant would receive gas for NGPL's account from the Herring Ranch No. 56–1 Well in Live Oak County, Texas. It is further asserted such gas would ultimately be exchanged by NGPL with Lone Star Gas Company pursuant to Section 311(a) of the Natural Gas Policy Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

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jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herin provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13002 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-84-000]

Michigan Consolidated Gas Co.; Complaint of Michigan Consolidated Gas Company

May 10, 1983.

Take notice that on May 2, 1983, Michigan Consolidated Gas Company (Mich Con), pursuant to Sections 4 and 5 of the Natural Gas Act and Rules 206 and 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.206 and 385.207), filed a request that the Commission: (1) issue an order terminating any obligations MichCon may have under its current service agreement to purchase gas from Panhandle Eastern Pipe Line Company (Panhandle) and authorizing the abandonment of any service obligation Panhandle may have under the Natural Gas Act to sell gas to Mich Con; or (2) issue and order eliminating the commodity portion of the minimum bill provision in Panhandle's Rate Schedule SS-1; and (3) in addition to the order described in either (1) or (2) above, grant Mich Con relief from its minimum bill obligation to Panhandle under the circumstances described in Mich Con's filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13005 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83486-000]

Montaup Electric Co.; Filing

May 10, 1983.

The filing Company submits the following:

Take notice that on April 29, 1983, Montaup Electric Company (Montaup) tendered for filing a revised contract demand agreement between Montaup and Newport Electric Corporation (Newport). The revised agreement supersedes an agreement for contract demand service between Montaup and Newport. Under the revised agreement Montaup will make specified amounts of capacity and associated energy available to Newport through October 31, 1991 and will provide service thereafter in accordance with the conditions of the agreement.

Montaup requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on Newport and the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13004 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-488-000]

New England Electric Transmission Corp., et al.; Filing

May 9, 1983.

The filing Company submits the following:

Take notice that New England Electric Transmission Corporation (VETCO), and New England Power Company (NEP) on May 2, 1983 tendered for filing one new agreement and amendments to three existing agreements, all relating to the transmission of electricity between Hydro-Quebec and the New England Power Pool.

NEET states that the amendments would refine, clarify, and correct—but not change the the basic substance of—three agreements that the Commission accepted by order dates August 27, 1982 in Docket No. ER82-600-000. The amendments are: (1) Amendment No. 2 to the Phase I Terminal Support Agreement between NEET and the participating New England utilities; (2) Amendment No. 2 to the Phase I Vermont Transmission Line Support Agreement between VETCO and the participating New England utilities; and (3) Second Amendment to Agreement with Respect to Use of Quebec Interconnection between and among the participating New England utilities.

The new agreement in the filing provides that NEP reinforce certain of its ac facilities in New Hampshire and Massachusetts and make improvements to its Comerford generating station in New Hampshire. These reinforcements and improvements must be made before power can be exchanged between Hydro-Quebec and NEPOOL, and NEET has agreed to support the costs of this work in the Agreement for Reinforcement and Improvement of New England Power Company's Transmission System.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13006 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-85-000]

Northwest Central Pipeline Corp. v. Arkansas Louisiana Gas Co.; Complaint, Petition for Declaratory Order and Request for Evidentiary Hearing

May 10, 1983.

Take notice that on May 3, 1983, Northwest Central Pipeline Corporation (Northwest Central), pursuant to Section 5 of the Natural Gas Act, 15 U.S.C. 717d, and Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), filed a Complaint and Request for Evidentiary Hearing seeking a reduction in the minimum bill provision in Arkansas Louisiana Gas Company's (Arkla) Gas Tariff, Original Volume No. 3, Rate Schedule No. X-26, as more specifically described in the filing. Northwest Central states that the reduction is required because Arkla's existing minimum bill provision is unrelated to Arkla's cost of rendering the service or Northwest Central's need for the service and, therefore, is unjust and unreasonable, discriminatory and arbitrary under the Natural Gas Act.

Northwest Central also filed, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207), a Petition for a Declaratory Order that Northwest Central's current purchase obligation under Arkla's Rate Schedule No. X-26 and the underlying gas purchase contract is an average of 100,000 Mcf per day over the contract year with no minimum daily purchase obligation.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13008 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-256-000]

Oklahoma Gas & Electric Co.; Refund Report

May 10, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Oklahoma Gas & Electric Company submitted for filing a refund report pursuant to the Commission's order of February 17, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13009 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-282-000]

Ozark Gas Transmission System; Application

May 10, 1983.

Take notice that on April 20, 1983, Ozark Gas Transmission System (Applicant), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP83-282-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities necessary to interconnect the Tenneco Oil Company Brashears No. 1-34 well to the Ozark Carter Lateral in Franklin County, Arkansas, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant indicates that the application is filed in accordance with the requirements of the stipulation and consent agreement executed by Applicant and the Commission which required, *inter alia*, that Applicant must obtain a certificate of public convenience and necessity before constructing any pipeline or compression facility in Township 9N, Range 26W in western Arkansas. It is noted that the facilities to be constructed are located in Township 9N, Range 26W in Franklin County, Arkansas.

Applicant proposes herein to construct and operate measuring facilities and tap connections and 1,200 feet of 4-inch gathering lines to interconnect the Tenneco Oil Company's Brashears No. 1-34 well. Applicant estimates the cost of such facilities to be $42,000 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13009 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-274-000]

Panhandle Eastern Pipe Line Co.; Application

May 10, 1983.

Take notice that on April 13, 1983, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-274-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible transportation of natural gas for Sohio Chemical Company (Sohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to an agreement dated March 21, 1983, Michigan Consolidated Gas Company (Mich Con) has agreed to sell to Sohio an annual quantity of 25,000,000 dt equivalent of natural gas at a maximum daily delivery rate not to exceed 90,000 dt equivalent without the concurrence of Mich Con. The agreement states that this service is subject to interruption to the extent the gas supplies are required by Mich Con to provide adequate service to its own distribution customers.

It is indicated that Sohio's Lima, Ohio, ammonia-products plant has lost its ability to compete with manufacturers of similar products due to the cost of natural gas from its present supplier. It is further stated that even small changes in the cost of natural gas have a direct impact on production costs and the economic wellbeing of this plant since natural gas constitutes approximately 80 percent of the cost of ammonia production. Sohio indicates that production of ammonia, urea, and carbon dioxide at its Lima plant were shut down on July 21, 1982, and that subsequently 70 of its 271 employees have been laid off and additional layoffs are likely if the facilities cannot be restored to full operations.

Applicant states that it has entered into an agreement with Sohio dated April 8, 1983, which provides for the transportation of up to 90,000 dt equivalent of natural gas provided sufficient pipeline capacity is available for service to Applicant's jurisdictional and non-jurisdictional customers and firm transportation and exchange services. Applicant states that it would receive the natural gas supplies from Michigan Wisconsin Pipe Line Company (Mich Wis) at an existing interconnection located in Noble Township, Defiance County, Ohio. Redeliveries of thermally equivalent volumes would be made by Applicant to Columbia Gas Transmission Corporation (Columbia) in Emerald Township, Paulding County, Ohio, for subsequent delivery to Sohio through Columbia Gas of Ohio, Inc., it is asserted. Applicant informs that once a proposed interconnection between Mich Wis and Columbia is placed into service deliveries would be made directly from Mich Wis to Columbia and transportation by Applicant would no longer be required.

Applicant states that Sohio has agreed to pay it 4.01 cents per dt equivalent redelivered to Columbia. The term of the transportation agreement is stated to be the earlier of six months from the date of first deliveries or the date of completion of the interconnection between Mich Wis and Columbia.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Ragulatory Commission by Sections 7 and 15 of the Natural Gas and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13010 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-395-001]

Riverway Gas Pipeline Co.; Amendment to Application

May 10, 1983.

Take notice that on April 8, 1983, Riverway Gas Pipeline Company (Applicant), P.O. Box 60252, New Orleans, Louisiana 70160, filed in Docket No. ST82-385-000 an amendment to its application filed pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Regulations so as to reflect a change to its proposed rate to be charged Bridgeline Gas Distribution Company (Bridgeline) for transportation of natural gas on Bridgeline's behalf, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that on July 29, 1982, it proposed in Docket No. ST82-395-000 to transport natural gas on behalf of Bridgeline pursuant to Section 311(a)(2)(ii) of the NGPA for 25 cents per million Btu as of March 1980 subject to a monthly inflation adjustment predicated upon the NGPA inflation adjustment factor. It is asserted that competitive pressures have caused Applicant to reconsider its standard rate for transportation services. As a result, Applicant amends its rate for transportation services to Bridgeline to a flat fee of 25 cents per million Btu. Applicant asserts that this rate is fair and equitable.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's

Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13011 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF83-4021-000]

Southwestern Power Administration; Filing

May 10, 1983.

The filing agency submits the following: Take notice that on April 28, 1983, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy ("Assistant Secretary"), by Rate Order No. SWPA-10, confirmed and approved, on an interim basis, the proposed rate for the sale of power and energy from the Sam Rayburn Dam marketed by the Southwestern Power Administration (SWPA). The proposed rate would increase annual revenue $1,704,504 or 22.8 percent above the present annual revenue of $1,388,300, according to the Assistant Secretary.

The Assistant Secretary states that the need for additional revenue results mainly from significantly increased operation and maintenance expense related to hydroelectric power facilities operated by the Corps of Engineers and SWPA's general administrative and overhead expense. Estimated increases in cost related to major project replacements also contribute to the need for additional revenue.

The Assistant Secretary states that, pursuant to authority vested in the FERC by Delegation Order No. 0204-33, SWPA's proposed contract rate for the Sam Rayburn Dam project is submitted for Commission confirmation and approval beginning on or before June 1, 1983, through September 30, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13012 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP75-23-014 and CP75-120-007]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

May 10, 1983.

Take notice that on April 18, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP75-23-014 and CP75-120-007, a petition to amend Opinion No. 789 and order issued March 7, 1977,[1] in Docket Nos. CP75-23 and CP75-120, as modified March 20, 1978, and June 21, 1978, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Tenneco Oil Company (TOC) from additional receipt points, all as more fully set forth in petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP75-23 it was authorized to transport natural gas for TOC from specified receipt points to a point of interconnection with Creole Gas Pipeline Corporation (Creole) at Yscloskey, Louisiana, for delivery to Air Products and Chemicals, Inc. Petitioner further states that in Docket No. CP75-120 it was authorized to transport natural gas for TOC from specified receipt points to Yscloskey, Louisiana, for delivery to Creole for transportation by Creole to TOC's Chalmette refinery.

Petitioner requests further amendment of the orders in the instant dockets to authorize receipt points for deliveries of TOC's gas from TOC's interest in Vermilion Block 246, South Timbalier Block 22 and South Timbalier Block 27. Deliveries of gas from Vermilion Block 246 would be made by TOC to Petitioner at Petitioner's Meter No. 1-1083 on the Vermilion 246-D platform, offshore Louisiana, and deliveries of gas from South Timbalier Block 22 and South Timbalier Block 27 would be made by TOC to Petitioner at Petitioner's Meter No. 1-0852 on the Bay Marchand Block 5 platform, offshore Louisiana, it is stated.

Petitioner also requests that the end-use restriction currently in force in the certificates in Docket Nos. CP75-23 and CP75-120 be eliminated with respect to the transportation of gas from these proposed receipt points. Petitioner asserts that on December 23, 1982, the Commission announced a new policy in Opinion No. 10-B, *Tenneco Oil Company, et al.*, Docket No. CI75-45-000 *et al.*, in which it would allow transportation of producer-reservation gas from the outer continental shelf. It is stated that this new policy permits the transportation of outer continental shelf gas for a producer's own use or for a producer's direct sale without restrictions as to the end-use of the gas. Petitioner claims Opinion No. 10-B indicates that restrictions of this type are no longer in the public interest.

Petitioner also proposes to transport gas from the proposed receipt points on a thermal equivalent basis, with the total volume delivered from all sources remaining within the maximum volume currently authorized.

For gas transported from the proposed receipt points, Petitioner proposes to charge TOC 14.92 cents per Mcf. It is stated that this rate was filed under Rate Schedule T-43 in Docket No. RP83-47-000.

Petitioner also seeks further amendment of the order issued in Docket No. CP75-23 so as to extend the transportation service until July 1, 1990. It is said that such an extension would make the term of the transportation end concurrently with TOC's contractual obligation with Air Products and Chemicals, Inc.

Any person desiring to be heard or make any protest with reference to said petition to amend should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13013 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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[Docket No. CP83-286-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

May 10, 1983.

Take notice that on April 8, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-286-000 an application pursuant to section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the transportation of up to 25,000 Mcf of natural gas per day for Long Island Lighting Company (LILCO) for a term of sixty consecutive days from the date of initial deliveries, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport daily volumes of up to 25,000 Mcf of natural gas to LILCO for a 60-day term commencing on the date of initial deliveries to enable it to reduce the use of fuel oil in the generation of electric energy at its electric generation stations. Applicant states that the gas to be transported would be purchased by LILCO from New York State Electric & Gas Corporation (NYSEG) and made available for transportation at Applicant's existing Lockport sales meter station delivery point to NYSEG in Niagara County, New York. Applicant states that it would redeliver equivalent quantities to LILCO at Applicant's existing White Plains sales meter station delivery point to LILCO in Westchester County, New York. Applicant states that the gas would be transported only to the extent its operating conditions and available capacity permit.

Applicant proposes to charge LILCO the rate contained in Applicant's Rate Schedule IT which is currently 21.32 cents per Mcf.

Applicant states that the subject gas would be used by LILCO solely to displace fuel oil it would otherwise use in its electric generating stations and that the source of the gas to be sold is NYSEG's general system supply which NYSEG purchases from Applicant and which, it is indicated, is surplus to NYSEG's market requirements.

Applicant further states that on March 15, 1983, LILCO filed for a certificate of eligible use from the Economic Regulatory Administration in ERA Docket No. 83-CERT-006.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 285.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jursidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal heairng is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13014 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-292-000]

Texas Eastern Transmission Corp. and Columbia Gas Transmission Corp.; Requests Under Blanket Authorization

May 10, 1983.

Take notice that on April 26, 1983, Texas Eastern Transmission Corporation (TETCO), P.O. Box 2521, Houston, Texas 77252, and Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 15325, filed in Docket No. CP83-292-000 a joint request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) in which TETCO proposes to construct a new sales delivery point in Lancaster County, Pennsylvania, and Columbia Gas proposes such point as an additional point of delivery of natural gas to one of its existing customers, UGI, Inc., under the authorization issued TETCO in Docket No. CP82-535-000 and Columbia Gas in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request of file with the Commission and open to public inspection.

Applicants state that TETCO intends to construct a new sales meter station, M&R Station No., 1528, and establish such point as an additional point of delivery of natural gas. TETCO proposes to construct M&R Station No. 1528 as a new delivery point for the account of Columbia Gas in Lancaster County, Pennsylvania. Applicants state that the new M&R Station No. 1528 would be known as the West Lancaster delivery point and that Columbia Gas intends to establish M&R Station No. 1528 as a new delivery point to its existing customer, UGI, Inc.

Applicants state that deliveries of natural gas to UGI, Inc., for the account of Columbia Gas, would be performed under TETCO's Rate Schedule WS, DCQ-C, DCQ-D, I-C and I-D. Applicants assert that their existing tariffs do not prohibit the construction of the M&R Station No. 1528. It is further asserted that the construction would have no effect on Applicant's peak day or annual deliveries and total volume covered under the existing service agreements would not be changed. Applicants state that the proposed modification would be accomplished without detriment or disadvantage to their other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedures Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. It a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13015 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

Record of Decision To Resume Operation of Purex and Uranium Oxide Plant Facilities; Hanford Site, Richland, Washington

Record of decision. This record of Decision has been prepared pursuant to Regulations of the Council on Environmental quality (40 CFR Part 1505) and Implementing Procedures of the U.S. Department of Energy (45 FR 20694).

Decision. The United States Department of Energy (DOE) has decided to resume operation of the *P*lutonium and *U*ranium *E*xtraction (PUREX) and Uranium Oxide (UO_3) chemical processing facilities at the Hanford Site near Richland, Washington.

Background. To meet national needs for special nuclear materials, DOE has determined that processing of irradiated nuclear fuel from the DOE-owned N Reactor is necessary. Other DOE-owned equivalent fuel, such as that from the Shippingport reactor, also could be processed. One alternative for processing of this irradiated nuclear fuel is to resume operation of the PUREX/UO_3 facilities. The PUREX/UO_3 facilities at the Hanford Site were operated for 17 years, from 1956 to 1972, and have been maintained in operational standby since 1972. Since about 1975, needed improvements identified in *The Final Environmental Statement on Waste Operations, Hanford Reservation, ERDA-1538* and additional improvements identified by DOE have been made to further mitigate potential environmental consequences by reducing emissions to the environment and improving the safety and security of operations.

An environmental impact statement (EIS) was prepared to analyze the impacts of processing in PUREX of up to 3000 metric tons per year (MT/yr) of N Reactor fuel. The 3000 MT/yr of N Reactor fuel was the reference case analyzed in the EIS. It was recognized that other DOE-owned equivalent fuel, such as from the Shippingport reactor, might also be processed. The alternative of operation of PUREX was examined, along with the alternatives identified below, in the *Environmental Impact Statement, Operation of PUREX and Uranium Oxide Plant facilities Hanford Site, Richland, Washington, DOE/EIS-0089.* The Final Environmental Impact Statement consists of the Draft Environmental Impact Statement and an addendum.

Description of Alternatives. Four alternatives were examined in the Environmental Impact Statement, three of which span the reasonable means of supplying the plutonium needed for U.S. defense and research and development programs. The fourth alternative was a no-action alternative required under the regulations of the Council on Environmental Quality. Although the no-action alternative would not provide the needed plutonium, it was examined as a basis for comparing the impacts of other alternatives.

a. *Proposed Action*: The proposed action is the resumption of operation of the Hanford PUREX/UO_3 facilities to process irradiated fuel from the Hanford N Reactor and equivalent fuel, at processing rates of up to 3000 MT/yr of N Reactor fuel (the reference case).

b. *Construct New Fuel Processing Plant at Hanford*: This alternative would include the construction and operation of a new fuel processing plant at Hanford based on currently demonstrated processing technology.

c. *Process Fuel Offsite*: This alternative involves processing of irradiated fuel at a site other than Hanford. The alternative site would be the DOE Savannah River Plant; about 10,000 MT of N Reactor irradiated fuel would be shipped to the Savannah River Plant near Aiken, South Carolina for processing during a ten year period. The 10,000 MT is based on the amount of fuel anticipated to be available for processing from N Reactor only. This alternative would require (1) the acquisition of shipping casks, (2) construction and use of cask loading facilities at Hanford and receiving facilities at Savannah River, and (3) construction of a new shear-leach facility (required for processing N Reactor fuel in the Savannah River Plant) at Savannah River.

d. *No Action*: This alternative assumes that the PUREX/UO_3 facilities would be maintained in their current standby mode, and that N Reactor would continue to produce irradiated fuel at its planned operating level. The irradiated N Reactor fuel would not be processed and the special nuclear material contained therein would not be made available for national needs.

Basis for Decision. The DOE based its decision to resume operations of the PUREX/UO_3 facilities upon the ability of this alternative to provide the amount of plutonium required in a timely and environmentally acceptable manner. The alternative of resuming operations at the PUREX facility would serve best the objective of providing the necessary plutonium in a timely fashion. Because the no-action alternative would defer processing indenfinitely, it would not meet the national needs. Constructing a new fuel processing plant at Hanford and shipping fuel offsite both would require several years lead time, and so could not provide plutonium in a timely manner. Only the proposed action can provide plutonium within the time fram required.

Discussion of environmentally preferred alternative. The evaluation contained in the EIS indicates that all four alternatives are environmentally acceptable. Although the environmental emissions from a new processing plant would be less than those from the present facilities at Hanford or Savannah River, a new plant would cause environmental impacts associated with construction of a major new facility.

The no-action alternative has the least environmental impact of the four alternatives; however, it does not fulfill the Department of Energy's programmatic responsibility to produce special nuclear material. The no-action alternative also would require construction of a new fuel storage facility for irradiated N Reactor fuel with the impacts attendant to construction of a major new facility. Resumption of PUREX/UO_3 opertions is the environmentally preferred choice among those alternatives which will provide the needed special nuclear material. Adoption of this alternative avoids the impacts associated with a major new construction project. The calculated radiation exposure to the general public from operation of the PUREX/UO_3 facilities is less than the calculated exposure for the alternative of offsite fuel processing.

Considerations in implementation of the decision. All releases to the air and groundwater and all population and occupational exposures from operation of the PUREX/UO_3 facilities will be below levels established under DOE standards and guidelines. All practicable means to further mitigate environmental impact and safety concerns have been adopted. In this regard, modifications that have been or are being made to the facilities include:

- Gaseous effluent control improvements
- Liquid effluent control improvements
- Upgraded PUREX ventilation system
- Additional security and safeguards procedures and systems for protection of special nuclear materials
- A new criticality alarm system to improve nuclear criticality accident detection and permit more effective mitigative steps

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- Upgraded ventilation systems at the UO_3 Plant product load-out station
- Upgraded fire protection systems at both PUREX and UO_3 Plants
- New waste transfer lines to underground storage tanks
- Seismic protection upgrades
- Plutonium oxide production system within the PUREX building.

DOE will continue to monitor the site with environmental measurement and surveillance programs. In some form, these programs have been in place at the Hanford Site since the project began in 1944 and they have been expanded and improved over the years). An expanded radiological surveillance program initiated in 1979 will be continued after the resumption of PUREX/UO_3 operations. The increase in radiation exposure to the general public from resumption of PUREX/UO_3 operations will be a small fraction of natural background radiation exposure.

For the United States Department of Energy.

Dated: May 11, 1983.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 83-13087 Filed 5-13-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2362-5]

AGENCY:

Agency Forms Under OMB Review
Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Solid Waste Programs

- Title: Recordkeeping and Reporting Requirements for RCRA Permittees (EPA ID 0070).

Abstract: RCRA permit regulations require hazardous waste facilities to report to EPA or to keep records to (1) substantiate information submitted in permit applications, (2) ensure that facilities are operating in compliance with their permits, and (3) identify instances where permits need revision.

Respondents: Owners and operators of hazardous waste facilities.

Air Programs

- Title: Investigation into Possible Noncompliance of Motor Vehicles with Federal Air Standards (EPA ID 0222).

Abstract: To fulfill one of its responsibilities under the Clean Air Act, EPA is collecting information to verify motor vehicle compliance with Federal emission standards.

Respondents: Motor vehicle owners (both individuals and businesses) and motor vehicle dealers.

Water Programs

- Title: Steam Electric Utility Request for Chlorine Effluent Discharge Waiver (EPA ID 1029).

Abstract: A utility needing to discharge excessive chlorine may request a waiver from the permit authority (EPA or State agency) to exceed the 2-hour daily limit specified in the Effluent Limitation Guidelines (40 CFR 423).

Respondents: Steam electric power generating facilities.

* * * * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, S.W., Washington, D.C. 20460, and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503.

Dated: May 9, 1983.

N. Phillip Ross,

Chief, Statistical Policy Staff.

[FR Doc. 83-12804 Filed 5-13-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59122A; TSH-FRL 2362-8]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Ageny (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-40 and TM-83-41, two applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the enyironment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, TM-83-40 and TM-83-41, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additonal restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TMA.

TMA 83-40

Date of Receipt: March 28, 1983.

Notice of Receipt: April 8, 1983 (48 FR 15323).

Applicant: Minnesota Mining and Manufacturing Company (3M).

Chemical: Perfluoroaliphatic isocyanate adduct (Generic).

Use: Site-limited isolated imtermediate.

Production Volume: Confidential.

Worker Exposure: Manufacture and processing: dermal, 3 workers, 8 hours/day, 19 days/years.

Test Marketing Period: 6 months.

Commencing on: May 4, 1983.

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter and other information presently available to the Agency. In addition, potential for exposure and release are very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

TME 83-41

Date of Receipt: March 28, 1983.

Notice of Receipt: April 8, 1983 (48 FR 15323).

Applicant: Minnesota Mining and Manufacturing Company (3M).

Chemical: Modified fluoroaliphatic adduct (Generic).

Use: Carpet fiber coating.

Production Volume: 1000 pounds.

Number of Customers: 1.

Worker Exposure: Manufacture: dermal, 3 workers, 8 hours/day, 19 days/year. Processing: dermal, 20 workers, 8 hours/day.

Test Marking Period: 6 months.

Commencing on: May 4, 1983.

Risk Assessment: No significant health effects or significant environmental effects were identified for the TME substance. Furthermore, any concerns would be mitigated because of low worker exposure during manufacture and processing of the chemical and because of low releases to the environment. Therefore, the Agency finds that the test marketing activity will not result in an unreasonable risk.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: May 4, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-13083 Filed 5-13-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1924]

Geza Steiner; Order of Revocation

On May 9, 1983, Geza Steiner, 19 Winchester Street, #711, Brookline, MA 02126 surrendered his Independent Ocean Freight Forwarder License No. 1924 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1924 issued to Geza Steiner be revoked effective May 9, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Geza Steiner.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-13084 Filed 5-13-83; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1540]

Porcella International, Guy R. Porcella d.b.a.; Order of Revocation

On April 29, 1983, Ms. Jean Porcella, the spouse of Guy R. Porcella advised us of the death of Guy R. Porcella, sole proprietor of Porcella International and submitted his license for voluntary revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1540 issued to Porcella International (Guy R. Porcella d.b.a.) be revoked effective April 29, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Mr. Porcella's estate.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-13082 Filed 5-13-83; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Fowarder License No. 1444]

Starck Van Lines, Inc.; Order of Revocation

On April 22, 1983, Starck Van Lines, Inc., R.D. No. 1, Burgettstown, PA 15021 requested the Commission to revoke its Independent Ocean Freight Forwarder Licence No. 1444.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

IT IS ORDERED, that Independent Ocean Freight Forwarder License No. 1444 issued to Starck Van Lines, Inc., be revoked effective April 22, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1444 issued to Starck Van Lines, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Starck Van Lines, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-13083 Filed 5-13-83; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2337]

West Texas Forwarding Co., Inc.; Order of Revocation

On April 19, 1983, West Texas Forwarding Co., Inc., P.O. Box 81 Lubbock, Texas 79408 surrendered its Independent Ocean Freight Forwarder License No. 2337 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2337 issued to West Texas Forwarding Co., Inc. be revoked effective April 19, 1983, without prejudice to reapplication for a license in future.

It is further ordered, that a copy of this Order be published in the **Federal**

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Register and served upon West Texas Forwarding Co., Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and licensing.

[FR Doc. 83-13086 Filed 5-13-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquistion of Bank Shares by Bank Holding Companies; Northeastern Bancorp.; Inc.; et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Northeastern Bancorp, Inc.*, Scranton, Pennsylvania; to acquire 100 percent of the voting shares or assets of The Cement National Bank, Northampton, Pennsylvania. Comments on this application must be received not later than June 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Peoples National Corporation, Inc.*, Columbus Junction, Iowa; to acquire 92 percent of the voting shares or assets of Community National Bank of Muscatine, Muscatine, Iowa. Comments on this application must be received not later than June 8, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Farmers Investment Corporation, Inc.*, Greenfield, Illinois; to acquire 75.6 percent of the voting shares or assets of Bank of Pawnee, Pawnee, Illinois. Comments on this application must be received not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13018 Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Old Stone Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation*, Providence, Rhode Island (insurance underwriting; Arizona): To engage, through its indirect subsidiary, The Motor Life Insurance Company (Motor Life), in the underwriting, through reinsurance, of credit life and credit accident and health insurance directly related to extensions of credit. This activity would be conducted from Motor Life's existing office in Jacksonville, Florida and the service area for this activity would be the State of Arizona. Comments on this application must be received not later than June 7, 1983.

2. *Old Stone Corporation*, Providence, Rhode, Island (mortgage banking and insurance activities; California): To engage through two new offices of its subsidiary, UniMortgage Corporation of CA, in the origination, sale and servicing of first and second mortgage loans; and to engage through its subsidiary, American Standard Insurance Agency, in the sale of credit life and credit accident and health insurance, which insurance would be reinsured by an affiliate, The Motor Life Insurance Agency, Jacksonville, Florida, and in the sale of casualty insurance on property mortgaged in connection with extensions of credit by UniMortgage Corporation of CA through American Standard Insurance Agency. The sale of casualty insurance in connection with the extensions of credit by UniMortgage Corporation of CA is grandfathered under section 601(D) of the Garn-St Germain Depository Institutions Act and was approved on July 6, 1981. These activities would be conducted in the greater metropolitan areas of the cities of Riverside and Tarzana, California. Comments on this application must be received not later than June 6, 1983.

3. *Old Stone Corporation*, Providence, Rhode Island (mortgage banking and insurance activities; Arizona): To engage through an office of its new subsidiary, UniMortgage Corporation of Arizona, in the origination, sale and servicing of first and second mortgage loans; and to engage through its subsidiary, American Standard Insurance Agency, in the sale of credit life and credit accident and health insurance, which insurance would be reinsured by an affiliate, The Motor Life Insurance Agency, Jacksonville, Florida. These activities would be conducted in the State of Arizona. Comments on this application must be received not later than June 7, 1983.

4. *RIHT Financial Corporation*, Providence, Rhode Island (mortgage banking activities; Florida, Virginia): To engage through its subsidiary, RIHT Mortgage Corporation, in the origination and sale of residential and commercial mortgages and in the servicing of residential and commercial mortgage loans. The mortgage banking activities would be conducted from offices in Tampa, Florida, servicing Florida, and Virginia Beach, Virginia, servicing Virginia. The mortgage servicing activity would be offered on a nationwide basis. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13020 Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Southern National Banks, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Southern National Banks, Inc.*, Fort Walton Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Okaloosa County, Fort Walton Beach, Florida. Comments on this application must be received not later than June 8, 1983.

2. **V.B.T. Holding Corporation**, Valparaiso, Florida: to become a bank holding company by acquiring 80 percent or more of the voting shares of The Valparaiso Bank and Trust Company, Valparaiso, Florida and Bank of Mary Esther, Mary Esther, Florida. Comments on this application must be received not later than June 10, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand avenue, Kansas City, Missouri 64198:

1. *Plymouth Investment Company*, Plymouth, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Plymouth, Nebraska. Comments on this application must be received not later than June 6, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard street, Dallas, Texas 75222:

1. *Metropolitan Bancshares, Inc.* Farmers Branch, Texas; to become a holding company by acquiring 100 percent of the voting shares of Metropolitan National Bank, Farmers Branch, Texas and Metropolitan National Bank—Richardson, Richardson, Texas. Comments on ths application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13019 Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Texas Corp.; Proposed Extension of Activities of Financial Protection Insurance Company of Texas

Mercantile Texas Corporation, Dallas, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through its wholly owned subsidiary, Financial Protection Insurance Company of Texas, Dallas, Texas in underwriting credit life and accident and health insurance related to outstanding balances on credit secured by liens on real estate.

These activities would be performed from offices of Applicant's subsidiary in Dallas, Texas, and the geographic area to be served is the State of Texas.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produe benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13017B Filed 5-13-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

June Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of June 1983.

Basic Behavioral Processes Research Review Committee

June 2–3; 9:00 a.m.
The Capitol Hill Hotel, 200 C Street, S.E., Washington, D.C. 20003.
Open—June 2; 9:00–10:00 a.m.
Closed—Otherwise.
Contact: Ms. Doris East, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857+(301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Neuropsychology Research Review Subcommittee of the Basic Psychopharmacology Research Review Committee

June 2–4; 9:00 a.m.
The Capitol Hill Hotel, 200 C Street, S.E., Washington, D.C. 20003.
Open—June 2; 9:00–10:00 a.m.
Closed—Otherwise.

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Contact: Ms. Fay Polcak, Room 9C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

June 3–4; 9:00 a.m.

Sonesta Beach Hotel, 350 Ocean Drive, Key Biscayne, Florda 33149.

Open—June 3; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Pamela J. Mitchell, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Epidemiologic and Services Research Review Committee

June 6–8; 9:00 a.m.

Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia 22209.

Open—June 6; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Gloria Yockelson, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistahce and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee

June 6–8; 9:00 a.m.

The Shoreham Hotel, Calvert Street and Connecticut Avenue, NW., Washington, D.C. 20008.

Open—June 6; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Irma Fisher, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee

June 6–8; 9:00 a.m.

Embassy Square Hotel, 2000 N Street, NW., Washington, D.C. 20036.

Open—June 6; 9:00–11:00 a.m.

Closed—Otherwise.

Contact: Laura Weinstein, Ph. D., Executive Secretary.

Alcohol Psychosocial Research Review Committee, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

June 8–10; 9:00 a.m.

Gramercy Inn, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036.

Open—June 9; 1:30–3:00 p.m.

Closed—Otherwise.

Contact: Ms. Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of biological sciences, psychological sciences, and the applied behavioral sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1:30–3:00 p.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee

June 8–11; 9:00 a.m.

Embassy Square Hotel, 2000 N Street, NW., Washington, D.C. 20036.

Open—June 8; 9:00–11:00 a.m.

Closed—Otherwise.

Contact: Harvey P. Stein, Ph. D., Executive Secretary, Alcohol Biomedical Research Review Committee, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., June 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing intial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Metal Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee

June 9–11; 1:30 p.m.

The Canterbury Hotel, Room 208, 209, and 210, 1722 N Street, NW., Washington, D.C. 20036.

Open—June 9; 1:30–2:30 p.m.

Closed—Otherwise.

Contact: Ms. Virginia Harter, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Council on Drug Abuse, and the National Advisory Mental Health Council.

Agenda: From 1:30–2:30 p.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee

June 9–11; 9:00 a.m.

Holiday Inn, Adams Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open—June 9; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Mrs. Christine Peers, Room 9C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1177.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health of the child and family and the aging, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Research Review Committee

June 13–15; 9:00 a.m.

Gramercy Inn, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036.

Open: June 13; 9:00–10:30 a.m.

Closed—Otherwise

Contact: Ms. Jean Byrne, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health aspects of criminal and antisocial behavior, individual violent behavior, sexual assault, and law and mental health interactions, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., June 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee

June 16–17; 9:00 a.m.

Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open—June 16; 9:00–10 a.m.

Closed—Otherwise

Contact: Ms. Pamela J. Mitchell, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial reivew of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment devleopment and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

June 16–17; 9:00 a.m.

Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20008.

Open—June 16; 9:00–9:30 a.m.

Closed—Otherwise

Contact: Ms. Maureen Eister, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Aging Subcommittee of the Life Course and Prevention Research Review Committee

June 16–18; 9:00 a.m.

Shoreham Hotel, Connecticut Avenue and Calvert Road, NW., Washington, D.C. 20008.

Open—June 16; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Dee Herman, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health of the child and family and the aging, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Behavioral Sciences Research Review Committee

June 16–18; 9:00 a.m.

The Capitol Hill Hotel, 200 C Street, SE., Washington, D.C. 20003.

Open—June 16; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Naomi Rothbaum, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Cognition, Emotion, and Personality Research Review Committee

June 17; 9:00 a.m.

Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open—June 17; 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of appliations for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee

June 20–22; 9:00 a.m.

Coolfont Conference Center, Berkeley Springs, West Virginia 25411.

Open—June 20; 9:00–9:30 a.m.

Closed—Otherwise.

Contact: Ms. Diana Souder, Room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2860. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: May 10, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–12999 Filed 5–13–83; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Chippewa Cree Tribe Rocky Boy's Reservation; Plan for the Use and Distribution of Chippewa Cree Tribe Judgment Funds in Docket 221–C Before the United States Court of Claims

April 20, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466) as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on April 30, 1982, in satisfaction of the award granted to the Chippewa Cree Tribe of Rocky Boy's Reservation in the United States Court of Claims Docket 221–C. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated September 23, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives and by the Senate on September 29, 1982. The plan became effective on March 10, 1983, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on April 30, 1982, in satisfaction of the award granted to the Chippewa Cree Tribe of Rocky Boy's Reservation in Docket 221–C before the U.S. Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be invested by the Secretary of the Interior. The principal, and all interest and investment income accrued, shall be utilized by the tribal governing body, subject to the approval of the Secretary, in the tribal office building fund."

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83–13033 Filed 5–13–83; 8:45 am]

BILLING CODE 4310–02–M

Maricopa Ak-Chin Indian Community; Plan for the Use and Distribution of Maricopa Ak-Chin Indian Community Judgment Funds in Docket 235 Before the United States Court of Claims

April 20, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466) as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on February 3, 1982, in satisfaction of the award granted to the Maricopa Ak-Chin Indian Community in United States Court of Claims Docket 235. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 25, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on November 29, 1982, and by the Senate on November 30, 1982. The plan became effective on March 14, 1983, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on February 3, 1982, in satisfaction of an award granted to the Maricopa Ak-Chin Indian Community in Docket 235, and any other funds appropriated in satisfaction of awards in the same docket, before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Per Capita Aspect

The Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of such funds, in a sum as equal as possible, to each enrollee of the Maricopa Ak-Chin Indian Community born on or prior to and living on the effective date of this plan. The membership roll of the tribe shall be brought current under existing tribal

procedures. Any amount remaining after the per capita payment to the enrollees shall revert to the tribe for use in the programming aspect of this plan.

Programming Aspect

Twenty (20) percent of the funds shall be utilized on an annual budgetary basis in tribal programs such as tribal administration expenses, Law and Order and Early Childhood, subject to the approval of the Secretary.

General Provisions

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10 (a) and (b)(1) and 115.4. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D.

None of the funds distributed per capita or held in trust under the provisions of this plan shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83–13034 Filed 5–13–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Arizona Strip District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet on Friday, June 10, 1983 at 9:00 A.M. to discuss funding for project developments.

DATE: June 10, 1983.

ADDRESS: Atkin's Sugar Loaf Cafe, 290 East St. George Blvd., St. George, Utah 84770.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 196 East Tabernacle, St. George, Utah 84770 (801/673–3545).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public throughout the day and comments can be received at any time.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 83–13077 Filed 5–13–83; 8:45 am]

BILLING CODE 4310–84–M

Trans-Alaska Pipeline System Right-of-Way

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice sets forth limitations and procedures for public access across and along the Trans-Alaska Pipeline System Right-of-Way across public lands. This is necessary for administration of the terms and conditions of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline between the Pipeline Owner Companies and the Department of the Interior. The access limitations and procedures are to protect the environment and the integrity of the Pipeline.

DATE: Effective upon publication.

FOR FURTHER INFORMATION CONTACT: James H. Richardson (914), Bureau of Land Management, 701 C Street, Box 30, Anchorage, Alaska 99513, (907) 271–3750.

The Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline closes the Right-of-Way to free and unrestricted public access unless the right of access is based on a pre-existing right or is specifically granted by permit as hereinafter mentioned. After consultation with Alyeska Pipeline Service Company (Alyeska), the Bureau of Land Management (BLM) has determined that for Pipeline integrity, environmental protection and security reasons the Right-of-Way on public lands will remain closed to motorized vehicle use, except that vehicles under 1,500 pounds G.V.W. and non-motorized traffic may cross the Right-of-Way at any point where safety, terrain, and Pipeline configuration permit, and other equipment and vehicles may cross it at public access crossings that have been identified by the Bureau of Land Management. These crossing points of the Pipeline Right-of-Way include all known pre-existing roads and trails and will be identified on the ground.

Any other access across the Right-of-Way on public lands or use of it will require a permit from the Bureau of Land Management which will be issued after its consultation with Alyeska, and only for purposes the Bureau finds compatible with Alyeska's Pipeline operation. Permit applicants must demonstrate the capability to restore any lands or repair facilities contained within the Right-of-Way damaged through applicant's activities. An appropriate bond or maintenance fee may be required from any holder of a permit. Longitudinal travel along the Pipeline by any means is not authorized without a permit.

This notice serves as authorization for the public in general to cross the Right-of-Way at undesignated points by vehicles under 1,500 pounds G.V.W. and by non-motorized traffic.

The general public does not need a permit to cross the Right-of-Way on roads or trails that predate the Pipeline, or if an individual can establish a private right of access across the Pipeline.

For additional information, including designated crossing locations, and permit application procedures, contact: Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507, Telephone (907) 267–1200; Glennallen Resource Area Hdqs., P.O. Box 42, Glennallen, Alaska 99588, Telephone (907) 822–3218; Fairbanks District Office, North Post of Fort Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707, Telephone (907) 356–2025; and Fortymile Resource Area Hdqs., P.O. Box 307, Tok, Alaska 99780, Telephone (907) 883–5121.

James H. Richardson,

Manager, Office of Special Projects.

[FR Doc. 83–13071 Filed 5–13–83; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers: Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 15, 1983. Petitions for reconsideration must be filed by June 6, 1983. Petitions for stay must be filed by May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

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SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Decided: May 9, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not particpate.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15056]

V & W, Inc.—Common Control Exemption—Vant Transfer, Inc.

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and (2) Petitioners' representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101. Pleadings should refer to No. MC–F–15056. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(5) the common ownership and control between V &W, Inc. and Vant Transfer, Inc. (No. MC–133189), resulting from the purchase by V & W of the common carrier authority of Vant (which will retain contract carrier authority) and the controlling interest of Leonard Vant and James Vant in both entities.

[No. MC–F–15162]

Clayton's Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee-in-Bankruptcy)

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 (2) Petitioners' representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Pleadings should refer to No. MC–F–15162. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Clayton's Inc. of that portion of the operating rights of Shoemaker Trucking Company set forth in Certificate No. MC–138875 (Sub-No. 311), authorizing the irregular-route transportation of general commodities (except classes A and B explosives), metal products and prefabricated metal buildings, between points in Colorado, on the one hand, and, on the other, points in Idaho and Orgeon.

[FR Doc. 83–13046 Filed 5–13–83; 8:45 am]

BILLING CODE 7035–01

[No. 39177 et al.[1]]

Motor Carriers; Floyd & Beasley Transfer Co., Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Nine motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well existing contracts.

DATES: Comments are due on May 31, 1983. The sought relief will become final on June 15, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESSES: Send an orignial and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Barbara Gardner, (202) 275–0961

or

Howell I. Sporn, (202) 275–7691.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. Infosystems, Inc., Room 2227, Washington, D.C. 20423, or call 289–4357 in the D.C. metropolitan area or toll free (800) 424–5403.

Decided: May 9, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13047 Filed 5–13–83; 8:45 am]

BILLING CODE 7035–01–M

[1] This proceeding embraces Nos. 39178 NTL, Inc., 39179 Youngblood Truck Lines, 39180 Caudell Transport, Inc., 39181 Circle W Transportation, Inc., 39183 Distribution Service Systems, Inc., 39184 Coastal Tank Lines, Inc., 39185 Jones Trucking Co., Inc., and 39186 Clark Transfer, Inc.

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Please direct status inquiries about the following to Team 3, at (202) 275–5223.

Volume No. OP 3–204

Decided: May 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 17465 (Sub-26)X, filed: April 11, 1983. Applicant: BEAVER EXPRESS SERVICE, INC., P.O. Box 1147, Woodward, OK 73801. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105, (405) 424–3301. Subs 9, 12, 14, 15, 17, 18, 21 and 22F: (1) Remove the restriction moving in express service and (2) remove exception of commodities requiring special equipment, in Sub 22F, and authorize transportation of "general commodities (except classes A and B explosives, household goods and commodities in bulk)".

Please direct status inquiries about the following to Team 5, at (202) 275–7289.

Volume No. OP 5–219

Decided: May 3, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 126739 (Sub-11)X, filed: April 20, 1983. Applicant: MAHNENSMITH TRUCKING SERVICE, INC., P.O. Box 395, Van Buren, IN 46991. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 635–2339. Lead permit: Broaden (1) liquid fertilizers, fresh fruit and vegetables, raw peanuts, petroleum products, feed, fertilizer, and tomato plants to "chemicals and related products, food and related products, and petroleum, natural gas and their products", and (2) broaden the territorial description to "between points in the U.S. (except AK and HI), under continuing contract(s) with unnamed shippers."

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13045 Filed 5–13–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier, Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifiying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the serivce contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protest are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–261

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 167744 (Sub-1–1TA), filed May 2, 1983. Applicant: JOSEPH BESSEY d.b.a. COLA Transport, RFD No. 1, Pownal, ME 04069. Representative: Hughan R. H. Smith, 28 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *Soft drinks, syrups, bottles and bottle caps,* between points in MA, CT, RI, VT, NH, ME, NY and NJ, under continuing contract(s) with Coca-Cola Bottling Company, So. Portland, ME. Supporting shipper: Coca-Cola Bottling Company, Main Street, So. Portland, ME 04106.

MC 166203 (Sub-1–3TA), filed May 2, 1983. Applicant: CUSTOMIZED TRANSPORTATION, INC., 54 Sheridan Avenue, Elmira Heights, NY 14903. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *(1) Paper and paper products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between points in the U.S. (except AK and HI), under continuing contract(s) with Moore Business Forms, Inc., Northbrook IL; *(2) Pet foods, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Chervurne, NY, including its commercial zone, on the one hand, and, on the other, points in ME, VT, NH, RI, MA, CT, FL, AL, TN, PA, NJ, DE, MD, DC, WV, VA and OH, under continuing contract(s) with Chenango Valley Pet Foods, Inc., Chervurne, NY; *(3) Industrial adhesives, animal gules and gelatin products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between points in the U.S. in and east of WI, IL, KY, TN and MS, under continuing contract(s) with Peter Cooper Corporations, Charlotte, NC; and *(4) Machinery and Tooling, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Elmira, NY, including its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Hardinge Brothers, Inc., Elmira, NY. SUPPORTING SHIPPER(S): Moore Business Forms, Inc., 2215 Sand Road, Suite 400, Northbrook, IL 60062; Chenango Valley Pet Foods, Inc., 10 W. State Street, Chervurne, NY 13460; Peter Cooper Corporations, 7401 Carmel Executive Park, Charlotte, NC 28211; Hardinge Brothers, Inc., 1420 College Ave., Elmira, NY 14901.

MC 167508 (Sub-1–1TA), filed: April 29, 1983. Applicant: D & G MELLO TRUCKING, INC., 927 Rocky Woods Street, Taunton, MA 02780. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. *Contract carrier:* irregular routes: *Liquid petroleum products, in tank vehicles not exceeding 5,000 gallon capacity,* between points in MA, RI and NY, under continuing contract(s) with Agway Petroleum Corp., Syracuse, NY. Supporting shipper: Agway Petroleum corp., Box 4933, Syracuse, NY 13221.

MC 167389 (Sub-1–1TA), filed April 28, 1983. Applicant: DARI-FARMS ICE CREAM CO., INC., 40 Tolland Stage Road, Tolland, CT 06084. Representative: David J. Silva (same as applicant). *Contract carrier:* irregular routes: *Ice cream, ice cream products and frozen foods,* from the County of Middlesex, NJ to points in AL, AZ, AR, CA, NM, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MN, MO, MT, NE, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, WA, WV, and WI, under continuing contract(s) with Woodbridge Sweets Corp. of Woodbridge, NJ. Supporting shipper: Woodbridge Sweets Corp., 1 Amboy Avenue, Woodbridge, NJ 07095.

MC 167700 (Sub-1–2TA), filed April 28, 1983. Applicant: C.A. FARMER CARTAGE LIMITED, 374 Algonquin East, P.O. Box 1106, Timmins, Ontario, CD P4N 7H9.. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14022. *Contract carrier:* irregular routes: *Dairy products, confectionery products, juices, and juice concentrates, except in bulk in tank vehicles,* between ports of entry on the International Boundary line between the U.S. and CD in NY and MI, on the one hand, and, on the other, Elizabeth, NJ, Minneapolis, MN, and points in FL, under continuing contract(s) with Epletts Dairy Company Limited, Brampton, Ontario, CD. Supporting shipper: Epletts Dairy Company Limited, 16 Shaftsbury Lane, Brampton, Ontario, CD L6T 4G7.

MC 167700 (Sub-1–1TA), filed April 28, 1983. Applicant: C. A. FARMER CARTAGE LIMITED, 374 Algonquin East, P.O. Box 1106, Timmins, Ontario, CD P4N 7H9. Representative: Robert D.

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Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Minerals, and chemical compounds, except in bulk in tank vehicles,* between ports of entry on the International Boundary line between the U.S. and CD in NY and MI, on the one hand, and, on the other, points in Erie, Albany, Rensselear, Nassau and Suffolk Counties, NY; Cuyahoga and Wood Counties, OH; Wayne County, MI; Union County, NJ; Bethleham, PA; and points in Ma, under continuing contract(s) with Extender Minerals of Canada Limited, Mississauga, Ontario, CD. Supporting shipper: Extender Minerals of Canada Limited, 6365 Northwest Drive, Mississauga, Ontario, CD L4V 1J8.

MC 119103 (Sub-1–4TA), filed April 29, 1983. Applicant: J. E. FORTIN, INC., 116 Fortin Boulevard, St. Bernard De Lacolle, PQ, CD J0J 1V0. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. *Newspapers, periodicals, and magazines,* from ports of entry on the U.S./CD Boundary Line in ME, MI, NH, NY, and VT., to points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. Supporting shipper(s): Globe Communications, Inc., 1440 St. Catherine Street W., Montreal, Quebec, CD H3G 1S2; Globe International, Inc., 1440 St. Catherine Street, W., Montreal, Quebec, CD H3G 1S2; Tri-Stan Associates, Inc., 1218 Shore Crest Street, Chomeday, Quebec, CD.

MC 167517 (Sub-1–1TA), filed May 2, 1983. Applicant: JOACHIN GIRARD, d.b.a. J. GIRARD ENRG., 64 Rue Lajoie, Repentigny, Quebec, CD J6A 4K4. Representative: Jacques Bujold, 2680 Chambly #6, Montreal, Quebec, CD H1W 5J7. *Glass, lumber and wood products* between points on the International Boundary line between U.S. and CD, on the one hand, and, on the other, point in GA, FL, KY, MA, ME, MI, NE, NH, NY, NJ, OH, PA, SC, TN, VA, VT, and WV. Supporting shipper: Vitrerie Bouchard, Inc., 9300 Ray Lawson Blvd., Montreal, PQ, CD; LesBois Blanchet, Inc., Bernieres, Quebec, CD.

MC 167729 (Sub-1–1TA), filed May 2, 1983. Applicant: JUICE SERVICES, INC., Blackstone Valley Way, 146–295 Industrial Park, P.O. Box 304, Lincoln, RI 02865. Representative: Edward G. Bazelon, 135 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* Irregular routes: *General commodities (except Classes A and B explosives, household goods, and commodities in bulk),* between points in AL, DC, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC and VA, under continuing contract(s) with DFC Transportation Company of Huntley, IL. Supporting shipper: DFC Transportation Company, 12007 Smith Drive, P.O. Box 929, Huntley, IL 60142.

MC 164713 (Sub-1–2TA), filed April 29, 1983. Applicant: LEASEWAY DELIVERIES, INC., 85 Stanton Street, Rochester, NY 14611. Representative: Carla T. Novak, 1101 31st Street, Downers Grove, IL 60515. *Contract carrier:* Irregular routes: *Such commodities as are dealt in or used by retail department stores,* from Portland, OR to points in WA, under continuing contract(s) with Meier & Frank of Portland, OR. Supporting shipper: Meier & Frank, 621 SW 5th Avenue, Portland, OR 97229.

MC 167273 (Sub-1–1TA), filed April 28, 1983. Applicant: N. J. S. TRANSPORT CO., INC., 9 Puritan Road, Sayville, NY 11782. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C. 120 Main Street, Huntington, NY 11743. *Used Automobiles, Trucks and Vans,* between Nassau and Suffolk Counties, NY, on the one hand, and, on the other, Manheim, PA, Bordentown, NJ and Fairfield, NJ. Supporting shipper(s): There are 13 statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 167478 (Sub-1–1TA), filed April 29, 1983. Applicant: PIRES TRUCKING, INC., 140 Edward Street, Raynham, MA 02767. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. *Contract carrier:* irregular routes: *Liquid petroleum products, in tank vehicles not exceeding 5,000 gallon capacity,* between points in MA and RI, under continuing contract(s) with Agway Petroleum Corp., Syracuse, NY. Supporting Shipper: Agway Petroleum Corp., Box 4933, Syracuse, NY 13221.

MC 167542 (Sub-1–1TA), filed April 29, 1983. Applicant: TRANSPORT BERNARD LAURENDEAU INC., 41 rue Pontmain (Laval-des-Rapides), Laval, PQ, CD H7N 4K3. Representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, PQ, CD J6A 1H5. *Lumber and forest products,* between the ports of entry on the International Boundary Line between the U.S. and CD and points in CT, DE, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. Supporting shipper(s): Forestbec Inc., 1750 Haggerty Street, Drummondville, PQ, CD J2C 5P8; Les Produits Forestiers Saucier Ltee, 3988 Dagenais Blvd, (Fabreville) Laval, PQ, CD H7R 1L2; Rossco Forest Products, Inc., 20 Kimball Avenue, P.O. Box 2068, South Burlington, VT 05401.

MC 167724 (Sub-1–1TA), filed April 29, 1983. Applicant: TRINITY TRUCKING, LTD., R.D. No. 1, Randolph Center, VT 05061. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *(1) Lumber,* between points in VT, on the one hand, and, on the other, points in CT, ME, MA, NH, NY, and RI; *(2) Confectionaries, Health and Beauty Aids, Machinery, and Stone and Related Products,* between points in VT on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): There are six statements of support attached to this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 167742 (Sub-1–1TA), filed May 2 1983. Applicant: TURCO TRUCKING CO., INC., 223 MacArthur Avenue, Garfield, NJ 07026. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except Class A and B explosives, household goods and commodities in bulk)* between New York, NY commercial Zone, on the one hand, and, on the other, points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT and VA. Supporting shipper(s): There are six statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 85886 (Sub-11–1TA), filed April 21, 1983. Applicant: ALLEGHENY-BEDFORD EXPRESS, INC., P.O. Box 257, New Stanton, PA 15672. Representative: William Scalzitti (same address as applicant). *General commodities (except Class A and B explosives and household goods,* between points in PA, for 270 days. Applicant intends to interline at Allegheny, Butler, Lycomming, Luzerne and Bucks Counties, PA. Supporting shipper(s): The OK Trucking Co., RD. 1, Box 348, Evans City, PA 16003; Lee Way Motor Freight, 3501 Grand Ave., Pittsburgh, PA 15225.

MC 167663 (Sub-2–1TA), filed April 27, 1983. Applicant: BACK RIVER TRANSPORT, INC., 1104 Metfield Rd., Baltimore, MD 21204. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *General commodities* (except Classes A & B explosives and commodities in bulk), between Baltimore, MD; Norfolk, VA; Philadelphia, PA and Harrisburg, PA.

including their respective commercial zones, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Farrell Lines, Inc., 1 Whitehall St., New York, NY 10004.

MC 14885 (Sub-II–4TA), filed April 28, 1983. Applicant: BEN CAPOBIANCO TRUCKING, INC., 9814–9818 Princeton-Glendale Rd., Cincinnati, OH 45246. Representative: Ben Capobianco (same address as applicant). *Sporting goods equipment and apparel,* between Cincinnati, OH on the one hand, and, on the other, all points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Mid-American Sporting Goods, Inc., 9804 Princeton-Glendale Rd., Cincinnati, OH 45246.

MC 167379 (Sub-II–1TA), filed April 25, 1983. Applicant: ROBERT W. DIEFENDERFER, R.D. 5, Coatesville, PA 19320. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. Contract, irregular: *Such commodities as are dealt in or used by refiners of precious metals and manufacturers of precious metal products,* between points in the U.S. (except AK & HI), under continuing contract(s) with Johnson Matthey, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Johnson Matthey, Inc., 4 Malin RD, Malvern, PA 19355.

MC 167699 (Sub-II–1TA), filed April 28, 1983. Applicant: H & L TRANSPORT, INC., 5050 County Rd. 18, Findlay, OH 45840. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Petroleum and petroleum products,* in bulk, in tank vehicles, between points in Macomb, Monroe, Oakland, Washtenaw and Wayne Counties, MI, on the one hand, and, on the other, points in OH. An underlying ETA seeks 120 days authority. Supporting shipper: Landmark, Inc., 35 E. Chestnut St., Columbus, OH 43215.

MC 2202 (Sub-II–36TA), filed April 27, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20814. Contract irregular. *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under continuing contract(s) with J.C. Penney Company, Inc., New York, NY 10019 for 270 days. Supporting shipper(s): J.C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 110683 (Sub-II–21TA), filed April 25, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, Esq., 1090 Vermont Avenue, NW, Washington, DC 20005. Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives);* between points in the U.S. (except AK and HI), under continuing contract(s) with Davidson Rubber Division. Supporting shipper(s): Davidson Rubber Division, Industrial Park, Dover, NH 03820.

MC 110683 (Sub-II–22TA), filed April 27, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., NW, Washington, DC 20005. Contract, irregular. *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A & B explosives)* between points in the U.S. (except AK & HI), under continuing contract(s) with Monsanto Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63167.

This was first published in the **Federal Register** dated April 13, 1983.

MC 158923 (Sub-II–5TA), filed March 25, 1983. Applicant: JOHN R. VALENTINO TRUCKING, R.D. #2, Box 9B, Cochranville, PA 19330. Representative: John R. Valentino (same address as applicant). *Pulpboard and related paper products* between point in NJ, NY, PA, DE, MD, DC, OH, IN, MI, CT, RI, MA, ME and IL. An underlying ETA seeks 120 days. Applicant intends to task this authority with its authority in MC–158923. Supporting shipper(s): Dopaco, Inc., Boot Rd. & Chestnut St., Downingtown, PA 19335. The purpose of re-publication is to show the State of DE which was omitted in the previous publication.

MC 167664 (Sub-II–1TA), filed April 27, 1983. Applicant: R.W. YEAGER, d.b.a. R. W. YEAGER TRUCKING CO., Box 87, Norton, WV 26285. Representative: John M. Friedman 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. *Diesel Fuel and Gasoline, in bulk,* between points in Washington County, OH, on the one hand, and, on the other, points in Randolph County, WV. Supporting shipper(s): J. F. Allen Company, P.O. Box 49, Clarksburg, WV 26301.

MC 108631 (Sub-2–10TA), filed April 26, 1983. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Traffic lighting poles, decorative lighting poles and overhead sign supports* from the facilities of Union Metal Manufacturing Co. in East Stroudsburg (Monroe County), PA to points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Union Metal Manufacturing Co., 630 Crowe Road, East Stroudsburg, PA 18301.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 150573 (Sub-3–6TA), filed May 5, 1983: Applicant: BEN KENNEDY TRUCKING COMPANY, INC., P.O. Box 13, Preston, GA 31824. Representative: C. E. Walker, 2945 Lynda Lane, Columbus, GA 31906. *Bulk commodities, in dump vehicles,* between the states of AR, IA, IL, IN, KY, LA, MS, ME, MN, MO, NY, OH, PA, TX, TN and VA. Also, between the said states on the one hand, and on the other, AL, FL, GA, NC and SC. There are six supporting shipper statements attached to this application, which may be reviewed at the ICC Regional Office in Atlanta, GA.

MC 163513 (Sub-3–4TA), filed May 5, 1983. Applicant: MORCO INDUSTRIES, INC. 7421 Morrison Drive, Mobile, AL 36609. Representative: Richard Cangemi, Director of Transportation, Morco Food Distributors, 146 Forest Parkway, Forest Park, GA 30050. *Contract;* Irregular; *Packaged sugar* from Gramercy, LA. to Jackson, MS and Huntsville, AL. Supporting shipper: Colonial Sugars, Inc., P.O. Box 1646, Mobile, AL 36633.

MC 163513 (Sub-3–3TA), filed May 5, 1983. Applicant: MORCO INDUSTRIES, INC., 7421 Morrison Drive, Mobile, AL 36609. Representative: Richard Cangemi, Director of Transportation, Morco Food Distributors, 146 Forest Parkway, Forest Park, GA 30050. *Contract;* Irregular; *Carpets and yarn* from all points in GA to all points in CA. Supporting shipper: Shaw Industries, Inc., P.O. Drawer 2128, Dalton, GA 30720.

MC 145738 (Sub-3–9TA), filed May 4, 1983. Applicant: EAST-WEST MOTOR FREIGHT, INC. P.O. Box 607, Highway 45, South, Selmer, TN 38375. Representative: Stephen L. Edwards, 806 Nashville City Bank Bldg., 315 Union Street, Nashville, TN 37201. (1) *Tin cans* from Chicago, IL, to St. Louis, MO, and (2) *Food products* from Dane and Jefferson Counties, WI, and Milwaukee, WI, St. Louis, MO, and Chicago, IL, to

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McNairy County, TN. (Supporting shipper: Henco, Inc., P.O. Box 547, Selmer Industrial Park, Selmer, TN. 38375.)

MC 164313 (Sub-3-4TA), filed April 29, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular. *Pulpboard and fiberboard* from the facilities of Stone Container Corp., located at or near Florence, SC, to points in and East of CO, KS, ND, SD and TX, under continuing contract(s) with Stone Container Corp. of Florence, SC. Supporting shipper: Stone Container Corp., P.O. Box 4000, Florence, SC 29502.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4-87TA), filed April 27, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: computers, printers, keyboard and related hardwar and such commodities as are dealt in and utilized by manufacturers and distributors* thereof between points in the U.S., (except AK and HI), under a continuing contract(s) with Modular Computer Systems, Inc. Supporting shipper: Modular Computer Systems, Inc., 1650 McNab Rd. Fort Lauderdale, FL.

MC 15735 (Sub-4-88TA), filed April 28, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under a continuing contract(s) with American Hospital Supply Corp., and its subsidiaries. Supporting shipper: American Hospital Supply Corp. One American Plaza, Evanston, IL 60201.

MC 15735 (Sub-4-89TA), filed April 28, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: General commodities, except commodities in bulk and Classes A & B Explosives,* between points in the U.S. (except AK and HI) under a continuing contract(s) with USM Corp., its subsidiaries, and affiliates Emhart Industries, Inc.—Hartford Division, Farrel Corporation and Fellows Corporation. Supporting shipper: USM Corp., 181 Elliott Street, Beverly, MA 01915.

MC 15735 (Sub-4-90TA), filed April 29, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: John P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household goods, electronic equipment, aircraft parts of a fragile nature and exhibits and displays,* between points in the U.S. (under continuing contract(s) with the Lockheed Corporation and its subsidiaries. Supporting shipper: Lockheed Corporation, P.O. Box 551, Burbank, CA 91520.

MC 15735 (Sub-4-91TA), filed April 29, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S., under a continuing contract(s) with Pabst Brewing Company. Supporting shipper: Pabst Brewing Company, 1000 N. Market St., Milwaukee, WI. 53201.

MC 74755 (Sub-4-6TA), filed April 28, 1983. Applicant: SUELZER MOVING & STORAGE, INC., 4325 Meyer Road, Fort Wayne, IN 46808. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, IN 46204. Contract: Irregular; *Household goods (as defined by the Commission).* Between points in the U.S. RESTRICTED: To service performed under continuing contract(s) with Essex Group, Inc. of Fort Wayne, IN. Supporting shipper: Essex Group, Inc., 1601 Wall St., Fort Wayne, IN 46804.

MC 87966 (Sub-4-9TA), filed April 27, 1983. Applicant: ELEVELD CHICAGO FURNITURE SERVICE, INC., 9630 South 76th Court, Hickory Hills, IL 60457. Representative: Joseph P. Tuohy, P.O. Box 4403 Chicago, IL 60680. *Contract irregular: Office Furniture, Fixtures, Cases, Counters, Cabinets, and such commodities utilized in the manufacture and distribution thereof,* between points in the U.S. (Except AK and HI) under a continuing contract(s), with Modern Mode, Inc., of Oakland, CA. Supporting shipper: Modern Mode, Inc., 6425 San Leandro St. P.O. Box 6664, Oakland, CA 94603.

MC 143636 (Sub-4-8TA), filed April 28, 1983. Applicant: RON SMITH TRUCKING INC., R. R. #1, Box 59, Arcola, IL 61910. Representative: Douglas G. Brown, P.C., 913 South Sixth St., Springfield, IL 62703. *Crushed lime (rock dust)* from Greencastle, IN to the Zeigler coal mines at or near Murdock, IL. Supporting shipper: Ziegler Coal Co., Box 66913 AMF, O'Hare, IL 60666.

MC 144948 (Sub-4-1TA), filed April 28, 1983. Applicant: BILLY WAYNE HUDSON, d.b.a. BILL HUDSON 860 West Nicholas St., Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Contract; irregular: *Pork Meat,* from Perry, Ga. Carlinville, IL, Shelbyville, TN and Sherman, TX to points in the U.S. (except AK and HI), under continuing contracts with Diamond Meat Packers, Inc. of Carlinville, IL. An underlying E/T/A seeks 120 days authority. Supporting shipper: Diamond Meat Packers, Inc., Highway 108 West, Carlinville, IL 62626.

MC 145246 (Sub-4-11TA), filed April 28, 1983. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main St., Madison, WI 53703. *Pet Foods and Finished Feed Products,* between points in WI, IL, IA, MN, SD, ND, WY, ID, MT, CO, UT and NE. Supporting shipper: GTA Feeds Owatonna, P.O. Box 493, Owatonna, MN 55060.

MC 148994 (Sub-4-5TA), filed April 28, 1983. Applicant: MICHAEL W. AMABILE d.b.a. TRIPLE AAA TRUCKING, 29891 Red Arrow Highway, Paw Paw, MI 49079. Representative: Nancy J. Amabile (same as applicant). *Contract* irregular: *Pulp, paper and related products* (except commodities in bulk) from Kalamazoo, MI to points in FL under continuing contract(s) with James River corporation. Supporting shipper: James River Corporation, 111 South 7th St., Richmond, VA 23219.

MC 156517 (Sub-4-5TA), filed April 28, 1983. Applicant: GILLIAM TRUCKING, INC., Rural Route 31, P.O. Box 9, Terre Haute, IN 47803. Representative: Thomas M. O'Brien, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601. *Such commodities as are dealt in or used by distributors of chemicals,* from points in IL and IN to points in CA and TX. Supporting shipper: Grower Service Corporation, 300 North Fruitridge Ave., Terre Haute, IN, 47803.

MC 165966 (Sub-4-3TA), filed April 29, 1983. Applicant: R & S TRUCK BROKERS 136 S. Main St., Ithaca, MI 48847. Representative: Jack L. Schiller, 111-56 76th Dr. Forest Hills, NY 11375. *Automotive parts and appliances* between points in IL, IN, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Delfield Co., P.O. Box 470, Mt. Plesant, MI; Center Metals, Inc., 2145 Clybourn, Chicago, IL; Robinson Industries, Inc., 3051 Curtis Rd., P.O. Box V, Coleman, MI; and Indiana Vac Form, Warsaw, IN.

MC 167336 (Sub-4-1TA), filed April 27, 1983. Applicant: PAUL B. HICKS AND NANCY L. HICKS, A PARTENERSHIP, d.b.a. P.N.H. TRUCKING, 7661 Oneida Road, Grand Ledge, MI 48827.

Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204 (317) 635-2339. Contract; irregular: *Building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Universal Forest Products, Inc., of Grand Rapids, MI. Supporting shipper: Charles R. Felix, Vice President—Operations, Universal Forest Products, Inc., P.O. Box 129, Granger, IN 46530. Underlying ETA seeks 120 days authority.

MC 15735 (Sub-4-92TA), filed May 2, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Armstrong World Industries, Inc., and its subsidiaries. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 15735 (Sub-4-93TA), filed May 2, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Dayco Corporation of Dayton, Ohio and its subsidiaries. Supporting shipper: Dayco Corporation, P.O. Box 1004, Dayton, OH 45401.

MC 138569 (Sub-4-5TA), filed May 2, 1983. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: Dennis Braithwaite (same address as above). *Coal,* from Orangeville and Banning, UT to Townsend, MT, under contract with Island Creek Coal Sales Company, Lexington, KY. An underlying ETA seeks 120 days. Supporting shipper: Island Creek Coal Sales Company, 2365 Harrodsburg Road, P.O. Box 12029, Lexington, KY 40579.

MC 149284 (Sub-4-4TA), filed May 2, 1983. Applicant: MARION D. DAY d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. Contract, irregular: *commodities* (except commodities in bulk) as are dealt in by wholesale, retail and chain grocery and food business houses between points in the U.S. (except AK and HI) under continuing contract(s) with The Drackett Products Company, 5020 Spring Grove Ave., Cincinnati, OH.

MC 154953 (Sub-4-5 TA), Filed May 2, 1983. Applicant: DOKE TRANSPORT CO., INC., P.O. Box 109 Clarks Hill, IN 47930. Representative: Andrew K. Light, 1301 Merchants Plaza indianapolis, IN 46204. *Contract* irregular: *Plastic pellets, in packages,* between Farmingdale, NY, on the one hand, and, on the other, Chicago, IL; Indianapolis, IN and Minneapolis, MN and their commercial zones. Restricted to continuing contract(s) with Georgia-Pacific, P.O. Box 250, 100-120 Adams Blvd., Farmingdale, NY 11735. An underlying ETA seeks 120 days authority.

MC 157187 (Sub-4-1 TA), Filed May 2, 1983. Applicant: SUNRISE EXPRESS, INC., 454 Herman, Crete, IL 60417. Representative: Donald B. Levine, 180 North LaSalle St., Chicago, IL 60601. Contract; irregular: *General commodities (except Classes A and B explosives and household goods)* between points in the U.S. (except AK and HI) under continuing contract(s) with Sonnett Transportation Consultants, Inc., Supporting shipper, Sonnett Transportation Consultants, Inc., 1951 Bernice Road, Lansing, IL.

MC 160605 (Sub-4-1 TA), Filed May 2, 1983. Applicant: MORRIS LIVESTOCK EXPRESS, INC., POB 105, Morris, MN 56267. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. (1) *Beer,* between Stevens County, MN, on the one hand, and, on the other, Milwaukee, WI; Memphis, TN; Chicago, IL; and Detroit, MI; and (2) *meat and meat products,* between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Landy Packing Co., POB 670, St. Cloud, MN 56302; Elmer's Distributing Co., Inc., E. Hwy. 28, POB 68, Morris, MN 56267.

MC 164764 (Sub-4-5 TA), Filed May 2, 1983. Applicant: WHITEFORD NATIONALEASE, INC. d.b.a. DEDICATED TRUCK SERVICE, 2020 West Sample St., P.O. Box 76, South Bend, IN 46624. Representative: Andrew K. Light Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *General commodities* (except Classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI). Restricted to continuing contract(s) with General Electric Company, 2000 Taylor Street, Fort Wayne, IN 46804. An underlying ETA seeks 120 days authority.

MC 165226 (Sub-4-1TA), filed May 2, 1983. Applicant: WISCONSIN ILLINOIS STAGES, INC., Rt. 3, Box 349B, Theatre Rd., Delavan, WI 53115. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Passengers* between (1) Madison, WI and Chicago, IL; from Madison, WI over U.S. Hwy. 12 to its junction with WI Hwy. 67, thence south over WI Hwy. 11 to Delavan, WI, thence east over WI Hwy. 50 to junction Theatre Rd., at east Delavan, thence over Theatre Rd., to Williams Bay, WI, thence over Geneva St., to its junction with WI Hwy. 50, thence over WI Hwy. 50 to its junction with Kenosha Co., Hwy. P, thence over Kenosha Co., Hwy. P to its junction with Kenosha Co., Hwy. O, thence over Kenosha Co., Hwy. O to its junction with East Main St., in Twin Lakes, thence over East Main St., to its junction with Kenosha Co., Hwy. EM, thence over Kenosha Co., Hwy. EM to its junction with Kenosha Co., Hwy. F, thence over Kenosha Co., Hwy. F to Kenosha Co., Hwy. B, thence over Kenosha Co., Hwy. B to its junction with Kenosha Co., Hwy. AH, thence over Kenosha Co., Hwy. AH to its junction with Kenosha Co., Hwy. SA, thence over Kenosha Co., Hwy. SA to its junction with WI Hwy. 83, thence over WI Hwy. 83 to the WI-IL state line, thence over IL Hwy. 83 to its junction with IL Hwy. 173, thence over IL Hwy. 173 to its junction with Interstate Hwy. 94, thence over Interstate Hwy. 94 to its junction with Interstate Hwy. 294, thence over Interstate Hwy. 294 to its junction with Interstate Hwy. 90, thence over Interstate Hwy. 90 to Chicago, IL, and return over the same route, serving all intermediate points; (2) Williams Bay, WI and Lake Geneva, WI; from the junction of WI Hwy. 50 and WI Hwy. 67 at or near Williams Bay, WI, over WI Hwy. 67 to its junction with Walworth Co., Hwy. B, thence over Walworth Co., Hwy. B to its junction with Academy Rd., and Walworth Co., Hwy. BB, thence over Walworth Co., Hwy. BB to its junction with WI Hwy. 120, thence over WI Hwy. 120 to its junction with WI Hwy. 50 at Lake Geneva, WI, and return over the same route, serving all intermediate points; (3) junction WI Hwy. 50 and Walworth Co., Hwy. F and the junction of WI Hwy. 67 and Walworth Co., Hwy. F; from junction WI Hwy. 50 and Walworth Co., Hwy. F, over Walworth Co., Hwy. F to its junction with WI Hwy. 67, and return over the same route, serving all intermediate points; (4) junction Walworth Co., Hwy. B, BB, and Academy Rd., and the junction of Academy Rd., and South Shore Dr.; from junction Walworth Co., Hwy. B, BB, and Academy Rd., over Academy Rd., to its junction with South Shore Dr., and return over the same route, serving all intermediate points; (5) Ft. Atkinson, WI and Cambridge, WI; from Ft. Atkinson, WI over WI Hwy. 89 to its junction with U.S. Hwy. 18, thence over U.S. Hwy. 18 to Cambridge, and return over the same

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route, serving all intermediate points; (6) Junction of Walworth Co., Hwy. BB and Willow Rd., southwest of Lake Geneva, WI and Chicago, IL; from junction of Walworth Co., Hwy. BB and Willow Rd., over Willow Rd., to its junction with WI Hwy. 120, thence over WI Hwy. 120 to the WI–IL state line, thence over IL Hwy. 47 to its junction with U.S. Hwy. 14, thence over U.S. Hwy. 14 to its junction with IL Hwy. 53, thence over IL Hwy. 53 to its junction with Interstate Hwy. 90, thence over Interstate Hwy. 90 to Chicago, IL, and return over the same route, serving all intermediate points; (7) junction WI Hwy. 120 and Walworth Co., Hwy. BB south of Lake Geneva, WI and the junction of WI Hwy. 120 and Willow Rd.; from junction WI Hwy. 120 and Walworth Co., Hwy. BB, over WI Hwy. 120 to its junction with Willow Rd., and return over the same route, serving all intermediate points and the off-route point of Nippersink Manor Resort approximately two miles southwest of Powers Lake, WI. There are five (5) supporting shippers.

MC 167733 (Sub-4–1TA), filed May 2, 1983. Applicant: ANTHONY N. HEMMERSBACH d.b.a. TONY'S TRUCKING, Route 1, Cashton, WI 54619. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. (1) *Wood products* from Bangor, WI to points in IL, IN, IA, MI, and MN; and (2) *materials, equipment and supplies* used in the manufacture or distribution of wood products from points in IL, IN, IA, MI and MN to Bangor, WI. Supporting shipper: Coulee Region Enterprises, Inc., P.O. Box 306, Bangor, WI 54614.

MC 167733 (Sub-4–2TA), filed May 2, 1983. Applicant: ANTHONY N. HEMMERSBACH d.b.a. TONY'S TRUCKING, Route 1, Cashton, WI 54619. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Ice melter, fertilizer, kitty litter, floor drying compounds, and such commodities as are distributed by, dealt in or used by retail stores,* between Viroqua, WI and Neosho, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Howard Johnson's Enterprises, Inc., Railroad Ave., Viroqua, WI 54665.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 2960 (Sub-5–11TA), filed May 3, 1983. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, P.O. Box 4362, Houston, TX 77210. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Agricultural Implements, Machinery and/or Parts,* between Houston, TX and Heston, KS. Supporting shipper: Strachan Shipping Co. of Texas, Houston, TX.

MC 154596 (Sub-5–2TA), filed May 2, 1983. Applicant: BILL DAVIS TRUCKING, INC., P.O.Box 2504, Batesville, AR 72501. Representative: Bill Davis, President (same as above). *Electric Motors, Parts and Components used in the manufacture and distribution of Electric Motors thereof,* between points in AR, WI, OK, CA, OH, IL, and IN, restricted to the facilities of The General Industries Co. Supporting shipper: The General Industries Co., Elyria, OH.

MC 156619 (Sub-5–2 TA), Filed May 2, 1983. Applicant: JOE MONSON d.b.a. QUALITY LUMBER CO., Box 190, Ulysses, KS 67880 Representative: Joe Monson (same as above). Contract; Irregular: *Beer and malt beverages,* between Fort Worth, TX on the one hand and Pueblo, CO on the other. Supporting shipper: Carl Wills Beverage, Pueblo CO.

MC 167720 (Sub-5–1 TA), Filed May 2, 1983. Applicant: ATKINS PICKLE COMPANY, INC., 602 Southeast First Street Atkins, AR 72823. Representative: Edward G. Bazelon, 135 South LaSalle Street Chicago, IL 60603. Contract, Irregular: *General commodities (except classes A and B explosives, household goods, and commodities in bulk),* between points in AL, FL, GA, LA, MS, MO, OK, TN and TX, under continuing contract(s) with DFC Transportation Company of Huntley, IL.

MC 167735 (Sub-5–1 TA), Filed May 2, 1983. Applicant: SURE FREIGHT EXPRESS, 4255 LBJ Freeway Dallas, TX 75234. Representative: Don Garrison, Esq. P.O.B. 1065 Fayetteville, AR 72702 Contract, Irregular: *General Commodities (except household goods, classes A and B explosives and commodities in bulk)*—Between points in the U.S. (except AK and HI), under continuing contract(s) with Little Rock Transportation Services, Inc. d.b.a. Bear Trucking Company, of Dallas, TX.

MC 167748 (Sub-5–1 TA), Filed May 2, 1983. Applicant: BILLY D. McCRAW & S. JEAN McCRAW d.b.a. B&J McCRAW TRUCKING, 3403 93rd St., Lubbock, TX 79423. Representative: Chester A. Zyblut, 366 Executive Building 1030 Fifteenth Street, NW., Washington, D.C 20005. Contract irregular *General commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with VAL–AGRI Inc., of Wichita, KS.

MC 79658 (Sub-5–18 TA), Filed May 6, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representative: Robert C. Mills or Michael L. Harvey (same as above). Contract, Irregular; *household goods* between points in the U.S. (excluding AK and HI under continuing contract(s) with Kerr-McGee Corporation, Oklahoma City OK, and its subsidiaries.

MC 128087 (Sub-5–6TA), filed April 18, 1983. Applicant: JOHN N. JOHN III, INC., 1000 W. 2nd Street, Crowley, LA 70526. Representative: William M. John, P.O. Box 921, Crowley, LA 70526. *General Commodities* (Except those of unusual Value, Classes A & B explosives and Household Goods), having prior or subsequent movement by water. Between points in TX and Calcasieu, Cameron and Jefferson Davis Parishes, LA. Supporting shipper: Crown Zellerbach International, Portland, OR.

MC 134262 (Sub-6TA), filed May 6, 1983. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., Box 385, Boyden, IA 51234. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501–2028. *Plastic products,* from Oshkosh, WI to Gilmer, TX. Supporting shipper: Lakeside Plastic, Oshkosh, WI.

MC 147085 (Sub-5–3TA), filed May 6, 1983. Applicant: SIMON'S FEED STORE, INC., P.O. Box 8, Farley, IA 52046. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Fertilizer and fertilizer ingredients,* between points in IL, IA and WI. Supporting shippers: Twin State Engineering & Chemical Co., Davenport, IA; Kaiser Agricultural Chemicals, Des Moines, IA; and Mapco Fertilizer, Inc., Athens, IL.

MC 156013 (Sub-5–2TA), filed May 4, 1983. Applicant: WILSON FREIGHT LINES, INC., 8914 Oliver, Rowlett, TX 75088. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Building and Construction Materials* between CA on the one hand, and, on the other, AR, AL, LA, GA, MS and TN. Restricted to traffic originating at or destined to the facilities of P. E. O'Hair & Co. Supporting shipper: P. E. O'Hair & Co., Pittsburgh, CA.

MC 158577 (Sub-5–2TA), filed May 4, 1983. Applicant: L & L CARTAGE CO., INC., P.O. Box 1041, Jonesboro, AR 72401. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443. *Metal tubing or insulation* between points in MN, IA, MO, AR, LA, TX, OK, CA, CO, NV, AZ, MS, AL, GA, SC, TN, NC, KY, VA, WI, IL, IN, MI, OH, WV, PA, NY, NJ, CT, RI, and MA. Supporting shipper: Halstead Industrial Products, Wynne, AR.

MC 158733 (Sub-5–5TA), filed May 6, 1983. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Avenue SW., Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Popcorn,* between Marshall County, IA, on the one hand, and, on the other, points in the United States in and west of MT, ID, UT, and AZ (except AK and HI). Supporting shipper: Party Pac Popcorn Co., Marshalltown, IA.

MC 166149 (Sub-5–3TA), filed May 6, 1983. Applicant: WORTH INDUSTRIAL EQUIPMENT, INC., 206 East Mill Street, Butler, MO 64730. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Chemicals and Related Products* between points in the U.S. (except AK and HI) Supporting shipper: Chemical Commodities, Inc., Olathe, KS.

MC 167092 (Sub-5–1TA), filed May 4, 1983. Applicant: FISHER TRUCKING, INC., P.O. Box 181, Springdale, AR 72764. Representative: Joseph C. Fisher (same as above). *Food products and related items (Except in bulk or tank vehicles)* between points in the U.S. (except AK and HI). Supporting shipper: The Thomas Lee Co., Springdale, AR.

MC 167853 (Sub-5–1TA), filed May 6, 1983. Applicant: F.S.C. CORP., P.O. Box 200, Delmar, IA 52037. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Fertilizer and fertilizer ingredients,* between points in IL and IA. Supporting shippers: Estech, Inc., East St. Louis, IL; Kaiser Agricultural Chemicals, Des Moines, IA; and Twin State Engineering & Chemical Co., Davenport, IA.

MC 167855 (Sub-5–1TA), filed May 6, 1983. Applicant: LUTHER JETER d.b.a. JETER TRUCKING CO., Rt 1, Box 32A, Jacksonville, AR 75766. Representative: Clint Oldham, 623 S. Henderson, 2nd Floor, Ft. Worth, TX 76104. Contract, Irregular; *Lumber* between points in TX, on the one hand, and, on the other, points in AR, LA, MS, OK and TX. Supporting shipper: Southern Timber Sales & Manufacturing Corp., Arlington, TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13049 Filed 5-13-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c) (2) (E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922 (c) (2) (B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries about the following to team two at (202) 275–7293.

Volume No. OP2–211

Decided: May 4, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not Participating.

MC 682 (Sub-50), filed April 25, 1983. Applicant: BURNHAM SERVICE COMPANY, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., NW, Suite 1112, Washington, DC

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20036–5391, 202–887–5868. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) the Lockheed Corporation, of Burbank, CA, and its subsidiaries, (b) the Lockheed Missiles & Space Company, Inc., of Sunnyvale, CA, (c) the Lockheed-California Company, of Burbank, CA, (d) the Lockheed Shipbuilding & Construction Company, of Seattle, WA, (e) the Lockheed Aircraft Service Company, of Ontario, CA, (f) Lockheed Air Terminal, Inc., of Burbank, CA, (g) the Murdock Machine & Engineering Co., of Irving, TX, (h) the Lockheed Engineering and Management Services Co., Inc., of Houston, TX, (i) the Lockheed-Georgia Company, of Marietta, GA, and (j) the Lockheed Electronics Company, Inc., of Plainfield, NJ.

MC 2202 (Sub-690), filed April 29, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 301–986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mohasco Corporation, of Atlanta, GA.

MC 2202 (Sub-691), filed April 29, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 301–986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J.C. Penney Company, Incorporated, of New York, NY.

MC 61692 (Sub-21), filed April 26, 1983. Applicant: WARNERS MOTOR EXPRESS, INC., West Country Club Rd., Red Lion, PA 17356. Representative: Donald M. Warner (same address as applicant), 717–244–4537. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 108453 (Sub-49), filed April 27, 1983. Applicant: BARBLINE, INC., P.O. Box 1166, State Rd. 13, Middlebury, IN 46540. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147323 (Sub-37), filed April 28, 1983. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Colin Barrett, 11764 Indian Ridge Rd., Reston, VA 22091, 703–860–8521. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 149072 (Sub-2), filed April 27, 1983. Applicant: ROBERT L. BELL, Box 4029 Skarr Rte., Sidney, MT 59270. Representative: Robert L. Bell (same address as applicant) 406–482–1733. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MT and ND. Condition: Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration No. MC–149072.

MC 150542 (Sub-4), filed April 28, 1983. Applicant: RIDGEFIELD PARK TRANSPORT CO., INC., P.O. Box 96, Ridgefield Park, NJ 07660–0096. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, 201–836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 152803 (Sub-2), filed April 15, 1983. Applicant: SAM LATTNER DISTRIBUTION COMPANY, 110 South Ellis St., P.O. Box 351, Groesbeck, TX 76642. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207, 512–476–6391. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of glass, plastic and rubber products, between points in the U.S. (except AK and HI).

MC 156312 (Sub-1), filed March 2, 1983, published in the **Federal Register** issue of March 30, 1983, and republished, as corrected, this issue. Applicant: C MILE TRANSPORT, LTD., Exeter Rd., Box 578, 100 Mile House, British Columbia, Canada VOK 2EO. Representative: George Costello (same address as applicant) 604–395–2229. Transporting *general commodities* (except classes A and B explosives and household goods), between ports of entry on the international boundary line between the U.S. and Canada, in WA, ID, and MT, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI). The purpose of this republication is to delete "commodities in bulk", as an exception in the commodity description.

MC 157563 (Sub-1), filed April 28, 1983. Applicant: ROBERT P. SILVAIN, d.b.a. R.P.M.S. TRUCKING, 3 Amherst Rd., South Hadley, MA 01075. Representative: Owen Clarke, 101 State St., Springfield, MA 01103, 413–781–4720. Transporting *food and related products*, between points in MA, ME, VT, NH, CT, RI, NJ, NY, PA, DE, MD, GA, FL, CA, SC, NC, and DC.

MC 157592, filed April 29, 1983. Applicant: JEFFREY FOSTER d.b.a. PACKAGE DELIVERY, 224 Hinckley St., Mankato, MN 56001. Representative: Charles T. Peterson, 325 South Broad St., Box 1387, Mankato, NM 56001, 507–387–3155. Transporting *pharmaceuticals, medicines, health and beauty aids, and sundries*, between Mankato, MN, and points in IA, under continuing contract(s) with Brown Drug, Inc., of Mankato, MN.

MC 161043 (Sub-2), filed April; 20, 1983. Applicant: DISTRON DIVISION OF BURGER KING CORPORATION, 7360 North Kendall Dr., Miami, FL 33156. Representative: Stephen Murphy (same address as applicant); 305–596–7063. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Distron Transportation Systems, Inc., of Miami, FL.

Volume No. OP2–214

Decided: May 6, 1983.
By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 69833 (Sub-169), filed April 29, 1983. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Ave., NW, Grand Rapids, MI 49503. Representative: Bruce A. Bullock, One Woodward Ave., 26th Fl., Detroit, MI 48226, 313–496–3534. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with FMC Corporation, of Lexington, KY.

MC 135762 (Sub-25), filed April 29, 1983. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Hwy 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902, 501–782–1001. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Hoover Universal, Inc., of Georgetown, KY.

MC 139253 (Sub-12), filed May 2, 1983. Applicant: SOUTHEASTERN WAREHOUSING AND DISTRIBUTION CORPORATION, 102 Ashe St., Johnson City, TN 37061. Representative: Roland M. Lowell, 5th Fl. 501 Union St., Nashville, TN 37219, 615–255–0540. Transporting *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in Escambia, Mobile and Washington Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141733 (Sub-6), filed April 29, 1983. Applicant: UNION TRANSIT COMPANY, INC., 2460 Boston Rd., Wilbraham, MA 01095. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103. Transporting (1) *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in CA, CT, IL, NC, TX, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *Paper and related materials*, between points in the U.S. (except AK and HI).

MC 144413 (Sub-3), filed May 2, 1983. Applicant: THOMPSON TRUCK TRANSPORTATION, 11218 Elm St., Omaha, NE 68144. Representative: E. Larry Wells, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *food and related products*, between points in TX, KS, and NE, under continuing contract(s) with Mission Foods Corporation, of Dallas, TX.

MC 145552 (Sub-3), filed April 29, 1983. Applicant: HEDGE & HERBERG, INC., Lyon & Washington, P.O. Box 98, Big Stone City, SD 57216. Representative: Gayle E. Hedge (same address as applicant), 605–862–8143. Transporting *food and related products*, between points in MN, SD, and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146852 (Sub-3), filed May 2, 1983. Applicant: FEDERAL PRODUCE TRANSPORTATION CO., 8509 Tujunga Ave., Sun Valley, CA 91352. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, 312–641–1944. Transporting *food and related products*, between points in Yuma County, AZ, on the one hand, and, on the other, points in CA.

MC 147573 (Sub-7), filed April 25, 1983. Applicant: OAK ISLAND EXPRESS, INC., 2 Sixth St., Jersey City, NH 07302. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Upon issuance of the authority above, applicant's Permits in MC–147573 and Sub-Nos. 1, 2, 3, 4, 5, and 6, issued June 6, 1980, March 10, 1981, May 7, 1982, August 2, 1982, December 17, 1982, February 18, 1983, and March 31, 1983, respectively, will be cancelled.

Note.—Applicant seeks to convert its contract carrier authority to common carrier authority.

MC 148102 (Sub-1), filed April 26, 1983. Applicant: BEHRING INTERNATIONAL EXPORT PACKERS, INC., P.O. Box 96147, Houston, TX 77015. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, 713–437–1768. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Port Cities in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151583 (Sub-7), filed April 29, 1983. Applicant: UTF CARRIERS, INC., Benson Rd., Middlebury, CT 06749. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dunlop Tire and Rubber Corp., of Buffalo, NY.

MC 158003 (Sub-1), filed April 27, 1983. Applicant: CROWN TRANSPORTATION & DELIVERY SERVICE, INC., 810 Lynwood Lane, Broken Arrow, OK 74012. Representative: Jack R. Anderson, Suite 305, Reunion Center, Tulsa, OK 74103, 918–583–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Avon Proudcts, Inc., of New York, NY.

MC 159283 (Sub-1), filed April 29, 1983. Applicant: W. L. LOGAN TRUCKING COMPANY, 3224 Navarre Rd. SW., Canton, OH 44706. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 163202 (Sub-1), filed April 28, 1983. Applicant: MIDWEST DISTRIBUTION SYSTEMS, INC., 4040 West 40th St., Chicago, IL 60632. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Atlanta, GA, Chicago, IL, Louisville, KY, Boston, MY, Kansas City, MO, Jersey City, NJ, Houston, TX, Seattle, WA, points in Houston County, AL, Hillsborough County, FL, Thomas County, GA, Vermilion County, IL, Elkhart and Orange Counties, IN, Pulaski County, KY, Frederick County, MD, Rice County, MN, Maries County, MO, Mecklenburg County, NC, Washoe County, NV, Cuyahoga County, OH, Lane County, OR, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165312, filed April 29, 1983. Applicant: McKENNA TRUCKING, INC., Sheldon St., Gratiot, WI 53541. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Jo Daviess, Stephenson, Carroll and Ogle Counties, IL, Grant, Iowa, Lafayette, Crawford and Green Counties, WI, on the one hand, and on the other, points in IA, IL, KS, MN, MO, and NE.

MC 167593, filed April 25, 1983. Applicant: SOUTHERN FREIGHTWAYS, INC., 3126 Carrier St., Memphis, TN 38116. Representative: William R. Swain, Jr., 208 Poplar Ave., Memphis, TN 38103, (901) 525–5443. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in TN, on the one hand, and, on the other, points in AL, AR, GA, KY, LA, MO, MS, and TX.

MC 167682, filed April 28, 1983. Applicant: LOU SOMERVILLE TRUCKING, INC., P.O. Box 97, Onslow, IA 52321. Representative: Steven C. Shoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283–2076. Transporting *liquid fertilizer*, between Dubuque and Durant, IA, on the one hand, and, on the other, points in WI and IL, and between East Dubuque, IL, on the one hand, and, on the other, points in IA and WI.

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MC 167683, filed April 28, 1983. Applicant: THE GREEN & SAWYER COMPANY, 209 West Elm St., Lima, OH 45801. Representative: John A. Robenalt, 110–112 North Elizabeth St., P.O. Box 1980, Lima, OH 45802, (419) 227–5006. Transporting *clay, concrete, glass or stone products,* between points in Monroe County, MI, on the one hand, and, on the other points in Allen and Hancock Counties, OH.

MC 167723, filed April 29, 1983. Applicant: ATLAS DISTRIBUTION CENTER, INC., 55 Delta Dr., Pawtucket, RI 02860. Representative: Catherine Carroll Poirier, 49 Columbine Ave., Pawtucket, RI 02861, (401) 722–7555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, and RI.

Please direct status inquiries about the following to team 3 at (202) 275–5223.

Volume No. OP3–206.

Decided: May 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF 684, filed April 19, 1983. Applicant: PERSONAL FORWARDING, INC., 51 E. 42nd St., New York, NY 10017. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235–1111. As a *freight forwarder* in connection with the transportation of (1) *used household goods and automobiles,* and (2) *household goods,* between points in the U.S.

MC 1214 (Sub-2), filed April 22, 1983. Applicant: SYSTEM TRANSFER AND STORAGE CO., 2400 6th Avenue South, Seattle, WA 98134. Representative: Jack R. Davis, 1200 IBM Building, Seattle, WA 98101, (206) 624–7373. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in WA, on the one hand, and, on the other, points in OR.

MC 2934 (Sub-149), filed April 22, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods,* between points in the U.S. (excluding AK and HI), under continuing contract(s) with Burlington Northern Inc., and its subsidiaries, of Seattle, WA.

MC 15735 (Sub-80), filed April 22, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680, (312) 681–8378. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nixdorf Computer Corporation, of North Reading, MA.

MC 17865 (Sub-3), filed April 26, 1983. Applicant: LUTHER TRANSFER, INC., 1910 11th St., Portsmouth, OH 45662. Representative: Mark C. Ellison, 300 Interstate N. Pkwy., Suite 329, Atlanta, GA 30339, (404) 955–4020. Transporting *household goods,* between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 67234 (Sub-84), filed April 29, 1983. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods, office furniture,* and *electronic equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sun Refining and Marketing Company, of Philadelphia, PA.

MC 111274 (Sub-94), filed April 25, 1983. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant), (309) 266–9773. Transporting *general commodities* (except classes A and B explosives and household goods), between point in the U.S. (except Ak and HI), under continuing contract(s) with Gateway Milling Co., of Peoria, IL.

MC 116164 (Sub-21), filed April 25, 1983. Applicant: ARROW TRANSPORTATION CO., a corporation, 1911 N.E. 58th Ave., Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting (1) *lumber and wood products,* and (2) *building materials,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 133434 (Sub-3), filed April 27, 1983. Applicant: CONGRESSIONAL MOVERS, INC., 8933 D'Arcy Road, Upper Marlboro, MD 20772. Representative: David Earl Tinker, 1000 Connecticut Ave. NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting *household goods, furniture and fixtures,* between points in DE, MD, WV and DC, on the one hand, and, on the other, points in the U.S.

MC 136774 (Sub-31), filed April 25, 1983. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 180 North LaSalle St., Chicago, IL 60601, (312) 368–0100. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Indiana Sugars, Inc., of Gary, IN.

MC 138505 (Sub-23), filed April 25, 1983. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 7465 East Peakview, Englewood, CO 80111. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3520. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with William Filene's Sons Company, Division of Federated Department Stores, Inc., of Boston, MA.

MC 143884 (Sub-6), filed April 25, 1983. Applicant: PERSONALIZED AGENT SERVICE, INC., P.O. Box 45111, Airport Station, Atlanta, GA 30320. Representative: K. Edward Wolcott, Atlanta Gas Light Towers, Suite 1200, 235 Peachtree St., NE, Atlanta, GA 30303, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, FL, GA, LA, MS, NC, SC, TN, and TX.

MC 163844, filed April 22, 1983. Applicant: CLOVERLEAF TRANSPORTATION, INC., 8801 S. 78th Ave., Bridgeview, IL 60455. Representative: Richard M. Keltner (same address as applicant), (312) 430–1940. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP3–200

Decided: May 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 2934 (Sub-150), filed April 29, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875–1142. Transporting *electronic equipment, switchboard parts, computer equipment,* and *delicate electronic instruments,* between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company and its affiliates, of San Jose, CA.

MC 15735 (Sub-79), Filed April 21, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill P.O. Box 4403 Chicago, IL 60680 (312) 681–8378. Transporting *household goods,* between points in the U.S. (except HI), under continuing contract(s) with Arco Oil and Gas Company and its subsidiaries of Dallas, TX.

MC 123285 (Sub-17), Filed April 19, 1983. Applicant: CLETEX TRUCKING, INC., P.O. Box 812 Cleburne, TX 76031. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104 (817) 332–4415. Transporting *commodities in bulk,* between point in the U.S. (except AK and HI).

MC 135974 (Sub-3), Filed April 20, 1983. Applicant: DONALD W. LEMMONS, d.b.a. INTERSTATE WOOD PRODUCTS, 2300 Talley Way, Kelso, WA 98626. Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101 (206) 624–7373. Transporting (1) *construction equipment,* (2) *Lumber and wood products,* (3) *Machinery* and (4) *paper and paper products,* beween points in WA, OR and ID and (5) *petroleum and petroleum products,* between points in OR and WA.

MC 138505 (Sub-22), Filed April 21, 1983. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 7465 Peakview, Englewood, Co 80111. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1309, St. Louis, MO 63102 (314) 421–0845. Transporting *general commodities* (except classses A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with Boise Cascade Corporation, of Boise, ID.

MC 144314 (Sub-3), Filed April 18, 1983. Applicant: FARWEST INDUSTRIES OF LONGVIEW, INC., 225 Industrial Way, P.O. Box 1793, Longview, WA 98632. Representative: Robert Portner (Same address as applicant) (206) 425–6210. Transporting (1) *Lumber and building materials,* between points in WA, OR, CA, NV, AZ, ID, and MT and (2) *beer and wine,* between points in WA, OR, CA, and ID.

MC 145765 (Sub-18), filed April 20, 1983. Applicant: WIEST TRUCKLINE, INC., Route 2, I–94 West, Exit 57, Jamestown, ND 58401. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502–2056 (701) 223–5306. Tranporting *agricultural implements, metal articles,* and *such commodities* as are dealt in by farm supply stores, between points in the U.S. (except HI).

MC 147145 (Sub-5), filed April 18, 1983. Applicant: ANDERSON AND SONS TRUCKING CO., INC., 1887 Deming Way, Sparks, NV 89432. Representative: James R. Anderson, Jr. (same address as applicant) (702) 331–1901. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Sparks, NV, on the one hand, and, on the other, points in Mono and Inyo Counties, CA.

MC 149604 (Sub-5), filed April 20, 1983. Applicant: ACTION TRANSIT COMPANY, Rt. 21 South, P.O. Box 894, Mooresville, NC 28115. Representative: M. Diane Neal, 2230 Shepler Church Ave., SW., P.O., Box 6270, Canton, OH 44706 (216) 456–4571. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. under continuing contract(s) with C–E Industrial Products, Combustion Engineering, Inc., of Valley Forge, PA.

MC 151065 (Sub-3), filed April 11, 1983. Applicant: KANSAS CITY PIGGYBACK, INC., 3600 Great Midwest Dr., Kansas City, MO 64161. Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, MO 64114. Tranporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the Kansas City, MO, on the one hand, and, on the other, points in AR, IA, IL, KS, MO, NE, OK, and TN.

MC 154185 (Sub-4), filed April 21, 1983. Applicant: RENN TRANSPORTATION CO., INC., 940 Advance St., Green Bay, WI 54304. Representative: J. J. Gloeckler, P.O. Box 1412, Green Bay, WI 54305 (414) 497–7400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, INC., and ITOFCA Consolidators, Inc., both of Downers Grove, IL, The Larsen Company, of Green Bay, WI, Patrick Cudahy Incorporated, of Cudahy, WI, and Universal Foods Corporation, of Milwaukee, WI.

MC 162515, filed April 18, 1983. Applicant: MIDWESTERN TRUCKING COMPANY, INC., P.O. Box 1240, West Memphis, AR 72301. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205 (601) 355–3543. Transporting (1) *Chemicals and related products, clay products,* and *sand products,* between points in the U.S. (except AK and HI), under continuing contract(s) with International Minerals & Chemical Corporation (IMC), of Mundelein, IL; (2) *clay, concrete, glass or stone products, cleaning compounds,* and *automotive supplies,* between points in the U.S. (except AK and HI), under continuing contract(s with Moltan Company, Inc., of Middleton, TN; (3) *alcoholic beverages,* between points in the U.S. (except AK and HI), under continuing contract(s) with The Liquor Center, of West Memphis, AR: (4) *steel wire rope,* between points in the U.S. (except AK and HI), under continuing contract(s) with Universal Wire Products, Inc., of North Haven, CT; (5) *elelctrical transformers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Magnetic Electric Company, of Memphis, TN; and (6) *lumber and wood products,* between points in the U.S. (except AK and HI), under continuing contract(s) with West Memphis Plywood Corporation, of West Memphis, AR.

MC 163504 (Sub-1), filed April 21, 1983. Applicant: CUMBERLAND MILLS TRANSPORT, INC., P.O. Box 89, Eton, GA 30724. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting (1) *building materials, pulp, paper and related products,* between points in GA, on the one hand, and, on the other, points n the U.S. (except AK and HI), (2) *food and related products,* between points in the U.S. (except AK and HI), and (3) *Textile mills products and floor covering,* between points in Lake County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166555, filed April 25, 1983. Applicant: GLENN F. JOHNSON, R. R. #1, Box 49, Altona, IL 61414. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *water tanks, farrowing stalls and liquid manure handling equipment,* beteen points in the U.S. (except AK and HI), under continuing contract(s) with Pearson Brothers Company, Inc. of Galva, IL.

MC 167574, filed April 22, 1983. Applicant: TIEFENTHALER AG LIME INC Breda, IA 51436. Representative: Dale Tiefenthaler (same address as applicant) (712) 673–2686. Transporting *concrete and stone products,* between points in IA and NE.

MC 167584, filed April 22, 1983. Applicant: RUDY'S FARM COMPANY, 2424 Music Valley Drive, Nashville, TN 37214. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702 (501) 521–8121. Transporting *general commodities,* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 167625, filed April 28, 1983. Applicant: RALPH WILSON PLASTICS CO., 600 General Bruce Dr., Temple, TX 76501. Representative: John L. Jones (Same address as applicant) (817) 778–2711. Transporting *general commodities* (except classes A and B explosives,

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household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with McLane/Southwest and S & S Transportation Company, Inc. both of Temple, TX.

MC 167634, filed April 25, 1983. Applicant: AMERICAN CARTAGE COMPANY, P.O. Box 5817, Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306 (805) 872–1106. Transporting *chemicals and related products, rubber and plastic products and transportation equipment,* between points in CA, on the one hand, and, on the other, points in AZ, NV, OR and WA.

Volume No. OP3–202

Decided: May 5, 1983.

By the Commission, Review Board No. 3 Members Krock, Joyce and Dowell. Member Krock not participating.

MC 143484 (Sub-2), filed March 29, 1983, and previously noticed in the **Federal Register** issue of April 22, 1983. Applicant: GLENN'S DELIVERY SERVICE, INC., 211 St. Mihiel Dr., Riverside, NJ 08075. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106 (215) 925–8300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, DE, MD, MA, NJ, NY, NC, OH, PA, RI, VA, WV and DC.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 163814, filed April 14, 1983. Applicant: PITT EXPRESS SYSTEMS, INC., P.O. Box 12372, 115 McLaughlin Run Rd., Pittsburgh, PA 15231. Representative: John D. Gamble III (Same address as applicant) (412) 262–2380. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in DE, IL, IN, KY, MO, MI, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV and DC.

MC 167594, filed April 22, 1983. Applicant: BAY CITY TOURS, INC. d.b.a. GRAY LINE OF MOBILE, 301 Government St., P.O. Box 1711, Mobile, AL 36633. Representative: Carol E. Peterson (Same address as applicant) (205) 432–2229. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–277

Decided: May 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 46797 (Sub-10), filed May 2, 1983. Applicant: PHILLIPS TRUCK LINE, INC., 773 East St., Memphis, TN 38104. Representative: L. A. Hyde III (same address as applicant), (901) 774–5551. Transporting: *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, AL, TN and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its existing operating rights.

MC 136646 (Sub-8), filed May 2, 1983. Applicant: LEMARS TRANSPORT, INC., P.O. Box 353, LaMars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting: *commodities in bulk,* between points in IL, IA, KS, MI, MN, MO, NE, ND, SD and WI.

MC 148867 (Sub-7), filed May 2, 1983. Applicant: TRANS-ADVO, INC., 239 Service Rd., West, Hartford, CT 06101. Representative: Frank M. Cushman, 36 S. Main St., Sharon, MA 02067, (617) 784–6041. Transporting: *printed matter,* between points in the U.S. (except AK and HI), under continuing contract(s) with Montgomery Ward and Co., Inc., of Chicago, IL.

MC 149616 (Sub-7), filed April 28, 1983. Applicant: R. C. R., INC., Box 157, Yutan, NE 68073. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting: *meats, meat products, meat byproducts and articles distributed by meat-packing houses,* between points in the U.S. (except AK and HI), under continuing contract(s) with Omega Food Group, Inc., d.b.a. Omaha Meat Processors, of Omaha, NE.

MC 152146 (Sub-6), filed April 26, 1983. Applicant: FAR WEST TRANSPORTERS, INC., 14901 Chandler Rd., Omaha, NE 68136. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NE, IA, KS, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158467, filed April 29, 1983. Applicant: LA RAYTO ENTERPRISES LTD., 3642 204th St., Langley, B.C., Canada V3A 1X2. Representative: George La Bissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. Transporting *food and related products and wood and lumber products,* between points in WA, OR and CA, and points on the International Boundary line between the U.S. and British Columbia, Canada.

MC 160736 (Sub-1), filed April 29, 1983. Applicant: DAVID R. BELL TRUCKING, 7718 Kendall Rd., Pavilion, NY 14525. Representative: David R. Bell (same address as applicant), (716) 237–5078. Transporting *agricultural fertilizer and soil conditioners,* (1) between ports of entry on the International Boundary line between the U.S. and Canada along the Niagara River in NY, on the one hand, and, on the other, points in NY, PA and OH, and (2) between points in NY, on the one hand, and, on the other, points in OH, MD, DE, VA, MA and PA.

MC 165827, filed April 29, 1983. Applicant: ALBANY-BINGHAMPTON EXPRESS, INC., P.O. Box 251, Chenango Bridge, NY 13745. Representative: Neil D. Breslin, 11 N Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Broome, Chemung, Tioga, Tompkins, Otsego, Chenango, Delaware, Cortland, and Schoharie Counties, NY.

MC 167717, filed April 29, 1983. Applicant: HAKES BROS. CONTRACTORS, INC., R.D. Box #179, Meads Creek Rd., Painted Post, NY 14870. Representative: Michael C. Foley, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, (716) 664–5210. Transporting *salt and salt products,* between points in Tompkins County, NY, on the one hand, and, on the other, points in PA and NJ.

MC 167726, filed April 29, 1983. Applicant: PROMPT REFRIGERATED TRANSPORT, INC., 6401 E. UpRiver Dr., Spokane, WA 99207. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009 , (206) 453–0312. Transporting *food and related products,* between points in IA, WA, OR, ID, MT, WY, ND, SD, NE, KS, MN, WI, UT, and CO.

MC 167727, filed April 29, 1983. Applicant: CONVERTINNS INC., d.b.a. THE ANDERSON HOUSE, 333 West Main St., Wabasha, MN 55981. Representative: John S. Hall (same address as applicant), (612) 565–4524. Transporting *passengers,* in charter and special operations, beginning and ending at points in Wabasha County, MN, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–280

Decided: May 6, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164747 (Sub-1), filed March 29, 1983, previously noticed in the **Federal Register** issue of April 13, 1983, and republished this issue. Applicant: RON J. NIEWOHNER and GERI S. NIEWOHNER, d.b.a. MIDNIGHT EXPRESS, 1811 Maple Dr., Huron, SD 57350. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ND, SD, MN, IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correctly state applicant's name and address.

Volume No. OP4–284

Decided: May 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 152257, filed May 3, 1983. Applicant: LORDCO TRUCKING, INC., 555 North Tripp Ave., Chicago, IL 60624. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, IL 60603 (312) 332–0905. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Gateway Foods of LaCrosse, WI.

MC 161957 (Sub-1), filed May 3, 1983. Applicant: EXPRESS TRANSPORTATION CO., INC., 1230 W. 7th Street, Houston, TX 77270. Representative: Mick Graeber, P.O. Box 70611, Houston, TX 77270, (713) 880–0644. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163147 (Sub-1), filed May 3, 1983. Applicant: ADAMS & COMPANIES, INC., P.O. Box 53, Chino, CA 91710. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting (1) *building materials, machinery, metal products, and lumber and wood products,* between points in the U.S. (except AD and HI), and (2) *plastic articles,* between points in MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164336 (Sub-1), filed May 3, 1983. Applicant: WINTERLAND EXPRESS, INC., 1729 13th Ave. N., Grand Forks, ND 58210. Representative: Dale Kuzel (same address as applicant), (701) 775–3907. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167706, filed April 29, 1983. Applicant: YARD HORSE, INC., 14443 South 85th Ave., Orland Park, IL 60462. Representative: Paul J. Maton, 27 East Monroe St., Suite 1000, Chicago, IL 60603, (312) 332–0905. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Doug Lavery, Limited, of Alsip, IL.

Volume No. OP4–286.

Decided: May 10, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 144606 (Sub-26), filed March 17, 1983. Applicant: DUNCAN & SON LINES, INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Donald W. Powell, 4150 N. 12th St., Phoenix, AZ 85014, (602) 241–0777. Transporting (1) *lumber and wood products, building materials,* and *machinery* used or useful in the erection of buildings, between points in the U.S. (except [HI]; (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), in foreign commerce only, between points in the U.S. (except AK and HI); (3) *transportation equipment* and *machinery,* between points in TX, AZ, NM and CO, on the one hand, and, on the other, points in the U.S. (except AK and HI); (4) *petroleum products,* between points in Los Angeles County, CA, on the one hand, and, on the other, points in AZ; (5) *chemicals and related products,* (a) between points in CA and AZ; and (b) between points in AZ, on the one hand, and, on the other, points in CO, NM, UT, OK and TX; and (6) *glass containers,* between points in AZ and CA.

Please direct status inquiries about the following to Team 5 at (202) 275–7288.

Volume No. OP5–215

Decided: May 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 167228, filed April 4, 1983. Applicant: SUPPORT SYSTEMS, INC., 5910 Winner Road, Kansas City, MO 64125. Representative: A. J. Schmidtlein (same address as applicant), (816) 483–9800. Transporting (1) *paper bags,* under continuing contract(s) with Percy Kent Bag Co., Inc., of Kansas City, MO, (2) *flour products,* under continuing contract(s) with C. H. Guenther & Son, Inc., d.b.a. Pioneer Flour Mills, of San Antonio, TX, and (3) *sauces,* under continuing contract(s) with Pace Picante, Inc., of San Antonio, TX, between points in the U.S. (except AK and HI).

Volume No. OP5–217

Decided: April 29, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 48219 (Sub-23), filed April 18, 1983. Applicant: STERNBERGER MOTOR CORP., 45–55 Pearson St., Long Island City, NY 11101. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, DC 20004, (202) 628–4600. Transporting *furniture and fixtures,* between points in the U.S. (except AK and HI).

MC 105289 (Sub-114), filed April 15, 1983. Applicant: GRAFF TRUCKING CO., INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49003, (616) 458–6121. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with James River Corporation, of Richmond, VA.

MC 138069 (Sub-21), filed April 14, 1983. Applicant: LUCIUS, INC., 8331 Pontiac, Commerce City, CO 80022. Representative: Lester G. Huskey (same address as applicant), (303) 289–2941. Transporting (1)(a) *such commodities* as are dealt in by grocery and food business houses and variety stores, (b) *oil and petroleum products,* and (c) *toys, games, and helium containers,* between points in the U.S. (except AK and HI) and (2) *paper and paper products,* between points in CA, IL, KY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148849 (Sub-11), filed April 20, 1983. Applicant: EQUITABLE BAG COMPANY, INC., 45–50 Vandan St., Long Island City, NY 11101. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with National Automotive & Rubber Marketing, Inc., of Huntington Woods, MI.

MC 154368 (Sub-2), filed April 20, 1983. Applicant: TRUC-WAY, INC., P.O. Box 8, Collingswood, NJ 08108. Representative: James H. Sweeney, P.O.

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Box 9023, Lester, PA 19113, (205) 365–5141. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with (1) Ocean Spray Cranberries, Inc., of Bordentown, NJ; (2) Sun Diamond Growers of California, of San Ramon, CA; and (3) Stokley-Van Camp, Inc., of Indianapolis, IN.

MC 160279 (Sub-7), filed April 21, 1983. Applicant: EXCEL TRANSPORTATION, INC., 2901 North Mead, P.O. Box 2519, Wichita, KS 67201. Representative: James T. Ferguson, 2155 North Mosley, P.O. Box 2519, Wichita, KS 67201, (316) 262–2066. Transporting *such commodities* as are dealt in by home improvement centers, between points in the U.S. (except AK and HI), under continuing contract(s) with E. E. Vliet & Company, of Wichita, KS.

MC 167499, filed April 18, 1983. Applicant: GEORGE H. TRUCK LEASING CO., INC., 2463 Soundview Court, Florissant, MO 63031. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *metal products*, between points in St. Louis County, MO, on the one hand, and, on the other, points in Kay County, OK, Pulaski County, AR, Davidson County, TN, Johnson County, KS, Marshall County, KY, Marion County, IN, and Williamson County, IL.

MC 167508, filed April 18, 1983. Applicant: D & G MELLO TRUCKING, INC., 927 Rocky Woods St., Taunton, MA 02780. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St. NW., Washington, DC 20005, (202) 783–3525. Transporting *liquid petroleum products*, between points in MA, RI, and NY, under continuing contract(s) with Agway Petroleum Corp., of Syracuse, NY.

MC 167509, filed April 18, 1983. Applicant: ALLIED TOWING SERVICE, INC., 5241 E. McNichols, Detroit, MI 48201. Representative: David E. Jerome, 436 N. Center St., Northville, MI 48167, (313) 348–4433. Transporting *transportation equipment*, between points in PA, WI, IL, IN, OH, MI, NY, KY, MO, TN, WV, and IA.

Volume No. OP5–220

Decided: May 6, 1983.

By the Commissioner, Review Board No. 1, Members Parker, Chandler and Fortier.

FF 688, filed April 26, 1983. Applicant: FRONTIER VAN LINES INTERNATIONAL, INC., 400 West 70th Ave., Suite 3, Anchorage, AK 99502. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, 703–893–3050. As a freight forwarder in connection with the transportation of *used household goods, unaccompanied baggage*, and *used automobiles*, between points in the U.S.

MC 10029 (Sub-1), filed April 26, 1983. Applicant: ANN ARBOR WAREHOUSE COMPANY, d.b.a. GODFREY MOVING & STORAGE COMPANY, 2420 South Industrial Hwy., Ann Arbor, MI 48104. Representative: Rich W. Brown (same address as applicant), 313–769–4100. Transporting *household goods*, between points in MI, WI, IA, MO, IL, IN, KY, TN, OH, WV, VA, NC, MD, NJ, PA, NY, CT, MA, RI, DE, VT and DC.

MC 79658 (Sub-70), filed April 22, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), (812) 424–2222. Transporting *household goods, electronic equipment, aircraft parts, and display material*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed Corporation, of Burbank, CA.

MC 99328 (Sub-3), filed April 19, 1983. Applicant: BAILEY'S EXPRESS, INC., 61 Industrial Park Rd., Middletown, CT 06457. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 113459 (Sub-148), filed April 22, 1983. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: James W. Hightower, Allied Bank-Oak Cliff Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385, (214) 339–4108. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Standard Oil Company of Chicago, IL, and its subsidiaries.

MC 144839 (Sub-2), filed April 18, 1983. Applicant: MURRAY'S EXPRESS, INC., Concord Industrial Park, South Main Street, Concord, NH 03301. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE., Atlanta, GA 30326, (404) 237–8472. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Avon Products, Inc., of New York, NY.

MC 151478 (Sub-2), filed April 21, 1983. Applicant: DOC'S CARTAGE CO., INC., 5027 W. 61st St., Burbank, IL 60459. Representative: James O'Grady, 6550 W. Golf Rd., Niles, IL 60648, (312) 627–6191. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, OH, MI, WV, KY, TN, WI, MN, MO, IA, and PA.

MC 154489, filed April 22, 1983. Applicant: EMMETT HATCHER HAULING, INC., 24333 Southfield Rd., Suite 205, Southfield, MI 48075. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *commodities in bulk*, between points in AR, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MT, NE, ND, NM, OH, OK, PA, SD, TX, WI, WV, and WY.

MC 164388, filed April 19, 1983. Applicant: FRANK O. WRIGHT d.b.a. PARKINSON T & T, 240 King St., Delta, CO 80416. Representative: Dale E. Isley, 50 S. Steele St., Suite 330, Denver, CO 80209, (303) 320–6100. Transporting *general commodities* (except classes A and B explosives, commodities in bulk) between points in CO.

MC 164998, filed April 21, 1983. Applicant: GENCARELLI OIL CO., INC., 110 Oak St., Westerly, RI 02891. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852, 401–884–0969. Transporting *petroleum, natural gas, and their products*, between points in Providence County, RI, on the one hand, and on the other, points in New London County, CT.

MC 164348, filed April 22, 1983. Applicant: MID–CONTINENTAL TANK LINES INC., 910 Meridian Road NE., P.O. Box 265 Station "T", Calgary, Alberta, Canada, T2H 2G9. Representative: Ben Froese (same address as applicant), (403) 248–1530. Transporting *sulfur*, between ports of entry on the international boundary line between the United States and Canada in MT, ID, and WA, on the one hand, and on the other, points in MT, ID, and WA.

MC 165399 (Sub-1), filed April 21, 1983. Applicant: L. S. TRUCKING, INC., 9003 Tara Blvd., Jonesboro, GA 30236. Representative: Philip L. Martin, 3537 Habersham at Northlake, P.O. Box 450107, Atlanta, GA 30345, (404) 939–9494. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Armstrong Glass Company, Inc., of Atlanta, GA.

MC 165578, filed April 21, 1983. Applicant: CARL N. HATTON, d.b.a. CARL HATTON BUTANE COMPANY, Sequoyah Bldg. Suite C–1, P.O. Box 100, Altus, OK 73521. Representative: Kim D. Parrish, 4420 N. Lincoln, Oklahoma City, OK 73105, (405) 424–5535. Transporting *petroleum, natural gas and their products*, between points in OK and TX.

MC 167528, filed April 19, 1983. Applicant: VENICE ENTERPRISES, INC., Venice Center, Venice Center, NY 13161. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting (1) *machinery* and (2) *food and related products*, between points in NY, NJ, RI, MA, PA, OH, WV, KY, TN, ND, IA, and NE, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 167548, filed April 20, 1983. Applicant: OGLESBY, INC., Route #14, Greenville, SC 29607. Representative: Larry Oglesby, P.O. Box 705, Mauldin, SC 29662, 803–963–8547. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in VA, NC, SC, GA, AL, and TN.

MC 167569, filed April 21, 1983. Applicant: MAPP VACUUM & TRUCKING SERVICE, INC., P.O. Box 1026, Brookhaven, MS 39601. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *Mercer commodities* between points in AL, AR, FL, LA, MS, OK, and TX.

MC 167578, filed April 22, 1983. Applicant: ANSON SERVICE, LIMITED, 1726 West 5th Ave., Vancouver, B.C., Canada V6J 1P2. Representative: Wallace B. Farbo, P.O. Box 1181, Milton, WA 98354, (206) 241–2010. Transporting *building materials, millwork items, office furnishings, appliances, and construction equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Doranson Systems, Inc., and J. R. Bezanson, Ltd., both of Vancouver, B.C., Canada.

MC 167589, filed April 22, 1983. Applicant: SUNBELT TRANSPORTATION SERVICES, INC., 3055 Watson St., Memphis, TN 38118–3097. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352–7220. Transporting *fans and related accessories*, between points in Shelby County, TN, on the the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Robbins & Meyers, Inc., of Memphis, TN.

MC 154768 (Sub-4), filed April 25, 1983. Applicant: IOWA EXPRESS DISTRIBUTION, INC., 2165 N.W. 108th, Suite B, Des Moines, IA 50322. Representative: Harold W. Sternburg (same address as applicant), 515–278–5864. Transporting *soap and soap products*, (1) between points in IA, (2) between points in IA, on the the one hand, and, on the other, points in Douglas County, NE., and (3) between points in Douglas County, NE, and points in IA, on the the one hand, and, on the other, points in Rock Island County, IL, under continuing contract(s) with Desoto, Inc., of Des Plaines, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13080 Filed 5-13-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 83-9702 beginning on page 15971 in the issue of Wednesday, April 13, 1983, make the following correction:

On page 15975, middle column, fourth paragraph, MC 166149, Worth Industrial Equipment, Inc., in the first line, "(Sub-21)" should be deleted.

BILLING CODE 1505-01-M

[Finance Docket No. 30161]

Rail Carriers; the Chesapeake and Ohio Railway Co.—Abandonment Exemption—Allegan County, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment by the Chesapeake and Ohio Railway Company of a 0.90-mile line in Allegan County, MI, from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* The exemption is subject to standard labor protection provisions.

DATES: This exemption shall be effective on June 15, 1983. Petitions to stay the effectiveness of this decision must be filed by May 26, 1983. Petitions for reconsideration must be filed by June 6, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30161 to:

(1) Rail Section, Room 5349, Interstate Commerce, Commission, Washington, DC 20423

(2) Petitioner's representative: Rene J. Gunning, 100 North Charles Street, Suite 2204, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: May 6, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13048 Filed 5-13-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[Directive No. 44]

Delegation of Authority Relating to Criminal Tax Cases (Including Authority To Approve and Decline Prosecution and Related Matters)

By virtue of the authority vested in me by Part O, Subpart N of Title 28 of the Code of Federal Regulations, particularly § 0.70, delegation of authority with respect to criminal tax cases within the cognizance of the Tax Division is hereby conferred as follows:

1. *Authority to Approve Criminal Proceedings.*

(a) *Unanimous Recommendation for Prosecution.* Except as hereinafter indicated, criminal tax cases referred to the Tax Division by the Internal Revenue Service and within the cognizance of the Tax Division can be approved for criminal proceedings by either the Chief; Special Litigation Counsel; Senior Assistant Chief or an Assistant Chief in charge of a Regional Unit; in the Criminal Section. *Provided*, that recommendations within the Criminal Section, including the recommendation by the docket attorney, unanimously propose criminal action, and the case is not considered by the approving official to warrant higher level consideration within the Tax Division.

In addition to the authority conferred in paragraph 1(a), the Chief; Special Litigation Counsel; Senior Assistant Chief or Assistant Chief in charge of a Regional Unit; in the Criminal Section is authorized to:

(b) Approve tax prosecutions, in accord with the authority and limitations contained in paragraphs 1(a), (e), and (f) in cases where the Criminal Section's recommendations are other than unanimous. *Provided*, that either an Assistant Chief, or a Reviewer has recommended prosecution.

(c) Authorize dismissal in direct referral cases as described in U.S.A.M. 6–2.230. *Provided*, notification is received from the appropriate United

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States Attorney, in accord with the procedures described in U.S.A.M. 6–2.420, indicating why proceeding with prosecution is not believed advisable *and* the Assistant Chief or the Reviewer who acts on the matter does not recommend continuing the prosecution with attorneys from the Tax Division.

(d) Pass prosecution of the first year recommended for prosecution by the Internal Revenue Service in all cases received with less than seven (7) calendar months remaining before the expiration of the statute of limitations.

(e) *Criminal Proceedings Covered by this Delegation.* Except for such offenses described in the U.S.A.M., Title 6–2.220, as being under the general responsibility of the Criminal Division, and U.S.A.M., Title 6–2.230, concerning direct referral cases, the criminal proceedings encompassed by this delegation concern the initiation of prosecution for tax and/or tax-related violations, including charges described in 28 CFR 0.179 offenses defined in the Internal Revenue Code (Title 26, United States Code) and such offenses defined in Title 18 and Title 31, United States Code, as may be investigated by special agents of the Internal Revenue Service's Criminal Investigation Division in connection with enforcement of federal revenue laws, including 26 U.S.C. 7201–7207, 7210, 7215; 18 U.S.C. 286, 287, 1501–1511, 1621–1623; 31 U.S.C. 1058, 1059; and conspiracies to commit such offenses, including conspiracies in violation of 18 U.S.C. 371 to defraud the Government by impeding, impairing, obstructing, and defeating the lawful function of the U.S. Department of Treasury, Internal Revenue Service, in the ascertainment, computation, assessment, and collection of the revenue. Charges under 18 U.S.C. 1001 require the approval of either the Deputy Assistant Attorney General (Criminal Tax) or the Assistant Attorney General, Tax Division.

(f) *Selection of Charges and Matters Related to the Handling of Criminal Tax Cases.* The authority hereby delegated includes the authority to approve tax prosecutions based on the charges recommended by the Internal Revenue Service, or Criminal Section attorneys, or whatever tax and/or tax-related charges are deemed appropriate by the approving official. In addition, the authority to approve criminal proceedings as herein described includes the authority to designate, in accord with Tax Division policy and practice, potential defendants, and to select charges, approve plea agreements, and make determinations as to the Tax Division's position concerning (1) whether dual prosecution considerations may be applicable in a criminal tax case in which the Revenue Service requests advice, and (2) whether civil action proposed by the Revenue Service should be undertaken during the pendency of a criminal tax case. In addition, this delegation includes the authority to execute correspondence in the name of the Chief, Criminal Section, transmitting cases to the appropriate United States Attorney's office requesting that prosecution be initiated in accord with such approval. Authority to execute correspondence in the name of the Chief, Criminal Section, is also delegated to Assistant Chiefs and Reviewers in the Criminal Section. The authority to execute correspondence specifically relating to ministerial matters in the processing and handling of cases including, when appropriate, the scheduling and confirmation of conferences; requesting of status reports; and the processing of closing letters, in cases in which pleas or convictions have been obtained; is hereby delegated to Criminal Section attorneys in all cases assigned to them.

2. *Authority Concerning Grand Jury Matters.*

(a) *Recommendation for Grand Jury Investigation Originating in Criminal Section.* Except in cases they considered to warrant higher level consideration within the Tax Division, the Chief; Special Litigation Counsel; Senior Assistant Chief or an Assistant Chief in charge of a regional Unit; in the Criminal Section can approve the initiation of a grand jury investigation concerning potential tax and/or tax-related violations in cases referred from the Revenue Service with a prosecution recommendation if such official believes that grand jury inquiry is warranted prior to a decision being made on the prosecutorial merits of such case.

(b) *Joinder of Tax Aspects with Ongoing Non-tax Grand Jury Investigation.* The authority to approve requests seeking to initiate a grand jury investigation into matters concerning tax and/or tax-related violations, as part of an already ongoing non-tax grand jury investigation, made or initiated by on on behalf of officers within the Department of Justice is hereby delegated to the Chief; Special Litigation Counsel; Senior Assistant Chief or an Assistant Chief in charge of a Regional Unit; in the Criminal Section. *Provided*, the request in not considered to warrant higher level consideration within the Tax Division.

(c) *IRS Generated Requests for Grand Jury Investigation.* The authority to approve or disapprove initiation of a grand jury investigation concerning potential tax and/or tax-related violations in cases referred to the Tax Division from the Revenue Service without a prosecution recommendation, or with a recommendation for initiation of a grand jury investigation, in which the Revenue Service has generated such referral is hereby delegated to the Deputy Assistant Attorney General (Criminal Tax).

(d) *Scope of Grand Jury Investigation Concerning Tax Matters.* The delegation in paragraphs 2. (a), (a) and (c) regarding the approval of grand jury investigations concerning potential tax and/or tax-related violations includes the authority to designate the subjects and scope of such grand jury inquiry and the tax years considered to warrant investigation.

3. *Additional Authority Delegated to the Chief, Criminal Section.*

In addition to the authority conferred in paragraphs 1 and 2, the Chief, Criminal Section, is authorized to:

(a) Approve Tax prosecutions, in accord with the authority and limitations contained in paragraphs 1 (a), (e), and (f) in cases where the Criminal Section's recommendations are other than unanimous.

(b) Decline prosecution in cases involving unanimous recommendations to deline prosecution by the Criminal Section Docket attorney *and* either a Special Litigation Counsel; a Senior Assistant Chief or Assistant Chief in charge of a Regional Unit; an Assistant Chief or Reviewer; in the Criminal Section. *Provided* the case in not considered to warrant higher level consideration within the Tax Division.

(c) Approve or disapprove requests to apply for search warrants relating to searches for evidence that a tax offense has been committed in accord with the procedures described in U.S.A.M. 6–2.330. Provided the request does not require higher level consideration within the Department of Justice pursuant to the provisions of 28 CFR Part 59.

(d) Decline prosecution or approve prosecution (reversing the earlier decision to decline prosecution). *Provided*, that the case was not acted on at a higher level within the Tax Division when previously considered *and* there is then a unanimous recommendation within the Criminal Section which includes a recommendation by either the Senior Assistant Chief or an Assistant Chief in Charge of a Regional Unit.

(e) Approve or disapprove recommendations made in cases forwarded to the Chief, Criminal Section, in accord with the procedures described in paragraph 1(c) concerning whether prosecution should continue in a direct referral case notwithstanding notification from the appropriate United States Attorney indicating why proceeding with prosecution is not believed advisable.

(f) Approve or disapprove recommendations to pass prosecution of the first year in cases received from the Revenue Service with less than seven (7) calendar months remaining before the expiration of the statute of limitations and forwarded to Chief, Criminal Section, when warranted under the procedures set forth in paragraph 1(d).

4. *Additional Authority Delegated to the Deputy Assistant Attorney General (Criminal Tax).*

In addition to the authority conferred in paragraphs 1 and 2, the Deputy Assistant Attorney General (Criminal Tax) is authorized to:

(a) Approved and decline tax prosecution in cases forwarded to that Deputy Assistant Attorney General from the Chief, Criminal Section, in accord with procedures heretofore stated. *Except* when in the opinion of that Deputy Assistant Attorney General, the case should receive the personal consideration of the Assistant Attorney General, Tax Division, or where such consideration has been requested by the United States Attorney to whom the case would be referred.

(b) Approve or disapprove recommendations in cases forwarded to that Deputy Assistant Attorney General from the Chief, Criminal Section, concerning whether tax prosecutions which have been previously authorized shall continue, be declined, or be dismissed, if the determination is in concurrence with a recommendation from the appropriate United States Attorney's office.

(c) Approve or disapprove recommendations in cases forwarded to that Deputy Assistant Attorney from the Chief, Criminal Section, concerning whether prosecution should be initiated or declined in a case in which prosecution was previously declined when, after reconsideration, a decision on the prosecutorial merits cannot be made under the provisions of paragraph 3.(d).

5. *Scope and Effect of this Delegation.*

(a) This delegation supersedes Tax Division Directive No. 37 and all other delegations of authority to approve criminal proceedings or decline prosecutions for tax purposes previously issued.

(b) Except as authorized by this delegation, authority to (1) approve or disapprove the initiation of criminal proceedings for tax and/or tax-related violations; or (2) take any action, the effect of which would be to preclude prosecution for such violations, including but not limited to entering into agreements not to prosecute and approving requests to apply for court orders compelling the testimony of witnesses under 18 U.S.C. 6003(b), 6004, and 28 CFR 0.175 (b) and (c); or (3) execute a written request for a tax return or return information to be obtained from the Internal Revenue Service for tax administration purposes in accord with 26 U.S.C. 6103 (h)(2) and (3)(B), remains vested in the Assistant Attorney General in charge of the Tax Division, subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General as provided in 28 CFR 0.70. In addition, authority to alter any action taken pursuant to the delegations contained in paragraphs 1 through 4, inclusive, is retained by the Assistant Attorney General in charge of the Tax Division, in accord with the authority contained in 28 CFR 0.70.

(c) In the event a Tax Division official designated herein other than the Assistant Attorney General, Tax Division, or Deputy Assistant Attorney General (Criminal Tax) is recused from acting on a particular case and there is no other official of similar rank available to act in a particular case, then the next higher ranking official shall be the appropriate official to act on such case. When either or both the Assistant Attorney General, Tax Division, or Deputy Assistant Attorney General (Criminal Tax) are recused in a particular case, a ranking Tax Division official will be designated to act as either the Assistant Attorney General or Deputy Assistant Attorney General (Criminal Tax) as the need arises for purposes of that particular case in accord with the authority contained in 28 CFR 0.132(e).

(d) In situations in which the Assistant Attorney General, Tax Division, designates an individual to be "Acting" in the capacity of an official specified herein the individual designated as "Acting" shall have the same authority as herein delegated to that official. *Provided*, the "Acting" official has not previously acted on the matter then being considered, in a subordinate capacity. 28 CFR 0.132 (d) and (e).

Approved to take effect on May 9, 1983.

Glenn L. Archer, Jr.,

Assistant Attorney, General Tax Division.

[FR Doc. 83–13032 Filed 5–13–83; 8:45 am]

BILLING CODE 4410–01–M

Proposed Consent Decree for Violations of The Clean Water Act and Two NPDES Permits by the City of Fort Smith, Arkansas at Their Sewage Treatment Plants

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 28, 1983, a proposed consent decree in *United States* v. *City of Fort Smith and the State of Arkansas*, Civil Action No. 83–2121, was lodged with the United States District Court for the Western District of Arkansas.

The proposed consent decree requires the City of Fort Smith to submit for EPA approval a correction plan to bring its two sewage treatment plants, the Massard Plant and P Street Plant, into compliance with the Clean Water Act, and to implement the plan as approved. In addition, the consent decree requires the defendant to pay penalties.

The Department of Justice of will receive, for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Fort Smith*, D.J. No. 90–5–1–1–1782.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Arkansas, 6th and Rogers Street, Fort Smith, Arkansas 72901, the Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75279 and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Divison of the Department of Justice. In requesting a copy, please enclose a check or money order in the amount of $1.90 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–13029 Filed 5–13–83; 8:45 am]

BILLING CODE 4410–01–M

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Proposed Consent Decree in an Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 7, 1983, a proposed Consent Decree in *United States* v. *Temple-Eastex, Inc.*, Civil Action No. TY–81–108–CA, was lodged in the United States Court for the Eastern District of Texas.

The proposed decree requires that Temple-Eastex undertake the necessary water pollution control improvements to bring its Diboll, Texas facility into compliance with its National Pollutant Discharge Elimination System Permit. The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments related to the proposed decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *United States* v. *Temple-Eastex*, DJ Ref. No. 90–5–1–1–1461.

The proposed consent decree may be examined at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270 and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. All requests for copies should be accompanied by a check in the amount of $3.00 (10 cents per page reproduction costs) made payable to the Treasurer of the United States.

Mary L. Walker,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–13031 Filed 5–13–83; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Judgment Order Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 28, 1983 a proposed Judgment Order in *United States* v. *Inland Steel Company*, Civil Action No. H81–216, was lodged with the United States District Court for the Northern District of Indiana. Motion for entry of the proposed Judgment Order was made by defendant, Inland Steel Corporation. The United States has preliminarily indicated that it does not oppose entry of the Judgment Order, conditional upon the publication of this notice, and the evaluation of any comments received in response to this notice. The proposed Order provides for the payment of a civil penalty and installation of air pollution control equipment at Inland's blast furnaces, BOF Shop, Open Health Shop, Electric Arc Furnace, Coke Batteries, and certain sources of fugitive dust.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Inland Steel Company*, D.J. Ref. 90–5–2–1–445.

The proposed Judgment Order may be examined at the office of the United States Attorney, Northern District of Indiana, 507 State Street, Hammond, Indiana, and at the Region V Office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois. Copies of the Judgment Order may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Judgment Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–13088 Filed 5–13–83; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. GTE Corporation; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement, as set forth below, have been filed with the United States District Court for the District of Columbia, in *United States v. GTE Corporation*, Civil Action No. 83–1298.

The complaint alleged, among other things, that the acquistion would violate Section 7 of the Clayton Act because it could substantially lessen competition in the provision of intercity telecommunications services, and that GTE's expansion through its regulated telephone companies into the information services field would create a substantial probability of anticompetitive conduct in violation of Section 2 of the Sherman Act.

The proposed Final Judgment would require that (1) GTE maintain total separation, in assets, operations and personnel, between the acquired companies and all GTE local telephone operating companies, (2) GTE offer equal and nondiscriminatory exchange access, on an unbundled, tariffed basis, to all long-distance telephone carriers and information service providers and (3) any information services offered by a GTE local telephone company be offered only through an entity within the telephone company kept separate from its regulated operations. The proposed decree would further prohibit GTE's local telephone companies from providing intercity telecommunications services outside defined areas, while permitting those companies to utilize, subject to some conditions, their existing intercity facilities.

Comments to the Department regarding the proposed decree are invited from the public. The comment period under the Tunney Act typically runs for a period of sixty days. If the Court grants a request submitted by the Department, the public comment period will not expire until twenty days after a decision by the Federal Communications Commission on GTE's application to acquire the Southern Pacific telecommunications subsidiaries, but in no event, however, will the comment period be less than sixty days from the date of necessary publications to be made in the **Federal Register.** GTE cannot consummate the proposed acquisition unless it receives the approval of the FCC. Comments concerning the proposed Final Judgment should be sent to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court, for the District of Columbia

Stipulation

United States of America: Plaintiff v. *GTE Corporation*, Defendant

Civil Action N. 83–1298

Filed: May 4, 1983.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendant in this or any other proceeding.

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Ronald G. Carr, *Deputy Assistant Attorney General;* Mark P. Leddy, Stanley M. Gorinson, Jeffrey Blumenfeld, Richard O. Levine, *Attorneys, Antitrust Division, U.S. Department of Justice;* Charles F. Parthum III, Linda S. Chapman, Andrew C. Gilbert, Glenn B. Manishin, Eneid A. Francis, *Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, (202) 724–6693.*

For the Defendant:

George E. Shertzer,

General Counsel and Senior Vice President, GTE Corporation, Stamford, Connecticut 06904.

U.S. District Court for the District of Columbia

Final Judgment

United States of America, Plaintiff v. *GTE Corporation*, Defendant.

Plainfiff, the United States of America, having filed its complaint herein on May 4, 1983; the parties, by their respective attorneys, having consented to the entry of this Final Judgment; and without this Final Judgment constituting any evidence or admission by any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction over the parties and the subject matter of this action. The complaint states a claim upon which relief may be granted against the defendant under Section 2 of the Sherman Act (15 U.S.C. 2) and under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "Acquired entities" means the stock and assets acquired by GTE from Southern Pacific Company, including but not limited to Southern Pacific Communications Company and Southern Pacific Satellite Company, and shall also include any assets transferred to or from such entities, or any new entity created pursuant to Paragraph IV(D) of this Final Judgment.

B. "Affiliate" or "affiliates" means any organization or entity in which, directly or indirectly, GTE has any ownership or equity interest or control.

C. "AT&T" means American Telephone and Telegraph Company and the affiliates of AT&T. "Affiliates of AT&T" means any organization or entity, including Western Electric Company, Incorporated, Bell Telephone Laboratories, Incorporated, and American Bell, Incorporated, that is under direct or indirect common ownership with or control by AT&T or is owned or controlled by another affilaite. "Interexchange telecommunications services or information services of AT&T" shall include interexchange telecommunications services and information services of GTE provided jointly or on a joint through basis with or for AT&T or on a concurring tariff basis with such services of AT&T.

D. "Bell Operating Companies" and "BOCs" means the corporations listed in Appendix C of this Final Judgment, their successors and assigns, and any entity directly or indirectly owned or controlled by a BOC or affiliated through substantial common ownership.

E. "Carrier" means any person deemed a carrier under the Communications Act of 1934 or amendments thereto, or, with respect to intrastate telecommunications, under the laws of any state.

F. "Customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, but does not include equipment used to multiplex, maintain, or terminate access lines.

G. "Exchange access" means the provison of exchange services for the purpose of originating or terminating interexchange telecommunications. Exchange access services include any activity of function performed by a GTOC in connection with the origination or termination of interexchange telecommunications, including but not limited to the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities; and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange or serving area for the transmission, switching, or routing, within the exchange or serving, of interexchange traffic originating or terminating within the exchange or serving area, and, except as provided in Paragraph A(2) of Appendix B of this Final Judgment, shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange or serving area designated by an interexchange carrier for the connection of its facilities with those of the GTOC. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided to similar traffic of AT&T or any IOC, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carrier. Exchange services for exchange access shall not include the performance by any GTOC of interexchange traffic routing for any interexchange carrier, except that tariffed routing of traffic among multiple points of presence designated by an interexchange carrier (solely at the option of such carrier) within an exchange or serving area based on the destination of such traffic outside a GTOC's facilities (but not routing of traffic among trunk groups from an end office or access tandem to a point of presence or any routing beyond such points of presence) shall not be considered interexchange traffic routing. There shall not be more than one point of presence of any interexchange carrier at any physical location.

H. "Exchange area" or "exchange" means those geographic areas established by a GTOC within which the GTOC has the facilities and capability (on the schedule set forth in Paragraph A of Appendix B of this Final Judgment) to provide traffic switching above and offices and delivery and receipt of such traffic at a point or points designated by an interexchange carrier within such exchange areas for the connection of its facilities with those of the GTOC. Additional or different exchange areas shall be established by the GTOCs in the future, with the approval of the Department of Justice and the court, when and where the foregoing criteria are met. No later than July 5, 1983, GTE shall submit to the Department of Justice for its approval, and file with the Court, a list of its proposed exchange areas. In addition to the foregoing, each GTOC exchange area shall meet the following criteria:

1. Any such exchange area shall encompass one or more contiguous local exchange areas serving common social, economic, or other purposes, even where such configuration transcends municipal or other local governmental boundaries, and shall take into consideration BOC exchange areas and associated serving areas approved by the Court in *United States* v. *Western Electric Co.*, No. 82–0192 (D.D.C.);

2. No such area which includes part or all of one metropolitan statistical area (or a consolidated statistical area, in the case of densely populated states) shall include a substantial part of any other metropolitan statistical area (or consolidated statistical area, in the case of densely populated states), unless the Court shall allow; and

3. Except with approval of the Court, no exchange area located in one state shall include any point located within another state.

I. "Exchange telecommunications ' means:

1. Telecommunications between points within an exchange or serving area;

2. Telecommunications between or among a point or points within a GTOC exchange or serving area and either

(a) A point or points within another GTOC exchange or serving area,

(b) A point or points within the serving area of any IOC, or

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(c) A point or points within an exchange area of a BOC (as defined in the Modified Final Judgment in *United States* v. *Western Electric Co.*, No 82-0192 (D.D.C.)),

If the GTOC exchange or serving area(s) and the IOC serving area have been associated with the BOC exchange area pursuant to an order of the Court in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.); and

3. Telecommunications between a point or points within a GTOC exchange or serving area and a point or points within an IOC serving area which has been associated with such GTOC exchange or serving area with the approval of the Department of Justice as permitted by Paragraph II(P) of this Final Judgment.

J. "GTE" means defendant GTE Corporation and its affiliates.

K. "GTE Operating Companies" and "GTOCs" mean the corporations listed in Appendix a of this Final Judgment, their successors and assigns, any entity hereafter acquired by GTE that provides any regulated wireline exchange telecommunications and exchange access services in a manner similar to that of a GTOC, and any entity directly or indirectly owned or controlled by a GTOC or affiliated through substantial common ownership, but shall not include GTE Corporation or any affiliate of GTE not having an ownership interest in a GTOC.

L. "Independent Operating Company" and "IOC" mean any carrier, other than AT&T or any BOC or GTOC, providing exchange telecommunications and exchange access services.

M. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

N. "Information access" means the provision of specialized exchange telecommunications services by a GTOC in an exchange or serving area in connection with the origination, termination, transmission, switching, forwarding, or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

O. "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include (1) any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service, or (2) the provision of time, weather, and such other similar audio services that are offered by any GTOC as of the date of entry of this Final Judgment.

P. "Interexchange telecommunications" means telecommunications between a point or points located in one exchange or serving area (as defined herein or as established by a BOC pursuant to the Modified Final Judgment in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.)) and a point or points located in one or more other such areas or a point outside such an area; provided, however, that telecommunications between or among a point or points within a GTOC exchange or serving area and either

(1) A point or points within another GTOC exchange or serving area,

(2) A point or points within the serving area of any IOC, or

(3) A point or points within an exchange area of a BOC (as defined in the Modified Final Judgment in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.)),

If the GTOC exchange or serving area(s) and the IOC serving area have been associated with the BOC exchange area pursuant to an order of the Court in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.), shall not be interexchange telecommunications; and privided further that, with the approval of the Department of Justice, a GTOC may associate the serving areas of other IOCs with its exchange or serving areas, and in such cases telecommunications between a point or points within the GTOC exchange or serving area and a point or points within the associated IOC serving area shall also not be interexchange telecommunications.

Q. "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity.

R. "Serving area" means (1) a geographic area, not within an exchange area, in which a GTOC does not have the facilities and capability identified in Paragraph II(H) but in which it provides exchange telecommunications and exchange access services, provided that all GTOC geographic areas associated with a single BOC exchange area pursuant to an order of the Court in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.), may be combined into a single GTOC serving area, and (2) a geographic area in which an IOC provides exchange telecommunications and exchange access services.

S. "Technical information" means intellectual property of all types, including, without limitation, patents, copyrights, and trade secrets, relating to planning documents, designs, specifications, standards, and practices and procedures, including employee training.

T. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of electromagnetic transmission, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

U. "Telecommunications service" means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.

V. "Transmission facilities" means equipment (including without limitation cable, microwave, satellite, and fiber optics) that transmits information by electromagnetic means or which directly support such transmission.

III

The provisions of this Final Judgment shall be binding upon GTE, its successors and assigns, officers, directors, agents, employees, and attorneys, and upon any person in active concert or participation with any of them who receives actual notice of this Final Judgment by personal service or otherwise, except that this Final Judgment shall not apply to any GTOC, or any portion thereof, as to which GTE may hereafter sell, transfer, or otherwise dispose of its interests, both direct and indirect, to any non-affiliated person.

IV

A. GTE shall maintain total separation between the acquired entities and GTE as follows:

1. No GTOC shall directly or indirectly transfer to or obtain from the acquired entities any assets, operations, or line of business, except as provided in Paragraphs IV(D) and IV(E);

2. GTE shall not, under any circumstances, maintain for the acquired entities and any GTOC (a) common directors, officers, or employees (other than the Chief Executive Officer and President of GTE Corporation), (b) common facilities or assets, or (c) common books of accounts, costs, or expenditures;

3. In no event shall GTE directly or indirectly provide to, or utilize for the benefit of, the acquired entities any proprietary GTOC telecommunications information, including but not limited to non-public GTOC customer information or non-public network engineering information;

4. Neither a GTOC, nor the Telephone Operations Group of GTE Service Corporation or its successors, shall directly or indirectly provide any administrative, engineering, research and development, or similar services to the acquired entities, nor shall the acquired entities directly or indirectly provide any such services to any GTOC or such Telephone Operations Group (or its successors);

5. All financing of the acquired entities shall be provided directly by GTE Corporation, any financing affiliate wholly owned by GTE, or by unaffiliated sources;

6. The GTOCs and the acquired entities shall not jointly provide telecommunications or information services or jointly own the assets used to provide such services; and

7. The acquired entities shall (a) obtain all services, information, and products from other GTE affiliates (other than the the GTOCs or the Telephone Operations Group of GTE Service Corporation or its successors) only pursuant to contracts, and on terms and conditions no more favorable than such services, information, and products are offered to the GTOCs, and (b) bear the fully allocated cost of any services, information, and products obtained from any such GTE affiliate that are not offered by that affiliate to the GTOCs.

B. No officer or employee of a GTOC or any officer or employee of GTE who has direct or indirect managerial or operational authority over a GTOC shall also have any such authority with respect to the acquired entities, provided, however, that this requirement shall not apply to the Chief Executive Officer and the President of GTE Corporation.

C. The acquired entities may not be identified with, nor may their services be marketed or identified in connection with, any GTOC or the services offered by any GTOC, except that a GTOC may inform its subscribers in a non-discriminatory manner of the services offered by interexchange carriers. Nothing contained herein shall prevent the acquired entities and the GTOCs from each separately being identified with GTE.

D. Nothing in Paragraphs IV(A) or IV(B) shall prohibit GTE from:

1. Transferring to the acquired entities the assets, stock, operations, or telecommunications or information services of:

(a) GTE Satellite Corporation;

(b) GTE Telenet Incorporated;

(c) Any GTE affiliate which provides only interexchange telecommunications or information services, customer premises equipment (but not the manufacture thereof or research and development therefor), or unregulated exchange telecommunications or information services;

(d) Any GTE affiliate not providing goods or services to a GTOC; or

(e) Any other GTE affiliate subject to the approval of the Department of Justice; or

2. Consolidating in a newly created affiliate the assets, stock, operations, or services of the acquired entities, and:

(a) GTE Satellite Corporation;

(b) GTE Telenet Incorporated;

(c) Any GTE affiliate which provides only interexchange telecommunications or information services, customer premises equipment (but not the manufacture thereof or research and development therefor), or unregulated exchange telecommunications or information services;

(d) Any GTE affiliate not providing goods or services to a GTOC; or

(e) Any other GTE affiliate subject to the approval of the Department of Justice.

3. Any assets, stock, operations, or services of GTE Satellite Corporation, GTE Telenet Incorporated, or such other GTE affiliate transferred or consolidated pursuant to Paragraphs IV(D)(1) or IV(D)(2) shall not include any that were at any time owned, operated, conducted, or offered by any GTOC as a regulated exchange or exchange access service.

E. Nothing in Paragraph IV(D) shall prohibit GTE from transferring any unregulated exchange telecommunications services or customer premises equipment from the GTOCs.

F. GTE shall submit an annual written report to the Department of Justice, accompanied by an affidavit of its Chief Executive Officer and of its President, setting out a summary of the transactions described by this Section IV and attesting to GTE's compliance with this Final Judgment, and shall provide all further information concerning such transactions as may be requested by the Department of Justice.

V

A. Subject to Appendix B of this Final Judgment, each GTOC shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price for all interexchange carriers and information service providers, including any information services of a GTOC.

B. No GTOC shall discriminate between the interexchange telecommunications services, information services, or customer premises equipment of GTE (including any information services of a GTOC) and the interexchange telecommunications services, information services, or customer premises equipment of other persons in the:

1. Establishment and dissemination of technical information and interconnection standards;

2. Interconnection and use of the GTOC's exchange telecommunications or exchange access services and facilities or in the charges for each element of service; and

3. Provision of new exchange access and information access services and the planning for and implementation of the construction or modification of facilities used to provide exchange access and information access.

C.1. No GTOC shall provide interexchange telecommunications services or own jointly with GTE or any other person facilities that are used to provide such services, provided that nothing in this Final Judgment shall prohibit Hawaiian Telephone Company and General Telephone Company of Alaska from providing telecommunications services between Hawaii and Alaska, respectively, and points outside of the United States, and owning the assets necessary to provide such services.

2. Notwithstanding Paragraph V(C)(1), a GTOC's capacity for interexchange switching and interexchange transmission in facilities in service on January 1, 1984, or in a GTOC's construction program as of January 1, 1983 and in service by January 1, 1987, may be leased by the GTOC to any interexchange carrier (or any successor) with which such GTOC was, as of January 1, 1983, providing interexchange telecommunications services jointly or on a joint through or concurring tariff basis, for the provision of interexchange telecommunications services by such carrier. Any such leases shall ensure that the GTOC retains control of sufficient switching and transmission capacity to provide exchange telecommunications and exchange access services in accordance with the requirements of this Final Judgment.

3. Nothing contained herein shall prohibit a GTOC, in any state in which it has assets subject to Paragraph V(C)(2) for which it has not recovered its capital investment and for which the leases described in Paragraph V(C)(2) are not in effect, from replacing existing agreements with the BOCs with an agreement with an interexchange carrier (other than the acquired entities) that will permit the recovery of the net book value of such capital investment and the costs thereof, including a return on debt or equity, so long as that agreement terminates when such net book value has been recovered.

4. In the event that the arrangements described in Paragraphs V(C)(2) and V(C)(3) are not in effect, each GTOC shall make its interexchange routing and transmission capacity provided by assets subject to Paragraph V(C)(2) available to all interexchange carriers on non-discriminatory terms and conditions, and may expand or modernize (but not replace) such interexchange routing and transmission facilities if it offers to make available such expanded or modernized capacity to all interexchange carriers on non-discriminatory terms and conditions.

5. Nothing in Paragraphs V(C)(2), V(C)(3), or V(C)(4) shall preclude, either explicitly or implicitly, any GTOC or GTE from pursuing appropriate remedies before regulatory bodies and elsewhere to recover the GTOC's financial investment in the assets subject to Paragraph V(C)(2).

D. 1. No GTOC shall provide information services or own jointly with GTE or any other person facilities that are used to provide such services.

2. Notwithstanding Paragraph V(D)(1), a GTOC may provide information services through a separate entity (either an incorporated subsidiary or an unincorporated division having separate books of account and reporting directly to the chief operating officer of the GTOC) that obtains from the GTOC telecommunications services, telecommunications facilities (including the right to co-locate its equipment in buildings used to provide exchange telecommunications), and billing services, only to the extent that such services and facilities are made available to other persons pursuant to tariffed and unbundled schedules of charges and in accordance with the requirements of Paragraph V(B), and obtains adminstrative and other services (including the use of GTOC maintenance and installation personnel) from the GTOC (a) only on the same terms that such services are obtained by non-affiliated persons, and (b) in other cases only at fully allocated costs. No such separate entity shall to any extent own or control facilities used to provide regulated exchange telecommunications or exchange access services, have personnel who simultaneously market both regulated exchange telecommunications or exchange access services and information services, or directly or indirectly obtain proprietary GTOC marketing, customer, or network engineering information.

3. The limitations of Paragraphs V(D)(1) and V(D)(2) shall expire:

(a) Five (5) years after entry of this Final Judgment, unless one (1) year prior thereto the Department of Justice applies to the court for an extension of the limitations or for other relief as to one or more categories of information services, and the court thereafter finds by a preponderance of the evidence that there is a substantial danger that, without the continuance of the limitations or the

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imposition of further relief, competition in the relevant information service in any exchange or serving area will be materially lessened, taking into account, without limitation, the development of competition in the provision of the relevant information sevice and the development of competition and potential competition in the provision of exchange telecommunications facilities or services. If the Court so finds, the limitations or such further relief as the Court may order shall continue for such period as the Court may determine as to such service or services in those exchange or serving areas; or

(b) Whenever and to the extent that a BOC is relieved of the provisions of Section II(D) of the Modified Final Judgement in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.)., either (i) throughout a state, in which case the limitations of Paragraphs V(D)(1) and V(D)(2) shall not apply to the information services of a GTOC within that state, or (ii) in any BOC exchange area, in which case the limitations of Paragraphs V(D)(1) and V(D)(2) shall not apply to the information services of a GTOC within any GTOC exchange or serving area if telecommunications between such GTOC exchange or serving area and such BOC exchange area are not interexchange telecommunications.

4. Neither failure by the United States to institute a proceeding pursuant to Paragraph V(D)(3) nor findings made by the Court in any such proceeding shall prevent, or constitute an estoppel in, any subsequent action by the United States under the antitrust laws.

E.1. Prior to the effective date of this Final Judgment, GTE shall submit to the Department of Justice proposed procedures for ensuring compliance with the requirements of Section IV of this Final Judgment;

2. Within nine (9) months after the effective date of this Final Judgment, GTE shall submit to the Department of Justice procedures for ensuring compliance with the requirements of section V and Appendix B of this Final Judgment.

VI

A. For ten (10) years after the effective date of this Final Judgment, except with the approval of the Department of Justice or of this Court, GTE shall not acquire a direct or indirect equity interest in (or the equivalent thereto), whether or not controlling, or the assets of, any carrier, other than the acquired entities, providing interexchange telecommunications services in the United States.

B. Paragraph VI(A) shall not prohibit GTE's insurance subsidiaries, if any, and the pension and profit-sharing trusts of GTE and its subsidiaries, from acquiring, or holding for investment purposes, interest in the assets, stock, or other beneficial interests in any organization to the extent permitted by the laws governing investments of insurance companies and pension and profit-sharing trusts.

C. Paragraph VI(A) shall not prohibit the acquisition by GTE, by purchase or other form of transfer, of (a) assets used to provide exchange telecommunications which shall only incidentally be used to provide interexchange services, or (b) an interexchange carrier which obtains less than five percent of its gross telecommunications revenues from telecommunications services between points within the United States.

VII

A. Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

B. Upon application to this Court by the United States to enforce compliance with this Final Judgment, the Court may grant further relief, including but not limited to divestiture of the acquired entities or, at the election of GTE, divestiture of the GTOCs, if (1) GTE is found to have engaged in a pattern of substantial violations of section IV, Section V, or Appendix B of this Final Judgment, or (2) any GTOC is found to have violated Section IV, Section V, or Appendix B or this Final Judgement in a manner that materially injures interexchange carriers or information service providers in their ability to offer services competitive with those offered by GTE or the acquired entities.

VIII

A within ninety (90) days from the effective date of this Final Judgment, GTE is ordered and directed to advise its officers and other management personnel with significant responsibility for matters addressed in this Final Judgement of their obligations hereunder, including the obligations under Paragraph VIII(B).

B. GTE shall undertake the following with respect to each such officer or management employee:

1. The distribution to them of a written directive setting forth their employer's policy regarding compliance with the antitrust laws and with this Final Judgment, with such directive to include:

(a) An admonition that non-compliance with such policy and this Final Judgment will result in appropriate disciplinary action determined by their employer and which may include dismissal; and

(b) Advice that legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems; and

2. The imposition of a requirement that each of them sign and submit to their employer a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the 1983 *United States v. GTE Corporation* Final Judgment and a written directive setting forth Company policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read such Final Judgment and directive and understands those provisions for which the undersigned has responsibility, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by the Company and which may include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

C. GTE shall advise each new officer and other management employee with significant responsibility for matters addressed in this Final Judgment in the same manner as under Paragraphs VIII(B)(1) and VIII(B)(2) within thirty (30) days after they assume such responsibility.

D. GTE shall retain in its files the certificates required by Section VIII for at least five (5) years from the date of signature by each officer and management employee.

IX.

A. For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

1. Upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice of GTE made to its principal office, duly authorized representatives of the Department of Justice shall be permitted access during office hours of GTE to depose or interview officers, employees, or agents, who may have counsel present, and to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of under the control of GTE relating to any matters contained in this Final Judgment; and

2. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to its principal office, GTE shall submit such written reports as may be requested, under oath if requested, with respect to any of the matters contained in this Final Judgment.

B. No information or documents obtained pursuant to this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized reprsentative of the Executive Branch of the United States or the Federal Communications Commission, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time such information or documents are furnished to the United States, GTE represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and GTE marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by the United States to GTE prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which GTE is not a party.

X

This Final Judgment shall become effective upon the later of the date of entry of this Final Judgment by this Court or the consummation of the acquisition of the acquired entities, and shall expire if GTE no longer provides exchange or exchange access services pursuant to any federal or state regulation.

XI

Entry of this Final Judgment is in the public interest.

Entered this ——— day of ———, 1983.

United States District Judge.

Appendix A

General Telephone Company of Alaska
General Telephone Company of California
General Telephone Company of Florida
General Telephone Company of Illinois
General Telephone Company of Indiana, Inc.
General Telephone Company of Kentucky
General Telephone Company of Michigan
General Telephone Company of the Midwest
General Telephone Company of the Northwest, Inc.
General Telephone Company of Ohio
General Telephone Company of Pennsylvania
General Telephone Company of the Southeast
General Telephone Company of the Southwest
General Telephone Company of Wisconsin
Hawaiian Telephone Company

Appendix B—Phased-in GTOC Provision of Equal Exchange Access

A.1. As part of its obligation to provide non-discriminatory access to interexchange carriers, each GTOC shall, as promptly as possible, and in no case more than twelve (12) months after receipt of a written request from any interexchange carrier other than AT&T, offer to all interexchange carriers exchange access on an unbundled, tariffed basis, that is equal in type and quality to that provided for the interexchange telecommunications services of AT&T or any IOC, through its end offices which employ switches technologically capable of providing equal exchange access or for which the capability of providing equal exchange access is commercially available to the GTOCs, consistent with the following:

(a) Each GTOC shall offer equal exchange access through its end offices employing (i) 1-ESS (Electronic Switching System) switches, DMS-100 (Digital Multiplex System) switches, or other electronic stored program control switches, other than those referred to in (ii) and (iii) below, technologically capable of providing equal exchange access, no later than January 1, 1985; (ii) GTD-5 (General Telephone Digital) switches no later than January 1, 1987; and (iii) 1-EAX and 2-EAX (Electronic Automatic Exchange) switches no later than September 1, 1987;

(b) No later than September 1, 1987, equal exchange access shall be offered through end offices serving at leaat two-thirds of the exchange access lines provided by the GTOCs, provided that (i) a GTOC need not offer equal exchange access through an end office if, because of changed circumstances which could not reasonably have been foreseen, it is no longer economically feasible to install at that end office a switch technologically capable of providing equal exchange access, and (ii) if any non-affiliated manufacturer of switches shall fail to provide to the GTOCs the hardware and software necessary to provide equal exchange access, the two-thirds amount shall be reduced to that extent; and

(c) No later than December 31, 1990, equal exchange access shall be offered through all end offices serving greater than ten thousand (10,000) exchange access lines, provided that a GTOC need not offer equal exchange access through such an end office if, because of changed circumstances which could not reasonably have been foreseen, it is no longer economically feasible to install at that end office a switch technologically capable of providing equal exchange access.

Nothing in this Final Judgment shall be construed to permit a GTOC to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type or quality to that provided for the interexchange servces or information services of AT&T or any IOC at charges reflecting the reduced or increased cost of such access.

2. Notwithstanding Paragraph A(1), a GTOC shall not have the obligation to provide the facilities and capability for switching interexchange traffic above an end office if the end office is located in a GTOC serving area, or to transport such traffic between the end office and a point or points within the serving area designated by an interexchange carrier other than by direct GTOC transmission facilities. A GTOC shall use its best efforts to obtain from other carriers those functions the GTOC is not obligated to provide under the preceding sentence.

3. (a) Notwithstanding Paragraph A(1), in those instances in which a GTOC is providing exchage access for Message Telecommunications Service as of the date of entry of this Final Judgment through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with the schedule set out in Paragraph A(1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

(b) Each GTOC shall, in accordance with the schedule set out in Paragraph A(1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carriers of the customer's designation.

(c) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, (but in no event earlier than the schedule set out in Paragraph A(1)(a)) each GTOC shall provide exchange access to every interexchange carrier through a uniform number of digits.

4. No GTOC shall be required to provide equal exchange access through an end office employing switches of the technology known generically as step-by-step, provided that (a) GTE compiles with the requirements of Paragraph A(1), and (b) at all end offices employing electromechanical (including step-by-step) switches the GTOC offers a commercially available trunkside interconnect arrangement to all interexchange carriers, unless such access is not physically possible except at costs that clearly outweigh potential benefits to users of telecommunications services. GTE will provide to the Department of Justice such information as it may request concerning any such analysis.

B.1. The GTOCs shall file tariffs, to be effective January 1, 1984, for the provisions of exchange access, including the provision by each GTOC of exchange access for the acquired entities' interexchange telecommunications. Such tariffs shall provide unbundled schedules of charges for exchange access, and shall not discriminate against any carrier or other customer.

2. Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

3. Notwithstanding the requirements of Paragraph B(2), from the effective date of the tariffs referred to in Paragraph B(1) until September 1, 1991, the changes for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers; provided, that the facilities of any interexchange carrier within five (5) miles of a GTOC switch performing a class 4 function shall, with respect to end offices served by such switch, be considered to be in the same subzone as such switch.

4. Each GTOC offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by the GTROC for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to Paragraph B(1).

C.1. Subject to the provisions of Paragraphs V(B) and V(D), this Final Judgment shall not require a GTOC to allow joint ownership or use of its switches, or to require a GTOC to allow co-location in its building of the equipment of other carriers. When a GTOC uses facilities that (a) are employed to provide exchange telecommunications or exchange access or both, and (b) are also used for the transmission or switching of

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interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the cost underlying the determination of charges for either of the former uses.

2. Nothing in this Final Judgement shall either require a GTOC to bill customers for the interexchange services of any interexchange carrier or preclude a GTOC from billing its customers for the interexchange services of any interexchange carrier it designates, provided that when a GTOC does provide billing services to an interexchange carrier, the GTOC may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers. The GTOC's cost of any such billing shall be included in its tariffed access charges to that interexchange carrier. If a GTOC provides billing services to the acquired entities, it shall include upon the portion of the bill devoted to interexchange services the following legend:

This protion of your bill is provided as a service to [the acquired entities]. You may choose another company for your long distance telephone calls while still receiving your local telephone service from this company.

3. Whenever, as permitted by this Final Judgment, a GTOC fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T or any IOC, nothing in this Final Judgment shall prohibit the GTOC from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to the interexchange carrier and its customers compared to the exchange access provided AT&T or any IOC, provided that the tariffs filed for such less-than-equal access reflect the lesser cost, if any, of such access as compared to the exchange access provided AT&T or any IOC.

D. GTE shall file with the Federal Communications Commission such requests for waivers of orders of the Commission as may be necessary to permit full compliance with all the requirements of this Final Judgment.

Appendix C

Bell Telephone Company of Nevada
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Inc.
Michigan Bell Telephone Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
Pacific Northwest Bell Telephone Company
South Centeral Bell Telephone Company
Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
The Diamond State Telephone Company
The Mountain States Telephone and Telegraph Company
The Ohio Bell Telephone Company
The Pacific Telephone and Telegraph Company
Wisconsin Telephone Company

U.S. District Court for the District of Columbia

Competitive Impact Statement

United States of America, Plaintiff v. *GTE Corporation*, Defendant.

Civil Action No. 83-1298.

Filed: May 4, 1983.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-(h)), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry against GTE Corporation in this civil antitrust proceeding.

I. Nature and Purpose of This Proceeding

On October 15, 1982, GTE Corporation ("GTE") and Southern Pacific Company ("SP") executed an agreement under which GTE would acquire the telecommunications enterprises of SP, including Southern Pacific Communications Company ("SPCC") and Southern Pacific Satellite Company ("SPSC"). Subsequently, GTE and SP applied to the Federal Communications Commission ("FCC") for authority to transfer SP's construction and radio licenses to GTE under Sections 214 and 310(d) of the Communications Act of 1934 (47 U.S.C. 214, 310(d)). GTE may not consummate its proposed acquisition absent approval by the FCC of these applications.

On May 4, 1983, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act (15 U.S.C. 25), challenging this acquisition as a violation of Section 7 of the Clayton Act (15 U.S.C. 18), and under Section 4 of the Sherman Act (15 U.S.C. 4), challenging GTE's provision of information services as a violation of Section 2 of the Sherman Act (15 U.S.C. 2). The complaint alleged that the effect of the acquisition may be substantially to lessen competition in the provision of interexchange telecommunications services to those geographic areas, among others, in which GTE provides local exchange telecommunications services. The complaint also alleged that GTE's provision of information services creates a substantial probability of monopolization of the provision of information services in those markets.

The United States and GTE have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, and enforce compliance with the provisions of the proposed Judgment, to punish any violations of the proposed Judgment, and to grant further relief should violations of the proposed Judgment occur. The proposed Final Judgment would become effective upon the later of the date of entry by the Court of GTE's consummation of the acquisition.

II. Events Giving Rise to the Alleged Violation

Intercity (or "interexchange") telecommunications services in the United States have enjoyed a history similar to that of several other regulated industries. At the close of World War II, one firm, AT&T, enjoyed a *de facto* monopoly in the provision of intercity voice telecommunications services throughout the country. Since that time competition has slowly but surely begun to emerge. Technological development, steadily increasing demand, and decisions of the FCC and the courts have all aided this trend. In consequence, all segments of the intercity telecommunications industry are now characterized by some degree of competive activity.

Similar technoligical and concomitant legal developments have yet to occur within the markets for local (or "exchange") telecommunications services in the United States. Local Exchange telecommunications, including local telephone services, are provided by firms that enjoy a monopoly within their franchised serving areas, subject to regulation, including regulation of their rate-of-return on investment, by the states. Although technology may at some point facilitate the introduction of realistic competition into these local markets,[1] for the foreseeable future local telecommunications services will remain almost exclusively the province of such franchised rate-of-return regulated monopolists.

Several significant competitive concerns arise from the interface between these local regulated monopoly markets and the more competitive markets for intercity (or "interexchange") telecommunications sevices. Firms seeking to provide intercity telecommunications services to customers in any market must reach those customers over facilities owned and operated by the firm providing local telecommunications services in that market. These local distribution facilities, including both exchange switching and transmission facilities, are essential facilities to which firms providing intercity services must have non-discriminatory access in order to compete effectively over the full range of services. Thus, when a single firm provides both local, regulated telecommunications and intercity telecommunications sevices in a given market, its control over local exchange monopolies gives it the ability—and its simultaneous presence as an intecity carrier provides it an economic incentive—to foreclose or impede competition in the provision of interexchange

[1] Local distribution facilities operated by regulated "wireline" carriers within their franchised serving areas are the dominant form of exchange telecommunications. Although complementary and supplementary technologies, such as cellular radio and digital termination services, are being developed, these technologies have not yet been commercially introduced to the point of providing a widespread competitive substitute for the local exchange "bottleneck."

telecommunications in that market. Vertical integration by local telephone operating companies therefore creates both the incentive and ability, through abuse of monopoly power over local distribution facilities and through evasion of rate-of-return regulation and cross-subsidization, for the leverage of monopoly power in regulated markets to impede competition (or the development of competition) in related competitive, or potentially competitive, markets.

These dual concerns, discrimination and cross-subsidization, also arise as a consequence of the vertical integration by local telephone operating companies into the provision of more specialized "information services," such as videotext and some forms of electronic mail. Indeed, because the technologies for such information services are only now beginning to be marketed commercially, and have yet to demonstrate significant, independent profitability, vertical integration by local exchange monopolists creates a very significant potential for retarding the otherwise natural competitive development of the information services industry.

The potential for abuse of monopoly power over exchange access and for evasion of regulatory constraints underlies the present action and the proposed Final Judgment. In its complaint, the United States alleged that the acquisition by GTE of SPCC and SPSC may substantially lessen competition for the provision of enterexchange telecommunications services to customers of GTE's regulated, monopoly local operating companies, in violation of Section 7 of the Clayton Act. The United States also alleged that the provision by the GTE operating companies ("GTOCs") of information sevices creates a substantial probability of monopolization of the provision of information services in such markets, in violation of Section 2 of the Sherman Act. The United States accordingly sought a judgment that GTE's proposed acquisition of SPCC and SPSC would violate Section 7 of the Clayton Act, and injunctive relief addressing the Section 7 and Section 2 violtions, including the following:

(a) The prohibition of the acquisition or any similar arrangement that would combine the ownership or operations of the telecommunications enterprises of SP and GTE; and

(b) The permanent preclusion of GTE, including the GTOCs, from the business of providing information services.

The basic antitrust theories of this action are the same as those of *United States* v. *American Telephone & Telegraph Co.*, No. 74-1698 (D.D.C.). On August 24, 1982, the *AT&T* case was terminated upon entry by the United States District Court for the District of Columbia of an agreed upon modification to the Final Judgment in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.). That Modified Final Judgment (hereinafter referred to as the "*AT&T* decree" or the "MFJ") mandated "a basic restructuring of the telecommunications industry."[2]

[2] *United States* v. *Western Electric Co.*, Competitive Impact Statement in Connection with Proposed Modification of Final Judgment, 47 FR 7170, 7170 (February 17, 1982).

consisting of, among other things, (1) the divestiture by AT&T, no later than February 24, 1984, of the exchange telecommunications and exchange access functions of 22 of the Bell Operating Companies ("BOCs"), (2) injunctive provisions designed to ensure that the divested BOCs do not disadvantage any competitor of AT&T engaged in the provision of interchange telecommunications services or information services, (3) injunctive provisions requiring the phased-in provision of equal exchange access by the BOCs to all interexchange carriers and information service providers, and (4) line-of-business restrictions for the divested BOCs barring them from providing interexchange services or other services, except exchange telecommunications, customer premises equipment, and printed directory advertising, that are not natural monopoly services actually regulated by tariff.

The allegations of the complaint in this action, and the provisions of the proposed Final Judgment, must be viewed in the context of the telecommunications industry that will emerge from the restructuring mandated by the *AT&T* degree. After the divestitures required by the MFJ, AT&T will no longer control local exchanges representing over 80% of the telephones in the country. The United States alleged in the *AT&T* case that AT&T's control over both the BOCs and its Long Lines intercity operations gave AT&T the incentive and ability, which it had exercised continuously over a number of years, to restrain and impair competition in markets in which competition was increasingly possible given the development of technology and the easing of regulation. The structural separation of the BOCs from Long Lines, coupled with the mandatory provision of equal exchange access by the divested BOCs, separates the provision of regulated, monopoly telephone service from the provision of intercity services in substantially all of the country. By removing the incentives and abilities that gave rise to the alleged anticompetitive conduct of AT&T, the MFJ opens many new markets to the possibility of realistic competition for the provision of interexchange telecommunications services.

One of the various aspects of the telecommunications industry not addressed by the *AT&T* decrease was the continuing relationship between AT&T and the non-Bell or "independent" operating companies. Through its ownership of the GTOCs, GTF is the largest of the independents, providing local exchange telecommunications and exchange access services in 31 states to eight percent of the nation's telephones. As a provider of local telephone service, GTE participates in a joint venture with Long Lines, the BOCs, and the independent operating companies for the provision of intercity telecommunications services, a joint venture known in the telecommunications industry as the "partnership". Revenues from intercity telephone services are allocated among the members of the partnership through a procedure, known variously as "settlements" and "division of revenues," which provides a common rate of return to all members of the partnership on the aggregate, undepreciated investment of each partnership member in interexchange telecommunications switching and transmission facilities. In its complaint in this case the United States alleged that as a member of the partnership, and thus with an economic incentive to favor AT&T, GTE acquiesced in various actions of AT&T which had the effect of impairing competition for the provision of interexchange telecommunications services by competitors of the partnership.

III. Explanation of the Proposed Final Judgment

The United States and GTE have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act is completed. The proposed Final Judgment does not constitute an admission by any party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

The proposed Final Judgment is designed to circumscribe GTE's ability, through cross-subsidization or discriminatory actions, to leverage the power the GTOCs enjoy in their regulated monopoly markets to foreclose or impair the development of competition in the related markets for the provision of interexchange telecommunications services and information services. Accordingly, the proposed Judgment encompasses a wide range of restrictions, discussed in greater detail below, including (a) corporate and operational separation of GTE's regulated monopoly and unregulated (or competitive) operations, (b) a prohibition of discrimination among, and phased-in equal exchange access for, interexchange carriers and information service providers, (c) a ban on the provision by the GTOCs of interexchange services beyond those currently existing, (d) transitional arrangements for use by interexchange carriers of the GTOCs' existing interexchange assets, and for reimbursement to the GTOCs for such use, (e) a ten-year restriction on future acquisitions by GTE, absent the approval of the Department of Justice or the Court, of firms providing interexchange telecommunications services as more than an incidental part of their business, and (f) the limitation of GTOC information services to a subsidiary of each GTOC separated from the GTOC's monopoly exchange and exchange access services and facilities. The proposed Final Judgment also grants the Department the right to seek further relief, including the divestiture of the acquired entities or the GTOCs, should GTE violate the terms of the proposed Judgment.

A. Corporate Separation

Section IV of the proposed Final Judgment requires GTE to maintain complete corporate and operational separation between the GTE operating companies and SPCC and SPSC ("the acquired entities"). This Section would also permit GTE to reorganize its corporate structure by transferring to or consolidating

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with the acquired entities all of GTE's unregulated operations, or by transferring out of the GTOCs their existing unregulated operations.

The corporate separation requirement of Paragraph IV(A)(1) prohibits the GTOCs, subject to a limited exception discussed below, from transferring to or from the acquired entities any assets, operations, or lines of business. Paragraph IV(A)(2) of the proposed Final Judgment prohibits common facilities, assets, books of account, costs, and expenditures for the acquired entities and any GTOC. Paragraphs IV(A)(6), IV(A)(3), and IV(A)(4), respectively, prohibit the joint provision of telecommunications services and the sharing of proprietary customer information, network engineering data, or research and development, and limit authority over the acquired entities to the highest-level GTE officials or to subordinates who are not directly or indirectly responsible for local telephone operations. Paragraph IV(C) of the proposed Final Judgment precludes GTE from marketing the acquired entities' services through, or identifying them with, the GTOCs or the GTOCs' services, although the acquired entities may be renamed "GTE-Sprint" or otherwise identified with GTE as a parent corporation.

Financial and other interactions between GTE and the acquired entities are expressly limited. The proposed Final Judgment has no effect on GTE's right to invest as much capital in SPCC and SPSC as it may choose. However, Paragraph IV(A)(5) provides that all such capital must be provided directly by GTE, its financial affiliates, or unaffiliated sources. Commercial transactions between the acquired entities and GTE's unregulated affiliates—*i.e.*, affiliates other than the GTOCs—are limited by the two-tier standard of Paragraph IV(A)(7). If products, information (including the results of research and development), or services are offered by any GTE affiliate to the GTOCs, they may not be offered to the acquired entities on more favorable terms or conditions; if they are not offered to the GTOCs, they may not be obtained by the acquired entities at less than their fully allocated cost. Paragraph IV(A)(7) is thus designed to prevent the provision of products, information, and services to the acquired entities from functioning as an indirect vehicle for cross-subsidization from the regulated monopoly operations of the GTOCs.[3]

[3] The Department does not intend the provisions of Paragraphs IV(A)(4) or IV(A)(7) of the proposed Final Judgment to bar GTE from assessing each of its affiliates, including the GTOCs and the acquired entities, a charge for the provision of general overhead and administrative services by the GTE Service Corporation calculated in proportion to the revenues earned by each such affiliate. However, the Department emphasizes that Paragraph IV(A)(4) of the proposed Judgment expressly prohibits the GTOCs and the Telephone Operations Group of GTE Service Corporation (and its successors) from directly or indirectly providing any administrative, engineering, research and development, or similar services to the acquired entities. The assessment of the general revenue-based charges described above will not, in the Department's view constitute the indirect provision of administrative or related services by the GTOCs or the Telephone Operations Group of GTE Service Corporation. A similar general revenue assessment may be used to fund general research and development activities of GTE Laboratories, Incorporated, provided that any project or results specifically related to the acquired entities must be paid for by the acquired entities on a fully allocated cost basis as required by Paragraph IV(A)(7).

The key structural requirement of Section IV of the proposed Final Judgment is the internal separation of the acquired entities from the GTOCs and the supporting administrative operations of GTE Service Corporation. Although the principle governing this separation is clear, the proposed Judgment necessarily allows GTE a degree of flexibility in formulating the precise details of its corporate and operational procedures. The constraints imposed by Section IV are designed to circumscribe financial and operational intermingling of the acquired entities and the GOTCs, thereby reducing the anticompetitive potential inherent in the acquisition.

To ensure that the Department of Justice is fully apprised of GTE's implementation of this separation, Paragraph V(E)(1) requires that GTE submit to the Department, prior to the effective date of the proposed Judgment, procedures for ensuring compliance with its obligations under Section IV. Paragraph IV(F) of the proposed Final Judgment also requires GTE to provide the Department with an annual report summarizing all permitted interactions between the regulated and unregulated aspects of GTE's operations accompanied by an affidavit of its chief executive officer certifying the company's compliance with the requirements of Section IV. The Department may request additional information from GTE, pursuant to Paragraph IV(F), in order to evaluate compliance with Section IV of the proposed Final Judgment.

Paragraph IV(D) of the proposed Judgment provides that, consistent with the requirement of separating the acquired entities from the GTOCs and the supporting administrative portions of GTE Service Corporation, GTE may create an "unregulated sector" by transferring to or consolidating with the acquired entities the assets, stock, operations, or telecommunications or information services of (1) GTE's other affiliates operating in unregulated markets, or (2) any "unregulated" exchange telecommunications services, including the provision of customer premises equipment, currently provided by the GTOCs. GTE affiliates which may be consolidated with the acquired entities under Paragraph IV(D) include GTE Satellite Corporation, which operates satellite communications systems, and GTE Telenet Incorporated, which provides enhanced telecommunications services. Following any such corporate reorganization, GTE's unregulated sector would remain subject to the corporate separation obligations of Paragraphs IV(A), IV(B), and IV(C). However, Paragraph IV(D)(3) of the proposed Final Judgment expressly prevents this permissive corporate reorganization procedure from being used as an indirect conduit through which to funnel regulated exchange or exchange access assets or services from the GTOCs to the acquired entities.

B. Equal Access and the Partnership

The provisions of Section V of the proposed Final Judgment have a dual function. Paragraph V(A) requires that each GTOC provide to all interexchange carriers and information service providers, on an unbundled, tariffed basis, exchange access, information access, and exchange services for such access equal in type, quality, and price. This requirement of equal exchange access imposes on GTE the identical substantive obligation imposed on the divested BOCs under the AT&T decree. It is designed to preclude the wide array of practices through which integrated telecommunications enterprises have in the past characteristically exercised the monopoly power of their franchised local operating companies.

Paragraph V(C) of the proposed Final Judgment is designed to redress the long-standing competitive problems created by the GTOCs' integration into interexchange services, and by the joint provision of services and allocation of revenues among AT&T, GTE, and the independents, under the partnership. By requiring a phased-out termination of GTE's partnership cooperation with AT&T, Paragraphs V(C)(2), V(C)(3), and V(C)(4) of the proposed Final Judgment eliminate any lingering incentive the GTOCs may have to discriminate in favor of AT&T. By precluding future vertical integration by the GTOCs, Paragraph V(C)(1) eliminates the potential for monopolization of interexchange markets by the GTOCs in the future.

1. *Equal Access/Non-Discrimination.* Paragraph V(A) sets out the requirement that each GTOC provide to all interexchange carriers and information service providers, on an unbundled, tariffed basis, exchange access, information access, and exchange services for such access that is equal in type, quality, and price for all such interexchange carriers and information services providers. Appendix B (discussed in more detail below) establishes a timetable for the phasing-in of equal exchange access, and also imposes several requirements with respect to the tariffing of exchange access. Both Paragraph V(A) and Appendix B parallel the provisions of the *AT&T* decree.[4]

Paragraph V(B) of the proposed Final Judgment prohibits each GTOC from discriminating between the services offered by any GTE affiliate (including the acquired entities) and those offered by other persons with respect to a broad range of GTOC activities. In particular, Paragraph V(B) forbids discrimination with respect to interconnection, technical information, exchange access services, and planning for new facilities or services.

Paragraph V(E)(2) of the proposed Judgment provides that, within nine months following the effective date of the proposed Final Judgment, GTE must submit to the

[4] Because Paragraph V(D) permits the GTOCs to provide information services subject to certain restrictions, Paragraph V(A) differs from the otherwise identical provision of the MFJ to make clear that, for purposes of equal exchange access, a separate entity within the GTOC providing information services is considered an "information service provider."

Department procedures for ensuring compliance with the equal access and non-discrimination obligations of Section V and the equal access phase-in obligations of Appendix B. Consistent with GTE's obligations under Paragraphs V(B) and V(E)(2), these procedures should ensure that the GTOCs grant the highest quality interconnection offered through any end office to any interexchange carrier requesting that form of interconnection; that the GTOCs fill interconnection orders placed by all interexchange carriers on a uniformly expeditious basis; that GTE create and administer standardized procedures for the resolution of interconnection problems; that GTE ensure uniform review by the GTOCs of interconnection complaints registered by all interexchange carriers; and that the GTOCs uniformly resolve service problems encountered by interexchange carriers with respect to exchange access lines or circuits. The Department believes that such procedures can be developed in a timely fashion without placing an undue burden on GTE in its provision of exchange access services.

2. *The Partnership.* Paragraph V(C) deals with the existing relationship between GTE and AT&T, under which the GTOCs provide interexchange telecommunications services jointly with AT&T over their proprietary intercity transmission and switching facilities. This portion of the proposed Final Judgment thus relates to the settlements procedures between AT&T and the largest independent telephone company in the United States.

Paragraph V(C)(1) prohibits the GTOCs from providing interexchange telecommunications services and from owning facilities that are used to provide such services. In connection with the definitions of "exchange area" and "serving area," which, as discussed below, delineate the division between exchange and interexchange functions in a manner consistent with the similar definitions contained in the MFJ, Paragraph V(C)(1) is a general prohibition against expansion by the GTOCs of their present interexchange functions. Since "interexchange telecommunications" is defined in Paragraph II(P) to include telecommunications between the United States and foreign countries, Paragraph V(C)(1) contains a proviso which permits GTE's operating companies in Hawaii and Alaska to continue to offer such international telecommunications. This proviso is expressly limited to General Telephone Company of Alaska and the Hawaiian Telephone company.

Paragraphs V(C)(2), V(C)(3), and V(C)(4) are integrally related to the general prohibition of Paragraph V(C)(1). These provisions allow several alternative methods by which the GTOCs' existing interexchange operations are to be phased out over a transition period. Expansion beyond the interexchange functions permitted by these provisions (except as stated in Paragraph V(C)(4)) is barred by the general prohibition against interexchange services and facilities contained in Paragraph V(C)(1).

Paragraph V(C)(2) permits GTE to lease to any current partnership member the GTOCs' investment in interexchange transmission and switching facilities in service as of January 1, 1984, or planned as of January 1, 1983 and in service as of January 1, 1987. If it enters into the lease or leases permitted by this Paragraph, GTE is required to retain sufficient exchange switching and transmission facilities to meet its obligations under Paragraph V(A) and Appendix B to offer equal exchange access to all interexchange carriers.[5] The leases permitted by Paragraph V(C)(2) will if consummated, substitute for the existing division of revenues process under which revenues are divided between GTE and the BOCs.

Paragraph V(C)(3), on the other hand, permits a limited retention of the division of revenues process for any interexchange facilities that are not leased by the GTOCs under Paragraph V(C)(2). GTE may replace the GTOCs' division of revenues agreements with the BOCs with a comparable agreement with any interexchange carrier, other than the acquired entities, permitting the recovery of the net book value of the GTOCs' capital investment in partnership facilities,[6] including a reasonable return on debt or equity, provided that the agreement terminates when such net book value has been recovered.[7]

Paragraph V(C)(4) governs three situations: first, where a lease entered into under Paragraph V(C)(2) has expired; second, where an agreement permitted by Paragraph V(C)(3) has allowed the recovery of the net book value (and a reasonable return thereon) of an interexchange transmission or switching asset; and third, where such lease or capital recovery agreement has been consummated. In these situations, Paragraph V(C)(4) require GTE to make available such uncommitted facilities to all interexchange carriers on non-discriminatory terms and conditions. As the GTOCs' interexchange investment becomes available [8] under this paragraph, GTE is then permitted to expand or modernize (but not replace) those interexchange switching and transmission facilities. Paragraph V(C)(4) does not require GTE to make these facilities available on a tariffed basis.

The distinction between exchange and interexchange telecommunications, which closely tracks the provisions of the AT&T decree, relates both to prohibition of GTOC interexchange services and facilities under Paragraph V(C)(1), and to the exchange access services to be provided by the GTOCs under Paragraph V(A) and Appendix B of the proposed Final Judgment.[9] Paragraph II(H) of the proposed Judgment provides a procedure, similar to the procedure involved in implementation of Paragraph IV(G) of the MFJ, under which GTE is to establish exchange areas where it presently has the facilities and capability to provide traffic switching above end offices and delivery and receipt of such traffic at a point or points designated by an interexchange carrier for the interconnection of its facilities with those of the GTOC. GTE is required to submit to the Department for its approval a list of all such exchange areas by July 5, 1983, which will permit the court to make reference to GTE's proposed exchange areas in making its determination whether the proposed Judgment is in the public interest. Areas in which a GTOC provides exchange telecommunications services but does not have such facilities and capability are denominated "serving areas" under Paragraph II(R) of the proposed judgment. The equal access obligation of the GTOCs in these serving areas are set out in Paragraph A(2) of Appendix B, discussed below.[10]

GTOC exchange areas are required by paragraphs II(H)(1), II(H)(2), and II(H)(3) to meet the same criteria applied in the MFJ for the establishment of BOC exchange areas. Paragraph II(H) also requires that when and where such criteria are met in the future, the GTOCs are to establish new exchange areas with the approval of the Department of Justice and the Court.[11] The Department

[5] Similarly, the equal access obligations of Paragraph V(A) and Appendix B would apply to the GTOCs after any sale of exchange switching or transmission facilities.

[6] Of course, if any GTOC facility is retired from interexchange service, it is no longer an interexchange facility subject to Paragraph V(C)(3).

[7] Paragraph V(C)(5), in turn, provides that the requirements of the proposed Final Judgment shall not impair any remedies GTE may have, before regulatory bodies and elsewhere, for recovery of the GTOCs' existing financial investment in interexchange transmission and switching facilities.

[8] Paragraph V(D) of the proposed Judgment sets no time period for the leases or capital recovery arrangements contemplated. However, the general prohibition of Paragraph V(D)(1), in connection with the identification of assets in Paragraph V(D)(2), precludes further GTOC investment in interexchange assets after January 1, 1984, unless such investment was already in the GTOC's construction program as of January 1, 1983 and is in service as of January 1, 1987. GTE is permitted to expand or modernize its interexchange facilities under Paragraph V(D)(4) only when and to the extent that such expanded or modernized capacity is made available to all interexchange carriers on non-discriminatory terms and conditions. Accordingly, GTE retains the discretion to determine the manner and length of the phase out, but is limited to its present GTOC interexchange facilities until, with respect to a given asset, the phase out is completed.

[9] For a detailed explanation of the interrelationship between the definitions of "exchange area," "telecommunications service," and "interexchange telecommunications" *see* United States v. Western Electric Co., Competitive Impact Statement in Connection with Modification of Final Judgment, 47 FR 7170, 7176 February 17, 1982).

[10] Under Paragraph II(R)(1) of the proposed Final Judgment, all GTOC geographic areas associated with a single BOC exchange area pursuant to an order of the Court in United States v. Western Electric Co. may combined into a single GTOC serving area.

[11] Paragraph II(I) of the proposed Judgment defines "exchange telecommunications" to include not only telecommunication between points within an exchange area, but also telecommunications between or among points in a GTOC exchange or serving area, the serving area of an independent operating company, and a BOC exchange area, if both the GTOC exchange or serving area and the independent serving area have been associated with the BOC exchange area pursuant to an order of the Court in United States v. Western Electric Co. In addition, where a GTOC exchange or serving area is associated with the adjacent serving area of an independent operating company, as permitted under

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believes this procedure is extremely important to effective implementation of the terms of the proposed Final Judgment. Given the nature of the similar proceedings before the District Court for the District of Columbia in *United States* v. *Western Electric Co.*, it is clear that the process of drawing exchange boundaries involves the resolution of numerous considerations. Providing for a similar process under this proposed Final Judgment ensures that GTOC exchange area boundaries are drawn in a manner consistent with the substantive provisions of the proposed Judgment and with the "association" of some GTOC and independent exchange areas with BOC exchange areas under the supervision of the District Court for the District of Columbia.[13]

C. Appendix B: Phased-In GTOC Equal Access Obligations

Appendix B of the proposed Final Judgment sets out in further detail the obligations established by Paragraph V(A). The GTOCs are to provide all interexchange carriers and information service providers with exchange access, information access, and exchange services for such access equal in type, quality, and price. The general principles of the MFJ—and the vast majority of the specific provisions governing unbundled, tariffed, element-by-element cost justified exchange access services—are also contained in Appendix B of the proposed Judgment.

The provisions of Appendix B are based on three basic principles that also support the MFJ. First, the GTOCs should have the flexibility to provide equal exchange access in the manner and with the facilities they deem most efficient. Second, notwithstanding the flexibility granted the GTOCs with respect to the physical configuration of facilities used to provide exchange access, each GTOC must meet specified performance and pricing criteria to ensure the availability of equal access. Finally, because facilities to provide fully equal exchange access do not now exist in most GTOC exchanges, a transition period is necessary to phase in the proposed Final Judgment's equal access requirements.

Given the great similarity between Appendix B of the proposed Judgment and Appendix B of the *AT&T* decree, the Department's explanation of these provisions in the Department's Competitive Impact Statement in *United States* v. *Western Electric Co.*,[13] and in the Department's Response to Public Comment on the Proposed Modification of Final Judgment in *United States* v. *Western Electric Co.*,[14] are incorporated by reference herein.[15] Accordingly, the following discussion address only those aspects of Appendix B which differ from the MFJ.

Appendix B of the proposed Final Judgment permits a phase-in of the GTOCs' equal exchange-access obligations on a schedule somewhat different that that equired for the BOCs under Appendix B of the MFJ. This schedule reflects the significant differences between the demographic characteristics of GTOC and BOC franchise areas. Virtually all major metropolitan areas, which account for a substantial majority of interexchange telecommunications in the United States, are served by the BOCs. GTOC franchise areas are generally smaller and have lower population densities than those of the BOCs.[16] As a result, GTOC areas have not attracted significant entry, or demand for entry, by interexchange carriers other than AT&T. In addition, the GTOCs have fewer advanced switching systems than the BOCs and lack the traffic and demand necessary to support rapid conversion to more sophisticated facilities. Appendix B of the proposed judgment requires the conversion of a significant proportion of GTOC end office facilities, but the schedule it sets out takes into account the demographic and technical characteristics of the GTOCs.

GTE is obligated to provide exchange access to all interexchange carriers and information service providers equal in type and quality to that provided for the interexchange telecommunications services of the partnership [17] as promptly as possible, but in no case more than twelve months after a written request for such access from any carrier other than AT&T.[18] Paragraph A(1) of Appendix B obligates GTE to provide such phased-in equal exchange access through GTOC end offices that employ switches technologically capable of providing equal exchange access or for which the capability of providing equal exchange access is commercially available to the GTOCs.

Paragraph A(1)(a) of Appendix B sets out a timetable for the offering of equal exchange access through end offices employing specific types of switches. Under this schedule, GTE must offer equal access through all GTOC end offices utilizing electronic, stored program control switches capable of providing equal exchange access (other than the GTD–5, 1–EAX, and 2–EAX switches) no later than January 1, 1985. Subject to the general obligation of Paragraph A(1) of Appendix B to provide equal access no later than twelve months after a request from an interexchange carrier other than AT&T. GTE is obligated under this timetable to offer equal access through all GTOC end offices employing electronic, stored program control switches by September 1, 1987.

Paragraphs A(1)(b) and A(1)(c) require GTE, during the equal access phase-in period, to equip a progressively increasing proportion of GTOC end offices with switches technologically capable of providing equal exchange access. Paragraph A(1)(b) requires that, not later than September 1, 1987, equal exchange access shall be offered through end offices, regardless of size, serving at least two-thirds of the exchange access lines provided by the GTOCs. Paragraph A(1)(c) further requires that, not later than December 31, 1990, equal exchange access shall be offered through all GTOC end offices serving greater than 10,000 exchange access lines.[19] In order to meet these obligations, it is necessary for GTE to replace many of its existing step-by-step and other electromechanical switches with switches technologically capable of providing equal access.[20]

The requirements of both Paragraphs A(1)(b) and A(1)(c) are suspended to the extent that, because of changed circumstances which could not reasonably have been foreseen, it is no longer economically feasible to employ at any end office a switch technologically capable of providing equal exchange access. Neither GTE nor the Department is aware of any present reason why GTE should not find it economically feasible to install switches technologically capable of providing equal exchange access at the requisite percentage of end offices by September 1987, and at all larger (i.e., greater than 10,000 exchange access line) end offices by the end of 1990.[21]

Paragraph A(2) of Appendix B is related to the definition of "serving area" contained in Paragraph II(R) of the proposed Final Judgment, which defines serving area to include those geographic areas, not within a GTOC exchange area, in which the GTOC provides telephone services but does not have the facilities and capability to provide traffic switching above end offices and delivery and receipt of such traffic at a point or points designated by an interexchange carrier within such geographic area for the connection of its facilities with those of the GTOC. Such serving areas of the GTOCs are thus those GTOC franchised areas in which the GTOCs do not have control of transmission and switching facilities necessary to provide the exchange access services required in order to provide equal exchange access to all interexchange carriers. Under Paragraph A(2) of Appendix B, the GTOCs are not required to provide such exchange access services in their serving areas other than by direct GTOC transmission facilities, but are required to use their best efforts to obtain from the BOC or from any other carrier the exchange access functions which they have been relieved of the responsibility of providing.

Paragraph A(4) of Appendix B provides an exemption from the phased-in provision of equal exchange access for exchange areas served by GTOC end offices employing switches of the technology known generically as step-by-step. This exemption is subject to two conditions. First, GTE must comply with the phase-in schedule set out in Paragraph A(1), including the requirement in Paragraphs A(1)(b) and A(1)(c) that the GTOCs offer equal exchange access through end offices serving two-thirds of their exchange access lines by September 1987, and through all end offices serving more than 10,000 exchange access lines by the end of 1990. Second, the GTOCs must provide a commercially available trunkside interconnect arrangement [22] to all interexchange carriers at all end offices employing electro-mechanical (including step-by-step) switches, unless such access is not physically possible except at costs that clearly outweigh potential benefits to users of telecommunications services. Paragraph A(4) also requires GTE to provide the Department of Justice with such information as the Department may request in order to evaluate the cost/benefit analysis permitted by subparagraph (b).

Appendix B of the proposed Judgment also includes some minor variations from the MFJ, designed to take account of the modifications suggested by the Court in *United States* v. *Western Electric Co.* and incorporated into the MFJ upon the consent of the parties. Paragraph B(1) of Appendix B requires the GTOCs to file their unbundled exchange access tariffs by January 1, 1984.[23] Paragraph C(1) of Appendix B has been altered for consistency with the provision of Paragraphs V(B) and V(D) of the proposed Final Judgment. Paragraph V(B) requires non-discriminatory treatment of all interexchange carriers and information services providers (including a separate entity within a GTOC providing information services under Paragraph V(D)). Paragraph V(D) requires the GTOCs, if co-location rights are granted to the separate entities providing information services, to provide co-location on the same terms and conditions, on an unbundled, tariffed basis, to all information service providers.[24]

The proposed Final Judgment also permits the GTOCs to provide a limited additional form of exchange access service which the BOCs may not provide by virtue of the definition of "exchange access" contained in the MFJ. Under Paragraph II(G) of the proposed Final Judgment, a GTOC may provide as an ancillary service included in its exchange access tariffs the routing of traffic (solely at the option of an interexchange carrier) among multiple points of presence designated by the interexchange carrier within an exchange or serving area based on the destination of such traffic outside of the exchange or serving area. Such an ancillary service may not include the routing of traffic among trunk groups from an end office or access tandem to a particular point of presence or any routing beyond such points of presence.

This provision permits interexchange carriers efficiently to construct their own facilities within an exchange area while, at the same time, preventing the GTOCs from effectively avoiding the prohibition against interexchange traffic routing contained in Paragraph II(G).[25] The provision also mandates that there is not to be more than one point of presence of an interexchange carrier at any physical location (which could include any facilities leased from a GTOC). This clause precludes undercutting of the restriction on GTOC interexchange routing through the establishment of "sham" multiple points of presence, for example, by establishing several points of presence in a single building or on a single switching or transmission facility.[26]

The provision of this ancillary routing function by the GTOCs shoud not raise any significant competitive concerns, particularly given the relatively small areas that the GTOCs serve and the limited number of multiple points of presence that might efficiently be located there by interexchange carriers. In addition, the GTOCs may be perfomring interexchange routing for AT&T and other carriers through use of existing interexchange routing facilities, as permitted on a transitional basis pursuant to Paragraphs V(C)(2) and V(C)(3) of the proposed Final Judgment. Finally, so long as such ancillary interexchange routing functions are performed by the GTOCs on a non-discriminatory basis under tariff, as required by Paragraphs II(G) and V(B), each interexchange carrier is free to choose the most efficient means of routing its traffic within GTOS exchanges.

D. Information Services

Paragraph V(D) places specific separation obligations on the GTOCs as a condition of their being permitted to provide information services. These separation provisions are intended to circumscribe leverage by the GTOCs of their market power as rate-of-return regulated monopolists into the competitive information services industry.

Paragraph V(D)(1) contains a general prohibition against the provision of information services, and the ownership of facilities used to provide such services, by the GTOCs. Paragraphs V(D)(2) and V(D)(3) are integrally related to the general prohibition of Paragraph V(D)(1). The GTOCs are permitted to offer information services only through a separate entity, either an incorporated subsidiary or an unincorporated division maintaining separate books of account and reporting directly to the chief operating officer of the GTOC. This separate

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Paragraph II(P) with the approval of the Department of Justice, telecommunications between the GTOC exchange or serving area and the independent serving area are exchange telecommunications. In reviewing proposed associations of independent serving areas, the Department will apply criteria consistent with those established in Paragraph II(H) of the proposed Final Judgment for approval of GTOC exchange areas. Paragraph II(P) excludes from the definition of "interexchange telecommunications" those telecommunications considered "exchange telecommunications" under Paragraph II(I).

[12] This process is underway in United States v. Western Electric Co., No. 82-0192 (D.D.C.), and in connection with it GTE has already drawn some exchange and serving areas for the GTOCs.

[13] 47 FR 7170, 7177–78 (Feb. 17, 1982).

[14] 47 FR 23320, 23331–32, 23347–49 (May 27, 1982).

[15] *See also* Brief of the United States in Response to the Court's Memorandum of May 25, 1982, at 33–36 (filed June 14, 1982), United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982).

[16] Nationwide, the density of the BOCs is more than twice that of the GTOCs. *See* Department of Commerce, *Telephone Areas Serviced by Bell and Independent Companies in the United States*, Table 1 (1982).

[17] Paragraph A(1) of Appendix B requires that access be provided equal in type and quality to that provided for "the interexchange telecommunications services of AT&T or any IOC." Paragraph II(C) of the proposed Judgment in turn defines "interchange telecommunications services or information services of AT&T" to include those provided by GTE or a GTOC on a joint through or concurring tariff basis with AT&T. Thus, whether partnership interchange services are provided by a GTOC, GTE, AT&T, or an interconnected IOC, Appendix B requires that, during the phase-in period, all carriers must be offered exchange access equal in type and quality to that provided for the interexchange telecommunications services of the partnership.

[18] There is no limitation on how early such written requests may be made.

[19] As discussed *infra*, Paragraph A(4) of Appendix B requires the GTOCs to offer an enhanced form of interconnection at end offices employing its remaining electromechanical switches as soon as the means for such enhanced interconnection becomes commercially available.

[20] The provisions of Appendix B of the MFJ require the BOCs to provide equal exchange access through all electronic, stored program control end offices upon a bonafide request by 1987. The provisions of Appendix B of this Final Judgment are slightly different. They require that the GTOCs "offer" equal exchange access through certain end offices by certain dates. GTE must "provide" equal exchange access to any carrier requesting such access only within 12 months after such a request. In effect, Appendix B requires the GTOCs to lay the groundwork on a phased-in schedule for the provision of equal exchange access, but does not require the actual installation of software packages necessary to provide such access until it is clear that non-AT&T interexchange carriers desire to obtain equal exchange access in any particular GTOC exchange. In addition, Appendix B contemplates, as did the MFJ, that certain interexchange carriers may not find it economically advantageous to reach customers in certain exchanges through arrangements for equal reflection, the lesser cost, if any, of such access.

[21] Paragraph A(1)(b)(ii) makes clear that, if the capability of providing equal exchange access through switches manufactured by non-affiliates is not commercially available to the GTOCs, the two-thirds requirement imposed by Paragraph A(1)(b) is reduced accordingly.

[22] Thus, as means of providing interexchange carriers with improved interconnection are developed, whether by GTE's Automatic Electric subsidiary or by other manufacturers, they will be installed by the GTOCs.

[23] This coincides with the deadlines for filing access tariffs under the FCC's Third Report and Order, In the Matter of MTS and WATS Market Structure, CC Docket No. 78–72, Phase I (released Feb. 28, 1983). However, Paragraph V(D) of Appendix B requires GTE to file with the FCC such requests for waivers of orders of the Commission as may be necessary to permit full compliance with all the requirements of the proposed Judgment.

[24] Thus, consistent with the Department's interpretation of the *AT&T* decree, the GTOCs have no obligation to permit the co-location on their premises of the facilities of any competing interexchange carrier or information service provider. If a GTOC leases space in its buildings used to provide exchange access services to any affiliated interexchange carrier or information service provider, however, the GTOC would then be required to make such space available to all interexchange carriers or information services providers, respectively, in a non-discriminatory manner.

[25] For example, GTE's Santa Barbara-Oxnard territory is located between Los Angeles and San Francisco. An interexchange carrier might construct facilities at the northern end of that territory heading toward San Francisco and other facilities at the southern end of the territory, heading toward Los Angeles, but have no switching capability within the territory. In such a circumstance, the GTOC could route originating traffic destined for San Francisco and points north, *e.g.*, Oregon and Washington, either directly or through an access tandem, to the point of presence at the north end of the territory and direct all other interexchange traffic to a point of presence at the Los Angeles end of the territory. The GTOC, however, could not switch traffic among various circuits and trunk groups headed toward these points of presence based on additional destinations beyond the point of presence, *i.e.*, could not also sort traffic heading for the northern point of presence between that destined for San Francisco and that destined for Seattle.

[26] However, this would not prohibit the location of points of presence for different types of services, *e.g.*, private line and switched services, at the same location.

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entity may obtain telecommunications services, telecommunications facilities (including co-location of its equipment with facilities used to provide exchange telecommunications), and billing services from the GTOC only to the extent that such services and facilities are made available to non-affiliated firms on an unbundled, tariffed basis, and in accordance with the non-discrimination obligations of Paragraph V(B) of the proposed Final Judgment. Use of the GTOCs' local exchange networks must therefore be provided to all information services providers on an equal and non-discriminatory basis.

Administrative and other services, including those provided by GTOC maintenance and installation personnel, may be obtained by the separate entity under Paragraph V(D)(2) only in accordance with a two-tier standard similar to that contained in Paragraph IV(A)(7). If such services are obtained from the GTOC by non-affiliated firms, they may be provided to the separate entity only on the same terms and conditions; if such services are proprietary, and are not offered to non-affiliated firms, they may be obtained by the separate entity only at their fully allocated costs.[27]

Paragraph V(D) (2) also requires separation of the facilities of the separate entity used to provide information services from facilities of the GTOC used to provide regulated exchange telecommunications and exchange access services. No such separate entity may to any extent own or control facilities used to provide exchange telecommunications or exchange access services. This requires the separate entity to utilize information service technologies not integrated with the exchange switching and transmission facilities of the GTOCs. The GTOC and the separate entity may not maintain marketing personnel who simultaneously market both regulated exchange telecommunications or exchange access services and information services.[28] Finally, Paragraph V(D)(2) prohibits the separate entity from directly or indirectly obtaining proprietery GTOC marketing, customer, or network engineering information.

Paragraph V(D)(3) provides for a sunset of the separation obligations of Paragraphs V(D)(1) and V(D)(2). This sunset may occur in one of two ways. Under Paragraph v(d)(3)(a), the limitations of Paragraphs V(D)(1) and V(D)(2) expire automatically five years after the effective date of the proposed Final Judgment, unless the Department of Justice applies to the Court for an extension of the limitations as to one or more categories of information services and the Court finds by a preponderance of the evidence that, without the limitations, there is a substantial danger that competition in the relevant information service in any exchange or serving area will be substantially lessened.[29] Among the factors that are to be taken into account in making such a determination under Paragraph V(D)(3)(a) are the development of competition in the provision of the relevant information service, and the development of competition and potential competition in the provision of exchange telecommunications facilities and services. Therefore, the development of alternative local exchange networks, which might represent a realistic limitation on the market power of the GTOC's within their franchised exchange and serving areas, may be a factor that could ameliorate the competitive concerns arising from GTOC provision of information services without the necessity of extending the limitations of Paragraph V(D)(1) and V(D)(2). any application by the Department under this Paragraph must be made at least one year prior to the expiration of the separation obligations, in order to allow GTE a reasonable lead time in which to conduct its corporate planning.

Paragraph V(D)(3)(b) allows an alternative means by which the separation obligations may expire. Under this provision, the restrictions of paragraphs V(D)(1) and V(D)(2) of the proposed Final Judgment are tied to the line-of-business restrictions imposed on the divested BOCs under section II(D) of the *AT&T* decree, which prohibit the divested BOCs from providing information services. The GTOCs will be freed of these limitations to the extent that the BOCs are freed of the line-of-business restrictions. If those restrictions are lifted for a BOC throughout a state, then the separation obligations of the proposed Judgment expire with respect to the information services of a GTOC within that state. If the line-of-business restrictions are lifted in any BOC exchange area, then the separation obligations of the proposed Judgment expire with respect to the information services of a GTOC within any GTOC exchange or serving area that is associated with the BOC exchange area under the orders entered by the Court in *United States* v. *Western Electric Co.*[30]

Paragraph V(D)(4) provides expressly that neither failure by the United States to apply for an extension of the separation obligations or for further relief as permitted by Paragraph V(D)(3)(a), nor any findings made by the Court in any such proceeding, shall prevent, or constitute an estoppel in, any subsequent action by the United States under the antitrust laws.

E. Future Acquisitions

Section VI of the proposed Final Judgment places certain restrictions on GTE's ability to expand its presence in the interexchange telecommunications industry through future acquisitions.

Paragraph VI(A) provides that for ten years after the effective date of the proposed Judgment, except with the approval of the Department of Justice or of the Court, GTE may not acquire a direct or indirect equity interest in, or the assets of, any interexchange carrier providing services in the United States. Paragraph VI(A) does not limit or affect the provisions of, or any obligations of GTE under, the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C. 18a) and the Premerger Notification Rules and Regulations (16 CFR 803.20 *et seq.*).

Paragraphs VI(B) and VI(C) exempt from the approval requirment of Paragraph VI(A) acquisitions by GTE or its affiliates which would not present competitive concerns similar to those alleged in the complaint in this action and addressed in the proposed Final Judgment. Paragraph VI(B) exempts acquisitions by GTE's pension and profit-sharing trusts or subsidiaries, in the ordinary course of business, solely for investment purposes. Paragraph VI(C) exempts the purchase by GTE [31] of assets used to provide exchange telecommunications which are only incidentally used to provide interexchange services, thus permitting GTE, if it chooses, to acquire other local operating companies in the future notwithstanding the *de minimis* provision of interexchange services by such operating companies.[32] Paragraph VI(C) also exempts acquisitions by GTE of international record carriers, or other carriers providing interexchange telecommunications services, which obtain less than five percent of their gross telecommunications revenues from the provision of telecommunications services between points located within the United States. The exemptions contained in Paragraphs VI(B) and VI(C) are not intended by the Department of Justice or GTE to grant any antitrust immunity to the acquisitions described therein, or to limit or affect the provisions of, or any obligations of GTE under, the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C. 18a) and the Premerger Notification Rules and Regulations (16 CFR 803.20 *et seq.*).

F. Enforcement

Under Section VIII of the proposed Final Judgment, GTE is required to undertake several steps to insure that, after entry, its employees become familiar with the terms of the proposed Judgment and GTE's policy regarding compliance with the antitrust laws and with the proposed Judgment. Under Section IX, the Department of Justice is given

[27] Nothing in Paragraph V(D)(2) prohibits a GTOC, if it chooses to do so, from providing to the separate entity administrative services not offered to non-affiliates at greater than their fully allocated cost. This provision of the proposed Final Judgment sets a minimum standard designed to prevent artificially low internal prices from serving as a vehicle for cross-subsidization, and does not represent a maximum for intra-corporate pricing.

[28] The term "simultaneous" is used to preclude an individual from performing both functions while in the same corporate position, but makes clear that this provision does not bar transfer of marketing personnel between the GTOC and the separate entity, so long as such transfers are not utilized to evade the explicit prohibition of Paragraph V(D)(2).

[29] Paragraph V(D)(3)(a) also permits the Department to apply to the Court for the imposition of further relief relating to the provision of information services by the GTOCs. Further relief available to the Department under this provision includes, upon an appropriate showing, divestiture by the GTOCs of their information services operations and of the assets used to provide such services.

[30] Paragraph V(D)(3)(b) accomplishes this by incorporating by reference the definitions of "exchange telecommunications" and "interexchange telecommunications" contained in Paragraphs II(l) and II(P).

[31] Because GTE is defined in Paragraph II(J) to include the GTOCs, the exemptions in Paragraph VI(C) also apply to the GTOCs.

[32] Of course, under Paragraph II(J), any after-acquired operating company becomes a GTOC, and succeeds to all the obligations of a GTOC under the proposed Final Judgment.

extensive rights of investigation to ensure that GTE, the GTOCs, and the acquired entities comply with the provisions of the proposed Final Judgment.

Under Section VII of the proposed Final Judgment, the Department of Justice and GTE are granted the right to seek Court modification or construction of the terms of the proposed Judgment, and to seek from the Court further orders and directions that may be necessary for implementation of the proposed Judgment. Paragraph VII(A) also provides the Department with the right to seek enforcement of the proposed Judgment and subsequently to seek punishment of any violation.

Paragraph VII(B) provides that, upon application of the Department of Justice, the Court may require divestitures that would separate GTE's ownership of local exchange monopolies from ownership of competitive interexchange facilities, either by divestiture of the acquired entities or, at the election of GTE, of the GTOCs. A condition precedent to any such further relief is a finding by the Court that GTE has engaged in a pattern of substantial violations of Section IV, Section V, or Appendix B of the proposed Final Judgment, or that any GTOC has violated Section IV, Section V, or Appendix B of the proposed Judgment in a manner that materially injures interexchange carriers or information service providers in their ability to offer services competitive with those offered by GTE or the acquired entities. The listing of divestitures considered appropriate as further relief is intended to be non-exhaustive. For example, Section VII also encompasses the right of the Department to request divestiture of the separate entities through which the GTOCs are permitted to provide information services by Paragrpah V(D)(2) if GTE or the GTOCs is found to have violated the requirements of Paragraph V(D).

IV. Competitive Effect of the Proposed Final Judgment

The proposed Final Judgment provides some significant competitive benefits, and thus continues the transition to a competitive interexchange telecommunications industry begun in the *AT&T* case. While there is also the possibility that some competitive harm may result from the acquisition, the proposed Judgment signficantly reduces that potential for competitive harm. Moreover, in the event a violation does occur, the proposed Final Judgment makes clear that the Department of Justice will be prepared to seek appropriate divestitures.

The guarantee of equal exchange access and non-discrimination for all interexchange carriers in Paragraphs V(A), V(B), and Appendix B of the proposed Judgment removes GTE's basic ability to disadvantage competitors of SPCC and SPSC through exercise of its control of the local exchange bottleneck. The prohibition of GTOC interexchange services and assets, and the phased elimination of GTE's partnership relation with AT&T, mitigates the incentives that GTE's operating companies have enjoyed in the past to favor AT&T and to restrain competition in interexchange markets in the future. In addition, the separation obligations imposed by Section IV and Paragraph V(D) of the proposed Judgment circumscribe GTE's ability to exploit the ratebase regulated nature of local telephone communications.

Although not as extensive as the relief sought by the United States in its complaint, these measures substantially reduce the competitive problems raised by this specific set of facts. The proposed Final Judgment permits GTE to consummate the acquisition on the basis of separation between its regulated affiliates and the acquired entities. Such a separate subsidiary requirement cannot, as the Department of Justice has stated frequently, eliminate the incentive for cross-subsidization from regulated to unregulated markets.[33] However, the Department's prior comments on this issue have generally been directed to the AT&T factual context and the low probability that a separate subsidiary would be of appreciable value where a firm historically has been fully intergrated, with common facilities and personnel and joint and common costs. Here, the separate subsidiary requirement is imposed on two firms that have never been intergrated, and the proposed Final Judgments places significant limitations on the degree to which they may be intergrated in the future.

The proposed Judgment constrains GTE's ability to cross-subsidize by precluding the most likely and most serious forms of such cross-subsidization. For example, under Section IV of the proposed Final Judgment, common costs, facilities, and services for the GTOC's and the acquired entities are prohibited. Transactions between them must be on an arm's-length basis, under contract or tariff as appropriate. And in Paragraph IV(A)(3), the proposed Judgment precludes the use of customer information or engineering information as an indirect means of cross-subsidization and discriminatory treatment.

The Department does not believe this relief alone would be sufficient to curb the inherent anticompetitive potential of this acquisition. The equal access and corporate separation obligations of the proposed Judgment, however, are mutually reinforcing. By opening the corporate interface to public scrutiny, Section IV makes the evasion of regulatory constraints more difficult and increases the likelihood that such conduct will be detected. The requirement that GTE provide equal, non-discriminatory exchange access to all intercity carriers—including its newly acquired long-distance carriers—reinforces this separation by removing a major avenue for anticompetitive conduct. The corporate separation provisions in turn reinforce the equal access provisions by barring preferential treatment in the various subtle ways engendered by the otherwise close cooperation typical of affiliated companies. Finally, the interconnection conduct of the divested BOC's freed of their incentive to favor any interexchange carrier, will serve as a significant benchmark against which to measure the conduct of the GTOCs following consummation of the acquisition.

The compliance requirements contained in the proposed Final Judgment also enhance the potential for restraining exercise of the GTOCs' power as regulated monopolists. Each present and new managerial employee must affirm that he or she is aware of the obligations imposed by the Judgment and sign a certificate to that effect. GTE's chief executive officer must annually affirm the compliance of his company with all terms of the Judgment. Absent willful misconduct, GTE itself will therefore be carefully monitoring its compliance with the requirements of the proposed Judgment. The deterrent effect of these specific obligations, backed by the contempt power of the Court, is significantly greater that the general obligations imposed by the antitrust law.

The proposed Final Judgment does not—and cannot, given the lack of complete structural separation—eliminate all possibilities for exercise of GTE's power as a regulated monopolist in its franchised serving areas. However, the proposed Judgment grants the Department the right to seek further relief, including divestiture of the acquired entities or the GTOCs, should the proposed Judgment not prove to be adequate protection. The Department will not hesitate to move expeditiously for divestiture or further relief under the proposed Final Judgment if the present relief proves insufficient to assure the continued progression toward a competitive intercity telecommunications industry.[34] Indeed, the possibility of such divestitures should serve as a further deterrent to anticompetitive conduct by GTE following consummation of the acquisition.

Paragraph V(D) of the proposed Judgment permits the GTOCs to expand into some information services markets; the divested BOCs are prohibited from offering such services by the line-of-business limitations of the MFJ. The proposed Judgment permits the GTOCs to offer information services on the condition that they do so through an entity separated from the operation and facilities involved in exchange telecommunications and exchange access. From the Department's perspective this is a second-best solution. The Department's preferred remedy would be a complete prohibition on a regulated monopolist's provision of any competitive service.

[33] *See, e.g.*, Comments of the Department of Justice, In the Matter of Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies, CC Docket No. 85–115, at 13 (filed April 25, 1983); Reply Comments of the Department of Justice in Cellular, CC Docket No. 79–318 (filed July 3, 1980); Brief for United States at 20;–34 CCIA v. FCC, 693 F. 2d 198 (D.D.C. 1982) ("Computer II"); Pretrial Brief for United States at 79–84, United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982).

[34] Any proceeding for further relief under the proposed Final Judgment would be shorter, since it would involve a more limited inquiry, than an action under Section 2 of the Sherman Act. Of course, the Department of Justice also retains the right to bring an action under Section 2 of the Sherman Act at any time that GTE uses its newly acquired intercity carriers to monopolize, or attempt to monopolize, the provision of interexchange telecommunications services in any relevant market or markets.

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But the proposed Final Judgment is a negotiated resolution; this provision is a compromise. The Department believes that, for several reasons, this compromise reduces the danger that GTOC provision of information services would lessen competition in those markets. First, the BOCs' treatment of information services providers will serve as a clear benchmark against which to measure the GTOCs' conduct. Second, the structural separations imposed will eliminate the most likely and most problematic forms of cross-subsidization. Finally, the Department retains the right to seek further relief, including divestiture under the decree, should anticompetitive consequences arise. The proposed Final Judgment permits the Department to file such a separate lawsuit even after a proceeding for further relief under the Judgment itself. Therefore, at worst, this negotiated settlement simply postpones a Sherman Act challenge to the GTOCs' integration into information services, while in the interim reducing the likelihood that such integration will have significant anticompetitive consequences.

The proposed Final Judgment thus achieves a balance. Opportunities are granted to GTE to engage in new businesses. These opportunities are subject to continuing restrictions designed to circumscribe GTE's ability to leverage the monopoly power of its operating companies through cross-subsidization or discriminatory actions. The United States retains the option to obtain complete structural relief, through appropriate divestitures, if these opportunities are exploited to impair the otherwise efficient competitive development of the interexchange telecommunications and information services industries.

V. Remedies Available to Potential Private Litigants

Entry of the proposed Final Judgment will in no way affect the right of any present or potential private plaintiff who has been or may be damaged by an alleged violation of the antitrust laws to bring an action for monetary damages or equitable relief. Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in this business or property as a result of conduct prohibited by the antitrust laws may bring suit for treble damages and reasonable attorneys' fees. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), however, the proposed Final Judgment has no *prima facie* effect in any private lawsuit that is pending or may subsequently be brought against the defendant.

VI. Procedures Available for Modification of the Proposed Final Judgment

The proposed Final Judgment is subject to a stipulation between the United States and the defendant providing that the United States may withdraw its consent to the proposed Judgment at any time before it is entered by the Court. The Antitrust Procedures and Penalties Act conditions entry upon the Court's determination that the proposed Judgment is in the public interest. Under Section VII of the proposed Final Judgment, the Court would retain jurisdiction over this action in order, among other things, to permit either party to apply for any necessary or appropriate modification of the proposed Judgment or construction of its provisions.

The Antitrust Procedures and Penalties Act provides a period of at least sixty (60) days preceding the entry of the proposed Final Judgment within which any person may submit to the United States comments regarding the proposed Final Judgment. The United States invites comments from any interested person regarding the proposed Judgment. The United States will evaluate the comments and determine whether it should withdraw its consent. The comments and the response of the United States to the comments will be filed with the Court and published in the **Federal Register** in accordance with the Antitrust Procedures and Penalties Act.

Written comments should be submitted to: Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division (SAFE 504–B), United States Department of Justice, Washington, D.C. 20530.

VII. Alternatives to the Proposed Final Judgment

As an alternative to a consent decree, the United States has considered seeking a preliminary and permanent injunction blocking the acquisition and a permanent injunction barring GTE from providing information services. However, considering the likelihood that a preliminary injunction could be obtained in this matter, and the further likelihood that protracted litigation might follow if a preliminary injunction were not granted, the United States decided to accept a negotiated resolution dealing with a wide range of concerns related to GTE's position in the telecommunications industry. An essential element of that resolution is the right of the United States to seek further relief under the decree in the event the safeguards it incorporates prove inadequate.

Unlike the situation in *AT&T*, where a vertically integrated structure had been in existence for more than a century, GTE has never been operated in common with SPCC. The prospective effectiveness of a separate subsidiary requirement, including its policeability, should be greater in this situation than with respect to the BOCs. Although the proposed Final Judgment permits GTE's ownership of both local operating companies and interexchange and information service operations, and thus does not reduce GTE's economic incentive to engage in anticompetitive conduct, the proposed Judgment reduces GTE's ability to cross-subsidize and removes GTE's ability to deny equal access. Coupled with other provisions of the proposed Final Judgment, such as the extension of equal exchange access obligations to the second largest telephone operating company in the nation and the phased elimination of GTE's partnership with AT&T, the proposed Judgment should significantly reduce the present anticompetitive potential of the acquisition and should allow for the development of competition in those markets where, given the development of technology and the changing nature of the telecommunications industry following the *AT&T* divestitures, realistic competition is now possible.

Although most of the provisions of the proposed Final Judgment were revised and refined in the course of negotiations, no other relief substantially different in kind was considered by the United States.

IX. Determinative Documents

There are no materials or documents that the United States considered determinative in formulating the proposed Final Judgment. Accordingly, none is being filed along with this Competitive Impact Statement.

Respectfully submitted,
Charles F. Parthum III, Linda S. Chapman, Glenn B. Manishin, Andrew C. Gilbert, Eneid A. Francis, *Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, (202) 724–6693.*

Certificate of Service

I, Glenn B. Manishin, an attorney for the United States, hereby certify that I have on this day served the foregoing *Competitive Impact Statement* on defendant GTE Corporation by delivering a copy thereof to Dean Rohrer, Esq., GTE Corporation, 1120 Connecticut Avenue, NW., Suite 900, Washington, D.C. 20036.

Glenn B. Manishin.

May 4, 1983.

[FR Doc. 83–13025 Filed 5–13–83; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Change

May 11, 1983.

Changes have been made to the meeting agenda of the National Advisory Committee on Oceans and Atmosphere (NACOA) scheduled to meet on Monday and Tuesday, May 23–24, 1983 and published in the **Federal Register** of May 9, 1983 (Pages 48 FR 20831–20832).

The revised, tentative agenda is as follows:

Monday, May 23, 1983

2001 Wisconsin Avenue NW., Page Building #1, Rooms 416 & B–100, Washington, D.C.

9:00 a.m.–12:00 Noon—Plenary
9:00 a.m.–9:15 a.m.—Announcements, Room 416
9:15 a.m.–12:00 Noon—Shipbuilding/Shipyards, Room 416

Speakers:
Admiral Harold E. Shear, Administrator, Maritime Administration, U.S. Department of Transportation
Rear Admiral James W. Lisanby, Principal Commander for Acquisition, Naval Sea Systems Command

Lee Rice, President-elect of the Shipbuilders Council of America
Herman Moizahn, Vice President for Shipyard Operations, The American Waterways Operators, Inc.

12:00 Noon–1:00 p.m.—Lunch
1:00 p.m.–5:00 p.m.—Panel meetings
1:00 p.m.–3:00 p.m.—Ocean Research, Chairman: Sylvia A. Earle, Room 416
Topic: Undersea Technology
Speakers:
John Steele, Director, Woods Hole, Oceanographic Institution
Carl Helwig, Vice President, Sub-Sea International

1:00 p.m.–3:00 p.m.—Marine Minerals, Chairman: Burt Keenan, Room B–100A
Topic: Panel Work Session

1:00 p.m.–5:00 p.m.—Coastal Zone, Co-Chairmen: Sharron Stewart, Jack R. Van Lopik, Room B–100
Topic: Wetlands
Speakers: TBA

5:00 p.m.—Adjourn

Tuesday, May 24, 1983

2001 Wisconsin Avenue NW., Page Building #1, Rooms 416 & B–100, Washington, D.C.

8:30 a.m.–12:30 p.m.—Panel meetings
8:30 a.m.–10:30 p.m.—Radioactive Waste Disposal, Chairman: John A. Knauss, Room 416
Topic: Panel Work Session
10:30 a.m.–12:30 p.m.—Weather Satellites, Chairman: FitzGerald Bemiss, Room B–100
Topic: Panel Work Session
Exclusive Economic Zone, Chairman: Don Walsh, Room 416
Topic: Panel Work Session
Speakers:
Bill Phillips, Legislative Assistant, to Senator Ted Stevens
Tim Smith, Counsel, House Fisheries and Wildlife Subcommittee
Will Stelle, Professional Staff, House Merchant Marine and Fisheries Committee
Jim Drewry, Professional Staff, Senate Commerce Committee
Deb Stirling, Professional Staff, Senate Commerce Committee
Bill McCluskey, Policy Staff Member, Senate National Ocean Policy Study.

Note.—A final decision to hold a Weather Satellites Panel Meeting has not yet been reached. Please call Stephanie Hughes at 653–7818 to verify this agenda item.

12:30 p.m.–1:30 p.m.—Lunch
1:30 p.m.–3:30 p.m.—Plenary—Action Items—Panel Reports
3:30 p.m.—Adjourn.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235. The telephone number for NACOA is 202/653–7818.

Dated: May 11, 1983.

Steven N. Anastasion,
Executive Director.

[FR Doc. 83–13075 Filed 5–13–83; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel (Dance/Film/Video Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video Section) to the National Council on the Arts will be held on June 1–3, 1983, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 3, from 3:30 p.m.–5:00 p.m. to discuss policy.

The remaining sessions of this meeting on June 1–2, from 9:00 a.m.–5:30 p.m. and on June 3, from 9:00 a.m.–3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 683–5433.

Dated: May 9, 1983.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–13079 Filed 5–13–83; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel: Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notive of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Pannel will be held at 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506:

1. Date: 1, 1983.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review application submitted for Central Disciplines/Improving Introductory Courses Programs, Division of Education, for projects beginning after October 1, 1983.

2. Date: June 1, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Summer Seminars for Secondary School Teachers in English and American Literature, submitted to the Division of Fellowships and Seminars for projects beginning after June 4, 1984.

3. Date: June 6–7, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted by State humanities committees, Division of State Programs for projects beginning after November 1, 1983.

4. Date: June 7, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars for Secondary School Teachers in History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 4, 1984.

5. Date: June 9, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars for Secondary School Teachers in Literature, except British and American, submitted to the Division of Fellowships and Seminars, for projects beginning after June 4, 1984.

6. Date: June 10, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Summer Seminars for Secondary School Teachers in Religion and Philosophy submitted to the Division of Fellowships and Seminars, for projects beginning after June 4, 1984.

7. Date: June 13–14, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted by state humanities committees, Division of State Programs, for activity beginning after November 1, 1983.

8. Date: June 20–21, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted by state humanities committees, Division of State Programs, for activity beginning after November 1, 1983.

9. Date: June 6, 1983.
Time: 9:00 a.m. to 5:00 p.m.

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Room: 315.

PROGRAM: This meeting will review the applications Submitted for the Planning and Policy Assessment Studies Program, Office of Planning and Policy Assessment, for project beginning after October 1, 1983.

10. Date: June 9–10, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.

PROGRAM: This meeting will review applications submitted for the Humanities in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

11. Date: June 13–14, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.

PROGRAM: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

12. Date: June 16–17, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.

PROGRAM: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

13. Date: June 22–23, 1983.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.

PROGRAM: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

The proposed meeting are for the purpose of panel review, discussion, evluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 83–13089 Filed 5–13–83; 8:45 a.m.]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio.

The amendment would extend the surveillance test due date from May 17, 1983 to September 17, 1983, for the steam generator outlet steam pressure channels of the Remote Shutdown Instrumentation and Post Accident Monitoring Instrumentation, in accordance with the licensees' application for amendment dated May 2, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The extension of the surveillance due date involves only a slight increase in the probability that the instrumentation channels may have drifted out of calibration. The interval from previous calibration to the proposed extended due date represents an extension normally allowed by existing Technical Specifications for a single surveillance interval but exceed the permissible time for three successive calibration intervals by less than 7 percent. This increased interval is not significant. Previous testing and calibrations have found the instrumentation to be within FSAR tolerances.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By June 15, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the University of Toledo Library, Documents Department, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

Dated at Bethesda, Maryland, this 11th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–12725 Filed 5–13–83; 8:45 am]
BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, Department of Transporation.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–7 of the Federal Aviation Administration (FAA) National Airpspace Review Advisory Committee. The agenda for this meeting is as follows: A review of airspace classification as it relates to pilot certification/requirements/endorsement is needed for possible simplification and application to each airspace category.

DATE: Beginning June 13, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Adiminstration, conference room 8 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Adiminstraion, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by June 9, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previous submitted statements.

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Issued in Washington, D.C., on May 10, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83-13094 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB April 29, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, on April 29, 1983 to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availabilty and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the request should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on April 29, 1983:

DOT No.: 2160.

OMB No.: 2115-0142.

BY: United States Coast Guard.

Title: Plan Approval and Records for Marine Engineering Systems (46 CFR Subchapter F).

Forms: CG-2936, CG-2832.

Frequency: On Occasion.

Respondents: Thermal fluid heater manufacturers; barge and other vessel operators.

Need/Use: Thermal fluid heaters are currently a class of boiler. This rulemaking will create a distinction between boilers and thermal fluid heater for operational testing. There will be no substantial change in the reporting and recorkeeping requirements placed on the public as a result to this distinction.

DOT No.: 2161.

OMB No.: (New) None.

By: Office of Secretary.

Title: Effects of Transportation Deregulation on Motor Carrier Service in Florida and Arizona.

Forms: Six survey forms.

Frequency: Once—Nonrecurring.

Respondents: Motor carriers in Florida and Arizona; commercial and industrial users of motor carrier services in Florida and Arizona.

Need/Use: This survey is part of DOT's research to assess the impacts of deregulation on the trucking industry.

DOT No.: 2162.

OMB No.: None.

By: United States Coast Guard.

Title: International Oil Pollution Prevention Certificate.

Forms: CG-5352 and CG-5352B.

Frequency: Four and five years.

Respondents: Owners and operators of ships operating in U.S. waters while engaged in international voyages. (Tankers of less than 150 gross tons and non-tankers of less than 400 gross tons are excluded.)

Need/Use: To prevent pollution of coastal waters and beaches 33 U.S.C. 1901-1911 requires that the provisions of MARPOL 73/78 be implemented in U.S. regulations. International Oil Pollution Prevention (IOPP) Certificates will be used for ensuring and documenting compliance with MARPOL 73/78 and 33 CFR Parts 151 and 155. Ships will suffer severe restrictions in international voyages if they do not possess an IOPP Certificate.

DOT No.: 2163.

OMB No.: 2115-0077.

By: United States Coast Guard.

Title: Letter of Intent (33 CFR 154.110 and 154.740).

Forms: None.

Frequency: On Occasion.

Respondents: Owners/operators of marine bulk oil facilities.

Need/Use: Owners/operators of waterfront bulk oil facilities which intend to transfer oil to or from vessels must notify the Coast Guard of this intention. The Coast Guard may then conduct an inspection to ensure compliance with pollution prevention regulations (33 CFR 154 and 156).

DOT No.: 2164.

OMB No.: 2125-0033.

By: Federal Highway Administration.

Title: Statement of Material and Labor Used by Contractors on Highway Construction.

Forms: FHWA-47.

Frequency: On Occasion.

Respondents: Highway construction/state and local highway agencies.

Need/Use: To obtain information on usage of materials and labor in Federal-aid highway construction.

DOT No.: 2165.

OMB No.: 2125-0080 and 0091 (combination).

By: Federal Highway Administration.

Title: Medical Examination; or Waiver—Initial and Renewals.

Forms: None.

Frequency: Biennially.

Respondents: Commercial truck or motor carrier businesses.

Need/Use: Safety requirements are that drivers be qualified, i.e., they must show medical certificates or a waiver if the driver has physical defects.

DOT No.: 2166.

OMB No.: 2125-0081.

By: Federal Highway Administration.

Title: Qualification Certificate.

Forms: None.

Frequency: On Occasion.

Respondents: Trucking, motor carrier businesses.

Need/Use: The certificate is permitted in lieu of other documentation required in 49 CFR 391 of driver used is employed by another motor carrier.

DOT No.: 1931.

OMB No.: 2115-0075.

By: United States Coast Guard.

Title: Application and Report of Physical, First Aid, and Ship Sanitation Examination for Color Vision.

Forms: CG-954 (optional).

Frequency: On occasion.

Respondents: Individuals seeking merchant marine licenses, or renewal of a pilots license.

Need/Use: This modified regulation implments changes to the pilot licensing requirements created by Section 4 of the Port and Tanker Safety Act (Pub. L. 95-474), which requires, among other things, annual physical exams for pilots. A physical exam is required for individuals to obtain all other merchant mariners licenses, in order to determine an applicant's physical competency.

Issued in Washington, D.C., on May 9, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83-13024 Filed 5-13-83; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 24]

Niagara Fire Insurance Company; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Niagara Fire Insurance Company, Wilmington, Delaware, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 47 FR 28880, July 1, 1982.

With respect to any bonds currently in force with Niagara Fire Insurance Company, bond-approving offices for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226, telephone (202) 634-5745.

Dated: May 6, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-13000 Filed 5-13-83; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Number: 108-1]

Organization and Responsibilities of the Office of the Assistant Secretary (International Affairs)

Dated: May 6, 1983.

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested in me by 31 U.S.C. 321(b), it is ordered that:

1. The Assistant Secretary (International Affairs) is the principal advisor to the Secretary of the Treasury and the Under Secretary (Monetary Affairs) in their exercise of policy direction and control over Treasury positions and areas dealing with international financial, economic, monetary, trade, investment, and commercial matters as well as energy policies and programs.

2. Within the Office of the Assistant Secretary (International Affairs) (OASIA), there are four Deputy Assistant Secretaries: Developing Nations, International Monetary Affairs, Trade and Investment Policy, and Arabian Peninsula Affairs. The functions and responsibilities of the Deputy Assistant Secretaries are defined by the Assistant Secretary and the Deputy Assistant Secretaries serve under the policy guidance of the Assistant Secretary. Each Deputy Assistant Secretary supervises a number of offices managed by Directors. The functions and responsibilities of the Deputy Assistant Secretaries shall include, but not be limited to, the following:

a. *Deputy Assistant Secretary (Developing Nations).*

(1) The Deputy serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury positions on U.S. economic and financial programs with respect to developing nations, except those of the Arabian Peninsula. The Deputate helps initiate, review, and oversee U.S. policies toward these nations, on such issues as debt owed to private and public sector entities, and evaluates the development and financial impact on these nations of U.S. policies on trade, investment, and commodities. Staff support is provided to senior Treasury officials in the formulation of U.S. policies on developed/developing nations relations generally, especially in connection with multilateral fora such as the UN General Assembly, UN Conference on Trade and Development (UNCTAD), and the IBRD/IMF Development Committee and its subordinate bodies. The Deputate maintains representatives in key developing nations who are responsible for analyzing local economic conditions and recommending appropriate policies. It also maintains liaison with and reviews policies of other USG agencies on development issues.

(2) The Deputate collects and maintains data, giving particular attention to balance of payments, official and private capital flows, debt and IMF credit, and provides comprehensive analyses and forecasts of the economic, financial, and political situation in developing countries for use in formulating Treasury policy on financial assistance, debt rescheduling, and other matters. The Deputate also has the responsibility for providing support to the Secretary of the Treasury as a member of the joint economic commissions which have been established with certain of these countries.

(3) The Deputate formulates, reviews, and oversees Treasury positions on

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policies, operations, and activities of the international lending institutions. The Deputate maintains liaison with and reviews policies of international, United States, and interagency development finance and policy formulating bodies, such as the Development Assistance Committee of the OECD and the Development Loan Staff Committee. The Deputate administers the Secretariat of the National Advisory Council on International Monetary and Financial Policies (NAC). The NAC operates under the authority of Executive Order No. 11269, as amended.

b. *Deputy Assistant Secretary (International Monetary Affairs).*

(1) The Deputy serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury policies concerned with (a) the maintenance and operation of a smoothly functioning international monetary system; (b) coordination of economic policy among industrial nations; (c) the development and conduct of U.S. financial relations with the market economy industrial nations; (d) monetary relationships with the U.S. Government sought by other nations; (e) foreign exchange operations and management of U.S. reserve assets; and (f) the international role of the private money and capital markets, including banking, securities, and insurance issues. In carrying out these functions the Deputate provides support for U.S. participation in multilateral financial institutions, principally the International Monetary Fund and the OECD, as well as in other fora related to its functional areas of responsibility.

(2) The Deputate provides analyses and forecasts of economic developments in and policies of the major industrial nations. It maintains representatives in key industrial countries and in the OECD. It also analyzes and forecasts regional and global payments patterns and their implications for the functioning of the monetary system and the international economy.

(3) With guidance furnished by senior Treasury officials, direction is given to the Federal Reserve Bank of New York concerning Exchange Stabilization Fund operations and liaison is maintained to assure that foreign operations of the Federal Reserve System are coordinated. In this regard, foreign exchange markets are intensively monitored. Continuing oversight of gold markets and related developments is also maintained.

(4) The Deputate provides analyses and assembles information relevant to international banking, portfolio investment and insurance matters and the international practices of U.S. and foreign banks, their regulatory authorities and the impact of their activities on the operation of the international monetary system.

(5) The Deputate provides macroeconomic analyses that relate to the formulation of international economic policies, prepares analyses and reports on current developments and near-term prospects for the U.S. current-account balance and for capital flows, develops analytic techniques for the study of current international economic issues, uses macroeconometric models as tools to analyze the above, and provides econometric modeling assistance to other offices in OASIA.

c. *Deputy Assistant Secretary (Trade and Investment Policy).*

(1) The Deputy serves as the principal policy advisor to the Assistant Secretary in the areas of trade policy, economic relations with nonmarket economy countries, international investment, commodity policy, non-fuel minerals and agricultural policy, and oceans policy.

(2) The Deputate formulates and implements Treasury positions on: (a) U.S. trade and commercial policy in general; (b) multilateral and bilateral trade negotiations; (c) trade finance matters; (d) U.S. military sales abroad; (e) U.S. economic relationships with the USSR, Eastern Europe, and China, including support for operations of the East-West Foreign Trade Board and its Working Group; (f) programs in relation to the Secretary's responsibilities for trade relations with other countries; (g) direct investment issues, including matters pertaining to multinational corporations, expropriation and the Overseas Private Investment Corporation; (h) basic natural resources which are not energy related, particularly non-fuel minerals and agricultural commodities; (i) U.S. commodity policy; and (j) oceans policy matters, including "Law of the Sea" negotiations. The Deputate serves as Secretariat for the interagency Committee on Foreign Investment in the United States established by Executive Order No. 11858.

(3) In carrying out these functions, the Deputate (a) assembles information and provides analyses relevant to the formulation of Treasury policies; (b) advises the Assistant Secretary and senior Treasury officials on economic and financial implications of issues which may be considered at interagency or international levels; (c) develops and implements Treasury policy with respect to such issues within the area of responsibility of the Deputate arising in international fora, such as the General Agreement on Tariffs and Trade, United Nations Conference on Trade and Development, Development Committee of the International Monetary Fund and the International Bank for Reconstruction and Development, and various committees of the Organization for Economic Cooperation and Development.

d. *Deputy Assistant Secretary (Arabian Peninsula Affairs).*

(1) The Deputy serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury positions on U.S. economic and financial policies and programs with respect to (a) the nations of the Arabian Peninsula; and (b) questions relating to international energy policy, with special emphasis on the economic, financial, and investment aspects of such policy. The Deputate encompasses the U.S.-Saudi Arabian Joint Commission Program with an office in Washington, D.C., and the Joint Commission in Riyadh, Saudi Arabia, and serves as the principal policy advisor to the Assistant Secretary in formulating and implementing the projects and programs undertaken by the U.S.-Saudi Arabian Joint Commission on Economic Cooperation established on June 8, 1974.

(2) The Deputate (a) assembles information and provides analyses relevant to international energy policy formulation, (b) advises the Assistant Secretary and senior Treasury officials on economic and financial implications of international energy issues which may be considered at interagency or international levels, and (c) develops and implements Treasury policy with respect to international energy issues arising in international fora such as the International Energy Agency and the Development Committee of the International Bank for Reconstruction and Development and International Monetary Fund.

(3) The Deputate collects and analyzes data and prepares reports on (a) foreign currency transactions required by statute or otherwise needed by the Assistant Secretary and on foreign portfolio investment in the United States as required by statute; (b) complies and prepares for publication statistics on U.S. capital flows as required by law or traditional practice; and (c) indebtedness to the U.S. Government, as well as potential liabilities under guarantee and insurance programs.

3. Within the Office of the Assistant Secretary (International Affairs), there also are the Administrative staff and the OASIA Secretariat. These offices perform administrative and other support operations for the Assistant Secretary.

4. This Order is effective immediately.

5. Treasury Department Order No. 108–1 dated October 1, 1979, is rescinded.

R. T. McNamar,

Acting Secretary of the Treasury.

[FR Doc. 83–13073 Filed 5–13–83; 8:45 am]
BILLING CODE 4810–25–M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 95
Monday, May 16, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATION COMMISSION

DELETION OF AGENDA ITEM FROM MAY 12TH CLOSED MEETING

The following item has been deleted from the list of agenda items scheduled for consideration at the May 12, 1983, Closed Meeting and previously listed in the Commission's Notice of May 5, 1983.

Agenda, Item No. and Subject

Hearing—1—Application for Review in Illinois Bell Telephone Company DPLMRS application/complaint proceeding (CC Docket Nos. 78–314 and 315).

Issued: May 11, 1983.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–603–83 Filed 5–12–83; 11:09 am]
BILLING CODE 6712–01–M

2

FEDERAL RESERVE SYSTEM
BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, May 20, 1983.

PLACE: 20th Street and Constitution Avenue., N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank building expansion proposal.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 12, 1983.
James McAfee,
Associate Secretary of the Board.

[S–605–83 Filed 5–12–83; 3:30 am]
BILLING CODE 6210–01–M

3

NATIONAL TRANSPORTATION SAFETY BOARD
[NM–83–11]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 21043, May 10, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, May 17, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was deleted from the agenda:

4. *Opinion and Order:* Petition of Meade, Docket SM–2898; disposition of the Adminstrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

May 12, 1983.

[FR Doc. S–604–83 Filed 5–12–83; 12:22 pm]
BILLING CODE 4910–58–M

federal register

Monday
May 16, 1983

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Topsoil; Permanent Regulatory Program; Surface Coal Mining and Reclamation Operations

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 780, 784, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Topsoil

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is adopting final rules for the removal, storage, and redistribution of topsoil, topsoil substitutes and supplements, and other subsoil layers to ensure soil capability consistent with the approved postmining land use. The final rules provide greater flexibility to the States to accommodate local conditions, clarify intent, and improve the organization of the regulations.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT: LeRoy A. DeMoulin, Soil Scientist, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; 202–343–3190.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Rules Adopted and Responses to Comments
III. Procedural Matters

I. Background

On March 11, 1982 (47 FR 10742), the Office of Surface Mining Reclamation and Enforcement (OSM) proposed to amend 30 CFR 816.21–816.25 (surface mining activities) and 817.21–817.25 (underground mining activities) to allow regulatory authorities more flexibility to develop topsoil-protection rules consistent with local soils, climate, and topography.

The final rules implement specifically the requirements of Sections 515(b)(5), 515(b)(6), and 516(b)(10) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, as well as certain other statutory requirements relating to revegetation, protection of the hydrologic balance, minimization of air and water pollution attendant to erosion, and prompt reclamation. The new rules require persons conducting surface coal mining and reclamation operations to remove topsoil, or other approved plant-growth material and subsoil strata when necessary to ensure soil capability, before beginning mining operations; to store these materials for later use; to protect them from contamination and erosion; and to redistribute them in a manner which enhances their capability to support vegetation and to control erosion. Other important goals of the new rules are to fulfill the requirements of Section 515(b)(2) of the Act to restore mined land to its premining land-use capabilities, or to higher or better uses for which there is reasonable likelihood of success.

The performance standards proposed March 11, 1982, for topsoil removal, storage, and redistribution during surface mining and reclamation operations offered two alternatives for underground mining activities. Alternative I was identical to the proposed changes for Part 816. Considering the long life of surface disturbances from certain facilities associated with underground mining, Alternative II offered two approaches for dealing with problems peculiar to topsoil reclamation for areas with long-term facilities.

Under the first of these approaches, when long-term stockpiling of topsoil would be impractical, a regulatory authority could allow an operator to distribute topsoil over an approved site for current use and to retrieve it later for purposes of reclaiming the originally disturbed site at the end of the mining operation. Under the second approach, when the site being disturbed would not have sufficient suitable topsoil material for reclamation purposes or when soil salvage would be impractical, for example because of erosion, excessive stoniness, or steep slopes, the regulatory authority could allow an operator to use topsoil or topsoil substitutes from borrow areas within the permit area at the time of reclamation.

During the comment period, which extended through September 10, 1982, OSM received comments from approximately 55 sources representing industry and associations, environmental groups, individuals, and Federal and State agencies. No one requested a public hearing or meeting and therefore none was held.

After analyzing the recommendations made by the various commentors, OSM has adopted rules for underground mining activities that are the same as those for surface mining activities. Additionally, in response to numerous public comments recommending either the adoption of Alternative II for underground mining activities or its inclusion in the regulation of the long-term facilities associated with surface mining activities as well, OSM has incorporated aspects of Alternative II in its rules for both Parts 816 and 817. These and other changes to the proposed rules are addressed in detail in the discussion that follows.

II. Discussion of Rules Adopted and Response to Comments

In the final rules, OSM has reorganized certain of the sections dealing with topsoil performance standards.

As an aid to the reader, the following table shows the relationship of the final rules to the proposed and previous rules.

DERIVATION TABLE

New section No.	Proposed section No.[1]	Previous section No.
780.18(b)(4)	816.22(e) [part]	816.22(e) [part].
784.13(b)(4)	817.22(e) [part]	817.22(e) [part].
		816.21.
		817.21.
Parts 816 and 817:		
.22(a)(1)	.22(a) [part]	.22(b).
.22(a)(2)	.22(b)	.22(c).
.22(a)(3)	.22(a) [part]	
.22(a)(4)	.22(c)	.22(a).
.22(b)	.22(e) [part]	.22(e) [part]
.22(c)(1)	.23(a)	.23(a).
.22(c)(2)	.23(b)	.23(b).
.22(c)(3)	[2]	
.22(d)(1)	.24(b)	.24(b).
.22(d)(2)	.24(a)	.24(a).
.22(d)(3)	.24(c)	
.22(d)(4)		.25.
.22(e)	.22(d)	.22(d).

[1] Alternative I unless otherwise indicated.
[2] Section 817.22(a) [part], Alternative II.

A. Section 701.5 Definitions of "soil horizons" and "topsoil"

A number of comments were received suggesting revisions to the definition of topsoil in 30 CFR 701.5. The Illinios Department of Mines and Minerals suggested that OSM clarify its "topsoil" definition in relation to the new classification established by the U.S. Department of Agriculture Soil Conservation Service (SCS) in the National Cooperative Soil Survey. The original definition of topsoil included the A horizon only. The A horizon contained a number of subclassifications including the A1 and A2 subhorizons. Recently, the SCS has redesignated the A2 subhorizon as a separate master horizon, identified as the E horizon. Thus, to ensure consistency between the two agencies and to avoid confusion as to which horizons are properly includable in the topsoil definition, OSM has revised its definition to specifically include both the A and E horizons. This is not a substantive change from the previous definition but is intended merely to conform to the new SCS classification system. Similarly, the definition of "soil horizons" is amended to reflect the addition of the E horizon and the SCS change from "major" to "master" horizons.

One commenter suggested that many problems relating to the topsoil requirements stemmed from the lack of an adequate definition. He recommended using the definition developed in the Conservation Glossary of the Soil Conservation Society of America. This commenter, and another, thought that the definition for topsoil should include both the A and B horizons.

The comments recommending the combination of both the A and B horizons have been rejected. Performance standards in Parts 816 and 817 are predicated upon the new definition which describes topsoil as the A and E horizons layers of the four master horizons. Any change that would include the B or C horizons would necessitate a restructuring of the performance standards and would be inconsistent with the requirements of the Act.

B. Sections 780.18(b)(4) and 784.13(b)(4) Reclamation plan

The factors which an operator must evaluate to demonstrate to the regulatory authority that the soil medium to be removed is equal to, or more suitable for sustaining vegetation than, the existing topsoil and that the resulting soil medium is the best available in the permit area to support revegetation were described in proposed §§ 816.22(e) and 817.22(e). However, these requirements have been moved to the permitting rules at final 30 CFR 780.18(b)(4) and 784.13(b)(4), respectively, because such demonstrations will be central to any topsoil-reclamation plan an operator will submit with a permit application. The movement of the analysis requirements to Parts 780 and 784 is not a substantive change but rather one of organization

Two commenters objected to OSM's deletion of the requirements in previous §§ 816.22(e) and 817.22(e) for test such as net acidity or alkalinity, phosphorus, and potassium and for the standardized testing procedures. One commenter supported the addition of the test parameters that OSM did include. The other commenter characterized OSM's proposed tests as "vague" and "marginally useful."

Another group of commenters preferred to have the reference to specific tests eliminated. They thought it was better for the regulatory authority to have the option to select the appropriate parameters for testing in order to account for local conditions.

OSM has chosen A middle ground. Section 780.18 and 784.13 specify the basic level of testing needed to determine topsoil-substitute or supplement suitability. Sufficient flexibility has been built into the final rules to allow the regulatory authority to look at local conditions and to require other kinds of tests as may be appropriate.

One commenter was concerned that under the proposal the regulatory authority could require additional tests if desirable. The commenter thought this could lead to arbitrary testing requirements by the regulatory authority.

This commenter's concern is groundless. OSM has purposely included the "necessary or desirable" options for the regulatory authority so that adequate flexibility is built into these rules. There is no evidence to infer that the discretion will be used in an arbitrary manner. Moreover, OSM's oversight responsibilities will help ensure proper implementation of these provisions.

A State commenter pointed out that the test analyses were for soil characteristics, yet the proposed provision related to the evaluation of overburden materials. The commenter thought this created confusion.

The term "overburden," as used in new §§ 816.22(b) and 817.22(b), encompasses the B and C soil horizons and other underlying strata. Since the materials being selected are to be used as topsoil substitutes or supplements, the information necessary for their evaluation pertains to their soil characteristics.

C. Sections 816.21 and 817.21 Topsoil: General requirements

The general requirements for topsoil removal, storage, and redistribution were discussed in previous §§ 816.21 and 817.21 and were reported in detail in subsequent sections. Consequently, in order to eliminate that redundancy, OSM has removed previously §§ 816.21 and 817.21 in the final rules.

One commenter, who wished to minimize erosion and other losses, objected to the proposed deletion of this section and argued that the other proposed rules did not emphasize that redistribution or storage should be handled expeditiously.

Another commenter viewed the deletion as involving no substantive change.

The recommendation to retain previous §§ 816.21 and 817.21 has been rejected. Other sections in the final rules deal with the questions of timing for topsoil storage or redistribution and erosion control.

D. Sections 816.22 and 817.22 Topsoil and subsoil

All of the topsoil-removal, storage, and redistribution requirements have been incorporated in §§ 816.22 and 817.22 (see derivation table).

1. *Paragraph (a) Removal.* Paragraph (a) deals with the kinds of material to be removed and the timing of removal. It contains an exception to the topsoil-removal requirement. Proposed Paragraph (a)(3) has been redesignated as Paragraph (e) because the rule relates specifically to the handling of subsoil, rather than the handling of topsoil.

Paragraph (a)(1). Paragraph (a)(1) requires that all topsoil, which is defined at 30 CFR 701.5 as the A and E soil horizons, be separately removed and segregated. If the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, the operator must separately remove the topsoil, together with the overburden material that will be used as a substitute for, or as a supplement to, the topsoil. However, the operator must first demonstrate to the regulatory authority that the resulting medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil and is the best available in the permit area.

The language of the proposed rule has been revised editorially to describe in new paragraphs (a)(1) (i) and (ii) the soil conditions most likely to be present. In addition, the phrase "and segregated" has been added to each of the paragraphs to make it clear that both the topsoil and the other materials approved by the regulatory authority under paragraph (b) must be segregated, as is required by Section 515(b)(5) of the Act.

One commenter suggested language changes to the general topsoil-removal provision to make it clear that on lands other than prime farmland, segregation of the soil horizons will not always be required. The commenter thought that the regulatory authority could approve the intermixing of all strata to be redistributed.

Section 515(b)(5) of the Act requires topsoil to be removed in a "separate layer" and "segregate[d] . . . in a separate pile from other spoil. . . ." The same section requires similar treatment for other strata which are being used as topsoil substitutes or supplements. Paragraph (a)(1) describes the topsoil materials which must be separately removed. This material may consist of either topsoil or topsoil substitutes and supplements.

Two commenters with opposing points of view raised questions about

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the amount of topsoil to be removed. One commenter recommended amending proposed paragraph (a) so that the removal of topsoil would be limited to that amount necessary to meet the objectives of the approved postmining land use. In contrast, a representative of the National Forest Service objected to the proposed language because it did not clearly state that *all* topsoil was to be removed unless substitutes were approved.

OSM agrees with the latter commenter. Except where the topsoil is of insufficient quantity or of poor quality, Section 515(b)(5) of the Act mandates the removal and redistribution of all topsoil. To make this clear, the word "all" has been included in final paragraph (a)(1).

Paragraph (a)(2). Paragraph (a)(2) concerns situations where the existing topsoil layer is less than 6 inches thick. Under such circumstances, an operator may remove and treat as an acceptable soil medium the mixture that includes the topsoil and the unconsolidated material immediately below it. The mixture need not be separately removed provided the operator has obtained approval to use a topsoil substitute under paragraph (b).

Several commenters objected to the proposed thin-topsoil provision. One thought that since operators would be required to meet specific revegetation requirements, they should have the choice not to jeopardize the quality of the soil medium by being forced to mix it with lower quality materials. Another recommended removing the paragraph because if no topsoil is present, the topmost material may be the worst rooting medium in the overburden. A third commenter wanted the language to make it clear that operators would have to remove only the unconsolidated material that is available, even if it is less than 6 inches thick.

OSM has modified the proposed rule for clarity and in response to the comments. The final rule encourages operators to use the existing topsoil layer, even if very thin, but recognizes the practical limitations on topsoil removal in thin-topsoil situations. Thus, where the topsoil is less than 6 inches thick, the rule allows the operator to remove the topsoil and the unconsolidated materials immediately below and to treat the mixture as topsoil.

Paragraph (a)(3). Paragraph (a)(3), which was proposed as paragraph (a)(4), allows the regulatory authority to grant narrow exceptions to the general requirement to remove topsoil. These exceptions are applicable if minor disturbances result from the construction of small structures such as power poles, signs, or fence lines or if the activity will not destroy the existing vegetation and will not cause erosion. OSM has replaced the phrase "light traffic" in the proposed rule with the phrase "minor disturbances" to make it clear that the activity being covered is distinct from the kinds of traffic which occur on roads (see 30 CFR 816.150, 816.151, 817.150, and 817.151).

Several commenters addressed the proposed "light traffic" exception. Some supported the concept because in their opinion it would enhance the objectives of decreasing surface disturbances and reducing erosion. They preferred to see the rule applied to both surface and underground mining activities. OSM generally agrees with this assessment and has adopted the provision, as described above, for both Parts 816 and 817.

Other commenters wanted to see the provision modified or expanded. One of these felt that the language should be broadened to include small semi-permanent facilities such as ground-water monitoring wells and meteorologic stations situated outside the area to be mined. Another suggested eliminating the condition not to destroy existing vegetation because, in the opinion of the commenter, the purpose was to preserve topsoil rather than vegetation. A third commenter thought that the light-traffic exemption should be mandatory and he proposed language to assure application of the exception. Additionally, this and another commenter thought that the exception should apply where removal of topsoil would result in needless damage to soil characteristics. A State commenter thought that not causing compaction should be included among the conditions for approval.

One commenter suggested having the term "light traffic" defined because of its vagueness. One State regulatory authority had found from experience that actual enforcement of the standard is difficult. The State recommended requiring a management technique such as posting signs to limit the frequency of use and heavy equipment. The same commenter wanted it made clear to operators that departures from the general topsoil-removal requirements would be limited to the kinds of small construction structures listed or similar to those listed in the rule. As far as the State was concerned, even construction activities for those kinds of structures could necessitate topsoil removal.

To clarify OSM's intent that the provision could be applied to activities such as the movement of equipment over frozen ground, or to small areas such as the construction sites of power poles, signs or fence lines, the final rule includes the term "minor disturbances" rather than the phrase "light traffic." This language change is coupled with two disjunctive tests: either that the minor disturbance must occur at the site of small structures or that the minor distrubance will not destroy the existing vegetation and will not cause erosion. Although some topsoil could be lost at the site of small structures, the amount would be minimal.

Applying the tests provided, the regulatory authority has the discretion not to require topsoil removal for a variety of minor disturbances. Although the examples provided in the rule are not meant to be exhaustive, they are illustrative of the kinds of small structures that may be eligible for the exemption.

Except for minor disturbances that occur at the sites of small structures, the suggestion to delete as a test the destruction of existing vegetation is rejected because the loss of vegetation or the presence of erosion would indicate conditions where the removal and preservation of topsoil is appropriate. If heavy use is anticipated or local soil conditions exist so that vegetation would be destroyed under light traffic, then the exception in paragraph (a)(4) is not applicable. Moreover, a road used in a mining operation must meet the appropriate regulatory standards (§§ 816.150, 816.151, 817.150, and 817.151). OSM agrees that the possibility of needless soil removal and damage to soil properties should be considered, as well as vegetative cover, terrain, and climate, when determining the need for topsoil removal under this exception. Finally, OSM agrees that avoiding compaction is a factor which regulatory authorities may wish to consider when deciding whether to apply this exception.

Paragraph (a)(4). Paragraph (a)(4), which was proposed as paragraph (a)(5), sets the time frame for removal of the material to be salvaged under paragraph (a)(1). The removal of this material must occur after clearing the vegetative cover that would interfere with the soil-retrieval process, but before any surface disturbance such as drilling, blasting, or mining occurs.

One commenter recommended substituting the word "salvage" for the word "use" in the paragraph to make it clear that the material in question is being stored for later use. OSM has accepted this recommendation and has made an appropriate change in the final rule.

2. *Paragraph (b) Substitutes and supplements.* The regulatory language for final paragraph (b) is basically the same as was proposed at paragraph (e), except that the factors which an operator must evaluate will appear in the permitting rules at §§ 780.18(b)(4) and 784.13(b)(4), rather than in Parts 816 and 817, as proposed. The rule provides that selected overburden materials may be substituted for, or used as a supplement to, topsoil if the operator demonstrates to the regulatory authority that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation. The phrase "in the permit area" has been added in the final rule to make it clear that the operator need not go outside the permit area to secure the topsoil substitute or supplement material. Most of the comments on proposed paragraph (e) concerned the kinds of tests being required to demonstrate the suitability of topsoil substitutes and supplements. These comments are discussed in this preamble under §§ 780.18(b)(4) and 784.13(b)(4).

One commenter objected to the proposed finding that the substitute material is "the best available to support revegetation." The commenter thought that this placed an unnecessary requirement on the operator, whereas showing the medium to be equal to, or more suitable than, the existing topsoil for sustaining vegetation was reasonable. This comment must be rejected. The requirement that the soil medium resulting from the use of topsoil substitutes or supplements must be the best available in the permit areas to support revegetation derives directly from the last clause of Section 515(b)(5) of the Act.

3. *Paragraph (c) Storage.*

Paragraph (c)(1). Paragraph (c)(1) provides that materials removed under paragraph (a) must be stockpiled when it is impractical to redistribute such materials promptly on regraded areas. This requirement was proposed as §§ 816.23(a) and 817.23(a).

One commenter objected to the use of the word "only" in specifying when stockpiling could occur. The commenter believed that this exceeded the requirements of the Act. The commenter thought that there could be times when an operator would want to stockpile topsoil from areas where it was abundant so that it could be used later on areas where the topsoil was thin. OSM has accepted this suggestion because it gives the operator increased flexibility without lessening protective standards.

Paragraph (c)(2). Paragraph (c)(2) sets out certain performance standards to be met when stockpiling occurs. These standards were in proposed §§ 816.23(b) and 817.23(b). It provides that stockpiled materials must be selectively placed on a stable site within the permit area; be protected from contaminants and unnecessary compaction that would interfere with revegetation; be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick-growing vegetative cover or through other measures approved by the regulatory authority; and not be moved until required for redistribution unless approved by the regulatory authority.

The proposed rule prohibited moving the stockpiled material before redistribution. In response to commenter objections to this limitation, the final rule allows the material to be moved if approved by the regulatory authority.

Two commenters objected to the term "selectively placed." They thought that the language implied a requirement to segregate the material. They did not think that the Act requires such action. In a related vein, another commenter suggested language which would have allowed stockpiled materials to be placed in contact with other spoil if approved by the regulatory authority.

OSM intends the rule to require segregation of topsoil and topsoil substitutes and supplements. Section 515(b)(5) of the Act prohibits anyone from allowing segregated topsoil materials from mixing with other spoil.

One commenter wanted to know whether the stockpiled material referred to by the phrase "selectively placed" is the topsoil, the subsoil, or some other material. The phrase refers to whatever materials are to be used as a soil medium under paragraph (a)(1), whether topsoil or topsoil substitute or supplement.

Several commenters thought that the rule should indicate when the operator must begin to take steps to protect stockpiled materials. One thought that failure to specify a time limit would make it difficult for the regulatory authority to enforce the performance standard and asserted that this could lead to delays in protecting topsoil, resulting in erosion and air- and water-quality impacts. Two other commenters suggested allowing seeding at the first seasonal opportunity.

The final rule has not been changed from the proposed rule because the performance standards specified in paragraph (c)(2) should accommodate all situations. The specific methods used to meet the performance standards should be determined on a case-by-case basis. If a regulatory authority finds these standards difficult to enforce, it may develop other no less effective standards.

Another commenter objected to the deletion of the specific protection measures which appeared in the previous rules. The commenter thought it necessary to specify the establishment of both annual and perennial plants on topsoil stockpiles, because even if the reclamation plan called for the pile to be in place for less than 1 year, unanticipated delays could develop.

In developing these performance standards, OSM has given operators more flexibility in the choice of methods used to meet the standards. The standards are not less protective than those appearing in the previous rule. Moreover, the purpose of the final rule is to protect against wind and water erosion, not to establish diverse temporary vegetation. Questions about the kinds of plant species to use should relate to the reestablishment of vegetation, not to stockpiling. See the revegetation rules at 30 CFR 816.111 through 816.116 and 817.111 through 817.116.

One commenter pointed out that there was some confusion in the proposed language concerning the avoidance of contamination and compaction by maintenance of a vegetative cover. OSM agrees with the commenter and has written the final rule to eliminate the misunderstanding.

A commenter recommended including language which appeared in the previous rule describing the kind of contaminants to be avoided. According to the commenter, the Act does not require that topsoil be kept free of all contaminants, but only of acid- and toxic-forming materials.

OSM has adopted the commenter's suggestion in part and has modified the final rule so that stockpiled materials must be protected from contaminants that would interfere with revegetation. Such contaminants need not be limited to acid- and toxic-forming materials.

Paragraph (c)(3). In Paragraph (c)(3), OSM has included a modified version of the Alternative II proposal for § 817.22(a) that pertained to long-term surface disturbances associated with underground mining activities. The Alternative would have allowed the temporary distribution of soil materials on an approved "host" site. OSM agrees with several commenters that the alternative is equally applicable to certain long-term facilities associated

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with surface mining activities. Thus, in Paragraph (c)(3) OSM has authorized an alternative to stockpiling material removed under Paragraph (a)(1), provided that certain conditions are met. First, stockpiling must be detrimental to the quality or quantity of the material to be stored. Second, the material so removed must be moved to an approved site within the permit area. Third, the temporary redistribution of the soil must not permanently diminish the capability of the soil of the host site. And fourth, the material being so stored must be kept in a condition more suitable for redistribution than if it had been stockpiled.

Two commenters were concerned with the proposed provision. One commenter thought that it would result in more extensive and costly stabilizing measures than stockpiling; it could increase bulk density, compaction, and topsoil loss through excessive handling; and it would increase reclamation costs by disturbing previously undisturbed "borrow" areas and then reclaiming the borrow areas. The other commenter objected to it because he believed that topsoil should be segregated and preserved even where long-term disturbances occur. He thought that topsoil, even when stockpiled for decades, would be superior to the use of other earthen material. Additionally, according to this commenter, the retention of stockpiled topsoil would not result in the needless borrowing of soil from areas that would normally remain undisturbed.

Under the final rule, the regulatory authority must evaluate specific conditions to determine whether use of the option is appropriate. Furthermore, any regulatory authority may exclude this provision from its regulatory program under Section 505 of the Act. Whether application of this option would result in increased reclamation costs is a consideration which an operator must weigh.

Another commenter thought that although this proposal for storage of topsoil had promise, OSM had not provided technical data to support the procedure. The commenter felt that while the degradation of the removed topsoil, after placement and management on similar areas of undisturbed soil, would probably be less than if it had been stockpiled, nevertheless there might be adverse effects on the A horizon of the buried soil due to reduction in microbiological activity, compaction, and disturbances during the initial placement and subsequent removal of the overlying topsoil. The commenter wanted to know whether the possible detriment to the host soil would be greater or less than the likely degradation of stockpiled topsoil.

The trade-off between the effects on stored topsoil versus those on the host soil would be evaluated by the regulatory authority at the time of permit approval. The amount of topsoil to be removed, the thickness of the topsoil in the disturbed area, the acreage available for topsoil dispersal within the permit area, and other local factors will influence the regulatory authority's decision. Moreover, the operator will have to demonstrate that the action would enhance the current use of the host site, that it would not permanently diminish the capability of the topsoil of the host site, and that the material so stored would be retained in a condition more suitable for redistribution than if it were being stockpiled. Additionally, it is accepted in the industry that a 6-inch layer of soil is a minimum practical depth for root development. And since most A horizons are less than 10 inches thick,[1] and the roots of many plants penetrate several feet in a favorable material, the additional layer of topsoil placed on a site should enhance the vegetative cover and host soil rather then degrade them.

Two commenters felt that the OSM proposal left several unanswered questions. One commenter thought that disturbance of a host area could substantially increase the cost of the performance bond. The commenter surmised that in Illinois, prime farmland would be used as host areas. Because, in the commenter's opinion, some adverse impacts on the host soil would likely occur, it would take some time to demonstrate restoration of the soil's capacity. The second commenter thought that it was unclear what alternative uses could be made of the stored topsoil during the life of the long-term facility.

The final rules have been written to make it clear that the host areas must be within the permit area. Whether prime farmland or other types of land are used as host areas, they will be subject to all of the bonding and reclamation protection afforded by the Act. With respect to the question of alternative uses for the topsoil during the storage period, the regulatory authority will consider the proposed use, which may include agricultural uses, during its review of the permit application.

[1] McCormack, D. E., 1976, Soil reconstruction—Selecting materials for placement in mine reclamation: Mining Congress Journal, Vol. 62, No. 9, pp. 32–36.

One commenter thought that use of the proposed word "impractical" in reference to stockpiling of topsoil was inaccurate, assuming the intended meaning was "undesirable." The commenter felt that the proposal gave the impression that topsoil need not be removed or salvaged at all under some circumstances.

OSM has modified the rule to make it clear that the alternative storage option is not available simply because it is more desirable than stockpiling. Rather, the test for applying the provision is whether stockpiling would be detrimental to the quality or quantity of the materials removed under Paragraph (a)(1). Lastly, *all* topsoil must be removed except in the limited circumstances provided for in Paragraph (a).

One commenter thought that the proposal in Paragraph (a)(2) of Alternative II to have "borrow" areas for topsoil or suitable substitute material for reclamation of long-term facilities was less promising than the "host" arrangement. The commenter said that in order to reclaim an already disturbed area, another equivalent undisturbed area would have to be disturbed. The commenter thought this would violate Section 515(b)(2) of the Act.
OSM has not adopted that portion of the proposed Alternative II, which would have explicitly authorized the use of topsoil or other suitable soil material from approved borrow areas if the originally disturbed site had insufficient topsoil or when topsoil salvage would have been impractical because of erosion, excessive stoniness and steep slopes. This provision is unnecessary because operators are not precluded from obtaining topsoil or substitutes from borrow areas if such areas are included within the permit area. Section 515(b)(5) of the Act specifically recognizes the need to deal with situations where an area to be disturbed has topsoil of insufficient quantity or of poor quality for sustaining vegetation. In such situations, the operator is authorized to use other strata which are best able to support vegetation. However, if this results in the disturbance of a previously undisturbed area, reclamation of that area will have to meet performance standards of the Act, including those in Section 515(b)(2).

4. *Paragraph (d) Redistribution.*
Paragraph (d)(1) sets forth the standards under which the material removed under Paragraph (a) must be redistributed. These are the same as were proposed at §§ 816.24(b) and 817.24(b). Paragraph (d)(2) deals with treatment of the disturbed area to reduce the potential

for slippage. This provision is basically the same as was proposed at §§ 816.24(a) and 817.24(a), except that the treatment will be applied "to reduce potential slippage of the redistributed material" rather than "to eliminate slippage surfaces." This change was made because slippage surfaces generally cannot be totally eliminated. Paragraph (d)(3) specifies those limited circumstances under which the regulatory authority may choose not to require the redistribution of topsoil or topsoil substitutes and supplements. As described below, the language adopted by OSM restricts the application of this paragraph to specific kinds of embankments. Paragraph (d)(4) authorizes the use of nutrients and soil amendments. A similar requirement had appeared in the previous rules. In response to several comments, OSM has authorized the use of these aids for the initial establishment of the vegetative cover.

Paragraph (d)(1). Two commenters objected to a performance standard requiring the material removed under Paragraph (a) to be redistributed so as to achieve an approximately uniform, stable thickness. They thought that this was really a design criterion that could lead to the development of a monoculture vegetative community rather than a diverse native species community. One of the commenters went on to say that the proposed topsoil rules were not compatible with the revegetation aims and planned reclamation objectives.

The final rules are compatible with revegetation aims and planned reclamation objectives. Topsoil thickness is but one of several factors affecting plant growth and species diversification. Soil horizons commonly develop in variable thicknesses, with abrupt changes occurring within short linear distances that make it difficult at times to remove the soil layers exactly as they occur. Likewise, it is not aways easy to redistribute soil layers to the same depth as when they were removed. In consideration of these facts, the final rule requires redistribution to an approximately uniform soil thickness, "consistent with the approved postmining land uses." This is the common-sense approach to provide a workable standard that will sufficiently protect the environment and achieve the goals of the Act.

In keeping with a concern raised in a related context, the U.S. Forest Service felt that the requirement for a uniform distribution of topsoil material could result in Forest Service lands getting a lesser amount than they originally had if not all of the topsoil were salvaged in areas of mixed ownership.

The requirement for the redistributed material to have an approximately uniform, stable thickness will protect the interests of all landowners, including the Forest Service, for several reasons. Generally, most contiguous areas which are part of the same contour will have approximately the same topsoil thickness. Also, the performance standard requires that the thickness of the topsoil-material layer be consistent with the postmining land use.

A commenter requested an explanation for the term "excess compaction" in proposed §§ 816.24(b)(2) and 817.24(b)(2). After redistribution, a loose structureless soil surface is susceptible to wind and water erosion. A certain amount of compaction will increase soil stability and reduce the erosion hazard. However, excessive compaction will reduce soil pore space, thereby reducing infiltration and permeability, increasing runoff, and encouraging erosion. Compaction that restricts root penetration and water infiltration (excessive compaction) must be avoided during topsoil redistribution. Such factors as soil properties and soil-moisture content at the time of redistribution should guide the soil-handling procedures to prevent excessive compaction as required by Paragraph (d)(1)(ii).

Paragraph (d)(2). One commenter opposed deletion of the requirement to scarify regraded land which had appeared in previous §§ 816.24(a) and 817.24(a). The commenter viewed scarification as a standard best practice for soil construction. Another commenter supported the rewording of the proposed rule. He saw little benefit in scarifying regraded land to eliminate slippage zones when postmining slopes were required by law to be gentle enough to preclude slippage problems. Furthermore, he thought the benefits of scarifying regraded soil were nullified by the use of heavy equipment to redistribute topsoil.

OSM's decision to remove the specific reference to scarification is in keeping with the general policy to establish performance standards rather than design criteria. OSM believes that the regulatory authority will be in the best position to determine what forms of treatment will be necessary to reduce potential slippage of the redistributed materials and to promote root penetration. Scarification is one such treatment that the regulatory authority may require.

Another commenter recommended substituting the phrase "agrees with" in proposed §§ 816.24(a) and 817.24(a) for the word "approves" in connection with the timing of treatment to reduce slippage of the redistributed material. OSM has not adopted the proposed requirement for obtaining regulatory authority approval for treating slippage after redistribution of material removed under Paragraph (a). However, an operator may treat the land after redistribution occurs only if no harm will be caused to the redistributed material and reestablished vegetation.

Paragraph (d) (3). Several commenters supported proposed §§ 816.24(c) and 817.24(c), which would have allowed the regulatory authority to approve the "selective placement of topsoil materials." The general language in the proposed rule caused confusion among some of the commenters. Although the preamble described OSM's intent, the proposed rule language was susceptible to varying interpretation. Therefore, changes have been made in new Paragraph (d)(3) to clarify OSM's intent.

One commenter thought that where final-cut lakes and their associated access roads were approved, it would be counterproductive to require additional grading of slopes simply to provide a surface to which topsoil would cling. Some commenters suggested language modifications. One of these recommended substituting the phrase "other methods" for "selective placement" (§§ 816.24(c) and 817.24(c)). He also suggested that the provision be made applicable to situations other than those discribed in the preamble to the proposal (47 FR 10744) pertaining to cut slopes where conditions such as low water availability may warrant alternative methods. Yet another commenter recommended deleting the words "choose to," believing that without this change an operator's ability to obtain a bond release could be severely impaired.

The final rule clarifies OSM's intent, which was expressed in the preamable to the proposed rule. In certain circumstances, placing topsoil material on approved postmining embankments of permanent impoundments or of roads would likely be impractical and could cause the loss of topsoil that could be better used elsewhere in the permit area. To avoid such losses, the regulatory authority must be in a position to choose not to require topsoil redistribution in such locations. Under the final rule, the regulatory authority, as the governmental entity having the most familiarity with local conditions, can make that choice if the placement of topsoil material on such embankments would be inconsistent with the

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requirement to use the best technology currently available to prevent sedimentation and the embankments will be otherwise stabilized to control erosion.

Another commenter opposed the provision, believing it would encourage regulatory authority approval of angle-of-repose slopes which, in the commenter's opinion, are undesirable because they tend to be unstable, difficult to revegetate, and highly susceptible to erosion. The commenter thought that no provision of the Act could be interpreted to allow exceptions to topsoil replacement. The commenter believed that authorizing angle-of-repose slopes would run counter to the requirements of Section 515(b)(3) of the Act, which calls for restoration of the approximate original contour (AOC).

Paragraph(d)(3) does not authorize angle-of-repose slopes. Restoration of AOC is governed by the backfilling and grading rules. The purpose of this paragraph is to provide the regulatory authority with flexibility to specify that the operator need not redistribute topsoil in those situations where stability of the topsoil layer is likely to be low due to erosion. Moreover, the option not to require redistribution of topsoil in such areas should conserve topsoil for distribution elsewhere and should reduce the protential for water pollution.

One commenter asserted that the topsoil-redistribution requirement of final Paragraph (d)(3), which appeared as the preferred alternative in OSM's "Final Environmental Impact Statement OSM–EIS–1: Supplement" (EIS), allowed two "categorical exclusions" that were not part of the proposed rule. He also argued that the change in language between the proposed rule and the preferred alternative was environmentally significant.

OSM rejects both contentions. First, the preamble to the proposed rule described the situations OSM was trying to address by proposing to authorize selective placement of topsoil material. In that preamble, OSM expressed concern for the loss of topsoil material if distributed on embankments which would exist as part of the postmining land-use configuration. This final rule implements that expressed intention for treatment of embankments. With regard to the commenter's second assertion, the environmental consequences of this change are analyzed in the final EIS and are not considered to be significant (see Vol. I, p. VI–28). Moreover, the adopted language for Paragraph (d)(3) is more environmentally protective than the proposed language referred to by the commenter. The proposed rule did not restrict selective placement of topsoil material on embankments, as does the final rule. In addition, the proposed standard to prevent erosion has been replaced by a comparable requirement allowing nonplacement of topsoil only where the redistribution would be inconsistent with the use of the best technology currently available to prevent sedimentation. The proposed standard requiring the promotion of revegetation by selective placement of topsoil material was not an appropriate standard because allowing topsoil not to be placed in a particular location would not contribute to the revegetation efforts at that location.

Paragraph (d)(4). Six State commenters opposed deleting the provision which would require the use of nutrients and soil amendments. In the experience of one State commenter, failure to fertilize and lime properly was a principal reason for failure to establish vegetative cover on mined land. The commenter preferred not having to wait until the question of bond release was raised before requiring corrective action. Another commenter considered the provision to be an unnecessary requirement.

In response to the majority of these commenters, OSM has included a provision authorizing the regulatory authority to require the use of nutrients and soil amendments on the initially redistributed materials in amounts necessary to establish the vegetative cover.

Paragraph (e) Subsoil segregation. Paragraph (e) provides the regulatory authority the option of requiring the removal and segregation of underlying strata, such as the B and C horizons, if it finds that retention of such material for redistribution as subsoil is necessary to comply with the revegetation requirements.

Proposed §§ 816.22(d) and 817.22(d) would have required the segregation of the underlying layers to be used as topsoil substitutes and supplements. Such activity is covered by final Paragraphs (a)(1)(ii) and (b). The provision dealing with the segregation of underlying layers that has been adopted as Paragraph (e) is similar to previous §§ 816.22(d) and 817.22(d) and permits the regulatory authority to require the removal, segregation, stockpiling, and redistribution of underlying layers if necessary to comply with the revegetation requirements.

One commenter objected to inclusion of a provision addressing subsoil segregation on the grounds that the only requirement in the Act for segregation of soil horizons applies to prime farmlands. Another commenter objected to the use of the word "segregate" and recommended limiting the provision to removal of the B horizon and its use as a topsoil substitute. A third commenter viewed the proposal as unduly restrictive and an unnecessary economic burden on large western operations because the chemical and physical nature of soils in the arid West make subsoil segregation a generally unproductive endeavor. This commenter thought that the provision should be restricted to prime farmlands or agricultural postmining land uses. Two commenters approved of the proposal. One of these was a State commenter who viewed the proposal as an improvement over the existing requirement because it would authorize the regulatory authority to require the B horizon to be segregated and used as a topsoil supplement without necessitating chemical and physical analysis.

OSM believes that in order to achieve successful revegetation, attention must be given to the profile of the soil and thus has adopted a rule that authorizes the regulatory authority to require the segregation and preservation of subsoil layers in order to fulfill the revegetation requirements. OSM has sufficient statutory authority under Sections 515(b)(2), (b)(5), (b)(6), (b)(19), and (b)(20) and 201(c)(2) of the Act to authorize such a provision.

Another commenter approved of the basic thrust of the proposal but did not think it adequately addressed the issue of when the subsoil segregation should occur. OSM agrees that the proposed rule was somewhat confusing and has revised the final rule to provide a simpler standard. Subsoil segregation may be required when the regulatory authority determines that it is necessary to achieve compliance with the revegetation requirements. The regulatory authority will be in the best position to determine the extent of soil reconstruction needed to achieve the desired physical or chemical soil characteristics for revegetation. Since revegetation is required elsewhere, this rule does not impose an undue burden on operators; it provides recognition that in some limited circumstances separate handing of subsoil strata may be necessary to meet those standards.

Two commenters thought that the regulatory authority should first have to show that the subsoil material being segregated is better than any other material in the permit area. One of these also wanted it made clear that the operator would not have to go outside the permit boundaries to obtain borrow material.

Where underlying strata are used as a topsoil substitute or supplement, the responsibility for demonstrating its suitability rests with the operators in the first instance. This requirement is dealt with in final Paragraph (b) and §§ 780.18(b)(4) and 784.13(b)(4). Where such material should be preserved for later use as subsoil, OSM has established the standards that will allow a regulatory authority to determine the optimum utilization of the available material. OSM agrees that operators need not go outside the permit area to obtain topsoil-substitute material.

E. Miscellaneous Issues

Limiting topsoil-removal areas. OSM did not include a provision in its proposed rules to require limiting the size of the removal area or the timing of redistribution in order to protect against erosion. This had been specified in previous §§ 816.23(f) and 817.23(f). Two commenters opposed this decision; one commenter approved it.

OSM has chosen not to include such a paragraph because other final rules are in place that limit the size of topsoil-removal areas. The operator is required to complete reclamation as contemporaneously as possible (§§ 816.100 and 817.100), store and protect topsoil (§§ 816.22(c) and 817.22(c)), protect against erosion (§§ 816.95 and 817.95), and meet the effluent limitations of the final rules (§§ 816.42 and 817.42). The requirement for redistribution of topsoil in a manner that protects against erosion is contained in §§ 816.22(d) and 817.22(d) of the final rules. Furthermore, the regulatory authority has the discretion to limit the size of disturbed areas if local soil and climatic conditions necessitate such action.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Also, DOI has determined that this rule will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under Public Law 96–354. The rule is expected to ease the regulatory burden on small operators by providing regulatory authorities flexibility in determining the amount of information that must be submitted with each permit application.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in its "Final Environmental Impact Statement OSM–EIS–1: Supplement" according to Section 102(2)(c) of the National Environmental Policy Act of 1969, (NEPA) (42 U.S.C. 4332(2)(C)). The final EIS is available in OSM's Administrative Record, Room 5315, 1100 L Street, NW., Washington, DC, or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240. This preamble serves as the record of decision under NEPA. Changes to the rule that are not included in the preferred alternative published in Volume III of the EIS have been considered. For the most part these involve organizational and editorial changes, such as moving draft final § 816.22(a)(3) as it appeared in the FEIS to a new § 816.22(e). There are also a few words added or removed, but these do not markedly affect the FEIS analysis. For instance, these include the addition of the words "and segregated" in § 816.22(a)(1)(i) and the removal of the words "and other transportation facilities" and "to control erosion" in § 816.22(d)(3). The revisions to the two definitions in § 701.5 will have no environmental effect because they merely reflect nomenclature differences.

Paperwork Reduction Act

The new information-collection requirements in §§ 780.18 and 784.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0047 and 1029–0048. The information is being collected by the regulatory authority to determine the suitability of topsoil substitutes or supplements. The obligation to respond is mandatory.

Agency Approval

Section 516(a) requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 701, 780, 784, 816, and 817 are amended as set forth herein.

Dated: April 22, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by revising the definitions of "soil horizons" and "topsoil" to read as follows:

§ 701.5 Definitions.

* * * * *

Soil horizons means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four master soil horizons are—

(a) *A horizon.* The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest;

(b) *E horizon.* The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly differentiated from an underlying B horizon in the same sequum by color of higher value or lower chroma, by coarser texture, or by a combination of theses properties;

(c) *B horizon.* The layer that typically is immediately beneath the E horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons; and

(d) *C horizon.* The deepest layer of soil profile. It consists of loose material

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or weathered rock that is relatively unaffected by biologic activity.

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Topsoil means the A and E soil horizon layers of the four master soil horizons.

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PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

2. Paragraph (b)(4) of § 780.18 is revised to read as follows:

§ 780.18 Reclamation plan: General requirements.

* * * * *

(b) * * *

(4) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of § 816.22 of this chapter. A demonstration of the suitability of topsoil substitutes or supplements under § 816.22(b) of this chapter shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitutes or supplements.

* * * * *

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. Paragraph (b)(4) of § 784.13 is revised to read as follows:

§ 784.13 Reclamation plan: General requirements.

* * * * *

(b) * * *

(4) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of § 817.22 of this chapter. A demonstration of the suitability of topsoil substitutes or supplements under § 817.22(b) of this chapter shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitutes or supplements.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.21 [Removed]

4. Section 816.21 is removed.

5. Section 816.22 is revised to read as follows:

§ 816.22 Topsoil and subsoil.

(a) *Removal.* (1)(i) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated.

(ii) Where the topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the regulatory authority in accordance with paragraph (b) of this section shall be removed as a separate layer from the area to be disturbed, and segregated.

(2) If topsoil is less than 6 inches thick, the operator may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil.

(3) The regulatory authority may choose not to require the removal of topsoil for minor disturbances which—

(i) Occur at the site of small structures, such as power poles, signs, or fence lines; or

(ii) Will not destroy the existing vegetation and will not cause erosion.

(4) *Timing.* All material to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining, or other surface disturbance takes place.

(b) *Substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to topsoil if the operator demonstrates to the regulatory authority that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation.

(c) *Storage.* (1) Materials removed under paragraph (a) of this section shall be segregated and stockpiled when it is impractical to redistribute such materials promptly on regraded areas.

(2) Stockpiled materials shall—

(i) Be selectively placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the regulatory authority; and

(iv) Not be moved until required for redistribution unless approved by the regulatory authority.

(3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under paragraph (a)(1) of this section would be detrimental to the quality or quantity of those materials, the regulatory authority may approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation, provided that—

(i) Such action will not permanently diminish the capability of the topsoil of the host site; and

(ii) The material will be retained in a condition more suitable for redistribution than if stockpiled.

(d) *Redistribution.* (1) Topsoil materials removed under paragraph (a) of this section shall be redistributed in a manner that—

(i) Achieves an approximately uniform, stable thickness consistent with the approved postmining land use, contours, and surface-water drainage systems;

(ii) Prevents excess compaction of the materials; and

(iii) Protects the materials from wind and water erosion before and after seeding and planting.

(2) Before redistribution of the material removed under paragraph (a) of this section the regraded land shall be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation, such treatment may be conducted after such material is replaced.

(3) The regulatory authority may choose not to require the redistribution of topsoil or topsoil substitutes on the approved postmining embankments of permanent impoundments or of roads if it determines that—

(i) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation, and

(ii) Such enbankments will be otherwise stabilized.

(4) *Nutrients and soil amendments.* Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the vegetative cover.

(e) *Subsoil segregation.* The regulatory authority may require that the B horizon, C horizon, or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with the requirements of paragraphs (c) and (d) of this section if it finds that such subsoil layers are necessary to comply with the revegetation requirements of §§ 816.111, 816.113, 816.114, and 816.116 of this chapter.

§ 816.23 [Removed]

§ 816.24 [Removed]

§ 816.25 [Removed]

6. Sections 816.23, 816.24, and 816.25 are removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.21 [Removed]

7. Section 817.21 is removed.

8. Section 817.22 is revised to read as follows:

§ 817.22 Topsoil and subsoil.

(a) *Removal* (1)(i) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated.

(ii) Where the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, the materials approved by the regulatory authority in accordance with paragraph (b) of this section shall be removed as a separate layer from the area to be distrubed, and segrgated.

(2) If topsoil is less than 6 inches thick, the operator may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil.

(3) The regulatory authority may choose not to require the removal of topsoil for minor disturbances which—

(i) Occur at the site of small structures, such as power poles, signs, or fence lines; or

(ii) Will not destroy the existing vegetation and will not cause erosion.

(4) *Timing.* All materials to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining, or other surface disturbance takes place.

(b) *Substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to, topsoil if the operator demonstrates to the regulatory authority that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation.

(c) *Storage.* (1) Materials removed under Paragraph (a) of this section shall be segregated and stockpiled when it is impractical to redistribute such materials promptly on regraded areas.

(2) Stockpiled materials shall—

(i) Be selectively placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the regulatory authority; and

(iv) Not be moved until required for redistribution unless approved by the regulatory authority.

(3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under paragraph (a)(1) of this section would be detrimental to the quality or quantity of those materials, the regulatory authority may approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation, provided that—

(i) Such action will not permanently diminish the capability of the topsoil of the host site; and

(ii) The material will be retained in a condition more suitable for redistribution than if stockpiled.

(d) *Redistribution.* (1) Topsoil materials removed under paragraph (a) of this section shall be redistributed in a manner that—

(i) Achieves an approximately uniform, stable thickness consistent with the approved postmining land use, contours, and surface-water drainage systems;

(ii) Prevents excess compaction of the materials; and

(iii) Protects the materials from wind and water erosion before and after seeding and planting.

(2) Before redistribution of the material removed under paragraph (a) of this section, the regraded land shall be treated if necessary to reduce potential slippage of the redistriouted material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation, such treatment may be conducted after such material is replaced.

(3) The regulatory authority may choose not to require the redistribution of topsoil or topsoil substitutes on the approved postmining embankments of permanent impoundments or of roads if it determines that—

(i) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation, and

(ii) Such embankments will be otherwise stabilized.

(4) *Nutrients and soil amendments.* Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the vegetative cover.

(e) *Subsoil segregation.* The regulatory authority may require that the B horizon, C horizon, or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with the requirements of paragraphs (c) and (d) of this section if it finds that such subsoil layers are necessary to comply with the revegetation requirements of §§ 817.111, 817.113, 817.114, and 817.116 of this chapter.

§ 817.23 [Removed]

§ 817.24 [Removed]

§ 817.25 [Removed]

9. Sections 817.23, 817.24, and 817.25 are removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

FR Doc. 83–13072 Filed 5–13–83; 8:45 am]
BILLING CODE 4310–05–M

VOL
48
ISS
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federal register

Monday
May 16, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

VOL 48 ISS 95 MY 16 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 890]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 9, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup.

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 9, 1983

VOLUME 890

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ANDERMAN OPERATING COMPANY				RECEIVED:	04/19/83	JA: AL			
8332691	4-14-831PB	0107520442		102-2		WEYERHAEUSER 26-1	MCGEE LAKE	400.0	TENNESSEE GAS PIP
-DOMINEX INC				RECEIVED:	04/19/83	JA: AL			
8332693	4-14-836PD	0100320119		102-2		MICHAEL ROSE 20-4 #1	PLEASANT VIEW	0.0	
8332694	4-14-837PD	0105320179		RECEIVED:	04/19/83	JA: AL			
-EXXON CORPORATION				107-DP		SCOTT PAPER CO GU 11-10 #1	BIG ESCAMBIA CREEK	2300.0	CIBA-GEIGY CORP
8332695	4-14-838PD	0100320123		RECEIVED:	04/19/83	JA: AL			
-MOON-HINES-TIERRETT OPERATING CO INC				102-2		STYRON 36-1 #1	WEST FOLEY	360.0	AMOCO PRODUCTION
8332842	4-14-839PD	0100320123		RECEIVED:	04/19/83	JA: AL			
-TERRA RESOURCES INC				102-4		CONNER 19-10	BLOOMING GROVE	0.0	HOWELL PIPELINE C
8332845	4-14-835PD	0105720283		102-4		POWERS 30-15	HUSGROVE CREEK	0.0	HOWELL PIPELINE C
8332840	4-14-833PD	0105720363							
LOUISIANA OFFICE OF CONSERVATION									
-MORAN EXPLORATION INC				RECEIVED:	04/13/83	JA: LA			
8332678	82-2386	1710922596		102-4	103	STATE LEASE 9914 #2	FOUR LEAGUE BAY 3938	0.0	DOW INTRASTATE GA
MONTANA BOARD OF OIL & GAS CONSERVATION									
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/18/83	JA: MT			
8332674	3-82-74	2509121424		102-2		HINER FEE 14-11	COMERIOUN	6.0	PHILLIPS PETROLEU
-EXETER EXPLORATION COMPANY				RECEIVED:	04/18/83	JA: MT			
8332675	4-82-85	2508321579		103		JACOBSON #2-27	FAIRVIEW	44.0	MGPC INC
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	04/18/83	JA: MT			
8332677	4-82-87	2509121358		102-2		ANDERSON 9-17	CLEAR LAKE	5.0	PHILLIPS PETROLEU
-LADD PETROLEUM CORPORATION				RECEIVED:	04/18/83	JA: MT			
8332673	4-5286	2508321541		102-2		DUNCAN HERBERG #11-22	SOUTH VAUX	35.6	
-TOM BROWN INC				RECEIVED:	04/15/83	JA: MT			
8332676	3-82-73	2508321426		102-4		FOOS #15-21X	WILDCAT	0.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMERADA HESS CORPORATION				RECEIVED:	04/18/83	JA: NM			
8332703		3002527949		103		B H MARCUS #2 - TUBB	MARDEN TURB	44.9	WARREN PETROLEUM
8332702		3002527949		103		B H MARCUS #2 - DRINKARD	SKAGGS DRINKARD	182.9	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	04/15/83	JA: NM			
8332695		3004524954		103		ANDERSON GAS COM "AA" #1	BLOOMFIELD - CHACRA	41.0	
8332675		3004524954		103		ANDERSON GAS COM "AA" #1	AZTEC - PICTURED CLIF	25.5	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/18/83	JA: NM			
8332701		3002527969		103		MCDONALD LH STATE #30	JALMAT YATES-SEVEN RI	21.7	EL PASO NATURAL G
8332653		3002527558		103		SEVEN RIVERS QUEEN UNIT #57	EUNICE - 7 RIVERS QUE	25.0	PARTNERSHIP PROPE
-CONOCO INC				RECEIVED:	04/18/83	JA: NM			
8332697		3001526284		103		DAGGET DRAW #4	DAGGER DRAW	408.0	
8332681		3001526273		103		STATE S-19 #4	EUNICE	20.0	PHILLIPS PETROLEU
-DALLAS MCCASLAND				RECEIVED:	04/15/83	JA: NM			
8332679		3002500090		108-PB		LITTLE MOLLYORTH #3	JALMAT	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EXXON CORPORATION				RECEIVED:	04/18/83	JA: NM			
8332692		3001523625		102-3		NEW MEXICO CZ STATE #1	UNDESIGNATED TURKEY T	101.0	
-GETTY OIL COMPANY				RECEIVED:	04/18/83	JA: NM			
8332694		3002524909		108-PB		A L CHRISTMAS #2	JALMAT (GAS)	21.9	EL PASO NATURAL G
8332704		3002503999		103		MONSTATE #1	EUNICE MONUMENT G-SA	13.1	WARREN PETROLEUM
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/18/83	JA: NM			
8332688		3003922678		108		SAN JUAN 30-5 UNIT 41	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/18/83	JA: NM			
8332693		3002508540		108		EAST VAC GB/SA UNIT TR 3315 #004	VACUUM GB/SA	12.0	EL PASO NATURAL G
-READ & STEVENS INC				RECEIVED:	04/18/83	JA: NM			
8332650		3001526044		103		DARTMOUTH 35	BUNKER HILL PENROSE	62.0	PHILLIPS PETROLEU
-SANDERS OIL & GAS INC				RECEIVED:	04/13/83	JA: NM			
8332695		3000561845		103		MARTIN #1	PECOS SLOPE	150.0	TRANSWESTERN PIPE
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/18/83	JA: NM			
8332652		3001500300		108		EAST HILLMAN POOL UNIT #4-4	HILLMAN QUEEN GRAYBUR	4.0	PHILLIPS PETROLEU
-YATES PETROLEUM CORPORATION				RECEIVED:	04/13/83	JA: NM			
8332691		3001522711		108		CITIES "JOE" #1	PENASCO DRAW-PERMO PE	0.0	TRANSWESTERN PIPE
8332686		3000560904		102-2		PAULETTE "PW" ST #1	WILDCAT	0.0	TRANSWESTERN PIPE
8332687		3000561156		102-2		PAULETTE "PW" ST #2	UND ABO	0.0	TRANSWESTERN PIPE
8332689		3001523294		108		PUDCO "NO" COM #1	RICHARD KNOB ATOKA-MO	0.0	TRANSWESTERN PIPE
8332654		3000560964		102-2		REDDAN "DY" ST #1-Y	UND ABO	0.0	TRANSWESTERN PIPE
8332699		3001523501		103		RIO PENASCO "KD" COM #3	WILDCAT STRAIN	0.0	TRANSWESTERN PIPE
8332695		3000561925		102-2		SKINNY "CO" ST #1	UND ABO	0.0	TRANSWESTERN PIPE
8332698		3001500000		108		STATE "DE" #1	WILDCAT CANYON	0.0	TRANSWESTERN PIPE
8332700		3001521310		108		TERRY "FU" #1	WILDCAT	0.0	TRANSWESTERN PIPE
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BATH ELECTRIC GAS & WATER SYSTEMS				RECEIVED:	04/18/83	JA: NY			
8332713	3592	3110115492		107-DV		FEE #1	EXPERIMENTAL DEVONIAN	10.0	CONSOLIDATED GAS
8332714	3591	3110116103		107-DV		FEE #3	EXPERIMENTAL DEVONIAN	7.1	CONSOLIDATED GAS
8332712	3590	3110116102		107-DV		MORD #1	EXPERIMENTAL DEVONIAN	5.4	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/18/83	JA: NY			
8332735	4954	3101317962		107-TF		COUNTY OF CHAUTAUQUA #4	WILDCAT	14.0	COLUMBIA GAS TRAN
8332736	4955	3101317720		107-TF		M OAG #5	GERRY	15.0	COLUMBIA GAS TRAN
-CONSOLIDATED EXPLORATION & GATHERIN				RECEIVED:	04/18/83	JA: NY			
8332737	4959	3102917937		107-TF		ECKHARDT-AGLE #1	EDEN-EVANS	18.3	SCG GAS QUEST INC
8332738	4960	3102917938		107-TF		ECKHARDT-AGLE #2	EDEN-EVANS	18.3	SCG GAS QUEST INC
8332739	4961	3102917939		107-TF		ECKHARDT-AGLE #3	EDEN-EVANS	18.3	SCG GAS QUEST INC
-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	04/18/83	JA: NY			
8332740	4979	3103717362		107-TF		BOWER #1	HURON CREEK	12.0	U S GYPSUM CO
8332741	4980	3103717360		107-TF		CREEN #1	INDIAN FALLS	9.6	U S GYPSUM CO
-LENAPE RESOURCES CORP				RECEIVED:	04/18/83	JA: NY			
8332723	5003	3112113992		107-TF		B MORAN #1 LRC #842	DANLEY CORNERS	20.0	NEW JERSEY NATURA
8332731	5012	3112113971		107-TF		BLAKKE #2 LRC #827	LEICESTER	20.0	NEW JERSEY NATURA
8332711	3380	3112170075		107-TF		C A OLSOWSKY UNIT #1 LRC #108	LEICESTER	20.0	NEW JERSEY NATURA
8332726	5006	3112113994		107-TF		C STEDMAN JR #1 LRC #49	DANLEY CORNERS	20.0	NEW JERSEY NATURA
8332727	5007	3112113993		107-TF		C STEDMAN JR #2 LRC #58	DANLEY CORNERS	20.0	NEW JERSEY NATURA
8332729	5010	3103713961		107-TF		CROSS #1 LRC #21	PAVILION	20.0	NEW JERSEY NATURA
8332719	3882	3112117295		107-TF		E KINGSLEY UNIT #1 LRC #128	LEICESTER	20.0	NEW JERSEY NATURA
8332724	5008	3105117370		107-TF		E NEWMAN #2 LRC #156	CALEDONIA	20.9	NEW JERSEY NATURA
8332728	5009	3112113964		107-TF		F CZMOKA #1 LRC #16	DANLEY CORNERS	20.9	NEW JERSEY NATURA
8332722	5002	3103713987		107-TF		FOUND #1 LRC #35	PAVILION	20.0	NEW JERSEY NATURA
8332716	3799	3105116191		107-TF		G P INCUSO #1 LRC #83	CALEDONIA	20.0	NEW JERSEY NATURA
8332732	5013	3112113998		107-TF		GASTON #1 LRC #28	LEICESTER	20.0	NEW JERSEY NATURA
8332747	3813	3105117316		107-TF		H & R SINCLAIR #1 LRC #91	WILDCAT	20.0	NEW JERSEY NATURA
8332717	3800	3105116194		107-TF		H M STEIN #1 LRC #84	CALEDONIA	20.0	NEW JERSEY NATURA
8332721	3829	3112113962		107-TF		HALMA #1 LRC #15	LEICESTER	20.0	NEW JERSEY NATURA
8332733	5014	3103713956		107-TF		LRC #34 - SPENCER #1	UHLEY CORNERS	20.0	NEW JERSEY NATURA
8332725	5005	3112113990		107-TF		P BARBERG #1 LRC #46	DANLEY CORNERS	20.0	NEW JERSEY NATURA
8332720	3831	3112117048		107-TF		R L HALMA #4 LRC #109	WILDCAT	20.0	NEW JERSEY NATURA
8332730	5011	3103713958		107-TF		RIDLEY #1 LRC #22	PAVILION	20.0	NEW JERSEY NATURA
8332742	4954	3105117371		107-TF		S B POWELL UNIT #2 LRC #157	CALEDONIA	20.9	NEW JERSEY NATURA
8332734	5004	3112113995		107-TF		T GEITNER #1 LRC #43	DANLEY CORNERS	20.0	NEW JERSEY NATURA
8332743	3811	3105116138		107-TF		W A NIXON #1 LRC #89	CALEDONIA	20.0	NEW JERSEY NATURA
8332718	3812	3105116189		107-TF		W A NIXON #2 LRC #90	CALEDONIA	20.0	NEW JERSEY NATURA
8332744	4985	3105117372		107-TF		W H DOOLITTLE UNIT #1 LRC #165	CALEDONIA	20.0	NEW JERSEY NATURA
8332743	4983	3105117355		107-TF		WEEKOOD FARM UNIT #2 LRC #150	CALEDONIA	20.0	NEW JERSEY NATURA
-LOCAL ENERGY INC				RECEIVED:	04/18/83	JA: NY			
8332710	5001	3102914601		107-TF		ELMA LAND #1	LAKE SHORE	1.0	NATIONAL FUEL GAS
8332709	4999	3102915171		107-TF		HANDY #1	BUFFALO CREEK	2.0	NATIONAL FUEL GAS
8332706	5000	3102914529		107-TF		HEINTZ #1	LAKE SHORE	10.0	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	04/18/83	JA: NY			
8332746	4992	3102917652		103		BAUER R #1	ORCHARD PARK	0.0	NATIONAL FUEL GAS
8332745	4993	3102917652		107-TF		BAUER R #1	ORCHARD PARK	0.0	NATIONAL FUEL GAS
-SHAMROCK EXPLORATION INC				RECEIVED:	04/18/83	JA: NY			
8332707	4994	3102918060		107-TF		MECCA BROS #1	BRANT	15.0	SCG GAS QUEST INC
-SINCLAIRVILLE PETROLEUM CORP				RECEIVED:	04/18/83	JA: NY			
8332708	3759	3102914457		107-TF		BOKMAN #2	AURORA	5.0	NATIONAL FUEL GAS
-TRISON PETROLEUM				RECEIVED:	04/18/83	JA: NY			
8332705	3679	3102915831		107-TF		BIXBY #1	AURORA	12.0	NATIONAL FUEL GAS
-WISCO-MCDONALD				RECEIVED:	04/18/83	JA: NY			
8332715	4912	3100918001		107-TF		VISCO #1	PERSIA	25.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	04/15/83	JA: OK			
8332804	21101	3509322501		103		INDIAN OIL UNIT "MP" #3	EAST CAMPBELL - CHUNT	50.0	MICHIGAN WISCONSI
-APACHE CORPORATION				RECEIVED:	04/18/83	JA: OK			
8332791	20059	3514920224		102-2		ROGERS #1-18		346.8	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/15/83	JA: OK			
8332654	20044	3511921928		102-4		CITIES SERVICE #1	N M STILLWATER AIRPOR	36.5	ARCO OIL & GAS CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/18/83	JA: OK			
8332784	19479	3506100090		108-PB		A H COX UNIT #1	KINTA	10.0	OKLAHOM GAS & ELE
-CITIES SERVICE COMPANY				RECEIVED:	04/15/83	JA: OK			
8332654	21107	3506120256		108		GRAVES D-1	N RUSSELLVILLE	18.9	ARKANSAS LOUISIAN
-CLARK EXPLORATION				RECEIVED:	04/18/83	JA: OK			
8332781	18294	3515100000		108-ER		CLINE #1		0.0	NORTHWEST CENTRAL
8332780	18293	3515100000		108-ER		JOHNSON #1		0.0	NORTHWEST CENTRAL
-CLARK OPERATING SERVICES INC				RECEIVED:	04/18/83	JA: OK			
8332839	21126	3509120252		108		CARNAY #1	TIGER FLATS	4.5	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	04/18/83	JA: OK			
8332795	20852	3501922509		103		VELMA CAMP DEESE #233	S E VELMA FIELD	0.0	GETTY OIL CO
-DOMINEX US OIL COMPANY				RECEIVED:	04/15/83	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			FIELD NAME	PROD	PURCHASER
8332648	23957	3507300000		107-TF		FORMAN #4			N REEDING	5.0	CONOCO INC
-DYNE EXPLORATION CO				RECEIVED:	04/15/83		JA: OK				
8332662	21080	3511124033		103		BEAL #1			COALTON	36.0	PHILLIPS PETROLEU
8332663	21081	3511123814		103		ROSSITER #1			COALTON	36.0	PHILLIPS PETROLEU
-EAGLE PETROLEUM CORP				RECEIVED:	04/18/83		JA: OK			48.0	UNION TEXAS PETRO
8332799	21024	3509322483		103		NASH #2-15			WILDCAT-DISCOVERY	250.0	
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	04/15/83		JA: OK				
8332652	20033	3513520111		102-2		FEDERAL #1-23			EAST BILLINGS	37.0	ARCO OIL & GAS CO
-EDINGER INC				RECEIVED:	04/18/83		JA: OK		EAST BILLINGS	21.0	ARCO OIL & GAS CO
8332817	21079	3510320708		103		INCHIRE #1					
8332816	21078	3510320730		103		THOMAS #1			S E REYDON - HUNTON	26.1	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/15/83		JA: OK				
8332672	21535	3512920141		108-PB		PIERCE #1			ERICK SOUTH - BROWN D	18.9	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/18/83		JA: OK			0.0	EL PASO NATURAL G
8332792	20701	3500920136		108-PB		MONTGOMERY #2					
8332773	14512	3500900000		108-PB		PUCKETT #2			SOONER TREND	0.0	CITIES SERVICE CO
-EMPIRE EQUIPMENT CO				RECEIVED:	04/18/83		JA: OK				
8332798	20760	3507323621		103		DUFFY #1			UNKNOWN	3.6	M J D CATTLE CO
-EYLER CORP				RECEIVED:	04/18/83		JA: OK				
8332811	21157	3511721197		103		LOIS #1				0.0	PANHANDLE EASTERN
-FUNK EXPLORATION INC				RECEIVED:	04/18/83		JA: OK				
8332786	20052	3508721422		102-4	103	BECKER #1			EAST OKMULGEE	9.0	PHILLIPS PETROLEU
-GMO OIL & GAS CORP				RECEIVED:	04/18/83		JA: OK		EAST OKMULGEE	12.0	PHILLIPS PETROLEU
8332829	21112	3511123363		103		DETHEROW 1-10			EAST NORRIS	75.0	PHILLIPS PETROLEU
8332819	21111	3511123533		103		DETHEROW 2-10					
8332821	21113	3511123397		103		GALE 1-17			EAST WAKITA APEA	36.5	SUN PRODUCTION CO
-GEORGE L LONG				RECEIVED:	04/15/83		JA: OK				
8332814	20569	3505320910		103		MITCHELL FARMS ID #25-1			MERRITT	0.0	EL PASO NATURAL G
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/18/83		JA: OK				
8332782	19066	3500920485		102-3		JOHNSON 1-24			LAVERNE (CHESTER & MO	0.0	TRANSWESTERN PIPE
-GULF OIL CORPORATION				RECEIVED:	04/18/83		JA: OK				
8332779	12079	3500700000		108-ER		KORAN /A/ #1			WILDCAT	365.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:	04/18/83		JA: OK				
8332803	21100	3505121318		103		LESTER #1-29			S E MARSHALL	4.4	EASON OIL CO
-HARN PRODUCTION CO				RECEIVED:	04/15/83		JA: OK				
8332655	20247	3508320611		103		POST #1			E KINGFISHER	105.0	EXXON CORP
-HARPER OIL COMPANY				RECEIVED:	04/15/83		JA: OK				
8332696	20764	3507323673		103		AYERS #1			S ORLANDO	0.0	EASON OIL CO
-HARPER OIL COMPANY				RECEIVED:	04/18/83		JA: OK				
8332797	20759	3508322129		103		NIDA #1			LUCIEN	60.0	AMINOIL U S A INC
-HAZELWOOD PRODUCTION & EXPLORATION				RECEIVED:	04/18/83		JA: OK				
8332812	19336	3510300633		103		RIST "A" #1			HAMMON	730.0	
-HEINERICH & PAYNE INC				RECEIVED:	04/15/83		JA: OK				
8332698	20027	3503920695		102-2		STINSON MO 1-6				0.0	GARFIELD GAS GATH
-HESTON OIL CO				RECEIVED:	04/13/83		JA: OK				
8332796	20753	3510920630		103		QUILLIN 22-6					
-HFC INC				RECEIVED:	04/13/83		JA: OK		FORT RENO	0.0	PHILLIPS PETROLEU
8332793	20749	3501722402		103		CLARK #2				1.0	PHILLIPS PETROLEU
8332823	21123	3504521042		103		STUART #16-2			SOUTH HAYWARD	36.1	EASON OIL CO
-KETAL OIL PRODUCING CO				RECEIVED:	04/13/83		JA: OK				
8332502	21097	3504723120		103		BETCHAM #1				100.0	UNION TEXAS PETRO
-MACK OIL CO				RECEIVED:	04/18/83		JA: OK				
8332794	20750	3504723121		103		STORMS #2				110.0	SUN GAS CO
-MANAN-ROWSEY INC.				RECEIVED:	04/18/83		JA: OK			300.0	SUN GAS CO
8332807	21144	3502720587		103		B-F #2					
8332806	21143	3502720596		103		B-F #3				0.0	NATURAL GAS PIPEL
-MARSHALL OIL CORP				RECEIVED:	04/15/83		JA: OK				
8332651	20028	3509320343		102-2		BUCK #1				472.0	PHILLIPS PETROLEU
-MIMS OIL & GAS INC				RECEIVED:	04/15/83		JA: OK				
8332659	21140	3511100000		103		KING #4				185.0	PHILLIPS PETROLEU
-MIMS OIL & GAS INC				RECEIVED:	04/15/83		JA: OK				
8332305	21141	3511100000		103		KING #3					
-MOBIL OIL CORP				RECEIVED:	04/15/83		JA: OK		WEST STEALY	3.4	WARREN PETROLEUM
8332534	21171	3508700000		103		LARSEN BULL UNIT #1-D					
-MOMEXCO				RECEIVED:	04/13/83		JA: OK			0.0	PANHANDLE EASTERN
8332813	19696	3502500000		102-4		LIVINGSTON #1-3					
-NORTHERN LEASING CO				RECEIVED:	04/15/83		JA: OK				
8332830	21339	3510524263		103		COFFEYVILLE RE-CON INC #1			SOUTH COFFEYVILLE	9.1	PELICAN PIPELINE
-OIL LIFT INC				RECEIVED:	04/15/83		JA: OK				
8332835	21160	3510526098		102-2		BANTA #3			SOUTH COFFEYVILLE	27.7	PELICAN PIPELINE
8332827	22699	3510525271		108		HUSTON #1 (API #105252?1)			SOUTH COFFEYVILLE	12.8	PELICAN PIPELINE
8332829	22597	3510525716		108		HUSTON #1-16 (API 10525716)			SOUTH COFFEYVILLE	1.5	PELICAN PIPELINE
8332828	22698	3510525431		108		HUSTON #2 (API #105254?8)			SOUTH COFFEYVILLE	14.0	PELICAN PIPELINE
8332824	22300	3510526?35		102-2		HUSTON #3				0.0	PELICAN PIPELINE
8332826	22700	3510525431		108		TITUS #1-23 (API #105254?1)			SOUTH COFFEYVILLE	11.7	PELICAN PIPELINE
8332823	22799	3510526271		102-2		WILKINS #2				0.0	PELICAN PIPELINE
-OSBORN HEIRS CO				RECEIVED:	04/15/83		JA: OK				
8332671	21150	3501121735		103		HOLSTED #2			N W OMEGA	150.0	MUSTANG FUEL CORP
8332670	21149	3501121723		103		STATE-LEWIS #1			N W OMEGA	150.0	MUSTANG FUEL CORP
-PEAK EXPLORATION INC				RECEIVED:	04/15/83		JA: OK				
8332657	20809	3510321480		103		BRAND #1			S W PERRY	73.0	AMINOIL USA INC
-PETRO-LEWIS CORPORATION				RECEIVED:	04/15/83		JA: OK				
8332661	28933	3509322582		103		ANDREWS 32-2			SOONER TREND	402.0	CITIES SERVICE GA
-PETRO-LEWIS CORPORATION				RECEIVED:	04/18/83		JA: OK				
8332832	21178	3500700000		103		CATES 1-8				0.0	PHILLIPS PETROLEU
-PEYTON OIL INC				RECEIVED:	04/18/83		JA: OK				
8332835	21167	3503724032		103		HALFMOON #1				21.0	GOLDEN ARROW GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/15/83		JA: OK				
8332667	21134	3501721396		108		HEUPEL B #1			N CONCHO	13.9	PANHANDLE EASTERN
8332666	21130	3501721418		108		SCHIEDER A #1			N CONCHO	7.5	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/13/83		JA: OK				
8332836	21165	3507323039		108		TRIMBLE A #1			SOONER TREND	3.6	ONG WESTERN INC
-PLAINS PRODUCTION INC				RECEIVED:	04/18/83		JA: OK				
8332816	21094	3511921124		103		DEWITT #1			YALE	25.0	PHILLIPS PETROLEU
-PORTS OF CALL OIL CO				RECEIVED:	04/15/83		JA: OK				
8332787	20053	3501722358		102-2		GREEN #2-1			SE YUKON	209.0	CONOCO INC
8332788	20056	3501521938		102-2		OLD TIMER 16-1			E EAKLEY	350.0	EL PASO NATURAL G
8332790	20056	3501521108		102-2		RUNNING BEAR #21-1			E EAKLEY	350.0	EL PASO NATURAL G
8332789	20055	3510920636		102-2		WOLF #5-1			S E YUKON	185.0	CONOCO INC
-PRIME ENERGY CO				RECEIVED:	04/15/83		JA: OK				
8332831	21184	3507122169		103		SMITH-GRELL 7-4				91.0	DAMAR ENERGY INC
-RAY JONES OIL PRODUCER				RECEIVED:	04/15/83		JA: OK				
8332649	20024	3511921178		102-4		TURNER #1			MARKHAM	1.0	PARKS ENERGY INVE
-REYNOLDS EXPLORATION CO				RECEIVED:	04/15/83		JA: OK				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			FIELD NAME	PROD	PURCHASER
8332658	20903	3509322510		103		BORELLI #1			SOONER TREND	0.0	CITIES SERVICE CO
8332659	20904	3507323184		103		EMMERICH #1			SOONER TREND	0.0	CITIES SERVICE CO
8332660	20905	3507323188		103		JAMES #1			SOONER TREND	0.0	CITIES SERVICE CO
-RICK BUCK OIL & GAS CORP				RECEIVED:	04/13/83		JA: OK				
8332822	21120	3501722324		103		DICKERSON BROTHERS #1-28			SOONER TREND	106.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	04/15/83		JA: OK				
8332837	21163	3501521441		103		MAUDE 1-10				786.0	PIONEER GAS PRODU
-ROSCO OIL CO INC				RECEIVED:	04/18/83		JA: OK				
8332815	20929	3511720735		103		JARVIS 1-35			UNAMED	10.8	HJD CATTLE CO
-SABINE CORP				RECEIVED:	04/18/83		JA: OK				
8332800	21003	3509322610		103		KUSCH #4-2			NE CEDAR SPRINGS	365.0	PHILLIPS PETROLEU
-SABINE PRODUCTION COMPANY				RECEIVED:	04/13/83		JA: OK			54.8	
8332653	20042	3503920562		102-2	103	LEE #1					
-SENECA OIL CO				RECEIVED:	04/18/83		JA: OK			255.1	
8332785	19657	3504321522		102-4	103	ROGERS #1-36					
-SOUTHLAND ROYALTY CO				RECEIVED:	04/18/83		JA: OK				
8332783	19247	3515130010		108-PB		WILSON #1-11			M E LOVEDALE	14.8	EL GRANDE PIPELIN
-STANTON ENERGY INC				RECEIVED:	04/15/83		JA: OK			100.0	
8332668	21138	3503724328		103		RAMEY #1					
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/13/83		JA: OK		STROUD	4.0	EUFAULA ENTERPRIS
8332833	21177	3508100000		108		CRIESS WFU TR 1 #4					
-TEXACO INC				RECEIVED:	04/18/83		JA: OK		REEDING SOUTH POOL	55.5	PHILLIPS PETROLEU
8332839	21155	3507323699		103		A HUSMANN #36-1			OKARCHE N E	20.2	CONOCO INC
8332801	21087	3507323090		103		RALPH WITTROCK #1					
-VAN HORN OIL & GAS INC				RECEIVED:	04/18/83		JA: OK		NORTHEAST MEO	120.0	UNION TEXAS PETRO
8332810	21156	3509322570		103		DECKER 34-1					
-WHEELER IRA G JR				RECEIVED:	04/18/83		JA: OK		FLATROCK	25.0	PHILLIPS PETROLEU
8332808	21145	3514322341		103		SHEEHAN #3					
-WITTMAR EXPLORATION CO				RECEIVED:	04/15/83		JA: OK		KINTA	0.0	ARKANSAS LOUISIAN
8332655	21125	3506120495		103		NUNN #1-4					

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VOL
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federal register

Monday
May 16, 1983

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Roads

VOL
48
ISS
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 816, and 817

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Roads

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is issuing final rules governing roads under the Surface Mining Control and Reclamation Act of 1977. These rules will replace the classification system contained in the previously suspended rules by designating roads as either primary or ancillary. OSM has adopted performance standards which permit the regulatory authorities to approve designs more tailored to local needs and allow them to place greater emphasis on results through analysis of design practices.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Wiles, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; 202–343–5245.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Rules Adopted
III. Discussion of Comments
IV. Procedural Matters

I. Background

On April 16, 1982, OSM proposed rules for its permanent regulatory program regarding the design, construction, maintenance and use of roads utilized in surface coal mining operations. (See 47 FR 16592.) The proposal included a road classification system, together with performance standards for primary and ancillary roads. A separate definition of "road" was published on January 4, 1982 (47 FR 56). These rules finalize those proposals.

OSM has adopted a two level approach in these rules. First, OSM has established basic performance standards with nationwide relevance. Second, when considered necessary to ensure environmental protection and safety consistent with the planned duration and use of the regulated roads, the regulatory authorities may develop design criteria particular to their regions. This combination of national standards, together with any necessary design criteria developed by regulatory authorities will prevent and/or address the adverse effects from road construction, maintenance, and use. Because the areas where surface coal mining operations occur have great diversity in their territorial, climatic, biologic, chemical and other physical conditions, it is difficult to develop design criteria for road construction, maintenance and use with universal applicability.

Sections 515(b) (17) and (18) of the Surface Mining Control and Reclamation Act (the Act), 30 U.S.C. 1201 *et seq.*, specify standards for roads used in surface coal mining and reclamation operations. These rules are intended to implement those standards. In addition, Section 516(b)(10) of the Act requires OSM to consider the differences between surface and underground mining when promulgating rules. However, OSM has not identified any differences between roads for surface mines and roads for underground mines that necessitate differing regulatory provisions. Thus, the performance standards for road construction, maintenance and use being adopted here for surface mining (Part 816) and for underground mining (Part 817) are identical. The discussions which follow, of the rules adopted and the public comment received, will reference surface mining requirements unless a specific issue concerning underground mining was raised.

On March 13, 1979 (44 FR 14902, 15320), OSM promulgated permanent program rules pertaining to road location, construction and restoration which established design criteria and which applied a classification system consisting of three classes. (30 CFR 816.150–816.176 and 817.150–817.176.) At the same time, the term "road" was defined at 30 CFR 701.5.

Soon after adoption of the permanent program rules, they were challenged in a lawsuit filed in the U.S. District Court for the District of Columbia. With respect to the road rules, the court found in favor of the challengers and remanded the rules to OSM for further consideration. *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144, Slip op. at 32–36 (D.D.C. May 16, 1980). As a result of this court decision, OSM suspended these rules and the definition for "road" (45 FR 51547, August 4, 1980). Therefore, there have been no permanent program rules for roads in effect.

In 1982 OSM again proposed road rules and a 30-day comment period was opened on April 16, 1982. It was scheduled to be closed on May 17, 1982, but on May 13, 1982 (47 FR 20631), OSM extended the public comment period indefinitely. On July 13, 1982 (47 FR 30286), OSM issued a notice closing the public comment period on August 25, 1982. During the comment period, OSM received approximately 160 individual comments from 30 sources representing industry and associations, environmental groups and Federal and State agencies. The OSM Administrative Record for these and other rules was reopened to allow consideration of the oral comments made at the oversight hearings held by the House Interior and Insular Affairs Committee on September 9 and 10, 1982.

As part of its April 16, 1982 notice, OSM proposed to regulate "other transportation facilities" together with ancillary roads. However, on June 25, 1982 (47 FR 27690), OSM proposed that § 816.180 (other transportation facilities) and § 816.181 (support facilities and utility installations) of the suspended rules be combined into new § 816.180—*Support facilities*, and that a new definition of "support facilities" include "other transportation facilities" such as railroads, surface conveyor systems, chutes, aerial tramways or other transportation facilities. OSM has decided to resolve the overlapping approaches by regulating "other transportation facilities" as "support facilities" in final § 816.181, in another rulemaking.

II. Discussion of Rules Adopted

This portion of the preamble consists of a brief description of the rules adopted. A more detailed discussion of the bases and purpose of these rules is included in the *Response to Comments*.

In its proposal, OSM presented two options for consideration in establishing standards for primary and ancillary roads. Option (1) included both performance standards and design criteria. Option (2) set performance standards only. In the final rules, OSM has set general performance standards for primary and ancillary roads in 30 CFR 816.150. Under this rule, all roads must meet the performance standards for their design, location, construction, use, maintenance and reclamation which are set forth in § 816.150(b)–(e). Final § 816.150(a) pertains to the road definition and is discussed below. A separate provision has been adopted for primary roads, 30 CFR 816.151, which incorporates components of Options (1) and (2) of the proposed rules.

To assist the reader in understanding the changes in the final rules the following Derivation Table shows the relationship of the final rules to the previous suspended rules and the proposed rules, including both options. The same changes apply for Part 817—Underground mining activities.

DERIVATION TABLE—ROADS

Final rule	Previous suspended rules	Proposed rules
§ 816.150:		
(a)(1)		Definition of "road" in § 701.5.
(a)(2)(i)		Do.
(a)(2)(ii)		Do.
(a)(2)(iii)		Do.
(a)(3)		Do.

Final rule	Previous suspended rules	Proposed rules		
		Option 1	Option 2	§ 816.180
§ 816.150:				
(b)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(a)	§ 816.150(a)	(a).
(b)(1)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(a)	§ 816.150(a)(1)	(a) (1) and (a).
(b)(2)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(b)	§ 816.150(a)(2)	(a)(2).
(b)(3)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(b)	§ 816.150(a)(3)	(a)(3).
(b)(4)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(b)	§ 816.150(a)(4)	(a)(4).
(b)(5)	§§ 816.150(a), 816.160(a), 816.170(a)		§ 816.150(a)(5)	(a)(5).
(b)(6)			§ 816.150(a)(6)	(a)(6).
(b)(7)	§§ 816.150(a), 816.160(a), 816.170(a)	§ 816.150(a)	§ 816.150(a)(7)	(a)(7).
(b)(8)	■ 816.154(b), 816.164(b), 816.174(b)	§ 816.154(b)		
(b)(9)	§§ 816.152(d)(9), 816.162(d)(9),	§ 816.151(d)(9)		
(c)			§ 816.150(b)(1).	
(d)(1)	§§ 816.151(b), 816.161(b), 816.171(b)	§ 816.151(b)		
(d)(2)	§§ 816.151(d)(1), 816.161(d)(1), 816.171(d)(1)	§ 816.151(d)		
(e)(1)	§§ 816.155(a), 816.165(a), 816.175(a)	§ 816.155(a)	§ 816.150(c)	
(e)(2)	§§ 816.155(c), 816.165(c)	§ 816.155(c)		
(f)	§§ 816.156(a), 816.166(a), 816.176 Intro.	§ 816.156(a)	§ 816.150(d)	
(f)(1)	§§ 816.156(a)(1), 816.166(a)(1), 816.178(a)	§ 816.156(a)(1)	§ 816.150(d)(1)	
(f)(2)	§§ 816.156(a)(3), 816.166(a)(3), 816.178(c)	§ 816.156(a)(3)	§ 816.150(d)(2)	
(f)(3)	§§ 816.156(a)(2), 816.166(a)(2), 816.178(b)	§ 816.156(a)(2)	§ 816.150(d)(3)	
(f)(4)	§§ 816.156(a)(5), 816.166(a)(5), 816.176(e)	§ 816.156(a) (5) and (6)	§ 816.150(d)(4)	
(f)(5)	§§ 816.156(a)(9), 816.166(a)(9), 816.176(h)	§ 816.156(a)(9)	§ 816.150(d)(5)	

Final rule	Previous suspended rules	Proposed rules	
		Option 1	Option 2
§ 816.151:			
Intro.			§ 816.150(a) (1 & 2).
(a)	§§ 816.150(d)(1), 816.160(d)(1)	§ 816.150(d)	
(b)(1)	§§ 816.151(a), 816.161(a), 816.171(a)	§ 816.151(a)	
(b)(2)	§§ 816.151(c), 816.161(c), 816.171(c)	§ 816.151(c)	
(c)(1)	§§ 816.153(a)(1), 816.163(a)(1)	§ 816.153(a)	
(c)(2)	§§ 816.153(c)(1)(ii), 816.163(c)(1)(ii)	§ 816.153(c)(1)(ii)	
(c)(3)	§§ 816.153(c)(1)(iii)	§ 816.153 (b) and (c)(1)(iii)	
(c)(4)	§§ 816.153(c)(1)(v), 816.163(c)(1)(v)	§ 816.153(c)(1)(iv)	
(c)(5)	§§ 816.153(d), 816.163(d), 816.173(c)	§ 816.153(d)	
(c)(6)	§§ 816.153(e), 816.163(e), 816.173(d)	§ 816.153(e)	
(d)	§§ 816.154(a), 816.164(a)	§ 816.154(a)	
(e)	§§ 816.155(b)	§ 816.155(b)	

Definition of Road. In its January 4, 1982 notice, OSM had proposed to adopt a general definition for "road" which was similar to the suspended definition and described the physical components of a road. That proposed definition, however, made no reference to road classifications. The January 4 proposal was made in connection with proposed rules for the exemption of operations affecting less than two acres provided for in Section 528(2) of the Act. A portion of those rules was adopted on August 2, 1982 (47 FR 38424). Readers should consult that **Federal Register** notice for discussion about the relationship between the terms "affected area" and "road."

In this rulemaking OSM has adopted a definition for the term "road" which limits its application to routes within the "affected area." The term encompasses the entire area and structures within a surface right-of-way. A "road" includes areas such as the roadbed, shoulders, parking, side areas and approaches. The proposed phrase "and such contiguous appendages as are necessary for the total structure" has not been included in the final definition because it is unnecessary. A road consists of structures such as bridges, ditches, drains and culverts. The term "road" applies to access and haul roads which are constructed, used, reconstructed, improved or maintained for use during coal exploration or are within the affected area during surface coal mining and reclamation operations. The definition specifically excludes pioneer or construction roadways used during the road construction procedure and roads within the immediate mining pit area.

Section 816.150(a)

The April 16, 1982 proposal provided for the designation of roads as either "primary" or "ancillary." Proposed definitions for these two terms were offered which focused on the frequency of use and the length of time in use. (47 FR 16596).

Rather than incorporate the classification system of primary and ancillary roads as part of the general definition of "road" as was proposed on April 16, 1982, these terms appear as Paragraph (a) in final § 816.150.

In final § 816.150(a) OSM has defined primary roads so as to include those roads which, in OSM's opinion, have the potential for greater adverse

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environmental impacts. These comprise all roads which are used for transporting coal or spoil; frequently used for access or for other purposes in excess of six months; or are to be retained as part of the approved postmining land use. Ancillary roads are all roads which are not designated as primary. This division is more clear-cut than the proposal with the result that it will reduce confusion over the identification of a road's classification.

Section 816.150(b)

Final § 816.150(b) enumerates performance standards that operators must meet when locating, designing, constructing, reconstructing, using, maintaining and reclaiming all roads associated with surface coal mining operations. These listed performance standards complement other relevant provisions in Part 816. OSM has modified its proposal by adding to the list of performance standards. These new standards call for stabilizing exposed surfaces to control or prevent erosion, siltation, and air pollution attendant to erosion, through vegetation or other means; prohibiting the use of acidic or toxic substances on road surfaces; and applying a minimum static safety factor of 1.3 for all embankments. Additionally, Paragraph (b)(5) has been changed to make it clear that adverse effects to surface- and ground-water systems must be minimized. The standards also require an operator to control or prevent damage to fish, wildlife or their habitat and related environmental values; control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area; neither cause nor contribute, directly or indirectly, to the violation of State or Federal water quality standards applicable to receiving waters; refrain from significantly altering the normal flow of water in streambeds or drainage channels; and prevent or control damage to public or private property.

Section 816.150(c)

Final § 816.150(c) includes the specific requirement that in order to ensure environmental protection and safety during their planned duration and use, including consideration of the size and type of equipment used, the design and construction or reconstruction of roads and other transportation facilities shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement and culvert size as well as any necessary design criteria established by the regulatory authority. This meets a specific Congressional concern that these parameters will be considered and also provides authority to regulatory authorities to specify criteria where needed for local conditions. See the later discussion of comments for additional explanation of this provision.

Section 816.150(d)

Final § 816.150(d) concerns performance standards for the location of all roads. It is a distillation of provisions appearing in Option (1) of the proposed rule. These requirements also appeared in the preferred alternative in the Final Environmental Impact Statement OSM EIS–1: Supplement (FEIS) for the regulation of primary roads. However, OSM views them has having more general applicability and, therefore, has placed them in final § 816.150 for both primary and ancillary roads. The location performance standards prohibit the placement of any part of a road in the channel of an intermittent or perennial stream unless the regulatory authority specifically approves such an action. Also, roads must be located to minimize downstream sedimentation and flooding.

Section 816.150(e)

Final § 816.150(e) concerns general maintenance responsibilities. These appeared in Options (1) and (2) of the proposed rules and in the preferred alternative in the FEIS. OSM has placed them in final § 816.150 because of their general applicability. Under this paragraph, a road must be maintained throughout its entire life to meet all performance standards and any additional design criteria established by the regulatory authority. Rather than prohibiting the use of flood damaged roads until they can be reconstructed, as was proposed in § 816.155(c) of Option (1), the final rule provides that in event of damage due to a catastrophic event, roads must be repaired as soon as practical. This is derived from the second sentence of § 816.155(c) of the previous rules.

Section 816.150(f)

Final § 816.150(f) addresses reclamation of roads which are not to be retained under an approved postmining land use. This section is derived from proposed Option 1 and Option 2 (see the derivation table). Such roads must be reclaimed immediately when no longer being used for mining and reclamation operations. The five reclamation activities listed in this paragraph include (1) closing the road to traffic; (2) removing all bridges and culverts; (3) restoring the natural drainage patterns; (4) reshaping cut and fill slopes to be compatible with the postmining land use and to complement the drainage pattern of the surrounding terrain; and (5) replacing topsoil and revegetating disturbed surfaces. These requirements, plus the other relevant reclamation requirements of Part 816, obviate the need for the additional provisions in Option (1) for proposed § 816.156.

3. *Section 816.151 Primary Roads.* Because primary roads have the potential to result in greater adverse environmental impacts, OSM has adopted an additional set of performance standards for their design, construction, and maintenance. These more detailed performance standards appear in final § 816.151 and are based on standards which appeared in Option (1) of the proposed rule.

Section 816.151(a)

Final § 816.151(a) requires an operator to secure certification by a qualified registered professional engineer that the design and construction or reconstruction of a primary road meets the performance standards of Part 816, current, prudent engineering practice, and any design criteria established by the regulatory authority. This certification requirement is discussed in greater detail in the *Response to Comments* portion of this preamble. The phrase "current, prudent engineering practices" has been adopted to make the rules consistent with the rules of the Mine Safety and Health Administration in 30 CFR 77.215. It includes practices well-established by engineering principles and widely recognized by experts and with experience in the subject.

Section 816.151(b)

Final § 816.151(b) limits the location of primary roads.

Final § 816.151(b)(1) requires primary roads to be located, insofar as practical, on the most stable available surfaces to minimize erosion. The reference to limiting primary road location "outside of valley bottoms," which appeared in the preferred alternative of the FEIS has not been adopted because it was an incorrect statement. The material in this paragraph is based on Option (1) of the proposed rule. Proposed § 816.151(a) in Option (1) would have required primary road locations on ridges, or the most stable slopes available to minimize erosion. The reference to "ridges" is not necessary as long as the most stable route is chosen. The word "surfaces" rather than "slopes" is used because roads are often constructed on flat terrain.

Final § 816.151(b)(2) prohibits primary roads from using stream fords unless specifically approved by the regulatory authority for temporary routes during road construction. This provision tracks proposed § 816.151(c). The proposed sentence concerning stream fords not adversely affecting stream sedimentation or fish and wildlife values was redundant in light of final § 816.150(b)(2) and (d)(3) and so has not been adopted.

Section 816.151(c)

Final § 816.151(c) concerns drainage control and is based upon the performance standards which appeared in Option (1) as proposed § 816.153. It requires that, at a minimum, drainage control systems shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event. To provide flexibility to regulatory authorities to account for particular situations likely to be encountered over the life of the mine or related to specific downstream conditions, the rule allows for modification by the regulatory authority in those situations when the 10-year, 6-hour precipitation event measurement will not be appropriate.

The storm design event being adopted is consistent with the criteria of the Mine Safety and Health Administration (MSHA) published as "Design Guidelines for Coal Refuse Piles and Water, Sediment, or Slurry Impoundments and Impoundment Structures" (IR 1109). OSM recognizes the 24-hour duration storm usually results in a runoff volume and peak somewhat higher than the 6-hour storm for the same area (See 44 FR 15207). However, in some watersheds, a 6-hour event can result in a higher peak flow. For a given storm frequency, the time of concentration and watershed shape can be more influential in determining the peak flow than the storm duration. Therefore, in most cases the differences in any increased volume of peak flows will be minor from a practical design and construction standpoint. Any computed increase in peak flow volume would most likely not result in any significant change in flow depth or flow velocities, and correspondingly, any alteration in drainage channel design.

Final § 816.151(c) also includes the requirement of proposed § 816.153(a) that primary roads must be designed, constructed, reconstructed and maintained so that they have adequate drainage control by using structures such as bridges, ditches and drains. Drainage pipes and culverts must be constructed and maintained to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches must be designed to prevent uncontrolled drainage over the road surface and embankment. Trash racks and debris basins shall be installed in drainage ditches where debris may impair functions. Culvert design, installation and maintenance shall take into account the vertical soil pressure, passive resistance of the foundation and weight of vehicles using the road. Natural stream channels shall not be altered or relocated except as provided by the rules on hydrologic balance. All stream crossings, except as provided for in paragraph (b)(2), are to be accomplished using bridges, culverts or other structures designed, constructed and maintained using current, prudent engineering practices. These provisions are derived from proposed § 816.153(b), (c) and (d).

Section 816.151(d)

Final § 816.151(d) specifies the kinds of materials, which may be used when surfacing primary roads and includes rock, crushed gravel, asphalt, or other material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road. This section was proposed at § 816.154(a) in Option (1). The prohibition on the use of acid- and toxic-forming substances for road surfacing, which appeared in proposed § 816.154(b) and in the preferred alternative for primary roads, has been moved to the more general final § 816.150, thereby making it applicable to ancillary roads as well.

Section 816.151(e)

Final § 816.151(e) details routine maintenance responsibilities for primary roads. It is based on the Option (1) proposal at § 816.155(b). The final rule eliminates redundant language and references to an activity which the Act does not regulate, *i.e.*, watering for dust control. Such maintenance includes repairs to the road surface, blading, filling potholes and adding replacement gravel or asphalt. It also includes revegetation, brush removal, and minor reconstruction of road segments as necessary. Proposed § 816.155(a) requiring maintenance throughout the life of the road has been subsumed within final § 816.150(e).

III. Discussion of comments

A. General Comments

OSM Authority. One commenter maintained that no section of the Act could be found that mandated OSM to give any advice, guidance, or instruction to operators on road building. The same commenter felt that Section 101(f) of the Act gave the States, not OSM, the responsibility for developing rules for surface mining and reclamation operations and that OSM rules basically should consist of the requirement for certification of road design by a registered professional engineer.

The authority for developing rules pertaining to roads is found in Sections 102, 201, 501, 503, 504, 515, 516 and 701 of the Act. While the cited Section 101(f) of the Act recognizes that the primary governmental responsibility for developing, authorizing, issuing and enforcing rules for surface mining and reclamation operations should rest with the States, Section 201(c)(2) of the Act specifically mandates that the Secretary, acting through OSM, shall publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of the Act. Also Section 501(b) of the Act charges the Secretary with the responsibility for promulgating rules covering a permanent regulatory procedure for surface coal mining and reclamation operation performance standards based on and conforming with Title V of the Act. Additionally, Section 503(a)(7) of the Act requires that, in order to be approved, State programs must contain provisions consistent with the Secretary's regulations. Furthermore, the Secretary's authority to promulgate regulations implementing the Act and to require that State programs be consistent with them was upheld in *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144, Slip-op. at 5–8 (D.D.C., February 26, 1980).

These rules were developed to implement the environmental protection performance standards for the design, construction, use, maintenance, and restoration of roads at surface and underground coal mining operations. Together with the certification by profeasional engineers in the case of primary roads, these performance standards are necessary for adequate assurance that roads at mine operations will minimize adverse environmental effects and not cause damage to public or private property.

One commenter thought that improperly constructed roads could violate Section 515(b)(17) of the Act, and argued that a number of the proposed rules failed to consider the critical significance of the potential for erosion and sediment contributions from "haul roads." In addition to suggesting that the proposed rules violated the Act, the commenter felt that the previous rules for roads were heavily supported with

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scientific data while no new data were cited as evidence for the proposed changes.

The essential environmental protection requirements for roads are highlighted in Sections 515(b) (17) and (18) of the Act. The final rules succinctly set out required performance standards to accomplish these ends and are consistent with the Act.

With regard to the commenter's concern about haul roads, a road used for transporting coal or spoil, in essence a haul road, is defined as a primary road and its design and construction or reconstruction must be certified by a professional engineer as meeting both the performance standards of Part 816 and any design criteria set by the regulatory authority. Potential erosion and sediment problems from primary roads are adequately addressed by the requirements of § 816.151. Moreover, OSM has separately addressed the general problem of erosion by adopting a performance standard in § 816.95 which implements Section 515(b)(4) of the Act. This requirement is applicable to all roads associated with surface coal mining operations.

With respect to the comment concerning scientific data, the technical data which were listed under Reference Materials in the **Federal Register** notice (47 FR 16595, April 16, 1982) supplemented the technical materials which were used in the development of the suspended rules. (44 FR 15245, March 13, 1979). The data continue to support these final rules.

Option (1) vs. Option (2) and Performance Standards vs. Design Criteria. Option (1) of the proposed rules (47 FR 16592, April 16, 1982), included both design and performance standards for roads. Option (2) contained performance standards only. It was anticipated that either one of the options would be selected or features from both would be combined into a final rule after comments were evaluated. The final rules adopted combine aspects of Options (1) and (2) with modifications incorporated in response to comments and analysis in the FEIS.

One commenter felt that OSM's conclusion in the April 1982 preamble that general performance standards under Option (2) would provide equivalent environmental protection to detailed design criteria under Option (1) was not buttressed by the material in the March 13, 1979 preamble to the previous rules (44 FR 15246).

Although OSM has chosen not to include design criteria within the rules, these final rules have incorporated more detailed performance standards for primary roads than were contained in Option (2). Upon reviewing the legislative history of the Act, it is OSM's view that the adoption of these prformance standards, coupled with the ability of regulatory authorities, provided under § 816.150(c), to set design criteria for specified parameters and the requirement (under § 816.15(1)(a)) that the design and construction of primary roads be certified by qualified registered professional engineers, will result in the necessary environmental and public safety protection. This approach also advances the finding in Section 101(f) of the Act because it takes into account regional, physical, biological, and climatic diversity among the States by giving the regulatory authorities the responsibility to develop appropriate design criteria when necessary.

One commenter opposed the adoption of design criteria arguing that the operator could not be held liable for consequences in the event such design criteria failed to meet peformance standard requirements.

OSM disagrees with the commenter's conclusion. When engaged in a surface coal mining operation, an operator is responsible to meet the performance standards of the Act and the implementing rules as promulgated in 30 CFR Part 816. Establishment by a regulatory authority of a design criterion will not insulate an operator from this responsibility. In the event a specific design fails to meet the performance standards, an operator must take appropriate mitigative measures. *See* previous 30 CFR 786.29 and proposed 30 CFR 773.17(e) at 47 FR 27694, June 25, 1982.

Though preferring Option (2), one State commenter recommended the adoption of Option (1) with the design criteria because this would allow the State to propose standards based on its existing State requirements. The commenter thought that the State's rules would then be "as effective as" the OSM rules. The question of whether a State's rules are no less effective than OSM's rules in Part 816 depends on the substance of the State's rules and not merely on whether a regulation does or does not contain design criteria.

One commenter suggested that OSM insert language in the preamble to make it clear that under Option (2) the States would have the opportunity to establish design criteria to meet their respective conditions. The final rules have been written so that regulatory authorities may develop general design criteria as part of the State program, or evaluate road designs on a case-by-case basis.

One commenter thought that incorporating specific design criteria for primary roads under Option (1) would be less burdensome for the operators and regulatory authorities because it would not require an operator to design a road system completely, therefore saving additional engineering costs. Another commenter saw Option (1) as simplifying the review and enforcement process and pointed out that the relatively high initial construction costs would be offset, to some extent, by lower long-term maintenance costs.

OSM disagrees with the assessment of the first commenter. The establishment of design criteria by OSM or the regulatory authority would not necessarily be the equivalent of specifications which must be included in a design for a specific road. Operators have the responsibility to submit sufficiently detailed designs for each road that demonstrate compliance with the performance standards promulgated in Part 816.

With respect to the second comment, construction cost savings can be realized by the establishment of design criteria on a localized or regional basis, rather than by national criteria. Construction costs can escalate from underdesign, as well as overdesign, and maintenance costs are minimized when a road is designed to meet specific needs and then used as intended.

One commenter felt that elimination of design standards would substantially increase the likelihood that roads would be improperly constructed for the following three reasons: (1) The proposed performance standards were vague and difficult to enforce; (2) OSM had indicated its intent to eliminate detailed information requirements for road design during permit review; and (3) OSM assumed that professional engineers would design roads but this was not required in the proposal and would result in design by non-engineers to cut costs.

OSM disagrees with the commenter's first point. The performance standards in final §§ 816.150 and 816.151 are sufficiently specific to allow the regulatory authorities to evaluate whether roads are being properly designed, constructed, and maintained. Although OSM has minimized the use of design criteria in the national standards, regulatory authorities may include additional design criteria in their individual programs (either generally or on a case-by-case basis) and may develop technical guidelines when they consider such added specificity is needed. Furthermore, as an aid to regulatory authority review, OSM requires certification by a registered professional engineer that proposed design and actual construction or

reconstruction for primary roads meet Part 816 performance standards and any design criteria required by the regulatory authority.

In response to the commenter's second point, OSM has not proposed changes to the information collection rules for road design under 30 CFR Parts 780 and 784 and no changes are made in this final rule.

Finally, the commenter misstates OSM's intention concerning the development of road designs. The final rules do not specify who must prepare the design. Rather, they require certification by a qualified registered professional engineer that the design submitted to the regulatory authority meets the performance standards of Part 816 and any design criteria required by the regulatory authority. The important consideration is whether the design meets the prescribed standards and not who does the preparation.

One commenter considered it "noteworthy" that § 816.150(d)(1) in the suspended rules allowed use of alternative design specifications if the design by a professional engineer resulted in performance equal to or better than the design standards. The commenter felt this added important flexibility and pointed out that the provision for alternative specifications had been eliminated from proposed Option (1).

OSM agrees that important flexibility is attained by allowing for approval by the regulatory authority of designs which will take into account site specific or regional conditions. This adaptability is intended by this final rule.

One commenter thought that the degree of environmental protection to be achieved under Option (2) would depend on the attitude of each operator, permit reviewer and inspector. The commenter felt that review of design proposals would be inconsistent and problematic, and that some operators would attempt to cut costs by designing roads which would eventually develop instability, erosion and flooding problems leading to high maintenance costs for correction. In the commenter's opinion the operators who continued in good faith to construct properly designed roads would find themselves at an economic disadvantage.

As pointed out in the FEIS, inconsistent implementation of the permanent program rules among States or within a State is as likely under previous rules as under the new rules. Consistent application of the rules depends upon the personnel involved. The final road rules provide sufficient guidance to regulatory authorities to result in consistent application. In addition, §§ 780.11, 780.14 and 780.37 of the permitting rules require sufficient technical information from the operator to allow proper permit application evaluation. Moreover, regulatory authorities may require supplemental information. Finally, although those regulatory authorities which choose not to incorporate design criteria within their rules could place demands for increased competence on their reviewing personnel, these demands can be reduced significantly through the use of technical and policy guidelines.

The commenter's fear that poor attitudes would result in problematic and inconsistent design review and subsequent constuction problems is based on the view that the regulatory authority cannot adequately develop standards and will not proceed in the review, inspection or enforcement actions. Under the provisions of Section 503 of the Act, the State is required to demonstrate that it has the capability to carry out the provisions of the Act both from administrative and technical standpoints. After implementation of a State program, OSM maintains a continuing oversight role to help assure that the provisions of the Act are being met. These two factors in the regulatory scheme should militate against ineffective or incomplete enforcment by the regulatory authorities.

Several commenters proposed changes to Option (1) and Option (2) which included different combinations of performance standards, design criteria, and constraints. The emphasis and importance that the commenters placed on the individual areas of road design varied widely. For example, one commenter preferred Option (2) but felt it was necessary to retain the Option (1) provisions that prohibited the use of unsuitable material in road embankment construction, required compaction of road building material, and dealt with disposal of excess material from excavations. Another commenter did not express a preferred option but proposed a combination which called for the adoption of most of Option (1) with modifications and specific sections selected for deletion. A third commenter expressed opposition to Option (2) and offered a compromise which provided for a variance for road routes and grades, deletion of embankment specifications, reduction of the design storm frequency, establishment of a safety factor on all cuts and fills, sediment sumps in the drainage systems, and imposition of time limits for drainage and stabilization on infrequently used roads.

As described earlier in this preamble, OSM has considered the comments and adopted performance standards for primary roads (§ 816.151) in addition to the more general performance standards of § 816.150. The wide range of comments received on the proposed alternatives demonstrates the need for leeway on the part of the regulatory authority to establish criteria which address the prevailing conditions and potential severity of environmental problems associated with particular situations. Some of these comments suggested rule changes that reflect concerns considered critical to particular interests and regions, but which are not necessarily important or appropriate for other regions or interest. The final rules allow regulatory authorities to adapt their programs beyond the minimum requirements to cover any particular situation. If some of the comment proposals representing regional conditions had been adopted nationwide, the final rules could have become unnecessarily inflexible or inappropriate for application based upon site- or region-specific conditions.

Many commenters expressed general opposition to Option (1) and supported the use of performance standards under Option (2). They found Option (2) provided greater flexibility, was result-oriented and would be cost effective. Conversely, a number of commenters expressed general opposition to adoption of Option (2) and the use of performance standards within the rules.

They cited a wide range of environmental and public safety concerns that they believed would result from the removal of Federal minimum design criteria.

The adoption of performance standards rather than design criteria is not contrary to the environmental concerns of the Act. The central issue is whether, in addition to performance standards, minimum design criteria are necessary within the body of the rules in order to effect the requirements of the Act. There has been insufficient evidence presented to rebut OSM's conclusion that allowing a variety of designs subject to the approval of the regulatory authority through the permit and, which will be adapted to specific settings, will offer overall protection at least as effective as a single design applied uniformly and irrespective of local conditions. At the same time, the approach adopted gives the regulatory authority the leeway to match the design to its particular situation. Furthermore, the requirement in the rules that the design and construction of primary roads to be certified by a qualified registered professional engineer gives added assurance that the requirements

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of the Act will be met. (A further discussion of the relative merits of the design criteria versus the preformance standards approach appears in OSM's final environmental impact statement. FEIS Volume I, pp. II–7 and IV–5.)

Finally, the imposition of rigid limits through design and construction specifications to ensure a high degree of control over adverse environmental effects associated with construction, operation and reclamation of roads would result, in many instances, in excessive and unnecessary construction and operation costs.

B. Specific Comments

Section 701.5 and 816.150(a)—Definition of Road and Primary and Ancillary Roads. One commenter was of the opinion that the primary/ancillary designations might be more burdensome then the suspended classification system because the majority of the roads on a mine site would have to be designed and constructed to more stringent standards under primary road requirements. The commenter suggested designating roads as "light use," "access" and "haul" roads.

All roads, both primary and ancillary, must be designed appropriately for their planned duration and use. This means that consideration must be given to such items as the total life of the road, schedule of use, type and size of vehicles and equipment used, and trip frequency. These are the considerations which establish whether or not the majority of roads within a given site fall within OMS's specific categories. Although most roads may well fall into the category of primary road, such a classification is necessary for compliance with the environmental protection requirements of the Act.

One State commenter disagreed with OSM's assertion that the potential severity of damage and risk of harm are less from short-term and infrequently used roads than from long-term and heavily used roads. The commenter thought that whenever the conditions and potential for damage were the same for both types of roads, that the potential severity and risk of harm were also the same and that conditions could be such that roads of a temporary nature could have more potential for harm than those heavily used. The commenter questioned establishing the two categories indicating that, as proposed, some roads my not fit in either class, resulting in decreased flexibility. The commenter viewed the primary/ancillary designations as ambiguous. The commenter suggested that the primary/ancillary designations be eliminated and that all roads be required to meet the performance standards under proposed § 816.150, with the regulatory authority deciding how best to meet performance standards after considering site-specific conditions.

Another group of commenters concurred in the belief that the primary/ancillary designations should be eliminated but for a contrasting reason. They believed that all roads should meet the design criteria under Option (1) for primary roads and felt this was a sound approach to regulation and one which would serve automatically to reduce erosion potential.

OSM agrees that certain roads (*e.g.*, haul roads) have a potential for environmental damage regardless of whether their use is frequent or long-term. These have been included in the category of primary roads. Generally, the potential for both environmental and property damage attributable to the operation of roads varies with their frequency of use and their conditions of use, such as vehicle speed, vehicle type, operational restrictions, maintenance schedules, etc. The level of use associated with those roads which are "ancillary" roads and the decrease in area disturbance necessary for their construction significantly reduces their potential for environmental or property damage as compared to the potential for damage from long-term or heavily-used roads. This distinction was cited by many commenters who advocated some form of categorization of roads during development of the definition for the term "road" in the previous permanent program rules (44 FR 14937, March 13, 1979). The distinction was applied by OSM when it finalized the classification system in the 1979 rules which were later suspended. (44 FR 15246, March 13, 1979). Some form of categorization for roads is necessary from both environmental and economic points of view due to the wide range of road uses and needs and associated with coal mining operations. The primary/ancillary designations were proposed in response to the need for flexibility in design consideration. Rather than developing numerous categories for roads centered around specific use conditions, OSM has decided to use only two classifications.

Several commenters expressed confusion with the proposed definitions for primary and ancillary roads. In contrast, one commenter encouraged adoption of the primary/ancillary designations and felt they thoroughly covered the uses of coal haul roads and should be self-explanatory. Another commenter felt that the proposed definitions were not all inclusive and that roads of frequent use over short duration and roads of infrequent use throughout the life of the mine were not covered by either definition. Several of the commenters cited the preamble to the proposed rules (47 FR 16593, April 16, 1982) and their belief that it was OSM's intention to allow some longer term roads of infrequent use to be classified as ancillary roads. The commenters suggested changing "and" to "or" within the proposed definition for ancillary roads to allow roads used infrequently throughout the life of the mine to be designated ancillary.

To eliminate possible confusion about the coverage of the two terms, OSM has specified which roads will come within the primary road designation and left all other roads to come within the ancillary road designation. The commenter was correct in saying that the proposed categories for primary and ancillary roads did not adequately address roads frequently used for short periods of time or infrequently used for substantial periods of time. After further analysis, OSM has concluded that regardless of their frequency of use, roads used to transport coal or spoil and roads that will be retained for postmining land uses shall be classified as primary. Any other road which is used frequently for a period in excess of six months is also to be classified as primary. This six month period was selected to set an objective limit between short- and long-term usage. Thus, an ancillary road is one that is (1) not used for transporting coal or spoil; (2) not to be retained following mining and reclamation; and (3) either used infrequently for any length of time or used at any level of frequency for periods of less than six months.

The performance standards of § 816.150 apply to both primary and ancillary roads. These standards will be sufficient to meet the potential environmental risks for ancillary roads. In OSM's experience the roads classified as "primary" have the greater potential for adverse environmental and property damage than ancillary roads and, therefore, have the added protection of professional engineer certification for design and construction as well as specific performance standards for location, drainage control, surfacing, etc. Because the risks from ancillary roads are less than for primary roads, the added expense for design and construction certification by a registered professional engineer is not justified. In the case of ancillary roads an operator may use technicians with specialized background experience to locate and design such roads at considerable savings through use of standard field design methods and any minimum design criteria which the regulatory authority may establish to meet environmental and safety requirements. For example, while it could be necessary to have geotechnical analysis to demonstrate stability on the large cut and fill embankments associated with primary roads, nevertheless such analysis is often unnecessary for ancillary roads because their low volume of embankment materials and low traffic volumes decrease both the potential for environmental harm as well as harm to public health and safety. Also, since ancillary roads are not eligible for retention under postmining land use, engineering input for long range maintenance and operational considerations is not warranted.

In response to those commenters who urged the same design criteria for all classes or roads, the imposition of design criteria for all roads, regardless of their planned use, and the resulting unnecessary costs from instances of overdesign, cannot be justified. Such an approach will not assure that all environmental concerns will automatically be satisfied. Additionally, under Section 505 of the Act, the regulatory authorities may establish supplemental criteria within their rules for dealing with situations that may require distinctions beyond the primary/ancillary classifications. In summary, it is appropriate to give the regulatory authorities the flexibility to develop rules that address site and local conditions and, at the same time, are cost effective.

Two commenters suggested language to allow all roads located within a drainage area controlled by a sediment pond or other sediment control structure to be exempted from the definition for "road" under § 701.5.

OSM has not accepted the suggestion. The control or prevention of siltation and water pollution, as afforded by a controlled drainage, addresses only part of the requirements for environmental protection for roads. Section 515(b)(17) of the Act requires environmental protections for other matters such as fish and wildlife and public and private property. Moreover, despite their small size relative to the total permit area, roads located outside the immediate pit area can have the potential for increased adverse environmental effects because they form a narrow corridor where the impacts on the adjacent area may be magnified due to the extended periphery and the steady use patterns over a long duration (*e.g.* air pollution attendant to erosion, damage to wildlife and wildlife habitat, and damage to public or private property). Attention to these other statutory concerns are reflected in the performance standards prescribed under § 816.150. If all roads within controlled drainage situations were exempted from the definition for "road" under § 701.5, then they would necessarily be exempt from the performance standards of § 816.150, with the resulting protection level being insufficient to meet all of the requirements of the Act.

One commenter felt that the proposed definitions of primary road and ancillary road should take into account those portions of a road that may be classified differently depending upon use, location or special minesite factors. The final rules provide ample latitude for classification of a road segment based on type of use and other conditions. Further delineation is unnecessary.

One commenter expressed concern that ramp roads from the pit area would fall under the primary road category because such roads are "frequently used" for access, coal hauling and other purposes for extended periods of time. Another commenter suggested that pioneer or construction roads, which are to be either stabilized or replaced in accordance with Parts 816 or 817, not be included within the definition for road. The commenter also suggested exempting from the performance standards those roads which do not require extensive upgrading to meet the general performance standards which are maintained by county, State or Federal governments.

The final definition for "road" is similar to that used in the suspended rules. This definition provides a description of the physical area and structures covered and the kinds of roads included for purposes of specific road regulation. The definition includes the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The definition excludes roads outside the "affected area," pioneer or construction roadways used for road construction procedures and roads within the immediate mining-pit area. Although pioneer roads, construction roads or ramps from the pit area will not be subject to the performance standards for roads, nevertheless as part of the permit area, they will be subject to the other Part 816 performance standards, such as the topsoil, backfilling and grading, and revegetation rules.

With respect to the question of regulating public roads, OSM recognizes that there is a limit to the types of roads which should be considered as part of a "surface coal mining operation." This is reflected in the definition of "affected area" in § 701.5 which has been revised to clarify those circumstances under which access or haul roads are sufficiently public so as not to be considered part of the affected area. The reader is referred to the **Federal Register** notice of August 2, 1982 (47 FR 33430) and April 15, 1983 (48 FR 14819), for further discussion on the exclusion of roads which are controlled and maintained by a public entity.

Section 816.150(b)–(e) General Standards For All Roads. Several comments dealt with specific portions of the design criteria for primary road rules that were proposed under Option (1). Since some of these comments did not discuss the merits of keeping or not keeping the design criteria, but rather dealt with specific wording and other details of design criteria not included in this final rule, it is not necessary to address them in this preamble.

Section 816.150(b) Performance standards. Proposed § 816.150(a) is being adopted as final § 816.150(b). One commenter suggested that proposed § 816.150(a) be rewritten using the language from section 515(b) (17) and (18) of the Act and deleting the seven proposed requirements. The commenter thought that, as proposed, the paragraph was confusing and left too many unanswered questions. The commenter believed that Congress intended OSM to set "attainable" standards because total prevention of adverse hydrologic effects is impossible and cited House report language in support of this position (H.R. Rep. No. 95–218, 95th Cong., 1st Sess., 110 (1977)).

The general performance standards under Section 515(b) (1) through (25) of the Act apply to *all* surface coal mining and reclamation operations, including, where applicable, roads. Therefore, limiting the effect of final § 816.150(b) to only Section 515(b) (17) and (18), as suggested by the commenter, would not completely fulfill the requirements or the intent of the Act. The final rules accurately reflect the intent of Congress, denote standards that are both attainable and feasible and highlight those concerns that are especially significant for roads.

Section 816.150(b)(1)

Several commenters proposed deleting the requirement to control or prevent air pollution attendant to erosion. They argued that Section 515(b)(17) of the Act did not mention controlling air pollution from roads and

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that according to the decision in *In re: Permanent Surface Mining Regulation Litigation, supra,* Congress only intended to regulate air pollution related to wind erosion. Two of the commenters believed that § 816.95 of the previous rules adequately addressed wind erosion.

In *In re: Permanent Surface Mining Regulation Litigation, supra,* §§ 816.95 and 817.95 of the permanent program rules were remanded by the court to the Secretary of the Interior for revision. In the court's opinion, the legislative history to Section 515(b)(4) of the Act indicated that Congress intended to regulate only air pollution related to erosion and not air pollution from an entire mining operation. OSM agrees with the court's interpretation which is reflected in this final rule, as well as in the revisions to §§ 816.95 and 817.95. (48 FR 1160, January 10, 1983). Instead of requiring coal mine operators to plan and use specific fugitive dust control measures as part of the total operation, the final rules at §§ 816.95 and 817.95 require operators to take steps to stabilize and protect all exposed surface areas in order to effectively control erosion and air pollution related to erosion. Because air pollution from road-related erosion can be a serious concern, and because Section 515(b)(17) of the Act specifically requires control or prevention of erosion resulting from roads, a provision regulating air pollution attendant to erosion appears in the final § 816.150(b)(1). The proposed provision has been modified to provide a more specific standard. The final rule requires all exposed surfaces to be revegetated or otherwise stabilized in accordance with current, prudent engineering practices. This was included to emphasize the ongoing nature of erosion control.

Section 816.150(b)(2)

One commenter suggested that endangered species be addressed under proposed § 816.150(a)(2) such that no primary road would be constructed which was likely to jeopardize the continued existence of endangered or threatened species or destruction of critical habitat.

The performance standards for protection of fish and wildlife in 30 CFR 816.97(b) require consideration of threatened or endangered plant and animal species and their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The provisions of § 816.97 coupled with the performance standards of final § 816.150(b)(2), which provide that roads shall be operated and reclaimed so as to control or prevent damage to fish and wildlife habitat, will provide adequate protection for threatened and endangered species and other fish and wildlife.

Section 816.150(b)(3)

One commenter suggested rewording proposed § 816.150(a)(3) to read: "Prevent to the extent possible, additional contributions of suspended solids to stream flows or runoff outside the permit area" in order to track the language of Section 515(b)(10)(B)(i) of the Act.

This commenter's suggested language does not exactly follow Section 515(b)(10)(B)(i) as that statutory provision also requires the use of the best technology currently available to prevent additional contributions of suspended solids. The standards of Section 515(b)(10)(B)(i) will be incorporated in the performance standards for protection of the hydrologic balance at §§ 816.41–816.46. The requirement in final § 816.150(b)(3) to control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area is intended to emphasize OSM's concern in this matter.

Section 816.150(b)(4)

One commenter stated that it was understood that other applicable State and Federal water quality standards could not be violated during the conduct of operations, and that statements to that effect should be removed from the rules.

Roads have long been recognized as major contributors to stream sedimentation (47 FR 16592, April 16, 1982). Section 515(b)(10)(B)(i) of the Act further provides that in no event shall contributions be in excess of requirements set by applicable State and Federal law. The language in § 816.150(b)(4) simply reflects these requirements.

Section 816.150(b)(5)

Although no comments were received specific to proposed § 816.150(a)(5), OSM has modified the language of this provision in final § 816.150(b)(5) to emphasize that protection is for both surface- and ground-water systems.

Section 816.150(b) (6) and (7)

No comments were received specific to proposed § 816.150(a) (6) or (7). They are redesignated § 816.150(b) (6) and (7) and are adopted as proposed.

Section 816.150(b)(8)

One commenter objected to the preferred alternative in the final EIS which would have allowed operators to use acidic or toxic materials in ancillary road surfacing. OSM has accepted this comment and placed the prohibition under the general performance standards applicable to all roads as new final § 816.150(b)(8).

Section 816.150(b)(9)

OSM has adopted in new final § 816.150(b)(9) a minimum static safety factor of 1.3 rather than 1.25 which appeared in the suspended rules. This standard is the same as that being required for backfilled areas and is slightly more stringent than that required in the suspended rules. It is based on engineering analysis used by OSM for the development of the suspended rules. See 43 FR 41739 (September 18, 1978) and 44 FR 15245 (March 13, 1979). Rather than specify particular design criteria for road embankments, the 1.3 factor of safety sets a standard to be attained. Where it is clear to the regulatory authority that a particular design will meet the standard, there is no need to require geotechnical or other more rigorous analysis of such embankments.

Section 816.150(c)—Establishment of Design Criteria. Final § 816.150(c) is based on proposed § 816.150(b)(1). One State commenter thought that while the regulatory authorities should ensure that roads do not create environmental problems, nevertheless, they should not become involved in establishing and enforcing highway design criteria for haul roads nor should they use technical guidelines as implicit regulatory standards. It was suggested by another commenter that design criteria such as were contained in Option (1) be furnished as guidelines to be used and modified as appropriate by professionals to meet local conditions. A different commenter felt that the operator should have the complete flexibility to handle unique situations.

Regulatory authorities are not required to adopt design criteria for roads. However, the regulatory authorities have the responsibility to see that any design submitted with a permit application will assure that operators achieve the required performance standards. If, due to local conditions or situations, design criteria are needed to assure the performance standards are met, then the regulatory authority is authorized under § 816.150(c) to establish necessary design criteria. While OSM has minimized the use of specific design criteria within these rules, each road design must include appropriate limits for grade, width, surface materials, surface drainage

control, culvert placement, and culvert size. OSM has compiled abstracts of publications related to the design, construction and reclamation of roads for use as a reference by the regulatory authorities and others.

Several commenters were confused by the phrase "recognized engineering minimum design criteria" in proposed § 816.150(b)(1). They recommended use of the phrase "recognized engineering practice" because it has accepted meaning among engineers. They objected to having minimum design criteria established by the regulatory authority, preferring that designs be reviewed on a case-by-case basis so as to encourage technological advances in mining and reclamation.

The phrase "recognized engineering minimum design criteria" has not been adopted in these final rules. As adopted, § 816.150(c) identifies instead the above-referenced parameters for which appropriate consideration must be given in the design. This requirement fulfills the Congressional intent as revealed in the following quotation appearing in the legislative history.

> Access and haul roads constructed for the purpose of the mining operation area are major sources of siltation on a continuing basis both during and after mining. In order to overcome the continuing and longstanding environmental problems these roads present, the committee specifies in the Bill that roads are to be designed and constructed with appropriate limits to grade, width, surface material and culvert placement and size in order to control drainage and prevent erosion outside the permit area. H.R. Rep. No. 90–218, 95th Cong., 1st Sess. 128 (1977).

OSM agrees that one intent of the Act is to encourage advances in mining and reclamation. Section 816.150(c) will encourage advances in mining and reclamation techniques because the regulatory authority may modify any design criteria it develops to accommodate future technological advances, and also may approve designs on a site-specific basis.

The Mine Safety and Health Administration requested that OSM ensure that, in establishing design and construction limits for roads, consideration be given to the type and size of equipment using the roads. This suggestion is accepted. Final § 816.150(c) has been revised accordingly.

Section 816.150(e)—Maintenance. One commenter suggested striking the word "criteria" from proposed § 816.150(c) so that the road would be "maintained to meet the approved design," not "to meet the approved design criteria." The commenter argued that the engineer should have the latitude to design the road to meet performance standards and not specific design criteria.

The design and construction or reconstruction of roads must meet the performance standards of § 816.150 and any design criteria that the regulatory authority may set under § 816.150(c). The language of the maintenance provision (§ 816.150(e)) has been written taking both of these factors into account. Regardless of how well a road is planned and constructed, lack of a maintenance program will lead to failure of the road to function as it was planned. The adverse environmental effects and threats to public safety from abandoned or upkept roads are well known.

Section 816.150(f)—Reclamation. One commenter found it illogical and counter-productive to require removal of perfectly useable roads after mining, and felt that removal was not required by the Act. In contrast, another commenter suggested that road reclamation be strictly enforced because abandoned roads are one of the major contributors to watershed degradation in mined areas.

The final rules allow for retention of any roads that will be part of the approved postmining land use. The postmining land use plan must outline the need to retain the roads and should establish the responsibilities for their long-term maintenance.

However, many mine roads have little continuing social or economic value. This, in turn, leads to cessation of maintenance and abandonment. In many instances, abandoned roads associated with surface mining contribute substantially to stream sedimentation, thus affecting water quality flowing from the mined watersheds. Section 515(b)(17) of the Act explicitly covers postmining conditions. Therefore, specific performance standards for the control or prevention of postmining environmental and property damage from roads are needed. The provision for removal of all roads not part of the approved postmining land use will assist in controlling or preventing such damage.

Two commenters suggested deleting the proposed requirement that roads not in use be "immediately" reclaimed. The commenters asked that the word "immediately" be removed from proposed § 816.150(d) to bring the section more in agreement with Section 508(a) of the Act. They claimed that imposition of a time constraint was not supported in the preamble. One of the commenters believed that such a modification to proposed § 816.150(d) would allow the regulatory authority more flexibility to permit the operator to re-use the road as local conditions changed. The other suggested that road reclamation should be in accordance with the schedule approved in the permit.

OSM believes that the word "immediately" is in keeping with the intentions of the Act as expressed in Sections 102(e), 515(b) (2) and (16). Since roads serving the mining operation are often needed in their entirety until the very last stages of reclamation, they represent significant areas of disturbance which are not reclaimed as contemporaneously as other segments of the permit area. Thus, immediate reclamation presents a means of satisfying the requirements of Section 515(b)(10) of the Act for minimizing the disturbance to the hydrologic balance, and the requirements of Section 515(b)(10)(B)(i) of the Act to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to stream flow or runoff outside the permit area. Any possible re-use of a road should be established as part of the postmining land use plan to allow proper consideration of interim protection requirements or treatment.

One commenter proposed deletion of the word "natural" so that proposed § 816.150(d)(3) would read, "restore drainage patterns". The commenter contended that the phrase "natural drainage patterns" implied no man-made disturbances and introduced the possibility for excessive requirements.

The construction of roads often involves some relocation or alteration of existing natural drainage ways which subsequently depends on maintenance by the operator to ensure continued environmental protection. It is OSM's intention that these drainage ways be restored to their preconstruction condition in accordance with 30 CFR 816.43.

One commenter objected to the language of proposed § 816.150(d)(4) contending that the establishment of cut and fill slopes which would support the postmining land use should be the objective to be attained without setting a universal requirement for "reshaping" cuts and fills. The commenter felt that substituting the word "insuring" for "reshaping" would require less regrading and disturbance of vegetated areas thus minimizing the potential for additional contributions to stream flow. The commenter pointed out that the preamble to the proposed rules failed to indicate why "reshaping" was selected over "insuring" as provided in the Act. Also, the commenter thought that other sections of the rules, *e.g.*, § 817.102(k)(2).

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allowed slopes to be left in place and thus it was not always necessary, as a uniform practice, to reshape or redisturb an area where an operator ensures slope stability.

This comment is rejected. OSM intends that reclaimed roads be regraded when necessary in order to restore the approximate original contour of the land as required by Section 515(b)(3) of the Act. The word "reshaping" was chosen because it encompasses the action of regrading. The word "insuring" could be read to mean that the roadbed need not be removed in order to be compatible with the postmining land use. Unless the retention of the road to be used as a right of way is specifically approved as part of the postmining land use, retention of the roadbed would not be consistent with OSM's intent.

Section 816.151 Primary Roads.

Section 816.151(a)—Certification. Final § 816.151(a) is based on proposed § 816.150(d) of Option 1 and § 816.150 (b)(1) and (b)(2) of Option 2. Two commenters objected to requiring certification of design, construction and reconstruction for primary roads by a qualified registered professional engineer. One thought that the type of engineer relied upon should be left to the operator. The commenter also felt that professional registration *per se* did not always guarantee that the most qualified person would be consulted and that any design deficiencies would be exposed ruling the permit review process. The other commenter stated that it was standard engineering practice to use recognized engineering procedures in large mines, and therefore, it was unfair to require smaller operators to obtain professional engineer design and certification on roads that had limited traffic.

The requirement for certification of design and construction or reconstruction of primary roads by registered professional engineers is in keeping with the Act's reliance on the input from these professionals for review of other critical structures and preparation of important plans. *See* Sections 507(b)(14), 515(b)(10)(B)(ii) and 515(b)(22)(H) of the Act. No such requirement is established for ancillary roads because the risks from such roads are less, making the added expense less justified.

Because the overall adverse environmental effects from coal mine roads can be equally as great or greater from a small mining operation or series of small operations as from one large operation, it is necessary to apply this certification standard to small operations as well as large ones. Insofar as the provisions of § 816.150(c) require that each road must be designed only to the extent necessary to assure the required environmental protection and safety for its planned duration and use, the engineering costs will likely be kept commensurate with the size of the operation.

One commenter felt that while engineers could design roads to meet certain standards, nevertheless they could not guarantee compliance. Another commenter felt that the practice of engineering did not include expertise in environmental disciplines, and therefore, engineers could not certify that environmental performance standards were met. By way of support, the commenter quoted from the definition of "practice of engineering" used by the National Council of Engineering Examiners (NCEE).

While engineers cannot guarantee compliance with a design, nevertheless they can evaluate it prior to implementation and later determine whether it was carried out as specified. This view accords with the spokesman for the engineering profession in a recent hearing itself. During an oversight hearing on the Act before the House Subcommittee on Energy and the Environment, a spokesman for the American Consulting Engineers Council (ACEC), which has a membership of 3,800 private firms representing over 110,000 professional engineers and other scientific technical personnel, testified that "the public and environmental interests are best served if all technical design work is conducted under the supervison of a registered professional engineer who also certifies that the actual field construction is in accordance with those designs." The spokesman went on to make the following point:

> The engineering profession has the training and experience to design and certify the geotechnical, structual, mining, and environmental facilities used in the mineral extraction industry. The engineering profession is recognized in registration laws and by this nation's legal system for just such tasks. Moreover, the profession is bound by a code of ethics that makes the public welfare and safety the highest priority, superior even to its responsibility to the client. [Oversight hearing on Pub. L. 95–87, House of Representatives, Subcommittee on Energy and the Environment, Committee on Interior and Insular Affairs, September 9, 1981, Transcript p. 181, Insert 3b–1.]

Moreover, the position espoused on behalf of the ACEC is consistent with the NCEE definition for the "practice of engineering" referred to by the commenter.

One commenter suggested changing the word "and" to "or" immediately preceding proposed § 816.150(b)(2) to give operators the added option of designing their own roads in accordance with recognized and approved engineering practice rather than providing a certification.

The comment is rejected. Competent design involves more than the mere application of standard criteria to all situations, including the assessment of potential environmental effects. Certification by a qualified registered professional engineer that both the proposed design and construction or reconstruction of primary roads meet the performance standards and any design requirements of the regulatory authority is a critical element in the regulatory scheme to assure compliance with the Act.

§ 816.151(b)—Location. One commenter was concerned that the absence of specific criteria for route location as was contained in suspended § 616.150(a)(1) would encourage the selection of the shortest feasible route, even if on excessively steep and unstable slopes, causing a very high potential for erosion.

Selection of the shortest, environmentally protective route should be encouraged. The final rule does respond to the commenter's concern. Section 816.151(b) requires primary roads to be located on the most stable available surface.

One commenter was of the opinion that the lack of specific restrictions against stream fords would most likely result in their use as a common cost-saving method and contended this would result in downstream erosion because heavy equipment would be driven over the stream bed instead of using bridges and culverts. In contrast, another commenter believed that both the Act and Congress clearly intended that the use of fords, culverts and bridges should not be prohibited. The commenter interpreted the proposed rules as prohibiting the use of all structures such as bridges and culverts.

While the final rules do not prohibit the use of fords, bridges or culverts, nevertheless they do limit the use of stream fords in a similar way to that in the suspended rules. Under the suspended rules, OSM recognized that the use of fords over intermittent or ephemeral streams for controlled, low-frequency use roads, and over streams during construction of permanent structures, would have minimal adverse environmental effect (44 FR 15248, March 13, 1979).

The regulatory authority's evaluation of a proposed stream crossing, including fords, under both the suspended and the final rules centers on whether requirements of Section 515(b) (10), (17), (18), and (24) of the Act and subsequent regulatory programs are met.

Discussion of Comments Specific to Ancillary Roads. One commenter wanted to allow wide latitude in the types and construction of ancillary roads, so that regulatory authorities would not impose uniform or stringent standards on all ancillary roads.

The general performance standards are the same for ancillary and primary roads. However, when establishing design criteria, regulatory authorities may set different limits for different classes of roads. Although some design and construction latitude is afforded by these rules, they should not be construed as abandoning proper design consideration. The regulatory authority is responsible to see that the environmental and safety performance standards are met for both ancillary and primary roads. It also has the authority to establish any additional standards it deems necessary to meet these requirements.

Two commenters felt that because ancillary roads were of short duration, they should be maintained only throughout their planned duration and use.

For maintenance to be effective in minimizing the adverse environmental effects from roads, it must be preventative as well as corrective in nature. A standard simply to maintain a road to its "planned duration and use" will not ensure that design integrity will be maintained throughout the life of the road. Because the assurance of environmental performance is based on design adherence, roads must be maintained throughout their lives.

Several commenters maintained that there should be provisions for retention of ancillary roads when they are a part of the postmining land use.

No provision has been made for retention of any roads for postmining land uses without satisfaction of the final § 816.151 requirements. This has been reflected in the definition for "primary road" under final § 816.150(a). The longer time frames associated with roads to be retained for postmining land use warrant the requirement of design and construction certification by a qualified registered professional engineer and the imposition of additional performance standards.

The occasion may arise when it will be desirable to consider retention of a road classified earlier as ancillary. In that event, OSM expects the operator to apply for a permit revision and to present to the regulatory authority the necessary engineer certification for design and construction or reconstruction. The operator will also have to present information on special maintenance or other steps to be taken based on the changed duration and use so as to meet the required performance standards.

IV. Procedural Matters

Executive Order 12291. The Department of the Interior (DOI) has examined these final rules according to the criteria of Executive Order 12291 [February 17, 1981]. OSM has determined that these are not major rules and do not require a regulatory impact analysis because they would impose only minor costs on the coal industry and coal consumers. The final rules emphasize the use of performance standards instead of design criteria which will allow operators to use the most cost effective means of achieving the performance standards.

Regulatory Flexibility Act. The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The funds a small operator will have to invest in the construction of roads to comply with these final rules will only be minimally increased over what would normally be spent to ensure efficient transportation and minimal vehicle damage. The cost of the road will be defrayed by less maintenance costs for the road and vehicles. The operator will also avoid losses from a shutdown of operations due to impassable roads.

Paperwork Reduction Act. The information collection requirements in 30 CFR Parts 816 and 817 were approved by the Office of Management and Budget [OMB] under 44 U.S.C. 3507 and assigned new clearance number 1029–0048. OSM has codified the OMB approvals under the new §§ 816.10 and 817.10.

The information required by these parts will be used by the regulatory authority in monitoring, evaluating, and inspecting surface mining and the surface impacts of underground mining activities to ensure that they are conducted in a manner which preserves and enhances environmental and other values of the Act. This information requirement is mandatory.

National Environmental Policy Act. OSM has analyzed the impacts of these final rules in the Final Environmental Impact Statement OSM EIS–1: Supplement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4332(2)(c)]. This supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240.

This preamble serves as a record of decision under NEPA. The final rules differ from the preferred alternative published in Volume III of the FEIS in the following ways:

1. References to "other transportation facilities" have been eliminated from the performance standards for roads; such facilities will be regulated as support facilities, and option encompassed by Alternative C in the FEIS;

2. Additions have been made to the list of general performance standards;

3. Certain standards which appeared in Option (1) of the proposed rules or in the preferred alternative under regulation of primary roads have been moved to §§ 816.150 and 817.150 because they are of general applicability; and

4. Clarification was made that drainage control systems may be designed to pass events other than the 10-year, 6-hour precipitation event.

The inclusion of some new provisions and the rearrangement of other provisions will result in the final rule having less potential for adverse environmental impacts than the preferred alternative. Thus, the analyses in the FEIS supplement under Alternatives A, B, C and D encompass the potential impacts from these final rules.

Agency Approval. Section 516(a) requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 701

Coal mining, surface mining, underground mining.

30 CFR Parts 816

Coal mining, environmental protection, reporting and recordkeeping requirements, surface mining.

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30 CFR Part 817

Coal mining, environmental protection, reporting and recordkeeping requirements, underground mining.

Accordingly, 30 CFR Parts 701, 816 and 817 are amended as set forth herein.

Dated: April 15, 1983.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. In § 701.5 the definition of *road* is revised to read as follows:

§ 701.5 Definitions.

* * * * *

Road means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration or within the affected area of surface coal mining and reclamation operations, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road-construction procedure or roads within the immediate mining-pit area.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Section § 816.150 is revised to read as follows:

§ 816.150 Roads: General.

(a) *Road classification system.* (1) Each road shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is:

(i) Used for transporting coal or spoil;

(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) *Performance standards.* Roads shall be located, designed, constructed, reconstructed, used, maintained and reclaimed so as to:

(1) Control or prevent erosion, siltation and the air pollution attendant to erosion by vegetating or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practice;

(2) Control or prevent damage to fish, wildlife or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Reshaping all cut and fill slopes to be compatible with the postmining land use and to complement the drainage pattern of the surrounding terrain; and

(5) Replacing topsoil and revegetating disturbed surfaces in accordance with §§ 816.22 and 816.111–816.116.

3. Section 816.151 is revised to read as follows:

§ 816.151 Primary roads.

Primary roads shall meet the requirements of § 816.150 and the additional requirements of this section.

(a) *Certification.* The design and construction or reconstruction of primary roads shall be certified by a qualified registered professional engineer as meeting the requirements of this part; current, prudent engineering practices; and any design criteria established by the regulatory authority.

(b) *Location.* (1) To minimize erosion, a primary road is to be located, insofar as practical, on the most stable available surfaces.

(2) Stream fords by primary roads are prohibited unless they are specifically approved by the regulatory authority as temporary routes during periods of construction.

(c) *Drainage control.* (1) Each primary road shall be designed, constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to, bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to pass the peak runoff safely from a 10-year, 6-hour precipitation event or greater event, unless otherwise specified by the regulatory authority.

(2) Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets.

(3) Drainage ditches shall be designed to prevent uncontrolled drainage over the road surface and embankment. Trash racks and debris basins shall be installed in the drainage ditches where debris from the drainage area may impair the functions of drainage and sediment control structures.

(4) Culverts shall be designed, installed, and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road.

(5) Natural stream channels shall not be altered or relocated without the prior approval of the regulatory authority in accordance with §§ 816.41–816.43 and 816.57.

(6) Except as provided in Paragraph (b)(2) of this section, drainage structures shall be used for stream channel crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained using current, prudent engineering practice.

(d) *Surfacing.* Primary roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(e) *Maintenance.* Routine maintenance for primary roads shall include repairs to the road surface, blading, filling potholes and adding replacement gravel or asphalt. It shall also include revegetation, brush removal, and minor reconstruction of road segments as necessary.

§§ 816.152 through 816.176 [Removed]

4. Sections 816.152, 816.153, 816.154, 816.155, 816.158, 816.160, 816.161, 816.162, 816.163, 816.164, 816.165, 816.166, 816.170, 816.171, 816.172, 816.173, 816.174, 816.175, and 816.176 are removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

5. Section 817.150 is revised to read as follows:

§ 817.150 Roads: General.

(a) *Road classification system.* (1) Each road shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is—

(i) Used for transporting coal or spoil;

(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) *Performance Standards.* Roads shall be located, designed, constructed, reconstructed, used, maintained and reclaimed so as to:

(1) Control or prevent erosion, siltation and the air pollution attendant to erosion by vegetating or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practice;

(2) Control or prevent damage to fish, wildlife or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause not contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Minimize the diminution to or degradation of the quality or quantity of surface- and ground-water systems;

(6) Refrain from significantly altering the normal flow of water in streambeds or drainage channels;

(7) Prevent or control damage to public or private property;

(8) Use nonacid- or nontoxic-forming substances in road surfacing; and

(9) Have, at a minimum, a static factor of safety of 1.3 for all embankments.

(c) *Design and construction limits and establishment of design criteria.* To ensure environmental protection and safety appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, culvert size, and any necessary design criteria established by the regulatory authority.

(d) *Location.* (1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the regulatory authority.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) *Maintenance.* (1) A road shall be maintained throughout its life to meet the performance standards of this part and any additional criteria specified by the regulatory authority.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as practical after the damage has occurred.

(f) *Reclamation.* A road not to be retained for use under an approved postmining land use shall be reclaimed immediately after it is no longer needed for mining and reclamation operations, including:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts;

(3) Restoring the natural drainage patterns;

(4) Reshaping all cut and fill slopes to be compatible with the postmining land use and to complement the drainage pattern of the surrounding terrain; and

(5) Replacing topsoil and revegetating disturbed surfaces in accordance with §§ 817.22 and 817.111–817.116.

6. Section § 817.151 is revised to read as follows:

§ 817.151 Primary roads.

Primary roads shall meet the requirements of § 817.150 and the additional requirements of this section.

(a) *Certification.* The design and construction or reconstruction of primary roads shall be certified by a qualified registered professional engineer as meeting the requirements of this part; current, prudent engineering practices; and any design criteria established by the regulatory authority.

(b) *Location.* (1) To minimize erosion, a primary road is to be located, insofar as practical, on the most stable available surfaces.

(2) Stream fords by primary roads are prohibited unless they are specifically approved by the regulatory authority as temporary routes during periods of construction.

(c) *Drainage control.* (1) Each primary road shall be designed, constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to, bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to pass the peak runoff safely from a 10-year, 6-hour precipitation event, or greater event unless otherwise specified by the regulatory authority.

(2) Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets.

(3) Drainage ditches shall be designed to prevent uncontrolled drainage over the road surface and embankment. Trash racks and debris basins shall be installed in the drainage ditches where debris from the drainage area may impair the functions of drainage and sediment control structures.

(4) Culverts shall be designed, installed, and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road.

(5) Natural stream channels shall not be altered or relocated without the prior approval of the regulatory authority in accordance with §§ 817.41–817.43 and 817.57.

(6) Except as provided at Paragraph (b)(2) of this section, drainage structures shall be used for stream channel crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained using current, prudent engineering practice.

(d) *Surfacing.* Primary roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(e) *Maintenance.* Routine maintenance for primary roads shall include repairs to the road surface, blading, filling potholes and adding replacement gravel or asphalt. It shall

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also include revegetation, brush removal, and minor reconstruction of road segments as necessary.

§§ 817.152–817.176 [Removed]

7. Sections 817.152, 817.153, 817.154, 817.155, 817.156, 817.160, 817.161, 817.162, 817.163, 817.164, 817.165, 817.166, 817.170, 817.171, 817.172, 817.173, 817.174, 817.175, and 817.76 are removed.

817.171, 817.172, 817.173, 817.174, 817.175, and 817.76 are removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–13066 Filed 5–13 83; 8:45 am]
BILLING CODE 4310–05–M

federal register

Monday
May 16, 1983

Part V

Department of Health and Human Services

Office of Human Development Services

Administration for Native Americans; Availability of Fiscal Year 1984 and 1985 Financial Assistance for Alaska Native Social and Economic Development Projects

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-833]

Administration for Native Americans; Availability of Fiscal Year 1984 and 1985 Financial Assistance for Alaska Native Social and Economic Development Projects

AGENCY: Office of Human Development Services, DHHS.

ACTION: Announcement of Availability of Fiscal Year 1984 and 1985 Financial Assistance for Alaska Native Social and Economic Development Projects.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, Pub. L. 93–644, as amended. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The two closing dates for receipt of all applications under this program announcement are August 15, 1983, and June 30, 1984.

ANA Mission

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. Self-sufficiency for purposes of this program announcement is the level of development and degree to which a Native Alaskan community can provide for the needs of its community members and pursue its own social and economic goals.

ANA Program Goals

ANA has three program goals:

- To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision making over all resources.
- To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.
- To support local access to and coordination of services and programs which safeguard the health and well-being of Native Americans and which are essential to a thriving and self-sufficient community.

In FY 1982, the Administration for Native Americans implemented a new program direction that moved forward from the previous funding of core administration for Native American organizations and providing funds for services on a gap-filling basis. The new program direction involves funds for projects that reflect community-determined social and economic development strategies (SEDS) on a competitive basis.

In FY 1983, ANA continues this broader focus which promotes self-determination and local decision-making through support for balanced social and economic development of Native American communities.

In FY 1984, ANA will provide financial support to Alaska Native villages on a competitive basis. This is to assist them to implement specific local development projects to impact directly on social and economic self-sufficiency at the village level. In this context, ANA will consider applications for financial assistance from non-profit corporations in Alaska for social and economic development projects which involve one or more specific villages. The non-profit corporations in Alaska are seen as being able to play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies for moving toward social and economic self-sufficiency. However, it is at the village level where a balanced approach to social and economic development must ultimately have a payoff. The key to balanced development is the local village (tribal) government itself. The prior emphasis of ANA's program effort in Alaska was on developing the capacity of the non-profit Alaska Native Regional Corporations to promote self-sufficiency at the village level. This program announcement represents a further development of this commitment by ANA to social and economic development through working directly at the village or Indian community level. This new phase will be a long-term developmental process—a community-based strategy developed at the local level. It will allow for maximum local flexibility for self-determination and will provide the capability for marshalling and directing Federal, state, and local resources toward local objectives.

The ANA program will provide financial assistance to Alaska Native villages, non-profit Alaskan Native organizations and Indian communities, local communities or villages to create and implement effective local social and economic development strategies which promote self-sufficiency. The implementation of these strategies is expected to result in sustained improvement in the social and economic conditions of Native Alaskans within their communities. In addition, these strategies are expected to increase effectiveness and efficiency of the Native Alaskan villages and Indian communities in defining and achieving their own economic and social goals.

The local village or community has the primary responsibility to determine its own needs and priorities, and to plan and implement its own programs. A balanced and interrelated approach to social and economic development is believed to be the most workable and appropriate way in which self-sufficiency can be attained. Only the local community is in a position to consider its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which have socio-cultural as well as economic outcomes.

Purpose of This Program Announcement

The purpose of this program announcement is to provide financial assistance to promote self-sufficiency for Alaska Natives through support of locally determined social and economic development strategies which take advantage of the opportunities afforded to Alaska Natives under the Alaska Native Claims Settlement Act (ANCSA) Public Law 92–203. The proposed project(s) must directly relate to social and economic development in the local community in keeping with local needs, resources and cultural values.

Examples of the types of projects that ANA is seeking to fund include, but are not limited to, projects that will:

- Assist villages to develop businesses and industries which (1) use local materials, (2) create jobs for Alaska Natives, and (3) are capable of high productivity at a small scale of operations, and be counter-seasonal when needed to complement traditional and necessary seasonal activities.
- Assist villages in labor export, i.e., people leaving the local communities for seasonal work and returning.
- Assist villages in developing the service sector.
- Assist in developing training and education programs for those jobs in education, government and health found in most local communities and also work with the various agencies to encourage the replacement of non-Natives by Natives.
- Initiate a demonstration or pilot program at a regional level to allow Native people to become involved in and actually develop strategies to maintain and develop their subsistence base.
- Substantially increase and strengthen efforts to establish and improve the village and regional economic infrastructure and the capabilities to develop and manage resources in a highly competitive monitized system.
- Assist in developing land use capabilities and develop skills in the areas of land and natural resource management including resource assessment and development, as well as potential impacts upon the environment and the subsistence ecology.
- Help Native people to exploit options available to protect and benefit from their land holdings.

The applicant must clearly identify the expected impact of achievement of the proposed objectives in the local community in terms that are objective and measurable. Some examples are: number of jobs created, payroll to be generated, reduction in the number of children going into foster care, increase in the number of children going home or being adopted from foster care, investments leveraged, needed services established, new government responsibilities assumed, new businesses started, new housing starts through private sector investments, reduction of need for publicly supported services. This is not intended to be an all inclusive list. There are many other definitive results that can accrue from a project. The major emphasis is that ANA resources are to be used to create a definite, measurable and positive impact in the community by the end of the project period.

The application must evidence the commitment and involvement of the Alaskan village or tribal community where the specific project will be directed. Non-profit Alaskan Native organizations, if applicants, should note that ANA expects the application to reflect more evidence tha just a resolution of approval from a village. ANA expects that the roles and responsibilities of the village will be defined in the application, as well as the involvement and commitment of the governing village council.

Non-profit regional corporations and profit regional corporations established under ANCSA are sources from which village applicants could obtain technical assistance and participate in joint-venture social and economic development projects. ANA encourages the for-profit corporations to cooperate in assisting the villages in developing applications and may participate in the project(s) as sub-contractors. However, for-profit organizations are not eligible to be the applicant organization.

Contact Person

Applicants who wish information regarding this program announcement may contact Ted George, ANA Regional Program Director, Region X, (206) 442–0993, DHHS M/S411, 2901 Third Avenue, Seattle, Washington 98121.

Eligible Applicants

The following are eligible to apply for a grant award under this program announcement:

- Alaskan Native villages as defined in the Alaska Native Claims Settlement Act
- The non-profit Native Alaskan Regional Corporations in Alaska
- Non-profit organizations in Alaska with village specific projects
- Current ANA grantees in Alaska funded under Section 803 of the Native American Programs Act with the exception of Metlakatla. Metlakatla has had the opportunity to apply for fiscal year 1983 funds under ANA Program Announcement 13612–831.
- Alaska Native Indian communities as recognized by the Bureau of Indian Affairs

Although for-profit corporations are not eligible applicants, individual villages and Indian communities are encouraged to utilize the for-profit corporations as sub-contractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency.

Please Note: This program announcement represents ANA's program policy and funding priorities for Alaska in Fiscal Year 1984. Current ANA Alaska grantees who wish to be considered for any Fiscal Year 1984 funding must apply under this program announcement.

Available Funds

ANA expects to award approximately $4.5 million for grant awards under this program over the next three years. In Fiscal Year 1984, ANA plans to award $1.5 million for 10–15 grants awards.

Projects of one, two or three years duration or fraction thereof may be submitted. The budget period for each grant award will be twelve (12) months. Applicants who are proposing a two or a three year project must submit full applications, including detailed budgets, for the entire project period, not just for the first year. Refunding after the first year for multi-year project period grantees will depend upon the grantee's satisfactory progress, the availability of funds and the grantee's compliance with the Native-American Programs Regulations.

Grantee Share of Project

Grantees must provide at least 20% of the total approved cost of the project which may be in cash or in kind. The contributions must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations (45 CFR 1336), a copy of which will be provided in the application kit.

The Applicant Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW, Washington, D.C. 20201. Attention: No. 13612–833, Ms. Cassandra Byrd, (202) 245–7727.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants with the exception of Federally recognized tribes, must notify both the State and Areawide Clearinghouses of their intent to apply for Federal financial assistance prior to applying. Some State and Areawide Clearinghouses provide their own forms and others use the facesheet (SF–424) of the application form. Contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how your organization can meet the A–95 requirements.

Application consideration. The Commissioner of ANA determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to

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this announcement or are not complete will not be accepted for review, and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to an objective, competitive review and evaluation process by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of funds available.

After the Commissioner has reached a decision to disapprove, defer or fund a grant application, unsuccessful applicants will be notified in writing. Successful applicants will be notified through an official Notice of Financial Assistance Awarded. This notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, the project period, and the amount of grantee participation.

Criteria for Review

Applications which are complete and on time will be evaluated against the following criteria:

(1) The proposed project(s), if successful will measurably increase the social and economic self-sufficiency of a specific community. The benefits or impact expected in the community are defined in quantifiable, measurable terms. (30 points)

(2) Overall application specifies long-range community goals, priority objectives, and definitive results expected based on a locally developed social and economic development strategy (SEDS). The application has clear evidence of the commitment of the local village community and the involvement of the governing body. (20 points)

(3) Application contains objectives which are realistic, results oriented, measurable, reflect sound methodology, can be evaluated, and directly contribute to meeting local priority needs and goals for self-sufficiency. The application identifies a work plan for the objectives of proposed activities which are clearly defined, sufficiently detailed, and in logical order, to explain the tasks to be done, to achieve each objective and provide a basis for project monitoring. (15 points)

(4) Application presents a detailed budget, with complete explanations and justifications of line items, including specialized assistance if needed, and directly related to the objectives and activities in the work plan. The budget must be of reasonable cost to the government for the outcomes and benefits expected. (10 points)

(5) Application identifies all proposed key personnel by position or role and the consultant/contractors, and demonstrates their qualifications to achieve project objectives by resumes, position descriptions or capability statements. (15 points)

(6) Application provides sufficient evidence of the necessary management and administrative capabilities to ensure accountability and to justify receipt of Federal funds. (5 points)

(7) Application describes a plan for a coordinated use of resources from all sources, other than from ANA, which support the proposed project. (5 points)

Closing Date for Receipt of Application

The closing dates for receipt of all applications under this program announcement are August 15, 1983, and June 30, 1984.

Applications received for the August 15, 1983, closing date will be considered for a grant award during the first quarter of fiscal year 1984. Applications received for the June 30, 1984, closing date will be considered for a grant award in the last quarter of FY 1984 or the first quarter of FY 1985.

Mailed applications. Applications mailed through the U.S Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the review panel (one week after closing date). (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competiton.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: May 6, 1983.

Casimer Wichlacz,

Acting Commission, Administration for Native Americans.

Approved: May 12, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 83–13203 Filed 5–13–83; 8:45 am]

BILLING CODE 4130–01–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
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DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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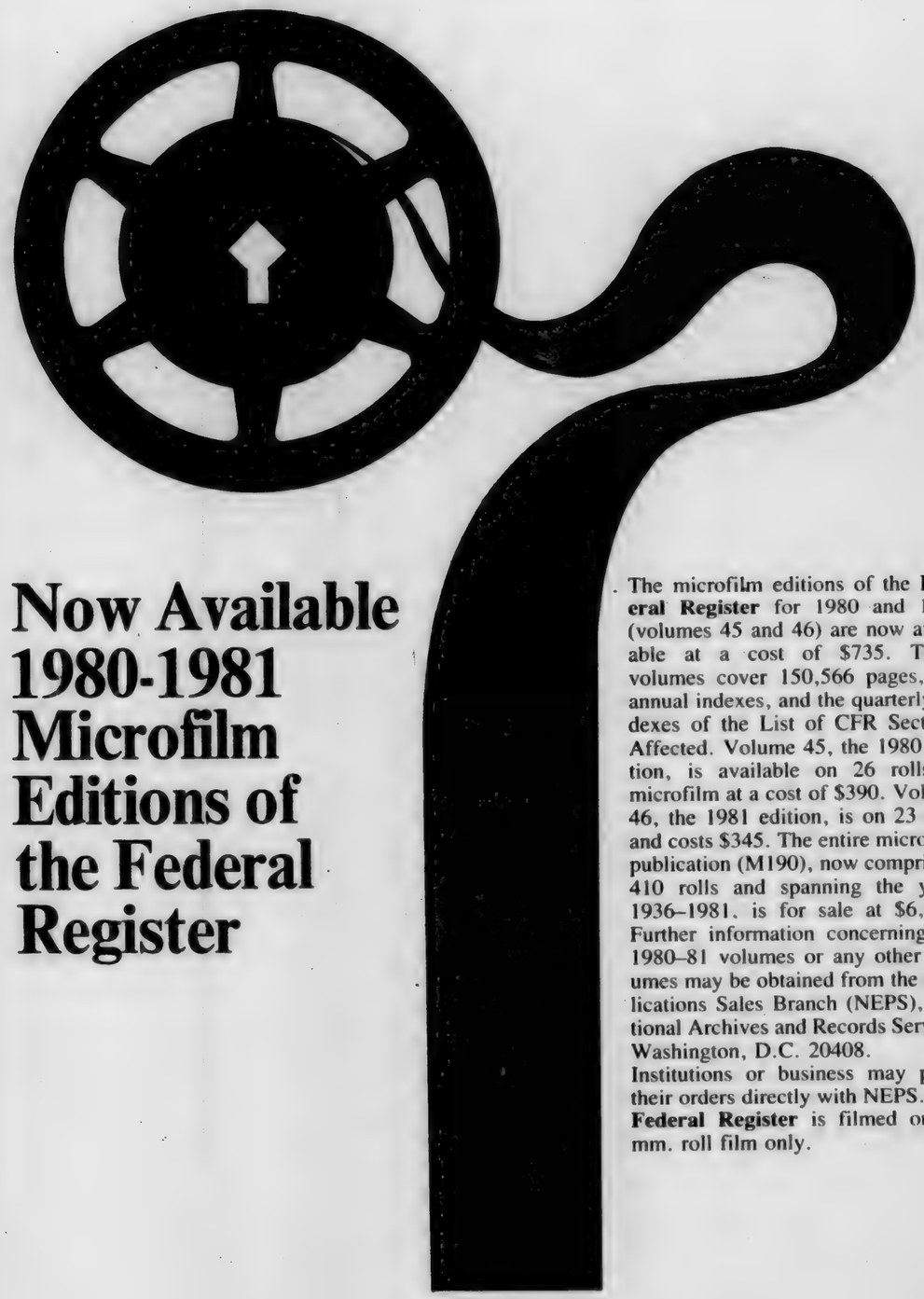

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federal register

Tuesday
May 17, 1983

United States
Government
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Federal Register
(ISSN 0097-6326)

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SECOND CLASS NEWSPAPER

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, 275 and 276

[Amdt. No. 250]

Food Stamp Program; Corrections to Food Stamp Rules

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule Corrections.

SUMMARY: This action amends Food Stamp Program regulations to correct typographical errors contained in the **Federal Register** of November 19, 1982 (47 FR 52328), entitled, *Food Stamp Program; Household Composition, Income Standards, Adjustments, Deduction, Outreach and Technical Amendments;* the **Federal Register** of November 26, 1982 (47 FR 53309), entitled, *Food Stamp Program; Administrative Flexibility Rule;* the **Federal Register** of November 30, 1982 (47 FR 53828), entitled, *Tightened Expedited Service Eligibility;* the **Federal Register** of December 14, 1982 (47 FR 55903) entitled *Food Stamp Program: Eligibility Criteria and Reduction or Termination of Benefits;* the **Federal Register** of December 28, 1982 (47 FR 57666), entitled *Final rule; corrections and clarify revisions;* and the **Federal Register** of February 11, 1983 (48 FR 6313), entitled, *Food Stamp Programs; State Plans and Operating Guidelines, Forms and Waivers.* The action also amends the "Effective Date" of the December 28, 1982 rule to clarify that only those provisions which actually amended the Code of Federal Regulations were effective on January 27, 1982. All other provisions of the December 28 rule which amended various individual **Federal Register** publications have varying effective dates.

FOR FURTHER INFORMATION CONTACT: Dan Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756–3425.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291. The rule will not result in annual economic impacts of more than $100 million or major increases in costs or prices nor will it have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, the rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. Therefore, the rule has been classified as "non-major".

Regulatory Flexibility Act

The rule also has been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, the Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

Public Participation

As noted above, the amendments made by this final rule are to correct errors and will result in no change of policy. For these reasons, the Department has determined in accordance with 5 U.S.C. 553(b) that notice of proposed rulemaking and public comment of this action is unnecessary.

Paperwork Reduction Act

This rulemaking does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget.

Corrections

An explanation of the corrections being made to Food Stamp Program rules issued on November 19, 1982, November 26, 1982, November 31, 1982, December 14, 1982, December 28, 1982, and February 11, 1983, follows:

November 19, 1982

At 47 FR 52332, columns 1 and 2 of the preamble explain that the paragraphs listed at the top of column 3 were revised or amended by interim rules issued on September 4, 1981 (47 FR 44712), and were adopted final as unchanged by the November 19, 1982 rule. That portion of the November 19 preamble further explains that the Department was republishing these unchanged paragraphs for the convenience of the reader as they appeared in the September 4 rule. However, paragraph (j) of 7 CFR 273.7 and paragraph (d)(8)(iv) of 7 CFR 273.9 did change on November 19 from the September 4 version and should not have been included in the list of unchanged paragraphs. This action removes the reference to § 273.7(j) and § 273.9(d)(8)(iv) from the list. Also, two other paragraphs ((c)(2) of 7 CFR 272.4 and (a)(2) of 7 CFR 272.2) listed as unchanged and republished in the November 19, 1982 rule for the convenience of the reader contained typographical errors. At 47 FR 52333 (column 3), in the second sentence of paragraph (a)(2) of 7 CFR 272.2, appearing under amendatory instruction No. 4, the phrase "§ 272.2(c) and" should be removed. At 47 FR 52334 (column 1), in paragraph (c)(2) of 7 CFR 272.4, appearing under amendatory instruction no. 6, the word "will" should be "shall". This same typographical word error appeared in rules issued on December 28. At 47 FR 57669 (column 1), the Department amended the November 19 version of paragraph (c)(2) to reflect that an earlier rule had redesignated all of paragraph (c) as (b). In repeating the text of paragraph (c)(2) under the new lettering of (b)(2), the same word error appeared. That error is also being corrected by this action.

November 26, 1982

At 47 FR 53316 (column 2), amendatory instruction No. 1(g) under § 273.2 calls for a revision to the fourth and sixth sentences of 7 CFR 273.2(i)(4)(i), and removal of the fifth sentence under that paragraph. This is incorrect. The fifth and seventh sentences of 7 CFR 273.2(i)(4)(i) are to be revised and the sixth sentence removed. This is being corrected.

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At 47 FR 53317 (column 3), the reference to "§ 273.6(a)(2)" in the last sentence of the regulatory text of paragraph (i)(4)(i) under 7 CFR 273.2 should read "§ 273.6(a)." Section 273.2(6)(a) does not contain a paragraph (2).

November 30, 1982

At 47 FR 53830 (column 3), the title line for the regulatory text of § 273.2(i)(3)(i) was unintentionally omitted. This paragraph is being corrected to incorporate the missing title line.

December 14, 1982

At 47 FR 55905 (column 2), the chart is amended to correct typographical errors for two figures that appear in the chart. For Household Sizes "6" and "8" under the first column of the chart, the figure of "1,702" should read "1,703" and the figure of "2,216" should read "2,126."

December 28, 1982

At 47 FR 57666 (column 2), the "Effective Date" line of the preamble is amended to clarify that only those provisions contained in the December 28, 1982 rule which actually amend the Code of Federal Regulations became effective on January 27, 1982. An effective date statement is not required for those provisions of the December 28 rule which corrected individual **Federal Register** publications. Technical amendments to individual rules including the technical corrections contained in this rulemaking, do not alter the original effective date of the individual publication involved.

At 47 FR 57668 (columns 1 and 2), under Part 272, amendatory instruction No. 4 is being corrected to remove the last line of that instruction regarding a change to paragraph (d)(3). Paragraph (d)(3) was removed from the Code by rules issued on November 26, 1982. Therefore, the December 28th conforming amendment is unnecessary and is being removed by this action.

At 47 FR 57668 (column 1), under Part 271, amendatory instruction no. 2 is amended to correct a typographical error in referencing. The reference to "7 CFR 271.2" appearing in the instruction should read "7 CFR 271.6."

At 47 FR 57669 (column 2), under Part 273, paragraph (e) appearing under amendatory instruction No. 20 is amended to correct typographical errors. The statement to amend the second sentence to paragraph (d)(4) of § 273.9 should state that the third sentence of paragraph (d)(5) is amended. The preamble discussion of this particular amendment (47 FR 57668 top of column 1) contains the same typographical reference error and is also being corrected by this action.

At 47 FR 57669 (column 2), under Part 273, amendatory instructions 10(a) and 10(b) appearing directly under amendatory instruction No. 22 are amended to correct typographical errors in referencing. The reference to paragraph "(b)(2)(i)(A)" contained in 10(a) should read "(b)(2)(i)(B)" and the reference to paragraph "(b)(2)(ii)" in 10(b) should read "(b)(2)(ii)(B)."

At 47 FR 57669 (column 3), under Part 274, amendatory instruction No. 25 is amended to correct a typographical error in referencing. The references to "§ 273.11(g)92)" and "(h)(2)" appearing in this instruction should read "§ 273.11(g)(1)" and "(i)(1)" respectively. This same error appears in the preamble discussion of this particular amendment and is also being corrected (47 FR 57667 top of column 1).

February 11, 1983

At 48 FR 6313 (column 3) and 6314 (column 1), the "Effective Date" section and the "Paperwork Reduction Act" section are being corrected to reflect that approval from the Office of Management and Budget was received for the reporting and recordkeeping requirements contained in the rule. OMB approval had been obtained prior to publication of the February 11 rule, thus these two preamble statements are incorrect.

Accordingly, the following corrections are made to Food Stamp Program rules issued on November 19, 1982, November 26, 1982, November 31, 1982, December 14, 1982, December 28, 1982, and February 11, 1983:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. At 47 FR 57668 (column 1) issued December 28, 1982, amendatory instruction No. 2 is corrected by replacing the reference to "7 CFR 271.2" with a reference to "7 CFR 271.6".

PART 272—REQUIREMENT FOR PARTICIPATING STATE AGENCIES

2. At 47 FR 57668 (column 2), issued December 28, 1982, amendatory instruction No. 4 (which begins in column 1) is corrected by removing the last two lines of that instruction appearing in column 2 directly above Part 273 and replacing the word "and" preceding these lines with a period.

3. At 47 FR 52333 (column 3), issued on November 19, 1982, the second sentence of paragraph (a)(2), appearing under § 272.2 is corrected by removing the phrase "§ 272.2(c) and" in the second sentence.

4. At 47 FR 52334 (column 1), issued on November 19, 1982, paragraph (c)(2), appearing under § 272.4 is corrected by replacing the word "will" with the word "shall".

5. At 47 FR 57669 (end of column 1), issued December 28, 1982, paragraph (b)(2) appearing under § 272.4 is corrected by replacing the word "will" with the word "shall".

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

6. At 47 FR 53316 (column 2), issued November 26, 1982, amendatory instruction No. 1(g), appearing under Part 273, is corrected to read as follows:

"(g) In paragraph (i)(4)(i), the fifth and seventh sentences are revised. The sixth sentence is removed."

7. At 47 FR 53317 (middle of column 3), issued November 26, 1982, the last sentence of paragraph (i)(4)(i) is corrected by replacing the reference to "§ 273.6(a)(2)" with a reference to "§ 273.6(a)."

8. At 47 FR 53830 (column 3), issued November 30, 1982, the first line of paragraph (i) appearing under the title line of "(3) *Processing standards.*" is corrected by adding the title of *"Zero net income and destitute households."* between the "(i)" and the words "For households entitled to".

9. At 47 FR 57669 (middle of column 2), issued December 28, 1982 paragraph (e) appearing under amendatory instruction No. 20 is corrected by replacing the reference to paragraph "(d)(4)" with a reference to paragraph "(d)(5)", and replacing the words "second sentence" with the words "third sentence".

10. At 47 FR 57669 (near end of column 2), issued December 28, 1982, paragraph (a) appearing under amendatory instruction No. 22 is corrected by replacing the reference to paragraph "(b)(2)(i)(A)" with a reference to paragraph "(b)(2)(i)(B)".

11. At 47 FR 57669 (column 3), issued December 28, 1982, amendatory instruction No. 25, appearing under § 274.3, is corrected by replacing the references to "§ 273.11(g)(2)" and "(h)(2)" with references to "§ 273.11(g)(1)" and "(i)(1)", respectively.

Other

12. At 47 FR 52332 (column 3), issued on November 19, 1982, the preamble is corrected by removing the reference to "§ 273.7(j)" that appears as line 14 of column 3, and removing the reference to "(d)(8)(iv)" appearing in line 18 of column 3.

13. At 47 FR 55905 (column 2), issued December 14, 1982, the chart appearing in that column is corrected by replacing the figure of "1,702" with "1,703" for Household Size "6" and by replacing the figure of "2,216" with "2,126" for Household Size "8", respectively. Both figures appear under the first column of the chart.

14. At 47 FR 57666 (column 2), issued December 28, 1982, the "**EFFECTIVE DATE**" line is corrected to read as follows:

"**EFFECTIVE DATE:** The amendments to 7 CFR 271.6(b)(1)(i), 271.6(b)(1)(vi), 273.2(f)(1)(i)(A), 273.10, 274.2(h), 274.2(h)(1), 274.2(i), 274.3(c)(1), 274.8(b)(2), 275.3(b), 275.11(f) and 276.1(a)(1) are effective January 27, 1982."

15. At 47 FR 57666 (column 3) and 57667 (column 1), issued December 28, 1982, under the preamble discussion of changes to 7 CFR 274.2, the last two sentences of that section are corrected to read as follows:

"Further, the December 8, 1981 rule redesignated paragraph (g) of 7 CFR 273.11 as (h). However, rules issued December 10, 1982 redesignated paragraph (h) as (i). Therefore, a reference to §273.11(g)(2) appearing in 7 CFR 274.2(h)(1) and a reference to § 273.11(g)(1) appearing in 7 CFR 274.3(c)(1) which were overlooked when these redesignations occurred are corrected by the rule to reference § 273.11(i)(2) and (i)(1), respectively."

16. At 47 FR 57668 (top of column 1), issued December 28, 1982, the reference to "7 CFR 273.9(d)(4)" is corrected to reference "7 CFR 273.9(d)(5)."

17. At 48 FR 6313 (column 3), issued February 11, 1983, the "Effective Date" section is corrected by removing everything appearing after the date of March 14, 1983", and inserting a period after that date.

18. At 48 FR 6314 (column 1), issued February 11, 1983, the "Paperwork Reduction Act" section is corrected by rewording this section to read "The reporting and recordkeeping requirements contained in § 272.3 (b)(1), (2), (3) and (c)(2) of this final rule have been approved by the Office of Management and Budget and have been assigned OMB approval No. 0584–0083."

(91 Stat 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: May 5, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-12916 Filed 5-16-83; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes

Correction

In the correction document appearing in the first column of page 19867, in the issue of Tuesday, May 3, 1983, make the following changes:

A. In item 6, the reference to § 214.3(g)(2)(i)(C) should have been to § 214.3(h)(2)(i)(C).

B. In item 7, the reference to § 214.4(a)(2)(x) should have been to § 214.4(a)(1)(x).

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Changes in Physical Security Plans; Licensees Possessing or Using Special Nuclear Material of Moderate and Low Strategic Significance

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to allow licensees possessing or using special nuclear material of moderate and low strategic significance to make minor modifications to their physical security plans without prior approval by the Commission, provided the changes do not decrease the effectiveness of the plan. This amendment is necessary to remove an inconsistency in the regulations applicable to special nuclear material licensees.

EFFECTIVE DATE: June 16, 1983.

FOR FURTHER INFORMATION CONTACT: Andrea K. Barnold, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–5976.

SUPPLEMENTARY INFORMATION: On July 24, 1979, the Nuclear Regulatory Commission published a final rule (44 FR 43280) amending 10 CFR Parts 70, 73, and 150 to require physical protection measures to detect theft of special nuclear material of moderate and low strategic significance. One of the requirements of Part 70 is that applicants for licenses to possess or use special nuclear material must submit physical security plans. When Part 70 was amended to require submission of the plans by applicants for licenses to possess or use special nuclear material of moderate and low strategic significance, they were not included in the provision allowing minor changes to be made to physical security plans without prior Commission approval (see 10 CFR 70.32(e)). It is the Commission's belief that such licensees should be accorded the same privilege to make minor modifications that is accorded to licensees possessing larger quantities of strategic special nuclear material in order to have consistent regulations. Experience has shown the privilege to be a useful form of self-regulation and its extension to licensees possessing special nuclear material of moderate and low strategic significance is a step in reduction of regulatory burden.

Pursuant to 5 U.S.C. 553(b), the Commission for good cause finds that notice and public procedure on the amendment are not necessary, because the amendment confers a privilege on licensees possessing special nuclear material of moderate and low strategic significance that is now enjoyed by licensees possessing larger quantities of strategic special nuclear material. The amendment also relieves the affected licensees of the burden and license fee cost of submitting minor changes to security plans to the Commission for prior approval as formal license amendments.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0009.

List of Subjects in 10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting requirements, Scientific equipment, Security measures, and Special nuclear material.

The authority citation for this document is sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201).

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 70, is published as a document subject to codification.

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PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. In § 70.32, paragraph (e) is revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(e) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to §§ 70.22(h), 70.22(k), or 73.20(c) without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of 2 years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A of Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made.

* * * * *

Dated at Bethesda, Maryland, this 12th day of April, 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-13188 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim regulations.

SUMMARY: NASA is amending its patent waiver regulations, 14 CFR Part 1245, Subpart 1, to conform with the February 18, 1983 Presidential Memorandum on Government Patent Policy. NASA has adopted the policy of the Presidential Memorandum as a guide in acting on requests for waiver of rights to inventions made in the performance of work under NASA contract.

EFFECTIVE DATE: May 17, 1983.

ADDRESS: General Counsel, Code G, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Robert F. Kempf, 202-755-3932.

SUPPLEMENTARY INFORMATION: 14 CFR Part 1245, Subpart 1 is amended by revising § 1245.104, § 1245.105, § 1245.107 and § 1245.110 and § 1245.111. The intended effect is to bring the Patent Waiver Regulations into conformity with the Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies, dated February 18, 1983. Pending formal revision of the NASA Patent Waiver Regulations, 14 CFR 1245, Subpart 1 (46 FR 137, July 17, 1981), NASA has adopted the policy of the February 18, 1983, Presidential Memorandum on Government Patent Policy as a guide in acting on requests for waiver of rights to inventions made in the performance of work under a NASA contract under conditions making such inventions subject to Section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)). Under this policy, requests for waiver of rights normally will be granted as set forth in § 1245.104 and § 1245.105, respectively, as amendments herein to the NASA Patent Waiver Regulations. When waiver is granted, an additional reservation consistent with § 203(d) of Public Law 96-517 (35 U.S.C. 203(d)) will apply, as set forth in amended § 1245.107(f). Procedures for requesting waivers are set forth in amended sections to § 1245.110 and § 1245.111. All other provisions of the NASA Patent Waiver Regulations will remain in effect until further revisions are made.

List of Subjects in 14 CFR Part 1245

Inventions and Contributions Board, Inventions and patents, Scientific and technical contributions, Space Act Monetary Awards Program.

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Subpart 1—Patent Waiver Regulations

For reasons set out in the preamble, 14 CFR Part 1245 is amended as follows:

1. By revising paragraphs (a), (b), (c), and (d) of § 1245.104 to read:

§ 1245.104 Advance waivers.

(a) The provisions of this section apply to petitions for waiver of domestic rights to any or all of the inventions which may be made under a contract.

(b) The NASA Inventions and Contributions Board normally will recommend grant of a request for advance waiver of domestic rights submitted prior to execution of contract or within 30 days after execution of the contract unless the Board finds that the interests of the United States will be better served by restricting or eliminating rights of the contractor in one or more of the following situations:

(1) Where the contract is for the operation of a Government-owned research or production facility;

(2) When a determination has been made by a Government authority which is authorized by statute or Executive Order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any inventions made in the performance of work under the contract is necessary to protect the security of such activities; or

(3) Where the Board finds that exceptional circumstances exist, such that restriction or elimination of the right to retain title will better promote one or more of the following objectives:

(i) Promoting the utilization of inventions arising from federally supported research and development;

(ii) Encouraging maximum participation of industry in federally-supported research and development efforts;

(iii) Ensuring that inventions are used in a manner to promote free competition and enterprise;

(iv) Promoting the commercialization and public availability of inventions made in the United States by United States industry and labor; and

(v) Ensuring that the Government obtains sufficient rights in federally-supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions.

(c) An advance waiver, when granted, will apply only to inventions reported to NASA under the applicable terms of the contract and a designation made within 6 months of the time of reporting (or a reasonable time thereafter permitted for good cause shown) that the Contractor elects title to the invention and intends to file or has filed a U.S. patent application. Such election will be made by notification in writing to the patent representative designated in the contract.

(d) [Reserved]

* * * * *

2. By revising paragraphs (b) and (c) of § 1245.105 to read:

§ 1245.105 Waiver after reporting inventions.

* * * * *

(b) When an individual identified invention has been reported to NASA under the applicable terms of the contract and waiver of rights has not been granted under § 1245.104, the Board normally will recommend grant of a request for waiver of domestic rights to such invention if the request is received within 6 months of reporting (or such longer period that the Board may permit for good cause shown), unless the Board finds that exceptional circumstances exist such that restriction or elimination of the right to retain title will better promote one or more of the objectives set forth in § 1245.104(b)(3)(i-v).

(c) [Reserved]

3. By adding paragraph (f) to § 1245.107, to read:

§ 1245.107 Reservations.

* * * * *

(f) For any particular invention, each waiver of rights granted will be subject to the additional reservation by the Administrator of the right to require the granting of a nonexclusive or exclusive license for the practice of the invention to any responsible applicant on terms that are reasonable under the circumstances if either the waiver recipient grants to any person the exclusive right to use or sell the invention in the United States without obtaining agreement from such person that any products embodying the invention or produced through use of the invention will be manufactured substantially in the United States, or a licensee of the exclusive right to use or sell the invention in the United States is in breach of such agreement. In individual cases the requirement for such agreement may be waived by the Board upon a showing by the waiver recipient that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would likely be manufactured in the United States or that under the circumstances domestic manufacture is not commercially feasible.

4. By revising paragraphs (a), (b) and (c) of § 1245.110 to read:

§ 1245.110 Content of petitions.

(a) Each request for waiver of domestic or foreign rights under § 1245.104, § 1245.105, or § 1245.106 shall be by petition to the Administrator and shall include an identification of the petitioner, its place of business and address, and if the petitioner is represented by counsel, the name, address, and telephone number of the counsel; the nature and extent of the rights desired and a citation to the section under which the petition is submitted; the signature of the petitioner or its authorized representative, and date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested, including a clear indication of whether the request is for an advance waiver or waiver of rights for an individual identified invention; information identifying the proposed contract or resulting contract, if any; a copy of the invention disclosure if the request is for an individual, identified invention; and the name, address and telephone number of the party with whom the Board is to communicate when the request is acted upon. Requests for advance waiver should, preferably, be included with the proposal, but in any event in advance of negotiations.

(b) [Reserved]

(c) [Reserved]

* * * * *

5. By revising paragraphs (a) and (c) of § 1245.111, to read:

§ 1245.111 Submission of petitions.

(a) During this interim period, petitions (requests) for advance waiver under § 1245.104, prior to contract execution, must be submitted to the contracting officer. Any petition submitted by those organizations selected for negotiation of a contract will be processed and forwarded to the Board for consideration. All other petitions will be submitted to the patent representative designated in the contract for processing prior to forwarding to the Board.

* * * * *

(c) Any request for waiver by a nonprofit organization or small business firm under § 1245.118 shall be submitted to the Chairperson, Inventions and Contributions Board.

(42 U.S.C. 2457)

Hans Mark,

Acting Administrator.

[FR Doc. 83-13119 Filed 5-16-83; 8:45 am]

BILLING CODE 7510-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 146

Delegation of Authority To Disclose Information and Disclosure of Information Pertaining to Individuals

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending Part 140 of its rules, delegating authority to certain Commission officials to disclose information under special circumstances, to any department, agency or political subdivision of a state or foreign government. The Commission is similarly delegating authority to certain of its employees to disclose information to officials of a registered futures association or a self-regulatory organization as defined in Section 3(a)(26) of the Securities Act of 1934. In addition, the Commission is amending § 146.6(a) of its rules to include disclosure of information concerning individuals to any department, agency or political subdivision of a state or foreign government. These amendments are being made to conform the Commission's rules to the Commodity Exchange Act, as amended by the Futures Trading Act of 1982. The Commission's action relates solely to agency organization, procedure and practice.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Tena Friery, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: The Futures Trading Act of 1982 ("1982 Act"), Pub. L. No. 97-444, 96 Stat. 2294, was signed by President Reagan on January 11, 1983. The 1982 Act adds to Section 8(e) of the Commodity Exchange Act ("Act"), 7 U.S.C. 12(e), the authority for the Commission to furnish any information in its possession which was obtained in connection with the administration of the Act, upon request, to any department or agency of any State or any political subdivision thereof acting within the scope of its jurisdiction.[1] The recently amended version of Section 8(e) also allows the Commission to furnish any such information, upon request, to any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, if the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.

In addition, the 1982 Act amends Section 8a(6) of the Commodity Exchange Act, 7 U.S.C. 12a(6). This recent amendment authorizes the Commission, notwithstanding the

[1] Any information furnished to such department or agency may not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the Act or under local law, to which the State, political subdivision, department or agency is a party

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provisions of Section 8 of the Act,[2] to communicate the full facts concerning any transaction or market operation, when appropriate,[3] to an officer or committee of a registered futures association or self-regulatory organization as defined in Section 3(a)(26) of the Securities Exchange Act of 1934.[4]

Further, a provision added by the 1982 Act, Section 8(g), requires the Commission to provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Section 8(g) in addition authorizes the Commission to furnish such registration information without request whenever the Commission determines that the information may be appropriate for use by any department or agency of any State or political subdivision thereof.

To eliminate the necessity for the Commission itself to consider each instance of disclosure allowed by Sections 8(e) and 8a(6), the Commission is amending Rules §§ 140.72 and 140.73 to delegate to certain Commission officials the authority to disclose information pursuant to these sections.[5] To insure efficient and timely communication of those matters required to be disclosed by Section 8(g), the Commission is amending Part 140 of its rules by adding Rule § 140.75. The added rule delegates to the Director of the Division of Trading and Markets and to such members of the Commission staff as the Director may designate the authority to transmit to any department or agency of any State or political subdivision thereof information required to be disclosed pursuant to Section 8(g). The Commission in amending Rules §§ 140.72 and 140.73 and in adopting § 140.75, intends that the Commission employees named in those rules make the requisite determinations specified in Sections 8a(6), 8(e), and 8(g) of the Act prior to disclosure.

Recognizing that the disclosures allowed by the 1982 provisions in Sections 8(e) and 8a(6) and those required by Section 8(g) may include information pertaining to individuals [6] and subject to the provisions of the Privacy Act, 5 U.S.C. 552a,[7] the Commission is amending Rule § 146.6(a), which controls the disclosure of information maintained on individuals to third parties to reflect the recent amendments to the Act. In addition, Rule § 146.6(a) is being amended to correct a technical error contained in (4) thereunder.

The Commission anticipates that requests for information under Sections 8(e), 8(g) and 8a(6) will ordinarily be written requests. However, the Commission does not intend to thwart the purposes to be served by the disclosures allowed or required by these sections, and for that reason, where circumstances would render a written request impractical, will consider a telephone request provided the requestor furnishes written confirmation of the request via Telex or other expeditious means of written communication. Finally, the Commission notes that the limitations on disclosure of any information received from the Commission by those governmental and self-regulatory entities specified in Sections 8a(6), 8(e), and 8(g) are incorporated into the regulations as amended by this notice.

The Commission has determined that these amendments to Parts 140 and 146 relate solely to agency organization, procedure, and practice. Therefore, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation, are not applicable.[8] The Commission further finds that, because of the need promptly to update these rules in light of the enactment of the Futures Trading Act of 1982, there is good cause to make these amendments effective immediately upon publication in the **Federal Register**.

List of Subjects

17 CFR Part 140

Disclosure of information, Contract markets, Registered futures associations, Self-regulatory organizations, State and local governments, Foreign governments.

17 CFR Part 146

Records maintained on individuals, Disclosure of information, State and local governments, Foreign governments.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a) (11), 8 and 8a, 7 U.S.C. 4a(j), 12 and 12a, as amended by Pub. L. 97-444, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as specified below:

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

1. Section 140.72 is revised to read as follows:

§ 140.72. Delegation of authority to disclose confidential information to a contract market, registered futures association or self-regulatory organization.

(a) Pursuant to the authority granted under sections 2(a) (11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, the Director of the Division of Trading and Markets, each Deputy Director of the Division of Trading and Markets, the Chief Accountant, the General Counsel, each Deputy General Counsel, the Director of the Division of Economics and Education, each Deputy Director of the Division of Economics and Education, the Director of the Market Surveillance Section, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, each of the Regional Coordinators, and each of the Directors of the Market Surveillance Branches, the authority to disclose to an official of any contract market, registered futures association, or self-regulatory organization as defined in Section 3(a) (26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act. The authority to make such a determination is also delegated by the Commission to the Commission employees identified in this section. A Commission employee delegated authority under this section may exercise that authority on his or her own initiative or in response to a request by an official of a contract market, registered futures association or self-regulatory organization.

(b) Disclosure under this section shall only be made to a contract market, registered futures association or self-regulatory organization official who is named in a list filed with the Commission by the chief executive officer of the contract market, registered futures association or self-regulatory organization, which sets forth the official's name, business address and telephone number. The chief executive officer shall thereafter notify the Commission of any deletions or additions to the list of officials authorized to receive disclosures under this section. The original list and any supplemental list required by his paragraph shall be filed with the Secretary of the Commission, and a copy thereof shall also be filed with the Regional Coordinator for the region in which the contract market is located or in which the registered futures association or self-regulatory organization has its principal office.

(c) Nothwithstanding the provisions of paragraph (a) of this section, in any case in which a Commission employee delegated authority under this section believes it appropriate, he or she may submit to the Commission for its consideration the question of whether disclosure of information should be made.

(d) For purposes of this section, the term "official" shall mean any officer or member of a committee of a contract market, registered futures association or self-regulatory organization who is specifically charged with market surveillance or audit or investigative responsibilities, or their duly authorized representative or agent, who is named on the list filed pursuant to paragraph (b) of this section or any supplement thereto.

(e) For the purposes of this section, the term "self-regulatory organization" shall mean the same as that defined in Section 3(a) (26) of the Securities Exchange Act of 1934.

(f) Any contract market, registered futures association or self-regulatory organization receiving information from the Commission under these provisions shall not disclose such information except that disclosure may be made in any self-regulatory action or proceeding.

2. Section 140.73 is revised to read as follows:

§ 140.73 Delegation of authority to disclose information to United States, State and foreign government agencies.

(a) Pursuant to sections 2(a)(11), 8a(5) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the General Counsel, or in his or her absence to each Deputy General Counsel, the Director of the Division of Enforcement, and in his or her absence to each Deputy Director of the Division, the Director of the Division of Economics and Education or, in his or her absence, each Deputy Director of the Division, the Director of the Market Surveillance Section, the Director of the Division of Trading and Markets or in his or her absence each Deputy Director of the Division of Trading and Markets the authority to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request, to:

(1) Any department or agency of the United States, including for this purpose an independent regulatory agency, acting within the scope of its jurisdiction in the investigation or prosecution of any violation of law;

(2) Any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction; or

(3) Any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, provided that the Commission official making the disclosure is satisfied that the information will not be disclosed except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.

(b) Any disclosure made pursuant to paragraph (a) of this section shall be made with the concurrence of the Director of the Division of Enforcement or in his or her absence a Deputy Director of the Division of Enforcement. Provided, however, that no such concurrence is necessary for the Director of the Division of Economics and Education or in his or her absence each Deputy Director of the Division or for the Director of the Market Surveillance Section to release information under paragraph (a)(1) of this section concerning current or ongoing market transactions or operations.

(c) In furnishing information under this delegation pursuant to Paragraphs (a)(1) and (2) of this section, the Commission official making the disclosure shall remind the department or agency involved that Section 8(e) of the Act prohibits the disclosure by such department or agency of information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except in an action or proceeding under the laws of the United States, the State, or a political subdivision thereof to which the department or the agency of either the state or political subdivision, the Commission, or the United States is a party.

(d) This delegation shall not affect any other delegation which the Commission has made or may make, which authorizes any other officer or employee of the Commission to furnish information to governmental bodies on the Commission's behalf.

(e) Notwithstanding the provisions of paragraph (a) of this section, in any case in which any employee delegated authority therein believes it appropriate the matter may be submitted to the Commission for its consideration. Nothing in this section shall prohibit the Commission from exercising the authority delegated in Paragraph (a) of this section.

3. Section 140.75 is added to read as follows:

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[2] Section 8(a) of the Commodity Exchange Act, 7 U.S.C. 12(a), prohibits the Commission from publishing "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."

[3] Section 8a(6) allows disclosure of information "which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors, or which is necessary or appropriate to effectuate the purposes of [the] Act." Information so furnished may be disclosed by the recipient only in a self-regulatory action or proceeding.

[4] The version of Section 8a(6) in effect prior to enactment of the 1982 Act allowed the Commission to communicate information only to the proper committee or officer of a contract market. Such communications, of course, continue to be permitted.

[5] Rules §§ 140.72 and 140.73 are also being amended to include the General Counsel and each Deputy General Counsel among the Commission officials authorized to disclose information pursuant to the newly enacted Sections 8(e) and 8a(6). In addition, the Director of the Division of Economics and Education, the Director of the Division of Trading and Markets and specified designees are delegated authority to disclose information to other government agencies as set forth in Rule § 140.73.

[6] On October 12, 1982, the Commission amended one of its established routine uses to include release of information to a futures association registered with the Commission. *See* 47 FR 44831, 44832 (October 12, 1982). Because of this recent amendment, the Commission finds no need to further amend Rule § 146.6(a) to reflect the authority contained in the newly amended Section 8a(6) for release of otherwise confidential information.

[7] The Commission's notice of systems of records was most recently published in the **Federal Register** on October 4, 1982. *See* 47 FR 43759 (October 4, 1982). As required by the Privacy Act, this notice details, among other things, the kinds of records maintained by the Commission and the purposes for which they are routinely used.

[8] Similarly, the provisions of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, do not apply. *See* 5 U.S.C. 601(2). In addition, the Commission notes that these rule amendments do not constitute new paperwork collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

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§ 140.75 Delegation of authority to the Director of the Division of Trading and Markets.

Pursuant to sections 2(a)(11), 6a(5) and 8(g) of the Act, the Commission hereby delegates to the Director of the Division of Trading and Markets and to such members of the Commission's staff acting under his or her direction as the Director may designate from time to time, the authority to disclose any registration information contained in the registration applications filed by Commission registrants or any compilation of such information maintained by the Commission to any department or agency of any State or any political subdivision thereof. Disclosure under this section may be made upon reasonable request made to the Commission or without request whenever the Director of Trading and Markets or any Commission employee designated by the Director to make disclosures under this section determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof. Notwithstanding the provisions of this section, in any case in which the Director of Division of Trading and Markets deems it appropriate, or in any case in which the Commission so requests, the Director may submit matter to the Commission for its consideration.

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

4. In § 146.6, paragraph (a)(4) is amended by removing the letter "(g)" following "§ 146.2" and inserting in lieu thereof the letter "(i)."

5. Section 146.6 is amended by adding paragraphs (a) (12) and (13) to read as follows:

§ 146.6 Disclosure to Third Parties.

(a) The Commission shall not disclose to any agency or to any person by any means of communication a record pertaining to an individual which is contained in a system of records, except under the following circumstances:

* * * * *

(12) The disclosure is made, upon request, to a department or agency of any state or political subdivision thereof acting within the scope of its jurisdiction as permitted by Section 8(e) of the Act and subject to the limitations of further dissemination as contained in Section 8(e). Information disclosed pursuant to this paragraph may also include registration information maintained by the Commission on any registrant as authorized to be disclosed by Section 8(g) of the Act. Registration information may be furnished to a department or agency of any state or political subdivision thereof upon reasonable request made by the department or agency or without request whenever the Commission or an employee designated by § 140.75 of this chapter determines that such information may be appropriate for use by the department or agency.

(13) The disclosure is made, upon request, to a department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, provided that, prior to disclosure, the Commission or an employee delegated authority by § 140.73 of this chapter to disclose information pursuant to Section 8(e) of the Act is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.

* * * * *

Issued in Washington, D.C. on May 11, 1983, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-13178 Filed 5-16-83; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Parts 170 and 180

Regulations Pertaining to Arbitration and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is amending its rules governing the arbitration proceedings which must be conducted by contract markets and registered futures associations and the content and effect of the cautionary language which must be included in voluntary pre-dispute arbitration agreements between futures commission merchants ("FCMs"), floor brokers, or associated persons and their customers. The purpose of these amendments is to conform the Commission's rules to recent changes in the Commodity Exchange Act and to further encourage the use of arbitration as a means of dispute resolution by participants in the commodity futures and options markets. The amendments which the Commission is now adopting will: (1) eliminate the $15,000 limitation upon disputes which must be accepted for arbitration by exchanges and registered futures associations; (2) broaden the definition of "customer" to include certain FCMs and floor brokers; (3) continue to authorize the use of binding pre-dispute arbitration agreements (provided that the execution of such an agreement would not eliminate the right of a customer who enters into such an agreement to seek reparations pursuant to section 14 of the Commodity Exchange Act with respect to a dispute arising under the agreement), but only where the customer who executes a voluntary pre-dispute arbitration agreement is given a choice of at least two organizations which provide arbitration as a forum for dispute resolution, with at least one organization offering the customer the opportunity to have the arbitration dispute heard in a location reasonably convenient to the customer; and (4) require contract markets and registered futures associations to provide that their members will bear any incremental costs providing arbitration by a "mixed panel."

EFFECTIVE DATE: The amendments to §§ 170.8, 180.1, 180.4, 180.5 and 180.6 will become effective June 16, 1983. The amendments to §§ 180.2 and 180.3 will become effective on August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1981, the Commission published a proposal to amend parts 12 and 180 of its regulations, which govern reparations and arbitration procedures and requested comment thereon by February 12, 1982.[1] On February 26, 1982, the Commission extended the comment period on the proposed rules until March 15, 1982.[2] The Commission received thirty-two letters of comment on the proposed amendments: nine from contract markets; eight from FCMs; eight from floor brokers; three from law firms; one from the National Futures Association ("NFA"); one from the American Arbitration Association ("AAA"); one from the National Association of Securities Dealers ("NASD"); and one from the Futures Industry Association ("FIA"). The Commission has reviewed these comments carefully and, as more fully explained below, modified certain aspects of its original proposal in response to various suggestions made by one or more commentators. In addition, the Commission has modified its proposal to reflect recent amendments to sections 5a(11) and 17(b)(10) of the Commodity Exchange Act made by the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294, 2307 (1983).[3]

[1] 46 FR 60834 (December 14, 1981).

[2] 47 FR 9225 (March 4, 1982).

II. Conforming Amendments

A Sections 170.8, 180.2 (Introductory Paragraph) and 180.4

The Futures Trading Act of 1982, Pub. L. No. 97-444, § 271, 96 Stat. 2307 (1983), has amended sections 5a(11) and 17(b)(10) of the Commodity Exchange Act, 7 U.S.C. §§ 7a(11), 21(b)(10) by eliminating the $15,000 limitation upon disputes which must be accepted for arbitration by exchanges and registered futures associations. As noted by the House Committee report concerning such legislation, these changes were made in order to enhance the attractiveness of arbitration as an alternative to reparations.[4] The Commission believes that removal from the Commission's rules of the $15,000 limitation upon disputes which must be accepted for arbitration under contract market and registered futures association rules is consistent with the amendments to the Act as well as the purposes which supported the statutory amendments.

The Commission notes that those statutory amendments received broad-based support[5] and that comments on the arbitration rules proposals urged removal of the $15,000 limitation even though such proposal was not included among the rules initially proposed for amendment.[6] Accordingly, the Commission is amending § 170.8, the introductory paragraph of § 180.2, and § 180.4 to delete the $15,000 limit on arbitrable grievances and related counterclaims. The Commission expects that this change may encourage customers with more sizable claims to arbitrate their claims instead of petitioning for reparations hearings. As noted by the House Report on H.R. 5447:

> [a]rbitration is an equally viable forum for resolving customer claims in excess of $15,000 and there is no logical reason why reparations should be the only out-of-court forum for resolution of these disputes.[7]

The Commission also is amending § 170.8 to conform its rule to the underlying requirement of section 17(b)(10) of the Act, as amended by the Futures Trading Act of 1982, that a futures association must provide a fair, equitable, and *expeditious* procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof. The Commission notes that the national futures Association ("NFA") is the only futures association currently registered with the Commission. The Commission approved NFA's Code of Arbitration when it initially granted NFA's registration [8] the expeditious resolution of disputes always has been an objective of the NFA arbitration program, and the Commission does not believe at this time that any changes in NFA's Code of Arbitration would be required to assure compliance with the newly enacted standard of section 17(b)(10) of the Act or § 170.8 of the Commission's regulations, as amended here. The Commission notes that NFA's arbitration program became operational on March 31, 1983, and that the Commission will monitor that program to assure, among other things, that NFA arbitration provides an expeditious, as well as fair and equitable, means of dispute resolution.

B. Sections 180.5, 180.3(b)(7)

Commission rule 180.5 authorizes a contract market to establish a procedure for settlement of customers' claims and grievances which were heretofore not covered by §§ 180.1 through 180.4, *i.e.*, claims in excess of $15,000. As noted above, the Futures Trading Act of 1982 has eliminated that $15,000 jurisdictional limit. Since all customer claims and grievances are now governed by §§ 180.1–180.4, the language of current § 180.5 is being deleted.

Commission rule 180.5 is also referenced in current § 180.3(b)(5), to assure that any forum for settlement of customer disputes, other than a procedure established pursuant to section 5a(11) of the Act, complies with certain minimal fairness standards. With the elimination of the $15,000 jurisdictional limit, the Commission believes it is appropriate to directly reference the fairness and equitability standards of § 180.2 in new § 180.3(b)(7) (formerly § 180.3(b)(5)), in lieu of the current indirect reference to those standards via § 180.5. In addition, the language of § 180.3(b)(7) has been revised from the former language of § 180.3(b)(5) for purposes of clarity. Accordingly, § 180.5 is, as discussed above, deleted and the fairness standards which it references, insofar as they apply to arbitration forums other than those established under section 5a(11) or 17(b)(10) of the Act are reincorporated in § 180.3(b)(7). With the deletion of § 180.5, § 180.6 is redesignated as § 180.5.

C. Section 180.1(b)

The Futures Trading Act of 1982 amended section 5a(11) of the Act by deleting the exclusion of futures commission merchants and floor brokers from the definition of "customer" under that subsection.[9] The definition of "customer" under section 5a(11) has been broadened to include any person for or on behalf of whom a member of a contract market effects a transaction on such contract market, except another of that contract market.[10] The practical effect of this statutory change is to assure that no person is denied the rights of a customer in arbitration under the Act solely on the basis of that person's registration status. The Commission is amending § 180.1(b) to reflect the statutory definition and, accordingly, thereby require contract market rules adopted in conformance with Part 180 to include as customers futures commission merchants and floor brokers who have a claim based on a customer relationship with a contract

[3] Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b) normally requires that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) does not apply when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest. Since the amendments now being made to § 170.8, § 180.1(b), the introductory paragraph of § 180.2, and the amendments to § 180.3(b)(5), § 180.4, and § 180.5 merely conform those sections to recent statutory changes enacted in the Futures Trading Act of 1982, the Commission finds that prior publication and comment are unnecessary with respect to these amendments.

[4] H. Rep. No. 97-565, Pt. 1, 97th Cong., 2d Sess. 56 (1982).

[5] *Id.; see also* the testimony of Chairman Philip McB. Johnson, *CFTC Reauthorization: Hearings on H.R. 5447 before the Subcomm. on Conservation, Credit and Rural Development of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 118 (1982).

[6] *See* letters from E. F. Hutton & Company, Inc. (March 4, 1982) and Rosenman, Colin, Freund, Lewis & Cohen (March 9, 1982).

[7] H. Rep. No. 97-565, Pt. 1, 97th Cong., 2d Sess. 56 (1982).

[8] Order Granting Registration and Approving Rules (September 22, 1981).

[9] The Futures Trading Act of 1982 also amended section 17(b)(10) of the Act to conform it to amended section 5a(11).

[10] *See* H. Rep. No. 97-565 Pt. 1, 97th Cong. 2d Sess. 92 (1982).

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market member, provided the futures commission merchant or floor broker initiating the action is not a member of the same contract market as the respondent.

D. Addition of Introducing Brokers, Commodity Pool Operators, and Commodity Trading Advisors to §§ 180.3(b), 180.3(b)(2), 180.3(b)(3), and 180.3(b)(4)

The Futures Trading Act of 1982 established introducing brokers as a new category of Commission registrant and amended the definition of associated person to include associated persons of introducing brokers, commodity pool operators ("CPOs") and commodity trading advisors ("CTAs"). Most of the functions typically to be performed by introducing brokers are those which otherwise would be performed by FCMs or in some instances their agents, while the functions performed by associated persons ("APs") of CPOs and CTAs in many instances are similar to the functions of APs of FCMs. On March 29, 1983 the Commission determined to publish for comment proposed rules which would establish registration requirements and a regulatory framework for introducing brokers and the new AP registrants.[11]

The notice also observes that the Commission in a separate action would consider application of the Commission's rules governing arbitration procedures to introducing brokers and requests comments concerning such application.[12] The Commission notes that with the identification of introducing brokers as a category of Commission registrant, NFA has proposed rule amendments which would effectively terminate its never-activated agent membership category and substitute in its place an NFA membership category for introducing brokers.[13] Existing NFA Bylaws and Rules require all NFA members, including CPOs and CTAs, and their APs to be subject to NFA arbitration procedures.[14] Given the likely membership of introducing brokers in NFA and the fact that the functional role of introducing brokers and APs of introducing brokers, CPOs and CTAs will place them in frequent contact with commodities customers, the Commission today under separate heading is publishing notice of proposed rules to add introducing brokers, CPOs, CTAs and their APs to the list of Commission registrants subject to the requirements of Part 180.[15]

II. Amendments to Current Regulations

A. Determination Not To Amend § 12.21

When the Commission proposed amendments to Part 180 of its regulations, one of the primary issues upon which the Commission requested comment was whether to permit a customer to waive his right to initiate a reparations proceeding if the customer had executed a pre-dispute arbitration agreement. The Commission received a wide variety of comments concerning the proposed amendment to § 12.21, ranging from outright opposition to strong support for such waiver.[16] These comments included suggestions for improving the reparations system as a means of reducing the reparations caseload,[17] and suggestions which would clarify or expand the permissible scope of the proposed pre-dispute waiver of one's right to proceed in reparations.[18] Other commentors, particularly the contract markets, expressed concern that if pre-dispute arbitration agreements became widely used as a means of obtaining customers' waivers of their right to reparations, the exchanges' own arbitration facilities would become severely overburdened.[19] Finally, a number of commentors suggested that the self-regulatory organizations were best structured to determine how best to promote their own arbitration systems—including the provisions of fair forums—in order to encourage the use of arbitration in lieu of reparations.[20]

These comments, as well as other developments since the amendment to § 12.21 was proposed, have caused the Commission to determine not to permit the use of pre-dispute arbitration agreements by which customers contractually may waive their rights to reparations.[21] The Commission has not, however, adopted any rule which would prohibit the use of voluntary pre-dispute arbitration agreements by which customers contractually may waive their rights under section 22 of the Act or otherwise to seek resolution of commodities disputes through private litigation.

With respect to its reparations program, the Commission notes that it has made significant progress in reducing the pending reparations caseload and that, both as a result of amendments to section 14 of the Act by the Futures Trading Act of 1982 and further rulemaking by the Commission relating to reparations procedures, futher improvements are likely to occur. For example, during 1982, the number of dispositions of reparations proceedings for the first time exceeded the number of new reparations proceedings initiated. Further, the amendments to section 14 of the Act by the Futures Trading Act of 1982 now limit reparations proceedings to those actions involving a violation of the Act, Commission rule or order which is brought only against *actual* Commission registrants, as compared to the previous statutory right to seek reparations against individuals *required* to be registered with the Commission. Finally, the Commission recently published an advance notice of proposed rulemaking suggesting various means by which the conduct of its reparations proceeding might be expedited.[22] The Commission's staff has considered the comments received in response to that notice and will shortly present its recommendations to the Commission concerning specific proposed rules.[23]

[11] 48 FR 14933 (April 6, 1983); *see also* 48 FR 1590 (April 13, 1983).

[12] *Id.* at 14935. The Commission has not yet had an opportunity to consider any such comments, but will address the issue of whether to include introducing brokers under § 180.3 in conjunction with a rule proposal which the Commission is publishing for comment under separate heading today concerning the inclusion of CPOs and CTAs under the provisions of § 180.3.

[13] Proposed amendment to sections 1 and 2 of the NFA Code of Arbitration (March 9, 1983).

[14] *See* Section 2 of the NFA Code of Arbitration.

[15] As noted previously, the Commission already has given notice of this proposal with respect to introducing brokers. Comments received in response to that notice will be considered in conjunction with this publication of the proposed rule amendments and need not be resubmitted.

[16] *See* comments of Gary J. Lekas, M. Van Smith, and Paine Webber Jackson & Curtis Incorporated in opposition. *See* comment of E. F. Hutton & Company, Inc. in support.

[17] *See e.g.*, comments of Drexel Burnham Lambert Incorporated.

[18] *See e.g.*, comments of Merrill Lynch Commodities, Inc., E. F. Hutton & Company, and Memel, Jacobs, Pierno and Gersh on behalf of Monex International, Ltd.

[19] *See* comments of the Chicago Board of Trade; the Coffee Sugar and Cocoa Exchange, Inc. and various members of that Exchange; the New Orleans Commodities Exchange; the MidAmerica Commodities Exchange; and the National Association of Securities Dealers.

[20] *See* comments of the National Futures Association and of the Chicago Board of Trade.

[21] The Commission notes that, contrary to the view of two commentators (Gary J. Lekas and M. Van Smith), it does not believe that any provision of the Community Exchange Act nor any court holdings would preclude the Commission from amending its rules to permit the use of pre-dispute arbitration agreements by which the parties thereto waive their right to reparations. Indeed, the Commission believes that, but for existing provisions in Part 180 of its regulations, such contractual waivers would be permissible.

[22] 48 FR 6720 (February 15, 1983).

[23] Commission consideration of such rule proposals has been scheduled for May 24, 1983.

In the light of the Commission's expectations of further substantial improvements in its ability to hear reparations proceedingsa on an expeditious basis, and the concerns expressed by various commentators, the Commission has determined not to amend § 12.21 and to retain the existing limitation in § 180.3 on the ability of a party to a pre-dispute arbitration agreement to waive his rights to a reparations proceeding. In reaching this conclusion, the Commission also notes the comments of the NFA and the Futures Industry Association to the effect that arbitration has the potential for relieving the pressure of reparations proceedings only if the public perceives it as a just, speedy and inexpensive forum for the resolution of claims, and that such perception can best be realized through the industry's own efforts.

In this regard, the past year has also seen the advent of NFA's arbitration program. That program, which commenced operation on March 31, 1983, directly involves a very large portion of the commodities industry.[24] The NFA program is particularly relevant to consideration of these proposed rules because it requires NFA members to participate in NFA arbitration proceedings initiated by customers, provide customers with the opportunity to have a matter heard by a mixed panel at a cost no greater than the cost of a non-diversified panel, and offers a customer the opportunity to have his complaint heard in a location generally convenient to the customer—typically, most major cities within the United States. In summary, the NFA Code of Arbitration provides customers as a right with the protections which the Commission was proposing to require as a prerequisite to an FCM's use of a pre-dispute arbitration agreement.

Notwithstanding its determination not to remove the existing restrictions on the use of pre-dispute arbitration agreements, the Commission has determined that other reasons support adoption of certain other proposed changes to Part 180. First, the 1982 reauthorization process demonstrated a continuing strong Congressional support for the use of arbitration as a means of dispute resolution and, second, notwithstanding considerable and significant progress in the Commission's ability to process and resolve reparations matters, the Commission continues to believe that it should pursue all fair and viable means of further reducing its burden of resolving disputes in reparations. The Commission believes the rule changes to Part 180 adopted herein will further enhance the attractiveness of arbitration as a means of dispute resolution, assure that FCMs which offer forums other than NFA for arbitraton provide at least one forum with arbitration attributes comparable to NFA,[25] and provide an even greater opportunity to assist in controlling the Commission's burden of reparations proceedings.

B. Section 180.2(a)

The Commission is amending § 180.2(a) to require that customers be provided with the choice of a panel or other decision-making body having at least a majority of the persons serving thereon who are not members of or associated with any member of a contract market, or employee thereof, and who are not otherwise associated with a contract market ("unaffiliated arbitrators"). Numerous commentators have stated that this amendment was overbroad and would eliminate large numbers of individuals with commodities market experience from the pool of available unaffiliated arbitrators. The Commission believes, however, that giving customers a choice of a panel whose unaffiliated arbitrators are not members of any contract market is essential to ensure that customers perceive arbitration to be as impartial as a reparations proceeding before an administrative law judge or litigation before a civil court judge. In this regard, the Commission notes that such a requirement reflects panel selection procedures of the National Association of Securities Dealers as well as draft commodities arbitration rules of the American Arbitration Association.[26]

Moreover, this requirement will have little practical effect if, as anticipated by the Commission, most contract markets designate the National Futures Association as an available arbitration forum under § 180.3(b)(4)(A). Under section 4a of the NFA Code of Arbitration, customers are entitled to the choice of a panel composed of a majority of persons who are not connected with an NFA member or NFA (except as NFA arbitrators). Since most members of contract markets will also be NFA members, such contract market members will in any case be subject to the panel membership restrictions of NFA rule section 4(a) regardless of Commission revision to § 180.3(b). Thus, the revised language of § 180.3(b) merely puts contract market panel selection procedures on an equal basis with that of NFA.

The Commission also has determined to amend § 180.2(a) in order to make clear that an arbitration panel may consist of one arbitrator. The Commission believes that arbitration organizations should be permitted to use one unaffiliated arbitrator as well as a panel with a majority of unaffiliated panelists in dispute resolution. In this regard, the Commission notes that both the New York Stock Exchange and National Association of Securities Dealers successfully use one person panels and that the arbitration rules of the National Futures Association authorize one person panels in cases in which the customer's claim is less than $5,000.[27] Moreover, the Commission has received comments supporting the use of one person panels.[28] Accordingly, the Commission concludes that under appropriate circumstances, one person panels are an acceptable means of arbitration and is amending § 180.2(a) to encourage experimentation by arbitration organizations along these lines. Finally, since § 180.2(e) addresses the issue of costs, the Commission is amending § 180.2(a) to delete the current language which permits costs incurred as a result of electing a mixed panel to be allocated among the parties.

C. Section 180.2(e)

As originally proposed, § 180.2(e) would have provided that contract market rules require contract market members which are parties to an arbitration proceeding to pay all costs other than any applicable initial filing fee, unless the arbitrators in a particular case determine that the customer has acted in bad faith in initiating the proceeding. The Commission has received substantial adverse comment with respect to that proposal. Essentially, the commentators contend that (1) the Commission is without

[24] NFA's arbitration program would apply to all FCMs which handle customer accounts and, through NFA Bylaw 1101 (which restricts the ability of NFA members to handle accounts of non-NFA members) all other introducing brokers, CPOs and CTAs which are members of NFA. It should further be noted that the Commission has under consideration a proposed rule which would require all FCMs to be a member of at least one registered futures association. *See* 47 FR 53031 (November 24, 1982).

[25] If, as anticipated, NFA is designated by one or more contract markets as their forum for arbitration, the amendments to Part 180 would operate to provide customers with the choice of at least two forums with these attributes for all matters relating to such contract markets.

[26] *See* section 15 of the NASD Code of Arbitration and sections 11–14 of the 1977 draft AAA Commodities Arbitration rules submitted by AAA in response to the Commission's 1981 proposal.

[27] *See* Section 4(a) of the NASD Code of Arbitration Procedure ("Simplified Arbitration") and Section 4(a) of the NFA Code of Arbitration.

[28] *See e.g.*, letter dated February 2, 1982, from Bartlett Commodity Investors, Inc.

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statutory authority to impose such a requirement, (2) the unqualified language in § 180.2(e) could be construed to include such expenses as a customer's travel and attorney expenses, and (3) such a requirement could encourage the filing of frivolous grievances and result in "forced" settlements by exchange members who would seek to avoid the expenses of arbitration.

The Commission believes that sections 5a(11) and 8a(5) of the Commodity Exchange Act provide ample authority for the Commission to require contract market members to bear the costs involved in establishing and maintaining an arbitration program as a condition to contract market designation. Nevertheless, the Commission notes that it never intended the words "all costs" to include expenses which are personal to the customer, such as travel expenses, attorney fees or discovery expenses that are not traditionally awarded as "costs" of a proceeding.[30] The Commission's essential concern is that customers not be required to bear the burden of any additional expenses, such as higher initial filing fees, resulting from their selection of a mixed panel as opposed to a non-diverse panel.

Accordingly, the Commission is amending §180.2(e) to require that the rules of a contract market must provide that a contract market member which is a party to an arbitration proceeding shall pay any incremental fees which a contract market may assess for providing a mixed panel, unless the arbitrators in a particular case determine that the customer has acted in bad faith in initiating or conducting the proceeding. The Commission expects that the applicability of a bad faith standard for such an allocation of costs against the customer would be unusual.[30] The Commission notes that § 180.2(e) currently provides that any other costs may be apportioned among the parties or may be assessed against the losing party as the panel or other decisionmaking body, in its discretion, sees fit. Thus, while contract market members will be required to pay the direct costs associated with a customer's selection of a mixed panel, the arbitration panel may allocate other expenses only under appropriate circumstances.

D. Section 180.3

As proposed, § 180.3(b)(1) would require the pre-dispute arbitration agreement to be contained in a separate document. This requirement was premised on the assumption that a separate document would focus customers' attention on the nature of the agreement and thus possibly ensure that the agreement would be entered knowingly. Numerous commentators, however, objected to this requirement. Essentially, those commentators contended that requiring a separate document would add additional costs without any further measure of protection than would be offered by separate endorsement within the customer agreement. Because the Commission has determined not to permit parties to waive their right to reparations through execution of a predispute arbitration agreement, the Commission does not believe that it is essential to provide the additional focus which would be achieved by requiring execution of a separate agreement. Accordingly, the Commission has determined not to amend § 180.3(b)(1).

The Commission's concern that customers make an informed decision with respect to the pre-dispute agreement, however, is reflected in the revised bold face language required on such agreements. Specifically, the Commission is amending the bold face language required by new § 180.3(b)(6) in order to more clearly and simply convey the significance of the arbitration agreement to the customer. In order to assure that customers comprehend the available alternative dispute resolution forums and fully understand that execution of a pre-dispute arbitration agreement is voluntary, the Commission will require the bold face language to emphasize the availability of both reparations and arbitration as means for dispute resolution and the fact that execution of the agreement may preclude the customer from seeking to litigate any disputes arising under the agreement. Moreover, in order to focus customer's attention on the fact that a customer need not sign the arbitration agreement in order to open an account, the Commission has moved such language to the end of the § 180.3(b)(6) paragraph immediately preceding the customer's signature. The Commission thus believes that such modifications in language will improve customer understanding of the arbitration agreement and its voluntary nature. In this regard, the Commission notes that it received a variety of comments regarding the implications of the bold face language and its placement within the paragraph.[31] The Commission believes however, that the language it is now adopting conveys the essential nature of the agreement and its significance and that further changes are unnecessary.

In order that a customer will not be bound to arbitrate in an unfavorable or distant forum without his or her consent, amended paragraph (b)(4) states that a pre-dispute agreement must advise the customer that he or she may select an arbitration forum when a dispute arises.[32] The FCM, floor broker or AP would be required to supply the customer with a list of at least two arbitration forums and the rules of procedure of those forums within 10 days after the receipt of the customer's notice that he or she intends to submit a dispute to arbitration. Should an FCM, floor broker or AP seek to initiate proceedings, notice to that effect would have to be accompanied by the list of forums and their applicable rules.[33] One of the possible forums on the list would have to be the contract market upon which the transaction giving rise to the dispute was or could have been executed, or a registered futures association designated by such contract market, unless the FCM or AP is not a member of such contract market. Either the contract market, its designee or another organization on the list would have to provide the customer with the opportunity to choose a site for the arbitration proceeding from among several cities throughout the country, in order to permit the customer to cite his preference of a reasonably convenient location. Of course, an FCM, floor broker, or AP would be free to include additional organizations on the list, provided their procedures comply with Commission regulation § 180.2.[34]

Several commentators correctly observed that as proposed, §180.3(b)(3) was silent on the effect of a failure by the customer to timely select an

[30] *See* 46 FR 60834, 60837 n.17 (December 14, 1981).

[30] *See e.g., Alyeska Pipeline Service Company* v. *The Wilderness Society*, 421 U.S. 240, 258–59 (1975).

[31] For example, some commentators believed that the bold face language would imply that arbitration is a biased procedure; some suggested that the pros and cons of arbitration and reparations be included in such language.

[32] One commentator suggested that a customer select a forum at the time of signing the agreement. The Commission believes, however, that customers should retain the right to select a forum at the time the dispute arises in order to be able to make an intelligent selection based upon the nature of the dispute and the current capabilities of the arbitration forums.

[33] Some commentators objected to the requirement of supplying the listed arbitration forums' rules to customers. The Commission believes, however, that such a requirement is necessary to assure an informed selection of a forum by customers. Moreover, the Commission notes that traditionally, arbitration forums provide copies of their rules at no cost.

[34] In addition to NFA, other possible alternative arbitration forums include the AAA, NASD and the New York Stock Exchange.

arbitration forum. In response to these concerns, the Commission is amending §180.3(b)(4) to require a customer to select an arbitration forum within 45 days after receipt of the list of available forums. Failure by the customer to make a selection within the 45 day period will give the opposing party the right to select the organization.

Other commentators stated that giving the customer the right to select the arbitration organization is unfair and may result in an abuse of this right by customers in an attempt to extract unwarranted settlements. The Commission believes, however, that such fears are premised on a misunderstanding of the Commission's intent with respect to the selection of arbitration forums. The Commission requires only that a customer be given the right to select the organization which will conduct the arbitration proceeding. The Commission does not require that the customer be given the absolute right to select the location of the actual proceeding, but rather to select an organization with the capability to provide an opportunity to conduct the proceeding in any of a number of cities. The Commission believes that the selection of the proceeding location should be governed by the rules of the selected organization and that those rules should address how a final determination as to location is made when a complainant and respondent disagree as to the most convenient location. In this regard, the Commission intends to carefully scrutinize the rules of those organizations which provide for arbitration in diverse geographic locations to assure that location selection procedures are fair and are made with due consideration of convenience to all the parties.

Finally, the language of §180.3(b)(4) concerning the requirement to provide a disinterested panel is amended to conform to the language of §180.2(a) (*see* discussion above) and new paragraph (b)(5) of §180.3 is amended from the version of that paragraph initially proposed to reflect the requirement of §180.2(e) that contract market members bear any incremental fees resulting from providing a mixed panel. Accordingly, this requirement for payment of incremental fees would be a condition of any pre-dispute arbitration agreement with a customer, regardless of whether the party making the agreement is a contract market member.

The language of new paragraph (b)(6) of §180.3 reflects certain revisions in the boldfaced language currently required by current §180.3(b)(4) and is designed to clarify the customer's understanding of the pre-dispute arbitration agreement. Finally, existing paragraph (b)(5) is renumbered §180.3(b)(7) and amended as discussed above in conjunction with the deletion of §180.5.

III. Proposals for Further Rulemaking

In proposing these amendments, the Commission had expressed its concern that customers who do not sign pre-dispute arbitration agreements may thereby forfeit the possible advantages which would be conferred by such agreements. Thus, the Commission requested comment on whether §180.3 should be amended further to provide that a customer would have the right to elect arbitration in a forum of his choice when a dispute arises, even though the customer did not enter into a pre-dispute agreement and whether, in any event, the cautionary language as proposed in new §180.3(b)(6) should contain a statement to that effect.[35]

In general, most commentators responding to this request contended that such further rulemaking would be undesirable since it could negate a customer's incentive to enter a pre-dispute agreement by leading the customer to believe he or she has nothing to gain by signing such an agreement. The Commission agrees that such further rulemaking is not necessary. The Commission notes, however, that even if a customer does not sign a pre-dispute arbitration agreement, the customer will retain the right under §180.2 to elect arbitration under the rules of a contract market and, if an NFA member is involved, under NFA arbitration rules. Since most futures commission merchants are NFA members, the resulting arbitration may ultimately be conducted under NFA rules which provide for arbitration on a national basis. Thus, although customers who do not enter a pre-dispute agreement will not be required to be afforded the choice of at least two organizations as provided for in §180.3(b)(4), they will most likely be afforded arbitration through an organization which operates on a national basis and will be subject to direct Commission oversight.

In its 1981 release the Commission also noted that one attribute of reparations is an evolving body of law which may be relied upon by industry participants and customers in ascertaining their rights and responsibilities under the Act and Commission regulations. The Commission questioned whether the use of diverse arbitration forums could result in a non-uniform application of the commodities laws, regulations and applicable self-regulatory rules and invited comments on this question and whether it should propose or implement any additional rules or procedures designed to assure that such questions of law are uniformly determined and subsequently applied.

While several commentators responded that the Commission should promulgate rules that would ensure uniform development and application of the law, the majority of commentators essentially concluded that the benefits of arbitration (*e.g.*, prompt resolution of disputes without the delay and cost of litigation) outweigh any possible drawbacks resulting from non-uniform decisions. The Commission agrees with those commentators who believe that the benefits of arbitration, which is intentionally structured as an informal proceeding, outweigh any potential problems of non-uniformity in decisions. Moreover, any lack of uniformity which may occur in arbitration decisions will not interfere with the uniform development of the law through court or administrative decisions since arbitration decisions by their nature have no precedential value. This is not to imply, however, that the Commission is in any manner limiting recognized grounds to challenge an arbitration award, such as when the award is in manifest disregard of the commodities laws or fundamentally irrational.[36]

The Commission believes that the success of any arbitration program rests in large part upon an informality uncomplicated by the procedural rules and legal maneuverings characteristic of civil and administrative proceedings. Indeed, the promulgation of any restrictive procedural requirements may only blur the distinction between arbitration and other more formal dispute resolution forums, add costs, and thereby offset those incentives which exist to use arbitration in lieu of other means of dispute resolution.[37]

[35] 46 FR 60834, 60837 (December 14, 1981).

[36] *See Wilko* v. *Swan*, 346 U.S. 427, 436–37 (1953); *Shearson Hayden Stone, Inc.* v. *Liang*, 493 F. Supp. 104, 106 (N.D. Ill. 1980), *aff'd* 653 F.2d 310 (7th Cir. 1981).

[37] The Commission notes that the conduct of arbitration proceedings under Part 180 has not been a significant subject of customer complaints to the Commission and that the Commission to date has declined to take review under section 8c of the Act of the very limited number of requests for review of exchange-sponsored arbitration proceedings which it has received. Should the Commission have reason to believe that a self-regulatory organization is not complying with any of its rules or the rules of the Commission, including those rules governing the conduct of arbitration proceedings, the Commission has ample authority under sections 5a(8), 5a(11), 8(a), and 17(b)(10) of the Act and Commission rules 1.51, 1.53, 170.8 and Part 180 to examine the conduct of such arbitration proceedings and to obtain any

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Finally, the Commission notes that the body of arbitration decisions resulting from the new program will not, in any case, alter the precedential value of reparations and civil court decisions.

III. Certification Under Regulatory Flexibility Act

In its 1981 proposal, the Chairman certified, on behalf of the Commission and pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that if the regulations were promulgated as proposed, there would not be a significant economic impact on a substantial number of small entities.[38] Subsequently, the Commission determined that contract markets, registered futures commission merchants, registered commodity pool operators and large traders are not "small entities" for purposes of that Act and that the requirements of the Regulatory Flexibility Act therefore did not apply to those entities.[39] With respect to other parties affected, the Commission continues to believe that these rules, as subsequently modified, will not have a significant adverse impact.[40] Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these rules will not have a significant economic impact on a substantial number of small entities.

IV. Final Rules

List of Subjects

17 CFR Part 170

Arbitration, Futures association.

17 CFR Part 180

Arbitration.

Pursuant to the authority in sections 5(a)(11), 17(b)(10) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(11), 21(b)(10) and 12a(5), the Commission is amending §§ 170.8, 180.1, 180.2, 180.3, 180.4, 180.5 and 180.6 of Chapter I of 17 CFR as follows:

PART 170—[AMENDED]

1. Section 170.8 of Part 170 is revised to read as follows:

records maintained by the self-regulatory organization concerning such proceedings.

[38] 46 FR 60634, 60637 (Dec. 14, 1981).

[39] 47 FR 18618 (April 30, 1982).

[40] Those modifications of the original proposal made to conform Parts 170 and 180 to the Futures Trading Act of 1982 do not change this determination. Moreover, Commission modification of its original § 180.2(e) proposal makes clear that contract market members and other parties to pre-dispute arbitration agreements with customers are only required to pay any incremental costs associated with a customer's selection of a mixed panel and not all costs.

§ 170.8 Settlement of customer disputes (Section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with Section 17(b)(10) of the Act and be consistent with Part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

PART 180—[AMENDED]

2. Section 180.1 of Part 180 is amended by revising paragraph (b) as follows:

§ 180.1 Definitions.

* * * * *

(b) The term "customer" as used in this part includes an option customer (as defined in § 1.3(jj) of this chapter) and any person for or on behalf of whom a member of a contract market effects a transaction on such contract market, except another member of that contract market.

3. Section 180.2 of Part 180 is amended by revising the introductory paragraph and paragraphs (a) and (e) as follows:

§ 180.2 Fair and equitable procedure.

Every contract market shall adopt rules which provide for a fair and equitable procedure through arbitration or otherwise for the settlement of customer's claims and grievances against any member or employee thereof which shall include at least the following as *minimum* requirements for a fair and equitable procedure:

(a) The procedure shall be objective and impartial. Customers must be provided with the choice of a panel or other decision-maker composed of one or more persons, of which at least a majority are not members or associated with any member of a contract market, or employee thereof, and are not otherwise associated with a contract market. The rules of a contract market may, with proper notice, require the customer to request such a panel or other such decision-maker at the time of submission of the claim or grievance to the procedure. *Ex parte* contacts by any of the parties with members of any panel or other decision-maker shall not be permitted.

* * * * *

(e) The procedure shall provide adequate notice to the parties in advance of a submission of a claim or grievance, or counterclaim (permitted by § 180.4 of this Part), of the nature and amount of any fees or costs which may be assessed against customers utilizing the procedure. Fees or costs shall be reasonable, particularly in relation to the complexity and amount of the claim or grievance or counterclaim, if any, presented. Costs may be apportioned among the parties or may be assessed against the losing party as the panel or other decision-maker, in its discretion, sees fit. The rules of a contract market, however, must provide that a contract market member which is a party to an arbitration proceeding shall pay any incremental fees which may be assessed by a qualified forum for provision of a panel or other decision-maker which conforms to the requirements of paragraph (a) of this subsection, unless the arbitrators in a particular proceeding determine that the customer has acted in bad faith in initiating or conducting that proceeding.

* * * * *

4. Section 180.3 of Part 180 is amended by redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(6) and (b)(7) and revising them, and new paragraphs (b)(4) and (b)(5) are added as follows:

§ 180.3 Voluntary procedure and compulsory payments.

* * * * *

(b)(4) The agreement must advise the customer that, at such time as he or she may notify the futures commission merchant, floor broker or associated person that he or she intends to submit a claim to arbitration, or at such time as the futures commission merchant, or associated person notifies the customer of its intent to submit a claim to arbitration, the customer will have the opportunity to elect a qualified forum for conducting the proceeding. Within ten business days after receipt of such notice from the customer, or at the time the futures commission merchant, floor broker or associated person so notifies the customer, the futures commission merchant, floor broker or associated person must provide the customer with a list of two or more organizations whose procedures qualify them to conduct arbitrations in accordance with the requirements of § 180.2 of this Part, together with a copy of the rules of each forum listed. The list must include: (A) the contract market, if available, upon which the transaction giving rise to the dispute was executed or could have been executed or a registered futures association designated by such contract market; and (B) at least one other organization which will provide the customer with the opportunity to select the location of the arbitration proceeding from among several major cities in diverse geographic regions and which will provide the customer with the choice of a panel or other decision-maker composed of at least one or more persons, of which at least a majority are not members or associated with a member of a contract market or employee thereof, and which are not otherwise associated with a contract market (mixed panel). The customer shall, within forty-five days after receipt of such list, notify the opposing party of the organization selected. A customer's failure to provide such notice shall give the opposing party the right to select an organization from the list.

(5) The agreement must acknowledge that the futures commission merchant, floor broker or associated person will pay any incremental fees which may be assessed by a qualified forum for provision of a mixed panel, unless the arbitrators in a particular proceeding determine that the customer has acted in bad faith in initiating or conducting that proceeding.

(6) The agreement must include the following language printed in large boldface type:

THREE FORUMS EXIST FOR THE RESOLUTION OF COMMODITY DISPUTES: CIVIL COURT LITIGATION, REPARATIONS AT THE COMMODITY FUTURES TRADING COMMISSION (CFTC) AND ARBITRATION CONDUCTED BY A SELF-REGULATORY OR OTHER PRIVATE ORGANIZATION.

THE CFTC RECOGNIZES THAT THE OPPORTUNITY TO SETTLE DISPUTES BY ARBITRATION MAY IN SOME CASES PROVIDE MANY BENEFITS TO CUSTOMERS, INCLUDING THE ABILITY TO OBTAIN AN EXPEDITIOUS AND FINAL RESOLUTION OF DISPUTES WITHOUT INCURRING SUBSTANTIAL COSTS. THE CFTC REQUIRES, HOWEVER, THAT EACH CUSTOMER INDIVIDUALLY EXAMINE THE RELATIVE MERITS OF ARBITRATION AND THAT YOUR CONSENT TO THIS ARBITRATION AGREEMENT BE VOLUNTARY.

BY SIGNING THIS AGREEMENT, YOU: (1) MAY BE WAIVING YOUR RIGHT TO SUE IN A COURT OF LAW; AND (2) ARE AGREEING TO BE BOUND BY ARBITRATION OF ANY CLAIMS OR COUNTERCLAIMS WHICH YOU OR [NAME] MAY SUBMIT TO ARBITRATION UNDER THIS AGREEMENT. YOU ARE NOT, HOWEVER, WAIVING YOUR RIGHT TO ELECT INSTEAD TO PETITION THE CFTC TO INSTITUTE REPARATIONS PROCEEDINGS UNDER SECTION 14 OF THE COMMODITY EXCHANGE ACT WITH RESPECT TO ANY DISPUTE WHICH MAY BE ARBITRATED PURSUANT TO THIS AGREEMENT. IN THE EVENT A DISPUTE ARISES, YOU WILL BE NOTIFIED IF [NAME] INTENDS TO SUBMIT THE DISPUTE TO ARBITRATION. IF YOU BELIEVE A VIOLATION OF THE COMMODITY EXCHANGE ACT IS INVOLVED AND IF YOU PREFER TO REQUEST A SECTION 14 "REPARATIONS" PROCEEDING BEFORE THE CFTC, YOU WILL HAVE 45 DAYS FROM THE DATE OF SUCH NOTICE IN WHICH TO MAKE THAT ELECTION.

YOU NEED NOT SIGN THIS AGREEMENT TO OPEN AN ACCOUNT WITH [NAME]. SEE 17 CFR 180.1–180.5.

Customer

(7) If the agreement specifies a forum for arbitration other than a contract market or registered futures association, the procedures of such forum must be fair and equitable as defined by § 180.2 of this Part.

5. Section 180.4 of Part 180 is revised to read as follows:

§ 180.4 Counterclaims.

A procedure established by a contract market under the Act for the settlement of customers' claims or grievances against a member or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought. The contract market may permit such a counterclaim where the counterclaim arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does not require for adjudication the presence of essential witnesses, parties or third persons over whom the contract market does not have jurisdiction. Other counterclaims are permissible only if the customer agrees to the submission after the counterclaim has arisen, and if the aggregate monetary value of the counterclaim is capable of calculation.

§ 180.5 [Removed]

6. Part 180 is amended by removing current § 180.5.

§ 180.6 [Redesignated as § 180.5]

7. Part 180 is amended by redesignating current § 180.6 as § 180.5.

Issued in Washington, D.C., on May 12, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-13150 Filed 5-16-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 628

Job Training Partnership Act (Pub. L. 97-300); Announcement of Procedures for Appeals to the Secretary of Labor on Denial of Service Delivery Area Designation Under Title I, Part A, Section 101(a)(4)(C); Job Training Partnership Act; Service Delivery System.

AGENCY: Employment and Training Administration, Labor.

SUMMARY: This notice announces procedures for appeals to the Secretary of Labor on denial of service delivery area (SDA) designation under Section 101(a)(4)(C) of the Job Training Partnership Act (JTPA), pursuant to § 628.1(c) of the final regulations for Titles I, II and III (48 FR 11080, March 15, 1983).

FOR FURTHER INFORMATION CONTACT: Robert Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street, NW., Room 6402, Washington, D.C. 20213, telephone number: (202) 376-6093.

SUPPLEMENTARY INFORMATION: Section 101(a)(4)(C) of JTPA and § 628.1(c) of the final regulations permit certain entities to appeal a Governor's denial of SDA designation to the Secretary. These entities are defined in Section 101(a)(4)(A) of the Act. As indicated in § 628.1(c)(2) of the regulations, the Secretary will only accept appeals dated no later than 30 days after receipt of written notification of denial by the Governor. Decisions will be based strictly on the basis of whether or not the Governor's denial is inconsistent with Section 101 of the Act. The regulations provide the address for appeal submittal and require simultaneous submittal of the appeal to the Governor.

Section 628.1(c)(3) of the final regulations provides that the appealing party shall explain why it believes denial of designation is contrary to the provisions of Section 101 of the Act. In order for the Secretary to make an informed decision, the appealing party should provide all relevant information

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in the appeal. This includes, at a minimum:

- An explanation of the provision of Section 101 that is at issue.
- Documentation that the appealing party is an entity provided for under Section 101(a)(4)(A) of the Act.
- A copy of SDA designation procedures provided by the Governor.
- A copy of the Governor's proposed and final SDA designations.
- A copy of the appealing party's request for designation.
- A copy of the Governor's notification of denial of designation and evidence of the date of receipt of such denial.

Governors may wish to submit similar or additional information with their comments on an appeal. Since the Secretary will make a final decision within 30 days of receipt of an appeal, Governors will need to submit their comments to the Secretary very quickly in order for them to be considered. A letter acknowledging the Secretary's receipt of an appeal and establishing a due date for receipt of comments will be sent to the appropriate Governor by the Assistant Secretary of Labor for Employment and Training.

Paperwork Reduction Act Clearance

This notice was submitted to and approved by OMB under the Paperwork Reduction Act. The control number assigned to this document by OMB is 1205–0202.

Signed this 4th day of May 1983.

Joyce Kaiser,

Associate Assistant Secretary for Employment and Training.

[FR Doc. 83–12827 Filed 5–16–83; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 83N–0074]

Antibiotic Drugs; Netilmicin Sulfate Injection

Correction

In FR Doc. 83–11135, beginning on page 18799, in the issue of Tuesday, April 26, 1983, on page 18800, in the third column, in § 444.48(a)(1), in the fifth line, "B" should read "β".

BILLING CODE 1505–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

Correction

In FR Doc. 83–11007, appearing on page 18804, in the issue of Tuesday, April 26, 1983, in the first column, the **EFFECTIVE DATE** should read "April 26, 1983".

BILLING CODE 1505–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

Correction

In FR Doc. 83–11005, appearing on page 18803, in the issue of Tuesday, April 26, 1983, in the second column, in the sixth line from the bottom, "360" should read "360b", and in the third column, in the fourth line "360" should read "360b".

BILLING CODE 1505–01–M

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21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Walnut Grove Products providing for use of an 0.08-gram-per-pound bambermycins premix for making finished swine feeds used for increased rate of weight gain and improved feed efficiency in growing-finishing swine.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Walnut Grove Products, Division of W. R. Grace & Co., 201 Linn St., Atlantic, IA 50022, is sponsor of NADA 132–983 providing for use of an 0.08-gram-per-pound bambermycins premix. The premix is used to manufacture finished feed for growing-finishing swine for increased rate of weight gain and improved feed efficiency. The application is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information (FOI) summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.95 is amended by adding new paragraph (b)(5) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(b) * * *

(5) Premix level of 0.08 gram of bambermycins activity per pound for use as in paragraph (e)(2) of this section granted to No. 034139 in § 510.600(c) of this chapter.

* * * * *

Effective date. May 17, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 10, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83–13114 Filed 5–16–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Good-Life, Inc., providing for use of a 48-gram-per-pound pyrantel tartrate premix to make a 9.6-gram-per-pound pyrantel tartrate intermediate premix for making complete swine feeds.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Good-Life, Inc., Good Life Drive, P.O. Box 687, Effingham, IL 62401, is sponsor of NADA 134–286 submitted on its behalf by Pfizer, Inc. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix to make a 9.6-gram-per-pound pyrantel tartrate intermediate premix for making complete swine feeds used for aid in prevention of migration and establishment of large roundworm *(Ascaris suum)* infections, for aid in prevention of establishment, removal and control of nodular worm *(Oesophagostomum)* infections, and for removal and control of large roundworm *(Ascaris suum)* infections.

The basis for approval of this NADA is discussed in the freedom of information (FOI) summary. The NADA is approved and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.485 is amended by adding new paragraph (a)(14) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(14) To No. 021810: 9.6-grams-per-pound, paragraph (e) (1) through (3) of this section.

* * * * *

Effective date. May 17, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 10, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83–13115 Filed 5–16–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–134; Re: Notice No. 429]

Merritt Island Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Yolo County, California, known as "Merritt Island." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: June 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lori D. Weins, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 [202–566–7626].

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 [43 FR 37672, 54624] revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 [44 FR 56692] which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural area, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Chris Bogle, Secretary of Bogle Vineyards, Incorporated, located on Merritt Island, petitioned ATF for the establishment of a viticultural area in Yolo County, California, to be known as "Merritt Island." In response to this Petition, ATF published a notice of proposed rulemaking [Notice No. 429] in the **Federal Register** on November 3, 1982 [47 FR 49866] proposing the establishment of the Merritt Island viticultural area.

Comments

No comments were received during the 45-day comment period. On the basis of the information contained in the petition, ATF is establishing the Merritt Island viticultural area as proposed. The boundary of the Merritt Island viticultural area is described in § 9.68.

Evidence of the Name

The name of the area, Merritt Island, was well documented by the petitioner. After evaluating the petition, ATF believes that Merritt Island had a unique historical identity and that the viticultural area is known by the name "Merritt Island."

Geographical Evidence

The petition contained geographical and climatic information which distinguished the area from surrounding areas, based on the fact that:

(a) The area consists of an island, bounded on the west and north by Elk Slough, Sutter Slough on the south, and the Sacramento River on the east.

(b) The type of soil primarily consists of Columbian Sandy Loam, while areas to the east consist of Sierra loam type soils, areas to the west consist of adobe and clay type soils, and areas to the south consist of Peat Dirt (an organically structured soil).

(c) The climate of Merritt Island is tempered by cooling southwesterly breezes from the Carquinez Straits near San Francisco. The influence of this breeze creates a 10 degree Fahrenheit

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cooler median temperature than the City of Sacramento, located six miles north. The climate of the islands to the south are often influenced by fog cover from San Francisco Bay, whereas, Merritt Island very seldom receives this fog cover since it is the northern most island in the Sacramento Delta.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this regulation is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is Lori D. Weins, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.68 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.68 Merritt Island.

Par. 2. Subpart C, is amended to add the title of § 9.68 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.68 Merritt Island.

(a) *Name.* The name of the viticultural area described in this section is "Merritt Island."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Merritt Island viticultural area are two U.S.G.S. maps, 7.5 minute series. They are entitled:

(1) "Clarksburg Quadrangle, California," 1967 (Photo revised 1980); and

(2) "Courtland Quadrangle, California," 1978.

(c) *Boundaries.* The Merritt Island viticultural area includes approximately 5,000 acres, located in Yolo County, California, six miles south of the City of Sacramento. The boundaries of the Merritt Island viticultural area, using landmarks and points of reference found on the U.S.G.S. maps submitted with the petition, are as follows: starting at the most southernly point, the intersection of Sutter Slough with the Sacramento River, west along the course of Sutter Slough for 0.54 miles until it intersects Elk Slough; northeast along the course of Elk Slough for 9.58 miles to the community of Clarksburg and the intersection of the Sacramento River; southwesterly along the course of the Sacramento River for 7.8 miles to the beginning point.

Signed: April 12, 1983.

Stephen E. Higgins,

Director.

Approved: April 29, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-13028 Filed 5-16-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Outer Continental Shelf; Notice of Interpretation of Rules Concerning Extension of a Lease Beyond Its Primary Term

Correction

In FR Doc. 83-11923 beginning on page 20227 in the issue of Thursday, May 5, 1983, make the following correction.

On page 20228, first column, twelfth line, "Section 250.2" should read "Section 250.12".

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 73

Post Employment Conflicts of Interest; Procedures for Enforcement of Disciplinary Actions

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary amends the Standards of Conduct regulations by establishing procedures to be used in enforcing disciplinary actions in cases where post employment conflicts of interest are found to exist. The Ethics in Government Act of 1978 (the Act) defines and prohibits conflicts of interest that a former Federal employee must avoid. These regulations apply to the Department of Education's management practices and former employees.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Werksman, Division of Business and Administrative Law, Office of the General Counsel, Department of Education, 400 Maryland Avenue, S.W. (Room 4129, FOB-6), Washington, D.C. 20202. Telephone: (202) 755-1106.

SUPPLEMENTARY INFORMATION:

Background

Under the sections of the Act that address the problem of post employment conflicts of interest, two prohibitions (sections 207 (a) and (b)(i)) apply to all former Federal employees.

The first prohibition (section 207(a)) permanently prohibits every former Federal employee from serving as another person's representative before the Government on a case, grant, or contractual matter, or other similar proceeding or application in which the employee participated personally and substantially while a Government employee.

The second prohibition (section 207(b)(i)) is basically the same bar as the first, except that it prohibits representation by personal presence on all such matters which were actually pending under the former employee's "official responsibility" in his or her last year of Government service. This prohibition applies for two years from the date of separation.

Briefly, to have participated "personally and substantially" means that the former employee must have been directly involved and that that involvement must have been significant to the matter, i.e., more than just knowledge or perfunctory involvement. "Official responsibility" means the direct authority, either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions. These terms are fully defined in regulations issued by the Office of Government Ethics at 5 CFR Part 737.

The other prohibitions under the Act apply only to "Senior Employees," that is, Presidential Appointees and those designated by the Director of the Office of Government Ethics pursuant to the Act. To be so designated a position must involve significant decisionmaking or supervisory responsibility and be at a basic rate of pay of GS-17 or above or within the Senior Executive Service.

The first of these prohibitions forbids Senior Employees from representing or making any oral or written communication on behalf of anybody in connection with a particular matter before the Department, regardless of the extent of their prior involvement with the matter, for one year from the date of separation. This is known as the "cooling off" requirement.

An important exception to the "cooling off" requirement applies to former Senior Employees whose principal occupation or employment is with an agency of a State or local government, including public school systems, or with an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965. The exception also applies to those former Senior Employees elected to a State or local government office.

The second prohibition bars former Senior Employees from representing, or assisting in representing, any person before the Government, or in any proceedings involving the Government, in any particular matter involving specific parties and which was actually pending under the former employee's official responsibility in his last year of Government service. This prohibition lasts for two years.

For violation of these prohibitions, the Act imposes criminal penalties including fines of up to $10,000 or imprisonment of up to two years or both (18 U.S.C. 207 (a), (b), (c)). But, the Act also contemplates that many conflict of interest cases will not be egregious enough to merit criminal prosecution.

As a result, the Act provides that the former employee's agency may take appropriate disciplinary action when the prohibitions are violated (18 U.S.C. 207(j)). Disciplinary action could include barring the former employee from doing business with the agency for up to five years.

Amendment to § 73.735-1207: Restrictions—conflicts-of-interest statutes:

These regulations establish the procedures that the Department will use in enforcing prohibitions under the Act that apply to post employment conflicts of interest. More specifically, they provide—

- Preliminary notification—under the Act whenever the Secretary or the Secretary's designee has reason to believe that a former Department employee has violated the prohibitions in the Act, a disciplinary proceeding may be instituted but not without first providing a written preliminary notice.
- Conferences—a former Department employee may confer with the Secretary's designee concerning allegations of misconduct regardless of whether a disciplinary proceeding has already been instituted against him or her.
- Initiation of Disciplinary Proceedings—if after an investigation is made and preliminary notice is given, it is determined that there is reasonable cause to believe that a former employee has violated any prohibitions in the Act, a copy of formal written charges of the violation is served upon the former employee.
- Hearing—after a former employee receives the notice of charges made, he or she may request a hearing.
- Appeal—after a written decision is made by the Secretary, the former employee has fifteen (15) days in which to appeal the decision.

Exception to Rulemaking Requirements

It is the policy of the Department to allow time for interested parties to participate in the rulemaking process. However, these regulations are excepted from requirements for the publication of proposed rules under 5 U.S.C. 553 (a)(2) and 553(b)(A).

List of Subjects in 34 CFR Part 73

Conflict of interest, Government employees, Standards of conduct, Post employment conflicts of interest, Former Federal employees.

Dated: May 12, 1983.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance number not applicable)

The Secretary amends Subpart L of Part 73, Subtitle A of Title 34 as follows:

PART 73—STANDARDS OF CONDUCT

Subpart L—Special Provisions Relating to Special Government Employees and Consultants

1. In § 73.735-1207, paragraph (c) is amended by inserting "(1)" following "18 U.S.C. 207", and by adding subparagraphs (2) through (8) to read as follows:

§ 73.735-1207 Restrictions—Conflict-of-interest statutes.

* * * * *

(c) * * *

(2) *Scope.* The Secretary establishes the procedures that will govern the discipline of a former employee of the Department of Education because of his or her involvement in a post employment conflict of interest.

(3) *Definitions.* The following definitions apply to this section—

"Act" means the Ethics in Government Act of 1978.

"Department" means the Department of Education.

"Days" means calendar days.

"Former employee" means any person who had previously worked for the Department whether in a permanent or temporary position, paid or unpaid, e.g., consultants, but does not include an individual who performed services for the Department as an independent contractor under a personal service contract.

"Secretary" means the Secretary of Education.

"Secretary's designee" means the General Counsel of the Department, unless the former employee was a member of the staff of the Office of the General Counsel. In that case, the Secretary designates some other person, not connected with the Office of the General Counsel, but working within the Department, to carry out the duties of the "Secretary's designee."

(4) *Preliminary Notification.* (i) Whenever the Secretary or the Secretary's designee has reason to believe that a former employee of the Department has violated the Act under

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18 U.S.C. 207(a), (b), or (c), the Secretary or the Secretary's designee may institute a disciplinary proceeding against that former employee in accord with these procedures.

(ii) Except in cases of willfulness, or where time, the nature of the proceeding, or the public interest does not permit, a proceeding is not to be instituted under this section until the facts which may warrant such action have been called to the attention of the former employee, in writing, in a preliminary notice, and he or she has been accorded the opportunity to provide, either personally, at a conference, or in writing, his or her position on the matter.

(iii)(A) If the Secretary's designee determines that a former employee has violated the Act under 18 U.S.C. 207(a), (b), or (c), and that a preliminary notice would be appropriate, the Secretary's designee sends, by certified mail return receipt requested, a preliminary notice within ten (10) days of such determination.

(B) If a former employee wishes to provide a statement or arrange for a conference, he or she is to do so within ten (10) days of receipt of the preliminary notice.

(C) If the Secretary's designee receives no answer to the preliminary notice within twenty (20) days of the date it was sent, the Secretary's designee institutes disciplinary proceedings against the former employee in accord with these procedures.

(5) *Conferences.* (i) The Secretary's designee may confer with a former employee of the Department concerning allegations of misconduct regardless of whether a disciplinary proceeding has already been instituted against him or her.

(ii) The former employee is to be permitted to have his or her attorney, or other representative of his or her choosing, present during the conference.

(iii) If such conference results in a stipulation in connection with a proceeding in which the former employee is the respondent, the stipulation may be entered in the record at the instance of either party to the proceeding.

(iv) A former employee, in order to avoid the institution of a disciplinary proceeding, may offer his or her consent to any appropriate disciplinary action suggested during the course of the conference.

(v) A former employee against whom a disciplinary proceeding has already been commenced may consent to any appropriate disciplinary action authorized by paragraph (c)(8)(v) of this section and suggested during the course of the conference.

(vi) The Secretary's designee may discipline the former employee in accord with the consent offered during the conference within the limits of the Act at 18 U.S.C. 207(j).

(6) *Initiation of disciplinary proceedings.* (i) If the Secretary's designee determines, after investigation and preliminary notice where appropriate, that there is reasonable cause to believe that a former employee of the Department has violated the Act under 18 U.S.C. 207 (a), (b), or (c), the Secretary's designee causes a copy of the formal written charges of the violation(s) to be served upon the former employee, either in person or by registered mail.

(ii) The formal charges must incorporate or be accompanied by an order to the former employee to show cause why disciplinary measures should not be taken against him or her under the Act. The show cause order must be answered within thirty (30) days of receipt of the order. If, five (5) days after expiration of the thirty (30) day period, no answer has been received, the Secretary's designee renders a decision by default against the former employee.

(iii) The order to show cause must include:

(A) A statement of allegations, and the bases thereof, sufficiently detailed to enable the former employee to prepare an adequate defense;

(B) Notification of the right to a hearing if requested within thirty (30) days of receipt of the show cause order;

(C) An explanation of the method by which a hearing may be requested; and

(D) Notice that a decision by default may be rendered against the former employee if he or she fails to submit an answer within thirty (30) days of receipt of the order.

(iv) The Secretary's designee takes appropriate disciplinary action, based on the record, in the case of the former employee who answers the charges but fails to request a hearing within thirty (30) days after receiving the notice and order to show cause.

(7) *Hearing.* (i) When the former employee, after receiving the notice of the charges made against him or her, requests a hearing, the Secretary's designee appoints a presiding official, entitled Examiner, to make an initial decision.

(ii) The Examiner is to be a responsible person who—

(A) Is a member of the Bar of a State or of the District of Columbia;

(B) Is impartial; and

(C) Has not participated in any manner in the decision to initiate the proceedings.

(iii) The Examiner establishes the time, date, and place of the hearing, giving due regard to the former employee's need for adequate time to prepare a defense properly, and to the expeditious resolution of the allegations that may be damaging to the former employee's reputation.

(iv) The hearing must include, but is not limited to, the following rights for both parties:

(A) To represent oneself or to be represented by counsel;

(B) To introduce and to examine witnesses and to submit physical evidence;

(C) To confront and to cross-examine adverse witnesses;

(D) To present oral argument; and

(E) To receive a transcript or recording of the hearing on request.

(v) The Department has the burden of proof in any hearing under this section and establishes the violation based on substantial evidence.

(vi) The Examiner has thirty (30) days after the hearing ends in which to submit a written decision based exclusively upon matters of record in the proceedings. The Examiner sets forth in the decision all findings of fact and conclusions of law relevant to the matters in issue.

(vii) The Examiner causes at least one (1) copy of the written decision to be delivered to the Secretary's designee, and one (1) copy to the former employee, either in person or by registered mail.

(viii) The Examiner is provided administrative and secretarial support by the Deputy Under Secretary for Management.

(8) *Appeal.* (i) Either party has fifteen (15) days from the date of the written decision in which to appeal to the Secretary. The Secretary renders a decision, based solely upon the record of the proceedings, or on that portion of the record cited by the parties in order to limit the issues, within forty-five (45) days of receiving the appeal.

(ii) If the Secretary finds, based on the record, that the respondent former employee has not violated the Act under 18 U.S.C. 207 (a), (b), or (c), the Secretary dismisses the case.

(iii) If the Secretary dismisses the case, the former employee may be entitled to an award of attorney's fees and other fees and expenses incurred during the proceedings under the Equal Access to Justice Act, 5 U.S.C. 504.

(iv) If the Secretary finds, based on the record, that the former employee is in violation of the Act under 18 U.S.C. 207 (a), (b), or (c), the Secretary issues an order prescribing appropriate disciplinary action authorized by paragraph (c)(8)(v) of this section.

(v) Appropriate disciplinary action comports with the requirements of the Act under 18 U.S.C. 207(j). Thus, the Secretary may—

(A) Prohibit the former employee from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, the Department on a pending matter of business for a period not to exceed five (5) years, or

(B) Take other appropriate disciplinary action, such as issuance of a formal reprimand, designed to deter unlawful conduct and to encourage officials to exercise a high degree of caution in their subsequent activities as private citizens.

(vi) If a former employee is subjected to appropriate disciplinary action, the Secretary's designee issues a directive to all employees of the Department cautioning them not to engage in conduct in regard to the former employee which would contravene the disciplinary order.

(vii) The directive to all employees of the Department will contain the name of the former employee and a statement of the disciplinary action.

(viii) A former employee who is subject to disciplinary action under this section may, within thirty (30) days of the date of the order, appeal such order to an appropriate United States District Court as guaranteed by the Act under 18 U.S.C. 207(j).

* * * * *

[FR Doc. 83-13221 Filed 5-16-83; 8:45 am]

BILLING CODE 4000-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. G-47]

Use of Cash To Procure Emergency Passenger Transportation Services Costing More Than $100

Correction

In FR Doc. 83-12736 appearing on page 21327 in the issue of Thursday, May 12, 1983, make the following correction:

In the first column of page 21327, under "**DATES**", the expiration date now given as "May 13, 1983" should have been "May 13, 1985".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6376

[CA-7377]

California; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 790.20 acres for use as Stock Driveway. This action will restore the public land to operation of the public land laws generally.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hoefler, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated January 15, 1937, which established Stock Driveway No. 249, California No. 18, is hereby revoked:

San Bernardino Meridian

T. 1 N., R. 3 E.,
Sec. 34, lots 1 to 4, inclusive, S½NW¼, and N½S½.
T. 1 S., R. 3 E.,
Sec. 2, lots 3, 4, SW¼NE¼, S½NW¼, and SE¼;
Sec. 12, NW¼NW¼.

The above described lands aggregate 790.20 acres in San Bernardino County.

2. At 10 a.m. on June 14, 1983, the lands will be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 14, 1983, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 9, 1983.

[FR Doc. 83-13176 Filed 5-16-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6377

[W-58830]

Wyoming; Partial Revocation of Phosphate Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Executive Order of July 2, 1910, as it affects 13,470.59 acres withdrawn for phosphate classification. This action will restore 12,550.42 acres to such uses as may be made of national forest lands. A total of 12,610.87 acres will be opened to nonmetalliferous mining. The remaining 859.72 acres will not be opened to surface entry or mining due to overlapping withdrawals and private ownership.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and the request of the U.S. Geological Survey, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Phosphate Reserve No. 4 (Wyoming No. 1), is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 116 W.,
(Partially Surveyed):
Sec. 3, SE¼NW¼ (west part of lot 4), SW¼NW¼, and SW¼;
Sec. 4, NW¼NE¼, S½NE¼, NW¼, and S½;
Secs. 5 to 9, inclusive;
Sec. 10, W½;
Sec. 14, W½;
Secs. 15 to 22, inclusive;
Sec. 23, W½NW¼;
Sec. 27, lot 5, W½NE¼, NW¼, N½SW¼, and SW¼SW¼;
Secs. 28 to 30, inclusive;
Sec. 31, W½E½, and W½;
Sec. 32, lots 1, 2, N½NE¼, and NE¼NW¼;
Sec. 33, E½W½, and NW¼NW¼;
Sec. 34.

The area described aggregates 13,470.59 acres of land in Tenton County, Wyoming.

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2. At 10:00 a.m., on June 14, 1983, all of the lands described in paragraph 1, except the following lands, shall be open to nonmetalliferous mineral location. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

T. 39 N., R. 116 W.,
Sec. 3, SE¼NW¼ (west part of lot 4), SW¼NW¼, E½SW¼, and E½SW¼ SW¼;
Sec. 14, HES 188;
Sec. 17, E½SE¼;
Secs. 18 and 19, HES 38;
Sec. 19, N½ of lot 1, NE¼, and E½NW¼ of lot 3, SW¼SE¼SW¼NE¼, W½SW¼ NE¼, NW¼NE¼NW¼, S½NE¼NW¼, E½SE¼NW¼, N½NE¼SW¼, NW¼NE¼SW¼, and NW¼NW¼ SE¼;
Secs. 18, 19, 20, 27, 30, and 31; (that part of the lands included in Forest Service withdrawals, PLO's 1923 and 2726)
Sec. 27, S½SW¼NE¼;
Sec. 34, HES 198.

The area being open to nonmetalliferous mineral location contains approximately 12,610.87 acres in Teton County, Wyoming.

3. At 10:00 a.m., on June 14, 1983, all of the lands described in paragraph 1, except as provided in paragraph 2, and those lands included in Powersite Classification Withdrawal No. 286 in Sections 3, 4, 14, 22, 23, 27, 32 and 34; and lot 2, W½SE¼NW¼ of Section 19, which have been conveyed from United States ownership, shall be opened to such forms of disposition as may by law be made of national forest lands.

All of the lands described in paragraph 1, except as provided in paragraph 2, have been and will continue to be open to applications and offers under the mineral leasing laws and to metalliferous mineral location.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 9, 1983.

[FR Doc. 83-13169 Filed 5-16-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6378

[U-0139388]

Utah; Revocation of Reservoir Site No. 9

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew 3,360 acres for the Otter Creek Reservoir Site. This action will restore 1,720 acres to operation of the public land laws generally, including the mining laws. Approximately, 1,560 acres are privately owned and not subject to disposition under the public land laws. Another 80 acres, owned by the State of Utah with all minerals reserved to the United States, will also be opened to mining. All public and State lands affected by this order have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801-524-4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated April 19, 1962, which created Reservoir Site No. 9 is hereby revoked in its entirety as to the following described lands:

Salt Lake Meridian, Utah

T. 30 S., R. 2 W.,
Sec. 1, SW¼NW¼, NW¼SW¼;
Sec. 2, S½NE¼, SE¼;
Sec. 10, E½NE¼, SE¼;
Sec. 11, N½, SW¼, NW¼SE¼;
Sec. 14, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 15, E½, E½NW¼, SW¼;
Sec. 21, E½E½, SW¼SE¼;
Sec. 22, N½NE¼, SW¼NE¼, W½, W½SE¼;
Sec. 27, NW¼NE¼, NW¼, W½SW¼;
Sec. 28, N½, NE¼SW¼, N½SE¼, SE¼SE¼.

The area described aggegates 3,360 acres in Piute County.

2. The public lands listed in this paragraph will be open to operation of the public land laws.

Salt Lake Meridian

T. 30 S., R. 2 W.,
Sec. 1, SW¼NW¼, NW¼SW¼;
Sec. 2, S½NE¼, S½SW¼, SE¼;
Sec. 10, E½NE¼, SE¼;
Sec. 11, N½SW¼, NW¼SE¼;
Sec. 14, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 15, E½, E½NW¼, SW¼.

The area described aggregates 1,720 acres in Piute County.

3. The lands described in this paragraph are privately owned and will not be restored to operation of the public land laws.

Salt Lake Meridian

T. 30 S., R. 2 W.,
Sec. 1, SW¼NW¼;
Sec. 2, S½NE¼, SE¼;
Sec. 11, W½NE¼, E½NW¼, SW¼;
Sec. 14, N½NW¼, SW¼SE¼, SE¼SW¼;
Sec. 15, NE¼, N½SE¼, SW¼SE¼, SE¼SW¼;
Sec. 21, SE¼SE¼;
Sec. 22, E½NW¼, SW¼NW¼, W½SW¼;
Sec. 27, W½NW¼;
Sec. 28, NE¼NE¼, S½NE¼, N½SE¼, SE¼SE¼.

The area described aggregates 1,560 acres in Piute County.

4. The lands described in this paragraph are owned by the State of Utah with all minerals reserved to the United States.

T. 30 S., R. 2 W.,
Sec. 28, SE¼NW¼, NE¼SW¼.

The area described aggregates 80 acres in Piute County.

5. At 10 a.m. on June 14, 1983, the public lands, except as provided for in paragraphs three and four, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 14, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 10 a.m. on June 14, 1983 the lands described in paragraphs two and four shall be open to location for minerals under the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands described in paragraphs 2 and 4 have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 9, 1983.

[FR Doc. 83-13177 Filed 5-16-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6379

[I-010828]

Idaho; Partial Revocation of a Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order as it affects 120 acres of land withdrawn for stock driveway purposes. This action will restore the land to surface entry. It has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2634 of March 20, 1962, which withdrew land for use as a livestock driveway is hereby partially revoked insofar as it affects the following described lands:

Boise Meridian, Idaho

[I-01828]

Public Land Order No. 2634

T. 14 S., R. 16 E.,
Sec. 10, N½SW¼, SW¼SW¼.

The area described contains 120 acres of public land in Twin Falls County.

2. At 7:45 a.m. on June 14, 1983, the land described will be open to operation of the public land laws subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on June 14, 1983, shall be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been and will remain open to the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building Box 042, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 9, 1983.

[FR Doc. 83-13166 Filed 5-16-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6380

[W-41022]

Wyoming; Partial Revocation of Military Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will partially revoke a military withdrawal insofar as it affects 226.75 acres at Fort Riley, Kansas. This action will restore 13.90 acres to operation of the public land laws, but not the mining laws. The remaining 212.85 acres are located within a Recreation and Public Purposes lease and, as such, will not be subject to other use or disposition under the public land laws. All lands revoked have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2540.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of May 5, 1855, which withdrew public lands for the Fort Riley Military Reservation is hereby partially revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Kansas

T. 11 S., R. 5 E.,
A tract of land situated in Sections 22 and 27 described by metes and bounds as follows: Commencing at the triangulation station "Corner", having coordinates N. 273,770.15 E. 2,323,384.55, in the Fort Riley Military Reservation, from which station the first angle point northerly in said boundary bears N. 16°25'25" E., 5463 ft., and the northwest corner of said Section 22 bears approximately N. 39°47' W., 4057 ft., horizontal datum herein being the Kansas State (Lambert) Plane Coordinate System, North Zone; thence S. 70°46'20" W. along said boundary, 1,365 ft.; thence S. 4°06'10" E. along said boundary, 367.28 ft.; thence S. 30°24'10" W. along said boundary, 477.98 ft. to the center of U.S. Highway No. 77, being the point of beginning of the tract herein described; thence S. 3°57'20" W. along the center of said highway, approximately 1,827 ft. to the center of the Republican River; thence N. 50°12'40" W. in a northwesterly direction upstream along the center of said river, being said reservation boundary, approximately 818 ft. to a line which bears S. 30°07'40" W. from the point of beginning; thence N. 30°07'40" E. along said reservation boundary, approximately 1,503 ft. to the point of beginning.
T. 11 S., R. 6 E.,
Tract 38 (Section 34).
T. 12 S., R. 6 E.,
Tract 38 (Sections 3 and 4).

The area described contains 226.75 acres in Geary County, Kansas.

2. At 10 a.m. on June 14, 1983, the lands described in T. 11 S., R. 5 E., shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 14, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The above described Tract 38 in Tps. 11 and 12 S., R. 6 E., has been classified under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.). Therefore, the land will not be subject to other use or disposition under the public land laws.

All of the lands described in paragraph one have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 9, 1983.

[FR Doc. 83-13172 Filed 5-16-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6381

[OR-20291 (WASH)]

Oregon; Revocation of Stock Driveway Withdrawal No. 268

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew 160.45 acres of public land for use as a stock driveway. The land is included in two powersite classifications, a power project and a reclamation project and will remain closed to surface entry and

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mining. It has been and remains open to mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 6, 1943, which withdrew the following described public land for stock driveway purposes is hereby revoked in its entirety:

Willamette Meridian

Stock Driveway No. 268

T. 17 N., R. 23 E.,
Sec. 20, lots 4 and 5;
Sec. 28, lots 1, 2, 3, and 4.

The area described contains 160.45 acres in Grant County.

2. The land remains closed to operation of the public land laws including location under the United States mining laws by Power Project No. 2114 of July 22, 1952, Columbia Basin Reclamation Project of June 18, 1947, Powersite Classification No. 349 of June 22, 1944, and Powersite Classification No. 405 of April 4, 1950.

3. The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 9, 1983.
[FR Doc. 83–13174 Filed 5–16–83; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6382

[U–13099]

Utah; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes two Secretarial Reclamation Withdrawal Orders for the Central Utah Project. This action will restore 550 acres to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial First Form Reclamation Withdrawal Orders of June 11, 1943, and November 14, 1955, for the Vernal Unit, Central Utah Project, are hereby revoked insofar as they affect the following described lands:

Salt Lake Meridian, Utah

T. 3 S., R. 21 E.,
Sec. 24, E½SW¼, NW¼SW¼;
Sec. 25, NW¼NW¼, S½NW¼, SW¼.
T. 4 S., R. 21 E.,
Sec. 3 SW¼NE¼, S½SE¼NW¼, S½N½ SE¼NW¼, NW¼SW¼;
Sec. 4, SW¼SE¼.

The area described aggregates 550 acres in Uintah County.

2. At 10 a.m. on June 14, 1983, the public lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, provisions of existing withdrawals, and requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 14, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands described above will be open to location and entry under the United States mining laws at 10 a.m. on June 14, 1983. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 9, 1983.
[FR Doc. 83–13171 Filed 5–16–83; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6383

[W–71436]

Wyoming; Public Land Order No. 6335, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in a description of lands contained in Public Land Order No. 6335 of September 10, 1982, which partially revoked a Secretarial order as it affected 3,851.66 acres of public land withdrawn for reclamation purposes.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT:
W. Scott Gilmer, Wyoming State Office 307–772–2540.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 6335 of September 10, 1982, as published in FR Doc. 82–24850, appearing at page 39826 in the issue of Friday, September 10, 1982, in the first column, thirtieth line reads "T. 58 S." It is hereby corrected to read "T. 58 N."

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 9, 1983.
[FR Doc. 83–13175 Filed 5–16–83; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6384

[C–28611]

Colorado; Powersite Restoration No. 777; Partial Revocation of Powersite Reserve No. 496

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive Order, as amended, as to 27.97 acres of land withdrawn for powersite reserve purposes. This action will remove the withdrawal and permit consummation of the pending Forest Service Exchange. The land will remain closed to surface entry and mining by the exchange application, but remains open to mineral leasing.

EFFECTIVE DATE: June 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office, 303–837–2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–517–Colorado, dated April 14, 1982, it is ordered as follows:

1. The Executive Order of August 25, 1915, as amended by Secretarial Order of July 19, 1930, which withdrew national forest land for powersite reserve purposes is hereby revoked as to the following described land:

Sixth Principal Meridian

Roosevelt National Forest

Powersite Reserve No. 496

T. 1 S., R. 71 W.,
Sec. 6, lots 38 and 48.

The area described contains 27.97 acres.

2. Effective immediately, the 27.97 acres of land herein described shall be available for disposal under the General Exchange Act of March 20, 1922, 44 Stat. 465, as amended, 16 U.S.C. 485, 486, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. The land has been and remains open to mineral leasing but is closed to surface entry and entry under the U.S. Mining Laws by Forest Service Exchange Application C–30117.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 9, 1983.
[FR Doc. 83–13170 Filed 5–16–83; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6385

[Nev–042819]

Nevada; Partial Revocation of Two Secretarial Orders and Five Departmental Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will partially revoke two Secretarial orders and five Departmental orders as far as they affect approximately 5,120 acres of public land withdrawn for reclamation purposes. Approximately 4,572 acres are under other withdrawals, and will remain closed to the public land laws, including mining and mineral leasing. The remainder will be opened to operation of the surface land laws. This portion has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: June 15, 1983.

FOR FURTHER INFORMATION CONTACT:
Vienna Wolder, Nevada State Office, 702–784–5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C 1714, it is ordered as follows:

1. Secretarial Orders of July 2, 1902, and September 30, 1907, and Departmental Orders of July 2, 1902, July 9, 1904, April 20, 1907, December 2, 1907, and March 6, 1908, are hereby revoked as far as they affect the following described land:

Mount Diablo Meridian

T. 20 N., R. 24 E.,
Sec. 4:
Sec. 5, Lots 10 thru 17, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 8, Lots 10 and 11, NE¼NE¼;
Sec. 9, Lots 13 thru 16, 18 thru 20, 22, and 23;
Sec. 10, Lots 6 thru 9.
T. 19 N., R. 28 E.,
Sec. 7, All except lots 1 thru 12, NE¼NW¼;
Sec. 8, All except lots 1 thru 4, E½, NE¼NW¼, SE¼SW¼.
T. 18 N., R. 29 E.,
Sec. 16, NE¼, N½SE¼.
T. 19 N., R. 30 E.,
Sec. 2, Lots 3, 4, S½NW¼;
Sec. 3, N½, SW¼;
Sec. 4:
Sec. 8, N½SW¼, SW¼SE¼, NW¼SE¼ SE¼, S½SE¼SE¼;
Sec. 9, SW¼SE¼;
Sec. 16, SW¼NE¼NW¼, SE¼NW¼ NW¼, S½SE¼SE¼;
Sec. 17, NE¼NE¼NE¼, S½NE¼NE¼, N½NW¼NE¼, S½SW¼NE¼, N½NW¼, N½SW¼NW¼, SW¼SW¼NW¼, SE¼NW¼, NW¼NE¼SW¼, N½NW¼SW¼;
Sec. 20, NW¼SW¼NE¼, SE¼NE¼NW¼, E½SE¼NW¼, NE¼NE¼SW¼, S½SE¼SW¼, W½NE¼SE¼, NW¼SE¼, NE¼SW¼SE¼, S½SW¼ SE¼
Sec. 21, N½NE¼NW¼, NE¼NE¼NE¼.
T. 20 N., R. 30 E.,
Sec. 33, S½;
Sec. 34, S½;
Sec. 35, SW¼, W½SE¼.

The area described contain 5,119.78 acres.

Approximately 4,572 acres are located either in the Pyramid Lake Indian Reservation or the Fallon Indian Reservation. The areas described in T. 18 N., R. 29E., and T. 19 N., R. 28 E., contain 548 acres of public land.

2. At 9:00 a.m. on June 15, 1983, the public lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of publication to 9:00 on June 15, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands have been and will continue to be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. The remaining lands are within the Pyramid Lake and Fallon Indian reservations and will remain segregated from operation of the public land laws generally, including mining and mineral leasing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 10, 1983.
[FR Doc. 83–13173 Filed 5–16–83; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30506–76]

Foreign Fishing; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical correction.

SUMMARY: This rule updates the tables of radio frequencies which the U.S. Coast Guard monitors for foreign fishing reports. It also announces a new location and telex number for the Pacific Area, caused by the relocation of the Coast Guard's Pacific Area offices from San Francisco to Alameda, California.

EFFECTIVE DATE: May 17, 1983.

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FOR FURTHER INFORMATION CONTACT:

Susan E. Jelley, F/M12, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, 202–634–7432.

Dated: May 12, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

PART 611—[AMENDED]

§ 611.4 [Amended]

50 CFR Part 611, § 611.4, Tables I and II, are revised to read as follows:

* * * * *

(b) * * *

TABLE I

Area	National Marine Fisheries Service	U.S. Coast Guard	Telex
Pacific Ocean:			
Off Hawaii and insular possessions in the Pacific	Southwest Region, Terminal Island, CA	14th District, Honolulu, HI	392401
Off California, Oregon, and Washington	Northwest Region, Seattle, WA	Pacific Area, Alameda, CA	172343
Off Alaska	Alaska Region, Juneau, AK	17th District, Juneau, AK	099–45305
Atlantic Ocean		Atlantic Area, New York, NY	126831
North of Cape Hatteras	Northeast Region, Gloucester, MA		
South of Cape Hatteras, the Gulf of Mexico, and the Caribbean Sea	Southeast Region, St. Petersburg, FL		

TABLE II

Station	Call sign	Radiotelegraphy kHz	Radiotelegraphy MHz	Radiotelegraphy Time [1]	Voice Channel [2]	Voice GMT time
Boston	NMF	500		All	B	All
Portsmouth	NMN	500	8, 12	All	A	0200–1200
					B, C	All
					D	1200–0200
					E	(On request)
Miami	NMA	500		All	B	All
San Juan	NMR	500	8, 12	All	None	"
			16	Day		
New Orleans	NMG	500		All	A	0200–1200
					B, C	All
					D	1200–0200
					E	(On request)
Alameda	NMC	500	8	All	A, B, C	All
			6	Night	D, E	(On request)
			16	Day		
Honolulu	NMO	500	8, 12	All	A, B, C	All
			22	Day	D, E	(On request)
Guam	NRV	500		All	None	
			8, 12	Night		
Kodiak	NOJ	500		All	B	All
					A, C, D and E	(On request)

[1] Day means 2 hours after sunrise until 2 hours before sunset, local time. Night means 2 hours before sunset until 2 hours after sunrise, local time.

[2] Carrier frequencies of duplex, high-frequency single-sideband channels are:

Letter	Shore transmit	Ship transmit
A	4428.7	4134.3
B	6506.4	6200.0
C	8765.4	8241.5
D	13113.2	12342.4
E	17307.3	16534.4

[FR Doc. 83-13249 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 96
Tuesday, May 17, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The FDIC, having determined that it is not unlawful under the Glass-Steagall Act for an insured nonmember bank to establish or acquire a bona fide subsidiary that engages in securities activities nor for an insured nonmember bank to become affiliated with a company engaged in securities activities, proposes to: (1) Define bona fide subsidiary, (2) limit a bank's permissible investment in a securities subsidiary, (3) require notice of intent to invest in such a subsidiary, (4) limit the permissible securities activities of nonmember bank subsidiaries, and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities.

DATE: Comments must be received by July 18, 1983.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division (202–389–4171), Room 4126E, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: On August 23, 1982, the Board of Directors of the FDIC adopted a policy statement concerning the applicability of the Glass-Steagall Act to securities activities of subsidiaries of insured nonmember banks. The policy statement which was published in the **Federal Register** on September 3, 1982 (47 FR 38984) concluded that, in the opinion of the Board of Directors, the Banking Act of 1933 (popularly known as the Glass-Steagall Act and codified in various provisions of title 12 of the United States Code) does not by its express terms prohibit an insured nonmember bank from establishing an affiliate relationship with or organizing or acquiring a subsidiary corporation that engages in the business of issuing, underwriting, selling or distributing stocks, bonds, debentures, notes, or other securities. Although the policy statement was not designed to address the safety or soundness of such activities, it did state that the FDIC recognized its ongoing responsibility to ensure the safe and sound operation of banks and that, depending on the facts, potential risks can be inherent in a bank subsidiary's involvement in particular securities activities. In keeping with that statement, on September 20, 1982, the FDIC adopted an Advance Notice of Proposed Rulemaking (47 FR 42121; September 24, 1982) designed to solicit comment on the need, if any, for rulemaking with regard to securities activities of subsidiaries of nonmember banks and affiliates of nonmember banks. The notice requested comment on "whether or not it is inherently unsafe or unsound for a bank's subsidiaries to engage in securities or whether there is a need to condition or restrict such activities (on a case-by-case basis or by regulation) even though they may not be inherently unsafe or unsound in all instances."

Comment was specifically directed to the following: (1) Whether it is inherently unsafe or unsound for insured nonmember banks to establish or acquire subsidiaries that will engage in securities activities or for insured nonmember banks to be affiliated with the business engaged in securities activities; (2) whether certain securities activities when engaged in by subsidiaries of insured nonmember banks pose safety and soundness problems whereas others do not; (3) whether, and in what circumstances, securities activities of insured nonmember banks should be considered unsafe or unsound; (4) whether securities activities of subsidiaries present conflicts of interest that warrant restricting the manner in which the bank may deal with its securities subsidiary (or its securities affiliate), or the manner in which common officers or employees may function, etc.; (5) should securities activities be limited to subsidiaries of banks of a certain asset size, banks with a certain composite rating, etc.; (6) should nonmember banks obtain FDIC's prior approval before establishing or acquiring subsidiaries that engage in securities activities (in all cases, in some cases, or not at all); (7) do the potential benefits, if any, that would be available to insured nonmember banks as a result of competing in the securities area through subsidiaries offset potential disadvantages to the bank; and (8) are there any perceived public harms in insured nonmember banks embarking on such activities. Additionally, comment was requested on the propriety of defining the term "bona fide subsidiary" and whether certain listed criteria should be included in that definition.

In conjunction with this proposal, and in addition to carefully considering the comments received in response to the advance notice, the FDIC closely reviewed the purposes of the Glass-Steagall Act. The Glass-Steagall Act was, in many respects, a reaction to the collapse of the banking industry in the 1930's. The legislative history of that statute documents numerous securities related practices prevalent at that time which were felt to pose hazards to the safety and soundness of banks and which were further seen as contributing to, if not causing, the banking collapse. The Supreme Court in *Investment Co. Institute* v. *Camp*, 401 U.S. 617, 630–633 (1971) reviewed and determined to be invalid a regulation by the Comptroller of the Currency permitting national banks to establish and operate "collective investment funds". The Court in doing so discussed the legislative history of the Glass-Steagall Act and articulated the hazards associated with the direct and indirect involvement of banks in securities activities.

The legislative history of the Glass-Steagall Act shows that Congress * * * had in mind and repeatedly focused on the more subtle hazards that arise when a commercial bank goes beyond the business of acting as fiduciary or managing agent and enters the investment banking business either directly or indirectly by establishing an affiliate to hold and sell particular investments. The course places new promotional and other

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pressures on the bank which in turn create new temptations. *Camp* at 630.

The temptations identified by the Supreme Court were: (1) The association of the affiliate and the bank in the public's mind could impair public confidence in the bank should the affiliate fare badly; (2) the temptation to shore up the affiliate through bad loans; (3) the temptation to readily make the bank's credit facilities available and make unsound loans to companies in whose stock the affiliate has invested; (4) loss of customer good will if a customer suffers loss after investment in a stock or security associated with a bank affiliate; (5) the promotional interest of investment banking might cause a bank to lend its reputation to the sale of particular stocks and thus risk the undercutting of its reputation; (6) the temptation to make loans for the purpose of acquiring stock or securities sold by the bank's affiliate; (7) the inherent conflict between a bank's promotional interest and its obligation to render impartial investment advice; and (8) the unloading of poor issues by securities affiliates into the trust department of the bank.

The propriety of, and hazards associated with, direct and indirect involvement of banks in securities activities has been the focus of recent legislative proposals, much debate and testimony, and several legal challenges. This proposal is a recognition by the FDIC that at least some of those hazards can and do exist even though, in the FDIC's opinion, a bank's involvement in securities activities is not unsafe or unsound in all instances. This is so especially in view of the highly regulated atmosphere in which the banking and securities industries function today which was not present in 1930. Rather than deny insured nonmember banks the opportunity of acquiring or forming securities subsidiaries because of the presence of some risk, the FDIC is proposing to eliminate or lessen the risks that can be present by placing a number of restrictions on a nonmember bank's indirect involvement in the securities area.

The proposed regulation was prepared with the aid of comments submitted in response to FDIC's Advance Notice of Proposed Rulemaking. Thirty-eight comments were received over the sixty-day comment period which ended on October 25, 1982. The comments were generally favorable to FDIC's position as set forth in the September 3 policy statement. Three comments were received, however, that were of the opinion that FDIC's policy statement is legally incorrect. The comments were about evenly divided on the need for rulemaking. The most prevalent comment from those opposing any rulemaking was that existing supervisory mechanisms (including FDIC's cease-and-desist authority) are sufficient tools to safeguard bank safety in light of existing securities law and regulations. Some commentors rejected rulemaking as premature and recommended that the FDIC strike a wait-and-see attitude. Those who recognized some purpose to be served by a regulation at this point in time generally observed that securities activities by bank subsidiaries (and/or a bank's relationship with a securities affiliate) are not necessarily unsafe or unsound but can present conflicts of interest.

The conflicts of interest were generally identified by the commentors as connected with the lending function of a bank. Suggested ways to deal with the conflict of interests and ensure the safe and sound operation of banks that are affiliated with and/or have subsidiaries that engage in securities activities included: (1) Disclosure, (2) limiting insider dealing, (3) limiting permissible investments in a securities subsidiary, (4) simply requiring that all dealings with the subsidiary or affiliate be on an "arms length basis", (5) establishing capital guidelines for the subsidiary, (6) prohibiting a bank with a securities subsidiary or affiliate from giving investment advice to its customers, (7) restricting bank entry into the securities area by use of composite rating, asset size, etc., (8) prohibiting a bank from establishing or acquiring a subsidiary that underwrites securities, (9) prohibiting a bank from establishing or acquiring a subsidiary that underwrites equity securities, (10) requiring banks to obtain FDIC approval prior to establishing or acquiring a securities subsidiary, and (11) requiring banks to establish written procedures governing the operation of the subsidiary and the bank's relationship thereto. Five commentors opposed any approval requirement as well as the use of asset size or composite rating to limit entry.

On the issue of defining "bona fide subsidiary" only four of those commenting felt a definition was inappropriate. Seven commentors felt that the bank's subsidiary should be able to use the bank's facilities in order to reduce the cost of operation. All those addressing a capital requirement and the need for separate corporate formalities were in favor of both. Five commentors felt that the bank and the subsidiary should be able to use the same or similar names and the same management. Three commentors suggested that the FDIC adopt the standard corporate law test in determining whether a corporation is a separate entity similar names and the same management. Three commentors suggested that the FDIC adopt the standard corporate law test in determining whether a corporation is a separate entity or an alter ego of another corporation.

After due consideration, the FDIC has determined to propose a regulation the basic features of which are: (1) Notice of intent to invest in a securities subsidiary; (2) no prior approval requirement; (3) no formalized restrictions on bank entry based on asset size or composite rating; (4) a prohibition on a nonmember bank establishing or acquiring a subsidiary that underwrites securities unless the underwriting activity is on a "best efforts" basis, is restricted to top rated debt securities, or is the underwriting of a money market fund type mutual fund; (5) a twenty percent of capital ceiling on a bank's investment in one or more securities subsidiaries; (6) a limit on the amount of loans or extensions of credit that a bank may make to its securities subsidiary or affiliate; (7) a prohibition on loans for the purpose of acquiring securities underwritten or distributed by the bank's subsidiary or affiliate or the acceptance of such securities as collateral on a loan or extension of credit; (8) prohibiting loans or extensions of credit to companies whose securities are underwritten by the bank's subsidiary or affiliate unless the securities are highly rated; (9) prohibiting the purchase by the bank's trust department in its sole discretion of securities distributed, underwritten or issued by the bank's subsidiary or affiliate; and (10) prohibiting the transaction of business through the bank's trust department with the bank's securities subsidiary or affiliate unless those transactions are comparable to transactions with an unaffiliated securities company. Additionally, the proposed regulation contains a definition of bona fide subsidiary which requires that, in order for the subsidiary to be considered bona fide, the subsidiary be adequately capitalized; its operations be physically separate from that of the bank; separate records and corporate formalities be observed; separate employees be maintained; and that the subsidiary function independently from, and not be identified with the bank. Further

explanation of the provisions of the proposed regulation follow.

1. Bona Fide Subsidiary

The proposed definition of bona fide subsidiary includes elements typically used by courts in determining whether or not an entity is the alter ego of another corporation. In defining bona fide subsidiary as it has, the FDIC is not necessarily indicating that any association between a bank and its securities subsidiary in the public mind could harm the reputation of the bank. The definition is designed rather to ensure the separateness of the subsidiary and the bank inasmuch as the bank is prohibited by the Glass-Steagall Act from engaging in many securities activities that would otherwise be permissible to a nonbanking corporation. If the subsidiary is not sufficiently distinct from the parent bank, the subsidiary may be found to be the alter ego of the bank and the bank held to be engaging in securities activities in violation of the Glass-Steagall Act.

Among the listed criteria contained in the definition is that the operation of the subsidiary be physically separate from that of the bank. The subsidiary's operations need not be conducted in a building other than the one in which the parent bank is located or one not owned or leased by the parent bank so long as it is clear from the location of the subsidiary's offices, and access thereto, that the subsidiary's operation is distinct from that of the bank. Just how physically separate the operations are will play a role in determining whether or not the subsidiary conducts business separately from, and is not identified with, the banking business of the parent bank. Separate employees, observance of separate corporate formalities, and maintenance of separate records also play a role in that determination.

The FDIC is presently of the opinion that the subsidiary should have a different name from the bank in order for the subsidiary's business not to be identified with the banking operations of its parent. A different name is not only relevant in determining whether the subsidiary will be considered an alter ego of the bank, it is seen by the FDIC as important in preventing public confusion as to the insured status of investments placed with the subsidiary. Insured nonmember banks should note that if the subsidiary conducts only activities that the bank could itself conduct, the need for the subsidiary not to be identified with the bank is reduced. The FDIC would still, however, require that there be sufficient differentiation between the bank and its subsidiary in advertisements, promotions, etc. so as to avoid any public misconception as to the insured status of any accounts or other investments held by the subsidiary. Comment is specifically requested as to whether or not the proposed regulation should expressly reflect the above or whether a different name than the parent bank is not necessary in order for the securities activities of the subsidiary not to be identified with the bank.

As articulated by the courts, the presence of adequate capital is one of the most important factors in the inquiry as to the bona fide status of a separate corporation. Adequate capital is also very important from a safety and soundness point of view as the parent bank is less likely to be harmed if the subsidiary has adequate capital and thus can itself absorb losses as well as liabilities arising from the securities operations. The FDIC has not proposed a definition of adequate capital inasmuch as the adequacy of any particular subsidiary's capital can vary from a safety and soundness point of view. The FDIC would, of course, expect that the bank's subsidiary will comply with any applicable capital requirements imposed by the Securities and Exchange Commission ("SEC") or imposed under State law. This is merely a starting point, however, and the FDIC reserves the right to determine that the subsidiary's activities and/or the parent bank's condition warrant that the subsidiary be capitalized over and above any such requirement. It is FDIC's intention to make such an assessment during the "notice" period (see subparagraph d of the proposal) and to inform the bank whether in FDIC's opinion the capital position of the subsidiary is adequate. It is FDIC's belief that such a flexible approach will better serve FDIC's supervisory interest of ensuring the safety and soundness of insured nonmember banks.

2. Underwriting

The proposal is designed, in part, to limit a bank's indirect exposure to the risks associated with the underwriting of securities. Subparagraph b(1)(i) of the proposal prohibits a bank from establishing or acquiring a subsidiary that underwrites securities unless the subsidiary's underwriting activities in which the bank itself cannot lawfully engage meet one of three alternative requirements: (1) The subsidiary's underwriting activities are on a "best efforts" basis; (2) the subsidiary's underwriting activities are confined to underwriting of top rated debt securities, or (3) the subsidiary underwrites shares in mutual funds that invest solely in investments traditionally associated with money market funds.

"Best efforts" underwriting within the meaning of this proposal is an underwriting wherein the underwriter agrees only to use best efforts to sell an issue but does not agree to purchase any unsold securities for its own account. Inasmuch as the subsidiary will not be at risk in underwriting a security (be it debt or equity, rated or unrated) if the underwriting is on a "best efforts" basis, the possibility of any adverse impact to the parent bank arising from the "best efforts" underwriting of its subsidiary is lessened, if not removed. Furthermore, the conflicts of interest as articulated by the Supreme Court in *ICI* v. *Camp* are also minimized especially when the lending restrictions contained elsewhere in this proposal are taken into consideration.

If a bank subsidiary chooses to engage in firm commitment or any other non-"best efforts" underwriting, the proposal limits the underwriting to top rated debt obligations. Equity securities may not be underwritten on other than a "best efforts" basis. Equity securities as a class pose more risk to an underwriter than do debt securities. It is because of the relative safety of debt obligations, coupled with the fact that many insured nonmember banks are themselves familiar with the underwriting of debt obligations, that the FDIC opted to distinguish between debt and equity securities and prohibit nonmember banks from establishing or acquiring a subsidiary that underwrites the latter. No similar restriction on the affiliation of nonmember banks with securities companies that underwrite equity securities is being proposed. There would appear to be less of a possibility that losses suffered by the bank's parent or sister affiliate due to the underwriting of equity securities will have adverse impact on the bank. This is so especially if the parent's ability to move funds out of the bank is limited. One of the purposes of the restrictions imposed by this proposal on insured nonmember banks when lending to securities affiliates is to limit the parent's ability to do so.

The proposal alternatively permits the establishment or acquisition of a subsidiary that underwrites mutual funds if the fund's investments are exclusively limited to the types of investments associated with money market funds, *i.e.*, bank certificates of deposit, bankers' acceptances, United States government obligations, obligations of the United States government agencies, etc. Mutual funds that are more speculative in nature, *i.e.*,

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whose value per share tend to fluctuate more due to the nature of the investments (commodities, futures contracts, oil leases, equity securities) may not be underwritten other than on a "best efforts" basis. The distinction is being drawn as to money market fund type mutual funds under the proposal as it is FDIC's belief that such funds tend to be more stable. The underwriting of such funds by insured nonmember bank subsidiaries should therefore pose less risk to insured nonmember banks.

The proposal represents a compromise from among a number of alternatives which included prohibiting securities underwriting altogether or limiting underwriting solely to "best efforts". The proposal as structured permits insured nonmember bank subsidiaries some flexibility in their securities activities and yet offers more protection to the parent bank than would, for example, a totally open-ended approach. The FDIC is specifically interested in receiving comments on whether an insured nonmember bank's ability to establish or acquire a securities underwriting subsidiary should be limited in the fashion described above, should be limited in some other manner, should be prohibited entirely, or does not need to be restricted so long as the subsidiary is bona fide.

3. Filing of Notice

The written notice requirement is designed to apprise the FDIC of a bank's intent to establish or acquire a subsidiary that engages in any securities activity including acting as an adviser to an investment company. Notice is to be filed with the regional office for the region in which the bank is located. Notice of intent is not limited to underwriting activities as from a supervisory standpoint, the FDIC has an interest in being aware of any indirect securities activities of an insured nonmember bank. The proposal further requires that, in addition to the 60-day advance notice, a bank file written notice with the regional office within 10 days after the acquisition is consummated or the subsidiary commences operation, whichever is first. This will provide FDIC with information as to which insured nonmember banks pursued to completion their planned acquisition or establishment of a securities subsidiary.

The proposal does not specify the content of the written notice of intent. By not specifying the content of the notice, the FDIC is permitting a bank to satisfy the notice requirement in any way it finds most convenient. For example, if the subsidiary will be registered with the SEC, a copy of the SEC filing may simply be forwarded to the appropriate FDIC regional office.

It is the FDIC's intent to use the notice as a point of reference and for the regional office to contact the bank seeking further information if the bank's condition or other facts warrant a closer review. The proposal thus requires that the notice be received in the regional office at least 60 days prior to the acquisition or commencement of operation, whichever is first. The 60-day notice period can be waived at the FDIC's discretion where such period is impracticable, *i.e.*, where the acquisition is the result of a purchase and assumption transaction or an emergency merger. The notice requirement is not an approval process although the FDIC would not be precluded from intervening in the intended acquisition or establishment of the subsidiary if such intervention was warranted (for example, if the subsidiary would not appear to meet the requirements for a bona fide subsidiary).

The proposal does not require written notice when a bank becomes affiliated with a securities company. For the most part, affiliation with a securities company will arise out of a change in bank control or come to FDIC's attention when a bank seeks deposit insurance. As the FDIC will become aware of the affiliation in both instances prior to consummation, there is no need to create an additional notice requirement under this proposal.

4. Lending Restrictions

Paragraph (e) contains several restrictions designed to prevent the abuse of a bank's credit facilities. Such abuse can arise in several ways, such as, the making of loans in order to maintain or create a market for securities underwritten or distributed by the bank's subsidiary or affiliate. The proposal thus prohibits both the acceptance of securities distributed or underwritten by the bank's subsidiary or affiliate as collateral on loans and the making of loans for the purpose of acquiring such securities. It also seeks to address the temptation for a bank to make unsound loans to companies whose securities are underwritten or distributed by the bank subsidiary or affiliate in an effort to improve the condition of the company and the marketability of the securities that are underwritten or distributed. The FDIC considered prohibiting all loans to companies whose securities are underwritten by a bank's subsidiary or affiliate but rejected that approach as overly broad. Instead the proposal prohibits a bank from lending to any such company unless the securities are rated (prior to the loan) by a nationally recognized rating service and the rating is in the top four rating categories. As there would seem to be less of an incentive to make questionable loans for the purpose of maintaining or creating a market for a company's securities where the securities are highly rated and thus marketable, there would appear to be little or no reason to prohibit lending to such companies.

It should be noted that paragraph (e)(3) of the proposal will have the effect of prohibiting loans to mutual funds whose shares are underwritten or distributed by a bank's subsidiary or affiliate. This is so because a mutual fund is a "company" within the meaning of that term under the proposal and the shares of a mutual fund are not rated. Loans to mutual funds that are money market funds are separately treated under paragraph (e)(4). Consideration was given to exempting mutual funds and money market funds from the reach of paragraphs (e)(3) and (e)(4). Such an exemption was rejected inasmuch as such a fund's credit needs are most likely to arise when the fund is having liquidity problems. (If interest rates should rise sharply and large numbers of shareholders, especially institutional investors, redeem their shares to put their money directly into higher-paying investments, a fund could face a liquidity crisis.) A bank may be tempted a make an unsound loan to the fund in order to prevent the fund from suffering a loss by selling portfolio assets at a depressed price to meet liquidity needs.

Money market funds have been targeted within the lending prohibition despite the relative stability of most money market funds. At present there is no self-regulatory organization such as the National Association of Securities Dealers ("NASD") to watchdog money market funds, *i.e.*, inspect funds to make sure their books are in order and that they are obeying SEC rules barring such things as management self-dealing and misleading advertising. The SEC has urged that such a group be formed so that bookkeeping problems and fraudulent conduct can be detected early, avoiding loss to investors. Presently the SEC has only 45 fund inspectors to cope with 1,830 mutual funds (including money market funds) registered with the SEC as of September 1982. As of that date those funds had total assets of $315 billion which represented a growth from $74 billion in assets over a seven-year period. (As of February 1983 the total asset figure for mutual funds dropped to $291.1 billion.)

Paragraph (e)(7), rather than (e) (3) or (4), is controlling when considering loans or extensions of credit to a mutual fund or a money market fund that is a subsidiary of an insured nonmember bank as that term is defined in the proposal. The bank is permitted to lend to the fund but the loans are subject to the restrictions found in section 23A of the Federal Reserve Act (12 U.S.C. 371c). The difference in treatment is being proposed as it was initially felt that the protections supplied by the restrictions of section 23A when a bank lends to a related mutual fund, that are not present when lending to an unrelated fund, may warrant permitting loans to the former under paragraph (e)(7) while not permitting loans to the latter under subparagraphs (e) (3) or (4). Comment is specifically directed to whether unrelated and related funds alike should be treated the same and given the benefit of being able to obtain loans if the provisions of section 23A are observed.

Paragraphs (b)(1)(i), (e)(3), and (e)(4) of the proposal when read together provide that a bank may lend to all companies whose debt securities are underwritten by the bank's subsidiary and all companies whose non-debt securities are rated and are underwritten by the bank's subsidiary. (The non-debt securities must be underwritten on a "best efforts" basis in order to comply with (b)(1)(i)). Paragraphs (e)(3) and (e)(4) also expressly cover indirect as well as direct loans. The prohibition thus covers a situation where an individual obtains a loan and transfers the proceeds to a comply whose securities are underwritten or distributed by the bank's subsidiary or affiliate, *i.e.*, the language of paragraphs (e)(3) and (e)(4) is designed to prevent evasion of the prohibition simply by running the loan through another party.

Paragraph (e)(7) subjects extensions of credit to the bank's subsidiary to the same loan ceiling that would be applicable under section 23A of the Federal Reserve Act if the subsidiary were an affiliate for the purposes of that statute. Loans or extensions of credit to the bank's affiliate as that term is defined herein are already covered by the language of section 23A and thus placing affiliates under the restrictions of paragraph (e)(7) does not establish any additional requirements. Paragraph (e)(8) covers loans or extensions of credit to an investment company advised by a bank's subsidiary and places those extensions of credit under the same restrictions that would have been applicable under section 23A of the Federal Reserve Act had that subsidiary been an affiliate within the meaning of section 23A. Risks can be present even where a bank subsidiary merely advises an investment company. Section 23A covers extensions of credit to investment companies advised by bank affiliates thus placing affiliates under the restrictions of subparagraph (e)(8) does not establish any additional requirements. The FDIC is interested in receiving public comment on whether or not the proposed regulation should prohibit the making of any extension of credit to the bank's securities subsidiary or a subsidiary that acts as an investment adviser to an investment company rather than permitting such extensions of credit if they comply with section 23A.

5. Trust Department Restrictions

One of the safety and soundness problems associated with securities activities of subsidiaries and affiliates of nonmember banks is dumping of poor securities into the bank's trust department. The proposal seeks to eliminate that risk by prohibiting an insured nonmember bank from purchasing, in its sole discretion as fiduciary or co-fiduciary on behalf of any trust account, securities distributed, underwritten or issued by the bank's subsidiary or affiliate. Purchasing of securities distributed or underwritten by an investment company advised by the bank's subsidiary or affiliate is also prohibited. The proposal would permit either purchase if the bank is directed to do so. This provision of the proposal, as well as the provision which requires all trust department transactions with the bank's subsidiary or affiliate to be comparable to transactions with unrelated securities companies (see paragraph (e)(2)), merely restates the common law obligation of a fiduciary to refrain from any self-dealing in the administration of a trust account. As stated in FDIC's manual of examination policies with respect to trust department examinations, "It is a general axiom that a bank has a definite moral responsibility, as well as legal, not to deal with itself in the administration of a fiduciary account." The manual also goes on to state that a bank should not invest fiduciary funds in its own obligations or stock unless court order, local law or the trust instrument authorizes the purchase and retention of the obligation or stock or specific authority for the investment is obtained from all interested parties.

The proposal does not prohibit a bank's trust department from using the broker/dealer services of its subsidiary or affiliate to execute transactions on behalf of its fiduciary accounts. The trust department's decision to utilize the related broker/dealer must fully comport, however, with the bank's fiduciary obligation to its trust department customers. The transactions must also be excuted on comparable terms with transactions with unrelated securities companies so that the trust department will not derive any additional benefits from the administration of the trust above and beyond its normal fee for trust account administration. This requirement will also insulate the bank from the possibility that its securties affiliate will drain off profits from the bank by setting a higher than normal fee for executing transactions.

6. Investment Ceiling

Paragraph (b)(2) limits the permissible investment by an insured nonmember bank in one or more securities subsidiaries to twenty percent of the bank's equity capital as defined by FDIC's statement on capital adequacy. The limit is subject, however, to any lesser investment cap established by State law. The proposed investment limitation is designed to create a buffer between the operation of a subsidiary (or subsidiaries) and the bank in addition to the buffer provided by the subsidiary's capital position. Although the FDIC will have the authority under section 10 of the FDI Act (12 U.S.C. 1820) to examine the affairs of the securities subsidiaries or affiliate as shall be necessary to disclose fully the relations between the bank and those subsidiaries or affiliates and the effect of such relations upon the bank, the FDIC does not actually "supervise" the subsidiaries or affiliates. It will be difficult for the FDIC to accurately judge the adequacy of a subsidiary's capital from a safety and soundness point of view on a daily basis, especially as factual circumstances may vary. The FDIC therefore has determined that the possibility of adverse impact to the bank should the subsidiary fail or suffer extreme loss is appropriately limited by placing a limit on the bank's investment in the subsidiary. Twenty percent of equity capital was chosen rather than a smaller figure in order to accommodate smaller banks that would otherwise be precluded from investing, *i.e.*, the resulting investment ceiling would have been unrealistically small thus precluding any investment by smaller insured nonmember banks. An insured nonmember bank's investment in a securities subsidiary will not be counted toward the bank's regulatory capital.

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7. Affiliation with a Securities Company

Paragraph (c) of the proposal is merely a restatement of FDIC's interpretive ruling that the Glass-Steagall Act does not reach the affiliation of an insured nonmember bank with a securities company. The lawfulness of such an affiliation is subject, however, to any other applicable Federal or State law. For example, the Change of Bank Control Act (12 U.S.C. 1817) or the Bank Holding Company Act (12 U.S.C. 1841) may be applicable where a securities company seeks to acquire control of an insured nonmember bank. Insured nonmember banks are reminded that the securities activities of any affiliate should be separate and distinct from the bank in order to avoid any public confusion and/or a finding that the bank is itself engaging in securities activities not permitted to it under the Glass-Steagall Act.

8. Construction of the Terms "Underwrite", "Distribute", and "Security"

It is not FDIC's intent by this proposal to prevent a bank subsidiary from engaging in any securities underwriting activity that an insured nonmember bank may itself lawfully pursue. Those activities are set forth in 12 U.S.C. 24(7th) and include underwriting obligations of the United States, general obligations of any state or political subdivision thereof, and numerous other obligations specifically named therein. Insured nonmember banks should keep in mind while assessing this proposal that the terms "underwrite" and "distribute", and the phrase "stocks, bonds, debentures, notes, or other securities" are to be construed consistently with the securities laws and regulations except where the context requires otherwise. A securities subsidiary or affiliate of an insured nonmember bank while engaged in the conduct of securities activity will be subject to the securities laws and regulations, the oversight of the Securities and Exchange Commission, and oversight by entities such as the NASD. The above terms are therefore to have the meaning proscribed by the securities laws and regulations when used in connection with the subsidiary or affiliate. References in the proposal to these terms as used in conjunction with an insured nonmember bank (see paragraphs (b)(1) (i), (f) and (g)) are to be construed consistently with the Glass-Steagall Act.

The courts have repeatedly stated that the prohibitions of the Glass-Steagall Act are to be defined with reference to the purposes of that statute and that the definitions of the terms used therein (*i.e.*, distribute, underwrite, security) do not necessarily coincide with the definition of the same terms as used in the securities laws. (See *A. G. Becker Inc.* v. *Board of Governors of the Federal Reserve System*, 693 F.2d 136 (D.C. Cir. 1982); *National Association of Securities Dealers Inc.* v. *Securities and Exchange Commission*, 420 F.2d 83 (D.C. Cir. 1969); *New York Stock Exchange Inc.* v. *Smith*, 404 F. Supp. 1091 (D.D.C. 1975), *vacated on other grounds*, 562 F.2d 736 (D.C. Cir. 1977)). The FDIC therefore intends to utilize a functional analysis in determining whether a particular activity constitutes underwriting or distributing of a security under the Glass-Steagall Act. In this regard, insured nonmember banks should note that the United States District Court for the District of Columbia recently concluded that short term commercial paper does not constitute a security for the purposes of the Glass-Steagall Act and therefore it is not unlawful for a bank to act as an agent in the sale thereof if the guidelines established by the Federal Reserve Board are observed. (See *A. G. Becker, supra.*) The FDIC will follow this and any interpretive ruling by the courts concerning the scope of the Glass-Steagall Act in applying this regulation.

9. Definition of "Affiliate", "Subsidiary", and "Extension of Credit"

The proposal defines the term "affiliate" to mean a company that directly or indirectly controls an insured nonmember bank and any company that is in turn controlled by such a company. "Control" is defined as the power to directly or indirectly vote 25 percent of a bank or company's stock; the ability to control the election of a majority of a bank's or company's directors or trustees; or the ability to exercise a controlling influence over the management and policies of a bank or company. At a minimum the proposal would reach a bank's parent company, a company that controls 25% or more of the bank's stock, and companies controlled by either of the above, *i.e.*, sister affiliates.

The term "subsidiary" is defined to mean a company controlled by a bank. As "company" is defined to include corporations other than banks, partnerships, business trusts, associations, joint ventures, pool syndicates or other similar business organizations, a mutual fund (*i.e.*, a business trust) can be a subsidiary of a bank and a securities company operated by several banks in a co-operative effort can be considered a subsidiary of each of the banks. The term "extension of credit" has the same meaning as found in Federal Reserve Board Regulation O (12 CFR 215.3) which concerns insider transactions.

10. Public Hearing on Proposed Regulation

The Board of Directors has concluded that it is appropriate for the FDIC to hold a public hearing at which it will accept both oral and written comments regarding this proposal. A formal notice of agency hearing setting forth the date, time, and other particulars regarding that hearing appears elsewhere in today's **Federal Register.**

11. Regulatory Flexibility Analysis/ Paperwork Reduction Act

In accordance with FDIC's policy statement entitled "Development and Review of FDIC Rules and Regulations" and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FDIC conducted an analysis of the impact of the proposed regulation. The result of that analysis follows:

The proposed regulation would prohibit a nonmember bank from establishing or acquiring a subsidiary that underwrites equity securities. As equity underwriting is, on the average, more profitable than underwriting of debt securities, limiting the bank subsidiary's ability to underwrite securities to underwriting of debt obligations reduces the subsidiary's potential income. The increased income associated with equity underwriting is, however, directly a measure of the increased difficulty of a successful underwriting, *i.e.*, debt issues are easier to move and thus the underwriter tends to receive less compensation. Underwriting profits range from less than 1% to 5% of issue size for debt, with the average being less than 1%, and from 4% to 10% for common stock with preferred stock being less profitable than common stock. Profits will depend upon issue size (economies of scale reduce the percentage as issue size increases) and risk (credit rating of issuer). Although a bank subsidiary could underwrite equity securities on a "best efforts" basis, the underwriting profits from any best efforts undertaking would be lessened (even in the case of an equity issue), as a "best efforts" underwriting involves less risk to the underwriter and thus generates a smaller fee.

Setting the investment cap in the subsidiary at 20% of equity capital will enable even relatively small nonmember banks to indirectly compete in the securities market through a subsidiary. These new entrants into the market can be expected to: (1) Provide increased access to capital markets where access may have been previously limited (*i.e.*, the smaller issuer generally finds it difficult to attract underwriters), and (2) lower issuer cost of tapping into the capital markets. As the number of entrants increases, competitive bid offerings are likely to increase. Competitive bid offerings tend to be less expensive than negotiated offerings.

Additionally, the increase of entrants into the securities underwriting market would tend to increase the liquidity of any new issue thus permitting underwriters (bank related and non-bank related alike) to distribute securities at higher prices as the securities will be more attractive. The resulting increased activity in the secondary market raises the possibility than an investor can unload a security quickly at a reasonable price. This should mean that an investor is willing to pay more for the security.

We expect most nonmember banks to form subsidiaries that engage in some form of discount brokerage rather than underwriting. The presence of new entrants into this market can be expected to further decrease costs to investors (both users of discount brokerage and full service brokerage) as fee and service competition increases. A bank subsidiary would not appear to have any advantage in this area. Increased advertising that should result from the increased competition should raise investor awareness and participation with an overall benefit to the economy as more money moves into the capital markets.

Under the proposal a bank subsidiary will be able to underwrite or distribute shares in a money market fund and/or act as an investment adviser to a money market fund. If the new money market funds that are established as a result of the proposal invest in bank certificates of deposits or other bank-issued money instruments such as repurchase agreements, we can expect an increase in the amount of loanable funds. Additionally, it can be expected that the presence of new bank-related money market funds would reduce the existing flow of funds to the money center banks. A bank subsidiary-sponsored money market fund should not have any advantages over a non-bank related money market fund as competition between the two types of funds should be on the basis of competitive pricing and services. Banks cannot lawfully utilize their market power to obtain any advantages for their underwriting subsidiary as banks are subject to the anti-tying provisions of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972).

Although some observers have alleged that banks, if permitted to underwrite municipal revenue bonds or other securities, would have an unfair tax advantage as banks may deduct interest paid on funds borrowed to hold tax-exempt securities, that advantage would not extend to the bank's subsidiary. Nor can the bank subsidiary use the liberal loan loss calculation available to banks that will itself be phased out for banks by 1988. Nor do we find that banks will have lower capital costs in establishing or acquiring securities subsidiaries. Although in the past banks have had lower average interest costs due to Regulation Q ceilings, those ceilings will be completely phased out on or before January 1, 1984 and the advent of the new money market rate account authorized by the Garn-St Germain Depository Institutions Act increases the cost of funds available to banks. Even then the relevant cost consideration is not the average cost of funds but the marginal cost. Commercial banks that enter new product markets by establishing or acquiring subsidiaries must borrow at market rates and therefore do not have a lower marginal cost of funds. Last, the charge that a bank subsidiary would have an unfair advantage in attracting investors because of the bank's name recognition and the bank's knowledge of existing customers' is not valid due to the restrictions in the proposal.

There might be overall cost to the economy if the advent of bank securities subsidiaries can be expected to jeopardize the viability of the nation's banking institutions. That does not appear to be the case, however, and certainly is not the case when the structure of the proposal is taken into consideration. For example, the proposal is structured so as to insulate the bank from the activities of the subsidiary as well as any financial repercussions generated by losses on the part of the subsidiary. The subsidiary will only be able to underwrite top rated debt securities; underwrite on a "best efforts" basis which does not put its capital at risk; or underwrite shares in money market funds which are recognized as relatively sound investments. There is, thus, less of a likelihood that the subsidiary will incur losses that it could not safely absorb. The bank is further insulated as it will not be able to make purpose loans; prop up companies whose securities are underwritten by the bank's subsidiary or affiliate; make excessive loans to its securities subsidiary or affiliate; invest an excessive amount of capital in the subsidairy; or move poor issues into the bank's trust department.

The notice requirements contained in this proposal do not constitute "collections of information" for purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and therefore are not subject to the Office of Management and Budget ("OMB") clearance provisions of that Act. This is because the notice requirements fall within the exception to the definition of "information" set out in § 1320.7(k)(1) of the recently issued OMB regulations implementing the "collection of information clearance" provisions of the Act (5 CFR 1320). It is recognized, however, that the notice requirements do place an affirmative obligation on a bank to notify the FDIC of its intended action and to confirm whether or not the subsidiary was acquired or established. Costs associated with these notices would appear to be minimal. The proposed regulation does not specify the content of the written notices or require the bank to provide any specific information. Inasmuch as the bank subsidiary will likely be filing with the Securities and Exchange Commission, no additional paperwork burdens of any kind should be created.

The proposal may duplicate, overlap, or conflict with existing Federal laws and regulations governing the establishment and operation of securities companies; Section 23A of the Federal Reserve Act (12 U.S.C. 371c); the Bank Service Corporation Act, as amended by the Garn-St Germain Depository Institutions Act (12 U.S.C. 1861 *et seq.*); and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

List of Subjects in 12 CFR Part 337

Banks, banking, Securities, State nonmember banks.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 337 of title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 is as follows:

Authority: Sec. 6, 64 Stat. 876, 12 U.S.C. 1816; sec. 9, 64 Stat. 881–882, 12 U.S.C. 1819; sec. 18(j)(2); 92 Stat. 3664, 12 U.S.C. 1828(j)(2). sec. 422, 96 Stat. 1469, (Pub. L. 97–320).

2. It is proposed that Part 337 be amended by adding the following new § 337.4:

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§ 337.4 Securities activities of subsidiaries of insured nonmember banks: Bank transactions with affiliated securities companies.

(a) Definitions: for the purposes of this section,

(1) "Affiliate" shall mean any company that directly or indirectly, through one or more intermediaries, controls an insured nonmember bank and shall include any company controlled by a company that controls an insured nonmember bank.

(2) "Bona fide subsidiary" means a subsidiary of an insured nonmember bank that at a minimum: (i) Is adequately capitalized; (ii) is physically separate in its operations from the operation of the bank; (iii) maintains separate accounting and other corporate records; (iv) observes separate formalities such as separate board of directors meetings; (v) maintains separate employees who are compensated by the subsidiary; and (vi) conducts business separately from, functions independently of, and is not identified with, the banking business of the insured nonmember bank.

(3) "Company" shall mean any corporation (other than a bank), any partnership, business trust, association, joint venture, pool syndicate, or other similar business organization.

(4) "Control" shall mean the power to directly or indirectly vote 25 per centum or more of the voting stock of a bank or company; the ability to control in any manner the election of a majority of a bank's or company's directors or trustees; or the ability to exercise a controlling influence over the management and policies of a bank or company.

(5) "Extension of credit" shall mean the making or renewal of any loan, a grant of a line of credit, or an extending of credit in any manner whatsoever and includes, but is not limited to:

(i) A purchase whether or not under repurchase agreement, of securities, other assets, or obligations;

(ii) An advance by means of an overdraft, cash item, or otherwise;

(iii) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description);

(iv) An acquisition by discount, purchase, exchange, or otherwise of any note draft, bill of exchange, or other evidence of indebtedness upon which a natural person or company may be liable as maker, drawer, endorser, guarantor, or surety;

(v) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse;

(vi) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for: (A) Accrued interest or (B) taxes, insurance, or other expenses incidental to the existing indebtedness;

(vii) And any other transaction as a result of which a natural person or company becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(6) "Investment quality debt security" shall mean a marketable obligation in the form of a bond, note, or debenture the investment characteristics of which are not predominantly speculative and shall include obligations rated by a nationally recognized rating service that have a rating in the top four rating categories.

(7) "Subsidiary" shall mean any company controlled by an insured nonmember bank and any company a majority of whose directors or trustees are directors or trustees of an insured nonmember bank.

(b) Investment in securities subsidiaries.

(1) An insured nonmember bank may not establish or acquire a subsidiary that engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes or other securities; conducts any activities for which the subsidiary is required to register with the Securities and Exchange Commission as a broker/dealer; acts as an investment adviser to any investment company; or engages in any other securities activity unless:

(i) The subsidiary's underwriting activities that would not be authorized to the bank under section 16 of the Glass-Steagall Act (12 U.S.C. 24(7th)) as made applicable to insured nonmember banks by section 21 of the Glass-Steagall Act (12 U.S.C. 378) are, and thereafter continue to be: (A) On a "best efforts" basis, or (B) are limited to, and thereafter continue to be limited to, underwriting of investment quality debt securities or underwriting of mutual funds whose investments are exclusively limited to obligations of the United States or United States government agencies, repurchase agreements involving such obligations, bank certificates of deposit, banker's acceptances and other bank money instruments, short-term corporate debt instruments, and other similar investments normally associated with a money market fund.

(ii) The subsidiary is, and thereafter continues to be, a bond fide subsidiary.

(2) An insured nonmember bank's investment in a subsidiary under (b)(1) shall not exceed in the aggregate 20 per centum of the bank's equity capital as defined in FDIC's statement on capital adequacy (46 FR 62694) unless prior approval for a greater investment is obtained from the FDIC.

(c) *Affiliation with securities company.* Subject to any other applicable federal or state law, an insured nonmember bank is not prohibited by anything in this section from becoming affiliated with any company that directly or indirectly engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities; acts as an investment adviser to any investment company; conducts any activity for which the affiliate must register with the Securities and Exchange Commission as a broker/dealer; or engages in any other securities activity so long as the securities business of the affiliate is kept separate and distinct from the banking business of the insured nonmember bank.

(d) *Filing of Notice.* Every insured nonmember bank that intends to acquire or establish a subsidiary that: (1) Engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities; (2) acts as an investment adviser to any investment company that sells, distributes, or underwrites any such security; (3) conducts any activity for which the subsidiary is required to register with the Securities and Exchange Commission as a broker/dealer; or (4) engages in any other securities activity, shall notify the regional director of the region in which the bank is located. Notice shall be in writing and must be received in the regional office at least 60 days prior to consummation of the acquisition or commencement of the operation of the subsidiary, whichever is earlier. The bank shall also notify the regional office in writing within 10 days after the consummation of the acquisition or commencement of the operation of, the subsidiary, whichever is earlier. The 60-day notice requirement may be waived, in FDIC's discretion, where such notice would be impracticable such as in the case of a purchase and assumption transaction or an emergency merger.

(e) *Restrictions.* An insured nonmember bank which has a subsidiary or affiliate that engages in the sale, distribution, or underwriting of stocks, bonds, debentures, notes, or other securities; or acts as an investment adviser to any investment company that sells, distributes, or underwrites any such security shall not:

(1) Purchase *in its sole discretion* as fiduciary or co-fiduciary any security currently being distributed, underwritten, or issued by such subsidiary or affiliate or purchase *in its sole discretion* as fiduciary or co-fiduciary any security currently being distributed, underwritten or issued by any investment company advised by such subsidiary or affiliate;

(2) Transact business through its trust department with such subsidiary or affiliate unless the transactions are comparable to transactions with an unaffiliated securities company or a securities company that is not a subsidiary of the bank;

(3) Extend credit or make any loan directly or indirectly to any company the stocks, bonds, debentures, notes, or other securities of which are currently being underwritten or distributed by a subsidiary or affiliate of the bank unless the company's stocks, bonds, debentures, notes, or other securities that are underwritten or distributed are rated by a nationally recognized rating service and fall within the top four rated categories;

(4) Extend credit or make any loan directly or indirectly to any money market fund whose shares are currently being distributed or underwritten by a subsidiary or affiliate of the bank;

(5) Make loans for the purpose of acquiring: (i) Any stock, bond, debenture, note, or other security currently being distributed or underwritten by such subsidiary or affiliate; (ii) any stock, bond, debenture, note, or other security currently being distributed or underwritten by an investment company advised by such subsidiary or affiliate; or (iii) stock in, or shares of, such subsidiary or affiliate;

(6) Accept as collateral on a loan: (i) Stock or shares of any company whose stock or shares are currently being distributed or underwritten by such subsidiary or affiliate or (ii) stock or shares of any company which are currently being distributed or underwritten by an investment company advised by such subsidiary or affiliate;

(7) Make any loan or extension of credit to a subsidiary or affiliate of the bank that: (i) Distributes or underwrites stocks, bonds, debentures, notes, or other securities, or (ii) advises any investment company that distributes or underwrites stocks, bonds, debentures, notes, or other securities, if such loans or extensions of credit would be in excess of the limit as to amount, and not in accordance with the restrictions as to collateral, etc., imposed on "covered transactions" established by section 23A of the Federal Reserve Act (12 U.S.C. 371c);

(8) Make any loan or extension of credit to any investment company for which the bank's subsidiary or affiliate acts as an investment adviser if the loan or extension of credit would be in excess of the limit as to amount, and not in accordance with the restrictions as to collateral, etc., imposed on "covered transactions" established by section 23A of the Federal Reserve Act (12 U.S.C. 371c).

(f) Nothing in this section prohibits an insured nonmember bank from establishing or acquiring a subsidiary that sells, distributes, or underwrites stocks, bonds, debentures, notes, or other securities or engages in any other securities activity, if those activities would be permitted to an insured nonmember bank by sections 16 and 21 of the Glass-Steagall Act (12 U.S.C. 24(7th) and 378).

(g) Nothing in this section authorizes an insured nonmember bank to directly engage in any securities activity not authorized to it under section 16 and 21 of the Glass-Steagall Act (12 U.S.C. 24(7th) and 378).

By Order of the Board of Directors, this 9th day of May 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-13187 Filed 5-16-83; 8:45 am]

BILLING CODE 6714-01-M

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12 CFR Part 337

Unsafe and Unsound Banking Practices; Public Hearing

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of public hearing on proposed amendments to agency regulations.

SUMMARY: This notice sets forth the time and other particulars concerning a public hearing on proposed amendments to Part 337 (Unsafe and Unsound Banking Practices) of FDIC's regulations. The proposed amendments to Part 337 are set out as a notice of proposed rulemaking elsewhere in today's **Federal Register**.

DATE: Friday, June 17, 1983, 9:00 a.m.–5:00 p.m.

ADDRESS: Written requests to participate should be sent to Hoyle L. Robinson, Executive Secretary, Room 6108, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. or hand delivered to the same address between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

Hearing location: FDIC's Board of Directors Room, 6th Floor, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division, (202–389–4171), or Alan J. Kaplan, Deputy Executive Secretary, (202–389–4446), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: On May 9, 1983 the Board of Directors of the FDIC authorized for publication for comment a proposed amendment to Part 337 of FDIC's regulations (12 CFR Part 337). The proposal, which is set forth as a notice of proposed rulemaking elsewhere in today's **Federal Register**, deals with securities activities of subsidiaries of insured nonmember banks and transactions by insured nonmember banks with their affiliated securities companies. The basic features of the proposal are: (1) Notice of intent to invest in a securities subsidiary; (2) no prior approval requirement; (3) no formalized restrictions on bank entry based on asset size or composite rating; (4) a prohibition on a nonmember bank establishing or acquiring a subsidiary that underwrites securities unless the underwriting activity is on a "best efforts" basis, is restricted to top rated debt securities, or is the underwriting of a money market fund type mutual fund; (5) a twenty percent of capital ceiling on a bank's investment in one or more securities subsidiaries; (6) a limit on the amount of loans or extensions of credit that a bank may make to its securities subsidiary or affiliates; (7) a prohibition on loans for the purpose of acquiring securities underwritten or distributed by the bank's subsidiary or affiliate or the acceptance of such securities as collateral on a loan or extension of credit; (8) a prohibition on loans or extensions of credit to companies whos securities are underwritten by the bank's subsidiary or affiliate unless the securities are highly rated; (9) prohibiting the purchase by the bank's trust department in its sole discretion of securities distributed, underwritten or issued by the bank's subsidiary or affiliate; (10) prohibiting the transaction of business through the bank's trust department with the banks; securities subsidiary or affiliate unless those transactions are comparable to transactions with an unaffiliated

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securities company; and (11) a requirement that the bank subsidiary be a "bona fide" subsidiary. The proposed regulation contains a definition of bona fide subsidiary which requires that, in order for the subsidiary to be considered bona fide, the subsidiary be adequately capitalized; its operations be physically separate from that of the bank; separate records and corporate formalities be observed; separate employees be maintained; and that the subsidiary function independently from, and not be identified with the banking business of the bank.

The Board, at its May 9, 1983 meeting, voted to hold a one-day public hearing at which representatives of the Board of Directors (the Director of the Division of Bank Supervision and the General Counsel) would receive the oral comments of any interested person with regard to the proposed amendment to Part 337. Persons wishing to participate in the hearing should send a written request to participate to Hoyle L. Robinson, Executive Secretary, Room 6108, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Requests may be hand delivered between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. All requests will be time and date stamped upon receipt and oral presentations will be scheduled in the order in which requests are received. Participants will be limited to a fifteen minute oral presentation and will be advised in writing of the time scheduled for their presentation. All requests to participate must be received no later than the close of business Friday, June 10. This requirement is necessary so that: (1) The hearing officers may adjust their schedules accordingly, (2) alternative arrangements for the hearing may be made if more persons are expected to attend than the Board of Directors room will accommodate, and (3) sufficient time is available to acknowledge receipt of the notices and inform participants of scheduling.

Copies of the notice of proposed rulemaking can be obtained upon request from FDIC's Office of Public Information, (202–389–4221), Room 6061, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

By Order of the Board of Directors this 9th day of May 1983.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–13160 Filed 5–16–83; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 821–0047]

Michigan Association of Osteopathic Physicians & Surgeons, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition,this consent agreement, accepted subject to final Commission approval, would require a Michigan professional association, among other things, to cease inhibiting competition by restricting or advising member physicians against the truthful advertising of fees and services, and by declaring such activities unethical. The association would be required to timely repeal any provision of its Code of Ethics and policy statements which are inconsistent with the prohibitions contained in the order, and publish revised versions of these documents. The order would also require the Association to mail to all present and future members a letter notifying them of the consent agreement and its provisions, and send to each of its component and affiliate societies a copy of the order.

DATE: Comments must be received on or before July 18, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Barbara E. Arnold, Acting Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500-Mall Bldg., 118 St. Clair Ave., Cleveland, OH 44114. (216) 522–4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Physicians.

In the Matter of Michigan Association of Osteopathic Physicians & Surgeons, Inc., a corporation; File No. 821 0047; agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Michigan Association of Osteopathic Physicians & Surgeons, Inc., a non-profit corporation, and it now appearing that the Michigan Association of Osteopathic Physicians & Surgeons, Inc. ("MAOP&S") is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between MAOP&S, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. MAOP&S is a non-profit corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its mailing address at 33100 Freedom Road, Farmington, Michigan 48024.

2. MAOP&S admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. MAOP&S waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify MAOP&S, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by MAOP&S that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to MAOP&S: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to MAOP&S' address as stated in this agreement shall constitute service. MAOP&S waives any right it may have to any manner of service. The complaint attached hereto, and the Commission's Opinion in *American Medical Association*, 94 F.T.C. 701 (1980) (hereinafter, "AMA"), as modified by the opinion of the U.S. Court of Appeals for the Second Circuit, 638 F.2d 443 (1980), may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. MAOP&S has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. MAOP&S further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. For purposes of this Order, the following definitions shall apply:

A. " MAOP&S" means respondent Michigan Association of Osteopathic Physicians & Surgeons, Inc., its component and affiliate societies, its delegates, trustees, councils, committees, Bureau of Ethics, officers, representatives, agents, employees, successors, and assigns.

B. "Physician" means any individual duly licensed to engage in the practice of osteopathic medicine and/or surgery.

II. *It is ordered* that MAOP&S shall cease and desist from, directly or indirectly or through any corporate or other device:

A. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising or publishing by any person of the prices, terms, or conditions of sale of physicians' services, or of information about physicians' services, facilities, or equipment which are offered for sale or made available by physicians or by any organization with which physicians are affiliated;

B. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the solicitation, through advertising or by any other means, of patients, patronage, or contracts to supply physicians' services, by any physician or by any organization with which physicians are affiliated; or

C. Inducing, urging, encouraging, or assisting any physician or any medical association, group of physicians, hospital, insurance carrier, telephone company, or any other non-governmental organization, to take any of the actions prohibited by this part of the Order.

Nothing contained in this part of the Order shall prohibit MAOP&S from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that MAOP&S reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.

III. *It is further ordered that MAOP&S shall:*

A. For a period of three (3) years after this Order becomes final, provide each new member of MAOP&S with a copy of the letter in the form shown in Appendix A at the time the member is accepted into membership;

B. Within sixty (60) days after this Order becomes final, send by first-class mail to each of its present members a copy of the letter in the form shown in Appendix B;

C. Within sixty (60) days after this Order becomes final, send by first-class mail to the Michigan Bell Telephone Company supervisor in charge of professional advertising a copy of the letter in the form shown in Appendix C;

D. Within sixty (60) days after this Order becomes final, publish a copy of the Order, with such prominence as feature articles are regularly published, in the *Michigan Osteopathic Journal* and the MAOP&S *Newsletter*, or in any successor publications;

E. Within sixty (60) days after this Order becomes final, send by first-class mail to each of its component and affiliate societies, a copy of this Order;

F. Within ninety (90) days after this Order becomes final, remove from its *Code of Ethics*, its *Interpretations of the Code of Ethics*, and any other existing policy statements or guidelines of MAOP&S, any provision, interpretation, or policy statement which is inconsistent with this Order; and, within one hundred twenty (120) days after this Order becomes final, publish in the *Michigan Osteopathic Journal* and the MAOP&S *Newsletter* or in any successor publications, the revised versions of such documents, statements, or guidelines;

G. Within one hundred twenty (120) days after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which MAOP&S has complied with this Order;

H. For a period of five (5) years after this Order becomes final, maintain records adequate to describe in detail any action taken in connection with the activities covered by Part II and Part III.A of this Order, including, but not limited to, any advice or interpretations rendered with respect to advertising or solicitation involving any of its members;

I. One year after this Order becomes final, and annually thereafter for a period of two (2) years, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Part II and Part III.A of this Order, including, but not limited to, any advice or interpretations rendered with respect to advertising or solicitation involving any of MAOP&S' members; and

J. Include in all compliance reports, as required by Part III. G and I, such information and documentation as may be required to show compliance with this Order.

IV. *It is further ordered* that MAOP&S shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

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Appendix A

Dear Doctor: This letter is to inform you of recent developments concerning the issue of physician advertising. In March, 1982, the Supreme court upheld the Federal Trade Commission's Order prohibiting the American Medical Association from restricting physician advertising and solicitation.

In recognition of this precedent, the Michigan Association of Osteopathic Physicians & Surgeons, Inc. entered into a Consent Agreement with the Federal Trade Commission on November 1, 1982. This Agreement was entered into as a result of an investigation initiated by the FTC concerning MAOP&S' alleged restraint of competition by means of its ethical restrictions on physician advertising and solicitation. The Agreement is for settlement purposes only and does not constitute an admission by MAOP&S that the law has been violated.

In accordance with this Consent Agreement, MAOP&S revised its Code of Ethics in October, 1982. Under the revised code, MAOP&S does not restrict its members from advertising or soliciting patients. MAOP&S does not restrict its members from advertising the prices, terms, or conditions of sale of physicians' services, facilities, or equipment. MAOP&S may, however, enforce reasonable guidelines governing advertising or solicitation which MAOP&S reasonably believes to be false or deceptive.

As a new member, you have received a copy of the revised Code of Ethics.

Thank you for your cooperation.

Sincerely,

President.

Appendix B

Dear Doctor: This letter is to inform you of recent developments concerning the issue of physician advertising. The Supreme Court recently affirmed the Federal Trade Commission's Order, as modified by the U.S. Court of Appeals for the Second Circuit, prohibiting the American Medical Association from restricting physician advertising and solicitation.

In recognition of this precedent, the Michigan Association of Osteopathic Physicians & Surgeons, Inc. is in the process of revising its Code of Ethics.

Under the new code, MAOP&S will not restrict its members from advertising or soliciting patients. MAOP&S will not restrict its members from advertising the prices, terms, or conditions of sale of physicians' services, or information about physicians' services, facilities, or equipment. MAOP&S may, however, enforce reasonable guidelines governing advertising or solicitation which MAOP&S reasonably believes to be false or deceptive.

The revisions to the Code of Ethics will appear in the *Michigan Osteopathic Journal* and in MAOP&S *Newsletter*.

Thank you for your cooperation.

Sincerely,

President.

Appendix C

Dear ———: This letter is to inform you of recent developments concerning the issue of physician advertising. The Supreme Court recently affirmed the Federal Trade Commission's Order, as modified by the U.S. Court of Appeals for the Second Circuit, prohibiting the American Medical Association from restricting physician advertising and solicitation.

In recognition of this precedent, the Michigan Association of Osteopathic Physicians & Surgeons, Inc. is in the process of revising its Code of Ethics.

Under the new code, MAOP&S will not restrict its members from advertising or soliciting patients. MAOP&S will not restrict its members from advertising the prices, terms, or conditions of sale of physicians' services, or information about physicians' services, facilities, or equipment. MAOP&S may, however, enforce reasonable guidelines governing advertising or solicitation which MAOP&S reasonably believes to be false or deceptive.

Accordingly, MAOP&S will not seek to restrict truthful advertising in the telephone book. In particular, MAOP&S will not seek to restrict such things as the size, color, or format of such advertising.

Thank you for your cooperation.

Sincerely,

Chairman, Department of Judiciary and Ethics.

File No. 821 0047, Michigan Association of Osteopathic Physicians & Surgeons, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an Agreement to a Proposed Consent Order from the Michigan Association of Osteopathic Physicians & Surgeons, Inc. ("MAOP&S").

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Complaint. A Complaint prepared for issuance by the Commission along with the proposed Order alleges that:

- MAOP&S has acted as a combination of at least some of its members, or has conspired with at least some of its members, to restrain competition among osteopathic physicians and surgeons in Michigan by prohibiting its members from truthfully advertising their fees and services to the public and from otherwise soliciting patients' business, and by coercing individual members into abandoning their efforts to truthfully advertise and to otherwise solicit patients' business. These activities are alleged to be unfair methods of competition or unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act.
- MAOP&S is a professional association formed to represent the interests of osteopathic physicians and surgeons who practice in Michigan. MAOP&S has approximately 2,147 members, constituting a substantial majority of the osteopathic physicians and surgeons in Michigan.
- Members of MAOP&S are engaged in the business of providing medical health care services for a fee, and that, except to the extent that competition has been restrained as alleged in the Complaint, MAOP&S members have been, and are now, in competition among themselves and with other physicians and surgeons.
- In furtherance of the combination or conspiracy, MAOP&S adopted and implemented written and unwritten codes of ethics that prohibit efforts by its members to truthfully advertise their services in the Yellow Pages or in other media, or to otherwise distribute to the public truthful information, including, among other things: their fees, whether they accept Medicare assignment of benefits or credit cards, their professional training and experience, their business hours and office locations, and their knowledge of languages other than English.
- MAOP&S allegedly published statements by some of its officials advising members that advertising was unethical. The Complaint further asserts that MAOP&S sent letters to members who truthfully advertise or otherwise solicit their patients' business that tended to discourage such advertising, and that MAOP&S summoned members to certain of its meetings at which disciplinary actions were threatened against these members in order to compel them to cease truthfully advertising or otherwise soliciting patients' business.
- MAOP&S attempted to prohibit sellers of advertising space from accepting truthful advertisement from MAOP&S members.
- As a result of MAOP&S' actions, its members have agreed not to, and do not, advertise their services or otherwise solicit patients' business, and its members have been coerced into abandoning efforts to advertise or otherwise solicit patients' business.
- Truthful advertising and solicitation enable physicians to compete on the basis of price, quality, and convenience and enable individual patients to choose among osteopathic physicians and surgeons on the basis of price, quality, or convenience. Consequently, it is alleged, competition among osteopathic physicians and surgeons for patients has been frustrated and eliminated, and consumers have been deprived of truthful information about osteopathic physicians' and surgeons' fees and services and the benefits of competition among such physicians and surgeons.

The Proposed Consent Order. The proposed Order would:

- Prohibit MAOP&S from restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising of osteopathic physicians' and surgeons' services or the solicitation by osteopathic physicians and surgeons of patients, patronage, or contracts.
- Prohibit MAOP&S from inducing, urging, encouraging, or assisting others to take any of the actions prohibited by the Order.
- Permit MAOP&S to formulate, adopt and disseminate to its members, and enforce reasonable ethical guidelines governing advertising which would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited, in-person solicitation of patients who, because of their particular circumstances, are vulnerable to undue influence.
- Require that MAOP&S remove from its Code of Ethics, policy statements, and guidelines any provision or statement which is inconsistent with the prohibitions of the Order and thereafter publish revised versions of such documents, statements, or guidelines.
- Require that MAOP&S, within sixty (60) days after the Order becomes final, publish a copy of the Order in its official publications and send letters, by first-class mail, to each current MAOP&S member and to the Michigan Bell Telephone Company.
- Require that, for a period of three (3) years, MAOP&S provide each of its new members with a letter notifying them of the Consent Agreement and stating that osteopathic physicians and surgeons may advertise so long as it is not false or deceptive. To ensure compliance with the proposed Order, MAOP&S would be required, within one hundred twenty (120) days after the Order becomes final, to file a written report with the Commission setting forth the manner and form of its compliance with the Order. MAOP&S would also be required, for a period of five (5) years, to maintain records and, annually for a period of three (3) years, to file a written report with the Commission setting forth any action taken in connection with the activities covered by the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-13104 Filed 5-16-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 180

Regulations Pertaining to Arbitration

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend its rules governing the content of pre-dispute arbitration agreements entered into by futures commission merchants ("FCMs"), floor brokers or associated persons and their customers. The proposed amendments would extend the requirements of such rule to introducing brokers ("IBs"), commodity pool operators ("CPOs") and commodity trading advisors ("CTAs") and make clear that the rules apply to the associated persons ("APs") of such registrants.[1]

DATE: Comments must be received by July 18, 1983.

ADDRESS: Comments on the proposal should be sent to: Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its recently adopted final rules concerning arbitration procedures provided by contract markets and registered futures associations,[2] the Commission amended § 180.3 governing the content and effect of pre-dispute arbitration agreements entered into by FCMs, floor brokers or APs and their customers. During the period within which such rules were being considered by the Commission, Congess amended sections 4d, 4f and 4k of the Commodity Exchange Act to require, *inter alia*, the registration of introducing brokers and three new categories of associated persons: APs of introducing brokers, commodity pool operators and commodity trading advisors.[3] The Commission recently proposed rules to implement those new registration requirements by, *inter alia*, amending the definition of "associated person" in rule 1.3(aa) to include APs of introducing brokers, commodity pool operators and commodity trading advisors.[4] The adoption by the Commission of such proposed rules could result in the following anomolous interpretation of § 180.3(b): APs of IBs, CPOs and CTAs would apparently be required to comply with the requirements of § 180.3(b) in the event they enter a pre-dispute arbitration agreement with their customers,[5] while their principles would not be under any direct requirement to comply with that rule.[6]

In order to avoid such an inconsistent application of its rules, and to assure that all classes of registrants who deal with the trading public will be subject to the same constraints concerning the use of pre-dispute arbitration agreements, the Commission is proposing to amend § 180.3(b) to include pre-dispute arbitration agreements entered into by introducing brokers, commodity pool operators and commodity trading advisors and to make clear that the rule applies to APs of such registrants.

The Commission notes that the proposed amendment would not require that any registrant enter into a pre-dispute arbitration agreement. The proposed amendment would require, however, that in the event a registrant enters into such an agreement, the agreement comply with the provisions of §180.(3). Moreover, the Commission believes that as a practical matter, adoption of the proposed amendment would not result in any unreasonable regulatory burdens since, as previously noted, most members of the registrant class are already indirectly subject to the requirements of Part 180 of the Commission's regulations by virtue of their membership in the National Futures Association ("NFA").[7] Finally, the Commission notes that it cannot make any regulatory distinctions among the above-mentioned registrant classes that would warrant their exclusion from the requirements of rule 180.3(b) The Commission welcomes comments, however, from any affected party which

[1] The Commission previously requested comment on whether introducing brokers and their associated persons similarly should be subject to these requirements of Part 180 of the Commission's regulation. *See* 48 FR 14933, 14935 (April 6, 1983).

[2] The Commission is publishing notice of these final rules under separate heading in today's **Federal Register.**

[3] 7 U.S.C. 6d, 6f, 6k, as amended by the Futures Trading Act of 1982, Pub. L. No. 97–444, sections 207, 208 and 212.

[4] *See* 48 FR 14933, 14956 (April 6, 1983).

[5] This result is consistent with the Congressional recognition that such persons essentially function in the same capacity with respect to IBs, CPOs, and CTAs, as persons associated with FCMs. *See* H. Rep. NO. 97–565, Pt. 1, 97th Cong., 2d Sess. 48–49 (1982).

[6] Members of the National Futures Association, however, are required to comply with § 180.3(b) pursuant to § 170.8, which requires that such a futures association's rules concerning arbitration conform to and be consistent with Part 180 of the Commission's regulations. Thus, some of the above new registrants as well as their principles are already indirectly subject to § 180.3(b).

[7] *See* n. 6 above. NFA Bylaw 1101, which prohibits NFA members from doing business with any non-members of NFA, acts as an incentive for FCMs, CPOs, and CTAs to become members. The Commission also understands that NFA intends to submit for Commission consideration an amendment to Bylaw 1101 which would extead the applicability of that Bylaw to IBs. The membership incentive of Bylaw 1101 also would increase in the event the Commission adopts a rule, petitioned for by NFA, requiring all FCMs to become members of a registered futures association. *See* NFA petition for commission rulemaking, 47 FR 53031 (November 24, 1982).

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believes it should not be included within the scope of this rule.

II. Regulatory Flexibility

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small business. In this regard, the Commission has already established that neither FCMs nor registered CPOs should be considered to be small entities for purposes of the RFA.* Accordingly, the requirements of the RFA do not apply to those entities. With respect the remaining entities, the Commission believes, as noted above, that the proposed rule would not impose an unreasonable burden upon such parties since most members of the registrant class are already indirectly subject to the requirements of Part 180 of the Commission's regulations by virtue of their membership in NFA. Furthermore, the Commission again notes that the proposal would not require any of the affected parties to offer a pre-dispute arbitration agreement. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman certifies that § 180.3(b), as amended, would not have a significant economic impact on a substantial number of small entities. The Commission, however, particularly invites comment from any firm which believes that this proposal would have a significant economic impact on it.*

List of Subjects in 17 CFR Part 180

Arbitration.

In consideration of the foregoing, and pursuant to the authority of the Commodity Exchange Act, and in particular, sections 4d, 4f, 4k, 5a(11) and 8a, thereof, 7 U.S.C. 6d, 6f, 6k, 7a(11) and 12a, as amended by the Futures Trading Act of 1982, Pub. L No. 97–44, 96 Stat. 2294 (1983), the Commission proposes to amend Chapter I of Title 17 of the CFR as follows:

PART 180—ARBITRATION OF OTHER DISPUTE SETTLEMENT PROCEDURES

1. The authority citation for Part 180 is proposed to be revised to read as follows:

Authority: 7 U.S.C. 6c, 6d, 6f, 6k, 7a(11) and 12a.

2. Section 180.3 Part 180 is proposed to be amended by revising the introductory paragraph (b) and paragraphs (b)(1), (3), (4) and (5) as follows:

§ 180.3 Voluntary procedure and compulsory payments.

* * * * *

(b) No futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor, or associated person shall enter into any agreement or understanding with a customer in which the customer agrees, prior to the time the claim or grievance arises, to submit such claim or grievance to any settlement procedure except as follows:

(1) Signing the agreement must not be made a condition for the customer to utilize the services offered by the futures commission merchant, introducing broker, commodity pool operator, commodity trading advisor or associated person.

* * * * *

(3) The agreement may not require the customer to waive the right to seek reparations under Section 14 of the Act and Part 12 of these regulations. Accordingly, the customer must be advised in writing that he or she may seek reparations under Section 14 of the Act by an election made within 45 days after the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person notifies the customer that arbitration will be demanded under the agreement. This notice must be given at the time when such person notifies the customer of an intention to arbitrate. The customer must also be advised that if he or she seeks reparations under Section 14 of the Act and the Commission declines to institute reparation proceedings, the claim or grievance will be subject to the preexisting arbitration agreement and must also be advised that aspects of the claims or grievances that are not subject to the reparations procedure (i.e. do not constitute a violation of the Act or rules thereunder) may be required to be submitted to the arbitration or other dispute settlement procedure set forth in the preexisting arbitration agreement.

(4) The agreement must advise the customer that, at such time as he or she may notify the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person that he or she intends to submit a claim to arbitration, or at such time as such person notifies the customer of its intent to submit a claim to arbitration, the customer will have the opportunity to elect a qualified forum for conducting the proceeding. Within ten business days after receipt of such notice from the customer, or at the time the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person so notifies the customer, the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person must provide the customer with a list of two or more organizations whose procedures qualify them to conduct arbitrations in accordance with the requirements of § 180.2 of this Part, together with a copy of the rules of each forum listed. The list must include: (A) the contract market, if available, upon which the transaction giving rise to the dispute was executed or could have been executed or a registered futures association designated by such contract market; and (B) at least one other organization which will provide the customer with the opportunity to select the location of the arbitration proceeding from among several major cities in diverse geographic regions and which will provide the customer with the choice of a panel or other decision-maker composed of at least one or more persons, of which at least a majority are not members or associated with a member of a contract market or employee thereof, and which are not otherwise associated with a contract market (mixed panel). The customer shall, within forty-five days after receipt of such list, notify the opposing party of the organization selected. A customer's failure to provide such notice shall give the opposing party the right to select an organization from the list.

(5) The agreement must acknowledge that the futures commission merchant, introducing broker, floor broker, commodity pool operator, commodity trading advisor or associated person will pay any incremental fees which may be assessed by a qualified forum for provision of a mixed panel, unless the arbitrators in a particular proceeding determine that the customer has acted in bad faith in initiating or conducting that proceeding.

* * * * *

* See 47 FR 18618 (April 30, 1982).

* Commission rule 180.3 has been assigned OMB Control No. 3038–0022, for purposes of the Paperwork Reduction Act, 44 U.S.C. A copy of this proposal has been submitted to the Director of the Office of Management and Budget. Interested members of the public may obtain a complete copy of the information collection proposals relating to the proposed rules contained herein by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of this proposal are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581, and to the OMB Desk Officer for the agency, Robert Veeder, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Issued in Washington, D.C. on May 12, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-13149 Filed 5-16-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 82N-0393]

Sodium Metasilicate and Sodium Zinc Metasilicate; Proposed GRAS Status

Correction

In FR Doc. 83–10995, beginning on page 18831, in the issue of Tuesday, April 26, 1983, make the following corrections:

1. On page 18831, in the second column, in the fourth full paragraph, in the third line, "(NAS/FRC)" should read "(NAS/NRC)"

2. On page 18833, in § 184.1769a(a), the fourth line from the top of the second column of the page should read "$(Na_2Sio_3 \cdot 9H_2O)$."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Permanent State Regulatory Program of Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Indiana to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Indiana State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of a set of modifications to Indiana's surface and underground coal mining statute and is intended to satisfy specific parts of three conditions of the Secretary's approval relating to petitions to designate lands unsuitable for mining, award of attorney and expert witness fees, and administrative review of a permit or any final decision of the regulatory authority. The amendment also consists of other changes to the Indiana statute, not related to the conditions of approval, which deal with conflict of interest rules and coal exploration.

This document sets forth the times and locations that the Indiana program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment (IN–0325), and information pertinent to the public hearing.

DATE: Written comments relating to Indiana's proposed modification of its program not received on or before 4:00 p.m. on June 16, 1983, will not necessarily be considered in the Secretary's decision on whether the proposed program amendment satisfies the above conditions.

If requested, a public hearing will be held on June 13, 1983, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand-delivered to:

Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269–2600.

If a public hearing is held, its location will be at: OSM Indianapolis Field Office, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana. Telephone: (317) 269–2600.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Indiana program, the proposed amendment, and a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Indianapolis, Indiana, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business three working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet the OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written

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summary of each public meeting will be made a part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 727.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiences are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Indiana State Program

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32108).

At the time of the Secretary's conditional approval, Indiana agreed to meet nine minor conditions, many of which contained several parts. Most of the conditions and their parts have been removed through the approval of amendments to the Indiana program. For additional information on the prior removal of conditions, see the December 17, 1982, **Federal Register** at 47 FR 56493, and the March 4, 1983, **Federal Register** at 48 FR 9248.

The remaining conditions on the Indiana program are as follows:

Condition (a)(2) requires Indiana to require the design criteria for stream channel diversions as required by 30 CFR 816.44 and 817.44.

Condition (b)(3) requires Indiana to require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities indicating all the information required by 30 CFR 782.19.

The deadline for Indiana to address these conditions is July 1, 1983. Both of these conditions have been proposed to be addressed by Indiana modifications (IN–0323) announced in a separate **Federal Register** notice which was published recently.

Condition (g)(1) requires Indiana to amend its statute to require that a petitioner would only have to present evidence which would "tend to establish allegations of fact" in a petition to designate lands as unsuitable for mining in accordance with the provisions of Section 527(c) of SMCRA and in a manner no less effective than the requirements of 30 CFR 764.13(b)(2).

Condition (h)(1) requires Indiana to amend its statute to provide for the award of attorney and expert witness fees in surface mining related common law damage actions in accordance with the provisions of Section 510(f) of SMCRA.

Condition (h)(2) requires Indiana to amend its statute to provide for administrative review of a permit or any final decision of the regulatory authority in accordance with the provisions of Section 514(c) of SMCRA and in a manner no less effective than the requirements of 30 CFR 787.

The deadline for Indiana to address these conditions is September 30, 1983. These three conditions are proposed to be addressed by the Indiana modifications being announced in this notice.

IV. Discussion of the Proposed Amendment

On April 28, 1983, OSM received a set of statutory amendments from the Indiana Department of Natural Resoures intended to meet conditions (g)(1), (h)(1) and (h)(2). See IN–0325. Indiana has proposed changes to its statute at IC 13–4.1–14–2(a) to meet condition (g)(1), added a new Section (i) to IC 13–4.1–11–11 to meet condition (h)(1), and proposed changes to IC 13–4.1–4–5(c) to meet condition (h)(2).

In addition, Indiana has proposed changes to other statutory sections that are unrelated to the conditions. These provisions are:

1. IC 13–4.1–2–3 to provide an exception to the conflict of interest rules for appointees to the Indiana Natural Resources Commission (a multi-interest board established by State law); and
2. IC 13–4.1–7–5 to provide that persons engaging in coal exploration that substantially disturbs the natural land surface are subject to the inspection and civil penalty provisions of State law at IC 13–4.1–11 and IC 13–4.1–12.

Thus, the Secretary requests comments on the substantive adequacy of the proposed amendments to satisfy the conditions listed above and on the substantive adequacy of the proposed changes to the other Indiana statutory provisions.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Coal mining Intergovernmental relations, Surface mining, Underground mining.

Dated: May 11, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83–13255 Filed 5–16–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH–FRL 2363–6]

Hazardous Waste Management System: Indentification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Reopening of comment period.

SUMMARY: On October 30, 1980, EPA proposed to amend the Extraction Procedure (EP) toxicity characteristic to apply to hexavalent chromium instead of total chromium. After evaluating both the information available to the Agency as well as the comments received, the Agency was still left with a number of unanswered questions. Today's action reopens the comment period in order to solicit any information the public may have which will help to resolve the questions.

DATE: Comment Date: EPA will accept comments on this proposed amendment until August 15, 1983.

ADDRESSES: Comments on this proposed rule should be sent to the Docket Clerk, Docket No. 261–83–4 Hexavalent Chromium, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Steet, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David Friedman, Office of Solid Waste (WH–565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4770.

SUPPLEMENTARY INFORMATION: On October 30, 1980, EPA proposed to amend the Extraction Procedure (EP) toxicity characteristic (40 CFR 261.24) to apply to hexavalent chromium instead of total chromium (45 FR 72029–72033). EPA proposed this amendment because the two normally occurring valence states of chromium, tri- and hexavalent, present sufficiently different levels of environmental risk to warrant a regulatory distinction. Trivalent chromium is less toxic than the hexavalent form and the the Agency did not believe it to be of regulatory concern at EP characteristic levels. The carcinogenicity and mutagenicity of hexavalent chromium are well established; the only well-documented adverse consequence of exposure to trivalent chromium is allergic dermatitis. In addition, trivalent chromium has significantly lower migratory potential than hexavalent chromium, and is less mobile should it migrate from a waste matrix. Moreover, there appears to be little likelihood that trivalent chromium will oxidize to hexavalent chromium under most plausible occurring types of improper waste management.

After evaluating the information that was available to the Agency (including the comments submitted in response to the October 30, 1980 proposal) the Agency believes that additional comment would be of assistance in clarifying several issues. The Agency therefore is today soliciting from the public any information which would answer the following questions:

1. There may be some environmental settings in which trivalent chromium would be converted to hexavalent chromium if released from a land disposal or storage site. Are there documented instances where this has actually occurred?
2. The Agency has some data showing that trivalent chromium is apparently not migrating out of land disposal sites, or, if it is, the migration is very slow. Are there documented instances where trivalent chromium has, in fact, been found to leach from a landfill, surface impoundment or land treatment facility?
3. Trivalent chromium appears not to pose a health risk to humans. Is there any evidence to indicate that trivalent chromium is toxic to humans when ingested?
4. Is the hazard posed by trivalent chromium to the aquatic environment of sufficient magnitude to warrant regulations under RCRA? What is the risk posed by trivalent chromium? What would be an appropriate RCRA threshold to prevent such damage?

List of Subjects in 40 CFR Part 261

Hazardous material, Recycling waste treatment and disposal.

Dated: May 6, 1983.

Lee M. Thomas,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 83–13142 Filed 5–16–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health Care Improvement Act Programs

AGENCY: Public Health Service, HHS.

ACTION: Proposed rule.

SUMMARY: These rules propose requirements for a new Indian health pregraduate scholarship program of up to four years which is intended to encourage Indians to enter the health professions and to insure the availability of Indian health professionals to serve Indians. The proposal would also change the current regulation governing the Preparatory Scholarship Program: (1) To provide for the contingency that the stipend could be reduced if Federal salaries were reduced; and (2) to remove the requirement that an annual list of scholarship recipients be published in the **Federal Register**.

DATE: Comments must be received on or before July 1, 1983.

ADDRESS: Address written comments to: Richard J. McCloskey, Indian Health Service, Room 6A–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Pierre Colombel, Indian Health Service, 5600 Fishers Lane, Room 6A–23, Rockville, Maryland 20857, Telephone (301) 443–5441.

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) is proposing editorial and technical changes to Subpart J and to add a new Subdivision J–8 to implement the new pregraduate scholarship program authorized by the Indian Health Care Amendments of 1980, section 3(b)(1) of Pub. L. 96–537. That section (which amended section 103(b) of the Indian Health Care Improvement Act (25 U.S.C 1613(b)), left unchanged the two-year scholarship program for "compensatory preprofessional education" but added a new scholarship program for persons enrolled in preprofessional curricula leading to a baccalaureate degree in an approved premedicine, predentistry, preosteopathy, preveterinary medicine, preoptometry, or prepodiatry program. Up to four years of scholarship assistance is authorized by the new law.

The application and selection criteria that we are proposing for the new scholarship program are essentially the same as for the two-year Health Professions Preparatory Scholarship Program contained in Subdivision J–3. An incorrect cross-reference contained in § 36.322(a)(2) is changed from § 36.333 to § 36.332. This was an inadvertent typographical error.

The current regulation for the two-year scholarship program at § 36.323 provides for a stipend of $400 per month subject to annual increases based on rates of pay in the General Schedule (5 U.S.C. 5332). It is proposed to correct § 36.323(c) to provide that the stipend shall be "adjusted" rather than "increased" to take into account the possibility of reductions as well as increases in the rates of pay under the General Schedule. The proposed regulation for the four-year pregraduate scholarship program will have a similar provision. The amount of the monthly stipend would be the same for both scholarship programs.

The current regulation at § 36.324 requires the Agency to publish an annual list of scholarship recipients in the **Federal Register**. It is proposed to amend § 36.324 to provide that an annual list of scholarship recipients, showing their tribal affiliation and school attended, will be provided to anyone requesting a copy. The proposed regulation for the pregraduate scholarship program will have a similar provision. Experience shows that anyone interested in such information is more likely to request it from the Agency rather than to read the **Federal Register**.

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will

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not have a significant economic impact or a substantial number of small entities. The reason for the Secretary's certification is that this regulation will affect relatively few students at colleges and universities and thus will not have a significant impact on educational institutions.

The reporting requirements in § 36.372 will be submitted to the Office of Management and Budget for review and approval under section 3507 of the Paperwork Reduction Act of 1980.

Of an FY 1983 Appropriation of $5.8 million for both the two year preparatory and the four year pregraduate program, about 60 percent is estimated to be allocated for the four year pregraduate scholarship program. Therefore, the Secretary has determined that this rule does not meet the criteria specified in Executive Order 12291 for a major rule and no regulatory impact analyses is required.

List of Subjects in 42 CFR Part 36

Grant programs—education, Health, Indians, Health care, Indians; Indians—education, Scholarships and fellowships, Student aid.

Dated: February 9, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary.

PART 36—[AMENDED]

For the reasons set out in the preamble, it is proposed to amend 42 CFR Part 36, Subpart J as follows:

1. The Table of Contents for Subpart J is amended to add a new subdivision J–8 to read as follows:

Subdivision J–8—Health Professions Pregraduate Scholarship Program for Indians

Sec.
36.370 Pregraduate scholarship grants.
36.371 Eligibility.
36.372 Application and selection.
36.373 Scholarship and tuition.
36.374 Availability of list of recipients.

2. The Authority citation is amended by removing the last period, inserting in its place a semicolon, and adding thereafter "sec. 3(b)(1) of Pub. L. 96–537, which amended sec. 103(b) of Pub. L. 94–437 (25 U.S.C. 1613(b))."

§ 36.301 [Amended]

3. Paragraph (b)(2) of § 36.301 is revised to read as follows:

* * * * *

(b) * * *

(2) The award of preparatory scholarship grants and pregraduate scholarship grants under section 103 of the Act, as amended, to Indians undertaking compensatory and preprofessional education (Subdivisions J–3 and J–8);

* * * * *

4. Paragraph (b)(3) of § 36.301 is revised to read as follows:

* * * * *

(b) * * *

(3) The award of Indian Health Scholarship grants pursuant to section 338G of the Public Health Service Act, initially added by section 104 of the Act, to Indian or other students in health professions schools (Subdivision J–4);

* * * * *

§ 36.302 [Amended]

5. Paragraph (h) of § 36.302 is amended by removing the word "and" after "J–3" and inserting a comma and the words "and J–8" after "J–4".

§ 36.322 [Amended]

6. Paragraph (a)(2) of § 36.322 is amended by removing "36.333" and inserting in its place "36.332."

7. Paragraph (c) of § 36.323 is revised to read as follows:

§ 36.323 Scholarship and tuition.

* * * * *

(c) The amount of the monthly stipend specified in paragraph (a)(1) of this section shall be adjusted by the Secretary for each academic year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded down to the next lowest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of Title 5, United States Code) of the adjustment in the rates of pay under the General Schedule made effective in the fiscal year in which such academic year ends.

8. Section 36.324 is revised to read as follows:

§ 36.324 Availability of list of recipients.

The Indian Health Service will provide to any person requesting it a list of the recipients of scholarship grants under this subdivision, including the school attended and tribal affiliation of each recipient.

9. Subpart J, is amended by adding a new Subdivision J–8 to read as follows:

Subdivision J–8—Health Professions Pregraduate Scholarship Program for Indians

§ 36.370 Pregraduate scholarship grants.

(a) Pregraduate scholarship grants may be awarded under this subdivision and section 103 of the Act for the period (not to exceed four academic years) necessary to complete a recipient's pregraduate education leading to a baccalaureate degree in a premedicine, preoptometry, predentistry, preosteopathy, preveterinary medicine, or prepodiatry curriculum or equivalent.

(b) Students enrolled in accredited health professional or allied health professional programs which lead to eligibility for licensure, certification, registration or other types of credentials required for the practice of a health or allied health profession are ineligible for scholarships under this subdivision. Examples of health professions and allied health professions that will not be considered for funding include but are not limited to: nursing, audiology, medical technology, dental hygiene, dental technicians, engineering, radiologic technology, dietitian, nutritionist, social work, health education, physical therapy, occupational therapy and pharmacy. Scholarships for students in these programs are provided under Subdivision J–4.

§ 36.371 Eligibility.

To be eligible for a pregraduate scholarship grant under this subdivision an applicant must:

(a) Be an Indian;

(b) Have successfully completed high school education or high school equivalency;

(c) Have demonstrated to the satisfaction of the Secretary the desire and capability to successfully complete courses of study in a pregraduate education program meeting the criteria in § 36.370;

(d) Be accepted for enrollment in or be enrolled in any accredited pregraduate education curriculum meeting the criteria in § 36.370 of this subdivision; and

(e) Be a citizen of the United States.

§ 36.372 Application and selection.

(a) An application for a pregraduate scholarship grant under this subdivision shall be submitted in such form and at such time as the Secretary may prescribe. However, an application must indicate:

(1) The pregraduate program in which the applicant is or wishes to enter, and

(2) Whether the applicant intends to provide health services to Indians upon completion of health professions education or training by serving as described in § 36.332 or otherwise as indicated on the application.

(b) Within the limits of available funds, the Director, IHS shall make pregraduate scholarship grant awards for a period not to exceed four academic years of an individual's pregraduate eduaction to eligible applicants taking into consideration:

(1) Academic performance;

(2) Work experience;

(3) Faculty or employer recommendation;

(4) Stated reasons for asking for the scholarship; and

(5) The relative needs of the IHS and Indian health organizations for persons in specific health professions.

§ 36.373 Scholarship and tuition.

(a) Scholarship grant awards under this subdivision shall consist of:

(1) A stipend of $400 per month adjusted in accordance with paragraph (c) of this section; and

(2) An amount determined by the Secretary for transportation, tuition, fees, books, laboratory expenses and other necessary educational expenses.

(b) The portion of the scholarship for the costs of tuition and fees as indicated in the grant award will be paid directly to the school upon receipt of an invoice from the school. The stipend and remainder of the scholarship grant award will be paid monthly to the grantee under the conditions specified in the grant award.

(c) The amount of the monthly stipend specified in paragraph (a)(1) of this section shall be adjusted by the Secretary for each academic year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded down to the next lowest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of Title 5, United States Code) of the adjustment in the rates of pay under the General Schedule made effective in the fiscal year in which such academic year ends.

§ 36.374 Availability of list of recipients.

The IHS will provide to any person requesting it a list of the recipients of scholarship grants under this subdivision, including the school attended and tribal affiliation of each recipient.

[FR Doc. 83-13137 Filed 5-16-83; 8:45 am]

BILLING CODE 4160-16-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–153; RM–4219]

FM Broadcast Station in Cuba, New Mexico; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in response to a request filed by counsel for D. Matthew Runnels, in a proceeding involving the proposed assignment of an FM channel to Cuba, New Mexico. Runnels has indicated an interest in the assignment of an FM channel to Cuba, New Mexico, but states that additional time is needed to evaluate the Commission's proposal and to formulate a proper response.

DATES: Comments must be filed on or before May 16, 1983, and reply comments on or before May 31, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Order Extending Time for Filing Comments and Reply Comments

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cuba, New Mexico), MM Docket No. 83–153, RM–4219.

Adopted: April 26, 1983.
Released: May 5, 1983.

By the Chief, Policy and Rules Division.

1. On March 10, 1983, the Commission issued a *Notice of Proposed Rule Making* ("*Notice*"), 48 FR 11472, published March 18, 1983, in the above-referenced proceeding. Comments were due April 25, 1983, and reply comments are currently due May 10, 1983.

2. We now have before us a motion for extension of time in which to file comments and reply comments herein filed by counsel for D. Matthew Runnels ("Runnels"). In response to the *Notice*, Runnels also indicates an interest in applying for a new FM channel at Cuba, New Mexico, but states that additional time is necessary to review the Commission's proposal and relevant facts pertinent thereto.

3. Runnels asserts that he has been unable to contact petitioner by telephone to obtain his consent to this requested extension. However, Runnels certifies that he has served petitioner with a copy of the motion.

4. Section 1.46(b) of the Commission's Rules states that extension requests must be filed seven days in advance of the deadline. Counsel states that since it has been retained only recently, it was not possible to file an extension in advance of the deadline. In view of the circumstances we will waive the requirements of Section 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding. Additionally, such extension will afford the petitioner an opportunity to respond to Runnels comments by the date set forth below for filing reply comments.

5. Accordingly, *it is ordered*, That the time for filing comments and reply comments in MM Docket No. 83–153 (RM–4219), *is extended* to and including May 16 and May 31, 1983, respectively.

6. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–13124 Filed 5–16–83; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Vertebrate Wildlife for Listing As Endangered or Threatened Species

Correction

In FR Doc. 82–34992, beginning on page 58454, in the issue of Thursday, December 30, 1982, make the following changes:

1. On page 58456, in the entry for "Smoky madtom", the second column should read "*Noturus baileyi*".

2. In the entry for "Preston White River Springfish", the second column should read "*Crenichthys baileyi albivallis*".

3. The entry now reading "Pexos pupfish" should read "Pecos pupfish".

4. In the entry for "Guadalupe bass", the second column should read "*Micropterus treculi*".

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5. On page 58457, in the entry for "Wyoming toad", the second column should read "*Bufo hemiophrys baxteri*".

6. On page 58459, in the entry for "Dismal Swamp short-tailed shrew", the second column should read "*Blarina brevicauda telmalestes*".

7. In the entry for "White-sided jack rabbit", the fourth column should read "NM, Mexico."

8. In the first column "2" should read "3A", in the "Sherman's pocket gopher" entry.

9. In the first column "2" should read "3A", in the "Goff's pocket gopher" entry.

10. In the first column "2" should read "3B", in the "Colonial pocket gopher" entry.

11. In the first column "2" should read "3B", in the "Cumberland pocket gopher" entry.

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 96
Tuesday, May 17, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Little Elk Creek Critical Area Treatment RC&D Measure, Oklahoma; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Elk Creek Critical Area Treatment RC&D Measure, Kiowa County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone 405–624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns reducing the rate of soil erosion and sedimentation. The planned works of improvement include gully shaping, grade stabilization structures, diversions, etc., with vegetation planned after installation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 9, 1983.

Billy R. Littlefield,

Assistant State Conservationist.

[FR Doc. 83–13027 Filed 5–16–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell, (202) 673–5922.

Extension

Title of the Collection of Information: Foreign Air Carrier Application for Statement of Authorization for Intermodal Services
Agency Form Number: 222
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: Foreign Air Carriers
Estimate of number of annual responses: 20
Estimate of number of annual hours needed to complete the collection of information: 10
Dated: May 10, 1983.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83–13230 Filed 5–16–83; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; (See, 14 CFR 302.1701 et seq.); Week Ended May 6, 1983

Subpart Q Applications

The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
5–2–83	41448	Audi Air, Inc., c/o Walt Audi, P.O. Box 40, Kaktovik (Barter Island), Alaska 99747. Application of Audi Air, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Prudhoe Bay and the terminal point Nuiqsut, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 31, 1983.
5–3–83	41453	Midwest Express Airlines, Inc., c/o Robert E. Freer, Jr., 1000 Wilson Boulevard, Suite 2200, Arlington, Virginia 22209. Application of Midwest Express Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity proposing convenient, innovative and competitively priced service from Appleton, Wisconsin to Chicago, Illinois' O'Hare Field and Atlanta, Georgia's Fulton County Airport-Brown Field. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 31, 1983.
5–3–83	41457	Empresa Ecuatoriana de Aviacion (Ecuatoriana), c/o John A. Hodges, McDermott, Will & Emery, 1850 K Street, N.W., Washington, D.C. 20006

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Date filed	Docket No.	Description
		Application of Ecuatoriana pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of its existing foreign Air Carrier permit issued in Order 81-6-12. The routes to be covered by the permit for which application is made are as follows: Between a point or points in Ecuador; the intermediate points Cali and Bogota, Colombia, Panama City, Panama, and Havana, Cuba; and the co-terminal points Miami, Florida and New York, New York. Between a point or points in Ecuador; the intermediate points Cali and Bogota, Colombia, Panama City, Panama, and Mexico City, Mexico; and the terminal point Los Angeles, California. Answers may be filed by May 31, 1983.
5-6-83	41465	Cascade Airways, Inc., c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Conforming Application of Cascade Airways, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to provide foreign air transportation between Spokane, Washington and Calgary, Alberta, Canada. Cascade requests that its applications be considered simultaneously with that of American Airlines in Docket 41423 for the same authority. Answers may be filed by June 1, 1983.
5-2-83	41353	Bellair, Incorporated, c/o Hank Myers, Myers & Company, P.O. Box 7341, Bellevue, Washington 98008. Supplemental information of Bellair, Incorporated pursuant to Order 83-3-152. Answers may be filed by May 31, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-13231 Filed 5-16-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-080]

Carbon Steel Plate From Taiwan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel plate from Taiwan. The review covers the only known exporter of this merchandise to the United States, China Steel Corporation, and the period June 1, 1981 through May 31, 1982. The review indicates the existence of no dumping margins for the period.

As a result of the review, the Department has preliminarily determined not to assess dumping duties on entries with purchase dates during the period of review nor to require cash deposits of estimated antidumping duties on future entries. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Alfredo Montemayor or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5505/5255.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 13547) the final results of its last administrative review of the antidumping finding on carbon steel plate from Taiwan (38 FR 33877-8, June 13, 1979) and announced its intent to conduct the next administrative review by the end of June 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of hot rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad and not pressed or stamped to a non-rectangular shape. Carbon steel plate is currently classifiable under item 607.6615 of the Tariff Schedules of the United States Annotated.

The review covers the only known exporter of Taiwanese carbon steel plate to the United States, China Steel Corporation, and the period June 1, 1981 through May 31, 1982.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the CIF or C&F price with deductions, where applicable, for ocean freight and insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the home market list base price for shipbuilding plate. We made an adjustment for differences in phyical characteristics using the list prices for extras. Our review indicates that China Steel Corporation adhered to its list prices for the base price and extras during the review period. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for the period June 1, 1981 through May 31, 1982.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the U.S. Customs Service not to assess dumping duties on entries made with purchase dates during the period of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on shipments of Taiwanese carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 9, 1983.

[FR Doc. 83-13224 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-057]

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covers six of the seven known exporters of this merchandise to the United States and generally the period September 1, 1980 through August 31, 1981. Due to additional time needed for analysis, we are deferring National Paver Parts until our next review. The review indicates the existence of dumping margins for certain firms.

As a result of this review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value on each of the shipments during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 6681-2) the final results of its last administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada (42 FR 44811, September 7, 1977) and announced its intent to conduct its next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of replacement parts for self-propelled bituminous paving equipment. The review covers six of the seven known exporters of this merchandise to the United States and generally the period September 1, 1980 through August 31, 1981. In addition we are publishing revised preliminary results for the period December 1, 1979 through August 31, 1980 for one exporter, Babcock Allatt, Ltd., which we deferred in our last review. Due to additional time needed for analysis, we are deferring National Paver Parts until our next review.

Five firms had no shipments of replacement parts for self-propelled bituminous paving equipment to the U.S. during the period reviewed. The estimated antidumping duty cash deposit rates for these firms will be the most recent information for each firm.

United States Price

In calculating United States price, the Department used purchase price or exporter's sales price ("ESP"), as defined in section 772 of the Tariff Act or sections 203 or 204 of the 1921 Act, as appropriate.

Purchase price was based on the packed, f.o.b. price to unrelated purchasers in the United States. ESP was based on the packed, f.o.b. warehouse price to unrelated purchasers in the United States. Where applicable, deductions were made for U.S. and foreign inland freight, U.S. duty, brokerage charges, discounts, commissions to unrelated parties, and selling expenses. We added Canadian sales tax not collected by reason of the exportation of the merchandise to the United States. All deductions and additions, where applicable, are in accordance with § 353.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act, or section 205 of the 1921 Act, as appropriate, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the packed, ex-factory price to unrelated customers. We adjusted home market prices downward using commissions to unrelated parties and indirect selling expenses to offset U.S. selling expenses for ESP calculations, in accordance with § 353.15 of the Commerce Regulations and § 153.10 of the Customs Regulations (1979). Claims that further downward adjustments be made to offset expenses incurred for selling in the U.S. were disallowed because the expenses were either not indirect selling expenses, or were not applicable to sales solely in the home market. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer	Time period	Margin (percent)
Anvil Manufacturing Co.	9/1/80 to 8/31/81	[1] 20.12
Babcock Allatt, Ltd.	12/1/78 to 8/31/79	0
	9/1/79 to 8/31/81	5.30
Barber-Greene Canada Ltd.	9/1/80 to 8/31/81	[1] 0
General Construction Equipment Manufacturing Ltd.	9/1/80 to 8/31/81	[1] 0
Parker Hannifin	9/1/80 to 8/31/81	[1] 20.12
S.F. Tubing Ltd.	9/1/80 to 8/31/81	[1] 0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an adminstrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the adminstrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates or export dates, as appropriate, during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement

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instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian replacement parts for self-propelled bituminous paving equipment from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. The deposit rate for National Paver Parts shall be 1.05 percent, based on our preliminary analysis of shipments made between February 1, 1981 and May 31, 1981. For any future shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred after August 31, 1981 and who is unrelated to any reviewed firm, a deposit shall be required at the highest rate for responding firms with shipments during the review period, that is 5.30 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 9, 1983.

[FR Doc. 83-13225 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-040]

Steel Reinforcing Bars From Canada; Preliminary Results of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on steel reinforcing bars from Canada. The review covers the only manufacturer covered by the finding, Western Canada Steel Limited, and the two other known exporters to the United States of this merchandise manufactured by Western Canada Steel Limited. The review period is April 1, 1981 through March 31, 1982.

As a result of the review, because Western Canada Steel did not respond to the Department's questionnaire, the Department has preliminarily determined to assess dumping duties on that firm's sales during the period of review using the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Alfredo R. Montemayor or Susan M. Crawford, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: 202-377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 55261) the final results of its last administrative review of the antidumping finding on steel reinforcing bars from Canada (29 FR 5341-42, April 21, 1964) and announced its intent to conduct the next administrative review by the end of April 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of steel reinforcing bars from Canada, manufactured by Western Canada Steel Limited, currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated.

The review covers Western Canada Steel Limited and the two other known exporters to the United States of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited. The review period is April 1, 1981 through March 31, 1982.

Western Canada Steel failed to respond to the Department's questionnaire. For this non-responsive firm, the Department will use the best information available for assessment and estimated antidumping duty cash deposit rate purposes. The best information available is the most recent rate for this firm.

The other exporters did not export this merchandise to the United States during the review period. The Department will use the most recent information for each exporter for the estimated antidumping duty cash deposit rates.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 1981 through March 31, 1982:

Manufacturer/exporter	Margin (percent)
Western Canada Steel Limited	6.40
Western Canada Steel Limited/Rhodes Vaughan & Co., Ltd	[1] 6.40
Western Canada Steel Limited/Russelsteel Limited	[1] 6.40

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 6.40 percent shall be required on all shipments of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 10, 1983.

[FR Doc. 83-13223 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-25-M

[A-429-101]

Unrefined Montan Wax From the German Democratic Republic; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on unrefined montan wax from the German Democratic Republic. The review covers the one known exporter of this merchandise to the United States and the period september 1, 1981 through August 31, 1982. The review indicates the existence of no dumping margins for the period.

As a result of the review, the department has preliminarily determined not to assess dumping duties on entries with purchase dates during the period of review nor to require cash deposits of estimated antidumping duties.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 1981, the department of Commerce ("the Department") published in the **Federal Register** (46 FR 45177-8) the antidumping duty order on unrefined montan wax from the German Democratic Republic ("the GDR"). On January 26, 1982, the Department published in the **Federal Register** (47 FR 3579-80) an early determination of antidumping duty and announced its intent to conduct the next administrative review by the end of September 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of unrefined montan wax which is a non-oxidized mineral extracted from lignite, not advanced beyond extraction or cleaning by solvent. This product is primarily used in the United States as a flow agent in one-time carbon ink formulas. It is also used for producing polishes, mold release agents and for casting, and is currently classifiable under item 494.2000 of the Tariff Schedules of the Unites States Annotated.

The Department knows of only one exporter of unrefined montan wax from the GDR, VEB Braunkohlenkombinat "Gustav Sobottka". The review covers the period September 1, 1981 through August 31, 1982.

United States Price

In calculating United States price the department used purchases price, as defined in section 772 of the Tariff Act. Purchase price was based on the FOB price to unrelated purchasers in the United States. Where applicable, deductions were made for foreign inland freight and harbor charges. No other adjustments were claimed or allowed.

Foreign Market value

Since the GDR is a state-controlled-economy country, the department used the provisions in section 773(c) of the Tariff Act to establish foreign market value. We constructed a value based on specific components or factors of production in the GDR, valued on the basis of prices in the Federal Republic of Germany, a non-state-controlled-economy country. For purposes of the review we constructed a value for unrefined wax, equal to the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. The amount added for general expenses constituted at least ten percent of the sum of materials and fabrication costs. Because profit in the Federal Republic of Germany was less than eight percent, we used the statutory minimum as provided for in section 773(e) of the Tariff Act.

Preliminary Results of the Review

As a result of our review, we preliminary determine that no dumping margins exist for the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on entries made with purchase dates during the period of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on any shipments of unrefined montan wax from the GDR entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 10, 1983.

[FR Doc. 83-13226 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Welded Carbon Steel Pipes and Tubes From the Republic of Korea and Taiwan

AGENCY: United States Department of Commerce, International Trade Administration.

ACTION: Initiation of antidumping investigations.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether certain welded carbon steel pipes and tubes from the Republic of Korea (Korea) and Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigations proceed noramally, the ITC will make its preliminary determinations on or before June 6, 1983 and we will make ours on or before September 28, 1983.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION: On April 21, 1983, we received a petition in proper form from counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of welded carbon steel

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pipes and tubes: Allied Tube and Conduit Corp., American Tube Co., Inc., Bull Moose Tube Co., Copperweld Tubing Group, Kaiser Steel Corp., Merchants Metals, Inc., Pittsburgh-International, Southwestern Pipe, Inc., and Western Tube and Conduit.

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value of the merchandise under investigation from Korea is supported by comparisons of offered United States prices with the foreign market value based on the constructed value of the merchandise using publicly available financial statements of two Korean producers of pipes and tubes. The allegation of sales at less than fair value of the merchandise under investigation from Taiwan is supported by comparisons of offered United States prices with the foreign market value based on an average of home market sale prices for pipes and tubes.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition filed by the representatives of the domestic manufacturers of welded carbon steel pipes and tubes, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain welded carbon steel pipes and tubes from Korea and Taiwan are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by September 28, 1983.

Scope of the Investigations

The merchandise covered by these investigations are certain welded carbon steel pipes and tubes, which are defined for purposes of this proceeding as: welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3232, 610.3241 and 610.3244 of the Tariff Schedules of the United States Annotated (1983) (TSUSA) or of rectangular (including square) cross section, provided for in TSUSA items 610.3955 and 610.4975.

Notification to the ITC

Section 732(d) of the Act requires us to notify the United States International Trade Commission of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of certain welded carbon steel pipes and tubes from Korea and Taiwan are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise they will proceed according to the statutory procedures.

Dated: May 11, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-13229 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application; New York

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Technology Commercialization Center (TCC) Program to operate a Technology Commercialization Center for a period of 12 months beginning on or about September 1, 1983 in the New York City Area. Federal funds are estimated at $150,000 for the center with a 10% cost sharing requirement (any combination of cash, in-kind or fees for services). Reference may be made to Catalog of Federal Domestic Assistance—11.814 Minority Business Development. It is anticipated that the funding instrument will be a grant as defined by the Federal Grant and Cooperative Agreement Act of 1977. The applicant shall be expected to provide and/or broker those services necessary to move technology-based projects from the initial evaluation stage through the product development phase into commercialization. These services shall benefit those minorities capable of engaging in technology-based and growth oriented businesses, inventors, innovators and sources of financial assistance. Experience/capability is required in technology commercialization. There are no restrictions (any profit or non-profit institution is eligible to submit an application.

CLOSING DATE: The closing date for receipt of applications is June 24, 1983 with a postmark date on or before June 24, 1983.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 36-116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Joseph F. Korpsak, Telephone: (212) 264-3262.

SUPPLEMENTARY INFORMATION: This program is subject to OMB Circular A-95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

(Catalog of Federal Domestic Assistance: 11.814 Minority Business Development)

Dated: May 10, 1983.

Joseph F. Korpsak,

Acting Regional Director.

[FR Doc. 83-13146 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application; Puerto Rico

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Technology Commercialization Center (TCC) Program to operate a Technology Commercialization Center for a period of 12 months beginning on or about September 1, 1983 in the Puerto Rico area. Federal funds are estimated at $150,000 for the center with a 10% cost sharing requirement (any combination of cash, in-kind or fees for services). Reference may be made to Catalog of Federal Domestic Assistance—11.814 Minority Business Development. It is anticipated that the funding instrument will be a grant as defined by the Federal Grant and Cooperative Agreement Act of 1977. The applicant shall be expected to provide and/or broker those services necessary to move technology-based projects from the initial evaluation stage through the product development phase into commercialization. These services shall benefit those minorities capable of engaging in technology-based and growth oriented businesses, inventors, innovators and sources of financial assistance. Experience/capability is required in technology commercialization. There are no restrictions (any profit or non-profit institution is eligible to submit an application.)

CLOSING DATE: The closing date for receipt of applications is June 24, 1983 with a postmark date on or before June 24, 1983.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 36-116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Joseph F. Korpsak, Telephone: (212) 264-3262.

SUPPLEMENTARY INFORMATION: This program is subject to OMB Circular A-95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

(Catalog of Federal Domestic Assistance: 11.814 Minority Business Development)

Dated: May 10, 1983.

Joseph F. Korpsak,

Acting Regional Director.

[FR Doc. 83-13147 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Issuance of Permit; Dolphin Biology Research Associates, Inc.

On March 11, 1983, Notice was published in the **Federal Register** (48 FR 10421), that an application had been filed with the National Marine Fisheries Service by Mr. Randall S. Wells, Dolphin Biology Research Associates, Inc., 163 Siesta Drive, Sarasota, Florida 33581, to capture, sample, mark and release up to 105 Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of scientific research.

Notice is hereby given that on May 10, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Mr. Randall S. Wells subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: May 10, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-13206 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Sherman C. Jones

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Sherman C. Jones (P321).

b. Address: P.O. Box 1981, Room 4-270, Galveston, Texas 77553.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals:

Bottlenose dolphins (*Tursiops truncatus*)—Unspecified.

Spinner dolphins (*Stenella longirostris*)—Unspecified.

4. Type of Take:

An unspecified number of the dolphins may be potentially harassed while studying population densities, group movements and migrations and behavior.

5. Location of Activity: Galveston Bay area; Texas.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is fowarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: May 11, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-13205 Filed 5-16-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

President's Private Sector Survey on Cost Control

AGENCY: U.S. Department of Commerce, Office of the Secretary.

ACTION: Notice of Open Meeting of the Subcommittee of the President's Private Sector Survey on Cost Control (PPSSCC).

SUMMARY: The Subcommittee was established by the Executive Committee of the PPSSCC to: (i) review the recommendations submitted, including task force reports and public comments, and (ii) determine which recommendations should be made to the President and the Departments and Agencies.

Time and place: May 26, 1983, beginning at 11 a.m. The meeting will be held at the U.S. Department of Commerce Auditorium, First Floor, Herbert C. Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

1. Draft reports from the following Task Forces of the Survey will be discussed by Subcommittee members:

A. Boards/Commissions—Business.

B. Boards/Commissions—Banking.

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C. User charges.
D. Low Income Standards.
E. Department of State/AID/USIA.
F. Land/Facilities/Personal Property.

2. Comments and recommendations received from public and other interested parties will be discussed by Subcommittee members.

In compliance with Federal Advisory Committee Act and Freedom of Information Act requirements, copies of the draft reports will be available on May 16 at the Department's Central Reference and Records Inspection Facility, Room 628, Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Please call Ms. Geraldine P. LeBoo on (202) 377–3271 for information concerning fees and procedures for obtaining copies by mail.

SUPPLEMENTARY INFORMATION: The Subcommittee will hold additional public meetings in May and June, 1983. Exact dates will be noticed in the **Federal Register**. Copies of all materials, including Task Force reports, to be considered at these meetings will be available approximately two weeks prior to each meeting at the Department's Central Reference and Records Inspection Facility, address above.

Public Participation

The May 26 meeting will be open to the public. Seating will be on a first-come, first-served basis, up to the safe capacity of the meeting room. Media representatives are encouraged to call Mr. Malcolm Barr, Director, News Relations, Department of Commerce, 377–4901 to arrange for coverage of the meeting.

The public may file written statements for consideration by the Subcommittee any time before, at, or after the meeting. It is strongly recommended that statements concerning the matters to be considered at each meeting be filed before such meeting to ensure that they are considered by the Subcommittee before adoption of a report. The statements should be filed at the Department of Commerce's Central Reference and Records Inspection Facility, address and phone number as above. Because of the number of recommendations to be discussed, the meeting agenda will not include time for oral statements from public attendees. All public statements received will be available for public review.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Executive Committee of the President's Private Sector Survey on Cost Control, telephone (202) 466–4665.

Dated: May 13, 1983.

Marilyn S. McLennan,

Chief, Information Policy and Management Division, Office of the Secretary.

[FR Doc. 83–13285 Filed 5–13–83; 11:53 am]

BILLING CODE 3510-CW-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Increase in the Import Restraint Level for Certain Cotton Apparel from Indonesia

May 11, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import level of men's and boys' woven cotton shirts in Category 340 from 321,000 dozen to 340,260 dozen, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1982 by the application of carryforward.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 9, 1982 between the Governments of the United States and Indonesia provides, among other things, for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. At the request of the Government of Indonesia, an increase for carryforward is being applied to the level of restraint for cotton textile products in Category 340.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On November 17, 1982, there was published in the **Federal Register** (47 FR 51782) a letter dated November 15, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain categories of cotton textile products, including Category 340, produced or manufactured in Indonesia and exported to the United States during the twelve-month period which began on July 1, 1982 and extends through June 30, 1983. In accordance with the terms of the bilateral agreement, and at the request of the Government of Indonesia, the United States Government has agreed to increase the level for cotton textile products in Category 340. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level to 340,260 dozen.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

May 11, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On November 15, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on July 1, 1982 and extending through June 30, 1983 of certain cotton textile products, produced or manufactured in Indonesia, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Effective on May 17, 1983, paragraph 2 of the directive of November 15, 1982 is amended to include an adjusted twelve-month level of restraint of 340,260 dozen[2] for cotton textile products in Category 340, produced or manufactured in Indonesia and exported during the twleve-month period which began on July 1, 1982.

The action taken with respect to the Government of Indonesia and with respect to cotton textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–13120 Filed 5–16–83; 8:45 am]

BILLING CODE 3510–25–M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 9, 1982, between the Governments of the United States and Indonesia, which provide, in part, that: (1) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after June 30, 1982.

Request for Public Comments on Bilateral Textile Consultations With the Government of Mexico To Review Trade in Category 604 pt. (Only T.S.U.S.A. 310.5049)

May 12, 1983.

On March 31, 1983 the Government of the United States requested consultations with the Government of Mexico with respect to acrylic spun yarn in Category 604 pt (only T.S.U.S.A. No. 310.5049). This request was made on the basis of paragraph 6 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the two governments. Paragraph 6 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultation between the two governments within 90 days of the request for consultations, the Committee for the Implementation of Textile Agreements, pursuant to paragraph 6 of the agreement, may establish a limit of 759,421 pounds for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604 pt. (only T.S.U.S.A. Number 310.5049), produced or manufactured in Mexico and exported to the United States during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983.

The Government of the United States reserves the right under the agreement to invoke import controls on this category during the 90-day consultation period (April 1, 1983—June 29, 1983) at a level of 256,609 pounds and during the twelve-month period which began on January 1, 1983 at a level of 759,421 pounds.

Any party wishing to comment or provide data or information regarding the treatment of Category 604 pt. (only T.S.U.S.A. Number 310.5049) under the bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement with the Government of Mexico, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 604 pt. (only T.S.U.S.A. Number 310.5049), is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–13228 Filed 5–16–83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Treasury Repo Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBOT") has applied for designation as a contract market in Treasury Repos. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before July 18, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBOT Treasury Repo futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the CBOT proposed Treasury Repo futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBOT in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBOT in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by July 18, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 12, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–13159 Filed 5–16–83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Hydropower Development of the North Santiam River, Oregon

LEAD AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

The Corps of Engineers, Portland District, is currently investigating the feasibility of additional hydropower

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development on North Santiam River, Marion County, Oregon. Alternatives being considered include the Mill City Diversion, Minto Dam, and a combination of both. The Mill City Diversion would consist of diverting water from the Big Cliff Reservoir, carrying it along the hillside to the north of the river to a headpond where it would be dropped about 400 feet to a powerhouse on North Santiam River about 2 miles west (downstream) of Mill City. The Minto Dam is an impoundment and powerhouse on the North Santiam River approximately 2 miles downstream from Big Cliff Dam being considered independently by the Eugene Water and Electric Board (EWEB). EWEB is also preparing an Environmental Impact Statement (EIS) to assess the possible impacts of the Minto Dam. The Corps EIS will take into consideration information made available by the EWEB EIS.

The scoping process will formally commence in the summer (May/June) of 1983, with the issuance of a public notice containing a draft outline of alternatives and potential effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the draft outline and to identify significant issues relating to the effects of the alternatives. The DEIS is scheduled for agency and public review in the fall of 1985. The Final EIS is scheduled for publication in the fall of 1986.

ADDRESS: If you have any questions or need additional information, please contact Mr. Eric Braun, telephone (503) 221–6438, (FTS 423–6438), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208.

Dated: May 9, 1983.

R. L. Friedenwald,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–13148 Filed 5–16–83; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command

Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on 16 June 1983 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 0930 hours and adjourn at approximately 1600 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34–R), and the handling of other matters of mutual interest relating to claims actions concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1600 hours. Topics to be discussed should be received on or before 20 May 1983.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 83–13253 Filed 5–16–83; 8:45 am]

BILLING CODE 3710–08–M

Military Personal Property Symposium; Open Meeting; "Correction"

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 19 May 1983 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 0800 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34–R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT–PPM, Washington, DC 20315.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 83–13252 Filed 5–16–83; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Navy Resale System Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on June 13, 1983, at the Maile Terrace Room, the Kahala Hilton Hotel, 5000 Kahala Avenue, Honolulu, Hawaii. The meeting will consist of two sessions; the first from 8:00 a.m. to 8:50 a.m., and the second from 9:00 a.m. until 1:00 p.m. Topics to be discussed at the meeting will include organization of the Resale System, planning, financial management, merchandising, field support, and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will involve discussion of matters relating solely either to internal agency personnel rules and practices, or to trade secrets and confidential commercial or financial information. These matters fall within the exemptions listed in sections 552b (c)(2), (c)(4), and (c)(9)(B) of title 5, *United States Code*. The first session of the meeting, which will involve other nonprivileged matters relating to the Navy Exchange Resale System, will be open to the public.

For further information concerning this meeting, contact: Captain J. R. Akers, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 516, Crystal Mall, Building No. 3, Arlington, Virginia 22202. Telephone: (202) 695–5457.

Dated: May 12, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 83–13160 Filed 5–16–83; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on June 14, 1983, at the Office of Naval Research, Arlington, Virginia, and on June 15, 1983, at the Naval Research Laboratory, Washington, D.C. The meeting will consist of five sessions. The first session will commence at 8:30 a.m. and terminate at 10:10 a.m. on June 14, 1983. The second session will commence at 10:10 a.m. and terminate at 11:10 a.m. on June 14, 1983. The third session will commence at 11:10 a.m. and terminate at 4:00 p.m. on June 14, 1983. The fourth session will commence at 4:00 p.m. and terminate at 5:00 p.m. on June 14, 1983. Finally, the fifth session will commence at 8:00 a.m. on June 15, 1983, and continue to completion. The first, second, third and fourth sessions of the meeting will be held in Room 915, Office of Naval Research. The fifth session will be held at the Naval Research Laboratory. The second and fourth sessions will be open to the public. The first, third, and fifth sessions will be closed to the public.

The purpose of the meeting is to discuss basic and advanced research in the Navy as well as a review of the status of all ongoing Committee studies and discussion of the 1983 Summer Study. The open sessions will generally cover presentations and discussions relating to environmental hazards onboard ship, evaluation of hospital care, acquisition directives, future training space, and laboratory oversight. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires the first, third, and fifth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander P. D. Quinton, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: May 12, 1983.

F. N. Ottie,

Lieutenant Commmander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–13165 Filed 5–16–83; 8:45 am]

BILLING CODE 3810–AE–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 25, 1983, beginning at 1:30 p.m. The hearing will be part of the Commission's regular May business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation beginning at 11:00 p.m.

The hearing, meeting and conference will be held in the Pennsylvania West Room of the Philadelphia Centre Hotel, 1725 Kennedy Boulevard, Philadelphia, Pennsylvania.

The subjects of the hearing will be as follows:

Applications for approval of the following projects pursuant to Article 10.3, Article II, and/or Section 3.8 of the Compact:

1. *Holdover Project—Pennsylvania Fish Commission (D–80–32 CP).* A well water supply project at the Fish Commission's Pleasant Mount Fish Cultural Station in Mount Pleasant Township, Wayne County, Pennsylvania. Well Nos. 2 and 3 will provide a combined yield of about 403,000 gallons per day (gpd) for augmented supply during spring months, and as a backup for an existing well. This hearing continues that of April 20, 1983.

2. *Indian Rock Water Company—Newtown Artesian Water Company (D–80–78 CP).* A ground water withdrawal project to supply approximately 252,000 gpd of water to the proposed Golden Acres residential development in the applicant's service area. Designated as Well No. 21, the project is located in Newtown Township, Bucks County, Pennsylvania and is in the Southeastern Pennsylvania Ground water Protected Area.

3. *Schuylkill Haven Bleach and Dye Works, Inc., (D–81–30).* A well water supply project to serve the applicant's bleach and dye plant in Schuylkill Haven Borough, Schuylkill County, Pennsylvania. Three wells would be utilized to supplement water supplied by the Borough of Schuylkill Haven. The new wells are expected to supply up to 237,000 gpd during periods of municipal water shortage.

4. *U.S. Department of Justice—Otisville FCI (D–83–7 CP).* A ground water withdrawal project to supply approximately 0.24 million gallons per day (mgd) of water to the Otisville Federal Correctional Institution in the Town of Mt. Hope, New York. The new wells, designated as PW–1, PW–2 and ES–1, will replace existing wells which have proven unreliable. the wells are located in the Town of Deerpark, in Orange County, New York.

5. *Diamond Shamrock Corporation (D–83–9).* Modification of an industrial waste treatment facility at the applicant's Delaware City plant in New Castle County, Delaware. Diamond Shamrock has sold its polyvinyl chloride manufacturing plant and will no longer treat wastes from this facility. The applicant will continue to operate its chlorine plant and associated waste treatment facility—designed to remove mercury from a waste stream of approximately 0.3 mgd. Treated effluent will continue to discharge to the Delaware River.

6. *Ethyl Corporation (D–83–13).* Modification of an industrial waste treatment facility at the applicant's newly acquired polyvinyl chloride plant near Delaware City, New Castle County, Delaware. Ethyl Corporation has purchased the PVC portion of the existing Diamond Shamrock Corporation facilities. The project will include piping modifications to allow Ethyl to treat the waste water streams from the PVC plant and the incinerator neutralization. New chlorination facilities will be added to the treatment units purchased by Ethyl. Up to 0.3 mgd of waste water from the Ethyl facilities will be mixed with the waste water from Diamond Shamrock and discharged via the existing outfall line to the Delaware River.

Documents relating to these projects may be examined at the Commission's offices and are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: May 10, 1983.

Susan M. Weisman,

Secretary.

[FR Doc. 83–13144 Filed 5–16–83; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Proposal for "Annual Report of the Origin of Natural Gas Liquids Production," Form EIA–64A

AGENCY: Energy Information Administration, DOE.

ACTION: Request for Comments on Revised Form EIA–64A, "Annual Report of the Origin of Natural Gas Liquids Production."

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE), is proposing a revision to Form EIA–64A, "Annual Report of the Origin of Natural Gas Liquids Production." If approved by the Office of Management and Budget, EIMA would implement the revised for the 1983 annual filing which will be due on April 1, 1984.

DATE: Written comments must be received by EIA within 30 days following the publication of this notice.

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ADDRESS: Comments should be sent to Ms. Nancy Leach at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT:
Ms. Nancy L. Leach, EI–441, Office of Oil and Gas, Energy Information Administration, Room BE–064, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6018.

SUPPLEMENTARY INFORMATION:
I. Current Action
II. Changes in the Revised Form EIA–64A
III. Request for Comments

I. Current Action

EIA proposes implementation of revised Form EIA–64A, "Annual Report of the Origin of Natural Gas Liquids Production," which expires August 1983. Clearance of this form will enable EIA to continue the data series. The data will be collected and processed by the Reserves and Natural Gas Operations Office at Norman, Oklahoma. After processing is completed, the aggregation of the natural gas receipts, natural gas liquids production, and gas shrinkage volumes is performed by EIA. These volumes are used in conjunction with lease condensate and natural gas reserves and production data collected independently on Form EIA–23, "Annual Reserves of Domestic Oil and Gas Reserves," to develop national and regional estimates of proved reserves of crude oil, dry natural gas, and natural gas liquids. EIA will publish these data in the annual report entitled "U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves." The aggregate data are now widely used by Federal and State agencies, by industry, and by other interested parties for analysis.

II. Changes in the Revised Form EIA–64A

A number of changes have been made in the form which should lower respondent burden, improve the quality of the information submitted, and increase the compatibility of the required volumes with other EIA forms. Among these changes are:

- Item 1.0, "Plant and Report Identification," has been expanded to collect current operational status information for the plant, and to establish whether or not the reported data covers the entire report year.
- Item 3.0 has been expanded to facilitate the reporting of up to twelve areas of origin.
- Two previously required data items have been eliminated: "Total Dry Natural Gas Processed" and "Dry Natural Gas Delivered for Cycling or Reinjection."
- A newly designated Item 4.0 is now required: "Gas Shrinkage Resulting from Natural Gas Liquids Extracted."
- Natural gas liquid volumes previously reported in barrels, are now required to be reported in thousands of barrels in order to the consistent with the reporting requirements of Form EIA–816 (formerly EIA–64), "Monthly Natural Gas Liquids Report."

III. Request for Comments

Form EIA–64A is reproduced following the notice, with the exception of the area of origin codes and subdivision maps which remain unchanged. Prospective respondents and other interested parties should comment on the planned revisions within 30 days following the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

As a potential data provider:

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

E. What is the estimated cost of completing this form, including direct and indirect costs associated with the data collections? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data?

As a potential data user:

A. Can your company analysts use data at the levels of detail indicated on the form?

B. For what purposes would you use these data? (Be specific)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you now use them? What are their deficiencies?

EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., May 10, 1983.

Yvonne M. Bishop,
Director, Statistical Standards, Energy Information Administration.

DEPARTMENT OF ENERGY—ENERGY INFORMATION ADMINISTRATION OFFICE OF OIL AND GAS

Annual Report of the Origin of Natural Gas Liquids Production Form EIA–64A for Report Year 1983

General Instructions

A. Purpose

The collection of basic, verifiable information on the Nation's reserves and production of natural gas liquids (NGL) is mandated by the Federal Energy Administration Act of 1974 (FEAA, Pub. L. 93–275). NGL production and gas shrinkage volumes reported on Form EIA–64A by natural gas processing plant operators are used in conjunction with lease condensate and natural gas reserves and production data collected independently on Form EIA–23, "Annual Survey of Domestic Oil and Gas Reserves." The Energy Information Administration of the Department of Energy (DOE) develops, from the information collected on these two companion forms, national and regional estimates of proved reserves of crude oil, natural gas, and natural gas liquids. This basic energy information is required by DOE to assist in the formulation of national energy policies.

The data collected on Form EIA–64A include the volumes of natural gas received and the nature gas liquids extracted at gas processing plants, by areas of origin, and the total gas shrinkage resulting from the natural gas liquids extracted by the plants.

B. Who Must Submit

Each operator of one or more domestic natural gas processing plant(s) is required to file a Form EIA–64A for each plant operated as of December 31 of the report year. If a plant was shut down as of December 31 of the report year but was operated earlier in the report year, a Form EIA–64A must be submitted for that plant. In cases in which a plant was operated by two or more operators during the report year, the operator as of December 31 of the report year should file a Form EIA–64A that covers the entire report year. If the operator is unable to obtain from previous operators the information required to compile accurate data covering the entire report year, The operator should file a Form EIA–64A covering only that portion of the report year during which he operated the plant.

If there is some question whether a plant is a "natural gas processing plant" or "field separation facility," contact your company's responsible preparer for Form EIA–23, "Annual Survey of Domestic Oil and Gas Reserves," in order to internally coordinate your responses. This will ensure that double reporting or nonreporting of liquids data does not occur. If you need assistance in identifying the EIA–23 responsible preparer, contact the EIA–64A Coordinator at (405) 360–3614.

C. What Must be Submitted

Each operator is required to complete a *separate* Form EIA–64A for *each gas processing plant.* If you had a plant in operation as of December 31 of the report year and did not receive a Form EIA–64A for it, a completed form should still be filed for the plant. Additional forms may be obtained by contacting the EIA–64A Coordinator at (405) 360–3614, or photocopies of the schedule may be used. Respondents need submit only one copy of the completed form for each plant. Form EIA–64A solicits annual data by area of origin not required on Form EIA–816, "Monthly Natural Gas Liquids Report" (formerly Form EIA–64). Form EIA–64A does not replace or supersede Form EIA–816 which is still required on a monthly basis.

D. When and Where to Submit

Form EIA–64A must be submitted on or before April 1, 1984 for the 1983 report year data. Completed forms should be addressed to: U.S. Department of Energy, Box OK, Norman, Oklahoma 73070..

For information concerning requests for extension of time to file or for exception from filing Form EIA–64A, contact the EIA–64A Coordinaor at (405) 360–3614.

E. Record Keeping Requirements

All records necessary to reconstruct the data reported on this form must be kept for a period of three (3) years.

F. Sanctions

Failure to make the information requested on Form EIA–64A available to the Secretary of DOE, or failure to allow the Secretary to verify the accuracy of the information submitted on that form, will result in penalties as provided in the FEAA of 1974 (FEAA, Pub. L. 93–275), Section 13(i) as amended.

G. Confidentiality

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 U.S.C. 552(b)(4) (FOIA) or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis if possible), in a letter accompanying submission of the form why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the Form EIA–64A is submitted if:

a. Views concerning information items identified as privileged or confidential have not changed; and

b. A written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, to the General Accounting Office, and other Congressional agencies authorized by law to receive such information.

H. Data Entry Standards

1. *Total Operated Basis*—All data are to be reported on a total operated basis (commonly known as the "gross operated" or "6/8ths" basis) by the operator of the natural gas processing plant.

2. *Units of Measurement*—Natural gas liquid volumes are to be reported in thousands of barrels (MBbls) of 42 U.S. gallons at 60° Fahrenheit. Natural gas volumes are to be reported in millions of cubic feet (MMcf) at 14.73 psia and 60° Fahrenheit.

3. *Rounding*—Liquid volumes should be rounded to the nearest thousand barrels. When rounding liquid volumes, round quantities of 500 barrels and above to the next higher MBbl, and round quantities of less than 500 barrels down to the next lower MBbl. Similarly, when rounding natural gas volumes, round quantities of 500 Mcf and above to the next higher MMcf and round quantities of less than 500 Mcf down to the next lower MMcf.

Examples

For Liquids, report: 7,500 barrels as: 8 MBbls;
467 barrels as: 0 MBbls
For Gas, report: 8,500,000 cubic feet as: 9
MMcf; 10,459,000 cubic feet as: 10 MMcf

4. *Schedule Preparation*—In order to facilitate the processing of data, reproduced forms are requested to be on the same size paper (8½ x 11"). Enter responses by typing, or by printing in black ink using all capital letters.

Specific Instructions

Section 1.0: Plant and Report Identification

Item 1.1. Insert an "X" in the appropriate box to indicate whether this Form EIA–64A report reflects active natural gas processing at the facility for the *entire* report year. If you check "No", enter the months to which the data filed in this report pertain and explain in detail. Specify the facility type (e.g., fractionator, compressor station, etc.) if the facility is not a natural gas processing plant as defined in the Glossary on page 9. Specify if the plant was shut down, and the anticipated start-up date, if known. Specify if the plant was dismantled. If there was a change in operatorship during the year and this report does not cover operations for the entire year, please supply any specific information concerning the previous operator which you may have, such as corporate name, mailing address, and telephone number.

Item 1.2, *Plant Identification Number*—Copy from the mailing label into this space the six-digit DOE plant identification number assigned to your facility.

Item 1.3, *Plant Name*—Enter the name of the natural gas processing facility covered by this report. (See NATURAL GAS PROCESSING PLANT in the Glossary.)

Item 1.4, *Geographic Location of Plant*—Enter the Area of Origin Code pertaining to the State or State subdivision in which the reporting plant is located. (See AREA OF ORIGIN CODES AND SUBDIVISION MAPS, pages 10–17.)

Item 1.5a. If the company name or address as it appears on the mailing label does not match your response to Items 1.5b through 1.5f, insert an "X" in the box.

Items 1.5b through 1.5g, *Operator's Name and Address*—Provide the corporate name of the facility operator responsible for the day-to-day operation of the plant including street address, city, State, and Zip Code. Future forms will be mailed to this address. Enter the name of the parent company, if any, in Item 1.5g.

Item 1.6, *Responsible Preparer*—Enter the name, title and business telephone number of the individual who is responsible for the preparation of the data submitted. This person should be familiar with the data provided and will be the person to whom inquiries will be directed, if necessary, and to whom Form EIA–64A will be mailed in the future at the above address.

Item 1.7, *Submission Status: Original/Amended*—Insert an "X" in the proper box to indicate that this is the first submission of data for the report year or that it amends data previously submitted for this report year.

Section 2.0: Certification

The certification must be completed for each form that is submitted. Enter the name and title of the individual designated by the company to sign the certification. This individual must sign in the space provided on the form and enter the date of signing.

Section 3.0: Origin of Natural Gas Received and Natural Gas Liquids Produced

The total volume of natural gas received by this natural gas processing plant during the report year, and the natural gas liquids extracted from this gas, should be attributed to the State(s) or State subdivision(s) of origin as accurately as possible.

Items 3.1 through 3.12, *Area of Origin Code,* Column (A)—Columns (A) is to be used to indicate the areas of origin as specified in the list of areas contained in AREA OF ORIGIN CODES AND SUBDIVISION MAPS, pages 10–17. Please enter the correct code for each geographic area which contributed gas to be processed during the report year. If there are more than twelve areas of origin involved for the same plant, complete an additional Form EIA–64A schedule, and return the two schedules as one filing.

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Items 3.1 through 3.13, *Natural Gas Received (MMcf)*, Column (B)—Estimate as accurately as possible the volumes of gas received for processing by area of origin and report these volumes in Column (B) adjacent to the appropriate Area of Origin Code in Column (A). These estimates should consider all relevant information available to the respondent and should be as precise as possible. Do not include refinery offgases. The total gas processed by the plant during the report year should be entered on line 3.13. The sum of the volumes reported in lines 3.1 through 3.12 should be the same as the total volume reported on line 3.13. (See NATURAL GAS in the Glossary).

Items 3.1 through 3.13, *Natural Gas Liquids Production (MBbls)*, Column (C)—Estimate as accurately as possible the volumes of natural gas liquids attributed to the gas volumes reported in Column (B) and enter these amounts on the appropriate line of Column (C). The estimates of natural gas liquids recovered by area of origin should consider, to the fullest extent practical, all information available to the respondent concerning the relative liquid yields of the gas processed. Report on line 3.13 the total natural gas liquids recovered from the natural gas processed by the plant during the report year. Include only liquids production resulting from *on-site* processing. Include all volumes of plant condensate and scrubber oil recovered from natural gas at the plant.

The sum of the volumes reported in lines 3.1 through 3.12 should be the same as the total volume on line 3.13. This total should also equal the sum of the monthly volumes reported on Form EIA–816, "Monthly Natural Gas Liquids Report" (formerly Form EIA–64), unless the plant processed unfractionated streams. If these volumes are not equal, Form EIA–816 should be resubmitted to properly reflect the correct volumes for those months in which volumes have been revised. (See NATURAL GAS LIQUIDS in the Glossary.)

Section 4.0: Gas Shrinkage Resulting From Natural Gas Liquids Extracted (MMcf)

Estimate the volume of gas shrinkage resulting *only* from the removal of natural gas liquids from the natural gas received at the plant. Do *not* include gas shrinkage attributable to nonhydrocarbon gases, gas used for fuel, gas which was vented or flared, or gas which was unaccounted for.

The ratio of the shrinkage volume to the total plant NGL volume reported in Item 3.13 (Column C) should range from 1.558 MMcf per thousand barrels, which is the vapor equivalent for pure ethane, to about .900 MMcf per thousand barrels, which is the approximate vapor equivalent for natural gasolines, and plant condensate.

Glossary

Field Separation Facility—A surface installation designed to recover lease condensate from a produced natural gas stream, frequently originating from more than one lease, and managed by the operator of one or more of these leases.

Natural Gas—A mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes, and pentanes. Typical nonhydrocarbon gases which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide, and nitrogen.

Natural Gas Liquids—Those hydrocarbons in natural gas which are separated from the gas through the processes of absorption, condensation, adsorption, or other methods in gas processing or cycling plants. Generally such liquids consist of propane and heavier hydrocarbons and are commonly referred to as condensate, natural gasoline, and liquefied petroleum gases. Where hydrocarbon components lighter than propane are recoverd as liquids, these components should also be included with natural gas liquids.

Natural Gas Processing Plant—A facility designed to recover natural gas liquids from a stream of natural gas which may or may not have passed through lease separators and/or field separation facilities. Another function of natural gas processing plants is to control the quality of the processed natural gas stream. Cycling plants are to be considered natural gas processing plants.

Operator—The peraon responsible for the management and day-to-day operation of one or more natural gas processing plants as of December 31 of the report year. The operator is generally a working interest owner of a company under contract to the working interest owner(s). Plants shut down during the report year are also considered "operated" as of December 31. (see "Person.")

Person—An individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

BILLING CODE 6450-01-M

ANNUAL REPORT OF THE ORIGIN OF NATURAL GAS LIQUIDS PRODUCTION
REPORT YEAR 1983

3.0 ORIGIN OF NATURAL GAS RECEIVED AND NATURAL GAS LIQUIDS PRODUCED

Line	Area of Origin Code (A)	Natural Gas Received (MMcf) (B)	Natural Gas Liquids Production (MBbls) (C)
3.1			
3.2			
3.3			
3.4			
3.5			
3.6			
3.7			
3.8			
3.9			
3.10			
3.11			
3.12			
3.13	Total		

4.0 GAS SHRINKAGE RESULTING FROM NATURAL GAS LIQUIDS EXTRACTED _____ (MMcf)

Confidentiality: See Section 9 of the Instructions

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to an Agency or Department of the United States any false, fictitious or fraudulent statements.

Form EIA-64A

[FR Doc. 83-12987 Filed 5-16-83; 8:45 am]

BILLING CODE 6450-01-C

Form Approved
OMB No.
(Expires)

U.S. Department of Energy
Box UA
Norman, Oklahoma 73070

ANNUAL REPORT OF THE ORIGIN OF NATURAL GAS LIQUIDS PRODUCTION
REPORT YEAR 1983

(Report all liquid volumes in thousands of barrels at 60° F (MBbls); gas volumes in millions of cubic feet (MMcf) at 60° F and 14.73 psia.)

1.0 PLANT AND REPORT IDENTIFICATION

1.1 Does this report reflect active natural gas processing at this facility for the entire report year?

Yes ☐

No ☐ Months covered by this report _____ through _____
Explain: _____

1.2 Plant Identification Number ☐☐☐☐☐

1.3 Plant Name _____

1.4 Geographic Location of Plant ☐☐☐☐ (Use Area of Origin Code, Pages 9-11)

1.5 Identification

a. Insert "X" if the following information changed from label: ☐

b. Plant Operator's Name _____

c. Address _____

d. City _____ e. State _____ f. Zip Code _____

g. Parent Company's Name _____

1.6 Responsible Preparer

a. Name _____ b. Title _____

c. Telephone (___) _____

1.7 Submission Status:

a. Original ☐ b. Amended ☐ Insert an "X" in the appropriate box.

2.0 CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Signature: _____ a. Date: _____

b. Print Name: _____ c. Title: _____

This report is mandatory under the Federal Energy Administration Act of 1974 (FEAA, Public Law 93-275) and the Department of Energy Organization Act (DOEA, Public Law 95-91). Failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law.

FORM EIA-64A

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Economic Regulatory Administration

[ERA Docket No. 83-CERT-026]

Continental Grain Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Continental Grain Company (CONTINENTAL), 277 Park Avenue, New York, New York 10172, filed an application on April 18, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its soybean processing facility in Taylorville, Illinois, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, CONTINENTAL indicates that the volume of natural gas for which it requests certification is approximately 2,500 Mcf per day. This volume is estimated to displace the use of approximately 18,000 gallons of No. 2 fuel oil (0.29 percent sulfur) per day (5,150,000 gallons per year).

The eligible seller is Stauffer-Wyoming Pipeline Company, P.O. Box 513, Green River, Wyoming 82935. The gas will be transported by Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944; Panhandle Eastern Pipeline Company, P.O. Box 1348, Kansas City, Missouri 64141; and by Central Illinois Public Service Company, 607 E. Adams Street, Springfield, Illinois, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to CONTINENTAL and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on May 11, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13181 Filed 5-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-049, etc.]

Crompton & Knowles Corp. et al.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

In the matter of Crompton & Knowles Corporation [ERA Docket No. 83-CERT-049;] The F & M Schaefer Brewing Company [ERA Docket No. 83-CERT-050;] Sure Fit Products Company [ERA Docket No. 83-CERT-051;] Harrisburg Hospital [ERA Docket No. 83-CERT-052;] General Electric Company [ERA Docket No. 83-CERT-053;] ITT Grinnell Corporation [ERA Docket No. 83-CERT-054;] North American Refractories Company [ERA Docket No. 83-CERT-055;] Interstate Intercorr Corporation [ERA Docket No. 83-CERT-056;] Talbott Knitting Mills [ERA Docket No. 83-CERT-057;] Easton Hospital [ERA Docket No. 83-CERT-058;] Franklin and Marshall College [ERA Docket No. 83-CERT-059;] Zausner Foods Corporation [ERA Docket No. 83-CERT-060;] Appleton Papers Inc. [ERA Docket No. 83-CERT-062.]

On May 2, 1983, Crompton & Knowles Corporation, Dyes and Chemicals Division (C&K), P.O. Box 341, Reading, Pennsylvania 19603; The F & M Schaefer Brewing Company, Lehigh Valley Brewery (SCHAEFER), P.O. Box 2568, Allentown, Pennsylvania 18001; Sure Fit Products Company (SFP), East Broad & Wood Streets, Bethlehem, Pennsylvania 18016; Harrisburg Hospital (H.HOSP), South Front Street, Harrisburg, Pennsylvania 17101; General Electric Company, Housewares and Audio Business Division (GE), P.O. Box 629, Allentown, Pennsylvania 18105; ITT Grinnell Corporation (ITT), 1411 Lancaster Avenue, Columbia, Pennsylvania 17512; North American Refractories Company (NARC), R. D., Womelsdorf, Pennsylvania 19567; Interstate Intercorr Corporation (INTERCORR), P.O. Box 317, Reading, Pennsylvania 19603; Talbott Knitting Mills (TALBOTT), North 6th Street and Hiesters Lane, Reading, Pennsylvania 19605; Easton Hospital (E. HOSP), 21st and Lehigh Streets, Easton, Pennsylvania 18042; Franklin and Marshall College (F & M COL.), P.O. Box 3003, Lancaster, Pennsylvania 17604; Zausner Foods Corporation (ZAUSNER), 150 West Jackson Street, New Holland, Pennsylvania 17557; and Appleton Papers Inc. (APPLETON), 2850 Appleton Street, Camp Hill, Pennsylvania 17011, filed with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at one college, two hospitals and eleven manufacturing facilities in Pennsylvania, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the applications on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In their applications, the Applicants indicate the total volume of natural gas for the fourteen Pennsylvania facilities for which they request certification is approximately 1,849,210 Mcf per year. This volume is estimated to displace the use of approximately 2,704,120 gallons of No. 6 fuel oil (0.2–2.8 percent sulfur), approximately 7,963,150 gallons of No. 2 fuel oil (0.1–1.0 percent sulfur), approximately 2,000,000 gallons of No. 4 fuel oil (0.2 percent sulfur), and approximately 685,360 gallons of No. 5 fuel oil (0.5 percent sulfur) per year.

The quantities at each location are subject to variation with changes in demand, but estimated gas usage and resulting oil displacement volumes are listed below:

Estimated Oil Displacement (Gallon) Per Year

ERA docket No. 83-CERT-	Location	Estimated volume (Mcf) per year	No. 6	Percent sulfur content	No. 2	Percent sulfur content	No. 4	Percent sulfur content	No. 5	Percent sulfur content
-049 (C&K)	1. Reading Plant, Reading, Pa	54,750	367,450	2.0						
	2. Gibraltar Plant, Gibraltar, Pa	91,250	612,000	2.8						
-050 (SCHAEFER)	1. Lehigh Valley Brewery Allentown, Pa	81,120							685,360	0.5
-051 (SEP)	1. Bethlehem Facility, Bethlehem, Pa	23,725	156,000	2.0						
-052 (H. HOSP)	1. Harrisburg Hospital, Harrisburg, Pa	54,750			405,150	0.5				
-053 (GE)	1. Allentown Facility, Allentown, Pa	90,000	614,970	2.0						
-054 (ITT)	1. Grinnell Facility, Columbia, Pa	255,500			2,000,000	0.1				
-055 (NARC)	1. Womelsdorf Facility, Womelsdorf, Pa	182,500			1,300,000	0.2				
-056 (INTERCORR)	1. Intercorr Division Facility, Reading Pa	277,765					2,000,000	0.2		
-057 (TALBOTT)	1. Reading Mills, Reading, Pa	73,000	503,700	0.2						
-058 (E.HOSP)	1. Easton Hospital	32,850			245,000	0.2				
-059 (F&M COL)	1. Franklin & Marshall College, Lancaster, Pa	85,000			613,000	1.0				
-060 (ZAUSNER)	1. Zausner Facility, New Holland, Pa	65,000	450,000	2.3						
-062 (APPLETON)	1 Harrisburg Plant, Camp Hill, Pa	482,000			3,400,000	0.3				
Total		1,849,210	2,704,120		7,963,150		2,000,000		685,360	

For each application noted above, the eligible seller is Exxon-USA, P.O. Box 2180, Houston, Texas 77001. The gas will be transported by Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and UGI Corporation (Gas Utility Division), 225 Morgantown Road, Reading, Pennsylvania 19611, a local distribution company.

In order to provide the public with as much opportunity to participate in the proceeding as in particable under the circumstances, we are inviting any person wishing to comment concerning any of these applications to submit comments in writing to the Ecomomic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independance Avenue, S.W., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and argument either against or in support of any of these applications may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to the Applicant and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on May 11, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13179 Filed 5-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-024]

Union Camp Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Union Camp Corporation (UNION), P.O. Box 326, Montgomery, Alabama 36101, filed an application on April 13, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its pulp and paper mill near Montgomery, Alabama, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, UNION indicates that the volume of natural gas for which it requests certification is approximately 16,000 Mcf per day. This volume is estimated to displace the use of approximately 106,000 gallons of No. 6 fuel oil (3.0 percent sulfur) per day.

The eligible seller is Terra Resources, Inc., 5416 South Yale Avenue, Tulsa, Oklahoma 74135. The gas will be transported by Southern Natural Gas Company, 1900 Fifth Avenue North, Birmingham, Alabama 35203; and by Alabama Gas Corporation, 1918 First Avenue North, Birmingham, Alabama 35295, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest.

If ERA determines that an oral presentation is necessary, further notice will be given to UNION and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on May 11, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13182 Filed 5-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-006]

United States Steel Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 7, 1983, United States Steel Corporation (USS), 600 Grant Street, Pittsburgh, Pennsylvania 15230, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an

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application for certification of an eligible use of approximately 6.807 billion cubic feet (Bcf) of natural gas at its steel manufacturing facility in Lorain, Ohio, and 3.478 Bcf at its chemical plant in Haverhill, Ohio. This volume of gas is expected to displace the use of approximately 16,979,000 gallons of No. 2 fuel oil (0.50 percent sulfur) and 716,000 barrels of No. 6 fuel oil (1.53 percent sulfur) per year at its facility in Lorain and the use of approximately 797,000 gallons of No. 2 fuel oil (0.5 percent sulfur) and 535,000 barrels of No. 6 fuel oil (0.3 percent sulfur) per year at its plant in Haverhill.

The application was amended on April 25, 1983, and again on May 10, 1983, to add four eligible sellers and two interstate pipelines; the volumes remain the same. The eligible sellers of the natural gas are Energy Buyers Service Corporation, P.O. Box 19832, Houston, Texas 77224; Cabot Corporation, P.O. Box 8807, South Charleston, West Virginia 25303; Exxon Company, U.S.A., P.O. Box 2180, Houston, Texas 77001; Texas Oil & Gas Corporation, 2700 Fidelity Union Tower, Dallas, Texas 75201; and Delhi Gas Pipeline Corporation, Fidelity Union Tower, Dallas, Texas 75201. The gas will be transported by Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25325; Tennessee Gas Transmission, Inc., P.O. Box 254, Houston, Texas 77001; Ozark Gas Pipeline Corporation, P.O. Box 566, Route 5, Fort Smith, Arkansas 72901; and Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603. Local distributors will be Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215, and East Ohio Gas Company, Cleveland, Ohio 44101.

Notice of that application was published in the **Federal Register** (48 FR 16101, April 14, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed USS's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that USS's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, two amendments, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 11, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–13180 Filed 5–16–83 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF83–181–000]

John P. Barr; Errata Notice to Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility; Correction

May 11, 1983

In Docket No. QF83–181–000 appearing in the **Federal Register** issue of April 28, 1983 on page 18868, make the following correction: On page 18868 column one in the third complete paragraph, line seven.

"capacity of the facility will be 15.6" is corrected to read "capacity of the facility will be 7.6".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13102 Filed 5–16–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–266–000]

City of Palm Springs; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 11, 1983.

On April 26, 1983, City of Palm Springs, (Applicant) of City of Palm Springs Wastewater Treatment Plant 4375 Mesquite Avenue, Palm Springs, California 92264, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Wastewater Treatment Plant in Palm Springs, California. The generating capacity of the facility will be 250 kilowatts. The primary energy source will be sludg digester gas. There are no other facilities owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13099 Filed 5–16–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–272–000]

Columbia Gas Transmission Corp.; Notice of Application

May 11, 1983.

Take notice that on April 13, 1983, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP83–272–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation of natural gas for Sohio Chemical Company (Sohio) and the transportation and exchange of natural gas with Michigan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that pursuant to an agreement dated March 21, 1983, Michigan Consolidated Gas Company (Mich Con) has agreed to sell to Sohio an annual quantity of 25,000,000 dt equivalent of natural gas at a maximum daily delivery rate not to exceed 90,000 dt equivalent without the concurrence of Mich Con. The agreement states that this service is subject to interruption to the extent the gas supplies are required by Mich Con to provide adequate service to its own distribution customers. It is stated that the term of this agreement is for an initial period of two years commencing from the date of first deliveries and is automatically extendable for successive two year periods unless cancelled by either party by notification within 30 days of the end of the initial term or any two-year extension.

It is indicated that Sohio's Lima, Ohio, ammonia-products plant has lost its ability to compete with manufacturers of similar products due to the cost of natural gas from its present supplier. It is further stated that even small changes in the cost of natural gas have a direct impact on production costs and the economic well being of this plant since natural gas constitutes approximately 80 percent of the cost of ammonia production. It is indicated that production of ammonia, urea, and carbon dioxide at its Lima plant were shut down on July 21, 1982, and that subsequently 70 of its 271 employees have been laid off and additional layoffs are likely if the facility cannot be restored to full operations.

Applicant states that it has entered into an agreement with Sohio dated April 8, 1983, which provides for the transportation on a best-efforts basis of up to 90,000 dt equivalent of natural gas per day for Sohio. It is stated that Applicant's obligation to transport this gas is subject to the limits of available capacity in its existing facilities, its obligation to customers served pursuant to its FERC Gas Tariff, Original Volume No. 1, the transportation of its own gas production and purchases, and precedent transportation or exchange arrangements. Applicant states that it would receive the natural gas supplies from Panhandle Eastern Pipe Line Company (Panhandle) at an existing interconnection located in Emerald Township, Paulding County, Ohio. Such supplies would have previously been delivered from Mich Con to Mich Wis, by displacement, and from Mich Wis to Panhandle. It is stated that once a new interconnection between Mich Wis and Applicant, proposed in Docket No. CP83–253–000, is placed into service deliveries would be made directly from Mich Wis to Applicant. Redeliveries of such volumes, less company use and loss, would be made at an existing interconnection with Columbia Gas of Ohio, Inc. (Columbia of Ohio), located in Shawnee Township, Allen County, Ohio, for subsequent delivery by Columbia of Ohio to Sohio at an existing point of delivery near Lima, Ohio, it is asserted.

Applicant's proposed transportation rate consists of: (1) A charge of 40.11 cents per dt equivalent of gas received for transportation which Applicant states reflects its average systemwide unit storage and transmission costs, exclusive of company use and unaccounted-for gas, and subject to adjustment to reflect revised costs; (2) a 0.70 cent per dt equivalent surcharge associated with the General R&D Funding Unit of the Gas Research Institute; plus (3) a 2.85 percent retention of all volumes transported for company use and unaccounted-for gas.

It is stated that the new interconnection proposed in Docket No. CP83–253–000 would be utilized to effectuate direct deliveries to Applicant of the gas volumes transported for Sohio and to effectuate a proposed gas exchange service between Applicant and Mich Wis. According to the terms of an agreement dated March 23, 1983, Applicant and Mich Wis have agreed, upon request, and to meet an emergency, to deliver up to 100,000 Mcf of natural gas per day to the other if the deliveries of such can be made without impairment of the service obligations of the delivering party. Applicant states that this gas exchange arrangement will allow it to achieve additional operating flexibility and will assist in alleviating emergency situations for both companies. The agreement states that as soon as possible, but within a period of 60 days thereafter, the party which received the emergency gas supplies would be obligated to redeliver thermally equivalent quantities at the new interconnection.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13100 Filed 5–16–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6127–001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

May 11, 1983.

Take notice that Energenics Systems, Inc. (Energenics), Permittee for the proposed Union City Dam Project No. 6127, requested by petition dated April 12, 1983, that its preliminary permit be surrendered. The preliminary permit was issued on October 18, 1982, and would have expired on October 31, 1984. Energenics has determined that hydroelectric development is infeasible due to lack of adequate head and flow.

The surrender of the preliminary permit for Project No. 6127 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13109 Filed 5–16–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–285–000]

Gasdel Pipeline System Inc., Notice of Application

May 11, 1983.

Take notice that on April 22, 1983, Gasdel Pipeline System Incorporated (Applicant), P.O. Box 570, 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP83–285–000 an application pursuant to Section 7 (c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file

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with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states it would comply with § 284.221 (d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13101 Filed 5-16-83; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. CP83-287-000]

Northwest Pipeline Corp; Notice of Application

May 11, 1982.

Take notice that on April 22, 1983, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP83-287-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service at an exchange balancing point with El Paso Natural Gas Company (El Paso) located in La Plata County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized to undertake certain activities pursuant to a San Juan gathering agreement dated January 31, 1974, as amended, between Applicant and El Paso. The gathering agreement, it is said, provides for the mutual gathering and exchange of natural gas in the San Juan Basin area of northwestern New Mexico and southwestern Colorado. Such authorization, it is stated, permitted Applicant and El Paso to utilize, among other things, a point of interconnection between their respective gathering systems in the San Juan Basin area referred to as the Point of Interconnection No. 2 in order to achieve the balancing of deliveries of exchange gas under the gathering agreement. Said Point of Interconnection No. 2 is located at the intersection of El Paso's Trunk 4A-39 pipeline and Applicant's Trunk K pipeline in La Plata County, Colorado, it is asserted.

Applicant states further that subsequent to the installation and initial operation of the Point of Interconnection No. 2, pressure differentials between gathering pipelines of Applicant and El Paso developed which made the exchange of balancing gas at that point impractical. Applicant asserts that as a direct consequence no balancing gas has been delivered by the parties at the Point on Interconnection No. 2 since December 1976. Moreover, it is stated, since the gathering agreement currently provides for four additional balancing points, Applicant and El Paso do not anticipate the need for the Point of Interconnection No. 2 in the future. Applicant and El Paso, it is said, have therefore entered into an amendatory agreement dated December 21, 1982, wherein the parties have mutually agreed to delete said balancing point from the gathering agreement. Accordingly, Applicant request permission and approval to abandon the use of Point of Interconnection No. 2 as an exchange balancing point under the gathering agreement.

Applicant states that no interruption, reduction or termination of natural gas service presently rendered by Applicant to any of its customers would result from the proposed abondonment.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13100 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-532-010]

Ozark Gas Transmission System; Notice of Amendment

May 11, 1983.

Take notice that on April 18, 1983, Ozark Gas Transmission System (Applicant), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP78-532-010 an amendment to its pending application filed in Docket No. CP78-532-009 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the inclusion of the Turkey Flat Compressor Station in Applicant's request for waiver of certain noise limitations, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant asserts that the Turkey Flat and the ONG compressor stations are located on the same yard site. It is stated that the existing ambient noise level at the site exceeds the 55dB(a) limit ordered by the Commission and that without the requested waiver Applicant would be unable to operate either of the compressor stations at the location.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13104 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-295-000]

Seagull Pipeline Corp.; Notice of Application

May 11, 1983.

Take notice that on April 27, 1983, Seagull Pipeline Corporation (Applicant), 1100 Louisiana, Houston, Texas 77002, filed in Docket No. CP83-295-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for El Paso Natural Gas Company (El Paso), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently engaged in the transportation of natural gas on behalf of El Paso pursuant to a transportation agreement dated June 8, 1979. It is stated that service under this agreement commenced July 27, 1979, for an initial term of two years under the self-implementing provisions of § 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing July 27, 1981, pursuant to § 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Applicant has requested the Commission issue an order authorizing a continuation of the transportation arrangement for a period of two years commencing July 28, 1983, and ending July 27, 1985.

Applicant proposes to transport up to 36,000 Mcf of natural gas per day. Applicant states that it would transport El Paso's volumes from points located on Applicant's pipeline facilities in Live Oak County, Texas, to a point near the East Chapa Plant also in Live Oak County, Texas, or other mutually agreeable points. It is stated that pursuant to the original transportation agreement dated June 8, 1979, Applicant proposes to charge 4.25 cents per Mcf for the service.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13105 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-86-009 and RP80-102]

Southern Natural Gas Co.; Filing of Pipeline Refund Plan

May 10, 1983.

Take notice that on March 24, 1983, Southern Natural Gas Company (Company) submitted for filing a proposed refund plan in the above-captioned dockets.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13106 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-440-002]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

May 11, 1983.

Take notice that on April 6, 1983, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP 80-440-002 a petition to amend the order issued November 6, 1980, in Docket No. CP80-440 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the amount of natural gas to be transported for the account of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), individually and as agent for Tenneco Oil Company (TOC), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued November 6, 1980, Petitioner states that it was authorized to transport up to the dekatherm equivalent of 12,000 Mcf of natural gas per day on an interruptible basis for Tennessee individually and as an agent for TOC. It is further stated that the established point of delivery for gas received by Petitioner from Tennessee is Petitioner's metering station at East Lake DeCade in Terrebonne Parish, Louisiana.

Petitioner states that pursuant to a February 15, 1983, amended transportation agreement, Petitioner proposes to increase its transportation volume on behalf of Tennessee, individually and as agent for TOC, on an interruptible basis up to the dekatherm equivalent of 20,000 Mcf per day as a result of an anticipated increase in deliverability from wells. Secondly, it is asserted that a new point of receipt for gas tendered by Tennessee would be added to include the point of interconnection between TOC or TOC's agent, Tennessee, on Petitioner's Southeast Louisiana Gathering System in Terrebonne Parish, Louisiana. Thirdly, Petitioner states that a new point of measurement for gas received by Petitioner would be established at or near Petitioner's Southeast Louisiana Gathering System in Terrebonne Parish, Louisiana. It is stated that Petitioner would construct the above referenced facilities, subject to reimbursement by Tennessee, under its blanket certificate issued in Docket No. CP82-426-000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a

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protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13107 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-271-000]

United Gas Pipeline Co.; Request Under Blanket Authorization

May 11, 1983.

Take notice that on April 12, 1983, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-271-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to install a 1-inch sales tap for the delivery of gas to Entex, Inc. (Entex), for resale to the residence of Richard Wilkinson (Wilkinson) under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes the installation of a 1-inch sales tap on its 1-inch Longview-Palestine Line in the Francisco Cordova Survey A-7, Overton, Texas. This tap would be utilized to deliver an estimated 80 Mcf of gas annually, through the distributor, Entex, it is stated. It is further stated that Entex would resell such gas to Wilkinson, a residential customer.

United also asserts that there would be no increase in the customer's contractual maximum daily quantity nor its entitlement under its effective curtailment plan. Gas flowing through this tap would be sold under United's Rate Schedule DG-N, it is stated.

United estimates the cost of the tap to be $533.00 and states that Entex would reimburse United for the cost of construction.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13108 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-21-000]

Basin Electric Power Cooperative and Merrill Lynch Leasing, Inc.; Filing

May 12, 1983.

Take notice that on May 3, 1983, Basin Electric Power Cooperative ("Basin Electric") and Merrill Lynch Leasing Inc. ("Merrill Lynch") filed a request for a declaratory order that neither Merrill Lynch nor St. Paul Bank for Cooperatives ("Lender") would be considered to be a "public utility" under Section 201(e) of the Federal Power Act by reason of its participation in a leveraged lease transaction with Basin Electric. Basin Electric and Merrill Lynch state that Basin Electric is required to comply with a rate design covenant in its mortgage with the Rural Electrification Administration ("REA") and is subject to the direction of the REA in its administration of such covenant. According to Basin Electric and Merrill Lynch, as an "REA coop", Basin Electric is not subject to regulation as a "public utility" under Part II of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13207 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-220-000]

Chevron U.S.A. Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 12, 1983.

On March 14, 1983, Chevron U.S.A. Inc. (Applicant), Manufacturing Department, 575 Market Street, San Francisco, California 94105, Attention: Mr. C. S. Smith, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The bottoming cycle cogeneration facility will be located in Jackson County, Mississippi. Waste heat from refinery processes will be recovered in waste heat boilers and supplies to a condensing steam turbine generator. The primary energy sources to the thermal processes are natural gas and oil. No supplementary fuel will be used in the waste heat boilers. The electric power production capacity of the facility will be 6,000 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 20 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13209 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-485-000]

Columbia Gas Transmission Corp.; Withdrawal of Application and Termination of Proceedings

May 12, 1983

Take notice that on February 28, 1983, Columbia Gas Transmission Corporation (Columbia) filed in Docket No. CP82-485-000 a notice of withdrawal pursuant to Rule 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.216) of its application for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, filed August 13, 1982, in the above mentioned docket.

In its application, Columbia proposed to provide its wholesale customers for a period of one year a special sales incentive service under the provsions of a new rate schedule (SSI) to be incorporated in Columbia's FERC Gas Tariff, Original Volume No. 1. Under its new rate schedule, Columbia proposed to make available to eligible customers certain quantities of natural gas at a rate designed to enable Columbia's customers to regain consumers lost to alternate fuels, as well as to prevent further market erosion and to reduce Columbia's exposure to take-or-pay obligations.

On December 22, 1982, the Commission issued an order in Docket No. CP82-485-000 (21 FERC § 61,326) which among other things set the matter of permanent certification for formal hearing. By order issued February 3, 1983 (22 FERC § 63,058), the presiding Administrative Law Judge denied a request to certify an offer of settlement to the Commission and scheduled a hearing at 10:00 a.m. on May 17, 1983, at the FERC, 825 North Capitol Street, Washington, D.C. On February 28, 1983, Columbia filed the instant notice of withdrawal of its application.

Take further notice that, within the time period specified in Rule 216, no participant, or other person filing a timely motion to intervene has filed a motion in opposition, nor has the Commission or the presiding Administrative Law Judge issued an order disallowing the withdrawal. Accordingly, Columbia's application in Docket No. CP82-485-000 is effectively withdrawn and related proceedings are terminated.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13209 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-482-000]

Connecticut Light and Power Co.; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on April 28, 1983, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO, and together with CL&P and HELCO, the NU Companies) and Green Mountain Power Corporation (GMP). The Agreement, dated as of May 4, 1982, provides for the NU Companies to sell to GMP excess power from the system of the NU Companies ("system power") that may be available on a daily or weekly basis ("a transaction"). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to GMP only when it was economic for them to do so. GMP would accept such an offer only if it was economic for GMP to do so.

CL&P states that GMP will pay a capacity to the NU Companies for each transaction in an amount equal to the kilowatts of system capacity utilized by the NU Companies to supply system power to GMP during each hour of a transaction, times a rate negotiated between the parties prior to each transaction, not to exceed $0.0175 per kilowatt. GMP will also pay an energy charge to the NU Companies for each transaction in an amount equal to the kilowatt hours provided by the NU Companies during such transaction times an energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide power at the time a transaction is agreed to by the parties.

CL&P requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon HELCO, WMECO and GMP.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13210 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-483-000]

Duke Power Co.; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on April 28, 1983, the Duke Power Company tendered for filing amendments dated November 12, 1982 to the Restated Interconnection Agreement date June 21, 1982, which Restated Interconnection Agreement superseded the Interconnection Agreement dated March 6, 1978 between the Company and North Carolina Municipal Power Agency Number 1 (Power Agency). Power Agency owns 75 percent of Unit No. 2 of the Company's Catawba Nuclear Station. Under the terms of the Agreement, Duke will interconnect its generation and transmission system with the Catawba Nuclear Station, presently being constructed, and wheel electric power and energy to the members of Power Agency. Duke states that service under the Restated Interconnection Agreement, as amended, is expected to being on July 1, 1983.

Duke further states that these amendments to the Restated Interconnection Agreement, which Agreement is on file with the Commission, do not substantively change the pricing provisions for Duke's services to Power Agency.

Duke indicates that the modifications to the Restated Interconnection Agreement were requested by Power Agency following the inclusion of similar provisions in the Interconnection Agreement dated August 1, 1980, as amended October 22, 1982, between the Company and Piedmont Municipal Power Agency, a joint agency proposing to purchase the remaining 25 percent of Unit No. 2 of the Company's Catawba Nuclear Station.

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Duke requests an effective date of November 12, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were mailed to Power Agency, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13211 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-41-000]

El Paso Electric Co.; Application

May 12, 1983.

Take notice that on May 5, 1983, El Paso Electric Company filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act to issue unsecured short-term promissory notes and commercial paper, such notes and commercial paper not to exceed in the aggregate $200,000,000 face value at any one time outstanding and to mature not later than December 31, 1984.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before May 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13212 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-276-000]

Gasdel Pipeline System Inc.; Application

May 12, 1983

Take notice that on April 14, 1983, Gasdel Pipeline System Incorporated (Applicant), P.O. Box 570, 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP83-276-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13213 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-278-000]

Montana-Dakota Utilities Co.; Application

May 12, 1983.

Take notice that on April 15, 1983, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP83-278-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue to sell natural gas to Michael W. Scott, d/b/a Byron Gas Service (Byron), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that is has been serving Byron under its Rate Schedule G-1 since 1969 but upon investigation realizes that it does not possess certificate authorization from the Commission. Applicant requests here authorization to continue to sell approximately 60,000 Mcf of natural gas annually to Byron, an intrastate natural gas distribution company, for resale. Service to Bryon would be continued under Applicant's Rate Schedule G-1, it is asserted. No new facilities would be required to render this service, Applicant states.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be repesented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13214 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-485-000]

Montaup Electric Co.; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on April 29, 1983, Montaup Electric Company (Montaup) tendered for filing a revised contract demand agreement between Montaup and the Town of Middleborough, Massachusetts (Middleborough). The revised agreement supersedes an agreement for contract demand service between Montaup and Middleborough. Under the revised agreement Montaup will make specified amounts of capacity and associated energy available to Middleborough through October 31, 1988 and will provide service thereafter in accordance with the conditions of the agreement.

Montaup requests waiver of the Commission's notice requirements in order to allow an effective date of May 1, 1983.

Copies of this filing have been served on Middleborough and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13215 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-484-000]

Potomac Electric Power Co., Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on April 28, 1983, Potomac Electric Power Company (Potomac) tendered for filing the following rate agreements:

(1) Power Supply Agreement, dated as of May 2, 1983 among Ohio Edison Company (Ohio Edison), Pennsylvania Power Company (Penn Power), Monongahela Power Company (Monogahela), West Penn Power Company (West Penn), and the Potomac Edison Company (Potomac Edison).

(2) Power Resale Agreement, dated as of May 2, 1983 among Monongahela, West Penn, Potomac Edison, and Potomac Electric Power Company (PEPCO).

The Agreements set forth terms pursuant to which Ohio Edison and Penn Power will deliver to Monongahela, West Penn and Potomac Edison 150 megawatts per hour of energy for resale to PEPCO for the period May 2, 1983 until amended or terminated.

Potomac requests an effective date of May 2, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13216 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-487-000]

South Carolina Electric & Gas Co.; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on April 29, 1983, South Carolina Electric & Gas Company (SCE&G) tendered for filing Ninth Revised Sheet No. 5, Ninth Revised Sheet No. 6, Tenth Revised Sheet No. 5 and Tenth Revised Sheet No. 6 to its FERC Electric Tariff, Original Volume No. 1. These sheets contain proposed changes to SCE&G's rates and charges to its municipal, rural electric cooperative and public power body sales-for-resale customers.

SCE&G proposes to place the revised tariff sheets containing the first phase of the proposed rate increase into effect on June 28, 1983, sixty days after filing. SCE&G proposes that the second phase of the rate increase take effect on June 29, 1983, sixty-one days after filing.

SCE&G states that the proposed rates would increase revenues by approximately $16,200,000 for the 12 month period ending June 30, 1984. The first phase of the proposed rates would increase revenues by approximately $9,000,000 over the same period.

SCE&G states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its jurisdictional customers. This return will be even lower with the placing into service of the Company's V.C. Summer Nuclear Plant, in which the Company's investment is approximately $858,000,000.

Copies of the filing have been served upon SCE&G's jurisdictional customers and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

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not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13217 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF83-4011-000]

Southwestern Power Administration; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy on April 27, 1983, submitted to the Commission pursuant to Delegation Order No. 0204-33, the following proposed System rate schedules of the Southwestern Power Administration:

Rate Schedule P-4, Hydro Peaking and Seasonal Peaking Power
Rate Schedule F-4A, Firm Power from Integrated System
Rate Schedule F-4B, Firm Power through Oklahoma Utilities Companies
Rate Schedule EE-2 (Revised), Excess Energy
Rate Schedule IC-2 (Revised) Interruptible Capacity

The Assistant Secretary requests that these System rate schedules be confirmed and approved on a final basis by the Commission to be effective for the period October 1, 1983, through September 30, 1986. The Assistant Secretary also requests that Commission confirmation and approval of the existing rate to Tex-La Electric Cooperative, Inc., under Section 2 of Contract No. 14-02-001-864 be extended for the period October 1, 1983, through April 1, 1984. The Assistant Secretary indicates that 1982 Power Repayment Studies show the need for a 38.3 percent increase in annual revenues from the Integrated System to meet present cost recovery criteria. The Assistant Secretary states that the proposed rate schedules would produce ultimate average annual System gross revenues of approximately $90.2 million. This would be an increase of approximately $25 million above the revenues produced by the existing rate schedules which have been in effect since April 1, 1979, according to the Assistant Secretary.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13218 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-260-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Columbia Gas Transmission Corp.; Application

May 12, 1983.

Take notice that on March 31, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP83-260-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas through the Ozark Gas Transmission System (Ozark) for Mississippi River Transmission Corporation (MRT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to an agreement between Applicants and MRT dated November 9, 1982, Applicants would receive a contract quantity of up to 25,000 Mcf of natural gas per day produced in the Arkoma Basin in Arkansas at various points along Ozark and delivery equivalent volumes to Natural Gas Pipeline Company of America for the account of MRT. It is asserted that each Applicant would utilize an equivalent portion of its respective capacity entitlement in Ozark.

Applicants states that in accordance with the agreement MRT has agreed to pay Applicants a monthly demand charge plus a commodity charge applicable to Ozark's FERC Tariff Rate Schedule T-1.

It is asserted that the proposed service would be beneficial to MRT in that it would provide MRT with a means of transporting an additional supply of natural gas without its having to construct additional duplicative facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13219 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-489-000]

Union Electric Co.; Filing

May 12, 1983.

The filing Company submits the following:

Take notice that on May 2, 1983, Union Electric Company tendered for filing an Electric Service Agreement dated April 28, 1983 between Missouri Utilities Company and Union Electric Company. Said Electric Service Agreement provides for the continued delivery of electric service to Missouri Utilities Company at the present rate.

The parties propose that said Agreement and Service Schedule supersede FERC Electric Tariff W-3 for the reason that they have made application for approval of the merging of their facilities.

The proposed effective date of the new agreements and rate schedules is July 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13220 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 4 Through April 8, 1983

During the week of April 4 through April 8, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Fred C. Hart Associates, Inc., 4/4/83, HFA-0124

On April 1, 1983 the DOE issued a Decision and Order concerning an Appeal from a Freedom of Information Act (FOIA) request that was denied in part by the Assistant Manager for Administration of the Albuquerque Operations Office. The appellant sought the release of a successful proposal to operate a DOE nuclear facility, much of which had been withheld pursuant to the FOIA's Exemption 4. In considering the appeal, the Office of Hearings and Appeals determined that some of the previously withheld material was properly withheld, some should be released, and the remainder should be remanded to the Assistant Manager for a more complete determination. Accordingly, the Appeal was granted in part.

Systematic Management Services, Inc., 4/07/83, HFA-0113

Systematic Management Service, Inc. filed an Appeal from a partial denial by the Manager of the Chicago Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that (1) numerical weights employed by a Source Evaluation Board in evaluating contract proposals became nondeliberative final determinations upon the receipt of contract proposals and could not be withheld under Exemption 5, (2) the total cost of a concurrent DOE contract should be released but component costs that revealed the contractor's allocation of costs and were exempt from disclosure under Exemption 4, (3) confidential commercial information obtained from a person and incorporated in agency documents may be withheld under Exemption 4, (4) DOE officials are not required to provide "yes" or "no" answers or similarly direct responses to questions contained in a Request for Information submitted under the FOIA, and (5) the search for responsive documents conducted by the Authorizing Official was adequate.

Request for Exception

Texas Armada Refining Co., 4/8/83; BEE-1696

Texas Armada Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought relief from entitlements obligations incurred due to errors made in the firm's purchase invoices. In considering the request, the DOE found that the firm's invoicing errors occurred during the period March through September 1980, and were not subject to the provisions of the clean-up rule. Furthermore, the impact of the errors was insignificant. Accordingly, exception relief was denied.

Interlocutory Order

Office of Special Counsel, 4/4/83; HRZ-0141

The Office of Special Counsel sought an order directing Texaco Inc. to file a Statement of Legal Objection to a Proposed Remedial Order which OSC issued to the firm on May 1, 1979. Finding that the filing of the Statement of Legal Objections was necessary to bring the case to an orderly resolution, OHA granted the request.

Supplemental Order

Huntway Refining Co., 4/5/83; HCX-0059

Huntway Refining Company filed, pursuant to a District Court's Remand Order, supplemental material to its earlier Application for Exception from the provisions of 10 CFR 211.67, in which the firm had sought exception relief from entitlements purchase obligations pertaining to crude oil purchased for starting inventory for a new refinery. In considering the supplemental material, DOE found that the firm was not entitled to any greater exception relief than was previously granted.

Accordingly, DOE found that no modification of the previous Decision and Order, which granted Huntway only part of the exception relief requested, was warranted. The important issues discussed in the Decision and Order were (i) the effect of improper grants by ERA of starting inventory exclusion adjustments to new refiners and (ii) the specific criteria used by OHA in evaluating exception relief to firms that purchased new or expanded inventories.

Refund Applications

Standard Oil Company (Indiana)/Akin Oil Company, Inc. et al., 4/4/83; *RF21-144 et al.*

The DOE issued a Decision and Order concerning 89 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of thge injury and the formula outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 89 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $945,190.

Standard Oil Co. (Indiana)/Bentley's Amoco, 4/5/83; *RF21-3312*

On February 14, 1983, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order approving refunds from the Standard Oil Company (Indiana) consent order fund for 206 claimants. *Standard Oil Co. (Indiana)/Jim Gandy Service*, 10 DOE ¶—— (February 14, 1983) (Case No. RF21-780). One of those claimants, Bentley's Amoco (Bentley), was granted a refund on the basis of a total purchase volume of 2,451,429 gallons of motor gasoline. Subsequent to the issuance of the February 14 Decision, Bentley informed the DOE that incorrect volume figures had been submitted in its refund application, and that the correct volume of motor gasoline it purchased from Standard Oil which qualified for a refund was only 1,529,879 gallons. In considering the material submitted by Bentley, the DOE determined that Bentley should be granted a refund on the basis of its purchases of 1,529,879 gallons of motor gasoline. Accordingly, since Bentley elected to apply for a refund based on the presumption of injury methodology, *see Office of Special Counsel*, 10 DOE ¶ 85,048 (1982), the DOE approved a refund of $557 rather than $892 as set forth in the February 14 Decision. The $557 refund is equal to 40 percent of 1,529,879 gallons of motor gasoline purchased times the applicable *pro rata* share of the Standard Oil consent order fund as of February 14, 1983 ($.0009097 per gallon including interest).

Standard Oil Company (Indiana)/Carl J. Preisler, et al., 4/6/83; *RF21-1601 et al.*

The DOE issued a Decision and Order concerning 192 Applications for Refund from branded retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Each retailer therefore submitted detailed information concerning its Amoco purchase volumes. After analyzing this information, the DOE

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concluded that each of the 192 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases during the consent order period. Accordingly, these applications were granted in full.

Standard Oil Company (Indiana)/Jerry's Norwalk Standard, et al., 4/5/83; RF21–1921 et al.

On Decision 23, 1982 the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures for the distribution of a 72,000,408 fund obtained by the DOE through a consent order with the Standard Oil Company (Indiana) (Amoco). *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). On April 5, 1983 the DOE issued a Decision and Order concerning 24 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in the December 23 Decision. In considering these applications, the DOE concluded that each of the 24 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $17,687.

Standard Oil Company (Indiana)/Russ' Super Standard, 4/4/83; RF21–1606

The DOE issued a Decision and Order concerning 176 Applications for Refund by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 176 applications should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding totaled $162,846

Dismissals

The following submissions were dismissed:

Name and Case No.

Burgess Marketing, Inc.—HRO–0097, HRD–0102
Burren Transfer Co.—RF21–2473
Cape Cod Hospital—HEE–0064
Crst, Inc.—RF21–3809
Epes Transport System, Inc.—RF21–2573
Florida Rock & Tank Lines, Inc.—RF21–2087
Gary Sleper's Oil Co.—RF21–2097
Gilliland Transfer Co.—RF21–4496
Gil-MC Oil Corp.—HRO–0075, HRO–0076
Glennon's Milk Service, Inc.—RF21–3859
Graham Ship By Truck Co.—RF21–2581
Green Bay & Western RR—RF21–2786
Houle Oil Co., Inc.—RF21–2408
Lindell Drop Forge Co.—RF21–4517
Mid Seven Transportation Company—RF21–2416
Motor Convoy, Inc.—RF21–4060
Onondaga Oil Co., Inc.—RF21–3799
Stahly Cartage Co.—RF21–2277
Turks Bulk Service—RF21–2280

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 10, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–13095 Filed 5–16–83; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of April 11, Through April 25, 1983

During the week of April 11 through April 15, 1983 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Physical Sciences, Inc, 4/15/83; HFA–0122

Physical Sciences, Inc. filed an Appeal from a partial denial by the Morgantown Energy Technology Center of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the denying official properly withheld certain material pursuant to exemptions four and five of the FOLA. An important issue considered in the Decision and Order was whether release of portions of the withheld material would harm the competitive position of the firm that submitted the information.

Remedial Order

Timco Oil Co., 4/11/83; HRD–0061

Timco Oil Company (Timco) objected to a Proposed Remedial Order which the Los Angeles Office of the Economic Regulatory Administration (ERA) issued to the firm on April 30, 1982. In the Proposed Remedial Order, the ERA found that Timco improperly certified one of its leases as qualified for stripper status and sold crude oil produced from that lease at prices in excess of those calculated pursuant to the Mandatory Petroleum Price Regulations. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order. The important issues discussed in the Decision and Order include (i) whether Timco properly aggregated the rights to produce crude oil from its three leases and (ii) whether Timco's alleged ignorance of DOE regulations excused its non-compliance with those regulations.

Request for Modification and/or Rescission

Economic Regulatory Administration, 4/11/83; HRR–0048

The DOE's Office of Special Counsel of the Economic Regulatory Administration (ERA) filed Motions for Reconsideration of an Evidentiary Hearing and Discovery which was granted to Exxon Company, U.S.A. in a Decision and Order issued to the firm on December 8, 1982. *Exxon Company, U.S.A.*, 10 DOE ¶ 84,022 (1982). In considering the request for reconsideration, the DOE found that the ERA had failed to show that any modifications in the December 8 determinations were necessary in order to ensure that the underlying proceeding was conducted in an appropriate manner. Accordingly, the Motions for Reconsideration were denied.

Motion for Discovery

Exxon Company, U.S.A., Gulf Oil Corporation, Cities Service Co., 4/13/83; HED–0119, HEH–0016

Exxon Company, U.S.A., Gulf Oil Corporation, and Cities Service Company filed a joint Motion for Discovery and Evidentiary Hearing in connection with a Proposed Decision and Order issued to Husky Oil Company on February 4, 1983, in Case No. BEX–0210. In their Motion, the intervenors asserted that a full understanding of Husky's financial position during the base period as well as during the period January 1978 through January 1981 is crucial for an evaluation of Husky's eligibility for exception relief. The intervenors therefore requested access to detailed data related to Husky's financial and operating results during the subject periods. The parties also requested an evidentiary hearing to resolve certain disputed factual issues. In this Decision and Order, the Office of Hearings and Appeals stated that it had requested from Husky certain information which was similar in scope and character with data requested by the intervenors. The OHA denied the discovery request because it would be redundant to the data that Husky had submitted or would submit pursuant to the OHA's requests. The OHA, however, determined that an evidentiary hearing would be useful in resolving certain factual issues. Accordingly, the request for Evidentiary hearing was granted.

Interlocutory Order

Texaco Inc., 4/12/83; HRZ–0142

Texaco Inc. sought an order relieving it from the obligation to comply with a discovery stipulation it had entered into with the Office of Special Counsel. The Office of Hearings and Appeals (OHA) found that the discovery sought by OSC was no longer relevant in view of Texaco's withdrawal of affirmative defenses to which the discovery related. Although it found that Texaco had failed to show that manifest injustice would result from requiring it to abide by the terms of the stipulation, OHA granted the motion, finding that the continuation of the discovery process would delay the resolution of the case on its merits.

Refund Application

Standard Oil Company (Indiana)/Ferncreek Amoco, et al., 4/15/83; RF21–4264 et al.

The DOE issued a Decision and Order concerning 180 Applications for Refund from retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 180 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $174,254.

Standard Oil Company (Indiana)/Retzer Oil Company, et al., 4/15/83; RF21–1015 et al.

The DOE issued a Decision and Order concerning 8 Applications for Refund filed by applicants who operate as both wholesalers and retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 8 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $300,605.

Dismissals

The following submssions were dismissed:

Name and Case No.

A & J Oil Co.—RF21–3822
Associated Transports, Inc.—RF21–3695, RF21–3696
Blue Arrow, Inc.—RF21–4405
Burton Hgts Moving & Transfer—RF21–3802
Carolina Freight Carriers, Corp.—RF21–2914
Coastal Tank Lines, Inc.—RF21–2208
Frederick Bultman, Inc.—RF21–3068
Hare Leasing, Inc.—RF21–3055
Inland Crude Purchasing Co.—HRO–0090
Jet Gas Corp.—RF21–2935
Kendle Oil Co.—RF21–2785
Lepier Oil Co., Inc.—RF21–3778
Leroy L. Wade & Son, Inc.—RF21–3806
Merle Boess, Inc.—RF21–2901
Nelms Oil Co., Inc.—RF21–2122
O'Boyle Tank Lines, Inc.—RF21–4698, RF21–4699
Rasmussen Fuel Co.—RF21–3041
Reese Bros. Oil Co.—RF21–2923
Saveway Service Stations, Inc. & Auto Flite Co., Inc.—DRO–0288
Southeastern Freight—RF21–4534
Stapelkamp Oil Co.—RF21–2743
The Mason and Dixon Lines, Inc.—RF21–3402
W. R. Hughey Operating Co.—HRO–0011
W. R. Meadows, Inc.—RF21–3624
Zook Inc.—RF21–4113

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 10, 1983

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–13096 Filed 5–16–83; 8:45 a.m.]

BILLING CODE 6450–01–M

Issuance of Proposed Decision and Order; Week of April 25 Through April 29, 1983

During the Week of April 25 through April 29, 1983 the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: May 10, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Transcontinental Oil Corp., Shreveport, Louisiana; HEE–0062 Petroleum

Transcontinental Oil Corporation (Transcontinental) filed an Application for Exception from the provisions of the EIA reporting requirements. The exception request, if granted, would permit Transcontinental to be relieved of the obligation to file Form EIA–23, "Annual Survey of Domestic Oil and Gas Reserves," for the report year 1982. On April 29, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 83–13097 Filed 5–16–83; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of April 22 Through April 29, 1983

During the week of April 22 through April 29, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 12, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 22 through Apr. 29, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 22, 1983	Otis Ainsworth, Washington, D.C.	HEE–0066	Price Exception. If Granted: Otis Ainsworth would receive retroactive exception relief from the provisions of 10 CFR Part 212, Subpart D, regarding the sales of crude oil produced from the Thompson Creek, Bentonia, and Sandersville fields during the period 1973 to 1981.

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LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Apr. 22 through Apr. 29, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Do	Plateau, Inc., Washington, D.C.	HED-0128	Motion for Discovery. If granted: Discovery would be granted to Plateau, Inc. in connection with the Application for Exception filed by the U.S. Department of Interior and the Minerals Management Service (Case No. HEE-0063).
Do	Texaco Inc., White Plains, N.Y.	HRZ-0147	Interlocutory Order. If granted: The Office of Special Counsel would be deemed to have admitted certain facts concerning Texaco Inc.'s West Cote Blanche Bay producing area.
Do	Charles Barnes, Lawrence, Kans	HFA-0141	Appeal of an Information Request Denial. If granted: Charles Barnes would not be required to pay fees incurred in his Freedom of Information Request for documents relating to Spencer Chemical Company.
Do	Corpening Enterprises, Inc., Washington, D.C.	HRH-0017	Request for Evidentiary Hearing. If Granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Corpening Enterprises to the Proposed Remedial Order issued to the firm (Case No. HRO-0136).
Do	Ergon, Inc., Washington, D.C.	HER-0056	Request of Modification/Rescission. If Granted: The February 24, 1981, Decision and Order issued to Ergon, Inc. would be modified to consolidate the Entitlements exception relief previously granted in Decision and Orders issued on March 19, 1981 (Case Nos. BEE-1611 and BEE-1620) and January 6, 1982 (Case No. BEX-0191).
Do	Resources Extraction & Processing, Inc., Washington, D.C.	HRD-0129, HRH-0129	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Resources Extraction & Processing, Inc. to a Proposed Remedial Order (Case No. HRO-0121) issued to the firm.

NOTICES OF OBJECTION RECEIVED

[Week of Apr. 22 to Apr. 25, 1983]

Date	Name and location of applicant	Case No.
4/25/82	Navajo Refining Company, Washington, D.C.	BYX-0204.
4/25/83	Thriftway Company, Washington, D.C.	HYX-0019.

REFUND APPLICATIONS RECEIVED

[Week of Apr. 22 to Apr. 29, 1983]

Date	Name of refund proceeding/ name of refund applicant	Case No.
4/25/83	Ozone Gas Processing (I)/International Drilling and Energy Corporation.	RF27-2.
4/25/83	Ozone Gas Processing (I)/ Nalley, Inc.	RF27-3.
4/28/83	Tenneco/Chesapeake Oil	RF7-106.
4/29/83	Sid Richardson/Hoovers, Inc.	RF26-4.
4/27/83	Ozone Gas Processing (II)/ Odessa L. P. G. Transport.	RF28-1.
4/25/83	Ozone Gas Processing (III)/ Nalley, Inc.	RF28-1.
4/27/83	Ozone Gas Processing (III)/ Odessa L. P. G. Transport.	RF28-2.
4/25/83	Ozone Gas Processing II/International Drilling & Energy Co.	RF28-3.
4/28/83	Tenneco Oil/Chesapeake Industrial Oil Co.	RF7-107.
4/25/83 through 4/29/83.	Amoco Refund Applications	RF21-7275 through RF21-8363.

[FR Doc. 83-13194 Filed 5-16-83; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-446, File No. BPH-810226AC, etc.]

Athens Broadcasting Corp. et al.; Hearing Designation Order

Adopted: April 29, 1983.
Released: May 9, 1983.

In re applications of Athens Broadcasting Corporation, Clarksville, Virginia, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 220 feet, MM Docket No. 83-446, File No. BPH-810226AC; Clarksville Broadcasting Company Inc., Clarksville, Virginia, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 213 feet, MM Docket No. 83-447, File No. BPH-810812AH; Mecklenburg Broadcasting Company, Inc., Clarksville, Virginia, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 300 feet, MM Docket No. 83-448, File No. BPH-820212AL; for construction permit for a new FM station; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Athens Broadcasting Corporation (Athens), Clarksville Broadcasting Company, Inc. (Clarksville) and Mecklenburg Broadcasting Company, Inc. (Mecklenburg).

2. *Athens.* Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause may be located outside that community. Athens proposes to locate its main studio at its transmitter site, which is outside the city limits of Clarksville. Because applicant has not submitted a request to locate its main studio outside the community of license, pursuant to § 73.1125(a)(3) of the Commission's Rules, an issue will be specified.

3. *Mecklenburg.* The information submitted by applicant concerning the overall height of its tower above ground does not agree with the data filed with the Federal Aviation Administration. Therefore, applicant must amend its application or amend the data filed with the FAA, whichever is appropriate. Because of this discrepency, no determination has been reached that the antenna proposed by Mecklenburg would not constitute a menace to air navigation. Therefore, an issue regarding this matter is required.

4. *Clarksville and Mecklenburg.* Applicants for new broadcast stations are required to give local notice of the filing of their applications in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Clarksville or Mecklenburg have done-either. If they have not already done so, they will be required to file a statement that they have complied with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. *Other matters.* Mecklenburg filed its application for construction permit on August 18, 1981. A preliminary engineering study revealed that the proposed antenna site was separated from WGOL-FM, Lynchburg, Virginia, by 64 miles instead of the required minimum of 65 miles as specified in § 73.207 of the Rules. Accompanying Mecklenburg's application was a request for waiver of § 73.207. The Mecklenburg application was returned as unacceptable for filing on January 26, 1982 because of short-spacing. Since this was not in accordance with established Commission procedure which, in a competitive proceeding, allows the applicant 30 days in which to cure the deficiency, *Trend Broadcasting, Inc.*, 18 F.C.C. 2d 749 (1963); *Nelson County Broadcasting Co., Inc.*, 64 F.C.C. 2d 1932 (1977), the Commission, on its own motion, reaccepted the Mecklenburg proposal *nunc pro tunc*, waived the minimum mileage rule for the purpose of acceptability only, and placed the application on the March 12, 1982 "B" cut-off list. On March 11, 1982, prior to the Commission issuing the 30 day letter requiring the applicant to amend, Mecklenburg amended it application on its own specifying an antenna site in compliance with § 73.207.

7. On March 8, 1982, Clarksville filed a motion to dismiss the Mecklenburg application, as reaccepted on February 10, 1982. The substance of Clarksville's motion to dismiss is that Mecklenburg had filed neither a petition for reconsideration nor an application for review of the Commission action returning its application. Additionally, a petition to deny, dated February 11, 1982, was filed by Jamparo Corporation (Jamparo), licensee of WGOL-FM, the station with which Mecklenburg was originally short-spaced. The gravamen of Jamparo's petition was that in view of the fact that the competing applicants had specified non-short-spaced sites, favorable action on Mecklenburg's waiver request was not warranted.

8. Because we reaccepted Mecklenburg's application *nunc pro tunc* on our own motion, it was not necessary, in this instance, that Mecklenburg file a petition for reconsideration or an application for review. In addition, Mecklenburg has cured its deficiency and has brought its application into compliance with the Rules, with an amendment it would have filed in any event in response to routine Commission procedure. Hence, based on the foregoing, we find no basis to support either the motion to dismiss or the petition to deny. Accordingly, the motion to dismiss filed by Clarksville is denied and petition to deny filed by Jamparo is dismissed as moot.

9. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Athens, whether pursuant to § 73.1125(a)(3) of the Commission's Rules, good cause exists to warrant the location of its main studio outside the community of license.

2. To determine with respect to Mecklenburg, whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Mecklenburg.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

12. It is further ordered, That Clarksville and Mecklenburg shall, within 30 days of this Order, certify to the Administrative Law Judge that local notice of the filing of the application has been published.

13. It is further ordered, That the motion to dismiss filed by Clarksville is denied, and the petition to deny filed by Jamparo is dismissed.

14. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83-13127 Filed 5-16-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26054-CL-P-(3)-82, and CC Docket No.83-445, File No. 26110-CL-P-(6)-82 etc.]

GTE Mobilnet of Portland Inc. et al.; Memorandum Opinion and Order Granting Application; Dismissing Application; and Designating Applications for Hearing

Adopted April 28, 1983.
Released May 9, 1983.

In re applications of GTE Mobilnet of Portland Inc., File No. 26054-CL-P-(3)-82; and Advanced Mobile Phone Service, Inc., File No. 26017-CL-P-(10)-82; for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service (DPCRTS) to serve the Portland, Oregon/ Washington, Standard Metropolitan Statistical Area (SMSA).

In re applications of American Mobile Communications of Washington and Oregon, CC Docket No. 83-445, File No. 26110-CL-P-(6)-82; Cellular Mobile Systems of Washington, Inc., File No. 26183-CL-P-(8)-82; Interstate Mobilephone Co., File No. 26150-CL-P-(6)-82; MCI Cellular Telephone Co., File No. 26104-CL-P-(5)-82; Parr Communications Co., File No. 26082-CL-P-(7)-82; for a construction permit to establish a cellular system operating on frequency block A in the DPCRTS to serve the Portland, Oregon/Washington, Standard Metropolitan Statistical Area; designating applications for consolidated hearing on stated issues.

By the Common Carrier Bureau.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority, are the captioned applications of American Mobile Communications of Washington and Oregon (Amcam). Cellular Mobile Systems Of Washington, Inc. (CMS), Interstate Mobilephone Co. (Interstate), MCI Cellular Telephone Co. (MCI), and Parr Communicatons Co. (Parr), For Construction permits for systems to serve the Portland SMSA on frequency Block A. Also before the Commission are the applications of GTE Mobilnet of Portland, Incorporated (GTE) and Advanced Mobile Phone Service, Inc. (AMPS) to serve the same market on frequency Block B. GTE and AMPS have filed a Limited Partnership Agreement, together with a Joint Motion for Approval, which would result in the

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grant of GTE's amended application and the dismissal of AMPS'. Petitions to Dismiss or Deny have been filed against each of the applicants; responsive pleadings have also been filed.

2. After careful review and consideration of the applications and the related pleadings, we find that the public interest will be served by our approving the AMPS/GTE settlement agreement and granting the GTE application. Due to numerous and very basic defects in qualifying factors, we are dismissing the Parr application. the remaining four nonwireline applications are electrically mutually exclusive, and we are designating all four applicants for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79–318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982).

Amcom Application

3. *Financial Qualifications.* CMS has submitted a petition to deny Amcom's application on the grounds of lack of financial qualification. Amcom has projected capital costs of $8,359,000 and first–year operating costs of $1,846,000 for total construction and first-year expenses of $10,205,000. Amcom has shown availability of $14,641,000 to meet these costs and has provided a "cushion" of over $4 million. Amcom has supplied a letter of commitment from the District of Columbia National Bank for $1,830,163; a letter from Chase Manhattan Bank for $7,300,000; and a letter from Manufacturers Hanover Trust Company for $5,674,000. CMS does not object to this showing, but argues that Amcom has failed to consider, in its costs estimate, such pre-grant expenses as it may have incurred and still may incur. CMS reads the Commissions's rule on cost estimates, which refers to "proposed construction and other initial expenses," as including these pre-grant expenses. 47 CFR 22.917(a).

4. Amcom points out in its reply that pre-grant expenses are separated from construction and first-year costs, and that its parent, RAM,[1] has undertaken payment of the former. Therefore, Amcom contends, the Commission need not address the pre-grant expenses. We agree. When an applicant demonstrates reasonable assurance that adequate funding is available for the construction and first-year operation of a particular cellular system, we need not engage in a detailed analysis of that applicant's other expenditures. *See American Mobile Communications of Washington and Oregon (Seattle Order)*, CC Mimeo 1739, released January 12, 1983, at para. 4. Here, the availability of a $4 million cushion assures the applicant's financialy ability to carry through on its proposal even should RAM fail to meet its responsibilities for pre-grant expenses.

CMS Application

5. *Financial Qualifications.* Amcom and Interstate question CMS' financial qualification in the Portland Market. The Commission considered CMS' financial qualifications in the Chicago market, and the financial qualifications of its parent corporation, Graphic Scanning, and found the applicant qualified in all 30 top markets, *Advanced Mobile Phone Service, Inc. (Chicago Order)*, 91 FCC 2d 512 (1982), at para. 6. Since no new issues regarding CMS' financial qualifications have been raised here, those findings control dispostiton of the petitioners' arguments here.

6. *Cost Estimates.* Amcom objects to CMS' cost esitmates as not providing a cell-by-cell expense list. In *Advanced Mobile Phone Service, Inc. (Buffalo Order)*, CC Mimeo 1320, released December 14, 1982, at para. 9, we indicated that a cell-by-cell cost analysis is not required. Both Amcom and Interstate charge that CMS has understated costs and omitted various expenses, which result in unrealistically low proposed expenditures. In the *Chicago Order* at para. 13, the Commission held that differences in cost estimates among applicants do not raise an issue, so long as no estimate is unreasonable on its face. Because such is not the case here, no cost issue will be designated.

7. *Direct Affirmative Case.* In its petition to deny the CMS application, Interstate objects to the adequacy of CMS' direct case, noting, among other things, faults in attributions and missing page numbers. The direct case submission requirement of § 22.916(b)(1), as noted in *Cellcom, Inc. (Minneapolis Order)*, CC Mimeo 1573, released December 30, 1982, at para. 9, is met, because the direct case was submitted with the application on June 7, 1982. The questions raised by Interstate are evidentiary matters and questions of adequacy, which will be dealt with in the hearing.

8. *Frequency Plan.* Both Amcom and Interstate oject to CMS frequency plan, including the amendment submitted July 7, 1982, as inadequate.[2] At page 13 of Volume I, Exhibit IV, CMS specifies the number of channels per site for its proposed system, for years one through five. On page 15 of the same exhibit, CMS lists the channels available for assignment at each cell site. This information adequately describes the system proposed by CMS, and satisfies the requirements of § 22.913(a) (4) of the rules.

MCI Application

9. *Financial Qualifications.* MCI's financial qualifications to construct cellular systems in 12 of the top 30 markets, including Portland, were resolved in *Advanced Mobile Phone Service, Inc. (Pittsburgh Order)*, CC Mimeo 1169, released December 6, 1982, at para. 5, and no new issues on this point have been raised here. Hence, our prior findings control the disposition of these petitions.

10. *Congestion Determination.* CMS has objected to MCI's application as providing only a "generalized discussion" of congestion determination; CMS finds this inadequate in face of the § 22.913(a)(5) requirement of "an exhibit indicating the basis which the applicant will use to determine whether sufficient congestion exists to warrant cell-splitting." We have found, *Buffalo Order* at para. 20, and *Minneapolis Order* at para. 13, that the qualifying requirement is satisfied by the application's inclusion of its plan for determination of congestion. The adequacy and efficacy of the plan may then be fully considered in the comparative hearing, to the extent relevant to the issues designated in para. 39, *infra*.

Interstate Application

11. *Amendment Regarding Ownership.* Interstate submitted an amendment on November 29, 1982 to add The Washington Post Company (Post) to its application as a general partner.[3] Both CMS and Amcom opposed this amendment on numerous grounds, arguing that it constituted a major, not a minor, amendment, and must as such be rejected. Interstate said in submitting the amendment that it sought no comparative advantage from the change, but that the amendment should be allowed as an example of "changes in ownership of an applicant which do not result in transfers of control." 47 CFR 22.918(b)(1).

12. This question was also presented in the Seattle market,[4] and the decision there controls here. The amendment including the Post as a one-sixth general partner is accepted as minor, but we will not accord any comparative credit for the change in ownership. *See Seattle Order*, at paras. 12 and 13. thus, consideration of Interstate's financial qualifications is based on the information provided in its initial application.[5]

13. *Financial Qualifications.* As it did in the Seattle market, Amcom here challenges Interstate's financial qualifications. The costs and financing of the two systems were considered together in the Seattle application. Because no new issues regarding Interstate's financial qualification have been raised here, the *Seattle Order* finding that Interstate is financially qualified is dispositive here. *Id.* at paras. 5–10.

14. *Cost Estimates.* Amcom and CMS object to Interstate's cost projections as understated. The Commisison in the *Chicago Order*, at para. 13, found that discrepancies in cost will not support the designation of an issue for hearing unless the cost estimates are shown to be unreasonable on their face. The petitioners here have not met that burden, and the projected costs do not appear unreasonable. Accordingly, Interstate's cost estimates will not be placed in issue.

15. *Extension Beyond SMSA.* Interstate's proposed CGSA extends beyond the Portland SMSA at several points, and is the basis of an objection by Amcom. In its petition to deny, Amcom states that "a showing of 'strong public interest' is deemed necessary if such coverage extensions are to be permitted," and that Interstate has not made such a showing.[6] We find that the Interstate extension beyond the SMSA is *de minimis*. Cell #1 extends beyond the irregular boundary of the SMSA, over rugged terrain, into unpopulated surroundings. It is clear that the cell was not designed for the purpose of serving the area of the extension, but is an integral part of the entire market coverage plan. The area in question is not within any SMSA, and includes the towns of Scappoose (pop. under 5,000) and St. Helens (pop. under 10,000); the area is bounded by the Columbia River to the east and by forested mountains on the other sides. The extension covers an area which could not be expected to support a cellular system itself. We find that these factors taken together justify the extension of cell #1 beyond the Portland SMSA.

16. *Frequency Plan.* On September 13, 1982 Interstate filed, and the Commission accepted as minor, an amendment which corrected discrepancies between Interstate's frequency plan as explained in Exhibit One, pages 97–116, and supplemental information relating to specific frequency assignments for each cell site as shown in exhibit E–2. Amcom's petition to deny noted the discrepancies and stated that they made Interstate's application unacceptable. Interstate's actual frequency plan as originally filed (in Exhibit One) satisfied the requirements of § 22.913(a)(6) of the Rules, and the minor amendment resolves Amcom's objections and any inconsistencies in the frequency plan and frequency assignments for each cell.

Parr Application

17. Our review of Parr's application reveals that it is defective in several of the basic qualifying requirements. These deficiencies mandate that the Commission dismiss this application as not acceptable for filing.[7]

18. *Site Availability.* Amcom, CMS and Interstate argue that Parr's application must be denied for failure to assure availability of antenna sites. The Commission requires reasonable assurance that sites are available for a proposed cellular system; as stated in the *Pittsburgh Order*, at para. 8, a "mere possibility" of a site's availability will not suffice. The requirement of a showing of site availability is an important determinant of an application's acceptability for filing. Under § 22.20(b)(5) of the rules, the failure to meet this requirement can result in dismissal of the application. Parr's application proposes seven antenna sites. Of one site, the application states that it is owned by the applicant; this statement is undocumented.[8] Of five others,[9] Parr states: "All five sites will be leased or purchased by PCC." No documentation of any leases or options, or even of any initial negotiations, is included; nor does Parr offer to provide such documentation upon request. Of the final site[10] no mention of availability is made. Despite strong objections in the petitions of Amcom, Interstate and CMS, Parr did not correct these defects or otherwise offer any response. Although no petitioner has conclusively demonstrated that Parr's proposed sites are not available, Parr's failrue to give reasonable assurance of site availability is a patent defect according to § 22.20(b)(5), and mandates dismissal of this application.

19. *Profile Sketch of Antenna.* Interstate notes, in its petition to deny, that Parr has provided no antenna sketches. Section 22.15(c) states that "each application involving a new or modified antenna supporting structure or passive facility * * * must be accompanied by a vertical profile sketch of the total structure * * *." Parr fails to provide such sketches, noting only that the sketches will be available "upon final engineering of the system" (Exhibit 13). Since the rule requires that such sketches be included in the application, their omission is a patent defect.[11]

20. *Financial Qualification.* Interstate petitions to deny the Parr application on the basis of financial qualification. The Commission requires reasonable

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[1] The Amcom Joint Venture Agreement in application Volume II, Section I, Exhibit 2, Attachment A establishes that RAM Cellular Communications of Washington and Oregon, Inc. a wholly-owned subsidiary of RAM Cellular Communications, Inc., which in turn is a wholly-owned subsidiary of RAM Broadcasting Corporation, will be responsible for all application and pre-grant expenses.

[2] CMS' July 7, 1982 amendment of Exhibit IV submitted information which was referenced within the application, and was obviously omitted from the original application inadvertently. This information was properly accepted as a minor amendment.

[3] Interstate had submitted amendments previous to this one. Both CMS and Amcom objected that Interstate was attempting through amendments to cure a patently defective application. Following return, correction, and resubmission of its first amendment, Interstate was allowed to correct clerical errors to bring the E–2 exhibits into harmony with Exhibit 1 of the application (*see* paragraph 16, *infra*), and to add supporting and clarifying letters to its financial showing; but Interstate was not allowed to expand or add to the financial showing as originally set forth.

[4] In Seattle as in Portland, both Amcom and SCS objected to Interstate's Amendment 5. The arguments raised by both petitions were considered in the Seattle Order, although specific reference to

[5] The Baltimore, Md./Washington, D.C. Order, Mimeo No. 812, released November 16, 1982, stated that no comparative credit would be granted for an ownership change similar to the one in question here. An Application for Review of that decision is presently pending, and our decision here is subject to whatever action the Commission may take on review.

[6] This is a misconstruction of *Cellular Application Filing Procedures*, FCC Mimeo 2973, March 24, 1982, which says only that an extension is "more likely" to be permitted if "a strong public interest consideration" is shown.

[7] Although the application was accepted for filing by Public Notice of July 2, 1982, Report No. CL–3, that acceptance was provisional. The notice expressly stated that the Commission reserved the right to return the application if it were found upon further inspection to be defective and not in conformance with Commission Rules and Regulations or policies. 47 CFR 21.26(b).

[8] Union site. All site availability references are to Exhibit 1, pages 2–4. The Union Avenue site is in an industrial/commercial section of Portland where present zoning permits such construction.

[9] Mount Vista, Chamberlain Hill, Redland, Rosemont, and Cooper Mountain sites. All five sites are mountainous wooded areas close to public power and telephone landline services. Proposed antennas are to extend no more than 20 feet above treetop level.

[10] North Plains site. This site is in flat, open farmland near State Highway 26. The construction of an antenna here would require a conditional use permit, for which Parr states it will apply upon grant of its application.

[11] Compare our treatment of an applicant in Philadelphia, Advanced Mobile Phone Service, Inc. (Philadelphia Order), CC Mimeo 1682, released January 21, 1983, at para. 11, where the applicant had submitted antenna sketches, thereby avoiding the patent defect.

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assurance that a loan or similar financing will be available to the applicant who secures a construction permit. *Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), cert. den. 440 U.S. 959 (1979); *Las Vegas Valley Broadcasting Co. v. FCC*, 82 FCC 2d 166 (1980). The Commission emphasized in its *Report and Order* that the basic criterion of financial qualification is especially essential in cellular applications "because of the large capital investment required to finance the highly sophisticated technology associated with cellular operations, and because cellular service is in an early stage of development and must be viewed as a relatively high-cost business venture. [Footnote omitted]" *Id.* at para. 72. The Commission also noted that the provision of only two systems per service area means that the inability of one system to finance its development would result in public inconvenience and wasted specturm. *Id.* Section 22.917 of the Commission's rules sets forth the required demonstration of financial qualification, including "estimated costs of proposed construction and other initial expenses," and submission of copies of any financial commitments in support of the proposed facilities. Parr's cost estimates total $2.7 million. Parr's financial showing consists of $65,000 in liquid assets and an available line of credit of $100,000. Also included is a "letter of reference" from a bank which establishes Parr's good name but makes no mention of a loan, or even of available funds. Reasonable assurance of a loan, according to the *Multi-State* test, requires specific information such as the amount and terms of the proposed loan, the interest rate or the mode of its calculation, and covenants and/or conditions required. Parr's letter from First Interstate Bank of Oregon fails in all these respects to give reasonable assurance of the availability of funds. Far from giving reasonable assurance of the availability of the needed $2.7 million, the Parr application makes no effort to show the availability of any funds whatsoever beyond the assets and the $100,000 line of credit mentioned above. Assets of $165,000 against projected construction and first-year operating costs of over $2,700,000 indicate that Parr is not financially qualified. According to §§ 22.917 and 22.20 of the Commission's rules, this defect mandates dismissal of the Parr application.[13]

[13] This situation is readily distinguishable from an application in which financial qualifications were designated as an issue for hearing. In the Philadelphia Order, at para. 8, for example, a bank letter extended $50 million credit, but without sufficient details of the terms of the loan to assure its availability. The bank there promised an adequate loan but failed to give details. Here, despite vigorous challenges, there is no statement whatsoever of the availability of funds beyond the $165,000 mentioned above.

21. *Technical Qualifications.* Interstate and CMS object strenuously to the Parr application for its failure to assert or demonstrate any technical qualification whatsoever. Section 22.901(a) requires that applicants for cellular construction permits demonstrate that they are technically qualified. The Parr application fails to establish Parr's technical qualification to construct and operate a cellular system. The engineering requirements of the application have been met haphazardly if at all, and the application itself states (Exhibit 4, p. 6) that its design engineer (who, in case of a grant of the application, would become its chief engineer) is not qualified in the field of radio telecommunications design and interference studies. The application states that it was impossible to secure engineering consultants or assistants for this preparation. Based on the foregoing, we find that Parr has failed to demonstrate its technical qualification, and its application is therefore defective in this respect.

22. *Environmental Impact.* Exhibit 1 at page 2 states that all seven of the antenna construction proposals are major actions as defined in Section 1.1305. This may or may not be the case; it is impossible to determine due to the absence of profile sketches and other detailed site information. But if the approval of these proposals, or any one of them, would be major actions by the terms of § 1.1305, then the environmental impact showing required under § 1.1311 is totally inadequate. Under § 22.20(a)(6), this defect would render the application unacceptable for filing.

23. *Signatures.* Section 22.6(d) requires that applications comply with § 1.743. The latter requires a personal signature on the application (on FCC Form 401, pages 3 and 6). The Parr application was submitted with a photocopied signature; it thus fails to comply with requirements of § 1.743.

24. *Direct Affirmative Case.* Interstate petitions to deny Parr's application on the basis that Parr has failed to submit a direct affirmative case. The relevant rule, § 22.916(b)(1), states only that the direct case must be submitted with the application. Although Interstate argues that the lack of a direct case is a ground for dismissal, the direct affirmative case is not a qualifying requirement of an application, so its omission cannot result in an application's dismissal, even though such omission may seriously prejudice the applicant's comparative posture.[12]

25. In view of the foregoing, we find that Parr is not financially or technically qualified, and therefore its application must be dismissed. The Commission established basic qualifying requirements for cellular applicants in its *Report and Order*, and in § 22.913 of its rules. Although we have stated, in the *Chicago Order* at para. 17, that an overly rigid application of these regulations would not serve the public interest, still an application which blatantly disregards the Commission's requirements and criteria, and which fails to make a good faith effort to meet the standards established for cellular service applications, must be returned as defective. The omissions of the Parr application are basic and numerous, and the applicant has made no effort to correct its shortcomings or to respond to the objections and criticisms of its opponents. Because the essential criteria for site availability, financial qualification, technical qualification, environmental impact analysis, and engineering exhibits not only have not been met, but also have been blatantly disregarded, the Parr application must be returned.

GTE Application

26. GTE is the remaining applicant for Block B (wireline) in the Portland market under the terms of a Limited Partnership Agreement submitted on June 8, 1982.[14] This Agreement is one of a series of similar agreements by which AMPS, which filed aplications on June 7, 1982 in 29 of the top 30 markets, and GTE, which filed in 15 of these markets, together with 18 other wireline companies proposed to settle their electrically mutually exclusive applications in 18 of the top 30 markets. Pursuant to the terms of the agreements, AMPS will operate cellular systems in fifteen markets and GTE will operate cellular systems in six markets, including Portland. Each partner will continue to prosecute its cellular applications in its specified markets, while the other partners to the

[12] Various additional shortcomings in the Parr application have been noted by the Commission staff and by other applicants in the Portland market. We do not discuss these issues because the issues already discussed so clearly mandate the dismissal of Parr's application.

[14] The participants in the agreement are: GTE Mobilnet of Portland, Inc., general and limited partner, 86.17%; Advance Mobile Phone Service, Inc., limited partner, 9.03%; Cascade Utilities, Inc., limited partner, 2.84%; Clear Creek Mutual Telephone Company, limited partner, 1.59%; and Lewis River Telephone Co., Inc., limited partner, 0.37%.

agreements will withdraw any applications in those markets. A Limited Partnership Agreement virtually identical to the Portland Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order)*, FCC 83-124, released April 26, 1983. We find the Commisson's decision to be dispositive of all objections to the Portland Agreement itself. Accordingly, we here address only those objections to GTE's application not previously considered and resolved.

27. In their petitions to deny, Amcom and MCI raise objections concerning the wireline set-aside and the issue of a head start. We find that it is premature to rule on these petitions at this time, for the reasons stated by the Commission in deferring action on similar petitions in the Chicago market. *See Chicago Order*, at para. 16. In addition, MCI alleges a history of anticompetitive behavior or wireline carriers generally. This argument has already been rejected as a basis for adverse action on a cellular application in the *Los Angeles Wireline Order, supra*, where MCI raised it against Pacific Telephone & Telegraph. MCI has raise no specific allegations against any of the wireline applicants here, and we find no reason to designate an issue regarding anticompetitive behavior.

28. *Engineering.* In its petition to deny, Amcom states that GTE has made no effort to show the kind of planning necessary to avoid adjacent-channel interference. We find this argument groundless, as GTE's application, specifically exhibits 19 and 21, fully complies with our requirements in this regard.

29. *Frequency Plan.* Amcom argues that GTE's frequency plan will result in intra-system interference because adjacent frequencies will be assigned in adjacent cells. While we agree that there is a potential for interference, we nevertheless find GTE's frequency plan adequate. GTE points out that it has adopted a standard frequency plan which employs a four-cell frequency re-use pattern. In a mature cellular system using directional antennas, adjacent channels would routinely be assigned in adjacent cells without interference. When omnidirectional antennas are used, as proposed by GTE for its initial phase of operation, adjacent channel interference can occur within the system. We cannot say with certainty that this would be the case in GTE's proposal; however, as GTE states, if interference did occur, GTE could easily remedy the situation by reconfiguring its intitial frequency assignment. The key point is that GTE's proposal will not prevent GTE from implementing its system, nor will it result in interference to any other system. Therefore, there is no basis for disqualifying GTE or designating the question for hearing.

30. *Resale.* Both MCI and Amcom object to the GTE application's lack of detailed information regarding resale policies and charges. GTE replies that the policy has been presented, if not detailed, and that no rules have been promulgated which require more. We agree. In its *Report and Order*, 86 FCC 2d 510-511, the Commission prohibited carriers from filing tariffs forbidding resale. While the Commission recited the potentially favorable impact on the market of widespread resale, it did not impose any basic or comparative qualification requirement related to resale. Accordingly, GTE is in compliance with all rules and policies regarding resale.

31. *Interconnection.* MCI's petition to deny cites § 22.913(a)(9) in arguing that GTE has failed to explain its interconnection policies clearly and in detail. GTE's application, Exhibit 23 provides a full discussion of its interconnection proposal; for technical details the exhibit references both AT&T and GTE publications. Further, the *Buffalo Order* states, at para. 5, that the interconnection question should be settled by intercarrier agreement subject to the wireline carrier's duty to provide reasonable and technically suitable interconnection. We note also that interconnection issues are a common concern to all prospective cellular applicants and licensees, and that these issues are currently under discussion in working groups which include FCC staff as well as wireline and nonwireline representatives.

32. We therefore conclude here, as in the *Buffalo Order*, that the wireline carrier has met our requirements regarding interconnection policy, and that the petition to deny on this basis is without merit. As an additional assurance, we have taken the position that "if reasonable interconnection agreements have not been formulated by the time [the wireline carrier] files an application for a license to operate its cellular system, any grant to [the WCC] will be conditioned upon its providing reasonable interconnection." *Pittsburgh Order*, at n. 8, citing 89 FCC 2d at 81-82.

Conclusions

33. Based on our analysis of the applications and of the contested issues, and upon our resolution of these issues within this order, we find that the application of Parr Communications Co. must be dismissed as failing in several respects to meet minimum standards regarding basic qualifying issues. We find the other applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. We further find that the grant of the GTE Mobilnet application, as conditioned below, will serve the public interest, convenience and necessity.[15]

34. Accordingly, it is ordered, pursuant to § 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership filed by GTE Mobilnet of Portland, Incorporated, Advanced Mobile Phone Service, Inc., Cascade Utilities, Inc., Clear Creek Mutual Telephone Company, and Lewis River Telephone Company, Inc. is granted and the accompanying October 26, 1982 Limited Partnership Agreement is approved.

35. It is further ordered that the amendment to the GTE Mobilnet of Portland, Inc. application is accepted, that the amendment is exempted from the cut-off provisions under § 22.31(e) (3) and (4); and that the amended GTE application, File No. 26054-CL-P-(3)-82, is granted.

36. It is further ordered that the request for withdrawal of the application filed by Advanced Mobile Phone Service, Inc., File No. 26017-CL-P-(10)-82 is granted and the application and the petitions to deny filed against it are dismissed.

37. It is further ordered that the authorization is conditioned upon GTE's filing an amendment to the Limited Partnership agreement which eliminates the language contained in section 11.1 of the agreement, imposing restraints on the alienation of partnership interests.[16]

38. It is further ordered that the application of Parr Communications Company is dismissed.

39. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of American Mobile Communications of Washington and Oregon, Cellular Mobile Systems of Washington, Inc., Interstate Mobilephone Co., and MCI Cellular

[15] This authorization will be conditioned upon GTE Mobilnet's obtaining the appropriate antenna structure clearances and upon its deletion of one provision of the Limited Partnership Agreement which restricts alienation of partnership interests. *See* Los Angeles Wireline Order, at paras. 27-30.

[16] The Commission will withhold issuance of GTE's authorization until the amendment is received by the Mobile Services Division, Common Carrier Bureau. We also remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

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Telephone Co., are designated for hearing in a consolidated proceeding upon the following issues: [17]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; [18] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service; [19]

(b) to determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;

(c) to determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); [20] and

(d) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

40. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding. [21]

41. It is further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

42. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

43. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

44. It is further ordered that, except to the extent granted here, the Petitions to Deny filed by the parties against the captioned applications, excluding those filed against Parr's application, are denied.

45. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

46. It is further ordered that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

47. This order is issued under § 0.291 of the Commission's Rules and *Order Delegating Authority* FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules of this order, insofar as it grants the GTE application, may be filed within 30 days of the date of public notice of this order (see Rule 1.4(b)(2)).

48. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-13128 Filed 5-16-83; 8:45 am]

BILLING CODE 6712-01-M

[17] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found all four of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Washington, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 38, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Washington to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[18] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[19] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–3.

[20] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[21] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. See Communications Act of 1934, as amended section 409 (c) (47 U.S.C. 409 (c)); Administrative Procedure Act section 54 (d) (5 U.S.C. 54 (d)); § 1.1221 of the Commission's rules.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-682-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–682–DR), dated May 5, 1983 and related determinations.

DATED: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California dated May 5, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 5, 1983.

Fresno County for Individual Assistance and Kings County as an adjacent county for Individual Assistance.

John Dickey,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 83-13130 Filed 5-16-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities; Louisiana Bancorp, Inc.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Louisiana Bancorp, Inc.*, Crowley, Louisiana (leasing activities; Louisiana): To engage, through its subsidiary, Louisiana Bancorp Leasing Company, in the leasing of real property in accordance with the Board's Regulation Y. This activity would be conducted from an office located in Lafayette, Louisiana, serving the Lafayette, Louisiana greater metropolitan area. Comments on this application must be received not later than June 3, 1983.

2. *Louisiana Bancorp, Inc.*, Crowley, Louisiana (lending and financing activities; Louisiana): To engage, through its subsidiary, Louisiana Bancorp Lending Company, in making or acquiring loans and other extensions of credit such as would be made by a mortgage, finance, credit card or factoring company and in servicing loans and other extensions of credit for any person. These activities will be conducted from an office in Lafayette, Louisiana, serving southwest Louisiana. Comments on this application must be received not later than June 3, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp*, Pittsburgh, Pennsylvania (finance activities; Alaska): To engage, through its wholly-owned subsidiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the account of others, loans and other extensions of credit. These activities will be conducted at an office located in the metropolitan area of Anchorage, Alaska and will serve the metropolitan area of Anchorage. Comments on this application must be received not later than June 10, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Los Hacendados, Inc.*, Clayton, New Mexico (insurance activities; Union County, New Mexico); To engage through a proposed subsidiary, First Insurance Agency, Inc., in the sale of general insurance in a town with a population not exceeding 5,000. These activities would be performed in the Town of Clayton, serving all of Union County, New Mexico. Comments on this application must be received not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13110 Filed 5-16-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[G-83-3]

Revocation of Delegation of Authority; Secretary of Defense

1. *Purpose.* This document revokes a 1975 delegation of authority to the Secretary of Defense.

2. *Effective date.* This document is effective June 16, 1983.

3. *Revocation.* The following 1975 delegation which authorized the Secretary of Defense to audit and retain all freight and passenger transportation documents paid by Department of Defense overseas offices is hereby revoked:

FPMR temporary regulation	Date	Subject
G-25	Dec. 30, 1975	Delegation of authority to the Secretary of Defense.

Dated: May 9, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-13100 Filed 5-16-83; 8:45 am]

BILLING CODE 6820-34-M

[G-83-34]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to audit and retain other than international freight and passenger transportation documents paid by Department of Defense overseas offices.

2. *Effective date.* This document is effective June 16, 1983.

3. *Expiration date.* This document expires on January 1, 1988.

4. *Delegation.*

a. Pursuant to the authority vested in me by Section 322 of the Transportation Act of 1940, as amended (31 U.S.C. 3726), authority is delegated to the Secretary of Defense to:

(1) Continue the use of currently approved freight and passenger warrants, transportation orders, credit notes, and related transportation forms in overseas areas for the procurement of freight and passenger transportation and related services;

(2) Continue the use of currently approved Military Airlift Command (MAC) forms for the procurement of MAC contract airlift services;

(3) Audit and retain at Scott Air Force Base, Illinois, all payment vouchers and related transportation documents covering MAC contract airlift services, subject to test verification and reviews by GSA; and

(4) Audit and retain in overseas offices those transportation vouchers and related documents paid at such offices for other than international services, and non-English language documents for international services, subject to test verifications and reviews by GSA.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

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c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 9, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-13161 Filed 5-16-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83C-0130]

Wilsa, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Adminstration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Wilsa, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)] copper in coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF-334), Food and Drug Adminstration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CP 3C0166) has been filed by Optacryl Division, Wilsa, Inc., P.O. Box 36142, Denver, CO 80236, proposing that the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)] copper in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: May 6, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-12866 Filed 5-16-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. June 7, 9 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; closed committee deliberations, 10 a.m. to 4 p.m.; Jack Gertzog, National Center for Drugs and Biologics (HFN-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to two pending investigational new drugs (IND's). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel

Date, time, and place. June 13 and 14, 9 a.m. Conference Rm. E., Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, June 13, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed committee deliberations, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; open committee discussion, June 14, 9 a.m. to 5 p.m.; David S. Shindell, National Center for Devices and Radiological Health (HFK-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before June 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and in indication of the approximate time required to make their comments. Presentations should be limited to 15 minutes. Persons or groups with similar views on the issues before the committee are requested, if possible, to consolidate their presentations and make a single presentation before the committee.

Open committee discussion. The committee will discuss premarket approval applications (PMA's) P830008 for a transcutaneous carbon dioxide monitor and P820043 for a high frequency jet ventilator.

Closed committee deliberations. The committee will review and discuss trade secret or confidential commercial information presented by the sponsor of PMA P820043 for a high frequency jet ventilator. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Circulatory System Devices Panel

Date, time, and place. June 24, 8:30 a.m., Rm. 703-727A, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and contact person Open public hearing, 8:30 a.m. to 10:30 a.m.; closed presentation of data, 10:30 a.m. to 12:30 p.m.; open committee discussion, 1 p.m. to 4 p.m.; Glenn A. Rahmoeller, National Center for Devices and Radiological Health, Office of Medical Devices (HFK-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 10, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss recommendations from the North American Society of Pacing and Electrophysiology for the clinical evaluation of new pacemakers and will review a premarket approval application for the Cordis Gemini pacing system.

Closed presentation of data. Representatives from Kolff Medical will present trade secret or confidential commercial information regarding their clinical investigation of the artificial heart. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 11, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-13112 Filed 5-16-83; 8:45 am]

BILLING CODE 4160-01-M

Pfizer Inc.; Tran-Q Plus Terramycin Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Pfizer, Inc., providing for use of Tran-Q plus terramycin Premix (oxytetracycline hydrochloride plus hydroxyzine hydrochloride) in cattle feed for increased feed efficiency and growth stimulation. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: May 27, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1848.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 E. 42d St., New York, NY 10017, is the holder of NADA 11-661, which provides for use of Tran-Q plus Terramycin Premix (oxytetracycline hydrochloride plus hydroxyzine hydrochloride) in making beef cattle feed for increased feed efficiency and growth stimulation.

The application was approved on April 15, 1959. Approval of this

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application has not been codified in the Code of Federal Regulations. By letter of August 12, 1982, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed and waived the opportunity for a hearing under the provisions of § 514.115 (21 CFR 514.115).

Section 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA (42 FR 56264, October 21, 1977; Docket No. 77N–0316). In this case, however, Pfizer's request is being granted because of the extended time interval which has elapsed since the notice of opportunity for hearing concerning NADA 11–661 was published. The Director of the Bureau of Veterinary Medicine has determined that the public interest will be served, and that the sponsor's interests will not be prejudiced by the withdrawal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 350b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications*, notice is given that approval of NADA 11–661 and all supplements for Pfizer's Tran-Q plus Terramycin Premix is hereby withdrawn, effective May 27, 1983.

Dated: May 10, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83–13113 Filed 5–16–83; 8:45 am]

BILLING CODE 4160–01–M

FEDERAL COMMUNICATIONS COMMISSION

Telecommunications Industry Advisory Group Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcmmittee. The meeting is scheduled for Monday, June 6, 1983, and Tuesday, June 7, 1983, at the offices of Arthur Andersen & Co., 1666 K Street, NW., Washington, D.C., Room 512, 5th Floor, beginning at 9:30 a.m. The meetings will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Further Assignment of Tasks
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral Statements, while not favored or encouraged, may be allowed if time permits and if the Chairmen determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–13121 Filed 5–16–83; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Helicopter Use In Wild Horse Gatherings; Meeting

Notice is hereby given in accordance with Pub. L. 92–195 that a meeting to discuss the use of helicopters in gathering wild horses will be held at 1 p.m. on June 6, 1983, in the Burns District Office, 74 S. Alvord Street, Burns, Oregon 97720. The use of helicopters to gather wild horses in the Burns and Lakeview BLM districts in fiscal year 1983, as well as other aspects of the gathering and adoption process will be discussed.

The Burns district plans to gather 88 horses in June from the East Kiger Wild Horse Herd and 76 horses in August from the Riddle Mountain Wild Horse Herd. The Lakeview district plans to gather 42 horses in July from the Browns Valley Wild Horse Herd. Additional public notice will be given prior to the gatherings.

Dated: May 4, 1983.

David Lodzinski,

Associate District Manager.

[FR Doc. 83–13151 Filed 5–16–83; 8:45 am]

BILLING CODE 4310–84–M

Montrose District Advisory Council; Meeting

Notice is hereby given in accordance with 43 CFR Part 1780 that a meeting of the Montrose District Advisory Council will be held June 14 and 15, 1983. The meeting will convene at 1:30 p.m. in the meeting room of the Hinsdale County Courthouse in Lake City, Colorado.

The agenda for this meeting will include election of officers, the merger of BLM and onshore offices of Mineral Management Services, and a working session to review the Preference Right Lease Application by Earth Science Corporation to lease and mine alunite in the Lake City area.

The meeting is open to the public. Interested persons may make oral statements to the Council between 10:00 a.m. and 12:00 p.m. June 15, 1983; or file written statements for the Council's consideration. Anyone wishing to make an oral statement should contact the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81402 or telephone (303) 249–7791 by June 10, 1983.

Summary minutes of the Council meeting will be maintained at the District Office at 2465 South Townsend, Montrose, Colorado and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Marlyn V. Jones,

District Manager.

[FR Doc. 83–13143 Filed 5–16–83; 8:45 am]

BILLING CODE 4310–84–M

San Juan River Basin Regional Coal Team; Resolution

AGENCY: Bureau of Land Management (BLM), Department of the Interior.

ACTION: On April 26, 1983, the San Juan River Basin (SJRB) Regional Coal Team (RCT) adopted the following resolution.

SUMMARY: *Fair Market Value (FMV) for Preference Right Lease Applications (PRLA's)*—The RCT will form a subgroup to prepare a report on increasing the revenue on PRLA's to recover FMV. The subgroup will be composed of BLM and State representatives from New Mexico and Colorado to be selected by the RCT members by May 2, 1983. The subgroup will be chaired by the State of New Mexico and will be present the report at the July 1983 RCT meeting.

The subgroup should recommend whether and to what degree the annual rental should be increased from the minimum to reflect FMV. The report should also discuss how the increased revenues can be used for impact assistance.

Although the meetings of the subgroup are not formal meetings of the RCT, the subgroup will follow procedures

applicable to the RCT to the extent practicable. The purpose of the Notice is to inform the public of the procedures that will be followed in carrying out the RCT's resolution.

1. The initial organizational meeting of the Fair Market Value Subgroup will be on May 26, 1983 at 1:30 p.m. in the Conference Room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

2. The subgroup will hold a series of meetings at the above location on June 7, 14, 21 and 28. Each meeting will begin at 10:00 a.m. Persons planning to attend these meetings should verify the time and location by calling Mr. Charles Turpen's office, telephone number 505–827–5950 on the day preceding each meeting.

3. All meetings of the subgroup will be open to the public except that the subgroup may convene executive sessions to receive and consider proprietory or confidential information, and data received by the subgroup may be restricted to authorized personnel.

4. Members of the public may submit written material to the subgroup at any time and oral presentations by the public will be allowed at the discretion of the chairman.

5. The final subgroup report will be made available for public review as far in advance of its presentation to the RCT as possible. The public will have the usual opportunity to comment on the subgroup report at the RCT meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Turpen, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, telephone number 505–827–5950.

Charles W. Luscher,

State Director.

[FR Doc. 83–13145 Filed 5–16–83; 8:45 am]

BILLING CODE 4310–84–M

[W–83357]

Wyoming, Proposed Continuation of Withdrawals

May 9, 1983.

The Bureau of Land Management, U.S. Department of the Interior proposes to continue the existing withdrawals of the following public lands for a 20-year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714). The lands were withdrawn by the following orders: Secretarial Orders of October 20, 1917, April 24, 1918, May 6, 1918, March 18, 1920, June 30, 1927, October 26, 1929, February 20, 1931, May 28, 1932, February 9, 1933, May 29, 1934, April 25, 1938, December 12, 1938, September 24, 1940, April 9, 1941, June 24, 1942, November 17, 1942, February 19, 1943, May 5, 1943, May 4, 1944, August 1, 1944, and July 17, 1947, Government Land Order of April 20, 1945, Bureau of Land Management Orders of April 4, 1950, June 7, 1950, and Public Land Order 3269, November 20, 1963. The above orders will be continued insofar as they affect the following described lands:

Sixth Principal Meridian, Wyoming

T. 41 N., R. 76 W.,
Sec. 24, all.
T. 44 N., R. 76 W.,
Sec. 6, lots 12, 13.
T. 29 N., R. 77 W.,
Sec. 6, lots 8–11, 13, 14.
T. 42 N., R. 77 W.,
Sec. 27, S½;
Sec. 34, N½.
T. 44 N., R. 77 W.,
Sec. 33, SW¼SW¼.
T. 29 N., R. 78 W.,
Sec. 1, lots 5, 6, 8–10, S½NE¼, NE¼SE¼;
Sec. 7, S½SE¼;
Sec. 8, SE¼;
Sec. 9, S½;
Sec. 10, S½;
Sec. 11, N½NE¼, SE¼NE¼, SW¼;
Sec. 12, lot 4;
Sec. 18, lots 2–4, NE¼, E½NW¼, NE¼ SW¼
T. 42 N., R. 78 W.,
Sec. 13, SW¼.
T. 43 N., R. 78 W.,
Sec. 15, W½NW¼, SE¼NW¼, SW¼;
Sec. 21, N½NE¼, SE¼NE¼, N½NW¼;
Sec. 22, NW¼.
T. 44 N., R. 78 W.,
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 56 N., R. 78 W.,
Sec. 11, S½SE¼.
T. 29 N., R. 79 W.,
Sec. 13, SE¼;
Sec. 17, S½SW¼;
Sec. 18, lots 1–4, S½NE¼, E½W½, SE¼
Sec. 19, lot 1, N½ NE¼, NE¼NW¼;
Sec. 20, W½NE¼, SE¼NE¼, N½NW¼, SE¼NW¼,NE¼SW¼, SE¼;
Sec. 21, S½N½, S½;
Sec. 22, S½;
Sec. 23, NE¼, E½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 24, W½NE¼, NW¼;
Sec. 27, N½N½;
Sec. 28, NE¼NE¼.
T. 43 N., R. 79 W.,
Sec. 9, NE¼;
Sec. 10, NW¼.
T. 44 N., R. 79 W.,
Sec. 6, lots 4–7;
Sec. 28, SE¼;
Sec. 33, all.
T. 45 N., R. 79 W.,
Sec. 3, SW¼, W½SE¼, SE¼Se¼;
Sec. 25, all.
T. 29 N., R. 80 W.,
Sec. 2, SW¼, S½SE¼;
Sec. 3, lots 7–10, 12, N½SW¼, W½SE¼, SE¼SE¼;
Sec. 4, lot 1, SE¼NE¼;
Sec. 11, N½;
Sec. 12, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 13, NE¼, E½NW¼, NE¼SW¼, N½SE¼;SE¼SE¼;
T. 30 N., R. 80 W.,
Sec. 6, lots 19, 20;
Sec. 7, lots 13–21;
Sec. 18, lots 13–18, 21–26;
Sec. 19, lots 15–25, N½SE¼;
Sec. 20, S½NW¼, N½SW¼, SE¼SW¼;
Sec. 29, E½, NE¼NW¼;
Sec. 32, NE¼;
Sec. 33, W½, SE¼.
T. 39 N., R. 80W.,
Sec. 5, lots 1–4, S½N½;
Sec. 6, lots 1–4, S½NE¼, SE¼NW¼;
T. 40 N., R. 80 W.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5, lot 1, SE¼NE¼, E½SE¼;
Sec. 8, E½E½;
Sec. 9, W½W½;
Sec. 13, SW¼, W½SE¼;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, S½;
Sec. 22, S½;
Sec. 23, N½, SW¼
Sec. 24, N½N½;
Sec. 28, N½NW¼, SW¼NW¼;
Sec. 29, E½;
Sec. 32, E½.
T. 47 N., R. 80 W.,
Sec. 5, lots 1–4, S½N½, S½ (all);
Sec. 6, lots 1–4, S½NE¼.
T. 48 N., R. 80 W.,
Sec. 31, lots 3, 4, SE¼.
T. 50 N., R. 80 W.,
Sec. 6, lots 8–17, 19–21.
T. 51 N., R. 80 W.,
Sec. 31, lots 5–11, NE¼, E½NE¼, NE¼SW¼, NW¼SE¼.
T. 31 N., R. 81 W.,
Sec. 29, N½SW¼, SE¼SW¼, SE¼;
Sec. 30, lots 1–3, NE¼, E½W½, N½SE¼, SW¼SE¼;
Sec. 32, NE¼;
Sec. 33, W½E½, W½, SE¼SE¼;
Sec. 34, S½SW¼, SW¼SE¼.
T. 33 N., R. 81 W.,
Sec. 3, lots 2, 3, SW¼NE¼, S½NW¼, NE¼SW¼;
Sec. 4, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 9, NE¼ E½NW¼, NE¼SW¼, W½SW¼, SE¼SE¼;
Sec. 10, W½NW¼.
T. 37 N., R. 81 W.,
Sec. 5, lots 3, 4, S½NW¼, SW¼;
Sec. 6, lots 1–3, S½NE¼, SE¼NW¼, E½SW¼, SE½;
Sec. 7, lots 1–4, E½, E½W½;
Sec. 8, all;
Sec. 17, all;
Sec. 18, lots 1–4, E½, E½W½;
Sec. 20, all;
Sec. 29, all;
Sec. 32, all;
Sec. 33, W½W½.
T. 38 N., R. 81 W.,
Sec. 3, lots 2–4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 4, lot 1, SE¼NE¼, S½;
Sec. 8, all;
Sec. 9, all;
Sec. 17, all;

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Sec. 19, lot 3, 4, E½SW¼, SE¼;
Sec. 20, all;
Sec. 21, W½W½;
Sec. 29, N½, SW¼, N½SE¼;
Sec. 30, lots 1–4, E½, E½W½;
Sec. 31, E½, E½W½;
Sec. 32, W½.

T. 39 N., R. 81 W.,
Sec. 1, lots 1–4, S½N½, SW¼, W½SE¼;
Sec. 12, W½NE¼, W½;
Sec. 13, W½;
Sec. 14, S½;
Sec. 15, S½SW¼, SE¼;
Sec. 19, lots 1, 2, NE¼, E½NW¼;
Sec. 20, N½;
Sec. 21, N½;
Sec. 22, N½;
Sec. 23, all;
Sec. 26, NW¼;
Sec. 27, E½;
Sec. 33, E½SE¼;
Sec. 34, E½, SW¼.

T. 42 N., R. 81 W.,
Sec. 10, NE¼SW¼, S½SW¼, SW¼SE¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½NE¼, NE¼NW¼.

T. 45 N., R. 81 W.,
Sec. 8, S½NE¼, E½W½, SE¼;
Sec. 17, N½NE¼, NE¼NW¼.

T. 48 N., R. 81 W.,
Sec. 24, S½;
Sec. 25, N½NE¼, NW¼.

T. 50 N., R. 81 W.,
Sec. 1, lots 1, 2, S½NE¼;
Sec. 27, W½SW¼;
Sec. 28, E½SE¼;
Sec. 33, NE¼NE¼;
Sec. 34, N½NW¼.

T. 31 N., R. 82 W.,
Sec. 2, lots 3, 4, S½NW¼;
Sec. 3, lots 1, 2, S½NE¼, SE¼;
Sec. 10, E½, SE¼SW¼;
Sec. 14, W½NW¼, NW¼SW¼, SE¼SW¼;
Sec. 15, NE¼, E½NW¼;
Sec. 23, E½W½, E½W½NW¼, SW¼SE¼.

T. 32 N., R. 82 W.,
Sec. 23, S½S½;
Sec. 26, all;
Sec. 27, E½SE¼;
Sec. 34, E½SE¼;
Sec. 35, N½, SW¼, N½SE¼, SW¼SE¼.

T. 38 N., R. 82 W.,
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Sec. 3, lots 1–4, S½N½, SE¼;
Sec. 10, NE¼;
Sec. 11, W½, SW¼SE¼;
Sec. 13, SW¼;
Sec. 14, W½NE¼, SE¼NE¼, NW¼, SE¼;
Sec. 23, NE¼;
Sec. 24, all.

T. 39 N., R. 82 W.,
Sec. 7, lots 1–4, E½, E½W½ (all);
Sec. 8, all;
Sec. 15, W½, SE¼;
Sec. 16, all;
Sec. 17, all;
Sec. 18, lots 1, 2, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, N½;
Sec. 21, N½, E½SW¼, SE¼;
Sec. 22, all;
Sec. 23, N½;
Sec. 24, N½;
Sec. 27, all;
Sec. 28, E½;
Sec. 34, all.

T. 43 N., R. 82 W.,
Sec. 1, lots 3, 4, S½NW¼;
Sec. 2, lot 1.

T. 44 N., R. 82 W.,
Sec. 7, S½SE¼;
Sec. 18, NE¼NE¼;
Sec. 21, SE¼NE¼;
Sec. 22, SW¼NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 23, S½;
Sec. 26, N½, SE¼;
Sec. 27, NE¼, E½NW¼;
Sec. 35, N½NE¼, SE¼NE¼.

T. 45 N., R. 82 W.,
Sec. 2, N½SW¼, W½SE¼.

T. 36 N., R. 83 W.,
Sec. , lots 6, 7, E½SW¼;
Sec. 7, lots 1, 2, NE¼, E½NW¼.

T. 39 N., R. 83 W.,
Sec. 1, SW¼;
Sec. 2, S½;
Sec. 3, SW¼NE¼, S½NW¼, S½;
Sec. 4, SE¼NE¼, SW¼NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 5, lots 6, 7, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 6, lots 12–21;
Sec. 12, S½NE¼, NW¼, N½SW¼, SE¼.

T. 44 N., R. 83 W.,
Sec. 2, lot 5;
Sec. 33, SE¼;
Sec. 34, E½NW¼, SW¼NW¼, SW¼.

T. 45 N., R. 83 W.,
Sec. 24, all;
Sec. 25, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 28, lots 6, 7, 10, 11, SW¼, W½SE¼;
Sec. 29, lots 5, SW¼NW¼, S½;
Sec. 30, lots 5, 10, 11, SE¼NE¼, E½SW¼, SE¼;
Sec. 33, N½NE¼, NE¼NW¼;
Sec. 34, E½, N½NW¼;
Sec. 35, W½NW¼, SW¼, W½SE¼, SE¼SE¼.

T. 50 N., R. 83 W.,
Sec. 3, S½N½;
Sec. 4, S½NE¼, NW¼SW¼.

T. 36 N., R. 84 W.,
Sec. 2, lots 3, 4, S½NW¼, NE¼SW¼, SE¼;
Sec. 11, NE¼;
Sec. 12, N½, SE¼;
Sec. 13, NE¼, E½SE¼.

T. 37 N., R. 84 W.,
Sec. 7, lots 1, 2, SW¼NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 8, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 17, E½E½, SW¼NE¼, NW¼SE¼;
Sec. 20, E½NE¼, NE¼SE¼;
Sec. 21, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 27, NW¼, E½SW¼;
Sec. 28, N½NE¼;
Sec. 34, SW¼NE¼, E½NW¼, N½SE¼;
Sec. 35, S½.

T. 38 N., R. 84 W.,
Sec. 3, lots 1, 2, S½NE¼, S½;
Sec. 4, S½;
Sec. 5, S½;
Sec. 6, lots 6, 7, E½SW¼, SE¼.

T. 39 N., R. 84 W.,
Sec. 1, lots 5–14, 17, 18;
Sec. 2, lots 5, 6, 11, 12;
Sec. 12, lots 1, 2, 5, 6, SE¼;
Sec. 13, E½, SW¼;
Sec. 14, N½SE¼, SW¼SE¼;
Sec. 22, E½;
Sec. 23, N½NE¼, SW¼NE¼, NW¼;
Sec. 27, E½;
Sec. 34, E½.

T. 40 N., R. 84 W.,
Sec. 18, lot 4, SE¼SW¼, SW¼SE¼;
Sec. 19, lot 1, NE¼NW¼;
Sec. 20, NE¼, E½NW¼;
Sec. 21, all;
Sec. 22, S½NW¼, SW¼;
Sec. 26, SW¼;
Sec. 27, W½NE¼, NW¼, E½SW¼, SE¼;
Sec. 28, E½NE¼;
Sec. 34, NE¼NE¼;
Sec. 35, all.

T. 43 N., R. 84 W.,
Sec. 31, lots 5–11, NE¼SW¼, N½SE¼;
Sec. 32, lots 3–7, NW¼SW¼;
Sec. 33, lots 5–8;
Sec. 34, lots 1, 2.

T. 45 N., R. 84 W.,
Sec. 5, SW¼SW¼;
Sec. 6, lots 2–4, SW¼NE¼, SE¼;
Sec. 7, E½NE¼, NE¼SE¼;
Sec. 8, W½, SW¼SE¼;
Sec. 17, E¼, NW¼;
Sec. 21, lots 1, 2, W½NE¼, NE¼NW¼, SE¼;
Sec. 22, lots 6, 8, 9, 11, 13;
Sec. 25, lots 5–9, S½SW¼, SW¼SE¼;
Sec. 26, lots 2–7, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 27, lots 1–3, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 28, E½NE¼;
Sec. 34, lot 1;
Sec. 35, lots 1–4;
Sec. 36, lots 1–4.

T. 46 N., R. 84 W.,
Sec. 31, lots 3, 4, NE¼SW¼.

T. 37 N., R. 85 W.,
Sec. 1, lot 4, S½NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 2, lot 1, SE¼NE¼;
Sec. 6, lots 1–5, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 12, N½NE¼.

T. 38 N., R. 85 W.,
Sec. 1, S½;
Sec. 2, SE¼;
Sec. 5, lots 3, 4, S½N½, SE¼;
Sec. 8, E½;
Sec. 11, lots 1, 2, N½NE¼, SE¼;
Sec. 14, E½;
Sec. 17, E½NE¼, SW¼NE¼, SE¼;
Sec. 20, NE¼;
Sec. 21, N½, SW¼;
Sec. 22, N½;
Sec. 23, N½;
Sec. 27, W½SW¼;
Sec. 28, N½NE¼, SE¼NE¼, W½, E½SE¼;
Sec. 29, SE¼;
Sec. 31, SE¼;
Sec. 32, N½, SW¼;
Sec. 33, NW¼;
Sec. 34, NE¼, N½NW¼, SE¼NW¼;
Sec. 35, SW¼NW¼, N½SW¼, SE¼SW¼, W½SE¼, SE¼SE¼.

T. 39 N., R. 85 W.,
Sec. 29, SW¼NW¼, SW¼;
Sec. 30, lots 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 32, W½.

T. 40 N., R. 85 W.,
Sec. 3, S½SW¼;
Sec. 4, SW¼, W½SE¼, SE¼SE¼;
Sec. 5, S½;
Sec. 6, lots 4–7, 10–12, E½SW¼, SE¼;
Sec. 8, NE¼, NE¼NW¼;
Sec. 9, N½;
Sec. 10, all;
Sec. 11, W½, SE¼;
Sec. 13, W½, SE¼;
Sec. 14, NE¼.

T. 41 N., R. 85 W.,
Sec. 30, lots 6–8, E½SW¼, SE¼;
Sec. 31, lots 5–11, NE¼, E½NW¼, NE¼SW¼, N½SE¼;

T. 42 N., R. 85 W.,
Sec. 4, lots 3, 4, S½NW¼, SW¼;
Sec. 5, lots 1–3, S½NE¼.

T. 44 N., R. 85 W.,
Sec. 6, lot 2, N½ of lot 3, SE¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, NE¼SE¼, E½W½SE¼;
Sec. 7, SE¼SW¼, NE¼SE¼, W½SW¼ SE¼;
Sec. 18, lots 2–4, W½NW¼NE¼, NE¼NW¼.

T. 45 N., R. 85 W.,
Sec. 1, lots 1–4;
Sec. 4, SE¼SW¼, S½SE¼;
Sec. 19, SE¼NE¼, E½SE¼;
Sec. 20, NW¼NW¼;
Sec. 30, E½NE¼.

T. 46 N., R. 85 W.,
Sec. 4, lot 1, SE¼NE¼, E½SE¼;
Sec. 5, SW¼NE¼, SE¼NW¼;
Sec. 6, lot 2;
Sec. 9, E½NE¼;
Sec. 10, SW¼NW¼, SW¼;
Sec. 15, W½;
Sec. 22, lot 1, SW¼NE¼, NE¼NW¼, W½SE¼;
Sec. 26, all;
Sec. 27, N½NE¼, SW¼NE¼, E½NW¼, E½SE¼;
Sec. 35, E½E½, E½SW¼, NW¼SW¼.

T. 47 N., R. 85 W.,
Sec. 5, lots 5–15;
Sec. 8, E½;
Sec. 17, E½;
Sec. 20, N½NE¼;
Sec. 21, N½NW¼, SE¼NW¼, SW¼;
Sec. 28, N½NE¼, SE¼NE¼, NW¼, E½SE¼;
Sec. 33, E½E½.

T. 54 N., R. 85 W.,
Sec. 27, NW¼NE¼.

T. 37 N., R. 86 W.,
Sec. 1, lots 1–4, S½N½;
Sec. 2, lots 1–4, S½N½, S½;
Sec. 3, S½;
Sec. 4, S½;
Sec. 5, S½;
Sec. 6, lots 3–7, SE¼NW¼, E½SW¼, SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, N½N½;
Sec. 11, NW¼NE¼, N½NW¼.

T. 38 N., R. 86 W.,
Sec. 5, lots 7–10;
Sec. 6, lots 4–6, 8–17;
Sec. 7, lots 2–10;
Sec. 18, lot 5.

T. 39 N., R. 86 W.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5, lots 1–4, S½NE¼, SE¼NW¼, S½S¼, NE¼SE¼;
Sec. 6, lot 5, S½NE¼, SE¼NW¼, SE¼;
Sec. 8, E½, NW¼;
Sec. 9, W½NW¼, S½;
Sec. 10, SW¼;
Sec. 15, W½, SE¼;
Sec. 17, E½;
Sec. 20, N½NE¼, SW¼NE¼, SE¼;
Sec. 21, S½SW¼, SE¼;
Sec. 22, N½, SW¼;
Sec. 23, N½ SE¼;
Sec. 24, SW¼;
Sec. 25, W½NE¼, NW¼, E½SW¼, SE¼;
Sec. 26 all;
Sec. 29 E½;
Sec. 31, S½NE¼, E½SW¼, SE¼;
Sec. 32, N½, SW¼.

T. 40 N., R. 86 W.,
Sec. 5, lots 3, 4;
Sec. 6, lots 1–6, S½NE¼, SE¼NW¼;
Sec. 7, lots 1–4;
Sec. 18, lots 1, 3, 4;
Sec. 19, lots 1–4, SE¼NW¼, E½SW¼;
Sec. 30, lots 1–4, E½W½;
Sec. 31, lots 1–4, S½NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 32, S½NW¼, SW¼.

T. 41 N., R. 86 W.,
Sec. 2, lots 5–17, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 3, lots 5, 6, 10–13, SE¼NE¼, N½SE¼, SE¼SE¼;
Sec. 10 lots 1–3;
Sec. 11, lots 1–7, S½N½, NW¼NE¼, N½SE¼;
Sec. 12, lots 4–6, 8, N½SW¼, SE¼SW¼;
Sec. 13, lot 1, NE¼NW¼, S½NW¼, SW¼;
Sec. 14, lots 3, 4, S½SW¼, SE¼;
Sec. 15, lot 5, SE¼SW¼, S½SE¼;
Sec. 16, lots 4, 5;
Sec. 20, lots 1, 2, 5;
Sec. 21, lots 1–9, NW¼NE¼;
Sec. 22, lots 1–5, 8, SE¼NW¼;
Sec. 23, lots 2–4, NE¼, NE¼NW¼, E½SE¼;
Sec. 24, lots 3, 4, NW¼, W½SW¼;
Sec. 25, lots 1–4, W½NE¼, SE¼NE¼, NW¼, N½SE¼;
Sec. 26, lots 1, 4, 6, 7, NE¼, W½SE¼;
Sec. 27, lot 2;
Sec. 28, lots 2–4, 7–9, SW¼NW¼, NW¼SW¼;
Sec. 29, lots 3–5;
Sec. 32, lots 1–6, NE¼SE¼.

T. 42 N., R. 86 W.,
Sec. 2, lots 1–3, S½NE¼, SE¼NW¼, NE¼SW¼;
Sec. 3, lots 1, 2, S½NE¼, E½SW¼, SE¼;
Sec. 9, SW¼NE¼, SW¼NW¼, SW¼, W½SE¼;
Sec. 10, E½;
Sec. 11, W½NW¼, SW¼;
Sec. 14, all;
Sec. 15, N½N½, SE¼NE¼, E½SE¼;
Sec. 23, N½, NE¼SW¼, W½SE½;
Sec. 24, N½;
Sec. 26, S½NE¼, SE¼NW¼, SE¼;
Sec. 30, lots 1–4, N½NE¼, SE¼NW¼;
Sec. 35, E½.

T. 46 N., R. 86 W.,
Sec. 3, lots 10, 11;
Sec. 4, S½SE¼;
Sec. 6, lots 6, 7, SE¼SW¼, SW¼SE¼;
Sec. 7, lot 1, W½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 8, lots 1–8;
Sec. 9, NE¼NE¼, W½NE¼, NW¼;
Sec. 10, N½NE¼, NE¼NW¼;
Sec. 11, N½NW¼;
Sec. 12, NE¼NW¼.

T. 37 N., R. 87 W.,
Sec. 1, lots 1–4, S½N½, S½;
Sec. 2, lots 1–4, S½N½, S½;
Sec. 3, lot 1, SE¼NE¼;
Sec. 11, all.

T. 38 N., R. 87 W.,
Sec. 12, NE¼, N½SE¼, SW¼SE¼;
Sec. 13, NE¼, N½SE¼, SW¼SE¼;
Sec. 22, S½SE¼;
Sec. 23, E½, SW¼;
Sec. 24, W½NE¼, SE¼NE¼, W½, N½SE¼;
Sec. 25, W½;
Sec. 26, E½E½, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 27, all;
Sec. 34, lots 1–4, N½ SE¼;
Sec. 35, W½.

T. 40 N., R. 87 W.,
Sec. 1, lots 1, 5–7, SW¼NE¼, W½SE¼
Sec. 12, lots 1–4, SW¼NE¼, W½SE¼;
Sec. 13, lots 1–4, NW¼NE¼, N½SW¼ NE¼, SW½SW¼NE¼, N½SE¼ SW¼NE¼, SW¼SE¼SW¼NE¼, W½SE¼;
Sec. 24, lots 1–4, W½E½;
Sec. 25, lots 1–4, W½E½, SW¼.

T. 46 N., R. 87 W.,
Sec. 1, S½;
Sec. 2, S½;
Sec. 3, S½SW¼, SE¼;
Sec. 4, S½NE¼, SE¼;
Sec. 9, N½NE¼;
Sec. 10, N½N½;
Sec. 11, N½N½;
Sec. 12, N½N½.

T. 47 N., R. 87 W.,
Sec. 7, lots 1, 2, NE¼, E½NW¼;
Sec. 8, lots 1–4, NW¼;
Sec. 18, lot 4, SE¼SW¼;
Sec. 19, lot 1, 2, NE¼, E½NW¼, E½SE¼;
Sec. 20, W½W½, SE¼SW¼;
Sec. 28, S½SW¼;
Sec. 29, SW¼NE¼NW¼NE¼, W½NW¼NE¼, SE¼NW¼NE¼, SW¼NE¼, E½NW¼, N½SE¼, SE¼, SE¼;
Sec. 33, S½NE¼, N½NE¼SE¼, SE¼NE¼SE¼, NE¼SE¼SE¼, E½SE¼SE¼SE¼;
Sec. 34, S½NW¼, SW¼.

T. 57 N., R. 87 W.,
Sec. 19, lots 1, 3, 4, E½SW¼, SE¼;
Sec. 20, S½SW¼;
Sec. 29, SW¼.

T. 40 N., R. 88 W.,
Sec. 5, lots 3, 4, S½NW¼, SW¼;
Sec. 6, lots 5, 6;
Sec. 7, lot 4, SE¼SW¼, S½SE¼;
Sec. 8, NW¼.

T. 47 N., R. 88 W.,
Sec. 13, lots 7–9, NE¼SW¼, S½SW¼, W½SE¼;
Sec. 14, lots 1–4;
Sec. 21, lots 1–3, NE¼SE¼;
Sec. 22, lots 1–8, S½NE¼;
Sec. 23, lot 1, NE¼, NE¼NW¼, S½NW¼;
Sec. 24, lots 1, 2, W½NE¼, NW¼.

T. 40 N., R. 89 W.,
Sec. 1, lot 1, SE¼NE¼, S½SW¼, SE¼;
Sec. 11, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 12, NW¼;

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Sec. 14, S½N½, N½S½;
Sec. 15, S½SW¼, SE¼;
Sec. 21, E½NE¼, SE¼;
Sec. 22, NW¼, W½SW¼;
Sec. 28, E½;
Sec. 32, lots 1, 2, NE¼, N½SE¼
Sec. 33, N½.

The area described contains approximately 134,998.74 acres in Natrona, Converse, Campbell, Johnson, Sheridan, and Washakie Counties, Wyoming.

The purpose of these withdrawals are for stock driveways. The withdrawals closed the described lands to all forms of appropriation under the public land laws, but not to the mining laws or leasing under the mineral leasing laws. No change in the segregative effect or use of the land is proposed by the continuation.

Comments, suggestion, or objections to the proposed withdrawal continuation must be submitted in writing to the undersigned authorized officer of the Bureau of Land Management on or before August 15, 1983.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned before August 15, 1983. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice will be published in the **Federal Register** giving the time and place of such meeting. Public meetings are scheduled and conducted in accordance with BLM Manual Section 2351.16B.

The authorized officer of the Bureau of Land Management will make necessary investigations to determine the existing and potential demands for the land and its resources and review the withdrawal rejustification to insure that continuation would be consistent with the statutory objective of the programs for which the lands are dedicated. He will also prepare a report for consideration by the Secretary of the Interior, The President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

P. D. Leonard,
Associate State Director, Wyoming.

[FR Doc. 83-13156 Filed 5-16-83; 8:45 am]
BILLING CODE 4310-84-M

[Serial Number AZ-AZ027-000004]

Arizona: Realty Action; Competitive Sale of Public Land in Yavapai County

The Bureau of Land Management will offer the following described lands for sale at a public auction on July 19, 1983, at 1:00 p.m. at the Wickenburg Community Center. There will be 8 tracts of land in the Yavapai Sale Area. It has been determined that the sale of these tracts is consistent with Section 203 of the Federal Land Policy and Management Act of October 21, 1976. The lands will be offered for sale at no less than the appraised fair market value indicated below.

Gila & Salt River Meridian, Arizona

Yavapai Sale Area

Tract No.	Legal description	Acres	Value
1	T. 8 N., R. 5 W., Sec. 15, NE¼NE¼NW¼;	10.0	20,000
2	T. 8 N., R. 5 W., Sec. 15, SE¼NE¼NW¼;	10.0	20,000
3	T. 8 N., R. 5 W., Sec. 15, W½NE¼NW¼;	20.0	40,000
4	T. 8 N., R. 5 W., Sec. 15, NW¼NW¼;	40.0	66,000
5	T. 8 N., R. 5 W., Sec. 15, N½SW¼NW¼;	20.0	40,000
6	T. 8 N., R. 5 W., Sec. 15, S½SW¼NW¼;	20.0	40,000
7	T. 8 N., R. 5 W., Sec. 15, W½SE¼NW¼;	20.0	40,000
8	T. 8 N., R. 5 W., Sec. 15, E½SE¼NW¼;	20.0	40,000

The above aggregates 160.0 acres of land in Yavapai County.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including the mining laws, except the mineral leasing laws, for a period of 2 years or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 2-year period.

Lands not sold on July 19, 1983, will be reoffered for sale by competitive bid at the Phoenix District Office at 10:00 a.m. on October 5, 1983. Any remaining unsold lands will be available for over-the-counter purchases for the remainder of the 2 years.

All of the parcels listed will be subject to the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

3. A reservation of all minerals to the United States with the right to prospect for, mine, and remove such deposits.

Additionally, all parcels will be sold subject to the KMJ-72 grazing lease #AZ-020-2530. The purchaser of the land will honor the terms and conditions of this grazing lease until February 28, 1989. The purchaser will not charge more than the BLM grazing fee schedule for a given year. Modification of these terms and conditions will occur only through mutual agreement between the purchaser and the leesee.

There are no known mineral values in the land. If the successful bidder wishes, he/she may apply for the reserved mineral estate under the provision of Section 209 of the Federal Land Policy and Management Act of October 21, 1976.

Additional information concerning these lands, terms and conditions of the sale, and bidding instructions may be obtained from the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 or by calling (602) 241-2511.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the Proposed Action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: May 11, 1983.
William K. Barker,
District Manager.

[FR Doc. 83-13185 Filed 5-16-83; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on the Trinity River Basin Fish and Wildlife Management Program, Northwestern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the draft Environmental Impact Statement on the Trinity River Basin Fish and Wildlife Management Program, Northwestern California, is available for public review. Comments and suggestions are requested. Proposed is a management program to restore salmon, steelhead trout, deer and other fish and wildlife resources in the Trinity River Basin in northwestern California. Developed by a joint Federal-State-local task force under Bureau of Reclamation lead, the sixty million dollar proposal would span a ten-year period and consist of eleven actions such as watershed rehabilitation, spawning riffle construction, monitoring, and fish hatchery modernization. No significant adverse impacts are foreseen. Three alternative subjects of these same actions, and variants to five of the actions, were also evaluated in the DEIS.

DATES: Written comments are requested by July 20, 1983. Public meetings will be held on June 21, 23 and 28, 1983.

ADDRESSES AND TIMES: Written comments should be addressed to: James J. McKevitt, Field Supervisor, U.S. Fish and Wildlife Service, Division of Ecological Services, 2800 Cottage Way, Room E-2727, Sacramento, California 95825.

Oral Comments May Be Presented at Meetings

June 21, 1983. Tuesday, 7:30 p.m.–8:30 p.m. Supervisors Conference Room B, Humboldt County Courthouse. 825 Fifth Street, Eureka, California.
June 23, 1983. Thursday, 7:30 p.m.–8:30 p.m. Board Room, Trinity County Courthouse. 101 Court Street, Weaverville, California.
June 28, 1983. Tuesday, 1:00 p.m.–2:00 p.m. Room W-2140, Federal Building, 2800 Cottage Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Jody Hoffman, U.S. Fish and Wildlife Service, ES, 2800 Cottage Way, Room E-2727, Sacramento, California 95825, (916) 484-4731.

Copies of the DEIS have been distributed to all participants in the scoping process, those who have already requested copies, identified agencies and organizations representing interested user groups, and central libraries within the following counties: Humboldt, Shasta, Sacramento, and Trinity. Anyone requiring a copy of the DEIS for review should immediately contact the above individual.

SUPPLEMENTARY INFORMATION: A five person team from the FWS Division of Ecological Services authored this document. The Secretary of the Interior has designated FWS as the lead agency because the proposal directly addresses problems associated with declining populations of anadromous salmonid resources. Because the proposal would also impact operation of a Federal water resource project and Indian utilization of the fishery resource, both WPRS and BIA have been designated as cooperating agencies in the preparation of the EIS.

This draft environmental impact statement is intended as a broad scope programmatic or first-tier analysis of the proposed Trinity River Basin Fish and Wildlife Management Program (March, 1982) which was developed over the past 7 years by the Trinity River Basin Fish and Wildlife Task Force. The program would continue over ten years and would be administered by the Department of the Interior with the advisory assistance of a similar 14-agency task force. The estimated cost of the program is $60,000,000 including costs for construction of the presently authorized Grass Valley Creek Debris Dam. Detailed environmental documents will be prepared for site-specific actions and for any specific activity plans developed under the Management Program.

The proposed program consists of eleven actions to correct fish and wildlife problems in the Trinity River Basin caused by the Trinity River Division of the Central Valley Project and by adverse land use practices. These problems include the loss of 59 miles of chinook salmon habitat and 109 miles of steelhead trout habitat upstream from Lewiston Dam, degradation of salmonid habitat below Lewiston Dam caused by lowered river flows, distrubance of watershed lands by logging and road construction, and the inundation of prime habitat for an estimated 4,000 to 7,500 black-tailed deer.

The eleven actions are:

1. Continue or reestablish an advisory task force and establish field office staff to implement and oversee the management program.

2. Control sediment from Grass Valley Creek by building a debris dam on Grass Valley Creek and a dredging system in the Trinity River below the mouth of the creek.

3. Rehabilitate and maintain the main river below Lewiston.

4. Rehabilitate and maintain tributaries below Lewiston.

5. Rehabilitate and maintain watersheds below Lewiston.

6. Rehabilitate and maintain South Fork Trinity River and watershed.

7. Modify Trinity River Fish Hatchery to increase production.

8. Interim use of artificial propagation below Lewiston to accelerate restoration of natural anadromous salmonid production.

9. Formulate and conduct a wildlife management program.

10. Monitor anadromous fish and fisheries.

11. Evaluate stream and land use effects.

The program would improve fish and wildlife habitat, with secondary beneficial social effects. Based on a combined fishery harvest-to-escapement ratio of 3 to 1 for fall-run chinook and coho and a 1 to 1 ratio for spring-run chinook and steelhead, increased harvests resulting from fish populations restored by the management program would add over 174,000 fish to the current commercial, sport and Indian net catches and would result in direct yearly benefits totalling at least $8,200,000. Benefits would accrue to ocean commercial and sport fishermen, inland sport fishermen, and to the Indian net fishery.

The management program will improve wildlife habitat to increase the range carrying capacity to compensate for the 4,000 to 7,500 black-tailed deer lost when important range of the Weaverville herd was inundated by Clair Engle Lake. Restoration of these animals will add from $400,000 to $750,000 to the annual recreational value of the herd.

Negative impacts would be limited to localized short-term nuisances caused by debris dam construction and habitat inundation, habitat rehabilitation and maintenance along the Trinity River, and by vegetative control techniques used for wildlife habitat restoration.

The Proposed Management Program constitutes the optimum mix of actions selected by the Trinity River Fish and Wildlife Task Force to achieve the established fish and wildlife restoration objectives. No alternative groups of actions to achieve the program objectives were received during the scoping process. Three alternative groups of actions are evaluated in this EIS. They consist of subsets of actions contained in the proposed program and would be directed at accomplishing some portions of the established fish and wildlife restoration objectives.

Action 1, the establishment of an advisory group similar to the existing Task Force, with no regulatory authority, has a number of alternatives. These include the establishment of a management board more reflective of special private user interests within the basin, the establishment of a board with permit authority over resource uses affecting fish and wildlife, and the delegation of all management to a single agency, such as the Department of the Interior or the Department of Agriculture.

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Alternatives to Action 2, which consists of constructing a debris dam on Grass Valley Creek and a sand dredging program in the Trinity River, were investigated in a California Department of Water Resources memo (1976). They include alternative dam sites, the use of settling ponds, reliance on suction dredging or dam construction alone, and large releases of water from Lewiston Dam to flush gravels from deposition areas below Grass Valley Creek. The proposed action was recommended in the DWR study, and adopted unanimously by the Task Force. It has since been authorized for Construction by Pub. L. 96–335. Preliminary evaluation of the impacts of this project has been completed by the California Department of Water Resources under provisions of the California Environmetnal Quality Act (CEQA).

Alternatives to Action 3, which proposes to rehabilitate habitat in the main stem of the river below Lewiston Dam, include large flushing flows to clean river gravel beds, and replacement of potential natural spawning in the rehabilitated river by increased hatchery production. Use of flushing flows, however, would be prohibited expensive and could endanger residents who have moved into the flood plain area after the construction of Trinity Dam. Increasing hatchery production to compensate for historical spawning below Lewiston would not be consistent with the Task Force emphasis on natural production where possible.

Other than no action, the alternative to Action 4, tributary rehabilitation would be hatchery expansion or relocation. Impacts expected with this alternative are discussed for Actions 3 and 7.

The major alternative to Action 7, the modification of the Trinity River Fish Hatchery, would be relocation of the hatchery downstream. This would be costly and an adequate water supply for hatchery production is not assured lower in the river. It would also require construction of a dam or weir across the river, and could negatively affect remaining natural spawning.

There are two alternatives to Action 8. As proposed, Action 8 consists of instituting various temporary artificial propogation techniques to help restore natural anadromous fish production in the main stem of the river. One alternative would be to abandon the attempt to restore natural production and rely permanently on artificial techniques. This would be inconsistent with the basic goals established by the Task Force. The second alternative would be no action which would prolong by several generations the time required for natural populations to grow enough to fill restored habitat.

Actions 5, 6, 9, 10, and 11 have no reasonable alternatives other than no action.

A notice of intent to conduct scoping meetings for this EIS was published in the September 8, 1981 **Federal Register** and was distributed to about 850 agencies, county organizations, libraries, media representatives and private interests. Comments were accepted from concerned Federal, State and local agencies, organizations, and other individuals at the Fish and Wildlife Service Area Office and at five public meetings held the week of October 5 through 9, 1981. A scoping summary was mailed to all participants on April 16, 1982. Preliminary working draft copies of the EIS were distributed to the members of the Trinity River Task Force in July 1982. Comments received in correspondence and at Task Force Action Group meetings in July and August, 1982, have been addressed in this EIS.

The major areas of controversy surrounding the proposed management program during its formulation and scoping of the EIS have either not been directly related to environmental impacts, or they have been resolved. Three controversial measures; the creation of a quasi-independent management board, the imposition of additional land-use regulations, and actions involving zoning and road ordinances affecting private lands, have been dropped from the original proposed program.

Other areas of controversy have involved such questions as what are the causes and who is to blame for the degradation of the river, who is to pay and how much for compensation, and who is to be included in management decisions. These questions are beyond the scope of an EIS.

Richard J. Myshak,

Regional Director.

[FR Doc. 83–12472 Filed 5–16–83; 8:45 am]

BILLING CODE 4310–36–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Commission on Security and Economic Assistance

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the second meeting of the Commission on Security and Economic Assistance on May 26, 1983.

The purpose of the meeting is to continue the review of U.S. security and economic assistance in light of its goals and objectives, assess the modalities used and their effectiveness, and to advise the Secretary of State and the Congress of its findings and recommendations. The Commission will receive briefings on aspects of security and economic assistance and instruct the staff to prepare additional studies for its review.

The Commission will meet from 9:00 a.m. to 12:30 p.m. on May 26, 1983, at 1800 K Street, NW., Washington, D.C. 20006. The meeting is open to the public. Any interested person may attend. Written statements may be filed with the Commission in advance of the meeting.

Mr. John K. Wilhelm is the designated A.I.D. representative. Statements may be filed with him, or further information received by writing to him in care of the Agency for International Development, PPC/C, Room 1004 NS, Washington, D.C. 20523, or telephone him at 202/632–7800.

Dated: May 6, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83–12731 Filed 5–16–83; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub—No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Propery Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 16, 1983. Petitions for reconsideration must be filed by June 6, 1983. Petitions for stay must be filed by May 27, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, D.C. 20423; or call (202) 289–4357 in the D.C. metropolitan area; or (800) 424–5403, toll-free outside the D.C. area.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[MC–F–15127]

Roadway Express, Ltd.—Purchase Exemption—Harkema Express Lines, Limited

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; (2) Petitioner's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20814. Pleadings should refer to No. MC–F–15127.

Decided: May 6, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior regulatory approval under 49 U.S.C. 11343(e), the purchase by Roadway Express, Ltd. of all of the operating rights of Harkema Express Lines, Limited, contained in Certificates No. MC–140611 (Sub-No. 2), and No. MC–96134 Sub-No. 1), acquired in MC–FC–77875.

[MC–F–15117]

Best-Way Transportation—Purchase Exemption—Spector Red Ball, Inc. (Debtor-in-Possession)

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission Washington, D.C. 20423; and (2) Petitioner's representative Phil B. Hammond, Evans, Hammon, & Milliken 3003 N. Central, Suite 2201, Phoenix, AZ 85012. Pleadings should refer to No. MC–F–15117.

Decided: May 5, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(e), the purchase by Best Way Transportation of authorities issued to Spector Red Ball, Inc., in No. MC–2229 and various sub-numbers thereunder (28, 31, 33–46, 49, 57, 58, 62–64, 66, 67, 71, 73, 74, 76, 79, 80, 82, 85, 89, 93–95, 99, 191, 106, 111, 116, 122, 125, 131, 153, 155, 160, 163, 175, 182, 226F, 240, 245 and 271X, and portions of 102 and 169).

[FR Doc. 83–13130 Filed 5–16–83; 8:45 am]

BILLING CODE 7035–01–M

[OP4F–289]

Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquired control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2.(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this descision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team Four at (202) 275–7669.

[MC–F–15253, filed April 25, 1983]

Black Hills Stage Lines, inc. (Black Hills) (270 E. Norfolk Ave., Norfolk, NE. 68701)—Purchase—Sandhills Steamship & Navigation Co., d.b.a. Western Stage Lines (Western) (P.O. Box 808, North Platte, NE 69101).

Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501.

Black Hills seeks to purchase all of the interstate operating rights of Western. Doyle W. Busskohl, Charles D. Busskohl, Stephen D. Busskohl, and Craig D. Busskohl join in the application as individuals in control of Black Hills and seek authority to acquire control of said rights through the transaction. The interstate operating rights being purchased are contained in Certificate No. MC–156726 issued January 4, 1982, authorizing the transportation of passengers and their baggage, in charter operations, between points in Lincoln, Frontier and Red Willow Counties, NE, on the one hand, and, on the other, points in the United States.

Black Hills holds motor common carrier authority in docket No. MC–123773 and subs thereunder. Two of the individuals, Doyle W. and Charles D. Busskohl, controlling Black Hills also controls Arrow Stage Lines, Inc. (MC–29592), a motor common carrier. The other two individuals, Stephen D. and

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craig D. Busskohl, owns 38 percent and 14 percent, respectively, of the outstanding stock of allied Tour & Travel, Inc. (MC–12881), a passenger broker.

[FR Doc. 83–13131. Filed 5–16–83: 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP1–173

Decided: April 28, 1983.

[MC–F–15214]

Phelco, Inc.—Purchase Exemption—Central Motor Express, Inc.

Phelco, Inc. (Phelco), seeks an exemption under section 11343 of prior regulatory approval for its purchase from Central Motor Express, Inc. (Central), of a portion of its No. MC–38320 Sub-No. 26X (formerly Sub-No. 13), as is described at paragraph 4, page 5 of said certificate authorizing the transportation of general commodities, with exceptions, over irregular routes, between points in Taylor County, KY, on the one hand, and, on the other, points in 15 States. [The parties intend to transfer not only the portion of Sub-No. 26X described above, but also the underlying certificate for that authority, MC–38320 (Sub-No. 13)]. In addition, Phelco proposes to acquire from Central all of the authority in No. MC–38320 Sub-No. 27F which authorizes the transportation of general commodities (except classes A and B explosives), over described regular routes, between (1) Campbellsville, KY, and Dayton, OH, (2) between junction Interstate Hwy 65 and Kentucky Hwy 245, at or near Bardstown Junction, KY, and Ft. Wayne, IN, and (3) between Campbellsville, KY, and Cincinnati, OH. Phelco also seeks to tack the described portion of (Sub-No. 26)X and all of (Sub-No. 27)F at Campbellsville (Taylor County), KY, and to tack the regular route authority to be acquired in (Sub-No. 27)F with the irregular route authority of Phelco in its No. MC–151504 (Sub-Nos. 2F, 7X, and 8) certificates authorizing the transportation of various specified commodities between points in various States. Finally, temporary authority is sought by Phelco to lease the operating rights to be acquired from Central pending disposition of the petition for exemption.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; and (2) petitioner's representative Mr. Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Comments should refer to No. MC–F–15214.

Volume No. OP4F–282

Decided: May 9, 1983.

[MC–F–15262]

Trafco, Inc.—Purchase (Exemption)—North Manchester Trucking Company, Inc.

Trafco, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of all of the operating rights of North Manchester Trucking Company Inc. (No. MC–10436 and Sub-Nos. 1, 2, 3, and 4). The rights authorize the transportation of general commodities over a network of regular and irregular routes generally involving counties in northern Indiana. Trafco intends to join its existing authority with North Manchester's to provide a through service between northern Indiana counties, on the one hand, and, on the other, points in the United States in and east of WI, IA, NE, MO, AR, and TX.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Michael D. McCormick SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204. Comments should refer to No. MC–F–15262.

Volume No. OP5–F–228

Decided: May 10, 1983.

[MC–F–15244]

Gorski Bulk Transport, Inc.—Purchase Exemption—Spector Red Ball, Inc. (Debtor-in-Possession)

Gorski Bulk Transport, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating authority of Spector Red Ball, Inc., specifically No. MC–2229 (Sub-No. 248F) authorizing the transportation of general commodities (with exceptions) between points in the United States (except Alaska and Hawaii) and all of the authority of Spector Freight System of Canada, Ltd. (No. MC–144338F) authorizing the transportation of general commodities (with exceptions), between ports of entry on the international boundary line between the United States and Canada and Detroit, MI, subject to certain restrictions.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative, William H. Shawn, Suite 501, 1730 M Street, N.W., Washington, DC 20036. Comments should refer to No. MC–F–15244.

[FR Doc. 83–13133 Filed 5–16–83: 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–211

MC 162724 (Sub-3) (Republication) filed November 18, 1982, published in the **Federal Register** issue of December 8, 1982, and republished this issue. Applicant: MOUNTAIN OIL TRANSPORT, INC., P.O. Box 2216, Wala Wala, WA 99362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. A decision of the Commission, Review Board Number 3, decided March 25, 1983, and served April 6, 1983 finds that the performance by the applicant of the service described herein to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Washington, Oregon, California, and Idaho, on the one hand, and, on the other, points in the United States (except Hawaii), and (2) *petroleum products* and *such commodities as are used in pipeline construction*, between points in the United States (except Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect the broadening of the commodity description to the extent it authorizes bulk commodities.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–281

MC 152566 (Sub-3) (republication), filed April 15, 1983; published in the **Federal Register** issue of April 30, 1983, and republished this issue. Applicant: ONEDIN LINES, INC., 6021 Bapst St., Toledo, OH 43615. Representative: Richard A. Eberlin, P.O. Box 39, Holland, OH 43528, (419) 474–6331. In a decision, by the Entire Commission, decided April 11, 1983, and finds that performance by applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, between points in Lucas County, OH, on the one hand, and, on the other, points in Houston County, GA, Allegheny County, PA, and Milwaukee County, WI; (2) *lumber and wood products, and tar products* in containers, between points in Lucas County, OH, on the one hand, and, on the other, points in NY, PA, MI, NJ, MA, CT, IL, WI, MN, IN, WV, and VA; (3) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI); and (4) *packaging materials and plastic products*, between points in U.S. (except AK and HI), will serve a useful public purpose responsive to public demand or need. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to give notice of the change in the territorial description of (3) and (4).

MC 158296 (Sub-2) (republication), filed August 23, 1982; published in the **Federal Register** issue of September 7, 1982; and republished this issue. Applicant: ROY NEAL WHEELER, SR, ROY NEAL WHEELER, JR., AND PHILIP VERNE WHEELER, d.b.a. WHEELER & SONS TRUCKING, 1607 Oro Dam Blvd. West, Oroville, CA 95965. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. In a decision, by the Commission, Division 2, acting as an Appellate Division, decided March 28, 1983, and finds that the performance by the applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting metal articles, building and construction materials and equipment, wood products, clay, concrete, glass and stone products, and ores and minerals, between points in Washington, Oregon, California, Nevada, Montana, Idaho, Utah, Arizona, New Mexico, Colorado, Texas, Wyoming, Louisiana, Florida, Illinois and Indiana, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "equipment" in the commodity description.

[FR Doc. 83–13129 Filed 5–16–83: 8:45 am]
BILLING CODE 7035–01–M

[No. 39065[1]]

Motor Carriers; Seaboard Express, Inc., et al.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Three motor contract carriers have each requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due June 1, 1983. The sought relief will become final June 16, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: Interstate Commerce Commission, 12th and Constitution Ave., N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Paul Grossman, (202) 275–7976; or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, Washington, D.C. 20423, or call 289–4357 in the DC Metropolitan area or toll free (800) 424–5403.

Decided: May 6, 1983.

By the Commission, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L Mergenovich

Secretary.

[FR Doc. 83–13132 Filed 5–16–83: 8:45 am]
BILLING CODE 7035–01–M

[1] This proceeding embraces three petitions for exemption: No. 39065, Seaboard Express, Inc.; No. 39068, Southwest Truck Service; and No. 39069, United Van Lines, Inc.

[Finance Docket No. 30159]

Rail Carriers; Southern Pacific Transportation Company—Abandonment Exemption—In Dallas County, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et. seq.*, the abandonment by the Southern Pacific Transportation Company of 2.8 miles of track of its Athens Branch in Dallas County, TX, subject to standard employee protective conditions.

DATES: This exemption shall be effective on June 16, 1983. Petitions to stay the effectiveness of the decision must be filed by May 27, 1983. Petitions for reconsideration must be filed by June 6, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30159 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

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SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: May 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre would not impose a deadline for consummation of exempted transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13134 Filed 5–16–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petition seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–FC–174

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC–FC–81366. By decision of May 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to DAVID W. KENNAN, d.b.a. ROGERS TRANSFER & STORAGE COMPANY, Rogers, AR, of Certificate No. 34810 issued June 9, 1959, to W. B. KENNAN, JR. AND W. R. KENNAN, d.b.a. ROGERS TRANSFER & STORAGE COMPANY, of Rogers, AR, authorizing the transportation of (1) vinegar, in containers, in truckloads, from Springdale, AR, to points in AR through OK and MO, and to points in OK, MO and KS, (2) empty glass bottles, from points in MO, KS and OK to Springdale, AR, (3) empty oil barrels and drums, from points in Benton and Washington Counties, AR, to Okmulgee, Ponca City and Tulsa, OK, (4) oil and grease, in containers, from Okmulgee, Ponca City and Tulsa, OK, to points in Benton and Washington Counties, AR (except Rogers, AR), (5) spray material and insecticides, from St. Louis and Springfield, MO, to Springdale and Rogers, AR, (6) fresh fruits, berries and vegetables, from points in Washington and Benton Counties, AR, to points in OK, KS and MO, (7) livestock and used agricultural machinery and implements, between points in Benton and Washington Counties, AR, on the one hand, and, on the other, points in OK and KS, and those in MO (except those south of U.S. Highway 66 and east of U.S. Highway 63), (8) household goods, between points in Washington and Benton Counties, AR, on the one hand, and, on the other, points in AR, MO, OK, and KS, and (9) oil, petroleum by-products, vinegar, barrels, drums, kegs, empty glass bottles, agricultural implements, charcoal, hay, straw, lime in packages, building materials, and livestock, between Rogers, AR, on the one hand, and, on the other, points in AR, OK, KS and MO. Representative: John M. Blair, 117 South Second St., Rogers, AR 72756.

MC–FC–81439. By decision of May 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 appoved the transfer to SMITH TRUCKING COMPANY, INC., Enid, OK, of Certificate No. MC–152061, issued August 26, 1981, to GENE SMITH AND ELMER ABNEY, d.b.a. SMITH TRUCKING CO., authorizing the transportation of (1) machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) machinery, materials, equipment, and supplies, used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in OK, KS, and TX. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105.

Please direct status inquiries about the following to Team 2 at (202) 275–7030.

Volume No. OP2–FC–215

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81391. By decision of May 6, 1983, issued under U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to Randy Halter, d.b.a. Halter Trucking, of Springfield, MN, of authority issued to Vernon Jenniges, d.b.a. Jenniges Transfer, of Springfield, MN, authorizing transportation of (lead) clay products, from Springfield, MN, to points in WI, those in IA on the north of U.S. Hwy 30, those in SD on and east of U.S. Hwy 83, and those in that part of ND on and east of ND Hwy 3 from the ND–SD state line to junction U.S. Hwy 2, and on and south of U.S. Hwy 2, from junction ND Hwy 3 to the ND–MN State line, and from Ft. Dodge, IA to Springfield, MN, (Sub 2) clay products, from Springfield, MN, to points in the Upper Peninsula of MI, (Sub 4) clay products, from Springfield, MN, to points in NE, and (Sub 5) clay products and materials, equipment, and supplies, between points in the U.S., under continuing contract(s) with Ochs Brick & Tile Company, of Springfield, MN. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN.

Volume No. OP2–217

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81214. By decision of May 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to RIVER CITY VAN LINE, INC., Memphis, TN, of Certificate No. MC–7982 Sub-3, issued May 20, 1982, to BLUFF CITY TRANSFER & STORAGE COMPANY, Memphis, TN, authorizing the transportation of household goods between points in AL, AR, DE, FL, GA, IL, IN, KS, LA, MD, MI, MO, MS, NC, NE, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC. Representative: Edward G. Grogan, Twentieth Floor, First Tennessee Building, Memphis, TN, 38103 for applicants.

MC 81369. By decision of May 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 2 approved the transfer to ROBERT C. MAGEE AND JAMES H. MAGEE, d.b.a. WM. J. MAGEE MOVING & STORAGE, of Cleveland, OH, of Certificate No. MC–40543, issued March 28, 1955, to HEROLD G. HERRMAN, d.b.a. GEO. HERRMAN MOVING & STORAGE, of Cleveland, OH, authorizing the transportation, as a common carrier, over irregular routes, of household goods, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in IN, IL, MI, PA, NY, NJ, CT, MA, MD, MO, WI, and DC. Representative: James H. Magee, 4199 West 62nd St., Cleveland, OH 44144, 216–661–1600.

Note.—Transferee holds authority from the Commission under MC–2507.

MC–FC–81385. By decision of May 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181, Review Board No. 2 approved the transfer to transferee SCHEFFLER'S FOUR SEASONS TOURS, INC., Saginaw, MI, of Permit No. MC–161192, issued January 28, 1983, to transferor SCHEFFLERWAYS, INC., Saginaw, MI, authorizing the transportation over irregular routes, of passengers and their baggage, in special and charter operations, between points in the U.S., under continuing contract(s) with Scheffler's Four Seasons Tours, Inc., of Saginaw, MI. Transferee holds authority as a broker under MC–130245. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101.

MC–FC–81415. By decision of May 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 2 approved the transfer to CLASSIC EXPRESS, INC., of Las Vegas, NV, of authority issued to AMR COMPANY, of Kearney, NE, in MC–140253, authorizing transportation of antique and classic automobiles, and antique and classic motorcycles, in secondary movements, in truckaway service, utilizing van-type trailers only, between points in the U.S. (except AK and HI). Representative: Clyde M. Christy, 1010 Tyler, Topeka, KS, 66606.

MC–FC–81440. By decision of May 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 2 approved the transfer to BURCHILL INTERNATIONAL TRANSPORT, INC., of Mansfield, PA, of authority issued to BURCHILL TRUCKING, INC., Bradshaw, MD, in MC–163312 and Sub No. 1, authorizing transportation of (1) glass, between points in Allegheny and Blair Counties, PA, on the one hand, and, on the other, points in Baltimore County, MD, and (2) such commodities as are dealt in or used in the assembly of motor vehicles, between points in Baltimore County, MD, on the one hand, and, on the other, points in CT, DE, IN, MA, MI, NJ, NY, OH, and PA. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603.

Please Direct Status Inquiries About the Following to Team 3 at (202) 274–5223

Volume No. OP3–FC–207

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81387. By decision of May 5, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to FREIGHT ALL KINDS, INC., Denver, CO of Certificate No. MC–95084 (Sub-No. 177), issued May 28, 1982, to HOVE TRUCK LINE (A CORPORATION) (DEBTOR-IN-POSSESSION), Stanhope, IA, authorizing the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. Representative: Joseph W. Harvey, 6825 E. Tennessee, Suite 401–A (P.O. Box 24629), Denver, CO 80224, (303) 333–5433. Condition: Upon consummation of this transaction, transferor's authority in MC–95084 (Sub-Nos. 82, 93, 113, 114, 115, 117, 118, 121, 126, 128, 129, 130, 131, 133, 134, 140, 142, 143, 146, 147, 149, 150, 151, 152, 153, 155, 156, 158, 159, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, 173, 174, 175 and 176 are cancelled pursuant to its request.

Volume No. OP3–FC–208

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC–FC–81360. By decision of May 6, 1983, issued under 49 U.S.C. and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to NORMAN FOUNTAIN, doing business as NOR SHEENA LINES, Bridgeport, CT 06608, of Certificate No. MC–141045 Sub 1, issued April 11, 1978, to PARK CITY COACH SERVICE, INC., Stratford, CT 06497, authorizing the irregular-route transportation of *Passengers and their baggage,* in charter operations, beginning and ending at Bridgeport, CT, and points within 10 miles of Bridgeport, CT and extending to the District of Columbia, points in DE, FL, GA, IL, MD, MA, NJ, NY, NC, OH, PA, RI, SC, VT, VA, and to the port of entry on the International Boundary line between the U.S. and Canada which is located at Presque Isle, ME. Applicant's representative: (Same as applicant) (203) 375–2307.

Volume No. OP3–FC–212

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81422. By decision of May 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to ROBERT GORE, of Wright City, MO, of Certificate No. MC–153684 Sub 1, issued October 21, 1981, to THOMAS J. BUENEMAN TRUCKING, INC., of Wright City, MO, authorizing the transportation of (1) *wood and wood products,* between points in Warren County, MO, on the one hand, and, on the other, points in AR, IL, OK, KS, and TX, and (2) *leather and leather products, vinyl and vinyl products, paper and paper products,* and *foam products,* between points in Warren County, MO, on the one hand, and, on the other, points in PA, OH, VA, NC, IL, TX, KY, and IN. Representative: Willard C. Reine, 314 East High St., Jefferson City, MO 65101.

Please Direct Status Inquiries About the Following to Team 4 at (202) 275–7669

Volume No. OP4–FC–279

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC–FC–81283, filed February 28, 1983. By decision of 5–6–83 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to Ruth L. Miller and Arthur C. Miller, a partnership doing business as Roy A. Miller Trucking, Pomona, KS, of Certificate Nos. MC–15876, issued August 20, 1956, and MC–15876 Sub 2, issued August 15, 1963, to Roy A. Miller, authorizing the transportation of livestock, agricultural implements, building materials, feed, molasses and household goods, between Pomona, KS, and points within 15 miles of Pomona, on the one hand, and, on the other, Kansas City, KS, and Kansas City, MO, and household goods from Ottawa, KS, and points within 25 miles of Ottawa, to Kansas City, MO, and points in Oklahoma, and from points in Oklahoma to points in Kansas.

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Representative: Arthur C. Miller, R.R. #1, Pomona, KS 66076.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-13162 Filed 5-16-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problem (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements wiich must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries about the following to Team 1, (202) 275-7992.

Volume No. OP1-168

Decided: May 10, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 142421 (Sub-2), filed April 22, 1983. Applicant: ARMORED TRANSPORT OF NEVADA, INC., 1612 West Pico Blvd., Los Angeles, CA 90015. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213)-483-4700. Transporting *shipments weighting 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167600, filed April 25, 1983. Applicant: CLARK A. BREVIG AND JOAN K. BREVIG, d.b.a. BREVIG LAND, LIVE & LUMBER Rural Route 2, Box 2233, Lewistown, MT 59457. Representative: Clark A. Brevig (same address as applicant), (406)-538-5579. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167701, filed April 28, 1983. Applicant: COUNCIL BLUFFS TRUCK BROKERAGE, INC., 3211 Nebraska Ave., Council Bluffs, IA 51501. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402)-397-9900. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1-170F

Decided: May 10, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 99581 (Sub-6), filed May 2, 1983. Applicant: VACA VALLEY BUS LINES, INC., Box 818, Fairfield, CA 94533. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702 (702) 882-0202. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157500(B), filed April 22, 1983. Applicant: PERCY M. RHINES, JR., d.b.a. P. RHINES & SONS TRUCKING CO., 5635 North Broadway, Denver, CO 80216. Representative: David E. Driggers, 1660 Lincoln St., 1600 Lincoln Center, Denver, CO 80264 (303) 861-4028. Transporting (a) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, and (b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Applicant has also filed for authority under the non-fitness procedures docketed MC-157500(A), published in this same **Federal Register** issue.

MC 167681, filed April 28, 1983. Applicant: PEGASUS COACH, INC., 222 Jay Ave., Lyndhurst, NJ 07071. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666 (201) 836-1144. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167720, filed April 29, 1983. Applicant: ATKINS PICKLE COMPANY, INC., 602 Southeast First St., Atkins, AR 72823. Representative: Edward G. Bazelon, 135 South LaSalle St., Chicago, IL 60603 (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with DFC Transportation Company, of Huntley, IL.

MC 167730, filed May 2, 1983. Applicant: THE ILLINOIS NATIONAL BANK OF SPRINGFIELD, One Old Capitol Plaza North, Springfield, IL 62701. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167731, filed April 28, 1983. Applicant: JOSEPH A. GERARD, d.b.a. GERARD'S COMFY COACHES, INC., 2612 River Road, Point Pleasant, NJ 08742, (201) 295-0115. Representative: Nicholas C. Montenegro, 531 Burnt Tavern Rd., P.O. Box 1049, Brick Town, NJ 08723, (201) 295-4500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167741, filed May 2, 1983. Applicant: RICHARD BOTHWELL, d.b.a. BOTHWELL ENTERPRISES, I-27 South, Plainview, TX 79072. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466-3892. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 2 at (202) 275-7030.

Volume No. OP2-216

Decided: May 5, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 29643 (Sub-23), filed April 20, 1983. Applicant: WALSH TRUCKING SERVICE, INC., 50 Burney Ave., Massena, NY 13662. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 44832 (Sub-3), filed April 18, 1983. Applicant: HILLTOP BUS LINES, INC., 306 North Main St., Butler, PA 16001. Representative: W. Bryan Pizzi II, 204 Millcraft Center, 90 West Chestnut St., Washington, PA 125301, (412) 228-9000. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 84273 (Sub-12), filed April 25, 1983. Applicant: JONES TRUCKING CO., INC., 3020 Bay View Dr., Green Bay, WI 54301. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608-256-7444. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secretive materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 128713 (Sub-1), filed April 25, 1983. Applicant: DEL-VAL COACH, INC., 78 South Lakeview Dr., Gibbsboro, NJ 08026. Representative: Joann Hillman (same address as applicant), 609-784-0099. Transporting *passengers*, in charter and special operation, between points in NJ, NY, CT, MA, VT, NH, RI, PA, DE, MD, VA and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 140822 (Sub-1), filed April 26, 1983. Applicant: HAMMOND TRANSPORTATION LIMITED, Lot 2, Con. 12, Muskoka Ward, P.O. Box 441, Bracebridge, Ontario, Canada, POB ICO. Representative: Ivan Lewis Beasley (same address as applicant), (705) 645-5431. Transporting *passengers*, in charter operations, beginning and ending at ports of entry between the U.S. and Canada in NY, MI, MN, and WI, and extending to points in MS, ND, SD, LA, AR, MO, IA, MN, NE, KS, OK, TX, NM, CO, WY, MT, WA, ID, OR, UT, NV, CA, AZ, and DC.

Note.—The Applicant seeks to provide privately-funded charter transportation.

MC 163032, filed April 22, 1983. Applicant: ALLEN RENCHER, P.O. Box 963, Hayden Lake, ID 83835. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3071. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, (2) For or on behalf of the United States Government of *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Part (2) is published in the **Federal Register**, this issue, under the preface with fitness applications.

MC 165812, filed April 29, 1983. Applicant: T. C. COACH, INC., 7924 Frankford Ave., Philadelphia, PA 19136. Representative: Michael E. Fisher (same address as applicant), 215-335-1156. Transporting *passengers* in charter operations, beginning and ending at points in PA , and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 167092 (Sub-1), filed April 27, 1983. Applicant: FISHER TRUCKING, INC., P.O. Box 181, Springdale, AR 72764. Representative: Joseph C. Fisher, (same address as applicant), 501-751-6605. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S.

MC 167613, filed April 25, 1983. Applicant: CELEBRITY LIMOUSINE SERVICE, INC., 5317 Frankford Ave., Philadelphia, PA 19124. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561-1030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167672, filed April 26, 1983. Applicant: HANUS BUS CO., INC., 4500 Tonkawood Rd., Minnetonka, MN 55343. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, 612-340-0808. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transporation.

Please direct status inquiries about the following to Team 3 at (202) 275-5223.

Volume No. OP3-199

Decided: May 4, 1983.

By the Commission, Review Board No. 3. Members Krock, Joyce and Dowell.

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MC 127955 (Sub-17), filed April 27, 1983. Applicant: RICCI TRANSPORTATION CO., INC., Aloe St. and Odessa Ave., Pomona, NJ 08240. Representative: Daniel H. Ricci (same address as applicant), (609) 965–2538. Transporting *passengers*, in charter and special operations, between points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 143925 (Sub-1), filed April 14, 1983. Applicant: SPRINGFIELD BUS COMPANY, INC., 405 Harrison St., Springfield, OH 45505. Representative: Langdon D. Bell, 21 E. State St., Columbus, OH 43215, (614) 228–0704. Transporting *passengers*, in charter and special operations, beginning and ending at points in OH, KY, and IN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 167604, filed April 21, 1983. Applicant: GONE FISH'N CHARTERS, 205 Robins Rd., Hiawatha, IA 52233. Representative: Ronald Phillip Wright, Jr. (same address as applicant), (319) 393–4544. Transporting *passengers*, in charter and special operations, beginning and ending at points in Linn County, IA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167615, filed April 25, 1983. Applicant: CIE DE TRANSPORT MASKOUTAINE INC., 1005 Bernard, St-Hyacinthe, P.Q., P. Quebec, CN J2T 1E2. Representative: Guy Poliquin, 580 E. Grande-Allee St., Suite 140, Quebec, P. Quebec, CN G1R 2K3, (418) 522–5644. Transporting *passengers*, in charter and special operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada located in ME, NH, VT, NY and MI and extending to points in the U.S.

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 167624, filed April 26, 1983. Applicant: C & D BROKERAGE & LEASING, INC., 102 Pinewood Dr., Drexel, NC 28619. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167644, filed April 26, 1983. Applicant: AMERICA IN MOTION, INC., 330 Manhattan Ave., Jersey City, NJ 07307. Representative: Zoe Ann Pace, 387 Park Ave. S., New York, NY 10016, (212) 532–1800. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167645, filed April 26, 1983. Applicant: U.S.A. FREIGHT SYSTEMS, INC., 1814 71st St., Darien, IL 60559. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603, As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167695, filed April 28, 1983. Applicant: HANSOME LEWIS WALKER, d.b.a. WALKER BUS SERVICE, 1237 N. Potomac St., Baltimore, MD 21213. Representative: Hansome Lewis Walker (same address as applicant), (301) 276–1754. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 167665, filed April 27, 1983. Applicant: THE GRACE BRETHREN CHURCH OF SOMERSET, INC., R.D. No. 3, Box 25, Somerset, PA 15501. Representative: Pastor Cliff Wicks (same address as applicant), (814) 445–8645. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–278

Decided: May 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 152357 (Sub-4), Filed April 28, 1983. Applicant: R. G. STINE TRUCKING, INC., 15946 Mills Dr., Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167676, filed April 27, 1983. Applicant: MOODY TRUCKING CO., INC., 901 Wilson Rd. (P.O. Box 222), Smithfield, VA 23430. Representative: Frank L. Willard, Suite No. 100, 1 First & Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167677, filed April 27, 1983. Applicant: J. W. HOGGE SEAFOOD, INC., Route 2, Box 114, Hayes, VA 23072. Representative: Frank L. Willard, Suite No. 1001, First & Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167707, filed April 29, 1983. Applicant: GRAY TOURS, INC., 78 Falulah St., Fitchburg, MA 01420. Representative: David M. Marshall, 6th Floor, 95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–285

Decided: May 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 158096 (Sub-4), filed May 2, 1983. Applicant: BEST WAYS EXXPRESS, INC., 129 176th St. S., Suite 6, Spanaway, WA 98387. Representative: Kenneth R. Mitchell, 2320A Milwaukee Ave., Tacoma, WA 98421, (206) 383–3998. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167777, filed May 3, 1983. Applicant: M&M TRANSPORTATION SERVICES, P.O. Box 362, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167786, filed May 3, 1983. Applicant: JACK GRAY TRANSPORTATION SERVICES, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236–9375. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–288

Decided: May 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 155776 (Sub-1), filed April 29, 1983. Applicant: NYLON CAPITAL LIMOUSINE SERVICE, RD 3, Box 302, Seaford, DE 19973. Representative: Richard O'Bier (same address as applicant), (203) 629–7339. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167756, filed April 22, 1983. Applicant: NORTH COUNTRY TRANSPORTATION SERVICE, R.F.D. No. 1, P.O. Box 42, S. Ryegate, VT 05069. Representative: Edwin W. Mullenbrock (same address as applicant), (802) 429–2256. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167757, filed May 2, 1983. Applicant: RAYTRANS, INC., 6020 Hohman Ave., Hammond, IN 46320. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236–9375. As a *broker of general commodities* (except household goods), between points in the U.S. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption from Commission action. Such a petition should include the notice required by Section 11343(e)(2). See Ex Parte 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 42947.

MC 167776, filed April 3, 1983. Applicant: SERVICE TRANSPORT COMPANY, 6910 Fannin, Houston, TX 77030. Representative: Patrick C. Long, P.O. Box 2307, Austin, TX 78768, (512) 472–6207. Transporting *commodities in bulk*, between points in TX.

Please direct status inquiries about the following to Team 5 at (202) 275–7289.

Volume No. OP5–223

Decided: May 6, 1983.

By the Commission, Review Board No.1, Members Parker, Chandler and Fortier.

MC 161028 (Sub-1), filed April 19, 1983. Applicant: UNITED TRUCK LINES, INC., P.O. Box 3644 T. A., Spokane, WA 99220. Representative: Henry C. Winters, P.O. Box 5613, Bellevue, WA 98006, (206) 644–2100. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162289 (Sub-1), filed April 18, 1983. Applicant: VALLEY COACH COMPANY, P.O. Box 155, Fayetteville, NC 28302. Representative: John W. McLaurin (same address as applicant), (919) 483–7398. Transporting *Passengers*, in charter operations, beginning and ending at points in Cumberland, Sampson, Marnett, and Robeson Counties, NC, and extending to points in AL, AK, AZ, AR, CA, CO, CT, ID, IN, IL, IA, KS, LA, ME, MA, MI, MN, MO, MT, NE, NH, ND, OH, OK, OR, RI, SD, UT, VT, WA, WI, and WY.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 167539, filed April 18, 1983. Applicant: GARY W. KURTZ, d.b.a. KURTZ TRUCKING SERVICE, 623 Fourth Ave., Lewisburg, TN 37091. Representative: Gary W. Kurtz (same address as applicant), (615) 359–5407. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume NO. OP5–225

Decided: May 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 121439 (Sub-3(b)), filed April 27, 1983. Applicant: THOMAS TRANSFER, INC., 1800 15th St., Denver, CO 80202. Representative: Charles M. Williams, McCullough Bldg., 1750 Gilpin St., Denver, CO 80218, (303) 333–3774. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) to operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.—Applicant seeks additional authority in MC–121439 Sub 1(a) published in this same **Federal Register.**

MC 127768 (Sub-2), filed April 28, 1983. Applicant: JOINER'S TRANSIT CO., INC., 509 E. Mobile St., Florence, AL 35630. Representative: Erza D. Joiner (same address as applicant), (205) 764–8627. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153638 (Sub-1), filed April 26, 1983. Applicant: THE DERBY DELIVERY SERVICE, INC., 518 E. Marion St., Mishawaka, IN 46544. Representative: Alex Moore (same address as applicant), (219) 259–1906. (1) Transporting, for or on behalf of the United States Government, *general comodities* (except used household goods, hazardous or secret materials, and sensitive weapons or munitions), between points in the U.S. (except AK and HI), (2) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (4) as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167609, filed April 25, 1983. Applicant: R. B. & ASSOCIATES, INC., d.b.a. CHINOOK CHARTER SERVICE, 2430 243rd Place SW., Bothell, WA 98011. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167648, filed April 26, 1983. Applicant: CENTER STATE TRUCK BROKERS, INC., P.O. Box 497, Ellensburg, WA 98926. Representative: Kenneth R. Mitchell, 2320A Milwaukee

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Wy., Tacoma, WA 98421, (206) 383–3996. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 167068, filed April 27, 1983. Applicant: PHOENIX TOURS, INC., 3100 Connecticut Ave., N.W. No. 131, Washington, DC 20008. Representative: Stephen M. Forman (same address as applicant), 202–332–1085. Transporting *passengers*, in charter or special operations, beginning and ending at points in MD, VA and DC and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167069, filed April 27, 1983. Applicant: PAMTOURS, INC., 501 Fifth Ave., New York, NY 10017. Representative: Alvaro Pena (same address as applicant), 212–490–0140. Transporting *passengers*, in charter and special operations, between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-13169 Filed 5-16-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 2, 1983–May 6, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,895; Tuff Machine Co., Warren, MI

TA–W–13,595; Republic Steel Corp., Enduro Div., Canton, OH

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,650; LCP Chemicals & Plastics, Inc., Syracuse, NY

TA–W–13,979; Pantasote, Inc., Point Pleasant, WV

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,873; Great Lakes Carbon Corp., Casper, WY

Aggregate U.S. imports of calcined petroleum coke are negligible.

TA–W–13,877; Alpha Portland Cement Co., Cementon, NY

Aggregate U.S. imports of hydraulic cement did not increase as required for certification.

TA–W–13,487; Mason Bit & Tool Corp., Tuttle, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–13,882; Wheeling-Pittsburgh Steel Corp., Allenport Works, Allenport, PA

A certification was issued covering all workers of the firm separated on or after July 28, 1981.

TA–W–13,883; National Pipe & Tube Co., Liberty, TX

A certification was issued covering all workers of the firm separated on or after April 1, 1982.

TA–W–13,642; Armco, Inc., Ashland Works, Ashland, KY

A certification was issued covering all workers of the firm separated on or after January 1, 1982.

TA–W–13,642–A; National Supply Co., Div. of Armco, Inc., Ambridge, PA

A certification was issued covering all workers separated on or after January 1, 1982.

TA–W–13,880; Crouse-Hinds Co., Arrow Hart Div., Hartford, CT

A certification was issued in response to a petition received on October 18, 1982 covering all workers separated on or after October 13, 1981.

TA–W–13,712; Pennsylvania Optical Co., Reading, PA

A certification was issued covering all workers separated on or after August 5, 1981.

TA–W–13,615; Crucible, Inc., Specialty Metals Div., Syracuse, NY

A certification was issued covering all workers of the firm separated on or after June 28, 1981.

TA–W–13,875; Wheeling-Pittsburgh Steel Corp., Dayton District Sales Office, Dayton, OH

A certification was issued covering all workers separated on or after September 23, 1981.

TA–W–13,597; Republic Steel Corp., Enduro Div., Massilon, OH

A certification was issued covering all workers of the firm producing stainless steel strip sheet and plate separated on or after December 1, 1981.

TA–W–13,799; Olga Coal Co., Road Fork Mine #2, McDowell County, WV

A certification was issued covering all workers of the firm separated on or after October 6, 1981.

TA–W–13,852; Olga Coal Co., Olga Mine & Preparation Plant, McDowell County, WV

A certification was issued covering all workers of the firm separated on or after October 6, 1981.

TA–W–13,853; Olga Coal Co., Caretta Mine #4, McDowell County, WV

A certification was issued covering all workers of the firm separated on or after October 6, 1981.

I hereby certify that the aforementioned determinations were issued during the period May 2, 1983–May 6, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 10, 1983.

Glenn Zech,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-13247 Filed 5-16-83; 8:45 am]
BILLING CODE 4510-30-M

[TA–W–13,750]

Chicago Pneumatic Tool Co., Utica, New York; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, on March 30, 1983, the Department of Labor issued a certification of eligibility to apply for adjustment assistance to all workers of the Utica, New York plant of Chicago Pneumatic Tool Company.

Subsquent to the certification the Office of Trade Adjustment Assistance received a request to review and redetermine the impact date established in the certification. Based on the new information furnished to the Office, the certification is revised to include workers of the Utica, New York plant of Chicago Pneumatic Tool Company who were separated prior to the January 1, 1982 impact date.

The revised certification applicable to TA–W–13,750 is hereby issued as follows:

"All workers of Chicago Pneumatic Tool Company, Utica, New York who became totally or partially separated from employment on or after July 29, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974".

Signed at Washington, D.C., May 5, 1983.

Robert A. Schaerfl,
Director, Office of Program Management Unemployment Insurance Service.

[FR Doc. 83-13245 Filed 5-16-83; 8:45 am]
BILLING CODE 4510-30-M

[TA–W–14,502]

Merchant Metals, Columbiana, Alabama; Termination of Investigation

Pursuant to Section 221, of the Trade Act of 1974, an investigation was initiated on March 28, 1983 in response to a petition received on March 11, 1983 which was filed by United Steelworkers of America on behalf of workers at the Columbiana, Alabama plant of Merchant Metals. No public hearing was requested and none was held.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this May 5, 1983.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-13244 Filed 5-16-83; 8:45 am]
BILLING CODE 4510-30-M

[TA–W–13,064 and 13,392]

Union Carbide Corp., Metals Division, Alamo, Nevada, Bishop, California; Revised Determination on Reconsideration

On January 20, 1983, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers at Union Carbide Corporation's Alamo, Nevada and Bishop, California facilities. This determination was published in the **Federal Register** on January 28, 1983 (48 FR 4060).

The company's application for reconsideration, supported by evidence presented at a meeting in Washington, D.C. on February 11, 1983 claimed that the Department's survey of Union Carbide's customers was inadequate in that it did not include toll converting or imports of tungsten oxide which is competitive with ammonium paratungstate, APT.

The Department's review showed that imports of APT did not meet the "contributed importantly" test as demonstrated by the Department's survey of Union Carbide's customers. All of the tungsten concentrates produced at Alamo, Nevada were used in making APT at Union Carbide's Bishop, California plant. Consequently, the proper focus of competitive impact was on the final product, APT.

On reconsideration, the Department found that U.S. imports of APT increased substantially in 1982 compared to 1981 and in 1981 compared to 1980. The ratio of imports to domestic production of APT increased from 5.4 percent in 1981 to 15.4 percent in 1982.

The Department's reconsideration survey showed another major customer of Union Carbide which had previously incorrectly indicated no import purchases had, in fact, been a major importer of APT. This customer shifted to a large degree its purchases of APT away from Union Carbide in 1982 and substantially increased its import purchases of APT. This customer's purchases of APT from Union Carbide accounted for over 20 percent of Bishop's production of APT in 1982.

Production and employment declines began in July 1981 for Union Carbide's mines and facilities at Alamo, Nevada and Bishop, California. Production of tungsten concentrates at the Alamo facility ceased in May 1982 while production of APT at Bishop ceased in April 1982.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with APT produced at Union Carbide Corporation's Metal Divison's facilities at Alamo, Nevado and Bishop, California contributed importantly to the decline in sales or production and to the total or partial separation of former workers at the above mentioned facilities. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers of Union Carbide Corporation's Alamo, Nevada and Bishop, California facilities who became totally or partially separated from employment on or after July 1, 1981 and before July 1, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 6th day of May 1983.

Robert A. Schaerfl,
Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 83-13246 Filed 5-16-83; 8:45 am]
BILLING CODE 4510-30-M

[TA–W–14, 525]

Bethlehem Steel Corp., Plant Patrol Department, Bethlehem, Pennsylvania; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 31, 1983 which was filed on behalf of workers of the Plant Patrol Department of the Bethlehem Plant of the Bethlehem Steel Corporation, Bethlehem, Pennsylvania.

An active certification covering the petitioning group of workers remains in effect (TA–W–13,269). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed At Washington, D.C. this May 5, 1983.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-13240 Filed 5-16-83; 8:45 am]
BILLING CODE 4510-30-M

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Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 27, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 27, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 9th day of May 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Elgin, Joliet & Eastern Railway, East Joliet Yard (UTU)	Joliet, IL	5/3/83	4/27/83	TA-W-14,623	Transportation of raw materials & finished products.
Elgin, Joliet & Eastern Railway, Gary Mill Yard (UTU)	Gary, IN	5/3/83	4/27/83	TA-W-14,624	Transportation of raw materials & finished products
Elgin, Joliet & Eastern Railway, Kirk Yard (UTU)	Gary, IN	5/3/83	4/27/83	TA-W-14,625	Transportation of raw materials & finished products
Elgin, Joliet & Eastern Railway, Joliet Mill Yard (UTU)	Joliet, IL	5/3/83	4/27/83	TA-W-14,626	Transportation of raw materials & finished products
Elgin, Joliet & Eastern Railway, Waukegan Yard (UTU)	Waukegan, IL	5/3/83	4/27/83	TA-W-14,627	Transportation of raw materials & finished products
Elgin, Joliet & Eastern Railway, So. Chicago Yard (UTU)	Chicago, IL	5/3/83	4/27/83	TA-W-14,628	Transportation of raw materials & finished products
Great National Corp., Bonanza #1 Mine (workers)	Bonanza, AR	5/5/83	4/28/83	TA-W-14,629	Coal mining.
Great National Corp., McCurtain #2 Mine (workers)	McCurtain, OK	5/5/83	4/28/83	TA-W-14,630	Coal mining.
Great National Corp., Panama #1 Mine (workers)	Panama OK	5/5/83	4/28/83	TA-W-14,631	Coal mining.
Hulse Manufacturing Co. (workers)	Geneva, NY	5/3/83	4/29/83	TA-W-14,632	Steel type for typewriters, set up machines, forged out trimmed and plated type.
Phoenix footwear, Inc. (workers)	Secaucus, NJ	5/2/83	4/12/83	TA-W-14,633	Vinyl sandals.
Sturo Electronics of Arizona (workers)	Phoenix, AZ	4/22/83	4/15/83	TA-W-14,634	Electronic devices, phonographs, stereos, microphones and sound systems.

[FR Doc. 83-13243 Filed 5-16-83; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: June 7, 1983, 9:30 p.m., Rm. N3437 A & B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, phone: (202) 523-6565.

Signed at Washington, D.C. this 12th day of May 1983.

May 12, 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 83-13241 Filed 5-16-83; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of the thirty-first meeting of the National Commission for Employment Policy in Washington, D.C. at the Capitol Hilton, 16th and K Streets, N.W.

Date: June 16, 9:00 a.m.-5:00 p.m. June 17, 9:00 a.m.-1:00 p.m.

Status: This meeting will be open to the public.

Matters to be discussed: The Commissioners will continue their discussion of the Commission work plan for fiscal year 1984. They will consider general areas of recommendation for national policy and older Americans and will discuss several other policy issues. For further information, contact: Ms. Patricia Hogue, Director, National Commission for Employment Policy, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005 (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least 5 days before the meeting and not more than 7 days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the director at least 5 days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written statement.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of fact and views and shall not include any questioning of the Commissioners or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 11th day of May, 1983.

Patricia W. Hogue,

Director.

[FR Doc. 83-13248 Filed 5-16-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Services to the Field & City Arts Section) to the National Council on the Arts will be held on June 1-2, 1983, from 9:00 a.m.-5:30 p.m. at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on June 1, from 9:00 a.m.-10:30 a.m. to discuss overview of program.

The remaining sessions of this meeting on June 1, from 10:30 a.m.-5:30 p.m. and on June 2, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 10, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-13156 Filed 5-16-83; 8:45 am]

BILLING CODE 7537-01-M

Partnership Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Office for Partnership Advisory Panel (State Programs) to the National Council on the Arts will be held on June 2, 1983 from 9:00 a.m.-5:00 p.m. and on June 3, 1983 from 9:00 a.m.-4:00 p.m. in Room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 2, from 9:30-10:00 a.m. and from 3:30-5:00 p.m. and on June 3, from 9:00 a.m.-4:00 p.m. to discuss alternative to current application review worksheet and minority issues.

The remaining sessions of this meeting on June 2, from 10:00 a.m.-3:15 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 10, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-13157 Filed 5-16-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Social and Economic Science; Subpanel for Geography and Regional Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel for Geography & Regional Science of the Advisory Panel for Social and Economic Science.

Date/time: June 2, 1983; 8:30 a.m. to 5:00 p.m.; June 3, 1983; 8:30 a.m. to 2:00 p.m.

Place: Rooms 338 and 421 National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. George J. Demko, Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357-7326.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Geography and Regional Science.

Agenda: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

May 12, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-13163 Filed 5-16-83; 8:45 am]

BILLING CODE 7555-01-M

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 83 and 66 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units No. 1 and 2. The amendments are effective as of the date of issuance.

These amendments to the Technical Specifications (1) revise Surveillance Requirements for the equipment hatch; (2) revise Surveillance Requirements for safety-related air filter systems; (3) revise Surveillance Requirements and provide for a single period of inoperability for the hydrogen analyzers; and (4) delete the Limiting Safety System Settings and an administrative change associated with "Loss of Load" function of the Reactor Protection System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated February 24, 1983 as supplemented by letter dated March 22, 1983, (2) Amendment Nos. 83 and 66 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-13189 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 84 and 67 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units No. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow periodic testing of control element assemblies with an inoperable reed switch stack system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respects to this action, see (1) the application for amendment dated March 15, 1983, (2) Amendment Nos. 84 and 67 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland, A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-13190 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF-9

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina.

This amendment adds to the operating license a condition for verifying acceptability of Model D2 steam generator design modifications. The amendment is effective as of its date of issuance.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated February 3, and April 28, 1983, (2) Amendment No. 21 to Facility Operating License No. NPF-9 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Atkins Library, university of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-13191 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Granting of Relief From Requirements of ASME Code Section XI Inservice (Testing) Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules and Inservice Inspection of Nuclear Power Plant Components" to the Duke Power Company (the licensee). The relief relates to the preservice hydrostatic tests for the McGuire Nuclear Station, Units 1 and 2 (the facilities) located in Mecklenburg County, North Carolina. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief relates to certain preservice examination requirements, pursuant to the Commission's regulations in 10 CFR 50.55a(g)(6)(i). In lieu of hydrostatic tests, the licensee will perform nondestructive examinations consisting of radiography, ultrasonic testing, and surface examination of the welds.

The requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the related Safety Evaluation Report.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's letter dated March 11, 1983, (2) the Commission's letter to the licensee dated May 9, 1983 and, (3) the Commission's related Safety Evaluation Report. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Atkins Library, University of North Carolina—Charlotte, UNCC Station, North Carolina 28223. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of May, 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief Licensing Branch No. 4 Division of Licensing.

[FR Doc. 83-13192 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co.; Issuance of amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-58, and Amendment No. 55 to facility Operating License No. DPR-74 issued to Indiana and Michigan Election Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the license conditions and Technical Specifications to permit the storage of Westinghouse 15 X 15 optimized fuel assemblies with a uranium enrichment of less than or equal to 4.00 weight percent of U-235. The portion of the licensee's request relating to authorization to operate with such new fuel is still under NRC staff review.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 28, 1983, (2) Amendment Nos. 73 and 55 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1. Division of Licensing.

[FR Doc. 83-13193 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3; ASLBP No. 83-488-03 OL]

Long Island Lighting Co.; Establishment of Atomic Safety and Licensing Board To Preside In Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, and pursuant to the Statement of Policy on Conduct of Licensing Proceedings, 13 N.R.C. 452 (1981), and the request of the Atomic Safety and Licensing Board already established to preside in this operating license proceeding, a separate Atomic Safety and Licensing Board is being established to preside over the proceeding on all emergency planning issues: Long Island Lighting Company, Shoreham Nuclear Power Station, Unit 1, Construction Permit No. CPPR-95.

This Board is being constituted pursuant to a notice published by the Commission on March 18, 1976 in the **Federal Register** entitled, "Receipt of Application for Facility Operating License, Availability of Applicant's

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Environmental Report; Consideration of Issuance of Facility Operating License; Opportunity for Hearing." 41 FR 11367–68 (1976).

The Board is comprised of the following Administrative Judges:

James A. Laurenson, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry R. Kline, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. M. Stanley Livingston, 1005 Calle Largo, Santa Fe, New Mexico 87501.

Issued at Bethesda, Maryland, this 11th day of May 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-13194 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-46 issued to Nebraska Public Power District (the licensee) which revised the Technical Specifications for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

The amendment to the Technical Specifications revises the following: (1) Lowers the MSIV low reactor water level isolation setpoint from the current level 2 to level 1, (2) lowers the opening and closing setpoints of two preselected SRVs upon opening of any SRV, and (3) reorganizes the bases of Section 3.2, Protective Instrumentation to categorize the systems covered and incorporates the bases for the Technical Specification changes addressed by this amendment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determine that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1982, as supplemented February 15, 1983, (2) Amendment No. 83 to License No. DPR-46 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68304. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May 1983.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-13195 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Granting Relief From ASME Section XI Inservice Testing Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Northeast Nuclear Energy Company, et al. The relief relates to the inservice testing program at the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in Waterford, Connecticut. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of the date of its issuance.

The relief permits the licensee to test certain designated pumps and valves in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR Part 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and in the accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the application for relief dated June 25, 1979, as revised May 1, 1981, (2) the Commission's letter dated May 4, 1983 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-13196 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments Facility Operating License Nos. DPR-77 and DPR-79

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-77 and Amendment No. 18 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the Technical Specifications to reflect installation of the second level of undervoltage protection for the Class 1E buses. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letters dated September 17 and December 1, 1982, and April 7, 1983 (2) Amendment No. 29 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page changes; (3) Amendment No. 18 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 29 and Amendment No. 18 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-13197 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-128]

Texas A&M University; Renewal of Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. R-83, which renews the license for the operation of the TRIGA-type reactor (the facility) located on the campus of the Texas A&M University (the licensee) in College Station, Texas. The facility is a research reactor that has been operating at steady-state power levels not in excess of one (1) megawatt thermal with periodic pulses of power at somewhat higher levels for extremely short periods.

The amendment extends the duration of Facility License No. R-83 for twenty years from the date of issuance of this amendment.

The application for the renewal complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on October 25, 1979 at 44 FR 61474. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an Environmental Impact Appraisal for the renewal of the Facility Operating License, and has concluded that an Environmental Impact Statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for renewal dated July 2, 1979, as supplemented by filings dated July 10, 1979, October 20, 1980, January 15, 1980, April 16, 1982, May 27, 1982, October 28, 1982 and November 1, 1982; (2) Amendment No. 9 to License No. R-83; and (3) the Commission's related Safety Evaluation Report and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of March 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-13198 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-483 OL]

Union Electric Co. (Callaway Plant, Unit 1); Rescheduling of Oral Argument

May 11, 1983.

Notice is hereby given that, in accordance with the Appeal Board's order of May 10, 1983, the oral argument on the pending appeal in this operating license proceeding previously scheduled for June 14, 1983, has been rescheduled for *9:30 a.m. on Wednesday, June 22, 1983,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 11, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary of the Appeal Board.

[FR Doc. 83-13199 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-508-OL; ASLBP No. 83-486-01 OL]

Washington Public Power Supply System, et al. (Nuclear Project No. 3); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Washington Public Power Supply System, et al.* (Nuclear Project No. 3), Docket No. 50-508-OL, is hereby reconstituted by appointing Administrative Judge Frederick J. Shon in place of Administrative Judge Glenn O. Bright who, because of a schedule conflict, is no longer able to serve.

As reconstituted, the Board is comprised of the following administrative Judges: Morton B. Margulies, Chairman, Frederick J. Shon, Dr. James H. Carpenter.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Frederick J. Shon, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 11th day of May, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge Atomic Safety and Licensing Board Panel.

[FR Doc. 83-13200 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Unit 2); Exemption

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License No. DPR-27 (the license) which authorizes operation of

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the Point Beach Nuclear Plant, Unit No. 2 (the facility) at a steady state reactor power level not in excess of 1518 megawatts thermal. The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor (PWR) located at the licensee's site in Manitowoc County, Wisconsin.

The license is subject to all rules, regulations and Orders of the Commission.

II

10 CFR 50.44(c)(3)(iii) requires a licensee to provide each light-water nuclear power reactor with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of non-condensible gases would cause the loss of function of these systems. Required modifications are to be completed by the end of the first scheduled outage of sufficient duration beginning after July 1, 1982.

By letter dated April 5, 1983, the licensee requested an exemption to the schedular requirements of Paragraph (c)(3)(iii) of 10 CFR 50.44. The licensee requests that it be granted an exemption until no later than January 1, 1984 to complete installation of the reactor coolant system and reactor vessel head high point vents for the Point Beach Nuclear Plant, Unit No. 2.

The licensee has stated that the control panel necessary to permit complete remote operation of the reactor coolant gas vent system for Point Beach Unit No. 2 were not available for installation during the Spring 1983 annual refueling outage for this unit. The Spring 1983 refueling outage is the first scheduled outage of sufficient duration after July 1, 1982 to permit installation of the reactor coolant gas vent system at Point Beach Unit No. 2. The licensee has further stated that the Point Beach Unit No. 2 reactor coolant gas vent system valves and piping will be installed and hydrostatically tested during the spring 1983 outage. All manual isolation valves will be open and all remotely operated solenoid valves will be closed with power removed to preclude inadvertent operation of the system. This is identical to the system lineup previously approved for Unit 1.

The licensee has further stated that temporary power supplies could be utilized to operate the reactor vessel head vent in the event of an accident occurring before final installation is completed. The existing Power Operated Relief Valves form the pressurizer high point vent portion of the system. These are fully operable.

Delivery of the control panels necessary to permit remote operation of the reactor coolant vents system is expected in late 1983. These panels are also necessary to complete installation of the reactor coolant gas vent system for Unit 1. A similar schedular exemption for Unit 1 was granted on January 25, 1983.

The NRC staff has reviewed the basis for an exemption to the RCS vents scheduled for Point Beach Unit No. 2. The licensee's efforts to minimize inadvertent actuation by removing power from the power operated solenoid isolation valves until construction is completed are warranted. Since the likelihood that vents would be needed prior to the completion of the vent system is low, the NRC staff concludes that a schedular exemption to the hydrogen rule vents requirements (10 CFR 50.44(c)(3)(iii)) until the system controls are installed and fully tested, but no later than January 1, 1984, is reasonable and that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of April 5, 1983, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted as follows:

The date specified in Paragraph (c)(3)(iii) of 10 CFR 50.44 to complete installation of reactor coolant system high point vents is extended to no later than January 1, 1984 for the Point Beach Nuclear Plant, Unit No. 2.

The Commission has concluded, based on the considerations discussed above, that (1) because the granting of this Exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibiltiy of an accident of a type different from any evaluated previously, and does not involve a significant reduction in a margin of safety, the Exemption does not involve a significant hazards consideration, (2) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and (3) such activities will be conducted in compliance with the Commission's regulations and the granting of this Exemption will not be inimical to the common defense and security or to the health and safety of the public.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 9th day of May, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-12301 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is Regulatory Guide 8.31, "Information Relevant to Ensuring that Occupational Radiation Exposures at Uranium Mills Will Be As Low As Is Reasonably Achievable." This guide recommends design criteria and administrative practices acceptable to the NRC staff for maintaining occupational exposures as low as is reasonably achievable in uranium mills and certain other types of uranium recovery facilities.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office.

Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 9th day of May 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-13202 Filed 5-16-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Section 201 Case]

Certain Stainless Steel and Alloy Tool Steel Products; Solicitation of Public Views

Pursuant to Section 201 of the Trade Act of 1974, the President received, on May 6, 1983, a report from the United States International Trade Commission (USITC) on the case of certain stainless steel and alloy tool steel products provided for under the following items of the Tariff Schedules of the United States (Annotated) or TSUS(A):

	609.45	606.94
606.90	606.93	607.28
606.95	607.26	607.46
607.34	607.43	607.76
607.54	607.72	608.26
607.88	607.90	608.43
608.29	608.34	608.64
608.49	608.57	

The USITC determined that such stainless steel and alloy tool steel products are being imported into the United States in such increased quantities as to be a substantial cause of serious unjury to the four domestic industries producing articles like or directly competitive with the imported articles.

The Commission found and recommended that, in order to remedy the serious injury found to exist:

(1) It would be necessary to impose restrictions for a three-year period beginning January 1, 1983, as follows:

(a) For stainless steel sheet and strip, 8 percent of forecasted U.S. consumption, but not less than 62,900 short tons;

(b) For stainless steel plate, 10 percent of forecasted apparent consumption, but not less than 10,700 short tons;

(c) For stainless steel bar, 17 percent of forecasted U.S. consumption, but not less than 27,000 short tons;

(d) For stainless steel wire rod, 42 percent of forecasted U.S. consumption, but not less than 19,100 short tons;

(e) For alloy tool steel, 20 percent of forecasted U.S. consumption, but not less than 22,400 short tons;

(2) The period 1972–1982, exclusive of 1975 and 1982, is the period most representative of imports of these articles;

(3) No more than 30 percent of the respective aggregate quantities specified in (1), above, for each class of articles may be entered during any calendar quarter; and

(4) In order to provide for a more equitable distribution of imports among supplying countries, the quantities specified in (1), above, for each class of articles should be allocated on a country-by-country basis.

(5) The following articles should be exempted from any relief:

(a) Razor blade steel provided for in TSUS item 608.26

(b) Chipper knife steel provided for in TSUSA items:

608.9300	607.5405	608.3405
608.9400	607.7205	608.4905
607.3405	607.8805	608.6405

(c) Band saw steel provided for in the following TSUSA items:

608.9520	607.5405	608.3405
608.9525	607.7205	608.4905
607.3405	607.8805	608.6405

(d) The first 6,000 short tons of the following stainless steel sheet, which is provided for in TSUSA item 607.9020:

Stainless steel sheet not under 0.055 inch and not over 0.065 inch in thickness, not under 25.5 inches and not over 26.25 inches in width, which contains in addition to iron, each of the following elements by weight in the amounts specified and which is certified at the time of entry to be imported for use in the manufacture of stainless-steel-clad aluminum automotive trim:

Carbon: not more than 0.12 percent;
Chromium: not less than 16 percent nor more than 18 percent;
Molybdenum: not less than 0.75 percent nor more than 1.25 percent;

The Commission also advised the President that the exemption of:

(1) Stainless flapper valve steel.
(2) Lummis strip steel.
(3) Rotor steel for hysteresis motors.
(4) Grade 253 MA stainless.
(5) Grade 254 SMO stainless steel.
(6) Stainless steel sheet 72 to 80 inches in width.

would not have an adverse impact on the industry seeking relief (See USITC report TA–201–48).

Within 60 days of receiving a report from the Commission containing an affirmative determination (by July 5, 1983 in this case), the President must determine what method and amount of import relief he will provide or determine that import relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interests of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modifications of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographical concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is the focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under Section 201(d). In order to assist the development of recommendations to the President as to what action he should take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes written views or briefs from interested parties on the above listed subjects.

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 500, Office of the United States Trade Representative, 600 17th Street NW., Washington, D.C. 20506.

For further informaton contact: Catherine Curtiss, telephone 202–395–4948. Legal questions should be directed to C. Michael Hathaway 202–395–3432.

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(Additional information on this case is available in USITC report TA–201–48).

To be considered by the Office of the USTR, submissions should be received as soon as possible, but in no event later than the close of business, Tuesday, May 31, 1983.

Supplementary information: This investigation was initiated by the USITC on December 9 following the receipt of a letter on November 23, 1982, from the USTR requesting an expedited investigation under section 201 concerning imports of certain stainless steel and alloy tool steel products. The USTR's request was in accordance with a determination of the President on November 16, 1982 (47 FR 51717), under section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)).

The President's action followed the completion of investigations under section 301 of the Act initiated by USTR on February 26, 1982 (47 FR 10107) and on August 9, 1982 (47 FR 36387). These investigations were instituted (for all countries listed except Brazil) on the basis of petitions filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, alleging that the European Community, Belgium, France, Italy, the United Kingdom, Brazil, Austria, and Sweden had subsidized the production of stainless steel and alloy tool steel in a manner inconsistent with their obligations under Articles VI, XVI, XXIII of the Subsidies Code of the General Agreement on Tariffs and Trade.

Frederic L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83–13251 Filed 5–10–83; 9:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13223; (812–5512)]

The Tax Free Fund, Inc. (Formerly Criterion Tax Free Fund, Inc.); Filing of Application

May 6, 1983.

Notice is hereby given that The Tax Free Fund, Inc. ("Applicant"), 333 Clay Street, Suite 4300, Houston, Texas 77002, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, filed an application on April 4, 1983, and an amendment thereto on or about May 5, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant's Current Interest Tax Free Portfolio and any portfolios that invest primarily in tax free money market instruments that may subsequently be created by Applicant (the "Short-term Porfolios" or "Portfolios") from the provisions of Sections 2(a)(41) and 12(d)(3) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary: (1) To permit the Short-term Portfolios to calculate their net asset values per share and to value their assets pursuant to the amortized cost method of valuation pursuant to the conditions set forth below and (2) to permit the Short-term Portfolios to acquire stand-by commitments from brokers and dealers and to permit the rights belonging to the Short-term Portfolios to be valued in the manner set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

Applicant states that it is incorporated under the laws of the State of Texas. It has filed a registration statement with the Commission under the Securities Act of 1933 pursuant to which it seeks to register shares of its first two portfolios for sale to the public. That registration statement has not yet become effective. Applicant further states that Funds, Inc., a wholly owned subsidiary of the Criterion Management Company, serves as investment adviser to Applicant.

Pursuant to Applicant's Articles of Incorporation, Applicant's Class A Common Stock may be divided into series. Shares of each series represent interests in separate portfolios of investments that Applicant will acquire. Applicant represents that the investment return and net asset value of shares of each series will be determined separately from other series and will be based upon the investment results of each series' separate portfolio. Applicant currently has one Short-term Portfolio: the Current Interest Tax Free Portfolio.

The Short-term Portfolios will seek as their investment objectives to obtain as high a level of current income exempt from Federal income taxation as is consistent with the preservation of capital and maintenance of liquidity. Applicant states that the Short-term Portfolios will pursue these objectives by investing primarily in high quality, short-term obligations, the income form which is exempt from Federal income taxation. Among the obligations in which the Short-term Portfolios may invest are variable rate and floating rate obligations. To the extent that any Short-term Portfolio, relying upon the order issued upon the application, purchases any such obligations, Applicant states that the procedures applicable to such purchases, as well as the manner by which the maturities of such obligations will be determined, will conform to the requirements set forth in proposed Rule 2a–7 or, if that Rule should ultimately be adopted, the procedures set forth in the Rule as adopted.

Applicant states that its Board of Directors has reviewed the various valuation and pricing procedures that might be utilized by the Short-term Portfolios and has concluded that it would be in the best interests of such Portfolios and their shareholders to utilize amortized cost valuation in valuing all securities held. Through such valuation method, it is asserted that the Short-term Portfolios would be able to offer two features which appear to be favored by investors: (1) Stability of principal (i.e., a stable net asset value per share) and (2) a steady flow of investment income. Applicant's Board of Directors believes that these features can best be obtained through use of amortized cost valuation subject to the conditions hereinafter set forth. It further believes that with respect to a portfolio of securities maturing in 120 days or less there is normally a negligible discrepancy between market value and amortized cost value. Accordingly, Applicant states that its Board of Directors has determined in good faith that, in view of the objectives of the Short-term Portfolios and the conditions pursuant to which amortized cost valuation would be used, such valuation method would be appropriate and would reflect the fair value securities absent unusual circumstances.

In order to improve the liquidity of their investments, the Short-term Portfolios also may purchase securities together with the right to resell such securities to the seller at an agreed upon price or yield within a specified period prior to the maturity date of such securities. This right to resell is, generally known as a "stand-by commitment" or "put". Applicant states that its Board believes that the acquisition of such stand-by commitments by the Short-term Portfolios would help to assure appropriate liquidity to facilitate the availability of funds to satisfy redemptions of their shares. In reaching that determination, the application states that Applicant's Board of Directors considered the fact that the available maturities of short-term municipal obligations are normally not as frequent and flexible as those of other money market instruments. Maturity dates of such obligations may be sufficiently infrequent that, at times, the Short-term Portfolios would be unable to rely upon scheduled maturities to meet net redemptions of their shares by shareholders. Applicant represents that, absent the use of stand-by commitments, a portion of each Short-term Portfolio's assets would have to be retained in cash or very short-term instruments, which would reduce investment return. In order to enhance the investment opportunities and flexibility of the Short-term Portfolios, Applicant's Directors believe that it would be appropriate and consistent with shareholders' best interests to acquire stand-by commitments from broker-dealers, as well as from banks.

Applicant represents that the investment policies of the Short-term Portfolios will permit the acquisition of stand-by commitments solely to facilitate liquidity, and the acquisition, exercisability and duration of the stand-by commitments will not be a factor in determining the dollar-weighted average maturities of the Short-term Portfolios, or the values and maturities of the securities they hold. Applicant states that the stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they will be exercisable at any time prior to the underlying security's maturity; (3) the rights of the Short-term Portfolios to exercise the stand-by commitments will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and brokers who, in Applicant's investment adviser's opinion, present a minimal risk of default; (5) although the commitments will not be transferable, the municipal obligations purchased subject to such commitments may be sold to a third party at any time, even though a commitment may be outstanding; and (6) their exercise price in each case will be (i) the relevant Short-term Portfolio's acquisition cost of the municipal obligation that is subject to the commitment (excluding any accrued interest that such Portfolio paid on acquisition of the security), less any amortized market premium or plus any amortized market or orginal issue discount during the period such Portfolio owned the municipal obligations, plus (ii) all interest accrued on the municipal obligation since the last interest payment date during the period such obligation was owned by the Portfolio.

Because the Short-term Portfolios will value municipal obligations on an amortized cost basis, assuming an order permitting such valuation method is granted, the amount payable under a stand-by commitment will be substantially the same as the value assigned to the underlying securities. In addition, due to the high quality of the securities in which the Short-term Porfolios will invest, there is little risk of an event occurring that would make amortized cost valuation of portfolios securities inappropriate. However, in the unlikely event that the market or fair value of the Short-term Portfolios' securities were not substantially equivalent to their amortized cost value, Applicant's Directors may determine that the securities should be valued on the basis of available market information. Applicant represents that the Short-term Portfolios will refrain from exercising the stand-by commitments in such situations to avoid imposing a loss on dealers and banks and jeopardizing applicant's business relationships with such dealers and banks. Stand-by commitments generally will be available without the payment of any direct or indirect consideration. If Applicant's Directors believe it to be necessary or advisable, the Short-term Portfolios may pay for stand-by commitments, either separately in cash or by paying a higher price for the securities that are acquired subject to the commitment. However, as a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held by each Short-term Portfolio will not exceed 1/2 of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

Because it is difficult to evaluate the likehood of use or the potential benefit of a stand-by commitment, the Directors believe that such commitments should be given no value in determining the net asset value of a Short-term Portfolio, regardless of whether any direct or indirect consideration is paid. When the Short-term Portfolios pay for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of complying with the conditions that: (i) The dollar-weighted average maturity on the Short-term Portfolios securities shall not exceed 120 days and (ii) the maturity of a portfolio security shall not exceed one year, the existence of stand-by commitments will not be viewed as shortening the maturities of the underlying municipal obligations subject to such commitments.

Applicant notes that the Internal Revenue Service ("IRS") has issued favorable private letter rulings to the effect that a registered investment company will be the owner of municipal obligations acquired subject to a stand-by commitment and that interest on the securities will be tax-exempt to the company. However, Applicant does not intend to seek a ruling from the IRS with respect to this matter. There is no assurance that stand-by commitments will be available to the Short-term Portfolios nor can it be assumed that such commitments will continue to be available under all market conditions.

Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a money market fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977. Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant (the "Fund") agrees that the following conditions may be imposed by the Commission upon each of the Short-term Portfolios relying upon any exemptive order granting the relief requested herein:

1. In supervising the Portfolio's operations and delegating special responsibilities involving portfolios management to the Fund's investment adviser, the Fund's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Portfolio's investment objectives, to stabilize the Portfolio's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of

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current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Portfolio's $1.00 amortized cost price per share and the maintenace of records of such review.[1]

(b) In the event such deviation from the Portfolio's $1.00 amortized cost priced per share exceeds ½ of 1%, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that the extent of any deviation from the Portfolio's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of the Portfolio; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. The Portfolio will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining as table net asset value per share; provided, however, that it will not (a) purchase any instrumnent with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. The Fund will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Portfolio will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the Board of Directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. The Fund will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

In connection with the acquisition of stand-by commitments by the Short-term Portfolios, Applicant states that it is significant that the commitments will be valued in a way that will not result in the insulation of net asset value per share against decline due to unrealized depreciation in the values of portfolio securities. The commitments will not pose new investment risks because of the manner in which they will be used, and instead will simply improve the liquidity of the Short-term Portfolios and their ability to satisfy redemptions of their shares. In addition, to the extent the commitments may represent an obligation of a broker or dealer, Applicant represents that such Portfolios' reliance upon the obligations of dealers and brokers from whom stand-by commitments are acquired will be secured to the extent of the value of underlying municipal obligations that are subject to the commitments. Applicant states that, under the foregoing circumstances, the acquisition of stand-by commitments will not expose the Short-term Portfolios to a significant extent to the credit risks of brokers or dealers.

Nevertheless, Applicant states that the Fund's investment adviser intends to evaluate periodically the credit of institutions issuing stand-by commitments to the Short-term Portfolios. Finally, according to Applicant, the Short-term Portfolios will not acquire stand-by commitments to promote reciprocal practices, to encourage distribution efforts or to obtain research sevices. Accordingly, Applicant asserts that the acquisition of stand-by commitments will not meaningfully expose assets of the Short-term Portfolio to the entrepreneurial risks of the ivestment banking business, nor require them to evaluate the credit of dealers in determining their net asset values per share. Under the circumstances, and in view of the conditions and representations set forth in the application, Applicant submits that the granting of the requested exemptive orders would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13139 Filed 5–16–83; 8:45 am]

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[1] To fulfill this condition, the Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to the appropriate indicators of value which may include, inter alia: (1) quotations or estimates of market value for individual portfolio securities, or (2) values obtained from yield data relating to classes of securities published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Portfolio will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 13232 (812–5426)]

The Benchmark Fund Money Market and Government Portfolios and the Benchmark Tax-Exempt Fund; Filing of Application for an Order Pursuant to Section 6(c) of the Act for Exemption From the Provisions of Sections 2(a)(41) and 12(d)(3) of the Act and Rules 2a–4 and 22c–1 Thereunder

In the matter of The Benchmark Fund Money Market and Government Portfolios (formerly known as Compass Fund Money Market and Government Portfolios) and The Benchmark Tax-Exempt Fund (formerly known as Compass Tax-Exempt Fund), 111 West Jackson Boulevard, Chicago, Illinois 60604.

Notice is hereby given that The Benchmark Fund Money Market and Government Portfolio ("BF") and the Benchmark Tax-Exempt Fund ("BTF," and jointly with BF, the "Applicants"), open-end, diversified management investment companies registered under the Investment Company Act of 1940 (the "Act"), filed an application on January 11, 1983, and an amendment thereto on April 22, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting BTF from the provisions of Sections 12(d)(3) and 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit BTF to acquire certain "puts" solely to facilitate portfolio liquidity and to value puts as described in the application and exempting both Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit them to compute their respective net asset values per unit using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representatives therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof from which an exemption is being sought.

Applicants state that they are newly formed "money market funds." The application states that BF's investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity through investment in high quality money market instruments. BF states that it will initially offer two separate portfolios of money market instruments, a Money Market Portfolio and a Government Portfolio, each of which is represented by a separate series of units of beneficial interest. In the case of BF, the order sought would relate separately to the Money Market Portfolio and the Government Portfolio as well as to each additional money market fund portfolio.

The application further states that BFT's investment objective is to provide its unitholders, to the extent consistent with the preservation of capital and prescribed portfolio standards, with a high level of income exempt from Federal income taxes by investing primarily in municipal instruments. BTF states that it will initially offer a Short-Term Diversified Portfolio (the "Tax-Exempt Portfolio") and may create additional portfolios. In the case of BTF, the order sought would relate to the Tax-Exempt Portfolio as well as separately to each additional money market fund portfolio.

The application states that BF's Money Market Portfolio will pursue its investment objective by investing exclusively in United States dollar denominated obligations of United States banks with total assets in excess of $1 billion (including obligations of foreign branches of such banks); United States dollar denominated obligations of Canadian banks or of U.S. branches of foreign commercial banks where such banks have total assets in excess of $5 billion; high-quality commercial paper and other short-term corporate obligations, including variable rate demand notes; securities issued or guaranteed as to principal and interest by the United States Government or by agencies or instrumentalities thereof (including the International Bank for Reconstruction and Development); and repurchase agreements pertaining to the instruments referred to above. It is represented that BF will not purchase certificates of deposit of BF's proposed investment adviser, transfer agent and custodian, The Northern Trust Company ("Northern"), or Northern's affiliate banks, commercial paper issued by Northern's parent holding company, or other securities issued or guaranteed by Northern, its parent holding company, or their subsidiaries or affiliates. The application further states that BF's Government Portfolio will pursue its investment objective by investing exclusively in securities issued or guaranteed as to principal and interest by the United States Government or by agencies or instrumentalities thereof (including the International Bank for Reconstruction and Development) and repurchase agreements pertaining thereto.

BTF states that its Tax-Exempt Portfolio will pursue its investment objective by investing primarily in high-quality, short-term instruments, the interest on which is, in the opinion of Bond Counsel for the issuers, exempt from Federal income tax ("Municipal Instruments"). BTF further states that Municipal Instruments purchased by the Tax-Exempt Portfolio will consist of municipal notes (including variable rate demand obligations) with remaining maturities of one year or less, municipal bonds or notes with remaining maturities of one year or less which are guaranteed as to principal and interest by the United States Government or an agency or instrumentality thereof or which otherwise depend directly or indirectly on the credit of the United States, municipal bonds with remaining maturities of one year or less, or securities issued by other investment companies investing primarily in high-quality, short-term municipal instruments and which determine their net asset value per unit based on the amortized cost or penny rounding method ("Tax-Exempt Money Fund Units"). Tax-Exempt Money Fund Units will be acquired by the Tax-Exempt Portfolio within the limitations described by the Act.

BTF represents that the intended purpose of utilizing puts is solely to facilitate portfolio liquidity. In this regard, the application states that BTF expects to make same day payment for redeemed units in immediately available funds. It represents that, although it intends generally to hold its portfolio securities to maturity, the maturity dates of available tax-exempt obligations are sufficiently infrequent that BTF does not wish to rely merely on scheduled maturities to meet net redemptions. BTF states that an additional source of funds to meet net redemptions on a given day consists of settlements arranged that same say on sales of portfolio securities However, BTF states that Northern, BTF's investment adviser, has only a few hours to make these arrangements in order to permit timely receipt by BTF of immediately available funds. Regular settlement of sales of Municipal Instruments is effected on the fifth business day after the commitment to sell is entered into. BTF further represents that, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time referred to above may be impossible or may require BTF to receive a less favorable execution price on the sale even though the securities sold have a short remaining maturity (e.g., less than 30 days). BTF states that other investment techniques used by taxable money-market funds to obtain liquidity are not normally available to BTF because they are prohibitively expensive or would produce taxable income. BTF states that the ability to assure same-day settlement on portfolio sales, at prices which will avoid losses caused by negotiations under time pressure, is therefore important to achieving BTF's objectives. It further states that the exemption requested will enable it to adopt policies that would assure same-day settlements on portfolio sales and would thereby facilitate the same-day payment of redemption proceeds in immediately available funds. Accordingly, to improve portfolio liquidity, BTF proposes to adopt policies permitting the acquisition

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of puts from banks and other financial institutions, including brokers and dealers.

BTF states that when it purchases a Municipal Instrument from a bank, broker, dealer, or other person it proposes to have the flexibility from time to time to acquire, in addition, the option to sell the same principal amount of such securities back to the institution at a specified price. Such a right is sometimes referred to in the industry as an "optional delivery, standby commitment" and is referred to in the application as a "put."

The application states that the exercise price of puts will be: (i) BTF's acquisition cost of the Municipal Instruments which are subject to the put (excluding any accrued interest which BTF paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period BTF owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by BTF. Absent unusual circumstances, BTF will value Municipal Instruments on an amortized cost basis pursuant to the requested exemption. Accordingly, the amount payable by the issuer of a put during the time the put is exercisable would be substantially the same as the value of the underlying securities.

According to the application, although puts will not be transferable, Municipal Instruments purchased subject to puts could be sold at any time even though the put was outstanding. The put would not obligate BTF to sell the underlying securities to the issuer of the put, nor entitle the issuer to demand the return of the securities at its option. BTF expects that a sale of the underlying securities to a third party would terminate BTF's rights under the related put to sell the securities back to the issuer of the put. It is represented that puts may (but not necessarily will) be exercisable by BTF at any time prior to the maturity of the underlying security and BTF's right to exercise will be unconditional and unqualified.

If necessary and advisable, BTF proposes to pay for puts either separately in cash or by paying a higher price for the portfolio securities which are acquired subject to the put (thus reducing the yield to maturity otherwise available for the same securities). As a matter of policy, the total amount "paid" in either manner by BTF for outstanding puts held in its portfolios would not exceed ½ of 1% of the value of its total assets calculated immediately after any put is acquired. It is represented that puts acquired by BTF would be in writing and would be physically held by Northern as BTF's custodian.

The application states that, during the term of a put, it would be very difficult if not impossible to evaluate the likelihood of eventual exercise of the put or to quantify the potential benefit to BTF if that put were exercised. In light of such uncertainties, the application states that the Board of Trustees of BTF will deem the put to have a "fair value" of zero, regardless of whether BTF paid any direct or indirect consideration for the put. When BTF pays for a put, its cost will be reflected as unrealized depreciation for the period during which the commitment is held by BTF.

Notwithstanding the foregoing, in calculating the dollar-weighted average maturity of BTF's portfolios, it is represented that puts would always be valued zero and the dollar-weighted average maturity will not be affected by the acquisition of the puts. The application represents that the acquisition or exercisability of a put will not affect the valuation or assumed maturity of the underlying Municipal Instruments, which would continue to be valued on the basis of amortized cost. It is further represented that BTF believes there to be little risk of an event occurring which would make amortized cost valuation of its portfolio instruments inappropriate. However, in the unlikely event that the market or fair value of BTF's portfolio instruments was not substantially equivalent to their amortized cost value, the application states that BTF's Trustees may determine that the Municipal Instruments should be valued on the basis of available market quotations. It is further stated that BTF expects that any puts covering such Municipal Instruments would continue to be valued as described above because FTF expects that it would refrain from exercising the puts to avoid imposing a loss on the bank, broker, or dealer and jepardizing its business relationship with that entity.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

BTF submits that the requested exemption from Section 12(d)(3) of the Act is appropriate and in the public interest. BTF states that it does not believe that Section 12(d)(3) was intended to prohibit an investment company's acquisition of a put "issued" by a broker or dealer. While the puts proposed to be acquired by BTF will be exercisable at BTF's option, BTF represents that this element of discretion does not alter the nature of the broker's or dealer's commitment which is comparable to the commitment of any investment firm to make payment at settlement for the sale of a fund's porfolio securities.

BTF states that it will enter into puts only with banks, brokers, dealers, and other persons which, in the investment adviser's opinion, present a minimal risk to default. In addition to the credit of these institutions, BTF states that its rights under a put will be secured to the extent of the value of the underlying Municipal Instruments which are subject to the put and, therefore, the risk of loss is not qualitatively different from the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities in the ordinary course of business. BTF states that its investment adviser has informed BTF that it intends to periodically evaluate the credit of institutions issuing puts to BTF in accordance with current procedures used in evaluating the creditworthiness of issuers of shortterm debt securities. In the event of a default under a put, BTF states that it expects that it will be an unsecured creditor but only to the extent, if any, that the amount due under the put exceeds the current value of the underlying Municipal Instruments owned by BTF. In addition, BTF contends that, because it will value puts at zero, the acquisition of such puts will not meaningfully expose BTF's assets "to the entrepreneurial risks of the investment banking business" (Investment Company Act Release No. IC–10666, April 18, 1979), nor require BTF to evaluate the credit of dealers in determining its net asset value. BTF further states that it will not acquire puts to promote reciprocal practices, to encourage unit distribution efforts, or to obtain research services.

Applicants request an order of the Commission to permit them to value their assets (other than the Tax-Exempt Money Fund Units) according to the amortized cost method of valuation. According to the application, BTF intends to value Tax-Exempt Money Fund Units based on the amortized cost method in reliance upon Investment Company Act Release No. 9786. It is asserted that BTF believes that such reliance is appropriate since Tax-Exempt Money Fund Units are, for this purpose and in its opinion, the functional equivalent of debt instruments with a maturity generlly no greater than 7 days.

In support of the relief requested, the application states that the Applicants believe that potential investors in the Fund's units are concerned that (1) the net asset value of their units remain stable; (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices caused changes in yield on a daily or weekly basis. By maintaining portfolios of high quality money market instruments of short maturities, Applicants believe that it will be possible to provide the required stability to their investors.

The Applicants have each agreed that the following conditions may be imposed in any order of the Commission granting the relief requested:

(1) In supervising each Applicant's operations and delegating special responsibilities involving porfolio management to the Applicants' investment adviser, each Applicant's Trustees undertake—as a particular responsibility within their overall duty of care owned to such Applicant's unitholders—to establish procedures reasonably designed, taking into account current market conditions and such Applicant's investment objective, to stabilize such Applicant's net asset value per unit, as computed for the propose of distribution, redemption and repurchase, at $1.00 per unit.

(2) Included within the procedures to be adopted by each Applicant's Trustees shall be the following:

(a) Review by the Trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per unit as determined by using available market quotations from such Applicant's $1.00 amortized cost price per unit, and the maintenance of records of such review.[1]

(b) In the event that such deviation from such Applicant's $1.00 amortized cost price per unit exceeds ½ of 1%, a requirement that the Trustees will promptly consider what action, if any, should be initiated.

(c) If the Trustees believe that the extent of any deviation from such Applicant's $1.00 amortized cost price per unit may result in material dilution or other unfair results to investors or existing unitholders, they shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of units in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of such Applicant; reducing or withholding dividends or utilizing a net asset value per unit as determined by using available market quotations.

(3) Each Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per unit; *provided*, however, that such Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, except for instruments subject to repurchase agreements providing for settlement for the repurchase within one year after the Applicant's purchase of the instrument, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

(4) Each applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and such Applicant will include in the minutes of the Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to the rules adopted under Section 31(a) of the Act.

(5) Each Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Trustees determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, are of comparable quality as determined by the Trustees.

(6) Each Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, such Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13236 Filed 5-16-83; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this obligation, each Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Trustees in the exercise of their discretion to be appropriate indicators of value, which may include among others (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, such Applicant represents that it will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, in fulfilling this condition, the maturity of a portfolio security held by BTF shall not be considered shortened or otherwise affected by any put of the type described above to which such security is subject, and all such puts held by BTF shall be valued at zero.

[Release No. 13233; (812–5461)]

Credit National; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

May 11, 1983.

Notice is hereby given that Credit National (45, rue Saint-Dominique, 75007 Paris, France) ("Applicant") filed an application on February 28, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting applicant from all provisions of the Act. All

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interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a *societe anonyme*, formed in 1919 for the principal purpose of providing the French State with a means of financing indemnities for war-related losses and damages and to contribute to the development of industrial and commercial companies through long-term loans. Applicant states that long-term development lending has been its chief activity for many years.

Applicant states that as a *societe anonyme*, it is subject to the French Companies Law of July 24, 1966 (and the related decree of March 23, 1967) and other legislation applicable to French corporations. In addition, Applicant states that it is subject to the *Convention* of July 7, 1919, entered with the French State (approved by the law of October 10, 1919) and to the provisions of its *Statuts* (the "Charter"), first decreed in 1919 on the recommendation of the *Conseil d'Etat*. Applicant states that modifications of its Charter and by-laws, after appropriate shareholder approval, must be confirmed by order of the *Conseil d'Etat* (in the case of its Charter) or the Minister of Economy and Finance (in the case of its by-laws).

Applicant states that like other specialized institutions in France that provide development financing in the public interest, the Applicant is subject to regulation by the French State; any public bond issue of the Applicant, whether guaranteed by the French State or not, must be authorized by ministerial order of the Minister of Economy and Finance.

Applicant states that it is governed by a Board of Directors ("Board"). Applicant further states that, pursuant to the Charter, the Board is composed of 14 members, including 11 members elected by the shareholders for terms of six years, and a General Manager (the Chairman of the Board) and two Managers appointed, upon the proposal of the Board, by the President of the French State, countersigned by the Minister of Economy and Finance. The General Manager is generally empowered to conduct the business of the Applicant. The Managers and executive officers in each of the Applicant's divisions conduct the day-to-day business of the Applicant under authority delegated by the General Manager.

The application states that, under French corporation law, auditors, *Commissaires aux Comptes*, elected by the shareholders for six year terms are responsible for accounting examinations and control. Applicant represents that the auditors examine and certify annually the accuracy of Applicant's financial statements and render an opinion to the shareholders as to whether such statements are true and fair. In addition, Applicant represents that unaudited financial statements of the Applicant are published quarterly in France in the *Journal Officiel*. Applicant states that, pursuant to the Charter, four special *Censeurs*, two of whom are elected by the shareholders for terms of three years and two of whom are designated by order of the Minister of Economy and Finance, sit in an advisory capacity on the Board and exercise a general supervisory function. Applicant states that the *Inspection Generale des Finances*, the organization of the Ministry of Economy and Finance that is responsible for the control of all moneys managed by the administration of the French State, periodically reviews the administration of the various categories of applicant's special loans which involve the expenditure of public funds. Applicant represents that it reports regularly to the Minister of Economy and Finance about its operations.

Applicant states that while it performs many of the functions of an industrial bank or a development bank, it is prohibited in its Charter from (1) receiving deposits in the form of cash or securities, (2) granting loans other than long-term development loans and medium-term credits or (3) performing any trading in securities or banking operations other than those required to satisfy its stated objectives. Applicant represents that it does not underwrite or deal in investment securities. Applicant explains that, in light of the foregoing and the special regulatory procedures to which it is subject, it is not under the supervision of the *Conseil National du Credit* or the *Commission de Controle des Banques* which regulate commercial banks in France.

Applicant represents that at December 31, 1981, the latest date for which audited figures are available, it had total assets of approximately French francs ("FF") 55.8 billion.[1] Applicant represents that aggregate loans then outstanding were approximately FF 46.5 billion, of which the portion due within one year was approximatelyt FF 3.6 billion. At that date aggregate debt was FF 49.8 billion, of which the current portion was FF 4.5 billion; Applicant's shareholders' equity (after reevaluation of fixed assets and participation) was approximately FF 2.5 billion.

Applicant states that on December 31, 1982, its share capital was FF 106,493,200 consisting of 1,064,932 shares with FF 100 par value each, all fully paid and non-assessable and that the share capital is presently being increased to FF 351,427,400 through a rights issue, to be followed by a capitalization of reserves through a distribution of free shares and an increase of the par value of each share to FF 200. Applicant presently anticipates that the share capital increase will be completed by the end of 1983. According to the application, the main shareholders of Applicant are banks, insurance and investment companies and private individuals (the shares are listed on the Paris Stock Exchange). Applicant states that nationalizations in 1982 by the French State of the major part of the French banking system has led to a slight increase in the percentage of share capital owned directly by state companies or by the various pension and investment funds they manage, now approximately 55 percent.

Applicant states that pursuant to its Charter the interest rates charged by Applicant in its lending activities may not exceed by more than 1%the cost of Applicant's most recently issued bonds and that all loans must be secured by a mortgage, pledge of shares, a third party guarantee or other form of acceptable security. According to the application, the applicant's long-term lending activities consist of ordinary loans and loans for industrial development abroad which are generally fixed rate and are financed by Applicant's own general resources, i.e., bond issues on the domestic market and other funds, and of special purpose loans which are generally financed from specific resources, i.e., specific loans or bond issues in the French market and, particularly in recent years, borrowings in foreign markets. Applicant states that the program of special purpose loans was created to influence the economic activity of, and to facilitate structural changes in, French industry. Such loans bear below market interest rates and are designed to encourage or sustain, for example, exports, employment, energy and raw material conservation, automation and industrialization of new products. Applicant represents that the aggregate of special purpose loans in each category may not exceed amounts previously designated by the Ministry of Economy and Finance.

According to the application, in addition to its own lending operations the Applicant undertakes special operations on behalf of the French State and foreign public entities. These include loans on behalf and for the account of the French State and certain financial advisory and management functions for projects designated by the French State and its agencies or authorities.

[1] The exchange rate for one French franc was United States $0.174 at December 31, 1981 and United States $0.147 at February 22, 1983.

According to the application, Applicant proposes to issue and sell in the United States, prime quality commercial paper notes ("Notes") in minimum denominations of $100,000 through major United States commercial paper dealers. Applicant represents that it will secure an undertaking from each such dealer that the Notes will be sold to institutional investors and other entities and individuals that ordinarily purchase commercial paper notes and will not be offered for sale to the general public. Applicant states that it proposes to issue and sell the Notes initially in amounts up to United States $250,000,000–$300,000,000 outstanding at any one time, and that the Notes will not have maturities exceeding 270 days nor will they include any provisions for extension, renewal or automatic rollover at the option of either the holders or applicant. Applicant represents that the Notes will be direct liabilities of Applicant, and will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated indebtedness of Applicant. Applicant represents that the Notes will be guaranteed by the French State by decree of the Minister of Economy and Finance.

Applicant states that it plans to sell the Notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of its special counsel in the United States that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for short-term commercial paper by Section 3(a)(3) thereof. Accordingly, Applicant states that the Notes will have the characteristics, including their negotiability, maturity and minimum denomination, such as to qualify them for exemption under Section 3(a)(3) and that the proceeds of the sale of the Notes (to the extent not applied to the repayment of maturing Notes or to the payment of current expenses) will be used by Applicant for current transactions. Applicant represents that it will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the avilability of any such exemption. Applicant further represents that the presently proposed issue of debt securities and any future issue of its debt securities in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized investment rating organizations, and that its special United States counsel shall have certified that such rating has been received: provided, however, that no such rating shall be required to be obtained, if in the opinion of its special United States counsel, such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in various releases and no-action letters made public by the Commission, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Applicant undertakes to ensure that the dealer will provide each offeree of the Notes, prior to any sale of Notes to such offeree, with a memorandum describing the business of Applicant and containing the most recent publicly available audited financial statements of Applicant, audited in accordance with French auditing practices. Applicant states that the offering memorandum will include a paragraph highlighting the material differences between French accounting standards applicable to Applicant and generally accepted accounting principles employed by similar United States institutions. Applicant represents that such memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in the business or financial status of Applicant. Applicant further represents that in the future it may issue other debt securities, but that such securities will be offered of sold only pursuant to a registration statement under the 1933 Act, or an opinion of its special United States counsel that an exemption from registration under the 1933 Act is available, or pursuant to a staff position that no action would be taken if such securities are not registered.

Applicant further undertakes to provide to any person to which it offers such debt securities in the Untied States (and undertakes to ensure that any underwriter or dealer through whom it makes such offers will so provide) disclosure documents which are at least as comprehensive in their description of Applicant and the businesses of Applicant (1) in the case of securities registered under the 1933 Act, as are required by such Act and the applicable forms and regulations promulgated by the Commission thereunder and (2) in the case of securities exempt from registration under the 1933 Act, as are required by Regulation D of the Commission (and any successor regulation thereto) and containing such additional information as is, in the opinion of special United States counsel to the Applicant, required or appropriate. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with the foregoing undertakings concerning disclosure documents.

Applicant represents that it will appoint a bank or trust company having an office in New York City, the Commission or a New York City corporation providing corporate services as agent to accept service of process in any suit, action, or proceeding, based on the Notes or with respect to the offer and sale of the Notes and instituted in any state or federal court by the holder of any Note. The application states that Applicant will expressly submit to the jurisdiction of state or federal courts in the City and State of New York in respect to any such suit, action or proceeding. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise. The application further states that such appointment of an agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due with respect to the Notes have been paid. The application also states that Applicant will similarly consent to jurisdiction and appoint an agent for service of process in any such suit, action, or proceeding arising from any future offerings of debt securities that it may make in the United States or with respect to the disclosure documents prepared in connection therewith.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public

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interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptive relief requested, Applicant asserts that it is different from the type of institution Congress intended the Act to regulate. In addition, Applicant submits that an exemption pursuant to Section 6(c) of the Act would benefit institutional and other sophisticated investors in the United States by making Applicant's debt securities more readily available to such investors. Without such an exemption Applicant states that it would be precluded from publicly offering its securities in the United States. Applicant argues that its operations are extensively supervised and regulated by French public officials and that this control and regulation together with the requirements of Section 3(a)(3) of the 1933 Act and the anti-fraud provisions of the Securities Exchange Act of 1934 will afford substantial protection to investors in its debt securities.

Applicant concludes that granting the requested exemptive relief pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13229 Filed 5-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22933; (70-6868)]

Indiana & Michigan Electric Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

May 10, 1983.

Indiana & Michigan Electric Co. ("I&M") (One Summit Square, Fort Wayne, Indiana 46801), an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b) and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

I&M proposes to issue and sell, in one or more transactions from time to time through December 31, 1983, up to $70,000,000 aggregate principal amount of its first mortgage bonds, in one or more new series, each with a maturity of not less than 5 years and not more than 30 years. The terms will be determined by competitive bidding pursuant to Rule 50. I&M may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982). If market conditions should not be propitious for the sale of the bonds on a competitive bidding basis, I&M intends, subject to authorization by the Commission, either to place the bonds privately with institutional investors or to negotiate with underwriters for the sale of the bonds.

I&M also proposes to issue and sell up to 1,000,000 shares of its cumulative preferred stock, par value $25 per share, in one or more new series. The price to be paid to the company will be $25 per share. Such shares will be sold under competitive bidding pursuant to Rule 50. I&M may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy set forth in HCAR No: 22623 (September 2, 1982). If market conditions should not be propitious for the sale of the cumulative preferred stock on a competitive bidding basis, I&M intends, subject to authorization by the Commission, either to place the cumulative preferred stock privately with institutional investors or to negotiate with underwriters for the sale. The terms of the cumulative preferred stock may also include a sinking fund provision with respect to one or more series.

The proceeds realized from the sale of the bonds and the cumulative preferred stock will be used to repay unsecured short-term indebtedness of I&M consisting of short-term notes and commercial paper, to repay maturing long-term debt, to reimburse the company's treasury for expenditures incurred in connection with the company's construction program, and for other corporate purposes. At December 31, 1982, I&M had approximately $92,150,000 aggregate principal amount of such unsecured short-term debt outstanding, and it is anticipated that, at the time of the initial sale of the bonds and/or cumulative preferred stock, not less than $100,000,000 of such unsecured short-term debt will be outstanding, portions of which will have been incurred in connection with the company's construction program. I&M estimates that its consolidated construction costs during 1983 will be approximately $127,000,000.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 6, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13236 Filed 5-16-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7941]

Perry Drug Stores, Inc., Application To Withdraw From Listing and Registration

May 10, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock ($.05 Par Value) of Perry Drug Stores, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on March 18, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of the common stock on the NYSE, or the Company's 12.85% convertible subordinated debentures (due October 15, 1997) which will continue to be listed on the Amex. The Amex has posed no objection to this matter.

Any interested person may, on or before June 1, 1983 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13237 Filed 5-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13226; (812-5448)]

Westpac Banking Corp. and Westpac Capital Corp.; Application for Order Pursuant to Section 6(c) of the Act Exempting Applicants From all Provisions of the Act

May 10, 1983

Notice is hereby given that Westpac Banking Corporation ("WBC") (c/o Charles E. Hord, III, Esq., Barrett Smith Schapiro Simon & Armstrong, 26 Broadway, New York, New York 10004), an Australian bank, and its wholly-owned subsidiary Westpac Capital Corporation ("WCC", and jointly with WBC, the "Applicants"), a Delaware corporation, filed an application on January 28, 1983, and an amendment thereto on April 27, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicants from all provisions of the Act in connection with their proposed issuance of dollar-denominated commercial paper in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that WBC, which conducted business under the name "Bank of New South Wales" until October 1, 1982, is the largest trading (*i.e.*, commercial) bank in Australia in terms of assets, deposits, and profits, and one of the largest banks in the world. Applicants further state that WBC recently acquired The Commercial Bank of Australia Limited and changed the name of the combined organization to Westpac Banking Corporation. According to the application, WBC currently has branches in Australia and New Zealand and branches, agencies, or representative offices overseas. In the United States, WBC has a branch in New York City, licensed by the Comptroller of the Currency; a state-licensed agency in San Francisco, California; a representative office in Houston, Texas; and a limited branch in Chicago, Illinois, licensed by the Comptroller of the Currency.

Applicants maintain that, as of September 30, 1982, WBC had, on an unconsolidated basis, assets of over $15.4 billion (expressed in Australian dollars at the rate of one Australian dollar for U.S. $0.9493, the exchange rate on September 30, 1982) and had a net profit of over $131.1 million for the twelve-month period ended September 30, 1982. They also maintain that on a consolidated basis, WBC and its affiliated companies had, as of September 30, 1982, assets and deposits of approximately $31.3 billion and $20.6 billion, respectively, and for the twelve-month period then ended, had a net profit of $215.5 million.

Applicants represent that WBC is engaged primarily in the business of receiving deposits (time and demand) and making loans. According to the application, on an unconsolidated basis, more than 62% of WBC's assets are represented by loans, and approximately 75% of its liabilities are deposits. Further, Applicants represent that during WBC's last fiscal year, income from loans accounted for approximately 74% of WBC's total revenue, and interest paid on deposits represented approximately 57% of WBC's total expenses. The application indicates that, in addition to accepting deposits and making loans, WBC and affiliated companies offer an extensive range of corporate, personal, and international banking services, as well as travel, investment management, insurance, custodian, and other fiduciary services. Applicants state that WCC was incorporated in Delaware on December 14, 1982, and was organized solely to obtain funds to be used by WBC, through the issuance of commercial paper guaranteed by WBC.

Applicants states that WBC is authorized to carry on a banking business by the Australian Banking Act of 1959 (as amended), which provides for the protection of depositors and the regulation of, among other things, statutory reserves, foreign currency, loan policies, foreign exchange, and interest rates. It is represented that the Banking Act is administered by the Reserve Bank of Australia, which supervises all banks in Australia, acting under the authority of both the Banking Act and the Reserve Bank Act of 1959 (as amended). Applicants further state that, as a foreign bank having Federal branches in the United States, WBC is also subject to regulation in this country pursuant to the International Banking Act of 1978 (the "IBA"). According to the application, Section 8 of the IBA subjects WBC to most of the provisions of the Bank Holding Company Act and thus to the regulation of the Federal Reserve Board. Applicants also state that regulations promulgated pursuant to the IBA require WBC to file an annual report with the Federal reserve Board, and that the Comptroller of the Currency maintains supervisory powers over Federal branches and agencies after it grants approval to an application. Applicants represent that, under the Comptroller's regulations, a Federal branch or agency must be examined at least once each calendar year, and that they are subject to reserve requirements set by the Federal Reserve Board.

Applicants propose to issue and sell in the United States, through United States investment banking firms, short-term, dollar-denominated promissory notes of the type generally referred to as commercial paper (the "Notes"). The Notes, which will be issued and sold in minimum denominations of $100,000, will be (i) obligations of WCC unconditionally guaranteed by WBC or (ii) direct obligations of WBC or (iii) some combination of (i) and (ii).

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According to the application, the Notes will have a maturity of nine months or less, exclusive of days of grace, and will neither be payable on demand nor provide for any extension, renewal, or automatic "roll-over" at the option of either the holder or the issuer. Applicants represent that the Notes will arise out of, or the proceeds from the sale of the Notes will be used for, current transactions as contemplated by Securities Act Release No. 4412.

The application states that the Notes will be prime quality, negotiable commercial paper of a type eligible for discount by Federal Reserve Banks. Applicants represent that the Notes will have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized investment rating organizations and that United States counsel for the Applicants shall have certified that such rating has been received. However, no such rating shall be required if in the opinion of United States counsel for the applicants, such counsel having taken into account the doctrine of integration for the purpose thereof, an exemption from registration is available with respect to such issue under Section 4(2) of the Securities Act of 1933 ("1933 Act").

The application states that, if the Notes are issued by WCC and guaranteed by WBC, the Notes will rank *pari passu* among themselves, equally with all other unsecured, unsubordinated indebtedness of WCC and superior to the rights of WCC shareholders, and the WBC guarantee of the Notes will rank equally with all other unsecured unsubordinated indebtedness of WBC and superior to the rights of WBC shareholders, except insofar as the Australian Banking Act provides that, in the event of a bank becoming unable to meet its obligations or suspending payment, the assets of the bank in Australia will be available to meet the bank's deposit liabilities in Australia in priority to all other liabilities of the bank. The application also states that, if the Notes are issued by WBC, they will be direct liabilities of WBC, will rank *pari passu* among themselves, equally with all other unsecured, unsubordinated indebtedness of WBC and superior to the rights of WBC shareholders, except insofar as WBC's deposit liabilities in Australia have priority in right of payment over its other liabilities in the situation described in the preceding sentence.

Applicants state that the Notes will be sold through one or more United States commercial dealers. Applicants represent that they will secure an undertaking from each such dealer that the Notes will be sold to institutional investors and other entities and individuals who normally purchase commercial paper and will not be advertised or otherwise offered for sale to the general public. Applicants further state that they will provide each such dealer with sufficient information to prepare, and undertake to ensure that each dealer will furnish to each offeree of the Notes, prior to any sale of Notes to such offeree, a memorandum (the "offering memorandum") which describes the businesses of Applicants and contains the most recent publicly available financial statements of Applicants, audited in accordance with Australian auditing practices. Applicants represent that the offering memorandum will be at least as comprehensive as those customarily used by United States issuers in offering commercial paper in the United States and will be updated periodically to reflect material changes in Applicant's business or financial status. It is further represented that the offering memorandum will include a brief paragraph highlighting the material differences between Australian accounting principles applicable to Australian commercial banks and used by the Applicants and generally accepted accounting principles employed by United States commercial banks.

According to the application, it is intended that the Notes will be sold without registration under Section 5 of the 1933 Act, in reliance upon an opinion of United States counsel for the Applicants to the effect that, under the circumstances, the proposed offering will qualify for the exemption from registration provided by Section 3(a)(3) of the 1933 Act. Applicants represent that they will not proceed with their proposed offering until they have received such an opinion. The Applicants do not request Commission review or approval of such opinion.

Applicants state that they will appoint a bank or trust company having an office in New York City as issuing agent to issue the Notes on behalf of Applicants. Further, Applicants state they will expressly submit to the jurisdiction of New York State and United States Federal courts sitting in the City of New York for the purpose of any suit, action, or proceeding brought on the Notes or with respect to the offer and sale of the Notes by means of the offering memorandum and, in that connection, appoint the issuing agent or a corporation with an office in New York City engaged in providing corporate services for lawyers as agent to accept service of process in any action based on the Notes or with respect to the offer and sale of the Notes by means of the offering memorandum and instituted in any State or Federal court in New York City by the holder of any Note. Such appointment of an agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due, and to become due, in respect of the Notes have been paid.

Applicants state that either of them may, from time to time, in the future, offer and sell other debt securities of WBC or WCC in the United States. Applicants represent that no such securities shall be offered or sold in the United States unless (a) such securities are registered under the 1933 Act, (b) in the opinion of United States counsel for the Applicants an exemption from registration under the 1933 Act is available with respect to such offer and sale, or (c) the staff of the Commission states that it would not recommend that the Commission take action under the 1933 Act if such securities are not registered.

Applicants maintain that any future offering of securities of WBC or WCC in the United States will be made on the basis of disclosure documents which are appropriate and customary for such offering, whether made pursuant to a registration statement under the 1933 Act or an exemption therefrom (and in any event as comprehensive as those used in offerings of similar securities by issuers in the United States), and will be updated periodically to reflect material changes in the business or financial status of WBC or WCC. Applicants also maintain that, in any future offering of securities of WBC or WCC in the United States made through dealers or underwriters, the Applicant issuing such securities will secure an undertaking from each such dealer or underwriter to furnish such disclosure documents to each offeree of such securities, prior to any sale of such securities to such offeree. Applicants state that, in connection with any future offering by either Applicant of its securities in the United States, the Applicant issuing or guaranteeing such securities will appoint an agent to accept service of process in any suit, action, or proceeding brought on the securities by the holder of any such securities and will expressly submit to the jurisdiction of the New York State and United States Federal courts sitting in the City of New York with respect to any such suit, action or proceeding. Such appointment of an agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect thereof have been paid. Applicants assert that they consent to having any order of the Commission granting the relief requested under Section 6(c) of the Act expressly conditioned on their compliance with the undertakings contained in the application.

Applicants contend that, as a commercial bank, WBC is not an investment company within the meaning of the Act and that WCC is excluded from the definition of investment company under Section 3(b)(3) of the Act. Applicants state, however, that they are applying to the Commission because of the uncertainty as to whether at least some foreign commercial banks and their domestic finance subsidiaries are "investment companies" under the Act. Section 6(c) provides that the Commission, by order upon application, may exempt any person from the provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that approval of the application is necessary or appropriate in the public interest for several reasons. Among other things, they state that approval would advance the policies underlying the International Banking Act of 1978, which seeks to place United States banks and foreign banks on a basis of competitive equality in their United States transactions. According to the application, if WBC or WCC were deemed to be an "investment company" and were denied the exemption requested, WBC would as a practical matter be precluded from publicly offering securities in the United States. Applicants state that WBC's access to the United States investment market would be thus diminished, putting it at a competitive disadvantage in this respect to United States banks, which generally are not subject to the Act, and to other foreign banks (including other Australian banks), which have received exemptions from the Act that enable them to sell their securities in the United States, either directly or through subsidiaries like WCC. The application also states that approval of the exemption would benefit institutional and other sophisticated investors in the United States by making securities of foreign banks more readily available to such investors.

Applicants contend that the exemption would be consistent with the protection of investors because, among othe reasons, (1) WBC is extensively regulated by the Australian banking authorities, as well as by U.S. banking authorities in connection with its U.S. operations, (2) any offering of securities by Applicants in the United States must in any event comply with the requirements of the 1933 Act, and (3) the abuses against which the Act was directed are not present in this case. Applicants further state that an exemption would be consistent with the purposes of the Act since the Act was not drafted to regulate entities such as Applicants, and the Act clearly contemplates the exercise by the Commission of its exemptive powers in cases such as that of Applicants which were not within the contemplation of the drafters of the Act and which do not present the abuses which the Act was designed to curb.

Notice is further given that any interested person wishing to request a hearing on the application may, not later then June 3, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13236 Filed 5-16-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2081]

Louisiana; Declaration of Disaster Loan Area

Correction

In FR Doc. 83-11749, appearing on page 19971, in the issue of Tuesday, May 3, 1983, in the second column, the docket line should read as printed above.

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/633]

Advisory Committee on Oceans and International Environmental and Scientific Affairs; Open Meeting

The Department of State's Advisory Committee on Ocean and International Environmental and Scientific Affairs will meet at 9:00 AM on Wednesday, June 1, 1983, in Room 150 of the National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, D.C. This meeting, with a break for lunch, is expected to end at approximately 3:00 PM.

At the meeting, responsible officials of the Department of State, and members of the Advisory Committee, will review the evolution of two matters they discussed at the Committee's last meeting on November 8, 1982: the work of the Global Issues Working group (on international environmental matters), and the science attache system. They will also discuss the following new subjects:

—Recent events in the population field including discussions at the Vatican;
—The proposed commercialization of the weather and Landsat systems;
—This fall's OECD science meeting in Japan; and
—The establishment of a U.S. exclusive economic zone, fisheries policy and other oceans matters.

This meeting is to be open to the public. Members of the public will be admitted to the limits of the meeting room's seating capacity and will be given the opportunity to participate in the discussions according to the instructions of the chairman.

People wishing further information on this meeting should direct their inquiries to Felix Dorough or Stephen Johnson of the Office of Science and Technology Support of the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs. They may be reached by telephone on (202) 632-4066.

Dated: May 6, 1983.

James L. Malone,

Chairman.

[FR Doc. 83-13185 Filed 5-16-83; 8:45 am]

BILLING CODE 4710-09-M

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[Public Notice CM-8/631]

Integrated Services Digital Network (ISDN) Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee will meet on June 2, 1983, at 9:30 a.m. in Room 1105 of the Department of State, 2201 C Street NW., Washington, D.C. This Working Party deals with the evolution of ISDN as it is being considered by CCITT Study Group XVIII.

The agenda for the meeting is as follows:

1. Report of the ISDN Technical Working Party Meeting;
2. Consideratioin of delayed contributions for Study Group XVIII;
3. Any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to June 2, all persons planning to attend the meeting should contact Mr. Dexter Anderson, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–6583. All attendees must use the C Street entrance to the building. Entrance will be facilitated 15 minutes before and after the meeting begins.

James L. Gorman,

Acting Director, Office of International Communications Policy.

[FR Doc. 83-13153 Filed 5-16-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/632]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on June 9, 1983, at 9:30 a.m. in Room 1205 of the Department of State, 2201 C Street, NW., Washington, D.C.

The meeting of Study Group C will concentrate entirely on the Study Group XVIII Expert Group which was chartered to recommend a single method of PCM coding at 32 kilobits/second. The U.S. participants will discuss the status of the work program of the Expert Group. Reports of recent Expert Group meetings in Tokyo (February, 1983) and London (May, 1983) will be presented. A preliminary Draft Recommendation and the Expert Group's report to the full Study Group will be prepared at the London meeting. These two documents will be reviewed on June 9, 1983.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to June 9, all persons planning to attend the meeting should contact Mr. Dexter Anderson, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202)632–6583. All attendees must use the C Street entrance to the building. Entrance will be facilitated 15 minutes before and after the meeting begins.

Dated: April 29, 1983.

James L. Gorman,

Acting Director, Office of International Communications Policy.

[FR Doc. 83-13152 Filed 5-16-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/630]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); meeting.

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on June 1, 1983 at 9:30 a.m. in Room 1107 of the Department of State, 2201 C Street, NW., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission.

The agenda for the June 1 meeting will include consideration of the following:

1. Report of the Meeting of Study Group XVII;
2. Considerations of delayed contributions for Study Group VII, excluding ISDN matters which will be discussed at the June 2 meeting of the ISDN Working Party;
3. Any other business.

Members of the general public may attend the meeting and join in the dicussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to June 1, all persons planning to attend the meeting should contact Mr. Dexter Anderson, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–6583. All attendees must use the C Street entrance to the building.

Entrance will be facilitated 15 minutes before and after the meeting begins.

Dated: April 29, 1983.

James L. Gorman,

Director, Acting, Office of International Communications Policy.

[FR Doc. 83-13154 Filed 5-16-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

Application for Recordation of Trade Name; "Players & Spectators a Drinking and Gaming Establishment"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Players & Spectators a Drinking and Gaming Establishment," used by Players & Spectators, Inc., a corporation organized under the laws of the State of Washington, located at East 27 Augusta, Spokane, Washington 99207.

The application states that the trade name is used in connection with a combined restaurant, tavern and amusement game services and franchise business.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATE: Comments must be received on or before July 18, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: May 12, 1983.

A. Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-13227 Filed 5-16-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Senior Executive Service; Performing Review Board; Members

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective May 6, 1983.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:P:X, 1111 Constitution Avenue, NW, Room 3213, Washington, DC 20224, Telephone No. (202) 566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for executives other than Assistant Commissioners, Regional Commissioners and executives in Inspection are as follows:

James I. Owens, Chairman, Deputy Commissioner
D. James Lantonio, Assistant Commissioner, Human Resources
Larry G. Westfall, Assistant Commissioner, Collection
Richard C. Voskuil, Regional Commissioner, Southwest Region
William D. Waters, Regional Commissioner, Mid-Atlantic Region
Richard C. Wassenaar, Assistant Commissioner, Criminal Investigation (Alternate)
Charles H. Brennan, Regional Commissioner, North Atlantic Region, (Alternate)

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83-13167 Filed 5-16-83; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

New Directions Advisory Committee; Meeting

The New Directions Advisory Committee will meet Wednesday, June 8, 1983, from 2:00 p.m. to 4:30 p.m., in Room 800, 400 C Street SW., Washington, D.C. The purpose of the meeting is to discuss and advise on U.S.I.A. responses to the situation in Central America. The meeting is open to the public.

Dated: May 12, 1983.

Charles N. Canestro,

Management Analyst, Management Plans and Analysis Staff.

[FR Doc. 83-13118 Filed 5-16-83; 8:45 am]

BILLING CODE 8230-01-M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 96
Tuesday, May 17, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10: a.m. Monday, May 23, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph B. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[S-699-83 Filed 5-13-83 3:38 pm]

BILLING CODE 6210-01-M

2

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 10:00 a.m., May 25. 1983.

PLACE: Board for International Broadcasting, Suite 1100, 1201 Connecticut Avenue NW., Washington, D.C. 20036.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the board foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 1100, 1201 Connecticut Avenue NW., Washington, D.C. 20036, 202-254-8040.

[FR Doc. 83-S-698-83 Filed 5-13-83; 11:26 am]

BILLING CODE 6155-01-M

3

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland-Headquarters).

TIME AND DATE: 10:00 a.m., Wednesday, May 25, 1983.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

[FR Doc. 83-S-699-83 Filed 5-13-83; 3:11 pm]

BILLING CODE 4410-01-M

4

POSTAL SERVICE

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:00 a.m. on Thursday, June 2, in Room C-121-122 of the Federal Building, 701 C Street, Anchorage, Alaska. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

On the previous afternoon, Wednesday, June 1, the management of the Postal Service will present a briefing session for the Board, which will be closed to the public. Although notice of briefing sessions is not required by the Act or the Bylaws of the Board, an agenda of the matters upon which the Board expects to be briefed is also set forth below.

Agenda

Wednesday Afternoon Briefing Session (Closed)

1. Briefing on Legislative Programs. (Mr. Hogan, Assistant Postmaster General, Government relations, will report on recent and anticipated Congressional developments affecting the Postal Service.)
2. Briefing on Technology Planning Process. (Mr. Cavallo, Senior Assistant Postmaster General, Research and Management Systems, will brief the Board on the status of technology planning and development.)
3. Briefing on *Ex Parte* Communications. (Mr. Califano, Dewey, Ballantine, Busby, Palmer & Wood, will brief the Board on proposed guidelines on *ex parte* communications to the Governors on issues in rate and classifications proceedings that are subject to Chapter 36 of Title 39, U.S. Code.)

Thursday Morning Meeting (Open)

1. Minutes of the Previous Meetings (May 2-3).
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing requiring a decision by the Board is brought up under this item.)
3. Briefing on Update of 5-Year Plan. (Mr. Cummings, Assistant Postmaster General, Planning, will brief the Board on the 5-Year Plan.)
4. Briefing on Mailhandling in Alaska. (Mr. Opinsky, Management Sectional Center Manager/Postmaster of Anchorage, Alaska, will brief the Board on the unique mailhandling programs required for Alaska.)
5. Proposed Capital Investment Projects. (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present proposals for 1) a new General Mail Facility and Vehicle Maintenance Facility for Reading, Pennsylvania, and 2) a new facility to house the Postal Data Center now located in San Bruno, California.)
6. Consideration of Tentative Agenda for July 7-8.

David F. Harris,

Secretary.

[FR Doc. S-697-83 Filed 5-13-83; 3:09 pm]

BILLING CODE 7710-12-M

federal register

Tuesday
May 17, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

VOL 48 ISS 96 MY 17 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 891]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

NOTICE OF DETERMINATIONS
ISSUED MAY 11, 1983
VOLUME 891

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-HARDROCK OIL COMPANY				RECEIVED:	04/20/83	JA: MT			
8333040	4-82-99	2509505056		108		ABEL #1	BOWES	3.6	MONTANA POWER CO
8333036	4-82-98	2509505082		108		BLAKEWAY #1	BOWES	4.1	MONTANA POWER CO
-MOR-AM EXPLORATION CORP.				RECEIVED:	04/20/83	JA: MT			
8333038	2-82-29	2501521564		102-2		DONALD KILLION #1-19	WILDCAT	2960.0	NATURAL GAS PROCE
8333039	2-82-39	2501521547		102-2		J O THORNBERRY #1	WILDCAT	2236.0	NATURAL GAS PROCE
-ORBIT VENTURES INC				RECEIVED:	04/20/83	JA: MT			
8333037	4-82-97	2509121452		102-2		A DAHL #4-27	DIVIDE	10.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	04/20/83	JA: MT			
8333041	6-82-169	2508521232		102-2		PAUL WARD #1-27	UNNAMED	40.0	PHILLIPS PETROLEU
-WEST GAS INC				RECEIVED:	04/20/83	JA: MT			
8333035	4-82-96	2509521151		108		LEUTHOLD 13-35	LAKE BASIN	6.8	MONTANA DAKOTA UT
8333034	4-82-95	2509521120		108		NORDAHL 13-13	LAKE BASIN	6.0	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMERADA HESS CORPORATION				RECEIVED:	04/20/83	JA: NM			
8333051		3002526614		108		STATE "MP" 85	EUMONT	16.5	NORTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	04/20/83	JA: NM			
8333062		3004500000		103		DAVIS GAS COM "J" #1	UNDESIGNATED - MESAVE	18.3	
-APOLLO ENERGY INC				RECEIVED:	04/20/83	JA: NM			
8333045		3002528004		103		DIVINE '29' STATE #1	EUMONT YATES SEVEN RI	105.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/20/83	JA: NM			
8333044		3002527860		103		STATE 157 "EF" #4	JALMAT YATES 7 RV	180.0	EL PASO NATURAL G
-COASTAL OIL & GAS CORP				RECEIVED:	04/20/83	JA: NM			
8333046		3002527471		103		STATE 1-2P	BAUM	39.0	WARREN PETROLEUM
-FRED POOL OPERATING CO				RECEIVED:	04/20/83	JA: NM			
8333050		3000561451		102-2	107-TF	FOREMAN #1	UND ABO	0.0	TRANSWESTERN PIPE
8333047		3000561202		102-3	107-TF	WAGNER #1	UND ABO	0.0	TRANSWESTERN PIPE
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	04/20/83	JA: NM			
8333070	73277	3002500000		108		STATE B-10792 #31	WILSON	4.0	PHILLIPS PETROLEU
8333069	73277	3002500000		108		STATE B-9084 #25	WILSON YATES SEVEN RI	2.0	PHILLIPS PETROLEU
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/20/83	JA: NM			
8333064		3003900000		108-PB		SAN JUAN 29-5	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333063		3003900000		108-PB		SAN JUAN 31-6 UNIT	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/20/83	JA: NM			
8333052		3002502846		108		E VAC GB/SA UNIT TR 2155 WELL #006	VACUUM GB/SA	3.0	EL PASO NATURAL G
8333057		3002527985		103		LEA #27	VACUUM GRAYBURG/SAN A	29.0	EL PASO NATURAL G
8333056		3002527987		103		LEA #29	VACUUM GRAYBURG/SAN A	50.0	EL PASO NATURAL G
8333055		3002527936		103		LEA NO 28	VACUUM GB/SA	19.0	EL PASO NATURAL G
8333054		3002526542		108		PHILLIPS-E STATE #18	MALJAMAR GB/SA	1.0	EL PASO NATURAL G
-READ & STEVENS INC				RECEIVED:	04/20/83	JA: NM			
8333043		3001524350		103		AMOCO SUPRON MESA #1	UND BUNKER HILL PENRO	5.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	04/20/83	JA: NM			
8333059		3004500000		108-ER		FLORA VISTA #1	BASIN DAKOTA	0.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/20/83	JA: NM			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333049		3002500000		108		M W WEATHERLY #3	PENROSE SKELLY GRAYBU	8.0	GETTY OIL CO
8333048		3002500000		108		WILL CARY #5	BRINKERD	10.0	GETTY OIL CO
8333047		3002500000		108		WILL CARY #7	BLINEBRY	4.0	GETTY OIL CO
-TENNECO OIL COMPANY				RECEIVED:	04/20/83	JA: NM			
8333061		3004525436		103		STATE M-1	BASIN DAKOTA	89.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	04/20/83	JA: NM			
8333068		3000561896		102-2	107-TF	BERRENDO "VP" ST #1	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333053		3000561862		102-3	107-TF	FOX "VO" STATE #1	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333067		3000561894		102-2	107-TF	MARGARET "RQ" ST #3	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333065		3000561367		102-2	107-TF	SKINNY "QO" ST #5	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333066		3000561933		102-2	107-TF	SKINNY "QO" ST #6	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333042		3002528136		103		SUSAN "VP" #2	SAUNDERS PERMO PENN	0.0	WARREN PETROLEUM
8333058		3002527958		103		VULTURE "VP" ST #1	SAUNDERS PERMO-UPPER	0.0	WARREN PETROLEUM
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTMEIRS OIL INC				RECEIVED:	04/19/83	JA: OH			
8332880		3412725792		103	107-TF	BLAIR-SHARSHALL #2	SALT LICK TOWNSHIP	5.0	NICO-FIBERS INC
-ATLAS ENERGY GROUP INC				RECEIVED:	04/19/83	JA: OH			
8332881		3415522232		103	107-TF	JEND CORP #4	CHAMPION	37.0	COPPERWELD STEEL
-ATWOOD RESOURCES INC				RECEIVED:	04/19/83	JA: OH			
8332882		3403125037		103	107-TF	OHER BECHTOL #1	NEW BEDFORD	15.0	
-BASIN PRODUCING CO				RECEIVED:	04/19/83	JA: OH			
8332883		3408720554		107-RT		D & W BEALS #1	CHERRY VALLEY	25.0	POI ENERGY INC
-BELDEN & BLAKE & CO #1				RECEIVED:	04/19/83	JA: OH			
8332885		3413322996		103	107-TF	D & M WILLIAMS #1 - 34-1298	FRANKLIN	36.5	
8332884		3413322977		103	107-TF	HUGO SAND CO INC #4 - 34-1286	FRANKLIN	36.5	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/19/83	JA: OH			
8332887		3415722370	D	108		M MILLER #2	GNADENHUTTEN	7.0	ARCO OIL & GAS CO
8332886		3415722332	D	108		SHULL #1	GNADENHUTTEN	22.0	ARCO OIL & GAS CO
-BIG INJUN OIL & GAS CO INC				RECEIVED:	04/19/83	JA: OH			
8332888B		3416727276	D	107-TF		MIENER #2	PALMER	0.0	RIVER GAS CO
8332888A		3416727276		103		MIENER #2	PALMER	0.0	RIVER GAS CO
-BPC DRILLING PROGRAM 82-A				RECEIVED:	04/19/83	JA: OH			
8332889		3412122850		107-DV		MILL #2	ENOCH	0.0	
-C T DRILLING CORP				RECEIVED:	04/19/83	JA: OH			
8332899		3416727428		107-DV		WEST ROCKOIL #2	LUDLOW	22.5	RIVER GAS CO
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	04/19/83	JA: OH			
8332898		3411926557		103	107-TF	OHIO POWER 1-A	MEIGS	92.0	TEXAS EASTERN TRA
8332896		3411926474		103	107-TF	OHIO POWER 11-A	MEIGS	7.0	TEXAS EASTERN TRA
8332893		3411926473		103	107-TF	OHIO POWER 12-A	MEIGS	34.0	TEXAS EASTERN TRA
8332895		3411926475		103	107-TF	OHIO POWER 13-A	RICH HILL	100.0	TEXAS EASTERN TRA
8332894		3411926477		103	107-TF	OHIO POWER 15-A	MEIGS	117.0	TEXAS EASTERN TRA
8332897		3411926484		103	107-TF	OHIO POWER 18-A	MEIGS	43.0	TEXAS EASTERN TRA
8332892		3411926451		103	107-TF	OHIO POWER 3-A	MEIGS	26.0	TEXAS EASTERN TRA
8332890		3411926436		103	107-TF	OHIO POWER 8-A	MEIGS	88.0	TEXAS EASTERN TRA
8332891		3411926448		103	107-TF	OHIO POWER 9-A	RICH HILL	32.0	TEXAS EASTERN TRA
-DAVID SHAFER OIL PRODUCERS INC				RECEIVED:	04/19/83	JA: OH			
8332919		3415321241		107-TF		FIRESTONE #2-B	BATH	7.5	EAST OHIO GAS CO
8332903		3415320936		107-TF		FIRESTONE #3-B	BATH	7.5	EAST OHIO GAS CO
8332901		3415320938		107-TF		FIRESTONE #5-A	BATH	0.0	EAST OHIO GAS CO
8332904		3415320944		107-TF		R C FIRESTONE #1-A	BATH	7.5	EAST OHIO GAS CO
8332900		3415320929		107-TF		R C FIRESTONE #1-B	BATH	7.5	EAST OHIO GAS CO
8332910		3415320953		107-TF		R C FIRESTONE #1-E	BATH	7.5	EAST OHIO GAS CO
8332915		3415320958		107-TF		R C FIRESTONE #1-F	BATH	7.5	EAST OHIO GAS CO
8332905		3415320945		107-TF		R C FIRESTONE #2-A	BATH	7.5	EAST OHIO GAS CO
8332908		3415320949		107-TF		R C FIRESTONE #2-D	BATH	7.5	EAST OHIO GAS CO
8332911		3415320954		107-TF		R C FIRESTONE #2-E	BATH	7.5	EAST OHIO GAS CO
8332916		3415320959		107-TF		R C FIRESTONE #2-F	BATH	7.5	EAST OHIO GAS CO
8332906		3415320946		107-TF		R C FIRESTONE #3-A	BATH	7.5	EAST OHIO GAS CO
8332912		3415320955		107-TF		R C FIRESTONE #3-E	BATH	7.5	EAST OHIO GAS CO
8332917		3415320960		107-TF		R C FIRESTONE #3-F	BATH	7.5	EAST OHIO GAS CO
8332907		3415320947		107-TF		R C FIRESTONE #4-A	BATH	7.5	EAST OHIO GAS CO
8332913		3415320956		107-TF		R C FIRESTONE #4-E	BATH	7.5	EAST OHIO GAS CO
8332918		3415321009		107-TF		R C FIRESTONE #4-F	BATH	7.5	EAST OHIO GAS CO
8332909		3415320952		107-TF		R C FIRESTONE #5-D	BATH	7.5	EAST OHIO GAS CO
8332914		3415320957		107-TF		R C FIRESTONE #5-E	BATH	7.5	EAST OHIO GAS CO
8332902		3415320931		107-TF		RAYMOND C FIRESTONE #5-B	BATH	0.0	EAST OHIO GAS CO
-DORAN & ASSOCIATES INC				RECEIVED:	04/19/83	JA: OH			
8332923		3408720297		107-DV		BENNIE BURCH #1 KP-7	PERRY	20.0	COLUMBIA GAS TRAN
8332920		3408720277		107-DV		FLORENCE MILLER #1 KP-2	FAYETTE	20.0	COLUMBIA GAS TRAN
8332922		3408720291		107-DV		GLADYS MELVIN #1 KP-13	PERRY	20.0	COLUMBIA GAS TRAN
8332921		3408720278		107-DV		MICHAEL KELLY #1 KP-3	FAYETTE	20.0	COLUMBIA GAS TRAN
-EAGLE INVESTMENT INC				RECEIVED:	04/19/83	JA: OH			
8332924		3405922821		107-TF		CLAGGET UNIT #1	WESTLAND	30.0	EAST OHIO GAS CO
8332925		3405922836		107-TF		VESSELS #1	WESTLAND	5.0	EAST OHIO GAS CO
-EDCO DRILLING & PRODUCING INC				RECEIVED:	04/19/83	JA: OH			
8332926		3403529961		103	107-TF	CHAMBERLIN 1D	INDEPENDENCE	18.0	
8332927		3403521170		103	107-TF	CHAMBERLIN 2D	INDEPENDENCE	18.0	
8332929		3403521174		103	107-TF	JOHNSTON 3J	INDEPENDENCE	18.0	
8332928		3403521171		103	107-TF	SPIETH 1L	INDEPENDENCE	18.0	
-ENERGY DEVELOPMENT CORP				RECEIVED:	04/19/83	JA: OH			
8332932		3405520183		103	107-RT	DETWEILER WELL #1	TROY	18.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	04/19/83	JA: OH			
8332933		3400922699		103	107-TF	DRYDOCK COAL #40D	DOVER	27.3	
8332934		3400922733		103	107-TF	DRYDOCK COAL #47D	DOVER	18.2	
-EVERFLOW EASTERN INC				RECEIVED:	04/19/83	JA: OH			
8332935		3415723639		103	107-TF	THOMAS #6	SANDY	0.0	
-FREDERICK PETROLEUM CORP				RECEIVED:	04/19/83	JA: OH			
8332936		3411122690		107-DV		CAPPADONA #1	FRANKLIN	10.0	
8332939		3416727288		107-DV		F DARRAH #1	AURELIUS	22.0	
8332938		3411122854		107-DV		M WECHBACHER #1	BETMEL	15.0	
8332937		3411122730		107-DV		TILTON #1	FRANKLIN	18.0	
-GASEARCH INC				RECEIVED:	04/19/83	JA: OH			
8332941		3415522286		103	107-TF	CANGEMI #2	MESOPOTAMIA	20.0	AMERICAN ENERGY S
8332940		3415522254		103	107-TF	HARRINGTON-SCHMUCKER #1	MESOPOTAMIA	20.0	
-GENE STALNAKER INC				RECEIVED:	04/19/83	JA: OH			
8332942B		3416727072	D	107-TF		ROUSH #1	DUNHAM	0.0	COLUMBIA GAS TRAN
8332942A		3416727072		103		ROUSH #1	DUNHAM	0.0	COLUMBIA GAS TRAN
8332943B		3416727073	D	107-TF		T E GREEN #1	DUNHAM	0.0	COLUMBIA GAS TRAN
8332943A		3416727073		103		T E GREEN #1	DUNHAM	0.0	COLUMBIA GAS TRAN
-GEO ENERGY INC				RECEIVED:	04/19/83	JA: OH			
8332944		3403521183		107-TF		SHAKER #3-3	OLMSTED	0.0	COLUMBIA GAS OF O
-GREENLAND PERRY/HOCKING #2-1				RECEIVED:	04/19/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8332945		3412725293		103		BELL "B"	MONDAY CREEK	15.0	COLUMBIA GAS TRAN
-HENRY W PIATT				RECEIVED:	04/19/83	JA: OH			
8332948		3416720441		108		CLARENCE RINARD #1		0.2	RIVER GAS CO
8332949		3416724898		108		CLARENCE RINARD #2		0.2	RIVER GAS CO
8332946		3411121813		108		VIRGIL TISHER #1		0.3	RIVER GAS CO
8332947		3411121815		108		VIRGIL TISHER #2		0.3	RIVER GAS CO
-J D DRILLING CO				RECEIVED:	04/19/83	JA: OH			
8332950		3410522550		107-DV		RILEY PIGOTT #1	OLIVE	9.0	COLUMBIA GAS TRAN
-KAISER ENERGY INC				RECEIVED:	04/19/83	JA: OH			
8332951		3408120411		107-DV		MARY BYWATERS KEM #204	SALINE	11.0	
-LANGASCO DRILLING CO				RECEIVED:	04/19/83	JA: OH			
8332953		3402920945		107-TF		DONALD JACKSON #2	KNOX	48.0	COLUMBIA GAS TRAN
8332954		3402920951		107-TF		JEROME HOVANIC #1	BUTLER	65.0	COLUMBIA GAS TRAN
8332952		3402920934		107-TF		LUDWIG WHITELEATHER #1	WEST	48.0	COLUMBIA GAS TRAN
8332955		3409921551		107-TF		PAUL J KING #1	SMITH	38.0	EAST OHIO GAS CO
-LESLIE OIL AND GAS CO INC				RECEIVED:	04/19/83	JA: OH			
8332962		3415722828		108		BACKUS KNOB FARM #1 (ARA MURPHY #1)		20.0	EAST OHIO GAS CO
8332958		3415722804		108		BOB TREAT #1		20.0	EAST OHIO GAS CO
8332963		3415722964		108		BOB TREAT #2		20.0	AMERICAN ENERGY S
8332971		3415723162		103		CALDWELL #1	WASHINGTON	86.0	EAST OHIO GAS CO
8332969		3415723074		108		CARLISLE #1	WEST	20.0	EAST OHIO GAS CO
8332968		3415723071		108		D & A ENTERPRISE #1		20.0	EAST OHIO GAS CO.
8332966		3415723062		108		EARL LANNING #1		20.0	EAST OHIO GAS CO
8332967		3415723063		108		EDITH CHURCH #2		20.0	EAST OHIO GAS CO
8332959		3415722821		108		FRED FREDERICKS #1		20.0	EAST OHIO GAS CO
8332961		3415722826		108		GARRETSON UNIT #1		2.0	EAST OHIO GAS CO
8332960		3415722825		108		HENRY CLARK #1		20.0	EAST OHIO GAS CO
8332965		3415723050		108		JOHN LONG #2		20.0	EAST OHIO GAS CO
8332973		3415723343		108		JOHN PUTTIS #1		20.0	EAST OHIO GAS CO
8332956		3415722776		108		M KOSENBERRY #1		89.0	EAST OHIO GAS CO
8332964		3415723019		108		MAHLON GINGERICH #1		20.0	EAST OHIO GAS CO
8332957		3415722800		108		MARINO #1		20.0	EAST OHIO GAS CO
8332972		3415723247		108		RIDDLE WELL #1		20.0	EAST OHIO GAS CO
8332970		3415723136		108		T ROSENBERRY #1			
-LIBERTY OIL & GAS CORP				RECEIVED:	04/19/83	JA: OH			
8332974		3408922594		107-DV		G M WHITE #2	CARTHAGE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	04/19/83	JA: OH			
8332975		3408323279		103		M RODESON #1-D	JEFFERSON	20.0	YANKEE RESOURCES
-M B OPERATING CO INC				RECEIVED:	04/19/83	JA: OH			
8333005		3415723322	D	108		C PARROT #1-A		12.5	REPUBLIC STEEL CO
8332994		3415122810	D	108		E & M KUVLESKY #1		0.5	REPUBLIC STEEL CO
8332995		3415122815	D	108		FLINTKOTE CO U #9		0.5	REPUBLIC STEEL CO
8333001		3415722831	D	108		G & G BURKET #1		2.5	REPUBLIC STEEL CO
8332998		3415122984	D	108		G THOMAS U #1		5.8	REPUBLIC STEEL CO
8332993		3415122795	D	108		H FIERSTOS #1		5.0	REPUBLIC STEEL CO
8332991		3415122727	D	108		J & B ECKERT #1		10.0	REPUBLIC STEEL CO
8332996		3415122830	D	108		J & M BRAINERD U #1		20.0	REPUBLIC STEEL CO
8333003		3415722979	D	108		J & M SCHAAR #1		17.5	REPUBLIC STEEL CO
8332989		3415122707	D	108		J & S TILLIPAW #1		12.8	REPUBLIC STEEL CO
8332982		3401920311	D	108		JAMES-DOLNIS #2		0.5	REPUBLIC STEEL CO
8332981		3401920310	D	108		JAMES-DOLNIS #3		0.5	REPUBLIC STEEL CO
8332980		3401920308	D	108		JAMES-HENDERSON #2		2.0	REPUBLIC STEEL CO
8332999		3415722502	D	108		K & G PARROT #1		15.0	REPUBLIC STEEL CO
8332992		3415122782	D	108		L & A ROHN #1		10.0	REPUBLIC STEEL CO
8332988		3415122671	D	108		M WEISGARBER #1		12.8	REPUBLIC STEEL CO
8332985		3401920708	D	108		O & A GERMAN #1		3.5	REPUBLIC STEEL CO
8333004		3415723115	D	108		P & M LE GLISE U #1		10.0	REPUBLIC STEEL CO
8333002		3415722841	D	108		R & D HODGDON #1		13.5	REPUBLIC STEEL CO
8332990		3415122723	D	108		R & M REIDY #1		12.5	REPUBLIC STEEL CO
8332986		3415122637	D	108		R & I HARTLINE #1		11.5	REPUBLIC STEEL CO
8332983		3401920393	D	108		R & O SMITH #1		1.8	REPUBLIC STEEL CO
8332984		3401920394	D	105		R & O SMITH #2		1.8	REPUBLIC STEEL CO
8332997		3415122832	D	108		R DOWNEY #1		18.5	REPUBLIC STEEL CO
8333000		3415722812	D	108		SEPTER U #1		17.3	REPUBLIC STEEL CO
8332987		3415122645	D	108		W & A SMITH #1		2.5	REPUBLIC STEEL CO
-MADDEN VENTURES				RECEIVED:	04/19/83	JA: OH			
8332976		3416727324		107-DV		WHEATON - MADDEN #1	LAWRENCE	50.0	COLUMBIA GAS TRAN
-MARIETTA ROYALTY CO INC				RECEIVED:	04/19/83	JA: OH			
8332977		3416727192		107-DV		M J BURKHART #1A	LIBERTY	3.0	RIVER GAS CO
-MARK RESOURCES CORP				RECEIVED:	04/19/83	JA: OH			
8332979		3400722158		103	107-TF	M BOWDLER #1	KINGSVILLE	30.0	EAST OHIO GAS CO
8332978		3400722119		107-TF		MCQUILLAM-CHILDS UNIT #2	KINGSVILLE	25.0	EAST OHIO GAS CO
-MCCORMICK OIL & GAS CO				RECEIVED:	04/19/83	JA: OH			
8333006		3405923153		107-TF		ANKRUM #1	OTSEGO	5.0	EAST OHIO GAS CO
-OHIO OIL & GAS CO				RECEIVED:	04/19/83	JA: OH			
8333007		3415521551		107-TF		KOPERVAC #2	VIENNA	20.0	COLUMBIA GAS TRAN
8333008		3415522292		107-TF		TUPPER #1	FOWLER	20.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	04/19/83	JA: OH			
8333009		3413323025		103	107-TF	TUSKES UNIT #1	AURORA	51.0	
-POMSTONE CORP				RECEIVED:	04/19/83	JA: OH			
8333010		3403124591		108		KENNETH STAHL #1		5.0	
-RELIANCE ENERGY				RECEIVED:	04/19/83	JA: OH			
8332930		3411923863		108		MARTHA ROLL #1		0.0	COLUMBIA GAS TRAN
8332931		3411924048		108		MARTHA ROLL #2		0.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	04/19/83	JA: OH			
8333011		3416725195		107-DV		PICKERING #1	MARIETTA	91.5	
8333012		3416727279		103		RIDGEWAY #7	GRANDVIEW	56.5	
-SHONGUM OIL & GAS INC				RECEIVED:	04/19/83	JA: OH			
8333015		3410323249		107-TF		JAMES WHITACRE #1	SHARON	12.0	YANKEE RESOURCES
8333013		3410323198		107-TF		JESSE WAUGHN #1	SHARON	12.0	YANKEE RESOURCES
8333014		3410331998		107-TF		JIMMIE DICK #1	SHARON	12.0	YANKEE RESOURCES
-SMITH SHAFER SMITH (A	PARTNERSHIP)			RECEIVED:	04/19/83	JA: OH			
8333017		3415321163		107-TF		CYO #1	BATH	7.5	EAST OHIO GAS CO
8333018		3415321203		107-TF		CYO #3	BATH	7.5	EAST OHIO GAS CO
8333016		3415320994		107-TF		CYO CENTER INC #1	BATH	7.5	EAST OHIO GAS CO
-TIGER OIL INC				RECEIVED:	04/19/83	JA: OH			
8333019		3411122788		107-DV		R ULLMAN #1	WASHINGTON	5.0	COLUMBIA GAS TRAN
-UNITED PETROLEUM CORP				RECEIVED:	04/19/83	JA: OH			
8333020		3409909788	D	108		WILT #2	GREEN	0.0	AMERICAN ENERGY S
-VIKING RESOURCES CORP				RECEIVED:	04/19/83	JA: OH			
8333021		3408520356		103	107-TF	KLYN #6	PERRY	30.0	
-WILLIAM M TIPKA				RECEIVED:	04/19/83	JA: OH			
8333030		3415723388		108		C W SHELL-M S WILLIS #1		0.0	LIBBEY-OWENS-FORD
8333025		3415723288		108		D GOWINS #1		0.0	LIBBEY-OWENS-FORD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333032		3415723506		108		DANIELS #1		0.0	LIBBEY-OWENS-FORD
8333033		3415723531		108		DEBOER #1		0.0	LIBBEY-OWENS-FORD
8333023		3415723246		108		HELMICK #2		0.0	LIBBEY-OWENS-FORD
8333029		3415723358		108		LUCY PROCTOR #1A		0.0	LIBBEY-OWENS-FORD
8333027		3415723331		108		LUCY PROCTOR #2		0.0	LIBBEY-OWENS-FORD
8333022		3415723192		108		R & L BRITZEL #1		0.0	LIBBEY-OWENS-FORD
8333031		3415723381		108		SHELL-WILLIS #2		0.0	LIBBEY-OWENS-FORD
8333026		3415723302		108		SPRING UNIT #1		0.0	LIBBEY-OWENS-FORD
8333024		3415723287		108		SPRING UNIT #2		0.0	LIBBEY-OWENS-FORD
8333028		3415723337		108		THOMAS ROSENBERRY #1		0.0	LIBBEY-OWENS-FORD
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	04/19/83	JA: WV			
8332849		4708703579		103		E HAWKINS #1	WARPER DISTRICT	18.0	ROARING FORK GAS
8332876		4708703579		107-DV		E HAWKINS #1	HARPER DISTRICT	18.0	ROARING FORK GAS
8332875		4708703582		107-DV		J HAY #1	HARPER DISTRICT	18.0	ROARING FORK GAS
8332847		4708703582		103		J HAY #1	HARPER DISTRICT	18.0	ROARING FORK GAS
8332873		4708703581		107-DV		J KEE #1	HARPER DISTRICT	18.0	ROARING FORK GAS
8332848		4708703581		103		J KEE #1	HARPER DISTRICT	18.0	ROARING FORK GAS
8332872		4708703584		107-DV		J M HOLSHADE #1	SPENCER DISTRICT	18.0	ROARING FORK GAS
8332846		4708703584		103		J M HOLSHADE #1	SPENCER DISTRICT	18.0	ROARING FORK GAS
8332874		4703703575		107-DV		PARKER #1	WALTON DISTRICT	18.0	ROARING FORK GAS
-DELTA DRILLING CO				RECEIVED:	04/19/83	JA: WV			
8332868		4703903862		107-DV		GARDNER/CANDEE #1	BIG SANDY	0.0	COLUMBIA GAS TRAN
8332856		4703903862		103		GARDNER/CANDEE #1	BIG SANDY	0.0	COLUMBIA GAS TRAN
8332869		4708703563		107-DV		WALKER/CAMPBELL #1	WALTON	0.0	COLUMBIA GAS TRAN
8332855		4708703563		103		WALKER/CAMPBELL #1	WALTON	0.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	04/19/83	JA: WV			
8332854		4701729448		103		J-280	NEW MILTON	0.0	CONSOLIDATED GAS
8332870		4701722568		107-DV		J-35	NEW MILTON	0.0	CONSOLIDATED GAS
8332871		4701725950		107-DV		J-36	NEW MILTON	0.0	CONSOLIDATED GAS
8332864		4701725960		107-DV		J-37	NEW MILTON	0.0	CONSOLIDATED GAS
8332865		4701722561		107-DV		J-39	NEW MILTON	0.0	CONSOLIDATED GAS
8332867		4701702928		107-DV		J-426	WEST UNION	0.0	COLUMBIA GAS TRAN
8332866		4701722772		107-DV		J-47	NEW MILTON	0.0	CONSOLIDATED GAS
8332853		4701723054		103		J-507	NEW MILTON	0.0	CONSOLIDATED GAS
8332852		4701723059		103		J-508	NEW MILTON	0.0	CONSOLIDATED GAS
8332851		4703322737		103		J-531	TENMILE	0.0	CONSOLIDATED GAS
8332850		4709520992		103		J-664	CENTERVILLE	0.0	CONSOLIDATED GAS
8332877		4701722615		107-DV		J-99	GRANT	0.0	CONSOLIDATED GAS
-PEAKE OPERATING CO				RECEIVED:	04/19/83	JA: WV			
8332858		4708100576		103		JONES & GIBSON #2-AJ	(TRAP HILL DISTRICT)	5.0	
8332857		4708100577		103		JONES & GIBSON #3-AJ	(TRAP HILL DISTRICT)	5.0	
8332860		4703903856		107-DV		PEARSON #1A	(JEFFERSON DISTRICT)	5.0	
8332859		4704302554		107-DV		TAYLOR 1-A	SOD (WASHINGTON DISTR	5.0	
-STERLING DRILLING AND PROD CO INC				RECEIVED:	04/19/83	JA: WV			
8332879		4700501384		107-DV		APPALACHIAN POWER CO #662	SCOTT DISTRICT	3.8	
8332863		4700501390		107-DV		APPALACHIAN POWER CO #663	SCOTT DISTRICT	4.6	
8332862		4700501385		107-DV		APPALACHIAN POWER CO #664	SCOTT DISTRICT	12.6	
8332861		4700501391		107-DV		APPALACHIAN POWER CO #670	SCOTT DISTRICT	7.2	
8332878		4708703596		107-DV		FIELDS #668	WALTON DISTRICT	8.5	

[FR Doc. 83-13088 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-C

VOL 48 ISS 96 MAY 17 1983 UMI

[Volume 892]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 12, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 12, 1983

VOLUME 892

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ALPINE DRILLING CO INC				RECEIVED:	04/20/83	JA: KS			
8333109	K-82-1226	1500720769		103		MARTIN "D" #1	HIBBARD NE	0.0	PEOPLES NATURAL G
-AMERICO PETROLEUM INC				RECEIVED:	04/20/83	JA: KS			
8333107	K-82-1023	1515520176		103		CHESTER W HAINES #1	SW YODER	110.0	PEOPLES NATURAL G
-ANADARKO PRODUCTION COMPANY				RECEIVED:	04/20/83	JA: KS			
8333118	K-82-1430	1517520653		103		HOCKER TRUST A-1	HUGOTON	175.0	CIMARRON-QUINQUE
8333198	K-83-0062	1517520651		102-4		HITCH G #10	SHUCK	22.0	CIMARRON-QUINQUE
8333196	K-83-0065	1517520654		102-4		HITCH G #11	SHUCK	16.0	CIMARRON-QUINQUE
8333071	K-82-1233	1512920454		108		INTERSTATE F #3	INTERSTATE RED CAVE	9.0	PANHANDLE EASTERN
8333155	K-83-0085	1512900000		108		INTERSTATE I-2	INTERSTATE	10.5	PANHANDLE EASTERN
8333208	K-83-0094	1512920558		103		INTERSTATE UNIT 888	INTERSTATE PURDY MORR	2.0	PANHANDLE EASTERN
8333211	K-83-0091	1512920561		103		INTERSTATE UNIT 891	INTERSTATE PURDY MORR	6.0	PANHANDLE EASTERN
8333209	K-83-0093	1512920562		103		INTERSTATE UNIT 892	INTERSTATE PURDY MORR	3.0	PANHANDLE EASTERN
8333210	K-83-0092	1512920565		103		INTERSTATE UNIT 895	INTERSTATE PURDY MORR	4.0	PANHANDLE EASTERN
8333206	K-83-0096	1512920639		103		INTERSTATE UNIT 396	INTERSTATE PURDY	10.0	PANHANDLE EASTERN
8333207	K-83-0095	1512920525		103		INTERSTATE UNIT 37-A	INTERSTATE PURDY MORR	25.0	PANHANDLE EASTERN
8333097	K-83-0086	1512900000		108		SCOTT A #2	INTERSTATE	13.5	PANHANDLE EASTERN
8333134	K-83-0134	1518920498		103		WILLIAMS I #1	PANOMA COUNCIL GROVE	920.0	NORTHERN NATURAL
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	04/20/83	JA: KS			
8333146	K-83-0135	1500721527		102-4		MARSH RANCH WEST #2 15-007-21527	PERRY RANCH SOUTH	250.0	KANSAS GAS SUPPLY
-ATTICA GAS VENTURE CORP				RECEIVED:	04/20/83	JA: KS			
8333099	K-83-0088	1507720823		103		ATTICA HOSPITAL #3	SULLIVAN	100.0	PEOPLES NATURAL G
8333101	K-82-1338	1507710832		103		WILLIAMS #1	WILDCAT - UNNAMED FIE	200.0	PEOPLES NATURAL G
-BARTLING OIL CO				RECEIVED:	04/20/83	JA: KS			
8333154	K-83-0099	1507120278		103		BANBURY #1		78.0	SUNFLOWER ELECTRI
8333204	K-83-0098	1507120284		103		BRUNSWIG #1		79.0	SUNFLOWER ELECTRI
8333199	K-83-0060	1507120277		103		KIEFER #1	WILDCAT	69.0	SUNFLOWER ELECTRI
8333153	K-83-0100	1507120283		103		MEAR TRUST #1		83.0	SUNFLOWER ELECTRI
-BENSON MINERAL GROUP				RECEIVED:	04/20/83	JA: KS			
8333201	K-83-0059	1500900000		103		HARRIS 1-11	OTIS ALBERT	33.3	NORTHERN GAS PROD
8333202	K-83-0057	1514520996		102-2		KLEPPER 2-36	MERRITT	237.6	NORTHERN NATURAL
8333200	K-83-0058	1514520951		102-2		KLEPPER 3-36	MERRITT	135.7	NORTHERN NATURAL
-BEREN CORPORATION				RECEIVED:	04/20/83	JA: KS			
8333197	K-82-0736	1518720339		102-4		JACQUART #1	BEAUCHAMP	324.0	KN ENERGY INC
-BERGMAN OIL CO				RECEIVED:	04/20/83	JA: KS			
8333203	K-83-0019	1509521237		103		TIEMEYER #1	WILDCAT	72.0	PEOPLES NATURAL G
-BROWN WILLIAM F				RECEIVED:	04/20/83	JA: KS			
8333184	K-82-1446	1509500000		108		BROWN #1	LANSDOWNE NORTH	1.2	PEOPLES NATURAL G
-BUNGARNER WILLIAM				RECEIVED:	04/20/83	JA: KS			
8333105	K-82-1348	1512524398		102-2		WILLIAMS #3	WILLIAMS	35.6	CITIES SERVICE GA
8333104	K-82-1347	1512524398		103		WILLIAMS #3	WILLIAMS	35.6	CITIES SERVICES G
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/20/83	JA: KS			
8333108	K-82-1067	1517520611		103		LEVEQUE #1-2	SILVERMAN	0.0	NORTHERN NATURAL
-CITIES SERVICE COMPANY				RECEIVED:	04/20/83	JA: KS			
8333113	K-82-1439	1512900000		108		STEWART A #1	GREENWOOD	14.9	NORTHERN NATURAL
-COASTAL OIL & GAS CORP				RECEIVED:	04/20/83	JA: KS			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333179	K-83-0028	1505720291		102-2		PAGER 2J (35-29-25)	MINNEOLA	25.0	KANSAS POWER & LI
-DARTANNA				RECEIVED:	04/20/83	JA: KS			
8333166	K-83-0042	1507920562		103		SIZEMORE B #1	BURTON NE	36.5	PEOPLES NATURAL G
-DORCHESTER EXPLORATION INC				RECEIVED:	04/20/83	JA: KS			
8333106	K-82-0968	1507120051		108		WATSON "B" #1	BRADSHAW	0.0	SUNFLOWER ELECTRI
-EAGLE EXPLORATIONS INC				RECEIVED:	04/20/83	JA: KS			
8333205	K-83-0097	1500721241		103		HARDING #1	HARDING	36.0	CENTRAL STATES GA
-EDGAR M WHITE				RECEIVED:	04/20/83	JA: KS			
8333127	K-83-0002	1592040000		108		INTERSTATE B2-18	INTERSTATE GREENWOOD	7.0	COLORADO INTERSTA
-F G HOLL				RECEIVED:	04/20/83	JA: KS			
8333193	K-82-0934	1504720875		108		RUDD 85-16	ENLOW	11.0	NORTHERN NATURAL
-GEAR PETROLEUM CO INC				RECEIVED:	04/20/83	JA: KS			
8333112	K-82-1440	1504729987		102-2		FOX #1-23	W A C SW	55.0	NATURAL GAS PIPEL
8333116	K-82-1442	1504720916		102-2		HUFF #1	WILDCAT	55.0	NATURAL GAS PIPEL
8333115	K-82-1441	1504720917		102-2		MCCLAREN #1	W A C SOUTHWEST	69.0	NATURAL GAS PIPEL
-GRANT OIL INC.				RECEIVED:	04/20/83	JA: KS			
8333220	K-83-0050	1509120468		102-2		BUSCH 1-1	WILDCAT	30.0	CITIES SERVICE GA
8333222	K-83-0048	1509120466		102-2		G MOLL 1-36	OLATHE	36.0	CITIES SERVICE GA
8333192	K-82-0928	1512522998		108		HALL #1	JEFFERSON SYCAMORE	2.5	UNION GAS SYSTEMS
8333221	K-83-0049	1509120572		102-2		JOE MOLL 1-1	OLATHE	75.0	CITIES SERVICE GA
8333225	K-83-0045	1509120468		102-2		LOVE 1-36	OLATHE	15.0	CITIES SERVICE GA
8333223	K-83-0047	1509120116		102-2		PRETZ A-1		12.0	CITIES SERVICE GA
8333213	K-83-0044	1509120467		102-2		PRETZ 1-31	OLATHE	73.0	CITIES SERVICE GA
8333224	K-83-0046	1509120521		102-2		PRETZ 2-31	OLATHE	100.0	CITIES SERVICE GA
-GUNNER OIL CO				RECEIVED:	04/20/83	JA: KS			
8333098	K-83-0087	1515120681		103		GUNNER OIL - KUMBERG #1	HARDING WEST	1.5	CENTRAL STATES GA
-HALLIBURTON OIL PRODUCING COMPANY				RECEIVED:	04/20/83	JA: KS			
8333117	K-82-1443	1514520954		103		FRICK "A" 2	ZOOK	109.5	KANSAS-NEBRASKA G
-HELLAR DRILLING CO INC				RECEIVED:	04/20/83	JA: KS			
8333190	K-82-0257	1518521314		103		O'CONNER #2	O'CONNOR	35.0	KN ENERGY INC
8333176	K-83-0025	1518521594		103		O'CONNOR GU #3 - #1 RALPH	O'CONNOR	36.5	KN ENERGY INC
-HOWELL OIL CO INC				RECEIVED:	04/20/83	JA: KS			
8333089	K-82-1325	1507720617		108		GRABS #1	SPIVEY-GRABS	6.0	CITIES SERVICE CO
-IMPERIAL OIL COMPANY				RECEIVED:	04/20/83	JA: KS			
8333135	K-83-0133	1500700000		108		DAVIS RANCH "A"-1	AETNA MISSISSIPPI GAS	1.9	PANHANDLE EASTERN
-JOHN JAY DARRAH JR				RECEIVED:	04/20/83	JA: KS			
8333133	K-83-0018	1509521264		103		CONRAD #4	WILDCAT	250.0	KANSAS GAS SUPPLY
-JOHN O FARMER INC				RECEIVED:	04/20/83	JA: KS			
8333212	K-83-0090	1500700000		108-SA		WHEAT #1	NORTHEAST RHODES	13.0	CITIES SERVICE GA
-JOHN P LOCKRIDGE				RECEIVED:	04/20/83	JA: KS			
8333165	K-83-0101	1502320283		108		CULWELL #1-7 GAS UNIT	CHERRY CREEK	1.8	KN ENERGY INC
8333163	K-83-0103	1502320093		108		HILT #1-11 GAS UNIT	CHERRY CREEK	13.0	KN ENERGY INC
8333162	K-83-0104	1502320117		108		HILT #1-14 GAS UNIT	CHERRY CREEK	8.4	KN ENERGY INC
8333164	K-83-0102	1502320116		108		LAMPE #1-30 GAS UNIT	CHERRY CREEK	6.6	KN ENERGY INC
8333166	K-83-0106	1502320094		108		RAILE #1-24 GAS UNIT	CHERRY CREEK	5.4	KN ENERGY INC
8333161	K-83-0105	1502320085		108		RIGGS-VINCENT #1-23 GAS UNIT	CHERRY CREEK	4.8	KN ENERGY INC
-K & O OIL CO				RECEIVED:	04/20/83	JA: KS			
8333145	K-83-0139	1500721165		103		GOTTSCH-PETERMANN #1	STRANATHAN	1.8	KANSAS GAS SUPPLY
8333144	K-83-0140	1500720770		103		GOTTSCH-PETERMANN #2	STRANATHAN	7.3	KANSAS GAS SUPPLY
-KANSAS PETROLEUM INC				RECEIVED:	04/20/83	JA: KS			
8333079	K-83-0127	1500700000		108-SA		LONKER #1-A	BOGGS	5.4	NORTHWEST CENTRAL
8333087	K-83-0125	1515121177		103		WEIR A-2	BRANT	60.0	KANSAS GAS SUPPLY
8333080	K-83-0126	1515121179		103		WEIR A-3	BRANT	45.0	KANSAS GAS SUPPLY
-LADD PETROLEUM CORPORATION				RECEIVED:	04/20/83	JA: KS			
8333156	K-83-0084	1502520617		102-2		FAGER #1-16	WILDCAT	11.0	KANSAS POWER & LI
8333168	K-83-0083	1502520635		102-2		HINDMAN #1-3	WILDCAT	179.3	
8333073	K-83-0082	1506920157		102-2		REED #1	WILDCAT	113.6	
8333074	K-83-0081	1502520613		102-2		WIDMER #1-17	WILDCAT	51.0	KANSAS POWER & LI
-LOVE & ASSOCIATES - KANSAS GAS INC				RECEIVED:	04/20/83	JA: KS			
8333084	K-83-0111	1513321782		102-2		GOINS C #1	WILDCAT	50.0	CITIES SERVICE GA
8333083	K-83-0112	1513323147		102-2		GOINS C #2	WILDCAT	50.0	CITIES SERVICE GA
8333158	K-83-0110	1513323055		102-2		STEVENSON #1	WILDCAT	33.0	CITIES SERVICE GA
8333159	K-83-0109	1513322450		102-2		UMBARGER A #1	WILDCAT	82.5	CITIES SERVICE GA
-M C E TRUST GROUP				RECEIVED:	04/20/83	JA: KS			
8333114	K-82-1438	1509921778		102-2		BLANKENSHIP #1	CHERRYVALE-COFFEYVILL	60.0	SALEM PIPELINE CO
8333119	K-82-1437	1509921779		102-2		BLANKENSHIP #2	CHERRYVALE-COFFEYVILL	60.0	SALEM PIPELINE CO
-MCGINNESS OIL COMPANY				RECEIVED:	04/20/83	JA: KS			
8333081	K-83-0121	1500721529		103		GRAVES "A" #1	HARDTNER	12.0	KANSAS GAS SUPPLY
8333152	K-83-0120	1500721446		103		SCRIPSICK #1	MCGUIRE-GOEMANN	30.0	PEOPLES NATURAL G
-MESA PETROLEUM CO				RECEIVED:	04/20/83	JA: KS			
8333085	K-83-0114	1502520577		102-2		CUNNINGHAM #1-6	WILDCAT MARMATON	108.0	
8333090	K-83-0113	1502520579		103		GILES #2-18	LEXINGTON	40.0	KANSAS POWER & LI
-MOBIL OIL CORP				RECEIVED:	04/20/83	JA: KS			
8333142	K-83-0144	1518920625		103		ALBRITTEN TR #1 UNIT #2	PANOMA COUNCIL GROVE	17.5	NORTHERN NATURAL
8333085	K-82-1359	1518920593		103		ALLBRITTEN #1 FARM #2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333214	K-82-1298	1518920597		103		BISSITT #1 FARM #2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333100	K-82-1323	1518920578		103		E L GASKILL #3	PANOMA COUNCIL GROVE	31.5	CITIES SERVICE GA
8333149	K-82-1298	1518920589		103		HARRISON #2 UNIT #3	PANOMA COUNCIL GROVE	32.4	NORTHERN NATURAL
8333216	K-82-1292	1518920584		103		KING #1 UNIT #2	PANOMA COUNCIL GROVE	32.4	NORTHERN NATURAL
8333150	K-82-1320	1518920603		103		LYNCH #1 UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333217	K-82-1339	1518920591		103		MCCREERY #1 UNIT #2	PANOMA COUNCIL GROVE	32.4	NORTHERN NATURAL
8333215	K-82-1291	1518920588		103		PIPER #1-2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333186	K-82-1212	1518920609		103		PIPER #2 UNIT #3	PANOMA COUNCIL GROVE	32.4	NORTHERN NATURAL
8333123	K-82-1319	1518920598		103		SCHOWALTER #1-2			
-MOLZ OIL CO				RECEIVED:	04/20/83	JA: KS			
8333177	K-83-0023	1500721512		103		ESTELLA (MCGUIRE) #2	MCGUIRE-GOEMANN	27.0	PANHANDLE EASTERN
8333141	K-83-0143	1500721386		103		MOLZ #6	STRANATHAN	36.5	PANHANDLE EASTERN
-MTS LTD PARTNERSHIP				RECEIVED:	04/20/83	JA: KS			
8333091	K-82-0428	1502520497		103		KLINGER #1-2	MCKINNEY	190.0	
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	04/20/83	JA: KS			
8333124	K-83-0015	1518920601		103		DUDLEY #1 UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333103	K-82-1322	1518920602		103		DUDLEY #2 UNIT #3	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8333120	K-82-1295	1518920595		103		MCGILL #1-A UNIT #2	PANOMA COUNCIL GROVE	32.4	NORTHERN NATURAL
8333122	K-82-1299	1518920583		103		MORRELL #1 UNIT #2	PANOMA COUNCIL GROVE	31.5	NORTHERN NATURAL
8333121	K-82-1297	1517520607		103		PLOKMAN #1-A UNIT #2	PANOMA COUNCIL GROVE	24.3	NORTHERN NATURAL
8333102	K-82-1334	1518920585		103		SIEGMUND #1 UNIT #2			
-OIL PROPERTY MANAGEMENT INC				RECEIVED:	04/20/83	JA: KS			
8333218	K-82-0363	1504720767		103		NORMA SMITH #1	ENGLISH WEST EXTENSIO	33.7	CENTRAL STATES GA
-OSBORN HEIRS CO				RECEIVED:	04/20/83	JA: KS			
8333170	K-83-0054	1509300000		102-2		ELSIE #1-A	PANOMA	75.0	PANHANDLE EASTERN
8333172	K-83-0051	1509320773		102-2		MARION 1-H	HUGOTON	75.0	PANHANDLE EASTERN
8333169	K-83-0055	1509320774		102-2		MONMOUTH COLLEGE 1-H	HUGOTON	75.0	PANHANDLE EASTERN
8333171	K-83-0053	1520320066		102-2		OLGA 1-H	HUGOTON	75.0	PANHANDLE EASTERN
8333168	K-83-0056	1509320778		102-2		PILON 1-A	PANOMA	75.0	PANHANDLE EASTERN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PAN EASTERN EXPLORATION COMPANY				RECEIVED:	04/20/83	JA: KS			
8333126	K-83-0012	1506720590	103			REAL ESTATE "A" #2	HUGOTON	188.0	PANHANDLE EASTERN
-PATTCO INC				RECEIVED:	04/20/83	JA: KS			
8333147	K-83-0117	1509521208	103			GRIDLEY #1	DRESDEN WEST	1500.0	CENTRAL STATES GA
8333151	K-83-0118	1505320737	103			KRUSE #1	STOLTENBERG	36.5	NORTHERN GAS PROD
-PICKRELL DRILLING COMPANY				RECEIVED:	04/20/83	JA: KS			
8333192	K-82-1387	1507720488	108			BANTA 'M' #1	SPIVEY GRABS	14.7	PANHANDLE EASTERN
8333896	K-83-0116	1509521293	103			COYKENDALL #5	BASIL	58.0	GETTY OIL CO
8333895	K-83-0115	1509521299	103			KOPP 'D' #1		25.2	KANSAS GAS SUPPLY
-PYRAMID CORP INC				RECEIVED:	04/20/83	JA: KS			
8333131	K-83-0073	1503523128	102-2			THOMPSON #1	STATE	18.0	COLONIAL CORP
8333181	K-83-0071	1503522884	102-2			WILLCOXEN "B" #1	STATE	18.0	COLONIAL CORP
8333132	K-83-0072	1503523114	102-2			WILLCOXEN "B" #2	STATE	18.0	COLONIAL CORP
8333082	K-83-0123	1503523199	102-2			WILLCOXEN "B" #3	STATE	18.0	COLONIAL CORP
-QUADEL ENERGY CORP				RECEIVED:	04/20/83	JA: KS			
8333139	K-83-0153	1518520973	103			SEWINGS A#1			
8333140	K-83-0154	1518520983	103			ULSH #1	DILLWIN WEST	1.0	CENTRAL STATES GA
-R C BANKS				RECEIVED:	04/20/83	JA: KS	DILLWIN WEST	8.0	CENTRAL STATES GA
8333110	K-82-1269A	1507120269	103			ROE #2			
-RTC PETROLEUM CO				RECEIVED:	04/20/83	JA: KS	NORTH BYERLY	73.0	SUNFLOWER ELECTRI
8333174	K-83-0027	1509921844	102-2			MINE #1			
-RANGE OIL COMPANY INC				RECEIVED:	04/20/83	JA: KS	EDNA	17.0	H E HACKERLE CO I
8333188	K-83-0021	1508721526	103			STEWART #4			
8333178	K-83-0022	1508721525	103			STEWART "A" #3	CAMENA	8.0	PEOPLES NATURAL G
-REACH PETROLEUM CORP				RECEIVED:	04/20/83	JA: KS	TRAFFAS SE	8.0	PEOPLES NATURAL G
8333086	K-83-0130	1507720837	102-2			CAROTHERS #1-17			
8333157	K-83-0131	1507720838	103			HARRISON #2	UNNAMED	65.0	QUIVIRA GAS CO
-REACH PETROLEUM MANAGEMENT INC				RECEIVED:	04/20/83	JA: KS	STONRVILLE	55.0	QUIVIRA GAS CO
8333189	K-83-0129	1508721103	103			BAIER #1			
8333078	K-83-0129	1508721103	103			BAIER #1	AETNA	2.7	KANSAS POWER & LI
-RINE EXPLORATION CO				RECEIVED:	04/20/83	JA: KS	AETNA	27.0	KANSAS POWER & LI
8333149	K-83-0153	1509720883	103			GAMBLE #1-7			
-RY-NI INC				RECEIVED:	04/20/83	JA: KS	EINSEL	106.0	
8333125	K-83-0011	1507920556	103			VOGT #1			
-SAGE DRILLING CO INC				RECEIVED:	04/20/83	JA: KS	ANTRIM	15.0	CLOVER PIPELINE C
8333130	K-83-0075	1517520639	103			SAGE BLACK #4-1			
-TEXAS ENERGIES INC				RECEIVED:	04/20/83	JA: KS	KISMET FIELD CSWSW SE	365.0	PANHANDLE EASTERN
8333167	K-83-0031	1508721427	103			CARGILL 1-22			
8333173	K-83-0030	1515121088	103			CURTIS 1-15	MEARS	30.0	CENTRAL STATES GA
8333183	K-83-0066	1508721502	102-4			HOAGLAND 1-21	WILDCAT	75.0	CENTRAL STATES GA
8333143	K-83-0143	1508721497	103			HOUSE 1-A	WILDCAT	150.0	REPUBLIC NATURAL
-TGT PETROLEUM CORPORATION				RECEIVED:	04/20/83	JA: KS	MEARS	50.0	KANSAS GAS SUPPLY
8333134	K-83-0132	1509720893	103			PYLE-TAYLOR "A" #2			
8333196	K-82-0960	1509720879	103			VIEUX #1	EINSEL	27.0	PANHANDLE EASTERN
-TXO PRODUCTION CORP				RECEIVED:	04/20/83	JA: KS	SE JOY STATION	270.0	
8333077	K-83-0159	1507720615	102-4			ANTRIM #3			
8333191	K-82-1527	1507720639	103			MUIR "D" #1	SULLIVAN	98.0	DELHI CORP
8333185	K-82-1173	1502520610	102-2			NORTON "A" #1	ZUERCHER	40.0	PEOPLES NATURAL G
8333072	K-82-1398	1515121209	102-4			ROTTERING "B" #1	MINNEOLA	25.0	PARKER COUNTY PIP
8333111	K-82-1428	1507720707	103			ZUERCHER #3	BRANT	360.0	
-TYLER RESOURCES GROUP				RECEIVED:	04/20/83	JA: KS	ZUERCHER	80.0	PEOPLES NATURAL G
8333075	K-83-0080	1520522914	102-2			MARLER 1-32			
8333137	K-83-0078	1520523063	102-2			MARLER 2-32	HEODESKA	15.0	CITIES SERVICE GA
8333129	K-83-0077	1520523064	102-2			MARLER 3-32		10.0	CITIES SERVICE GA
8333076	K-83-0079	1520522916	102-2			STEPANICH 1-31		15.0	CITIES SERVICE GA
-VALENTINE ENERGY				RECEIVED:	04/20/83	JA: KS	HEOPESHA	12.0	CITIES SERVICE GA
8333187	K-82-1019	1509921739	102-2			BOYSE #3			
-VINCENT OIL CORP				RECEIVED:	04/20/83	JA: KS	LAKE CREEK	24.0	TRI-CITY GAS CO
8333175	K-83-0026	1507920538	103			STUCKY "B" #1			
8333182	K-83-0067	1509521274	103			ZERGER #1	OLATHE	11.0	PEOPLES NATURAL G
8333128	K-83-0070	1509521274	103			ZERGER #1	BROADWAY	35.0	PEOPLES NATURAL G
-WELLS ENERGY CORP				RECEIVED:	04/20/83	JA: KS	BROADWAY	55.0	PEOPLES NATURAL G
8333188	K-82-0034	1511920534	103			WIENS #1	MCKINNEY	60.0	
-WHEATLAND OIL & GAS INC				RECEIVED:	04/20/83	JA: KS			
8333093	K-81-0976	1504720691	103			FATZER #1 "NORTH"	WIL EXTENSION	21.0	CENTRAL STATES GA
8333094	K-81-0975	1504720737	103			FATZER "NORTH" #2	MCCARTY	21.0	CENTRAL STATES GA
8333193	K-82-0963	1504720690	103			MATHES #1	FELLSBERG	78.1	CENTRAL STATES GA
8333092	K-81-0979	1504720690	103			MATHES #1	FELLSBERG	78.1	CENTRAL STATES GA
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	04/20/83	JA: KY	EASTERN KENTUCKY	6.6	COLUMBIA GAS TRAN
8333227	504196	16195427?8	103			ZACK JUSTICE #4 - 891711	EASTERN KENTUCKY	6.6	COLUMBIA GAS TRAN
8333228	504197	1615542728	107-DV			ZACK JUSTICE #4 891711			
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/20/83	JA: KY			
8333282	504276	1615900000	108			A C SLOANE 800648	KENTUCKY AREA C	1.0	COLUMBIA GAS TRAN
8333283	504277	1615900000	108			A C SLOANE 800652	KENTUCKY AREA C	1.0	COLUMBIA GAS TRAN
8333260	504229	1615900000	108			A D PREECE 804644	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333263	504212	1615900000	108			A J STEPP 804334	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8333273	504242	1615900000	108			A L MOLLETT 805027	KENTUCKY AREA C	4.0	COLUMBIA GAS TRAN
8333301	504295	1615900000	108			A L MOORE #7 805672	KENTUCKY AREA C	1.0	COLUMBIA GAS TRAN
8333254	504223	1615900000	108			AARON STEPP 804598	KENTUCKY AREA C	4.0	COLUMBIA GAS TRAN
8333275	504244	1615900000	108			ALLEN HARMAN ETAL 805063	KENTUCKY AREA C	5.0	COLUMBIA GAS TRAN
8333276	504243	1615900000	108			ALLEN JAMES 805050	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333291	504285	1615900000	108			AMY PARSLEY 805013	KENTUCKY AREA C	8.0	COLUMBIA GAS TRAN
8333304	504298	1615900000	108			ANDREW D PREESE 800166	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333286	504280	1615900000	108			B F RICHMOND 804605	KENTUCKY AREA C	15.0	COLUMBIA GAS TRAN
8333253	504224	1615900000	108			BEN FITZPATRICK 804599	KENTUCKY AREA C	13.0	COLUMBIA GAS TRAN
8333266	504235	1615900000	108			CLEMENTINE GOBLE 804777	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333250	504219	1611900000	108			CURTIS PIGMAN 804542	KENTUCKY AREA B	14.0	COLUMBIA GAS TRAN
8333297	504291	1619500000	108			DAVID ADAMS ETAL 805464	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333244	504213	1615900000	108			E D WILES 804360	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333284	504278	1615900000	108			EMILY CASSIDY 804297	KENTUCKY AREA C	8.0	COLUMBIA GAS TRAN
8333234	504203	1615900000	108			ESTARAH CASSADY 804248	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333314	504308	1619500000	108			ESTHER LOWE GDN 808621	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8333241	504210	1611900000	108			F L WIREMAN 804320	KENTUCKY AREA B	5.0	COLUMBIA GAS TRAN
8333242	504211	1611900000	108			F L WIREMAN 804321	KENTUCKY AREA B	10.0	COLUMBIA GAS TRAN
8333231	504200	1607100000	108			G W AKERS #5 805298	KENTUCKY AREA B	15.0	COLUMBIA GAS TRAN
8333248	504217	1607100000	108			GEO W AKERS 804524	KENTUCKY AREA B	13.0	COLUMBIA GAS TRAN
8333253	504222	1615900000	108			HARRISON CAIN 804571	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333285	504279	1615900000	108			HENRY FANNIN 804388	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333271	504240	1607100000	108			INEZ DEPOSIT 805017	KENTUCKY AREA B	3.0	COLUMBIA GAS TRAN
8333257	504226	1615900000	108			J A CRUM 804613	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8333237	504206	1615900000	108			J B STEPP 804284	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333245	504214	1615900000	108			J B WARD 804377	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333292	504286	1615900000	108			J E CASSADY 805039	KENTUCKY AREA C	14.0	COLUMBIA GAS TRAN
8333258	504227	1615900000	108			J R MARTIN 804629	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN
8333298	504292	1607100000	108			JAMES MARTIN #5 805483	KENTUCKY AREA B	12.0	COLUMBIA GAS TRAN
8333235	504204	1607100000	108			JAMES MARTIN 804251	KENTUCKY AREA B	4.0	COLUMBIA GAS TRAN
8333236	504205	1615900000	108			JASPER CASSADY 804264	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333262	504231	1607100000	108			JOHN C CLARK 804648	KENTUCKY AREA B	9.0	COLUMBIA GAS TRAN
8333233	504202	1615900000	108			JOSIE C HALL 804230	KENTUCKY AREA B	9.0	COLUMBIA GAS TRAN
8333229	504198	1607100000	108			JULIA B MARTIN 804807	KENTUCKY AREA B	8.0	COLUMBIA GAS TRAN
8333268	504237	1615900000	108			L W PRESTON 804841	KENTUCKY AREA C	13.0	COLUMBIA GAS TRAN
8333269	504238	1615900000	108			MARY CASSELL ET AL 804843	KENTUCKYAREA C	7.0	COLUMBIA GAS TRAN
8333288	504282	1615900000	108			MARY L HARDIN 804835	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333252	504221	1615900000	108			MARY LILLIE ROYSTON 804570	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333270	504239	1607100000	108			MAUDIE JAMES ET AL 804997	KENTUCKY AREA B	3.0	COLUMBIA GAS TRAN
8333259	504228	1615900000	108			MIKE FANNIN 804631	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333290	504284	1615900000	108			MINERVA J FRY 804842	KENTUCKY AREA C	13.0	COLUMBIA GAS TRAN
8333265	504234	1615900000	108			NANCY JAMES ET AL 804737	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333256	504225	1615900000	108			NANCY JANE CASSADY 804688	KENTUCKY AREA C	-7.0	COLUMBIA GAS TRAN
8333263	504232	1615900000	108			NANCY JANE CASSADY 804692	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333247	504216	1607100000	108			NOAH MARTIN 804400	KENTUCKY AREA B	10.0	COLUMBIA GAS TRAN
8333240	504209	1615900000	108			OMAN MAYNARD 804317	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8333261	504230	1607100000	108			P S CLARK 804646	KENTUCKY AREA B	10.0	COLUMBIA GAS TRAN
8333246	504215	1615900000	108			R C KIRK 804394	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN
8333303	504297	1611900000	108			ROBERT ADAMS 805841	KENTUCKY AREA B	6.0	COLUMBIA GAS TRAN
8333230	504199	1607100000	108			S B BEGLEY 804061	KENTUCKY AREA B	5.0	COLUMBIA GAS TRAN
8333272	504241	1611900000	108			SALLY HAYES ETAL 805018	KENTUCKY AREA B	2.0	COLUMBIA GAS TRAN
8333287	504281	1615900000	108			SAM WEBB 804778	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333249	504218	1615900000	108			T D PACK 804535	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8333307	504301	1615900000	108			TCO FEE TR #21 806519	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333317	504311	1615900000	108			TCO FEE TR #21 808811	KENTUCKY AREA C	8.0	COLUMBIA GAS TRAN
8333320	504314	1615900000	108			TCO FEE TR #7 808942	KENTUCKY AREA C	1.0	COLUMBIA GAS TRAN
8333319	504313	1615900000	108			TCO FEE TR #80 808868	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8333305	504299	1615900000	108			TCO FEE 806294	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8333306	504300	1615900000	108			TCO FEE 806517	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333308	504302	1615900000	108			TCO FEE 806604	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8333309	504303	1615900000	108			TCO FEE 806637	KENTUCKY AREA C	4.0	COLUMBIA GAS TRAN
8333310	504304	1615900000	108			TCO FEE 806708	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333311	504305	1615900000	108			TCO FEE 806724	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333312	504306	1615900000	108			TCO FEE 806725	KENTUCKY AREA C	13.0	COLUMBIA GAS TRAN
8333315	504309	1615900000	108			TCO FEE 808642	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333316	504310	1615900000	108			TCO FEE 808792	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8333321	504315	1615900000	108			TCO FEE 808945	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8333322	504316	1615900000	108			TCO FEE 809044	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333323	504317	1615900000	108			TCO FEE 809543	KENTUCKY AREA C	0.3	COLUMBIA GAS TRAN
8333264	504233	1615900000	108			W A JAMES 804707	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333267	504236	1615900000	108			W A JUSTICE 804840	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8333313	504307	1615900000	108			W B STEPP HEIRS 808231	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8333232	504201	1615900000	108			W C SMALL 804228	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8333289	504283	1615900000	108			W M WEBB ET AL 804836	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333295	504289	1615900000	108			W Y ALLEY #2 805411	KENTUCKY AREA C	8.6	COLUMBIA GAS TRAN
8333238	504207	1615900000	108			W T MC COY 804296	KENTUCKY AREA C	9.0	COLUMBIA GAS TRAN
8333296	504290	1615900000	108			WARFIELD NATURAL GAS #11 805452	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333300	504294	1615900000	108			WARFIELD NATURAL GAS #14 805621	KENTUCKY AREA C	8.0	COLUMBIA GAS TRAN
8333299	504293	1615900000	108			WARFIELD NATURAL GAS #32 805574	KENTUCKY AREA C	11.0	COLUMBIA GAS TRAN
8333277	504246	1615900000	108			WARFIELD NATURAL GAS #5 805194	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN
8333278	504247	1615900000	108			WARFIELD NATURAL GAS #6 805195	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8333293	504287	1615900000	108			WARFIELD NATURAL GAS #8 805326	KENTUCKY AREA C	15.0	COLUMBIA GAS TRAN
8333294	504288	1615900000	108			WARFIELD NATURAL GAS #9 805327	KENTUCKY AREA C	13.0	COLUMBIA GAS TRAN
8333302	504296	1615900000	108			WARFIELD NATURAL GAS CO #05807	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8333276	504245	1615900000	108			WARFIELD NATURAL GAS ND 4 805193	KENTUCKY AREA C	8.0	COLUMBIA GAS TRAN
8333251	504220	1615900000	108			WH BLANKENSHIP 804543	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8333239	504208	1615900000	108			WH DINGUS 804307	KENTUCKY AREA B	8.0	COLUMBIA GAS TRAN
8333318	504312	1615900000	108			WM S MUNCY ETAL 808854	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
-COMPASS PETROLEUM INDUSTRIES INC				RECEIVED:	04/20/83	JA: KY			
8333226	504195	1608500000	107-DV			ROBIN DINWIDDIE #1 PERMIT 847729	SHREWSBURY	10.8	EQUITABLE LIFE AS
-KEPCO INC				RECEIVED:	04/20/83	JA: KY			
8333281	504258	1607100000	107-DV			J C & VALENTINE HOPKINS - #KL45	KENTUCKY EAST	12.3	KENTUCKY WEST VIR
-W D COMPTON				RECEIVED:	04/20/83	JA: KY			
8333279	504249	1615300000	108			CHARLES ROWE	APPALACHIAN	2.3	INLAND GAS CO
8333280	504248	1615300000	108			MORGAN ROWE	APPALACHIAN	4.1	INLAND GAS CO

[FR Doc. 83-13232 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-C

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[Volume 983]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 12, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes.

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3 New well (1000 Ft rule)
- 102–4: New onshore reservior
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Denvolan Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 12, 1983
VOLUME 893

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-MORAN EXPLORATION INC		RECEIVED: 04/18/83			JA: LA				
8333925	82-2385	1718922596		102-4	103	STATE LEASE 9414 #2-D	FOUR LEAGUE BAY 3938	0.0	DOW INTRASTATE GA
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION		RECEIVED: 04/21/83			JA: PA				
8333393	19630	3703321396		102-2		COMMONWEALTH OF PA TRACT #324	KNOBS	24.0	
8333371	19561	3706327371		103		COUNTY OF IND/BLUE SPRUCE PARK #2	ERNEST	24.0	PEOPLES NATURAL G
8333394	19631	3706327372		103		RODNEY GREENE #1	CLYMER	24.0	
-ASHTOLA PRODUCTION CO		RECEIVED: 04/21/83			JA: PA		HAWKEYE POOL	8.0	TEXAS EASTERN TRA
8333365	18757	3712921871		103		JOHN M GUZY #1			
-ATLAS RESOURCES INC		RECEIVED: 04/21/83			JA: PA		SPRING	80.0	COLUMBIA GAS TRAN
8333363	16811	3703921577		102-4		ROGERS #1			
-CASTLE GAS CO INC		RECEIVED: 04/21/83			JA: PA		WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333412	19679	3706324520		108		A COCHRAN #1 (C-519) IND-24520	RAYNE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333416	19683	3706324382		108		C W FAITH #1 (C-389) IND-24382	WASHINGTON TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333417	19684	3706324375		108		D C LEASURE #1 (182A)(C-427)	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333419	19686	3706324376		108		D C LEASURE #1 (184A)(C-430)	RAYNE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333418	19685	3706324374		108		D C LEASURE #2 (182A)(C-428)	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333420	19687	3706324193		108		J PETERMAN #1 (C-501) IND-24193	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333421	19688	3706324194		108		J PETERMAN #2 (C-502) IND-24194	RAYNE TOWNSHIP	21.0	COLUMBIA GA1 TRAN
8333411	19678	3706324389		108		J W BRADLEY #1 (C-437) IND-24389	WASHINGTON TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333413	19680	3706324377		108		R CRAVEN #1 (C-426) IND-24377	WASHINGTON TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333414	19681	3706324192		108		R CRAVEN #2 (C-503) IND-24192	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333422	19689	3706323721		108		S WATTERSON #1 (C-414) IND-23721	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333423	19690	3706323752		108		S WATTERSON #2 (C-415) IND-23752	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333424	19691	3706323738		108		S WATTERSON #3 (C-416) IND-23738	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333407	19674	3706323545		108		W C VERNOCY #1 (C-392) IND-23545	WHITE TOWNSHIP	4.2	COLUMBIA GAS TRAN
8333408	19675	3706323546		108		W C VERNOCY #2 (C-393) IND-23546	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333409	19676	3706323574		108		W C VERNOCY #3 (C-399) IND-23574	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
8333410	19677	3706323575		108		W C VERNOCY #4 (C-400) IND-23575	WHITE TOWNSHIP	21.0	COLUMBIA GA1 TRAN
8333415	19682	3706323820		108		W N CRAVEN HRS #1 (C-435) IND-23820	WHITE TOWNSHIP	21.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 04/21/83			JA: PA				
8333397	19652	3703321500		103		M WEBER #1 WN-1968	BLOOM TOWNSHIP	7.0	GENERAL SYSTEM PU
8333396	19651	3703321397		103		R G OLSON #1 WN-1939	PENN TOWNSHIP	8.0	GENERAL SYSTEM PU
8333362	15230	3706520448		108		WILLIAM B DRUMMOND WN-1831	YOUNG	24.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC		RECEIVED: 04/21/83			JA: PA				
8333369	19641	3706326885		103		FRANK ARCH #1 DJ-1	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL G
-FAIRMAN DRILLING CO		RECEIVED: 04/21/83			JA: PA				
8333382	19611	3712900000		103		BRUCE BOE #1 - F-3697	NEW ALEXANDRIA	20.0	T W PHILLIPS GAS
8333383	19612	3712900000		103		BRUCE BOE #2 - F-3698	NEW ALEXANDRIA	20.0	T W PHILLIPS GAS
8333378	19607	3706500000		103		CHARLES W FRAMPTON #3 F-3692	BIG RUN	60.0	CONSOLIDATED GAS
8333381	19610	3712900000		103		L KENYON #1 - F-3694	NEW ALEXANDRIA	40.0	T W PHILLIPS GAS
8333379	19608	3706500000		103		MILES A BOLVIN #1-A F-3672	BIG RUN	60.0	CONSOLIDATED GAS
8333384	19613	3706500000		103		MILES A BOLVIN #2 F-3673	BIG RUN	60.0	CONSOLIDATED GAS
8333380	19609	5703300000		103		O M READ HRS #4 F-3625	BIG RUN	30.0	CONSOLIDATED GAS

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333376	19605	3706500000		103		ROBERT PEARCE #1 F-3653	BIG RUN	60.0	CONSOLIDATED GAS
8333377	19606	3706500000		103		ROBERT PEARCE #2 F-3654	BIG RUN	60.0	CONSOLIDATED GAS
8333386	19617	3706522651		103		STATE GAME LANDS #195 #4 F-3620	BIG RUN	60.0	CONSOLIDATED GAS
8333385	19615	3706500000		103		STATE GAME LANDS #195 #5 F-3621	BIG RUN	60.0	CONSOLIDATED GAS
8333375	19604	3706500000		103		STATE GAME LANDS #195 #6 F-3622	BIG RUN	60.0	CONSOLIDATED GAS
-MERIDIAN EXPLORATION CORP		RECEIVED: 04/21/83			JA: PA				
8333366	19327	3703921578		107-TF		G BROWN #617-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP		RECEIVED: 04/21/83			JA: PA				
8333331	14519	3706522130		108		A W LATHROP #829	HEATH TOWNSHIP	1.2	GENERAL SYSTEM PU
8333359	15119	3704720804		108		ALLEG NAT FOREST #5737	MILLSTONE FIELD	1.1	GENERAL SYSTEM PU
8333358	15113	3708300000		108		HALSEY LANDS #1195-P	WETMORE TOWNSHIP	1.0	GENERAL SYSTEM PU
8333330	14516	3704720113		108		MILLIARD #1 #5979	MILLSTONE TOWNSHIP	5.3	GENERAL SYSTEM PU
8333352	14998	3704700000		108		HORTON & POWELL #4223	SPRING CREEK TOWNSHIP	0.2	GENERAL SYSTEM PU
8333324	13827	3704720648		108		J K P HALL #6228	JAY TOWNSHIP	3.7	GENERAL SYSTEM PU
8333361	15222	3704900000		108		J R MCLAUGHLIN #1713-P	MCKEAN TOWNSHIP	1.1	GENERAL SYSTEM PU
8333350	14827	3703100000		108		JOS E REAGHART #3362	CLARION TOWNSHIP	1.2	GENERAL SYSTEM PU
8333351	14929	3706500000		108		JUDITH CLEMENTS #3681	MARSAW TOWNSHIP	0.8	GENERAL SYSTEM PU
8333360	15140	3706500000		108		L C WYNKOOP #3578	HEATH TOWNSHIP	3.9	GENERAL SYSTEM PU
8333349	14672	3706500000		108		L C WYNKOOP #4628	HEATH TOWNSHIP	4.7	GENERAL SYSTEM PU
8333353	15015	3708300000		108		L D WETMORE #991-P	HAMILTON TOWNSHIP	8.1	GENERAL SYSTEM PU
8333356	15099	3704700000		108		LAVINA AVERY #318-P	HIGHLAND TOWNSHIP	8.1	GENERAL SYSTEM PU
8333328	14512	3704720792		108		LIZZIE M HYDE #5005	MILLSTONE TOWNSHIP	8.2	GENERAL SYSTEM PU
8333326	14210	3704700000		108		OLIVER W PROPER #955 P	HIGHLAND TOWNSHIP	8.0	GENERAL SYSTEM PU
8333325	14002	3703100000		108		PA ST GAME LANDS #4225	MILLCREEK TOWNSHIP	8.4	GENERAL SYSTEM PU
8333327	14506	3704720184		108		PA STATE GAME LANDS #SC425	MILLSTONE TOWNSHIP	4.8	GENERAL SYSTEM PU
8333329	14515	3704700000		108		PA STATE GAME LANDS #5978	MILLSTONE TOWNSHIP	2.8	GENERAL SYSTEM PU
8333354	15032	3708325123		108		THOMAS KEELOR #541-P	HAMILTON TOWNSHIP	8.7	GENERAL SYSTEM PU
8333355	15033	3712330129		108		WEBB HORTON #149-P	SHEFFIELD TOWNSHIP	8.4	GENERAL SYSTEM PU
8333357	15100	3703120016		108		WV PULP & PAPER CO #SC393	SHIPPEN TOWNSHIP	3.4	GENERAL SYSTEM PU
-NRM PETROLEUM CORPORATION		RECEIVED: 04/21/83			JA: PA				
8333368	19365	3704922135		102-2		KIBBE #1	WATERFORD	8.0	COLUMBIA GAS TRAN
8333367	19364	3704722135		107-TF		KIBBE #1	WATERFORD	8.0	COLUMBIA GAS TRAN
-PENN STATE JOINT VENTURE		RECEIVED: 04/21/83			JA: PA				
8333332	14647	3705300000		108		ABL-1	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333333	14648	3705300000		108		ABL-2	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333334	14647	3705300000		108		ABL-3	QUEEN SAND GLADE FORM	8.4	NATIONAL FUEL GAS
8333335	14650	3705300000		108		ABL-4	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333336	14651	3705323428		108		ABL-5	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333337	14652	3705323430		108		ABL-7	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333338	14653	3705323432		108		ABL-9	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333339	14654	3705323436		108		AHL-1	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333340	14655	3705323437		108		AHL-2	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333341	14656	3705323438		108		AHL-3	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333342	14657	3705323439		103		AHL-4	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333343	14658	3705323440		108		AHL-5	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333344	14659	3705300000		108		AO1-1	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333345	14660	3705300000		108		AO1-2	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333346	14661	3705323715		108		AO1-3	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333347	14662	3705323716		108		AO1-4	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
8333348	14663	3705323717		108		AO1-5	QUEEN SAND GLADE FORM	4.0	NATIONAL FUEL GAS
-PEOPLES NATURAL GAS CO		RECEIVED: 04/21/83			JA: PA				
8333402	19658	3712921017		103		ANDREW METZ #1 - WES-21017	W PENNA - UPPER DEVON	34.0	PEOPLES NATURAL G
8333405	19662	3706323987		103		CLYDE M BEATTY #2 - IND-23987	W PENNA - UPPER DEVON	28.0	PEOPLES NATURAL G
8333406	19660	3706323894		103		EDNA I HENRY #5 - IND-23894	W PENNA - UPPER DEVON	19.0	PEOPLES NATURAL G
8333403	19659	3706323848		103		ELMIRA J HOPKINS #3 - IND-23848	W PENNA - UPPER DEVON	16.0	PEOPLES NATURAL G
8333404	19663	3706323881		103		ERNEST MCKEE #3 - IND-23881	W PENNA - UPPER DEVON	14.0	PEOPLES NATURAL G
8333399	19655	3706323953		103		J D COUCH #2 - IND-23953	W PENNA - UPPER DEVON	26.0	PEOPLES NATURAL G
8333400	19656	3706323970		103		J D COUCH #3 - IND-23970	W PENNA - UPPER DEVON	0.0	PEOPLES NATURAL G
8333398	19654	3706323617		103		MILTON HEAL #3 - IND-23617	W PENNA - UPPER DEVON	33.0	PEOPLES NATURAL G
8333401	19657	3706324000		103		ROBERT H NEHRIG #1 - IND-24000	W PENNA - UPPER DEVON	21.0	PEOPLES NATURAL G
-PHILLIPS PRODUCTION CO		RECEIVED: 04/21/83			JA: PA				
8333395	19632	3703321529		102-2		JOHN E WESTOVER #1	GREENWOOD	35.0	
-R & L DEVELOPMENT CO		RECEIVED: 04/21/83			JA: PA				
8333370	19487	3712922141		103		R & L DEVELOPMENT CO #5	SALTBERG	20.0	T W PHILLIPS GAS
-S T JOINT VENTURE #2E		RECEIVED: 04/21/83			JA: PA				
8333374	15597	3703321555		103		ASKEY #1	BRADY	25.0	NATIONAL FUEL GAS
-SKALSKI BERNARD/KINGSLEY OIL & GAS		RECEIVED: 04/21/83			JA: PA				
8333388	19619	3705323282		108		FOR 23282 S-3	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
8333390	19621	3705323284		108		FOR 23284 S-5	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
8333391	19622	3705300000		108		FOR 23860 S-6	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
8333392	19623	3705300000		108		FOR 24546 - S-7	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
8333389	19620	3705300000		105		FOR 24565 S-4	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
8333387	19618	3705300000		105		FOR-22116 - S-2	KELLETVILLE (WARRANT	8.0	QUAKER STATE OIL
-TIPCO		RECEIVED: 04/21/83			JA: PA				
8333372	19578	3712330414		107-TF		W N RUSSELL #1	SUGAR GROVE	8.0	
8333373	19579	3712330414		103		W N RUSSELL #1	SUGAR GROVE	8.0	
-WAINOCO OIL & GAS CO		RECEIVED: 04/21/83			JA: PA				
8333364	17182	3703921658		107-TF		ELEANOR G PUSZ #1 (CS-9A)	CAMBRIDGE SPRINGS	31.5	NATIONAL FUEL GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-EL PASO EXPLORATION CO		RECEIVED: 04/22/83			JA: NM &				
8333483	NM-038782-PB	3003906310		108-PB		JICARILLA 117 E #7 PC	TAPACITO	0.0	NORTHWEST PIPELIN
8333500	NM-034582-PB	3003906226		108-PB		JICARILLA 120 C #15	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
8333501	NM-034682-PB	3003921189		108-PB		JICARILLA 123 C #21	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY		RECEIVED: 04/22/83			JA: NM &				
8333453	NM-0378-82PB	3004500000		108		DELMI ZURNER #1	BLANCO	0.0	EL PASO NATURAL G
8333468	NM-034682-PB	3004521983		108-PB		GRAMBLING C #11J	BLANCO	0.0	EL PASO NATURAL G
8333458	NM-0003-83PB	3004507764		108-PB		HUGHES A #3	BLANCO	0.0	EL PASO NATURAL G
8333456	NM-0388-82PB	3004507764		108-PB		HUGHES A #3	BLANCO	0.0	EL PASO NATURAL G
8333479	NM-035982-PB	3004560060		108-PB		MOORE #3	BLANCO	0.0	EL PASO NATURAL G
8333457	NM-0002-83PB	3004560060		108-PB		MOORE #3	BLANCO	0.0	EL PASO NATURAL G
8333460	NM 0007-83PB	3004507093		108-PB		RUSSELL #2	BLANCO	0.0	EL PASO NATURAL G
8333450	NM-0375-82PB	3004567093		108-PB		RUSSELL #2	BLANCO	0.0	EL PASO NATURAL G
8333466	NM-033682-PB	3003906939		108-PB		SAN JUAN	BLANCO	0.0	EL PASO NATURAL G
8333454	NM-0382-82PB	3003921045		108-PB		SAN JUAN 27-4 UNIT #115	TAPACITO	0.0	EL PASO NATURAL G
8333469	NM-0374-82PB	3003907206		108-PB		SAN JUAN 27-4 UNIT #19 PC & MV	BLANCO & TAPACITO	0.0	EL PASO NATURAL G
8333477	NM-036182-PB	3003907059		108-PB		SAN JUAN 27-4 UNIT #22	BLANCO	0.0	EL PASO NATURAL G
8333472	NM-035482-PB	3003906862		108-PB		SAN JUAN 27-4 UNIT #25	BLANCO	0.0	EL PASO NATURAL G
8333463	NM-0017-83PB	3003906862		108-PB		SAN JUAN 27-4 UNIT #25	BLANCO	0.0	EL PASO NATURAL G
8333473	NM-036982-PB	3003906792		108-PB		SAN JUAN 27-4 UNIT #27	BLANCO	0.0	EL PASO NATURAL G
8333464	NM-001983-PB	3003920719		108-PB		SAN JUAN 27-4 UNIT #70	BASIN	0.0	EL PASO NATURAL G
8333476	NM-036282-PB	3003920886		108-PB		SAN JUAN 27-4 UNIT #77	TAPACITO	0.0	EL PASO NATURAL G
8333459	NM-0004-83PB	3003920828		108-PB		SAN JUAN 27-4 UNIT #89	TAPACITO	0.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333455	NM-0384-82PB	3003920828		108-PB		SAN JUAN 27-4 UNIT 089	TAPACITO	0.0	EL PASO NATURAL G
8333468	NM-0395-82PB	3003920955		108-PB		SAN JUAN 27-4 UNIT 090	TAPACITO	0.0	EL PASO NATURAL G
8333475	NM-036682-PB	3003920837		108-PB		SAN JUAN 27-4 UNIT 094	BASIN	0.0	EL PASO NATURAL G
8333474	NM-036782-PB	3003906683		108-PB		SAN JUAN 27-4 UNIT 35 MV & PC	BLANCO & TAPACITO	0.0	EL PASO NATURAL G
8333493	NM-001583-PB	3003907012		108-PB		SAN JUAN 27-5 UNIT 010	BLANCO	0.0	EL PASO NATURAL G
8333488	NM-039482-PB	3003920802		108-PB		SAN JUAN 27-5 UNIT 0149	TAPACITO	0.0	EL PASO NATURAL G
8333490	NM-000683-PB	3003920672		108-PB		SAN JUAN 27-5 UNIT 0158	TAPACITO	0.0	EL PASO NATURAL G
8333505	NM-035682-PB	3003906964		108-PB		SAN JUAN 27-5 UNIT 016	BLANCO	0.0	EL PASO NATURAL G
8333489	NM-000583-PB	3003920812		108-PB		SAN JUAN 27-5 UNIT 0176	TAPACITO	0.0	EL PASO NATURAL G
8333508	NM-036482-PB	3003920818		108-PB		SAN JUAN 27-5 UNIT 0179	TAPACITO	0.0	EL PASO NATURAL G
8333507	NM-036582-PB	3003907161		108-PB		SAN JUAN 27-5 UNIT 02	BLANCO	0.0	EL PASO NATURAL G
8333497	NM-033882-PB	3003906878		108-PB		SAN JUAN 27-5 UNIT 066	BLANCO	0.0	EL PASO NATURAL G
8333452	NM-0377-82PB	3003906847		108-PB		SAN JUAN 27-5 UNIT 068 MV & PC	BLANCO SOUTH BLANCO	0.0	EL PASO NATURAL G
8333502	NM-034782-PB	3003907113		108-PB		SAN JUAN 27-5 UNIT 077	TAPACITO	0.0	EL PASO NATURAL G
8333503	NM-035282-PB	3003907205		108-PB		SAN JUAN 27-5 UNIT MP 055	BLANCO	0.0	NORTHWEST PIPELIN
8333481	NM-038382-PB	3003920812		108-PB		SAN JUAN 27-5 UNIT 176	TAPACITO	0.0	EL PASO NATURAL G
8333496	NM-033782-PB	3003907293		108-PB		SAN JUAN 28-4 UNIT 015	BLANCO	0.0	EL PASO NATURAL G
8333495	NM-016682-PB	3003907281		108-PB		SAN JUAN 28-4 UNIT 020	BLANCO	0.0	EL PASO NATURAL G
8333478	NM-034982-PB	3003920174		108-PB		SAN JUAN 28-4 UNIT 032	BASIN	0.0	EL PASO NATURAL G
8333467	NM-034282-PB	3003920674		108-PB		SAN JUAN 28-4 UNIT 036	BASIN	0.0	EL PASO NATURAL G
8333469	NM-034882-PB	3003920187		108-PB		SAN JUAN 28-5 UNIT 051	BLANCO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8333504	NM-035582-PB	3003907130		108-PB		SAN JUAN 28-6 UNIT 9 80 MV & PC	BLANCO	0.0	EL PASO NATURAL G
8333484	NM-038982-PB	3003907452		108-PB		SAN JUAN 28-6 UNIT 015	BLANCO SOUTH	0.0	EL PASO NATURAL G
8333498	NM-034082-PB	3003920858		108-PB		SAN JUAN 28-6 UNIT 0187	BLANCO SOUTH	0.0	EL PASO NATURAL G
8333509	NM-036382-PB	3003920872		108-PB		SAN JUAN 28-6 UNIT 0192	BLANCO	0.0	EL PASO NATURAL G
8333494	NM-001883-PB	3003907339		108-PB		SAN JUAN 28-6 UNIT 030	SOUTH BLANCO	0.0	EL PASO NATURAL G
8333480	NM-038082-PB	3003920608		108-PB		SAN JUAN 28-6 UNIT 172	BASIN	0.0	EL PASO NATURAL G
8333499	NM-034182-PB	3003921093		108-PB		SAN JUAN 28-7 UNIT 0242	BLANCO	0.0	EL PASO NATURAL G
8333486	NM-039282-PB	3003907411		108-PB		SAN JUAN 28-7 UNIT 030	SOUTH BLANCO	0.0	EL PASO NATURAL G
8333461	NM-0013-83PB	3003907172		108-PB		SAN JUAN 28-7 UNIT 057	BLANCO	0.0	EL PASO NATURAL G
8333511	NM-0357B2-PB	3003907497		108-PB		SAN JUAN 29-7 UNIT 095	EAST BLANCO	0.0	EL PASO NATURAL G
8333462	NM-0016-83PB	3003907808		108-PB		SAN JUAN 30-4 UNIT 014	EAST BLANCO	0.0	EL PASO NATURAL G
8333471	NM-035382-PB	3003907902		108-PB		SAN JUAN 30-4 UNIT 023	EAST BLANCO	0.0	EL PASO NATURAL G
8333465	NM-032882-PB	3003920777		108-PB		SAN JUAN 30-4 UNIT 034	BLANCO	0.0	EL PASO NATURAL G
8333512	NM-037082-PB	3003907806		108-PB		SAN JUAN 30-4 UNIT 037	BLANCO	0.0	EL PASO NATURAL G
8333506	NM-036882-PB	3003907098		108-PB		SAN JUAN 30-6 UNIT 03	BLANCO	0.0	EL PASO NATURAL G
8333487	NM-039382-PB	3003907886		108-PB		SAN JUAN 30-6 UNIT 036	BLANCO	0.0	EL PASO NATURAL G
8333510	NM-035882-PB	3003907876		108-PB		SAN JUAN 30-6 UNIT 040 X	BLANCO	0.0	EL PASO NATURAL G
8333491	NM-000883-PB	3003907841		108-PB		SAN JUAN 30-6 UNIT 063	BLANCO	0.0	EL PASO NATURAL G
8333485	NM-039082-PB	3003907841		108-PB		SAN JUAN 30-6 UNIT 063	BLANCO	0.0	EL PASO NATURAL G
8333451	NM-0376-82PB	3003907844		108-PB		SAN JUAN 30-6 UNIT 066	BLANCO	0.0	EL PASO NATURAL G
8333482	NM-038682-PB	3003907879		108-PB		SAN JUAN 30-6 UNIT 088	BLANCO	0.0	EL PASO NATURAL G
8333478	NM-036082-PB	3003982393		108-PB		SAN JUAN 32-5 UNIT 03	BASIN	0.0	EL PASO NATURAL G
8333492	NM-001483-PB	3003907992		108-PB		SAN JUAN 32-5 UNIT 07	BLANCO	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	04/22/83	JA: NM 4			
8333445	NM-0350-82PB	3004506482		108-PB		MARSHALL GENTLE #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	04/22/83	JA: NM 4			
8333447	NM-0325-82PB	3004523097		108-PB		MIDDLE MESA #1	SO LOS PINOS FRUITLAN	0.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/22/83	JA: NM 4			
8333430	NM-0313-82PB	3004521488		108-PB		COX CANYON UNIT 12	BLANCO PICTURED CLIFF	0.0	NORTHWEST PIPELIN
8333426	NM-0373-82PB	3004521488		108-PB		COX CANYON UNIT 12	BLANCO PICTURED CLIFF	0.0	NORTHWEST PIPELIN
8333428	NM-0311-82PB	3003907246		108-PB		INDIAN I #1	BLANCO MESAVERDE GAVI	0.0	NORTHWEST PIPELIN
8333429	NM-0312-82PB	3003906897		108-PB		JICARILLA 92 #2	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333434	NM 0317-82PB	3003920019		108-PB		JICARILLA 92 #3	TAPACITO-PICTURED CLI	0.0	NORTHWEST PIPELIN
8333433	NM 0316-82PB	3003921130		108-PB		JICARILLA 92 #8	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333437	NM 0321-82PB	3003921133		108-PB		JICARILLA 93 #10	TAPACITO-PICTURED CLI	0.0	NORTHWEST PIPELIN
8333442	NM-0326-82PB	3003907963		108-PB		ROSA UNIT 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333443	NM-0327-82PB	3003907951		108-PB		ROSA UNIT 21	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333440	NM 0323-82PB	3003907981		108-PB		ROSA UNIT 41	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333427	NM-0332-82PB	3003907835		108-PB		SAN JUAN 30-5 UNIT 25	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333441	NM 0324-82PB	3003907916		108-PB		SAN JUAN 31-6 UNIT #22	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333431	NM-0314-82PB	3003907908		108-PB		SAN JUAN 31-6 UNIT 17	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333444	NM-0331-82PB	3003982390		108-PB		SAN JUAN 31-6 UNIT 23	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333435	NM-0318-82PB	3003920779		108-PB		SAN JUAN 31-6 UNIT 24 DK	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8333432	NM-0315-82PB	3004510934		108-PB		SAN JUAN 32-7 UNIT 5	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333436	NM-0322-82PB	3004523686		108-PB		SAN JUAN 32-7 UNIT 56	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8333438	NM-0320-82PB	3004511135		108-PB		SAN JUAN 32-8 UNIT 14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8333439	NM-0319-82PB	3004511231		108-PB		SAN JUAN 32-8 UNIT 31	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	04/22/83	JA: NM 4			
8333446	NM-0391-82PB	3004521800		108-PB		CAIN #21	AZTEC PICTURED CLIFFS	0.0	SOUTHERN UNION GA

[FR Doc. 83-13233 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 894]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 12, 1983.

The following notices of determinations were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 894

ISSUED MAY 12, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	04/25/83	JA: TX			
8333738	F-8A-066225	42303308651		103		ANTON IRISH CLEARFORK UNIT 0456	ANTON IRISH	0.1	WESTAR TRANSMISSI
8333737	F-8A-066224	42303308641		103		ANTON IRISH CLEARFORK UNIT 0457	ANTON IRISH	0.1	WESTAR TRANSMISSI
8333736	F-8A-066223	42303308751		103		ANTON-IRISH CLEARFORK UNIT 0464	ANTON-IRISH	0.1	WESTAR TRANSMISSI
8333649	F-06-065497	4240131414		102-4		BETTIE COLEMAN 09	REDWINE (TRAVIS PEAK)	3.9	ARCO OIL & GAS CO
8333739	F-08-066226	4200333283		103		FRANK COWDEN R/A "T" 023	COWDEN NORTH	0.2	WESTAR TRANSMISSI
8333742	F-8A-066229	4221932964		103		MAY MONTGOMERY UNIT 050	LEVELLAND	0.2	AMOCO PRODUCTION
8333740	F-08-066227	4200333395		103		MIDLAND FARMS "AM" 05	FASKEN (PENN)	0.1	AMOCO PRODUCTION
8333651	F-08-065507	4200333368		103		UNIVERSITY MCFARLAND QUEEN CON 01-9	MCFARLAND (QUEEN)	0.0	PHILLIPS PETROLEU
8333741	F-08-066228	4200333366		103		UNIVERSITY MCFARLAND QUEEN CON 04-4	MCFARLAND (QUEEN)	0.0	PHILLIPS PETROLEU
8333735	F-08-066222	4200333362		103		UNIVERSITY MCFARLAND QUEEN CON 04-5	MCFARLAND QUEEN	0.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/25/83	JA: TX			
8333686	F-7E-065787	4241331275		103		M THORNBURG 01	CAMAR S M (STRAWN)	30.0	ARCO OIL & GAS CO
-B & M PETROLEUM INC				RECEIVED:	04/25/83	JA: TX			
8333685	F-8A-065762	4213153800		103 107-TF		LACY B #2	OAK HILL S (COTTON VA	7.7	INTRATEX GAS CO
-BLAIR PROPERTIES				RECEIVED:	04/25/83	JA: TX			
8333590	F-7B-063942	42363320911		103		BETTY GRAHAM #1	PALO PINTO (REGULAR)	30.0	SOUTHWESTERN GAS
-BOMMER ENGINEERING CO				RECEIVED:	04/25/83	JA: TX			
8333542	F-01-060662	42507317551		102-4		MATTHEWS 14-13	SUNDOWN - LUCAS P (ES	57.0	MAN-GAS TRANSMISS
8333536	F-01-059153	42507317211		102-4		MATTHEWS 6-13 C	SUNDOWN-LUCAS P (ESCO	67.2	MAN-GAS TRANSMISS
8333577	F-01-063354	42507317211		102-4		MATTHEWS 6-13 T	SUNDOWN - LUCAS P (SA	52.0	MAN-GAS TRANSMISS
-BRIDWELL OIL CO				RECEIVED:	04/25/83	JA: TX			
8333543	F-7B-060696	4241700000		103		JAMES T MATTHEWS #1	BIRTHDAY (MORAN)	100.0	LONE STAR GAS CO
-C & K PETROLEUM INC				RECEIVED:	04/25/83	JA: TX			
8333586	F-08-063849	4243100000		103		FOSTER 33 #6	CONGER (PENN) FIELD	200.0	VALERO TRANSMISSI
8333600	F-08-064596	4243100000		103		FOSTER 33-8	CONGER (PENN)	0.0	VALERO TRANSMISSI
-CAUBLE ENTERPRISES				RECEIVED:	04/25/83	JA: TX			
8333861	F-06-066472	4228930528		102-4		CAUBLE ENTERPRISES FEE #2	SUPROM (PETTIT)	730.0	LONE STAR GAS CO
-CENERGY EXPLORATION CO				RECEIVED:	04/25/83	JA: TX			
8333550	F-03-061896	4270830287		102-4		STATE TRACT 10-L SW/4 #10	HIGH ISLAND BLOCK 10-	0.0	TRANSCONTINENTAL
-CHALMERS OPERATING CO INC				RECEIVED:	04/25/83	JA: TX			
8333874	F-7B-066595	4209330890		102-4		PRITCHARD A #19259	CHARLIES (MISSISSIPPI	28.9	LONE STAR GAS CO
8333782	F-7B-066344	4209330986		102-4		WILSON "E" 18926	CHARLIE'S (MISSISSIPP	7.3	LONE STAR GAS CO
-CHAMBERS OIL CO				RECEIVED:	04/25/83	JA: TX			
8333873	F-7B-066489	4204933366		102-4		M CHAMBERS #5 (19390)	DALE (CADDO)	0.0	SOUTHWESTERN GAS
-CHEVRON U S A INC				RECEIVED:	04/25/83	JA: TX			
8333712	F-8A-066157	4241532316		103		SACROC UNIT 0178-5	KELLY - SNYDER	98.0	EL PASO NATURAL G
8333714	F-8A-066159	4241532305		103		SACROC UNIT 028-16	KELLY - SNYDER	99.0	EL PASO NATURAL G
8333715	F-8A-066160	4241532306		103		SACROC UNIT 053-3	KELLY - SNYDER	35.0	EL PASO NATURAL G
8333713	F-8A-066158	4241532314		103		SACROC UNIT 065-9	KELLY - SNYDER	28.0	EL PASO NATURAL G
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	04/25/83	JA: TX			
8333517	F-09-068939	4249732318		103		D C SIPES #1	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-CITIES SERVICE COMPANY				RECEIVED:	04/25/83	JA: TX			
8333513	F-06-066877	4234730586		102-2		DELONEY "B" #1	N APPLEBY (TRAVIS PEA	365.0	LIBERTY NATURAL G
8333516	F-06-068735	4234730648		102-2		LEE D-1	APPLEBY N (TRAVIS PEA	1610.0	LIBERTY NATURAL G
8333650	F-08-065585	4213529613		108		THOMAS "C" 08	TXL (WOLFCAMP NORTH)	6.0	SHELL OIL CO

BILLING CODE 6717-01-M

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COMMAND PETROLEUM CORP				RECEIVED:		04/25/83 JA: TX			
8333870	F-7B-066485	4214330750		103		PARKS #1 (19302)	ERATH COUNTY REGULAR	11.0	CORONADO TRANSMIS
-COMMAND PETROLEUM INC				RECEIVED:		04/25/83 JA: TX			
8333576	F-7B-063254	4236700000		102-4		W HUFFSTUTTLER #1 (103415)	HUFFSTUTTLER (STRAWN	42.0	EMPIRE PIPELINE C
-CONOCO INC				RECEIVED:		04/25/83 JA: TX			
8333557	F-10-061649	4206500000		108		BURNETT 2A	WEST PANHANDLE	3.0	CITIES SERVICE GA
8333796	F-08-066371	4248535292		108		GRISHAM & GREEMAN 028 (22261)	SPRABERRY (TREND AREA	0.9	ADOBE OIL CO
8333808	F-08-066375	4200300000		108		MIX SOUTH UNIT #18 (20638)	MIX SOUTH	1.1	PHILLIPS PETROLEU
8333798	F-7B-066373	4215130168		108		ROUND TOP PALO PINTO #154 #11416	ROUND TOP (PALO PINTO	0.8	LONE STAR GAS CO
8333799	F-7B-066374	4215131706		108		ROUND TOP PALO PINTO #164 #11416	ROUND TOP (PALO PINTO	0.3	LONE STAR GAS CO
8333801	F-7B-066376	4215100000		108		ROUND TOP PALO PINTO 968 #11416	ROUND TOP (PALO PINTO	0.3	LONE STAR GAS CO
8333797	F-09-066372	4248535292		108		T J & J L WAGGONER 038 (18376)	WICHITA CO REGULAR	1.0	EAGLE PETROLEUM C
8333795	F-09-066370	4248535436		108		T J & J L WAGGONER 057 (18376)	WICHITA COUNTY REGULA	1.0	EAGLE PETROLEUM C
-COPET INC				RECEIVED:		04/25/83 JA: TX			
8333876	F-7B-066499	4204932953		108		L L WHITE #1 (ID#099155)	BROWN COUNTY REGULAR	20.0	LONE STAR GAS CO
8333875	F-7B-066498	4204932315		108		O STEEL-J BELL FISHER A-1 8095001	BROWN COUNTY REGULAR	18.0	LONE STAR GAS CO
-CORDOVA RESOURCES INC				RECEIVED:		04/25/83 JA: TX			
8333815	F-09-066411	4223732166		103		CANTRELL #1	WOEFLE (POOL) & WILDC	91.3	SOUTHWESTERN GAS
-COTTON PETROLEUM CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333652	F-10-065519	4229531222		103		LAUBHAN #3	WILEY (TONKAWA)	10.0	TRANSWESTERN PIPE
-CRB OIL & GAS INC				RECEIVED:		04/25/83 JA: TX			
8333591	F-01-064008	4250731785		102-4		LEE RANCH D041D	LEE RANCH (SAN MIGUEL	188.0	NORTHERN NATURAL
-CROMERA OIL & GAS CO				RECEIVED:		04/25/83 JA: TX			
8333537	F-7B-059227	4241733410		102-4		JOHN SEDWICK #1	CROMERA (MORAN)	3.7	WARREN PETROLEUM
-DALCO PETROLEUM INC				RECEIVED:		04/25/83 JA: TX			
8333520	F-03-052643	4203931604		102-4		FITE & ALLEN #3	SANDY POINT WEST (650	11.0	CHANNEL INDUSTRIE
-DELRAY OIL INC				RECEIVED:		04/25/83 JA: TX			
8333588	F-7B-063618	4208333202		102-4		EDGAR MERRING #4	COLEMAN (MORRIS)	109.5	LONE STAR GAS CO
-DELTA DRILLING CO				RECEIVED:		04/25/83 JA: TX			
8333519	F-06-051607	4242300000		102-4	103	WILLIAMS "A" #1L	CHAPEL HILL SW (TRAVI	0.0	ETEXAS PRODUCERS
-EL PASO NATURAL GAS COMPANY				RECEIVED:		04/25/83 JA: TX			
8333522	F-7C-052959	4243500000		103	107-TF	BARTON #4	SONORA (CANYON/UPPER)	79.0	EL PASO NATURAL G
8333568	F-7C-062897	4243532464		103	107-TF	BERGER GAS UNIT #7	SONORA CANYON UPPER	30.0	EL PASO NATURAL G
8333567	F-7C-062896	4243532606		103	107-TF	DE BERRY "A" #12	SONORA CANYON UPPER	99.0	EL PASO NATURAL G
8333859	F-7C-066462	4241352932		108		SHEEN A #1 FIELD SALE	FORT MCKAVITT (CANYON	24.0	EL PASO NATURAL G
8333521	F-7C-052957	4243500000		103	107-TF	STEEN #20	SONORA (CANYON/UPPER)	65.0	EL PASO NATURAL G
8333569	F-7C-062898	4243532592		103	107-TF	THOMPSON #2-A	PHYLLIS SONORA (CANYO	59.0	EL PASO NATURAL G
-ENRE CORP				RECEIVED:		04/25/83 JA: TX			
8333687	F-7B-065827	4205933424		102-4		L M CLINTON #1	SCRANTON NW (DUFFER)	3.0	BENGAL GAS TRANSM
8333688	F-7B-065831	4213334326		102-4		MITCHAM "G" #8 (19224)	D R S (CADDO)	14.0	BENGAL GAS TRANSM
8333760	F-7B-066283	4213334584		102-4		MITCHAM ESTATE "H" #5 (19271)	DRS SE (CONGL)	79.0	BENGAL GAS TRANSM
8333761	F-7B-066284	4213334582		102-4		MITCHAM ESTATE "H" #6 (19271)	DRS SE (CONGL)	59.0	BENGAL GAS TRANSM
8333758	F-7B-066280	4213334501		102-4		ROY PIPPEN #2 (19112)	DRS SE (CONGL)	66.0	
8333759	F-7B-066281	4213334525		102-4		ROY PIPPEN #3 (19112)	DRS SE (CONGL)	60.0	BENGAL GAS TRANSM
-ENSERCH EXPLORATION INC				RECEIVED:		04/25/83 JA: TX			
8333544	F-06-060762	4220300000		103		DELLA HUGHES #5	WHELAN	912.0	TEXAS EASTERN GAS
-ESENJAY PETROLEUM CORP				RECEIVED:		04/25/83 JA: TX			
8333655	F-04-065635	4235532097		103		SAM COUNTISS #1-R	AGUA DULCE (6600)	150.0	
-EXCELSIOR OIL CORP				RECEIVED:		04/25/83 JA: TX			
8333637	F-06-065383	4218300000		103		ROBERT GIBBS GAS UNIT #1	DANVILLE EAST (PETTIT	144.0	WESTERN GAS CORP
-EXCHANGE OIL & GAS CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333626	F-06-065142	4242303060		102-2		FLEMING #1	LINDALE (RODESSA A)	400.0	WESTERN GAS CORP
-EXPANDO OIL CO				RECEIVED:		04/25/83 JA: TX			
8333746	F-09-066245	4219730524		102-4		MCNABB #2 19811 - LEASE ID #	F H MCNABB (MISSISSIP	531.4	SHELL OIL CO
-EXXON CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333636	F-04-065359	4242731704		103		F R BARRERA #6 (ID PENDING)	SUN (F-4-L N)	183.0	TENNESSEE GAS PIP
8333745	F-04-066243	4235531603		102-4		FLOUR BLUFF A-4 10174	FLOUR BLUFF (I-32)	188.0	ARMCO STEEL CORP
8333744	F-04-066242	4235531833		102-4		FLOUR BLUFF STATE A-5U (100545)	FLOUR BLUFF (I-07)	1241.0	ARMCO STEEL CORP
8333657	F-10-065652	4219535170		108		H J COLLIER #1	HITCHLAND	2.0	NORTHERN NATURAL
8333669	F-10-065664	4219535157		108		H J COLLIER #4	HITCHLAND	7.0	NORTHERN NATURAL
8333668	F-10-065663	4219535167		108		H J COLLIER "D" #1	HITCHLAND	3.5	NORTHERN NATURAL
8333666	F-10-065659	4219535188		108		H J COLLIER "D" #4	HITCHLAND 4640	4.0	NORTHERN NATURAL
8333670	F-10-065667	4219535158		108		H J COLLIER "E" #3	HITCHLAND	1.0	NORTHERN NATURAL
8333661	F-10-065656	4229560034		108		HENRY FRASS JR "B" #3	HITCHLAND	1.0	TRANSWESTERN PIPE
8333659	F-10-065654	4217900000		108		J H PALMER #1	PANHANDLE	1.0	PHILLIPS PETROLEU
8333658	F-10-065653	4217900000		108		J H PALMER #11	PANHANDLE	1.0	PHILLIPS PETROLEU
8333662	F-10-065657	4217900000		108		J H PALMER #7	PANHANDLE	1.0	PHILLIPS PETROLEU
8333660	F-10-065655	4217900000		108		J H PALMER #8	PANHANDLE	1.0	PHILLIPS PETROLEU
8333665	F-10-065454	4229530850		108		M FOLLETT G U 2 #1	FOLLETT (MORROW)	18.0	TRANSWESTERN PIPE
8333663	F-10-065658	4219530800		103		OIL DEVELOPMENT OF TEXAS #7	HANSFORD	3.0	NORTHERN NATURAL
8333887	F-04-066527	4204731203		103		RJ KLEBERG JR TR QUITERIA 104 10379	VIBORAS (G-13-S)	730.0	ARMCO STEEL CORP
8333644	F-10-065450	4229522383		108		R H MILLER #1	LIPSCOMB	7.3	TRANSWESTERN PIPE
8333666	F-10-065661	4229530670		108		ROBERT A DOYLE "B" #1	LIPSCOMB	1.0	TRANSWESTERN PIPE
8333643	F-10-065449	4229535006		108		SCHULTZ BROS "C" #1	LIPSCOMB	1.0	TRANSWESTERN PIPE
8333667	F-10-065662	4219535216		108		SP & K K JACKSON #2	HITCHLAND	9.0	NORTHERN NATURAL
8333689	F-10-065871	4219535215		108		SP & KK JACKSON #4	HITCHLAND	2.0	NORTHERN NATURAL
8333611	F-08-064948	4200333351		103		STATE UNIVERSITY HUTEX CONS #19	HUTEX (DEVONIAN)	3.0	PHILLIPS PETROLEU
8333665	F-10-065660	4217900000		108		WILLIAM JACKSON #11	PANHANDLE	4.0	PHILLIPS PETROLEU
-FEDERAL ENERGY DEVELOPMENT CO				RECEIVED:		04/25/83 JA: TX			
8333631	F-09-065240	4223734530		102-4		SWAN #1	BILLS (CADDO CONGLOME	275.0	TEXAS UTILITIES F
-FIRST DALLAS PETROLEUM INC				RECEIVED:		04/25/83 JA: TX			
8333546	F-7B-060788	4209300000		102-2		LANGFORD #1 RRC 100257	R J BLACK (MARBLE FAL	0.0	LONE STAR GAS CO
-FIRST TRIAD CORP				RECEIVED:		04/25/83 JA: TX			
8333763	F-7B-066288	4236732257		102-4		WOODRUFF #2 (101006)	DENNIS, WEST (STRAIN)	23.0	INTRASTATE GATHER
8333762	F-7B-066286	4236732273		102-4		WOODRUFF #5 (101177)	DENNIS, WEST (STRAWN)	34.0	INTRASTATE GATHER
-FRANKS PETROLEUM INC ETAL				RECEIVED:		04/25/83 JA: TX			
8333620	F-06-065053	4236531361		102-4		WIENER #6	CARTHAGE (JAMES LIME)	0.0	TEXAS EASTERN GAS
-G E LANGFORD				RECEIVED:		04/25/83 JA: TX			
8333641	F-7B-065443	4242932916		102-4		BLACK BROTHERS #2	WILDCAT	73.0	BRECKENRIDGE GASO
8333642	F-7B-065444	4242932933		103		BLACK BROTHERS #3 (17384)	MULESHOE RANCH (CADDO	109.0	BRECKENRIDGE GASO
8333638	F-7B-065393	4242932966		103		BLACK BROTHERS #4 (17384)	MULESHOE RANCH (CADDO	1.0	BRECKENRIDGE GASO
8333640	F-7B-065441	4242932960		102-4		STEWART-ROBERTSON #1	WILDCAT	4.0	BRECKENRIDGE GASO
-GENE POWELL INVESTMENTS INC				RECEIVED:		04/25/83 JA: TX			
8333633	F-06-065242	4240100000		102-4		SELMAN 1-A	SHEA (DORSEY)	126.0	ARCO OIL & GAS CO
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:		04/25/83 JA: TX			
8333695	F-06-065882	4242330445		102-4		BISHOP MOSELEY #1	CHAPEL HILL NE	125.0	ETEXAS PRODUCERS
8333694	F-06-065881	4242330469		102-4		CAMPBELL #2	CHAPEL HILL NE	60.0	ETEXAS PRODUCERS
8333691	F-06-065874	4242330498		102-4		CAMPBELL #3	CHAPEL HILL NE	47.5	ETEXAS PRODUCERS
8333692	F-06-065875	4242330486		102-4		KINSEY #2	CHAPEL HILL NE	47.5	ETEXAS PRODUCERS
8333690	F-06-065872	4242330470		102-4		KINSEY #3	CHAPEL HILL NE	47.5	ETEXAS PRODUCERS
8333579	F-08-063579	4210333038		103		UNIVERSITY SEC 8 WELL #9	DUNE	0.0	PHILLIPS PETROLEU
-GENERAL PRODUCTION CO INC				RECEIVED:		04/25/83 JA: TX			
8333623	F-03-065118	4205132390		102-2	103	CHARLES J CONDON #1	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:		04/25/83 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333780	F-08-066044	4213500000		108		E F COWDEN 'A & B' #21	HARPER	0.4	PHILLIPS PETROLEU
8333756	F-7B-066276	4243300000		108		ROY DAY #10	KATZ 4800'	0.4	CITIES SERVICE CO
8333755	F-7B-066275	4243300000		108		ROY DAY #15	KATZ 5100'	0.4	CITIES SERVICE CO
8333754	F-7B-066274	4243300000		108		ROY DAY #17	KATZ 5100'	0.4	CITIES SERVICE CO
8333753	F-7B-066273	4243300000		108		ROY DAY #18	KATZ 5100'	0.4	CITIES SERVICE CO
8333752	F-7B-066272	4243300000		108		ROY DAY #20	KATZ 5100'	0.4	CITIES SERVICE CO
8333751	F-7B-066271	4243300000		108		ROY DAY #23	KATZ 4800'	0.4	CITIES SERVICE CO
8333757	F-7B-066277	4243300000		108		ROY DAY #4	KATZ 4800'	0.4	CITIES SERVICE CO
8333548	F-08-060939	4230130297		107-DP		TOM LIMEBERY STRIP #2	BRUNSON RANCH (PENN L	182.0	INTRATEX GAS CO
8333531	F-06-056909	4236500000		103	107-TF	W F MOUSE #3	CARTHAGE (COTTON VALL	0.0	TEJAS GAS CORP
8333681	F-8A-065734	4207931537		103		XIT UNIT 028-X	LEVELLAND SAN ANDRES	2.0	CITIES SERVICE CO
8333682	F-8A-065735	4207900000		103		XIT UNIT 084-X	LEVELLAND SAN ANDRES	6.0	CITIES SERVICE CO
-GHR ENERGY CORP				RECEIVED:		04/25/83 JA: TX			
8333592	F-04-064023	4247933434		102-4	107-TF	FROST NATIONAL BANK #14	CATTO (LOBO 10,200)	350.0	NATURAL GAS PIPEL
-GRO-TEX				RECEIVED:		04/25/83 JA: TX			
8333583	F-8A-063811	4218130216		102-4		CHALK-GOODWIN UNIT #1	TIPPEN S (CONGL)	88.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333807	F-09-066385	4249731102		103		C M SMITH ETAL WELL #2	ALVORD SOUTH (ATOKA)	28.0	LONE STAR GAS CO
8333716	F-08-066182	4206130496		103		CRENSHAW UNIT 1 #1	KURTEN (AUSTIN CHALK)	58.0	PRODUCERS GAS CO
8333805	F-08-066383	4247532682		103		ESTES E M #251	ESTES BLOCK 34 (PENN)	71.0	CABOT CORP
8333602	F-08-066859	4238931279		103		STRAIN C M #18	WAHA NORTH (DELAWARE	17.0	TRANSWESTERN PIPE
8333804	F-08-066382	4200333304		103		TRIPLE-M (GRAYBURG) CONS 9E-4-M	TRIPLE-M (GRAYBURG)	0.0	PHILLIPS PETROLEU
8333639	F-08-065426	4200333197		103		TRIPLE-M (GRAYBURG) CONS 8F-10-1	TRIPLE-M (GRAYBURG)	0.0	PHILLIPS PETROLEU
8333806	F-08-066384	4238931335		103		TXL "BM" (NCT-B) 66	JESS BURNER (DELAWARE	64.0	CONOCO INC
-H & S OPERATING INC				RECEIVED:		04/25/83 JA: TX			
8333582	F-7B-063748	4236700000		102-4		MORRISON #1	ADVANCE (CADDO)	128.0	LIQUID ENERGY COR
-HAMMAN OIL & REFINING CO				RECEIVED:		04/25/83 JA: TX			
8333553	F-01-058732	4231100000		102-4		SOUTH TEXAS SYNDICATE #1	MULA PASTURE (LOWER M	219.0	ESPERANZA TRANSMI
-HCW EXPLORATION INC				RECEIVED:		04/25/83 JA: TX			
8333619	F-03-065025	4214931417		102-2		FINDEISEN #1	GIDDINGS (EDWARD GAS)	183.0	PHILLIPS PETROLEU
-HEXAGON OIL & GAS INC				RECEIVED:		04/25/83 JA: TX			
8333555	F-7B-061412	4236732222		103		THOMAS #1	MOBY DICK (STRAWN)	72.0	SOUTHWESTERN GAS
-HUGGS INCORPORATED				RECEIVED:		04/25/83 JA: TX			
8333630	F-08-065228	4228300000		108		GEORGE BISHOP #1 (SW 029390)	BETHANY (PETTIT)	20.0	UNITED GAS PIPE L
-IKE LOVELADY INC				RECEIVED:		04/25/83 JA: TX			
8333679	F-8A-065726	4216931556		103		ETHRIDGE #1	STORIE WEST (MISS)	18.2	MID-PLAINS PIPELI
8333674	F-8A-065724	4213931692		103		ETHRIDGE #2	STORIE WEST (MISS)	27.3	MID-PLAINS PIPELI
8333675	F-8A-065725	4216931532		103		MASON #1	STORIE WEST (MISS)	21.9	MID-PLAINS PIPELI
8333676	F-8A-065726	4216931737		103		MASON #2	STORIE WEST (MISS)	2.1	MID-PLAINS PIPELI
8333677	F-8A-065727	4216931342		103		STORIE #1	STORIE WEST (MISS)	23.7	MID-PLAINS PIPELI
8333678	F-8A-065728	4216931835		103		STORIE #2	STORIE WEST (MISS)	7.3	MID-PLAINS PIPELI
-J B TERRELL JR				RECEIVED:		04/25/83 JA: TX			
8333888	F-7B-066529	4215121429		103		R O ROBERTSON #3A - RRC #16957	KEELER-WIMBERLY (CANY	54.0	PALO DURO PIPELIN
8333889	F-7B-066530	4215131323		103		R O ROBERTSON RRC #16957 (02A)	KEELER-WIMBERLY (CANY	54.0	PALO DURO PIPELIN
-J M HUBER CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333530	F-10-056564	4223300000		108		BURNETT "U" #3	PANHANDLE	19.0	COLORADO INTERSTA
8333529	F-10-056557	4206500000		108		WHITEHALL BURNETT "A" #11	PANHANDLE	20.0	COLORADO INTERSTA
8333528	F-10-056556	4206500000		108		WHITEHALL BURNETT "A" #12	PANHANDLE	20.0	COLORADO INTERSTA
8333527	F-10-056555	4206500000		108		WHITEHALL BURNETT "A" #13	PANHANDLE	20.0	COLORADO INTERSTA
8333526	F-10-056554	4206500000		108		WHITEHALL BURNETT "A" #15	PANHANDLE	20.0	COLORADO INTERSTA
-JAKE L MAMON				RECEIVED:		04/25/83 JA: TX			
8333879	F-7C-066513	4238332398		103		HUGHES #5	SPRABERRY	47.0	PHILLIPS PETROLEU
-JAMES WALKER				RECEIVED:		04/25/83 JA: TX			
8333733	F-01-066220	4217731345		103		JOE MOLNOSKEY #1 88476	COST (BUDA)	161.8	VALERO TRANSMISSI
8333734	F-01-066221	4217700000		103		MOLNOSKEY ESTATE A-1 #07646	PILGRIM (AUSTIN CHALK	32.4	VALERO TRANSMISSI
-JOHN L COX				RECEIVED:		04/25/83 JA: TX			
8333548	F-7C-060268	4246131939		103		ATKINS #2	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8333532	F-7C-057366	4246131908		103		NEAR "20-C" #1	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
-JOHN R THOMPSON OPERATING INC				RECEIVED:		04/25/83 JA: TX			
8333653	F-04-065521	4240900000		103		W F TIMON #3	HIBERNIA (5590')	110.0	HOUSTON PIPE LINE
-KAMLOK INC				RECEIVED:		04/25/83 JA: TX			
8333725	F-03-066198	4248132403		102-4		C K DUSON #2	CULLEN (MIOCENE 2200'	197.0	UNITED TEXAS TRAN
8333724	F-03-066197	4248132415		102-4		DUSON-KRUEGER #5C	CULLEN (MIOCENE 2200'	0.0	UNITED TEXAS TRAN
8333723	F-03-066196	4248132414		102-4		DUSON-KRUEGER #6	CULLEN (MIOCENE 2200'	177.0	UNITED TEXAS TRAN
-KEY PRODUCTION COMPANY				RECEIVED:		04/25/83 JA: TX			
8333877	F-06-065510	4241938402		103		D R TAYLOR HEIRS	JOAQUIN (TRAVIS PEAK)	600.0	SOUTHERN NATURAL
-KIMBARK OIL & GAS CO				RECEIVED:		04/25/83 JA: TX			
8333698	F-08-065889	4217331358		103		ENSERCH-HALFMANN #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-KIRKWOOD & CO				RECEIVED:		04/25/83 JA: TX			
8333632	F-02-065241	4217531686		102-4		M L BAMMERT #1 8104081	ENKE (2250) 029129840	32.9	UNITED PIPELINE
-KREIS & PENA INC				RECEIVED:		04/25/83 JA: TX			
8333711	F-01-066152	4217931202		103		B BULL - ROSE #1	PANHANDLE - GRAY	0.0	TRANSWESTERN PIPE
8333710	F-10-066151	4217931163		103		CAROLINE #2-I	PANHANDLE-GRAY	0.0	TRANSWESTERN PIPE
8333709	F-10-066150	4217931187		103		LANGHAM #1	PANHANDLE GRAY	0.0	TRANSWESTERN PIPE
8333708	F-10-066149	4217931192		103		LANGHAM #2	PANHANDLE-GRAY	0.0	TRANSWESTERN PIPE
8333707	F-10-066147	4217931177		103		THUT #4	PANHANDLE	0.0	TRANSWESTERN PIPE
-LADD PETROLEUM CORPORATION				RECEIVED:		04/25/83 JA: TX			
8333539	F-01-060088	4212732069		102-2		FITZSIMONS RANCH #1-42-C	HUGH FITZSIMONS (OLMO	136.9	VALERO TRANSMISSI
-LIBERTY OIL & GAS CORP				RECEIVED:		04/25/83 JA: TX			
8333538	F-03-059656	4248100000		102-4		EDNA SHULT #1	TWIN BASIN (5900)	237.3	DOW CHEMICAL USA
-LOBO OIL CORP				RECEIVED:		04/25/83 JA: TX			
8333868	F-8A-066483	4226330905		103		SPIRES 36-1 (TX RRC # 64122)	SPIRES (STRAWN B-3)	30.0	SUN OIL CO
8333869	F-8A-066484	4226330860		103		SPIRES 37-2 (TX RRC # 63465)	SPIRES (STRAWN B-3)	5.4	SUN OIL CO
-M BRAD BENNETT INC				RECEIVED:		04/25/83 JA: TX			
8333699	F-08-066013	4247532766		102-4		MOBIL #3	COLLIE (DELAWARE)	73.0	INTRATEX GAS CO
-M J PHILLIPS				RECEIVED:		04/25/83 JA: TX			
8333770	F-09-066324	4250335929		102-4		SLOAN -A- #2 (22889)	SLOAN (BRYSON SAND)	6.0	M M SUB INC
-M-T PETROLEUM INC				RECEIVED:		04/25/83 JA: TX			
8333647	F-08-065469	4213334086		103		EDWARDS RANCH "B" #2	DOUBLE-M-GRAYBURG	0.3	PHILLIPS PETROLEU
-MANAGEMENT & SALES CONSULTANTS INC				RECEIVED:		04/25/83 JA: TX			
8333646	F-7C-065457	4210532974		102-4		HALFF-ROBERTS #1 42-105-32974	HOELKE WEST (FELKER)	10.3	KIBO COMPRESSOR C
-MARLINE OIL CORP				RECEIVED:		04/25/83 JA: TX			
8333883	F-06-066517	4206338215		103		BURKE #1-A	PITTSBURG (SMACKOVER)	1300.0	
-MCR OIL CORP OF TEXAS				RECEIVED:		04/25/83 JA: TX			
8333656	F-10-065639	4221130944		108		MATHERS RANCH #32	CANADIAN S F - DOUGLA	16.0	ARKANSAS LOUISIAN
-MERCURY EXPLORATION CO				RECEIVED:		04/25/83 JA: TX			
8333562	F-7B-062181	4213334268		102-4		V P SIMPSON #10	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333595	F-7B-064444	4213334455		102-4		V P SIMPSON #11	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333566	F-7B-062699	4213334433		102-4		V P SIMPSON #12	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333596	F-7B-064445	4213334457		102-4		V P SIMPSON #13	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333560	F-7B-062179	4213334271		102-4		V P SIMPSON #7	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333561	F-7B-062180	4213334270		102-4		V P SIMPSON #8	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
8333597	F-7B-064446	4213334269		102-4		V P SIMPSON #9	HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:		04/25/83 JA: TX			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8333767	F-09-066312	4249700000		108		E L DUKE #2 808335
8333766	F-09-066310	4249700000		108		E W MESSER #2 821026
8333593	F-05-064162	4229330612		103	107-TF	ENGRAM #1
8333618	F-09-065018	4249700000		108		F B WALKER #2 8069893
8333769	F-09-066316	4249700000		108		G A LEHMBERG #2 8026150
8333534	F-09-058749	4249700000		108-ER		H V HOUGH #3 8086522
8333768	F-09-066313	4249700000		108		W L MACKEY #3 8037031
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/25/83	JA: TX
8333684	F-7C-065759	4246131957		103		AMERICAN REPUBLICS A #6
8333504	F-02-064386	4222531036		103		ESTELLE ROLF GAS UNIT #2 #2
8333726	F-10-066199	4217900000		108		J B BOWERS #10
8333634	F-04-065304	4229431371		103		LA GLORIA GAS UNIT #98
8333728	F-04-066201	4229400000		108		LAGLORIA GAS UNIT #59
8333683	F-08-065758	4230130377		102-4		OAK HILL GAS UNIT #2
-MONSANTO OIL CO				RECEIVED:	04/25/83	JA: TX
8333672	F-08-065688	4247532614		103		THORNTON #4
-MONTERREY PETROLEUM CORP				RECEIVED:	04/25/83	JA: TX
8333552	F-04-061218	4247933373		102-2	107-TF	APACHE #8
-MORAN EXPLORATION INC				RECEIVED:	04/25/83	JA: TX
8333514	F-7C-827634	4238300000		108-ER		GREEN ESTATE #2
-MOREDU RESOURCES INC				RECEIVED:	04/25/83	JA: TX
8333572	F-7C-063175	4245131030		102-2	103	BROWN #4
8333571	F-7C-063103	4245130939		102-2	103	BROWN "A" #6
8333629	F-7C-065222	4245131139		102-2	103	ZONNE "B" #1
-NICHOLAS PETROLEUM				RECEIVED:	04/25/83	JA: TX
8333706	F-7B-066142	4205932231		102-4		BRASHEAR #1 (882676)
8333785	F-7B-066141	4205932267		102-4		BRASHEAR 3-B #1 (883017)
8333717	F-7B-066170	4205932107		102-4		GLOVER #3 (116712)
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	04/25/83	JA: TX
8333727	F-10-066208	4206500000		108		BURNETT SEC 80 #1080
-OJB INC				RECEIVED:	04/25/83	JA: TX
8333554	F-7B-061389	4208332663		102-2		W ALEXANDER #1
8333553	F-7B-061308	4208332635		102-2		RICHARD VAUGHN #1
-OZARK EXPLORATION INC				RECEIVED:	04/25/83	JA: TX
8333601	F-7C-064022	4243532841		102-4	107-TF	POWELL JAS #1
-PARKER & PARSLEY INC				RECEIVED:	04/25/83	JA: TX
8333697	F-08-065888	4231931105		103		MCALISTER "B" #1
8333696	F-08-065887	4232931116		103		MURRAY "B" #1
-PATTERSON PETROLEUM INC				RECEIVED:	04/25/83	JA: TX
8333586	F-03-063890	4206130846		102-2		M C COLE UNIT #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/25/83	JA: TX
8333589	F-04-063912	4250531148		102-4		A TREVINO #1
-PETRO PLEX OIL CO INC				RECEIVED:	04/25/83	JA: TX
8333873	F-7C-066492	4238332294		103		SCOTT AA-6
8333872	F-7C-066491	4238332295		103		SCOTT AA-7
-PETRO-LEWIS CORPORATION				RECEIVED:	04/25/83	JA: TX
8333513	F-08-016383	4210332056		103		J B TUBB STATE #14
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	04/25/83	JA: TX
8333785	F-08-066350	4213533287		103		BLAKENEY "29" #3
8333784	F-09-066351	4250336471		103		SECTION 606 "A" #3
8333784	F-09-066349	4250336353		103		SECTION 606 "A" WELL #2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/25/83	JA: TX
8333813	F-10-066397	4223300000		108		CECIL S #2
8333814	F-10-066398	4242100000		108		FREE #6
8333803	F-6E-066378	4240100000		108		THRASH #13
8333802	F-6E-066377	4240100000		108		THRASH #6
-PITTS OIL CO & DALLAS PROD INC				RECEIVED:	04/25/83	JA: TX
8333701	F-04-066883	4242330578		103		ROOSTH & GENECOV #1 RRC 010869
-PRECISION DRILLING CO INC				RECEIVED:	04/25/83	JA: TX
8333791	F-7B-066362	4208333089		103		MRS EULA P WEAVER #12 RRC 07257
8333792	F-7B-066366	4208333213		103		MRS EULA WEAVER "A" #3 RRC 015445
-R E G ENGINEERING INC				RECEIVED:	04/25/83	JA: TX
8333680	F-08-065731	4237100000		103		IOWA REALTY TRUST "A"
-RAY TEMPLETON CO				RECEIVED:	04/25/83	JA: TX
8333750	F-7B-066261	4208333274		102-4		WYLIE E MEARN #1
-RED-TEX PETROLEUM INC				RECEIVED:	04/25/83	JA: TX
8333621	F-7C-065071	4239932640		102-4		NORTH ALLCORN #1
-RETAMCO INC				RECEIVED:	04/25/83	JA: TX
8333819	F-04-066422	4247932622		103	107-TF	BRISCOE "E" - 830
8333829	F-04-066432	4247932808		103	107-TF	BRISCOE "E" - 856
8333822	F-04-066425	4247932628		103	107-TF	BRISCOE "E" #26
8333831	F-04-066434	4247932633		103	107-TF	BRISCOE "E" #28
8333816	F-04-066419	4247932632		103	107-TF	BRISCOE "E" #29
8333833	F-04-066436	4247932623		103	107-TF	BRISCOE "E" #31
8333836	F-04-066439	4247932624		103	107-TF	BRISCOE "E" #32
8333820	F-04-066423	4247932625		103	107-TF	BRISCOE "E" #33
8333821	F-04-066424	4247932626		103	107-TF	BRISCOE "E" #34
8333818	F-04-066421	4247932646		103	107-TF	BRISCOE "E" #35
8333852	F-04-066455	4247932651		103	107-TF	BRISCOE "E" #36
8333849	F-04-066452	4247932647		103	107-TF	BRISCOE "E" #37
8333832	F-04-066435	4247932648		103	107-TF	BRISCOE "E" #38
8333848	F-04-066451	4247932655		103	107-TF	BRISCOE "E" #39
8333838	F-04-066433	4247932656		103	107-TF	BRISCOE "E" #40
8333817	F-04-066420	4247932668		103	107-TF	BRISCOE "E" #41
8333834	F-04-066437	4247932667		103	107-TF	BRISCOE "E" #42
8333851	F-04-066454	4247932692		103	107-TF	BRISCOE "E" #43
8333847	F-04-066450	4247932697		103	107-TF	BRISCOE "E" #44
8333824	F-04-066427	4247932706		103	107-TF	BRISCOE "E" #45
8333850	F-04-066453	4247932705		103	107-TF	BRISCOE "E" #46
8333823	F-04-066426	4247932704		103	107-TF	BRISCOE "E" #47
8333853	F-04-066456	4247932703		103	107-TF	BRISCOE "E" #48
8333855	F-04-066458	4247932702		103	107-TF	BRISCOE "E" #49
8333825	F-04-066428	4247932719		103	107-TF	BRISCOE "E" #50
8333837	F-04-066440	4247932736		103	107-TF	BRISCOE "E" #51
8333830	F-04-066441	4247932735		103	107-TF	BRISCOE "E" #52
8333835	F-04-066438	4247932748		103	107-TF	BRISCOE "E" #53
8333828	F-04-066431	4247932820		103	107-TF	BRISCOE "E" #56
8333854	F-04-066457	4247932821		103	107-TF	BRISCOE "E" #57
8333827	F-04-066430	4247932835		103	107-TF	BRISCOE "E" #58
8333857	F-04-066460	4247932925		103	107-TF	BRISCOE "E" #59
8333839	F-04-066442	4247932877		103	107-TF	BRISCOE "E" #61
8333856	F-04-066459	4247932874		103	107-TF	BRISCOE "E" #62
8333858	F-04-066461	4247932910		103	107-TF	BRISCOE "E" #64
8333826	F-04-066429	4247933195		103	107-TF	BRISCOE "E" #65

FIELD NAME	PROD	PURCHASER
CHICO EAST	0.0	NATURAL GAS PIPEL
ALVORD ATOKA CONOL	0.0	NATURAL GAS PIPEL
POKEY EAST (COTTON VA	275.8	TEXAS UTILITIES F
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
PEGASUS (WOLFCAMP)	0.0	EL PASO NATURAL G
KENEDY SW (EDWARDS)	358.0	VALERO TRANSMISSI
PANHANDLE WEST	5.5	PHILLIPS PETROLEU
LA GLORIA (LA GLORIA)	163.9	NATURAL GAS PIPEL
LAGLORIA (SCOTT)	14.5	NATURAL GAS PIPEL
DIMMIT (CHERRY CANYON	360.0	TEXAS EASTERN TRA
RHODA WALKER (CANYON	23.0	NORTHERN NATURAL
GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
SPRABERRY	0.0	EL PASO NATURAL G
K M B (CANYON)	0.0	LONE STAR G.S CO
K M B (CANYON)	0.0	LONE STAR GAS CO
K M B (STRAWN)	0.0	LONE STAR GAS CO
NICHOLAS (DUFFER)	21.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	74.0	EL PASO HYDROCARB
NICHOLAS (DUFFER)	49.0	EL PASO HYDROCARB
PANHANDLE WEST	28.2	NORTHERN NATURAL
COLEMAN COUNTY REGULA	50.0	LONE STAR GAS CO
COLEMAN COUNTY REGULA	60.0	LONE STAR GAS CO
PHYLLIS SONORA (CANYO	402.0	ADOBE GAS CO
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
KURTEN (AUSTIN CHALK)	438.0	PRODUCERS GAS CO
FANDANGO (WILCOX 1430	43.0	TENNESSEE GAS PIP
JOHN SCOTT (GRAYBURG)	23.7	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	26.3	NEW ENERGY CO
SAND HILLS (MCKNIGHT)	24.0	EL PASO NATURAL G
COWDEN NORTH	21.9	PHILLIPS PETROLEU
JAMES	0.0	CONTRACT PENDING
JAMES	7.7	EAGLE PETROLEUM C
PANHANDLE WEST	0.0	EL PASO NATURAL G
TEXAS HUGOTON - DOLOM	0.0	PANHANDLE EASTERN
EAST TEXAS	0.6	PARADE CO
EAST TEXAS	0.3	PARADE CO
CHAPEL HILL (RODESSA)	29.0	ETEXAS PRODUCERS
COLEMAN COUNTY REGULA	8.5	LONE STAR GAS CO
COLEMAN COUNTY REGULA	20.0	LONE STAR GAS CO
PECOS VALLEY (FUSSELM	36.5	PERRY PIPELINE CO
CINDY-GAY (JENNINGS)	150.0	UNION TEXAS PETRO
CREWS (MORRIS)	702.0	LONE STAR GAS CO
GOLD RIVER NORTH (OLM	284.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	266.4	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	357.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	357.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	346.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	105.9	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	138.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	264.6	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	273.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	248.2	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	299.3	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	182.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	182.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	346.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	284.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	211.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	248.2	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	284.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	255.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	175.2	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	255.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	135.1	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	313.9	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	85.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	92.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	127.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	54.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	661.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	262.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	313.9	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	284.7	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	99.9	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	113.2	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	135.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	299.3	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	290.5	DELMI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8333840	F-04-066443	4247932575		103	107-TF	BRISCOE "M" #1
8333841	F-04-066444	4247932576		103	107-TF	BRISCOE "M" #2
8333842	F-04-066445	4247932574		103	107-TF	BRISCOE "M" #3
8333843	F-04-066446	4247932572		103	107-TF	BRISCOE "M" #4
8333844	F-04-066447	4247932573		103	107-TF	BRISCOE "M" #5
8333845	F-04-066448	4247932571		103	107-DP	BRISCOE "M" #6
8333846	F-04-066449	4247933194		103	107-TF	BRISCOE "M" #7
-RIDGE OIL CO				RECEIVED:	04/25/83	JA: TX
8333693	F-7B-065878	4242933463		102-4	103	GODWIN #1
-ROBERT M WYNNE				RECEIVED:	04/25/83	JA: TX
8333609	F-7C-064927	4210532995		103		UNIVERSITY "24-A" #2 - RRC 08356
8333610	F-7C-064928	4210533231		103		UNIVERSITY "24-A" 3 - RRC 08356
8333607	F-7C-064925	4210532502		103		UNIVERSITY "7" #1 - RRC 08115
8333606	F-7C-064924	4210534148		103		UNIVERSITY "7" #2 - RRC 08115
8333608	F-7C-064926	4210533184		103		UNIVERSITY "8" #2 - RRC 07001
8333605	F-7C-064923	4210534150		103		UNIVERSITY "9" #4 - RRC 07150
-ROBERT P LAMMERTS				RECEIVED:	04/25/83	JA: TX
8333559	F-03-061972	4206100000		102-2		FISHER #1
-SAGE ENERGY CO				RECEIVED:	04/25/83	JA: TX
8333885	F-7C-066520	4210534337		103		UNIVERSITY 14 #2 RRC 087348
8333886	F-7C-066521	4210534338		103		UNIVERSITY 7 #3 RRC 087555
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	04/25/83	JA: TX
8333549	F-04-061093	4250531412		102-4	107-TF	ANGEL R LAUREL #2
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/25/83	JA: TX
8333585	F-03-063874	4216931325		102-2		SALMANSON #1
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	04/25/83	JA: TX
8333535	F-03-059032	4228700000		102-2	103	BESSIE #2
8333581	F-08-063682	4228700000		103		TERRY DAVIS UNIT #1
-SEAGULL INTERNATIONAL EXPLORATION I				RECEIVED:	04/25/83	JA: TX
8333565	F-06-062667	4236531523		102-4		ERNEST GRUBENMAN OIL UNIT #1
-SHELL OIL CO				RECEIVED:	04/25/83	JA: TX
8333764	F-08-066305	4210543153		103		SOUTH CROSS UNIT #205
8333781	F-08-066343	4210534154		103		SOUTH CROSS UNIT #206
-SHORTES V M & MABEL P G				RECEIVED:	04/25/83	JA: TX
8333671	F-7B-065674	4208300000		102-4		GUTHRIE M L #1-A
-SINGER OIL & GAS CO				RECEIVED:	04/25/83	JA: TX
8333523	F-7B-053635	4204900000		103		MCBRIDE #1
-SOJOURNER DRILLING CORP				RECEIVED:	04/25/83	JA: TX
8333772	F-7B-066329	4246131336		102-4		D WHISENHUNT #1 (14710)
8333776	F-7B-066333	4225331718		102-4		FINIS CADE #1 (18038)
8333775	F-7B-066332	4225332225		102-4		FINIS CADE ET AL #3 (18038)
8333778	F-7B-066336	4225331533		102-4		IRENE WILLIAMS #1 (16336)
8333777	F-7B-066334	4225332213		102-4		IRENE WILLIAMS #1-A (18790)
8333774	F-7B-066331	4246131905		102-4		MENA K LEWIS #2 (17493)
8333773	F-7B-066330	4246132247		102-4		MENA K LEWIS #3 (17493)
8333771	F-7B-066328	4246131393		102-4		W A DANIEL #1 (15236)
8333779	F-7B-066337	4215100000		103		WHEELER-MICKHAM #1 (16717)
-SOUTHLAND ROYALTY CO				RECEIVED:	04/25/83	JA: TX
8333793	F-10-066368	4217900000		108		J M WRIGHT #4-12
8333794	F-10-066369	4217930723		108		J M WRIGHT #7-12
-SUE-ANN OIL & GAS CO				RECEIVED:	04/25/83	JA: TX
8333732	F-03-066207	4208931338		102-4		MAYDEN #1-T 103879
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/25/83	JA: TX
8333865	F-8A-066477	4250132225		103		BENNETT RANCH UNIT #334
8333863	F-8A-066475	4250132224		103		BENNETT RANCH UNIT #335
8333864	F-8A-066476	4250132212		103		BENNETT RANCH UNIT #352
8333862	F-8A-066474	4250132219		103		BENNETT RANCH UNIT #353
8333704	F-01-066113	4212732397		103		BIG WELLS (SAN MIGUEL) UNIT #2837
8333866	F-01-066478	4212732395		103		BIG WELLS (SAN MIGUEL) UNIT #4617
8333617	F-02-064984	4246931971		103		IDA KUESTER #5
8333702	F-7B-066109	4235331311		102-3		JORDAN RANCH #207-1
8333703	F-7B-066110	4235331336		102-3		JORDAN RANCH #207-2
8333596	F-09-064362	4227531237		102-4		LOUIS F MCFARLAND "8A" #1
8333743	F-08-066233	4213534063		103		O B HOLT A/C 2 #3A
8333867	F-8A-066479	4250132304		103		WASSON NORTH CLEARFORK UNIT #98
-TARTAN OIL & GAS				RECEIVED:	04/25/83	JA: TX
8333574	F-03-063216	4215700000		102-4		R KOZIK #1-C
8333573	F-03-063211	4215700000		102-4		R KOZIK #1-T
-TAUBERT & STEED				RECEIVED:	04/25/83	JA: TX
8333893	F-06-066539	4249931105		102-4		HOWARD 2-L
8333892	F-06-066538	4249931105		102-4		HOWARD 2-U
-TAYLOR CLAYTON & HAWLEY				RECEIVED:	04/25/83	JA: TX
8333575	F-10-053248	4217930809		103		TAYLOR "TH" #1
-TEE OPERATING CO				RECEIVED:	04/25/83	JA: TX
8333518	F-03-050327	4233930517		102-4		CHAMPION PAPER CO #1
-TEMPLETON ENERGY CORP				RECEIVED:	04/25/83	JA: TX
8333720	F-06-066190	4240131417		102-4		BROOKS #1
8333718	F-06-066188	4240131504		102-4		BROOKS #2
8333719	F-06-066189	4240131441		102-4		BROOKS "A" #1
-TENNECO OIL COMPANY				RECEIVED:	04/25/83	JA: TX
8333635	F-01-065321	4208700000		108		E R TINSLEY #1-8
8333722	F-8A-066196	4250132243		103		PRENTICE (6700' CLEARFORK) #1124
8333721	F-8A-066193	4250132244		103		PRENTICE (6700' CLEARFORK) #721
-TERRELL OIL CO				RECEIVED:	04/25/83	JA: TX
8333891	F-7B-066532	4215131466		103		VELTA P TOLER #1A RRC 014639
-TERRELL OPERATING CO				RECEIVED:	04/25/83	JA: TX
8333890	F-7B-066531	4215131374		103		REVIS ROBERTSON (M) #2 RRC 017303
-TEXACO INC				RECEIVED:	04/25/83	JA: TX
8333547	F-10-060857	4235731239		103		E K CUTTER "A" #3
8333564	F-08-062613	4237133432		107-DP		E T BROWN GAS UNIT #2
8333570	F-06-062983	4240131523		102-4	107-TF	J T CHRISTIAN O/A #1
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	04/25/83	JA: TX
8333525	F-03-056004	4205100000		102-2		BLINKA POEHLS #3
8333524	F-03-053921	4205100000		102-2		SHUPAK #2
-THREE B OIL CO & MORAN EXPL INC				RECEIVED:	04/25/83	JA: TX
8333868	F-7C-066467	4232730508		103		SHELTON #1 809992
-TRANSCO EXPLORATION COMPANY				RECEIVED:	04/25/83	JA: TX
8333578	F-04-063373	4224731283		102-4		#2 E M CALDWELL
-TRIPPLEHORN OIL CO				RECEIVED:	04/25/83	JA: TX
8333878	F-10-066512	4217930775		103		BOWERS J B(ID#00661)
-TXO PRODUCTION CORP				RECEIVED:	04/25/83	JA: TX
8333551	F-02-061205	4229733218		102-4		MCCLELLAND C-3
8333545	F-03-060786	4219931774		102-4		MCRAE "A" #4
8333588	F-7C-063987	4223532824		103		WINTERBOTHAM "F" #4

FIELD NAME	PROD	PURCHASER
GOLD RIVER NORTH (OLM	476.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	359.5	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	456.3	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	419.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	321.2	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	323.8	DELMI GAS PIPELIN
GOLD RIVER NORTH (OLM	456.3	DELMI GAS PIPELIN
RANGER NW (MARBLE FAL	17.3	COMPRESSOR RENTAL
FARMER (SAN ANDRES)	6.8	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	6.8	BIG LAKE GASOLINE
BLOCK 47 (SHALLOW)	5.1	BIG LAKE GASOLINE
BLOCK 47 (SHALLOW)	5.4	BIG LAKE GASOLINE
BLOCK 47 (SHALLOW)	4.8	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	4.5	BIG LAKE GASOLINE
KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
FARMER (SAN ANDRES)	2.3	NORTHERN NATURAL
FARMER (SAN ANDRES)	6.1	NORTHERN NATURAL
LAS OVEJAS S (LOBO 6)	500.0	INTRASTATE GATHER
GIDDINGS (AUSTIN CHAL	222.0	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	109.0	PERRY PIPELINE CO
PINEHILL SE (PETTIT L	51.0	UNITED GAS PIPE L
CROSSETT S (DETRITAL)	12.4	SHELL OIL
CROSSETT S (DETRITAL)	102.2	SHELL OIL
SANDIA (CADDO)	30.0	EL PASO HYDROCARB
MARBLE FALLS	0.0	SOUIX NATURAL GAS
SAM (STRAWN)	37.0	PALO DURO PIPELIN
JAY (STRAWN)	4.0	PALO DURO PIPELIN
JAY (STRAWN)	4.0	PALO DURO PIPELIN
JAY (NOODLE CREEK)	1.0	PALO DURO PIPELIN
JAY (CANYON LIME)	55.0	PALO DURO PIPELIN
S A M (STRAWN)	18.0	PALO DURO PIPELIN
SAM (STRAWN)	37.0	PALO DURO PIPELIN
SAM (STRAWN LIME)	55.0	PALO DURO PIPELIN
ESKOTA	73.0	PALO DURO PIPELIN
PANHANDLE	6.8	COLTEXO CORP
PANHANDLE	3.1	COLTEXO CORP
CHESTERVILLE (6590)	430.0	GULFTIDE GAS CORP
WASSON	9.0	SHELL OIL CO
WASSON	5.0	SHELL OIL CO
WASSON	10.0	SHELL OIL CO
WASSON	6.0	SHELL OIL CO
BIG WELLS (SAN MIGUEL	49.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	14.0	HOUSTON PIPE LINE
HELEN GOHLKE (FRIO 31	33.0	HOUSTON PIPE LINE
SUGGS (ELLENBURGER)	37.0	
SUGGS (ELLENBURGER)	20.0	
FANT	4.0	SUN GAS TRANSMISS
COWDEN NORTH	7.0	AMOCO PRODUCTION
WASSON NE (CLEAR FORK	14.0	SHELL OIL CO
MOORES ORCHARD (YEGUA	150.0	UNITED TEXAS TRAN
MOORES ORCHARD (COOK	150.0	UNITED TEXAS TRAN
NEUHOFF (PALUXY)	0.1	UNITED GAS PIPELI
NEUHOFF (BUDA)	28.8	UNITED GAS *IPELI
WEST PANHANDLE (OIL)	12.5	PHILLIPS PETROLEU
	0.0	
ITEX (PETTET)	115.0	EASTEX GAS TRANSM
ITEX (PETTET)	115.0	EASTEX GAS TRANSM
ITEX (PETTET)	115.0	EASTEX GAS TRANSM
EAST PANHANDLE	10.0	ASHLAND OIL INC
PRENTICE (6700' CLEAR	0.0	AMOCO PRODUCTION
PRENTICE (6700' CLEAR	0.0	AMOCO PRODUCTION
VELTA (CANYON)	42.0	PALO DURO PIPELIN
KEELER-WIMBERLY (CANY	45.0	PALO DURO PIPELIN
CREST (DES MOINES)	15.1	
GOMEZ (ELLENBURGER)	273.0	INTRATEX GAS CO
HENDERSON NORTH	365.0	TRANSCONTINENTAL
GIDDINGS (BIG "A" TAY	0.0	CLAJON GAS CO
GIDDINGS (BUDA FORMAT	0.0	CLAJON GAS CO
WILHELM LANE (CANYON)	36.5	SUN GAS CO
LAS VIVORITAS (YEGUA	182.0	TRANSCONTINENTAL
PANHANDLE GRAY	40.0	
OAKVILLE (WILCOX 9700	0.0	DELMI GAS PIPELIN
ARRIOLA (YEGUA 9300)	0.0	
DOVE CREEK (CANYON-D)	200.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-UNION TEXAS PETROLEUM				RECEIVED:	04/25/83	JA: TX			
8333627	F-7C-065188	4223531975		102-2		SUGG "15" 01			
-VERNON E FAULCONER INC				RECEIVED:	04/25/83	JA: TX			
8333648	F-06-065474	4236500000		108		MARSH ESTATE 1-C 0029377			
-VESTOIL INC				RECEIVED:	04/25/83	JA: TX			
8333541	F-03-060334	4229100000		103		PICKETT/DEVINE 07			
-VIKLAR EXPLORATION INC				RECEIVED:	04/25/83	JA: TX			
8333654	F-03-065993	4246132323		103		E E REITZ 01			
-W L BRUCE OPERATOR				RECEIVED:	04/25/83	JA: TX			
8333783	F-10-066343	4206531335		103		KOELL 02 (ID0052299)			
-W M WEST				RECEIVED:	04/25/83	JA: TX			
8333884	F-7C-066519	4239932410		102-4		NORMAN M BONNETT			
-WAGNER & BROWN				RECEIVED:	04/25/83	JA: TX			
8333747	F-08-066249	4243131266		103		RAY "A" 011-31			
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/25/83	JA: TX			
8333787	F-08-066352	4210305693		108		E N SHODGRASS 06			
8333788	F-08-066353	4210302508		108		H E ADAMS 03			
8333789	F-08-066354	4210302494		108		H E ADAMS "A" 02			
8333729	F-08-066203	4210333042		103		M B MCKNIGHT 0134			
8333731	F-08-066205	4210333041		103		M B MCKNIGHT 0137			
8333730	F-08-066204	4210333058		103		M B MCKNIGHT 0138			
8333809	F-08-066389	4210331848		108		STATE "EC" 04			
8333808	F-08-066388	4210300323		108		STATE "EE" 02			
8333790	F-08-066355	4210330787		108		STATE "EF" 05			
8333811	F-08-066391	4210300360		108		TEXAS "GG" 010			
8333810	F-08-066390	4210300361		108		TEXAS "GG" 011			
8333812	F-08-066392	4210300348		108		TEXAS "GO" 05			
8333628	F-08-065286	4210332989		103		W N WADDELL (TR M) 01108			
-WCS PETROLEUM CO				RECEIVED:	04/25/83	JA: TX			
8333563	F-03-062572	4228731316		102-2		AMERICA UNIT 01			
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	04/25/83	JA: TX			
8333788	F-09-066339	4223734860		102-4		PEARL MOSLEY 01			
-WILLIAM MOSS PROPERTIES INC				RECEIVED:	04/25/83	JA: TX			
8333673	F-08-065722	4231732631		103		R C TOM "45" 01			
-WINN EXPLORATION/DULCE CO				RECEIVED:	04/25/83	JA: TX			
8333558	F-01-061917	4250700008		102-4		PRYOR RANCH			
8333612	F-01-064975	4250731768		102-4		PRYOR RANCH 0101			
8333748	F-01-064251	4250731759		102-4		PRYOR RANCH 0103			
8333599	F-01-064580	4250731791		102-4		PRYOR RANCH 0107			
8333598	F-01-064579	4250700000		102-4		PRYOR RANCH 0109			
8333625	F-01-065175	4250731784		102-4		PRYOR RANCH 0111			
8333603	F-01-064873	4207317920		102-4		PRYOR RANCH 0117			
8333587	F-01-063895	4250731783		102-4		PRYOR RANCH 0119-C			
8333626	F-01-065176	4250731800		102-4		PRYOR RANCH 0131			
8333749	F-01-066252	4250731920		102-4		PRYOR RANCH 0157			
8333616	F-01-064979	4250731553		102-4		PRYOR RANCH 035			
8333615	F-01-064978	4250731697		102-4		PRYOR RANCH 067			
8333614	F-01-064977	4250731729		102-4		PRYOR RANCH 091			
8333613	F-01-064976	4250731744		102-4		PRYOR RANCH 099			
8333556	F-01-061688	4250731760		102-4		PRYOR RANCH NO 105			
-WOODSIDE OIL CO				RECEIVED:	04/25/83	JA: TX			
8333765	F-8A-066368	4203330760		103		GRIFFIN "B" 01			
-WOODWAY ENERGY CO				RECEIVED:	04/25/83	JA: TX			
8333622	F-03-065105	4214931251		102-2		VAN WILLIAMS UNIT 01			
-WORLD PRODUCERS INC				RECEIVED:	04/25/83	JA: TX			
8333880	F-7B-066514	4236731874		108		ELLIS "F" 07			
8333881	F-7B-066515	4236731919		108		LAMB 01			
8333882	F-7B-066516	4236731395		108		UMPHRESS 01			

FIELD NAME	PROD	PURCHASER
ANDREW A (CANYON)	277.0	FARMLAND INDUSTRI
BETHANY (PETTIT)	29.1	UNITED GAS PIPE L
SOUTH LIBERTY	0.0	UNITED TEXAS TRAN
EL CAMPO W (FRIO 4700	110.0	DOW CHEMICAL CO
PANHANDLE GRAY	130.0	GETTY OIL CO
CLAYTON BONNETT	150.0	EL PASO HYDROCARB
CONGER (PENN)	70.9	TEXAS UTILITIES F
WADDELL	0.4	EL PASO NATURAL G
DUNE	0.6	EL PASO NATURAL G
DUNE	0.4	EL PASO NATURAL G
SAND HILLS (MCKNIGHT)	201.0	EL PASO NATURAL G
SAND HILLS (MCKNIGHT)	24.5	EL PASO NATURAL G
SAND HILLS (MCKNIGHT)	43.1	EL PASO NATURAL G
DUNE	0.6	EL PASO NATURAL G
DUNE	1.7	EL PASO NATURAL G
DUNE	0.5	EL PASO NATURAL G
DUNE	4.4	EL PASO NATURAL G
DUNE	3.0	EL PASO NATURAL G
DUNE	1.5	EL PASO NATURAL G
LEA SOUTH (TUBB)	89.4	EL PASO NATURAL G
OIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
WILDCAT	0.0	SOUTHWESTERN GAS
SPRABERRY/TREND AREA	11.0	
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE (DEL MONTE	0.0	PERMIAN CORP
WINN-DULCE (DEL MONTE	0.0	PERMIAN CORP
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE (BRACERO)	0.0	PERMIAN CORP
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	PERMIAN CORP
WINN-DULCE	0.0	NORTHERN NATURAL
HOBO (PENNSYLVANIAN)	190.0	GETTY OIL CO
OIDDINGS (AUSTIN CHAL	20.0	PHILLIPS PETROLEU
MOBY DICK (CONGL)	14.2	NATURAL GAS PIPEL
CLAYTON (CONGL)	14.2	SOUTHWESTERN GAS
MOBY DICK (CONGL)	18.6	NATURAL GAS PIPEL

[FR Doc. 83-13234 Filed 5-16-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Tuesday,
May 17, 1983

Part III

Federal Emergency Management Agency

National Board's Selection of Localities for Emergency Food and Shelter Program Funding

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FEDERAL EMERGENCY MANAGEMENT AGENCY

National Board's Selection of Localities for Emergency Food and Shelter Program Funding

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice sets forth the criteria for selection used by the National Board for the Emergency Food and Shelter Program, which was created by Pub. L. 98–8. A listing of localities selected and the amount of award monies each will receive is also included in the notice. The local board, created in each selected locality, will identify and certify as eligible those private voluntary organizations to receive the funds.

DATED: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Keefer, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0567.

Dennis H. Kwiatkowski,

Chairman, National Board.

Pub. L. 98–8 created a National Board composed of six voluntary organizations and the Federal Emergency Management Agency. This Board was charged with quick distribution of $50,000,000 to supplement and extend emergency food and shelter services nationwide. Recognizing limited funding and the extent of the problem, the following operating principles were used:

—Fast response
—Public/private sector cooperation
—Allocations to neediest areas
—Minimum, but accountable reporting
—Local decision-making

The criteria for selection considered three factors: (1) Most current *annual* unemployment rates (2) total number of unemployed with a civil jurisdiction; and (3) needs data and other available factors. These included homelessness, Poverty Index, Travelers' Aid statistics, HHS lists of certified food banks, survey "at risk" groups within middle range unemployment rate communities, HHS breakdown of urban-rural poverty, benefit exhaustion rates, unemployment change rates, State Grant Awards, and review of all supplemental correspondence and data submitted. Not all these factors were available or usable.

Unemployment rates and numbers are not a totally valid surrogate for need or poverty. Yet, no other data were available divisible by State, SMSA, county, or municipality which were also current, uniform and available within the timeframe.

In communities surveyed, unemployment was classified most frequently as a "local emergency". Unemployment was mentioned three times more than any other factor. In fact, many of the others (e.g., "family victims of violence" and "shelter/food bank turnaways") were directly attributed to unemployment.

After thorough review, the following jurisdictions were selected:

- Jurisdictions, including balance of counties, with 18,000 + unemployed *and* 7.8%+ unemployment rate.
- Jurisdictions, including balance of counties, with 100 to 17,999 unemployed *and* 13%+ unemployment rate. (Includes U.S. territories.)
- Selected additional jurisdictions with supplemental data provided on migrant needs, number de-institutionalized, recent plant closings, displaced households, etc.

For brevity, this notice of awards is published on a county basis. Cities which meet the criteria will be handled as separate jurisdictions.

The National Board recognizes that hunger and homelessness know no bounds—occurring in urban as well as rural areas. Varying rates were selected to recognize such dynamics as urban area attraction of the homeless and hungry, for urban areas tend to have facilities and services.

Given the emergency nature of the program, the considerations above, and the limited funding available, NOT ALL STATES OR COMMUNITIES RECEIVED FUNDING from the National Board. The Board anticipates that other communities not eligible under these criteria could be identified for funding under a similar $50,000,000 program administered by the States.

Alabama

Autauga County—$19,145.73
Barbour County—$15,792.89
Bibb County—$10,911.44
Blount County—$23,511.96
Bullock County—$6,714.11
Butler County—$17,034.36
Calhoun County—$58,121.24
Cherokee County—$14,238.93
Chilton County—$17,701.55
Choctaw County—$6,823.89
Clarke County—$13,901.14
Clay County—$8,453.85
Cleburne County—$6,215.83
Colbert County—$37,843.83
Conecuh County—$7,960.88
Covington County—$17,853.56
Crenshaw County—$7,947.14
Cullman County—$39,727.14
Dale County—$13,690.00
Dallas County—$34,778.18
De Kalb County—$32,126.32
Elmore County—$22,363.43
Escambia County—$18,275.83
Etowah County—$74,023.91
Franklin County—$20,699.68
Greene County—$6,570.54
Hale County—$8,749.42
Jackson County—$36,286.35
Jefferson County—$357,088.41
Lamar County—$8,501.05
Lauderdale County—$50,647.07
Lawrence County—$22,802.57
Limestone County—$28,239.84
Lowndes County—$8,065.36
Macon County—$9,881.11
Marengo County—$12,583.67
Marion County—$20,509.90
Marshall County—$41,247.32
Mobile County—$188,509.77
Monroe County—$12,397.83
Morgan County—$50,815.99
Perry County—$7,440.39
Pickens County—$12,592.10
Pike County—$15,024.34
Randolph County—$17,828.25
Russell County—$25,403.78
Shelby County—$32,852.60
St. Clair County—$23,604.90
Sumter County—$10,227.38
Talladega County—$49,895.44
Tallapoosa County—$19,373.73
Tuscaloosa County—$59,092.49
Walker County—$40,318.33
Washington County—$8,850.78
Wilcox County—$9,864.24
Winston County—$16,113.81

Alaska

Fairbanks Division—$26,206.06
Haines Division—$1,157.04
Kenai-Cook Division—$15,801.32
Kuskokwim Division—$1,148.55
Matanuska-Susitna Div—$12,000.91
Outer Ketchikan Division—$1,553.96
Prince of Wales Division—$1,029.96
Seward Division—$2,119.80
Wade Hampton Division—$1,917.10
Wrangell-Petersburg Div—$3,927.11
Yukon-Koyukuk Division—$2,516.72
Apache County—$34,997.75
Gila County—$35,293.32
Graham County—$15,142.61
Greenlee County—$16,037.81
Maricopa County—$535,362.37
Mohave County—$31,298.64
Navajo County—$41,483.80
Pima County—$197,825.04
Pinal County—$41,044.66
Santa Cruz County—$15,106.83
Yuma County—$54,683.97

Arkansas

Bradley County—$5,742.86
Cleveland County—$2,778.56
Conway County—$10,472.30
Hot Spring County—$15,691.54
Jackson County—$12,583.67
Lawrence County—$10,041.60
Lee County—$7,330.60
Monroe County—$7,195.47
Newton County—$2,634.94
Poinsett County—$12,549.89
Randolph County—$16,031.56
Sebastian County—$39,338.65
St. Francis County—$17,161.06
Woodruff County—$5,227.72

California

Alameda County—$476,599.29
Amador County—$9,896.03
Butte County—$82,553.77
Calaveras County—$13,148.51
Del Norte County—$15,700.02
Fresno County—$339,420.64
Glenn County—$13,157.95
Humboldt County—$71,304.53
Imperial County—$125,292.50
Kern County—$216,910.12
Kings County—$36,063.40
Lake County—$18,073.17
Lassen County—$12,558.32
Los Angeles County—$2,972,780.88
Madera County—$35,377.80
Mendocino County—$41,137.53
Merced County—$84,411.78
Monterey County—$141,139.54
Nevada County—$29,204.19
Plumas County—$15,041.26
Riverside County—$297,700.35
Sacramento County—$369,503.16
San Benito County—$19,914.27
San Bernardino County—$356,184.78
San Diego County—$665,177.25
San Francisco City—$261,672.27
San Joaquin County—$243,480.88
Santa Clara County—$524,146.87
Shasta County—$82,317.33
Sierra County—$3,217.70
Siskiyou County—$35,048.40
Soland County—$94,149.32
Stanislaus County—$216,472.49
Sutter County—$43,443.12
Tehama County—$22,912.35
Trinity County—$8,985.91
Tuolumne County—$22,557.65
Ventura County—$232,569.43
Yuba County—$38,112.52

Colorado

Archuleta County—$2,204.24
Chaffee County—$6,470.72
Clear Creek County—$5,472.64
Conejos County—$4,763.23
Costilla County—$1,824.23
Lake County—$9,762.89
Las Animas County—$10,810.09
Ouray County—$1,004.98
Pueblo County—$89,987.01

Connecticut

Thompson Town—$4,442.30

District of Columbia

Washington DC City—$278,698.20

Florida

Dade County—$721,456.77
Palm Beach County—$185,520.13
Polk County—$185,655.21
St. Lucie County—$52,859.74

Georgia

Atlanta/DeKalb, Fulton Cos.—$324,970.57
Chattooga County—$12,136.05
Lincoln County—$4,070.68
Mc Duffie County—$13,521.08
Polk County—$16,191.39
Taliaferro County—$1,004.98
Warren County—$4,998.03

Idaho

Adams County—$2,710.99
Benewah County—$8,325.82
Boise County—$1,494.62
Bonner County—$13,005.89
Boundary County—$3,226.14
Clearwater County—$6,732.56
Gem County—$6,857.68
Idaho County—$9,889.54
Kootenai County—$32,227.87
Lemhi County—$4,957.45
Lewis County—$2,187.37
Shoshone County—$18,047.62
Valley County—$4,011.55

Illinois

Alexander County—$7,381.30
Boone County—$22,211.42
Calhoun County—$3,690.63
Clark County—$8,977.48
Clay County—$7,907.80
Cook County—$2,362,566.92
Du Page County—$217,899.75
Franklin County—$22,777.27
Fulton County—$31,887.13
Gallatin County—$4,628.09
Hamilton County—$5,134.90
Hardin County—$3,597.76
Henry County—$34,026.50
Jefferson County—$22,937.70
Jersey County—$9,948.66
Johnson County—$4,188.90
Kane County—$116,176.49
Kankakee County—$58,827.95
Knox County—$34,119.42
La Salle County—$62,470.62
Lake County—$151,797.63
Macon County—$83,997.94
Madison County—$137,178.21
Massac County—$10,088.90
Montgomery County—$16,063.16
Peoria County—$116,706.97
Perry County—$11,122.56
Pope County—$2,651.86
Pulaski County—$4,535.17
Putnam County—$3,487.97
Richland County—$9,416.62
Rock Island County—$122,019.17
Saline County—$17,279.28
Shelby County—$13,673.09
Tazewell County—$76,017.06
Union County—$11,105.71
Vermilion County—$59,016.44
White County—$9,154.83
Whiteside County—$40,588.60
Will County—$178,476.66
Williamson County—$33,089.08
Winnebago County—$167,446.95

Indiana

Allen County—$143,058.64
Bartholomew County—$32,928.60
Cass County—$24,922.37
Clark County—$48,966.41
Crawford County—$4,974.36
De Kalb County—$20,691.25
Dearborn County—$21,451.31
Delaware County—$85,772.70
Fayette County—$17,938.04
Fountain County—$14,433.29
Franklin County—$8,667.69
Fulton County—$10,683.44
Greene County—$14,044.71
Harrison County—$14,973.89
Henry County—$29,904.30
Howard County—$59,677.90
Indianapolis City—$340,847.90
Jackson County—$23,675.17
Jay County—$13,174.81
Jennings County—$11,874.21
La Porte County—$55,636.30
Lake County—$325,291.50
Lawrence County—$26,580.76
Madison County—$75,721.44
Miami County—$17,591.77
Noble County—$20,046.98
Ohio County—$4,737.88
Orange County—$8,729.11
Owen County—$8,350.92
Perry County—$12,152.91
Randolph County—$16,291.16
Ripley County—$12,556.32
Scott County—$15,106.83
Starke County—$10,490.08
Switzerland County—$5,281.50
Tipton County—$3,529.85
Vermillion County—$8,517.97
Warren County—$4,906.80
Washington County—$12,176.26
Wayne County—$42,782.84
White County—$12,972.16

Iowa

Appanoose County—$7,187.03
Black Hawk County—$68,855.33
Dubuque County—$51,898.97
Floyd County—$9,501.05
Jackson County—$11,674.21
Linn County—$89,835.01
Monroe County—$5,219.23

Kentucky

Allen County—$8,360.94
Bath County—$6,426.97
Bracken County—$3,580.84
Butler County—$4,873.01
Caldwell County—$7,043.46
Carter County—$14,754.12
Clay County—$9,239.27
Clinton County—$5,278.37
Edmonson County—$5,967.78
Elliott County—$3,268.35
Estill County—$8,040.01
Floyd County—$19,534.21
Graves County—$18,106.96
Greenup County—$20,834.82
Harlan County—$19,196.38
Hart County—$6,393.19
Jackson County—$5,945.56
Jefferson County—$322,850.77
Knott County—$9,779.78
Lawrence County—$4,940.58
Lee County—$2,955.91
Leslie County—$5,582.42
Letcher County—$14,230.50
Lewis County—$7,305.25
Lincoln County—$10,354.08
Livingston County—$5,610.43
Magoffin County—$7,212.36
Marion County—$8,948.07
Marshall County—$14,662.77
McCreary County—$8,790.11
Menifee County—$3,715.96
Monroe County—$6,083.78
Montgomery County—$11,510.50
Morgan County—$5,903.35
Nelson County—$17,118.84
Owsley County—$2,347.80
Pendleton County—$6,756.33
Perry County—$16,563.00
Powell County—$7,026.00
Robertson County—$1,744.16
Russell County—$6,562.06
Simpson County—$7,738.01
Washington County—$5,523.29
Whitley County—$12,228.90

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Wolfe County—$3,217.70

Louisiana

Allen Parish—$14,914.56
Avoyelles Parish—$17,650.90
Beauregard Parish—$14,306.50
Bineville Parish—$7,964.01
Calcasieu Parish—$90,931.62
Concordia Parish—$11,494.20
DeSoto Parish—$13,470.43
East Carroll Parish—$6,823.89
Evangeline Parish—$15,708.45
Franklin Parish—$13,546.43
Jefferson Davis Parish—$15,150.48
Madison Parish—$8,384.70
Morehouse Parish—$16,966.79
New Orleans City—$186,400.89
Ouachita Parish—$56,879.77
Red River Parish—$4,484.52
Richland Parish—$11,772.91
Sabine Parish—$9,974.03
St. James Parish—$10,725.66
St. Landry Parish—$41,576.72
Tangipahoa Parish—$44,279.23
Tensas Parish—$3,471.06
Union Parish—$7,845.79
Vernon Parish—$14,036.28
Washington Parish—$22,827.92
West Carroll Parish—$8,529.85
Winn Parish—$7,431.95

Maine

Washington County—$16,747.22

Maryland

Allegany County—$41,196.66
Baltimore City—$379,924.76
Baltimore County—$278,875.55
Calvert County—$13,453.52
Garrett County—$17,667.77
Somerset County—$12,408.32
Washington County—$62,723.96
Worcester County—$19,052.81

Massachusetts

Ashburnham Town—$12,169.83
Ashby Town—$5,117.93
Boston City—$220,416.52
Eastham Town—$16,029.38
Erving Town—$5,185.50
Huntington Town—$4,754.74
Marion Town—$2,474.51
New Bedford City—$58,805.30

Michigan

Alcona County—$5,565.51
Alger County—$5,582.42
Allegan County—$46,643.95
Alpena County—$27,050.60
Antrim County—$12,963.68
Arenac County—$7,187.03
Baraga County—$6,148.27
Barry County—$27,928.93
Bay County—$71,287.62
Benzie County—$8,715.64
Berrien County—$97,206.53
Branch County—$25,268.64
Calhoun County—$82,900.04
Cass County—$25,598.00
Charlevoix County—$14,973.69
Cheboygan County—$18,689.67
Chippewa County—$25,462.86
Clare County—$12,744.11
Crawford County—$6,570.55
Delta County—$28,308.99
Dickinson County—$15,767.54
Emmet County—$16,654.35
Genesee County—$345,045.28
Gladwin County—$11,494.20
Gogebic County—$11,122.56
Grand Traverse County—$34,617.69
Gratiot County—$20,294.28
Hillsdale County—$25,412.21
Houghton County—$18,622.10
Huron County—$20,209.84
Ionia County—$33,055.30
Iosco County—$12,347.18
Iron County—$8,470.72
Jackson County—$90,864.05
Kalkaska County—$6,840.76
Kent County—$250,144.33
Keweenaw County—$1,368.17
Lake County—$4,087.55
Lansing/Eaton, Ingham Cos.—$184,456.01
Lapeer County—$45,436.27
Leelanau County—$9,273.05
Lenawee County—$59,430.28
Livingston County—$65,620.76
Luce County—$4,188.90
Mackinac County—$14,213.63
Macomb County—$480,188.56
Manistee County—$15,243.96
Marquette County—$58,830.65
Mason County—$19,770.70
Menominee County—$14,583.64
Missaukee County—$6,545.19
Monroe County—$78,440.87
Montcalm County—$33,933.63
Montmorency County—$4,678.74
Muskegon County—$103,667.29
Newaygo County—$21,409.10
Oakland County—$575,841.19
Oceana County—$14,433.20
Ogemaw County—$10,827.01
Ontonagon County—$7,612.01
Osceola County—$11,620.85
Oscoda County—$3,960.90
Otsego County—$9,822.02
Presque Isle County—$10,276.03
Roscommon County—$9,492.62
Saginaw County—$142,727.28
Sanilac County—$28,089.42
Schoolcraft County—$7,127.90
Shiawassee County—$48,738.40
St. Clair County—$85,205.62
Tuscola County—$33,553.57
Wayne County—$1,419,494.43
Wexford County—$16,721.87

Minnesota

Aitkin County—$7,507.95
Clearwater County—$6,224.27
Itasca County—$26,239.84
Koochiching County—$8,783.21
Lake County—$12,102.26
Morrison County—$14,804.77
Red Lake County—$3,074.13
St. Louis County—$144,070.54

Mississippi

Alcorn County—$19,855.14
Attala County—$11,637.77
Benton County—$3,403.49
Bolivar County—$18,639.02
Chickasaw County—$9,296.40
Coahoma County—$14,880.77
Covington County—$8,781.66
George County—$6,308.70
Greene County—$4,003.11
Grenada County—$11,570.20
Holmes County—$9,636.19
Jasper County—$8,082.23
Jefferson County—$4,400.04
Jefferson Davis County—$6,629.62
Kemper County—$4,915.23
Lawrence County—$4,940.58
Madison County—$16,645.87
Marshall County—$15,294.61
Montgomery County—$5,785.06
Neshoba County—$11,316.85
Noxubee County—$7,237.68
Panola County—$12,321.83
Perry County—$6,139.78
Quitman County—$6,215.83
Sharkey County—$5,025.01
Stone County—$5,405.07
Tallahatchie County—$6,418.49
Tate County—$12,718.76
Tunica County—$3,842.68
Walthall County—$7,001.25
Washington County—$34,516.34
Wayne County—$9,475.75
Webster County—$5,565.51
Wilkinson County—$4,374.74
Winston County—$12,611.67

Missouri

Audrain County—$12,380.97
Bollinger County—$5,033.45
Butler County—$17,633.98
Clark County—$4,611.17
Douglas County—$4,805.44
Dunklin County—$18,166.04
Kansas City/Clay, Jackson, Platte Cos.—$327,875.79
Linn County—$8,943.69
Macon County—$7,533.30
Madison County—$4,712.53
Maries County—$2,939.00
Mississippi County—$7,136.36
Pemiscot County—$11,161.71
Ripley County—$4,957.45
Shannon County—$4,121.33
St. Louis City—$197,320.77
St. Louis County—$295,701.69
Texas County—$8,766.34
Washington County—$9,349.05
Wayne County—$5,430.37
Webster County—$8,234.28

Montana

Deer Lodge County—$5,785.08
Flathead County—$26,647.95
Lincoln County—$12,718.76
Mineral County—$3,513.27
Ravalli County—$10,827.01
Sanders County—$5,481.07

Nebraska

Lincoln County—$19,272.43

Nevada

Churchill County—$7,457.30
Clark County—$248,742.38
Eureka County—$870.03
White Pine County—$5,109.45

New Jersey

Camden County—$158,292.12
Cape May County—$53,516.50
Cumberland County—$81,244.73
Essex County—$353,152.86
Hudson County—$284,711.33
Mercer County—$110,364.48
Monmouth County—$174,279.28
Passaic County—$108,845.41
Union County—$198,360.45

New Mexico

Catron County—$1,545.52
Cibola County—$21,603.32
Grant County—$28,047.15
Mora County—$3,124.78
Rio Arribba County—$19,120.38
Taos County—$14,661.20

New York

Erie County—$465,856.71
New York City—$2,474,502.28
Niagara County—$122,813.01

North Carolina

Ashe County—$12,490.75
Cherokee County—$9,602.41
Clay County—$3,015.00
Cleveland County—$52,167.24
Graham County—$6,984.33
Mitchell County—$7,888.01
Person County—$15,843.59
Richmond County—$22,633.65
Robeson County—$59,041.79
Rockingham County—$47,226.66
Surry County—$35,082.18
Swain County—$8,597.42
Tyrrell County—$2,423.81
Warren County—$6,595.84
Yancey County—$7,533.30

Ohio

Adams County—$17,870.47
Allen County—$63,551.66
Ashland County—$24,745.02
Ashtabula County—$72,529.09
Auglaize County—$25,665.56
Belmont County—$49,430.95
Brown County—$19,179.51
Butler County—$114,528.08
Carroll County—$16,316.51
Clark County—$81,050.51
Clermont County—$73,044.28
Columbiana County—$69,995.50
Crawford County—$34,288.34
Cuyahoga County—$643,421.26
Defiance County—$25,192.64
Erie County—$53,864.77
Fayette County—$14,205.15
Franklin County—$333,787.57
Fulton County—$20,277.41
Guernsey County—$31,568.91
Hamilton County—$362,805.97
Hardin County—$18,005.61
Harrison County—$8,740.99
Henry County—$16,324.95
Hocking County—$12,532.97
Huron County—$41,475.37
Jackson County—$16,215.16
Jefferson County—$44,912.64
Lake County—$119,173.04
Lawrence County—$34,778.18
Lorain County—$199,632.35
Lucas County—$220,551.61
Mahoning County—$201,177.88
Marion County—$44,566.37
Mercer County—$29,178.84
Monroe County—$11,147.93
Montgomery County—$262,153.68
Morgan County—$7,389.74
Morrow County—$14,863.91
Muskingum County—$46,424.36
Noble County—$8,994.35
Ottawa County—$23,098.19
Paulding County—$12,803.24
Perry County—$20,877.04
Pike County—$14,036.28
Portage County—$73,441.20
Putnam County—$19,973.36
Richland County—$76,734.90
Scioto County—$42,564.84
Seneca County—$38,857.29
Shelby County—$25,049.07
Stark County—$215,383.02
Summit County—$234,157.18
Trumbull County—$188,822.26
Tuscarawas County—$47,986.77
Van Wert County—$20,792.55
Vinton County—$5,768.21
Williams County—$20,986.82

Oklahoma

Coal County—$2,077.58
Pushmataha County—$3,555.49

Oregon

Baker County—$10,497.65
Coos County—$33,215.74
Crook County—$8,538.29
Curry County—$10,007.81
Deschutes County—$41,644.29
Douglas County—$59,109.35
Grant County—$6,198.92
Harney County—$4,096.03
Hood River County—$10,539.87
Jackson County—$77,495.02
Josephine County—$30,496.36
Klamath County—$31,433.77
Lane County—$137,879.62
Linn County—$51,255.13
Porland/Clackamas, Multnomah Cos.—$375,170.02
Tillamook County—$13,318.38
Wasco County—$12,228.96

Pennsylvania

Allegheny County—$612,451.98
Armstrong County—$44,549.50
Beaver County—$145,134.22
Bedford County—$28,241.42
Blair County—$62,512.84
Bradford County—$29,474.46
Bucks County—$188,492.91
Butler County—$86,531.58
Cambria County—$104,908.76
Cameron County—$5,751.29
Clarion County—$20,564.55
Clearfield County—$48,611.70
Clinton County—$23,782.25
Columbia County—$31,965.83
Crawford County—$44,414.37
Elk County—$18,675.45
Erie County—$128,479.87
Fayette County—$100,432.72
Forest County—$2,710.99
Fulton County—$12,169.83
Greene County—$16,240.51
Huntingdon County—$25,099.72
Jefferson County—$23,376.84
Juniata County—$9,188.61
Lawrence County—$59,996.12
Luzerne County—$156,848.00
Mercer County—$75,721.44
Mifflin County—$24,837.93
Montgomery County—$197,917.96
Philadelphia City—$609,546.76
Somerset County—$46,441.25
Sullivan County—$2,584.29
Venango County—$34,364.34
Washington County—$109,840.86
Westmoreland County—$213,212.57

Puerto Rico

Puerto Rico—$966,858.77

Rhode Island

Providence County—$271,012.69

South Carolina

Abbeville County—$11,097.28
Allendale County—$5,599.29
Chester County—$22,304.29
Colleton County—$14,703.42
Dillon County—$16,164.51
Georgetown County—$27,574.23
Lancaster County—$30,952.42
Laurens County—$29,744.66
Marion County—$21,569.53
Marlboro County—$21,054.39
McCormick County—$5,092.58
Oconee County—$28,621.48
Saluda County—$9,982.46
Union County—$26,400.33
Williamsburg County—$20,581.46

South Dakota

Shannon County—$3,775.11
Todd County—$2,280.24

Tennessee

Bedford County—$18,098.48
Benton County—$10,767.87
Bledsoe County—$4,788.53
Campbell County—$20,108.49
Cannon County—$6,536.76
Carroll County—$19,829.79
Carter County—$25,049.07
Chester County—$8,124.50
Claiborne County—$11,933.34
Cocke County—$23,554.20
Crockett County—$8,994.35
Cumberland County—$19,027.51
DeKalb County—$10,649.65
Decatur County—$5,742.86
Dickson County—$18,368.75
Dyer County—$20,547.66
Fayette County—$12,203.61
Fentress County—$10,086.90
Franklin County—$14,365.63
Gibson County—$30,656.79
Grainger County—$9,729.11
Greene County—$29,474.46
Grundy County—$6,139.78
Hamblen County—$24,854.80
Hancock County—$3,420.40
Hardeman County—$13,225.51
Hardin County—$13,808.22
Haywood County—$13,521.08
Henderson County—$15,108.83
Henry County—$19,914.27
Hickman County—$10,751.01
Houston County—$5,785.08
Humphreys County—$14,787.90
Jackson County—$5,396.59
Jefferson County—$14,678.12
Johnson County—$6,469.19
Lake County—$4,070.68
Lawrence County—$30,462.57
Lewis County—$6,587.41
Lincoln County—$13,242.38
Macon County—$12,811.67
Maury County—$32,590.81
McMinn County—$22,794.13
McNairy County—$17,431.33
Meigs County—$4,771.66
Monroe County—$18,858.59
Montgomery County—$38,713.72
Morgan County—$7,440.39
Overton County—$11,654.64
Perry County—$6,384.70

VOL
48
ISS
96
MY
17
1983
UMI

Pickett County—$2,612.30
Putnam County—$28,286.77
Roane County—$21,079.74
Scott County—$10,649.65
Sevier County—$32,024.59
Shelby County—$294,111.06
Smith County—$10,632.74
Stewart County—$7,768.79
Trousdale County—$5,337.50
Unicoi County—$12,524.54
Van Buren County—$4,315.60
Warren County—$18,943.02
Wayne County—$10,539.67
White County—$15,286.18
Wilson County—$34,220.77

Texas

Cass County—$17,152.63
El Paso County—$177,708.12
Hidalgo County—$144,728.82
Jefferson County—$96,894.10
Marion County—$3,859.55
Matagorda County—$18,149.18
Maverick County—$25,707.78
Morris County—$10,455.39
Orange County—$54,548.83
San Augustine County—$2,980.65
Starr County—$30,667.93
Upshur County—$12,144.48
Val Verde County—$12,777.89
Webb County—$56,508.19
Zapata County—$3,547.06
Zavala County—$8,512.99

Utah

Juab County—$2,795.43
Wasatch County—$3,893.33

Virginia

Buchanan County—$22,726.57
Buena Vista City—$3,656.84
Charlotte County—$5,472.64
Dickenson County—$8,504.50
Essex County—$4,737.66
Franklin City—$4,349.39
Giles County—$10,075.38
Halifax County—$19,120.38
Lancaster County—$6,511.40
Luneburg County—$6,925.24
Northumberland County—$5,624.64
Nottoway County—$6,325.62
Page County—$12,026.28
Pulaski County—$20,775.69
Russell County—$17,194.84
Smyth County—$22,540.78
South Boston City—$4,062.25
Surry County—$2,314.02
Tazewell County—$26,589.24
Warren County—$12,600.54
Waynesboro City—$9,619.32
Williamsburg City—$5,920.21
Wyth County—$16,576.30

Washington

Benton County—$71,667.67
Chelan County—$38,333.67
Clallam County—$32,362.76
Columbia County—$2,820.78
Cowlitz County—$49,126.89
Douglas County—$13,554.67
Ferry County—$5,497.94
Franklin County—$26,045.62
Grant County—$27,878.28
Grays Harbor County—$44,456.58
King County—$580,790.20
Kittitas County—$12,532.97
Klickitat County—$13,673.09
Lewis County—$34,744.39
Mason County—$13,504.22
Okanogan County—$32,219.19
Pacific County—$10,514.52
Pend Oreille County—$7,693.74
Pierce County—$195,578.50
Skagit County—$43,147.55
Skamania County—$6,849.24
Snohomish County—$187,420.31
Stevens County—$19,736.92
Whatcom County—$53,484.71
Yakima County—$112,703.85

West Virginia

Berkeley County—$22,110.07
Boone County—$13,276.16
Braxton County—$7,102.60
Brooke County—$17,625.55
Calhoun County—$4,628.09
Clay County—$6,317.14
Doddridge County—$3,521.76
Fayette County—$28,026.83
Greenbrier County—$18,774.10
Hancock County—$25,167.29
Harrison County—$38,114.10
Huntington/Cabell, Wayne Cos.—$86,110.60
Jackson County—$26,206.06
Lewis County—$8,403.15
Lincoln County—$12,600.54
Logan County—$25,606.43
Marshall County—$23,351.54
Mason County—$19,759.79
McDowell County—$31,856.05
Mineral County—$12,936.37
Mingo County—$15,075.04
Nicholas County—$16,257.38
Raleigh County—$41,247.32
Randolph County—$16,679.65
Ritchie County—$5,253.02
Roane County—$10,911.44
Summers County—$7,195.47
Taylor County—$8,200.50
Tucker County—$4,661.67
Webster County—$6,714.11
Wirt County—$3,623.06
Wyoming County—$13,200.16

Wisconsin

Appleton/Calumet, Outagamie Cos.—$75,088.08
Douglas County—$21,442.88
Forest County—$5,759.78
Green Lake County—$10,083.81
Iron County—$3,732.84
Jackson County—$9,948.66
Kewaunee County—$10,176.73
Lincoln County—$14,137.58
Manitowoc County—$53,586.06
Marquette County—$5,506.42
Menominee County—$4,036.90
Milwaukee County—$472,691.74
Oconto County—$13,943.36
Racine County—$105,905.31
Rock County—$99,098.33
Sauk County—$24,153.82
Sawyer County—$7,541.74
Taylor County—$11,705.34
Tremealeau County—$14,247.41
Vilas County—$7,736.01
Washburn County—$6,899.69

American Samoa

American Samo—$10,860.79

Micronesia

Micronesia—$149,542.70

[FR Doc. 83-12985 Filed 5-16-83; 8:45 am]

BILLING CODE 6718-01-M

federal register

Tuesday
May 17, 1983

Part IV

Department of the Interior

National Park Service

National Capital Parks Regulations; Demonstrations in the White House Area; Proposed Rule

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 50

National Capital Parks Regulations; Demonstrations in the White House Area

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend § 50.19 of Title 36 of the Code of Federal Regulations concerning demonstrations and special events in the National Capital Parks to prohibit signs or placards on the White House sidewalk except those that are carried by an individual. The proposed rule would also amend §50.19 of Title 36 of the Code of Federal Regulations and § 50.7(h) of the same title concerning storage of materials in park areas to prohibit the placement or storage of parcels, containers, packages, bundles or other property on the sidewalks surrounding the White House. Those changes are necessary in order to minimize potential threats to the structure and its occupants and visitors.

DATES: Written comments, suggestions, or objections regarding this proposed rule will be accepted until May 31, 1983.

ADDRESSES: Written comments regarding this proposed rule should be sent to Manus J. Fish, Jr., Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242, telephone (202)426–6700; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone (202)343–4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: Richard G. Robbins and Patricia S. Bangert, Office of the Solicitor, Department of the Interior.

Background

Recent events in the Memorial Core parks have increased security concerns for the White House and the President. On December 8, 1982, an individual backed a truck up to the Washington Monument and threatened to blow up the structure with 1,000 pounds of dynamite that he allegedly had stored in the truck. The incident, occurring a mere three blocks from the White House, highlighted the threat that could be potentially caused to the White House and the President by one determined individual.

Since the incident, the National Park Service, along with other law enforcement agencies, have reviewed present regulations applicable to the White House area to determine if regulatory changes could aid in minimizing potential threats to the structure and its occupants and visitors. Two areas of concern became evident in that review—signs or placards stationed on the White House sidewalk and parcels, containers, packages, bundles and other property placed or stored on the White House sidewalk and other sidewalks surrounding the structure. (The term White House sidewalk is defined in 36 CFR 50.19(a)(5) as "the south sidewalk of Pennsylvania Avenue, N.W., between East and West Executive Avenues, N.W.")

Signs or placards leaning against the White House fence, and parcels and other property placed or stored on the sidewalks, especially those left unattended, represent potential threats to the security of the area. For example, both can potentially conceal explosives or other contraband and both can potentially be used to scale the White House fence. In fact, the Secret Service reports a recent incident in which a large sign was used to facilitate the scaling of the fence.

In addition to the security concerns, experience with the recent proliferation of signs or placards and parcels and other property stationed and stored on the White House sidewalk has demonstrated that the policy of allowing such activity impedes the free flow of pedestrian and emergency traffic by and through the White House and significantly diminishes the White House experience for park visitors. For example, two individuals who have in the past and are presently maintaining a daily demonstration in front of the White House have had as many as twenty-five signs or placards leaning against the White House fence. In addition to the signs, paper bags, suitcases and other parcels containing personal belongings obsruct the view of the White House and impede the flow of pedestrian traffic.

It is the judgment of the National Park Service that certain restrictions can be placed upon the stationing of signs or placards and placement or storage of parcels and other property on the White House sidewalk which would enhance the park visitor's experience in viewing the White House and respond to security concerns without impairing the demonstrator's ability to convey a message.

This regulation was published as an interim rulemaking on April 22, 1983 (48 FR 17352). The interim rule was challenged in *White House Committee for the ERA Vigil v. Watt,* Civil Action No. 83–1243 (D.D.C. filed 4/29/83). Plaintiffs alleged constitutional and Administrative Procedure Act (APA) defects. The District Court found that good cause had not been shown for giving immediate effect to the regulation. On this basis, the court enjoined enforcement of the regulation as an interim rule until the publication of a final rule.

In response to the District Court's order, the National Park Service is republishing the regulation as a proposed rulemaking.

The National Park Service and the United States Secret Service maintain their position that good cause does exist to make this regulation effective immediately in order to protect the White House, the President and the public. However, the District Court differed with this view and held that good cause had not been shown to make the regulation effective immediately. Accordingly, the proposed rulemaking gives the public another comment period, in addition to the period already provided in the interim rulemaking.

Regulatory Changes

To accomplish the purpose of minimizing potential threats to the White House and the President, and for other purposes outlined above, the National Park Service is proposing to amend present regulations to prohibit signs or placards on the White House sidewalk, except those that are being hand-carried by an individual. The regulation, then, would not be applicable to other parks where demonstrations are permitted. (Demonstrations are not permitted on other sidewalks contiguous to the White House. 36 CFR 50.19(c)(1).)

The proposed rule would not prohibit the carrying of a sign or placard during demonstrations on the White House sidewalk. Further, it would not place any restriction on the size of the sign or placard, as long as it is in fact being held or carried by an individual. The proposed rule would prohibit signs or placards that are not held or carried by individuals, for example, signs that are leaned against the White House fence, signs that are left unattended on the White House sidewalk and signs that are supported by other structures. In fact, the proposed rule would not dramatically change the present regulatory scheme—temporary structures are presently prohibited on the White House sidewalk under 36 CFR 50.19(e)(8).

The National Park Service believes that there is a substantial government interest in regulating the use of signs or placards on the White House sidewalk. Signs or placards not hand-carried and those left unattended cannot be easily moved in emergency situations. Signs or placards leaning against the White House fence may conceal dangerous materials, obscure the view of law enforcement personnel and create other security problems. For example, a sign affixed to a large structure caught fire several weeks ago, seriously damaging the fence and granite post in front of the Old Executive Office Building, a few feet from the White House sidewalk and fence.

In addition, signs or placards leaning against the White House fence can obscure the view of the White House for the thousands of park visitors. Signs or placards stationed on the sidewalk also incommode the passageway and sometimes cause difficulty in maintaining smooth pedestrian flow, which may include park visitors and persons having business in the area.

The proposed rule would also prohibit the placement or strorage of parcels, containers, packages, bundles or other property on the White House sidewalk, the west sidewalk of East Executive Avenue, N.W. between Pennsylvania Avenue, N.W. and E Street, N.W., and the north sidewalk of E Street, N.W. between East and West Executive Avenues, N.W. The rule would not interfere with an individual who is carrying a parcel or other property along the sidewalk. In fact, it would not even subject an individual setting a parcel or other property down on the sidewalk or attending structures for up to one hour to law enforcement action unless that individual either refuses law enforcement personnel requests to search the property, or leaves the property unattended.

The National Park Service concludes, however, that when a parcel, container, package, bundle or other property is placed or stored on the sidewalks contiguous to the White House, potential security problems are created. In addition, the National Park Service concludes that parcels and other property, like signs or placards, may obscure the view of the White House by park visitors and law enforcement personnel, may be difficult to move when the sidewalk must be cleared in an emergency and may incommode the sidewalk and interfere with visitor and business pedestrian traffic.

The National Park Service believes that these minor restrictions on the stationing of signs or placards and the placement or storage of parcels, containers, packages, bundles or other property serve substantial government interests in maintenance of the security of the White House, preservation of the park experience for park visitors, and free passage of pedestrian traffic by and through the White House. The regulation is written in a neutral manner such that all persons are prohibited from stationing signs or placards or storing parcels or other property on the sidewalks surrounding the White House. In addition, it is unrelated to the suppression of free expression and the incidental impact on First Amendment freedoms is only as great as is essential to serve the substantial government interests in security, aesthetics and free passage of pedestrian traffic. Further, the proposed rule would apply only to sidewalks contiguous to the White House. A substantial number of alternative forums exist close to the White House sidewalks where these restrictions do not apply.

Public Participation and Statement of Good Cause

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, the National Park Service encourages interested persons to submit written comments, suggestions, or objections regarding the proposed rule to the address noted at the beginning of this rulemaking within the time period specified.

The National Park Service has determined that good cause exists to waive a further thirty-day comment period. Because the proposed rule relates to public property, the APA does not require that it be subject to public notice and comment. However, it is the policy of the Department of the Interior to utilize the public participation procedures of the APA to the fullest extent possible and public comments are invited until May 31, 1983. Because of the urgent need to eliminate security concerns for the White House, the President and the public, as described above, because the proposed rule is identical to that published as an interim rule, and because the public has had notice of the rule since April 22, 1983, and some members of the public have already submitted comments on the rule, good cause exists to waive the normal thirty-day comment period and, instead, invite comments for an additional approximately two-week period only. All comments received in response to the publication of the interim rule will be considered in addition to the comments received in response to this identical proposed rule.

Impact Analysis

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The National Park Service has also determined that the proposed rule would not have a significant economic impact on a substantial amount of small entities and, therefore, does not require a small entity flexibility analysis under Pub. L. 96–354. The proposed rule would merely place restrictions on the stationing of signs or placards and parcels and other property on sidewalks contiguous to the White House. It would have no substantial impact on any aspect of the economy.

The National Park Service has further determined that this proposed rule is not a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 36 CFR Part 50

District of Columbia, National parks, National Capital parks.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Date approved: May 13, 1983.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, it is proposed that §§ 50.19 and 50.7 of Title 36 of the Code of Federal Regulations be accordingly amended.

1. The authority citation for Part 50 reads as follows:

Authority: Section 6 of the Act of July 1, 1898 (30 Stat. 571); Sections 1–9 of the Act of August 25, 1916 (39 Stat. 535, as amended); Section 10 of the Act of March 3, 1925 (43 Stat. 1120, as amended); Act of March 17, 1948 (62 Stat. 81); Act of August 8, 1953 (67 Stat. 495); Act of July 1, 1980 (94 Stat. 672); 16 U.S.C. 1–3; D.C. Code 8–137 (1981); D.C. Code 40–721 (1981).

2. Section 50.19 is amended by redesignating paragraphs (e) (9) through (11) as (e) (11) through (13) and adding new paragraphs (e)(9) and (e)(10) to read as follows:

§ 50.19 Demonstrations and special events.

* * * * *

(e) * * *

(9) No signs or placards shall be permitted on the White House sidewalks except those signs or placards that are held or carried by an individual.

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(10) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk or on the west sidewalk of East Executive Avenue, NW., between Pennsylvania Avenue, NW. and E Street, NW. or on the north sidewalk of E Street, NW. between East and West Executive Avenues, NW.; Provided, however, that a parcel, container package, bundle or other property, except structures, may be set down on these sidewalks for a maximum of one hour if it is attended at all times within that time period, and law enforcement personnel are permitted to search the property.

* * * * *

3. Section 50.7(h) is amended by redesignating the existing paragraph as paragraph "(1)" and by adding a paragraph "(2)", as follows:

§ 50.7 Federal property; miscellaneous provisions

* * * * *

(h) Storage. * * *

(2) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk, as that term is defined in § 50.19(a)(5) of this Part, or on the west sidewalk of East Executive Avenue, NW. between Pennsylvania Avenue, NW. and E Street, NW. or on the north sidewalk of E Street, NW. between East and West Executive Avenues, NW.; Provided, however, that a parcel, container package, bundle or other property, except structures, may be set down on any of these sidewalks for a maximum of one hour if it is attended at all times within that time period, and law enforcement personnel are permitted to search the property.

* * * * *

[FR Doc. 83-13352 Filed 5-16-83; 10:44 am]
BILLING CODE 4310-70-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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(ISSN 0097-6326)

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VOL
48
ISS
97
MY
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5-18-83
Vol. 48 No. 97
Pages 22287-22498

federal register

Wednesday
May 18, 1983

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Order Directing That a Referendum Be Conducted; Determination of Representative Period for Voter Eligibility; and Designation of Referendum Agents to Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among growers of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, do determine whether they favor continuance of the marketing agreement and order program.

DATE: Referendum period May 18 throught 28, 1983.

ADDRESSES: See information contained in supplementary information.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is required to determine whether growers favor continuance of the marketing order for cranberries grown in the production area as specified in the order and will not substantially affect costs for the directly regulated handlers.

Pursuant to § 929.68(d) of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amend (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted within the period May 18 through May 28, 1983, among the growers who, during the period September 1, 1982 through March 31, 1983 (which period is hereby determined to be a representative period for the purposes of such referendum), were engaged in the production area in the production of cranberries covered by the said amended marketing agreement and order to ascertain whether continuance of the said amended marketing order is favored by the growers. Section 928.68(d) specifies that such a referendum shall be held during the month of May 1975, and during the month of may every fourth year thereafter, to ascertain whether growers favor such continuance.

Ronald L. Cioffi and Jay N. Guerber, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, are hereby designated as referendum agents of the Secretary of Agriculture to conduct said referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 *et seq.*).

Copies of the texts of the aforesaid amended marketing order may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees.

List of Subjects in 7 CFR Part 929

Marketing Agreements and orders, Cranberries, Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, New York.

Dated: May 13, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–13289 Filed 5–17–83; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1040

[Docket No. AO–225–A35]

Milk in the Southern Michigan Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides handlers regulated by the Southern Michigan Federal milk order with limited transportation credits from the marketwide pool for certain Class III milk transferred to unusually distant outlets for surplus disposal. The change, which would apply only through August 31, 1983, is based on industry proposals considered at a public hearing on April 7, 1983. The amendment is needed to reflect current marketing conditions and to insure that all producers in the market share more equitably the costs of disposing of unusually large supplies of surplus milk that are expected during the months of May through August 1983. Cooperative associations representing more than two-thirds of the producers who supply the market have approved of the amended order.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Martin Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding: Notice of Hearing: Issued March 22, 1983; published March 28, 1983 (48 FR 12721).

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Emergency Final Decision: Issued April 29, 1983, published May 6, 1983 (48 FR 20418).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon a proposed amendment to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing the amendment provision of this order was issued April 29, 1983. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register,** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.**

(Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the following terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. In § 1040.60, add paragraph (h) to read as follows:

§ 1040.60 Handler's value of milk for computing uniform price.

* * * * *

(h) With respect to milk marketed on or after the effective date hereof through August 1983, deduct the amount obtained by multiplying the pounds of bulk fluid milk and the pounds of condensed milk (whole or skim) which were classified as Class III and were transferred to another order plant pursuant to § 1040.42(b)(3) or to a nonpool plant pursuant to § 1040.42(d)(2), both of which are located outside the State of Michigan, by a per hundredweight rate equal to 3.6 cents for each 10 miles or fraction thereof that such other order plant or nonpool plant is located more than 150 miles, as determined by the market administrator, from the pool plant from which the milk was transferred. No credit should apply to the total quantity of milk so transferred by a handler if any portion of the milk is assigned to Class I.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: May 18, 1983.

Signed at Washington, D.C., on May 13, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-13291 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 83-024]

Swine Health Protection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document exempts rendering facilities from the provisions of the Swine Health Protection Regulations. This action is necessary because the Deputy Administrator of Veterinary Services, APHIS, has determined that rendered products pose no disease threat to the swine industry. The effect of this action is to relieve the unnecessary burden on renderers of obtaining licenses to treat garbage which is to be fed to swine.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, Veterinary Services, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8438.

Background

On November 3, 1982, there was published in the **Federal Register** a new 9 CFR Part 166 (47 FR 49940–49948) which, among other things, requires the licensing of garbage treatment facilities producing edible waste of animal origin for swine consumption. Rendering facilities were included in this category since they produce animal protein supplements for animal feeds from raw animal products and by-products.

Rendering is the process of treating any fat, bone, offal, viscera or related material derived from the carcasses of livestock, poultry, fish, or parts thereof, and used cooking greases and oils into products that include animal, poultry, or fish protein meal, grease or tallow. The material treated by rendering falls under the definition of garbage in the Swine Health Protection Act (7 U.S.C. 3801 *et seq.*) and 9 CFR Part 166. As the final rendered products are used in animal feeds, some of which are consumed by swine, renderers have been subject to regulation under the Swine Health Protection Act and the regulations in 9 CFR Part 166.

There are two main rendering processes: dry batch rendering and wet rendering. Dry rendering occurs where the material is agitated and cooked at 240°–250° F. for 1½ to 4 hours, driving off all moisture. Wet rendering occurs by injecting the container of material with live steam and cooking at 240°–310° F. for 1½ to 4 hours. The minimum final temperature of the rendered product with all rendering methods is not less than 230° F. Both of these processes meet or exceed the requirements of the regulations in Part 166. Those regulations are designed to ensure that all possible disease organisms in garbage which is to be fed to swine are killed by boiling at 212° F. for ½ hour or equivalent temperature. Rendered products reach at least 230° F., and it is not necessary to require that this temperature be maintained for any minimum time period, as merely reaching this temperature has the same effect as boiling for ½ hour; that is, all possible disease organisms are killed. In addition, rendered products used in animal feeds are under the jurisdiction of the Food and Drug Administration. Therefore, in view of these facts the Deputy Administrator, Veterinary Services, has determined that rendering facilities as defined in these regulations do not pose a risk to the swine industry in the United States.

In accordance with this determination, a document was published in the **Federal Register** on December 23, 1982 (47 FR 57292–57293), which proposed exempting rendering facilities from the provisions of the Swine Health Protection Regulations. Comments regarding the proposal were solicited for 20 days after publication of the proposed regulations, and copies of the proposal were distributed to industry organizations, animal health officials, and veterinary medical societies known to be interested in the subject matter.

Comments Received

The only comment received was from a national association representing the rendering industry. It was requested that the proposed definitions of "render" and "rendered product" be amended. These terms were defined in the proposal as follows:

Render. To process garbage derived from slaughter, food service, and other sources through grinding and heating to a minimum temperature of not less than 230° F.

Rendered product. Garbage that has been rendered to make products such as, but not limited to, animal, poultry, or fish protein meal, grease or tallow.

It was requested that the term "garbage," not be used in the definitions of "render" and "rendered product." In support of this request it was asserted that the use of the term "garbage," though technically correct, mistakenly implies that the material processed by renderers is "spoiled or waste food * * * that is thrown away (as worthless)." It was further pointed out that the materials that are processed come from the fresh meat industry and are neither spoiled nor thrown away, but in fact are highly desirable for use in animal feeds and fertilizers. In order to resolve what was perceived as being misleading, the association suggested substituting a portion of the definition of "garbage" for the term "garbage" itself.

The term "garbage" is defined in both the Act and the regulations to mean, in relevant part, "waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food * * *" The Department has carefully reviewed the proposed regulations in view of the comment received. As a result of this review, the Department has amended the proposal in the following nonsubstantive ways. In the definition of the term "rendered product" the word "garbage" has been deleted and the relevant portion of the definition of the word "garbage" has been substituted therefor. This change in the definition of the term "redered product" has resulted in the word "rendered" being deleted. Since the word "render" was defined in proposed § 166.1 only because the word "rendered " was used in the definition of the term "rendered product," the definition of the word "render" is deleted as unnecessary.

Otherwise, based on the reasons set forth in the proposal, the provisions in the proposal have been adopted in the final rule as proposed.

Executive Order 12291

In accordance with Executive Order 12291 and based on information compiled by the Department of Agriculture, this rule is determined to be nonmajor. This final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Exective Order 12291.

Certification Under the Regulatory Flexibility Act

James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on any entity. This action will impact on rendering facilities only. The renderers would merely not be required to obtain licenses under 9 CFR Part 166, because their activities do not pose a risk to the swine industry in the United States.

Alternatives

There were two alternatives considered:

1. Provide no exemption for rendering facilities.

2. Exempt rendering facilities.

Alternative 1 was rejected because it would have required the inspection and licensing of all rendering facilities, regardless of the fact that their activities pose no disease threat to the swine industry in the United States

Alternative 2 was selected because it was determined that rendering facilities already exceed the requirements in Part 166, and do not produce products that would transmit diseases of swine.

Therefore, the Department is amending 9 CFR 166.1, 166.2(a), and 166.10 to exempt renderers from the licensing requirements of Part 166, to allow the feeding to swine of rendered products from rendering facilities not licensed under the Swine Health Protection Act and the regulation in Part 166, and to add a definition of "rendered product."

Effective Date

The final rule relieves restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete the restrictions. Therefore, in accordance with the administrative procedure

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provisions of 5 U.S.C. 553, good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

List of Subject in 9 CFR Part 166

African swine fever, Animal diseases, Foot-and-mouth disease, Garbage, Hogs, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, 9 CFR Part 166, is amended as follows:

1. In § 166.1, the following definition is added in alphabetical order:

§ 166.1 Definitions in alphabetical order.

* * * * *

Rendered product. Waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking or consumption of food that has been ground and heated to a minimum temperature of 230° F. to make products such as, but not limited to, animal, poultry, or fish protein meal, grease or tallow.

* * * * *

2. In § 166.2, paragraph (a) is revised to read:

§ 166.2 General restrictions.

(a) No person shall feed or permit the feeding of garbage to swine, except for rendered products, unless it is treated to kill disease organisms, pursuant to the regulations, at a facility operated by a person holding a valid license for the treatment of garbage.

* * * * *

3. In § 166.10, a new sentence is added at the end of paragraph (a) to read:

§ 166.10 Licensing.

(a) * * * Producers of only rendered products are so exempted from the requirements of this paragraph in States which do not have primary enforcement responsibility.

* * * * *

(Sec. 511, Pub. L. 96–592, 94 Stat. 3451 (7 U.S.C. 3602); secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2223 (7 U.S.C. 3803, 3804, 3808, 3811) 7 CFR 2.17, 2.51, and 371.2(d)

Done at Washington, D.C., this 12th day of May, 1983

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

FR Doc. 83-13301 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1012-83]

Office of the Pardon Attorney

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: Present regulations require the Pardon Attorney to submit all recommendations in clemency cases to the Attorney General. This order delegates to the Pardon Attorney those functions vested in the Attorney General under 28 CFR 1.1 through 1.8 inclusive, but directs that the Pardon Attorney submit recommendations to the President through the Associate Attorney General.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: David C. Stephenson, Acting Pardon Attorney, Office of the Pardon Attorney, Department of Justice, Washington, D.C. 20503 (301–492–5910).

List of Subjects in 28 CFR Part 0

Clemency.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Subpart G of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by revising §§ 0.35 and 0.36 as follows:

§ 0.35 General functions; delegation of authority.

Under the general supervision of the Attorney General and the direction of the Associate Attorney General, the following-described matters are assigned to, and shall be conducted, handled or supervised by, the Pardon Attorney but subject to the limitation contained in section 0.36 of this Chapter.

(a) Exercise of the powers and performance of the functions vested in the Attorney General by § 1.1 through 1.8 inclusive of this Chapter.

(b) Performance of such other duties as may be assigned by the Attorney General or the Associate Attorney General.

§ 0.36 Recommendations.

The Pardon Attorney shall submit all recommendations in clemency cases through the Associate Attorney General and the Associate Attorney General shall exercise such discretion and authority as is appropriate and necessary for the handling and transmittal of such recommendations to the President.

Dated: May 6, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-13300 Filed 5-17-83; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 1

[Order No. 1011-83]

Rules Governing Petitions for Executive Clemency

AGENCY: Office of the Attorney General, Justice

ACTION: Final rule.

SUMMARY: The regulations governing petitions for Executive clemency describe the procedures involved in petitioning the President for Executive clemency and the responsibility of the Attorney General in investigating each applicant for clemency and advising the President as to the proper disposition of each application. This order simplifies and updates the present regulations, authorizes the Attorney General to delegate his responsibility in clemency matters, lengthens the eligibility waiting period for pardon applicants to a minimum of five years, with a minimum of seven required for more serious crimes, increases the categories of crimes requiring the longer eligibility waiting period, and broadens the discretionary authority to release clemency records in the public interest. Finally, the order adds a new section which describes the nature and effect of the regulations.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: David C. Stephenson, Acting Pardon Attorney, Office of the Pardon Attorney, Department of Justice, Washington, D.C. 20530 (301–492–5910).

List of Subjects in 28 CFR Part 1

Clemency.

With the approval of the President, acting in conformity with his authority as Chief Executive and Article II, Section 2, United States Constitution, and by virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 1 of Chapter I of Title 28 of the Code of Federal Regulations is revised to read as follows:

PART 1—EXECUTIVE CLEMENCY

Sec.

1.1 Submission of petition: form to be used: contents of petition.
1.2 Eligibility for filing petition for pardon.
1.3 Eligibility for filing petition for commutation of sentence.

Sec.

1.4 Offenses against the laws of possessions or territories of the United States.
1.5 Disclosure of files.
1.6 Consideration of petitions; recommendations to the President.
1.7 Notification of grant of clemency.
1.8 Notification of denial of clemency.
1.9 Delegation of authority.
1.10 Advisory nature of regulations.

Authority: U.S. Const., Art II, sec. 2, and authority of the President as Chief Executive.

§ 1.1 Submission of petition; form to be used; contents of petition.

Persons seeking Executive clemency by pardon, reprieve, commutation of sentence or remission of fine shall execute formal petitions therefor. The petitions shall be addressed to the President of the United States and shall be submitted to the Pardon Attorney, Department of Justice, Washington, D.C. 20530, except for petitions relating to military offenses. Petitions and other required forms may be obtained from the Pardon Attorney. Petition forms for commutation of sentence also may be obtained from the wardens of Federal penal institutions. A petitioner applying for Executive clemency with respect to military offenses should submit his petition directly to the Secretary of the military department which had original jurisdiction over the courtmartial trial and conviction of the petitioner. In such instance, a form furnished by the Pardon Attorney may be used but should be modified to meet the needs of the particular case. Each petition for Executive clemency should include the information required in the form prescribed by the Attorney General.

§ 1.2 Eligibility for filing petition for pardon.

No petition for pardon should be filed until the expiration of a waiting period of at least five years subsequent to the date of the release of the petitioner from confinement or, in case no prison sentence was imposed, until the expiration of a period of at least five years subsequent to the date of the conviction of the petitioner. In some cases, such as those involving violent crimes, violation of narcotics laws, gun control laws, income tax laws, perjury, violation of public trust involving personal dishonesty, fraud involving substantial sums of money, violations involving organized crime, or other crimes of a serious nature, no petition should be filed until the expiration of a waiting period of seven years. The waiting period may be waived in cases of aliens seeking a pardon to avert deportation. Generally, no petition should be submitted by a person who is on probation or parole.

§ 1.3 Eligibility for filing petition for commutation of sentence.

A petition for commutation of sentence, including remission of fine, should be filed only if no other form of relief is available, such as from a court of the United States Parole Commission, or if unusual circumstances exist, such as critical illness, severity of sentence, ineligibility for parole, or meritorious service rendered by the petitioner.

§ 1.4 Offenses against the laws of possessions or territories of the United States.

Petitions for Executive clemency shall relate only to violations of laws of the United States. Petitions relating to violations of laws of the possessions of the United States or territories subject to the jurisdiction thereof should be submitted to the appropriate official or agency of the possession or territory concerned.

§ 1.5 Disclosure of files.

Petitions, reports, memoranda and communications submitted or furnished in connection with the consideration of a petition for Executive clemency generally shall be available only to the officials concerned with the consideration of the petition. However, they may be made available for inspection, in whole or in part, when in the judgment of the Attorney General their disclosure is required by law or the ends of justice.

§ 1.6 Consideration of petitions; recommendations to the President.

(a) Upon receipt of a petition for Executive clemency the Attorney General shall cause such investigation to be made of the matter as he may deem necessary and appropriate, using the services of, or obtaining reports, from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation.

(b) The Attorney General shall review each petition and all pertinent information developed by the investigation and shall determine whether the request for clemency is of sufficient merit to warrant favorable action by the President. He shall report in writing his recommendation to the President, stating whether in his judgment the President should grant or deny the petition.

§ 1.7 Notification of grant of clemency.

When a petition for pardon is granted, the petitioner or his attorney shall be notified of such action and the warrant of pardon shall be mailed to the petitioner. When commutation of sentence is granted, the petitioner shall be notified of such action and the warrant of commutation shall be sent to the petitioner through the officer in charge of his place of confinement, or directly to the petitioner if he is on parole.

§ 1.8 Notification of denial of clemency.

(a) Whenever the President notifies the Attorney General that he is denying a request for clemency, the Attorney General shall so advise the petitioner and close the case.

(b) Whenever the Attorney General recommends that the President deny a request for clemency and the President does not disapprove or take other action with respect to that adverse recommendation within 30 days after the date of its submission to him, it shall be presumed that the President concurs in that adverse recommendation of the Attorney General, and the Attorney General shall so advise the petitioner and close the case.

§ 1.9 Delegation of authority.

The Attorney General may delegate to any officer of the Department of Justice any of his duties or responsibilities under §§ 1.1 through 1.8.

§ 1.10 Advisory nature of regulations.

The regulations contained in this part are advisory only and for the internal guidance of Department of Justice personnel. They create no enforceable rights in persons applying for Executive clemency, nor do they restrict the authority granted to the President under Article II, Section 2 of the Constitution.

Dated: April 27, 1983.

Approved:

Ronald Reagan

President.

Dated: May 5, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-13359 Filed 5-17-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 947

Surface Mining and Reclamation Operations Under a Federal Program for Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Corrections and Modifications to the Washington Federal Program and postponement of effective date.

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SUMMARY: The Office of Surface Mining (OSM) is making minor corrections and modifications to the applicability and procedural requirements of the Federal program to regulate surface coal mining and reclamation operations in Washington in response to public comments. In order to give the public the maximum time permissible for required permit applications, the effective date for the program has been postponed from May 13, 1983 to May 16, 1983.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Room 204, Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On February 24, 1983, the Office of Surface Mining published an interim final Federal program for Washington in the **Federal Register** to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State. 48 FR 7870. At that time, OSM announced that the effective date of the program would be April 25, 1983, and that comments would be accepted until April 14, 1983, on whether the pending revisions to OSM's permanent program rules made it necessary or desirable for OSM to modify the Washington Federal program, since the Washington Federal program cross-references those rules.

In response to public comment, OSM postponed the effective date of the Washington Federal program until May 13, 1983, and extended the comment period until April 28, 1983. 48 FR 16058; April 14, 1983.

After considering all comments received during the comment period, OSM is today making minor corrections and modifications to the Washington Federal program published February 24, 1983. In order to give the public the maximum time permissible for required permit applications, all aspects of the corrected and modified Washington Federal program take effect May 16, 1983. OSM will acknowledge and respond to coments received during the comment period in the **Federal Register** in the near future.

List of Subjects in 30 CFR Part 947

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Dated: May 13, 1983.

J. R. Harris,

Director, Office of Surface Mining.

30 CFR Chapter VII is amended as follows:

PART 947—WASHINGTON

1. Section 947.700 is amended by revising paragraph (g) to read as follows:

§ 947.700 Washington Federal Program

* * * * *

(g) The Secretary may grant a limited variance from the performance standards of Section 947.815 through 947.828 of this Part if the applicant for a coal exploration approval or surface coal mining reclamation permit submitted pursuant to Sections 947.770 through 947.788 of this Part can demonstrate in the application (1) that such a variance is necessary because of the nature of the terrain, climate, biological, chemical, or other relevant physical conditions in the area of the mine; and (2) if applicable, that the proposed variance is no less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

2. Section 947.701 is amended by revising paragraph (a) and by designating the definition of Forestry (Forest land) in paragraph (b) as paragraph (b)(2) and adding a new paragraph (b)(1), to read as follows:

§ 947.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15, and Part 701 of this chapter shall apply to surface coal mining operations in Washington.

(b) The following modified definitions shall be applicable under § 701.5 of this chapter:

(1) *Arid and semiarid area* means, in the context of alluvial valley floors, an area of the interior western United States, west of the 100th meridian west longitude, experiencing water deficits, where water use by native vegetation equals or exceeds that supplied by precipitation. All coalfields located in North Dakota west of the 100th meridian west longitude, all coalfields in Montana, Wyoming, Utah, Colorado, New Mexico, Idaho, Nevada, and Arizona, the Eagle Pass field in Texas, and the Stone Canyon and the Ione fields in California are in arid and semiarid areas, except that all coalfields located in the State of Washington west of the crest of the Cascade Mountain Range are not in arid or semiarid areas.

(2) *Forestry (Forest Land).* Includes

* * *

* * * * *

3. Section 947.780 is amended by revising paragraph (a) to read as follows:

§ 947.780 Surface mining permit application—minimum requirements for reclamation and operation plan.

(a) Part 780 of this chapter, *Surface Mining Permit Application—Minimum Requirements for Reclamation and Operation Plan*, shall apply to any person who makes application to conduct surface coal mining and reclamation operations, except for § 780.15(a) of that Part.

* * * * *

4. Section 947.822 is revised to read as follows:

§ 947.822 Special performance standards—operations on alluvial valley floors.

Part 822 of this chapter, *Special Performance Standards—Operations on Alluvial Valley Floors*, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors, except in those coalfields in Washington west of the crest of the Cascade Mountain Range.

(Pub. L. 95–87, the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–13383 Filed 5–16–83; 11:04 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, and Home and Condominium Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rate applicable to home and condominium loans is also decreased, and a different maximum interest rate for graduated payment mortgages is established for those purposes. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (284), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by the VA as he finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

After consultation with the Secretary of Housing and Urban Development as required by law, it has been determined that a decrease in the VA home and condominium interest rate is warranted at this time. It has also been determined that the capital markets require a higher yield on graduated payment mortgages compared to fixed-payment mortgages. To assure an adequate supply of funds for this type of mortgage at reasonable discount levels, a maximum rate ¼ percent higher than the rate for fixed payment mortgages is being established.

The decrease in the VA maximum home and condominium interest rate should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment for principal and interest required at the lower interest rate.

Paragraphs (b), (c), and (d) of § 36.4311 have been redesignated paragraphs (c), (d), and (e). This allows the addition of a new paragraph (b) to § 36.4311 establishing a different maximum interest rate for graduated payment mortgages.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to Chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

The amendment to allow a different interest rate for GPM (graduated payment mortage) loans is in effect only a decrease in the VA maximum interest rate for home and condominium loans amortized with graduated payment in lieu of fixed payment features. The interest differential for GPM loans is necessary because of mortgage money market pricing differences on pools of graduated payment mortgages as compared to fixed-payment mortgages.

Publication for notice and public comment is not necessary for the same reasons as discussed in the May 7, 1981, **Federal Register** (46 FR 25443). The delay necessary to publish a proposed regulation would require a minimum of 45 days which would be harmful to home buyers wishing to purchase housing with VA graduated payment mortgage loans. A delay would likely halt the closing of VA GPM mortgages pending the needed rate differential. This delay would prove costly to lenders who would be unwilling to process this type of loan pending resolution of the rate issue; to builders and developers who would be unable to sell some of their homes timely and thus incur increased construction costs; and to veterans who would be unable to obtain the homes of their choice, delaying home ownership and extending their current shelter costs. It is appropriate, therefore, to avoid these added costs to all three categories of program participants and provide a different maximum interest rate for graduated payment mortgages. This interest rate differential will be maintained as long as market conditions required the increased yield for graduated payment mortgage loans.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

This final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), 36.4311, and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured Homes, Veterans.

Approved: May 6, 1983.

By direction of the Administrator.

Dorothy L. Starbuck,

Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective May 9, 1983, 13½ percent simple interest per annum for a loan which finances the purchase of a manufactured home unit only.

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(2) Effective May 9, 1983, 13 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective May 9, 1983, 13 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

2. Section 36.4311 is revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 11½ per centum per annum, effective May 9, 1983, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 11½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 11¾ per centum per annum, effective May 9, 1983, the interest rate of any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 11¾ per centum per annum. (38 U.S.C. 1803(c)(1)).

(c) Effective October 13, 1982, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements or repairs which is guaranteed or insured wholly or in part on or after such date may not exceed 13 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(d) Interest in excess of the rate reported by the lender when requesting evidence of guaranty or insurance shall not be payable on any advance, or in the event of any delinquency or default: *Provided*, That a late charge not in excess of an amount equal to 4 percent on any installment paid more than 15 days after due date shall not be considered a violation of this limitation.

(e) Refinancing loans for the purpose of an interest rate reduction (38 U.S.C. 1810(a)(8)) may specify an interest rate in excess of the rate specified in paragraphs (a), (b) and (c) of this section provided the interest rate of the refinancing loan is less than the interest rate of the current Veterans Administration loan being refinanced. (38 U.S.C. 1803(c)(1) and 1810(c))

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is enrolled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 11½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 13 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 83-13314 Filed 5-17-83 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2339-8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA is approving a Marion County, Indiana, open burning regulation as a revision to the Indiana State Implementation Plan (SIP) for total suspended particulates (TSP). This regulation will decrease TSP levels in Marion County and will assist in attaining the TSP National Ambient Air Quality Standards (NAAQS) there.

EFFECTIVE DATE: This final rulemaking becomes effective on June 17, 1983.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, the public comment on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Clean Air Act (Act), EPA has designated certain areas in each State, including portions of Marion County, Indiana, as not attaining the NAAQS for TSP.[1] See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 36583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

In response to Part D of the Act, on February 11, 1980, Indiana submitted its Marion County TSP SIP strategy to EPA. A supplement was submitted on October 28, 1981. The Marion County plan was based on requiring reasonably available control technology (RACT) to be placed on all existing industrial sources and studying various nontraditional fugitive dust control methods to bring Marion County into attainment. EPA conditionally approved the plan on July 16, 1982 (47 FR 30972), except for the coke battery regulation.

In its final rulemaking, EPA noted that Indiana had submitted a Marion County open burning regulation on April 16, 1982, and that EPA would rulemake on it and the coke battery regulation in subsequent **Federal Register** notices. An amended version of the Marion County open burning regulation was submitted on August 25, 1982. EPA proposed the August 25, 1982, regulation for public comment on September 9, 1982 (47 FR 39696). One comment was received in response to this proposal. After reviewing the regulation and the comment received, EPA today is approving the August 25, 1982 Marion County open burning regulation.

EPA is approving the Marion County open burning regulation as a revision to the SIP because this regulation should lead to a reduction in particulate levels in Marion County over those levels predicted to be emitted under the present SIP. It should also lead to reductions in the hydrocarbon levels (precursors to ozone) and the carbon monoxide levels. While EPA conditionally approved the Marion County TSP plan without an open burning regulation as meeting the requirements of Part D of the Act, inclusion of an open burning regulation will assist Indiana in its goal of attaining the NAAQS in Marion County. EPA's approval today of the Marion County regulation supplements but does not replace the currently approved State regulation (325 IAC Article 4-1, which was formerly APC 2). The general State regulation will remain a part of the Marion County SIP. EPA will recognize variances to these regulations given by the State or the County only if they are submitted and approved as revisions to the SIP.

In response to the September 9, 1982, notice of proposed rulemaking (NPR), EPA received one comment from the State of Connecticut. The comment noted that, in Connecticut, no trash burning is allowed for homeowners and brush burning is severely restricted. The commenter believed that the Marion County open burning regulation is a relaxation from the existing SIP and wished to know what additional restrictions are being placed on Marion County sources in order to compensate for this relaxation.

Contrary to the commenter's contention, the Marion County open burning regulation is more stringent than the statewide regulation, 325 IAC Article 4-1, which was the only approved SIP regulation in Marion County. (As stated earlier, 325 IAC Article 4-1 remains applicable in Marion County.) Therefore, the SIP is not being relaxed.

EPA has previously reviewed Indiana's total TSP package of regulations for Marion County in relation to the Part D TSP SIP. Indiana's strategy is based on RACT plus further studies of nontraditional sources. EPA approved this package as sufficient on July 16, 1982. Because the new Marion County regulation is more stringent, today's action on this regulation should lead to more expeditious attainment of the NAAQS in Marion County.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approval by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 and 172 of the Clean air Act, as amended (42 U.S.C. 7410 and 7502.

Dated: May 11, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(44) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(44) On June 28, 1982, Indiana submitted new open burning regulations for Marion County. An amendment was submitted on August 25, 1982.

* * * * *

[FR Doc. 83-13333 Filed 5-17-83 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2323-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces final rulemaking action on revisions to the Indiana State Implementation Plan (SIP) for ozone and total suspended particulate (TSP). The revision pertains to source specific emission limitations contained in operating permits which have been issued by the State to Jeffboat, Incorporated, located in Jeffersonville, Indiana. The operating permits set forth specific limitations on the total amount of hydrocarbon [also known as volatile organic compound (VOC)] and particulate emissions from certain paint spraying and metal cleaning operations at Jeffboat, Incorporated. The intent of today's rulemaking is to incorporate these emission limitations into the State's SIP.

EFFECTIVE DATE: This final rulemaking becomes effective on June 17, 1983.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Sharon Reinders (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 1981, the Indiana Air Pollution Control Board, submitted a revision to the Indiana SIP. The revision is in the form of two operating permits for Jeffboat, Incorporated, located in Jeffersonville, Indiana, a designated nonattainment area for the pollutants ozone and TSP. The permits set forth the following emission limitations.

Source	Operation	Pollutant	Emission limit
Plate shop	Paint spraying	Ozone [1]	110 lbs/hr, 2600 lbs/day, 340 t/yr.
	Metal Cleaning	TSP	5 lbs/hr, 15 t/yr.
Structural shop	Paint spraying	Ozone	86 lbs/hr, 2100 lbs/day, 274 t/yr.
	Metal Cleaning	TSP	14 lbs/hr, 43 t/yr.

[1] Permit limits pertain to volatile organic compounds

As shown above, VOC emissions from paint spraying are limited to 198 pounds per hour, 4700 pounds per day, and 614 tons per year. TSP emissions from metal cleaning and spraying are limited to 19 pounds per hour and 58 tons per year. The technical support developed by the

[1] The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of a site's TSP concentrations exceeds 75 micrograms per cubic meter of air (75 μg/m³) (the annual standard), or (2) the maximum 24-hour concentration of TSP exceeds 260 μg/m³ more than once (the 24-hour primary standard). The secondary TSP standard is violated when, in a year, the maximum 24-hour concentration exceeds 150 μg/m³ more than once

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State for the permits shows that these limitations represent status quo emissions.

On June 22, 1982, EPA announced direct final rulemaking action to incorporate the emission limitations contained in the permits into Indiana's SIP. EPA was subsequently advised that the Air Pollution Control District of Jefferson County, Louisville, Kentucky, wished to comment on the SIP revision. Therefore, on November 10, 1982, EPA withdrew its direct approval and began a new rulemaking action. (47 FR 50862 and 47 FR 50928). This new rulemaking action proposed to approve the revision and established a 30-day public comment period to December 10, 1982.

EPA's rationale for approving the limitations is that, under the present SIP, VOC emissions from marine vessel operations at facilities such as Jeffboat, Inc. are exempt from the control requirements of 325 Indiana Administrative Code (IAC) Article 8–2 and the federally approved Indiana SIP. Thus, "capping" the hourly, daily, and annual emissions is acceptable. With respect to TSP, EPA agrees with the State's technical analysis that the current SIP allows higher TSP emissions than the permit limitations. Thus, "capping" hourly and annual TSP emissions is also acceptable.

Public Comments

During the 30-day public comment period, EPA received one comment.

The commentor asked the following questions regarding EPA's proposed approval of the operating permits for Jeffboat, Inc. and requested that EPA include the information in response to the questions in the final approval action. Each question raised by the commentor and EPA's response are presented below.

Comment

The commentor requested that EPA identify which Reasonably Available Control Technology (RACT) Control Technique Guideline (CTG) has been applied in the determination of approval.

Response

EPA has not issued a CTG for the control of VOC emissions from the exterior surface coating of marine vessels.

Comment

The commentor requested that EPA identify what exemptions, if any, that were granted in the approval process and why.

Response

No exemptions from the SIP are being granted. Rule 325 IAC Article 8–2, which is included in Indiana's SIP strategy to control VOC emissions from surface coating operations, contains an exemption for surface coating the exterior of marine vessels. The State included this exemption in its SIP in accordance with EPA guidance. (See Guidance to State and Local Agencies in Preparing Regulations to Control VOC From 10 Stationary Source Categories, EPA–450/2–79–004). The guidance document concludes that surface coating the exterior of marine vessels may be exempted from control requirements because, "Exterior coatings on . . . marine vessels are high performance coatings which are applied under conditions that are not easily controlled". Thus, by issuing these operating permits, the State is limiting the hourly, daily, and annual VOC emissions from a source which was previously exempt from control requirements in the existing SIP.

Comment

The commentor requested that EPA identify the current emission rates, in RACT Control Technique Guideline (CTG) equivalent units, prior to the issuance of permits and the new emission rate, in RACT CTG equivalent units, being approved.

Response

This comment is not relevant because it refers to a RACT CTG which does not exist. However, as stated earlier, the limitations contained in the permits reflect status quo emissions. By issuing these permits, the State is setting enforceable VOC emissions limitation for a source which previously had no enforceable limit.

Comment

The commentor requested that EPA identify the compliance schedule to be implemented in achieving RACT control.

Response

The operating permits were issued by Indiana on April 21, 1981, and were effective on that date. With respect to VOC, EPA makes no judgment on whether the emission limitations contained in these permits represents RACT-level of control. The State of Indiana is required to include a schedule in its 1982 Ozone SIP revision for the application of RACT control to major non-CTG sources. EPA is reviewing the schedule as a part of its review of Indiana's 1982 Ozone SIP revision. EPA recently proposed a determination on February 3, 1983 (48 FR 5106).

Comment

The commenter requested that EPA identify the specific EPA approved Indiana SIP regulation being used to enforce the permit(s).

Response

Regulation 325 IAC Article 2 requires the State to submit all discretionary actions, such as operating permits, to EPA as revisions to the SIP. EPA reviews each submittal from the State and, if items vary from the SIP, publishes notices of rulemaking actions in the **Federal Register** disapproving or approving the State's action as a SIP revision.

As noted in the Background section of this notice, the emission limitations contained in the operating permits for Jeffboat, Inc. vary from the SIP. The operating permits were issued on April 21, 1981 and, thus, are enforceable by the State. By incorporating the emission limitations into the SIP, the limitations also become enforceable at the Federal level.

In conclusion, having reviewed both the information submitted by the State and the public comment received, EPA today is approving the VOC and TSP emission limits for Jeffboat, Inc. as submitted by the State on November 24, 1981.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7502).

Dated: May 11, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52, Subpart P Indiana is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(40) as follows:

§ 52.770 Identification of Plan

* * * * *

(c) * * *

(40) On November 24, 1981, Indiana submitted site specific emission limitations for Jeffboat, Inc., Jeffersonville.

* * * * *

[FR Doc. 83–13334 Filed 5–17–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–6–FRL 2336–4]

Approval and Promulgation of Implementation Plans; Oklahoma Regulation 1.4 Air Resources Management-Permits Required and Major Sources-Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice approves two parts of Regulation 1.4's revision to the Oklahoma State Implementation Plan. The revision to Air Resources Management-Permits Required (1.4.1–1.4.3) and Major Sources-Nonattainment Areas (1.4.5) was submitted by the Governor on April 12, 1982. The notice proposing approval was published in the **Federal Register** on November 3, 1982, at 47 FR 49872, and no comments were received. The section on Prevention of Significant Deterioration (PSD) Requirements (1.4.4) is being addressed in a separate **Federal Register** package.

The revision fulfills the provisions of Section 173 of the Act by incorporating the Permit requirements into the regulation. It also sets forth legally enforceable procedures for the review of new sources and modifications which would locate in a nonattainment area.

EFFECTIVE DATE: Effective on June 17, 1983.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency,
Public Information Reference Unit,
EPA Library, 401 M Street SW.,
Washington, D.C. 20460;
The Office of the Federal Register, Rm. 8401, 1100 L Street NW., Washington, D.C. 20460;
Environmental Protection Agency,
Region 6, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270;
Oklahoma State Dept. of Health, Air Quality Service, N.E. 10th and Stonewall, Oklahoma City, Oklahoma 73105.

FOR FURTHER INFORMATION CONTACT:

Kathryn M. Griffith, State Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–9853.

SUPPLEMENTARY INFORMATION: On April 12, 1982, the Governor of Oklahoma submitted a SIP revision to Regulation 1.4. EPA reviewed the State's submittal and developed an evaluation report [1], which is based on the minimum criteria established in 40 CFR 51.18 Review of new sources and modificatons. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

Regulation 1.4's revision and the letter of commitment from the State dated April 30, 1982, adequately provides for the preconstruction review of a major new source or major modification which would locate in a nonattainment area. The State committed that:

1. Source proposing to locate in an attainment area where monitoring data indicates the area is in fact nonattainment (1.4.5(c)(1)(C)(ii)), will be required to apply LAER, demonstrate that all other sources are in compliance, and offset:

2. Section 1.4.5(d)(2) is interpreted to mean that only secondary emissions are exempt from the conditions of 1.4.5(c)(1)(C)(vi) and 1.4.5(e)(1) (A), (B) and (C) and not the source as a totality;

3. Copies of the public notification for permits will be sent to EPA and to all other local air pollution control agencies as required by 40 CFR 51.18(h)(4); and

4. Whenever the word "enforceable" appears in a definition (1.4.5(b)(1–20)), they will interpret it to include "federally enforceable."

On August 7, 1980, at 45 FR 52728, EPA noted that many Part D SIP revisions based their attainment demonstrations on the actual emissions of the sources in a nonattainment area rather than the sources allowable emissions. This means that to be consistent with RFP, sources must reduce their actual, rather than their allowable, emissions. Otherwise, sources could claim credit for offsets in situations where the offset would actually interfere with RFP.

On December 9, 1982, the State submitted a letter of clarification stating that because they use actual emissions to demonstrate reasonable further progress (RFP) towards attainment they also use actual emissions to determine credit for emission reductions. In the 1979 SIP, EPA approved Section 1.4.5(e)(1)(D)(ii) which enables a source to use the total allowable emissions in the region for offsets and to represent RFP toward attainment. But, under the States RFP reporting section (page 4–138, 1979 SIP), it states that "The report shall contain an updated emission inventory on an actual ton-per-year basis for the entire county or nonattainment area."

On August 17, 1982, the United States Court of Appeals for the District of Columbia Circuit held that EPA may not use the plantwide definition of source in programs regulating growth in nonattainment areas in the *Natural Resources Defense Council* vs. *Gorsuch* ruling, 685 F.2d 71 D.C. Cir. 1982. Oklahoma's revision to Regulation 1.4 retains the dual definition of source and therefore is not affected by the decision.

EPA is approving Regulation 1.4's revision because it fulfills the provisions of Section 173 of the Act and adequately provides for the preconstruction review of a major new source or major modification which would locate in a nonattainment area.

EPA is taking no action on Section 1.4.5(e)(1) (D) and (E), which was fully approved on November 28, 1980 (45 FR 79051).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 18, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

This notice of proposed approval is issued under the authority of Section 110 of the Clean Air Act as amended, 42 U.S.C. 7410.

[1] EPA Review of Oklahoma Regulation 1.4.1–1.4.3 (Air Resources Management-Permits Required) and 1.4.5 (Major Sources-Nonattainment Areas).

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List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. Section 52.1920 is amended by adding paragraph (c)(25) as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(25) Revision to Oklahoma Regulation No. 1.4 Air Resources Management-Permits Required (1.4.1–1.4.3) and Major Sources—Nonattainment areas (1.4.5) was submitted by the Governor on April 12, 1982. A letter of commitment and a letter of clarification for Regulation 1.4 was submitted by the State on April 30, 1982 and December 9, 1982, respectively.

[FR Doc. 83–13332 Filed 5–17–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–10–FRL 2345–1]

Approval and Promulgation of State Implementation Plans; Revision to Oregon State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice EPA approves the Oregon State Implementation Plan (SIP) for lead and the Oregon ambient air quality standard for lead. These revisions were adopted to satisfy Sections 110 and 116, respectively, of the Clean Air Act, as amended in 1977 (hereinafter referred to as the Act).

EFFECTIVE DATE: This action will be effective on July 18, 1983, unless notice is received before June 17, 1983, that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period on this action.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A–83–3), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207.

Copy of the State's submittal may be examined at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101, Telephone: (206) 442–4016, FTS: 399–4016.

SUPPLEMENTARY INFORMATION: On December 3, 1982 the State of Oregon Department of Environmental Quality (DEQ) submitted a draft lead SIP for EPA's review prior to public hearing and adoption. EPA's review comments are contained in a technical evaluation document, which is available at the addresses shown earlier.

EPA provided DEQ with written comments, which were considered at the public hearing on January 14, 1983. The SIP was adopted with all requested corrections on January 14, 1983 and submitted to EPA on January 24, 1983.

Technical Evaluation

Lead SIP

The requirements for an approvable lead SIP are contained in 40 CFR Part 51 Subpart E. As described in the technical evaluation document, the Oregon SIP satisfies all requirements for standard attainment demonstration, emission data and projections and air quality data and projections. In addition, the SIP provides for statewide review of all new lead sources under its Air Contaminant Discharge Permit rules (OAR 340–20–140 to 185) previously approved by EPA (47 FR 35191).

Because the standard violations are caused by mobile source emissions, the only control strategy, the Federal program for reduction of lead in gasoline, demonstrates attainment of the standard by the end of 1983. Past violations of the lead standards were recorded in the vicinity of the Gould Battery facility, in Portland, which has since closed. The site is being cleared and covered and will be monitored to assure continued attainment. The other major point source, Bergsoe Metal Corporation, a new secondary lead smelter in St. Helens, Oregon, has not caused and is not expected to cause violations of the ambient standard. This facility was reviewed and approved by EPA in 1979 under provisions of the Prevention of Significant Deterioration regulations, which call for use of best available control technology (BACT).

Ambient Air Quality Standard

In conjunction with developing a lead SIP which demonstrates attainment of the National Ambient Air Quality Standard for lead, DEQ revised their ambient air standard from 3.0 ug/m^3 per calendar month to 1.5 ug/m^3 average per calendar quarter. By this action DEQ's standard is now consistent with the National standard.

Air Quality Monitoring

The SIP also contains a description of the current statewide lead monitoring network. Discussions between EPA and DEQ are now underway to agree on a network to meet the requirements of 40 CFR Part 58 (Ambient Air Quality Surveillance). Because the network has not yet been finalized and submitted, EPA will take separate action on it at a later date.

Final EPA Action

Based on evaluation of DEQ's submittal, the Administrator has determined that the Oregon lead SIP revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Oregon SIP.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under Section 110 within the terms of the January 27, 1981 certification.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. This regulation is not judged to be major, since it merely approves actions taken by the State and does not establish any new requirements.

The Office of Management and Budget has exempted this rule from the

requirements of Section 3 of Executive Order 12291.

This notice of final rulemaking is issued under the authority of Section 110 and 116 of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7610).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydorcarbons.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register in July 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

In § 52.1970, paragraph (c)(60) is added as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(60) On January 24, 1983 the State of Oregon Department of Environmental Quality submitted a revision to add a lead strategy to the Oregon Implementation Plan and revise the State lead ambient air quality standard to agree with the Federal standard.

[FR Doc. 83–13298 Filed 5–17–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 30509–77]

Foreign Fishing, Groundfish of Gulf of Alaska, and Groundfish of Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustment.

SUMMARY: This document announces the apportionment of amounts of Alaska groundfish that were eligible in April 1983 for apportionment to the total allowable level of foreign fishing and to the domestic annual harvest, under provisions of the fishery management plans for Groundfish of the Bering Sea and Aleutian Islands Area and for the Groundfish of the Gulf of Alaska. Apportionment is prescribed by regulations implementing those FMPs. The intended effect of this action is to assure optimum use of groundfish resources by allowing the foreign and domestic fisheries to proceed without interruption.

EFFECTIVE DATE: May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907–586–7221; or Janet Smoker (Fishery Biologist), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OY) for various groundfish species are established by the fishery management plan (FMP) for the Groundfish of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. The FMPs were developed under the Magnuson Fishery Conservation and Management Act, and are implemented by rules appearing at 50 CFR 611.92 and 611.93 and 50 CFR 672 and 675. The OYs are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of the three components of DAH (DAP—domestic processed fish, DNP—fish retained for bait or consumption, and JVP—foreign processed fish) may be apportioned to TALFF during the fishing year under those same regulations. The Director, Alaska Region, National Marine Fisheries Service, announces the apportionments described below under these authorities.

The first scheduled date for the apportionment of reserves in the Bering Sea and Aleutian Islands Area was in February 1983. At that time all reserves were retained as explained in a **Federal Register** notice published on March 15, 1983 (48 FR 10846). Amounts eligible at that time are added to the amounts eligible for the scheduled April 1983 apportionment.

This action apportions certain Bering Sea, Aleutian Islands, and Gulf of Alaska reserve amounts that became eligible for apportionment in April 1983.

1. *Bering Sea and Aleutian Islands.* Although there has been little activity to-date, U.S. fisheries in this area are expected to continue expanding in 1983. Expansion of shoreside and floating processing capacity is expected to facilitate processing of DAP amounts. The execution of planned joint ventures is anticipated to result in harvests exceeding some JVP amounts. All DNP amounts are expected to be taken.

DAP: The stated capacity and intentions of domestic processors indicate the DAP amounts of sablefish in the Aleutian Islands Area, Pacific ocean perch, and Pacific cod may be insufficient. DAP amounts specified for all other species appear to be adequate.

DNP: DNP amounts for all species appear sufficient for projected U.S. harvests.

JVP: The stated intentions of U.S. fishermen planning to deliver to foreign processors indicate that JVP amounts of pollock, yellowfin sole, Pacific cod, Atka mackerel, turbots, and other rockfish are insufficient. JVP amounts specified for all other species appear to be adequate.

Reserves: Reserves of sablefish in the Aleutian Islands area and of pollock, Pacific ocean perch, yellowfin sole, Pacific cod and Atka mackerel are being retained to supplement DAP and JVP in subsequent apportionments if those amounts are insufficient as discussed above. The available reserves (50%) of all the other species are apportioned to TALFF (see Summary Table of Apportionments to TALFF). The remainders of the turbot and other rockfish reserves after this apportionment are sufficient to supplement any future shortfall in the JVP amounts of those species.

2. *Gulf of Alaska.* U.S. fisheries have already harvested large amounts of pollock in the Central Regulatory Area of the Gulf of Alaska. Additional activity by joint ventures and floating processors is expected in all three regulatory areas as are operations of shoreside processors. Apportionment of reserves is addressed by individual regulatory area.

Western Regulatory Area

DAP: The stated capacity and intentions of domestic processors indicate the DAP amounts of Pacific cod are insufficient. DAP amounts for all other species appear to be adequate.

DNP: The DNP amount for Pacific cod appears sufficient for projected U.S. harvests.

JVP: The stated intentions of U.S. fishermen planning to deliver to foreign processors indicate that JVP amounts of pollock, Pacific cod, and Atka mackerel may be insufficient. JVP amounts for all other species appear to be adequate.

Reserves: Reserves of pollock, Pacific cod, and Atka mackerel are being retained to supplement JVP in subsequent apportionments if the JVP

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amounts are insufficient as discussed above. The available reserves (40%) for all other species are apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Central Regulatory Area

DAP: The DAP amounts of all species appear sufficient for projected needs of U.S. processing

DNP: The DNP amount for Pacific cod appears sufficient for projected U.S. harvests.

JVP: U.S. fishing effort in joint ventures continues and large amounts of fish, mostly pollock, are being harvested. Pollock catches have far exceeded the JVP apportionment of pollock. JVP amounts for all other species appear sufficient.

Reserves: For reasons discussed above, the entire pollock reserve is allocated to JVP. For all other species, the available reserves (40%) are reapportioned to TALFF (see Summary Table of Apportionments to TALFF).

Eastern Regulatory Area

DAP: The DAP amounts of all species appear sufficient. A possible exception would be deliveries to processors in Seward and Cordova, Alaska, of sablefish caught in the Eastern Gulf of Alaska. Utilization of those processing facilities may lead to expanded U.S. fishing areas and effort in the Eastern Gulf.

DNP: The Pacific cod DNP amount appears sufficient for projected U.S. harvests.

JVP: A joint-venture longline fishery for sablefish (tentatively scheduled to begin in August) intends to catch sablefish in excess of the current JVP amount. JVP amounts for all other species appear to be adequate.

Reserves: Reserves of sablefish are being retained to supplement JVP. The reserves retained are also sufficient to provide for any DAH increases that may occur through landings in Seward or Cordova of sablefish caught in the Eastern Gulf of Alaska. For all other species, the available reserves (40%) are apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Gulf of Alaska-wide

DAP: Present DAP amounts for all four Gulf-wide species appear to be sufficient for anticipated U.S. processing.

DNP: The DNP amount of "other species" appear sufficient for anticipated U.S. fisheries.

JVP: The JVP amounts initially specified for squid, thornyheads, and "other species" appear to be sufficient for projected needs of the U.S. fisheries. The amount initially specified for rockfish may be too low in view of an anticipated joint venture on rockfish; however, the total DAH appears sufficient to provide for the joint venture and domestic processed catches of rockfish combined.

Reserves: The available reserves (40%) for all four Gulf-wide species is apportioned to TALFF (see Summary Table of Apportionments to TALFF).

3. SUMMARY TABLE OF APPORTIONMENTS TO TALFF

(In metric tons)

	Source			
	Reserves	DAP	DNP	JVP
Bering Sea and Aleutians:				
Pollock:				
Bering Sea	0	0	0	0
Aleutians	0	0	0	0
Pacific ocean perch:				
Bering Sea	0	0	0	0
Aleutians	0	0	0	0
Sablefish:				
Bering Sea	175	0	0	0
Aleutians	0	0	0	0
Yellowfin sole	0	0	0	0
Atka mackerel	0	0	0	0
Other flatfish	1,525	0	0	0
Pacific cod	0	0	0	0
Turbots	2,250	0	0	0
Other species	1,993	0	0	0
Squid	250	0	0	0
Other rockfish	250	0	0	0
Gulf of Alaska:				
Pollock:				
Western	0	0	0	0
Central	0	0	0	0
Eastern	1,328	0	0	0
Pacific cod:				
Western	0	0	0	0
Central	2,683	0	0	0
Eastern	792	0	0	0
Flounders:				
Western	832	0	0	0
Central	1,176	0	0	0
Eastern	672	0	0	0
Pacific ocean perch:				
Western	216	0	0	0
Central	632	0	0	0
Eastern	70	0	0	0
Atka mackerel:				
Western	0	0	0	0
Central	1,667	0	0	0
Eastern	255	0	0	0
Sablefish:				
Western	188	0	0	0
Central	304	0	0	0
Eastern	8	0	0	0
Other rockfish	608	0	0	0
Squid	400	0	0	0
Other species	1,296	0	0	0
Thornyhead rockfish	300	0	0	0

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaskan groundfish and the processing of those groundfish were available for public inspection. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. Three comments were received during the comment periods provided.

Comment: Available reserves of Pacific cod in the Central and Eastern Regulatory Areas of the Gulf of Alaska and of sablefish in the Western and Central Regulatory Areas of the Gulf of Alaska and in the Bering Sea and Aleutian Islands are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Comment: Available reserves of sablefish and Pacific ocean perch in the Bering Sea and Aleutian Islands and of sablefish in the Gulf of Alaska should be apportioned to TALFF.

Response: Forty percent of the initial reserves of Pacific cod in the Central and Eastern Regulatory Areas of the Gulf of Alaska are apportioned to TALFF at this time. Forty percent of the initial reserves of sablefish in the Western and Central Regulatory Areas of the Gulf of Alaska are also apportioned to TALFF. Because of the uncertainty that currently specified DAH amounts are sufficient for Pacific ocean perch in both the Bering Sea and Aleutian Island areas and for sablefish in the Eastern Regulatory Area of the Gulf of Alaska and Aleutian area, reserves of these species for both areas are being retained at this time.

Comment: Available reserves of pollock in the Central Gulf Regulatory Area should be released to TALFF as soon as possible.

Response: Joint-venture catches of pollock in the Central Gulf Regulatory Area have already far exceeded the JVP apportionment and therefore the entire reserves must be apportioned to JVP.

Classification

This action is required by 50 CFR 611.92(c), 611.93(b), 672.20(c) and 675.20(b), and complies with E.O. 12291.

The apportionment to TALFF of reserve groundfish is announced in this notice in lieu of an amendment to the "TALFF table," which was formerly codified as Appendix 1 to 50 CFR 611.20, but which was removed by a rule appearing at 47 FR 44264 (October 7, 1982). The apportionment of groundfish reserve to DAH is announced in this document without amendment to 50 CFR § 675.20, Table 1, since that Table specifies initial rather than current DAH, DAP, JVP, DNP, reserve, and TALFF specifications (as of January 1 for the 1983 fishing year).

In view of the prior notice provided by the underlying regulation regarding the dates after which apportionment of reserves and reassessment of DAH to occur, together with the need to avoid disruption of U.S. and foreign fisheries and the obligation to afford a reasonable opportunity to achieve OY, the Agency has determined that to delay the effectiveness of this rule would be impracticable, unnecessary, and contrary to the public interest.

(16 U.S.C. 1801 *et seq.*)

Dated: May 11, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resources Management, National Marine Fisheries Service.

[FR Doc. 83-13204 Filed 5-13-83; 3:57 pm]

BILLING CODE 3510-22-M

50 CFR Part 662

[Docket No. 30510-80]

Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce issues emergency regulations amending the Northern Anchovy Fishery Management Plan and its implementing regulations. This emergency rulemaking (1) eliminates the minimum size limit for anchovies landed for reduction purposes, and (2) prescribes a reserve of the reduction harvest quota that would be withheld if scientific evidence demonstrates that the original biomass estimate was too high. The elimination of the minimum size limit will alleviate the severe economic hardship imposed on the reduction fishery in its spring fishery caused by having to curtail catches of anchovies less than 5 inches in length. The reserve quota procedures will provide an additional measure of protection to the anchovy biomass by providing a mechanism to correct any significant errors in biomass determinations identified after the establishment of the yearly quota.

EFFECTIVE DATE: Amendment 4 to the FMP and its implementing regulations are effective May 16, 1983, inspection with the Office of the Federal Register and will remain effective until August 15, 1983.

ADDRESS: Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service (NMFS), 300 South Ferry Street, Room 2016, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: Floyd S. Anders, Jr., 213-548-2575.

SUPPLEMENTARY INFORMATION: The Northern Anchovy Fishery Management Plan (FMP) was prepared by the Pacific Fishery Management Council (Council), was approved by the Secretary of Commerce on July 13, 1978, and implementing regulations were effective on September 15, 1978 (43 FR 40868). A basic purpose of Amendment 4 to the FMP is to remove the minimum size limit prohibiting the landing, for reduction purposes, of anchovies less than five inches in total length, with a 15 percent tolerance for undersized fish. Proposed regulations and the rationale for implementing Amendment 4 were published in the **Federal Register** on April 25, 1983 (48 FR 17627). When it approved Amendment 4 at its November 17-18, 1972 meeting, the Council intended and was given assurance that implementing regulations would be effective in time for the spring fishing season. The spring reduction fishery occurs from April 1 through June 30. In the last four years, an average of nearly 80 percent of the annual reduction landings were made during the spring fishing season. Because of administrative delay, the regulations implementing Amendment 4 were not published by April 1.

Currently, the northern anchovy population off California is apparently composed predominantly of fish less than five inches in total length. Until the present length restriction is changed as contemplated by Amendment 4, the reduction fishery cannot operate in the spring 1983 fishing season without severely limiting its catch. The resulting conflict between the actual and intended regulations is creating a severe economic hardship for the anchovy reduction fishery. This problem will be resolved by implementing portions of Amendment 4 regulations on an emergency basis as provided for by section 305(e)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Due to uncertainty over the accuracy of the official biomass estimate on which harvest quotas are based, for the 1983-84 season, this emergency regulation would reserve half of the total annual reduction quota for later release if experience in harvesting the first part of the quota verifies the original biomass estimate. The second half of the reduction quota would not be released if scientific evidence of anchovy abundance, submitted to the Director, Southwest Region, NMFS, indicated that the spawning biomass would fall below one million tons (expressed in terms of a larva census or equivalent) if continued harvest in U.S. waters were allowed.

Classification

The NOAA Assistant Administrator for Fisheries has determined that this amendment to the FMP and the proposed implementing regulations comply with the national standards, other provisions of the Magnuson Act (16 U.S.C. 1981 *et seq.*), and other applicable law.

The amendment is deemed consistent with the California Coastal Zone Management Plan. Concurrence with this position has been requested from the California Coastal Commission.

An Environmental Assessment (EA) was filed with the Environmental Protection Agency on February 25, 1983. The EA concludes that implementation of this amendment would not have a significant effect on the environment. The optimum yield (OY) specified in the FMP remains unchanged. The environmental impacts are positive because the amendment is designed to reduce waste of undersized anchovy, increase efficiency of the reduction fishery, and permit in-year decrease of the reduction harvest quota in light of a revised biomass estimate.

Based on a regulatory impact review, the Administrator of NOAA has determined that the regulations implementing this amendment are not major under Executive Order 12291 and do not require a regulatory impact analysis. These regulations are designed to increase the efficiency of the anchovy reduction fishery in achieving OY without significant adverse impact. Economic impacts will be beneficial. Fishermen will be able to save the effort they previously spent dumping catches of anchovy that exceed the current size-limit tolerance factor.

The General Counsel of Commerce certified to the Small Business Administration that the regulations implementing this amendment will not have a significant economic impact on a substantial number of small entities; therefore no regulatory flexibility analysis is required under provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

The proposed regulations do not require any new "collection of information" as defined in the Paperwork Reduction Act; therefore, no paperwork reduction analysis is required.

List of Subjects in 50 CFR Part 662

Fish, Fisheries, Fishing.

Dated: May 13, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 662 is amended as follows:

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PART 662—NORTHERN ANCHOVY FISHERY

1. The authority citation for 50 CFR Part 662 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 662.3, a new paragraph (f) is added to read as follows:

§ 662.3 Quota.

* * * * *

(f) Reduction harvest quotas derived according to the procedures in paragraphs (a) through (d) of this section will be allocated in two halves. The first half will be released at the beginning of the open season. When 25 percent of the total reduction harvest quota has been landed, but not later than February 1, the Regional Director will issue a public notice of the intent to release the second half and will provide the opportunity for the submission of evidence that the second half should not be released. The Regional Director will not release the second half of the reduction quota if, after consultation with the California Department of Fish and Game and the Pacific Fishery Management Council, documented indices of anchovy abundance indicate that the anchovy spawning biomass would fall below one million short tons (expressed in terms of a larva census or equivalent) if continued harvest in the U.S. waters were allowed. The second half of the reduction harvest quota will be released no later than April 1 if no evidence is submitted or if the Regional Director, in consultation with the California Department of Fish and Game and the Pacific Fishery Management Council, determines that the evidence is insufficient to warrant withholding the second half of the reduction harvest quota.

3. In § 662.5, the heading of paragraph (c) is revised and the text is removed and reserved as set forth below.

§ 662.5 Reduction fishery.

* * * * *

(c) *Minimum mesh size.* [Reserved].

* * * * *

[FR Doc. 83-13386 Filed 5-16-83; 11:32 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 48, No. 97

Wednesday, May 18, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1013

[Docket No. AO-286-A30]

Milk in the Southeastern Florida Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a change in the Southeastern Florida milk order which ensures that the Southeastern Florida Class I price for milk transferred for fluid use from a pool plant located outside Florida to a plant regulated under another Federal order would not be lower than the other order's Class I price at the location of the pool plant. The change, based on a proprietary handler's proposal, was considered at a public hearing held at Philadelphia, Pennsylvania, on August 24, 1982. The change is necessary to reflect current marketing conditions and to insure orderly marketing conditions in the Southeastern Florida and other marketing areas.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order. The adopted amendment must be approved by at least two-thirds of the producers supplying the marketing area or by producers supplying at least two-thirds of the volume produced for the market.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-6273.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

Suspension of rule: Issued September 27, 1982; published September 30, 1982 (47 FR 42962).

Partial decision: Issued October 13, 1982; published October 18, 1982 (47 FR 46289).

Order amending the Middle Atlantic order; Issued November 12, 1982; published November 17, 1982 (47 FR 51731).

Recommended decision: Issued March 10, 1983; published March 15, 1983 (48 FR 10848).

Extension of Time for Filing Exceptions: Issued March 30, 1983; published April 5, 1983 (48 FR 14613).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southeastern Florida marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Philadelphia, Pennsylvania, on August 24, 1982. Notice of such hearing was issued on August 4, 1982 (47 FR 34573).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on March 10, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Five new paragraphs are added after the next to last paragraph of the findings and conclusions in the recommended decision.

The material issue on the record of the hearing that is dealt with in this decision is the location adjustments applicable to milk received at a Southeastern Florida pool plant located outside the defined marketing area and transferred to a plant regulated under another Federal order.

Note.—The hearing record also included an issue relating to the amendment of the Middle Atlantic order that was dealt with in a decision issued October 13, 1982 (47 FR 46289).

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The plant location adjustment provision should be changed to ensure that fluid milk transferred to an other order plant for Class I use from a Southeastern Florida pool plant located outside Florida would be subject to a Class I price no lower than that which would be applicable at the transferor plant if it were regulated under the other Federal order. The effect of this change would be to limit the amount of the location adjustment credit to Southeastern Florida handlers so that the Class I price for milk moved to other order plants would be comparable to the Class I price applicable to handlers competing with the transferee plants.

For plants located outside the State of Florida, the location adjustment provisions of the Southeastern Florida order presently provide that the Class I price be adjusted downward by 1.5 cents per hundredweight for each 10 miles a plant is located from West Palm Beach, Florida. The basic purpose of this provision is to provide a transportation allowance to handlers who assemble milk at plant locations outside the marketing area and move it to plants within the marketing area for use in Class I so that handlers' cost of milk so moved is more competitive with that for milk obtained locally.

Cumberland Farms, which operates distributing plants regulated under both the Southeastern Florida and the Middle Atlantic Federal orders, since October 1981 has obtained most of its milk supply for its Southeastern Florida pool distributing plant at Riviera Beach from its supply plant located at Dover,

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Delaware. The Dover plant, which is located within the Middle Atlantic, or Order 4, marketing area, delivers a large enough proportion of its receipts to the Riviera Beach plant to be an Order 13 pool plant. The remainder of the Dover plant's receipts are sent to the handler's fluid milk plant at Florence, New Jersey, an Order 4 pool plant, where the milk is allocated to Class I and Class II use according to the terms of the Middle Atlantic order. The hearing record indicates that over 75 percent of the milk transferred from Dover to Florence is classified in Class I use, on which there is a location adjustment credit under the Florida order.

The proponent of the pricing change adopted in this decision is the Southland Corporation, a handler operating fluid milk plants in both the Middle Atlantic and Southeastern Florida markets. Southland's concern is the erosion of uniform pricing of Class I milk used by handlers regulated under Order 4. According to proponent's witness, the principal basis of the problem is the severe misalignment of Class I prices at the Dover, Delaware, plant location between the Southeastern Florida and Middle Atlantic milk orders.

Class I price differentials under Federal milk orders generally increase 1.5 cents for each 10 miles of distance from Eau Claire, Wisconsin. Because the Northeast markets and the Florida markets are a substantial distance from Eau Claire, prices in those respective areas are approximately the same. The Class I differential at Philadelphia under the Middle Atlantic order is $2.78, to which is added a 6-cent direct delivery differential for a total differential cost of $2.84. Under the Southeastern Florida milk order, the Class I price differential is $3.15. However, when Class I price differentials in Federal order markets that are in different directions from Eau Claire are again adjusted 1.5 cents per 10 miles toward locations other than Eau Claire, substantial differences in Class I prices at a given plant location can result. When the Southeastern Florida order differential is adjusted to Dover, a location approximately 1,080 miles from West Palm Beach, the Order 13 Class I price differential there becomes $1.53. At Dover the Class I price differential under Order 4 is $2.66. Milk at Dover, therefore, is available to the Middle Atlantic pool plant at Florence for Class I use for $1.13 per hundredweight less than the same milk would cost if the Dover plant were pooled under Order 4. As a result, the Florence plant enjoys a competitive advantage in the Order 4 market of $1.13 per hundredweight on all milk moved from Dover to Florence which is assigned to Class I. Proponent's witness estimated the volume of such milk to be as much as 2.5 million pounds per month, and asserted that the increased number of producers pooled on the Southeastern Florida market is an indication that Cumberland is pooling increasing volumes of milk at Dover under Order 13 in order to gain a greater advantage in the Order 4 market.

An apparent misalignment between Class I prices would not necessarily lead to competitive inequities in a market if the handler with a Class I price advantage must pay more than the price required under the order under which he is pooled to attract milk from producers who would normally supply another market. Southland's witness pointed out, however, that a high percentage of Class I use in Southeastern Florida combined with a large Class I price differential result in an Order 13 blend price to producers adjusted to Dover which is often above the Order 4 price to producers for deliveries of base milk to the same location. Using June 1982 as an example, the witness calculated that the handler's obligation to the same producers who were owed $13.66 per hundredweight for all their milk delivered to Dover under the Southeastern Florida order would have been $13.50 for the portion of production that was base milk and $12.19 for excess milk under the Middle Atlantic order. The handler operating the Dover plant under Order 13 is, therefore, able to attract a sufficient quantity of producer milk by paying its producers a price at least equivalent to prices paid to neighboring producers by Order 4 handlers without giving up any of the price advantage it enjoys on the portion of its receipts which are used in Class I in the Order 4 area.

The witness stated that the cost of operating the Dover plant as an Order 13 supply plant should be viewed as outside the purview of the order program and irrelevant to consideration of the price advantage in question. He also asserted that the modification of the Order 13 location adjustment provisions offered by proponent would maintain competitive equity in the Middle Atlantic area while continuing to accommodate the movement of milk from Dover to Florida.

A post-hearing brief submitted by Southland supported amendment of Order 13 as the best solution to the problem of price uniformity to handlers under Order 4. The Florida orders were described as lending themselves more readily than others to such pricing inequities largely because of their high Class I differentials and utilization. It is the Southeastern Florida location adjustment provisions which Southland sees as the source of the problem. In addition, the handler indicated that the occurrence of nonuniform prices to handlers in markets other than Middle Atlantic would be likely to spread if the location adjustment provisions are not corrected in the Southeastern Florida order. The Southland brief pointed out that handlers in other markets might not become aware of such a problem even if it did develop. It was noted that correction of the problem in a number of other markets would involve multiple hearing proceedings and time to carry them out.

Southland argued that although its proposed amendment to Order 13 may be a departure from provisions generally found in Federal milk orders, provisions must be tailored to meet marketing conditions in order to assure equitable treatment to competing handlers. The brief concluded that Order 13 is the appropriate order to amend under the particular circumstances of the present situation.

The manager of Independent Dairy Farmers' Association (IDFA), the cooperative association supplying 92 percent of the producer milk pooled under the Southeastern Florida milk order, testified in favor of the proposed amendment as assuring uniform pricing to regulated handlers distributing milk in the Middle Atlantic marketing area. He stated that uniform pricing of milk for similar uses at similar locations has been one of the most consistently adhered-to principles of the Federal order program, and that the lack of such uniformity disrupts the market and erodes confidence in the Federal milk order program. He asserted that the continued existence of a $1.13 price difference at Dover is not in the best interests of orderly milk marketing.

The cooperative spokesman cited the example of a distributing plant located in one of the Florida markets which sold enough packaged fluid milk into another Federal order market to become regulated under the other order, thereby becoming subject to a minus 16-cent location adjustment. The plant then possessed a 16-cent per hundredweight advantage in its local market. As a result of the 1972 hearing held to correct that pricing inequity, the Department established a pricing structure for all three Florida orders within which location pricing was adjusted to assure that Class I prices at a given plant location in Florida would be the same under each of the orders. The witness expressed his belief that the situation

corrected by that proceeding and the marketing conditions under consideration at the present hearing are similar and that the proposal under consideration in this proceeding supports the same principle followed in that Florida decision.

In a post-hearing brief, the IDFA representative argued that the proposal would not deny equitable treatment to handlers regulated under Order 13, but would assure equitable treatment to Order 4 handlers. He also pointed out that one-third of the Federal milk orders contain provisions which limit the amount of price adjustment which may be allowed for location. In such cases the 1.5-cent per 10-mile rate is not allowed to operate fully in order that unrealistic price relationships with adjacent areas may be avoided. Milk orders cited as containing limits on location adjustments include Orders 7, 11, 30, 68, and 124 (Georgia, Tennessee Valley, Chicago Regional, Upper Midwest, and Oregon-Washington).

A witness representing two associations consisting of some 25 milk distributors which process and/or distribute more than half of the Class I milk within the State of New Jersey and the Philadelphia metropolitan area testified in favor of the proposal. He stated that competition for milk sales between handlers within the New Jersey-Philadelphia area is keen, and introduced evidence to show that the margin between prices paid to producers for raw milk and prices paid by consumers for processed milk is narrower in this area than in many other major U.S. metropolitan areas. He testified that winning bids by handlers for sales to suppermarkets and institutions are often determined by prices per unit carried out to four or five decimal places, with the Class I cost of milk constituting by far the greatest cost element in such a bid price. The witness asserted that a competitor's regulated buying advantage affects the ability of even the associations' members who are vertically integrated to compete at the retail level.

The representative of the dealers' associations voiced their position that the Federal order program requires equity of raw milk costs among competing handlers. He observed that the situation considered in this proceeding, i.e., milk being available for Class I use in the Middle Atlantic market which is regulated by an order for a market located more than 1,000 miles to the south, never could have been visualized when the appropriate Class I location adjustments for these markets were considered and adopted. The witness stated that Federal milk orders must be amended in response to changing marketing conditions to provide continuing equity among regulated handlers.

The witness testified that sales by handlers in order areas other than those in which they are regulated are quite common, but that substantial price inequities are not a problem between most orders. The large volume of sales by Order 4 handlers in the adjacent New York-New Jersey (Order 2) marketing area and by Order 2 handlers in the Order 4 area was cited as an example of inter-order sales which do not disrupt orderly marketing. The witness expressed an apprehension that inequity of pricing in the Order 4 market would be likely to have an unstabilizing effect on marketing conditions in the Order 2 market, given the interrelationship between the two markets. He then referred to a provision formerly incorporated in the New York-New Jersey Federal order which required Order 2 handlers to pay the Order 2 Class I price for milk used in Class I which was received from handlers regulated under the Connecticut order. The proposal under consideration in this proceeding was characterized as a method similar to that "Connecticut differential" for dealing with inter-order price misalignment.

A witness for Dairymen, Inc. (DI), a cooperative association marketing a significant volume of producer milk in the Order 4 market, testified in favor of the proposed change. He stated that because only 50 percent of the milk received at Dover must be moved to the Order 13 distributing plant to qualify the Dover plant for pooling under Order 13, the amount of milk available at Dover for sale to Order 4 distributing plants at $1.13 under the Order 4 Class I price could represent a significant volume of sales. Such a volume at a $1.13 lower price would, he considered, lead to disorderly marketing in the Order 4 area. The witness characterized the situation as an obvious misalignment of prices between Federal milk order markets which must be corrected if the objective of orderly marketing is to be achieved.

A representative of a handler operating a pool plant in the Order 13 area and a plant in Kentucky under the Louisville order testified in favor of the proposed change to Order 13. He observed that if no action were taken to rectify the price alignment problem, it could expand to other order areas such as Louisville.

Cumberland Farms was represented by an expert witness who described the nature of Cumberland's business as complete vertical integration. He stated that Cumberland processes a limited product line which is sold only through its own stores, and asserted that not only could such an operation involve lower costs than those incurred by most conventional handlers but that it should have only a minimal impact in competition with other handlers. Since Cumberland does not compete directly for wholesale accounts with other handlers, he claimed, a lower raw product cost would not affect other handlers' ability to compete in the market. He did admit, however, that the existence of a lower-cost operator may force others to meet his price if they are to remain competitive.

The witness attributed the decision to move milk to Florida from Dover to the sizable premiums over the minimum order prices which were being charged by the predominant cooperative association in the Southeastern Florida area. He ascribed the cooperative's ability to exact such premiums to its domination of the market, and Cumberland's decision to obtain milk elsewhere to a desire to avoid an over-order price it regarded as excessive. The witness stated that the Dover plant qualifies as a pool supply plant under the terms of the Southeastern Florida milk order by shipping more than 50 percent of the milk received at the Dover plant to the Order 13 distributing plant at Riviera Beach, and characterized the milk moved from Dover to Florence as surplus to the needs of the Riviera Beach plant. The Florence plant was described as a pool plant under the Middle Atlantic milk order which receives milk from sources other than the Dover supply plant and distributes it through approximately 260 Cumberland Farms stores in New Jersey, Pennsylvania, and Delaware.

Cumberland's witness explained that when a handler disposes of fluid milk products from a pool plant into more than one Federal order marketing area, the plant generally is regulated by the order for the market into which it disposes of the greatest quantity of milk. Disposition by one plant into two or more marketing areas, he stated, has become a rather common occurence. Milk moved into marketing areas of orders other than the one under which it is regulated customarily is priced according to the distance of the plant disposing of it from the primary consumption center of the order under which the plant is pooled.

Although he recognized that in the early days of the Federal milk order program a few orders provided for

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differentials on Class I sales outside the marketing area, the witness expressed his veiw that such a differential is neither specifically authorized by the Agricultural Marketing Agreement Act of 1937, nor is it reasonable to contend that any such pricing policy is necessary to effectuate the other provisions of the Federal order program.

The witness described the alignment of prices between orders as determined by distance from Eau Claire, Wisconsin, to permit milk to move freely between markets without creating advantages or disadvantages for handlers in the markets involved. He stated that price misalignment between markets can only occur when location differentials are substantially different from actual hauling costs, and denied that the term "price misalignment" could be applied accurately to the existing price structures of Order 4 and Order 13. Instead, he claimed, the marketing condition which proponents wish to have corrected is caused by the existence of large premiums over the Order 13 Class I price which are exacted by the principal cooperative supplying the Order 13 market. Using data published by USDA, the witness showed that the over-order price in Order 13 ranged from $1.58 per hundredweight in May 1981 to $1.89 in November 1981, dropping to approximately $1.20 for April–July 1982. He stated that the decline in over-order prices from the time Cumberland began obtaining its milk supply from Dover was probably related to Cumberland's change in supply, and argued that the Secretary of Agriculture has no authority to amend an order to strengthen the effectiveness of cooperative pricing over the minimum order level.

The witness stated that the costs of operating the Dover plant as a supply plant for Southeastern Florida, which are additional to the minimum prices required by the order, are factors which the Secretary must consider in reaching a decision on an appropriate method of pricing milk received there. He observed that although the cost of moving milk from Dover to Riviera Beach is offset by the 1.5-cent per 10-mile location adjustment on milk used in Class I, milk assigned to Class II is not subject to location adjustments and is therefore moved entirely at Cumberland's expense. In a similar manner, the differential pricing for location between Dover and Florence under Order 4, which is 12 cents on milk used in Class I with an additional 6 cents on all milk, is not a great enough allowance to cover the costs of receiving milk at Dover and moving it to Florence. The witness pointed out that in a recent amendment to the New England order, handlers were allowed a total of 22 cents per hundredweight to cover fixed hauling costs and reload costs. Such costs, he asserted, are of the type incurred in Cumberland's operations and serve to offset any price advantage over Order 4 handlers which Cumberland might enjoy by being pooled under Order 13.

Another offsetting factor pointed out by the witness was the allocation of the milk transferred to Florence. Under the allocation provisions of Order 4, receipts at Cumberland's Florence plant from the other order supply plant at Dover are assigned the Order 4 marketwide utilization (limited to the actual Class II use availale in the receiving handler's plant). The witness claimed that because the Class I utilization percentage of the Middle Atlantic market is substantially lower than that at the Florence plant, a disproportionate share of the other other receipts at Florence are allocated to Class II, eliminating applicability of the 12-cent location adjustment from the Dover milk assigned to Class II at Florence.

The witness indicated that because the Order 13 Class II price ranges from 3 to 25 cents per hundredweight higher than the Order 4 Class II price, milk from Dover assigned to Class II at Florence is priced higher than if it were Order 4 pool milk. He also indicated that other costs involved in Cumberland's operation which he felt should not be ignored by the Secretary include contractual arrangements with producer cooperatives supplying the Dover plant which result in Cumberland paying more than order prices for its milk supply. When asked if the Secretary should not consider any savings to which the Cumberland operation might be subject, as well as offsetting costs, the witness agreed that savings from special hauling arrangements could be considered. He differed, however, with a conclusion that cost savings resulting from Cumberland's vertically integrated structure or from its avoidance of the Florida cooperative's over-order price should be included in any consideration of costs and savings.

The witness differentiated between the small over-order prices imposed by cooperatives in the Middle Atlantic and New England markets and the much larger premiums in the Southeastern Florida market by describing those in the Northeast as handling charges for services of economic value performed by the cooperatives, while the cooperative prices over the Order 13 minimum prices are a reflection of the supplier's market power. He explained that in return for over-order charges cooperatives in the New England and Middle Atlantic markets maintain manufacturing facilities and balance the supply of producer milk for the market, but indicated that he was not aware of what services the Florida cooperative might provide its customers.

In answer to questions about ways in which the situation at issue could be handled without adoption of the proposed amendment, Cumberland's witness explained that milk could not be diverted directly from producers' farms to Florence for Class I use without being pooled under Order 4. Such an approach, he conceded, would eliminate any problem of nonuniform pricing to Order 4 handlers but pointed out that that approach would result in portions of some producers' milk being pooled on both orders. He stated that such a procedure could be confusing to farmers whose milk was pooled under two orders and would make difficult the administration of the Order 4 12-month base plan. The witness responded to a hypothetical case of milk transferred to pool plants of several orders from a supply plant which failed to meet pooling qualifications of any order by stating that under all Federal milk orders such milk allocated to Class I at the transferee pool plant would be subject to a compensatory charge at the difference between the Class I and blend prices of the receiving order.

Cumberland's witness also stated that if Cumberland were to be assessed more than the present Order 13 price adjusted to Dover for milk moved from Dover to Florence and used in Class I, the Order 4 pool rather than the Order 13 pool should benefit from such a charge. In a post-hearing brief, a cooperative representing a large percentage of Order 4 producers argued in this regard that it would not be equitable to give the Order 13 pool the benefit of adjustments resulting from milk used for Class I in Order 4 pool plants. The brief asserted that since Order 4 producers bear the principal responsibility for balancing milk supplies for the Middle Atlantic market it would be only equitable for any benefits to follow those burdens. It was argued that payment of a higher price under Order 13 for Class I milk transferred to an Order 4 plant would benefit Order 13 producers without those producers assuming any responsibility for servicing the Order 4 market. The cooperative urged that if the proposal were adopted, the benefits of the higher price should accrue to the Middle Atlantic pool rather than to Southeastern Florida producers.

An employee of Cumberland Farms gave testimony relative to Cumberland's actual costs of operating the Dover plant. He submitted an exhibit detailing costs which offset all but 5 cents of Cumberland's $1.13 lower Class I price under Order 13 relative to Order 4 on milk moved from Dover to Florence. For Class I milk, he detailed those costs as 29.1 cents per hundredweight for hauling costs from Dover to Florence, another 29 cents for the cost of operating the Dover plant, a 9-cent contractual payment in excess of the Order 13 blend price to producer cooperatives supplying the Dover plant, and 14.2 cents per hundredweight for shrinkage at the Dover plant.

The employee indicated that costs incurred in handling Class II milk at Dover were the same as those for Class I milk except for price differences under the two Federal orders. Under the class price provisions of the Southeastern Florida order, the Class II price is the basic formula price (Minnesota-Wisconsin price at 3.5 percent butterfat) plus 15 cents, while under the Middle Atlantic order the Class II price varies seasonally from 10 cents under to 12 cents over the same basic formula price. The employee noted that this price variation results in an Order 13 Class II price for milk moved from Dover to Florence which averages 12.5 cents over the Order 4 Class II price. When offset by the 6-cent direct delivery differential which is applicable to all milk received at Florence under Order 4, the effective Class II price for milk delivered to Florence over the course of a year averages 6.5 cents per hundredweight more when the milk is pooled under Order 13 than when it is pooled under Order 4.

The costs itemized by the witness which offset the $1.13 lower price which Cumberland has on Class I milk sold in the Order 4 market amount to $.813, leaving a net price advantage of $.317. The same costs, when combined with the 6.5-cent difference in Class II prices between the two orders, result in a disadvantage to Cumberland of $.878 for milk pooled under Order 13 and allocated to Class II at the Order 4 distributing plant at Florence. Under the allocation provisions of Order 4, milk received at a pool plant from an other order plant is allocated on a marketwide utilization percentage to uses in the plant. As a result, the witness testified, 77.7 percent of the Dover milk received at Florence was allocated to Class I, and 22.3 percent to Class II, from October 1981 through June 1982. When these percentages are applied to the 31.7-cent Class I price advantage and the 87.8-cent Class II price disadvantage, the net result, the witness claimed, is a mere 5.05-cent advantage for Cumberland on all the milk moved from Dover to Florence.

The witness stated that his computations did not include the Order 4 12-cent location adjustment between the Dover and Florence locations on Class I milk or the 6-cent direct delivery differential applicable on all milk received at Florence, which would have the effect of reducing the 29.1-cent cost of hauling milk from Dover to Florence by 18 cents. He also indicated that the shrinkage costs quoted were those experienced at the Dover plant, and that additional shrinkage occurs at the Florence and Riviera Beach plants where the milk is processed.

According to Cumberland's employee, Cumberland's Class I sales out of the Middle Atlantic pool plant at Florence account for only one to two percent of Order 4 producer receipts, and probably two or three percent of Order 4 Class I sales. He also estimated that the volume of sales distributed from Florence is approximately twice the amount processed and sold from the handler's Riviera Beach plant. Considering the Order 13 requirement that a supply plant transfer at least 50 percent of its receipts to an Order 13 pool plant in order to meet pooling qualifications, the witness initially testified that no more than 25 percent of the milk processed at Florence could come from the Dover plant if the Dover plant were to remain pooled under Order 13. He agreed, however, that up to 50 percent of the milk pooled at Dover could be moved to Florence. When asked about the accuracy of the exhibit which gave estimates of the amount of milk pooled at Dover under Order 13 and moved to Florence, the witness stated that those estimates were overstated by roughly 5 to 10 percent.

Dairymen, Inc.'s post-hearing brief questioned the validity of offsetting Cumberland's Class I price advantage in the Order 4 market with the costs of operating the Dover plant. DI asserted that with the exception of moving milk from Dover to Florence, such costs are irrelevant, and have never been considered in the determination of appropriate price levels for different locations in the Federal order program.

The post-hearing brief submitted by Southland challenged the cost factors which the Cumberland employee had testified offset the $1.13 price advantage over Order 4 handlers at Dover in addition to the 18-cent price difference between Dover and Florence which should have been used to reduce the cost of hauling between those two points. Southland claimed that the 9-cent "contractual adjustment" offset should be removed from consideration because it is equivalent to service charges paid to cooperatives by other Order 4 handlers. With respect to this latter point, the exhibit introduced by Cumberland's witness shows that for January through June 1981 the cooperative price exceeded the minimum Federal order price in the cities of Baltimore, Maryland, and Washington, D.C., by 15 cents, and in Philadelphia, Pennsylvania, by 10 cents. Southland also claimed that the cost of shrinkage claimed by Cumberland should be reduced by 25 to 50 percent to allow for accounting at farm weights and tests, since that amount of shrinkage would occur no matter where the milk was first received.

Southland observed that no order requires Cumberland to operate a supply plant for Order 13 at Dover; that the costs of doing so are self-imposed and a result of actions undertaken to avoid the premium imposed by IDFA. The brief pointed out that Cumberland had supplied no analysis of costs at the Riviera Beach plant, or of advantages Cumberland may have gained in the Southeastern Florida market as a result of operating the Dover supply plant.

A representative of Eastern Milk Producers' Cooperative Association, Inc., which supplies the Cumberland plant at Dover, testified in opposition to the proposal. The members of the cooperative who supply milk to the Dover plant represent nearly 63 percent of the producers pooled on the Southeastern Florida market. Among the reasons for which Eastern advocated that the proposal not be adopted is that the Cumberland operation at Dover is a specific target of the proposal. The representative stated that other concerns, such as Order 13 Class I price misalignment with orders other than Order 4 and price misalignment for interorder transfers of milk classified as Class II, should have been included for consideration in the hearing procedure. He also pointed out that proponent addresses only the $1.13 difference in order prices, with no allowance for Cumberland's operating costs which serve to offset the advantage in order prices.

The cooperative representative claimed that price discrepancies between orders must, to warrant correction, result in substantial procurement cost differences, involves significant quantities of products, and impair competitive equity among handlers in the market. He asserted that

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since none of those conditions prevail in the present situation the proposal should not be adopted. Observing that a misalignment of order prices in the Middle Atlantic area should be of concern only to Order 4 handlers, the witness questioned whether proponent actually distributes milk in the same area in which Cumberland's Order 4 stores are located or if proponent's concern relates instead to its role as a competitor with Cumberland in the Southeastern Florida area. He indicated that a problem im the Middle Atlantic market should not be remedied by amending Order 13, but had no suggestion for a means of solving the problem by amendment to Order 4.

Finally, Eastern's witness objected to the proposal as representing a major departure from the manner in which milk transferred between Federal order markets is customarily priced. He asserted that adoption of the proposal would create another class of use with its own price and could have the effect of disrupting pricing provisions throughout the order program.

In the brief filed by Eastern the proposed amendment was described as predatory discrimination against the actions of a single handler to force him to abandon a procurement operation which is economically justified. Eastern charged that the proposal is designed to disrupt Cumberland's milk supply for its Riviera Beach plant and force Cumberland to obtain its supply from IDFA at a price considerably above the minimum order price. It was claimed that such action would serve to reinforce premium pricing in an area in which both minimum order Class I prices and the cooperative's premium exceed those in any other market. In addition, an increase in the price of milk moved from Dover to Florence would, according to the brief, create a clearly illegal economic barrier to the movement of milk between markets. Eastern's brief also stated that if Cumberland is forced to abandon the Dover plant as a supply of milk for its Florida operations, 140 producers and 3.5 million pounds of milk per month currently pooled on Order 13 would be shifted onto the Order 4 market, disrupting marketing conditions in the Middle Atlantic area.

The attorney representing Cumberland Farms testified against adoption of the proposal on the basis that resale price regulation by the State of Pennsylvania limits the potential of differences in raw product costs to disrupt milk marketing in the Middle Atlantic area. He introduced an exhibit that showed retail prices for milk in North Jersey and South Jersey for July 1982, and indicated that Cumberland's price is at the lowest end of the 16-cent range for stores surveyed. He also testified that Cumberland's sales in Pennsylvania are at the minimum price allowable under Pennsylvania's retail price regulation, with some handlers' prices somewhat higher. He expressed the opinion that with such price differences already existing in the market, any raw product cost advantage Cumberland might have would result in no realistic potential for Order 4 market disruption.

The post-hearing brief filed on behalf of Cumberland Farms stressed the argument that proponent, the Southland Corporation, actually has no direct interest in the effect of Cumberland's operations on price equity in the Order 4 market. Instead, according to Cumberland, Southland has proposed this order change for the sole purpose of making Cumberland's Dover operation unprofitable and helping Independent Dairy Farmers' Association to force Cumberland back into the cooperative's superpool.

IDFA members were described as large producers who enjoy a high Class I utilization percentage and are able to exact high premiums because of their large market share. The brief denied that the IDFA members are small farmers in need of regulatory protection and speculated that due to their large estimated gross income they would not fall within the definition of small businesses with which the Regulatory Flexibility Act is concerned. Furthermore, Cumberland argued, action by the Secretary for the purpose of maintaining cooperative over-order pricing would be outside the scope of the Act.

Cumberland also argued that the nature of its business causes very little impact on competiton in the Order 4 marking area as a result of any price advange Cuumberland might have in that area. It was noted that the handler's vertically integrated structure keeps it from competing directly with other handlers for accounts. In addition, Cumberland claims that its limited-line processing operation and vertically integrated distribution system diminishes any effect on the market which a cost advantage normally would cause. According to the brief, however, extra costs incurred in operating the supply plant should be taken into account to determine whether Cumberland has any material advantage, as the costs incurred by Cumberland in shipping milk from Dover to Florence are not experienced by most Order 4 handlers.

A further argument against the adoption of the proposal is the relative insignificance of the amount of milk subject to any price advantage. According to the brief, no more than 25 percent of the milk supply at Florence can be received from the Dover plant if the Dover plant is to remain pooled under Order 13. The 25-percent limit was determined by considering the fact that route disposition from Florence is twice that from the Riviera Beach plant, and that to qualify as an Order 13 supply plant, the Dover plant must move at least 50 percent of its receipts to Southeastern Florida distributing plants. Since the quantity of milk processed at Cumberland's Florence plant represents only 1 to 2 percent of total producer receipts under Order 4 and only 25 percent of the milk received at Florence can be supplied by the Dover plant at a price advantage, the problem was described in the brief as infinitesimal.

Cumberland's briefing again emphasized that the record shows no evidence of actual marketing disorder as a result of any price advantage and claimed that there was no evidence that Order 4 handlers are concerned about handler equity. The testimony of the representative for two dealers' associations was described as a general statement in favor of handler equity, and was challenged as an inaccurate representation of the views of the associations' members.

Finally, the proposal was characterized in Cumberland's brief as a radical departure from the general Federal order policy of pricing the milk of handlers distributing in more than one regulated marketing area under the order for the area into which they distribute the largest quantity of milk.

Although opponents of the proposals deny that the price discrepancy between Orders 4 and 13 at Dover results in any substantial procurement cost advantage for Cumberland, that the advantage impairs competitive equity between handlers, or that it affects a significant amount of milk, examination of the record indicates that Cumberland has a substantial cost advantage on a significant amount of milk, and thereby has the capability of impairing competitive equity in the market.

Under the provisions of the Middle Atlantic and Southeastern Florida milk orders, there is clearly a price advantage of $1.13 at Dover for a plant pooled under Order 13. The costs of operating the Dover supply plant should not be considered as offsetting that advantage. Nearly all of the costs claimed by

Cumberland would be incurred in operating the Dover plant under any Federal order. If the Dover plant were an Order 4 supply plant, milk received there and used in Class I would be subject to the Order 4 price at that location, $1.13 more than the Class I price applicable under Order 13. No allowance would be made for the extra costs of operating a supply plant. The fact that few or no other plants regulated under order 4 are subject to the same costs as Dover is because most milk marketed in the Middle Atlantic area is delivered directly from farms to the plants where it is used. The lack of supply plants in the Order 4 market is primarily due to the proximity of producers to the locations at which milk is used. If Cumberland were not operating the Dover plant to ship milk long distance to Florida, most of the milk currently transferred to Florence could be delivered more economically by direct shipments from the farm rather than through a supply plant. The cost of operating a supply plant is one of the factors implicitly accepted by Cumberland in its decision to use that facility to supply milk to the Riviera Beach plant, and should not be considered as offsetting the Order 13 price advantage at Dover.

The fact that Cumberland incurs the cost of moving milk that is allocated to Class II use between the Dover and Florence plants should not be considered a valid offsetting cost factor. Under the terms of Federal milk orders, handlers are purposely discouraged from moving Class II milk between plants at producers' expense. Transportation allowances under the plant location adjustment provisions of orders are limited on transfers between pool plants to the amount of Class I use available at the receiving plant after direct receipts have been deducted from Class I use. With respect to milk received from a plant regulated under another order, such milk is allocated on a marketwide utilization basis (limited to the actual use available in the receiving handler's plant). This intermarket allocation is for the purpose of discouraging the uneconomic transfer of milk for Class II use. Also, it tends to assure that other order producers carry their share of the burden of the reserve milk supply for the receiving market.

With respect to the matter of the plant location adjustment provisions of Order 4 not fully reflecting Cumberland's costs of reloading and transporting Class I milk between Dover and Florence, this is an issuance that could be addressed as a possible amendment to Order 4. No such issue was included in the hearing notice with respect to Order 4. It is obvious that there are reloading and fixed transportation costs of assembling milk through supply plants. However, such costs are rarely incorporated in the transportation allowance provisions of milk orders. The 22-cent reloading and fixed transportation allowance under the New England order that was alluded to by one of Cumberland's witnesses is unique to that order and reflects the unique relative geographic locations of supply plants and distrubuting plants in that market.

The milk moved from Dover to Florence may represent a small percentage of the total marketed in the Middle Atlantic area, but when Cumberland's $1.13 price advantage is considered the potential disruptive effect of the amount of milk involved is not negligible. If proponent's estimate of the volume of milk in question is reduced by the 5 to 10 percent overestimate claimed by a Cumberland witness, an average of over 35,000 pounds of milk per day has been moved from Dover to Florence since October 1981. This volume would represent the production of approximately 30 of the producers (and ¼ of the production) pooled under Order 13 at Dover. Such an amount of milk available at a price substantially lower than the Middle Atlantic Federal order Class I price certainly affects the uniformity of pricing to handlers similarly located.

Contrary to a Cumberland witness's testimony, approximately half of the Florence plant's fluid milk needs could be received from the Dover plant with the Dover plant remaining pooled under Order 13. According to the witness, distribution by the Riviera Beach plant is approximately half that of the plant located at Florence and at least half of the milk received at Dover must be transferred to Riveria Beach if the Dover plant is to remain on Order 13 pool plant. The witness thus claimed that receipts at Florence from Dover could represent no more than 25 percent of the Florence plant's total supply. However, if all of the milk used at Riviera Beach were supplied from Dover and a nearly equal amount were moved to Florence, that amount would supply approximately half of the Florence plant's needs. The impact of the present pricing inequities on the Middle Atlantic market could, therefore, double with the use of a supply plant pooled under Order 13.

Although Cumberland witnesses asserted that Cumberland, due to its vertically integrated structure, does not compete directly with other handlers for contracts, a handler selling through its own 260 stores is as much a competitive factor in the market as one which packages milk to be sold through grocery chains. Southland, in contracting with other handlers to supply its stores in the area in which Cumberland operates, is damaged just as much by nonuniform pricing as if it were supplying those stores from its Order 4 plant at Waldorf, Maryland. Nonuniform pricing may also affect competition even when there is no obvious undercutting in store prices. In the presence of state regulation of minimum out-of-store prices, it could scarcely be expected that even a handler with a substantial competitive advantage would be able to undersell all of its competitors. Such a handler could, however, exert downward pressure on store prices when costs of obtaining and processing milk are rising, thereby making competition ruinous for handlers paying the order price. Another possibility for a handler operating in more than one area, as Cumberland does, to use a competitive advantage is to use the proceeds from the advantage possessed in one market to subsidize prices lower than those prevailing in an area in which retail prices are not regulated.

The price difference at Dover between Orders 4 and 13 is a rather extreme example of price misalignment, nearly 10 cents per gallon. Price alignment between the Middle Atlantic and Southeastern Florida marketing areas was not considered when the appropriate Class I price levels were established for the Florida markets. In a 1970 decision (35 FR 18618) increasing the Southeastern Florida Class I differential from $2.95 to its present level of $3.15, the Secretary stated that milk was imported from the Georgia and Chattanooga, Tennessee, areas to Florida. When supplemental milk was needed because of those areas' limited supplies, it generally had to come from the Minnesota-Wisconsin region. The Atlanta, Chattanooga, and Chicago prices for July 1970 adjusted for transportation to Miami by 1.5 cents per 10 miles were computed to be $7.915, $7.945, and $7.91, respectively, while the Class I price at Miami was $7.56. Although a 20-cent increase in the Order 13 Class I differential did not result in perfect alignment between these orders, it did improve the ability of plants located in Southeastern Florida to attract needed supplies of milk. Because the Middle Atlantic market was not considered a regular or even supplemental source of supply for Southeastern Florida, alignment between those two markets has not

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been a factor in determining appropriate price levels for either order. Now that the Southeastern Florida market has begun to obtain a supply of milk from the Middle Atlantic area, however, price alignment between the two markets must be considered.

Price alignment between Federal milk orders is considered not only when deficit supply areas must obtain supplemental milk from other areas, but when handlers regulated under different marketing orders are competitive in the same region. A 1972 decision (37 FR 16953) made the Class I price at any given plant location within the State of Florida the same under each of the three Florida orders. Prices under the three orders had been aligned to reflect the cost of hauling milk from alternative sources, but a handler which shifted regulation from one Florida order to another obtained a 16-cent price advantage over competitors by doing so. The handler accomplished a change in regulation by distributing a slightly larger proportion of its sales in an order area other than the order area where its plant was located. The 1972 amendment corrected the order provisions which made inequitable pricing possible in that situation. Similarly, as was stated at the hearing and alluded to in certain post-hearing briefs, the location adjustment provisions of many orders limit or designate the amount of price adjustment applicable to plants located in other order areas to ensure that handlers are unable to use the pricing provisions of the orders to gain a competitive advantage over other handlers similarly located but regulated under another order. Such consideration is usually limited to nearby or adjacent Federal order marketing areas. In the Texas order (Order No. 126), price adjustments applicable at locations within neighboring marketing areas for handlers regulated under Order 126 are specified in fixed amounts to be equivalent to the prices applicable at the same location under the other order. If the prices at those locations were determined by mileage from a given Texas city, they would be somewhat lower than the prices applicable under the orders in which those points are located. Under such location adjustment provisions, a handler whose plant is located in an order area other than the one under which he is regulated is assured that the price he pays for milk is uniform with the prices paid by handlers similarly located. Similarly, handlers regulated under the other order are assured that a handler located in their vicinity will not be able to underprice them solely because of the difference in regulation. The handler located outside his order area may, as a result, experience some competitive disadvantage in selling Class I milk into the area under which he is regulated since hauling costs may exceed the price difference between the two areas. That effect of such location adjustment provisions, however, is mitigated by the relatively small distances and price differences normally involved between adjacent areas.

Incorporation of the kind of location adjustment provision found in the Texas order and others into the Southeastern Florida order would cause all milk pooled at Dover to be subject to a price equivalent to the Middle Atlantic price at that location. Effectively, the Class I price differential at Dover under Order 13 for all milk pooled at Dover would be increased from $1.53 to $2.66 per hundredweight, or only $.49 less than the Order 13 price at Rivera Beach. It would reduce the present transportation allowance for moving milk from Dover to Rivera Beach from $1.62 to $.49 per hundredweight.

The record of this hearing does not reveal any problem with respect to the $1.62 per hundredweight location adjustment at the Dover plant with respect to milk moved to Florida. But a substantial price alignment problem exists with reapect to the Class I milk disposed of in the Middle Atlantic market from the Dover plant. Use of the Order 13 location adjustment provision to obtain a supply of milk in another order market, such as the Order 4 market, at a price substantially less than the price applicable under the other order should not be allowed. It is unfair to handlers competing under the other order, and does not provide uniform prices to handlers similarly located.

It is common practice to incorporate provisions under Federal milk orders to ensure that handlers are faced with comparable costs for milk used in Class I irrespective of the source of such milk supply. In most Federal milk orders, including Orders 4 and 13, any volume of fluid milk received from unregulated sources and used in Class I at a pool plant is subject to a charge on such milk to be added to the receiving handler's pool obligation at the difference between the Class I price and the marketwide weighted average price to producers. This charge is based on the assumption that the handler has probably paid his producers the weighted average price for the unregulated milk. From October 1981 to July 1982, the Order 4 Class I-weighted average price difference averaged $1.46 per hundredweight. This is 33 cents more than the added cost to Cumberland under the proposal adopted.

Similar charges on receipts from other order plants generally are not incorporated in a handler's pool obligation under Federal orders on the basis that the Class I price has been paid for the milk at some location for which pricing is aligned with that at the receiving handler's plant. That assumption fails in the case of a plant regulated under Order 13 but located within the Order 4 area and selling Class I milk to an Order 4 handler. Additionally, if milk from the Dover plant were moved to any of the nearby markets where prices are aligned with Order 4, it would tend to disrupt competition in those markets also. It would be appropriate to solve the problem of nonuniform pricing by amending Order 13 if the solution would provide alignment to pricing on milk moved to other order handlers.

The proposal to correct the problem of inequitable pricing in an other order area by amending Order 13 to provide that the Class I price applicable on milk transferred to an other order plant be adjusted for location to a level no lower than the price applicable at that location under the other order is a reasonable and effective method of dealing with the situation. Adoption of the proposal would result in uniform prices paid by handlers regulated by Order 4 and at the same time would not create economic barriers to the movement of milk from Dover to Florida.

Adoption of the proposal would not establish a barrier to movements of milk between Federal order marketing areas. The milk transferred from Dover to Florence does not move between Federal order marketing areas but between plants regulated under different orders but located within the same marketing area. The adopted change would assure uniform pricing of milk to handlers located within the same area and by that assurance would not inhibit milk transfers between those handlers.

Cumberland Farms is not the target of the amendment adopted in this decision inasmuch as any handler with a plant located outside Florida but pooled under Order 13 who elects to sell milk for fluid use to nearby plants would be restrained from doing so at less than the local Federally regulated price. The facility at Dover, which is rented by Cumberland could be operated instead by any other handler, even one who could establish a bottling and distributing operation there. Such opportunities for use of Federal order provisions to obtain a position of

competitive advantage in the market should be eliminated.

The fact that the additional money collected under the adopted proposal would be paid into the Order 13 pool rather than into the Order 4 pool may be considered equitable even though the milk moved to Florence from Dover is considered surplus to the fluid needs of the Riviera Beach plant. The Order 13 producers are already carrying their share of the reserve supply to the Middle Atlantic market through the operation of the Order 4 allocation provisions which prorate other order receipts at Florence to Classes I and II on the basis of the Order 4 marketwide utilization. In fact, since the milk of the Dover producers is not adding to the already-large surplus of milk in the Middle Atlantic pool and is absorbing a proportionate share of Class II use at Florence, producers pooled under Order 4 are already benefitting from the pooling of the Dover milk Order 13. If the Florida plant obtained its supplemental milk supply from some other region, the milk supply now being moved to Florida from Dover would likely be added to the Order 4 pool as Class II milk.

Exceptions filed by Eastern Milk Producers Association and Cumberland Farms largely reiterated those parties' objections, expressed at the hearing, to adoption of the proposed amendment. For the most part, those objections were addressed in the recommended decision. Both Eastern and Cumberland criticized the recommended decision as using vague and speculative words rather than actual numbers, while failing themselves to cite anything concrete in the record that contradicted the conclusions reached in the recommended decision. After criticizing the decision for not being based on specific figures, Cumberland's exceptions went on the argue that the specific figures on which the decision was based were inflated or misleading. Cumberland re-asserted that the $1.13 per hundredweight price advantage at Dover under Order 13 is largely offset by the costs of operating the Dover supply plant, and that 35,000 pounds per day is an insignificant volume of milk in the Middle Atlantic market. Eastern argued that the record contained no evidence to support a finding of any threat to orderly marketing conditions in either order. Eastern and Cumberland both characterized the adopted proposal as aimed solely at Cumberland's operation. The exceptors insisted that the only purpose of the amendment, which affects only milk transferred to other order plants, is to make uneconomical the transfer of milk to Florida which Cumberland has undertaken in order to avoid the over-order charges imposed by IDFA. At the same time, Cumberland objected to the point made in the recommended decision that a competitive advantage enjoyed in one marketing area could be used to subsidize operations in another area.

The number primarily relied upon in adoption of the proposed amendment is the $1.13 per hundredweight price advantage effective at Dover under Order 13 over Order 4 handlers. The reasons for not offsetting that price advantage by Cumberland's costs of operating the Dover supply plant were explained in the recommended decision. In summary, those costs can be viewed as the cost to Cumberland of balancing the supply for the Riviera Beach distibuting plant. Balancing would be one of the function undertaken by IDFA if the cooperative were suplying Comberland's plant, and would be one of the components of the over-order price charged by IDFA. It would appear that in addition to not wanting to pay the cooperative to perform balancing and other services, Cumberland also wishes to avoid bearing the cost for supplying those services for its own plants. The effect of allowing the full location adjustment to cover the movement of milk from Dover to Florida for Class I use on milk which is instead transferred to Florence, New Jersey, is to reduce the value of the Order 13 pool at the expense of the Florida producers, who provide most of the milk in that pool. As a result, those producers are required to bear part of the cost of balancing the milk supply for the Riviera Beach Plant, for which they supply none of the milk.

The 35,000 pounds of milk per day moved from Dover to Florence was cited in the recommended decision as an indication that in addition to balancing the Cumberland plant in Florida, Cumberland is using the Dover plant as a regular source of supply for the Florence, New Jersey, plant regulated under Order 4. The milk of nearly one-quarter of the producers pooled at Dover under Order 13 is moved to the fluid milk plant at Florence rather than to Florida. That milk is subject to the location adjustment determined by the distance between West Palm Beach and Dover. As a result, the value of the Order 13 pool is reduced by a location adjustment that also results in the Class I price paid by an Order 4 handler to be $1.13 per hundredweight less than the minimum price required at the same location under that order. In this situation, there is every incentive for Cumberland to pool as much milk as possible at the Dover plant to transfer to Florence, while assuring that the supply plant remains pooled under Order 13.

The fact that 35,000 pounds of milk per day represents a small proportion of the Order 4 market is immaterial. Under Order 4, there are no provisions for exemption from full minimum Order 4 price regulation on the basis of volume of sales. The only Order 4 provision in which volume is a factor in determining regulation under Order 4 is the 10,000-pound per month limit on the amount of pool milk a producer-handler may purchase without being subject to the pricing and pooling provisions of the order. Such purchases of pool milk would, of course, be fully subject to minimum Order 4 pricing. In that context, a volume of 35,000 pounds per day available at $1.13 less than the Order 4 price certainly may be described as "substantial."

The question of Cumberland as the "target" of the amendment was discussed in the recommended decision. It is difficult to see how adoption of the amendment will discourage the movement of milk from Dover to Florida, or how the amendment could make such transfers uneconomical. The operation of the location adjustment provisions in regard to the milk moved to Florida will be unaffected by the amendment. A requirement that milk sold to an other order handler be subject to the minimum Class I price under the other order should not affect the economics of moving milk from an Order 13 supply plant to an Order 13 distributing plant. Since adoption of the amendment will not affect the pricing of intra-order movements of milk, the insistence of both Eastern and Cumberland that the amendment is designed to support IDFA's over-order pricing policy by eliminating any incentive to bring milk in from Dover strongly implies that the principal incentive for doing so is the $1.13 price advantage on milk transferred to Florence and used in Class I.

A proposal was published in the hearing notice to consider increasing the plant location adjustment rate under the order. This proposal was abandoned at the hearing by the proponent and no testimony was offered on the matter. Thus, no findings can be made with respect to the merits of the proposal on the basis of this hearing record.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs,

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proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Ruling on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Southeastern Florida marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

January 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southeastern Florida marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1013

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 13, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [1] Amending the Order, Regulating the Handling of Milk in the Southeastern Florida Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Southeastern Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on March 10, 1983, and published in the **Federal Register** on March 15, 1983, (48 FR 10848), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

In § 1013.52(a), the text preceding the table is revised to read as follows:

§ 1013.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside of the defined marketing area shall be adjusted at the rates set forth in the following schedule: *Provided*, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

* * * * * *

[FR Doc. 83-13292 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1033 and 1036

[Docket Nos. AO-166-A51, AO-179-A46]

Milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania Marketing Areas; Decision on Proposed Amendment to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis temporary amendments to the Ohio Valley and Eastern Ohio-Western Pennsylvania milk orders. The order changes would provide for a reduction of 40 cents per hundredweight in the price for producer milk used to produce butter, nonfat dry milk and cheese. The changes, which would apply through July 1983, are based on evidence presented at a public hearing held on March 3 and 4, 1983, in Middleburg Heights, Ohio. The hearing was requested by a cooperative association representing a majority of the producers who supply milk to the two markets.

The adopted order changes are necessary to reflect current marketing conditions and to assure orderly marketing. Because of the limited time to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto have been omitted. The proposed amended orders must be approved by at least two-thirds of the producers in the respective markets before they can become effective.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-6273.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments will promote more orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding

Notice of hearing: Issued February 15, 1983; published February 22, 1983 (48 FR 7462).

Reopening of hearing: Issued March 23, 1983; published March 25, 1983 (48 FR 12552).

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Middleburg Heights, Ohio, on March 3 and 4, 1983. Notice of such hearing was issued on February 15, 1983, and published February 22, 1983. Notice of reopending the hearing was issued March 23, 1983, and published March 25, 1983.

Interested parties were given until April 7, 1983, to file post-hearing briefs on the proposals as published in the notice of hearing and on whether these proposals should be considered on an expedited basis.

The material issues on the record of the hearing relate to:

1. Whether the two orders should be amended to provide handlers with price relief on producer milk used in butter, nonfat dry milk and hard cheese during April, May, June and July 1983.

2. Whether emergency marketing conditions exist in the two regulated areas to warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Price relief on milk used in hard manufactured products.* The Ohio Valley and Eastern Ohio-Western Pennsylvania orders should be amended to provide a temporary price reduction of 40 cents per hundredweight to handlers for producer milk utilized in the production of butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd). The credits should be made available as soon as possible and should continue through July 1983.

Milk Marketing, Inc. (MMI), a cooperative association of about 7,000 producers who supply about 77 percent of the milk marketed under the Ohio Valley order and about 50 percent of the milk marketed under the Eastern Ohio-Western Pennsylvania order, requested that the orders be amended to lower a handler's obligation to the pool by 40 cents per hundredweight for all producer milk used to make butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) during the months of April, May, June and July 1983. The cooperative indicated that the proposed amendments are needed to offset losses being incurred by handlers in marketing the recent surge in the volume of surplus milk on the markets that is processed into storable manufactured products, primarily butter, nonfat dry milk and cheese.

The MMI witness pointed out that receipts of milk from producers are up substantially while producer milk classified as Class I has declined. Consequently, with production and Class I sales moving in opposite directions, there is a substantial increase in the amount of milk in the two markets that is not needed by pool distributing plants. This milk must be disposed of to manufacturing plants with the highest volumes coming during the seasonally high production months of April, May, June and July. The witness stated that historically, the milk not needed by pool distributing plants in these markets has been moved to manufacturing plants that primarily produce butter, nonfat dry milk and cheese.

The proponent cooperative indicated that it is marketing a disproportionate share of the increased volume of milk being moved to manufacturing plants. The cooperative spokesman entered an exhibit showing the pounds of producer milk used to manufacture butter, nonfat dry milk and cheese in each of the markets and the amounts handled by MMI. The exhibit shows that for the Ohio Valley market in 1980 MMI handled 46.8 percent of the milk that was utilized to produce butter, nonfat dry milk and cheese. In 1981 this increased to 61.4 percent and in 1982, to 70.9 percent. During the period of October, November and December 1982, and January 1983, MMI handled 77.8 percent of the producer milk made into butter, nonfat dry milk and cheese. In the Eastern Ohio-Western Pennsylvania market in 1980, MMI handled 50.7 percent of the milk that was utilized to

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produce butter, nonfat dry milk and cheese. In 1981 this increased to 55.4 percent and in 1982 to 64.7 percent. During the period of October, November and December 1982, and January 1983, MMI handled 71 percent of the milk used to make butter, nonfat dry milk and cheese.

The MMI witness stated that, historically handlers in the two markets have been able to dispose of milk not needed by pool distributing plants to manufacturing plants and fulfill their obligation to the pool at the Class III price with minimal loss. However, last year this situation started to change. He testified that under the Eastern Ohio-Western Pennsylvania order (Order 36) during April, May, June and July 1982, MMI diverted 257 million pounds of milk to manufacturing plants, which was 29 percent above the same period in 1981. He indicated that since the prices offered by nonpool manufacturing plants were substantially below the Class III price and because MMI incurred additional hauling costs to get milk to manufacturing plants, MMI's cost of marketing member milk pooled under Order 36 and used to manufacture butter, nonfat dry milk and cheese was over $1 million, or 39.7 cents per hundredweight during April, May, June and July 1982. In the Ohio Valley market during April, May, June and July of 1982, MMI diverted 261 million pounds of milk to manufacturing plants at a loss of $138,285, or 5.3 cents per hundredweight. The cooperative indicated that its losses on marketing surplus milk in 1982 were covered by over-order prices on Class I milk.

However, the cooperative spokesman stated that its surplus disposal problem had gotten much worse during the past several months. He entered an exhibit showing that milk used to manufacture butter, nonfat dry milk and cheese in both markets as a whole during the 3-month period of November 1982 through January 1983 had increased an average of 29,000,000 pounds per month, or 23.6 percent as compared to the same period a year ago. The exhibit indicated that for the same period MMI, on the other hand, marketed 41,000,000 more pounds per month, or an increase of 57.4 percent, to manufacturing plants. The witness stated that last year all the pool manufacturing plants were operating at nearly 100 percent of capacity and one pool manufacturing plant with a capacity of 10,000,000 pounds per month closed shortly after the 1982 spring flush. He concluded that this means that the additional surplus milk this year must be marketed through nonpool plants located both within and outside the marketing areas of these two orders.

The cooperative, during its planning process for handling the surplus this spring, contacted four major cheese plants to ascertain the quantity of milk they would receive and the price they would pay during the months of April, May, June and July 1983. The witness stated that the replies indicated that they could accept quantities somwhat in excess of what they received last year from MMI. However, they said the prices they would be paying would be less than a year ago. The cooperative"s best estimate from these replies is that the prices they will pay during this 4-month period will average about $11.45 per hundredweight, which is $1.17 below the January Class III price. MMI's witness stated that its only alternative to accepting such reduced prices is to sell the milk to manufacturing plants in the upper Midwest and incur a transportation cost of as much as $2.00 per hundredweight. On the basis of cost experienced last year and the cost of marketing additional milk this, year, MMI projected that its cost to send milk to manufacturing plants during April, May, June and July of 1983 will approximate $3.7 million or 52.7 cents per hundredweight of member milk pooled in Orders 33 and 36 and used to manufacture butter, nonfat dry milk and cheese.

In these circumstances the cooperative maintains that it will be impossible for it to fulfill its obligation to the pools at the class III price without paying its members a price substantially below the blend price, unless relief is provided by amendment to the orders

Reiter Dairy, a proprietary handler under both of the orders with pool distributing plants in Barberton, Ohio, and Springfield, Ohio, supported MMI's proposals. The witness for this handler stated that about 75 percent of its milk supply is obtained from independent producers and during the flush season of 1982 it incurred a loss of about 40 cents per hundredweight on the disposal of surplus milk due to the prices received for such milk.

Superior Dairy, Inc., a handler operating pool distributing plant under Order 36 at Canton, Ohio, supported MMI's request for relief in the disposition of surplus milk in the months of April, May, June and July 1983. The witness for Superior Dairy stated that during those months of 1981 and 1982 it was forced to dispose of surplus milk to cheese and butter plants at substantially less than the Class III order price. He stated that, at times, the price received for surplus milk was $1.50 below the Class III price. Superior Dairy mantains this surplus milk supply in the flush production months, he said, in order to have an ample supply during the remaining eight months of the year, since most of its milk supply is from independent producers.

A handler who operates a pool supply plant under Order 33, Defiance Milk Products Company, urged that, if it is necessary to adopt MMI's proposals, the price reduction should apply to all Class III products. This handler manufactures evaporated and condensed milk and its witness pointed out that these products are interchangeable for many uses with nonfat dry milk. He contended, therefore, that all Class III products should continue to be priced on the same basis. In its post-hearing brief the company modified its position by requesting that only evaporated and condensed milk be added to the product uses to be considered for a price reduction.

Tri-County Producers' Cooperative, whose 38 members ship their milk to Superior Dairy, a pool distributing plant under Order 36, opposed MMI's proposals on the basis that the proposals would result in a reduction in the uniform price paid to producers by regulated handlers. Tri-County's witness further stated that all of Tri-County's milk is taken and paid for by Superior Dairy of Canton, Ohio, and there has been no objection by Superior to taking all the milk that Tri-County Producers' Cooperative can produce and there has been no problem selling all their milk.

Dairylea Cooperative, Inc., a cooperative of approximately 3,000 members, of whom 185 are producers under the Eastern Ohio-Western Pennsylvania order, opposed MMI's proposals to reduce the price by 40 cents per hundredweight on milk used to produce butter, nonfat dry milk and cheese. The Dairylea witness contended that the proposals, if adopted, would cause a severe misalignment of prices among Federal order markets and between order and non-order manufacturing operations. Handlers buying Order 36 milk for manufacturing use sell those manufactured products in competition with handlers regulated under markets in which Dairylea members sell milk. Consequently, he stated the proposals would put non-order and other order manufacturers at a competitive disadvantage in selling on the national market for butter, nonfat dry milk and cheese.

The National Farmers Organization (NFO), who has some members that are producers under Orders 33 and 36 and who operates a pool supply plant under Order 33, opposed the proposals to reduce the minimum order prices by 40 cents for certain manufactured dairy products for four months. NFO's witness stated that the proposals are a drastic departure from the long established policy of uniform classification among the various Federal orders. He pointed out that the market for butter, nonfat dry milk and cheese is a national market and questioned why manufacturers of these products in the Midwest and Northeast areas of the United States should have to pay the producers more for milk being used to produce these products than manufacturers using Order 33 or Order 36 milk. NFO maintained that it has not experienced the problems of being forced to sell milk at less than the Class III price like MMI has and does not anticipate they will have the problems that MMI has stated in their testimony. Thus, NFO claims it would be inequitable to NFO producers to lower the blend price to all producers by the adoption of MMI's proposals.

Several persons representing organization outside the Order 33 and Order 36 areas testified in opposition to the proposals to reduce the order prices 40 cents on milk used to make butter, nonfat dry milk and cheese. These organizations include: Farmers Union Milk Marketing Cooperative, Madison, Wisconsin; Land O'Lakes, Inc., Arden Hills, Minnesota; Wisconsin Federation of Cooperatives, Madison, Wisconsin; Trade Association of Proprietary Plants, Baraboo, Wisconsin; Wisconsin Cheese Makers Association, Madison, Wisconsin; and Beatrice Foods Company, Chicago, Illinois (on behalf of its cheese plants). In summary, the opposition testimony of these organizations covered the following points: (1) Adoption of the proposals would disrupt the national market for manufactured dairy products; (2) problems of managing reserve milk supplies are universal in the dairy industry; (3) processing margins have been adequate to justify the addition of new capacity to handle the extra milk; (4) selling milk at a loss during part of the year is likely a profitable strategy for MMI; and (5) the costs of supply balancing services should be recovered as a service charge to Class I milk handlers.

As indicated earlier, current marketing conditions in the Ohio Valley and Eastern Ohio-Western Pennsylvania markets warrant temporary amendment action to provide more equitable sharing among all producers on the markets of the cost of disposing of surplus milk. The surplus milk is processed into storable manufactured dairy products, primarily butter, nonfat dry milk, and cheese. The amount of milk being processed into these products is up by substantial amounts in each market. Under Order 33, 54.8 million more pounds of milk were processed into these products during November and December 1982 and January 1983 than during the same 3-month period a year ago, up from 158 million to 212.8 million pounds, or an increase of 34.7 percent. Under Order 36, 31.2 million more pounds of milk were processed into those products during November and December 1982 and January 1983 than during the same 3-month period a year ago, up from 206 million pounds to 237.2 million pounds, or an increase of 15.1 percent.

The evidence supports MMI's claims that it is not only the major balancer of milk supplies in the two markets but that indirectly it is balancing the surplus of nonmember producers. In the Ohio Valley market, milk handled by MMI and processed into butter, nonfat dry milk and cheese amounted to 167.2 million pounds during the 3-month period of November 1982–January 1983, compared to 94.3 million pounds for the same 3 months a year ago, or up 72.9 million pounds. This represents an increase of 77.3 percent. All other handlers in the market handled a combined total of 45.6 million pounds of milk that was processed into butter, nonfat dry milk and cheese during November 1982–January 1983. This was 18.1 million pounds less than for the same 3-month period a year ago, or down 28.4 percent.

Similarly, under Order 36, MMI handled 168.6 million pounds of milk used to produce butter, nonfat dry milk and cheese during November 1982–January 1983, compared to 119 million pounds during the same 3-month period a year ago. This represents an increase of 41.7 percent. All other handlers under Order 36 handled a combined total of 68.5 million pounds of milk processed into butter, nonfat dry milk and cheese during November 1982–January 1983, compared to a total of 86.9 million pounds during the same 3-month period a year ago. This amounted to a decrease of 18.4 million pounds, or 21.2 percent less. Thus, on the basis of recent market history, it is clear that MMI currently handles a disproportionate share of the increased amounts of surplus milk on the Ohio Valley and Eastern Ohio-Western Pennsylvania markets.

The record demonstrates that MMI is currently handling a disproportionate share of the total surplus milk supplies on the two markets, also. In January 1983, MMI handled 70.1 percent of the milk used in making butter, nonfat dry milk and cheese under Order 36, but it handled only 50 percent of the total milk supply on the market. In the Ohio Valley market, MMI handled 81.7 percent of the milk used to produce butter, nonfat dry milk and cheese, but handled 75.9 percent of the total milk supply on the market.

The plants that have manufactured the majority of surplus milk on these two markets are relatively few in number. Surplus milk under Order 36 is processed primarily at the following plants: A regulated butter and nonfat dry milk plant of MMI's at Orrville, Ohio; nonpool butter and nonfat dry milk plants at Somerset, Pennsylvania; Collins Center, New York; and Batavia, New York; and nonpool cheese plants at Brewster, Ohio; Middlefield, Ohio; New Wilmington, Pennsylvania; Cleveland, Ohio; and Fremont, Ohio. Surplus milk under Order 33 is processed primarily at the following plants: Two regulated butter and nonfat dry milk plants of MMI's at Dayton, Ohio; and Goshen, Indiana; a regulated butter and nonfat dry milk plant at New Bremen, Ohio; and three nonpool cheese plants at Upper Sandusky, Ohio; Wapakonita, Ohio; and Salem, Indiana.

The outlets for surplus milk under the orders are much fewer in number and more widely dispersed geographically than are the distributing plants that take about two-thirds of the producer milk supply. In the Eastern Ohio-Western Pennsylvania market, there are 39 pool distributing plants compared to the 9 manufacturing plants scattered over a 3-state area that serve as outlets for surplus milk. In the Ohio Valley market, there are 28 pool distributing plants compared to the 5 manufacturing plants in a two-state area that serve as outlets for surplus milk. In these circumstances, it is typical for farm-to-plant hauling costs to be greater on milk moved to manufacturing plants than on milk moved to distributing plants.

In these markets, it is a practice for handlers to deduct from payments to producers the cost of hauling milk from the farm to the plant of normal receipt, which for the most part is a pool distributing plant. When part of a handler's milk supply is diverted to a manufacturing plant, the hauler typically charges an extra amount when the farm-to-plant distance is significantly greater. It is not unusual, though, for the handler to absorb such extra hauling costs. Also, if a handler first receives the surplus milk at his distributing plant and then transfers it to a manufacturing plant, he incurs the cost of transferring the milk.

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Handler witnesses stated that they incur hauling costs in disposing of surplus milk. In the case of MMI, the additional hauling costs incurred by the cooperative in moving milk to manufacturing outlets amounted to $545,745 in the Order 36 market and $89,087 in the Order 33 market during the period of April-July 1982. MMI projected that its additional cost of hauling milk for use in butter, nonfat dry milk and cheese during April through July 1983 will be $2,152,000 in the two markets. This is an average of 30.6 cents per hundredweight of the projected 703,800,000 pounds of milk that the cooperative expects to market to butter, nonfat dry milk and cheese plants.

MMI's projected 30.6 cents per hundredweight loss on hauling surplus milk is a cost far above the amount of farm-to-plant hauling that manufacturing grade milk plants in Minnesota and Wisconsin could reasonably be expected to incur, and whose pay prices serve as the basic formula price for Class III milk under the orders. Moreover, handlers in the Order 33 and Order 36 markets who are not balancing the seasonal surplus supplies would not incur such cost, which places MMI at a competitive disadvantage in these markets.

The other type of loss that MMI listed in its projected cost of marketing surplus milk is the difference between the prices received for milk it sells to nonpool plants and the Class III price at which it must account to the pool. During the period April-July 1982, MMI incurred a net loss of $471,688 in the Order 36 market and a net loss of $49,198 in the Order 33 market due to the differences between prices received and MMI's obligation to the pool on milk used to manufacture butter, nonfat dry milk and cheese. Its projected loss due to prices received is $1,560,000 for the two markets over the period April-July 1983. This would amount to an average of 22.1 cents per hundredweight of the 703,800,000 pounds of milk that MMI expects to move to butter, nonfat dry milk and cheese outlets during the 4-month period.

MMI's projected loss of 22.1 cents per hundredweight due to below-order prices received and 30.6 cent per hundredweight for extra hauling costs, or a total of 52.7 cents per hundredweight on all the milk it expects to move to butter, nonfat dry milk and cheese outlets, would be an inequitable burden on the cooperative since it would not be able to pay a competitive price to its members. Moreover, proprietary handlers who balance their own supplies would have to bear the losses that they expect to incur, since they would have to pay their producers the uniform prices computed under the orders.

Unless relief is provided under the orders to alleviate the financial burden handlers are faced within handling the recent surge in the volume of surplus milk on the markets, substantial inequities among handlers and among producers will clearly exist. Handlers who are performing the balancing services in the markets will undoubtedly incur costs that other handlers will not, thus detracting from the intent of the uniform class prices to handlers under the order. Cooperatives who are performing the balancing services in the market will undoubtedly incur costs that other cooperatives will not, thus detracting from the intent of the uniform prices to producers.

Since the record indicates that the burden of handling surplus milk in these markets is not uniformly distributed among all handlers, it would be appropriate to provide price relief under the orders to cover the actual losses incurred. Also, the price reduction should be on marketings of milk in only those uses that proponent stated are the normal outlets for seasonal surplus milk on these markets, namely butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) plants. As proposed by MMI, the order changes should apply only through July 1983.

Opposition testimony to making any changes in the orders came primarily from organizations that were concerned about the possible disruption of finished product markets. Limiting the relief to only the amount of the extraordinary losses incurred relative to the Class III price should minimize this concern since the net cost to handlers for surplus milk would be the Class III price, which is the same under all Federal orders for milk used to produce butter, nonfat dry milk and storable cheese. Moreover, the prices of these finished products are essentially floored in effect at the levels established under the dairy price support program. Also, the price reduction applies only to storable manufactured products, for which processors are not under pressure to market because the product may spoil. It does not apply to some storable products such as canned milk and blends of margarine and butter, for which there was no demonstration on the record that handlers incur losses in marketing milk for such uses. Nor does the price reduction apply to transfers of cream, for which ice cream processors may be competing with butter makers.

A further argument by opponents is that the cost of supply balancing services should be recovered as a service charge to Class I milk handlers. To some degree, the costs of balancing the markets' supplies with demand are now being assessed to distributing plant operations by means of an over-order charge by MMI on milk sold to the distributors. The witness for MMI stated that the current over-order charge would not reduce its projected loss of 52.7 cents per hundredweight below the 40-cent per hundredweight price reduction it proposed. Thus, the rate adopted herein covers only the costs the cooperative expects will not be covered by over-order charges.

With respect to opponents' argument that the problems of managing reserve milk supplies are universal in the dairy industry, the degree of the problem for MMI is greatly different this season. The volume of surplus milk being handled by MMI is up 77 percent in the Ohio Valley market and 42 percent in the Eastern Ohio-Western Pennsylvania market. This is an unusual surge in the volume of surplus milk for any cooperative to handle.

A further point advanced by opponents was that selling milk a loss during part of the year is likely a profitable strategy for MMI relative to building plant capacity to handle the milk. This could well be the case; however, it is more equitable for such losses to be shared uniformly by all producers in the markets. The losses can be expected to amount to about 15 cents per hundredweight of all producer milk.

2. *Omission of a recommended decision and the opportunity to file exceptions thereto.* The omission of a recommended decision was requested by MMI. Proponent cooperative indicated that its cost of balancing the surplus milk supplies on the markets will increase sharply beginning in April 1983. For this reason, the cooperative requested that the Department adopt its proposals on an emergency basis to insure that all producers share as soon as possible in the high cost of marketing surplus milk supplies on the markets.

Opponents of the proposals contended that proponent should have known earlier that surplus milk supplies were increasing and made its request for a hearing in time to allow the normal procedure of issuing a recommended decision.

The evidence in the record of this proceeding strongly indicates that surplus milk supplies in the two markets will be substantially larger than usual during April, May, June and July of this year. The amendments adopts herein

are in response to these marketing conditions and are for the purpose of accommodating the handling of surplus milk under unusual circumstances. Unless amendatory action is taken on an emergency basis, the opportunity to assure producer and handler equity in these markets will be lost. The normal procedure of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendments in time for them to serve their intended purpose.

It is therefore found that due and timely execution of the Secretary's function in this proceeding imperatively and unavoidably requires omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Ohio Valley and Eastern Ohio-Western Pennsylvania orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a *marketing agreement* regulating the handling of milk, and an ORDER amending the orders regulating the handling of milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

January 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Ohio Valley marketing area, is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be January 1983.

The agent of the Secretary to conduct such referendum is hereby designated to be Myron R. McKinley.

List of Subjects in 7 CFR Parts 1033 and 1036.

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 13, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[1] Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that: Final Decision—Ohio Valley and Eastern Ohio-Western Pennsylvania.

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of these orders, as amended, and as hereby amended, as follows:

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

In § 1033.60, paragraph (h) is added to read as follows:

§ 1033.60 Computation of the net pool obligation of each handler.

* * * * *

(h) With respect to milk marketed on and after the effective date of this amendatory action through July 1983, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) by 40 cents per hundredweight.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

In § 1036.60, paragraph (f) is added to read as follows:

§ 1036.60 Handler's value of milk for computing uniform price.

* * * * *

(f) With respect to milk marketed on and after the effective date of this amendatory action through July 1983, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) by 40 cents per hundredweight.

[FR Doc. 83-13280 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1120, 1126, 1132, and 1138

[Docket Nos. AO-231-A50, et al.]

Milk in the Texas and Certain Other Marketing Areas; Cancellation of Public Hearing and Order To Terminate Proceeding on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Cancellation of public hearing and order to terminate proceeding on proposed rulemaking.

7 CFR Parts	Marketing area	AO Numbers
1126	Texas	AO-231-A50.
1120	Lubbock-Plainview, Texas	AO-328-A24.
1132	Texas Panhandle	AO-252-A34.
1138	Rio Grande Valley	AO-335-A29.

SUMMARY: This action cancels a public hearing and terminates a proceeding on industry proposals to amend the orders regulating the handling of milk in the marketing areas listed above. The proposals previously noticed and scheduled for hearing on June 27, 1983, at Dallas, Texas, would have merged the four marketing areas under one order and expanded the merged area to include additional territory in the States of Texas, New Mexico and Arkansas. The cooperative association proposing the 4-market merger has decided not to pursue its merger proposal and has requested that the proceeding be terminated.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued March 30, 1983, published April 5, 1983 (48 FR 14613).

Notice of Rescheduled hearing—Issued April 15, 1983, published April 21, 1983 (48 FR 17104).

A notice was issued on April 15, 1983, giving notice of a rescheduled hearing to be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261 on June 27, 1983, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas.

Associated Milk Producers, Inc., a cooperative association which represents a substantial majority of the producers supplying these markets, has requested that no further consideration be given at this time to its proposal to merge 4 southwest milk orders and that the proceeding in this matter be terminated.

Notice is hereby given, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) that the said rescheduled hearing is cancelled and the proceeding in this matter is terminated.

List of Subjects in 7 CFR Parts 1120, 1126, 1132, 1138

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on May 12, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-13286 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of intent to review and request for comment.

SUMMARY: This notice and request for comment concerns whether any country should be considered ineligible to receive exports of contract additional peanuts in the form of products. This issue is important because of its potential effect with respect to net outlays by the Commodity Credit Corporation (CCC) under the peanut price support loan program, the net dollar return to producers on both quota and additional peanuts and the quantities of peanuts and peanut products which can be exported. The issue was the subject of public comment in an Interim Rule published in the **Federal Register** on June 28, 1982 (47 FR 28069), and was addressed in a Final Rule published in the **Federal Register** on April 13, 1983 (47 FR 21533). Prior to the issuance of the Final Rule, peanut processors filed comments in response to the Interim Rule asking that the Department eliminate the restriction on the exportation to Canada and Mexico of contract additional peanuts in the form of peanut products. That view was not adopted, but the issue is one which the department has determined warrants additional comments and consideration.

DATE: Comments must be received on or before July 18, 1983, in order to be assured of consideration.

ADDRESS: Written comments should be addressed to the Director, Tobacco and Peanuts Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce Starnes, Agricultural Stabilization and Conservation Service, 202-382-0151.

SUPPLEMENTARY INFORMATION: The restriction on the exportation of contract additional peanuts in the form of products to Canada and Mexico was implemented to protect against the possibility of contract additional peanuts being processed into products in the United States, exported to Canada or Mexico and then imported back into the U.S. in competition with quota peanuts for a share of the domestic market.

Under the two-tiered price support program—i.e., the system where there are separate support prices for quota peanuts and additional (i.e., nonquota) peanuts—additional peanuts may be use in the domestic market only if purchased from CCC loan stocks at the quota support level plus handling costs. This means that peanut products may be offered in the domestic market only if they are: (1) processed from quota peanuts; (2) processed from additional peanut loan stocks priced at the quota support level; or (3) processed from imported peanuts brought into the United States within applicable import quota levels. Under the provisions of § 359(j) of the Agricultural Act of 1938, as amended, additional peanuts can be used only for export or for crushing into oil and peanut meal, except in those limited instances where a substitution of additional peanuts for quota peanuts is permitted by CCC regulations. The incentive for the reentry into the United States of contract additional peanuts in the form of products has become substantial. During the 1978 through 1981 crop years, prices for contract additional peanuts were near the quota loan rates, thus making it relatively uneconomical to export, process, and import the products back into the domestic U.S. market. However, recent legislation and weak world market prices, together with the fact that certain peanut products are not covered by existing import quotas, now provide a substantial potential for the reimportation into the U.S. of peanut products made from contract additional peanuts purchased at prices lower than statutory minimum U.S. domestic edible prices.

The Agriculture and Food act of 1981 amended Section 108A of the Agicultural Act of 1949 to increase the minimum quota support level to $550 per short tone for the 1982 crop and to allow potential increases in the minimum quota support level for any crop of peanuts of up to 6 percent a year from the level which was applicable to the previous crop, depending on changes in the cost of producing peanuts. The additional support level, however, continues to be based mainly on crushing value and was established at $200 per short ton for the 1982 crop. For the 1983 crop, the support level for additional peanuts has been established at $185 per short ton. Data collected by the Department has indicated that 1982 crop contract additional peanuts were purchased for export by handlers at prices ranging from $200 to $450 per ton. Those figures are $100 to $350 per ton below the quota loan rate and this price spread is substantially wider than the $20 to $50 per ton spread experienced during 1978-1981 crop years.

Seven commentators who responded to the Interim Rule requested that the restriction on the exportation of contract additional peanuts in the form of products to Canada and Mexico, be eliminated to permit additional marketing opportunities for such products. As set forth in the supplementary information filed with the final rule, it was determined that the restriction should be continued to avoid interference with quota sales and thus to avoid potential losses of the funds committed to the program. However, this issue is one which the department believes warrants additional consideration. This notice is being issued to encourage maximum public comment.

Reconsideration will permit the question to be reviewed in light of such new information as may be forthcoming concerning sales of 1982 quota peanuts, as well as any new information concerning the present levels at which peanut products made outside the United States are entering the country. Presently, the 1982 crop is still in the process of being marketed. After reviewing the comments, the Department will consider whether action should be taken to eliminate the restriction.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price support programs, Warehouses.

Signed at Washington, D.C., on May 13, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-13287 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of Semiannual Agenda of Regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is publishing its agenda of regulations for April 1983. The agenda includes descriptions of final rules adopted during the past six months, proposed amendments to FDIC regulations, and regulations under development.

FOR FURTHER INFORMATION CONTACT: John R. Keiper, Jr., Paperwork and Regulation Control Coordinator, Office of the Executive Secretary, telephone (202) 389-4351, or other persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550-17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agendas is in accordance with both the Regulatory Flexibility Act (sec. 3, Pub. L. No. 96-354; 94 Stat. 1166 (5 U.S.C. 602)) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979).

Based on an assessment by the staff, none of the regulations listed in this agenda is expected to have a significant economic impact on a substantial number of small entities, except as otherwise noted. FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a

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written petition to the Executive Secretary. Petitioners should include complete and concise statements of their interests in the subject matters and reasons why the petitions should be granted.

SECTION A—PROPOSALS OUTSTANDING

Proposed amendments to regulations listed under this heading have been published for comment and have not yet been issued in final form.

1. Applications

(12 CFR Parts 303, 304 and 347)

The FDIC has proposed changes to the information and notification requirements relating to applications for branches, remote service facilities and relocations (47 FR 29554, July 7, 1982). The changes would substantially reduce burdens on applicants.

Pursuant to the Regulatory Flexibility Act, an initial regulatory flexibility analysis was prepared.

Comments were due by September 7, 1982.

Full consideration by the FDIC staff of all the issues raised by the proposal and the comments received have required a substantial amount of time. The staff anticipates that a final regulation will be submitted to the FDIC Board of Directors for approval in the near future.

For further information, contact Robert F. Miailovich, Assistant Director, Division of Bank Supervision, telephone (202) 389–4677.

2. Credit Card Agreements and Check Guarantees

(12 CFR Parts 332 and 337)

The FDIC published a proposed amendment to its regulations that would allow banks: (1) To sponsor credit card agreements with other banks and (2) to issue check gurantee cards (46 FR 31018, June 12, 1981). The proposal would provide an exemption from prohibitions in the regulations against banks guaranteeing the obligations of third parties.

Comments were due by August 11, 1981.

FDIC has postponed final action on these amendments pending the completion of an analysis of the underlying regulations Part 332 and Part 337. Amendments to Part 332 which are being evaluated may make the proposed exemptions unnecessary.

For further information, contact Janis R. Blake, Attorney, Legal Division, telephone (202) 389–4171.

3. Special Reporting Basis for Insured Savings Banks

(12 CFR Part 350)

On May 24, 1982, the FDIC proposed a new regulation that would require current value reporting of all debt and equity securities acquired by a savings bank on or after January 1, 1983, for purposes of the reports of condition and income filed with the FDIC by savings banks, and that would permit savings banks to defer and amortize gains and losses on dispositions of financial assets acquired prior to January 1, 1983 (47 FR 23743, June 1, 1982). The regulation would provide savings banks with an opportunity to restructure their asset portfolios and place a market discipline over decisions to acquire or hold investment securities.

Comments were due August 2, 1982.

The FDIC staff and staffs of the other Federal financial institutions regulatory agencies are presently engaged in a study of current value accounting applications for all financial institutions. Final action on this proposal has, therefore, been postponed until completion of the study.

For further information, contact Paul L. Sachtleben, Project Specialist, Division of Bank Supervision, telephone (202) 389–4141.

4. Delegation of Authority To Act on Merger Applications

(12 CFR Part 303)

On October 5, 1982, the FDIC published a proposed rule delegating to the Director of the Division of Bank Supervision and to the regional directors authority to approve, but not deny, merger applications that meet certain routine characteristics (47 FR 43983, October 5, 1982). The action is expected to reduce the time and costs of processing applications.

Comments were due on or before December 6, 1982.

For further information, contact Jules E. Bernard, Senior Attorney, Legal Division, telephone (202) 389–4171, or Donald F. Pfeiffer, Supervising Review Examiner, Division of Bank Supervision, telephone (202) 389–4701.

5. Management Official Interlocks

(12 CFR Part 348)

The FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration and the Federal Home Loan Bank Board have proposed amendments to their regulations implementing the Depository Institution Management Interlocks Act (47 FR 47406, October 21, 1982). The proposed amendments would relax certain interlock restrictions on depository institutions and clarify certain provisions of the Act.

Comments were due by December 27, 1982.

For further information, contact Pamela E. F. LeCren, Senior Attorney, or Barbara I. Gersten, Senior Attorney, Legal Division, telephone (202) 389–4171.

6. Maximum Balance Restriction on Savings Deposits

(12 CFR Part 329)

On August 2, 1982, the FDIC published proposed amendments to its regulations that would remove the $150,000 maximum balance limitation that applies to savings deposits accepted by a commercial bank from corporations, partnerships, associations or certain other organizations (47 FR 33276, August 2, 1982). The amendment was proposed to allow commercial banks to compete for funds more effectively.

Comments were due by October 1, 1982.

The FDIC Board of Directors has decided to defer action on this amendment until the Depository Institutions Deregulation Committee (DIDC) addresses the issue of eligibility for "Super NOW" accounts. The DIDC's position on this issue may impact on FDIC's action.

For further information, contact Peter Kravitz, Senior Attorney, Legal Division, telephone (202) 389–4171.

7. Payment of Interest on Deposits Situated Outside of the Continental United States

(12 CFR Part 329)

The FDIC proposed an amendment to its regulations that would subject any deposit to interest rate ceilings if the deposit may be accessed through an account maintained within the United States or the District of Columbia, or through instruction for payment by any person who is not a resident of the extraterritorial sovereignty, possession or territory where the deposit account is maintained (48 FR 6718, February 15, 1983).

Comments were due by March 2, 1983.

For further information, contact F. Douglas Birdzell, Counsel, or Barbara Messe, Attorney, Legal Division, telephone (202) 389–4171.

8. Securities of Insured Nonmember Banks

(12 CFR Part 335)

The FDIC proposed an amendment to its securities disclosure regulation in accordance with the Securities Exchange Act of 1934, which requires that the FDIC issue regulations substantially similar to regulations of the Securities and Exchange Commission ("SEC"), or publish reasons for not doing so (47 FR 53893, November 30, 1982). The proposed amendment conforms to recent changes to SEC regulations.

Comments were due by December 30, 1982.

For information, contact Gerald J. Gervino, Senior Attorney, telephone (202) 389–4171, or Mulford H. Smith, Senior Financial Analyst, telephone (202) 389–4651.

9. Disclosure of Deposit Information

(12 CFR Parts 304 and 309)

The FDIC has proposed an amendment to its regulations that would make information regarding size and number of deposit accounts available for public disclosure. In the past, the FDIC's position has been that this type of information, if made accessible to the public, could cause financial injury to reporting banks from competing financial institutions. Confidentiality of this type of information is now unnecessary since banks are no longer required to report different classifications of deposits in detail. Since June 1982, only an aggregate total for deposit accounts with balances exceeding $100,000, the number and size of such accounts, and an aggregate total of deposit accounts with balances of less than $100,000 has been required.

Comments are due by June 3, 1983.

For further information, contact William P. Carley, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389–4141.

10. Prior Approval Requirement on Insider Loans

(12 CFR Part 337)

The FDIC has proposed an amendment that would eliminate the current requirement for prior approval by a bank's board of directors of all extensions of credit exceeding, in the aggregate, $25,000 made to its insiders (directors, executive officers, principal shareholders, or any related interests of such persons). Substituted in its place would be a new formula whereby prior approval would be required for (1) extensions of credit that exceed, in the aggregate, the greater of $25,000 or five percent of the bank's capital and unimpaired surplus, and (2) all extensions of credit exceeding $500,000 in the aggregate, regardless of a bank's capital and unimpaired surplus.

Comments are due by July 5, 1983.

For further information, contact Pamela E. F. LeCren, Senior Attorney, Legal Division, telephone (202) 389–4171.

11. Unsafe and Unsound Banking Practices

(12 CFR Part 337)

In its policy statement concerning the applicability of the Glass-Steagall Act to securities activities of subsidiaries of insured nonmember banks (47 FR 38984, September 3, 1982), the FDIC Board of Directors expressed its opinion that the Act does not prohibit an insured nonmember bank from establishing an affiliate relationship with, or organizing or acquiring, an subsidiary corporation that engages in securities activities. In this connection, the FDIC has proposed for public comment an amendment to its regulations that would (1) define "bona-fide" subsidiary (2) limit a bank's permissible investment in a securities subsidiary (3) require notice of intent to invest in such a subsidiary (4) limit the permissible securties activities of nonmember bank subsidiaries, and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities.

The staff anticipates that this proposal will have "a significant economic impact on a substantial number of small entities;" therefore, a regulatory flexibility analysis has been prepared.

Comments are due 60 days after publication in the **Federal Register**. A public hearing on the proposed amendments will be held on Friday, June 17, 1983, from 9:00 a.m.–5:00 p.m., at the FDIC Building, 550 17th Street, N.W., Washington, D.C. 20429. Requests to participate should be addressed to Hoyle L. Robinson, Executive Secretary, at the above address.

For further information, contact Pamela E.F. LeCren, Senior Attorney, Legal Division, telephone (202) 389–4171.

SECTION B—POTENTIAL ACTIONS

Entries under this heading describe regulations that are either being developed or are anticipated to be developed for consideration by FDIC's Board of Directors. Entries are the result of evaluations of present circumstances; consequently, subsequent action may be taken on matters not included or may not be taken on matters included.

1. Deposit Insurance Coverage

(12 CFR Part 330)

The FDIC is developing an amendment to its regulations which would include in the definitions of "insured deposit" for insured commercial and savings banks the amount of accrued earnings (either interest or dividends).

For further information, contact Frederic H. Karr, Senior Attorney, Legal Division, telephone (202) 389–4171.

2. Disclosure of Information

(12 CFR Part 309)

The FDIC is developing an amendment that, if adopted, would remove restrictions placed on the disclosure of information to Federal financial institutions supervisory agencies. The amendment would conform FDIC's regulations to the Right to Financial Privacy Act of 1978.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389–4151.

3. Employee Responsibilities and Conduct

(12 CFR Part 336)

A proposed amendment, which would modify existing restrictions on transactions between FDIC employees and FDIC-supervised banks, is under development. The amendment may be subject to consultation or negotiation wiht recognized labor organizations.

For further information, contact Margaret M. Olsen, Assistant Executive Secretary, telephone (202) 389–4446.

4. Interest Rate Differential for Stock Organizations

(12 CFR Part 329)

FDIC staff is developing an amendment that, if approved by the Board of Directors, would allow a stock savings bank that conforms to the definition of "savings bank" in 12 U.S.C. 1813(g) to pay the interest-rate differential on deposits that is available to mutual savings banks. The staff may propose that a mutual savings bank that converts to a stock organization that does not conform to the definition in Section 1813(g) would retain the right to pay the differential for deposit accoutns in existence at the time of the conversion. This amendment would remove a condition that stands in the way of a mutual savings bank improving its capital base by converting to a stock organization.

For further information, contact F. Douglas Birdzell, Counsel, Legal Division, telephone (202) 389–4171.

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5. Investments in Bank Service Corporations

(12 CFR Parts 303 and 304)

The Garn-St Germain Depository Institutions Act of 1982 mandates that an insured bank must request permission from its Federal bank supervisory agency to invest in bank service corporations that engate in "banking" activities. The staff is, therefore, developing a form for use by nonmember insured banks applying for such permission.

For further information, contact Jules E. Bernard, Senior Attorney, Legal Division, Telephone (202) 389–4171.

6. Termination of Insured Status

(12 CFR Part 307)

The FDIC is proposing to amend its regulation governing the notice procedures to be followed by a bank whose insured status has been terminated other than by action of the FDIC Board of Directors. This action is intended to conform FDIC's regulations to the Garn-St Germain Depository Institutions Act of 1982 (Garn-St Germain Act). The Garn-St Germain Act deleted from the Federal Deposit Insurance Act a provision that required an insured bank which assumes the deposit liabilities of another insured bank to notify the latter's depositors of the assumption. The deleted provision was the primary authority for the portion of Part 307 proposed to be eliminated.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389–4151.

SECTION C—FINAL RULES ISSUED FROM OCTOBER 26, 1982 THROUGH MAY 9, 1983

1. Assessment of Civil Money Penalties

(12 CFR Part 308)

The Garn-St Germain Depository Institutions Act of 1982 (Garn-St Germain Act) gives FDIC the authority to remit, modify or compromise civil money penalties for violations of any final order issued under sections 8 (b) or (c) of the Federal Deposit Insurance Act, sections 22(h) and 23A of the Federal Reserve Act and section 106(b) of the Bank Holding Company Act Amendments of 1970. The Garn-St Germain Act also gives FDIC authority to remove from office any director or officer of an insured bank who has violated the Depository Institution Management Interlocks Act. FDIC amended its regulations to implement the Garn-St Germain Act, effective March 7, 1983 (48 FR 9514, March 7, 1983).

For further information, contact James L. Meador, Senior Attorney, Legal Division, telephone (202) 389–4171.

2. Delegation of Authority to Act on Enforcement Matters

(12 CFR Parts 303 and 308)

On November 22, 1982, the Board of Directors delegated authority to the FDIC's Board of Review, the Director of the Division of Bank Supervision, the Deputy General Counsel for Open Bank Regulation and Supervision, and, where confirmed in writing, to the appropriate regional director or regional counsel, or both, to act on certain enforcement matters, including the initiation of cease-and-desist proceedings and the issuance of cease-and-desist orders (47 FR 53837, November 30, 1982). The authority to act on certain procedural motions was delegated to the Executive Secretary. The delegations became effective November 30, 1982.

For further information, contact Arthur L. Beamon, Counsel, Legal Division, telephone (202) 389–4171.

3. Delegation of Authority to the Executive Secretary

(12 CFR Part 308)

The FDIC's Executive Secretary has been delegated the authority to designate presiding officers for hearings of (1) individuals subject to suspension and removal proceedings under section 8(g) of the Federal Deposit Insurance Act, and (2) banks or individuals that have petitioned for reconsideration of denials of applications under section 19 of the Act. The Executive Secretary has been delegated additional authority to schedule hearings beyond the 30-day period for setting hearing dates after a request for a hearing has been filed. Formerly, these responsibilities were undertaken by FDIC's Board of Directors. The FDIC has amended its rules of practice and procedures to reflect the delegations (48 FR 11421, March 18, 1983).

For further information contact, Margaret M. Olsen, Assistant Executive Secretary, telephone (202) 389–4446.

4. Eligibility for NOW Accounts

(12 CFR Part 329)

The FDIC amended its regulations, effective January 11, 1983, to conform to a provision of the Garn-St Germain Depository Institutions Act of 1982 which allows all public units to maintain NOW accounts (48 FR 1182, January 11, 1983). The regulation previously prohibited establishment of NOW accounts by any public unit that was not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes.

For further information, contact F. Douglas Birdzell, Counsel, or Fredric H. Karr, Attorney, Legal Division, telephone (202) 389–4171.

5. Management Official Interlocks

(12 CFR Part 348)

Effective October 26, 1982, the FDIC amended its regulations, in conjunction with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board and the National Credit Union Administration, to reflect recent statutory changes (47 FR 47369, October 26, 1982). The changes provide that a management official whose service in an interlocking relationship is grandfathered under the Depository Institution Management Interlocks Act may continue such service for the duration of the ten-year grandfather period provided in the Act, notwithstanding changes in circumstances. Additionally, a management official of a depository organization and a nondepository organization may continue such service after the nondepository organization becomes a diversified saving and loan holding company.

For further information, contact Pamela E. F. LeCren, Senior Attorney, or Barbara I. Gersten, Senior Attorney, Legal Division, telephone (202) 389–4171.

6. Procedure on Applications

(12 CFR Part 303)

The FDIC has amended its regulations, effective March 9, 1983, (1) to provide that any petition for reconsideration of a denied request for relief from the requirement of making reimbursements to consumers for violations of the Truth in Lending Act (or any other requests, applications or petitions) be addressed to the FDIC's Board of Review, if the initial request, application or petition was denied by the Board of Review acting under its delegated authority, and (2) to clarify that actions by the Board of Review on enforcement matters brought under section 8 of the Federal Deposit Insurance Act are subject, upon request, to review by FDIC's Board of Directors (48 FR 9841, March 9, 1983).

For further information, contact James L. Meador, Senior Attorney, Legal Division, telephone (202) 389–4171.

7. Resumption of Management Interlocks

(12 CFR Part 348)

On January 24, 1983, FDIC amended its regulation on management interlocks to allow management officials who terminated their interlocking service because of a change in circumstances to resume such service for the duration of the grandfather period under the Depository Institution Management Interlocks Act ("Interlocks Act"). The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board and the National Credit Union Administration have similarly amended their respective regulations. The amendment allows uninterruption of interlocks that were established prior to enactment of the Interlocks Act. The amendment became effective upon publication in the **Federal Register** (48 FR 5533, February 7, 1983).

For further information, contact Pamela E. F. LeCren, Senior Attorney, or Barbara I. Gersten, Senior Attorney, Legal Division, telephone (202) 389–4171.

8. Retail Repurchase Agreements

(12 CFR Part 329)

Effective January 3, 1983, the FDIC amended its regulation governing interest on deposits to eliminate the requirement that retail repurchase agreements ("repos") be issued for 89 days or less (48 FR 9, January 3, 1983). The amendment is in compliance with the Depository Institutions Deregulation Act of 1980, which mandates removal of interest rate ceilings by March 31, 1986.

For further information, contact F. Douglas Birdzell, Counsel, or Fredric H. Karr, Attorney, Legal Division, telephone (202) 389–4171.

By order of the Board of Directors, May 9, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-13270 Filed 5-17-83; 8:45 am]
BILLING CODE 6714-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 253 and 254

[EDR-458; Economic Regulations Docket 41443*]

Notice of Terms of Contract of Carriage; and Domestic Baggage Liability

Dated: April 20, 1983.

*For administrative purposes, Dockets 40366 and 38621 have been merged into Docket 41443.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its recently issued domestic baggage liability requirements. It proposes to modify its requirement that each airline provide specific notice on all tickets of its liability limitations, to allow the option of stating the minimum liability allowed by Board rule. The Board also proposes to add baggage liability to the subjects required to be listed on the tickets under the rule allowing incorporation of contract terms by reference. In addition, the CAB is requesting comment on alternative levels ($1,000 and $1,250) of minimum airline baggage liability. Pending the completion of this rulemaking, the effective date of the new rules has been stayed and the previous rules remain in effect. This action is in response to a petition by certain Members of the Air Transport Association to repeal the domestic liability rule prior to its effective date.

DATES: *Comments by:* June 17, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: May 25, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41443, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

Background

In two recent rulemakings, the Board adopted final rules governing domestic baggage liability (14 CFR Part 254) and notice of terms of contracts of carriage (14 CFR Part 253).

In EDR–438, 47 FR 5232, February 4, 1982, the Board proposed three alternatives with respect to baggage liability: (1) eliminate all regulation of baggage liability, (2) retain only the $750 limit, and (3) codify the most significant elements of the Board orders governing baggage liability. In response to the notice of proposed rulemaking, sixteen formal comments were filed by airlines, trade associations, law firms and a chamber of commerce. Nearly 100 individuals also wrote letters expressing their opinions.

Based on the comments received, the Board adopted Part 254 (ER–1305, 47 FR 52987, November 24, 1982). That final rule simplified and codified the rule for airline baggage liability. It provided that airlines in interstate and overseas air transportation may not limit their liability to less than $1,000 per passenger for loss, damage, or delay in the carriage of passenger baggage. In addition, carriers were required to provide written notice to passengers on or with their tickets concerning any limitation on baggage liability, including rules for fragile or perishable goods, and the availability, if the carrier provides it, of excess valuation insurance coverage. Although the rule was originally scheduled to become effective January 1, 1983, to coincide with the end of the Board's domestic tariff authority, the effective date was changed to February 22, 1983, in response to a petition by the Air Transport Association.

During the same period, the Board conducted a rulemaking proceeding that considered whether to set disclosure requirements for airlines that incorporate by reference some terms of their contracts of carriage. In EDR–444, 47 FR 28681, July 1, 1982, the Board proposed to include baggage liability within the notice of incorporated terms that carriers would provide under this part. The Board did not adopt that aspect of the proposal in the final rule (14 CFR Part 253, ER–1302, 47 FR 52128, November 19, 1982, effective January 1, 1983), because domestic baggage requirements were being handled in a separate proceedings, and as noted above, the new baggage rule required direct notice on the tickets of a carrier's baggage liability limitations.

On December 17, 1982, certain members of the Air Transport Association (ATA) petitioned the Board to repeal the new domestic baggage liability rule prior to its effective date. ATA argued, first, that the notice requirement was not practical, and second, that the Board failed to give adequate notice and an opportunity to comment before raising the minimum liability limitation from $750 to $1000. In addition, its also alleged that the Board did not fulfill the requirements of the Administrative Procedure Act in adopting the notice provisions in Part 254. Answers were filed by Associated Travel Nationwide (ATN) and the

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Aviation Consumer Action Project (ACAP). The two main issues will be discussed separately. All comments filed in response to this NPRM will be in Docket 41443. Relevant materials from Dockets 40772, 40366 and 38621 will, however, be considered in this proceeding.

Notice Requirements

ATA argued that, "the requirement for specific ticket notice on general liability limits, on rules for fragile and/or perishable items and on excess valuation coverage presents extremely serious problems with respect to, standard industry ticket stock and carrier-issued tickets that involve interline transportation." It stated that since uniform liability limits are not envisioned or permitted by Part 254, travel agents and airlines must include additional, specific information concerning liability limitations for each airline on every ticket. According to ATA, the rule results in undue burden and undermines the efficiencies of universal ticket stock.

ATA listed a number of practical problems. First, travel agents and air carrier personnel writing interline tickets would need to know the liability limits, and any other applicable rules, of well over 100 air carriers. If ticket stuffers were used, each ticketing location would have to keep an adequate inventory on hand for each carrier represented. ATA also believed that if there were an error, the transporting carrier would be bound by the error or omission. ATA, therefore, asked that baggage liability limits be among those areas incorporated by reference pursuant to § 253.5(b).

In support of its petition, ATA noted that baggage liability information is now available from three different sources. It has already voluntarily included the following notice on its standard ticket stock: "Incorporated terms may include, but are not restricted to * * * 2) Limits on liability for baggage, including fragile or perishable goods, and the availability of excess valuation coverage." Second, under § 253.5(b), detailed information must now be available at all U.S. ticketing locations. According to ATA, their publication "Conditions of Carriage—Summary of Incorporated Terms," provides such information. Finally, under § 253.4(c), carriers are required to provide full text copies of their terms that are incorporated by reference to passengers on request.

ATA also argued that the CAB has taken no action to correct the mandatory ticket notice contained in § 221.176. Since ATA filed its petition, the Board has acted by adopting a conforming amendment (ER–1310, 48 FR 277, January 4, 1983). ER–1310 eliminated all Board-mandated language on tickets and countersigns concerning domestic baggage liability, so that carriers would remain free to provide notice as they choose. The effective date of this rule has not been stayed.

Finally, ATA argued that the notice of proposed rulemaking contained no discussion of air carriers' duty to provide notice to passagers in the area of baggage liability. It stated that contrary to the requirements of the Administrative Procedure Act, the Board failed to provide adequate notice, opportunity to comment and did not provide a statement of basis and purpose that would enable a reviewing court to evaluate the reasonableness of the regulation.

Associated Travel Nationwide (ATN) supported ATA's petition. It stated that "the only possible means of accommodating the Board regulations would be the insertion of individual carrier stuffers in each ticket or a requirement that agents fill in a blank on each ticket." It argued that the notice requirement is extremely burdensome to travel agents and that implementation would be almost impossible.

The Aviation Consumer Action Project (ACAP) opposed ATA's petition to allow airlines to incorporate their baggage rules by reference. ACAP argued that the current requirement in § 254.4 not only gives passengers much better notice than would be provided through incorporation by reference, but will help the marketplace work by highlighting an important area of service competition. It stated that incorporation makes no sense in such an important consumer area, given the fact that there have always been a large number of complaints in this area, and that inadequate notice may result in substantial loss for passengers. ACAP further argued that by leaving the notice requirements as they are, the Board would be able to compare the adequacy of the notice given by airlines under the common law with the adequacy of notice given by airlines under Part 253. ACAP rejected ATA's argument that ticket stuffers will be required, since carriers have been able to prepare a uniform notice for subjects on which carrier practices vary. Finally, it argued that the burden of providing notice to passengers of the baggage rules is outweighed by the benefits to passengers of having a more complete, readily accessible notice.

At the time it issued the new baggage rule, Part 254, the Board did not fully consider the consequences of the notice requirements of the rule. They were not greatly changed: the carriers had been providing specific notice of baggage liability limitations for years, pursuant to a requirement contained in the rules dealing primarily with tariffs, 14 CFR 221.176. Section 221.176 had specified the actual notice to be provided, including the amount. This relieved carriers from any discretion in the matter, and the notice could therefore be printed routinely on all uniform ticket stock.

The new Part 254 would require carriers to state their limitations as before, but does not specify what those limitations are to be. The intent is for carriers to develop their liability limitations individually, under the influence of competitive forces. The difference, it seems, is crucial. Now the routine printing of a uniform baggage liability limit on ticket stock by a central agency such as ATA or the Air Traffic conference, would have anticompetitive implications. Thus, under Part 254 as it stands each carrier must separately print and distribute to all ticketing locations—all travel agencies—its own version of its baggage liability limits, to be included with each ticket for that carrier's service. As ATA pointed out, this would levy significant costs on travel agencies, and on the writing of each ticket, and would undermine the uniform ticket stock system that was sought to be preserved by the issuance of the incorporation by reference of terms of contract rule, 14 CFR Part 253.

The Board tentatively finds that such costs would be unjustified, and hereby is proposing to amend both Parts 253 and 254 to allow carriers to incorporate their baggage liability terms by reference. Paragraph (b)(1) of § 253.5 would be amended to add limits on air carriers' liability, including those for fragile or perishable items, and the availability of excess valuation insurance, to the list of items on which passengers are advised to ask for information at their ticketing location. In Part 254, § 254.4, requiring specific notice on or with each ticket of baggage liability limitations, would be amended to allow either of two optional forms. The first would be a statement of the carrier's actual monetary baggage liability limitation. The second would be the following statement: "Federal rules require any limit on an airline's bagage liability to be at least $1000 per passenger, except for flights on small aircraft where lower limits may apply. Airlines may have higher limits." The statement in the second option could be printed on standard ticket stock, thus avoiding the excessive costs of individualized ticket notice in the case of sales by travel agents, while still alerting passengers to their possible exposure in the case of baggage losses. The Board is of the opinion that these modifications to the notice requirements will solve potential practical problems as well as giving interested persons additional opportunity to comment on this issue.

The likelihood of a standardized notice on uniform ticket stock has also brought to the Board's attention the possibility that passengers might be misled as to their loss exposure when flying on small aircraft. The Board has until now not imposed any baggage liability requirements on air taxis. Passengers may, however, use a commuter air taxi as part of a trip that is ticketed on standard stock, which contains the notice described above. The language at the end of the notice is designed to alert passengers to the fact that small-aircraft flights may involve lower baggage liability limits.

Many commuters have liability limits below the Board-prescribed minimum. When a bag is lost during interline travel involving large and small aircraft, it is often difficult for the passenger to establish which airline is at fault and therefore which liability limit applies. This variance in liability limits is confusing and may result in unfairness to passengers.

The Board would like to receive comment on whether the proposed notice would be sufficient to warn the public about possible lower baggage liability limits on small-aircraft segments of multisegment trips. In the alternative, the Board is proposing to require any carrier, regardless of aircraft size, to observe the minimum baggage liability specified by the Board for large aircraft, for all flight segments included on the same ticket with a large-aircraft segment. Under this alternative, any carrier using small aircraft would have to use separate ticketing in order to have a baggage liability limit lower than the Board's minimum, thus avoiding the misleading effect of the statement appearing on regular ticket stock.

Liability Limitation

ATA argued that the Board did not meet the requirements of the Administrative Procedure Act (APA) in raising the minimum liability limitation from $750 to $1000. It stated that the Board failed to give adequate notice that it was considering raising the liability limitation, that as a result no ATA member addressed such a possibility in its comments to the rulemaking, and that the final rule failed to incorporate "a concise general statement of the basis and purpose" concerning the change.

ATA argued that the Board was limited in its final rule to choosing among the three alternatives presented for comment, and that if additional issues remain, that they should be the subject of separate rulemaking initiatives.

ACAP argued that the public was given adequate notice of the $1000 limit. It stated that the issue of the reasonableness of a $1000 limit was directly at stake in the proceeding, and that if the airlines felt that the Board was acting correctly in dropping the $1000 limitation, they should have commented, just as ACAP commented that the Board was acting incorrectly. Accordingly to ACAP, the baggage rulemaking offered airlines a second chance, in addition to Order 80–6–133, to express their views.

The Board believes that it has fully complied with the requirements of the APA, contrary to ATA's assertions. Previous limits were embodied in orders, not rules, and the show-cause proceeding to raise the limit to $1,000 was precisely analogous to a notice of proposed rulemaking under 5 U.S.C. 553. Many answers were filed in response to that show-cause order. The appropriate limitation level was noted in the NPRM and was logically a central feature of the proposed alternative rules. However, because the Board is inviting additional public comment on the notice issue, it is taking this opportunity to lay to rest the issue raised by ATA. The Board has suspended the effectiveness of Part 254, as noted below, and hereby invites interested persons to submit data, views, and arguments on the appropriateness of various liability limitations.

As noted in the NPRM and final rule, the Board is of the opinion that an increase in the minimum liability limitation is called for because of inflation over the last 6 years. In the orders setting the $750 baggage liability limitation (Orders 75–3–18 and 77–2–9), the Consumer Price Index was relied upon together with data concerning actual baggage claims to determine the approximate limit. The Board does not have precise data upon which to base a minimum liability level, because a new reporting requirement would have been needed in order to collect such data, while the Board's emphasis since adoption of the Airline Deregulation Act has been on reducing reporting requirements. The criteria used by the Board in 1976 and 1966 did not establish a strict correlation between increases in the CPI and increases in the minimum baggage liability limit. The Board had increased the minimum baggage liability by approximately two-thirds of the increase in the CPI from 1966 to 1977 when we last raised the limit to $750. Since the last increase in the baggage liability limitation from $500 to $750 became effective in May 1977, the Consumer Price Index for all Urban Consumers (US City Average; all items) has increased at an annualized inflation rate of 6.875 percent. The $1000 minimum would be about two-thirds of the increase in the CPI from 1977 to 1982. Overall, this would represent an annual inflation rate of about 5% since the $750 level was adopted in May 1977. The Board also proposes and requests comment on a minimum baggage liability of $1250 per passenger since, if the limitation were raised to reflect this actual rise in prices to December 1982, it would be $1214. Adding 3% in consideration of the current inflation rate and a projected effective date in mid-1983 would be $1250.

Excess Valuation Insurance

In ER–1305, the Board did not include a requirement that carriers offer excess valuation insurance. The rule merely required air carriers to give notice to passengers of the availability of such coverage, by written material on or with the ticket. The Board had assumed that most carriers would continue to make this insurance available. As the Board noted in the *Baggage Liability Rules Case*, 45 CAB Reports at 195, "[b]y providing a choice of rates with varying degrees of liability based on declared value, the basic limitation of liability is rendered legal, and is not considered an attempt by a carrier to free itself of responsibility for its own negligence." We assumed that it was in carriers' self-interest to provide such coverage in order to avoid potential unlimited liability under the common law.

Upon reconsideration, we are concerned that the absence of a requirement for excess valuation insurance may cause inconvenience or hardship for some travelers. Furthermore, in adopting a domestic baggage rule, the Board is setting a Federal standard and preempting States from regulating in the subject area. If carriers do not offer excess valuation coverage, passengers may not be able to recover for losses beyond the basic liability limitation offered by the carrier, and have no opportunity to protect themselves.

The Board is therefore proposing to add a requirement that carriers subject to Part 254 offer passengers the opportunity of purchasing excess valuation coverage, and provide conspicuous notice that it is available.

The Board recognizes that, as proposed, the requirement for excess

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valuation insurance does not provide specifics: where and how it should be offered, in what amounts, with what coverage or exclusions, and at what cost. The practices of most carriers appear to be satisfactory in these aspects. The Board would at this point prefer, if possible, to assume that, under the general requirement, all carriers will establish reasonable practices, without the need for detailed requirements. The Board could, of course, monitor industry practices, attempt informally to have airlines modify unsatisfactory provisions, and if necessary change its rules at a later time. Comments are requested on the desirability of this approach.

Comments are also requested on how the availability of excess valuation insurance can be made compatible with expedited check-in procedures, such as curbside check-in.

Effective Date of Part 254

In a related rulemaking (ER–1305A, 48 FR 6981, February 17, 1983), the Board stayed the February 22, 1983, effective date of Part 254. In the interim, the baggage orders that currently govern domestic baggage liability will remain in effect, without any of their tariff-filing requirements. ATA's petition and the answers in response to it have raised important questions concerning the practicality of the notice requirement and the need for additional public comment in general. Rather than implement the rule as scheduled and then face the possibility of changes shortly thereafter, the rule has been stayed pending completion of this rulemaking.

The Board is setting a 30-day comment period in this rulemaking. There already have been lengthy rulemaking proceedings on both domestic baggage liability and incorporation by reference. Many comments were filed on most of the major issues by the industry, the public and other interested persons. The Board wishes to resolve these questions as soon as possible so that airlines and the public can adjust to the new post-tariff system.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, Pub. L. 96–354, the Board concludes that this rule, if adopted, may have a significant economic impact on travel agents. There are about 20,000 travel agents, most of whom are small businesses. The effect of this rule would be to relieve travel agents of the burden of having to maintain different ticket notices for each carrier for which they sell tickets.

This rule may have a substantial economic impact on a substantial number of small air carriers. Under one proposal, small carriers that interline with other carriers using large aircraft would be required to provide written notice to passengers on or with their tickets of any monetary limitation for baggage limitation, or the Board-mandated language. Air taxis are presently required to post a sign stating their baggage liability limits. Small interlining airlines that chose to use the Board-mandated notice would have to have new ticket notices or use the ticket stock of the airline using large aircraft.

If the alternative proposal to extend the substantive requirements of Part 254 is adopted, there may be an additional economic impact on small carriers. The Board presently does not regulate the baggage practices of air taxis, except for the general notice requirement. If small carriers are held to the Part 254 levels, it might result in significantly higher liability limitations and higher claims. Because these carriers may choose to continue to offer a lower limitation for their on-line operations, some carriers may have a two-tier rule, depending on the type of operation. Such a system would require the printing and distribution of two types of notices. If a small carrier chose not to interline in order to avoid the higher limit, it might result in fewer passengers and increased costs per passenger.

Passengers in small communities might be affected if small carriers choose not to interline and therefore could not offer joint fares. Under the present system, many carriers offer interline passengers a joint fare that is less than the sum of the local fares. Curtailment of interline service might also result in passengers being required to make two or more reservation transactions and to pick up their luggage at connecting points.

The need, objective, and legal basis for this rule and the reporting and recordkeeping requirements involved are described above. It would not duplicate, overlap, or conflict with other Federal rules.

List of Subjects in Parts 253 and 254

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Freight, Law, and Travel.

All Members concurred and Members Bailey and Morales filed the following separate statements:

Statement of Member Elizabeth E. Bailey:

In this order the Board is proposing that airlines be required to make excess valuation insurance available to their passengers. I have some doubts about the need to regulate baggage liability; even without government intervention carriers have incentives to exercise reasonable care in the handling of passenger baggage and to insure passengers against possible loss. However, given the Board's determination that carriers must offer a minimum amount of insurance, a decision to require excess valuation insurance is unnecessary. Moreover, the Board is placing itself in the difficult position of having to rule on the details of the insurance including the reasonableness of the amounts offered and the manner in which it is sold. In these cases, the Board is intruding in an area where it doesn't belong and in a manner which may have the effect of limiting remedies already available to passengers in the courts. The more intimately involved the Board becomes in spelling out the details of insurance sales—including levels and manner of sale—the less likely courts will be to interpose their own judgment on the reasonableness of carrier practices when called upon to settle disputes in this area.

If the Board is concerned with the availability of excess valuation insurance, it should merely require that carriers make such insurance available and not require carriers to offer any minimal level of baggage liability insurance. This will have the effect that carriers will determine not only the rates of any excess valuation insurance, but to determine the level to which they will insure lost or damaged baggage if insurance is not purchased.

Such a system will give carriers the greatest degree of flexibility in determining their baggage liability and insurance. There is every reason to believe that this will lead to a better system of protection than the ad hoc framework the Board is attempting to fashion.

Elizabeth E. Bailey.

Statement of Member Diane K. Morales

I believe that a minimum airline baggage liability is both the best and the least regulatory way to ensure that air carriers can reasonably limit their liability and to ensure that consumers have the minimum necessary protection for loss, damage or delay in the carriage of their baggage by airlines.

Consumers should take many self-help measures to protect themselves against baggage losses. They do not have to pack valuables in checked luggage. They can make sure luggage is properly marked with identification tags and destination tags. They can check in early enough to ensure that baggage will make it on to their intended flight and that enough time is available between connections or stopovers to ensure transfer to successive flights. These important and readily available self-help measures convince me that consumers can and should bear much of the responsibility for preventing loss or damage to or delay in receiving their baggage.

However, even using these precautions, there is a point after which the consumers lose the ability to protect their luggage. It is possible that in the absence of government regulation in this area, carriers would have unlimited liability in the baggage area. Besides the constant threat of lawsuits, the removal of federal restrictions invites states to step in and impose new and possibly more restrictive regulations for airline liability. On the other hand, I think sound public policy requires us to provide a liability limitation so that some basic monetary recovery can be obtained, but that amount should truly be a minimum. The Board Members do differ on what that basic level should be. I initially preferred maintaining the current level of $750. However, given the Board's proposal to consider increases to this level, my tentative preference is to find that $1,000 is the appropriate minimum and is in keeping with the decisional standards established in previous Board proceedings. I do not believe our goal is to require absolute liability on the part of the carrier or to provide full monetary recovery for whatever may have been inappropriately packed in baggage.

The history of the Board's baggage liability regulations reveals that in years past, carriers have in fact attempted to set liability limits too low for loss or damage of, or delay to passenger baggage. The minimum liability amount has served over the years as a guarantee to consumers that, if they can *prove* their losses to a carrier or, if necessary, to a court, they will not be denied some modest monetary recovery because carriers had in advance unreasonably limited the responsibility they assumed for passenger baggage. The minimum liability amount does not guarantee a monetary settlement. Consumers have always had and will continue to have to prove their damages under the rule described in this Notice of Proposed Rulemaking. I do not believe that the Board is interfering with any remedies now available to consumers and to carriers in the courts.

My concerns about the availability of excess valuation insurance are many. Aside from the minimum baggage liability provided by carriers, it has been suggested that consumers who desire to insure their baggage for a higher amount should have guaranteed access to excess valuation insurance. For the past several years many carriers have voluntarily offered this insurance to customers who specifically requested it. It has recently been argued that all carriers should be required to promote and sell excess insurance either instead of or in addition to the minimum liability insurance.

I believe that, indeed, excess valuation insurance should be available to those passengers who require it; however, I am not now convinced that the burden should be on all carriers—majors, nationals, and commuters—to provide it. Such a proposal may tend to upset the fair balance of burdens the Board has weighed for carriers and consumers.

I wonder whether the administrative and operational complications of high volume purchases of excess valuation insurance may not exceed the benefits. Airlines presently require passengers to arrive at the airport at some specified period before departure time. Entitlement to the non-smoking seating and the denied boarding compensation is also based on early arrival to meet a carrier's check-in time. If excess baggage insurance is an added step to the purchase of tickets or express baggage lines at the airline counter, carriers will have additional administrative expense, especially personnel, to move the passengers along quickly. Carriers currently have an efficient system for processing passengers. Passengers who purchase and receive their tickets before the date of travel are able to stop in an express line to check their baggage, pass through a security point, and pick up their boarding pass at the gate.

Rather than interrupt this process, it is possible that excess valuation insurance can be purchased by alternative means. Passengers requiring additional baggage insurance often have personal homeowners insurance policies to cover these needs. Also, companies such as American Express offer a $3.00 insurance policy (with those tickets charged on American Express) for excess life insurance and $1,250 baggage liability insurance. In airports, passengers may purchase at concession stands additional life insurance before boarding any airline. Perhaps excess baggage insurance would continue to be offered voluntarily by carriers and/or insurance companies at the check-in counter or at concession stands as additional life insurance is sold. There are surely additional alternatives not mentioned here. I look forward to reading all comments the Board receives on the question of excess valuation insurance and whether and how it should be administered.

Again, I am seeking both the best and least regulatory way to ensure that air carriers can reasonably limit their liability and to ensure that consumers have the necessary protection in the carriage of the luggage by airlines.

Diane K. Morales.

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Chapter II as follows:

1. In Part 253, *Notice of Terms of Contracts of Carriage*, paragraph (b)(1) of § 253.5 would be revised by adding a reference to baggage terms so that it would read:

§ 253.5 Notice of incorporated terms.

* * * * *

(b) * * *

(1) Limits on the air carrier's liability for personal injury or death of passengers, and for loss, damage, or delay of goods and baggage, including fragile or perishable goods; and the availability of excess valuation insurance coverage.

* * * * *

2. Part 254, *Domestic Baggage Liability*, would be revised to read as follows:

PART 254—DOMESTIC BAGGAGE LIABILITY

Sec.

254.1 Purpose.
254.2 Applicability.
254.3 Definitions.
254.4 Carrier liability.
254.5 Excess valuation insurance.
254.6 Notice requirement.

Authority: Secs. 204, 403, 404, and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

§ 254.1 Purpose.

The purpose of this part is to establish rules for the carriage of baggage in interstate and overseas air transportation. The part sets permissible limitations of air carrier liability for loss, damage, or delay in the carriage of passenger baggage and requires air carriers to provide certain types of notice to passengers.

§ 254.2 Applicability.

This part applies to air carriers with respect to charter or scheduled passenger service in interstate or overseas air transportation.

§ 254.3 Definitions.

"Large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

§ 254.4 Carrier liability.

In any flight segment using large aircraft, an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than $1000 for each passenger.

Alternative Proposals for § 254.4: 1. After the opening phrase "In any flight segment using large aircraft," the following language would be added: "or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft,".

2. Instead of the figure "$1000" in the above section, the figures "$750" or "$1250" would be substituted.

§ 254.5 Excess valuation insurance.

In any flight segment subject to this part, an air carrier shall make available excess valuation insurance.

§ 254.6 Notice requirement.

For any flight segment using large aircraft, or that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall provide to passengers, by written material included on or with its ticket, the notices set forth in paragraphs (a) and (b).

(a) Either—

(1) Notice of any monetary limitation on its baggage liability to passengers; or

(2) The following notice: "Federal rules require any limit on an airline's baggage liability to be at least $1000 per passenger, except for flights on small

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aircraft where lower limits may apply. Airlines may have higher limits."

(b) Conspicuous notice that excess valuation insurance is available to cover any flight segment subject to this part.

(Secs. 204, 403, 404, and 411, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-13464 Filed 5-17-83; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Rel. No. IA-860, File No. S7-974]

Proposed Amendments to Investment Adviser Requirements Concerning Agency Cross Transactions for Advisory Clients

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rule.

SUMMARY: The Commission is publishing for comment proposed amendments to a rule under the Investment Advisers Act of 1940 which deems registered investment advisers who effect agency cross transactions for advisory clients pursuant to blanket consents to be in compliance with the Advisers Act if they follow the procedures specified in the rule. The amendments would reduce the cost and burden to advisers of complying with the rule in effecting agency cross transactions for clients by eliminating the requirement that the client's written consent to such transactions be revewed at least annually. In view of the other protections of the rule, the Commission believes that the benefits to investment advisory clients of requiring annual renewals may not justify the burden to investment advisers in obtaining them.

DATES: Comments should be received on or before June 28, 1983.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6-9, Washington, D.C. 20549. Comment letters should refer to File No. S7-974. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary S. Champagne, Special Counsel (202) 272-2079 or Arthur E. Dinerman, Esquire (202) 272-3021, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 5-2, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 206(3)-2 [17 CFR 275.206(3)-2] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b-1 et seq.] [1] provides a method for a registered investment adviser or a registered broker-dealer controlling, controlled by or under common control with such an adviser, to effect agency cross transactions [2] for an advisory client in compliance with Section 206(3) of the Advisers Act [15 U.S.C. 80b-6(3)]. As here pertinent, that section generally prohibits an investment adviser from effecting an agency cross transaction involving a client's account without disclosing to the client in writing before the completion of such transaction the capacity in which he is acting and obtaining the client's consent to the transaction.

Rule 206(3)-2 deems a registered adviser to be in compliance with Section 206(3) if the adviser obtains written blanket client consent to agency cross transactions for a period not to exceed one year, provided other conditions specified in the rule are met. Under the rule, the investment adviser must make full written disclosure to the client that, with respect to agency cross transactions, the adviser or other person relying on the rule will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions. In addition, the adviser or other person relying on the rule must send to the client at or before completion of each agency cross transaction a written confirmation containing certain specified information and offering to furnish specified additional information, and must send to each client, within 30 days prior to the expiration of the blanket consent, a written disclosure statement identifying the total number of transactions during the period and the total amount of all commissions or remuneration received by the adviser and any person relying on the rule in connection with agency cross transactions during the period. Finally, the rule requires that each written disclosure and confirmation required by the rule include a conspicuous statement that the client's blanket written consent can be revoked at any time by written notice from the client to the investment adviser of any other person relying on the rule.[3]

Prior to adoption of Rule 206(3)-2, investment advisers as a practical matter were precluded from entering into agency cross transactions involving client accounts because the requirement of Section 206(3) of the Advisers Act that the adviser make written disclosure to the client and obtain the client's consent prior to completion of each such transaction imposed delays which made expeditious execution of such transactions generally impossible. Rule 206(3)-2 is premised on the view that agency cross transactions can be of benefit to advisory clients and should be permitted, provided there are adequate safeguards to protect advisory clients from the potential for abuse which exists when the adviser acts on behalf of both parties to the transaction. The rule generally has provided an effective method to permit such transactions consistent with investor protection.

It appears, however, that the condition of the rule which requires the adviser to obtain express written renewal of the client's blanket consent at least annually may impose unwarranted administrative burdens on advisers. The Commission has been informed by a number of registered advisers which effect agency cross transactions for clients in reliance on the rule that, although practically all clients who give consents to such transactions renew those consents annually, the process of obtaining such renewals often involves numerous mailings and subsequent phone calls to clients. To the extent that obtaining annual renewals is costly and time consuming to advisers, the Commission believes that the benefits to clients of requiring annual renewals may not justify the burdens to advisers in obtaining them, in light of other provisions of the rule designed to protect advisory clients. Specifically, the

[1] Investment Advisers Act Release No. 589, June 1, 1977 [42 FR 29300].

[2] Under the rule, an agency cross transaction is defined to mean "a transaction in which a person acts as an investment adviser in relation to a transaction in which such investment adviser, or any person controlling, controlled by or under common control with such investment adviser, acts as broker for both such advisory client and for another person on the other side of the transaction".

[3] Rule 206(3)-2 expressly does not apply to a transaction if the investment adviser, or the adviser and any person controlling, controlled by or under common control with the adviser, recommended the transaction to both the seller and the purchaser. Nor does the rule relieve an adviser, or other person relying on the rule, from acting in the best interests of the client with respect to the transaction or relieve the adviser or other person from any disclosure obligation imposed by Section 206 (1) [15 U.S.C. 80b-6(1)] or (2) [15 U.S.C. 80b-6(2)] of the Advisers Act or by other applicable provisions of the federal securities laws.

requirements that: (1) Certain written disclosures be made to the client prior to obtaining the client's blanket consent, (2) confirmations of each transaction be sent to the client, (3) a summary of such transactions be furnished periodically, and (4) each writing sent to the client include conspicuous disclosure that the client's written consent to agency cross transactions can be revoked by the client at any time, would appear to protect adequately the interests of advisory clients with respect to such transactions. Accordingly, the Commission proposes to amend paragraph (a)(i) of Rule 206(3)-2 to delete the limitation that a client's written blanket consent to agency cross transactions authorize such transactions only for a period not to exceed one year. In addition, the Commission is proposing a conforming amendment to paragraph (a)(iii) of the rule. That paragraph, which now requires the adviser to furnish to the client, within 30 days of the expiration of the client's consent, certain summary information relating to agency cross transactions entered into during that period, would be amended to require that such summary information be furnished to the client at least annually.

The Commission also proposes to amend the rule by redesignating the paragraphs within paragraph (a) for the purpose of clarifying any possible ambiguity resulting from the present format.

Regulatory Flexibility Act

The Chairman of the Commission has certified that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendment

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

It is proposed to amend Part 275 of Chapter II of Title 17 of the Code of Federal Regulations under the Investment Advisers Act of 1940 as follows:

By revising paragraph § 275.206(3)-2 to read as follows:

§ 275.206(3)-2 Agency cross transactions for advisory clients.

(a) An investment adviser registered under Section 203 of the Act (15 U.S.C. 80b-3), or a person registered as a broker-dealer under Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) and controlling, controlled by or under common control with an investment adviser registered under Section 203 of the Act, shall be deemed in compliance with the provisions of Section 206(3) of the Act (15 U.S.C. 80b-6(3)) in effecting an agency cross transaction for an advisory client, if:

(1) The advisory client has executed a written consent prospectively authorizing the investment adviser, or any other person relying on this rule, to effect agency cross transactions for such advisory client, provided that such written consent is obtained after full written disclosure that with respect to agency cross transactions the investment adviser or such other person will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions;

(2) The investment adviser, or any other person relying on this rule, sends to each such client a written confirmation at or before the completion of each such transaction, which confirmation includes (i) a statement of the nature of such transaction, (ii) the date such transaction took place, (iii) an offer to furnish upon request, the time when such transaction took place, and (iv) the source and amount of any other remuneration received or to be received by the investment adviser and any other person relying on this rule in connection with the transaction, *Provided, however,* That if, in the case of a purchase, neither the investment adviser nor any other person relying on this rule was participating in a distribution, or in the case of a sale, neither the investment adviser nor any other person relying on this rule was participating in a tender offer, the written confirmation may state whether any other remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of such customer;

(3) The investment adviser, or any other person relying on this rule, sends to each client, at least annually, and with or as part of any written statement or summary of such account from the investment adviser or such other person, a written disclosure statement identifying the total number of such transactions during the period since the date of the last such statement or summary, and the total amount of all commissions or other remuneration received or to be received by the investment adviser or any other person relying on this rule in connection with such transactions during such period;

(4) Each written disclosure and confirmation required by this rule includes a conspicuous statement that the written consent referred to in paragraph (a)(1) of this section may be revoked at any time by written notice to the investment adviser, or to any other person relying on this rule, from the advisory client; and

(5) No such transaction is effected in which the same investment adviser or an investment adviser and any person controlling, controlled by or under common control with such investment adviser recommended the transaction to both any seller and any purchaser.

* * * * *

Statutory Authority

The Commssion hereby proposes to amend Rule 206(3)-2 pursuant to the authority contained in Section 211(a) of the Advisers Act [15 U.S.C. 80b-11(a)].

By the Commission.

George A. Fitzsimmons,

Secretary.

May 12, 1983.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments to Rule 206(3)-2 [17 CFR 275.206(3)-2] under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.] set forth in Investment Advisers Act Release No. 860, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Rule 206(3)-2 provides a means for a registered investment adviser, or a broker-dealer affiliated with such an adviser, to enter into agency cross transactions involving a client's account without having to provide written disclosure and obtain client consent prior to each such transaction as otherwise required by Section 206(3) of the Advisers Act [15 U.S.C. 80b-6(3)].

The reason for this certification is that the proposed amendments will not affect a substantial number of small entities. The Commission's staff has estimated, based on its program of routine investment adviser examinations, that fewer than one percent of the 5,900 registered investment advisers (i.e., not more than 58 investment advisers) enter into agency cross transactions in reliance upon Rule 206(3)-2. The effect of the amendments would be to reduce the costs of compliance for these advisers. Although the staff does not know how many of the approximately 58 investment advisers using the rule are

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small entities, the staff thinks the magnitude would not be greater than one-half, or 29 firms.

Dated: May 12, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83-13306 Filed 5-17-83; 8:45]

BILLING CODE 8010-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2606

Rules for Administrative Review of Agency Decisions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Administrative Review of Agency Decisions sets forth the rules governing the issuance of certain initial determinations made by the Pension Benefit Guaranty Corporation (the "PBGC") and the procedures for requesting and obtaining administrative review by the PBGC of those determinations. This proposed amendment makes a number of modifications to the final regulation. The regulation, as the agency proposes to amend it, is reprinted in full for the convenience of the public. The modifications are being proposed to take into account agency experience during the three years this rule has been in effect. The amendments are intended to streamline the review process, clarify issues that have created confusion in the past, and modify the Appeals Board procedures to more effectively utilize the agency's resources. The amendments would also conform the regulation with the multiemployer Pension Plan Amendments Act of 1980.

DATE: Comments must be received on or before July 18, 1983.

ADDRESSES: Comments should be addressed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 A.M. and 4:00 P.M. on regular business days.

FOR FURTHER INFORMATION CONTACT: Deborah West, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-3010. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 19, 1979, the PBGC published a final rule regarding administrative review of agency decisions (44 FR 42181). The purpose of the regulation was to ensure that persons who are adversely affected by certain determinations of the PBGC are provided with an opportunity to contest and to obtain review of those determinations. The current regulation applies to eleven types of determinations and provides for two types of agency review. Seven types of determinations are subject to appeal; four are subject to reconsideration. An Appeals Board was established to consider appeals. On April 25, 1983, the PBGC amended the regulation to change the composition of the Appeals Board, 48 FR 17070.

This proposal, if adopted, would modify the regulation in several ways. First, the formal reconsideration process under the regulation would be eliminated. This action is being proposed because the PBGC now believes a formal reconsideration procedure is unnecessary. The PBGC may informally reconsider determinations not subject to the regulation and will, of course, correct erroneous determinations, however discovered, without reference to the formal administrative review process. The amendment adds additional PBGC determinations to the list of determinations subject to administrative appeal. The regulation's provision concerning requests for assistance in obtaining information is modified in the proposed rule to make it clear that this provision applies to information in the possession of parties other than the PBGC and not to information available from the PBGC. The regulation is clarified to indicate that there is no appeal of determinations made final upon issuance.

The proposed rule provides that determinations regarding benefit entitlement of participants and beneficiaries under single employer plans (sections 4022 (a) and (b), and 4022B of the Act) shall be effective upon issuance. The regulation's provision on late-filed appeals is changed to provide that such appeals shall be reviewed by the Appeals Board if the Board determines that good cause is shown for the late filing.

The amendment makes technical changes that are necessary to clarify the regulation by conforming the regulation to the Multiemployer Act. Finally, minor clarifying changes are made in the language of several sections.

Elimination of Reconsideration Process; Additional Determinations Subject to Administrative Appeal

The formal reconsideration process under the regulation is eliminated in this proposal. PBGC now believes a formal reconsideration procedure is unnecessary. The current dichotomy between appeals and reconsideration has proven cumbersome and confusing. Determinations not subject to appeal may be informally reconsidered on request, and, of course, the PBGC will correct erroneous determinations, however discovered, whether or not subject to appeal.

The proposed amendment adds a new item to the list of PBGC determinations subject to appeal: determinations under section 4022B of the Act regarding limitations on guaranteed benefit entitlement under single employer plans.

If the amendment is adopted, cases in which a determination was made prior to the regulation's effective date will be processed pursuant to the current administrative review procedure.

Appeals Board Jurisdiction

The proposed regulation provides, at § 2606.3, that there shall be within the PBGC an Appeals Board to consider determinations listed as appealable at § 2606.1(b) of the regulation, other than those determinations made final upon issuance under § 2606.23(b). The Appeals Board shall consider, in reaching its decision, applicable law and policy, relevant facts, and equity.

PBGC Assistance in Obtaining Information

Section 2603.3 of the current regulation provides for PBGC assistance in obtaining information necessary to file an appeal (or necessary to a decision whether to file an appeal). This provision is intended to apply only to situations where the needed information is in the possession of a party other than the PBGC (for example, a bank or insurance company). Where the PBGC is in possession of revelant records, an appellant may make a request under the Freedom of Information Act or the Privacy Act. Thus, the provision, at § 2606.4 of the proposed rule, is being modified so that it is clear that this provision applies only to information in the possession of parties other than the PBGC.

Effective Date of Determinations Under Sections 4022 (a) and (b), and 4022B of the Act

Under the current regulation, the effective date of a determination that is subject to appeal and that is not made

"immediately effectively" under current § 2606.23(b) is stayed until the Appeals Board disposition of the appeal. Thus, when a participant who is receiving a benefit in excess of the amount guaranteed by Title IV of the Act files an appeal, the current regulation obligates the PBGC to continue paying the higher benefits until the Appeals Board rules on the appeal. Often these excess amounts paid are not recovered by PBGC. The result is that plan assets are depleted, and a greater expenditure of PBGC's insurance funds is required. To alleviate this problem, the proposed regulation provides, at § 2606.23, initial determinations of benefit amounts under sections 4022 (a) and (b), and 4022B of the Act shall be effective upon issuance. Should the Appeals Board determine that an appellant is entitled to a greater amount than the PBGC initially determined, appellant will be reimbursed for underpayments made during the period after the plan terminated.

The PBGC believes that the likelihood of an erroneous determination is small. Moreover, the proposed regulation provides that the effective date of the determination regarding benefit entitlement under sections 4022 (a) and (b) and 4022B of the Act may be stayed by the Appeals Board until the Board's disposition of the appeal. A temporary stay may be granted by the Appeals Board. Stays will be granted only where there exist extraordinary circumstances.

Review of Determinations Made Final on the Date of Issuance

Section 2606.23(b) of the current regulation provides that the PBGC may, in its discretion, make an initial determination "effective" on the date it is issued, and that, in such cases, there is no obligation to exhaust administrative remedies with respect to that determination by filing an appeal. As discussed above, the proposed regulation provides that PBGC benefit determinations are generally "effective" upon issuance. However, such determinations are still subject to Appeals Board review and thus even though effective immediately do not constitute the final agency action on the matter. To avoid confusion regarding terminology, the provision, renumbered § 2606.24(b), is changed to provide that when the PBGC intends a decision to be final agency action, that determination is "final" on the date of issuance.

As the preamble to the current regulation noted, there may be cases where it is warranted to make a determination final immediately. However, the preamble to the final regulation stated that "administrative review of the determination would still be available to the person if he or she requests it." The PBGC believes it necessary to clarify this statement. This statement does not mean that an administrative appeal is available. The words "administrative review" mean that the PBGC may informally review a determination under current § 2606.23(b), but would not stay the decision pending review. The same factors that lead the PBGC to make a determination final upon issuance will normally require that the delay resulting from the appeals process be avoided. Accordingly, in appropriate cases, PBGC will make a determination final upon issuance, eliminating Appeals Board review. To make this clear, the proposed amendment stated that there is no PBGC Appeals Board review of determinations that are made final on the date of issuance.

Nothing in the proposed regulation is intended to limit settlement discussions between the PBGC and the aggrieved party even while an appeal is pending. PBGC proposes to amend the regulation to state (1), at § 2606.23(b), that determinations under that subsection are final upon issuance, and (2) at § 2606.3, that the Appeals Board has no jurisdiction over such determinations. This is consistent with PBGC's regulation on employer liability for single employer plan terminations, which provides, at 29 CFR 2622.9(c), that there is no right to appeal the assessment of liability when a determination is made "immediately effective."

Finally, no determination issued by the Executive Director is subject to appeal under this part.

Non-timely Requests for Review

The current regulation provides that the PBGC will process a late-filed appeal if (1) the person requesting review demonstrates in his or her request that he or she did not file a timely appeal because he or she neither knew nor could have known of the initial determination, and (2) the appeal was filed within 45 days of the date the person first learned of the initial determination. The proposed regulation provides, at § 2606.36, that late-filed appeals, i.e., appeals filed after the 45-day appeals period plus any additional time granted by the Appeals Board pursuant to § 2606.35, may be processed if the Appeals Board determines that good cause is shown for the late filing.

Record Before the Appeals Board

The present regulation does not provide for a uniform method by which appellants may fully understand the basis for a disputed initial determination. The proposed regulation would add such a procedure. It provides that the Appeals Board shall serve the appeal upon the office within the PBGC that issued the disputed initial determination. The office shall, within 30 days, compile and submit to the Board a copy of the initial determination and any other documents which the office believes are necessary to support the initial determination. The office may also submit supporting statements within this 30 day period.

The Appeals Board shall then send all material submitted by the office to the appellant except such material as the appellant has already been provided. The appellant must file any response to the material within 15 days of the date of the Appeals Board letter transmitting the material. This change, then, is to ensure that all appellants have an opportunity to review and comment upon the records relied upon by the PBGC in making its initial determination.

Changes Due to the Enactment of the Multiemployer Pension Plan Amendments Act of 1980

Certain technical changes in the regulation are being made to conform the citations in the regulation to the proper section numbers of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Act.

The regulation currently provides that determinations with respect to benefit entitlement under a plan under section 4022(a) and determinations of the amount of guaranteed benefits under section 4022(b) are subject to appeal. The Multiemployer Act added a new section on rules for aggregate limits on guaranteed benefits (section 4022B), which rules are essentially those previously contained in section 4022(b)(5). Accordingly, the proposed regulation authorizes appeal of determinations under section 4022B by the PBGC regarding limitations on guaranteed benefit entitlement under a covered single employer plan.

The regulation currently provides that coverage determinations under section 4082(b) of ERISA are subject to administrative review. Under the Multiemployer Act, section 4082(b) is redesignated as section 4402(b). The proposed regulation makes the necessary conforming changes.

Other Changes

Nonsubstantive clarifying changes were made in the language of several sections. To accommodate the changes discussed above and to make the

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regulation clearer and more useful to the public, the regulation has been reorganized. The subpart on reconsiderations has been deleted, along with all other references to reconsideration.

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion is based on the fact that this regulation is merely a procedural regulation which provides an administrative appeal route for aggrieved persons so that they may avoid, in certain instances, expensive federal court litigation.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the rule is essentially procedural in nature. In addition, this regulation will have little or no adverse economic impact on small entities and will, in many cases, substantially lessen the financial burden of contesting agency action in expensive court proceedings by providing an avenue for expediting inexpensive administrative review. Therefore compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Deborah West, Office of the General Counsel, Pension Benefit Guaranty Corporation (240), Suite 7200, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

For the convenience of the public and to have the entire proposed amended rule in one place, the regulation is being reprinted below in its entirety.

List of Subjects in 29 CFR Part 2606

Administrative practice and procedure, Conflict of interests, Penalties.

In consideration of the foregoing, the PBGC proposes to amend Chapter XXVI of Title 29, Code of Federal Regulations, by revising Part 2606 as follows:

PART 2606—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

Subpart A—General Provisions

Sec.

2606.1 Purpose and scope.
2606.2 Definitions.
2606.3 Appeals Board jurisdiction.
2606.4 PBGC assistance in obtaining information.
2606.5 Representation.
2606.6 Request for confidential treatment.
2606.7 Exhaustion of administrative remedies.

Subpart B—Determinations

2606.21 Purpose and scope.
2606.22 Form and contents of determinations.
2606.23 Effective date of determinations; final agency action.

Subpart C—Administrative Appeals

2606.31 Purpose and scope.
2606.32 Who may appeal or participate in appeals.
2606.33 When to file.
2606.34 Filing of documents.
2606.35 Extension of time.
2606.36 Non-timely request for review.
2606.37 Computation of time.
2606.38 Contents of appeal.
2606.39 Record before the Appeals Board.
2606.40 Opportunity to appear and to present witnesses.
2606.41 Consolidation of appeals.
2606.42 Appeals affecting third parties.
2606.43 Powers of the Appeals Board.
2606.44 Decision by the Appeals Board.
2606.45 Referral of appeal to the Executive Director.

Authority: Sec. 4002(b)(3), Pub. L. 93–406, as amended by Sec. 403(1), Pub. L. 96–364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302(b)(3)).

Subpart A—General Provisions

§ 2606.1 Purpose and scope.

(a) *Purpose.* This part sets forth the rules governing the issuance of all determinations issued on or after the effective date of this part by the PBGC involving the matters set forth in paragraph (b) of this section and the procedures for requesting and obtaining administrative review by the PBGC of those determinations.

(b) *Scope.* This part applies to the following determinations made by the PBGC on or after the effective date of this part and to the review of those determinations:

(1) Determinations that a plan is not covered under section 4021 or section 4402(b) of the Act;

(2) Determinations under section 4022(a) of the Act with respect to benefit entitlement of participants and beneficiaries under covered single employer plans;

(3) Determinations regarding the amount of guaranteed benefits of participants and beneficiaries under covered single employer plans under sections 4022(b) or 4022B of the Act;

(4) Determinations of the amount of money subject to recapture pursuant to section 4045 of the Act;

(5) Determinations of the amount of employer liability under section 4062 of the Act;

(6) Determinations of the amount of contingent liability under section 4063 of the Act;

(7) Determinations of the amount of employer liability under section 4064 of the Act;

(c) *Determinations not covered by this part.* Nothing contained in this part shall limit the authority of the PBGC to review informally, either upon request or on its own motion, determinations that are not subject to this part when the PBGC determines, in its discretion, that it is appropriate to do so.

§ 2606.2 Definitions.

As used in this part:

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Aggrieved person" means any participant, beneficiary, plan administrator, plan sponsor, or employer, adversely affected by a determination of the PBGC covered by this part with respect to a pension plan in which such participant, beneficiary, plan administrator, plan sponsor, or employer has an interest. The term "employer" includes all trades and businesses under common control within the meaning of Part 2612 of this chapter, and all employers who contribute to or have contributed to a pension plan to which more than one employer contributes.

"Appeals Board" means a board consisting of a Chairperson appointed by the Executive Director of the PBGC and two senior agency official appointed by the Executive Director to serve as regular members. Other senior agency official may serve as alternate members in the event that a regular member is not available to serve or is unable to serve. Such alternates may be appointed pursuant to a list designated by the Executive Director and shall serve in the order designated in that list. The General Counsel, and the Executive Director or the Deputy Executive Director, in the absence of the Executive Director, shall be ex officio members of the Appeals Board. The General Counsel may, as an ex officio member of the Appeals Board, if he or she chooses, vote on any matter before the Board. Appeals shall be decided by a majority vote of the Board members, but if the General Counsel's vote on an appeal results in a tie vote, the appeal shall be referred to the Executive Director as specified in § 2606.45. The Executive Director may designate the Deputy Executive Director to decide any appeal referred to the Executive Director from the Appeals Board under this section in accordance with § 2606.45. A person may not serve on the Appeals Board with respect to any case in which he or she made a determination with respect to the merits of the determination subject to appeal.

"Appellant" means any person filing an appeal under Subpart C of this part.

"PBGC" means the Pension Benefit Guaranty Corporation.

§ 2606.3 Appeals Board jurisdiction.

There shall be within the Pension Benefit Guaranty Corporation an Appeals Board to consider administrative appeals from determinations listed at § 2606.1(b), other than those determinations made final upon issuance under § 2606.23(b) of this part.

§ 2606.4 PBGC assistance in obtaining information.

A person who lacks information or documents necessary to file an appeal pursuant to Subpart C of this part, or necessary to a decision whether to seek review, or necessary to participate in an appeal pursuant to § 2606.42 of this part, or necessary to a decision whether to participate, may request the Appeals Board's assistance in obtaining the information or documents when the information or documents are in the possession of a party other than the PBGC. The request shall state or describe the missing information or data, the reason why the person needs the information or documents, and the reason why the person needs the assistance of the Appeals Board in obtaining the information or documents. The request may also include a request for an extension of time to file an appeal pursuant to § 2606.35 of this part.

§ 2606.5 Representation.

A person may file any document or make any appearance that is required or permitted by this part on his or her own behalf or he or she may designate a representative. When the representative is not an attorney-at-law, a notarized power of attorney signed by the person making the designation authorizing the representation shall be filed with the Appeals Board in accordance with § 2606.34 (b) of this part.

§ 2606.6 Request for confidential treatment.

If any person filing a document with the Appeals Board believes that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. § 552, and wishes such material to be withheld by the PBGC, he or she shall specify the information with respect to which he or she requests confidentiality and the grounds therefor.

§2606.7 Exhaustion of administrative remedies.

Except as provided in § 26.623(b), a person aggrieved by a determination of the PBGC covered by this part has not exhausted his or her administrative remedies until he or she has filed an appeal under Subpart C of this part, and a decision granting or denying the relief requested has been issued.

Subpart B—Determinations

§ 2606.21 Purpose and scope.

This subpart sets forth rules governing the issuance of determinations of the PBGC on matters covered by this part.

§ 2606.22 Form and contents of determinations.

All determinations to which this part applies shall be in writing and shall state the reason for the determination. All determinations to which this part applies, other than determinations made final upon issuance under § 2606.23(b) of this part, shall include notice of the right to request review of the determination pursuant to Subpart C of this part and a brief description of the procedures review.

§ 2606.23 Effective date of determinations; final action.

(a) *General rule.* Except as provided in Paragraph (c) of this section, determinations regarding benefit entitlement under sections 4022(a) and (b), and 4022B of the Act shall be effective upon issuance. Except as provided in Paragraph (b) of this section, all determinations covered by this part will not become final until the prescribed period of time for filing an appeal under Subpart C of this part has elapsed, or if an appeal is filed, until the date of the Appeals Board decision regarding the appeal.

(a) *Exception.* The PBGC may, in its discretion, order that a determination is final on the date it is issued. When the PBGC makes such an order, the determination shall state that it is the final agency action with respect to the matter.

(c) *Stay.* The Appeals Board may order that the effective date of a determination regarding benefit entitlement or amount under sections 4022(a) and (b), and 4022B of the Act be stayed until the Appeals Board disposition of the appeal. Such an order may provide for complete or partial relief from the immediate implementation of the determination. A temporary stay may be granted by the Appeals Board.

Subpart C—Administrative Appeals

§ 2606.31 Purpose and scope.

This subpart establishes procedures governing administrative appeals to the Appeals Board from determinations relating to the matters set forth in § 2606.1(b) of this part, other than those determinations made final upon issuance under § 2606.23(b) of this part.

§ 2606.32 Who may appeal or participate in appeals.

Any person aggrieved by a determination of the PBGC to which this subpart applies may file an appeal. Any person who will be aggrieved by a decision of the Appeals Board under this part granting the relief requested in whole or in part may participate in the appeal as provided in § 2606.42.

§ 2606.33 When to file.

Except as provided in §§ 2606.35 and 2606.36, an appeal under this subpart must be filed within 45 days after the date of the determination being appealed.

§ 2606.34 Filing of documents.

(a) *Date of filing.* Any document required or permitted to be filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the document is mailed, provided that the document was mailed postage prepaid properly packaged and addressed to the Appeals Board. If these conditions are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

(b) *Where to file.* Any document required or permitted to be filed under this part in connection with an appeal shall be submitted to the Appeals Board, Pension Benefit Guaranty Corporation,

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2020 K Street, N.W., Washington, D.C. 20006.

§ 2606.35 Extension of time.

When a document is required under this part to be filed within a prescribed period of time, an extension of time to file will be granted only upon good cause shown. The request for an extension of time shall be filed before the expiration of the time prescribed. The request for an extension shall be in writing and shall state why additional time is needed and the amount of additional time requested. The filing of a request for an extension shall stop the running of the prescribed period of time. When a request for an extension is granted, the Appeals Board shall notify the person requesting the extension, in writing, of the amount of additional time granted. When a request for an extension is denied, the Appeals Board shall so notify the requestor in writing, and the prescribed period of time shall resume running from the date of the letter denying the request. A request for an extension of time that is filed after the expiration of the time prescribed shall be considered only if good cause is shown for the late filing.

§ 2606.36 Non-timely request for review.

The Appeals board shall process a request for review of a determination that was not filed within the prescribed period of time for requesting review in § 2606.33 if the Board, in its discretion, determines that good cause is shown for the late filing.

§ 2606.37 Computation of time.

In computing any period of time prescribed or allowed by this part, the day of the act, eventy, or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a Federal holiday.

§ 2606.38 Contents of appeal.

(a) An appeal shall—

(1) Be in writing;

(2) Be designated as an appeal;

(3) Contain a statement of the grounds upon which it is brought and the relief sought;

(4) Reference all pertinent information known to be in the possession of the PBGC; and

(5) Include any additional information believed to be relevant.

(b) In any case where the appellant believes that another person may be aggrieved if the PBGC grants the relief sought, the appeal shall also include the name(s) and address(es), if known, of such other person(s).

§ 2606.39 Record before the Appeals Board.

(a) Upon receipt of an appeal, the Appeals Board shall furnish a copy of the appeal to the office of the PBGC that issued the initial determination. The office shall compile and submit to the Board within 30 days a copy of the initial determination being appealed and a copy of any other documents which the office believes are necessary to support the initial determination. Supporting statements may accompany such material.

(b) All material submitted by the office pursuant to subsection (a) except that already provided to appellant shall be sent to appellant and to any person identified under § 2606.42 for response. Appellant and any third party under § 2606.42 shall file any response to the material submitted by the office with the Appeals Board within 30 days of the date of the letter transmitting the material.

(c) The Chairperson may, upon good cause shown, extend the time limits in paragraphs (a) and (b) of this section.

§ 2606.40 Opportunity to appear and to present witnesses.

(a) An opportunity to appear before the Appeals Board and an opportunity to present witnesses may be permitted at the discretion of the Appeals Board.

(b) Appearances permitted under this section will take place at the main offices of the PBGC, 2020 K Street, N.W., Washington, D.C., unless the Appeals Board, in its discretion, designates a different location.

(c) An appearance permitted under this subpart may be before a hearing officer designated by the Appeals Board.

§ 2606.41 Consolidation of appeals.

(a) *When consolidation may be required.* Whenever multiple appeals are filed that arise out of the same or similar facts and seek the same or similar relief, the Appeals Board may, in its discretion, order the consolidation of all or some of the appeals.

(b) *Decision by Appeals Board.* The decision of the Appeals Board in a consolidated appeal shall be binding on all appellants whose appeals were consolidated.

§ 2606.42 Appeals affecting third parties.

(a) When the Appeals Board makes a preliminary finding that the relief requested in an appeal should be granted in whole or in part, before issuing a decision the Board shall make a reasonable effort to notify third persons who will be aggrieved by the decision of the pendency of the appeal, of the grounds upon which the Appeals Board is considering reversing the initial determination, of the right to submit written comments on the appeal, and that no further opportunity to present information to the PBGC with respect to the determination under appeal will be provided.

(b) Written comments and a request to appear before the Appeals Board must be filed within 45 days after the date of the notice from the Appeals Board.

(c) Appellant shall be notified of material submitted by any third party under this section. Such material, to the extent permitted by law, will be made available to appellant upon request.

(d) If more than one third party is involved, their participation in the appeal may be consolidated pursuant to § 2606.41.

§ 2606.43 Powers of the Appeals Board.

In addition to the powers specifically described in this part, the Appeals Board, in its discretion, may cause additional information to be obtained, may request the submission of any information or the appearance of any person it considers necessary to resolve a matter before it and may enter any order it considers necessary for or appropriate to the disposition of any matter before it.

§ 2606.44 Decision by the Appeals Board.

(a) In reaching its decision, the Appeals Board shall consider those portions of the PBGC file relating to the issues raised by the appeal, material submitted by the appellant and third parties in connection with the appeal, and written statements or documents, if any, filed with the Appeals Board that are made available to the appellant.

(b) The decision of the Appeals Board constitutes the final agency action with respect to the determination which was the subject of the appeal and is binding on all parties who participated in the appeal and on all parties who were notified pursuant to § 2606.42 of their right to participate in the appeal.

(c) The decision of the Appeals Board shall be in writing, specify the relief granted, if any, state the reasons for the decision, and state that the appellant has exhausted his or her administrative remedies.

§ 2606.45 Referral of appeal to the Executive Director.

If the Appeals Board finds that an appeal presents a major unresolved policy issue for the PBGC, the Appeals Board shall refer such appeal to the Executive Director of the PBGC for appropriate action. The Executive Director may designate the Deputy Executive Director to decide any appeal referred to the Executive Director from the Appeals Board under this section. When acting on appeals which are referred by the Appeals Board under this section or § 2606.02, the Executive Director and the Deputy Executive Director shall have, in addition to all the powers vested in their offices, all the powers vested in the Appeals Board by this part. The decision of the Executive Director or the Deputy Executive Director shall meet the requirements of and have the effect of a decision issued under § 2606.44 of this part.

Issued this 13th day of May, 1983.

Charles C. Tharp,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-13294 Filed 5-17-83 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 4

[OA-FRL 2365-3]

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Acquisition and Relocation for Federal and Federally Assisted Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed model regulations and request for comments.

SUMMARY: The Department of Transportation (DOT), at the request of the Office of Management and Budget (OMB), published in the **Federal Register** on April 14, 1983, 48 FR 16198, a notice of proposed rulemaking (NPRM) under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act). The proposed DOT rule, developed by an interagency working group, is intended to serve eventually as a model for regulations to be issued by all other Federal agencies with programs covered by the Uniform Act. Those agencies will be requested by OMB to review their existing regulations and to revise them to conform substantially to the final DOT regulations.

State and local agencies, organizations, and individuals affected by programs of the Environmental Protection Agency may wish to review and comment on the proposed regulation within the prescribed period. Appropriate DOT officials will be available to respond to any questions which may arise on this matter. To the extent possible, it is intended that all major issues be resolved through the DOT NPRM and that subsequent rules of this agency will adhere closely to the DOT model. Copies of comments sent to DOT may also be sent to EPA.

DATES: Comments must be received by the Department of Transportation on or before May 31, 1983.

ADDRESSES: Send comments to Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th St., SW., Room 10241, Washington, D.C. 20590. Copies of comments may also be sent to the Enviornmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Marshall Schy, Grants Administration Division (PM-216), (202) 382-5298.

Dated: May 10, 1983.

Alfred M. Zuck,

Acting Assistant Administrator for Administration.

[FR Doc. 83-13294 Filed 5-17-83 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2269-1]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On December 13, 1979 (44 FR 72116), EPA approved a transportation control plan for the St. Cloud, Minnesota, Metropolitan Area as a revision to the Minnestoa State Implementation Plan (SIP). The plan contains transportation strategies which reduce emissions of carbon monoxide (CO) and demonstrates attainment of the National Ambient Air Quality Standards (NAAQSs) for CO by December 31, 1982. On August 16, 1982, the Minnesota Pollution Control Agency (MPCA) submitted an amendment to the St. Cloud transportation control plan. The amendment adds five additional measures to the original transportation control plan which will result in reductions of CO emissions. The additional measures were proposed by the State in lieu of two projects which were approved in the original SIP and are now being delayed into 1983 or later. EPA proposes to approve the five additional meaures and disapprove the delay of the two projects. The purpose of this notice is to discuss EPA's evaluation of the amendment and to solicit public comment on EPA's proposed action.

DATE: Comments on this revision to the Minnesota SIP and EPA's proposed action must be received by June 17, 1983.

ADDRESSES: Copies of the SIP revision are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Minnesota Pollution Control Agency, 1935 West County Road, B-2, Roseville, Minnestoa 55113.

Written comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja at the above EPA Region V address or call (312) 886-6038.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (44 FR 8962, 9006), pursuant to the requirements of Section 107 of the Clean Air Act (Act), as amended in 1977, EPA designated the City of St. Cloud as not meeting the NAAQSs for CO.

Part D of the Act, which was added by the 1977 amendments, requires that each State revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987. Minnesota did not request an extension of the attainment date for the CO standards for St. Cloud.

On My 17, 1979, the MPCA submitted a transportation control plan for the City of St. Cloud Metropolitan area as a revision to the Minnesota SIP. EPA determined that the transportation strategies would reduce emissions of CO and demonstrate attainment of the CO standard by December 31, 1982. On December 13, 1979 (44 FR 72116) EPA approved the St. Cloud transportation plan as a revision to the Minnesota SIP.

On August 16, 1982, the MPCA submitted an mendment to the St. Cloud transportation control plan. The amendment is for the addition of five transportation control measures that will be implemented in 1982 in lieu of two projects which were approved in the original SIP and are now being delayed into 1983. The five additional measures are:

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(1) Enforcement of an existing ban on double parking and extended idling on St. Germain Street. St. Germain Street is a major traffic access to and through downtown St. Cloud, and is associated with hotspot nonattainment areas in the vicinity of its intersection with 10th Avenue.

(2) Implementation of a media campaign designed to encourage use of transportation routes which will improve air quality in the City.

(3) Distribution of a pamphlet by local merchants encouraging use of alternate transportation routes.

(4) Development of a signing plan to direct traffic to alternate routes.

(5) Creation of left-hand turn lanes on Division Street between 19 1/2 and 31st Avenues to decrease local traffic congestion and to allow easier access to routes around downtown St. Cloud.

The two delayed projects are:

(1) Construction project for 9th and 10th Avenues

(2) Construction project for T.H. 23/10th Avenue.

EPA has reviewed the amendment and determined that no quantitative analysis was provided on the amount of emission reductions that would result from the additional measures. Without such an analysis EPA cannot assess whether the additional measures will be an acceptable substitution for the two delayed projects. However, EPA believes these measures, even though not quantified, will result in some positive air quality impact. Therefore, EPA proposes approval of the additional measures as revisions to the Minnesota SIP. EPA proposes disapproval of the delay of the two projects because of lack of a quantitative equivalency analysis.

By disapproval of these measures EPA acknowledges that, at this time, the additional measures cannot be used as a replacement for the delayed projects. The delayed projects are an essential part of the 1979 SIP which demonstrated attainment of the CO standard by December 31, 1982. Without an analysis demonstrating that the emissions reductions from the five new projects are equivalent to those from the delayed projects, EPA cannot determine whether the new projects would be approvable substitutes for the delayed ones.

A final action disapproving the delay of the two original projects would not trigger a moratorium on new source construction under Section 110(a)(2)(I) of the Clean Air Act. By disapproving the request for delay, EPA leaves in effect the original schedules for these projects which were approved as part of the 1979 SIP revision and have not been disapproved.

On February 3, 1983, however, EPA proposed to disapprove SIPs for approximately 140 nonattainment areas (48 FR 4972). For many of these plans, EPA proposed disapproval because available air quality showed that it was unlikely that the area had in fact achieved attainment by December 31, 1982 as required under Part D. For the remaining areas, EPA proposed disapproval because the states had not completed the process of submitting an approvable Part D plan. As explained in that proposal, final disapprovals would trigger construction moratoriums under Section 110(a)(2)(I). EPA may also propose restrictions on Federal funding for these areas.

EPA proposed to disapprove the 1979 Part D CO SIP for St. Cloud because available data indicated that the area had not attained the CO standards by the 1982 deadline (48 FR 5013; February 3, 1983). This is a separate issue that is not part of today's action. Today's action responds to a new SIP revision submitted to EPA in 1982. It does not propose any finding concerning the adequacy of the SIP submitted in 1979. EPA's action on this newly submitted SIP revision thus can proceed independently of the action proposed on February 3.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comment received on or before June 17, 1983, will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the Region V office listed at the beginning of this notice. Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator certified that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action proposes to approve and disapprove a State action. For approval, it imposes no new requirements beyond those which the State has already imposed. For disapproval, the sources affected will remain subject to the applicable provisions of the current Minnesota CO SIP. Thus no additional requirements will be imposed on these sources.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This proposed rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act.

Dated: December 3, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-13295 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2334-6]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designation; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to change the Total Suspended Particulate (TSP) primary and secondary nonattainment designation of Mahoning County, Ohio. This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data submitted by the State. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

DATE: All comments must be received by June 17, 1983.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments in this proposed rule should be addressed to (please submit an original and five copies if possible): Gary Gulezian, Chief, Regulatory Analysis Section Air Programs Branch (5AP-26), USEPS, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every state. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrants.

The current designations for TSP in Mahoning County, Ohio, as codified in 40 CFR 81.336, are:

Primary Nonattainment—Cities of Campbell, Youngstown, and Struthers; that portion of Poland Township north of U.S. 224; and that portion of Coitsville Township south of U.S. 422.

Secondary Nonattainment—Townships of Coitsville (north of U.S. 422 and east of S.R. 616), Boardman (all) Poland (south of U.S. 224), and Austintown (east of S.R. 46).

On October 14, 1982, the State of Ohio requested EPA to revise the TSP designation of Mahoning County, Ohio to:

Primary Nonattainment Area

1. From the north county line and Four Mile Run Road south on Four Mile Run Road to Meridian Road,
2. South on Meridian Road to Bears Den Road,
3. Southeast on Bears Den Road to Furnace Road,
4. Furnace Road east to Mill Creek,
5. East on a line from Mill Creek and Furnace Road to Warren Avenue,
6. East on Warren Avenue to Rosedale Avenue,
7. South on Rosedale Avenue to Chicago Avenue,
8. East on Chicago Avenue to Market Street,
9. South on Market Street to Dewey Avenue,
10. East on Dewey Avenue to Power Way,
11. Power Way south to Center Street,
12. Center Street northeast to Wilson Avenue,
13. Wilson Avenue north west to Dry Run Creek,
14. Dry Run Creek north to Oak Street,
15. West on Oak Street to Garland Avenue,
16. North on Garland Avenue to Parker Street,
17. West on Parker Street to Albert Street,
18. North on Albert Street to McGuffey Road,
19. West on McGuffey Road to Wick Avenue, and
20. North on Wick Avenue to Logan Avenue, then north to the county line
21. The county line west to Four Mile Run Road.

Secondary Nonattainment Area

The cities of Campbell, Struthers and Youngstown (excluding the Primary nonattainment area); Poland Township north of U.S. Route 224; Coitsville Township south of U.S. Route 42; Austintown Township east of State Route 46; and Boardman Township north of Canfield Poland Road.

To support the redesignation request, the State of Ohio submitted on October 14, 1982, and February 11, 1983, ambient data collected at ten monitors in the Youngstown area during the period of July 1980–December 1982. In addition, EPA considered modeling analyses based on July 1974 actual SIP allowable emission rates, performed previously for this area by the State as well as recent modeling performed by EPA.

The ambient data from the ten Mahoning County monitors are discussed in the technical support document which is available in EPA's Region V office. The data, which have been determined to be representative, support the proposed nonattainment boundaries. Additional technical support for the exact boundaries is contained in the October 14, 1982, State submittal.

The major effects of the revision are to change the area south of the Youngstown-Campbell-Struthers area from secondary nonattainment to attainment, and change the Campbell-Struthers area (around the J & L Campbell Coke Plant) from primary to secondary nonattainment. Both changes are acceptable based on a review of the available monitoring and modeling data. It should be noted that additional improvement in air quality in the Campbell-Struthers area is expected in the immediate future. In late January 1983, J & L began a phased 3-month permanent shut-down of the remaining two batteries at the coke plant. Therefore, ambient TSP concentrations in the area should continue to decline.

In summary, EPA finds this designation to be acceptable and proposes to approve the redesignation of Mahoning County, Ohio.

All interested persons are invited to submit written comment on the proposed redesignation. Written comments received by the data specified above will be considered in determining whether EPA will approve the redesignation. After review of all comments submitted, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407)

Dated: March 22, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-13296 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2565/P295; PH-FRL 2363-2]

N-(Mercaptomethyl) Phthalimide S-(O,O-Dimethyl Phosphorodithioate); Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog in or on the commodity tomatoes imported from Mexico. The proposed regulation to establish a maximum permissible level for residues of the insecticide was requested, pursuant to a petition, by the Stauffer Chemical Company.

DATE: Comments must be received on or before June 17, 1983.

ADDRESS: Written comments to: Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

FOR FURTHER INFORMATION CONTACT: George LaRocca, PM-15, (703-557-2400) at the above address.

SUPPLEMENTARY INFORMATION: The Stauffer Chemical Company, 1200 South 47th Street, Richmond, CA 94804, submitted pesticide petition 1E2565 to the EPA. The petition requests that the Administrator propose that 4 CFR 180.261 be amended by establishing a tolerance for the combined residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(O,O-dimethyl phosphorodithioate) and its oxygen analog in or on the commodity tomatoes imported from Mexico at 2.0 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data

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considered in support of the proposed tolerance included a 2-year rat feeding/oncogenicity study which was negative for oncogenic effects and had a cholinesterase inhibition and systemic no-observed-effect level (NOEL) of 40.0 ppm; and 2-year dog feeding study which had a cholinesterase-inhibition and systemic NOEL of 40.0 ppm and 400.0 ppm respectively; rabbit and monkey teratology studies which were negative at 60 mg/kg/day and 8 mg/kg/day respectively; a rat reproduction study which had a NOEL of 80 ppm and acute delayed hen neurotoxicity study which was negative for acute delayed neurotoxicity.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 40 ppm equivalent to 2.0 mg/kg/bw/day) and a 100-fold safety factor, is calculated to be 0.020 mg/kg/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 1.2 mg/day. The current action will utilize 7.9 percent of the ADI. Published tolerances utilize 91.1 percent of the ADI. Desirable data that are currently lacking from the petition is a second oncogenicity study in a second mammalian species. In a letter dated December 7, 1979, the petitioner indicated that the second oncogenicity study will be submitted to the Agency by February 1984.

The metabolism of *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) is adequately understood for this use, and an adequate analytical method, gas chromatography, is available for enforcement purposes. Residues on processed tomatoes are not likely to exceed the tolerance on whole tomatoes and therefore food additive tolerances are not needed on these items. Imported Mexican tomatoes are not processed into dried tomato pomace for animal feed, therefore, there is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry. No actions are currently pending against registration of the insecticide, nor are there any other relevant consideration involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the above information considered by the Agency it is concluded that the tolerance would protect the public health and is therefore proposed as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under FIFRA, as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 1E2565/P295]. All written comments filed in response to this proposed rulemaking will be available in the product manager's office, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: May 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.261 be amended by adding and alphabetically inserting the commodity tomatoes to read as follows:

§ 180.261 N-(Mercaptomethyl)phthalimide S-(O,O-dimethylphosphorodithioate); tolerances for residues.

* * * * *

Commodities	Parts per million
Tomatoes	2.0

[FR Doc. 83-13061 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 48, No. 97
Wednesday, May 18, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-322]

Cooperative Gypsy Moth Suppression and Regulatory Program—1983; Decision Notice

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a record of decision for the gypsy moth eradication treatment areas in Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin.

SUMMARY: This gives notice that a decision has been made to cooperate with the States of Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin in gypsy moth eradication programs. The State Departments of Agriculture for Indiana, Michigan, Minnesota, Ohio, and Oregon have decided to use carbaryl for the proposed treatment areas in Elkhart County, Indiana; Kalamazoo, Muskegon, and Van Buren Counties, Michigan; Ramsey and Washington Counties, Minnesota; Hamilton, Franklin, Knox and Lucas Counties, Ohio; and Salem County, Oregon. The State Departments of Agriculture for Illinois, Washington, and Wisconsin have decided to use *Bacillus thuringiensis (B.t.)* for the proposed treatment areas in Du Page and Kane Counties, Illinois; Clark, King, and Pierce Counties, Washington; and Waukesha County, Wisconsin. The State Departments of Agriculture for North Carolina and Virginia have decided to use dispalure for the proposed treatment areas in Carteret County, North Carolina; and Floyd and Patrick Counties, Virginia. Based on an evaluation of the Programmatic Environmental Impact Statement (PEIS) and a site-specific environmental analysis prepared for the proposed treatment areas in each state (Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin) the Animal and Plant Health Inspection Service (APHIS) has determined that these treatment methods pose no significant adverse impact on the environment of these areas.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: A notice of the availability of a site-specific environmental analysis document for the proposed treatment areas in Du Page and Kane Counties, Illinois; Elkhart County, Indiana; Kalamazoo, Muskegon, and Van Buren Counties, Michigan; Ramsey and Washington Counties, Minnesota; Carteret County, North Carolina; Hamilton, Franklin, Knox, and Lucas Counties, Ohio; Salem, Oregon; Floyd and Patrick Counties, Virginia; Clark, King, and Pierce Counties, Washington; and Waukesha County, Wisconsin, for the USDA Cooperative Gypsy Moth Suppression and Regulatory Program was published in the **Federal Register** on April 28, 1983 (48 FR 19190).

On or about April 1, 1983, the State Departments of Agriculture for each of these States decided to conduct ground or aerial spray treatment programs using either carbaryl, *B.t.*, or dispalure as indicated below in the proposed treatment areas.

The State Departments of Agriculture for Indiana, Michigan, Minnesota, and Ohio have decided to conduct aerial spray treatment programs using carbaryl.

The State Departments of Agriculture for Illinois, Washington, and Wisconsin have decided to conduct aerial spray treatment programs using *B.t.*

The State Departments of Agriculture for North Carolina and Virginia have decided to conduct aerial spray treatment programs using dispalure.

The State Department of Agriculture for Oregon has decided to conduct ground spray treatment program using carbaryl.

Based on the Department's review of the PEIS and the site-specific analysis, and in accordance with the National Environmental Policy Act and the Department's PEIS, the Department has decided to cooperate with the States of Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin in the conduct of these programs.

The Organic Act of September 21, 1944, as amended (7 U.S.C. 147a) authorizes APHIS to cooperate with States to retard the artificial, long-range spread of the gypsy moth and to eradicate isolated infestations of the pest.

Carbaryl, *B.t.*, and dispalure, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et. seq.*), are registered by the Environmental Protection Agency (EPA) for use against gypsy moth. They will be applied according to the label directions and APHIS operating procedures. Appropriate public involvement, notification and utilization of insecticide treatment measures will further reduce human exposure during periods of application.

Gypsy moth egg masses were expected to have reached peak hatching in Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin on or after May 1, 1983. The State Departments of Agriculture for each of these States have notified the Department that if a spraying program for gypsy moth in Illinois, Indiana, Michigan, Minnesota, North Carolina, Ohio, Orgeon, Virginia, Washington, and Wisconsin is to be effective, they must be prepared to commence spraying as close to the peak hatching time as possible. Therefore, implementation of the program may take place immediately after the date of publication of this decision.

Done at Washington, DC., this 13th day of May 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-13353 Filed 5-17-83; 8:45 am]

BILLING CODE 3410-34-M

VOL 48 ISS 97 MY 18 1983 UMI

Animal Inspection Station, Detroit, Michigan; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction and operation of an animal inspection station on W. Jefferson Avenue in Detroit, Michigan. This 4,000 square foot, single story building will be constructed on a 2.2 acre site adjacent to the city dog pound. The building will be used to inspect animals that are shipped by truck and other vehicles into the United States from Canada over the Ambassador Bridge.

This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding Of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement is not needed for this project

Copies of this environmental assessment have been sent to the Environmental Protection Agency, appropriate State and local agencies and other interested parties.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Dennis Wilmeth, Environmental Protection Specialist, APHIS, ASD, Room 260, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436–8775.

SUPPLEMENTARY INFORMATION: The environmental assessment indicates that the animal inspection station will comply with local plans and zoning regulations. Odors and noise should be minimal since animals will only be inspected and not kept overnight. The animal wastes left in the building will be washed into a sanitary sewer drain in the floor. The animal inspection station will have a minor impact on local air quality and traffic and no impact on water quality. The building will not be located in a 100 year flood plain and will not affect any endangered species. While this project will have no effect on any above-ground cultural resources, it may impact archaeological resources. Therefore, an archaeological survey and/or land use history will be conducted prior to construction activity.

Implementation of the proposed project will not be initiated until 30 days after publication of this notice in the **Federal Register.**

Done at Washington, D.C., this 12th day of May 1983.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83–13285 Filed 5–17–83; 8:45 am]

BILLING CODE 3410–34–M

Office of the Secretary

Forms Under Review by Office of Management and Budget

May 13, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 103-W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Food and Nutrition Service
Federal-State Agreement
FNS–74
Annually
State or local governments: 77 responses; 26 hours; not applicable under 3504(h)
Jim MacDonald (703) 756–3600

Revised

• Food and Nutrition Service
Distribution of Surplus Commodities
On occasion, monthly
Individuals or households, state or local governments, farms, businesses or other for profit, and non-profit institutions: 2,451 responses; 3,336 hours; not applicable under 3504(h)
Donald McCreary (703) 756–3660

• Federal Grain Inspection Service
Applications Under U.S. Grain Standards Act
FGIS 907, 908, CP–5, 5–1, 6, 333, WH 30
On occasion
Businesses: 138,887 responses; 26,281 hours; not applicable under 3504(h)
Lewis Lebakken (202) 382–1738

Reinstatement

• Agricultural Stabilization and Conservation Service
Report of Tobacco Acreage
ASCS–311
On occasion
Farms: 15,000 responses; 2,500 hours; not applicable under 3504(h)
Thomas Burgess (202) 447–2715

Marshall L. Dantzler,

Acting Department Clearance Officer.

[FR Doc. 83–13286 Filed 5–17–83; 8:45 am]

BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

Application of Michigan Peninsula Airways for Certificate Authority Under Subpart O

AGENCY: Notice of Order Instituting the Michigan Peninsula Airways Fitness Investigation, 83–5–61, Docket 41478.

ACTION: Notice.

SUMMARY: The Board is instituting an investigation to determine the fitness of Michigan Peninsula Airways to engage in interstate and overseas cargo and foreign cargo charter air transportation.

DATES: Persons wishing to intervene in the *Michigan Peninsula Airways Fitness Investigation* shall file their petitions in Docket 41478 by May 26, 1983.

ADDRESSES: Petitions to intervene should be filed in Docket 41191 and 41192, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John F. Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–5–61 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–5–61 to that address.

By the Bureau of Domestic Aviation: May 12, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–13354 Filed 5–17–83; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 4:00 p.m. on June 14, 1983, at the National Housing Center, in the Board Room, Washington, D.C. 20005. The Administration of Justice and Employment subcommittees will deliver reports, and the Commissioner of the D.C. Commission on Social Services will present a briefing on the effects of Federal block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Walter E. Washington, 1025 15th Street, North West, Washington, D.C. 20005, (202) 659–3300 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–13329 Filed 5–17–83; 8:45 am]

BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 10:00 p.m. on June 3, 1983, at the Ramada Inn, 3000 West Main, Carbondale, Illinois 62901. The purposes of this meeting are to receive reports on the Industrial Revenue Bond and Chicago Affirmative Action projects, and conduct a forum on civil rights issues in Carbondale.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Pugh, 500 West Melbourne Avenue, Peoria, Illinois, 61604, (309) 671–7475 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–13330 Filed 5–17–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcements; Boston

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning August 1, 1983 in the Boston SMSA. The cost of the project is estimated to be $275,000. The maximum Federal participation amount is $247,500. The minimum amount required for non-Federal participation is $27,500. The award number will be 01–10–83009–01.

Applicant shall be required to contribute at least 10% of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services of in-kind contributions.

DATE: Closing date: June 10,1983.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 36–116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Joseph F. Korpsak. Telephone: (212) 264–3262.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications.

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and

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private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC). Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: May 10, 1983.

Joseph F. Korpsak,

Acting Regional Director.

[FR Doc. 83–13346 Filed 5–17–83; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcement; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate three projects for a 12-month period beginning November 1, 1983, in the following locations:

Los Angeles SMSA—I.D. Number: 09–10–83021–01		
Maximum MBDA contribution	$1,008,000	
SCS contribution	100,800	
Total Federal contribution		$1,108,800
Minimum cost share contribution		195,670
Minimum total project cost		1,304,470
Oxnard SMSA—I.D. Number: 09–10–83025–01		
Maximum MBDA contribution	225,000	
SCS contribution	22,500	
Total Federal contribution		247,500
Minimum cost share contribution		43,676
Minimum total project cost		291,176
Santa Barbara SMSA—I.D. Number: 09–10–83026–01		
Maximum MBDA contribution	153,000	
SCS contribution	15,300	
Total Federal contribution		168,300
Minimum cost share contribution		29,700
Minimum total project cost		198,000

Applicants shall be required to contribute at least 15% of the total program cost through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

Dates: Closing date: June 16, 1983.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Mikel Cook at 415/556/6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications.

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

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Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

Clear explanations of all expenditures proposed, and

The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC opertion should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the: Inglewood City Hall, Community Room A-First Floor, One Manchester Boulevard, Inglewood, California 90301, May 25, 1983 from 1:30 to 5:00 P.M.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: May 12, 1983.

Powell McDaniel,

Acting Regional Director.

[FR Doc. 83-13336 Filed 5-17-83; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP); Report of Laboratory Accreditation Actions for April 1983

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions.

SUMMARY: The National Bureau of Standards (NBS) announces the following laboratory accreditation actions for April 1983.

Gold Bond Building Products, a National Gypsum Division, Research Center, 1650 Military Road, Buffalo, NY 14217, which was previously accredited under the Acoustical Testing Services Laboratary Accreditation Program (Acoustics LAP), has been accredited for three additional test methods under that program.

The additional test methods for which accreditation has been granted are:

NVLAP Code	Designation	Short title
08/PO3	ANSI/ASTM C423–81	Sound Absorption and Sound Absorption Coefficients.
08/PO5	ASTM C523–69 (81)	Light Reflectance of Acoustical Materials.
08/PO6	ANSI/ASTM E90–82	Airborne Sound Transmission Loss of Building Partitions.

Lewis Engineering, Inc., 402 East Main Street, Plainfield, IN 46168 has voluntarily terminated its accreditation under the Freshly Mixed Field Concrete Labortary Accreditation Program.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, DC 20234, (301) 921–3431.

Dated: May 11, 1983.

Guy Chamberlin,

Acting Director, National Bureau of Standards.

[FR Doc. 83-13315 Filed 5-17-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council, Scientific and Statistical Committee and its Advisor, Panel; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: The agenda, as published in the **Federal Register**, May 5, 1983 (48 FR 20286), for the North Pacific Fishery Management Council, its Scientific and Statistical Committee and its Advisory Panel (AP), has been modified to include a new discussion item. The location of the Council's AP meeting as stated in the above **Federal Register** citation has also been changed.

New Agenda Item

Consideration of an appeals procedure for the halibut moratorium.

New AP Meeting Location

Anchorage Westward Hilton, Kenai Room.

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, Telephone: (907) 274–4563

Dated: May 13, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13331 Filed 5-17-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

President's Private sector Survey on Cost Control

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of Open Meeting of the Subcommittee of the President's Private sector Survey on Cost Control (PPSSCC).

SUMMARY: The Subcommittee was established by the Excutive Committee of the PPSSCC to: (i) Review the recommendations submitted, including task force reports and public comments, and (ii) determine which recommendations should be made to the President and the Departments and Agencies.

Time and Place: May 26, 1983, beginning at 11 a.m. The meeting will be held at the U.S. Department of Commerce Auditorium, First Floor, Herbert C. Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

1. Draft reports from the following Task Forces of the Survey will be discussed by subcommittee members.

A. Boards/Commissions—Business.
B. Board/Commissions—Banking.
C. User Charges.
D. Low Income Standards.
E. Department of State/AID/USIA.
F. Land/Facilities/Personal Property.

2. Comments and recommendations received from public and other interested parties will be discussed by Subcommittee members.

In compliance with Federal Advisory Committee Act and Freedom of Information Act requirements, copies of the draft reports will be available on May 16 at the Department's Central Reference and records Inspection Facility, Room 6628 Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Please call Ms. Geraldine P. LeBoo on (202) 377–3271 for information concerning fees and procedures for obtaining copies by mail.

SUPPLEMENTARY INFORMATION: The Subcommittee will hold additional public meetings in May and June, 1983. Exact dates will be noticed in the **Federal Register**. Copies of all materials, including Task Force reports, to be considered at these meetings will be available approximately two weeks prior to each meeting at the Department's Central Reference and Records Inspection Facility, address above.

Public Participation: The May 26 meeting will be open to the public. Seating will be on a first-come, first-served basis, up to the safe capacity of the meeting room. Media representatives are encouraged to call Mr. Malcolm Barr, Director, News Relations Department of Commerce, 377–4901 to arrange for coverage of the meeting.

The public may file written statements for consideration by the Subcommittee any time before, at, or after the meeting. It is strongly recommended that statements concerning the matters to be considered at each meeting be filed before such meeting to ensure that they are considered by the Subcommittee before adoption of a report. The statements should be filed at the Department of Commerce's Central Reference and Records Inspection Facility, address and phone number as above. Because of the number of recommendations to be discussed, the meeting agenda will not include time for oral statements from public attendees. All public statements reveived will be available for public review.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Exectuive Committee of the President's Private Sector Survey on Cost Control, telephone (202) 466–4665.

Dated: May 13, 1983.

Marilyn S. McLennan

Chief, Information Policy and management Division, Officer of the Secretary.

[FR Doc. 83-13564 Filed 5-17-83; 11:10 am]

BILLING CODE 3510-(CW)-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Controlling Imports of Certain Man-Made Fiber Textile Products From Mexico

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of acrylic spun yarn in Category 604 pt. (only T.S.U.S.A. No. 310.5049), produced or manufactured in Mexico and exported during the ninety-day period which began on April 1, 1983 and extends through June 29, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On March 31, 1983 the Government of the United States requested consultations with the Government of Mexico with respect to acrylic spun yarn in Category 604 pt. (only T.S.U.S.A. No. 310.5049). This request was made on the basis of paragraph 6 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the two governments. Paragraph 6 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

Under the consultation provision of the bilateral agreement, Mexico is obligated to limit its exports to the United States of these products during the ninety-day period to 256,609 pounds. Mexico is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months which began on January 1, 1983 to 759,421 pounds.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of man-made fiber textile products in Category 604 pt. (only T.S.U.S.A. No. 310.5049) for the ninety-day period, at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Mexico, further notice will be published in the **Federal Register**.

In the event the limit established for Category 604 pt. (only T.S.U.S.A. No. 310.5049) period is exceeded, such excess amounts, if they are allowed to enter, will be charged to the level (described above) for the twelve-month period.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212)

SUPPLEMENTARY INFORMATION: In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 604 pt. (only T.S.U.S.A. No. 310.5049), produced or manufactured in Mexico and exported during the indicated ninety-day period, in excess of the designated level of restraint.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

May 13, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 19, 1983, and for the ninety-day period beginning on April 1, 1983, and extending through June 29, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604 pt. (only T.S.U.S.A. No. 310.5049), produced or manufactured in Mexico and exported on and after April 1, 1983, in excess of 256,609 pounds.[1]

[1] The level of restraint has not been adjusted to reflect any imports after March 31, 1983.

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Textile products in Category 604 pt. (T.S.U.S.A. NO. 310.5049) which have been exported to the United States prior to April 1, 1983 shall not be subject to this directive.

Textile products in Category 604 pt. (only T.S.U.S.A. No. 310.5049) which have been released from the custody of the U. S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Mexico and with respect to imports of man-made fiber textile products from Mexico has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13313 Filed 5-17-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents

Date of meeting: June 1, 1983.

Time and place: 0830 hours, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed agenda: This meeting will be open to the public from 0830 to 0945 hrs for the administrative review and discussion of the scientific research program of the US Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S.C., Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 0945 to 1700 on 1 June 1983 for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

COL Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671-2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-13386 Filed 5-17-83; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers; Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project for the O'Hare System of the Chicagoland Underflow Plan in Cook County, Illinois

AGENCY: Army Corps of Engineers, Chicago District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The study involves the potential construction of flood damage reduction reservoirs in the combined sewer service are a of the O'Hare Water Reclamation Plant in Cook County, Illinois. The surface reservoirs would be excavated below existing ground level and could be either wet or dry during non-flood periods. Each reservoir would include necessary appurtenant works for dewatering, operation and maintenance of the reservoir in conjunction with an existing deep tunnel system for combined sewer overflow abatement and treatment. The intent of the proposed project is to reduce flood damages caused by combined sewer system backflow into basements, ponding of surface runoff, and overbank flooding.

2. Alternatives studied in detail are:

a. No action.

b. Structural alternatives consisting of a system of two reservoirs, one on-line and one off-line, which would be connected to deep tunnels via drop shafts, connecting structures and pumping stations, most of which are already in place.

c. A series of plans based on an incremental analysis of the overall effects of each reservoir individually and in combination as well as in combination with other measures. The plan finally selected for implementation may consist of none, one, or both of the two reservoirs investigated.

d. The other measures to be considered in combination with the basic reservoir plan may include combined sewer system upgrades (i.e. separtation, increased capacities or bypass sewers), small, local detention reservoirs with pump stations, sewer inlet restrictors, downspout disconnection, flood proofing basements, excavation, and flood warning systems.

3. The basic reservoir plan considered in this study is essentially from the plan developed by the Metropolitan Sanitary District of Greater Chicago (MSDGC). Designs for the Tunnel and Reservoir Plan (TARP) were released in 1974 and have been subsequently divided into Phase 1 and Phase 2. Phase 1 which mainly involves water quality enhancement, has been implemented by MSDGC for the area under consideration, and Phase 2 which mainly concerns flood damage reduction, involves the proposed reservoirs. The U.S. Army Corps of Engineers began a feasibility study of this plan in 1979. Public participation has included numerous meetings and coordination with the State of Illinois, MSDGC and interested Federal, State and local agencies. Additional coordination has also been undertaken with the U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and the Northeastern Illinois Planning Commission.

4. Significant issues to be analyzed in depth are destruction or disruption of terrestrial and aquatic habitat; mitigation for habitat losses; effects on water quality; disposal of excavated material; and aesthetic effects.

5. No formal scoping meeting will be held. A public meeting is tentatively scheduled for the comment period following release of the DEIS. No definite date has been set. Notice of the specific time and location will be issued to the appropriate media and parties expressing interest.

6. The DEIS is expected to be available in September 1983.

7. Questions about the proposed action and DEIS can be answered by: Rose Austin, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 S. Dearborn Street, Chicago, Illinois 60604 (312/353-6464).

DATE: May 10, 1983.

Christos A. Dovas,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 83-13343 Filed 5-17-83; 8:45 am]

BILLING CODE 3710-HN-M

Intent To Prepare a Draft Environmental Impact Statement for a Proposed Navigation Improvements for the Existing Federal Project in Sheepshead Bay, Brooklyn, New York

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Description of Proposed Action. The plan of improvement proposes to realign, widen, and lengthen the existing Federal project. This plan would provide for a channel 12 feet deep at mean low water (mlw) and a 125 foot width for a distance of 4,125 feet within the Bay, and a channel 14 feet deep at mlw, with a 300 foot width extending from the terminus of the Bay channel into Rockaway Inlet for a distance of 7,050 feet ending at buoys 1 and 2.

Ocean disposal of the dredged material is also proposed.

2. Reasonable Alternatives. a. Plans of Improvement for channel depths between 6 feet mlw (existing project) and 12 feet mlw were investigated. Intermediate depths of 8 and 10 feet were specifically investigated. The no-action plan was also considered.

b. (Disposal Alternatives) The New York District is presently examining alternative sites and methods of dredge material disposal for maintenance dredging projects under separate studies. The subject project Draft EIS will refer to these studies and summarize findings for other feasible alternatives such as upland disposal, sub-aqueous borrow pits, and wetlands creation.

3. Scoping Process. a. Public Involvement. Public input was received in preparation of a Reconnaissance Report, dated 15 December 1980. On 28 February 1980, the Corps took part in an open community meeting concerning the future of Sheepshead Bay sponsored by State Senator Donald Halperin. Preliminary EIS development includes the development of background information (fish and wildlife resources) in coordination with the U.S. Fish and Wildlife Service, and contact with other Federal, State and local agencies for background input. Any others who are interested in the proposed project may contact the EIS coordinator listed below.

b. Significant Issues Requiring In-depth Analysis. Water quality impacts, archaeological and cultural resources inpacts and aquatic resources impacts.

c. Assignments. None anticipated.

d. Environmental review and consultation. Review will be as outlined in Council on Environmental Quality regulations dated November 29, 1978 (40 CFR Parts 1500-1508) and Corps regulations ER 200-2-2, dated August 25, 1980 (revised 2 March 1981).

4. Scoping Meeting will ☐ * will not ☐ be held

* Date · Time Location

5. Estimate date of statement availability August 1983.

Address:

Project Manager (Army Corps of Engineers), Pamela Tames, Attn: NANPL-EN, Tel No. (212) 264-9077

EIS Coordinator (Army Corps of Engineers), Peter Doukas, Attn: NANPL-E, Tel No. (212) 264-1275

U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007

Dated: May 10, 1983.

Stanley Fafinski,

Acting Assistant Chief, Planning Division.

[FR Doc. 83-13387 Filed 5-17-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Summer Study Panel on Joint Service Acquisition Programs; Notice of Advisory Committee Meeting

The Defense Science Board 1983 Summer Study Panel on Joint Service Acquisition Programs will meet in closed session on June 6-7, June 29-30, and July 14-15, 1983 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on June 6-7, June 29-30, and July 14-15, 1983, the Panel will examine past and present joint Service programs and the factors which contribute to their success or failure.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: May 13, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-13301 Filed 5-17-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Amendment of Notice.

SUMMARY: This document is intended to notify the general public of changes in the notice of meeting of the National Advisory Council on Women's Educational Programs published May 10, 1983, on 47 FR 20978.

The times, locations and agenda remain the same, except that the Executive Committee will meet in closed session on June 2, 1983 from 8:30 a.m. to 9:30 a.m. at the Hotel Washington, Pennsylvania Avenue at 15th Street, N.W., Washington, D.C. 20004.

Discussion will be held of personnel matters, including the evaluation of the Executive Director. The review and subsequent discussion will include consideration of the competence of the Executive Director and would constitute a serious invasion of privacy if conducted in open session. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552b(c) (2) and (6).

A summary of the activities of the closed session and related matters which would be informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting at the Council's office, 425 13th Street, N.W., Suite 416, Washington, D.C. 20004.

Signed at Washington, D.C., on May 13, 1983.

Rosemary Thomson,

Executive Director.

[FR Doc. 83-13330 Filed 5-17-83; 8:45 am]

BILLING CODE 4000-01-M

Training Program for Special Programs Staff and Leadership Personnel

AGENCY: Office of Postsecondary Education, ED.

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ACTION: Application Notice for Transmittal of Applications for New Awards; and Establishment of Final Funding Priorities for Fiscal Year 1983.

SUMMARY: Applications are invited for new awards under the Training Program for Special Programs Staff and Leadership Personnel.

Authority for this program is contained in sections 417A and 417F of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1d)

The Secretary is authorized to make grants under this program to institutions of higher education and other public and private nonprofit institutions and organizations.

The purpose of the grant awards is to improve the operation of the Special Programs for Students from Disadvantaged Backgrounds (Talent Search, Upward Bound, Special Services for Disadvantaged Students, and Educational Opportunity Centers) by providing training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, the priorities included in this notice will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

Closing Date for Transmittal of Applications

An application for a training grant must be mailed or hand delivered by July 5, 1983.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.103 (Training Program for Special Programs Staff and Leadership Personnel), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered mail or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The Secretary is accepting applications for one year of funding to support a variety of training projects that respond to the training needs and priorities of the Special Programs staff and leadership personnel. An applicant may submit more than one application for funding under this program, and the Secretary strongly urges that separate applications be submitted for separate proposed training activities.

The applications for new awards will be evaluated competitively under the selection criteria for new awards, 34 CFR 642.31, published in the **Federal Register** on April 23, 1982, 47 FR 17786–17790. In addition, applicants that have been funded within the previous three years to operate a Training Program project for Special Programs staff and leadership personnel will be evaluated on the basis of their prior experience under 34 CFR 642.32 which was published in the **Federal Register** on June 8, 1982, 47 FR 24938–24943.

SUPPLEMENTARY INFORMATION: On January 17, 1983, the Secretary of Education published in the **Federal Register**, 48 FR 2034–2035, proposed funding priorities for training activities to be funded under the Training Program for Special Programs Staff and Leadership Personnel for Fiscal Year 1983.

Interested parties were given 30 days to submit comments, suggestions or recommendations regarding the proposed priorities. A total of 20 comments were received. The following is a summary of the comments received and the Secretary's response to those comments, including any changes. All changes are described together with an explanation for the change.

Proposed Priority (1): Regional workshops for new Special Programs project directors (one year or less in their current positions) to improve their skills in administering a Special Programs project in order to prevent mismanagement or marginal results.

Comment: One commenter strongly believed that all project directors and other leadership personnel need additional training in improving supervisory skills. A second commenter recommended adding to the priorities short-term workshops on program evaluation for project directors.

Response: No change has been made in the category of eligible participants. New Special Programs project directors (one year or less in their current positions) are given priority for this training. The Secretary feels that development of sound supervisory skills are vital to the new project director in order to prevent mismanagement or marginal results. Further, the Secretary agrees that program evaluation should be included among the training topics for new project directors, and since program evaluation is directly related to the goals and objectives established within each project, the Secretary encourages applications which include training on how to write measurable outcome objectives.

Proposed Priority (2): Short-term workshops which enhance the skills of Special Programs instructional staff to provide basic skills development.

Comment: No comments were received.

Response: No change has been made in this priority. The Secretary feels emphasis should be given to programs that strengthen basic skills in math, science, and English language literacy.

Proposed Priority (3): Short-term workshops which provide Special Programs counselors/instructors with techniques and information on appropriate uses of standardized tests and student assessment procedures.

Comment: Two commenters reiterated the need to train Special Programs counselors/instructors in appropriate uses of standardized tests and student assessment procedures. The commenters suggested that the training also include the following topics:

1. Individualized student assessment;
2. Utilizing assessment information to assist students in decision-making;

3. Standardized testing experiences that assist students in using test data in planning;
4. Career and educational planning experience related to the students' career goals; and
5. The development of a longitudinal student tracking system.

Response: No change has been made. The Secretary agrees that the above topics may be included in a training workshop on standardized tests and student assessment procedures.

Proposed Priority (4): Seminars/workshops to enhance the knowledge of Special Programs project directors, instructors, and counselors in cost-effective uses of computers and other advanced educational technology.

Comment: Two commenters indicated that the use of computers is important because of the integral part that they are playing and will play in the overall TRIO program functions. The commenters noted further that, as more and more emphasis is placed on the use of computers, there is a need to supplement the academic remediation which disadvantaged students receive with the help of computer technology. They stated that one major benefit of the use of computers and other advanced technology is that it will increase the educational potential of the disadvantaged student.

A third commenter suggested that a knowledge of college and university admissions practices for disadvantaged students should be substituted for the priority regarding computers and advanced educational technology which seems to be little more than a concession toward current fads.

Response: No change has been made. The Secretary has determined that programs which support the effective use of computers for improving basic and higher level skills instruction or for improving the productivity of teaching should be given priority.

Proposed Priority (5): Regionally based training seminars/workshops for Special Programs project staff on availability of, and application processes for, student financial assistance for postsecondary educaton.

Comment: Two comments were received which supported this priority.

Other commenters recommended deleting priority five. These commenters noted that existing organizations of professional financial aid administrators now regularly conduct high-quality training for novices in the field as well as for more experienced persons and that this training is open to Special Programs personnel across the nation. The commenters went on to state that these existing workshops:

(a) Provide the necessary training and information in a high-quality, existing setting;

(b) Obviate the need for establishing a duplicative training program; and

(c) Have the added benefit of personally acquainting Special Programs personnel with many professionals in the student financial aid field.

Response: A change has been made. The Secretary has deleted this topic as a training priority to avoid duplicating the existing federal and State student financial aid training programs.

Proposed Priority (6): Seminars to enhance the skills of project staff who provide services to the physically disabled.

Comment: Many comments were received which strongly endorsed this training priority. Several commenters suggested that the need for such training is considerable since unprepared university personnel are often pressed into service due to the lack of qualified staff. Other commenters recommended maintaining this as a top priority on an extended basis because much training is needed to affect attitudes and improve skills of staff and clients.

Response: No change has been made. The Secretary has encouraged programs that address the special skill acquisition needs of the handicapped and is committed to seeking ways of supplementing state and local resources in order to meet the challenge of serving special student populations such as the physically disabled.

Other Comments: Other comments received suggested adding the following training priorities:

(a) Training to meet the educational needs of the adult learner;

(b) Training to assist project directors in improving retention of Special Services students;

(c) Regional workshops to assist project staff in securing strong institutional, local or private sector commitment to their objectives; and

(d) Regional training for organizational improvement and project management.

Response: While each suggested addition to the priorities has merit, the Secretary has decided to limit the number of priorities due to the limited amount of funds available. The Secretary will, however, consider applications for a Training Program project on these topics and other topics which are not listed as priorities if the applicant addresses another significant training need in the local area being served by the Special Programs.

After careful consideration of the comments received, the Secretary is adopting the following priorities as the final priorities that will be used to evaluate applications for new awards in Fiscal Year 1983:

Funding Priorities for Fiscal Year 1983

(1) Regional workshops for new Special Programs project directors (one year or less in their current positions) to improve their skills in areas such as supervision, program evaluation, and establishment of measurable outcome objectives, in order to prevent mismanagement or marginal results.

(2) Short-term workshops which enhance the skills of Special Programs instructional staff to provide basic skills development;

(3) Short-term workshops which provide Special Programs counselors/instructors with techniques and information on appropriate uses of standardized tests and student assessment procedures;

(4) Seminars/workshops to enhance the knowledge of Special Programs project directors, instructors, and counselors in cost-effective uses of computers and other advanced educational technology;

(5) Seminars to enhance the skills of project staff who provide services to the physically disabled.

As mentioned above, the Secretary will consider applications for Training Program project on topics other than those given priority if the applicant addresses another significant training need in the local area being served by the Special Programs.

Available Funds

The Second Continuing Resolution, which expires September 30, 1983, authorizes $960,000 to be made available for new awards under the Training Program for Special Programs Staff and Leadership Personnel in Fiscal Year 1983. It is estimated that these funds could provide for approximately ten (10) training grant awards.

Application Forms

Application forms and program information packages are expected to be ready for mailing by May 19, 1983. Application packages may be obtained by contacting the Division of Student Services, Information Systems and Program Support Branch, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone 202–245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program

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information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary suggests that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further suggests that only the information required by the application form be submitted.

Applicable Regulations

Regulations applicable to this program are:

(a) Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations governing the Training Program for Special Programs Staff and Leadership Personnel (34 CFR Part 642) which were published in the **Federal Register** on April 23, 1982, 47 FR 17786–17790, and amended on June 8, 1982, 47 FR 24943; and the final priorities included in this notice.

FOR FURTHER INFORMATION CONTACT: John L. Hunt, Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202–245–2511.

(20 U.S.C. 1070d, 1070d–1d)

(Catalog of Federal Domestic Assistance Number: 84.103—Training Program for Special Programs Staff and Leadership Personnel)

Dated: May 13, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-13340 Filed 5-17-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Salt Deposits for Detailed Site Characterization, Recommendations on Issues To Be Addressed in Environmental Assessments and Site Characterizations Plans; Public Hearings on Proposed Nomination of Sites

AGENCY: Department of Energy.

ACTION: Notice of change to the period for written comments for public hearings in Louisiana, Mississippi, Texas, and Utah, and changes to the location of public hearings in texas.

SUMMARY: The U.S. Department of Energy has identified one or more potentially acceptable sites in salt deposits for a high-level radioactive waste repository and has announced public hearings on the proposed nomination of these sites for site characterization studies pursuant to Section 113 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) in the April 13, 1983, **Federal Register.** These sites are: the Richton and Cypress Creek salt domes in Mississipi, the Vacherie salt dome in Louisiana, and sites in Davis and Lavender Canyons in southeastern Utah. The U.S. Department of Energy announced identical hearings in the April 26, 1983, **Federal Register** for one or more potentially acceptable sites in Deaf Smith and Swisher counties in the Texas Panhandle. This notice identifies the revised locations for the Tulia and Austin, Texas hearings and an extension to the public comment period for all hearings. These hearings are to solicit: (1) Comments on the proposed nominations, (2) issues to be included in Environmental Assessments supporting the nomination of each site, and (3) issues to be addressed in the Site Characterization Plan.

Dates and Addresses

1. April 28, 1983, 4:00 p.m. to 10:00 p.m., Richton High School, Richton, Mississippi.

2. April 29, 1983, 2:00 p.m. to 9:00 p.m., Woolfolk State Office Building, 501 North West Street, Jackson, Mississippi.

3. May 3, 1983, 7:00 p.m. to 11:00 p.m., Monticello High School Auditorium, Monticello, Utah.

4. May 4, 1983, 2:00 p.m. to 9:00 p.m., Hotel Utah, Salt Lake City, Utah.

5. May 10, 1983, 2:00 p.m. to 9:00 p.m., Civic Center Auditorium, Minden, Louisiana.

6. May 12, 1983, 2:00 p.m. to 9:00 p.m., Auditorium, Jefferson Davis Campus, Gulf Coast Community College, Gulf Port, Mississippi.

7. May 16, 1983, 7:00 p.m. to 11:00 p.m., Hereford High School Auditorium, 200 Avenue F, Hereford, Texas.

8. May 17, 1983, 7:00 p.m. to 11:00 p.m., Tulia Junior High School Auditorium, 401 Northeast 3rd Street, Tulia, Texas.

9. May 18, 1983, 2:00 p.m. to 9:00 p.m., Austin Hilton Inn, 6000 Middle Fiskville Road, Austin, Texas.

Written Comments

The period for public comment has been extended to May 31, 1983. Parties may submit written comments on the proposed nomination; the issues to be addressed in the environmental Assessment; and the issues to be addressed in any Site Characterization Plan until this date. These comments will be added to the Hearing transcript and constitute the official Departmental record of the Hearing. Comments should be mailed to the address noted below.

FOR FURTHER INFORMATION CONTACT: For requests to speak at the hearings, and for further information contact: J. O. Neff, U.S. Department of Energy, NWTS Program Office, 505 King Avenue, Columbus, Ohio 43201, Telephone: (614) 424–5916.

Written comments should be submitted to: J. O. Neff, U.S. Department of Energy, NWTS Program Office, 505 King Avenue, Columbus, Ohio 43201, Telephone: (614) 424–5916.

For the Department of Energy, May 13, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83-13579 Filed 5-17-83; 11:59 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Compliance With National Environmental Policy Act Environmental Impact Statement and Scoping Meeting for the Edge Moor Power Station Conversion to Coal, Wilmington, Delaware

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of intent to prepare an environmental impact statement and notice of scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to initiate the preparation of the Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA), to analyze the potential impact associated with its proposal to issue a Notice of Effectiveness, of prohibition orders issued, to the Edge Moor Power Station of Delmarva Power in the State of Delaware. This action is taken under the authority granted the Secretary of the Department of Energy in the Energy Supply and Environmental Coordination Act (ESECA), as amended by the Omnibus Budget Reconcilation Act of 1981 (OBRA).

The purpose of the EIS is to determine the impacts likely to result from the conversion from residual fuel oil and natural gas, to coal of the Edge Moor facility stemming from the DOE action.

The public is invited to attend an open scoping meeting in Wilmington, Delaware to express it view on the substantive scope of the environmental document and on the environmental issues of concern which the document should address.

DATE OF HEARING: June 7, 1983.

Meeting Location: Carvel State Office Building, Conference Room B, Third Floor, 820 French Street, Wilmington, Delaware 19801.

Time: 1:00 p.m. and 6:00 p.m.

Notification to Attend and Submission of Comments: Those individuals planning to attend the scoping meeting should contact Mrs. Ellen Russell at the address printed below. Written comments or suggestions for consideration at the meeting, in connection with the preparation of this EIS, should be transmitted to Mrs. Russell by June 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, 1000 Indenpendence Avenue, SW., Room GS–093, Washington, D.C. 20585, (202) 252–1316

Elizebeth V. Jankus, Office of Environmental Compliance, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6374.

SUPPLEMENTARY INFORMATION: This site-specific environmental impact statement is the third tier in a three-tiered approach to environmental impact assessment, an approach which conforms to the intent of the National Environmental Policy Act (NEPA) in general, and to the Council on Environmental Quality Regulation on implementing NEPA procedures in particular (Section 1508.28).

The first tier in the impact assessment process associated with fuel conversion is the programmatic analysis. In April 1979, DOE issued a Final Programmatic Environmental Impact Statement for the Fuel Use Act (DOE/EIS–0038) assessing the major environmental impacts resulting from the implementation of the Powerplant and Industrial Fuel Use Act. Additional generic and historic information can be found in the Revised Programmatic Environmental Impact Statement for the Energy Supply and Environmental Coordination Act (FES 77–3) published by the Federal Energy Administration in May 1977.

The second tier of the impact analysis is the Northeast Regional Environmental Impact Statement (NEREIS) (DOE/EIS–0083–F) (October, 1982). This document assesses the potential for cumculative and interactive impacts among powerplants located in proximity to each other.

The NEREIS, and four technical documents which provide the data base for the regional analysis, emphasizes four major interrelated issues: (1) Air quality, (2) solid waste disposal, (3) fuel supply and transportation of fuel and solid waste, and (4) health effects. Detailed site-specific issues are not treated in the NEREIS; rather, generic issues that are cumulative or interactive on a regional basis are emphasized. When addressing issues in the site-specific documents where the use of generic information is most appropriate, the information is incorporated directly from the NEREIS.

The anlaysis in the Northeast Regional Environmental Impact Statement is based on an assessment of the impacts associated with four air pollution emission scenarios. This component of the analysis was conducted at the subregional level. The four subregions center around Boston, New York, Philadelphia, and Baltimore. In the Philadelphia subregion, the analysis in the NEREIS is based on the interaction of four generating stations with eight units with a potential for conversion. This analysis included the two Edge Moor units which are the subject of this site-specific EIS.

Nature of the Action: Under ESECA, as amended by the Omnibus Budget Reconciliation Act of 1981, if a prohibition order was pending under ESECA to a utility, the utility had the option of terminating the proceeding or electing to continue under the prohibition order process under ESECA. Continuation under the prohibition order process grants to the utility the status under the Clean Air Act of an existing emission source for that powerplant. DOE issuance of such orders may constitute a major Federal Action under NEPA, and thus requires the appropriate level of NEPA compliance.

Prohibition orders were issued to the Edge Moor Power Station on June 30, 1975, and Delmarva Power elected continued coverage under ESECA for Units 1 through 4 of the facility on November 2, 1981. The Edge Moor facility is currently burning coal in Units 3 and 4 under conditions defined by the State of Delaware's Department of Natural Resources and Environmental Control. Oil is burned in Units 1, 2, and 5. When the conversions of Units 3 and 4 to coal are complete, Delmarva Power plans to retire Units 1 and 2 and to continue to burn oil in Unit 5.

Purpose of the Environmental Review Process: The purpose of the Environmental Review Process is to assess the environmental impacts of Edge Moor Power Station's conversion of Units 3 and 4 from petroleum and natural gas to coal as a primary fuel. That assessment which complies with Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) will lead to the preparation of an appropriate NEPA document which addresses areas of concern. Currently, impacts related to air quality, water quality, solid waste disposal, transportation of fuel and solid waste, fuel availability, economic growth and health effects have been identified as issues of concern and will, therefore, be addressed in the analysis. Other impacts deemed to be potentially significant during the public scoping process will also be addressed.

The Energy Supply and Environemntal Coordination Act (ESECA) mandates that all facilities undergoing conversion meet all applicable environmental requirements. The EIS must also address the provisions of the Clean Air Act, as amended, and take into consideration the State Implementation Plan (SIP) as it applies to the units specified, and limits, other than the SIP, that are currently applied to specific units. The public is encouraged to recommend and identify other scenarios and impacts that should be assessed. Upon compeltion of the draft EIS, its availability will be announced in the **Federal Register** and comments will be solicited.

Purpose of Scoping Meeting: DOE desires to know what the public considers to be the major environmental issues associated with the potential conversion of the Edge Moor powerplant in Delaware from oil to coal. The meeting in Wilmington, Delaware will be held to receive comments on the structure of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives that should be considered.

The meeting is scheduled to begin at 1:00 p.m. and will continue until all persons wishing to speak have and an opportunity to do so. At that time the meeting will adjourn and reconvene at 6:00 p.m. to accommodate speakers unable to participate earlier.

If possible, participants are encouraged to submit to Mrs. Russell, by June 1, their intent to participate and copies of any written material. Although public participation is encouraged even without advance submission of written material, pre-registered speakers will precede all others. Attendees at the meeting will be asked to register, and this roster will be used to generate the mailing list for the draft document being prepared. The record of this meeting will remain open for submission of additional written material until 4:30 p.m., June 14, 1983.

Questions regarding the meeting should be addressed to Mrs. Russell at (202) 252–1316. Written comments should be submitted to Mrs. Russell at the above address.

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Issued in Washington, D.C. on May 13th, 1983.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-13465 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-025]

Bethlehem Steel Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Bethlehem Steel Corporation (Bethlehem), 8th & Eaton Avenue, Bethlehem, Pennsylvania 18106, filed an application on April 15, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Sparrows Point Plant in Sparrows Point, Maryland, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Bethlehen indicates that the volume of natural gas for which it requests certification is approximately 30,000 Mcf per day. This volume is estimated to displace the use of approximately 206,760 gallons of No. 6 fuel oil (1.0 percent sulfur) per day.

The eligible sellers are Enhanced Recovery Equipment Company, 25660 Saunders Road, Lake Forest, Illinois 60045; Mewborne Oil Company, P.O. Box 7098, Tyler, Texas 75711; and Exxon Company, U.S.A., P.O. Box 2180, Houston, Texas 77001. The Gas will be transported by Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gulf Transmission Company, 3805 W. Alabama Avenue, Houston, Texas 77027; Panhandle Eastern Pipeline Company, P.O. Box 1348, Kansas City, Missouri 64141; and Baltimore Gas & Electric Company, P.O. Box 1475, Baltimore, Maryland 21203.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Bethlehem and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13380 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-016]

Burlington Industries, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

On April 12, 1983, Burlington Industries, Inc. (Burlington), P.O. Box 21207, Greensboro, North Carolina 27420, filed with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at three of its manufacturing facilities in North Carolina, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). On May 3, 1983, Burlington filed an amendment concerning the volume of gas requested. More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 100 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its amended application, Burlington indicates that the volume of natural gas for which it requests certification is approximately 892,790 Mcf per year. This volume is estimated to displace the use of approximately 4,962,541 gallons of No. 6 fuel oil (2.1 percent sulfur) per year at the three North Carolina facilities. The facilities are: Greensboro Finishing Plant in Greensboro; Burlington House Finishing Plant in Burlington; and Hillcrest Veneer Plant in High Point.

The quantities at each location are subject to variation with changes in demand, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (thousand cubic feet) per year	Estimated oil (No. 6) displacement (gallons) 2.1 percent sulfur
1. Greensboro Finishing Plant, Greensboro, North Carolina	203,670	1,398,534
2. Burlington House Finishing Plant, Burlington, North Carolina	655,540	4,501,375
3. Hillcrest Veneer Plant, High Point, North Caroline	33,580	230,583
Total	892,790	4,962,541

The eligible seller is Oklahoma Natural Gas Company, Post Office Box 871, Tulsa, Oklahoma 74102. The gas will be transported by Transcontinental Gas Pipeline Corporation, Post Office Box 1396, Houston, Texas 77251; Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102; and Piedmont Natural Gas Company, Inc., Post Office Box 33068, Charlotte, North Carolina 28233.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any peron wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary, further notice will be given to Burlington and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13259 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-010]

Central Hudson Gas & Electric Corp.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Central Hudson Gas & Electric Corporation (CHGE), 284 South Avenue, Poughkeepsie, New York 12601, filed an application on April 4, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Danskammer Point Steam Electric Generating Station (Units 1 and 2) in Newburgh, New York, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, CHGE indicates that the volume of natural gas for which it requests certification is approximately 2,000,000 Mcf per year. This volume is estimated to displace the use of approximately 302,000 barrels of No. 6 fuel oil (1.0 percent sulfur) per year.

The eligible seller is New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghampton, New York 13902. The gas will be transported by Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; CHGE will serve as its own local distributor.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Paula A Daigneault, within (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that a oral presentation is necessary, further notice will be given to CHGE and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13258 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-012]

J. P. Stevens & Company, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

On April 12, 1983, J. P. Stevens & Company, Inc. (Stevens), P.O. Box 2850, Greenville, South Carolina 29602, filed with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at nine of its manufacturing facilities in North Carolina and South Carolina, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). On May 3, 1983, Stevens filed an amendment concerning the volume of gas requested. More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its amended application, Stevens indicates that the volume of natural gas for which it requests certification is approximately 520,125 Mcf per year. This volume is estimated to displace the use of approximately 3,569,524 gallons of No. 6 fuel oil (2.1 percent sulfur) per year at the Boger City Plant in Lincolnton, North Carolina, and at the following eight South Carolina facilities: White Horse Plant No. 1, White Horse Plant No. 2, Monaghan Plant, and Duncan Plant, all in Greenville; Chemical Plant No. 1 and Estes Plant in Piedmont; Slater Plant in Slater; and Appleton Plant in Anderson.

The quantities at each location are subject to variation with changes in demand, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (thousand cubic feet) per year	Estimated oil (No. 6) displacement (gallons) 2.1 percent sulfur
1. White Horse Plant No. 1, Greenville, South Carolina	29,200	200,507
2. White Horse Plant No. 2, Greenville, South Carolina	25,550	175,443
3. Monaghan Plant, Greenville, South Carolina	58,400	401,013
4. Boger City Plant Lincolnton, South Carolina	36,500	250,633
5. Chemical Plant No. 1, Piedmont, South Carolina	21,900	150,380
6. Slater Plant, Slater, South Carolina	91,250	625,583
7. Appleton Plant, Anderson, South Carolina	91,250	625,583
8. Estes Plant, Piedmont, South Caroline	56,575	388,482
9. Duncan Plant, Greenville, South Carolina	109,500	751,900
Total	520,125	3,569,524

The eligible seller is Oklahoma Natural Gas Company, Post Office Box 871, Tulsa, Oklahoma 74102. The gas will be transported by Transcontinental Gas Pipeline Corporation, Post Office Box 1396, Houston, Texas 77251; Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102; and Piedmont Natural Gas Company, Inc., Post Office Box 33068, Charlotte, North Carolina 28233.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit coments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why

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an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Stevens and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., May 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13237 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-007]

Stone Container Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On March 7, 1983, Stone Container Company (Stone), 50 East Sixth Street, Franklin, Ohio 45005, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 360,000 Mcf per year of natural gas which is expected to displace the use of approximately 2,470,000 gallons (58,860 barrels) of No. 6 fuel oil (1.0 percent sulfur) per year at its paper mill facility, in Franklin, Ohio.

The application was amended on April 27, 1983, to add two eligible sellers and a transporter; the volumes remain the same. The eligible sellers of the natural gas are Ohio Gas Marketing Corporation, 3933 Price Road, Newark, Ohio 43055; Exxon Company, U.S.A., P.O. Box 2810, Houston, Texas 77001; and Texas Gas Corporation, 3800 Frederica Street, P.O. Box 1160, Owensboro, Kentucky 42301. As amended, the gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, 1700 MacCorkle Avenue, S.E., Charleston, West virginia 25325; Texas Gas Transmission Corporation, 3888 Frederica Street, P.O. Box 1160, Owensboro, Kentucky 42301; and Cincinnati Gas and Electric Company, 139 East Fourth Street, Cincinnati, Ohio, a local distribution company.

Notice of that application was published in the **Federal Register** (48 FR 16101, April 14, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Stone's application for certification in accordance with 10 CFR Part 595, and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Stone's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 13236 Filed 5-17-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP83-275-000]

Arkansas Louisiana Gas Co.; a division of Arkla, Inc., Request Under Blanket Authorization

May 13, 1983.

Take notice that on April 14, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-275-000 a request pursuant to Section 157.205) of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate a sales tap on its jursidictional Line F-185 and related facilities costing an estimated $1,372,000 to permit direct sales of gas under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla proposes to construct and operate a sales tap along with separation and metering equipment and approximately 7.7 miles of 8-inch line to permit direct sales of gas to Texas Eastman Company which would use up to 30,000 Mcf per day on an interruptible basis for chemical and plastic manufacturing processes. Arkla indicates it would charge a price of $3.75 per Mcf plus or minus a cost of gas adjustment equal to the amount by which Arkla's weighted average cost of gas during the preceding billing month exceeds or is less than $2.5692 per Mcf all subject to adjustment for Btu content provided that the maximum price until March 31, 1984, would not exceed $3.40 per million Btu and the maximum price during the balance of 1984 would not exceed $3.75 per million Btu.

Arkla states that the impact of service to the new customer would be *de minimis* upon Arkla's annual deliveries. Arkla indicates that although itprojects no curtailments on its system in the foreseeable future, except on spike peaks in the winter time, the proposed sale to Texas Eastman would be made under a completely interruptible basis and accordingly would not effect Arkla's ability to maintain service to any of its firm customers. Arkla also indicates that it has filed to make a tariff change in its curtailment plan to place this particular type of interruptible customer in Priority 8, the lowest priority of Arkla's curtailment plan. However, by letter filed April 19, 1983, Arkla advised that if curtailments are needed, Arkla will curtail according to whichever curtailment plan is in effect.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13318 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-577-010]

Arkansas Power and Light Co.; Compliance Filing

May 13, 1983.

The filing Company submits the following:

Take notice that on May 6, 1983, Arkansas Power & Light Company (AP&L) submitted for filing revised rates and a refund report pursuant to the Commission's order issued April 6, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 31, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13319 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2880-003]

Broad River Electric Cooperative, Cherokee Falls Associates; Application for Transfer of License (Major)

May 13, 1983.

Take notice that Broad River Electric Cooperative, Licensee for the Cherokee Falls Project, and Cherokee Falls Associates, have requested that the project license be transferred jointly to the Broad River Electric Cooperative and Cherokee Falls Associates. The Cherokee Falls Project is located on the Broad River in Cherokee County, South Carolina. The project proposed installed capacity is 3,500 kW.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before June 24, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13320 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-296-000]

Columbia Gulf Transmission Co. and Transcontinental Gas Pipe Line Corp.; Application

May 13, 1983.

Take notice that on April 28, 1983, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-296-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Columbia Gas Transmission Corporation (Columbia Gas) has acquired a portion of gas reserves underlying High Island Block A-446 and Transco has acquired gas reserves in West Cameron Block 624, all offshore Louisiana. Pursuant to an exchange of transportation service agreement between Applicants dated February 12, 1983, Columbia Gulf and Transco have agreed to exchange natural gas transportation services on a best-efforts and thermally equivalent basis. It is stated that Transco would receive quantities of Columbia Gas Transmission Corporation's natural gas at an existing platform located in High Island Block A-446, offshore Louisiana, and provide transportation to an existing interconnection between the facilities belonging to Columbia Gulf and Transco in High Island Block A-446. In an equivalent exchange service, Columbia Gulf would receive Transco's gas at a platform in West Cameron Block 624 and transport such gas to an existing interconnection in the Southwest Leg of Columbia Gulf's Blue Water Project in West Cameron Block 624, offshore Louisiana; it is asserted. The benefits to be derived from this exchange of transportation services would be substantially equal and mutually beneficial, it is stated. Therefore, it is explained that no transportation charge would be made by either Columbia Gulf or Transco.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, DC. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13321 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-296-000]

Houston Pipe Line Co., Application

May 13, 1983.

Take notice that on April 28, 1983, Houston Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP83-296-000 an application pursuant to Section 311(a) (2) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently engaged in the transportation of natural gas on behalf of Northern pursuant to a transportation agreement dated April 25, 1979. It is stated that service under this agreement commenced July 25, 1979, for an initial term of two years under the self-implementing provisions of

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§ 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing July 25, 1981, pursuant to § 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Applicant requests the Commission to authorize a continuation of the transportation arrangement for a period of two years commencing July 25, 1983, and ending July 24, 1985.

Applicant proposes to transport up to 150,000 Mcf of gas per day for Northern or such additional daily volumes which Applicant determines that its operating conditions shall reasonably permit. Applicant states that it would transport Northern's volumes from a point or points located at one or more of: (i) The existing interconnections of Applicant's and Texas Eastern Transmission Corporation's pipeline facilities near Mont Belvieu, Chambers County, Texas, and near Mauriceville, Orange County, Texas, (ii) the existing interconnection of Applicant's and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s pipeline facilities near the Sabine river, Newton County, Texas, (iii) the existing interconnection of Applicant's and Black Marlin Pipeline Company's pipeline facilities near Texas City, Galveston County, Texas, (iv) the existing interconnections of Applicant's and United Gas Pipe Line Company's (United) pipeline facilities near Bayside, Refugio County, Texas, and near Ingleside, San Patricio County, Texas, and (v) the existing interconnections of Applicant's and Transcontinental Gas Pipe Line Corporation's pipeline facilities near Loeb, Hardin County, Texas, near Fulshear, Fort Bend County, Texas, and in the Bammel Field Area, Harris County, Texas. A thermally equivalent quantity of gas so delivered, less applicable fuel if any, would be redelivered by Applicant for Northern's account to either or both Oasis Pipe Line Company (Oasis) and United at a point or points located at: (i) The existing interconnection of Applicant's and Oasis' pipeline facilities near Katy, Waller County, Texas, and (ii) the existing interconnection of Applicant's and United's pipeline facilities located near Bayside, Refugio County, Texas. Northern has agreed to pay Houston 6.0 cents per million Btu of gas delivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13322 Filed 5-17-83; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CP79-332-002]

Natural Gas Pipeline Co. of America; Petition To Amend

May 13, 1983.

Take notice that on May 11, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-332-002 a petition to amend authorization pursuant to Section 3 of the Natural Gas Act granted to Natural in Docket Nos. CP79-332 and CP79-332-001 by order issued April 24, 1981, in *Northwest Alaskan Pipeline Company, et al.*, Docket No. CP78-123, *et al.*, by authorizing Natural to continue to import natural gas from Canada purchased at a change in price, as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Natural states that Ordering Paragraph (A) of the order of April 24, 1981, authorizes Natural to import up to 75,000 Mcf of natural gas per day purchased from ProGas Limited "at an import price of $4.94 per MMBtu". Natural states that on April 11, 1983 the Government of Canada lowered its border price from $4.94 per MMBtu to $4.40 per MMBtu.

Natural requests that Ordering Paragraph (A) of the Commission's April 24, 1981, order be amended to read "at an import price of up to $4.40 per MMBtu". Natural avers that such amendment would clarify its authority to purchase Canadian natural gas from ProGas at the current border price of $4.40 per MMBtu as well as at any lesser price implemented by the Canadian government.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or bo participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13323 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-220-005]

Northwest Pipeline Corporation; Petition To Amend

May 13, 1983.

Take notice that on April 22, 1983, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP78-220-005 a petition to amend the order issued October 4, 1978, as amended, in Docket No. CP78-220 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continued transportation and exchange of natural gas with Rocky Mountain Natural Gas Company (Rocky Mountain) pursuant to the terms of three amendments to their gas transportation exchange agreement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northwest states that by order issued on October 4, 1978, as amended, it was authorized to exchange up to 10,000 Mcf of natural gas per day with Rocky Mountain and RMNG Gathering Company (RMNG) pursuant to the terms of an exchange agreement dated January 27, 1978, as amended. The gas subject to the exchange is on acreage which Northwest owns or controls and is delivered by Northwest to Rocky Mountain at the intersection of Northwest's Great Divide Gathering System facilities and Rocky Mountain's Big Hole pipeline in Moffat County, Colorado, it is stated. RMNG then redelivers thermally equivalent volumes to Northwest at the Bar-X exchange meter station which is located at the intersection of RMNG's South Canyon gathering system facilities and Northwest's mainline facilities in Mesa County, Colorado, it is further stated. Rocky Mountain currently charges Northwest 14.3 cents per Mcf for providing the described transportation and exchange service, it is asserted.

Northwest requests herein amendment of its exchange service authorization pursuant to the terms of three amendments to the exchange agreement as follows:

(1) The amendment dated June 29, 1979, provides for an additional redelivery point from Rocky Mountain to Northwest to be located at an existing point of interconnection between the facilities of Rocky Mountain and Northwest in Rio Blanco County, Colorado (Piceance delivery point);

(2) The amendment dated October 30, 1979, requires Northwest to reimburse Rocky Mountain and RMNG for actual out-of-pocket costs of providing taps on Rocky Mountain's and RMNG's facilities which enable them to receive natural gas for the account of Northwest; and,

(3) The amendment dated April 15, 1982, provides for the addition of 1,600 acres to the Great Divide area covered by the exchange agreement dated January 27, 1978.

Northwest further requests blanket authorization to include additional acreage subject to the certified exchange as it becomes available in the Great Divide area. Accordingly, Northwest proposes to file any such changes between Northwest and Rocky Mountain or any other parties as part of its required annual tariff filing.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13324 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-297-000]

Oasis Pipe Line Co.; Application

May 13, 1983.

Take notice that on April 28, 1983; Oasis Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP83-297-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently engaged in the transportation of natural gas on behalf of Northern pursuant to a transportation agreement dated April 25, 1979. It is stated that service under this agreement commenced July 25, 1979, for an initial term of two years under the self-implementing provisions of § 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing July 25, 1981, pursuant to § 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Applicant requests the Commission authorize a continuation of the transportation arrangement for a period of two years commencing July 25, 1983, and ending July 24, 1985.

Applicant proposes to transport up to 150,000 Mcf of gas per day for Northern or such additional daily volumes which Applicant determines that its operating conditions shall reasonably permit. Applicant states that it would transport Northern's volumes delivered to Applicant by Northern at the existing interconnection of Applicant's and Houston Pipe Line Company's pipeline facilities located near Katy, Waller County, Texas, under the terms and conditions of a gas transportation agreement dated April 25, 1979, as amended March 28, 1983. A thermally equivalent quantity of gas so delivered, less Northern's *pro rata* share of compressor fuel on Applicant's system, would be redelivered by Applicant to Northern at the existing interconnection of Applicant's and Northern's pipeline facilities located near Ft. Stockton, Pecos County, Texas. It is stated that Northern has agreed to pay Applicant 12.39 cents per Million Btu of gas delivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13325 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-293-000]

Tennessee Gas Pipeline Co., A Division of Tenneco Inc.;

May 13, 1983.

Take notice that on April 27, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-293-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its Hunt sales delivery meter station located in Kanawha County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon its Hunt sales meter station which serves as delivery point to Consolidated Gas Supply Corporation (Consolidated). Consolidated has received authorization to abandon the facilities into which the Hunt sales meter station connects; hence, there is no further need for the station. Applicant states that it would continue to deliver the related volumes of gas to Consolidated at the Cornwall delivery point under Applicant's Rate Schedule CD-3.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be

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taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13328 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-294-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

May 13, 1983.

Take notice that on April 27, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-294-000 an application pursuant to section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the transportation of up to 25,000 Mcf of natural gas per day for Central Hudson Gas & Electric Corporation (Central Hudson) for a term of sixty consecutive days from the date of initial deliveries, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport daily volumes of up to 25,000 Mcf of natural gas to Central Hudson for a 60-day term commencing on the date of initial deliveries to enable it to reduce the use of fuel oil in the generation of electric energy at its electric generation stations. Applicant states that the gas to be transported would be purchased by Central Hudson from New York State Electric & Gas Corporation (NYSEG) and made available for transportation at Applicant's existing Lockport sales meter station delivery point to NYSEG in Niagara County, New York. Applicant states that it would redeliver equivalent quantities to Central Hudson at Applicant's existing Cedar Hills sales meter station delivery point to Central Hudson in Albany County, New York. Applicant states that the gas would be transported only to the extent its operating conditions and available capacity permit.

Applicant proposes to charge Central Hudson the rate contained in Applicant's Rate Schedule IT which is currently 21.32 cents per Mcf.

Applicant states that the subject gas would be used by Central Hudson solely to displace fuel oil it would otherwise use in its electric generating stations and that the source of the gas to be sold in NYSEG's general system supply which NYSEG purchases from Applicant and which, it is indicated, is surplus to NYSEG's market requirements.

Applicant further states that on April 4, 1983, Central Hudson filed for a certificate of eligible use from the Economic Regulatory Administration in ERA Docket No. 83-CERT-010.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13327 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30227; PH-FRL 2364-8]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act FIFRA), as amended.

DATE: Comment by June 17, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30227] and the file symbol, should be submitted to: Production Manager (PM), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 7969-AG. Applicant: BASF Wyandotte Corp., 100 Cherry Hill Road., PO Box 181, Parsippany, NJ 07054. Product name: Campogran™ B Seed Treatment Fungicide. Fungicide.

Active ingredient: *N*-cyclohexyl-*N*methoxy-2,5-dimethyl-3-furancarboxamide 50.9%. Proposed classification/Use: General. A seed treatment for cottonseed. (Product Manager (PM) 21-Henry Jacoby (703-557-1900).)

2. File Symbol: 39541-EG. Applicant: Montedison USA, Inc., 1114 Avenue of the Americas, New York, NY 10036. Product name: Galben™ 25 WP Fungicide. Fungicide. Active ingredient: *N*-(2,6-dimethylphenyl)-*N*-(phenylacetyl)-DL-alanine methyl ester 25%. Proposed classification/Use: General. For the control of pythium on turf grasses. (PM 21-Henry Jacoby (703-557-1900).)

3. File Symbol: 3125-GUA. Applicant: Mobay Chemical Corp., PO Box 4913, Hawthorn Road., Kansas City, MO 64120. Product name: Baytan™ 150 FS Seed Treatment Fungicide. Fungicide. Active ingredient: Beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol 13.8%. Proposed classification/Use: General. For the control of certain diseases on small grains and corn. Type registration: Conditional. (PM 21-Henry Jacoby (703-557-1900).)

4. File Symbol: 48031-R. Applicant: International Flavors and Fragrances, Inc., 52 W. 47th St., New York, NY 10019. Product name: Summer Fantasy Fragrance/Inspect Repellant Formulation for Candles. Insecticide. Active ingredient: 2-methyl heptenone—10.0%, Coumarin 2%, Indde .2%. Proposed classification/Use: General. For use as insect repellant against mosquitoes and other biting insects. Type registration: Conditional. (PM 17-Timothy Gardner (703-557-2690).)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: May 10, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-13300 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59122B/59123A; TSH-FRL 2365-1]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-42, and TM-83-43, applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-42

Date of Receipt: March 31, 1983.

Notice of Receipt: April 8, 1983 (48 FR 15323).

Applicant: Ethyl Corporation.

Chemical: Di (mixed alkyl) magnesium (Generic).

Use:

Polymerization catalyst.

Production Volume: Confidential.

Number of Customers: 1.

Process Information: Confidential.

Test Marketing Exemption Period: 1 year.

Commencing on: (Insert signature date.)

Risk Assessment: Overall concerns for health and environmental effects are low. Worker exposure to the new substance will be extremely low since manufacture will be in a closed system under nitrogen, and safe handling procedures are well-established for production, shipment and use of this class of chemicals to prevent worker exposure. Due to its reactivity, the test market substance is not available for environmental release.

Public Comments: None.

TME 83-43

Date of Receipt: April 1, 1983.

Notice of Receipt: April 15, 1983 (48 FR 16330).

Applicant: Confidential.

Chemical: Mixed polyalkoxy alkyl siloxanes and silsesquioxanes (Generic).

Use: Functional fluid additive.

Production Volume: Confidential.

Worker Exposure: Potential exposure will be by the dermal, inhalation and ocular routes. At the manufacturing site, a maximum of 12 workers will be potentially exposed for 2 hours/day for no more than 8 days. During processing during customer evaluation a maximum of 8 workers will be potentially exposed up to 6 hours/day for no more than 3 days.

Test Marketing Exemption Period: 1 year.

Commencing on: (Insert signature date.)

Risk Assessment: The Agency identified no significant health or environmental concerns. Human exposure and environmental release during manufacture, processing, and use,

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under the conditions specified in the application are expected to be low.

Public Comments: None.

The agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: May 9, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-13239 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL 2365-2]

Science Advisory Board; High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in Conference Room 3906/3908, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., on June 2-3, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to continue the review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the **Federal Register,** Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which is the fifth in a series of meetings on the proposed rules, will include discussions of risk assessment, geochemistry and groundwater transport, environmental pathways and qualitative assurance requirements. The recent report of the National Research Council's Waste Isolation Systems Panel (WISP) will also be discussed, and the Subcommittee will be briefed on the public comments received by the Agency on the proposed rules.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meeting. Written comments will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to May 27, 1983, in order to be placed on the agenda.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call Mrs. Dorothy M. Clark at (202) 382-2552, so that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building at the West Tower entrance.

Dated: May 9, 1983.

Terry F. Yosie,

Staff Director Science Advisory Board.

[FR Doc. 83-13207 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50594; PH-FRL 2363-3]

Pesticides; Issuance of Experimental Use Permits; American Cyanamid Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

241-EUP-96. Extension. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 5,000 pounds of the herbicide pendimethalin on cotton and soybeans to evaluate the control of weeds. A total of 5,000 acres are involved; the program is authorized only in the States of Arkansas, Illinois, Indiana, Mississippi, and Ohio. The experimental use permit is effective from April 5, 1983 to April 5, 1984. Permanent tolerances for residues of the active ingredient in or on cottonseed and soybeans have been established (40 CFR 180.361). (Robert Taylor, PM 25, Rm. 253, CM#2, (703-557-1800))

49548-EUP-1. Issuance. Bend Research, Inc., 64550 Research Road, Bend, OR 97701. This experimental use permit allows the use of nine pounds of the pheromones (Z,Z)-7,11-hexadecadien-1-ol-acetate and (Z,E)-7,11-hexadecadien-1-ol-acetate on cotton to evaluate the control of the pink bollworm. A total of 700 acres are involved; the program is authorized only in the State of Arizona. The experimental use permit is effective from May 1, 1983 to May 1, 1984. An exemption from the requirement of a tolerance for residues of the active ingredients in or on cottonseed has been established (40 CFR 180.1043). (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

464-EUP-78. Issuance. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 245 pounds of the herbicide methyl 2-[4-[(3-chloro-5-(trifluoromethyl)-2-pyridinyl)oxy]phenoxy]propanoate on cotton and soybeans to evaluate the control of weeds. A total of 490 acres are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, South Caroina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from March 15, 1983 to March 15, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 253, CM#2, (703-557-1800))

279-EUP-88. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 20,000 pounds of the insecticide (±) alpha-cyano-(3-phenoxyphenyl)-methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-carboxylate on cotton to evaluate the control of various insects. A total of 50,000 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from June 7, 1983 to March 5, 1984. A temporary tolerance for residues of the active ingredient in or on cottonseed oil has been established. A food additive regulation for residues of the active ingredient in or on cottonseed oil has been established (21 CFR 193.87). (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

8730-EUP-13. Issuance. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 2.75 pounds of the pheromone 9-dodecenyl acetate in forests and residential areas to evaluate the control of adult western pineshoot borer moths. A total of 125 acres are involved; the program is authorized only in the States of Idaho and Montana. The experimental use permit is effective from April 22, 1983 to April 22, 1984. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

10182-EUP-19. Extension. ICI Americas Inc., New Murphy Road and Concord Pike, Wilmington, DE 19897. This experimental use permit allows the use of 23,940 additional pounds (900 pounds originally authorized) of the insecticide (±)alpha-cyano-[3-phenoxyphenyl)-methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl]-2,2-dimethylcyclo-propanecarboxylate on cotton to evaluate the control of various insects. A total of 57,000 acres are involved. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

10182-EUP-25. Extension. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, Delaware 19897. This experimental use permit allows the use of 23,940 additional pounds (9,875 pounds originally authorized) of the insecticide (±) alpha-cyano-(3-phenoxy-phenyl) methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropane on cotton to evaluate the control of various insects. A total of 57,000 acres are involved. This program and the one above are authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. Both permits are effective from March 5, 1983 to March 5, 1984. Temporary tolerances for residues of the active ingredient in or on cottonseed have been established. A food additive regulation for residues of the active ingredient in or on cottonseed oil has been established (21 CFR 193.87). The permits will use the same active ingredient but different formulations. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

618-EUP-10. Extension. Merck and Company, Inc., P.O. Box 2000, Rahway, NJ 07065. This experimental use permit allows the use of 178.13 grams of the insecticide mixture (5-0-demethyl-avermectin A_1a) and (5-0-demethyl)-25-de-(1-methylpropyl)-25-(1-methylethyl)avermectin A_1a) on non-grazed and non-croplands to evaluate the control of the imported fire ant. A total of 4,750 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit is effective from March 23, 1983 to March 23, 1984. (George LaRocca, PM 15, Rm. 204, CM#2, (703-557-2400))

524-EUP-30. Extension. Monsanto Company, 1101 17th St., NW., Washington, D.C. 20036. This experimental use permit allows the use of 2,020 pounds of the herbicide butachlor on rice to evaluate the control of weeds. A total of 800 acres are involved; the program is authorized only in the States of Arkansas, Louisiana, Mississippi, and Texas and the Territory of Puerto Rico. The experimental use permit is effective from April 23, 1983 to April 23, 1984. Temporary tolerances for residues of the active ingredient in or on rice and rice straw have been established. A feed additive regulation for residues of the active ingredient in or on rice hulls and rice bran has been established (21 CFR 561.55). (Report Taylor, PM 25, Rm. 253, CM#2, (703-557-1800))

201-EUP-74. Issuance. Shell Oil Company, Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036. This experimental use permit allows the use of 175 pounds of the insecticide cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate on hardwood (deciduous) forests to evaluate the control of the gypsy moth. A total of 1,500 acres are involved; the program is authorized only in the State of Pennsylvania. The experimental use permit is effective from May 1, 1983 to May 1, 1984. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

47890-EUP-1. Extension. U.S. Department of Agriculture, 12th and Independence, SW., Washington, D.C., 20013. This experimental use permit allows the use of 0.1575 gram of the biological insecticide polyhedral inclusion bodies of the nuclear polyhedrosis virus of *N. lecontei* on forests to evaluate the control of the red-headed pine sawfly. A total of 1,650 acres are involved; the program is authorized only in the States of Florida, Michigan, Minnesota, and Wisconsin. The experimental use permit is effective from July 22, 1983 to July 22, 1984. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: May 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-13090 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2821/T411; PH-FRL 2363-1]

Pesticides; Triforine; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide triforine in or on the raw agricultural commodity almond nutmeats. This temporary tolerance was requested by FMC Corporation.

DATE: This temporary tolerance expires March 1, 1985.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: FMC Corporation, Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103, has requested, in pesticide petition PP 3G2821 the establishment of a temporary tolerance for residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)] bis [formamide]) in or on the raw agricultural commodity almond nutmeats at 0.02 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 279-EUP-96 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in

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accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. FMC Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 1, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked of if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Dated: May 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-13004 Filed 5-17-83; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission herby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 40573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–4106.

Title: Puerto Rico Ports Authority and Antilles Shipping Terminal Lease Agreement.

Parties: Puerto Rico Ports Authority (PRPA)/Antilles Shipping (Antilles).

Synopsis: Agreement No. T–4106 provides for the lease by PRPA to Antilles for the exclusive use of certain premises and the preferential use of certain other premises at Pier 6, San Juan. Antilles is to pay PRPA flat monthly rentals for each of the areas and minimum dockage and wharfage charges. The term of the agreement is 3 years.

Filing party: Nestor D. Ramirez Cuebas, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Agreement No. 6190–36.

Title: United States Atlantic & Gulf/Venezuela Conference.

Parties: Compania Anonima Venezolana De Navigacion (Venezuelan Line) and Delta Steamship Lines, Inc.

Synopsis: The basic agreement would be amended to (1) increase, from $25,000 to $50,000, the security deposit which each member is required to maintain as security for the fulfillment of its financial obligations under the agreement and, (2) require the countersignature of a member line of the Conference in addition to the signature of the Conference Chairman or Vice Chairman before the security deposit of a member line could be drawn upon.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

By Order of the Federal Maritime Commission.

Dated: May 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-13250 Filed 5-17-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Glasgow Bancshares Corporation,* Glasgow, Kentucky; to become a bank holding company by acquiring 84 percent of the voting shares of New Farmers National Bank, Glasgow, Kentucky. This application may be inspected at the offices of the Bord of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than June 10, 1983.

2. *Holcomb Bancshares, Inc.,* Ellsworth, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Holcomb, Holcomb, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13281 Filed 5-17-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Board of Scientific Counselors, NIMH; Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committee:

Designation: Board of Scientific Counselors, NIMH.

Purpose: The Committee shall advise the Secretary, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health on the NIMH Intramural Research Program through periodic visits to the laboratories. Its purpose is to assess the research in progress and to evaluate the productivity and performance of staff scientists.

Expiration Date: Authority for the Board of Scientific Counselors, MIMH, will expires January 4, 1985, unless the Secretary formally determines that continuance is in the public interest.

Dated: May 10, 1983.

William Mayer,

Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-13283 Filed 5-17-83; 8:45 am]

BILLING CODE 4160-20-M

Health Resources and Services Administration

Availability of Funds for Home Health Services and Training

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that funds are available for grants and loans for the development and expansion of home health programs and services. Public Law (Pub. L.) 98–8, The Emergency Expenditures to Meet National Needs Act of 1983, signed on March 24, 1983, appropriates $5 million under section 339 of the Public Health Service (PHS) Act (42 U.S.C. 255) to provide home health services and for the training of paraprofessionals to provide home health services. This notice contains information of interest to prospective applicants for such funding.

DATE: To receive consideration as being on time, mailed applications must be postmarked on or prior to June 30, 1983 and received in time for processing. Hand delivered applications must be received by COB, June 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. Dame, Director, Special Programs Branch, Division of Primary Care Services, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A–30, Rockville, Maryland 20857. Telephone 301–443–2270.

SUPPLEMENTARY INFORMATION: The Orphan Drug Act (Pub. L. 97–414), passed on January 1, 1983, revised title III of the PHS Act (the Act) to establish the Home Health Services program. Section 339(a) of the Act provides that the Secretary may make grants to public and private nonprofit entities to meet the initial costs of establishing and operating home health programs, and may make loans to proprietary entities for these purposes. Grants and loans may also be awarded to existing entities for expanding home health services to a new geographic service area. Under section 339(b) of the Act, the Secretary may award grants to public and private entities for programs to train paraprofessionals, including homemaker home health aides, to provide home health services.

HRSA has decided to allocate the $5 million provide by Pub. L. 98–8 for carrying out section 339 as follows: $4 million will be awarded as grants and loans under section 339(a) of the Act for expanding the availability of home health care services, including services in rural towns and villages, and $1 million will be awarded as grant under section 339(b) of the Act for training programs for home health paraprofessionals.

In making loans or awarding grants for the development of new home health service programs or the expansion of existing home health service programs into new areas, HRSA's present intention is to give preference to those applicants which intend to provide services in areas where there is a high percentage of the population composed of individuals who are elderly (persons over 65 years of age), medically indigent (persons at or below the HHS poverty income guidelines, see 48 FR 7010, February 17,1983), or disabled (those disabled persons receiving assistance under old age survivors disability insurance and supplemental security income programs). HRSA also intends to give special consideration to those applicants which propose to provide services in areas with inadequate means of transportation to obtain necessary health services.

HRSA intends to give special consideration in the award of grants for training paraprofessionals (including homemaker home health aides) to applicants which propose to train persons over 50 years of age and which propose to provide a program to train paraprofessionals for an entire State or a geographic area of at least one million persons.

Applicants should be aware that HRSA intends to accept applications for section 339(a) support only as follows: Applications for grants and loans to provide home health services under section 339(a) will be accepted from entities which are home health agencies, that is, entities which are recognized as providers of home health services by the Health Care Financing Administration (HCFA) and are eligible for reimbursement under the Medicare program, and from entities which intend to become home health agencies. Applications will also be accepted from entitites which are at the present time directly providing or can directly provide one or more of the kinds of services listed in section 1861(m) of the Social Security Act and which propose to provide home health services to an area under a co-applicant arrangement with a home health agency.

Application may be made by completing the standard PHS Grant Application (form PHS–5161) for services grants and loans and for training grants. This application form calls for a program narrative giving a full description of the proposed project, including current and proposed services, a description of the service area and a budget justification. A competitive review of applications will be the basis for selecting successful proposals for grants and loans.

Grants and Loans for Home Health Service Projects

Applicants applying for grants and loans for home health services projects may wish to consider including the following information in the narrative: a time-phased staffing plan, information on their status as a HCFA provider, evidence of community support and compliance with State and local certificate of need laws, proposed fee structure, and other information showing the need of the area for home health services.

A description of a plan, if any, to train paraprofessionals, including homemaker home health aides, to provide services

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as described in section 339(b)(2)(C) would be helpful in reviewing applications.

Grants For Training Projects

Applicants for training grants may wish to consider including in their application a training plan and curriculum, a description of the need in the area for the persons to be trained, the number of persons to be trained, and plans or arrangements, if any, for the utilization of trainees.

Regulations are now being developed to implement fully the home health services program. However, since there is such a short period of time available to implement and fund this program, applicants are advised to begin developing applications for submission by June 30, 1983, based on the guidelines of this notice.

Consultation, technical assistance and additional information regarding applying for these funds are available from the appropriate HHS regional offices. Curriculum content information may be obtained in the document entitled *"A Model Curriculum and Teaching Guide for the Instruction of the Homemaker-Home Health Aide,* as published by the National Home Caring Council, 235 Park Avenue South, New York, N.Y., 10003, Telephone 212–674–4990.

(The Home Health program is listed as No. *13.889* in the OMB Catalog of Federal Domestic Assistance.)

Dated: May 16, 1983.

John Kelso,

Acting Administrator.

[FR Doc. 83-13404 Filed 5-17-83; 8:45 am]

BILLING CODE 4160-16-M

Office of the Secretary

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Office of the Assistant Secretary for Personnel Administration, Office of the Secretary, HHS.

ACTION: Notice of proposed new routine uses for existing system of record.

SUMMARY: The Department is giving notice that it intends to add two new routine uses to the following Privacy Act record system notice: 09–90–0017—Pay, Leave, and Attendance Records, HHS/OS/ASPER. Records in this system of records are used to insure that each employee receives the proper pay and allowances; that proper deductions and authorized allotments are made from employees' pay; that employees are credited and charged with the proper amount of sick and annual leave; and to enforce employee responsibilities through such actions as income tax levies, garnishments for child support/alimony, and deductions for the payment of debts owed the United States. We invite public comment on these new routine use disclosures (numbers 18 and 19 in notice below).

EFFECTIVE DATE: This amendment shall become effective without further notice June 17, 1983, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Comments should be address to: Director, Division of Policy, Room 2316 Switzer Building, 300 C Street, S.W., Washington D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Jim Wormley, OASPER, Division of Policy, telephone: 202–245–1984.

SUPPLEMENTARY INFORMATION: The U.S. Department of Labor (DOL), Office of the Inspector General, has asked the U.S. Department of Halth and Human Services (HHS) for certain information applicable to every HHS employee that was paid during pay periods ending between October 3, 1981 and October 2, 1982 inclusive. The DOL has made the request because they are conducting, under the auspices of the President's Council on Integrity and Efficiency, a computerized crossmatch to identify HHS employees who have drawn unemployment benefits in violation of unemployment insurance laws. The data items which DOL is requesting are as follows: Social Security Number, employee name, agency code, agency sub-element/Division code, geographic location code, record length, pay period beginning date, pay period ending date, number of hours/days worked during the pay period, and gross pay. With two exceptions, Social Security account number and number of hours/days worked per pay period, the information requested by DOL is public information under 5 CFR 294.702. The purpose of the DOL computerized matching program is to reduce fraud and abuse in State unemployment compensation programs. HHS is serving as a matching source agency in this DOL anti-fraud matching program. As such, HHS has made the determinations required for source agencies by the Office of Management and Budget Guidelines for the Conduct of Matching Program.

The U.S. Department of Agriculture (USDA), Office of the Inspector General, has asked HHS for certain wage information on a single HHS employee. The information, which will be used to confirm eligibility, is needed in conjunction with a USDA audit of the Food Stamp Program in Fulton County, Goergia. A purpose of this audit, and all audits of loan and benefit programs performed by USDA and other Federal Agencies, is to reduce fraud and abuse in the administration of these programs.

The propose of this notice is to establish the routine uses required for the Privacy Act record system from which information will be provided to the DOL and the USDA (numbers 18 and 19 in the notice below) under the circumstances described above and to other Federal agencies under similar circumstances in the future.

The Privacy Act allows disclosure of information under a routine use for purposes that are compatible with the purposes for which the information was collected. Disclosure under these proposed routine uses will assist Federal agencies in their efforts to eliminate fraud, waste and abuse in loan and benefit programs they administer and in State and local programs over which they have cognizance. This goal is compatible with the OASPER functional responsibility for oversight of HHS employees' conduct, particularly with the requirement that employees conduct themselves in a proper manner, not obtain financial benefits in a fradulent manner, and pay their just obligations (see the HHS Standards of Conduct regulations in 45 Code of Federal Regulations Part 735). This responsibility is appropriately achieved through the use of this record system which is used to enforce these employee responsibilities through actions such as income tax levies, garnishments for child support/alimony, and deductions for the payment of debts owed the United States

Routine use number 17 was inadvertently omitted from the last publication of this notice in **Federal Register,** Volume 47, Number 198, October 13, 1982, pages 45759–45761. That routine use was added to this record system notice in **Federal Register,** Volume 47, Number 70, April 12, 1982, pages 15647–15650. This notice also updates the organizations and addresses of Payroll Liaison Officers in Appendix 1 of the record system notice.

A notice will be issued annually informing employees that these records may be disclosed to Federal agencies for the purpose of conducting computer matching programs designed to eliminate fraud, waste and abuse in loan and benefit programs.

May 11, 1983.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

SYSTEM NAME:

Pay, Leave and Attendance Records, HHS/OS/ASPER.

SECURITY CLASSIFICATION

None.

SYSTEM LOCATION:

Pay System's Division, Department of Health and Human Services, 330 Independence Avenue SW., Washington, D.C. 20201.

Payroll Liaison Representatives. See Appendix 1, Timekeepers in organizational units serviced by Payroll Liaison Representatives shown in Appendix 1. Personnel offices shown in HHS System 09900006, Applicants for Employment Records, Appendix 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All paid employees of the Department of Health and Human Services including PHS Commissioned Corps Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to pay and leave determinations made about each employee of the Department of Health and Human Services. In addition to the name of the employee, the system includes information such as the employee's date of birth, social security number, home address, grade or rank, employing organization, timekeeper number, salary, Civil Service retirement fund contributions, pay plan, number of hours worked, annual and sick leave accrual rate and usage, annual and sick leave balance, FICA withholdings, Federal, state and city tax withholdings, Federal Employees Governmental Life Insurance withholdings, Federal Employees Health Benefits withholdings, garnishment documents, savings allotments, union and management association dues withholdings allotments, savings bonds allotments, and Combined Federal Campaign allotments; for Commissioned Corps Personnel, information such as the following is included: years of service, payroll number, base pay, incentive pay, hazardous pay, allowances and Servicemen's Group Life Insurance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5501 et seq., 5525 et seq., 6301 et seq.; 42 U.S.C. 201 et seq., and Pub. L. 90–83.

PURPOSE(S):

Records in this system are used to insure that each employee receives the proper pay and allowances; that proper reductions and authorized allotments are made from employees' pay; and that employees are credited and charged with the proper amount of sick and annual leave. These records are maintained in each component of the Department. See also "Retrievability" below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records is used or may be used.

(1) To prepare W–2 Forms to submit to the Internal Revenue Service and to disclose to state and local government agencies having taxing authority pertinent records relating to employees, including name, home address, social security number (in accordance with Section 7 of Pub. L. 93–579), earned income, and amount of taxes withheld.

(2) In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(3) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(4) In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(5) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(6) Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 of 5 U.S.C. Chapter 71 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization.

(7) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(8) By the Office of Personnel Management, Merit Systems Protection Board (including its Office of the Special Counsel), Equal Employment Opportunity Commission, and the Federal Labor Relations Authority (including the General Counsel of the Authority and the Federal Service Impasses Panel) in carrying out their functions.

(9) By the Department of Labor to make compensation determination in connection with a claim filed by the employee for compensation on account of a job-connected injury or disease.

(10) To respond to court orders for garnishment of an employee's pay for alimony or child support.

(11) To respond to orders from IRS for garnishment of an employee's pay for Federal income tax purposes.

(12) To the Department of Treasury for the purposes of preparing and issuing employee salary and compensation checks and U.S. Savings Bonds.

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(13) By state officers of unemployment compensation in connection with claims filed by former HHS employes for unemployment compensation.

(14) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(15) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employe in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(16) By financial organizations designate to receive labor organization or management association dues withheld from employee's pay, in order to account for the amounts of such withheld dues which they receive.

(17) A record from this system of records may be disclosed to a State or local agency for the purpose of conducting computer matching programs designed to reduce fraud, waste and abuse in Federal, State and local public assistance programs and operations.

(18) A record from this system of records may be disclosed to a Federal agency for the purpose of conducting computer matching programs designed to reduce fraud, waste and abuse using loan or benefit records of a Federal, State or local agency to identify employees improperly receiving loans or benefits and to facilitate the collection of debts owed the United States.

(19) A record from this system of records may be disclosed to a Federal agency in response to a written request from that agency, personally signed by a supervisor, specifying the particular portion desired and the law enforcement activity for which the record is sought. The request for the record must be connected with the agency's auditing and investigative functions designed to reduce fraud, waste and abuse; it must be based on information which raises questions about an individual's eligibility for benefits or payments; and it must be made reasonably soon after the information is received.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, microfilm, punch cards and forms.

RETRIEVABILITY:

Records are maintained by pay period and are retrievable by name, SSN and Timekeeper number within each pay period. Records are also used to produce summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained and for related personnel management functions or pay studies, and for other purposes compatible with the intent for which the records system was created.

SAFEGUARDS:

Access to and use of these records are limited to personnel whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records submitted by the individual, such as allotment authorization forms, home address forms, and tax withholding forms are retained until superseded by new forms of until the individual leaves the Department. Most of these records are then destroyed. Some of these records must be retained for an additional period, or forwarded to the new employing agency. Time and attendance records are retained for five years and are then destroyed. The automated payroll master record, established when the individual is first employed and continually updated throughout the period of his or her employment, is retained until the individual leaves the Department.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Pay Systems Division, P.O. Box 1825, Washington, D.C. 20013.

NOTIFICATION PROCEDURE:

An individual may contact the system manager. An individual also may contact, as appropriate, Payroll Liaison Representatives in Appendix 1 or Personnel Officers shown in HHS System 09900006, Applicants for Employment Record, Appendix 1. Provide name, social security number, timekeeper number and pay period about which inquiring.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7) *Federal Register*, October 8, 1975, page 47411.).

RECORD SOURCE CATEGORIES:

Information in this system of records is (1) supplied directly by the individual, or (2) derived from information supplied by the individual, or (3) supplied by timekeepers and other Department officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1

Office of the Secretary

Payroll Liaison Officer, Room 4355 HHS North Bldg., 330 Independence Ave., SW., Washington, D.C. 20201

Health Care Financing Administration

Payroll Liaison Officer, HCFA, East Low Rise Building, P.O. Box 17255, Baltimore, MD 21203

Office of Human Development Services

Payroll Liaison Officer, Room 347 D, Hubert H. Humphrey Building, 200 Independences Ave., SW., Washington, DC 20201

Office of Child Support Enforcement

Payroll Liaison Officer, Room 1010 Beltway View Bldg., 6110 Executive Blvd, Rockville, MD 20852.

Social Security Administration Headquarters

Payroll Liaison Officer, SSA Headquarters, Room L 1100 West Low Rise Bldg., 6401 Security Blvd., Baltimore, MD 21235

Payroll Liasion Officer, SSA, ORS, Universal Bldg., Room 934, 1975 Connecticut Ave., NW., Washington, D.C. 20009

Regional Offices

Region I, Payroll Liaison Officer, JFK Federal Bldg., Room 1503, Government Center, Boston, MA 00203

Region II, Payroll Liaison Officer, Personnel Support Branch, Room 39-120, 26 Federal Plaza, New York, NY 10007

Region III, Payroll Liaison Officer, P.O. Box 13716, Philadelphia, PA 19101

Region IV, Payroll Liaison Officer, 101 Marietta Tower, Suite 1601, Atlanta, GA 30331

Region V, Office of Personnel 31st Floor, Payroll Liaison Officer, 300 South Wacker Drive, Chicago, IL 60606

Region VI, Regional Personnel Office, Room 1035, 1200 Main Street, Dallas, TX 75020

Region VII, Payroll Liaison Officer, Retional Personnel Office, 601 E 12th Street, Kansas City, MO 64106

Region VIII, Payroll Liaison Officer, Federal Office Building, Room 1028, 19th and Stout Street, Denver, CO 80294

Region IX, Regional Personnel Office, Room 138A, 50 United Nations Plaza, San Francisco, CA 94102

Region X, Payroll Liaison Officer, Regional Personnel, Arcade Plaza Bldg., Mail Stop 627, 1321 Second Avenue, Seattle, WA 98007

Regional Personnel Branch Office, Payroll Liaison Officer, 24000 Avila Road, 5th Floor, Laguna Niguel, CA 92677

Regional Personnel Branch Office, Payroll Liaison Officer, 1301 Superior Avenue—Suite 240, Cleveland, OH 44114

Social Security Administration Program Centers

Mid Atlantic, Payroll Liaison Officer, Program Service Center, P.O. Box 3579, Philadelphia, PA 19122

Great Lakes, Payroll Liaison Officer, Program Service Center, 600 West Madison St., Chicago, IL 60606

Southeastern, Payroll Liaison Officer, Birmingham Program Service Center, P.O. Box 10364, Birmingham, AL 35202

North Eastern Payroll Liaison Officer, Program Service Center, 9605 Horace Harding Expressway, Flushing, NY 11366

Mid-American, Payroll Liaison Officer, Program Service Center, 601 East 12th Street, Kansas City, MO 64106

Western, Payroll Liaison Officer, Richmond Personnel Operations Center, Program Service Center, P.O. Box 2431, Richmond, CA 94802

Social Security Administration District Offices

New York, SSA, Payroll Liaison Officer, 26 Federal Plaza, Room 40-114, New York, NY 10007

Philadelphia,SSA, Payroll Liaison Officer, P.O. Box 13716, Philadelphia, PA 19101

Chicago, SSA, Payroll Liaison Officer, 300 South Wacker Drive, Chicago, IL 60606

Kansas City, SSA, Payroll Liaison Officer, 601 E 12th Street, Kansas City, MO 64106

San Francisco, Payroll Liaison Officer, Room 138A, 50 United Nations Plaza, San Francisco, CA 94102

Cleveland, SSA, Payroll Liaison Officer, 1301 Superior Avenue—Suite 240, Cleveland, OH 44114

SSA, Wilkes Barre Data Operations Center, Room 903, VA Bldg., 19 N. Main Street, Wilkes Barre, PA 18701

SSA Data Operations Center, Payroll Liaison Officer, P.O. Box 4429, Station A, Albuquerque, NM 87106

Boston, SSA, Payroll Liaison Officer, SSA, Room 1105, JFK Bldg., Government Center, Boston, MA 02203

Atlanta, SSA, Payroll Liaison Officer, 101 Marietta Tower, Suite 1601, Atlanta, GA 30331

Dallas, SSA, Payroll Liaison Officer, Room 1035, 1200 Main Street, Dallas, TX 75020

Denver, SSA, Payroll Liaison Officer, Federal Office Building, Room 1196, 19th and Stout Street, Denver, CO 80294

Seattle, SSA, Payroll Liaison Officer, Regional Personnel, Arcade Plaza Bldg., Mail Stop 627, 1321 Second Avenue, Seattle, WA 98007

SSA, Record Center, P.O. Box 25, Boyers, PA 16020

SSA Data Operations Center, Payroll Liaison Officer, 100 East Alvin Drive, Salinas, CA 93906

SSA, Office of Hearings and Appeals, Room 102, Braedon Building, 3833 Fairfax Drive, Arlington, VA 22203

Public Health Service

Center for Disease Control, Payroll Liaison Officer, Personnel Management Office, 1600 Clifton Road NE., Atlanta, GA 30333

National Inst. of Environmental Health Services Payroll Liaison Officer, P.O. Box 12233, Research Triangle Park, NC 27709

Food & Drug Administration, Payroll Liaison Officer, HFA 125 Parklawn Bldg., Room 1182, 5600 Fishers Lane, Rockville, MD 20857

Alcohol, Drug Abuse and Mental Health Administration, Payroll Liaison Officer, Room 1397, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

National Institute of Health, Payroll Liaison Officer, Bldg. 31, Room B1B 30, 9000 Rockville Pike, Bethesda, MD 20014

Health Resources and Services Admin & Office of Asst. Sec. for Health, Payroll Liaison Officer, Room 1649, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20852

CDC, NIOSH, Payroll Liaison Officer, Financial Management Branch, Parklawn Bldg. 8A-10, 5600 Fishers Lane, Rockville, MD 20857

Indian Health Service

Payroll Liaison Officer, Indian Health Service Area Office, Room 215, Federal Building, Aberdeen, SD 57401

Payroll Liaison Officer, Albuquerque Indian Health Service, Federal Office Building and U.S. Courthouse, Room 4005, 500 Gold SW., Albuquerque, NM 87101

Payroll Liaison Officer, Alaska Area Native Health Service, Area Personnel and Training Branch, P.O. Box 7-741, Anchorage, AK 99501

Payroll Liaison Officer, Phoenix Area Indian Health Service, 3738 N. 16th Street, Suite A, Phoenix, AZ 85014

Payroll Liaison Officer, Oklahoma City Area Indian Health Service, 388 Old Post Office & Courthouse Bldg., Oklahoma City, OK 73102

Payroll Liaison Officer, Indian Health Service, 1220 SW. 3rd Avenue, Room 476, Portland, OR 97204

Payroll Liaison Officer, Indian Health Service Area Office, P.O. Box 2143, Billings, MT 59101

Payroll Liaison Officer, Navajo Area Indian Health Service, P.O. Box G, Attn: Financial Management Branch, Window Rock, AZ 86515

Payroll Liaison Officer, Indian Health Service, Data Processing Center, 2401 12th Street NW.—Room 3N, Alburquerque, NM 87198

Payroll Liaison Officer, Phoenix Indian Medical Center, 4212 N. 16th St., Phoenix, AZ 85016

Payroll Liaison Officer, Office of Research and Development, P.O. Box 11340, tucson, AZ 85734

Payroll Liaison Officer, Gallup Indian Medical Center, P.O. Box 1337, Gallup NM

Public Health Service Hospitals

Payroll Liaison Officer, St Elizabeth's Hospital, Room 101 E. Building, 2700 Martin Luther King Ave., SE., Washington, D.C. 20032

Payroll Liaison Officer, USPHS Hospital, Carville, LA 70721

[FR Doc. 13287 Filed 5-17-83; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-18576]

Realty Action; Competing Sale of Public Lands in Camas County, Idaho

Correction

In FR Doc. 83-11160 beginning on page 19083 in the issue of Wednesday, April 27, 1983 make the following correction: In the second column, under **"Boise Meridian, Idaho"**, line two, "Sec. 11: W½NW¼—comprising 20 acres" should read "Sec. 11: W½NW¼NW¼—comprising 20 acres".

BILLING CODE 1505-01-M

[Serial No. AZ-AZ027-000005]

Arizona: Realty Action; Competitive Sale of Public Land in Maricope County

The Bureau of Land Management will offer the following described lands for sale at a public autcion on July 21, 1983, at 1:00 p.m. at the Ruth Fisher School in Tonopah, Arizona. There will be six tracts of land offered for sale. It has been determined that the sale of these tracts is consistent with Section 203 of the Federal Land Policy and Management Act of October 21, 1976. The lands will be offered for sale at no less than the appraised fair market value indicated below. It has also been determined that Clifford Wolfswinkel will have a preference bid for Tract 5 and will be allowed the opportunity to meet the high bid.

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GILA AND SALT RIVER MERIDIAN, ARIZONA

[Maricopa sale area]

Tract No.	Legal description	Acres	Value
1	T. 2 N., R. 7 W., Sec. 20, E½SE¼	80.0	$108,000
2	T. 2 N., R. 7 W., Sec. 20, W½SE¼	80.0	110,000
3	T. 2 N., R. 7 W., Sec. 21, E½SE¼	80.0	112,000
4	T. 2 N., R. 7 W., Sec. 21, W½SE¼	80.0	108,000
5	T 4 S., R. 8 W., Sec. 15, SE¼NW¼	40.0	15,000
6	T. 1 S., R. 9 W., Sec. 7, Lots 1, 2, 3, 4; E½W½	303.0	61,500

The above aggregates 663.0 acres of land in Maricopa County.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including the mining laws, except the mineral leasing laws, for a period of 2 years or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 2-year period.

Lands not sold on July 21, 1983, will be reoffered for sale by competitive bid at the Phoenix District Office at 10:00 a.m. on October 5, 1983. Any remaining unsold lands will be available for over-the-counter purchase for the reminder of the 2 years.

All of the tracts listed will be subject to the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine and remove such deposits.

3. A reservation of all minerals to the United States with the right to prospect for, mine, and remove such deposits.

The following tracts in Maricopa County have the following reservations:

Tracts 1, 2, 3, and 4

1. Will be sold subject to Arizona Public Service Company's powerline right-of-way AR–010364.

2. Will be subject to American Telephone and Telegraph Company telephone-telegraph line right-of-way PHX–093322.

3. Will be sold subject to oil and gas lease A–14241.

Tract 3

1. The eastern most 33' will be reserved to the United States for a public easement.

Tract 5

1. Will be sold subject to oil and gas lease A–16989.

Tract 6

1. Will be sold subject to El Paso Natural Gas Company's pipeline right-of-way AR–035846.

2. Will be sold subject to oil and gas lease A–16897.

There are no known mineral values in the land. If the successful bidder wishes, he/she may apply for the reserved mineral estate (by submitting a $50.00 filing fee) under the provisions of Section 209 of the Federal Land Policy and Management Act of October 21, 1976.

Additional information concering these lands, terms and conditions of the sale, and bidding instructions may be obtained from the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 or by calling (602) 241–2511.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the Proposed Action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: May 12,1983.

W. K. Barker,

District Manager.

[FR Doc. 83–13388 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–84–M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions should be made directly to the Bureau's clearance officer and the Office of Management and Budget reviewing official at 202–395–7340.

Title: Permit Fee Envelope
Bureau Form Number: 1370–36
Frequency: On occasion
Description of Respondents: Individuals using fee campgrounds
Annual Responses: 30,000
Annual Burden Hours: 1,500
Bureau Clearance Officer (alternate): Linda Gibbs 202–653–8853

James M. Parker,

Associate Director.

March 28, 1983.

[FR Doc. 83–13305 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–84–M

[U–50824]

Realty Action; Private Exchange; Public Lands in Uintah County, Utah

The following described lands have been determined to be suitable for a surface only private exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The federal lands that have been identified as suitable for disposal by exchange are:

Salt Lake Meridian, Utah

T. 3 S., R. 19 E.,
Sec. 14, NW¼NW¼.
Comprising 40 acres.

In exchange for these federal lands, the United States will acquire the surface estate of the following non-federal lands from Mr. Elden Gardner:

Salt Lake Meridian, Utah

T. 3 S., R. 19 E.,
Sec. 12, NE¼NW¼.,
Comprising 40 acres.

Upon publication of this notice, the federal lands are hereby segregated from appropriation under the public land laws, including the mining laws.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All minerals with the right to prospect for, mine and remove the same under applicable laws and such regulations as the Secretary may prescribe.

For a period of 45 days from the date of the notice, interested parties may submit comments to the District Manager, Vernal District, 170 South 500 East, Vernal, Utah 84078.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 83–13383 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–84–M

[M 348]

Revocation of Recreation and Public Purposes Classification

May 9, 1983.

Effective September 14, 1966, the following public lands were classified for lease under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869) under serial number M 348:

Principal Meridian

T. 7 N., R. 47 E.,
Sec. 4.

Metes and Bounds

Beginning at a point on the south boundary of Tract No. 2 of the Montana Fish and Game Department, said point being S. 87°04' E. a distance of 497.5 feet from the Government Monument marking the ¼ corner common to Section 5 and Section 4; thence S. 48°25' E. along the Fish and Wildlife fence a distance of 1613.7 feet to an iron pipe B; thence S. 77°11' E. a distance of 755.7 feet to pipe C; thence N. 72°00' E. a distance of 401.6 feet to pipe D; thence N. 18°06' E. a distance of 457.3 feet to pipe E; thency N. 1°31' W. a distance 620.8 feet to pipe F; thence N. 26°32' W. a distance of 791.7 feet to pipe G; thence N. 12°20' W. a distance of 917.1 feet to pipe H; thency N. 52°17' W. a distance of 356.4 feet to pipe I; thence N. 16°21' W. a distance of 213.7 feet to pipe J; thence N. 20°56' E. a distance of 462.4 feet to pipe K; thence N. 15°34' W. a distance of 229.2 feet to pipe L which is the Government Witness Corner to the Meander Corner on the West Bank of Tongue River; thence N. 89°47' W. along the Township Line a distance of 145.1 feet to the south right-of-way line of the Northern Pacific Railway; thence S. 41°30' W. along said right-of-way line a distance of 1877.9 feet to point N the northeast corner of Tract No. 2 of the Montana Fish and Game Department; thence S. 48°30' E. a distance of 600 feet to Point O being the southeast corner of Tract No. 2 of the Montana Fish and Game Department; thence S. 41°30' W. along the south line of said Tract No. 2 a distance of 1089.2 feet to Point A the Point of Beginning.

The area described above contains approximately 123 acres in Custer County.

This classification segregated the lands from all forms of appropriation under the public land laws except the Recreation and Public Purposes Act and from location and entry under the general mining laws, but not from leasing under the mineral leasing laws.

The purposes for classification are no longer valid as the above lands have been conveyed by Pub. L. 97–401 to the City of Miles City subject to the reservation of all minerals to the United States, and the classification is hereby revoked.

At 8 a.m. on June 13, 1983, the lands will be open to location under the United States Mining laws, subject to valid existing rights and requirements of applicable law.

Inquiries concerning the lands may be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83–13341 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–84–M

Yuma District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that the first meeting of the newly appointed Yuma District Advisory Council will be held on June 30 and July 1, 1983 at 9:00 AM at the Stardust Resort Motor Inn, 2350 South Fourth Avenue, Yuma, Arizona.

Agenda for the meeting will include:

1. Introduction of Arizona State Director, District Manager, and Advisory Council members.

2. Discussion of Charter, committees and functions of the Council.

3. Introduction of Area Managers and programs.

4. Election of chairperson, vice-chairperson and committee formation.

5. Discuss public input to Resource Management Plan from public participation meetings.

6. Make recommendations on issues identified at public meetings.

7. Accept oral statements from public.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Yuma District Office, 2450 South Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364 by June 22, 1983. Written comments will also be accepted for the council's consideration.

Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours 30 days following the meeting.

Dated: May 9, 1983.

J. Darwin Snell,

District Manager.

[FR Doc. 83–13347 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting William Cook at 703–860–7564. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Accidents and Malfunctions, 30 CFR 250.45
Bureau Form Number: N/A
Frequency: Nonrecurring
Description of Respondents: Federal Outer Continental Shelf Lessees
Annual Responses: 137
Annual Burden Hours: 548
Bureau Clearance Officer: Dorothy Christopher, 703–435–6213.

Dated: April 13, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management Minerals Management Service.

[FR Doc. 83–13344 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 5186, Block 252, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9

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a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–13384 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Appalachian National Scenic Trail Land Protection Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability for public review of the final draft of the land protection plan for the Appalachian National Scenic Trail. This plan was prepared in response to the Department of the Interior's policy for the Federal portion of the Land and Water Conservation Fund (47 FR 19784). It has been prepared in compliance with the National Environmental Policy Act, other Congressional Guidelines, Executive Orders, and Departmental and National Park Service Policies. Copies of the Plan are available for review at the following locations:

Appalachian Trail Land Acquisition Office, P.O. Box 908, Martinsburg, WV 25401

Appalachian Trail Land Acquisition Office, 850 No. 5th Street, Allentown, PA 18102

Appalachian Trail Land Acquisition Office, 8 Campbell Street, Lebanon, NH 03766

or may be obtained by writing the Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425. The public is invited to comment. Comments should be submitted by June 17, 1983. Comments should be addressed to Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425.

FOR FURTHER INFORMATION CONTACT: David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425.

SUPPLEMENTARY INFORMATION: On May 7, 1982 the Department of the Interior published a new final policy statement on Use of the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). In response to this policy, the National Park Service began preparation of land protection plans for each unit in the National Park System containing non-Federal land or interest in land within its authorized boundary. The policy, as stated in 47 FR 19784, is to utilize, to the maximum extent possible, the most cost-effective methods of protecting nationally important natural, cultural and recreational resources. The Land Protection Plan for the Appalachian National Scenic Trail is simple, concise, has been prepared with public participation, and identifies protection techniques and priorities for protection.

Dated: May 4, 1983.

David A. Richie,

Project Manager.

[FR Doc. 83–13304 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–70–M

Cape Cod National Seashore Advisory Commission, South Wellfleet, Massachusetts; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 (5 U.S.C. App. 1 § 10)), that a meeting of the Cape Cod National Seashore Advisory Commission will be held at 1:30 pm on Friday, June 3, 1983 at the Headquarters building, Cape Cod National Seashore.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the meeting at 1:30 pm the Commission will consider the following:

1. Record of Decisions on:
   a. Water Resource Management Plan Alternatives.
   b. Dune Revegetation/Stabilization Alternatives.
2. Report on Mosquitoes of the Herring River Basin—1982.
3. Review of Gas Station Use.

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone (617) 349–3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of the Superintendent, Cape Code National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

May 5, 1983.

[FR Doc. 83–13303 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Transfer of Surface Mining and Reclamation Appeals Functions

Notice is hereby given that the Secretary of the Interior has issued Order Number 3092 dated April 26, 1983. The order consolidates the functions of the Board of Surface Mining and Reclamation Appeals with the Interior Board of Land Appeals. The Order is published in its entirety below.

Additional information regarding the order may be obtained from the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone 703–235–3810.

Dated: May 12, 1983.

John N. Stafford,

Director.

[Order No. 3092]

Subject: Consolidation of the Functions of the Board of Surface Mining and Reclamation Appeals into the Interior Board of Land Appeals

Section 1. *Purpose.* This order consolidates the functions of the Board of Surface Mining and Reclamation Appeals into the Interior Board of Land Appeals. The purpose of this action is to achieve greater economy in the use of Office of Hearings and Appeals resources in view of the declining number of appeals arising under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§ 1201–1328.

Section 2. *Authority.* This order is issued in accordance with the authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Section 3. *Transfer of Function.* All of the functions and responsibilities delegated to the Board of Surface Mining and Reclamation Appeals with respect to appeals arising under the Surface Mining Control and Reclamation Act of 1977 are transferred to the Interior Board of Land Appeals.

Section 4. *Abolishment.* The Board of Surface Mining and Reclamation Appeals is abolished.

Section 5. *Implementation.*

(a) The Assistant Secretary—Policy, Budget and Administration is responsible for implementing this order with respect to personnel, property, records and funds.

(b) The Director, Office of Hearings and Appeals, in consultation with the Assistant Secretary—Policy, Budget and Administration, shall make such organizational arrangements for the performance of transferred functions as he deems necessary. In making these arrangements, the Director shall seek to ensure that the rights of parties bringing appeals under the Surface Mining and Reclamation Act of 1977 are protected and that no undue delay in consideration of such appeals occurs.

(c) On or after the effective date of this order, all notices of appeal and other filings required by 43 CFR Part 4, Subpart L, to be made with the Board of Surface Mining and Reclamation Appeals must be made with the Interior Board of Land Appeals, 4015 Wilson Boulevard, Arlington, VA 22203.

(d) Changes to Departmental regulations made necessary by this order will be published in the **Federal Register.**

Section 6. *Effective Date.* This order is effective immediately. The provisions of this order will terminate on December 31, 1983.

Dated: April 26, 1983.

James G. Watt,

Secretary of the Interior.

[FR Doc. 13271 Filed 5–17–83; 8:45 am]

BILLING CODE 4310–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Privacy Act of 1974; System of Records Amendment

AGENCY: Agency for International Development, IDCA.

ACTION: System of Records Amendment.

SUMMARY: The Agency for International Development is amending its System of Records AID–21, "Public Information Records", to make the system hybrid and update all other categories associated with this change.

DATE: This amendment becomes effective May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Rhea Johnson, Area Code (202) 632–9614.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 552a(e)(11), Pub. L. 93–579 the Agency is amending its System of Records AID–21, "Public Information Records", to change it from manual to hybrid. The full text of the System appeared at 42 FR 47384 on September 20, 1977. Changes associated with the amendment are: category of records in the system, the routine uses, the method of storage, safeguards retention and disposal and the records source category.

Because no substantive changes have been made that would significantly affect the public at large, the sixty day notification period has been waived. However, comments are invited and may be sent to James Harper, Public Information Specialist, Agency for International Development, Washington, D.C. 20523.

For easy reference, we are publishing the full text of the revised system below.

Kate Semerad,

Associated Deputy Administrator, Bureau for External Relations, Office of Public Affairs.

A.I.D.–21

SYSTEM NAME:

Public Information Records.

SYSTEM LOCATION:

a. Principal files are maintained in the Office of Public Affairs, A.I.D., 320 21st Street, NW., Washington, D.C. 20523.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of A.I.D., Members of Congress, individuals associated with foreign economic assistance, and individuals requesting information under the Freedom of Information and Privacy Acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information on Members of Congress, individuals officials within the agency. Biographical information on employees who serve as public speakers, press releases, news clippings, photographs, requests for access to A.I.D. records under the Freedom of Information and Privacy Acts, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Foreign Assistance Act of 1961 as amended, especially Secs. 621, 634(b); Pub. L. 93–502; 5 U.S.C. 301; and the Freedom of Information Act (5 U.S.C. 552).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Administrator and Deputy Administrator for personal contacts.

Persons or organizations requesting A.I.D. to make available an employee to speak in public on A.I.D. activities are provided a biographical sketch of the speaker in order to select and introduce the speaker.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, Members of Congress, and individuals' medical advisers for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copies and photographs in file folders. Automated records on magnetic discs and permanently on line at the computer center.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Located in metal file cabinets with three-way combination lock in a secure space or secured premises with access limited to those whose official duties require access. The Resource Allocation Control Facility, in use on our computer system, lessens the potential for unauthorized use.

RETENTION AND DISPOSAL:

Destroyed after five years by burning. Computerized records are deleted fro(m the system when no longer needed for daily operations.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Public Affairs, Agency for International Development, 320 21st Street, NW., Washington, D.C. 20523.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be addressed to: Director, Office of Public Affairs, Attn: Privacy Liaison Officer, Agency for International Development, 320 21st Street NW., Washington, D.C. 20523, or presented in person at 320 21st Street NW., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security Account Number and dates and places of service.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to 22 CFR 215.4 (c) or (d).

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CONTESTING RECORD PROCEDURES:

Written requests from individuals to amend their record should be mailed or presented in persoq to the same address as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to: Administrator, Agency for International Development, 320 21st Street NW., Washington, D.C. 20523, Attention: Executive Secretary—Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

RECORD SOURCE CATEGORIES:

Members of Congress, employees, public media information, A.I.D. records, and individuals requesting access to records under the Freedom of Information and Privacy Acts.

[FR Doc. 83-13357 Filed 5-17-83; 8:45 am]
BILLING CODE 6116-01-M

Voluntary Foreign Aid Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the Advisory Committee on Voluntary Foreign Aid (ACVFA) which will be held June 15, 1983 (from 9:00 a.m. to 5:00 p.m.) and June 16, 1983 (from 9:00 a.m. to 12 noon) in the Lloyd Henderson International Conference Room, Department of State Building. Use the Diplomatic Entrance, C Street, between 21st and 23rd Streets, N.W., Washington, D.C.

The morning session on June 15 will be a plenary session on the subject of Food for Peace. The afternoon will be devoted to individual subcommittee meetings: Food for Peace, AID/PVO Policy, PVO/Corporate Relations, PVO/University Relations, Development Education, and Women in Development. On June 16 a plenary session will be held to hear reports on results of the subcommittee meetings.

The meeting will be open to the public. Any interested person may attend, request to appear before, or file statements with the Advisory Committee, in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty (20) copies.

Persons wishing to attend the ACVFA meeting must contact Lillian Halter in the ACVFA office not later than May 31, 1983 to arrange entrance to the Department of State Building.

There will be AID representatives at the meeting. Those desiring further information may contact Lillian Halter, (703) 235-3336, or by mail, c/o The Advisory Committee on Voluntary Foreign Aid, Room 227, SA-8, Agency for International Development, Washington, D.C. 20523.

Dated: May 9, 1983.

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 83-13345 Filed 5-17-83; 8:45 am]
BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Termination of Investigation No. 731-TA-94 (Final)—Bicycle Tires and Tubes from Taiwan

AGENCY: United States International Trade Commission.

ACTION: Termination of final antidumping investigation.

FOR FURTHER INFORMATION CONTACT: Mr. Jim McClure, Supervisory Investigator, Telephone No. 202-523-0289.

SUPPLEMENTARY INFORMATION: On December 7, 1982, the Department of Commerce (Commerce) preliminarily determined that there was a reasonable basis to believe or suspect that certain bicycle tires and tubes from Taiwan were being sold in the United States at less than fair value (LTFV). Accordingly, effective December 7, 1982, the Commission instituted antidumping investigation No. 731-TA-94 (Final), bicycle tires and tubes from Taiwan. The purpose of the investigation was to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded by reason of the LTFV imports from Taiwan of bicycle tires and tubes, provided for in items 772.48 and 772.57, respectively, of the Tariff Schedules of the United States (1983).

On April 29, 1983, Commerce published tires in the **Federal Register**, a final determination with respect to bicycle and tubes from Taiwan. The notice states that bicycle tires and tubes from Taiwan are not being, nor are likely to be, sold in the United States at less than fair value and, therefore, Commerce is terminating its investigation. As a result, pursuant to its authority under section 207.20 of the Commission's Rules of Practice and Procedure, the Commission's antidumping investigation (No. 731-TA-94 (Final)), bicycle tires and tubes from Taiwan, is also hereby terminated.

By order of the Commission.

Issued: May 12, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-13360 Filed 5-17-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Order Designating Presiding Officer for Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: May 11, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-13361 Filed 5-17-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-201 and 731-TA-133 (Preliminary)]

Forged Undercarriage Components From Italy; Clarification of Scope of Preliminary Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Clarification of the scope of the preliminary countervailing duty and antidumping investigations.

EFFECTIVE DATE: May 13, 1983.

SUMMARY: The U.S. International Trade Commission hereby givens notice of clarification of the scope of its investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of forged components for the undercarriages of crawler-mounted machinery, provided for in items 664.08, 692.34, or 692.35 of the Tariff Schedules of the United States, upon which bounties or grants are alleged to be paid and which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Ms. Mirian A. Bishop, Office of Investigation, U.S. International Trade Commission, telephone 202-523-0291.

This notice is published pursuant to § 207.12 of the Commission's Rule of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: May 13, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-13378 Filed 5-17-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. TA-203-14]

Certain Mushrooms; Institution of Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253(i)(3)) and scheduling of a hearing to be held in connection therewith.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, following receipt on April 29, 1983, of a petition filed by certain domestic producers of prepared or preserved mushrooms, instituted investigation No. TA-203-14 under section 203(i)(3) of the Trade Act of 1974 for the purpose of gathering information in order that it might advise the President of its judgment as to the probable economic effect on the domestic industry concerned of the termination of the import relief presently in effect with respect to certain prepared or preserved mushrooms, provided for in item 144.20 of the Tariff Schedules of the United States (TSUS). Such import relief is in the form of increased rates of duty and is provided for in Presidential Proclamation 4801 of October 29, 1980 (45 FR 72617); the relief is described in item 922.56 of the Appendix to the TSUS. The relief is scheduled to terminate on November 1, 1983, unless extended by the President.

EFFECTIVE DATE: May 11, 1981.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-523-4618), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certtificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on August 2, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 8, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on July 13, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 27, 1983.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Posthearing briefs shall not exceed ten (10) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on August 8, 1983. In addition, the presiding offical may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with the provisions contained in this notice.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates show above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 8, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 206.20 of the Commission's rules (19 CFR 206.20).

By order of the Commission.

Issued: May 12, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-13379 Filed 5-17-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. TA-201-48]

Report to the President on Investigation; Stainless Steel and Alloy Tool Steel

Determination

On the basis of the information developed in the course of investigation No. TA-201-48, the Commission [1] determines that bars; wire rods; and plates, sheets, and strips, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high speed tool steel, provided for in items 606.90 606.93

[1] Commissioner Stern dissenting with respect to plates.

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606.94, 606.95, 607.26, 607.28, 607.34, 607.43, 607.46, 607.54, 607.72, 607.76, 607.88, 607.90, 608.26, 608.29, 608.34, 608.43, 608.49, 608.57, 608.64, and 609.45 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with the imported articles.

Findings and Recommendations

Commissioners Stern and Haggart find and recommend that, in order to remedy the serious injury found to exist—

(1) It is necessary to impose quantitative restrictions for the 3-year period beginning January 1, 1983, as follows—

(a) For stainless steel sheet and strip, 8 percent of forecasted U.S. consumption, but not less than 62,900 short tons;

(b) For stainless steel plate, 10 percent of forecasted U.S. consumption, but not less than 10,700 short tons;

(c) For stainless steel bar, 17 percent of forecasted U.S. consumption, but not less than 27,000 short tons;

(d) For stainless steel wire rod, 42 percent of forecasted U.S. consumption, but not less than 19,100 short tons;

(e) For alloy tool steel, 20 percent of forecasted U.S. consumption, but not less than 22,400 short tons.

(2) The following articles should be exempted from any relief—[3]

(a) Razor blade steel provided for in TSUS item 608.26;

(b) Chipper knife steel provided for in the following items of the TSUSA (Annotated)—

606.9300	607.5405	608.3405
606.9400	607.7205	608.4905
607.3405	607.8805	608.6405

(c) Band saw steel provided for in the following TSUSA items:

606.9520	607.5405	607.3405
606.9525	607.7205	608.4905
607.3405	607.8805	607.6405

(d) The first 6,000 short tons of the following stainless steel sheet, which is provided for in TSUSA item 607.9020—

Stainless steel sheet not under 0.055 inch and not over 0.065 inch in thickness, not under 25.5 inches and not over 26.25 inches in width, which contains in addition to iron, each of the following elements by weight in the amounts specified and which is certified at the time of entry to be imported for use in the manufacture of stainless steel-clad aluminum automotive trim:

Carbon: not more than 0.12 percent;

Chromium: not less than 16 percent nor more than 18 percent;

Molybdenum: not less than 0.75 percent nor more than 1.25 percent;

(3) The period 1972–82, exclusive of 1975 and 1982, is the recent period most representative of imports of these articles;

(4) No more than 30 percent of each of the respective aggregate quantities specified in (1), above, for each class of articles may be entered during any calendar quarter; and

(5) In order to provide for a more equitable distribution of imports among supplying countries, the quantities specified in (1), above, for each class of articles should be allocated on a country-by-country basis.

Chairman Eckes finds and recommends that, in order to remedy the serious injury found to exist—

(1) It is necessary to impose quantitative restrictions for the 3-year period beginning January 1, 1983, as follows—

(a) For stainless steel sheet and strip, 7.3 percent of forecasted U.S. consumption, but not less than 56,887 short tons;

(b) For stainless steel plate, 4.8 percent of forecasted U.S. consumption, but not less than 5,919 short tons;

(c) For stainless steel bar, 19.8 percent of forecasted U.S. consumption, but not less than 33,513 short tons;

(d) For stainless steel wire rod, 38.0 percent of forecasted U.S. consumption, but not less than 21,729 short tons;

(e) For alloy tool steel, 26.9 percent of forecasted U.S. consumption, but not less than 29,592 short tons.

(2) The following articles should be exempted from any relief—

(a) Razor blade steel provided for in TSUS item 608.26;

(b) Chipper knife steel provided for in the following items of the TSUSA (Annotated)—

606.9300	607.5405	608.3405
606.9400	607.7205	608.4905
607.3405	607.8805	608.6405

(c) Band saw steel provided for in the following TSUSA items:

606.9520	607.5405	608.3405
606.9525	607.7205	608.4905
607.3405	607.8805	608.6405

(3) The period 1979–81 is the most recent period representative of imports of these articles; and

(4) The quantities of each class of articles should be allocated on a country-by-country basis.

[3] Commissioner Stern further finds that there would be no adverse economic effect on the domestic industries if the following items were to be exempted from relief, providing any necessary adjustments were to be made to the market share quotas and providing that such exemptions be specific to end uses: stainless flapper valve steel, Lummis strip steel, rotor steel for hysteresis motors, grade 253 MA stainless steel, grade 254 SMO stainless steel, and stainless steel sheet 72 to 80 inches in width.

Background

On December 9, 1982, the United States International Trade Commission instituted investigation No. TA–201–48, under section 201(b)(1) of the Trade Act of 1974, to determine whether bars; wire rods; and plates, sheets, and strips, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high speed tool steel, provided for in items 606.90, 606.93 606.94, 606.95, 607.26, 607.28, 607.34, 607.43, 607.46, 607.54, 607.72, 607.76, 607.88, 607.90 608.26, 608.29, 608.34, 608.43, 608.49, 608.57, 608.64, and 609.45 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.

The investigation was instituted following the receipt of a letter on November 23, 1982, from the United States Trade Representative (USTR), requesting an expedited investigation under section 201 concerning imports of certain stainless steel and alloy tool steel products. The USTR's request was in accordance with a determination of the President on November 17, 1982 (47 FR 51717), under section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)). The President's action followed the completion of investigations under section 301 of the act initiated by USTR on February 26, 1982 (47 FR 10107) and on August 9, 1982 (47 FR 36387). These investigations were instituted on the basis of petitions, filed by the Tool and Stainless Steel Industry Committee and the United Steel Workers of America, alleging that the European Community, Belgium, France, Italy, the United Kingdom, Austria, and Sweden had subsidized the production of stainless and alloy tool steel (specialty steel) in a manner inconsistent with their obligations under Articles 8 and 11 of the Agreement on the Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code).

Notice of the institution of the investigation and the scheduling of a public hearing to be held in connection with the investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of December 15, 1982 (47 FR 56218). A public hearing was held on February 9–10, 1983, at which time all persons who requested the opportunity were afforded an opportunity to be present, to present evidence, and to be heard.[3] On March 24, 1983, the Commission, meeting in public session, announced its affirmative injury determination.

As a result of the Commission's affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations was held on April 5, 1983, at which time all persons who requested the opportunity were afforded an opportunity to be present, to present evidence, and to be heard. The Commission announced its remedy findings and recommendations in a public meeting held April 27, 1983.

The Commission transmitted its report on the investigation to the President on May 6, 1983. A public version of the Commission's report, Stainless Steel and Alloy Tool Steel (investigation No. TA–201–48, USITC Publication 1377, 1983) contains the views of the Commission and information developed during the investigation.

Issued: May 6, 1983.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-13382 Filed 5-17-83; 8:45 am]

BILLING CODE 7020-02-M

[3] A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation were attached to the original report sent to the President. Copies are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

INTERSTATE COMMERCE COMMISSION

[No. 39203 et al.[1]]

Motor Carriers; Cryogenic Carrier, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Eight motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due on June 2, 1983. The sought relief will become final on June 17, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 39203, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Barbara Gardner (202) 275–0961

or

Howell I. Sporn (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commissions' decision. To purchase a copy of the full decision, write to T. S. Infosystems, Inc., Room 2227, Washington, DC 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 11, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-13275 Filed 5-17-83; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding embraces Nos. 39204 Foote & Davies Transport Co., 39205 Armour Food Express Company, 39206 D–S Transport, Inc., 39207 Daggett Truck Line, Inc., 39208 Edwards Bros., Inc., 39209 Trans West Systems, Inc., and 39210 Teton Stage Lines, Inc.

[Docket No. 38955 et al [1]]

Motor Carriers; Ericon International Corp.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 48 Fed. Reg. 3429 (January 25, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATES: Comments are due on June 2, 1983. The provisional exemption of petitioners' future contracts will become final on June 17, 1983, unless in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38955 et al., Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Robin Williams (202) 275–7697

or

Howell I. Sporn (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–43578 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 11, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13276 Filed 5-17-83; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding embraces twelve petitions filed by motor contract carriers: No. 38955, Ericon International Corporation; No. 38957, Central Southern, Inc., No. 38958, Cherokee Lines, Inc., No. 38961, Trans-United, Inc., No. 38965, Dennis Moss and Gary Moss, d/b/a Motor West, No. 38966, Boncosky Transportation, Inc., No. 38967, Chemical Leaman Tank Lines, Inc., No. 38969, Motor Cargo Transport Corp., No 38970, Carrier Development Corporation, No. 38975, Watkins Motor Lines, Inc., No. 38980, Plate Valley Freightways, Inc., No. 38982, A. Luurtsema Truck Lines, Inc.

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1161.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance

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requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4 FC–291

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81328, filed March 22, 1983. By decision of May 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to COMANCHE ROAD TRANSPORT, LTD. of Calgary, Alberta, Canada, of Certificate No. MC–140656 (Sub-No. 7)X, issued July 10, 1981, and the underlying authority in MC–140656 (Sub-No. 4), issued March 12, 1981, to TROCHU TRUCKING SERVICES, LTD. of Calgary, Alberta, Canada, authorizing the transportation in foreign commerce only, of *dry fertilizer*, between ports of entry on the International Boundary line between the U.S. and Canada in WA, ID, MT and ND, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807. (406) 543–8369, for both transferee and transferor.

Please direct status inquiries about the following to Team 5 at (202) 275–7289.

Volume No. OP5 FC–228

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81403. By decision of May 10, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to GREGORY V. ETCHISON, Springfield, OR, of Certificates Nos. MC–161309 and MC–161309 Sub 1, issued August 17, 1982, and May 28, 1982, respectively, to WILLIE K. HOLLAND AND GREGORY V. ETCHISON, d.b.a. VAIL NORTHWEST, Springfield, OR, authorizing the transportation of (1) glass, between points in WA, OR, CA, TX, OK, and MO, (2) sawmill machinery, between points in CA, AZ, WA, ID, and MT, (3) farm supplies and equipment, between points in TX, KS, NM, CA, NE, OK, MN, WY, and IA, on the one hand, and, on the other, points in CO, (4) lumber, between points in OR, WA, MI, IL, KY, TN, TX, CO, NM, NV, AZ, and CA, and (5) iron and steel articles, (a) between points in AZ, CA, LA, MI, OR, SD, and WA, and (b) between points in IN, NE, UT, and MN, on the one hand, and, on the other, points in CO, IA, ID, IL, IN, MN, NE, NM, OK, OR, UT, and WI; and (6) lumber and wood products, between points in OR, WA, and CA, and (7) metal products, machinery, and clay, concrete, glass or stone products, between points OR and WA. Representative: Gregory V. Etchison, P.O. Box 645, Springfield, OR 97477.

Volume No. OP5FC–229

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not participating.

MC–FC–81370. By decision of May 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to LUKE G. BURKHOLDER, of Mohnton, PA, of Certificate No. MC–142988 issued March 2, 1978, authorizing the transportation of pulverized agricultural limestone, from the facilities of Martin Limestone, Inc., located in Lancaster County, PA, to points in Delaware, Maryland, New Jersey, and Virginia. An application for temporary authority has been filed. Representative: John W. Metzger, 49 North Duke Street, Lancaster, PA 17602.

MC–FC–81442. By decision of May 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to A TRANSPORT COMPANY of Woodinville, WA, of certificate No. MC–147649 Sub 2 issued February 19, 1981, Sub 3 issued June 16, 1981 and Sub 4 issued Janury 22, 1982 to AMERICAN CONTAINER TRANSPORT, INC., of Seattle, WA., authorizing the transportation of (1) *General commodities* between points in WA, ID, MT, OR and CA restricted to traffic having a prior or subsequent movement by water, (2) *general commodities* for and on behalf of the U.S. Government between points in the U.S., and (3) *general commodities* (with exceptions) between points in WA, OR, CA, UT and MT. Representative: Kaaren Trott, 23809 57th Ave., South-East Woodinville, WA 98072.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13281 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

[No. 38749 (Sub-No. 1) et al.*]

Motor Carriers; UTF Carriers, Inc.—Petition for Exemption From Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Five motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10761. The sought relief is provisionally granted for future as well as existing contracts.

DATE: Comments are due on June 2, 1983. The sought relief will become final on June 17, 1983, unless, in response to timely filed adverse comments the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an oringinal and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Barbara Gardner, (202) 275–0961

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, Washington, DC 20423, or call 289–4357 in the DC metroporitan area or toll free (800) 424–5403.

Decided, May 10, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commission Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13277 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

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* This proceeding embraces Nos. 39212 Bigbee Transportation Company, 39213 John D. Perfetti, 39216 Transfer, Inc. and 39217 Advance Express, Incorporated.

[Volume OP3–MFC–215]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waive of opposition and participation in the proceding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: May 4, 1983.

By the Commission, Review Board Number 2, Members Carleton, Ewing, and Williams. Member Ewing not participating.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 (202) 275–5223.

MC–F–15252, filed April 20, 1983. GROSS COMMON CARRIERS, INC. (GROSS) (660 West Grand Ave., Wisconsin Rapids, WI 54494)—PURCHASE (PORTION)— G.M.W., INC., (GMW) (1665 West County Road C, Roseville, MN 55113). No. MC–1494 (Sub-No. 32), filed simultaneously with the above—GATEWAY ELIMINATION. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar Street, St. Paul, MN 55101. Gross seeks authority to purchase a portion of the interstate operating rights and property of GMW. Ruth M. Gross, individually and as trustee under the Will of Florence Weinbauer and under the agreement of July 15, 1975, and First National Bank of Stevens Points, as trustee under the Residual Trust of Louis L. Gross, who controls Gross, seeks authority to acquire control of the operating rights and property through the transaction. Gross is seeking to acquire that portion of GMW's operating rights in Certificate No. MC–43475 (Sub-No. 59), which authorizes the transportation of general commodities (except classes A and B explosives) between points in the Upper Peninsula of Michigan. Gross is authorized to operate as a motor common carrier in MC–1494 and sub-numbers thereunder. Gross also seeks to eliminate gateways: general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Illinois, Iowa, Minnesota, Upper Peninsula of Michigan, and Wisconsin.

Note.—A temporary authority application has been filed.

[FR Doc. 83–13273 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and houshold goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 FR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

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Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a mjaor regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verfied statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passenger are duly noted.

Please direct status inquiries about the following to Team One at (202) 275–7992.

Volume No. OP1–171

Decided: May 10, 1983.
By the Commission Review Board No. 2. Members Carleton, Williams and Ewing. Member Ewing not participating.

MC 121810 (Sub-1), filed April 26, 1983. Applicant: G.A.C. TRUCKING COMPANY, INC., P.O. Box 646, Clearwater, SC 29822. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in GA, NC, and SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant's prior or coincidental cancellation at applicant's written request of its certificate of registration in No. MC–121810 issued February 15, 1978.

MC 126421 (Sub-15), filed April 28, 1983. Applicant: GYPSUM TRANSPORT, INC., East Highwy 80, P.O. Drawer 2679, Abilene, TX 79604. Representative: Jerry Prestridge, P.O. Box 26126, Austin, TX 78755, (512) 345–8596. Transporting *lumber and wood products, and building materials*, between points in AL, AR, MS, LA, TX, OK, CO and NM.

MC 139010 (Sub-7), filed April 26, 1983. Applicant: BLACKLINE AMERICAN CORPORATION, 1918 W. Grant St., Phoenix, AZ 85009. Representative: Andrew V. Baylor, 337 East Elm St., Phoenix, AZ 85012, (602) 274–5146. Transpoorting *building and construction materials, equipment, and supplies*, between points in the U.S. (except AK and HI). NOTE: The purpose of this application is to convert existing contract carrier authority to common carrier authority. CONDITION: Issuance of a certificate in this proceeding is conditioned upon applicant's prior or coincidental cancellation at applicant's written request of its permits in No. MC–139010 (Sub-Nos. 1, 3, 5, and 6X) issued October 31, 1975, September 21, 1976, June 30, 1978, and May 24, 1982, respectively.

MC 146251 (Sub-11), filed May 2, 1983. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, One IBM Plaza, Suite 3100, Chicago, IL 60611, (312) 467–9300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 149040 (Sub-4), filed April 28, 1983. Applicant: BANNER TRANSFER COMPANY, INC., 1403 Rowan St., Louisville, KY 40203. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223–8244. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, IL, IN, KY, OH and TN.

MC 150820 (Sub-3), filed April 25, 1983. Aplicant: LEXINGTON TRANSFER, INC., 1036 McKay Drive, N.E., Anoka, MN 55303. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MT, WY, CO, ND, SD, NE, KS, OK, MN, IA, MO, WI, IL, MI, IN, OH, KY, WV, PA and NY.

MC 155510 (Sub-2), filed April 28, 1983. Applicant: ORANGE DISTRIBUTION, INC., Main St., P.O. Box 729, Louisa, VA 23093. Representative: David L. Bolyard, 112 South Pitt St., P.O. Box 453, Alexandria, VA 22313, (703) 548–3301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Brokerage Systems, Inc., of Allston, MA.

MC 160950 (Sub-1), filed April 29, 1983. Applicant: JAMES L. ANDRUS TRUCKING, P.O. Box 130, Mesquite, NV 89024. Representative: James L. Andrus (same address as applicant), (702) 346–5462. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, CO, ID, NV, UT, TX, WY, FL, IL, KS, MA, MO, NJ, SC, TN, and VA.

MC 157500 (A), filed April 22, 1983. Applicant: PERCY M. RHINES, JR., d.b.a. P. RHINES & SONS TRUCKING CO., 5635 North Broadway, Denver, CO 80216. Representative: David E. Driggers, 1660 Lincoln St., 1600 Lincoln Center, Denver, CO 80264, (303) 861–4028. Transporting *furniture, and lumber and wood products*, between points in CO, AL, CA, OR and WA.

Note.—Applicant has also filed for authority under the fitness procedures docketed MC–157500 (B), published in this same **Federal Register** issue.

MC 167611, filed April 25, 1983. Applicant: JOHN J. AND KATHLEEN JOHNER, d.b.a. HIGH LINE TRANSPORTATION, Box 161, Hettinger, ND 58639. Representative: Mark Perry, c/o OOIDA, 5030 N. 35th St., Arlington, VA 22205, (703) 534–1823. Transporting *lumber and wood products*, between those points in the U.S. in and west of WI, IA, MO, AR, and LA (except AK and HI).

MC 167621, filed April 25, 1983. Applicant: DICK GAUNT TRUCKING & EXCAVATING, INC., R.R. #2, Washington, IL 61571. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *contractor's equipment, tools, supplies, and building materials*, between points in IL, IA, IN, KY, MO, and WI, and (2) *road, mining, forestry and construction and equipment*, between points in the U.S. (except AK and HI).

MC 167680, filed April 28, 1983. Applicant: TRANS MUTUAL ASSOCIATES, 18 Henry Rd., Somerville NJ 08876. Representative: Colin Barrett, 11764, Indian Ridge Rd., Reston, VA 22091 (703) 860–8521, As a *broker* of *general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to team 2 at (202) 275–7293.

Volume No. OP2–218

Decided: May 5, 1983.
By the Commission, Review Board No. 2. Members Carleton, Williams and Ewing. Member Ewing not participating.

MC 16682 (Sub-101), filed April 8, 1983. Applicant: MURAL TRANSPORT, INC., P.O. Box 1785, Black Horse Lane, North Brunswick, NJ 08902. Representative: W. C. Mitchell (same address as applicant) (201) 297–6400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc. and ITOFCA Consolidators, Inc., both of Downers Grove, IL.

MC 52793 (Sub-129), filed April 22, 1983. Applicant: BEKINS VAN LINES CO. 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *displays and exhibits*, between points in the U.S. (except AK and HI), under continuing contract(s) with Basic Four Corporation, of Tustin, CA.

MC 87113 (Sub-33), filed April 19, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Thousand Trails, Inc., of Seattle, WA, and its subsidiaries.

MC 87113 (Sub-34), filed April 22, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Lockheed Corporation, of Burbank, CA and its subsidaries.

MC 107012 (Sub-815), filed April 20, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219–429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Days Inn of America, Inc., of Atlanta, GA.

MC 107403 (Sub-1354,), filed April 18, 1983. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant), (215) 259–9800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Amoco Oil Company, of Chicago, IL.

MC 112713 (Sub-338), filed April 25, 1983. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: William F. Martin, Jr. (same address as applicant), 913–383–3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Foremost-McKesson, Inc., of San Francisco, CA.

MC 118202 (Sub-180), filed April 25, 1983. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge St., P.O. Box 406, Winona, MN 55987. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 125853 (Sub-7), filed April 28, 1983. Applicant: TOWNE AIR FREIGHT, INC., 4135 West Progress Drive, South Bend, IN 46628. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, MI, and OH, on the one hand, and, on the other, point in the U.S. (except AK and HI).

MC 135113 (Sub-3), filed April 21, 1983. Applicant: DORIN, INC., GA Hwy 83, Madison, GA 30650. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345. 404–321–1765. Transporting (1) *rubber and plastic products, textile mill products, sporting or athletic goods, parts and related products*, between points in the U.S. (except AK and HI). (2) *pulp, paper and paper products and plastic and plastic products*, between points in GA, IL, NJ, CA, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI). (3) *textile and textile products* and *such commodities* as are dealt in by manufacturers or distributors of craft products, between points in GA and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *fabricated plastic and metal products, wearing apparel, plumbing fittings, plumbing fixtures, plumbing supplies, vanities, vanity cabinets and plastic products*, between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143713 (Sub-14), filed April 25, 1983. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, 7171 Mercy Rd., Suite 610, Omaha, NE 68106, 402–392–1220. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 146892 (Sub-16), filed April 18, 1983. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215–3339, (614) 464–4103. Transporting *general commodities* (except classes A and explosives, and household goods), between points in the U.S. (except AK and HI).

MC 156072 (Sub-1), filed April 25, 1983. Applicant: CHARLES WARREN d.b.a. WARREN AUTO SERVICE, P.O. Box 83, Washington St., Saratoga, IN 47382. Representative: Robert B. Hebert, One Indiana Square-Suite 1600, Indianapolis, IN 46204, 317–632–6282. Transporting *beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Coca-Cola Bottling Company, of Portland, Indiana, Inc., of Portland, IN.

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MC 157763 (Sub-3), filed April 25, 1983. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: Raymond Bradfield, Rural Route 1, Hennepin, IL 61327, 815–223–8968. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. east of MT, WY, CO, and NM.

MC 163032, filed April 22, 1983. Applicant: ALLEN RENCHER, P.O. Box 963, Hayden Lake, ID 83835. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, (2) for or on behalf of the United States Government of *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Part (1) is published in the **Federal Register**, this issue, under the preface with regular application.

MC 163163 (Sub-3), filed April 13, 1983. Applicant: EAGLE BUS, INC., 805 Avenue "C", Bayonne, NJ 07002. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. *Over regular routes,* transporting *passengers,* between New York, NY, and Atlantic City, NJ: (1) From New York over Interstate Hwy 495 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Garden State Parkway, then over Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and (2) from New York over Interstate Hwy 495 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction NJ Hwy 501, then over NJ Hwy 501 to Bayonne Bridge, then over Bayonne Bridge to junction NY Hwy 440, then over NY Hwy 440 to Outerbridge Crossing, then over Outerbridge Crossing to NJ Hwy 440, then over NJ Hwy 440 to Garden State Parkway, then over Garden State Parkway to Atlantic City Expressway to Atlantic City, and return over the same routes, serving all intermediate points, and off-route points in Hudson and Union Counties, NJ, and serving Elizabeth, NJ for purpose of joinder with applicant's existing route.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 167622, filed April 25, 1983. Applicant: MARION WOODS, d.b.a. RAINBOW TRUCKING, Rte 2, Box 1–A, Winthrop, MN 55396. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneaplis, MN 55402, 612–340–0808. Transporting *food and related products,* between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–216

Decided: May 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

MC 167595, filed April 22, 1983. Applicant: NORTH TO ALASKA, INC., 321 Upland Dr., Tukwila, WA 98134. Representative: Michael A. Jonson, 300 Central Bldg., Seattle, WA 98104, (206) 624–2521. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA.

Please direct status inquires about the following to Team 4 at (202) 275–7669.

Volume No. OP4–283

Decided: April 7, 1983.

By the Commission, Division 1, acting as an Appellate Division, Commissioners Andre, Taylor and Sterrett, Chairman Taylor not participating.

MC 128497 (Sub-23), filed December 16, 1982. Applicant: JACK LINK TRUCK LINE, INC., P.O. Box 127, Dyersville, IA 52040. Representative: Jack H. Blanshan, 21363 N. Pheasant Trail, Barrington, IL 60010. In a decision, by the Commission, Division 1, acting as an Appl. Div. decided April 7, 1983, and finds tht performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) machinery and metal products, between points in Washington County, MN; and White County and Moline, IL, on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin; (2) building materials, between points in Illinois and Wisconsin, on the one hand, and, on the other, points in Mower and Freeborn Counties, MN; and Minneapolis, MN; and (3) machinery and metal products, between points in Washington County, MN and Whiteside County and Moline, IL, on the one hand, and, on the other, points in Arkansas, Colorado, North Dakota, Oklahoma, and Texas.

Volume No. OP4–287

Decided: May 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165557, filed April 28, 1983. Applicant: J & D TRUCKING, Rt. 2 Box 1296M Pearl River, LA 70452. Representative: Charles D. Crawford (same address as applicant) (504) 863–2362. Transporting *coal and coal products,* between points in Orleans and St. Tammany Parishes, LA, on the one hand, and, on the other points in Washington, Parish, LA, under continuing contract(s) with Crown, Zellerbach, of Bogalusa, LA.

MC 165947, filed May 2, 1983. Applicant: HOWARD LOVE, d.b.a. HOWARD LOVE MACHINERY & SUPPLY CO., 1717 E. Loop, Suite 330, Houston, TX 77029. Represenative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706 (409) 898–8086. Transporting *coal tar and asphalt,* between points in the U.S. (except AK and HI).

MC 166166, filed May 3, 1983. Applicant: DALE JOHNSON TRUCKING, INC., Rte. 1, Sandwich, IL 60548. Representative: Philip A. Lee 120 W. Madison, Suite 618, Chicago, IL 60602 (312) 236–8225. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 166967, filed May 3, 1983. Applicant: CARE-FREE STEEL HOME CORP., d.b.a. CARE FREE TRANSIT, Junction 41 & D, Allentown, WI 53002. Representative: James A. Speigel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719 (608) 272–103. Transporting *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jack Walters & Sons Corp., of Allenton, WI, and Walter Square Post Buildings, of Fairfield, IL.

MC 167796, filed May 4, 1983. Applicant: NORMAN RICHARD RFD No. 1, Box 43, Champlain, NY 12919. Representative: Norman Richard (same address as applicant), (518) 298–57690. Transporting *general commodities* except classes A and B explosives and household goods), between points in Clinton County, NY, on the one hand, and, on the other, points in NY, VT, NH, ME, MA, CT, RI, NJ, MD, DE, WV, VA, NC, SC, GA, FL, TN, KY, IL, IN, OH, PA, MI, and WI, under continuing contract(s) with Harris Graphics Corp., and Champlain Agway Cooperative, Inc., both of Champlain, NY.

Volume No. OP4–290

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167186, filed April 28, 1983. Applicant PETROLEUM SALES & TRANSPORT, INC., 603 W. 2nd St., Atlantic, IA 50022. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *Chemicals and petroleum products,* between points in IA and NE.

Volume No. OP4–293

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 22147, (Sub-3), filed April 29, 1983. Applicant OSBRO & SON TRUCKING CO., INC., 221 W. Hohnson St., Fond du Lac, WI 54935. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 140686, (Sub-6), filed May 4, 1983. Applicant VSM TRUCKING, INC., 211 S. Main St., Abingdon, IL 61410. Representative: Ronald Henson, 139 S. Cherry St., Galesburg, IL 61401, (309) 343–4193. Transporting *food and related products,* between points in IL, AL, AZ, CA, FL, GA, ID, KY, LA, MI, MN, MS, NM, TX, SD, ND, WA, OR, TN, NC, SC, WI, CO, IA, AR, and MO.

MC 148867, (Sub-8), filed May 3, 1983. Applicant TRANS–ADVO, INC., 239 Service Rd., West, Hartford, CT 16101. Representative: Frank M. Cushman, 36 S. Main St., Sharon, MA 02067, (617) 784–6041. Transporting *printed matter,* between points in the U.S. (except AK and HI), under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR.

MC 149546, (Sub-35), filed May 3, 1983. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with S–R–F–T–C Brokers, of Minneapolis, MN.

MC 150106 (Sub-3), filed May 3, 1983. Applicant: GOLDEN ARCH EXPRESS, INC., 635 Executive Drive, Willow Brook Court, Willow Brook, IL 60521. Representative: Arnold L. Burke, 180 N. LaSalle St., Room 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 157817 (Sub-1), filed May 2, 1983. Applicant: SUPERTONE TRANSPORTATION LIMITED, 58 Marathon Crescent, Willowdale, Ontario, Canada M2R 2L7. Representative: John L. Trigilio, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting (1) *furniture, fixtures, and office equipment;* (2) *pulp, paper and related products;* and (3) *Textile mill products,* between points in the U.S., under continuing contract(s) with Gobal Upholstering Company Limited, of Downsview, Ontario, Canada; Consolidated Fibres Inc., of Buffalo, NY; Quigly Trading Company Inc., of Snyder, NY; and Mike Jacobs Inc., of Fort Lauderdale, FL.

MC 167228 (Sub-1), filed May 3, 1983. Applicant: FOLWERS MOVING, INC., 3660 N. Elston Ave., Chicago, IL 60618. Representative: Lillie A. Folwers (same address as applicant), (312) 588–8133. Transporting *household and office goods and furniture,* between points in IL.

MC 167736, filed April 29, 1983. Applicant: CHARLES ALVES, DONALD DOYLE, AND DAVID LONG d.b.a. TOY TOWN EXPRESS, 44 Pine St., P.O. Box 158, Hudson, MA 01749. Representative: Curtis L. Wood, 14 New England Executive Part, Burlington, MA 01803 (617) 272–7540 Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, PA, RI, AND VT.

MC 167747, filed May 2, 1983. Applicant: FRIERSON TRUCKING, 93 Franklin Rd., Teaneck, NJ 07666. Representative: Alexander Frierson (same address as applicant) (201) 833–2412. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, DE, MD, NJ, NY, and PA.

Please direct status inquiries about the following to Team 5 at (202) 275–7289.

Volume No. OP–213.

Decided: April 29, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 29929 (Sub-9), filed April 15, 1983. Applicant: CANNY TRUCKING CO., INC., 6–18 Spring Forest Ave., Binghamton, NY 13905. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, (201) 946–2020. Transporting *construction, mining, drilling and industrial machinery and equipment,* between points in CT, NJ, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company, of Piscataway, NJ.

MC 35628 (Sub-453), filed April 21, 1983. Applicant: IMFS, d.b.a. INTERSTATE SYSTEM, 110 Ionia Ave. NW., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant). 616–774–0400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with T. G. & Y. Stores Co. of Oklahoma City, OK; General Motors Corporation of Troy, MI; and Dana Corporation of Hagerstown, IN.

MC 79658 (Sub-66), filed April 18, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424–2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN, and its subsidiaries.

MC 79658 (Sub-69), filed April 18, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812–424–2222). Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Citicorp, of New York, NY.

MC 126899 (Sub-154), filed April 18, 1983. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., P.O. Box 3156, Paducah, KY 42001. Representative: George M. Catlett, Suite 700–702 McClure Bldg., Frankfort, KY 40601, 502–227–7384. Transporting *malt beverages,* between St. Paul, MN, Baltimore, MD, Newport, KY and points in St. Clair County, IL, La Crosse County, WI, Saginaw County, MI, Houston County, GA, Vanderburgh County, IN and Polk County, FL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 138879 (Sub-2), filed April 18, 1983. Applicant: RUSSEL L. RODGERS, d.b.a. ROGERS TRUCK SERVICE, Box 21, Fairfield, IL 62837. Representative: Wayne E. Klinckhardt, 378 Scenic Dr., St. Louis, MO 63137, 314–868–7927. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Airtex Products and its divisions Airtex Automotive, Master Parts Div., and LC Products Div., all of Fairfield, IL; Champion Labs and its

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divisions Luber-Finer, Inc., and Pyroil Div., of Albion, IL and Mid South Manufacturing of Marked Tree, AR.

MC 145768 (Sub-9), filed April 15, 1983. Applicant: KREILKAMP TRUCKING, INC., Route 1, Allenton, WI 53002. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, 608–742–3579. Transporting *metal products*, between Chicago, IL and points in Milwaukee and Racine Counties, WI.

MC 146969 (Sub-3), filed April 18, 1983. Applicant: STAN KOCH & SONS TRUCKING, INC., 4901 Excelsior Blvd., St. Louis Park, MN 55416. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 155329 (Sub-1), filed April 18, 1983. Applicant: CLARK MOTOR EXPRESS, INC., P.O. Box 323, Lilburn, GA 30247. Representative: David P. Clark (same address as applicant), (404) 923–2348. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in St. Clair, Livingston, and Oakland Counties, MI, and points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165048, filed April 1, 1983. Applicant: SMITH TRUCKING COMPANY, INC., 2810 East Chestnut, P.O. Box 865, Enid, OK 73702–865. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting (1) *Mercer commodities*,(2) *metal and metal products*, (3) *building materials*, and (4) *machinery*, between those points in the U.S. in and west of NY, PA, and MD (except AK and HI).

MC 166298, filed February 17, 1983. Applicant: EVANS EXXON, INC., 63 Southside Ave., Asheville, NC 28801. Representative: John Evans (same address as applicant), 704–253–5319. Transporting *wrecked and disabled motor vehicles*, between points in U.S. under continuing contract(s) with Fredrickson Motor Express Corporation and Carolina Freight Carriers Corporation both of Ashville, NC.

MC 167239, filed April 18, 1983. Applicant: ROGER G. DOLE, d.b.a DUSTY'S TRUCKING, 2100 So. Marion St., Janeville WI 53545. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 258–7444. Transporting (1) *rubber and plastic products*, and (2) *fittings, and materials equipment and supplies* used or useful in the installation of the commodities in (1) above, between points in the U.S. (except AK and HI), under continuing contract(s) with Freedom Plastics, Inc., of Janesville, WI.

MC 1613478, fiked April 14, 1983. Applicant: ALBANY TRANSPORT, INC., 7177 Industrial Pkwy., Plain City, OH 43064. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Seaboard Allied Milling Department of Cargill, Inc. of Albany, NY.

MC 167459, filed April 15, 1983. Applicant: DENNIS R. FOX, d.b.a. FOX TRANSPORTATION, 16840 Ruby Lane, Brookfield, WI 53005. Representative: Dennis R. Fox (same address as applicant), 414–784–0364. Transporting (1) *Metal products*, (2) *Textile mill products*, and (3) *rubber and plastic products*, between points in the U.S. under continuing contract(s) with Oster (Division of Sunbeam Corp.) of Milwaukee, WI, Hart Schaffner & Marx of Chicago, IL and Schaefer Brush Mfg. of Waukesha, WI.

MC 167478, filed April 18, 1983. Applicant: PIRES TRUCKING, INC., 140 Edward Rd., Raynham, MA 02767. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St. N.W., Washington, DC 20005, 202–783–3525. Transporting *petroleum products*, between points in MA and RI, under continuing contract(s) with Agway Petroleum Corp., of Syracuse, NY.

MC 167529, filed April 18, 1983. Applicant: D. L. BELKNAP TRUCKING, INC., 1127 Seventh St., N.E., Canton, OH 44704. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *metal products*, between points in Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5–222

Decided: May 6, 1983.
By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 16499 (Sub-5), filed April 25, 1983. Applicant: ROHDE CARTAGE, INC., P.O. Box 475, Mundelein, IL 60060. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MO, OH, TN, and WI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. § 11343(e) seeking an exemption from the requirements of 49 U.S.C. § 11343, (2) file an application under 49 U.S.C. § 11343(A), or (3) submi' an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submi' a copy of this filing to Team 5, Room 2414.

MC 140889 (Sub-34), filed April 25, 1983. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: Ignatius B. Trombetta, One Public Square Bldg. #1001, Cleveland, OH 44113, (216) 589–0448. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Tremco, Inc., of Cleveland, OH.

MC 145138 (Sub-1), filed April 22, 1983. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 130, Roberts, ID 83444. Representative: Todd R. Clement (same address as applicant), (208) 524–3331. Transporting *pulp, paper and related products*, between points in Cowlitz County, WA, on the one hand, and, on the other, points in Twin Falls County, ID, under continuing contract(s) with Longview Fiber Company, of Longview, WA.

MC 152068 (Sub-6), filed April 25, 1983. Applicant: HOC-EXPRESS, INC., 125 North Elizabeth, Wichita, KS 67203. Representative: Mark F. Anderson, 1100 Broadway Plaza, 105 South Broadway, Wichita, KS 67202, (316) 262–0667. Transporting *machinery* and *metal products*, between points in Sedgwick County, KS, on the one hand, and, on the other, points in TX, IA, and NM.

Note.—Applicant intends to tack to existing authority.

MC 161708, (Sub-1), filed April 18, 1983. Applicant JUTTA UNIVERSAL SYSTEMS, INC., Crystal Brook Professional Bldg., State Highway #35, Eatontown, NJ 07724. Representative: John R. Dillon, III, One Leonardville Road, Atlantic Highlands, NJ 07716, (201) 291–8770. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Holland House, Inc., of Ridgefield, NJ, and Hunt-Wesson Foods, Inc., of Fullerton, CA.

MC 165779, filed April 25, 1983. Applicant RICHMOND EXPRESS CO., INC., 1201 Corbin Street, Elizabeth, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RU, VT, VA, and DC.

MC 164638, filed April 21, 1983. Applicant COMMODITY CARRIERS, INC., P.O. Box 11040, Denver, CO 80211. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005, (202) 296–3555. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CO, and NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167638, filed April 26, 1983. Applicant B & W TRUCK TRANSFER, INC., 5025 Van Buren St., Anchorage, AK 99503. Representative: Russell A. Evans, P.O. Box 5613, Bellevue, WA 98006, (206) 644–2100. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AK, under continuing contract(s) with Washington Oregon Shippers Cooperative Association, Pacific Northwest Shippers Association and Trailer Express, Inc., all of Seattle, WA.

Volume No. OP5–224

Decided- May 6, 1983.
By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF 689, filed April 29, 1983. Applicant: ALLIANCE FORWARDING, INC., P.O. Box 92252, Long Beach, CA 90809–2252. Representative: Sol Ho. Proctor, 1101 Backstone Bldg., Jacksonville, FL 32202, 904–632–2300. As a freight forwarder in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles*, between points in the U.S.

W 1338 (Sub-4), filed April 28, 1983. Applicant: THE BINKLEY CO., d.b.a. NORTHWEST NAVIGATION, P.O. Box 1065, Bethel, AK 99559. Representative: Jim Pitzer, 15 South Grady Way, Suit 321, Renton, WA 98055, 206–235–1111 Transporting *general commodities* by water vessel between points in AK on the Kuskokwim River and its tributaries from its mouth to and including Medfra, AK.

W 1369 (Sub-1), filed April 28, 1983. Applicant: JAMES OTIS PEARCY, d.b.a. PEARCY MARINE, 18128 Bal Harbour Dr., Houston, TX 77058. Representative: James Otis Pearcy (same address as applicant), (713) 333–5793. Transporting *general commodities* (except classes A and B explosives) between all U.S. ports on the Gulf of Mexico.

MC 79658 (Sub-71), filed April 26, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Limited, Incorporated, of Columbus, OH.

MC 79658 (Sub-72), filed April 29, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *water purification systems*, between points in the U.S. (except AK and HI), under continuing contract(s) with Fluid Systems Division UOP Inc., of San Diego, CA.

MC 121439 (Sub-3(a)), filed April 27, 1983. Applicant: THOMAS TRANSFER, INC., 1800 15th St., Denver, CO 80202. Representative: Charles M. Williams, McCullough Bldg., 1750 Gilpin St., Denver, CO 80218, (303) 333–3774. Transporting *general commodities* (except commodities in bulk and household goods), between points in CO, WY, and NE. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

Note.—Applicant seeks additional authority in MC–121439 Sub-1 1(b) published in this same **Federal Register**.

MC 146238 (Sub-2), filed April 27, 1983. Applicant: C & R TRUCKING, INC., West Hwy. 66, P.O. Box 815, Kingman, AZ 86402. Representative: Cecil E. Groves (same address as applicant) (602) 753–5814. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of aluminum ventilation products between points in the U.S., under continuing contract(s) with Lomanco, Inc., of Jacksonville, AR.

MC 154438 (Sub-1), filed April 27, 1983. Applicant: J. T. TAYLOR d.b.a. MILRON TRUCK LINE, 3808 Sago Court, El Paso, TX 79927. Representative: J. T. Taylor (same address as applicant) (915) 779–5732. Transporting (1) *medical materials and supplies*, between points in El Paso County, TX, on the one hand, and, on the other, Columbus, MS, and points in TX, and (2) *iron and steel products*, between points in El Paso County, TX, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, LA, MS, MT, NV, OK, OR, TX, UT, WA, and WY.

MC 161229 (Sub-2), filed April 27, 1983. Applicant: LOVE TRANSPORT COMPANY, INC., P.O. Box 546, Wichita, KS 67201. Representative: Robert W. Love (same address as applicant), (316) 838–0851. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Kawasaki Motors Manufacturing Corp., USA, of Lincoln, NE.

MC 161258 (Sub-1), filed April 29, 1983. Applicant: MANUFACTURERS WAREHOUSE, INC., 7800 Ball Road, Fort Smith, AR 72906. Representative: Charles H. Schmidly, 4110 So. 25th St., Fort Smith, AR 72901, (501) 646–1510. Transporting *alcoholic beverages*, between points in AR, CA, IL, KY, LA, MI, and NJ, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Hiram Walker & Sons, Inc., of Fort Smith, AR.

MC 163429 (Sub-1), filed April 29, 1983. Applicant: GENE TRIPP JR. AND DAVID SAUERBIER, d.b.a. BEARMOUTH EXPRESS, P.O. Box 7103, Missoula, MT 59807. Representative: William R. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–6369. Transporting *such commodities* as are dealt in or used by lumber yards, between points in WA, OR, CA, ID, and MT, on the one hand, and, on the other, points in the U.S. in and west of OH, IN, IL, MO, AR, and TX (except AK and HI).

MC 166959, filed April 21, 1983. Applicant: CLIFFORD A. PHILLIPS, d.b.a. CAM'S TRUCKING, 2123 S. Barcliff, Springfield, MO 65804. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, (417) 883–7311. Transporting *food and related products, building materials*, and *farm products*, between points in AL, AR, FL, GA, IL, IN, IA, KS, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, and WI.

MC 166589, filed April 29, 1983. Applicant: WARD COMPANY, INC., 904 North Lincoln St., Arlington, VA 22201. Representative: Stephen Sale, 1825 Eye St., N. W., Suite 1200, Washington, DC 20006, 202–828–5830. Transporting *such commodities* as are dealt in or used by collectors, distributors and exhibitors of fine arts objects and antiques of extra ordinary value, between points in CT, DE, MD, NJ, NY, PA, VA and DC.

MC 167369, filed April 15, 1983. Applicant: BILL KUHNS TRUCKING, 7907 Santa Fe Ave., Huntington Park, CA 90255. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212, (213) 277–2323. Transporting *metal products* between points in the U.S. (except AK and HI), under continuing contract(s)

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with Stead Industries, Inc., DBA Hoyt Heater Company, of Reno-Stead, NV.

MC 167559, filed April 25, 1983. Applicant: A B C RAPID DELIVERY, INC., 1219 Dalbigne St., Belvidere, IL 61008. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Apache Building Products, of Belvidere, IL.

MC 167599, filed April 22, 1983. Applicant: SHERWOOD BROS. INC., 5222 Pinemont Dr., Murray, UT 8410.7. Representative: Irene Warr, Suite 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *building materials*, between points in the U.S. in and west of MT, WY, CO, NM, and TX (except AK and HI).

MC 167619, filed April 25, 1983. Applicant: ORDELL SIMONSEN, d.b.a. S & R TRUCKING, Rural Route 2, Box 12, Viberg, SD 57070. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, 605–335–1777. Transporting *lumber and wood products*, and *construction materials*, between points in CA, IA, ID, IL, MI, MN, MT, OR, WA and WY, on the one hand, and, on the other, points in IA, MN, NE, and SD.

MC 167629, filed April 25, 1983. Applicant: HGC TRUCKING COMPANY, 1400 Gadsden St., Quincy, FL 32351. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting *food and related products, farm products*, and *paper products*, between points in MS, AL, TN, GA, and FL.

MC 167658, filed April 27, 1983. Applicant: COMMERCIAL TRUCKING & LEASING, INC., 1115 E. Hennepin Ave., Minneapolis, MN 55414. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612–542–1121. Transporting *chemicals and related products*, between points in Reno County, KS, on the one hand, and, on the other, points in MN and ND.

MC 167659, filed April 27, 1983. Applicant: W.O.W. TRUCK LINES, INC., P.O. Box 209, Stigler, OK 74462. Representative: June E. Edmondson, 1101 Connecticut Ave., NW., Washington, DC 20036, 202–659–8201. Transporting (1) *coal and coal products*, (2) *clay, concrete, glass or stone products*, (3) *commodities in bulk*, between points in AR, CO, KS, LA, MO, MS, NM, OK, TN, and TX.

MC 167678, filed April 27, 1983. Applicant: LAWRENCE MOVING & STORAGE, INC., P.O. Box 37, Reno, NV 89504. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, between points in WA, OR, CA, NV, ID, UT, AZ, NM, CO, WY, and MT.

MC 167709, filed April 29, 1983. Applicant: RICHARD AND SHIRLEY BANDY, P.O. Box 655, Talent, OR 97540. Representative: Richard Bandy (same address as applicant), (503) 535–1183. Transporting *general commodities* (except classes A and B explosives, and household goods) between points in the U.S. under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR, and Siskiyou West, Inc., of Yreka, CA.

Volume No. OP5–227

Decided: May 10, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 167558, filed April 21, 1983. Applicant: K & L TRUCKING COMPANY, INC., 7350 Lockport Pl., Lorton, VA 22079. Representative: David H. Baker, 600 Maryland Ave., NW., Washington, DC 20024, 202–484–9090. Transporting *paper and related products*, between Baltimore, MD, Washington, DC, and points in Fairfax, Loudoun, Arlington, Prince, William and Spotsylvania Counties, VA, Montgomery, Prince Georges, Charles and Baltimore Counties, MD, on the one hand and, on the other, points in MD, VA, DE, PA, NJ, NY, CT, MA, and NH.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83–13283 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Volume No. OP2–224]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grant(s) of operating right authority is republished by order of the Commission to give proper notice of the fact that this application is "public interest" in nature, which was not disclosed in the prior publication in the **Federal Register**, on December 29, 1982.

In addition to fitness grounds this application may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 164973, (Republication), filed December 2, 1982, published in the FR issue of December 29, 1982, and republished this issue. Applicant: MANCHESTER TRANSIT AUTHORITY, 110 Elm St., Manchester, NH 03103. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005. A decision of the Commission, *Review Board 2*, decided April 25, 1983, and served May 4, 1983, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *passengers*, in charter and special operations, beginning and ending at points in New Hampshire, and extending to points in the United States (including Alaska, but excluding Hawaii), that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to give proper notice of the fact that this application is "public interest" in nature.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

[FR Doc. 83–13272 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers: Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 17, 1983. Petitions for reconsideration must be filed by June 7, 1983. Petitions for stay must be filed by May 31, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423; or call (202) 289–4357 in the D.C. metropolitan area; or (800) 424–5403 toll-free outside the DC area.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

MC–F–15116, FIVE STAR TRUCKING, INC.—PURCHASE EXEMPTION—CHISM, INC. Addresses: Send pleadings to: (1) Motor Section, Room 2139 Interstate Commerce Commissions Washington, D.C. 20423 and (2) Petitioners' representatives Max W. Lilley, Esq., Lilley & Cowan, P.C. Suite 221, Woodruff Building, P.O. Box 1305, S.S.S., Springfield, MO 65805 and David M. O'Boyle, Esq., Wick, Rich, Fluke & Streiff, 1610 Two Chatham Center, Pittsburgh, PA 15219. Pleadings should refer to No. MC–F–15116. Decided: May 10, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Five Star Trucking Inc. (No. MC–140889) of all of the operating authority of Chism, Inc. (No. MC–156329).

MC–F–15130, TRANSX LTD.—CONTROL EXEMPTION—P.M.E., LTD. Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representatve: Robert L. Cope, 1730 M Street NW., Washington, D.C. 20036. Pleadings should refer to No. MC–F–15130. Decided: May 11, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(3) the purchase by Transx Ltd. (MC–153367) of all the outstanding stock of P.M.E. Ltd. (MC–145337).

[FR Doc. 83–13278 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–172]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 11, 1983.

The following restriction removal applications are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275–7992.

MC 108220 (Sub-5X), filed April 15, 1983. Applicant: EDWARD DARBY LAVENDER, d.b.a. LAMBERT-MARKS EXPRESS, P.O. Box 369, Marks, MS 38646. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004, (202) 347–6862. Lead and Sub 2 certificates: (1) Provide for service at all intermediate points over described regular routes extending (a) between Memphis, TN, and Lambert, MS, (b) between Memphis, TN, and junction MS Hwy 6 and U.S. Hwy 61, and (c) between Lambert, MS, and Vance, MS, and (2) broaden the off-route points of Belen, Buxton, Crowder, and Sarah, MS, to "Tunica, Quitman, Panola, Tallatchie, and Coahoma Counties, MS", in the lead certificate.

[FR Doc. 83–13280 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30138]

Rail Carriers; Cairo Terminal Railroad Company—Trackage Rights Exemption—Illinois Central Gulf Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition of trackage rights by Cairo Terminal Railroad Company over 4.5 miles of Illinois Central Gulf Railroad Company track between milepost 500 and Cairo, IL, via Davis IL, from the requirements of 49 U.S.C 11343, subject to standard employee protective conditions. Related connecting track construction is exempted from the requirements of 49 U.S.C. 10901.

DATES: The decision is effective on May 18, 1983. Petitions to reopen must be filed by June 7, 1983.

ADDRESSES: Send petitions to reopen referring to Finance Docket No. 30138 to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioners' representative: Peter A. Gilbertson, Suite 350, 1575 Eye Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll-free (800) 424–5403.

Decided: May 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13279 Filed 5–17–83; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order No. P–53]

Passenger Train Operation; Union Pacific Railroad Co. and The Western Pacific Railroad Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California and Chicago, Illinois. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific

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Transportation Company (SP). A portion of the SP tracks in Utah over the Great Salt Lake are temporarily out of service because of flooding. An alternate route is available via The Western Pacific Railroad Company between Alizon, Nevada, and Salt Lake City, Utah.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Western Pacific Railroad Company (WP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Alizon, Nevada, and Salt Lake City, Utah.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 3:00 a.m., May 9, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 13, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company, The Western Pacific Railroad Company, and upon National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 9, 1983.

J. Warren McFarland,

Interstate Commerce Commission.

[FR Doc. 83-13274 Filed 5-17-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Judgment in an Action Involving Claims by The United States To Enjoin Discharge of Water Pollutants

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that on April 29, 1983, a proposed Judgment (on consent) in *Township of Franklin Sewage Authority* v. *Middlesex County Utilities Authority* v. *The State of New Jersey, et al.*, Civil No. 80-4041 (D.N.J.), was lodged with the United States District Court for the District of New Jersey. The proposed judgment requires the City of Perth Amboy, New Jersey to meet the secondary treatment requirements of Section 301 of the Clean Water Act, 33 U.S.C. 1311.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments related to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Township of Franklin Sewage Authority* v. *Middlesex County Utilities Authority* v. *The State of New Jersey, et al.*, D.J. Ref. #90-5-1-6-260.

The proposed judgment may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Tenth Street and Pennsylvania Avenue, N.W. Washington, D.C. 20530. A copy of the proposed judgement may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-13369 Filed 5-17-83; 8:45 am]

BILLING CODE 4410-01-M

Proposed Final Judgment (on Consent) in Action To Enforce the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 3, 1983, a proposed final judgment (on consent) in *United States* v. *The Shultz Company, Inc.*, Civil Action No. 83-Civ-3551, was lodged with the United States District Court for the Southern District of New York. The proposed final judgment (on consent) enjoins defendant to comply with the volatile organic compounds standards of the New York State Clean Air Act Implementation Plan (SIP) and requires defendant to pay a civil penalty of $2,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed final judgment (on consent). Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *The Shultz Company, Inc.*, DOJ No. 90-5-2-1-570.

A copy of the proposed final judgment (on consent) may be examined at the offices of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007; the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed final judgment (on consent) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-13362 Filed 5-17-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 Code of Federal Regulations (CFR), this is notice that on October 18, 1982, Hoffman La Roche Inc., Kingland Road and Bloomfield Avenue, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer

of the basic classes of controlled substances listed below:

Drug	Schedule
Alphaprodine (9010)	II.
Levorphanol (9220)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than June 17, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

May 9, 1983.

[FR Doc. 83-13337 Filed 5-17-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-44]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Executive Subcommittee.

DATE: Time: June 22, 1983, 8:30 a.m. to 5:45 p.m.; June 23, 1983, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. C. Robert Nysmith, National Aeronautics and Space Administration, Code R, Washington, DC 20546 (202/755-8550).

SUPPLEMENTARY INFORMATION: The Informal Executive Subcommittee was established to provide overall guidance and direction to the discipline and vehicle class oriented activities of the Aeronautics Advisory Committee. The Subcommittee, chaired by Dr. Robert Loewy, is comprised of fourteen members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda

June 22, 1983:
- 8:30 a.m.—Chairperson's Remarks.
- 8:45 a.m.—Review of NASA Aeronautics Long Range Plan.
- 11 a.m.—Subcommittee Chairperson's Reports.
- 5:45 p.m.—Adjourn.

June 23, 1983:
- 8:30 a.m.—Reports of Ad Hoc/Special Subcommittee Activities.
- 10:45 a.m.—Discussion and Consolidation of Subcommittee Reports.
- 2 p.m.—Summary of Meeting Results to the Office of Aeronautics and Space Technology Management.
- 3 p.m.—Adjourn.

Dated: May 5, 1983.

Ann P. Bradley,

Acting Associate Administrator for Management, Office of Management.

[FR Doc. 83-13254 Filed 5-17-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) Funding & Regulatory (F&R) Working Group will be held beginning at 9:00 a.m. on Thursday, June 2, 1983. The meeting will be held in the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The agenda is as follows:

A. Opening Remarks.

B. Presentation of the National Coordinating Mechanism (NCM) Report to the F&R Working Group.

C. Presentation of the Commercial Satellite Survivability (CSS) Report to the F&R Working Group.

D. NIAC Presentation on F&R Matters Pertaining to the NCM and CSS Reports.

E. Presentation and Analysis of Funding Alternatives.

F. Development of F&R Recommendations to the Industry Executive Subcommittee (IES).

G. Adjournment.

Any person desiring information about the meeting may telephone (Area Code 202-692-9274) or write the Office of the Manager, National Communications System, Washington, D.C. 20305.

Dated: May 12, 1983.

Joseph C. Wheeler,

Colonel, USAF, National Communications System, NSC Joint Secretariat.

[FR Doc. 83-13302 Filed 5-17-83; 8:45 am]

BILLING CODE 3610-05-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Plant Features Important to Safety; Meeting

The ACRS Subcommittee on Plant Features Important to Safety will hold a meeting on June 7, 1983, Room 1046, 1717 H Street, NW., Washington, D.C. The Subcommittee will obtain a status report and program plans on equipment qualification and classification systems dealing with both mechanical and electrical components. New initiatives in the quality assurance area such as a graded approach to quality assurance will be explored.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. (Sunshine Act Exemption 4.) One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, June 7, 1983—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary

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views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportuntiy to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552(b)(c)(4).

Dated: May 13, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83 13377 Filed 5–17–83; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 11th day of May, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORTS/IMPORTS)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Nissho Iwai Corp., May 4, 1983, May 6, 1983, XSNM01778 (Amend 01).	45.40 pct enriched uranium	33.701 additional	15.300 additional	Increase quantity for use as fuel in JMTR reactor.	Japan.
Nissho Iwai Corp., May 4, 1983, May 6, 1983, XSNM01779 (Amend 01).	45.40 pct enriched uranium	12.314 additional	5.591 additional	Increase quantity for use as fuel for JRR–2 reactor.	Japan.
Exxon Nuclear Co., May 5, 1983, May 9, 1983, XSNM02043.	3.85 pct enriched uranium	52,000	2,000	Reload fuel for Blayais I and Blayais II	France.
Exxon Nuclear Co., Apr. 29, 1983, May 9, 1983, ISNM83010.	3.50 pct enriched uranium	28,600	1,000	For fabrication of fuel for Tihange Unit 1—Belgium.	From France.
Transnuclear, Inc., May 3, 1983, May 3, 1983, XSNM01920(02).	3.3 pct enriched uranium	1,141 additional	31.160 additional	Increase quantity for Bugey 3 reload	France.
Exxon Nuclear Co., May 5, 1983, May 9, 1983, XSNM01929(01).	3.5 pct enriched uranium	0	134 additional	Amend to increase quantity of U–235 for Tihange 1.	Belgium.

[FR Doc. 83–13371 Filed 5–17–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to change the Minimum Critical Power Ratio limits as necessitated by the "spectral shift" mode of operation being used in the present cycle.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see; (1) The Application for amendment dated April 5, 1983, (2) Amendment No. 70 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 3d day of May 1983.

For the nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 2, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–13372 Filed 5–17–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–366]

Georgia Power Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2 (the facility), located in Appling County, Georgia.

The amendment involves two principal sets of changes. The first set provides additional and revised trip setpoints that reflect design modifications to reduce containment loads from plant transients. These changes would: (1) Lower the opening and closing setpoints for subsequent actuation of selected safety relief valves, and (2) lower the main steam isolation valve water level trip setpoint. The second set relates to changes to the core design for the third fuel reload of Unit No. 2, to include operation with a new fuel type, 7 x 7 bundles. This requires numerical changes to the curves which specify maximum average planar linear heat generation rates and minimum critical power ratios. These changes are in accordance with the licensees' application for amendment dated February 23, 1983, as supplemented April 19, 1983, and application for amendment dated March 30, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibiity of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations relates to reload amendments involving no fuel assemblies significantly different than those previously found acceptable at the facility in question. While the fuel assemblies involved in this application are somewhat different from those previously authorized for Hatch Unit No. 2, 7 x 7 rather than 8 x 8, the Commission proposes to determine that the application does not involve a significant hazards consideration since fuel elements of this design have been previously reviewed and approved for use in Hatch Unit No. 1. While there are some differences between Hatch Unit No. 1 and Hatch Unit No. 2 operating characteristics which require a plant specific analysis for the use of the new fuel, these differences are not significant.

With respect to the changes in the trip setpoints, one of the examples of actions likely to involve significant hazards considerations relates to changes in plant operation designed to improve safety but which, due to other factors, allow plant operation with safety margins significantly reduced from those believed to have been present when the plant was licensed. The installation of the Low Level Set Safety Relief Valve (SRV) logic system is intended to mitigate the problems of containment loads during SRV operations identified in NUREG–0661, and as required by Order modifying the license dated January 13, 1981 (46 FR 9280, January 28, 1981) and Modification Order dated January 19, 1982 (47 FR 3901, January 27, 1982). In the present case, the changes involved in the Low Level Set SRV logic system, together with actions previously taken in response to the prior Commission Orders, essentially restore safety margins and consequently the changes would not have the effect of permitting plant operation with safety margins significantly reduced from those believed to be present before the problems discussed in NUREG–0661 were identified. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By June 17, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licesne and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be

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made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments recieved. Should the Commission take this action, it will publish a notice if issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,Washington, D.C. 20555, Atttention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presidingg officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment which are available for public inspection at the Commission's Public Document Room, 1717, H Street, NW., Washington, D.C. 20555, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Md., this 12th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-13373 Filed 5-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebraska.

A reactor coolant system's (RCS) pressure-temperature limits must be revised periodically to take into account irradiation of the reactor pressure vessel. Various curves are used to analyze the RCS's pressure-temperature limits. The amendment would make more restrictive the curves that are use to make decisions about heating up and cooling down the reactor coolant system. These curves, specified in the licensee's technical specifications, must be changed periodically because of irradiation to the reactor pressure vessel, which is an integral part of the reactor coolant system. The pressure-temperature limits contained in the curves are needed to ensure that the reactor pressure vessel maintains adequate ductility while pressurized, in accordance with the licensee's applicaton for amendment dated March 7, 1983, as supplemented by letter dated April 28, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated: or (3) involve a significant reduction in a margin of safety.

The proposed changes constitute an additional limitation, not presently included in the technical specifications, which ensures that current margins of safety are maintained with respect to the periodic revision of the RCS's pressure-temperature limits. The proposed amendment is an example of an amendment that is considered not likely to involve significant hazards considerations such that the change constitutes an additional limitation, restriction, or control not presently in the technical specifications (*see* Example ii in the not likely category in 48 FR 14870, April 6, 1983).

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By June 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination of the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

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Dated at Bethesda, Maryland, this 12th day of May 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-13374 Filed 5-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311; License Nos. DPR-70 and DPR-75]

Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Units 1 & 2); Order Modifying License Effective Immediately

I

Public Service Electric and Gas Company (the licensee) holds License Nos. DPR-70 and DPR-75 which authorize operation of Units 1 and 2 of the Salem Nuclear Generating Station. The facilities are Westinghouse pressurized water reactors (PWRs) located at the licensee's site at Hancock's Bridge, Salem County, New Jersey.

II

On February 25, 1983, an event occurred at Unit 1 of the Salem Nuclear Generating Station when the control rods failed to insert when the reactor-trip circuit breakers failed to automatically open following receipt of a valid trip signal from the Reactor Protection System (RPS). The manual trip system was used to shut down the reactor. Subsequently, it was concluded by the licensee that the failure to trip was caused by a malfunction of the undervoltage (UV) trip attachments in both reactor-trip circuit breakers. Evaluation of the event of February 25, 1983 revealed that a similar failure had occurred on February 22, 1983, at Salem 1.

The NRC review of the event revealed a number of significant deficiencies. This review is set forth in NUREG-0977, "NRC Fact-Finding Task Force Report on the ATWS Events at Salem Nuclear Generating Station, Unit 1, on February 22 and 25, 1983," March 1983, which is hereby incorporated by reference.

If there were a potentially severe transient, from a worst case set of initial conditions, and the reactor shutdown system did not function, an extremely severe accident could occur in the absence of timely operator action. Therefore, the aforementioned failures are technically very serious.

III

Analysis of the event described in Section II reveals operational and management issues at the Salem facilities which are discussed in the staff's Safety Evaluation Report.

By letters dated March 1, March 8, March 14, March 18, March 23, April 4, April 7, April 8, April 11, April 13, April 22, April 27, and April 28, 1983, the licensee submitted its Corrective Action Program related to the reactor trip breaker failures. This program includes short-term remedial actions to be completed prior to startup of the unit and a number of longer term items which have not be completed but for which the licensee has established completion dates. The licensee's letter dated April 28, 1983 summarizes the licensee's commitments for corrective action.

The various remedial actions involve equipment, operational and management issues. The equipment issues involve (1) safety classification of breakers, (2) identification of cause of failure, (3) verification testing and (4) maintenance and surveillance procedures. The operational issues involve (1) operating procedure for reactor trips and anticipated transients without scram (ATWS), (2) operator training, and (3) operator response. The management issues involve (1) master equipment list, (2) procurement procedures, (3) work-order procedures, (4) post-trip review, (5) timeliness of event notification, (6) updating vendor-supplied information, (7) involvement of QA personnel with other station departments, (8) post-maintenance operability testing and (9) overall management capability and performance.

The NRC staff has reviewed the corrective action program as discussed in the staff's Safety Evaluation Report, and determined that the licensee's actions are necessary to assure continued safe operation of the facility. In addition, I have determined that because of the history of the Salem facility described above, the need for further long-term actions to increase the reliability of the mitigation features of the Salem facility must also be addressed.

Accordingly, in view of the importance of these issues to safe operation, I have determined that the licensee's corrective actions are required by the public health, safety, and interest, and, therefore, should be confirmed by an immediately effective Order.

IV

In view of the foregoing, pursuant to Sections 103, 161(i), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

1. The licensee shall implement and/or maintain the items specified in the licensee's letter dated April 28, 1983.

V

The Licensee may request a hearing on this Order within 30 days of the date of this Order. Any request for a hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request or answer shall also be sent to the Executive Legal Director at the same address. Any request for a hearing shall not stay the immediate effectiveness of this Order.

If a hearing is held on this Order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland this 6th day of May 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-13375 Filed 5-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF-12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. The amendment changes a license condition and the related Technical Specifications to permit operation of the modified Model D-3 steam generator. The license amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required

since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) South Carolina Electric & Gas Company letters, dated February 14, April 13 (two letters), May 3, and May 4, 1983, (2) Amendment No. 16 to Facility Operating License No. NPF-12 with Appendix A Technical Specifications page change, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 16 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-13376 Filed 5-17-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Inquiry Concerning Federal Communications Commission Form 730, "Application for Registration of Equipment To Be Connected to the Telephone Network"

AGENCY: Office of Management and Budget, Office of Information and Regulatory Affairs.

ACTION: Notice of inquiry.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1980, the Office of Management and Budget (OMB) solicits public comment on the above-named information collection. Comments will be considered when OMB decides whether to renew its approval of the information collection, and will be reviewed to determine how OMB can better implement the Paperwork Reduction Act.

FOR FURTHER INFORMATION CONTACT: Jim J. Tozzi, Room 3236 NEOB, Office of Management and Budget, Washington, D.C. 20503. Telephone (202) 395-5897.

SUPPLEMENTARY INFORMATION: On August 10, 1981, the Office of Management and Budget (OMB) approved a Federal Communications Commission (FCC) information collection entitled "FCC Form 730, Application for Registration of Equipment to be Connected to the Telephone Network" (OMB number 3060-0056). Under the Paperwork Reduction Act of 1980, a Federal agency may not conduct any collection of information that has not received OMB approval (44 U.S.C. 3507(a)). Approval for FCC Form 730 will expire on August 31, 1984, and we anticipate that the FCC will apply for renewal of OMB approval so that the information collection may continue.

Typically, public comment is solicited by an agency at the same time it submits an information collection for OMB approval or renewal. In this case, we are directly soliciting public comment regarding FCC Form 730 substantially before its approval expires. This is to give respondents a longer period to prepare comments and to give us a longer period to review them. This atypical treatment does not reflect any perceived deficiencies in FCC Form 730. Indeed, the FCC has been a leader in reducing Federal paperwork burden on the public,[1] and FCC Form 730 incorporates many principles central to the Paperwork Reduction Act and to the President's program of regulatory relief, such as self-certification and use of performance standards rather than design standards. In addition to the routine renewal evaluation of FCC Form 730, we want to determine through this inquiry whether an information collection that in some ways exemplifies the "state of the art" could be further improved.

This inquiry is pursuant to several provisions of the Paperwork Reduction Act (the Act). The Act gives the Director of OMB the functions of "evaluating agency information management practices" and "conduct of research with respect to, Federal collection * * * and use of information." (44 U.S.C. 3504(b) (5) and (6)) It also states that in determining whether an information collection is necessary, "the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing." (44 U.S.C. 3508) Further, it directs that "in development of information policies, plans, rules, regulations, procedures, and guidelines and in reviewing information collection requests, the Director shall provide interested agencies and persons early and meaningful opportunity to comment." (44 U.S.C. 3517)

FCC Form 730 collects information from suppliers of equipment to be connected to the telephone network, known as "Interconnect equipment."[2] The information is used by FCC to determine whether the equipment conforms to standards in Part 68 of the FCC rules intended to prevent damage to the telephone network. We invite comment on the following topics from foreign and domestic suppliers of interconnect equipment, and other interested persons:

1. *Burden:* The FCC estimates that it takes an average of 24 work hours of effort for a respondent to complete FCC Form 730, including all time spent reading and understanding the form and its instructions, and developing, compiling, recording, and reviewing the required information.

a. Does this estimate appear accurate in light of respondents' experience?

b. Under what circumstances is more or less effort required?

c. How does this compare to the effort required to secure interconnect equipment approval in other countries?

2. *Non-discrimination:*

a. Does FCC Form 730 provide non-discriminatory treatment and direct and complete access to the registration procedure for interconnect equipment from all domestic and foreign producers?

b. How does it compare in this respect to other countries' interconnect equipment approval procedures?

c. Should FCC Form 730 solicit information regarding treatment of U.S.-made interconnect equipment in the home country of foreign applicants?

3. *Instructions:*

a. Do the instructions, regulations, and other guidance associated with FCC Form 730 provide full information regarding the interconnect equipment standards FCC applies and the procedures applicants must follow?

b. Is all this information readily available from a single contact point?

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[1] The Paperwork Reduction Act set a target of a 25% reduction from FY 1980 to FY 1983 in the paperwork burden the Federal government imposes on the public. The FCC expects to achieve a 69% reduction during this period, reducing the annual paperwork burden it imposes on the public by 19.2 million hours.

[2] For convenience, we will refer to this information collection as "FCC Form 730." However, this inquiry and all the questions below refer to the entire information collection, including the form, its instructions, and any rules, procedures, or practices that specify how this information is collected and used.

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c. How does the completeness and availability of this information compare to other countries' interconnect equipment approval procedures?

4. *Interconnect specifications:* The information collected by FCC Form 730 is oriented towards interconnect specifications, rather than internal design specifications.

a. Could the FCC Form 730 process move further towards using interconnect specifications rather than design standards without compromising regulatory goals?

b. Should FCC Form 730 collect information oriented more towards design standards, in order to provide better protection to the telephone network and/or to assure operating compatibility between interconnect equipment and the telephone network?

c. How does the balance between interconnect specifications and design standards compare to other countries' interconnect equipment approval procedures?

5. *Test data:*

a. Do domestic or foreign testing laboratories encounter any difficulties in generating test data acceptable to the FCC for the FCC Form 730 process?

b. How does this compare to the difficulty of generating test data acceptable for other countries' interconnect equipment approval procedures?

6. *Delay:* The FCC reports that 95% of applications are granted within 40 to 60 days after FCC Form 730 is accepted for filing.

a. Under what conditions have longer delays occurred?

b. How does this compare to the delay experienced in other countries' interconnect equipment approval procedures?

7. *Deficient applications:* The FCC reports that they have never denied an application on FCC Form 730. Instead, problems have been resolved by discussions between the FCC and the applicant or the applicant's representative.

a. When the FCC has detected problems with applications on FCC Form 730, has it provided a useful explanation of how the application was deficient, and if necessary a review procedure for complaints arising from its findings?

b. How do the FCC's procedures compare in these respects to other countries' interconnect equipment approval procedures?

Responses to this inquiry should be in writing, and should be directed to Information Policy Branch, Room 3235 NEOB, Office of Management and Budget, Wahington, D.C. 20503. Please submit an original and two copies. Responses should be clearly marked "Interconnect Equipment Inquiry". For full consideration in this inquiry, responses should be received before July 18, 1983. However, comments received any time before OMB reaches a determination on whether to renew approval of FCC Form 730 may be considered in reaching that determination.

Issued in Washington, D.C., May 5, 1983.

Christopher DeMuth,

Administrator for Information and Regulatory Affairs.

[FR Doc. 83-13282 Filed 5-17-83; 8:45 am]

BILLING CODE 3110-01-M

PEACE CORPS

Notice of Submission of Public Use Form Extension Review Request

AGENCY: Peace Corps.

ACTION: Notice of submission of public use form extension review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the Peace Corps Volunteer Application Form through June 30, 1986. This form is completed voluntarily by applicants for the Peace Corps program and it provides basic information concerning background, education, qualifications, language skills, preferences, etc. This information is necessary for Peace Corps staff to perform the initial screening between qualified and unqualified candidates, selection from among the qualified, and the proper placement of the potential volunteers in suitable programs and settings. The request for racial and ethnic data is used solely for the purpose of determining compliance with federal civil rights law.

Information about the form:

Agency Address: Peace Corps, 806 Connecticut Avenue, NW., Washington, D.C. 20526.

Title and Agency Number: Peace Corps Volunteer Application, Form Number PC-1502.

Type of Request: Extension of approval.

Frequency of Collection: On occasion.

General Description of Respondents: Individuals applying for Peace Corps Volunteer service.

Estimated Number of Responses: 15,600 annually.

Estimated Hours for Respondents to Furnish Information: One hour each.

Respondents Obligation to Reply: Voluntary.

Comments: Comments on this form request should be directed to Francine Picoult, Desk Officer, Officer of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Comments should be received on or before July 18, 1983.

A copy of the form may be obtained from Robert Jackson, Office of Recruitment, 806 Connecticut Avenue, NW., Washington, D.C. 20526 or from any local Peace Corps Recruiting Office. Mr. Jackson may be called on area code 202-254-8387.

This is not a request to which 44 U.S.C. 3504(h) applies.

This notice is issued in Washington, D.C. on May 12, 1983.

Robert T. Spencer,

Associate Director for Management.

[FR Doc. 83-13312 Filed 5-17-83; 8:45 am]

BILLING CODE 6051-01-M

POSTAL RATE COMMISSION

[Docket No. R83-1; Order No. 498]

[Order No. 498]

E-Com Rate and Classification Changes, 1983, Order Scheduling Prehearing Technical Conference

Issued May 13, 1983.

On April 25, 1983, United States Postal Service filed a request for a recommended decision on proposed changes in rates of postage and certain classification provisions for electronic computer originated mail (ECOM). The Request was docketed, and notice was published in the **Federal Register** on May 4, 1983. (48 FR 20178-20179).

Pursuant to rule 24(a), the Commission hereby schedules a prehearing technical conference for the purpose of obtaining explanations and clarification of the evidence filed by the Postal Service in support of its Request. *See* Rule 24(d)(1). The conference will be held at 9:30 a.m. on Thursday, May 26, 1983, at the Commission hearing room, 2000 L Street, N.W., Washington, D.C. 20268. The Commission is particularly concerned with ways to expedite its proceedings and to assure that its decisions are made within the ten-month statutory deadline established by 39 U.S.C. 3624(c). One way to achieve that goal is to assure, to the extent possible, that the Commission and interested participants fully understand the bases and derivation of the evidence provided by the Postal Service in support of its Request. We are convinced that the technical conference scheduled by this order, carried out in accordance with the procedures set forth below, will make a substantial contribution toward achieving that goal.

Our rules presently require that evidentiary submissions be accompanied by detailed explanatory workpapers. For example, rule 54(p)(4) provides:

> Workpapers shall be sufficient to enable a reviewer to trace the derivation of numbers in the testimony back to published documents or, if necessary, primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.

The testimony submitted by the Postal Service in support of its Request in this docket is not supported by workpapers which meet this standard. It is our expectation that meaningful technical conferences will ameliorate delays resulting from inadequate explanations of methodology or incomplete references to source material in the evidence presented by the Postal Service.[1]

In order for these conferences to be of maximum benefit, we urge all participants to carefully examine the procedures set forth below, and to adhere to them. These procedures have been structured to allow participants to obtain clarification of the Postal Service's testimony, but not allow the type of adversarial questioning associated with cross-examination: Simply put, questions of *"how"* are permissible; questions of *"why"* are not permissible.

It is the present intention of the Commission to schedule prehearing technical conferences to clarify the testimony of other participants in this docket at the appropriate point in this case.

Procedures Applicable to Prehearing Technical Conference on Postal Service Evidence

A prehearing technical conference to clarify the evidence submitted by Postal Service witnesses shall be held on May 26, 1983 in accordance with the following procedures:

(1) Postal Service counsel shall preside.

(2) Postal Service counsel may schedule the order its witnesses shall respond to questions, with consideration to the convenience of its witnesses and participants attending the conference.

(3) This conference will be for the sole purpose of explaining how technical evidence was developed. Questions concerning why a particular step was taken will not be permitted. Similarly questions concerning management policy will not be permitted.

(4) Witnesses shall respond to questions concerning the subject matter of each section of their testimony in turn. Questions may be asked by any participant. Questions need not be posed by attorneys.

(5) Presiding counsel may object to questions beyond the scope of the conference as set forth in item 3 above; however, participants may appeal to the Commission to recall a witness to provide additional answers to questions deemed out of order by presiding counsel.

(6) Commissioners and members of their staff attending these conferences may address questions to the witness, however they shall abide by the rulings of presiding counsel.

(7) The Officer of the Commission or his designee shall attend the conference for the purpose of securing satisfactory explanation of the data sources and methodologies used by each section of testimony. Participants unable to attend the conference may request the Officer of the Commission to seek clarification of specific aspects of a witness' testimony or exhibits.

(8) It shall be proper for witnesses appearing at the conference to be accompanied by assistants; and they are encouraged to have available any reference material they might need. If a witness cannot respond to a reasonable request for clarification of his testimony or exhibits at the conference, an additional conference will be scheduled at the convenience of the questioning participant and the Postal Service.

(9) The conference will be transcribed, however witnesses will not be under oath, and responses will not be part of the evidentiary record. Parties wishing to utilize material from the technical conference shall submit interrogatories or requests for admission as provided for in the rules of practice, or propose an appropriate stipulation.

(10) The pendency of this conference shall not relieve Postal Service witnesses from responding to discovery requests within the time period provided by Commission rules of practice.

It is ordered:

That a prehearing technical conference be held at 9:30 a.m. on May 26, 1983, as described by this order.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83-13340 Filed 5-17-83; 8:45 am]

BILLING CODE 7715-01-M

[1] We do not suggest that technical conferences are only useful when proper workpapers are not provided in support of evidentiary submissions. Technical conferences are likely to be beneficial whenever complex technical evidence is offered, and technical conferences have been extremely useful in past omnibus rate cases.

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Final Notice of Computer Matching Program: U.S. Postal Service/Philadephia School District, and final notice of a modification to an existing system of records.

SUMMARY: The purpose of this document is to provide information concerning the Postal Service's conduct of a computer matching program, and to add a new temporary routine use to system USPS 050.020, Finance Records-Payroll System.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, (202)245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service hereby publishes final notice of a new temporary routine use for Privacy Act System of Records USPS 050.020, "Finance Records-Payroll System," in connection with its efforts to identify postal employees who are also employed by the Philadelphia, Pennsylvania School District. The purpose of such identification is to determine the incidence of possible misuse of sick leave or the improper receipt of workers' compensation benefits. Advance notice of the proposed adoption of the temporary routine use was published on January 20, 1983, at 48 FR 2615.

One comment was received, objecting to the proposal, and expressing concern regarding the safeguarding of the released information subsequent to its disclosure. In responding to the comment, the Postal Service specified the nature of the information being disclosed, and the safeguards that will be taken in carrying out the matching program in accordance with the intent of the Privacy Act and the guidelines of the Office of Management and Budget for conducting computer matching programs. These matters are discussed below.

Report of Computer Matching Program

In accordance with its authority, in 39 U.S.C. 404, to investigate postal offenses

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and civil matters relating to the Postal Service, the Postal Service will perform a match by computer of employees on the payroll of the Philadelphia, Pennsylvania Post Office against the Philadelphia School District's listing of its employees. The Philadelphia School District (PSD) will provide a computer tape of its employees by name and social security number which the Postal Service will match against its Payroll System files in order to identify Postal Service employees who appear on both lists. Upon completion of the match, the Postal Service will return to PSD its computer tape and will disclose to PSD only that information which is necessary to make a thorough analysis for determining which persons appear to have received PSD benefits improperly. The information will be limited to time and attendance and absence analysis records except in unusual (but currently unforeseen) cases where there may be a need to disclose the Postal Service's records of actual payments to the employees. Once identified, all records on nonsuspect cases, compiled as a result of this matching effort, will be promptly destroyed. In suspect cases, individual investigative case files will be established within the parameters of Privacy Act system USPS 080.010, Inspection Requirements Investigative File System (last published in 48 FR 10975 of March 15, 1983). All information obtained or utilized will remain under the control of the Postal Inspection Service and/or the investigative service for the PSD Internal Controller's Office.

In accordance with the Office of Management and Budget guidelines for conducting computer matching programs, 47 FR 21658, May 19, 1982, the Postal Service has obtained a signed agreement from the PSD specifying that the information released by the Postal Service will be used for purposes of the computer match and for no other purposes, and specifying that the information will be safeguarded against unauthorized disclosure.

System Modification to Add New Routine Use

Accordingly, on a one-time basis, the Postal Service will disclose a limited amount of information from the payroll records of certain postal employees to the Internal Controller's Office of the Philadelphia, Pennsylvania School District (PSD). This information will be used to identify postal employees who may have improperly received compensation or benefits from either the Postal Service or the PSD. The Postal Service believes that one basic reason for maintaining employee payroll records is to protect the legitimate financial interests of the Government; therefore, such a routine use is compatible with the purpose for maintaining these records. Accordingly, system USPS 050.020, Finance Records-Payroll System, is modified as follows:

USPS 050.020, Finance Records-Payroll System

26. (Temp.) Disclosure of information about particular postal employees on the employment rolls of the Philadelphia, Pennsylvania School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files.

Note.—This routine use will be in effect for a period of one year from its effective date.

A complete statement of the system as modified appears below:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System. 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Lacator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 USC, Section 8334, along with a check.

2. Tax informtion—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U. S. citizens.) Accordingly, records of earnings (i.e., W–2 information) mut be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilan employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system or records, for use in determinig an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any state of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) or use by OPM's Compensation Group. Data collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files.

Note.—This routine use will be in effect for a period of one year from its effective date.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation, records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed.

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giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-13355 Filed 5-17-83; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purpose of this document is to give notice of two proposed routine uses (one each for two systems of records) and three changes in the retention and disposal category (one each for three systems of records).

DATE: The two systems of records for which new routine uses are proposed shall be amended as proposed without further notice 30 calendar days from the date of this publication (June 17, 1983) unless comments are received before this date which would result in a contrary determination.

ADDRESS: Send comments to James T. Brown, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4548.

SUPPLEMENTARY INFORMATION:

Part I: Proposed Routine Uses

A proposed new routine use in the system of records RRB-21, Railroad Unemployment and Sickness Insurance Benefit System, would allow the agency to release names and addresses of claimants to a Member of Congress, upon request, in order that the Member might communicate with them about legislation which affects the railroad unemployment system. A similarly worded new routine use in system of records RRB-22, Railroad Retirement, Survivor, and Pensioner Benefit System, would allow the same disclosure in order that the Member of Congress might communicate with annuitants about legislation affecting the railroad retirement system.

The Railroad Retirement Board has determined that such communication would be in the best interests of claimants and annuitants and that it would be good public policy to facilitate Congressional communication with such individuals when such communication would be about legislation which affects the benefits these individuals are receiving.

Part II: Changes in Retention and Disposal

Systems of records RRB-1, Social Security Benefit Vouchering System, and RRB-22 Railroad Retirement, and Pensioner Benefit Systems are being amended to reflect retention and disposal of change of address source documents.

System of records RRB-19, Payroll Records System, is being amended to specify the paper and microform payroll records are to be destroyed by shredding and also to change the retention period for paper records from four to three years.

Part III: Previous Federal Register Publications

RRB-1, Social Security Benefit Vouchering System, was last published in its entirety on November 17, 1980, at 45 FR 75824-825; RRB-19, Payroll Record System, was last published in its entirety on March 13, 1980, at 45 FR 16373-374; RRB 21, Railroad Unemployment and Sickness Insurance Benefit System, was last published in its entirety on March 13, 1980, at 45 FR 16375-377; and RRB-22, Railroad Retirement, Survivor, and Pensioner Benefit System, was last published in its entirety of December 4, 1980, at 45 FR 80392-394.

Part IV: New or Altered System Report

The proposed action is not within the purview of the provisions of 5 U.S.C. 552(o) which require the submission of a new or altered system report.

Dated: May 11, 1983.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

RRB-1

SYSTEM NAME:

Social Security Benefit Vouchering System—RRB.

* * * * *

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after the date of issue. *Changes of address source documents are transferred to the Federal Records Center 6 months after the date of completion and are destroyed 4 years and 6 months after receipt at the center.* Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding.

* * * * *

RRB-19

SYSTEM NAME:

Payroll Record System—RRB

* * * * *

RETENTION AND DISPOSAL:

Consolidated pay tapes, first two master tapes, and last two master tapes for each year: *Destroyed by erasing* three years after close of calendar year in which prepared. Security record-current check issue tape: *Destroyed by erasing* when National Personnel Records Center receives second subsequent document covering same type of payment. Paper: Destroyed *by shredding* after *three* years. Microfilm: Retained until replaced by a new record, usually within one year. *Obsolete microfilm is destroyed by shredding.*

* * * * *

RRB-21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System—RRB.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to payment or denial of an individual's claim for benefits under the Railroad

Unemployment Insurance Act: name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

x. The name and address of a claimant may be released to a Member of Congress when the Member requests it in order that he or she may communicate with the claimant about legislation which affects the railroad unemployment insurance system.

RRB-22

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System—RRB

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act, Veterans Administration or other benefits systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and determination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (U.S.C. 231f(b)(6)).

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

ff. The name and address of an annuitant may be released to a Member of Congress when the Member requests it in order that he or she may communicate with the annuitant about legislation which affects the railroad retirement system.

* * * * *

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. *Change of address source documents are transferred to the Federal Records Center 6 months after date of completion and are destroyed 4 years and 6 months after receipt at the center.* Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. Magnetic disk: Continually updated and permanently retained.

* * * * *

[FR Doc. 13356 Filed 5-17-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 11, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f) (1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cyprus Corporation (The)
Common Stock, $.030 Par Value (File No. 7-6628)

Instrument Systems Corp.
Common Stock, $.25 Par Value (File No. 7-6629)

Key Parmaceuticals Inc.
Common Stock, $0.074 Par Value (File No. 7-6630)

Mitchell Energy Development Corp.
Common Stock, $.10 Par Value (File No. 7-6631)

National Patent Development Corp.
Common Stock, $.01 Par Value (File No. 7-6632)

Ozark Air Lines Inc.
Common Stock, $.50 Par Value (File No. 7-6633)

Mary Kay Cosmetics Inc.
Common Stock, $.10 Par Value (File No. 7-6634)

Paradyne Corp.
Common Stock, $.10 Par Value (File No. 7-6635)

Pogo Producing Company
Common Stock, $1 Par Value (File No. 7-6636)

Sundstrand Corp.
Common Stock, $1 Par Value (File No. 7-6637)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 2, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13308 Filed 5-17-83; 8:45 am]

BILLING CODE 8010-01-M

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Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.)*, the Securities and Exchange Commission has submitted for clearance a proposed amendment to Rule 206(3)–2 (17 CFR 275.206(3)–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) which would eliminate the requirement that an investment adviser obtain at least annually from a client written renewal of the client's consent to agency cross transactions. The potential affected persons are approximately 60 registered investment advisers.

Agency Clearance Officer; Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Amendment
Rule 206(3)–2
No. 270–216

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13310 Filed 5–17–83; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–5694]

Kidde, Inc.; Application to Withdraw from Listing and Registration

May 11, 1983

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Kidde, Inc. ("Company") (Common Stock, $2.50 Par Value) is listed and registered on the BSE, the New York Stock Exchange, Inc. ("NYSE") and the Pacific Stock Exchange, Inc. ("PSE"). The Company has determined that because of the small amount of trading activity on the BSE, the direct and indirect costs and expenses do not justify maintaining the listing of the common stock on the BSE, NYSE, and PSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the BSE and shall have no effect upon the continued listing of such stock on the NYSE or the PSE. The BSE has posed no objection to this matter.

Any interested person may, on or before June 2, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13309 Filed 5–17–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13234; (812–4707); Administrative Proceeding File No. 3–6244]

Union-Investment-Gesellschaft m.b.H.; Order for Hearing on Application for an Order

May 11, 1983

On December 1, 1982, the Commission issued a notice (Investment Company Act Release No. 12863) of an application filed by Union-Investment-Gesellschaft m.b.H. ("Applicant") (c/o Franz M. Oppenheimer, Esq., Leva, Hawes, Symington, Martin and Oppenheimer, 815 Connecticut Avenue, N.W., Washington, D.C. 20006), a West German management company, on behalf of Unifonds, a West German mutual fund, for an order of the Commission pursuant to Section 7(d) of the Investment Company Act of 1940 ("Act") permitting registration of Applicant under the Act so that it may sell Unifonds shares in the United States, and pursuant to Section 6(c) of the Act granting exemptions from the following provisions of the Act and various rules adopted thereunder: Sections 10 (a), (b), (f) and (g); 12 (b) and (d)(3); 13; 15; 16; 17 (a), (e), (f), (g) and (j); 18(i); 22 (c), (d), and (e); 30 (a), (c), and (d); 31 (a) and (b); 32; and 34. The notice, which is imcorporated herein by reference, gave any interested person until December 27, 1982, to file a request in writing for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted.

On December 27, 1982, a request for a hearing was filed with the Commission by the Investment Company Institute ("ICI"), which was supplemented by a letter dated March 4, 1983. Counsel to Applicant on January 31, 1983, filed a letter with the Commission responding to the contentions made by the ICI in its hearing request. The ICI states in its hearing request that it is the national trade association of the American mutual fund industry and it asserts, among other things, that granting the requested approvals and exemptions could be detrimental to both the American investing public and the American mutual fund industry. Specifically, the ICI contends that Applicant has failed to meet the standard of enforceability that must be met to permit its registration under Section 7(d) of the Act. The ICI argues, with respect to Section 7(d) of the Act, that Applicant and Unifonds would fail to comply with what it asserts are among the most important provisions of Rule 7d–1, promulgated under that section, and that such failure would seriously undermine the ability of the Commission or a shareholder of Unifonds to enforce the provisions of the Act against those companies. In addition, the ICI questions the propriety of granting Applicant's specific exemptive requests which have been made pursuant to Section 6(c) of the Act, arguing that such requests do not meet the standards for exemptive relief set forth in Section 6(c).

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to said application. Accordingly,

It is ordered, pursuant to Section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act and Rules of the Commission thereunder be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice (17 CFR 201.6). Any person, other than Applicant, desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission, on or before June 6, 1983, his application as provided by rule 9(c) of the Commission's Rules of Practice (17 CFR 201.9(c)), setting forth the nature and extent of his interest in the proceeding and any issues of fact or law which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. A copy of such request shall be served personally or by mail upon applicant at the address noted above, and proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of this proceeding.

It is further order that any officer or officers of the Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under Sections 41 and 42(b) of the Act and to an administrative Law Judge under the Commission's Rules of Practice.

The Division of Investment Management has advised the Commission that it has made an examination of the application, the request for hearing, and the response to such request by counsel to Applicant and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether, given the failure and/or inability of Applicant to agree to comply with all of the provisions of Rule 7d–1 under the Act in its offering of Unifonds shares in the United States, the conditions and representations which Applicant has agreed will govern the offering of such shares will make it both legally and practically feasible to enforce the provisions of the Act against Applicant;

(2) Whether allowing Applicant to offer shares of Unifonds in the United States in the manner proposed in its application, with the resultant reliance on provisions of West German law to provide protections to investors in this country, which are allegedly substantially equivalent to those contained in those provisions of the Act from which Applicant has requested exemption, is consistent with the public interest and the protection of investors;

(3) Whether it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act to grant Applicant the exemptions it seeks from the various provisions of the Act, and relevant rules and regulations thereunder; and

(4) Whether the formation of a United States corporation is a reasonable alternative to Applicant's proposed operations and if so, what, if any, advantages or disadvantages would result from that approach.

It is further ordered that at the aforesaid hearing attention should be given to the foregoing matters.

It is further order that the Division of Investment Management shall be a party to the proceeding.

It is further ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to Applicant at the address noted above and the Investment Company Institute; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket;" and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13307 Filed 5–17–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19762]

Advisory Committee on Tender Offers; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission Advisory Committee on Tender Offers.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on Tender Offers will conduct a meeting on June 2, 1983 in the Kensington Room of the Westbury Hotel, 15 E. 69th Street, New York, New York, beginnng at 9:00 a.m. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: David Martin, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272–2573.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a), the Securities and Exchange Commission Advisory Committee on Tender Offers[1] gives notice that it will conduct a meeting on June 2, 1983 in the Kensington Room of the Westbury Hotel, 15 E. 69th Street, New York, New York, beginning at 9:00 a.m. The Advisory Committee invited comments from members of the public in Release No. 34–19635 (March 29, 1983) (48 FR 13537). On the basis of the comments received, the Committee has determined that it will be useful to receive oral presentations from certain commentators and has scheduled the June 2 meeting for such purpose. The meeting, which will be open to the public, will be the fourth meeting of the Advisory Committee.

[1] The Advisory Committee was established on February 25, 1983. *See* Release No. 34–19528 (48 FR 9111).

George A. Fitzsimmons,

Advisory Committee Management Officer.

May 13, 1983

[FR Doc. 83–13342 Filed 5–17–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19754; File No. SR–Amex–83–12]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.; Relating to Options on Stock Indices

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C 78s(b)(1), notice is hereby given that on April 29, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Subetance of the Proposed Rule Change

The American Stock Exchange, Inc. (the "Amex" or "Exchange") is propposing to trade options on a stock index which is directly proportional to the Dow Jones Industrial Average. This index will be known as the "Major Market-30 Index" or "Major Market-30." In the event the Commission approves this filing, the Amex will not commence trading in options on the Major Market-30 unless it believes it can do so based on the resolution of the litigation between Dow Jones & Company and the Chicago Board of Trade.

The Major Market-30 Index initially would be based on the Following stocks: Allied Corporation; Aluminum Co. of America; American Brands, Inc.; American Can Company; American Express Company; American Telephone and Telegraph Company; Bethlehem

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Steel Corporation; du Pont (E.I.) de Nemours & Co.; Eastman Kodak Company; Exxon Corporation; General Electric Company; General Foods Corporation; General Motors Corporation; Goodyear Tire & Rubber Company (The); INCO, Limited; International Business Machines Corporation; International Harvester Company; International Paper Company; Merck & Co., Inc.; Minnesota Mining & Manufacturing Company; Owens-Illinois, Inc.; Procter & Gamble Co.; Sears, Roebuck & Co.; Standard Oil Co. of California; Texaco Inc.; Union Carbide Corporation; United States Steel Corporation; United Technologies Corporation; Westinghouse Electric Corp.; Woolworth (F.W.) Co.

Transactions in Major Market-30 options will be governed by the rules of the Exchange which apply to stock index options generally (Part V, Section 11 of the Exchange's rules, captioned "Stock Index Options") In addition, the Exchange hereby proposes to further amend Rules 904C and 918C as set forth below in order to cover Major Market 30 options appropriately. *Italics* indicates words to be added and brackets [ ] indicate words to be deleted.

Rule 904C. Position Limits

(a) Position limits relating to stock index options shall be governed by the provisions of Rule 904 except that the position limit applicable to each account with respect to options on each underlying stock index group shall be the contract limit extablished by the Exchange pursuant to this Rule 904C.

(b) With respect to options on each stock index group, the Exchange shall establish (and may change from time to time) a position limit which shall be expressed in terms of a number of option contracts; provided, however, that the Exchange may not establish position limits in excess of the following dollar value equivalents:

Amex Market Value Index Options—$300 million
Major Market Index Options—$200 million
Major Market-30 Index Options—$250 million

For the purpose of establishing position limits, the dollar value of a position shall be deemed to be the product of the current index group value and the index multiplier, times the number of contracts on the same side of the market.

(c) In determining compliance with position limits applicable to stock index options, option contracts on a stock index group shall not be aggregated with option contracts on an underlying stock or stocks included in such group, and option contracts on one stock index group shall not be aggregated with option contacts on any other stock index group.

* * * * *

Rule 918C. Trading Rotations, Halts and Suspensions

(a) Opening trading rotations for a class of stock index options shall not be commenced until at least a specified number or percentage (established by the Exchange in regard to each stock index group) of the stocks comprising the underlying stock index group have opened for trading in the primary markets(s) for such stocks. One and one half hours after the opening rotation, trading in such class of stock index options shall become subject to the provisions of paragraph (b) of this Rule, unless the Exchange determines it is in the public interest to halt trading at an earlier time.

(b) Trading on the Exchange in options on a stock index group shall be halted or suspended whenever: (i) In the case of an underlying stock index group comprised of 50 stocks or more, trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the current index group value, or (ii) in the case of an underlying stock index group comprised of less than 50 stocks, trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for such minimum percentage of the current index group value as the Exchange may establish from time to time pursuant to this Rule, or (iii) whenever the Exchange otherwise deems such action appropriate in the interests of a fair and orderly market to protect investors. Among the factors that the Exchange may consider in exercising its discretion to halt or suspend trading in options on a stock index group are that:

(1) The current calculation of the numerical index value derived from the current market prices of the underlying stocks in such stock index group is not available;

(2) trading in one or more of the underlying stocks comprising such stock index group has been halted in the primary market(s) under circumstances which indicate that such stock or stocks will likely re-open at a price or prices significantly different than the price or prices at which such stock or stocks last traded prior to the trading halt; or

(3) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Trading in any class or series of stock index options that has been the subject of a halt or suspension by the Exchange may be resumed upon a determination by the Exchange that the conditions which led to the halt or suspension are no longer present and that the interests of a fair and orderly market are best served by a resumption of trading.

Commentary

.01 For the purposes of this Rule, trading in an underlying stock which is not subject to real-time last sales reporting shall be deemed to be halted when the dissemination of quotations for such stock on an inter-dealer communications system has been halted.

.02 For purposes of this Rule, an underlying stock shall be deemed to have opened in the primary market where it is traded on any trading day if such primary market has: (i) Reported a transaction in such stock or (ii) reported a bid and asked price for such stock and not given any indication of a delayed opening.

.03 In the case of options of the Major Market Index, an opening trading rotation may not be commenced until more than 50% of the stocks comprising the Major Market Index have opened for trading in the primary market(s) for such stocks, and, subject to the provisions of paragraph (a) of this Rule, trading in such options will be halted if trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the current index group value.

.04 In the case of options on the Major Market–30 Index, an opening trading rotation may not be commenced until more than 50% of the stocks comprising the Major Market 30 Index have opened for trading in the primary market(s) for such stocks, and, subject to the provisions of paragraph (a) of this Rule, trading in such options will be halted if trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the current index group value.

In addition to proposing the above rule changes, the Exchange is proposing to establish the following contract specifications for Major Market–30 options:

The numerical index value (defined in Exchange Rule 900C) would be the actual index value. For example, if the Major Market–30 were at 120, the numerical index value would be 120 and the exercise price of an at-the-money option would also be 120.

Exercise prices would be established at five point intervals. Exercise prices would bracket the current numerical index value, and new exercise prices would be introduced as the numerical index value changed. The procedure for introducing new exercise prices would be the same as the procedure now used with respect to individual stock options.

The index multiplier for each Major Market option contract would be 100.

Major Market-30 options would be traded on a January-April-July-October expiration cycle, with three expiration dates available for trading at any given time (i.e., the options would be introduced with three, six and nine months to expiration).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange has determined to create and trade options on the Major Market-30 Index in order to make available for options trading, should the resolution of Dow Jones & Company's proprietary rights make it legal to do so, a fractional replica of the Dow Jones Industrial Average, viewed by many as the most popular broad stock market indicator. The Major Market-30 should be useful as a tool for capitalizing on or hedging against broad market price changes. A thorough description of the uses of options on broad market indices is contained in File No. SR–Amex–82–8, which was previously approved by the Commission.

The Major Market-30 is a price-weighted index, meaning that the index is based on equal numbers of shares of the component stocks and that changes in the index number would represent changes in the sum of its prices per share of those stocks.

The Major Market-30 Index will be calculated by summing the respective prices per share of each of the stocks included in the index and dividing by a constant. The constant divisor as of April 25, 1983 is 12.92. Ordinarily it will be revised in the event of a stock dividend, stock distribution, stock split or reverse split, rights offering, distribution, reorganization, recapitalization or similar event in respect of any component stock, or in the event a stock is added to or deleted from the index, or one stock is substituted for another. The purpose of adjusting the index divisor in the contex of such events is to maintain continuity of index values; the index divisor will not be revised for any other purpose.

As stated above, transactions in Major Market-30 options will be governed by all of the rules which apply to stock index options generally. Certain additional amendments to Rules 904C and 918C set forth herein would also apply to Major Market-30 index options.

The purpose of proposed amendment to Rule 904C is intended to specify a dollar value equivalent to function as an outer parameter for position limits for Major Market-30 options. In this submission, the Exchange is proposing $250 million in equivalent value as the ceiling for contract limits applicable to options on the Major Market-30 Index.

Rule 905C provides that the exercise limit for options on each stock index group will be the same as the position limit applicable to such options. Thus, that rule in conjunction with approval of the rule change proposed herein would automafically establish an exercise limit for options on the Major Market-30 Index at the same level as the respective position limit fixed by the Exchange for that option contract. The Exchange policies and procedures regarding the establishment of contract limits on stock index options is set forth in SR-Amex-82-22 Amendment No. 2 and will apply to Major Market-30 Index options.

In this submission, the Exchange is also proposing an amendment to Rule 918C to define the procedures which must be followed in opening trading in the Major Market-30 Index options and in halting and reopening trading when certain events occur. Under Paragraph (a) of Rule 918C, the Exchange is authorized to establish a minimum percentage or fixed number of stocks which must have opened in relation to each underlying stock index group as to which it trades options. The Exchange believes that this minimum percentage or fixed number of stocks which must have opened before trading in the option is permitted to commence should be sufficient to assure that the Index itself is providing investors with a realistic indication of the market trend at the time of such opening. Therefore, in proposed Commentary .04 to the Rule, the Exchange has provided that with respect to the Major Market-30 Index, trading in the option may not commence until more than 50% of the underlying stocks in the index have opened, either by an opening trade or quote.

Paragraph (b) of Rule 918C provides that, in the case of options on an underlying stock index group comprised of less than 50 stocks, the Exchange will establish standards, specifically applicable to those options, indicating when a mandatory option trading halt is to be imposed based on trading halts affecting stocks included in the underlying stock index group. In the case of the Major Market-30 Index, Commentary .04 would provide that a trading halt will be imposed if trading has been halted or suspended in the primary market for any combination of underlying stocks accounting for 20% or more of the current group value. The Exchange believes the 20% standard is appropriate.

The implementation of trading in options on the Major Market 30-Index under the Exchange's stock index option rules would be consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the Act. Such options would provide members of the public with useful new hedging and trading opportunities under a scheme of regulation designed to facilitate the maintenance of a fair and orderly market, prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

B. *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the introduction of options on the Major Market-30 Index under the Exchange's existing and proposed rules will not impose any burden on competition, but, rather, will foster competition among exchanges trading derivative contracts involving stock indices.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange neither solicited nor received written comments on the proposed rule change set forth herein.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal

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Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13311 Filed 5-17-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2084]

California; Declaration of Disaster Loan Area

As result of the President's major disaster declaration, I find that the City of Coalinga in the County of Fresno, California, constitutes a disaster area because of damage resulting from an earthquake occurring on May 2, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business of July 5, 1983, and for economic injury until the close of business on February 6, 1984, at the address listed below: U.S. Small Business Administration, 2202 Monterey Street, Fresno, California 93721 or other locally announced locations.

Interest rates for this disaster declaration are as follows:

	Percent
Home owners with credit available elsewhere	11.125
Home owners without credit available elsewhere	5.625
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.00
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organization including charitable and religious organizations)	11.375

It sholuld be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

(Cagalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 6, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-13289 Filed 5-17-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of San Antonio, will hold a public meeting at 8:30 A.M., Tuesday, June 7, 1983, at the Federal Building, 727 East Durango, Room A-206 (2nd floor) San Antonio, Texas, 78206, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Julio G. Perez, District Director, U.S. Small Business Administration, Federal Building, Room A-513, 727 E. Durango, San Antonio, Texas 78206, (512) 229-6150.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

May 10, 1983.

[FR Doc. 83-13288 Filed 5-17-83; 8:45 am]

BILLING CODE 8025-01-M

Evergreen Capital Co., Inc.; Application for a License To Operate as a Small Business Investment Company

[License No. 06/06-5264]

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Evergreen Capital Company, Inc., for a license to operate as a Section 301(d) small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), and the SBA Rules and Regulations promulgated thereunder.

The officers, directors and stockholders of the Applicant are as follows:

Shen-Lim Lin, 3307 Ashfield Drive, Houston, Texas 77082—Chairman of the Board and President—65 percent

Myung Won Chun, 1125 N. 11th Street, Beaumont, Texas 77702—President and Director—30 percent

Hsien-Wei Feng, 1723 Crosscoach, Houston, Texas 77049—Director

Li-Mei Lin, 3307 Ashfield Drive, Houston, Texas 77082—Secretary and Treasurer—5 percent

Jin Sung Chung, 12803 Villawood, Houston, Texas 77049—Director.

The Applicant, a Texas corporation, with its principal place of business at 8520 Tybor Drive, Suite 201, Houston, Texas 77074 will begin operations with $700,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the Houston, Texas area.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 12, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13351 Filed 5-17-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0145]

Mountain Ventures, Inc., Filing of an Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that Mountain Ventures, Inc. (MVI), 911 Main Street, London, Kentucky 40701, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)) for an exemption from the provisions of the conflict of interest regulation.

This exemption, if granted, will permit MVI and its parent, Kentucky Highlands Investment Corporation (KHIC), to provide equal Financing totalling up to $300,000, in the form of convertible debentures with common stock purchase warrants to Mount Vernon Plastics Corporation (MVPC), Highway 150, Mt. Vernon, Kentucky.

MVPC is considered to be an Associate of MVI because KHIC owns in excess of 10 percent of MVPC's common stock. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may, no later than 15 days from the date of publication of this Notice, submit to the Small Business Administration, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in London, Kentucky.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 12, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13330 Filed 5-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 862]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

Purpose: The Bureau for Refugee Programs of the Department of State plans to conduct phase III of the study of the effects of pre-entry training in the resettlement of Indochinese refugees. (See 47 CFR 49912, Public Notice 830 and 48 CFR 8620, Public Notice 849.) The final results will be used in the planning and development of future U.S. policy about the provision of training to refugees with little prior exposure to Western culture or the English language.

(1) Type of request—new.

(2) Title of information collection—Effects of Pre-Entry Training on Resettlement of Indochinese Refugees, phase III. Interviews with domestic agencies who provide services to incoming refugees.

(3) Originating Office—Bureau for Refugee Programs.

(4) Frequency—Nonrecurring.

(5) Respondents—Voluntary agencies, ESL service providers, and employment service providers.

(6) Estimated number of responses—94.

(7) Estimated total number of hours needed to respond—68.62. Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the proposed study and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer (202) 632-3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: May 2, 1983.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 83-13370 Filed 5-17-83; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TREASURY

Internal Revenue Service

Form 990 Advisory Committee; Notice of Establishment

AGENCY: Internal Revenue Service, Treasury

ACTION: Notice of Establishment of Form 990 Advisory Committee

SUMMARY: A Form 990 Advisory Committee is being established to evaluate proposed changes to Form 990, Return of Organization Exempt from Income Tax, and to provide its own recommendations to the Internal Revenue Service for changes to that form.

FOR FURTHER INFORMATION CONTACT: Robert W. Gardiner, Exempt Organizations Division, Internal Revenue Service, Room 2218, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3137 (not a toll free call).

SUPPLEMENTARY INFORMATION: In accordance with section 9(a) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Secretary of the Treasury, with the concurrence of the Office of Management and Budget, has approved the establishment of the Form 990 Advisory Committee. Establishment of the Committee has been determined to be in the public interest in connection with the performance of duties imposed by law on the Internal Revenue Service. These duties include the administration of the provisions of the Internal Revenue Code of 1954 relating to tax-exempt organizations and nonexempt charitable trusts that are required to file an annual information return on Form 990. Formation of the Committee will also help the Service meet its obligation under the Paperwork Reduction Act of 1980 (Pub. L. 96-511) to minimize the recordkeeping and reporting burden borne by the public.

The Committee will evaluate substantive revisions to Form 990 and the instructions to that form that have been proposed by the Service or suggested by others and will make its own recommendations for form and instruction changes to the Service's Tax Forms Coordinating Committee. A secondary purpose of the Committee will be to perform those same functions in connection with Form 990-PF, Return of Private Foundation. The Committee will function solely as an advisory body in compliance with the Federal Advisory Committee Act, Treasury Directive 10-06.E and OMB Circular A-63, Revised.

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Committee membership shall be fairly balanced among representatives of the parties having a significant interest in Form 990: Internal Revenue Service and state charity officials as well as Form 990 filers, preparers and other users. Committee meetings will be held not more than three times each year and all meetings will be open to the public.

Thirty-one of the thirty-five states and the District of Columbia that have reporting requirements for charities and other public benefit organizations under their jurisdiction have adopted Form 990 (and Form 990–PF in some cases) as the medium for reporting to the states. Some of the adopting states require information in addition to that which Form 990 provides. The Service recognizes that having a standard report form that does not require unneeded or excessive information is in the best interests of the states, the organizations that must report to them (particularly those that must submit financial reports to a number of states) and, ultimately, the public that is served by those organizations.

The states agreed to adopt Form 990 based, in part, on representations that the Service would not arbitrarily change the form or instructions and thereby alter or eliminate the reporting of information needed by the states. Being represented on the Committee will enable the states to be kept informed of proposed form and instruction changes, to express their views on those proposed changes so the Service can take them into account in reaching its final decision, and to advise the Service of any changes in the information needs of the states that might involve Form 990.

Establishment of the committee will be effective from the date of filing of the Committee's charter with the standing committees of Congress having legislative jurisdiction over the Service. The Committee will terminate two years from its establishment date unless its charter is renewed.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-13305 Filed 5-17-83; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Arp: The Dada Reliefs" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about July 3, 1983, to on or about October 30, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: May 13, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 83-13360 Filed 5-17-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document

Sunshine Act Meetings

Federal Register
Vol. 48, No. 97
Wednesday, May 18, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 9:30 a.m., May 19, 1983

PLACE: Room 1027 (Open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 41378, *Air Line Employees Association, International: v. Republic Airlines, Inc.*, petition to compel arbitration of LPP dispute. (OGC)
3. Docket 41311, *John C. Iovinelli, Robert J. Bartell, and Roger E. Salisbury:v. Republic Airlines, Inc.*, petition to compel arbitration of LPP dispute. (Memo 1837, OGC)
4. Docket 41180, *Anthony A. Rubino* v. *Pan American World Airways, Inc.*, petition to compel arbitration of LPP dispute. (Memo 1832, OGC)
5. Docket 33283, *Pan American-Acquisition of Control of and Merger with National*, Labor Protective Provision Claims of Robert A. Wallace, Jr. (Memo 385–C, OGC)
6. Docket 41081, *American International Airways, Inc., Exemption Application;* Petition for reconsideration. (OGC)
7. Docket 40253, *Northeast Sunrise Airlines, Inc. Fitness Investigation.* Opinion and Order on Review. (Memo 1062–A, OGC)
8. Justification for fares and rates outside the zones of flexibility. (OGC, BIA)
9. Delegation of authority to the Bureau of Domestic Aviation to adjust interim subsidy levels. (OGC, BDA)
10. Proposed rule to bar automatic continuation of a foreign air carrier permit or exemption if the underlying bilateral expires. (OGC, BIA, BDA)
11. Proposed rule to bar automatic continuation of a foreign air carrier permit or exemption if the underlying bilateral expires. (OGC, BIA, BDA)
12. Docket 41142, Ceskoslovenske Aerolinie's petition for review of staff action in Order 83–3–10 to dismiss its permit-renewal application as being moot. (BIA, OGC, BALJ)
13. H.R. 2—the Sunset Act of 1961. (OGC)
14. Notice of proposed rulemaking for exemption from section 404(b) (non-discrimination) and clarification of the exemption from section 408(a) (acquisition and control) for domestic cargo transportation. (OGC)
15. Docket 29044, Reexamination of the Board's smoking rule in light of the Court of Appeals decision in *Ash* v. *Cab.* (OGC, OCCCA)
16. Docket 29044, Motion by Action on Smoking and Health requesting stay and reconsideration of Board decision to rescind three anti-smoking rules. (OGC)
17. Docket EAS–759, Eligibility of Bowling Green, Kentucky for Essential Air Service. (Memo 639–C, BDA, OCCCA, OGC)
18. Docket EAS–467, Petition for Montana Aeronautics Board for reconsideration of Order 82–11–79. (Memo 735–F, BDA, OCCCA)
19. Docket EAS–766, Whitefield, New Hampshire's appeal of BDA's determination not to designate the community as an eligible point under section 419(b). (BDA, OCCCA, OGC)
20. Docket 40304, Application of Cochise Airlines, Inc., for compensation for losses under section 419(a)(7)(B) of the Act, and Docket 34808, Petition of Chochise for establishment of subsidy mail rates pursuant to section 406 of the Act. (Memo 1591–A, BDA, OGC, BCAA, OCCCA, OC)
21. Docket 40992, 30-day notice of Eagle Commuter Airlines, Inc. to suspend service at Brownwood, Texas. (BDA, OCCCA)
22. Annual Review of Delegations of Authority. (Memo 1841, BDA)
23. Docket 40943, Application of Panaircraft Services, Inc. for a section 418 all-cargo air service certificate. (Memo 1847, BDA)
24. Dockets 41340 and 41350, Buffalo Airways' applications for section 401 certificates to engage in interstate, overseas and foreign charter transportation of persons and property. (Memo 1835, BDA)
25. Commuter carrier fitness determination of Aviation Associates, Inc. d/b/a Sunaire. (Memo 1845, BDA)
26. Docket 40386, Agreements Among Members of the Air Traffic Conference of America relating to a Default Protection Plan (Agreements CAB 20710–A11, A13, and A14); Docket 41186, Agreements Among Members of the Air Traffic Conference of America relating to ticket refunds of a default carrier (Agreements CAB 28217–A19). (BDA, OGC, OCCCA)
27. Docket 38623, Agreement CAB 28995, IATA agreement extending application of areawide resolutions for an additional six months period through September 1983 in certain Western Hemisphere markets. (Memo 1838, BIA)
28. Docket 40980, Agreement CAB 28980, Intercarrier agreement adding fares for Miami to the existing U.S.-Switzerland fare structure. (Memo 1511–I, BIA)
29. Dockets 37025 and 37026, In the matter of the permit and exemption authority held by Surinam Airways, Ltd. (BIA, OGC)
30. Docket 41060, Application of Air Tungaru and Hawaiian Airlines, Inc. for a standby emergency cabotage exemption. (Memo 1840, BIA)
31. Dockets 41332, 41394, 41416, Applications of The Flying Tiger Line, Inc., Northwest Airlines, Inc., Capitol Air, Inc., for certificates of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended. (Memo 1846, BIA, OGC, BALJ)
32. Docket 41125, Application of Action Air Cargo Corporation for a certificate of public convenience and necessity. (BIA, OGC, BALJ)
33. Docket 41166, Application of Orion Lift Service, Inc., d/b/a Orion Air, for a certificate authorizing the carrier to engage in charter air transportation of property and mail worldwide. (Memo 1839, BIA, OGC, BALJ)

STATUS: 1–33 Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S-700-83 Filed 5-13-83; 4:04 pm]

BILLING CODE 6320-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:10 a.m. on Friday, May 13, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider an application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

At that same meeting, the Board also considered a personnel matter.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Ivine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant

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to subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Chairman's Office, Room 6023 of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Dated: May 13, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S. 700-83 Filed 5-16-83; 1:36 pm]

BILLING CODE 6714-1-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, May 23, 1983, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previsous meetings.

Application for consent to merge and establish five branches:

Northern Central Bank, Williamsport, Pennsylvania, an insured State nonmember bank, for consent to merge, under its charter and title, with The State Bank of Avis, Avis, Pennsylvania, and The Farmers National Bank of Rome, Rome, Pennsylvania, and to establish the four offices of The State Bank of Avis and the sole office of The Farmers National Bank of Rome as branches of the resultant bank.

Application for consent to merge and establish six branches and one seasonal facility:

First-Citizens Bank & Trust Company, Raleigh, North Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with Peoples Bank of North Carolina, Madison, North Carolina, and to establish the six offices and one seasonal facility of Peoples Bank of North Carolina as six branches and one seasonal facility of the resultant bank.

Application for consent to purchase assets and assumne liabilities and establish two branches:

Northridge Bank, Los Angeles (Northridge), California, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Thousand Oaks Branch and the Warner Center Branch of Indpendence Bank, Los Angeles (Encino), California, and to establish those two offices as branches of Northridge Bank.

Application for consent to relocate a branch:

California Commerce Bank, Los Angeles, California, for consent to relocate its San Diego Office from 230 West "A" Street to 401 West "A" Street, San Diego, California.

Request for consent to retire common stock:

The Citizens Bank of Ashburn, Ashburn, Georgia.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Midtown National Bank, Pueblo, Colorado.

Memorandum and Resolution re: Carroll County Bank, Huntingdon, Tennessee.

Memorandum and Resolution re: The Metro Bank of Huntington, Inc., Huntington, West Virginia.

Memorandum and Resolution re: Final amendment to Part 307 of the Corporation's rules and regulations, entitled "Termination of Insured Status," which would conform those rules and regulations with the Federal Deposit Insurance Act, as amended by the Garn-St Germain Depository Institutions Act of 1982, by removing provisions requiring that an assuming or resulting bank or institution that has assumed the liabilities of an insured bank give notice of the assumption to the depositors of the bank whose liabilities have been assumed.

Memorandum and Resolution re: Final amendment to Part 309 of the Corporation's rules and regulations, entitled "Disclosure of Information," which would conform those rules and regulations with the Right to Financial Privacy Act of 1978, as amended by the Garn-St Germain Depository Institutions Act of 1982, by removing restrictions on the disclosure of financial records and information to Federal financial institutions supervisory agencies.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Audit of Merger Assistance Agreements—Mutual Savings Banks (dated April 19, 1983).

Memorandum re: Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re: Investment Management Report—March 31, 1983.

Discussion Agenda

Memorandum and Resoultion re: Final amendments to Part 303 of the Corporaton's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which would delegate to the Director of the Division of Bank Supervision and, where confirmed in writing by the Director, to the various Regional Directors, the authority to approve (but not to deny) routine merger transactions, if certain criteria are met.

Memorandum and Resolution re: Final amendments to Parts 303, 304, and 347 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," Forms, Instructions, and Reports," and "Foreign Activities of Insured State Nonmember Banks," respectively, which would revise the procedures relating to the processing of applications for consent to establish foreign and domestic branches (including remote service facilities) and to relocate offices.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Request for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Exective Secretary of the Corporation, at (202) 389-4425.

Dated: May 16, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

S-703-83 Filed 5-16-83; 1:51 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 23, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and desist proceedings, termination-of-insurance proceedings, suspension or removal preceedings, or assessment of civil money penalties) against certain insured banks or officer, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Application for consent to purchase assests and assume liabilities and establish fourteen branches:

Commonwealth Bank, Bay Springs, Mississippi, an insured State nonmember bank, for consent to purchase the assests of and assume the liability to pay deposits made in First United Bank of Mississippi, Meridian, Mississippi, and Central Bank of Mississippi, Brandon, Mississippi, and to establish the ten offices of First United Bank of Mississippi and the four offices of Central Bank of Mississippi as branches of the resultant bank which would be known as "First United Bank."

Request for relief from adjustment for violations of Regulation Z:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Recommendations regarding the Corporation's assistance agreements with insured banks pursuant to section 13 of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: May 16, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-704-83 Filed 5-16-83; 1:51 pm]

BILLING CODE 6714-01-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

TIME: *June 9, 1983,* 9:00 a.m. to 5:00 p.m., 9:00 a.m. to 9:30 a.m., (Closed), Executive Session (closed meeting—Section 1703.202(2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703); *June 10, 1983,* 9:00 a.m. to 4:00 p.m.

DATE: June 9 and 10, 1983, respectively.

PLACE: International Hotel, 300 Canal Street, New Orleans, Louisiana 70140.

STATUS: Open/Closed.

MATTERS TO BE DISCUSSED: Chairman's Report; Approval of Agenda; Approval of Minutes; Election of Vice-Chairman; Executive Director's Report; Special Libraries Association Task Force Report Discussion; Guy Sylvestre, National Librarian of Canada; Review of LSCA Legislation; 1984 and 1985 Budget and Programs; Old Business.

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

Toni Carbo Bearman,

National Commisison of Libraries and Information Science, Executive Director.

May 13, 1983.

[S-705-83 Filed 5-16-83; 1:53 pm]

BILLING CODE 7527-01-M

6

DEPARTMENT OF EDUCATION; NATIONAL INSTITUTE OF EDUCATION

Correction

National Council on Educational Research.

May 12, 1983.

TIME AND DATE: 7:30–9:00 a.m. 2000 L Street, Washington, D.C. 20036; 9:00 a.m. to 5 p.m. 1200 19th St., N.W., Washington, D.C. 20208, May 19, 1983.

STATUS: 7:30–9:00 a.m. Closed; 9:00–10:00 a.m. Closed; 10:00–5:00 p.m. Open.

Matters to be discussed in closed session: 1. Personnel Actions (5 USC Section 552(b)(c)(2).

Matters to be discussed in open session: 1. Budget; 2. Report from Program Committee, Reports Committee; 3. Report from Chairman and Executive Director.

CONTACT PERSON FOR MORE INFORMATION: Patricia Hines, 202 254-7490; NCER.

Dated: May 12, 1983.

Richard LaPointe,

Executive Director, National Council on Educational Research.

[S-701-83 Filed 5-16-83; 10:25 am]

BILLING CODE 4000-01-M

7

DEPARTMENT OF EDUCATION; NATIONAL INSTITUTE OF EDUCATION

National Council on Educational Research.

Correction

May 12, 1983.

TIME AND DATE: 9:00 a.m. to 12:00 noon, 1200 19th St., N.W., Washington, D.C., May 20, 1983.

STATUS: 9:00 A.M. TO 12:00 P.M., OPEN.

Matters to be discussed in Open Session: 1. Report from NIE staff; 2. Lab and Centers Resolution.

Dated: May 12, 1983.

Richard T. Lapointe,

Executive Director, National Council on Educational Research.

[S-702-83 Filed 5-16-83; 10:25 am]

BILLING CODE 4000-01-M

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federal register

Wednesday
May 18, 1983

Part II

Federal Communications Commission

Publication of Sample FM Pre-Printed Hearing Designation Order and Sample Hearing Notice

VOL 48 ISS 97 MY 18 1983 UMI

FEDERAL COMMUNICATIONS COMMISSION

Publication of Sample FM Pre-Printed Hearing Designation Order and Sample Hearing Notice

AGENCY: Federal Communications Commission.

ACTION: Publication of Sample FM Standardized, Pre-Printed Hearing Designation Order and Sample Hearing Notice.

SUMMARY: The Commission required by Section 309(e) of the Communications Act of 1934, as amended, to publish in the **Federal Register** all issues which it has designated for hearing involving mutually exclusive applications for FM stations. The issues are initially specified at the Commission in a document known as a Hearing Designation Order (HDO). In the interest of administrative efficiency and resource economy, the Commission has decided to utilize the following standardized, pre-printed FM HDO (See Appendix A) to alleviate its current FM applications backlog, which has resulted, in part, from shortages of personnel to process these applications. In addition, effort to eliminate the cost of publishing the full text of all FM HDOs, the Commission, by its Mass Media Bureau, will publish instead a Notice summarizing the specific applicants and issues in each HDO (See Appendix B). Instead of printing the text of the standardized issues for each HDO, future Notices published concerning FM cases which have utilized the standardized, pre-printed HDO will refer the reader to the wording ot the standardized issues contained in the following sample HDO (See Appendix A).

FOR FURTHER INFORMATION CONTACT: W. Jan Gay, Mass Media Bureau (202) 632-8485.

Federal Communication Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

APPENDIX A — Sample of Standard Hearing Designation Order to be Available from the Commission

Before the
Federal Communications Commission
Washington, D. C. 20554

In re Applications of)

_____)
_____) MM Docket No. _____
(hereafter _____)) File No. BPH-_____
_____)
_____)
Req: _____ MHz, Channel _____)
_____ kW (H&V), _____ feet)

_____)
_____) MM Docket No. _____
(hereafter _____)) File No. BPH-_____
_____)
_____)
Req: _____ MHz, Channel _____)
_____ kW (H&V), _____ feet)

_____)
_____) MM Docket No. _____
(hereafter _____)) File No. BPH-_____
_____)
_____)
Req: _____ MHz, Channel _____)
_____ kW (H&V), _____ feet)

_____)
_____) MM Docket No. _____
(hereafter _____)) File No. BPH-_____
_____)
_____)
Req: _____ MHz, Channel _____)
_____ kW (H&V), _____ feet)

_____)
_____) MM Docket No. _____
(hereafter _____)) File No. BPH-_____
_____)
_____)
Req: _____ MHz, Channel _____)
_____ kW (H&V), _____ feet)

For Construction Permit
for a New FM Station

VOL 48 ISS 97 MY 18 1983 UMI

HEARING DESIGNATION ORDER

Adopted: Released:

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. In the interest of administrative efficiency and resource economy, portions of this Order have been standardized. Consequently, opinion paragraphs, issues and ordering clauses will only apply where an "X" appears in an appropriate box. If the paragraph is directed to some, but not all, of the captioned applicants, those affected will be specified. In addition, non-standardized text in this Order, if any, will be set forth in an Appendix.

OPINION PARAGRAPHS

Local Notice

Appli- cable [ ] Inappl- icable [ ]

3. Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no indication that the applicant(s) below published the required notice. To remedy this deficiency, the applicant(s) must publish local notice of the application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order, or an appropriate issue will be specified by the Judge.
APPLICANT(S):

Appli- cable [ ] Inappl- icable [ ]

4. Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. The applicant(s) below has published the required notice, but the notice is deficient. To remedy this deficiency, the applicant(s) must republish an amended local notice of the application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order, or an appropriate issue will be specified by the Judge.
APPLICANT(S) DEFICIENCY

Main Studio Justification

Appli- cable [ ] Inappl- icable [ ]

5. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause may be located outside that community. The applicant(s) below proposes to locate its main studio outside the community and gives the following justification(s):
APPLICANT(S) LOCATION(S) JUSTIFICATION(S)

(a) good cause has been shown by the following applicants(s) for the proposed studio location:

(b) good cause has not been shown by the following applicant(s) and, accordingly, an issue will be specified:

Appli- cable [ ] Inappl- icable [ ]

6. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause may be located outside that community. The applicant(s) below states in its response to Item 12, Section V-B, Form 301, that its main studio will be at a location to be determined, with no indication that the determination would be limited to sites within the city of license. Under these circumstances, the applicant(s) will be required to file with the presiding Administrative Law Judge, within 30 days of the release of this Order, either an amended response to the above-referenced item and/or, if applicable, a showing of good cause should it propose to locate its main studio outside the city of license, or an appropriate issue will be specified by the Judge.
APPLICANT(S):

City Coverage Waiver

Applicable [ ] Inapplicable [ ]

7. The engineering data submitted by the applicant(s) below does not clearly demonstrate that it provides a 3.16 mV/m signal to the entire proposed city of license, as required by Section 73.315(a) of the Commission's Rules:

APPLICANT(S) WAIVER JUSTIFICATION(S)

(a) The following applicant(s) has submitted facts and circumstances which persuade us that grant of a waiver of Section 73.315(a) would be in the public interest:

(b) The following applicant(s) has not shown circumstances which warrant a waiver of 73.315(a) and, accordingly, an issue will be specified:

(c) The following applicant(s) has not requested a waiver of 73.315(a) and, accordingly, an issue will be specified:

Financial Qualifications

Applicable [ ] Inapplicable [ ]

8. The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant(s) will be given 30 days from the release of this Order to review the financial proposal in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in revised

Section III, Form 301. If the applicant(s) cannot make the required certification, it shall so notify the Judge who shall then specify an appropriate issue.

APPLICANTS(S) DEFICIENCY

Applicable [ ] Inapplicable [ ]

9. The applicant(s) below has certified as to its financial qualifications. The certification, however, does not substantially meet the certification set out in revised Section III, Form 301. Accordingly, the applicant(s) will be given 30 days from the release of this Order to submit to the presiding Administrative Law Judge the certification required by the form or to advise the Judge that it cannot make the required certification. In the latter event, the Judge shall specify an appropriate issue.

APPLICANT(S):

Programming Statement

Applicable [ ] Inapplicable [ ]

10. The applicant(s) below has not submitted a description in narrative form of proposed programming relating to the issues of public concern facing its service area, pursuant to Paragraph 1, Section IV, Form 301. Accordingly, the applicant(s) will be required to file within 30 days of the release of this Order a narrative programming statement with the presiding Administrative Law Judge, or an appropriate issue will be specified by the Judge.

APPLICANT(S):

E.E.O.

Applicable [ ] Inapplicable [ ]

11. The material submitted by the applicant(s) below fails to indicate that it will have less than 5 full time employees. The Commission requires that if there will be five or more full-time station employees, the applicant must complete and file Section VI of Form 301, and supply a statement detailing hiring and promotion policies even though there may be only a few members of minorities residing within the proposed service area. Accordingly, the applicant(s) will be required to file this Section VI information within 30 days of the release of this Order with the presiding

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Administrative Law Judge, or an appropriate issue will be specified by the Judge.
APPLICANT(S):

Late Filed Amendments
Applicable [ ] Inapplicable [ ]

12. The applicant(s) below has petitioned for leave to amend its application on the date(s) shown. The accompanying amendment(s) was filed after the "B" cut-off date, the last day for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment(s) is accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment(s) will be disallowed.
APPLICANT(S) DATE AMENDMENT(S) FILED

Areas & Populations
Applicable [ ] Inapplicable [ ]

13. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

Contingent Comparative
Applicable [ ] Inapplicable [ ]

14. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

Different Communities 307(b)
Applicable [ ] Inapplicable [ ]

15. The respective proposals are for different communities. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio services.

Air Hazard
Applicable [ ] Inapplicable [ ]

16. Since no determination has been received from the Federal Aviation Administration as to whether the antenna proposed by the applicant(s) below would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.
APPLICANT(S):

17. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

18. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

ISSUES

Main Studio
Applicable [ ] Inapplicable [ ]

.To determine, pursuant to Section 73.1125, whether good cause exists for the proposed location of its main studio outside the community of license by the following applicant(s):

City Coverage
Applicable [ ] Inapplicable [ ]

.To determine whether the proposal of the following applicant(s) would provide coverage of the city sought to be served, as required by Section 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant waiver of that Section:

307(b)
Applicable [ ] Inapplicable [ ]

.To determine: (a) the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from the proposals and the availability of other primary service to such areas and populations, and (b) in light thereof and pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

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Contingent Comparative
Appli- cable [ ] Inappl- icable [ ]
.To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

Comparative
Appli- cable [ ] Inappl- icable [ ]
.To determine which of the proposals would, on a comparative basis best serve the public interest.

Air Hazard
Appli- cable [ ] Inappl- icable [ ]
.To determine whether there is a reasonable possibility that the tower height and location proposed by the following applicant(s) would constitute a hazard to air navigation:

Ultimate
Appli- cable [ ] Inappl- icable [ ]
.To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if any.

ORDERING CLAUSES

Local Notice
Appli- cable [ ] Inappl- icable [ ]
19. IT IS FURTHER ORDERED, That within 30 days of the release of this ORDER, the following applicant(s) shall inform the presiding Administrative Law Judge as to whether local notice of filing of the application has been published:

Appli- cable [ ] Inappl- icable [ ]
20. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicants shall inform the presiding Administrative Law Judge as to whether a corrected local notice of the filing of the application has been republished:

-9-

Main Studio Justification
Appli- cable [ ] Inappl- icable [ ]
21. IT IS FURTHER ORDERED, That the following applicant(s) shall file with the presiding Administrative Law Judge, within 30 days of the release of this Order, an amended response to Item 12, Section V-B, Form 301, and, if appropriate, a showing of good cause if its respective main studio will be located outside the city of license:

City Coverage Waiver
Appli- cable [ ] Inappl- icable [ ]
22. IT IS FURTHER ORDERED, That, as to the following applicant(s), the provisions of Section 73.315(a) ARE WAIVED to permit a signal level of less than 3.16 mV/m over the entire city of license:

Financial Qualifications
Appli- cable [ ] Inappl- icable [ ]
23. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicant(s) shall submit the financial certification required by Section III, Form 301, or advise the Administrative Law Judge that the required certification cannot be made:

Programming Statement
Appli- cable [ ] Inappl- icable [ ]
24. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicant(s) shall file an amendment with the presiding Administrative Law Judge describing its planned programming service relating to the issues of public concern facing its proposed service area:

E.E.O.
Appli- cable [ ] Inappl- icable [ ]
25. IT IS FURTHER ORDERED, That within 30 days of the release of this Order, the following applicant(s) shall submit Section VI information in accordance with the requirement of Section 73.2080(c) of the Commission's Rules to the presiding Administrative Law Judge:

BILLING CODE 6712-01-C

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Late Filed Amendments

Appli- cable [ ] Inappl- icable [ ]

26. IT IS FURTHER ORDERED, That the petition for leave to amend filed by the following applicant(s) IS GRANTED, and the corresponding amendment(s) IS ACCEPTED to the extent indicated herein:

Air Hazard

Appli- cable [ ] Inappl- icable [ ]

27. IT IS FURTHER ORDERED, That the Federal Aviation Adminstration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

28. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

29. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau

APPENDIX(ES)
[ ] IS [ ] IS NOT
ATTACHED

Appendix B—Sample Hearing Notice To Be Published in the Federal Register

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A.			
B.			
C.			

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR——, May——, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue headings	Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-13123 Filed 5-17-83; 8:45 am]

BILLING CODE 6712-01-M

federal register

Wednesday
May 18, 1983

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Act of 1978

VOL 48 ISS 97 MY 18 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 895]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 13, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in acordance with 18 CFR 275.03 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS), at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 13, 1983

VOLUME 895

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-CONOCO INC				RECEIVED:	04/25/83	JA: CA			
8333923	83-2-0003	0411121097		103		GRUBB #327	SAN MIGUELITO	0.4	PACIFIC LIGHTING
8333918	83-2-0008	0411121062		103		GRUBB #328	SAN MIGUELITO	7.0	PACIFIC LIGHTING
8333917	83-2-0009	0411121063		103		GRUBB #340	SAN MIGUELITO	1.2	PACIFIC LIGHTING
8333916	83-2-0010	0411121037		103		GRUBB #341	SAN MIGUELITO	0.1	PACIFIC LIGHTING
8333922	83-2-0004	0411121120		103		GRUBB #375	SAN MIGUELITO	14.0	PACIFIC LIGHTING
8333921	83-2-0005	0411121171		103		GRUBB #376	SAN MIGUELITO	35.6	PACIFIC LIGHTING
8333920	83-2-0006	0411121121		103		GRUBB #377	SAN MIGUELITO	31.8	PACIFIC LIGHTING
8333919	83-2-0007	0411121150		103		GRUBB #380	SAN MIGUELITO	[illegible].3	PACIFIC LIGHTING
8333924	83-2-0002	0411121155		103		GRUBB NO 204	SAN MIGUELITO	3.7	PACIFIC LIGHTING
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	04/25/83	JA: CA			
8333929	83-6-0012	0411320691		102-4		NISHIKAWA #2	TODHUNTERS LAKE FIELD	180.0	PACIFIC GAS & ELE
8333928	83-6-0011	0411320659		102-4		NISHIKAWA EL MACERO #1	TODHUNTERS LAKE	262.0	PACIFIC GAS & ELE
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/25/83	JA: CA			
8333908	83-2-0011	0411121186		103		ARCO 23	OJAI-SILVERTHREAD	0.0	ARCO OIL & GAS CO
8333909	83-2-0012	0411121207		103		ARCO 29	OJAI-SILVERTHREAD	130.0	ARCO OIL & GAS CO
8333926	83-6-0016	0411320729		103		CWAD-WFL #17	CONWAY RANCH GAS FIEL	0.0	PACIFIC GAS & ELE
8333910	83-2-0013	0411120878		103		TAR CREEK (UNION)44-28	SESPE	1.0	SHELL OIL CO
8333911	83-2-0014	0411121095		103		TAR CREEK 42B-28	SESPE	13.0	SHELL OIL CO
8333913	83-2-0019	0411121115		103		TAR CREEK 52-B-28	SESPE	5.0	SHELL OIL CO
8333914	83-2-0016	0411120928		103		TAR CREEK 53-28	SESPE	10.0	SHELL OIL CO
8333912	83-2-0015	0411120861		103		THORNBURY-GEIS 52-29	SESPE	4.0	SHELL OIL CO
-TENNECO OIL COMPANY				RECEIVED:	04/25/83	JA: CA			
8333925	83-4-0218	0402967215		103		YOWLUMNE UNIT "B" 78X-33	YOWLUMNE	73.0	ARCO OIL & GAS CO
-TXO PRODUCTION CORP				RECEIVED:	04/25/83	JA: CA			
8333930	83-6-0013	0402120244		102-4		"TORPES" 12-4	BOUNDE CREEK GAS	150.0	PACIFIC GAS & ELE
8333927	83-6-0015	0407720357		103		KAESLIN 4-1	MARTE GAS	200.0	PACIFIC GAS & ELE
8333931	83-6-0010	0401120231		102-4		MARTINEZ 4-1	ARBUCKLE GAS FIELD	100.0	PACIFIC GAS & ELE
-WESTMONT OIL INC				RECEIVED:	04/25/83	JA: CA			
8333915	83-2-0001	0411121011		102-4		WESTMONT BAILARD-KRAEMER #1 REDRILL	MONTALVOWEST	19.0	PACIFIC LIGHTING
MISSISSIPPI OIL & GAS BOARD									
-BIGLAKE OPERATING CO				RECEIVED:	04/25/83	JA: MS			
8333999	IZ-83-533	2311320144		102-4		MASON-SOJOURNER #1	OLIVE	0.0	
-MARATHON OIL COMPANY				RECEIVED:	04/25/83	JA: MS			
8333998	8-83-53	2303500000		108		UNIT SE-31 #1-E	MAXIE	2.0	UNITED GAS PIPE L
-THOMSON-MONTEITH				RECEIVED:	04/25/83	JA: MS			
8333996	5-83-351	2308720071		103		COLUMBUS AFB PARCEL 4 #1	CORINNE	540.0	FLORIDA GAS TRANS
8333997	7-83-351	2308720071		102-4		COLUMBUS AIR FORCE BASE PARCEL 4 #1	CORINNE	540.0	FLORIDA GAS TRANS
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:	04/25/83	JA: MT			
8334013	4-82-111	2508321478		103		WHITNEY #2	RIDGELAWN	8.0	MONTANA DAKOTA UT
8334005	4-82-110	2508321478		102-2		WHITNEY #2	RIDGELAWN	8.0	MONTANA DAKOTA UT

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334010	4-82-109	2508321481		103		WHITNEY #3	RIDGELAWN	11.0	MONTANA DAKOTA UT
8334003	4-82-108	2508321481		102-2		WHITNEY #3	RIDGELAWN	11.0	MONTANA DAKOTA UT
-BRANCH OIL & GAS				RECEIVED:	04/25/83	JA: MT			
8334015	4-82-114	2510122178		102-4		JOHNSON 12-22 SECTION 22-34N-3W	KEVIN-SUNBURST	180.0	ALOE VENTURES GAT
8334014	4-82-116	2510122072		102-4		POSTLEWAIT 08-21 SECTION 21-34N-3W	KEVIN-SUNBURST	2079.5	ALOE VENTURES GAT
8333932	4-82-115	2510122064		102-4		POSTLEWAIT 4-22 SECTION 22-34N-3W	KEVIN-SUNBURST	88.0	ALOE VENTURES GAT
8334011	4-82-118	2510121882		102-4		RAYMOND #6-26 SECTION 26-34N-3W	SOUTHWEST KEVIN GAS F	505.6	ALOE VENTURES GAT
8334017	4-82-120	2510121767		108		REIDT NO 8-11 SECTION 11-34N-3W	KEVIN SUNBURST GAS FI	669.7	ALOE VENTURES GAT
8334018	4-82-117	2510121944		102-4		REIDT 6-15 SECTION 15 34N R3W	KEVIN-SUNBURST GAS FI	6185.5	ALOE VENTURES GAT
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/25/83	JA: MT			
8334001	4-82-100	2507321367		102-2		GRAYROCK STATE 11-12	WILDCAT	21.0	
8334002	4-82-101	2507321359		102-2		GRAYROCK STATE 14-1	WILDCAT	25.0	
8334020	4-82-103	2507321340		102-2		J G L FARMS FEE 23-2	MARIAS RIVER	29.0	
8334019	4-82-104	2510121828		102-2		ROBERTSON FEE 34-21	WILDCAT	7.0	
8334008	4-82-102	2510121826		102-2		UNDERDAHL FEE 13-27	MARIAS RIVER	19.0	
8334007	4-82-105	2510121837		102-2		UNDERDAHL FEE 13-35	WILDCAT	14.0	
8334006	4-82-106	2510121829		102-2		UNDERDAHL FEE 32-28	WILDCAT	7.0	
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	04/22/83	JA: MT			
8333896	4-82-88	2507121718		102-2		STATE 1-22	SWANSON CREEK GAS FIE	10.0	MONTANA-DAKOTA UT
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	04/22/83	JA: MT			
8333894	4-82-93	2509121357		102-2		NELSON 16-39	RESERVE	11.5	PHILLIPS PETROLEU
-MERLAND OIL & GAS INC				RECEIVED:	04/22/83	JA: MT			
8333897	4-82-89	2508521335		103		PICARD #2-14	NORTH BAINVILLE	0.9	DOME PETROLEUM CO
-MIDLANDS GAS CORPORATION				RECEIVED:	04/22/83	JA: MT			
8333895	4-82-92ER	2507121513		108-ER		SCHLEUSNER 1 1461	WILDCAT	0.0	KN ENERGY INC
-MIDLANDS GAS CORPORATION				RECEIVED:	04/25/83	JA: MT			
8334012	4-82-113	2507121610		108		HELLIE 1 0560	BOWDOIN	22.8	KN ENERGY INC
8334004	10-82-259	2507121417		108		1341-1	WILDCAT	21.0	KN ENERGY INC
8334006	10-82-264	2507121424		108		3152-1		22.0	KN ENERGY INC
-RANCK OIL CO				RECEIVED:	04/25/83	JA: MT			
8334016	4-82-119	2510105205		108		RICE #1	NORTH ETHRIDGE	13.1	ALOE VENTURES GAT
-SOUTHLAND ROYALTY CO				RECEIVED:	04/25/83	JA: MT			
8334009	4-82-107	2508321546		102-4		MEVINS #2-19	THREE BUTTES	11.0	MGPC INC
-WEST GAS INC				RECEIVED:	04/22/83	JA: MT			
8333898	4-82-94	2509521157		108		NORDAHL 5-13	LAKE BASIN	1.8	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-BEACH EXPLORATION INC				RECEIVED:	04/25/83	JA: NM			
8333907		3001522696		103		NEW MEXICO 36 #1	E RED LAKE	255.5	PHILLIPS PETROLEU
-DUGAN PRODUCTION CORP				RECEIVED:	04/25/83	JA: NM			
8333899		3004525353		107-TF		SLY SLAV #2	BASIN DAKOTA	35.0	NORTHWEST PIPELIN
-ESTORIL PRODUCING CORP				RECEIVED:	04/25/83	JA: NM			
8333906		3002526848		103		CURRY STATE #1	ANTELOPE RIDGE	1095.0	GAS CO OF NEW MEX
-FRED POOL OPERATING CO				RECEIVED:	04/25/83	JA: NM			
8333908		3000560992		102-2		EASTLAND STATE #1	FOOR RANCH PRE PERMAI	0.0	TRANSWESTERN PIPE
-KERN CO				RECEIVED:	04/25/83	JA: NM			
8333903		3002500000		103		EUNICE COOPER #2	LANGLIE MATTIX	48.0	
-TAMARACK PETROLEUM CO INC				RECEIVED:	04/25/83	JA: NM			
8333902		3002500000		103		TENNECO HARRIS (1-1-2-135-38E)	BRONCO (WOLFCAMP)	14.0	WARREN PETROLEUM
-YATES PETROLEUM CORPORATION				RECEIVED:	04/25/83	JA: NM			
8333905		3000561908		102-3	107-TF	BITTER LAKE "AAA" ST #2	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8333901		3000561785		103		LITTLE CUEVO UNIT #1	WILDCAT	0.0	TRANSWESTERN PIPE
8333904		3303720029		103		T-4 CATTLE CO #1	WILDCAT	0.0	
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ABARTA OIL & GAS INC				RECEIVED:	04/25/83	JA: NY			
8333948	3939	3102916954		107-TF		ABARTA B31-009 OFFHAUS	LAKESHORE	0.0	NATIONAL FUEL GAS
8333947	3940	3102916978		107-TF		ABARTA E 81-010 (SCOUT TOAD HOLLOW)	HAMBURG	0.0	NATIONAL FUEL GAS
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED:	04/25/83	JA: NY			
8333949	5061	3112113890		107-RT		KEITH PAGE #1	WILDCAT	11.9	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/25/83	JA: NY			
8333955	5046	3102910959		108		CLARENCE MEARY M-1342	WILDCAT	21.0	GENERAL SYSTEM PU
-EMPIRE ENERGIES				RECEIVED:	04/25/83	JA: NY			
8333940	3926	3102917791		107-TF		MAMMOSER #1	LAKE SHORE	12.0	NATIONAL FUEL GAS
-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	04/25/83	JA: NY			
8333973	4131	3103715333		107-TF		ABRAMS #1	HURON CREEK	8.2	U S GYPSUM CO
8333983	5026	3112117188		103		ALMETER #1	WILDCAT	4.0	U S GYPSUM CO
8333982	5027	3112117208		107-TF		ALMETER #1	WILDCAT	4.0	U S GYPSUM CO
8333989	5025	3112117603		107-TF		BEAGLE #1	WILDCAT	14.0	U S GYPSUM CO
8333988	5024	3112117603		103		BEAGLE #1	WILDCAT	14.0	U S GYPSUM CO
8333966	4071	3103713917		107-TF		BURKHARDT #1	HURON CREEK	2.3	U S GYPSUM CO
8333991	5035	3112117620		107-TF		BYRNCLIFF #1	WILDCAT	3.0	U S GYPSUM CO
8333990	5034	3112117620		103		BYRNCLIFF #1	WILDCAT	3.0	U S GYPSUM CO
8333974	4129	3103715881		107-TF		CLARKE #1	HURON CREEK	3.5	U S GYPSUM CO
8333985	5037	3112117601		103		CONRAD #1	WILDCAT	13.5	U S GYPSUM CO
8333984	5036	3112117601		107-TF		CONRAD #1	WILDCAT	13.5	U S GYPSUM CO
8333986	5038	3112117252		107-TF		DAHLER #1	WILDCAT	11.0	U S GYPSUM CO
8333987	5039	3112117252		103		DAHLER #1	WILDCAT	11.0	U S GYPSUM CO
8333975	4127	3103713921		107-TF		DARKER #1	HURON CREEK	0.4	U S GYPSUM CO
8333934	4125	3103716001		107-TF		FENTON #1	HURON CREEK	1.3	U S GYPSUM CO
8333979	5030	3112117602		103		GADD #1	WILDCAT	13.0	U S GYPSUM CO
8333978	5031	3112117602		107-TF		GADD #1	WILDCAT	13.0	U S GYPSUM CO
8333962	4123	3103715882		107-TF		GILDNER #1	HURON CREEK	2.0	U S GYPSUM CO
8333969	4121	3103715920		107-TF		HAGEN #1	HURON CREEK	8.2	U S GYPSUM CO
8333977	5032	3112117678		103		HUZELLA UNIT D-17 #1	WILDCAT	14.3	U S GYPSUM CO
8333976	5033	3112117678		107-TF		HUZELLA UNIT D-17 #1	WILDCAT	14.3	U S GYPSUM CO
8333961	4091	3103915169		107-TF		JERICHO LAKE #1	HURON CREEK	5.0	U S GYPSUM CO
8333968	4119	3103715898		107-TF		KONFEDERATH #1	HURON CREEK	3.9	U S GYPSUM CO
8333937	4089	3103715165		107-TF		LAMB #2	HURON CREEK	12.0	U S GYPSUM CO
8333967	4117	3103715899		107-TF		MANNE #1	HURON CREEK	2.4	U S GYPSUM CO
8333959	4135	3103715897		107-TF		MURRAY #1	HURON CREEK	2.5	U S GYPSUM CO
8333980	5029	3112117623		107-TF		P MARTIN #1	WILDCAT	3.0	U S GYPSUM CO
8333981	5028	3112117623		103		P MARTIN #1	WILDCAT	3.0	U S GYPSUM CO
8333965	4115	3103715879		107-TF		PERRY #1	HURON CREEK	2.5	U S GYPSUM CO
8333964	4113	3103715884		107-TF		PHELPS #2	INDIAN FALLS	2.2	U S GYPSUM CO
8333938	4087	3103715167		107-TF		POKORNY #1	HURON CREEK	9.5	U S GYPSUM CO
8333963	4111	3103715380		107-TF		READ #1	HURON CREEK	1.0	U S GYPSUM CO
8333971	4108	3103715163		107-TF		SCHUNK #1	HURON CREEK	1.5	U S GYPSUM CO
8333935	4109	3103715328		107-TF		SCHUNK #2A	HURON CREEK	0.8	U S GYPSUM CO
8333936	4108	3103715162		107-TF		SCHUNK #3	HURON CREEK	1.0	U S GYPSUM CO
8333972	4102	3103715378		107-TF		SEAMANS #1	HURON CREEK	1.2	U S GYPSUM CO
8333960	4133	3103716172		107-TF		STALICA #1	HURON CREEK	2.5	U S GYPSUM CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8333933	4105	3103715252		107-TF		U S G #1	INDIAN FULLER	1.2	U S GYPSUM CO
8333970	4103	3103715168		107-TF		WINKSTERN #1	HURON CREEK	24.3	U S GYNSUM CO
-JAVA OIL & GAS CO INC				RECEIVED:	04/25/83	JA: NY			
8333953	4091	3102913688		108		CAYUGA HEIGHTS #203	ALDEN-LANCASTER	0.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	04/25/83	JA: NY			
8333954	5041	3105117380		107-TF		F E ANDERSON UNIT #1 LRC #170	CALEDONIA	20.0	NEW JERSEY MATURA
8333941	3897	3112113999		107-TF		SIEBERT #1 LRC #20	LEICESTER	2.0	ELIZABETHTOWN GAS
8333942	3900	3112117233		107-TF		TAYLOR FARM #1 LRC #121	LEICESTER	20.0	NEW JERSEY NATURA
8333943	3896	3112113963		107-TF		WILLIAM GRAHAM #1 LRC #19	LEICESTER	20.0	ELIZABETHTOWN GAS
-MAYNARD OIL COMPANY				RECEIVED:	04/25/83	JA: NY			
8333944	3905	3102917183		107-TF		CASH C #1 #02322	ORCHARD PARK	0.0	NATIONAL FUEL GAS
8333945	3906	3102917246		107-TF		GERNOLD C #1 #02401	ORCHARD PARK	0.0	NATIONAL FUEL GAS
8333946	3907	3102917169		107-TF		MULHOLLAN E #1 02309	ORCHARD PARK	0.0	NATIONAL FUEL GAS
-NORTH COLLINS DRILLING PROGRAM				RECEIVED:	04/25/83	JA: NY			
8333957	3605	3102914797		107-TF		C & M EDER #1 #1486	NORTH COLLINS	8.5	NATIONAL FUEL GAS
8333958	3607	3102914798		107-TF		M L & V L SCHMITZ #1 #1487	NORTH COLLINS	8.5	NATIONAL FUEL GAS
8333956	3606	3102914799		107-TF		M L & V L SCHMITZ #2 #1488	NORTH COLLINS	8.5	NATIONAL FUEL GAS
-P & S DRILLING INC				RECEIVED:	04/25/83	JA: NY			
8333951	5048	3102947974		107-TF		PIOTROWSKI #1	ELMA	1.0	NATIONAL FUEL GAS
8333952	5049	3102917974		103		PIOTROWSKI ET AL #1	ELMA	1.0	NATIONAL FUEL GAS
-SHAWNEE EXPLORATION INC				RECEIVED:	04/25/83	JA: NY			
8333950	5051	3102918004		107-TF		ANDZEL #1	BRANT	15.0	SCG GAS QUEST INC
-TRAHAN PETROLEUM INC				RECEIVED:	04/25/83	JA: NY			
8333939	3977	3100917293		107-TF		CONGDON NY #100 31-009-17293	CONEWANGO	36.0	COLUMBIA GAS TRAN

VIRGINIA DEPARTMENT OF LABOR & INDUSTRY

-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/25/83	JA: VA			
8333975		4502700477		103	107-TF	BIG SANDY COAL CORP #21020	VIRGINIA FIELD AREA M	93.1	COLUMBIA GAS TRAN
-PEAKE OPERATING CO				RECEIVED:	04/25/83	JA: VA			
8333992		4502720540		103	107-TF	BREEDING #1-B	ROCK LICK DISTRICT	5.0	
-PHILADELPHIA OIL COMPANY				RECEIVED:	04/25/83	JA: VA			
8333993		4505120467		103	107-TF	ALBERT C ADKINS ET AL - NO P-135	NORA	55.9	KENTUCKY WEST VIR
8333994		4505119806		107-TF		G W SMITH - #P-145	NORA	39.0	KENTUCKY WEST VIR

WEST VIRGINIA DEPARTMENT OF MINES

-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/25/83	JA: WV			
8334063		4704101061		108		A P WHITE WN-11455	FREEMANS CREEK	18.0	GENERAL SYSTEM PU
8334060		4700500905		108		ALBERT M COLE WN-10213	SHERMAN	1.0	GENERAL SYSTEM PU
8334058		4704500618		108		AMHERST LAND COMPANY WN-10078	TRIADELPHIA	13.0	GENERAL SYSTEM PU
8334055		4705900444		108		BRUCE MCDONALD HOLDING CO WN-9911	STAFFORD	22.0	GENERAL SYSTEM PU
8334023		4709700998		108		BURTON C MORELAND WN-10856	UNION	20.0	GENERAL SYSTEM PU
8334035		4703300525		108		CAROLINE DUBOIS WN-11188	ELK	3.0	GENERAL SYSTEM PU
8334022		4709300027		108		CHARLES SHAHAN WN-10162	LICKING	11.0	GENERAL SYSTEM PU
8334024		4700501249		108		CHARLESTON NATL BANK 12349	CROOK	6.0	GENERAL SYSTEM PU
8334033		4704700852		108		CONSOLIDATED COAL 12658	ELKHORN	15.0	GENERAL SYSTEM PU
8334043		4704700735		108		CONSOLIDATION COAL CO 12415	ELKHORN	18.0	GENERAL SYSTEM PU
8334044		4706100327		108		DECKERS CREEK SAND CO WN-11414	MORGAN	16.0	GENERAL SYSTEM PU
8334021		4707700195		108		EDWIN WOLFE 12579	LYON	17.0	GENERAL SYSTEM PU
8334032		4700100395		108		EGBERT S HARVEY WN-10996	UNION	22.0	GENERAL SYSTEM PU
8334045		4707700075		108		FLORENCE M AUVIL WN-10096	RENO	13.0	GENERAL SYSTEM PU
8334042		4709100099		108		HARLEY MCCARTNEY WN-11268	KNOTTSVILLE	19.0	GENERAL SYSTEM PU
8334062		4704700477		108		IRA P SIMMONS WN-11444	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8334054		4703301506		108		J H SOMMERVILLE WN-8177	UNION	2.0	GENERAL SYSTEM PU
8334051		4703300273		108		JACKSON ARNOLD 10443	ELK	5.0	GENERAL SYSTEM PU
8334041		4703300110		108		JULIUS HADDIX WN-10258	DRY FORK	12.0	GENERAL SYSTEM PU
8334052		4704500374		108		LAWSON HRS INC WN-9550	LOGAN	13.0	GENERAL SYSTEM PU
8334040		4706100322		108		LEWIS BOBY WN-11197	CLINTON	19.0	GENERAL SYSTEM PU
8334046		4703301915		108		LILLIE GIFFORD 12530	GRANT	11.0	GENERAL SYSTEM PU
8334037		4704101575		108		M C BURNSIDE WN-10953	FREEMANS CREEK	8.0	GENERAL SYSTEM PU
8334038		4704101756		108		M C BURNSIDE WN-11332	FREEMANS CREEK	18.0	GENERAL SYSTEM PU
8334047		4704102532		108		MADGE FULTINEAR 12525	FREEMANS CREEK	10.0	GENERAL SYSTEM PU
8334031		4704700477		108		MCDOWELL-POCAHONTAS WN-11250	SANDY RIVER	22.0	GENERAL SYSTEM PU
8334048		4703300853		108		Q BOGGESS 11858	SARDIS	9.0	GENERAL SYSTEM PU
8334050		4703301524		108		R S REYNOLDS WN-7953	BUFFALO	1.0	GENERAL SYSTEM PU
8334034		4703300496		108		ROSCOE F DYER WN-11020	ELK	7.0	GENERAL SYSTEM PU
8334057		4704900359		108		S A TOWNE WN-1822	MANNINGTON	19.0	GENERAL SYSTEM PU
8334039		4706100314		108		SELLARO "AR WN-10977	CLINTON	14.0	GENERAL SYSTEM PU
8334053		4704101655		108		SOPHIA BUTCHER WN-8354	FREEMANS CREEK	19.0	GENERAL SYSTEM PU
8334056		4709300022		108		THADDEUS PRITT WN-10009	LICKING	14.0	GENERAL SYSTEM PU
8334061		4703300077		108		TILMAN BOGGESS WN-3224	EAGLE	1.0	GENERAL SYSTEM PU
8334059		4700100576		108		W R SHAW WN-11460	PHILIPPI	18.0	GENERAL SYSTEM PU
8334036		4703300540		108		WILLIAM BURNSIDE WN-11263	UNION	14.0	GENERAL SYSTEM PU
8334049		4700101010		103		WILLIE B & HOFFMAN TRIMBLE WN-7185	UNION	3.0	GENERAL SYSTEM PU
-UNION DRILLING INC				RECEIVED:	04/25/83	JA: WV			
8334027		4709701950		108		BRENT SCOTT #1 1487	MEADE DISTRICT	25.0	COLUMBIA GAS TRAN
8334026		4709702005		108		FLODA DINSER #1 1473	MEADE DISTRICT	22.0	COLUMBIA GAS TRAN
8334025		4709702006		108		FLODA DINSER #2 1480	MEADE DISTRICT	25.0	COLUMBIA GAS TRAN
8334029		4709702055		108		G H ERVIN #1 1559	MEADE DISTRICT	24.0	COLUMBIA GAS TRAN
8334030		4709702058		108		OLEN CARPENTER #2 1571	MEADE DISTRICT	23.0	COLUMBIA GAS TRAN
8334028		4709702052		108		WOODY LUMBER CO #1 1558	MEADE DISTRICT	16.0	COLUMBIA GAS TRAN

DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA

-AMINOIL USA INC				RECEIVED:	04/25/83	JA: LA 3			
8334097	G2-3022	1770340211		102-5		OCS-G-0958 WELL NO A-9	EAST CAMERON AREA	1500.0	SEA ROBIN PIPELIN
8334071	G3-3499	1770240278		108		WEST CAMERON BLOCK 595 #A-1	WEST CAMERON	0.0	COLUMBIA GAS TRAN
8334123	G3-3497	1770240287		103		WEST CAMERON BLOCK 595 #A-2	WEST CAMERON	0.0	COLUMBIA GAS TRAN
-CHEVRON U S A INC				RECEIVED:	04/25/83	JA: LA 3			
8334115	G2-2928	1771540291		102-5		OCS-G-1241 NO 17	SOUTH TIMBALIER	110.0	TRUNKLINE GAS CO
-EXXON CORPORATION				RECEIVED:	04/25/83	JA: LA 3			
8334069	G3-3509	1770840587		102-1		OCS-G 4109 NO A-11	SOUTH MARSH ISLAND	100.0	COLUMBIA GAS TRAN
-GETTY OIL COMPANY				RECEIVED:	04/25/83	JA: LA 3			
8334093	G2-2998	1770140022		102-5		WEST CAMERON 636 A-3B	WEST CAMERON	1200.0	TRANSCONTINENTAL
-GULF OIL CORPORATION				RECEIVED:	04/25/83	JA: LA 3			
8334104	G3-3555	1770440551		102-1		E CAMERON BLOCK 330 OCS-G 3540 #B-1	EAST CAMERON	115.0	TEXAS EASTERN TRA
8334103	G3-3556	1770440556		102-1		E CAMERON BLOCK 330 OCS-G 3540 #B-3	EAST CAMERON	91.0	TEXAS EASTERN TRA
8334064	G2-3274	1772040091		102-5		OCS-G 1101 WELL G-13 WD BLK 117	WEST DELTA	158.0	TEXAS EASTERN TRA
8334081	G2-3174	1772040095		102-5		OCS-G 1101 WELL G-17 WD BLK 117	WEST DELTA	912.0	TEXAS EASTERN TRA
8334066	G2-3175	1772040095		102-5		OCS-G 1101 WELL G-17-D WD BLK 117	WEST DELTA	767.0	TEXAS EASTERN TRA
8334082	G2-3173	1772040056		102-5		OCS-G 1101 WELL G-3-D WD BLK 117	WEST DELTA	113.0	TEXAS EASTERN TRA
8334068	G3-3513	1772440239		102-1		OCS-G 4127 WELL A-3	MAIN PASS AREA	62.0	SOUTHERN NATURAL
8334073	G3-3514	1772440239		102-1		OCS-G 4127 WELL A-3-D	MAIN PASS AREA	125.0	SOUTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334106	G3-3553	1772440241		102-1		OCS-G 4127 WELL A-4	MAIN PASS AREA	35.0	SOUTHERN NATURAL
-MARATHON OIL COMPANY				RECEIVED:	04/25/83	JA: LA 3			
8334067	G2-3396	1772240032		102-5		SOUTH PASS BLOCK 89 WELL A-5	SOUTH PASS SOUTHEAST	146.0	TEXAS EASTERN TRA
8334088	G2-3031	1772240053		102-5		SOUTH PASS BLOCK 89 WELL B-1	SOUTH PASS SOUTHEAST	742.3	TEXAS EASTERN TRA
8334065	G2-3328	1772240068		102-5		SOUTH PASS BLOCK 89 WELL B-4	SOUTH PASS SOUTHEAST	438.0	TEXAS EASTERN TRA
-ODECO OIL & GAS CO				RECEIVED:	04/25/83	JA: LA 3			
8334084	G2-3075	1771540467		102-5		OCS-0605 NO B-13A	SOUTH TIMBALIER	450.0	TRUNKLINE GAS CO
-SHELL OFFSHORE INC				RECEIVED:	04/25/83	JA: LA 3			
8334079	G2-3039	1771500729		102-5		S T 176 FLD OCS-G 1249 NO A-11-A	SOUTH TIMBALIER	1165.0	TRUNKLINE GAS CO
8334096	G2-3021	1772140136		102-5		SP 27 FLD OCS 0694 NO 188-A	SOUTH PASS	275.0	TENNESSEE GAS PIP
8334083	G2-3074	1772140592		102-5		SP 27 FLD OCS 0694 NO 203	SOUTH PASS	10.0	TENNESSEE GAS PIP
8334072	G3-3523	1771640016		102-1		ST 300 OCS-G 4260 NO A-4	SOUTH TIMBALIER	8.0	
-SONAT EXPLORATION COMPANY				RECEIVED:	04/25/83	JA: LA 3			
8334085	G2-3078	1770340193		102-5		C-55TA	EAST CAMERON	2175.0	SOUTHERN NATURAL
8334111	G2-2940	1770340195		102-5		EAST CAMERON 45/46 D-1	EAST CAMERON	1971.0	SOUTHERN NATURAL
-SUPERIOR OIL CO				RECEIVED:	04/25/83	JA: LA 3			
8334108	G2-2908	1770940364		102-5		OCS-0797 NO F-2	EUGENE ISLAND	388.0	TRANSCONTINENTAL
-TENNECO OIL COMPANY				RECEIVED:	04/25/83	JA: LA 3			
8334105	G3-3554	1773140027		102-1		SABINE PASS 13 #B-1	SABINE PASS	1825.0	TENNESSEE GAS PIP
8334121	G2-3395	1773140005		102-1		SABINE PASS 13 #C-1	SABINE PASS	1750.0	
-TEXACO INC				RECEIVED:	04/25/83	JA: LA 3			
8334087	G2-3108	1770740397		102-5		OCS-G-0310 S MARSH ISLAND 211 #A8	SOUTH MARSH ISLAND	3658.0	TEXAS GAS TRANSMI
8334109	G2-2953	1771940208		102-5		OCS-G-2937 W D 109 #A-3	WEST DELTA	602.0	NATURAL GAS PIPEL
8334116	G2-3315	1771940267		102-5		OCS-G-2937 WEST DELTA 109 #A-9	WEST DELTA	2190.0	NATURAL GAS PIPEL
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/25/83	JA: LA 3			
8334078	G2-3042	1770540535		102-5		OCS-G 3327 NO 3	VERMILION	2000.0	
-ZAPATA EXPLORATION CO				RECEIVED:	04/25/83	JA: LA 3			
8334120	G2-2892	1770240609		102-5		W CAMERON BLOCK 538 WELL NO A-3	WEST CAMERON S ADD	912.5	UNITED GAS PIPELI
8334119	G2-2893	1770240609		102-5		W CAMERON BLOCK 538 WELL NO A-3D	WEST CAMERON S ADD	183.0	UNITED GAS PIPELI
8334118	G2-2894	1770240666		102-5		W CAMERON BLOCK 538 WELL NO A-4	WEST CAMERON S ADD	250.0	UNITED GAS PIPELI
8334117	G2-2895	1770240666		102-5		W CAMERON BLOCK 538 WELL NO A-4D	WEST CAMERON S ADD	250.0	UNITED GAS PIPELI
8334088	G2-2896	1770240657		102-5		WEST CAMERON BLOCK 535 WELL NO A-5	WEST CAMERON S ADD	1022.0	UNITED GAS PIPELI
8334089	G2-2897	1770240667		102-5		W CAMERON BLOCK 538 WELL NO A-5D	WEST CAMERON S ADD	500.0	UNITED GAS PIPELI
8334090	G2-2898	1770240668		102-5		WEST CAMERON BLOCK 538 WELL NO A-6	WEST CAMERON S ADD	840.0	UNITED GAS PIPELI
8334091	G2-2899	1770240668		102-5		W CAMERON BLOCK 538 WELL NO A-6D	WEST CAMERON S ADD	730.0	UNITED GAS PIPELI
8334092	G2-2900	1770240682		102-5		WEST CAMERON BLOCK 538 WELL NO A-7	WEST CAMERON S ADD	1095.0	UNITED GAS PIPELI
8334074	G2-2901	1770240682		102-5		WEST CAMERON BLOCK 538 WELL NO A-7D	WEST CAMERON S ADD	912.5	UNITED GAS PIPELI
-AMINOIL USA INC				RECEIVED:	04/25/83	JA: TX 3			
8334107	G2-2955	4271140192		102-5		OCS-G-2735 WELL #A-4A	HIGH ISLAND	250.0	NATURAL GAS PIPEL
-AMOCO PRODUCTION CO				RECEIVED:	04/25/83	JA: TX 3			
8334122	G2-3020	4270240054		102-5		OCS-G-3018 WELL NO A-3	MUSTANG ISLAND	2329.0	SOUTHERN NATURAL
8334095	G2-3018	4270240059		102-5		OCS-G-3018 WELL NO A-5	MUSTANG ISLAND	1507.0	SOUTHERN NATURAL
8334094	G2-3019	4270240063		102-5		OCS-G-3018 WELL NO A-6	MUSTANG ISLAND	2329.0	SOUTHERN NATURAL
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/25/83	JA: TX 3			
8334102	G2-2869	4270240065		102-5		OCS G-3022 MUSTANG ISL BLK 763 #A-3	MUSTANG ISLAND BLOCK	1758.0	TRANSCONTINENTAL
-CHEVRON U S A INC				RECEIVED:	04/25/83	JA: TX 3			
8334077	G2-3071	4270840098		102-5		OCS-G-0518 NO 8	HIGH ISLAND	1300.0	
8334086	G2-3101	4270240060		102-5		OCS-G-3020 NO 6D	MUSTANG ISLAND	1703.0	NATURAL GAS PIPEL
-MONCRIEF OFFSHORE EXPLORATION CO				RECEIVED:	04/25/83	JA: TX 3			
8334110	G2-2951	4270940686		102-5		OCS-G 2360 #B-10	HIGH ISLAND	68.0	TRANSCONTINENTAL
8334108	G2-2952	4270940689		102-5		OCS-G 2360 #B-11	HIGH ISLAND	70.0	TRANSCONTINENTAL
8334075	G2-2903	4270940644		102-5		OCS-G 2360 #B-2	HIGH ISLAND	2190.0	TRANSCONTINENTAL
8334076	G2-2904	4270940676		102-5		OCS-G 2360 #B-3	HIGH ISLAND	63.0	TRANSCONTINENTAL
8334099	G2-2910	4270940657		102-5		OCS-G 2360 #B-4	HIGH ISLAND	2000.0	TRANSCONTINENTAL
8334098	G2-2911	4270940664		102-5		OCS-G 2360 #B-5	HIGH ISLAND	2000.0	TRANSCONTINENTAL
8334113	G2-2931	4270940667		102-5		OCS-G 2360 #B-7(ST-1)	HIGH ISLAND	70.0	TRANSCONTINENTAL
8334114	G2-2930	4270940671		102-5		OCS-G 2360 #B-8	OCS-G 2360 HIGH ISLAN	2920.0	TRANSCONTINENTAL
8334112	G2-2936	4270940672		102-5		OCS-G 2360 #B-9	HIGH ISLAND	2000.0	TRANSCONTINENTAL
-TENNECO OIL COMPANY				RECEIVED:	04/25/83	JA: TX 3			
8334070	G3-3498	4271540014		102-1		SABINE PASS 18 #A-5	SABINE PASS	1825.0	TENNESSEE GAS PIP
-TEXAS GAS EXPLORATION CORP				RECEIVED:	04/25/83	JA: TX 3			
8334101	G2-2834	4271140256		102-5		UNION OIL COMPANY OF CALIFORNIA #A4	HIGH ISLAND	0.0	TEXAS GAS TRANSMI

[FR Doc. 83-13328 Filed 5-17-83; 8:45 am]

BILLING CODE 6717-01-C

VOL
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ISS
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federal register

Wednesday
May 18, 1983

Part IV

Department of the Interior

Fish and Wildlife Service

Department of Commerce

National Oceanic and Atmospheric Administration

Transfer of Marine Mammal Management Authority to States

Reprinted From the Federal Register of May 6, 1983

VOL
48
ISS
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 18, 216, and 403

Transfer of Marine Mammal Management Authority to States

[NOTE: This document originally appeared in the issue of May 6, 1983 at 48 FR 20614. It is reprinted at the request of the Department of the Interior because pages 20615–20628 of that document were omitted in the production process from some copies of the May 6 issue.]

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule

SUMMARY: The Fish and Wildlife Service (FWS) and the National Marine Fisheries Services (NMFS) are adopting a final rule to implement amendments to Section 109 of the Marine Mammal Protection Act (hereinafter referred to as "MMPA," or "the Act"). These regulations establish procedures for the transfer of marine mammal management authority to the states, the form and minimum requirements of a state application for the transfer of management authority, the relationship between Federal and state wildlife agencies both prior and subsequent to the transfer of management authority, and the revocation and return to the FWS or NMFS of management authority once transferred to the states.

EFFECTIVE DATE: June 6, 1983.

ADDRESSES: Chief, Division of Wildlife Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; or Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Mr. William Reffalt, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202) 632–2202; or Richard B. Roe, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (202) 634–7461.

SUPPLEMENTARY INFORMATION: On October 9, 1981, the President approved Pub. L. 97–58 amending various provisions of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* One aspect of these amendments altered the mechanism for the transfer of marine mammal management authority to the states under section 109 of the Act, 16 U.S.C. 1379. Under the pre-existing statutory procedures, states were required to request the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) to return management of the species. If a state sought authority to allow taking of the marine mammals under its management program, the state was required to request the FWS or NMFS to waive the moratorium on the taking of the species. This request required a formal Federal hearing before an Administrative Law Judge concerning the status of the requested species, and the permissible number of animals to be taken, as well as consideration of the state's proposed laws and regulations that would govern the taking of the species. The proposed waiver of the moratorium to allow taking of the species also required compliance with the provisions of the National Environmental Policy Act. In reviewing these procedures, Congress found that the lengthy process had resulted in a situation in which the goal of the Act—effective management to maintain healthy populations of marine mammals—was being impaired.

To remedy this problem, Congress established a simplified procedure under which a state could resume management of marine mammal species. This procedure entails a three-step process. First, the state must submit a request to the FWS or NMFS for transfer of management authority for a given species or a number of species of marine mammals. This request and its supporting documentation is reviewed by the appropriate Service to determine if the state has developed and will implement a program for the conservation and management of the species which meets certain requirements set forth in the Act. Second, if the FWS or NMFS publishes a proposed finding that the state program meets these requirements, the state must make a determination, under procedures set by the Act, of the optimum sustainable population ("OSP") of the species and the maximum allowable take of the species that is consistent with maintaining the species at OSP. Third, the state's determinations must be implemented through state laws and/or regulations and, if the range of the species extends beyond the territorial water of the state, the state and Federal governments must agree on a process for allocating the take of the species in areas under respective state and Federal jurisdictions. Once this "cooperative allocation agreement", if required, has been implemented and the OSP and maximum allowable take determinations are final and implemented under state law, the Service will publish a final finding and rule transferring exclusive authority to manage marine mammals to the state for the area within its jurisdiction, including its territorial waters. The only exception to this assumption of exclusive jurisdiction would be for takings by non-state personnel for scientific research and public display purposes and takings by Federal officials and agents for health and welfare purposes, activities which remain under the control of the Federal government pursuant to section 109 of the Act.

On May 12, 1982 the FWS published proposed regulations to implement the statutory procedures for transfer of marine mammal management authority to the states (47 FR 20508). The NMFS also published corresponding regulations for species under its jurisdiction (47 FR 20496). After consideration of 26 letters of public comment the proposed regulations have been amended slightly to clarify further certain provisions, especially those involving the timing of state and Federal actions, and subsistence use provisions relating to the State of Alaska.

The Marine Mammal Commission recommended that FWS's final regulations implementing statutory procedures to transfer marine mammal management authority to states, and any supplementary information explaining them in the notice of final rulemaking, be identical to those published by the NMFS. This is to avoid any potential confusion resulting from different explanations by the two agencies of the already complex transfer process. The Services decided that this recommendation has merit and that these regulations should be published jointly as a final rule and later codified at 50 CFR Part 403. Former regulations governing transfer of management authority in 50 CFR Parts 18 and 216 have been deleted and replaced with references to the joint regulations now found in 50 CFR Part 403.

Although three commentators registered opposition to the idea of a transfer of management authority to states, no party questioned any major interpretations of the Act as set forth in these regulations. The Marine Mammal Commission, for example, recommended that the proposed regulations be adopted subject to minor changes. The State of Alaska and the International Association of Fish and Wildlife Agencies supported the proposed regulations as a faithful interpretation of the transfer provisions of Pub. L. 97–58.

The Department of Game, State of Washington, commented on the complexity and difficulty of the statutory requirements for a transfer of management authority, but thought that the proposed regulations were fair and comprehensive. Similar views were expressed by private individuals and organizations.

The final rule adopted herein is essentially unchanged from the proposed rules. These regulations apply to the species of marine mammals currently managed by the FWS, under the authority of the MMPA, such as the polar bear, sea otter, walrus, dugong, manatee and marine otter, and to other species of marine mammals, including seals, sea lions, porpoises and whales which are managed by the NMFS.

Public Comments

Comments on the proposed regulations were solicited from all interested parties within a 60-day comment period, May 12–July 12, 1982. Since the FWS and the NMFS published identical proposed regulations, comments received by both agencies were jointly considered. The following parties submitted written comments:

Numan Kitlutsisti
Alaska Federation of Natives
Jean McCollom
Shell Oil Company
Washington Department of Fish and Game
Umpqua Commercial Fishermen's Wives Association
Defenders of Wildlife
Friends of the Sea Otter
Alaska Department of Fish and Game
Marine Mammal Commission
Friends of Wildlife
Texas Parks and Wildlife Department
Minerals Management Service, Department of the Interior
Environmental Defense Fund with Friends of the Earth, the Humane Society of the United States, and the Society for Animal Protective Legislation
Seal Rescue Fund
Alaska Oil and Gas Association
Conoco Oil Company
Kauernak, Inc.
Harlan L. Bay, Taxidermist
Mac's Taxidermy
Animal Welfare Society, Inc. with Maine Chapter, Defenders of Wildlife, and Marine Federation of Humane Societies
John E. Rowe
H. K. Grade, Taxidermist
Denna McLeod
Save Our Salmon
International Association of Fish and Wildlife Agencies

After the comment period closed, the Assistant Administrator for Fisheries, NMFS, also received comments from an employee concerning the State of Alaska's position on the 1981 MMPA Amendments.

Copies of all comments are available for inspection at the offices of the information contact listed above.

General Comments

Many of the letters we received reflect public views on the advisability or inadvisability of transferring marine mammal management authority to states, and do not specifically address our procedural regulations. In this regard, two commentators opposed any transfer of marine mammal management authority to states because of concern for the continued conservation of these species. One commentator opposed management transfer because of possible impacts on offshore oil development activities. Several groups and individuals, primarily commercial fishing and taxidermy interests, registered approval of an early transfer of authority to states.

The MMPA of 1972, as well as the 1981 amendments, anticipated the eventual transfer of management authority from the Federal Government to the states, and provided specific procedures to accomplish this transfer. The Act provides a mechanism for the transfer, from the Federal Government to the states, of marine mammal management authority based on Federal review and approval of state management plans. State marine mammal management programs must generally be consistent with the goals and policies of the MMPA and, specifically, the maintenance of marine mammal populations at optimum sustainable population (OSP) levels. The regulations adopted today implement current statutory procedures and contain only limited discretionary provisions to this end. Neither the Act, as amended, nor these regulations allow for any relaxation of the strict OSP management standard. The Services strongly encourage states to apply for marine mammal management authority and obtain jurisdiction over their resident marine mammal populations. As recognized by Congress, marine mammal management activities will be more efficient and less costly at the state agency level.

Oil and gas development interests are concerned that a transfer of management authority to states may impede offshore development because regulations governing the taking of small numbers of marine mammals under section 101(a)(5) of the Act may vary among states and between states and the Federal Government. One commentator requested that we provide a specific mechanism for interstate coordination of marine mammal permits. In addition, these reviewers were confused as to the possible impact of these regulations and the MMPA amendments on future Endangered Species Act (ESA) consultations.

Once management authority is transferred for a given species, the state has exclusive jurisdiction to manage marine mammals pursuant to the MMPA within the state and its territorial waters, except for takings by non-state personnel for scientific research and public display purposes or by Federal personnel for health and welfare purposes. Exceptions under MMPA section 101(a)(5) for the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in specified activities (other than commercial fisheries) within a specified geographical region within the state or its territorial waters, must be sought from the appropriate state agency, once management authority for the species has been transferred.

Once management authority has been transferred, the Federal Government will only regulate incidental takings, including those specified in sections 101(a)(2), 101(a)(4) and 101(a)(5), that occur outside state territorial waters and within the 200 mile zone described in section 3(14)(B) of the Act (Fishery Conservation Zone, of FCZ). It is possible, therefore, that because an activity takes place over a large geographical area, an individual or organization may need to apply to one or more states and the Federal Government for permission to take certain marine mammals under section 101(a)(5).

Current policies and procedures for the ESA consultations among agencies will not be affected by these regulations. Section 17 of the ESA provides that, in case of conflicts between the ESA and the MMPA, the more restrictive provision applies. Concurrent jurisdiction, rather than exclusive state authority, is provided for under the ESA. Since the consultation responsibilities of Federal agencies (under section 7) and the prohibitions (under section 9) specified in the Endangered Species Act will continue to apply for those marine mammals that are also listed as endangered or threatened under the ESA, the transfer of management authority to a given state would not affect Federal agency consultation responsibilities under the ESA. Furthermore, section 6(c) provides for state and Federal agreements for the conservation and management of endangered and threatened species. Nothing in the Act or in our regulations should be construed as affecting in any manner any cooperative agreement

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entered into between a state and the Federal Government under section 6(c) of the ESA.

Several Alaska Native representatives requested a clarification of the subsistence use provisions which only apply to the State of Alaska. Some reordering of paragraphs and refinement of terms has been added to these provisions and is discussed in detail under § 403.03 below.

Many commentators questioned the submission of proposed statutes and regulations in the state management plan and suggested the word "proposed" be deleted, or that the approval of a state management plan, if based in part on proposed language, remain conditional until any proposed statutes and regulations are implemented. Specific aspects of this issue are discussed under § 403.03 below.

Section 403.01

This section describes the purpose and scope of these regulations. In response to comments the first sentence of this section has been revised to include the phrase "upon a finding by the Secretary of compliance with certain requirements," and an error in the last word of paragraph (a) has been corrected.

We have not accepted the recommendation to add a new paragraph (b)(3) which would exclude "reasonable and prudent development of resources in the state and national interest" (such as oil and gas), from activities affected by these regulations, since this is not within our authority under the MMPA. Paragraph (b) excludes the taking of marine mammals by Federal, state and local government officials in the course of their official duties. This activity is governed by 50 CFR 18.22 and 216.22, and the notification requirements of those sections remain in effect. Sections 18.22 and 216.22 relate to the taking of stranded and beached marine mammals and the taking of marine mammals for the protection of public health and welfare. The Services are in the process of revising §§ 18.22 and 216.22 to reflect the new statutory language contained in section 109(h) as requested by one commentator. These revisions will be proposed in separate Federal Register publications.

Section 403.02

This section defines certain terms used in this subpart. A new paragraph (a) has been added to read as follows. "The term 'species' includes any population stock." This provision is derived from the first sentence of section 109(a) of the Act which allows states the option of managing their marine mammals on the basis of population stocks. For example, states may choose where appropriate to determine optimum sustainable population (OSP) and allowable take levels for individual population stocks. This was the intent of the proposed regulation as evidenced by the definition of OSP, found at § 403.02(b) (formerly (a)), which provides that OSP is a population size for a "given species or stock." Section 3(10) of the MMPA defines the terms "population stock" or "stock" to mean "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature."

We have therefore adopted the recommendation to clarify the term "species" to reflect the provisions of sections 109(a) and 3(10) of the Act. Conversely, we are unable to adopt the recommendation of another commentator that marine mammal species should not be subdivided into population stocks for purposes of these regulations, since the Act requires that this management option be available.

Two commentators recommended changes or requested clarification of our OSP definition in paragraph (b) (formerly (a)). Congress has specifically reaffirmed that this definition accurately reflects the meaning of the term and the intent of Congress in passing the original Act. H.R. Rep. No. 97-228, 97th Cong., 1st Sess., p. 16 (1981). It is important to note that OSP is any population level within a range of population levels. The upper bound of the range is the largest supportable population level within a given ecosystem (carrying capacity). The lower bound of the range is the population level for a given species or stock that results in maximum net productivity.

This section also defines "state management program." The state management program consists of the legal framework under which the state will manage marine mammals. Components of this framework which are specifically required to be submitted in the state's request for transfer of management authority are set forth in paragraphs (b) and (c) of § 403.03 of the proposed regulations. Paragraph (d) of § 403.03 lists additional components required only in the State of Alaska's management program.

Several commentators objected to including proposed laws, regulations and policies within the definition of "state management program." The response to this comment is found below under the discussion of § 403.03. One commentator recommended that the term "statute" be substituted for the term "law," except in those cases where the term "law" is specifically meant to include both "statutes" and "regulations." We agree with this recommendation and have made this substitution in the definition of state management program, and throughout the final rule, where appropriate.

Section 403.03

This section delineates the form and minimum requirements of a state request for transfer of management authority. Any state requesting management authority from both the FWS and NMFS may combine the request in a single document and send copies to both agencies. The request must contain two elements: (1) Certain aspects of the proposed state management program and (2) supplemental information pertaining to the state management program. The request must include the text of relevant statutes, regulations, policies and other authorities of state law, and a narrative discussion of how these authorities blend to form a framework that meets the new requirements of the Act. This narrative discussion may be in the form of a memorandum prepared by the state Attorney General, as suggested by one commentator. However, a memorandum from the Attorney General is not added as a requirement because the state should be in the best position to determine the most appropriate agency to develop the narrative discussion.

As discussed in the preamble to the proposed regulations, although the state management program is defined broadly by section 403.02, the request for transfer of management authority need not include all aspects of the state management program. The state need not provide specific laws pertaining to the manner, times or amount of take, unless specifically required by § 403.03. Thus, the state need not submit as part of its request regulations pertaining to such aspects of take as bag limits, seasons, or the minimum rifle caliber that can be used in taking the species, since they are not specifically required by the Act. However, the request must include, for example, a law that requires taking to be humane (see § 403.03(b)(2)(i)), even though this is a restriction on the manner of taking, since it is specifically required by the Act.

A. *Submission of Proposed Statutes and Regulations.*

Numerous commentators objected to provisions allowing the Service to approve a state management program containing proposed laws. Many of these comments were based on the

requirements of sections 109(b)(1) and 109(f)(1)(A) of the Act. Section 109(b)(1) requires the Secretary to find that the state "has developed and will implement" a program for the conservation and management of the species before transferring management authority to the state. This language parallels the requirement of section 109(f)(1)(A), applicable only in the case of Alaska, that the Secretary find that the state "has adopted and will implement" certain statutes and regulations governing subsistence uses of marine mammals before transferring management authority to the State of Alaska. Commentators expressed concern that approval of state management programs containing proposed laws would violate these provisions and that such approvals could preclude public comment on the management programs the states actually adopt. Furthermore, commentators stated that revocation, the Service's recourse in the event a proposed statute or regulation is not adopted as submitted in the request, is too time-consuming to assure effective conservation and management of marine mammal species as the Act requires.

The Services appreciate the concerns of all parties on this issue. The transfer of management authority is a lengthy process. Allowing states to submit proposed laws for approval purposes would help streamline the process. But the affected public should have an opportunity to comment on all aspects of the state management program and should be assured that the program the state implements is the same as the program the public reviews and the Service approves.

To accommodate these concerns, the Services retained the provisions allowing states to submit management programs based on proposed laws or policies and amended the approval and transfer provisions in § 403.03. The new provisions incorporate informal rulemaking procedures for reviewing state management programs and transferring management authority to the states. New § 403.03(f) requires the Service, promptly after receiving a state's request, to make an initial determination on whether the state has developed and will implement a marine mammal management program that meets the requirements of the Act and the regulations. The Service must publish a general notice of its initial determination in the **Federal Register** together with, in the case of a positive determination, a proposed rule to transfer management authority to the State. The general notice will provide the public with an opportunity to comment (60 days) and to request an informal public hearing on both the Service's initial determination and on the state management program.

After considering comments and all other relevant information, the Service will publish in the **Federal Register** its final determination on whether the state's program meets the requirements of the Act and regulations. Along with a positive determination, the Service will publish a final regulation transferring management authority for the species to the state after the following requirements are satisfied:

(a) The state's determinations under §403.04 are implemented under state law;

(b) Any cooperative allocation agreement required under §403.05(a) is implemented; and

(c) The state has adopted laws and policies that are substantially the same as those submitted in proposed form in the state's management program.

This process will allow the Services to decide initially to transfer management authority to a state based on a management program containing proposed laws and policies but requires those laws and policies to be adopted before management authority ultimately is transferred to the state. The Service's initial determination to transfer management will give the state reasonable assurance that its management program, including the laws and policies it intends to enact, meets the requirements of the Act and these regulations. The state can then adopt the laws and policies submitted in proposed form, conduct its hearings and make its determinations under §403.04, and develop and implement any cooperative allocation agreement required under §403.05(a).

This process also assures the public that the management program the state ultimately adopts will be substantially the same as the program on which the public had an opportunity to comment. If, after issuing proposed rules to transfer management authority to the state, the Service finds that the state has failed to adopt laws and policies substantially the same as those submitted in proposed form in the state's management program (*e.g.*, the laws and policies adopted fail to accord the same approximate level of protection to the species, or otherwise merit resubmission of the state management program for public review and comment under §403.03), the Service will not issue final regulations transferring management authority to the state. In that case, the state's recourse is to adopt laws and policies substantially the same as those submitted in proposed form in its management program. Alternatively, the state could submit a new or revised management program which the Service would consider pursuant to §403.03(f)

B. *Other Provisions.*

Paragraph (b) of § 403.03 lists those components of the state management program which must be submitted in the request for a transfer of management authority. In the case of Alaska, paragraph (d) lists additional mandatory components relating to subsistence uses of marine mammals. These requirements are the minimum necessary to enable the appropriate Service to make the determinations required by section 109(b)(1) of the Act.

Section 403.03(b)(1) requires the state to list the scientific and common names and estimated range of the species of marine mammals for which it seeks managment authority. A state may request the transfer of management for more than one species. If this is the case, those components of the state managment program that apply to more than one species do not need to be repeated for each species. Rather, the state should list the species and the components of the state management program that apply to some or all of the species. Those components of the state management program that apply to individual species should be so designated. The state should discuss which components apply generally to all species and which apply specifically to individual species in the narrative discussion required by § 403.03(a)(2).

Several commentators objected to the use of the word "provisions" to describe what aspects of the state management program must be submitted in the request for a transfer of management authority. *See*, e.g., § 403.03(b)(2). By use of the word "provisions" it was intended that some form of state law such as statutes or regulations provide for the applicable requirements. The regulations are amended by use of the phrase "provisions of state law" where appropriate to clarify this intention.

The basic premise of section 109 of the Act and these regulations is that a state to which management authority has been transferred for a given species is to regulate the taking of that species so as to prevent its population from declining below its OSP. However, the Act provides that in the case of Alaska, subsistence taking may be allowed even if the species is below its OSP, as long as the amount of subsistence take will nevertheless permit the species to

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increase toward its OSP. Paragraph (b)(2)(iii) of this section reflects this distinction.

The State of Alaska requested confirmation of its interpretation of paragraph (b)(2)(ii)(A) concerning the transfer of management authority for a species that is below OSP. Alaska believes that section 109(b)(1) (C) and (D) of the Act contemplates transfer of management authority in this case as long as taking is not permitted, or in the case of subsistence take in Alaska, as long as the subsistence take determination does not preclude a species from "eventually attaining OSP." However, Alaska's interpretation is not entirely consistent with the MMPA. In fact, section 109(b)(1)(D) of the Act states that Alaska may not permit subsistence taking of a number of animals that "would be inconsistent with the maintenance of the species at its OSP." As indicated above, we interpret this language to mean that taking is permitted as long as the amount of subsistence take will nevertheless permit the species to *increase* toward its OSP. Taking of a species below its OSP for subsistence purposes may not be permitted at a level that will prevent the species from increasing in numbers. *See* H.R. Rep. No. 97–288, 97th Cong., 1st Sess., p. 23 (1981).

One commentator was confused over the regulation of take of marine mammals for scientific research or public display purposes. Section 403.03(b)(2)(iv) of the regulations as proposed and adopted requires the state not to permit take for scientific research and public display purposes with two exceptions: (1) Take for scientific research or public display purposes by or on behalf of the state; (2) take for scientific research or public display purposes pursuant to a Federal permit (see 50 CFR 18.31 and 216.31).

This scheme is explicitly required by the Act. Section 109(b)(1)(E) of the Act provides that the state may only *permit* take for scientific research and public display purposes when done by or on behalf of the State. Management of all other take for scientific research and public display purposes is retained by the Services even after transfer of marine mammal management authority to the state. *See* H.R. Rep. No. 97–228, *supra* at 23. The Services regulate this take pursuant to permits granted under 50 CFR 18.31 and 216.31. The state may not *prohibit* takings for scientific research or public display conducted pursuant to Federal permits. (Review of Federal permits to assure consistency with state management is provided by § 403.05(c)). (See H.R. Rep. No. 97–228, *supra*.) Thus, § 403.03(b)(2)(iv) requires that the state not permit all but these two types of scientific research and public display take; it does not authorize the state to *permit* any scientific research and public display take other than that by or on behalf of the state.

One commentator requested a provision to ensure state review of scientific research and public display permits issued by the Federal government for species that have not been transferred to the state, so that the state may review such permits for possible interference with management plans for other species that are within its jurisdiction. The MMPA does not authorize a state to review and disapprove scientific research and public display permits regarding species for which management authority has not been transferred to that state. If management authority is transferred to a state for a given species, then the Act authorizes that state to review and approve or disapprove an application for a permit to take a live specimen of that species within the state or its territorial waters for scientific research or public display purposes. Section 104(d) of the MMPA provides public review procedures for scientific research and public display permits. The Services publish notices of receipt of an application for the take of any marine mammals for scientific research and public display purposes in the **Federal Register**. Written comments are invited from all interested parties, including the states. A hearing may also be requested on such permits. Notice of the issuance or denial of any such permits is also given in the **Federal Register** and copies of these permits are available for review at the appropriate regional Service office.

One commentator believes that paragraph (b)(2) of § 403.03 contains no requirement that the state recognize the need to establish procedures for "incidental but not intentional taking." On the contrary, paragraph (b)(2)(v) requires that the state's marine mammal management program contains provisions of state law which "regulate the incidental taking of the species in a manner consistent with section 101(a)(2), (4) and (5)." Sections 101(a) (4) and (5) provide exceptions to the MMPA moratorium for incidental but not intentional taking of small numbers of marine mammals under certain circumstances.

The commentator further requested that there be a requirement that the state recognize "the potential for unexpected takes" and also stated that "[T]he difference between unexpected/incidental taking and capturing or killing is large, and we feel some recognition of this difference is warranted." The Act requires all "incidental taking", which includes "take(s)" as defined at 50 CFR 18.3 and 216.3 pursuant to MMPA section 101(a), to be regulated within a state either by the Federal government, or by the state if management authority for that species has been transferred. Congress made no distinction between unexpected incidental takings and capturing or killing except with respect to cooperative allocation agreements under Section 109(d). *See* H.R. Rep. No. 97–228, *supra* at 26.

One commentator suggested that we restrict the application of (b)(2)(v) of § 403.03 to species "within state waters" and eliminate reference to Federal regulations. This commentator believes that it is sufficient that state incidental take regulations are consistent with the Act and that any further Federal regulation would impose undue burdens on the state. The Services agree with this comment and delete the reference to Federal regulations in paragraph (b)(2)(v).

The Minerals Management Service (MMS) of the Department of the Interior commented that the effect of paragraph (b)(2)(v) could be that an oil, gas, geophysical survey or Outer Continental Shelf (OCS) development company may need to obtain permission to take marine mammals from one or more states for animals and individual activities in waters under state jurisdiction, as well as from the Federal agencies for animals and activities in areas seaward of state territorial waters. MMS believes that this situation could cause time delays and greatly escalate costs to both industry and the Federal government. MMS stated that these potential delays are inconsistent with the OCS Lands Act, as amended, and Administration policy regarding our nation's energy resources. MMS recommended, therefore, that reference to section 101(a)(5) be eliminated from § 403.03(b)(2)(v) and that authority to authorize incidental taking under section 101(a)(5) of the Act be retained by the Federal agencies.

Section 109(b)(3)(B) of the Act provides that following transfer of management authority for a given species, the Services retain authority to regulate only that incidental taking, provided for under section 101(a) (2), (4) and (5), which occurs within the 200-mile Fishery Conservation Zone (FCZ) described in section 3(14)(B) of the Act. Congress found that where management authority had been transferred to the state, and when the required

determinations and agreements have been made, the state will have exclusive authority to manage marine mammals within the state, including its territorial waters, except for the scientific research, public display, and health and welfare takings described earlier. Section 109(b)(3)(B) is intended to make this explicit. *See* H.R. Rep. No. 97–228, *supra* at 24. The Act, therefore, precludes adoption of the MMS suggestion in these regulations.

Paragraph (b)(3) of this section requires that the state program contain procedures for acquiring and evaluating data relating to OSP and the maximum allowable take of the species. The procedure for acquiring and reviewing such information need not comply with section 403.04 procedures pertaining to determining OSP and the maximum allowable take of species. However, if the review, which should be done at least annually, discloses that OSP and maximum allowable take determinations may need to be adjusted, the state must use the procedures required by § 403.04 in making these adjustments. Two commentors recommended that the word "annually," as provided in the preamble to the proposed regulations, be inserted in paragraph (b)(3), and we have adopted this recommendation.

Paragraph (b)(6) of this section lists certain aspects of the state management program which must be considered by the appropriate Service in making a determination as to whether the state's program is consistent with the Act. The description of the organization of state offices involved in the administration and enforcement of the state management program need describe only the various responsibilities of these offices as they relate to marine mammal management and how these offices relate to one another. In the latter regard, an organizational chart would be helpful. Paragraph (b)(6)(ii) relates to permits involving marine mammals. The state should describe what types of permits apply to actions involving marine mammals, the laws under which such permits are granted, and what factors guide discretion on permit applications. The state should discuss, pursuant to paragraph (b)(6)(iii), certain aspects of judicial review such as the courts which have jurisdiction to review administrative decisions, who may challenge administrative decisions, the scope of judicial review, and the range of available remedies. The state should discuss, pursuant to paragraph (b)(6)(iv), such aspects of administrative rulemaking as notice procedures, public comment requirements, *ex parte* rules and hearing requirements.

Although paragraphs (b)(6)(ii) through (b)(6)(iv) pertain to state laws on specific aspects of marine mammal management, copies of these laws do not need to be included with those provided pursuant to § 403.03(a)(1). A general description of the provisions, limitations and exceptions of these laws will be sufficient.

Paragraph 403.03(c) requires the state to submit in its request for the transfer of management authority certain supplementary information pertaining to the state management program. This information need only be submitted in summary form. It is believed that compiling the information in this form will not unduly burden the state, yet will provide the appropriate Service with a baseline from which to evaluate the proposed administration of marine mammal management by the state.

Two commentators requested greater specificity in the requirements of paragraphs (b)(6) and (c) of this section to provide Federal agencies and the public with more detailed information. We have carefully reviewed the text of the proposed and adopted paragraphs (b)(6) and (c) and have determined that these provisions require sufficient information to ensure that the public can have adequate notice of and information on the state management program and to support a finding of consistency with the goals and policies of the Act. Thus, we have adopted paragraphs (b)(6) and (c) as proposed.

Paragraph (d) of § 403.03 pertains to regulation of subsistence use of marine mammals in Alaska as provided by section 109(f) of the Act. Several commentators remarked that § 403.03(d) was confusing as written and much in need of clarification and reorganization. In addition, commentators remarked that section 109(f)(1) of the Act specifies the form in which Alaska's subsistence program must be submitted. That is, statute *and* regulations must be adopted governing certain aspects of the subsistence program; statutes *or* regulations must be adopted governing others. Accordingly § 403.03(d) is reorganized both to clarify the requirements of a submission by Alaska concerning subsistence use and to reflect the form of legal authorities required by the Act.

Other minor changes are made in § 403.03(d) in response to comments. For example, paragraph (d)(1)(ii) of the proposed regulations (now (d)(2)(ii)) is amended to include examples from the legislation of some types of economic opportunities, at the request of several commentators. In addition, the proposed regulations provided, in conformance with section 109(f)(1)(B) of the Act, that nonsubsistence use can be authorized only if certain findings are made on the basis of the administrative record before the state agency. Section 403.03(d)(2)(iii) of the final regulations is added to ensure that written findings are made in suppport of the state agency's determinations. A new § 403.03(d)(3) is added to parallel the general requirement of § 403.03(a)(2) that the state request include a narrative discussion explaining its program in terms of the requirements of the Act. Section 403.03(d)(3) requires that the State of Alaska provide a discussion specific to the regulation of nonsubsistence consumptive uses of marine mammals and their effect on subsistence users.

Several commentators suggested the need for specific information on this issue and requested amendment of paragraph (d) to require that the State of Alaska provide this information in its request for marine mammal management authority. We disagree with the recommendation to add additional requirements to these regulations when the Act does not specifically require them. However the following are examples of the types of information the state should provide in the narrative discussion required by paragraph (d)(3): A description of: (1) The types of nonsubsistence consumptive uses which may be authorized for each species; (2) how nonsubsistence consumptive uses of a marine mammal species will be regulated to provide economic opportunities to residents of rural coastal villages of Alaska who engage in subsistence uses of the species; (3) any permit or licensing system relating to the taking of a marine mammal species for nonsubsistence uses, the licensing of marine mammal hunting guides, the designation of marine mammal guiding areas, and the assignment of such areas to marine mammal hunting guides; (4) any laws which authorize and establish the standards for granting or withholding such permits and licenses; and (5) the procedures used in granting or withholding such permits or licenses. In any event, the narrative discussion required by paragraph (d)(3) must provide the Services with a clear explanation of how the state's program satisfies the requirements of section 109(f) of the Act.

Additionally, it should be noted that § 403.03(d)(1)(iv) requires that the state submit a statute and regulations ensuring that takings for subsistence

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uses are accomplished in a non-wasteful manner. For an example of the FWS's position on what constitutes takings in a "wasteful manner," see the definition of "wasteful manner" in 50 CFR 18.3.

One commentator suggested that provisions for subsistence take in Alaska apply only to Alaskan natives and their families, not all rural Alaska residents. This is contrary to the requirements of the MMPA. Section 109(f)(2) of the MMPA clearly defines the term "subsistence use" to be the "customary and traditional uses by rural Alaska residents". Although the legislative history of the Act, as cited by the Defenders of Wildlife in their comments, does speak of "Alaskan Natives," *see* H.R. Rep. No. 97–228, *supra* at 28, this does not limit the definition for several reasons.

First, Congress recognized that the subsistence use provisions of section 109 of the MMPA are similar to those of Title 8 of the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487. H.R. Rep. No. 97–228, *supra* at 28. The only difference between the two subsistence provisions is that "customary trade is not included within the purview of section 109 [of the MMPA]". Congress further stated that:

> The section 109(f)(2) definition of subsistence uses is identical to the definition of the same term in section 803 of ANILCA in that it defines subsistence uses as the customary and traditional uses by rural Alaska residents for the personal and family consumption purposes set forth in section 803.

Id. Since the ANILCA subsistence provisions apply to both native and non-native rural Alaska residents, *see* S. Rep. No. 96–413, 96th Cong., 1st Sess., p. 233 (1979), so do the subsistence provisions of section 109 of the MMPA.

Second, marine mammal management authority could not be transferred to Alaska, the only state to which the subsistence provisions of section 109(f) of the MMPA apply, if subsistence provisions of section 109(f) were limited to Natives. Congress noted that Alaska interprets its Constitution as prohibiting any discrimination between its citizens on the basis of race, thereby precluding transfer of management authority to Alaska unless the subsistence provisions were racially neutral. *See* H.R. Rep. 97–228, *supra* at 12.

Thus, the subsistence provisions of section 109 of the MMPA apply to rural Alaska residents independent of race. It should be noted, however, that under section 101(b) of the MMPA, the subsistence priority when the Federal Government is exercising management authority is limited to Alaskan Natives.

Paragraph (e) of § 403.03 provides procedures for the appropriate Service's informal review of a request for transfer of management authority. The preliminary review procedures of paragraph (e) are not designed as a mechanism for piecemeal review of the state's management program. This subsection can be used either to gain guidance on an entire program before formal submission, or as a means of evaluating proposed aspects of the state management program before final enactment and submission.

As explained above, the Services incorporated informal rulemaking procedures for approving state management programs and transferring management authority to states in § 403.03 (f) through (h). One commentator suggested that a public comment period of at least 90 days be established. The Services believe that 90 days is excessive, but agree to the need for a minimum comment period to assist states and Federal agencies in planning and to assure adequate time for public involvement especially in rural areas. Accordingly, we have revised paragraph (f) to include a comment period of 60 days.

Section 403.04

This section describes procedures which the state must provide for in its management program and employ in determining the OSP of a given species and the maximum allowable number of animals that can be taken without reducing the population below OSP. These procedures are required by section 109(c) of the Act.

In response to public comments, we have made the following minor revisions to this section. The first sentence of paragraph (c) has been amended to read "The state agency with responsibility for managing the species in the event management authority is transferred to the state * * *," since at this point in the process management authority has not yet been transferred. A typographical error ("uses" should be "issues") has been corrected in paragraph (f)(5) and in paragraph (g)(1) the term "may" has been replaced by the word "shall" which does not change the intent of this paragraph. Finally, paragraph (g)(3) has been revised by the addition of the phrase "and the hearing record" at the end of this paragraph to clarify that both the hearing record and the decision document must be available for public inspection.

Several editorial changes were suggested by a number of commentators concerning the timing and specific content of documents. These suggestions have not been adopted. In our view the requirements of section 109(c) of the Act are already rigorous and specific and need no further elaboration.

One commentator requested an addition to paragraph (b) that would require states to consider the impacts on state residents and on operations in state and national interest (i.e., oil and gas development) when making any changes in regulations establishing bag limits, quotas, seasons, areas, manner of take, etc. Neither the Act, nor the House Report accompanying the 1981 amendments, contains any reference to a priority allocation of marine mammals for oil and gas development purposes. This commentator also requested some provision for public comment on proposed changes in these state regulations. Public notice provisions of state rulemaking procedures will provide the opportunity for public review of proposed changes in state regulations.

Paragraph (c) requires that a state make an initial determination regarding OSP and maximum allowable take. One commentator recommended that this paragraph also require the state to determine the current population size of the species or stock, its OSP and then whether or not it is within that range. Section 403.04 and the OSP definition at § 403.02 reflect Congressional intent concerning the findings the state must make in the OSP hearing, *see* section 109(b)(1)(C) of the Act, and therefore provide sufficient guidance to states on their responsibilities under this section.

One commentator noted that biological data may be lacking concerning certain marine mammal species, and that the appropriate Service should participate in the OSP determination rather than simply review the results of a state determination. The Services intend to make available all information on marine mammal species and any expertise needed by state agencies or the public throughout the state's OSP proceedings. The Services may also choose to submit evidence at an OSP hearing just as any other interested party. It should be emphasized however that the OSP and maximum allowable take determinations are solely the responsibility of the state and are a prerequisite to transfer of management authority for a species.

Paragraph (f) describes procedures which must be employed in the hearing itself. The hearing must be transcribed verbatim. In accordance with the Act, final determinations must be based on the best available scientific information. This information must be of sufficient quantity and quality to ensure that any taking will be consistent with the maintenance of OSP. *See Committee for Humane Legislation* v. *Richardson*, 414 F. Supp. 297 (D.D.C. 1976), *aff'd*, 540 F. 2d 1141 (D.C. Cir. 1976).

Interested persons must be afforded the opportunity to participate in the hearing to the extent specified in paragraph (f)(3). Other aspects of hearing procedures are left to the discretion of the presiding officer(s) in accordance with state law.

One commentator questioned the intent of Congress concerning the standing of written testimony that is not orally presented at a hearing conducted pursuant to § 403.04. Congress specifically found that a state may not rely on evidence, oral or written, which is not presented at the hearing. All written documents, therefore, must be entered into the record by a person able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained in the written material. *See* H.R. Rep. No. 97–228, *supra* at 25. Sections 403.04(f)(3) and 403.04(g)(1) are intended to make this explicit.

One commentator suggested that a specific time period be established for the review and final determination process described in paragraph (g). We believe that the states, because they are most familiar with resources available to them, are in the best position to determine appropriate time periods for review of the hearing record and decisions on the issues relevant in the OSP hearing.

Section 403.05

This section describes Federal and state responsibilities after transfer of management authority. Several minor changes have been made to this section including substituting the word "transferred" for the word "returned" in paragraphs (c) and (d), when referring to the process for transferring authority for marine mammal management to states. The word "returned" is reserved for that process whereby management authority is returned to the Federal Government pursuant to § 403.07. Paragraph (c) has also been revised in response to a comment by the addition of the phrase "together with the basis for such finding" in the first sentence of paragraph (c)(1). This is to clarify that the Service is to receive specific information on the reasons for a state's finding that the issuance of a permit would not be consistent with the state management program for a given species.

Several commentators asked that the Services explain the requirements for cooperative allocation agreements in § 403.05. The State of Alaska suggested language explaining this provision in terms of Congressional intent and providing a description of the cooperative allocation agreement and the process by which it will be developed:

> Paragraph (a) describes the cooperative allocation agreement. In the case of a species whose range extends beyond the territorial water of the state, this agreement is a prerequisite to the transfer of management authority. . . . This instrument was designed by Congress to ensure that the state does not preempt all available take so as to preclude federal incidental take determinations in the FCZ, and to ensure that the Secretary does not make unjustifiable claims respecting numbers of animals purported to be needed to carry out his responsibilities under section 101 of the Act. Thus, it is anticipated that after the State has made its determination as to maximum allowable take, the [Service] will provide its judgment as to the number of animals that will be taken in the FCZ pursuant to federal incidental take determinations. The State will compare this number to its determination of maximum take and also, in the case of Alaska, to that necessary for subsistence use. Priority of allocation is given first to taking for subsistence purposes, in the case of Alaska, and secondly to incidental taking within the FCZ under the authority of section 101(a). The cooperative allocation agreement [including the procedures required by section 109(b)(1)(G) of the Act and 403.03(b)(4) of these regulations], therefore, is designed to provide [that] . . . (1) the state [does not] assert the need for a number of animals for subsistence uses which is not supported by historical experience or fact and which would preclude the occurrence within the FCZ of commercial fishing or other activities involving the incidental taking of marine mammals, or (2) the Secretary [does not] make unjustifiable claims regarding the number of marine mammals necessary for the Secretary to carry out his responsibilities pursuant to section 101(a). It is not intended that the cooperative allocation agreement be a vehicle by which the Secretary can assert that the State has provided inadequate numbers of marine mammals for subsistence uses.

The State of Washington believes that the allocation of maximum allowable take, provided for in the cooperative allocation agreement in paragraph (a), would entail a joint effort in determining OSP both in and out of state waters. It recommends that these regulations include further information on the Federal methodology and procedures to be utilized in such a joint determination.

As indicated above in the discussion of § 403.04, the scientific and technical expertise of the Services is available to states requesting assistance in developing their initial OSP determination pursuant to that section. However, it is the state, and only the state, which has the authority and responsibility to determine OSP and maximum allowable take for species pursuant to section 109 of the Act. There are no joint Federal/state OSP determinations for species whose range extends beyond territorial waters of the state. The state's OSP and maximum allowable take determinations will apply within the FCZ pursuant to section 109(b)(3) and shall be treated within this zone as a Secretarial determination made in accordance with section 103 and as an applicable waiver of the moratorium under section 101(a). *See* H.R. Rep. No. 97–228, *supra* at 25.

The State of Washington, and other commentators, identified a problem which may arise concerning the management of species that migrate through the jurisdictions of two or more states. The cooperative allocation agreement described in paragraph (a) and further explained above, applies only between a state and the Federal Government. This does not preclude however the development of cooperative agreements between states on joint OSP research for the purpose of developing a data base to be used in the OSP determinations of one or more adjacent states for that species. We encourage the development of such cooperative agreements among states which may share management for a species.

One commentator requested a definition of the term "incidental take" as used in paragraph (a). Because cooperative allocation agreements concern that taking provided for under section 101(a) of the Act, the Services believe no additional definition of "incidental take" is necessary for § 403.05(a). *See* H.R. Rep. No. 97–228, *supra* at 26. Another commentator requested that some priority consideration in allocation be provided for non-commerical fishing incidental take under section 101(a)(5); however, no such priority was established in the 1981 Amendments for this type of take.

Paragraph (d) of section 403.05 encourages the state and the appropriate Service to cooperate, to the maximum extent practicable, in conserving the species of marine mammals. Three commentators requested clarification of this paragraph. The State and Federal cooperation in marine mammal conservation activities may include joint efforts involving marine mammals (e.g., research and enforcement) and does not preclude the state agency from entering into other agreements with its citizens or other parties for conservation purposes. The Federal role in monitoring and reviewing the implementation of state programs is explained under § 403.06 below.

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Section 403.06

This section provides procedures for the monitoring and review of the state management program. Under section 109(e) of the Act, the Services have responsibility, after management authority has been transferred to the state, to monitor the state's implementation of its program. To facilitate this review process, paragraph (b) requires the state to submit an annual report on its management of the species, and paragraph (c) requires a report whenever either of the two events listed in that subsection occur.

Several minor changes have been made in this section. Paragraph (a) has been revised to include the phrase "implementation of" to emphasize that the Services must monitor and review the implementation of the state's program. In paragraphs (b) and (d) the words "transfer" or "transferred" have been substituted for the words "return" or "returned," and in paragraphs (b)(1) and (c)(1) the term "law(s)" has been substituted for the phrase "laws or regulations" as discussed earlier. In paragraph (b)(9), pertaining to "other information" that may be requested from the state, the phrase "consistent with the Act as amended" has been added to clarify that "other information" must pertain to the Act and to its requirements. Finally, in paragraph (d) we have added the phrase "and at the appropriate regional office of either Service" in response to several requests. To provide greater public access to reports submitted pursuant to this section, reports will be available for inspection at the appropriate regional offices of the Services as well as in the Washington, D.C. offices of the FWS and the NMFS.

Paragraph (b) defines the components of the annual report. Any changes in the state laws provided in the original request pursuant to § 403.03(b) and, in the case of Alaska, § 403.03(d), must be described in the annual report. The report should include a discussion of how such changes affect implementation of the management program. However, the extent of each discussion should be proportional to the importance of that change. For example, a change in rulemaking procedures (§ 403.03(b)(6)(iv)) may require less attention than a change in laws concerning the take of the species (§ 403.03(b)(2)).

Paragraph (b)(3) of § 403.06 requires the state to provide a summary of all available information relating to takings under the state management program. Two commentators suggested this provision as it relates to the State of Alaska and takings for subsistence uses be explained. For the State of Alaska, the summary must include takings which have been authorized for subsistence purposes, takings which have been authorized for nonsubsistence consumptive uses, and a discussion of how the regulation of nonsubsistence consumptive uses has, to the maximum extent practicable, provided economic opportunities for the residents of rural coastal villages of Alaska who engage in subsistence uses of marine mammal species.

One commentator requested that paragraphs (b) and (c) require states to report all available information on the causes of marine mammal mortality. Information on marine mammal mortality must be supplied under paragraphs (b) (2), (3), (5), and (7), and under (c)(2) if the extent of mortality may warrant reconsideration of the OSP and maximum allowable take determinations.

Paragraph (c) of this section requires the state to report the occurrence of either of two specified events: a change in relevant state law that may impair the implementation of the state's program, or a significant occurrence or new information that may warrant reconsideration of the determinations made under § 403.04. These events concern either the very foundation of the state management program or the status of the species involved and, therefore, require immediate review by the appropriate Service.

The report should describe the event and how it affects marine mammal management. The extent of discussion should correspond to the magnitude of the problem for either the state management program or the species. For example, a change in regulatory procedures for acquiring and evaluating data relating to OSP (§ 403.03(b)(3)) may require less discussion than significant new information that warrants reconsideration of the state's OSP and maximum allowable take determinations for a species.

One commentator recommended that a specific timeframe for the filing of paragraph (c) reports be established. We have added a specific time period to paragraph (c) (45 days), but any significant event which may require an emergency reconsideration of a state management plan is to be communicated to the appropriate Service as soon as possible within this new 45-day period.

Several commentators objected to the wording of paragraph (c)(1) which requires the state to report any change in a relevant statute or regulation *which might impair the state's ability to implement the program.* These commentators felt that the state should report all changes to relevant statutes and regulations.

The report required by paragraph (c) is distinct from the annual report and is intended to provide the opportunity for emergency review of significant events. States need not report under paragraph (c) minor changes in statutes and regulations, such as changes in time periods or minor procedural revisions. In our view, a requirement to report any minor changes would be unnecessarily burdensome on the states. Instead, states must report, under § 403.06(b)(1), on an annual basis all changes in laws submitted pursuant to § 403.03 (b) and (d). The appropriate Service must be alerted as soon as possible to changes which might impair the state's ability to implement its marine mammal management program. Although some commentators suggested that this standard was vague and did not provide assurance that significant changes would be immediately reported by the state, no change has been made in this standard. The state will be in the best position to judge immediately the effect of a change in state laws governing its program. By use of the phrase "may impair," doubtful situations must be resolved in favor of reporting the change to the Service. In addition, any change in the state management program that will qualify for immediate reporting is likely to be widely known. Concerned citizens or organizations can therefore play an important role in keeping the Services informed about changes in the state management program.

Section 403.07

This section provides procedures and standards for the Service's review of state management of a species of marine mammals and revocation of management authority. In addition, this section provides procedures for the state's voluntary return of management to the appropriate Service.

Numerous editorial and minor revisions have been made to this section in response to commentators' suggestions. Again, the word "transferred" has been substituted for the word "returned" when referring to the transfer to a state. "Returned" refers only to the return of management from a state to the Federal Government pursuant to this section. The word "implementation" has been added to paragraph (a) to clarify that implementation of the program is subject to review by the Services. Throughout this section, "approved management program" has been substituted for the term "request for return of management authority" since the program being implemented, and therefore subject to review, is the management program that was approved. Paragraph (a)(1) has been changed to provide that after the Service has received information concerning implementation of the state management program, the determination of whether or not the state is in compliance with the Act and the regulations must be made within 30 days. In paragraph (a)(2) the phrase "and invite public comments thereon" has been inserted following the provision that notice be published in the **Federal Register**, to clarify our intent that the public have an opportunity to review the Service's decision to revoke. The phrase "or unless otherwise agreed upon" has been added to the end of paragraph (b)(1) to accommodate the possibility that a state may be able to advise the appropriate Service of its intent to return management well in advance of the effective date. In paragraph (b)(2) the words "and management" have been inserted following the word "conservation," to clarify that the implementation of all aspects of the state management program is of concern.

Paragraph (b)(2) of § 403.07 provides a mechanism for the return of marine mammal management authority to the appropriate Service should any aspect of the state management program be enjoined by court order so as to preclude effective conservation and management of the species. The State of Washington, in commenting on this provision, noted that there is no vehicle for "re-transfer" of management authority to the state should the injunction be dissolved or the matter causing the return of management to the Service otherwise be satisfactorily resolved. It is not the intent of these regulations to require resubmission of an entire state management program pursuant to § 403.03 should the events noted by the State of Washington occur. For example, if a preliminary injunction that caused management authority to be returned to the Service is dissolved, or should a final injunction be denied, the state management program for which management authority had originally been transferred would be revived and continue to apply. Likewise, if a final injunction is issued but the defect cured through, for example, state legislation, the original state management program, as amended by the curative legislation, would comply with this Part provided the new legislation cured that aspect of the state management program which had been enjoined.

Accordingly, § 403.07(b)(2) is amended by adding a sentence providing that when management authority has been returned to the appropriate Service pursuant to § 403.07(b)(2), it may be returned to the state ("re-transferred") should, in the judgment of the Service, the cause for return be alleviated in such a way as to ensure that the state's management program provides effective conservation and management of the species. Compliance with § 403.03 procedures is not required for this type of "re-transfer."

Several aspects of this provision should be noted. It applies if the state has concluded that the injunction precludes effective conservation and management of the species under the state management program and has, therefore, voluntarily returned management under § 403.07(b)(2). It also applies if the state notifies the appropriate Service that effective conservation and management is not precluded because of the injunction, but the Service has decided otherwise and revoked management authority pursuant to § 403.07(a). In order for the state to take advantage of the "re-transfer" provision of § 403.07(b)(2), the state should notify the Service of the resolution of the matter. This notification should specify how the matter has been resolved and describe why the state believes effective conservation and management of the species under the state management program is now possible. In addition, the ability to take advantage of the "re-transfer" provision of § 403.07(b)(2) assumes that no other aspect of the state management program other than that which was the subject of the injunction has been impermissibly altered since the injunction was issued. If another aspect of the state management program has been altered, the state must report this change in the notice to the Service that the cause for the injunction has been cured. The Service will review this change in the state management program as if it was reported pursuant to § 403.06(c). After the state has provided notice to the Service that the cause for the injunction has been cured (including the description of any other changes in the state management program), the Service may "re-transfer" management authority if, in their judgment, a certain standard is met. This standard is the same as for the original transfer of management to the state as set forth in § 403.03(h). If the Service declines to "re-transfer" pursuant to § 403.07(b)(2), the state may regain management authority only by complying with § 403.03.

One commentator requested guidance on the meaning of the term "substantial factual information" as used in paragraph (a). We are unable to be more specific in this regard. All information will be judged on a case-by-case basis. The Services retain an oversight responsibility under section 109 of the Act following transfer of management authority to a state and anyone may report any type of information to the appropriate Service concerning the implementation of a state management program. However, this procedure is not intended to provide a forum for arbitrary or unfounded statements by individuals opposed to state management per se.

One commentator noted that paragraph (a)(2) requires publication of a notice of intent to revoke management, but does not require publication of a contrary determination following receipt of any substantial factual information concerning the implementation of the state program. Since a finding that the state is in compliance with the Act and these regulations does not change the status quo, no general public notice is required. The individual or organization providing information to the Service will be informed of the decision pursuant to the Services' policy of responding to public inquiries and correspondence.

Two commentators noted that there is no provision under paragraph (a)(2) allowing the Services to impose an immediate emergency moratorium on taking within the state. There is no authority under the Act for such action by the Services.

One commentator requested that additional language be included in this section to require revocation of state management authority in the event that the state does not give adequate consideration to activities that are in the national interest, such as siting of energy facilities. No such authority exists under the Act.

Section 403.08

This section provides notification of the states to which management has been transferred. Accordingly, it will be updated from time to time when management has been transferred to a new state or for a new species.

This section has been revised to include reference to cooperative allocation agreements where they apply. The Marine Mammal Commission also requested the addition of reference to any state regulations adopted by the Services under § 403.05(b). However, we

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intend to place these regulations, if and when adopted, under a separate section of this Part.

Applicability to Other Laws, Regulations and Requirements

Environmental assessments have been prepared in conjunction with these proposed regulations. They are available at the addresses noted in the preamble to this final rule. Based on the environmental assessments, the Department of the Interior and the Department of Commerce determined that the proposed rule would not be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(c).

The Department of the Interior and the Department of Commerce have determined that this is not a major rule and does not require preparation of a regulatory impact analysis under Executive Order 12291.

The Departments have also determined that this rule will not have a significant economic impact on a substantial number of small entities and thus a regulatory impact analysis need not be prepared under the Regulatory Flexibility Act, 5 U.S.C. 601. (The determinations by the FWS under Executive Order 12291 and the Regulatory Flexibility Act are discussed in more detail in a Determination of Effects which has been made a part of the Administrative record.)

The information collections contained in this final regulation are not subject to Office of Management and Budget clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since there are expected to be fewer than ten respondents annually.

Primary Authors

The primary authors of this final rule are John Bardwell and W. Michael Young, Department of the Interior; and Georgia Cranmore and Gretchen Beck, Department of Commerce.

List of Subjects in 50 CFR Part 403

Administrative practice and procedure, Alaska, Intergovernmental relations, Exports, Imports, Transportation, Marine mammals, Indians, Endangered and threatened wildlife.

Regulation Promulgation

For the reasons set out in the preamble, Subpart F of Part 18, Title 50, Code of Federal Regulations and Subpart H of Part 216, Title 50, Code of Federal Regulations are removed and replaced with the following references and new Part 403:

PART 18—[AMENDED]

Subpart F—Transfer of Management Authority to States

Regulations governing the transfer of management authority to states pursuant to Section 109 of the Marine Mammal Protection Act for marine mammal species under the jurisdiction of the Secretary of the Interior are found at Part 403 of this Title.

PART 216—[AMENDED]

Subpart H—Transfer of Management Authority to States

Regulations governing the transfer of management authority to states pursuant to Section 109 of the Marine Mammal Protection Act for marine mammal species under the jurisdiction of the Secretary of Commerce are found at Part 403 of this Title.

PART 403—TRANSFER OF MARINE MAMMAL MANAGEMENT AUTHORITY TO STATES

Sec.

403.01 Purpose and scope of regulations.
403.02 Definitions.
403.03 Review and approval of state request for management authority.
403.04 Determination and hearings under section 109(c) of the MMPA.
403.05 State and Federal responsibilities after transfer of management authority.
403.06 Monitoring and review of state management program.
403.07 Revocation and return of state management authority.
403.08 List of states to which management authority has been transferred.

Authority: 16 U.S.C. 1361 *et seq.*, as amended by Pub. L. 97–58.

§ 403.01 Purpose and scope of regulations.

The regulations contained in this Part implement section 109 of the Act which, upon a finding by the Secretary of compliance with certain requirements, provides for the transfer of marine mammal management authority to the states.

(a) The regulations of this Part apply the procedures for the transfer of marine mammal management authority to a state, the form and minimum requirements of a state application for the transfer of management authority, the relationship between Federal and state wildlife agencies both prior and subsequent to the transfer of management authority, and the revocation and return of management authority to the Federal Government.

(b) Nothing in this Part shall prevent: (1) The taking of a marine mammal by or on behalf of a Federal, state or local government official, in accordance with sections 18.22 or 216.22 of this Title and section 109(h) of the Act, or (2) the adoption or enforcement of any state law or regulation relating to any marine mammal taken before December 21, 1972.

(c) The information collection requirements contained in §§ 403.03, 403.06, and 403.07 of this Part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

§ 403.02 Definitions.

The following definitions apply to this Part:

(a) The term "species" includes any population stock.

(b) "Optimum Sustainable Population" or "OSP" means a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality.

(c) "State management program" means existing and proposed state statutes, regulations, policies and other authorities which form the framework for the conservation of a species of marine mammals.

(d) "State regulation" means the whole or part of a state agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of a state agency and which is duly promulgated in accordance with established procedure.

(e) The "Act" means the Marine Mammal Protection Act (MMPA) of 1972, 16 U.S.C. 1361 *et seq.*, as amended by Pub. L. 97–58.

(f) The " Secretary" means the Secretary of the Interior or the Secretary of Commerce, depending on the species involved. Under Section 3(11) of the Act, the Secretary of Commerce has jurisdiction over members of the order Cetacea and members, other than walruses, of the order Pinnipedia; the Secretary of the Interior has jurdisdiction over all other mammals. These secretarial authorities have been delegated to the National Marine Fisheries Service and the Fish and Wildlife Service, respectively.

(g) The "Service" or "Services" means the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), as appropriate depending on the species involved. Any determination or finding required by this Part to be made by the "Service" must be made by the Director of the FWS or by the Assistant Administrator of the NMFS, or their delegees, as appropriate.

§ 403.03 Review and approval of State request for management authority.

(a) Any state may request the transfer of management authority for a species of marine mammals by submitting a written request to the Director of the Fish and Wildlife Service ("Director") for species of marine mammals under the jurisdiction of the FWS, or to the Assistant Administrator for Fisheries of the National Marine Fisheries Service ("Assistant Administrator") for species of marine mammals under the jurisdiction of the NMFS. The request must include:

(1) Copies of existing and proposed statutes, regulations, policies and other authorities of state law which comprise those aspects of the state management program outlined in paragraph (b) of this section, and, in the case of Alaska, paragraph (d) (1) through (3) of this section;

(2) A narrative discussion of the statutes, regulations, policies and other authorities which comprise those aspects of the state management program outlined in paragraph (b) of this section, and, in the case of Alaska, paragraph (d) of this section, which explains the program in terms of the requirements of the Act and the regulations of this Part; and

(3) Supplementary information as required by paragraph (c) of this section.

(b) A request for transfer of marine mammal management authority will not be approved unless it contains the following:

(1) The scientific and common names and estimated range of the species of marine mammals subject to the state management program.

(2) Provisions of state law concerning the take of marine mammals that

(i) Require that the taking of marine mammals be humane as defined by section 3(4) of the Act;

(ii) Do not permit the taking of marine mammals until the following have occurred:

(A) The state, pursuant to the requirements of § 403.04 of this Part, has determined that the species is at its Optimum Sustainable Population (OSP) and determined the maximum number of animals that may be taken without reducing the species below its OSP, and, in the case of Alaska, when a species is below OSP, the maximum numbers that can be taken for subsistence uses while allowing the species to increase toward its OSP;

(B) The determination as to OSP and maximum take are final and implemented under state law; and

(C) A cooperative allocation agreement, if required under § 403.05(a) of this Part, is implemented;

(iii) Do not permit take in excess of the maximum number of animals that may be taken as determined pursuant to § 403.04 of this Part; provided that for Alaska, subsistence take may be allowed in accordance with paragraph (d) of this section, and if the species is below OSP, any level of take allowed for subsistence use shall permit the species to increase toward OSP;

(iv) Do not permit take that is for scientific research or public display purposes except such take by or on behalf of the state, or pursuant to a Federal permit issued under §§ 18.31 or 216.31 of this Title; and

(v) Regulate the incidental taking of the species in a manner consistent with section 101(a) (2), (4) and (5) of the Act.

(3) Provisions for annually acquiring and evaluating data and other new evidence relating to OSP of the species and the maximum allowable take, and if warranted on the basis of such evaluation, for requiring reevaluations of OSP and maximum allowable take determinations pursuant to § 403.04.

(4) Procedures for the resolution of differences between the state and the appropriate Service that might arise during the development of a cooperative allocation agreement pursuant to § 403.05(a) of this Part.

(5) Procedures for the submission of an annual report meeting the requirements of § 403.06(b) of this Part to the appropriate Service regarding the administration of the state management program during the reporting period.

(6) A description of—

(i) The organization of state offices involved in the administration and enforcement of the state management program;

(ii) Any permit system relating to the marine mammals, the laws that apply to such permits, and the procedures to be used in granting or withholding such permits;

(iii) State laws relating to judicial review of administrative decisions as they relate to the state management program;

(iv) State laws relating to administrative rulemaking as they relate to the state management program;

(c) In addition to the aspects of the state management program required to be submitted by paragraph (b) of this section, the state shall submit information, in summary form, relating to

(1) The anticipated staffing and funding of state offices involved in the administration and enforcement of the state management program;

(2) Anticipated research and enforcement activities relating to conservation of the species for which management authority is sought; and

(3) Such other materials and information as the Service may request or which the state may deem necessary or advisable to demonstrate the compatibility of the state management program with the policy and purposes of the Act and the rules and regulations issued under the Act.

(d) In addition to the requirements contained in paragraphs (b) and (c) of this section, a request for the transfer of marine mammal management authority by the State of Alaska must contain the following concerning subsistence use of the species:

(1) A statute and regulations concerning the take of marine mammals that ensure that

(i) The taking of marine mammals species for subsistence uses will be the priority consumptive uses of the species;

(ii) If restrictions on subsistence uses of the species are required, such restrictions shall be based upon the customary and direct dependence upon the species as the mainstay of livelihood, local residency, and the availability of alternative resources; and

(iii) The taking of marine mammal species for subsistence uses is accomplished in a non-wasteful manner;

(2) Statutes or regulations that ensure that the appropriate state agency will

(i) Authorize nonsubsistence consumptive uses of a marine mammal species only if such uses will have no significant adverse impact on subsistence uses of the species;

(ii) Regulate nonsubsistence consumptive uses in a manner which, to the maximum extent practicable, provides economic opportunities, including, but not limited to, licensing of marine mammal hunting guides and the assignment of guiding areas, for residents of rural coastal villages of Alaska who engage in subsistence uses of the species; and

(iii) Make written findings supporting the authorizations and regulations described in this paragraph based solely on the administrative record before the agency;

(3) A narrative discussion of the statutes or regulations required under paragraph (2) above, and any additional policies or procedures concerning the regulation of nonsubsistence consumptive uses of marine mammals. This discussion must explain how the State's program satisfies the requirements of Section 109(f) of the Act, namely that the regulation of nonsubsistence consumptive uses of marine mammals provides, to the maximum extent praticable, economic opportunities for the residents of rural coastal

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villages of Alaska who engage in subsistence uses of the species.

(e) To assist states in preparing the state management program for submission, the Service will also, at the written request of any state, make a preliminary review of any aspects of the state management program. This review will be advisory in nature and shall not be binding upon the Services. Notwithstanding preliminary review by the Service, once any proposed aspect of the state management program has been prepared and submitted in final form, it shall be subject to final review and approval under paragraphs (f) through (h) of this section.

(f)(1) After receiving the state's request, for management authority, the Service shall make an initial determination on whether the state's management program meets the requirements of the Act and these regulations.

(2) Within 45 days after receiving the state's request, unless the state and the Service agree to another time period, the Service shall publish a general notice of its initial determination in the **Federal Register** together with, in the case of a positive determination, the text of a proposed rule to transfer management authority to the state. The general notice shall contain a summary of the major components of the state's management program and shall indicate where the full text of the management program may be inspected or copied. The public shall be allowed to submit written comments and to request an informal public hearing on the Service's initial determination and the state's management program within 60 days of publication of the general notice.

(g) If requested, the Service may conduct an informal public hearing after publishing 30 days' advance notice of the date, location, and time of such hearing in the **Federal Register.**

(h) After considering all comments and other relevant information, the Service shall publish in the **Federal Register** its final determination on whether the state has developed and will implement a management program that meets the requirement of the Act and these regulations. In the case of a positive final determination, the Service shall publish with the notice a final regulation transferring management authority for the species to the state after the following requirements are satisfied:

(1) The state's determinations pursuant to § 403.04 of this Part are final and implemented under state law;

(2) Any cooperative allocation agreement required under § 403.05(a) of this Part is implemented; and,

(3) The state has enacted and submitted to the Service laws and policies that are substantially the same as those provided pursuant to § 403.03(a) in proposed form in the state's management program.

§ § 403.04 Determinations and hearings under section 109(c) of the MMPA.

(a) *Introduction.* In order to gain approval of its marine mammal management program the state must provide for a process, consistent with section 109(c) of the Act, to determine the optimum sustainable population of the species and the maximum number of animals that may be taken from populations it manages without reducing the species below OSP. The state process must be completed before the state may exercise any management authority over the subject marine mammals, and it must include the elements set forth below.

(b) *Basis, purpose, and scope.* The process set forth in this section is applicable to and required for only the determination of the OSP of the species and maximum number that may be taken without reducing it below its OSP and, in the case of Alaska if the species is below OSP, the maximum number of animals that may be taken, if any, for subsistence uses without preventing the species from increasing toward its OSP. The state need not allow the maximum take, as determined in accordance with this process, that is biologically permissible. The state may change regulations establishing bag limits, quotas, seasons, areas, manner of take, etc. within the maximum biologically permissible take pursuant to its other rulemaking criteria, authority, and procedures. Compliance with the process set forth in this section would not be required again unless the state proposes to modify its determinations of the status of the species with respect to its OSP or the maximum permissible take from that species.

(c) *Initial determination by the State.* The state agency with responsibility for managing the species in the event management authority is transferred to the state shall make initial determinations on the basis of the best scientific evidence available of: (1) Whether or not it is at its OSP; (2) if so, the maximum number of that species that may be taken without reducing it below its OSP; and (3) if not, in the case of Alaska, the maximum number of animals that may be taken, if any, for subsistence uses without preventing the species from increasing toward its OSP.

(d) *Notice and review of initial determinations and request for hearing.* The state agency shall provide notice of its initial determinations to the Service and the public and shall provide access to or copies of the documentation supporting its determinations to the Service and the public. The state agency shall indicate, in the notice of its initial determinations, the location(s) and hours during which such documentation may be inspected, and the costs, if any of copies of such documentation. The state agency shall also indicate in the notice that any interested person may request a hearing regarding the initial determinations, and the state shall provide a reasonable time, not less than 30 days, for making the request, taking into account the time required to advise the public of the initial determinations and to make the supporting documentation readily available to interested persons for their consideration. If a request for a hearing is not made within the prescribed time period, the initial determinations shall be treated as final.

(e) *Notice of hearing.* If a request for a hearing is made within the prescribed time period by any interested person, the state agency shall provide notice of the hearing to the Service and the public not less than 30 days in advance of the scheduled date(s) of the hearing(s). The notice shall include the date(s), location(s), and purpose of the hearing, a recitation of the initial determinations, the name(s) of the person(s) who will preside at the hearing, and the manner and date by which interested persons must notify the state agency or presiding officer(s) of their desire to participate in the hearing. The state shall also make available and distribute upon request a list of witnesses and description of the documentation and other evidence that will be relied upon by the state's witnesses in support of its initial determinations sufficiently in advance of the hearing date so as to allow interested persons to prepare questions and supporting or rebuttal testimony for the hearing.

(f) *Conduct of the hearing.* (1) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(2) The state shall sponsor all written documentation in support of its determinations with witnesses who are able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained therein provided that, except by agreement of the parties, the state agency may not call any witnesses or introduce any

documentation into the record unless the advance notice requirements of paragraph (e) of this section are met with respect to such witnesses or documentation.

(3) Any interested person who has notificed the state agency of his desire to participate in the hearing pursuant to subparagraph (e) of this section may participate in the hearing by presenting oral or written testimony or cross-examining the witnesses or other parties with respect to matters relevant to the state's initial determinations, provided that any such written documentation must be sponsored by a witness who is able, by virtue of training and experience, to respond fully to cross-examination regarding the facts and conclusions contained therein.

(4) The presiding officer(s) shall conduct the hearing in accordance with such other rules of evidence, criteria, and procedures as are necessary and appropriate for the expeditious and effective determination of the issues. The presiding officer(s) may provide for oral argument and/or written briefs at the end of the hearing.

(5) Final determinations on the issues specified in paragraph (c) of this section must be supported by the best available scientific information so as to insure that any taking will be consistent with the maintenance of OSP.

(g) *Review of the hearing record and final determinations.* (1) The state agency shall provide for either: (i) Review and evaluation of the hearing record by the presiding officer(s) and transmittal by the presiding officer(s) of recommended final determinations to the decision-maker(s) in the state agency; or (ii) review and evaluation of the hearing record and final determinations by the state agency without benefit of any recommendations by the presiding officer(s). In any event, the final determinations by the state agency must be made solely on the basis of the record developed at the hearing. The state agency in making its final determinations, and/or presiding officer(s) in making his (their) recommended determinations, may not rely on oral or written evidence which was not presented at the hearing and made available to the parties for cross-examination and rebuttal testimony. Any such oral or written information transmitted to the presiding officer(s) or other members of the state agency responsible for the final determinations shall be treated as *ex parte* communications and may not be considered part of the record for decision.

(2) The state agency shall make final determinations of the issues set forth in paragraph (c) of this section and shall include in its statement of final determinations a statement of findings and conclusions and the reasons or basis therefor.

(3) The state agency shall advise the Service and the public of its final determinations and shall provide access to or copies of its decision document and Hearing Record.

(h) *Judicial review.* The state agency's final determinations after a hearing must be supported by substantial evidence in the record of the hearing. Opportunity for judicial review of the state agency's final determinations must be available under state law. The scope of judicial review shall be equivalent to that provided for in 5 U.S.C. 706(2) (A) through (E).

§ 403.05 State and Federal responsibilities after transfer of management authority.

(a) After determinations required by section 403.04 of this Part have been made in respect to a species whose range extends beyond the territorial waters of the state, the state shall not exercise management authority until a cooperative allocation agreement with the Secretary has been signed and the Service has transferred management authority pursuant to § 403.03(h). The cooperative allocation agreement shall provide procedures for allocating, on a timely basis, the maximum amount of take as determined by the state pursuant to § 403.04 of this Part. Such allocation shall give first priority to incidental take within the zone described in section 3(14)(B) of the Act as provided for under section 101(a) of the Act, except that in the case of Alaska, first priority shall be given to subsistence use.

(b) For those species to which subparagraph (a) of this section applies, the state may request the Service to regulate the taking of the species within the zone described in section 3(14)(B) of the Act for subsistence uses and/or hunting in a manner consistent with the regulation by the state of such taking within the state. If such a request is made, the Service shall adopt and enforce within such zone, such of the state's regulatory provisions as the Service considers to be consistent with the administration within such zone of section 101(a) of the Act.

(c) If management authority for a species has been transferred to a state pursuant to this subpart, the Service shall provide to the state an opportunity to review all requests for permits to remove live animals from habitat within the state for scientific research or public display purposes. If the state finds that issuance of the permit would not be consistent with its management program for the species:

(1) The state shall so inform the Service, together with the reasons for such finding, within 30 days of its receipt of the application, and the Service shall not issue the permit; and

(2) The Service shall provide to the permit applicant and the state an opportunity to adjust the permit application or otherwise reconcile it with the state management program for the species.

(d) After management of a species has been transferred to the state, state and Federal authorities shall cooperate to the maximum extent practicable in conserving the species of marine mammals.

§ 403.06 Monitoring and review of state management program.

(a) The Service has responsibility to monitor and review implementation of all state management programs approved pursuant to this Part.

(b) In order to facilitate such review, each state to which management authority has been transferred shall submit an annual report, not later than 120 days after the close of such state's first full fiscal or calendar year following the effective date of the Service's approval of the State management program, and at the same time each following year, or at such other time as may be agreed upon. The repot shall contain the following information current for each reporting period:

(1) Any changes in the state laws which comprise those aspects of the state management program submitted pursuant to section 403.03(b), and, in the case of Alaska, § 403.03(d), of this Part;

(2) Pertinent new data on the marine mammal species or the marine ecosystems in question including a summary of the status, trend and general health of the species;

(3) A summary of available information relating to takings under the state management program;

(4) A summary of state actions to protect species' habitat;

(5) A summary of all state research activity on the species;

(6) Any significant changes in the information provided with the original request for transfer of management authority;

(7) A summary of enforcement activity;

(8) A summary of budget and staffing levels for the marine mammal activities in the categories of research, management and enforcement;

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(9) Any other information which the Service may request, consistent with the Act as amended, or which the state deems necessary or advisable to facilitate review by the Service of state management of the species.

(c) Each state having an approved management program shall file a report, in a timely manner, not to exceed 45 days from the occurrence of any of the following:

(1) Any change in a relevant state law (amendments, repealers, or new legislation or regulations or judicial precedent) as submitted pursuant to paragraphs (b)(2) through (b)(5), and in the case of Alaska, paragraph (d), of § 403.03 of this Part that may impair the State's ability to implement the program;

(2) Any significant natural or manmade occurrence or any new scientific information that may warrant reconsideration of the determinations made pursuant to § 403.04 of this Part.

(d) All components of the state request for transfer of management authority, as well as annual reports submitted under paragraph (b) of this section and any reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, or, as appropriate, at the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235, and at the appropriate Service's regional office.

§ 403.07 Revocation and return of state management authority.

(a) *Revocation of management.* The Service shall have responsibility to review management of a species transferred to a state under this Part and to determine whether or not the implementation of the state management program continues to comply with the requirements of the Act, this Part and the state's approved management program.

(1) Upon receipt of any substantial factual information suggesting that the state management program is not being implemented or is being implemented in a manner inconsistent with the Act, this Part, or the state's approved management program, the Service shall, as soon as practicable but not later than 30 days after receipt, determine whether or not the state continues to comply with the requirements of the Act, this Part and the state's approved management program.

(2) Whenever pursuant to a review as specified in paragraph (a)(1) of this section, the Service determines that any substantial aspect of the state management program is not in compliance with the requirements of the Act, this Part or the state's approved management program, it shall provide written notice to the state of its intent to revoke management authority, together with a statement, in detail, of those actions or failures to act upon which such intent to revoke is based. The Service shall publish notice of such intent to revoke in the **Federal Register** and invite public comment thereon, and shall conduct an informal public hearing on the matter if requested by the state or if the Service otherwise determines it to be necessary. The Service shall provide to the state an opportunity for consultation between the Service and the state concerning such actions or failures and necessary remedial actions to be taken by the state.

(3) If within 90 days after notice is provided under paragraph (a)(2) of this section, the state has not taken such remedial measures as are necessary, in the judgment of the Service, to bring the state management program into compliance with the provision of the Act, this Part and the state's approved management program, the Service shall revoke the transfer of management authority by written notice to the state and publication in the **Federal Register**.

(b) *Voluntary return of management authority to the Service.* (1) If a state desires to return management of a species of marine mammals to the Service, it shall provide the Service notice of intent to return management. The Service shall accept the return of management, and such return shall become effective, upon publication of a notice in the **Federal Register** to this effect no sooner than 30 days (except in an emergency as determined by the Service) nor longer than 60 days after the state has provided notice of its intent to return management or unless otherwise agreed upon.

(2) If implementation of any aspect of the state management program is enjoined by court order, the state shall advise the Service of such injunction and its effect on the state management program. If the state determines that the effect of the injunction is to preclude effective conservation and management of the species under the terms of the state management program, it shall so notify the Service and such notification shall be treated as a notice of intent to return management as provided in paragraph (b)(1) of this section. If the state determines that the injunction does not preclude effective conservation and management of marine mammals under the terms of the state management program, it shall so notify the Service together with the basis for the state's determination and such notice shall be treated as a report submitted pursuant to the terms of § 403.06(c)(1) of this Part. In either case, the state shall provide notice to the Service as soon as practicable but not more than 30 days after issuance of the injunction. Management authority returned to the Service pursuant to this paragraph may be re-transferred to the state, notwithstanding the requirements of § 403.03, when, in the judgment of the Service, the cause for return of management authority to the Service has been alleviated in such a way as to allow effective conservation and management of the species consistent with the requirements of the Act and this Part.

(c) When revocation of a management authority pursuant to paragraph (a) of this section becomes final, or when a state returns management pursuant to paragraph (b) of this section, the Service shall resume such management authority and provide for the conservation of the species within the state in accordance with the provisions of the Act.

§ 403.08 List of states to which management has been transferred.

The following states have received management authority pursuant to this Part for the species listed and, where appropriate, cooperative allocation agreements pursuant to § 403.05(c) are in force:

[Reserved]

Dated: March 16, 1983

G. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: April 18, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 83-12127 Filed 5-6-83; 8:45 am]

BILLING CODE 1505-01-M

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Part V

Department of the Interior

Bureau of Land Management

Use Authorizations; Special Recreation Permits, Other Than on Developed Recreation Sites; Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8370

Use Authorizations; Amendment of Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites

[NOTE: This document originally appeared in the issue of May 6, 1983 at 48 FR 20630–20635. It is reprinted at the request of the Agency because those pages were omitted in the production process from some copies of the May 6 issue.]

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would amend 43 CFR Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites, by setting forth clearly a recitation of specifically prohibited acts under the regulations and the penalties that would apply upon conviction. It would: state grounds for exemption from Special Recreation Permit requirements; authorize the Director of the Bureau of Land Management to set recreation permit fee schedules to help reimburse the United States for costs incurred in permitting recreational use of public lands; replace the requirements that an applicant for a waiver of fees submit documentation of its official recognition as an educational or scientific institution with discretion to require such documentation on the part of the authorized officer; allow commercial educational users to obtain such waivers; and state the appeals procedure.

DATE: Comments should be submitted by June 30, 1983. Comments postmarked or received after this date may not be considered in the decisionmaking process in the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C street NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Bruce R. Brown,
or
Robert I. Conquergood, (202) 343–8353.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would amend 43 CFR Subpart 8372 in four respects: (1) By giving the Director, Bureau of Land Management, discretion to set special recreation permit fees for the use of public lands administered by the Bureau; (2) by modifying the requirements for obtaining waivers of permit fees; (3) by clearly setting forth prohibitions relating to special recreation permits other than on developed recreation sites, and the penalties for violating those prohibitions; and (4) by adding a section stating the circumstances when special recreation permits are not required.

Section 8372.4 is amended in the proposed rulemaking to require the Director, Bureau of Land Management, to publish a schedule of fees for special recreation permits. This fee schedule is designed to require recreational users of the public lands to pay the costs of administering the permits. The proposal also allows the Bureau of Land Management to recover the actual costs of issuing and monitoring permits when the estimated costs exceeds certain levels, allows the authorized officer to require a nonrefundable partial prepayment to cover the cost of processing the application and to charge larger fees than those provided in the schedule if permitted by the Federal Land Policy Management Act of 1976 or the Land and Water Conservation Fund Act, as appropriate.

The following fees are required for special recreation uses of public lands administered by the Bureau of Land Management in accordance with proposed 43 CFR 8372.4(a)(1). This fee schedule will be effective upon the date of final publication in the **Federal Register.**

(1) Commercial use—a minimum of $100 or the amount from the table below, whichever is greater, is required. The adjusted daily charge recognizes that operators provide discounts to certain customers and groups that may vary from the initially advertised customer rate schedules. The fee per user day will be based on the adjusted daily charge per customer rather than the advertised rate schedule. Additional adjustments may be made if the advertised daily rate includes long distance transportation costs or lodging in local communities before or after the permitted use.

Adjusted daily charge collected by permittee from each participant	Fee paid to the Bureau per user day
$6.00 or less	$.25
6.01 to 20.00	.60
20.01 to 35.00	1.30
35.01 to 50.00	1.90
50.01 to 75.00	2.60
75.01 to 100.00	3.40
100.01 to 125.00	4.10
125.01 to 150.00	4.90
150.01 to 175.00	5.60
175.01 to 200.00	6.40
200.01 to 250.00	6.75
250.01 to 300.00	8.25
Over 300.00	(1)

[1] Three percent of adjusted daily charge per participant.

(2) Competitive use. A minimum of $2.00 per user day or 3 percent of the gross receipts, whichever is greater, is required. When use is both commerical and competitive, the competitive fee shall be charged.

(3) Other uses. A minimum of $2.00 per user day is required.

The existing regulations, at § 8372.4(d), include a complicated set of criteria for waiver of fees for use of the public lands for educational or scientific purposes, including the need to present proof of accreditation and to demonstrate that the institution is noncommercial or that the activity is not connected with commercial aspects of the institution. These requirements have been shown to be unnecessarily burdensome and are removed from the proposed rulemaking. Instead, the authorized officer would have discretion to require documentation of accreditation by Federal, State or local government agencies, or any other documentation necessary to show that the use proposed is educational.

Proposed amended § 8372.0–7 clearly states acts that are prohibited under the subpart. In addition to prohibiting use of the public lands without obtaining the permits and paying the fees required by the subpart, this section prohibits: Violation of stipulations or conditions in such permits; knowing participation in the events or activities for which the required permit has not been issued; and failure to post a copy of a commercial or competitive permit in plain sight where all participants can read it. The proposed rulemaking also adds a paragraph stating the criminal and civil penalties that may be incurred by violators.

The proposed rulemaking adds a new § 8372.1–3 excepting certain uses from the requirement to obtain Special Recreation Permits and pay fees. These include events sponsored or co-sponsored by the Bureau of Land Management, events traversing less than 1 mile of public land and beginning and ending on other land, and, in the discretion of the authorized officer, non-commercial events with fewer than 50 vehicles, no cash prizes, no public advertising, and in compliance with off-road vehicle designations.

The proposed rulemaking includes other amendments that are editorial only, removes unnecessary or confusing language from the existing regulations and adds a section on appeals. All decisions of the authorized officer will be held in full force and effect pending appeal unless the Secretary of the Interior rules otherwise.

This proposed rulemaking is being published to coordinate with the public consideration of the Proposed Special Recreation Permit Policy of the Bureau of Land Management, which was published in the **Federal Register** on March 16, 1983. Copies of this proposed policy document may be obtained by calling the telephone number listed above. The deadline for submitting public comments on both this proposed rulemaking and the proposed policy will be June 21, 1983.

The principal authors of this proposed rulemaking are Bruce R. Brown and Robert I. Conquergood, Division of Recreation, Cultural and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). There will be no significant impact on any user group, and the proposal favors no demographic group.

The proposed rulemaking would serve to protect the recreation resources and opportunities on the public lands. The proposed rulemaking would only affect individuals and groups using the public lands for certain recreation purposes, and educational institutions using the public lands for educational or scientific purposes. The proposed increase in fees will compensate the United States for administering the program, with no significant impact on any entity.

Information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1004–0119.

List of Subjects in 43 CFR Part 8370

Public lands—recreation, Recreation areas, Surety bonds.

PART 8370—[AMENDED]

Under the authority of 43 U.S.C. 1201, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (43 U.S.C. 1181a), the Act of September 15, 1960, as amended (16 U.S.C. 670g–n), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*–6a), and the National Trails System Act (16 U.S.C. 1241 *et seq.*), it is proposed to amend Subpart 8372, Part 8370, Group 8300, Subchapter H, Chapter II of Title 43 of the Code of Federal Regulations as follows:

§ 8372.0–3 [Amended]

1. Section 8372.0–3 is amended by correcting the citation "16 U.S.C. 460(1–6a)" to read "16 U.S.C. 460*l*–6a."

2. Section 8372.0–5 is revised by:

a. Revising paragraph (b) to read as follows:

§ 8372.0–5 [Amended]

* * * * *

(b) "Actual expenses" are expenses necessarily incurred for the permitted activity or use. These include, but are not limited to, the actual costs of such items as expendable equipment and supplies. Actual expenses do not include any salaries, profit, increase of capital worth, allowances, or subsidies of any other activities of the permittee or sponsor, the purchase or amortization of nonexpendable supplies or equipment, any allowance for undersubscribed events or any monetary compensation for sponsors or participants."

* * * * *

b. Revising paragraph (e) to read as follows:

* * * * *

(e) "Educational use" is an academic activity sponsored by an accredited institution of learning.

* * * * *

3. Section 8372.0–7 is revised to read as follows:

§ 8372.0–7 Enforcement

(a) *Prohibited acts.* On all public lands, it is prohibited to: (1) Fail to obtain a permit and pay any fee required by this subpart; (2) violate stipulations or conditions of a permit issued under authority of this subpart; (3) participate knowingly in an event or use subject to the permit requirements of this subpart where no such permit has been issued; (4) fail to post a copy of any commercial or competitive permit where all participants have the opportunity to read it.

(b) *Penalties.* (1) Any person convicted of violating any prohibited act in this subpart may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. (2) Unauthorized users may be subject to civil action for unauthorized use of the public lands and their resources.

4. A new § 8372.1–3 is added to read as follows:

§ 8372.1–3 Exceptions.

(a) Special Recreation Permits are not required for uses that are sponsored or co-sponsored by the Bureau of Land Management.

(b) The authorized officer may determine that permits and fees are unnecessary where a use or event begins and ends on non-public lands, traverses less than 1 mile of public lands, and poses no threat of significant damage to public land resource values.

(c) The authorized officer may waive permit and fee requirements for off-road vehicle competitive events that are not commercial when the events comply with off-road vehicle designations for the use area, no cash prizes are awarded, fewer than 50 vehicles are involved and there is no public advertising for the event.

5. Section 8372.4 is amended by:

a. Amending paragraph (a) to read as follows:

§ 8372.4 [Amended]

(a) *Fees.* (1) Fees for Special Recreation Permits shall be established and maintained by the Director, Bureau of Land Management, and may be adjusted from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Manual of the Bureau of Land Management, published periodically in the **Federal Register** and otherwise made generally available to the public.

(2) The authorized officer may charge fees larger than the minimum set in the current fee schedule if the authorized officer determines that such larger fees are needed to compensate the United States for costs incurred in connection with the issuance of permits and for uses of the public lands and their resources under said permits. The authorized officer shall notify the applicant of any fee larger than that provided in the schedule in writing within 15 days of receipt of the application.

(3) The authorized officer may require a nonrefundable prepayment of all or a portion of the fees from the schedule, not to exceed the estimated cost of processing the application, before processing the application.

(4) Actual costs to the United States shall be charged in lieu of the fees provided in the schedule when the estimated cost of issuing and monitoring the permit (estimated at the time of application) exceeds $5,000, except when the total estimated fees from the schedule over the term of the permit exceed the estimated actual cost. In that case, the fees from the schedule shall be charged. The authorized officer shall

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notify the applicant in writing of such charges within 15 days of receipt of the permit application and shall not process said application until payment has been made for such charges.

* * * * *

b. Removing paragraph (b) in its entirety.

c. Redesignating paragraphs (c) and (d), as (b) and (c), respectively.

d. Amending paragraph (c), formerly paragraph (d), by removing paragraphs (c) (4) and (5) in their entirety and amending paragraph (c)(3) to read as follows:

* * * * *

(c) * * *

(3) Applicants for waiver of fees on this basis may be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State or local government bodies or any other documentation necessary to demonstrate educational use as defined in section 8372.0–5(e) of this title. The use of recreational resources for which a waiver on this basis is requested shall relate directly to scientific or educational purposes and shall not be primarily for recreational purposes.

6. New § 8372.6 is added to read as follows:

§ 8372.6 Appeals.

(a) Any person adversely affected by a decision of the authorized officer under this part may appeal under Part 4 of this title from any final decision of the authorized officer.

(b) All decisions of the authorized officer under this Part shall remain effective pending appeal unless the Secretary rules otherwise.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 14, 1983.

[FR Doc. 83-12140 Filed 5-5-83; 8:45 am]

BILLING CODE 1505-01-M

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Part VI

Federal Emergency Management Agency

Transportation Accident Planning and Preparedness Guidance; Availability of Guidance Document

Reprinted From the Federal Register of May 6, 1983

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Transportation Accident Planning and Preparedness Guidance; Availability of Transportation Guidance Document

[NOTE: This document originally appeared in the issue of May 6, 1983 at 48 FR 20635. It is reprinted at the request of the Agency because that page was omitted in the production process from some copies of the May 6 issue.]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Availability of a transportation accident planning and prepardness guidance document and invitation for submittal of comments.

SUMMARY: The transportation guidance document, *Guidance for Developing State and Local Radiological Emergency Response Plans and Preparedness for Transportation Accidents*, is available for public distribution and comment. Copies will be distributed to State and local governments by the Federal Emergency Management Agency (FEMA) for review, comment and use.

This document provides planning and preparedness guidance in the form of 14 planning objectives and related criteria for use by State and local governments in developing emergency response plans for transportation accidents involving radioactive materials. The document also provides background information to support the application of the guidance to specific jurisdictions and to explain the unique characteristics of transportation accidents. This document is intended for interim use by State and local governments until a final edition is published early in 1984. Comments received by FEMA on the current, interim-use document will be analyzed with the results being used to develop the final edition.

This document has been developed by the Federal Radiological Preparedness Coordinating Committee's Subcommittee on Transportation Accidents which is co-chaired by the U.S. Department of Transportation and FEMA.

A copy of this document may be obtained from the: Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024. Please reference the title of the document in your request.

Comments on this document will be received through September 6, 1983 and should be addressed to: Rules Docket Clerk, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, D.C. 20472.

Dated: April 29, 1982.

Joe D. Winkle,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12141 Filed 5-5-83; 8:45 am]
BILLING CODE 1506-01-M

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Part VII

Department of Housing and Urban Development

Office of the Secretary

Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development

Reprinted From the Federal Register of May 6, 1983

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 8

[Docket No. R-83-528]

Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development

[NOTE: This document originally appeared in the issue of May 6, 1983 at 48 FR 20638. It is reprinted at the request of the Agency because pages 20638–20656 of that document were omitted in the production process from some copies of the May 6 issue. This reprint also incorporates an Agency correction to the effective date which was printed in the issue of May 10, 1983 at 48 FR 20902.]

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: HUD adopts procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Housing and Urban Development. The rule implements Section 504 of the Rehabilitation Act of 1973, as amended.

DATES:

Effective date: June 15, 1983.

Comment due date: August 4, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Putman, Special Advisor to Deputy Under Secretary for Intergovernmental Relations, Office of Housing, Office of Policy and Budget, Room 10184 at the above address (202) 755–6732. A telecommunications device for deaf persons (TDD) is available at (202) 426–0016. These are not toll free numbers. This notice will be available on tape for persons with vision impairments in the office of the Rules Docket Clerk shown above.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) provides that "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *."

On April 19, 1978, the Department published a Notice of Proposed Rulemaking (43 FR 16652) for public comment (the "1978 proposed rule"). In addition, 10 public hearings were conducted throughout the country. More than 225 individuals and organizations presented testimony at the public hearings. Transcripts were made of each public hearing and were analyzed along with 258 written comments received from other sources. The largest number of comments (c. 185) were received from organizations representing handicapped people. The next largest group (c. 131) was Federal, State or local agencies, including some 31 Housing Authorities. Seventeen comments were received from individuals or organizations representing the housing industry.

In general, both the organizations representing disabled persons and the housing industry were critical of the 1978 proposed rule, but for different reasons. The principal concern expressed by the disabled consumer groups was the number of provisions for waivers and exceptions. On the other hand, most of the housing industry representatives felt that these should be expanded, and that funds should be provided by HUD to cover any costs incurred as a result of Section 504 requirements. Similarly, public agencies questioned the source of funds for assuring accessibility and were concerned that such costs would reduce the level of funds currently available for program purposes.

Subsequently, two events occurred which have direct bearing on the Department's implementation of Section 504 as it applies to HUD programs. These were: (1) the decision of the United States Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and subsequent appellate decisions regarding the extent of recipient's obligations to accommodate the needs of handicapped persons, discussed more fully below in connection with the "program accessibility" provisions of the regulations, and (2) a Report to Congress (B–197756, June 19, 1981) issued by the Comptroller General entitled "Weaknesses in the Planning and Utilization of Rental Housing for Persons in Wheelchairs."

The GAO report concluded that HUD and the Farmers Home Administration "have no reliable statistics on the number of people using wheelchairs in the United States or on the characteristics of such persons, for example, their geographic location, age, income, family size, and need for federally subsidized housing * * * Also, they have no information to determine if a market exists for accessible units in the area serviced by the housing projects they support." The GAO report went on to state that: "HUD and FmHA need to have such information to determine if a market exists for accessible units and whether policies relating to housing the handicapped adequately respond to such a market."

The GAO surveyed 847 accessible housing units and determined that only 27% were actually occupied by persons using wheelchairs. The report concluded that HUD and FmHA need to do more with respect to out-reach programs and effectively advertising the availability of units accessible for handicapped individuals. Of equal importance to regulatory implementation of Section 504, GAO also recommended the elimination of nationwide percentage goals (previously adopted administratively under various HUD and FmHA programs) in favor of establishing local or regional goals, based upon a market analysis of demand.

Because of substantial changes that have been made from the 1978 proposed rule on grounds not fully discussed in connection with the publication of the 1978 proposed rule, the Department normally would publish this regulation as a revised proposed rule for further comment, rather than for immediate effect. However, on June 16, 1981, the United States District Court, Central District of California, issued an Order requiring HUD and certain other Federal agencies to publish final regulations implementing Section 504 of the Rehabilitation Act of 1973 on an expedited basis. *Paralyzed Veterans of America, etc., et al.* v. *William French Smith, et al.*, No. 79–1979 WPG, June 16, 1981. While the Department does not construe the District Court's order as necessarily overriding the public notice and comment requirements otherwise applicable, the Department believes, on balance, that the public interest requires that regulatory implementation of Section 504 with respect to HUD programs not be subjected to further delay. In reaching this conclusion, the Department has taken into account the fact that principal substantive requirements of Subpart C of the interim rule, regarding program accessibility, already are in effect through program regulations and the HUD Minimum Property Standards.

Accordingly, this rule is being published as an interim rule for effectiveness at the earliest date possible, subject to certain statutory requirements noted below. Public comments are solicited for consideration prior to issuance of a final rule.

At the outset, it will be useful to note certain preliminary observations regarding the scope and nature of Section 504 and its regulatory implementation, as well as to note highlights of the history of Section 504's regulatory implementation by the Federal Government which form the backdrop of HUD's interim rule.

The language of Section 504 is almost identical to the nondiscrimination provisions of Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Section 901 of Title IX of the Education Amendments of 1972 (20 U.S.C. 1681) and, like those statutes, establishes a governmentwide policy against discrimination in Federally assisted programs and activities—in this case, on the basis of handicap.

However, as was noted by the Department of Health, Education and Welfare (as it then was) in 1976 when first addressing the problems of regulatory implementation of Section 504:

> "Section 504 * * * differs conceptually from both titles VI and IX. The premise of both title VI and title IX is that there are no inherent differences or inequalities between the general public and the persons protected by these statutes and, therefore, there should be no differential treatment in the administration of Federal programs. The concept of section 504, on the other hand, is far more complex. Handicapped persons may require different treatment in order to be afforded equal access to federally assisted programs and activities, and identical treatment may, in fact, constitute discrimination. The problem of establishing general rules as to when different treatment is prohibited or required is compounded by the diversity of existing handicaps and the differing degree to which particular persons may be affected. Thus, under section 504, questions arise as to when different treatment of handicapped persons should be considered improper and when it should be required.
>
> Because the concepts underlying section 504 were new and complex and few judicial precedents existed in the area, the very general language of the statute creates serious problems of interpretation. There is almost no substantive legislative history surrounding the development and enactment of section 504. There were, for example, no public hearings accompanying the originial bills, and there was almost no substantive floor debate." (41 FR 20296, May 17, 1976).

At the time of the above writing, HEW also noted that there was then "no legislatively directed scheme of enforcement such as those provided in section 602 of Title VI * * * and 902 of Title IX" (ibid.). However, that void had been filled by Executive Order 11914, issued by President Ford, which prescribed specific enforcement procedures and sanctions for noncompliance, all based on precedents from Title VI and Title IX. Subsequently, Congress established legislatively, through Section 120(a) of the Rehabilitation Amendments of 1978 (adding Section 505 of the Rehabilitation Act, 29 U.S.C. 794–a), that the "remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance * * * under section 504 * * *."

As indicated, the first attempt by an Executive Department to address the issues of regulatory implementation of Section 504 was by HEW, which published a notice of intent to publish a proposed rule regarding programs or activities receiving Federal financial assistance from HEW in May 1976 (41 FR 20296), followed by a notice of proposed rulemaking in July 1976 (41 FR 29548) and a final rule in May 1977 (42 FR 22677). That final rule, as applicable to the programs of the Department of Health and Human Services, is now codified at 45 CFR Part 84. As will be noted below in the discussion of particular provisions, the HEW regulation was based in significant part upon provisions of HEW's then-existing regulations implementing Title VI and Title IX.

Executive Order 11914, referred to above, also assigned to HEW the task of issuing general standards for other departments and agencies of the Federal government to follow in promulgating regulations implementing Section 504. A proposed rule implementing this requirement of Executive Order 11914 was published by HEW in June 1977 (42 FR 32264) and a final rule, originally codified at 45 CFR Part 85, was published in January 1978 (43 FR 2132). In publishing its proposed rule for effectuating Section 504 to programs and activities receiving Federal financial assistance from HUD, the Department relied principally upon 45 CFR Part 85 but also adapted additional provisions from 45 CFR Part 85. The HEW regulation implementing Executive Order 11914, as it existed at 45 CFR Part 85 at the time of publication of HUD's proposed rule, is sometimes referred to in this preamble as the "HEW Implementation Guidelines."

By Executive Order 12250, issued by President Carter in November 1980, the authority of HHS (as successor to HEW) to promulgate general standards under Section 504 was transferred to the Department of Justice, which readopted the HEW Implementation Guideline without substantial change (except for modification of program accessibility provisions relating to mass transit systems made necessary by the decision of the District of Columbia Circuit Court of Appeals in *American Public Transit Association* v. *Lewis*, 655 F. 2d 1271 (D.C. Cir. 1981)). 28 CFR Part 41, adopted at 46 FR 40686, 40687 (August 11, 1981). As re-adopted by the Department of Justice, the HEW Implementation Guidelines are referred to herein as the "DOJ Implemenation Regulation."

The complexity of the issues involved in regulatory implementation of Section 504 which HEW noted more than six years ago have not diminished since that time. Judicial authority commencing with *Southeastern Community College* has called into question certain of the principal assumptions of the initial rulemaking as applied in particular contexts that are analogous, although not identical, to contexts pertinent to HUD programs. The Department is obliged to adhere as closely as possible to authoritative judicial interpretations of the scope of Section 504, as nearly as the Department is able to discern their direction.

As discussed more fully below in relation to Subpart C of this interim rule, the guidance that may be learned from judicial consideration to date of the program accessibility concept is less than complete, for while several decisions have either invalidated or criticized portions of agency regulations as requiring too much, no decision to date of which the Department is aware has addressed the concept in the context of housing facilities.

In engaging in substantive rulemaking under the authority of Section 504, it is not required absolutely that the Department define with precision the reach of the statutory mandate, and the Department does not pretend that it has done so in this rulemaking. Notwithstanding uncertainty that will persist regarding the exact limits of the statute itself, the Department believes that the provisions now being adopted for administrative implementation are reasonably related to the purposes of Section 504 while consistent with achievement of the objectives of the program statutes authorizing the Federal financial assistance (cf. Section 602, Civil Rights Act of 1964, 42 U.S.C. 2000d–1, made applicable to Section 504 enforcement by Section 505 of the Rehabilitation Act; *Lau* v. *Nichols*, 414 U.S. 563, 571 (1974) (Stewart, J., concurring); *Thorpe* v. *Housing Authority of the City of Durham*, 393 U.S. 268, 280–281 (1969)).

The regulation is divided into four subparts. Subpart A (General Provisions) outlines applicability, defines the important terms that are used throughout the regulation, and states in general terms the discriminatory acts that are prohibited. Subpart B (Employment) prescribes

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requirements for nondiscrimination in the employment practices of recipients of Federal financial assistance. Subpart C (Program Accessibility) sets forth the requirement that no otherwise qualified handicapped person shall be denied accessibility to federally-assisted programs or activities. It also sets forth specific requirements and standards for non-housing and housing facilities. Subpart D (Enforcement) sets forth administrative enforcement provisions, and Subpart E governs the practice for hearings, decisions and administrative review, supplementing Subpart D.

Subpart A—General Provisions

Section 8.1 states the purpose of Part 8 as effectuating Section 504 with respect to any program or activity receiving Federal financial assistance from HUD. It notes that Part 8 does not effectuate Section 504 as it applies to any program or activity conducted by the Department. This refers to an amendment to Section 504, effected by Section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which extended its coverage to "any program or activity conducted by any Executive agency or by the United States Postal Service." The amendment further requires the head of each agency to "promulgate such regulations as may be necessary to carry out" the amendment and further requires that copies of any proposed regulation be submitted to "appropriate authorizing committees of the Congress" thirty days before taking effect. Regulations effectuating Section 504 as to Federally conducted programs are subject to the coordinating authority of the Department of Justice under Executive Order 12250. HUD is advised that the Department of Justice intends to establish an implementation guideline relating to Federally conducted programs, but no such guidance has been established to date. The Department anticipates that it will publish regulations effectuating Section 504 as to programs and activities conducted by the Department after evaluation of public comments received on the interim rule published herewith.

Section 8.1 also notes that compliance with the requirements of Part 8 does not assure compliance with requirements for accessibility by the physically handicapped imposed pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151, et seq.), where applicable. HUD regulations implementing the Architectural Barriers Act are located at 24 CFR Parts 40 and 41.

Paragraph (b) of Section 8.1 provides that the policies and standards for compliance established in Part 8 are established in contemplation of, and with a view to enforcement through, program administration and the administrative procedures described in Subparts D and E of Part 8. In view of the uncertainty noted above as to the exact limits of the statute itself, the Department wishes to emphasize that the policies and substantive requirements adopted in Part 8 are adopted only with a view to program administration by the Department and to enforcement through the procedures authorized by Section 505 of the Rehabilitation Act (including judicial enforcement of contractual assurances by the United States).

Section 8.2, identifying programs or activities to which Part 8 applies, is without substantive change from the proposed rule.

Section 8.3 defines terms used in Part 8. In its proposed rule, the Department generally provided definitions only of terms also defined in the HEW Implementation Guideline or in 45 CFR Part 84. For further clarification and in response to comments, the Department is adding definitions of further terms, including "accessible," "adaptable," "alteration," "multifamily project," and "project."

Several commentors objected to the notion set forth in the preamble to the proposed rule that the term "program accessibility," which was not defined in either 45 CFR Part 84 or 45 CFR Part 85, was not susceptible to a Departmentwide definition. Instead, program accessibility was defined separately with respect to different HUD program areas. Upon reconsideration, the Department has determined that program or activity accessibility can be defined in broad terms. Further, while "accessibility" in the context of HUD programs relates uniquely to the architectural needs of physically handicapped persons, program accessibility and activity accessibility clearly have a broader meaning applicable to all handicapped persons. For example, even though a facility in which a federally assisted program is conducted is free of architectural barriers and thus meets requirements for facility accessibility, the program is not accessible if management policies and procedures effectively bar handicapped people from participating in or otherwise benefiting from the program or activity. On the other hand, a program which is conducted in an inaccessible existing facility can be made accessible without altering the facility, where the program or activity can be delivered or otherwise be made available to a handicapped beneficiary without loss of essential program benefits.

With the foregoing consideration in mind, "accessible" is defined separately in the interim rule in the distinct contexts of program or activity accessibility, facility accessibility, and accessibility of an individual dwelling unit. The definition of "accessible," when used in relation to a facility or dwelling unit, are based in part upon definitions contained in the Minimum Guidelines and Requirements for Accessible Design issued recently by the Architectural and Transportation Barriers Compliance Board (the "ATBCB") (47 FR 33862, to be codified at 36 CFR Part 1190). An "accessible" dwelling unit includes an "adaptable" unit, i.e., one so planned and constructed that converting it to an accessible unit for a handicapped occupant is simply a matter of installing or adjusting such items as grab bars, lights, buzzers or kitchen equipment, and no major construction work such as widening doors or moving walls is required.

A definition of "alteration" has been added to refer consistently to structural changes in an existing facility. In the proposed regulation no definition was provided, and various synonyms or near synonyms such as remodeling, rehabilitation or retrofitting were used in the text. The definition utilized is based on that adopted by the ATBCB in the Minimum Guidelines.

In its proposed rule, the Department proposed utilization of the definition of "Federal financial assistance" used in the HEW Implementation Guideline. In this interim rule, however, the Department has adapted the definition contained in the Department's own Title VI regulation (24 CFR Part 1) on the ground that it is better tailored to encompass forms of assistance under HUD programs.

Public comments revealed concern that the proposed definition of "Federal financial assistance" excluded procurement contracts and contracts of insurance or guaranty. Procurement contracts are covered by the Department of Labor's regulation under Section 503 of the Act. In excluding programs of insurance and guaranty, the Department is following a Justice Department opinion of September 23, 1977, which advised that Congress intended the reach of Section 504 to be consistent with Title VI and Title IX both of which exclude programs of insurance and guaranty.

The definition of "handicapped person" is unchanged from the proposed rule, which in turn incorporated without change the definition then contained in the HEW Implementation Guideline and now continued in the DOJ Implementation Regulation. This definition also conforms to the statutory definition of handicapped person applicable to Section 504 which is set forth in Section 111(a) of the Rehabilitation Act Amendments of 1974 (29 U.S.C. 706). While there was strong support among commentors on the proposed rule for adoption of this definition, a number of related concerns were expressed as follows:

(1) *Coverage.* Representatives of several disability groups wanted their particular disability group to be specifically mentioned as eligible. The definition is written broadly to cover any person who has a physical or mental impairment that substantially limits one or more major life activities.

Several commentors mentioned the need to define specific learning disabilities, and to include the sensorily deprived and the minimally brain damaged. Physical or mental impairment is defined to include, among other impairments, "specific learning disabilities." The Department will interpret the term as it is used in Section 602 of the Education of the Handicapped Act, as amended, to describe such conditions as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Concern was also expressed by advocates of the mentally ill and the autistic with regard to their coverage. Both groups are clearly included in the "handicapped person." Whether they also are "qualified" for participation in a particular program or activity despite their handicap is a separate question.

(2) *Terminology.* Several commentors requested that the term "handicapped" be replaced by "disabled" wherever possible, and that the term "emotionally disturbed" be substituted for "mentally ill." Since both the Section 504 and existing regulatory implementation thereof use "handicapped," HUD will continue to use "handicapped" instead of "disabled" in Section 504 contexts. The term "emotionally disturbed" is considered too vague for regulatory purposes.

(3) *Eligibility for housing.* Eighteen (18) commentors recommended that the definition of handicapped person be amended to reflect the different types of dwelling units needed by different types of handicapped persons. Their concern was that non-handicapped or non-physically handicapped persons might be allowed or even required to use units adapted for the physically handicapped. Accordingly, the Department has added a provision at § 8.26 which addresses these concerns.

(4) *Interpretation of definition.* Several commentors stated that more guidance was needed in order for recipients to make a determination that an individual "has a history of" or "record of" an impairment, or "is regarded as having an impairment." Their particular concern was over the inclusion of drug addicts and alcoholics in the definition of handicapped persons. On this issue, HUD is following an opinion the Attorney General, dated April 12, 1977, which concluded that drug addiction and alcoholism are "physical or mental impairments" within the meaning of Section 7(6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 706), and that drug addicts and alcoholics are therefore "handicapped" for the purposes of Section 504. However, this does not necessarily mean that such individuals are "qualified handicapped persons" for the purposes of this rule. As noted by HEW in its analysis of 45 CFR Part 84, set forth in Appendix A thereto:

> "It cannot be emphasized too strongly that the statute and the regulation apply only to discrimination against qualified handicapped persons solely by reason of their handicap. The fact that drug addiction and alcoholism may be handicaps does not mean that these conditions must be ignored in determining whether an individual is qualified for services or employment opportunities. On the contrary, a recipient may hold a drug addict or alcoholic to the same standard of performance and behavior to which it holds others, even if any unsatisfactory performance or behavior is related to the person's drug addiction or alcoholism. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestation of the condition may be taken into account in determining whether he or she is qualified."

This interpretation is reflected in the definition of "qualified handicapped person," as discussed below.

A definition of "project" has been added in order to differentiate it from "facility" and in order to clarify the application of requirements for accessible dwelling units. As here defined, a project may include one or more buildings, sites or site developments, treated administratively as a single HUD assisted project. "Multifamily project" is defined as a project containing more than two dwelling units. The threshold of two units is chosen because it represents the demarcation between HUD's Minimum Property Standards for One- and Two-Family Dwellings and the Minimum Property Standards for Multifamily Dwellings.

As in the proposed rule, the definition of a "qualified handicapped person" with respect to a program or activity other than employment refers to one "who meets the essential eligibility requirements for participation in such program or activity or for receipt of benefits therefrom." For clarification, a provision is added that "essential eligibility requirements" include stated program eligibility requirements such as income or citizenship or alien status, as well as

> "• • • implicit requirements inherent in the nature of the program or activity, such as that an occupant of multifamily housing be capable of independent living (except to the extent that necessary support services are contemplated to be provided in connection with the program or activity or will otherwise be available to such occupant) and of complying with all obligations of occupancy, including the obligation to conduct himself or herself in a manner which will not disturb his or her neighbors' peaceful enjoyment of their accommodation and will be conducive to maintaining the housing facility in a decent, safe and sanitary condition. For example, a chronically mentally ill person whose condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his own health or safety in the absence of necessary supportive services may be 'qualified' for occupancy in a project where such supportive services are provided but may not be 'qualified' for a project lacking such services."

The example referring to the chronically mentally ill confirms the Department's current practice under the Section 202 direct loan program for housing for the elderly or handicapped (see Announcement of Funding Availability published April 20, 1982 (47 FR 16892)). The Department emphasizes, however, that the factor of capability of independent living is not to be taken as an invitation to inquiries which infringe upon the privacy or dignity of applicants. Particularly in the case of persons whose handicaps are physical, a strong presumption in favor of the individual's own assessment of his or her capabilities is warranted in the absence of substantial evidence to the contrary. The mere existence of a person's physical disability, of course, does not constitute such evidence. For example, the fact that a person requires the use of a wheelchair is not evidence that he or she is incapable of independent living. The "significant risk" test is based upon *Doe* v. *New York University*, 666 F. 2d 761 (2d Cir. 1981). The Department does not regard the foregoing clarification as a departure from the intent of its proposed rule and

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reiterates the following from the preamble to the proposed rule:

"• • • The Department wishes to emphasize that this regulation does not prohibit denying services or benefits of a program, such as occupancy in a housing project assisted by the Department for bona fide reasons, even if those reasons are also related to the handicap, so long as the basis for such denial is failure to meet eligibility criteria which are applied to all potential beneficiaries, handicapped and non-handicapped. Similarly, this regulation does not prohibit turning down a handicapped job applicant for bona fide job-related reasons, even if those reasons are also related to the handicap. For example, an applicant who could not perform the basic physical requirements for the position of 'housepainter' would not be considered a 'qualified handicapped person.' Likewise, if a handicapped individual had a history or pattern of anti-social behavior including, for example, criminal activity, he or she may be denied services or benefits of a program on the same basis as a non-handicapped person, even if the anti-social behavior is related to the handicap." (43 FR 16052)

The definition of "qualified handicapped person" excludes, with respect to both employment and programs or activities other than employment, any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug use, would constitute a direct threat to property or the safety of others. The derivation of this exclusion from an opinion of the Attorney General is referred to above. The Department further notes that Congress responded in part to the concerns expressed at the time of adoption of the HEW regulation by providing, in 1978, that for purposes of Section 504 "as such section relates to employment," the term "handicapped individual" does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others" (29 U.S.C. 706, as amended by Section 122(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978). Inasmuch as the statutory provision relates to the term "handicapped individual" and not the term "qualified handicapped individual," the Department does not consider the provision exclusive, either in terms of activity for which an alcoholic or drug abuser may be found not qualified (i.e., employment) or in terms of the basis for finding such individual not qualified for a particular program or activity (i.e., "would constitute a direct threat to property or the safety of others"). The Department believes that an alcoholic or drug abuser may be found not qualified for a program or activity for failure to meet "essential eligibility requirements" of the program, as described in the rule, for reasons that may fall short of "a direct threat to property or the safety of others."

The proposed rule included a definition of "small provider" and exempted recipients meeting the definition from various specific requirements of the regulation such as preparation of transition plans and completion of required alteration within a three-year period. Over 100 commentors stated a position that too many recipients were covered by the definition and thus exempted from requirements of the rule. In view of other changes made in the regulations, the Department does not believe that the general exemption from "small providers" is required, and the definition has been eliminated. However, the Department invites comment as to whether such an exception may be advisable or appropriate with respect to any specific requirements of the regulations.

Section 8.4 states a general prohibition against discrimination on the basis of handicap in HUD-assisted programs and enumerates specific discriminatory acts prohibited. This section of the proposed rule was identical to that contained in the HEW Implementation Guideline (now continued in the DOJ Implementation Regulation), which in turn was based upon Title VI precedents. In the interim rule, the provision is unchanged from that contained in the proposed rule, except for additions of the word "solely" before "on the basis of handicap" and deletion of the words "or benefits from" from the phrase "any program or activity that receives or benefits from Federal financial assistance." These changes are made to conform the regulatory language to that of the statute, and deletion of the phrase "or benefits from" is not intended to alter the jurisdictional reach of Section 504 as it applies to HUD-assisted programs. The Department is aware that the phrase "or benefits from" may be seen as critical in the context of certain other government programs but is not aware of a context involving HUD programs where the phrase would make such a difference. However, the Department invites comment as to specific contexts in which an issue as to the jurisdictional reach of Section 504 may be seen as arising based upon this language.

The Department also invites comment as to whether the description of specific actions prohibited may raise special problems in the context of handicapped persons notwithstanding their appropriateness in the separate contexts of nondiscrimination based upon race, color, or national origin. This invitation is based upon the recognition, referred to above, of the different conceptual premises underlying Title VI and Title IX on the one hand, and Section 504 on the other.

Section 8.4(c) is unchanged from the proposed rule. It reiterates the provision of the DOJ Implementation Regulation which states that the exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons, or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part. It further notes that certain of the Department's programs operate under statutory definitions of handicapped person which are more restrictive than the definition contained in § 8.3, and such definitions are not superseded or otherwise affected by this regulation. The differing statutory program definitions are provided in detail at Appendix B.

Section 8.4(d) provides, in language unchanged from the proposed rule, that recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons. A number of comments recommended that this section be expanded or made more specific. The Department wishes to emphasize that it fully supports the concept of making programs available in the most integrated setting appropriate to the needs of qualified handicapped persons, and that this concept is key to the effective implementation of the program accessibility requirements. "Most integrated setting" refers not only to housing integrated into the community, but also to the availability of community and related services. Thus, in considering what constitutes "the most integrated setting," a recipient should verify not only that the setting itself is like those where non-handicapped people live, work and socialize but also that services such as shopping and transportation are available. This concept also is incorporated into § 8.25 of the interim rule, regarding distribution of accessible dwelling units within a project.

Subpart B—Employment

Subpart B prescribes requirements for nondiscrimination in the employment practices of recipients. For the proposed rule, HUD incorporated directly the employment provisions of the HEW Implementation Guideline with the exception of the provision regarding preemployment inquiries, which incorporated additional language from HEW's Section 504 regulation relating to HEW programs (45 CFR 84.14).

Several Federal circuit courts which have considered coverage of employment discrimination under section 504 have ruled that employment is covered under section 504 only where a primary purpose of the assistance is to provide employment. *U.S.* v. *Cabrini Medical Center*, 639 F. 2d 908 (2d Cir. 1981); *Carmi* v. *Metropolitan St. Louis Sewer District*, 620 F. 2d 672 (8th Cir. 1980), *cert. denied*, 449 U.S. 892 (1980); *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F. 2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979); *Scanlon* v. *Atascadero State Hospital*, 677 F. 2d 1271 (9th Cir. 1982).

The Department of Justice has taken the position in litigation that these holdings misinterpret section 504. The holdings apply the limitation on employment coverage embodied in section 604 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–3) to employment claims under section 504 by reason of section 505(a)(2) of the Rehabilitation Act, which was added by 1978 amendments and provides that the "remedies, procedures and rights" set forth in Title VI shall be available to persons aggrieved by actions which violate section 504 (29 U.S.C. 794a(a)(2)). The decisions cited above have held that section 505(a)(2) also extended Title VI's limitation on employment coverage to section 504. The Justice Department contends that the legislative history of section 505(a)(2) unequivocally demonstrates that Congress only intended to incorporate Title VI-patterned procedural remedies in the Rehabilitation Act did not intend to curtail substantive rights with respect to employment claims. The Justice Department's view has been adopted recently by two Courts of Appeals in *Jones* v. *Metropolitan Atlanta Rapid Transit Authority*, 681 F. 2d 1376 (11th Cir. 1982), and *LeStrange* v. *Consolidated Rail Corp.*, 687 F. 2d 767 (3rd Cir. 1982), cert. granted, —— S.Ct. (Feb. 22, 1983). In addition, the Supreme Court recently has rejected a somewhat similar attempt to read the limitation on employment coverage embodied in Section 604 of Title VI into Title IX of the Education Amendments of 1972. *North Haven Board of Education* v. *Bell*, 102 S.Ct. 1912 (1982). Accordingly, HUD believes it appropriate to continue to adhere to its previously proposed position that Section 504 extends to discrimination in employment even where the provision of employment is not the primary objective of the Federal financial assistance. However, pending further clarification of the law, § 8.14 provides that the requirements of this Subpart B will not be enforced where employment is not a primary objective of the Federal financial assistance in States located in the Second, Fourth, Eighth, and Ninth Circuits (i.e., New York, Connecticut, Vermont, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, and Hawaii).

Section 8.10 of the interim rule states the general prohibition against discrimination in employment and lists activities connected to employment to which the prohibition applies. It is substantially unchanged from the proposed rule, and is consistent with the DOJ Implementation Regulation, except for addition of the word "solely" and deletion of the phrase "or benefit from" for the reasons stated above.

Section 8.11 of the interim rule requires a recipient to make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. The Department emphasizes that the requirement assumes that the handicapped applicant or employee is a "qualified handicapped person" with respect to the essential elements of the employment. Where a handicapped person is not qualified to perform a particular job, where reasonable accommodation does not overcome the effects of a person's handicap, or where reasonable accommodation causes under hardship to the employer, the failure to hire or promote the handicapped person does not constitute prohibited discrimination.

The largest number of comments on this subpart of the proposed rule (approximately 79 out of a total of 129) criticized the vagueness and lack of examples for the terms "reasonable accommodation" and "undue hardship." For additional guidance, the Department has incorporated into the interim rule further provisions from the HHS Section 504 regulations relating to HEW programs. Subsection (b) of § 8.11 makes clear that reasonable accommodation is intended to include, but is not limited to, the modification of work schedules, including part-time employment, and job restructuring. Job restructuring may entail shifting nonessential duties to other employees. In other cases, reasonable accommodation may include the relocation of particular offices or jobs so that they are in facilities or parts of facilities that are accessible to and usable by handicapped persons.

Subsection (c) of § 8.11, based upon 45 CFR 84.12, provides that in determining whether an accommodation would impose an "undue hardship" on the operation of a recipient's program, factors to be considered include: (1) The overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget; (2) the type of the recipient's operation, including the composition and structure of the recipient's workforce; and (3) the nature and cost of the accommodation needed.

The weight given to relevant factors in making the determination as to whether an accommodation constitutes undue hardship will vary depending on the facts of a particular situation. Thus, it would be considered reasonable for a large developer to accommodate an architect who is confined to a wheelchair by rearranging the workspace to permit easier access, by providing ramps, and by modifying restroom facilities so that they are accessible to and usable by the handicapped employee. On the other hand, a small developer might not be required to spend more than a nominal sum, such as that necessary to equip a telephone for use by a secretary with impaired hearing.

Section 8.12 of the proposed rule, based on the HEW Implementation Guideline, would have prohibited a recipient from using employment tests and criteria "that discriminate against handicapped persons" and would have required that a recipient ensure that employment tests "are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills."

For the interim rule, the department has adopted the somewhat clearer provisions of 45 CFR Part 84. Thus, § 8.12 prohibits employers from using tests or other selection criteria that screen out, or tend to screen out, handicapped persons unless the tests or criteria are shown to be job-related. This section takes into account that

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some tests and criteria depend upon sensory, manual, or speaking skills that may not themselves be essential for the performance of the job in question and, yet, would disqualify a handicapped person. The recipient must select and administer tests so as best to ensure that the test will measure a handicapped person's actual ability to perform on the job rather than the person's ability to see, hear, speak, or perform manual tasks, except where such skills are the factors that the test purports to measure. For example, a person with a speech impediment might be well qualified for jobs that do not and need not require an ability to speak clearly. Yet, if given an oral test, the person would be unable to perform in a satisfactory manner. The test would not, therefore, predict job performance, but instead would reflect impaired speech.

Section 8.14 of the proposed rule, relating to preemployment inquiries, was based upon the HEW Implementation Guideline and also included part, but not all, of the fuller provisions of 45 CFR 84.14. For the interim rule, the Department has incorporated further provisions of 45 CFR 84.14. As revised, the section (renumbered § 8.13) contains a general prohibition against preemployment inquiries regarding a person's handicapped status. However, an employer may inquire into an applicant's ability to perform job-related tasks such as an applicant's ability to perform a job safely. For example, an employer may not ask if an applicant has a particular handicap, but may ask whether the person can perform a particular job without endangering his or her own well-being or that of other employees.

Subpart C—Program Accessibility

This subpart sets forth the requirements, methods and standards for making Departmental programs accessible.

In the Department's proposed rule as well as in the current DOJ Implementation Regulations, the "program accessibility" requirements deal exclusively with physical access to facilities by physically handicapped persons. However, "program accessibility" in its fullest sense is not limited to physical architectural barriers but includes communications barriers and other, perhaps less tangible, barriers as well. Given the nature of the Department's programs as well as the extent of the Department's evolving experience to date, the primary focus of Subpart C remains architectural barriers. In order to emphasize the broader general reach of the "program accessibility" requirement, however, the section stating the general rquirement has been restated without reference to facilities. As revised, Section 8.20 states that each program or activity which receives Federal financial assistance from HUD shall be operated so that the program or activity, when viewed in its entirety, is readily accessible to and usable by qualified handicapped persons. The Department invites comment as to specific further provisions which may be appropriate to further accessibility of the Department's programs outside the context of architectural barriers.

Subpart C, as revised, includes the scope of Subparts E, F and G of the proposed rule, which pertained to individual program areas (Low-Income Public Housing and Section 8 Housing Programs; Other Subsidized Housing Programs; and Community Planning and Development Programs), and those proposed subparts have been eliminated. As revised, the internal organization of Subpart C is as follows. Section 8.20, stating the general requirement as described above, is followed by a section dealing with non-housing facilities within which a covered program or activity is conducted or where application for participation therein is made or benefits distributable pursuant to the program or activity are distributed. This section would apply, for instance, to a facility where a program or activity assisted by Community Development Block Grant funds is conducted, or to an office of a public housing authority where applications for housing assistance are made. This section is followed by a series of sections dealing with housing programs. Finally, Section 8.30 prescribes the standards for physical accessibility to be followed where required, both for housing and non-housing facilities.

As indicated, the principal focus of the program accessibility concept in the context of HUD programs relates to architectural barriers. This is the area having the greatest impact on both recipients and program beneficiaries and potential beneficiaries, and it also is the area where the least guidance is available from the statute itself or its legislative history.

Section 504, on its face, does not prohibit or otherwise refer to architectural barriers, and the legislative history of the original enactment of Section 504 contains no references to architectural barriers. Prior to publishing its proposed rule to implement Section 504 with respect to HEW programs, HEW solicited public comment on the following question:

"Whether § 504 prohibitions extend to architectural barriers, and, if so, whether the nondiscrimination requirements apply to both new and existing buildings used in connection with federally assisted program or activities" (41 FR 20296 (May 17, 1976)).

After consideration of public comments, HEW answered both questions affirmatively, stating:

> Most of the comments agreed that the protection of section 504 did, in fact, extend to the concept of architectural barriers and that the proposed regulation should apply to both new and existing buildings. The proposed regulation adopts the position that section 504 deals with the issue of accessibility of buildings, whether new or existing, because the existence of architectural barries operates to exclude handicapped persons from the federally assisted programs and services held within them. (41 FR 29555 (July 16, 1976)).

The current DOJ Implementation Regulation sets forth program accessibility requirements dealing with architectural barriers which are consistent in approach with those proposed by HEW in 1976 and adopted by it in 1977 for application to HEW program recipients, and are in substantially the form adopted by HEW in 1978 for application to programs of all agencies.

The basis of HEW's conclusions regarding the scope of Section 504's application to architectural barriers is not stated in its rulemaking actions other than as set forth above. Considered in the light of the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent Court of Appeals decision in *American Public Transit Association v. Lewis*, 655 F. 2d 1271 (D.C. Cir. 1981), the breadth of the conclusions reached by HEW appears questionable. In particular, the Department believes that HEW did not give sufficient consideration to the fact that Congress had already legislated expressly in the area through the Architectural Barriers Act of 1968 and gave no indication of an intent to overide the specific provisions and limitations of that enactment through the general prohibitions of Section 504.

Southeastern Community College did not deal with program accessibility requirements in the context of architectural barriers. The principal issue in the case was whether the plantiff, who suffered from a hearing disability, was an "otherwise qualified handicapped individual" for a training program for registered nurses. The Court concluded that the individual was not "qualified" but then went further to consider whether the recipient of Federal assistance was obligated to undertake affirmative action through program modifications that would overcome the effects of the disqualifying handicap. In this context, the Supreme Court held that "neither the language, purpose, nor history of Section 504 reveals an intent to impose an affirmative action obligation on all recipients of federal funds" (442 U.S. at 411). In reaching this conclusion, the Court noted that "[t]he language and structure of Rehabilitation Act of 1973 reflect a recognition by Congress of the distinction between the even-handed treatment of qualified handicapped persons and affirmative efforts to overcome the disabilities caused by handicap," (id. at 410), relying heavily on evidence that "demonstrated that Congress understood accommodation of the needs of handicapped individuals may require affirmative action and knew how to provide for it in those instances where it wished to do so" (Id.).

In *Southeastern Community College*, the comparisons which the Court made were to other provisions of the Rehabilitation Act itself, particularly Section 501(b), requiring affirmative action in employment by Federal agencies, and Section 503(a), which requires affirmative action in hiring by Federal contractors. Similarly, the Department believes that, in interpreting the intended scope of Section 504 with respect to architectural barriers, it cannot ignore Congress' express resolution on that subject as embodied in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.). The appropriateness of this comparison is stregthened by the fact that, while the Architectural Barriers Act was enacted in 1968, Congress further legislated in relation to it in Section 502 of the Rehabilitation Act of 1973 (creating the Architectural and Transportation Barriers Compliance Board) without revising in any manner the provisions and scope of the Architectural Barriers Act itself.

Of particular importance in the context of the Department's consideration of the scope of Section 504 as it may relate to architectural barriers in residential structures assisted under HUD programs is the Architectural Barriers Act's express exclusion of "privately owned residential structure[s] not leased by the Government for subsidized housing programs" (42 U.S.C. 4151). In addition, the requirements of the Architectural Barriers Act affect existing buildings only when they are altered, without requiring that alterations be undertaken solely for the purpose of achieving accessibility (42 U.S.C. 4155). In adopting compliance standards the Department determines either are required by Section 504 as a matter of statutory construction or are reasonably related to the purposes of Section 504 while consistent with achievement of the objectives of the program statute authorizing the Federal financial assistance, the Department is compelled to reach a resolution which does not render these specific expressions of Congressional intent a nullity.

At the same time, the Department is also aware of the Supreme Court's warning that "the line between a lawful refusal to extend affirmative action and illegal discrimination against handicapped persons" is not always clear, and that "situations may arise where a refusal to modify an existing program might become unreasonable and discriminatory" (442 U.S. at 412–413). Subsequent decisions, while not defining the limits of the obligation, have confirmed that Section 504 requires at least "modest, affirmative steps to accommodate handicapped persons." *American Public Transit Association* v. *Lewis*, 655 F. 2d 1271, 1278 (D.C. Cir. 1981); see *Dopico* v. *Goldschmidt*, 687 F. 2d 644 (2d Cir. 1982): *New Mexico Association for Retarded Citizens* v. *State of New Mexico*, 678 F. 2d 847 (10th Cir. 1982). But the question of how much accommodation is called for "is purely economic and administrative. . . . [I]t turns more on considerations of practicality than on matters of entitlement, merit, and restitution. And, while it is bounded, after *Davis*, by a general proscription against massive expenditures, the question is one of the degree of effort necessary rather than whether any effort at all is required." *Dopico*, supra, at 653.

With this guidance in mind, the Department believes that failure to prescribe accessibility requirements in newly constructed or substantially rehabilitated Federally assisted housing, including privately-owned structures, would cross the line and be unreasonable and discriminatory in a manner prohibited by Section 504. The incremental additional cost involved in meeting accessibility standards for buildings or individual units in new construction, or rehabilitation substantial enough to be equivalent to new construction, is slight.

The interim rule provides, therefore, that newly constructed Federally assisted multifamily housing projects must meet accessibility standards as to exits, entrances, and other areas affecting facility accessibility. The same requirement is applicable when alterations are performed if the project contains 25 or more units and if the cost of alterations is 75% or more of the replacement cost of the completed project. If the foregoing qualification does not apply, alterations performed to common areas or to parts of facilities that affect accessibility are required to be accomplished, to the extent feasible, in compliance with accessibility standards. The foregoing requirements apply to all Federally assisted multifamily housing, except that construction or alteration of public housing to which accessibility standards promulgated pursuant to the Architectural Barriers Act are applicable are governed by those standards.

The requirements mentioned above relate to facility accessibility. Accessibility of individual dwelling units within multifamily housing projects is a separate subject. Standards published to date under the Architectural Barriers Act do not address the subject of the number of units required or recommended to be accessible, nor does the current edition of the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI A 117.1–1980). [The Minimum Guidelines and Requirements for Accessible Design issued recently by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, to be codified at 36 CFR Part 1190) adopted scoping provisions for common areas, and it is expected that scoping provisions regarding the number of dwelling units required to be made accessible for Architectural Barriers Act compliance will be included in uniform accessibility standards to be issued by the standard-setting agencies under that Act, including HUD.) The Department's proposed rule also did not attempt to prescribe a minimum number or percentage of units required to be made accessible, except only for a requirement that in a multifamily rehabilitation assisted by Community Development Block Grant funds, at least 2 percent of the units affected by the rehabilitation should be "barrier-free." However, requirements of minimum amounts of accessible units have been adopted by the Department under particular programs. Since 1970, HUD has required generally that 10 percent of the units in all new projects for the elderly be made accessible to persons in

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wheelchairs. (This policy was modified in 1982, as noted below.) In 1977, the Department adopted a policy of requiring that not less than 5 percent of the units in non-elderly Section 8 projects be designed for and accessible to the physically handicapped; this policy is a current regulatory requirement, "where practicable", of the Section 8 new construction and substantial rehabilitation programs (24 CFR 880.202(f), 881.202(e)).

Several commentors on the proposed rule suggested a need for concrete percentage requirements for accessible units. In view of the criticisms contained in the General Accounting Office report referred to above, the Department considered making the number of accessible units required to be included in any project dependent entirely upon a prior assessment of the need for accessible units within a housing market area. The Department believes that, theoretically at least, such a requirement would fully satisfy the requirements of Section 504. On this basis, the requirement for 10 percent of the units in all new projects for the elderly was made more flexible in 1982, when sponsors of Section 202 elderly projects were advised to base the number of accessible units included in project proposals on a determination of need, to be reviewed by HUD taking into consideration the number of accessible units already existing and those which will be coming on the market in projects where architectural plans are already approved. However, on further consideration, the Department has concluded that, given the general unavailability of reliable data upon which such an assessment could be made which would be free of dispute, subjecting all housing proposals to prior completion of such a questionable assessment would unduly burden the administration of the programs.

Accordingly, the Department has elected to prescribe a fixed requirement that a minimum of 5% of the units in any newly constructed multifamily project containing 15 or more units including a public housing project meet accessibility standards, and that an additional 2% of units in any such project be accessible to persons with hearing or vision impairment (§ 8.22). The same requirement is applicable where alterations are undertaken to a project containing 25 or more units if the cost of alterations is 75% or more of the replacement cost of the completed project. In adopting the latter qualifications for accessibility requirements where alterations are concerned, the Department has sought to balance the need for accessible units against the structural restrictions and resulting financial impact on rehabilitation projects.

In view of the possibility noted by the GAO report that an oversupply of accessible units may exist in some areas as well as the contrary possibility that an undersupply may exist in other areas, the interim rule permits variances from the 5 percent minimum requirement. A sponsor or developer of a multifamily project may request a waiver of the 5% minimum upon demonstrating to the reasonable satisfaction of the Department, based on available current data, such as census data or a currently effective Housing Assistance Plan, that provision of accessible units in a project to the extent required by the minimum percentage requirements would exceed the need for such units in the housing market area. In addition, HUD may prescribe lower percentages for any housing market area based upon its determination that a sufficient number of accessible units are available to meet expected needs in such area. In addition to current available data of the type mentioned above, this determination may be based upon evidence that accessible units in the area are being occupied by persons not having the disabilities or impairments requiring the accessibility features of the units, provided that HUD further determines that reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons in the area. In reviewing a request by a sponsor or developer or in considering a reduction of requirements for an area, HUD must consult with organizations serving handicapped persons and may, in its discretion, consult with State and local governments. The interim rule also provides that HUD may prescribe higher percentages for an area upon request therefor by any State or local government or agency thereof based upon a demonstration of need or in response to evidence of such a need received in any other manner, except that in no case (other than group homes or independent living complexes for the handicapped) will more than 15% of the units in any project be required to be accessible to persons with mobility impairments. In determining whether an increase in the minimum requirements is appropriate in any area, HUD is required to take into account the expected needs of eligible non-handicapped persons.

In other cases where alterations are performed to privately owned Federally assisted multifamily projects, alterations are required to be accomplished in a manner consistent with achieving accessibility to the extent feasible, but in no such case are alterations required to be undertaken solely for the purpose of making units accessible. In this context, "feasibility" includes both structural and financial feasibility. As a definition of "structural feasibility", the Department has adopted one facet of the ATBCB's definition of "structural impracticability", viz., having little likelihood of being accomplished without removing or altering a load-bearing structural member (47 FR 33866, to be codified at 36 CFR 1190.3). However, the Department believes that the financial criterion adopted by the ATBCB, viz., an increased cost of 50 percent or more of the value of the element of the building or facility involved, while appropriate in an Architectural Barriers Act context where Federal financial assistance is assured to be a funding source for the alterations, is less appropriate where an alteration may be undertaken without Federal assistance or where cost limitations of a program under which rehabilitation assistance is provided may preclude cost additions of less than 50%. Accordingly, the interim rule provides that financial feasibility shall take into account the degree to which the alterations are funded by Federal financial assistance, the cost limitations (including unit cost limits) of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in a manner either consistent or inconsistent with accessibility whether or not the alteration work is assisted with Federal financial assistance.

In the case of individual dwelling units, alterations are required to the extent feasible, to be accomplished in compliance with accessibility standards if, as a result of such alterations, the unit can be made accessible for persons of identifiable types or degrees of disability or impairment. For example, alterations are not required to be made in accordance with standards for accessibility to persons with mobility impairments if the unit is not located on a route accessible to such persons and alterations are not also being performed to the route. Unit alterations cease to be subject to the foregoing requirement with respect to standards for accessibility to mobility-impaired persons when 15% of the units in a project are accessible to such persons.

As indicated above, while alterations to privately owned residential structures are generally subject to requirements of consistency with achieving accessibility within feasibility limitations, in no case are alterations required to be undertaken by a private owner solely for the purpose of making units accessible. This, however, is not the case in public housing, in which the Department believes that different requirements are appropriate in view of the differentiation made by Congress itself in the Architectural Barriers Act. The Department also considers it appropriate to take into account the fact that, by and large, alterations of public housing projects are funded entirely by funds provided by the Department for a modernization program to be funded under the Comprehensive Improvement Assistance Program. Section 8.24(c) of the interim rule prescribes the extent to which units in public housing projects governed by a modernization project must be made accessible. The Public Housing Authority (PHA) is required to assess, on a PHA-wide basis, the needs of current tenants and applicants on its waiting list for accessible units and the extent to which such need has not been met or cannot reasonably be expected to be met in the proximate future through development, alterations otherwise contemplated by such modernization project or other modernization projects, or other programs administered by the PHA (e.g., Section 8 Moderate Rehabilitation or Section 8 Existing Housing). If the PHA currently has no accessible units or if information regarding availability of accessible units has not been communicated sufficiently so that, as a result, the number of eligible qualified handicapped persons on the PHA's waiting list is not fairly representative of the number of such persons in the area, the PHA's assessment shall be required to include the needs of eligible qualified handicapped persons in the PHA's jurisdiction. If the PHA determines, on the basis of such assessment, that alterations to make additional units accessible must be included in its modernization program in order that the needs of handicapped individuals who are current tenants or applicants on its waiting list may be accommodated proportionately to the needs of non-handicapped individuals in the same categories, then the PHA shall provide in its modernization project for such structurally feasible alterations complying with applicable accessibility standards as may be required to achieve such objective (provided, however, that the PHA shall not be required to make more than five percent of the units covered by any modernization project accessible). If the alterations required to make additional units accessible pursuant to the foregoing would result in the modernization project being determined not to be financially feasible as defined in the modernization program regulation (i.e., the cost of the modernization program (excluding the cost of management improvements) would exceed the prototype cost of a new project), the PHA may request a waiver of the financial feasibility standard to such extent or of the requirement to make additional units accessible. The foregoing requirements are consistent with current administrative requirements of the modernization program.

Section 8.25 of the interim rule applies the "most integrated setting" concept of § 8.4(d), as well as the prohibition of § 8.4(b)(vii) against limiting the enjoyment of opportunities by a qualified handicapped person solely on the basis of handicap, to the housing context. It requires, to the extent feasible and subject to reasonable health and safety requirements, that accessible dwelling units be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified handicapped person's choice of living arrangements is generally comparable to that of other persons eligible for housing assistance under the same program. It adds, however, that provision of an elevator in a multifamily project shall not be required solely for the purpose of permitting location of accessible units above or below the accessible grade level.

Section 8.26, governing occupancy of accessible units, is designed to remedy the shortcomings noted by GAO in the matching of accessible units with qualified handicapped persons needing them. It requires owners and managers having accessible units to adopt suitable means to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons and to take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible qualified handicapped persons whose disability requires the accessibility features of the particular unit. To the extent necessary or appropriate to achieve this objective in the individual circumstances of the project, when an accessible unit becomes vacant, the owner or manager, before offering such unit to the applicant at the head of the waiting list, may offer such unit to (i) current occupants of other units of the same project, or comparable projects under common control, having disabilities or impairments requiring the accessibility features of the vacant unit and occupying units not having such features, or (ii) an eligible qualified applicant on the waiting list having disabilities or impairments requiring the accessibility features of the vacant unit, provided that such preference is not likely to delay unreasonably the availability of a unit for the applicant at the head of the waiting list. When offering an accessible unit to an applicant not having disabilities or impairments requiring the accessibility features of the unit, the owner or manager may require such applicant to agree (and may incorporate such agreement in the lease) to move to a nonaccessible unit when available. If reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, an owner or manager is not required to hold an accessible unit vacant for longer than normal period in order to locate an eligible qualified handicapped person having disabilities or impairments requiring the accessibility features of the vacant unit. The Department believes that holding an accessible unit vacant for a longer than normal period would be unfair to non-handicapped applicants and inconsistent with Section 504's objective of even-handed treatment.

Section 8.27 governs the Section 8 Existing Housing program. The treatment of this program was among the most controversial aspects of the proposed rule. Commentors pointed out that this program is one of the most flexible, and potentially one of the most useful programs for integrating handicapped people into the community. Some 20 commentors directly criticized the outreach requirement of the proposed rule as weak or superfluous because they may not be existing accessible units in a particular community, PHAs will often lack the resources to fulfill this requirement, and under the proposed rule, owners whose sole source of Federal financial assistance was as recipients under the Section 8 Existing Housing Program would have been classified as small providers and not required to provide accessible housing.

The Department believes that, because of the nature of the Section 8 Existing Housing Program, requiring recipients—either handicapped certificate holders or building owners—to make alterations for accessibility would be ineffective and unenforceable, and would substantially reduce private-owner participation in this program. The Department also continues to believe that outreach efforts on the part of

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public housing agencies to locate both qualified handicapped persons and accessible units is the most important component of program accessibility for the Section 8 Existing Housing Program. Accordingly, these provisions have been expanded in the interim rule. The Department also points out that owners participating in the Section 8 Existing Housing Program are "recipients" subject to the nondiscrimination requirements of Subpart A of the interim rule.

Section 8.28 consolidates the requirements in the proposed rule regarding homeownership programs which include Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help programs. The largest number of the comments received on this issue objected to the provision that the cost of making a home accessible may be passed on to the prospective homebuyer. Of particular concern was the likelihood that added costs would have to be paid by the homebuyer up front rather than amortized over the life of the mortgage. This would occur where additional costs put the total cost over allowable mortgage limits. The Department is without statutory authority to absorb additional costs over mortgage limits, except to the extent that an increase (up to 10%) may be granted pursuant to the authority granted under Section 235(p) (added by Section 206(a)(4) of the Housing and Community Development Act of 1980).

Several commentors objected to placing the responsibility on the handicapped person to work with the developer to determine which modification he or she would require. The Department believes that an individual homebuyer should have the opportunity to have his or her individual dwelling constructed as he or she wishes. Accessibility standards of § 8.30 will apply only to those accessibility features selected by the homebuyer.

Section 8.29 provides that if historic facilities become subject to alterations to which Part 8 applies and the provision of accessibility would substantially impair the historical or architectural integrity of the property, comments of the Advisory Council on Historic Preservation shall be obtained when required by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and 36 CFR Part 800 prior to commencement of alterations. Accessibility to the historic facility subject to alterations need not be provided if such accessibility would substantially impair the historic features of the property or result in undue financial or administrative burden. A substantial impairment of the historical or architectural integrity of an historic facility constitutes a fundamental alteration in the program and is not required in light of the *Davis* opinion.

Section 8.30 prescribes the standards for facility accessibility or dwelling unit accessibility which are to be complied with when applicable. It provides that standards for accessibility for housing facilities or units to which HUD's Minimum Property Standards are applicable shall be those set forth in the American National Standards Institute ANSI A117.1–1980, Specifications for Buildings and Facilities Accessible to and Usable by Physically Handicapped Persons, subject to any conflict with a specific provision of the Minimum Property Standards, in which case the latter will govern. Standards for non-housing accessibility and for housing to which the Minimum Property Standards are not applicable will be the ANSI standard. Upon issuance of Uniform Federal Accessibility Standards by the standard-setting agencies under the Architectural Barriers Act, the Department will consider the extent to which those standards should be adopted for Section 504 compliance purposes.

Paragraph (b) of § 8.30 provides that the requirements of Subpart C relating to new construction shall be applicable to projects for which proposals or applications are submitted after the effective date of the regulations. Requirements relating to alterations are applicable to alterations for which proposals or applications are submitted after the effective date of the rule or, in the case of alterations which are not performed with Federal financial assistance, for which contracts are entered after such effective date. The Department notes that new construction or alterations to which Subpart C may not be applicable under this provision may still be subject to existing program requirements regarding accessibility.

Subpart D—Enforcement

The DOJ Implementation Regulation (and the predecessor HEW Implementation Guideline) requires each agency to establish an enforcement system for Section 504 and its implementing regulation which includes: (1) The enforcement and hearing procedures adopted for the enforcement of Title VI of the Civil Rights Act of 1964; (2) a requirement that recipients sign assurances of compliance with Section 504; and (3) a requirement that recipients (a) notify employees and beneficiaries of their rights under Section 504, (b) conduct self-evaluations of their compliance with Section 504 with the assistance of interested persons including handicapped persons and organizations representing handicapped persons, and (c) otherwise consult with these same individuals and organizations in achieving compliance with Section 504. In its proposed rule, HUD incorporated the sections pertinent to each of these requirements from HEW's Section 504 regulation covering HEW programs. In addition, recipients other than small providers were required to consult with interested persons including handicapped persons and organizations on at least an annual basis to assess compliance with the requirements of this part. Owners whose sole source of Federal financial assistance was as recipients under the Section 8 Existing Housing Program were exempted from the requirements for self-evaluation, consultation and notice.

The requirement of contractual assurances is important and indispensable as a means of assuring adequate compliance with the obligations imposed by Section 504 and by Part 8. The administrative enforcement scheme provided by Section 505 of the Rehabilitation Act, incorporating the enforcement scheme under Title VI, contemplates only termination of, or refusal to grant or to continue, assistance. This method of enforcement may be undesirable or inadequate in two frequent general contexts: when the burden of the funding termination will fall most heavily upon innocent program beneficiaries, or when the form of Federal financial asistance is an already-completed transfer or sale of real property or a one-time grant, leaving no continuing assistance to which the sanction can be applied.

Consequently, it has long been recognized that an important "other means authorized by law" (Section 602, Civil Rights Act of 1964 (42 U.S.C. 2000d–1)) for enforcement of civil rights obligations is a Government suit to enforce contractual assurances. See e.g., *U.S.* v. *Marion County School District*, 625 F. 2d 607 (5th Cir. 1980). The requirement for such assurances in any application for assistance and in grant agreements, cooperative agreements, and other contracts pursuant to which Federal financial assistance is extended by HUD is contained in § 8.50 of the interim rule.

Section 8.32 of the proposed rule would have imposed upon all recipients, other than owners receiving Section 8 Existing Housing assistance, certain requirements relating to evaluation by recipients of their compliance with Part 8. The details of the self-evaluation requirements were adopted from the HEW Section 504 regulation relating to HEW programs (now 45 CFR Part 84), which in turn adopted the concept from HEW's regulations implementing Title IX. The self-evaluation requirement does not have a precedent in Title VI regulation. In 45 CFR Part 84 and in Title IX regulations (see 45 CFR 86.3), the requirement is an integral part of provisions requiring remedial actions to overcome the effects of past discrimination or encouraging affirmative action in the absence of a finding of discrimination. As indicated elsewhere in this preamble, Section 504 has been held to be less susceptible to "affirmative action" requirements than may be appropriate under Title VI or Title IX. The Department also believes that the self-evaluation mechanism, while appropriate and feasible for institutional recipients of assistance of the type characteristic of HHS and other educational programs, is less so in the case of recipients under HUD programs who are principally private owners of real estate. Accordingly, the Department believes that the self-evaluation requirement is not necessary for effective enforcement of Section 504 obligations under HUD-assisted programs and has therefore deleted this requirement from the interim rule.

Section 8.51 requires that recipients notify participants, applicants, beneficiaries and employees, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in its programs or activities subject to Part 8.

For the remainder of its enforcement provisions, the proposed rule simply incorporated by reference the provisions of the Department's Title VI regulations at 24 CFR 1.6–1.12 and Part 2. In this interim rule, in order that attention may more easily be focused on such provisions in the context of Section 504 enforcement, the provisions are fully set out in §§ 8.52–8.56 of Subpart D and in Subpart E. The provisions are identical to the Title VI regulation with the following exceptions. Section 8.53(a) provides that the responsible Department official or designee shall from time to time review the practices of recipients to determine whether they are complying with this Part. This provision refers to the Department official to whom general responsibility for Section 504 enforcement is delegated. A provision has been added to the effect that, in addition, program administrators shall include in normal program compliance reviews and monitoring procedures appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of Section 504 and Part 8.

Similar recognition of the fact that Section 504 objectives may be incorporated into program regulations appears in § 8.54(d). Paragraph (d) prescribes certain prerequisites to actions to effect compliance "by any other means authorized by law." This, too, refers to action by the Department official to whom general enforcement responsibility under Section 504 is delegated. The additional provision provides that this provision shall not be construed to prevent a program administrator from utilizing such procedures and sanctions established under such program as may be appropriate to assure or secure compliance with a specific requirement of such program designed to effectuate the objectives of Section 504 or Part 8.

In addition, a requirement of notice to the Governor of a State or chief executive officer of a unit of general local government following a determination of noncompliance in any program or activity funded in whole or in part with community development block grant assistance under Title I of the Housing and Community Development Act of 1974 has been added at § 8.54(d). This requirement is based on Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309).

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The regulation allows recipients to adopt the least costly means of achieving compliance where existing facilities are inaccessible. In addition, employers are required to make accommodations for qualified handicapped persons only if those accommodations do not cause an undue economic hardship.

This rule was listed as item H–70–78 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422, 48427) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 8

Administrative practice and procedure, Housing, Loan programs—housing and community development, Grant programs—housing and community development, Handicapped, Civil rights, Reporting and recordkeeping requirements, Equal employment opportunity.

Accordingly, 24 CFR Subtitle A is hereby amended by adding a new Part 8 thereto, reading as follows:

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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8.2 Applicability.
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Subpart B—Employment

8.10 General prohibitions against employment discrimination.
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Subpart C—Program Accessibility

8.20 General requirements concerning program accessibility.
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8.28 Homeownership programs (Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help Programs).
8.29 Historic facilities.
8.30 Standards; effective date of requirements.

Subpart D—Enforcement

8.50 Assurances required.
8.51 Notice.
8.52 Compliance information.
8.53 Conduct of investigations.
8.54 Procedure for effecting compliance.
8.55 Hearings.
8.56 Decisions and notices.

Subpart E—Practice and Procedure for Hearings

8.60 General information.
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8.82 Definitions.
Appendix A—Federal financial assistance of the Department of Housing and Urban Development to which this part applies.
Appendix B—Statutory definitions of handicapped persons.

Authority: Sec. 7, 504, 506, Rehabilitation Act of 1973 as amended (29 U.S.C. 706, 794, 794a); Sec. 109 Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309); and Sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 8.1 Purpose.

(a) The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that no otherwise qualified handicapped person in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, so be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. This Part does not effectuate Section 504 as it applies to any program or activity conducted by the Department. Compliance with the requirements of this part does not assure compliance with requirements for accessibility by the physically-handicapped imposed pursuant to the Architectural Barriers Act of 1968, as amended, (42 U.S.C. 4151 et seq.), where applicable.

(b) The policies and standards for compliance established by this part are established in contemplation of, and with a view to enforcement through, the Department's administration of programs or activities receiving Federal financial assistance and the administrative procedures described in Subparts D and E of this Part (including, without limitation, judicial enforcement pursuant to § 8.53(a) of this Part).

§ 8.2 Applicability.

This part applies to each program or activity that receives Federal financial assistance from HUD, including any program or activity assisted under the statutes listed in Appendix A of this part. The fact that certain financial assistance is not listed in Appendix A shall not mean that such financial assistance is not covered if Section 504 of the Act is otherwise applicable. Other statutes now in effect or hereafter enacted under which Federal financial assistance is extended by the Department may be added to Appendix A, or other changes therein may be made, by notice published in the **Federal Register**.

§ 8.3 Definitions.

As used in this part, the following terms have the following meanings:

"Accessible", when used with respect to a program or activity, means that such program or activity is conducted, delivered, or offered in such a way that qualified handicapped persons can benefit from and participate in the program or activity.

"Accessible", when used with respect to a facility or portion thereof other than an individual dwelling unit, means that such facility or portion thereof complies with the specifications and requirements of the applicable standards prescribed by § 8.30 of this Part and can be approached, entered, and used by phusically handicapped persons. The phrase "accessible to and usable by" is used throughout this part as a synonym for accessible.

"Accessible", when used with respect to an individual dwelling unit, means that such unit is located on an accessible route and is constructed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 of this Part, or is adaptable to meet such standards, so that such unit, as constructed or adapted, can be approached, entered, and used by a physically handicapped person who is disabled or has a hearing or vision impairment. "Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility which complies with the space and reach requirements of applicable standards prescribed by § 8.30 of this Part; provided, however, that an accessible route which serves only accessible units for persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments. When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified handicapped person (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), such unit will be deemed accessible if it meets the requirements of applicable standards which address the particular disability or impairment of such person.

"Adaptable" means that certain elements of a dwelling unit, such as kitchen counters and sinks, are constructed so as to be able to be added to, raised, lowered, or otherwise altered, or walls are of sufficient strength to receive grab bars, so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability. For example, in a unit adaptable for a vision-impaired person the wiring for audible emergency alarms may be installed but the alarms themselves need not be installed until such time as the unit is made ready for occupancy by a vision-impaired person.

"Alteration" means any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems.

"Applicant for assistance" means an individual or public or private entity which submits an application, request, plan, or statement required to be approved by or to be satisfactory to, a Department official or (in the case of a subgrantee) by a prospective recipient as a condition to becoming eligible for Federal financial assistance.

"Department" or "HUD" means the Department of Housing and Urban Development.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

"Federal financial assistance" includes: (1) Grants, loans, and advances of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale or lease of, or the permission to use (as other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced (i) for the purpose of assisting the recipient, or (ii) in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance or subsidy. In the case of Federal financial assistance described in clauses (2) and (4), the program or activity which receives Federal financial assistance shall be deemed to continue so long as the property is used for the purpose for which the Federal financial assistance is extended. The term "Federal financial assistance" does not include a procurement contract or payments pursuant thereto or a contract of insurance or guaranty.

Handicap" means any condition or characteristic that renders a person as defined herein.

"Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" means: (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means: (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (1) of this definition but is treated by a recipient as having such an impairment.

"Multifamily project" means a project containing more than two dwelling units.

"Project" means the whole of one or more residential structures and appurtenant structures, equipment, roads, walls, and parking lots which are covered by a single contract for Federal financial assistance or application therefor, or are treated as such a whole for processing purposes, whether or not located on a common site.

"Qualified handicapped persons" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; and

(2) With respect to a program or activity other than employment, a handicapped person who meets the essential eligibility requirements for participation in such program or activity or for receipt of benefits therefrom except that the term does not include any individual whose current use of alcohol or drugs would constitute a direct threat to the property or safety of others. "Essential eligibility requirements" include stated eligibility requirements such as income or citizenship or alien status as well as implicit requirements inherent in the nature of the program or activity, such as that an occupant of multifamily housing be capable of independent living (except to the extent that necessary support services are contemplated to be provided in connection with the program or activity or will otherwise be available to such occupant) and of complying with all obligations of occupancy, including the obligation to conduct himself or herself in a manner which will not disturb his or her neighbors' peaceful enjoyment of their accommodation and will be conducive to maintaining the housing facility in a decent, safe and sanitary condition. For example, a chronically mentally ill person whose condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his own health or safety in the absence of necessary supportive services may be "qualified" for occupancy in a project where such supportive services are provided but may not be "qualified" for a project lacking such services.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

"Responsible Department official" means the Secretary or, to the extent of any delegation of authority by the Secretary to act under this part, any other Department official to whom authority has been delegated.

"Secretary" means the Secretary of Housing and Urban Development.

"Section 504" means Section 504 of the Rehabilitation Act of 1973, as amended (28 U.S.C. 794).

§ 8.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department.

(b) *Specific Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service in a program or activity that receives Federal financial assistance from the Department may not, directly or through contractual, licensing, or other arrangements, solely on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or

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service that is not equivalent to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons from that provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services to be equally effective are not required to produce the identical result or level of achievement for handicapped and non-handicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.

(3) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different despite the existence of separate or different programs or activities designed specifically for the handicapped.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) that subject qualified handicapped persons to discrimination on the basis of handicap;

(ii) that defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections:

(i) that exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity that receives Federal financial assistance, or

(ii) that defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) Exceptions to this requirement may be approved by the responsible Department official if an applicant for assistance or a recipient can demonstrate that:

(i) there are no sites available in the community that are accessible or that can be made accessible to handicapped persons at a cost that will not render the facility financially infeasible; and

(ii) the alternative to compliance with this requirement would be nonparticipation in the program or activity receiving Federal financial assistance.

(c) Programs limited by Federal law:

(1) The exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons, or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons, is not prohibited by this part.

(2) Certain of the Department's programs operate under statutory definitions of "handicapped persons" which are more restrictive than § 8.3 (see Appendix B), and such definitions are not superseded or otherwise affected by this regulation.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

Subpart B—Employment

§ 8.10 General prohibitions against employment discrimination.

(a) No qualified handicapped person shall, solely on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives Federal financial assistance from the Department.

(b) A recipient may no limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, injury or illness, and rehiring.

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 8.11 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons and (2) Job restructuring, job relocation, part-time or modified work schedules, acquisitions or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining, pursuant to paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 8.12 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test or other selection criterion is shown to be job-related for the position in question; and (2) Alternative job-related tests or criteria that do not tend to screen out as many handicapped persons have not been shown by the responsible HUD official to be available.

(b) A recipient shall select and administer tests concerning employment to ensure that when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 8.13 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not make preemployment inquiry or conduct a preemployment medical examination of an applicant to determine whether the applicant is a handicapped person or the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is undertaking affirmative action efforts, voluntary or otherwise, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped; *Provided*, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of medical examination conducted prior to the employee's entrance on duty. *Provided*, that: (1) All entering employees in that category of job classification must take such an examination regardless of whether or not they are handicapped; and (2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§ 8.14 Exception States.

Until such time as this section may be further amended, the provisions of this Subpart B shall be enforced in the States comprising the Second Circuit (Connecticut, New York, and Vermont), Fourth Circuit (Maryland, North Carolina, South Carolina, Virginia, and West Virginia), and Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota), and Ninth Circuit (Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, and Hawaii) only with respect to programs or activities in which the provision of employment is a primary objective.

Subpart C—Program Accessibility

§ 8.20 General requirement concerning program accessibility.

Each program or activity that receives Federal financial assistance from the Department shall be operated so that the program or activity, when viewed in this entirety, is readily accessible to and usable by qualified handicapped persons.

§ 8.21 Non-housing facilities.

(a) No qualified handicapped person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department because a recipient's facilities within which such program or activity is conducted, or where application for participation therein is made or the benefits distributable pursuant to such program or activity are distributed, are inaccessible to or unusable by handicapped persons.

(b) This section does not require that each of a recipient's facilities described in paragraph (a) of this section be accessible, or that every part of such facilities be accessible, so long as sufficient such facilities or parts thereof are accessible to make participation in such program and the benefits thereof readily available to qualified handicapped persons.

(c) This section does not require that the facilities described in paragraph (a) of this section maintained by every recipient must meet the requirements of paragraph (b) of this section if there are facilities of other recipients in the area pertinent to the same program or activity which meet the requirements of paragraph (b) of this section to a degree sufficient to make the program or activity, when viewed in its entirety, available for participation by qualified handicapped persons, and if compliance by the recipient through the means enumerated in paragraph (d) of this section would result in a fundamental alteration in the nature of its program or activity or in undue financial or administrative burden. In such event, however, a recipient whose facilities are inaccessible shall take reasonable steps to direct qualified handicapped persons to facilities of other recipients which are accessible and where participation in the program or activity by the qualified handicapped person may be achieved.

(d) A recipient may comply with the requirements of this section through such means as: (1) location of programs or services to accessible facilities or

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accessible portions of facilities; (2) the addition or redesign of equipment (e.g., appliances or furnishings); (3) changes in management policies or procedures (e.g., establishing preferences for qualified handicapped persons on waiting lists for the program or activity at accessible facilities); (4) acquisition or construction of additional facilities, or alterations to existing facilities on a selective basis; or (5) any other methods that result in making its program or activity accessible to handicapped persons.

(e) Construction or alterations of facilities described in paragraph (a) of this section to which standards issued pursuant to the Architectural Barriers Act are applicable shall be performed in accordance with such standards.

(f) Facilities described in paragraph (a) of this section to which paragraph (e) of this section is not applicable shall be constructed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30.

(g) Alterations of existing facilities described in paragraph (a) of this section to which paragraph (e) of this section is not applicable shall be performed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 to the extent set forth herein. Alterations to which paragraph (e) of this section is not applicable performed to portions (including common areas) of existing facilities described in paragraph (a) of this section that affect participation by qualified handicapped persons in a program or activity conducted therein shall, to the extent feasible, be accomplished in a manner consistent with the standards prescribed in § 8.30.

(h) For the purposes of paragraph (g) of this section and §§ 8.23 and 8.24(c), "feasibility" shall include structural and financial feasibility. An alteration may be considered not structurally feasible when it has little likelihood of being accomplished without removing or altering a load-bearing structural member. Financial feasibility shall take into account the degree to which the alteration work is to be assisted with Federal financial assistance, the cost limitations (including unit cost limits) of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in manners consistent and inconsistent with accessibility whether or not the alteration work is assisted with Federal financial assistance.

§ 8.22 Housing facilities—new construction.

(a) New construction of a multifamily project (including a public housing project as required by § 8.24) assisted by Federal financial assistance or covered by a contract for Federal financial assistance from the Department (including, in the case of a Section 8 project, an Agreement to Enter into a Housing Assistance Payments Contract) shall be performed in compliance with the specifications and requirements of the applicable standards prescribed in § 8.30. Subject to paragraphs (b) and (c) of this section, a minimum of five percent of the total dwelling units in a project containing not less than 15 dwelling units (but not less than one unit in any such project) shall be accessible for persons with mobility impairments and an additional two percent (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairment.

(b) Notwithstanding the provisions of paragraph (a) of this section, a sponsor or developer of a multifamily project otherwise subject to the requirements of paragraph (a) of this section may request a waiver of such requirements upon demonstrating to the reasonable satisfaction of HUD that provision of accessible units in such project to the extent otherwise required by paragraph (a) of this section would exceed the need for such units in the housing market area. Such demonstration shall be based on census data or other available current data (including a currently effective Housing Assistance Plan). In addition, HUD may prescribe lower percentages than those prescribed in paragraph (a) of this section for any housing market area based upon its determination that a sufficient number of accessible units are available in such area for the expected needs in such area. Such determination by HUD may be based upon evidence that accessible units in the area are being occupied by persons not having the disabilities or impairments requiring the accessibility features of the units, provided that HUD further determines that reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons in the area. In reviewing a request by a sponsor or developer or in considering a reduction of requirements for an area, HUD shall consult with organizations serving handicapped persons and may, in its discretion, consult with State and local governments.

(c) HUD may prescribe higher percentages than those prescribed in paragraph (a) of this section for any area upon request therefor by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need therefor, based on census data or other available current data (including a currently effective Housing Assistance Plan), or in response to evidence of such a need received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible non-handicapped persons as well as the needs of qualified handicapped persons. Except for group homes or independent living complexes for handicapped persons, in no event shall more than 15 percent of the units in any project be required to be accessible to persons with mobility impairments.

§ 8.23 Housing facilities—alterations.

(a) Alterations of existing multifamily housing (other than public housing) assisted by Federal financial assistance or covered by a contract for Federal financial assistance from the Department (including an Agreement to Enter into Housing Assistance Payments Contract) shall be performed in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30 to the extent provided herein. If the facility contains 25 or more units and if the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, the provisions of § 8.22 shall apply. If the preceding sentence does not apply, there shall be no minimum number of units required to be made accessible. Alterations performed to common areas of facilities or parts of facilities that affect accessiblity of the facility shall, to the extent feasible, be accomplished in compliance with the specifications and requirements of the applicable standards prescribed by § 8.30. Alterations to dwelling units shall, to the extent feasible, be accomplished in compliance with specifications and requirements of applicable standards prescribed by § 8.30 if, as a result of such alterations, the unit can be made accessible for persons of identifiable types or degrees of disability or impairment. However, alterations to units shall not be subject to the foregoing requirement with respect to standards for accessibility to persons with mobility impairments from and after such time as 15% of the units in a project are accessible to such persons.

(b) This section does not apply to an individual who borrows or receives

funds to rehabilitate a dwelling unit in which he or she resides or intends to reside.

§ 8.24 Public housing.

(a) Construction of any public housing project, whether or not constituting a "residential structure" as defined in 24 CFR 40.2, shall be performed in compliance with the standards applicable to residential structures pursuant to 24 CFR 40.4 and, in addition, shall be subject to the requirements of § 8.22 regarding accessible units.

(b) Alteration of any public housing project, whether or not constituting a "residential structure" as defined in 24 CFR 40.2, performed as part of a modernization program pursuant to 24 CFR Part 868 and which involves structural parts or building elements to which the standards made applicable pursuant to 24 CFR 40.4 are applicable shall be performed in accordance with such standards.

(c) Dwelling units in public housing projects covered by a modernization project pursuant to 24 CFR Part 868 shall be made accessible to the extent required by this paragraph. The PHA shall assess, on a PHA-wide basis, the needs of current tenants and applicants on its waiting list for accessible units and the extent to which such needs have not been met or cannot reasonably be expected to be met in the proximate future through development, alterations otherwise contemplated by such modernization project or other modernization projects, or other programs administered by the PHA (e.g., Section 8 Moderate Rehabilitation or Section 8 Existing Housing). (If the PHA currently has no accessible units or information regarding availability of accessible units has not been communicated sufficiently so that, as a result, the number of eligible qualified handicapped persons on the PHA's waiting list is not fairly representative of the number of such persons in the area, the PHA's assessment shall be required to include the needs of eligible qualified handicapped persons in the PHA's jurisdiction.) If the PHA determines, on the basis of such assessment, that alterations to make additional units accessible must be included in its modernization program in order that the needs of eligible qualified handicapped individuals who are current tenants or applicants on its waiting list may be accommodated proportionally to the needs of non-handicapped individuals in the same categories, then the PHA shall provide in its modernization project for such structurally feasible alterations complying with the specifications and requirements of applicable standards prescribed by § 8.30 as may be required to achieve such objective (provided, however, that the PHA shall not be required to make more than five percent of the units covered by any modernization project accessible). If alterations required to make additional units accessible pursuant to the foregoing would result in the modernization project being determined not to be financially feasible (as defined in 24 CFR 868.3), the PHA may request a waiver of the financial feasibility standard to such extent or of the requirement to make additional units accessible otherwise made applicable by this section.

§ 8.25 Distribution of accessible dwelling units.

Accessible dwelling units required by §§ 8.22, 8.23(a), or 8.24 (a) or (c) shall, to the extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a sufficient range of sizes and amenities so that a qualified handicapped person's choice of living arrangements is generally comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily project solely for the purpose of permitting location of accessible units above or below the accessible grade level.

§ 8.26 Occupancy of accessible dwelling units.

Owners and managers of multifamily project having accessible units shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible qualified handicapped persons whose disability requires the accessibility features of the particular unit. To the extent necessary or appropriate to achieve the foregoing objective in the individual circumstances of the project, when an accessible unit becomes vacant, the owner or manager, before offering such unit to the applicant at the head of the waiting list, may offer such unit to (a) current occupants of other units of the same project, or comparable projects under common control, having disabilities or impairments requiring the accessibility features of the vacant unit and occupying units not having such features or (b) an eligible qualified applicant on the waiting list having disabilities or impairments requiring the accessibility features of the vacant unit, provided that such preference is not likely to delay unreasonably the availability of a unit for the applicant at the head of the waiting list. When offering such unit to an applicant not having disabilities or impairments requiring the accessibility features of the unit, the owner or manager may require such applicant to agree (and may incorporate such agreement in the lease) to move to a nonaccessible unit when available. If reasonable efforts have been made to assure that information regarding the availability of accessible units reaches eligible qualified handicapped persons, an owner or manager shall not be required to hold an accessible unit vacant for a longer than normal period in order to locate an eligible qualified handicapped person having disabilities or impairments requiring the accessibility features of the vacant unit.

§ 8.27 Section 8 Existing Housing.

A PHA conducting a Section 8 Existing Housing program under 24 CFR Part 882 shall:

(a) In providing notice of the availability and nature of housing assistance for lower-income families pursuant to 24 CFR 882.207, adopt suitable means to assure that such notice reaches eligible qualified handicapped persons;

(b) In its activities to encourage participation by owners and others pursuant to § 882.208, include encouragement of participation by owners and having accessible units;

(c) Include a current listing of known available accessible units in the Certificate Holder's Packet distributed to qualified handicapped Certificate holders;

(d) Take into account the special problem of ability to locate an accessible unit when considering requests by qualified handicapped persons for extensions of Certificates pursuant to 24 CFR 882.209(d);

(e) If necessary in order that the needs of eligible qualified handicapped individuals on its waiting list may be met proportionally to the needs of eligible nonhandicapped individuals, request increases in contract rents for accessible units pursuant to 24 CFR 882.106.

§ 8.28 Homeownership programs (Sections 235 and 235(j), Turnkey III and Indian Mutual Self-Help Programs).

Any housing units newly constructed or rehabilitated for purchase by a prospective eligible qualified handicapped owner-occupant shall be

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made accessible upon request of the prospective buyer if the nature of the handicap so requires. In such case, the buyer shall consult with the seller or builder/sponsor regarding the specific design features to be provided. When accessibility features selected at the option of the homebuyer features shall comply with the relevant standards. The buyer shall be permitted to depart from particular specifications of these standards in order to accommodate his/her specific handicap. The cost of making a facility accessible pursuant to this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (see 24 CFR 235.320.)

§ 8.29 Historic facilities.

If historic facilities (listed, or eligible to be listed, in the National Register of Historic Places, or facilities similarly listed pursuant to a State, county, or local statute) become subject to alterations to which this Part applies and the provisions of accessibility would substantially impair the historical or architectural integrity of the property, comments of the Advisory Council on Historic Preservation shall be obtained when required by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and 36 CFR Part 800 prior to commencement of alterations. Accessibility to the historic facility subject to alterations need not be provided if such accessibility would substantially impair the historic features of the property or result in undue financial or administrative burden.

§ 8.30 Standards; effective date of requirements.

(a) Standards for accessibility for housing facilities or units to which HUD's Minimum Property Standards are applicable shall be those set forth in the American National Standards Institute ANSI A117.1–1980, Specifications for Buildings and Facilities Accessible to and Usable by Physically Handicapped Persons, published by the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10008 (hereinafter "ANSI Standard"), except that in any case of conflict with a specific standard set forth or incorporated in the applicable Minimum Property Standards, the latter shall govern as long as ready access is provided. Standards for non-housing accessibility and for housing to which the Minimum Property Standards are not applicable shall be the ANSI Standard.

(b) The requirement of this Subpart C relating to new construction shall be applicable to projects for which proposals or applications are submitted after [effective date of this Part]. The requirements of this Subpart C relating to alterations shall be applicable to all alterations for which proposals or applications are submitted after August 4, 1983 or, in the case of alterations not performed with Federal financial assistance, for which contracts are entered after August 4, 1983. For purposes of this paragraph, in the context of Community Development Block Grant programs not requiring applications, the final statement required to be submitted to the Department by the grantee shall be deemed an "application."

Subpart D—Enforcement

§ 8.50 Assurances required.

(a) *General.* Every application for Federal financial assistance from the Department submitted on or after August 4, 1983 under any program or activity which requires approval of applications on a project or similar basis shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to such application, contain or be accompanied by the assurance by the applicant that no qualified handicapped person shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under such program or activity, and such program or activity shall be operated and administered in compliance with all requirements imposed by or pursuant to this Part. Every grant agreement, cooperative agreement, or other contract pursuant to which Federal financial assistance from the Department is extended which is entered into or amended on or after August 4, 1983 shall contain an assurance by the grantee or other contracting party that no qualified handicapped person shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under the program of activity receiving Federal financial assistance, and such program of activity shall be operated and administered in compliance with all requirements imposed by or pursuant to this Part. The responsible Department official shall specify the form of the foregoing assurance for any covered program activity and the extent to which similar assurances (and the form thereof) shall be required of subrecipients, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the Department a right to seek its judicial enforcement.

(b) *Duration of obligation.* In the case of an application, agreement or contract for Federal financial assistance in the form of a transfer of real property or an interest therein, or a sale or lease of real property or interest therein without consideration or at a nominal consideration, or at a consideration which is reduced (1) for the purpose of assisting the recipient or (2) in recognition of the public interest to be served by such sale or lease to the recipient, the assurance made pursuant to paragraph (a) of this section shall obligate the applicant, and the agreement or contract pursuant to which such Federal financial assistance is provided shall contain a similar assurance which shall obligate the recipient (including any successor, assignee, or transferee of the recipient), for the period during which the real property is used for the purpose for which Federal financial assistance is extended. In cases where the Federal financial assistance is provided on a continuing basis, the assurance shall obligate the applicant or recipient for the period during which Federal financial assistance is provided. In cases where the Federal financial assistance is provided on an advance or one-time basis, the assurance shall obligate the applicant or recipient for such period during which the program or activity benefits from receipt of such assistance as determined by the responsible Department official.

§ 8.51 Notice.

Recipients shall take appropriate initial and continuing steps to notify participants, applicants, beneficiaries, and employees, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in its programs or activities subject to this Part.

§ 8.52 Compliance information.

(a) *Cooperation and assistance.* The responsible Department official and each Department official who by law or delegation has the principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Part and shall provide assistance and guidance to recipients to help them comply voluntarily with this Part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his/her designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him/her to ascertain whether the recipient has complied or is complying with this Part. In general, recipients should have available for the Department data showing the extent to which handicapped persons are beneficiaries of federally assisted programs.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his/her designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this Part. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or persons shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Part and its applicability to the program or activity under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by Section 504 and this Part.

§ 8.53 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or designee shall from time to time review the practices of recipients to detemine whether they are complying with this Part. In addition, each Department official who by law or delegation has principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part shall include in normal program compliance reviews and monitoring procedures appropriate actions to review and monitor compliance with general or specific program requirements designed to effectuate the requirements of Section 504 and this Part.

(b) *Complaints.* Any person who believes himself/herself or any specific class of persons to be subjected to discrimination prohibited by this Part may either personally or by a representative, file with the responsible Department official or designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible department official or designee.

(c) *Investigations.* The responsible Department official or designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this Part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this Part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this Part, the responsible Department official or designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 8.53(c).

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Section 504 or this Part, or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 8.54 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this Part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this Part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to:

(1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking, and

(2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 8.50.* If an applicant or a recipient of assistance under a contract which is extended or amended on or after August 4, 1983 fails or refuses to furnish an assurance required under § 8.50 or otherwise fails or refuses to comply with the requirements imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceeding under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to an express finding, on the record, of noncompliance with this Part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:

(1) the responsible Department official has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Part;

(3) the action has been approved by the Secretary; and

(4) the expiration of 30 days after the Secretary has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report

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of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Notice to State or local government.* Whenever the Secretary determines that a State or unit of general local government which is a recipient of Federal financial assistance under Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.) has failed to comply with a requirement of Section 504 or this Part with respect to a program or activity funded in whole or in part with such assistance, he shall notify the Governor of such State or the chief executive officer of such unit of general local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. Such notice shall be given not less than 60 days prior to (1) an order suspending, terminating, or refusing to grant or continue Federal financial assistance becoming effective pursuant to paragraph (c) of this section, or (2) any action to effect compliance by any other means authorized by law taken pursuant to paragraph (c) of this section.

(e) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until:

(1) the responsible Department official has determined that compliance cannot be secured by voluntary means;

(2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and

(3) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient to comply with this Part and to take such corrective action as may be appropriate.

However, this paragraph shall not be construed to prevent a Department official who by law or delegation has principal responsibility within the Department for the administration of any program of Federal financial assistance subject to this Part from utilizing such procedures and sanctions established under such program as may be appropriate to assure or secure compliance with a specific requirement of such program designed to effectuate the objectives of Section 504 or this Part.

§ 8.55 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 8.54(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing, or

(2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under §8.54(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he/she determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his/her discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 and in accordance with subpart E of this Part relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevent evidence of the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the onset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may include irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department and the applicant or recipient, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this Part with respect to two or more programs or activities to which this Part applies, or noncompliance with this Part and the regulations of one or more other Federal departments or agencies issued under Section 504, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this Part. Final decisions in such cases insofar as this Part is concerned, shall be made in accordance with § 8.56.

§ 8.56 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his/her recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient requested. Where the initial decision is made by the hearing examiner, the applicant or recipient may, within the period provided for in Subpart E of this Part, file with the responsible Department official exceptions to the initial decision, with reasons thereof. In the absence of exceptions, the responsible Department official may on his/her own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review and responsible Department official shall review the initial decision and issue his/her own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official, in which event a copy shall also be sent to the complainant.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he/she reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 8.55(a)(2), the decision of a hearing examiner or responsible Department official shall be based on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(d) *Rulings required.* Each decision of a hearing examiner or responsible Department official shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program or activity involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of Section 504 and this Part, including provisions designed to assure that no Federal financial assistance will thereafter be extended for such program or activity to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this Part, or to have otherwise failed to comply with this Part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this Part.

(f) *Posttermination proceedings.* (1) Any applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this Part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with the Practice and Procedure for Hearings Issued by the Department (Subpart E). The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

(g) *Forms and instruction.* The responsible Department official shall assure that forms and detailed instructions and procedures for effectuating this Part are issued and promptly made available to interested persons.

(h) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of Section 504 and this Part (other than responsibility for final decision as provided in § 8.56), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Section 504 and this Part to similar programs or activities and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action has been taken by the responsible official of this Department.

Subpart E—Practice and Procedure for Hearings

§ 8.60 General information.

(a) *Scope of rules.* The rules of procedure in this Subpart supplement Subpart D of this Part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Housing and Urban Development, including each of its organizational units, pursuant to Section 504 of the Rehabilitation Act of 1973 (as amended) and this Part.

(b) *Records to be public.* All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights docket clerk during regular business hours. Inquiries may be addressed to the Civil Rights docket clerk, Department of Housing and Urban Development, Washington, D.C. 20410.

(c) *Use of number.* As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa.

(d) *Suspension of rules.* The responsible Department official with respect to pending matters may modify or waive any rule in this Subpart E upon his/her determination that no party will be unduly prejudiced and the ends of justice will thereby be served, and upon notice to all parties.

§ 8.61 Appearance and practice.

(a) *Appearance.* A party may appear in person or by counsel and participate fully in any proceeding. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf. Counsel must be members in

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good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

(b) *Authority for representation.* Any individual acting in a representative capacity in any proceeding may be required to show his/her authority to act in such capacity.

(c) *Exclusion from hearing for misconduct.* Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 8.62 Parties.

(a) *Parties: General Counsel a party.* (1) The term party shall include an applicant or recipient or other person with respect to whom a notice of hearing or opportunity for hearing has been served naming him/her as respondent. (2) The General Counsel of the Department of Housing and Urban Development shall be deemed a party to all proceedings.

(b) *Amici curiae.* (1) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference or, if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he/she finds that the petitioner has a legitimate interest in the proceedings, and that such participation will not unduly delay the outcome and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing. (2) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. Such brief shall be filed and served on each party within the time limits applicable to the party whose position he/she deems himself/herself to support; or if he/she does not deem himself/herself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings. (3) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his/her discretion, may grant any such request if he/she believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

(c) *Complainants not parties.* A person submitting a complaint pursuant to § 8.53 of this Part is not a party to the proceedings governed by this party, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

§ 8.63 Form, execution, service and filing of documents.

(a) *Form of documents to be filed.* Documents to be filed under the rules of this Subpart E shall be dated, the original signed in ink, shall show the docket description and title of the proceeding and the title, if any, and address of the signatory. Copies need not be signed, but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

(b) *Signature of documents.* The signature of a party, authorized officer, employee or attorney constitutes a certificate that he/she has read the document, that to the best of his/her knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

(c) *Filing and service.* All notices by the responsible Department official or the presiding officer, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to the responsible Department official or the presiding officer from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights docket clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 8:45 a.m. to 5:15 p.m., e.s.t. or d.s.t., whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 8.69(f).

(d) *Service—how made.* Service shall be made by personal delivery of one copy of each person to be served or by registered or certified mail, return receipt requested, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed.

(e) *Date of service.* The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

(f) *Certificate of service.* The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his/her attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

§ 8.64 Time.

(a) *Computation.* In computing any period of time under the rules of this Subpart E or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(b) *Extension of time or postponement.* Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his/her decision, such requests should be addressed to him/her. Answers to such requests are permitted if made promptly.

(c) *Reduction of time to file documents.* For good cause, the responsible Department official with respect to pending matters may reduce any time limit prescribed by the rules in this Subpart E except as provided by law or other express provisions in this Part 8.

§ 8.65 Proceedings prior to hearing.

(a) *Notice of hearing or opportunity for hearing.* Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to this part.

(b) *Answer to notice.* The respondent, applicant, or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case the answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

(c) *Amendment of notice or answer.* The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his/her answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his/her original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer. A respondent shall file an answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be longer, unless the presiding officer otherwise orders.

(d) *Request for hearing.* Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing, the respondent, either in the answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of all right to a hearing and to constitute consent to the making of a decision on the basis of such information as is available.

(e) *Consolidation.* The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

(f) *Motions.* Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer. A repetitious motion will not be entertained.

(g) *Responses to motions and petitions.* Within 8 days after a written motion or petition is served, or such other period as the responsible Department official or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

(h) *Disposition of motions and petitions.* The responsible Department official or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting responses: *Provided, however,* that prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the presiding officer or the responsible Department official, respectively, not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral argument shall not be held on written motions or petitions unless the presiding officer in his/her discretion expressly so orders.

§ 8.66 Responsibilities and duties of presiding officer.

(a) *Who presides.* A presiding officer shall preside over all proceedings held under this Subpart E.

(b) *Designation of hearing examiner.* The designation of a hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record, including his/her recommended findings and proposed decision, to the responsible Department official, and may also fix the time and place of hearing. A copy of such designation shall be served on all parties. After service of the designation of a hearing examiner to preside, and until such examiner makes the decision, motions and petitions shall be submitted to him/her. In the case of the death, illness, disqualification, or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his/her place.

(c) *Authority of presiding officer.* The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He/She shall have all powers necessary to these ends, including (but not limited to) the power to:

(1) Arrange and issue notice of the date, time and place of hearings or, upon due notice to the parties, change the date, time and place of hearings previously set.

(2) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him/her.

(6) Regulate the course of the hearing and the conduct of counsel therein.

(7) Examine witnesses and direct witnesses to testify.

(8) Receive, rule on, exclude, or limit evidence.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him/her.

(10) Issue initial or recommended decisions, or final decisions where the responsible Department official presides.

(11) Take any action authorized by the rules in this Subpart E or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

§ 8.67 Hearing procedures.

(a) *Statements of positions and trial briefs.* The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing, to submit trial briefs, and to participate in conferences to settle, simplify, or fix the issues in a proceeding.

(b) *Evidentiary purpose.* (1) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented

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in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he/she intends to prove, may be made at hearings.

(2) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of this Part. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his/her failure timely to answer, or from his/her admissions or stipulations in the record, that there are no matters of material fact in dispute, the presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 8.69(a). Thereafter the proceedings shall go to conclusion in accordance with § 8.69 of this Part. The presiding officer may allow an appeal from such officer in accordance with paragraph (p) of this section.

(c) *Testimony.* Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his/her discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in paragraphs (e) and (f), of this section, witnesses shall be available at the hearing for cross-examination.

(d) *Exhibits.* Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

(e) *Affidavits.* An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and, not less than seven days prior to hearing, a party may file and serve written objection to any affidavit on the ground that he/she believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

(f) *Dispositions.* Upon such terms as the presiding officer determines to be just, and for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

(g) *Admissions as to facts and documents.* Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcment of any order entered therein, and shall not constitute an admission by him/her for any other purposes or be used against him/her in any other proceeding or action.

(h) *Evidence.* Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

(i) *Cross-examination.* A witness may be cross-examined on any matter material to the proceeding.

(j) *Unsponsored written material.* Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

(k) *Objections.* Objections to evidence shall be timely and briefly state the ground relied upon.

(l) *Exceptions to rulings of presiding officer unnecessary.* Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he/she desires the presiding officer to take, or his/her objection to an action taken, and his/her grounds therefor.

(m) *Official notice.* Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

(n) *Public document items.* Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

(o) *Offer or proof.* An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(p) *Appeals from ruling of presiding officer.* Rulings of the presiding officer may not be appealed to the responsible Department official prior to consideration of the entire proceeding except with the consent of the presiding officer and where he/she certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expenses, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the responsible Department official within such period as the presiding officer directs. No oral argument will be heard unless the responsible Department official directs otherwise. At any time prior to submission of the proceeding for decision, the responsible Department official may direct the presiding officer to certify any question or the entire record to him/her for decision. Where the entire records so certified, the presiding officer shall recommend a decision.

§ 8.68 The record.

(a) *Official transcript.* The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

(b) *Record for decision.* The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

§ 8.69 Posthearing procedures, decisions.

(a) *Posthearing briefs: proposed findings and conclusions.*

(1) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law and, if permitted, reply briefs.

(2) Briefs should include a summary of the evidence relied upon, together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

(b) *Decisions following hearing.* When the time for submission of posthearing briefs has expired, the presiding officer, if the responsible Department official, shall make a final decision. If the presiding officer is a hearing examiner, he/she shall certify the entire record, including recommended findings and proposed decision, to the responsible Department official or, if so authorized, shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

(c) *Exceptions to initial or recommended decisions.* Within 30 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the responsible Department official. Any other party may file a response thereto within 45 days after the mailing of the decision. Upon the filing of such exceptions, the responsible Department official shall review the decision and issue a decision thereon.

(d) *Final decisions.* (1) The responsible Department official shall make the final decision in all proceedings under this part after expiration of all applicable time limits provided in § 8.69(a) or § 8.69(c).

(2) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the 30-day period specified in subparagraph (3) of this paragraph, such initial decision shall become the final decision of the responsible Department official upon his/her approval thereof and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of paragraph (c) of this section.

(3) Where the final decision of the responsible Department official does not provide for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, it is an "order" within the meaning of 5 U.S.C. 551(6) (formerly section 2(d) of the Administrative Procedure Act). When such final decision of the responsible Department official (other than the Secretary) does provide for suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, such decision shall not constitute an "order" or "final agency action" until approved by the Secretary.

(4) All final decisions shall be promptly served on all parties, and amici, if any.

(e) *Oral argument to the responsible Department official.*

(1) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, or upon review on initiative of the responsible Department official, he/she shall make such request in writing. The responsible Department official may grant or deny such requests in his/her discretion. If granted, notice of oral argument will be served on all parties. The Notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Civil Rights docket clerk not later than seven days before the date set for oral argument.

(2) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidation of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(3) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Civil Rights docket clerk at least seven days before the argument.

(f) *Service on amici curiae.* All briefs, exceptions, memoranda, requests, and decisions referred to in § 8.50 shall be served upon amici curiae at the same time and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 8.48(a) shall be served on amici.

§ 8.70 Judicial standards of practice.

(a) *Conduct.* Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his/her best efforts to restrain his/her client from improprieties in connection with a proceeding.

(b) *Improper conduct.* With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the responsible Department official by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his/her staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer

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having responsibility for a decision in the proceeding, or his/her staff. It is improper for any person to solicit communications to any such officer, or his/her staff, other than proper communications by parties or amici curiae.

(c) *Ex parte communications.* Only persons employed by or assigned to work with the responsible Department official who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the responsible Department official, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The responsible Department official, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons who are employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

(d) *Expeditious treatment.* Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

(e) *Matters not prohibited.* A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights docket clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by paragraph (c) of this section. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of § 8.55 of this Part are not prohibited.

(f) *Filing of ex parte communications.* A prohibited communication in writing received by the Secretary, the responsible Department official, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he/she considers the memorandum to be incorrect.

§ 8.71 Post-termination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that, since entry of the order, it has brought its program or activity into compliance with the requirements of Section 504 and this Part, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request, the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to paragraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

§ 8.72 Definitions.

(a) The definitions contained in § 8.3 of this Part, to the extent applicable, apply to this subpart.

(b) The term "hearing examiner" is used in the sense in which it is used in 5 U.S.C. 3105 and 3344 (formerly sec. 11 of the Administrative Procedure Act).

(c) "Presiding officer," in any particular matter, may be the assigned hearing examiner or the responsible Department official.

Appendix A—Federal Financial Assistance of the Department of Housing and Urban Development to Which This Part Applies

(The Catalog of Federal Domestic Assistance number is shown in parenthesis after each program. Programs without a number are not listed in the Catalog of Federal Domestic Assistance as of the effective date of this interim rule.)

Community Planning and Development Programs

Community development block grant program. Title I of the Housing and Community Development Act of 1974, as amended; 42 U.S.C. 5301. (14.218)

Community development block grants/small cities program. Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301. (14.219)

Community development block grants/state's program. Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301. (14.228)

Community development block grants/Secretary's discretionary fund. Section 107 of the Housing and Community Development Act of 1974, as amended. (14.229)

Urban renewal programs. (Urban renewal projects and neighborhood development programs, code enforcement programs, demolition programs, rehabilitation grants, interim assistance grants, and community renewal programs.) Title I, Housing Act of 1949, as amended, 42 U.S.C. 1450.

Model Cities Program. Title I, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301.

Comprehensive planning assistance. Section 701, Housing Act of 1954, 40 U.S.C. 461. (14.203)

Rehabilitation loan program. Section 312, Housing Act of 1964, 42 U.S.C. 1452b. (14.220)

Urban Homesteading. Section 810 of the Housing and Community Development Act of 1974, 12 U.S.C. 1706e. (14.222)

Urban Development Action Grants. Section 19 of the Housing and Community Development Act of 1977, 42 U.S.C. 5301. (14.221)

Neighborhood Self-Help Development Program, Title VII, Housing and Community Development Act of 1978, 42 U.S.C. 8121. (14.800)

Livable Cities Program, Title VIII, Housing and Community Development Act of 1978, 42 U.S.C. 8141.

Loans and grants for new community development programs, (excluding assistance in the form of guarantees). Title VII, Housing and Urban Development Act of 1970, 42 U.S.C. § 4511. (14.207)

Housing Programs

Lower-income housing assistance payments program. (Section 8.) Section 8, United States Housing Act of 1937 as amended 42 U.S.C. 1437f. (14.156)

Low-income public housing (including operating subsidies, modernization and Indian housing). United States Housing Act of 1937, 42 U.S.C. 1437. (14.146)

Public housing—Comprehensive Improvement Assistance Program (Public Housing Modernization). United States Housing Act of 1937, as amended, 42 U.S.C. 1430–1437. (14.158)

Operating assistance for troubled multifamily housing project (Troubled Projects Program (Flexible Subsidy)). Housing and Community Development Amendment of 1978, 12 U.S.C. 1715z–1. (14.164)

Public facilities liquidating programs. Title II of the Independent Offices Appropriations Act of 1955, Pub. L. 83–428, 12 U.S.C. 1701g–5.

Technical assistance to contractors or subcontractors. Section 911(b), Housing and Urban Development Act of 1970, 15 U.S.C. 694(a). Note.

Nonprofit sponsor assistance program. Section 106(b) of the Housing and Urban Development Act of 1968. (14.141)

Homeownership for lower income families, with assistance. Section 235(i), National Housing Act, 12 U.S.C. 1715z. (14.105)

Homes released from rehabilitation project mortgage, with assistance, Section 235(j) National Housing Act, 12 U.S.C. 1715z.

Rental and cooperative housing for lower income families. Section 236, National Housing Act, 12 U.S.C. 1715z–1. (14.103)

Direct loans for housing for the elderly or handicapped. Section 202, Housing Act of 1959, 12 U.S.C. 1701g. (14.157)

Assistance for Housing in Alaska, Section 1004 Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3371.

Technical assistance and interest subsidies to State housing finance and development agencies (Section 802). Section 802, Housing and Community Development Act of 1974, 42 U.S.C. 1440.

Emergency mortgage relief loan program. Section 106 of the Emergency Homeowner's Relief Act, 12 U.S.C. 2705.

Rent supplements. Section 101, Housing and Urban Development Act of 1965, 12 U.S.C. 1701s. (14.149)

Counseling for homebuyers, homeowners and tenants. Section 106, Housing and Urban Development Act of 1968, as amended by Section 903(a), Housing and Urban Development Act of 1970, 12 U.S.C. 1701x.

Low-income housing—homeownership opportunities for low-income families (turnkey III—mutual help for Indian areas). United States Housing Act of 1937, 42 U.S.C. 1401–1435.

Community services for tenants. Section 3, U.S. Housing Act of 1937, 42 U.S.C. 1437a.

Congregate Housing Services Program, Title IV. Housing and Community Development Act of 1978, 42 U.S.C. 8001. (14.170)

Surplus land for low and moderate income housing. Section 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484b. (14. 211)

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Special assistance functions. Section 305, National Housing Act, 12 U.S.C. 1720, [including purchase of below market interest rate mortgages insured by FHA under section 221(d)(4), National Housing Act, 12 U.S.C. 1715L(d)(3), and the "Tandem" program, section 305(i) National Housing Act].

Policy Development and Research

Research and technology, (excluding contracts for procurement). Title V, Housing and Urban Development Act of 1970, 42 U.S.C. 1701z–1 [including the following current programs: Modular Integrated Utility System (MIUS), Tenant Management Program, Urban Observatory, and Urban Reinvestment Task Force]. (14.506)

Solar heating and cooling demonstration program. Solar Heating and Cooling Act of 1974, 42 U.S.C. 5501.

Fair Housing and Equal Opportunity

Fair housing assistance program. Title VIII of the Civil Rights Act of 1968; as amended, 42 U.S.C. 3601. (14.506)

Solar Energy and Energy Conservation Bank

Solar Energy and Energy Conservation Bank—financial assistance. Title V, Energy Security Act, 12 U.S.C. 3601–20.

Appendix B—Statutory Definitions of Handicapped Persons

The following programs operate under the statutory definition of handicapped person in Section 202(d)(4) of the Housing Act of 1959, as amended, 12 U.S.C. 1701q(d)(4): Homes released from rehabilitation project mortgage (Section 221(h), National Housing Act); Condominium units released from a Section 221(d)(3) mortgage (Section 221(i), National Housing Act); Housing for the Elderly or Handicapped (Section 202, Housing Act of 1959); and Rental and Cooperative Housing for Lower Income Persons (Section 236(j)(2)(B) and Section 236(i)(4), National Housing Act). This definition reads as follows:

The term "elderly or handicapped families" means families which consist of two or more persons and the head of which (or his spouse) is sixty-two years of age or over or is handicapped, and such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such a person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his/her ability to live independently; and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if such person is a developmentally disabled individual as defined in Section 102(a)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, as amended.

The following programs operate under a definition of handicapped person found in Section 3(2), United States Housing Act of 1937, as amended: Low-Income Public Housing; and Section 8, U.S. Housing Act of 1937, Housing Assistance Payments Program. This definition reads as follows:

The term "families" includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102(a)(5) of the Developmental Disability Services and Facilities Construction Amendments of 1970, as amended, or is handicapped * * *. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

The two statutory definitions (i.e., section 202(d)(4) of the Housing Act of 1959 and section 3(2) of the U.S. Housing Act) are essentially the same except that the latter definition includes a person who "is under a disability as defined in section 223 of the Social Security Act" and the former does not; and section 202(b)(4) requires that the family (or his or her spouse) be elderly or handicapped, while section 3(2) does not make this distinction. The criteria for determining whether a person is handicapped are the same in both statutes: to have an impairment which (i) is expected to be of long-continued and indefinite duration; (ii) substantially

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impedes his/her ability to live independently; and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

Dated: April 11, 1983.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 83-11951 Filed 5-5-83; 8:45 am]

BILLING CODE 1505-01-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 1011 / Pub. L. 98–29 To amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates. (May 16, 1983; 97 Stat. 189) Price: $1.75.

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federal register

Thursday
May 19, 1983

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Washington, D C 20402

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Federal Register
(ISSN 0097-6326)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5062 of May 17, 1983

Management Week in America, 1983

By the President of the United States of America

A Proclamation

The high level of competence and dedication of the members of the management profession has contributed significantly to the success of the American economy. Management skills are particularly important at the present time because of the need for increased productivity to allow our goods and services to compete more successfully in both domestic and world markets. We urge those with management responsibilities to continue to improve their skills.

It is important that we acknowledge the essential role of management in ensuring the strength of the American economy, both in the past and for the future. We hope that public recognition of the vital role managerial personnel play in furthering the goals of our society will encourage and inspire young Americans to consider management as a career.

In recognition of the essential role of this profession in ensuring the continued strength of the American economy, the Congress, by House Joint Resolution 225, has designated the week beginning on June 5, 1983, as "Management Week in America" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning June 5, 1983, as Management Week in America and call upon the American people to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-13624
Filed 5-17-83; 2:44 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 83-062]

Exotic Newcastle Disease; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document releases a portion of Queens County in New York and a portion of Sonoma County in California from the list of areas quarantined because of the existence of exotic Newcastle disease. Surveys indicate that exotic Newcastle disease no longer exists in such portions of Queens County and Sonoma County. Therefore, in order to relieve unnecessary restrictions, it is necessary to take this action.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This document on an emergency basis amends 9 CFR Part 82 by releasing a portion of Queens County in New York and a portion of Sonoma County in California from the areas quarantined because of exotic Newcastle disease, a communicable viral disease affecting all species of poultry and birds. Surveys indicate that exotic Newcastle disease no longer exists in these portions of Queens County and Sonoma County. It is therefore necessary, in order to relieve unnecessary restrictions, to release these areas from quarantine. The restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released areas.

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Certification Under the Regulatory Flexibility Act

Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantines imposed due to exotic Newcastle disease concerning only two premises and these premises are not owned by small entities.

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle disease.

PART 82—[AMENDED]

Accordingly, 9 CFR Part 82 is amended as follows:

§ 82.3 Imposition and removal of quarantine. [Amended]

1. In § 82.3(c)(1), relating to the State of New York, the following premises is removed: Richard King, 256–08 Craft Avenue, Rosedale, Queens County.

2. In § 82.3(c)(2), relating the State of California, the following premises is removed: Mendocino Bird Farm, 5355 Hall Road, Santa Rosa, Sonoma County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 13th day of May 1983.

William E. Ketter,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13461 Filed 5-18-83; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 83-011]

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Ohio to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services,

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Animal and Plant Health Inspection Service, determined that Ohio has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on September 21, 1981, (46 FR 46563–46564), set forth an interim rule amending § 92.4(a)(5)(ii) of the regulations in 9 CFR Part 92 by adding Ohio to the list of States approved to receive these stallions. The addition of Ohio to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these stallions.

The interim rule was made effective on the date of publication in order to relieve unnecessary restrictions that had been placed on importers of these stallions.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of September 21, 1981, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on September 21, 1981.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which stallions over 731 days of age from countries affected with CEM and bound for Ohio can be imported directly into Ohio. Otherwise, the stallions would be allowed to be imported only to other States which have been approved to receive these stallions from countries affected with CEM. The nearest States to Ohio approved to receive these stallions from countries affected with CEM are Kentucky, Maryland, and Virginia. This action should result in a decrease of transportation costs for such horses.

In fiscal year 1982, two of these stallions were imported into Ohio and it is anticipated that six or fewer of these stallions will be imported into Ohio annually. It is further anticipated that the number of these stallions imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982 only 70 of these stallions were imported into the United States from countries affected with CEM, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, § 92.4(a)(5)(ii) as published in interim form at 46 FR 46 563–46564, September 21, 1981, is adopted as final

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 12th day of May, 1983.

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83–13469 Filed 5–18–83; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 92

[Docket No. 83–012]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Kentucky and Virginia to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that Kentucky and Virginia have laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations.

EFFECTIVE DATE: May 18, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on December 24, 1981 (46 FR 62395–62396), set forth an interim rule amending § 92.4(a)(8)(ii) of the regulations in 9 CFR Part 92 by adding Kentucky and Virginia to the list of States approved to receive these mares. The addition of Kentucky and Virginia to the list was based on the finding that they meet certain criteria concerning treatment, testing, and handling procedures for these mares.

The interim rule was made effective on the date of publication in order to relieve unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of December 24, 1981, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on December 24, 1981.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which provides a means by which mares over 731 days of age from countries affected with CEM and bound for Kentucky and Virginia can be imported directly into Kentucky and Virginia. Otherwise, the mares would be allowed to be imported only to other States which have been approved to receive these mares from countries affected with CEM. The nearest State to Kentucky and Virginia approved to receive these mares from countries affected with CEM is South Carolina. This action should result in a decrease of transportation costs for such horses.

It is anticipated that 300 or fewer of these mares will be imported into Kentucky and Virginia annually. It is further anticipated that the number of these mares imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In fiscal year 1982, 218 of these mares were imported into Kentucky and 36 into Virginia, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, Mr. James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, § 92.4(a)(8)(ii) as published in interim form at 46 FR 62395–62396, December 24, 1981 is adopted as final.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 12th day of May, 1983.

William E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83–13470 Filed 5–18–83; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–07–AD; Amdt. 39–4651]

Airworthiness Directives; British Aerospace BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain British Aerospace BAC 1–11 200 and 400 series airplanes which requires checks of the electrical resistance of the windshield NESA coats and, if necessary, replacement of the windshield. Windshields produced in 1979 and 1980 by P.P.G. Industries, Inc., with serial numbers beginning with 9–H and 0–H may be subject to partial or complete loss of windshield heat generation capability. This condition reduces bird impact resistance and degrades anti-ice functions.

EFFECTIVE DATE: May 31, 1983.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:
Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom has classified British Aerospace BAC 1–11 Alert Service Bulletin 56–A–PM5836, Issue 1, as mandatory. P.P.G. Industries Technical Bulletin AP–110481 indicates that windshields produced in 1979 and 1980 with serial numbers beginning with 9–H and 0–H installed in BAC 1–11 airplanes may be subject to partial or complete degradation of the anti-ice heating system because of continuously increasing bus-to-bus resistance. This results in reduced anti-ice capability, visual impairment, and a reduction of bird impact resistance. The service bulletin prescribes checks of the electrical resistance of the windshields NESA coats and, if necessary, replacement of the windshields.

This airplance model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires checks of the electrical resistance of the NESA coats on windshields manufactured in 1979 and 1980 and, if necessary, replacement of the windshield.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace: Applies to BAC 1–11 200 and 400 series airplanes, certificated in all categories. Compliance is required as indicated.

For airplanes fitted with pilots windshield No. 1, left and right-hand part numbers AB31A705 and AB31A706 respectively, produced in 1979 and 1980 with serial numbers beginning with 9–H and 0–H, manufactured by P.P.G. Industries, Inc., accomplish the following, unless already accomplished:

A. Check the bus-to-bus electrical resistance of the windshield NESA coat within the next 200 hours time in service or 28 days, whichever occurs first, after the effective date of this AD in accordance with paragraph 2.1 of the Accomplishment Instructions of British Aerospace Alert Service Bulletin 56–A–PM5836, dated March 19, 1982.

Note.—If windshield is replaced with another windshield produced in 1979 or 1980, repeat paragraph A after 200 hours time in service but not later than 300 hours time in service on the replacement windshield.

B. Accomplish the actions of paragraph 2.2, 203, or 2.4 of the service bulletin based upon the resistance values obtained in the check done in paragraph A.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective May 31, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA determined that this regulation is an emergency regulation that is not major under Section 6 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Seattle, Washington on May 11, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-13438 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-ASW-25; Amdt. No. 39-4648; Predecessor Docket No. 78-NE-21]

Airworthiness Directives; Sikorsky S-61 Series Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) which requires ultrasonic inspections of the main rotor blade spindles of S–61 type helicopters. This amendment revises the AD by clarifying the applicability; decreasing the initial and repetitive inspection intervals; updating a mailing address; and referencing the latest revision of the Sikorsky service bulletin. The amendment is needed to preclude the possibility of failure of main rotor spindles.

DATE: Effective date May 25, 1983.

Compliance shedule—As prescribed in the body of AD.

ADDRESSES: The applicable service bulletin may be obtained from the United Technologies Corporation, Sikorsky Aircraft, North Main Street, Stratford, Connecticut 06601, Attn: S–61 Commercial Product Support Department.

Copies of the service bulletin are contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Cheryl McCabe, Aerospace Engineer, ANE–152, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7336.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39–3305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), Amendment 39–3444 (44 FR 19184), and Amendment 39–3838 (45 FR 47130), which currently requires repetitive ultrasonic inspection of the main rotor blade spindles of Sikorsky S–61 series helicopters.

After issuing Amendment 39–3838, the FAA determined that:

1. The applicability requires clarification because the AD only applies to certain non-modified spindles and this is not clearly specified in the AD as evidenced by a recent inquiry from a foreign authority;

2. The ultrasonic inspection interval and the initial inspection time for the main rotor spindles must be decreased from 180 to 70 hours' time in service because during a periodic ultrasonic inspection on a military helicopter a crack greater than one-half the cross section of the spindle lug was found. The crack origin was located in the outboard edge of the large chamfer (the spindle incorporated nickel sulfamate plating).

3. The FAA mailing address for reporting requires updating due to the recent reorganization in the FAA.

4. The latest revision of the Sikorsky service bulletin should be referenced in the AD to agree with the decreased inspection intervals.

The information collection requirement contained in this regulation (§ 39.13) has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and has been assigned OMB control number 2120–0056.

Since a situation exists that requires immediate adoption of this regulation, and since this amendment also provides an applicability clarification which imposes no additional burden on any person, it is found that notice and public procedure hereon are impracticable and unnecessary and good cause exists for making this amendment effective in less than 30 days.

Approximately 14 aircraft could be affected by the requirements of this AD for an estimated impact of $70 per aircraft per 180 flight hours.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39–3305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), Amendment 39–3444 (44 FR 19184), and Amendment 39–3838 (45 FR 47130), as follows:

1. In the first paragraph and paragraph 1, delete "P/Ns S6112–23027, S6112–23025, and S6110–23325 main rotor spindles" and insert in its place: "main rotor P/N S6112–23025–1 spindles (S6112–23027–006 spindle assemblies) and S6110–23325 series spindles (S6110–23327 series spindle assemblies)."

2. In paragraph 1, delete "Prior to further flight, unless already accomplished within the last 180 hours' time in service," and insert in its place "Within the next 20 hours' time in service, unless already accomplished within the last 50 hours' time in service, after the effective date of this amendment."

3. In paragraph 1, delete the number "180" from the second and third places where it occurs and insert in its place: "70."

4. In paragraphs 1 and 3, delete "Chief, Engineering and Manufacturing Branch" and insert in its place: "Manager, Boston Aircraft Certification Branch."

5. In paragraph 1, delete "61B10–33C" and insert in its place: "61B10–33F."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to United Technologies Corporation, Sikorsky Aircraft, North Main Street, Stratford, Connecticut 06601, Attn: S–61 Commercial Product Support Department. These documents also may be examined in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

This amendment becomes effective May 25, 1983.

This amendment amends Amendment 39–3305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), Amendment 39–3444 (44 FR 19184) and Amendment 39–3838 (45 FR 47130).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation only involves 14 aircraft that could be affected by the requirements of this AD for an estimated impact of $70 per aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on May 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-13439 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7893]

Amendment of Income Tax Regulations To Conform to Repeal of Subpart F Exception for Investments in Less Developed Countries and to Foreign Base Company Shipping Income Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the taxation of shipping income of controlled foreign corporations and their shareholders. The document also contains regulations concerning investments in less developed countries by controlled foreign corporations. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. The regulations provide the public with guidance needed to comply with the provisions. The regulations affect certain foreign corporations which are controlled by U.S. persons and the U.S. shareholders of those corporations.

DATE: The regulations are effective for taxable years of controlled foreign corporations beginning after December 31, 1975, and for taxable years of U.S. shareholders within which or with which the taxable years of such controlled foreign corporations end; except that the amendments to §§ 1.959–1(d)(2) and 1.964–1(c)(3)(ii) are effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1978, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 864, 881, 951, 952, 954, 955, 958, 959, 964, 970, and 972 of the Internal Revenue Code of 1954 (43 FR 5529). On August 9, 1976, the **Federal Register** published proposed amendments to the Income Tax Regulations under several sections of the Internal Revenue Code, including section 955. The August 9, 1976, Notice of Proposed Rulemaking proposed a new § 1.955–0. The February 9, 1978, Notice of Proposed Rulemaking proposed a paragraph (a) to this § 1.955–0. All of these amendments were proposed to conform the regulations to sections 602 (c) and (d) of the Tax Reduction Act of 1975 (89 Stat. 58). The proposed amendments which were published on August 9, 1976, are being finalized (with some changes) at the same time as these amendments. No public comments were received concerning the amendments proposed on February 9, 1978. A public hearing was neither requested nor held. The changes to the regulations as proposed are only of a correcting and clarifying nature. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7895).

Statutory Bases

The United States taxes foreign corporations only on certain United States source income and income from any source which is connected with the conduct of a trade or business in the United States. As a result, the United States generally does not impose a tax on foreign source income of a foreign corporation even though it is owned or controlled by U.S. persons. When the foreign corporation actually remits its foreign source income to U.S. shareholders as a dividend, the United States imposes a tax. The tax is imposed on the U.S. shareholder, not the foreign corporation. The fact that no U.S. tax is imposed until the income is distributed is what generally is referred to as tax "deferral."

The Internal Revenue Code provides for an exception to the general rule of deferral under the "subpart F" provisions of the Code (sections 951 through 964). Under these provisions, income from certain tax haven activities is taxed at the shareholder level whether or not the income is actually received in the form of a dividend. These rules apply only to U.S. persons owning 10 percent or more of the voting power of a foreign corporation and only if more than 50 percent of the voting power of the corporation is owned by U.S. persons who each own 10 percent or larger interests.

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Among the types of subpart F income is "foreign base company income." Before enactment of the Tax Reduction Act of 1975, section 954(b)(1) of the Code excluded from foreign base company income certain dividends, interest, and gains from qualified investments in less developed countries. Under sections 951(a)(1)(A)(ii) and 955, a U.S. shareholder was taxed on its pro rata share of this excluded income only when it was withdrawn from investment in less developed countries. Section 602(c) of the Tax Reduction Act repealed the section 954(b)(1) exclusion. In addition, section 602(c) repealed the provisions of section 955, as it existed before the Tax Reduction Act of 1975, and added a new section 955 concerning amounts invested in foreign base company shipping operations. Congress did not, however, repeal the section 951(a)(1)(A)(ii) imposition of tax on a U.S. shareholder's pro rata share of excluded income when withdrawn from investment in less developed countries. As a result of the retention of section 951(a)(1)(A)(ii), repealed section 955 (as in effect before amendment by the Tax Reduction Act) retains some vitality.

Section 602(d) of the Tax Reduction Act of 1975 also added a new category of income to foreign base company income. The new category is called "foreign base company shipping income." Under section 954(b)(2), foreign base company shipping income is not included in foreign base company income to the extent that the shipping income is reinvested in qualified investments in foreign base company shipping operations. Under sections 951(a)(1)(A)(iii) and 955 (as amended by the Tax Reduction Act of 1975), previously excluded subpart F income withdrawn from investment in foreign base company shipping operations is included in the gross income of U.S. shareholders.

Summary of Regulations, Changes, and Public Comment

The amendments to the regulations provided by this document generally reflect the repeal of the less developed country exception to subpart F and coordinate the existing subpart F regulations with the foreign base company shipping income regulations proposed on August 9, 1976, and which are being adopted on the same day as these regulations. The amendments also update and correct certain cross references to and within the subpart F regulations. In addition, the proposed amendments change certain reporting requirements under subpart F by requiring that taxpayer identification numbers also be furnished in cases in which taypayer names and addesses are currently required to be furnished. The requirement that taxpayer identification numbers be furnished applies only with respect to reports required to be filed after June 20, 1983.

Regulatory Flexibility Act and Executive Order 12291

This regulation was published as a proposed regulation before January 1, 1981, the effective date of the Regulatory Flexibility Act [5 U.S.C Chapter 6). In addition, the Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. Chapter 6]. The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these regulations is Kenneth Klein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Incomes taxes, Aliens, Export, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 which were set forth in the Notice of Proposed Rulemaking appearing in the **Federal Register** of February 9, 1978 (43 FR 5529), are adopted, subject to the revisions set forth below. In addition, other amendments to 26 CFR Part 1 are adopted, as set forth below.

PART 1—[AMENDED]

Paragraph 1. The amendments to § 1.951–1, as set forth in paragraph 4 of the Notice of Proposed Rulemaking, are changed as follows:

1. The last sentence of instructional paragraph 4 is revised by inserting the phrase "of subparagraphs (1)(c), 3, and 5 above" between the words "provisions" and "read".

2. The heading of § 1.951–1(c)(1) is revised by inserting the phrase "*countries.* " immediately after the word "*developed* ".

Par. 2. The amendments to § 1.951–3, as set forth in paragraph 5 of the Notice of Proposed Rulemaking, are changed as follows:

1. The third sentence of paragraph (a) of *Example* (4) of § 1.951–3 is revised by placing the symbol "§" between the abbreviation "CFR" and the number "1.954–1(b)(1)".

2. New paragraph (c) of *Example* (4) of § 1.951–3 is revised by deleting the word "or" and inserting in its place the word "of".

Par. 3. The amendment to § 1.952–1, as set forth in paragraph 6 of the Notice of Proposed Rulemaking, is revised by adding the symbol "§" in paragraph (b)(1) between the abbreviation "CFR" and the number "1.952–1(b)(1)".

Par. 4. The proposed amendments to § 1.954–1(b)(3)(v), as set forth in paragraph 8 of the Notice of Proposed Rulemaking, are deleted.

Par. 5. The amendments to § 1.954–2, as set forth in paragraph 9 of the Notice of Proposed Rulemaking, are changed as follows: Instructional subparagraph 1 of instructional paragraph 9 is revised by deleting the word "Subdivision" and inserting in its place the phrase "Subdivision (i) is revised by deleting the period at the end and inserting a comma in its place and subdivision".

Par. 6. The amendment to § 1.954–3, as set forth in paragraph 10 of the Notice of Proposed Rulemaking is revised by deleting "paragraph(b)(3)(iv)" in the first sentence of subparagraph (2)(i)(*d*) and inserting in lieu thereof "paragraph (b)(4)(ii)".

Par. 7. The amendment to § 1.954–5, as set forth in paragraph 11 of the Notice of Proposed Rulemaking, is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.954–5".

Par. 8. The amendment to § 1.955, as set forth in paragraph 12 of the Notice of Proposed Rulemaking, is deleted.

Par. 9. Proposed § 1.955–0, as set forth in paragraph 13 of the Notice of Proposed Rulemaking, is changed as follows: The second sentence of § 1.955–0(a)(2) is revised by placing the symbol "§§" between the abbreviation "CFR" and the number "1.954–1".

Par. 10. The amendments to § 1.959–1, as set forth in paragraph 17 of the Notice of Proposed Rulemaking, are changed as follows:

1. The second sentence of § 1.959–1(c) is revised by adding a comma immediately after the work "operations".

2. The amendment to § 1.959–1(d)(2) is revised by inserting the phrase "(in the case of information required to be furnished after [date which is 30 days after publication of these final regulations in the **Federal Register**])" between the words "and" and "taxpayer".

Par. 11. The amendments to § 1.964–1, as set forth in paragraph 19 of the Notice of Proposed Rulemaking, are changed as follows:

1. Instructional subparagraphs (1) and (3) of instructional paragraph 19 are revised by deleting the phrase " "or (3)(B)"," and inserting in its place both times the phrase " "of 1975",".

2. Instructional subparagraph (3) of instructional paragraph 19 is revised by inserting a comma immediately after the number "1.954–6(f)".

3. The last sentence of instructional paragraph 19 is revised by inserting the phrase "of subparagraphs (4), (5), and (6)(d) above" between the words "provisions" and "read".

4. Section 1.964–1(c)(3)(ii) is revised by inserting the phrase "(in the case of statements required to be filed after [date which is 30 days after publication of these final regulations in the **Federal Register**])" immediately after the phrase "taxpayer identification numbers" the first time it appears and immediately before the phrase "taxpayer identification numbers" the second time it appears.

Par. 12. Instructional paragraph 20 of the Notice of Proposed Rulemaking, amending §§ 1.964–2 (a) and (b)(1), is revised by deleting the phrase "955," and inserting in its place the phrase "955" and before the comma immediately thereafter."

Par. 13. The amendments to § 1.964–3, as set forth in paragraph 22 of the Notice of Proposed Rulemaking, are changed as follows.

1. The last sentence of instructional paragraph 22 is revised by adding the phrase "of subparagraphs (1)(b) and (2) above" between the words "provisions" and "read".

2. Section 1.964–3(c)(1)(i) is revised by deleting the period after the phrase "taxable year", deleting the period after the phrase "April 1, 1975)", and by adding the symbols "§§" between the abbreviation "CFR" and the number "1.954–1(d)(3)(i)".

Par. 14. The amendments to § 1.964–4, as set forth in paragraph 23 of the Notice of Proposed Rulemaking, are changed as follows:

1. Instructional subparagraph (2)(b) of instructional paragraph 23 is revised by deleting the word "both", deleting the comma after the number "1976" and inserting in its place a semicolon, and by deleting the phrase "1.954 and" and inserting in its place the symbol "§".

2. The last sentence of instructional paragraph 23 is revised by adding the phrase "of subparagraphs (1)(a), (1)(c), and 3 above" between the words "provisions" and "read".

3. Section 1.964–4(d)(4) is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.964–4(d)(4)".

4. Section 1.964–4(d)(5) is revised by inserting the symbol "§" between the abbreviation "CFR" and the number "1.964–4(d)(5)".

5. Section 1.964–4(d)(6)(v) is revised by deleting the phrase "§ 1.954–6(f)," and inserting in its place the phrase "§§ 1.954–6(f) and 1.954–6(b)(1)(viii),".

6. The flush language at the beginning of §1.964–4(g–2) is revised by adding the word "operations" immediately after the word "shipping".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 26, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—[AMENDED]

Part 1 of Title 26 of the Code of Federal Regulations is amended as follows:

Paragraph 1. Section 1.864–5(d)(2) is amended as follows:

1. Subdivision (i) is revised.

2. Subdivision (ii) is revised by changing "30 percent" to "10 percent."

3. Subdivision (ii) is revised by inserting "(30 percent in the case of taxable years of foreign corporations ending before January 1, 1976)" immediately after "10 percent."

The revised provision reads as follows:

§ 1.864–5 Foreign source income effectively connected with U.S. business.

* * * * *

(d) *Excluded foreign source income.* * * *

(2) *Subpart F income of a controlled foreign corporation.* * * *

(i) Foreign base company shipping income which is excluded under section 954(b)(2),

(ii) Foreign base company income amounting to less than 10 percent (30 percent in the case of taxable years of foreign corporations ending before January 1, 1976) of gross income which by reason of section 954(b)(3)(A) does not become subpart F income for the taxable year,

* * * * *

Par. 2. Section 1.881–1 (e)(4)(i) is amended to read as follows:

§ 1.881–1 Manner of taxing foreign corporations.

* * * * *

(e) *Other provisions applicable to foreign corporations* * * *

(4) *Controlled foreign corporations.*—(i) *Subpart F income and increase of earnings invested in U.S. Property.* For the mandatory inclusion in the gross income of the U.S. shareholders of the subpart F income, of the previously excluded subpart F income withdrawn from investment in less developed countries, of the previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, and of the increase in earnings invested in U.S. property, of a controlled foreign corporation, see sections 951 through 964, and the regulations thereunder.

* * * * *

Par. 3. Section 1.951–1 is amended as follows:

1. Paragraph (a)(2) is amended as follows:

a. Subdivision (ii) is revised by deleting "paragraph (c)" and inserting in lieu thereof "paragraph (c) (1)," and by deleting the word "and" at the end thereof.

b. Subdivision (iii) is redesignated as subdivision (iv).

c. Immediately after subdivision (ii) new subdivision (iii) is added.

2. Paragraph (b)(1) is amended by deleting "paragraph (a)(1)" and inserting in lieu thereof "paragraph (a)(2)(i)."

3. Paragraph (c) is revised.

4. Paragraph (d) is amended by deleting "paragraph (a)(3)" both times it appears and inserting in lieu thereof "paragraph (a)(2)(iv)."

5. Paragraph (e)(1) is revised. The added and revised provisions read as follows:

§ 1.951–1 Amounts included in gross income of U.S. shareholders.

(a) *In general.* * * *

(2) * * *

(iii) Such shareholder's pro rata share (determined under paragraph (c)(2) of this section) of the corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for such taxable year of the corporation, and

* * * * *

(c) *Limitation on a United States shareholder's pro rata share of previously excluded subpart F income withdrawn from investments.*—(1) *Investments in less developed countries.* For purposes of paragraph (a)(2)(ii) of this section, a United States shareholder's pro rata share (determined

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in accordance with the rules of paragraph (e) of this section) of the foreign corporation's previously excluded subpart F income withdrawn from investment in less developed countries for the taxable year of such corporation shall not exceed an amount which bears the same ratio to such shareholder's pro rata share of such income withdrawn (as determined under section 955(a)(3), as in effect before the enactment of the Tax Reduction Act of 1975, and paragraph (c) of § 1.955–1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. See paragraph (c)(2) of § 1.955–1 for a special rule applicable to exclusions and withdrawals occurring before the date on which the United States shareholder acquires his stock.

(2) *Investments in foreign base company shipping operations.* For purposes of paragraph (a)(2)(iii) of this section, a United States shareholder's pro rata share (determined in accordance with the rules of paragraph (e) of this section) of the foreign corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for the taxable year of such corporation shall not exceed an amount which bears the same ratio to such shareholder's pro rata share of such income withdrawn (as determined under section 955(a)(3) and paragraph (c) of § 1.955A–1) for such taxable year as the part of such year during which such corporation is a controlled foreign corporation bears to the entire taxable year. See paragraph (c)(2) of § 1.955A–1 for a special rule applicable to exclusions and withdrawals occurring before the date on which the United States shareholder acquires his stock.

* * * * *

(e) *"Pro rata share" defined.*—(1) *In general.* For purposes of paragraphs (b), (c), and (d) of this section, a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, or increase in earnings invested in United States property, respectively, for any taxable year is his pro rata share determined under paragraph (a) of § 1.952–1, paragraph (c) of § 1.955–1, paragraph (c) of § 1.955A–1, or paragraph (c) of § 1.956–1, respectively.

* * * * *

Par. 4. Section 1.951–3 is amended as follows:

1. Example (4) is amended as follows:

a. Paragraph (a) is amended by deleting "paragraph (b)(1) of § 1.954–1" in the third sentence and inserting in lieu thereof "26 CFR § 1.954–1(b)(1) (Rev. as of Apr. 1, 1975)" and by inserting in the sixth sentence ", as in effect before the enactment of the Tax Reduction Act of 1975," immediately after "section 955(a)."

b. A new paragraph (c) is added.

2. Example (5) is amended by deleting "paragraph (a)(3)" each time it appears in paragraphs (a) and (b) and inserting in lieu thereof "paragraph (a)(2)(iv)".

The added provision reads as follows:

§ 1.951–3 Coordination of subpart F with foreign personal holding company provisions.

* * * * *

Example (4). * * *

(c) The principles of this example also apply to withdrawals (determined under section 955(a), as in effect before the enactment of the Tax Reduction Act of 1975) of previously excluded subpart F income from investment in less developed countries effected after the effective date of such Act, and to withdrawals (determined under section 955(a), as amended by such Act) of previously excluded subpart F income from investment in foreign base company shipping operations.

* * * * *

Par. 5. Section 1.952–1 is amended as follows:

1. Paragraph (a)(2) is amended by deleting "1.954–5)." and inserting in lieu thereof "1.954–7.".

2. Paragraph (b)(1) is revised to read as follows:

§ 1.952–1 Subpart F income defined.

* * * * *

(b) *Exclusion of U.S. income.*—(1) *Taxable years beginning before January 1, 1967.* For rules applicable to taxable years beginning before January 1, 1967, see 26 CFR § 1.952–1(b)(1) (Rev. as of April 1, 1975).

* * * * *

Par. 6. Section 1.952–2(c)(5)(i) is revised to read as follows:

§ 1.952–2 Determination of gross income and taxable income of a foreign corporation.

* * * * *

(c) *Special rules for purposes of this section.* * * *

(5) *Treatment of capital loss and net operating loss.* * * *

(i) *Capital loss carryback and carryover.* The capital loss carryback and carryover provided by section 1212(a) shall not be allowed.

* * * * *

Par. 7. Section 1.954–2(d)(2)(iv)(*b*)(*2*) is amended as follows:

1. Subdivision (*ii*) is amended by deleting "and" at the end thereof.

2. Subdivision (*iii*) is amended by deleting the period at the end thereof and inserting in lieu thereof ", and".

3. A new subdivision (*iv*) is added to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(d) *Certain income received from unrelated persons in the active conduct of a trade or business* * * *

(2) *Dividends, interest, and gains on securities, received in banking or other financing business from unrelated persons* * * *

(iv) *Income of foreign corporations owned by Edge Act or Agreement corporations* * * *

(b) *Foreign corporations included.*

* * *

(2) * * *

(*iv*) Foreign base company shipping income, as defined in § 1.954–6.

* * * * *

Par. 8. Section 1.954–3(b) is amended as follows:

1. The first sentence of subparagraph (2)(i)(*d*) is amended by deleting "paragraph (b)(3)(iv)" and inserting in lieu thereof "paragraph (b)(4)(ii)".

2. The second sentence of subparagraph (3) is amended by deleting "30 percent" and inserting in lieu thereof "10 percent".

Par. 9. Section 1.954–5 is revised to read as follows:

§ 1.954–5 Increase in qualified investments in less developed countries; taxable years of controlled foreign corporations beginning before January 1, 1976.

For rules applicable to taxable years of controlled foreign corporations beginning before January 1, 1976, see section 954(b)(1) (as in effect before the enactment of the Tax Reduction Act of 1975) and 26 CFR § 1.954–5 (Rev. as of April 1, 1975).

* * * * *

Par. 10. Section 1.955–0, as reserved in paragraph 9 of the appendix to the notice of proposed rule making published on August 9, 1976 (41 FR 33296), is added, consisting of paragraph (a) to read as follows:

§ 1.955–0 Effective dates.

(a) *Section 955 as in effect before the enactment of the Tax Reduction Act of 1975*—(1) *In general.* In general, §§ 1.955–1 through 1.955–6 are applicable with respect to withdrawals

of previously excluded subpart F income from qualified investment in less developed countries for taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end. However, such sections are effective with respect to withdrawals of amounts invested in less developed country shipping companies described in section 955(c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) only for taxable years of foreign corporations beginning before January 1, 1976, and for taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end. For rules applicable to withdrawals of amounts invested in less developed country shipping companies described in section 955(c)(2) (as in effect before such enactment), in taxable years of foreign corporations beginning after December 31, 1975, see section 955(b)(5) (as amended by such Act) and §§ 1.955A–1 through 1.955A–4.

(2) *References.* Except as otherwise provided therein, all references contained in §§ 1.955–1 through 1.955–6 to section 954 or 955 or to the regulations under section 954 are to those sections and regulations as in effect before the enactment of the Tax Reduction Act of 1975. For regulations under section 954 (as in effect before such enactment), see 26 CFR §§ 1.954–1 through 1.954–5 (Rev. as of April 1, 1975). For taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders (as described in section 951(b)) within which or with which such taxable years of such foreign corporations end, the definitions of less developed countries and less developed country corporations contained in section 902(d) (as amended by such Act) and § 1.902–2 apply for purposes of determining the credit for corporate stockholders in foreign corporations under section 902.

* * * * *

Par. 11. Paragraph (a) of § 1.955–1 is revised to read as follows:

§ 1.955–1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in less developed countries.

(a) *In general.* Pursuant to section 951(a)(1)(A)(ii) and the regulations thereunder, a United States shareholder of a controlled foreign corporation must include in its gross income its pro rata share (as determined in accordance with paragraph (c) of this section) of the amount of such controlled foreign corporation's previously excluded subpart F income withdrawn for any taxable year from investment in less developed countries. Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income for any taxable year of the corporation beginning after December 31, 1962, that is withdrawn from investment in less developed countries for any taxable year of the corporation beginning before January 1, 1976. Except for investment in less developed country shipping companies, section 955 also provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income for any taxable year of the corporation beginning after December 31, 1962, which is withdrawn from investment in less developed countries in taxable years of the corporation beginning after December 31, 1975. To determine the amount of a controlled foreign corporation's previously excluded subpart F income withdrawn from investment in less developed country shipping companies described in section 955(c)(2) in taxable years of a controlled foreign corporation beginning after December 31, 1975, see section 955(b)(5) (as in effect after amendment by the Tax Reduction Act of 1975) and §§ 1.955A–1 through 1.955A–4 . For effective dates, see § 1.955–0.

* * * * *

Par. 12. Section 1.955–3 is amended as follows:

1. The first sentence of paragraph (a) is amended by deleting "In lieu of determining the increase under" and inserting in lieu thereof "In lieu of determining the increase for a taxable year of a foreign corporation beginning before January 1, 1976, under".

2. Immediately after the last sentence of paragraph (b)(1) a new sentence is added to read as follows:

§ 1.955–3 Election as to date of determining qualified investments in less developed countries

* * * * *

(b) *Time and manner of making election*—(1) *Without consent.* * * * For taxable years of a foreign corporation beginning after December 31, 1975, no election under this section with respect to a controlled foreign corporation may be made without the consent of the Commissioner.

* * * * *

Par. 13. The first sentence of § 1.958–1(a) is revised to read as follows:

§ 1.958–1 Direct and indirect ownership of stock.

(a) *In general.* Section 958(a) provides that, for purposes of sections 951 to 964 (other than sections 955(b)(1) (A) and (B) and 955(c)(2)(A)(ii) (as in effect before the enactment of the Tax Reduction Act of 1975), and 960(a)(1)), stock owned means—

(1) Stock owned directly; and

(2) Stock owned with the application of paragraph (b) of this section.

* * * * *

Par. 14. Section 1.959–1 is amended as follows:

1. The second and third sentences of paragraph (a) are revised.

2. The third sentence of paragraph (b) is revised.

3. The second sentence of paragraph (c) is revised.

4. Paragraph (d)(2) is revised.

The revised provisions read as follows:

§ 1.959–1 Exclusion from gross income of United States persons of previously taxed earnings and profits

(a) *In general.* * * * The amounts so taxed to certain United States shareholders are described as subpart F income, previously excluded subpart F income withdrawn from investment in less developed countries, previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, and increases in earnings invested in United States property. Section 959 provides that amounts taxed as subpart F income, as previously excluded subpart F income withdrawn from investment in less developed countries, or as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations are not taxed again as increases in earnings invested in United States property. * * *

(b) *Actual distributions to United States persons.* * * * Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951 (a)(1)(A)(i) as subpart F income, under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries, under section 951(a)(1)(A)(iii) as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, or under section 951(a)(1)(B) as earnings invested in United States property, shall not be again included in the gross income of such shareholder when such amounts are actually

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distributed, directly or indirectly, to such shareholder. * * *

* * * * * *

(c) *Excludable investment of earnings in United States property.* * * * Thus, earnings and profits attributable to amounts which are, or have been, included in the gross income of a United States shareholder of a foreign corporation under section 951(a)(1)(A)(i) as subpart F income, under section 951(a)(1)(A)(ii) as previously excluded subpart F income withdrawn from investment in less developed countries, or under section 951(a)(1)(A)(iii) as previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, may be invested in United States property without being again included in such shareholder's income under section 951 (a). * * *

* * * * * *

(d) *Application of exclusions to shareholder's successor in interest.* * * *

(2) The name, address, and (in the case of information required to be furnished after June 20, 1983) taxpayer identification number of the person from whom the stock interest was required;

* * * * * *

Par. 15. Section 1.959–3 is amended as follows:

1. Paragraph (a) is amended by inserting "previously excluded subpart F income withdrawn from investment in foreign base company shipping operations," immediately after "countries,".

2. Paragraph (b) is amended by deleting "Earnings" the first time it appears in the fifth sentence of subparagraph (3) and inserting in its place "For example, earnings".

3. Paragraph (b) is amended further by inserting "or foreign base company shipping operations" immediately after "assets" in the fifth sentence of subparagraph (3).

Par. 16. Section 1.964–1 is amended as follows:

1. The second sentence of the flush material following paragraph (b)(2)(ii) is amended by inserting a comma after "section 957)" and by inserting a comma after "of 1975", and by inserting before the period ", or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)".

2. The first sentence of example (2) of paragraph (b)(3) is amended by deleting "Corporation N" and inserting in lieu thereof "In 1973, Corporation N".

3. The first sentence of paragraph (c)(2) is amended by inserting a comma after "section 957)", by inserting a comma after "of 1975)", and by deleting "section 952(d)," and inserting in lieu thereof "section 952(d), or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)",.

4. Paragraph (c)(3)(ii) is revised.

5. Paragraph (c)(5) is amended by adding at the end thereof a new sentence.

6. Paragraph (c)(6) is amended as follows:

a. Subdivision (ii) is amended by deleting "section 955(c))" and inserting in lieu thereof "section 955(c), as in effect before the enactment of the Tax Reduction Act of 1975)".

b. Subdivision (iii) is amended by deleting the word "or" from the end thereof.

c. Subdivision (iv) is amended by deleting the period from the end thereof and inserting in lieu thereof "; or".

d. A new subdivision (v) is added.

e. The second sentence of the flush material following new subdivision (v) is amended by inserting immediately before the period "or pays a dividend that is included in the foreign base company shipping income of a controlled foreign corporation under § 1.954–6(f)"

The added provisions read as follows:

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

* * * * * *

(c) *Tax adjustments.* * * *

(3) *Action on behalf of a corporation* * * *

(ii) *Written statement.* The written statement required by subdivision (i) of this subparagraph shall be jointly executed by the controlling United States shareholders, shall be filed with the Director of the Internal Revenue Service Center, 11601 Roosevelt Blvd., Philadelphia, Pennsylvania 19155, within 180 days after the close of the taxable year of the foreign corporation with respect to which the election is made or the adoption or change of method effected, or before May 1, 1985, whichever is later, and shall set forth the name and country or organization of the foreign corporation, the names, addresses, taxpayer identification numbers (in the case of statements required to be filed after June 20, 1983), and stock interests of the controlling United States shareholders, the nature of the action taken, the names, addresses, and (in the case of statements required to be filed after June 20, 1983) taxpayer identification numbers of all other United States shareholders notified of the election or adoption or change of method, and such other information as the Commissioner may by forms require.

* * * * * *

(5) *Controlling United States shareholders.* * * *

In the event that a foreign corporation is not a controlled foreign corporation but pays a dividend to a controlled foreign corporation that is attributable to foreign base company shipping income under § 1.954–6(f), the controlling United States shareholders (as defined in this subparagraph) of the controlled foreign corporation shall be considered the controlling United States shareholders of the foreign corporation.

* * * * * *

(6) *Action not required until significant.* * * *

(v) It is sought to be established that the corporation has foreign base company shipping income (within the meaning of section 954(f)).

* * * * * *

Par. 17. Section 1.964–2 (a) and (b)(1) are amended by inserting "(as in effect both before and after the enactment of the Tax Reduction Act of 1975)" immediately after "section 955" and before the comma.

Par. 18. Section 1.964–2c)(1)(i)(*b*)) and (c)(1)(ii) are revised to read as follows:

§ 1.964–2 Treatment of blocked earnings and profits.

* * * * * *

(c) *Removal of restriction or limitation—(1) In general.* * * *

(i) *Treatment of deferred income.* * * *

(*b*) The applicable limitations under paragraph (c) of § 1.952–1, paragraph (b)(2) of § 1.955–1, paragraph (b)(2) of § 1.955A–1, or paragraph (b) of § 1.956–1, determined as of the last day of the immediately preceding taxable year, taking into account the provisions of subdivision (ii) of this subparagraph.

(ii) *Treatment of earnings and profits.* For purposes of sections 952, 955 (as in effect both before and after the enactment of the Tax Reduction Act of 1975), and 956, the earnings and profits which are no longer subject to a currency or other restriction or limitation shall be treated as included in the corporation's earnings and profits for the year in which such earnings and profits were derived.

* * * * * *

Par. 19. Section 1.964–3 is amended as follows:

1. Paragraph (b) is amended as follows:

a. Subparagraphs (3) and (4) are redesignated subparagraphs (4) and (5) respectively.

b. A new subparagraph (3) is inserted immediately after subparagraph (2).

2. Paragraph (c)(1)(i) is revised.

The added and revised provisions read as follows:

§ 1.964–3 Records to be provided by United States shareholders.

* * * * * *

(b) *Records to be provided.* * * *

(3) The previously excluded subpart F income of such corporation withdrawn from investment in foreign base company shipping operations,

* * * * * *

(c) *Special rules.* * * *

(1) * * *

(i) The locus and nature of such corporation's activities were such as to make it unlikely that the foreign base company income of such corporation (determined in accordance with paragraph (c)(3) of § 1.952–3) exceeded 5 percent of its gross income (determined in accordance with paragraph (b)(1) of § 1.952–3) for the taxable year. (For taxable years to which § 1.952–3 does not apply, such amounts shall be determined under 26 CFR §§ 1.954–1(d)(3) (i) and (ii) (Rev. as of April 1, 1975)), and

* * * * * *

Par. 20. Section 1.964–4 is amended as follows:

1. Paragraph (d) is amended as follows:

a. Subparagraphs (4) and (5) are revised.

b. Subparagraphs (6) and (7) are redesignated subparagraphs (7) and (10), respectively.

c. New subparagraphs (6), (8), and (9) are added.

d. Subparagraph (10) as redesignated is amended by changing "(1) through (8)" to "(1) through (9)".

2. Paragraph (g) is redesignated paragraph (g–1) and amended as follows:

a. The heading is revised by inserting *"in less developed countries"* immediately after *"investment"*.

b. Subparagraph (1) is amended by inserting "(as in effect for taxable years beginning before January 1, 1976; see 26 CFR § 1.954–1(b)(1) (Rev. as of April 1, 1975))" immediately after "§ 1.954–1".

c. Subparagraph (2) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955(a)".

d. Subparagraph (3) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955(a)".

3. A new paragraph (g–2) is added immediately after redesignated paragraph (g–1).

The revised and added provisions read as follows:

§ 1.964–4 Verification of certain classes of income.

* * * * * *

(d) *Foreign base company income and exclusions therefrom* * * *

(4) *Qualified investments in less developed countries.* For rules in effect for taxable years of foreign corporations beginning before January 1, 1976, see 26 CFR § 1.964–4(d)(4) (Rev. as of April 1, 1975).

(5) *Income derived from aircraft or ships.* For rules in effect for taxable years of foreign corporations beginning before January 1, 1976, see CFR § 1.964–4(d)(5) (Rev. as of April 1, 1975).

(6) *Foreign base company shipping income.* The foreign base company shipping income to which section 954(f) and § 1.954–6 apply, for which purpose there must be established—

(i) Gross income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, as determined under § 1.954–6(c),

(ii) Gross income derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce, as determined under § 1.954–6(d),

(iii) Gross income incidental to income described in subdivisions (i) and (ii) of this subparagraph, as determined under § 1.954–6(e),

(iv) Gross income derived from the sale, exchange, or other disposition of any aircraft or vessel used (by the seller or by a person related to the seller) in foreign commerce,

(v) Dividends, interest, and gains described in §§ 1.954–6(f) and 1.954(b)(1)(viii),

(vi) Income described in § 1.954–6(g) (relating to partnerships, trusts, etc.), and

(vii) Exchange gain, to the extent allocable to foreign base company shipping income, as determined under § 1.952–2(c)(2)(v)(*b*).

If the controlled foreign corporation has income derived from or in connection with the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce, it shall be necessary to establish, from the books and records of the controlled foreign corporation, that such aircraft or vessel was used in foreign commerce within the meaning of subparagraphs (3) and (4) of § 1.954–6(b).

* * * * * *

(8) *Qualified investments in foreign base company shipping operations.* The foreign base company shipping income that is excluded from foreign base company income under section 954(b)(2) and § 1.954–1(b)(1).

(9) *Special rule for shipping income.* The distributions received through a chain of ownership described in section 958(a) which are excluded from foreign base company income under section 954(b)(6)(B) and § 1.954–1(b)(2).

* * * * * *

(g–2) *Withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations.*

Books or records sufficient to verify the previously excluded subpart F income of the controlled foreign corporation withdrawn from investment in foreign base company shipping operations for the taxable year must establish—

(1) The sum of the amounts of income excluded from foreign base company income under section 954(b)(2) and paragraph (b)(1) of § 1.954–1 for all prior taxable years,

(2) The sum of the amounts of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years, as determined under section 955(a) and paragraph (b) of § 1.955A–1,

(3) The amount withdrawn from investment in foreign base company shipping operations for the taxable year as determined under section 955(a) and paragraph (b) of § 1.955A–1, and

(4) If the carryover (as described in § 1.955A–1(b)(3)) of amounts relating to investments in less developed country shipping companies (as described in § 1.995–5(b)) is applicable, (i) the amount of the corporation's qualified investments (determined under § 1.955–2 other than paragraph (b)(5) thereof) in less developed country shipping companies at the close of the last taxable year of the corporation beginning before January 1, 1976, and (ii) the amount of the limitation with respect to previously excluded subpart F income (determined under § 1.955–1(b)(1)(i)(*b*)) for the first taxable year of the corporation beginning after December 31, 1975.

Par. 21. Section 1.970–1(c)(1) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately

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after "section 955", found in the flush paragraph following subparagraph (iii).

Par. 22. Section 1.972–1(b)(3)(i) is amended by inserting "(as in effect before the enactment of the Tax Reduction Act of 1975)" immediately after "section 955".

[FR Doc. 83–12817 Filed 5–11–83; 2:04 pm]
BILLING CODE 4830–01–M

26 CFR Parts 1 and 9

[T.D. 7894]

Foreign Base Company Shipping Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to shipping income of controlled foreign corporations and the taxation of their shareholders. Certain provisions were added to the applicable tax law by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976. The regulations provide the public with the guidance needed to comply with the provisions. The regulations affect certain foreign corporations which are controlled by U.S. persons and the U.S. shareholders of those corporations.

DATE: The regulations are effective for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of U.S. shareholders within which, or with which, the taxable years of such foreign corporations end.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1976, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 952, 954, and 955 of the Internal Revenue Code of 1954 (41 FR 33285). On August 25, 1976, the **Federal Register** published corrections to the proposed regulations under sections 952 and 955 (41 FR 35855). On March 3, 1977, the **Federal Register** proposed additional amendments to the Income Tax Regulations under section 954 (42 FR 12199). On August 22, 1977, the **Federal Register** published amendments to the Temporary Income Tax Regulations under the Tax Reduction Act of 1975 (26 CFR Part 9) under sections 954 and 955 (42 FR 42198). The August 22, 1977, amendments adopted as temporary regulations §§ 1.954–7(b) and 1.955A–4, which were proposed on August 9, 1976. The proposed (or adopted) amendments would conform the regulations to certain changes in the tax law made by sections 602 (c)–(e) of the Tax Reduction Act of 1975 (89 Stat. 60) and section 1024 of the Tax Reform Act of 1976 (90 Stat. 1620). The amendments are to be issued under the authority contained in sections 7805, 955(b)(2) , and 955(b)(3) of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805; 89 Stat. 63, 26 U.S.C. 955(b)(2); 89 Stat. 64, 26 U.S.C. 955(b)(3)). After consideration of all comments submitted regarding the proposed amendments, the amendments are adopted as revised by this Treasury Decision.

Statutory Bases

The United States taxes foreign corporations only on certain United States source income and income from any source which is connected with the conduct of a trade or business in the United States. As a result, the United States generally does not impose tax on foreign source income of a foreign corporation even though it is owned or controlled by U.S. persons. When the foreign corporation actually remits its foreign source income to its U.S. shareholders as a dividend, the United States imposes a tax.

The tax is imposed on the U.S. shareholder, not the foreign corporation. The fact that no U.S. tax is imposed until the income is distributed is what generally is referred to as tax "deferral."

The Internal Revenue Code provides for an exception to the general rule of deferral under the so-called "subpart F" provisions of the Code (sections 951 through 964). Under these provisions, income received by foreign corporations form certain tax haven activities is taxed at the shareholder level whether or not the income is actually received by the shareholder in the form of a dividend. These special rules apply only to U.S. persons owning 10 percent or more of the voting power of a foreign corporation and only if more than 50 percent of the voting power of the corporation in owned by U.S. persons who each own 10 percent or larger interests.

Among the types of subpart F income is "foreign base company income." Section 602(d) of the Tax Reduction Act of 1975 added a category of income to foreign base company income. The new category is called "foreign base company shipping income." Foreign base company shipping income, as defined in section 954(f), generally includes income derived from, or in connection with, the use of an aircraft or vessel in foreign commerce, or from services directly related to such use. Foreign base company shipping income also includes dividends and interest received from certain foreign corporations, and gains from the sale of stock or obligations of certain foreign corporations, if the dividends, interest, or gains are attributable to foreign base company shipping income. Section 954(b)(7), as added by section 1024(a) of the Tax Reform Act of 1976, provides that foreign base company shipping income does not include income from; or in connection with, the use of an aircraft or vessel between two points within the foreign country in which a foreign corporation is created or organized and in which the aircraft or vessel is registered.

Sections 954 (b)(2) and (g) provide an important exception to the taxation of foreign base company shipping income. Shipping income is not included in foreign base company income to the extent the shipping income is reinvested in certain shipping assets. The exclusion operates so that to the extent that a controlled foreign corporation increases its "qualified investments in foreign base company shipping operations" during a taxable year, the shipping income for that year is excluded from foreign base company income. If a controlled foreign corporation decreases its qualified investments in foreign base company shipping operations during a year, the amount of the decrease generally will be taxed to the shareholders under section 951(a)(1)(A)(iii).

Section 955(b)(1) defines "qualified investments in foreign base company shipping operations" as investments in any aircraft or vessel used in foreign commerce, and other assets used in connection with the performance of services directly related to the use of the aircraft or vessel. Qualified investments include investments in stock or obligations of other controlled foreign corporations which hold qualified shipping assets.

Section 955(b)(2) permits the Treasury Department to issue regulations establishing rules under which a group of related corporations can combine their foreign base company shipping income and their qualified investments for purposes of determining the amount of income subject to current taxation under subpart F. Section 955(b)(3) provides a special rule whereby the Treasury Department may allow a U.S. shareholder of a controlled foreign corporation to elect to compute the corporation's increase or decrease in qualified investments as of a different or a longer period of time than the one year which is generally required.

Summary of Regulations, Changes, and Public Comments

The following summary of the final regulations includes a description of the more important changes from the regulations as proposed. A number of the changes were made in response to comments received from the public. The more important of those comments will be mentioned, including those which did not result in a change.

Section 1.952–3 provides step-by-step instructions to guide taxpayers through the complexities of the foreign base company income calculations. Section 954(b)(6) provides a general rule that foreign base company shipping income, when distributed through a chain of related companies, shall not be included in foreign base company income of more than one of the related companies. *Example (2)* of § 1.952–3(d) illustrates that such dividends are, nevertheless, included in foreign base company shipping income if required to do so by section 954(b)(3)(B), which provides that, if the foreign base company income exceeds 70 percent of gross income, the entire gross income shall (except as provided in sections 954(b)(2), (4), and (5)) be treated as foreign base company income. The example also illustrates that such dividends may be reinvested in foreign base company shipping operations in order to avoid current taxation.

Several public commenters suggested that these Code provisions should be interpreted as not requiring reinvestment in order to avoid current taxation. No change was made because the Service believes that if Congress had intended such a rule, paragraph (b)(6) of section 954 would have been included in the exceptions to section 954(b)(3)(B), in addition to paragraphs (b)(2), (4), and (5).

Section 1.954–1(b)(1) provides that reinvested shipping income shall not be included in foreign base company shipping income. Section 1.954–1(b)(2) provides a "chain rule" such that generally shipping income which previously has been included in foreign base company income of a related controlled foreign corporation shall not again be included in foreign base company income when distributed through a chain of ownership. In response to a public comment, § 1.954–1(b)(2) provides that the chain rule applies to all distributions, whether by dividend, redemption of stock, or complete or partial liquidation. The proposed regulations, would have applied the chain rule only to dividends. However, the regulation provides that the chain rule for shipping income does not apply to the characterization of income for purposes of the foreign personal holding company rules of sections 551 through 558.

Sections 1.954–1(b) (3) and (4) concern the section 954(b)(4) exclusion from foreign base company income. If it is established to the satisfaction of the Service that neither (1) the creation nor organization of a controlled foreign corporation, nor (2) the effecting of a transaction giving rise to what would otherwise be foreign base company income, had as one of its significant purposes a substantial reduction of income taxes, then the income is excluded. Section 1.954–1(b)(4)(ii) generally applies the same mechanical test to foreign base company shipping income as is applied to foreign personal holding company income to determine whether such income qualifies for the exclusion. Several public commenters suggested that the foreign base company shipping income should more appropriately be included in the mechanical test applied to foreign base company sales and services income, rather than foreign personal holding company income. Another public commenter suggested that even if the personal holding company income test were to apply, that it should be modified in several respects. The Internal Revenue Service believes that the foreign personal holding company income test is the more appropriate test to apply to shipping income. One important modification is made to the test as it applies to foreign base company shipping income, however. A new § 1.954–1(b)(4)(ii)(*b*) is added to the regulations as proposed. The new section addresses the situation where over a period of three years a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations equals or exceeds its foreign base company shipping income for those years even though for certain of those years the amount of the increase is less than the amount of shipping income. In such a situation, under the general rules, there would have been current taxation of the excess of the shipping income over the increase in qualified investments. Under the new rule, generally, if over three years the increase in qualified investments equals or exceeds the amount of shipping income, the Service will determine that there has not been a significant purpose of substantial income tax reduction, as the Congressional policy encouraging reinvestment would have been met.

Section 1.954–1(f)(3) provides that foreign base company shipping income shall not also be considered as another type of foreign base company income. Two public commenters suggested that the rule also should provide that shipping income will not be included in foreign personal holding company income described in section 553. The suggestion has not been followed because the Service has found no indication of such a Congressional intent. A cross-reference to the section 553 foreign personal holding company income rules has been added to § 1.954–1(f)(3) to alert taxpayers to potential application of those rules.

Section 1.954–6 sets forth rules for determining foreign base company shipping income. Section 1.954–6(b)(1) generally defines foreign base company shipping income. Two public commenters suggested that the rule in § 1.954–6(a)(2)(ii), that foreign base company shipping income does not include amounts earned by a foreign corporation before 1976, should be changed so that pre-1976 income, when distributed by a foreign corporation, will not be currently taxed if it is reinvested in shipping assets. A new § 1.954–6(b)(1)(viii) has been added in the final regulations to provide that if the pre-1976 income is dividends, interest, or gains attributable to income derived from aircraft and ships by a less developed country shipping company (described in § 1.955–5(b)) before 1976, then that income will be treated as foreign base company shipping income.

Section 1.954–6(b)(3) defines "foreign commerce." The provisions of that section have been amended in the final regulations to exclude from foreign base company shipping income that income derived from commerce between points in the same foreign country if both (1) the foreign corporation is created or organized and (2) the aircraft or vessel is registered in that foreign country. The change of the definition implements the amendments by section 1024 of the Tax Reform Act of 1976 to section 954(b)(7).

Section 1.954–6(b)(3)(ii) defines the term "vessel." The term is used in a somewhat broader sense than when used (1) for certain investment tax credit purposes and (2) with respect to movable property used for the exploration or development of natural resources on the continental shelf for purposes of the exclusion from treatment as investment in U.S. property under section 956(b)(2)(C) (§ 1.956–2(b)(1)(ix)). Certain types of movable

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property (such as barges), which could qualify as vessels for purposes of determining shipping income, may not be treated in some circumstances as vessels under certain investment tax credit provisions and for the cited exclusion from investment in U.S. property provision. Section 1.954–6(b)(3)(ii) is revised to provide that the definition of "vessel" does not apply for purposes of the cited exclusion from investment in U.S. property provision.

Section 1.954–6(c) defines and provides illustrations of "income derived from, or in connection with, the use . . . of any aircraft or vessel in foreign commerce." A public commenter suggested that *Example (2)* of paragraph (c)(2) be amended to make explicit that income derived from the transportation and sale of a commodity in foreign commerce does not constitute foreign base company shipping income to the extent that any portion of the sales price is allocable to transportation costs. No change has been made in the example.

Section 1.954–6(d) defines "income derived from, or in connection with, the performance of services directly related to the use of an aircraft or vessel in foreign commerce." The provision sets forth the type of services which, if performed for a related person, will be treated as "directly related" services: *e.g.*, terminal services, stevedoring services, or maintenance services. Section 1.954–6(d)(4) provides a "70 percent test" by which all of a foreign corporation's income for a taxable year from a facility used in connection with the performance of "directly related" services will be included in foreign base company shipping income if more than 70 percent of the gross income from the facility is shipping income. For purposes of this test, § 1.954–6(d)(5) provides that gross income includes an arm's length charge for services performed by a foreign corporation for itself. One public commenter suggested that this 70 percent rule is inappropriate. While the final regulations generally retain the rules, the 70 percent rule is made optional.

Section 1.954–6(e)(1) provides that foreign base company shipping income includes all incidental income derived by a corporation in the course of the active conduct of foreign base company shipping operations. In response to a public comment, proposed § 1.954–6(e)(2) has been changed in the final regulations to provide that interest derived by a seller from a purchase money mortgage loan in respect of the sale of an aircraft or vessel is incidental shipping income.

Section 1.954–6(f) provides rules whereby foreign base company shipping income of a controlled foreign corporation includes certain dividends, interest, and gains allocable to shipping income of another foreign corporation. One public commenter suggested that if such income is ultimately attributable to foreign base company shipping income, it should be treated as shipping income, even if it is received by a corporation which is not a controlled foreign corporation. The suggestion was not followed as a rule of practical necessity since neither U.S. shareholders nor the Internal Revenue Service will ordinarily have access to the books and records of a corporation which is not a controlled foreign corporation in order to determine whether income is attributable to foreign base company shipping income. Section 1.954–6(f)(1), as proposed, would have treated dividends, interest, and gains as shipping income only if received from a corporation of which it owns at least 10 percent of the voting stock. In response to a public comment, the final regulations have expanded the provision so that dividends, interest, and gains received from a related controlled foreign corporation or a less-developed country shipping company will be included in foreign base company shipping income because investments in such corporations may qualify as shipping assets.

Section 1.954–7 defines "increase in qualified investments in foreign base company shipping operations." The definition is important because, to the extent that a controlled foreign corporation's foreign base company shipping income for a taxable year exceeds such increase, there generally will be current taxation of the excess in the hands of the U.S. shareholders. The section provides that the increase is the amount by which the corporation's qualified investments at the close of a taxable year exceed its investments at the close of the preceding taxable year. Section 1.954–7(b)(1) permits a U.S. shareholder to elect to determine the increase one year later; *i.e.*, instead of comparing the amount of qualified investments as of the close of the taxable year and the preceding taxable year, the amount of qualified investments at the close of the subsequent taxable year is compared to such amount at the close of the present taxable year. Section 1.954–7(b)(2) permits a U.S. shareholder to elect to have, in the first taxable year that a controlled foreign corporation has shipping income, the determination made over a two-year period. Two public commenters suggested that the rule should permit the determinations to be made over a longer period of time. No change was made because of the additional complexity and the considerable delay in determining tax liability for a given taxable year that such a change would result in, the questionable benefits to a taxpayer of such a change, and because of the change previously mentioned to § 1.954–1(b)(4)(ii) concerning lack of significant purpose of substantial income tax reduction.

Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn from investment in foreign base company shipping operations. Generally, U.S. shareholders will currently be taxed on the amount of withdrawal. Section 1.955A–1(b) provides the general rule that the amount of withdrawal is the amount by which the amount of qualified investments in foreign base company shipping operations at the close of the preceding taxable year exceeds the amount of qualified investments at the close of the taxable year. The section also sets forth various limitations on the amount of withdrawal provided for by the statute. Among those limitations is the rule providing that the amount by which recognized losses on sales or exchanges of qualified investments exceed recognized gains on such sales or exchanges during the year be subtracted from the amount of withdrawal. Several public commenters suggested that other losses, such as operating losses or losses from worthless investments, should also be applied to reduce the amount of withdrawal. The suggested change was not made because the Service believes that the statutory language (section 955(a)(2)) does not permit such an interpretation. Other public commenters suggested that the regulations should permit a carryback and a carryforward of excess qualified investments from a taxable year, so that withdrawals in other years could be offset by the excess. The suggested change was not made because the Service believes that the pertinent statutory language is too specific to permit the change. However, as mentioned earlier, a rule with an effect similar to that suggested is adopted in § 1.954–1(b)(4)(ii)(*b*) in order to determine whether a significant purpose of substantial income tax reduction was present.

Section 1.955A–2(a) defines broadly "qualified investments in foreign base company shipping operations." Generally, a qualified investment includes an investment in an aircraft or vessel, related shipping assets, stock or obligations of a related controlled foreign corporation if the assets of the corporation are used in foreign base company shipping operations, a partnership if the partnership is engaged in foreign base company shipping operations, and stock or obligations of a less developed country shipping company.

Section 1.955A–2(b) provides that a "related shipping asset" is any asset used for or in connection with the production of foreign base company shipping income. The section gives examples of related shipping assets. One commenter asserted that Congress intended that oil drilling ships constitute qualified investments in foreign base company shipping operations. H.R. Rep. No. 93–1502, 93d Cong., 2d Sess. 138 (1974). The final regulations (§§ 1.955A–2 (b)(2) and 1.954–6(b)(3)(i)) provide that an oil drilling ship does not constitute a qualified investment. As oil drilling ships are not engaged in foreign commerce, as that term is defined in the statute and in the regulations, an oil drilling ship can not constitute a qualified investment, notwithstanding the statement to the contrary in one committee report to an unenacted bill. H. Rep. No. 93–1502, 93d Cong., 2d Sess. 138 (1974).

Two commenters suggested that the final regulations should include a "safe harbor" for amounts of working capital which should be treated as related shipping assets. Because the amount of required working capital can significantly vary from corporation to corporation, no change was made in the final regulations. The Service believes that the rule in § 1.955A–2(b)(2)(i) that "reasonably necessary" working capital constitutes a related shipping asset is satisfactory.

The regulations as proposed included as an example of a related shipping asset "amounts . . . deposited in bank accounts or invested in readily marketable securities pursuant to a specific, definite, and feasible plan to purchase any tangible asset for use in foreign base company shipping operations." Section 1.955A–2(b)(3) sets forth limitations on amounts that could be invested pursuant to such a plan. Among those limitations was that the amount accumulated could not exceed 110 percent of a reasonable down payment on the first vessel planned to be purchased. Numerous commenters suggested that this limitation was unduly restrictive and conflicted with the practices of the shipping industry. Shipowners often have plans to purchase more than one vessel over a relatively short period of time. Thus, it often is necessary to accumulate far more than that which would have been permitted by the proposed regulation. In the final regulations, the limitation has been expanded to cover all vessels planned to be purchased within a reasonable period, the amount of a "reasonable" down payment has been increased from 25 to 28 percent, and the provision has been converted into a "safe harbor" provision. In addition, the final regulations also provide that in the case of an accumulation of assets which does not come within the safe harbor limitation, the determination as to whether such assets have accumulated beyond the reasonably anticipated needs of the business, will be made based on factors including but not limited to the availability of financing and the availability of a suitable vessel.

Section 1.955A–2(c) sets forth rules whereby an investment in stock or obligations of a related controlled foreign corporation are considered as qualified investments in foreign base company shipping operations. The regulations, as proposed, treated such an investment as a qualified investment only if each asset of the related controlled foreign corporation was an aircraft or vessel used in foreign commerce or a related shipping asset. Numerous commenters suggested that the "each asset" requirement was unduly restrictive and would work unfairly to disqualify investments where the related corporation's assets consisted substantially of shipping assets. Proposed § 1.955A–2(c)(1) has been changed in the final regulations to delete the "each asset" requirement. Under the new rule, the amount of the investment which will be treated as a qualified investment will depend upon the extent to which the assets of the related corporation are used in foreign base company shipping operations. Thus, a pro rata portion of an investment can qualify. A special rule is added, however, such that an investment in an obligation of a related corporation will not be a qualified investment if the obligation represents a liability which constitutes a specific charge against an asset of the second corporation which is not a shipping asset. A new *"Example (3)"* is added to § 1.955A–2(c)(3) to illustrate the new rule.

Section 1.955A–2(g) provides that the amount of an investment is its adjusted basis reduced by liabilities to which the property is subject. Section 1.955A–2(g)(2) ignores certain artificially created liabilities through related persons in making this determination. One public commenter suggested that the artificial liability rule should be deleted. While the Service believes that the rule in the existing regulations is generally appropriate, the final regulations do provide that related party liabilities created before November 20, 1974 (the date the House of Representatives bill proposing the shipping rules was first introduced), will not be ignored.

Section 1.955A–3 establishes rules under which a U.S. shareholder may elect to combine the foreign base company shipping income and the change in qualified investments in foreign base company shipping operations of a related group of corporations. Section 1.955A–3(b)(1)(i) requires that in order to make a related group election, all the related corporations must use the same taxable year. A public commenter has suggested that the regulations should provide that, if a controlled foreign corporation wishes to change its taxable year in order to qualify for the election, such change would be permitted. The suggestion was not followed because the Service believes that the ordinary rules for changing a taxable year of a corporation should apply. In appropriate cases, the Service will approve the change of a taxable year in order to qualify for the election. One commenter has suggested that the final regulations should provide that if any member of a group is on a 52–53 week taxable year, and if the taxable year for all members of the group ends within the same seven-day period, then the same taxable year requirement should be satisfied. The final regulations adopt that suggestion.

Section 1.955A–3(b)(3) provides that if two or more corporations are treated as a related group for a taxable year, the U.S. shareholder may not also elect to treat two or more other corporations as a related group during that taxable year. A commenter has suggested that the rule should be deleted. The final regulations do not follow the suggestion because to do so would unduly complicate accounting by taxpayers and increase the audit burden of the Service.

Section 1.955A–3(c)(3) of the proposed regulations provided that qualified investments of each member of a related group shall not include stock or obligations of any other member of the group. A public commenter suggested that the combination of that rule and the rule in § 1.955A–2(g)(2) (that the amount of a qualified investment is determined by subtracting liabilities from adjusted basis) results in a double exclusion of the same liability from the amount of a qualified investment. As a result of the suggestion, the final regulations have

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deleted the rule with respect to obligations of a related party.

A commenter has suggested that there should be a carryover of group excess deductions and group excess investments. The Service did not make the change because it believes that the pertinent statutory language is too specific to permit the change. However, as mentioned earlier, a rule with an effect similar to that suggested is adopted in § 1.954–1(b)(4)(ii)(*b*) in order to determine whether a significant purpose of substantial income tax reduction was present. The final regulations, in § 1.955A–3(c)(4)(vii), have been expanded significantly so as to provide a more detailed example of the computations required under the group excess investment provisions than that set forth in the proposed regulations.

A change has been made concerning the § 1.955A–1(b)(2)(ii)(B) limitation, in the related group setting, on the amount of a corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations. Under new § 1.955A–1(b)(2)(iii)(C), a related group member's limitation is increased by (1) the amount that its reinvestment in qualified shipping assets offsets a related group member's foreign base company shipping income (but only for a taxable year beginning after December 31, 1983) and (2) the amount that a deduction of a related group member reduces its foreign base company shipping income for the year (but only for a taxable year beginning after December 31, 1983).

Section 1.955A–4 prescribes regulations under section 955(b)(3) allowing the dates for determining the amount of increases in qualified investments to be postponed for an additional year or more. The regulations generally permit a one-year postponement of the election. Except for the first year that a controlled foreign corporation receives foreign base company shipping income, the regulations permit the postponement to a longer period of time only with consent of the Commissioner.

It is expected that later consideration may be given to the extent, if any, to which amounts of qualified investments in foreign base company shipping operations and other foreign base company shipping income tax characteristics should be carried over in corporate reorganizations.

The regulations also include technical changes to implement certain statutory amendments made by sections 602 (c) and (e) of the Tax Reduction Act of 1975. The Act generally repealed the investment in less developed country provisions of prior law and the Act reduced the section 954(b)(3)(A) *de minimis* rule (excluding amounts from foreign base company income) from 30 percent to 10 percent of gross income.

Regulatory Flexibility Act and Executive Order 12291

This regulation was published as a proposed regulation before January 1, 1981, the effective date of the Regulatory Flexibility Act (5 U.S.C. Chapter 6). In addition, the Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these regulations is Kenneth Klein of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in devloping these regulations both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Income taxes, Aliens, Exports, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investment abroad.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR Parts 1 and 9 are hereby adopted, as set forth below.

PART 1—[AMENDED]

Paragraph 1. Section 1.952–1 is amended by adding the following sentences at the end of paragraph (c)(2)(ii) thereof.

§ 1.952–1 Subpart F income defined.

* * * * *

(c) *Limitation on a controlled corporation's subpart F income.* * * *

(2) *Special rules.* * * *

(ii) *Deficits in earnings and profits taken into account only once.* * * * To the extent a controlled foreign corporation's (the "first corporation") excess foreign base company shipping deductions for any taxable year (determined under § 1.955A–3(c)(2)(i)) reduce the foreign base company shipping income of another member of a related group (as defined in § 1.955A–2(b)), such deductions shall not be taken into account in determining the earnings and profits or deficits in earnings and profits of such first corporation for such taxable year for purposes of this paragraph (c) and paragraph (d) of this section. The rule of the preceding sentence shall not apply to the extent the excess foreign base company shipping deductions of the first corporation reduce the foreign base company shipping income of another member of a related group below zero.

Par. 2. § 1.952–2 is amended by revising paragraph (c)(2)(v) to read as follows:

§ 1.952–2 Determination of gross income and taxable income of a foreign corporation.

* * * * *

(c) *Special rules for purposes of this section.* * * *

(2) *Application of principles of § 1.964–1.* * * *

(v) *Exchange gain or loss.* (*a*) Exchange gain or loss, determined in accordance with the principles of § 1.964–1(e), shall be taken into account for purposes of determining gross income and taxable income.

(b) Exchange gain or loss shall be treated as foreign base company shipping income (or as a deduction allocable thereto) to the extent that it is attributable to foreign base company shipping operations. The extent to which exchange gain or loss is attributable to foreign base company shipping operations may be determined under any reasonable method which is consistently applied from year to year. For example, the extent to which the exchange gain or loss is attributable to foreign base company shipping operations may be determined on the basis of the ratio which the foreign based company shipping income of the corporation for the taxable year bears to its total gross income for the taxable year, such ratio to be determined without regard to this subdivision (v).

(c) The remainder of the exchange gain or loss shall be allocated between subpart F income and non-subpart F income under any reasonable method which is consistently applied from year to year. For example, such remainder may be allocated to subpart F income in the same ratio that the gross subpart F income (exclusive of foreign base company shipping income) of the corporation for the taxable year bears to its total gross income (exclusive of foreign base company shipping income) for the taxable year, such ratio to be determined without regard to this subdivision (v).

* * * * *

Par. 3. Immediately after § 1.952–2 new § 1.952–3 is added to read as follows:

§ 1.952–3 Order of foreign base company and subpart F income computations.

(a) *Scope.*—(1) *In general.* This section describes and illustratea the computations which a United States shareholder of a controlled foreign corporation is required to make in connection with the application of section 954 and the subsequent application of section 952. However, this section does not apply to any controlled foreign corporation to which section 953 (relating to income from insurance of United States risks) applies. For rules relating to the application of section 953 and the relationship between sections 953 and 954, see the regulations under section 953. This section also does not apply to any controlled foreign corporation to which section 952(a)(3) (relating to international boycotts) or section 952(a)(4) (relating to illegal payments to foreign officials) applies.

(2) *Effective date.* This section applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end.

(b) *General rule.* Except as provided in paragraph (c) of this section, a United States shareholder must determine the subpart F income of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) in the following manner:

(1) *Step 1.* Determine gross income under § 1.952–2, and (if applicable) § 1.959–2 (relating to the exclusion of certain dividends from gross income).

(2) *Step 2.* Determine net foreign base company shipping income as follows:

(i) *First.* Determine foreign base company shipping income under § 1.954–6;

(ii) *Second.* Exclude from foreign base company shipping income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) (relating to the exclusion of United States income from subpart F income), or which are excluded from foreign base company income under § 1.954–1(b) (2) and (3) (relating, respectively, to chain rule and to corporation not availed of to reduce tax);

(iii) *Third.* Reduce the balance by the deductions allocable thereto under § 1.954–1(c); and

(iv) *Fourth.* Reduce the remaining balance by the increase in qualified investments in foreign base company shipping operations as determined under § 1.954–7 (see § 1.954–1(b)(1)).

(3) *Step 3.* Determine net foreign personal holding company income, net foreign base company sales income, and net foreign base company services income as follows:

(i) *First.* Determine foreign personal holding company income under § 1.954–2, foreign base company sales income under § 1.954–3, and foreign base company services income under § 1.954–4;

(ii) *Second.* Exclude from each such type of income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b) (2) and (3); and

(iii) *Third.* Reduce the balance of each such type of income by the deductions allocable thereto under § 1.954–1(c).

(4) *Step 4.* The foreign base company income is the sum of the net amounts determined in subparagraphs (2) and (3) of this paragraph.

(5) *Step 5.* The subpart F income is the lesser of—

(i) The sum of (A) the foreign base company income as determined under subparagraph (4) of this paragraph and (B) the exchange gain (or loss) allocable (under § 1.952–2(c)(2)(v)(*c*)) to subpart F income; or

(ii) The earnings and profits limitation stated in section 952(c) (see § 1.952–1(c)).

(6) *Step 6.* The subpart F income of an export trade corporation (as defined in section 971(a)) must be reduced as provided in § 1.970–1(b).

(c) *Section 954(b)(3) ratio less than 10 percent or more than 70 percent.*—(1) *Less than 10 percent.* Under § 1.954–1(d)(1), if the foreign base company income (determined as provided in subparagraph (3) of this paragraph) of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) is less than 10 percent of the gross income (determined as provided in paragraph (b)(1) of this section), the subpart F income of that controlled foreign corporation is zero.

(2) *More than 70 percent.* Under § 1.954–1(d)(2), if the foreign base company income (determined as provided in subparagraph (3) of this paragraph) of a controlled foreign corporation to which this section applies (and to which neither section 952(a)(3), 952(a)(4), nor 953 applies) is more than 70 percent of the gross income (determined as provided in paragraph (b)(1) of this section), a United States shareholder must determine the subpart F income of that controlled foreign corporation in the following manner:

(i) *Step 1.* The foreign base company income is the gross income (determined as provided in paragraph (b)(1) of this section), reduced as follows:

(A) First, exclude the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b)(3);

(B) Second, reduce the balance by the deductions allocable thereto under § 1.954–1(c);

(C) Third, reduce the remaining balance by the amount of the reinvested shipping income determined as provided in subparagraph (4) of this paragraph.

(ii) *Step 2.* The subpart F income is the lesser of—

(A) The foreign base company income as determined under subdivision (i) of this subparagraph; or

(B) The limitation stated in section 952(c) (see § 1.952–1(c)).

(iii) *Step 3.* The subpart F income of an export trade corporation (as defined in section 971(a)) must be reduced as provided in § 1.970–1(b).

(3) *Foreign base company income.* Solely for purposes of subparagraphs (1) and (2) of this paragraph, the foreign base company income of a controlled foreign corporation shall be the sum of the balances determined after applying paragraph (b) (2)(ii) and (3)(ii) of this section.

(4) *Reinvested shipping income.* Solely for purposes of subparagraph (2)(i)(C) of this paragraph, the amount of reinvested shipping income of a controlled foreign corporation shall be determined as follows:

(i) *Step 1.* Determine foreign base company shipping income under § 1.954–6;

(ii) *Step 2.* Exclude from foreign base company shipping income the items thereof which are excluded from subpart F income under § 1.952–1(b)(2) or which are excluded from foreign base company income under § 1.954–1(b)(3);

(iii) *Step 3.* Reduce the balance by the deductions allocable thereto under § 1.954–1(c);

(iv) *Step 4.* The amount of reinvested shipping income is the lesser of—

(A) The remaining balance, or

(B) The increase in qualified investments in foreign base company shipping operations as determined under § 1.954–7.

(d) *Illustrations.* The application of this section may be illustrated by the following examples, in each of which it is assumed that A is a United States

shareholder who owns stock in a controlled foreign corporation on December 31, 1976, the corporation uses the calendar year as the taxable year, and for 1976, the corporation has no income derived from the insurance of United States risks (within the meaning of section 953(a)), neither section 952(a)(3) (relating to international boycotts) nor section 952(a)(4) (relating to illegal payments to foreign officials) applies to the corporation, and the corporation is not an export trade corporation (within the meaning of section 971(a)):

Example (1). (a) For 1976, P Corporation has no foreign base company sales income and no foreign base company shipping income.

(b) A must apply the test prescribed by section 954(b)(3) to P's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign personal holding company income	$200
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	10
(iii) Balance	190
(3) (i) Foreign base company services income	450
(ii) Less: Items of foreign base company services income excluded under §§ 1.952–1(b)(2) and 1.954–1(b)(3)	100
(iii) Balance	350
(4) Tentative foreign base company income (line (2)(iii) plus line (3)(iii))	540
(5) Section 954(b)(3) ratio (line 4÷line (1)) (percent)	54

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine P's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign personal holding company income	200
(ii) Less: Items of foreign person holding company income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	10
(iii) Balance	190
(iv) Less: deductions allocable to balance	170
(v) Net foreign personal holding company income	20
(3) (i) Foreign base company services income	450
(ii) Less: Items of foreign base company services income excluded under §§ 1.954–1(b)(2) and 1.954–1(b)(3)	100
(iii) Balance	350
(iv) Less: Deductible allocable to balance	250
(v) Net foreign base company services income	100
(4) Subpart F income: (i) Foreign base company income (line (2)(v) plus line (3)(v))	120
(ii) Exchange gain attributable to subpart F income	7
(iii) Tentative subpart F income (line (i) plus line (ii))	127
(iv) Earnings and profits limitation	225
(v) Subpart F income (lesser of lines (iii) and (iv))	127

Example (2). (a) For 1976, N Corporation has no foreign personal holding company income, no foreign base company sales income, and no foreign base company services income. However, N receives $100 of dividends from another controlled foreign corporation which is excluded from foreign base company income under 1.954–1(b)(2) as attributable to foreign base company shipping income, but which is not excluded from gross income under section 959(b). A has not made an election as to qualified investments by related persons under section 955(b)(2) and § 1.955A–3.

(b) A must apply the test prescribed by section 954(b)(3) to N's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	1,000
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	100
(iii) Balance	900
(3) Section 954(b)(3) ratio (line (2)(iii)÷line (1)) (percent)	90

(c) Since the section 954(b)(3) ratio exceeds 70 percent, A must determine the amount of N's reinvested shipping income for 1976 as follows, based on the facts shown in the following table:

(1) Foreign base company shipping income	$1,000
(2) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2) and 1.954–1(b)(3)	0
(3) Balance	1,000
(4) Less: Deductions allocable to balance	750
(5) Remaining balance	250
(6) Increase in qualified investments in foreign base company shipping operations	250
(7) Reinvested shipping income (lesser of lines (5) and (6))	250

(d) A must determine N's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) (i) Gross income	$1,000
(ii) Less: Items of gross income excluded under §§ 1.952–1(b)(2) and 1.954–1(b)(3)	0
(iii) Balance	1,000
(iv) Less: Deductions allocable to balance	750
(v) Remaining balance	250
(vi) Less: reinvested shipping income	250
(vii) Foreign base company income	0
(2) Earnings and profits limitation	1,200
(3) Subpart F income (lesser of lines (1)(vii) and (2))	0

Example (3). (a) For 1976, M Corporation has no foreign personal holding company income, no foreign base company sales income, and no foreign base company services income.

(b) A must apply the test prescribed by section 954(b)(3) to M's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	650
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	0
(iii) Balance	650
(3) Section 954(b)(3) ratio (line (2)(iii)÷line (1)) (percent)	65

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine M's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) Net foreign base company shipping income: (i) Foreign base company shipping income	650
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	0
(iii) Balance	650
(iv) Less: Deductions allocable to balance	550
(v) Remaining balance	100
(vi) Less: Increase in qualified investments in foreign base company shipping operations	80
(vii) Net foreign base company shipping income	20
(3) Subpart F income: (i) Foreign base company income (line (2)(vii))	20
(ii) Exchange gain attributable to subpart F income	0
(iii) Tentative subpart F income (line (i) plus line (ii))	20
(iv) Earnings and profits limitation	15
(v) Subpart F income (lesser of lines (iii) and (iv))	15

Example (4). (a) For 1976, O Corporation has no foreign base company sales income and no foreign base company services income.

(b) A must apply the test prescribed by section 954(b)(3) to O's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	$450
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	100
(iii) Balance	350
(3) (i) Foreign personal holding company income	200
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	10
(iii) Balance	190
(4) Tentative foreign base company income (line (2)(iii) plus line (3)(iii))	540
(5) Section 945(b)(3) ratio (line (4)÷line (1)) (percent)	54

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine O's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	450
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	100
(iii) Balance	350
(iv) Less: Deductions allocable to balance	250
(v) Remaining balance	100
(vi) Less: Increase in qualified investments in foreign base country shipping operations	135
(vii) Net foreign base company shipping income (not less than zero)	0
(3)(i) Foreign personal holding company income	200
(ii) Less: Items of foreign personal holding company income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	10
(iii) Balance	190
(iv) Less: Deductions allocable to balance	70
(v) Net foreign personal holding company income	120
(4) Subpart F income: (i) Foreign base company income (line (2) (vii) plus line (3)(v))	120
(ii) Exchange gain attributable to subpart F income	7
(iii) Tentative subpart F income (line (i) plus line (ii))	127
(iv) Earnings and profits limitation	225
(v) Subpart F income (lesser of lines (iii) and (iv))	127

Example (5). (a) For 1976, corporation R's only income is comprised of interest and dividends which are treated as foreign base company shipping income under § 1.954–6(f)(1)(i). Consequently, R has no foreign personal holding company income, foreign base company sales income of foreign base company services income for 1976 (see section 954(b)(6)(A) and § 1.954–1(f)(3)).

(b) A must apply the test prescribed by section 954(b)(3) to R's taxable year 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) (i) Foreign base company shipping income	1,000
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	400
(iii) Balance	600
(3) Section 954(b)(3) ratio (line (2)(iii)÷line (1)) (percent)	60

(c) Since the section 954(b)(3) ratio is not less than 10 percent nor more than 70 percent, A must determine R's subpart F income for 1976 as follows, based on the facts shown in the following table:

(1) Gross income	$1,000
(2) Net foreign base company shipping income: (i) Foreign base company shipping income	1,000
(ii) Less: Items of foreign base company shipping income excluded under §§ 1.952–1(b)(2), 1.954–1(b)(2), and 1.954–1(b)(3)	400
(iii) Balance	600
(iv) Less: Deductions allocable to balance	50
(v) Remaining balance	550
(vi) Less: Increase in qualified investments in foreign base company shipping operations	530
(vii) Net foreign base company shipping income	20
(3) Subpart F income: (i) Foreign base company income (line (2)(vii))	20
(ii) Exchange gain attributable to subpart F income	0
(iii) Tentative subpart F income (line (i) plus line (ii))	20
(iv) Earnings and profits limitation	25
(v) Subpart F income (lesser of lines (iii) and (iv))	20

Par. 4. Section 1.954–1 is amended as follows:

1. The heading and paragraphs (a), (b)(1), and (b)(2) are revised.

2. Paragraph (b)(3) is redesignated as paragraph (b)(4), and paragraph (b)(4) is redesignated as paragraph (b)(3).

3. Paragraph (b)(3) (as redesignated) is amended as follows:

a. The heading is revised.

b. Subdivision (i) is amended by deleting "ending After October 9, 1969", and inserting in lieu thereof "beginning after December 31, 1975".

c. Subdivision (ii) is amended by revising (*a*), in (*b*) by deleting "subparagraph (3)" and inserting in lieu thereof "subparagraph (4)", and by deleting "subparagraph (3)(viii)" in the last sentence and inserting in lieu thereof "subparagraph (4)(vii)".

d. Subdivision (iv) is amended by adding a new sentence at the end thereof.

e. Subdivision (v) is amended by deleting the phrase "(d)(6)", inserting the phrase "(d)(7)" in its place, deleting "Income Tax Division" and inserting in lieu thereof "Corporation Tax Division".

f. Subdivision (vi) is amended by deleting "subparagraph (3)(vi)" and inserting in lieu thereof "subparagraph (4)(v)", and by deleting "subparagraph (3)(vii)" and inserting in lieu thereof "subparagraph (4)(vi)".

g. Subdivision (vii) is amended by revising the heading, by deleting "example" in the first sentence and inserting in lieu thereof "examples", by redesignating the example as *"Example (1)"*, by deleting "1969" in the seventh sentence of example (1) (as redesignated) and inserting in lieu thereof "1977", and by adding new examples (2) and (3) at the end thereof.

4. Paragraph (b)(4) (as redesignated) is amended as follows:

a. The heading, subdivisions (i) and (ii), and the text of subdivision (iii) as precedes (*a*) thereof are revised.

b. Subdivisions (iii)(*a*) (*1*) and (*2*), (iii) (*b*), and (iv) are each amended by deleting "in respect to" and inserting in lieu thereof "in respect of".

c. Subdivision (v) is deleted.

d. Subdivisions (vi), (vii), and (viii) are redesignated as subdivisions (v), (vi), and (vii), respectively.

e. Subdivision (v) (as redesignated) is amended by deleting "the creation or organization of a controlled foreign corporation results in" and and inserting in lieu thereof "there has been", by deleting "29 percent" and inserting in lieu thereof "9 percent", and by deleting "71 percent" and inserting in lieu thereof "91 percent".

f. Subdivision (vi) (as redesignated) is amended by deleting "subdivisions (i) to (vi)" and inserting in lieu thereof "subdivisions (i) to (v)".

g. Example (1) of subdivision (vii) as (redesignated) is amended by deleting "1963" and inserting "1976" in lieu thereof, and by deleting "organization of B Corporation in country Y did not have the effect of substantially reducing" and inserting in lieu thereof "there has been no substantial reduction of".

h. Example (2) of subdivision (vii) (as redesignated) is amended by deleting "organization of B Corporation in country Y did have the effect of substantially reducing" and inserting in lieu thereof "there has been a substantial reduction of".

i. Example (3) of subdivision (vii) (as redesignated) is amended, and example (4) of subdivision (vii) (as redesignated) is deleted.

5. Paragraph (c) is amended by revising the first and last sentences thereof.

6. Paragraph (d) is amended as follows:

a. The heading is revised.

b. Subparagraph (1) is amended by deleting "30" in both places where it appears and inserting in lieu thereof "10".

c. Subparagraph (2) is amended by deleting "(1)," immediately after "except as provided in paragraph" and by inserting "(1), (b)(3)," immediately after "and paragraphs (b)". In addition, a new sentence is added at the end of subparagraph (2).

d. Subparagraph (3) is revised.

e. The text of subparagraph (4) as precedes the example is revised.

f. The example in subparagraph (4) is amended by deleting "30" in all three places where it appears and by inserting in lieu thereof "10".

7. Paragraph (e) is amended by deleting "1.954–5" and inserting in lieu thereof "1.954–7".

8. Paragraph (f) is amended by deleting "1.954–5" and inserting in lieu thereof "1.954–7", and by adding a new subparagraph (3) at the end thereof.

The added and amended provisions read as follows:

§ 1.954–1 Foreign base company income; taxable years beginning after December 31,1975.

(a) *In general.* The subpart F income of a controlled foreign corporation for any taxable year includes its foreign base company income for such taxable year. See section 952(a). For taxable years beginning after December 31, 1975, the foreign base company income of a controlled foreign corporation consists of the sum of its foreign personal holding company income, as defined in § 1.954–2, its foreign base company sales income, as defined in § 1.954–3, its foreign base company services income, as defined in § 1.954–4, and its foreign base company shipping income, as defined in § 1.954–6, modified and adjusted in accordance with this section. For corresponding rules applicable to taxable years beginning before January 1, 1976, see 26 CFR § 1.954–1 (Rev. as of April 1, 1975). For additional rules relating to the computation of foreign base company income, see § 1.952–3.

(b) *Exclusions from foreign base company income.* Foreign base company income does not include the following items:

(1) *Reinvested shipping income.* Foreign base company income does not include foreign base company shipping income to the extent that the amount of such income does not exceed the controlled foreign corporation's increase for the taxable year in qualified investments in foreign base company shipping operations. See section

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954(b)(2). For definition of the term "qualified investments in foreign base company shipping operations," see section 955(b) and § 1.955A–2. For rules relating to the determination of the increase for a taxable year in qualified investments in foreign base company shipping operations, see section 954(g) and § 1.954–7. For rules relating to the computation of the amount excluded from foreign base company income under this subparagraph, see § 1.952–3.

(2) *Chain rule for shipping income.* Except as provided in section 954(b)(3) (and notwithstanding any provision of § 1.954–6), distributions by dividend, redemption of stock, or complete or partial liquidation by a controlled foreign corporation through a chain of ownership described in section 958(a) to another controlled foreign corporation shall not be included in the foreign base company income of such other controlled foreign corporation to the extent that such distributions are attributable (under § 1.954–6(f) (4), (5), or (6)) to foreign base company shipping income. Thus, a distribution which is not excluded from gross income under section 959(b) and § 1.959–2 may be excluded from foreign base company income under section 954(b)(6)(B) and this subparagraph. However, this chain rule does not apply to the characterization of income for purposes of the foreign personal holding company rules of sections 551 through 558.

(3) *Income of controlled foreign corporations not availed of to substantially reduce income or similar taxes.* * * *

(ii) *Substantial reduction of income taxes.* * * *

(*a*) Item of foreign personal holding company income described in § 1.954–2 or an item of foreign base company shipping income described in § 1.954–6 shall be made by applying the principles of subparagraph (4)(ii) of this paragraph, or

* * * * * *

(iv) *Application of significant purpose test.* * * * The fact that an aircraft or vessel is registered in any particular foreign country does not mean that the income-producing activity in connection with which the aircraft or vessel is used is carried on in that country.

* * * * * *

(vii) *Illustrations.* * * *

Example (2). Controlled foreign corporation X is incorporated under the laws of foreign country A, and uses the calendar year as the taxable year. Corporation X has conducted business for a substantial period of years prior to 1977. Before 1977, X Corporation was subject, under the laws of country A, to an effective tax rate of 46.6 percent on the income (after allocable deductions other than income or similar taxes) derived from purchasing and selling activities conducted throughout the world. A substantial part of its income for 1976 was derived from transactions in which it purchased from an unrelated person in foreign country C raw materials produced in country C and sold them to Z Corporation, a related person organized under the laws of foreign country B for use in country B. If X Corporation had been incorporated under the laws of country B, it would have paid income and similar taxes to country B for 1976 in an amount effectively equal to 51.2 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to Z Corporation. If X Corporation had been incorporated under the laws of country C, it would have paid income and similar taxes to country C for years before 1977 in an amount effectively equal to 52 percent of the income (after allocable deductions other than income or similar taxes) derived from the sales to Z Corporation. In 1977 X Corporation also derives a substantial part of its income from transactions, in which it purchases from an unrelated person in country C raw materials produced in country C and sells them to Z Corporation for use in country B. Effective January 1, 1977, there is a general reduction in income tax rates in country A, so that X Corporation pays an income tax to country A for 1977 in an amount effectively equal to 45 percent of the income (after allocable deductions other than income or similar taxes) from the sales to Z Corporation. The income tax laws of countries B and C applicable for 1976 remain applicable to 1977 without change. During years both before and after the reduction in country A tax, X Corporation actively conducts a trade or business of purchasing personal property from unrelated persons and selling such property to unrelated persons as well as to Z Corporation. For 1977, the percentage of total income of X Corporation derived from sales of the raw materials to Z Corporation and the nature of the raw materials so sold to Z Corporation remain substantially unchanged from that for 1976. Although the rate of income and similar taxes paid by X Corporation to country A for 1977 on the income from the sales to Z Corporation is less than 90 percent of, and as much as 5 percentage points less than, the rate (51.2 percent) of the income and similar taxes which X Corporation would have paid to country B on the income from the sales to Z Corporation, under subdivision (iv) of this subparagraph the other facts and circumstances in this example will establish to the satisfaction of the district director that (a) the organization of X Corporation in country A, and (b) the effecting through X Corporation of the sales to Z Corporation during 1977, did not have as a significant purpose a substantial reduction of income or similar taxes. Foreign base company income of X Corporation for 1977 does not include income derived from such sales. However, if the percentage of the total income of X Corporation derived from sales of raw materials to Z Corporation were substantially increased, or if the nature of the raw materials so sold to Z Corporation were significantly changed, the facts and circumstances of this example would not establish to the satisfaction of the district director that the effecting through X Corporation of the additional or unusual sales to Z Corporation during 1977 did not have as a significant purpose a substantial reduction of income or similar taxes.

Example (3). (i) Controlled foreign corporation Y, which owns and operates a fleet of foreign flag tankers, is incorporated under the laws of foreign country L. L imposes an effective rate of tax of 10 percent on the income (after allocable deductions other than income or similar taxes) from shipping operations. The highest rate prescribed by section 11 for all relevant taxable years is 48 percent, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption). It is assumed that had Y been incorporated in the United States and owned and operated a fleet of United States flag tankers, it could have avoided payment of any taxes on its income from shipping operations because of it ability to reduce taxable income by means of deposits of amounts equal to such income into a capital construction fund. It is further assumed that had Y been incorporated in the United States and owned and operated a fleet of foreign flag tankers, it would have paid income taxes to the United States on its income from shipping operations at the highest rate prescribed by section 11.

(ii) Since the effective rate of tax on income from such shipping operations paid to country L (10 percent) does not equal or exceed 90 percent of the 48 percent rate prescribed by section 11 (43.2 percent), such income cannot be excluded from foreign base company income under paragraph (b)(3)(i) of this section by reason of the application of paragraph (b)(3)(ii) (*a*) of this section and paragraph (b)(4)(ii) of this section.

(iii) Also, the fact that Y could have avoided paying any taxes in the United States on its shipping income will not establish to the satisfaction of the district director that the incorporation of Y in foreign country L did not have as a significant purpose a substantial reduction of income or similar taxes, since such avoidance of United States tax would have been possible only upon the occurrence of additional events other than incorporation in the United States (i.e., the use of United States flag tankers and the depositing of amounts into the capital construction fund), which events did not actually occur.

(4) *No substantial reduction of income or similar taxes*—(i) *Scope.* This subparagraph prescribes rules for the application of subparagraph (3) of this paragraph.

(ii) *Foreign personal holding company income and foreign base company shipping income.*—(*a*) *General rule.* For purposes of paragraph (b)(3)(ii)(*a*) of this section, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign personal holding company income described in § 1.954–2 or an item of foreign base company shipping income described in § 1.954–6 if the effective rate of such taxes (after allocable deductions other than such taxes) paid by a controlled foreign corporation to a foreign country for the taxable year in respect of such item of income equals or exceeds 90 percent of the highest rate prescribed by section 11 (or section 1201 if that is the applicable section) for the taxable year of the United States shareholder within which or with which ends such taxable year of such controlled foreign corporation. For taxable years in which section 11 prescribes both a normal tax rate and a surtax rate, the highest rate is the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption).

(*b*) *Carryover rule for foreign base company shipping income.* If the rule in the immediately preceding subdivision (*a*) does not operate to exclude all of a controlled foreign corporation's foreign base company shipping income from foreign base company income for a taxable year, the carryover rule of this subdivision (*b*) shall be applied. Under this subdivision (*b*), if for a taxable year, the amount of a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations (determined under § 1.954–7), plus any carryover amount (or any portion thereof) to that year, equals or exceeds (thus, is not less than) the corporation's foreign base company shipping income for that taxable year, then there will be considered to have been no substantial reduction for that taxable year of income, war profits, excess profits, or similar taxes with respect to foreign base company shipping income. A carryover amount is an amount which equals, for the taxable year in which it arises, the excess of a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations over the corporation's foreign base company shipping income. A carryover amount (or any portion thereof) may be carried back or forward only one taxable year and may be carried over and utilized only once. A carryover amount (or any portion thereof) must always be carried back until exhausted before it is carried forward unless—(*1*) the rule in the immediately preceding subdivision (*a*) operates to exclude all of a controlled foreign corporation's foreign base company shipping income from foreign base company income for the preceding taxable year, or (*2*) the corporation's increase in qualified investments in foreign base company shipping operations for the preceding taxable year, plus any other carryover amount being carried forward to such preceding taxable year, equals or exceeds the corporation's foreign base company shipping income for the preceding taxable year. This subdivision (*b*) shall not be applied to a corporation with respect to which a related group election under § 1.955A–3 is in effect for the taxable year in which the carryover arose or to which the amount might otherwise be carried. The benefit of a carryover amount which is carried back may be obtained for a taxable year only by filing an amended income tax return (if the income tax return for the taxable year already has been filed). For purposes of § 1.955A–1(b)(2)(i)(C), relating to withdrawal of investment in foreign base company shipping operations, an amount shall be treated as previously excluded from foreign base company income if not treated as foreign base company shipping income by reason of the application of this carryover rule. The rules of this subdivision (*b*) are illustrated by the following examples. In each example controlled foreign corporation K's taxable year is the calendar year, no related group election under § 1.955A–3 is in effect with respect to K for any year, and K has no other income in any year.

Example (1). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	80	150	90
(3) Excess (or shortfall) of line (2) over line (1)	(20)	50	(10)

K has a 1982 carryover amount of $50. Twenty dollars of the carryover amount is carried back to 1981 and $10 is carried forward to 1983. The remaining $20 cannot be carried back or forward to any other year. For 1981 and 1983, by virtue of the rule of this subdivision (*b*), there will be considered to have been no substantial reduction of income taxes (and all of the foreign base company shipping income for 1981 and 1983 is excluded from foreign base company income). The benefit of the operation of the rule for 1981 may be claimed by the U.S. shareholder of K by the filing of an amended income tax return.

Example (2). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	40	150	90
(3) Excess (or shortfall) of line (2) over line (1)	(60)	50	(10)

K has a 1982 carryover amount of $50. All $50 must be carried back to 1981, where it is exhausted, and may not be carried forward to 1983. Because K's increase in qualified investments in foreign base company shipping operations for 1981 ($40), plus the carryover amount from 1982 ($50), does not equal or exceed K's foreign base company shipping income for 1981 ($100), the rule of this subdivision (*b*) does not operate to exclude from foreign base company income any of K's income for 1981. The same is true for 1983, as K has exhausted the entire $50 carryover amount in 1981. If K had had a 1982 carryover amount of $60 (rather than $50), then the rule of this subdivision (*b*) would operate to exclude all of the 1981 foreign base company shipping income. If the 1982 carryover amount had been $70, then all of the 1981 and 1983 income would have been excluded.

Example (3). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in foreign base company shipping operations as set forth in the following table.

	1980	1981	1982	1983	1984
(1) Foreign base company shipping income	$100	$100	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	100	120	70	120	90
(3) Excess (or shortfall) of line (2) over line (1)	0	20	(30)	20	(10)

K has a 1981 carryover amount of $20. The $20 must be carried forward to 1982. It is not carried back to 1980 because K's 1980 increase in qualified investments in foreign base company shipping operations equaled its 1980 foreign base company shipping income. K's 1983 carryover amount is $20. Ten dollars of it is carried back to 1982 where, in combination with the $20 carried forward from 1981, it operates, by virtue of the rule of this subdivision (*b*), to exclude all of K's 1982 foreign base company shipping income from foreign base company income. The benefit of the operation of the rule for 1982 may be claimed by the U.S. shareholder of K by filing an amended income tax return after 1983. The remaining $10 carryover amount from 1983 is carried forward to 1984 where, by virtue of the rule of this subdivision (*b*), all of K's foreign base company shipping income for 1984 is excluded from foreign base company income.

Example (4). Controlled foreign corporation K has foreign base company shipping income and an increase in qualified investments in

foreign base company shipping operations as set forth in the following table.

	1981	1982	1983
(1) Foreign base company shipping income	$100	$100	$100
(2) Increase in qualified investments in foreign base company shipping operations	80	120	80
(3) Excess (or shortfall) of line (2) over line (1)	(20)	20	(20)

K has a 1982 carryover amount of $20. All of the $20 must be carried back to 1981 and exhausted. By virtue of the operation of the rule of this subdivision (*b*), K's 1981 foreign base company shipping income is excluded from foreign base company income. No 1982 carryover amount is carried forward to 1983 (as it was exhausted in 1981). If, however, the rule in the immediately preceding subdivision (*a*) had operated to exclude all $100 of K's foreign base company shipping income from foreign base company income for 1981, then the 1982 carryover amount would not have been carried back to 1981 and the entire amount would have been carried forward to 1983. In the latter case, the rule of this subdivision (*b*) would have operated to exclude all of K's 1983 foreign base company shipping income from foreign base company income. If in 1981 the rule in the immediately preceding subdivision (*a*) had operated to exclude only $80 of the $100 foreign base company shipping income, then the entire 1982 carryover amount would have to be carried back and exhausted, as set forth earlier in example (2), and no amount may be carried forward to 1983.

* * * * *

(iii) *Foreign base company sales and services income.* For purposes of this paragraph, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign base company sales income described in § 1.954–3 or an item of foreign base company services income described in § 1.954–4 if the effective rate of such taxes paid to a country or countries for the taxable year in respect of such item of income by the controlled foreign corporation equals or exceeds 90 percent of, or is not as much as 5 percentage points less than—

* * * * *

(vii) Illustrations. * * *

Example (3). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. In 1978, A Corporation derived interest and rent not excluded under section 954(c) (3) or (4). With respect to the item of interest, A Corporation paid an income tax to country X in an amount effectively equal to 44 percent of such item (after allocable deductions other than income or similar taxes) and, with respect to the item of rent, paid an income tax to country Y in an amount effectively equal to 40 percent of such item (after allocable deductions other that income or similar taxes). No other income or similar tax was paid by A Corporation with respect to such items. In 1978, the highest rate prescribed by section 11 for the taxable year of M Corporation is 48 percent, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption). Therefore, with respect to the item of interest, there will be considered to have been no substantial reduction of income or similar taxes (44 percent being more than 90 percent of 46 percent), and such interest is not included in foreign base company income of A Corporation. With respect to the item of rent, however, there will be considered to have been a substantial reduction of income or similar taxes (40 percent being less than 90 percent of 48 percent), and the exclusion from foreign base company income provided by section 954(b)(4) will not apply to such item unless it is established in accordance with subparagraph (b)(3)(i) of this paragraph that both the creation or organization of A Corporation under the laws of foreign country X and the effecting through A Corporation of the transaction which gave rise to such rental income did not have as a significant purpose a substantial reduction of such taxes.

* * * * *

(c) *Gross income and deductions to be taken into account.* For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954–2, foreign base company sales income as defined in § 1.954–3, foreign base company services income as defined in §1.954–4, and foreign base company shipping income as defined in § 1.954–6 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. * * * However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraph (4) of section 954(b) and paragraph (b)(3) of this section and expenses, taxes, and other deductions properly allocable to amounts excluded from subpart F income under section 952(b) and the regulations thereunder.

(d) *Special rules where foreign base company income is less than 10 percent or more than 70 percent of gross income.* * * *

(2) *More than 70 percent of gross income.* * * * Any amount included in foreign base company by reason of section 954(b)(3)(B) and this subparagraph (2) shall be treated as foreign base company shipping income to the extent allowed by the following formula:

$$\text{FBCI amount under sec. 954(b)(3)(B) (to be allocated)} \times \frac{\text{Other FBC shipping income}}{\text{All FBCI amount not under sec. 954(b)(3)(B)}}$$

(3) *Method of computation.* See § 1.952–3 for rules relating to the method of determining the percentage which foreign base company income is of gross income under subparagraphs (1) and (2) of this paragraph.

(4) *Branches of controlled foreign corporations treated as separate corporations*—(i) *In general.* The 10-percent and 70-percent tests described in subparagraphs (1) and (2) of this paragraph apply to the foreign base company income of each controlled foreign corporation. In addition, if a branch or similar establishment of a controlled foreign corporation is treated as a separate wholly owned subsidiary corporation of such corporation under section 954(d)(2) and paragraph (b) of § 1.954–3, the 10-percent and 70-percent tests apply separately to the income allocated under such paragraph to such branch or similar establishment, to other branches and similar establishments similarly treated, and to the remainder of the controlled foreign corporation.

(ii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

* * * * *

(f) *Classification of an item of income.* * * *

(3) *Shipping classification applies first.* Foreign base company shipping income (as determined under § 1.954–6) of a controlled foreign corporation shall not also be considered foreign personal holding company income, foreign base company sales income, or foreign base company services income. See section 954(b)(6)(A). However, foreign base company shiping income may be treated as foreign personal holding company income under sections 551 through 558, rather than as foreign base company shipping income. See section 951(d).

Par. 5. Section 1.954–2 is amended as follows:

1. The first sentence of paragraph (a) is amended by inserting "section 954(b)(6)(A)," immediately before "section 954(c) (3) and (4)", and by striking out "(e)" and inserting "(f)" in lieu thereof.

2. A new paragraph (f) is added at the end thereof to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(f) *Shipping income for taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, foreign base company shipping income of a controlled foreign corporation (as determined under § 1.954–6) shall not also be considered foreign personal holding company income of that controlled foreign corporation.

Par. 6. Section 1.954–3 is amended by inserting "or foreign base company shipping income under § 1.954–6" immediately after "§ 1.954–2" in the fourth sentence of paragraph (a)(1) and by adding a new paragraph (c) to read as follows:

§ 1.954–3 Foreign base company sales income.

* * * * *

(c) *Shipping income for taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, foreign base company shipping income (as determined under § 1.954–6) of a controlled foreign corporation shall not also be considered foreign base company sales income of that controlled foreign corporation.

Par. 7. Section 1.954–4(d) is amended by deleting "or" at the end of subparagraph (1), by deleting the period at the end of subparagraph (2) and inserting in lieu thereof "; or", and by adding a new subparagraph (3) at the end thereof to read as follows:

§ 1.954–4 Foreign base company services income.

* * * * *

(d) *Items excluded.* * * *

(3) For taxable years beginning after December 31, 1975, foreign base company shipping income (as determined under § 1.954–6).

Par. 8. Immediately after § 1.954–5 new §§ 1.954–6 and 1.954–7 are added to read as follows:

§ 1.954–6 Foreign base company shipping income.

(a) *Scope*—(1) *In general.* This section prescribes rules for determining foreign base company shipping income under the provisions of section 954(f), as amended by the Tax Reduction Act of 1975.

(2) *Effective date.* (i) The rules prescribed in this section apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951 (b)) within which or with which such taxable years of such foreign corporations end.

(ii) Except as described in paragraph (b)(1)(viii) of this section, foreign base company shipping income does not include amounts earned by a foreign corporation in a taxable year of such corporation beginning before January 1, 1976. See example (1) of paragraph (g)(2) of this section for an illustration of the effect of this subparagraph on partnership income. See example (3) of paragraph (f)(4)(ii) of this section for an illustration of the effect of this subparagraph on certain dividend income. See paragraph (f)(5)(iii) of this section for the effect of this subparagraph on certain interest and gains.

(b) *Definitions*—(1) *Foreign base company shipping income.* The term "foreign base company shipping income" means—

(i) Gross income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce (see paragraph (c) of this section),

(ii) Gross income derived from, or in connection with, the performance of services directly related to the use of any aircraft or vessel in foreign commerce (see paragraph (d) of this section),

(iii) Gross income incidental to income described in subdivisions (i) and (ii) of this subparagraph, as provided in paragraph (e) of this section,

(iv) Gross income derived from the sale, exchange, or other disposition of any aircraft or vessel used or held for use (by the seller or by a person related to the seller) in foreign commerce,

(v) In the case of a controlled foreign corporation, dividends, interest, and gains described in paragraph (f) of this section,

(vi) Income described in paragraph (g) of this section (relating to partnerships, trusts, etc.),

(vii) Exchange gain, to the extent allocable to foreign base company shipping income (see § 1.952–2(c)(2)(v)(*b*), and

(viii) In the case of a controlled foreign corporation and at its option, dividends, interest, and gains attributable to income derived from aircraft and vessels (as defined in 26 CFR § 1.954–1(b)(2) (Rev. as of April 1, 1975)) by a less developed country shipping company (described in § 1.955–5(b)) in taxable years beginning after December 31, 1962, and before January 1, 1976. The portion of a dividend, interest, or gain attributable to such income shall be determined by the same method as that for determining the portion of a dividend, interest, or gain attributable to foreign base company shipping income under paragraphs (f)(4), (5), and (6) of this section, but without regard to paragraphs (f)(6) (ii) and (iv)(B).

(2) *Foreign base company shipping operations.* For purposes of sections 951 through 964, the term "foreign base company shipping operations" means the trade or business from which gross income described in subparagraph (1) (i) and (ii) of this paragraph is derived.

(3) *Foreign commerce.* For purposes of sections 951 through 964—

(i) An aircraft or vessel is used in foreign commerce to the extent it is used in transportation of property or passengers—

(A) Between a port (or airport) in the United States or possession of the United States and a port (or airport) in a foreign country, or

(B) Between a port (or airport) in a foreign country and another in the same country or between a port (or airport) in a foreign country and one in another foreign country.

Thus, for example, a trawler, a factory ship, and an oil drilling ship are not considered to be used in foreign commerce. On the other hand, a cruise ship which visits one or more foreign ports is considered to be so used. Notwithstanding subdivision (i)(B) of this paragraph (b)(3), foreign base company income does not include income derived from, or in connection with, the use of an aircraft or vessel in transportation of property or passengers between a port (or airport) in a foreign country and another port (or airport) in the same country if both the foreign corporation is created or organized and the aircraft or vessel is registered in that country.

(ii) The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being used or are intended to be used as a means of transportation on water. This definition does not apply for purposes of section 956(b)(2)(G) and § 1.956–2(b)(1)(ix).

(iii) The term "port" means any place (whether on or off shore) where aircraft or vessels are accustomed to load or unload goods or to take on or let off passengers.

(iv) Any vessel (such as a lighter or beacon lightship) which serves other vessels used in foreign commerce (within the meaning of subdivision (i) of this subparagraph) shall, to the extent so used, also be considered to be used in foreign commerce.

(v) For the meaning of the term "foreign country", see section 638(2).

(4) *Use in foreign commerce.* For purposes of sections 951 through 964, the use of an aircraft or vessel in foreign commerce includes the hiring or leasing (or subleasing) of an aircraft or vessel to another for use in foreign commerce.

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Thus, for example, an aircraft or vessel is "used in foreign commerce" within the meaning of section 955(b)(1)(A) if such aircraft or vessel is chartered (whether pursuant to a bareboat charter, time charter, or otherwise) to another for use in foreign commerce.

(5) *Related person.* With respect to a controlled foreign corporation, the term "related person" means a related person as defined in § 1.954–1(e)(1), and the term "unrelated person" means an unrelated person as defined in § 1.954–1(e)(2).

(c) *Aircraft or vessel income*— (1) *In general.* The term "income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce" as used in paragraph (b)(1)(i) of this section means—

(i) Income derived from transporting passengers or property by aircraft or vessel in foreign commerce and

(ii) Income derived from hiring or leasing an aircraft or vessel to another for use in foreign commerce.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Foreign corporation C owns a foreign flag vessel which it charters under a long-term charter to foreign corporation D. The vessel is used by D as a tramp which has no fixed or regular schedule. The vessel carries bulk and packaged cargoes, as well as occasional passengers, under charter parties, contracts of affreightment, or other contracts of carriage. The carriage of cargoes and passengers is between a port in the United States and a port in a foreign country or between a port in one foreign country and another port in the same or a different foreign country. The charter hire paid to C by D constitutes income derived from the use of the vessel in foreign commerce, but is not foreign base company income to the extent the charter hire is allocable to income derived from the use of the vessel between ports in the same foreign country in which both C is incorporated and the vessel is registered. The charter hire and freight and passenger revenue (including demurrage and dead freight) derived by D also constitute income derived from the use of the vessel in foreign commerce, but is not foreign base company income to the extent the charter hire and freight and passenger revenue are allocable to the use of the vessel between ports in the same foreign country in which both D is incorporated and the vessel is registered.

Example (2). (a) Foreign corporation E owns a foreign flag tanker which it charters under a long-term bareboat charter to foreign corporation F for use in foreign commerce. F produces oil in a foreign country and ships the oil to other foreign countries and to the United States. The vessel, when not engaged in carrying F's oil, is used to carry bulk cargoes for unrelated persons in foreign commerce as opportunity offers. The charter hire received by E constitutes income derived from the use of the vessel in foreign commerce. The income derived by F from carrying bulk cargoes for unrelated persons also constitutes income derived from the use of the vessel in foreign commerce.

(b) F is forced to lay up the vessel as a result of adverse market developments. Pursuant to the terms of the charter, F continues to pay charter hire to E during the period of lay-up. The charter hire received by E during the period of lay-up constitutes income derived from the use of the vessel in foreign commerce.

Example (3). (a) A shipment of cheese is loaded into a container owned by controlled foreign corporation S at the consignor's place of business in Hamar, Norway. The cheese is transported to Milan, Italy, by the following routings:

(1) Overland by road from Hamar, Norway, to Gothenburg, Sweden, by unrelated motor carriers via Oslo, Norway,

(2) By sea from Gothenburg to Rotterdam, Netherlands, by feeder vessel under foreign flag, time chartered to S by unrelated owner,

(3) By sea from Rotterdam to Algeciras, Spain, by feeder vessel under foreign flag, time chartered to S by unrelated owner,

(4) By sea from Algeciras to Genoa, Italy, by line-haul vessel under U.S. flag, chartered by S from related company, and

(5) Overland from Genoa to Milan, Italy, by unrelated motor carrier.

(b) The consignor pays S total charges of $1,710, and S pays $676 to unrelated third parties, which amounts may be broken down as follows:

Description of charges	Amount billed to customer and collected by S	Revenue collected by S on behalf of an unrelated party	Costs paid to unrelated 3d party and absorbed by S
Ocean freight	$1,420		
Trucking charge of empty equipment to shipper's facility	90	$90	
Trucking charges Hamar to Oslo	60	60	
Trucking charges Oslo to Gothenburg			$315
Trucking charges Genoa to Milan	180	180	
Brokerage Commission in Europe			71
Total	1,710	290	386

(c) Of the $1,710 amount billed to the consignor and collected by S, $290 is collected by S on behalf of unrelated third parties. This $290 amount is not includable in S's gross income, and is therefore not includable in S's foreign base company shipping income. The remaining $1,420 amount (i.e., $1,710—$290) is includable in S's foreign base company shipping income. The $386 amount paid by S to unrelated third parties and absorbed by S is deductible from foreign base company shipping income under § 1.954–1(c).

(d) *Services directly related.*—(1) *In general.* The term "income derived from, or in connection with, the performance of services directly related to the use of an aircraft or vessel in foreign commerce", as used in paragraph (b)(1)(ii) of this section, means—

(i) Income derived from, or in connection with, the performance of services described in subparagraph (2) or (3) of this paragraph, and

(ii) Income treated as foreign base company shipping income under subparagraph (4) of this paragraph.

(2) *Intragroup services.* The services described in this subparagraph are services performed for a person who is the owner, lessor, lessee or operator of an aircraft or vessel used in foreign commerce, by such person or by a person related to such person, and which fall into one or more of the following categories:

(i) Terminal services, such as dockage, wharfage, storage, lights, water, refrigeration, and similar services;

(ii) Stevedoring and other cargo handling services;

(iii) Container related services (including the rental of containers and related equipment) performed either in connection with the local drayage or inland haulage of cargo or in the course of transportation in foreign commerce;

(iv) Services performed by tugs, lighters, barges, scows, launches, floating cranes, and other similar equipment;

(v) Maintenance and repairs;

(vi) Training of pilots and crews;

(vii) Licensing of patents, know-how, and similar intangible property developed and used in the course of foreign base company shipping operations;

(viii) Services performed by a booking, operating, or managing agent; and

(ix) Any service performed in the course of the actual transportation of passengers or property.

(3) *Services for passenger, consignor, or consignee.* The services described in this subparagraph are services provided by the operator (or person related to the operator) of an aircraft or vessel in foreign commerce for the passenger, consignor, or consignee, such as—

(i) Services described in one or more of the categories set out in subparagraph (2)(i) through (iv) and (ix) of this paragraph,

(ii) The rental of staterooms, berths, or living accommodations and the furnishing of meals,

(iii) Barber shop and other services to passengers aboard vessels,

(iv) Excess baggage, and

(v) Demurrage, dispatch, and dead freight.

(4) *The 70-percent test.* At the option of the foreign corporation all the gross income for a taxable year derived by a foreign corporation from any facility used in connection with the performance of services described in one or more of the categories set out in subparagraph (2)(i) through (ix) of this paragraph is foreign base company shipping income if more than 70 percent of such gross income for either—

(i) Such taxable year, or

(ii) Such taxable year and the two preceding taxable years,

is foreign base company shipping income (determined without regard to this subparagraph). Thus, for example, if 80 percent of the gross income derived by a controlled foreign corporation at a stevedoring facility is treated as foreign base company shipping income under subparagraph (2) of this paragraph, then the remaining 20 percent is treated as foreign base company shipping income under this subparagraph.

(5) *Rules for applying subparagraph (4).* (i) Solely for purposes of applying subparagraphs (4) of this paragraph, foreign base company shipping income and gross income shall be deemed to include an arm's length charge (see paragraph (h)(5) of this section) for services performed by the foreign corporation for itself.

(ii) In determining whether services performed by a foreign corporation are performed at a single facility or at two or more different facilities, all of the facts and circumstances involved will be taken into account. Ordinarily, all services performed by a foreign corporation within a single port area will be considered performed at a single facility.

(iii) The application of this subparagraph and subparagraph (4) of this paragraph may be illustrated by the following example in which it is assumed that the foreign corporation has chosen to apply the 70-percent test of subparagraph (4):

Example. (a) Controlled foreign corporation X uses the calendar year as the taxable year. For 1976, X is divided into two operating divisions, A and B. Division A operates a number of vessels in foreign commerce. Division B operates a terminal facility at which it performs services described in subparagraph (2)(i) of this paragraph for vessels some of which are operated by division A, some of which are operated by persons related to X, and some of which are operated by persons unrelated to X. For 1976, X includes under subparagraph (5) as foreign base company shipping income and gross income, for purposes of subparagraph (4), an arm's length charge for services performed for itself. For 1976, the gross income derived by division B is reconstructed for purposes of subparagraph (4) of this paragraph as follows, based on the facts shown in the following table:

(1) Gross income derived from persons unrelated to X	$20
(2) Gross income derived from persons related to X	10
(3) Actual gross income (line (1) plus line (2))	30
(4) Hypothetical gross income derived from division A (determined by the application of subdivision (i) of this subparagraph)	70
(5) Total reconstructed gross income (line (3) plus line (4))	100

(b) Since 80 percent of the reconstructed gross income derived by division B would be treated as foreign base company shipping income under subparagraph (2) of this paragraph, the entire $30 amount of the gross income actually derived by division B is treated as foreign base company shipping income under subparagraph (4) of this paragraph.

(6) *Arm's length charge.* For purposes of this section, the arm's length charge for services performed by a foreign corporation for itself shall be determined by applying the principles of section 482 and the regulations thereunder as if the party for whom the services are performed and the party by whom the services are performed were not the same person, but were controlled taxpayers within the meaning of § 1.482–1(a)(4).

(7) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation A acts as a managing agent for foreign corporation B, a related person which contracts to construct and charter a foreign flag vessel for use in foreign commerce. As managing agent for B, A performs a broad range of services relating to the use of the vessel, including arranging for, and supervising of, construction and chartering of the vessel, and handling of operating services after construction is completed. The income derived by A from its management and operating services constitutes income derived in connection with the performance of services directly related to the use of the vessel in foreign commerce.

Example (2). Controlled foreign corporation C uses the calendar year as the taxable year. During 1976, C is engaged in the trade or business of acting as a steamship agent solely for unrelated persons. C's activities as steamship agent range from "husbanding" (i.e., arranging for fuel, supplies and port services, and attending to crew and customs matters) to the solicitation and booking of cargo at a number of foreign ports. None of C's other gross income for 1976 is foreign base company shipping income. Under these circumstances, C's gross income derived from its steamship agency does not constitute foreign base company shipping income.

(e) *Incidental income*—(1) *In general.* Foreign base company shipping income includes all incidental income derived by a foreign corporation in the course of its active conduct of foreign base company shipping operations.

(2) *Examples.* Examples of incidental income derived in the course of the active conduct of foreign base company shipping operations include—

(i) Gain from the sale, exchange or other disposition of assets which are related shipping assets within the meaning of § 1.955A–2(b),

(ii) Income derived from temporary investments described in § 1.955A–2(b)(2) (i) and (iii),

(iii) Interest on accounts receivable and evidences of indebtedness described in § 1.955A–2(b)(2)(ii),

(iv) Income derived from granting concessions to others aboard aircraft or vessels used in foreign commerce,

(v) Income derived from stock and currency futures described in § 1.955A–2(b)(2) (vii) and (viii),

(vi) Income derived by the lessor of an aircraft or vessel used in foreign commerce from additional rentals for the use of related equipment (such as a complement of containers), and

(vii) Interest derived by the seller from a purchase money mortgage loan in respect of the sale of an aircraft or vessel described in § 1.955A–2(a)(1)(i).

(f) *Certain dividends, interest, and gain*—(1) *In general.* (i) The foreign base company shipping income of a controlled foreign corporation (referred to in subdivision (ii)(A) of this paragraph (f)(1) as "first corporation") includes—

(A) Dividends and interest received from foreign corporations listed in subdivision (ii) of this paragraph (f)(1), and

(B) Gain recognized from the sale, exchange, or other disposition of stock or obligations of foreign corporations listed in subdivision (ii) of this paragraph (f)(1),

but only to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income of the foreign corporations listed in subdivision (ii) of this paragraph (f)(1).

(ii) The foreign corporations referred to in subdivision (i) of this paragraph (f)(1) are—

(A) Foreign corporations with respect to which the first corporation (see subdivision (i) of this paragraph (f)(1)) would be deemed under section 902(b) to pay taxes,

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(B) Controlled foreign corporations which are related persons (within the meaning of section 954(d)(3)), and

(C) Less developed country shipping companies described in § 1.955–5(b).

(2) *Corporation deemed to pay taxes.* (i) For purposes of this paragraph, a controlled foreign corporation would be deemed under section 902(b) to pay taxes in respect of any other foreign corporation if such controlled foreign corporation would be deemed, for purposes of applying section 902(a) to any United States shareholder of such controlled foreign corporation, to pay taxes in respect of dividends which were received from such other foreign corporation (whether or not such other foreign corporation actually pays any taxes or dividends). Solely for purposes of this subdivision, each United States shareholder (within the meaning of section 951(b)) shall be deemed to be a domestic corporation.

(ii) The application of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Domestic corporation M owns 100 percent of the one class of stock of controlled foreign corporation X, which in turn owns 40 percent of the one class of stock of foreign corporation Y. Y is not a controlled foreign corporation. For purposes of subdivision (1) of this subparagraph, X is deemed to pay taxes in respect of Y.

Example (2). The facts are the same as in example (1), except that United States shareholder A, an individual, owns 80 percent of the stock of corporation X, and United States shareholders B and C, parent and child, own the other 20 percent in equal shares. For purposes of applying this paragraph to all three United States shareholders (A, B, and C), X is deemed to pay taxes in respect of Y.

(3) *Obligation defined.* For purposes of this section, the term "obligation" means any bond, note, debenture, certificate, or other evidence of indebtedness, and a debt recorded in the books of account of both the creditor and the debtor. In the absence of legal, governmental, or business reasons to the contrary, the indebtedness must bear interest or be issued at a discount.

(4) *Dividends.* (i) For purposes of this paragraph and § 1.954–1(b)(2), the portion of a dividend which is attributable to foreign base company shipping income is that amount which bears the same ratio to the total dividend received as the earnings and profits out of which such dividend is paid that are attributable to foreign base company shipping income bears to the total earnings and profits out of which such dividend is paid. For purposes of this subdivision, the source of the earnings and profits out of which a distribution is made shall be determined under section 316(a), except that the source of the earnings and profits out of which a distribution is made by a controlled foreign corporation with respect to stock owned (within the meaning of section 958(a)) by a United States shareholder of such controlled foreign corporation shall be determined under § 1.959–3.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). Domestic corporation M owns 100 percent of the one class of stock of controlled foreign corporation X, which in turn owns 40 percent of the one class of stock of foreign corporation Y. Y, which is not (and has not been) either a controlled foreign corporation or a less developed country shipping company, makes a distribution of $100 to X. Under section 316(a), such distribution is made out of Y's earnings and profits for 1978. Sixty percent of Y's earnings and profits for 1978 are attributable to foreign base company shipping income. As a result, $60 of the $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (2). The facts are the same as in example (1), except that under section 316(a) $20 of the $100 dividend is paid out of Y's earnings and profits for 1979, and the other $80 is paid out of Y's earnings and profits for 1978. Thirty percent of Y's earnings and profits for 1979 are attributable to foreign base company shipping income. Since 60 percent of Y's earnings and profits for 1978 are also attributable to foreign base company shipping income, $54, i.e. (.60×$80)+(.30×$20), of the $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (3). The facts are the same as in example (1) except that under section 316(a) the $100 dividend is made out of Y's earnings and profits for 1972. Since under paragraph (a)(2)(ii) of this section foreign base company shipping income does not include amounts earned by a foreign corporation (not a less developed country shipping company) in a taxable year beginning before January 1, 1976, no amount of such $100 distribution constitutes foreign base company shipping income to X under subdivision (i) of this subparagraph.

Example (4). Domestic corporation N owns 100 percent of the one class of stock of controlled foreign corporation S, which in turn owns 100 percent of the one class of stock of controlled foreign corporation T. T makes a distribution of $100 to S, of which $80 is allocable under § 1.959–3 to earnings and profits for 1977 which are described in § 1.959–3(b)(2), and $20 is allocable to earnings and profits for 1978 which are described in § 1.959–3(b)(3). The $80 amount is excluded from S's gross income under section 959(b) and therefore is not included in S's foreign base company shipping income. One hundred percent of T's earnings and profits for 1978 described in § 1.959–3(b)(3) were attributable to reinvested foreign base company shipping income. As a result, the entire $20 amount is included in S's foreign base company shipping income under this paragraph. See § 1.954–1(b)(2) for the rule that such $20 amount may be excluded from the foreign base company income of S.

(5) *Interest and gain.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph, the portion of any interest paid by a foreign corporation, or gain recognized from the sale, exchange, or other disposition of stock or obligations of a foreign corporation, which is attributable to the foreign base company shipping income of such foreign corporation is that amount which bears the same ratio to such interest or gain as the foreign base company shipping income of such corporation for the period described in subparagraph (6) of this paragraph bears to its gross income for such period.

(ii) Interest which is paid by a controlled foreign corporation is attributable to such corporation's foreign base company shipping income to the same extent that such interest is allocable (under the principles of § 1.954–1(c)) to its foreign base company shipping income.

(iii) If interest is paid by a foreign corporation, or if stock obligations of a foreign corporation are sold, exchanged, or otherwise disposed of, during a taxable year of such foreign corporation beginning before January 1, 1976, then no portion of such interest or gain is attributable to foreign base company shipping income.

(iv) Solely for purposes of subdivision (i) of this subparagraph, if a controlled foreign corporation (the "first corporation") owns more than 10 percent of the stock of another controlled foreign corporation (the "second corporation"), then

(A) The gross income of the first corporation for any taxable year shall be—

(*1*) Increased by its pro rata share of the gross income of the second corporation for the taxable year which ends with or within such taxable year of the first corporation, and

(*2*) Decreased by the amount of any dividends received from the second corporation; and

(B) The foreign base company shipping income of the first corporation for any taxable year shall be—

(*1*) Increased by its pro rata share of the foreign base company shipping income of the second corporation for the taxable year which ends with or within such taxable year of the first corporation, and

(*2*) Decreased by the amount of any dividends received from the second corporation which constitute foreign base company income.

(v) Solely for purposes of applying subdivision (i) of this subparagraph, the district director shall make such other adjustments to the gross income and the foreign base company shipping income of any foreign corporation as are necessary to properly determine the extent to which any interest or gain is attributable to foreign base company shipping income, including proper adjustments to reflect any transaction during the test period described in subparagraph (6) of this paragraph to which section 332, 351, 354, 355, 356, or 361 applies.

(6) *Test period.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph the period described in this subparagraph with respect to any foreign corporation is the 3-year period ending with the close of such corporation's taxable year preceeding the year during which interest was paid or stock or obligations were sold, exchanged, or otherwise disposed of, or such part of such period as such corporation was in existence.

(ii) The period described in this paragraph shall not include any part of a taxable year beginning before January 1, 1976.

(iii) If interest is paid by a foreign corporation, or if stock or obligations of a foreign corporation are sold, exchanged, or otherwise disposed of during its first taxable year, then the period described in this paragraph shall be such first taxable year.

(iv) For purposes of subdivision (iii) of this subparagraph, the first taxable year of a foreign corporation is the later of—

(A) The first taxable year of its existence, or

(B) Its first taxable year beginning after December 31, 1975.

(g) *Income from partnerships, trusts, etc.*—(1) *In general.* The foreign base company shipping income of any foreign corporation includes—

(i) Its distributive share of the gross income of any partnership, and

(ii) Any amounts includible in its gross income under section 652(a), 662(a), 671, or 691(a),

to the extent that such items would have been includible in its foreign base company shipping income had they been realized by it directly.

(2) *Illustrations.* The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). Controlled foreign corporations X and Y are equal partners in partnership P. The taxable years end on December 31 for X, June 30 for Y, and March 31 for P. In the fiscal year ending March 31, 1976, P's sole business activity is the use of a vessel in foreign commerce. P derives gross income of $200 from the use of the vessel, and incurs expenses, taxes, and other deductions of $160. Assume X's distributive share of such $200 of P's gross income is $100, all of which is includible in X's gross income. If X had realized its distributive share of $100 directly, then the amount which would have been includible in X's foreign base company shipping income under this paragraph is the portion allocable to the months of January, February, and March of 1976. Such amount, $25 (i.e., ¼ X $200 X 3 months/12 months), is included in X's foreign base company shipping income for its taxable year ending December 31, 1976. Similarly, X is entitled under this paragraph to a deduction from foreign base company shipping income of $20 (i.e., ¼ X $160 X 3 months/12 months). Since foreign base company shipping income does not include amounts earned by a foreign corporation (not a less developed country shipping corporation) in a taxable year beginning before January 1, 1976, Y has no foreign base company shipping income (under this paragraph or otherwise) for its taxable year beginning on July 1, 1975.

Example (2). The facts are the same as in example (1), except that P incurs expenses, taxes, and deductions of $240 in its taxable year ending on March 31, 1976. Accordingly, $25 is includible in X's foreign base company shipping income, and the amount deductible thereform under this paragraph is $30 (i.e., ¼×$240×3 months/12 months).

(3) *Other income.* Except as expressly provided in subparagraph (1) of this paragraph, foreign base company shipping income does not include any amount includible in the gross income of a controlled foreign corporation under part I of subchapter J (section 641 and following, relating to estates, trusts, and beneficiaries), and gains from the sale or other disposition of any interest in an estate or trust.

(h) *Additional rules.*—(1) *Gross income.* For purposes of this section and § 1.955A–2, the gross income of a foreign corporation (whether or not a controlled foreign corporation) shall be determined in accordance with the provisions of section 952 and § 1.952–2. Thus, for example, section 883 (relating to exclusions from gross income of foreign corporations) is inapplicable under § 1.952–2 (a)(1) and (c)(1). In addition, the gross income of a controlled foreign corporation shall be determined, with respect to a United States shareholder of such controlled foreign corporation, by excluding distributions received by such corporation which are excluded from gross income under section 959(b) with respect to such shareholder.

(2) *Earnings and profits.* For purposes of this section, the earnings and profits of a foreign corporation (whether or not a controlled foreign corporation) shall be determined in accordance with the provisions of section 964 and the regulations thereunder.

(3) *No double counting.* No item of gross income shall be counted as foreign base company shipping income under more than one provision of this section. For example, If $200 of gross income derived from the use of a lighter is treated as foreign base company shipping income under both paragraph (b)(1)(i) and paragraph (b)(1)(ii) of this section, then such $200 is counted only once as foreign base company shipping income. A taxpayer may choose under which provision to include an item of income.

(4) *Losses.* (i) Generally, if a controlled foreign corporation has losses which are properly allocable to foreign base company shipping income, the extent to which such losses are deductible from such income shall be determined by treating such foreign corporation as a domestic corporation and applying the principles of section 63. See §§ 1.954–1(c) and 1.952–2(b). Thus for example, losses from sales or exchanges of capital assets are allowable only to the extent of gains from such sales or exchanges.

(ii) If gain from the sale, exchange, or other disposition of any stock or obligation would be treated (to any extent) as foreign base company shipping income, then loss from such sale, exchange, or other disposition is properly allocable to foreign base company shipping income (to the same extent).

(iii) In determining the extent to which any loss on the disposition of a qualified investment in foreign base company shipping operations is deductible from foreign base company shipping income, it is immaterial that such loss is taken into account under § 1.955A–1(b)(1)(ii) as a reduction in the amount of the decrease in (withdrawal from) qualified investments in foreign base company shipping operations.

(5) *Hypothetical charges.* Under paragraph (d)(5)(i) of this section and § 1.955A–2(a)(4)(ii)(A), gross income may be deemed to include hypothetical arm's length charges for services performed by a controlled foreign corporation for itself. Under paragraph (d)(2) of this section, certain of these hypothetical charges may be treated as foreign based company shipping income. Such hypothetical charges are deemed to be income solely for purposes of applying the "extent of use" tests prescribed by paragraph (d)(4) of this section and § 1.955A–2(a)(4). Charges for services performed by a controlled foreign corporation for itself shall in no event be included in income for any other purposes.

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§ 1.954–7 Increase in qualified investments in foreign base company shipping operations.

(a) Determination of investments at close of taxable year.—(1) *In general.* Under section 954(g), the increase in qualified investments in foreign base company shipping operations, for purposes of section 954(b)(2) and paragraph (b)(1) of § 1.954–1, of any controlled foreign corporation for any taxable year is, except as provided in paragraph (b) of this section, the amount by which—

(i) The controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of the taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the preceding taxable year.

(2) *Preceding taxable year.* For purposes of this section, a taxable year which begins before January 1, 1976, may be a preceding taxable year.

(3) *Cross-reference.* See section 955 (b) and §1.955A–2 for the definition of the term "qualified investments in foreign base company shipping operations".

(b) *Election to determine investments at close of following taxable year.*—(1) *General rule.* In lieu of determining an increase in qualified investments in foreign base company shipping operations for a taxable year in the manner provided in paragraph (a) of this section, a United States shareholder of a controlled foreign corporation may make an election under section 955(b)(3) to determine the increase for the corporation's taxable year by ascertaining the amount by which—

(i) Such corporation's qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the taxable year immediately preceding such following taxable year.

(2) *Election with respect to first taxable year.* Notwithstanding subparagraph (1) of this paragraph, if an election is made without consent by a United States shareholder under § 1.955A–4 (b)(1) with respect to a controlled foreign corporation, the increase in such controlled foreign corporation's qualified investments in foreign base company shipping operations for the first taxable year to which such election applies shall be the amount by which—

(i) Such corporation's qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such first taxable year, exceed

(ii) Its qualified investments in foreign base company shipping operations at the close of the taxable year immediately preceding such first taxable year.

(3) *Manner of making election.* For the manner of making an election under section 955(b)(3), and for rules pertaining to the revocation of such an election, see §1.955A–4.

(4) *Coordination with prior law.* If a United States shareholder makes an election without consent under § 1.955A–4(b)(1) with respect to a controlled foreign corporation, then such corporation's increase in qualified investments in foreign base company shipping operations for the first taxable year to which such election applies shall be determined by disregarding any change which occurs during such taxable year in the amount of such corporation's investments in stock or obligations of a less developed country shipping company described in § 1.955–5 (b) if both of the following conditions exist:

(i) Such taxable year is the first taxable year of such corporation which begins after December 31, 1975, and

(ii) Such United States shareholder has elected to determine the change in such corporation's qualified investments in less developed countries for its last taxable year beginning before January 1, 1976, under § 1.954–5(b) or § 1.955–3.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). (a) Controlled foreign corporation X is a wholly owned subsidiary of domestic corporation M. X uses the calendar year as the taxable year. The amounts of X's qualified investments in foreign base company shipping operations at the close of 1975 through 1979 are as follows:

Qualified investments at Dec. 31, 1975	$16,000
Qualified investments at Dec. 31, 1976	17,000
Qualified investments at Dec. 31, 1977	23,000
Qualified investments at Dec. 31, 1978	28,000
Qualified investments at Dec. 31, 1979	30,000

(b) Assume that M properly files without consent a timely election under § 1.955A–4(b)(1) to determine X's increase for 1976 in qualified investments in foreign base company shipping operations pursuant to this paragraph, and that the election remains in force through 1978. Then X's increases for 1976 through 1978 in qualified investments in foreign base company shipping operations are as follows:

Increase for 1976 ($23,000 minus $16,000)	$7,000
Increase for 1977 ($28,000 minus $23,000)	5,000
Increase for 1978 ($30,000 minus $28,000)	2,000

Example (2). Assume the same facts as in example (1), except that M never files an election under § 1.955A–4(b)(1). X's increases for 1976 through 1978 in qualified investments in foreign base company shipping operations are as follows:

Increase for 1976 ($17,000 minus $16,000)	$1,000
Increase for 1977 ($23,000 minus $17,000)	6,000
Increase for 1978 ($28,000 minus $23,000)	5,000

Example (3). The facts are the same as in example (1), except that X's qualified investments in foreign base company shipping operations include an investment in less developed country shipping companies described in § 1.955–5(b) of $500 on December 31, 1975, and $750 on December 31, 1976. Assume further that M has made an election under section 955(b)(3) (as in effect before the enactment of the Tax Reduction Act of 1975) with respect to X's taxable year 1975. Then X's increase in qualified investments in foreign base company shipping operations for 1976 is $6,750 (i.e., $7,000 – $250).

(c) *Illustration.* The application of this section may be illustrated by the following example:

Example. (a) Controlled foreign corporation X uses the calendar year as the taxable year. On December 31, 1975, X's qualified investments in foreign base company shipping operations (determined as provided in § 1.955A–2(g)) consist of the following amounts:

Cash	$6,000
Readily marketable securities	1,000
Stock of related controlled foreign corporations	4,000
Traffic and other receivables	14,000
Marine insurance claims receivables	1,000
Foreign income tax refunds receivable	1,000
Prepaid shipping expenses and shipping inventories ashore	1,000
Vessel construction funds	0
Vessels	123,000
Vessel plans and construction in progress	3,000
Containers and chassis	0
Terminal property and equipment	2,000
Shipping office (land and building)	1,000
Vessel spare parts ashore	1,000
Performance deposits	2,000
Deferred charges	2,000
Stock of less developed country shipping company described in § 1–955–5(b)	10,000
	172,000

(b) On December 31, 1976, X's qualified investments in foreign base company shipping operations (determined as provided in § 1.955A–2(g)) consists of the following amounts:

Cash	$5,000
Readily marketable securities	2,000
Stock of related controlled foreign corporations	4,000
Traffic and other receivables	16,000
Foreign income tax refunds receivable	3,000
Prepaid shipping expenses and shipping inventories ashore	2,000
Vessel construction funds	1,000
Vessels	117,000
Vessel plans and construction in progress	12,000
Containers and chassis	4,000
Terminal property and equipment	2,000
Shipping office (land and building)	1,000
Vessel spare parts ashore	1,000
Performance deposits	2,000
Deferred charges	2,000
Stock of less developed country shipping company described in § 1.955–5(b)	0
	174,000

(c) For 1976, X's increase in qualified investments in foreign base company shipping operations is $2,000, which amount is determined as follows:

Qualified investments at Dec. 31, 1976	$174,000
Qualified investments at Dec. 31, 1975	172,000
Increase for 1976	2,000

Par. 9. A new paragraph (b) is added to § 1.955–0 to read as follows:

§ 1.955–0 Effective dates.

* * * * *

(b) *Section 955 as amended by the Tax Reduction Act of 1975.* Except as otherwise provided therein, §§ 1.955A–1 through 1.955A–4 are applicable to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (as defined in section 951(b)) within which or with which such taxable years of such foreign corporations end.

Par. 10. Section 1.955–1(b) is amended as follows:

1. Subparagraph (2)(i)(*a*) is amended by inserting "(including prior taxable years beginning after December 31, 1975)" immediately after "1962".

2. Subparagraph (2)(ii)(*a*) is revised.

3. A new subparagraph (3) is added. The added and amended provisions read as follows:

§ 1.955–1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in less developed countries.

* * * * *

(b) *Amount withdrawn by controlled foreign corporation.* * * *

(2) *Limitations applicable in determining decreases.* * * *

(ii) *Treatment of earnings and profits.* * * *

(*a*)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a)(1)(A) (i) or (iii), or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) and have not been distributed; or

* * * * *

(3) Taxable years beginning after December 31, 1975. (i) In the case of a taxable year of a controlled foreign corporation beginning after December 31, 1975, § 1.955–2(b)(5) must be applied in determining the amount of its qualified investments in less developed countries on both of the determination dates applicable to such taxable year.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). (a) Controlled foreign corporation M uses the calendar year as the taxable year. Throughout 1974 through 1976, M owns 100 percent of the only class of stock of foreign corporation N, a less developed country shipping company described in § 1.955–5(b), and M owns no other stock or obligations. The amount taken into account under § 1.955–2(d) with respect to the stock of N is $10,000 at the close of 1974, 1975, and 1976. The amount of M's previously excluded subpart F income which is withdrawn for 1975 (a year to which § 1.955–2(b)(5) does not apply) from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1974	$10,000
(2) Less: qualified investments in less developed countries at the close of 1975	10,000
(3) Balance	0

(Further computations similar to those set out in lines (iv) through (ix) of example (1) of paragraph (d) of this section are unnecessary because the balance in line (3) of this example is zero.)

(b) As a result of § 1.955–2(b)(5) (ii), the amount of M's previously excluded subpart F income which is withdrawn for 1976 from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1975	$0
(2) Less: qualified investments in less developed countries at the close of 1976	0
(3) Balance	0

Example (2). The facts are the same as in example (1), except that foreign corporation N is a less developed country corporation described in § 1.955–5(a). The amount of M's previously excluded subpart F income withdrawn for 1976 from investment in less developed countries is zero, determined as follows:

(1) Qualified investments in less developed countries at the close of 1975	$10,000
(2) Less: qualified investments in less developed countries at the close of 1976	10,000
(3) Balance	0

Par. 11. Section 1.955–2 is amended by revising paragraph (b)(4) and adding new paragraphs (b)(5), (b)(6), and (d)(4) thereto to read as follows:

§ 1.955–2 Amount of a controlled foreign corporation's qualified investments in less developed countries.

* * * * *

(b) *Special rules.* * * *

(4) *Date of acquisition.* For purposes of paragraphs (a)(2) and (b)(5)(i) of this section, stock or an obligation shall be considered acquired by a foreign corporation as of the date such corporation acquires an adjusted basis in the stock or obligation. For this purpose, in a case in which a foreign corporation acquires stock or an obligation in a transaction (other than a reorganization of the type described in section 368(a)(1) (E) or (F)) in which no gain or loss would be recognized had the transaction been between two domestic corporations, such corporation will be considered to have acquired an adjusted

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basis in such stock or obligation as of the date such transaction occurs.

(5) *Taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, qualified investments in less developed countries do not include—

(i) Any property acquired after the latest determination date applicable to a taxable year beginning before December 31, 1975,

(ii) Stock or obligations of a less developed country shipping company described in § 1.955–5(b), and

(iii) Stock or obligations which were not treated as qualified investments in less developed countries on the later of the two determination dates applicable to the preceding taxable year.

See § 1.955–1(b)(3) for rules relating to the application of this subparagraph. See § 1.955A–2(h) for rules relating to the treatment of investments in stock or obligations described in subdivision (ii) of this subparagraph as qualified investments in foreign base company shipping operations.

(6) *Determination dates.* For purposes of subparagraph (5) of this paragraph and § 1.955–1(b)(3), the determination dates applicable to a taxable year of a controlled foreign corporation are—

(i) Except as provided in subdivision (ii) of this subparagraph, the close of such taxable year and the close of the preceding taxable year, and

(ii) With respect to a United States shareholder who has made an election under section 955(b)(3) to determine such corporation's increase in qualified investments in less developed countries at the close of the following taxable year, the close of such taxable year and the close of the taxable year immediately following such taxable year.

* * * * *

(d) *Amount attributable to property.* * * *

(4) *Taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975, the amount taken into account under subparagraph (1) of this paragraph with respect to any property which constitutes a qualified investment in less developed countries shall not exceed the amount taken into account with respect to such property at the close of the preceding taxable year.

Par. 12. Section 1.955–3 is amended as follows:

1. Paragraph (b)(2) is amended by adding a new sentence after the second sentence thereof.

2. Paragraph (c)(3) is amended by adding a new sentence after the fifth sentence thereof.

3. Paragraph (c)(3)(i) is amended by inserting "name, address, and taxpayer identification number" in lieu of "name and address".

The added provisions read as follows:

§ 1.955–3 Election as to date of determining qualified investments in less developed countries.

* * * * *

(b) *Time and manner of making elections.* * * *

(2) *With consent.* * * * Consent will not be granted if the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute an amount described in section 954(b)(1) in accordance with the election provided in this section begins after December 31, 1975.

(c) *Effect of election.* * * *

(3) *Revocation.* * * * The application may also be filed in a taxable year beginning after December 31, 1975.

* * * * *

Par. 13. The following new sections are added immediately after § 1.955–6:

§ 1.955A–1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations.

(a) *In general.* Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year beginning after December 31, 1975, from investment in foreign base company shipping operations. Pursuant to section 951(a)(1)(A)(iii) and the regulations thereunder, a United States shareholder of such controlled foreign corporation must include in his gross income his pro rata share of such amount as determined in accordance with paragraph (c) of this section.

(b) *Amount withdrawn by controlled foreign corporation.*—(1) *In general.* For purposes of sections 951 through 964, the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year from investment in foreign base company shipping operations is an amount equal to the decrease for such year in such corporation's qualified investments in foreign base company shipping operations. Such decrease is, except as provided in § 1.955A–4—

(i) An amount equal to the excess of the amount of its qualified investments in foreign base company shipping operations at the close of the preceding taxable year over the amount of its qualified investments in foreign base company shipping operations at the close of the taxable year, minus

(ii) The amount (if any) by which recognized losses on sales or exchanges by such corporation during the taxable year of qualified investments in foreign base company shipping operations exceed its recognized gains on sales or exchanges during such year of qualified investments in foreign base company shipping operations,

but only to the extent that the net amount so determined does not exceed the limitation determined under subparagraph (2) of this paragraph. See § 1.955A–2 for determining the amount of qualified investments in foreign base company shipping operations.

(2) *Limitation applicable in determining decreases.*—(1) *In general.* The limitation referred to in subparagraph (i) of this paragraph for any taxable year of a controlled foreign corporation shall be the lesser of the following two limitations:

(A) The sum of (*1*) the controlled foreign corporation's earnings and profits (or deficit in earnings and profits) for the taxable year, computed as of the close of the taxable year without diminution by reason of any distribution made during the taxable year, (*2*) the sum of its earnings and profits (or deficits in earnings and profits) accumulated for prior taxable years beginning after December 31, 1975, and (*3*) the amount described in subparagraph (3) of this paragraph; or

(B) The sum of the amounts excluded under section 954(b)(2) (see subparagraph (4) of this paragraph) from the foreign base company income of such corporation for all prior taxable years beginning after December 31, 1975, minus the sum of the amounts (determined under this paragraph) of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all such prior taxable years.

(C) For purposes of the immediately preceding subparagraph (B), the amount excluded under section 954(b)(2) for a taxable year of a controlled foreign corporation (the "first corporation") includes (*1*) an amount excluded under section 954(b)(2) by another corporation which is a member of a related group (as defined in § 1.955A–3(b)(1)) attributable to the first corporation's excess investment (see § 1.955A–3(c)(4)) for a taxable year beginning after December 31, 1983, (*2*) an amount excluded by a corporation under § 1.954–1(b)(4)(ii)(*b*) by reason of the application of the carryover rule there set forth, and (*3*) an amount equal to the first corporation's pro rata share of a group excess deduction (see § 1.955A–3(c)(2)) of a related group for a taxable year

beginning after December 31, 1983 (but not in excess of that portion of such pro rata share which would reduce the first corporation's foreign base company shipping income to zero). Such amounts will not be treated as excluded under section 954(b)(2) by any other corporation.

(ii) *Certain exclusions from earnings and profits.* For purposes of determining the earnings and profits of a controlled foreign corporation under subdivision (i)(A) (*1*) and (*2*) of this subparagraph, such earnings and profits shall be considered not to include any amounts which are attributable to—

(A)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a)(1)(A)(i), or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 951(a) and have not been distributed; or

(B)(*1*) Amounts which, for the current taxable year, are included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) or would be so included under such section but for the fact that such amounts were distributed to such shareholder during the taxable year, or

(*2*) Amounts which, for any prior taxable year, have been included in the gross income of a United States shareholder of such controlled foreign corporation under section 551(b) and have not been distributed.

The rules of this subdivision apply only in determining the limitation on a controlled foreign corporation's decrease in qualified investments in foreign base company shipping operations. See section 959 and the regulations thereunder for rules relating to the exclusion from gross income of previously taxed earnings and profits.

(3) *Carryover of amounts relating to investments in less developed country shipping companies.*—(i) *In general.* The amount described in this subparagraph for any taxable year of a controlled foreign corporation beginning after December 31, 1975, is the lesser of—

(A) The excess of the amount described in subdivision (ii) of this subparagraph, over the amount described in subdivision (iii) of this subparagraph, or

(B) The limitation determined under subdivision (iv) of this subparagraph.

(ii) *Previously excluded subpart F income invested in less developed country shipping companies.* The amount described in this subdivision for all taxable years of a controlled foreign corporation beginning after December 31, 1975, is the lesser of—

(A) The amount of such corporation's qualified investments (determined under § 1.955–2 other than paragraph (b)(5) thereof) in less developed country shipping companies described in § 1.955–5(b) at the close of the last taxable year of such corporation beginning before January 1, 1976, or

(B) The limitation determined under § 1.955–1(b)(2)(i)(*b*) (relating to previously excluded subpart F income) for the first taxable year of such corporation beginning after January 1, 1976.

(iii) *Amounts previously carried over.* The amount described in this subdivision for any taxable year of a controlled foreign corporation shall be the sum of the excesses determined for each prior taxable year beginning after December 31, 1976, of—

(A) The amount (determined under this paragraph) of such corporation's previously excluded subpart F income withdrawn from investment in foreign base company shipping operations, over

(B) The sum of the earnings and profits determined under subparagraph (2)(1)(A) (*1*) and (*2*) of this paragraph.

(iv) *Extent attributable to accumulated earnings and profits.* The limitation determined under this subdivision for any taxable year of a controlled foreign corporation is the sum of such controlled foreign corporation's earnings and profits (or deficits in earnings and profits) accumulated for taxable years beginning after December 31, 1962, and before January 1, 1976. For purposes of the preceding sentence, earnings and profits shall be determined by excluding the amounts described in subparagraph (2)(ii) (A) and (B) of this paragraph.

(v) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. (a) Throughout the period here involved, A is a United States shareholder of controlled foreign corporation M. M is not a foreign personal holding company, and M uses the calendar year as the taxable year.

(b) The amount described in this subparagraph for M's taxable year 1978 with respect to A is determined as follows, based on the facts shown in the following table:

(1) Investment in less developed country shipping companies on December 31, 1975 (subdivision (ii)(A) amount)	$10,000
(2) § 1.955–1(b)(2)(i)(*b*) limitation for 1976 (previously excluded subpart F income not withdrawn from investment in less developed countries) (subdivision (ii)(B) amount)	50,000
(3) Subdivision (ii) amount (lesser of lines (1) and (2))	10,000
(4) Subdivision (iii) amount: Excess for 1977 of M's previously excluded subpart F income withdrawn from investment in foreign base country shipping operations, $3,000, over the sum of the amounts determined under subparagraphs (2)(ii)(A) (*1*) and (*2*) of this paragraph, $1,000	2,000
(5) Excess of line (3) over line (4)	8,000
(6) Sum of M's earnings and profits accumulated for 1962 through 1975, determined on December 31, 1978	26,000
(7) Amount described in this subparagraph for 1978 (lesser of line (5) and line (6))	8,000

(c) For 1978, M's earnings and profits (reduced as provided in § 1.955–1(b)(2)(ii)(*a*)(*1*)) are $19,000, and the amount of M's previously excluded subpart F income withdrawn from investment in less developed countries determined under § 1.955–1(b)) is $42,000. Consequently, $23,000 of M's earnings and profits accumulated for 1962 through 1975 are attributable to such $42,000 amount, and will therefore be excluded under subparagraph (2)(ii)(A)(*2*) of this paragraph from M's earnings and profits accumulated for 1962 through 1975, determined as of December 31, 1979. No other portion of M's earnings and profits accumulated for 1962 through 1975 is distributed or included in the gross income of a United States shareholder in 1978.

(d) The amount described in this subparagraph for M's taxable year 1979 with respect to A is determined as follows, based on the additional facts shown in the following table:

(1) Subdivision (ii) amount (line (3) from paragraph (b) of this example)	$10,000
(2) Subdivision (iii) amount: (i) Excess for 1977 from line (4) of paragraph (b) of this example	2,000
(ii) Plus: excess for 1978 of M's previously excluded subpart F income withdrawn from investment in foreign base country shipping operations, $6,000, over the sum of the amounts determined under subparagraphs (2)(ii)(A) (*1*) and (*2*) of this paragraph, $25,000	0
(iii) Subdivision (iii) amount	2,000
(3) Excess of line (1) over line (2)(iii)	8,000
(4) Sum of M's earnings and profits accumulated for 1962 through 1975, determined on December 31, 1979 ($26,000 minus $23,000)	3,000
(5) Amount described in this subparagraph for 1979 (lesser of line (3) and line (4))	3,000

(*4*) *Amount excluded.* For purposes of subparagraph (2)(i)(B) of this paragraph, the amount excluded under section 954(b)(2) from the foreign base company income of a controlled foreign corporation for any taxable year beginning after December 31, 1975, is the excess of—

(i) The amount which would have been equal to the subpart F income of such corporation for such taxable year if such corporation had had no increase in qualified investments in foreign base company shipping operations for such taxable year, over

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(ii) The subpart F income of such corporation for such taxable year.

(c) *Shareholder's pro rata share of amount withdrawn by controlled foreign corporation.*—(1) *In general.* A United States shareholder's pro rata share of a controlled foreign corporation's previously excluded subpart F income withdrawn for any taxable year from investment in foreign base company shipping operations is his pro rata share of the amount withdrawn for such year by such corporation, as determined under paragraph (b) of this section. See section 995(a)(3). Such pro rata share shall be determined in accordance with the principles of § 1.195–1(e).

(2) *Special rule.* A United States shareholder's pro rata share of the net amount determined under paragraph (b)(2)(i)(B) of this section with respect to any stock of the controlled foreign corporation owned by such shareholder shall be determined without taking into account any amount attributable to a period prior to the date on which such shareholder acquired such stock. See section 1248 and the regulations thereunder for rules governing treatment of gain from sales or exchanges of stock in certain foreign corporations.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). A, a United States shareholder, owns 60 percent of the only class of stock of M Corporation, a controlled foreign coporation throughout the entire period here involved. Both A and M use the calendar year as a taxable year. The amount of M's previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $40,000, and A's pro rata share of such amount is $24,000 determined as follows based on the facts shown in the following table:

(a) Qualified investments in foreign base company shipping operations at the close of 1977	$125,000
(b) Less: qualified investments in foreign base company shipping operations at the close of 1978	75,000
(c) Balance	50,000
(d) Less: excess of recognized losses ($15,000) over recognized gains ($5,000) on sales during 1978 of qualified investments in foreign base company shipping operations	10,000
(e) Tentative decrease in qualified investment in foreign base company shipping operations for 1978	40,000
(f) Earnings and profits for 1976, 1977, and 1978	45,000
(g) Plus: amount determined under paragraph (b)(3) of this section	0
(h) Earnings and profits limitation	45,000
(i) Excess of amount excluded under section 954(b)(2) from foreign base company income for 1975 ($75,000) over amount of previously excluded subpart F income withdrawn for 1977 from investment in foreign base company shipping operations ($25,000)	50,000
(j) M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations (item (e), but not to exceed the lesser of item (h) or item (i))	40,000
(k) A's pro rata share of M Corporation's amount of previously excluded subpart F in come withdrawn for 1978 from investment in foreign base company shipping operations (60 percent of $40,000)	24,000

Example (2). The facts are the same as in example (1), except that M's earnings and profits (determined under paragraph (b)(2) of this section) for 1976, 1977, and 1978 (item (f)) are $30,000 instead of $45,000. M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $30,000. A's pro rata share of such amount is $18,000 (60 percent of $30,000).

Example (3). The facts are the same as in example (1), except that the excess of the amount excluded under section 954(b)(2) for 1976 from M Corporation's foreign base company income over the amount of its previously excluded subpart F income withdrawn for 1977 from investment in foreign base company shipping operations (item (i)) is $20,000 instead of $50,000. M's amount of previously excluded subpart F income withdrawn for 1978 from investment in foreign base company shipping operations is $20,000. A's pro rata share of such amount is $12,000 (60 percent of $20,000).

§ 1.955A–2 Amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations.

(a) *Qualified investments.*—(1) *In general.* Under section 955(b), for purposes of sections 951 through 964, a controlled foreign corporation's "qualified investments in foreign base company shipping operations" are investments in—

(i) Any aircraft or vessel, to the extent that such aircraft or vessel is used (or hired or leased for use) in foreign commerce,

(ii) Related shipping assets (within the meaning of paragraph (b) of this section),

(iii) Stock or obligations of a related controlled foreign corporation, to the extent provided in paragraph (c) of this section,

(iv) A partnership, to the extent provided in paragraph (d) of this section, and

(v) Stock or obligations of a less developed country shipping company described in § 1.955–5(b), as provided in paragraph (h) of this section.

(2) *Coordination of provisions.* No amount shall be counted as a qualified investment in foreign base company shipping operations under more than one provision of this section. Thus, for example, if a $10,000 investment in stock of a controlled foreign corporation is treated as a qualified investment in foreign base company shipping operations under both subparagraph (1)(iii) and (v) of this paragraph, then such $10,000 is counted only once as a qualified investment in foreign base company shipping operations.

(3) *Definitions.* If the meaning of any term is defined or explained in § 1.954–6, then such term shall have the same meaning when used in this section.

(4) *Extent of use.* (i) For purposes of subparagraph (1)(i) of this paragraph and paragraph (b)(i) of this section, the extent to which an asset of a controlled foreign corporation is used during a taxable year in foreign base company shipping operations shall be determined on the basis of the proportion for such year which the foreign base company shipping income derived from the use of such asset bears to the total gross income derived from the use of such asset.

(ii) For purposes of determining under subdivision (i) of this subparagraph the amounts of foreign base company shipping income and gross income of a controlled foreign corporation—

(A) Such amounts shall be deemed to include an arm's length charge (see § 1.954–6(h)(5)) for services performed by such corporation for itself,

(B) Such amounts shall be deemed to include an arm's length charge for the use of an asset (such as a vessel under construction or laid up for repairs) which is held for use in foreign base company shipping operations, but is not actually so used,

(C) Foreign base company shipping income shall be deemed to include amounts earned in taxable years beginning before January 1, 1976, and

(D) The district director shall make such other adjustments to such amounts as are necessary to properly determine the extent to which any asset is used in foreign base company shipping operations.

(b) *Related shipping assets.*—(1) *In general.* For purposes of this section, the term "related shipping asset" means any asset which is used (or held for use) for

or in connection with the production of income described in § 1.954–6(b)(1) (i) or (ii), but only to the extent that such asset is so used (or is so held for use).

(2) *Examples.* Examples of assets of a controlled foreign corporation which are used (or held for use) for or in connection with the production of income described in subparagraph (1) of this paragraph include—

(i) Money, bank deposits, and other temporary investments which are reasonably necessary to meet the working capital requirements of such corporation in its conduct of foreign base company shipping operations,

(ii) Accounts receivable and evidences of indebtedness which arise from the conduct of foreign base company shipping operations by such corporation or by a related person,

(iii) Amounts (other than amounts described in subdivision (i) of this subparagraph) deposited in bank accounts or invested in readily marketable securities pursuant to a specific, definite, and feasible plan to purchase any tangible asset for use in foreign base company shipping operations,

(iv) Amounts paid into escrow to secure the payment of (A) charter hire for an aircraft, vessel, or other asset used in foreign base company shipping operations or (B) a debt which constitutes a specific charge against such an asset,

(v) Capitalized expenditures (such as progress payments) made under a contract to purchase any asset for use in foreign base company shipping operations,

(vi) Prepaid expense and deferred charges incurred in the course of foreign base company shipping operations,

(vii) Stock acquired and retained to insure a source of supplies or services used in the conduct of foreign base company shipping operations, and

(viii) Currency futures acquired and retained as a hedge against international currency fluctuations in connection with foreign base company shipping operations.

(3) *Limitations.—(i) Vessels generally.* Notwithstanding any other provision of this paragraph, the term "related shipping assets" does not include any money or other intangible assets of a controlled foreign corporation, to the extent that such assets are permitted to accumulate in excess of the reasonably anticipated needs of the business.

(ii) *Safe harbor.* If a controlled foreign corporation accumulates money or other intangible assets pursuant to a plan to purchase one or more vessels for use in foreign commerce, and if—

(A) The amount so accumulated, plus

(B) The sum of the amounts accumulated by other controlled foreign corporations which are related persons (within the meaning of section 954(d)(3)) pursuant to similar plans, does not exceed 110 percent of a reasonable down payment on each vessel planned to be purchased within a reasonable period, then such plan will be considered to be feasible. For purposes of the preceding sentence, a reasonable down payment shall not exceed 28 percent of the total cost of acquisition. The determination dates applicable to the taxable year of a controlled foreign corporation are those set forth in paragraph (c)(2)(ii) of this section. In the case of accumulation of assets which do not come within the safe harbor limitation of this subdivision (ii), in determining whether such assets have accumulated beyond the reasonably anticipated needs of the business, factors to be taken into account include, but are not limited to, the availability of financing to purchase a vessel and the availability of a vessel suitable for the purposes to which the vessel is to be put.

(iii) *Other assets.* In determining whether a plan to purchase any asset other than a vessel for use in foreign base company shipping operations is feasible, principles similar to those stated in subdivision (ii) of this subparagraph shall be applied.

(4) *Cross-reference.* See § 1.954–7(c) for additional illustrations bearing on the application of this paragraph.

(c) *Stock and obligations.*—(1) *In general.* Investments by a controlled foreign corporation (the "first corporation") in stick or obligations of a second controlled foreign corporation which is a related person (within the meaning of section 954(d)(3)) are considered to be qualified investments in foreign base company shipping operations to the extent that the assets of such second corporation are used (or held for use) in foreign base company shipping operations. See subparagraph (2) of this paragraph. However, an investment in an obligation of the second corporation will not be considered a qualified investment in foreign base company shipping operations if the obligation represents a liability which constitutes a specific charge (nonrecourse or otherwise) against an asset of the second corporation which is not either—

(i) An aircraft or vessel used (or held for use) to some extent in foreign commerce, or

(ii) An asset described in paragraph (a)(1) (ii) through (v) of this section.

(2) *Extent of use.* On any determination date applicable to a taxable year of the first corporation, the extent to which the assets of the second corporation are used in foreign base company shipping operations shall be determined on the basis of the proportion which the amount of such second corporation's qualified investments in foreign base company shipping operations bears to its net worth, such proportion to be determined at the close of the second corporation's last taxable year which ends on or before such determination date. For purposes of the preceding sentence—

(i) A controlled foreign corporation's net worth is the total adjusted basis of the corporate assets reduced by the total outstanding principal amount of the corporate liabilities, and

(ii) The determination dates applicable to a taxable year of a controlled foreign corporation are—

(A) Except as provided in (B) of this subdivision, the close of such taxable year and the close of the preceding taxable year, and

(B) With respect to a United States shareholder who has made an election under section 955(b)(3) to determine such corporation's increase in qualified investments in foreign base company shipping operations at the close of the following taxable year, the close of such taxable year and the close of the taxable year immediately following such taxable year.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). On December 31, 1976, controlled foreign corporation X owns 100 percent of the single class of stock of controlled foreign corporation Y. X and Y both use the calendar year as the taxable year. On December 31, 1976, Y's assets consist of a vessel used in foreign commerce, related shipping assets, and other assets unrelated to its foreign base company shipping operations. On such date Y has qualified investments in foreign base company shipping operations (determined under paragraph (g) of this section) of $80,000, and a net worth of $100,000. If X's investment in the stock of Y is $50,000, then $30,000 of such amount, i.e.,

$$\frac{\$\ 60{,}000}{\$100{,}000} \times \$50{,}000$$

is a qualified investment in foreign base company shipping operations.

Example (2). The facts are the same as in example (1), except that on December 31, 1976, Y's assets consist entirely of a vessel used in foreign commerce and related shipping assets, Y has qualified investments in foreign base company shipping operations (determined under paragraph (g) of this

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section) of $16,000 and (therefore) a net worth of $16,000. If X's investment in the stock of Y is $50,000, then the entire $50,000, i.e.,

$$\frac{\$16,000}{\$16,000} \times \$50,000$$

is a qualified investment in foreign base company shipping operations.

Example (3). On December 31, 1980, controlled foreign corporation J owns two notes of controlled foreign corporation K, which is a related person (within the meaning of section 954(d)(3)). Both J and K use the calendar year as the taxable year. J's adjusted basis in each of the two notes is $100,000.The first note is secured only by the general credit of K. The second note is secured by (and, therefore, constitutes a specific charge on) a hotel owned by K in a foreign country. On December 31, 1980, K has qualified investments in foreign base company shipping operations with an adjusted basis of $500,000. The adjusted basis of all of K's corporate assets is $1,000,000. K's only liabilities are the two notes. The amount of K's qualified investments in foreign base company shipping operations (determined under paragraph (g) of this section) is $450,000. K's net worth is $800,000. The amount of J's qualified investment in foreign base company shipping operations in respect of the first note is $56,250, i.e.,

$$\frac{\$450,000}{\$800,000} \times \$100,000$$

The amount of J's qualified investment in respect of the second note is zero (see the last sentence of paragraph (c)(1) of this section).

(d) *Partnerships.*—(1) *In general.* A controlled foreign corporation's investment in a partnership at the close of any taxable year of such corporation shall be considered a qualified investment in foreign base company shipping operations to the extent of the proportion which such corporation's foreign base company shipping income for such taxable year would bear to its gross income for such taxable year if—

(i) Such corporation had realized no income other than its distributive share of the partnership gross income, and

(ii) Such corporation's income were adjusted in accordance with the rules stated in paragraph (a)(4)(ii) (B) and (D) of this section.

(2) *Transitional rule.* For purposes of subparagraph (1)(i) of this paragraph, the controlled foreign corporation's distributive share of the partnership gross income shall not include any amount attributable to income earned by the partnership before the first day of such corporation's first taxable year beginning after December 31, 1975.

(3) *Cross-reference.* See paragraph (g)(4) of this section for rules relating to the determination of the amount of a controlled foreign corporation's investment in a partnership.

(e) *Trusts.*—(1) *In general.* An investment in a trust is not a qualified investment in a foreign base company shipping operations.

(2) *Grantor trusts.* Notwithstanding subparagraph (1) of this pargraph, if a controlled foreign corporation is treated as the owner of any portion of a trust under Subpart E of Part I of Subchapter J (relating to grantors and others treated as substantial owners), then for purposes of this section such controlled foreign corporation is deemed to be the actual owner of such portion of the assets of the trust. Accordingly, its investments in such assets (as determined under paragraph (g)(5) of this section) may be treated as a qualified investment in foreign base company shipping operations.

(3) *Definitions.* For purposes of this section, the term "trust" means a trust as defined in § 301.7701–4.

(f) *Excluded property.* For purposes of paragraph (a) of this section, property acquired principally for the purpose of artificially increasing the amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations will not be recognized; whether an item of property is acquired principally for such purpose will depend upon all the facts and circumstances of each case. One of the factors that will be considered in making such a determination with respect to an item of property is whether the item is disposed of within 6 months after the date of its acquisition.

(g) *Amount attributable to property.*—(1) *General rule.* For purposes of this section, the amount taken into account under section 955(b)(4) with respect to any property which constitutes a qualified investment in foreign base company shipping operations shall be its adjusted basis as of the applicable determination date, reduced by the outstanding principal amount of any liability (other than a liability described in subparagraph (2) of this paragraph) to which such property is subject on such date including a liability secured only by the general credit of the controlled foreign corporation. Liabilities shall be taken into account in the following order:

(i) The adjusted basis of each and every item of corporate property shall be reduced by any specific charge (non-recourse or otherwise) to which such item is subject. For this purpose, if a liability constitutes a specific charge against several items of property and cannot definitely be allocated to any single item of property, the specific charge shall be apportioned against each of such items of property in that ratio which the adjusted basis of such item on the applicable determination date bears to the adjusted basis of all such items on such date. The excess against property over the adjusted basis of such property shall be taken into account as a liability secured only by the general credit of the corporation.

(ii) A liability which is evidenced by an open account or which is secured only by the general credit of the controlled foreign corporation shall be apportioned against each and every item of corporate property in that ratio which the adjusted basis of such item on the applicable determination date (reduced as provided in subdivision (i) of this subparagraph) bears to the adjusted basis of all the corporate property on such date (reduced as provided in subdivision (i) of this subparagraph); provided that no liability shall be apportioned under this subdivision against any stock or obligations described in paragraph (h)(1) of this section.

(2) *Excluded charges.* For purposes of subparagraph (1) of this paragraph, a liability created principally for the purpose of artificially increasing or decreasing the amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations will not be recognized. Whether a liability is created principally for such purpose will depend upon all the facts and circumstances of each case. One of the factors that will be considered in making such a determination with respect to a loan is whether the loan was both created after November 20, 1974, and is from a related person, as defined in section 954(d)(3) and paragraph (e) of § 1.954–1. Another such factor is whether the liability was created after March 29, 1975, in a taxable year beginning before January 1, 1976. For purposes of this paragraph (g)(2), payments on liabilities which are represented by an open account are credited against the account transactions arising earliest in time.

(3) *Statement required.* If for purposes of this section the adjusted basis of property which constitutes a qualified investment in foreign base company shipping operations by a controlled foreign corporation is reduced on the ground that such property is subject to a liability, each United States shareholder shall attach to his return a statement

setting forth the adjusted basis of the property before the reduction and the amount and nature of the reduction.

(4) *Partnership interest.* If a controlled foreign corporation is a partner in a partnership, its investment in the partnership taken into account under section 955(b)(4) shall be its adjusted basis in the partnership determined under section 722 or 742, adjusted as provided in section 705, and reduced as provided in subparagraph (1) of this paragraph. (However, if the partnership is not engaged solely in the conduct of foreign base company shipping operations, such amount shall be taken into account only to the extent provided in paragraph (d)(1) of this section).

(5) *Grantor trust.* If a controlled foreign corporation is deemed to own a portion of the assets of a trust under paragraph (e)(2) of this section then the amount taken into account under section 955 (b)(4) with respect to such assets shall be determined as provided in subparagraph (1) of this paragraph by the application of the following rules:

(i) Such controlled foreign corporation's adjusted basis in such assets shall be deemed to be a proportionate share of the trust's adjusted basis in such assets, and

(ii) A proportionate share of the liabilities of the trust shall be deemed to be liabilities of such controlled foreign corporation and to constitute specific charges against such assets.

(6) *Translation into United States dollars.* The amounts determined in accordance with this paragraph shall be translated into United States dollars in accordance with the principles of § 1.964–1(e)(4).

(h) *Investments in shipping companies under prior law.*—(1) *In general.* If an amount invested in stock or obligations of a less developed country shipping company described in § 1.955–5(b) is treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to paragraph (b)(5)(ii) thereof) on the applicable determination date for purposes of section 954(g) or section 955(a)(2) with respect to a taxable year beginning after December 31, 1975, then such amount shall be treated as a qualified investment in foreign base company shipping operations on such determination date. See section 955(b)(5).

(2) *Effect on prior law.* See § 1.955–2(b)(5)(ii) for the rule that investments which are treated as qualified investments in foreign base company shipping operations under subparagraph (1) of this paragraph shall not be treated as qualified investments in less developed countries for purposes of section 951(a)(1)(A)(ii).

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) Throughout the period here involved, controlled foreign corporation X owns 100 percent of the single class of stock of controlled foreign corporation Y, X and Y each use the calendar years as the taxable year. At the close of 1975, X's $50,000 investment in the stock of Y is treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii), and Y is a less developed country shipping company described in § 1.955–5(b).

(b) On December 31, 1976, Y is still a less developed country shipping company and X's $50,000 investment in the stock of Y is still treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii). Under subparagraph (1) of this paragraph X's entire $50,000 investment in thestock of Y is treated as a qualified investment in foreign base company shipping operations.

(c) For 1977, Y's gross income is $10,000 and Y's foreign base company shipping income is $7,500. Since Y fails to meet the 80-percent income test of § 1.955–5(b)(1). Y is no longer a less developed country shipping company described in § 1–955–5(b), and X's investment in the stock of Y is no longer treated as a qualified investment in less developed countries under § 1.955–2 (applied without regard to § 1.955–2(b)(5)(ii). However, assume that on December 31, 1977, Y's net worth (as defined in paragraph (c)(2)(1) of this section) is $100,000, that Y's qualified investments in foreign base company shipping operations (determined under this section) on December 31, 1977, are $75,000, and that X's investment in the stock of Y (as determined under paragraph (g) of this section) continues to be $50,000. Then $87,500, i.e.,

$$\frac{\$75,000}{\$100,000} \times \$50,000$$

of X's $50.000 investment in the stock of Y is treated as a qualified investment in foreign company shipping operations under paragraph (c) of this section.

(d) For 1978, all of Y's gross income is foreign base company shipping income. Although Y is again a less developed country shipping company described in § 1.955–5(b), X's investment in the stock of Y is no longer treated as a qualified investment in less developed countries under § 1.955–2(b)(5)(iii). Thus, X's investment in the stock of Y is not treated as a qualified investment in foreign base company shipping operations under subparagraph (1) of this paragraph. However, X's investment in the stock of Y may be so treated under another provision of this section, as was the case in item (c) of this example.

§ 1.955A–3 Election as to qualified investments by related persons.

(a) *In general.* If a United States shareholder elects the benefits of section 955(b)(2) with respect to a related group (as defined in paragraph (b)(1) of this section) of controlled foreign corporations, then an investment in foreign base company shipping operations made by one member of such group will be treated as having been made by another member to the extent provided in paragraph (c)(4) of this section, and each member will be subject to the other provisions of paragraph (c) of this section. For the manner of making an election under section 955(b)(2), and for rules relating to the revocation of such an election, see paragraph (d) of this section. For rules relating to the coordination of sections 955(b)(2) and 955(b)(3), see paragraph (e) of this section.

(b) *Related group.*—(1) *Related group defined.* The term "related group" means two or more controlled foreign corporations, but only if all of the following requirements are met:

(i) All such corporations use the same taxable year.

(ii) The same United States shareholder controls each such corporation within the meaning of section 954(d)(3) at the end of such taxable year, and

(iii) Such United States shareholder elects to treat such corporations as a related group for such taxable year.

(iv) If any of the corporations is on a 52–53 week taxable year and if all of the taxable years of the corporations end within the same 7-day period, the rule of paragraph (b)(1)(i) of this section shall be deemed satisified.

(v) An election under paragraph (b)(1)(iii) of this section will not be valid in the case of an election by a U.S. shareholder (the "first U.S. shareholder") if—

(A) The first U.S. shareholder controls a second U.S. shareholder,

(B) The second U.S. shareholder controls one or more controlled foreign corporations, and

(C) Any of the controlled foreign corporations are the subject of the election by the first U.S. shareholder, unless the second U.S. shareholder consents to the election by the first U.S. shareholder.

(2) *Group taxable years defined.* The "group taxable year" is the common taxable year of a related group.

(3) *Limitation.* If a United States shareholder elects to treat two or more corporations as a related group for a group taxable year (the "first group taxable year"), then such United States

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shareholder (and any other United States shareholder which is controlled by such shareholder) may not also elect to treat two or more other corporations as a related group for a group taxable year any day of which falls within the first group taxable year.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation M owns 100 percent of the only class of stock of controlled foreign corporations A, B, C, D, and E. A, B, and C use the calendar year as the taxable year. D and E use the fiscal year ending on June 30 as the taxable year. M may elect to treat A, B and C as a related group. However, M may not elect to treat C, D, and E as a related group.

Example (2). The facts are the same as in example (1). In addition, M elects to treat A, B, and C as a related group for the group taxable year which ends on December 31, 1976. M may not also elect to treat D and E as a related group for the group taxable year ending on June 30, 1977.

Example (3). United States shareholder A owns 60 percent of the only class of stock of controlled foreign corporation X and 40 percent of the only class of stock of controlled foreign corporation Y. United States shareholder B owns the other 40 percent of the stock of X and the other 60 percent of the stock of Y. Neither A nor B (nor both together) may elect to treat X and Y as a related group.

(c) *Effect of election.* If a United States shareholder elects to treat two or more controlled foreign corporations as a related group for any group taxable year then, for purposes of determining the foreign base company income (see § 1.954–1) and the increase or decrease in qualified investments in foreign base company shipping operations (see §§ 1.954–7. 1.955A–1, and 1.955A–4) of each member of such group for such year, the following rules shall apply:

(1) *Intragroup dividends.* The gross income of each member of the related group shall be deemed not to include dividends received from any other member of such group, to the extent that such dividends are attributable (within the meaning of § 1.954–6(f)(4)) to foreign base company shipping income. In determining net foreign base compay shipping income, deductions allocable to intragroup dividends attributable to foreign base company shipping income shall not be allowed.

(2) *Group excess deduction.* (i) The deucutions allocable under § 1.954–1(c) to the foreign base company shipping income of each member of the related group shall be deemed to include such member's pro rata share of the group excess deduction.

(ii) The group excess deduction for the group taxable year is the sum of the excesses for each member of the related group (having an excess) of—

(A) The member's deductions (determined without regard to this subpargraph) allocable to foreign base company shipping income for such year, over

(B) The member's foreign base company shipping income for such year.

(iii) A member's pro rata share of the group excess deduction is the amount which bears the same ratio to such group excess deduction as—

(A) The excess of such member's foreign base company shipping income over the deductions (so determined) allocable thereto, bears to

(B) The sum of such excesses for each member of the related group having an excess.

(iv) For purposes of this subparagraph, "foreign base company shipping income" means foreign base company shipping income (as defined in § 1.954–6), reduced by excluding therefrom all amounts which are—

(A) Excluded from subpart F income under section 952(b) (relating to exclusion of United States income) or

(B) Excluded from foreign base company income under section 954(b)(4) (relating to exception for foreign corporation not availed of to reduce taxes).

(v) The application of this subparagraph may be illustrated by the following example:

Example. Controlled foreign corporations X, Y, and Z are a related group for calendar year 1976. The excess group deduction for 1976 is $9, X's pro rata share of the group excess deduction is $6, and Y's pro rata share is $3, determined as follows on the basis of the facts shown in the following table:

	X	Y	Z	Group
(1) Gross shipping income	$100	$90	$90	
(2) Shipping deductions	60	70	80	
(3) Net shipping income	40	20	(9)	
(4) Group excess deduction				60
(5) X's pro rata share of group excess deduction ($9×$40/$60)	6			
(6) Y's pro rata share of group excess deduction ($9×$20/$60)		3		

(3) *Intragroup investments.* On both of the determination dates applicable to the group taxable year for purposes of section 954(g) or section 955(a)(2), the qualified investments in foreign base company shipping operations of each member of the related group shall be deemed not to include stock of any other member of the related group. In addition, neither the gains nor the losses on dispositions of such stock during the group taxable year shall be taken into account under § 1.955A–1(b)(1)(ii) in determining the decrease in qualified investments in foreign base company shipping operations of any member of such related group.

(4) *Group excess investment.* (i) On the later (and only the later) of the two determination dates applicable to the group taxable year for purposes of section 954(g) or section 955(a)(2), the qualified investments in foreign base company shipping operations of each member of the related group shall be deemed to include such member's pro rata share of the group excess investment.

(ii) The group excess investment for the group taxable year is the sum of the excess for each member of the related group (having an excess) of—

(A) The member's increase in qualified investments in foreign base company shipping operations (determined under § 1.954–7 after the application of subparagraph (3) of this paragraph) for such year, over

(B) The member's foreign base company shipping income for such year.

(iii) A member's pro rata share of the group excess investment is the amount which bears the same ratio to such group excess investment as—

(A) Such member's shortfall, in qualified investments bears to

(B) the sum of the shortfalls in qualified investments of each member of such related group having a shortfall.

(iv) If a member has an increase in qualified investments in foreign base company shipping operations (determined as provided in § 1.954–7 after the application of subparagraph (3) of this paragraph) for the group taxable year, then such member's "shortfall in qualified investments" is the excess of—

(A) Such member's foreign base company shipping income for such year, over

(B) Such increase.

(v) If a member has a decrease in qualified investments in foreign base company shipping operations (determined under § 1.955A–1(b)(1) or § 1.955A–4(a), whichever is applicable, after the application of subparagraph (3) of this paragraph) for the group taxable year, then such member's "shortfall in qualified investments" is the sum of—

(A) Such member's foreign base company shipping income for such year and

(B) Such decrease.

(vi) For purposes of this subparagraph, "foreign base company shipping income" means foreign base company shipping income (as defined in subparagraph (2)(iv) of this paragraph), reduced by the deductions allocable thereto under § 1.954–1(c) (including the additional deductions described in subparagraph (2) of this paragraph).

(vii) The application of paragraphs (c)(1), (3), and (4) of this section may be illustrated by the following example:

Example. (a) Controlled foreign corporations R, S, and T are a related group for calendar year 1977. R and S do not own the stock of any member of the related group.

(b) On December 31, 1977, T has qualified investments in foreign base company shipping operations (determined without regard to paragraphs (c) (3) and (4)) of $105, of which $15 consists of stock of S. After application of paragraph (c)(3) (but before application of paragraph (c)(4)), on December 31, 1977, T has qualified investments in foreign base company shipping operations of $90, determined as follows:

(1) Qualified investments (determined without regard to paragraph (c)(3)) on December 31, 1977		$105
(2) Less: Qualified investments in stock of another member of a related group (as required by paragraph (c)(3))		15
(3) Balance		90

(c) During 1977, T's foreign base company shipping income is $180, determined without regard to paragraph (c)(1). Included in the $180 is $5 in dividends in respect of T's stock in S. During 1977, T has shipping deductions of $91. Of T's shipping deductions, $1 is allocable to the dividends from S. After application of paragraph (c)(1), T's net shipping income during 1977 is $85, determined as follows:

(1) Foreign base company shipping income		$180
(2) Less: intragroup dividends (as required by paragraph (c)(1))		5
(3) Balance		175
(4) Shipping deductions	$91	
(5) Less: deductions allocable to intragroup dividends (as required by paragraph (c)(1))	1	
(6) Balance	90	
(7) Net shipping income (line (3) minus line (6))		85

(d) During 1977 (without regard to paragraph (c) (4)), R's increase in qualified investments in foreign base company shipping operations is $120; S's decrease is $55; and T's increase is $35, determined on the basis of the facts shown in the following table. In all cases, the listed amounts of qualified investments on December 31, 1976, reflect any adjustments required by paragraph (c)(3) for 1976, but not any adjustment required by paragraph (c)(4) for 1976 (see §§ 1.955A–3 (c)(3) and (4)(i)).

	R	S	T
(1) Qualified investments on December 31, 1977 (in the case of T, taken from line (3) of part (b) of this example)	$220	$150	$90
(2) Qualified investments on December 31, 1976	100	205	55
(3) Increase (decrease) (line (1) minus line (2))	120	(55)	35

(e) In 1977, R's net shipping income is $100; S's is $95; and T's is $85, determined as follows:

	R	S	T
(1) Gross foreign base company shipping income (in the case of T, taken from line (3) of part (c) of this example)	$200	$180	$175
(2) Shipping deductions (in the case of T, taken from line (6) of part (c) of this example)	100	85	90
(3) Net shipping income (line (1) minus line (2))	100	95	85

(f) By application of paragraph (c)(4) for 1977, S's pro rata share of the group excess investment is $15, and T's pro rata share is $5, determined as follows:

	R	S	T	Group
(1) Net shipping income (taken from line (3) of part (e) of this example)	$100	$95	$85	
(2) Increase (decrease) in qualified investments (taken from line (3) of part (d) of this example)	120	(55)	35	
(3) Excess investment	20			$20
(4) Shortfall		150	50	200
(5) S's pro rata share of group excess investment ($20×$150/$200)		15		
(6) T's pro rata share of group excess investment ($20×$50/$200)			5	

(g) After application of paragraph (c)(4), for purposes of determining their increase or decrease in qualified investments in foreign base company shipping operations for 1977, on December 31, 1977, the amount of R's qualified investments is $200; the amount of S's is $165; and the amount of T's is $95, determined as follows:

	R	S	T
(1) Qualified investments on December 31, 1977 (taken from line (1) of part (d) of this example)	$220	$150	$90
(2) Plus: pro rata share of group excess investment (as required by paragraph (c)(4)) (taken from lines (5) and (6) of part (f) of this example)		15	5
(3) Minus: Excess investment treated as investments of related group members (taken from line (3) of part (f) of this example)	20		
(4) Total qualified investments	200	165	95

(h) After application of paragraph (c) (1), (3), and (4), during 1977, R's increase in qualified investments in foreign base company shipping operations is $100; S's decrease is $40; and T's increase is $40, determined as set forth in the table below. In all cases, the listed amounts of qualified investments on December 31, 1976, reflect any similar adjustments required by paragraph (c)(3) for 1976, but not any adjustment required by paragraph (c)(4) for 1976 (see §§ 1.955A–3(c)(3) and (4)(i)).

	R	S	T
(1) Qualified investments on December 31, 1977 (taken from line (4) of part (g) of this example)	$200	$165	$95
(2) Qualified investments on December 31, 1976 (see line (2) of part (d) of this example)	100	205	55
(3) Increase (decrease) (line (1) minus line (2))	100	(40)	40

(5) *Collateral effect.* (i) An election under this section by a United States shareholder to treat two or more controlled foreign corporations as a related group for a group taxable year shall have no effect on—

(A) Any other United States shareholder (including a minority shareholder of a member of such related group),

(B) Any other controlled foreign corporation,

(C) The foreign personal holding company, foreign base company sales income, and foreign base company services income, and the deductions allocable under § 1.954–1(c) thereto, of any member of such related group, and

(D) Any other taxable year. See § 1.952–1(c)(2)(ii) for the effect of an election under this section on the computation of earnings and profits and deficits in earnings and profits under section 952 (c) and (d).

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). United States shareholder A owns 80 percent of the only class of stock of controlled foreign corporations X and Y. United States shareholder B owns the other 20 percent of the stock of X and Y. X and Y both use the calendar year as the taxable year. A elects to treat X and Y as a related group for 1977. For purposes of determining the amounts includible in B's gross income under section 951(a) in respect of X and Y, the election made by A shall be disregarded and all of B's computations shall be made without regard to this section, as illustrated in § 1.952–3(d).

Example (2). The facts are the same as in example (1). In addition, the amount of X's qualified investments in foreign base company shipping operations on December 31, 1977, determined as provided in § 1.955A–2 and modified as provided in paragraph (c) (3) and (4) of this section, is $1,000. A does not elect to treat X and Y as a related group for 1976. The amount of X's qualified investments in foreign base company shipping operations on December 31, 1976, determined without regard to paragraph (c) (3) adn (4) of this section, is $1,200. The amount of X's qualified investments in foreign base company shipping operations on December 31, 1977, determined without regard to paragraph (c) (3) and (4) of this section, is $900. X's increase in qualified investments in foreign base company shipping operations for 1976 is $300.

(d) *Procedure.*—(1) *Time and manner of making election.* A United States

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shareholder shall make an election under this section to treat two or more controlled foreign corporations as a related group for a group taxable year by filing a statement to such effect with the return for the taxable year within which or with which such group taxable year ends. The statement shall include the following information:

(i) The name, address, taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name, address, and taxable year of each controlled foreign corporation which is to be a member of the related group; and

(iii) A schedule showing the calculations by which the amounts described in this section have been determined.

A consent to an election required by paragraph (b)(1)(v) of this section shall include the same information required for the election statement.

(2) *Revocation.* (i) Except as provided in subdivision (ii) of this subparagraph, an election under this section by a United States shareholder shall be binding for the group taxable year for which it is made.

(ii) Upon application by the United States shareholder (and any other United States shareholder controlled by such shareholder which consented under paragraph (b)(1)(v) of this section to the election), an election made under this section may, subject to the approval of the Commissioner, be revoked. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:C:C, Washington, D.C. 20224, containing a statement of the facts which justify such consent.

(c) *Coordination with section 955(b)(3).* If a United States shareholder elects under this section to treat two or more controlled foreign corporations as a related group for any taxable year, and if such United States shareholder is required under § 1.955A–4(c)(2) for purposes of filing any return to estimate the qualified investments in foreign base company shipping operations of any member of such group, then such United States shareholder shall, for purposes of filing such return, determine the amount includible in his gross income in respect of each member of such related group on the basis of such estimate. If the actual amount of such investments is not the same as the amount of the estimate, the United States shareholder shall immediately notify the Commissioner. The Commissioner will thereupon redetermine the amount of tax of such United States shareholder for the year or years with respect to which the incorrect amount was taken into account. The amount of tax, if any, due upon such redetermination shall be paid by the United States shareholder upon notice and demand by the district director. The amount of tax, if any, shown by such redetermination to have been overpaid shall be credited or refunded to the United States shareholder in accordance with the provisions of sections 6402 and 6511 and the regulations thereunder. If a United States shareholder elects under this section and if the United States shareholder has made an election under section 955(b)(3) as to at least one member of the related group, then the qualified investment amounts necessary for the calculations of paragraphs (c) (3) and (4) of this section shall be obtained, for each member of the related group, as of the determination dates applicable to each of the members.

(f) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). (a) Controlled foreign corporations X and Y are wholly owned subsidiaries of domestic corporation M. X and Y use the calendar year as the taxable year. For 1977, X and Y are not export trade corporations (as defined in section 971(a)), nor have they any income derived from the insurance of United States risks (within the meaning of section 963(a)). M does not elect to treat X and Y as a related group for 1977.

(b) For 1977, X and Y each have gross income (determined as provided in § 1.951–0(h)(1)) of $1,000. X's foreign base company income is $20 and Y's foreign base company imcome is $0, determined as follows, based on the facts shown in the following table:

	X	Y
(1) Foreign base company shipping income	$1,000	$1,000
(2) Less: amounts excluded from subpart F income under section 952(b) (relating to U.S. income) and amounts excluded from foreign base company income under section 945(b)(4) (relating to corporation not availed of to reduce taxes)	0	0
(3) Balance	1,000	1,000
(4) Less: deductions allocable under § 1.954–1(c) to balance	800	1,040
(5) Remaining balance	200	0
(6) Less: increase in qualified investments in foreign base company shipping operations	180	
(7) Foreign base company income	20	

(c) For 1977, Y has a withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations of $20, determined as follows, on the basis of the facts shown in the following table:

(1) Qualified investments in foreign base company shipping operations at Dec. 31, 1976	$1,210
(2) Less: qualified investments in foreign base company shipping operations at Dec. 31, 1977	1,170
(3) Balance	40
(4) Less: excess of recognized losses over recognized gains on sales during 1977 of qualified investments in foreign base company shipping operations	20
(5) Tentative decrease in qualified investments in foreign base company shipping operations for 1977	20
(6) Limitation described in § 1.955A–1(b)(2)	160
(7) Y's amount of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations (lesser of lines (5) and (6))	20

Example (2). (a) The facts are the same as in example (1), except that M does elect to treat X and Y as a related group for 1977.

(b) The group excess deduction, which is solely attributable to Y's net shipping loss, is $40 (i.e., $1,040−$1,000). Since X is the only member of the related group with net shipping income, X's pro rata share of the group excess deduction is the entire $40 amount.

(c) X's foreign base company income for 1977 is zero, determined as follows:

(1) Preliminary net foreign base company shipping income (line (b) (5) of example (1))	$200
(2) Less: X's pro rata share of group excess deduction	40
(3) Remaining balance	160
(4) Less: increase in qualified investments in foreign base company shipping operations	160
(5) Foreign base company income	0

(d) The group excess investment, which is solely attributable to X's excess investment, is $20 (i.e., $180 minus $160). Since Y is the only member of the related group with a shortfall in qualified investments, Y's share of the group excess investment is the entire $20 amount.

(e) During 1976 and 1977, Y owns no stock of X. Y's withdrawal of previously excluded subpart F income from investment in foreign base company shipping operations for 1977 is zero, determined as follows:

(1) Qualified investments at Dec. 31, 1976	$1,210
(2)(i) Qualified investments at Dec. 31, 1977 (determined without regard to paragraph (c) (4) of this section)	1,170
(ii) Y's pro rata share of group excess investment	20
(iii) Total qualified investments at Dec. 31, 1977 (Line (i) plus line (ii))	1,190
(3) Balance (line (1) minus line (2) (iii)	20
(4) Less: excess of recognized losses over recognized gains on sales during 1977 of qualified investments in foreign base company shipping operations	20
(5) Decrease in qualified investments for 1977	0

§ 1.955A–4 Election as to date of determining qualified investment in foreign base company shipping operations.

(a) *Nature of election.* In lieu of determining the increase under the provisions of section 954(g) and § 1.954–7(a) or the decrease under the provisions of section 955(a)(2) and § 1.955A–1(b) in a controlled foreign corporation's qualified investments in foreign base company shipping operations for a taxable year in the manner provided in such provisions, a United States shareholder of such controlled foreign corporation may elect, under the provisions of section 955(b)(3) and this section, to determine such increase in accordance with the provisions of § 1.954–7(b) and to determine such decrease by ascertaining the amount by which—

(1) Such controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of such taxable year exceed its qualified investments in foreign base company shipping operations at the close of the taxable year immediately following such taxable year, and reducing such excess by

(2) The amount determined under § 1.955A–1(b)(1)(ii) for such taxable year subject to the limitation provided in § 1.995A–1(b)(2) for such taxable year. An election under this section may be made with respect to each controlled foreign corporation with respect to which a person is a United States shareholder within the meaning of section 951(b), but the election may not be exercised separately with respect to the increases and the decreases of such controlled foreign corporation. If an election is made under this section to determine the increase of a controlled foreign corporation in accordance with the provisions of §1.954–7(b), subsequent decreases of such controlled foreign corporation shall be determined in accordance with this paragraph and not in accordance with § 1.955A–1(b).

(b) *Time and manner of making election*—(1) *Without consent.* An election under this section with respect to a controlled foreign corporation shall be made without the consent of the Commissioner by a United States shareholder's filing a statement to such effect with his return for his taxable year in which or with which ends the first taxable year of such controlled foreign corporation in which—

(i) Such shareholder is a United States shareholder, and

(ii) Such controlled foreign corporation realizes foreign base company shipping income, as defined in § 1.954–6.

The statement shall contain the name and address of the controlled foreign corporation and identification of such first taxable year of such corporation.

(2) *With consent.* An election under this section with respect to a controlled foreign corporation may be made by a United States shareholder at any time with the consent of the Commissioner. Consent will not be granted unless the United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which the election will be effected. The application for consent to elect shall be made by the United States shareholder's mailing a letter for such purpose to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall be mailed before the close of the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute an amount described in section 954(b)(2) in accordance with the election provided in this section. The application shall include the following information.

(i) The name, address, and taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name and address of the controlled foreign corporation;

(iii) The first taxable year of the controlled foreign corporation for which income is to be computed under the election;

(iv) The amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of its preceding taxable year; and

(v) The sum of the amounts excluded under section 954(b)(2) and § 1.954–1(b)(1) from the foreign base company income of the controlled foreign corporation for all prior taxable years during which such shareholder was a United States shareholder of such corporation and the sum of the amounts of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years during which such shareholder was a United States shareholder of such corporation.

(c) *Effect of election.*—(1) *General.* Except as provided in subparagraphs (3) and (4) of this paragraph, an election under this section with respect to a controlled foreign corporation shall be binding on the United States shareholder and shall apply to all qualified investments in foreign base company shipping operations acquired, or disposed of, by such controlled foreign corporation during the taxable year following its taxable year for which income is first computed under the election and during all succeeding taxable years of such corporation.

(2) *Returns.* Any return of a United States shareholder required to be filed before the completion of a period with respect to which determinations are to be made as to a controlled foreign corporation's qualified investments in foreign base company shipping operations for purposes of computing such shareholder's taxable income shall be filed on the basis of an estimate of the amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of the period. If the actual amount of such investments is not the same as the amount of the estimate, the United States shareholder shall immediately notify the Commissioner. The Commissioner will thereupon redetermine the amount of tax of such United States shareholder for the year or years with respect to which the incorrect amount was taken into account. The amount of tax, if any, due upon such redetermination shall be paid by the United States shareholder upon notice and demand by the district director. The amount of tax, if any, shown by such redetermination to have been overpaid shall be credited or refunded to the United States shareholder in accordance with the provisions of sections 6402 and 6511 and the regulations thereunder.

(3) *Revocation.* Upon application by the United States shareholder, the election made under this section may, subject to the approval of the Commissioner, be revoked. Approval will not be granted unless the United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which the revocation will be effected. Unless such agreement provides otherwise, the change in the controlled foreign corporation's qualified investments in foreign base company shipping operations for its first taxable year for which income is computed without regard to the election previously made will be considered to be zero for purposes of effectuating the revocation. The application for consent to revocation shall be made by the United States shareholder's mailing a letter for such purpose to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall be mailed

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before the close of the first taxable year of the controlled foreign corporation with respect to which the shareholder desires to compute the amounts described in section 954(b)(2) or 955(a) without regard to the election provided in this section. The application shall include the following information:

(i) The name, address, and taxpayer identification number of the United States shareholder;

(ii) The name and address of the controlled foreign corporation;

(iii) The taxable year of the controlled foreign corporation for which such amounts are to be computed;

(iv) The amount of the controlled foreign corporation's qualified investments in foreign base company shipping operations at the close of its preceding taxable year;

(v) The sum of the amounts excluded under section 954(b)(2) and § 1.954–1(b)(1) from the foreign base company income of the controlled foreign corporation for all prior taxable years during which such shareholder was a United States shareholder of such corporation and the sum of the amounts of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all prior taxable years during which such shareholder was a United States shareholder of such corporation; and

(vi) The reasons for the request for consent to revocation.

(4) *Transfer of stock.* If during any taxable year of a controlled foreign corporation—

(i) A United States shareholder who has made an election under this section with respect to such controlled foreign corporation sells, exchanges, or otherwise disposes of all or part of his stock in such controlled foreign corporation, and

(ii) The foreign corporation is a controlled foreign corporation immediately after the sale, exchange, or other disposition,

then, with respect to the stock so sold, exchanged, or disposed of, the change in the controlled foreign corporation's qualified investments in foreign base company shipping operations for such taxable year shall be considered to be zero. If the United States shareholder's successor in interest is entitled to and does make an election under paragraph (b)(1) of this section to determine the controlled foreign corporation's increase in qualified investments in foreign base company shipping operations for the taxable year in which he acquires such stock, such increase with respect to the stock so acquired shall be determined in accordance with the provisions of § 1.954–7(b)(1). If the controlled foreign corporation realizes no foreign base company income from which amounts are excluded under section 954(b)(2) and § 1.954–1(b)(1) for the taxable year in which the United States shareholder's successor in interest acquires such stock and such successor in interest makes an election under paragraph (b)(1) of this section with respect to a subsequent taxable year of such controlled foreign corporation, the increase in the controlled foreign corporation's qualified investments in foreign base company shipping operations for such subsequent taxable year shall be determined in accordance with the provisions of § 1.954–7(b)(2).

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). Foreign corporation A is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as a taxable year. In a statement filed with its return for 1977, M makes an election under section 955(b)(3) and the election remains in force for the taxable year 1978. At December 31, 1978, A's qualified investments in foreign base company shipping operations amount to $100,000; and, at December 31, 1979, to $80,000. For purposes of paragraph (a)(1) of this section, A Corporation's decrease in qualified investments in foreign base company shipping operations for the taxable year 1978 is $20,000 and is determined by ascertaining the amount by which A Corporation's qualified investments in foreign base company shipping operations at December 31, 1978 ($100,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1979 ($80,000).

Example (2). The facts are the same as in example (1) except that A experiences no changes in qualified investments in foreign base company shipping operations during its taxable years 1980 and 1981. If M's election were to remain in force, A's acquisitions and dispositions of qualified investments in foreign base company shipping operations during A's taxable year 1982 would be taken into account in determining whether A has experienced an increase or a decrease in qualified investments in foreign base company shipping operations for its taxable year 1981. However, M duly files before the close of A's taxable year 1981 as application for consent to revocation of M Corporation's election under section 955(b)(3), and, pursuant to an agreement between the Commissioner and M, consent is granted by the Commissioner. Assuming such agreement does not provide otherwise, A's change in qualifed investments in foreign base company shipping operations for its taxable year 1981 is zero because the effect of the revocation of the election is to treat acquisitions and dispositions of qualified investments in foreign base company shipping operations actually occurring in 1982 as having occurred in such year rather than in 1981.

Example (3). The facts are the same as in example (2) except that A's qualified investments in foreign base company shipping operations at December 31, 1982, amount to $70,000. For purposes of paragraph (b)(1)(i) of § 1.955A–1, the decrease in A's qualified investments in foreign base company shipping operations for the taxable year 1982 is $10,000 and is determined by ascertaining the amount by which A's qualified investments in foreign base company shipping operations at December 31, 1981 ($80,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1982 ($70,000).

Example (4). The facts are the same as in example (1). Assume further that on September 30, 1979, M sells 40 percent of the only class of stock of A to N Corporation, a domestic corporation. N uses the calendar year as a taxable year. A remains a controlled foreign corporation immediately after such sale of its stock. A's qualified investments in foreign base company shipping operations at December 31, 1980, amount to $90,000. The changes in A Corporation's qualified investments in foreign base company shipping operations occurring in its taxable year 1979 are considered to be zero with respect to the 40-percent stock interest acquired by N Corporation. The entire $20,000 reduction in A Corporation's qualified investments in foreign base company shipping operations which occurs during the taxable year 1979 is taken into account by M for purposes of paragraph (c)(1) of this section in determining its tax liability for the taxable year 1979. A's increase in qualified investments in foreign base company shipping operations for the taxable year 1979 with respect to the 60-percent stock interest retained by M is $6,000 and is determined by ascertaining M's pro rata share (60 percent) of the amount by which A's qualified investments in foreign base company shipping operations at December 31, 1980 ($90,000) exceed its qualified investments in foreign base company shipping operations at December 31, 1979 ($80,000). N does not make an election under section 955(b)(3) in its return for its taxable year 1980. Corporation A's increase in qualified investments in foreign base company shipping operations for the taxable year 1980 with respect to the 40-percent stock interest acquired by N is $4,000.

PART 9—[AMENDED]

§ 9.2 [Removed]

Par. 14. Section 9.2 of the Temporary Regulations under the Tax Reduction Act of 1975 is removed.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 26, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 83-12815 Filed 5-11-83; 2:03 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Tennessee Permanent Regulatory Program; Informal Conference on Status

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of informal conference.

SUMMARY: On August 10, 1982, the Secretary of the Interior approved Tennessee's program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (See 47 FR 34724). On April 8, 1983, the Director, OSM, notified Tennessee's Governor that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance and enforcement of Tennessee's approved regulatory program (See "Supplemental Information" below).

Under the provisions of OSM's regulations at 30 CFR 733.12(c), the Director may hold an informal conference to discuss the facts surrounding the Director's notification if such an informal conference is requested by the State. By letter dated April 18, 1983, the Governor of Tennessee requested that the Director hold an informal conference. Accordingly, the Director hereby notifies Tennessee and the public that OSM will hold an informal conference on May 24, 1983, at the address shown below under "**ADDRESSES.**" All interested persons may attend the informal conference.

DATE: OSM has scheduled an informal conference on May 24, 1983, to be held at the address below.

ADDRESSES: The informal conference will be held on May 24, 1983, beginning at 1:00 p.m. at the Knoxville Hilton, 501 W. Church Street, Knoxville, Tennessee 37902, Meeting Rooms 1 and 2.

Copies of Administrative Record documents referenced in this notice are available for public inspection and copying during normal business hours at: Office of Surface Mining, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 524–7648.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Knoxville Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 524–7648.

SUPPLEMENTARY INFORMATION: On February 3, 1982, the State of Tennessee resubmitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. This followed an initial approval in part and disapproval in part of the proposed program which was published in the **Federal Register** on October 10, 1980 (45 FR 67372–67395).

The Secretary reviewed the State's submission, provided the public an opportunity to review it, and conditionally approved the program on August 10, 1982 (47 FR 34724).

On April 8, 1983, the Director, OSM, notified the Governor of Tennessee that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance, and enforcement of Tennessee's approved permanent regulatory program under SMCRA.

Since the approval of Tennessee's program, and in keeping with its policy of working closely with the State, OSM has had numerous discussions with officials from the Tennessee Division of Surface Mining (DSM) about the State's performance. Recent discussions and investigations have centered on inadequacies of DSM's implementation of the approved program in the area of permitting.

A review of all permitting information provided by DSM to OSM's Knoxville Field Office indicates that DSM issued at least 164 permanent program permits between August 10, 1982 and March 30, 1983. Only four of the 164 permits appear to have been issued in accordance with the permitting procedures of Tennessee's approved program. The remaining 160 appear to have been issued with one or more of the following deficiencies:

(1) Without public notice and agency coordination.

(2) Without written findings of permit adequacy.

(3) Without complete information from the applicant.

(4) Prior to technical review and approval.

(5) Prior to expiration of the public comment period.

(6) Without pre-mine inspection.

(7) With existing violations on the site.

(8) Without review of the bond adequacy.

OSM's review focused on the above problem areas. Other problems, such as deficiencies in the technical adequacy of the permit applications may exist. The 164 permits issued fall into the following three categories:

(1) Eighty administrative updates of permanent program permits were issued which DSM indicated to Tennessee coal mine operators were permanent program permits. These permits were issued without requiring the operators to submit complete applications. Each permit in this category was deficient for some or all the eight reasons listed above, and none of them appears to have been properly issued.

(2) Forty-six renewals of interim program permits were issued which the State indicated to the operators were permanent program permits. The State issued these permits after receiving applications from the operators. Only three of these permits appear to have been issued without most or all of the eight deficiencies listed above. It appears that none of these 43 permits was properly issued.

(3) Thirty-eight permanent program permits were issued for new mining areas. Only one of these permits appears to have been issued without any of the deficiencies listed above. None of the other 37 permits appears to have been properly issued.

In addition to these 164 permits, OSM has concerns relating to the permitting of 78 tipples and processing plants. Under the 1980 Tennessee Coal Surface Mining Law (TCSML), tipples, coal storage and processing plants were required to have a coal surface mining permit in order to operate. However, the State made no attempt to permit or regulate the majority of these operations. Shortly after primacy the State issued a letter to tipple operators advising them that their (NPDES) permit would be temporarily recognized as meeting the permit requirements of DSM and that these operators had until May 15, 1983, to submit complete applications. These permitting instructions given by DSM to tipple operators, which later may have been revoked, were in violation of the State program requirement that operators who expect to continue operations after the eighth month following primacy, submit a complete program application within two months after primacy. Apparently there are no current instructions from DSM to the tipple operators.

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Pursuant to 30 CFR 733.12(b)(3), the Director specified a proposed schedule for DSM to correct the deficiencies in its program.

Section 733.12(c) of 30 CFR requires, in part, that the Director provide the State regulatory authority an opportunity for an informal conference within 15 days of receipt of the Director's written notification. On April 18, 1983, the Governor of Tennessee requested that the Director hold such an informal conference.

The Director has agreed to Tennessee's request, and hereby gives public notice of the informal conference for all persons wishing to attend. The date, time and location of the informal conference are identified above under the "Date" and "Addresses" sections of this notice.

The informal conference may pertain to the facts or the time period for accomplishing remedial actions as specified in the Director's notification.

Conference Rules

The informal conference is an opportunity for the Director to discuss the status of the implementation of Tennessee's program with Tennessee officials.

No testimony from the public will be taken but a verbatim transcript of the meeting will be kept.

Dated: May 16, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-13521 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 819

Providing Environmental Services to Nonmilitary Agencies and Individuals

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its Sales and Service regulations by removing Part 819—Providing Environmental Services to Nonmilitary Agencies and Individuals, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 105-9 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Pfeffer, HQ USAF/XOORF, Washington, D.C. 20330, telephone (202) 697-4375.

List of Subjects in 32 CFR Part 819

Aircraft, Federal buildings and facilities, Weather.

PART 819—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 819.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13442 Filed 5-18-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 11-34-83]

Establishment of Special Local Regulations; "COORS MEMORABLE MEMORIAL DAY"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the COORS MEMORABLE MEMORIAL DAY on the Colorado River. This event will be held on 28–29 and 30 May 1983, at Bluewater Marina. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 28 May 1983, and terminate on 30 May 1983.

FOR FURTHER INFORMATION CONTACT: Lt N. M. Turner, Commander(bpa), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2213.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. There was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information: The principal individuals involved in drafting this rule are LT Noris M. Turner, Chief, Boating and Public Affairs Branch, Eleventh Coast Guard District, and LT Catherine M. Kelly, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion of regulations: The United Boat Racers "Coors Memorable Memorial Day" will be conducted beginning 28 May 1983, starting from Bluewater Marine Park. This event will have 65 16- to 20-foot dragboats that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding the following section:

§ 100.35-11-1134 United Boat Racer/ Coors Memorable Memorial Day.

(a) *Regulated area.* The following regulated area will be closed intermittently to all vessel traffic from 7:00 am to 7:00 pm each day on 28 thru 30 May 1983: That portion of the Colorado River at Parker, Arizona off Bluewater Marine Park, starting at approximate river mile 179, thence southerly along the natural flow of the river to approximate river mile 178 and return.

(b) *Special Local Regulations.* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures For Transiting: The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of nonparticipant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b)).

Dated: May 10, 1983.

J. F. Culbertson,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 83-13507 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 02-83-02]

Memphis Cotton Carnival River Pageant

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area at Mile 730.0 to 740.0 of the Lower Mississippi River on 21 May 1983. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in that area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 21 May 1983.

FOR FURTHER INFORMATION CONTACT: CDR R. C. Herold, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103, (314) 425-5977.

SUPPLEMENTARY INFORMATION: This special local regulation is issued pursuant to 46 U.S.C. 454 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Lower Mississippi River between miles 730.0 and 740.0 during the Memphis Cotton Carnival River Pageant on 21 May 1983. This event will have an unusually large concentration of spectator boats which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during the river pageant.

A notice of proposed rule making has not been published for these regulations. They are published as a final rule since there was insufficient time to publish a notice of proposed rule making prior to the date of the event and the regulations are needed in order to protect life and property.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

Drafting Information: The principle persons involved in the drafting of this regulation are CDR R. C. HEROLD, Project Officer, Chief, Boating Technical Branch, and LT T. A. Councilor, Project Attorney, Assistant Legal Officer, Second Coast Guard District.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding a temporary § 100.35-0202 to read as follows:

§ 100.35-0202 Lower Mississippi River, miles 730.0 through 740.0.

(a) The following portion of the Lower Mississippi River will be closed to commercial vessel navigation or mooring from 5:30 p.m. (local time) until 9:30 p.m. (local time) on 21 May 1983.

(1) The area between Mile 730.0-740.0 Lower Mississippi River is designated the regatta area. The above times represent a guideline for possible river closure times not to exceed FOUR (4) hours in duration.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8 MHZ) when required.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This paragraph 100.35-02 will become effective at 5:30 p.m. (local time) on 21 May 1983 and will no longer be effective after 9:30 p.m. on 21 May 1983.

(Sec. 1, 35 Stat. 69 as amended. Sec. 6(b)(1), 80 Stat. 837; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 5, 1983.

S. B. Vaughn,

Rear Admiral, U.S. Coast Guard, Commander Second Coast Guard District.

[FR Doc. 83-13506 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD 81-067]

Chesapeake Bay and Tributaries, Maryland; Regulated Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes an Ice Navigation Season Regulated Navigation Area (RNA) on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal. The regulations for this Regulated Navigation Area will be placed in effect and terminated at the direction of the Captain of the Port, Baltimore. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: This regulation is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Ensign Randy Strobridge, Project Manager, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: On December 16, 1982, the Coast Guard published a notice of proposed rulemaking (47 FR 56370) and invited comments. Comments were received from three sources representing commercial maritime interests. There was no request for a public hearing.

Drafting Information

The principal persons involved in drafting this document are: Ensign Randy Strobridge, Office of Marine

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Environment and Systems, Project Manager, and Lieutenant Walter J. Brudzinski, Office of Chief Counsel, Project Counsel.

Discussion of Comments

One comment questioned the burden placed on vessel operators by the regulation to establish communications with the Coast Guard. While it is true that this regulation places a burden on the operators of vessels entering or navigating within the Regulated Navigation Area, such a burden is insignificant when compared with the benefits of having up-to-date knowledge of current ice conditions and the corresponding Captain of the Port Orders. Present requirements do not ensure that vessel operators will have knowledge of up-to-date conditions prior to commencing, or at any time during their transit. While the requirement exists (33 CFR 160.105) for each person who has notice of an order to comply with that order, rapidly changing ice conditions and the need for frequent amendment of the corresponding Captain of the Port Orders render it virtually impossible to initiate individual notice to each person likely to be affected by that order or to provide effective local distribution to the various reaches of the affected waters.

One comment voiced concern over the ability of operators to contact the Coast Guard on a timely basis to determine existing COTP restrictions. To facilitate compliance with the regulation, a recorded telephone message containing information on current orders is provided by the COTP Baltimore through the Marine Safety Office, Baltimore, Maryland. Affected vessel operators can comply by calling the COTP Baltimore recorded telephone announcement containing the latest COTP Orders. Also, other Coast Guard units in the area may have information regarding currently effective orders.

One comment stated that the Regulated Navigation Area would continue over an extended period of time regardless of whether or not ice was present. The regulations for this RNA would become effective at the direction of the Captain of the Port, Baltimore, only when ice is expected to present a hazard to navigation on these waters. This would usually begin in December of each year and extend to the following March (Ice Navigation Season). In the event that favorable weather conditions are experienced during this period, so that there is no anticipated need to issue COTP Ice Orders, the RNA regulations will not be placed in effect.

Two comments stated there is little evidence that this regulation is justified for reasons of safety. This regulation requires vessel operators to be aware of COTP Ice Orders, and provides a means whereby all operators may know which areas are hazardous to navigation and which areas are not. At present, the Coast Guard cannot be totally assured that all operators know what orders are in effect. The potential for becoming beset in the ice is thereby increased. Under this regulation, operators will be aware of current orders because they will be required to contact the Captain of the Port. Presently, transits over the affected waters have been made irrespective of, or contrary to, the restrictions imposed by currently effective COTP Orders. The result has been an increase in the potential for vessel casualties resulting in pollution of the marine environment, as well as the monopolizing of Coast Guard resources to assist vessels beset in the ice.

Two comments questioned the Coast Guard's ability to obtain and maintain accurate, timely, and meaningful readings on ice conditions within the RNA. The specific COTP Ice Orders are based on information accumulated by Coast Guard vessels involved in ice operations, as well as from Coast Guard flight operations conducted over the affected area. Input from commercial operators is also utilized and is considered very valuable in the maintenance of an accurate assessment of existing ice conditions. The Coast Guard is therefore able to obtain accurate and timely information regarding conditions within the Regulated Navigation Area, and issue Ice Orders which reflect those conditions.

One comment stated that COTP Orders do not take into account local conditions or the capabilities of specialized vessels. The COTP Ice Orders contain specific information concerning ice conditions in particular locations within the Baltimore COTP Zone. The orders outline particular structural requirements and minimum shaft horsepower restrictions for vessels operating within the RNA as well. The determination to restrict navigation within the RNA is based upon local information regarding ice conditions and the capabilities of typical vessels to operate under those conditions.

Finally, one comment suggested that the regulation needs to provide for exceptions to COTP imposed restrictions. The Coast Guard recognizes that ice conditions within the RNA can change rapidly as a result of a shift in wind direction or other weather forces. Consequently, the possibility exists that a vessel operator may be confronted by a situation in which a current COTP Order appears to be inappropriate for actual ice conditions in a certain area. In such instances, vessel operators should contact COTP Baltimore and provide any information which will serve to update effective COTP Orders. Such information will assist COTP Baltimore in maintaining accurate data on ice conditions within the regulated Navigation Area, and in responding to changing conditions in a timely manner with the appropriate order.

Having considered the foregoing comments and the overall statutory obligation of the Coast Guard to ensure the safety of life and property upon waters of the United States, the proposed rule is adopted without major, substantive change.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined to be nonmajor. In addition, this regulation is considered to be nonsignificant in accordance with the guidelines set out in Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980.

A full Regulatory Evaluation document has not been prepared since the economic impact of the regulation is minimal. The costs of complying with this rule are not quantifiable to any extent practicable. Some vessel operators may use the telephone to contact the COTP and request the current COTP Orders. The costs of placing a brief long distance telephone call compared with the overall operational costs of the vessel's transit through the Regulated Navigation Area are insignificant. Further, these costs will be incurred only in those instances where the vessel's operation requires transit through the Regulated Navigation Area during the periods the rules are in effect. These insignificant costs are outweighed substantially by the benefits of having up-to-date information on ice conditions, the avoidance of ice concentrations, the lessened risk of becoming ice-bound, and the lessened risk of vessel damage.

In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, for the reasons set forth above.

List of Subjects in 33 CFR Part 165

Harbors, Waterways, Marine safety, Security measures, Vessels, Navigation (water).

PART 165—[AMENDED]

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended by adding new § 165.503 to read as follows:

§ 165.503 Chesapeake Bay ice navigation season.

(a) The following is a Regulated Navigation Area: the waters within the boundary of a line which starts at the intersection of the Delaware-Maryland boundary and the coastline and follows the Delaware-Maryland boundary west and north to the Pennsylvania boundary but includes the Chesapeake and Delaware Canal and the reaches of the Nanticoke River; thence due east along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence south and eastward along the Maryland-West Virginia boundary to the Virginia boundary; thence southwestward along the Virginia-West Virginia boundary to a point 39°06'N. latitude, 78°30'W. longitude; thence to a point 38°19.5'N. latitude, 77°25.2'W. longitude; thence to a point 37°55'N. latitude, 76°28.2'W. longitude; thence to a point 37°55'N. latitude, 76°16.8'W. longitude; thence to a point 37°56.5'N. latitude, 76°10.5'W. longitude; thence to a point 37°57.2'N. latitude, 76°03'W. longitude on Chesapeake Bay; thence along the Maryland-Virginia boundary to the sea.

(b) The regulations in paragraph (c) and (d) of this section are placed in effect and terminated by the Captain of the Port Baltimore by notice in the **Federal Register**. Notice is also given in the Fifth Coast Guard District Local Notice to Mariners and other available public notice means such as COTP newsletters and news broadcasts. This Regulated Navigation Area will normally be placed in effect and terminated between December and March of the following year.

(c) This Regulated Navigation Area applies to:

(1) Operators of those vessels defined under subparagraph (3) of section 5 of the Port and Tanker Safety Act, 92 Stat. 1482 (46 U.S.C. 391a), which includes any vessel—

(i) Regardless of tonnage, size, or manner of propulsion;

(ii) Whether self-propelled or not; and

(iii) Which carries oil or any hazardous materials in bulk as cargo or in residue;

(2) Operators of those vessels defined under section 4, subparagraphs (1) through (3) of the Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164 (33 U.S.C. 1203(a) (1)–(3)), which includes—

(i) Every power-driven vessel of three hundred gross tons and upward;

(ii) Every vesssel of one hundred gross tons and upward carrying one or more passengers for hire; and

(iii) Every towing vessel of twenty-six feet or greater in length.

(d) Upon entering or getting underway in this Regulated Navigation Area when the regulations in this section are in effect, operators of vessels described in paragraph (c) of this section shall check with the Captain of the Port, Baltimore, by the most rapid means available, and request the current COTP Orders issued for this Regulated Navigation Area. Operators of affected vessels that connot meet this requirement shall not navigate their vessels in the Regulated Navigation Area.

(e) If unable to comply with a currently effective COTP Order, operators of vessels described in paragraph (c) of this section shall not navigate their vessels in the Regulated Navigation Area and shall notify COTP Baltimore by the most rapid means available. Such notification shall include:

(1) The name of the vessel,

(2) The vessel's location, and

(3) That provision of the currently effective order with which the vessel connot comply.

(Sec. 2, 92 Stat. 1472, 1477 (33 U.S.C. 1223, 1231); 49 CFR 1.46(n)(4))

Dated: April 20, 1983.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-13509 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Miscellaneous Amendments

Correction

In FR Doc. 83–11988 beginning on page 20690 in the issue of Monday, May 9, 1983 make the following correction:

On page 20691, column one, § 410.10(c), in the table under "Overall length of vessels", the last entry "More than 180 m but not more than 225.5 m." should read "More than 180 m. but not more than 222.5 m."

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2337-7]

Approval and Promulgation of Implementation Plans; Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Hawaii has submitted a revision to their State Implementation Plan (SIP) for Lead. This revision provides a plan for maintenance of the Lead National Ambient Air Quality Standards (NAAQS). EPA has reviewed the submitted revision with respect to Section 110 of the Clean Air Act and determined that it should be approved.

EFFECTIVE DATE: This action is effective July 18, 1983.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974–7641.

ADDRESSES: A copy of the revision to the Hawaii State Implementation Plan (SIP) for Lead is located at the Region 9 Office and the following locations:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

State of Hawaii, Department of Health, Honolulu, Hawaii 96801

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, EPA promulgated the primary and secondary NAAQS for Lead. The Standards were set at a level of 1.5 micrograms of lead per cubic meter of air, averaged over a calendar quarter. Section 110 of the Clean Air Act requires states to submit implementation plans to EPA detailing how the NAAQS will be achieved and maintained in their areas.

EPA published requirements for Lead SIPs in 40 CFR Part 51 (43 FR 46284). These provisions require the submission of air quality data, emissions data, a control strategy, air quality modeling, and a demonstration that the Lead NAAQS will be attained within the time frame specified by the Clean Air Act.

Discussion

On October 29, 1982, the Governor of Hawaii submitted a revision to the SIP for Lead. The October 22, 1982 revision

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was compared with the applicable requirements of 40 CFR Part 51, including emission inventory, control strategy, modeling, and new source review.

The NAAQS for lead has never been exceeded in Hawaii and the emission inventory shows that there are no major lead emitting sources. The contribution of lead from stationary sources was calculated for 1980 and accounted for less than two percent of total emissions. Mobile sources contribute the majority of lead in the atmosphere in Hawaii. Estimates for automobile lead emissions were made from calendar year 1977.

Since automobile generated lead emissions are the only notable lead emission sources, the evaluation contained in the SIP centers on these sources.

The SIP's control strategy for maintenance of the Lead NAAQS is the reduction of the amount of lead in gasoline as mandated by EPA (38 FR 33734).

The ambient concentrations of lead are well below the NAAQS in Hawaii, and all urban areas in Hawaii had a population of less than 500,000 in 1970. Therefore, in accordance with Appendix D 40 CFR Part 58 air quality monitoring is not required for the State of Hawaii. However, the plan describes a lead monitoring contingency plan. Should the need present itself, the State of Hawaii can establish two lead monitoring sites by using existing particulate matter sites to incorporate lead monitoring sites.

In addition, Section 2 parts 1, 2, and 3 of Hawaii's Air Pollution Control Regulation lists types of sources exempt from the preconstruction review requirement. The list does not exempt lead sources, and therefore constitutes a permitting program for New Stationary Sources of lead.

EPA Actions

As a result of the above evaluation, EPA is taking final action under Section 110 of the Clean Air Act to approve the revision to the Hawaii SIP for Lead.

EPA's approval is being done without prior proposal because the Lead SIP is non-controversial. The public should be advised that this approval action will be effective 60 days from the date of this notice. However, if notice is received or critical comments, the approval action will be withdrawn and a subsequent notice will indefinitely postpone the effective date, modify the final action to a proposal action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in the proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Hawaii was approved by the Director of the Federal Register on July 1, 1982.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410 and 7601(a)].

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

Subpart M of Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart M—Hawaii

Section 52.620 is amended by adding paragraph (c)(14) as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(14) Hawaii State Lead SIP Revision submitted by the State on October 29, 1982.

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[FR Doc. 83-13418 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 86

[AMS-FRL-2306-5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Extension of Alternative Durability Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action extends the optional motor vehicle Alternative Durability Program beyond the 1984 model year. This program was initiated as a temporary pilot program that would expire after the 1984 model year. It provides an alternative method of determining the emission control durability of new light-duty vehicles and light-duty trucks. It is intended to reduce motor vehicle certification costs without reducing the stringency of the emission standards.

DATE: These regulations are effective as of June 20, 1983.

ADDRESS: Material relevant to this final rule is contained in Public Docket No. A-80-24. The docket is located at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for coping.

FOR FURTHER INFORMATION CONTACT: David H. Ferris, Certification Policy and support Branch, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone (313) 668-4345.

SUPPLEMENTARY INFORMATION: OMB Control No. 2000-0390.

I. Applicability

The provisions of these regulations apply to 1981 and later model year light-duty vehicles and light-duty trucks.

II. Background

The Alternative Durability Program was implemented as a temporary pilot program on June 30, 1980 (45 FR 44188). The Alternative Durability Program allows manufacturers to test production vehicles to generate durability data rather than more expensive preproduction prototype vehicles. Manufacturers are also allowed to test fewer durability-data vehicles in total but the data from all vehicles must be included in the average. This also reduces typical manufacturer costs while maintaining the quality of durability evaluation. A full description of the Alternative Durability Program and its benefits appears in the preamble to the original rule, 45 FR 44188 (June 30, 1980).

The final notice of the pilot program specifically asked interested parties to comment on the program 45 FR 44191 (June 30, 1980) so that the Agency could evaluate it. While EPA's experience under the pilot program did not justify making the program mandatory, no comments were received that objected to the program as a voluntary alternative. No commenters expressed environmental concerns about the program and EPA found no reduction in the stringency of certification requirements for the two manufacturers that participated.

Only two manufacturers chose to participate in the pilot program. One participating manufacturer has petitioned the Administrator to extend the program (docket A-80-24-II-D-2). This manufacturer has realized substantial cost savings as a result of this program without compromising the stringency of the certification requirements. This suggests that there is merit to extending the optional program even though only two manufacturers took part in it. EPA has received no formal comments explaining why other manufacturers did not participate, and other manufacturers might opt to participate in the future. Accordingly, EPA has decided to continue the program beyond the 1984 model year.

III. Description of Changes

40 CFR 86.085-1 and 86.085-13 are being added to extend the program to 1985 and later model years. Section 86.085-24(h)(1) will be revised to specify that production vehicles be selected "from each model year's production" rather than "from the 1981, 1982, and 1983 model year." Section 86.085-24(h)(1)(v) has been added to specifically allow the carryover of production durability data from a previous model year if the selected design had already been durability tested. Section 86.085-28 is amended to include the compliance procedures for the program.

In addition, § 86.085-13(f) is amended to require manufacturers withdrawing from ADP to complete testing of production durability-data vehicles for the last model year certified under ADP in order to ensure compliance for that model year. If the production durability data indicate an emission compliance problem, the manufacturer may continue to participate in the program and use the production vehicle data for future model years or withdraw from the program and remedy any noncompliance that was discovered. If a manufacturer chooses to withdraw from the program and noncompliance was indicated by production vehicles, the manufacturer would have to remedy the nonconformity. The manufacturer must determine the extent of the problem and the most appropriate remedies for in-use vehicles and future production. If the manufacturer fails to comply with these requirements, the Administrator may deem the certificates of conformity for the affected engine families void *ab initio*. This provision is being added in order to prevent manufacturers from using the program to obtain a certificate and then either (1) withdrawing from the program without evaluating production vehicles, or (2) discovering a noncomformity and withdrawing from the program without providing a remedy.

IV. Stringency

EPA believes that this extension of the Alternative Durability Program does not alter the stringency of the certification requirements. The deterioration factors generated by the limited number of production vehicles evaluated under the pilot program have substantiated the manufacturer's projected deterioration factors. In addition, this rulemaking makes minor changes that will require a manufacturer to evaluate production vehicles and remedy any noncompliance discovered if they withdraw from ADP. This ensures that there will be no impact on stringency. Further discussion of the impact of the Alternative Durability Program on stringency appears in the preamble to the original rulemaking, 45 FR 44188 (June 30, 1980).

V. Certification Cost Reduction

It is extremely difficult to estimate the total cost savings that will result from this action since the extent to which manufacturers will participate in this program in the future is unknown. However, one participating manufacturer estimated a total savings of over $2 million during the last three model years.

VI. Other Information

Under Executive Order No. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Analysis. This regulation is not major because (1) it will result in an annual effect on the economy of less than $100 million, (2) it will not result in increased costs or prices for consumers, industries, or others, and (3) it will not have adverse effects on competition, employment, investment, or productivity.

This regulation was submitted to OMB for review as required by Executive Order 12291.

This action extends a voluntary program designed to reduce manufacturer's certification costs and does not create any additional reporting requirements. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and have been assigned OMB control number 2000-0390.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The certification procedures established by this rulemaking should reduce the burdens, especially durability-data vehicle costs, of compliance with certification requirements for participating manufacturers. Moreover, small-volume manufacturers (less than 10,000 projected sales) are already allowed to use assigned deterioration factors in lieu of testing durability-data vehicles under the provisions of 40 CFR 86.081-14 (48 FR 16259, March 12, 1981). The result is that few small entities will be affected by this regulation. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

The Agency finds that good cause exists for omitting as unnecessary a notice of proposed rulemaking and further public comment, because (1) EPA specifically invited comments on the pilot program in the notice that established it and received no adverse comments, (2) participation by manufacturers is voluntary, (3) no adverse economic or environmental impacts are anticipated, and (4) this will allow manufacturers to continue to obtain cost savings beyond the 1984 model year without interruption.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by filing a petition for review within 60 days of May 19, 1983. EPA finds that this action is of national applicability; accordingly any such petition for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(2), this rulemaking may not be challenged later in enforcement actions brought by EPA.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 9, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, EPA amends 40 CFR Part 86 as follows:

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1. The authority citation for Part 86 reads as follows:

Authority: Sections 202, 206, and 301(a)(1) of the Clean Air Act as amended, 42 U.S.C. 7521, 7524, and 7601(a)(1).

2. A new § 86.085–1, which is identical to § 86.082–1 except for reserved paragraph (c) and revised paragraphs (a) and (d), is added to read as follows:

§ 86.085–1 General applicability.

(a) The provisions of this subpart apply to 1985 and later model year new gasoline-fueled and diesel light-duty vehicles, 1985 and later model year new gasoline-fueled and diesel light-duty trucks, and 1985 and later model year new gasoline-fueled and diesel heavy-duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck. Heavy-duty vehicle provisions do not apply to such a vehicle.

(c) [Reserved].

(d) Alternative Durability Program. For 1985 and later model year light-duty vehicles and light-duty trucks, a manufacturer may elect to participate in the Alternative Durability Program. This optional program provides an alternative method of determining exhaust emission control system durability. The general procedures and a description of the programs are contained in § 86.085–13 and specific provisions on test vehicles and compliance procedures are contained in § 86.085–24 and § 86.085–28 respectively.

(e) Small-Volume Manufacturers. Special certification procedures are available for any manufacturer whose projected combined U.S. sales of light-duty vehicles, light-duty trucks, and heavy-duty engines in its product line are fewer than 10,000 units for the model year in which the manufacturer seeks certification. In order to certify its product line under these optional procedures, the small-volume manufacturer must first obtain the Administrator's approval. Vehicles produced at facilities leased, operated, controlled, supervised, or in ten percent or greater part owned by the manufacturer shall be counted in calculating the total sales of the manufacturer. The small-volume manufacturer's certification procedures are described in § 86.082–14.

3. A new § 86.085–13, which is identical to § 86.081–13 except for revised paragraphs (b), (d), and (f), is added to read as follows:

§ 86.085–13 Alternative Durability Program.

(a) The procedures of the Alternative Durability Program are optional. Manufacturers may use these optional procedures to determine deterioration factors instead of using the procedures that this subpart otherwise requires.

(b) The optional procedures of the Alternative Durability Program apply only to light-duty vehicles and light-duty trucks, and are effective for the 1985 and later model years. All manufacturers of these vehicles are eligible to participate in this program.

(c) For engine families subject to the procedures of the Alternative Durability Program, the manufacturer shall submit deterioration factors to the Administrator for approval to use them for certification. The Administrator shall approve the use of deterioriation factors that:

(1) The manufacturer attests are representative of the durability performance of its vehicles in actual field use when maintained according to the manufacturer's maintenance instructions (as limited under § 86.084–25(a)), and

(2) Are equal to or greater than the deterioration factors that EPA determines under paragraph (d) of this section.

(d) EPA shall determine minimum deterioration factors for engine families subject to the Alternative Durability Program. This determination shall be based on a procedure of grouping engine families (see § 86.085–24(a)) in order to use historical certification data to determine deterioration factors for each engine family group. The historical data shall be updated yearly through the testing of production durability-data vehicles. Test vehicle requirements under these procedures are contained in § 86.085–24(h) and compliance requirements are contained in § 86.085–28 (a)(5) and (b)(5).

(e) Request Procedures. (1) A manufacturer wishing to participate in the Alternative Durability Program must submit to the Administrator, for each model year, a written request describing the engine families that the manufacturer elects to be included in the program.

(2) The Administrator may declare ineligible any engine family for which the Administrator determines there is unreasonable risk in determining a deterioration factor using the methods of the Alternative Durability Program. Furthermore, the Administrator may limit the number of engine families within the manufacturer's product line that are eligible for the Alternative Durability Program.

(3) Upon approval of the manufacturer's request to participate, the Administrator and the manufacturer may enter into a written agreement prescribing the terms and conditions of the program. This agreement shall be equitable as compared to agreements entered into with other manufacturers. The agreement shall specify the following:

(i) The engine families to be included in the program and the engine family groups that have been established by the provisions of § 86.085–24(a) (8) and (9).

(ii) The procedures for the selection of production durability-data vehicles specified under the provisions of § 86.085–24(h).

(iii) The procedures for the determination of minimum exhaust emission deterioration factors for each engine family group.

(f) Withdrawal from Alternative Durability Program.

(1) Subject to the conditions of the following paragraphs, a manufacturer may, at any time, withdraw all of its product line or separate engine family groups from this program. Only entire engine family groups may be withdrawn.

(2) Once any engine family in an engine family group is certified using deterioration factors determined in the Alternative Durability Program, the manufacturer shall operate and test the production durability-data vehicles specified in § 86.085–24(h) in accordance with the procedures of this part.

(3) The Administrator shall notify the manufacturer if a nonconformity of a category of vehicles within the engine family group is indicated by the production durability data. For the purpose of this paragraph, a nonconformity is determined to exist if:

(i) Any emission-data vehicle within an engine family of the model year most recently certified under the Alternative Durability Program is projected to exceed an emission standard by applying deterioration factors generated by a production durability-data vehicle within the same engine family, or

(ii) Any of the most recent model year's production durability-data vehicle configurations tested under paragraph (f)(2) of this section line crosses as defined in § 86.085–28(a)(5)(ii)(C). For the purpose of this paragraph, data from identical vehicles will be averaged as under § 86.085–28(a)(4)(i) (A) and (B).

(4) If the Administrator notifies a manufacturer of such a nonconformity, the manufacturer shall submit, by a date specified by the Administrator, a plan to remedy the nonconformity which is acceptable to the Director, Office of Mobile Sources. For the purpose of this paragraph, the term "remedy the nonconformity" will have the same meaning as it does when it appears in section 207(c)(1) of the Clean Air Act.

(5) The manufacturer shall comply with the terms of the remedial plan approved by the Director, Office of Mobile Sources.

(6) If a manufacturer does not comply with the requirements of paragraphs (f)(2), (4), or (5) of this section, the Administrator may deem the certificate of conformity for the affected engine families void *ab initio*. [OMB Control Number 2000–0390.]

4. Section 86.085–24 is amended by revising paragraph (h) introductory text paragraph (h)(1), and by adding paragraph (h)(1)(v) to read as follows:

§ 86.085–24 Test vehicles and engines.

* * * * *

(h) Alternative Durability Program durability-data vehicles. This section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program described in § 86.085–13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Alternative Durability Program procedures.

* * * * *

(v) In lieu of testing a production durability-data vehicle selected under paragraph (h)(1) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data from a production vehicle of the same configuration for which all applicable data has previously been submitted.

* * * * *

5. Section 86.085–28 is amended by revising paragraph (a)(4) introductory text and (b)(4)(i) and by adding paragraphs (a)(5) and (b)(5) to read as follows:

§ 86.085–28 Compliance with emission standards.

(a) * * *

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows, except where specified by paragraph (a)(5) of this section for the Alternative Durability Program:

* * * * *

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraphs (a)(4)(iii) through (a)(4)(v) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.085–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line crossing. For the purposes of paragraph (a)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.085–24(c)(1), § 86.085–24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.085–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b) * * *

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards, based on deterioration factors supplied by the manufacturers, except where specified by paragraph (b)(5) of this section for the Alternative Durability Program.

* * * * *

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraph (b)(4)(iv), (b)(6)(iv) and (b)(7) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (b)(6) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will

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be determined and applied in accordance with paragraph (b)(6) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.085–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line crossing. For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated, 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.085–24(c)(1), § 86.085–24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.085–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

* * * * *

[FR Doc. 83–13501 Filed 5–18–83; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF ENERGY

41 CFR Parts 9–7 and 9–10

Proposed Amendments to Procurement Regulations

AGENCY: Procurement and Assistance Management Directorate, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule is to amend the DOE Procurement Regulations. The revisions are intended to update the Regulations as a result of changes in the Federal Procurement Regulations and to simplify operations by providing standard clauses for types of contracts not covered elsewhere.

The intended effect of this revision is to simplify operations by establishing a standard set of contract clauses which will routinely be used in cost type construction contracts and to clarify that bid guarantees are only to be required in contracts awarded as the result of formal advertising. This latter change reflects a change previously made in the Federal Procurement Regulations at 44 FR 34498.

EFFECTIVE DATE: June 20, 1983.

FOR FURTHER INFORMATION CONTACT:
Richard Langston, Procurement Policy Branch, MA421.1, Procurement and Assistance Management, Department of Energy, (202) 252–8188.
Christopher T. Smith, Office of General Counsel, AGC for Procurement, and Financial Incentives, GC44, Department of Energy, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Public Comments.
III. Statutory and Regulatory Requirements.

I. Background

The revisions being made by this rule involve construction contracts. The change is intended to simplify the drafting of cost type construction contracts within DOE. Present practice necessitates determining what clauses will be used for each cost type construction contract. This is because the Federal Procurement Regulations do not specify contract clauses for this type of contract as they do for most other contract types. As a result, each contract specialist tends to select a somewhat different assortment of clauses from various procurement regulations including the Federal Procurement Regulations, the DOE Procurement Regulations and the Defense Acquisition Regulations. This in turn causes confusion for contractors. This change will establish a standard set of "boilerplate" clauses for use in DOE cost type construction contracts and thus simplify and standardize the drafting of this type of contract. Change 8.1 is a listing of changes to the Table of Contents. Change 8.2 revises Part 9–7, "Contract Clauses," to add a new Subpart 9–7.9 entitled "Cost Reimbursement Type Construction Contracts." This addition is necessary because the Federal Procurement Regulations provide guidance only for fixed price type construction contracts. The Department's research activities necessitate that some construction projects be contracted on a cost type basis due to the uncertainties involved in experimental projects. The clauses are divided into "required", "when applicable", and "additional" categories. The required clauses are to appear in all cost type construction contracts. The when applicable clauses are required under stated circumstances. The additional clauses are optional clauses to be used in special circumstances. Change 8.3 deletes a portion of the text of 9–10.103–1 concerning bid guarantees which references an FPR restriction which was removed by the General Services Administration at 44 FR 34498.

II. Public Comments

The changes being made by this final rule were published as a notice of proposed rulemaking on November 29, 1982 at 47 FR 53746. No comments were received from the general public. Comments were received from 4 DOE offices. The following changes were made as a result of the comments.

The notice of proposed rulemaking contained a Change 8.4 which proposed adding a new Subpart 9–18.52, "Value Engineering in Construction Contracts." The comments revealed that there was not a general consensus regarding this topic or the possible benefits to be realized from adopting such a policy. Among the concerns expressed was the belief that the proposed procedure was too lengthy and complex. The proposed change has been deleted from the final rule.

Two required clauses were added to correct an inadvertent omission in the proposed rule. Section 9–7.902–60, "Authorization and consent," was added to the list of clauses required for cost reimbursement type construction contracts. Another clause 9–7.903–30, "Cost and schedule control systems," was added to the list of clauses to be used when applicable.

The proposed rule at 9–7.902–3, "Changes," instructed that the changes clause of FPR 1–7.202–2 be used with a slight modification. One reviewer suggested that use of the clause at 9–50.704–11 would be more appropriate for use in cost type construction contracts due to the uncertainties involved in that type of contract. The clause at 9–50.704–11 specifically provides that adjustment of fixed fee due to changes will be made only for material changes while the proposed clause, FPR 1–7.202–2, does not address the nature of the change. The suggestion has been adopted and 9–7.902–3, "Changes," now states that the changes clause of 9–50.704–11 shall be used.

Except for some minor technical changes, the other sections of this final rule are the same as those contained in the November 29, 1982 notice of proposed rulemaking.

III. Statutory and Regulatory Requirements

A. Review Under Executive Order 12291. Under Executive Order 12291 agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this rule and has determined that it is not a major rule because: it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise. DOE bases this determination on the fact that this proposed rule relates exclusively to the management of the procurement function.

B. Review Under the Regulatory Flexibility Act. This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act. DOE has determined that this rulemaking imposes no new reporting or recordkeeping requirements on organizations and individuals external to DOE that may be subject to this regulation. On December 31, 1981, at 46 FR 63209, DOE published technical amendments identifying portions of its regulations at Titles 10 and 41 of the Code of Federal Regulations which contained reporting or recordkeeping requirements. These amendments were for the purpose of complying with the Paperwork Reduction Act which requires clearance by OMB of agency reporting or recordkeeping requirements. Some of the contract clauses contained in this rulemaking are the same as those contained in that technical amendment. Those clauses are identified in this rulemaking by including their OMB clearance number parenthetically after the text of the clauses. Accordingly, no new review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is required.

D. Review Under the National Environmental Policy Act. DOE has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et seq.* 1976), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 41 CFR Parts 9–7 and 9–10

Government procurement, Reporting and recordkeeping requirements, Construction, Insurance, Sureties and bonds.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., May 13, 1983.

Hilary J. Rauch,
Director, Procurement and Assistance, Management Directorate.

The regulations in 41 CFR Chapter 9 are amended as set forth below.

Authority: Section 644, Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two number identifier is assigned to each specific change. The first number represents the numerical sequence of proposed changes; thus, this is Change 8 to indicate that this is the eighth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second number is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the eighth notice is identified as Change 8.1.

Change 8.1

The table of contents is amended by adding Subpart 9–7.9 to Part 9–7 to read as follows:

* * * * *

PART 9–7—CONTRACT CLAUSES

* * * * *

Subpart 9–7.9—Cost-Reimbursement Type Construction Contracts

* * * * *

Change 8.2

Part 9–7, "Contract Clauses," is amended to add a new subpart prescribing contract clauses. A new Subpart 9–7.9 "Cost-Reimbursement Type Construction Contracts," is added. The new Subpart 9–7.9 will read as follows:

Subpart 9–7.9—Cost-Reimbursement Type Construction Contracts

Sec.
9–7.900 Scope of subpart.
9–7.901 Applicability.
9–7.902 Required clauses.
9–7.902–1 Definitions.
9–7.902–2 Specifications and drawings.
9–7.902–3 Changes.
9–7.902–4 [Reserved.]
9–7.902–5 Termination for default or for convenience of the Government.
9–7.902–6 Disputes.
9–7.902–7 Limitation of cost.
9–7.902–8 Allowable cost, fixed fee and payment.
9–7.902–9 [Reserved.]
9–7.902–10 Material and workmanship.
9–7.902–11 Inspection and acceptance.
9–7.902–12 Superintendence by contractor.
9–7.902–13 Permits and responsibilities.
9–7.902–14 [Reserved.]
9–7.902–15 Other contracts.
9–7.902–16 Patent indemnity.
9–7.902–17 Additional bond security.
9–7.902–18 Covenant against contingent fees.
9–7.902–19 Officials not to benefit.
9–7.902–20 Buy American Act.
9–7.902–21 Convict labor.
9–7.902–22 Equal opportunity.
9–7.902–23 Labor standards provisions.
9–7.902–24 Examination of records by the Comptroller General.
9–7.902–25 Government property.
9–7.902–26 Utilization of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.
9–7.902–27 Price reduction for defective cost or pricing data.
9–7.902–28 Payment for overtime premiums.
9–7.902–29 [Reserved.]
9–7.902–30 Subcontractor cost or pricing data.
9–7.902–31 [Reserved.]

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9-7.902-32 Audit.
9-7.902-33 [Reserved.]
9-7.902-34 Affirmative action for disabled veterans and veterans of the Vietnam Era.
9-7.902-35 Subcontracts.
9-7.902-36 [Reserved.]
9-7.902-37 Affirmative action for handicapped workers.
9-7.902-38 Clean air and water.
9-7.902-50 Order of precedence.
9-7.902-51 Notice and assistance regarding patent and copyright infringement.
9-7.902-52 Reporting of royalties.
9-7.902-53 Utilization of women-owned business concerns.
9-7.902-54 Stop work order.
9-7.902-55 Authorization and consent.
9-7.903 Clauses to be used when applicable.
9-7.903-1 Excusable delays.
9-7.903-2 Negotiated overhead rates.
9-7.903-3 Workmen's compensation insurance (Defense Base Act).
9-7.903-4 Advance payments.
9-7.903-5 Performance of work by contractor.
9-7.903-6 Use of U.S. flag commercial vessels.
9-7.903-7 Special section 8(a) contract conditions.
9-7.903-8 General Services Administration supply sources.
9-7.903-9 Interagency motor pool vehicles and related services.
9-7.903-10 Interest.
9-7.903-11 Preference for U.S. flag air carriers.
9-7.903-12 Cost accounting standards.
9-7.903-13 [Reserved.]
9-7.903-14 Progress charts and requirements for overtime work.
9-7.903-15 Classification.
9-7.903-16 Notice to the Government of labor disputes.
9-7.903-17 Additional technical data requirements.
9-7.903-18 Security.
9-7.903-19 Competition in subcontracting.
9-7.903-20 Rights in technical data—long form.
9-7.903-21 Preservation of individual occupational radiation exposure records.
9-7.903-22 Safety and health.
9-7.903-23 Privacy Act.
9-7.903-24 Subcontracting plan for small and small disadvantaged businesses.
9-7.903-25 [Reserved.]
9-7.903-26 Women-owned business concerns subcontracting program.
9-7.903-27 Shop drawings.
9-7.903-28 Rights in shop drawings.
9-7.903-29 Assignments of claims.
9-7.903-30 Cost and schedule control systems.
9-7.904 Additional clauses.
9-7.904-1 Insurance—liability to third parties.
9-7.904-2 Priorities, allocations and allotments.
9-7.904-3 Nuclear hazards indemnity.
9-7.904-4 Discounts.
9-7.904-5 Direct payments.

Subpart 9-7.9—Cost-Reimbursement Type Construction Contracts

§ 9-7.900 Scope of subpart.

This subpart sets forth clauses for use in cost-reimbursement type construction contracts. The clauses are divided into "required", "when applicable", and "additional" categories. The required clauses are to appear in all cost type construction contracts. The when applicable clauses are required under stated circumstances. The additional clauses are clauses to be used in special circumstances.

§ 9-7.901 Applicability.

The clauses set forth in this subpart shall be used in cost-reimbursement type construction contracts.

§ 9-7.902 Required clauses.

The clauses set forth in this 9-7.902 shall be inserted in all cost-reimbursement type construction contracts. Certain clauses have variations depending on certain circumstances as described in the instructions contained in this subpart or the referenced sections.

§ 9-7.902-1 Definitions.

Insert the clause at FPR 1-7.602-1 as modified by DOE-PR 9-7.602-1.

§ 9-7.902-2 Specifications and drawings.

Insert the clause at FPR 1-7.602-2.

§ 9-7.902-3 Changes.

Insert the clause at DOE-PR 9-50.704-11.

(OMB Control No.: 1901-0021)

§ 9-7.902-4 [Reserved.]

§ 9-7.902-5 Termination for default or for convenience of the Government.

Insert the clause at FPR 1-8.702 except add "as supplemented by Part 9-15 of the DOE Procurement Regulation (41 CFR 9-15)" after the reference to "(41 CFR Part 1-15)" in paragraph (f) and make the modification required by FPR 1-8.700.2(a)(3).

§ 9-7.902-6 Disputes.

Insert the clause at DOE-PR 9-7.802-5.

§ 9-7.902-7 Limitation of cost.

Insert the clause at FPR 1-7.202-3 (a) or (b) as appropriate.

§ 9-7.902-8 Allowable cost, fixed fee and payment.

Insert the clauses at DOE-PR 9-50.704-13 and 9-50.704-20.

§ 9-7.902-9 [Reserved.]

§ 9-7.902-10 Material and workmanship.

Insert the clause at FPR 1-7.602-9 but delete the words "at the Contractor's expense, with all shipping charges prepaid" from the fifth sentence of paragraph (a).

(OMB Control No.: 1901-0021)

§ 9-7.902-11 Inspection and acceptance.

Inspection and Acceptance

(a) All work (which term includes, but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Government at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Government and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirments. No inspection or test by the Government shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of paragraph (f) of this clause, except as hereinabove provided.

(b) The Contractor shall replace any material or correct any workmanship found by the Government not to conform to the contract requirements.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government may terminate the Contractor's right to proceed in accordance with the clause of this contract entitled "Termination for Default or for Convenience of the Government."

(d) The Contractor shall furnish promptly all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract.

(e) Should it be considered necessary or advisable by the Government at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all

necessary facilities, labor and material. If completion of the work has been delayed thereby, the contractor shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Government shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guarantee.

§ 9-7.902-12 Superintendence by contractor.

Insert the clause at FPR 1-7.602-12. In situations requiring extraordinary Government control, substitute the clauses at DOE-PR 9-50.704-12 and DOE-PR 9-50.704-42, entitled "Contractor's organization" and "Key personnel."

§ 9-7.902-13 Permits and responsibilities.

Permits and Responsibilities

The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. The contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others.

(OMB Control No.: 1901-0021)

§ 9-7.902-14 [Reserved.]

§ 9-7.902-15 Other contracts.

Insert the clause at FPR 1-7.602-15.

(OMB Control No.: 1901-0021)

§ 9-7.902-16 Patent indemnity.

Insert the clause at DOE-PR 9-9.103-1 and see DOE-PR 9-9.103-3(a).

§ 9-7.902-17 Additional bond security.

Insert the clause at FPR 1-7.602-17.

§ 9-7.902-18 Covenant against contingent fees.

Insert the clause at FPR 1-1.503.

§ 9-7.902-19 Officials not to benefit.

Insert the clause at FPR 1-7.102-17.

§ 9-7.902-20 Buy American Act.

Insert the clause at FPR 1-18.605.

(OMB Control No.: 1901-0021)

§ 9-7.902-21 Convict labor.

Insert the clause at FPR 1-12.204.

§ 9-7.902-22 Equal opportunity.

Insert the clause at FPR 1-12.803-2.

§ 9-7.902-23 Labor standards provisions.

Insert the clauses at FPR 1-18.703-1.

(OMB Control No.: 1901-0021 applicable to Contract Work Hours and Safety Standards Act-Overtime Compensation)

§ 9-7.902-24 Examination of records by the Comptroller General.

Insert the clause at FPR 1-7.103-3 as modified by DOE-PR 9-7.103-3.

§ 9-7.902-25 Government property.

Insert the clause at FPR 1-7.203-21 as modified by DOE-PR 9-7.203-21.

(OMB Control No.: 1901-0021)

§ 9-7.902-26 Utilization of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause at FPR Temporary Regulation 50, Supplement 2.

§ 9-7.902-27 Price reduction for defective cost or pricing data.

Insert the clause at FPR 1-3.814-1(a).

§ 9-7.902-28 Payment for overtime premiums.

Insert the clause at FPR 1-7.202-29.

§ 9-7.902-29 [Reserved.]

§ 9-7.902-30 Subcontractor cost or pricing data.

Insert the clause at FPR 1-3.814-3(a) or FPR 1-3.814-3(b) as may be appropriate.

(OMB Control No.: 1901-0021)

§ 9-7.902-31 [Reserved.]

§ 9-7.902-32 Audit.

Insert the clause at FPR 1-3.814-2(a).

§ 9-7.902-33 [Reserved.]

§ 9-7.902-34 Affirmative action for disabled veterans and veterans of the Vietnam Era.

Insert the clause at FPR Temporary Regulation 39 as updated by 41 CFR 60-250.4 except delete the text of paragraph (d) and insert "Reserved—See 47 FR 4258, January 29, 1982."

§ 9-7.902-35 Subcontracts.

Insert the clause at FPR 1-7.202-8 modified as directed by 9-7.202.8.

§ 9-7.902-36 [Reserved.]

§ 9-7.902-37 Affirmative action for handicapped workers.

Insert the clause contained 41 CFR 60-741.4.

§ 9-7.902-38 Clean air and water.

Insert the clause at FPR 1-1.2302.2.

§ 9-7.902-50 Order of precedence.

Insert the clause prescribed by DOE-PR 9-7.202-50.

§ 9-7.902-51 Notice and assistance regarding patent and copyright infringement.

Insert the clause at DOE-PR 9-9.104.

§ 9-7.902-52 Reporting of royalties.

Insert the clause at DOE-PR 9-9.110.

§ 9-7.902-53 Utilization of women-owned business concerns.

Insert the clause at FPR Temporary Regulation 54.

§ 9-7.902-54 Stop work order.

Insert the clause at DOE-PR 9-7.402-59.

§ 9-7.902-55 Authorization and consent.

Insert the clause at DOE-PR 9-9.102-1.

§ 9-7.903 Clauses to be used when applicable.

§ 9-7.903-1 Excusable delays.

Insert the clause at FPR 1-8.708.

§ 9-7.903-2 Negotiated overhead rates.

Insert the clause at FPR 1-3.704-1 as modified by DOE-PR 9-7.203-9.

§ 9-7.903-3 Workmen's compensation insurance (Defense Base Act).

Insert the clause at FPR 1-10.402.

§ 9-7.903-4 Advance payments.

Insert the clause at FPR 1-30.414-2.

§ 9-7.903-5 Performance of work by contractor.

Insert the clause at FPR 1-18.104.

§ 9-7.903-6 Use of U.S. flag commercial vessels.

Insert the clause at FPR 1-19.108-2.

§ 9-7.903-7 Special section 8(a) contract conditions.

Insert the clause at FPR 1-1.713-4(g)(1) in the contract with SBA and the clause at FPR 1-1.713-4(h) in the subcontract if an award is being made by SBA under 8(a) conditions.

§ 9-7.903-8 General Services Administration supply sources.

Insert the clause at FPR 1-7.203-13.

§ 9-7.903-9 Interagency motor pool vehicles and related services.

Insert the clause at FPR 1-7.203-14.

§ 9-7.903-10 Interest.

Insert the clause at FPR 1-7.203-15.

§ 9-7.903-11 Preference for U.S. flag air carriers.

Insert the clause at FPR 1-1.323-2.

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§ 9-7.903-12 Cost accounting standards.

Insert the applicable clauses at FPR 1-3.1204.

§ 9-7.903-13 [Reserved.]

§ 9-7.903-14 Progress charts and requirements for overtime work.

Progress Charts and Requirements for Overtime Work

(a) The Contractor shall within five days or within such time as determined by the Contracting Officer, after date of commencement of work, prepare and submit to the Contracting Officer for approval a practicable schedule, showing the order in which the Contractor proposes to carry on the work, the date on which he will start the several salient features (including procurement of materials, plant and equipment), and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at such intervals as directed by the Contracting Officer, and shall immediately deliver to the Contracting Officer three copies thereof.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress and the Contracting Offic may require him to increase the number of shifts, or overtime operations, days of work or the amount of construction plant, or all of these steps, and to submit for approval such supplementary schedule or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this provision shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with the clause of the contract entitled "Termination for Default or for Convenience of the Government."

§ 9-7.903-15 Classification.

Insert the clause at DOE-PR 9-7.103-50.

(OMB Control No.: 1901-0021)

§ 9-7.903-16 Notice to the Government of labor disputes.

Insert the clause at FPR 1-7.203-3.

(OMB Control No.: 1901-0021)

§ 9-7.903-17 Additional technical data requirements.

Insert the clause at DOE-PR 9-9.202-3(c).

§ 9-7.903-18 Security.

Insert the clause at DOE-PR 9-7.103-53.

(OMB Control No.: 1901-0021)

§ 9-7.903-19 Competition in subcontracting.

Insert the clause at FPR 1-7.202-30.

§ 9-7.903-20 Rights in technical data—long form.

Insert the clause at DOE-PR 9-9.202-3(e)(2).

§ 9-7.903-21 Preservation of individual occupational radiation exposure records.

Insert the clause at DOE-PR 9-50.704-41.

(OMB Control No.: 1901-0021)

§ 9-7.903-22 Safety and health.

Insert the clause at DOE-PR 9-50.704-2(a) or DOE-PR 9-50.704-2(b).

(OMB Control No.: 1901-0021)

§ 9-7.903-23 Privacy Act.

Insert the clause at FPR 1-1.327-5.

§ 9-7.903-24 Subcontracting plan for small and small disadvantaged businesses.

Insert the clause at DOE-PR 9-1.710-3(c).

§ 9-7.903-25 [Reserved.]

§ 9-7.903-26 Women-owned business concerns subcontracting program.

Insert the appropriate clause at FPR Temporary Regulation Number 54 if there are subcontracting opportunities.

§ 9-7.903-27 Shop drawings.

Insert the clause at FPR 1-7.602-36 but delete the fourth sentence of paragraph (b) and change "price" to "estimated cost" in paragraph (c).

§ 9-7.903-28 Rights in shop drawings.

(a) Shop drawings for construction means drawings, submitted to the Government by the construction contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

§ 9-7.903-29 Assignments of claims.

Insert the clause at FPR 1-30.703 as modified by DOE-PR 9-9.30.703 if the contract is negotiated in contemplation of an assignment.

§ 9-7.903-30 Cost and schedule control systems.

Insert the clause at DOE-PR 9-7.203-59 under the conditions described.

§ 9-7.904 Additional clauses.

§ 9-7.904-1 Insurance—liability to third parties.

Insert the clause at FPR 1-7.204-5 as modified by DOE-PR 9-7.204-5.

§ 9-7.904-2 Priorities, allocations and allotments.

Insert one of the clauses at DOE-PR 9-7.104-50 when appropriate.

(OMB Control No.: 1901-0021)

§ 9-7.904-3 Nuclear hazards indemnity.

Insert whichever of the clauses at DOE-PR 9-50.704-6 or DOE-PR 9-50.704-7 or DOE-PR 9-50.704-8 as may apply.

(OMB Control No.: 1901-0021)

§ 9-7.904-4 Discounts.

The Contractor shall, to the extent of his ability, take all cash and trade discounts, rebates, allowances, credits, salvage, and commissions, and when unable to take advantage of such benefits he shall promptly notify the Contracting Officer of the reason therefor. In determining the actual net cost of articles and materials of every kind required for the purpose of this contract there shall be deducted from the gross cost thereof all cash and trade discounts, rebates, allowances, credits, salvage, and commissions, which have accrued to the benefit of the Contractor or would have so accrued but for the fault or neglect on the part of the Contractor. Such benefits lost through no fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

§ 9-7.904-5 Direct payments.

If bills for purchase of material, machinery or equipment, or payrolls covering employment of laborers or mechanics incurred by the Contractor or by any subcontractor hereunder are not paid promptly by the Contractor or subcontractor as the case may be, the Contracting Officer may, in his discretion, withhold from payments otherwise due the Contractor an amount equivalent to the amount of any such bill or payroll. Should the Contractor neglect or refuse to pay such bills or payrolls or to direct any subcontractor to pay such bills or payrolls within five (5) days after notice from the Contracting Officer to do so, the Government shall have the right to pay such bills or payrolls directly, and such event a deduction equal to five percent (5%) of the amount so paid directly shall be made from the Contractor's fee.

Change 8.3

PART 9-10—[AMENDED]

Section 9-10.103, "Bid Guarantees," is amended by deleting the phrase, "In addition to the restriction on bid guarantees in FPR 1-10.103-1(a),". The new text will read:

§ 9-10.103 Bid Guarantees.

§ 9-10.103-1 Policy on use.

A bid guarantee may be required only for lump sum or unit price contracts entered into as a result of formal advertising and may not be required for negotiated contracts.

[FR Doc. 13502 Filed 5-18-83; 8:45 am]
BILLING CODE 6450-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-53]

Records Management; Methylene Blue Testing

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates GSA's policies and procedures concerning methylene blue testing. Regulations concerning microforms of permanent records where the original will be disposed of require that the microforms be processed so that the residual thiosulfate ion concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies must meet this requirement by either performing the methylene blue test or using commercial testing services in accordance with specifications in ANSI PH4.8-1978.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Carlton L. Brown, Director, Preservation Policy and Services Division (202) 523-3159.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-11

Advisory committees, Archives and records, Classified information, Freedom of Information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, Word processing.

PART 101-11—[AMENDED]

Section 101-11.506-3(d)(1) is revised to read as follows:

§ 101-11.506-3 Microfilming.

* * * * *

(d) * * *

(1) Microforms of permanent records where the original will be disposed of shall be processed so that the residual thiosulfate ion concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies or services that conduct tests for Federal agencies shall meet this requirement by performing the methylene blue test specified in ANSI PH4.8-1978.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: April 29, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-13504 Filed 5-18-83; 8:45 am]
BILLING CODE 6820-26-M

41 CFR Ch. 1

[FPR Temp. Reg. 45, Supp. 4]

Fair and Equitable Compensation to Professional Employees

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of Federal Procurement Regulations Temporary Regulation 45 (43 FR 27235, June 23, 1978). The extension reflects the continued applicability of Office of Federal Procurement Policy (OFPP) Policy Letter 78-2, dated March 28, 1978. The effect will be to continue the policies in OFPP Policy Letter 78-2, regarding wage busting for professionals.

DATES: Effective date: April 1, 1983.

Expiration date: This regulation will continue in effect until April 1, 1985, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (202-523-4768).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

CHAPTER 1—[AMENDED]

In 41 CFR Chapter 1, FPR Temporary Regulation 45, Supplement 4, is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 45, Supplement 4

To: Heads of Federal agencies

Subject: Fair and equitable compensation to professional employees under Federal contracts for services

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 45, as previously extended by Supplement 3.

2. *Effective date.* This regulation is effective April 1, 1983.

3. . *Expiration date.* FPR Temporary Regulation 45 and this supplement will expire on April 1, 1985, unless canceled earlier.

4. *Explanation of changes.* Paragraph 3 of FPR Temporary Regulation 45 is revised to delete the expiration date of April 1, 1983, and to prescribe the revised expiration date which appears in paragraph 3, above. The change prescribed in paragraph 4 of Supplement 2 continues in effect.

Ray Kline,

Acting Administrator of General Services.

May 11, 1983.

[FR Doc. 83-13505 Filed 5-18-83; 8:45 am]
BILLING CODE 6820-61-M

NATIONAL COMMISSION ON THE OBSERVANCE ON INTERNATIONAL WOMEN'S YEAR

45 CFR Ch. XIX

Removal of Regulations

The National Commission on the Observance of International Women's Year, 1975 was established by E.O. 11832, January 9, 1975, as amended by

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E.O. 11889, November 25, 1975 (3 CFR 1971–1975 Comp., pp. 937 and 1064) and continued by Pub. L. 94–167 (89 Stat. 1003). The Commission was terminated March 31, 1978 pursuant to the terms of the act.

Therefore, pursuant to his authority to assure orderly development of the Code of Federal Regulations (1 CFR 8.2) the Director of the Federal Register is removing the regulations in Title 45, Code of Federal Regulations, Chapter XIX as obsolete.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-21; RM-4216]

FM Broadcast Station in Agana, Guam; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 248 to Agana, Guam as its fourth FM assignment in response to a petition filed by Radio K–57, Inc.

EFFECTIVE DATE: July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

In the matter of: amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Agana, Guam) MM Docket No. 83–21; RM–4216.

Adopted: April 21, 1983.

Released: May 5, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (48 FR 4692, published February 2, 1983) issued in response to a petition for rule making filed by Radio K–57, Inc. ("petitioner") proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, to assign Class C FM Channel 248 to Agana, Guam as its fourth FM assignment. Petitioner and Guam Radio Services, Inc. ("Guam Radio") are mutually exclusive applicants for Channel 262, recently assigned at Agana.[1] In response to the *Notice*, petitioner has restated its intention to withdraw its application for Channel 262 should Channel 248 be assigned. Guam Radio filed comments supporting the proposal. Inter-Island Communications, Inc. ("Inter-Island") filed comments in opposition.

2. Guam Radio[2] refers to Guam's geographic isolation, its cultural and economic diversity, and the large number of available channels. According to Guam Radio, the island is undergoing dramatic population and economic growth, requiring additional communications services. Guam Radio claims that the Commission's regulatory philosophy no longer artificially limits market entry in order to protect the economic interests of existing licensees. Pointing to petitioner's intention to withdraw its application for Channel 262 and file for Channel 248 should that latter channel become available at Agana, Guam Radio asserts that this would both avoid a comparative hearing and increase broadcast competition on Guam.

3. Inter-Island, licensee of Radio Station KSTO(FM), Agana, refers to its previous comments regarding the proposal to add Channel 262 wherein it "warned" the Commission that adding a third FM channel at Agana would not be in the public interest. According to Inter-Island, the current proposal is "ill-conceived" and "designed only to undermine" the economic recovery of Guam broadcasters. Inter-Island states that it recognizes that the Commission is not concerned with economic factors, but it claims that, in view of Guam's alleged economic problems, the local market cannot absorb a doubling of the number of FM stations in less than two years. Inter-Island claims the public interest would be better served by selecting a licensee from among the competitors for Channel 262.

4. The thrust of the opposition comments is based on the economic impact of the proposed assignment upon existing Guam broadcasters. While such impact may be significant the issue has traditionally been one that is more appropriate for consideration at the application stage. *Grand Junction, Colorado*, 26 RR 2d 513 (1973). Thus Inter-Island should raise the issue in connection with any application filed for Channel 248 at Agana.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, That effective July 5, 1983, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) *is amended* as follows for the community listed:

City	Channel No.
Agana, Guam	230, 238, 248, and 262.

6. *It is further ordered*, That this proceeding *is terminated*.

7. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13452 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-333; RM-3997]

FM Broadcast Stations in Del Rio, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 242 to Del Rio, Texas, in response to a request from Grande Broadcasting, Inc. The assigned channel could provide a second FM assignment to the community.

EFFECTIVE DATE: July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Del Rio, Texas); BC Docket No. 82–333, RM–3997.

Adopted: April 21, 1983.

Released: May 5, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Further Notice of Proposed Rule Making*, 48 FR 841, published January 7, 1983,[1] proposing the assignment of FM Class C Channel 242 to Del Rio, Texas, as its second FM assignment, in response to a petition filed by Grande Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the proposal and restated its continuing interest in applying for the channel, if assigned.

2. A site restriction of approximately 16 miles northwest of Del Rio is required in order to avoid short spacing to Station KSLR (FM), San Antonio, Texas (Channel 241), and unused Channel 244C at Piedras Negros, Coahuila, Mexico. Mexican concurrence has been received.

3. Petitioner has indicated that Grande Broadcasting, Inc. is comprised of principals of Hispanic origin and proposes to serve the large Hispanic population of Del Rio. It notes that no other interests in the proposed assignment have been set forth in comments. Thus, it requests that the Commission expedite service to Del Rio by awarding the channel to Grande Broadcasting, Inc. without the usual procedure of permitting others to apply. Petitioner has cited no cases in which the Commission has ever granted such a request. The Commission believes that the grant of a construction permit without making a new channel assignment available to prospective applicants is inconsistent with the holding of *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945). The fact that no other interested parties have stepped forward by submitting comments has not been a factor in past cases to support an assumption that no other applications would be filed. Nor has there been a showing of urgency that the usual procedure should be bypassed. Thus, petitioner's request is denied.

4. The Commission has determined that the public interest would be served by assigning Class C Channel 242 to Del Rio, Texas, since it could provide a second local FM broadcast service to that community.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered*, That effective July 5, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, as follows:

City	Channel No.
Del Rio, Texas	232A, 242

6. *It is further ordered*, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13565 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[1] BC Docket No. 81–505, RM–3828.

[2] Guam Radio incorporates by reference its comments submitted in the petition for rule making concerning Channel 262.

[1] A *Notice of Proposed Rule Making*, 47 FR 29291, published July 6, 1982, proposed the assignment of Channel 240A to Del Rio, Texas, as its second FM assignment. The *Notice* required Mexican concurrence. Mexico objected to the proposed assignment as being short spaced to adjacent Channel 248B at Jimines, Coahuila, Mexico. In accordance with the provisions of the U.S.-Mexican FM Broadcasting Agreement, 46 F.C.C. 2d 293 (1973) and 46 F.C.C. 2d 153 (1974), FM channel assignments and related matters for the use of FM facilities in the border area are subject to the provisions of the respective agreements which provide for the right to object to any particular proposal. A staff study indicated that no other Class A channel was available for assignment to Del Rio. However, it was determined that Class C Channel 242 can be assigned to Del Rio with a site restriction.

47 CFR Parts 81 and 83

[Docket No. 21349; FCC 83-198]

Stations on Land and Shipboard in the Maritime Services; Implementation to Changes in Frequencies, Operating Procedures and Other Criteria Relating to Radiotelephony in the Band 4000 to 23000 kHz in the Maritime Mobile Services Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action implements a frequency allotment plan for HF (high frequency) maritime radiotelephone utilization. Essentially, a temporary assignment plan which has been in effect since 1978, is made permanent. This action results from changes adopted at the World Maritime Administrative Radio Conference, Geneva, 1974. These amendments will bring the rules into conformance with international frequency allotments.

EFFECTIVE DATE: June 17, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas Bagnato, Private Radio Bureau, (202) 632–7175.

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telephone.

47 CFR Part 83

Ship stations, Radio, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 23000 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Docket No. 21349.

Adopted: April 27, 1983.

Released: May 11, 1983.

By the Commission: Commissioner Jones absent.

1. In this Report and Order we are adopting the frequency assignment plan which had been proposed for high seas ship and coast radiotelephony stations. We are also treating applications for new high seas coast radiotelephony services filed during the pendency of this proceeding. Further, two petitions for reconsideration filed in Docket Nos. 20449 and 20906 are in effect mooted by the actions taken herein and, therefore, are being dismissed.

Background

Frequency Assignment Plan

2. The World Maritime Administrative Radio Conference, Geneva, 1974, (WARC) amended the high frequency (HF) spectrum plan allotting frequencies for ship-shore radiotelephony in the international Radio Regulations. Although the total number of channels was increased from 137 to 176 worldwide, the number of nations sharing the channels was also increased in the revised allotment plan which went into effect in January 1978. The United States notified the International Frequency Registration Board of the use by coast stations of all frequencies it is allotted. (The frequency allotment for the United States is divided between Government and non-Government stations.)

3. Subsequent to the WARC's revised allotment plan, the Commission issued a Notice of Inquiry [1] in this proceeding seeking comments concerning the assignment of the HF radiotelephone frequencies to non-Government ship and coast stations. After reviewing the comments, a Temporary Frequency

[1] FCC 77–519, released August 5, 1977, 42 FR 40224.

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Assignment Plan was adopted [2] which essentially provided a one-for-one replacement of the frequencies previously utilized by coast stations. In some cases where additional frequencies were available, coast stations which had been required to share frequencies with other U.S. coast stations, were assigned frequencies without such U.S. sharing arrangements. The Temporary Plan was designed to meet the WARC implementation date while providing time to investigate potential problem areas.

4. After implementation of the Temporary Plan, the Commission requested the existing licensees of HF radiotelephony coast stations to provide utilization data for all assigned frequencies.[3] Upon preliminary review of the utilization data submitted and noting the lack of complaints from the user community, the Commission proposed to finalize the Temporary Plan in the Notice of Proposed Rule Making (NPRM) [4] with minor modifications. Additionally, reorganization and clarification of several rule sections were proposed.

New Station Applications

5. Additionally, the Commission has four pending applications seeking new HF radiotelephone frequency assignments:

(a) RadioCall Corporation (RadioCall), the licensee of VHF public coast stations KGW423, Honolulu, and KLU758 Wailuku, Hawaii, seeks authority (File No. 237–M–L–31) to provide high seas radiotelephone service on four frequencies previously assigned to Honolulu station KQM which closed in 1978.

(b) Gulf Coast Communications Corporation (Gulf Coast), Palmetto, Florida, the licensee of public coast station KUZ383 providing local area service in the 156–162 MHz (VHF) band, requests (File No. 81–M–L–93) assignment of a frequency in the 4 MHz band to serve the Gulf of Mexico and the Caribbean Sea.

(c) Global Communications, Inc. (Global), St. Thomas, U.S. Virgin Islands, a licensee of public coast station WAH requests authority (File No. 8–M–L–110) to modify its license to provide high seas radiotelephone service in the Caribbean area on twelve specified frequencies.

(d) WJG Telephone Company, Inc. (WJG), Memphis, Tennessee, the licensee of a number of public coast stations providing local (VHF) and regional (MF) service on the Mississippi River System, requests authority (File No. 276–M–ML–22) to provide high seas radiotelephony service on HF frequencies.

The NPRM noted that applications were pending from Gulf Coast, Global and General Telephone Company. The General Telephone Company's application has been withdrawn. WJG filed its application after the NPRM was issued. RadioCall's application preceded the NPRM but was inadvertently omitted from that document. Thus, the four applications described above are currently pending before the Commission.

Comments

6. Comments in this preceeding were filed by the following:

—AMCOM, Inc. (AMCOM);
—American Telephone and Telegraph Company (AT&T);
—Mobile Marine Radio, Inc. (MMR);
—WCM Radio Pittsburgh, Inc. (WCM); and
—WJG Telephone Company, Inc. (WJG).

Reply comments were received from AMCOM, AT&T, Global Communications, Inc. (Global), MMR, and WJG..

Frequency Assignment Plan

7. All the commenters generally supported the finalization of the Temporary Assignment Plan. AT&T requested a minor modification in the assignment of frequencies among its three stations. Additionally, all the commenters argued that additional frequency assignments were required to alleviate interference problems experienced from the co-channel operations of foreign stations, and/or to provide frequencies for new entries in this service.[5] In essence, they suggest that the Commission seek additional frequencies from existing Government assignments and allocate International Fixed Public Radio Service (IFPRS) frequencies to the Maritime Mobile Service on a secondary basis.

8. In view of the successful performance of the Temporary Assignment Plan and the support of the commenters, we conclude that at this time the plan should be implemented substantially as proposed. Minor modifications are being made, however, to accommodate suggestions and clarifications as well as to provide for assignments to certain stations as a result of the actions taken on pending applications specified below.

New Station Applications

RadioCall

9. RadioCall applied for four frequencies to provide high seas service in the Hawaiian Islands. This service was previously provided by public coast station KQM which has discontinued service. No opposition was received concerning RadioCall's application. Further, it appears no interference will result from the assignment of these frequencies as requested. Accordingly, we conclude that it is in the public interest to grant RadioCall's application.

Gulf Coast

10. Gulf Coast applied for assignment of a 4 MHz frequency to augment the primarily local service it provides in the Tampa, Florida area. However, the Commission found Gulf Coast unqualified to remain a licensee and denied its applications for license renewal and an additional channel in a separate proceeding.[6] Gulf Coast has filed an appeal of this decision in the U.S. Court of Appeals for the District of Columbia.[7] We will hold Gulf Coast's application for a 4 MHz frequency assigment pending action on its appeal by the Court.

Global

11. Although Global initially requested assignment of twelve specified HF frequencies, it withdrew its request for seven of these frequencies as a result of petitions to deny filed by AT&T and MMR. Essentially, these seven frequencies would cause unacceptable interference with AT&T's public coast station located at Miami, Florida, and MMR's public coast station located at Mobile, Alabama. AT&T also opposes Global operating on three of the remaining five HF frequencies for which it continues to seek authorization. AT&T argues that under certain conditions

[2] Order, Docket No. 21349, FCC 77–785 released November 10, 1977, 42 FR 60145.

[3] The requests for utilization data were made by letters dated March 27, 1980, and July 8, 1980.

[4] Docket No. 21349, FCC 81–547, released December 11, 1981, 46 FR 62113.

[5] The Commission stated in the Report and Order in PR Docket No. 80–583, FCC 81–551, released December 10, 1981, 46 FR 60457, that it recognized the shortage of frequencies in the high seas radiotelephony service. Further, in the Final Protocol to both the World Maritime Administrative Radio Conference, Geneva, 1974 (at XII) and the World Administrative Radio Conference, Geneva, 1979 (at no. 38) the United States noted the inadequacy of the HF allotment plan for coast radiotelephone stations and reserved the right to make other assignments.

[6] See *Gulf Coast Communications, Inc.*, PR Docket Nos. 78–259 (File No. 40–M–RL–28) and 78–260 (File No. 179–M–ML–54), 81 FCC 2d 499 (Rev. Bd. 1980), *recon. denied*, FCC 81R–11, released February 4, 1981, *Review denied*, FCC 82–128, released April 16, 1982, *Pet. for recon. dismissed*, FCC 82I–53, released June 7, 1982.

[7] *Gulf Coast Communications Inc. v. FCC*, D.C. Cir. No. 82–1760.

Global's use of 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz would cause harmful interference to its public coast station located at San Francisco, California. Global, however, states that given the distance between its station in the Virgin Islands and AT&T's San Francisco station, as well as the time zone difference, no insurmountable barrier to sharing these three frequencies exists. Global indicates it is confident that technical and operating protocols can prevent interference and, therefore, requests assignment of the subject frequencies on a secondary basis.

12. We find that it is in the public interest to grant Global's application for modification of its station license (WAH, St. Thomas, U.S. Virgin Islands) to add the frequencies 6515.7 kHz and 6518.8 kHz, and on a secondary basis to station KMI (San Francisco, California) to add the frequencies 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz. Global's utilization of the two 6 MHz frequencies is unlikely to cause harmful interference with the stations assigned these frequencies which are located on the inland waterways. Also no opposition to such an assignment was received. Further, it appears that Global can reasonably share the use of the three remaining frequencies with station KMI. The assignment of these frequencies to Global on a secondary basis minimizes any potential interference.

WJG

13. After the NPRM was issued in this proceeding, WJG filed an application to provide high seas telephony service from its Memphis, Tennessee facilities. WJG simply requested that it be assigned a full complement of HF duplex frequencies in the 4, 6, 8, 12 and 16 MHz bands. At a minimum it requested that three duplex channels (Channels 803, 1202, and 1620) be assigned. One of the pair of frequencies forming each channel was assigned to WJG for simplex use on the inland waters.[8]

14. AMCOM, AT&T, MMR, and WCM all opposed WJG's application. In regard to WJG's request for a full complement of HF frequencies, the commenters argued that such a general request could only be satisfied by the availability of additional frequencies (e.g., from current Government assignments). It is pointed out that WJG itself at paragraph 3 of its comments recognizes that frequency availability is an impediment to its application. MMR states that WJG's mere generalized request for additional frequency assignments is clearly insufficient to justify reassigning frequencies from other stations to WJG.

15. Concerning WJG's specific request for assignment of Channels 803, 1202 and 1620, WCM and AMCOM object because they share assignments with WJG on frequencies which form one-half of the subject channels. MMR argues that WJG's inland location would result in an undue degradation of service in these bands and, further, questions whether WJG has a serious intent to provide such high seas service in light of its apparent proposal to utilize the same equipment employed to provide service on the inland waterways.

16. We are dismissing pursuant to § 81.27 of the rules, WJG's application for modification of its station authorization to provide high seas telephony service. As WJG itself tacitly recognizes, and as the comments argue vociferously, at this time frequency availability precludes the assignment of a full complement of frequencies in the 4, 6, 8, 12 and 16 MHz bands to WJG. Additionally, WJG fails to identify which specific frequencies it seeks assignment in each megahertz order. Further, it appears that assignment of Channels 803, 1202 and 1602 would cause harmful interference to other stations providing service on the inland waterways, In fact, considering WJG's stated heavy use of its HF simplex frequencies (which form part of these Channels) it appears that proposed duplex operations would interfere with its own service on the inland waterways.

Future Action

17. Although we are adopting the Temporary Plan, we recognize that by assigning all of the availble frequencies to existing stations, new entry into this service will be extremely limited. Therefore, we are exploring or intend to explore a number of potential solutions to this problem. First, we will investigate the possibility of the sharing of some existing Government frequency allotments by non-Government users. Second, implementation of the Final Acts of the 1979 World Administrative Radio Conference may offer some spectrum relief by making available new assignments for marine HF telephony in the 4 and 8 MHz bands.[9] We are also exploring with the National Telecommunications and Information Administration (NITA) the possibility of obtaining additional frequency assignments through applications filed in the Experimental Serice.[10] If these operations prove feasible, expansion of assignments in the Maritime Service may be possible.

18. Finally, our analysis of frequency utilization data supplied by licensees during the course of this proceeding indicates that more efficient utilization of these frequencies may be possible. The data do not dissuade us from the conclusion that the temporary frequency assignment plan should be made permanent. In this respect we agree with the commenters. But it is sufficient to convince us to explore, in a future proceeding, methods of improving the utilization of HF frequency assignments. We intend to investigate the possibility of establishing loading criteria for this service.[11] Frequencies that remain underutilized could become subject to reassignment or sharing. Additionally, we wish to look toward added flexibility in the types of service which can be provided on maritime frequencies (for example, data and facsimile) without increasing interference potential. Further, the traditional dichotomy between stations providing voice and record services may no longer be valid.[12] Thus, it may be advantageous to consider, in this subsequent proceeding, permitting International Record Carriers (IRC's) to provide voice services and allow AT&T to provide non-voice communications services.

Summary of Actions

19. In summary, we are: (1) amending the rules to adopt the proposed Assignment Plan with minor modifications and clarifications, (2) granting RadioCall's application to provide high seas service in the Hawaiian Islands, (3) retaining Gulf Coast's application for a 4 MHz frequency on file pending action by the U.S. Court of Appeals on its appeal, (4) granting Global's application for five HF frequencies to provide HF radiotelephony service in the U.S. Virgin Islands, and (5) dismissing WJG's application to provide HF high seas

[8] Although WJG did not submit utilization reports as requested (WJG states that it did not receive the two letter requests), it did state that it used its existing HF simplex assignments for over eight hours per day on average, for communications with vessels.

[9] See, *Notice of Proposed Rule Making*, General Docket No. 80–739, FCC 82–508, released December 30,1982, 48 FR 3790.

[10] MMR, AT&T, and Global have filed applications for experimental (research) authority for such cross-band operations.

[11] For example, loading criteria has been used in other radio services for assignment of additional frequencies. See Docket No. 20870, 84 FCC 2d 657 (1981).

[12] cf. *Overseas Communications Services*, CC Docket No. 80–632, adopted December 8, 1982, FCC 82–547, 48 FR 797.

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radiotelephony service at Memphis, Tennessee.

20. Additionally, we are dismissing as moot petitions for reconsideration filed by AT&T in Docket Nos. 20449 and 20908. These petitions relate to HF radiotelephony assignments to MMR which predate the Temporary Assignment Plan. The finalization of the Plan in this proceeding supersedes the issues raised by AT&T. Therefore, the petitions are moot.

21. The rule amendments proposed in this proceeding essentially implement changes adopted by the World Maritime Administrative Radio Conference, Geneva, 1974. In effect, the rules maintain the *status quo* among high seas radiotelephone coast stations, ship stations, and stations on the inland waterways operating on HF frequencies. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

22. Regarding questions on matters covered in this document contact Nicholas G. Bagnato or Robert H. McNamara (202) 632–7115.

23. Accordingly, it is ordered, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective June 17, 1983.

24. It is further ordered, That the application of RadioCall Corporation, File No. 237–M–L–31, for authority to operate a high seas public coast radiotelephony station located in Honolulu, Hawaii, is granted.

25. It is further ordered, That the application of Global Communications, Inc., File No. 8–M–ML–110, as amended, to modify its authority to operate public coast station WAH to include high seas radiotelephony service on the frequencies 6515.7 kHz and 6518.8 kHz, and, on a secondary noninterference basis to station KMI, 17236.0 kHz 17239.1 kHz and 22664.2, is granted.

26. It is further ordered, That the application of WJG Telephone Company, Inc. (File No. 276–M–ML–22) to modify its authorization to operate public coast station WJG, is dismissed.

27. It is further ordered, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20449 is dismissed as moot.

28. It is further ordered, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20906 is dismissed as moot.

29. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 164, 305)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.134, paragraph (c)(1) is revised as follows:

§ 81.134 Transmitter power.

* * * * *

(c) * * *

(1) For carrier frequencies other than 2638 kHz and those frequencies listed in § 81.361(a):

Frequency band (kHz)	Class of emission	Power (peak envelope power)
2000 to 4000	A3A, A3H[2], A3J[1]	800 watts by day. 400 watts by night.
4000 to 27,500	A3A, A3J	10 kilowatts.

[1] When using 2182 kHz for purposes other than distress calls and distress traffic, and urgency and safety signals and messages, the carrier power of limited coast stations shall not exceed 50 watts for A3J emission.

[2] Use of A3H on 2182 kHz is limited for communications with foreign ships.

* * * * *

2. In § 81.186, paragraph (d) is revised as follows:

§ 81.186 Hours of service of stations on land.

* * * * *

(d) Unless otherwise specified for particular stations, the hours of service of each public regional coast station or public local service (VHF) coast station shall, within the scope of its normal operation, be such as to meet the requirements of the particular region served by the station.

* * * * *

§ 81.304 [Amended]

3. In § 81.304 the table in paragraph (a) is amended, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed.

(a) * * *

Carrier frequency	Conditions of use	
	Section	Limitations
(kHz)		
1619	81.307	7, 14, and 16.
1622	81.307	7, 14, and 16.
1643	81.306	7, and 14.
1646	81.306	7, and 14.
1649	81.306	7, and 14.
1652	81.306	7, and 14.
1705	81.306	7, and 14.
1709	81.306	7, and 14.
1709	81.306	7, and 14.
1712	81.306	7, and 14.
2003	81.306	7, and 14.
2006	81.306	7, and 14.
2086	81.307(a)	8.
2115	81.306	7, and 14.
2118	81.306	7, and 14.
2182	81.191 and 81.305.	1, 14, and 15.
2309	81.306	7, and 14.
2312	81.306	7, and 14.
2379	81.307	7, and 14.
2382	81.307	7, 14, and 16.
2397	81.306	7, and 14.
2400	81.306(b)	7, and 14.
2400	81.306	
2419	81.306	7, and 14.
2422	81.306	7, and 14.
2427	81.306	7, and 14.
2430	81.306	7, and 14
2442	81.306(b)	
2447	81.306	7, and 14.
2450	81.306	7, and 14.
2450	81.306(b)	
2466	81.306(b)	
2479	81.306	7, and 14.
2482	81.306	7, and 14.
2482	81.306(b)	
2490	81.306(b)	
2506	81.306	7, and 14.
2506	81.306(b)	
2509	81.306	7, and 14.
2512	81.306	7, and 14.
2514	81.306(b)	2.
2522	81.306(b)	
2530	81.306(b)	
2535	81.306	7, and 14.
2538	81.306	
2538	81.306(b)	
2550	81.306(b)	2
2558	81.306(b)	
2563	81.306	7, and 14.
2566	81.306	7, and 14.
2566	81.306(b)	
2572	81.306(b)	
2582	81.306(b)	2.
2585	81.306(b)	8.
2590	81.306(b)	
2596	81.306(b)	
2616	81.306	7, 14, and 17.
2638		5.
2782	81.307	
3256	81.306	7, 14, and 17.
3261	81.306	7, and 14.
4063	81.307	
4087.8	81.307	
4115.7	81.307	
4357.4	81.306	
4363.6	81.306	
4366.7	81.306, and 81.308.	
4369.8	81.306, and 81.308.	
4382.2	81.306	
4383.8	81.309	
4385.3	81.305	
4388.4	81.305	
4391.5	81.306	
4397.7	81.306, and 81.308.	
4403.9	81.306	
4407	81.306	
4410.1	81.306, and 81.307.	13.
4413.2	81.306	
4422.5	81.306, and 81.308.	

Carrier frequency	Conditions of use	
	Section	Limitations
4425.6	81.306, and 81.308.	
6209.3	81.307	
6212.4	81.307	
6515.7	81.307	
6518.8	81.307	
8201.2	81.307	
8213.6	81.307	
8722	81.306	
8725.1	81.307	
8728.2	81.306	
8731.3	81.306	
8737.5	81.307	
8740.6	81.306	
8743.7	81.306	
8746.8	81.306	
8749.9	81.306	
8759.2	81.306	
8762.3	81.306	
8784	81.306	
8790.2	81.306	
8793.3	81.306	
8796.4	81.306	
8805.7	81.306	
8808.8	81.306	
8811.9	81.306	
12331.1	81.307	
13100.6	81.306	
13103.9	81.306, and 81.307.	
13107	81.306	
13116.3	81.306	
13122.5	81.306	
13125.6	81.306	
13128.7	81.306	
13131.8	81.306	
13134.9	81.306	
13144.2	81.306	
13165.9	81.306	
13169	81.306	
13175.2	81.306	
13178.3	81.306	
13184.5	81.306	
13187.6	81.306	
13190.7	81.306	
16518.9	81.307	
17232.9	81.306	
17236	81.306	
17239.1	81.306	
17245.3	81.306	
17251.5	81.306	
17257.7	81.306	
17260.8	81.306	
17263.9	81.306	
17279.4	81.306	
17291.8	81.306, and 81.307.	
17304.2	81.306	
17310.4	81.306	
17325.9	81.306	
17329	81.306	
17356.9	81.306	
22596	81.306	
22608.4	81.306	
22623.9	81.306	
22636.3	81.306	
22639.4	81.306	
22642.5	81.306	
22661.1	81.306	
22664.2	81.306	
22676.6	81.306	
22679.7	81.306	
22689	81.306	
22704.5	81.306	
22707.6	81.306	
(MHz)		
156.750	81.304	12.
156.800	81.304	11.
156.850	81.185	4.
161.800	81.304	3, 9, and 10.
161.825	81.304	3, 9, 10, and 19.
161.850	81.304	3, 9, and 10
161.875	81.304	3, 9, 10, and 19.
161.900	81.304	3, and 9.
161.925	81.304	3, 9, and 19.
161.950	81.304	3, and 9.
161.975	81.304	3, 9, and 19.
162.000	81.304	3, and 9.
162.025	81.304	9, and 18.

(b) Authorization and use of carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
2	2
6	3
7	4
8	5
9	6
11	7
21	8
22	9
24	10
25	11
26	12
27	13
28	14
44	15
50	16
52	17
62	18
63	19

* * * * *

Sections 81.304(b) (3), (4), (5), (10), (12), (13), (14), (15), (16), (17), (18), (19), (20), (23), (28), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (45), (46), (47), (48), (49), (51), (53), (54), (55), (56), (57), (58), (59), (60), and (61), are removed.

4. In § 81.305 paragraph (a) is revised to read as follows:

§ 81.305 Frequencies for calling and distress.

(a) In the band 1605–4000 kHz, the frequency 2182 kHz is the international radiotelephone distress, safety and calling frequency and shall be assigned to all public coast stations operating on frequencies in the band 1605—4000 kHz. In the band 156–162 MHz, the frequency 156.800 MHz is the international distress, safety and calling frequency and shall be assigned to all public coast stations operating in the band 156–162 MHz. 2182 kHz and 156.8 MHz may be used by public coast stations solely for the transmission of:

* * * * *

5. Section 81.306 is revised to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) Frequencies between 4000 and 23000 kHz available for assignment to public coast stations:

Coast station location	Channel designator	Coast station carrier frequency (kHz)	
		Transmit	Receive
San Francisco, CA	40[1]	4357.4	4063.0
	41[1]	4403.9	4109.5
	41-	4407.(	4112.6
	80	8728.2	8204.3
	809	8743.7	8219.8
	81[1]	8759.2	8235.3
	82	8784.(	8260.1
	120	13,100.8	12,330.0
	1202	13,103.9	12,333.1
	1203	13,107.0	12,336.2
	1229	13,187.6	12,416.8
	1230	13,190.7	12,419.9
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	1616	17,279.4	16,506.5
	1624	17,304.2	16,531.3
	2214	22,636.3	22,040.3
	2223	22,664.2	22,068.2
	2228	22,679.7	22,083.7
	2236	22,704.5	22,108.5
New York, NY	410	4365.3	4090.9
	411	4388.4	4094.0
	416	4403.9	4109.5
	422	4422.5	4128.1
	808	8740.6	8216.7
	811	8749.9	8226.0
	815	8762.3	8238.4
	826	8796.4	8272.5
	1203	13,107.0	12,336.2
	1210	13,128.7	12,357.9
	1211	13,131.8	12,361.0
	1228	13,184.5	12,413.7
	1230	13,190.7	12,419.9
	1605	17,245.3	16,472.4
	1620	17,291.8	16,518.9
	1626	17,310.4	16,537.5
	1631	17,325.9	16,553.0
	2201	22,596.0	22,000.0
	2205	22,608.4	22,012.4
	2210	22,623.9	22,027.9
	2236	22,704.5	22,108.5
Miami, FL	403	4363.6	4069.2
	412	4391.5	4097.1
	417	4407.0	4112.6
	423	4425.6	4131.2
	802	8722.0	8198.1
	805	8731.3	8207.4
	810	8746.8	8222.9
	814	8759.2	8235.2
	825	8793.3	8269.4
	831	8811.9	8288.0
	1206	13,116.3	12,345.5
	1208	13,122.5	12,351.7
	1209	13,125.6	12,354.8
	1215	13,144.2	12,373.4
	1223	13,169.0	12,398.2
	1230	13,190.7	12,419.9
	1601	17,232.9	16,460.0
	1609	17,257.7	16,484.8
	1610	17,260.8	16,487.9
	1611	17,263.9	16,491.0
	1616	17,279.4	16,506.5
	2215	22,639.4	22,043.4
	2216	22,642.5	22,046.5
	2222	22,661.1	22,065.1
Mobile, AL	405	4369.8	4075.4
	414	4397.7	4103.3
	419	4413.2	4118.8
	824	8790.2	8266.3
	829	8805.7	8281.8
	830	8808.8	8284.9
	1212	13,134.9	12,364.1
	1225	13,175.2	12,404.4
	1226	13,178.3	12,407.5
	1607	17,251.5	16,478.6
	1632	17,329.0	16,556.1
	1641	17,356.9	16,584.0
	2227	22,676.6	22,080.6
	2231	22,689.0	22,093.0
	2237	22,707.6	22,111.6
Honolulu, HI	418	4410.1	4115.7
	808	8740.6	8216.7
	1222	13,165.9	12,359.1
	1601	17,232.9	16,460.0
St. Thomas, VI[1]	604	6515.7	6209.3
	605	6518.8	6212.4
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	2223	22,664.2	22,068.2
Delcambre, LA	404	4366.7	4072.3
Rogers City, MI[2]	405	4369.8	4075.4
Lorain, OH	409	4382.2	4087.8
Buffalo, NY	418	4410.1	4115.7
Buffalo, NY	826	8796.4	8272.5
Lorain, OH	826	8796.4	8272.5

[1] Provisional assignment of frequencies pending allotment to Virgin Islands in Article 16 proceeding.

[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

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(b) Frequencies between 1605 and 4000 kHz available for assignment to public coast stations:

Coast station located in the vicinity of	Coast station carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Agana, Guam	2506	2009	
Boston, MA	2450	2366	
	2506	2406	
	2586	2390	(2).
New York, NY	2482	2382	
	2522	2126	
	2558	2166	
	2580	2198	
Wilmington, DL	2558	2166	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2450	2366	(2).
	2538	2142	
Charleston, SC-Jacksonville, FL	2566	2390	
Miami, FL	2442	2406	(2).
	2490	2031.5	
	2514	2118	(3).
Tampa, FL	2486	2009	
	2550	2158	(3).
Mobile, AL	2572	2430	
New Orleans, LA	2482	2382	
	2558	2166	
	2588	2206	(2).
Delcambre, LA	2506	2458	(2).
Galveston, TX	2450	2366	(2 and 4).
	2530	2134	
Corpus Christi, TX	2538	2142	(5).
Ponce, PR	2585	2086	
San Juan, PR	2530	2134	
Buffalo, NY	2514	2118	(6).
Rogers City, MI	2550	2158	(6).
	2582	2206	(8).
Los Angeles-San Diego, CA	2466	2382	(1 and 6).
	2522	2126	7 a.m. to 7 p.m., P.s.t. only.
	2566	2009	7 a.m. to 7 p.m., P.s.t. only.
	2598	2206	
San Francisco-Eureka, CA	2450	2003	
	2506	2406	
Astoria, OR	2442	2009	(2).
Astoria-Portland, OR	2598	2206	
Coos Bay, OR	2586	2031.5	7 a.m. to 7 p.m., P.s.t only.
Seattle, WA	2522	2126	
	2482	2430	(7).
Kahuku, HI	2530	2134	
St. Thomas Island, VI	2506	2009	

(1) Available on the condition that harmful interference is not caused to any ship station operating within 300 nautical miles of New Orleans, LA and is transmitting to a coast station in that port.
(2) Day only.
(3) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.
(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Massachusetts, or San Francisco-Eureka, California.
(5) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Norfolk-Quantico, Virginia.
(6) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Florida.
(7) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which the carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t., only.
(8) The frequencies 2514, 2550 and 2582 kHz are authorized for use in the Great Lakes area on a shared basis with stations of Canada. Except in the case of distress, the frequency 2550 kHz shall not be used for transmission to ship stations of Canada since the associated ship station transmit frequency 2158 kHz is not available to Canadian ship stations for transmission and 2582 kHz shall not be used for transmission to U.S. ship stations since the associated ship transmit frequency 2206 kHz is not available to U.S. ship stations for transmission.

6. Section 81.307 is amended by revising the heading and text to read as follows:

§ 81.307 Frequencies below 27.5 MHz available for assignment on the Mississippi River System.[1]

(a) The following frequencies are available for assignment to coast stations located on the inland waterways for use on a simplex basis, as indicated below:

Coast station location	Carrier frequency (kHz)
Jeffersonville, IN-Louisville, KY	[1]2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1]2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12,333.1
	16,518.9
Cincinnati, OH	[1]2086.0
	2782.0
	4063.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1]2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP).

7. Section 81.308 is amended as follows:

§ 81.308 Frequencies available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by common carrier public coast stations in Alaska for communication with ship stations.

Coast station location	Carrier frequency (kHz) [1]	
	Transmit	Receive
Cold Bay	2312	2134
Cordova	2397	2237
Juneau	2400	2240
Ketchikan	2397	2237
Kodiak	2309	2131
Nome	2400	2240
Sitka	2312	2134

[1] Subject to the limitations in § 81.304.

[1] Mississippi River System means the Mississippi River and connecting waters other than the Great Lakes.

(b) The carrier frequencies set forth in the following table are authorized for use by public coast stations, other than common carrier, in Alaska as indicated below. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

Alaska zone	Carrier frequency (kHz) [1]
All	1619
	1622
	2379
	2382
	4383.9
	4397.7
	4425.8
1	1646
	1709
	2006
	2419
	2512
	2566
	2616
	3261
	4403.9
2	1649
	2115
	2430
	2509
	2539
	4422.5
3	1705
	2422
	2450
	2479
	2512
	2535
	4369.8
4	1643
	1705
	2118
	2427
	2447
	2482
	2509
	2563
	3261
	4366.7
5	1652
	1712
	2003
	2430
	2506
	2566
	3258
	4422.5
6	1646
	2450
	2482
	2506
	4403.9

[1] Subject to the limitations in § 81.304.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83–351, the table in paragraph (a) is amended, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed as follows:

§ 83.351 Frequencies available.

(a) • • •

Carrier frequency	Conditions of use	
	Section	Limitations
(kHz)		
1619	83.370	

Carrier frequency	Conditions of use	
	Section	Limitations
1622	83.370	
1643	83.370	
1646	83.370	
1649	83.370	
1652	83.370	
1705	83.370	
1708	83.370	
1709	83.370	
1712	83.370	
2003	83.366 and 83.356.	
2003	83.370	
2003	83.358	19.
2006	83.370	38.
2009	83.355	
2031.5	83.355	
2065.0	83.362	10, and 11.
2079.0	83.362	10. and 11.
2082.5	83.358 and 83.362.	11 and 12.
2086.0	83.355 and 83.356.	2, 11, and 12.
2093.0	83.362	11. and 13.
2096.5	83.360	11.
2115	83.370	
2118	83.355	
2118	83.370	
2126	83.355	
2131	83.370	17.
2134	83.355	
2134	83.370	17.
2142	83.355	
2142	83.358	4, and 19.
2158	83.355	
2166	83.355	
2182	83.108, 83.352, and 83.353.	1, and 21.
2198	83.355	
2203	83.358	11, 14, and 19.
2206	83.355	
2214	83.362	
2237	83.370	17.
2240	83.370	17.
2366	83.355	
2379	83.370	
2382	83.355	
2382	83.370	
2390	83.355	
2400	83.355	
2406	83.355	
2419	83.370	
2422	83.370	
2427	83.370	
2430	83.355	
2430	83.370	37.
2447	83.370	
2450	83.370	
2458	83.355	37.
2479	83.370	
2482	83.370	
2506	83.370	42.
2509	83.370	
2512	83.370	
2535	83.370	
2538	83.370	39.
2563	83.370	
2566	83.370	
2616	83.370	38.
2638	83.358	19.
2670	83.358 and 83.363.	
2736	83.358	19.
2736	83.362	20.
2782	83.356	
2830	83.358 and 83.362.	19.
3023	83.370	45.
3258	83.370	
3261	83.370	43.
4063.0	8354 and 83.356.	
4069.2	83.354	
4072.3	83.354	
4075.4	83.354	
4087.8	83.354 and 83.356.	
4090.9	83.354	
4094.0	83.354	
4097.1	83.354	
4103.3	83.354	
4109.5	83.354	
4112.6	83.354	
4115.7	83.354 and 83.356.	41.
4118.8	83.354	
4125.0	83.360	9.
4126.1	83.354	
4131.2	83.354	
4143.6	83.360	
4366.7	83.370	
4369.8	83.370	
4383.8	83.370	16.
4403.9	83.370	
4410.1	83.356	41.
4419.4	83.360	9.
4422.5	83.370	
5680		45.
6209.3	83.356	
6212.4	83.356	
6218.6	83.360	9.
6221.6	83.360	9.
6515.7	83.356	
6518.8	83.356	
6521.9	83.360	9.
8198.1	83.354	
8201.2	83.356	41.
8204.3	83.354	
8207.4	83.354	
8213.6	83.356	41.
8216.7	83.354	
8219.8	83.354	
8222.9	83.354	
8226.0	83.354	
8235.3	83.354	
8238.4	83.354	
8260.1	83.354	
8266.3	83.354	
8269.4	83.354	
8272.5	83.354	
8281.8	83.354	
8284.9	83.354	
8288.0	83.354	
8291.1	83.360	9.
8294.2	83.360	9.
8725.1	83.356	41.
8737.5	83.356	41.
12330.0	83.354	
12333.1	83.354 and 83.356.	
12336.2	83.354	
12345.5	83.354	
12351.7	83.354	
12354.8	83.354	
12357.9	83.354	
12361.0	83.354	
12364.1	83.354	
12373.4	83.355	
12395.1	83.355	
12398.2	83.354	
12404.4	83.354	
12407.5	83.354	
12413.7	83.354	
12416.8	83.354	
12419.9	83.354	
12429.2	83.360	9.
12432.3	83.360	9.
12435.4	83.360	9.
13103.9	83.356	2 and 41.
16460.0	83.354	
16463.1	83.354	
16466.2	83.354	
16472.4	83.354	
16478.6	83.354	
16484.8	83.354	
16487.9	83.354	
16491.0	83.354	
16506.5	83.354	
16518.9	83.354 and 83.356.	41.
16531.3	83.354	
16537.5	83.354	
16553.0	83.354	
16556.1	83.354	
16584.0	83.354	
16587.1	83.360	9.
16590.2	83.360	9.
16593.3	83.360	9.
17291.8	83.356	2 and 41.
22000.0	83.354	
22012.4	83.354	
22027.9	83.354	
22040.3	83.354	
22043.4	83.354	
22046.5	83.354	
22065.1	83.354	
22068.2	83.354	
22080.6	83.354	
22083.7	83.354	
22093.0	83.354	
22108.5	83.354	
22111.6	83.354	
22124.0	83.360	9.
22127.1	83.360	9.
22130.2	83.360	9.
22133.3	83.360	9.
22136.4	83.360	9.
(MHz)		
121.5	83.351	6.
123.1	83.352	6.
156.050	83.359	5.
156.175	83.359	5.
156.250	83.359	6.
156.275	83.359	19, 20, and 23.
156.300	83.108 and 83.350.	15, 19, 22, and 46.
156.325	83.359	19, 20, and 23.
156.350	83.359	19, 20, and 27.
156.375	83.359	19, 27, 46, 47, and 48.
156.400	83.359	19, 27, and 46.
156.425	83.359	19, 20, 28, 32, and 46.
156.450	83.359	19, 20, 27, 28, and 46.
156.475	83.359	19, 20, 28, and 32.
156.500	83.359	19, 20, and 27.
156.525	83.359 and 83.361.	19, 28, 30, and 46.
156.550	83.359 and 83.361.	19, 20, 27, and 35.
156.575	83.359	19, 20, 28, and 32.
156.600	83.359 and 83.361.	19, 20, 23, and 35.
156.625	83.359	19, 28, 30, and 46.
156.650	83.359	19, 20, 24, 31, and 36.
156.675	83.359	19, 20, and 23.
156.700	83.359 and 83.361.	19, 20, 23, and 35.
156.725	83.359	19, 20, and 23.
156.750	83.359	25.
156.800	83.108, 83.233, and 83.359.	19, 20, 21, and 46.
156.850	83.359	19, 20, 28, and 34.
156.875	83.359	19, 23, and 40.
156.900	83.359	19, 20, 27, and 46.
156.925	83.359	19, 20, 28, and 32.
156.950	83.359	19, 20, and 27.
156.975	83.359	19, 20, and 27.
157.000	83.359	19, 20, and 23.
157.025	83.359	19, 10, and 27.
157.100	83.359	3, 19, and 20.
157.200	83.359	19, 20, and 29.
157.225	83.359	19, 20, and 29.
157.250	83.359	19, 20, and 29.
157.275	83.359	19, 20, and 29.

Carrier frequency	Conditions of use	
	Section	Limitations
157.300	83.359	18, 20, and 29.
157.325	83.359	29.
157.350	83.359	18, 20, and 29.
157.375	83.359	18 and 29.
157.400	83.359	18, 20, and 29.
157.425	83.359	19, 27, 33, 44, and 46.
216–220	83.1105	7.

(b) The authorization and use of the carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
3	2
6	3
8	4
9	5
10	6
11	7
12	8
13	9
23	10
25	11
26	12
29	13
30	14
34	15
36	16
37	17
38	18
40	19
41	20
43	21
44	22
45	23
46	24
47	25
48	26
49	27
50	28
51	29
52	30
53	31
54	32
55	33
57	34
58	35
59	36
61	37
62	38
63	39
64	40
66	41
67	42
68	43
72	44
75	45
76	46
77	47
78	48

* * * * *

Sections 83.351(b) (2), (4), (5), (7), (14), (15), (16), (18), (19), (20), (21), (22), (24), (27), (28), (31), (32), (33), (35), (39), (42), (56), (60), (65), (69), (70), (71), (73) and (74) are removed.

2. Section 83.354, including its heading, is revised to read as follows:

§ 83.354 Frequencies available for communication with public coast stations on frequencies between 4000 and 23000 kHz.

The following frequencies are authorized for use by ship stations for communications with high seas public coast stations.

Coast station location	Channel designation	Ship carrier frequency (kHz)	
		Transmit	Receive
San Francisco, CA	401	4063.0	4357.4
	416	4109.5	4403.9
	417	4112.6	4407.0
	804	8204.3	8726.2
	809	8219.8	8743.7
	814	8235.3	8759.2
	822	8260.1	8784.0
	1201	12,330.0	13,100.8
	1202	12,333.1	13,103.9
	1203	12,336.2	13,107.0
	1229	12,416.8	13,187.6
	1230	12,419.9	13,190.7
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	1616	16,506.5	17,279.4
	1624	16,531.3	17,304.2
	2214	22,040.3	22,636.3
	2223	22,068.2	22,664.2
	2228	22,083.7	22,679.7
	2236	22,108.5	22,704.5
New York, NY	410	4090.0	4385.3
	411	4094.0	4388.4
	416	4109.5	4403.9
	422	4128.1	4422.5
	808	8216.7	8740.6
	811	8226.0	8749.9
	815	8238.4	8762.3
	826	8275.5	8796.4
	1203	12,336.2	13,107.0
	1210	12,357.9	13,128.7
	1211	12,361.0	13,131.8
	1228	12,413.7	13,184.5
	1230	12,419.9	13,190.7
	1605	16,472.4	17,245.3
	1620	16,518.9	17,291.8
	1626	16,537.5	17,310.4
	1631	16,553.0	17,325.9
	2201	22,000.0	22,596.0
	2205	22,012.4	22,608.4
	2210	22,072.9	22,623.9
	2236	22,108.5	22,704.5
Miami, FL	403	4089.2	4383.6
	412	4097.1	4391.5
	417	4112.6	4407.0
	423	4131.2	4425.6
	802	8198.1	8722.0
	805	8207.4	8731.3
	810	8222.9	8746.8
	814	8235.3	8759.2
	825	8269.4	8793.3
	831	8288.0	8811.9
	1208	12,345.5	13,116.3
	1209	12,351.7	13,122.5
	1209	12,354.8	13,125.6
	1215	12,373.4	13,144.2
	1223	12,398.2	13,169.0
	1230	12,419.9	13,190.7
	1601	16,460.0	17,232.9
	1609	16,484.8	17,257.7
	1610	16,487.9	17,260.8
	1611	16,491.0	17,263.9
	1618	16,506.5	17,279.4
	2215	22,043.4	22,639.4
	2216	22,046.5	22,642.5
	2222	22,065.1	22,661.1
Mobile, AL	405	4075.4	4369.8
	414	4103.3	4397.7
	419	4118.8	4413.2
	824	8268.3	8790.2
	829	8281.8	8805.7
	830	8284.9	8808.8
	1212	12,364.1	13,134.9
	1225	12,404.4	13,175.2
	1226	12,407.5	13,178.3
	1607	16,478.6	17,251.5
	1632	16,556.1	17,329.0
	1641	16,584.0	17,356.9
	2227	22,080.6	22,676.6
Honolulu, HI	2231	22,093.0	22,689.0
	2237	22,111.6	22,707.6
	418	4115.7	4410.1
	808	8216.7	8740.6
	1222	12,359.1	13,165.9
	1601	16,460.0	17,232.9
St. Thomas, VI[1]	604	6209.3	6515.7
	605	6212.4	6518.8
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	2223	22,068.2	22,664.2
Delcambre, LA	404	4072.3	4366.7
Rogers City, MI[2]	405	4075.4	4369.8
Lorain, OH	409	4087.8	4382.2
Buffalo, NY	418	4115.7	4410.1
Buffalo, NY	826	8272.5	8796.4
Lorain, OH	826	8272.5	8796.4

[1] Provisional assignment pending allotment of frequencies to Virgin Islands in Article 16 proceeding.
[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

3. Section 83.355, including its heading, is revised to read as follows:

§ 83.355 Frequencies available for communications with public coast stations operating in the band between 1605 and 4000 kHz.

(a) The following frequencies are authorized for use by ship stations for communication with regional public coast stations, as indicated below:

Coast station located in the vicinity of	Ship carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Agana, GU	2008	2506	
Boston, MA	2366	2450	
	2408	2506	
	2390	2566	(2).
New York, NY	2382	2482	(1).
	2126	2522	
	2166	2558	
	2198	2590	
Wilmington, DL	2166	2558	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2366	2450	(2).
	2142	2538	
Charleston, SC-Jacksonville, FL	2390	2566	
Miami, FL	2408	2442	(2).
	2031.5	2490	
	2118	2514	
Tampa, FL	2009	2466	
	2158	2550	(3).
Mobile, AL	2430	2572	
New Orleans, LA	2382	2482	
	2166	2558	(2).
	2206	2598	
Delcambre, LA	2458	2506	(2).
Galveston, TX	2366	2450	(2 and 4).
	2134	2530	
Corpus Christi, TX	2142	2538	(5).
Ponce, PR	2066	2585	
San Juan, PR	2134	2530	
Buffalo, NY	2118	2514	
Rogers, City, MI	2158	2550	
	2206	2582	(9).
Los Angeles-San Diego, CA	2382	2466	
	2126	2522	7 a.m. to 7 p.m., P.s.t. only.
	2009	2566	
	2206	2598	7 a.m. to 7 p.m., P.s.t. only.
San Francisco-Eureka, CA	2003	2450	(7).
	2408	2506	
Astoria, OR	2009	2442	Day only.
Astoria-Portland, OR	2206	2598	

Coast station located in the vicinity of	Ship carrier frequency (kHz)		Conditions of use
	Transmit	Receive	
Coos Bay, OR	2031.5	2566	7 a.m. to 7 p.m., P.s.t. only.
Seattle, WA	2126	2522	
	2430	2482	(8).
Kahului, HI	2134	2530	
St. Thomas Island, VI.	2009	2506	8 a.m. to 9 p.m., A.s.t. only.

(1) Available on the condition harmful interference is not caused to the service of any coast station located in the vicinity of New Orleans, La.
(2) Day only.
(3) Unlimited hours of use from December 15, to April 1, annually, and day only for April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.
(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Mass., or San Francisco-Eureka, California.
(5) Available on the condition that harmful interference is not caused to the service of any station located in the vicinity of Norfolk-Quantico, Va.
(6) Available on the condition that harmfull interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., or any ship station located in the vicinity of New Orleans.
(7) Available on the condition that harmfull interference is not caused to any ship station located in the vicinity of Los Angeles or San Diego, Calif.
(8) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which the carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t. only.
(9) Not available to U.S. ship stations for transmission, except in the case of a distress.

4. A new § 83.356 is added, to read as follows:

§ 83.356 Frequencies below 27.5 MHz available for use on inland waterways.

The following frequencies are authorized for use by ship stations in a simplex mode for communication with coast stations on inland waterways, as indicated below:

Coast station location	Carrier frequency (kHz)
Jeffersonville, IN-Louisville, KY	[1] 2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1] 2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12333.1
	16518.9
Cincinnati, OH	[1] 2086.0
	2782.0
	4063.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1] 2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP).

5. Section 83.370, including its heading, is revised to read as follows:

§ 83.370 Frequencies below 27.5 MHz available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by ship stations for communications with common carrier coast stations in Alaska.

Coast station location	Carrier frequency (kHz)	
	Transmit	Receive
Cold Bay	2134	2312
Cordova	2237	2397
Juneau	2240	2400
Ketchikan	2237	2397
Kodiak	2131	2309
Nome	2240	2400
Sitka	2134	2312

(b) The carrier frequencies set forth in the following table are authorized for use by ship stations for communication with public coast stations, other than common carrier, in Alaska. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

Alaska zone	Carrier frequency [1] (kHz)
All	1619
	1622
	2379
	2382
	4397.7
	4425.6
1	1646
	1709
	2006
	2419
	2512
	2566
	2616
	3261
	4403.9
2	1649
	2115
	2430
	2509
	2536
	4422.5
3	1705
	2422
	2450
	2479
	2512
	2535
	4389.8
4	1643
	1705
	2118
	2427
	2447
	2482
	2509
	2563
	3261
	4386.7
5	1652
	1712
	2003
	2430
	2506
	2566
	3258
	4422.5
6	1646
	2450
	2482
	2506
	4403.8

[1] Subject to the limitations of § 83.351.

§ 83.371 [Removed]

6. Section 83.371 is removed.

§ 83.372 [Removed]

7. Section 83.372 is removed.

[FR Doc. 83–13446 Filed 5–18–83; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. MC–102; Amdt. No. 81–10]

Federal Motor Carrier Safety Regulations; Motor Carrier Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: In response to petitions, the FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to eliminate the automatic elevation of a carrier's rating from "insufficient information" to "satisfactory," and to provide that the initial safety rating be made by the Chief, Operations Division, Bureau of Motor Carrier Safety. These revisions are being made in response to petitions for reconsideration filed following the issuance of the final rules that were issued by the Bureau of Motor Carrier Safety (BMCS) in Docket No. MC–102; Amdt. No. 81–4 and published in the **Federal Register** of June 17, 1982 (47 FR 26135). These revisions are primarily nonsubstantive in nature and concern practices and procedures relating to the internal organization of the FHWA. Although no comment period is required, the FHWA is providing a period of time for the submission of comments.

DATES: Effective May 19, 1983. All comments must be received on or before July 15, 1983.

ADDRESS: Submissions to Docket No. MC–102; Amdt. No. 81–10, should be addressed to the Bureau of Motor Carrier Safety, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety (BMCS), (202) 426–0767, or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

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SUPPLEMENTARY INFORMATION: Petitions for reconsideration and stay of the effective date of the final rule on motor carrier safety ratings were filed by (1) the American Trucking Associations, Inc. (ATA) on behalf of its member State associations and its affiliated conference, the Regular Common Carrier Conference (RCCC) and (2) the National Tank Truck Carriers, Inc. (NTTC).

The ATA's particular concern was the BMCS' treatment of the "insufficient information" rating of motor carriers. Section 385.1(b)(4) currently states that, in the event the rating has not been changed to either "unsatisfactory" or "conditional" within a year of the date it is assigned, it will be automatically changed to a "satisfactory" rating.

In issuing the rule, it was felt that a "satisfactory" rating was inappropriate for new entrants because, although there was, in fact, no adverse information, there also had been no opportunity to collect or receive such information. To automatically rate such carriers as "satisfactory" after one year, would be unfair to carriers making substantial investments to maintain satisfactory compliance for appreciable periods of time prior to the new applicant's entry into the motor carrier population. Further, and "unsatisfactory" or "conditional" rating was not warranted as those terms are currently defined. Thus, the "insufficient information" rating should be continued for new entrants upon which no information as to safety compliance is available.

Upon reconsideration, it has been determined that the absence of adverse information as an indication of a satisfactory degree of compliance could result in an unsafe carrier being rated as "satisfactory." Action is being taken to change 49 CFR 385.1(b). Carriers assigned an "insufficient information" rating will retain such a rating until the BMCS receives definite positive or negative information upon which to base a rating change.

The NTTC holds that the final rules on motor carrier safety ratings are (1) procedurally deficient in comparison to the concepts outlined in the notice of proposed rulemaking (NPRM) (Docket No. MC–88; Notice No. 79–7, 44 FR 67193, November 23, 1979), in that there was no indication in the NPRM that ratings would be available to any interested party upon request (public comment to the final rules was precluded); (2) discriminatory in that they prejudice the interests of the for-hire sector versus those of the new entrant; and (3) permit unfettered discretion by the Administrator without an appropriate appeal and/or proper due process.

The issue of the availability of safety ratings was not addressed in the NPRM. It was apparent from a review of the comments to the NPRM that there was widespread misunderstanding of long-standing Bureau policies concerning the release of safety ratings to parties requesting them. In issuing the final rules, it was hoped that any misconception of these policies would be cleared up. The FHWA is providing a period of time for submission of comments to this rulemaking action.

The scope of the rulemaking was limited to the codification of the factors used when assigning a safety rating, in accordance with Section 1653(e) of the Department of Transportation (DOT) Act, to carriers seeking operating authority from the Interstate Commerce Commission (ICC). However, as a matter of practice, the rating procedure is not intended to be limited solely to the regulated for-hire segment of the motor carrier industry and ratings will be assigned to all classes of motor carriers subject to FHWA jurisdiction as resources allow.

Petitioners also asserted that if the Director continues to be both the initial and subsequent (on review) determinator of the rating assigned, the requisite degree of objectivity during the review process would be nonexistent. The petitioners' contention has merit. Accordingly, the authority for initial determination and reporting of a carrier's safety rating will lie with the Chief, Operations Division while the Director retains authority to act on appeals from the initial determination.

These rules concern practices and procedures relating to the internal organization of the FHWA, and are necessary to ensure enforcement of the FMCSR. Since the changes being adopted in this document are primarily nonsubstantive in nature, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance. Although no comment period is required, the FHWA is providing a period of time for the submission of comments. All comments must be received on or before July 15, 1983. Submissions to Docket No. MC–102; Amdt No. 81–10, should be addressed to the Bureau of Motor Carrier Safety, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the policies and procedures of the Department of Transportation. The economic impact, if any, anticipated as a result of this action is so minimal, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 385

Motor carriers—safety ratings.

PART 385—[AMENDED]

In consideration of the foregoing, 49 CFR Part 385 is revised as follows.

1. 49 CFR 385.1(b)(4) is revised to read as follows:

§ 385.1 Definition of motor carrier safety rating.

* * * * *

(b) * * *

(4) Insufficient information—There is no current information available to the BMCS upon which to base a rating.

2. 49 CFR 385.5 (a) and (b) are revised to read as follows:

§ 385.5 Determination of safety ratings.

(a) Ratings will be determined by the Chief, Operations Division, Bureau of Motor Carrier Safety.

(b) In determining comparative carriers, the Chief, Operations Division will pick carriers based on one or more of the following identifiers: commodity transported, type of operation (ICC—Common, ICC—Contract, exempt, private), geographic area served, and size of carrier by number of power units operated or drivers used on regular/irregular route.

(49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: May 12, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-13473 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Parts 565 and 571

[Docket No. 1-22; Notice 12]

Federal Motor Vehicle Safety Standards; Vehicle Identification Number

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, by deleting portions of that standard and reissuing those portions as a general agency regulation. This is being taken in response to a petition from the Motor Vehicle Manufacturers Association (MVMA). It is intended to assure that the recall and remedy provisions of the National Traffic and Motor Vehicle Safety Act ("the Act") do not apply to certain errors in vehicle identification numbers (VIN's) which are minor and have no safety consequences. The basic substantive requirements of Standard 115 are unchanged by this action.

DATE: This action is effective on June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Fairchild, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2992).

SUPPLEMENTARY INFORMATION: The VIN is that unique number assigned each vehicle during production by the manufacturer for purposes of identification and inventory control. The VIN has other users. A variety of other organizations use the VIN for such purposes as vehicle registration, insurance rating, and theft investigation. NHTSA uses the VIN in its safety research and investigation activities.

In 1968, Federal Motor Vehicle Safety Standard (FMVSS) 115 was adopted, specifying that each passenger car must be assigned a unique VIN. In 1979, FMVSS 115 was extended to cover motor vehicles other than passenger cars. Also, a uniform, 17-character format for VIN's was then established, specifying coded information such as the identity of the manufacturer, vehicle, make, type of vehicle, various vehicle attributes, model year, plant of manufacture, and production sequence. The VIN also contains a check digit which aids in the detection of errors in the transcription of VIN's by the users of the numbers.

On June 13, 1980, MVMA petitioned this agency to withdraw FMVSS 115 and re-issue its provisions in the form of a general agency regulation. The significance of this change stems from section 152 of the Act (15 U.S.C. 1412), which provides that whenever the Secretary of Transportation determines that vehicle does not comply with a FMVSS, the Secretary must require the vehicle's manufacturer to notify the owners, purchasers, and dealers of the vehicle of that noncompliance and to remedy the noncompliance. However, in the case of a noncompliance with a regulation other than a FMVSS, the notification and remedy requirements of the Act do not apply. For those noncompliances, more flexible methods of enforcement are permittted.

MVMA sought to assure through its requested amendment that errors in the assignment of VIN's would not trigger the recall and remedy provisions of the Act. Requiring that errors in assigned VIN's must be physically corrected would be undesirable in most cases for two reasons. First, correcting the errors would be an expensive and burdensome process, whose possible benefits would be greatly outweighed by the costs. These burdens and costs are discussed in the NPRM. In most cases, simply providing information on the nature of the error to users of the VIN's would solve any problems caused by the incorrect VIN. Second, changing a previously assigned VIN could create anti-theft problems. Law enforcement authorities consider the presence of an altered VIN in a vehicle to be an indication that the vehicle has been stolen. If VIN's were frequently altered lawfully, it would be more difficult for the police to detect stolen vehicles. Further, if the equipment necessary to alter VIN's were widely available (such as at all auto dealers, as might be necessary to conduct a recall and remedy campaign), thieves' access to such equipment would be greatly increased. Law enforcement authorities have consistently recommended to NHTSA that VIN numbers, once assigned, should not be altered for any reason, even if the original number was incorrect.

The only exception to the recall requirement is contained in section 157 of the Act (15 U.S.C. 1417) which authorizes exemptions from these requirements based on a demonstration that the noncompliance is inconsequential as it relates to safety. This authority could be used to relieve a manufacturer of the necessity of conducting a recall and remedy campaign to correct minor VIN errors. Minor labeling errors were among the examples given in the legislative history of the provision for the sorts of errors that are inconsequential. While exemptions might well be given under section 157 for minor VIN errors, the necessity of conducting the exemption proceedings for such errors imposes an excessive administrative burden. The amendments made by this notice eliminate that burden.

MVMA suggested that one possible consequence of a change in the status of the VIN provisions might be a loss or narrowing of Federal preemption. Under section 103(d) of the Act (15 U.S.C. 1392(d)), whenever a FMVSS is in effect, no State may establish or maintain a requirement applicable to the same aspect of performance unless the State requirement is identical to the FMVSS. The removal of various VIN requirements from FMVSS 115 removes them also from the operation of section 103(d). Recognizing this and the clear undersirability of having differing VIN requirements established by the States, MVMA modified its petition on April 16, 1982. In its modified petition, MVMA requested that only certain VIN provisions be shifted from the standard to the regulation. Requirements establishing the fundamental characteristics of the VIN, such as its length, location, and readability, would remain in the standard. Under the amended petition, the content of the VIN would be specified in the VIN regulation. The combined standard/regulation scheme is intended to remove the threats of potentially costly recall campaigns to correct minor VIN errors or of inconsequentiality proceedings, while ensuring that the preemptive effect of the FMVSS is still maintained for the more significant requirements.

After reviewing the MVMA petition, the agency tentatively concluded that MVMA's suggested regulatory changes have merit, and proposed to adopt those changes. See 47 FR 42004, September 23, 1982. (The agency believes that general principles of Federal preemption are sufficient to assure that the VIN regulation will preempt any inconsistent State requirements.) Based on further review of that petition and the comments received on the September notice of proposed rulemaking (NPRM), the agency is herein adopting these changes in final form.

Comments on the NPRM

Virtually all the comments received on the September NPRM supported the proposed changes to FMVSS 115. However, several commenters suggested slight changes or clarifications to the proposed regulatory language. The most

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controversial aspect of the proposal was the provision which would exempt from certain VIN requirements vehicles imported into the United States under bond, which do not meet U.S. standards, but which will subsequently be modified to meet those standards. As a practical matter, this provision applies to individuals or organizations which import small numbers of vehicles. Several commenters expressed the fear that this provision could result in the importation of large numbers of vehicles (such as by a foreign manufacturer) with nonconforming VIN's. These commenters suggested that the exemption be limited to a maximum of 5 vehicles per year per individual. While the agency agrees that the exemption should not be applied to an actual manufacturer, it cannot justify selecting any particular arbitrary limit, such as five vehicles, to exclude larger commerical organizations. However, in response to these comments, the agency is amending this provision to exclude actual manufacturers of vehicles and their subsidiaries.

Several commenters also suggested that information on VIN errors should be provided to the National Crime Information Center (NCIC, part of the Federal Bureau of Investigation) and the National Automobile Theft Bureau (NATB, a private organization affiliated with the insurance industry). These organizations could enter the information in their computer systems, thereby making it available to State motor vehicle administrations, law enforcement organizations, and other VIN users. The agency agrees that taking this step would help assure that VIN users would have complete and accurate information on the VIN's which are actually assigned by the vehicle manufacturers. Accordingly, NHTSA will establish an internal procedure for routinely transmitting VIN error information to NCIC and NATB.

Most commenters also suggested that the agency define the term "trailer kit" and specify in the regulation the agency's previously established policy, i.e., that trailer kits are subject to the same VIN requirements as trailers. The agency believes that making these changes is appropriate, and is adopting a definition of trailer kits based on language in 49 CFR 567.4(g). "Trailer kits" are defined as a trailer which is delivered in complete but unassembled form, and which can be assembled without special machinery or tools.

MVMA suggested that the "trailer kit" definition should be added to the definitions in the beginning of Part 571. Taking that action would not serve any present purpose, since the term is apparently not used in any other FMVSS. MVMA also suggested incorporating all the definitions in Part 571 into FMVSS 115. The agency sees no need for this change, and making the change could have unintended effects, such as where a term's definition in one standard is inappropriate for use in FMVSS 115. Therefore, these recommendations were not adopted.

The International Association of Chiefs of Police and the NATB also suggested that the agency define the term "glider kit" and specify that VIN requirements are applicable to glider kits. Typically, a glider kit is a new truck cab, frame rails, and front suspension without drive train (engine, transmission, and rear axle). The treatment of combinations of new and used components in a single vehicle is currently specified in 49 CFR 571.7. Under that provision, the addition of a new cab, frame rail, and front suspension is deemed to create a new vehicle subject to all applicable safety standards in effect as of the date of remanufacture, unless the engine, transmission, and drive axle (as a minimum) of the assembled vehicle are not new and at least two of those listed components were taken from the same vehicle. Thus, in many situations, the use of a new glider kit would not require that a new VIN be affixed to the assembled vehicle. Further, it would be difficult for the glider kit manufacturer to assign a VIN, as suggested by the two commenters, since a truck VIN must contain coded information regarding the engine type, and the glider kit manufacturer would not generally know what type of engine would be used with a particular kit. Therefore, the agency is not adopting the provisions suggested by these two commenters, and will instead rely on the existing regulations for dealing with glider kits.

The Iowa Department of Transportation objected to the practice of some motorcycle manufacturers of stamping a portion of the VIN on motorcycle frames. The Iowa agency points out that this practice could cause confusion as to which number is the actual VIN. NHTSA has taken the position that, so long as the vehicle manufacturer complies with all requirements in FMVSS 115 with regard to the specified 17 character number, these manufacturers may affix other numbers to the motorcycles for their own purposes. Currently, NHTSA cannot justify altering this policy. However, should we become aware of substantial numbers of incidents where the use of this supplementary number has undermined the Federal VIN system, we may consider prohibiting these supplementary numbers, requiring that supplementary numbers must be the same 17 character number as the VIN, or some clarifying labeling where other than the VIN is used. The NCIC objected to the exemption of farm equipment from VIN requirements. The VIN requirements, like all of the FMVSS, apply only to "motor vehicles", i.e., vehicles which are manufactured primarily for use on the public roads, consistent with the scope of the agency's regulatory authority under the Act. See section 102(3) of the Act. The agency lacks the authority to regulate vehicles which are principally used off the public roads, such as the vehicles cited by these two commenters. Should the States decide to apply VIN requirements to such vehicles as a matter of State law, NHTSA would have no objection.

Ford Motor Company and the MVMA pointed out that the requirement that VIN's affixed to vehicles must have a letter height of at least 4 millimeters should only apply to passenger cars and trucks with a gross vehicle weight rating of 10,000 pounds or less as the requirement has ever since it was established. In the NPRM, this requirement was inadvertently applied to all motor vehicles. The error is corrected in the final rule.

MVMA also requested that the new VIN regulation maintain the requirement that, for manufacturers of under 500 vehicles per year, the third character of the VIN must be the number 9. The agency deleted this provision, since prior to its amendment today, FMVSS 115 gave the erroneous impression that vehicle manufacturers selected the world manufacturer identifier (WMI) portion of their VIN's. In fact, the Society of Automotive Engineers assigns those characters for U.S. manufacturers. The deletion of the phrase specifying the third character of the VIN for small manufacturers in no way changes the intended numbering system—SAE will continue to assign WMI's as it has in the past.

The American Association of Motor Vehicle Administrators has requested that NHTSA re-emphasize that vehicle manufacturers must submit and update deciphering information on their VIN systems. This final rule continues to provide that at least 60 days prior to affixing any VIN, or, when information is unavailable at that time, within one week after it becomes available, each manufacturer must submit information necessary to decipher its VIN system. This requirement, which has been in effect since January 1981, applies to both the original submission of deciphering information and to updates of that information as new products are offered by the manufacturer. It is the manufacturer's responsibility to assure that deciphering information provided to NHTSA is current.

Ford Motor Company argued that sections 108 and 152 of the Act, which the agency listed as part of the legal authority for the new VIN regulation, are not appropriate authority for this action. Section 108 was cited as authority merely to point out that, in conjunction with the reference to section 112 as authority for the action, failure to comply with the VIN regulation would be enforceable as a violation of section 108(a)(1)(E) of the Act. The reference to section 152 is included to point out that the regulation is issued to facilitate carrying out the recall provisions of section 152 of the Act. The NPRM should also have included (and this final rule includes) a reference to the safety research authority of section 106 of the Act, a major use of the VIN information.

This action is being made effective June 20, 1983. This relatively expedited effective date is in the public interest since it will quickly remove the potential problem of unwarranted VIN-related recalls.

The principal impact of this action is to remove this threat of an unduly burdensome recall requirement to correct VIN errors. The new Part 565 would not have any requirements not in FMVSS 115 prior to today. The agency anticipates that the manufacturers will continue to assign VIN's in the same manner regardless of whether VIN requirements take the form of a safety standard or a regulation. Further, the agency anticipates that the corrective action required in case of erroneous VIN's would not essentially differ as a result of this proposed change, since only in extreme cases can the agency envision having to order a vehicle recall.

This action should have a small positive impact on foreign trade, since it removes the threat to foreign manufacturers of a potentially burdensome recall campaign to correct minor VIN errors. Also, the exemption of vehicles imported under bond will have a small positive impact on foreign trade.

The agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment; that this proposal does not qualify as a "major rule" within the meaning of Executive Order 12291; and that due to its minimal cost impacts, this rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, preparation of neither a regulatory analysis nor full regulatory evaluation is necessary for this action. The agency notes this rulemaking action should have a small, positive impact on small firms—particularly small manufacturers and small importers. This regulation provides relief to small manufacturers from the generally applicable 60-day VIN prenotification requirements in the case of orders for unique vehicle configurations. The agency is also exempting small importers (principally individuals importing one vehicle for their own use) from certain VIN format and content requirements. Given the relatively minor economic consequences of these changes, I certify that this action will have no significant economic impact on a substantial number of small entities, including small organizations or governmental units. These changes should have no impact on vehicle prices. For this reason and because VIN's will continue to be assigned to new vehicles as before, the agency does not anticipate any impacts on small organizations or governmental units. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and have been assigned OMB Control Number 2127–0051.

List of Subjects in 49 CFR Parts 565 and 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

Issued at May 13, 1983.

Raymond A. Peck, Jr.,
Administrator.

For the reasons stated above, the agency is amending Chapter V of Title 49 of the Code of Federal Regulations as follows:

1. A new Part 565 is added, reading as follows:

PART 565—VEHICLE IDENTIFICATION NUMBER—CONTENT REQUIREMENTS

Sec.
565.1 Purpose and scope.
565.2 Application.
565.3 Definitions.
565.4 General requirements.
565.5 Reporting requirements.

Authority: Secs. 108, 108, 112, 119, 152, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1395, 1397, 1401, 1407, and 1412); delegations of authority at 49 CFR 1.50 and 501.8.

§ 565.1 Purpose and scope.

This regulation specifies the format and content for a vehicle identification number (VIN) system to simplify vehicle identification information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

§ 565.2 Applicability.

This regulation applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii), other than by a corporation which was responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from the requirements of this Part.

§ 565.3 Definitions.

(a) Statutory Definitions: All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) Motor Vehicle Safety Standard Definitions: Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.115 are used as defined therein.

(c) "Body Type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(d) "Engine Type" means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 10,000 pounds or less.

(e) "Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(f) "Make" means a name which a manufacturer applies to a group of vehicles or engines.

(g) "Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(h) "Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually

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produced, so long as the actual period is less than two calendar years.

(i) "Plant of manufacture" means the plant where the manufacturer affixes the VIN.

(j) "Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

(k) "Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

§ 565.4 General requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters which occupy positions one through three (1–3) in the VIN. This section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, those three characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with section 565.5(c) of this Part.

(b) The second section shall consist of five characters which occupy positions four through eight (4–8) in the VIN. This section shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.5(d) of this Part. In submitting the required information to the NHTSA relating to gross vehicle weight rating, the designations in Table II shall be utilized. The use of these designations within the VIN itself is not required.

Table I.—Type of Vehicle and Information Decipherable

Passenger car: Line, series, body type, engine type,[1] and restraint system type.
Multi-purpose passenger vehicle: Line, series, body type, engine type,[1] gross vehicle weight rating.
Truck: Model or line, series, chassis, cab type, engine type,[1] brake system and gross vehicle weight rating.
Bus: Model or line, series, body type, engine type,[1] and brake system.
Trailer, including trailer kit: Type of trailer, series, body type, length, and axle configuration.[1]
Motorcycle: Type of motorcycle, line, engine type,[1] and net brake horsepower.[1]
Incomplete vehicle: Model or line, series, cab type, engine type,[1] and brake system.

TABLE II.—GROSS VEHICLE WEIGHT RATING CLASSES

Class A	Not greater than 3,000 pounds.
Class B	3,001–4,000 pounds.
Class C	4,001–5,000 pounds.
Class D	5,001–6,000 pounds.
Class E	6,001–7,000 pounds.
Class F	7,001–8,000 pounds.
Class G	8,001–9,000 pounds.
Class H	9,001–10,000 pounds.
Class 3	10,001–14,000 pounds.
Class 4	14,001–16,000 pounds.
Class 5	16,001–19,500 pounds.
Class 6	19,501–26,000 pounds.
Class 7	26,001–33,000 pounds.
Class 8	33,001 pounds and over.

(c) The third section shall consist of one character which occupies position nine (9) in type VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c)(1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III.

TABLE III.—ASSIGNED VALUES

A=1	J=1	T=3
B=2	K=2	U=4
C=3	L=3	V=5
D=4	M=4	W=6
E=5	N=5	X=7
F=6	P=7	Y=8
G=7	R=9	Z=9
H=8	S=2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV.

TABLE IV.—VIN POSITION AND WEIGHT FACTOR

1st	8	10th	9
2d	7	11th	8
3d	6	12th	7
4th	5	13th	6
5th	4	14th	5
6th	3	15th	4
7th	2	16th	3
8th	10	17th	2
9th (check digit)	0		

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numerical remainder zero through nine (0–9) or the letter "X" shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V.

TABLE V.—CALCULATIONS OF A CHECK DIGIT

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	.....	5	G	1	1	8	3	4	1
Assigned value	1	7	4	1	8	5	9	8	.....	5	7	1	1	8	3	4	1
Multiply by weight factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2

Add products 8 + 49 + 24 + 5 + 32 + 15 + 16 + 90 + 0 + 45 + 56 + 7 + 8 + 40 + 12 + 12 + 2 = 411
Divide sum of products by 11 411/11 = 37[9]/11
Remainder is check digit #4 (insert in VIN position nine (9))

(d) The fourth section shall consist of eight characters which occupy positions ten through seventeen (10–17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars, and for multi-purpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VI.

TABLE VI

Year	Code	Year	Code
1980	A	1997	V
1981	B	1998	W
1982	C	1999	X
1983	D	2000	Y
1984	E	2001	1
1985	F	2002	2
1986	G	2003	3
1987	H	2004	4
1988	J	2005	5
1989	K	2006	6
1990	L	2007	7
1991	M	2008	8
1992	N	2009	9
1993	P	2010	A
1994	R	2011	B
1995	S	2012	C
1996	T	2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.5 Reporting requirements.

(a) Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and have been assigned OMB Control Number 2127–0051.

(b) Manufacturers of motor vehicles subject to this regulation shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section which constitutes a part of their identifier.

(c) The NHTSA has contracted with the Society of Automotive Engineers (SAE) to coordinate the assignment of manufacturer identifiers. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue, Warrendale, Pennsylvania 15096, Attention: WMI Coordinator.

Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may request a specific identifier or may request only assignment of an identifier(s). SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifier need not be resubmitted to the NHTSA.

(d) Manufacturers of motor vehicles subject to the requirements of this regulation shall submit to the NHTSA the information necessary to decipher the characters contained in its VIN's. Amendments to this information shall be submitted to the agency for VIN's containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(e) The information required under paragraph (d) of this section shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN Code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, Attention: VIN Coordinator.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARD

2. Section 571.115 would be revised to read as follows:

Authority: Sec. 103, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.

§ 571.115 Standard No. 115; Vehicle identification number—basic requirements.

S1. *Purpose and Scope.*

This standard specifies general physical requirements for a vehicle identification number (VIN) and its installation to simplify vehicle information retrieval and to reduce the incidence of accidents by increasing the accuracy and efficiency of vehicle recall campaigns. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii) are exempt from the requirements of sections 4.1, 4.2, and 4.7 of this standard.

S2. *Application.*

This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles.

S3. *Definitions.*

"Check digit" means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Trailer kit" means a trailer which is fabricated and delivered in complete but unassembled form and which is designed to be assembled without special mahinery or tools.

"Vehicle identification number" means a series of arabic numbers and roman letters which is assigned to a motor vehicle for identification purposes.

S4. *Requirements.*

S4.1 Each vehicle manufactured in one stage shall have a VIN that is assigned by the manufacturer. Each vehicle manufactured in more than one stage shall have a VIN assigned by the incomplete vehicle manufacturer. Vehicle alterers, as specified in 49 CFR 567.7, shall utilize the VIN assigned by the original manufacturer of the vehicle.

S4.2 Each VIN shall consist of seventeen (17) characters.

S4.3 A check digit shall be part of each VIN. The check digit shall appear in position nine (9) of the VIN on the vehicle and on any transfer documents containing the VIN and prepared by the manufacturer to be given to the first owner for purposes other than resale.

S4.4 The VIN's of any two vehicles manufactured within a 30-year period shall not be identical.

S4.5 The VIN of each vehicle shall appear clearly and indelibly upon either a part of the vehicle other than the glazing that is not designed to be removed except for repair or upon a separate plate or label which is permanently affixed to such a part.

[1] Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower; shall, in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall, in the case of a motorcycle with an actual brake horsepower greater than 2, be greater than 2.

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S4.6 The VIN for passenger cars, multipurpose passenger vehicles, and trucks of 10,000 pounds or less GVWR shall be located inside the passenger compartment. It shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar. Each character in the VIN subject to this paragraph shall have a minimum height of 4 mm.

S4.7 Each character in each VIN shall be one of the Arabic or Roman letters set forth in Table 1.

TABLE 1

Numbers:	1234567890
Letters:	ABCDEFGHJKLMNPRSTUVWXYZ

All spaces provided for in the VIN must be occupied by a character specified in Table 1.

S4.8 The type face utilized for each VIN shall consist of capital, sanserif characters.

[FR Doc. 83-13510 Filed 5-18-83; 8:45 am]
BILLING CODE 4910-59-M

49 CFR Part 574

[Docket No. 70-12; Notice 24]

Tire Identification and Recordkeeping; Interim Final Rule and Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: In October 1982, Congress adopted an amendment to the National Traffic and Motor Vehicle Safety Act of 1966 (the Safety Act) regarding tire registration requirements of 49 CFR Part 574, *Tire identification and recordkeeping.* Those requirements are intended to provide tire manufacturers and brand name owners with the names of tire purchasers so that the purchasers can be notified in the event that their tires are determined to contain a safety defect or to fail to comply with a safety standard.

The amendment prohibits this agency from requiring independent tire dealers and distributors (i.e., those whose business is not owned or controlled by a tire manufacturer or brand name owner) to comply with the existing tire registration requirements in Part 574. All other tire dealers and distributors must continue to comply with those requirements.

The prohibition regarding independent dealers and distributors is self-executing and became effective on the date of enactment, October 15, 1982. In place of the existing requirements, the amendment directed the Secretary of Transportation to require each of those dealers and distributors to furnish a registration form to each tire purchaser after the dealer or distributor has first filled in the tire identification number(s) of the tire(s) sold on the form. Purchasers wishing to register their tires may then do so by filling in their name on the form and mailing the completed form to the tire manufacturer or brand name owner. Because the new statutory requirements regarding registration of tires sold by independent dealers and distributors are not self-executing, they do not affect those dealers and distributors until this agency has issued and put into effect a rule adopting those requirements. This rule accomplishes that result.

The Safety Act amendment also requires that the agency specify the format and content of the forms to be used in complying with the new requirements. This rule sets forth those specifications.

DATES: This rule is effective beginning June 20, 1983. Comments on this rule must be received by NHTSA on or before July 5, 1983.

ADDRESS: All comments on this notice should refer to Docket No. 70-12, Notice 24, and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. (The Docket Section is open to the public from 8:00 AM to 4:00 PM, Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (hereinafter referred to as the Authorization Act) (Pub. L. 97-311), all tire dealers and distributors were required by 49 CFR Part 574, *Tire identification and recordkeeping*, to register all sales of new tires. Under that regulation, NHTSA required dealers and distributors to write specified information (i.e., the purchaser's name and address, the dealer's name and address, and the identification numbers of the tires) on a registration form and send the completed form to the tire manufacturer, brand name owner (hereinafter referred to as "tire manufacturer") or its designee.

Tire registration provisions of the Authorization Act. Compliance with the requirement for mandatory registration was uneven. While virtually all tires on new vehicles were registered, slightly less than half of all replacement tires were registered. In its report on the Authorization Act, the House Committee on Energy and Commerce found that dealers and distributors whose business was owned or controlled [1] by a tire manufacturer registered between 80 and 90 percent of the replacement tires they sold. However, dealers and distributors whose businesses were not owned or controlled by a tire manufacturer (hereinafter collectively referred to as "independent dealers") registered only 20 percent of the replacement tires that they sold. (*Id.* at 8).

In an effort to improve the registration rate for the tires sold by independent dealers, Congress included a tire registration provision in the Authorization Act. That provision amended section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "Safety Act") (15 U.S.C. 1381 *et seq.*) to prohibit the Secretary of Transportation from requiring independent dealers to comply with the Part 574 requirements for mandatory registration. (The Secretary's authority under the Safety Act has been delegated to the NHTSA Administrator, 49 CFR 1.50.) Dealers and distributors other than independent dealers (hereinafter collectively referred to as "non-independent dealers") remain subject to these requirements.

The prohibition concerning independent dealers was self-executing (i.e., its effectiveness was not conditioned on prior action by this agency) and became effective on the date of enactment of the Authorization Act, October 15, 1982. Thus, even without any amendment by the agency to Part 574, its requirements for mandatory registration ceased on October 15 to have any effect insofar as they apply on their face to independent dealers.

In place of the mandatory registration process, Congress directed that a voluntary process be established for

[1] As explained in the House Report on the Authorization Act, " 'company owned and controlled' means a significant component of direct equity ownership of the dealer or distributor which gives that party, as a factual matter, effective control of the business. Thus, it would not encompass buy-sell agreements, mortgages, notes, franchise agreements or similar financial arrangements which a tire company may have with a dealer or distributor." H.R. Rep. No. 576, 97th Cong. 2d Sess. 8-9 (1982).

independent dealers. Section 158(b)(2)(B) provides

> The Secretary shall require each dealer and distributor whose business is not owned or controlled by a manufacturer of tires to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. The contents and format of such forms shall be established by the Secretary and shall be standardized for all tires. Sufficient copies of such forms shall be furnished to such dealers and distributors by manufacturers of tires.

Under the voluntary process, the primary responsibility for registering tires sold by independent dealers is shifted from the dealer to the purchaser. NHTSA is mandated by section 158(b)(2)(B) to require the independent dealer to (1) fill in the identification number(s) of the tire(s) sold to a purchaser on a registration form and then (2) hand the form to the purchaser. If the purchaser wishes to register the tires, he or she may do so by filling in his or her name and address, adding postage and sending the completed form to the tire manufacturer or its designee.

In addition, NHTSA is required by section 158(b)(3) to evaluate the effect of the switch to voluntary tire registration on the registration rate for tires sold by independent dealers. That evaluation must be conducted at the end of the two year period following the effective date of the Authorization Act, i.e., October 15, 1984. In the evaluation, the agency is required to assess the efforts of the independent dealers to encourage consumers to register their tires and the extent of the dealers' compliance with the voluntary registration procedures established by this notice. NHTSA is required also to determine whether to impose any additional requirements on dealers for the purpose of promoting higher registration levels.

The agency has received several telephone inquiries from independent dealers as to whether, notwithstanding the amendments to section 158(b), they could elect to continue following the requirements for mandatory registration. It does not appear that the independent dealers have this option. Section 158(b)(2)(B) specifies that the agency "shall require *each* . . . (independent dealer) to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire." However, nothing in the section appears to preclude the purchaser from voluntarily giving the form back to the dealer for transmission to the manufacturer or his designee. Comments are requested on the issues raised by these independent dealers as well as on the reasons why some independent dealers desire the opportunity to continue mandatory registration.

Congress made no provision for immediate replacement of mandatory registration by voluntary registration. Unlike the amendment prohibiting the agency from requiring independent dealers to follow the mandatory registration process, the amendment concerning voluntary registration is not self-executing. Before voluntary registration can be initiated, the agency must first issue a rule requiring participation by the independent dealers in the voluntary registration process and put that rule into effect.

New standardized registration forms. In addition to setting forth such a requirement, this rule also specifies the content, format and size of the registration forms to be used by the independent dealers. This aspect of the rule responds to the directive in section 158(b)(2)(B) for the standardization of such forms. NHTSA wishes to emphasize that this rule does not require standardization of the forms used by nonindependent dealers. Tire manufacturers need not make any change in the forms which they have been providing those dealers.

In selecting interim requirements standardizing the content, format and size of registration forms to be provided to or used by independent dealers, NHTSA has made the minimum changes to Part 574 necessary to comply with section 158(b)(2). This approach will minimize both the burdens of this rulemaking and the period during which independent dealers are not subject to any registration requirements.

The new standardized forms would be very similar to the forms which the manufacturers have been providing dealers over the last eight years. Since 1974, Part 574 has specified the type of information for which blanks and titles are to appear on registration forms. (§ 574.7(a)(1)-(3)). This information includes the name and address of the tire purchaser, the tire identification number, and the name and address of the dealer or other means by which the manufacturer could identify the dealer. This rule would require the new registration forms for independent dealers to have blanks and titles for the same information.

This rule also adopts as mandatory the format specifications which have appeared as a suggested guide in Part 574. Those specifications have been generally followed since 1974 without any complaints from either manufacturers or dealers.

In recognition of the shift of primary responsibility for registering tires from the independent dealer to the purchaser, this rule substitutes a new reminder on the form. The old reminder warned the dealer that registration of tires was required by Federal law. The new reminder informs the purchaser that completing and mailing the form will enable the tire manufacturer to contact him or her directly in the event that the tire is recalled for safety reasons, i.e., if the tire is determined to contain a safety defect or to fail to comply with an applicable safety standard.

Both a mailing address and a statement about appropriate postage must be printed on each form. The House report states that the form is to be presented to the purchaser in a manner suitable for mailing. (H.R. Rep. No. 576, 97th Cong. 2d Sess. 8 (1982)). Thus, the form itself must be mailable without the necessity of the purchaser's providing an envelope. Forms provided by the manufacturers must be pre-addressed to either the manufacturer or its designee. As to postage, the form must bear the statement that first class postage is required. This notation will ensure that the purchaser realizes that post card postage is not sufficient. If insufficient postage were placed on the form, it would not be delivered and the tire would not be registered. The need for first class postage is explained below.

This rule standardizes the size of the form so that all forms will be mailable using a single stamp of the same class of postage. The suggested guide in Part 574 specifies dimensions of 3¼ inches in width and 7⅜ inches in length. This rule does not adopt those dimensions because, under existing postal regulations, a form 3¼ inches by 7⅜ inches is too small to be mailed unless enclosed in an envelope. Since NHTSA does not wish to require manufacturers to provide self-addressed envelopes, the agency has adopted the dimensions in the postal regulations for cards mailable without envelopes under first class postage as the dimensions for the registration forms. Thus, the forms must be rectangular; not less than .007 inches thick; more than 3½ inches, but not more than 6⅛ inches wide; more than 5 inches, but not more than 11½ inches long. If any of those maxima were exceeded, a single, first class stamp would not be sufficient postage. The agency has not adopted a postcard-sized form due to uncertainty whether such a form would be large enough to permit

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the easy, legible recording of all of the necessary information.

Finally, the mandatory format requirements include a requirement that the form must show the manufacturer's name to prevent confusion of dealers and purchasers. This will enable the independent dealer to determine the brand of tire for which a particular form is to be used for registration purposes. This requirement is necessary since independent dealers often sell several different brands of tires. Since the dealer will have as many different types of registration forms as it has different brands of tires for sale, the dealer must have some way of identifying the appropriate form. The name may appear either in the mailing address or anywhere else on the form.

Continued use of old registration forms. During the limited period that this interim rule is in effect, the agency will provide the option of using existing forms instead of the new standardized ones. Election of that option is conditioned upon the tire purchaser's being provided not only with a form bearing the tire identification numbers and the dealer's name and address, but also with an envelope that is suitable for mailing the form, bears the same reminder to consumers required on the new forms, and is addressed to the tire manufacturer or its designee.

Source of registration forms. Under the requirments for mandatory registration requirements which previously applied to independent dealers, those dealers were permitted to use either the registration forms provided by the tire manufacturers or use forms obtained from other sources. The latter type of form was typically one purchased from a clearing house. The clearing house forms were not manufacturer specific (i.e., did not bear any mark or information identifying a particular tire manufacturer or brand name) and thus could be used to register any manufacturer's tires. When the forms of a clearing house were completed, they were returned to the clearing house. The clearing house would then forward them to appropriate manufacturers.

Except under the circumstances described above in the discussion of the temporary continued use of existing forms, the amendments to section 158(b) and their legislative history compel an end to the practice of using forms which are not addressed to the manufacturer or its designee. Forms may continue to be addressed to an intermediary such as a clearing house if that intermediary has been designated by a tire manufacturer to serve as an initial recipient or as an ultimate repository for registration forms. Further, the amendments require standardization of the forms to be used by independent dealers. Hence, while independent dealers are still permitted to obtain registration forms from a source other than the tire manufacturers, those forms must comply with all of the requirements applicable to forms provided by manufacturers.

Responsibility for filling out and mailing registration form. The responsibility for completing the registration forms would be divided between independent tire dealers and purchasers. The tire dealer would be required to fill in the identification number of each tire sold and his name and address or some other unique identifier like a code number. The necessity for having the dealer's name and address arises from the statutorily-required evaluation of the voluntary registration requirements. In order to conduct that evaluation, the agency will need information on the registration rates for tires sold by individual independent dealers. This information will aid NHTSA in identifying different levels of registration among dealers and evaluate the reasons underlying those differences. The simplest and most effective way of ensuring the recording of the dealer's names and addresses is to require the recording of the information by the party who can most accurately provide it. A dealer's proper name and address are obviously better known to that dealer than to his customers. Further, through the use of an inexpensive rubber stamp, the dealer can record that information on a form much more easily and quickly than a tire purchaser can.

After the dealer has filled on this information and handed the card (and envelope under the option for using existing forms) to the tire purchaser, it is the purchaser's responsibility to complete the registration process. If a purchaser wishes to register his new tire, he must fill in his name and address, place the appropriate postage on the form (or envelope) and mail it.

Other issues. Any questions concerning the classification of a particular dealer as independent or otherwise should be addressed in writing to the Chief Counsel, NHTSA, at the street address given above. The legislative history cited early in this notice provides some guidance on this point. NHTSA notes that it is possible for motor vehicle dealers to be considered tire dealers in certain situations, as specified in 49 CFR 574.9. Whether a new motor vehicle dealer is required to follow the procedures for mandatory or voluntary registration depends on whether the dealer is owned or controlled by a tire manufacturer. The agency believes that most motor vehicle dealers would be considered independent dealers for the purposes of Part 574. These motor vehicle dealers are reminded that they should provide the motor vehicle purchaser with a voluntary tire registration form at the time they deliver the new vehicle to the purchaser, and with the identification number(s) of all of the vehicle's tires and the dealer's name and address entered on the form.

Enforcement of the new provisions of Part 574 would be carried out under sections 108–110 of the Safety Act. Failure to comply with the new provisions would be a violation of section 108(a)(2)(D) which prohibits failure to comply with any order or other requirement applicable to any manufacturer, distributor or dealer pursuant to Part B of the Safety Act. Section 109(a) provides that a civil penalty of $1,000 may be assessed for each violation of section 108. Under section 110(a), the agency could seek an injunction against a violator of section 108 to prevent further violations.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for its approval, pursuant to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). A notice will be published in the **Federal Register** when OMB approves this information collection.

As noted above, this rule is being issued as an interim final rule, without prior notice and opportunity for comment. NHTSA believes that there is good cause for finding that notice and comment rulemaking is impracticable and contrary to the public interest in this instance. The absence of any tire registration requirements for independent dealers has created an emergency necessitating immediate action.

The agency is concerned that, until a rule regarding voluntary registration can be implemented, registration of tires sold by independent dealers may fall well below the 20 percent rate which existed prior to the enactment of the Authorization Act on October 15. As long as this situation lasts, substantial numbers of tire purchasers may be unable to register their tires. Although some efforts are being made by independent dealers to continue to follow the mandatory registration process, the agency does not have any indication how widespread or successful those efforts are. Purchasers whose tires are unregistered will not receive direct notification from the manufacturers of those tires in the event that the tires are found to contain a safety defect or to fail to comply with an applicable standard. Ignorant of the safety problem, the purchasers will continue to drive on tires presenting a threat to their safety and that of other motorists.

Providing opportunity for comment is also unnecessary to a substantial extent. Many of the new provisions of Part 574 were expressly mandated by Congress.

Nevertheless, this agency is providing an opportunity to comment on this notice during the 45 days following its publication in the **Federal Register**. Those comments will be carefully considered since the agency does not intend to maintain this rule as the permanent final rule on voluntary registration. A permanent final rule will be issued not later than October 14, 1983.

NHTSA seeks comments from all interested parties on what requirements should be included in the permanent final rule. Pursuant to a contract with the agency, American Institutes for Research in the Behavioral Sciences has explored ways of more effectively structuring and wording the voluntary registration forms to induce as many purchasers as possible to complete their forms and send then to the manufacturers. Copies of the results of the Institute's work have been placed in the docket. Comments are requested on that work. Comments are also requested on the feasibility of using postcard sized forms. The agency is uncertain whether those forms would provide sufficient space to permit the easy, legible recording of the requisite information. If so, then this alternative appears attractive since the lower postal rate for such cards could induce a higher rate of registration by purchasers.

The results of the contract study on registration forms and all comments submitted in response to this notice will be considered by the agency in selecting the provisions to include in the permanent final rule. If, after examining the study, the agency determines that the registration forms for independent dealers should be significantly altered, a notice of proposed rulemaking will be issued to ensure full comment on those changes.

The requirements of this rule become effective 30 days after the date on which it is published in the **Federal Register**. The 30-day period provides adequate time for tire manufacturers to print and distribute the new voluntary registration forms (or envelopes, under the option for using existing forms) to the independent dealers. Since this rule requires no change to the forms provided to or used by nonindependent dealers, manufacturers and nonindependent dealers may continue to use their current forms.

NHTSA has analyzed the impacts of this action and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The requirements concerning the registration forms for independent dealers will impose minimally higher costs on tire manufacturers. Compared to the costs and administrative burdens to independent dealers of complying with the Part 574 requirements for mandatory registration, independent dealers should achieve slight savings under this rule. Requirements for nonindependent dealers are not changed by this rule. Consumers purchasing tires from independent dealers will now have to pay 20 cents for postage if they wish to register those tires. The bearing of this cost by consumers has been mandated by Congress. For these reasons, a full regulatory evaluation has not been prepared.

The agency has also considered the impacts of this action on small entities, and determined that this rule will not have a significant economic impact on a substantial number of those small entities. The agency belives that few if any of the tire manufacturers are small entities. Although many dealers are considered to be small entities, this rule will not have a significant impact on them. The requirements for tire manufacturers are unchanged except that the size, content and cost of the registration forms they supply to independent dealers would be slightly different. No change at all is made in the requirements for nonindependent dealers. Independent dealers will realize minimal savings from this rule. Small organizations and governmental units which purchase tires from independent dealers will have to pay postage to register those tires. However, those costs will not be significant.

All interested persons are invited to comment on this interim final rule. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR 574

Consumer protection, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 574—[AMENDED]

In consideration of the foregoing, the following amendments are made to Part 574, Tire Identification and Recordkeeping, of Title 49 of the Code of Federal Regulations:

1. Section 574.1 is revised to read as follows:

§ 574.1 Scope.

This part sets forth the method by which new tire manufacturers and new tire brand name owners shall identify tires for use on motor vehicles and maintain records of tire purchasers, and the method by which retreaders and retreaded tire brand name owners shall identify tires for use on motor vehicles. This part also sets forth the methods by which independent tire dealers and distributors shall record, on registration forms, their names and addresses and

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the identification number of the tires sold to tire purchasers and provide the forms to the purchasers, so that the purchasers may report their names to the new tire manufacturers and new tire brand name owners, and by which other tire dealers and distributors shall record and report the names of tire purchasers to the new tire manufacturers and new tire brand name owners.

2. Section 574.3 is amended by adding a new paragraph (c)(1) immediately after *"Definitions used in this part."* and redesignating existing paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5):

§ 574.3 Definitions.

* * * * *

(c) * * *

(1) "Independent" means, with respect to a tire distributor or dealer, one whose business is not owned or controlled by a tire manufacturer or brand name owner.

* * * * *

3. Section 574.7 is revised to read as follows:

§ 574.7 Information requirements—new tire manufacturers, new tire brand name owners.

(a)(1) Each new tire manufacturer and each new tire brand name owner (hereinafter referred to in this section and § 574.8 as "tire manufacturer") or its designee, shall provide tire registration forms to every distributor and dealer of its tires which offers new tires for sale or lease to tire purchasers.

(2) Each tire registration form provided to independent distributors and dealers pursuant to paragraph (a)(1) of this section shall comply with either paragraph (a)(2) (A) or (B) of this section.

(A) Each form shall contain space for recording the information specified in paragraphs (a)(5)(A) through (a)(5)(C) of this section and shall conform in content and format to Figures 3a and 3b. Each form shall be:

(i) Rectangular;

(ii) Not less than .007 inches thick;

(iii) Greater than 3⅛ inches, but not greater than 6⅛ inches wide; and

(iv) Greater than 5 inches, but not greater than 11⅛ inches long.

(B) Each form shall comply with the same requirements specified in paragraph (a)(4) of this section for forms provided to distributors and dealers other than independent distributors and dealers.

(3) Each tire manufacturer or designee which does not give an independent distributor or dealer forms complying with paragraph (a)(2)(A) of this section shall give that distributor or dealer envelopes for mailing forms complying with paragraph (a)(2)(B) of this section. Each envelope shall bear the name and address of the tire manufacturer or its designee and the reminder set forth in Figure 3a.

(4) Each tire registration form provided to distributors and dealers, other than independent distributors and dealers, pursuant to paragraph (a)(1) of this section shall be similar in format and size to Figure 4 and shall contain space for recording the information specified in paragraphs (a)(5)(A) through (a)(5)(C) of this section.

(5)(A) Name and address of the tire purchaser.

(B) Tire identification number.

(C) Name and address of the tire seller or other means by which the tire manufacturer can identify the tire seller.

(b) Each tire manufacturer shall record and maintain, or have recorded and maintained for it by a designee, the information from registration forms which are submitted to it or its designee. No tire manufacturer shall use the information on the registration forms for any commercial purpose detrimental to tire distributors and dealers. Any tire manufacturer to which registration forms are mistakenly sent shall forward those registration forms to the proper tire manufacturer within 90 days of the receipt of the forms.

(c) Each tire manufacturer shall maintain, or have maintained for it by a designee, a record of each tire distributor and dealer that purchases tires directly from the manufacturer and sells them to tire purchasers, the number of tires purchased by each such distributor or dealer, the number of tires for which reports have been received from each such distributor or dealer other than an independent distributor or dealer, the number of tires for which reports have been received from each such independent distributor or dealer, the total number of tires for which registration forms have been submitted to the manufacturer or its designee, and the total number of tires sold by the manufacturer.

(d) The information that is specified in paragraph (a)(5) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a period of not less than three years from the date on which the information is recorded by the manufacturer or its designee.

4. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) *Independent distributors and dealers.* (1) Each independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to in this section as "tire purchasers") shall provide each tire purchaser at the time of sale or lease of the tire(s) with a tire registration form.

(2) The distributor or dealer may use either the registration forms provided by the tire manufacturers pursuant to § 574.7(a) or registration forms obtained from another source. Forms obtained from other sources shall comply with the requirements specified in § 574.7(a) for forms provided by tire manufacturers to independent distributors and dealers.

(3) Before giving the registration form to the tire purchaser, the distributor or dealer shall record in the appropriate spaces provided on that form:

(A) The entire tire identification number of the tire(s) sold or leased to the tire purchaser; and

(B) The distributor's or dealer's name and address or other means of identification known to the tire manufacturer.

(4) Multiple tire purchases or leases by the same tire purchaser may be recorded on a single registration form.

(b) *Other distributors and dealers.* (1) Each distributor and each dealer, other than an independent distributor or dealer, selling new tires to tire purchasers shall submit the information specified in § 574.7(a)(5) to the manufacturer of the tires sold, or to its designee.

(2) Each tire distributor and each dealer, other than an independent distributor or dealer, shall submit registration forms containing the information specified in § 574.7(a)(5) to the tire manufacturer, or person maintaining the information, not less often than every 30 days. However, a distributor or dealer which sells less than 40 tires, of all makes, types and sizes during a 30-day period may wait until he or she sells a total of 40 new tires, but in no event longer than six months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors or dealers shall supply to the distributor or dealer a means to record the information specified in § 574.7(a)(5), unless such a means has been provided to that distributor or dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to sections 151 and 152 of the Act (15 U.S.C. 1411 and 1412).

Authority: Secs. 108, 119, and 201, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1421); sec. 4, Pub. L. 97-311, 96 Stat. 1619 (15 U.S.C. 1418); delegation of authority at 49 CFR 1.50.

Issued on April 21, 1983.

Raymond A. Peck, Jr.,

Administrator.

BILLING CODE 4910-59-M

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TIRE PURCHASER: Completing and mailing this card will enable the manufacturer to contact you directly if your tire is recalled for safety reasons.

A

CUSTOMER'S NAME

CUSTOMER'S ADDRESS

CITY STATE ZIP CODE

NAME OF DEALER WHICH SOLD TIRE

DEALER'S ADDRESS

CITY STATE ZIP CODE

QTY	TIRE IDENTIFICATION NUMBER										
	1	2	3	4	5	6	7	8	9	10	11

A Preprinted tire manufacturer's name — unless the manufacturer's name appears on reverse side of the form.

Fig. 3a — Registration form for independent distributors and dealers — tire identification number side

First class postage required

Name and address of tire manufacturer or its designee (Preprinted)

Fig. 3b — Registration form for independent distributors and dealers — address side

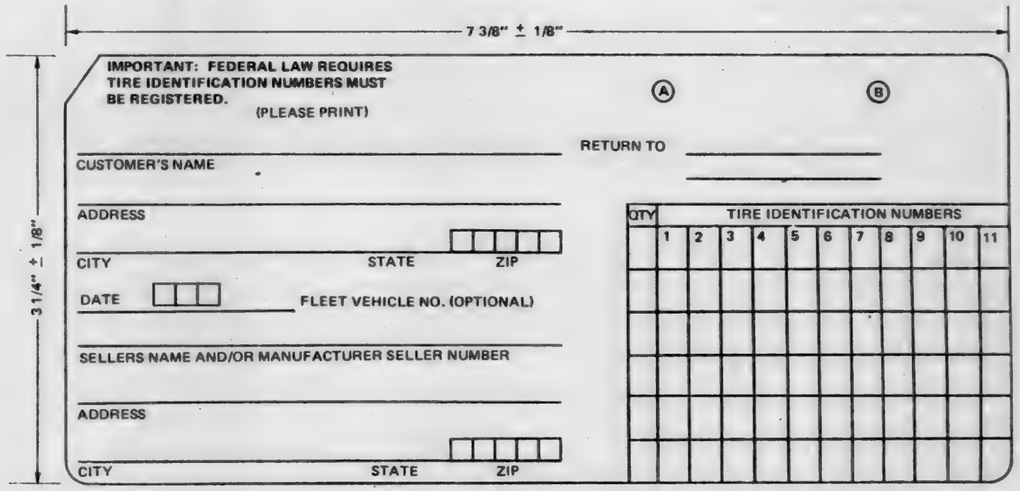

FIG. 4 - UNIVERSAL FORMAT

[FR Doc. 83-13316 Filed 5-17-83; 3:03 pm]
BILLING CODE 4910-59-C

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Proposed Rules

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

[Docket No. AO-368-A12]

Milk In The Oregon-Washington Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends increasing the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. It also recommends changing the method used to calculate the daily base and the base milk production of a producer under the base-excess plan of the order. The proposed amendment, which are based on industry proposals considered at a public hearing held February 15, 1983, are necessary to reflect current marketing conditions and to assure orderly marketing in the Oregon-Washington marketing area.

DATE: Comments are due on or before June 3, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that the amendments adopted herein would not have a significant economic impact on a substantial number of small entities. The amendments would promote the orderly marketing of milk by producers and regulated handlers.

Prior document in this proceedings:

Notice of Hearing: Issued January 25, 1983; published January 28, 1983 (48 FR 3995).

Preliminary statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Oregon-Washington marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the **Federal Register.** The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Portland, Oregon, on February 15, 1983, pursuant to the notice thereof issued January 25, 1983 (48 FR 3995).

The material issues on the record of the hearing relate to:

1. Diversion provisions.
2. Base-excess plan.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion provisions.* The diversion provisions should be revised to permit cooperative associations and pool plant handlers to divert to nonpool plant up to 60 percent of the total quantity of milk they receive from products each month.

Presently, the order permits cooperative associations and pool plant handlers to divert up to 50 percent of such milk to nonpool plants. The order also permtis two or more cooperative associations to have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if an agreement is filed in writing with the market administrator. This decision does not change the provision allowing cooperatives to combine their receipts for the purpose of determining allowable diversions.

The 10 percentage point increase in diversion limits was proposed by Northwest Dairymen's Association (NDA). The association's witness testified that the higher diversion limit is necessary due to a substantial increase in milk production for the market in recent years. Further, the witness said, the increased milk production has necessitated the suspension of diversion limits of the order on occasion over the past few years.

Another reason cited by proponent for increasing the diversion limits were changes it has made in the disposal of excess milk since NDA merged with Mayflower Farms in September 1981. To obtain greater operating efficiency, producer milk which previously was received and manufactured into Class III products at proponent's Portland, Oregon, pool plant now is diverted to its nonpool manufacturing plants at Chehalis, Issaquah and Lynden, Washington. Proponent's witness said that all of the milk which had been used to manfacture cheese in the Portland plant now is diverted to its nonpool plant at Chehalis, where it is manufactured into cheese. The witness said that skim milk drying has been discontinued at the Portland plant except for periods when other NDA manufacturing plants are operating at capacity. He said these changes have resulted in a 15 million pound per month reduction in milk receipts at the Portland pool plant and a corresponding increase in the quantity of milk diverted to nonpool plants. He said, that while these changes have not increased the total quantity of reserve milk used for manufacturing, they have increased the quantity subject to the diversion limitations and decreased the quantity received at pool plants.

Another who witness testified on behalf of proponent said that he was the President of Mayflower Farms at the time it merged with NDA and that prior to the merger the Portland pool plant was owned by Mayflower. He said that the reduction in manufacturing operations at the Portland pool plant was necessary to achieve operating efficiencies. The witness said that the cheese operations at the Portland plant is very costly due to the age of the equipment, the problem of when disposal and the high sewage charges imposed by the City of Portland. He said that the dryer at Portland is very inefficient and loses a significant percentage of the milk solids it processes.

The witness said that a reason that Mayflower merged with NDA was to replace the Portland plant with a larger, more efficient plant by pooling the resources of the respective cooperatives. He said that efficiencies at the new operation can be fully achieved only if the diversion limits are raised 10 percentage points. Otherwise, he claimed, at certain times of the year the cooperative will have to operate the inefficient dryer at Portland to keep producers pooled while running the more efficient Chehalis plant at less than optimum capacity.

Four other cooperative associations whose members supply milk to the Oregon-Washington market supported the proposal. Two of these cooperative associations have an agreement with proponent to combine their receipts for the purpose of computing the diversion percentage. The witnesses representing these four associations testified that the diversion limits should be increased to accommodate the orderly disposition of the increasing supplies of reserve milk that are being associated with the market. One of them said that these supplies will be associated with the pool in one way or another and if the diversion limits are set too low uneconomic movements of milk could result.

Increasing the diversion limits from 50 to 60 percent should allow cooperative associations and handlers to dispose of the increasing quantities of reserve milk that are associated with the market in an orderly and efficient manner without the need for uneconomic deliveries of milk to pool plants merely for the purpose of pooling the milk. The hearing record indicates that there has been no increase in the number of producers associated with the market during those months in recent years when the diversion limits were suspended. Further, it indicates that with a 60 percent diversion limit the reserve supplies of the market could be handled in an efficent manner without encouraging the association of additional supplies through the diversion process.

During the three-year period of 1980 through 1982 receipts from producers increased 7 percent while producer milk utilized in Class I outlets decreased 2 percent. The record evidence indicates also that milk supplies during 1983 may increase 8 percent over 1982.

The increase in producer receipts and decrease in Class I sales caused NDA to obtain a suspension of the 50 percent diversion limit in 1980 and 1982 for the months of April through August and October through December. In December 1982, the auspension was extended to include the additional months of January through April 1983. The hearing record indicates that these suspensions allowed the cooperative associations that combine their receipts for the purpose of determining allowable diversions to save on extra hauling and handling of milk merely for the purpose of maintaining the producer status of their members who supply the market. Proponent's witness said that the diversion limit was not suspended for the month of September 1982. As a consequence, it was necessary for NDA to receive 5 million pounds of milk at pool plants and then transfer it to nonpool manufacturing plants solely for the purpose of keeping their combined diversions within the 50 percent limit. If this milk had been diverted to nonpool plants, he said, the combined diversions of the 3 cooperatives would have represented about 55 percent of their total producer milk receipts. He estimated it cost at least $30,000 to deliver this milk to pool plants and then transfer it to the nonpool plants. He and the other witnesses who supported the proposal indicated that a 60 percent diversion limit would be sufficient to accommodate both present supply conditions and some anticipated increased milk production.

From the evidence it is apparent that the 3 cooperatives that combine their receipts and diversions cannot meet the order's present diversion limits during most months. Accordingly, relaxing the limits by 10 percentage points, as herein provided, is necessary and appropriate to allow the cooperatives to keep their available milk supplies pooled in an orderly manner without causing a needless expenditure of money for the extra transportation of that milk solely to keep it pooled.

A producer who is a director of a Oregon dairy organization testified in opposition to the proposal. He said his concern was that raising the diversion limits would merely allow more out-of-state milk to be associated with the market which, in turn, would reduce the order's blend prices.

The opposing argument is not overriding in this matter. Relaxing diversion limits as adopted herein will provide greater flexibility in the handling of the increase in the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of pooling it under the order.

Also, it is not likely that blend prices under the order would be materially enhanced if the order's present diversion limits were continued. As indicated, the record shows cooperatives could take the necessary steps to assure the pooling of their available milk supplies even though hauling inefficiences would be involved. Moreover, the buildup in reserve milk supplies on the market is a result of increased milk production of producers who are already associated with the market.

2. *Base-excess plan.* The base-excess plan provisions of the order should be revised to have the computation of daily base for each producer determined by dividing the producer's total pounds of milk delivered during the four-month base earning period by the number of days in such period. If a producer delivers only part of such time but on not less than 90 days during such period, then his total pounds of producer milk should be divided by the number of days in such period on which he delivered producer milk. Also, in determining the amount of base milk delivered by a producer during each month, the provisions should be revised to have his daily base multiplied by the number of days in the month, or if the producer delivers only part of a month then his daily base should be multiplied by the number of days in the month on which he delivers producer milk.

The order provides that a daily base shall be computed for each producer who delivers milk on not less than 90 days during the 4 months in each January–December period in which the average daily receipts of total producer milk are lowest. Presently, this daily base is computed for each producer by dividing such producer's total pounds of milk delivered during such base-earning period by the number of days of production represented by his deliveries. The daily base is used in the following year, beginning February 1 and continuing through the next 12 months, to determine the quantity of base milk

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delivered by a producer during each such month. Presently, the quantity of base-milk delivered is computed by multiplying the producer's daily base by the number of days of delivery in such month.

To illustrate how the change to calendar days could affect the quantity of daily base computed for a producer, an example using the month of January is set forth below. It should be noted that although the example uses just the month of January in actually computing a producer's daily base, his deliveries of milk in the 4 months of lowest total production during the year are used. Most producers on the market have their milk delivered on an every-other-day basis. A producer on every-other-day delivery who had his milk delivered on January 1 and on each of the other odd numbered days in that month would have 32 days' production delivered during the month. Under the present order provisions, in computing the producer's daily base, his total deliveries in January would be divided by 32, the days of production those deliveries represent. Under the provisions adopted herein, his total deliveries would be divided by 31, the number of days in the month. Conversely, a producer on every-other-day delivery who had his milk delivered on the even numbered days in January would have 30 days' production delivered during that month. Presently, this producer's January deliveries would be divided by 30, the days of production they represent, while under the provisions adopted herein his January deliveries still would be divided by 31.

The example cited in the previous paragraph also illustates how the change to calendar days could affect the quantity of base milk delivered by a producer each month. A producer on every-other-day delivery who had his milk delivered on the odd numbered days during January would, under the present order provisions, have his daily base multiplied by 32 (his production days) to determine his quantity of base milk for January. Under the provisions adopted herein, his daily base would be multiplied by 31 (calendar days in the month). Conversely, a producer who had his milk delivered on the even numbered days in January would, under the present provisions, have his daily base multiplied by 30 while under the provisions adopted herein his daily base would be multiplied by 31. The impact these changes would have had on the amount of daily base computed for producers in 1980 and 1981 and on the amount of base milk delivered by producers in 1981 and 1982 is described later in this decision.

These revisions in the order's base-excess plan were proposed by NDA. Its witness said the changes are needed to simplify the method of calculating a producer's daily base and of determining the quantity of base milk delivered by a producer each month. Proponent's witness testified that under the present order provisions the computations cannot be automated because the number of days' production associated with deliveries during a specific month will vary from producer to producer.

The positions taken at the hearing by other witnesses concerning the proposed changes in the base-excess plan provisions varied considerably. The witness representing a cooperative association which has its headquarters in Idaho supported the proposed changes even though the cooperative basically is opposed to the use of base-excess plans in milk orders. The representative of one of the cooperative associations that combined producer receipts with proponent for the purpose of computing allowable diversions stated that his cooperative association supported using calendar days in computing the quantity of base milk delivered by a producer each month but that the cooperative took no position with respect to using calendar days in computing a producer's daily base. Witnesses for the two other cooperative associations that presented testimony said that they took no position with respect to either of the proposed changes in the base-excess plan provisions.

The proposed changes to use calendar days in computing a producer's daily base and the quantity of base milk delivered by a producer each month should be adopted. These changes would significantly reduce the costs associated with making these computations without appreciably affecting either the quantity of daily base or the quantity of base milk delivered.

Testimony in the record indicates that substantial savings could be realized by adoption of the calendar day method for computing daily base and base milk production. Presently, cooperative associations, handlers and the market administrator must compute the daily base and base milk production for each producer manually because the days of production associated with the delivery of milk during a specified period do not necessarily coincide with the number of days in that period. Consequently, the delivery pattern of each producer must be examined individually to determine the production days associated with his deliveries during the period. Proponent's witness said that it is very time-consuming for the cooperative to compute the quantity of base milk manually each month for each of its 325 Oregon-Washington producers. He said that adoption of the proposals would amount to a savings of two days' labor each month to the cooperative. The representative of another cooperative association testified that adoption of the proposals would save them a day's labor each month. The market administrator's representative testified that about 10 percent of the cost of administering the Oregon-Washington order involves the manual computation of each producer's daily base and verifying each producer's monthly base milk production. He indicated that administrative expenses would be reduced by this 10 percent if these computations were automated.

A witness who formerly was the President of Mayflower Farms and a producer who is a director of an Oregon dairy organization testified in opposition to the proposal that would use calendar days in computing a producer's daily base. Opponents said that producers want their daily base computed on their actual days of production rather than on calendar days because individual producers could gain or lose a day's production when the computation is based on calendar days. The former President of Mayflower Farms said that for a base-making period of October through January (123 days) and assuming an average producer delivers 5,000 pounds per day, gaining or losing one day's production would raise or lower a producer's daily base by 41 pounds. He said that the difference between the base and excess prices averages about $1.10 per hundredweight. Thus, he said, the 41-pound gain or loss would amount to about 45 cents per day or $164 per year. The difference between the gain and loss would amount to $328 per year. The opponent said that producers do not want to gamble on gaining or losing this much money each year depending on which procurement route they are on.

In a post-hearing brief, NDA deferred to the producer witnesses who testified against the proposal and withdrew its support for the proposal it had submitted for hearing. The withdrawal, however, does not change the strong evidence in the record for adopting the proposal.

The arguments of opponents are not persuasive concerning the revisions adopted herein. A representative of the market administrator's office presented the results of a study that compared the use of calendar days to counting the days of production when calculating the producer's daily base and base milk production. He said that a random sample of 47 producers was selected from all the producers delivering milk to the Oregon-Washington market who were issued a daily base in February 1981 and 1982. The results of the study showed that for 1981 the differences in the daily base calculation for the 47 producers ranged from an increase of 56 pounds to a decrease of 86 pounds and averaged 4.26 pounds less per producer using the calendar day method. The 4.26-pound decrease in the average daily base represented 0.1 percent of the 4,379-pound average daily base issued for the entire market.

For 1982, the differences in the daily base calculation for the 47 producers ranged from an increase of 181 pounds to a decrease of 124 pounds and averaged 3.74-pounds more per producer using the calendar day method. The 3.74 pound increase in the average daily base represented 0.08 percent of the 4,667-pound average daily base issued for the entire market.

The study also showed that for 22 producers who would have had an increase in their daily base for 1982 using the calendar day method 18 of them would have had a decrease for 1981. Likewise, for the 15 producers whose daily base would have decreased for 1982, eleven would have had an increase for 1981.

The results of an additional study showing the relationship between 5 producers' 1982 daily base and their total base deliveries for the eleven months of February through December 1982 calculated by the calendar days and production days method also was presented by the market administrator's witness. He said that this study was done to show the impact on individual producers of using calendar days under various circumstances. Three of these five producers delivered throughout the entire base making and base paying periods but on different days. One producer's daily base remained the same under both methods and even though his deliveries of base milk varied from month to month his total base milk deliveries for the entire eleven months also were the same under both methods. Another producer's daily base would have increased 23 pounds and his total base milk deliveries would have increased 7,682 pounds (0.8 percent of his 940,544 pounds base milk production) for the eleven months if the calendar month method had been used. During those eleven months in 1982 the base price exceeded the excess price by an average of $1.06 per hundredweight. Thus, this producer for the entire 11-month period would have gained a total of $81. The third producer's daily base would have decreased 21 pounds, his total base milk deliveries would have decreased 7,014 pounds (0.8 percent of his 846,690 pounds base milk production) and he would have lost a total of $74 during the eleven months if the calendar day method had been used.

One of the remaining two producers in the study had his milk degraded one day during the base-earning period and on three separate occasions during the eleven-month base paying period. During the base-earning period this producer had 2 more delivery days using the calendar day method as compared to the days of production method. This would have caused his daily base to decrease by 46 pounds and his total base milk deliveries would have decreased 15,134 pounds (1.6 percent of his 917,581 pounds base milk production). This producer would have lost $160 for the eleven month period.

The fifth producer in the study was associated with more than one Federal order during both the base making and the eleven month base paying period. In the computation, the producer's days of production that were regulated under the other order were subtracted from the total days in the month. During the base-earning period his deliveries to the other order and his scheduled deliveries to the Oregon-Washington market resulted in his having one less delivery day using the calendar day method. This would have caused his daily base to increase by 24 pounds and his total base milk deliveries to increase 15,267 pounds (1.9 percent of his 800,223 pounds base milk production). This producer would have gained $162 for the eleven month period.

Each of the four producers in this study who would have gained or lost total base milk production because of the change to calendar days delivered more than 800,000 pounds of base milk during the eleven months. The average base price for those eleven months was $13.54. The 800,000 pounds of base milk multiplied by the $13.54 average price would have resulted in the total value of base milk for each producer exceeding $108,000. Thus, a gain or loss of up to $162 would have represented less than two-tenths of 1 percent of their total value of base milk. Therefore, the impact this change would have on individual producers would be very minimal and would not outweigh the savings described previously that could be realized by computing daily base and base milk production using automated machines.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations herein after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this

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decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Oregon-Washington marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

PART 1124—[AMENDED]

1. In § 1124.11, paragraphs (a) and (b) are revised to read as follows:

§ 1124.11 Producer.

* * * * *

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at a pool plant, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning, during, or after the September-November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted mik to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at his pool plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September–November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September–November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month;

* * * * *

2. In § 1124.19 paragraph (b) is revised to read as follows:

§ 1124.19 Base, base milk, and excess milk.

* * * * *

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of the amount computed by multiplying his daily base times the number of days in the month less the number of days for which no producer milk is delivered; or

(2) His monthly base computed pursuant to § 1124.65(b).

* * * * *

3. In § 1124.65 paragraph (a) is revised to read as follows:

§ 1124.65 Computation of producer bases.

* * * * *

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant during the four months in each January–December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days in such period: *Provided,* that a producer who delivers producers milk for only part of such period, but not less than 90 days, shall have a daily base computed by dividing such producer's total deliveries of producer milk by the number of days in the four-month period less the number of days for which no producer milk is delivered. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year:

(1) Any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) A dairy farmer who qualified as a producer-handler pursuant to § 1124.12 for not less than 90 days during the period specified in paragraph (a) of this section shall upon becoming a producer have a base computed as if he had been a producer during such period.

* * * * *

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 16, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-13520 Filed 5-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Related Group Election With Respect to Qualified Investments in Foreign Base Company Shipping Operations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this **Federal Register** the Internal Revenue Service is issuing a Treasury decision to conform to changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 relating to foreign base company shipping income. These proposed regulations deal with the election made by a related group to determine foreign base company shipping income and qualified investments in foreign base company shipping operations on a related group basis.

DATE: Written comments and requests for a public hearing must be delivered or mailed before July 18, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–58–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–58–83), 202–566–3289.

SUPPLEMENTARY INFORMATION: A Treasury decision dealing with amendments under sections 951, 954, and 955 of the Internal Revenue Code of 1954 appears in the Rules and Regulations portion of this **Federal Register.** The Treasury decision deals with changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 relating to foreign base company shipping income and qualified investments in foreign base company shipping operations. The changes which would be made by these proposed regulations under section 955 relate to those provisions of the above Treasury decision which permit taxpayers to elect to determine foreign base company shipping income and qualified investments in foreign base company shipping operations on a related group basis. The election may be made under that Treasury decision on a year-by-year basis. This proposed amendment would change this rule so that once the election is made, it cannot be changed, and shall apply for the taxable year for which it is made and for all subsequent years unless the election is revoked. A revocation will require the approval of the Commissioner. An application to revoke the election with respect to any member of the related group of controlled foreign corporations will be treated as an application to revoke the election with respect to all members and requires consent of the Commissioner. The addition of additional members to election coverage will be treated as a new election and does not require consent. If an election has been revoked, a new election may be made without consent, notwithstanding that a greater or lesser number of members of the group were covered by the previous election. The change would be effective for taxable years of controlled foreign corporations beginning after December 31, 1983, with respect to elections made for taxable years beginning after that date, and for taxable years of U.S. shareholders within which, or with which, the taxable years of such controlled foreign corporations end.

Comments and Requests for a Public Hearing

Before adopting the proposed regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory flexibility Act (5 U.S.C. Chapter 6), and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these proposed regulations is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 Through 1.997–1

Income taxes, Aliens, Exports, Domestic International Sales Corporation (DISC), Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.955a–3 [Amended]

Paragraph 1. § 1.955A–3 is amended by revising paragraphs (a), (b) (1)(iii), (c)(5) and (d) to read as follows:

(a) *In general.* If a United States shareholder elects the benefits of section 955(b)(2) with respect to a related group (as defined in paragraph (b)(1) of this section) of controlled foreign corporations, then an investment in foreign base company shipping operation made by one member of such group will be treated as having been made by another member to the extent provided in paragraph (c)(4) of this section, and each member will be subject to the other provisions of paragraph (c) of this section. An election once made shall apply for the taxable year for which it is made and for all subsequent years unless the election is revoked or a new election is made to add one or more controlled foreign corporations to election coverage. For the manner of making an election under section 955(b)(2), and for rules relating to the revocation of such an election, see paragraph (d) of this section. For rules relating to the coordination of sections 955(b)(2) and 955(b)(3), see paragraph (e) of this section.

(b) *Related group.*—(1) *Related group defined.* * * *

(iii) Such United States shareholder elects to treat such corporation as a related group.

* * * * *

(c) *Effect of election.* * * *

(5) *Collateral effect.* (i) An election under this section by a United States shareholder to treat two or more controlled foreign corporations as a related group for a group taxable year shall have no effect on—

(A) Any other United States shareholder (including a minority shareholder or a member of such related group),

(B) Any other controlled foreign corporation, and

(c) The foreign personal holding company, foreign base company sales income, and foreign base company services income, and the deductions allocable under § 1.954–1(c) thereto, of any member of such related group.

(ii) See § 1.952–1(c)(2)(ii) for the effect of an election under this section on the computation of earnings and profits and deficits in earnings and profits under section 952 (c) and (d).

(iii) The application of this subparagraph may be illustrated by the following example:

Example. United States shareholder A owns 60 percent of the only class of stock of controlled foreign corporations X and Y. United States shareholder B owns the other 20 percent of the stock of X and Y. X and Y both use the calendar year as the taxable year. A elects to treat X and Y as a related group for 1977. For purposes of determining

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the amounts includible in B's gross income under section 951(a) in respect of X and Y, the election made by A shall be disregarded and all of B's computations shall be made without regard to this section, as illustrated in § 1.952–3 (d).

(d) *Procedure.*—(1) *Time and manner of making election.* A United States shareholder shall make an election under this section to treat two or more controlled foreign corporations as a related group for a group taxable year and subsequent years by filing a statement to such effect with the return for the taxable year within which or with which such group taxable year ends. The statement shall include the following information:

(i) The name, address, taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name, address, and taxable year of each controlled foreign corporation which is a member of the related group and is to be subject to the election; and

(iii) A schedule showing the calculations by which the amounts described in this section have been determined for the taxable year for which the election is first effective. With respect to each subsequent taxable year to which the election applies, a new schedule showing calculations of such amounts for that taxable year must be filed with the return for that taxable year. A consent to an election required by paragraph (b)(1)(v) of this section shall include the same information required for the election statement.

(2) *Revocation.* (i) Except as provided in subdivision (ii) of this subparagraph, an election under this section by a United States shareholder shall be binding for the group taxable year for which it is made and for subsequent years.

(ii) Upon application by the United States shareholder (and any other United States shareholder controlled by such shareholder which consented under paragraph (b)(1)(v) of this section to the election), an election made under this section may, subject to the approval of the Commissioner, be revoked. An application to revoke the election, as of a specified group taxable year, with respect to one or more (but not all) controlled foreign corporations, subject to an election shall be deemed to be an application to revoke the election. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:C:C, Washington, D.C. 20224, containing a statement of the facts which justify such consent.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83–12816 Filed 5–11–83; 2:04 pm]
BILLING CODE 4830–01–M

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26 CFR Part 1

Substantiation of Charitable Contributions

Correction

In FR Doc. 83–9011 beginning on page 17616 in the issue of Monday, April 25, 1983, make the following correction:

In § 1.170A–1(a), ten lines from the top of the first column of page 17619, "section 179(g)" should have read "section 170(g)".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on Modified Portions of West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of certain program amendments submitted by the State of West Virginia as modifications to its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The West Virginia submission contains modifications to satisfy sixteen conditions regarding the definitions of adequate treatment and disturbed area, mandatory civil penalties, abatement of cessation orders, measures, to be taken to abate a violation when a cessation order has been issued, prohibition of mining in areas declared unsuitable for mining by Congress, appellant costs and conflict of interest, small operator assistance funding, coal refuse areas, time requirement for backfilling and grading, transfer of wells, auger mining of preexisting highwalls, windrowing of timber on the downslope, incidental mining permits and operator liability during citizen inspections. The State also submitted a request to extend the deadline to July 1, 1983, for meeting the remaining eleven conditions.

This notice sets forth the times and locations that the West Virginia program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before 4:00 p.m. May 19, 1983, will not necessarily be considered. A public hearing on the proposal will be held from 7:00 p.m. to 9:00 p.m. on June 13, 1983, at the OSM Charleston Field Office listed below under **ADDRESSES.** Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston Field Office by the close of business on June 8, 1983. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347–7158.

See **SUPPLEMENTARY INFORMATION** for addresses where copies of the West Virginia program, the amendments and the administrative record on the West Virginia program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendments by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Helsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION: Copies of the proposed modifications to the program, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C. 20240, Telephone (202) 343–7896

West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone (304) 348–0160

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, Post Office Box 886, Morgantown, WV 26505, Telephone (304) 291–5821

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 119 Appalachian Drive, Beckley, WV 25801, Telephone (304) 255–5265

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249–69271). West Virginia resubmitted its proposed program on December 19, 1980, and after a subsequent review the Secretary approved the program conditioned on the correction of thirty-five minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981, **Federal Register** (46 FR 5915–5956).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956).

At the request of West Virginia, on October 31, 1981 (46 FR 54070–54071), the Secretary extended the deadline for meeting certain conditions of its approved program to November 1, 1982. Also, on May 27, 1982, the Secretary extended West Virginia's deadlines for meeting the conditions requiring legislative approval to May 1, 1983, and the remaining conditions requiring regulatory change to November 1, 1982 (47 FR 23156–23157).

On September 14, 1982, and October 29, 1982, West Virginia submitted modifications to satisfy certain conditions of its program. On March 1, 1983, the Secretary announced in the **Federal Register** (48 FR 8447–8451) that the modifications submitted by West Virginia satisfied eight of the conditions of approval and the deadline for meeting all of the remaining conditions requiring regulatory reform was extended to May 1, 1983.

Submission of Program Amendments

By letter dated April 27, 1983, OSM received from West Virginia, pursuant to 30 CFR 732.17, certain revisions to its conditionally approved program. The modifications include: statutory amendments to the West Virginia Surface Coal Mining and Reclamation Act to satisfy conditions at 30 CFR 948.11(a) 4, 5, 27, 28, 29, 31, 32 and 33 regarding the definitions of adequate treatment and disturbed area, mandatory civil penalties, abatement of cessation orders, measures to be taken to abate a violation when a cessation order has been issued, prohibition of mining in areas declared unsuitable for mining by Congress, appellant costs and conflict of interest; resolution of condition 34 regarding small operator assistance funding due to federal regulatory revisions; resolution of conditions 8, 11 and 16 pertaining to coal refuse areas, time requirement for backfilling and grading and transfer of wells due to proposed federal regulatory revisions; resolution of conditions 2, 3, 9, 18, 19, 21, 23 and 30 concerning excess spoil, prohibition of gravity discharge of water from a mine, variance for alternative land use, valley fills, previous record of mining by permit applicants, public notification of permit decisions, map and narrative of coal prospecting area and show cause orders due to State regulatory revisions, which are still under review by OSM (48 FR 9308–9309); and request for reconsideration by OSM of conditions 1, 13, 20, and 24 regarding auger mining of preexisting highwalls, windrowing of timber on the downslope, incidental mining permits and operator liability during citizen inspections. Also, West Virginia requested an additional sixty days to satisfy conditions 7, 14, and 26 concerning maximization of mineral recovery during auger mining, peak particle velocity and a civil penalty system and conditions 2, 3, 9, 18, 19, 21, 23, and 30, as previously discussed. Additional time is needed by the State to draft regulations due to recent statutory amendments and to finalize revisions to its existing proposed regulations prior to promulgating them under emergency provisions.

Therefore, the Secretary proposes to allow West Virginia until July 1, 1983, to meet conditions 2, 3, 7, 9, 14, 18, 19, 21, 23, 26, and 30. Also, the Secretary is seeking public comment on all the proposed modifications to the West Virginia program. If the modifications discussed herein are approved, they will become part of the West Virginia program.

Additional Information

1. **Compliance with the National Environmental Policy Act:** The Secretary has determined that, pursuant to the Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act: On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 948 of 30 CFR Chapter VII is proposed for amendment as set forth herein.

Dated: May 16, 1983.

J. Steven Griles,
Acting Director, Office of Surface Mining.

PART 948—[AMENDED]

Part 948 of Title 30 is proposed to be amended by amending § 948.11 as follows:

§ 948.11 [Amended]

30 CFR 948.11(a), (2), (3), (7), (9), (14), (18), (19), (21), (23), (26), and (30) are proposed to be amended by substituting "July 1, 1983," for May 1, 1983, each time it appears.

[FR Doc. 83–13522 Filed 5–18–83; 8:45 am]
BILLING CODE 4310–05–M

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 83-10]

Regatta, Columbia Cup Unlimited Hydroplane Race; Proposed Establishment of Controlled Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal that would establish special local regulations for the Columbia Cup Unlimited Hydroplane Races on the Columbia River at Kennewick, Washington. The regulation establishes an area of controlled navigation from July 26, 1983, until July 31, 1983. This regulation is considered necessary due to the unlimited hydroplane races scheduled for this time period as part of the Tri-Cities Water Follies. The Coast Guard through this action intends to restrict the general navigation in the area for the safety of spectators and participants in this event.

DATE: Comments concerning this proposal must be received on or before June 15, 1983.

ADDRESSES: Comments should be mailed to Commander, U.S. Coast Guard Group, 6767 N. Basin Ave., Portland, Oregon 97217. The comments will be available for inspection and copying at this address during normal business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lt. John E. Veentjer, Chief, Port Operations Department, 6767 N. Basin Ave., Portland, Oregon, 97217, (503) 240-9317.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 83-10) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The principal persons involved in the drafting of this notice are Lt. John E. Veentjer, USCG, Project Officer, Coast Guard Group Portland, and Lt. James R. Woeppel, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

Each year, the Tri-Cities Water Follies Association sponsors an unlimited hydroplane race on the Columbia River near Kennewick, Washington. The event draws a large number of spectators to the beaches and waters surrounding the race course. A sizeable portion of the spectators watch the event from a significant number of pleasure craft anchored near the race course. To ensure the safety of both the spectators and the participants, a special navigational regulation providing the Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is required.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). An economic evaluation of this notice has not been conducted since its impact is expected to be minimal. This regulation affects a short section of the Columbia River with only light commercial traffic and will be in effect for only five (5) days, two of those being Saturday and Sunday. On the days of time trials, 26 July to 30 July 1983, the Patrol Commander will allow commercial traffic to transit the area between time trials. On race day, Sunday, 31 July 1983, all traffic will be excluded. The limited, if any, impact on commercial marine traffic that has occurred in the past is not expected to adversely affect any economic entities in the area during this year's event. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of title 33, Code of Federal Regulations, by adding § 100.35-1310 to read as follows:

§ 100.35-1310 Columbia River/1983 Columbia Cup Unlimited Hydroplane Race.

(a) From July 26, 1983 to July 30, 1983, this regulation will be in effect from 0830 until 1900 Pacific Daylight Time. On July 31, 1983, this regulation will be in effect from 0830 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect is the waters of the Columbia River from the western end of Hydro Island to the western end of Clover Island at Kennewich, Washington.

(c) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels in the area described in paragraph (b) of this section.

(d) The Patrol Commander may authorize vessels to be underway in the area described in paragraph (b) of this section during the hours this regulation is in effect. All vessels permitted to be under way in this area shall do so only at speeds which will create minimum wake, seven (7) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 49 U.S.C. 1655 (b); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: May 6, 1983.

R. J. Copin,

Captain, U.S. Coast Guard, Commander, 13th Coast Guard District Acting.

[FR Doc. 83-13508 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

Conveyance of Small Tracts

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: These regulations establish standards for implementing the Act of January 12, 1983 (96 Stat. 2535), commonly known as the Small Tracts Act, which enables the Secretary of Agriculture to sell, exchange, or interchange certain limited and specific categories of National Forest System lands. The proposed regulations help resolve title conflicts for small parcels of land, facilitate the rapid solution of certain encroachment problems, reduce the number of decisionmaking levels previously involved in resolving title claims problems, and provide for more efficient management of the National Forests. In addition the regulation provides for disposal of narrow strips of land held for right-of-way purposes, but no longer needed, and of small, odd-shaped parcels of National Forest System lands intermingled with patented mining claims.

DATE: Comments must be received by July 18, 1983.

ADDRESS: Comments should be sent to: R. Max Peterson (5450), Chief, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: George Liddicoatt, Paul Haarala, or Jerry Sutherland, Forest Service, Lands Staff, (703) 235-8188.

SUPPLEMENTARY INFORMATION: There are estimated to be over 200,000 very small tracts of Federal land with specific problems relating to management; many of these are occupied in trespass.

These tracts can generally be grouped into one of three categories:

(a) Numerous tracts of 10 acres or less encroached upon by private parties because of erroneous surveys or land descriptions.

(b) Irregularly shaped tracts of 40 acres or less that are interspersed with or adjacent to mining claims created by the unorthodox system for survey, entry, and patent of minining claims under the 1872 General Mining Law. These obscure, fractional parcels generally developed as hiatuses within and between patented mineral surveys and are referred to as "mineral survey fractions".

(c) Road rights-of-way of varying widths retained or acquired by the United States as access ways for the Government and general public, the width, location, and alignment of which make them unsuitable for development as roadways or other uses. Examples of these access ways include:

(1) Wagon roads which were excepted as tracts in Homestead Entry Surveys,

(2) Road rights-of-way reserved by the United States in patents or other conveyance documents, and

(3) Road rights-of-way acquired in fee title or lesser interest.

These three types of small, irregularly shaped tracts of National Forest System land create problems for both Federal land managers and adjacent private party owners.

Existing administrative remedies include issuance of special use permits and land exchange procedures. Special use permits recognize the problem; however, they do not provide long term solutions. Land exchange procedures for the small tracts being considered are simply not time or cost effective. Private legislation has also been an often used alternative to resolve these problems but is also a time consuming, costly process with uncertain results.

The Small Tracts Act of January 12, 1983 (96 Stat. 2535), provides an efficient and flexible means of resolving these small tract landownership problems by sale, exchange, or interchange of lands and directs the Secretary of Agriculture to issue regulations to carry out the act including specifications of:

(a) Criteria to be used in the determination of what constitutes public interest;

(b) The definition of and the procedure for determining "approximately equal value"; and

(c) Factors relating to location or size which shall be considered in connection with determining mineral survey fractions to be sold, exchanged, or interchanged under the Act.

The proposed rules set forth regulations to carry out the provisions of the Act. They define new or unfamiliar terms and set forth the process of transferring title and resolving encroachment cases.

Two terms, "interchange" and "approximate equal value" are unique to this authority and are defined as follows:

(a) Interchange is a land transfer in which the Secretary and another person exchange title to lands or interests in land of approximate equal value where the Secretary finds that such a value determination can be made without a formal appraisal.

(b) Approximate equal value as used in these regulations is limited to the comparative value of lands involved in an interchange, the amenities of which are readily apparent.

Conveyance of title under these regulations must be in the public interest. The regulations set forth criteria for determining public interest that include protection of, access to, and utility of adjacent public land, environmental factors, cost of administration, location, size, and shape of other National Forest System land and private land and a determination that resolution of the problem is impractical under other authorities.

The proposed rule sets forth general procedures for transfers of small fractional parcels and narrow strips of National Forest System land and for resolving encroachment cases. These procedures are intended to be handled at the field levels of the Forest Service organization to facilitate timely and efficient actions.

This proposed rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that this rule is not a major rule. Little or no effect on the economy will result from this regulation. Since the proposed procedures provide a streamlined, simplified mechanism of resolving small claims and disputes on small parcels of land, time and costs to Federal Government and private parties in resolving these cases should be significantly reduced. There are no alternatives to issuance of these regulations which are required by the Small Tracts Act.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it does not directly result in additional procedures or paperwork not already required by the National Environmental Policy Act or other provisions of law.

The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969. Individual environmental assessment reports will be made on a case-by-case basis.

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List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisitions and exchanges, permits, sales.

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

(1) Change the title of Part 254 from "LANDOWNERSHIP" to "LANDOWNERSHIP ADJUSTMENTS";

(2) Add a new Subpart C to read as follows:

PART 254—LANDOWNERSHIP ADJUSTMENTS

* * * * *

Subpart C—Conveyance of Small Tracts

Sec.

254.30 Purpose.
254.31 Definitions.
254.32 Encroachments.
254.33 Road rights-of-way.
254.34 Mineral survey fractions.
254.35 Limitations.
254.36 Determining public interest.
254.37–39 [Reserved].
254.40 Applications.
254.41 Sale or exchange in absence of applications.
254.42 Valuation of tracts.
254.43 Surveys.
254.44 Conveyance document.

Authority: Pub. L. 97–465; 96 Stat. 2535.

§ 254.30 Purpose.

These regulations set forth efficient and uniform procedures in which the Secretary of Agriculture may resolve land dispute and management problems pursuant to Pub. L. 97–465, commonly called the Small Tracts Act, by conveying, through sale, exchange, or interchange, three categories of tracts of land: (a) Parcels encroached on, (b) road rights-of-way, and (c) mineral survey fractions.

§ 254.31 Definitions.

For the purpose of this subpart—

(a) "Applicant" is a landowner who has improvements held under claim or color-of-title encroaching on National Forest System land, or who has property abutting or underlying road rights-of-way, or abutting mineral survey fractions.

(b) "Approximate Equal Value" is limited to the comparative estimate of value of adjacent lands involved in interchange where the elements of value, such as physical characteristics and other amenities, are readily apparent and very similar.

(c) "Claim of Title" is a claim of land as one's own under color of title.

(d) "Color of Title" is an instrument purporting to convey title to a tract of land.

(e) "Encroachments" as used in this subpart are improvements made on or to National Forest System land under claim or color of title by private parties.

(f) "Exchange" is a discretionary, voluntary real estate transaction involving transfer of land or interest in land between the Secretary of Agriculture acting by and through the Forest Service and a nonfederal entity.

(g) "Good Faith" is honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry.

(h) "Improvements" mean a valuable addition to property costing labor or capital which enhances its value and generally includes permanent fixtures, such as homes, structures and attendant facilities, and buildings.

(i) "Interchange" is a land transfer in which the Secretary and a nonfederal entity exchange titles to lands or interests in lands of approximately equal value without formal appraisal.

(j) "Lands" include all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein, including minerals.

(k) "Mineral Fractions" or "mineral survey fractions" are small, odd-shaped parcels of National Forest System lands interspersed with lands surveyed and transferred out of Federal ownership under the mining laws.

(l) "Person" includes any nonfederal entity such as a State or any political subdivision as well as any individual.

(m) "Secretary" refers to the Secretary of the United States Department of Agriculture.

§ 254.32 Encroachments.

(a) These parcels are limited to tracts 10 acres or less encroached upon by improvements which are occupied or used under claim or color-of-title by persons: (1) To whom no advance notice was given that the improvements encroached or would encroach, and

(2) Who in good faith relied on an erroneous survey, title search, or other land description which did not reveal such an encroachment.

(b) Forest Service officials shall consider the following factors when determining whether or not to convey encroached upon lands: (1) The location of the property boundaries based on historical location and continued acceptance and maintenance,

(2) Factual evidence of claim or color-of-title,

(3) Actual or constructive notice given to persons encroaching on National Forest System lands, and

(4) Degree of development within a subdivision, and creation of uneconomic remnants.

§ 254.33 Road rights-of-way.

(a) Reserved or acquired road rights-of-way parcels are limited to those which are substantially surrounded by lands not owned by the United States.

(b) Forest Service officials shall consider public road system right-of-way needs based on National Forest transportation planning and State and local law before any conveyance of rights-of-way tracts.

(c) Reimbursement will be made for the value of any improvements made by the United States or other highway authorities, unless waived by the Chief of the Forest Service.

§ 254.34 Mineral survey fractions.

(a) Mineral survey fractions are limited to those tracts which: (1) Are surrounded by or adjacent to lands surveyed and patented under the mining laws, and

(2) Are occupied or there is evidence they could be occupied or used by adjoining owners, and

(3) When sold separately or aggregated in any transaction, do not exceed 40 acres.

(b) Forest Service officials shall consider the following factors in determining whether or not to convey mineral survey fractions: (1) The fractional tracts are interspersed in and are an integral part of private land holdings,

(2) The feasibility and cost of surveying these parcels in order to effectively manage them,

(3) relationship of size, shape, and location of the parcels as they affect: Management, utility, access, occupancy and use of Federal and private lands, and

(4) Relative accessibility and wildland characteristics of the lands.

§ 254.35 Limitations.

(a) Lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, and National Monuments are exluded from any conveyance under the provisions.

(b) Lands within National Recreation Areas may not be conveyed by sale under this subpart.

(c) Lands conveyed in any transaction shall not exceed $150,000.

(d) Compensation for lands conveyed must be at least equal or in the case of interchange, of approximate equal value and may be in the form of land, interest in land, including minerals, or cash or any combination thereof.

(e) The sale, exchange, or interchange of lands or interest in lands, including minerals, under these rules are discretionary and shall be made only if in the public interest.

(f) The abutting landowner(s) shall have the first right of acquisition.

(g) The area of land conveyed is limited to the minimum necessary to resolve encroachment or land management problems.

§ 254.36 Public interest criteria to be considered.

(a) The need to resolve specific problems which are impracticable to resolve under any other authority of the Secretary;

(b) The effect on administration and management of National Forest System lands such as improved utilization and management efficiency;

(c) The need for continued access to and continued use and enjoyment of National Forest System lands by the general public;

(d) Avoiding the establishment of new, or extensive, inholdings which would present management problems;

(e) Susceptibility to environmental damage and the need for protection of scenic, environmental, and other resources pursuant to other laws;

(f) Occupancy and use of the parcels such as: (1) The type, permanence, and location of structures occupied or used,

(2) Physical attributes as they affect utility of the tract for public or private purposes, and

(3) Existence of structures authorized under a special use permit or easement, and

(g) Adherence to Federal, State, and local survey and realty laws, rules, regulations, and zoning ordinances.

§ 254.40 Applications.

(a) An applicant must request the transfer of National Forest System land by letter, or other suitable written form, filed with the District Ranger or the Forest Supervisor who has administrative jurisdiction over the lands being requested.

(b) The applicant shall bear all reasonable costs of administration, survey, and appraisal incidental to the conveyance.

(c) Costs may be waived at the discretion of the Chief of the Forest Service.

(d) If the application qualifies, the applicant will be furnished instructions for completing the transaction.

§ 254.41 Sale or exchange in absence of application.

(a) Mineral survey fractions or road rights-of-way which have not been applied for by an abutting landowner may be offered for sale or exchange.

(b) Reasonable notice of sales shall be published.

§ 254.42 Valuation.

(a) Approximate equal value is restricted to interchange where it is readily apparent that the elements of value are approximately equal. Approximate equal value shall be determined by comparing and evaluating the elements of value on the lands or interest to be interchanged. Elements of value to be considered include such items as similarity of size, shape, location, physical attributes, functional utility, proximity of other similar sites, and other amenities in the immediate environs of the parcel. The findings verifying that the tracts have amenities which make them approximately equal in value shall be documented. The applicant will signify acceptance of the value determination by signing the documented findings.

(b) Equal value in sale or exchange transactions will be developed by the allocation method following Forest Service appraisal procedures.

(c) Improvements to Government land made by persons other than the Government will be excluded from any value determinations.

§ 254.43 Survey.

All necessary tract surveys of National Forest System land shall be conducted by the Forest Service or under Forest Service direction. All abutting property boundaries resulting from a conveyance shall be marked and posted by the Forest Service or the landowner under Forest Service guidance.

§ 254.44 Conveyance document.

(a) Title to and from the United States may be conveyed by quitclaim deed.

(b) Deeds shall be free of terms and convenants except those determined to be necessary to ensure protection of the public interest, the scenic, wildlife, and recreation values and provisions for public access.

(c) A copy of all recorded conveyance document(s) shall be transmitted to the applicable State Office of the Bureau of Land Management for their records.

Dated: May 9, 1983.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83–13523 Filed 5–18–83; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82–085]

Documentation of Vessels

Correction

In FR Doc. 83–12086 beginning on page 20249 in the issue of Thursday, May 5, 1983, "Federal Aviation Administration" inadvertently appeared in the heading. "Coast Guard" should have appeared.

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 21, 23, 73, 74, 78, 81, 83, 87, 90, 94, and 95

[General Docket No. 83–322; RM–3292; RM–2643; FCC 83–113]

Requirements for Licensed Operators in Various Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In order to create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of communication and to eliminate unnecessary regulations, the Commission is proposing to remove rules which permit only persons who hold a commercial radio operator license to perform certain operating, maintenance, and repair duties in several radio services. To the extent permitted by international agreement, the Commission proposes to allow radio station licensees to determine the qualifications of the operators of their stations, instead of the FCC continuing to do so through operator testing and licensing. Under the Commission's proposal, there would no longer be any requirement for the General Radiotelephone Operator License in the broadcast and private land radio services. However, the Commission would continue to verify the qualifications of operators in the maritime, aviation, and International

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Public Fixed radio services. The Commission believes that if the proposed rules are adopted, consequent reduction in demand for radio operator examinations will provide significant resource savings.

DATES: Comments are due by June 20, 1983. Reply comments are due by July 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Impact on broadcast services: Bill Hassinger, Mass Media Bureau, FCC, Washington, D.C. 20554, (202) 632–6460

Impact on private land mobile services: Jack Richards, Private Radio Bureau, FCC, Washington, D.C. 20554, (202) 643–2443

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 13

Commercial radio operators.

47 CFR Part 21

Licensed operator requirements, Communications common carriers.

47 CFR Part 23

Licensed operator requirements, Communications common carriers.

47 CFR Part 73

Licensed operator requirements, Radio broadcasting.

47 CFR Part 74

Licensed operator requirements, Radio broadcasting.

47 CFR Part 78

Licensed operator requirements, Radio broadcasting.

47 CFR Part 81

Licensed operator requirements, Radio.

47 CFR Part 83

Licensed operator requirements, Radio.

47 CFR Part 87

Licensed operator requirements, Radio.

47 CFR Part 90

Licensed operator requirements, Radio.

47 CFR Part 94

Licensed operator requirements, Radio.

47 CFR Part 95

Licensed operator requirements, Radio.

Notice of Proposed Rule Making

In the matter of requirements for licensed operators in various radio services; RM–3292, RM–2643, General Docket 83–322.

Adopted: March 31, 1983.
Released: April 20, 1983.

By the Commission.

1. In accordance with the Administrative Procedure Act, 5 U.S.C. 553, and § 1.412 of the Commission's Rules, 47 CFR 1.412, the Commission hereby gives Notice of Proposed Rule Making in the above-captioned matter.

Background

2. As we have elsewhere stated, it is our intent to take actions which create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications. With this goal in mind, we are continuing to review all of our rules and regulations with the objective of eliminating those which are no longer necessary.

3. Historically, we have required that the operation, adjustment, repair, or maintenance of most radio transmitters be performed only by persons who hold commercial radio operator licenses. In consideration of the varied duties to be performed and the consequent levels of skill and knowledge needed, we administer a program consisting of several operator license classifications and a series of written and Morse telegraphy examinations to verify the qualifications of applicants for these licenses.[1] Our requirements and procedures in this regard stem from Article 23 of the Radio Regulations of the International Telecommunications Union (Geneva, 1959),[2] as well as Sections 303(1) and 318 of the Communications Act of 1934, as amended.

4. In Docket 20817,[3] we decided that it is no longer necessary to require that broadcast stations be operated and maintained only by persons who hold operator licenses having examination prerequisites. Finding no significant correlation between the requirement for licensed operators at broadcast stations and signal quality or interference control, we concluded that we could reduce costs associated with the commercial radio operator licensing program by abolishing the Broadcast Endorsement, the Radiotelephone Third Class Operator Permit, and the Radiotelephone First Class Operator License.

Proposed Rule Changes

5. We now turn our attention to the rules which require licensed commercial radio operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Services. In addition, we have under consideration our rules which permit only licensed commercial radio operators to perform certain duties in the Private Land Mobile and Fixed, Personal, Domestic Public Fixed, and Cable Television Relay Services. We are proposing to eliminate these rules.

6. We believe that the requirements we are proposing to delete are unncessary, and that there will be no significant adverse impact on the quality or efficiency of communications in the radio services involved. Nevertheless, we invite comments on this subject in order to develop a complete record, which will assist us in making a final decision.

Broadcast Services

7. Our current requirements for licensed operators in the broadcast-related services can be summarized as follows:

(a) For AM Broadcast Stations, FM Broadcast Stations, Noncommercial Educational FM Broadcast Stations, Television Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a commercial radio operator license. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement.

(ii) *Maintenance:* Transmitter maintenance duties may be performed only by (or under the supervision of) a person holding a commercial radio operator license. Any class of license, except for the Marine Radio Operator Permit is sufficient to meet this requirement.

(b) For International Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a General Radiotelephone Operator License.

(ii) *Maintenance:* It is implied, but not explicitly stated, that maintenance duties may be performed only by (or under the supervision of) a person who holds a General Radiotelephone Operator License.

(c) For Low Power TV Stations, TV Translator Stations, FM Broadcast Translator Stations, FM Broadcast Booster Stations:

(i) *Operation:* During all periods of program origination, a licensed operator must be on duty in charge of the transmitting apparatus of a Low Power TV station. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement. In all other situations, these stations are not required to have licensed operators. (Some of these stations are normally operated unattended, and consequently, don't need operators.)

(ii) *Maintenance:* Anyone may install type-accepted transmitting equipment. However, adjustments which require the radiation of signals, or which, if incorrectly done, could result in improper operation of the transmitter, may be made only by (or under the supervision of) an operator holding a General Radiotelephone Operator License.

(d) For Special Field Test Authorizations, Experimental TV Broadcast Stations, Experimental Facsimile Broadcast Stations, Developmental Broadcast Stations:

(i) *Operation:* Transmitter may be operated only by a person who holds a General Radiotelephone Operator License.

(ii) *Maintenance:* No licensed operators are required, although the applicant for an experimental or developmental authorization must show that the program of research and experimentation will be conducted by qualified personnel.

(e) For the Instructional TV Fixed Service:

(i) *Operation:* Transmitter may be operated only by a person who holds a commercial operator license. Any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement. (Unattended operation is permitted under certain conditions.)

(ii) *Maintenance:* Transmitter maintenance may be done only by (or under the supervision of) a person holding a commercial radio operator license. Installations and maintenance which could affect proper operation of the transmitter may be made only by (or under the supervision of) a person holding a General Radiotelephone Operator License. Otherwise, any class of license, except for the Marine Radio Operator Permit, is sufficient to meet this requirement.

(f) For Broadcast Remote Pickup Stations, Aural Broadcast STL and Intercity Relay Stations, Television Broadcast Auxiliary Stations, Low Power Auxiliary Stations:

(i) *Operation:* Certain TV Broadcast Auxiliary Stations may be operated only by a person who holds a General Radiotelephone Operator License. Otherwise, no licensed operators are required.

(ii) *Maintenance:* Transmitter installations or maintenance which may affect the proper operation of the station may be made only by (or under the supervision of) a person holding a General Radiotelephone Operator License.[4]

8. It is easy to see how these rules can give rise to apparently inconsistent situations. For example, a TV transmitter may be maintained by a person holding a Restricted Radiotelephone Operator Permit, but the station used to transmit program material from the studio to the main TV transmitter may be maintained only by (or under the supervision of) a person holding a General Radiotelephone Operator License. Requiring that the lesser part of the system be maintained by a person who has demonstrated technical qualifications to the Commission by obtaining the higher class of license, while allowing the greater part to be maintained by a person who has not made such a demonstration, seems contradictory. Since we fully expect each broadcast station licensee to be diligent in employing qualified persons to maintain the main transmitter, it is reasonable for us to further rely on each station licensee to employ qualified persons to maintain the studio-transmitter link. A rulemaking petition, RM–3292, filed by Board of Trustees, California State University and Colleges, for San Diego State University, on December 7, 1978, requests that the Commission remove licensed operator requirements for stations in the Instructional Television Fixed Service.

9. We propose to modify our operator requirements for stations licensed under Parts 73 and 74 of the rules as follows: First, in any case where a licensed operator is statutorily required for operating a station licensed under Part 73 or Part 74 of our rules and regulations,[5] that requirement will be satisfied by a person who holds any class of commercial radio operator license or permit, unless that license or permit is otherwise endorsed.[6] Second, a licensed operator will *not* be required for either the Second, a licensed operator will *not* be required for either the operation or maintenance of Instructional Television Fixed Service Stations, Broadcast Remote Pickup Stations, Aural Broadcast STL or Intercity Relay Stations, TV Broadcast Auxiliary Stations, or Low Power Auxiliary Stations. These are not used to broadcast directly to the public and do not, for the most part, operate in the broadcast frequency bands. We see no need in these services to retain that additional margin of control represented by a commercial radio operator license.

Private Radio Services

10. It is with some reluctance that we propose to delete requirements for licensed commercial radio operators in the Private Land Mobile Radio Services, the Private Operational-Fixed Microwave Service, and the Personal Radio Services. Currently, with a few exceptions, only persons who hold a valid General Radiotelephone Operator License [7] may take responsibility for the installation, service, or maintenance of transmitters in these services.[8] Additionally, we currently require higher class operator licenses for certain operating duties.[9]

11. We are aware that the land mobile community is generally opposed to the removal of our licensed commercial radio operator requirements.[10] Furthermore, in view of the fact that much of our contact with station licensees in these services is indirect—through licensee associations, equipment vendors, and other third parties—we realize that knowledgeable

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[1] We currently issue the following classes of commercial radio operator licenses (permits are considered to be licenses): Radiotelegraph—First, Second, and Third Class. Radiotelephone—General, Marine Radio, and Restricted.

[2] Redesignated Article 55 by WARC, Geneva, 1979.

[3] See 44 FR 1733, 44 FR 66816, 45 FR 52154, 46 FR 35450.

[4] This summary is intended only to illustrate the scope of licensed operator requirements in the Broadcast services, and should not be relied upon in lieu of the pertinent sections in Parts 73 and 74 of the Commission's Rules.

[5] Section 318 of the Communications Act of 1934, as amended, prevents us from dispensing with operator licenses altogether for "stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations) . . ."

[6] Marine Radio Operator Permits and *new* General Radiotelephone Operator Licenses will be so endorsed in order to discourage broadcast personnel from applying for these licenses unless they are otherwise required to hold then. Restricted permits issued to those *not* legally eligible for employment in the United States are also excluded. Renewal General Radiotelephone Operator Licenses will not be so endorsed, however, to permit broadcast station personnel who already hold a General Radiotelephone Operator License (or a first or second class radiotelephone operator license) to continue to use that license in the broadcast services.

[7] Or a valid Radiotelephone First or Second Class Operator License.

[8] Installation, in some services, particularly the CB and R/C radio services, may be done without an operator license. However, internal adjustments which, if improperly done, could result in improper transmitter operation, must be made only by or under the supervision of a person holding a General (or first or second class) Radiotelephone Operator License.

[9] See 47 CFR 80.433(b) and 47 CFR 90.433(c).

[10] A number of land mobile associations and licensees submitted comments in opposition to our proposals in Docket 20817 (see *Further Notice* 45 FR 54778, August 18, 1980, and *Fourth Report and Order*, 46 FR 35450, July 8, 1981, para 22.), even though those proposals related solely to the Broadcast services.

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service and installation technicians are often relied upon by our licensees in the Private Land Mobile Radio Services to advise them about our technical and administrative requirements.

12. Nevertheless, it is the station licensees themselves who are ultimately responsible for the control and proper operation of their stations. It appears to us that these station licensees should and can have the freedom to utilize whatever measures they deem appropriate to insure that their stations are operated, serviced, and maintained in accordance with the Commission's technical rules and type-acceptance standards.

13. Therefore, we are proposing to abolish all rules requiring that transmitter maintenance, adjustment, and servicing in the Private Land Mobile, Private Operational-Fixed Microwave, and Personal Radio Services, be performed only by persons holding a commercial radio operator license.

Other Services

14. We have already proposed to abolish requirements for licensed operators in the Experimental Radio Service and the Public Mobile Radio Service as a part of other proceedings involving updating and revisions to Parts 5 and 22 of our rules.[11]

15. For similar reasons, we are proposing to delete the requirements for licensed commercial radio operators from Part 78 of our rules and regulations, governing the Cable Television Relay Service, and from Part 21 of our rules and regulations governing the Domestic Public Fixed Service.

16. We are not proposing to change our licensed operator requirements in the Maritime, Aviation, or International Public Fixed Radio Services at this time. We note that these are international radio services,[12] and we believe that, at a minimum, certain implicit operator licensing obligations do exist. However, we are further investigating the question of licensed operator requirements in these services and, if appropriate, will initiate a separate proceeding to address those requirements.

Operator Licensing Procedures

17. We have before us a rule making petition, RM–2643, filed by Raphael Soifer, on November 28, 1975. Mr. Soifer requests that we amend Part 13 of the rules to extend the terms of all commercial radio operator licenses to encompass the lifetime of the holder. Currently, all commercial radio operator licenses, except the Restricted Radiotelephone Operator Permit, are normally issued for a five-year renewable term.[13]

18. In support of this request, the petitioner states that no substantial verification of an operator's continued qualificatons to hold the subject licenses is made during the renewal process, and that periodic license renewal is burdensome for licensees and creates unnecessary paper work for our staff. The petitioner concludes that the current renewal process for commercial radio operator licenses serves no useful purpose, and that extending the license term to encompass the lifetime of the operator would save Commission resources while eliminating the burden of filing for license renewal every five years for commercial radio operators.

19. The Radio Regulations of the International Telecommunication Union provide that administrations "should take whatever steps they consider necessary to ensure the continued proficiency of (commercial radio) operators."[14] Prior to World War II, the Commission required a showing of satisfactory service or a renewal examination for commercial operator license renewals. However, effective December 7, 1940, the Commission temporarily suspended this requirement in order to allow license renewals for operators who, because of military service, were unable to make the specified showing. This suspension order was extended several times for one year periods. In April 1951, the Commission suspended the requirement until further notice. In October 1980, we deleted all renewal service and examination requirements.[15]

20. We therefore agree with the petitioner that the renewal process does not verify the original qualifications of the licensed commercial operator. However, any improper conduct, as may be evidenced by an outstanding Offical Notice of Violation, or by other information brought to our attention is considered during the renewal process. When routine renewal is denied, an operator may request that the application be dismissed or designated for hearing. In cases of lesser infractions, a short-term license can be issued, affording the operator a "second chance" to demonstrate willingness to comply with FCC rules. The renewal process has thus been used to "weed out" operators having unsatisfactory records of compliance with the Commission's Rules.

21. Currently, commercial radio operators are not required to advise us of changes in their permanent mailing address. The renewal process serves to update our records in this regard.

22. The Radio Regulations of the International Telecommunication Union require that operator licenses used in the Maritime Mobile service bear the photograph of the licensee.[16] Consequently, we issue Radiotelegraph First, Second, and Third Class Operator Licenses with the operator's photograph attached. Upon each renewal, new, recent, photographs are required to ensure that licenses so issued accurately reflect the physical appearance of the licensee. Without renewal, these photograph operator licenses would not show changes in appearance of the operator, negating their usefulness for identification purposes.

23. We are not insensitive, however, to the burden on our licensees caused by the necessity to renew operator licenses. We also realize the importance of effecting changes in our licensing systems which will reduce future administrative costs.

24. Therefore, we are proposing to issue General Radiotelephone Operator Licenses for a license term concurrent with the lifetime of the holder. We believe that the international requirements for photographs to ensure positive operator identification are intended to facilitate such identification in foreign ports. The vast majority of General Radiotelephone Operator Licenses are currently used in the United States, rather than on the high seas or abroad.[17] Consequently, we believe that it is unnecessary to require updated operator identification data on General Radiotelephone Operator Licenses. Furthermore, we find that the enforcement and record updating functions of the renewal process are not worth the cost associated with processing renewal applications.

25. We are also proposing to lengthen the renewal grace period for commercial radio operator licenses from one year to five years. Our Field Operations Bureau currently receives about 25 requests for waiver of the grace period each year. We see no reason to deny these requests in view of our previous deletion of renewal service requirements. However, rather than process these waiver requests, we would prefer to eliminate the necessity for filing them by lengthening the grace period.

26. We are proposing to abolish the restrictive endorsement which we have placed on commercial radio operator licenses held by blind persons. By our recent actions in Docket 20817, we have shifted the burden of evaluating the qualifications of broadcast station operators from the Commission to broadcast station licensees. We believe station licensees can best determine whether blindness would be an impediment to performing the duties of a transmitter duty or chief operator in any particular case. We suspect that, in many instances, it would not cause any serious difficulty. With the endorsement removed, a blind operator seeking employment in the broadcast industry will no longer be compelled to limit his or her search to stations which are "adapted for operation by blind persons."[18] We are, however, retaining the restrictive endorsement relating to uncorrected physical handicaps, which invalidated the license for use on compulsorily-equipped vessel. We will continue to verify the qualifications of radio operators in the Maritime Mobile Services.

27. We are proposing to delete the rule provision which requires the holder of a third class radiotelegraph operator permit to repeat the Morse code tests when applying for a second-class radiotelegraph operator license after one year has elapsed. We believe that there is no significant public benefit from this requirement.

28. We are proposing to abolish the aircraft radiotelegraph endorsement. We are not aware of any stations still in operation which would require an operator holding this endorsement.

29. Finally, we are proposing a number of minor editoral changes to Part 13 to improve its readability and accuracy.

Initial Regulatory Flexibility Analysis

30. In accordance with 5 U.S.C. 603, the following initial regulatory flexibility analysis applies to this Notice of Proposed Rule Making.

31. *Reason for Action.* The Commission is proposing changes to its commercial radio operator requirements and licensing procedures. The Commission believes that the operator license requirements which it is proposing to eliminate are unnecessary.

32. *Statement of Objectives.* The Commission's objectives in this proposal are to create, to the maximum extent possible, an unregulated, competitive, marketplace environment for the development of telecommunications, and to eliminate unnecessary regulations and policies.

33. *Legal Basis.* The action proposed in authorized by Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

34. *Small Entities Affected and Potential Impact.* Small entities which could be affected if the proposed rules were adopted include: small publishers producing examination study guides, FCC examination preparation schools, and small businesses which use two-way radio. The potential impact of the rules proposed, if adopted, falls into two areas. First, because the proposal, if adopted, might reduce the demand for FCC operator licenses, and, consequently, the number of FCC examinations conducted, it can be assumed that the market for examination study materials and examination preparation schools might also be reduced. Some publishers and schools might find it unprofitable to produce material for a decreased number of examinations. Second, small businesses could suffer some slight economic impact as a result of a possible increase in interference to their two-way radio systems. Such an increase in interference would occur only if these small businesses did not continue to have their radio systems repaired and maintained by qualified personnel, in the absence of the current FCC licensed operator requirement. The Commission believes that any impact in the latter two areas would be very slight.

35. *Relevant Federal Rules Which Overlap, Duplicate, or Conflict with this Action.* The proposed action is unregulatory in nature, and there are no federal rules which overlap, duplicate, or conflict with it. There are, however, in the Commission's assessment, a number of other FCC regulatory systems[19] and marketplace incentives, which seek to achieve the same objectives as those of the operator rules. The Commission believes that, in the absence of the subject licensed operator requirements, these partially overlapping systems and incentives would preserve the basic quality of communications in the affected radio services.

36. *Specific Alternaitves which could Accomplish the Same Objectives.* There are no feasible alternatives to the instant proposal which could accomplish the same objectives without impacting the small entities previously identified.

37. *Reporting, Recordkeeping, and Compliance Requirements.* The proposed action would impose no new reporting or recordkeeping requirements. It would relieve the burden of license renewal for holders of the General Radiotelephone Operator License, and could reduce the station maintenance recordkeeping requirements in some radio services.

38. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

39. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of

[11] See 47 FR 35535 and 47 FR 43842.

[12] See Radio Regulations of the ITU, Article 23, Section 11A, paragraphs 886D, 886E (redesignated Article 44, Section II, paragraphs 3407 through 3410 and Article 55, Section II, paragraphs 3885 and 3886 by WARC, 1979 Geneva).

[13] Restricted Radiotelephone Operator Permits issued to persons legally eligible for employment in the United States are normally valid for the lifetime of the operator.

[14] Radio Regulations of the ITU, Art. 23, Sec. III, Para. 870, 870A redesignated Art. 55, Sec. III, Para. 3890, 3896 by WARC, Geneva, 1979.

[15] See 45 FR 52154, August 6, 1980, with respect to amendment of 47 CFR 13.28.

[16] Radio Regulations of the ITU, Art. 23, Sec. I, para. 856A; redesignated Art. 55, Sec. I, para. 2870 by WARC, Geneva, 1979.

[17] By contrast, the majority of commercial radiotelegraph operator licenses are used by ship radio officers who embark on international voyages frequently.

[18] See 47 CFR 13.5(c)(2).

[19] For examples, the Commission provides the following regulatory systems: station licensing, technical regulations, equipment type acceptance, on-site and fixed monitoring for compliance, sanctions against station licensees, and, in the case of broadcast stations, periodic inspection by Commission personnel.

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1934, as amended. Pursuant to procedures set out in § 1.415 of the Rules, interested persons may file comments on or before June 20, 1983, and reply comments on or before July 20, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of the information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given equal consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

It is proposed to amend 47 CFR Chapter I as follows:

PART 13—[AMENDED]

A. Part 13 of Title 47 of the Code of Federal Regulations, Commercial Radio Operators, is amended as follows:

1. Section 13.1 is revised to read as follows, and the two Notes following it are removed:

§ 13.1 Basis and purposes.

(a) *Basis.* The basis for the rules contained in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party.

(b) *Purpose.* The purpose of the rules in this part is to prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

2. Section 13.2 is revised to read as follows:

§ 13.2 Classification of operator licenses and endorsements.

(a) Commercial radio operator licenses issued by the Commission are classified in accordance with the Radio regulations of the International Telecommunications Union.

(b) The following licenses are issued by the Commission. International classification, if different from the license name, is given in parenthesis.

(1) First Class Radiotelegraph Operator's Certificate.

(2) Second Class Radiotelegraph Opertor's Certificate.

(3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).

(4) General Radiotelephone Operator License (radiotelephone operator's general certificate).

(5) Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(c) The following license endorsements are affixed by the Commission, to provide special authorizations or restrictions. Applicable licenses are given in parenthesis.

(1) Ship Radar endorsement (First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License).

(2) Six Months Service endorsement (First and Second Class Radiotelegraph Operator's Certificates).

(3) Restrictive endorsements; relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

(d) The following former licenses and endorsements are no longer issued; however, those outstanding are valid until expiration. Upon renewal, holders of these former licenses may be issued one or more of the licenses listed in paragraph (a) of this section, in accordance with § 13.28.

(1) Radiotelephone First Class Operator License—last issued December 1981.

(2) Radiotelephone Second Class Operator License—last issued December 1981.

(3) Radiotelephone Third Class Operator Permit—last issued October 1980.

(4) Broadcast endorsement—last issued February 1979.

3. In § 13.3, paragraph (c) is revised to read as follows:

§ 13.3 Holding of more than one commercial radio operator license.

* * * * *

(c) Each person who is legally eligible for employment in the United States may, if necessary, simultaneously hold:

(1) One General Radiotelephone Operator License and one Restricted Radiotelephone Operator Permit; or,

(2) One Marine Radio Operator Permit and one Restricted Radiotelephone Operator Permit.

* * * * *

4. Section 13.4 is revised to read as follows:

§ 13.4 Term of licenses.

(a) Commercial radio operator licenses are normally valid for a term of five years from the date of issuance, except as provided in paragraph (b) of this section.

(b) General Radiotelephone Operator Licenses and Restricted Radiotelephone Operator Permits are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, and valid on that date, were extended to encompass the lifetime of such operators.

§ 13.5 [Amended]

5. In § 13.5, paragraph (c)(2) and the note following is removed.

6. In § 13.12, the introductory text of paragraph (a) and paragraphs (b)(i), (b)(2)(ii) and (b)(2)(iii) are revised to read as follows:

§ 13.12 Additional requirements for First Class Radiotelegraph Operator's Certificate and Six Months Service Endorsement.

(a) First Class Radiotelegraph Operator's Certificate.

* * * * *

(b) * * *

(1) An endorsement may be placed on a First or Second Class Radiotelegraph Operator's Certificate attesting that the holder has had at least six months satisfactory service in the aggregate as a radio officer in a station on board a ship or ships of the United States.

(2) * * *

(ii) Under the authority of a First or Second Class Radiotelegraph Operator's Certificate prescribed and issued by the Federal Communications Commission; and

(iii) While licensed as a radio officer by the U.S. Coast Guard in accordance with the Act of May 12, 1948 (46 U.S.C. 229 a-h).

* * * * *

§ 13.21 [Amended]

7. Section 13.21 is amended by removing and reserving paragraph (a)(7).

8. Section 13.22 is revised to read as follows:

§ 13.22 Required qualifications.

Commercial radio operator licenses are issued only to eligible applicants found qualified by the Commission, as follows:

(a) To be qualified to hold any commercial radio operator license, an applicant must have the ability to transmit correctly and receive correctly spoken messages in the English language.

(b) To qualify for a new commercial radio operator license other than the Restricted Radiotelephone Operator Permit, an applicant must demonstrate Morse code skill, if required, and a satisfactory knowledge of the material in one or more of the elements listed in § 13.21, by passing all examinations required for the class of license to be issued:

(1) First Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 3 and 4.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(2) Second Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(3) Third Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, and 5.

(4) General Radiotelephone Operator License.

(i) Written examination covering element 3.

(5) Marine Radio Operator Permit.

(i) Written examination covering elements 1 and 2.

(c) No examination is required for the Restricted Radiotelephone Operator Permit. Instead, an applicant must certify that he or she:

(1) Is legally eligible for employment in the United States; or, if not so eligible, holds an aircraft pilot certificate valid in the United States or an FCC radio station license in his or her name;

(2) Can speak and hear;

(3) Can keep, at least, a rough written log; and

(4) Is familiar with provisions of applicable treaties, laws, rules and regulations which govern the radio station he or she will operate.

9. Section 13.24 is revised to read as follows:

§ 13.24 Passing score.

To pass a written examination, an applicant must answer at least 75 percent of the questions correctly.

10. Section 13.25 is amended by revising paragraph (a) as follows:

§ 13.25 Examination credit for licensee held.

(a) The holder of a valid commerical radio operator license (or a license which could be renewed under the provisions of § 13.28) who applies for another class of commercial radio operator license will not be required to retake the written examinations or telegraphy tests which were required to obtain the license held.

* * * * *

11. Section 13.26 is amended by revising the heading and the chart as follows:

§ 13.26 Cancellation of superfluous licenses.

* * * * *

License issued	License(s) cancelled
First Class Radiotelegraph Operator's Certificate	Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Second Class Radiotelegraph Operator's Certificate	Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Third Class Radiotelegraph Operator's Certificate	Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
General Radiotelephone Operator License	Radiotelephone First Class Operator License, Radiotelephone Second Class Operator License, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit.
Marine Radio Operator Permit	Radiotelephone Third Class Operator Permit.

12. Section 13.27 is revised, and the note after it is removed:

§ 13.27 Re-examination waiting period.

An applicant who fails a written examination or code test required for a commercial radio operator license shall not apply for any class of license requiring that examination or test until 60 days after the date the examination or test was failed.

13. In § 13.28, paragraph (a) is revised to read as follows:

§ 13.28 License renewals.

(a) Commercial radio operator licenses issued for five year terms may be renewed, by proper application, at any time during the last year of the license term or during a five year grace period following expiration. Expired licenses are not valid during the grace period.

* * * * *

14. Section 13.61 is revised, and the four "Notes" currently associated with it are removed, as follows:

§ 13.61 Need for licensed commercial radio operators.

Rules which require Commission station licensees to employ licensed commercial radio operators to perform certain transmitter operating, maintenance, or repair duties are contained in Parts 21, 73, 74, 81, 83 and 87 of the chapter.

15. A new § 13.77 is added, as follows:

§ 13.77 Required endorsements.

(a) All Marine Radio Operator Permits shall bear the following endorsement:

This permit does not authorize the operation of AM, FM or TV broadcast stations.

(b) General Radiotelephone Operator Licenses issued to persons who first qualify for that classification of license (see § 13.22) on or after shall bear the following endorsement:

This license is valid for operation, maintenance, and repair of stations in the Aviation, Maritime, and International Public Fixed Radio Services only.

PART 21—[AMENDED]

B. Part 21 of Title 47 of the Code of Federal Regulations, Domestic Public Fixed Radio Service, is amended as follows:

§ 21.203 [Removed]

1. Section 21.203 is removed.

§ 21.205 [Removed]

2. Section 21.205 is removed.

§ 21.207 [Amended]

3. Section 21.207 is amended by removing paragraph (e).

4. Section 21.208 is amended by revising paragraph (e)(1) as set forth below, and removing and reserving paragraphs (e)(2), (g), and (h):

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§ 21.208 Station records.

* * * * *

(e) * * *

(1) The results and dates of the transmitter measurements required by § 21.207.

* * * * *

PART 73—[AMENDED]

C. Part 73 of Title 47 of the Code of Federal Regulations, Radio Broadcast Services, is amended as follows:

1. Section 73.764 is amended by revising paragraph (a), and removing the note following the section:

§ 73.764 International broadcast station operator requirements.

(a) One or more operators holding a commercial radio operator license (any class, unless otherwise endorsed) must be on duty where the transmitting apparatus of each station is located and in actual charge thereof whenever it is being operated.

* * * * *

2. Section 73.1515 is amended by revising paragraph (c)(6) and removing the note which follows paragraph (c)(6):

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

(6) Test transmitters must be operated by or under the immediate direction of an operator holding a commercial radio operator license (any class, unless otherwise endorsed).

* * * * *

3. In § 73.1860, paragraph (a) is revised to read as follows:

§ 73.1860 Transmitter duty operators.

(a) Each AM, FM or TV broadcast station must have at least one person holding a commercial radio operator license (any class, unless otherwise endorsed) on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of § 73.1550.

* * * * *

4. In § 73.1870, paragraph (a) is revised to read as follows:

§73.1870 Chief operators.

(a) The licensee of each AM, FM, or TV broadcast station must designate a person holding a commercial radio operator license (any class, unless otherwise endorsed) to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

* * * * *

PART 74—[AMENDED]

D. Part 74 of the Title 47 of the Code of Federal Regulations, Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services, is amended as follows:

1. Section 74.18 is amended by revising paragraph (b), removing the Note following paragraph (c) and adding new paragraphs (d) and (e) to read as follows:

§ 74.18 General operator requirements.

* * * * *

(b) Except as noted in paragraph (e) of this section, stations authorized under the provisions of this Part may be operated by any person designated by the station licensee.

(c) * * *

(d) Except as noted in paragraph (e) of this section, the installation, adjustment, and maintenance of any transmitter licensed under the provisions of this Part may be performed by any person deemed qualified to perform such duties by the licensee.

(e) Persons who perform any operating or transmitter technical duties licensed under Subparts A, B, C, G and L must hold a commercial radio operator license (any class, unless otherwise endorsed).

§ 74.166 [Removed]

2. Section 74.166 is removed.

§ 74.266 [Removed]

3. Section 74.266 is removed.

§ 74.366 [Removed]

4. Section 74.366 is removed.

§ 74.466 [Removed]

5. Section 74.466 is removed.

§ 74.565 [Removed]

6. Section 74.565 is removed.

§ 74.665 [Removed]

7. Section 74.665 is removed.

8. Section 74.750 is amended by revising paragraph (g) to read as follows:

§ 74.750 Transmission system facilities.

* * * * *

(g) Low power TV or TV translator stations installing new type accepted transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment to existing low power TV or TV translator transmitting apparatus must have a qualified operator (§ 73.18) examine the transmitting system after installation. This operator must certify in the application for the station license that the transmitting equipment meets the requirement of paragraph (d)(1) of this section. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.731 need not comply with the requirements of this paragraph.

§ 74.766 [Removed]

9. Section 74.766 is removed.

§ 74.868 [Removed]

10. Section 74.868 is removed.

§ 74.966 [Removed]

11. Section 74.966 is removed.

§ 74.1266 [Removed]

12. Section 74.1266 is removed.

PART 78—[AMENDED]

E. Part 78 of Title 47 of the Code of Federal Regulations, Cable Television Relay Services is amended as follows:

1. Section 78.51 paragraph (a)(2) is revised as follows:

§ 78.51 Remote control operation.

(a) * * *

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

* * * * *

2. Section 78.53 paragraphs (a)(4) and (a)(5) are revised as follows:

§ 78.53 Unattended operation.

(a) * * *

(4) Personnel responsible for the maintenance of the station shall be available on call at a location which will assure expenditious performance of such technical servicing and maintenance as may be necessary whenever the station is operating. In lieu thereof, arrangements may be made to have a person or persons available at all times when the transmitter is operating, to turn the transmitter off in the event that it is operating improperly. The transmitter may not be restored to operation until the malfunction has been corrected by a technically qualified person.

(5) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station which may affect its operation shall be performed by or under the immediate supervision of a technically qualified person.

* * * * *

§ 78.59 [Amended]

3. Section 78.59 is amended by removing paragraph (d).

4. Section 78.61 is amended by revising paragraphs (a), (c), (d) and (f) as set forth below, and by removing and reserving paragraph (b):

§ 78.61 Operator requirements.

(a) Except in cases where a CARS station is operated unattended in accordance with § 78.53 or except as provided in other paragraphs of this section, a person shall be on duty at the place where the transmitting apparatus is located, in plain view and in actual charge of its operation or at a remote control point established pursuant to the provision of § 78.51, at all times when the station is in operation. Control and monitoring equipment at a remote control point shall be readily accessible and clearly visible to the operator at that position.

(b) [Reserved]

(c) Any transmitter tests, adjustments, or repairs during or coincident with the installation, servicing, operation or maintenance of a CARS station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person responsible for proper functioning of the station equipment.

(d) The operator on duty and in charge of a CARS station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the rules governing such stations. However, such duties shall in no way impair or impede the required supervision of the CARS station.

* * * * *

(f) Mobile CARS stations operating with nominal transmitter power in excess of 250 milliwatts may be operated by any person whom the licensee shall designate: Provided that a person is on duty at a receiving end of the circuit to supervise operation and to immediately institute measures sufficient to assure prompt correction of any condition of improper operation that may be observed.

§ 78.69 [Amended]

5. Section 78.69 is amended by removing and reserving paragraph (d)(2).

6. In § 78.107 paragraph (d) is revised as follows:

§ 78.107 Equipment and installation.

* * * * *

(d) The installation of a CARS station shall be made by or under the immediate supervision of a qualified engineer. Any tests or adjustments requiring the radiation of signals and which could result in improper operation shall be conducted by or under the immediate supervision of a person with required knowledge and skill to perform such tasks.

* * * * *

PART 90—[AMENDED]

F. Part 90 of Title 47 of the Code of Federal Regulations, Private Land Mobile Radio Services, is amended, as follows:

1. Section 90.433 is revised to read as follows:

§ 90.433 Operator requirements.

(a) No operator license or permit is required for the operation of stations licensed under this part.

(b) Any person, with the consent or authorization of the licensee, may employ stations in this service for the purpose of telecommunications.

(c) The provisions of paragraph (b) of this section shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof), in accordance with the terms of the licenses of those stations.

§ 90.435 [Reserved]

2. Section 90.435 is removed and reserved.

PART 94—[AMENDED]

G. Part 94 of Title 47 of the Code of Federal Regulations, Private Operational-Fixed Microwave Service, is amended as follows:

1. Section 94.103 is amended to revise paragraph (a) and to remove paragraphs (d) and (e) as follows:

§ 94.103 Operator requirements.

(a) No operator license is required for the operation of stations licensed under this part.

* * * * *

PART 95—[AMENDED]

H. Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In Subpart A—General Mobile Radio Service, § 95.111 is revised to read as follows:

§ 95.111 Transmitter service and maintenance.

All transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing or maintenance of a radio station in this service, which may affect the proper operation of such station, must be made in accord with the Technical Regulations (see Subpart E).

2. In Subpart C—Radio Control (R/C) Radio Service, paragraph (b) of § 95.237 (R/C Rule 37) is amended to read as follows:

§ 95.237 (R/C Rule 37) How do I have my transmitter serviced?

* * * * *

(b) Each internal repair and each internal adjustment to a FCC type accepted R/C transmitter (see R/C Rule 18) must be made in accord with the Technical Regulations (see Subpart E).

* * * * *

3. In Subpart D—Citizens Band (CB) Radio Service, paragraph (c) of CB Rule 19, paragraph (f) of CB Rule 38, and paragraph (b) of CB Rule 41 of Section 95.401 are revised to read as follows:

§ 95.401 Citizens Band (CB) Radio Service Rules.

CB Rule 19 What equipment may I use at my CB station?

* * * * *

(c) You must have all internal repairs or internal adjustments to your CB transmitter made in accord with the Technical Regulations (see Subpart E).

* * * * *

CB Rule 38 How do I answer violation notices?

* * * * *

(f) If the violation notice covers a violation related to transmitter technical regulations, you must stop operating that transmitter immediately, except for necessary tests and adjustments; and you must not resume operating it until all technical problems have been corrected. The FCC may require you to have tests conducted and to report the results of those tests. (See CB Rule 41 for the rules about tests and adjustments.)

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CB Rule 41 How do I have my CB transmitter serviced?

* * * * *

(b) Each internal repair and each internal adjustment to your CB transmitter must be made in accord with the Technical Regulations (see Subpart E).

* * * * *

4. In Subpart E—Technical Regulations, paragraph (c) of § 95.621, and paragraph (e)(2) of § 95.645 are revised to read as follows:

§ 95.621 Compliance with technical requirements.

* * * * *

(c) In each case, the report which is submitted must describe the results of the tests and adjustments and the test equipment and procedures used. A copy of this report must also be kept in the station records.

* * * * *

§ 95.645 Additional requirements for type acceptance.

* * * * *

(e) * * *

(1) * * *

(2) Warnings concerning any adjustments which could result in improper technical performance.

* * * * *

[FR Doc. 83-13460 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-491; RM-3835]

TV Broadcast Stations in Tulsa, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This action dismisses a petition filed by Oklahoma Educational Authority requesting an exchange of the educational reservation from Channel *11 to Channel 2 at Tulsa, Oklahoma, and modification of the licenses of television Stations KOED-TV and KJRH to specify operation on Channels *2 and 11, respectively.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 643-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Tulsa, Oklahoma); BC Docket No. 81-491, RM-3835.

Adopted: April 21, 1983.

Released: May 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (46 FR. 40776, published August 11, 1981) proposing to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, by exchanging the noncommercial educational reservation from Channel *11 to Channel 2 at Tulsa, Oklahoma, in response to a petition filed by the Oklahoma Educational Television Authority ("OETA"). OETA, licensee of noncommercial educational Station KOED-TV, Channel *11, also requested that its license be modified to specify operation on Channel *2 and that the license of Scripps-Howard Broadcasting Company ("Scripps-Howard") for Station KJRH, Channel 2, be modified to specify operation on Channel 11. Scripps-Howard consented to the proposed modification. Tulsa 23, licensee of Station KOKI-TV, Channel 23, Tulsa, filed comments in opposition to the modifications expressing its own interest in applying for Channel 11, if it becomes available for commercial use. In response OETA and Scripps-Howard filed comments requesting dismissal of the petition and termination of the rule making proceeding.

2. OETA is also the licensee of noncommercial educational Television Station KOET, Channel *3, in Eufaula, Oklahoma. KOET Broadcasts essentially the same programming as nearby KOED in Tulsa. KOET's viewers in the area between Tulsa and Eufaula initially experienced adjacent channel interference with KJRH. To alleviate this problem, OETA installed traps at affected receivers. However, KJRH has recently been authorized to relocate its transmitter to a site closer to KOET [1] a move which OETA claims may aggravate the adjacent channel interference between Channel 2 in Tulsa and Channel *3 in Eufaula. This potential problem may be minimized, according to OETA, by switching KOED to Channel 2. Should this occur, both Channel *2 and Channel *3 would be carrying identical OETA programming, allowing viewers in the affected area to select the stronger of the two signals without undue interference. On the other hand, leaving KJRH on Channel 2 would mean that these viewers may be deprived of the noncommercial programming on Channel *3 or the commercial network programming on Channel 2. OETA further points out that, if the shift is approved, Scripps-Howard will provide OETA in excess of a million dollars worth of equipment and services.

3. The *Notice* proposed to shift the noncommercial educational reservation from Channel *11 to Channel 2. However, the Commission indicated that, in light of the expressed interest of Tulsa 23 in applying for Channel 11, as a commercial channel, it would not be appropriate to modify the licenses as requested. According to the *Notice*, the Commission's policy regarding modification of existing licenses, as expressed in *Cheyenne, Wyoming* [2] and subsequent cases, was developed consistent with the principles espoused in *Ashbacker* [3]. That is, mutually exclusive applications must be given comparative consideration, a requirement which is specious in the face of denial of the opportunity to file such applications. The *Notice* indicated that since the Commission adopted its *Cheyenne* policy, it has consistently held that newly available assignments to a community are open to application by all interested parties. The *Notice* pointed out that the shift of the reservation here would mean that Channel 11 would be available to commercial applicants for the first time. Nevertheless, the Commission proposed to shift the noncommercial education reservation as requested, stating that perpetuation of the existing situation would benefit no one and that, therefore, the parties should negotiate further to reach some conciliatory agreement.

4. OETA states that it requests dismissal and termination because the Commission staff "erroneously and inappropriately" applied the *Cheyenne* doctrine to the instant situation. OETA also asserts that the *Notice* mistakenly indicated that it is OETA's position that its proposal is the only solution to the interference problem. According to OETA, its proposal is the "most efficient and permanent solution." However, OETA is prepared to continue "trapping-out." OETA indicates that application of the *Cheyenne* doctrine would, in effect, reduce its status from licensee to applicant, citing *Bonitio Springs*.[4]

[1] BC Docket No. 79-255, issued July 21, 1982.

[2] 62 FCC 2d 63 (1976).

[3] *Ashbacker Radio Corporation v. FCC*, 326 U.S. 327 (1945).

[4] *Bonita Springs and Homestead, Florida*, 45 R.R. 2d 1585 (1979).

According to OETA, for it to engage in a comparative hearing for a VHF channel against other qualified applicants could result in a financial disaster for the State and could lead to a loss of a key link in the State's educational broadcast network.

5. Tulsa 23 reiterates its intention to apply for a new commercial station on Channel *11 should that channel become available for such a facility. It states that it is prepared to offer OETA benefits commensurate with those proferred by Scripps-Howard so that Station KOED could still switch to the proposed Channel *2. Tulsa 23 asserts that the *Notice* accurately applied the *Cheyenne* doctrine to the instant situation. It also asserts that it does not intent to jeopardize either OETA's position in Tulsa nor the Oklahoma educational network. According to Tulsa 23, however, it competes with KJRH and, therefore, intends to preserve its *Cheyenne* rights vis-a-vis Scripps-Howard should a new VHF channel become available for commercial operation.

6. Tulsa 23 argues that, aside from the applicability of the *Cheyenne* doctrine, the public interest standard of section 303(r) of the Communications Act of 1934, as amended, imposes upon the Commission the obligation to conduct rule makings in the public interest and this obligation overrides the interests of existing licensees. Tulsa 23 also argues that although section 316(a) gives the Commission the power to modify the licenses of KOED and KJRH, the exercise of this power rests upon the public interest and not that of licensees.

7. Tulsa 23 claims that the Commission, in *Cheyenne*, recognized its authority and obligation to make channel assignments aside from the interests of licensees and that the broadcast Bureau made this finding in *Bonita Springs*. According to Tulsa 23, although the Bureau allowed withdrawal of the petitioner's proposal in *Bonita Springs*, that case differs from the one at hand in that here, unlike *Bonita Springs*, it would not be beneficial to retain the existing situation. Tulsa 23 seeks to further distinguish *Bonita Springs* by pointing to substantial opposition to the assignment of a new channel there, including opposition by one of the parties. In addition, Tulsa 23 indicates that, unlike the present situation, *Bonita Springs* did not involve interference to the public's reception or a reduction in the overall available broadcast service. In this regard, Tulsa 23 questions the efficacy of "trapping-out."

8. Finally, Tulsa 23 questions OETA's expressed concern regarding the potential loss of its license. According to Tulsa 23, this concern is premature in that no party has so far expressed an intention to contest OETS's use of Channel 2 should that channel be reserved.

9. Replying to Tulsa 23, Scripps-Howard states that, in light of the *Notice's* application of *Cheyenne*, it withdraws its consent to the proposed exchange of channels, saying that the withdrawals by it and OETA should terminate this proceeding. Scripps-Howard claims that, in *San Francisco-San Mateo, California*, [5] the Commission spoke regarding the consequences arising out of a lack of consent by affected parties. According to Scripps-Howard, the Commission there indicated that the educational licensee in San Mateo would have to agree to relinquish the channel before it could be reassigned to San Francisco. It asserts that, in *Bonita Springs*, the Broadcast Bureau stated that, where (as here) a petitioner could lose its license, it should be able to withdraw the proposal in the face of an expression of other interest. Scripps-Howard also cites *Arroyo Grande and Pismo Beach, California*[6] and *Greenfield and Springfield, Missouri* [7].

10. Scripps-Howard claims that Tulsa 23's arguments regarding adjacent channel interference are exaggerated. According to Scripps-Howard, there is no present interference problem warranting the "drastic" action sought by Tulsa 23. Scripps-Howard also argues that potential interference resulting from its (then) pending site change application is no reason to change its status from licensee to applicant in a comparative hearing.[8] Further, Scripps-Howard asserts that although a grant of its application to relocate its transmitter could potentially increase interference between Channels 2 and *3, OETA has been granted a construction permit to move Channel *11's transmitter to KJRH's new tower and, since Channel *11 would provide the same programming service as Channel *3, the joint relocation would result in Channel *11's signal being available in substantially all of the interference area. According to Scripps-Howard, OETA could easily eliminate the majority of interference by means of receiver and antenna adjustments and by "trapping-out" Channel *3, with any of the audience still suffering interference being able to receive educational programming on Channel *11. Scripps-Howard asserts, therefore, that the inability of it and OETA to exchange channels should not result in a problem to the public and does not warrant a continuation of this proceeding over the objections of the parties.

11. Scripps-Howard asserts that the Commission (as opposed to delegated) precedent cited in the *Notice* for applying *Cheyenne* policy in this case are *Cheyenne* and *San Francisco-San Mateo* and that both cases are distinguishable. It is said that *Cheyenne* involved a request to modify a license to specify operation on a newly assigned frequency of a superior class in the same community where the existing licensee's channel was not to be deleted. Scripps-Howard states that in *San Francisco-San Mateo*, the Commission did not actually rule on the question of whether other expressions of interest requried consideration, as none were received and, further, that that case involved assignments between two different communities.

12. Scripps-Howard argues that the Commission has never applied the *Cheyenne* policy to a situation involving an exchange of existing VHF channels in the same community effectuated by transferring an educational reservation. Thus, it is concluded that if the *Cheyenne* policy is applied so as to make Channels 2 and 11 available for application, then the case should be referred to the Commission as required by § 0.281(b)(6) of the Rules.

13. Initially, we note that the *Notice* took the position that the existing situation of adjacent channel interference made the proposed channel exchange necessary. The modification question posed a separate problem. However, according to the comments of OETA and Scripps-Howard, it now appears that the proposed switch of the educational reservation is not the only satisfactory solution. Specifically, OETA states that it is prepared to continue trapping-out, and Scripps-Howard asserts that most interference could be eliminated by means of receiver and antenna adjustments as well as "trapping-out," with the remainder of the affected audience being able to

[5] 67 FCC 2d 241 (1977).

[6] BC Docket No. 81-192 (1981).

[7] BC Docket No. 81-503 (1981).

[8] Scripps-Howard describes the grant as a "possibility" and "not a near term probability." However, this application has since been approved. See paragraph 3, *supra*.

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receive educational programming from the newly relocated Channel *11 transmitter. These assertions have not been shown to be invalid.[9] Therefore, this case does not warrant the exercise of the authority to modify pursuant to §§ 307(b) and 316(a) of the Act. In such cases, where channel changes are made for reasons other than to correct a technical problem, the Commission has consistently applied the *Ashbacker* and *Cheyenne* precedents. In this regard, we note that Tulsa 23 persuasively argued that it should be given the opportunity to make an attractive offer to OETA based on it being able to obtain unreserved Channel 11.

14. Since there appears to be an alternative solution to the interference problem and since the parties proposing the action under consideration have expressed their desire to terminate this proceeding, we believe it is appropriate to allow these parties to withdraw. As noted, the interference problem can apparently be alleviated by procedures less drastic than originally proposed in the petition. Commission policy has been to allow withdrawal of petitions where, as here, there is another expression of interest and where a petitioner could lose its license.[10] While the parties have argued strenuously and intelligently on the applicability of the *Ashbacker* and *Cheyenne* decisions, we do not believe it necessary to rule on this issue since the channel substitutions were not made. We believe the alternative solution suggested by Scripps-Howard, which leaves the TV Table intact at Tulsa, is in the public interest and should be pursued.

15. Accordingly, *it is hereby ordered*, That the petition is dismissed.

16. *It is further ordered*, That this proceeding is terminated.

17. For further information, contact: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–13477 Filed 5–18–83; 8:45 am]

BILLING CODE 6712–01–M

[9] Tulsa 23 has only questioned the efficacy of "trapping-out" and has alleged that the transmitter relocations of KJRH and KOED–TV have the *potential* to aggregate interference.

[10] See *Bonita Springs*, 45 R.R. 2d at 1586 and *Statesboro, Georgia*, F.C.C. Mineo No. F–2040, released May 17, 1977.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC–103; Notice No. 82–13]

Exemption; Driver Qualification Files; Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document corrects the preamble of a notice of proposed rulemaking (NPRM) relating to exemtions from the driver qualification rules regarding certain paperwork and administrative requirements for drivers of motor vehicles having a gross vehicle weight rating between 10,001 and 15,000 pounds because of inadvertent omissions.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC–103; Notice No. 82–13, Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In the preamble of the NPRM published on April 4, 1983 (48 FR 14413), The following change should be made:

On page 14416, the last paragraph before the heading, "**List of Subjects in 49 CFR Part 391**" Beginning with the words "A draft regulatory evaluation * * *" is revised to read as follows:

"Regulatory Flexibility Act

"A draft regulatory evaluation/initial regulatory flexibility analysis has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For Further Information Contact."

"The need, objectives, and legal basis for the proposed action have been explained previously in this document. Any impact on small entities would be positive in that administrative and economic burdens would be relieved for small businesses that utilize vehicles having a gross vehicle weight rating between 10,001 and 15,000 pounds. By being relieved of certain paperwork requirements, these small businesses will be able to redirect resources toward increased productivity. This proposed action would not impact any additional reporting, recordkeeping or compliance requirements for small entities. There are no other Federal rules that conflict with this proposal. The FHWA specifically requests further information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities."

This revision is necessitated by the inadvertent omission of the summary of the initial regulatory flexibility analysis from the preamble as required by the Regulatory Flexibility Act. The entire initial regulatory flexibility analysis, which is a part of the draft regulatory evaluation, has been since April 4, 1983, and remains available for review in the public docket.

(49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60)

Issued on: May 10, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83–13440 Filed 5–18–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted an amendment (Amendment 8) to the fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska for review by the Secretary of Commerce and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be received on or before July 29, 1983.

ADDRESSES: All comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802. Copies of the amendment are available upon request from the North Pacific Fishery Management Council, P.O. 3136DT, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, NMFS, Kodiak Field Office), 907–486–4791.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether or not to approve the amendment.

This amendment proposed measures for managing the Commercial Tanner Crab Fishery off the coast of Alaska. Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: May 16, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–13503 Filed 5–18–83; 4:47 pm]

BILLING CODE 3510–22–M

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Notices

Federal Register
Vol. 48, No. 98
Thursday, May 19, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 16–83]

Foreign-Trade Zone 27; Boston, Massachusetts; Application for Subzone at General Dynamics Shipbuilding Facility in Quincy

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Massachusetts Port Authority, grantee of Foreign-Trade Zone 27 in Boston, for a special-purpose subzone at General Dynamics Corporation's shipbuilding facility in Quincy, within the Boston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 12, 1983. The applicant is authorized to make this proposal under Chapter 771 of the Acts of the Commonwealth of Massachusetts, 1971.

The subzone involves the shipyard of the Quincy Shipbuilding Division of General Dynamics Corporation, located on the west bank of the Weymouth Fore River in Quincy. The facility covers 158 acres, including 27 acres on the water. It is capable of producing a variety of ocean-going vessels, employing up to 5000 persons. Subzone procedures would be initially used for a project involving the production of 5 Maritime Prepositioning (TAKX) vessels that would be leased to the Navy. The ships will be constructed from domestically produced steel. Some of the components for this project might be imported, including diesel engines, generators, coolers, gears, winches, cranes, valves, lifeboats, anchors, chain, deck fittings, hatch covers, hawse pipe, ladders and switchboards.

Zone procedures will help General Dynamics reduce costs on the TAKX project and to compete internationally on bids for other projects. The benefits are related to the fact that most of the components are subject to significant Customs duties and the finished product, as a seagoing vessel, is duty-free.

In accordance with the Board's regulations an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02210; and Colonel Carl B. Sciple, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, MA 02254.

Comments concerning the proposed subzone expansion are invited in writing from interested persons and organizations. They should be sent to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

District Directors Office, U.S. Dept. of Commerce District Office, 441 Stuart Street, 10th Floor, Boston, Massachusetts

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Avenue, NW., Washington, D.C. 20230.

Dated: May 16, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83–13485 Filed 5–18–83; 8:45 am]
BILLING CODE 3510–25–M

[Docket No. 15–83]

Foreign-Trade Zone 43, Battle Creek, MI and Foreign-Trade Zone 29, Louisville, KY; Joint Application for Subzone Status for Clark Equipment Company

An application has been jointly submitted to the Foreign-Trade Zones Board (the Board) by the BC/CAL/KAL Inland Port Authority of South Central Michigan Development Corporation, on behalf of the City of Battle Creek, grantee of Foreign-Trade Zone 43, and the Louisville and Jefferson County Port Authority, grantee of Foreign-Trade Zone 29, requesting special-purpose subzone status for the forklift truck manufacturing and distribution facilities of Clark Equipment Company in Springfield and Oshtemo, Michigan, adjacent toi the Battle Creek Customs port of entry, and in Georgetown, Kentucky, some 65 miles from the Louisville Customs port of entry.

The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 12, 1983. The applicants are authorized to make this proposal under Act 154 of the Public Acts of 1963, State of Michigan, and Chapter 65.530(b) of the Kentucky Revised Statutes, respectively.

The project involves Clark's three U.S. facilities engaged in the manufacture and distribution of industrial forklift trucks under 5 tons. The Battle Creek plant covers 194 acres at 525 N. 24th Street, Springfield, Michigan, and produces lift-mast assemblies. Finished products are prepared for export at the 23-acre Oshtemo facility at 6677 Beatrice Drive, Oshtemo, Michigan. The Georgetown plant, which covers 97 acres at Delaplain Road and I–75, Georgetown, Kentucky, is Clark's forklift truck production and final assemble operation.

The three plants are part of an integrated production and distribution process. A variety of components, such as engines, tires, pumps, valves, controls, and steel are purchased for the plants from foreign and domestic sources.

Zone procedures will exempt Clark from Customs duties on foreign parts it uses in its exports, which could account for up to 75 percent of production by 1986. On its domestic sales, the company would be able to take advantage of the same duty rates that are available to importers of finished forklifts. The duty rates on most forklift components range from 2.0 to 7.5 percent, whereas the rate for complete forklifts is 2.3 percent. These savings are an important element in Clark's recent decision, following a corporate study, to inprove the cost-effectiveness of its domestic facilities so that they regain their competitive relationship to the company's overseas manufacturing operations. By continuing production in the U.S., Clark could save some 3,700 job.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Richard D. Rudin, Program Analyst (Inspection & Control), U.S. Customs Service, North Central Region, 55 E. Monroe Street, Chicago, IL 60603; Colonel Raymond T. Beurket, Jr., District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231; and Colonel Charles E. Eastburn, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning proposed subzone status for the Clark plants are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U. S. Customs Service, 4950 W. Dickman Road, Battle Creek, MI 49016

U.S. Dept. of Commerce District Office, Room 636 B, Post Office and Court House Building, Louisville, KY 40202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Room 1872, Washington, D.C. 20230.

Dated: May 16, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83–13486 Filed 5–18–83; 8:45 am]
BILLING CODE 3510–25–M

International Trade Administration

National Cancer Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 82–00090. Applicant: National Cancer Institute, Drug Design and Chemistry Section, LMCB, DTP, DCT, NCI, NIH, Bethesda, MD 20205. Instrument: Mass Spectrometer, Model MM7070E. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of instrument: See notice on page 6681 in the **Federal Register** of February 16, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 22, 1981).

Reasons: The foreign instrument provides high resolution mass spectra and liquid chromatography/mass spectrometry operation. The National Bureau of Standards advises in its memorandum dated May 3, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument in intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,
Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–13431 Filed 5–18–83; 8:45 am]
BILLING CODE 3510–25–M

Texas A&M University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 83–55. Applicant: Texas A&M University, Department of Chemistry, College Station, TX 77843. Instrument: High Resolution Mass Spectrometer, MS–50. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of instrument: See notice on page 56533 in the **Federal Register** of December 17, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (March 5, 1982).

Reasons: The foreign instrument has a guaranteed static mass resolution of 150,000 (10% valley definition). The Department of Health and Human Services advises in its memorandum dated April 4, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,
Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–13432 Filed 5–18–83; 8:45 am]
BILLING CODE 3510–25–M

University of Alabama in Birmingham; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of

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1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 82–00002R. Applicant: University of Alabama in Birmingham, Comprehensive Cancer Center, NMR Core Facility, CHSB B–31, University Station, Birmingham, AL 35294. Instrument: 1 NMR Spectrometer, Model CXP 200/300. Original notice of this resubmitted application was published in the **Federal Register** of November 18, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 28, 1978).

Reasons: The foreign instrument can monitor up to a 500 kilohertz spectral width. The Department of Health and Human Services advises in its memorandum dated April 28, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States, at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–13430 Filed 5–18–83; 8:45 am]

BILLING CODE 3510–25–M

Portland Hydraulic Cement and Cement Clinker From Mexico; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary countervailing duty determination.

SUMMARY: The preliminary countervailing duty determination involving portland hydraulic cement and cement clinker from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than July 1, 1983.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–4136.

SUPPLEMENTARY INFORMATION: On March 28, 1983, we initiated a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of portland hydraulic cement and cement clinker received any benefits that constitute bounties or grants (48 FR 14019). The notice stated that we would issue a preliminary determination by June 1, 1983.

The product covered by this investigation is portland hydraulic cement and cement clinker from Mexico. The imported merchandise is currently provided for in items 511.1440 and 511.1420 of the *Tariff Schedules of the United States Annotated.*

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to producers, manufacturers, or exporters in Mexico of portland hydraulic cement and cement clinker. There are a large number of firms whose activities must be investigated, it is difficult to determine the extent to which particular subsidies are used by individual manufacturers, producers and exporters, and there are novel issues presented. We have been informed by the Mexican government that there are 29 cement plants in Mexico, owned by 6 groups of firms, consisting of approximately 18 companies and that the corporate relationships involved are intricate. The extent of utilization of the alleged subsidies is difficult to determine. In addition, the case also presents certain novel issues, such as preferential prices on petroleum products and electricity used as a fuel to manufacture cement and an allegation that the tax exempt status of workers' cooperatives is countervailable.

We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination. For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than July 1, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

May 12, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–13433 Filed 5–18–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery, Experimental Fishing Permit

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of experimental fishing permit.

SUMMARY: This notice announces the issance of three experimental fishing permits to delay sorting mid-water trawl catches of Pacific whiting and disposing of prohibited species in trawl catches, until the catches are landed. An experimental fishing permit allows a fishing practice which otherwise would be prohibited by Federal regulation.

EFFECTIVE DATE: May 18, 1983.

ADDRESS: Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service (NMFS), 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: Rodney R. McInnis (Chief, Resource Management Branch, NMFS, Southwest Region), 213–548–2518.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Secretary of Commerce on January 4, 1982, and implementing regulations were published on October

5, 1982 (47 FR 43964). The FMP specifies that experimental fishing permits (EFPs) may be issued to authorize fishing which otherwise would be prohibited. The procedures for issuance of EFPs appear in the regulations at 50 CFR 663.10. Applications were received for three mid-water trawl vessels to delay sorting and discarding prohibited species from the catch in their fishing operations directed on Pacific whiting. A notice of receipt of the EFP applications and a request for public comment was published in the **Federal Register** on March 8, 1983, (48 FR 9681). Consultations with the Pacific Fishery Management Council (Council), the U.S. Coast Guard, and the Directors of the Washington, Oregon, and California State fisheries management agencies were held during the Council's March 16–17, 1983, meeting in Portland, Oregon. The Director, NMFS, Northwest Region, is issuing these permits at the recommendation of the Director, NMFS, Southwest Region (Southwest Regional Director) who has proposed and will implement these EFPs.

The regulations at 50 CFR 663.7(1) prohibit the retention of any species of salmonid or Pacific halibut caught in trawl nets, among other types of fishing gear. Normal practice on groundfish trawl vessels is to sort the catch from each tow before storing it in the hold. Species and sizes of fish that are not marketable are discarded during this sorting. Prohibited species also are returned to the sea at that time. Currently, any salmonid or Pacific halibut taken in a trawl and placed in the hold (not returned to the sea immediately) is considered to be retained in violation of 50 CFR 663.7(i). By delaying sorting until the time of landing, the applicants expect to shorten the length of time before the catch is placed in refrigerated seawater. Since Pacific whiting deteriorate rapidly after death, rapid refrigeration is necessary to maintain product quality when shoreside processing is involved.

Comments

The Southwest Regional Director received one letter from the U.S. Coast Guard and several oral comments and recommendations during consultations with the Pacific Fishery Management Council and the State fishery agency directors. Those comments are summarized below.

1. *Comment:* The Pacific Fishery Management Council unanimously recommended that these permits be granted subject to reporting and observer requirements.

Response: Reporting requirements have been specified in the conditions attached to the EFPs. Onboard observers will be assigned to provide a level of coverage which is not yet determined. Because the entire catch will be landed and subject to inspection at that time, full-time onboard observers probably will not be necessary to effectively monitor these operations. The first few trips under these permits will be observed and subsequent need for observers will be determined on the basis of that experience.

2. *Comment:* Two comments related to the disposition of salmon landed under these EFPs. The Council's Prohibition Species Task Force recommended that the salmon not be allowed to enter commercial channels but be distributed through charity organizations to the needy. The Council's final recommendation left this matter to the Southwest Regional Director's discretion. On this same subject, the California Department of Fish and Game recommended that the salmon be auctioned by the State and allowed to enter normal market channels.

Response: To ensure that the best use is made of all salmon landed under these EFPs, the Southwest Regional Director has combined these recommendations. California Department of Fish and Game will take possession of all legal-sized salmon during the open salmon season. Sublegal-sized salmon and salmon landed during the closed season will be distributed through local charity organizations at the Southwest Regional Director's discretion.

3. *Comment:* The U.S. Coast Guard recommended several conditions be attached to the permits, if issued. These conditions which relate to maintaining effective enforcement and obtaining adequate documentation of the results of this experiment include requiring detailed log books, special markings on the vessels, posting the EFP in the wheelhouse, and designating catch offloading sites. They also recommended that the NMFS consider requiring full observer coverage on board the permitted vessels.

Response: Most of these recommendations have been incorporated in the EFP conditions. Masters must maintain up-to-date trawl log books as required by the State of California. By permit condition, this State reporting requirement has been incorporated into the EFP and expanded to require reporting the number and species of salmon landed. Special markings are not required by the EFPs because the identification required under 50 CFR 663.6 is expected to be adequate. The master of a vessel engaged in fishing under an EFP is required by regulation [50 CFR 663.10(g)] to carry the EFP aboard the vessel for which it was issued and to present it for inspection by any authorized officer. A catch offloading site has been designated and the Southwest Regional Director must be notified at least 24 hours in advance of any landing under these EFPs at any other site.

The level of onboard observer coverage necessary to monitor this experiment adequately is expected to be less than full-time. The appropriate level will be determined by the Southwest Regional Director based on the experience of observers on the first several trips under these EFPs.

Description of the Experimental Fishing Permits

(1) *Vessels.* Permits are issued to the following three vessels: *Travis William, Pacific Raider* and *Warrior II.*

(2) *Species.* The authorized target species is Pacific whiting. Incidental catches of rockfish and salmon are expected. The whiting catch may be sold to a local, shore-based processor. Incidental catches of rockfish may be sold to local processors as well, subject to any existing trip limits. The number of salmon allowed to be landed under these EFPs is not limited. Incidentally-caught salmon must be sorted from the catch at the local processing facility and would be turned over to agents designated by the Southwest Regional Director. Salmon of legal size may be sold by the California Department of Fish and Game to the highest bidder. Salmon of less than legal size or landed during the closed season for salmon will not be sold and will not enter normal market channels.

(3) *Time.* The authorized season for this operation begins on the effective date of this notice and ends on December 31, 1983, 2400 hours PST.

(4) *Place.* The vessels are authorized to operate in the fishery conservation zone (3–200 miles) off Washington, Oregon, and California.

(5) *Gear.* Pelagic trawl gear authorized under 50 CFR Part 663 must be used.

(6) *Reporting requirements.* Trawl log books required by the State of California must be maintained up-to-date and the number of salmon and halibut landed must be recorded at the end of each trip. These log books must be available for inspection by authorized agents.

(7) *Observers.* The Southwest Regional Director, NMFS, may assign an observer to permitted vessels for the purposes of collecting scientific data and carrying out other management and compliance activities as may be authorized.

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(16 U.S.C. 1801 *et seq.*).

Dated: May 13, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-13469 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery conservation and Management Act (Pub. L. 94-265, as amended), will meet to discuss the proposed FY 84 budget; discuss proposed amendments to the Shrimp and Stone Crab Fishery Management Plans (FPMs), to resolve Pasco/Citrus Counties conflict; discuss data collection FMPs, and discuss other administrative and fishery management business, as appropriate.

DATES: The public meetings will convene on Wednesday, June 8, 1983, at approximately 10:15 a.m., adjourn at approximately 5 p.m.; reconvene on Thursday, June 9, 1983, at approximately 8:30 a.m., and adjourn at noon.

ADDRESS: The public meetings will take place at the Ramada Inn, 1295 North 11th Street, Beaumont, Texas.

FOR FURTHER INFORMATION CONTACT: Contact Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: May 16, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13466 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council by June 6, July 5, or August 1, 1983.

The Council's staff will be available between 9 a.m. and noon on each of these dates to receive comments, which may be made in person at the Council's Headquarter's Office, Federal Building, Room 2115, 300 South New Street, Dover, Delaware. Between the above-stated hours. In addition, written comments may be mailed in time to be received and reviewed by the Council, on June 6, July 5, or August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: May 16, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13467 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing the Import Restraint Levels for Certain Cotton Textile Products From the Socialist Republic of Romania Under a New Agreement Effective January 1, 1983

May 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton textile products imported from Romania during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: On March 31, 1983, the Governments of the United States and the Socialist Republic of Romania signed a new Bilateral Cotton Textile Agreement which establishes a specific ceiling for cotton coats in Category 335 and designated consultation levels for men's and boys' cotton knit shirts in Category 338 and its submit, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1983. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the new bilateral agreement, to prohibit during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983 entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 335, 338 and 338 pt. in excess of 56,100 dozen, 256,000 dozen, and 97,222 dozen, respectively.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 21, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 31, 1983, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 20, 1983 and for the twelve-month period beginning on January 1, 1983, and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 335, 338 and 338 pt. (TSUSA number 379.0230, 379.0240, 379.4040, and 379.4050) produced or manufactured in Romania, in excess of 56,100 dozen, 256,000 dozen, and 97,222, dozen respectively.[1]

In carrying out this directive, entries of cotton textiles products in the foregoing categories produced or manufactured in the Socialist Republic of Romania, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Textile products in Categories 335 and 338 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of March 31, 1983 between the Governments of the United States and the Socialist Republic of Romania which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased by the application of carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13468 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-22-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982.

Controlling Imports of Certain Cotton Apparel From Malaysia

May 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of women's girls' and infants' woven cotton blouses in Category 341, produced or manufactured in Malaysia and exported during the sixty-day period which began on April 27, 1983 and extends through June 25, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On April 27, 1983 the Government of the United States requested consultations with the Government of the Malaysia with respect to Category 341 (women's, girls', and infants' woven cotton blouses). This request was made on the basis of the Agreement of December 5, 1980 and February 27, 1981, as amended, between the Governments of the United States and the Malaysia relating to trade in cotton, wool, and man-made fiber textiles and texile products.

Under the consultation provision of the bilateral agreement, Malaysia is obligated to limit its exports to the United States of these products during the sixty-day period to 54,216 dozen. Malaysia is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-month period which began on April 27, 1983 and extends through April 26, 1984 to 216,865 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton textile products in Category 341 for the sixty-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the Malaysia, further notice will be published in the **Federal Register.**

In the event the limits established for Category 341 for the sixty-day period are exceeded, such excess amounts, if they are allowed to enter, will be charged to the level (described above) for the twelve-month period.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLMENTARY INFORMATION: On December 17, 1982 there was published in the **Federal Register** (47 FR 56535) a letter dated December 14, 1982 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1983. The bilateral agreement includes a consultation mechanism which applies to categories of textile products, such as Category 341, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 341, produced or manufactured in Malaysia and exported during the indicated sixty-day period, in excess of the designated level of restraint.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 20, 1983 and for the sixty-day period which began on April 27, 1983, and extends through June 25, 1983, entry into the United Stated for consumption and withdrawal from warehouse for consumption of textile products in Category 341, produced or manufactured in Malaysia, and exported on and after April 27, 1983, in excess of 54,216 dozen.[1]

Textile products in Category 341 which have been exported to the United States prior to April 27, 1983 shall not be subject to this directive.

Textile products in Category 341 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption

[1] The level of restraint has not been adjusted to reflect any imports after April 26, 1983.

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to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Malaysia and with respect to imports of cotton textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13494 Filed 5-18-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closing Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Tuesday, 7 June 1983.

Time: 0830-1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The "How to Fight" subpanel of the 1983 Army Science Board Summer Study on Future Development Goal will meet for classified briefings and discussions addressing concepts and doctrine of the way we fight and the way we will fight in the Airland Battle 2000 to include suggestions on innovations. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13549 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of metting: Thursday and Friday, 9 and 10 June 1983 and Wednesday and Thursday, 29 and 30 June 1983.

Time: 0630-1700 hours (Closed), all four days.

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Balanced Protection for the Individual Soldier will meet for classified briefings which primarily involve combat developer activities on 9 and 10 June. The panel will continue its assessment on individual soldier protection on 29 and 30 June. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, May be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc.83-13550 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, 13 June 1983.

Time: 0830-1700 hours (Closed).

Place: Harry Diamond Laboratories, Adelphi, Maryland.

Agenda: The Army Science Board Functional Subgroup on Research and New Initiatives will meet for classified briefings and on-site orientations to cover the following topics: High Power Microwave Technology (Technology Overview, Army Program, Navy Program, Medical Aspects, Intelligence Considerations), the DoD VHSIC Program, and Mission Area Analysis Methodology. An Executive Session will wind up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc.83-13551 Filed 5-18-83; 8:45am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Monday, Tuesday, Wednesday, 20-22 June 1983.

Time: 0830-1700 hours (Closed) each day.

Place: U.S. Army Chemical School, Fort McClellan, Alabama.

Agenda: The Army Science Board Ad Hoc Study Group on the Smoke & Obscurants Program will meet for classified briefings and discussions on smoke operational concepts, doctrine, materiel requirements, systems, training and force structure. The Smoke Study Group will observe a smoke training and large area smoke system demonstration. An Executive Session will be held on the third day. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13552 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, 20 June 1983.

Time: 0830-1700 hours (Closed).

Place: Hughes Aircraft Company, Fullerton, California.

Agenda: The Army Science Board 1983 Summer Study group on Acquiring Army Software will meet for proprietary briefings from the private industry sector for civilian perspectives on the subject of this study. An Executive Session to discuss progress to date will wrap up the meeting. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified, nonclassified, and proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13553 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Wednesday, Thursday, Friday, 22-24 June 1983.

Time: 0830-1700 hours (Closed) each day.

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet for classified briefings and discussions to continue the examination of advanced techniques for ballistic missle defense. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 659-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-13554 Filed 5-18-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 14 June 1983 in MRA&L Conference Room #3E794, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, 15 June 1983 in the Secretary of Defense's Executive Conference Room #3E869, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the recommendations/requests for information/statements of appreciation made at the 1983 Spring Meeting, discuss current issues relevant to women in the Services, and to start planning the program for the next Semi-annual Meeting scheduled for 16-20 October 1983 in Jacksonville, North Carolina.

Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697-2122 no later than 3 June 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13515 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 5, 1983; Tuesday, July 12, 1983; Tuesday, July 19, 1983; and Tuesday, July 26, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13512 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Science Board 1983 Summer Study Panel on Conventional Munitions, Advisory Committee Meeting

The Defense Science Board 1983 Summer Study Panel on Conventional Munitions will meet in closed session on 13-14 July 1983 in McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the pereived needs of the Department of Defense.

At the meeting on 13-14 July 1983, the Task Force will consider the current long endurance aircraft programs.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 16, 1983.

[FR Doc 83-13514 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on 29 June 1983 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advice the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 29 June 1983 the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue

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its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the U.S., its friends and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 16, 1983.

[FR Doc. 83-13513 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 7, 1983; Tuesday, June 14, 1983; Tuesday, June 21, 1983; and Tuesday June 28, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b (c)(4)).

Accordingly, the Deputy Assistance Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C 552b (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 16, 1983.

[FR Doc. 83-13511 Filed 5-18-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Centers and Services for Deaf-Blind Children

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priority and proposed geographical regions.

SUMMARY The Secretary proposes an annual funding priority and the composition of six geographical regions for the award of grants under the Centers and Services for Deaf-Blind Children program. To ensure effective use of program funds, the Secretary proposes to establish an annual priority related to the (1) types of activities being conducted, and (2) the children being served. This action is being proposed to ensure that States will have the necessary capability to provide appropriate services to those children for whom they are responsible. It is also intended to ensure the provision of services to deaf-blind children to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act (EHA-B). States participating in the EHA-B program are required to provide special education and related services to handicapped children, including those who are deaf-blind, within certain age groups.

In addition, the Secretary proposes to establish six regions for the purpose of making awards. The proposed regional structure is designed to bring about increased coordination of effort among States and reduce administrative costs of the program. A separate competition will be held for each of the six regions.

DATES: Comments must be received on or before June 20, 1983.

ADDRESSES: Comments should be addressed to R. Paul Thompson, Centers and Services for Deaf-Blind Children, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue S.W., Donohoe Building, Room 4916, Washingron, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Telephone (202) 472-7993.

SUPPLEMENTARY INFORMATION: Grants for Centers and Services for Deaf-Blind Children are authorized under Section 622 of the Education of the Handicapped Act (EHA). Program regulations are set out at 34 CFR Part 307. The purpose of the program authorized by Section 622 is to establish a limited number of centers designed to provide effective educational services to deaf-blind children beginning as early in life as feasible. Each center is required to provide (1) diagnostic and evaluative services for deaf-blind children; and (2) programs of education, orientation, and adjustment for those children; and (3) consultative services to those persons directly involved in the lives of those children. Centers funded under this authority are also required by regulation to conduct other activities, including the development and dissemination of materials and information to assist professional and allied personnel engaged in programs designed for deaf-blind children, and training to personnel engaged in the delivery of services to those children.

An application notice for transmittal of applications for Fiscal Year 1983 indicating the closing date for submitting those applications is published in this issue of the **Federal Register.**

Eligible Applicants: Public and nonprofit private agencies, organizations, or institutions are eligible to apply for awards under this program.

Priority: In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), the Secretary proposes to give an absolute preference to each application for a project that will use funds made available under this program for the following activities before using those funds for other authorized activities:

1. Activities authorized by 34 CFR 307.34 to the extent that they are designed to ensure that the States will have the necessary capacity to serve the deaf-blind children for whom they are responsible, including the provision of training to personnel in participating agencies which are engaged in, or responsible for, direct delivery of services to deaf-blind children or their families; and dissemination of materials and information about effective methods, approaches, or techniques for the adjustment and education of deaf-blind children.

2. The provision of services authorized by 34 CFR 307.33 to those deaf-blind children from birth through 21 years of age, in each State served by the center, to whom the State is not obligated to make available a free appropriate public education under Part B of the EHA. *See* Section 612(2)(B) of the EHA, 20 U.S.C. 1412(2)(B). Any remaining funds may be used to carry out any other activities authorized by Section 622 of the EHA and 34 CFR Part 307.

Composition of Geographical Regions: The Secretary proposes to establish six regions as follows:

Region and State To Be Included in Region
1—Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands
2—Delaware, District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
3—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, Texas
4—Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, Wisconsin
5—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming
6—Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Northern Mariana Islands, Oregon, Trust Territories of the Pacific Islands, Washington

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority and composition of regions. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before [the 30th day after publication of this document] will be considered before the Secretary issues any final priority and statements of regionsl composition. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4916, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance No. 84.025, Centers and Services for Deaf-Blind Children)

Dated: May 16, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-13489 Filed 5-18-83; 8:45 am]

BILLING CODE 4000-01-M

Centers and Services for Deaf-Blind Children

AGENCY: Office of Special Education and Rehabilitative Services; Education.

ACTION: Application Notice for Transmittal of Applications for Fiscal Year 1983.

Applications are invited for new awards under the Centers and Services for Deaf-Blind Children program.

Authority for this program is contained in Section 622 of the Education of the Handicapped Act. (20 U.S.C. 1422).

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand-delivered by July 18, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.025, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; or

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Each center is required to provide (1) diagnostic and evaluative services for deaf-blind children; (2) programs of education, orientation, and adjustment for those children; and (3) consultative services to those persons directly involved in the lives of those children. Centers are also required by regulation to conduct other activities, including the development and dissemination of materials and information to assist professional and allied personnel engaged in programs designed for deaf-blind children, and training to personnel engaged in the delivery of services to deaf-blind children.

Available Funds: An applicant for a grant may propose a project period of up to 36 months. Approximately $11,760,000 is available for these awards for Fiscal Year (FY) 1983. It is expected that the amount available for continuation awards will decrease by 35 percent for FY 1984 and by an additional 25 percent for FY 1985.

It is expected that funding will be available to award six new grants in FY 1983, as indicated in the table below. These estimates of funding levels do not bind the U.S. Department of Education to the amount of any grant, unless that amount is otherwise specified by statute or regulation.

A separate competition will be held for each region. The Secretary intends to make one award per region, but will not make any award for a region for which he determines that no application is of sufficient quality to merit approval.

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Number	Region	States to be included in Region	Approximate fiscal year 1983 funding level
84.025A	1	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.	$2,560,000
84.025B	2	Delaware, District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.	1,880,000
84.025C	3	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, Texas.	2,100,000
84.025D	4	Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, Wisconsin.	1,880,000
84.025E	5	Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	1,420,000
84.025F	6	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Northern Mariana Islands, Oregon, Trust Territories of the Pacific Islands, Washington.	2,140,000

Application Forms: Application forms and program information packages may be obtained by writing to the Special Needs Section, Program Development Branch, Special Education Programs, Donohoe Building, Room 4918, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing Centers and Services for Deaf-Blind Children (34 CFR Part 307);

(b) Any final annual priority or statement of regions adopted by the Secretary. A notice of a proposed annual priority and a proposed statement of regions for the Centers and Services for Deaf-Blind Children program is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priority and statement of regions. If there are any substantive changes made in these proposed provisions when published in final form, applicants will be given the opportunity to amend or resubmit their applications; and

(c) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT:
R. Paul Thompson, Centers and Services for Deaf-Blind Children, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Donohoe Building, Room 4918, Washington, D.C. 20202. Telephone: (202) 472–7993.

(20 U.S.C. 1422)

(Catalog of Federal Domestic Assistance No. 84.025, Centers and Services for Deaf-Blind Children)

Dated: May 16, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–13490 Filed 5–18–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action on Consent Order With Hudson & Hudson

AGENCY: Office of Special Counsel, Economic Regulatory Administration, DOE.

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR § 205.199J that is has adopted the Consent Order with Hudson and Hudson executed on January 19, 1983 and published for comment in 48 FR 8326 on February 28, 1983, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations with respect to crude oil sales for the period September 1973 through November 30, 1980. To remedy any violations that may have occurred during the period, Hudson and Hudson has agreed to make payment in the principal amount of $750,000.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Five comments were received by march 30, 1983, the thirtieth day following publication of the notice of the proposed Consent Order. DOE has considered all comments and determined that the Consent Order should be made final without modification. The Consent Order is made effective as a final order of the DOE on May 19, 1983.

FOR FURTHER INFORMATION CONTACT:
David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, Phone: (816) 374–2092.

Copies of the Consent Order may be received free of charge by written request to: Hudson and Hudson, Consent Order Request, Economic Regulatory Administration, 324 East 11th Street, KANSAS City, Missouri 64106–2466.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Aveue, S.W., Room 1E–190, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m.

SUPPLEMENTARY INFORMATION:

The Consent Order

On February 28, 1983, DOE published notice in the **Federal Register** at page 8326 announcing the execution of a proposed Consent Order between Hudson and Hudson and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order. The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the DOE's audit of Hudson and Hudson's compliance with the Federal petroleum price and allocation regulations for the period September 1973 through November 30, 1980, (the audit period). The Consent Order resolves all administrative and civil issues between DOE and Hudson and Hudson not previously resolved concerning the sale of crude oil during the audit period.

2. Hudson and Hudson has agreed to make payment in the amount of $750,000, plus interest, to the DOE for deposit in a suitable account for subsequent disposition by DOE.

Commencing with the first day of the first month following the effective date of this Consent Order, Hudson and Hudson shall pay the principal amount in twelve (12) equal monthly installments. Interest shall accrue on the unrefunded balance of the principal amount until the principal amount is paid in full.

3. The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. These matters include Hudson and Hudson's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Hudson and Hudson. The Consent Order provides that Hudson and Hudson has waived its right to an administrative or judicial appeal of the Consent Order. The Consent Order does not constitute an admission by Hudson and Hudson nor a finding by OSC of a violation of any Federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of five comments on the proposed Consent Order. Separate comments were submitted by four states and a law firm representing the Attorneys General or eight states submitted a joint response. None of the comments objected to the settlement. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

The comments suggested that those parties that can verify and overcharge should enjoy priority as to any funds made available by the Consent Order. To the extent that monies are not paid out to direct purchasers, the comments urged that payments be made to the states.

It has been DOE's practice to provide, when possible, for refunds to be made directly to those persons who DOE believes may have borne the ultimate burden of the alleged violations, however, it is not always possible to identify specific persons who may have been injured or to determine the extent of their injury. The ultimate disposition of the funds in this case will depend on several factors, such as the nature of the alleged violations underlying the Consent Order and DOE's ability to identify the persons who ultimately bore the burden of the alleged violations. The suggestions of the commenting states regarding the distribution of the funds will be considered in determining the appropriate ultimate disposition. In the interim, the funds will be deposited into an interest-bearing escrow account maintained by the DOE.

Having considered all comments received, DOE has determined that the proposed Consent Order with Hudson and Hudson should be make final without modification, the Consent Order, therefore, is made final and effective on May 19, 1983.

Issued in Washington, D.C., May 9, 1983.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 83–13478 Filed 5–18–83; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of April 8 Through April 15, 1983

During the Week of April 8 through April 15, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 13, 1983

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 8 Through April 15, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 11, 1983	Highway Oil, Inc., Washington, D.C.	HRD–0123 and HRH–0123.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. HRO–0123) issued to Highway Oil, Inc.
Apr. 11, 1983	Office of Special Counsel/Gulf Oil Corporation, Washington, D.C.	HRZ–0143	Interlocutory Order. If granted: The affidavits of Clyde W. Oldham, Daniel J. Kortum, and Wilsam N. Walker submitted in conjunction with the Gulf Oil Corporation Statement of Legal Objections (Case No. DRO–0194) would be stricken from the record.
Apr. 11, 1983	Texaco, Inc., Washington, D.C.	HRZ–0142	Interlocutory Order. If granted: Texaco, Inc. would not be required to comply with the March 26, 1982, Stipulation Order entered into with the Office of Special Counsel.
Apr. 13, 1983	Edward T. Cotham, Jr., Houston, Texas	HEG–0028	Petition for Special Redress. If granted: Edward T. Cothman, Jr. would not be required to pay fees incurred in the processing of his Freedom of Information Act Request (06298201R), pending a determination on his appeal of the request (Case No. HFA–0093).
Apr. 14, 1983	Christmann & Welborn, Dallas, Texas	HEE–0065	Application for Exception. If granted: Christmann & Welborn would be permitted to sell the crude oil produced from the CWC Prentice Unit at upper tier ceiling prices for the period of September 1, 1973 to January 27, 1981.
Apr. 14, 1983	Transco Trading Company, Washington, D.C.	HRD–0125	Motion for Discovery. If granted: Discovery would be granted to Transco Trading Company in connection with the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. HRO–0114) issued to the firm.
Apr. 15, 1983	Thornton Oil Corporation, Atlanta, Georgia	HFA–0138	Appeal of Information Request Denial. If granted: Thornton Oil Corporation would receive access to certain documents in connection with the Consent Order entered into between Ashland Oil Company and the Office of Special Counsel.

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REFUND APPLICATIONS RECEIVED

[Week of April 8 to April 15, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
April 11, 1983	Ozona Gas Processing Plant/Enterprise Products Co.	RF27-1.
April 11, 1983 to April 15, 1983	Amoco Refund Applications	RF21-6227 through RF21-6666.

[FR Doc. 83-13462 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Period of March 21 Through April 15, 1983

During the period of March 21 through April 15, 1983, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania, Avenue, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

May 13, 1983

George B. Breznay,

Director, Office of Hearings and Appeals.

Caribou Four Corners, Inc., Afton, Wyoming; HEE-0063, BYX-0197, Crude Oil

Caribou Four Corners, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from April 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Caribou should be required to sell $17,687 of entitlements to account for an insufficient level of exception relief which the firm received for its operations prior to January 1981. In addition, subject to certain limitations, the Proposed Decision fully relieves Caribou of any net entitlements purchase or sales obligation that the firm might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Caribou also filed a submission which was construed as an application for Exception and was consolidated with the review of its April 1, 1980 through January 17, 1981 operations. In that submission, Caribou sought immediate compensation for the effects of an error that the Economic Regulatory Administration committed in establishing the firm's position on the December 1980 entitlements notice. The Proposed Decision took the value of this error into account in concluding that Caribou should be permitted to sell $17,687 of entitlements. Therefore, the Proposed Decision concluded that this request should be dismissed without prejudice to a refiling at a later date.

Kentucky Oil and Refining Co., Inc., Betsy Layne, Kentucky; HYX-0010, crude oil

Kentucky Oil and Refining Co., Inc. submitted financial and operating date for a review of the entitlements exception relief granted to the firm for its operations during the period from January 1, 1981 through January 17, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Kentucky Oil should be required to purchase entitlements with a value of $342,755 to account for the excessive exception relief that it received for its operations during its 1980 fiscal year and that, subject to certain limitations, Kentucky Oil should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Laketon Asphalt Refining, Inc., Evansville, Indiana; BYX-0196, crude oil

Laketon Asphalt Refining, Inc., submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Laketon should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Navajo Refining Company, Dallas, Texas; BYX-0204, crude oil

Navajo Refining Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from August 1, 1980 through January 17, 1981. On April 11, 1983, the Department Energy issued a Proposed Decision and Order which determined that Navajo should be required to sell $3,753,686 of entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Navajo should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Plateau, Washington, D.C.; BYX-0193, crude oil

Plateau, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from October 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Plateau should be required to sell $4,617,920 of entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Plateau should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur in excess of $207, 675 on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Sage Creek Refining Company, Cowley, Wyoming; HYX-0058, Crude oil

Sage Creek Refining Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from September 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Sage Creek should be required to sell $80,802 of the entitlements to account for the insufficient exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Sage Creek should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Southland Oil Company, Jackson, Mississippi; BYX-0199, Crude oil

Southland Oil Company submitted financial and operating data for a review of the entitlements relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Southland should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Southport Exploration, Inc., Tulsa, Oklahoma; HEE-0057, Crude oil

Southport Exploration, Inc. filed an Application for Exception from the provisions of 10 CFR 207. The exception request, if granted, would permit Southport to be permanently relieved from the obligation to prepare and submit Form EIA-23. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southwestern Refining Company, Inc., Salt Lake City, Utah; BYX-0200, Crude oil

Southwestern Refining Company, Inc. submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from July 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Southwestern should be required to sell entitlements with a value of $354,539 to account for the excessive exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Southwestern should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Thriftway Company, Washington, D.C; HYX-0019 crude oil

Thriftway Company submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the month of January 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that, subject to certain limitations, Thirftway should be relieved in full of any net entitlements purchase or sales obligation that it might otherwise incur in excess of $113,437 on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

Young Refining Corporation, Washington, D.C.; BYX-0198, crude oil

Young Refining Corporation submitted financial and operating data for a review of the entitlements exception relief granted to the firm for its operations during the period from August 1, 1980 through January 27, 1981. On April 11, 1983, the Department of Energy issued a Proposed Decision and Order which determined that Young should be required to purchase $3,799,539 of entitlements to account for the excessive exception relief that it received for its operations prior to January 1981 and that, subject to certain limitations, Young should be relieved of any net entitlements purchase or sales obligation that it might otherwise incur on the January Entitlements Notice and the entitlements clean-up list issued pursuant to 10 CFR 211.69.

[FR Doc. 83-13460 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 4 Through April 8, 1983

During the week of April 4 through April 8, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

Gear Petroleum Co., Wichita, Kansas; HRO-0144, crude oil

On April 4, 1983, Gear Petroleum Co. of Wichita Kansas filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Enforcement issued to the firm on March 4, 1983. In the PRO, the Kansas City Office found that during the period June 1979 through October 1980, Gear Petroleum Co. violated various pricing regulations in connection with the sale of crude oil. According to the PRO, the Gear Petroleum violation resulted in $369,485.87 of overcharges.

Jaguar Petroleum, Inc., R. Wayne Stufflebean, Houston Texas; HRO-0145, crude oil

On April 5, 1983, Jaguar Petroleum, Inc., and R. Wayne Stufflebean, 8816 Arbor Wood, Houston, Texas 77040, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston Office of Enforcement issued to them on March 2, 1983. In the PRO, the Houston Office found that during the period January 1980 through December 1980, Jaguar Petroleum, Inc. and R. Wayne Stufflebean committed various pricing violations in the State of Texas in the connection with the sale of crude oil. According to the PRO, the pricing violations resulted in $860,350.00 of overcharges.

Tesoro Petroleum Corporation, San Antonio, Texas; HRO-0143, crude oil entitlements

On April 4, 1983, Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, Texas 78286, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel (OSC) issued to the firm on March 7, 1983. In the PRO, the OSC found that during the period October 1977 through January 1978 the firm unlawfully received entitlements benefits under the Domestic Crude Oil Allocation Program (Entitlements Program) totalling $2,869,779.00. The PRO directs the firm to pay this amount plus interest to the DOE for ultimate disposition by DOE.

[FR Doc. 83-13479 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 11 Through April 15, 1983

During the week of April 11 through April 15, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 13, 1983.

Bi-Petroleum Refining Co., Springfield, Illinois, HRO-0146, Crude O il

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On April 13, 1983, Bi-Petroleum Refining Company, P.O. Box 3345, Springfield, Illinois 62708, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Special Counsel issued to the firm on March 17, 1983. In the PRO the Kansas City Office found that during the period July 1978 through December 1979, Bi-Petroleum Refining Company increased its selling price for gasoline in violation of 10 CFR 212.130(a)(1). According to the PRO, the Bi-Petroleum Refining Company violation resulted in $4,365,386.86 of overcharges.

Gonsoulin Energy Corporation, Jackson, Mississippi, HRO–0148, Crude Oil

On April 13, 1983, Gonsoulin Energy Corporation, 633 North State Street, Suite 405, Jackson, Mississippi 39201, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on March 2, 1983. In the PRO, the Houston Office found that during the period June 1980 through December 1980, Gonsoulin violated §§ 212.186 and 210.62 of the DOE price regulations. According to the PRO, the Gonsoulin violation resulted in $1,795,021.32 of overcharges.

Placid Oil Company, Dallas, Texas, HRO–0147, Crude Oil

On April 13, 1983, Placid Oil Company, 1600 First National Bank Building, Dallas, Texas 75202, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on March 29, 1983. In the PRO, the Dallas Office found that during the period August 19, 1973 through January 31, 1976, Placid violated various pricing regulations in connection with the sale of refined petroleum products, natural gas liquids and natural gas liquid products. According to the PRO the Placid violation resulted in $6,683,346.00 of overcharges.

[FR Doc. 83-13461 Filed 5-18-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[W-1-FRL 2363-7]

New Jersey Coastal Plain Area, New Jersey; Request for EPA Determination Regarding Aquifer System

AGENCY: Environmental Protection Agency.

ACTION: Notice of available additional information and public comment period.

SUMMARY: The purpose of this notice is to announce that: 1) the Environmental Protection Agency (EPA) has received and included in the public docket a technical publication from the U.S. Geological Survey (USGS) entitled "Hydrogeologic Conditions in the Coastal Plain of New Jersey" by Eric F. Vowinkel and W. Kendall Foster (Open File Report 81–405); 2) the EPA has prepared a draft Support Document summarizing (a) the available information on the ground water system and drinking water resources in the N.J. Coastal Plain Area and (b) preliminary findings with respect to a designation of such resources as a sole or principal source of drinking water in the area; 3) the USGS publication and the EPA draft document are available for review; and 4) public comments are requested.

DATES: The public is encouraged to submit written comments before the close of business on July 15, 1983 at the EPA regional office in New York City.

ADDRESSES: Comments on the USGS study and the EPA draft Support Document should be mailed to Andrea G. Sklarew, Water Supply Branch, Environmental Protection Agency, Region 2, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Andrea Sklarew, Chief, Drinking Water Protection Section, (212) 264–1800.

SUPPLEMENTARY INFORMATION: The USGS technical publication and the EPA draft Support Document are available for public inspection during normal business hours (8:00 a.m.–4:30 p.m.) at the Office of the Water Supply Branch, U.S. Environmental Protection Agency, Room 824, 26 Federal Plaza, New York, N.Y. 10278. EPA has also made arrangements to make the USGS study and the draft Support Document available for inspection at the following library facilities:

Facility and Hours

EPA Library, GSA Depot, Woodbridge Avenue, Edison, New Jersey 08837—M–F 8:00 a.m.–4:30 p.m.

N.J. State Library, U.S. Documents Collections, 185 W. State Street, Trenton, N.J. 08625—M, TH 8:30–9:00 p.m.; T, W, F 8:30–5:00; Sat. 9:00–5:00.

Camden County Library (Periodicals), Little Gloucester Road, Blackwood, N.J. 08012—M & Th 10:00–9:00 p.m.; T, W, F 10:00–5:00; Sat: 10:00–2:00

Stockton State College Library, Jimmie Leeds Road, Pomona, N.J. 08240—M–Th 8:00–10:00 p.m.; F: 8:00–5:00; Sat: 10:00–5:00; Sun: 1:00–9:00 p.m.

In addition, copies of the USGS study may be inspected at the Office of the U.S. Geological Survey, Room 430 Federal Building, 402 East State Street, Trenton, New Jersey 08608; USGS Headquarters Office 421 National Center, Reston, Virginia 22092 or the Open-File Publications Unit, Box 25425, Denver Federal Center, Lakewood, Colorado 80225.

Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) authorizes the Administrator to determine, on his or her own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project the Administrator determines may contaminate such an aquifer through a recharge zone so as to create a significant hazard to public health.

On March 21, 1979, notice was published (44 FR 17208) stating that the EPA had received a petition from the Environmental Defense Fund, Inc. and the Sierra Club (New Jersey Chapter) requesting the EPA to designate the Aquifer(s) underlying the Counties of Monmouth, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May and portions of Mercer and Middlesex Counties, as the sole or principal source of drinking water for the area, which, if contaminated, would create a significant hazard to public health. In the notice the EPA expressed a need to obtain additional hydrogeologic information on the area and sought the assistance of the USGS. On September 14, 1979, a notice was published (44 FR 53567) indicating that the EPA had contracted with the USGS for additional technical information on the N.J. Coastal Plan Aquifer System.

The USGS study has been completed and the EPA has incorporated information from this publication and other technical publications into a draft Support Document. The draft document includes conclusions which will be the basis for the final determination. Specifically, a recommendation to designate the NJ Coastal Plain Area would be based on a finding that the underlying aquifer system is the sole or principal source of water supply for the Area, that the system is susceptible to contamination, and that alternative supplies are limited or not available at comparable cost.

Due to the elapsed time since the EPA was petitioned to consider the NJ Coastal Plain Area for designation, the EPA is seeking any information relevant to the following preliminary findings incorporated in the draft Support Document:

1. The NJ Coastal Plain Aquifer System which underlies Monmouth, Ocean Atlantic, Salem, Gloucester, Camden, Burlington, Cumberland and portions of Middlesex and Mercer Counties, New Jersey is the sole or principal source of drinking water for the Area. Approximately 75 percent of the ground water used for drinking water by 3 million people in these counties is supplied by the NJ Coastal Plain Aquifer System.

2. There is no existing alternative drinking water source which provides 50 percent or more of the drinking water to the Area. Streamflow may be available for some municipalities located within the petitioned Area, but not all. Furthermore, streamflow in the NJ Coastal Plain Area is largely dependent upon ground water for its quality and quantity and therefore cannot serve as an independent alternative source.

3. The NJ Coastal Plain Aquifer System is susceptible to contamination because of the highly permeable nature of the sediments.

Since ground water contamination can be difficult or impossible to reverse, and because this aquifer system is relied upon for drinking water purposes by 75 percent of the population in the Area, contamination of the aquifer would pose a significant hazard to public health.

4. The area in which projects may be reviewed is delineated by (1) the boundary of the aquifer's recharge zone and (2) its streamflow zone. The recharge zone for the NJ Coastal Plain Area would include the outcrop areas of the major water bearing formations in southern New Jersey. The streamflow source zone would include the entire Delaware River Basin (as delineated by the Delaware River Basin Commission) down to the Chesapeake and Delaware Canal (along the western boundary) and all of the waterways in southern New Jersey which drain into the NJ Coastal Plain Area.

Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (5 U.S.C. 601–612, Pub. L. 96–534) is intended to ensure that Federal agencies analyze the effect of regulatory requirements on small businesses, organizations, or governmental jurisdictions (collectively referred to as "small entities"). The law requires that, with certain exceptions, each proposed or final regulation be accompanied by a regulatory flexibility analysis or by a certification that no such analysis is necessary because the regulation will not have a "significant economic impact on a substantial number of small entities".

Should the Administrator determine to designate the N.J. Coastal Plain Area, EPA expects that the only affected entities will be those Area based businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities is expected to be minimal. For those small entities which would be subject to review, the impact of an affirmative determination is not expected to be significant. Most projects subject to a review would be preceeded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, *et seq.* Integration of those related review procedures with sole source aquifer review would allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thereby minimizing any adverse effect on those small entities which are affected. Furthermore, a recommendation to designate does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of a project to assure protection of the aquifer. Comments related to impacts that a sole source designation may have on small entities are also hereby solicited.

Dated: March 31, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83-13141 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRL 23658]

Wheeling-Pittsburgh Steel Corp.; Findings and Notice of Consent Prior to Lodging of Amended Consent Decree

AGENCY: Environmental Protection Agency.

ACTION: Notice of findings and Notice of consent prior to lodging of amended consent decree.

SUMMARY: The Administrator announces his decision to exercise his discretion and grant compliance deferrals to Wheeling-Pittsburgh Steel Corporation under the Steel Industry Compliance Extension Act of 1981.

EFFECTIVE DATE: Effective May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart I. Silverman, Attorney, Office of Legal and Enforcement Counsel (LE–134A), United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, phone (202) 382–2859.

SUPPLEMENTARY INFORMATION

Background

On July 17, 1981, President Reagan signed into law the Steel Industry Compliance Extension Act (SICEA), Pub. L. 97–23, popularly known as "Steel Stretchout," which amended Section 113 of the Clean Air Act. The legislation was drawn up in response to the recommendations of the Tripartite Committee, and ad hoc group of representatives from industry, labor, government and environmental groups called together by the President in 1979 to address the special problems of the steel industry.

The environmental history of the steel companies in this country has been an arduous one. In the Clean Air Act Amendments of 1970, 42, U.S.C. 1857 *et. seq.* (1970) amended (1977), Congress directed the Federal Environmental Protection Agency to promulgate air quality standards for various air pollutants, and required the States to adopt plans (State Implementation Plans, or SIPs) to attain and maintain the standards, imposing control measures on individual sources where necessary. In 1975, representatives of the steel industry testified to a House Subcommittee that no steel plants were in compliance with the SIP requirements then applicable to them.[1]

In the Clean Air Act Amendments of 1977, Congress extended the deadlines for attainment of the national ambient air quality standards and at the same time strengthened the Act considerably.

In 1977, using the new enforcement authority provided by Congress, EPA launched a vigrous campaign to bring the steel companies and other major polluters into compliance with the SIPs. By 1979, EPA had negotiated consent decrees with many of the major steel producers. Other plants were covered by new rigorous SIP requirements specifically tailored to iron- and steel-manufacturing processes. Pollution control in the steel industry, however, required tremendous infusions of capital, greater than for many other heavy industries: for example, in 1980, nineteen percent of the steel industry's capital expenditure went for environmental clean-up, as opposed to nine percent for electric utilities, and five percent for automobile manufacturers. House Report *supra* at 9. Not only was the percentage of capital invested higher, but according to the

[1] Hearings on H.R. 3622 and H.R. 3650 before the Subcommittee on Health and the Environment, Serial No. 94–34 at 690, May 1975, cited in H.R. Rep. No. 97–121, 97th Cong., 1st Sess. (1981) (House Report) at 4.

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steel companies, it was more difficult for them to raise. *Id.* Moreover, at the same time they were belatedly spending signirficant sums on pollution control, American steel companies were losing ground in the marketplace to imports from mills overseas. Domestic plants which could not compete were closing. The industry argued that the only long term solution was to quickly and substantially modernize U.S. facilities. Such an effort, however, would put additional pressure on limited capital resources.

In the SICEA, Congress adopted a compromise devised by the Tripartite Committee to mitigate these competing claims for capital. In essence, Congress gave the EPA Administrator authority to extend dealines for installation of certain capital-intensive pollution control equipment for up to three years if a company agreed to use the money saved instead for capital investments which improved the efficiency and productivity of its steelmaking facilities. Thus, Congress provided that each company which took advantage of the Act eventually would spend twice the value of the deferred pollution controls—it would still meet all its environmental obligations (albeit later than initially required) and it would invest at least an equal *additional* sum in modernization.

To qualify, SICEA sets forth specific criteria, including a requirement that each applicant demonstrate that it is in compliance with all the requirements of its existing Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C 7413(e)(1)(E). Moreover, to obtain relief, a company must agree to bring all of its other iron- and steel-producing facilities into compliance with all applicable emission limitations pursuant to a "phased program of compliance" as defined in section 113(e)(2) of the act (installing reasonably available control technology where necessary). Section 113(e)(1)(C), 42 U.S.C. 7413(e)(1)(C). In addition, it must agree to interim pollution control measures, scheduled increments of progress with stipulated penalties for failure to meet schedule deadlines, monitoring and reporting requirements, and whatever other requirements the Administrator finds approprate. *Id.*

Compliance extensions are not available on a blanket basis. The Administrator must review requests for extensions case-by-case, and the applicant assumes the burden of demonstrating that it qualifies. Section 13(e)(2), 42 U.S.C. 7413(e)(2).

The vehicle Congress chose for granting relief is a new consent decree, or an amendment to an existing consent decree, to be lodged in Federal district court and to include the terms of the extension and the undertakings of the company required by the statute, including plant modernization. The court must of course approve the decree before it becomes effective. Anyone who wishes to comment upon or challenge the decree or the Administrator's findings may do so in the same forum. Sections 113(e)(7) (B), 113(e)(8) and 304(b)(1)(B), 42 U.S.C. 7413(e)(7)(B), 7413(e)(8) and 7604(b)(1)(B).

Application of Wheeling-Pittsburgh Steel Corporation

Wheeling-Pittsburgh Steel Corporation is an integrated steel producer with production facilities located in the Monongahela and Ohio Valleys in the States of Pennsyvania, Ohio and West Virginia. The facilities are the subject of a Federal consent decree originally entered on November 26, 1979, in the United States District Court for the Western District of Pennsylvania, and subsequently amended on April 20, 1982.

On October 30, 1981, Wheeling-Pittsburgh Steel Corporation filed an initial application with the EPA requesting relief under SICEA. It supplemented its application on February 24 and December 9, 1982, and January 20, February 7, and 16 and March 14, 1983. In its application, the company requested the Administrator to defer until after December 1982 compliance obligations at ten facilities requiring expeditures for pollution control of approximately $15 million. It proposed instead to incur capital expenditures for a modernization project totaling approximately $15 million for improved efficiency and productivity at an eighty inch hot strip mill at its South Steubenville, Ohio plant.

In its initial SICEA application, the company sought postponement of compliance obligations in the outstanding Federal consent decree, as amended, for its Monessen basic oxygen furnance and blast furnance No. 1 in Pennsylvania, the Follansbee sinter plant windbox in West Virginia, as well as the North Steubenville blast furnaces Nos. 1 and 2 in Ohio. Wheeling-Pittsburgh supplemented its original SICEA application and requested additional compliance extensions for its Mingo Junction basic oxygen furnace and blast furnace No. 5 in South Steubenville, Ohio. Extensions were also requested for its long terne sheet line and coke battery No. 2 and battery No. 3 at Follansbee, West Virginia. Except for the long terne sheet line, all of these facilities are covered by the Federal decree.

EPA Decision

The Administrator has determined that Wheeling-Pittsburgh Steel Corporation satisfies SICEA's requirements, and has decided to exercise his discretion to grant the company deferrals of compliance requirements under its existing Federal consent decree. EPA, in partnership with the Commonwealth of Pennsylvania, and the States of West Virginia and Ohio (signatories to the original Federal decree), and the company have negotiated amendments to the Federal decree extending compliance requirements and incorporating a commitment to invest in modernization of Wheeling-Pittsburgh's steelmaking operations.

The De Minimis Requirement

The most salient issue which arose during the processing of Wheeling-Pittsburgh's SICEA application concerned whether the company was in compliance with its Federal consent decree and, if not, whether violations of the decree were *de minimis* in nature.

As indicated above, to consent to relief, the Administrator must find that an applicant is in compliance with all of its Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

The text of the Act does not define *de minimis;* as in many other statutes, Congress has left to an administrative agency the task of working out the meaning of a critical term in case-by-case analysis. The Administrator has adopted an interpretation of *de minimis* based on the normal meaning of the phrase—small, of little concern.[5] He must evaluate each decree violation separately to determine if it is *de minimis*, rather than, for example, assessing the significance of a violation in the context of a company's entire compliance effort. This interpretation requires the Administrator to deny relief to a company if he finds even one violation which is not *de minimis*.

Wheeling-Pittsburgh Steel Corporation is a party to a Federal consent decree originally entered by the Court on November 26, 1979, and subsequently amended on April 20, 1982.[3] With regard to the company's compliance status under the Federal decree, as amended in 1982. EPA considered all information currently available.

[5] As noted under Finding (7) herein, in evaluating whether a violation of a decree requirement is of little concern, the Administrator has considered all of the facts or circumstances associated with the violation, not necessarily limited to the degree or duration of emission exceedances.

At one particular facility, blast furnace No. 3 in South Stubenville, Ohio, the Administrator was unable to conclude definitely whether the furnace is in compliance with decree standards. Lack of current information on furnace No. 3 is a result of both newly discovered information and changed circumstances. Under the Federal Decree, as amended, Wheeling-Pittsburgh was obligated to demonstrate compliance with the visible emission standard by December 23, 1982.

On December 22, 1982, EPA issued a certification of compliance for furnace No. 3 based on an evaluation of tests conducted in December 1982. On May 4, 1983, The Agency reevaluated the December test results and concluded that they did not show compliance. The Administrator is presently unable to determine definitely the current compliance status of furnace No. 3 because the collection efficiencies of existing controls have been enhanced during the past few months.

EPA has provided for measures to ascertain the precise compliance status of furnace No. 3 under proposed amendments to the existing Federal decree. Wheeling-Pittsburgh has committed to test furnace No. 3 and to incur expenditures for pollution control if EPA notifies the company of noncompliance. Had EPA informed Wheeling-Pittsburgh of the Agency's current analysis of the test results in December 1982, the company would have had the opportunity to immediately retest, request stretchout for that furnace or cure violations. In view of all the circumstances, the Administrator has decided to proceed with Agency action on Wheeling-Pittsburgh's stretchout application. Action is needed now to enable the company to invest modernization by the statutory deadline of July 16, 1983. Further delay would effectively bar stretchout to the company.

At several other facilities, the Administrator, upon reviewing their compliance status, does conclude that decree violations exist. For SICEA purposes, the Administrator finds these violations *de minimis*.

Specifically, Wheeling-Pittsburgh Steel Corporation has failed to comply with certain increments of progress and final compliance deadlines under the Federal decree at eleven facilities. Consent decrees for steel companies and other industrial sources often require not only final compliance with emission limitations by a particular date, but also set intermediate deadlines for submission of engineering plans, issuance of purchase orders, and installation of control equipment to ensure that the work will be completed on time.

For nine of these facilities, [4] violation of decree requirements occurred in the last three months of 1981 or during 1982, *after* SICEA was passed by Congress. Significantly, in reliance upon the potential remedial relief afforded by SICEA, the company requested SICEA deferrals for those deadlines which have been violated. As explained below, the Administrator believes that Congress intended that he consent to the extension of such "late maturing" deadlines, provided all the other requirements of the Act are satisfied. Accordingly, the Administrator has concluded that the schedule violations are *de minimis*.

The Clean Air Act Amendments of 1977 required each State to demonstrate compliance with the national ambient air quality standard for particulate matter (the standard at issue here) by December 31, 1982, and, with respect to each of its "nonattainment" areas, to take all reasonably available control measures to ensure that they would meet the statutory deadline. Section 172, 42 U.S.C. 7502. Therefore, when EPA entered into a consent decree with an individual source, it normally required that all equipment be installed and operating by December 31, 1982, at the latest. (In many decrees, of course, compliance was feasible, and was required earlier.) However, the vehicle by which Congress proposed to make funds available for modernization was the deferral of certain capital expenditures, that is , requirements to buy pollution control equipment. If a company was required to continue to meet decree deadlines which fell due *after* SICEA passage and which were the subject of its stretchout request until relief was granted, there would be virtually nothing left to stretch, and no additional funds would be available for modernization. If violations of such obligations could not be found to be *de minimis*, companies would be caught in a "Catch 22": in order to remain eligible for any SICEA relief, as time passed while its stretchout application was pending, a company would have to deny itself increasing increments of relief. Thus, to effectuate SICEA's statutory scheme, violated deadlines which fell due *after* SICEA enactment and subject to a request for stretchout are viewed as "late maturing" and *de minimis* for SICEA purposes.

In addition to the foregoing, the Administrator finds decree violations for several of the nine facilities [5] of small concern given that poor market demand has resulted in extended and continuing shutdown of operations with elimination of emissions. Shutdown of these facilities occurred solely as a result of business conditions, in good faith, and not to evade the requirements of the statute.

At four other facilities,[6] where the company has not requested stretchout, it has not determined compliance with decree standards. In evaluating the nature of these violations, the Administrator has considered the objectives of both SICEA in general and the *de minimis* criterion in particular. SICEA's legislative history evidences a concern that the applicant should incur expenditures under existing decrees for pollution control and undertake necessary measures to comply with decree requirements. Congress did not intend stretchout be granted to companies which have failed to undertake decree obligations at the expense of those which have done so.[7] The Administrator has determined that violation of decree standards at these four facilities are of small concern for SICEA purposes given the company's past and ongoing compliance efforts and the likelihood that violations will be cured promptly. Wheeling-Pittsburgh incurred expenditures for pollution

[3] The April 1982 amendments to the original decree reflected an agreement between EPA and the company regarding new, more realistic compliance schedules in view of past delays encountered by the company in complying with control requirements under the original decree. The Agency informed Wheeling-Pittsburgh of its willingness to renegotiate the original decree and commenced discussions with the company for this purpose in early March 1981, approximately four months prior to SICEA enactment. Thus, reliance upon the Federal decree as amended in 1982 for purposes of judging the company's compliance status does not violate the prohibition in SICEA's legislative history against modifying a decree to specifically eliminate violations which are not *de minimis*. H.R. Rep. No. 121, 97th Cong., 1st Sess. (1981) at 10.

[4] Coke battery No. 2 and battery No. 3 at Follansbee, West Virginia; Blast furnace No. 5 at South Steubenville, Ohio; Blast furnaces Nos. 1 and 2 at North Steubenville, Ohio; Basic oxygen furnace at South Steubenville, Ohio; Basic oxygen furnace at Monessen, Pennsylvania; Sinter plant winbox at Follansbee, West Virginia; Blast furnace No. 1 Monessen, Pennsylvania.

[5] Blast furnace Nos. 1 and 2 at North Steubenville, Ohio; Basic oxygen furnace at Monessen, Pennsylvania; Blast furnace No. 1 at Monessen, Pennsylvania.

[6] Coke batteries Nos. 1, 2, 3, and 8 at Follansbee, West Virginia.

[7] H.R. Rep. No. 121, 97th Cong. 1st Sess. (9181), at 10.

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controls and/or instituted necessary operation and maintenance procedures. Significantly, the company has continued to take corrective measures, and has demonstrated during the past several months an ability to achieve compliance expeditiously. Further, the company has definitively committed to cure existing violations promptly. This commitment has been embodied in proposed amendments to current Federal decree recently negotiated which provide assurances that the company will comply promptly. Thus, finding emission exceedances at these four facilities *de minimis* comports with legislative intent.

Finally, at one facility [9] the company installed pollution controls and instituted operations and maintenance procedures but ceased operation due to poor market demand prior to the compliance demonstration date specified in the decree. Although Wheeling-Pittsburgh has violated the Federal consent decree because it did not conduct a compliance demonstration test as required, it has installed controls and optimized its control program at the facility as required by the decree. Thus, the violation is of small concern.

Findings

On the basis of information submitted by the applicant and other information available to me (including background documents prepared by EPA and available for public inspection), the Administrator makes the following findings:

(1) The Administrator finds that extensions may be made of the following compliance obligations (capital expenditures currently required under the Federal decree, as amended, which are necessary to achieve compliance with SIP or RACT where applicable):

(In millions of dollars)

Project	Cost
A. Monessen Works (PA):	
i. Basic Oxygen Furnace	1.9
ii. Blast Furnace No. 1	1.8
B. Follansbee Works (WV):	
i. Sinter Plant Windbox	3.5
ii. Long Terne Sheet Line	.3
iii. Coke Battery No. 2 and Coke Battery No. 3 for charging	.865
C. North Steubenville Works (OH):	
i. Blast Furnaces Nos. 1 and 2	3.2
D. South Steubenville Mingo Junction Works (OH):	
i. Basic Oxygen Furnace	4.0
ii. Blast Furnace No. 5	.005
Total	15.370

(2) The Administrator finds that these extensions of compliance are necessary to allow the company to make capital investments in its eighty inch hot strip mill at the South Steubenville, Ohio Plant. The company will invest approximately $15.4 million for modernization of the hot strip mill which will yield improvements in steelmaking efficiency and productivity in a community which contains iron- and steel-producing operations.

(3) The Administrator finds that in order to achieve compliance with the Clean Air Act (including RACT where applicable) at all sources in its iron- and steel-producing operations,[9] Wheeling-Pittsburgh will be required to make at least the following capital expenditures, based upon EPA's estimate of the amount of capital remaining to be expended from this day forward. (Except for the long terne sheet line, these expenditures are currently required under the Federal decree, as amended):

Description	Cost (millions)
A. Monessen Plant:	
—Basic Oxygen Furnace, fugitive controls	$1.9
—Blast Furnace, No. 1 fugitive controls	1.8
—Coke Oven Gas Desulfurization [1]	7.8
B. Follansbee Plant:	
—Sinter Plant Windbox, particulate matter control	3.5
—Long Terne Sheet Line, particulate matter control	.3
—Coke Battery No. 2, Coke Battery No. 3 for charging larry car	.7
C. North Steubenville Plant:	
—Blast Furnaces, Nos. 1 and 2 fugitive controls	3.2
D. South Steubenville Mingo Junction Plant:	
—Blast Furnace No. 5, fugitive controls	.005
—Basic Oxygen Shop, fugitive controls	4.0
Total	23.170

[1] Capital expenditures for coke oven gas desulfurization at the Monessen Plant in the amount of $7.8 million will be expended after 1982 to comply by June 1, 1985, with applicable requirements. This compliance requirement was imposed under the Federal decree, as amended in 1982, and does not reflect a stretchout of compliance under SICEA. Given that the polluting source is located in an unclassified area for sulfur oxides, it need not comply with the applicable sulfur oxide standard by December 31, 1982.

(4) The Administrator finds that a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) would require the company to make the capital expenditures on the following schedule:

At least a total of $12.820 million by December 31, 1984.

At least a total of $23.170 million by December 31, 1985.

(5) The Administrator finds that an integration of the qualifying capital expenditures and the "phased program of compliance" schedule, when allowing for the required modernization investments under section 113(e)(1)(B), results in the following required schedule of capital expenditures:

At least $15.4 million for improving efficiency and productivity by July 16, 1983. (SICEA requires the investments in modernization projects be made within two years from the date of enactment of the law which occurred on July 17, 1981.)

At least a total of $12.820 million for pollution control projects by December 31, 1984.

At least a total of $23.170 million for pollution control projects by December 31, 1985.

The proposed amendments negotiated under SICEA incorporates this spending schedule.

(6) The Administrator finds that the company will have sufficient funds to comply with the capital expenditure requirements set forth in Finding (5). An economic analysis conducted by the Agency to support this conclusion is in the public docket for inspection.

(7) The Administrator finds that the company is not in compliance with its existing Federal consent decree, as amended in 1982,[10] but that its violations are *de minimis* in nature. In particular, the Administrator finds the following violations of consent decree provisions *de minimis* in nature:

A. The company failed to demonstrate compliance with the door standard at coke batteries Nos. 1, 2, 3 and 8 at the Follansbee Coke Plant in West Virginia. Paragraph B2(b)(1) of Section I of the Federal decree required compliance at batteries Nos. 2, 3 and 8 by December 31, 1981. For battery No. 1, Paragraph B2(b)(1) required compliance by August 31, 1982. Wheeling-Pittsburgh has incurred capital expenditures to enhance its ability to comply with the door standard, including expenditures for door spraying and jambs cleaning machinery. Further, the company has implemented a cleaning program for proper operation and maintenance of battery doors. These ongoing measures in the past several months have yielded reductions in emission exceedances of the door standard. Significantly, the company has demonstrated an ability to expeditiously achieve compliance and has committed to comply promptly (thereby curing violations) in proposed amendments to its existing Federal decree recently negotiated. In view of all the circumstances, the Administrator has determined that violations of the door standard at the Follansbee Coke Plant are *de minimis*.

B. Wheeling-Pittsburgh failed to demonstrate compliance with the decree charging standard for batteries Nos. 1, 2 and 3 at the Follansbee Coke Plant in West Virginia. Paragraph B2a(5) of Section I of the decree required the company to demonstrate compliance with the charging standard by August 31, 1982 for these three batteries. The company has incurred capital costs for and has installed control equipment required by the Federal decree. Corrective measures implemented and emissions data of the past several months indicate that Wheeling-Pittsburgh has demonstrated an ability to expeditiously achieve compliance at battery No. 1. It has committed to comply promptly (thereby curing violations) at battery No. 1 in recently negotiated proposed amendments to its existing Federal decree.

In view of all of the circumstances, the Administrator has determined that violations of the charging standard at battery No. 1 are *de minimis*.

With regard to batteries Nos. 2 and 3, Wheeling-Pittsburgh has requested deferral of compliance with the charging standard under SICEA. The company's request for SICEA relief was submitted on February 16, 1983, as a supplement to its stretchout application. In the supplement, the company commits to incur capital expenditures for the repair of larry car No. A1 to enhance that car's ability to stage charge coal and thereby enable compliance with the charging standard at batteries Nos. 2 and 3. The need to utilize larry car No. A1 as the primary means of charging coal for a portion of battery No. 2 and battery No. 3 has recently become apparent. For several months, coke production at batteries Nos. 1, 2 and 3 has predominantly been below normal levels, necessitating the use of only one larry car (designated as larry car No. A2) for charging (capable of stage charging) at these three batteries. Recent improvement in market demand, however, has increased production of coke at batteries Nos. 1, 2 and 3, requiring the use of a second larry car for charging coal at a portion of battery No. 2 and all of battery No. 3. To accommodate the recent shift to shorter coke time and increased coke production, and pending repairs to larry car No. A1, on March 7, 1983, Wheeling-Pittsburgh began utilizing a larry car (designated as larry car No. 2) not capable of stage charging for a portion of battery No. 2 and all of battery No. 3. Use of larry car No. 2 for increased production and the resultant increases in charging emissions above the allowable at a portion of battery No. 2 and battery No. 3 are violations of the decree requirements to comply with the charging standard.

In view of the company's request for SICEA relief, the requirement under the decree to comply with the charging standard at battery No. 2 and battery No. 3 is late maturing and therefore the type of obligation Congress intended for relief under SICEA. Accordingly, in view of all the circumstances, the Administrator has determined these violations are *de minimis*.

C. The company failed to demonstrate compliance at its blast furnace No. 5 in South Steubenville, Ohio. Specifically, Paragraph G3e of Section I of the Federal decree required Whelling-Pittsburgh to demonstrate compliance with emission limitations at furnace No. 5 by December 23, 1982.

The company has incurred capital costs for controls at furnace No. 5 and installed these controls as required by the decree.

Prior to the December 23, 1982, compliance deadline, the company attempted a compliance demonstration test but failed to achieve compliance with standards. The company temporarily ceased production at furnace No. 5 on December 19, 1982, and resumed operations during the first week of January 1983. Significantly, upon resumption of operations, Wheeling-Pittsburgh continued to undertake corrective measures to achieve compliance. The company determined additional capital expenditures were required to comply with standards. It therefore requested deferral of these expenditures in a supplement to its SICEA application, dated March 14, 1983.

The final compliance requirement for furnace No. 5 which has been violated is the type of late maturing obligation Congress intended for SICEA relief. Accordingly, in view of all the circumstances, the Administrator has determined the violation at furnace No. 5 is *de minimis*.

D. Wheeling-Pittsburgh failed to comply with certain requirements under the Federal decree, as amended, for blast furnaces Nos. 1 and 2 at its North Steubenville Plant in Ohio. The company submitted a request for SICEA compliance extensions for these two facilities on October 30, 1981. Paragraph G3a of Section I of the Federal decree required the company to submit engineering plans for pollution control by September 30, 1981. Paragraph G3b of Section I of the Federal decree obligated the company to let all initial major contracts for fugitive emission controls for those furnaces by November 30, 1981. Additionally, Paragraph G3c of Section I required the company to initiate installation of control equipment by March 1, 1982. Lastly, Paragraphs G3d and G3e of Section I required the company to complete installation of controls and demonstrate compliance on November 1 and December 23, 1982, respectively. The company violated these decree requirements.

The decree requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market demand, blast furnaces Nos. 1 and 2 ceased production on April 26, 1981 and May 18, 1980, respectively, and have not recommenced operations. Both furnaces, therefore, have not been a source of particulate emissions since shutdown. Accordingly, in view of all of the circumstances, the Administrator has determined these violations are *de minimis*.

E. The company failed to comply with certain requirements for its basic oxygen furnace at the South Steubenville Mingo Junction Plant in Ohio. On February 24, 1982, Wheeling-Pittsburgh submitted a request for SICEA extensions for this facility. Paragraphs C1c (2) and (3) of Section I of the Federal decree, as amended, required the company to let all initial major contracts and commence installation of control equipment by November 30, 1981, and May 1, 1982, respectively. Paragraphs C1c(4) and C1c(5) required the company to complete installation of controls and demonstrate compliance by December 1,

[9] Blast furnace No 3 at Monessen, Pennsylvania.

[9] For facilities at Wheeling-Pittsburgh's Monessen Plant in Pennsylvania, the proposed amendments to the outstanding Federal decree require compliance with emission limitations specified in an implementation plan under Part D of Title I of the Clean Air Act approved by U.S. EPA. For facilities at the company's North and South Steubenville Plants as well as its Martins Ferry and Yorkville Plants in Ohio, the proposed amendments specify emission limitations representing reasonably available control technology. Facilities at the Follansbee Plant in West Virginia are required to comply with emission limitations specified either in Regulation II, VI, or X of the West Virginia Air Pollution Control Commission Administrative Regulation Series. Regulations II and X were approved under Part D of Title I of the Clean Air Act by U.S. EPA. With regard to Regulation VII, U.S. EPA proposed approval of this regulation as part of West Virginia's Part D Plan on August 3, 1982. The State legislature has recently approved Regulation VII, and it is expected that within the next few weeks the West Virginia Air Pollution Control Commission will submit this regulation to U.S. EPA for promulgation. It is anticipated that Regulation VII as approved by the West Virginia legislature is substantially unchanged from that which was proposed by U.S. EPA on August 3, 1982. Accordingly, upon submittal by the Commission, the Agency anticipates promulgation of Regulation VII as a portion of the state's Part D Plan.

[10] *United States of America, et al. v. Wheeling-Pittsburgh Steel Corporation*, U.S. District Court for the Western District of Pennsylvania, Civil Action No. 79-1194.

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and December 31, respectively. The company has violated these decree requirements. The decree requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Accordingly, in view of all of the circumstances, the Administrator has concluded these violations are *de minimis*.

F. Wheeling-Pittsburgh failed to comply with schedule requirements for the basic oxygen process at its Monessen Plant in Pennsylvania. Paragraph A7d(2) of Section I of the Federal decree required the company to let all initial major contracts by April 15, 1982. Further, Paragraphs A7d(3) and A7d(4) required the company to initiate installation and complete installation of controls by July 15, 1982 and December 1, 1982, respectively. Finally, Paragraph A7d(5) of Section I required Wheeling-Pittsburgh to demonstrate compliance by December 31, 1982. These decree requirements have been violated by the company. The company submitted a request for SICEA relief for this facility on October 30, 1981.

The requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market demand, the basic oxygen furnace has ceased production from March 1982 through March 1983. This furnace, therefore, has not been a source of particulate matter for one year. Accordingly, in view of all of the circumstances, the Administrator has determined these violations are *de minimis*.

G. The company failed to comply with decree requirements for the sinter plant windbox at its Follansbee Plant in West Virginia. Paragraph B1d(1) of Section I of the Federal decree required the company to submit engineering plans by January 31, 1982. Paragraph B1d(2) of Section I of the decree required the company to let all initial major contracts for controls by April 30, 1982. Additionally, Paragraph B1d(3) obligated the company to commence installation of controls by June 30, 1982. Lastly, Paragraphs B1d(4) and B1d(5) required the company to complete installation of controls and demonstrate compliance by November 30, and December 31, 1982, respectively.

The company submitted a request for SICEA relief for this facility on October 31, 1981.

The decree requirements which have been violated are late maturing obligations Congress intended for relief under SICEA. Accordingly, the Administrator has concluded these violations are *de minimis*.

H. Wheeling-Pittsburgh failed to comply with certain decree requirements for blast furnace No. 1 at its Monessen Plant in Pennsylvania. The company submitted a request for SICEA relief for this facility on October 30, 1981. Paragraph IG3a of Section I of the Federal decree required the company to submit engineering plans for pollution control by September 30, 1981. Paragraph IGcb of Section I of the decree required the company to let all initial major contracts for controls by November 30, 1981. Additionally, Paragraphs IG3c and IG3d of Section I required commencement and completion of installation of controls by March 1, and November 1, 1982, respectively. Finally, Paragraph IG3e obligated the company to demonstrate compliance by December 23, 1982. These decree requirements were violated by the company.

The requirements which have been violated are the type of late maturing obligations Congress intended for relief under SICEA. Further, as a result of poor market conditions, blast furnace No. 1 ceased production on June 23, 1980, and has not recommenced operations. The furnace, therefore, has not been a source of particulate matter since shutdown. Accordingly, considering all of the circumstances, the Administrator has concluded these violations are *de minimis*.

I. The company failed to conduct a compliance demonstration test for its blast furnace No. 3 at the Monessen Plant. Paragraph G2d of Section I of the Federal decree required Wheeling-Pittsburgh to demonstrate compliance with applicable standards by performing a demonstration test at furnace No. 3 by March 31, 1982. However, in early March 1982, due to poor market demand, the company ceased operations at furnace No. 3 and did not conduct a demonstration test as required. Wheeling-Pittsburgh has installed pollution controls and instituted operations and maintenance procedures as required by the decree at furnace No. 3.

Considering the circumstances regarding the violation of the compliance demonstration test requirement, the Administrator has concluded that the violation is *de minimis*.

The preceding list is a compilation of violations of the existing Federal consent decree, as amended in 1982, which are presently known to me and which continue to the present. Several other violations of decree requirements which occurred since the 1982 amendments to the decree are no longer occurring and are, therefore, not addressed herein.

The list of violations which I have found to be *de minimis* in nature for purposes of the Steel Industry Compliance Extension Act of 1981 should not be construed in any manner as expression of Agency policy regarding the propriety of or nature of determinations which the Agency would make or remedies which the Agency would seek in circumstances or in contexts other than under the Steel Industry Compliance Extension Act of 1981.

(8) I find that the extensions of compliance contemplated herein will not result in degradation of air quality during the term of the extensions.

Based upon the foregoing findings, I have decided to exercise my statutory discretion and consent to the entry of a decree under Section 113(e)(1)(C) of the Act to extend certain compliance schedule deadlines under the existing Federal consent decree, as amended. Persons wishing to comment on these findings should do so no later than June 3, 1983. Comments should be sent to Stuart I. Silverman (LE–134A), Office of Legal and Enforcement Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone: (202) 382–2859.

Documents submitted by Wheeling-Pittsburgh with its SICEA application and information otherwise available to the Administrator in connection with this application may be inspected at the following locations between 8:30 a.m. and 4:00 p.m. week days: U.S. Environmental Protection Agency, Central Docket Section: West Tower, 401 M Street, SW., Washington, D.C.

Notice is hereby given that negotiations for proposed amendments to Wheeling-Pittsburgh's existing Federal decree have concluded. These amendments extend certain compliance obligations and commit the company to investments in modernization. The amendments also require capital expenditures to be made on the schedule reflected in my Finding number (5) above and satisfy the other requirements of the statute.

Proposed amendments under SICEA are currently being circulated for signatures and will be lodged with the Court within the next several weeks. At that time, an opportunity for public comment for a period of thirty days will be provided by the U.S. Department of Justice in a **Federal Register** notice pursuant to 28 CFR 50.7 without further public notification by EPA.

Dated: May 13, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR 83–13548 Filed 5–18–83; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL 2367–4]

California State Motor Vehicle Pollution Control Standards; Opportunity for Public Hearing To Consider Request for Waiver of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Opportunity for Public Hearing on Request for Waiver of Federal Preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA of an amendment to California's emission standards and test procedures for new motor vehicles, and has requested a waiver of Federal preemption, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b). These amended requirements pertain to particulate emissions from diesel passenger cars (PC), light-duty trucks (LDT) and medium-duty vehicles (MDV). This notice announces that EPA has tentatively scheduled a public hearing for June 7, 1983 and, if necessary June 8, to consider the standards for which CARB has requested a waiver. Any party desiring to present oral testimony for the record at the public hearing, instead of or in addition to written comments, must notify EPA by June 2, 1983. If no party informs EPA that it wishes to testify EPA will consider the waiver request based on written submissions to the record. EPA will publish a notice in the **Federal Register** to announce that the scheduled hearing is cancelled if no party wishes to present testimony.

DATES: EPA has tentatively scheduled a public hearing for June 7, 1983 and, if necessary June 8, beginning at 9:00 a.m., if any party notifies EPA by June 2, 1983, that it wishes to present oral testimony regarding CARB's waiver requests. Any party also may submit written comments regarding the waiver request by July 7, 1983.

ADDRESSES: EPA will hold the public hearing announced in this notice at: U.S. Environmental Protection Agency, Regional Office (Region IX), Sixth floor, 215 Fremont Street, San Francisco, California. Parties wishing to present oral testimony at the public hearing should notify in writing: William Heglund, Acting Director, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Any party also may submit written comments regarding the waiver request to the same address. Copies of material relevant to the waiver request will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery I, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (Docket Number En–83–01).

FOR FURTHER INFORMATION CONTACT: Peter J. Murtha, Attorney/Advisor, Manufacturers Operations Division (En–340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202) 382–2521.

SUPPLEMENTARY INFORMATION:

Background and Discussion

Section 209(a) of the Act, as amended, 42 U.S.C. 7543(a), provides in part: "No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * (or) require certification, inspection, or any other approval relating to the control of emissions * * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for "[California] if [it] determines that [its] standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards [unless] the Administrator finds that: (A) The determination of [California] is arbitrary and capricious, (B) [California] does not need [its] standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

By letter of March 23, 1983, CARB requested a waiver of federal preemption for amendments to "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles." These amendments set particulate emission standards for diesel-powered passenger cars, light-duty trucks and medium-duty vehicles as follows:

Model Year	Particulates [1]
1985	0.4
1986–88	0.2
1989 and subsequent	[2] 0.08

[1] Grams per vehicle mile (g/mi).

[2] The current corresponding federal particulate standards for 1985 and subsequent model years are 0.2 g/mi for light-duty vehicles (LDV) (which includes vehicles classified by California as PC's) and 0.26 g/mi for LDT's (which includes vehicles classified by California as LDT's or as MDV's). However, EPA has announced a proposed rule which would delay for two years the imposition of these standards and would instead maintain the existing 1984 model year standards of 0.6 g/mi for both LDV's and LDT's. 47 FR 54250 (December 1, 1982).

California states in its letter that its particulate standards are, in the aggregate, at least as stringent as the proposed corresponding federal standards. *See* note 1. California further asserts that, even if EPA does not grant a two year delay of imposition of the Federal standards, the corresponding California standards will still be at least as stringent in the aggregate because of California's long-range (i.e., 1989 and subsequent model year) standard of 0.08 g/mi. California contends that its standards were enacted in response to compelling and extraordinary conditions, including visibility concerns, adverse health effects and the economic impact of particulate soiling. Finally, California has found that the trap-oxidizer technology necessary for certain vehicles to attain its 1986 and later model year particulate standards, will be generally available in California for utilization in the 1986 model year, and thus is technologically feasible.[2]

II. Procedures for Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide pertinent information concerning the waiver request at issue. Any party desiring to make an oral statement should file 10 copies of its proposed testimony and other relevant material along with its request for a hearing with the Acting Director of EPA's Manufacturers Operations Division at the address listed above not later than June 2, 1983. In addition, the party should submit 25 copies, if feasible, of the proposed statement to the Presiding Officer at the time of the hearing.

[2] EPA's proposed two-year delay for the federal particulate standards is based in part on its technological feasibility study which forecast the availability of trap-oxidizer technology on a nationwide basis between February 1985 and October 1985, in time for the 1986 and 1987 model years, respectively. 47 FR 54250, 54252. In view of a number of factors, including consideration of the potential hardships to vehicle manufacturers of an erroneous decision to retain the 1985 standards on a 49 state basis, EPA utilized a "conservative approach" and proposed delaying the trap-based standards until 1987 model year. *Id.* at 54254.

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Since a public hearing is designed to give interested persons an opportunity to participate in the waiver proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants without special approval by the Presiding Officer. The Presiding Officer is authorized to strike from the record statements which he or she deems irrelevant or repetitious and to impose reasonable limits on the duration of the statements of any witness.

Participants at the hearing, if any, and interested parties who make written submissions should limit their presentations to the following considerations:

(1) Whether California's determination that the amended standards will be at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;

(2) Whether California does not need its standards to meet compelling and extraordinary conditions; and

(3) Whether the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

If EPA does hold the hearing, the agency will make a verbatim record of the proceedings. Interested persons may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. The Administrator will base his determination with regard to CARB's waiver request on the record of the public hearing, if any, and on any other relevant written submissions and may also consider other scientific, engineering or pertinent information. This information will be available for public inspection at the EPA Central Docket Section.

Dated: May 13, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-13098 Filed 5-18-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-455; File No. BPCT-820323KE et al.]

National Communications Affiliates of West Virginia et al.; Hearing Designation Order

In the matter of applications of: National Communications Affiliates of West Virginia, Charleston, West Virginia; MM Docket No. 83-455, File No. BPCT-820323KE; Channel 11 Broadcasting Corporation, Charleston, West Virginia; MM Docket No. 83-456, File No. BPCT-820827KG; Gemini Broadcasting Company of West Virginia, Inc., Charleston, West Virginia; MM Docket No. 83-457, File No. BPCT-820831KE; West Virginia Educational Broadcasting Authority, South Charleston, West Virginia; MM Docket No. 83-458, File No. BPET-820901KE; Greater Kanawha Valley Broadcasting, Ltd., Charleston, West Virginia; MM Docket No. 83-459, File No. BPCT-820901KF; Long Broadcasting Systems, Inc., South Charleston, West Virginia; MM Docket No. 83-460, File No. BPCT-820901KG; Charleston Broadcasting Corporation, Charleston, West Virginia; MM Docket No. 83-461, File No. BPCT-820901KH; The Hightower Partnership,[1] Charleston, West Virginia; MM Docket No. 83-462, File No. BPCT-820901KK; West Virginia Telecasting, Inc., Charleston, West Virginia; MM Docket No. 83-463, File No. BMPCT-820901KL; for construction permit: DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES.

Adopted: April 29, 1983.

Released: May 13, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (1) The above-captioned nine mutually exclusive applications for authority to construct a new television station on Channel 11, Charleston, West Virginia, eight of which propose a commercial station and one of which proposes a non-commercial educational station; (2) a petition to deny the application of National Communications Affiliates of West Virginia, filed by Roy H. Park Broadcasting of the Tri-Cities, Inc. (Roy Park), licensee of Station WJHL-TV, Channel 11, Johnson City, Tennessee; (3) petitions to deny the commercial applications, filed by Gateway Communications, Inc. (Gateway), licensee of Station WOWK-TV, Channel 13, Huntington, West Virginia; (4) petitions to deny the seven other commercial applications filed by West Virginia Telecasting, Inc. (WVT), licensee of Station WVAH-TV, Channel 23, Charleston, West Virginia, and an applicant for a major change in facilities to specify operation on Channel 11, Charleston, West Virginia; [2] (5) oppositions filed by most of the applicants; [3] and (6) consolidated replies filed by Gateway and WVT.

2. Roy Park and Gateway have established standing as parties in interest pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended. Specifically, Roy Park has standing to petition to deny the application of National Communications Affiliates on the ground of alleged electrical interference between the proposed station and Park's Station WJHL-TV, Channel 11, Johnson City, Tennessee. *FCC* v. *National Broadcasting Company (KOA)*, 319 U.S. 239 (1943). Additionally, Gateway has standing because, if any of the commercial applications are granted, the new station will compete for audience and revenues with Gateway's Station WOWK-TV, Channel 13, Huntington, West Virginia. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

Short Spacing

3. In their petitions, Roy Park and Gateway contend that the above-captioned application for a new commercial television station on Channel 11, Charleston, West Virginia, should be denied or designated for hearing because they proposed transmitter sites that exceed the "maximum limit" for waiver of the Commission's mileage separation rule contemplated by the Commission when it proposed this short-spaced VHF drop-in assignment. Specifically, the petitioners assert, citing the *Memorandum Opinion and Order and Notice of Proposed Rulemaking, BC Docket No. 20418*, 63 FCC 2d 840 (1977) (hereinafter referred to as *VHF Drop-In Notice)*, that the Commission established a maximum limit of 17.65% short-spacing from the required co-channel separation of 170 miles for Zone I, set forth in § 73.610 of the Commission's Rules. They point out that the above-captioned applicants for a commercial station propose transmitter sites that are located approximately 135 to 138 miles from the transmitter site of Roy Park's Station WJHL-TV, Channel 11, Johnson City, Tennessee, resulting in deviations from the mileage separation rule of about 19% to 20%. Gateway further states that these deviations might result in a greater loss of service and less benefit to the public than the Commission intended in BC Docket No. 20418 and that these issues should be re-examined in a hearing. Finally, Gateway contends, citing *Western Broadcasting Co. v. FCC*, 674 F. 2d 44 (D.C. Cir. 1982), that the greater short-spacing proposed by the commercial applicants toward WJHL-TV, Johnson City, Tennessee, constitutes a modification of WJHL-TV's license, pursuant to Section 316 of the Communications Act of 1934, entitling WJHL-TV to written notice of the action and a reasonable opportunity to show cause by public hearing why its license should not be modified.

4. We are of the view that no hearing issues are warranted on the short-spacing question. In BC Docket No. 20418, the Commission used seven preliminary selection criteria in order to select 18 out of 96 drop-in channels that appeared to have minimum technical difficulties. One of these preliminary criteria was that "the proposed drop-in requires a waiver of minimum co-channel separation distances to existing stations or allocations not in excess of 17.65%." *VHF Drop-In Notice*, 63 F.C.C. 2d at 863. Thereafter, these 18 drop-ins were subjected to further analyses, resulting in only four new channels being proposed. However, in proposing these channels for allocation, the Commission stated that "the preliminary selection criteria and the large potential benefit study were administrative tools used to narrow our examination to the most promising drop-ins. While we have found those procedures helpful in this instance, we do not consider them tests which must be passed by any future proposal." *VHF Drop-In Notice*, 63 FCC 2d at 893. As a result, we do not believe that it is necessary for the applicants for Channel 11, Charleston, West Virginia, to propose transmitter sites that result in only a 17.65% deviation from the mileage separation rule.

5. On the contrary, the Commission assigned Channel 11 to Charleston, West Virginia, "subject to the condition that the new station provide equivalent protection to the existing stations(s) to which it is short-spaced." *Report and Order, Docket No. 20418*, 61 F.C.C. 2d 233, 234 (1980), *recon. denied*, 90 F.C.C. 2d 160 (1982). This means that any station using this short-spaced assignment would reduce power or use a directional antenna to reduce radiated power toward existing stations "so that the interference created would be no more than that created by a station operating with maximum facilities at standard separations." *Report and Order, Docket No. 20418*, 61 F.C.C. 2d at 238. Inasmuch as the petitioners do not contest the ability of the applicants to accord WJHL-TV, Johnson City, Tennessee, equivalent protection and our staff engineering analysis confirms that all of the above applicants will provide equivalent protection, we do not find that grant of any of the above applications would result in a modification of the license of Station WJHL-TV. This follows from the court's holding in *Capitol Broadcasting Company v. FCC*, 324 F. 2d 404, 404-405 (D.C. Cir. 1963), that no "modification" of a license occurs if equivalent protection is being provided to the station in question. Furthermore, both the present case and *Capitol Broadcating* are quite different from *Western Broadcasting, supra*, which is relied upon by Gateway. Specifically, a hearing was required in *Western*, pursuant to Section 316 of the Communications Act, because a question of fact existed as to interference between grandfathered, short-spaced FM stations operating on the same channel. There is no comparable dispute in the present case.

6. We find that the deviations from the mileage separation rule proposed by the above-captioned applicants do not warrant a re-examination of the gains and losses of service already studied in BC Docket No. 20418. The Commission stated, in BC Docket No. 20418, that "applicants for the drop-in channels are not restricted to the transmitter site utilized by the Commission in calculating service gain and loss areas * * * and applicants are permitted to specify their own site so long as equivalent protection is still provided and other regulations on antenna siting are observed." *Memorandum Opinion and Order, BC Docket No. 20418*, 90 F.C.C. 2d at 179. Furthermore, we do not agree with Gateway's contention that *Hall v. FCC*, 237 F. 2d 567 (D.C. Cir. 1956), requires a hearing on gain and loss areas. *Hall* stands for the proposition that a loss or reduction of service by a permittee or licensee of a broadcast station is against the public interest unless there is a showing of offsetting factors. However, unlike *Hall*, the present case involves applicants for a new television station that were filed after a rulemaking proceeding in which the Commission determined that "the benefits, in terms of new service available, outweigh the cost in terms of service possibly lost or interfered with." *Report and Order, Docket No. 20418*, 61 F.C.C. 2d at 261. Accordingly, the requested issues will be denied.[4]

7. West Virginia Educational Broadcasting Authority and Long Broadcasting System, Inc. specify South Charleston as their city of license.[5] All of the other applicants specify Charleston. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in south Charleston or Charleston would better provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), all applicants can be considered under the comparative issue.

8. Four television channels are allocated to Charleston, two of which are vacant: Channel 11 and Channel 49 (reserved for noncommercial educational use). West Virginia Educational Broadcasting Authority (WVEBA) requests noncommercial educational use of Channel 11. It further appears that the station proposed by WVEBA and its existing station in Huntington, WPBY-TV, would serve substantial areas in common. Consequently, a question arises as to whether there is a greater need for commercial programming as proposed by eight of the applicants or educational programming as proposed by WVEBA. If it is determined that there is a greater need for noncommercial educational programming, a selection can be made without reliance on the standard comparative evaluation; if there is a greater need for commercial programming, a selection among those applicants proposing commercial programming can be made under the standard comparative issue. If no determination can be made with respect to whether there is a greater need for one or another of these types of programming, all of the applicants will be evaluated under the standard

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[1] On December 27, 1983, Hightower filed a "Petition for Leave to Amend" accompanied by an amendment updating its other broadcast interests and modifying its engineering to reflect a correction of 0.28 miles in its proposed transmitter site. For good cause shown, the petition is granted and the amendment is accepted for § 1.65 purposes only.

[2] We view WVT's petitions as predesignation petitions to specify issues against competing applicants. Such pleadings are no longer authorized. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202, 214 (1979). We further believe that no exception to this procedure is warranted because WVT is also the licensee of a television station in Charleston, West Virginia. Accordingly, WVT's petitions will be dismissed. *See, e.g., Kaye-Smith Enterprises*, 90 FCC 2d 105, 108 n.2 (1982). However, WVT will have the opportunity to raise the issues contained in its petitions in postdesignation pleadings, as set forth in Section 1.229 of the Commission's Rules.

[3] Oppositions were filed by Greater Kanawha Valley Broadcasting, Ltd.; Gemini Broadcasting Company of West Virginia, Inc.; Long Broadcasting Systems, Inc.; Channel 11 Broadcasting Corporation; West Virginia Telecasting, Inc.; and National Communications Affiliates of West Virginia.

[4] Gateway and Roy Park also allege that National Communications Affiliates has not shown that the city-grade contour of its proposed station would encompass the community of license, Charleston, West Virginia. We note, however, that NCA's engineer certified in the application that city-grade coverage would be achieved and subsequently tendered an amendment on October 7, 1982, documenting this point. As a result, no hearing issue is warranted.

[5] Channel 11 is assigned to Charleston, West Virginia. South Charleston is located within 15 miles of Charleston. Accordingly, under Section 73.607 of the Commission's Rules, Channel 11, is available for use in South Charleston. Although, the Commission has abolished its "15 miles rule," these applications were on file prior to the effective date of the change. Consequently, the "15 mile rule" is still in effect for these applicants.

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comparative issue. *Houma Broadcasters, Inc.*, FCC 80–534, 45 FR 66866 (1980). *See also VHF Drop-In Proceeding, 90 FCC 2d 160, 180 (1982).*

9. Each of the applicants indicates that it will provide equivalent protection to WJHL–TV, Johnson City, Tennessee. Accordingly, a grant of any of these applications will be appropriately conditioned.

10. No determination has been made that any of the tower heights and locations specified by National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawha Valley Broadcasting, Ltd., Charleston Broadcasting Corporation and The Hightower Partnership would not constitute hazards to air navigation.* Accordingly, an appropriate issue will be specified.

11. Section 73.614(b)(1) of the Commission's Rules limits the maximum effective radiated power (ERP) of any VHF station in zone 1 with an antenna height above average terrain (HAAT) in excess of 1000 feet. Channel 11 Broadcasting Corporation, Gemini Broadcasting Company of West Virginia, Inc. and West Virginia Educational Broadcasting Authority each specifies an HAAT in excess of 1000 feet, but each exceeds the maximum allowable ERP. Accordingly, each of these applicants will be required to amend its application to speficy an ERP in conformance with Section 73.614(b)(1) of the Rules and to submit its amendment to the presiding Administrative Law Judge within 20 days after this Order is released.

12. Section 73.685(e) of the Commisson's Rules states that stations operating on Channels 2–13 will not be permitted to employ a directional antenna having a ratio of maximum to minimum radiation in the horizontal plane in excess of 10 dB. Channel 11 Broadcasting Corporation, West Virginia Educational Broadcasting Authority and Charleston Broadcasting Corporation each proposes a directional antenna with a maximum to minimum ratio in excess of 10 dB. In each case, the minor deviation from the requirements of § 73.685 (e) is a part of the applicant's method of providing equivalent proetction to Station WJHL–TV. In these circumstances, the public interest will be served by a waiver of the rule, and no issue will be specified.

*The Commission is not in receipt of the Federal Aviation Administration's studies of the tower heights and locations proposed by National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawha Valley Broadcasting, Ltd. and The Hightower Partnership.

Gemini Broadcasting Company of West Virginia, Inc. (Gemini)

13. Gemini indicates in Section V–C, Item 7, FCC Form 301, that it will use electrical and mechanical beam tilt. § 73.685(e) and (f) of the Commission's Rules requires the submission of information to verify the nature of the proposed electrical and mechanical beam tilt. Accordingly, the applicant will be required to submit an appropriate engineering amendment within 20 days of the release of this Order.

West Virginia Educational Broadcasting Authority (WVEBA)

14. WVEBA has indicated that it would not have line-of-sight to its principal community. Consequently, the applicant has requested a waiver of § 73.685(b) of the Commission's Rules. Accordingly, an appropriate issue will be specified to determine whether a waiver of § 73.685(b) is warranted.

15. Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission certification of compliance as described in § 73.3580(h). We have no evidence that WVEBA has published the required local notice. To remedy this, WVEBA will be required to file a certification of compliance with the presiding Administrative Law Judge within 20 days after this Order is released.

16. The material submitted in WVEBA's application does not demonstrate the applicant's financial qualifications. WVEBA indicates that it is depending on NTIA for most of its finances. However, NTIA has no application on file requesting funds for the Channel 11 facility. Accordingly, and issue will be specified to determine whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

Long Broadcasting Systems, Inc. (LBS)†

17. Section II, page 2, item 5(a), FCC Form 301, requires that if an applicant is a corporation, the names, addresses and offices held by each officer must be listed. The LBS application shows Russell Long as the sole stockholder and President of the corporation. No other names as listed as officers. The laws of West Virginia appear to require an entity incorporated in its state to have at least two officers, a secretary and one other officer (West Virginia State Law 31–1–126). Furthermore, § 73.3514(a) requires applicants to provide all information called for by FCC Form 301, unless the required information is in inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine LBS's compliance with § 73.3514(a).

18. LBS's application indicates that construction of the station would constitute a major environmental action withing the meaning of § 1.1305 of the Commission's Rules. The applicant, however, has not submitted an environmental narrative statement which contains the information required by Section 1.1311 of the Rules. Therefore, LBS will be required to submit to the presiding Administrative Law Judge, within 20 days of the release date of this Order, and environmental narrative statement which complies with § 1.13311 of the Commission's Rules.

Charleston Broadcasting Corporation (CBC)

19. On November 5, 1982, CBC filed an amendment to its application. The amendment reflected the resignation of one of its Vice Presidents and its Secretary, as well as changes in the ownership interests of its principals. West Virginia State Law appears to require that businesses incorporated under its laws to have a secretary and one other officer. (See paragraph 17, above). Furthermore, Section 73.3514(a) requires applicants to provide all information called for by FCC Form 301, unless the required information is inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine CBS's compliance with Section 73.3514(a).

20. The material submitted in CBC's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III.

†LBS filed a "Petition for Leave to Amend" on December 12, 1982, and on April 8, 1983, accompanied by an amendment updating the ownership interests of its owner. Inasmuch as the information is required by § 1.65 of the Commission's Rules, the petition is hereby granted and the amendment is accepted for § 1.65 purposes only.

Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378 (released July 15, 1982).*

21. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proeceeding on the issues specified below.

22. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to National Communications Affiliates of West Virginia, Gemini Broadcasting Company of West Virginia, Inc., Greater Kanawha Valley Broadcating, Ltd., Charleston Broadcasting Corporation and The Hightower Partnership, whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to West Virginia Educational Broadcasting Authority:

(a) whether operation from its proposed site would be in violation of § 73.685(b) of the Commission's Rules, and if so, whether circumstances exist to warrant a waiver of the Rule;

(b) whether, in light of the evidence adduced pursuant to issue (a), the applicant is qualified.

(c) whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

3. To determine with respect to Long Broadcasting System, Inc.:

(a) The number, identity and legal qualifications of its officers;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant complied with § 73.3514(a) of the Commission's Rules; and

(c) In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

4. To determine with respect to Charleston Broadcasting Corporation:

(a) The number, identity and legal qualifications of its officers;

(b) Whether, in light of the evidence adduced pursuant to issue (a), the applicant complied with § 73.3514(a) of the Commission's Rules; and

(c) In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

5. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

6. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

7. To determine whether there is a greater need for noncommercial educational programming or for commercial programming in Charleston, West Virginia, and the surrounding area to be served;

8. In the event it is concluded from Issues 6 and 7, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b) or the relative meris of additional commercial or noncommercial service, to dertermine which proposal would, on a comparative basis, best serve the pulic interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

23. *It is further ordered*, That the petitions to deny filed by Roy H. Park Broadcasting of the Tri-Cities, Inc., and Gateway Communications, Inc., *are denied.*

24. *It is further ordered*, That the petition to deny filed by West Virginia Telecasting, Inc., *Is Dismissed.*

25. *It is further ordered*, That a grant of National Communications Affiliates of West Virginia's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 17.7 dBk (58.9 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

26. *It is further ordered*, That a grant of Channel 11 Broadcasting Corporation's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 184 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 13.78 dBk (23.88 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation,

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

27. *It is further ordered*, That a grant of Gemini Broadcasting Company of West Virginia, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 13.05 dBk (20.18 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation,

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

28. *It is further ordered*, That a grant of West Virginia Educational Broadcasting Authority's application will be conditioned as follows:

*CBC has not answered the questions in Section III.

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The maximum visual effective radiated power at azimuth 179 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 15.01 dBk (31.7 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation,

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

29. *It is further ordered,* That a grant of Greater Kanawha Valley Broadcasting, Ltd.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 185 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 12.62 dBk (18.28 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation,

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

30. *It is further ordered,* That a grant of Long Broadcasting Systems, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 184 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 8.74 dBk (7.41 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

31. *It is further ordered,* That a grant of Charleston Broadcasting Corporation's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 12.99 dBk (19.91 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

32. *It is further ordered,* That a grant of The Hightower Partnership's application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 186 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exced 12.72 dBk (18.71 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

33. *It is further Ordered,* That a grant of West Virginia Telecasting, Inc.'s application will be conditioned as follows:

The maximum visual effective radiated power at azimuth 185 degrees True towards Station WJHL–TV, Johnson City, Tennessee shall not exceed 9.43 dBk (8.77 kW).

The application for license shall include:

a. Horizontal plane radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

b. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least the azimuth towards Station WJHL–TV.

c. An affidavit by a qualified and licensed surveyor that the proper azimuthal orientation for the transmitting antenna to achieve the radiation limitations prescribed above for Station WJHL–TV.

34. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 2.

35. *It is further ordered,* That, Channel 11 Broadcasting Corporation, Gemini Broadcasting Company of West Virginia and West Virginia Educational Broadcasting Authority, shall each submit an amendment to specify an effective radiated visual power that complies with § 73.614(b)(1) of the Commission's Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

36. *It is further ordered,* That, Gemini Broadcasting Company of West Virginia, Inc. shall submit, pursuant §73.685 (e) and (f) of the Commission's Rules, an appropriate engineering amendment to verify the nature of the proposed electrical and mechanical beam tilt within 20 days after the date of release of this Order to the presiding Administrative Law Judge.

37. *It is further ordered,* That, West Virginia Educational Broadcasting Authority, shall file certification with the presiding Administrative Law Judge, within 20 days after this Order is released, that it has or will comply with § 73.3580 of the Commission Rules.

38. *It is further ordered,* That, West Virginia Educational Broadcasting Authority, shall submit a financial certification in the manner prescribed in Public Notice, FCC 82–557, Mimeo No. 32341 (released December 13, 1982), within 20 days after this Order is released or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

39. *It is further ordered,* That, Long Broadcasting Systems, Inc. shall submit an environmental narrative statement which meets the requirements of § 1.1311 of the Commission's Rules to the Presiding Administrative Law Judge within 20 days after this Order is released.

40. *It is further ordered,* That, Charleston Broadcasting Corporation shall submit a financial certification in the form required by Section III, F.C.C. Form 301, within 20 days after this Order is released or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

41. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

42. *It is further ordered,* That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Divisions, Mass Media Bureau.

[FR Doc. 83–13415 Filed 5–18–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–440; File No. BPCT–820810KI et al.]

Texas Family Television, Ltd. et al.; Hearing Designation Order

In the matter of applications of: Antonio Lizano d/b/a/ Texas Family Television, Ltd., Alvin, Texas; MM Docket No. 83–440; File No. BPCT–820810KI; Living Stone Church Incorporated, d.b.a Community Television of Alvin, Alvin, Texas; MM Docket No. 83–441, File No. BPCT–820930KF; Telemedia Broadcasting Corporation, Alvin, Texas; MM Docket No. 83–442, File No. BPCT–821005KF; Harold V. Dutton, II d/b/a Four Star Broadcasting Company, Alvin, Texas; MM Docket No. 83–443, File No. BPCT–821008KN; Patricia B. Steele, Alvin, Texas; MM Docket No. 83–444, File No. BPCT–821008KQ; Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd, Alvin, Texas; File No. BPCT–821008KE; for construction permit; Designating applications for consolidated hearing on stated issues.

Adopted: April 28, 1983.

Released: May 12, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Antonio Lizano d/b/a Texas Family Television, Ltd. (Family), Living Stone Church Incorporated d/b/a Community Television of Alvin (Community), Telemedia Broadcasting Corporation (Telemedia), Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd. (Chase), Harold V. Dutton, II d/b/a Four Star Broadcasting Company (Four Star) [1] and Patricia B. Steele for authority to construct a new commercial television station on Channel 67, Alvin, Texas.[2]

Telemedia Broadcasting Corporation

2. Section II, Item 3(a), FCC Form 301 inquires whether the applicant is in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. Telemedia responded "no" and "not applicable." This is inconsistent and confusing. Telemedia will be required to clarify this response by submitting an amendment to the Administrative Law Judge within 15 days after the date of the release of this Order.

3. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310 (d)) will be obtained. Telemedia has not answered Item 10. Applicant will be required to submit its response to Item 10 to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

Harold V. Dutton II, d/b/a Four Star Broadcasting Company

4. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the AM broadcast station. Note 8 exempts UHF applicants from the blanket prohibition of § 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Harold V. Dutton II is the general partner and 65 percent owner of Four Star.[3] He is also a member of the Board of Directors and 3.1 percent owner of Tri-Star Communications, Inc., applicant (BP–810403AH) for a new AM station in Houston, Texas. That application is now in a comparative hearing in MM Docket No. 82–671. In the event both applications were granted, Four Star's proposed Grade A contour would envelop Houston. However, Mr. Dutton has stated he would divest all his interest in Tri-Star Communications, Inc. within ninety (90) days following the grant of a construction permit for the proposed television station. Accordingly, any grant of a construction permit to Four Star will be conditioned upon Mr. Dutton's divestiture of all interest in, and connection with, Tri-Star Communications, Inc.

5. Four Star has submitted to the Federal Zviation Administration a request for clearance of a tower of 1,171 feet AGL and obtained a determination of no hazard for that height, but its application to the Commission specifies a tower height of 1,174 feet AGL. We will not specify an air hazard issue. four Star, however, will be required to eliminate this discrepancy by an appropriate *minor* amendment.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, *it is ordered,* That the Joint Request for Approval of Settlement Agreement filed by Harold V. Dutton, II d/b/a Four Star Broadcasting Company and Debra Martin Chase and Saundria Chase d/b/a Chase Communications, Ltd. *is approved* and the application of

[1] On April 14, 1983, Four Star and Chase Communications filed an agreement for merger, under the terms of which Chase's application would be dismissed. Debra Martin Chase is to receive 15% of the partnership as a limited partner, reducing Harold V. Dutton II's interest in Four Star from 80% to 65%. Dutton is the general partner in Four Star. The agreement complies with § 73.3525 of the Commission's Rules. The Joint Request for Approval of Settlement Agreement filed by these two applicants will be approved and the Chase application will be dismissed.

[2] Although the deadline for filing per-designation amendments as a matter of right was December 17, 1982, on January 19, 1983 Four Star amended its application to reflect changes in the broadcast interests of its principals and an EEO signature page. Inasmuch as the information is required by § 1.65 of the Commission's Rules the amendment is accepted for filing.

[3] See Footnote 1, *supra.*

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Chase Communications Ltd. (BPCT-821008KE) *is dismissed.*

8. *It is further ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the remaining applications *are designated for hearing in a consolidated proceeding* to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

9. *It is further ordered,* That Telemedia Broadcasting Corporation will be required to clarify the response to Section II, Item 3(a), FCC Form 301, by submitting an amendment to the Administrative Law Judge within 15 days after the date of the release of this Order.

10. *It is further ordered,* That Telemedia Broadcasting Corporation file its response to Section II, Item 10, FCC Form 301 to the presiding Administrative Law Judge within 15 days after the date of the release of this Order.

11. *It is further ordered,* That, in the event of a grant of the Harold V. Dutton, II d/b/a Four Star Broadcasting Company application, the construction permit shall contain the following condition:

> Prior to the commencement of operation of the television station authorized herein, Harold V. Dutton, II shall certify to the Commission that he has divested himself of all interest in, and connection with, Tri-Star Communications, Inc.

12. *It is further ordered,* That Harold V. Dutton, II d/b/a Four Star Broadcasting Company shall eliminate by an appropriate *minor* amendment the discrepancy in the tower height.

13. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-13414 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 17474; PR Docket No. 83-430]

Action in Docket Case; Inquiry Begun on International Maritime Organization Safety Convention

April 28, 1983.

The Commission has begun an inquiry on the International Maritime Organization's (IMO) provisional recommendations and amendments to the Safety of Life at Sea (SOLAS) Convention.

The inquiry will serve as a means to inform the public and to obtain comments of interested parties in regard to actions being taken by the IMO through its Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications (SRC) pertaining to radiocommunications equipment required on vessels subject to the SOLAS Convention.

The SRC held its Twenty-fifth Session in December 1982 and approved several draft recommendations and considered other matters of a technical and operational nature that will lead to amendment of the SOLAS Convention.

The documents of particular interest, which are contained in an appendix to the notice of inquiry, are:

—Future Global Maritime Distress System;
—Performance Standards for Narrow-Band Direct-Printing Telegraph Equipment for the Reception of Navigational and Meteorological Information;
—Performance Standards for VHF Multiple Watch Receivers;
—Draft Assembly Resolution on Charges for Distress, Urgency and Safety Messages through the INMARSAT System;
—Operator Function, and
—Transition Plan.

In soliciting comments on these documents, the Commission noted that they would be used to assist the U.S. Delegation prepare its position for the Twenty-sixth Session of the SRC scheduled for September 1983.

The Commission noted that it was represented on the IMO Delegation and participated in many of the Subcommittee's working groups. It added that anyone wishing to participate directly in the preparation of the U.S. positions on matters coming before the Subcommittee may attend the meetings of the U.S. Working Group on the SRC which are open to the public. Meeting times, dates and locations are published in the **Federal Register** at least 14 days before the meetings.

Action by the Commission April 27, 1983, by Notice of Inquiry (FCC 83-205). Commissioners Fowler (Chairman), Quello, Fogarty, Dawson, Rivera and Sharp.

For more information contact Robert McIntyre at (202) 632-7175.

Note.—The Notice of Inquiry will not be printed herein due to the continuing effort to minimize publishing costs. However, copies are available from the Downtown Copy Center, 1413 K St., NW., Washington, D.C. 20005, Tel.: (202) 289-4140. In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and FCC Library, Rm. 639, both located at 1919 M St., NW., Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-13411 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Plant Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, June 1 and 2, 1983. The meeting will begin on June 1 at 9:30 a.m. in the offices of the Michigan Public Service Commission, Mercantile Building, 6545 Mercantile Way, Lansing, Michigan 48909, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Definitions of Plant Accounts
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887-3266) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-13413 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1404]

Applications for Review of Actions in Rulemaking Proceedings

May 11, 1983.

The following listings of applications for review filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Key West, Florida) (MM Docket No. 83-17, RM-4208)
Filed by: James R. Cooke, Attorney for Florida Keys Broadcasting Corporation (WKIZ & WFYN-FM) on 5-2-83.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-13412 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-449, File No. BPH-810630AB, etc.]

Edward M. Johnson, et al.; Hearing Designation Order

In re Applications of Edward M. Johnson, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 295 feet, MM Docket No. 83-449, File No. BPH-810630AB; Robert G. Kimmell & Charles E. Kimmell, A Partnership d.b.a. Kimmell & Kimmell, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 880 feet, MM Docket No. 83-450, File No. BPH-820128AR; Hispanic Broadcasting Company, Inc., Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 480 feet, MM Docket No. 83-451, File No. BPH-820129BF; and Dawson County Broadcasting Corporation, Lamesa, Texas, Req: 100.3 MHz, Channel 262C, 100 kW(H&V), 486 feet, MM Docket No. 83-452, File No. BPH-820129BH; For a Construction Permit for a New FM Station.

Adopted: April 29, 1983.
Released: May 12, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Edward M. Johnson (Johnson), Robert G. Kimmell and Charles E. Kimmell, a partnership d.b.a. Kimmell & Kimmell (Kimmell), Hispanic Broadcasting Company, Inc., and Dawson County Broadcasting Corporation (Dawson).

2. *Johnson and Dawson.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Johnson or Dawson published the required notice. To remedy this deficiency, both Johnson and Dawson must publish local notice of their respective applications, if they have not already done so, and so inform the presiding Administrative Law Judge.

3. Since no determination has been reached that the antennas proposed by Johnson and Dawson would not constitute a menace to air navigation, an issue regarding this matter is required.

4. *Johnson.* Question 1, Section IV, page 6 of revised Form 301 requires that applicant give a brief description, in narrative form, of the planned programming services relating to issues of public concern facing the proposed service area. Johnson has not submitteed this narrative description. Therefore, Johnson shall file an amendment with the presiding Administrative Law Judge within 30 days of the release of this Order.

5. Applicant has not responded to Question 20(c), Section II, page 5 of Form 301. Applicant shall amend his application by submitting his response to the presiding Administrative Law Judge within 30 days of the release of this Order.

6. In support of his answer to Question 20(d), Section II, page 5, Form 301, applicant refers to "exhibit No. 2." However Johnson's application does not contain an "exhibit No. 2," hence applicant shall amend his application by submitting this exhibit to the presiding Administrative Law Judge within 30 days of the release of this Order.

7. *Dawson.* The material submitted by Dawson in its application does not demonstrate the applicant's financial qualificatons.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Dawson will be given 30 days from the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If applicant cannot make the required certification, it shall so notify the Administrative Law Judge who shall then specify in appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket 82-378, released July 15, 1982.

8. *Dawson & Kimmell.* Because the heights of the applicants' proposed towers exceed 300 feet, grant of their applications would be a major action as defined by § 1.1305 of the Commission's Rules, hence applicants are required to file a narrative statement in accordance with § 1.1311. In their narrative statements, however, applicants do not indicate whether construction of the facilities has been a source of local controversy on environmental grounds as required by Section 1.1311. Applicants shall submit a statement with the presiding Administrative Law Judge.

9. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and population which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Johnson and Dawson, whether there is a reasonable possibility that the tower

[1] Applicant relies on a bank loan of $100,000, anticipated proceeds from stock subscriptions totalling $125,000, and refers to the personal balance sheet of its principal, David Wrinkle. Applicant has not submitted any stock subscription agreements, and because Wrinkle's financial statement does not indicate how his non-liquid assets will provide the necessary funding, his net current liquid assets do not exceed his current liabilities. Hence, only $100,000 is available.

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heights and locations proposed by the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

13. It is further ordered, That within 30 days from the release of this Order, Johnson and Dawson shall file the amendments specified in Paragraph 2 above with the presiding Administrative Law Judge.

14. It is further ordered, That within 30 days from the release of this Order, Johnson shall file the amendments specified in Paragraphs 4, 5 and 6 above with the presiding Administrative Law Judge.

15. It is further ordered, That in accordance with Paragraph 7 above, within 30 days from the release of this Order, Dawson shall submit a financial certification required by Section III, FCC Form 301, or advise the Administrative Law Judge that the requried certification cannot be made.

16. It is further ordered, That within 30 days from the release of this Order, Dawson and Kimmell shall file the amendments specified in Paragraph 8 above with the presiding Administrative Law Judge.

17. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83-13464 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-453 and 83-454; File Nos. BPH-810518AF and BPH-810807AD]

F. G. Sneed III et al.; Hearing Designation Order

In re Applications of F.G. Sneed III et al., d.b.a. Dimension Four Radio Co., Grover City, California, Req: 107.1 MHz, Channel 296, 0.8 kW (H&V), 530 feet, MM Docket No. 83-453, File No. BPH-810518AF;

Rod B. Funston and Laura A. Funston, d.b.a. R & L Broadcasters, Grover City, California, Req: 107.1 MHz, Channel 296, 0.9 kW (H&V), 510 feet, MM docket No. 83-454, File No. BPH-810807AD,

For a Construction Permit for a New FM Station.

Adopted: April 29, 1983.
Released: May 12, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by F.G. Sneed III et al., d.b.a. Dimension Four Radio Co. (Dimension) and Rod B. Funston and Laura A. Funston, d.b.a. R & L Broadcasters (R&L).

2. *Dimension.* Analysis of the financial data submitted by Dimension reveals that $128,995 will be required to construct the proposed station and operate for three months. To meet this requirement, Dimension claims that existing capital in the amount ot $160,000 will be provided by the principals, the Sneeds, from liquidation of the investments and cash listed in F.G. Sneed's personal financial statement. In his financial statement, Sneed lists current assets as cash $16,000, receivables $31,000 and stocks $18,000, offset by current liabilities of $20,000. Even if he could show how the receivables and stock will be relied upon as a readily available source of funds to meet the commitment as required by Item 4(b), page 3, Section III, Form 301, he does not have sufficient net liquid assets above liabilities to fulfill the cash required. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall specify an appropriate issue.

3. *Demension.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applictions. The local notice contained in Dimension's proof of publication is not sufficient to meet the requirements of § 73,3580(f) in that it does not specify the names of all the principals in the partnership, it indicates an incorrect effective radiated power of 3 kW and it does not mention the location of its proposed main studio. To remedy this deficiency, Dimension must republish local notice of its application as specified in § 73,3580(f) and so inform the presiding Administrative Law Judge.

4. *R & L.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. The local notice contained in R & L's proof of publication is not sufficient to meet the requirements of § 73.3580(f), and is merely a publication of a "Fictitious Business Name Statement." To remedy this deficiency, R & L must publish local notice of its application as specified in § 73,3580(f) and so inform the presiding Administrative Law Judge.

5. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of the 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That Dimension as specified in Paragraph 2 above, shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 30 days of the release of this Order.

9. It is further ordered, That both R & L and Dimension shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of § 73.3580(f) of the Commission's Rules within 30 days of the release of this Order.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-13453 Filed 5-18-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Applications, etc.; Chemical New York Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 83-12286) published at page 20796 of the issue for Monday, May 9, 1983. The last sentence of the first paragraph should have read: Although arranging equity financing has not been added to the list of permissible activities specified by the Board in § 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g. Trust Company of Georgia,* 69 Federal Reserve Bulletin 225 (1983).

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13386 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

First Bankshare of West Point, Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bankshares of West Point, Inc.,* West Point, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of West Point, West Point, Georgia. Comments on this application must be received not later than June 13, 1983.

2. *The National City Bankcorp,* Rome, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The National City Bank of Rome, Rome, Georgia. Comments on this application must be received not later than June 13, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Earle Bankshares, Inc.,* Earle, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Earle State Bank, Earle, Arkansas. Comments on this application must be received not later than June 13, 1983.

2. *Wilson & Muir Bancorp., Inc.,* Bardstown, Kentucky; to become a bank holding company by acquiring at least 80 percent of the voting shares of Wilson & Muir Bank & Trust Company, Bardstown, Kentucky. Comments on this application must be received not later than June 13, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Thompson Financial, Ltd.,* Fort Worth, Texas; to become a bank holding company by acquiring 46.3 percent of the voting shares of Texas Security Bancshares, Inc., Fort Worth, Texas. Comments on this application must be received not later than June 13, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Great Mid-West Financial Company,* Ames, Iowa; to become a bank holding company by acquiring 60 percent or more of the voting shares of University Bank and Trust Company, Ames, Iowa. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than June 13, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13387 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

First Mabel BanCorporation, Inc.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to each application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

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summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Mabel BanCorporation, Inc.*, Mabel, Minnesota; to acquire 84.1 percent of the voting shares or assets of First National Bank of Crosby, Crosby, Minnesota. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13301 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Gulfcoast Bancshares, Inc.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gulfcoast Bancshares, Inc.*, Palmetto, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The County Bank, Palmetto, Florida. Comments on this application must be received not later than June 8, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Hudson Valley Holding Corp.*, Yonkers, New York; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Hudson Valley National Bank, Yonkers, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13302 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of Globe Industrial Bank and Centaur Industrial Bank

Mellon National Corporation, Pittsburgh, Pennsylvania has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Globe Industrial Bank, Boulder, Colorado, and Centaur Industrial Bank, Lafayette, Colorado.

Applicant states that the proposed subsidiaries would engage in the activities of an industrial bank and acting as agent for the sale of credit related life, accident, and health insurance and credit related property insurance in connection with extensions of credit by the subsidiaries. Applicant states that the subsidiaries will not accept demand or transaction deposits. These activities would be performed from offices of Applicant's subsidiaries in Boulder and Lafayette, Colorado, and the geographic area to be served is the Denver/Boulder SMSA. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 10, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13303 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Applications, etc.; Norwest corp. Correction

This notice corrects a previous **Federal Register** document (FR Doc. 83-12545) published at page 21200 of the issue for Wednesday, May 11, 1983. The last sentence of the first paragraph should have read: Although arranging equity financing has not been added to the list of permissible activities specified by the Board in section 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g., Trust Company of Georgia*, 69 Federal Reserve Bulletin 225 (1983).

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13388 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Susquehannna Bancshares, Inc.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to each application, interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Litity, Pennsylvania; to acquire 100 percent of the voting shares or assets of Citizens National Bank and Trust Company of Waynesboro, Waynesboro, Pennsylvania. Comments on this application must be received not later than June 13, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **United Midwest Bancorporation, Ltd.** Troy, Michigan; to acquire 100 percent of the voting shares of Liberty Bank-Oakland, Troy, Michigan. Comments on the application must be received not later than June 13, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Motelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southern Banchares, Inc.*, Bremond, Texas; to acquire 80 percent or more of the voting shares of Moulton State Bank, Moulton, Texas. Comments on this application must be received not later than June 8, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13389 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance activities; Texas): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender. These activities would be conducted from an office in Nacogdoches, Texas, serving the approximate city limits of Nacogdoches and certain other parts of Nacogdoches County within a ten mile radius of Nacogdoches. Comments on this application must be received not later that June 13, 1983.

Board of Governors of the Federal Reserve System, May 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13390 Filed 5-18-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Advisory Committee to the Director; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on June 20, 1983, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will take place from 9:00 a.m. to approximately 5:00 p.m. in Building 31, Conference Room 10, C Wing. The meeting will be open to the public.

The purpose of the meeting will be to examine the issue of stablizing NIH awards for investigator-initiated research projects. The Committee will review changes in the average costs of grants in recent years and the direct and indirect components of those costs. Also to be considered are the effects of a stablization policy on other NIH research programs and mechanisms.

The Executive Secretary, Michael I. Goldberg, Ph. D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and consultants, and substantive program info:mation.

Dated: May 12, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13403 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Biomedical Library Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 22-23, 1983, convening each day at 8:30 a.m. in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 22 will be open to the public from 8:30 to approximately 11:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 11:30 a.m. to 5:00 p.m. on June 22 and from 8:30 a.m. to adjournment on June 23 for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301-496-4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

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(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: May 10, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13401 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on June 16, and 17, 1983 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on June 16, from 8:30 a.m. to 1:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in Sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would consitiute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on June 16, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on June 17 from 8:30 a.m. to adjournment.

Further information concerning the Council meeting may be obtained from Dr. Pierre Renault, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205. (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 10, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83-13399 Filed 5-18-83; 8:45am]

BILLING CODE 4140-01-M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, June 27-29, 1983, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on June 27, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 27, from approximately 9:00 a.m. to recess, on June 28, from 8:30 a.m. to recess, and on June 29, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7481) will furnish substantive program information.

Dated: May 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-13402 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the first-level review committees of the National Institute of Child Health and Human Development of June 1983.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, Associate Director for Scientific Review, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of committee: Maternal and Child Health Research Committee
Executive secretary: Dr. Jane Showacre, Room 6C03, Landow Building, Telephone: 301, 496-1696
Date of meeting: June 20-21, 1983
Place of meeting: Landow Building, Conference Room A
Open: June 20, 1983, 9:00 a.m.-10:15 a.m.
Closed: June 20, 1983, 10:30 a.m.-5:00 p.m.; June 21, 1983, 9:00 a.m.-adjournment
Name of committee: Mental Retardation Research Committee
Executive secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496-1696
Date of meeting: June 22-23, 1983
Place of meeting: Landow Building, Conference Room A
Open: June 22, 1983, 9:00 a.m.-10:00 a.m.
Closed: June 22, 1983, 10:00 a.m.-5:00 p.m.; June 23, 1983, 9:00 a.m.-adjournment
Name of committee: Population Reseach Committee
Executive secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building; Telephone: 301, 496-1696
Date of meeting: June 23-24, 1983
Place of meeting: Building 31, Conference Room 2
Open: June 23, 1983, 9:00 a.m.-10:30 a.m.
Closed: June 23, 1983, 10:30 a.m.-5:00 p.m.; June 24, 1983, 9:00 a.m.-adjournment

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health)

Date: May 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-13400 Filed 5-18-83; 8:45 a.m.]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, July 14-16, 1983, at the Kahler Hotel, 20 Second Avenue, S.W., Rochester, Minnesota 55901.

This meeting will be open to the public on July 14, 1983, from 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 14 from approximately 9:00 p.m. to adjournment, and from 8:30 a.m. to adjournment on July 15 and July 16, for the review, discussion and evaluation of an individual grant application. This application and the discussions could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.

Dated: April 29, 1983.

Betty J. Beveridge;

NIH Committee Management Officer.

[FR Doc. 83-13398 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 28-29, 1983 at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on June 28, 1983, form 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 28 from approximately 9:00 p.m. to adjournment, and from 8:30 a.m. to adjournment on June 29, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: April 29, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-13397 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on June 29, 1983.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of toxicology and carcinogenesis bioassays from the National Toxicology Program (NTP). Reviews will be conducted by the Technical Reports Review Subcommittee on the Board in conjuctions with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals listed alphabetically (with Chemical Abstract Service registry number and routes of administration) will be peer reviewed June 29. Also listed are the NTP chemical managers for each bioassay.

Chemical (CAS registry No.)	Route	Chemical manager (telephone No.)
1,2-dichloropropene (78-87-5).	Gevage	Dr. J. Lamb (919-541-4518).
Fluorescein sodium (C.I. acid yellow 73) (518-47-8).	Water	Dr. J. Mennear (919-541-4179).
Gliocmite (12002-43-6).	Feed	Dr. K. Chu (301-496-9447).
Monuron (150-68-5)	Feed	Dr. D. Goldman (301-496-9214).
Propylene (115-07-1)	Inhalation	Dr. J. Quest (301-496-9212)
Propylene oxide (75-56-9).	Inhalation	Dr. G. Boorman (919-541-3231).

In addition, time will be allowed for discussion of the conclusion from the technical report on the bioassay of benzyl acetate (CAS No. 140-11-4).

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The Executive Secretary, Dr. Larry Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish rosters of subcommittee and panel members and other program information prior to the meetings, and summary minutes subsequent to the meeting.

Dated: May 13, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-13388 Filed 5-18-83; 8:45 am]

BILLING CODE 4140-01-M

Agency for Toxic Substances and Disease Registry; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of April 19, 1983, by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), with authority to redelegate, the following authorities delegated to the Assistant Secretary for Health under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*) as they pertain to the functions assigned to the ATSDR:

Sections 104(b) (first sentence), (c), (d), (e) [with the exception of section 104(e)(2)(C)], (f), (g), (h), (i), and 111(f). The exercise of authority under section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

The Assistant Secretary for Health has made provision for the ratification of actions taken on behalf of the Public Health Service under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The delegation to the Administrator, Agency for Toxic Substances and Disease Registry, became effective on May 13, 1983.

Dated: May 13, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-13317 Filed 5-18-83; 8:45 am]

BILLING CODE 4160-19-M

Intent To Issue an Exclusive Patent License; Ohio State University

Pursuant to 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations and 41 CFR 101–4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to The Ohio State University an exclusive license to manufacture, use, and sell an invention of Drs. Derek Horton and Waldemar Prieve entitled "Antitumor Active Anthracycline." United States Patent Applications Nos. 268,623, and 408,942 were filed on May 29, 1981 and August 17, 1982, respectively.

Copies of the above United States patent applications may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03, Westwood Building, Bethesda, MD 20205.

The proposed license will have a duration of 5 years from the date of first commercial sale of the product or 10 years from the date of the license, whichever comes first, with permission to sublicense, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services (HHS) Patent Regulations. HHS will grant the license unless, within 60 days of this Notice, the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR Part 101–4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

Authority: 45 CFR 6.3 and 41 CFR Part 101–4.

Dated: May 12, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-13510 Filed 5-18-83; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–83–1241]

Fund Availability Under Emergency Jobs Appropriations Bill of 1983

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This document: (1) Notifies the public of the availability of funds appropriated under title I of Public Law 98–8 (97 Stat. 13) (the "Jobs Bill") for community development activities under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301); (2) describes the method of allocating and distributing the funds; (3) sets forth general grant requirements for the funds; (4) establishes deadlines for applications and final statements for the funds; and (5) sets forth procedures for complying with the Jobs Bill limit on the use of these appropriated funds for public service activities.

EFFECTIVE DATE: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director, Entitlement Cities Division, Office of Block Grant Assistance, (202) 755–9267; James Forsberg, Director, State and Small Cities Division, Office of Block Grant Assistance, (202) 755–6322; Leroy Gonnella, Director, Secretary's Fund Division, (202) 755–6092 (Indian Program); all located at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (Rooms 7282, 7184, and 7134, respectively). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Availability of Appropriated Funds

Title I of the Jobs Bill (Act of March 24, 1983, Pub. L. No. 98–8, 97 Stat. 13) appropriated an additional $1 billion for "community development grants" under the Community Development Block Grant (CDBG) Program authorized by title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) ["the Act"]. Of this amount, $250 million is to be made available for metropolitan cities and urban counties under the CDBG Entitlement Program.

Of the remaining $750 million, one percent, or $7.5 million, is to be used for grants to Indian tribes under section 107(b) of the Act. The remaining $742.5 million is to be used for grants to entitlement grantees, to States for nonentitlement areas under the State's program, and to units of general local government in nonentitlement areas under the HUD-administered Small Cities Program. The $742.5 million will be allocated in accordance with the provisions of the Jobs Bill, and will preserve the statutory percentage totals provided under section 106 of the Act—70 percent for entitlement grantees and 30 percent for States for use in nonentitlement areas. The resultant breakdown of the $1 billion appropriation is as follows: (1) $769.75 million for Entitlement grants, (2) $222.75 million for States for use in nonentitlement areas of States, and (3) $7.5 million for grants to Indian tribes.

The Jobs Bill contains fund allocation procedures which differ in some respects from those contained in the CDBG Program. The distribution of funds is as follows:

1. Under sections 101(b) (1) and (4) of the Jobs Bill, both the $742.5 million and the $250 million are initially allocated among the States, using the formula contained in section 101(b)(1). These two amounts are separately allocated in order to maintain exclusive use of the $250 million fund by entitlement grantees. The formula to be used for this purpose allocates:

—One-third of the amounts on the basis of the ratio of each State's number of unemployed persons in January 1983 to the number of unemployed persons in all States;

—One-sixth of the amounts among "long-term unemployment States" based on the ratio of each such State's number of unemployed persons in January 1983 to the number of unemployed persons in all "long-term employment States";

—One-half of the amounts on the basis of each State's share of "regular CDBG funds".

For purposes of distributing Jobs Bill funds, the following terms are used:

—"Regular CDBG funds" means (in the case of the $742.5 million amount) the aggregate amount of CDBG funds allocated to the entitlement cities and counties in a State and for the nonentitlement areas of the State from amounts appropriated in 1983 for the basic CDBG Program by the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983, Pub. L. No. 97–272. In the case of the $250 million, this term means the aggregate amount of such funds allocated to a State's entitlement grantees;

—"States" means the 50 States, plus Puerto Rico and the District of Columbia;

—"Long-term unemployment State" means a State with an average rate of unemployment over the period of June through November 1982 which equals or exceeds 9.4 percent.

2. Each State's share of the $742.5 million is suballocated among the entitlement and nonentitlement categories for the State, based on the proportion each category represents in the allocation of "regular CDBG funds" for the State.

3. The amounts established by State for nonentitlement areas under step 2 are reduced on a pro-rata basis to the extent necessary to insure that total funds allocated for nonentitlement areas within States equal 30 percent of $742.5 million. (The entitlement share for each State is increased by the amount that the nonentitlement share is reduced for that State.)

4. The entitlement amount for each State resulting from steps 2 and 3 is combined with the State's share of the $250 million to form the State's total amount for its entitlement grantees.

5. The amounts established for each State under step 4 are allocated among all of its entitlement grantees, with each city and county receiving a proportion of the total amount equal to its proportion of the aggregate entitlement amount of "regular CDBG funds" allocated within that State.

Specific fund allocations for each entitlement grantee and for each State for use in nonentitlement areas have been sent to HUD Field Offices and will be announced by them.

General Grant Requirements

All allocations of Jobs Bill funds—those for entitlement grantees, for States under the nonentitlement program, for units of general local government in nonentitlement areas of States under the Small Cities Program, and for Indian tribes—are intended to provide for worthwhile and necessary projects which will result in productive jobs in communities. These amounts are to be disbursed as rapidly as possible so as to quickly assist the unemployed and the needy as well as minimize future year budgetary outlays. Jobs Bill funds are to be made available in accordance with the provisions of title I of the Act. The procedures in the Code of Federal Regulations which generally apply to CDBG grantees remain in effect, except as specifically stated in this document.

To receive Jobs Bill funds, each grantee other than Indian tribes will be required to submit a final statement and certifications acceptable to the Secretary, as provided in sections 104 and 106 of the Act, as applicable. Indian tribes will have to submit an application under section 107 of the Act. These materials are separate from those submitted for regular FY 1983 CDBG funds under the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983, though the normal requirements contained in the Code of Federal Regulations (except as noted above) for such materials must be met.

Among otherwise applicable requirements, each activity assisted with Jobs Bill funds must be an eligible use of CDBG funds and (except for Indian tribes) must meet one of the three broad national objectives of the CDBG Program: it must benefit low and moderate income persons, aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. In particular, the nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (for which certification is required) apply to all employment opportunities created with Jobs Bill funds (except for grants to Indian tribes).

Sections 101(b) (2) and (4) and 101(c) of the Jobs Bill contain a number of provisions designed to target Jobs Bill funds to areas with the greatest employment need and activities with the greatest and most immediate employment impact. Consistent with these provisions, all grantees—entitlement, States, units of general local government in nonentitlement areas of the State under the Small Cities Program and Indian tribes—will be required to certify that: (1) They will, to the extent practicable, use Jobs Bill funds to maximize the immediate creation of new employment opportunities to individuals who were unemployed at least fifteen of the twenty-six weeks immediately preceding March 24, 1983 and (2) Jobs Bill funds will be obligated and disbursed as rapidly as possible so as to quickly assist the unemployed and the needy. All grantees except Indian tribes will also have to certify that they will use, to the extent practicable, Jobs Bill funds in areas where unemployment is highest and has been high for the longest period of time and for authorized purposes which have the greatest immediate employment impact. For the entitlement program, the term "area" (as used in the certification) means an occupational type, population group, industrial category, as well as geographic part of a metropolitan city or urban county. Where the Department is required to fashion allocation and

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selection criteria for the receipt of Jobs Bill funds (i.e., for grants to Indian tribes and to nonentitlement areas of States under the HUD-administered Small Cities Program), the criteria selected are designed to promote the objectives contained in sections 101 (b) and (c) of the Jobs Bill. These criteria appear later in this document.

HUD will conduct the same kind of review of the submission and grantee performance for the additional grant as for regular CDBG funds. Appropriate action determined to be necessary as a result of the performance review *will apply to the Jobs Bill grant* as well as to the grantee's regular CDBG funds.

In many communities the level of unemployment among women and minorities is disproportionate to their representation within the population. To address this concern, grantees are urged to give special attention to the nondiscrimination requirements in providing jobs created with CDBG funds from this additional grant by selecting activities which will provide employment opportunities to minorities and women in proportion to their presence among the unemployed in the jurisdictions.

Funds provided under the Jobs Bill shall be accounted for separately. There will be a separate grant agreement and grant number. The Jobs Bill required HUD to submit quarterly reports to Congress on the use of these additional funds. Therefore, grantees will be required to submit reports to HUD on a quarterly basis. A special form and instructions are being developed for this report and will be sent to HUD field offices once OMB approval is obtained. Grantees will also have to submit annually a separate performance report required under section 104(d) of the Act on the use of these additional funds. Except for Indian tribes, grantees will be required to maintain records for the additional grant which contain information on employment opportunities created through these funds provided by the recipient and contractors, with separte identification by race, sex, and ethnicity and to report this information to HUD.

Deadlines for Applications and Final Statements

Final statements from entitlement communities (metropolitan cities and urban counties) and States administering the State's Program are due on or before July 1, 1983. Applications from Indian tribes are due on or before July 15, 1983.

Applications from nonentitlement units of general local government in States where HUD will administer funds under the Small Cities Program will be due on dates to be announced by the HUD field offices serving the States which have chosen not to distribute nonentitlement funds. A few of the States in which HUD might administer the funds for nonentitlement areas will not be known for some time. Deadlines for applications from units of general local government in these States will be established to permit all potential applicants sufficient time to prepare applications (approximately 30 days), and the HUD area office will rate and select applications to be funded approximately 30 days from the submission deadline.

All statements, applications and other submissions for Jobs Bill funds should be sent to the HUD field office serving the grantee's jurisdiction, and must be postmarked no later than the applicable deadline date.

Use of Funds Public Service Activities

The Jobs Bill provides that up to $500 million of the additional CDBG funds appropriated may be used for public service activities otherwise eligible under section 105(a)(8) of the Act, notwithstanding this section's ten percent limitation of such use. (This 10 percent limitation will, however, continue to apply to all other CDBG funds.) In order to comply with the $500 million limitation, the following procedures will apply.

1. Information on the amount of funds designated for public service activities will be required in the final statement from each metropolitan city and urban county grantee. States must advise HUD in writing by July 1, 1983 of the maximum amount of funds they estimate will be used for public service activities. There is no limit on the amount of funds that these grantees may initially designated for public service activities.

Funds for public service activities shall constitute no more than 50 percent of any grant made to an Indian tribe or nonentitled unit of general local government receiving a grant from HUD (in States where HUD will administer funds for nonentitlement areas).

2. Any State, metropolitan city, or urban county that designates 50 percent or less of its grant for public service activities may expend up to, but no more than, the amount designated.

3. Any State, metropolitan city, or urban county that designates *more* than 50 percent of its grant for public service activities will be prohibited from obligating or expending more than 50 percent of the grant for these activities without prior written approval of HUD.

4. Once all amounts designated for public service activities by States, metropolitan cities, and urban counties are known, HUD will determine the total. The total will be calculated as the sum of:

The amounts designated by States, metropolitan cities and urban counties; plus

50 percent of the funds distributed to Indian tribes ($3.75 million); plus

50 percent of the amount distributed to nonentitled units of general local government in States where HUD will administer the funds.

HUD will then inform in writing each State, metropolitan city, and urban county that designated more than 50 percent of its grant for public service activities as follows:

a. If the total amount of funds designated for public service activities as determined above is $500 million or less, HUD will inform each grantee that it may expend up to, but no more than, the full amount designated for public services activities; or

b. If the total amount of funds designated for public service activities as determined above is more than $500 million, HUD will calculate a pro-rata reduction in that portion of the amount designated for public services of sufficient amount to reduce the total to $500 million, to be applied to each grantee that designated more than 50 percent of its grant from this additional appropriation for public service activities, and will inform each such grantee of the adjusted maximum amount it will be permitted to expend for this purpose.

Indian Tribes

The distribution of $7.5 million appropriated under the Jobs Bill will generally be governed by the procedures at 24 CFR Part 571 (48 FR 11648, March 18, 1983). Funds will be allocated to HUD field offices responsible for the Indian CDBG program in two steps. First, each of the field offices will receive $750,000. The balance ($3 million) will be allocated on the basis of Indian unemployment and poverty, weighted equally. Within each field office jurisdiction, funds will be distributed based upon a competition which rates projects against the selection criteria in 24 CFR 571.302, giving heavy emphasis to projects which deal with long-term Indian unemployment problems and which show evidence of an ability to be self-sustaining once grant funds have been expended.

HUD-Administered Small Cities Program

The HUD-administered Small Cities program is competitive in nature and the demand for funds exceeds the amount available. Consistent with the objectives and requirements of the Jobs Bill, HUD has tailored the competition and selection critieria to give greater emphasis, "to the extent practicable," to the factor of unemployment as a key objective to be addressed in the granting of funds.

This competition applies in those States which will not administer the State CDBG program for nonentitlement areas in FY 1983. The States opting not to administer the program in FY 1983 to date are Hawaii, Kansas and Maryland. At this time, Florida and New Hampshire have not yet indicated a decision and could possibly be affected by these procedures. All other States have elected to administer the Program, but some have not yet fulfilled the statutory requirements and failure to do so could result in HUD administering the program in those States.

Notwithstanding the competition application process, factors unique to the State of Hawaii, such as the relatively small amount of funds that will be available, and the fact that the only applicants eligible for funding are three counties, make a competitive system inappropriate in that State. Therefore, HUD has determined that the formula used for allocating funds contained in section 106(d)(1)(A) of the Act is a logical and equitable basis for distributing Jobs Bill funds to eligible applicants under the Small Cities Program in Hawaii.

In general, the selection system is designed to identify projects which meet two objectives—rapid job creation in areas suffering unemployment and meaningful impact on a community development need. Applications are rated and ranked on the level of need in the community and the project's effectiveness in rapidly meeting the employment and identified community development needs of the applicant. These selection criteria consist of the following:

Factor	Points
(1) Need—absolute number of poverty persons	50
(2) Need—percent of poverty persons	50
(3) Need—percent of persons currently unemployed (during the most recent month for which final (revised) data is available)	100
(4) Need—average percent of persons unemployed during calendar year 1982	100
(5) Project Effectiveness	300
(6) Minority Business Enterprise	50

Data for factors (1), (2), (3) and (4) above will be supplied by HUD. Direct unemployment estimates will be used if available, and if unavailable, the employment estimates will be generated using the census sharing method. This Bureau of Labor Statistics-approved method produces unemployment estimates for all places for which data from the 1980 Census are available. Data used will be the latest available final (revised) data as of the application deadline established by the Area Office. All applications are evaluated relative to the other applications within the area of competition.

For further information on the procedures to be utilized in the application and selection process, eligible recipients should contact the HUD area office.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

The collection of information requirements contained in this Notice have been submitted to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Authority: Pub. L. No. 98-8 (97 Stat. 13); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 13, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-13434 Filed 5-18-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202-395-7340.

Title: 30 CFR Part 270, Geothermal Resources Operations on Public, Acquired, and Withdrawn Lands.

Bureau Form Numbers: 9-1955, 9-1956, 9-1957, 9-1958, 9-1960, and 9-1963

Frequency: Nonrecurring, on occasion, and monthly.

Description of Respondents: Lessees and operators of Federal and Indian geothermal leases.

Annual Responses: 865

Annual Burden Hours: 1,790

Bureau Clearance Officer (alternate): Linda Gibbs, 202-653-8853

Dated: April 27, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-13428 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57980-A]

Montana; Partial Termination of Classification State Indemnity Selection

May 11, 1983.

In **Federal Register** Volume 48, Number 79, pages 17400-17403 dated April 22, 1983, various lands in Blaine, Valley, Phillips, Custer and Fallon Counties, Montana, were classified as suitable for transfer to the State of Montana under the State Indemnity Selection Program. These lands were segregated from all forms of entry, except mineral leasing, for a period of two years as of March 28, 1983.

The lands described below have been withdrawn from application for State Indemnity Selection and are no longer classified or segregated from entry under the public land laws, subject to other previously granted rights and restrictions:

Principal Meridian

T. 33 N., R. 23 E.,
Sec. 6, Lots 6 and 7, E½SW¼ and SE¼.
Containing 322.11 acres.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-13423 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[C-34886]

Coal Lease Offering by Sealed Bid

U. S. Department of the Interior, Bureau of Land Management, Colorado State Office, 1037-20th Street, Denver, Colorado 80202. Notice is hereby given that certain coal resources in the lands hereinafter described in Archuleta

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County, Colorado will be offered for lease by sealed bid of $465.00 or more per acre to the qualified bidder submitting the highest bid. This offering is being made as a result of an application filed by Chimney Rock Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). The sale will be held at 2:00 p.m., June 14, 1983, in the Fifth Floor Conference Room at the above address. Bids received after 1:00 p.m., June 14, 1983 will not be considered.

Coal Offered: The coal resource to be offered is limited to 2,100,000 tons of coal recoverable by surface mining methods in the following lands located approximately 25 miles southwest of Pagosa Springs, Colorado:

T. 34 N., R. 4 W., NMPM (South of the Ute Line).
Sec. 29, NW¼SW¼;
Sec. 30, W½NW¼NE¼, SE¼NW¼NE¼, and E½NE¼NW¼.

The area described contains 90 acres.

All minable coal beds are ranked as high volatile A bituminous coal according to the American Society in Testing and Materials (Designation D388–66) and have an average as received proximate analysis of about 12,700 Btu/lb, .6 percent sulfur, and 13.2 percent ash.

Surface Owner Consent Information: The NW¼SW¼, Sec. 29 is owned by a qualified surface owner. The purchase price of the surface owner consent is $500.00. Other terms and conditions of the surface owner consent are attached to the Detailed Statement of Lease Sale.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal produced by surface methods and 8 percent of the value of coal produced by underground methods. The value of the coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions, the terms and conditions of the surface owner consent, and details on the post-sale transfer or assignment of surface owner consent are included in the Detailed Statement of Lease Sale. Copies of the Statement and of the proposed coal lease are available in the Colorado State Office. Case file documents are also available for public inspection on the first floor.

Rodney A. Roberts,
Chief, Mineral Leasing Section.

[FR Doc. 83-13422 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

[M 58534]

Montana; Invitation Coal Exploration License Application

Members of the public are hereby invited to participate with Peabody Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rosebud County, Montana:

T. 1 N., R. 41 E., P.M.M.,
Sec. 24: All.
640.00 Acres.

Any party electing to participate in the exploration program shall notify, *in writing* both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Peabody Coal Company, Rocky Mountain Division, 10375 East Harvard Avenue, Suite 400, Denver, Colorado 80231. Such written notice must refer to serial number M 58534 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Forsyth Independent, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the District Mining Supervisor, Bureau of Land Management, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Dated May 11,1983.

Robert T. Webb,
Acting Deputy State Director, Division of Mineral Resources.

[FR Doc. 83-13417 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

[PHX-080325]

Arizona; Order Providing for Opening of Public Lands

May 12, 1983.

1. In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following land has been reconveyed to the United States under the serial number listed below:

PHX-080325

T. 1 S., R. 2 W., GSR Mer., Arizona,
Section 32, NE¼.

The area described aggregates 160 acres in Maricopa County.

2. The United States did not acquire the mineral rights on the land described in Paragraph 1.

3. All of the land described in Paragraph 1 has been classified for State Selection purposes. Subject to valid existing rights and the provisions of applicable law, effective upon this publication, the land described in Paragraph 1 is open to application for State Selection under Sections 2275 and 2276, Revised Statutes, as amended 43 U.S.C. 851 and 852.

4. Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13424 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

[U-47390]

Realty Action; Proposed Public Land Sale; Washington County, Utah

Under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land described as Lots 12 and 13, sec. 1, T. 43 S., R. 16 W., SLM, Utah, consisting of 13.85 acres will be offered for sale at 2 p.m. on July 28, 1983 at the BLM Dixie Resource Area Office, 24 East St. George Blvd., St. George, Utah.

The sale will be by public auction through competitive bidding to the highest bidder. Bids may be made by a principal or a duly qualified agent by either sealed or oral bids or both. The minimum acceptable bid is $13,850.00. Bids shall be accompanied by payment for not less than one-fifth of the amount of the bid.

About 77 percent of the land is located in the floodplain of the Santa Clara River.

The sale and subsequent title to the land will be subject to the following conditions, reservations, and restrictions:

1. All valid existing rights.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States.

3. A right-of-way, U–6724, for a water pipeline.

4. All minerals in the land will be reserved to the United States.

5. Cultural resources in two sites identified by a "Summary Report of Inspection for Cultural Resources" dated February 24, 1982 shall be reserved to the United States, and the purchaser will be responsible for the protection or excavation of two cultural resource sites located on the tract, as directed by BLM.

6. Buildings will not be allowed in the floodplain area up to an elevation of 2,580.4 feet above sea level.

Detailed information concerning the Land Report/Environmental Assessment and procedures, terms, and conditions pertaining to the sale may be obtained at the Dixie Resource Area Office, 24 East St. George Boulevard, St. George, Utah 84770.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Cedar City BLM District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720. Comments will be evaluated, and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: May 16, 1983.

Morgan S. Jensen,
District Manager.

[FR Doc. 83-13420 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

[W-79576]

Rescheduled Sale of Public Lands in Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Lands in Sweetwater County, Wyoming Rescheduled (W–79576).

SUMMARY: Notice is hereby given that the competitive sale of the following described public lands which was initially scheduled for November 17, 1982, will be conducted on June 22, 1983, at 2:00 p.m. The land will be offered for sale at public auction for no less than the appraised fair market value shown.

Sixth Principal Meridian, Wyoming

Township 18 North, Range 105 West, Section 18:

Parcel No., Legal description, Acreage, and Value

1—Lot 5, N½NE¼, NE¼NW¼, 157.22, $220,000.00
2—Lot 6, S½NE¼, SE¼NW¼, 157.23, $267,500.00

The sale will be held at the Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming.

All other parts of the original notice (FR Vol. 47, No. 177/Monday, September 13, 1982/Notices pgs. 40238—40239) are the same.

Robert W. Bierer,
Area Manager.

[FR Doc. 83-13418 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

Reassessment of Wilderness Inventory Decision; Idaho

Notice is hereby given that the Idaho State Office of the Bureau of Land Management will be reassessing the wilderness inventory decision as it relates to Inventory Unit ID–111–5, Poison Gulch.

This unit, located in the Boise District, was declared as lacking in wilderness characteristics in the wilderness inventory decision of November 1980. That decision was protested then appealed to the Interior Board of Land Appeals (IBLA).

On April 14, 1983, IBLA ruled that the inventory decision for Unit ID–111–5 be set aside and remanded. The Idaho State Office will review the wilderness inventory files and the IBLA decisions, and will issue a revised final inventory decision on the unit by August 1983.

For Further Information Contact: George H. Weiskircher, Bureau of Land Managment, Idaho State Office, 3380 Americana Terrace, Boise, ID 83706.

Dated: May 10, 1983.

John S. Davis,
Deputy State Director for Lands and Renewable Resources.

[FR Doc. 83-13425 Filed 5-18-83; 8:45 am]
BILLING CODE 4310-84-M

[C-26365]

Colorado; Order Opening Lands Withdrawn for Power Projects 347 and 418

May 11, 1983.

The Federal Energy Regulatory Commission (formerly Federal Power Commission) issued an order dated January 23, 1978, (FR Doc. 78–2336) vacating in their entirety orders which withdrew lands for Project Nos. 347 and 418. These orders affected the following described public and national forest lands:

Project No. 347

Sixth Principal Meridian

T. 3 N., R. 71 W.,
Sec. 24, NW¼NE¼.

Roosevelt National forest

T. 3 N., R. 71 W.,
Sec. 19, lot 2, S½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 20, NW¼SW¼, NE¼SE¼;
Sec. 21, S½NW¼.
T. 2 N., R. 72 W.,
Sec. 4, NW¼SE¼;
Sec. 5, lot 2, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 7, E½SE¼;
Sec. 8, SW¼SW¼;
Sec. 18, E½NE¼.
T. 3 N., R. 72 W.,
Sec. 18, lots 8, 9, 10, 17;
Sec. 19, lots 1, 2, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 21, lots 8 thru 10, 11, 14, 15;
Sec. 23, lot 13, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼;
Sec. 24, NW¼NE¼, S½NE¼, S½NW¼, N½S½;
Sec. 28, lots 1, 8, 9;
Sec. 34, SE¼NE¼;
Sec. 35, W½NW¼.
T. 2 N., R. 73 W., sec. 13, NE¼SE¼, S½SE¼.
T. 3 N., R. 73 W.,
Sec. 12, S½SW¼, SE¼SE¼;
Sec. 23, SW¼NW¼;
Sec. 24, NE¼.

The areas described aggregate approximately 2,850 acres of public and forest land which withdrawn by Power Project 347.

Project No. 418

Roosevelt National Forest

T. 3 N., R. 72 W.,
Sec. 17, lots 8, 15;
Sec. 19, lot 12;
Sec. 20, lots 1 thru 4;
Sec. 21, lots 1 thru 7;
Sec. 22, lots 3 thru 7;
Sec. 23, lot 12.

The areas described aggregate approximately 808 acres of forest lands which were withdrawn by Power Project 418.

4. Therefore, at 10:00 a.m., on June 16, 1983, the public lands in paragraph one shall be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The State of Colorado has waived its preference right for highway right-of-way or material sites on these public lands as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

5. Therefore, at 10:00 a.m., on June 16, 1983, the national forest land described in paragraphs two and three shall be open to such forms of disposition as may by law be made of national forest land, subject to valid existing rights.

6. Any valid applications received prior to the opening time and date shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

7. The lands within these power projects have been and remain open to mineral leasing and to location and entry under the U.S. mining laws, excepting any lands which may be withdrawn by other orders and would remain segregated by those orders.

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Inquiries concerning these lands should be directed to the Chief, Lands and General Mining Law Section, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13421 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-05080]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I-05080, for withdrawal and reservation of lands was published as **Federal Register** Document No. 55-10237 on page 9868 of the issue for December 22, 1955. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 9:00 a.m. on June 17, 1983, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 6 S., R. 5 E.,
Sec. 17, NW¼NE¼.

The area described aggregates 40 acres in Owyhee County.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-13419 Filed 5-18-83; 8:45am]

BILLING CODE 4310-84-M

[OR 13713]

Oregon; Proposed Reinstatement of Terminated Oil and Gas Lease

1. Pursuant to the provisions of Pub. L. 91-245 and Title 43 Code of Federal Regulations, § 31.08.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease, OR 13713, has been received covering the following lands:

Willamette Meridian

T. 4 N., R. 3 W.,
Sec. 5, All;
Sec. 7, N½NE¼, SE¼, SE¼NE¼, SE¼;
Sec. 17, NE¼, S½NW¼, S½.
T. 5 N., R. 3 W.,
Sec. 31, E½.

(1,826.90 acres)

2. The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5.00 per acre per year, and royalty increased to 16⅔ percent beginning on the reinstatement date.

3. Lessee will reimburse the Department $500.00 for administrative costs and for the cost of the notice published in the **Federal Register**.

Dated: May 12, 1983.

Harold A Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-13472 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting Jane Roberts at 703-860-7916. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer at 202-395-7340.

Title: Notice of Processing of Geophysical and Geological Information, 30 CFR 251.11 and 251.12.
Bureau Form Number: N/A
Frequency: Nonrecurring
Description of Respondents: Federal Outer Continental Shelf Permittees
Annual Responses: 400
Annual Burden Hours: 20,800
Bureau Clearance Officer: Dorthy Christopher, 703-435-6213

Dated: April 20, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 83-13427 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 2323 and 2324, Blocks 360 and 361, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting regional Manager Gulf of Mexico OCS Region.

[FR Doc. 83-13407 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in Outer Continental Shelf; Exxon Company, U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 4451 and 4452, Blocks 181 and 182, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13405 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0247, Block 102, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13405 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3584, Block 170, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Mineral Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13406 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a Development and Production Plan describing the activities it proposes to conduct of Lease OCS-G 3969, Block 478, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70003, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13474 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Mobil Oil Exploration and Producing Southeast, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing

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Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2838, Block 343, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Record, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 13, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13475 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulpur Operations in the Outer Continental Shelf; Chevron U.S.A., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A., Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3410, Block 352, Eugene Island Area, Offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13476 Filed 5-18-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 1.

Volume No. OP1–168

Decided: May 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 142421 (Sub-2), filed April 22, 1983. Applicant: ARMORED TRANSPORT OF NEVADA, INC., 1612 West Pico Blvd., Los Angeles, CA 90015. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017; (213) 483–4700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167600, filed April 25, 1983. Applicant: CLARK A. BREVIG and JOAN K. BREVIG, d.b.a. BREVIG LAND, LIVE & LUMBER, Rural Route 2, Box 2233, Lewistown, MT 59457. Representative: Clark A. Brevig (same address as applicant), (406) 538–5579. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167701, filed April 28, 1983. Applicant: COUNCIL BLUFF TRUCK BROKERAGE, INC., 3211 Nebraska Ave., Council Bluffs, LA 51501. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–176

By the Commission Review Board No. 3, Members Krock, Joyce and Dowell.

MC 127610 (Sub-11(B)), filed May 2, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West St., West Bridgewater, MA 02379. Representative: J. Peter Noonan (same address as applicant), (617) 588–8026. Transporting *chemicals and related products, ores and minerals, and clay, concrete, glass or stone products,* between points in the U.S. (except AK and HI), under continuing contract(s) with White Pigment Corporation of Florence, VT, and OMYA, Inc., of Proctor, VT.

Note.—Applicant has concurrently filed common carrier authority docketed MC–127610(A), published in the same **Federal Register** issue.

MC 147400 (Sub-13), filed May 3, 1983. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53405. Representative: Thomas M. O'Brien, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601, (312) 263–1600. As a *broker* or *genreal commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167750, filed May 2, 1983. Applicant: CHESHIER BUSINESS SERVICES, 72 South La Grange Rd., Suite 9, La Grange, IL 60525. Representative: Lehman L. Cheshier (same address as applicant), (312) 354–9266. As a *broker*, of *general commodities* (except household goods), bewteen points in the U.S.

MC 167760, filed May 3, 1983. Applicant: EDWARD P. SCHOLL, P.O. Box 58, Seabrook, NJ 08302. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 2 at (202) 275–7030.

Volume No. OP2–213

Decided: May 6, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 117142 (Sub-7), filed April 26, 1983. Applicant: AMERICAN TRAILER HAUL, INC., 1257 Piedmont Rd., Marietta, GA 30062. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers So., 3390 Peachtree Rd., NE., Atlanta, GA 30326, 404–231–3583. Transporting, (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI); and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 29592 (Sub-18), filed April 27, 1983. Applicant: ARROW STAGE LINES, INC., 720 East Norfolk Ave., Norfolk, NE 68701. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, 712–277–1434. Transporting *passengers, their baggage, newspapers and express packages,* in the same or separate motor vehicles, in special and charter operations, between points in the U.S. (except HI), under continuing contract(s) with Allied Tours, Inc., d.b.a. Allied Tours and Travel, of Norfolk, NE.

MC 159033 (Sub-2), filed April 29, 1983. Applicant: CUMBERLAND LIMOUSINE SERVICE, INC., P.O. Box 1477, 1501 Ford Ave., Cumberland, MD 21502. Representative: Robert D. Fansler, (same address as applicant), 301–759–4929. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 163263 (Sub-1), filed April 27, 1983. Applicant: LOYD McCORD, INC., P.O. Box 173, Springdale, AR 72764. Representative: Loyd McCord (same address as applicant), 501–751–3221. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S.

MC 163882 (Sub-1), filed April 28, 1983. Applicant: SCORPIO BUS TOURS, INC., P.O. Box 148, Richboro, PA 18945. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–347–2857. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167603, filed April 22, 1983. Applicant: LUPE DELACRUZ, d.b.a. LUPE DELACRUZ & SONS, Box 38, Hendrum, MN 56550. Representative: Lupe Delacruz Sr. (same address as applicant), (218) 236–6890 or 861–6179). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167612, filed April 25, 1983. Applicant: SUNCOAST ENTERPRISES, INC., 3153 Bankhead Hwy., P.O. Box 93216, Atlanta, GA 30318. Representative: C. Jack Pearce, 1000

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Conn. Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0048. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 167693, filed April 28, 1983. Applicant: TOM LANGE COMPANY, INC., 5231 South Sixth St., P.O. Box 4701, Springfield, IL 62708. Representative: Kevin B. McCarthy, 710 South Second St., 2nd Floor, Springfield, IL 62705, (217) 544–4800. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167712, filed April 28, 1983. Applicant: EAST-WEST CONSOLIDATORS, INC., P.O. Box 160, Glen Burnie, MD 21061. Representative: Maxwell A. Howell, 2554 Mass. Ave., NW., Washington, DC 20008, (202) 483–8633. As a *broker of general commodities* (except household goods, between points in the U.S.

MC 167713, filed April 28, 1983. Applicant: MICHAEL C. BEACH, d.b.a. MICHAEL C. BEACH TRUCKING, 37107 Rock Hill Dr., Lebanon, OR 97355. Representative: Catherine E. Beach (same address as applicant), (503) 451–2374. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167722, filed April 29, 1983. Applicant: COMMERCIAL CARGO INSURANCE BROKERAGE, INC., d.b.a. COMMERCIAL CARGO BROKERAGE, 24985 Sutter, Laguna Hills, CA 92653. Representative: Wallace Warren Nevitt (same address as applicant), (714) 855–0438. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP2–221

Decided: May 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167592, filed April 25, 1983. Applicant: UNITED COURIERS, INC., 3021 Gilroy St., Los Angeles, CA 90039. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213) 483–4700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167702, filed April 28, 1983. Applicant: NIXON BUS SERVICE, INC., 7745 Hartwell Rd., Glen Burnie, MD 21061. Representative: Mrs. Willie L. Nixon (same address as applicant), (301) 255–3978. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP2–222

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 81733 (Sub-1), filed April 22, 1983. Applicant: WM. H. JELLY & CO., INC., 1080 Broadway, Bayonne, NJ 07002. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4810. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC–110923 (Sub-14), filed April 18, 1983. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison St., Kewanee, IL 61443. Representative: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., P.O. Box 5039, Springfield, IL 62705, (217) 528–8476. Transporting *food and other edible products and byproducts* intended *for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 157953 (Sub-1), filed May 3, 1983. Applicant: CUSTOMER COACH SERVICE, 1945 Hilfiker Lane, Eureka, CA 95501. Representative: Fred R. Covington, 2150 Franklin St., Suite 554, Oakland, CA 94612, 415–893–4102. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167743, filed May 2, 1983. Applicant: SYKES CONTINENTAL TOURS, INC., 8439 Allenswood Rd., Randallstown, MD 21133. Representative: David Bruce Sykes, (same address as applicant), 301–655–3923. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167792, filed May 4, 1983. Applicant: GERALD F. WILLIAMS, d.b.a. JERRY WILLIAMS TRUCKING, Rte. 1, Box 12, Arena, WI 53503. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705–0086, 608–238–3119. Transporting *food and other edible products and byproducts intended for human consumption* (except alocholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–210

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 114555 (Sub-2), filed April 28, 1983. Applicant: EUREKA-REDDING STAGES, INC., d.b.a. REDWOOD EMPIRE LINES, P.O. Box 4725, Redding, CA 96099. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 118474 (Sub-14), filed April 29, 1983. Applicant: AIR VAN LINES, INC., 1280 116th Ave. NE. Bellevue, Wa 98004. Representative: Thomas N. Chewning, (same address as applicant), (206) 453–5560. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except HI).

MC 141324 (Sub-4), filed April 25, 1983. Applicant: CHENANGO VALLEY BUS LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–5111. Over *regular routes*, transporting *passengers*, between Oneonta, NY, and junction NY Hwy 206 and NY Hwy 17 at or near Roscoe, NY: From Oneonta, NY over NY Hwy 28 to junction NY Hwy 10, then over NY Hwy 10 to junction NY Hwy 206, then over NY Hwy 206 to junction NY Hwy 17 at or near Roscoe, NY and return over the same route, serving all intermediate points.

Note.—(1) Applicant seeks to provide regular-route service in interstate of foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. (2) Applicant intends to tack this authority to its existing authority.

MC 165994 (Sub-1), filed May 2, 1983. Applicant: YELLOW BOLT EXPRESS, INC., 1604 S. Vineyard, Ontario, CA 91761. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167855, filed April 27, 1983. Applicant: ADVANCED TRAFFIC SERVICES, INC., 32261 Camino Capistrano, Suite D103C, San Juan Capistrano, CA 92675. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167704, filed April 27, 1983. Applicant: BONNIE L. PAULLUS TRUCK BROKERAGE, INC., 305 Linden Way, Heppner, OR 97836. Representative: Philip G. Skofstad, 529 SE. Grand Avenue, Portland, OR 97214, (503) 239–4157. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP3–214

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167514, filed April 18, 1983. Applicant: TOWN AND COUNTRY TRANSPORTATION COMPANY, a Corporation; 46 Washington St., New Britain, CT 06051. Representative: Andrew P. Lemnotis (same address as applicant), (203) 229–7795. Transporting *passengers*, in charter and special operations, beginning and ending at points in CT, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167675, filed April 26, 1983. Applicant: JOHN F. BISHOP, d.b.a. HUDDLESTON & BISHOP ENTERPRISES, 101 Allen Drive, San Bruno, CA 94066. Representative: John F. Bishop (same address as applicant), (415) 355–9285. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167684, filed April 28, 1983. Applicant: RFK TRANSPORTATION, P.O. Box 14763, Las Vegas, NV 89114. Representative: Lyle Gerdemann (same address as applicant), 1–800–553–8491. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 4 at (202) 275–7669.

Volume No. OP4–294

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 167746, filed May 2, 1983. Applicant: BIRKIE FREIGHT BROKERS, INC., 15396 Monterosa, Granger, IN 46530. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second St., Elkhart, IN 46516, (219) 293–3597. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–295

Decided: May 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 164496, filed May 2, 1983. Applicant: Skylark Van Service, Inc., Avenue H Branch Exchange, Bldg. 642, Sheppard Air Force Base, TX 76311. Representative: Charles E. Perry, 807 7th St., Wichita Falls, TX 76301, (817) 322–8012. Transporting *passengers*, in special operations, between Altus, OK, Wichita Falls, Dallas, and Fort Worth, TX.

Note.—Applicant seeks to provide privately funded special transportation.

Volume No OP4–297

Decided: May 12, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 111346 (Sub-6), filed May 6, 1983. Applicant: Wade Bus Lines, Inc., 716 W 2nd St., Ogallala, NE 69153. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded charter and special transportation

MC 120737 (Sub-103), filed May 4, 1983. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Algonquin, Carpentersville and East Dundee, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at the specified points.

Note:—To the extent this proceeding grants the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 142747 (Sub-5), filed May 4, 1983. Applicant: TATECO, INC., No. 1, Cheddar Lane, Valley City, IL 62340. Representative: Peter A. Greene, 1920 N St., NW. Suite 700, Washington, DC 20036, (202) 331–8800. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167806, filed May 4, 1983. Applicant: INDIANAPOLIS YELLOW CAB, INC. 3801 W. Morris St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46204, (317) 846–6655. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note: Applicant seeks to provide privately funded charter and special transportation.

MC 167807, filed May 5, 1983. Applicant: JAY'S TRANSPORTATION SERVICE, INC., 1510 Whitelock St., Baltimore, MD 21217. Representative: John M. Johnson (same address as applicant), (301) 225–7666. Transporting *passengers*, in charter and special operations, between points in MD, PA, NJ, NY, CT, MA, OH, MI, WV, VA, NC, SC, AL, GA, FL, AND DC.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167816, filed May 4, 1983. Applicant: DuPAGE MOTOR COACH, INC., Poss and Western Aves., Glen Ellyn, IL 60137. Representative: Robert J. O'Brien, 2351 E. 170th St., S. Holland, IL 60473, (312) 474–6404. Transporting *passengers*, in charter and special operations, beginning and ending at points in IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167836, filed May 4, 1983. Applicant: JAMES MORGAN, LTD., d.b.a. POINTS EAST TRANSPORT, 8301 Florence Ave., Downey, CA 90240. Representative: James M. Hodge (same address as applicant), (213) 862–3527. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167876, filed May 9, 1983. Applicant: FOREIGN TRADE EXPORT PACKING CO., 1350 Lathrop St., Houston, TX 77020. Representative: Creighton M. Hatz (same address as applicant), (713) 672–8211. As a *broker*

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of general commodities (except household goods), between points in the U.S.

MC 167867, filed May 9, 1983. Applicant: DOUGLAS L. FUGATE, 4717 SE. Jennings, Milwaukie, OR 97222. Representative: Douglas L Fugate (same address as applicant), (503) 659–8150. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167877, filed May 9, 1983. Applicant: WILLIAM F. POOLE, 22 Knollwood Circle, North Kingstown, RI 02852. Representative: William F. Poole (same address as applicant), (401) 885–0474. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to team 5 at (202) 275–7289.

Volume No. OP5–231

Decided: May 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not Participating.

MC 12618 (Sub-2), filed April 25, 1983. Applicant: MULTI-CARRIER SERVICE, IND., 215 Union St., Hackensack, NJ 07601. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068 (201) 992–2200. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 130089 (Sub-2), filed April 29, 1983. Applicant: PRAIRIELAND TOURS AND TRAVEL, INC., 202 Eldorado Road, Bloomington, IL 61701. Representative: Robert T. Lawly, 300 Reisch Bldg., Springfield, IL 62701, (217 544–5468 Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 136788 (Sub-1(b), filed March 17, 1983. Applicant: SALEM TRANSPORTATION COMPANY OF NEW JERSEY, INC., 133–03 35 Ave., Flushing, NY 11354. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10017 (212) 755–0500. Transporting *passengers*, in special or charter operations, between point in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation. Applicant seeks additional authority in MC-136788 Sub 1 (a) published in this same **Federal Register**.

MC 151789 (Sub-2), filed April 28, 1983. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, between points in the U.S. (except AK and HI).

MC 153458 (Sub-2), filed April 28, 1983. Applicant: EL PASEO TOURS, INC., 298 Whitney St., Chula Vista, CA 92010. Representative: Steve L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167688, filed April 28, 1983. Applicant: CENTRAL STATES BROKER SERVICES CO., 5101 South Lawndale Ave., P.O. Box 450, Summit, IL 60501–0450. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603, (312) 236–9375. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167719, filed April 29, 1983. Applicant: ROBERT E. REED, d.b.a. LONG LINE TRUCKING, 528 14th Street, Sparks, NV 89431. Representative: Robert E. Reed (same address as applicant), (702) 331–1471. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 167738, filed May 2, 1983. Applicant: DOUGLAS ROGER McVEY, d.b.a. EAU CLAIRE FREIGHT BROKERS, 103 Wisconsin St., PO Box 303, Eau Claire, WI 54701. Representative: Douglas Roger McVey (same address as applicant), (715) 835–2028. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–233

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167469, filed May 4, 1983. Applicant: GLOBE TREKS, INC., 247 Fifth Avenue West, Hendersonville, NC 28739. Representative: Frank T. Schell (same address as applicant), (704) 693–0724. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167708, filed April 29, 1983. Applicant: JONES BUS SERVICE, INC., 4410 Bowley's Lane, Baltimore, MD 21206. Representative: Raynard W. Jones (same address as applicant), (301) 325–9098. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167758, filed May 3, 1983. Applicant: WEST MILTON & DAYTON BUS LINE, INC., 6121 Janice Place, Dayton, OH 45415. Representative: Edgar M. Hymans, 1587 Elizabeth Place, Cincinnati, OH 45237, (513) 242–7681. Transporting *passengers*, in special and charter operations, beginning and ending at points in OH, IN, and KY, and extending to points in the U. S. (except HI).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167769, filed May 3, 1983. Applicant: W. G. CARROLL & CO., INC., P.O. Box 20729, 3400 Interloop Rd., Atlanta, GA 30320. Representative: W. S. Ansley, Jr. (same address as applicant), (404) 761–2929. As a *broker* of *general commodities* (except household goods), between points in the U. S.

MC 167776, filed May 3, 1983. Applicant: AUDIE and JUDY ANN MILLS, d.b.a. MILLS TRUCKING, 299 Toneff Drive, P.O. Box 3038, Waterloo, IA 50707. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U. S. (except AK and HI).

MC 167789, filed May 4, 1983. Applicant: KIRKWIL SYSTEMS, INC., 777 Dowd Ave., Elizabeth, NJ 07201. Representative: A. David Millner,7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13437 Filed 5-18-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register** .

FOR FURTHER INFORMATION CONTACT: Warren Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary.

Volume No. OP2–225

Decided: May 13, 1983.

MC–F–15248, filed April 22, 1983. DAVID E. MAGILL AND THOMAS A. MAGILL (12681 Route 30, P.O. Box 369, Irwin, PA 15642)—continuance in control—LINCOLN COACH LINES AND LINCOLN COACH TRAVEL, INC., (address same as applicants). Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166. David E. Magill and Thomas A. Magill (applicants), the majority stockholders of Lincoln Coach Lines (Lincoln Lines) and Lincoln Coach Travel, Inc. (Lincoln Travel) seek authority to continue in control of Lincoln Lines and Lincoln Travel upon institution of operations by Lincoln Travel, in interstate and foreign commerce, as a motor common carrier. Applicants control Lincoln Coach Lines, a motor common carrier under a certificate issued in MC–120083 and sub-numbers which authorizes generally the transportation of passengers: over regular routes from Oil City and Warren, PA, via Butler to Pittsburgh, PA, and from Pittsburgh, to Bedford, PA, and to Cumberland, MD; and between points in the United States; and a motor contract carrier under MC–120083 Sub-No. 10 which authorizes the transportation of passengers and their baggage in charter operations, between points in the United States, under contract with Lincoln Travel.

Notes.—(1) Lincoln Travel filed its initial common carrier application in MC–157167 (Sub-No. 1) which was published in the **Federal Register** on January 21, 1983, for authority to transport passengers, in charter and special operations, between points in the United States. (2) As a condition to a grant of that authority, applicants were required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP3–217

Decided: May 11, 1983.

MC–F–15174, BOB ROBERTS—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Bob Roberts, an individual (operating under MC–163522) seeks an exemption from the requirement under section 11343 of prior regulatory approval for his purchase of a portion of the operating rights of Shoemaker Trucking Company (MC–138875) found in its Sub-Nos. 308, 309X [paragraph (m)], and 312X [paragraphs (1), (16), (34), and (52)]. Shoemaker also proposes to transfer the underlying authorities, namely, its Sub-Nos. 107F, 85F, 188F, 56, and a portion of its Sub-No. 1. These certificates authorize the transportation of various commodities used in building and construction between various points in the Northwest and Midwest, largely, and groceries and foodstuffs between several Idaho and Oregon Counties and other western points. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701–0837. Comments should refer to No. MC–F–15174.

Volume No. OP3–219

Decided: May 13, 1983.

MC–F–15246, DAMEO TRUCKING, INC.—merger—BROCKWAY FAST MOTOR FREIGHT, INC. Brockway Fast Motor Freight, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its merger into Dameo Trucking, Inc. Brockway is a motor common carrier of property operating under certificate No. MC–119944 and related subs which is now owned and controlled by Daniel Dameo. If the proposed merger is consummated, Brockway will be merged into Dameo Trucking, a motor contract carrier of property operating under Permit No. MC–2359 and related subs and now owned and controlled by Rocque Dameo (who is Daniel Dameo's brother). Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Comments should refer to MC–F–15246.

MC–F–15251, PRESTO TRANSPORTATION, INC.—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Presto Transportation, Inc. (Presto) (No. MC–157763) and Shoemaker Trucking Company (Shoemaker) (No. MC–138875) (acting by Loren Wetzel, its trustee in bankruptcy) seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase by Presto of a portion of the operating rights of Shoemaker. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, David E. Wishney, Attorney at Law, P.O Box 837, Boise, ID 83701. Comments should refer to MC–F–15251.

Volume No. OP3–220

Decided: May 13, 1983.

MC–F–15273, WHITEHALL TRANSPORT, INC.—purchase exemption—FIFTH WHEEL TRUCKING, INC. Petitioners seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of the operating rights of Fifth Wheel (No. MC–149184) by Whitehall (No. MC–144057). The operating rights of Fifth Wheel to be purchased are contained in its Certificate No. MC–149184 and Sub-No. 1. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioners' representative, Joseph E. Ludden, McDonald, Ludden & Munson, Ltd., 2707 South Avenue, P.O. Box 1567, La Crosse, WI 54601. Comments should refer to MC–F–15273.

[FR Doc. 83-13436 Filed 5-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30143]

Rail Carriers: Seattle & North Coast Railroad Company; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of various

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notes and 50,000 shares of no par value common stock by Seattle & North Coast Railroad Company.

DATES: Exemption effective on June 20, 1983. Petitions to stay must be filed by May 31, 1983. Petitions for reconsideration must be filed by June 8, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30143 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Fritz R. Kahn Suite 1100, 1660 L Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: May 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–13435 Filed 5–18–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transporation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to instutute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
923	Southern Pacific Transportation Co., ICC–SP–C–0355, Supplement 2, (Petroleum).	3	5–12–83
924	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–0106, (Bituminous steam coal) via Port of Ashtabula Harbor, OH.	1	5–12–83
926	Southern Railway Co., ICC–SOU–C–7022, (Bituminous coal).	3	5–12–83
927	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–01, Supplement 3, (Iron or steel billets).	1	5–12–83
929	Missouri Pacific Railroad Co., ICC–MP–C–0360, (Urea) via Ports of New Orleans, LA, Port Allen, LA, and Corpus Christi, TX.	3	5–12–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13282 Filed 5–18–83; 8:45 am]

BILLING CODE 7035–01–M

[1] Note Tariff supplements advancing contract's effective date shall refer to these decisions for authority.

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Analysis and Financial Support; Data Analysis Program

In accordance with the Justice System Improvement Act of 1979 (42 U.S.C. Section 302), the Bureau of Justice Statistics announces its "Data Analysis Program" offering financial support for the analysis of Bureau of Justice Statistics data on crime, victims, offenders, and criminal justice administration. A concept paper is required to make application. The concept paper must be postmarked no later than August 1, 1983. Public agencies, institutions of higher education, private organizations, and private individuals may apply.

Concept papers will be reviewed by a joint panel of Bureau staff and consultants. The panel will evaluate each concept paper's scientific and practical merits. The Bureau is particularly interested in concept papers proposing to address any of the following topics through analyses of Bureau data: criminal victimization, career criminals and recidivism, community-based corrections (probation and parole), the deterrent and incapacitative effect of incarceration, plea bargaining, bail reform, court caseload, court delay reduction, and the exclusionary rule. the Bureau is also interested in analyses relevant to methodological improvements in its existing statistical series, and analyses relevant to the development of new statistical series.

As a rough guide, the program is targeted for small-scale projects that can be completed within six- to nine-months time. A maximum of perhaps fifteen projects, each funded at around the $50,000 level, is envisioned. (In exceptional situations, projects of a longer duration and at a higher amount may be funded, as may projects using data other than those of the Bureau of Justice Statistics).

Copies of the "Data Analysis Program" *Solicitation* may be obtained by calling (313/763–5010) or writing: Ms. Janet Vavra, Criminal Justice Archive and Information Network, ICPSR, P.O. Box 1248, Ann Arbor, Michigan 48106.

Dated: May 5, 1983.

Approved:

Steven R. Schlesinger,

Director, Bureau of Justice Statistics.

[FR Doc. 83–13471 Filed 5–18–83; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Arkansas Power & Light Co. (Arkansas Nuclear One, Unit No. 1); Exemption

I

Arkansas Power and Light Company (AP&L or the licensee) is the holder of Facility Operating License No. DPR–51, which authorizes the operation of Arkansas Nuclear One, Unit 1 (the facility). The facility consists of a pressurized water reactor (PWR),

located at the licensee's site in Russellville, Arkansas.

The license is subject to all rules and regulations of the Nuclear Regulatory Commission (the Commission).

II

10 CFR 50.48, "Fire Protection", and Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979" set forth certain specific fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR Part 50).

Section III.L requires that the alternative and dedicated shutdown capability provided for a specific fire area be able to achieve cold shutdown conditions within 72 hours without the use of offsite power.

III

By letter dated December 28, 1982, as supplemented by letter dated February 11, 1983, the licensee requested exemption from the specific requirements of Appendix R, Section III.L, which requires that the plant be capable of achieving cold shutdown within 72 hours without the use of offsite power. The acceptability of this request is addressed below.

IV

Without offsite power, the reactor coolant pumps cannot be operated and, therefore, the auxiliary pressurizer spray capability is lost. The licensee has indicated that the facility is unable to achieve cold shutdown within 72 hours because of the additional time required to cool and depressurize the reactor coolant system (RCS) without auxiliary pressurizer spray. The licensee provided a summary of a very conservative analysis which assumes no steam void formation in the upper reactor vessel (RV) head. This analysis, which was performed by Babcock and Wilcox (B&W), concludes that a minimum of 135 hours is needed to reach the decay heat removal system cut-in point of 291 psig and 280°F. Void formation in the upper RV head is permitted by emergency procedures under controlled conditions that would sustain natural circulation in the primary system. Additionally, it is estimated that it will take approximately five hours to reduce the RCS temperature from 280°F to 200°F (cold shutdown) with the decay heat removal system in operation. Therefore, a total of approximately 140 hours will be required to reach cold shutdown without voiding the RV head. This cold shutdown condition can be achieved without the use of offsite power. If necessary, cold shutdown conditions can be achieved in 72 hours; however, this procedure would permit flashing in the RV head. The licensee chose not to take credit for this procedure, but instead to provide a more conservative analysis based upon no flashing in the upper head.

Section III.L.3 requires the assumption of loss of offsite power for 72 hours. A fire scenario as it relates to offsite power and the safe shutdown equipment could proceed in the following ways:

(1) No loss of offsite power, power source to safe shutdown equipment maintained;

(2) Loss of offsite power but it is restored within 72 hours, power source for all safe shutdown equipment available to attain cold shutdown;

(3) Loss of offsite power for more than 72 hours, hot shutdown conditions satisfactory, no need to go to cold shutdown;

(4) Loss of offsite power for more than 72 hours, cold shutdown can be attained in 140 hours by the method proposed by the licensee and is not needed before then;

(5) Loss of offsite power for more than 72 hours, cold shutdown is needed before 140 hours, the emergency operating procedure for controlled cooldown with void formation in upper head can be used.

These scenarios are listed in their probability of occurrance. Only the last two would be considerations for this exemption request. Both of these cases can be accommodated; however, the option of reaching cold shutdown in 140 hours with no void formation in the upper head is preferable for overall plant safety.

Based upon this conservative approach of the licensee, together with the unlikeliness of the events that would require both cold shutdown and the inability to return offsite power within 72 hours as well as the availability of a less preferred method of controlled cooldown in less than 72 hours, if needed, we conclude that an approximate time of 140 hours is acceptable to achieve cold shutdown without offsite power. We therefore conclude that an exemption from the requirements of Section III.L to the extent that it requires the capability to achieve cold shutdown within 72 hours without offsite power should be granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letters as referenced and discussed in III. and IV. above is authorized by law, will not endanger life or property or the common denfense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 11th day of May 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut, Director,

Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–13525 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR–51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO–1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications relating to the surveillance requirements of the post-tensioned, prestressed concrete containment tendons.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

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For further details with respect to this action, see (1) the licensee's application for amendment dated January 26, 1983 as supplemented March 11, 1983, and April 1, 1983, (2) Amendment No. 80 to License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–13524 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270, and 50–287]

Duke Power Co.; Issuance of Amendments To Facility Operating Licenses and Exemption From Appendix J, 10 CFR Part 50

The Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 121, 121 and 118 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to delay certain surveillance requirements for Oconee Unit No. 1 until its next scheduled refueling outage. In connection with this action, the Commission has also granted an exemption from the requirements of Section III.D.2 and III.D.3 of Appendix J to 10 CFR Part 50, to perform leak rate tests on certain of the O-ring seal electrical and the mechanical penetrations prior to the next scheduled refueling outage for Oconee Unit No. 1. The exemption is effective as of the date of issuance.

The application for the amendments and request for exemption comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments and the letter to the licensee dated May 5, 1983. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these actions.

For further details with respect to these actions, see (1) the application for amendments and request for exemption dated April 18, 1983, as supplemented April 22, 1983, (2) Amendments Nos. 121, 121, and 118 to License Nos. DPR–38, DPR–47 and DPR–55, respectively, (3) the Commission's related Safety Evaluation and (4) the Commission's letter to the Licensee dated May 5, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–13526 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment becomes effective upon initial operability of a redundant hydrogen monitor.

This amendment modifies Appendix A Specification 3.22.2.5 to permit controlling explosive gas mixtures in the waste holdup system by limiting hydrogen to 2 percent by volume with no limit on oxygen concentration.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 3, 1983, as revised April 14, 1983, (2) Amendment No. 85 to License No. DPR–50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–13527 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–277 and 50–278]

Philadelphia Electric Co. et al.; Granting Relief From ASME Code Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, which revised the inservice inspection program for the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in York County, Pennsylvania. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from certain inspection requirements, pursuant to 10 CFR 50.55a(g)(6)(i) of the Commission's regulations, involving visual, pressure test and ultransonic examinations of piping, component pressure boundary and support structural integrity.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Philadelphia Electric Company dated August 4, 1977, January 23, 1978, September 20, 1978, November 22, 1978, February 19, 1980, April 5, 1982, and June 11, 1982, (2) the letter to Philadelphia Electric company dated May 2, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 2nd day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–13529 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–278]

Philadelphia Electric Co. et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 92 to Facility Operating License No. DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in York County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the TSs to permit Cycle 6 operation of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated December 30, 1982, as supplemented April 6, 1983, (2) Amendment No. 92 to License No. DPR–56 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 4th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–13528 Filed 5–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. NPF–3 issued to the Toledo Edision Company and the Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment modifies Specifications 3.4.2, 3.5.3 and 4.4.2 and adds Figures 3.4–2a and 3.4.2–b to provide additional protection to minimize the potential for low temperature overpressure transients.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

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For further details with respect to this action, see (1) the application for amendment dated December 26, 1980, (2) Amendment No. 57 to License No. NPF–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4 Division of Licensing.

[FR Doc. 83-13530 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. NPF–3, issued to The toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment modifies TS Table 3.3–4 to incorporate revised trip setpoints and allowable values for the Borated Water Storage Tank low level interlock and the essential bus feeder breaker trip delay which take into consideration instrument uncertainties. This amendment also revises: (1) TS Bases 3/4.7.1.2 to be consistent with the Updated Safety Analysis Report and the results of analyses and (2) TS Bases 3/4.3.3.7 to correct the description of the operation of the Chlorine Detection Systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 14, 1982, (2) Amendment No. 58 to License No. NPF–3, and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 83-13531 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 48 and 31 to Facility Operating License Nos. NPF–4 and NPF–7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance and must be fully implemented no later than January 1, 1984.

The amendments revise the Technical Specifications (1) to implement the requirements of Appendix I to 10 CFR Part 50, (2) to establish new limiting conditions for operation for the quarterly and annual average release rates, and (3) to revise environmental monitoring programs to assure conformance with Commission regulations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 17, 1982 as supplemented March 3, 1983; (2) Amendment Nos. 48 and 31 to Facility Operating License Nos. NPF–4 and NPF–7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virgnina 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of May, 1983.

For the Nuclear Regulatory Commission

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-13532 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-325]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–71, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Unit 1 located in Brunswick County, North Carolina.

The amendment would revise the technical specifications of the operating license to incorporate appropriate limiting conditions for operation of the facility during the fourth fuel cycle. The revised technical specifications would place appropriate restrictions on the rate of heat generation in the nuclear fuel by specifying limiting values of the Linear Heat Generation Rate, Average Planar Linear Heat Generation Rate, Minimum Critical Power Ratio and set points for the Average Power Range Monitoring System. These revisions to the technical specifications would be made in response to the licensee's application for amendment dated May 2, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870 Apr. 6, 1983). One such amendment is a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved.

This third refueling of the Brunswick Steam Electric Plant, Unit 1 involves no fuel assemblies significantly different from those used in a previous refueling and found acceptable to the Commission. Furthermore, there are no significant changes to the acceptance criteria for the technical specifications. The analytical methods used to demonstrate conformance with the technical specifications and regulations have been found previously acceptable to the Commission. Therefore, based on these considerations and the three criteria given above, we have made a proposed determination that this amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the shutdown of the facility. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the staff decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before the amendment is issued.

The Commission is seeking public comments on this proposed determination. Comments on the proposed determination may be telephoned to Domenic B. Vassallo, Chief of Operating Reactors Branch No. 2 by collect call to 301–492–8069 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Services Branch. All comments received by June 9, 1983 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 16th day of May, 1983

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-13509 Filed 5-18-83; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1983, shall be at the rate of 18–½ cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1983, 25.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 74.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be crdited to the Railroad Retirement Supplemental Account.

Dated: May 12, 1983.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

[FR Doc. 83-12428 Filed 5-18-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13235; 812-5474]

The Bank of Nova Scotia; application

May 11, 1983.

Notice is hereby given that The Bank of Nova Scotia ("Applicant") c/o Shearman & Sterling, 53 Wall Street, New York, New York 10005, filed an application on March 4, 1983, and an amendment thereto on May 6, 1983 for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was granted a charter under the laws of the Province of Nova Scotia in 1832, and commenced operations in Halifax, Nova Scotia, in that year. Applicant states that it has been a chartered bank under the Bank Act of Canada (the "Bank Act") since 1871. Applicant states further that, at October 31, 1982, it was the fourth largest commercial bank in Canada in terms of total assets. According to the application, at October 31, 1982,

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Applicant conducted its Canadian business through a network of approximately 1,032 branches located throughout all of the Canadian provinces. Applicant represents further that it provides directly, or through its subsidiaries, a wide range of financial services throughout Canada, the United States and other countries. Applicant states that it offers traditional retail banking services such as deposit accounts, savings accounts, mortgage loans and personal installment loans, as well as additional services such as credit card operations, currency exchange and the sale of traveller's checks. Applicant also engages in commercial lending activities, offering services in project financing, corporate financing and real estate financing.

Applicant states that its most important commercial banking activities are the receipt of deposits and the extension of all types of credit. Applicant states further that, at October 31, 1982, deposits (including demand, time and saving deposits) totalled approximately 88.1% of Applicant's total liabilities (including capital) of approximately $53.6 billion (all dollar amounts referred to in this notice are Canadian dollars unless otherwise specified). Applicant submits that, at September 30, 1982, approximately 56% of its deposits were from non-Canadian resident individuals or entities, with the remainder being from Canadian resident individuals or entities. According to the application, at October 31, 1982, the aggregate amount of loans extended by Applicant constituted approximately 65.3% of its total assets of approximately $53.6 billion. Accordingly, Applicant states that its assets are not highly liquid. Applicant states that, at September 30, 1982, approximately 40% of such loans had been extended to non-Canadian resident individuals or entities with the remainder being extended to Canadian resident individuals or entities.

Applicant submits that, for the year ended October 31, 1982, its total revenues were $7,450,679,000. Applicant further submits that, of this amount, $6,800,114,000, or 91.2%, represents revenues from loans, including revenues from loans to, and on deposit with, other banks. Applicant represents that, at October 31, 1982, it had 46,807,291 common shares issued and outstanding, representing an aggregate market value of approximately $1.4 billion. Shareholders' equity as of October 31, 1982, was $1,546,693,000.

Applicant states that the business of banking in Canada is a matter of exclusive federal jurisdiction. Applicant states that, at present, only 67 banks, including Applicant, are chartered to carry on the business of banking in Canada. According to the application, Canadian chartered banks are regulated under the Bank Act, which was amended through adoption by the Canadian Parliament of the Banks and Banking Revision Act, 1980 (the "Revised Bank Act"). The Revised Bank Act contains provisions pertaining to all aspects of banking in Canada, including the kinds of business the chartered banks may carry on, the types of loans and investments which they may make, the powers and qualifications of their directors and officers, the rights of their shareholders, the nature of their capital structure, and generally the extent of their obligations to maintain reserves, comply with specific auditing requirements, make timely financial disclosure, and submit to regular inspection by the Inspector General of Banks. Applicant states that Canadian chartered banks are specifically prohibited from carrying on the business of insurance and, in Canada, from engaging in fiduciary activities, portfolio management or investment counseling. Applicant states that it is prohibited under Canadian law from engaging in underwriting securities in Canada, except for the underwriting of certain debt securities issued by federal, provincial or local governments, their agencies and certain international agencies of which Canada is a member, and certain securities issued by authorized affiliates of Applicant which are guaranteed by Applicant.

Applicant represents that, in addition to the authority the Revised Bank Act confers upon the Minister of Finance to issue directives, or adopt regulations, requiring that all chartered banks maintain adequate capital and liquidity, the Revised Bank Act contains specific rules as to the kinds of assets which the banks may hold, whether for their own account or as security for the account of a customer. Applicant represents that the Inspector General of Banks is required to conduct at least annually such examination and enquiry as may be necessary to satisfy himself that the provisions of the Revised Bank Act have been complied with and that each chartered bank is in sound financial condition.

Applicant states that it is registered as a bank holding company under, and subject to extensive United States federal regulation pursuant to, the Bank Holding Company Act of 1956 (the "Bank Holding Company Act"). Under the Bank Holding Company Act, the Board of Governors of the Federal Reserve System (the "Board") regulates the types of activities in which a foreign bank holding company may engage in the United States and requires the filing of annual reports regarding its overall operations and periodic reports on certain aspects thereof. Applicant states that, in addition, the International Banking Act of 1978 ("IBA") subjects foreign banks conducting banking activities in the United States to extensive federal supervision and regulation. The IBA authorizes the Board to conduct direct examinations of each of Applicant's United States branches and agencies and to establish reserve requirements for those agencies and branches. In addition, the IBA places restrictions upon the ability of foreign banks to engage in interstate banking activities.

Applicant's activities through its United States agencies and branches are also subject to extensive regulation and examination under the laws of the states in which they are located. Applicant states that it was required to file in each state an extensive application for a lincence to establish its agency or branch, and the continued operation thereof is subject to supervision which is substantially similar to that imposed on domestic banks organized under the laws of the state.

Applicant proposes to offer, issue and sell in the United States short-term commercial paper notes (the "Notes") in bearer form and denominated in United States dollars. Applicant states that it is intended that the Notes will be sold without registration under the Securities Act of 1933 (the "1933 Act") in reliance upon an opinion of Applicant's United States counsel that the offering will qualify for the exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by Section 3(a)(3) thereof. Applicant will not proceed with its proposed offering until it has received such an opinion. Applicant does not request Commission review or approval of such opinion.

Applicant states that the Notes will be in denominations of $100,000 or more, will mature not more than nine months from the date of issuance and will not be payable on demand or include any provision for extension, renewal or automatic "rollover" at the option of either the holders or Applicant. The presently proposed issue of Notes and any future issue of debt securities by Applicant will be conditioned upon the receipt, prior to issuance, of one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations. Applicant's United States counsel will have certified that such a rating has been received.

Applicant states that the proceeds of the Notes will be used for "current transactions" within the meaning of Section 3(a)(3) of the 1933 Act. According to the application, the Notes will be sold by Applicant either to one or more United States securities dealers, which will reoffer the Notes as principal, or directly, in both cases to institutional investors and other entities and individuals in the United States who normally purchase commercial paper. The Notes will not be advertised or otherwise offered for sale to the general public. The aggregate principal amount of the Notes to be outstanding at any time is not expected to exceed U.S. $1 billion. Applicant's purpose in making the proposed offering of the Notes is to provide an additional source of supply of United States dollars to supplement dollars currently obtained in the Eurodollar and United States certificate of deposit markets.

The application indicates that, if the Notes are sold by Applicant to one or more United States securities dealers, Applicant agrees to secure an undertaking from the dealer(s) that it will provide each offeree who has indicated an interest in the Notes, prior to any sales of Notes to such offeree, with a memorandum that describes the business of Applicant and contains Applicant's most recently available annual financial statements audited in accordance with Canadian accounting principles and its most recent publicly available unaudited quarterly financial statements. The memorandum will describe the material differences between Canadian accounting principles applicable to Canadian banks and "generally accepted accounting principles" applicable to United States commercial banks. Such memorandum will also be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated promptly to reflect material changes in Applicant's business and financial condition. Applicant consents to any order, pursuant to Section 6(c) of the Act, granting the relief requested being expressly conditioned upon Applicant's compliance with the foregoing undertaking. As direct liabilities of Applicant, the Notes will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Applicant, including deposit liabilities, and ahead of its subordinated debentures and share capital.

Applicant will appoint a bank in the United States as its authorized agent to issue the Notes from time to time and will appoint its New York trust company. The Bank of Nova Scotia Trust Company of New York, as agent to accept any process which may be served in any action based on the Notes or arising out of the offering and sale thereof and instituted in any state or federal court by the holder of any Notes. Applicant will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid by Applicant. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise.

Applicant may, from time to time, offer other of its debt securities for sale in the United States. Applicant undertakes that any future offerings of its debt securities in the United States will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Applicant further undertakes that any such offering will be done on the basis of disclosure documents that are at least as comprehensive in their description of Applicant, its business and its financial statements as is customary for United States offerings of similar securities. Applicant further undertakes to update promptly any such documents to reflect material changes in Applicant's financial condition. Applicant consents to any order, pursuant to Section 6(c) of the Act, granting the relief requested being expressly conditioned upon Applicant's compliance with the foregoing undertaking. Applicant undertakes to provide offerees of its debt securities with such disclosure documents prior to the sale of such securities to offerees.

Applicant also undertakes, in connection with any future offering of its debt securities in the United States, to appoint an agent to accept any process which may be served in any action based on such securities and instituted in any state or federal court by any holder of any such security. Applicant further undertakes that it will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

Applicant believes that as a commercial bank it is not an "investment company" within the meaning of the Act. Applicant recognizes, however, that uncertainty exists as to whether some foreign commercial banks are "investment companies" under the Act.

Section 6(c) of the Act establishes three conditions for an exemption from the Act: (1) The exemption must either be necessary or appropriate in the public interest; (2) the exemption must be consistent with the protection of investors; and (3) the exemption must be consistent with the purposes fairly intended by the policy and provisions of the Act. Applicant believes that the requested exemption would comply with all of these conditions.

Applicant asserts that approval of the application is both necessary and appropriate in the public interest. Applicant states that compliance by Applicant with the provisions of the Act would preclude it from selling securities in the United States and would, therefore, deny Applicant access to the only United States dollar-denominated commercial paper market in existence. Foreign banks, such as Applicant, participating in the Eurodollar market have a particular need for access to a United States dollar-denominated commercial paper market. Such foreign banks require access to a source of United States dollars to protect against disruptions in the Eurodollar market. In addition, the requested exemption would benefit institutional and other sophisticated investors in the United States because it would permit Applicant to make available to such investors short-term, prime quality securities.

Applicant asserts that the requested exemption would be consistent with the protection of investors. Applicant is subject to extensive regulation under Canadian banking law. Applicant believes that such regulation renders the Act's protection unnecessary. Applicant asserts that the requested exemption would be consistent with the purposes of the Act because commercial banks such as Applicant do not fall within the intended scope of the Act. Applicant

further asserts that the operation of a commercial bank does not give rise to the particular abuses against which the Act is directed.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13466 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22936; 70-6725]

Central and South West Services, Inc., et al; System Money Pool

May 12, 1983.

In the matter of: Central and South West Services, Inc., Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604; Transok Pipeline Company, 600 South Main Street, Tulsa, Oklahoma 74101; Proposed extension of system money pool; issuance of notes to banks and commercial paper to dealers; exception from competitive bidding.

Central and South West Corporation ("CSW"), a registered holding company, and six of its subsidiaries, Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEP"), West Texas Utilities Company ("WTU"), and Central and South West Services, Inc. ("CSWS"), and PSO's subsidiary, Transok Pipe Line Company ("Transok"), have filed with this Commission a post-effective amendment to an application-declaration previously filed and amended pursuant to Sections 6, 7, 9(a), 10, 12(b), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, 50(a)(2), 50(a)(3), and 50(a)(5) promulgated thereunder.

By Commission order dated June 29, 1982 (HCAR No. 22554), CSW and its named subsidiaries were authorized to make short-term borrowings in an aggregate amount not to exceed $300 million through December 31, 1983. The borrowings could be effected either through the CSW System money pool, the issuance or sale of commercial paper and/or bank borrowings. The individual borrowing limit for Transok was $20 million. By order dated November 22, 1982 (HCAR No. 22725), the individual short-term borrowing limit of CSW, as well as the CSW System aggregate limit, was increased to $350 million. The CSWS limit was increased to $25 million.

By post-effective amendment, the applicants seek Commission authorization to increase Transok's borrowing limit through December 31, 1983, to $30 million. The increase is needed because of proposed rule changes by the State of Oklahoma. A 90-day temporary emergency order from the Oklahoma Corporation Commission altering the State of Oklahoma's rules on gas production allowed from unallocated wells will cause Transok to place gas into underground storage earlier than anticipated so that it will have adequate supplies to meet PSO's peak summer demands. In addition, the State of Oklahoma may change the rules with respect to suspended natural gas production payments. Presently, gas purchasers are permitted to suspend payments for natural gas until allocation is determined. The proposed change would require payments suspended for one year to be remitted to the State of Oklahoma and could require an unanticipated cash expenditure by Transok. In all other respects, the application-declaration as previously authorized and the borrowing limits set forth therein will remain the same.

The application-declaration, as amended by the post-effective amendment and any amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 2, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13492 Filed 5-18-83; 8:45am]

BILLING CODE 8010-01-M

[File No. 22-12247]

Conoco Inc.; Application and Opportunity for Hearing

May 13, 1983.

Notice is hereby given that Conoco Inc., a Delaware corporation (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeship of Bankers Trust Company ("Bankers") under certain indentures of the Applicant which are qualified under the Act and an indenture (the "New Indenture") dated as of December 1, 1982 between Bankers and the Lake Charles Harbor and Terminal District (the "District") pertaining to $10,900,000 aggregate principal amount of the District's Port Facilities Revenue Bonds (Conoco Inc. Project), Series 1982A (the "District 1982A Bonds") which is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such indentures.

The Applicant alleges that:

1. The Applicant has issued and outstanding as of January 1, 1983:

(a) $8,000,000 principal amount of its 3% Debentures Due 1984, under an Indenture dated as of November 1, 1954 (the "1954 Indenture"), between the Applicant and Bankers, as trustee, which was filed as an exhibit to Registration Statement (No. 2-11199) under the Securities Act of 1933 (the "1933 Act") registering such Debentures;

(b) $45,600,000 principal amount of its 4½% Debentures Due 1991, under an Indenture dated as of May 1, 1961 (the

"1961 Indenture"), between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-17922) under the 1933 Act registering such Debentures;

(c) $87,400,000 principal amount of its 7½% Debentures Due 1999, under an Indenture dated as of July 15, 1969, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-33539) under the 1933 Act registering such Debentures;

(d) $150,000,000 principal amount of its 9⅛% Debentures Due 1999 under an Indenture dated as of November 1, 1974, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-52142) under the 1933 Act registering such Debentures;

(e) $200,000,000 principal amount of its 8⅞% Debentures Due 2001, under an Indenture dated as of June 1, 1976, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-56213) under the 1933 Act registering such Debentures;

(f) $200,000,000 principal amount of its 9¾% Debentures Due 2009, under an Indenture dated as of April 1, 1979, between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-63888) under the 1933 Act registering such Debentures; and

(g) $300,000,000 principal amount of its 13¼% Debentures Due 2011, under an Indenture dated as of January 15, 1981 (the "1981 Indenture"), between the Applicant and Bankers, which was filed as an exhibit to Registration Statement (No. 2-70481) under the 1933 Act registering such Debentures. The foregoing Indentures are herein called collectively the "Qualified Indentures" and the foregoing Debentures are herein called collectively the "Registered Securities". Each of the Qualified Indentures has been qualified under the Act.

The Events of Default under each of the Qualified Indentures are (1) default in any payment of principal or premium, if any; (2) continuance for 30 days of default in payment of any interest or a required sinking fund payment, if any; (3) continuance for 90 days after notice to the Applicant of a default in performance of any other covenant; (4) except in the case of the 1954 Indenture, the 1961 Indenture and the 1981 Indenture, default under any debt instrument of the Applicant under which more than $10,000,000 in principal amount is outstanding; and (5) certain bankruptcy and similar proceedings. The material covenants of the Applicant in each Qualified Indenture are (1) to pay the amounts due on the respective Registered Securities; (2) not to subject any of its producing, refining or manufacturing property to a security interest for any debt (with certain exceptions), unless the respective Registered Securities are equally and ratably secured (the "Negative Pledge"); and (3) not to sell and lease back any producing, refining or manufacturing property unless the proceeds are at least equal to the fair value of such property and, (a) in the case of the 1954 Indenture and the 1961 Indenture, the Applicant redeems or repurchases a principal amount of the related Registered Securities equal to the proceeds of the sale and (b) in the case of the remaining Qualified Indentures, the Applicant either (i) would be entitled under the Negative Pledge to enter into a debt secured by such property in an amount at least equal to the present value of the rent under such lease (the "Attributable Debt") or (ii) redeems an amount of long-term debt equal to the Attributable Debt. The sale and leaseback provision of the 1981 Indenture also permits the Applicant to sell and lease back if it expends an amount equal to the proceeds of the sale on producing, refining or manufacturing property.

Bankers is currently trustee under certain other indentures which are not qualified under the Act and other agreements with respect to which the Applicant may be deemed to be the "obligor".

2. E. I. du Pont de Memours and Company, a Delaware corporation (the "Guarantor"), owns all the outstanding capital stock of the Applicant and has guaranteed the obligations of the Applicant under each of the Qualified Indentures and Registered Debentures.

3. Bankers proposes to accept appointment under the New Indenture. The District 1982A Bonds issued thereunder are secured by (1) the pledge of a note of the Applicant (the "District 1982A Note") of a principal amount equal to the principal amount of the District 1982A Bonds, issued to the District under an Agreement of Sale (the "District 1982A Agreement") dated as of December 1, 1982 between the Applicant and the District, and (2) the assignment to Bankers of the District's rights under the District 1982A Agreement. In the District 1982A Agreement, the Applicant agreed to transfer to the District title to the project and any additions thereto, and the District agreed immediately to convey such title back to the Applicant. The Applicant's obligations under the District 1982A Note and the District 1982A Agreement are unsecured and in Section 3.7 of the District 1982A agreement the District expressly waives any liens (including vendor's liens) against the Applicant. The Guarantor has guaranteed the District 1982A Bonds on an unsecured basis.

Events of Default relating to the Applicant under the District 1982A Agreement and the New Indenture are substantially the same as for the Qualified Indentures, except that default on other debts is not an event of default. The material covenants of the Applicant under the District 1982A Agreement and the New Indenture are (1) to pay on the District 1982A Note and (2) to prepay the District 1982A Note in full upon a final determination that the District 1982A Bonds are taxable. The New Indenture is attached hereto as Exhibit A.

4. As required by Section 310(b)(1) of the TIA, the 1954 Indenture provides in part as follows:

"Section 8.08. Qualification of Trustee; Conflicting Interests. (a) If the Trustee has or shall acquire any conflicting interest, either eliminate such conflicting interest, as defined in this Section, it shall, within 90 days after ascertaining that it has such conflicting interest or resign in the manner and with the effect specified in Section 8.10 * * *.

"(c) For the purpose of this Section the Trustee shall be deemed to have a conflicting interest if

"(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding * * *; provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if * * * the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures."

Each other Qualified Indenture contains a substantially similar provision.

5. Under the provisions of the Qualified Indentures described above, Bankers may be deemed to have a conflicting interest if it is acting as trustee under the Qualified Indentures and the New Indenture, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that its acting as Trustee under such Indentures is not so likely to involve a material conflict of interest as

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to make it necessary in the public interest or for the protection of investors to disqualify Bankers from so acting.

6. No default has any time existed under any Qualified Indenture.

Such differences as exist between the Qualified Indentures, and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such Indentures.

The Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by this Application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person may, not later than June 6, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13483 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13236; 812-5491]

Equitable Government Securities Account, Inc.; Filing of Application

May 11, 1983.

Notice is hereby given that Equitable Government Securities Account, Inc. (the "Fund") 100 West 52nd Street, New York, New York 10019, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 10, 1983, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Fund from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-4 thereunder to the extent necessary to permit the Fund to compute its net asset value per share using the amortized cost method of valuing its portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summorized below, and to the Act for the text of those provisions of the Act from which an exemption is being sought.

The Fund states that it will operate as a "money market fund" designed for use by individual investors or by organizations such as corporations, partnerships, trusts and others. The Fund's investment objective is the maximization of current income to the extent consistent with the preservation of capital and the maintenance of liquidity. The Fund states that it will invest only in securities issued or guaranteed by the United States Government, its agencies or instrumentalities, and repurchase agreements covering those securities. According to the application, the obligations in which the Fund may invest include issues of the United States Treasury and issues of agencies and instrumentalities established under the authority of an Act of Congress. Certificates of deposit issued by banks and savings and loan associations, the principal amounts of which are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Corporation, are considered by the Fund to be securities guaranteed by an agency of the United States Government and thus may be purchased by the Fund. The Fund may also enter into reverse repurchase agreements.

The Fund states that, contingent upon the granting of the requested exemption, the Fund's portfolio securities will be valued using the amortized cost method. The Fund represents that under the amortized cost valuation method securities are valued at their cost as of the date of acquisition assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such securities. The Fund may not purchase any security which has a maturity date more than one year from the date of the Fund's purchase, unless purchased subject to a repurchase agreement requiring repurchase from the Fund in one year or less. The Fund represents further that, in all other respects, the Fund's securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977).

According to the application, the Fund has determined in good faith that in light of the characteristics of the Fund the amortized cost method of valuation is appropriate and perferable for the Fund and reflects the fair value of the Fund's portfolio securities. The Fund's management believes, based on experience, that the requisted exemption will benefit the Fund and its shareholders. The Fund maintains that all investors in the Fund will have the conveniences and advantages of a stable price of $1.00 per share under conditions that provide safeguards related to portfolio quality and procedures designed to assure equitable treatment of investors.

As a condition to the granting of the requested exemption, and in order to assure the stability of the Fund's $1.00 price per share, the Fund agrees that the following may be made conditions to the exemption:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the Fund's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Director shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value. In addition, the Fund states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values

obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average maturity of securities within the portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average maturity of its securities appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available assets in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. The Fund will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and the Fund will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13499 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13240; 811-1532]

Pharos Trend Fund, Inc.; Proposal To Terminate Registration

May 12, 1983.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Pharos Trend Fund, Inc. ("Fund"), 639 South Spring Street, Suite, 415, Los Angeles, California 90014, registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund registered under the Act on September 18, 1967, by filing a notification of registration on Form N-8A. The Fund did not file a registration statement under the Act or under the Securities Act of 1933. The Commission was informed by letter from counsel for the Fund, dated April 29, 1968, that the Fund had been liquidated and that all of its assets were distributed to its shareholders as of March 26, 1968. Counsel for the Fund was advised by letter dated May 2, 1968, from the Commission staff that an application should be filed under Section 8(f) of the Act requesting an order of the Commission declaring that the Fund has ceased to be an investment company. There is no record in the Commission's files to indicate that such application was made.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of the investment company shall cease to be in effect.

Notice is hereby given that any interested person wishing to request a hearing on the matter may, not later than June 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the matter will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13491 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19755; File No. SR-CBOE-82-07]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 1, 1983, with an amendment on May 4, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below.

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which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

In Securities Exchange Act Release No. 19264, issued on November 22, 1982, the Commission approved certain rules changes of the Chicago Board Options Exchange, the American Stock Exchange and the New York Stock Exchange relating to the listing and trading of standardized put and call option contracts on various stock indices. In footnote 6 of the release the Commission stated, "Each index that will underlie an options contract must be reviewed separately as a proposed rule change pursuant to Rule 19b–4 under the Act before trading in an option based on that index may commence." The purpose of this proposed rule change is to permit trading options on the stock index described in Item 3.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to permit the Exchange to list and trade standardized put and call options on a stock market index, the CBOE–30 Index. On November 22, 1982 the Commission issued Securities Exchange Act Release No. 19264, and on March 10, 1983 it issued Securities Exchange Act Release Nos. 19586, 19587, 19588, 19589 and 19590 approving rules changes of the Exchange which provide a general framework for trading index options and also provide for the trading of options on a specific index, the CBOE 100 Index. Options on the CBOE–30 Index will be traded within the general framework of Exchange rules approved by the Commission as set forth in Chapter XXIV and certain other places in Exchange Rules. Certain contract terms will differ from the terms of options on the CBOE 100 Index.

The CBOE–30 Index is identical to the Dow Jones Industrial Average. It has and will have the same underlying stocks and use the same divisor and method of calculation. It is a price weighted index which is calculated by adding together the prices of the stocks underlying the index, dividing that sum by an index divisor, and dividing the result by 10. The purpose of the divisor, which is adjusted to account for differences in the per-stock values caused by circumstances such as stock dividends and stock splits, is to maintain continuity in the index. Following is a list of the 30 stocks and the divisor used as of March 18, 1983.

Allied Corporation
Aluminum Co. of America
American Brands
American Can
American Express
American Telephone and Telegraph
Bethlehem Steel
DuPont
Eastman Kodak
Exxon
General Electric
General Foods
General Motors
Goodyear
Inco Ltd.
IBM
International Harverter
International Paper
Merck & Co.
Minnesota Mining & Mfg.
Owens-Illinois
Procter & Gamble
Sears Roebuck
Standard Oil of California
Texaco
Union Carbide
U.S. Steel
United Technologies
Westinghouse
Woolworth

Divisor: 1.292 (as of March 18, 1983)

On March 18, 1983, the closing prices of all the stocks added together and divided by 1.292 was 1117.74, which is divided by 10 to product a CBOE–30 Index value of 111.77. The index multiplier, defined in Rule 24.1(f), will be 100. When the CBOE–30 is 111, an at-the-money option would be equivalent to an $11,100 contract.

The Exchange will use its authority under Rule 24.9 to set intervals of exercise prices which bracket the index. The Exchange has considered the level of the index and the volatility of the index and at this time intends to fix exercise prices at 5 point intervals for the CBOE–30 Index. For example, if at the start of trading the CBOE–30 Index is 110, the Exchange would open trading with three series: 105, 110 and 115.

The current index value would be continuously disseminated throughout the day. Shortly before trading actually commences, the Exchange will designate a reporting authority as that term is defined in Rule 24.1(h).

Whether an index which is identical to the Dow Jones Industrial Average but with is called by a different name, and for which the sponsor disclaims any association with or sponsorship by the Dow Jones & Company, may be used as an underlying stock index for futures trading is at this time the subject of litigation. Until the legal status of the proprietary rights of Dow Jones & Company is clarified, the Exchange will not commence trading even though such trading would be permitted under the Federal securities laws following approval of this rules change.

The basis under the Securities Exchange Act of 1934 for the proposed rules change is Section 6(b)(5) in that the proposed changes are designed to facilitate transaction in options on a stock index and to bring such transactions with the regulatory framework of the Act and CBOE's own rules.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange does not believe the proposed rule change will impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principle office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13495 Filed 5–18–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19759; File No. SR–NYSE–83–11]

Self-Regulatory Organizations; Proposed Rules Changes by New York Stock Exchange, Inc., Review and Oversight of Potential Conflict of Interest

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rules changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commision is publishing this notice to solicit comments on the proposed rules changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rules changes consist of a change to the Supplementary Material to Rule 495C as set forth at paragraph 2495C.10, sub-paragraph 8, and to the Supplementary Material to Rule 499 as set forth at paragraph 2499.10 of the Exchange Rules, modifying the Exchange policy concerning potential conflicts of interest within listed corporations. The policy, as modified, will establish that review and oversight of situations which may be potential conflicts of interest be the responsibility of the particular corporation rather than the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Self-regulatory organization included statements concerning the purpose of and basis for the proposed rules changes and discussed any comments it received on the proposed rules changes. The text of these statements may be examined at the places specified in Item IV below. The Self-regulatory organization has prepared summaries, set forth insections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules Change.* The Exchange has, for a number of years, discouraged the existence of potential conflict of interest situations within listed companies. Where such situations existed, companies were given a reasonable period of time in which to resolve the potential conflict. In recent years, there have been significant strides made in the area of corporate governance. This had prompted the Exchange to reconsider the application of the policy which in turn resulted in the proposed modification which is set forth below.

The purpose of the proposed rules changes is to modify the current Exchange policy which requires the elimination of potential conflict situations within listed corporations over a reasonble period of time. The more common situations addressed by the policy are lease arrangements; minority ownership; and purchases and sales between the corporation and its officers/directors. The lack of satisfactory undertakings to eliminate existing potential conflict of interest situations is a bar to listing for prospect companies and could result in the delisting of a listed company.

There have been many positive developments in the area of corporate governance since the formulation of the Exchange conflict of interest policy.

To illustrate, the Commission has taken steps towards increased disclosure in the annual report and proxy statements as well as other corporate filings. These requirements have increased public scrutiny and created a greater awareness among public investors. This has, in turn, prompted shareholders to use more appropriate forums to question troublesome situations, such as direct contact with management, annual meetings, and in more serious situations, the courts.

Parallel to expanded disclosure requirements, positive changes have been made in the structure and composition of corporate boards of directors. In 1977, for example, the Exchange adopted the audit committee requirement for all domestic listed companies. These audit committees are comprised of non-management directors who can provide objective review of corporate policies and practices.

There has also been considerable voluntary reform taking place in the corporate community. In 1979, the Exchange, in conjunction with the American Society of Corporate Secretaries, issued a report on corporate governance.[1] Nearly 1000 companies responded and confirmed that there was a marked increase between 1975 and 1978 in corporate audit, compensations, and nominating committees. In addition, non-management directors comprise the majority on approximately 80% of respondent company boards of directors. They also comprise the majority on audit, compensation, and nominating committees.

This voluntary restructuring and recomposition of corporate boards has also seen an expanded adoption of strict codes of corporate ethics, motivated by companies which are increasingly sensitive to public responsibilities. This expanded adoption represents a major attempt to codify the rules of good business practices.[2]

In view of the above, listed companies today are in a much better position to judge the efficacy of corporate self-interest transactions than the Exchange. The Exchange is also of the opinion that the policy modification is consistent with and fosters the trend toward improved corporate governance.

The statutory basis for the proposed rules changes in Section 6(b)(5) of the Securities Exchange Act of 1934 as amended ("the Act") which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers,

[1] "Corporate Governance-Survey of Corporate Boards, Structure and Composition", 1979.

[2] "A Study of Corporate Ethical Policy Statements", the Foundation of the Southwestern Graduate School of Banking, S.M.U., 1980.

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issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the Exchange. The protection of investors and the public interest, which are among the stated purposes of Section 6(b)(5), no longer require Exchange intervention in this area in view of the positive developments in the field of corporate governance which have heretofore been described. Since an Exchange role with respect to corporate conflicts of interest is no longer necessary, we do not believe that Exchange rules in this area are "related to the purposes of this title or the administration of the Exchange" within the meaning of the statute.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange believes that the policy modification not only recognizes the many positive developments in the area of corporate governance since formulation of its conflict of interest policy but also is consistent with and fosters the trend toward improved corporate governance. As such, the proposed rules changes neither enhance nor impose a burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others.* The Exchange has neither solicited nor received written comments with respect to the proposed rules changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and argument concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: May 12, 1983.

George A. Fitzsimmons,

Secretary.

Additions italicized; deletions [bracketed].

Rule 495. Standards of Eligibility for Listing

* * * * *

. . . Supplementary Material

.10 It is recognized that in a closely-held company, situations involving the personal interests of officers, directors, or principal shareowners are sometimes regarded as advantageous or convenient. Usually, the character and appropriateness of these relationships is reconsidered when a company seeks the benefits of broader public ownership. [Accordingly, the Exchange would look for information on any such relationships; for example, the leasing of property to or from the company, interests or options in subsidiaries, interests (other than ordinary investments in widely-held, publicly-owned companies) in businesses that are competitors, suppliers, or customers of the company.] *The Exchange believes that the review and oversight of such situations is best left to the discretion of listed corporations and corporations applying for listing on the NYSE. While no particular method of resolution is suggested, the Audit Committee or a comparable body could be considered as the forum for review and oversight of potential conflicts of interest situations.*

.40 *Effective Dates.*—This rule is effective upon approval by the Securities and Exchange Commission.

* * * * *

Rule 499. Securities admitted to the list may be suspended from dealings or removed from the list at any time.

. . . Supplementary Material:

.10 General.—In connection with this rule, the Exchange has adopted certain guidelines which are outlined below under the heading "Numerical and Other Criteria." These normally lead the Exchange to review the appropriateness of continuing listing of any company that is reached by the definitions. When a review is made of the listing status of an individual security issue, the appropriateness of the continued listing of any other securities of the company is considered on a broad base and is not limited to the numerical and other criteria.

The Exchange is not limited by what is set forth under the heading "Numerical and Other Criteria". Rather, it may make an appraisal of, and determine on an individual basis, the suitability for continued listing of an issue in the light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet any enumerated criteria. Many factors might be considered in this connection, e.g., the failure of a company to make timely, adequate, and accurate disclosures of information to its shareholders and the investing public or to observe good accounting practices in reporting of earnings and financial position; [the creation or perpetuation of conflicts of interest or other conduct not in keeping with sound public policy;] unsatisfactory financial conditions and/or operating results; inability to meet current debt obligations or adequately to finance operations; abnormally low selling price or volume of trading; unwarranted use of company funds for the repurchase of its equity securities; any other event or condition which may exist or occur that make further dealings and listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange.

[FR Doc. 83-13494 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19760; SR-OCC-80-6]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

May 12, 1983.

On December 15, 1980, OCC filed a proposed rule change with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder. The proposed rule change conforms certain of OCC's By-Laws and Rules to the clearing agency registration standards (the "Registration Standards") adopted by the Division of Market Regulation.[1] Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission release (Securities Exchange Act Release No. 17428 (January 8, 1981)) and by

[1] Section 17A(b)(3) of the Act requires the Commission, before granting registration, to make a number of determinations with respect to a clearing agency's organization, capacity and rules. To provide guidance to clearing agencies in structuring their organizations, systems and rules to comply with the provisions of Section 17(A)(b)(3), the Division of Market Regulation published Registration Standards. *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

publication in the **Federal Register** (46 FR 3710 (January 15, 1981)). The Commission did not receive any comments. OCC did not solicit or receive comments.

The proposed rule change would, consistent with the Registration Standards, (i) amend OCC Rule 211 to provide notice of OCC proposed rule changes to OCC clearing members and the other registered clearing agencies; [2] (ii) amend Article III, Section 8 of the OCC By-Laws to give express authority to OCC's Board of Directors to interpret OCC By-Laws and Rules; (iii) amend Article VIII, Section 5 of the OCC By-Laws to require OCC to give OCC clearing members prompt notice of the amount of, and the reasons for, any pro-rata charge to OCC's clearing fund or any change to current earnings resulting from a pro-rata charge to the clearing fund; (iv) add a new rule which provides for OCC's distribution of its financial statements and internal accounting control reports to clearing members; and (v) amend OCC By-Laws and rules related to membership eligibility to provide, among other things, that all registered brokers and dealers are eligible for OCC membership.[3]

The Commission believes that the proposed rule change would amend certain OCC By-Laws and Rules consistent with the Registration Standards. The Commission further has determined that the proposed rule change is consistent with the requirements of the Act pertaining to clearing agencies, and in particular, with the requirements of Section 17A and the rules and regulations thereunder. In issuing this Order, however, the Commission passes only upon the rule changes that are the subject of this Order and does not make any general findings with respect to the conformity of OCC's Rules, By-Laws and Procedures, in the aggregate, with the Act and the Registration Standards.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

[2] Concurrent with this filing, OCC requested an exemption from the provision of the Registration Standards that would require OCC to provide other registered clearing agencies with a copy of OCC proposed rule changes. In a letter dated April 15, 1983, OCC requested that the Exemption request be considered within the framework of the ongoing full registration proceedings rather than in connection with this filing.

[3] In connection with OCC's application for registration as a clearing agency, OCC has requested a partial exemption from Section 17A(b)(3)(B) of the Act, which requires entities other than registered broker-dealers to be eligible for OCC membership. The Commission has not passed on the request.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13497 Filed 5-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19761; File Nos. SR-PCC-83-2 and SR-PSDTC 83-4]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation ("PCC") and Order Withdrawing Proposed Rule Change of Pacific Securities Depository Trust Company ("PSDTC")

May 12, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 27, 1983, PCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would make several enhancements to PCC's OTC Equity Comparison System.[1] Specifically, the proposed rule change would add Demand Withhold and Demand Withhold Delete capabilities as well as make several minor enhancements to PCC's current comparison processing systems.

Under PCC's proposal, a buyer or seller that wishes to delete a previously compared OTC trade would submit to PCC a Demand Withhold form two days after trade date ("T+2"). The Demand Withhold contains trade information that is processed against the prior day's compared trade file to identify the trade in question and thereby "validate" the Demand Withhold. If the Demand Withhold matches a *contra* Demand Withhold or a *contra* Regular Withhold, a compared Demand Withhold results and the previously compared trade is deleted from the clearing cycle.

A Demand Withhold that does not match another Demand Withhold or a Regular Withhold generates a Demand Withhold Advisory that PCC sends to the *contra* party. Upon receiving a Demand Withhold Advisory, the *contra* party may do one of three things: (i) accept the Demand Advisory and return the Demand Advisory to SCCP within two days. The accepted Demand Advisory enters the comparison cycle and deletes the trade; (ii) reject ("DK") the Demand Advisory and return the Demand Advisory to PCC within two days. The DK'ed Demand Withhold Advisory causes the Demand Withhold to be dropped from the comparison system and leaves the matched trade intact for settlement on T+5; or (iii) ignore the Advisory. In that instance, the trade will be automatically deleted from the system.

The proposal also contains procedures that enable participants to delete erroneously submitted Demand Withhold instructions. To delete such an instruction, the submitting participant must forward to NSCC on T+3 or T+4 a Demand Withhold Delete instruction. The Demand Withhold Delete causes the Demand Withhold to be dropped from the comparison cycle, thus allowing the previously compared trade to remain in the clearance cycle. If a Demand Withhold Delete is received by NSCC after the Demand Withhold is compared or after any action results from a Demand Withhold Advisory, NSCC will not accept the Demand Withhold Delete instruction.

PCC stated that the Demand Withhold capability is being provided to allow participants to delete a trade that they mutually agreed to cancel, but which was nonetheless compared on T+1 because the respective firms' purchase and sale departments were notified too late to stop the comparison of the initial trade submission. In these situations, PCC stated that its participants have epxressed difficulties in using the normal Withhold process to delete the trade.[2]

In addition, the proposed rule change makes several minor changes to PCC's comparison processing systems. Specifically, the proposed rule change would (i) modify Regular advisory tickets to require full security descriptions, rather than only security symbols, (ii) permit clearing members to accept a Regular Advisory partially when the participant agrees with all details of the trade except the quantity (*i.e.*, security identification, market place of execution, trade date, *contra* broker, executing broker and price)[3] and

[1] PCC's OTC Comparison system is linked with the National Securities Clearing Corporation's ("NSCC") OTC System. PCC's proposed rule change, for the most part, reflects changes in NSCC's System and makes available to PCC's participants comparison features previously approved by the Commission. *See* File Nos. SR-NSCC-81-9 and 83-1, Securities Exchange Act Release Nos. 18203 (October 23, 1981) 46 FR 53565 (October 29, 1981) and 19530 (February 23, 1983), 48 FR 8616 (March 1, 1983), respectively.

[2] *See* PCC/PSDTC Member Information No. 83-2848 (March 17, 1983).

[3] Under the proposed rule change, any remaining uncompared quantity would be resolved as before by a close out transaction. For example, a participant that receives a Regular Advisory

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(iii) establish a series of codes to replace the handwritten description of rejected Demand As Of Advisories.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning in the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments shoud file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–83–2.

Because File No. SR–PCC–83–2 is identical to File No. SR–PSDTC–83–4, which had been filed in error with the Commission on April 19, 1983, PSDTC requested that the Commission consent to the withdrawal of the PSDTC filing. The Commission hereby consents to PSDTC's request and therefore orders File No. SR–PSDTC–83–4 to be withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13498 Filed 5–18–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83–029]

Rules of the Road Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Rules of the Road Advisory Council. The meeting will be held on Wednesday, June 22, 1983 from 8:30 a.m. to 4:30 p.m. and Thursday, June 23, 1983 from 1:00 p.m. to 3:30 p.m., at the U.S. Merchant Marine Academy, Kings Point, New York. The agenda for the meeting consists of the following items:

1. Possible ambiguity of wording of Rule 24(d) of the Inland and International Navigation Rules.
2. Use of masthead lights on towing vessels below the Huey P. Long Bridge, Lower Mississippi River.
3. Inland Rule 9—Narrow Channels:
   (a) Guidance for towboat operators and others on what constitutes a narrow channel.
   (b) Examination of Rule 9(a)(ii) as compared to the similar Canadian Rule.
   (c) Examination of Rule 9(e).
4. Inland Rule 34(e)—Application of the bend signal.
5. Rule 24—Lighting of groups of vessels being towed astern.
6. Rule 27(e)—Proposal by U.S. Coast Guard to lessen required size of diver flag under certain conditions.
7. Interpretation of the word "impede" as used in our rules in light of "Guidance" issued by the International Maritime Organization.
8. Special markings for Geophysical Research vessels and their towed arrays.
9. Marking of dredges, dredge pipelines, and floating plants.
10. Coast Guard Status Reports and Information Items:
   (a) Use of high intensity flashing white lights (strobe lights) on international waters.
   (b) Sidelight placement on groups of barges being pushed ahead or towed alongside.
   (c) Vertical and horizontal positioning of after masthead light on Western Rivers towing vessels.
   (d) Interpretive Rule for composite unit.
   (e) Extension of applicability of special rules for Western Rivers to certain other waters.
   (f) Vessel Bridge-to-Bridge Radiotelephone communications.
   (g) Alternative frequencies to Channel 22A in U.S. ports for Coast Guard navigational safety information.
   (h) Publication of "Guidance" issued by International Maritime Organization.

Attendance is open to the public. With advanced notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time.

Additional information may be obtained from Commander Galen R. Siddall, Executive Director, Rules of the Road Advisory Council, U.S. Coast Guard (G–NSR/14), Washington, D.C. 20593, telephone (202) 245–0108.

Dated: May 5, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83–13451 Filed 5–18–83; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

National Airspace Review; meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee The agenda for this meeting is as follows: A review of separation standards in the Air Traffic Control radar environment.

DATE: Beginning June 13, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by June 9, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Indicating a transaction for 300 shares may, if it agrees with the data contained in the Advisory but recognizes the quantity as 500 shares of the stated security, accept the Regular Advisory with respect to 300 shares and submit new trade data with respect to the remaining 200 shares.

Issued in Washington, D.C. on May 11, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83–13429 Filed 5–18–83; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Consolidated Rail Corporation; Hearing

The Consolidated Rail Corporation (Conrail) has petitioned the Federal Railroad Administration (FRA) for approval of proposed modifications of a portion of its signal system. The proposed modification involves discontinuance of the automatic block signal, traffic control and automatic cab signal system between Steubenville, Ohio and Newark, Ohio. This proceeding is identified as Block Signal Application Number 1941 and involves the Pittsburgh, Pennsylvania to Columbus, Ohio line that is known colloquially as the Penhandle Route.

The FRA has decided to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on June 6, 1983. The public hearing will be held in Room 220 of the United States Court House located at 85 Macroni Boulevard, Columbus, Ohio.

The hearing will be an informal one and will be conducted in accordance with FRA, Rules of Practice (49 CFR Part 211). A representative designated by the FRA will conduct this hearing.

The hearig will not be an adverary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representative of the FRA will make an opening statement outlining the scope of the hearing and will provide interested persons with an opportunity to make statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the start of the hearing.

This notice is issued under authroity of Section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C. on May 11, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–13135 Filed 5–10–83; 8:45 am]

BILLING CODE 4910–06–M

Maritime Administration

[Docket S–735]

Chestnut Shipping Co. and Margate Shipping Co.; Amended Section 805(a) Permission Concerning Affiliation with New England Collier Co.

New England Collier Company (NECC), a joint venture of New England Energy Incorporated (NEEI), a wholly-owned subsidiary of New England Electric System, and Keystone Shipping Co. (Keystone), a wholly-owned subsidiary of Chas. Kurz & Co., Inc. (Kurz), will soon take delivery of a 36,000 ton self-unloading collier, to be employed primarily in the U.S. domestic trade. Keystone will also act as managing agent of the vessel. NECC has recently chosen to own as opposed to bareboat charter the vessel.

Chestnut and Margate are parties to long-term Operating-Differential Subsidy contracts in the foreign bulk trades of the United States and are affiliated with Kurz and Keystone, both of whom will be affiliated with NECC for operation of its vessel, ENERGY INDEPENDENCE, in the domestic trade. Chestnut and Margate on date of November 4, 1976 were granted written permission by the Maritime Adminstrator pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended. That permission provided for an affiliate of Chestnut and Margate to bareboat charter and operate one self-unloading dry bulk carrier in the U.S. Pacific, Gulf and East Coast trades with Keystone to serve as managing agent. Under the NECC project, as presently contemplated, NECC will own rather than bareboat charter such a vessel in those trades. Additional notices of the details of the proposed project were published by the Securities and Exchange Commission in the **Federal Register** on December 1, 1980, July 6, 1981, and April 20, 1982.

Inasmuch as Chestnut and Margate have already been granted section 805(a) permission for an affiliate to acquire a dry bulk carrier, this Notice affords interested persons an oppourtunity to comment on the amended ownership arrangement. Therefore, any person, firm, or corporation having any interest in such affiliation and ownership (within the meaning of section 805(a)) and desiring to submit comments must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on May 31, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

Upon expiration of the time for filing comments the Maritime Administration will take such action as may be deemed appropriate, including the possibility of referring the matter to hearing. The purpose of any such hearing would be to receive evidence under section 805(a) relative to whether the proposed ownership as opposed to operation under bareboat charter (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: May 17, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83–12781 Filed 5–18–83; 8:45 am]

BILLING CODE 4910–81–M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on a Proposed Multimodal Transportation Terminal in Santa Ana, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the City of Santa Ana are jointly undertaking the preparation of an Environmental Impact Statement (EIS) for a proposed multimodal transportation terminal in Santa Ana, California. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen C. Clark, Senior Community Planner, UMTA—Region IX Office at (415) 556–0364 or Mr. David H. Grosse, Director, Transportation Services, City of Santa Ana at (714) 834–4936.

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SUPPLEMENTARY INFORMATION:

Project Description

The proposed project is located in downtown Santa Ana at the intersection of Santa Ana Boulevard and Santiago Avenue on a 6.5 acre site. The site immediately abuts the Atchison, Topeka, and Santa Fe Railroad tracks and is served by three existing Orange County Transit District bus routes connecting to the central business district and the County Civic Center. The multimodal terminal will provide improved access to commuter rail, Amtrak rail, intercity bus, taxi, airport limousine, and Greyhound and Trailways services.

Alternatives

Alternatives considered include a No-Action, partial development of the site, and development of the project at another downtown Santa Ana site. Under the No-Action alternative, the bus modes would continue operating at separate sites and the rail services woud continue sharing the present Amtrak facility.

Probable Environmental Impacts

All of the action alternatives would result in business displacement and increased traffic, noise and air quality impacts in the vicinity of the alternative sites.

Scoping Meeting

UMTA is sponsoring a Scoping Meeting for the preparation of the EIS. The topics for discussion will include the need for the action, probable environmental impacts and the procedures for estimating those impacts. The Scoping Meeting is scheduled for June 2, 1983 at 10:00 a.m. in the Council Chambers, 20 Civic Center Plaza, Santa Ana, California.

Dated: May 12, 1983.

James E. Davis,

Deputy Associate Administrator for Grants Management.

[FR Doc. 83-13138 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-57-M

Solicitation of Proposals for Grants; Technology Introduction Program and Innovative Techniques and Methods Program

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces in this notice that it is soliciting proposals for grants under the Technology Introduction Program and the Innovative Techniques and Methods Program under Sections 3(a)(1)(C) and 4(i), respectively, of the Urban Mass Transportation Act of 1964, as amended, for fiscal year 1984 funding. UMTA will select from among the proposals received, contact the submitting parties, and request complete grant applications from them.

Proposers are reminded that many projects funded under Sections 3(a)(1)(C) and 4(i) are also eligible for funding under Section 9 of the Act. UMTA is encouraging potential proposers to use, to the maximum extent possible, the funding available under Section 9. Details on the funding sources are available at the appropriate UMTA Regional Office.

DATE: Proposals are due for both programs by August 17, 1983.

ADDRESSES: Proposals for Section 3(a)(1)(C) and 4(i) grants should be sent to the appropriate UMTA Regional Office.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to the appropriate UMTA Regional Office.

Section 3(a)(1)(C): Technology Introduction Program

The Technology Introduction Program was initiated to assist in financing the introduction into public transportation service of new technology in the form of innovative and improved products. Section 3(a)(1)(C) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602(a)(1)(C)) (UMT Act) authorizes the Secretary of Transportation to make grants or loans to assist public agencies in financing the introduction into public transportation service of new technology in the form of innovative and improved products.

UMTA's objective in financing new technology is to encourage transit suppliers to produce and transit operators to use innovative technology that will:

(a) Lower transportation life cycle costs.

(b) Improve transit system productivity.

(c) Provide societal benefits or further national goals such as energy conservation and environmental protection.

(d) Provide consumer benefits that make mass transit more attractive to users and potential users.

To meet this objective UMTA will provide:

(a) Technical and financial assistance to bridge the gap between the end of the R&D process and transit industry application; and

(b) Assistance for public agency purchase of limited pre-production quantities of new products for revenue service to increase confidence in operational preformance and reliability, and to provide a sound and valid empirical basis for cost-effectiveness tradeoffs in transit equipment selection decisions.

UMTA intends to publish a formal circular describing the Section 3(a)(1)(C) program. In the interim, prospective applicants are referred to the **Federal Register** notice of January 19, 1981 (46 FR 5832), which describes the background and purpose of the program. For purposes of evaluation, proposals should contain a detailed project description, budget, outline of benefits, market potential, evaluation plan, and the degree of development of the technology. Proposals must also include the costs and plans for data collection and evaluation and the development of a preliminary report. A complete grant application is not needed at this time. Proposers are remined that 3(a)(1)(C) project funding is now based on a 75 percent Federal and 25 percent local source of funds.

Proposers not selected for participation in earlier 3(a)(1)(C) announcements may, by submitting letters of continuing interest in lieu of new proposals, revise earlier submittals for consideration in Fiscal Year 1984.

Section 4(i): Innovative Techniques and Methods Program

The Innovative Techniques and Methods program was begun to further the national adoption of innovative techniques that will reduce the cost of transportation, increase transit system revenues, and increase opportunities for private sector involvement. Section 4(i) of the UMT Act (49 U.S.C. 1603(i)) authorizes the Secretary to make grants to States and local public bodies for the deployment of innovative techniques and methods in the management and operation of public transportation services.

Experience with UMTA's Service and Methods Demonstration Program indicates that increased acceptance of an innovation requires application of the technique in many geographically dispersed areas. The Section 4(i) program can encourage more widespread adoption of proven innovative techniques and methods in urban transportation. Innovative techniques and methods eligible for funding under the Section 4(i) program include the following:

- Conventional transit innovation,
- Pricing and service innovation,
- Paratransit services; and
- Transit management improvements.

UMTA intends to publish a formal circular for the implementation of the Section 4(i) program. In the interim, proposals for the Section 4(i) program should follow administrative procedures set forth in the December 1, 1980, **Federal Register** notice (45 FR 79670). A list of major categories of innovation that should be considered for the section 4(i) program is available at UMTA headquarters and Regional Offices.

For purposes of evaluation, proposals should contain a detailed project description, budget, outline of benefits, other support or participation, and project continuation. A complete grant application is not needed at this time. Proposers are reminded that 4(i) project funding is now based on a 75 percent Federal and 25 percent local source of funds.

Proposers not selected for participation in earlier Section 4(i) announcements may, by submitting letters for of interest in lieu of new proposals, revise earlier submittals for consideration in Fiscal Year 1984.

Issued on: May 11, 1983.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

[FR Doc. 83-13242 Filed 5-18-83; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Admministration.

ACTION: Notice

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of revised forms. The entries contain the following information: (1) The department or staff office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Requests for further information, including copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington DC, 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Veterans Administration, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-6880.

DATE: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 12, 1983.

By direction of the Administrator.

Dominick Onorato,

Associated Deputy Administrator for Information Resources Management.

Revised Form

(1) Department of Medicine and Surgery.
(2) State Home Report and Statement of Federal Aid Claimed.
(3) VA Form 10-5588.
(4) Once per month.
(5) State veterans homes making claim for VA aid payments for care of eligible veterans.
(6) 540 per annum.
(7) 243 hours.
(8) Not applicable under 3504(H).

Revised Form

(1) Board of Veterans Appeals.
(2) Appeal to Board of Veterans Appeals.
(3) VA Form 1-9.
(4) On occasion.
(5) Appellants for VA benefits.
(6) 41,000 per annum.
(7) 41,000 hours.
(8) Not applicable under 3504(H).

[FR Doc. 83-13468 Filed 5-18-83; 8:45 am]

BILLING CODE 8320-01-M

Replacement Medical Center, Allen Park, Michigan; Intent To Prepare an Environmental Impact Statement

AGENCY: Veterans Administration.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Veterans Administration (VA) has identified the need to prepare an Environmental Impact Statement (EIS). To fulfill the requirements of Section 102(2)(c) of the National Environmental Policy Act, this Notice of Intent and initiation of the Scoping Process is being issued under Title 40, Code of Federal Regulations, § 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Sullivan, Director, Office of Environmental Affairs (005), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-3316).

SUPPLEMENTARY INFORMATION:

1. Description of Proposed Action

The VA intends to study potential alternatives for resolving the problems associated with the existing VA Medical Center (VAMC) at Allen Park, Michigan. The existing facilities are functionally inefficient and deficient in the necessary space to provide modern health care delivery to eligible veterans.

2. Alternatives

Alternatives being examined and evaluated include the following: (1) Renovation of the existing VAMC Allen Park with minimal new construction; (2) a phased combination of renovation and significant new construction at the VAMC; (3) phased replacement of the existing VAMC on the same campus; (4) complete replacement of the VAMC on a new site to be acquired; and (5) no action.

The new site proposed for a replacement medical center is adjacent to the Wayne State University Medical School of the Detroit Medical Complex in midtown Detroit. The site consists of approximately 18.7 acres just north of the central business district and east of the Woodward Avenue corridor. The current use of the site is as single and multi-family residential and interspersed with vacant land that the City of Detroit has acquired as part of their renewal area. The final alternative to be discussed in the EIS will be the NO ACTION alternative. This alternative will consider the impacts of only standard operational maintenance at the existing Allen Park VAMC.

3. Scoping Process

The VA requests input from interested and concerned agencies and individuals for the purpose of identifying issues for consideration in the preparation of the EIS. Comments should be sent to Mr. William F. Sullivan, Director, Office of Environmental Affairs (005), 810 Vermont Avenue, NW., Washington, D.C. 20420.

4. Public and Private Participation in EIS Process

The issues and concerns identified during the scoping process will help determine the nature and extent of the impact analysis performed in the EIS. Participation of individuals, public and private organizations and local, State and Federal agencies are invited.

5. Timing

Tentative times have been established for the completion of the environmental process at the following milestones:

- Complete Scoping Process—June 1983.

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• Availability of the draft EIS—March 1984.
• Availability of the draft EIS—September 1984.
• Completion of the Record of Decision—November 1984.

6. Request for Copies of the Draft EIS

For placement on the mailing list to receive a Draft EIS or for other VA environmental information, please contact the Office of Environmental Affairs at the above address.

Dated: May 10, 1983.
By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

[FR Doc. 83-13467 Filed 5-18-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 96
Thursday, May 19, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, June 3, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-713-83 Filed 5-17-83; 2:20 pm]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Wednesday, June 1, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Leverage—Proposed Rules Introducing Brokers—Final Rules

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-714-83 Filed 5-17-83; 2:19 pm]
BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 27, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-715-83 Filed 5-17-83; 2:10 pm]
BILLING CODE 6351-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, May 26, 1983. 10 a.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Space Heaters—Revocation or Exemption Applications*
The Commission will consider 23 applications from state and local jurisdictions for exemption from the preemptive effects of the Commission;s unvented gas-fired space heater safety standard. The Commission will consider various options including whether to grant or deny the applications or whether to defer the applications and direct the staff to draft a *Federal Register* notice initiating a rule-making proceeding that could result in a revocation of the standard.
2. *Mid-Year Review: Smoke Detector; PPPA Data Needs*
The Commission will consider FY '83 resource issues relating to(1) Smoke Detector Project, and (2) PPPA data needs.

(For a recorded message containing the latest agenda information call 301-492-5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

[S-709-83 Filed 5-17-83; 12:02 pm]
BILLING CODE 6355-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 24, 1983.

LOCATION: Third Floor Hearing Room, 1111-18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:
FY '84 Operating Plan
The Commission and the staff will discuss the operating plan for fiscal year 1984.

(For a recorded message containing the latest agenda information: call 301-492-5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

[S-710-83 Filed 5-17-83; 12:02 pm]
BILLING CODE 6355-01-M

6

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, May 25, 1983.

LOCATION: Third Flor Hearing Room, 1111-18th Street NW., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. *Enforcement Matter*
The staff will brief the Commission on enforcement matter OS #5455.
2. *Enforcement Matter*
The staff will brief the Commission on enforcement matter OS #4600.

(For a recorded message containing the latest agenda information: call 301-492-5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301-492-6800.

[S-711-83 Filed 5-17-83; 12:02 pm]
BILLING CODE 6355-01-M

7

FEDERAL ELECTION COMMISSION

Federal Register No. 684.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, May 17, 1983 at 10 a.m.

CHANGE IN MEETING: The Executive Session scheduled for this date has been cancelled.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 19, 1983 at 10 a.m.

CHANGE IN MEETING: The following matter has been carried over from the open meeting or May 12, 1983:

Final Repayment Determination and Issuance of Statement of Reasons for the Reagan for President Committee

* * * * * *

DATE AND TIME: Tuesday, May 24, 1983 at 10 a.m.

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PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, May 26, 1983 at 2 p.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fith Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory Opinion #1983-12 J. Curtis Herge, Counsel to National Conservative Political Action Committee
Eligibility reports for candidates to receive Presidential primary matching payments
Proposed revisions to Presidential Election Campaign fund regulations (continued from meeting of 5-19-83, if necessary)
Explanation and justification governing collecting agents and joint fundraising (continued from meeting of 5-19-83, if necessary)
Finance Committee Report
Budget Execution Report-April
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-721-83 Filed 5-17-83; 3:57 pm]
BILLING CODE 6715-01-M

8

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., May 26, 1983.

PLACE: Hearing Room One-1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: 1. Docket No. 83-22: Equal Access Agreement in the United States/Republic of the Philippines Ocean Liner Trade (Agreement No. 10461)—Motion of proponents to suspend proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-708-83 Filed 5-17-83; 11:31 am]
BILLING CODE 6730-01-M

9

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, May 31, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigations 731-TA-131 and -132 [Preliminary] (Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan)—briefing and vote.
5. Investigation 701-TA-190 [Final] (Nitrocellulose from France)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-719-83 Filed 5-17-83; 3:31 pm]
BILLING CODE 7020-02-M

10

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, June 2, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints: a. Certain self-stripping electrical tap connectors (Docket No. 938).
2. Investigations 701-TA-195 and -196 [Final] (Stainless Steel Sheet, Strip, and Plate from the United Kingdom) and Investigations 731-TA-92 and -95 [Final] (Stainless Steel Sheet and Strip from the Federal Republic of Germany and France)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-720-83 Filed 5-17-83; 3:21 pm]
BILLING CODE 7020-02-M

11

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 16, 1983 (revised) and Week of May 23, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Wednesday, May 18:

9:30 a.m.
Discussion/Possible Vote on Contested Issues in Callaway (Closed—Ex. 10) (Time and Date Change)
3 p.m.
Evaluation of Implications of Salem Event (Part I) (Continuation) (public meeting) (New Item)

Monday, May 23:

10:30 a.m.
Briefing on NRC Comments on EPA Proposed Title II Standards (Uranium Mill Trailings) (public meeting)

Tuesday, May 24:

10 a.m.
Briefing on Staff Revalidation of Management Competence at TMI-1 (public meeting)
2 p.m.
Discussion/Possible Vote on Full Power Operating License for McGuire-2 (public meeting) (*Postponed* from May 17)

Thursday, May 26:

10 a.m.
Oral Presidentations on Indian Point Emergency Planning and Preparedness (public meeting)

Friday, May 27:

10 a.m.
Briefing on Nuclear Plant Reliability Data System (NPRDS) (public meeting)
1:30 p.m.
Evaluation of Implications of Salem Event (Part II) (public meeting)

ADDITIONAL INFORMATION: Discussion of Steps to Decision in TMI-1 Restart scheduled for May 10, *cancelled.* Discussion of Management-Organization and Internal Personnel Matters scheduled for May 11, *cancelled.*

On May 12 the Commission voted 4-0 (Commissioner Gilinsky not present) to hold Affirmation of Commission Order Indicating Agreement with Licensing Board Order Declining to Terminate the Shoreham Operating License Proceeding, held that day. On May 12 the Commission voted 4-0 (Commissioner Gilinsky not present) to hold Affirmation of the Waste Confidence Order and Rule on Extended Spent Fuel Storage, to be held on May 13.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Dated: May 13, 1983.

Walter Magee,
Office of the Secretary.

[S-707-83 Filed 5-16-83; 4:31 pm]
BILLING CODE 7590-01-M

12

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Thursday, May 26, 1983.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Aggregate Letter Case. (Docket No. MC82-2)

(Closed pursuant to 5 U.S.C. 552b(c)(10))

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-712-83 Filed 5-17-83; 1:58 pm]
BILLING CODE 7715-01-M

13

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 23, 1983, at 450 5th Street, N.W., Washington, D.C.

Open meetings will be held on Monday, May 23, 1983, at 2:00 p.m. and on Thursday, May 26, 1983, at 10:00 a.m. in Room 1C30.

Close meetings will be held on Tuesday, May 24, 1983, at 10:00 a.m. and on Wednesday, May 25, 1983, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the open meeting scheduled for Monday, May 23, 1983, at 2:00 p.m., will be:

The Commission, as part of its active oversight of private sector standard-setting activities, will meet with members of the Financial Accounting Standards Board ("FASB") regarding the Board's Conceptual Framework project and other items under active consideration by the FASB. The FASB's Conceptual Framework project is comprised of the four concepts statements issued to date plus several additional phases currently under development. The project is expected to provide a foundation of fundamental concepts to be used in the development of individual standards of accounting and reporting. For further information, please contact Clarence Staubs at (202) 272-2130.

The subject matter of the closed meeting scheduled for Tuesday, May 24, 1983, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Access to investigative files by Federal, State, or Self-regulatory authorities.
Litigation matters.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Opinion.

The subject matter of the closed meeting scheduled for Wednesday, May 25, 1983, at 10:00 a.m., will be:

Regulatory matter regarding financial institution.
Regulatory matter bearing enforcement implications.
Formal orders of investigation.
Litigation matter.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, May 26, 1983, at 10:00 a.m., will be:

1. Consideration of a rule change submitted by the New York Stock Exchange, Inc. ("NYSE") which proposes to extend and expand the NYSE's Registered Representative Rapid Response Service. For further information, please contact William W. Uchimoto at (202) 272-2409.
2. Consideration of whether to allow, or under what conditions to allow, the use of letters of credit (1) as "cover", in lieu of margin, when establishing short options positions in foreign currency or stock index options; (2) as collateral for secured demand notes made by subordinated lenders contributing capital to broker-dealers; and (3) as margin deposits required by the Options Clearing Corporation for certain aggregate short or exercised options positions of participants. For further information, please contact Thomas V. Sjoblom at (202) 272-7379.
3. Consideration of whether to publish for comment a proposed rule that would require broker-dealers using predispute arbitration clauses in customer agreements to disclose that investors are not precluded by such clauses from recourse to the federal courts with respect to claims arising under the federal securities laws. The purpose of the proposed rule is to ensure that investors are aware of the availability of this recourse to the federal courts. For further information, please contact Robert A. Love at (202) 272-2792.
4. Consideration of whether to adopt amendments to Forms 1 and 1-A and Rule 6a-2 under the Securities Exchange Act of 1934. These forms and the rule govern application for, or exemption from, registration of a national securities exchange and the periodic amendments to the original registration statement. In addition, the Commission will consider adoption of amendments to its delegation of authority rules that will, if adopted, delegate to the Director of the Division of Market Regulation authority to exempt exchanges from certain filing requirements with respect to certain exchange affiliates and subsidiaries. For further information, please contact Alden S. Adkins at (202) 272-2418.
5. Consideration of petitions from Tax Analysts and Advocates, Stockholders Against the Government Burden and the American Economic Foundation for various amendments to expand the existing tax disclosure requirements of Regulation S-X. For further information, please contact Elizabeth Rader at (202) 272-2130.
6. Consideration of whether to propose for public comment Rule 205-3 under the Investment Advisers Act of 1940 which would permit registered investment advisers to enter into performance-based compensation arrangements with their clients provided certain conditions were met. For further information, please contact Forrest R. Foss at (202) 272-3029.
7. Consideration of whether (1) to adopt a technical amendment to Rule 24f-2 which would eliminate the requirement to file the annual notice pursuant to that Rule if the issuer has not sold any securities pursuant to Rule 24f-2 during the preceding fiscal year; and (2) to propose for comment two amendments to Rule 24f-2 under the Investment Company Act of 1940. The first amendment would require any issuer who has filed a declaration pursuant to that Rule to include a statement to that effect on all subsequent post-effective amendments along with a statement of when the issuer has filed or intends to file its Notice, or that the filing is unnecessary; the second would change the consequence for failure to file timely the required notice so that the issuer's declaration pursuant to Rule 24f-2 would terminate, but the issuer's registration statement would not terminate. For further information, please contact Gregory K. Todd, at (202) 272-7317.
8. Consideration of whether to issue a notice on an application filed by the mutual funds within the IDS Group ("Funds"), and Investors Diversified Services, Inc., the Funds' investment manager and principal underwriter, requesting an order pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting a proposed joint arrangement for allocating distribution expenses among the Funds, and pursuant to Section 6(c) of the Act, granting exemptions from Sections 22 (b), (c) and (d) of the Act and Rules 2a-4, 17d-1(a) and 22c-1 under the Act in connection with the proposed joint distribution arrangement. For further information, please contact Brion R. Thompson at (202) 272-3026.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272-2091.

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May 16, 1983.

[S-717-83 Filed 5-17-83; 2:28 pm]

BILLING CODE 6810-01-M

14

SYNTHETIC FUELS CORPORATION

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of said Policy.

MATTERS TO BE CONSIDERED:

Remarks by Chairmen
Approval of Minutes
Report of the President
Operations Report of the Executive Vice President
Standard Terms and Conditions for Lignite Solicitation
Progress Report on Development of Comprehensive Strategy
Organization of Committees of the Board; Delegation to Chairman; Amendment of System of Organization; Amendment of By-laws to Describe Officer Functions by Reference to System of Organization.
Officer Appointment and Compensation

Closed Session

Consideration of Request for Release of Exempt Minutes of Board of Directors' Meetings
Consideration of Coal Solicitations
Project Strength Reviews
Consideration of Projects Under Negotiation

In addition, the Board of Directors will consider such other matters as may properly be brought before the meeting

DATE AND TIME: May 26, 1983 at 10 (EDT).

PLACE: Williams Plaza Hotel, Tulsa, Oklahoma.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel, (202) 822–6336.

Dated: May 17, 1983.

United States Synthetic Fuels Corporation.

Victor A. Schroeder,

President.

[S-716-83 Filed 5-17-83; 2:24 am]

BILLING CODE 0000-00-M

15

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1317]

TIME AND DATE: 7:30 p.m. (EDT), Tuesday, May 24, 1983.

PLACE: Chattanooga State Technical Community College, Student Center, Room 260, 4501 Amnicola Highway, Chattanooga, Tennessee.

STATUS: Open.

Agenda Item
Approval of minutes of meetings held on May 11, 1983.
B.—Purchase Awards
B1. Proposal J3–663301—Indefinite quantity term contract for automated office systems.
B2. Supplement to Contract No. 78P66–148567 with Silver King Mines for management services at TVA's Edgemont, South Dakota, uranium mill site and properties.
C—Power Items
C1. Removal of restrictions in deed to Murfreesboro, Tennessee, for Walterhill Dam which prevent development of hydroelectric potential at site by Middle Tennessee Electric Membership Corporation.
C2. Supplement to cooperative research agreement with The University of Tennessee at Knoxville for coal feeding and fluidization studies in the fluidized bed.
C3. Resolution relating to 1983 rate change.

DATED: May 17, 1983.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TV's Washington Office (202) 245–0101.

[S-718-83 Filed 5-17-83; 3:00 pm]

BILLING CODE 8120-01-M

federal register

Thursday
May 19, 1983

Part II

Environmental Protection Agency

Chemical Information Rules; Preliminary Assessment Information; Final Rule and Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004L; BH-FRL 2328-4]

Chemical Information Rules; Preliminary Assessment Information; Manufacturers Reporting; Amendment Adding ITC Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds 46 chemicals to the list for which manufacturers must submit Preliminary Assessment Information under section 8(a) of the Toxic Substances Control Act (TSCA). The Interagency Testing Committee (ITC) recommended these chemicals as candidates for testing in its Sixth through Ninth Reports.

EFFECTIVE DATE: This regulation becomes effective on June 20, 1983.

FOR FURTHER INFORMATION CONTACT: For further information on this rule or to obtain copies of the Manufacturer's Report Form: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M Street, SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C. (554-1404), Outside the U.S.A.: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420

I. Background

EPA issued the Preliminary Assessment Information rule under section 8(a) of the Toxic Substances Control Act. The rule was published in the **Federal Register** of June 22, 1982 (47 FR 26992). The rule required manufacturers of about 250 chemicals to report general production, use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA simultaneously proposed and solicited comment on three amendments, including the addition of these 46 chemicals for manufacturer reporting (June 22, 1982; 47 FR 27009).

This amendment to the rule requires manufacturers to submit preliminary assessment information on 46 chemicals. The Sixth through Ninth ITC Reports designated these 46 chemicals (among others) as priority candidates for testing under TSCA section 4. (Other chemicals designated in the Sixth through Ninth ITC Reports were included among those already listed on the Preliminary Assessment Information rule.)

II. Response to Comments

The Agency received five comments on the proposed addition of these 46 chemicals. Two comments requested deleting hexachloroethane (CAS No. 67-72-1), based on EPA's prior decision not to require testing of that chemical under TSCA section 4 (47 FR 18175; April 28, 1982). One comment requested deleting fluoroethene (75-02-5) and tetrafluoroethene (CAS No. 116-14-3), because EPA had already issued an Advance Notice of Proposed Rulemaking published in the **Federal Register** of October 30, 1981 about the testing being considered for fluoroalkenes (46 FR 53704). The comment also said that data collected under this rule would not be available in time to affect testing decisions. Two other comments requested that EPA delete any chemical for which EPA has made a testing decision under TSCA section 4. These commenters considered that there is no current need for preliminary assessment data if EPA has completed its testing decision. The commenters said that future regulatory needs for data are uncertain, and that future needs would be for data current at that future time.

The Agency does not agree with these comments. In most instances, EPA will use preliminary assessment data to be reported under this rule to determine the need for testing the subject chemicals under TSCA section 4. However, the data also have other important uses to EPA. Even where a testing decision has already been made, the reported data will be evaluated to insure that the prior decision was appropriate in the light of the more complete production, exposure and release information provided by the rule.

For example, EPA reported in April 1982, that section 4 testing of hexachloroethane is not warranted at this time, based on its limited exposure and release to the environment. However, if current exposure were to change significantly, this decision may need reconsideration. By placing hexachloroethane under the 8(a) rule, EPA would obtain current information on its production, uses, potential exposure and environmental releases and would be able to determine if exposure to it has changed.

In some cases, the reported data may be needed to assist in allocating testing costs. Test rule analyses currently are based on data collected by contractors, from public literature, or voluntarily submitted by manufacturers. Data from this rule will verify the accuracy of these data. When EPA makes a decision based on voluntary submissions from manufacturers, such as in the case of the fluoroalkenes, data from the Preliminary Assessment Information rule will provide a means of verifying that the voluntary submissions provide a complete picture of the chemical's production, uses, exposure potential, and release. However, if a manufacturer's voluntary submission meets the requirements in § 712.30 (a) (3), he need not submit an additional report.

In addition to section 4 decisions, data obtained under this rule will also be used to assess the need for regulatory controls under other sections of TSCA. In some cases, the data may suggest that review would be appropriate under a different statute, such as the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, Oct. 21, 1976). The data will allow comparison among chemicals on the basis of similar information. The comparison will indicate whether priorities are consistent among testing and other regulatory decisions.

III. Who Must Report

Persons subject to the Preliminary Assessment Information rule are specified at 40 CFR 712.20 and 712.25. Additional description may be found in the June 22, 1982, issue of the **Federal Register** (47 FR 26992).

Generally, a manufacturer (or an importer) would submit a Preliminary Assessment Information Manufacturer's Report (EPA form 7710-35) for each of the 46 chemicals he manufactures. If he manufactures a chemical at more than one site, he would submit a form for each site. A manufacturer is exempt from reporting for an individual site if the site production of the listed substance was less than 500 kilograms during the reporting period.

A manufacturer is also exempt from reporting if he qualifies as a small business by meeting the following two criteria during the reporting period: Total annual parent company sales below $30 million, and total production of the listed chemical at the site below 45,000 kilograms. EPA has separately proposed a generic definition of small manufacturers for TSCA section 8 (a) rules (June 23, 1982; 47 FR 27206). If the final generic small manufacturers definition is issued before this rule is final, EPA plans to apply the generic definition to reporting under this rule.

EPA separately proposed that processors report under the limited circumstances when manufacturers cannot provide adequate data (June 22, 1982, 47 FR 27009). When processor reporting requirements are promulgated, processors will be subject to reporting

on any of these 46 chemicals for which manufacturers' data are inadequate.

IV. Time to Report

This amendment requires manufacturers (and importers) of the 46 chemicals to submit reports by August 17, 1983. This allows 60 days after the effective date of this rule to report.

V. Economic Impact

The cost estimates for a company to comply with the requirements of this proposal are based in part on estimates used in the final Preliminary Assessment Information Rule. One commenter said these estimates were too low. EPA considers its cost estimates to be both accurate and sufficiently current to support the rule. However, the original form filing costs have been increased by 23.3 percent to reflect inflation between development of the original proposal and late 1982.

The cost estimates presented in this analysis were current as of the fourth quarter of 1982. Although actual reporting under this rule will not occur until the latter part of 1983, we have not attempted to adjust the cost estimates to reflect this. The wide variations in the overall rate of price inflation experienced during the recent past prohibit development of accurate cost projections. Additionally, we would not expect actual costs incurred during 1983 to be greatly different from the figures used here.

Costs can be broken down into the following categories:

1. A fixed cost of $590 for a site to become familiar with the regulation and identify the chemicals to report.
2. A variable cost of $520 per report for a site to determine whether information should be claimed as confidential and to complete the form and certification requirements.

We estimate that 39 plant sites will submit 60 reports. This figure excludes plant sites which are exempted by the small business cutoff. Total reporting costs for the 46 chemicals listed in this amendment will approximate $54,200. (For a discussion of the method to estimate reporting costs, see "Economic Impact and Small Business Definition Analysis for the Final TSCA Section 8(a) Preliminary Assessment Information Rule," prepared by ICF, Inc., 1981.)

VI. Public Record

The public record for this rulemaking is a continuation of the record (OPTS-82004) for the Preliminary Assessment Information rule published in the June 22, 1982, issue of the **Federal Register** (47 FR 26992). All documents, including the index to this public record, are available for inspection in the OPTS Reading Room from 8:00 to 4:00 p.m. on working days (Rm. E-107, 401 M St., SW., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this rule.

VII. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. The reporting provisions in this amendment were approved by OMB during the proposal stage (March 1982, under control number 2000-0420), along with two other amendments: automatic reporting on chemicals designated by the Interagency Testing Committee, and reporting requirements for processors of certain chemicals.

This rule requires manufacturers of 46 chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA form 7710-35). The information to be submitted will be used by EPA to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of TSCA. In some cases the Agency may require processor follow-up reporting on a chemical when manufacturers' data on customer uses are inadequate.

B. Regulatory Flexibility Act

This amendment is consistent with the objectives of the Regulatory Flexibility Act (Pub. L. 96-354) because it will not have a significant economic impact on a substantial number of small entities. Under this rule, as for previous Preliminary Assessment Information proposed and final rules, manufacturers are "small" and thus exempt from the rule if they meet both of the following criteria:

1. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.
2. Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site.

EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $54,200. It does not have a significant effect on competition, costs or prices.

This proposed regulation has been submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This proposal lists 46 chemicals for which manufacturers would submit one-page reports. Processors would report only when manufacturers are unable to provide adequate data.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C 2607))

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 712—[AMENDED]

Therefore, 40 CFR 712.30 is amended by adding paragraph (f) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(f) A Preliminary Assessment Information Manufacturer's Report must be submitted by August 17, 1983, for each chemical substance listed below.

CAS No.	Chemical Name
67-72-1	Ethane, hexachloro-
75-02-5	Ethene, fluoro-
95-70-5	1,4-Benzenediamine, 2-methyl-
95-80-7	1,3-Benzenediamine, 4-methyl-
95-83-0	1,2-Benzenediamine, 4-chloro-
98-56-6	Benzene, 1-chloro-4-(trifluoromethyl)-
108-71-4	1,3-Benzenediamine, 5-methyl-
116-14-3	Ethene, tetrafluoro-
137-09-7	Phenol, 2,4-diamino-, dihydrochloride
359-11-5	Ethene, trifluoro-
541-69-5	1,3-Benzenediamine, dihydrochloride
541-70-8	1,3-Benzenediamine, sulfate (1:1)
614-94-8	1,3-Benzenediamine, 4-methoxy-, dihydrochloride
615-28-1	1,2-Benzenediamine, dihydrochloride
615-45-2	1,4-Benzenediamine, 2-methyl-, dihydrochloride
615-46-3	1,4-Benzenediamine, 2-chloro-, dihydrochloride
615-50-9	1,4-Benzenediamine, 2-methyl-, sulfate (1:1)
677-21-4	1-Propene, 3,3,3-trifluoro-
1197-37-1	1,2-Benzenediamine, 4-ethoxy-
1477-55-0	1,3-Benzenedimethanamine

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3683–23–8 Benzenediamine, 4-butyl-
5042–55–7 1,3-Benzenediamine, 5-nitro-
5131–58–8 1,3-Benzenediamine, 4-nitro-
5131–60–2 1,3-Benzenediamine, 4-chloro-
5307–02–8 1,4-Benzenediamine, 2-methoxy-,
5307–14–2 1,4-Benzenediamine, 2-nitro-
6219–67–6 1,3-Benzenediamine, 4-methoxy-, sulfate
6219–71–2 1,4-Benzenediamine, 2-chloro-, sulfate
6219–77–8 1,2-Benzenediamine, 4-nitro-, dihydrochloride
15872–73–8 Phenol, 2,4-diamino-6-methyl-
16245–77–5 1,4-Benzenediamine, sulfate (1:1)
18266–52–9 1,4-Benzenediamine, 2-nitro-, dihydrochloride
20103–09–7 1,4-Benzenediamine, 2,5-dichloro-
25376–45–8 Benzenediamine, ar-methyl-
39156–41–7 1,3-Benzenediamine, 4-methoxy-, sulfate (1:1)
42389–30–0 1,2-Benzenediamine, 5-chloro-3-nitro-
62654–17–5 1,4-Benzenediamine, ethanedioate (1:1)
65879–44–9 Phenol, 2,4-diamino-6-methyl-, hydrochloride
66422–95–5 Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride
67801–06–3 1,3-Benzenediamine, 4-ethoxy-, dihydrochloride
68015–98–5 1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)
68239–80–5 1,3-Benzenediamine, 4-chloro-, sulfate (1:1)
68239–82–7 1,2-Benzenediamine, 4-nitro-, sulfate (1:1)
68239–83–8 1,4-Benzenediamine, 2-nitro-, sulfate (1:1)
68459–98–3 1,2-Benzenediamine, 4-chloro-, sulfate (1:1)
68966–84–7 1,3-Benzenediamine, ar-ethyl-ar-methyl-

[FR Doc. 83–13394 Filed 5–18–83; 8:45 am]
BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS–82004K; BH–FRL 2325–5]

Preliminary Assessment Information; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to add chemicals designated or recommended for testing consideration in the Eleventh Report of the Interagency Testing Committee (ITC) to the Preliminary Assessment Information rule. The rule requires manufacturers of these chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA will use the information submitted to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of the Toxic Substances Control Act (TSCA).

DATE: Comments must be submitted on or before July 5, 1983.

ADDRESS: Written comments should bear the document control number OPTS–82004K and should be submitted to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this notice will be available for public inspection in Rm. E–107 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the U.S.A.: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0420

I. Background

In the **Federal Register** of June 22, 1982 (47 FR 26992), EPA issued the Preliminary Assessment Information Rule under section 8(a) of the Toxic Substances Control Act (TSCA). The rule requires manufacturers of certain chemicals to report general production, use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35).

The preamble to the rule explained that EPA would amend the list of chemicals subject to the Preliminary Assessment Information Rule when necessary to collect information on additional chemicals. This proposed amendment would add chemicals that ITC's Eleventh Report designated or recommended for EPA's testing consideration.

Under TSCA section 4(e), EPA must respond to ITC designates within 12 months by initiating rulemaking or publishing a notice explaining why such action is not being taken. EPA must also consider chemicals that ITC recommends for testing without statutory designation of a time period for EPA response.

The ITC's Eleventh Report, published in the **Federal Register** of December 3, 1982 (47 FR 54624), designated eleven individual chemicals for testing consideration and EPA response within 12 months. The Eleventh Report also recommended one group of chemicals, carbofuran intermediates, for testing consideration but without stating a given time period for EPA's response. The Report listed three carbofuran intermediates and their CAS numbers: Methallyl 2-nitrophenyl ether (13414–54–5); 7-Nitro-2,2-dimethyl-2,3-dihydrobenzofuran (13414–55–6); and 7-Amino-2,2-dimethyl-2,3-dihydrobenzofuran (68298–46–4). This rule lists these chemicals by their CAS numbers and CAS preferred names: Benzene, 1-[(2-methyl-2-propenyl)oxyl]-2-nitro- (13414–54–5); Benzofuran, 2,3-dihydro-2,2-dimethyl-7-nitro- (13414–55–6); 7-Benzofuranamine, 2,3-dihydro-2,2-dimethyl- (68298–46–4).

In the Eleventh Report, ITC recommended one additional group, trimethylbenzenes, that had been discussed in the ITC Tenth Report. The recommended trimethylbenzenes are: Benzene, 1,3,5-trimethyl- (108–67–8); Benzene, 1,2,3-trimethyl- (526–73–8); and Benzene, trimethyl- (25551–13–7). These chemicals were recommended but not designated for response within 12 months. (Another member of the group, 1,2,4-trimethylbenzene, CAS number 95–63–6, was separately designated in the Tenth ITC Report (May 25, 1982, 47 FR 22585). 1,2,4-Trimethylbenzene was included in the Preliminary Assessment Information Rule published on June 22, 1982 and is not subject to this proposal.)

EPA will use data from this rule to evaluate risks associated with listed chemicals, and to determine whether chemicals should be included in testing rules under TSCA section 4.

II. Who Would Report

Persons subject to the Preliminary Assessment Information rule are specified at 40 CFR 712.20 and 712.25. Additional description may be found in the June 22, 1982 issue of the **Federal Register** (47 FR 26992).

Generally, a manufacturer (or an importer) would submit a Preliminary Assessment Information Manufacturer's Report (EPA form 7710–35) for each of 17 chemicals he manufactures. If he manufactures a chemical at more than one site, he would submit a form for each site. A manufacturer is exempt from reporting for an individual site if the site production of the listed substance was below 500 kilograms during the reporting period.

A manufacturer is also exempt from reporting if he qualifies as a small business by meeting the following two criteria during the reporting period: total annual parent company sales below $30 million, and total production of the listed chemical at the site below 45,000 kilograms. EPA has separately proposed a generic definition of small manufacturers for TSCA section 8(a) rules (June 23, 1982; 47 FR 27206). If the final generic small manufacturers definition is issued before this rule is final, EPA plans to apply the generic definition to reporting under this rule.

EPA separately proposed that processors report under the limited circumstances when manufacturers cannot provide adequate data (June 22, 1982; 47 FR 27009). When processor reporting requirements are promulgated, processors would be subject to reporting on any of the 17 chemicals for which manufacturers' data are found to be inadequate.

III. Time To Report

The length of the reporting period for this amendment is based partly on information supplied in comments on the originally proposed Preliminary Assessment Information rule (February 29, 1980; 45 FR 13646). In those comments, manufacturers discussed how long it would take to perform various activities involved in preparing reports. The length of the reporting period is also based partly on EPA's experience with the timeliness of reports previously submitted under this rule.

The proposed rule published today requires manufacturers of 17 chemicals to submit reports 60 days after the effective date of the rule. EPA estimates that the maximum number of reports any site will have to submit is 5, with most firms submitting one or two reports per site.

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IV. Economic Impact

The cost estimates for a company to comply with the requirements of this proposal are based on estimates used in the final Preliminary Assessment Information Rule. However, the original costs have been increased by 23.3 percent to account for the overall rate of price inflation in the period between development of the original proposal and late 1982. The cost estimates in this analysis were current as of the fourth quarter of 1982. Although actual reporting under this rule will not occur until the latter part of 1983, we have not attempted to adjust the cost estimates to reflect this. The wide variations in the overall rate of price inflation experienced during the recent past prohibit development of accurate cost projections. Additionally, we would not expect actual costs incurred during 1983 to be greatly different from the figures used there.

Costs can be broken down into the following categories:

1. A fixed cost of $590 for a site to become familiar with the regulation and identify the chemicals to report.

2. A variable cost of $520 per report for a site to determine whether information should be claimed as confidential and to complete the form and certification requirements.

We estimate that 26 plant sites operated by 23 companies will submit 43 reports under this rule. This figure excludes plant sites which are exempted by the small business cutoff. Total reporting costs for the 17 chemicals listed in this amendment are estimated to be $37,700. (For a discussion of reporting costs, see Economic Impact and Small Business Definition Analysis for the final TSCA Section 8(a) Preliminary Assessment Information Rule, prepared by ICF, Inc., 1981.)

V. Public Record

The public record for this proposed rulemaking is a continuation of the record (OPTS–82004) for the Preliminary Assessment Information rule published in the June 22, 1982, issue of the **Federal Register** (47 FR 26992). All documents, including the index to this public record, are available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days (Rm. E–107, 401 M Street SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposed rule. The Agency will supplement the record with the following types of additional information as it is received.

1. All comments on this proposed amendment.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date. The final rule will also permit persons to point out any errors or omissions in the record.

VI. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. OMB approved the reporting provisions contained in this request and issued OMB control number 2000–0420.

This rule requires manufacturers of 17 chemicals to complete the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). The information to be submitted will be used by EPA to evaluate risks associated with the chemicals, as well as to determine whether the chemicals should be included in testing rules issued under section 4 of TSCA. In some cases the Agency may require processor follow-up reporting on a chemcial when manufacturers' data on customer uses are inadequate.

B. Regulatory Flexibility Act

This amendment, if promulgated, will be consistent with the objectives of the Regulatory Flexibility Act (Pub. L. 96–354) because it will not have a significant economic impact on a substantial number of small entities. Under this proposal, as for previous Preliminary Assessment Information proposed and final rules, manufacturers are "small" and thus exempt from the rule if they meet both of the following criteria:

1. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.

2. Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site. EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $37,700. It does not have a significant effect on competition, costs or prices.

The reporting provisions in this proposed regulation have been submitted to the Office of Management and Budget as required by Executive Order 12291.

This proposal lists 17 chemicals for which manufacturers would submit one-page reports. Processors would report only when manufacturers are unable to provide adequate data.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2607))

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 712—[AMENDED]

Therefore, it is proposed that 40 CFR 712.30 be amended by adding paragraph (g) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(g) A Preliminary Assessment Information Manufacturer's Report must be submitted 90 days after date of publication in the **Federal Register** for each chemical substance listed below:

CAS No. and Chemical name

77–58–7—Stannane, dibutylbis [(1-oxodocecyl)oxy]-
108–67–8—Benzene, 1,3,5-trimethyl-
140–66–9—Phenol, 4-(1,1,3,3-tetramethylbutyl)-
526–73–8—Benzene, 1,2,3-trimethyl-
646–06–0—1,3-Dioxolane
1185–81–5—Stannane, dibutylbis (dodecylthio)-
3319–31–1—1,2,4-Benzenetricarboxylic acid, tris-(2-ethylhexyl) ester

6422–86–2—1,4-Benzenedicarboxylic acid, bis-(2-ethylhexyl) ester
13414–54–5—Benzene, 1-[(2-methyl-2-propenyl)oxy]-2-nitro-
13414–55–6—Benzofuran, 2,3-dihydro-2,2-dimethyl-7-nitro-
25168–21–2—2-Butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis[(4-oxo-, diisooctyl ester, (Z,Z)-
25168–24–5—Acetic acid, 2,2'-[(dibutylstannylene)bis(thio)]bis-, diisooctyl ester
25551–13–7—Benzene, trimethyl-
25852–70–4—Acetic acid, 2,2',2''-[(butylstannylidyne)tris(thio)]tris-, triisooctyl ester
26636–01–1—Acetic acid, 2,2'-[(dimethylstannylene)bis(thio)]bis-, diisooctyl ester
54849–38–6—Acetic acid, 2,2',2''-[(methylstannylidyne)tris](thio)]tris-, ,triisooctyl ester
68298–46–4—7-Benzofuranamine, 2,3-dihydro-2,2-dimethyl-

[FR Doc. 83–13395 Filed 5–18–83; 8:45 am]

BILLING CODE 6560–50–M

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19263, April 28, 1983.

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federal register

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5063 of May 18, 1983

National Andrei Sakharov Day

By the President of the United States of America

A Proclamation

Dr. Andrei Sakharov has earned the admiration and gratitude of the people of the United States and other countries throughout the world for his tireless and courageous efforts on behalf of international peace and on behalf of basic human freedoms for the peoples of the Soviet Union. In recognition of this work, Dr. Sakharov was awarded the Nobel Prize for Peace. Soviet authorities prevented Dr. Sakharov from receiving this award in person by prohibiting him from leaving the Soviet Union.

In the face of continuous harassment and mistreatment by the Soviet authorities, Dr. Sakharov has continued his work for peace and individual human rights. Despite his exile to the remote city of Gorkiy on January 22, 1980, and despite continued efforts by the Soviet authorities to deny Dr. Sakharov the means of continuing his work and of maintaining contact with the outside world, the example of Andrei Sakharov's courage continues to shine brightly.

The Congress, by Senate Joint Resolution 51, has designated May 21, 1983 as "National Andrei Sakharov Day" and has authorized and requested the President to issue a proclamation in observance of that day. On this occasion, Americans everywhere are given the opportunity to reaffirm that, despite attempts at repression, the ideals of peace and freedom will endure and ultimately triumph.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 21, 1983 as National Andrei Sakharov Day. I call upon the American people to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-13776
Filed 5-18-83; 2:25 pm]
Billing code 3195-01-M

Editorial Note: For the President's remarks of May 18, 1983, on Andrei Sakharov Day, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 20).

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 412]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 22–28, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 22, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on May 17, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains generally good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.712 is added as follows:

§ 910.712 Lemon regulation 412.

The quantity of lemons grown in California and Arizona which may be handled during the period May 22, 1983, through May 28, 1983, is established at 300,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 18, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–13851 Filed 5–19–83; 12:50 pm]
BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

14 CFR Part 296

[Reg. ER–1335; Econ. Reg. Amdt. No. 1 to Part 296; Docket 40320]

Indirect Air Transportation of Property

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing U.S. indirect cargo air carriers to permit direct air carriers to pay fees to these indirect air carriers. The CAB makes this change in response to a request by Trans World Airlines, to remove competitive inequities, and to reduce regulatory oversight of cargo pricing policies and practices.

DATES:
Adopted: May 2, 1983.
Effective: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In EDR–437, 47 FR 633, January 6, 1982, the Board proposed a revision of the rules governing domestic indirect cargo air carriers, commonly known as air freight forwarders, foreign cooperative shippers associations, and foreign air freight forwarders. The rulemaking was initiated in response to an application for an exemption by Trans World Airlines (TWA) in Docket 38298.

Under the proposed rule, direct air carriers would be permitted to pay fees to indirect air carriers without restriction as to the amount of the fee or the method of payment. Such fee payments are currently authorized on an interim basis under an exemption granted by the Board in Order 80–9–147, September 14, 1980, and extended by Order 81–12–113, December 16, 1981, pending final action by the Board on a rulemaking. This rulemaking is designed to remove possible competitive inequities among U.S. carriers that may

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result from ambiguity on the status of reciprocal agency arrangements or use of affiliated agents.

Comments were filed by the Air Freight Association of America, Eastern Air Lines, the International Airforwarder and Agents Association, International Customs Service, and Trans World Airlines. All of the comments endorsed the proposed rule in principle, although there were requests for change or clarification.

Trans World Airlines (TWA) supported the proposed rule and urged its adoption, for reasons stated in its application in Docket 38298. In TWA's view, the rule will permanently remove competitive inequities, free prior interpretations of the Board's rules from doubt, and continue flexible maketing practices established in response to market forces. TWA stated that these changes are fully consistent with the Board's reduced oversight of the relationships between indirect cargo air carriers and direct air carriers since passage of the Air Cargo Deregulation Act, Pub. L. 95–163.

The Air Freight Association of America also supported the proposed rule, asserting that the need for it is no less great now than 5 years ago, when it filed a petition for rulemaking to permit fee payments (Docket 30362). As a result of that petition, the Board permitted forwarders to receive payment for nontransportation services provided to airlines, but continued to prohibit the payment of commissions on consolidated shipments. In the Air Freight Association's view, the proposed rule would remove an inequity that continues to exist, namely the discrimination against domestic forwarders and small shippers in international cargo transportation. The Air Freight Association claims that IATA rate agreements are based on the premise that commissions on consolidations are paid everywhere, while Board policy prevents domestic forwarders from accepting commissions on consolidations, resulting in a competitive disadvantage to U.S. forwarders when compared with their foreign counterparts. Comments filed by International Customs Service also supported issuance of this rule, and expressed views similar to those of the Air Freight Association. In the opininon of the International Customs Service, permitting domestic forwarders to accept fees from direct air carriers for shipments, particulary those outbound from the United States will alleviate the competitive inequity that presently exists between U.S. forwarders and foreign forwarders.

The International Airforwarders and Agents Association (IAAA) also supported the proposed rule in principle, but was concerned about the fact that commissions on consolidations are not expressly authorized. In the view of IAAA, should the Board fail to expressly permit air freight forwarders to receive commissions on consolidations, direct air carriers may continue to act cautiously in the payment area, thereby dampening the prospects for increased innovation and competition. IAAA was also concerned that this rule may continue to prohibit the payment of "so-called rebates" to forwarders. In IAAA's view, anti-rebate provisions do not apply to an air freight intermediary that does not own and control its own traffic, and this potential problem can be solved by issuance of a final rule that completely exempts indirect air carriers from the anti-rebate provisions of section 403(b)(2). Similarly, IAAA argued that such an exemption should not apply to indirect air carriers that handle their own traffic or that of an affiliate under the guise of being a forwarder. IAAA agreed with the Air Freight Association and the International Customs Service, however, the adoption of the rule would alleviate competitive inequities between U.S. and foreign air freight forwarders.

Eastern Air Lines generally agreed with the concept of the proposed rule. Eastern also asked that the final rule make it clear that payments to forwarders are contingent upon presentation of a shipment "ready for carriage." In Eastern's view, forwarders should be subject to the same standards for payment of commissions as sales agents who must tender shipments "ready for carriage."

The Board has decided to adopt this rule as proposed. This rule offers greater flexibility to both indirect and direct air carriers, because the payment of fees by direct air carriers to indirect carriers on shipments tendered by the latter will be permitted without regard to their amount or method of payment.

Although this rule eliminates the prohibition on the receipt of commissions by air freight forwarders from direct air carriers, the Board will not adopt the term "commissions" to describe the scope of the exemption, as requested by IAAA. The Board believes that the term "fees" more accurately reflects the general nature of the payments to indirect air carriers that are being authorized by this rule, and is the most appropriate one to be used since the term "fees" includes commissions and other forms of payment. For the same reason, the Board will not adopt Eastern's proposal that forwarders and sales agents be treated identically for purposes of payment.

In Order 82–12–24, the Board permitted forwarders to offer interline service with direct air carriers. As in the case of interline agreements between direct air carriers, such agreements create reciprocal agency relationships between the forwarder and its interline partner, even though the forwarder acts as an air carrier for its leg of the interline transportation. In such a case, the requirement that the forwarder act as an agent of the direct carrier, or as a forwarder, but not both, applies separately to each segment. Thus, the forwarder acts as an indirect air carrier for its segment of the movement and as an agent for the segment of the interlining direct air carrier. A forwarder can therefore consolidate shipments to achieve shipping economies over the segment for which it is taking responsibility, although each shipment must be individually rated under the joint tariff with its interline direct carrier partner.

Finally, the Board cannot adopt Eastern's proposal that payments to indirect air carriers be made contingent upon presentation of a shipment "ready for carriage." This proposal would defeat the purpose of this rule, which is to further relinquish regulatory control over cargo pricing and practices, placing greater emphasis on competition and market forces for regulation of the industry.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule pursuant to 5 U.S.C 604. This rule will eliminate the need of indirect cargo carriers to use reciprocity arrangements or established affiliates to be paid fees on consolidated shipments. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5432, by referring to the "ER" number at the top of the document.

List of Subjects in 14 CFR Part 296

Air carriers, Antitrust, Freight, Freight forwarders, Insurance, Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 296, *Indirect Air Transportation of Property*, as follows:

PART 296—[AMENDED]

1. The authority for 14 CFR Part 296 is:

Authority: Secs. 101, 102, 204, 408, 409, and 416, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 767, 768, 771, 49 U.S.C. 1301, 1302, 1324, 1378, 1379, 1386.

§ 296.7 [Removed]

2. Section 296.7, *Prohibition against receipt of commissions*, is removed.

3. Section 296.10 is amended by revising paragraph (a)(1) and adding a new paragraph (d) to read:

§ 296.10 Exemption from the Act.

(a) * * *

(1) Subsection 403(b)(2) (solicitation of rebates). However, indirect cargo air carriers are exempt from section 403(b)(2) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers.

* * * * * *

(d) Direct air carriers are exempted from section 403 of the Act to the extent necessary to permit them to pay, directly or indirectly, fees to indirect cargo air carriers.

4. The Table of Contents is amended accordingly.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–13669 Filed 5–19–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 297

[Reg. ER–1336; Econ. Reg. Amdt. No. 5 to Part 297; Docket 40320]

Foreign Air Freight Forwarders and Cooperative Shippers Associations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing foreign air freight forwarders to permit direct air carriers to pay fees to foreign forwarders. The CAB makes this change in response to a request by Trans World Airlines, and to remove competitive inequities and to reduce regulatory oversight of cargo pricing polices and practices.

DATES:

Adopted: May 2, 1983.

Effective: May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By ER–1335, issued simultaneously, the Board amended 14 CFR Part 296 to permit the payment of fees by direct air carriers to domestic indirect air carriers. The Board also amends this part to permit such payments to foreign air freight forwarders. A complete discussion is set forth in ER–1335.

List of Subjects in 14 CFR Part 297

Air carriers, Air transportation—foreign, Freight, Freight forwarders, Insurance, Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations*, as follows:

1. The authority for 14 CFR Part 297 is:

Authority: Secs. 204, 416, Pub. L. 85–726, as amended, 72 Sat. 743, 771; 49 U.S.C. 1324, 1386.

2. Section 297.10 is revised to read:

§ 297.10 Exemption from the Act.

(a) Foreign indirect air carriers with an effective registration under this part are exempted from the following provisions of the Act only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to arrange their air freight shipments:

(1) Section 402 (Permits);

(2) Section 403(a) and 403(b)(1) (Tariffs);

(3) Section 403(b)(2) (Solicitation of rebates) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers;

(4) Subsection 404(a)(2) (Carrier's duty to establish just and reasonable rates, etc.); and

(5) If awarded interstate or overseas air transportation operating rights, any other provision of the Act that would otherwise prohibit them from engaging in the interstate or overseas indirect air transportation of property.

(b) Direct air carriers are exempted from section 403 of the Act to the extent necessary to permit them to pay, directly or indirectly, fees to foreign air freight forwarders and foreign cooperative shippers associations on consolidated shipments.

§ 297.32 [Removed]

2. Section 297.32, *Prohibition against receipt of commissions*, is removed.

3. The table of contents is amended accordingly.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–13670 Filed 5–19–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 83C–0041]

2-[[2,5-Diethoxy-4-[(4-Methylphenyl)Thio]Phenyl]Azo]-1,3,5-Benzenetriol; Listing as a Color Additive for Use in Soft (Hydrophilic) Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol as a color additive for use in marking soft (hydrophilic) contact lenses with the letter R or the letter L for identification purposes. The agency is taking this action in response to a petition filed by Precision-Cosmet Co., Inc.

DATES: Effective June 21, 1983; objections by June 20, 1983.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George C. Murray, National Center for Devices and Radiological Health (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 4, 1983 (48 FR 9376), FDA announced that a color additive petition (CAP 3C0159, Docket No. 83C–0041) had been filed by Precision-Cosmet Co., Inc., 11140 Bren Road West, Minnetonka, MN 55343, proposing that the color additive regulations be amended to provide for the safe use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol as a color additive for use in marking soft (hydrophilic) contact lenses. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

The color additive is 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol. This pigment is formed by chemically reacting one drop of developer solution with one letter (R or L) transferred from a film strip to the contact lens. The chemical reaction results in all the starting materials of the

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transferred letter from the film strip being reacted. The unreacted developer solution will be washed off the contact lens during the rinsing procedure.

With the passage of the Medical Device Amendments of 1976 (Pub. L. 94–295), Congress mandated the listing of color additives for use in medical devices where the color additive comes in direct contact with the body for a significant period of time (section 706(a) of the act). The use of this color additive presented in the petition before the agency is subject to this listing requirement. The color additive is added to these soft (hydrophilic) contact lenses in such a way that at least some of the color additive will come in contact with the eye when the lenses are worn. In addition, the lenses are intended to be placed on the eye for several hours each day for 1 year or more. Thus, the color additive will come in direct contact with the body for a significant period of time.

The agency, having evaluated the data in the petition and other relevant material, has concluded that there is no measurable migration of the color additive and that the total level of exposure, if all the color additive were to leach from the lens, would be $1.1X10^{-7}$ grams or less, which will pose no significant risk to humans. FDA finds that 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol is safe and suitable for use in marking soft (hydrophilic) contact lenses under these conditions. Therefore, the regulation restricts the use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol to an amount not to exceed $1.1X10^{-7}$ grams and to uses for which, when used as specified in the labeling, there is no measurable migration of the color additive from the lens to the surrounding ocular tissue. Further, in accordance with § 71.20(b) (21 CFR 71.20(b)), the agency finds that certification is not necessary for the protection of the public health.

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Office of Medical Devices by appointment with the information contact person listed above. As provided in § 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

This document adds a new Subpart D to 21 CFR Part 73 that provides for listing color additives exempt from certification for use in medical devices. In an future issue of the **Federal Register**, FDA will add to Subpart D medical devices currently listed in Subpart B—Drugs (e.g., sutures, which are now medical devices, but which were regulated as drugs before the passage of the Medical Device Amendments of 1976).

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

Subpart D—Medical Devices

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 73 is amended by adding new Subpart D, to read as follows:

§ 73.3115 2-[[2,5-Diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol.

(a) *Identity.* The color additive 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol is formed in situ in soft (hydrophilic) contact lenses.

(b) *Uses and restrictions.* The color additive 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol may be safely used to mark soft (hydrophilic) contact lenses with the letter R or the letter L for identification purposes subject to the following restrictions:

(1) The quantity of the color additive does not exceed 1.1×10^{-7} grams in a soft (hydrophilic) contact lens.

(2) When used as specified in the labeling, there is no measurable migration of the color additive from the contact lens to the surrounding ocular tissue.

(3) Authorization for this use shall not be construed as waiving any of the requirements of section 510(k) and 515 of the Federal Food, Drug, and Cosmetic Act with respect to the contact lens in which the color additive is used.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore the color additive is exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 20, 1983, submit to the Dockets Management Branch (address above) written objection thereto. Objections shall show how the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 21, 1983, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register**.

(Secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371(e), 376))

Dated: May 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-13556 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Furosemide Tablets

Correction

In FR Doc. 83–10160, beginning on page 16657 in the issue of Tuesday, April 19, 1983, the effective date appearing in the next to last line of the first column of page 16658 should have read, "April 19, 1983."

BILLING CODE 1505-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-LaRoche, Inc., providing for the use of lasalocid liquid feed supplements in the production of finished cattle feeds. The supplemental application provides for revised specifications, general use mixing directions, and caution statements. The amended regulation also establishes a procedure for the approval of supplemental NADA's providing for positionally stable lasalocid liquid feed supplements, and positionally unstable lasalocid liquid feed supplements which bear special mixing directions.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Hoffmann-LaRoche, Inc., 340 Kingsland St., Nutley, NJ 07110, filed supplemental NADA 96–298 for use of Bovatec® (lasalocid) liquid feed supplements containing 100 to 1,440 grams (g) of lasalocid per ton to make finished cattle feeds containing 10 to 30 g of lasalocid per ton. The liquid feed supplements are made from 15 percent (68 g per pound) lasalocid medicated premixes. The finished feeds are for improved feed efficiency and increased rate of weight gain in beef cattle being fed in confinement for slaughter. The lasalocid liquid feed supplement may be in positionally stable or positionally unstable (thixotropic or conventional) formulations at 100 to 1,440 g of lasalocid per ton. Positionally unstable formulations segregate if not mixed.

The supplement is approved and the regulations are amended accordingly.

The approval of this supplement to NADA 96–298 is subject to the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977). This approval poses no increased human risk from exposure to residues of the new animal drug lasalocid because the number of food-producing animals receiving medication will not increase significantly. The drug will not be administered at higher dosage levels, for longer duration, or for different indications than are already in effect. Accordingly, under the Bureau's supplemental approval policy, these approvals do not constitute a reevaluation of the human safety and effectiveness data supporting the parent application.

Because this approval does not involve the submission of safety and effectiveness data per se, the freedom of information provisions of 21 CFR Part 20 and § 514.11(e)(2)(ii) do not apply.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this acton is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.311 is amended by revising paragraph (e) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.311 Lasalocid.

* * * * *

(e) *Special considerations.* (1) Finished feeds may be manufactured from lasalocid liquid feed supplements which have a pH of 4.0 to 8.0 and bear appropriate mixing directions and cautions on the labels, specifically as follows:

(i) For liquid supplements stored in recirculating tank systems: Recirculate immediately prior to use for no less than 10 minutes, moving not less than 1 percent of the tank contents per minute from the bottom of the tank to the top. Recirculate daily as directed even when supplement is not used.

(ii) For liquid supplements stored in mechanical, air, or other agitation-type tank systems: Agitate immediately prior to use for not less than 10 minutes, creating a turbulence at the bottom of the tank that is visible at the top. Agitate daily as directed even when the supplement is not used. Mix the liquid supplement thoroughly with grain and/or roughage prior to feeding.

(iii) All labels must bear the following statements: Feeding undiluted, mixing errors, or inadequate mixing (recirculation or agitation), of liquid supplements may result in an excess lasalocid concentration which could be fatal to cattle. Do not allow horses or other equines access to premixes, supplements, or feeds containing lasalocid. Ingestion may be fatal. Lasalocid medicated cattle feed is safe for use in cattle only. Safety of lasalocid for use by unapproved species or breeding cattle has not been established.

(2) A positionally stable lasalocid liquid feed supplement will not be subject to the requirements for mixing directions prescribed in paragraph (e)(1) of this section provided it has a pH of 4.0 to 8.0 and contains a suspending agent(s) sufficient to maintain a viscosity of not less than 300 centipoises per second for 3 months. Form FD–1800 must indicate the pH and centipoises per second for such lasalocid liquid feed supplement.

(3) If a manufacturer is unable to meet the requirements of paragraph (e) (1) or (2) of this section, the manufacturer may secure approval of a positionally stable liquid supplement by (i) either filing an NADA for the product or establishing a master file containing data to support the stability of its product; (ii) authorizing the agency to reference and rely upon the data in the master file to support approval of a supplemental NADA to establish positional stability; and (iii) requesting the sponsor of an approved NADA to file a supplement to provide for use of its lasalocid premix in the manufacture of the liquid feed supplement specified in the appropriate master file. If the data demonstrate the stability of the liquid feed supplement described in the master file, the supplemental NADA will be approved. Approval of the supplement will not be published in the **Federal Register** because such approval will not affect or alter conditions or use of the product in the NADA or the regulation. The approval will, however, provide a basis for the individual liquid feed manufacturer to submit, and for the agency to approve, a medicated feed application under section 512(m) of the act for liquid feed supplement. A manufacturer who seeks to market a positionally unstable lasalocid liquid feed supplement with mixing directions different from the standard directions established in parargraph (e)(1) of this section may also follow this procedure.

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(4) Complete cattle feeds manufactured from feed supplements that contain not more than 1,440 grams of lasalocid activity per ton and that comply with the provisions of pragraph (f) (6) or (7) of this section are not required to comply with the requirements of section 512(m) of the act.

(5) If adequate information is submitted to show that a particular liquid feed supplement containing lasalocid is stable outside the pH of 4.0 to 8.0, the pH restriction described in paragraph (e) (1) and (2) of this section may be waived.

* * * * *

Effective date. May 20, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))

Dated: May 10, 1983.

Richard A. Carnevale,

Acting Deputy Associate Director for Scientific Evaluation.

[FR Doc. 83-13557 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 7895]

Collection of Past-due Support From Federal Tax Refunds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations on procedure and administration relating to the collection of past-due support from Federal tax refunds. These regulations supersede temporary regulations published on the same subject in the **Federal Register** February 8, 1982 (47 FR 5712). Those who owe past-due support and have made overpayments of tax are affected. Also affected are state agencies who have been assigned support obligations under the Social Security Act.

DATE: This document is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982, the **Federal Register** published temporary and proposed amendments to the regulations on procedure and administration under sections 6305 and 6402(c) of the Internal Revenue Code of 1954 (47 FR 4728). These temporary and proposed amendments relate to the collection of past-due support from Federal tax refunds under section 464 of Part D of Title IV of the Social Security Act and section 6402(c) of the Internal Revenue Code of 1954, as added by section 2331(a) of Title 13 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 357). No public hearing was requested or held. After consideration of all comments regarding the proposed amendments, the amendments are adopted as revised by this Treasury decision.

Consideration of Comments

One commenter questioned the wording of the definition of the term "past-due support" found in § 304.6402-1(b)(1) of the proposed regulations. Past-due support is there defined as "the amount of a delinquency, determined under a court order, or an order pursuant to an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living." The commenter questioned whether it is the amount of the obligation or the fact of the deliquency that must be determined under a court order or order set by administrative process. These final regulations reword this definition to make clear that it is the amount of the obligation, rather than the fact of the delinquency, that must be determined under a court order or order set by the administrative process.

This commenter also requested that we eliminate the requirement of proposed § 301.6402-1(b)(2)(iii) that support have been delinquent for three months or longer. We cannot eliminate this requirement from these final regulations because the statute requires that support be past-due. Moreover, the three month period is consistent with the requirement of proposed § 301.6402-1(b)(2)(i) that the State make reasonable efforts to collect the amount of the support obligation.

This commenter further suggested that the requirement set forth in proposed § 301.6402-1(c)(1) that a State submit notifications of liability for past-due support to the Department of Health and Human Services by October 1 of each year be changed to require this submission by November 15 or December 1 of each year. Retention of the October 1 deadline is necessary in order to enable the Department of Health and Human Services to consolidate and transmit to the Internal Revenue Service by December 1 the data submitted by the States. Retention of the December 1 date is necessary in order to insure that the Internal Revenue Service receives this data in time to prepare for the beginning of its returns processing in January of each year.

Another commenter objected to the agreement of the Department of Health and Human Services with the Internal Revenue Service to the effect that the Department of Health and Human Services will obtain the home addresses of the taxpayers from whom past-due support has been collected through the Parent Locator Service rather than through direct transmittal of these addresses by the Internal Revenue Service. Because the addresses available through the Parent Locator Service are in fact obtained from the Internal Revenue Service, separate transmittal of these addresses would represent a duplicative and costly effort. Accordingly, the final regulations have not been changed to require a separate transmittal.

Finally, several commenters expressed their belief that a taxpayer whose refund may be subject to offset under section 6402(c) and these regulations should receive notice before the offset is made. A notice concurrent with offset is presently required by these regulations and provided by the Internal Revenue Service. If the Internal Revenue Service were also to provide a prior notice, the offset procedure would become too costly to be utilized by the States which, by law, must reimburse the Internal Revenue Service for the costs of the offset. In addition, the Service would not be able to respond directly to claims of payment or other defenses then asserted by taxpayers because the Service has no direct access to payment information and other facts related to the child support obligation, beyond those facts supplied by the States in their notifications of liability for past-due support. The Office of Child Support Enforcement of the Department of Health and Human Services is presently considering this matter of prior notification. That Office may furnish, or require that participating States furnish, a notice to a delinquent parent that his or her delinquent account is being forwarded to the Internal Revenue Service for collection under section 6402(c) and these regulations. If this notice is furnished, the parent may then assert a claim of payment or other defense directly to the State.

Section 301.6402-1(c)(4) of the final regulations describes the process whereby the notification of liability for past-due support may be corrected by

the participating States. This section has been revised to provide for certain time limitations for submission of corrections of the notification to the Department of Health and Human Services. We expect that Department to specify those time limits.

Regulatory Flexibility Act

Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Non-Application of Executive Order 12291

The Commissioner has determined that this regulation is not subject to review under Executive Order 12291.

Drafting Information

The principal author of this regulation is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offfices of the Internal Revenue Service and Trasury Department participated in developing the regulation, both substantively and stylistically.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, § 304.6402-1, relating to offset of past-due support against overpayments, is deleted from Part 304 of Title 26 of the Code of Federal Regulations, and the text of these temporary regulations is added to Part 301 as § 301.6402-5, subject to the revisions set forth below.

PART 301—[AMENDED]

Paragraphs (b)(1) and (c)(4) of New § 301.6402-5 are revised to read as follows:

§ 301.6402-5 Offset of past-due support against overpayments.

* * * * *

(b) *Past-due support*—(1) *Definition.* For purposes of this section, the term "past-due support" means the amount of a delinquent obligation, which amount was determined under a court order, or an order pursuant to an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living.

* * * * *

(c) *Notification of liability for past-due support.* * * *

(4) *Correction of notification.* If, after submitting a notification of liability for past-due support, a State determines that an error has been made with respect to the information contained in the notification, or if a State receives a payment or credits a payment to the account of a taxpayer named in this notification, the State shall promptly notify the Office of Child Support Enforcement of the Department of Health and Human Services of these corrections in accordance with any time limitations specified by the Office of Child Support Enforcement. That Office shall promptly transmit these correction to the Internal Revenue Service and the Internal Revenue Service shall make the appropriate correction of the notification of liability for past-due support. However, in no case shall a State notify the Office of Child Support Enforcement under this paragraph (c)(4) of an increased amount of past-due support owed by a taxpayer named in its notification of liability for past-due support. The correction of notification described in this paragraph (c)(4) is to be submitted only for the purpose of completing or correcting the information contained in the notification of liability for past-due support.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 5, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

Paragraph 1. Section 304.6402-1, relating to offset of past-due support against overpayments, is removed from Part 304 of Title 26 of the Code of Federal Regulations, and the text of these temporary regulations is added to Part 301 as § 301.6402-5 as follows:

§ 301.6402-5 Offset of past-due support against overpayment.

(a) *Introduction*—(1) *Scope.* Section 6402(c) requires the Secretary of the Treasury or his delegate to reduce the amount of any overpayment to be refunded to a person making an overpayment by the amount of past-due support owed by that person of which the Secretary has been notified in accordance with section 464 of the Social Security Act. Past-due support shall be collected by offset under section 6402(c) and this section in the same manner as if it were a liability for tax imposed by the Internal Revenue Code of 1954 (except that a liability for tax shall be given priority with respect to offset arising under section 6402(a)). Collection by offset under section 6402(c) of this section is a collection procedure separate from the collection procedures provided by section 6305 and § 301.6305-1, relating to assessment and collection of certain child and spousal support liabilities. The sole collection procedure provided by section 6402(c) and this section is that of offset against overpayment. Section 6305 and § 301.6305-1, by contrast, provide for other collection procedures in addition to collection by offset against overpayment. Sections 6305 and 6402(c) have differing procedural requirements and may be used separately or in conjunction with each other.

(2) *General rule.* An amount of past-due support qualifies for offset under this section if it satisfies the requirements of paragraph (b) of this section. A State shall submit to the Department of Health and Human Services a notification of liability for qualifying past-due support containing the information described in paragraph (c) of this section. A qualifying amount of past-due support owed by a taxpayer who has made an overpayment shall be collected in accordance with the procedures set forth in paragraph (d) of this section. Under paragraph (d), the balance of any overpayment remaining after crediting of the overpayment under section 6402(a) to any liability for an internal revenue tax on the part of the taxpayer shall be offset by the amount of past-due support of which the Internal Revenue Service has been notified. The amount of the overpayment not subject to offset for any liability for an internal revenue tax or for past-due support shall be promptly refunded to the taxpayer. Paragraph (e) of this section requires that the Internal Revenue Service notify the taxpayer of the amount of the offset and of the State to which it has been paid. Under procedures set forth in paragraph (f) of this section, amounts collected by offset shall be transferred to a special account maintained by the Bureau of Government Financial Operations for distribution to the States. The Internal Revenue Service shall make monthly collection reports to the Secretary of Health and Human Services or his delegate. The States shall

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reimburse the Secretary of the Treasury for the full cost of the refund offset under paragraph (g) of this section.

(b) *Past-due support*—(1) *Definition.* For purposes of this section, the term "past-due support" means the amount of a delinquent obligation, which amount was determined under a court order, or an order pursuant to an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living.

(2) *Past-due support qualifying for offset.* Past-due support qualifies for offset under section 6402(c) and this section if—

(i) There has been as assignment of the support obligation to a State pursuant to section 402(a)(26) of the Social Security Act (relating to aid and service to needy families with children) and that State has made reasonable efforts to collect the amount of the obligation;

(ii) The amount of past-due support is not less than $150.00;

(iii) The past-due support has been delinquent for three months or longer; and

(iv) A notificaton of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c) of this section.

(c) *Notification of liability for past-due support*—(1) *Form.* A State shall, by October 1 of each year, submit a notification (or notifications) of liability for past-due support on magnetic tape to the Special Collection Activities Unit. Office of Child Support Enforcement, Department of Health and Human Services, 6110 Executive Boulevard, Suite 900, Rockville, Maryland 20852, Attention: Tax Refund Offset—Tape Processing.

(2) *Content.* The notification of liability for past-due support shall contain with respect to each taxpayer—

(i) The name of the taxpayer who owes the past-due support;

(ii) The social security number of that taxpayer;

(iii) The amount of past-due support owed; and

(iv) The alphabetical designation of the State submitting the notification of liability for past-due support.

The Secretary of Health and Human Services may also require such other information from the State submitting the notification as is necessary for his orderly consolidation of data for transmittal to the Internal Revenue Service.

(3) *Transmittal of notification to Internal Revenue Service.* The Secretary of Health and Human Services shall, by December 1 of each year, consolidate and transmit to the Internal Revenue Service on magnetic tape the data contained in the notifications of liability for past-due support submitted by the participating States.

(4) *Correction of notification.* If, after submitting a notification of liability for past-due support, a State determines that an error has been made with respect to the information contained in the notification, or if a State receives a payment or credits a payment to the account of a taxpayer named in this notification, the State shall promptly notify the Office of Child Support Enforcement of the Department of Health and Human Services of these corrections in accordance with any time limitations specified by the Office of Child Support Enforcement. That Office shall promptly transmit these corrections to the Internal Revenue Service and the Internal Revenue Service shall make the appropriate correction of the notification of liability for past-due support. However, in no case shall a State notify the Internal Revenue Service under this paragraph (c)(4) of an increased amount of past-due support owed by a taxpayer named in its notification of liability for past-due support. The correction notification described in this paragraph (c)(4) is to be submitted only for the purpose of completing or correcting the information contained in the notification of liability for past-due support.

(d) *Collection*—(1) *Priority of offset for outstanding tax liability.* Under section 6402(a) and § 301.6402–1, the Commissoner may credit any overpayment of tax against any outstanding liability for any tax owed by the person making the overpayment. Only the balance remaining after such crediting is available for offset under section 6402(c) of this section. Thus, if a taxpayer making an overpayment has both an outstanding tax liability and a liability for past-due support subject to this section, then the entire amount of the overpayment shall be credited first against the outstanding tax liability under section 6402(a) and § 301.6402–1 and only the remainder, if any, of the overpayment will be offset by the amount of past-due support. However, an overpayment shall be offset by an amount of past-due support under section 6402(c) before any crediting of the overpayment to any future liability for an internal revenue tax. Thus, for example, if no outstanding tax liability is owed and the amount of an overpayment is equal to or less than the amount of past-due support, the Internal Revenue Service shall offset the overpayment by the amount of past-due support before crediting the overpayment against the taxpayer's estimated income tax for the succeeding taxable year under section 6402(b).

(2) *Amounts subject to offset.* The balance of any overpayment remaining after a crediting of the overpayment under section 6402(a) to any outstanding liability for tax on the part of the taxpayer shall be offset by the amount of past-due support of which the Internal Revenue Service has been notified under this section

(3) *Amounts not subject to offset.* The amount of an overpayment not subject to offset for any liability for tax or for past-due support shall be promptly refunded to the taxpayer.

(e) *Notice of offset.* The Internal Revenue Service shall notify the taxpayer in writing of the amount and date of the offset for past-due support and of the State to which this amount of past-due support has been paid.

(f) *Disposition of amounts collected.* Amounts collected under this section shall be transferred to a special account maintained by the Bureau of Government Financial Operations. The Internal Revenue Service shall advise the Secretary of Health and Human Services or his delegate on a monthly basis of the names and social security numbers of the taxpayers from whom the amounts of past-due support were collected, of the amounts collected from each taxpayer, and of the State on whose behalf each collection was made. After authorization by the Division of Finance of the Social Security Administration, the Bureau of Government Financial Operations of the Department of the Treasury shall pay to the participating States amounts equal to the amounts collected under this section.

(g) *Fee.* A refund offset fee in the amount of $17.00 per offset for taxable year 1981, or such greater or smaller amount as the Secretary of the Treasury and the Secretary of Health and Human Services have agreed to be sufficient to reimburse the Internal Revenue Service for the full cost of the offset procedure, shall be billed and collected from the participating States by the Secretary of Health and Human Services or his delegate and deposited in the United States Treasury and credited to the appropriation accounts of the Internal Revenue Service which bore all or part of the costs involved in making the collection.

[FR Doc. 83-13094 Filed 5-19-83; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Partial Satisfaction of Condition; Approval of the Kentucky Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by: (1) Partially satisfying a condition of approval of the Kentucky permanent program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), regarding rules of civil procedure in administrative hearings; (2) approving additional amendments to the Kentucky program, relating to changing department names, the definition of "existing structure", the definition of "incidental boundary revision", citizen participation in inspection and enforcement activities, effluent limitations, buffer zone requirements, sediment storage volume, ponds designed with single spillways, monitoring for water discharges, alternative materials used in underdrains, water diversion for coal waste banks, bridge and approach fills, and petitions to designate lands unsuitable for surface coal mining; and (3) creating two new conditions of approval, relating to recharge capacity of ground water and water diversion for coal waste banks.

EFFECTIVE DATE: The partial satisfaction of this condition, the imposition of these conditions, and the approval of these program amendments are effective on May 20, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone (606) 233–7327.

SUPPLEMENTARY INFORMATION:

Background on the Kentucky Program Submission and Conditional Approval

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register.**

Deficiency (d) for which the Secretary required correction as a condition of approval was that Kentucky failed to specify what rules of civil procedure apply to hearings before the Kentucky Department for Natural Resources and Environmental Protection (DNREP). By December 31, 1982, Kentucky was to submit copies of guidelines of civil procedure for use in administrative hearings which are no less effective than those at 43 CFR Part 4. By October 31, 1983, Kentucky is to submit copies of regulations or otherwise amend its program to provide for civil procedures in administrative hearings which are no less effective than those at 43 CFR Part 4.

Submission of Material to Partially Satisfy Condition and Additional Program Amendments

On December 29, 1982, OSM received from the Commonwealth of Kentucky material intended to partially satisfy condition (d). On January 7, 1983, OSM received from the Commonwealth of Kentucky material intended to partially satisfy condition (i). On January 11, 1983, OSM also received pursuant to the 30 CFR 732.17 State program amendment procedures, certain revisions to the State regulations. OSM published a notice in the **Federal Register** on January 27, 1983, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments partially corrected these deficiencies, and whether the Secretary should approve the additional amendments to the State program (48 FR 3779–3780). The public comment period ended February 28, 1983. A public hearing scheduled on February 9, 1983, was not held because no one expressed a desire to present testimony. OSM published a notice in the **Federal Register** on March 28, 1983 (48 FR 12713–12715), which amended 30 CFR Part 917 by partially satisfying condition (i).

Secretary's Findings

1. The Secretary finds that the material submitted on December 29, 1982, partially satisfies condition (d). The guidelines for civil procedures in administrative proceedings are no less effective than those at 43 CFR 4.1109, 4.1130 *et seq.*, 4.1155, and 4.1171. The guidelines contain rules for service, discovery and burden of proof, all of which are no less effective than the comparable Federal regulations.

2. The Secretary finds the following program amendments submitted by Kentucky on January 11, 1983, to be consistent with SMCRA and hereby approves them:

a. Revisions to 405 KAR 7:020 Section 1 (13) and (27), changing the names of the Department for Natural Resources and Environmental Protection and the Bureau of Surface Mining Reclamation and Enforcement to the Natural Resources and Environmental Protection Cabinet and the Department for Surface Mining Reclamation and Enforcement (DSMRE), respectively.

These changes are of a minor nature, and are no less effective than the Federal regulations.

b. A revision to 405 KAR 7:020 Section 1(34), modifying the definition of "existing structure" to include only those structures for which construction began prior to January 18, 1983.

This change deleted a reference to a non-existent section of the regulations, and substituted January 18, 1983, as the date defining existing structures because such structures may be legally constructed under interim program permits and regulations up to that date.

c. The addition of a definition of "incidental boundary revision" at 405 KAR 7:020 Section 1(57) to specify under what circumstances an extension to a permit area would be allowed as a permit revision rather than as an amendment or a new permit.

This change codifies Kentucky's interpretation of "incidental boundary revision" which was approved in the April 13, 1983, **Federal Register** (48 FR 21574).

d. A revision to 405 KAR 12:010 Section 6, allowing any person the opportunity to request an inspection and to participate in DSMRE enforcement actions as provided in 405 KAR 12:030.

This change is no less effective than 30 CFR 840.15.

e. Revisions to 405 KAR 16:060 Section 9(2) and 18:080 Section 7(3) adding the words, "or settleable solids", after, "total suspended solids." Kentucky states that these revisions are required because of recent changes to the U.S. Environmental Protection Agency's effluent limitations.

This change conforms the State's rules to those of the U.S. Environmental Protection Agency at 40 CFR 434 (47 FR 45382, October 31, 1982), which require that specific total suspended solids or settleable solids limitations be met for

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any precipitation event up to a 10-year, 24-hour event. This change is no less effective than 30 CFR 816.55(b) and 817.55(e).

f. Revisions to 405 KAR 16:060 Section 11(1) and 18:060 Section 9(1) so that buffer zone requirements now apply to perennial and intermittent streams. Under the revised rule, no land within 100 feet of an intermittent as well as a perennial stream may be disturbed by surface mining activities except in certain circumstances. The new State rule eliminates the 100 foot buffer zone requirement for streams with a "biological community," and substitutes such requirement for intermittent streams. Also, 405 KAR 16:060 Section 1(3) and 18:060 Section 9(3), which define a "biologic community", have been deleted.

The Secretary believes that the biological community standard is confusing to apply since almost all intermittent and many ephemeral streams in the Appalachian region contain a "biological community," as defined by the previous State rules, at some time of the year. Although the "biological community" was not difficult to measure, much confusion arose when operators attempted to apply the previous rule's standards to springs, seeps, and ephemeral streams with biological communities. While many small biological communities which contribute to the overall production of downstream ecosystems will be excluded from protection under the new State rules, the purposes of Section 515(b)(24) of the Act will best be achieved by protecting those streams with more significant environmental resource values. Those streams not covered by the new State rules will still be subject to the general requirements for protection of water quality and hydrologic balance under 405 KAR 16:060 Section 1. It is impossible to conduct surface mining without causing destruction to a number of minor natural streams, including some which contain biota. For this reason, surface coal mining operations are permissible so long as a reasonable level of environmental protection is afforded to streams. On these bases, the Secretary finds 405 KAR 16:060 Section 11(1) and 18:060 Section 9(1) to be no less effective than 30 CFR 816.57(a) and 817.57(a).

g. Revisions to 405 KAR 16:090 Section 2 and 18:090 Section 2 to delete the specific numerical design standard for sediment storage volume and to replace it with a site-specific standard.

The Secretary finds the new State rules to be no less effective than 30 CFR 816.46(b) and 817.46(b) because the State rules require a minimum sediment storage volume based on the anticipated volume of sediment to be collected and a feasible time schedule for clean out operations. These requirements ensure that sedimentation ponds are designed to provide both a water and sediment storage capacity sufficient to meet the effluent requirements. In this case, the sediment storage volume could be larger or smaller than 0.125 acre-feet per acre of disturbed area. The effect of the State provisions, however, should be equivalent or superior to that in the Federal regulations.

h. Revisions to 405 KAR 16:090 Section 5(5) and 18:090 Section 5(5) to provide for ponds designed with a single spillway, rather than ponds designed with a principal spillway but no emergency spillway.

The Kentucky rules are comparable to 30 CFR 816.46(i) and 817.46(i), which require an appropriate combination of principal and emergency spillways to safely discharge the runoff from a 25-year, 24-hour precipitation event. The revised rules are to be read in conjunction with Kentucky Technical Reclamation Memorandum (TRM) No. 7, dated January 7, 1983. TRM No. 7 was approved as partially satisfying condition (i) of approval of the Kentucky program, relating to ponds designed with a single spillway, in the March 28, 1983, **Federal Register** (48 FR 12713–12715).

The change in 405 KAR 16:090 Section 5(5) and 18:090 Section 5(5) is to substitute the term, "single spillway" for "principal spillway, but not emergency spillway." While the revised rule does not specifically state under what pond size criteria a single spillway shall be approved, TRM No. 7 describes the design and construction criteria for a single spillway pond. Under TRM No. 7, single spillways would be permitted to be constructed on only those ponds which are either entirely excavated or that have a small levee or spur dike to control outflow. These ponds would have no permanent impoundment above ground level, and will pose no danger to human life or property in the event of overflow. Likewise, no damage to the environment could be expected from such an overflow resulting from a storm event. For other ponds, Kentucky still must meet the strictures of condition (i), by either submitting criteria acceptable to the Secretary for single spillway ponds or by continuing to require emergency spillways. On this basis, the Secretary finds the State revisions to be no less effective than 30 CFR 816.46(i) and 817.46(i).

i. Revisions to 405 KAR 16:110 Section 2(2) and 18:110 Section 2(2) to delete the requirement that monitoring for water discharges be continued for such period as is necessary to demonstrate achievement of the postmining land use.

Specifically, the State proposes to delete the language in this rule requiring the monitoring of surface water flow and quality for "such additional period as is necessary to demonstrate compliance with applicable water quality standards and achievement of the postmining land use capability." This "additional period" is in addition to such monitoring for as long as the effluent limitations are applicable. The State proposes to include in this rule such monitoring for as long as the water quality standards are applicable.

The Federal rule at 30 CFR 816.52(b)(2) states:

> After disturbed areas have been regraded and stabilized according to this part, the person who conducts surface mining activities shall monitor surface water flow and quality. Data from this monitoring may be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirements of this part to minimize disturbance to the prevailing hydrologic balance and attain the approved postmining land use. These data may also provide a basis for approval by the regulatory authority for removal of water quality or flow control systems.

The revised State rule replaces the broad language requiring monitoring "as necessary" with the requirement that water quantity and quality monitoring comply with: (1) effluent limitations in the case of point-source discharges, and (2) water quality standards in the case of non-point source runoff. On this basis, the Secretary finds the State revisions to be no less effective than 30 CFR 816.52(b)(2).

j. Revisions to 405 KAR 16:130 Section 2(2) and 18:130 Section 2(2) to include the requirement that alternative materials to be used in underdrains be nondegradable and non-acid or toxic forming.

The Federal rules at 30 CFR 816.72(b)(4) and 817.72(b)(4) state that:

> Underdrains shall consist of non-degradable, non-acid or toxic forming rock such as natural sand and gravel, sandstone, limestone, or other durable rock that will not slake in water and will be free of coal, clay or shale.

Kentucky had previously allowed the use of alternative materials in the construction of underdrains for valley and head of hollow fills without requiring these alternative materials to be nondegradable and non-acid and toxic forming. The addition of the sentence requiring all alternative materials to be nondegradable and non-acid and toxic forming clarifies that alternative materials such as synthetics and/or pipe drains must meet the same standards as natural stone. It also clarifies the valley and head of hollow fill regulations with respect to alternative materials in the underdrains. The Secretary, therefore, finds the State revisions to be no less effective than 30 CFR 816.72(b)(4) and 817.72(b)(4).

k. Revisions to 405 KAR 16:220 Section 4 and 18:230 Section 4 to require bridge and approach fills to pass the 100-year flood event or, where appropriate, the 100-year, 24-hour precipitation event.

These changes are to Kentucky's road regulations for which OSM has no counterpart because its rules were suspended on August 4, 1980 (45 FR 51549). Therefore, the Secretary finds the State revisions to be no less effective than the Federal regulations. Pursuant to 30 CFR 732.17, the Director of OSM will notify Kentucky if any changes are necessary to the State's permanent program regulations when OSM issues final rules on this subject.

l. A revision to 405 KAR 24:030 Section 3, regarding designation of lands unsuitable for surface coal mining, to add the following sentence: "A petition shall be deemed incomplete if the department finds the petition does not contain all information required by 405 KAR 24:020, Sections 3 and 4."

The Secretary finds this revision to be no less effective than 30 CFR 764.15(a), by defining more specifically what constitutes an incomplete petition to designate lands unsuitable for surface coal mining.

3. The Secretary finds that the following program amendments submitted by Kentucky on January 11, 1983, are not fully consistent with SMCRA and hereby imposes additional conditions of program approval related thereto:

a. A revision to 405 KAR 16:060 Section 6(2)(c) allowing the recharge capacity of ground water to be increased or decreased, when warranted by actual conditions, if approved by the Cabinet.

The previous State rule required that the recharge capacity be restored to a condition which provides a rate of recharge that approximates the premining recharge rate. The proposed amendment would allow exception to be made in this provision when approved by the Cabinet. Kentucky believes that this would allow a decrease in recharge capacity when the decrease would not have a significant effect on the ground water system or to protect ground water from migration of acid or toxic substances. The amendment would also allow an increase in recharge capacity.

SMCRA Section 515(b)(10) requires mining operations to:

> minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by * * * (D) restoring recharge capacity of the mined area to approximate premining conditions * * *.

The Secretary finds that SMCRA Section 515(b)(10)(D) is clear in not allowing an exception to the requirement to minimize disturbances by restoring recharge capacity of the mined area to approximate premining conditions. The Secretary believes that there is sufficient flexibility in the phrase, "approximate premining conditions." No more flexibility is permitted.

In its explanation of the change, Kentucky states that, "when the postmining recharge rate should be diminished in order to protect groundwater from migration of acid or other pollutants into groundwater from acid or toxic forming overburden material, the revised language allows the department to restrict recharge capacities." The Secretary believes, however, that the reason for this requirement is to protect groundwater quantity and quality so as to minimize acidic, toxic or other harmful infiltrations. On these bases, the Secretary finds the State revisions to be inconsistent with SMCRA Section 515(b)(10)(D).

On April 12, 1983, the State was advised of the need to amend 405 KAR 16:060 Section 6(2)(c) so that this provision is consistent with SMCRA Section 515(b)(10)(D). By letter dated April 14, 1983, the State agreed to so amend its program by October 31, 1983. In the interim, Kentucky agreed to require operators to minimize disturbances by restoring recharge capacity of the mined area to approximate premining conditions in a manner consistent with SMCRA Section 515(b)(10)(D).

b. Revisions to 405 KAR 16:140 Section 3(2) and 18:140 Section 3(2) to allow flexibility in the method for water diversion for coal waste banks during construction by means of the approval of designs for temporary diversions utilized during the construction phase.

The Secretary finds that these revisions are less effective than 30 CFR 816.83(b) and 817.83(b) because the minimum requirements for diversions must be met during construction as well as after completion of the waste disposal facility. The State provision is unacceptable because it would allow the use of diversions during the construction phase that do not meet the minimum size and construction requirements for safe diversion structures. The stability and safety of a fill and the protection from the adverse effects of excessive surface drainage into the fill are as important during the construction of the fill as upon completion.

On April 12, 1983, the State was advised of the need to amend 405 KAR 16:140 Section 3(2) and 18:140 Section 3(2) so that these provisions are no less effective than 30 CFR 816.83(b) and 817.83(b). By letter dated April 14, 1983, the State agreed to so amend its program by October 31, 1983. In the interim, Kentucky agreed to require that all surface drainage from the area above the coal processing waste bank and from the crest and face of the waste area be diverted in accordance with 405 KAR 16:130 Section 2(4).

Public Comments

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) objects to the revisions to 405 KAR 16:060 Section 11(1) and 18:060 Section 9(1) as follows:

a. The revisions substitute a standard which is logically unrelated to the values sought to be protected under SMCRA Section 515(b)(24). That section of SMCRA requires operators, "to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable * * *."

Since SMCRA Section 515(b)(24) fails to make any mention of it, the use of the "biological community" standard is not mandated by the Act. For the reasons set forth above in Finding 2(f), the Secretary finds these revisions to be no less effective than 30 CFR 816.57(a) and 817.57(a).

b. The revisions create an under-inclusive class of streams unrelated to the goal of the provision.

The Secretary disagrees with this comment. As quoted above, the applicable section of SMCRA makes no specific mention of streams. Further, the commenter presents no proof that these revisions create an under-inclusive class of streams or that the revisions are unrelated to the goals of the provision. While the revisions do create different classifications of streams, they are not under-inclusive.

The Secretary believes that the explanations provided in Finding 2(f) above, and the response to the following public comment, below, adequately

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demonstrate that these revisions do not create an under-inclusive class of streams unrelated to the goal of the provision.

c. The impact of these revisions is to arbitrarily exclude many streams at the smaller end of the spectrum that drain a watershed of less than one square mile.

The Secretary believes that the commenter has misread the definition of "intermittent stream" at 30 CFR 701.5 and 405 KAR 7:020 Section 1(59). The latter defines "intermittent stream" as:

(a) A stream or reach of a stream that drains a watershed of one (1) square mile or more but does not flow continuously during the calendar year, *or* (b) a stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and groundwater discharge. (Emphasis added.)

The commenter has not considered sub-section (b) of the definition. It includes streams that drain a watershed of less than one square mile. In terms of volume of flow, there can be no streams smaller than those included in the Kentucky definition.

d. The biological community standard is not difficult to apply, and is the best and quickest manner to measure the impact of mining on water quality. Further, linking water quality determinations to a biotic assay is the most certain method of determining the impact of an operation on water quality.

The Secretary disagrees with the comment. As stated above in Finding 2(f), the biological community standard has proven difficult to apply. Second, the quickest method to measure the impact of mining on water quality is by a water sample. Third, a biotic assay is not necessary because the quality of the water is directly related to the effect on the organisms in a biological community.

e. The buffer zone "sediment trapping" effect, which is critical to both stream and biota health later in the stream chain should be geared toward protection of biotic communities irrespective of stream length or size.

The Secretary believes that there has been no changes in the "sediment trapping" effect as related to the protection of biological communities. Further, for the reasons stated above in response to this public comment and in Finding 2(f), the Secretary believes the Kentucky revisions are consistent with SMCRA Section 515(b)(24).

2. ARDFK objects to Kentucky's definition of "incidental boundary revision" at 405 KAR 7:020 Section 1(57).

This amendment is a codification of Kentucky's interpretation of this phrase which was approved in the April 13, 1983, **Federal Register** (48 FR 21574). The commenter restates the arguments made against this definition. For the reasons set forth in the April 13, 1983, notice, the Secretary finds the Kentucky amendment consistent with SMCRA Section 511.

3. ARDFK states its concern, regarding the amendments to 405 KAR 16:060 Section 6(2)(c), relating to recharge capacity, that the operation be designed so as not to diminish groundwater recharge for current or future use.

For the reasons stated above in Finding 3(a), the Secretary finds the Kentucky revisions to be inconsistent with SMCRA Section 515(b)(10)(D), and has conditioned his approval upon the State's removing this amendment.

4. ARDFK states, regarding the revisions to 405 KAR 16:090 Section 2 and 18:090 Section 2, that the .125 acre-foot per acre calculation has no Federal counterpart, and cautions the Commonwealth that deletion of design standards requires heightened scrutiny during the permit review phase with respect to calculations of adequacy of sediment storage volume and clean-out schedules.

For the reasons stated above in Finding 2(g), the Secretary finds these revisions to be no less effective than 30 CFR 816.46(b) and 817.46(b).

5. ARDFK objects to the revisions to 405 KAR 16:140 Section 3(2) and 18:140 Section 3(2), regarding diversion for coal waste banks, because proper placement, compaction and diversion of runoff is particularly critical during the construction phase and should not be waived. The State must require that the temporary diversion during fill construction meets the 100 year, 24 hour design capacity. The commenter disagrees with Kentucky's statement that the Federal or State regulations could be interpreted not to apply at the construction phase. 30 CFR 816.85, as referenced by § 816.81(a)(1), governs design and construction as well as maintenance.

For the reasons set forth above in Finding 3(b), the Secretary finds that these revisions are less effective than 30 CFR 816.83(b) and 817.83(b), and has conditioned his approval upon the State's removing these amendments.

Approval of Amendment to Partially Satisfy Condition and Additional Program Amendments

Accordingly, condition (d) is hereby amended. Revisions to the following Kentucky regulations are hereby approved pursuant to 30 CFR 732.17: 405 KAR 7:020 Section 1(13), (27), (34) and (57), 12:010 Section 6, 16:060 Section 9(2), 18:060 Section 7(3), 16:060 Section 11(1), 18:060 Section 9(1), 16:060 Section 1(3), 18:060 Section 9(3), 16:090 Section 2, 18:090, Section 2, 16:090 Section 5(5), 18:090 Section 5(5), 16:110 Section 2(2), 18:110 Section 2(2), 16:130 Section 2(2), 18:130 Section 2(2), 16:220 Section 4, 18:230 Section 4, and 24:030 Section 3.

30 CFR 917.11 is amended to indicate approval of the program amendments, partial satisfaction of condition (d), and to impose two new program conditions, regarding recharge capacity of ground water and water diversion for coal waste banks. 30 CFR 917.10 incorporates these changes. The partial satisfaction of this condition, the approval of the additional amendments, and the imposition of the two additional conditions to the Kentucky program are effective May 20, 1983.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental document need be prepared on this rulemaking as State program decisions are exempt from compliance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMRCA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: May 13, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

Part 917 of Title 30 is amended as follows:

1. Section 917.11 is amended by revising paragraph (d) and adding paragraphs (o) and (p) as follows:

§ 917.11 Conditions of State regulatory program approval.

* * * * *

(d) Termination of the approval found in § 917.10 will be initiated on October 31, 1983 unless Kentucky submits to the Secretary by that date, copies of promulgated regulations or otherwise amends its program to provide for civil procedures which are no less effective than those at 43 CFR Part 4.

* * * * *

(o) Termination of the approval found in Section 917.10 will be initiated on October 31, 1983, unless Kentucky submits to the Secretary by that date, copies of promulgated regulations, amending 405 KAR 16:060 Section 6(2)(c), to provide for recharge capacity to ground water, consistent with SMCRA Section 515(b)(10)(D). In the interim, the State will, as a matter of policy, require operators to minimize disturbances by restoring recharge capacity of the mined area to approximate premining conditions in a manner consistent with SMCRA Section 515(b)(10)(D).

* * * * *

(p) Termination of the approval found in § 917.10 will be initiated on October 31, 1983, unless Kentucky submits to the Secretary by that date, copies of promulgated regulations, amending 405 KAR 16:140 Section 3(2) and 18:140 Section 3(2) to provide for water diversion for coal waste banks, which are no less effective than 30 CFR 816.83(b) and 817.83(b). In the interim, the State will, as a matter of policy, require that all surface drainage from the area above the coal processing waste bank and from the crest and face of the waste area be diverted in accordance with 405 KAR 16:130 Section 2(4) in a manner which is no less effective than 30 CFR 816.83(b) and 817.83(b).

2. Section 917.15 is amended to add the following paragraph (c):

§ 917.15 Approval of amendments to State regulatory program.

* * * * *

(c) The following amendments are approved effective on May 20, 1983: Revisions submitted on January 11, 1983, to 405 KAR 7:020 Section 1 (13), (27), (34) and (57), 12:010 Section 6, 16:060 Section 9(2), 18:060 Section 7(3), 16:060 Section 11(1), 18:060 Section 9(1), 16:060 Section 1(3), 18:060 Section 9(3), 16:090 Section 2, 18:090 Section 2, 16:090 Section 5(5), 18:090 Section 5(5), 16:110, Section 2(2), 18:110 Section 2(2), 16:130 Section 2(2), 18:130 Section 2(2), 16:220 Section 4, 18:230 Section 4, and 24:030 Section 3.

[FR Doc. 83-13677 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 815

Persons Authorized Medical Care

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 815—Persons Authorized Medical Care, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 168–6 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Mlynarczyk, Department of the Air Force, AF/SGHA, Bolling AFB, Washington, DC 20332, telephone (202) 767–5066.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 815

Armed forces reserves, Foreign Service, Government Employees, Health care, Military personnel, Retirement, Veterans, Foreign persons, and Prisoners of war.

PART 815—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 815.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13565 Filed 5-19-83; 8:45 am]

BILLING CODE 3910-01-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

1982 Adjustment of Royalty Schedule for Use of Certain Copyrighted Works in Connection With Noncommercial Broadcasting; Terms and Rates of Royalty Payments.

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: At a public meeting on May 12, 1983, the Copyright Royalty Tribunal (Tribunal) adopted an amendment to its noncommercial broadcasting rule to provide for the payment of the required copyright royalty to the performing rights societies by certain public broadcasting entities not later than January 31 of each calendar year rather than by December 31 of each year as is required under the Tribunal's current rule.

EFFECTIVE DATE: June 18, 1983.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, (202) 653–5175.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 118 establishes a noncommercial broadcasting copyright compulsory license for the use of certain copyrighted works by noncommercial broadcasting, and authorizes the Tribunal to establish the rates and terms for such uses. The Tribunal published in the **Federal Register** of December 29, 1982 (47 FR 57923–29) its Final Rule establishing such rates and terms through December 31, 1987. Part 304.6(d) of this rule provides that the royalty fee for the performance of certain musical compositions by certain public broadcasting entities shall be paid to the performing rights societies not later than December 31 for performances during that calendar year.

The Tribunal determined to reconsider *sua sponte* that portion of its regulation fixing the date of the required copyright payment (48 FR 12400). As directed by the Tribunal's notice of March 24, 1983 (48 FR 12400), interested parties submitted comments on the proposed rule amendment by April 19, 1983. Reply comments, if any, were to be received by April 26 1983 (48 FR 12400).

The only comments received by the Tribunal was a joint submission by the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc. (SESAC) which was in support of the proposed amendment.

In the **Federal Register** of May 3, 1983 (48 FR 19978), the Tribunal issued notice of a public meeting to be held on May

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12, 1983 to consider the proposed amendment to § 304.6. At that public meeting, the Tribunal adopted the amendment to its noncommercial broadcasting rule to provide for the payment of the required copyright royalty to the performing rights societies by certain public broadcasting entities not later than January 31 of each calendar year rather than by December 31 of each year.

List of Subjects in 37 CFR Part 304

Copyright, Radio, Television.

PART 304—[AMENDED]

37 CFR Part 304.6 is amended by revising paragraph (d) to read as follows:

§ 304.6 [Amended]

* * * * *

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than July 31, 1983, for the calendar year 1983, and not later than January 31 for each calendar year thereafter.

* * * * *

(17 U.S.C 118)

Commissioner Edward W. Ray,
Chairman, Copyright Royalty Tribunal.
May 13, 1983
[FR Doc. 83-13574 Filed 5-19-83; 8:45 am]
BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-10-FRL 2364-7]

Approval and Promulgation of Implementation Plans: Washington Designation of Areas for Air Quality Planning Purposes: Attainment Status Designation: Washington; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction notice

SUMMARY: EPA is issuing corrections to three documents published previously in the **Federal Register** (December 18, 1981, 46 FR 61655; February 28, 1983, 48 FR 8273; June 5, 1980, 45 FR 37821) pertaining to carbon monoxide (CO) nonattainment areas and State Implementation Plans (SIP). The corrections are as follows.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Laurie Kral, telephone 909-399-1089.

SUPPLEMENTARY INFORMATION: 1. On December 18, 1981 EPA approved revisions to the boundaries of the Seattle-Tacoma carbon monoxide (CO) nonattainment area. However, in revising the status designation table for CO nonattainment areas in Washinton, the listings for "Spokane," "Yakima," and "Remainder of State" were inadvertently omitted. Therefore, in FR Docket 81-38186 appearing on page 61657 in the issue dated Friday, December 18, 1981, the following correction is to be made:

SUBCHAPTER C—SECTION 107 ATTAINMENT STATUS DESIGNATION

In § 81.348 Washington, the status designation table for carbon monoxide is revised to read as follows:

WASHINGTON—CO

Designated area	Does not meet national primary standards	Cannot be classified	Better than national standards
Puget Sound Intrastate AQCR:			
Seattle-Central Business District (CBD)	X		a
Seattle-Dearborn Street and Rainier Avenue Corridor	X	X	
Seattle-University District	X		
Remainder of Seattle		X	
Bellevue-CBD	X		
Remainder of Bellevue		X	
Tacoma-CBD	X		
Remainder of Tacoma		X	
Everett		X	
Puyallup		X	
Auburn		X	
Remainder of AQCR			X
City of Spokane [1]	X		
Yakima—portion of the CBD	X		
Remainder of State			X

[1] EPA designation replaces State designation.

2. On February 28, 1983 EPA revised paragraph (c) of § 52.2472 Extensions to make it consistent with the redesignated CO nonattainment areas and the SIP revisions which were approved on that date. However, the revision inadvertently included a listing for a "Northgate" CO area instead of a "Dearborn Street and Rainier Ave. Corridor" CO area and omitted the correct extension date for the "University District" CO area. Therefore, in FR Docket 83-4974 appearing on page 8274 in the issue dated Monday, February 28, 1983, the following corrections are to be made:

Subpart WW—Washington

In § 52.2472 paragraph (c) is revised to read as follows:

§ 52.2472 Extensions.

* * * * *

(c) The Administrator hereby extends to November 1, 1985 the attainment date for carbon monoxide in the University District (Seattle) nonattainment area, and extends to January 1, 1986 the attainment dates for carbon monoxide in the Seattle Central Business District, Dearborn Street and Rainier Ave. Corridor (Seattle), and Bellevue nonattainment area (40 CFR 81.348).

* * * * *

In § 52.2472 the second paragraph designated (d) is redesignated (e).

3. On June 5, 1980 EPA revised the Table in § 52.2478 which presents the attainment dates for national standards to make it consistent with the 1977 Clean Air Act Amendments and the SIP revisions which were approved on that date. However, the Table inadvertently included a listing for the "Auburn" area rather than the "Renton" area and contained an incorrect footnote in the "Tacoma" area listing for CO. On February 28, 1983 EPA again revised the Table to make it consistent with the SIP revisions for the redesignated CO nonattainment areas which were approved on that date. However, the Table inadvertently included a listing for a "Northgate" CO area instead of a "Dearborn Street and Rainier Ave. Corridor" CO area and an incorrect footnote for the "University District" CO area. Therefore, in FR Docket 83-4974 and 80-17088 appearing on page 8275 and 37836 in the issue dated Monday, February 28, 1983 and Thursday, June 5, 1980, respectively, the following correction is to be made:

Subpart WW—Washington

§ 52.2478 [Amended]

In § 52.2478 the table for attainment dates for national standards is revised to read as follows:

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	1st	2nd	1st	2nd			
Eastern WA-Northern Idaho Interstate AQCR (WA portion):							
1. Spokane area	c.	h.	b.	b.	b.	c.	b.
2. Clarkston area	c.	h.	b.	b.	b.	b.	b.
3. Remainder of AQCR	b.	b.	b.	b.	b.	b.	b.
Olympic-Northwest Intrastate:							
1. Port Angeles area	a.	c.	b.	b.	b.	b.	b.
2. Remainder of AQCR	b.	b.	b.	b.	b.	b.	b.
Portland, Oregon-Vancouver, WA Interstate AQCR (WA portion):							
1. Vancouver area	c.	h.	b.	b.	b.	b.	g.
2. Longview area	a.	h.	b.	b.	b.	b.	b.
3. Remainder of AQCR	b.	b.	b.	b.	b.	b.	b.
Puget Sound Intrastate AQCR:							
1. Seattle area:							
Duwamish area	c.	h.	b.	b.	b.	b.	d.
Central Business District	b.	b.	b.	b.	b.	f.	d.
University District	b.	b.	b.	b.	b.	e.	d.
Dearborn Street and Rainier Ave. Corridor	b.	g.	b.	b.	b.	f.	d.
Remainder of Seattle area	b.	b.	b.	b.	b.	b.	d.
2. Bellevue CBD	b.	b.	b.	b.	b.	f.	d.
2. Kent area	a.	h.	b.	b.	b.	b.	d.
3. Renton area	a.	h.	b.	b.	b.	b.	d.
3. Tacoma area	c.	h.	b.	b.	b.	c.	d.
4. Seattle-Tacoma O_3 area							d.
5. Remainder of AQCR	b.	b.	b.	b.	b.	b.	b.
South Central Washington Intrastate AQCR:							
1. Yakima area	b.	b.	b.	b.	b.	c.	b.
2. Remainder of AQCR	b.	b.	b.	b.	b.	b.	b.

1st—Primary
2nd—Secondary
a. Air quality levels presently below primary standards
b. Air quality levels presently below secondary standards or area is unclassifiable
c. December 31, 1982
d. July 31, 1984
e. November 1, 1985
f. January 1, 1986
g. December 31, 1987
h. Attainment date not established

Dated: May 3, 1983.

L. Edwin Coate
Regional Administrator.
[FR Doc. 83-13286 Filed 5-19-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Decatur, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Decatur, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review to the Flood Insurance Rate Map for Decatur, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal of federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, (312) 353-1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agree to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(a): Map Number 170429, Panel 0020C published on October 6, 1980, in 45 FR 66073 indicates that Lots 74 and 75, Lake Beach Addition, according to the plat thereof, recorded in Book 300, Page 110, of records, in the Office of the Recorder of Macon County, Illinois, is located within the Special Flood Hazard Area.

Map Number 170429, Panel 0020C is hereby corrected to reflect that the residential structure located on the above-mentioned property is not located within the Special Flood Hazard Area identified on August 1, 1979. The structure is located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routing legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70.

Flood insurance—floodplains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 27, 1983.

Dave McLoughlin,
Deputy Associate Director, State and Local Programs and Support.
[FR Doc. 83-13282 Filed 5-19-83; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5009]

Letter of Map Amendment for Sarasota County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Sarasota County, Florida. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Sarasota County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 125144B, Panel H & I 09, published on October 6, 1980, in 45 FR 66061, indicates that the existing structures located on Lots 39 through 42, Unit No. 1; Lots 148 through 154, and Lots 181 through 188, Unit No. 3; Lots 324 through 344, Unit No. 5; and Lots 687 and 716, Unit No. 8, of the Lake Sarasota Subdivision, as per the plats thereof recorded in Plat Book 8, page 50; Plat Book 8, page 65; Plat Book 8, page 67; and Plat Book 8, page 89, respectively, in the Public Records of Sarasota County, Florida, are located within the Special Flood Hazard Area.

Map No. 125144B, Panel H & I 09 is hereby corrected to reflect that the existing structures located on Lots 39 through 42, 148 through 154, 181, 185, 324 through 328, 330 through 344, 687, and 716 are not within the Special Flood Hazard Area identified on October 6, 1980. These structures are in Zone D.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13561 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6188]

Letter of Map Amendment for Dorchester County, Maryland, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dorchester County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map (FIRM) for Dorchester County, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map number FIRM 240026, Panel Number 0150A, published on November 24, 1981, in FR Volume 46, No. 226, Page 57506, indicates that Lot 30, Twin Points Subdivision, as described in Plat Book 1, Folio 3, of the Deed and Plat Records of Dorchester County, Maryland, is located within the Special Flood Hazard Area.

Map Number FIRM 240026, Panel Number 0150A, is hereby corrected to reflect that existing structure located at Lot 30 of the above-mentioned property is not within the Special Flood Hazard Area identified on October 15, 1981. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13560 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for Somerset County, Maryland, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Somerset County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map (FIRM) for Somerset County, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 240061, Panel Number 0275A, published on July 22, 1981, in FR Volume 46, No. 140, Page 37854, indicates that Parcel 687 on Somerset County, Maryland Tax Map Number 64, as described in Liber 336, Page 330, of the Land Records of Somerset County, Maryland, is located within the Special Flood Hazard Area.

Map Number FIRM 240061, Panel Number 0275A, is hereby corrected to reflect that existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on June 15, 1981. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13564 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5009]

Letter of Map Amendment for the City of Lowell, Massachusetts, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Lowell, Massachusetts. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lowell, Massachusetts, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

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Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 250201, Panel Number 0010B, published on October 6, 1980, in FR Volume 45 No. 195, page 66021, indicates that Lot B, as described in Deed Book 2488, page 479, of the Middlesex North District Registry of Deeds, is located within the Special Flood Hazard Area.

Map Number FIRM 250201, Panel Number 0010B, is hereby corrected to reflect that existing structure located at 29 Stockbridge Avenue of the above-mentioned property is not within the Special Flood Hazard Area identified on April 16, 1979. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13385 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the Town of Tewksbury, Massachusetts, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Tewksbury, Massachusetts. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Tewksbury, Massachusetts, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 250218, Panel Numbers 0003B and 0006B, published on October 6, 1980, in FR Volume 45 No. 195, page 66022, indicates that Lot 3, as described in Deed Book 2447, page 726, of North Middlesex Registry of Deeds, is located within the Special Flood Hazard Area.

Map Number FIRM 250218, Panel Numbers 0003B and 0006B, is hereby corrected to reflect that existing structure located at 874 South Street of the above-mentioned property is not within the Special Flood Hazard Area, identified on July 18, 1977. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13386 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the Borough of Dumont, New Jersey, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Dumont, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Dumont, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 340026, Panel Number 0001B, published on October 6, 1980, in FR Volume 45 No. 195, page 66028, indicates that Lots 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 203, as described in Deed Book Volume 5167, page 475, of the Bergen County Clerk's Office, is located within the Special Flood Hazard Area.

Map Number FIRM 340026, Panel Number 0001B, is hereby corrected to reflect that existing structure located at 75 Armour Place of the above-mentioned property is not within the Special Flood Hazard Area identified on May 5, 1978. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13635 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6048]

Letter of Map Amendment for the Borough of Harrington Park, New Jersey Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Harrington Park, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Harrington Park, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 340040, Panel Number 0001B, published on May 12, 1981, in FR Volume 46 No. 91, page 26307, indicates that Lots 3, 6, 7, 8, 9, and 10, Block 108, as described in subdivision final plat Map No. 7756, of Bergen County Clerk's Office, is located within the Special Flood Hazard Area.

Map Number FIRM 340040, Panel Number 0001B, is hereby corrected to reflect that existing structure located at Dorotockey Drive, Lots 3, 6, 7, 8, 9, and 10, Block 108, of the above-mentioned property is not within the Special Flood Hazard Area identified on April 15, 1981. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 21, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13634 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA-6058]

Letter of Map Amendment for the Township of East Pikeland, Pennsylvania Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of East Pikeland, Pennsylvania. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map (FIRM) for the Township of East Pikeland, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 421483, Panel Number 0005B, published on May 15, 1981, in FR Volume 46, No. 94, Page 28775, indicates that Lot 2 of the proposed subdivision of French & Pickering Creeks Conservation Trust, Inc., as described in Deed Book D, Number 57, Page 301, of Chester County, Pennsylvania, is located within the Special Flood Hazard Area.

Map Number FIRM 421483, Panel Number 0005B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on March 16, 1981. This lot is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 2, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13397 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Clinton, New Jersey Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Clinton, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Clinton, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 340233, Panel Number H&I 01A, published on October 6, 1980, in FR Volume 45 No. 195, page 66027, indicates that Lots 14 and 15 of Block 13, as described in Deed Book 887, page 879, of Hunterdon County Clerk's Office, is located within the Special Flood Hazard Area.

Map Number FIRM 340233, Panel Number H&I 01A, is hereby corrected to reflect that existing structure located at East Main Street, Lots 14 and 15, Block 13 of the above-mentioned property is not within the Special Flood Hazard Area identified on the Flood Insurance Rate Map. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13637 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Abilene, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Abilene, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map (FIRM) for the City of Abilene, Texas, that certain properties are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject properties are not within the special Flood Hazard Area, removes the requirement to purchase flood insurance for those properties as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 485450, Panel Number 0020B, published on October 6, 1980, in FR Volume 45, No. 195, Page 66097, indicates that Lots 10–14, 17–25, and 33, Block G, Quail Park Addition, as described in Deed Book Volume 1283, Pages 315–317, of the Deed Records for the City of Abilene, Texas, are located within the Special Flood Hazard Area.

Map Number FIRM 485450, Panel Number 0020B, is hereby corrected to reflect that the proposed structures located on Lots 10–14, 17–25, and 33, Block G of the above-mentioned properties are not within the Special Flood Hazard Area identified on August 23, 1979.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13614 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Arlington, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Arlington, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map (FIRM) for the City of Arlington, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natual Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

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Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 485454, Panel Number 0015B, published on October 6, 1980, in FR Volume 45, No. 195, Page 66097, indicates that Site 1, Block 5, Section 3, Brookhollow/Arlington, as described in Deed Book Volume 388–1421, Page 77, of Deed and Plat Records of Tarrant County, Texas, is located within the Special Flood Hazard Area.

Map Number FIRM 485454, Panel Number 0015B, is hereby corrected to reflect that existing structure located at Site 1, Block 5, Section 3 of the above-mentioned property is not within the Special Flood Hazard Area identified on June 20, 1980. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated, will not have a signficant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insuance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13615 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6452]

Letter of Map Amendment for the City of El Paso, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of El Paso, Texas. It has been determined by the Associate Director, State and Local Progams and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of El Paso, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject properties are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those properties as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 480214, Panel Number 0048B, published on November 19, 1982, in FR Volume 47 No. 224, page 52162, indicates that Lot 6, Block 35 and Lot 7, Block 36, Colonia Del Valle, City of El Paso, Texas, as described in Deed Book Volume 57, page 22, of the Land Records for El Paso County, Texas, are located within the Special Flood Hazard Area.

Map Number FIRM 480214, Panel Number 0048B, is hereby corrected to reflect that existing structures located at the above-mentioned properties are not within the Special Flood Hazard Area identified on October 15, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13617 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6379]

Letter of Map Amendment for the City of South Lake, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of South Lake, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of South Lake, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 480612, Panel Number 0010B, published on August 9, 1982, in FR Volume 47 No. 153, page 34396, indicates that Lot 9, Block 1, Twin Creeks Addition, as described in Deep Book Volume 388–150, page 74, of Tarrant County, Texas, in located within the Special Flood Hazard Area.

Map Number FIRM 480612, Panel Number 0010B, is hereby corrected to reflect that existing structure located at Lot 9, Block 1 of the above-mentioned property is not within the Special Flood Hazard Area identified on July 5, 1982. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13633 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6379]

Letter of Map Amendment for the City of South Lake, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of South Lake, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of South Lake, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the Naltional Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 480612, Panel Number 0010B, published on August 9, 1982, in FR Volume 47 No. 153, page 34396, indicates that Lot 9, Block 1, Twin Creeks Addition, as described in Deep Book Volume 388–150, page 74, of Tarrant County, Texas, in located within the Special Flood Hazard Area.

Map Number FIRM 480612, Panel Number 0010B, is hereby corrected to reflect that existing structure located at Lot 9, Block 1 of the above-mentioned property is not within the Special Flood Hazard Area identified on July 5, 1982. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13633 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6379]

Letter of Map Amendment for the City of South Lake, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of South Lake, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of South Lake, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 480612, Panel Number 0010B, published on August 9, 1982, in FR Volume 47 No. 153, page 34396, indicates that Lot 11, Block 1, Twin Creeks Addition, as described in Deed Book Volume 388–150, page 74, of Tarrant County, Texas, is located within the Special Flood Hazard Area.

Map Number FIRM 480612, Panel Number 0010B, is hereby corrected to reflect that existing structure located at Lot 11, Block 1 of the above-mentioned property is not within the Special Flood Hazard Area identified on July 5, 1982. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 22, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–13636 Filed 5–19–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6354]

Letter of Map Amendment for the City of Watauga, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps

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identifying Special Flood Hazard Areas have been published. This list included the City of Watauga, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Watauga, Texas, that a certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for this property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 480613, Panel Number 0005B, published on July 13, 1982, in FR Volume 47 No. 134, page 30250, indicates that Lot 5, Block 10, as described in Deed Book Volume 388, pages 27 and 52, of the land records for the City of Watauga, Texas, is located within the Special Flood Hazard Area.

Map Number FIRM 480613, Panel Number 0005B, is hereby corrected to reflect the existing structure located at the above-mentioned property is not within the Special Flood Hazard Area identified on June 4, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13618 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5957]

Letter of Map Amendment for Stafford County, Virginia Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Stafford County, Virginia. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Stafford County, Virginia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map Number FIRM 510154, Panel Number 0135B, published on December 23,1980, in FR Volume 45, No. 248, page 84790, indicates that Lot 1027, Section 3, Aquia Harbour, as described in Plat Book 4, page 173, of the Circuit Court of Stafford County, is located within the Special Flood Hazard Area.

Map Number FIRM 510154, Panel Number 0135B, is hereby corrected to reflect that existing structure located on Lot 1027, Section 3, Aquia Harbour of the above-mentioned property is not within the Special Flood Hazard Area identified on November 19, 1980. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13618 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6459]

Letter of Map Amendment for the City of Cosmopolis, Washington Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Cosmopolis, Washington. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Cosmopolis, Washington, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquistion purposes.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 530059, Panel 0001B, published on December 6, 1982, in 47 FR 54217, indicates that any existing structures located on Lots 16 to 19 inclusive, Block 37 of Corrected Plat of the City of Cosmopolis, as per plat recorded in Volume 1 of Plats, page 35, records of Grays Harbor County; situate in the County of Grays Harbor, State of Washington, are located within the Special Flood Hazard Area.

Map No. 530059, Panel 0001B is hereby corrected to reflect that the existing structure located on Lots 16 and 17 is not within the Special Flood Hazard Area identified on December 6, 1982. The structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 USC 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13619 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

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Proposed Rules

Federal Register
Vol. 48, No. 99
Friday, May 20, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 230 and 250

Personnel Management in Agencies

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing to reorganize regulations regarding agency authorities for taking personnel actions and OPM oversight of agency actions. The changes are part of OPM's effort to streamline and update its regulations and guidance materials. Regulations covering the same topics that now appear in separate parts of Title 5 of the Code of Federal Regulations (5 CFR) would be combined and redundancies eliminated. The substance and coverage of the regulations would be unchanged.

DATE: Comments must be submitted on or before July 19, 1983.

ADDRESS: Send or deliver written comments to: Special Policies Division, Office of Planning and Evaluation, U.S. Office of Personnel Management, Room 7685, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Anne Gavin, 202–254–6486.

SUPPLEMENTARY INFORMATION: This proposed rule is designed to improve the technical integrity of 5 CFR by (1) removing Part 230—Organization of the Government for Personnel Management, and (2) transferring regulations from Part 230—Personnel Management in Agencies, and reorganizing Part 250 to combine related regulations and to accommodate the added material.

The proposed changes are necessary to continue OPM's practice of paralleling the organization of its regulations and guidance materials with the subject matter of title 5 of the United States Code (5 U.S.C.). The Civil Service Reform Act of 1978 added a new Chapter 23 to 5 U.S.C. which does not parallel the subject matter in 5 CFR Part 230.

These revisions would make no changes in the coverage or substance of the regulations from Part 230. Because the two affected parts of the regulations cover closely related topics, i.e., the general personnel management authorities exercised by agencies (Part 230) and the authorities agencies receive through delegated agreements with OPM (Part 250), the regulations to be transferred to Part 250 overlap to some extent with the existing regulations in that part. The amended regulations would eliminate these redundancies and streamline OPM's regulations by presenting all material relating to agencies' authorities for personnel management in a single part of 5 CFR.

Accordingly, the reserved Subparts A and C of Part 230 would be removed. The regulations in Subpart B of Part 230 relating to the exercise of agency authority to take personnel actions would be transferred to Subpart A of Part 250 and would be retitled "Authority for Personnel Actions in Agencies."

Section 230.201 which lays out the standards and requirements for agency personnel actions in general would be redesignated as § 250.101 with no text changes. The former § 250.101 covering delegation agreements would be redesignated as § 250.102 since this section covers specific circumstances under which agencies may take personnel actions and logically follows the material inserted at § 250.101. The text of this section would be unchanged. Sections 230.202 and 250.102 would be combined into § 250.103 which covers OPM's authority to take corrective action, suspend, or withdraw agency authority, including withdrawals effected by revoking a delegated agreement. The text would include editorial changes to combine material from the two source sections.

Subpart D of Part 230, entitled "Agency Authority to Take Personnel Actions in a National Emergency" would be redesignated Part 250, Subpart B. Cross-references to other regulations in 5 CFR would be updated; the text would otherwise be unchanged.

The entire text of the revised Part 250 is set forth below.

These revisions are not intended to change the coverage or substance of the affected regulations. Agencies and other interested parties are requested to submit comments regarding any potential substantive effect of these revisions on agencies' exercise of personnel authorities. As noted above, these changes are proposed to improve the technical integrity of 5 CFR and to streamline OPM's regulations.

Related guidance in Chapters 230 and 250 of the Federal Personnel Manual will also be revised and updated as part of this effort. Comments and suggestions for improving this FPM guidance are also welcome.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to the internal management of Federal agencies and does not substantively change existing regulations.

List of Subjects in 5 CFR Part 250

Authority delegations (Government agencies), Civil Defense, Government employees.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend 5 CFR as follows:

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

1. Part 230 is removed from 5 CFR.

2. Part 250 is amended by revising Subpart A and by adding Subpart B to read as follows:

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

Subpart A—Authority for Personnel Actions in Agencies

Sec.

250.101 Standards and requirements for agency personnel actions.
250.102 Delegation agreements.
250.103 Taking corrective action, suspending, or withdrawing agency authority.

Subpart B—Agency Authority To Take Personnel Actions In a National Emergency

Sec.

250.201 Agency authority to take personnel actions in a national emergency disaster.
250.202 Agency authority to make emergency-indefinite appointments in a national emergency.

Authority: 5 U.S.C. 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; unless otherwise noted.

Subpart A—Authority for Personnel Actions in Agencies

§ 250.101 Standards and requirements for agency personnel actions.

In taking a personnel action authorized by this chapter, each Agency shall comply with the qualification standards and regulations issued by the Office of Personnel Management, the instructions published by the Office of Personnel Management in the Federal Personnel Manual, and the provisions of any agreement developed between the Office and the agency in connection with delegation of a specific authority. When a personnel action is being taken as a result of (a) an order of a Court or a settlement agreement, or (b) a decision or order of or a settlement agreement or an arbitral award reached under the rules and regulations of the Merit Systems Protection Board, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Office of Personnel Management, the agency shall follow the instructions in Federal Personnel Manual Chapter 296.

250.102 Delegation agreements.

In certain circumstances, an agency will receive authorities through a delegation agreement developed between the agency headquarters and OPM. The agreement will set forth the conditions for application of a particular authority (or authorities). The agreement will include a description of performance standards and the system of oversight to the used in agency and OPM monitoring of authority use. An agreement will be for an initial period not to exceed two years. Renewals may be for an indefinite period unless modified, suspended or revoked for abuse.

§ 250.103 Taking corrective action, suspending, or withdrawing agency authority.

If OPM finds that an agency has taken a personnel action contrary to law, rule, regulation or standard, it may require the agency to take corrective action. OPM may suspend or withdraw any authority granted by this chapter to an agency, including any authority granted by delegated agreement, when it finds that the agency has not complied with the qualification standards issued by OPM, the instructions published by OPM in the Federal Personnel Manual, or the regulations in this chapter, or that the suspension or withdrawal is in the interest of the service for any other reason. Where a delegation agreement developed as set forth in § 250.102 of this part contains additional conditions for application of a particular authority or authorities, OPM may suspend or revoke the agreement at any time if it judges that the agency is not adhering to the provisions of the agreement.

Subpart B—Agency Authority To Take Personnel Actions In a National Emergency

§ 250.201 Agency authority to take personnel actions in a national emergency disaster.

(a) Upon an attack on the United States, agencies are authorized to carry out whatever personnel activities may be necessary to the effective functioning of their organizations during a period of disaster without regard to any regulation or instruction of OPM, except those which become effective upon or following an attack on the United States. This authority applies only to actions under OPM jurisdiction.

(b) Actions taken under this section shall be consistent with affected regulations and instructions as far as possible under the circumstances and shall be discontinued as soon as conditions permit the reapplication of the affected regulations and instructions.

(c) An employee may not acquire a competitive civil service status by virtue of any action taken under this section.

(d) Actions taken, and authority to take actions, under this section may be adjusted or terminated in whole or in part by OPM.

(e) Agencies shall maintain records of the actions taken under this section.

(5 U.S.C. 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218)

§ 250.202 Agency authority to make emergency-indefinite appointments in a national emergency.

(a) *Basic authority.* In a national emergency, as defined in the Federal Personnel Manual, an agency may make emergency-indefinite appointments to continuing positions (normally those expected to last longer than a year) when it is not in the public interest to make career or career-conditional appointments. Except as provided by paragraphs (b) and (c) of this section, the agency shall make appointments under this authority from appropriate registers of eligibles as long as there are available eligibles.

(b) *Appointment outside the register.* An agency may make emergency-indefinite appointments under this section outside registers of eligibles when all the following conditions are met: (1) A number of vacancies must be filled immediately as a result of conditions created by the national emergency;

(2) Either the number of vacancies to be filled exceeds the number of immediately available eligibles or emergency conditions do not allow sufficient time to make this determination; and

(3) Available eligibles on registers are given prior or concurrent consideration for appointment to the extent possible within emergency time considerations.

(c) *Appointment noncompetitively.* An agency may give emergency-indefinite appointments under this section to the following classes of persons without regard to registers of eligibles and the provisions in § 333.102 of this chapter: (1) Persons who were recruited on a standby basis prior to the national emergency in accordance with applicable requirements published in the Federal Personnel Manual;

(2) Members of the National Defense Executive Reserve, designated in accordance with section 710(e) of the Defense Production Act of 1950, Executive Order 11179 of September 22, 1964, and applications issued by the agency authorized to implement the law and Executive Order; and

(3) Former Federal employees eligible for reinstatement.

(d) *Tenure of emergency-indefinite employees.* (1) Emergency-indefinite employees do not acquire a competitive status on the basis of their emergency-indefinite appointments.

(2) An emergency-indefinite appointment may be continued for the duration of the emergency for which it is made.

(e) *Trial period.* (1) The first year of service of an emergency-indefinite employee is a trial period.

(2) The agency may terminate the appointment of an emergency-indefinite employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate

(f) *Eligibility for within-grade and merit pay increases.* For purposes of determining eligibility for within-grade and merit pay increases, employees serving under emergency-indefinite appointments are considered to occupy permanent positions.

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(g) *Applications of other regulations.* (1) The term "indefinite employee" as used in the following includes an emergency-indefinite employee: Section 316.801, Part 351, and Subpart G of Part 550 of this chapter.

(2) The selection procedures of part 333 of this chapter apply to emergency-indefinite employees appointed outside the register under paragraph (b) of this section.

(3) Despite the provisions in § 831.201(a)(11) of this chapter, an employee serving under an emergency-indefinite appointment under authority of this section is excluded from retirement coverage, except as provided in paragraph (b) of § 831.201 of this chapter.

(h) *Promotion, demotion, or reassignment.* An agency may promote, demote, or reassign an emergency-indefinite employee to any position for which it is making emergency-indefinite appointments.

[FR Doc. 83-13446 Filed 5-19-83; 8:45 am]
BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 51

Requirements for Licensee Actions Regarding the Disposition of Spent Fuel Upon Expiration of the Reactors' Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has determined, in a separate proceeding known as the "Waste Confidence" rulemaking proceeding that there is reasonable assurance that one or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by 2007–2009. However, the Commission recognizes that there are circumstances under which spent fuel generated prior to that time may remain at reactor sites after the expiration of reactor operating licenses. Some reactor operating licenses will expire or the permanent shutdown of some reactors could occur prior to the 2007–2009 period. Also, since there are not expected to be any safety or environmental problems which would create a need to move fuel offsite, there is some possibility that an election of onsite spent fuel storage after reactor operating license operation may be appropriate. The Commission has considered the safety and environmental impacts of such extended spent fuel storage in the "Waste Confidence" proceeding and for the reasons discussed therein and highlighted below, finds that extended storage for up to 30 years after the expiration of an operating license will result in no significant safety or environmental impacts. The Commission believes there is reasonable assurance that no later than 30 years after the expiration date of the operating license for any commercial power reactor, sufficient repository capacity will have been made available to dispose of all commercial high-level radioactive waste and spent fuel in existence. Thus there is no reasonable probability that spent fuel will unavoidably remain at a reactor site at the end of that 30-year period. Accordingly, the Commission hereby proposes a rule providing that the environmental and safety implications of spent fuel storage after the termination of reactor operating licenses need not be considered further in Commission proceedings for the issuance of an operating license or licensee amendment for a nuclear power plant, despite some probability that such storage may be elected or necessary. The proposed rule also applies to proceedings for licensing spent fuel storage in independent spent fuel storage installations under Part 72, since the same safety and environmental considerations apply as for storage in reactor basins.

The Commission hereby proposes a rule whereby in proceedings for licensing of facilities at which spent fuel will be stored, or proceedings for licensing the expansion of storage capacity at existing facilities, the NRC will continue to require consideration of reasonable foreseeable safety and environmental impacts of spent fuel storage for the period of the license or amendment applied for but will not require consideration of the safety and environmental impacts of storage of spent fuel beyond the expiration of the license or amendment applied for. However, the Commission's proposed rule would require reactor licensees to submit their plans for NRC review and approval 5 years before their operating licenses expire on specifically how spent fuel at these sites will be managed.

Accordingly, the Commission hereby proposes amendments to the Code of Federal Regulations which define procedures to be followed by the licensee to ensure the continued safe management of spent fuel beyond the expiration date of reactor operating licenses and which address the environmental aspects of extended spent fuel storage past the expiration of reactor operating licenses or license for storage in an independent spent fuel storage installation. The amendments are set forth here to complement and complete the Commission findings resulting from the Waste Confidence rulemaking proceeding.

DATES: Comments should be filed with the Commission's Secretary not later than July 5, 1983. Comments received after this date will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attn.: Docketing and Service Branch.

Hand deliver comments to: Room 1121, 1717 H St., N.W., Washington, D.C. between 8:15 a.m. and 5:00 p.m.

Examine comments received at: The NRC Public Document Room, 1717 H St., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dennis Rathbun or Clyde Jupiter, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (202) 634–3295.

SUPPLEMENTARY INFORMATION:

Background

By a Notice of Proposed Rulemaking dated October 18, 1979, 44 FR 61372 (October 25, 1979), the Nuclear Regulatory Commission ("Commission" or "NRC") began a generic rulemaking proceeding "to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal will be available, and whether such wastes can be safely stored until they are safely disposed of." This proceeding became known as the "Waste Confidence" rulemaking proceeding, and was conducted partially in response to a remand by the United States Court of Appeals for the D.C. Circuit. *State of Minnesota* v. *NRC*, 602 F.2d 412 (1979). *State of Minnesota* involved a challenge to license amendments to permit the expansion of spent fuel pool storage capacities at two nuclear powerplants. It was contended that uncertainty regarding ultimate disposal of commercial nuclear wastes required the Commission to consider the safety and environmental implications of storing spent fuel in the pools for an indefinite period following expiration of the plants' operating licenses. The Commission had excluded consideration of such long-term on-site storage from the license amendment proceedings, relying on its earlier finding that safe permanent disposal of reactor wastes would be available when needed.

The Court of Appeals agreed with the Commission that, in accordance with the "rule of reason" implicit in the National Environmental Policy Act (NEPA), impacts of extended on-side storage of spent fuel need not be considered in licensing proceedings unless such storage was reasonably foreseeable and not merely a theoretical possibility. The Court held, however, that the Commission's statement of reasonable confidence in the timely availability of waste disposal solutions was "not the product of a rulemaking record devoted expressly to considering the question" and furthermore did not address the particular problem whether disposal solutions would be available before the expiration of plant operating licenses. *Id.* at 417. Accordingly, the D.C. Circuit remanded to the Commission for determination "whether there is reasonable assurance that an off-site storage solution will be available by the years 2007–09, the expiration of the plants operating licenses, and if not, whether there is reasonable assurance that the fuel can be stored safely at the site beyond those dates." *Id.* at 418. The Court noted that "the breadth of the questions involved and the fact that the ultimate determination can never rise above a prediction suggest that the determination may be a kind of legislative judgment for which rulemaking would suffice." *Id.* at 417. The Court agreed that the Commission "may proceed in these matters by generic determinations." *Id.* at 419. *Accord, Potomac Alliance* v. *NRC*, 682 F.2d 1030 (D.C. Cir. 1982).

Amendment to Part 51

The Commission announced the conclusions it reached in the Waste Confidence rulemaking proceeding. The Commission found that there is reasonable assurance that one or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by 2007–09. However, some reactor operating licenses may expire without being renewed or some reactors may be permanently shut down prior to this period. Since independent spent fuel storage installations have not yet been extensively developed, there is then a probability that some onsite spent fuel storage after license expiration may be necessary or appropriate. In addition, the Commission also realizes that some spent fuel may be stored in existing or new storage installations for some period beyond 2007–2009. The Commission hereby proposes a rule providing that the environmental and safety implications of such storage after the termination of reactor operating licenses need not be considered in Commission proceedings related to issuance or amendment of a reactor operating license. This rule has the effect of continuing the Commission's practice, employed in the proceedings reviewed in *State of Minnesota*, of limiting considerations of safety and environmental impacts of spent fuel storage in licensing proceedings to the period of the license in question and not requiring the NRC staff or the applicant to address the impacts of extended storage past expiration of the license applied for. The rule relies on the Commission's generic determination in the Waste Confidence proceeding that the licensed storage of spent fuel for 30 years beyond the reactor operating license expiration either at or away from the reactor site is feasible, safe, and would not result in a significant impact on the environment. For the reasons discussed in the Waste Confidence decision, the Commission believes there is reasonable assurance that adequate disposal facilities will become available during this 30-year period. Thus, there is no reasonable probability that storage will be unavoidable past the 30-year period in which the Commission had determined that storage impacts will be insignificant. The same safety and environmental considerations apply to fuel storage installations licensed under Part 72 as for storage in reactor basins. Accordingly, in licensing actions involving (a) the storage of spent fuel in new or existing facilities, or (b) the expansion of storage capacity at existing facilities, the NRC will continue to require consideration of reasonably foreseeable safety and environmental impacts of spent fuel storage only for the period of the license applied for. The amendment to 10 CFR Part 51 confirms that the environmental consequences of spent fuel storage in reactor facility storage pools or independent spent fuel storage installations for the period following expiration of the reactor or facility license or amendment applied for need not be addressed in any environmental report, impact statement, impact assessment, safety analysis report, or other analysis prepared in connection with the reactor operating license or amendment to the operating license, or initial license for an independent spent fuel storage installation, or amendment thereto.

The Commission's conclusions with respect to safety and environmental impacts of extended storage beyond expiration of current operating licenses are supported by the record in NRC's waste confidence proceeding and by NRC's experience in more than 80 individual safety and environmental evaluations conducted in storage licensing proceedings. The record of the Waste Confidence proceeding indicates that significant release of radioactivity from spent fuel under licensed storage conditions is highly unlikely because of the resistance of the spent fuel cladding against corrosive mechanisms and the absence of any conditions that would provide a driving force for dispersal of radioactive material. The non-radiological environmental impacts associated with site preparation and construction of storage facilities are and will continue to be considered by the NRC at the time applications are received to construct these facilities, which are licensed under NRC's regulations in either 10 CFR Part 50 for reactors or 10 CFR Part 72 for independent spent fuel storage installations. There are no significant additional non-radiological consequences which could adversely affect the environment for storage past the expiration of operating licenses at reactors and independent spent fuel storage installations.

The amendment to Part 51 published here consists of two parts: paragraph (e)(1) and paragraph (e)(2). Paragraph (e)(1) is a restatement of a final generic Commission determination based on the Waste Confidence rulemaking proceeding, while paragraph (e)(2) establishes the procedures for implementing that generic determination in individual licensing cases. The Commission requests public comment on paragraph (e)(2).

Amendment to Part 50

The Commission is also proposing an amendment to 10 CFR Part 50 as set forth here, concerning the management of spent fuel from nuclear power reactors whose operating licenses may expire prior to the availability of a repository. The procedures established by this amendment are intended to confirm that there will be adequate lead time for whatever actions may be needed at individual reactor sites to assure that the management of spent fuel following the expiration of the reactor operating license will be accomplished in a safe and environmentally acceptable manner.

The Commission proposes that Part 50, § 50.54 be amended to establish requirements that the licensee for an operating nuclear power reactor shall no later than 5 years prior to expiration of the reactor operating license submit

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plans for NRC review and approval of the actions which the licensee proposes for management of all irradiated fuel at the reactor upon expiration of its operating license. No specific course of action is required of the licensee by the NRC. Licensee actions could include, but are not necessarily limited to, continued storage of spent fuel in the reactor spent fuel storage basin; storage in an independent spent fuel storage installation (refer to 10 CFR § 72.3(m)) located at the reactor site or at another site; transshipment to and storage of the fuel at another operating reactor site in that reactor's basin; reprocessing of the fuel if it appears that licensed reprocessing facilities will be available; or disposal of the fuel in a repository. The proposed actions must be consistent with NRC requirements for licensed possession of irradiated or spent fuel (as defined in §72.3(v)) and must be capable of being authorized by the NRC and implemented by the licensee on a timely basis. The licensee's plans must specify how the financial costs of extended storage or other disposition of spent fuel will be funded. Further, the licensee's plans must describe the proposed disposition of all irradiated fuel from the reactor. The licensee shall notify the NRC of any significant changes to these plans; changes are not precluded provided that the licensee maintains the capability to manage the spent fuel safely.

The Commission notes that extended storage of spent fuel at a reactor beyond the expiration date of the operating license will require an amendment to the Part 50 license to cover possession only of the reactor and spent fuel under the requisite provisions of Parts 30, 50 and 70, or an athorization pursuant to Part 72, "Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation" (ISFSI). This rulemaking does not alter the requirements and provisions of Part 72 with respect to environmental considerations (§ 72.20), nor provisions of Part 51 (§ 51.5(a)(10) and §51.5(b)(4)(iv)) with respect to the performance of environmental assessments of the impacts of spent fuel storage in an independent spent fuel storage installation or extended storage in a reactor spent fuel pool. This means that the NRC staff will continue to perform environmental reviews before issuing a license under 10 CFR Part 72 or an amendment for extend storage under 10 CFR Part 50. Notice of the receipt of a license application for storage of spent fuel pursuant to Part 72 will be published in the **Federal Register.**

Related Commission Actions

On March 13, 1978, an Advance Notice of Proposed Rulemaking was published by NRC in the **Federal Register** (43 FR 10370) that indicated that the NRC was reevaluating its decommissioning policy and considering amending its regulations to provide more specific guidance on decommissioning of nuclear facilities. In January 1981, NRC published a "Draft Generic Environmental Impact Statement on Decommissioning Nuclear Facilities" (NUREG-0586). Proposed amendments to 10 CFR Parts 30, 40, 50, 70, and 72 are being prepared by the NRC staff for Commission consideration. The proposed amendments for decommissioning would allow unrestricted use of a reactor or independent spent fuel storage installation site and would permit termination of the license. However, the storage of irradiated fuel either in a reactor basin or in an independent spent fuel storage installation would require restricted access and management of the storage facility to protect public health and safety. Thus, any continued storage of spent fuel beyond expiration of an operating license would be licensed under either Parts 50 or 72 and could preclude final decommissioning of the site.

Amendments

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, Section 301 of Public Law 96-295, and Section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Parts 50 and 51 of Title 10, Chapter 1, of the Code of Federal Regulations is contemplated.

The Commission requests public comment on the proposed new paragraph, 10 CFR 50.54(x), to be added to 10 CFR Part 50. The Commission also requests public comment on the proposed new paragraph 10 CFR 51.5(e)(2), to be added to 10 CFR Part 51. The Commission does not request comment on the proposed paragraph, 10 CFR 51.5(e)(1), which restates a conclusion of the Commission's "Waste Confidence" proceeding.

List of Subjects

10 CFR Part 50

Administrative practice and procedure, Antitrust, Classified information, Emergency medical services, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. In § 50.34 immediately following paragraph (w), a new paragraph (x) is added to read as follows:

§ 50.54 Conditions of licenses.

Whether stated therein or not, the following shall be deemed conditions in every license issued.

* * * * *

(x) For operating nuclear power reactors, the licensee shall, no later than 5 year before expiration of the reactor operating license, submit written notification to the Commission for its review and approval of the program by which the licensee intends to manage and provide funding for the management of all irradiated fuel at the reactor upon expiration of the reactor operating license until ultimate disposal of the spent fuel in a repository. The licensee must demonstrate to NRC that the elected actions will be consistent with NRC requirements for licensed possession of irradiated nuclear fuel and that the actions will be implemented on a timely basis. Where implementation of such actions require NRC authorizations, the licensee shall verify in the notification that submittals for such actions have been made to NRC and shall identify them. A copy of the notification shall be retained by the licensee as a record until expiration of the reactor operating license. The licensee shall notify the NRC of any significant changes in the proposed waste management program as described in the initial notification.

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

1. The authority citation for Part 51 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242 as amended, 1244 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853, 854, as amended (42 U.S.C. 4332, 4334, 4335).

2. In § 51.5 immediately following paragraph (d)(4) a new paragraph (e) is added to read as follows:

§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental impact appraisals; actions excluded.

* * * * *

(e)(1) The Commission has made a generic determination that no significant environmental impacts will result from the storage of spent fuel for up to 30 years or more beyond the expiration of reactor operating licenses in onsite reactor facility storage pools or independent spent fuel storage installations located at reactor or away-from-reactor sites. Further, the Commission believes there is reasonable assurance that one or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by the years 2007–09, and that sufficient repository capacity will be available within 30 years beyond expiration of any reactor operating license to dispose of commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

(2) Accordingly, the environmental consequences of spent fuel storage in reactor facility storage pools or independent spent fuel storage installations for the period following expiration of the reactor or storage installation license applied for need not be addressed in any environmental report, impact statement, impact assessment, safety analysis report, or other analysis prepared in connection with a reactor operating license or amendment to the operating license or initial license for an independent spent fuel storage installation, or amendment thereto. This rule does not alter any pre-existing regulatory requirements for consideration in licensing proceedings of safety or environmental consequences of spent fuel storage for the term of the license or amendment applied for.

Dated at Washington, D.C. this 16th day of May 1983.

For the Commission.[1]

Samuel J. Chilk,

Secretary of the Commission.

Commissioner Gilinsky's Separate Views Regarding Proposed Amendments to 10 CFR Parts 50 and 51 (Waste Confidence Proceeding)

May 13, 1983.

The current generation of nuclear power plants was licensed on the assumption that spent fuel would be retained on site for a brief period, prior to being sent away for reprocessing. It has now become obvious that the spent fuel will, in fact, be kept on-site for an extended period of time, in many cases beyond the operating life of the plants.

The Commission apparently recognizes that its past assumptions on the disposition of spent fuel no longer hold true but is doing nothing about this beyond making a broad finding that extended on-site storage is acceptable from the point of view of safety. While I agree that there is no obstacle in principle to extended on-site storage, I think it is clear that each power reactor site will have to be examined in detail. The rule proposed by the Commission puts off addressing the practical aspects of this problem for many years, and in some cases, decades.

In the case of new reactors which are applying for operating licenses, the rule should require the utility to show that there will be no impediment to storing on-site the spent fuel which will be generated during the plant's useful life. In view of the uncertainties about the availability of off-site disposal capacity, the Commission should, in addition, require a showing that there is no impediment to continuing such storage for some reasonable period of time after the likely end of operation. The utilities should also be required to commit themselves formally to financing on-site fuel storage until the fuel can be moved off-site. In the case of reactors which are already in operation, the utilities should be asked to make similar showings within a few years.

[1] Commissioner Gilinsky dissented from this action and his separate views are attached.

[FR Doc. 83-13801 Filed 5-19-83; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR PART 423

Amendment to Trade Regulation Rule Concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods

AGENCY: Federal Trade Commission.

ACTION: Final amendments to trade regulation rule.

SUMMARY: The Federal Trade Commission issues a final amendment to 16 CFR Part 423, which is retitled Care Labeling of Textile Wearing Apparel and Certain Piece Goods, as amended. The trade regulation rule, as amended, requires manufacturers and importers of textile wearing apparel and certain piece goods to provide labels for their products which disclose information for cleaning and care of the product. The rule is intended to assist consumers in making informed purchase decisions concerning the care characteristics of competing products, and to enable consumers and cleaners to avoid product damage caused by the use of improper cleaning procedures.

This notice contains the Statement of Basis and Purpose for the amendments to the Rule and the text of the Rule as amended.

EFFECTIVE DATE: These amendments to the Rule are being submitted to the Congress for review in accordance with Section 21 of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. 57a–1. Under that section, a rule becomes effective unless both Houses of Congress disapprove the rule within 90 calendar days of continuous session after the rule is submitted. Because computation of the 90 day period is not possible in advance (see section 21(g) of the Improvements Act), the Commission cannot specify an effective date for this Rule. The Commission intends that it become effective 90 days after the conclusion of congressional review and will publish a further notice of effective date in the **Federal Register** as soon as possible thereafter.

ADDRESS: Requests for copies of the Rule and Statement of Basis and Purpose should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, (202) 376–2891.

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Statement of Basis and Purpose

I. Introduction

A. *Overview of the Amended Rule*

The current care labeling rule, adopted in 1971, reflects the Commission's determination that it is unfair and deceptive to sell textile clothing without providing basic care information to consumers.[1] The Commission found that absent such care information, consumers suffer substantial economic injury by being unable to shop for clothing on the basis of care characteristics, and by using improper care procedures that damage clothing. Consequently, the care labeling rule mandates disclosures which "fully inform the purchasers how to effect such regular care and maintenance as is necessary to the ordinary use and enjoyment of the article."[2]

In the time since the rule was issued, clothing care labels have become commonplace, and consumers, as well as professional cleaners, have come to rely upon them routinely as aids in making economical purchase decisions and avoiding improper care procedures. Nevertheless, the current rule has not been as effective as it could be because it does not clearly state what information should be on care labels. As a result some labels are incomplete, inconsistent, or inaccurate. The lack of clarity also poses an obstacle to the enforcement of the rule.

The amended rule is being adopted by the Commission in order to clarify existing obligations under the current rule by identifying in greater detail the washing or drycleaning information which should be included on care labels. The amended rule requires manufacturers and importers to attach a permanent care label to all textile wearing apparel covered by the rule. Manufacturers[3] of certain piece goods must provide the same care information as that for textile wearing apparel on the end of each bolt or roll of fabric. This information must fully disclose either washing or drycleaning instructions. If washing instructions are given, the label must also disclose a drying procedure and, in some circumstances, bleaching and ironing care. If drycleaning instructions are given, the appropriate solvent(s) must be disclosed if all solvents cannot be used. Use of standardized terminology is urged for all care instructions.

B. *Background of This Proceeding*

The Commission promulgated the current rule on December 16, 1971, giving it an effective date of July 3, 1972.[4] The current rule prohibits the unfair or deceptive practice of failing to attach a label to finished textile products "which clearly discloses instructions for the care and maintenance of such article."[5] The note to the current rule specifically defines instructions which are not unfair or deceptive. They are instructions which:

1. Fully inform the purchaser how to effect such regular care and maintenance as is necessary to the ordinary use and enjoyment of the article, *e.g.*, washing, drying, ironing, bleaching, drycleaning and any other procedures regularly used to maintain or care for a particular article;

2. Warn the purchaser as to any regular care and maintenance procedures which may usually be considered as applying to such article but which, in fact, if applied, would substantially diminish the ordinary use and enjoyment of such article;

3. Are provided in such a manner that they will remain legible for the useful life of the article;

4. Are made readily accessible to the user.[6]

The current rule does not, however, clearly define under what circumstances particular care procedures (*e.g.*, ironing or bleaching) must be included, or explain what actual wording on a label would "clearly disclose" care instructions. Instead, the rule leaves the task of determining the content and wording of care labels almost entirely to manufacturers.[7]

After the current rule was promulgated, Commission staff received numerous requests from manufacturers seeking clarification of the rule's provisions. Staff also received consumer complaints about the care information on products. Accordingly, on April 3, 1974, the Commission issued a Request for Comment to help evaluate the extent of compliance with the current rule and the possible need for extensions of the rule.[8] After analyzing over 9,000 reponses, the staff recommended proposed amendments to extend the current rule's product coverage and to make more specific its instructions about the content of care labels.[9]

On January 26, 1976, the Commission published a proposed amended rule in the **Fedral Register** and requested comment.[10] The Commission also appointed a Presiding Officer. Drawing on the responses to the January 26, 1976 notice, the Presiding Officer published designated issues[11] pursuant to Section 1.13(d) of the Commission's Rules of Practice. Hearings were held in Washington, D.C. beginning November 8, 1976, for two weeks and in Los Angeles, California beginning January 10, 1977, for one week.[12] The record remained open for rebuttal of oral testimony until March 1, 1977.[13] After reviewing the record, the Presiding Officer published a report in July 1977 containing his findings and conclusions and recommending that the Commission promulgate a revised rule.[14] A staff report analyzing the record and making recommendations was published in May 1978.[15]

After a public comment period on these two reports, the Commission held an oral presentation during which representatives of major interested parties to this proceeding directly presented their views to the Commissioners.[16] The Commission thereafter held a mark-up session at which it approved in substance an amended care labeling rule. In January 1981, the Commission published its proposed final amended rule for technical comments.[17] Finally, in June 1982, after reviewing the rulemaking record as a whole, the Commission found there was sufficient evidence to support the amendments that clarify the requirements of the current rule. However, the Commission did not extend coverage of the rule to other products.

II. Basis for Amended Rule

A. *Existing Care Labeling Practices*

1. *Introduction.* The Commission is adopting an amended care labeling rule better to address the unfair and deceptive practices prohibited by the current rule. When the current rule was issued in 1971, evidence before the Commission showed that manufacturers of textile products were not providing consumers with care labels, despite voluntary programs encouraging them to do so.[18] The evidence also showed that it was almost impossible for consumers, absent such care labels, to knows what specific care techniques to use when cleaning fabrics given vast array of fibers, constructions, and finishes available.[19]

To correct the problems demonstrated by the record before it, the Commission adopted the current rule, requiring manufacturers to attach permanent care labels to textile products. From the record in this proceeding it appears that adoption of the current rule has, in fact, helped reduce the unfair and deceptive practices which the current rule prohibits. In particular, the record suggests that most textile products now have care labels attached to them.[20]

However, the Commission also decided in 1971 not to specify in detail what information should be provided on care labels. The evidence in this proceeding suggests that greater specificity is appropriate. The rulemaking record shows that some existing care labels provide inadequate care instructions.[21] It further suggests that one cause of this problem is the failure of the current rule clearly to spell out what care information labels should contain. There are three specific problems that appear traceable to the inadequacies of the current rule and are the basis for adopting an amended rule. These are: (1) insufficient care labeling; (2) inconsistent care labeling by different manufacturers; and (3) inaccurate care labeling. Each of these is discussed separately below.

2. *Improper Labeling.* a. *Insufficient care Labeling.* Some care labels fail to provide sufficient information to enable the buyers to effect the regular care necessary for the ordinary use and enjoyment of textile wearing apparel. Although the care instructions may be clear in what they do state, crucial steps are omitted. For example, some consumers complained that washing instructions are not accompanied by drying or ironing instructions. Others complained that there is not enough information given about the proper temperatures for washing, drying and ironing.[22] In some cases, instructions failed to warn against harmful procedures, or even to warn that *no* care was possible.[23]

b. *Inconsistent care labeling.* Inconsistent care instructions is a second problem. Inconsistency is attributable primarily to the variety of terms used by manufacturers to convey similar meanings,[24] and by the use of the same terms to convey different meanings.[25] This inevitably creates confusion among consumers as to the meaning of care instructions.[26]

An additional problem involves the inconsistent meaning of silence (*i.e.*, lack of specific instructions on a particular care procedure) in labels prepared by different manufacturers. The record indicates that on some labels silence as to a particular procedure (for example, bleaching) may mean that the procedure is improper or unsafe. In other cases, silence may signal that the procedure is safe. In yet other cases, silence may mean that the manufacturer does not know whether the procedure can safely be used on the product. Such inconsistency has led to consumer confusion and product damage.[27]

c. *In accurate care labeling.* A third problem is care labels that specify a care procedure which either is harmful to or ineffective for the textile wearing apparel to which it applies. The existence of such inaccurate care labeling has been noted by commenters from within the textile manufacturing

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[1] Trade Regulation Rule Relating to the Care Labeling of Textile Wearing Apparel, 16 CFR 423 (1982) (hereinafter referred to as the "current rule").

[2] 16 CFR 423.1 (Note) (1982).

[3] As used in this Statement of Basis and Purpose, the term "manufacturers" includes importers who would be covered by the amended rule.

[4] 36 FR 23883 (1971).

[5] 16 CFR 423.1(a) (1982).

[6] 16 CFR 423.1 (Note) (1982).

[7] Four examples of care labels accompany the text of the current rule. However, these examples do not provide manufacturers with generally applicable guidance as to the content or working of care labels.

[8] Notice of Opportunity to Submit Written Comments and Data Regarding Specific Questions Related to the Care Labeling Rule, 39 FR 12036 (1974).

[9] Report on Request for Comment on Care Labeling Rule (June, 1975) (hereinafter cited as Comment Report); *see* rulemaking record volume 215–22–1–22 at pages 1–62.

[10] 41 FR 3747 (1976). The comments received were placed in the rulemaking record at volumes 215–22–1–17, 18, 19 and 20. Hereinafter, references to this portion of the record will be "R." followed by the last two digits of the volume numbers (*e.g.*, R. 17, R. 18).

[11] Final Notice of Proposed Trade Regulation Rulemaking Proceeding and Public Hearings, 41 FR 35863 (1976).

[12] Designated group representatives were appointed by the Commission to participate at those hearings and allowed cross-examination and other rights in accordance with Magnuson-Moss rulemaking procedures, 15 U.S.C. 57a. Transcripts of the proceedings and exhibits received during the proceedings were placed in the rulemaking record at volumes 215–22–1–24. Hereinafter, references to the transcript will be "Tr." followed by the page number and references to exhibits will be "HX" followed by the exhibit number and the page number.

[13] Rebuttal material was placed in volume 215–22–1–25 of the rulemaking record. References to rebuttal material herein will be "R. 25" followed by the page number.

[14] Report of the Presiding Officer on Proposed Revised Trade Regulation Rule Regarding Care Labeling of Textile Products and Leather Wearing Apparel (July 11, 1977) (hereinafter Presiding Officer's Report). The Presiding Officer's Report was placed on the public record at volume 215–22–1–26.

[15] Staff Report and Proposed Revised Trade Regulation Rule, (May, 1978) at 10–28 (hereinafter, Staff Report). The Staff Report was placed on the public record in volume 215–22–1–26. *See, also,* Release of Staff Report and Proposed Revised Trade Regulation Rule; Invitation to Comment, 43 FR 28334 (1978).

[16] Notice of Oral Presentation Before the Commission, 44 FR 30570 (1979). The transcript of the presentation was placed in volume 215–22–1–24.

[17] Notice of Opportunity for Technical Comment on Proposed Rule, 46 FR 935 (1981). Comments were placed in volume 215–22–1–27.

[18] 36 FR 23883, 23886 (1971).

[19] *Id.*, at 23885.

[20] For example, when the Commission asked in 1974 "are care labels presently affixed to all finished articles of wearing apparel made of textiles?", 3464 of 3811 comments (90%) indicated compliance insofar as presence of the label is concerned. Comment Report, R. 22 at 6.

[21] The record does not show what percentage of care labels fail to provide clear and complete care instructions. *See* discussion in Section V.A below.

[22] *E.g.* R. 18 at 724, consumer; R. 20 at 345, textile specialist; R. 20 at 470, extension agent; R. 20 at 254, Headquarters, Army and Air Force Exchange Service, Dallas; R. 18 at 637, consumer; R. 18 at 330, consumer.

[23] *See, e.g.*, Staff Report at 49–51. There also is evidence in the record suggesting the reverse of insufficient care labeling, namely labeling which is unnecessarily detailed. For example, the preparers of a survey which sampled over 2,500 apparel items from 122 different manufacturers concluded that some major suppliers and retailers ". . . have provided lengthy, detailed, and sometimes confusing care instructions of twenty to thirty words." R. 17 at 1505, Kurt Salmon Associates, "Analysis of the Care Labeling Practices of the Apparel and Textile Industries in the U.S." (October 1975–January 1976). It may be that such manufacturers, who provide more care information than is reasonably necessary, do so because they do not accurately understand their compliance obligations under the current rule.

[24] R. 18 at 628A, consumer; R. 20 at 344–45, extension specialist; R. 20 at 627–31, M. Dana.

[25] Tr. 1985–96, V. White, Chairman, ASTM Committee D–13. The New York Cooperative Extension Agents, on surveying their consumer constituency, found that the word "wash" had 58 different meanings, the word "ironing" had 22 meanings and the word "dryclean" had 13 different connotations. "One word has to be meaningful to many people and we have to make it clear . . . what these words mean."

[26] R. 17 at 124, Celanese (especially with variations in temperature descriptions); R. 17 at 421, American Home Appliance Association (overly-technical language); R. 18 at 110, consumer (many different ways of saying the same thing); R. 18 at 200, 630, 777, 822, consumers; R. 20 at 5, extension agent.

[27] Staff Report at 130–41.

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industry[28] and by clothing retailers.[29] Consumers also have cited instances in which textile wearing apparel was damaged due to inaccurate instructions.[30] In addition, drycleaners have expressed concern about harm to fabrics from inaccurate labeling,[31] and bleach manufacturers have noted inaccurate bleaching instructions.[32]

The problem of inaccurate labeling may not be entirely attributable to manufactures' uncertainties over the current rule. Some commenters have suggested that inaccurate labeling results when manufacturers have no actual concern for accuracy and put labels on garments merely to appear in compliance with the current rule.[33] If some manufacturers are, in fact, deliberately ignoring their obligations under the current rule, they may ignore their obligations under the amended rule as well. The amended rule will, however, make it easier for the Commission to enforce the rule against such manufacturers by more clearly defining their obligations, thereby making it easier to demonstrate that rule violations have occurred. The amended rule therefore can be expected to deter deliberately inaccurate labeling more effectively than the current rule. Moreover, some inaccurate labeling may result because manufacturers misunderstand their obligations under the current rule. For example, some manufacturers may be unaware that they are required to have a reasonable basis for their care instructions. This requirement is implicit but not directly stated in the current rule. The amended rule expressly requires a reasonable basis for care instructions and explains what kinds of information may be relied upon as a reasonable basis for care instructions. The amended rule will therefore reduce inaccuracies by specifying more clearly manufacturer's compliance obligations under the rule.

B. *Unfair and Deceptive Acts and Practices—§ 423.5*

1. *Introduction.* The statement of basis and purpose accompanying the current rule explained why the acts and practices prohibited by its Sections 423.1 (a) and (b) violate Section 5 of the FTC Act. Essentially the same practices are prohibited by Section 423.5 of the amended rule. The Commission, therefore, intends here only to summarize the legal analysis which supported adoption of the current rule and to amplify it insofar as necessary to explain the amended rule. Accordingly, the discussion below presents, first, the legal basis for the current rule and, second, the basis for those changes from the current rule's Section 423.1 (a) and (b) reflected in Section 423.5 of the amended rule. Third, the Commission separately explains why Section 423.5 of the amended rule includes an explicit reasonable basis requirement.

2. *Legal basis of the current rule.* Sections 423.1 (a) and (b) of the current rule define as an unfair method of competition[34] and an unfair or deceptive act or practice the fast use of manufacturers of finished textile apparel to affix labels ". . . which clearly disclose instructions for the care and maintenance of such article[s]." The note to the rule specifies in more detail the content of labeling which is not unfair or deceptive.

In adopting the current rule, the Commission found the failure to provide care instructions to be deceptive in violation of Section 5 of the FTC Act. In doing so, the Commission relied on the established principle that the failure to disclose facts is deceptive where silence has the effect of misleading the public, concluding:

> It is deceptive not to reveal care instructions when silence on this subject can either mislead the public into using a care procedure which is harmful, or frustrate a basic assumption inherent in the initial purchase—that no special and costly maintenance will be required, and that the consumer will be able to distinguish between the whole range of possible care procedures and use the procedure which is both most effective and most economical.[35]

Various Commission actions since adoption of the current rule have affirmed the underlying principle.[36] Accordingly, the Commission here restates its 1971 determination that a failure to provide care instructions is deceptive.

The Commission also found in 1971 that it was an unfair practice in violation of Section 5 of the FTC Act for manufacturers to fail to provide care instructions. The Commission's finding of unfairness was derived from the substantial injury caused to consumers by the failure to provide care information. The Commission stated:

> The record indicates that many consumers do experience substantial economic loss because of erroneous assumptions about care of clothes, assumptions which are quite normal in the absence of contrary instructions from the manufacturer. Still another source of serious consumer loss derives from the fact that, without this essential information, consumers are unable to distinguish between apparel which may cheaply be maintained, and those which are expensive because of the care procedure involved. The courts have recognized the Commission's broad authority to prohibit practices as unfair (even though not deceptive) where the record proof shows substantial economic injury to a significant number of consumers. [Citations omitted.][37]

This finding was made before the Commission's 1980 statement articulating the three part test to determine whether a practice is unfair under Section 5.[38] However, the Commission concludes here that the finding of unfairness in the current rule's statement of basis and purpose is consistent with this test.

To violate Section 5, the injury created by an unfair practice ". . . must be substantial; it must not be outweighed by any countervailing benefits to consumers or competition that the practice produces; and it must be an injury that consumers themselves could not reasonably have avoided."[39] Each of these factors was considered by the Commission, albeit not necessarily as parts of an unfairness test, when adopting the current rule. The passage cited above from the 1971 statement of basis and purpose contains a finding of substantial economic injury to consumers due to lack of care labeling. Elsewhere, the Commission found that

[28] *See, e.g.*, R. 17 at 130, Director of Research and Development, Phillips-Van Heusen Co. (inaccurate labeling is extensive and often results when manufacturers use information supplied by mills without verifying it); Tr. 1727, American Apparel Manufacturers Association (there is no question but that many garments are mislabeled).

[29] *See, e.g.*, R. 17 at 92, The Colonial, Seattle, Washington (washable labels on jackets when inner construction not washable).

[30] Staff Report at 44–46. (Instances of items damaged when washed or drycleaned by consumers according to instructions). *See also*, Staff Report at 137–39 (washable items "low labeled" as being only drycleanable).

[31] *See, e.g.*, Tr. 1298, J. Schapiro, Dixo Company (many care labels carry information which bears no relation to truth); TR. 1387, International Fabricare Institute; R. 17 at 145 ("dryclean only" lables on garments which cannot be drycleaned properly).

[32] R. 17 at 473, Clorox Co. (negative bleaching instructions on items that can be bleached safely).

[33] *See, e.g.*, R. 17 at 179, drycleaner (some manufacturers are not testing garments and just "putting on the labels" to be in compliance with the care labeling rule).

[34] The amended rule does not define the failure to provide care labels as an "unfair method of competition." The amended care labeling rule is intended to prevent injury to consumers and only incidentally to prevent harm to competitors. Moreover, the amended rule is promulgated under Section 18 of the FTC Act, which applies only to rules that define unfair or deceptive acts or practices.

[35] 36 FR 23889 (1971).

[36] *See, e.g.*, Statement of Basis and Purpose, Trade Regulation Rule, Labeling and Advertising of Home Insulation, 44 FR 50217, 50223 (1979); *Simeon Management Corp. v. FTC*, 579 F. 2d 1137 (9th Cir. 1978).

[37] 36 FR 23889 (1971).

[38] *See* letter from the Commission, to the Honorable Wendell H. Ford and the Honorable John C. Danforth (December 17, 1980).

[39] *Id.*

there was a countervailing benefit to not labeling textile garments—the savings to consumers of the costs associated with a care labeling program—but concluded that this benefit did not outweigh the injury resulting from damaged fabrics.[40] The Commission also considered whether it was possible for consumers to avoid the injury caused by inadequate care labeling and concluded that the variations in appropriate care procedures and the large number of products on the market precluded consumers from obtaining necessary care information unless it was provided by the manufacturer.[41] Accordingly, the Commission now concludes that its 1980 unfairness statement does not require a modification of its 1971 finding that the failure to provide care labels is an unfair practice.

3. *Legal basis of the amended rule.* Section 423.5 of the amended rule is essentially a restatement of Section 423.1 (a) and (b) and the note to the current rule. In revising the rule, the Commission has clarified the rule's requirements and simplified and streamlined the language. The Commission also has made three changes.

First, the Commission has incorporated the provisions of the note into the text of the rule. The note described more specifically the unfair and deceptive acts or practices prohibited in general terms in Section 423.1 (a) and (b). In the amended rule, however, the Commission has integrated these provisions in Section 423.5(a).

A second change is made in response to the Second Circuit's decision in *Katharine Gibbs School Inc.* v. *FTC*, 612 F. 2d 658 (1979). That case held that the Magnuson-Moss Act requires that Commission rules define with specificity the unfair or deceptive acts or practices prohibited. Those acts or practices are defined in Section 423.5(a) of the amended rule. Sections 423.2 and 423.6 through 423.8 of the amended rule set forth remedial requirements prescribed for the purpose of preventing such acts or practices. Section 423.5(b) provides that a manufacturer who complies with the amended rule's remedial requirements is not engaged in the unfair and deceptive acts and practices defined by Section 423.5(a). The revised definitions in Section 423.5(a) are intended neither to increase nor to decrease the compliance obligations specified in the rule's remedial requirements.

Third and finally, Section 423.5(a) contains a few changes to the language used in the note to the current rule. For example, the fourth element in the note, the requirement that care instructions by "made readily accessible to the user" is deleted. To accomplish the same purpose, the Commission has added language to the other parts of amended Section 423.5(a) clarifying that care information must be disclosed to purchasers "prior to sale."

4. *Reasonable basis requirement.* Section 423.5(a)(5) defines it as unfair or deceptive for manufacturers to fail to have a reasonable basis for all regular care information disclosed to a purchaser. There is no comparable language in the current rule. Nevertheless, the inclusion of such language in the amended rule does not materially extend the current rule.

The statements on the care labels required by the current rule are governed by established Commission precedent requiring sellers to have a reasonable basis for material claims they make to consumers.[42] Because care instructions are material claims,[43] all manufacturers currently are required to have a reasonable basis for the care information they put on their labels. Section 423.5(a)(5) sets out this obligation explicitly. The Commission's purpose in placing such a requirement in the amended rule is to ensure that all manufacturers understand the existing need for a reasonable basis and to clarify what constitutes a reasonable basis in this context.[44]

C. *Remedial Requirements—§§ 423.2, .6–.8*

1. *Introduction.* As the discussion above shows, the Commission's major purpose in amending the care labeling rule is to eliminate improper labeling caused by a lack of specific guidance in the current rule. The amended rule contains remedial requirements providing a comprehensive and consistent framework for care information disclosures, which should result in a greater number of clear, comparable, and complete care labels than under the current rule. Any remedial requirements adopted by the Commission must bear a reasonable relationship to the unfair and deceptive practices they are designed to cure.[45] Based upon experience gained under the current rule and the rulemaking record in this proceeding, the Commission has determined that the remedial requirements in the amended rule do bear such a reasonable relationship to the unfair and deceptive acts and practices identified in Section 423.5(a). In fact, the information expressly required by the amended rule already should appear on care labels to comply with the current rule. The amended rule requires that manufacturers provide either washing or drycleaning instructions on a permanent care label for textile wearing apparel. The instructions must identify a proper procedure for each necessary step in the washing or drycleaning process, with additional warnings where applicable. The same information must appear at the end of the bolt or roll of fabric for certain piece goods. These requirements and their intended operation are described below individually, by sections.

2. *Section 423.6—Textile Wearing Apparel.* Section 423.6 contains the provisions of the amended rule which specify the washing or drycleaning instructions which must be on the care labels for textile wearing apparel, and the requirement that the care label of an item which cannot be washed or drycleaned disclose this information. Section 423.6 also identifies how the information should be displayed. This discussion of Section 423.6 describes each of its four parts: (1) Section 423.6(a), attachment of care labels; (2) Section 423.6(b)(1), washing instructions; (3) Section 423.6(b)(2), drycleaning instructions; and (4) Section 423.6(c), reasonable basis.

a. *Section 423.6(a)—Attachment of care labels.* Section 423.6(a) of the amended rule states that "care labels"[46] must be attached to textile products in such a manner that they can be seen or easily found when the product is offered for sale to customers. However, if manufacturers wish to package a garment in such a manner that the care label is not visible, they may do so as long as the care instructions are displayed on the outside of the package

[40] 36 FR 23883, 23888 (1971).

[41] *Id.* at 23885–86.

[42] *See, e.g.*, *Pfizer, Inc.*, 81 FTC 23 (1972). *See also National Dynamics Corp.*, 82 FTC 488 (1973), *mod. on other gds.*, 492 F. 2d 1333 (2nd Cir. 1974), *cert. denied*, 419 U.S. 933 (1974); *Crown Central Petroleum Corp.*, 84 FTC 1493 (1974), *aff'd per curiam*, No. 75–1124 (D.C. Cir., March 4, 1976); *Fedders Corp.*, 85 FTC 38 (1975), *aff'd* 529 F. 2d 1398 (2d Cir. 1976).

[43] *Pfizer, Inc.*, 81 FTC 23, 62 (1972).

[44] Section 423.6(c) of the amended rule clarifies what constitutes a reasonable basis by listing five specific categories of evidence which can be used to comply with the rule, as well as permitting use of other reliable evidence for the same purpose.

[45] This standard has been applied to the Commission's adjudicative orders in a number of cases, including *Jacob Siegel Co. v. FTC*, 327 U.S. 608 (1946), *FTC v. National Lead Co.*, 352 U.S. 419 (1956), and *FTC v. Colgate-Palmolive Co.*, 380 U.S. 374 (1965).

[46] The term "care label" is defined in section 423.1(a) as a "permanent label or tag . . . that is attached or affixed in such a manner that it will not become separated from the product and will remain legible during the useful life of the product."

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or on a hang tag. Section 423.6(a) thus permits merchandising flexibility for manufacturers while ensuring that consumers can determine a textile garment's care both at the point of purchase and at the point of care.

b. *Section 423.6(b)(1)—Washing instructions.* As noted above, Section 423.6 requires manufacturers to place on care labels either a set of washing or a set of drycleaning instructions. For products that can be cleaned by either method, manufacturers may select which of these two sets of instructions to place on the label. Section 423.6(b)(1) describes the information necessary if the label describes a washing procedure.

(1) *Washing method and temperature description*—If a washing procedure is described, Section 423.6(b)(1)(i) of the amended rule states that care labels must specify whether an item should be washed by hand or by machine. This basic information always must appear on the label. In addition, the label ordinarily must say what water temperature should be used. However, if the regular use of hot water will not harm the product, the label need not mention any water temperature. For example, "machine wash" means hot, warm, or cold water can be used.

The amended rule requires information about washing method and temperature to help consumers guard against the most frequent types of damage to textiles.[47] These are excessive shrinkage, color fading or bleeding and general deterioration of a component when washed improperly. Such damage generally is caused by water contact and excessive heat or agitation. It also may be caused by various adverse reactions to detergents, soaps, or softening agents.[48] The amended rule will help prevent application of excessive heat or agitation in washing by specifying that care labels always provide washing method instructions and provide temperature instructions if regular use of hot water will harm the products.[49]

(2) *Drying instructions*—Because drying usually is necessary after washing textile wearing apparel, § 423.6(b)(1)(ii) of the amended rule requires care labels state whether an item should be dried by machine or by some other method. If machine drying is specified, the label also must say what drying temperature should be used. However, if the highest temperature setting will not harm the product, the label need not indicate a drying temperature.[50]

This information will prevent the damage to fabrics during drying, which usually is the result of excessive heat in machine dryers. Use of such improper drying methods can result in shrinkage, permanent wrinkling, scorching or melting.[51]

(3) *Ironing instructions*—The current rule states that purchasers of textile products should be "fully informed" of ironing instructions when such instructions are "necessary to the ordinary use and enjoyment of the article."[52] Section 423.6(b)(1)(iii) of the amended rule clarifies that ironing instructions must be given if ironing is needed regularly to preserve the product's appearance, and that, if ironing is mentioned, the care label also must say what temperature should be used, unless the regular use of a hot iron will not harm the garment.[53] If ironing is not regularly necessary for the care of a particular item, ironing instructions do not have to be put on its care label.[54] However, if ironing would damage the product, a warning is required.[55]

The record in this proceeding supports the need for ironing instructions on the labels of products which require regular ironing. For example, the lack of, or inadequacy of, ironing instructions has caused scorching, burning, or melting which renders items totally unusable.[56] In addition, the fact that a garment does not need ironing on a regular basis, which would be shown by the lack of ironing instructions on its label, may be important to consumers when deciding whether or not to purchase it.[57]

(4) *Bleaching instructions*—The current rule requires bleaching instructions be provided when "necessary to the ordinary use and enjoyment of the article".[58] The rule does not further specify when and what sort of bleaching instructions must be provided.

The apparent result has been the emergence of several conflicting disclosure approaches by manufacturers. For example, some manufacturers overcautiously and misleadingly include "Do Not Bleach" instructions on items which are bleachable.[59] Others simply omit bleaching instructions, leaving the decision whether to bleach to purchasers.[60] These manufactures may not intend the absence of bleaching instructions to imply anything about whether the product may be bleached, but others use silence on a label to imply the article may be bleached.[61] Still others, however, affirmatively state bleaching instructions if bleaching can or should be done.[62] This lack of uniformity in labeling is mirrored by a lack of uniformity in consumer interpretation of labels. For example, 21% of the respondents in one survey believed "machine wash" implies bleachability, while 66% assumed no bleach should be used.[63]

The amended rule clarifies the existing obligation by establishing a uniform disclosure scheme for bleaching instructions. If all available bleaches can safely be used on a regular basis, the label need not mention bleaching.[64]

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[47] The current rule requires washing instructions where "necessary to the ordinary use and enjoyment of the article." 16 CFR 423.1 (Note) (1982). This includes information about washing method and temperature. (*See e.g.*, the second example given of acceptable care instructions under the current rule, 16 CFR 423 (Note) (Example 2) (1982): "Machine wash warm. Gentle Cycle. Do not use chlorine bleach.") The amended rule, however, clarifies this requirement.

[48] Staff Report at 56–60.

[49] The Commission has rejected a proposal by its staff to require care labels always state a washing temperature. As noted in the text, damage to textiles ordinarily results from water that is too hot. Where a product could be damaged by such water, the amended rule requires the label disclose an appropriate washing temperature. Silence as to water temperature would mean even the harshest (hottest) temperature can be used.

[50] As with the washing instructions, the Commission has decided that it is unnecessary to include a drying temperature on a care label unless excessive heat will cause product damage. *See* Staff Report at 59–64.

[51] *Id.* the current rule requires information about drying where it "is necessary to the ordinary use and enjoyment of the article", 16 CFR 423.1 (Note) (1982), but the amended rule clarifies this obligation.

[52] 16 CFR 423.1 (Note) (1982).

[53] This is consistent with the approach adopted by the Commission for disclosure of temperature instructions for washing and drying.

[54] Some commenters favored a requirement that ironing instructions be disclosed in all instances to let consumers know whether or not ironing was necessary. *See* Staff Report at 65–67. The Commission shares the view of other commenters and its staff, however, that ironing instructions need not be included where the owner can obtain full use of an item without ironing. *See* Staff Report at 66–66. Under this disclosure system, a consumer can infer from a label's lack of ironing instructions that a garment does not need ironing as part of its regular care.

[55] *See* Section 423.6(b)(1)(v).

[56] *See* R.16 at 238–291, Students, University of Wisconsin: R.16 at 428, 433, 732, 754, 776, 792, 841, 905, 922, consumers; R. 20 at 239, Home Economist, Univ. of Arizona: Tr. 2519, K. Bourdeau, Dept. of Consumer Affairs, Los Angeles County.

[57] *See* R. 18 at 2403, Consumer Staff Report at 67.

[58] 16 CFR 423.1 (Note) (1982).

[59] Staff Report at 81.

[60] Staff Report at 88.

[61] Staff Report at 89, 100.

[62] R. 17 at 1263, Walker Survey.

[63] R. 17 at 1461, Marketing and Research Counselors, Inc., "Bleachability Terminology Study" (April 1978).

[64] Some commenters, including members of the bleach industry, advocated affirmative bleaching instructions in cases where all bleaches can be used safely. Those commenters felt affirmative instructions were necessary to overcome existing consumer confusion as to the bleachability of garments whose labels are silent with respect to bleaching. However, bleaching is a procedure which, like ironing, is not necessary on a regular basis for the ordinary use of all washables. *See* Staff Report at 92. The Commission has chosen a disclosure scheme to minimize the length and complexity of care labels by mandating disclosure of instructions only for washing and drying, which are required for the care of all washables. Moreover, the Commission's disclosure scheme should assist those consumers who are confused as to whether or not a product may be bleached if the label is silent. In the future, such silence will have only one meaning: a product is bleachable using all available bleaches.

[65] Until a few years ago, the only bleaches available were chlorine. Now consumers also can use milder oxygen bleaches based on monopersulfate and perborate compounds. *See* Staff Report at 74.

[66] Manufacturers give several explanations for this practice. One is the fear that consumers will misuse bleach and thereby damage products which would not be harmed by regular, proper use of bleach. Another is that some products were labeled "No bleach" before milder, nonchlorine bleaches were developed. These products have yet to be relabeled. A third explanation is that it is cheaper to use the same label for both bleachable and nonbleachable products. *See* Staff Report at 83. None of these reasons would justify a "No bleach" warning under the amended rule.

[67] 16 CFR 423.1 (Note) (1982).

On the other hand, if bleach would harm a product when used on a regular basis the label must so warn purchasers. If all bleaches would be harmful, it must include a phrase such as "No bleach." If bleaches other than chlorine can be used, the label must say "Only non-chlorine bleach, when needed."[65]

The amended rule also prohibits placing a "No bleach" warning on bleachable products.[66] First, the amended rule specifies that such a warning may only be included on a label if regular use of bleach would harm a product. Second, Section 423.5(b)(5) of the rule explicity requires manufacturers to have a reasonable basis for the information they place on care labels. Thus, the amended rule makes clear that a "No bleach" warning may only be placed on a care label if a manufacturer has a reasonable basis for concluding that *all* available bleaches would harm a product in regular use.

(5) *Warnings*—Under the current rule, manufacturers should warn purchasers if any care procedure normally thought of as applying to a product would, in fact, diminish the product's usability.[67] The amended rule imposes a similar obligation. Section 423.6(b)(1)(v) requires warnings about harmful washing procedures. Section 423.6(b)(2)(ii) requires equivalent warnings about harmful drycleaning procedures.

The amended rule does, however, reflect two principal changes from the current rule. First, Section 423.6(b)(1)(v) of the amended rule requires a warning where use of a normal washing method might cause damage not just to the product itself, but also to other items being washed with it. The current rule, by contrast, only indicated the need for a warning if the product itself might be harmed. The second change in the amended rule is to place two limits on this obligation to warn against harmful care methods. First, a care label does not have to warn against washing methods which are alternatives to those stated on the label. For example, a label which states "Hand wash" does not have to warn "Do not machine wash." Second, a label which contains washing instructions does not have to warn against drycleaning procedures. In other words, the care label need not read "Machine wash warm, tumble dry. Do not dryclean." (The reverse also is true.) This approach is consistent with the Commission's view that care labels need only provide instructions for one type of care precedure—washing or drycleaning—rather than for both.[68]

c. *Section 423.6(b)(2)—drycleaning instructions.* Drycleaning, as defined in the amended rule,[69] is a process by which organic solvents are used in machines to remove soil from textile wearing apparel. In addition to organic solvents, drycleaning may involve use of moisture by addition to solvent (up to 75% relative humidity), tumble drying (up to 160° F) and restoration by steam press or steam-air finishing. While the current rule requires drycleaning instructions if "necessary to the ordinary use and enjoyment of the article," the rule does not indicate what information must be set forth in drycleaning instructions.[70] In consequence, some care labels which mention drycleaning provide no specific guidance to consumers and drycleaners as to what type of drycleaning solvent should be used, and as to any modifications to the normal drycleaning process which may be needed. When this happens, professional drycleaners may be unable to determine the combination and nature of fibers and finishes used in a particular fabric and thus may not be able to determine the appropriate solvent and drycleaning procedure to be followed.[71] This may result in improper drycleaning with resulting damage to the garment involved.[72]

To better ensure that care labels fully inform purchasers about drycleaning procedures, Section 423.6(b)(2) of the amended rule requires labels that include drycleaning instructions to disclose the type(s) of solvent(s) that should be used, except where any commercially available solvent can be used. Considering that only three types of solvents generally are used, and that the manufacturer should know the fiber content and appropriate care traits of a given item, the Commission has concluded that the manufacturer is in the best position to provide solvent information.[73]

The amended rule also prohibits the use of the terms "Drycleanable" or "Commercially dryclean" in drycleaning instructions because of evidence that these terms do not have a clear meaning for consumers and drycleaners. The term "commercial" technically refers to all types of drycleaning establishments, including facilities where consumers use coin-operated automatic machines and facilities where trained professionals operate machines with variable cycles.[74] The term "drycleanable" has been commonly used where special procedures, *e.g.*, mild solvents or low temperatures, must be used if an item is drycleaned. However, it also has been used where no special procedures are necessary.[75] Thus, to prevent confusion and encourage uniformity in terminology, the Commission has eliminated the further usage of the terms "Drycleanable" and "Commercially Dryclean" in care label instructions.

Finally, Section 423.6(b)(2)(ii) of the amended rule requires warning disclosures if any regular step of the drycleaning procedure which consumers or drycleaners reasonably can be expected to use would harm the product or other items being cleaned with it. Some products must be drycleaned using modified procedures, such as lower heat and moisture levels than specified in the amended rule, or adjusted pressing methods. Failure to

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[68] *See* Section IVB, *infra*, for a discussion of the Commission's reasons for taking this approach.

[69] *See* Section 423.1(c).

[70] 16 CFR 423.1 (Note) (1982).

[71] Staff Report at 109.

[72] Staff Report at 116–20.

[73] Some manufacturers argued that consumers may erroneously interpret solvent disclosures to mean that all solvents are equally available to all drycleaners. Staff Report at 130–31. These claims were unsupported by empirical evidence. Moreover, consumers who erroneously believe, for example, that their usual drycleaner can clean a jacket labeled "Professionally dryclean: petroleum" when, in fact, the drycleaner cannot use a petroleum solvent are better off than if the jacket were labeled "Dryclean only." By consulting the label, the drycleaner can quickly establish that it cannot clean the jacket and so advise the consumer. In addition, of course, the label reduces the likelihood that the drycleaner will mistakenly apply the wrong solvent, damaging the product. The Commission also rejects the argument that the rule should treat textile products as incapable of being drycleaned if they cannot be cleaned with the solvent perchlorethylene. While perchlorethylene is the most widely used solvent, others are available such as petroleum, which can safely clean products that would be harmed by perchlorethylene.

[74] Staff Report at 109–110.

[75] Staff Report at 132.

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use such procedures can cause product damage, including shrinkage, stretching or color loss.[78] While the current rule requires warnings in certain situations,[77] the amended rule provides more specific guidance as to when warnings are necessary and what information they should contain.[78]

d. *Section 423.6(c)—reasonable basis.* Section 423.6(c) sets forth the requirement that manufacturers have a reasonable basis for care instructions and identifies the types of evidence which can be used to provide such a reasonable basis.[79] The Commission believes that this provision may benefit consumers to the extent that manufacturers are not already aware of their obligation to have a reasonable basis for care instructions. By clarifying the obligation it may also reduce the costs of complying with the rule. For exampie, Section 423.6(c) makes clear that a reasonable basis for care instructions includes not only evidence from tests simulating ordinary care, but also information from current technical literature, and past experience. This will enable manufacturers to adopt efficient, as well as effective methods of obtaining a reasonable basis for care instructions.

3. *Section 423.7—Certain Piece Goods.* To help ensure that consumers are provided with care instructions for all wearing apparel, including clothing they make themselves, the current rule requires care labels be provided for piece goods sold to consumers for the purpose of making home sewn wearing apparel.[80] The Commission required manufacturers to provide such labels to retailers, so retailers could provide them to consumers, and consumers could sew them into homemade garments. The rulemaking record of this proceeding suggests, however, the requirement has not operated as intended. Manufacturers of piece goods are supplying care labels to retailers.[81] Retailers, however, usually do not distribute them to purchasers,[82] and it appears consumers do not sew them into the garments they make.[83]

The Commission has considered a variety of ways to better ensure purchasers of piece goods are provided with care instructions, and, at the same time, to eliminate any unnecessary burden the current rule might impose on manufacturers and retailers of piece goods. The Commission has concluded the most efficient way to achieve these goals is to require care information be provided on the end of each bolt or roll of certain piece goods [84], rather than on separate care labels. Section 423.7 of the amended rule so provides. This requirement will enable consumers to compare the care requirements of different piece goods in the store prior to purchase and will help ensure that the fabrics they purchase fit their care needs. It will not provide them with a label for use on the finished garment, but the evidence in this proceeding suggests that such labels are not often used. At the same time, retailers will not have to distribute care labels under the amended rule. Moreover, manufacturers will have only the simplified burden of providing care instructions at the end of a bolt or roll of certain piece goods, rather than having to ensure that individual care labels are provided with each sale of fabric from that bolt or roll.

4. *Section 423.8—Exemptions.* Section 423.8 of the amended rule sets out exemptions from the general remedial requirements in Sections 423.6 and 423.7. The exemptions apply in four specific instances.

Two exemptions apply where it would be impractical for manufacturers to use a permanent care label. First, Section 423.8(a) automatically exempts any garment that is totally reversible and has no pockets in which the label can be sewn from the permanent label requirement. Second, Section 423.8(b) permits manufacturers of any other garment to request an exemption from the permanent label requirement if the label would harm the appearance or usefulness of the product. The Commission will then determine whether an exemption is appropriate. The Commission's rationale from permitting this exemption is that the physical characteristics of some apparel, *e.g.*, shape, size, fragility or sheerness, might make permanent label attachment impossible or undesirable.

If an exemption is granted under Section 423.8 (a) or (b), Section 423.8(c) still requires that the care information be placed on a hang tag or in some other conspicuous place at the point of retail sale. Without such a temporary label, consumers would have no way of knowing what care was safe for the unlabeled garment.

The other two exemptions are for instances where the Commission deems a permanent care label to be unnecessary. One exemption, contained in Section 423.8(e) is for sales of textile products to institutional buyers for commercial use.[85] The exemption has been included in the rule because institutional buyers, unlike individual consumers, are in a position to bargain for and obtain care information from manufacturers if they desire it. The second exemption is for textile wearing apparel which can be cleaned safely under the harshest washing and drycleaning procedures. Section 453.8(d) sets out the exemption and specifies the care procedures which a product must withstand to be entitled to it.[86] It also requires manufacturers of such products to place the statement "wash or dry clean, any normal method" on a hang tag or in some other conspicuous place at the point of sale. Absent such a temporary label, consumers would not be able to tell whether the lack of a permanent label meant a product was "totally cleanable", or the manufacturer simply was not complying with the rule's requirement to provide care information.

In addition to these specific exemptions, Section 423.8(f) states that all exemptions previously granted will remain in effect so long as the products exempted still meet the criteria upon which the exemptions were based. Otherwise, the exemptions are automatically revoked. The purpose of this provision is to prevent the confusion and delay that would result if the Commission staff were required to reexamine all previously granted exemptions.[87]

5. *Section 423.2—Terminology.* When adopting the current rule, the Commission did not designate

[78] *Id.* at 119. *See* Tr. 1400–01, International Fabricare Institute.

[77] 16 CFR 423.1 (Note) (1982).

[78] For a more detailed explanation of the differences between the current rule and the amended rule, see the discussion, *supra*, of Section 423.6(a)(1)(v), the amended rule's warning provision for washing procedures.

[79] The Commission has considered a proposal that it limit the types of evidence sufficient to establish a reasonable basis for care instructions to evidence derived from designated testing methods. The Commission has determined, however, that such a limitation could place a substantial compliance burden on manufacturers without producing corresponding benefits. *See* Staff Report at 425–28. For similar reasons, the Commission has rejected a proposal that manufacturers be required to keep records substantiating their compliance with the reasonable basis requirement.

[80] 16 CFR 423.1(b) (182).

[81] Staff Report at 155–56.

[82] *Id.* at 160–159.

[83] *Id.* at 162.

[84] The term "certain piece goods" is defined in Section 423.1(b).

[85] This exemption is similar to Commission interpretation of the current rule permitting unlabeled products to be sold to institutions. *See* Staff Report at 356.

[86] Section 453.8(d) is similar to the current rule's exemption for those articles costing $3 or less which are completely washable. *See* 16 CFR 423.1(c)(2) (1982). However, the Commission has removed any price ceiling from the amended rule in light of the fact that both expensive and inexpensive articles subject to the exemption would not be damaged by normal cleaning procedures.

[87] Staff Report at 352.

terminology for care instructions. The only requirement specified in the rule was that care labels use words and phrases to describe care procedures, rather than merely symbols.[88]

Section 423.2 of the amended rule similary permits manufacturers to use any terms[89] they prefer as long a these terms clearly and accurately describe regular care procedures. This may result in some variation among the care labels used by different manufacturers. The Commission has concluded, however, that the remedial requirements in Sections 423.6 and 423.7 provide sufficient guidance for manufacturers to ensure adequately against inconsistent or confusing care labels.

In order to provide additional guidance for manufacturers and to further minimize consumer confusion, the Commission also has provided a glossary of standardized terms, appended to the Rule as Appendix A, which may be used to meet the requirements of the rule.

For the most part, Appendix A consists of terms developed by the American Society for Testing and Meterials (ASTM), a private standards-setting group. However, the record reveals discrepancies between consumer understanding of some terms listed in the ASTM glossary and the manner in which the glossary defined these terms.[90] The glossary adopted by the Commission includes the terms and definitions from the ASTM glossary which were found clear and meaningful to consumers. The unclear terms in the ASTM glossary have been replaced and definitions reconstructed based upon the evidence in the record.[91]

D. *Other Rule Provisions*

1. *Section 423.1—Definitions.* In section 423.1 the Commission defines terms that are considered of particular importance in the rule. Most of these terms were defined under the current rule.[92] Terms such as "Textile Product" and "Textile Wearing Apparel" still have the same definition. The term "Care Label" under the amended rule encompasses the older definition for "a label or tag permanently affixed or attached hereto", but the new definition also makes it clear that such a label must remain legible during the useful life of the product.

The term "Certain Piece Goods" is a claification of the older definition for "Piece Goods". Under the amended rule, the definition not only explains that piece goods are textile products sold by the piece from bolts or rolls, but further explains that the rule only covers piece goods for the purpose of making home sewn textile wearing apparel. Finally, the definition exlcludes some manufacturers remnants and trim up to 5 inches wide. These exclusions have been granted by interpretation under the current rule.

The term "Regular Care" has been included in the definition section of the amended rule to make it clear that the Commission does not require instructions for "spot" care under this rule.[93]

Two new terms are added under the amended rule for the primary purpose of clarifying and standardizing their meaning when used in care instructions. "Machine Wash" is now defined to include only removal of soil from products in a specially designed machine using water, detergent or soap and agitation. This precise limitation is necessary because previously used definitions included in this single term implications that the product could also be safely bleached, dried, and pressed by any customary commercial or home method.[94] The term "Dryclean" also has been defined elsewhere in several ways. Temperature and moisture level, and solvent are implicit in any definition of "Dryclean." The Commission has, therefore, defined the term "Dryclean" as a soil removing process using a machine and any common drycleaning solvent and including moisture addition up to 75% relative humidy, tumble drying up to 160° F, and steam press or steam air finishing.[95]

2. *Section 423.3—What this regulation does.* In Section 423.3 the Commission outlines the overall purpose of the amended rule which is to provide regular care instructions on textile wearing apparel and certain piece goods at the time the products are sold. Care instructions must be provided on care labels or by some other method described in this rule.

3. *Section 423.4—Who is covered.* Manufacturers and importers are not specifically named in the current rule as responsible for compliance. Section 423.4 now clarifies this matter and further states that the term manufacturer and importer also includes any person or organization that directs or controls the manufacture or importation of covered products.

4. *Section 423.9—Conflict with flammability standards.* Section 423.9 of the rule states that in the event of any conflict with the rules issued under the Flammable Fabrics Act, the Flammable Fabrics regulations will govern over this rule. There are no known conflicts to date, but this provision recognizes the policy that, in the case of conflict, safety rules predominate over rules to prevent economic injury.[96]

The Commission also notes that it is unaware of any state or local laws which conflict with the amended rule. Any such laws are preempted to the minimum extent necessary to resolve the conflict.[97]

5. *Section 423.10—Stayed or Invalid Parts.* The amended rule imposes several different labeling requirments *e.g.*, specific label content, warnings, a reasonable basis for care instructions. To the extent possible, each particular requirement has been included in a single specific provision of the rule. To make clear its intent, the Commission has included a provision stating that if any section of this rule is stayed or held invalid, the rest of the rule will remain in force.

III. Impact of Amended Rule Upon Small Business and Consumers

A. *Introduction*

The Commission has concluded that the amended rule will not have a significant impact either upon the businesses subject to the rule or upon consumers. The Commission also has concluded that the amendments will not have an annual effect on the national economy of $100,000,000 or more and will not cause a substantial rise in the cost or price of goods or services. Based upon these conclusions, the Commission

[88] Current Rule Statement of Basis and Purpose, 36 FR 23883, 23892 (1971) Manufacturers were permitted to use symbols in combination with words and phrases.

[89] They may use symbols in combination with words if they desire.

[90] Staff Report at 385. For example, the ASTM glossary defined "Machine Wash" to include the capability of bleaching, drying and ironing. This was inconsistent with the understanding of consumers and some industry members. It is also inconsistent with the provisions of the amended rule.

[91] The terms that have been replaced include "Machine wash","Hand wash", "Home launder", "Wash separately", as well as all bleaching instructions and all drycleaning instructions. *See* Staff Report at 411

[92] 16 CFR 423.1(d) (1982).

[93] *See* Current Rule Statement of Basis and Purpose, 36 FR 23883, 23891 (1971).

[94] *See e.g.*, Staff Report 385–389

[95] *Id.* at 395–397.

[96] To date, the Consumer Product Safety Commission has issued labeling requirements under the Flammable Fabrics Act for children's sleepwear in the wearing apparel area. *See* 16 CFR 1602–1632 (1982). None of the regulations governing the labeling of these products conflicts with the provisions of the amended rule.

[97] For a discussion of the Commission's authority to preempt state law, *see* the Statement of Basis and Purpose and Regulatory Analysis, Trade Regulation Rule, Funeral Industry Practices, 47 FR 42200, 42287 (1982).

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has determined that it is not required to issue a final regulatory analysis to accompany this amended rule.[98] The Commission's estimates of the amended rule's costs and benefits are described below.

B. *Impact of Rule on Small Business*

1. *Costs.* Since the principal effect of the amended rule is to clarify care labeling obligations already imposed by the current rule, there should be no significant new compliance costs attributable to it. For example, while the amended rule expressly requires a reasonable basis for care instructions, that obligation is implicit in the current rule. The amended rule may result in some reduction in compliance costs, however, due to the clarification of the rule's requirements.

2. *Benefits.* The amended rule should provide modest benefits to small manufacturers and importers. By clarifying the broad range of information that may afford a reasonable basis for care instructions, the rule may reduce the costs incurred by all manufacturers and particularly benefit small manufacturers that lack testing facilities. Similarly, clarifying the labeling requirements may reduce costs associated with unnecessarily detailed labeling. In addition, because the rule will enable consumers to compare all brands for care characteristics, small manufacturers without a substantial market reputation enhanced by national promotion and advertising may be able better to penetrate markets with quality goods at lower prices.[99]

The amended rule also may provide some benefits to small retailers. Better care instructions should reduce the quantity of consumer complaints and customer returns of goods damaged by improper care procedures. In addition, where care problems do occur, the responsibility for the problem can be clearly assigned. Small retailers noted that the amended rule also would help them compete with larger businesses by equalizing the care information that consumers receive. This is particularly important to small businesses whose personnel receive less training about the care characteristics of the items being sold than personnel in larger stores.[100]

Finally, it may be somewhat easier for smaller retailers to make purchase decisions because manufacturers will offer products with clearly described care characteristics. Overall, the effect of the rule on small retailers should be to increase consumer satisfaction with their merchandise.[101]

C. *Impact of Amended Rule Upon Consumers*

1. *Costs.* There should be no costs to the consumer attributable to the amendments. Under the current rule the costs of determining appropriate care and preparing and affixing care labels probably is passed on to consumers. The amended rule, however, does not significantly affect these costs, except that, by clarifying the reasonable basis requirement, it may actually reduce costs somewhat.

2. *Benefits.* The amended rule will provide several benefits to consumers. At the point of purchase, clearer and more comparable care instructions will enable consumers better to consider care costs in making purchase decisions. Items which requires expensive or special care can be avoided, if the consumer so desires.

Better care information also will be beneficial to consumers at the point of care. By helping them better to avoid incorrect and damaging care, it will help then prolong the life of their textiie wearing apparel.

IV. Other Alternatives Considered

A. *Extension of the Current Rule to Other Products*

When the Commission promulgated the current rule in 1971, it expressly envjsioned the possibility of extending the rule's coverage to other products if the need for coverage was demonstrated.[102] Thus, in 1974, when the Commission issued the Request for Comment to evaluate the current rule, questions were included concerning the need for such extensions. After analyzing the comments, the staff recommended extending the current rule's coverage to draperies, curtains, slipcovers, linens, piece goods sold for covering furniture or making slipcovers, leather and suede apparel, yarn, carpets and rugs, and upholstered furniture. In 1982, however, the Director of the Bureau of Consumer Protection recommended against adoption of the extensions, based upon an evaluation of the rulemaking record.

The Commission has determined not to extend the rule to additional products. The rulemaking record does not establish that the proposed extensions are needed to correct systematic injury to consumers or others; that the extensions, if adopted, would alleviate such injury as may occur; or that the benefits flowing from the extensions would exceed the costs imposed. Consequently, the Commission did not approve any of the proposed amendments extending the rule's coverage to additional products.

B. *Alternative Care Labeling*

Some care labels currently fail to disclose care procedures that are both safe and effective for the product and easier or less expensive to use than those recommended on the label. For example some items with care labels reading "Dryclean Only" are, in fact, washable.[103] The Commission considered adopting an "alternative care requirement" to remedy this problem. For example, where an item could be cleaned safety either by washing or drycleaning, the alternative care requirement would have required that both methods be disclosed on the care label. However, the Commission has declined to adopt such a requirement for several reasons.

First, an alternative care requirement is unnecessary to meet the basic goal of the care labeling rule. This is to provide consumers with a set of instructions for a care procedure normal use of which will not harm the product. If a product labeled "Dryclean" can, in fact, be safety cleaned that way, consumers have the basic information they need to care for the product. Moreover, if manufacturers label items "Dryclean Only", they violate the rule's reasonable basis provision unless they can substantiate the implicit representation that the product cannot be washed.

Second, the record in this proceeding did not show that the benefits of an alternative care requirement would exceed its costs. An alternative care labeling requirement would impose significant testing and substantiation costs on manufacturers. For example, it would require them to give drycleaning instructions, and to have a reasonable basis for those instructions, for all items they already label as washable. The benefits of the requirement are, however, speculative. For example, the record does not show how many washable garments are labeled "Dryclean," what percentage of consumers owning such garments actually follow these instructions, or what percentage of such consumers would choose to wash rather than dryclean if told they could do so. Thus, the Commission cannot conclude that the requirement would be warranted.

Third the Commission believes such a requirement is unnecessary due to the existence of market forces prompting manufacturers not to engage in such labeling. Manufacturers who label washable items with only drycleaning instructions forego sales to consumers unwilling to go to the effort and expense of drycleaning.[104] Some manufacturers may choose to do so, for reasons, they consider valid.[105] The decision on this point is one the Commission believes is best left to them.

V. Other Matters

A. *Statement as to Prevalence*

The rulemaking record does not permit a determination of how widespread improper care labeling of textile wearing apparel may be. It does show, however, that incomplete, confusing and inaccurate labeling occurs and is due, in part, to ambiguities in manufacturer's obligations under the current rule. Therefore, the rulemaking record does permit a determination that the amended rule will reduce improper labeling and that its remedial requirements are reasonably related to the prevention of the defined unfair and deceptive practices. Because the amended rule will not impose significant incremental costs, the Commission has concluded that this is sufficient to justify the amendments.

B. *Effective Date*

According to Section 21 of the Federal Trade Commission Improvements Act of 1980, the Commission, after promulgating any trade regulation rule, must submit it to Congress for review.[106] Congress then has ninety calendar days of continuous session for considering the rule before the rule can take effect. Because the amended rule does not require a significant change from the existing care labeling practices of manufacturers and does not involve a lengthy start-up time, the Commission has determined to make the amended rule effective ninety days after the completion of congressional review. The Commission will publish an announcement of the rule's effective date in the **Federal Register** following completion of the congressional review process. All products manufactured or imported after this date must comply with the amended rule.

[98] *See* 15 U.S.C. 57b–3.

[99] *See., eg.,* Tr. 2190–92, E. Kennedy, small retailer.

[100] *See. e.g.,* R. 20 at 34, Extension Specialist, CES, North Dakota.

[101] *See, e.g.,* R. 18 at 756, department store employee; R. 17 at 225, consumer; R. 23 at 548, E. Bilezikian; R. 17, at 157–8, Applebaum Tag and Label; and Tr. 2190–92, E. Kennedy small retailer.

[102] Current Rule Statement of Basis and Purpose, 36 FR at 23880. Textile clothing was the focus of the current rule because it needed care on a more frequent basis than other textile products.

[103] Staff Report at 137–39.

[104] *See, e.g.,* R. 17 at 385 Levi-Strauss & Co.; R. 17 at 124, Celanese Fibers Marketing Co.; R. 17 at 226–27, Cranston Printing Works; R. 20 at 194, Extension Agent, CES, Oregon.

[105] For example, they may conclude that an item is delicate and likely to be damaged by consumers who fail to follow precisely the washing instructions on its care label. They may fear loss of good will should this occur.

[106] 15 U.S.C. 57a–1.

List of Subjects in 16 CFR Part 423

Clothing, Labeling, Textiles, Trade practices.

Accordingly, Chapter I of 16 CFR is amended by revising Part 423 to read as follows:

PART 423—CARE LABELING OF TEXTILE WEARING APPAREL AND CERTAIN PIECE GOODS AS AMENDED

Sec.
423.1 Definitions.
423.2 Terminology.
423.3 What this regulation does.
423.4 Who is covered.
423.5 Unfair or deceptive acts or practices.
423.6 Textile wearing apparel.
423.7 Certain piece goods.
423.8 Exemptions.
423.9 Conflict with flammability standards.
423.10 Stayed or invalid parts.
Appendix A—Glossary of standard terms.

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41, et seq.)

§ 423.1 Definitions.

(a) "Care label" means a permanent label or tag, containing regular care information and instructions, that is attached or affixed in such a manner that it will not become separated from the product and will remain legible during the useful life of the product.

(b) "Certain Piece Goods" means textile products sold by the piece from bolts or rolls for the purpose of making home sewn textile wearing apparel. This includes remnants, the fiber content of which is known, that are cut by or for a retailer but does not include manufacturers' remnants, up to ten yards long, that are clearly and conspicuously marked "pound goods" or "fabrics of undetermined origin" (i.e., fiber content is not known and cannot be easily ascertained) and trim, up to five inches wide.

(c) "Dryclean" means a commercial process by which soil is removed from products or specimens in a machine which uses any common organic solvent (e.g. petroleum, perchlorethylene, fluorocarbon). The process may also include adding moisture to the solvent, up to 75% relative humidity, hot tumble drying up to 160 degrees F (71 degrees C) and restoration by steam press or steam-air finishing.

(d) "Machine Wash" means a process by which soil is removed from products in a specially designed machine using water, detergent or soap and agitation. When no temperature is given, e.g., "warm" or "cold," hot water up to 150 degrees F (66 degrees C) can be regularly used.

(e) "Regular Care" means customary and routine care, not spot care.

(f) "Textile Product" means any commodity, woven, knit or otherwise made primarily of fiber, yarn or fabric and intended for sale or resale, requiring care and maintenance to effectuate ordinary use and enjoyment.

(g) "Textile Wearing Apparel" means any finished garment or article of clothing made from a textile product that is customarily used to cover or protect any part of the body, including hosiery, excluding footwear, gloves, hats or other articles used exclusively to cover or protect the head or hands.

§ 423.2 Terminology.

(a) Any appropriate terms may be used on care labels or care instructions so long as they clearly and accurately describe regular care procedures and otherwise fulfill the requirements of this regulation.

(b) Any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation.

(c) The terminology set forth in Appendix A may be used to fulfill the requirements of this regulation.

§ 423.3 What this regulation does.

This regulation requires manufacturers and importers of textile wearing apparel and certain piece goods, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, to provide regular care instructions at the time such products are sold to purchasers through the use of care labels or other methods described in this Rule.

§ 423.4 Who is covered.

Manufacturers and importers of textile wearing apparel and certain piece goods are covered by this regulation. This includes any person or organization that directs or controls the manufacture or importation of covered products.

§ 423.5 Unfair or deceptive acts or practices.

(a) *Textile wearing apparel and certain piece goods.* In connection with the sale, in or affecting commerce, of textile wearing apparel and certain piece goods, it is an unfair or deceptive act or practice for a manufacturer or importer:

(1) To fail to disclose to a purchaser, prior to sale, instructions which prescribe a regular care procedure

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necessary for the ordinary use and enjoyment of the product;

(2) To fail to warn a purchaser, prior to sale, when the product cannot be cleaned by any cleaning procedure, without being harmed;

(3) To fail to warn a purchaser, prior to sale, when any part of the prescribed regular care procedure, which a consumer or professional cleaner could reasonably be expected to use, would harm the product or others being cleaned with it;

(4) To fail to provide regular care instructions and warnings, except as to piece goods, in a form that can be referred to by the consumer throughout the useful life of the product;

(5) To fail to possess, prior to sale, a reasonable basis for all regular care information disclosed to the purchaser.

(b) *Violations of this regulation.* The Commission has adopted this regulation to prevent the unfair or deceptive acts or practices, defined in paragraph (a) of this Section. Each manufacturer or importer covered by this regulation must comply with the requirements in §§ 423.2 and 423.6 through 423.8 of this regulation. Any manufacturer or importer who complies with the requirements of §§ 423.2 and 423.6 through 423.8 does not violate this regulation.

§ 423.6 Textile wearing apparel.

This section applies to textile wearing apparel.

(a) Manufacturers and importers must attach care labels so that they can be seen or easily found when the product is offered for sale to consumers. If the product is packaged, displayed, or folded so that customers cannot see or easily find the label, the care information must also appear on the outside of the package or on a hang tag fastened to the product.

(b) Care labels must state what regular care is needed for the ordinary use of the product. In general, labels for textile wearing apparel must have either a washing instruction or a drycleaning instruction. If a washing instruction is included, it must comply with the requirements set forth in paragraph (b)(1) of this section. If a drycleaning instruction is included, it must comply with the requirements set forth in paragraph (b)(2) of this section. If either washing or drycleaning can be used on the product, the label need have only one of these instructions. If the product cannot be cleaned by any available cleaning method without being harmed, the label must so state. [For example, if a product would be harmed both by washing and by drycleaning, the label might say "Do not wash—do not dryclean," or "Cannot be successfully cleaned."] The instructions for washing and drycleaning are as follows:

(1) Washing, drying, ironing, bleaching and warning instructions must follow these requirements:

(i) *Washing.* The label must state whether the product should be washed by hand or machine. The label must also state a water temperature that may be used. However, if the regular use of hot water will not harm the product, the label need not mention any water temperature. [For example, "Machine wash" means hot, warm or cold water can be used.]

(ii) *Drying.* The label must state whether the product should be dried by machine or by some other method. If machine drying is called for, the label must also state a drying temperature that may be used. However, if the regular use of a high temperature will not harm the product, the label need not mention any drying temperature. [For example, "Tumble dry" means that a high, medium, or low temperature setting can be used.]

(iii) *Ironing.* Ironing must be mentioned on a label only if it will be needed on a regular basis to preserve the appearance of the product, or if it is required under paragraph (b)(1)(v) of this section. *Warnings.* If ironing is mentioned, the label must also state an ironing temperature that may be used. However, if the regular use of a hot iron will not harm the product, the label need not mention any ironing temperature.

(iv) *Bleaching.* (A) If all commercially available bleaches can safely be used on a regular basis, the label need not mention bleaching.

(B) If all commercially available bleaches would harm the product when used on a regular basis, the label must say "No bleach" or "Do not bleach."

(C) If regular use of chlorine bleach would harm the product, but regular use of a non-chlorine bleach would not, the label must say "Only non-chlorine bleach, when needed."

(v) *Warnings.* (A) If there is any part of the prescribed washing procedure which consumers can reasonable be expected to use that would harm the product or others being washed with it in one or more washings, the label must contain a warning to this effect. The warning must use words "Do not," "No," "Only," or some other clear wording. [For example, if a shirt is not colorfast, its label should state "Wash with like colors" or "Wash separately." If a pair of pants will be harmed by ironing, its label should state "Do not iron."]

(B) Warnings are not necessary for any procedure that is an alternative to the procedure prescribed on the label. [For example, if an instruction states "Dry flat," it is not necessary to give the warning "Do not tumble dry."]

(2) *Drycleaning.*—(i) *General.* If a drycleaning instruction is included on the label, it must also state at least one type of solvent that may be used. However, if all commercially available types of solvent can be used, the label need not mention any types of solvent. The terms "Drycleanable" or "Commercially Dryclean" may not be used in an instruction. [For example, if drycleaning in perchlorethylene would harm a coat, the label might say "Professionally dryclean: fluorocarbon or petroleum."]

(ii) *Warnings.* (A) If there is any part of the drycleaning procedure which consumers or drycleaners can reasonably be expected to use that would harm the product or others being cleaned with it, the label must contain a warning to this effect. The warning must use the words "Do not," "No," "Only," or some other clear wording. [For example, the drycleaning process normally includes moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160 degrees F and restoration by steam press or steam-air finish. If a product can be drycleaned in all solvents but steam should not be used, its label should state "Professionally dryclean. No steam."]

(B) Warnings are not necessary to any procedure which is an alternative to the procedure prescribed on the label. [For example, if an instruction states "Professionally dryclean, fluorocarbon," it is not necessary to give the warning "Do not use perchlorethylene."]

(c) A manufacturer or importer must establish a reasonable basis for care information by processing prior to sale:

(1) Reliable evidence that the product was not harmed when cleaned reasonably often according to the instructions on the label, including instructions when silence has a meaning. [For example, if a shirt is labeled "Machine wash. Tumble dry. Cool iron.," the manufacturer or importer must have reliable proof that the shirt is not harmed when cleaned by machine washing (in hot water), with any type of bleach, tumble dried (at a high setting), and ironed with a cool iron]; or

(2) Reliable evidence that the product or a fair sample of the product was harmed when cleaned by methods warned against on the label. However, the manufacturer or importer need not have proof of harm when silence does not constitute a warning. [For example, if a shirt is labeled "Machine wash warm. Tumble dry medium", the manufacturer need not have proof that the shirt would be harmed if washed in hot water or dried on high setting]; or

(3) Reliable evidence, like that described in paragraph (c) (1) or (2) of this section, for each component part of the product; or

(4) Reliable evidence that the product or a fair sample of the product was successfully tested. The tests may simulate the care suggested or warned against on the label; or

(5) Reliable evidence of current technical literature, past experience, or the industry expertise supporting the care information on the label; or

(6) Other reliable evidence.

§ 423.7 Certain piece goods.

This section applies to certain piece goods.

(a) Manufacturers and importers of certain piece goods must provide care information clearly and conspicuously on the end of each bolt or roll.

(b) Care information must say what regular care is needed for the ordinary use of the product, pursuant to the instructions set forth in § 423.6. Care information on the end of the bolt need only address information applicable to the fabric.

§ 423.8 Exemptions.

(a) Any item of textile wearing apparel, without pockets, that is totally reversible (i.e., the product is designed to be used with either side as the outer part or face) is exempt from the care label requirement.

(b) Manufacturers or importers can ask for an exemption from the care label requirement for any other textile wearing apparel product or product line, if the label would harm the appearance or usefulness of the product. The request must be made in writing to the Secretary of the Commission. The request must be accompanied by a labeled sample of the product and a full statement explaining why the request should be granted.

(c) If an item is exempt from care labeling under paragraph (a) or (b), of this section the consumers still must be given the required care information for the product. However, the care information can be put on a hang tag, on the package, or in some other conspicuous place, so that consumers will be able to see the care information before buying the product.

(d) Manufacturers and importers of products covered by § 423.5 are exempt from the requirement for a permanent care label if the product can be cleaned safely under the harshest procedures. This exemption is available only if there is reliable proof that all of the following washing and drycleaning procedures can safely be used on a product:

(1) Machine washing in hot water;

(2) Machine drying at a high setting;

(3) Ironing at a hot setting;

(4) Bleaching with all commercially available bleaches;

(5) Drycleaning with all commercially available solvents. In such case, the statement "wash or dry clean, any normal method" must appear on a hang tag, on the package, or in some other conspicuous place, so that consumers will be able to see the statement before buying the product.

If a product meets the requirements outlined above, it is automatically exempt from the care label requirement. It is not necessary to file request for this exemption.

(e) Manufacturers and importers need not provide care information with products sold to institutional buyers for commercial use.

(f) All exemption granted under § 423.1(c) (1) or (2) of the Care Labeling Rule issued on December 9, 1971, will continue to be in effect if the product still meets the standards on which the original exemption was based. Otherwise, the exemption is automatically revoke.

§ 423.9 Conflict with flammability standards.

If there is a conflict between this regulation and any regulations issued under the Flammable Fabrics Act, the Flammable Fabrics regulation govern over this one.

§ 423.10 Stayed or invalid parts.

If any part of this regulation is stayed or held invalid, the rest of it will stay in force.

Appendix A—Glossary of Standard Terms

1. *Washing, Machine Methods:*

a. "Machine wash"—a process by which soil may be removed from products or specimens through the use of water, detergent or soap, agitation and a machine designed for this purpose. When no temperature is given, e.g., "warm" or "cold", hot water up to 150° F (66° C) can be regularly used.

b. "Warm"—initial water temperature setting 90° to 110° F (32° to 43° C) (hand comfortable).

c. "Cold"—initial water temperature setting same as cold water tap up to 85° C).

d. "Do not have commercially laundered"—do not employ a laundry which uses special formulations, sour rinses, extermely large loads or extermely high temperatures or which otherwise is employed for commercial, industrial or institutional use. Employ laundering methods designed for residential use or use in a self-service establishment.

e. "Small load"—smaller than normal washing load.

f. "Delicate cycle" or "gentle cycle"—slow agitation and reduced time.

g. "Durable press cycle" or "permanent press cycle"—cool down rinse or cold rinse before reduced spinning.

h. "Separately"—alone.

i. "With like colors"—with colors of similar hue and intensity.

j. "Wash inside out"—turn product inside out to protect face of fabric.

k. "Warm rinse"—initial water temperature setting 90° to 110° F (32° to 43° C).

l. "Cold rinse"—initial water temperature setting same as cold water tap up to 85° F (29° C).

m. "Rinse thoroughly"—rinse several times to remove detergent, soap, and bleach.

n. "No spin" or "Do not spin"—remove material start of final spin cycle.

o. "No wring" or "Do not wring"—do not use roller wringer, nor wring by hand.

2. *Washing, Hand Methods:*

a. "Hand wash"—a process by which soil may be manually removed from products or specimens through the use of water, detergent or soap, and gentle squeezing action. When no temperature is given, e.g., "warm" or "cold", hot water up to 150° F (66° C) can be regularly used.

b. "Warm"—initial water temperature 90° to 110° F (32° to 43° C) (hand comfortable).

c. "Cold"—initial water temperature same as cold water tap up to 85° F (29° C).

d. "Separately"—alone.

e. "With like colors"—with colors of similar hue and intensity.

f. "No wring or twist"—handle to avoid wrinkles and distortion.

g. "Rinse thoroughly"—rinse several times to remove detergent, soap, and bleach.

h. "Damp wipe only"—surface clean with damp cloth or sponge.

3. *Drying, All Methods:*

a. "Tumbel dry"—use machine dryer. When no temperature setting is given, machine drying at a hot setting may be regularly used.

b. "Medium"—set dryer at medium heat.

c. "Low"—set dryer at low heat.

d. "Durable press" or "Permanent press"—set dryer at premanent press setting.

e. "No heat"—set dryer to operate without heat.

f. "Remove promptly"—when items are dry, remove immediately to prevent wrinkling.

g. "Drip dry"—hang dripping wet with or without hand shaping and smoothing.

h. "Line dry"—hang damp from line or bar in or out of doors.

i. "Line dry in shade"—dry away from sun.

j. "Line dry away from heat"—dry away from heat.

k. "Dry flat"—lay out horizontally for drying.

l. "Block to dry"—reshape to original dimensions while drying.

m. "Smooth by hand"—by hand, while wet, remove wrinkles, straighten seams and facings.

4. *Ironing and Pressing:*

a. "Iron"—Ironing is needed. When no temperature is given iron at the highest temperature setting may be regularly used.

b. "Warm iron"—medium temperature setting.

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c. "Cool iron"—lowest temperature setting.
d. "Do not iron"—item not to be smoothed or finished with an iron.
e. "Iron wrong side only"—article turned inside out for ironing or pressing.
f. "No steam" or "Do not steam"—steam in any form not to be used.
g. "Steam only"—steaming without contact pressure.
h. "Steam press" or "Steam iron"—use iron at steam setting.
i. "Iron damp"—articles to be ironed should feel moist.
j. "Use press cloth"—use a dry or a damp cloth between iron and fabric.

5. *Bleaching:*

a. "Bleach when needed"—all bleaches may be used when necessary.
b. "No bleach" or "Do not bleach"—no bleaches may be used.
c. "Only non-chlorine bleach, when needed"—only the bleach specified may be used when necessary. Chlorine bleach may not be used.

6. *Washing or Drycleaning:*

a. "Wash or dryclean, any normal method"—can be machine washed in hot water, can be machine dried at a high setting, can be ironed at a hot setting, can be bleached with all commercially available bleaches and can be drycleaned with all commercially available solvents.

7. *Drycleaning, All Procedures:*

a. "Dryclean"—a process by which soil may be removed from products or specimens in a machine which uses any common organic solvent (for example, petroleum, perchlorethylene, fluorocarbon) located in any commercial establishment. The process may include moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160° F (71° C) and restoration by steam press or steam-air finishing.
b. "Professionally dryclean"—use the drycleaning process but modified to ensure optimum results either by a drycleaning attendant or through the use of a drycleaning machine which permits such modifications or both. Such modifications or special warnings must be included in the care instruction.
c. "Petroleum", "Fluorocarbon", or "perchlorethylene"—employ solvent(s) specified to dryclean the item.
d. "Short cycle"—reduced or minimum cleaning time, depending upon solvent used.
e. "Minimum extraction"—least possible extraction time.
f. "Reduced moisture" or "Low moisture"—decreased relative humidity.
g. "No tumble" or "Do not tumble"—do not tumble dry.
h. "Tumble warm"—tumble dry up to 120° F (49° C).
i. "Tumble cool"—tumble dry at room temperature.
j. "Cabinet dry warm"—cabinet dry up to 120° F (49° C).
k. "Cabinet dry cool"—cabinet dry at room temperature.
l. "Steam only"—employ no contact pressure when steaming.
m. "No steam" or "Do not steam"—do not use steam in pressing, finishing, steam cabinets or wands.

8. *Leather and Suede Cleaning:*

a. "Leather clean"—have cleaned only by a professional cleaner who uses special leather or suede care methods.

Dated: May 13, 1983.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-13576 Filed 5-19-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Foreign Equipment Purchases by, and Repairs to, American Vessels

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to state explicitly that an appeal for the remission or refund of duties paid to Customs on the cost of repairs made to American vessels outside the United States, because of circumstances such as stress of weather or other casualty must be made within two years after liquidation of a vessel repair entry. This amendment is proposed to clarify existing regulatory provisions.

DATE: Comment must be received on or before July 19, 1983.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Jerry C. Laderberg, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

The owners or masters of certain American vessels are required by section 466(a), Tariff Act of 1930, as amended (19 U.S.C. 1466(a)), to declare, enter, and pay a special 50 percent ad valorem duty on the cost of all repairs (including purchases of equipment, repair parts, or materials) made to the vessel outside the United States. If the owner or master disputes the decision of the appropriate Customs officer to classify an expenditure as dutiable, the owner or master may file a protest with Customs challenging the classification, rate, and amount of duties chargeable, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514). Section 466(d), Tariff Act of 1930, as amended (19 U.S.C. 1466(d)), provides for remission or refund of the duty if (1) the repairs or purchases were necessary to repair damage caused by stress of weather or other casualty while the vessel was in the regular course of its voyage and to secure the safety and seaworthiness of the vessel to enable it to reach its port of destination, (2) the equipment, repair parts, or materials purchased were of American origin and installed by the vessel's crew or U.S. residents, or (3) the equipment, repair parts, or materials purchased, including the labor cost involved, were used as dunnage for cargo, or for the erection of temporary bulkheads or similar devices for the control of cargo.

The administrative procedure for remission or refund of duties when the master or vessel owner alleges that an expenditure covered by an entry is not subject to duty under section 466(a), or within the circumstances specified in section 466(d), is set forth in § 4.14, Customs Regulations (19 CFR 4.14).

The effect that liquidation of a vessel repair entry has on the right to appeal by the master or owner of a vessel depends on whether the appeal is based upon a question of classification (dutiability of the foreign expenditure) or remission or refund of duties due to certain circumstances. If the expenditure is alleged not to be dutiable under section 466(a), the owner of the vessel must file a protest in accord with section 514 within 90 days of liquidation of the entry to obtain further review of the claim. However, if the expenditure is alleged to warrant relief pursuant to section 466(d), because of circumstances such as stress of weather or other casualty, there is presently no specific time limit after liquidation of the entry within which a request for additional consideration of the claim must be filed. An appeal from that decision may be made at any time after liquidation of the entry. However, as noted below, Customs is proposing a requirement whereby an appellant would have two years from the date of liquidation of the vessel repair entry within which to present to Customs "good and sufficient evidence" of a claim for relief.

Prior to October 1980, the above dichotomy was stated in the last sentence of former § 4.414(e), Customs Regulations, as follows:

> Inasmuch as an unprotested liquidation insofar as it relates to the classification of items under section 466(a) of the Tariff Act of 1930, as amended, is final at the expiration of 90 days, a subsequent application in regard to such classification cannot be considered in the absence of a timely protest.

Treasury Decision 80-237, published in the **Federal Register** on September 30, 1980 (45 FR 64560), extensively amended the procedures set forth in § 4.14, Customs Regulations, for reporting and entry of foreign repairs to, and equipment purchases by, American vessels. Thus, current § 4.14 retains the distinction between processing claims made under 19 U.S.C. 1466(a) and/or 1466(d), but the distinction is no longer embodied in one paragraph. The applicable language appears in the last two sentences of § 4.14(d)(1)(v) as

> • • • If the decision involves remission of duty under paragraph (c) of this section and the entry has been liquidated, reliquidation is not required. If any other relief is granted and the entry has been liquidated, reliquidation is required.

and in § 4.14(f) as

> Following liquidation of an entry, a protest under Part 174 of this chapter may be filed against the decision to treat an item or a repair as dutiable under paragraph (a) of this section.

It has come to Customs attention that the amendment to § 4.14 made by T.D. 80-237 may have unintentionally obscured the above-described dichotomy between the right to appeal in cases involving classification and remission issues. In addition, the present lack of a specific time limit within which an appellant must submit "good and sufficient evidence" to Customs in support of a claim for relief due to a casualty, has caused administrative difficulties in processing such claims under the law and regulations. Accordingly, Customs proposes to amend § 4.14(f) to make it clear to the public that an appeal for remission or refund of duties pursuant to 19 U.S.C. 1466(d) because of circumstances such as stress of weather or other casualty must be made within two years after the date of liquidation of the vessel repair entry.

Authority

The authority for the proposed amendment is R.S. 251, as amended, secs. 466, 498, 514, 624, 46 Stat. 719, as amended, 728, as amended, 734, as amended, 759 (19 U.S.C. 66, 1466, 1498, 1514, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), from 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, imports, vessels.

Proposed Amendment to the Regulations

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

It is proposed to amend § 4.14 by revising paragraph (f), Customs Regulations (19 CFR 4.14(f)), to read as follows:

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

• • • • •

(f) *Protests.* Following liquidation of an entry, a protest under part 174 of this chapter may be filed against the decision to treat an item or a repair as dutiable under paragraph (a) of this section. An application for relief filed under paragraph (d) of this section will be accepted notwithstanding that more than 90 days may have passed since liquidation of the entry, as part 174 of this chapter is not applicable to the relief provided at 19 U.S.C. 1466(d). An application for relief must be filed with the appropriate Customs officer within two years of the date of liquidation of the vessel repair entry.

William von Raab,

Commissioner of Customs.

Approved: May 4, 1983.

David Q. Bates,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-13682 Filed 5-19-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 177

Proposed Change of Position in Tariff Classification of Bulk Liquid Chocolate; Extension of Time for Comments

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments with respect to a notice of a proposed change of position in the tariff classification of bulk liquid chocolate imported into the United States for further manufacturing. A document inviting the public to comment on this proposed change of position was published in the **Federal Register** on March 22, 1983 (47 FR 11956). Comments were to have been received on or before May 23, 1983. A request has been received to extend the period of time for the submission of comments. Customs believes that an extension of the comment period is warranted. Accordingly, this notice extends the period of time for comment until June 22, 1983.

DATE: Comments must be received on or before June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Lee C. Seligman, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8181).

Dated: May 16, 1983.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 83-13683 Filed 5-19-83; 8:45 am]

BILLING CODE 4820-02-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Subch. E

[Docket No. 83N-0038]

New Animal Drug Regulations; Availability of Task Force Report

AGENCY: Food and Drug Administration.

ACTION: Proposed rule related notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a Bureau of Veterinary Medicine task force report entitled "Task Force Report on Revisions to the New Animal Drug Regulations." Information and views from interested persons on the task force's suggested revisions to its new animal drug regulations are invited.

DATE: Submit comments on or before September 19, 1983.

ADDRESS: The report of the task force is available for public examination at, written comments may be submitted to, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Carnevale, Bureau of Veterinary Medicine (HFV-101), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1981 (46 FR 36333), FDA published a notice announcing a systematic review of its rules and asked the public to comment on those FDA regulations that are most burdensome. The purpose of the review is to identify regulations that impose significant cost burdens and, for such rules, to explore alternative measures for protecting the public health. This retrospective review is required by the Regulatory Flexibility Act (Pub. L. 96-354) and by Executive Order 12291.

Subsequently, as a result of a systematic assessment of public comments in response to the July 14, 1981 notice and other available information, FDA issued a notice in the **Federal Register** of July 2, 1982 (47 FR 29004), which identified the rules selected as its highest initial review priorities. The July 2, 1982 notice also advised the FDA intended to select other rules for future priority review. This notice, therefore, announces that, although it was not identified in the July 2, 1982 notice, FDA intends to revise its new animal drug regulations in Parts 510 and 514 (21 CFR Parts 510 and 514) concerning review and approval of new animal drugs. The revision to the regulations is intended to improve the efficiency of the agency's review and approval processes and to refine its policies in reviewing, processing, and communicating with applicants on new animal drug applications (NADA's).

To undertake and coordinate this project, FDA's Bureau of Veterinary Medicine formed a task force to review and evaluate those regulations. The task force was requested to review the current new animal drug regulations in view of the proposal on new drug and antibiotic regulations for human pharmaceuticals published in the **Federal Register** of October 19, 1982 (47 FR 46622). The review was to determine appropriate parallel provisions that might be proposed regarding the new animal drug procedural regulations. Additionally, the task force was asked to consider changes that may be appropriate for expediting the procedures for animal drug applications and eliminate unnecessary requirements wherever possible.

The agency is making the report available for public comment as a basis for proposing revisions in the current NADA regulations. Interested persons may submit written comments on the report to the Dockets Management Branch (HFA-305) (address above). The comments will be considered in determining future revisions to the regulations. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: May 11, 1983.

Arthur Hull Hayes Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-13556 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 158

[Docket No. 82-0110]

Quick Frozen Cauliflower; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

Correction

In FR Doc. 83-12246 beginning on page 20935 in the issue of Tuesday, May 10, 1983, make the following corrections.

1. On page 20936, first column, second line from the bottom of the page, "may to" should have read "may be".

2. On page 20937, first column, fifth line, paragraph designation "(ii)" should have read "(iii)".

BILLING CODE 1505-01-M

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21 CFR Part 184

[Docket No. 82N-0219]

Regenerated Collagen; Proposed GRAS Status as a Direct Human Food Ingredient

Correction

In FR Doc. 83-11003, beginning on page 18833, in the issue of Tuesday, April 26, 1983, make the following corrections:

1. On page 18834, in the first column, third paragraph, the first sentence is incomplete and should read as follows:

"Collagen is converted to regenerated collagen by treating the purified corium with solutions of weak organic or mineral acids to disperse the collagen fibers and produce a homogeneous solution of swollen collagen fibers."

2. Same paragraph, the third sentence is also incomplete and should have read as follows:

"Regenerated collagen sausage casings may also be treated with plasticizers and other processing aids that become part of the casing and serve to strengthen, harden, or otherwise produce desirable physical properties in the casing."

3. In the third column of page 18834, nineteen lines from the top, "Most of" should have read "Most are".

4. Same column, twenty lines from the bottom (not counting the footnote), "be have been" should have read "to have been".

BILLING CODE 1505-01-M

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21 CFR Parts 182 and 184

[Docket No. 82N-0089]

Vitamin D_2 and Vitamin D_3; Proposed Affirmation of GRAS Status, With Specific Limitations, as Direct Human Food Ingredients

Correction

In FR Doc. 83-10161, beginning on page 16695 in the issue of Tuesday, April 19, 1983, make the following corrections:

1. On page 16697, third column, the twelfth line of the first complete paragraph should have read, "receiving 20,000 IU or less per kg body weight."

2. On page 16699, second column, the first word in the tenth line of the second complete paragraph should have read, "infarction".

3. On page 16703, first column, the fourth line of the first paragraph immediately following the heading, "References" should have read, "seen by interested persons from 9 a.m. to 4 p.m."

BILLING CODE 1505-01-M

BOARD FOR INTERNATIONAL BROADCASTING

22 CFR Part 1303

Board's Revision of the Board's Rules Pertaining to National Security Information

AGENCY: Board for International Broadcasting.

ACTION: Proposed rule.

SUMMARY: This action revises and retitles §§ 1303.1, 1303.2 and 1303.3(a) of the Board's rules pertaining to the Mandatory Declassification of National Security Information.

The revision informs members of the public of the procedures to be followed in submitting requests for declassification.

This action is taken by the Board in order to comply with the procedural requirements of Executive Order 12356, National Security Information.

DATE: Written comments may be submitted on or before June 17, 1983.

ADDRESS: All comments should be addressed to Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 1100, 1201 Connecticut Avenue, N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Arthur D. Levin (202) 254-8040.

SUPPLEMENTARY INFORMATION: Executive Order 12356 requires that information relating to national security be protected against unauthorized disclosure as long as required by national security considerations. The Order also provides that all information classified under Executive Order 12356 or predecessor orders be subject to a mandatory review for declassification upon receipt of a request made by a United States citizen or permanent resident alien, a Federal agency, or a state or local government.

List of Subjects in 22 CFR Part 1303

National security information regulations.

Authority: Executive Order 12356.

1. Executive Order 12356, National Security Information, requires that agencies which handle classified information promulgate regulations identifying the information to be protected, prescribe classification, downgrading, declassification and safeguarding procedures, and establish a monitoring system to ensure compliance. The Executive Order further requires that those portions of the regulations which affect members of the public be published in the **Federal Register.**

2. To comply with the latter requirement of the Executive Order, we are hereby revising and retitling §§ 1303.1, 1303.2 and 1303.3(a) of the rules. The revision is set out in the attached Appendix.

Dated: May 16, 1983.

Walter R. Roberts,

Executive Director.

Appendix

Sections 1303.1, 1303.2 and 1303.3(a) of Chapter 13 of Title 22 of the Code of Federal Regulations are revised to read as follows:

PART 1303—SECURITY INFORMATION REGULATIONS

Sec.
1303.1 Policy.
1303.2 Program.
1303.3 Procedures.

§ 1303.1 Policy.

It is the policy of the Board for International Broadcasting (BIB) to act in accordance with Executive Order 12356 in matters relating to national security information.

§ 1303.2 Program.

The Executive Director is designated as the BIB's official responsible for implementation and oversight of information security programs and procedures. He acts as the recipient of questions, suggestions and complaints regarding all elements of this program, and is solely responsible for changes to it and for ensuring that it is at all times consistent with Executive Order 12356. The Executive Director also serves as the BIB's official contact for requests for declassification of materials submitted under the provisions of Executive Order 12356, regardless of the point of origin of such requests. He is responsible for assuring that requests submitted under the Freedom of Information Act are handled in accordance with that Act and that declassification requests submitted under the provisions of Executive Order 12356 are acted upon within 60 days of receipt.

§ 1303.3 Procedures.

(a) Mandatory Declassification Review. Requests for mandatory review of national security information shall be in writing and addressed to the Executive Director, Board for International Broadcasting, Suite 1100, 1201 Connecticut Avenue, N.W., Washington, D.C. 20036. The request should describe the document or material containing the information with sufficient specificity to enable the Board's personnel to locate it with a reasonable amount of effort. In light of the fact that the BIB does not have original classification authority and national security information in its custody has been classified by another Federal agency, the Executive Director shall refer all requests for national security information in its custody to the Federal agency that classified it for review and disposition in accordance with Executive Order 12356 and that agency's regulations and guidelines.

* * * * *

[FR Doc. 83-13575 Filed 5-19-83; 8:45 am]

BILLING CODE 6155-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-274-81]

Accounting for Long-Term Contracts; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to accounting for long-term contracts. The proposed amendments would conform the regulations to section 229 of the Tax Equity and Fiscal Responsibility Act of 1982 and would affect taxpayers who have long-term contracts whether or not they use a long-term contract method of accounting for such contracts.

DATES: The public hearing will be held on Wednesday, June 29, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, June 15, 1983.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The requests to speak and outlines of oral comments

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should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–274–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 448, 451 and 471 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, March 14, 1983 (48 FR 10702).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than June 15, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83–13602 Filed 5–19–83; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH–FRL 2365–7]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Information.

SUMMARY: On August 22, 1979 (44 FR 49402), the Environmental Protection Agency (EPA) proposed to list as hazardous certain wastes generated during the manufacture of chlorinated aliphatic hydrocarbons. EPA now is contemplating issuing a final rule listing certain of these wastes (specifically, those wastes that are not associated with wastewater treatment, are not already listed as hazardous, and are generated during production of chlorinated aliphatic hydrocarbons having a carbon chain length from one to five). Since the time of the original proposal, the Agency has conducted further investigation of manufacturing processess used in the production of such products. Prior to promulgating final regulations, EPA is making available that part of the information gathered during this investigation that has not been classified as Confidential Business Information by the facilities investigated. This information includes non-confidential sampling data, and industry and process profiles prepared for EPA under contract.

DATE: EPA will accept public comment on this information until July 5, 1983.

ADDRESSES: Comments should be sent to Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Communications should identify the regulatory docket "Docket Number 261–83–2."

Copies of the information described in this notice are available for reviewing at the RCRA Docket Room (Room S269), located at 401 M Street, S.W., Washington, D.C. 20460 and at the following EPA Regional Office libraries.

Region I—John F. Kennedy Building, Boston, MA 02203, (617) 223–7210
Region II—26 Federal Plaza, New York, NY 10278, (212) 264–2525
Region III—6th and Walnut Streets, Philadelphia, PA 19106, (215) 597–9814
Region IV—345 Courtland St., N.E., Atlanta, GA 30365, (404) 881–4727
Region V—230 S. Dearborn St., Chicago, IL 60604, (312) 353–200
Region VI—1201 Elm Street, First International Building, Dallas, TX 75270, (214) 767–2600
Region VII—324 E. 11th Street, Kansas City, MO 64106, (816) 374–5493
Region VIII—1860 Lincoln Street, Denver, CO 80295, (303) 837–3895
Region IX—215 Fremont Street, San Francisco, CA 94105, (415) 974–8153
Region X—1200 6th Avenue, Seattle, WA 98101, (206) 442–5810

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FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346 or at (202) 382–4770. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH–565B), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382–4801.

Dated: May 6, 1983.

Peter Thomas,

Acting Assistant Administrator, for Solid Waste and Emergency Response.

[FR Doc. 83–13612 Filed 5–19–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Grants for Demonstration Projects on Adolescent Pregnancy and Family Life

AGENCY: Public Health Service, HHS.

ACTION: Proposed rules.

SUMMARY: The rules proposed below would establish the requirements for grants for demonstration projects funded under the recently enacted Title XX of the Public Health Service Act. That title authorizes the Department to make grants to projects that will provide health, social and educational services to pregnant and nonpregnant adolescents, adolescent parents, and their families.

DATE: Comments must be in writing, be submitted in duplicate, and be received on or before July 19, 1983.

ADDRESS: Comments should be sent to Donald Underwood, Grants Management Officer, Office of Adolescent Pregnancy Programs, Department of Health and Human Services, Room 602, Reporters' Building, Washington, D.C. 20201. Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Donald Underwood, (202) 472–5588.

SUPPLEMENTARY INFORMATION: On August 13, 1981, Title XX of the Public Health Service Act was enacted. Pub. L. 97–35, sec. 955(a). The purposes of the new title are to find effective means of discouraging adolescent premartial sexual relations and to enhance the

ability of pregnant adolescents, adolescent parents and their families to deal with the problems of adolescent pregnancy and parenhood. To this end, Title XX authorizes the Secretary to make grants to public and nonprofit private organizations and agencies for demonstration projects to serve pregnant and nonpregnant adolescents, adolescent parents and their families. The projects are required to provide a variety of "care" and "prevention" services, and may do so either directly or through arrangements with other providers.

Title XX sets out numerous, highly specific requirements regarding applications, project operations, priorities for the award of grants and so on. Because of this specificity, as well as the Administration's desire not to increase regulatory burdens on the public, the Secretary has opted to elaborate on the statutory requirements only where directed to by the statute or where necessary to clarify statutory ambiguities or achieve prudent administration of the program. This approach is reflected in the format of the proposed rules, which generally reference, rather than restate and enlarge upon, the statutory requirements. We believe that this approach will be particularly useful in highlighting the policies being proposed.[1]

Projects funded under the statute may provide "care services" only, "prevention services" only, or both care and prevention services. Care services are services designed to assist pregnant adolescents, adolescent parents and their families to cope with the problems of adolescent pregnancy and parenthood. All grantees who provide care services must provide a "core"—i.e., a minimum combination—of such services. The core of care services described below is the same as the core of services provided by adolescent pregnancy projects currently funded under Title VI of Pub. L. 95–626. See section 2002(b). Prevention services, on the other hand, are services to prevent nonpregnant adolescents from having sexual relations and becoming pregnant. See section 2002(a)(8). Under the rules proposed below, there is no "core" of prevention services which grantees are required to provide; rather, "prevention only" and "care and prevention" grantees will be required to provide those prevention services approved by the Secretary.

[1] Copies of a composite of the statutory and proposed regulatory requirements are available upon request from the Office of Adolescent Pregnancy Programs at the above address.

The statutory definition of the term "necessary services" includes "such other services consistent with the purposes of this title as the Secretary may approve in accordance with regulations promulgated by the Secretary". Section 2002(a)(4)(Q). The Secretary proposes to utilize this authority to approve additional services on a project-by-project basis where local conditions warrant. See proposed § 59.402(f)(20). In addition, this statutory authority has been used to restructure certain statutorily defined services to maintain the parallelism between the Title XX core of services and the Title VI core of services, as required by section 2002(b). Public comment is solicited on whether there are other services which should be specifically set out as necessary, under this authority.

Several provisions proposed below carry our express statutory directives that the Secretary "prescribe" requirements. Examples of this are the requirements set out at proposed §§ 59.404(c)(2), 59.407(b) and 59.409(b). Comments concerning the policies proposed in these provisions should be brought to the Department's attention.

Information Collection Requirements

Section 59.404 of this proposed rule contains collection of information requirements. These requirements have been submitted to the Office of Management and Budget for review and approval under section 3507 of the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules. A major rule is defined in the order as any rule that has an annual effect on the national economy of $100 million or more; results in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or has a significant adverse effect on competition, empolyment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets. The Secretary concludes that these regulations are not major rules within the meaning of the Executive Order; the regulations will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria, since the appropriation for this program is approximately $11 million.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each proposed rule with a "significant economic impact on a substantial number of small entities" an initial analysis must be prepared describing the proposed rule's impact on small entities. Because of the size of the appropriation, a substantial number of grants will not be funded. Therefore, the Secretary hereby certifies that an initial regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 59

Family planning, Grant programs—health, Grant programs—Social programs, Youth, Adolescent pregnancy, Adolescent parenting.

In consideration of the foregoing, it is therefore, proposed to amend Part 59 of Title 42, Code of Federal Regulations, by adding a new Subpart E thereto, to read as follows.

Dated: February 16, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary.

42 CFR Part 59 is amended by adding a new Subpart E thereto, to read as follows:

PART 59—[AMENDED]

Subpart E—Grants for Adolescent Pregnancy and Family Life Projects

Sec.
59.401 Applicability.
59.402 Definitions.
59.403 Who may receive a grant under this subpart?
59.404 How is application made for a grant under this subpart?
59.405 What requirements must a project funded under this subpart meet?
59.406 What criteria has the Secretary established for deciding which applications for grants under this subpart to fund?
59.407 How is the amount of the grant decided?
59.408 What is the period for which a grant will be awarded?
59.409 What additional requirements apply to a grant under this subpart?

Authority: Sec. 214, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); Title XX.

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Public Health Service Act, 95 Stat. 578, *et seq.* (42 U.S.C. 300z, *et seq.*).

§ 59.401 Applicability.

The regulations of this subpart apply to all grants for demonstration projects for services authorized under section 2003 of the Public Health Service Act, 42 U.S.C. 300z–2.

§ 59.402 Definitions.

The following terms have the following meanings for purposes of this subpart:

(a) "Act" means Title XX of the Public Health Service Act, 42 U.S.C. 300z *et seq.*

(b) "Care services" means necessary services for the provision of care to eligible persons.

(c) "Core services" means care services which shall be provided by all grantees providing care services, consisting of the services described in paragraphs (f) (1) through (8), (16) and (19) of this section.

(d) "Eligible grant recipient" means a public or private nonprofit organization or agency which demonstrates to the Secretary's satisfaction—

(1) In the case of an organization or agency which will provide care services, the capability of providing all core services in a single setting or the capability of creating a network through which all core services would be provided;

(2) In the case of an organization or agency which will provide prevention services only, the capability of providing the prevention services approved by the Secretary.

(e) "Eligible person" means—

(1) With regard to the provision of care services, a pregnant adolescent, an adolescent parent, or the family of a pregnant adolescent or an adolescent parent;

(2) With regard to the provision of prevention services, and except as provided for by subsection (h) of this section, a nonpregnant adolescent.

(f) "Necessary services" means services which may be provided by grantees which are—

(1) Pregnancy testing and maternity counseling;

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(3) Primary and preventive health services, including prenatal and postnatal care;

(4) Nutrition information and counseling;

(5) Referral for screening and treatment of venereal disease;

(6) Referral to appropriate pediatric care;

(7) Education services relating to family life and problems associated with adolescent premarital sexual relations, including—

(i) Information about adoption;

(ii) Education on the responsibilities of sexuality and parenting;

(iii) The development of material to support the role of parents as the provider of sex education; and

(iv) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(8) Referral to appropriate education and vocational services;

(9) Referral to licensed residential care or maternity home services;

(10) Mental health services and referral to mental health services and to other appropriate physical health services;

(11) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(12) Consumer education and homemaking;

(13) Counseling for the immediate and extended family members of the eligible person;

(14) Transportation;

(15) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

(16) Counseling and referral for family planning services;

(17) Family planning services;

(18) Appropriate vocational and educational services;

(19) Referral to other appropriate health services; and

(20) Such other medical, educational and social services as the Secretary may approve where he determines the service or services are consistent with the purposes of the Act.

(g) "Nonprofit", as applied to any private agency, institution or organization, means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which benefits or may lawfully benefit, any private shareholder or individual.

(h) "Prevention services" means necessary services for the prevention of adolescent sexual relations, and includes the services described in paragraphs (f) (1), (4), (5), (7), (8), (13), (14), (15), (18), and (20) of this section.

(i) "Secretary" means the Secretary of Health and Human Services or any other officer or employees of the Department of Health and Human Services to whom the authority involved has been delegated.

(j) "Supplemental services" means those care services which are not core services and which the Secretary has approved as necessary to a project.

§ 59.403 Who may receive a grant under this subpart?

A grant under this subpart may be awarded only to an eligible grant recipient.

§ 59.404 How is application made for a grant under this subpart?

An application for a grant under this subpart shall be submitted at such time and in such form and manner as the Secretary may require. The application shall be executed by an individual authorized to act for the applicant and to assume on the applicant's behalf the obligations imposed by the statute, the applicable regulations, and any additional conditions of the grant. The application shall be supported by such documentation as the Secretary may require and shall include the following:

(a) The material required by subsections (1) through (4), (7), and (9) of section 2006(a) of the Act;

(b) The descriptions required by subsections (5), (6) and (8) of section 2006(a) of the Act. The descriptions shall include project objectives, service strategies (including client recruitment methods and selection criteria) and delivery models (including case management and follow-up procedures) to be implemented, and expected results.

(c) A statement which provides:

(1) The assurances required by subsections (10), (12) through (15), (16)(B), (16)(C), (17) through (20), and (22) through (25) of section 2006(a) of the Act;

(2) Assurances that the applicant will have a system for maintaining the confidentiality of patient records that complies with § 59.409(b) of this subpart.

(d) The descriptions required by subsections (16)(A) and (21) of section 2006(a) of the Act and the plan required by subsection (25) of section 2006(a) of the Act.

(e) Evidence that—

(1) The applicable requirements of Title XV of the Public Health Service Act have been satisfied; and

(2) The applicant has complied with the requirements of section 2006(e) of the Act.

§ 59.405 What requirements must a project funded under this subpart meet?

A project funded under this subpart must—

(a) Provide the services approved by the Secretary in accordance with the representations and assurances made in its application;

(b) Comply with the applicable requirements of sections 2006(b) (1) and (2), 2006(c), 2007(a)(1), and 2011(a) of the Act;

(c) Use project funds only as approved by the Secretary, and consistent with the applicable requirements of the Act and these regulations.

§ 59.406 What criteria has the Secretary established for deciding which applications for grants under this subpart to fund?

Within the limits of funds available for such purposes, the Secretary may award grants to eligible grant recipients whom he determines have submitted applications meeting the requirements of § 59.404 of this subpart and which he determines best promote the purposes of section 2003(a). No application will be approved unless the Secretary is satisfied that, as applicable, all core services or approved prevention services will be available through the applicant within a reasonable time after the grant is received. In approving applications under this subpart, the Secretary will—

(a) Take into account—

(1) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(2) The potential effectiveness of the proposed project in carrying out the statutory purposes;

(3) The adequacy of the facilities and other resources available to the applicant;

(4) The professional, administrative, and managerial capability of the applicant; and

(5) The total amount of funds available for implementing the overall program.

(b) Give priority to applicants in accordance with sections 2005(a) and 2007(a)(4) of the Act.

§ 59.407 How is the amount of the grant decided?

Within the limits of funds available, the Secretary will determine an amount of a grant under this subpart which will, in his judgment, best promote the purposes of this subpart, taking into account the factors specified in subsection (b)(1) of section 2005 and in accordance with subsections (b)(2) and (c) (1) and (2) of that section.

§ 59.408 What is the period for which a grant will be awarded?

(a) The Notice of Grant Award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed five years.

(b) Generally the grant will initially be funded for one year, and subsequent continuation awards will also be funded for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Continuation awards within the project period will be made provided required reports are not delinquent, funds are available, the grantee has made satisfactory progress, the grantee's management practices provide adequate stewardship of Federal funds, and the Secretary determines that continued funding is in the best interest of the Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 59.409 What additional requirements apply to a grant under this subpart?

(a) *Applicability of department-wide regulations.* Attention is drawn to the following department-wide regulations which apply to grants under this subpart:

(1) 45 CFR Part 16—Department Grant Appeals Process.

(2) 45 CFR Part 19—Limitations on Payment or Reimbursement for Drugs.

(3) 45 CFR Part 74—Administration of Grants.

(4) 45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services; Implementation of Title VI of the Civil Rights Act of 1964.

(5) 45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(6) 45 CFR Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(b) *Confidentiality.* All information as to personal facts and circumstances obtained by the project staff about recipients of services shall be held confidential. This information shall not be disclosed without the individual's consent except as may be required by law or as may be necessary to provide service to the individual or to provide for evaluation or audits by the Secretary with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

(c) *Additional conditions.* The Secretary may with respect to any grant impose additional conditions prior to or at the time of any award when in his judgment additional conditions are necessary to assure or protect advancement of the approved project, the interest of public health, or the conservation of grant funds.

[FR Doc. 83-13680 Filed 5-19-83; 8:45 am]
BILLING CODE 4160-17-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6524]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0237, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L.

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90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Carolina	Georgetown County	Atlantic Ocean	Southern tip of Cedar Island	*22
			South-Central Section of Cedar Island	*20
			Winyah Bay, west of Malady Bush Island	*20
			Georgetown-Horry County Line	*19
			Murrell's Inlet	*19
			Huntington Beach State Park	*19
			Litchfield Beach, seaward of dune line	*19
			Midway Inlet	*19
			Pawley's Island, at Atlantic Avenue and dune line	*19
			Debordieu Colony, seaward of dune line	*19
			North Inlet	*19
			Winyah Bay entrance	*19
			Alliston Creek Parsonage Creek	*18
			Old Man Creek Town Creek, Bass Hole Bay	*18
			Northern tip of Marsh Islands	*18
			Northern shoreline of Cat Island	*18
			Jones Creek-Cottonpatch Creek	*18
			Goat Island in the Santee River	*18
			Southern tip of Crane Island	*18
			Main Creek	*17
			Oaks Creek, west of Litchfield Beach	*17
			Debidue Creek, south of Luvan Way	*17
			Clubhouse Creek and MacKenzie Beach Road	*17
			Island Creek, inland of Pawley's Island	*17
			Debidue Creek	*17
			Estherville Minim Creek Canal and South Island Road	*17
			Mosquito Creek	*17
			Pleasant Creek, at North Santee River	*17
			South Island at North Santee Bay	*17
			Georgetown-Horry County Line	*16
			Atlantic Avenue at Seward Street, Pawley's Island	*16
			South Causeway Pawley's Island	*16
			Georgetown-Horry County Line	*15
			Litchfield Development east of U.S. Rt. 17	*15
			Litchfield Boulevard at Sportsman Boulevard	*15
			MacKenzie Beach Road at U.S. Route 17	*15
			Gerogetown-Horry County Line	*14
			Brookgreen Drive at Seaview Loop	*14
			Boyle Road at Parker Avenue	*14
			Boyle Road at Lakeshore Drive	*14
			Norris Drive at Parker Boulevard	*14
			Luvan Way at Lafayette Boulevard	*14
			Pioneer Court at Lafayette Boulevard	*14
		Winyah Bay	Rabbit Island	*16
			Bay Shoreline area south of City of Georgetown	*16
			Area immediately south of City of Georgetown	*15
			Bay shoreline area in southern part of Waccamaw Neck.	*14
		Waccamaw River	Immediately upstream of U.S. Route 17 Bridge	*13
			Point approximately 2,000 feet upstream of U.S. Route 17 Bridge.	*12
			Near confluence with Schooner Creek	*10
			At confluence with Throughfare Creek	*9
			Near confluence with Dull Tree Creek	*8
			Confluence with Cowhouse Creek	*7
			At Georgetwon-Horry County Line	*7
		Sampit River	West of City of Georgetown	*11
		N. Santee River	Immediately upstream of U.S. Route 17–701 Bridge	*11
			Approximately 300 feet upstream of U.S. Route 17–701 Bridge.	*10
			Approximately 9,000 feet upstream of U.S. Route 17–701 Bridge.	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		S. Santee River	Immediately upstream of the U.S. Route 17–701 Bridge.	*11
			Approximately 4,000 feet upstream of the U.S. Route 17–701 Bridge.	*10
			Approximately 10,000 feet upstream of the U.S. Route 17–701 Bridge.	*9
		White's Creek	West of City of Georgetown	*11

Maps are available for inspection at the Office of the Chairman, Georgetown County Council, County Courthouse, Georgetown, South Carolina.

Send comments to Honorable Alfred B. Schooler, Chairman, Georgetown County Council, P.O. Drawer 1220, Georgetown, South Carolina.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13589 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6525]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Federal Emergency Management Agency, National Flood Insurance Program (202) 287–0237 Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4.

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
SC	Georgetown City, Georgetown County	Winyah Bay	South Bay Street, 500 feet bayward of its intersection with Mulberry Street.	*16

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			South Bay Street, 350 feet bayward of its intersection with Olive Street.	*16
			South Bay Street, 100 feet bayward of its intersection with Hill Street.	*16
			Oak Street, 200 feet bayward of its intersection with Martin Street.	*16
			Greenwich at its intersection with Prince Street	*16
			Helena Street, at its terminus	*15
			Mulberry Street, 500 feet bayward of its intersection with South Island Road.	*15
			William Street, 425 feet bayward of its intersection with South Island Road.	*15
			South Bay Street, 250 feet bayward of its intersection with Live Street.	*15
			South Bay Street at its intersection with Glenwood Street.	*15
			Martin Street, 205 feet bayward of its intersection with Oak Street.	*13
			South Bay Street, 100 feet northeast of its intersection with Mulberry Street.	*13
			Bollick Street, at its intersection with Prince Street	*13
			Meeting Street, 50 feet bayward of its intersection with Duke Street.	*13
			South Bay Street, 500 feet southwest of its intersection with Birch Street.	*12
			South Bay Street, 150 feet bayward of its intersection with Olive Street.	*12
			Fraser Street, 450 feet northeast of its intersection with Parker Street.	*12
			Melting Street, at its intersection with Highmarket Street.	*12
		Sampit River	Sampit River shoreline southwest of Front Street	*12
			Screven Street, at its intersection with Highmarket Street.	*11
			King Street, 100 feet northeast of its intersection with Front Street.	*11
			Duke Street, 100 feet southwest of its intersection with Cleland Street.	*11
		Pee Dee River	Landgrave Street, 150 feet east of its intersection with Huger Drive.	*11
			Grimes Street, 150 feet east of its intersection with Landgrave Street	*11
		Whites Creek	Seaboard Street, 150 feet southwest of its intersection with Prince Street.	*11

Maps are available for inspection at the Office of the Mayor, City Hall, Georgetown, South Carolina.

Send comments to Honorable Douglas L. Hinds, Mayor, City of Georgetown, P.O. Drawer 939, Georgetown, South Carolina 29440.

(National Flood Insurance Act 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13390 Filed 5-19-83; 8:45 a.m.

BILLING CODE 6718-03-M

44 CFR Part 205

Disaster Assistance; Individual and Family Grant Program

AGENCY: Federal emergency Management Agency (FEMA).

ACTION: Proposed Rule and Request for Comments.

SUMMARY: This amendment to the Individual and Family Grant (IFG) program regulations is needed to protect the privacy of applicants and require States to provide safeguards against unnecessary releases of confidential information.

DATE: Interested persons may participate in this rulemaking by submitting comments, which will be accepted until July 19, 1983. Any comment submitted on or before that date will be carefully evaluated prior to publication of the final rule.

ADDRESS: Send comments to the Rules Docket Clerk: Federal emergency Management agency, Office of General Counsel—Room 835, 500 C Street, S.W., Washington, DC 20472. All comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Agnes C. Mravcak, Individual assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street S.W., Washington, D.C. 20472, 202–287–0555

SUPPLEMENTARY INFORMATION: There have been several instances in recent IFG programs where States, without adequate regulations to safeguard the privacy of individuals, have released information about applicants to organizations other then those providing disaster assistance. FEMA considers such information to be confidential, and therefore is imposing a requirement on States which implement the IFG program, to prevent unnecessary release of information. The purpose of this rule is to require States to provide for the safeguard of information about grant applicants. This will be accomplished by requiring each State to provide this protection in the IFG State Administrative Plan which is approved by FEMA. This rule imposes no information collection requirements, and is therefore not subject to Section 3504(h) of the Paperwork Reduction Act.

Environmental Considerations

This rule is procedural, and FEMA has determined that there will be no significant impact on the environment caused by implementation of this rule. An environmental assessment will not be prepared.

Regulatory Flexibility Act

This rule has been determined not to be a "major rule" under the terms of Executive Order 12291, nor does it have any significant economic impact on a substantial number of small entities. Therefore, regulator flexibility analyses will not be prepared.

Authority

This rule is issued under authority of Sections 408 and 601 of the Disaster Relief Act of 1974 (Pub. L. 93–288).

Content of the Rule

This rule amends the regulations pertaining to Section 408 of the Disaster Relief Act, Individual and Family Grant Programs, specifically and only to prevent the unnecessary release of information about grant applicants.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs, housing and community development.

PART 205—[AMENDED]

Accordingly, FEMA is proposing to amend 44 CFR 205.54 by adding the following new subparagraph to paragraph (e):

(e) * * *

* * * * * *

(1) * * *

(vii) Provisions for safeguarding the privacy of applicants and the confidentiality of information, except the information may be provided to agencies or organizations who require it to make eligibility decisions for disaster assistance or to prevent duplication of benefits, to State agencies responsible for audit or program review, and to FEMA or the general Accounting Office for the purpose of making audits or conducting program reviews.

Dated: April 15, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-13386 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation Project Office

48 CFR Part 27

Patents, Data, and Copyrights

AGENCY: General Services Administration, Federal Acquisition Regulation Project Office.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulation.

SUMMARY: The General Services Administration is making available for public and Government agency review and comment the last segment of the draft Federal Acquisition Regulation (FAR). This segment covers patents, data, and copyrights.[1] The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 20, 1983.

ADDRESS: Obtain copies of the draft regulation from and submit comments to Rusty Olshine, FAR Project Office, Suite 700, Webb Building, 4040 N. Fairfax Drive, Arlington, VA 22203. Federal agency requests must be directed to the FAR Agency Contact Point (see Federal Register, Vol. 45, No. 125, June 26, 1980, p. 43236 for list).

FOR FURTHER INFORMATION CONTACT: Larry Rizzi, (202) 696–5180.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following part of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

[1] Filed as part of the original.

PART 27—PATENTS, DATA, AND COPYRIGHTS

This part prescribes policy and procedures relating to patents, data, and copyrights. It is based on the policy on this subject in Defense Acquisition Regulation Section IX and Section XVIII Part 9, portions of NASA Procurement Regulations Part 9 Subpart 2, and portions of DOE Procurement Regulations Subpart 9–9.2, as well as Federal Procurement Regulations Subpart 1–9.1.

The separate coverage for construction and architect-engineer contracts in DAR 18–9 is eliminated by combining such coverage with the applicable segments of FAR Part 27.

Pub. L. 96–517 is implemented, thereby eliminating FPR 1–9.107–6 and related text dealing with short-form clauses for nonprofit organizations and for institutional patent agreements, and adding a new clause at 52.227–13 for small business firms and nonprofit organizations.

OMB Circular A–124 is implemented.

The Presidential Memorandum on Government Patent Policy dated 2/18/83 is implemented.

There is considerable restructuring in the Data area (Subpart 27.4) made by agreement with DOD, NASA, and DOE. As a result, there are some changes from the DAR policy.

Coverage on licensing of background technology is added as Subpart 27.5, based on DOE policy and regulations.

Clause references to subcontracts are clarified to state "at any tier" as a response to the decision in U.S. vs Schweigert, 181 Ct. Claims 1184.

To the extent not otherwise required by their statutes, NASA and DOE are required to use the FAR patents coverage.

Lawrence J. Rizzi,

Director, GSA FAR Project.

[FR Doc. 83-13366 Filed 5-19-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Agave Arizonica To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

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SUMMARY: The U.S. Wildlife Service proposes to list a plant, *Agave arizonica* Gentry and Weber (Arizona agave), as an Endangered species. This species is a native plant of Arizona. The reproductive potential of this species is very low. All of the wild plants occur on Federal lands in the Tonto National Forest. They are threatened by collectors who desire these plants for desert rock gardens because they are very attractive succulents which make decorative garden ornamentals. Cattle grazing may be a secondary threat to *Agave arizonica* due to habitat disturbance and trampling of the plants, as well as some herbivore predation. This proposal, if made final, will provide protection under the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments must be received on or before July 19, 1983. Public hearing requests must be received on or before July 5, 1983.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Office of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Regional Botanist, U.S. Fish and Wildlife Service (see Addresses section above) (617/965–5100).

SUPPLEMENTARY INFORMATION:

Background

Agave arizonica was first discovered by J. H. Houzenga, H. J. Hazlett, and J. H. Weber in the New River Mountains of Arizona. H. S. Gentry and J. H. Weber described this species in the Cactus and Succulent Journal in 1970 (Gentry, 1970). This member of the Agave family has leaves growing from the base in a somewhat flattened globular form, about 30.7 centimeters high and 41 centimeters broad. The slender, branching, flowing stalk is 2.7–3.6 meters tall. The flowers are small, pale yellow and jar-shaped.

This species is endemic to a very small area in the granite hills and creek-bottoms near the summit of the New River Mountains in central Arizona at an elevation of 915–1830 meters. The surrounding vegetation is a chaparral association that is transitional between oak-juniper woodland and mountain mahogany-oak scrub. The soil is mixed gravelly loam from mazatzal quartzite. The continued existence of this plant is threatened by potential collecting for commercial trade and to a lesser degree, by trampling from cattle, browsing by deer, and insect damage.

On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823–27924) indicating its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Endangered Species Act. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523–24572) which included *Agave arizonica* as an Endangered species. On December 10, 1979, the Service withdrew all outstanding proposals not finalized within 2 years of their first publication, as required by the 1978 Amendments to the Act. On December 15, 1980, the Service published a new plant notice of review (45 FR 82479–82569) which included *Agave arizonica* as a candidate species for listing under the Endangered Species Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is an Endangered or a Threatened species due to one or more of the five factors described in subsection 4(a)(1). These factors and their application to *Agave arizonica* are as follows:

A. *Present or threatened destruction, modification or curtailment of its habitat or range.* The historically known populations of *Agave arizonica* occurred within an area of about 3.3–5.0 kilometer radius in the Tonto National Forest. In 1980, about 25 plants were known to exist at 12–14 localities. At present, three plants are known to exist at one site in the wild; land use on this area consists of leased cattle grazing. Proper protection and management plans for the plants are needed.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is a great potential for taking of this attractive species for cultivation in private rock gardens and for commercial trade. The southwest Forest Service botanist recognizes the collecting threat to this species and has suggested that the Forest Service prohibit the taking of all agaves in the west central portion of the Tonto Mountains in the range of *Agave arizonica.* However, taking prohibitions on plants are difficult to enforce in the extremely rugged backcountry of the Tonto National Forest. Adequate personnel are not available to patrol the area and stop all unauthorized taking. So, the populations remain threatened by desert succulent collectors. At present, the localities of *Agave arizonica* are not generally known to the public, which has afforded it some protection. *Agave arizonica* is a slowly reproducing plant which could not readily repopulate an area from which individuals are removed.

C. *Disease or predation (including grazing).* Grazing has occurred in the habitat of *Agave arizonica.* While the impacts of grazing on this plant are not definitively known, cattle may affect it by trampling, habitat disturbance, and some minor grazing of the plants. Deer browse this species and may play some role in its poor reproductive success by eating the flower stalks before the capsules ripen. If this plant is listed, studies will be undertaken to determine grazing impacts and appropriate stocking rates for the habitat of *Agave arizonica* to insure its continued survival.

D. *Inadequacy of existing regulatory mechanisms. Agave arizonica* is protected by State law. The Arizona Native Plant law, A.R.S. Chapter 7, Section 3–901, specifically prohibits collection of *Agave arizonica* except for scientific or educational purposes under permit. This provision bars only collection, however, and not incidental destruction or habitat modification. It does not affect Federal actions directly. Violation constitutes only a class three misdemeanor, the lowest grade of misdemeanor recognized under State law. This law is moreover difficult to enforce over the entire State of Arizona, especially in the rugged moutainous habitat of this plant. The Endangered Species Act would complement the existing protection and offer additional protection for the species by prohibiting taking from Federal lands, by restricting interstate and international commerce, by substantially increasing penalties for violations, and by providing the protection of Section 7 of the Act.

E. *Other natural or manmade factors affecting its continued existence.* Any human pressure on this species may increase the possibility of its small populations going extinct through natural fluctuations. Disturbances are likely to have a severe impact on this species as the distribution is restricted, the population is very small, the reproductive potential is extremely low, and few young plants have been observed in the wild.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act of 1973, as amended, requires that Critical Habitat be determined at the time of listing to the maximum extent prudent and determinable.

Critical Habitat is not being proposed for *Agave arizonica* as this would not be prudent due to taking pressures. Taking is the major threat to the Arizona agave. It is highly desirable for desert rock gardens because of its attractive globular rosette (basally attached leaves) and 2.7–3.5 meter tall inflorescence (flowering stalk). Publishing detailed location maps. (i.e., Critical Habitat maps published in the **Federal Register**) of the *Agave arizonica* populations would make the species more vulnerable to taking by collectors.

Effects of This Rule

The effects of this proposal, if published as a final rule, would include those mentioned below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this species, that is, as a proposed species, agencies are required under Section 7(a)(4) to confer with the Service on any action that is likely to jeopardize the species. This action, if made final, will require Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of *Agave arizonica.* Since all populations of *Agave arizonica* occur on U.S. Forest Service land in Arizona, that agency would have the primary Section 7 responsibility.

The Forest Service's present regulations prohibit removing, destroying, or damaging any plant that is classified as a Threatened, Endangered, rare, or unique species (36 CFR 261.9), and are consistent with the purposes of the Act. The U.S. Forest Service supports listing this species as Endangered.

The Act and implementing regulations published at 50 CFR 17.61 set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. With respect to *Agave arizonica* all trade prohibitions of Section 9(a)(2) of the Act as implemented by § 17.61 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and §§ 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction or to sell it, offer it for sale, or deliver, receive, carry, transport, or ship it in interstate commerce in the course of a commercial activity. Permits for exceptions to this prohibition are available through the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file at the Service's Regional Office (see address section), and may be examined, by appointment, during regular business hours. This assessment will form the basis for a decision at the time of final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented by 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to *Agave arizonica;*

(2) The location of any additional populations of *Agave arizonica* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject areas.

Final promulgation of the regulation on *Agave arizonica* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be in writing and received within 45 days of the date of the proposal. Such requests should be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Authors

The authors of this proposed rule are Ms. Sandra Limerick and Ms. Rosemary H. Carey, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972). Ms. E. LaVerne Smith of the Service's Washington Office of Endangered Species served as editor.

Status information and a preliminary listing package were contracted for by the Service from Dr. Barbara G. Phillips, Dr. Arthur M. Phillips III, Jill Mazzoni, and Elaine M. Peterson, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001 (602/774–5211).

References

Gentry, H. S. 1970. Two new Agaves in Arizona. Cactus and Succulent Journal 42(5):223–225.

Kearney, T. H. and R. H. Peebles. 1951. *Arizona Flora.* University of California Press, Berkeley, California.

Phillips, B. G., A. M. Phillips, J. Mazzoni and E. M. Peterson. 1980. Status report on *Agave arizonica.* U.S. Fish and Wildlife Service, Office of Endangered Spcies, Albuquerque, NM.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

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Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order the following to the list of endangered and threatened plants:

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Agavaceae—Agave Family						
Agave arizonica	Arizona agave	U.S.A. (AZ)	E	NA	NA	NA

Dated: April 7, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-13791 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 30511-83]

American Lobster Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement conservation and management measures as prescribed in the proposed American Lobster Fishery Management Plan (FMP). A lobster management program is necessary because the resource is fished very intensively throughout its range, resulting in only a small fraction of American lobsters surviving long enough to reproduce even once. Such a condition in the resource increases the risk of recruitment failure and stock collapse, and jeopardizes the continuation of a viable fishery. The FMP specifies management measures intended to promote conservation of the fishery, reduce the possibility of recruitment failure, and allow full utilization of the resource by the U.S. industry.

DATE: Comments on the proposed rule must be received on or before July 5, 1983.

ADDRESSES: Comments on the proposed rule, the FMP, or supporting documents should be sent to Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930–3097. Mark the outside of the envelope "Comments on Lobster Plan." Copies of the FMP, the final environmental impact statement, and the draft regulatory impact review/initial regulatory flexibility analysis are available from Mr. Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls (Lobster Management Coordinator) 617–281–3600.

SUPPLEMENTARY INFORMATION:

Background

The FMP was prepared by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council. A notice of availability for the proposed FMP was published in **Federal Register** on April 21, 1983 (48 FR 17120). Copies of the FMP are available from the Council upon request at the address given above. The FMP establishes management measures for American lobsters as follows:

(1) *Minimum size:* Beginning January 1, 1985, the possession or landing of American lobsters with a carapace length smaller than 3 3/16 inches is prohibited.

(2) *Mutilated lobsters:* Upon FMP implementation, the landing or possession of lobster meat is prohibited. Until December 31, 1985, the landing or possession of lobster tails with a sixth abdominal segment less than 1 1/16 inches long is prohibited, and only two claws per tail may be possessed or landed. After January 1, 1986, the landing or possession of any lobster parts will be prohibited.

(3) *Berried females:* The harvesting of female lobsters with eggs attached to the abdominal appendages, and the removal of any such eggs is prohibited upon FMP implementation.

(4) *Escape vents:* Effective January 1, 1985, lobster traps must be marked with identification of the owner and traps must be vented to allow the release of sublegal lobsters.

(5) *V-notching:* The possession of V-notched lobsters in portions of the Gulf of Maine and the fishery conservation zone (FCZ) is prohibited upon FMP implementation.

(6) *Permits:* The FMP provides for the permitting of lobster fishermen directly by the National Marine Fisheries Service (NMFS) or through cooperative agreements with coastal states, and

(7) *Data collection:* The FMP provides for collection of fishery information through the NMFS Three-Tier Fishery Information Collection System and through cooperative agreements with coastal States.

The conservation and management measures proposed in the FMP are designed to promote conservation, reduce the possibility of recruitment failure, and allow full utilization of the resource by the U.S. industry. Similar measures are imposed by most of the coastal States in the range of the lobster fishery. A primary objective of the FMP is to provide for complementary regulation of the lobster fishery within the fishery conservation zone, and to serve as a vehicle for coordinated management of the American lobster fishery resource throughout it range.

A series of public hearings were held throughout the range of the American lobster fishery to obtain comments on the draft FMP. Hearing were conducted in Riverhead, New York; Ocean City, Maryland; Red Bank, New Jersey; Danver, Massachusetts; Galilee, Rhode Island; Machias, Maine; Branfor, Connecticut; Ellsworth, Maine; Westport, Massachusetts; Plymouth, Massachusetts; Rockland, Maine; Portsmouth, New Hampshire; Portland, Maine; and Hyannis, Massachusetts. The Council considered the oral and written comments received and has revised the FMP to reflect these comments. The most significant revisions are the provisions to phase into effect the minimum carapace length, the mutilation prohibition, and the trap

marking and venting requirements over period of two years to minimize the adverse economic impact of those measures.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of the FMP and proposed regulations. At this time, the Secretary has not determined that the FMP these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views, and comments received during the comment period.

The Council prepared a draft environmental impact statement for this FMP; a notice of availability was published on September 24, 1982 (47 FR 42157).

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the draft regulatory impact review (RIR) prepared by the Council which demonstrates positive net short-term and long-term economic benefits to the fishery under the proposed management measures. A copy of this review may be obtained from the Council at the address listed above.

The review procedures of E.O. 12291 do not apply to this proposed rule under Section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule and the RIR are being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow review procedures of the order.

The Council prepared an initial regulatory flexibility analysis which concludes that this proposed rule, if adopted, would have a significant effect on small entities. The rule would affect lobster harvestors (vessels) most directly, and to a lesser extent wholesalers and consumers. There may be a redistribution of income among vessels which currently land lobster parts. A copy of this analysis may be obtained from the Council at the address listed above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Numbers 0648–0097 and 0648–0013.

The Coucil determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland and Delaware. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

Section 649.5, Recordkeeping Requirements, has been reserved pending the full implementation of the provisions of the NMFS Three-Tier Fishing Information Collection System to be used under this FMP.

List of Subjects in 50 CFR Part 649

Administrative practice and procedure, Fish, Fisheries, Reporting Requirements.

Dated: May 17, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR by adding a new Part 649 to read as follows:

PART 649—AMERICAN LOBSTER FISHERY

Subpart A—General Provisions

Sec.

649.1 Purpose and scope.
649.2 Definitions.
649.3 Relation to other laws.
649.4 Vessel permits.
649.5 Recordkeeping requirements.[Reserved]
649.6 Vessel identification.
649.7 Prohibitions.
649.8 Enforcement.
649.9 Penalties.

Subpart B—Management Measures

649.20 Harvesting and landing requirements.
649.21 Gear marking and escape vent requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 649.1 Purpose and scope.

This part implements the American Lobster Fishery Management Plan prepared and adopted by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council, and approved by the Director of the Northeast Region of the National Marine Fisheries Service, NOAA. These regulations govern fishing for American lobster within that portion of the Atlantic Ocean over which the United States exercises fishery management authority.

§ 649.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

American lobster or *lobster* means the species *Homarus americanus.*

Area of custody means any vessel, building, vehicle, pier, live car, pound, or dock facility where American lobster may be found.

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State Agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Berried female means a female lobster bearing eggs attached to the abdominal appendages.

Carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the lobster.

Catch, take, or *harvest* includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish or shellfish on board a vessel.

Council includes the New England and Mid-Atlantic Fishery Management Councils.

Fish includes the American lobster. *Homarus americanus.*

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seward boundary of each of the coastal States to a line each point of which is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishery management plan (FMP) means the American Lobster Fishery Management Plan and any amendments thereto.

Fishing, or *to fish,* means any activity, other than scientific research conducted by a scientific research vessel, which involves—

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(i) The catching, taking, or harvesting of fish;

(ii) The attempted catching, taking, or harvesting of fish;

(iii) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(iv) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to preparation, supply, storage, refrigeration, transportation, or processing.

Land means to begin offloading fish, to offload fish, or to arrive in port with the intention of offloading fish.

Magnuson Act means the Magnuson Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

NOAA means the National Oceanic and Atmospheric Administration.

Official number means the documentation number issued by the U.S. Coast Guard or the certificate number issued by a State or the Coast Guard for undocumented vessels in accordance with the Federal Boating Safety Act of 1971 (46 U.S.C. 1451 *et seq.*) or the Vessel Documentation Act (46 U.S.C. 65).

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(i) Any person who owns that vessel in whole or in part;

(ii) Any charterer of the vessel, whether bareboat, time, or voyage;

(iii) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar agreement that bestows control over the destination, function, or operation of the vessel; or

(iv) Any agent designated as such by any person in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Director, Northeast Region, National Marine Fisheries Service, NOOA, or a designee.

Secretary means the Secretary of Commerce, or a designee.

Sixth tail segment is that tail segment closest to the fan of the lobster's tail with the segment length measured along the dorsal center line with the tail flexed.

Scrubbing is the forcible removal of eggs from a berried female lobster.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(i) Any vessel documented under the laws of the United States;

(ii) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 *et seq.*) and measuring less than five net tons; or

(iii) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 *et seq.*) and used exclusively for pleasure.

V-notch conservation area means the area of the FCZ north and east of a line which begins at a point 43°06′ N. latitude, 70°34′ W. longitude, runs due southeast to a point 42° N. latitude, 69°35′ W. longitude, and thence runs due east along the 42nd parallel to the seaward limit of the FCZ.

§ 649.3 Relation to other laws.

All fishing activity, regardless of species sought, is prohibited under 15 CFR Part 924, in the U.S.S. Monitor Marine Sanctuary, which is located approximately 15 miles southwest of Cape Hatteras off the coast of North Carolina. Nothing in these regulations will supersede more restrictive State or local lobster management measures.

§ 649.4 Vessel permits.

(a) *General.* (1) Any vessel of the United States fishing for American lobster must have a permit required by this part on board the vessel. The Regional Director may by agreement with State agencies recognize permits or licenses issued by those agencies endorsed for fishing for lobster in the FCZ, providing that such permitting programs accurately identify fishermen who fish in the FCZ, and that the Regional Director can either individually or in concert with the State agency act to suspend the permit or license for FCZ fishing for any violation under this part.

(2) Alternate State permitting programs will be established through a letter of agreement between the Regional Director and the director of the State marine fisheries agency concerned. The letter of agreement will specify the information to be collected by the alternate permitting program and the mode and frequency of provision of that information to the Regional Director. The Regional Director will, in cooperation with the State director, arrange for notification of the existence and terms of any such agreements to the affected fishermen. Fishermen should determine whether an alternate program is in force for their State before applying for a Federal permit under § 649.4(b) below.

(b) *Application.* An application for a Federal fishing vessel permit under this section must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director and must contain the following information:

(1) The name, mailing address, and telephone number of the applicant and the vessel's master;

(2) The name of the vessel;

(3) The vessel's official number;

(4) The home port, length, gross tonnage, and net tonnage of the vessel;

(5) The engine horsepower of the vessel;

(6) The approximate fish-hold capacity of the vessel;

(7) The type, and quantity of fishing gear used by the vessel; and

(8) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application will be considered abandoned.

(d) *Expiration.* A Federally issued permit expires when the owner or name of the vessel changes.

(e) *Duration.* A Federally issued permit is valid until it expires or is revoked, suspended, or modified under 50 CFR Part 621.

(f) *Alteration.* Any permit which has been altered, erased, or mutlated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Federal permits issued under this part are not transferable or assignable. A Federally issued permit is valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this part must be carried on board the fishing vessel at all times. The permit must be displayed for inspection upon request of any authorized officer.

(j) *Sanctions.* Subpart D of 50 CFR Part 621 governs the imposition of sanctions against a permit issued under this part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or by this part; or if a civil fine or criminal penalty imposed under the Magnuson Act has not been paid.

(k) *Fees.* No fee is required for any Federally issued permit under this part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section, such as the vessel owner or quantity of gear, must be reported to the Regional Director within 15 days of the change.

§ 649.5 Recordkeeping requirements. [Reserved]

§ 649.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above.

(b) *Numerals.* The official number must be permanently affixed to each vessel subject to this part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length. The length of a vessel, for purposes of this section, is that length set forth in U.S. Coast Guard or State records.

(c) *Duties of operator.* The operator of each vessel subject to this part must—

(1) Keep the vessel name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

§ 649.7 Prohibitions.

It is unlawful for any person—

(a) To land or possess any American lobster which fails to meet the carapace length standards specified in § 649.20(b);

(b) To land or possess any American lobster or parts thereof taken in violation of the mutilation standards specified in § 649.20(c);

(c) To retain on board, possess, or land any berried female American lobster.

(d) To remove eggs from any berried female American lobster.

(e) To retain on board in the V-notch conservation area any lobster marked with a V-notch as specified in § 649.20(f);

(f) To deploy or haul in the FCZ, or to harvest lobster in the FCZ from any gear not marked and vented in accordance with the requirements specified in § 649.21;

(g) To throw or dump into the water, or otherwise dispose of any lobster, or the contents of any pail, bag, barrel, or any matter whatsoever after being signalled by an authorized officer, before the authorized officer has inspected the same;

(h) To use any vessel for taking, catching, harvesting, or landing of any American lobster in the FCZ unless the vessel or operator has a valid permit issued under this part, and the permit is on board the vessel;

(i) To make any false statement in connection with an application under § 649.4; or to fail to report to the Regional Director, within 15 days, any change in the information contained in a permit application for a vessel;

(j) To make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobster;

(k) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import or export any American lobster taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(l) To fail to affix and maintain permanent markings as required by § 649.6;

(m) To refuse to permit an authorized officer to board a fishing vessel, or to enter an area of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit under the Magnuson Act;

(n) To forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) To resist a lawful arrest for any act prohibited by this part;

(p) To interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(q) To interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this part;

(r) To fail to comply immediately with enforcement and boarding procedures specified in § 649.8;

(s) To transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested American lobster to any foreign fishing vessel within the FCZ; or

(t) To violate any other provision of this part, the Magnuson Act, or any other regulation promulgated under the Magnuson Act.

§ 649.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal means of communicating between vessels. However, visual methods or loudhailer may be used. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly,"

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by §649.6(a).

(4) "RY CY" means "You should proceed at slow speed, a boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall—

(1) Stop immediately and lay to or maneuver in such a way so as to allow the authorized officer and the boarding party to come aboard;

(2) When necessary to facilitate the boarding or when requested by an authorized officer, provide a safe ladder for the authorized officer and the boarding party to come aboard, a man rope, safety line, and illumination for the ladder; and

(3) Take such other actions as the authorized officer deems necessary to ensure the safety of the authorized

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officer and the boarding party and to facilitate the boarding.

(d) *Dumping.* No person, having been signaled by an authorized officer, shall throw or dump into the water, or otherwise dispose of any lobster, or the contents of any pail, bag, barrel or any matter whatsoever, before the authorized officer has inspected the same.

§ 649.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable Federal law.

Subpart B—Management Measures

§ 649.20 Harvesting and landing requirements.

(a) *Presumption.* It will be a rebuttable presumption that any lobster found aboard or landed by a vessel with a permit issued under or authorized by this part was harvested in the fishery conservation zone subject to these regulations. Any lobster found aboard a vessel in the fishery conservation zone will be presumed to have been harvested in the fishery conservation zone subject to these regulations.

(b) *Carapace length.* Effective January 1, 1985, all lobsters landed in whole form must have a minimum carapace length of 3 3/16 inches.

(c) *Mutilation.* Except as provided in paragraph (c)(1) of this section, it will be unlawful for any person to remove meat or any body appendages from any lobster before landing.

(1) From the date of implementation of these regulations, through December 31, 1985, fishermen may land lobster tails in States which do not have regulations prohibiting such activity, providing the sixth tail segment measures at least 1 1/16 inches in length, and that not more than two claws are landed with each such tail.

(2) Effective January 1, 1986, it will be unlawful to land or have in possession on board any vessel any lobster part other than whole lobsters.

(d) *Berried females.* Any berried female American lobster must be immediately returned to the sea.

(e) *Scrubbing.* No person may remove extruded eggs attached to the abdominal appendages from any female American lobster.

(f) *Other conservation measures.* It will be unlawful for any fisherman to retain on board in the V-notch conservation area any lobster bearing a V-shaped notch in the right flipper next to the middle flipper or any female lobster which is mutilated in a manner which could hide or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

§ 649.21 Gear marking and escape vent requirements.

(a) *Marking.* Effective January 1, 1985, all lobster gear deployed in the FCZ and not permanently attached to the vessel must be legibly and indelibly marked with one of the following codes of identification:

(1) The vessel's Federal fishery permit number; and/or

(2) Whatever positive identification marking is required by the vessel's homeport State.

(b) *Escape vents.* All lobster traps must be constructed to include one of the following escape vents in the parlor section of the trap. The vent must be located in such a manner that it would not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use.

(1) A rectangular portal with an unobstructed opening not less than 1 3/4 inches (44.5 mm) by six inches (152.5 mm);

(2) Two circular portals with unobstructed openings not less than 2 1/4 inches (57.2 mm) in diameter; or

(3) Any other vent certified by the Regional Director to release a substantial number of lobsters under 3 3/16 inches carapace length from the trap.

(c) *Enforcement action.* Unmarked or unvented traps will be seized and disposed of at the discretion of the Regional Director.

[FR Doc. 83-13678 Filed 5-17-83; 4:42 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 99
Friday, May 20, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program Adjustment of Income Eligibility Standards

AGENCY: Food and Nutrition Service, USDA.

ACTION: General Notice

SUMMARY: The Department is adjusting the limits on gross and net income which a household may have and still be eligible for food stamps. The Food Stamp Act of 1977, as amended, requires the Department to make this adjustment each year. By adjusting the income eligibility limits, the Program takes into account changes in the cost of living.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756-3461.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The action will affect the economy by less than $100 million a year. The action will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has clasified the action as "not major".

Publication. State agencies must implement the rule on July 1, 1983, and these offices need adequate advance notice of the new standards to carry out all steps necessary for them to meet the implementation deadline. Based on regulations published at 47 FR 46485-46487 (October 19, 1982) annual statutory adjustments to the gross and net monthly income eligibility standards are issued by General Notices published in the **Federal Register** and not through rulemaking procedures.

Regulatory Flxibility Act. The Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will primarily affect State and local welfare agencies and future applicants so food stamps. The effect upon the welfare agencies is not significant.

Paperwork Reduction Act. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

The Food Stamp Act requires that the gross (130 percent of poverty line) and net (equal to poverty line) income eligibility standards take into account the annual adjustments of the poverty guidelines issued by the Department of Health and Human Services. Section 3(i) of the Act provides that certain elderly/disabled individuals (and their spouses) who are not able to prepare their own meals, may be considered separate households even if the individuals are living and eating within another household. The Act limits this exception to those situations in which the income of the others with whom the elderly/disable individual is residing does not exceed 165 percent of the poverty line. Since all three standards are based on the poverty line, we are adjusting them simultaneously, as set forth in the following tables:

GROSS MONTHLY INCOME ELIGIBILITY STANDARDS

Household size	48 States [1]	Alaska	Hawaii
1	527	659	607
2	709	887	816
3	891	1,114	1,025
4	1,073	1,342	1,234
5	1,255	1,569	1,443
6	1,437	1,797	1,653

GROSS MONTHLY INCOME ELIGIBILITY STANDARDS—Continued

Household size	48 States [1]	Alaska	Hawaii
7	1,619	2,024	1,862
8	1,801	2,252	2,071
Each additional member	+182	+228	+210

[1] Includes District of Columbia, Guam and Virgin Islands.

NET MONTHLY INCOME ELIGIBILITY STANDARDS

Household size	48 States [1]	Alaska	Hawaii
1	405	507	467
2	545	682	628
3	685	857	789
4	825	1,032	950
5	965	1,207	1,110
6	1,105	1,382	1,271
7	1,245	1,557	1,432
8	1,385	1,732	1,593
Each additional member	+140	+175	+161

[1] Includes District of Columbia, Guam and Virgin Islands.

GROSS MONTHLY INCOME ELIGIBILITY STANDARDS FOR ELDERLY/DISABLED AS A SEPARATE HOUSEHOLD

Household	48 States [1]	Alaska	Hawaii
1	669	836	770
2	900	1,125	1,036
3	1,131	1,414	1,301
4	1,362	1,703	1,567
5	1,593	1,991	1,832
6	1,824	2,280	2,097
7	2,055	2,569	2,363
8	2,286	2,858	2,628
Each Additional member	+231	+289	+266

[1] Includes District of Columbia, Guam and Virgin Islands.

(91 Stat. 958 (7 U.S.C. 2011-2029))

(Catalogue of Federal Domestic Assistance, No. 10551, Food Stamps)

Dated: May 16, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-13581 Filed 5-19-83; 8:45 am]

BILLING CODE 3410-30-M

Packers and Stockyards Administration

Deposting of Stockyards; Cattlemen's Livestock Auction, Oklahoma et al.

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et* seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no

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longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
OK–201 Cattlemen's Livestock Auction, Sallisaw, Oklahoma.	May 12, 1983.
PA–149 Union City Livestock Auction, Union City, Pennsylvania.	May 12, 1983.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective May 20, 1983.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 16th day of May, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83–13578 Filed 5–19–83; 8:45 am]

BILLING CODE 3410–KD–M

Office of the Secretary

Small Business Innovation Research Program for Fiscal Year 1983; Solicitation of Applications

The Notice of Solicitation of Applications for the Small Business Innovation Research Program for Fiscal Year 1983 appearing in 48 FR 19286–19311, April 28, 1983, is amended to clarify that the submission of certain organizational and management information will not be counted as part of the 20-page limitation on proposals.

Accordingly, at the end of Section VI.N.2 (p. 19292) add a new sentence to read as follows:

The forms used to submit this information, with any necessary attachments, *are not considered part of the proposal and will not be counted as part of the 20-page limitation* on proposals referred to elsewhere in the Notice of Solicitation of Applications for the Small Business Innovation Research Program for Fiscal Year 1983.

Done at Washington, D.C., this 11th day of May, 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 83–13577 Filed 5–19–83; 8:45 am]

BILLING CODE 3410–03–M

Soil Conservation Service

Buckfield School Critical Area Treatment RC&D Measure, Maine; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buckfield School Critical Area Treatment RC&D Measure, Oxford County, Maine.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for control of surface and subsurface water and vegetating a critically eroding area which is affecting the use of an athletic field. The planned works of improvement consists of installing a diversion and waterway underlain with a subsurface drainage system, fencing, steps, and seeding areas devoid of vegetation and disturbed by construction.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 13, 1983.

Billy R. Abercrombie,

State Conservationist.

[FR Doc. 83–13647 Filed 5–19–83; 8:45 am]

BILLING CODE 3410–16–M

Flasher RC&D Measure, North Dakota; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Flasher Flood Prevention RC&D Measure, Morton County, North Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone (701) 255–4011, extension 421.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a dike system to protect the City of Flasher from flooding. The planned works of improvement consist of approximately 2,060 lineal feet of dikes with 7.5 foot maximum height, 12 foot top width, 3 to 1 horizontal to vertical side slopes. The dikes will be located along the south and west sides of the city.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 11, 1983.

J. Michael Nethery,

State Conservationist.

[FR Doc. 83–13646 Filed 5–19–83; 8:45 am]

BILLING CODE 3410–16–M

Bickford Road Agricultural Land Drainage RC&D Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bickford Road Agricultural Land Drainage RC&D Measure, Lewis County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns agricultural land drainage to relieve wetness problems that are extensive enough to adversely affect the communities efficiency of land use, level of income, and quality of the environment. The planned works of improvement include modification of 2,625 feet of existing channel by clearing and deepening to a depth of approximately 4 to 5 feet, revegetation of 3.6 acres of disturbed areas, replacement of a culvert under Bickford Road, and installation of a rock chute to control erosion.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resources Conservation and Development Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 4, 1983.

Paul A. Dodd,

State Conservationist.

[FR Doc. 83–13348 Filed 5–19–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket No. 41077]

American International Airways, Inc.; Fitness Investigation; Change of Time of Hearing

Notice is hereby given that the hearing in the above-entitled matter assigned to be held on May 24, 1983, at 10:00 a.m. (local time) is changed to 2:00 p.m. (local time), in Room 540, 2120 L Street, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., May 16, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83–13672 Filed 5–19–83; 8:45 am]

BILLING CODE 6320–01–M

Application of ERA Helicopters, Inc., d.b.a. Livingston Copters and d.b.a. Jet Alaska for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of show cause order proposing to find ERA Helicopters, Inc., d/b/a Livingston Copters and d/b/a Jet Alaska fit, willing and able to provide scheduled interstate and overseas air transportation.

DATE: Persons wishing to file requests for additional evidence or petitions to intervene in ERA Helicopter Fitness Investigation shall file their requests and petitions in Docket 41361 by May 31, 1983 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 41361.

In addition, copies of such filings should be served on ERA Helicopters, Inc.; Alaska International Air; the Alaska Transportation Commission and the mayors and airport managers of Anchorage, Deadhorse, Nome and Valdez, Alaska.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: James F. Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW. Washington, D.C. 20428, (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–5–72, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–5–72 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 13, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–13673 Filed 5–19–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41329]

Interamerica Airlines Fitness Investigation; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled matter will be held on June 1, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 17, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83–13671 Filed 5–19–83; 8:45 am]

BILLING CODE 6320–01–M

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Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week ended May 13, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings; (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
May 9, 1983	41467	Nelson Island Air Service, Inc., c/o Hank Myers, Myers & Company, P.O. Box 7341, Bellevue, Washington 98008. Application of Nelson Island Air Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Bethel, the intermediate point Kasigluk, and the terminal point Tuluksak, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by June 6, 1983.
May 13, 1983	41486	Marco Island Airways, Inc., c/o Harry A. Bowen, Bowen & Atkin, Suite 350, 2020 K Street, NW., Washington, D.C. 20006. Application of Marco Island Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate authorizing the application to engage in the scheduled air transportation of persons, property and mail between a point or points in the United States and a point or points in the Bahamas. Conforming Applications, Motions to Modify Scope and Answers may be filed by June 10, 1983.
May 12, 1983	41477	United Air Carriers, Inc., d.b.a. National Airways Limited c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036. Application of United Air Carriers, Inc. d.b.a. National Airways Limited, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for issuance or amendment of a certificate of public convenience and necessity for authority to engage in scheduled foreign air transportation with respect to persons, property, and mail, between the United States and points in the Azores, Portugal. Conforming Applications, Motions to Modify Scope and Answers may be filed by June 9, 1983.
May 12, 1983	41479	Million Air, Inc., c/o Harry A. Bowen, Bowen and Atkin, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Application of Million Air, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in foreign charter air transportation of property as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and (1) Any point in Canada; (2) Any point in Mexico; (3) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, Turks and Caicos and any other foreign place in the Gulf of Mexico and the Caribbean Sea, and (4) Any point in Central or South America. Conforming Applications, Motions to Modify Scope and Answers may be filed by June 9, 1983.
May 12, 1983	41484	Tradewinds Airways Limited, c/o Robert M. Beckman, Beckman & Farmer, Suite 235, 1001 Connecticut Avenue, NW., Washington, D.C. 20036. Application of Tradewinds Airways Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment to its foreign air carrier permit authorizing it to engage in scheduled foreign air transportation between the United States and the United Kingdom. Answers may be filed by June 9, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-13605 Filed 5-19-83; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00p and will end at 6:00p, on June 29, 1983, at the U.S. Commission on Civil Rights, New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110. The purposes of this meeting are to review responses to the release of a report on implementation of the State civil rights law; review progress of a project on successful affirmative action; and plan distribution of employers' guide on sexual harassment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, P.O. Box 95, East Falmouth, Massachusetts 02536, (617) 548-5123; or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 17, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-13700 Filed 5-19-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping Investigation; Preliminary Determination of Sales at Less Than Fair Value; Canned Mushrooms From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value: Canned Mushrooms from the People's Republic of China.

SUMMARY: We have preliminarily determined that canned mushrooms from the People's Republic of China are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or the posting of a bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by August 1, 1983.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Rick Herring, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2613 or 377-3963.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that canned mushrooms from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

For canned mushrooms sold by China National Cereals, Oils, and Foodstuffs Import and Export Corporation (CEROILS), the major exporter of the subject merchandise, we have found that the foreign market value exceeded the United States price on 97 percent of sales compared. These margins ranged from 2.17 percent to 55.26 percent. The weighted-average margin on all sales compared is 7.38 percent.

If this investigation proceeds normally, we will make a final determination by August 1, 1983.

Case History

On October 16, 1982, we received a petition from counsel for the Four "H" Company, filed on behalf of the United States industry producing canned mushrooms. The petition alleged that canned mushrooms from the People's Republic of China are being sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. Counsel for Four "H" also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation.

We notified the ITC of our action and initiated this investigation on November 8, 1982 (47 FR 51604). The ITC informed the Department on December 2, 1982, that there is a reasonable indication that imports of canned mushrooms from the People's Republic of China are materially injuring, or are threatening to materially injure, a United States industry (47 FR 55336). Therefore, we proceeded with this investigation. On March 1, 1983, we determined this case to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination from March 28, 1983, until May 16, 1983 (48 FR 98997).

A Questionnaire was presented to counsel for CEROILS on January 5, 1983. The response of the company was received February 11, 1983. As discussed under the "Foreign Market Value" section of this notice, we determined that the PRC is a state-controlled-economy country for the purpose of this investigation. On May 3 and 4, 1983, we received pricing data from an Indonesian manufacturer of canned mushrooms who agreed to act as a surrogate for this investigation.

Scope of Investigation

The product covered by this investigation is canned mushrooms from the People's Republic of China. The term "canned mushrooms" covers mushrooms, prepared or preserved, other than frozen, which are currently classified under item number 144.20 of the *Tariff Schedules of the United States*.

Since CEROILS accounts for over 95 percent of exports of canned mushrooms from the People's Republic of China, we limited our investigation to them.

This investigation covers the period from May 1 through October 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent United States price because sales by CEROILS were made to unrelated purchasers prior to the importation of the merchandise into the United States. We based our fair value comparison on the 8 and 68 ounce size cans of mushrooms, which accounted for approximately 70 percent of all the PRC sales to the United States. We calculated purchase price based on the C&F or CIF price to the unrelated purchasers. Where appropriate, we made deductions for inland freight, ocean freight, marine insurance, and transshipment charges.

Foreign Market Value

In accordance with section 773 of the Act, we used the home market prices of a surrogate country to determine foreign market value. Petitioner alleged that the economy of the People's Republic of China is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under 19 U.S.C. 1677b(a). After an analysis of the PRC's economy, and consideration of the briefs submitted by the parties, the Commerce Department concluded that the PRC is a state-controlled-economy country for purposes of this investigation. As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations established a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

After analyzing countries which produce canned mushrooms, we determined that Indonesia is at a comparable economic level as the PRC and is, therefore, an appropriate surrogate. We then secured the cooperation of an Indonesian producer of canned mushrooms.

Therefore, pursuant to section 773 of the Act, we based foreign market value on the home market price of Indonesian canned mushrooms. We used the delivered price of Indonesian canned mushrooms and where appropriate, we made deductions for inland freight. We also made an adjustment to the Indonesian home market price for a commission which was paid on sales to the United States by CEROILS.

Verification

We verified the information received from the Indonesian producer used in this preliminary determination. In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

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Negative Determination of Critical Circumstances

The petitioner asserts that "critical circumstances" exist with respect to imports of canned mushrooms from the PRC. To determine that critical circumstances exist, we must find that: (1) There is a history of dumping of canned mushrooms in the United States or elswhere, or the importer knew or should have known that the exporter was selling canned mushrooms at less than fair value, and (2) there have been massive imports of canned mushrooms over a relatively short period.

Petitioner does not allege a history of dumping, but states that importers should have known that canned mushrooms were being sold at less than fair value because they should have known that the Department would determine foreign market value based on the surrogate markets of either Taiwan or Korea. Neither the petitioner nor importers could have known that we would use Indonesia as our surrogate and which Indonesian sales (home market or export) we would use as foreign market value. Therefore, petitioner's information does not offer a reasonable basis to believe that importers knew, or should have known, that the PRC exporter was selling canned mushrooms in the United States at less than fair value. Consequently, we have concluded that critical circumstances do not exist. Accordingly, we will not suspend liquidations retroactively.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of canned mushrooms from the People's Republic of China subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margin for canned mushrooms from the PRC is 7.38 percent.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on June 16, 1983, at the United States Department of Commerce, Room B841, 14th Street and Construction Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by June 9, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 16, 1983.

[FR Doc. 83-13651 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determination of Sales at Less Than Fair Value; Greige Polyester/Cotton Printcloth From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the Notice of Preliminary Determination of Sales at Less than Fair Value.

SUMMARY: On March 9, 1983, we published a Notice of Preliminary Determination of Sales at Less than Fair Value with respect to greige polyster/cotton printcloth from the People's Republic of China (48 FR 9898). That notice is hereby amended as follows: (1) In the section entitled "Preliminary Determination," the last two sentences of the second paragraph are amended as follows: "These margins ranged from 18.8 percent to 29.4 percent, The weighted-average margin on all sales compared is 21.8 percent."; (2) In the section entitled "Foreign Market Value," the fifth paragraph is deleted in its entirety; and, (3) In the section entitled "Suspension of Investigation," the last sentence is amended as follows: "The weighted average margin for greige polyster/cotton printcloth is 21.8 percent."

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-2613.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 11, 1983.

[FR Doc. 83-13652 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 30407-52]

Transport Protocol; Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards.

A notice published in the **Federal Register** on March 3, 1981 (46 FR 14913) announced the availability of a preliminary draft Specification of the Transport Protocol for informal technical review. That review has been completed and a revised Specification of the Transport Protocol has been prepared. The purpose of this notice is to announce a proposed Federal Information Processing Standard, Transport Protocol.

Prior to submission of this proposed standard to the Secretary for approval as a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the needs and views of the public, State and local governments, and manufacturers. It is appropriate at this time to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain a copy of the specification section of this proposed standard from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, ATTN: Transport, Washington, D.C. 20234.

Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology, at the above address. Comments to be considered must be received on or before August 18, 1983.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Persons desiring more information about this proposed standard may contact Dr. John F. Heafner, Chief, Systems and Network Architecture Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3537.

Dated: May 17, 1983.

Ernest Ambler,

Director.

Federal Information

Processing Standards Publication——

(Date)——

Announcing the Standard for

Transport Protocol

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Transport Protocol (FIPS PUB ——).

Category of Standard. Software and Hardware Standard; Subcategory: Computer Network Protocols.

Explanation. This standard provides for reliable, transparent transfer of data between two heterogeneous or homogeneous computer systems. This is one of a family of computer network protocol standards which will make possible computer to computer communication. This standard is based on an international consensus. In particular it is compatible with the International Organization for Standardization (ISO) document ISO/TC97/SC 16 N1169, class 2 and class 4. In order to ensure uniform implementations for the purpose of interoperability, this standard contains a formal description based on the ISO class 2 and class 4 transport protocols.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards, Institute for Computer Sciences and Technology.

Cross Index. Not Applicable.

Related Documents. None.

Applicability. This transport protocol standard is made available to Federal departments and agencies which require compatibility with voluntary industry standards, which are evolving nationally and internationally according to the architecture of the ISO Reference Model for Open Systems Interconnection document ISO/TC97/SC 16 N890 (ISO/DP7498).

Specifications. Federal Information Processing Standards (FIPS), Transport Protocol affixed).

Qualifications. The specification section of this standard contains six volumes with the following tites:

1. Specification of the Transport Protocol
   Volume 1: Overview and Services
2. Specification of the Transport Protocol
   Volume 2: Class Two Protocol
3. Specification of the Transport Protocol
   Volume 3: Class Four Protocol
4. Specification of the Transport Protocol
   Volume 4: Service Specifications
5. Specification of the Transport Protocol
   Volume 5: Guidance for the Implementor
6. Specification of the Transport Protocol
   Volume 6: Guidance for Implementation Selection

Compliance with this standard requires use of the class 2 specification in volume 2 or the class 4 specification in volume 3 or both specifications. The remaining volumes are supporting documentation containing guidance for the development and use of this standard.

Implementation Schedule. This standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approval by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication (FIPS-PUB——), Transport Protocol. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161.

[FR Doc. 83-13688 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-CN-M

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need To Accredit Laboratories That Test Government Procured Commercial Items

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments on a preliminary finding of need to accredit laboratories that test government procured commercial items.

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7a) this notice announces the National Bureau of Standards' preliminary finding of need to accredit testing laboraties that test government procured commercial items (paper, paint and mattresses). The initial set of test methods proposed by the requestor, the International Coalition for Procurement Standards (ICPS), Tallahassee, Florida, for inclusion in this laboratory accreditation program (LAP) is shown in the Appendix. This notice sets out the basis for the preliminary finding of need, including how accreditation of laboratories that test government procured commercial items would benefit the public interest. Comments are invited.

DATES: Written comments are due on or before July 19, 1983. A request for an informal hearing may be made before June 6, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, DC 20234; (301) 921-3431.

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SUPPLEMENTARY INFORMATION:

Background

The International Coalition for Procurement Standards (ICPS) in a letter dated March 18, 1983, to the National Bureau of Standards (NBS) requested, under the NVLAP procedures (15 CFR Part 7a), the establishment of a laboratory accreditation program for government procured commercial products (paper, paint and mattresses).

The request provides the basic information required by the NVLAP procedures to establish a preliminary finding of need for a LAP for testing laboratories that test government procured commercial items (paper, paint and mattresses).

Request for Comments

Interested persons desiring to comment on the preliminary finding of need are invited to submit their comments in writing on or before July 19, 1983, to the Director, Office of Product Standards Policy, National Bureau of Standards, TECH B154, Washington, DC 20234.

Any person desiring to express his or her views in an informal public hearing relative to this preliminary finding of need must do so by communicating that desire in writing on or before June 6, 1983, to the Director, Office of Product Standards Policy. Upon receipt of such a request, an informal public hearing(s) may be held to give interested persons an opportunity orally to present data, views, or arguments in addition to the opportunity to make written submissions. If deemed appropriate, hearings may be held at two locations, one of which will be east of and the other west of the Mississippi River. Notice of any hearings will be published in the **Federal Register** at least 20 days in advance thereof. A transcript will be made of any oral presentation.

Comments are invited particularly to determine whether there is a need to establish a LAP for accrediting laboratories that test "government procured commercial items". The specific standards and test methods identified by the requester are initially proposed for inclusion in the LAP. As a result of comments in response to this preliminary finding of need, additional standards and test methods related to the testing of government procured commercial items could be included.

Procedure Following Receipt of Comments

Upon receipt of written and oral comments and any testimony, a thorough evaluation of the comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the **Federal Register** announcing a final finding of need to accredit testing laboratories which test government procured commercial items, or announcing withdrawal of the preliminary finding of need. That notice will set out the basis for a final finding of need or for the withdrawal of the preliminary finding of need.

Documents in Public Record

The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in the Department of Commerce Central Reference and Records Inspection Facility (CRRIF), Room 6622, Main Commerce Building, Washington, D.C. 20230.

All written and oral comments and testimony in response to this notice will be made part of the public record and will be available for inspection and copying at CRRIF.

Dated: May 17, 1983.

Ernest Ambler,

National Bureau of Standards.

Preliminary Finding of Need

The request of the International Coalition for Procurement Standards that NBS find that there is no need to accredit testing laboratories that test government procured commercial items (paper, paint and mattresses) has been carefully considered. The analysis of that request is contained in the report entitled "MVLAP Summary and Analysis Report of Request for a Laboratory Accreditation Program for Testing Government Procured Commercial Items". Each heading which follows is keyed to the specific actions of the NVLAP procedures relative to making a preliminary finding of need.

Identification of the Product (§ 7a.4(b)(1))

The requestor identified the product as government procured commercial items (paper, paint and mattresses).

Applicable Standards and Test Methods § 7a.4(b) (2) and (3))

The requestor identified 43 applicable test methods and standards for paper, 121 test methods for paint and the Consumer Product Safety Commission (CPSC) flammability standard for mattresses (see Appendix).

Section 7a.4(i) of the NVLAP procedures allows standards and test methods to be added to an evolving or established LAP if the additional standards and test methods fall within the scope of the LAP. At some future date, or even as a result of comments in response to this preliminary finding of need, additional standards/test methods directly related to testing of government procured commercial items could be included.

Basis of Need (§ 7a.4(b)(4))

The requestor included in his request information pertinent to the five items set out in § 7a.5 of the NVLP procedures. The five items are: (1) Benefit to the public; (2) national need to accredit testing laboratories that test government procured commercial items; (3) existence of important test methods or standards; (4) existence of a valid testing methology; and (5) the feasibility and practicability of accrediting testing laboratories. This information is incorporated in the discussion under the section of this notice entitled *"Basis for Preliminary Finding of Need for Accrediting Laboratories That Test Government Procured Commercial Items (§ 7a.5)"*.

Number of Laboratories and Users (§ 7a.4(b)(4)(i)(ii))

The requestor did not directly estimate the number of testing laboratories which are presently engaged in the testing of various products covered by the test methods proposed. There are nationally in excess of 800 laboratories which test paints and protective coatings, according to the Directory of the American Society for Testing and Materials, and the Technical Association of the Pulp and Paper Industry estimates that there are more than 1,000 paper testing laboratories all of which could potentially seek accreditation.

Basis for Preliminary Finding of Need for Accrediting Laboratories That Test Government Procured Commercial Items (§ 7a.5)

The basis for this preliminary finding of need, keyed to the information items listed in § 7a.5 of the NVLAP procedures, is as follows:

(1) *Whether an amendment to these procedures to modify the existing general or specific criteria referenced in § 7a.19 to establish additional general or specific criteria, or to establish other conditions for accrediting testing laboratories would benefit the public interest (§ 7a.5(a)).* The requestor indicated that the criteria and other requirements for accrediting laboratories would benefit the public interest since:

(a) Vendors could be given the latitude to select any one of the accredited laboratories to comply with the specified testing requirements rather than dealing with one designated laboratory.

(b) Government purchasing authorities would not have to expend extra resources (thus saving taxpayers' dollars) for in-house testing or contract testing if reliable sources of test data were identified by the LAP.

(c) Testing could remain in the private sector rather than be taken over by government testing facilities.

(2) *Whether there is a national need to accredit testing laboratories that test government procured commercial items beyond that served by any existing laboratory accreditation programs in the public and private sector (§ 7a.5(b)).* There are currently no other existing laboratory accreditation programs for government procured commercial items.

(3) *Whether for government procured commercial item testing, there is in existence a standard important to commerce, consumer well-being, or public health and safety (§ 7a.5(c)).* The requestor stated that the standards identified in the appendix are important in many respects to commerce, consumer well-being, and to the public health and safety.

(a) Conformance with paint standards ensures that paint meets desirable levels of quality and durability, this reducing the frequency and cost of repainting.

(b) Paper is available in different qualities. The requestor indicated that purchasers have historically had problems verifying that the specified grade of paper is supplied. Reliable testing would assure proper grading and would save expenditures for higher quality paper than is needed.

(c) The construction and testing requirements embodied in the U.S. Consumer Product Safety Commission standard for mattress flammability are of vital importance to the public health and safety.

(4) *Whether there is in existence a valid testing methodology (§ 7a.5(d)).* The requestor listed 43 test methods and standards for paper, 121 test methods for paint, and the Consumer Product Safety Commission standard for mattress flammability (see Appendix) that should be initially included in this proposed LAP. These test methods appear to be satisfactory for use in a laboratory accreditation program.

(5) *Whether it is feasible and practical to accredit testing laboratories that test government procured commercial items (§ 7a.5(e)).* NBS believes that the characteristic of the test methods listed in the Appendix would make a government procured commercial item LAP at least as feasible and practical as other LAPs now under NVLAP.

Preliminary Finding of Need

The request to find that there is a need to accredit testing laboratories that test government procured commercial items has been carefully examined. Based on that examination, which is described above, it is preliminarily found that a need exists to accredit testing laboratories that test government procured commercial items. It is proposed that if a final finding of need is determined, this LAP initially would include the test methods listed in the Appendix, as annotated. Other standards/test methods would be added in the future, as requested, if they meet the requirements of the NVLAP procedures.

APPENDIX.—LIST OF APPLICABLE STANDARDS

Designation	Short title
	Paper
ASTM D774–71	Standard Test Method for Bursting Strength of Paper.
ASTM D689–79	Standard Test Method for Internal Tearing Resistance of Paper.
ASTM D828–71	Standard Test Method for Tensile Breaking Strength of Paper and Paperboard.
TAPPI T494 OS70	Tensile Breaking Properties of Paper and Paperboard (Tensile Energy Absorption).
ASTM D2176–69	Standard Test Method for Folding Endurance of Paper by the M.I.T. Tester.
TAPPI T489 OS76	Stiffness of Paperboard.
ASTM D2428–76	Standard Test Method for Wax Pick Test for Surface Strength of Paper.
TAPPI T809 OS71	Flat Crush of Concava Medium.
TAPPI T818 OS71	Ring Crush of Paperboard.
ASTM D726–71	Standard Test Method for Resistance of Paper to Passage of Air.
TAPPI UM 518	Smoothness of Paper (Sheffield).
ASTM D644–76	Standard Test Method for Moisture in Paper.
TAPPI T425 OS75	Opacity of Paper.
TAPPI T452 OS77	Brightness of Pulp, Paper and Paperboard (Directional Reflectance of 457 nm).
TAPPI T480 OS78	Specular Gloss at 75 Degrees.
ASTM D645	Standard Test Method for Thickness of Paper and Paperboard.
TAPPI T410	Weight Per Unit Area (Basis Weight or Substance) of Paper and Paperboard.
ASTM D778	Standard Test Method for Hydrogen Ion Concentration (pH) of Paper Extracts—Hot Extraction Method.
ASTM D3460	Standard Specification for White Watermarked Bond and Unwatermarked Bond; Mimeograph, Duplicator and Xerographic Cut-sized Office Papers.
ASTM D3905	Standard Specification for Toilet Tissue, Industrial.
ASTM D3290	Standard Specification for Bond and Ledger Papers for Permanent Records.
ASTM D3208	Standard Specification for Manifold Papers for Permanent Records.
TAPPI T–403	Burst (MULLEN).
TAPPI T–470	Tear (internal tear resistence).
TAPPI T–UM–536	Smoothness (SHEFFIELD).
TAPPI T–411	Fold (MIT).
CFR Title 49	Transportation, Chapter 1—Research and Special Programs Administration, Subchapter C—Hazardous Materials Regulations, Part 178—Shipping Container Specifications, Subparts A–K.
	National Motor Freight Classification Rules, i.e., 41.
	Uniform Freight Classification Rules, i.e., Item 222.
ASTM D642	Compression Test for Shipping Containers.
ASTM D1310	Standard Test Method for Flash Point of Liquids by Tag Open Cup Apparatus.
ASTM D3330	Standard Test Method for Peel Adhesion of Pressure-Sensitive Tape at 180-degree Angle.
ASTM D3654	Standard Test Method for Holding Power Slippage.
ASTM D2016	Standard Test Method for Moisture Content of Wood.
ASTM D3662	Standard Test Method for Burst.
ASTM D3715	Standard Test Method for Referee Test Sampling.
ASTM D3759	Standard Test Method for Tensile Strength.
ASTM D3811	Standard Test Method for Unwind Force.
ASTM D3815	Standard Test Method for Accelerated Aging.
ASTM D3652	Standard Test Method for Thickness.
ASTM D895	Standard Test Method for Water Vapor Permeability or Transmission.
ASTM D1006	Standard Test Method for Water Vapor Permeability or Transmission.
ASTM E122	Choice of Sample Size to Estimate the Average Quality of a Lot or Process.
ASTM E691	Standard Practice for Conducting an Inter-Laboratory Test Program to Determine the Precision of Test Methods.

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APPENDIX.—LIST OF APPLICABLE STANDARDS—Continued

Designation	Short title
FED STD 101, Method 4035	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Water Absorption by Cushioning Materials.
FED STD 101, Method 4047	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Accelerated Aging Tapes.
FED STD 101, Method 5001	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Assembly and Disassembly Test of Container.
FED STD 101, Method 5005.1	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Cornerwise Drop Test.
FED STD 101, Method 5007.1	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Drop Test.
FED STD 101, Method 5008.1	Federal Test Method Standard for Preservation Packaging, and Packing Materials; Edgewise Drop Test.
FED STD 101, Method 5009.2	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Leaks in Containers.
FED STD 101, Method 5011.1	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Mechanical Handling Test.
FED STD 101, Method 5012	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Pendulum Impact Test.
FED STD 101, Method 5013	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Revolving Hexagonal Drum Test.
FED STD 101, Method 5014	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Rollover Test.
FED STD 101, Method 5015	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Shipping Test.
FED STD 101, Method 5016.1	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Superimposed Load Test.
FED STD 101, Method 5017	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Superimposed Load Test.
FED STD 101, Method 5018	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Tip Over Test.
FED STD 101, Method 5019.1	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Vibration Test or 5020.1.
FED STD 101, Method 5023	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Incline Impact Test.
FED STD 101, Method 5024	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Moisture Content of Paperboard.
FED STD 101, Method 5226	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Penetration of Packaging Materials by Water.
FED STD 101, Method 5227	Federal Test Method Standard for Preservation, Packaging, and Packing Materials; Penetration of Water Repellent Wood Preservative.
FED STD 147	Tapes, Packaging, Adhesive and Gummed, Method of Inspection, Sampling, and Testing.
	Paint and Related Coatings and Materials
	Paint
ASTM D3927	Standard Specification for Evaluating Architectural Paints for Purchase by State/Local Governments.
ASTM D562-82	Standard Test Method for Consistency of Paints Using the Stormer Viscometer.
ASTM D523-82	Standard Test Method for Specular Gloss.
ASTM D344-82	Standard Test Method for Standard Dry Hiding Power of Paints.
ASTM D1210-82	Standard Test Method for Fineness of Dispersion of Pigment Vehicle Systems.
ASTM D2486-82	Standard Test Method for Scrub Resistance of Interior Latex Flat Wall Paints.
FED STD 141, Method 4494	Federal Test Method Standard for Paint, Varnish, Lacquer, and Related Materials; Sag Test (Multinotch Blade).
FED STD 141, Method 4061	Federal Test Method Standard for Paint, Varnish, Lacquer, and Related Materials; Drying Time.
ASTM D8117-73 (1979)	Salt Spray (Fog) Testing.
ASTM D34-73 (1973)	Chemical Analysis of White Pigments.
ASTM D56-79	Standard Test Method for Flash Point by Tag Closed Tester
ASTM D93-80	Standard Test Method for Flash Point by Pensky-Marten Closed Tester.
ASTM D95-70 (1980)	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
ASTM D153-54 (1981)	Tests for Specific Gravity of Pigments.
ASTM D185-78	Standard Test Method for Coarse Particles in Pigments, Pastes, and Paints.
ASTM D279-73 (1979)	Standard Test Method for Bleeding of Pigments.
ASTM D281-31 (1980)	Standard Test Method for Oil Absorption of Pigments by Spatula Rub-Out.
ASTM D332-80	Standard Test Method for Tinting Strength of White Pigments.
ASTM D387-81	Standard Test Method for Color and Strength of Color Pigments with a Mechanical Muller.
ASTM D521-81	Standard Method of Chemical Analysis of Zinc Dust (Metallic Zinc Powder).
ASTM D523-80	Standard Test Method for Specular Gloss.
ASTM D562-81	Standard Test Method for Consistency of Paints Using the Stormer Viscometer.
ASTM D563-80	Standard Test Method for Phthalic Anhydride Content of Alkyd Resins and Resin Solutions.
ASTM D609-73 (1980)	Preparation of Steel Panels for Testing Paint, Varnish, Lacquer and Related Products.
ASTM D610-68 (1981)	Standard Method of Evaluating Degree of Rusting on Painted Steel Surfaces.
ASTM D611-77	Standard Test Method for Aniline Point and Mixed Aniline Point of Petroleum Products and Hydrocarbon Solvents.
ASTM D659-80	Standard Method of Evaluating Degree of Chalking of Exterior Paints.
ASTM D660-44 (1981)	Standard Method of Evaluating Degree of Checking of Exterior Paints.
ASTM D661-44 (1981)	Standard Method of Evaluating Degree of Cracking of Exterior Paints.
ASTM D662-44 (1981)	Standard Method of Evaluating Degree of Erosion of Exterior Paints.
ASTM D711-75	Standard Test Method for No-Pick-Up Time of Traffic Paint.
ASTM D714-56 (1981)	Standard Method of Evaluating Degree of Blistering of Paints.
ASTM D772-47 (1981)	Standard Method of Evaluating Degree of Flaking (Scaling) of Exterior Paints.
ASTM D821-47 (1974)	Standard Method of Evaluating Degree of Abrasion, Erosion, or a Combination of Both, in Road Service Tests of Traffic Paint.
ASTM D822-80 (1981)	Standard Practice for Operating Light- and Water-Exposure Apparatus (Carbon-Arc Type) for Testing Paint, Varnish, Lacquer, and Related Products.
ASTM D823-53 (1970)	Producing Films of Uniform Thickness of Paint, Varnish, Lacquer and Related Products on Test Panels.
ASTM D868-48 (1981)	Standard Method of Evaluating Degree of Bleeding of Traffic Paint.
ASTM D869-78	Standard Method of Evaluating Degree of Settling of Traffic Paint.
ASTM D870-54 (1980)	Water Immersion Test of Organic Coatings on Steel.
ASTM D913-51 (1981)	Standard Method of Evaluating Degree of Chipping of Traffic Paint.
ASTM D968-81	Standard Test Method for Abrasion Resistance of Organic Coatings by the Falling Abrasive Tester.
ASTM D969-54 (1981)	Laboratory Test for Degree of Bleeding of Traffic Paint.
ASTM D1005-51 (1979)	Standard Method for Measurement of Dry Film Thickness of Organic Coatings.
ASTM D1006-73 (1981)	Standard Practice for Conducting Exterior Exposure Tests of Paint and Wood.
ASTM D1014-66 (1973)	Standard Method of Conducting Exterior Exposure Tests of Paints on Steel.
ASTM D1078-78	Standard Test Method for Distillation Range of Volatile Organic Liquids.
ASTM D1133-78	Standard Test Method for Kauri-Butanol Value of Hydrocarbon Solvents
ASTM D1156-52 (1974)	Standard Test Method for Total Chlorine in Poly(Vinyl Chloride) Polymers and Copolymers Used for Surface Coatings.
ASTM D1186-81	Nondestructive Measurement of Dry Film Thickness of Nonmagnetic Coatings Applied to a Ferrous Base.
ASTM D1200-70 (1978)	Standard Test Method for Viscosity of Paints, Varnishes, and Lacquers by Ford Viscosity Cup.
ASTM D1208-78	Tests for Common Properties of Certain Pigments.
ASTM D1210-79	Standard Test Method for Fineness of Dispersion of Pegment-Vehicle System.
ASTM D1212-79	Measurement of Wet Film Thickness of Organic Coatings.
ASTM D1259-61 (1980)	Standard Test Method for Nonvolatile Content of Resin Solutions.
ASTM D1296-79	Standard Test Method for Odor of Volatile Solvents and Diluents.
ASTM D1306-80	Standard Test Method for Phthalic Anhydride Content of Alkyd Resins and Esters Containing Other Dibasic Acids (Gravimetric).
ASTM D1308-79 (1981)	Standard Test Method for Effect of Household Chemicals on Clear and Pigmented Organic Finishes.
ASTM D1309-56 (1975)	Standard Test Method for Settling Properties of Traffic Paints During Storage.
ASTM D1310-80	Standard Test Method for Flash Point of Liquids by Tag Open-Cup Apparatus.
ASTM D1353-78	Standard Test Method for Nonvolatile Matter in Volatile Solvents for Use in Paints, Varnish, Lacquer and Related Products.
ASTM D1360-79	Standard Test Method for Fire Retardancy of Paints (Cabinet Method).
ASTM D1364-78	Standard Test Method for Water in Volatile Solvents (Fischer Reagent Titration Method).
ASTM D1394-76 (1981)	Chemical Analysis of White Titanium Pigments.
ASTM D1379-80	Standard Test Method for Unsaponifiable Matter in Alkyd Resins and Resin Solutions.
ASTM D1398-77	Standard Test Method for Fatty Acid Content of Alkyd Resins and Alkyd Resin Solutions.
ASTM D1399-81	Standard Test Method for Unsaponifiable Content of Tricresyl Phosphate.

APPENDIX.—LIST OF APPLICABLE STANDARDS—Continued

Designation	Short title
ASTM D1469-73 (1981)	Standard Test Method for Total Rosin Acids Content of Coating Vehicles.
ASTM D1537-80 (1979)	Standard Specifications for Distilled Soybean Fatty Acids.
ASTM D1541-80 (1979)	Standard Test Method for Total Iodine Value of Drying Oils and Their Derivatives.
ASTM D1543-63 (1981)	Standard Test Method for Color Permanence of White Architectural Enamels.
ASTM D1544-80	Standard Test Method for Color of Transparent Liquids (Gardner Color Scale).
ASTM D1613-81	Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products.
ASTM D1639-70 (1981)	Standard Test Method for Acid Value of Organic Coating Materials.
ASTM D1640-69 (1974)	Standard Test Method for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.
ASTM D1644-75 (1981)	Standard Test Method for Nonvolatile Content of Varnishes.
ASTM D1652-73 (1980)	Standard Test Method for Epoxy Content of Epoxy Resins.
ASTM D1654-79a	Standard Method of Evaluation of Painted or Coated Specimens Subjected to Corrosive Environments.
ASTM D1729-69 (1974)	Standard Method of Visual Evaluation of Color Differences of Opaque Materials.
ASTM D1730-67 (1973)	Standard Practices for Preparation of Aluminum and Aluminum-Alloy Surfaces for Painting.
ASTM D1734-63 (1980)	Standard Method of Making and Preparing Concrete and Masonry Panels for Testing Paint Finishes.
ASTM D1737-62 (1979)	Standard Test Method for Elongation of Attached Organic Coatings with Cylindrical Mandrel Apparatus.
ASTM D2075-66 (1981)	Standard Test Method for Iodine Value of Fatty Amines, Amidoamines, and Diamines.
ASTM D2076-64 (1981)	Standard Test Methods for Acid Value and Amine Value of Fatty Quaternary Ammonium Chlorides.
ASTM D2197-68 (1979)	Standard Test Method for Adhesion of Organic Coatings.
ASTM D2243-66 (1974)	Standard Test Method for Freeze-Thaw Resistance of Latex and Emulsion Paints.
ASTM D2244-79	Standard Method of Instrumental Evaluation of Color Differences of Opaque Materials.
ASTM D2247-68 (1980)	Standard Method of Testing Coated Metal Specimens at 100% Relative Humidity.
ASTM D2248-73	Standard Practice for Detergent Resistance of Organic Finishes.
ASTM D2366-68 (1980)	Accelerated Testing of Moisture Blister Resistance of Exterior House Paints on Wood.
ASTM D2371-73 (1979)	Standard Test Method for Pigment Content of Solvent-Type Paints.
ASTM D2372-73 (1979)	Separation of Vehicle from Solvent-Type Paints.
ASTM D2486-79	Standard Test Method for Scrub Resistance of Interior Latex Flat Wall Paints.
ASTM D2698-73 (1979)	Standard Method for Determination of Pigment Content of Solvent-Type Paints by High-Speed Centrifuging.
ASTM D2801-69 (1981)	Standard Test Method for Leveling Characteristics of Paints by Draw-Down Method.
ASTM D2805-80	Standard Test Method for Hiding Power of Paints.
ASTM D2832-69 (1980)	Standard Practices for Determining Nonvolatile Content of Paint and Paint Materials.
ASTM D3271-76 (1981)	Standard Method of Direct Injection of Solvent-Base Paints into a Gas Chromatograph for Solvent Analysis.
ASTM D3272-76 (1981)	Standard Method of Vacuum Distillation of Solvents from Solvent-Base Paints for Analysis.
ASTM D3273-76	Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber.
ASTM D3274-76	Standard Method of Evaluating Degree of Surface Disfigurement of Paint Films by Fungal Growth or Soil and Dirt Accumulation.
ASTM D3278-78	Standard Test Method for Flash Point of Liquids by Setaflash Closed Tester.
ASTM D3335-78	Standard Test Method for Low Concentrations of Lead, Cadmium, and Cobalt in Paint by Atomic Absorption Spectroscopy.
ASTM D3361-81	Standard Practice for Operating Light- and Water-Exposure Apparatus (Unfiltered Carbon-Arc Type) for Testing Paint, Varnish, Lacquer, and Related Products Using the Dew Cycle.
ASTM D3363-74 (1980)	Film Hardness by Pencil Test.
ASTM D3450-80	Standard Test Method for Washability Properties of Interior Architectural Coatings.
ASTM D3456-75 (1981)	Standard Practice for Determining by Exterior Exposure Tests the Susceptibility of Paint Films to Microbiological Attack.
ASTM D3623-78	Testing Antifouling Panels in Shallow Submergence.
ASTM D3624-78	Standard Test Method for Low Concentrations of Mercury in Paint by Atomic Absorption Spectroscopy.
ASTM D3792-79	Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection Into a Gas Chromatograph.
ASTM D3924-80	Standard Specification for Environment For Conditioning and Testing Paint, Varnish, Lacquer and Related Materials.
ASTM D4017-81	Standard Test Method for Water in Paints and Paint Materials by Karl Fischer Method.
ASTM D4060-81	Standard Test Method for Abrasion Resistance of Organic Coatings by the Taber Abraser.
ASTM D4062-81	Standard Test Method for Leveling of Paints by Draw-Down Method.
ASTM E97-77	Standard Test Method for 45-deg, 0-deg Directional Reflectance Factor of Opaque Specimens by Broad-Band Filter Reflectometry.
ASTM E308-66 (1981)	Standard Pactice for Spectrophotometry and Description of Color in CIE 1931 System.
ASTM E313-73 (1979)	Standard Test Method for Indexes of Whiteness and Yellowness of Near-White Opaque Materials.
ASTM E430-78	Measurement of Gloss and High-Gloss Surfaces by Goniophotometry.
ASTM G23-81	Standard Practice fo Operating Light- and Water-Exposure Apparatus (Carbon-Arc Type) for Exposure of Nonmetallic Materials.
ASTM G26-77	Standard Practice for Operating Light-Exposure Apparatus (Xenon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.
ASTM G53-77	Standard Practice for Operating Light- and Water-Exposure Apparatus (Fluorescent UV-Condensation Type) for Exposure of Nonmetallic Material.
ASTM D3009-72 (1981)	Standard Test Method for Composition of Turpentine by Gas Chromatography.
	Mattresses
16 CFR Part 1632	Standard for the Flammability of Mattresses (and Mattress Pads) (FF-4-72).

[FR Doc. 83-13602 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-13-M

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need To Accredit Laboratories That Test Microforms

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments on a preliminary finding of need to accredit laboratories that test microforms (microfilm, microfiche, aperture cards).

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7a) this notice announces the National Bureau of Standards' preliminary finding of need to accredit testing laboratories that test microforms (microfilm, microfiche, aperture cards). The initial set of standards and test methods proposed by the requestor, the National Micrographics Association, Silver Spring, Maryland, for inclusion in this laboratory accreditation program (LAP) is shown in the Appendix. This notice sets out the basis for the preliminary finding of need, including how accreditation of laboratories that test microforms would benefit the public interest. Comments are invited.

DATES: Written comments are due on or before July 19, 1983. A request for an informal hearing may be made before June 6, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, DC 20234; (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background

The National Micrographics Association (NMA) in a letter dated March 22, 1983, to the National Bureau of Standards (NBS) requested, under the NVLAP procedures (15 CFR Part 7a), that NMA and NBS work together to establish an accreditation program for

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laboratories that test microforms (microfilms, microfiche, aperture cards). Section 7a.4(b) of the NVLAP procedures sets out the requirements to be met by those persons who seek to have NBS find that there is a need to accredit testing laboratories which provide specific testing services.

This request provides the basic information required by the NVLAP procedures to establish a preliminary finding of need for a LAP for laboratories that test microforms.

Request for Comments

Interested persons desiring to comment on the preliminary finding of need are invited to submit their comments in writing on or before July 19, 1983, to the Director, Office of Product Standards Policy, National Bureau of Standards, TECH B154, Washington, DC 20234.

Any person desiring to express his or her views in an informal public hearing relative to this preliminary finding of need must do so by communicating that desire in writing on or before June 6, 1983, to the Director, Office of Product Standards Policy. Upon receipt of such a request, an informal public hearing(s) may be held to give interested persons an opportunity orally to present data, views, or arguments in addition to the opportunity to make written submissions. If deemed appropriate, hearings may be held at two locations, one of which will be east of and the other west of the Mississippi River. Notice of any hearings will be published in the **Federal Register** at least 20 days in advance thereof. A transcript will be made of any oral presentation.

Comments are invited particularly to determine whether there is a need to establish a LAP for laboratories that test microforms. The specific standards and test methods identified by the requestor are initially proposed for inclusion in the LAP (see Appendix). As a result of comments in response to this preliminary finding of need, additional standards and test methods related to the testing of microforms could be included.

Procedure Following Receipt of Comments

Upon receipt of all written and oral comments and any testimony, a thorough evaluation of the comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the **Federal Register** announcing a final finding of need to accredit testing laboratories which test microforms, or announcing withdrawal of the preliminary finding of need. That notice will set out the basis for a final finding of need or for the withdrawal of the preliminary finding of need.

Documents in Public Record

The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in the Department of Commerce Central Reference and Records Inspection Facility (CRRIF), Room 6622, Main Commerce Building, Washington, D.C. 20230.

All written and oral comments and testimony in response to this notice will be made part of the public record and will be available for inspection and copying at CRRIF.

Dated: May 16, 1983.

Earnest Ambler,

Director, National Bureau of Standards.

Preliminary Finding of Need

The request of the National Micrographics Association that NBS find that there is a need to accredit testing laboratories that test microforms (microfilm, microfiche, aperture cards) has been carefully considered. The analysis of that request is contained in the report entitled "NVLAP Summary and Analysis Report of Request for a Laboratory Accreditation Program for Testing Microforms". Each heading which follows is keyed to the specific actions of the NVLAP procedures relative to making a preliminary finding of need.

Identification of the Product (Section 7a.4(b)(1))

The requestor identified the product as microforms (microfilm, microfiche, aperture cards).

Applicable Standards and Test Methods (Section 7a.4(b) (2) and (3))

The requestor identified 12 applicable standards and test methods for the proposed program (see Appendix).

Section 7a.4(i) of the NVLAP procedures allows standards and test methods to be added to an evolving or established LAP if the additional standards and test methods fall within the scope of the LAP. At some future date, or even as a result of comments in response to this preliminary finding of need, additional standards/test methods directly related to the testing of microforms could be included.

Basis of Need (Section 7a.4(b)(4))

The requestor included in his request information pertinent to the five items set out in section 7a.5 of the NALAP procedures. The five items are: (1) Benefit to the public; (2) national need to accredit testing laboratories that test microforms; (3) existence of important test methods or standards; (4) existence of a valid testing methodology; and (5) the feasibillty and practicability of accrediting testing laboratories. This information is incorporated in the discussion under the section of this notice entitled *"Basis for Preliminary Finding of Need for Accrediting Laboratories That Test Microforms (Section 7a.5)"*.

Basis for Preliminary Finding of Need for Accrediting Laboratories That Test Microforms (Section 7a.5)

The basis for this preliminary finding of need, keyed to the information items listed in section 7a.5 of the NVLAP procedures, is as follows:

(1) *Whether an amendment to these procedures to modify the existing general or specific criteria referenced in Section 7a.19 to establish additional general or specific criteria, or to establish other conditions for accrediting testing laboratories would benefit the public interest (section 7a.5(a))*. The requestor indicated that the criteria and other requirements for accrediting laboratories would benefit the public interest through more reliable testing of the product.

(2) *Whether there is a national need to accredit testing laboratories that test microforms beyond that served by any existing laboratory accreditation programs in the public and private sector (section 7a.5(b))*. The requestor responded with the following statement.

"With the curtailment of the GSA testing and accreditation program there is no longer an independent facility to certify products. This has already resulted in problems for several state agencies where regulations require purchase of certified archival micrographic products, which the vendors cannot provide due to a lack of accredited independent testing facilities."

(3) *Whether for microform testing, there is in existence a standard important to commerce, consumer well-being, or public health and safety (section 7a.5(c))*. The requestor stated that the standards and test methods identified are important in many respects to commerce, consumer well-being, and to the public health and safety. Federal and state laws and regulations and good business practices require that regulated industries, financial and insurance companies, and utilities insure that the micrographic and photographic products they use are manufactured to the requirements found in the standards identified in the Appendix. The availability of accredited testing facilities would make the purchase, processing, and storage of archival micrographic products more reliable, thus insuring that the microfilmed copies of vital and historical documents will survive as long as needed.

(4) *Whether there is in existence a valid testing methodology (section 7a.5(d))*. The requestor listed 12 standards and test methods for microforms (Appendix) that should be initially included in this proposed LAP. These test methods appear to be satisfactory for use in a laboratory accreditation program.

(5) *Whether it is feasible and practical to accredit testing laboratories that test microforms (section 7a.5(e))*. NBS believes that the characteristic of the standards and test methods listed in the Appendix would make a microforms LAP at least as feasible and practical as other LAPs now under NVLAP.

Preliminary Finding of Need

The request to find that there is a need to accredit testing laboratories that test microforms has been carefully examined. Based on that examination, which is described above, it is preliminarily found that a need exists to accredit testing laboratories that test microforms. It is proposed that if a final finding of need is determined, this LAP initially would include the standards and test methods listed in the Appendix, as annotated. Other standards or test methods would be added in the future, as requested, if they meet the requirements of the NVLAP procedures.

APPENDIX—LIST OF APPLICABLE STANDARDS AND TEST METHODS

Designation	Title
ANSI PH1.25-1976.	Specifications for Safety Photographic Film.
ANSI PH1.28-1981.	Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.
ANSI PH1.29-1971 (R1977).	Method for Determining Curl of Photographic Film.
ANSI PH1.31-1973.	Method for Determining the Brittleness of Photographic Film.
ANSI PH1.37-1977.	Method of Determining Scratch Resistance of Processed Photographic Film.
ANSI PH1.41-1981.	Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.
ANSI PH1.43-1981.	Practice for Storage of Processed Safety Photographic Films.
ANSI PH1.53-1978.	Requirements for Photographic Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.
ANSI PH1.60-1979.	Specifications for Stability of Ammonia Processed Diazo Photographic Film.
ANSI PH2.33-1969.	Method for Determining the Resolving Power of Photographic Materials.
ANSI PH4.8-1978.	Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.
ASTM D882-1981.	Standard Test Methods for Tensile Properties of Thin Plastic Sheeting.

[FR Doc. 83-13680 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Brown and Mate

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: R. F. Brown and B. R. Mate (P129E).

b. Address: School of Oceanography, Oregon State University, Marine Science Center, Newport, Oregon 97365.

2. Type of permit: Scientific Research.

3. Name and Number of Animals:

Harbor seal (*Phoca vitulina*)—500/yr.

Northern elephant seal (*Mirounga angustirostris*)—*10/yr.*

California sea lion (*Zalophus californianus*)—300/yr.

Northern sea lion (*Eumetopias jubatus*)—*300/yr.*

4. Type of Take: Potential harassment while conducting aerial census studies over rookeries.

5. Location of Activity: Oregon coast and Columbia River estuary.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98109.

Dated: May 16, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-13674 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Elizabeth A. Mathews

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Elizabeth A. Mathews (P323)

b. Address: Center for Coastal Marine Studies, Applied Sciences Building #273, University of California, Santa Cruz, California 95064.

2. Type of Permit: Scientific research and scientific purposes.

3. Name and Number of Animals:

Humpback whale (*Megaptera novaeangliae*)—Up to 100.

Dead stranded cetaceans—Unlimited.

4. Type of Take: Tissue sampling with biopsy dart from humpback whales for sex determination; up to 20 animals may be sampled twice. Samples will also be collected from dead stranded cetaceans.

5. Location of Activity: Alaska; Humpback whales will be sampled in the Frederick Sound and in the Stephen's Passage Areas.

6. Period of Activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 13, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation National Marine Fisheries Service.

[FR Doc. 83-13075 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Correction

In FR Doc. 83-12350 appearing on page 20765 in the issue of Monday, May 9, 1983, make the following corrections:

1. In the third line of the document, "to take endangered species" should have read "to take marine mammals".

2. At the bottom of the first column and top of the center colum of page 20785, "6" should be inserted as the number for Atlantic bottlenose dolphins.

BILLING CODE 1505-01-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts next scheduled meetings in open session will be on June 14 and July 12, 1983 at 10:00 a.m in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government.

Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, N.W.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066.

Dated in Washington, D.C., May 17, 1983.

Charles H. Atherton,

Secretary.

[FR Doc. 83-13703 Filed 5-19-83; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE INPLEMENTATON OF TEXTILE AGREEMENTS

Adjusting the Level of Restraint for Certain Cotton Fabrics from Thailand

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing from 8 million to 10 million square yards the consultation level established for other woven cotton fabrics, such as lawn and voile, among others, in Category 320pt (all T.S.U.S.A. numbers except 326.0092), produced or manufactured in Thailand and exported during the eighteen-month period which began on January 1, 1982.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709) as amended on April 7, 1983 (48 FR 15175) and May 3, 1982 (48 FR 19924).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, and extended, between the Governments of the United States and Thailand provides consultation levels for certain categories of textile products, such as Category 320, which are not subject to specific ceilings and which may be adjusted upon agreement between the two governments. At the request of the Government of Thailand, the Government of the United States has agreed to increase the level for cotton textile products in Category 320pt (all T.S.U.S.A. numbers except 326.0092) to 10 million square yards.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On October 14, 1982, there was published in the **Federal Register** (47 FR 45896) a letter dated October 8, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements establishing levels of restraint for certain categories of cotton, wool, and man-made fiber textile products, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the eighteen-month period which began on January 1, 1982. A further letter dated November 18, 1982 was published in the **Federal Register** on November 23, 1982 (47 FR 52741) which established a level of 8 million square yards for cotton textile products in Category 320pt. (all T.S.U.S.A. numbers except 326.0092) during the same eighteen-month period. The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs further amends the letter of October 8, 1982 to increase the level previously established for Category 320pt. to 10 million square yards.

Dated: May 17, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 17, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of October 8, 1982, from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Thailand, in excess of designated levels of restraint.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, and extended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 17, 1983 and for the eighteen-month period beginning on January 1, 1982 and extending through June 30, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 320pt. (all T.S.U.S.A. numbers except 326.0092), produced or manufactured in Thailand, in excess of 10 million square yards.[1]

The action taken with respect to the Government of Thailand and with respect to imports of cotton textile products from Thailand has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13662 Filed 5-19-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effectiveness of statutory requirement for certain categories of Commission registrant; interim procedures for compliance.

SUMMARY: The Futures Trading Act of 1982 (the "1982 Act"), Pub. L. 97-444, 96 Stat. 2294 (January 11, 1983), extensively amended the provisions of the Commodity Exchange Act (the "Act"), 7 U.S.C. 1 *et seq.* (1976 & Supp. V 1981) governing, among other things, the registration of commodity professionals with the Commission. Specifically, the 1982 Act added a new Section 4k(5) to the Act which became effective on May 11, 1983 and which imposes new liabilities on a registrant who hires or otherwise employs a person as an associated person ("AP"), if the registrant knew or should have known of facts regarding the AP that are set forth as various statutory disqualifications from registration. Section 4k(5), however, provides an exception if the registrant has notified the Commission of such facts and the Commission has determined that the AP should be registered or temporarily licensed. The Commission is publishing this notice to advise affected persons and the public of the effectiveness of this provision. The Commission also is informing registrants as to the procedure to be followed in connection with compliance with this provision pending further notice by the Commission.

DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, or David S. Mitchell, Esq., Legal Section, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-9703 or 254-8955, respectively.

SUPPLEMENTARY INFORMATION: The 1982 Act, Pub. L. 97-444, section 212, 96 Stat. 2305 (1983) adds a new Section 4k(5) to the Act, which provides:

> It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of th[e] Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.

The effectiveness of this provision, however, was deferred to May 11, 1983 (or such earlier date as may be prescribed by the Commission by regulation). *See* the 1982 Act, Pub. L. 97-444, section 239, 96 Stat. 2327 (1983). The Commission is therefore advising affected persons as to their notice obligations under Section 4k(5).

Under Section 4k(5), a registrant [1] may not lawfully hire or otherwise employ an AP as such, if the registrant knows or should know of facts regarding the AP that are set forth as statutory disqualifications in Section 8a(2) of the Act,[2] unless the registrant notifies the Commission of such facts and the Commission determines that such person should be registered or temporarily licensed. The Commission expects to adopt a rule in the near future which would implement this provision, including procedures by which a registrant would notify the Commission of facts regarding an existing or prospective AP that are set forth as statutory disqualifications in Section 8a(2). In the interim, the Commission wishes to provide a procedure by which registrants may satisfy their notice obligations under Section 4k(5) in such circumstances.[3] Specifically, a registrant which is required to notify the Commission of such facts may, *in the case of an applicant for AP registration* do so by contacting Robert P. Shiner, Assistant Director for Registration at the telephone number indicated above *and* confirming that notification in writing to Mr. Schiner's attention at the Commission's address indicated above. *With regard to an AP currently employed by a registrant,* the required notice to the Commission may be satisfied by contacting Andrea M. Corcoran, Esq., Director, Division of Trading and Markets at (202) 254-8955 *and* confirming that notification in writing to Ms. Corcoran's attention at the Commission's address indicated above. In either case, both the oral and written notice must be provided within ten business days of the date upon which the registrant first knows or should know of such facts. As already noted, the Commission will deem such notice to be sufficient to satisfy a registrant's obligations to notify the Commission under Section 4k(5) of the

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

[1] Prior to the enactment of the 1982 Act, an AP could be associated solely with a futures commission merchant ("FCM"), either directly or through an agent of such an FCM. The 1982 Act, however, creates three additional categories of AP: APs of introducing brokers, APs of commodity pool operators ("CPOs") and APs of commodity trading advisors ("CTAs"). *See* the 1982 Act, Pub. L. 97-444, section 212, 97 Stat. 2303 (1983). The Commission recently proposed regulations to implement the new registration requirements. *See* 48 FR 14933 (April 6, 1983). More recently, the Commission has issued notices and procedures for no-action positions for these new categories of registrant. 48 FR 15890 (April 13, 1983) (introducing brokers and APs of introducing brokers); 48 FR 16879 (April 20, 1983) (APs of CPOs and CTAs). *See also* 48 FR 19362 (April 29, 1983) (interpretation of "no-action" position).

[2] These statutory disqualifications are, in general, the following:

(A) a currently effective suspension or a revocation or registration;

(B) a refusal of registration by the Commission after opportunity for a hearing within the preceding five years;

(C) a permanent or temporary court injunction, including a court order entered pursuant to an agreement of settlement, which enjoins acting as a Commission registrant or a securities professional, or engaging in activities which involve commodity interests or securities;

(D) a felony conviction within the preceding ten years which involves commodity interests or securities, or the conduct of a commodities or securities business, or which involves certain numerated fitness-related offenses, *e.g.*, bribery, misappropriation of funds, securities, or property, bankruptcy fraud, a racketeering or theft;

(E) findings made by a court or an appropriate governmental body, including those contained in agreements of settlement, of specified violations of the Act, the Federal securities laws, or similar statutes within the preceding ten years;

(F) an outstanding Commission order imposing certain sanctions, *e.g.*, denial of trading privileges on any contract market;

(G) a willful material misstatement or omission in the registration application as to whether the applicant is subject to any of the foregoing statutory disqualifications; or

(H) the existence of a principal who is subject to a statutory disqualification listed herein.

See the 1982 Act, Pub. L. 97-444, section 224(1), 96 Stat. 2310-12 (1983).

[3] The Commission does not believe that this notice is a rule for purposes of the Administrative Procedure Act ("APA"). Moreover, as this notice relates solely to an internal agency procedure intended to assist affected persons in complying with a requirement imposed by the Act, the APA's requirement for prior notice and opportunity for public comment does not apply. 5 U.S.C. 553(b)(A) (1976).

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Act until further notice by the Commission.[1] Pending determination by the Commission as to the registration status of any AP applicant which is the subject of such notice, such a person may not be permitted to engage in any activity which requires registration with the Commission as an AP. With regard to an AP which is the subject of such notice, the registrant may continue to permit him to remain associated with it as an AP until further notice by the Commission, subject to the provisions of the Act and of the Commission's regulations thereunder which make the registrant fully responsible for the conduct of the AP.

Issued in Washington, D.C. on May 16, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-13690 Filed 5-19-83; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Request for Extension of Approval for Information Collection Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through April 30, 1986 of information collection requirements in regulations applicable to children's articles commonly called baby bouncers, walker-jumpers, and baby walkers.

These products are articles intended for use by young children and are subject to a regulation issued under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) which bans such articles from distribution in commerce if they are designed in such a way that exposed parts present hazards of amputation, crushing, lacerations, fractures, hematomas, bruises or other injuries to children's fingers, toes, or other parts of the body. The banning regulation is published at 16 CFR 1500.18(a)(6).

A second regulation published at 16 CFR 1500.86(a)(4) sets forth criteria for exemption of baby walkers, walker-jumpers, and baby walkers from the banning rule under specified conditions. The exemption regulation requires certain labeling on these products and their packaging to identify the name and address of the manufacturer or distributor of the product, and the model of the product. Additionally, the exemption regulation requires that records must be compiled and maintained for three years relating to the sale, distribution, inspection, and testing of these articles.

If an article subject to the regulations were determined to be banned by provisions of § 1500.18(a)(6) and the hazard were severe enough to warrant recall, the records required by § 1500.86(a)(4) would be used by both the manufacturer and the Commission to conduct and monitor a program of notification to the public of the hazard presented by the articles, and for purposes of recalling the product and monitoring recall activities.

Records of testing are useful to identify the products which are subject to recall and limiting recall to those products which present the hazards addressed by the banning regulation. Records of sales and distribution would enable the manufacturer involved to send notices concerning the hazard and recall to those customers who received the items subject to recall.

The records required by § 1500.86(a)(4) are maintained by manufacturers and importers of products subject to the regulation on an ongoing bases. The records are subject to examination by Commission investigators during inspections or in connection with compliance-related activities.

Information About the Request for Extension of Information Collection Requirements

Agency address: Consumer Product Safety Commission, 1111, 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Baby bouncer; walker-jumper; baby walker; 16 CFR 1500.18(a)(6) and 1500.86(a)(4).

Type of Request: Extension of approval of information collection requirements contained in regulations.

Frequency of collection: On-going compilation and maintenance of records.

General description of respondents: Manufacturers of baby bouncers; walker-jumpers, and baby walkers.

Estimated number of respondents: 25.

Estimated average number of hours per respondent: 2 hours each year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395-7313. Copies of the request or extention of approval of information collection requirements are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: May 16, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-13562 Filed 5-19-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Project; Makaha, Hawaii

AGENCY: U.S. Army Corps of Engineers, DoD, Honolulu Engineer District.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY:

1. *Brief Description of the Proposed Action.* The proposed action is a flood damage reduction project on the South Makaha Stream, Oahu. The project currently considers structural measures including a debris basin and channelization of the stream reach extending from below the confluence of an unnamed tributary approximately 3,000 feet to Farrington Highway.

2. *Brief Description of Reasonable Alternatives.* Alternatives considered would include non-structural and structural measures:

a. *Relocation:* Conversion of the flood prone area to a use consistent with the hazard.

b. *Floodplain Management:* Providing zoning, building regulation, and warning systems to minimize flood damage.

c. *Floodproofing:* Elevate existing or planned damageable structures above the hazard level.

d. *Maintenance:* Clear and dredge the streams to provide water carrying capacity within the limits of the existing stream.

e. *Trapezoidal Shape Rock Lined Channel:* Excavate and line a new channel with rock.

f. *Levees:* Provide higher banked earth structures adjacent to the existing stream.

3. *Brief Description of the Corps Scoping Process which is Reasonably Foreseeable for the DEIS.*

a. Proposed Public Involvement Program. The program will involve coordination with the sponsoring agencies, other governmental agencies, community organizations, and the general public. Activities include informal meetings, workshops, formal public meetings, issuance of public notices and letter responses. All pertinent agencies have been notified of study initiation. A workshop session was held with interested agencies and the public in March 1983.

b. Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.

(1) Effect of alternatives on known and unknown archaeological and historic sites.

(2) Effect of project on aquatic flora and fauna.

(3) Assessment of Makaha community responses to alternatives.

c. Possible Assignments for Input into the EIS under consideration among the lead and cooperating agencies.

(1) *U.S. Fish and Wildlife Service:* Provision of a Fish and Wildlife Coordination Act Report.

(2) *State Historical Preservation Officer:* Identification and evaluation of previous surveys and recommendations for new surveys.

(3) *State Division of Aquatic Resources:* Assessment of effects of the project on stream biota.

d. Identification of Other Environmental Review and Consultation Requirements.

(1) "Protection of Historic and Cultural Properties," 36 CFR Part 800 (44 FR 30 January 1979), pursuant to Section 106 of the National Historic Preservation Act of 1966.

(2) Section 404 (Clean Water Act of 1977).

4. *Scoping Meeting.* A scoping meeting will not be held on this project. Significant agencies involved in the planning process are already informed of the potential action.

5. *DEIS Schedule.* Under the present schedule the DEIS will be made available to the public in February 1984.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Warren Kanai, Study Manager, U.S. Army Engineer District, Honolulu, Building T-1, Fort Shafter, Hawaii 96858, Telephone: (808) 438-9526/438-1307.

Alfred J. Thiede,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-13681 Filed 5-19-83; 8:45 am]

BILLING CODE 3710-HN-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Privacy Act of 1974; Proposed Establishment of a New System of Records

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Proposed establishment of a new system of records subject to the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

SUMMARY: The Department of Energy (DOE) proposes to establish a new system of records in order to carry out the Bonneville Power Administration's (BPA) resource planning. In cooperation with various utilities; Federal, State, and local organizations; and other groups, BPA will undertake surveys of residential energy consumption in the Pacific Northwest. Public comment is sought on the system of records, and, in particular, on the routine uses of the records, as required by Subsection (e)(11) of the Privacy Act of 1974, 5 U.S.C. 552a (e)(11).

DATE: Written comments must be received on or before June 20, 1983.

ADDRESSES: Comments and requests for further information should be directed to: Mr. Donald G. Hoffard, Bonneville Power Administration—PN, P.O. Box 3621, Portland, OR 97208, telephone 503-230-4585; Mr. Joseph Harris, Chief, Freedom of Information and Privacy Acts Branch, U.S. Department of Energy, 1000 Independence Avenue, SW., Mail Stop 232.1, Washington, DC 20585, telephone 202-252-6025; or Ms. Laurie R. Garnand Ford, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Mail Stop GC-41, Washington, DC 20585, telephone 202-252-8618.

SUPPLEMENTARY INFORMATION: The Bonneville Power administration of the Department of Energy proposes to establish a new system of records, DOE-78, to be entitled "Pacific Northwest Residential Energy Survey." In order to support its resource planning responsibilities, BPA will conduct surveys of randomly selected samples of residences in the Pacific Northwest. The surveys are designed to collect information concerning residential energy use. Authority for these surveys stems from the Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, as amended by the Flood Control Act of 1944, 16 U.S.C. 825s, the Federal Columbia River Transmission System Act of 1974, Pub. L. 93-454, 16 U.S.C. 838 *et seq.*, and the Pacific Northwest Electric power planning and conservation Act of 1980, Pub. L. 96-501, 16 U.S.C. 839 *et seq.* These surveys involve the collection of information concerning characteristics of dwelling units; structural aspects related to thermal efficiency; information as to the presence, type, and location of energy conservation measures; characteristics of space heating, space cooling, and water heating equipment and fuels; characteristics of major household appliances (stove and oven, refrigerator, freezer, television, clothes washer and dryer, and dishwasher); residents' perceptions of and attitudes toward selected energy issues and conservation measures; residents' awareness of and participation in certain energy conservation programs; and residents' demographics. In addition, the actual dimensions of the dwelling unit will be obtained, the temperature of hot tap water will be measured, and, with the residents' consent, actual electric and natural gas billing histories will be obtained from the appropriate serving utility. An initial personal interview survey will be conducted with approximately 6,000 households randomly selected from 56 utilities in the BPA service territory. Followup mail and telephone surveys to obtain additional or more detailed information concerning some of these topics will be conducted with selected subgroups of the residences which participate in the regional survey. These subgroups will be selected on the basis of the information collected in the regional survey and the specific topic of the followup survey. For example, a survey concerning the sources and uses of wood will be directed at the subgroup of residences which indicate in the regional survey that they use wood.

In order to facilitate the conduct of followup surveys, it is necessary to maintain records containing the names, addresses, telephone numbers, and utility account numbers for those who agree to participate in the regional survey. These records will be

[1] This notice does not affect the responsibilities or a registrant to comply with Commission Rules 3.31 (b) and (c), 17 CFR 3.31(b), (c) (1982) (which are proposed to be amended by 48 FR 14933, 14960 (April 6, 1983)). For example, under Rule 3.31(c), after the filing of a Form 8-R or 8-S by or on behalf of any person for the purpose of permitting that person to be an AP of an FCM or its agent, that FCM must, within ten days after the failure of the AP to become associated with the FCM or its agent or the termination of the association of that AP with the FCM or its agent, file a notice with the Commission indicating those facts and the reasons therefor.

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maintained separately from the records containing the interview responses and billing history information. The records containing residents' name and address information will be disclosed only to the BPA System Manager and the designated assistant for purposes of conducting followup surveys. The records containing interview and billing history information will be disclosed as follows: (1) Records will be made available to BPA, local Pacific Northwest electric utilities and natural gas companies, the Pacific Northwest Utilities Conference Committee, the Pacific Northwest Electric Power and Conservation Planning Council, State energy offices, and other public and private organizations for purposes of conducting statistical analyses, developing energy forecasts, assessing the current penetration of specific energy conservation measures, evaluating the potential use of specific conservation measures, and evaluating the impacts of specific energy conservation measures; and (2) records may be published in aggregated form for purposes of analysis and program planning.

The system of records will be established and maintained pursuant to the Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, as amended by the Flood Control Act of 1944, 16 U.S.C. 825s, the Federal Columbia River Transmission System Act of 1974, Pub. L. 93–454, 16 U.S.C. 838 *et seq.*, and the Pacific Northwest Electric Power Planning and Conservation Act of 1980, Pub. L. 96–501, 16 U.S.C. 839 *et seq.* The collection of data and maintenance of the system of records are incidental to the performance of the BPA's power resource planning responsibilities, the objectives of which are (1) to encourage conservation and efficiency in the use of electric power and development of renewable resources; (2) to assure the Pacific Northwest Region of an adequate, efficient, economical, and reliable power supply; (3) to provide that the customers of the BPA and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the Region's electric power requirements; and (4) to protect, mitigate, and enhance the fish and wildlife of the Columbia River and its tributaries.

DOE does not believe that the maintenance of this system of records will have any substantial effect on the privacy and other rights of participants. Although BPA will directly contact individuals to collect information, participation in the surveys is voluntary.

Access to the system will be limited to personnel who have a need for the data at BPA, local electric utilities and natural gas companies, the Pacific Northwest Utilities Conference Committee, the Pacific Northwest Electric Power and Conservation Planning Council, and other private and public organizations as indicated in the System Notice. The data will be used for statistical analyses and will only be published in aggregate form. Names, addresses, and other identifying information will never be published and individuals will never be contacted for advertising or promotional purposes as a result of their participation in this survey. All followup surveys will be conducted by BPA or private contractors at BPA's request. By comparing the billing history information contained in the system with information in their own records, some electric utilities and natural gas companies may be able to identify their own customers and to track the energy consumption for these customers over time. However, prior to receipt of the interview and billing history records, requesting electric utilities and natural gas companies will agree in writing not to contact any individual as a result of his or her participation in the survey or to provide service to any of these individuals in a manner which differs from the way that service is generally provided to the utility's residential customers.

BPA is expressly authorized in the Pacific Northwest Electric Power Planning and Conservation Act to cooperate with its customers and governmental authorities in resource planning. Each of the Pacific Northwest State energy offices have been informed of BPA's plans to conduct this survey and a representative of one State energy office has participated in the planning process for the survey and will serve on the Advisory Committee for the data collection contract. At their request, BPA will provide each Pacific Northwest State energy office with a copy of the final data tapes containing interview responses and billing history information for use in their energy policy planning processes. Each Pacific Northwest State energy office and, at their request, any Pacific Northwest local government will be provided with copies of all hard-copy publications produced by BPA.

Safeguards

Records will be safeguarded in several ways: (1) Access to the records containing names and addresses of survey participants will be limited to the BPA System Manager and the designated assistant; (2) access to the records containing interview and billing history information will be limited to those personnel who have a need for the data at BPA, any of the local Pacific Northwest electric utilities or natural gas companies, the Pacific Northwest Utilities Conference Committee, the Pacific Northwest Electric Power and Conservation Planning Council, State energy offices, or other public or private organizations; and (3) records will be locked when unattended. Records will also be maintained in computer files which are password-protected.

Information to be maintained in the system will be collected using a data collection form which has been submitted to OMB for clearance under the Paperwork Reduction Act and OMB implementing regulations.

The text of the system notice is set forth below.

Issued in Washington, D.C., May 16, 1983.

William S. Heffelfinger,

Director of Administration.

DOE–78

SYSTEM NAME:

Pacific Northwest Residential Energy Survey.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Bonneville Power Administration, Division of Power Requirements, (PN), P.O. Box 3621, Portland, OR 97208.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residences which have been randomly selected from the account records of electric utilities in the BPA service territory, and who consent to be interviewed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about residential energy consumption including characteristics of dwelling units; structural aspects related to thermal efficiency; information as to the presence, type, and location of energy conservation measures; characteristics of space heating, space cooling, and water heating equipment and fuels; characteristics of major residential appliances (including stove and oven, refrigerator, freezer, television, clothes washer and dryer, and dishwasher); residents' perceptions of and attitudes toward selected energy issues and conservation measures; residents' awareness of and participation in certain energy conservation programs; residents' demographics; and actual electric and natural gas utility billing histories for a 16–month period preceding the interview. Names, addresses, telephone numbers, and utility account numbers for those who agree to participate will reside in a record separate from the record containing interview responses and billing history information and will be subject to more restricted access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, as amended by the Flood Control Act of 1944, 16 U.S.C. 825s, the Federal Columbia River Transmission System Act of 1974, Pub. L. 93–454, 16 U.S.C. 838 *et seq.*, and the Pacific Northwest Electric Power Planning and Conservation Act of 1980, Pub. L. 96–501, 16 U.S.C. 839 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records which include information concerning the names, addresses, telephone numbers, and utility account numbers for sample residences which agree to participate in the survey will be maintained only by BPA, will never be published, and individuals will never be contacted for advertising or promotional purposes as a result of their participation in this survey. The name, address, and telephone number information will be used by BPA to contact subsamples of residences for purposes of collecting additional or more detailed information concerning residents' perceptions of and attitudes toward energy conservation issues and measures; residents' decisions pertaining to the selection of space heating, space cooling, and water heating equipment and fuels; and the amounts of wood used for space heating and the sources from which wood is obtained.

Information from the interviews and from the utility billing records will be maintained by BPA, and will be provided upon request to any of the local Pacific Northwest electric utilities or natural gas companies, the Pacific Northwest Utilities Conference Committee, the Pacific Northwest Electric Power and Conservation Planning Council, State energy offices, or other public or private organizations. This information will be used in statistical form by these groups to assist in making energy forecasts; to conduct statistical analyses of the ways energy is used; to assess the current use of specific energy conservation measures; to evaluate the potential use of specific conservation measures; and to evaluate the impacts of specific energy conservation measures. By comparing the billing history information contained in the system with information in their own records, some electric utilities and natural gas companies may be able to identify their own customers and to track the energy consumption for these customers over time. However, prior to receipt of the interview and billing history records, requesting electric utilities and natural gas companies will agree in writing not to contact any individual as a result of his or her participation in the survey or to provide service to any of these individuals in a manner which differs from the way that service is generally provided to the utility's residential customers. Information may also be released to the public in aggregated form for purposes of analysis. Information will not be released in other than aggregated form without the prior consent of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computer tapes, and disk.

RETRIEVABILITY:

Two records will be maintained for each sample residence. One record will contain the name, address, and telephone number for the residence together with the identity of the electric utility and the electric utility account number and the identity of the natural gas company and the natural gas account number. The second record will contain the interview responses and observations and electric and natural gas billing history information. Records in the name and address file maintained by BPA are indexed by sample resident name, address, electric utility, and utility account number. Records in the interview and billing history file maintained by BPA are indexed by electric utility, mail ZIP Code, and an assigned number.

SAFEGUARDS:

Access to and use of the records containing names and addresses of sample residences is limited to the BPA System Manager and the designated assistant. Access to and use of the interview and billing history records is limited to those persons whose official duties require such access at BPA, any of the local Pacific Northwest electric utilities or natural gas companies, the Pacific Northwest Utilities Conference Committee, the Pacific Northwest Electric Power and Conservation Planning Council, State energy offices, or other public or private organizations. All files are locked or otherwise secure when unattended.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Bonneville Power Administration, Director, Division of Power Requirements (PN), P.O. Box 3621, Portland, OR 97208.

NOTIFICATION PROCEDURES:

(a) Requests by an individual to determine if a system of records contains information about him or her should be directed to the Privacy Act Officer, Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland OR 97208, in accordance with the DOE's Privacy Act Regulations, 10 CFR Part 1008. (b) Required identifying information: Complete name, social security number, and time period involved.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures above.

CONTESTING RECORDS PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains and from the electric utility and natural gas company which provides service to the individual's residence. Information will also be gathered from data collection and other monitoring equipment such as electric and natural gas meters, flowmeters, air quality monitors, and so forth. Information will be gathered by representatives of BPA, the participating utilities, or by private groups under contract to BPA and at BPA's request.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83–13580 Filed 5–19–83; 8:45 am]

BILLING CODE 6450–01–M

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Economic Regulatory Administration

[Docket No. ERA-FC-83-010; OFP Cases No. 67030-9230-20-24]

Acceptance of Petition for Exemption and Availability of Certification by Tosco Corp.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Tosco Corporation.

SUMMARY: On April 11, 1983, the Tosco Corporation (Tosco) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for a proposed electric powerplant to be constructed at Tosco's Avon Refinery near Martinez, California. By letter filed with ERA on April 26, 1983, Tosco amended its petition. Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in any powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source.

Final rules setting forth criteria and procedures for petitioning for exlemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1982). Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29200 (July 6, 1982)).

The proposed congeneration facility for which the petition was filed consists of two gas turbine generators, two waste heat recovery steam generators, a single steam turbine generator and associated support systems. The cogeneration facility will produce 87.6 megawatts (MW) of electrical energy and useful thermal energy.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of the Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearings, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments are due on or before July 5, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. "Docket No. ERA-FC-83-010" should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, S.W. Washington, D.C. 20585 Phone (202) 252-2993.

Allan Stein, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 6B-222, Washington, D.C. Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Tosco plans to install an 87.6 MW alternate fuel-fired cogeneration facility to produce electricity and steam at its Avon Refinery in Martinez, California. The cogeneration facility will consist of two gas turbine generators, two waste heat recovery steam generators, a single steam turbine generator, and associated support systems. The gas turbines will be fueled by refinery fuel gas, a waste by-produce of the Avon Refinery operations, and natural gas will be used as a backup fuel. The gas turbine generators will develop approximately 75 MW of electric power, and the waste heat boilers will be capable of producing superheated steam at 600 psig, 750 F. A minimum of 160,000 lb/hr of generated steam (aside from small auxiliary flows and gas turbine emission control) will be delivered to a condensing steam turbine generator to produce up to 12.6 MW of electric power.

By letter dated April 19, 1983, and filed with ERA on April 26, 1983, Tosco amended its petition to state, in pertinent part, as follows:". . .[I]t is anticipated that based upon future requirements more than one-half of the net annual electric power of the facility may be sold or exchanged for resale." Based upon this statement, and at the request of Tosco, ERA considers the subject cogeneration facility to be an electric powerplant within the meaning of § 500.2 of the final rules, subject to the prohibitions of Section 201 of the Act.

Section 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Section 201 of FUA. In accordance with the certification procedures of § 503.37(a)(1) of the final rules, Tosco certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with § 503.37(b) of the final rules; and

2. The use of a mixture of petroleum and natural gas and an alternate fuel in the cogeneration facility for which an exemption under § 503.38 of the final rules would be available, would not be economically or technically feasible.

In accordance with § 503.9 of the final rules, ERA requires Tosco to consider only a mixture of natural gas and coal. In making the foregoing mixtures certification, Tosco concluded that use of natural gas/coal mixtures would be infeasible.

Pursuant to the evidentiary requirements of § 503.37(c), Tosco also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under § 503.13 of the final rules.

Pursuant to § 501.3 of the final rules, ERA hereby accepts Tosco's petition for a permanent cogeneration exemption. ERA retains the right, however, to request additional relevant information from Tosco at any time during the pendency of these proceedings.

As provided in § 501.3(b)(4) of the final rules, the acceptance of the petition by ERA does not constitute a determination that Tosco is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on May 16, 1983.

Robert L. Davies,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13650 Filed 5-19-83; 8:45 am]

BILLING CODE 6450-01-M

Action on Consent Order With Twin Montana, Inc.

AGENCY: Office of Special Counsel, Economic Regulatory Administration, Energy.

ACTION: Adoption of proposed consent order as final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted the Consent Order with Twin Montana, Inc. (Twin Montana) executed on March 10, 1983 and published for comment in 48 FR 13074 on March 29, 1983, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period August 19, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order No. 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Twin Montana has agreed to pay the principal amount of $1,437,773.63; interest of $51,355.88 for the period October 1, 1982 until December 22, 1982; and interest accrued on the above amounts until subsequent payment to the DOE.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Six comments were received by April 28, 1983, the thirtieth day following publication of the notice of the proposed Consent Order. DOE has considered all comments and determined that the Consent Order should be made final without modification. The Consent Order was made effective as a final order of the DOE on May 3, 1983 by notice to Twin Montana.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, RG-30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, Phone: (202) 633-9230.

Copies of the Consent Order may be received free of charge by written request to: Twin Montana, Consent Order Request, Department of Energy, RG-30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m.

SUPPLEMENTARY INFORMATION:

The Consent Order

On March 29, 1983, DOE published notice in the **Federal Register** at page 13074 announcing the execution of a proposed Consent Order between Twin Montana and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order. The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the DOE's audit to Twin Montana's compliance with the Federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981 (the audit period). The Consent Order resolves all administrative and civil issues between DOE and Twin Montana not previously resolved concerning the allocation and sale of covered petroleum products during the audit period.

2. Within thirty (30) days after the Consent Order has been made effective, Twin Montana shall deliver a check to the DOE in the principal amount of $1,437,773.63; interest on the principal in the amount of $51,355.88 from October 1, 1982 until December 22, 1982; and interest paid by the First National Bank of Graham, Texas on the escrowed funds until subsequent payment to the DOE.

3. The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. These matters include Twin Montana's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Twin Montana. The Consent Order provides that Twin Montana has waived its right to an administrative or judicial appeal of the Consent Order. The Consent Order does not constitute an admission by Twin Montana nor a finding by DOE of a violation by Twin Montana of any Federal petroleum price and allocation regulations.

Comments Received

As noted above, DOE received a total of six comments on the proposed Consent Order. Separtate comments were submitted by four states, a law firm representing the Attorneys General of nine states submitted a joint response and a law firm representing three states responded to the notice. None of the comments objected to the settlement. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

The comments suggested that those parties that can verify an overcharge should enjoy priority as to any funds made available by the Consent Order. To the extent that monies are not paid out to direct purchasers, the comments urged that payments be made to the states.

It has been DOE's practice to provide, when possible, for refunds to be made directly to those persons who DOE believes may have borne the ultimate burden of the alleged violations, however, it is not always possible to identify specific persons who may have been injured or to determine the extent of their injury. The ultimate disposition of the funds in this case will depend on several factors, such as the nature of the alleged violations underlying the Consent Order and DOE's ability to identify the persons who ultimately bore the burden of the alleged violations. The suggestions of the commenting states regarding the distribution of the funds will be considered in determining the appropriate ultimate disposition. In the interim, the funds will be deposited into an interest-bearing escrow account maintained by the DOE.

Having considered all comments received, DOE has determined that the proposed Consent Order with Twin Montana should be made final without modification. The Consent Order, therefore, was made final and effective by notice to Twin Montana on May 3, 1983.

Issued in Washington, D.C. May 13, 1983.

Milton C. Lorenz

Special Counsel, Economic Regulatory Administration.

[FR Doc. 83-13648 Filed 5-19-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-062]

United States Steel Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

United States Steel Corporation (USS), 600 Grant Street, Pittsburgh, Pennsylvania 15230, filed an application

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on May 10, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Fairless Works steel manufacturing facility in Fairless Hills, Pennsylvania, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, USS indicates that the volume of natural gas for which it requests certification is approximately 37,200 Mcf per day. This volume is estimated to displace the use of approximately 5,907 barrels per day of No. 6 fuel oil (1.0 percent sulfur) at the above facility. The eligible sellers are Texas Oil and Gas Corporation, 2700 Fidelity Union Tower, Dallas, Texas 75201; Delhi Gas Pipeline Corporation, Fidelity Union Tower, Dallas, Texas 75201; Exxon Company, U.S.A., P.O. Box 2180, Houston, Texas 77001; Texeco, U.S.A., P.O. Box 52332, Houston, Texas 77002. The gas will be transported by Ozark Gas Pipeline Corporation, P.O. Box 586, Route 5, Ft. Smith, Arkansas 72901; Natural Gas Pipeline Corporation of America, 122 South Michigan Avenue, Chicago, Illinois 60603; Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251. The local distributor will be Philadelphia Electric Company, P.O. Box 8699, 2301 Market Street, Philadelphia, Pennsylvania 19101.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 28585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten.(10) day comment period. The request should state the person's interest and, in appropriate, why the person is a proper representative of a group or class of persons that has such an interest.

The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to USS and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on May 16, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–13640 Filed 5–19–83; 8:45 am]

BILLING CODE 6450–01–M

Pride Refining Incorporated; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announced that it has adopted a Consent Order with Pride Refining, Incorporated (Pride) as a final order of the Department.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Donald A. Muncy, Deputy Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 200E, Dallas, Texas 75247, 214/767–7408.

SUPPLEMENTARY INFORMATION: On March 2, 1983, 48 FR 8853, the ERA published a notice in the **Federal Register** that it had executed a proposed consent Order with Pride Refining, Inc. on February 2, 1983, which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order with Pride, a refiner with its home office located in Abilene, Texas, resolves potential civil liability of Pride, arising out of Pride's compliance with the Mandatory Petroleum Allocation and Price Regulations during the period from January 1, 1973 through January 28, 1981. The Consent Order requires Pride to pay the sum of $600,000 to the administrator of the ERA for ultimate disposition by DOE.

Fifteen comments were received. All of the commnets addressed the issue of the appropriate disposition of the $600,000 refund. Twelve comments asserted that the most suitable distribution of the funds, after payment to identified injured customers, could be accomplished through allotment of the funds to individual state governments for energy conservation programs and other energy-related programs directly benefiting consumers, by pro-rata allotments based on a state's petroleum consumption. One comment suggested that the Consent Order be modified to require that funds be paid to DOE for distribution by the Department's office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V. Two of those commenting made claims against the refund proceeds, but neither of them furnished information on which a determination could be made that they had been injured by any actions of Pride. Rather, each merely demonstrated that it had been a purchaser from Pride.

DOE has not yet determined the appropriate disposition of the $600,000 Pride has agreed to refund. The suggestions of the commentors will be duly considered in determining the appropriate disposition of funds.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Pride Refining, Incorporated should be made final on May 20, 1983.

Issued in Dallas, Texas on the 2nd day of May 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–13562 Filed 5–19–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ES83–36–000]

El Paso Electric Co.; Application

May 16, 1983.

Take notice that on March 28, 1983, El Paso Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue $75 million of Five-Year Floating Rate Notes and to issue a like amount of Second Mortgage Bonds securing such debt pursuant to a loan agreement.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before June 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13653 Filed 5–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–273–000]

Getty Oil Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 16, 1983.

On April 28, 1983, Getty Oil Company of P.O. Box 10269, Bakersfield, California 93389–0269, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle facility is located at McKittrick Field, Kern County, California. The primary energy source will be natural gas. The electric power production capacity will be 10.6 megawats. Installation will begin in June 1984. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13654 Filed 5–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF82–232–001]

Hammermill Paper Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 16, 1983.

On April 27, 1983, Hammermill Paper Company ("Hammermill"), 1540 East Lake Road, Erie, Pennsylvania 16533, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at Hammermill's Lock Haven Plant in Castanea Township, Clinton County, Pennsylvania. The facility is expected to commence operation about June 1985. The primary energy source will be bituminous coal supplemented by No. 2 distillate fuel oil. The peak power production will be approximately 39 megawatts. The annual useful thermal energy output will be in the form of steam at a rate of 170,000 lbs/hour at 180 psig and 210,000 lbs/hour at 75 psig. No electric utility company, public utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13655 Filed 5–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RE80–36–002]

Idaho Power Co.; Application for Exemption

May 16, 1983.

Take notice that Idaho Power Company (IPC) filed an application on May 2, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in § 290.401(b)(1), 290.403(a)(1), 290.403(a)(2), 290.403(a)(4), 290.403(b), 290.403(c), 290.403(d), and 290.404.

In its application for exemption IPC states, in part, that it should not be required to file the specified data for the following reasons:

On December 3, 1979, IPC filed an application for exemption (RE80–36–000), identical in scope to the current application (RE80–36–002), addressing the filing due on or prior to November 1, 1980. In response to this application, (RE–36–000) an order was issued on April 23, 1980, addressing the filings due on or prior to November 1, 1980 and June 30, 1982, granting an exemption from the reporting requirements of §§ 290.401(b)(1), 290.403(a)(1), 290.403(a)(2), 290.403(a)(4), 290.403(b), 290.403(c), 290.403(d), and 290.404 as these sections apply to IPC's service area in Nevada. The order further stipulated "IPC may apply for a corresponding exemption applicable to reporting required in later years by filing, on or before the dates specified in the regulations, a statement confirming that the nature and size of its Nevada operation are substantially the same as described in the present application (RE80–36–000)." In IPC's current application for exemption (RE80–36–002), identical in scope to that of RE80–36–000, a statement to this effect is made in regard to IPC's Nevada segment of its service area, namely, that the size and nature of IPC's operations in Nevada are substantially the same as described in its previous application (RE80–36–000).

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applicatiohs are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. Larry D. Ripley, Elam, Burke, Evans, Boyd and Koontz, c/o

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Idaho Power Company, 1220 Idaho Street, Boise, Idaho 83707.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13660 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE82-5-001]

Montana Power Co.; Application for Exemption

May 16, 1983.

Take notice that The Montana Power Company (MPC) filed an application on March 28, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption MPC states, in part, that it should not be required to file the specified data for the following reasons:

The basic purpose of Section 133 of PURPA was to assure that PURPA Title I standards were considered by state regulatory agencies. Since the Montana Public Service Commission (MPSC) has completed its consideration of the PURPA Title I Standards, the purpose of this aspect of Section 133 has been served.

Data used in a retail rate application before MPSC must be based upon normalized data while Section 133 requirements call for the use of actual data. As a result, MPC Section 133 filings have not been used in retail rate proceedings before the Montana Public Service Commission.

Data requirements of Part 290 of the Commission's Regulations duplicate, to an extent, data reported to the Federal Energy Regulatory Commission (Forms 1 & 2), the Montana Public Service Commission, and the Securities Exchange Commission.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period such person must also serve a copy of such comments on: Mr. Steven P. Cook, Manager, Rate Development ; The Montana Power Company, 40 East Broadway, Butte, Montana 59701.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13687 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-265-000]

Montrose Partners Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 16, 1983.

On April 28, 1983, Montrose Partners Ltd.; (Applicant), 91 Newbury St., 3rd floor, Boston, Massachusetts 02116, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

Applicant will construct 5 hydroelectric facilities in the South Canal and 1 hydroelectric facility on the CQ lateral at the M&D Canal all in Montrose County, Colorado. The sites, located at existing irrigation canal drops, would vary in installed capacity from 810 kW to 3990 kW, with combined output of 15.4 MW. There will not be any other hydroelectric small power production facility owned by Applicant located within one mile of any of the facilities. An unregulated subsidiary of a utility has an option to become a minority equity partner in the project. No electric utility, electric utility holding company, or any person owned by either has more than a 49% equity interest in the project or any of its component facilities.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13658 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-260-000]

Shenandoah Hydro Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 16, 1983.

On April 19, 1983, Shenandoah Hydro Co. (Applicant), Box 61, Woodstock, Virginia 22664, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric facility will be located on the North fork of the Shenandoah River near Woodstock, Virginia. The electric power production capacity of the facility will be 500 kilowatts. There are no other small power production facilities located within one mile of the facility, and owned by the Applicant. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13659 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-11-003]

Southern California Edison Co.; Application for Exemption

May 16, 1983.

Take notice that Southern California Edison Company (SCE) filed an application on April 29, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts A, B, C, D and E in favor of a proposed program of alternate compliance.

In its application for exemption SCE states, in part, that it should not be required to file the specified data for the following reasons:

PURPA Section 133 data are not likely to be used in SCE's retail rate cases due to the disparity in filing due dates, level of detail, and reporting periods required by the Federal Energy Regulatory Commission (FERC) and the California Public Utilities Commission (CPUC).

CPUC has its own regulations specifying the data required to document a retail rate case application.

CPUC's filing requirements are as comprehensive as those of the Federal Energy Regulatory Commission (FERC) excluding differences in the level of detail resulting from the use of a forecasted reporting period as opposed to reporting historic data.

The information that SCE proposes to submit under the Rate Case Plan is available to interested parties and has direct relevance to retail rate cases under consideration.

The broad PURPA Title I purposes of conservation, efficiency, and equitable rates have long been pursued by SCE through innovative and successful programs. Many of these programs are mandated by the CPUC and by State legislation.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments,or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period such person must also serve a copy of such comments on: Southern California Edison Company, Revenue Requirements Department, P.O. Box 800, Rosemead, California 91770.

Kenneth F. Plumb

Secretary.

[FR Doc. 83-13660 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-316-000]

Transcontinental Gas Pipe Line Corp.; Application

May 13, 1983.

Take notice that on May 10, 1983, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-316-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Owens-Corning Fiberglas Corporation (Owens-Corning), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible basis natural gas for Owens-Corning, its only direct sale customer. It is stated that the transportation authorization sought herein is necessary in order to fully implement Applicant's experimental Industrial Sales Program (ISP), which was approved on April 28, 1983, by commission order approving settlement of Applicant's rate proceeding in Docket No. RP83-11-000. Applicant further states that pursuant to the ISP, Applicant will arrange for, as agent for its customers, and transport to market natural gas supplies to be purchased by eligible customers for the purposes of keeping natural gas prices competitive with the prices of alternate fuels and of maintaining historical throughput levels on Applicant's system. Applicant asserts this ISP is intended to permit continued service to those markets which in the absence of the ISP, would switch from natural gas to other fuels, thereby forestalling further erosion of markets on Applicant's system.

It is further stated that the operation of the ISP contemplates, among other things, that producers selling gas to Applicant be allowed to elect voluntarily to make sales under the ISP for the limited seven-month term of such program, which runs from April through October 1983, of supplies that otherwise would be sold or committed to Applicant. Applicant states that, to permit this temporary diversion of supplies to the ISP, Applicant has agreed to release from dedication to it those reserves which its producers make available to the ISP to the extent such quantities are in excess of the quantities then being purchased for sale under Applicant's sales rate schedules.

For such transportation, Applicant proposes to charge 30.6¢ per dt equivalent and retain 6.1 percent of the quantities received for compressor fuel. It is stated that this transportation will be rendered for a limited term ending October 31, 1983, concurrent with the ISP. In such connection, applicant requests a limited-term certificate with pre-granted abandonment authority. It is stated that the gas transported will be made available to Applicant as agent for Owens-Corning through the ISP. Applicant states that it will transport such gas and redeliver equivalent quantities, less fuel, at an existing delivery point to Owens-Corning in Anderson, South Carolina.

It is stated that transportation for all of Applicant's other customers participating in the ISP is authorized pursuant to Subpart B of Part 284 of the Regulations. Inasmuch as Owens-Corning is Applicant's only direct sale customer, Applicant asserts the authorization requested herein is required in order that all of Applicant's customers may participate in the ISP.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

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protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13561 Filed 5-19-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Australia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Australia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-AU-118, to Selbys Scientific, Ltd., 100 grams of normal uranium, for use as standard reference material by Ranger Uranium Mines, Jabiru, Northern Territory, Australia.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 16, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-13581 Filed 5-19-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD FRL 2363-8]

The Acidic Deposition Phenomenon and Its Effects: Critical Assessment Review Papers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of public review draft.

SUMMARY: The Environmental Protection Agency/North Carolina State University Acid Precipitation Program and cooperating scientists are currently revising: *The Acidic Deposition Phenomenon and Its Effects: Critical Assessment Review Papers.* The public review draft will become available in June 1983 for 90-day comment period. A mailing list of those who wish to receive a copy of this draft for review and comment is now being initiated.

DATES: The public review draft will be available for release in June 1983 although requests for copies should be made immediately. Information concerning procedures for submitting comments will be contained in the public review draft.

ADDRESSES. All requests for copies must be in writing and addressed to: Ms. Betsy A. Hood, CAD Coordinator, 1509 Varsity Drive, Raleigh, North Carolina 27606. Telephone requests are not appropriate.

SUPPLEMENTARY INFORMATION: The public review draft of the Review Papers will consist of 16 chapters in two volumes. The Atmospheric Sciences volume includes: Natural and Anthropogenic Sources, Transport Processes, Transformation Processes, Atmospheric Concentation and Distribution, Precipitation Scavenging Processes, Dry Depositon Processes, Deposition Monitoring, and Deposition Modeling. The Effects Sciences volume includes: Soil Systems, Vegetation, Aquatic Chemistry, Aquatic Biology, Indirect Health, and Materials. Section introductions, conclusions, and an overall introduction will also be included.

The document is the product of over 50 scientists from universities and other public and private institutions. Each section of the public review draft will be identified with its author.

The Environmental Protection Agency will develop an interpretive summary, *The Acidic Deposition Phenomenon and Its Effects: Critical Assessment Document*, based upon the content of the Review Papers and the public comments. Upon completion of the summary, it will be made available for public review.

FOR FURTHER INFORMATION CONTACT: Ms. Betsy A. Hood, CAD Coordinator, 1709 Varsity Drive, Raleigh, North Carolina 27606. Telephone: (919) 737-3520.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-13609 Filed 5-19-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2366-4]

Availability of Environmental Impact Statements Filed May 9 Through May 13, 1983 Pursuant to 40 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, (202) 382-5075 or 382-5076.

Department of Energy:
- EIS No. 830257, Draft, BPA, PRO, 1983 Bonneville Power Administration Wholesale Power Rate Increase, Due: July 5, 1983.

Department of the Interior:
- EIS No. 830249, Draft, BLM, NV, Wells Resource Area Resource Management Program, Elko County, Due: Aug. 19, 1983.
- EIS No. 830254, Draft, BLM, WY, Buffalo Resource Area Resource Mgmt., Campbell/Johnson/Sheridan Cos., Due: Aug. 15, 1983.
- EIS No. 830250, Draft, SFW, CA, Pro Trinity River Basin Fish & Wildlife Mgmt., Homboldt/Trinity Cos., Due: June 20, 1983.
- EIS No. 830253, Draft, SFW, AR, Cache River Basin Waterfowl Habitat Preservation, Due: July 15, 1983.

Department of Transportation:
- EIS No. 830255, Draft, UMT, PR, San Juan Urban Core Transportation System, Construction, Due: July 5, 1983.
- EIS No. 830252, Draft, FHW, MD, Great Seneca Hwy Construction, Middlebrook Rd to MD-28, Montgomery Co., Due: July 5, 1983.
- EIS No. 830246, Final, FHW, NY, Cohoes-Waterford Arterial Construction, Albany County, Due: June 20, 1983.
- EIS No. 830258, Final, FHW, CA, Muni J Line Connection Project, San Francisco County, Due: June 20, 1983.
- EIS No. 830244, FSuppl, FHW, VT, VT-127 Construction, Wetland Mitigation, Chittenden County, Due: June 20, 1983.

Environmental Protection Agency:
- EIS No. 830247, Final, EPA, MA, Town of Sandwich WWT and Collection Facilities, Grant, Barnstable Co., Due: June 20, 1983.
- EIS No. 830248, Final, EPA, NM, Las Cruces Wastewater Treatment Facilities, Grant, Dona Ana County, Due: June 27, 1983.
- EIS No. 830260, Final, EPA, OK, City of Norman Wastewater Treatment Facilities, Grant, Cleveland Co., Due: June 20, 1983.
- EIS No. 830259, FSuppl, EPA, MD, West Ocean City Wastewater Treatment Facilities, Grant, Worcester Co., Due: June 20, 1983.

Department of Housing and Urban Development:
- EIS No. 830256, Draft, FL, Tampa Palms Development, Mortgage Insurance, Hillsborough County, Due: July 5, 1983.

Nuclear Regulatory Commission:
- EIS No. 830251, Draft, NRC, NC, Shearon Harris Power Plant, Units 1 & 2, Licenses, Wake & Chatham Cos., Due: July 5, 1983.

Amended Notices:
- EIS No. 830239, Draft, IBR, SEV, NV AZ Hoover Dam Powerplant Increased Generating Power, Modification Published FR May 13, 1983—Incorrect due Date, Due: Aug. 2, 1983.
- EIS No. 830118, Draft, NOA, PR, REG LA Parguera National Marine Sanctuary Designation Published FR Mar. 4, 1983—Review extended, Due: June 2, 1983.
- EIS No. 830112, Draft, FRC, AK, Black Bear Hydroelectric Project, C/O, License, Published FR Mar. 4, 1983—Review extended, Due: May 23, 1983.

Dated: May 17, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-13685 Filed 5-19-83; 8:45 am]

BILLING CODE 6560-50-M

[W-8-FRL 2358-7]

Draft General NPDES Permits for Construction-Related Activities in South Dakota and Utah

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permits.

SUMMARY: The Regional Administrator of Region VIII is today giving notice of two (2) draft general National Pollutant Discharge Eliminiation System (NPDES) permits for certain construction-related activities in South Dakota and Utah. The construction-related activities to be covered by these general permits are excavation dewatering and hydrostatic pipeline testing. One draft general permit covers discharges from these activities in South Dakota. The other draft general permit covers discharges from these activities in Utah. Both draft general permits establish effluent limitations, prohibitions and other conditions based on technology and water quality considerations applicable to the types of waste water generated by construction dewatering and hydrostatic testing.

The construction-related activities covered by each draft general permit involve similar types of operations, discharge the same types of wastes and require the same effluent limitations and monitoring. For these reasons, Region VIII believes that discharges from these activities are more appropriately controlled under a general permit than under individual permits. To obtain approval to discharge under these general permits, Region VIII is requiring owner/operators to submit a request for discharge authorization to the Regional Office and the State at least thirty (30) days prior to discharge.

DATES: Public comments on these draft general NPDES permits may be sent to the address below no later than June 20, 1983. During this time, any interested person may request a public hearing on these draft general permits. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

ADDRESS: Public comments and hearing requests, if any, should be sent to: Mr. Patrick Godsil, Chief, Compliance Branch, Water Management Division, Region VIII, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION AND COPIES OF THE DRAFT PERMITS AND FACT SHEETS CONTACT: Marshall Fisher, Region VIII at the address above or by telephone at (303) 837-4901 or FTS 327-4901.

SUPPLEMENTARY INFORMATION:

A. Background

Section 301(a) of the Clean Water Act (CWA) provides that the discharge of pollutants is unlawful except in accordance with an NPDES permit. Although such permits to date have usually been issued to individual dischargers, EPA's regulations authorized the issuance of a single general permit to point sources within the same geographic area if they:

(1) Involve the same or substantially similar operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the NPDES Program Director, are more appropriately controlled under a general permit than under individual permits.

The geographic area covered by the draft general NPDES permits is statewide. EPA is issuing a general permit in South Dakota and Utah because neither State has the authority to issue NPDES permits.

As in the case of any individual permit issued under the NPDES program, violation of any condition of a general permit constitues a violation of the Clean Water Act and is fully enforceable under section 309 of the Act.

Any owner or operator authorized by these general permits may be excluded from the general permit by applying for an individual permit as provided by 40 CFR 122.59(b).

These general permits do not authorize discharges of pollutants from "new sources" as defined in 40 CFR 122.3.

B. Construction-Related Discharges

The South Dakota and Utah draft general permits cover two (2) principal types of construction-related discharges, excavation dewatering and hydrostatic testing of pipelines or vessels. The construction-related activities covered by these permits may be conducted separately or together.

Excavation dewatering removes from a construction site water that has accumulated from groundwater intrusion or precipitation runoff. This water may contain suspended solids and oil and grease. Improper pumping or draining of this water may further aggravate the pollution potential. Proper removal of this water from the construction site is often critical to the operation of equipment and the integrity of the structure under construction.

Much of the construction activity requiring excavation dewatering in South Dakota and Utah involves the installation of pipeline and/or vessels. Hydrostatic testing is necessary to determine the structural integrity of the material and installation, usually by flushing relatively clean water (raw river water, groundwater, potable water) through the pipleine or vessel and examining for leaks and stress.

Pollution problems associated with hydrostatic testing result mainly from improper discharge practices, such as scouring stream channels. Test water contamination by residual materials or fluids in the pipe or vessel may also occur. Region VIII will assess the potential for such contamination during the thrity (30) day review of information submitted with the request for discharge authorization described above.

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C. Permit Conditions

Effluent guidelines for conventional pollutants, such as suspended solids and oil and grease, do not exist for this point source category. Therefore, Region VIII is exercising its authority under section 402(a)(1) of the Clean Water Act to set standards for conventional pollutants on a case-by-case basis according to its best professional judgment. The effluent limitations in these permits also reflect the respective State water quality standards.

D. Monitoring and Reporting Requirements

This general permit requires monitoring for each activity that results in a discharge. Montioring frequency is based on the size of the activity, the receiving stream and the potential impact of the discharge on the stream. Sampling for construction dewatering activities will be daily, weekly or monthly by grab samples, depending upon the factors identified in the permit. Sampling for hydrostatic testing shall be performed for each day of discharge by grab samples.

Reports will be required whenever there is a noncompliance with permit conditions. In addition, this permit also requires an annual monitoring report. Permittees will be required to maintain their records for a period of three (3) years. In addition, EPA and/or the States of Utah and South Dakota may request that records be retained for a longer period. The primary purpose of this requirement is to require retention of record during the course of litigation.

E. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on these draft general permits and had determined that they are not major rules under that order. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of these permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act.

G. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these general permits will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant admistrative burden on regulated sources.

Seth C. Hunt,

Acting Regional Administrator.

[FR Doc. 83-13813 Filed 5-19-83; 8:45 a.m.]

BILLING CODE 6560-50-M

[OPTS-59126; TSH-FRL 2366-2]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by June 6, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59126]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacture on the TME received by EPA. The complete non-confidential document in the Public Reading Room E-107.

TME 83-53

Close of Review Period. June 23, 1983.
Manufacture. Confidential.
Chemical. (G) Dimer fatty acids, monocarboxylic acid, and polyamines polymer, modified with an acrylic acid copolymer.
Use/Production. (S) Solvent-based flexographic printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: inhalation, a total of 2 workers, up to 1 hr/da, up to 1 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by biological treatment system.

TME 83-54

Close of Review Period. June 23, 1983.
Manufacture. Confidential.
Chemical. (G) Alkoxylated polyamine.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Principal exposure will occur during material transfer, drumming and disposal.
Environmental Release/Disposal. No release expected. Disposal by incineration.

Dated: May 16, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-13810 Filed 5-19-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51467; TSH-FRL 2366-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-nine PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-698, 83-699, 83-700 and 83-701, August 3, 1983.
PMN 83-702 and 83-703, August 6, 1983.

PMN 83-704, 83-705, 83-706, 83-707, 83-708, 83-711, 83-712, 83-713, 83-714, 83-715, 83-716, 83-717, 83-718, 83-719, 83-720, 83-721, and 83-722, August 7, 1983.
PMN 83-723, 83-724, 83-725, 83-726, 83-727, and 83-728, August 8, 1983.

Written comments by:

PMN 83-698, 83-699, 83-700 and 83-701, July 4, 1983.
PMN 83-702 and 83-703, July 7, 1983.
PMN 83-704, 83-705, 83-706, 83-707, 83-708, 83-711, 83-712, 83-713, 83-714, 83-715, 83-716, 83-717, 83-718, 83-719, 83-720, 83-721, and 83-722, July 8, 1983.
PMN 83-723, 83-724, 83-725, 83-726, 83-727 and 83-728, July 9, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51467]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-698

Manufacturer. Confidential.
Chemical. (G) Copolymer of unsaturated organic compounds with polyols and isocyanates.
Use/Production. (S) Industrial binder for magnetic tape. Prod. range: 15,000-350,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 20 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-10,000 kg/yr to land. Disposal by incineration and landfill.

PMN 83-699

Manufacturer. Confidential.
Chemical. (G) Copolymer of unsaturated organic compounds with polyols and isocyanates.
Use/Production. (S) Industrial binder for magnetic tape. Prod. range: 10,000-400,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 20 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-10,000 kg/yr to land. Disposal by incineration and landfill.

PMN 83-700

Manufacturer. Confidential.
Chemical. (G) copolymer of unsaturated organic compounds with polyols and isocyanates.
Use/Production. (S) Industrial binder for magnetic tape. Prod. range: 15,000-350,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 20 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-10,000 kg/yr to land. Disposal by incineration and landfill.

PMN 83-701

Manufacturer. Confidential.
Chemical. (S) 3-[2-(2,4-dinitrophenyl)ethenyl]-1H-indole.
Use/Production. (G) Coating for commercial materials. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 25 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Disposal by incineration.

PMN 83-702

Manufacturer. Confidential.
Chemical. (G) Modified styrene-acrylic polymer.
Use/Production. Confidential. Prod. range: 5-20 kg/yr (first calendar year).
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: Negligible.
Environmental Release/Disposal. Minimal release to land and water. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83-703

Importer. Confidential.
Chemical. (G) sodium alkyl allyl sulfosuccinate.
Use/Import. (G) Open use. Import range: Confidential.
Toxicity Data. Chemical oxygen demand: -21 parts per million (ppm); Biological oxygen demand: -31 ppm; Fish Toxicity: 100% survival @5 ppm.
Exposure. Processing: dermal and inhalation, a total of 20 workers, up to 0.5 hr/da, up to 200 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-100 kg/yr to water and land. Disposal by approved landfill.

PMN 83-704

Manufacturer. E. I. du pont de Nemours & Company, Inc.
Chemical. (S) Cyclohexanecarbonitrile, 1,1'-azobis.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >11,800 mg/kg; Irritation: Skin—None, Eye—Mild; Inhalation: Minimal.
Exposure. Use: inhalation, a total of 4 workers, up to 1 hr/da, up to 300 da/yr.
Environmental Release/Disposal. Disposal by incineration and plant waste treatment facility.

PMN 83-705

Manufacturer. Confidential.
Chemical. (S) Cyclohexanecarbonitrile, 1-amino.
Use/Production. (S) Industrial raw material for cyclohexanecarbonitrile, 1,1'-azobis. Prod. range: Confidential.
Toxicity Data. Acute oral: 200 mg/kg; Irritation: Skin—Negative, Eye—Severe to moderate; D.O.T. skin corrosion: Negative; Skin sensitization: Negative.
Exposure. Manufacture: vapor and liquid, a total of 5 workers, up to 0.5 hr/da, up to 4 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-706

Manufacture. Polymer Applications, Inc.
Chemical. (G) Resorcinol—fatty acid polymer.
Use/Production. (S) Industrial adhesive for abrasive discs. Prod. range: 900-1,100 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: packaging, a total of 1 worker, up to 0.5 hr/da, up to 50 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air.

PMN 83-707

Manufacturer. Milliken and Company.
Chemical. (G) Chromophore substituted poly(oxyalkylene).
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-708

Manufacturer. Milliken and Company.
Chemical. (G) Chromophore substituted poly(oxyalkylene).

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Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–711

Manufacturer. Confidential.
Chemical. (G) Metal oxide, reaction products with fatty alcohol and mineral acid.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, inhalation and ocular, a total of 32 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–712

Manufacturer. Andrews Paper and Chemical Company, Inc.
Chemical. (G) Polyhydroxyaromatic amine sulfonate salt.
Use/Production. (S) Diazo reproduction paper for industrial and commercial use. Prod. range: 5,000–40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers, up to 1 hr/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to water. Disposal by POTW.

PMN 83–713

Importer. Morton Chemical.
Chemical. (G) Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.
Use/Import. (S) Topcoat for shoes. Import range: 15,000–300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

PMN 83–714

Importer. Morton Chemical.
Chemical. (G) Polyester urethane resin based on ethylene glycol, 1,4-butanediol, adipic acid and MDI.
Use/Import. (S) Topcoat for upholstery. Import range: 15,000–500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

PMN 83–715

Importer. Morton Chemical.
Chemical. (G) Polyester urethane resin based on neopentyl glycol, 1,6-hexanediol, adipic acid, aliphatic isocyanates and aliphatic amines.
Use/Import. (S) Topcoat for shoe and clothing interliners. Import range: 15,000–300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

PMN 83–716

Importer. Morton Chemical.
Chemical. (G) Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.
Use/Import. (S) Topcoat for artificial leather clothing. Import range: 15,000–250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

PMN 83–717

Importer. Confidential.
Chemical. (G) Oxopentadecanolide.
Use/Production. Confidential. Import range: 1–1,000 kg/yr.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal; >2.0 g/kg; Irritation: Skin—Not a primary irritant, Eye—Non-irritant; Repeated insult patch test/photosensitization study in human subjects: Non-sensitive.
Exposure. Use: inhalation, a total of 2 workers, up to less than 1 hr/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air.

PMN 83–718

Manufacturer. Confidential.
Chemical. (G) Mixed phthalic acid—tall oil fatty acid alkyd resin.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, inhalation and ocular.
Environmental Release/Disposal. 5,000–50,000 kg/yr released to land. Disposal by biological treatment system, incineration and approved landfill.

PMN 83–719

Manufacturer. The Goodyear Tire and Rubber Company.
Chemical. (G) Saturated mixed glycols/mixed acids copolyester.
Use/Production. (S) Adhesive. Prod. range: 5,000–907,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 24 workers, up to 4 hrs/da, up to 45 da/yr.
Environmental Release/Disposal. Disposal by biological treatment system and incineration.

PMN 83–720

Manufacturer. The Dow Chemical Company.
Chemical. (G) Cellulose, alkyl alkoxy ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate.
Exposure. Manufacture and use: dermal and inhalation, a total of 239 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by biological treatment system, incineration and approved landfill.

PMN 83–721

Manufacturer. Monsanto Company.
Chemical. (G) Alkylbiphenyls.
Use/Production. (S) Heat transfer fluids. Prod. range: Confidential.
Toxicity Data. Acute oral: >15,800 mg/kg; Acute dermal: >7,940; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Non-toxic; TL_{50}, 4-day: >1,000 ppm.
Exposure. Dermal, inhalation and ingestion, a total of 6 workers, 18 hours/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and approved landfill.

PMN 83–722

Manufacturer. Confidential.
Chemical. (G) Alky acrylate copolymer.
Use/Production. (G) Adhesive for industrial use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 15 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to air. Disposal by incineration.

PMN 83–723

Manufacturer. Confidential.
Chemical. (G) Metal chloro carbonyl dimer.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 400 hours/yr.
Environmental Release/Disposal. Disposal by recovery.

PMN 83–724

Manufacturer. Confidential.
Chemical. (G) Metal substituted B-diketonate.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 2.0. g/kg; Irritation: Eye—Irritant; Inhalation: 200 mg/l.
Exposure. Manufacture: dermal and inhalation, a total of 2 workers, up to 400 hours/yr.
Environmental Release/Disposal. Disposal by recovery.

PMN 83–725

Importer. Haarmann and Reimer Corporation.
Chemical. (S) Methyl lactate.
Use/Import. (S) Industrial perfume manufacturing. Import range: 100–10,000 kg/yr.
Toxicity Data. Acute oral: 6.35 g/kg.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83–726

Manufacturer. Confidential.
Chemical. (G) Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.
Use/Production. (S) Industrial and site-limited resin used in automotive paint. Prod. range: 5,000–35,910 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: dermal, and inhalation, a total of 34 workers, up to 7 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. More than 10,000 kg/Yr released to land. Disposal by approved landfill.

PMN 83–727

Manufacturer. Confidential.
Chemical. (G) Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.
Use/Production. (S) Industrial and site-limited resin used in automotive paint. Prod. range: 2,500–210,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 34 workers, up to 7 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. More than 10,000 kg/Yr released to land. Disposal by approved landfill.

PMN 83–728

Manufacturer. Hercules, Incorporated.
Chemical. (G) Organic silane-sulfonyl azide.
Use/Production. (S) Binder for inorganic fillers to polyolefins. Prod. range: Confidential.
Toxicity Data. Acute oral: < 5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Sensitizer.
Exposure. Manufacture, processing and use: dermal, a total of 3 workers.
Environmental Release/Disposal. Confidential. Disposal by POTW.

Dated: May 16, 1983.

Ronald A Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-13611 Filed 5-19-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of OMB Number 3067–0066
Title: Request for Fire Suppression Assistance
Abstract: When a Governor determines that fire suppression assistance is warranted, his/her request for assistance shall specify in detail the facts supporting the request. In order that actions in processing a State request are executed as rapidly as possible, the State may submit a request to the Regional Director by telephone, promptly followed by a confirming telegram or letter.
Type of respondents: State or local governments
Number of respondents: 5–10
Burden hours: 5–10

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–0906, 500 C Street SW., Washington, DC 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235 New Executive Office Building, Washington, DC 20503.

Dated: May 11, 1983.

Walter A. Girstantas,

Assistant Associate Director, Office of Administrative Support.

[FR Doc. 83-13588 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. FEMA-REP-5-MI-2]

Michigan Emergency Preparedness Plan Site-Specific for the Big Rock Point Nuclear Power Station

AGENCY: Federal Emergency Management Agency.

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) Rule 44 CFR Part 350 (proposed) the State of Michigan submitted its plans relating to the Big Rock Point Nuclear Power Station to the Director of FEMA Region V for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed rule. Included in this evaluation were a review of the State and local plans around the Big Rock Point facility; and evaluation of the exercises conducted on June 24, 1980, and April 6, 1982, in accordance with § 350.9; and a report of the public meeting held on December 15, 1980, to discuss the site-specific aspects of the State and local plans in accordance with § 350.9; and a report of the public meeting held on December 15, 1980, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the proposed rule. The deficiencies identified during the April 6, 1982, exercise at Big Rock Point, other than than those related to the alert and notification system, have been adequately addressed by the State of Michigan.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Big Rock Point Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness have been found to be adequate because there is reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. The condition for the above approval is that the adequacy of the public alerting and notification system, which is already installed and operational, must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA Criteria in NUREG–0654/FEMA–REP–1 (Rev. 1).

FEMA will continue to review the status of plans and preparedness of the

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State and localities associated with the Big Rock Point Nuclear Power Station in accordance with § 350.13 of the proposed rule.

For further details with respect to this action, refer to Docket File FEMA–REP–5–MI–2 maintained by the Regional Director, FEMA Region V, at the Federal Center, Battle Creek, Michigan 49016.

Dated: Washington, D.C., May 16, 1983.

For Federal Emergency Management Agency.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13587 Filed 5-19-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARTIME COMMISSION

[Agreement No. 10424–3]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10424–3 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and that preparation of an environmental impact statement is not required. Agreement No. 10424–3 would amend the United States Atlantic and Gulf/Jamaica and Hispaniola Steamship Conference Agreement to (1) enlarge the geographic scope of the Conference to include ports in the Commonwealth of Puerto Rico and the U.S. Virgin Islands; (2) increase from two to five the number of rate-making sections in the Conference; and (3) establish eligibility for membership and voting in the various rate-making sections.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C., telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-13686 Filed 5-19-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; CB & T Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(C) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *CB & T Bancshares., Inc.*, Columbus, Georgia; to acquire 100 percent of the voting shares of Bank of Hazlehurst; Hazlehurst, Georgia. Comments on this application must be received not later than June 16, 1983.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp*, Cincinnati, Ohio; to acquire 100 percent of the voting shares or assets of The Peoples National Bank of Wapakoneta, Wapakoneta, Ohio. Comments on this application must be received not later than June 16, 1983.

Board of Governors of the Federal Reserve System, May 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13704 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; FBT Bancshares, Inc.

FBT Bancshares, Inc., Fordyce, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Fordyce Bank and Trust Co., Fordyce, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

FBT Bancshares, Inc., Fordyce, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* in real estate appraisal as authorized in § 225.4(a)(14) of the Board's Regulation Y.

These activities would be performed from offices of Applicant's subsidiary in Dallas County, Arkansas, and the geographic areas to be served are Dallas, Cleveland, and Calhoun Counties, Arkansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 17, 1983.

Board of Governors of the Federal Reserve System, May 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13705 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Gifford Bancorp, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gifford Bancorp, Inc.*, Gifford, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Gifford State Bank, Gifford, Illinois. Comments on this application must be received not later than June 16, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lindell Bancshares, Inc.*, Cold Spring, Minnesota; to become a bank holding company by acquiring 85.3 percent of the voting shares of State Bank of Cold Spring, Cold Spring, Minnesota. Comments on this application must be received not later than June 16, 1983.

C. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Citizens Financial Corporation*, Fort Atkinson, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens State Bank, Fort Atkinson, Wisconsin. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, May 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13706 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Citizens Bancorporation et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*), (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation*, Sheboygan, Wisconsin (lending activities: Wisconsin, upper peninsula of Michigan): To engage through its subsidiary Citizens Mortgage Company, Inc. in making and acquiring loans and other extensions of credit, for its own account or for the account of others. These activities would be conducted in Wisconsin and the upper peninsula of Michigan, from an office located in Green Bay, Wisconsin. Comments on this application must be received not later than June 9, 1983.

2. *DeKalb Bancorp*, De Kalb, Illinois (credit life and health and accident insurance; Illinois): To engage through a *de novo* subsidiary Security Life Insurance Company, De Kalb, Illinois, in underwriting credit life insurance and health and accident insurance directly related to extensions of credit. This activity will be conducted from an office in De Kalb serving the area of the De Kalb County, Illinois. Comments on this application must be received not later than June 8, 1983.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cripple Creek Bancorporation Inc.*, Cripple Creek, Colorado (data processing: Teller County, Colorado): To engage directly in marketing and processing financially-oriented computer data processing services. These activities will be conducted from an office in Cripple Creek, Colorado, and will serve Teller County, Colorado. Comments on this application must be received not later than June 15, 1983.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First Amarillo Bancorporation, Inc.*, Amarillo, Texas (financing, servicing, leasing activities; Texas): To engage directly in making or acquiring loans and other extensions of credit such as would be made by a commercial financial company, including direct loans to consumers for purchase of real property and commercial loans unsecured or secured by a borrower's assets; servicing such loans for others; and making leases of personal or real property in accordance with the Board's Regulation Y. These activities would be performed from an office in Amarillo, Texas, serving the State of Texas. Comments on this application must be received not later than June 13, 1983.

Board of Governors of the Federal Reserve System, May 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13707 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Southern Bancorporation, Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce

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benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance and insurance activities; South Carolina): To engage through its subsdiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender, acting as agent for credit life and accident insurance written in connection with such extensions of credit, and acting as agent for credit property insurance written solely in connection with such extensions of credit. These insurance activities are permissible under sections 601 (A), (B), and (D) of the Garn-St. Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Columbia, South Carolina, serving the approximate city limits of Columbia and certain other parts of tthe Columbia SMSA within a ten mile radius of Columbia. Comments on this application must be received not later than June 13, 1983.

2. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance and insurance activities; Georgia): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender, acting as agent for credit life and accident insurance written in connection with such extensions of credit, and acting as agent for credit property insurance written solely in connection with such extensions of credit. These insurance activities are permissible under sections 601 (A), (B), and (D) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Macon, Georgia, serving the approximate city limits of Macon and certain other parts of the Macon SMSA within a ten mile radius of Macon. Comments on this application must be received not later than June 15, 1983.

3. *Southern Bankcorporation, Inc.*, Greenville, South Carolina (consumer finance and insurance activities; South Carolina): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender, acting as agent for credit life and accident insurance written in connection with such extensions of credit, and acting as agent for credit property insurance written soley in connection with such extensions of credit. These insurance activities are permissible under sections 601 (A), (B), and (D) off the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Dublin, Georgia, serving the approximate city limits of Dublin and certain other parts of Laurens County within a ten mile radius of Dublin. Comments on this application must be received not later than June 15, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Geiger Corporation*, Edina, Minnesota (financing; Iowa and Minnesota): To engage directly in acquiring agricultural loans, farm real estate loans and other extensions of credit through loan participation agreements with financial institutions. These activities would be conducted from an office in Edina, Minnesota, serving the States of Iowa and Minnesota. Comments on this application must be received not later than June 8, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee (trust company activities; Arkansas): To engage, through its subsidiary, Investors Trustcorp., Inc., in the business of a trust company organized under the laws of the State of Arkansas, including activities of a fiduciary agency or custodial nature, such as acting as executor or administrator of estates as trustee under both *inter vivos* and testamentary trusts, and as guardian or curator of any infant or incompetent person or his estate under court appointment, administering agency and custodial accounts, offering both self-directed and trustee-directed IRA accounts, retirement plans for the self-employed, pension, profit-sharing and thrift plans and Taft-Hartley plans, and offerings to individuals, firms and foundations investment recommendations and management. These activities would be conducted from an office located in Little Rock, Arkansas, serving Pulaski County, Arkansas, and the counties of Lonoke, Grant, Faulkner, Perry and Saline in Arkansas. Comments on this application must be received not later than June 7, 1983.

Board of Governors of the Federal Reserve System, May 16, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13560 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of a Bank Holding Company; Dixie Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factor that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Dixie Bancshares, Inc.*, Dukedom, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Dukedom Bank, Dukedom, Tennessee. Comments on this application must be received not later than June 15, 1983.

Board of Governors of the Federal Reserve System, May 16, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-13559 Filed 5-19-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0116]

Ciba-Geigy Corp.; Filing of Food Additive Petition

Correction

In FR Doc. 83-11136, appearing on page 18895, in the issue of Tuesday, April 26, 1983, in the second column, in the seventh line "2540(c)" should read "25.40(c)".

BILLING CODE 1505-01-M

Consumer Participation; Open Meetings

Correction

In FR Doc. 83-11132, appearing on page 18895, in the issue of Tuesday, April 26, 1983, in the third column, in the seventh complete paragraph, in the fifth line, "212" should read "213".

BILLING CODE 1505-01-M

Consumer Participation; Open Meetings

AGENCY: Flood and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Baltimore District Office, chaired by Thomas L. Hooker, District Director. The topic to be discussed is Direct-to-Consumer Advertisting of Prescription Drugs.

DATE: Thursday, June 2, 1983, 10 a.m. to 12 m.

ADDRESS: Community Room, Riveridge Mall, Lynchburg, VA 24503.

FOR FURTHER INFORMATION CONTACT: Charity E. Singletary, Consumer Affairs Officer, Food and Drug Administration, Falls Church Resident Inspection Post, 701 West Broad St., Rm 309, Falls Church, VA 22046, 703-285-2578.

Orlando District Office, chaired by Adam J. Trujillo, District Director. The topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Thursday, June 2, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Food and Drug Administration, Orlando Central Park, 7200 Lake Ellenor Drive, Suite 120, Orlando, FL 32809.

FOR FURTHER INFORMATION CONTACT: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administration, P.O. Box 118, Orlando, FL 32802, 305-855-0900.

Dallas District Office, chaired by James E. Anderson, District Director. The Topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Tuesday, June 7, 1983, 2 p.m. to 4 p.m.

ADDRESS: Danforth Safety Center, 301 Oakhurst Scenic Drive, Fort Worth, TX 76111.

FOR FURTHER INFORMATION CONTACT: Hazel L. Wallace or Don Aird, Consumer Affairs Officers, Food and Drug Administration, 1200 Main Tower, Rm. 1545, Dallas, TX 75202, 214-767-5433.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 16, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-13712 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-83-7000]

Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration; Drug/Pesticide Products for Use on or in Animals

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) have signed a Memorandum of Understanding (MOU) (formerly a Memorandum of Agreement) on "drug/pesticide" products for use on or in animals. The MOU provides guidance for coordinating the regulation of those products that are subject to the laws administered by both agencies and informs interested persons about which agency will regulate each type of use.

EFFECTIVE DATE: The MOU will become effective July 30, 1983, unless comments received warrant further consideration by either agency. Should this occur, a stay of the effective date will be published in the **Federal Register**. Comments on this agreement are to be submitted by June 20, 1983.

ADDRESS: Written comments are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew Beaulieu, Bureau of Veterinary Medicine (HFV-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3044.

SUPPLEMENTARY INFORMATION: FDA and EPA have entered into an MOU to avoid duplicative and inconsistent regulation of drug/pesticide products for use on or in animals. The MOU provides that FDA have sole jurisdiction under the Federal Food, Drug, and Cosmet Act over "animal drug/pesticide" products that are new animal drugs or that conform to a published regulation setting forth safe and effective conditions for their use.

FDA is solely responsible for determining whether a particular "animal drug/pesticide" product is a new animal drug. In the absence of a specific determination that a product is a new animal drug, it is subject to joint jurisdiction. The MOU provides, however, that such products will be subject to regulation by only one agency.

Both agencies have been operating under a Memorandum of Agreement (MOA), published in the **Federal Register** of December 22, 1971 (36 FR 24234), as amended (38 FR 24233;

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September 6, 1973), entitled "Memorandum of Agreement Regarding Matters of Mutual Responsibility Under Federal Food, Drug, and Cosmetic Act and Federal Insecticide, Fungicide and Rodenticide Act; Department of Health, Education, and Welfare and Environmental Protection Agency."

The new MOU supersedes paragraphs 3g., j., k., l., m., and n. of the MOA. Although the remainder or the original agreement will remain in effect, it is the intention of FDA and EPA to replace the entire agreement eventually with subject-specific MOU's, of which this is the first. Subsequent MOU's will cover human drug/pesticides, food additive/pesticides, and other matters. This effort updates the original interagency agreements in accord with the 1975 amendment to FIFRA, which eliminated dual jurisdiction over certain products that are both pesticides and drugs.

This MOU will have a minimal effect on the industry and the regulating agencies as current regulation of very few products will be altered. The regulatory status of products intended for the treatment of mange (e.g., demodectic, sarcoptic, otodectic) in dogs, cats, and horses may be altered by this MOU. Because adequate directions for safe lay use of many products of this class cannot be written, those products should bear the animal drug prescription legend. Products needing the prescription legend will be regulated solely by FDA, but will not necessarily require approval of a new animal drug application at this time.

The principal effect of the MOU, aside from clarifying the existing regulatory responsibilities of EPA and FDA, is to shift a small group of products from primary EPA jurisdiction to regulation solely by FDA. The practical result for many of these products will be only the addition of the prescription legend and the deletion of the EPA registration number from product labeling. Affected firms will be notified of products requiring label changes and will be permitted to use existing stocks of labeling before making those changes.

The text of the MOU is set forth below.

Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration

I. Purpose

This Memorandum of Understanding defines the current responsibilities of the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) under the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regarding drug/pesticide products for use on or in animals. It supersedes paragraphs 3. g., j., k., l., m., and n. of the Memorandum of Agreement between EPA and FDA (published in the **Federal Register** of September 6, 1973 (38 FR 24233)) with respect to products for use on or in animals.

II. Background

Reorganization Plan No. 3 of 1970 (published in the **Federal Register** of October 6, 1970 (35 FR 15623)) transferred certain functions for the control of pesticides from the Department of Agriculture and FDA to EPA.

To clarify matters of mutual responsibility under the FFDCA and the FIFRA, FDA and EPA signed a Memorandum of Agreement which was published in the **Federal Register** of December 22, 1971 (36 FR 24234).

An amendment to the Memorandum of Agreement that was published in the **Federal Register** of September 6, 1973 (38 FR 24233) gave additional information regarding the processing of applications for approval of animal drugs under the FFDCA and for the registration of pesticides under the FIFRA.

On November 28, 1975, the FIFRA was amended (89 Stat. 754) to modify, among other things, the definition of "pesticide" (section 2(u), 7 U.S.C. 136(u)) so that "the term pesticide shall not include any article (1)(a) that is a 'new animal drug' within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), or (b) that has been determined by the Secretary of Health, Education, and Welfare [now Secretary of Health and Human Services] not to be a new animal drug by a regulation establishing conditions of use for the article, or (2) that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing an article covered by clause (1) of this proviso."

The changes to the FIFRA transferred pesticide/new animal drugs (substances intended for uses that are both pesticide and new animal drugs) and feeds that contain such pesticide/new animal drugs from the dual jurisdiction of EPA and FDA to the sole jurisdiction of FDA under the FFDCA.

Pesticide/animal drug products that are not within the provisions of the 1975 amendment continue to be under the dual jurisdiction of FDA and EPA and their laws.

III. Substance of Agreement

FDA and EPA each agree:

A. Products for the following uses are considered to be pesticides and not animal drugs, and are therefore subject solely to EPA jurisdiction.

1. Treatments that are administered topically to food-producing animals only for control of external arthropod parasites, including but not limited to (a) those recommended for fleas, ticks, lice, mites, screwworms, wool maggots, horn flies face flies, sheep keds; and (b) those intended to act topically for control of cattle grubs subsequent to migration and establishment of a breathing pore.

2. Aquatic treatments solely for the control of algae or bacterial slime in ponds or aquariums.

3. Sanitizers intended to sanitize aquarium equipment.

4. Sanitizers applied to inanimate surfaces and/or in drinking water of animals that do not include any direct or implied claims to control disease.

B. Products other than those listed in paragraph A. above for use on or in animals will be reviewed by FDA to determine if they are animal drugs as defined in the FFDCA and, if so, which agency will exercise jurisdiction.

1. If FDA determines the product to be a new animal drug or if the product is an animal drug that is subject to a published regulation determining that it is not a new animal drug and establishing conditions of use, then it is subject solely to FDA jurisdiction.

2. If the product is not subject to paragraph B.1. above, then the product is subject to the jurisdiction of both agencies. FDA, however, may determine that it can provide adequate regulation of the product. If FDA makes such a determination, EPA will initiate a rulemaking proceeding under section 25(b) of FIFRA to exempt such products from regulation under FIFRA. When such exemption becomes final, the product will be subject solely to the regulatory procedures of FDA. If FDA does not make such a determination, the product will be subject solely to EPA regulatory procedures.

3. Examples of products that have been and will continue to be regulated solely by FDA are those intended for, but not limited to, the following uses:

a. Products for oral administration such as tablets, capsules, boluses, drinking water preparations, medicated blocks, and medicated feeds, including liquid feeds and supplements (these do not apply to products solely for sanitizing the drinking water of animals). Such articles include treatments for control of horse bots and cattle grubs and for control of fleas, mange mites, or other external parasites, and animal drinking water treatments intended for control of animal parasites or diseases.

b. Products administered parenterally.

c. Products applied topically for treating internal parasites, including the migrating larvae of cattle grubs.

d. Products applied to poultry eggs used for incubation with direct or implied claims for healthier or disease-free chicks.

4. FDA may determine that a product intended for uses that are both animal drug and pesticide and that is subject to the jurisdiction of both agencies must also bear on the label the prescription legend that the drug is restricted to use by or on the order of a licensed veterinarian. If FDA makes such a determination, EPA will initiate a rulemaking proceeding under section 25(b) of FIFRA to exempt such products from regulation under FIFRA. When such exemption becomes final, the product will be subject solely to FDA regulatory procedures, and EPA registration will not be required. Products in this category include those for which adequate directions cannot be written for diagnosis by the layperson; or which because of toxicity or other potentiality for harmful effect, or the method of use, are not safe or effective for use except under the supervision of a licensed veterinarian. These include, but are not limited to, products intended for treating demodectic mange, sarcoptic mange, and otodectic mange (ear mites) in cats, dogs, and horses.

C. FDA discourages the use on the same product of labeling bearing separate claims, one to be regulated by FDA, the other by EPA. Specifically, the agency will not approve without the concurrence of EPA any new animal drug product that also bears labeling that provides for its use as a pesticide on anything other than animals.

D. EPA will not register a pesticide product that also bears labeling that provides for its use as a new animal drug.

E. If a manufacturer proposing a new product is unable to determine the agency having exclusive or primary jurisdiction, a presubmission inquiry may be submitted to the liaison officer of either agency, as shown below. FDA and EPA will jointly consider the inquiry and advise the manufacturer of their conclusion.

IV. Name and Address of Participating Agencies

A. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

B. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

V. Liaison Officers

A. For the Food and Drug Administration: Director, Division of Surveillance (currently Andrew Beaulieu), Bureau of Veterinary Medicine (HFV–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3044.

B. For the Environmental Protection Agency: Registration Division, Product Manager (15) (currently George LaRocca), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–557–2400.

VI. Comment Period

A period of 30 days is being provided for public comment on this agreement. Comments may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. This agreement will become effective on July 30, 1983, unless comments received by June 20, 1983, warrant further consideration by either agency of the terms of the agreement. If this occurs, a stay of the effective date will be announced in the **Federal Register.**

VII. Period of Agreement

This agreement when accepted by both parties will be effective from July 30, 1983, until terminated. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice to the other.

Approved and Accepted for the Environmental Protection Agency

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Dated: May 3, 1983.

Approved and Accepted for the Food and Drug Administration

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

Dated: May 13, 1983.

Effective date. This MOU will become effective July 30, 1983.

Dated: May 13, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-13409 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N–0115; DESI 12368]

Isoproterenol Hydrochloride for Oral Use; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of isoproterenol hydrochloride (controlled-release action) tablets. Under the exemption, the drug has been allowed to remain on the market for continued study beyond the time limit established for implementation of the Drug Efficacy Study. This notice also reclassifies the drug to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug application, and offers an opportunity for a hearing on the proposal.

DATES: The revocation of the temporary exemption is effective May 20, 1983, hearing requests due on or before June 20, 1983.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 83N–0115 and the reference number DESI 12368 and directed to the attention of the appropriate office named below:

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for an opinion of the applicability of this notice to a specific product: Divison of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 28, 1970 (35 FR 13754), the Food and Drug Administration (FDA) announced its conclusions, based on a report received from the National Academy of Sciences/National Research Council (NAS/NRC), that the drug product described below is possibly effective when administered orally for heart block and Adams-Stokes syndrome. The NAS/NRC panel commented that because this drug is largely inactivated in the liver, there should be more adequate documentation that it is predictably effective.

Proternol (controlled-release) Tablets; containing isoproterenol hydrochloride; Key Pharmaceuticals, Inc., 300 Northeast 59th St., Miami, FL 33137 (NDA 12–638).

In a notice published in the **Federal Register** of May 30, 1974 (39 FR 18803), in response to a petition from Key, FDA temporarily exempted Proternol (controlled-release) Tablets from the time limits established for completing certain phases of the Drug Efficacy Study Implementation (DESI) program. The purpose of the exemption was to allow time for studies of Proternol to be conducted to determine the bioavailability and length of sustainment of the drug as well as its efficacy in complete heart block. FDA has previously concluded that parenteral, sublingual, and rectal dosage forms of isoproterenol hydrochloride are effective for heat block and Adams-Stokes syndrome (37 FR 18227; Sept. 8, 1972).

Key submitted the results of a single study (Hildner) intended to describe the bioavailability and duration of action of Proternol. The study employed a double-blind, triple crossover design, comparing the pharmacologic effects on heart rate and blood pressure of 30-mg oral isoproterenol controlled-release tablets, an unstated dose of sublingual isoproterenol, and placebo. Subjects were normal, health volunteers. The raw data for the study were not submitted. Summaries of the available data, provided by Key, demonstrated that both oral and sublingual isoproterenol increased the mean heart rate compared with placebo. However, although all of the 12 subjects studied responded to single, sublingual tablets of isoproterenol with an increase in heart rate, only 8 of the 12 responded to the oral dosage form. Moreover, the duration of action of sublingual isoproterenol was 3.38 hours in 12 subjects, not much shorter than the 4.88 hours duration in the 8 subjects who

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responded to oral Proternol. In a partial followup study of the four Proternol nonresponders, using 30-mg and then 45-mg oral isoproterenol doses, only one of the four subjects experienced a significant rise in heart rate, two again failed to respond to the drug, and one dropped out of the study.

FDA communicated its evaluation of the study to Key, pointing out that the drug is not comparable to sublingual isoproterenol. In response, Key submitted comments, including a number of references showing that some patients with Adams-Stokes attacks could be treated successfully with Proternol or other oral isoproterenol preparations. (FDA has reviewed these references, which are discussed below, and found them inadequate to support effectiveness of Proternol for its labeled indications.) FDA subsequently informed key that another bioavailability study is required. Key agreed to conduct and additional bioavailability study; however, no data have been received.

Literature References Submitted

Key submitted the following studies from the literature concerning the pharmacologic effects of Proternol when used in the treatment of heart block and Adams-Stokes syndrome. The results of these studies do not justify classifying the drug as effective. They do show that in some patients with atrioventricular (A–V) block and/or Adams-Stokes syndrome, Proternol can increase heart rate. This indicates that some isoproterenol does pass by the liver and it is well-established that if isoproterenol reaches the heart it will increase heart rate. The relevant questions, however, are related to (1) whether the Proternol response is predictable in any individual; (2) how long the Proternol effect lasts in relation to other routes of administration; (3) how constant the absorption of Proternol is from day to day in the same patient; and (4) whether one can identify individuals who will not respond to Proternol. As to the latter question, a trial of parenteral isoproterenol cannot be used to identify responders (although Key suggests this means of choosing Proternol nonresponders) because the Hildner Study showed that one-third of patients responding to sublingual isoproterenol do not respond to Proternol. The uniformity and reproducibility of Proternol absorpiton is a critical issue because the drug is intended for people who could suffer catastrophic bradycardia in the absence of treatment.

Additionally, the clinical studies cited by Key all attempted to use the patients' pretreatment status as a control—a kind of historical control—(the presumption is that the patients' status would not have changed without intervention) but inasmuch as none of the studies adequately document the Proternol pretreatment period, a valid quantitative comparison cannot be made. The studies therefore are not properly controlled and do not meet the requirements of 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

1. Nissen, N. I. and A. C. Thomsen, "Oral Treatment of A–V Block and Other Bradycardias with Sustained Action Isoprenaline," *British Heart Journal*, 27:926–931 (1965). The authors reported their experience with the use of Proternol in 32 patients with complete A–V block, second degree block, nodal bradycardia, or atrial fibrillation with slow ventricular rates. The patients were treated for a period of one-half month to 7 months with doses of 120 to 840 mg of Proternol daily. Before and after values for heart rate are given, effects on Adams-Stokes attacks, if present, are described, and clinical response is listed. The authors reported some increase in heart rates in nearly all patients, and an increase by at least 33 percent in 18 of the 32 patients. None of the patients experienced Stokes-Adams attacks during the treatment period, although 18 had experienced them before, 9 of them frequently. This study cannot be considered well-controlled. A major deficiency is the lack of a clear description of the nature of the heart rates given, i.e., whether they are the lowest values or last values before treatment. Consequently, the methods of observation must be considered insufficiently explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). In addition, because the study is not properly controlled, a meaningful analysis of the results could not be made (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

2. Bekes, M. and A. Gulyas, "Treatment of Total Atrioventricular Block and of Adams-Stokes Syndrome with Long-Acting Isoprenaline," *Archives of Hungarian Internal Medicine*, 23:73–78 (1970). In this study, 10 pateints with complete A–V block [fixed in 8 and intermittent in 2] were treated with Proternol. Four of the patients had a history of Adams-Stokes attacks while four complained of dizziness, weakness, tiredness, or thirst for air. After a test intravenous isoproterenol infusion, of 2.5 to 10 micrograms per minute showing at least a 10 beats per minute increase in heart rate, Proternol therapy was begun, starting with three 30-mg tablets per day, increasing to 240 mg. Over an average of 7 months (range 4 to 14 months), Adams-Stokes attack did not occur in three of four patients, while weakness and fatigue improved in most patients. The effect of the drug lasted only 3 hours, a disappointment to the authors. Apparently not all patients responded, but the critical table showing overall results was not included in the submitted translation. Again this study is not properly controlled as it lacks adequate documentation of the patients' prior history (e.g., how many Adams-Stokes attacks) to permit quantitative evaluation (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

3. Toso, M., "Treatment of Atrioventricular Heart Block with Retard Isopropylnorepinephrine," *Minerva Cardioangiologica*, 14:76–80 (1966). The author treated 11 patients with second and third degree A–V block with Proternol and reported individual results of treatment. Success was reported in most patients—no syncopal attacks if previously present, small increases in idioventricular rate, decreased degree of block; but there is no way to assesss the variability of these measurements before treatment from the data given and thus no way to assess the results quantitatively (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

4. Dack, S. and S. R. Robbin, "Treatment of Heartblock and Adams-Stokes Syndrome with Sustained-Action Isoproterenol," *Journal of the American Medical Association*, 176:127–134 (1961). This reference reported Proternol treatment of 15 patients with A–V block and Adams-Stokes attacks. Proternol 30 mg was administered daily every 4 to 6 hours over a period of 1 to 12 months. Beneficial effects were reported in the patients as follows: return to sinus rhythm (one patient), increased idioventricular rate (four patients), or reduction/prevention of extreme bradycardia/asystole (every patient). The authors observed that Proternol tablets could be given 3 to 4 times a day to many patients, but sometimes doses of 60 mg every 4 hours were needed and even 60 mg every 3 hours. They state, "As condition became stabilized, frequency of doses was gradually reduced." This comment is somewhat surprising, suggesting that the patients were changing spontaneously, as Proternol is not a curative treatment. In the absence of a specific untreated control group to establish the natural history of untreated attacks (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), it is unclear what the spontaneous changes in these patients would have been.

5. Hitzenberger, G., "Die Therapie schwerer Herzrhythmusstorungen mit einem 'Sustained-Action' Isopropylnoradrenalin," *Wiener Klinische Wochenschriff*, 78:191–202 (1966). This report is in the German language; as no translation was provided by Key, it could not be evaluated. In the summary presented in English, the author reported apparently favorable responses in 11 of the 14 patients studied. However, the summary lacks sufficient detail to permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(*C*)).

6. Schwartz, W., "Sustained-Action Isoproterenol in the Treatment of Adams-Stokes Syndrome," *Current Therapeutic Research*, 11:64–70 (1969). Following daily administration of two 5 mg tablets of controlled-release isoproterenol for 4 weeks in 12 patients with Adams-Stokes Syndrome, the investigator reported excellent control of the syndrome in 10 patients and good responses in another. He also reported that increasing the daily dose to six 5 mg tablets 4 times daily increased effectiveness in those patients in whom 30 mg was insufficient. It is difficult to substantiate this observation, as every other investigator found much greater and more frequent doses were needed. Moreover, the validity of the author's observations cannot be assured because pertinent data about the methods of observation, including the variables measured, either were not provided or were stated in broad terms, contrary to the requirements of 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). No information is provided about when his observations were made and how baseline was established. For example, most patients had "unstable" rhythms, "alternating between partial and complete heart block." The author does not state whether baseline heart rates are the lowest or the highest rates, or some other measure as an average. After the first observations, variable doses were used in 11 of the patients. "Objectives" data (before/after heart rates) are given for only two patients, and in these two patients heart rate did not change, although excellent results are claimed in all.

7. Redwood, D., "Conservative Treatment of Chronic Heart Block," *British Medical Journal*, 1:26–29 (1969). The author reported the results of Proternol treatment in 203 patients with chronic heart block. Of these, 175 had Adams-Stokes attacks, 59 had heart failure, and 57 had exertional dyspnea. (It is assumed from the study's report that some patients had more than one symptom.) Of the 175 Adams-Stokes attacks, 39 were due to asystole, 45 to ventricular tachycardia or fibrillation, and 6 to sinoatrial arrest. In the remaining 85, the rhythm during the attack was not established. Electrocardiograms taken before Proternol therapy showed that 129 patients had complete heart block, 41 had intermittent block with sinus rhythm at other times, and 33 had intermediate grades of heart block.

In 63 of the patients, the author assessed the value of an intravenous (IV) isoproterenol trial. IV isoproterenol infusions were begun at less than 10 micrograms per minute, then increased until an "appreciable" rise of ventricular rate or arrhythmias occurred. Proternol was begun at 30 mg every 6 hours, than increased to 300 to 360 mg per day until control of syncope was achieved. In general, the IV response was said to predict the oral dosage response: A good increase in response to IV doses less than 10 micrograms per minute usually predicted a good oral response to 120 to 180 mg Proternol while a need for 10 to 15 micrograms per minute implied a need for larger doses (200 to 300 mg). As shown in the following table from the report, the IV test was a good predictor of overall response.

Effect of IV	Number of patients	Effect of Proternol
Good response	35	31 No Adams-Stokes (A–S) attacks 3 Continued attacks. 1 Ventricular ectopics.
Poor response	13	12 Continued A–S. 1 No A–S attacks.
Variable response (intermittent heart block)	9	6 Continued A–S. 3 No A–S attacks.
Intolerant	6	5 Intolerable sinus tachycardia. 1 Intolerable tremor and perspiration

This kind of correlation is not surprising. If the patient's abnormal myocardium is shown not to be responsive to IV isoproterenol (a fully bioavailable product), one would not reasonably expect a response to chronic therapy. Similarly, as we know that some patients absorb oral isoproterenol enough to have an increased heart rate, some of the IV responders will respond to the oral agent. These data do not, however, address the issue of whether Proternol is less predictable than other dosage forms.

Among the 203 patients, only 85 were kept on Proternol a mean of 18.2 months (2 weeks to 56 months). One hundred fifteen (57 percent of the 203 patients) were ultimately implanted with pacemakers (i.e., therapeutic failures) after a mean of 3.9 months of Proternol treatment period because Adams-Stokes attacks continued (84), heart failure continued (34), or extertional dyspnea continued (22), ventricular fibrillation developed (2), or side effects occurred (8). These variable results may indicate bioavailability problems.

In summary, Key has failed to provide substantial evidence to demonstrate appropriate bioavailability and duration of action of Proternol. The bioavailability study by Hildner is incomplete (no raw data), and the summarized data show that 4 of the 12 subjects did not respond to Proternol. Clearly bioavailability problems exist. Each of the literature references is seriously flawed in that it fails to meet one or more of the criteria detailed in 21 CFR 314.111(a)(5)(ii)(*a*), describing an adequate and well-controlled study. More important, none directly addresses the bioavailability issue.

With respect to the controlled-release characteristics of Proternol, only three of the studies (Hildner, Bekes and Gulyas, and Dack and Robbin) addressed this feature. The Hildner study, the most direct test of duration showed only a small deliverance in duration of action between Proternol and sublingual isoproterenol. In the Bekes and Gulyas study, drug effect lasted only 3 hours, a disappointment to the authors. In Dack and Robbin, the claimed greater duration of action was not confirmed by Hildner or by the other authors cited.

The essential feature of a study to demonstrate bioavailability would consist of comparing the effect of a standard dose of sublingual isoproterenol (enough to induce a 15 to 20 percent increase in heart rate) with titrated doses of Proternol (starting at 30 mg) to induce a similar response. To examine the degree of intra-patient variability, the titrated doses of Proternol could be compared in the same patients over a 1- or 2-week period. A study in normal subjects would be acceptable. The appropriate design has been communicated by FDA to Key on several occasions.

Revocation of Exemption

The sponsor has submitted no data to demonstrate bioavailability and length of sustainment to provide adequate assurance that Proternol will be effective in treating patients with

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complete heart block. Therefore, the temporary exemption granted by the May 30, 1974 notice is revoked.

Notice of Opportunity for Hearing

On the basis of all of the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug product.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the National Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, containe in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310 and 314), the applicant and all other persons subject to this notice under 21 CFR 310.6 are hereby given and opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before June 20, 1983, a written notice of appearance and request for hearing, and (2) on or before July 19, 1983, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of apearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved DNA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in four copies. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, many be seen in Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.70, 5.82, and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: May 13, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-13410 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Home Health Services; Section 339 of the Public Health Service Act; Delegation of Authority

Notice is hereby given that the following delegation has been made regarding home health services under section 339 of the Public Health Service Act (42 U.S.C. 255), as amended.

Delegation from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, with authority to redelegate, of all the authorities under section 339 of the Public Health Service Act, as amended, excluding the authorities to submit reports to Congress or a Congressional committee and to issue regulations.

Previous delegations and redelegations made to officials within the Public Health Service of authorities under Title III of the Public Health Service Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on May 12, 1983.

Dated: May 12, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-13404 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-16-M

Advisory Committees; June Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1983:

Name: Health Services Research Review Subcommittee.

Date and Time: June 8–9, 1983, 8:00 a.m.

Place: Linden Hill Hotel and Racquet Club, Queensbury Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open June 8, 1:00 p.m. to 1:30 p.m.; June 9, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session of the meeting on June 8 will consist of a presentation by the Director, Division of Intramural Research, NCHSR. The open session on June 9 will be devoted to a business meeting covering administrative matters, reports, and a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, Room 1–52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3091.

Name: Health Care Technology Study Section.

Date and Time: June 13–14, 1983, 8:30 a.m..

Place: Linden Hill Hotel and Racquet Club, Pinehurst Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open June 13, 8:30 a.m. to 9:00 a.m.; June 13, 3:30 p.m. to 5:00 p.m.

Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of health research grant applications for Federal Assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session from 8:30 a.m. to 9:00 a.m. on June 13 will be devoted to a business meeting covering administrative matters and reports. The open session from 3:30 p.m. to 5:00 p.m. on June 13 will consist of a presentation by the Office of Health Technology Assessment, NCHSR. The closed portion of the meeting will be devoted to review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, Pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 1–52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Dated: May 16, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-13676 Filed 5-19-83; 8:45 am]

BILLING CODE 4160-17-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 6.

Public Health Service

National Institutes of Health

Subject: Official Statement Relinquishing Interests and Rights in a Public Health Service Research Grant (0925–0004)—Extension/No Change
Respondents: Nonprofit research and/or educational institutions
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Low Income Home Energy Assistance Program (LIHEAP) Monthly Estimates of Obligations (0960–0318)—Extension/No Change
Respondents: States and Indian tribes participating in LIHEAP
Subject: Letters to Employers Requesting Information about Wages Earned by Beneficiary (0960–0034, SSA–L725)—Revised
Respondents: Selected businesses and institutions
Subject: Farm Arrangement Questionnaire (0960–0064, SSA–7157)—Revised
Respondents: Self-Employed individuals with rental income from a farm
Subject: Farm Self-Employment Questionnaire (0960–0061)—Revised
Respondents: Self-employed farmers
Subject: Retirement and Survivors Insurance and Disability Insurance Quality Review Case Analysis and Annual Earnings Test (0960–0189; SSA–2930, 2931, 2932, 4659)—Revision
Respondents: Individuals, surviving spouse, children or parents receiving RSI/DI benefits
Subject: Application for Benefits by a Mental Institution on Behalf of a Patient (0960–0114, SSA–2333)—Revision
Respondents: Mental institutions
Subject: Statement Regarding Student's School Attendance (0960–0113, SSA–2434–F3)—Revised
Respondents: Students receiving benefits under Federal Mine Safety and Health Act
Subject: Statement of Living Arrangements, In-Kind Support and Maintenance (SSA–8006–F4 TEST)—New
Respondents: Recipients and applicants for Supplement Security Income
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: State Requests for HHS Approval of Federal Financial Participation in the Cost of ADP Systems, Equipment and Services (0990–0038)—Extension
Respondents: Single State agencies
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503; Attn: (name of OMB Desk Officer).

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Dated: May 10, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-13510 Filed 5-19-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[E-79339]

Alaska Native Claims Selection; Notice of Publication

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), will be issued to Cook Inlet Region, Inc., for approximately 12.5 acres. The lands involved are within T. 1 S., R. 3 W., Fairbanks Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Coveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 20, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Paula M. Benson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-13565 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-6701-A]

Alaska Native Claims Selection; Notice for Publication

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Seldovia Native Association, Inc. for approximately 1,293 acres. The lands involved are within the Seward Meridian, Alaska: U.S. Survey No. 1770, Tract D, U.S. Reserve.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 20, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Seldovia Native Association, Inc., P.O. Drawer L, Seldovia, Alaska 99663

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509

Paula M. Benson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-13564 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-8485-A]

Alaska Native Claims Selection; Notice for Publication

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Knikatnu, Inc. for 5 acres. The lands involved are within T. 17 N., R. 4 W., Seward Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Times upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 20, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Knikatnu, Inc., P.O. Box 2130 Wasilla, Alaska 99687

Cook Inlet Region, Inc., P.O. Drawer 4–N Anchorage, Alaska 99509

State of Alaska Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513.

Paula M. Benson,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-13565 Filed 5-19-83; 8:45]

BILLING CODE 4310-84-M

[INT FEIS; 83-23]

Final Environmental Impact Statement; Eugene-Medford 500 KV Electrical Transmission Line; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposal for Rights-of-Way to Construct a 500 kV Electrical Transmission Line Linking Medford and Eugene, Oregon.

SUMMARY: The proponent of this line, Pacific Power and Light Company (PP&L) has applied for basic rights-of-way across public lands administered by the Bureau of Land Management (approximately 15 percent of the proposed project). BLM was designated as lead agency for the preparation of an environmental impact statement (EIS).

Under provision of Oregon law, PP&L has acquired a Site Certificate from the Oregon Energy Facility Siting Council which has State jurisdiction for projects of this nature. The Oregon Department of Energy is a cooperating agency for the EIS.

Bonneville Power Administration (BPA) would provide 500 kV service to the proposed line and became a cooperating agency for the EIS at the outset. If the new preferred location is selected, BPA would build the initial 2 miles of the project between at their Alvey Substation east of Eugene and the Spencer Switching Station.

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, a final environmental impact statement (FEIS) on the proposal has been prepared and is now available for public review and comment. The FEIS analyzes impacts which would result from the proposed action, four alternatives, and 14 routing or construction options. Its purpose is to disclose probable effects on the natural, social and economic environment for consideration in the decisionmaking processes of the lead and cooperating agencies.

Public reading copies of the FEIS will be available for review in local libraries throughout the project area; PP&L offices; BLM State Office in Portland and District Offices in Medford, Roseburg and Eugene; and the BPA office in Eugene. A limited number of copies are available on request from the BLM State Office in Portland and District Offices in Eugene, Roseburg and Medford; the BPA office in Eugene; and PP&L offices in Medford, Roseburg, Myrtle Creek, Cottage Grove and Junction City.

Since a new preferred alternative has been identified in this FEIS, a 60-day comment period is established. Comments will be accepted until July 15, 1983. Written comments on the FEIS may be addressed to: Bureau of Land Management, Planning and Environmental Coordination Staff (935), P.O. Box 2965, Portland, Oregon 97208.

For further information contact: R. Gregg Simmons, Bureau of Land Management, Oregon State Office, P.O. Box 2965 (825 N.E. Multnomah St.), Portland, Oregon 97208, Telephone: (503) 231–6272.

Dated: May 4, 1983.

Philip C. Hamilton,

Acting Deputy State Director for Lands and Renewable Resources.

[FR Doc. 83-13709 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-84-M

[F-80721]

Airport Lease; Alaska

April 19, 1983.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C.

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211–214) the State of Alaska, Department of Transportation and Public Facilities, has applied for an airport lease for the following land:

Fairbanks Meridian, Alaska

T. 1 S., R. 33 E., within protracted section 32, SW¼SW¼ and T. 2 S., R. 33 E., within protracted section 5, NW¼NE¼.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

Lonnie Eubanks,

Chief, Branch of Land Office.

[FR Doc. 83-13583 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Desk Officer at 209–395–7340.

Title: Production Estimates
Bureau Form Number: 6–1209–A.
Frequency: Annual
Description of Respondents: Producers of Metals and Nonmetals
Annual Responses: 7,150, Annual Burden Hours: 1,788
Bureau Clearance Officer: Robert L. Miller, 202–634–1125.

Dated: April 26, 1983.

Robert C. Horton,

Director.

[FR Doc. 83-13701 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-53-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: J. Daniel Ducote, Pearl River, LA, PRT 2–10446.

The applicant requests a permit to purchase in interstate commerce one pair of captive-bred nene geese (*Branta sandvicensis*) for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 17, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-13646 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of the Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0228, Block 93, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service make information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 16, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-13702 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Little Mountain Service Center, Inc., authorizing it to continue the operation of an automotive service station with limited refreshment, souvenir, and grocery sales, facilities, and services for the public within the Jeff Busby Area of the Natchez Trace Parkway, Mississippi, for a period of five (5) years from January 1, 1983, through December 31, 1987.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1982, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract.

This provision, in effect, grants Little Mountain Service Center, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Little Mountain Service Center, Inc. If Little Mountain Service Center, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Little Mountain Service Center, Inc.

The Secretary will consider and evaluate all proposals received as a result of this Notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this Notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, S.W., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: May 10, 1983.

John Reed,

Acting Regional Director, Southeast Region.

[FR Doc. 83-13606 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Cades Cove Riding Stables, Inc., authorizing it to continue to provide saddle horse livery and guide services at Great Smoky Mountains National Park for a period of five (5) years from January 1, 1984, through December 31, 1988.

This permit renewal has been determined to be categorically excluded form the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1983, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Cades Cove Riding Stables, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Cades Cove Riding Stables, Inc. If Cades Cove Riding Stables, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new permit will be negotiated with Cades Cove Riding Stables, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposals, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated. Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, S.W., Atlanta, Georgia 30303, for information as to the requirements of the proposed permit.

Dated: May 5, 1983.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 83-13606 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-70-M

Kantishna Hills/Dunkle Mine Study, Denali National Park and Preserve, Alaska; availability of Draft Environmental Impact Statement

Title and Location of Proposal: Kantishna Hills/Dunkle Mine Study, Denali National Park and Preserve, Alaska.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: This notice announces the availability of a draft environmental impact statement (EIS) for the Kantishna Hills/Dunkle Mine Study. This notice also announces public meetins for the purpose of receiving public comments on the draft EIS.

DATES AND ADDRESSES: Comments on the draft EIS should be received no later than July 26, 1983, and should be submitted to: Linda Nebel, Chief, Division of Planning and Design, National Park Service, 540 W. 5th Ave., Anchorage, AK 99501 (907) 271–4196.

The public meetings will be held as follows:

Monday, July 11, 1983, 7:00–9:00 p.m.

Anchorage Historical and Fine Arts Museum, 6th Ave. and A Street, Anchorage, Alaska

Tuesday, July 12, 1983, 7:00–9:00 p.m.

Wood Center Meeting Room, University of Alaska, Fairbanks, Alaska

Wednesday, July 13, 1983, 7:00–9:00 p.m.

Tri-Valley Community Center, Healy, Alaska

Public reading copies of the draft EIS will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, Telephone 202–343–6843
Alaska Regional Office, National Park Service, 540 W. 5th Ave., Anchorage, AK
Denali National, Park and Preserve, Park Headquarters, Alaska
Alaska Resources Library, Federal Building, 701 C Street, Anchorage, AK
Consortium Library, University of Alaska, 3211 Providence Dr., Anchorage, AK
Loussac Library, 524 W. 6th Ave., Anchorage, AK
Noel Wien Library, 1215 Cowles, Fairbanks, AK
Elmer Rasmuson Library, University of Alaska, Fairbanks, AK
Juneau Memorial, Library, 114 W. 4th Juneau, AK
Post Office, Cantwell, AK
Post Office, Healy, AK
Post Office, Talkeetna, AK

A limited number of copies of the draft EIS is available on request from: Linda Nebel, Chief, Division of Planning and Design, National Park Service, 540 W. 5th Ave., Anchorage, AK 99501 (907) 271–4196.

SUPPLEMENTARY INFORMATION: The draft EIS presents six alternatives that focus on mineral development and resource protection in the study areas in Denali National Park and Preserve. Alternatives range from the elimination of all mining in the study areas to opening additional lands within the study areas to mineral development. Alternative six consists of removing portions of the study areas from the park. The environmental consequences of the six alternatives are analyzed, including impacts on fish and wildlife, recreation, employment, mineral production and wilderness eligibility. Alternatives for substantial expansion of mineral development in the study area have potential for significant impacts on the above resources.

Dated: May 10, 1983.

Roger J. Cantor,

Regional Director, Alaska Region.

[FR Doc. 83-13607 Filed 5-19-83; 8:45 am]

BILLING CODE 4310-70-M

War in the Pacific National Historical Park Boundary Revision

Section 6(b) of Pub. L. 95–348, which established War in the Pacific National Historical Park, authorizes the Secretary

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of the Interior to make minor revisions of the boundary of the park by publication of a revised map thereof in the **Federal Register**. Accordingly, minor revision of the boundary of the park has been made to include the area of 36.52 acres of land identified as "GLUP: Nimitz Hill Parcel 3", as depicted upon the revised park boundary map, numbered 474–8000B, dated December, 1982, copies of which are available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240

Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102

Superintendent, War in the Pacific National Historical Park, Post Office Box FA, Marine Drive, ASAN, Agana, Guam 96910

Dated: December 20, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 83–13568 Filed 5–19–83; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Republic Machinery Co., Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on May 17, 1983.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: May 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–13567 Filed 5–19–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 20, 1983. Petitions for reconsideration must be filed by June 9, 1983. Petitions for stay must be filed by May 31, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, D.C. 20423; or call (202) 289–4357 in the D.C. metropolitan area; or (800) 424–5403 Toll-free outside the D.C. area.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15144]

Baker Truck Service, Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative, David E. Wishney, P.O. Box 837, Boise, ID 83701. Pleadings should refer to No. MC–F–15144.

Decided: May 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Baker Truck Service, Inc. (No. MC–138652), of that portion of the operating rights of Shoemaker Trucking Company (No. MC–138875) contained in Shoemaker's Sub-Nos. 296, 297, and portions of Sub-Nos. 309X and 312X, and in addition Shoemaker's underlying certificates in Sub-Nos. 287F, 94F, 275F, and 149F.

[No. MC–F–15156]

Kleysen Transport, Ltd.—Purchase Exemption—Sawyer Transport, Inc. (Nathan Yorke, Trustee-in-Bankruptcy)

Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and (2) Petitioners' representatives, Carl L. Steiner, 135 South LaSalle Street, Suite 2106, Chicago, IL 60603 and Grant J. Merritt Thompson, Neilsen, Klaverkamp & James, P.A., 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402. Pleadings should refer to No. MC–F–15156.

Decided: May 11, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Kleysen Transport, Ltd. of the portion of the

operating rights of Sawyer Transport, Inc., contained in No. MC–123407 (Sub-Nos. 306, 319, 571, 647, paragraph (1) of Sub-No. 134, and paragraphs (68), (154), (159), and (328) of Sub-No. 668X), which authorize the transportation of general commodities (except classes A and B explosives and sensitive weapons) between points in the United States for the United States government and general commodities (except classes A and B explosives), (1) between points in Minnesota, Montana, North Dakota, South Dakota, Iowa, Nebraska, Wisconsin, and Illinois, on the one hand, and, on the other, points in the United States, (2) between points in Posey County, IN, on the one hand, and, on the other, points in the United States (except Alabama, Connecticut, Florida, Georgia, Maine, Massachusetts, New Hampshire, New York, New Jersey, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Vermont), and (3) between points in Daviess County, KY, on the one hand, and, on the other, points in Indiana, Kentucky and Tennessee.

[FR Doc. 83–13569 Filed 5–19–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926,10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20-days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–FC–178

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell

MC–FC–81279. By decision of May 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to SALVATORE EXPOSITO, East Haven, CT, of Certificate of Registration No. MC–98790 (Sub–No. 1), issued April 16, 1964, to NEW HAVEN TRANSPORT, INCORPORATED, New Haven, CT, authorizing the transportation of property solely within the state of CT. Transferee presently holds authority in MC–136160. Representative: David M. Marshall, Sixth Floor–95 State Street, Springfield, MA 01103. Condition: This approval is conditioned upon transferee's compliance with the requirements necessary for the issuance of the certificate of public convenience and necessity in No. MC–136160 (Sub-No. 1).

Note.—A directly related conversion application has been filed in MC–136160 (Sub-No.1) published in this same **Federal Register** issue.

Note.—Ordinarily, where a Certificate of Registration is transferred and its language does not comport with that utilized by the Commission, the publication will be rephrased accordingly. Here, however, since transferee's operation must be pursuant to the certificate to be issued in No. MC–136160 (Sub-NO. 1), such rephrasing is not necessary in this publication.

Please direct status inquiries about the following to Team 2 at (202) 275–7030.

Volume No. OP2–FC–219

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81204. By decision of May 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 1, approved the transfer to Trailwood Transportation, Inc., St. Paul, MN, of authority issued to Tyson Truck Lines, Inc., St. Paul in MC–127812 (Sub-No. 31), issued March 18, 1982, authorizing the transportation of such commodities as are dealt in by food business houses and retail department stores, between points in MN, ND, SD, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Anthony C. Vance, 1307 Dolly Madison Blvd., McLean, VA 22101.

MC–FC–81364 By decision of May 11, 1983, issued under U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to Rock Haulers, Inc., of Middleburg, FL, of authority issued to DDH, Inc., of Middleburg, FL, authorizing transportation of (1) lumber, from Lake Butler, FL, to points in GA and FL, (2) road building and construction aggregates, in bulk, between points in FL and GA, and (3) ores and minerals, between points in Putnam County, FL, on the one hand, and, on the other, points in AL and GA. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL.

MC–FC–81425. By decision of May 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to WMB TRANSPORTATION, Colton, CA, of authority issued to TWH, INC., Tehachapi, CA, in Certificate MC–151772 (Sub-No. 1), issued May 1, 1981, authorizing the transportation of (1) cement, in bulk, from points in Kern County, CA, to points in Clark, Lincoln, Esmeralda, and Nye Counties, NV, and (2) gypsum and fluorspar, in bulk, from points in Clark, Lincoln, Esmeralda, and Nye Counties, NV, to points in Kern County, CA. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. An application for temporary authority has been filed.

Volume No. OP2–FC–227

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC–FC–81086. By decision of May 13, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 3 approved the transfer to CONSTABLE TRANSPORT LIMITED, of Thorold, Ontario, Canada, of a portion of Certificate No. MC–13123, all of Certificates No. MC–13123 Sub-Nos. 82 and 85, and a portion of Certificate No. MC–13123 Sub-No. 103, issued January 27, 1967, May 18, 1977, July 26, 1979, and November 24, 1982, respectively, to WILSON FREIGHT COMPANY, INC. (DEBTOR IN POSSESSION), of Cincinnati, OH, authorizing the transportation, as a common carrier, of (1)(a) general commodities (with exceptions), over a

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series of regular routes within IL, IN, MI, and NY, serving specified intermediate and off-route points, and (b) iron and steel tractor parts, and steel, over regular routes, from and to Menomonee Falls and Milwaukee, WI; and (2) over irregular routes (a) vinegar, from Benton Harbor, MI, to specified points in IN and IL, and (b) empty vinegar barrels, from specified points in In and IL, to Benton Harbor, MI. Representatives: For Transferee, Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870; For Transferor, Mark J. Andrews, 1660 L St., NW, Suite 1100, Washington, DC 20036, (202) 452–7438.

Note.—(1) Transferee holds authority under MC–90511; and (2) An application for temporary authority has been filed.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–FC–292

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81402, filed April 18, 1983. By decision of May 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to EXECUTIVE MOVING & STORAGE, INC., of West Nyack, NY, of Certificate No. MN–103827 (Sub-No. 3) X, issued October 19, 1982, and the underlying superseded authority in MC–103827 (lead), issued November 8, 1977, to MOVERS WORLD, INC., of Bronx, NY, authorizing the transportation of *household goods, furniture and fixtures,* between New York, NY and points in Suffolk County, NY, on the one hand, and, on the other, Washington, DC, Alexandria, VA, points in CT, DE, MD, MA, NJ, NY, and RI, and points in that part of PA on and east of a line beginning at the NY-PA state line, and extending along U.S. Hwy 15 to junction unnumbered highway (formerly portion U.S. Hwy 111), near Wormleysburg, PA, then along unnumbered highway through New Cumberland, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction unnumbered highway, then along unnumbered highway through Newberry Town and Strinestown, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction business route Interstate Hwy 83 through York, PA, to junction unnumbered highway (formerly portion U.S. Hwy 111), then along unnumbered highway through Jacobus, Loganville and Shrewsbury, PA, to the PA-MD state line. Representative: Arthur J. Piken, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000, for both transferee and transferor.

MC–FC–81434, filed April 22, 1983. By decision of May 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board 1, approved the transfer to STEEL & MACHINERY TRANSPORT, INC., of Munster, IN, of certificates in MC–41406 Sub-No. 168X, issued October 6, 1981, and the underlying authority in MC–41406 Sub-Nos. 68, 71, and 75; MC–41406 Sub-No. 169X, issued May 20, 1981, and the underlying authority in MC–41406 Sub-Nos. 13 and 51; MC–41406 Sub-No. 170X, issued May 28, 1981, and the underlying authority in MC-41406 Sub-Nos. 59 and 143; MC–41406 Sub-No. 175X, issued August 31, 1981, and the underlying authority in MC–41406 Sub-Nos. 30 and 137; and MC–41406 Sub-No. 177X, issued December 21, 1981, and the underlying authority in MC–41406 Sub-Nos. 16, 18, 20, 27, 28, 29, 34, 39, 40, 41G, 42, 46, 47, 50, 52(M1), 53G, 60, 63, 65, 67, 69, 70, 72, 81, 100, 101, 105, 114, 140, 151, 154, 160, and 163, to ARTIM TRANSPORTATION SYSTEM, INC., of Merrillville, IN (except that portion sold in MC–F–14740), authorizing the transportation of *numerous specified commodities,* between specified points generally throughout the U.S. (except AK and HI). Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301.

Volume No. OP4–FC–304

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC–FC–81466, filed May 10, 1983. By decision of May 16, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board 1 approved the transfer to FIRST AMERICAN VAN LINES, INC., of Jacksonville, FL, of Certificate No. MC–104887 (Sub-No. 8) X, issued April 8, 1982, and the underlying authority in No. MC–104887 (Sub-No. 6G), issued February 28, 1975, to AMERICAN VAN LINES, INC., of Miami, FL, authorizing the transportation of *household goods and furniture and fixtures,* between points in MN, WI, IL, MO, KS, AR, TX, LA, MS, TN, KY, IN, MI, OH, WV, AL, FL, GA, SC, NC, VA, PA, NY, VT, NH, ME, MA, RI, CT, NJ, MD, DE, and DC. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13567 Filed 5–19–83; 8:45 am]

BILLING CODE 7035–01–M

[OP4F–300]

Motor Carriers; Decision-Notice

Decided: May 13, 1983.

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specfically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team Four at (202) 275–7669.

[MC–F–15250]

Groendyke Investment, Inc.—Continuance in Control Exemption—The Transport Company of Texas and Groendyke Transport, Inc.

Groendyke Investment, Inc. (GII), a non-carrier, and, in turn H. C. Groendyke, who controls GII through stock ownership, seeks an exemption from the requirement of prior regulatory approval for his continuance in control of GII's subsidiaries, Texas Carriers, Inc. (a non-carrier), Groendyke Transport, Inc. (MC–111401), and The Transport Company of Texas (MC–167667).

The Transport Company of Texas has filed as a directly related application its initial common carrier application. This application, docketed No. MC–167667, is published in this same Federal Register issue.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative, Mike Cotten, P.O. Box 1148, Austin, TX 78767

Comments should refer to No. MC–F–15250.

[FR Doc. 83–13570 Filed 5–19–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S. 10524(b).

1. Parent corporation and address of principal office: Cone Mills Corporation, 1201 Maple Street, Greensboro, NC 27405.

2. Wholly-owned subsidiary which will participate in the operations, and state of incorporation: Walk-On-Products, Inc., a North Carolina corporation.

1. Parent Corporation: Consolidated Marketing, Inc. Address of principal office: 340 Interstate North Pkwy., Suite 430, Atlanta, Georgia 30339.

2. Participating wholly owned subsidiaries and states of incorporation: HDL Distribution, Inc. (Georgia).

1. Parent corporation and address of principal office: Cluett, Peabody & Co., Inc., 510 Fifth Avenue, New York, New York 10036.

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation:

Subsidiaries	State of incorporation
(I) Alatex, Inc	Delaware.
(II) Arrow Inter-America, Inc	Delaware.
(III) The Arrow Shirt Company	Pennsylvania.
(IV) Boyd-Richardson Company	Missouri
(V) Cluett Export Corporation	New York.
(VI) Cluett Realties, Inc	Delaware.
(VII) Donmoor, Inc	New York.
(VIII) Duofold, Inc	New York.
(IX) Hometown Manufacturing Company, Inc.	New York.
(X) Rogers Peet Company	Delaware.
(XI) Ron Chereskin Studios, Inc	New York.
(XII) Sir Continents, Ltd	New York.
(XIII) Spring City Knitting Company	Pennsylvania.
(XIV) Textest, Inc	New York.
(XV) Shoreham Classics, Inc	New York.
(XVI) Van Raalte Company, Inc	New York.

1. Parent Corporation: Lakeside Harvestore, Inc., 2400 Plymouth St., New Holstein, WI 53061.

2. Wholly owned subsidiares which will participate in the operations, and state of incorporation.

a. Desert Harvestore Systems, Inc.—Arizona

b. Aquastore Southwest, Inc.—Arizona

1. Parent corporation and address of principal office: F. Perlman & Company, Inc., 476 N. Manassas St., Memphis, TN 38101.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices: Southern Steel Supply Co., Inc., 475 N. Dunlap St., Memphis, TN 38101.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13571 Filed 5–19–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the Federal Register on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted

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problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries about the following to Team 1 at (202) 275–7992.

Volume No. OP1–169(N)

Decided: May 10, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 61440 (Sub-226), filed May 2, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant), (405) 840–7579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Company, and its subsidiaries, of Chicago, IL.

MC 106200 (Sub-7), filed April 25, 1983. Applicant: HOFFMAN TRANSFER, INC., P.O. Box 1351. Des Moines, IA 50305. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309 (515)–282–3525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between (1) points in AL, KY, LA, MS, MT, NM and TN, and (2) points in AL, KY, IA, MS, MT, NM and TN, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, MI, NM, MO, ND, NE, OH, OK, SD, TX, WI and WY.

MC 135081 (Sub-4), filed April 29, 1983. Applicant: MIDLAND TRANSPORTATION COMPANY, 1708 E. Main St., Marshalltown, IA 50158. Representative: Jack H. Blanshan, 203 Cedar St. Boone, IA 50036 (515)–432–9651. Transporting *machinery and metal products*, between points in IA and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145481 (Sub-39), filed April 27, 1983. Applicant: HOOSIER TRANSPORTATION SYSTEM, INC., 501 Sam Ralston, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357 (303)–892–6700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147000 (Sub-5), filed May 2, 1983. Applicant: EL B, INC., d.b.a. EL B TRANSPORTATION, 6622 Manchester, Buena Park, CA 90620. Representative: William J. Monheim, P.O Box 1756. Whittier, CA 90609 (213)–945–2745. Transporting *such commodities* as are dealt in by food business houses, between points in Los Angles, Orange and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ.

MC 148980 (Sub-3), filed April 26, 1983. Applicant: WESTERN CARGO, INC., P.O.B. 20489, Reno, NV 89515. Representative: Royal F. Miller (same address as applicant) (702)–329–0061. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Industrial Products Group Combustion Engineering, Inc., of Valley Forge, PA.

MC 153780 (Sub-2), filed April 29, 1983. Applicant: PHILIP C. KALF d.b.a. MARINE DISTRIBUTORS, 135 Woodhaven Rd., Woonsocket, RI 02895. Representative: Philip C. Kalf (same address as applicant) (401)–769–2444. Transporting *boats and boat parts*, between points in the U.S.

MC 159370 (Sub-1), filed April 28, 1983. Applicant: PAUL KITTIPOL VEJABUL d.b.a. AMERICAN TOUR AND LEASING, 5230 Clark Ave., Lakewood, CA 90712.Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702 (714)–677–8108. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 161290 (Sub-1), filed May 2, 1983. Applicant: CARROLL FOSTER, INC., Route 3, Box 659, Jonesboro, AR 72401. Representative: R. Conner Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 (901)–526–4114. Transporting (1) *such commodities* as are used or displayed in and by trade show and other exhibitors, and (2) furniture and fixtures, between points in the U.S. (except AK and HI).

MC 162460 (Sub-2), filed April 22, 1983. Applicant: B. J. XPRESS, INC., P.O. Box 4106, Spencer, IA 51201. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, LA 503 09 (515)–282–3525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Schmidt Distributors, Inc., d.b.a. Shoppers Supply, of Spencer, IA, and (2) National Commercial Services Co., Inc., of Des Moines, IA.

MC 163451 (Sub-1), filed April 25, 1983. Applicant: PAUL J. SCALORA d..b.a. SCALORA TRUCKING, 37 Michael Dr., Southington, CT 06489. Representative: Mark Perry c/o OOID, 5030 N. 35th St., Arlington, VA 22205 (703)–534–1823. Transporting *machine tools, gauges, and manufactured hand tools*, between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River to its junction with the western boundry of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 167580, filed April 18, 1983. Applicant: J.O.N. CORPORATION, 202 94th St., SW., Albuquerque, NM 87105. Representative: Wayne Elliott, 4229 Second St., S.W., Albuquerque, NM 87102, (505)–873–0108. Transporting (1) *farm products*, (2) *forest products*, (3) *ores and minerals*, (4) *rubber and plastic products*, (5) *Lumber and wood products*, (6) *construction materials*, (7) *clay, concrete, glass, or stone products*, (8) *metal products*, (9) *machinery*, (10) *transportation equipment*, and (11) *those commodities* which because of their size and weight require the use of special handling or equipment, between points in NM, CO, UT, NV, AZ, CA, TX, OK, KS, LA, AR, MO, NE, WY, MT, ID, OR and WA.

MC 1677630, filed April 25, 1983. Applicant: CAPITOL MOTOR FREIGHT EXPRESS, INC., P.O. Box 450173, Atlanta, GA 30345. Representative: Guy H. Postell, Suite 675, 2284 Peachtree Rd., N.E., Atlanta, GA 30326, (404)–237–6472. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167671, filed April 25, 1983. Applicant: LADY LINE, LTD., 7002 Collinsville Rd., East St. Louis, IL 62201. Representative: James S. Goode, 2055 Castle Drive, Edwardsville, IL 62025, (618)–656–1597. Transporting (1) *paper and paper products*, (2) *iron and steel products*, (3) metal products, and (4) *construction equipment*, between points in the U.S. (except AK and HI).

MC 167740, filed May 2, 1983. Applicant: D & M TRUCK LEASING, INC., 7925 South Rockhill Rd., St. Louis, MO 63132. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Washington, DC 20006, (202)–828–5015. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between St. Louis, MO, on the one hand, and, on the other, points in AR, MO, OK, KY, IN, IL, TN, IA and KS.

Volume No. OP1–175 (N)

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 127610 (Sub-11(A)), filed May 2, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West St., West Bridgewater, MA 02379. Representative: J. Peter Noonan (same address as applicant), (617) 588–8026. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT and DC.

Note.—Applicant has concurrently filed contract carrier authority docketed MC. 127610 Sub 11(B), published in this same **Federal Register** issue.

MC 139641 (Sub-2), filed April 28, 1983. Applicant: ELSIE M. MORRIS AND LEONARD F. MORRIS, d.b.a. MORRIS TRANSFER, 2210 Rosicky Rd., Malin, OR 97632. Representative: Leonard F. Morris (same address as applicant), (513) 723–6781. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 150951 (Sub-22), filed May 2, 1983. Applicant: CRANSTON TRUCKING COMPANY, 1361 Cranston St., Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *thread*, between points in the U.S., under continuing contract(s) with Globe Manufacturing Company, of Fall River, MA.

MC 155410 (Sub-3), filed April 29, 1983. Applicant: VERSHON TRUCKING CORP., 274 West St., Ludlow, MA 01056. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Universal Distributing Services, Inc., of Chicopee, MA.

MC 155580 (Sub-1), filed May 2, 1983. Applicant: MEBANE TRUCKING COMPANY, P.O. Box 408 Mebane, NC 27302. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Perth Enterprises, Inc., of Greensboro, NC.

MC 162891 (Sub-1), filed April 29, 1983. Applicant: MILWAUKEE TERMINAL SERVICES, INC., 1200 West Mallory Ave., P.O. Box 21987, Milwaukee, WI 53221. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, (608) 257–9521. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Milwaukee County, WI, on the one hand, and, on the other, points in WI and Barage, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon Counties, MI.

MC 163850, filed May 3, 1983. Applicant: WILLIAM A. MONRO, d.b.a. MONRO MOVING & STORAGE CO., P.O. Box 5565, Augusta, GA 30906. Representative: James M. Parrish, P.O. Box 1365, Marietta, GA 30061, (404) 424–8132. Transporting *plastic articles*, between points in Aiken County, SC, and Richmond County, GA, on the one hand, and, on the other, points in AL, FL, GA, KY, NC, SC and TN.

MC 167781, filed May 4, 1983. Applicant: TRANSPORT QUEB-U.S., INC., No. 1 50th Avenue South, Bois-des-Filions, Terrebonne, Quebec, Canada J6Z 2N3. Representative: Russell R. Sage, Suite 304, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312, (703) 750–1112. Transporting, in foreign commerce only, *lumber and wood products*, between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 167790, filed May 4, 1983. Applicant: HUNTER DOUGLAS, INC., P.O. Box 61, Roxboro, NC 27573. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI).

Volume No. OP1–179

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 136160 (Sub-1), filed March 7, 1983. Applicant: SALVATORE ESPOSITO, 19 Forest Street, East Haven, CT 06512. Representative: David M. Marshall, Sixth Floor 95 State Street, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT.

Note.—Applicant shall be authorized to tack this authority with that in its certificate

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No. MC–136160, which authorizes the transportation, over irregular routes, of general commodities (with several exceptions), between points in Monmouth County, NJ, and Lakewood and Point Pleasant, NJ, on the one hand, and, on the other, New York, NY, provided, however, that said tacking will be limited to those commodities authorized to be transported under both certificates. (2) The purpose of this application is to convert applicant's Certificate of Registration in MC–86790 (Sub-No. 1) into a Certificate of Public Convenience and Necessity, and eliminate the gateway of the New York, NY commercial zone. This application is directly related to MC–FC–81279 published in this same **Federal Register** issue.

Please direct status inquiries about the following to Team 2 at (202) 275–7293.

Volume No. OP2–220

Decided: May 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 16903 (Sub-95), filed April 18, 1983. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MT, WY, CO, and NM.
Condition: The release of this authority is conditioned upon approval of the petition for exemption filed in MC–F–15265.

MC 167703, filed April 28, 1983. Applicant: CALLAHAN TRUCKING, INC., 3879 Somers Dr., Huntingdon, PA 19006. Representative: Maxwell A. Howell, 2554 Mass. Ave., NW, Washington, DC 20008, (202) 483–8633. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with H.D.L. Management Co., INC., of Huntingdon, PA.

Volume No. OP2–223

Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 107012 (Sub-818), filed May 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant, 219–429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Gould, Inc., of Rolling Meadows, IL.

MC 110683 (Sub-211), filed May 3, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont Ave., NW., Washington, DC 20005, 202–783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Rohm & Haas Company, of Philadelphia, PA.

MC 139843 (Sub-21), filed May 2, 1983. Applicant: VERNON SAWYER, Drawer B, Bastrop, LA 71220. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043, 703–442–8330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Howard Brothers Discount Stores, Inc., of Monroe, LA.

MC 141212 (Sub-10), filed May 3, 1983. Applicant: JOHN RADKE, INC., Route 2, Box 93, Marathon, WI 54448. Representative: Richard A. Westly, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Transporting *food and related products*, between points in WI and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151693 (Sub-9), filed May 4, 1983. Applicant: SSD DISTRIBUTION SYSTEM, INC., 2514 Bridge Ave., Cleveland, OH 44113. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Cleveland, Columbus and Toledo, OH, Detroit, MI, and points in Genessee County, NY, on the one hand, and, on the other, points in IN, KY, MI, NY, OH, PA, and WV.

MC 158733 (Sub-7), filed May 2, 1983. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Ave., S.W., Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and related products*, between points in Sac and Linn Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167763, filed May 2, 1983. Applicant: FARMER'S ELEVATOR, INC. OF MERCER COUNTY, 365 Office St., P.O. Box 308, Harrodsburg, KY 40330. Representative: Herbert D. Liebman, 403 West Main St., P.O. Box 478, Frankfort, KY 40602, 502–875–3493. Transporting *pet food and animal feed*, between points in Jefferson County, KY, on the one hand, and, on the other, points in KY, TN, and WV.

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–209

Decided: May 10, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 53965 (Sub-207), filed April 29, 1983. Applicant: GRAVES TRUCK LINE, INC., 8717 W. 110th St., Suite 700, Overland Park, KS 66210. Representative: Bruce A. Bullock, One Woodward Ave., 26th Fl., Detroit, MI 48226, (313) 496–3534. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with FMC Corporation, and its subsidiaries, of Lexington, KY.

MC 121504 (Sub-3), filed April 28, 1983. Applicant: KEN'S TRANSFER, INC., P.O. Box 534, Milbank, SD 57252. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar St., St. Paul, MN 55101, (612) 227–7731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Grant County, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority to its existing regular route authority.

MC 133604 (Sub-22), filed May 2, 1983. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th St., Oskaloosa, IA 52577. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036, (202) 331–8800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ConAgra, Inc., and its subsidiaries, of Omaha, NE.

MC 138415 (Sub-29), filed April 29, 1983. Applicant: TRAILER EXPRESS, INC., P.O. Box 327, Topeka, IN 46571. Representative: Paul D. Borghesani, Suite 300, Commercial Bldg., 421 S. Second St., Elkhart, IN 46516, (219) 293–3597. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Utilimaster Corporation, of Wakarusa, IN.

MC 140484 (Sub-112), filed April 29, 1983. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Ft. Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, D.C. 20005, (202) 296–3555. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Coast to Coast Shipper's Association, Inc., of Cheswick, PA.

MC 143915 (Sub-5), filed April 29, 1983. Applicant: KAPTUR ENTERPRISES, INC., 2250 East 198th Street, Lynwood, IL 60411. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602, (312) 236–5944. Transporting *lumber and wood products*, between those points in that part of the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 144584 (Sub-10), filed April 26, 1983. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., Eugene Drive, Plains Township, PA 18702. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, CT, RI, NY, NJ, PA, DE, VT, and OH, on the one hand, and, on the other, points in the U.S. (except AK, HI, AZ, CA, NV, OK, TX, UT, and WA).

MC 14695 (Sub-5), filed April 28, 1983. Applicant: N. & S. TRUCKING, INC., Rt. 1, Francisco, IN 47649. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46024, (317) 635–2339. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Daviess, Dubois, Gibson, Knox, Martin, Pike, Posey, Spencer, Vanderburgh and Warrick Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157565 (Sub-4), filed April 26, 1983. Applicant: BUD MEYER TRUCK LINES, INC., P.O. Box 97, Theilman, MN 55987. Representative: John B. Van De North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *food and related products, chemicals and related products*, between points in MN, WI, KY and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161314 (Sub-2), filed April 26, 1983. Applicant: Donald Dejno, d.b.a. DEJNO'S TRUCKING, 11121 63rd Avenue, Kenosha, WI 53142. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting (1) *plup, paper and related products*, between points in IL, MI, MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Kenosha County, WI and points in the U.S. (except AK and HI).

MC 162875 (Sub-1), filed May 2, 1983. Applicant: AARTIC PARCEL SERVICE INC., 27 Canal St., Millbury, MA 05127. Representative: Philip H. Miles (same address as applicant), (617) 865–9030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, RI, and NHJ, with no single piece to weigh more than 100 pounds.

MC 164135, filed April 29, 1983. Applicant: DENNIS HAMMERSCHMIDT, d.b.a. MC TRUCKING, 937 W. Collins, Orange, CA 92667. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602, (213) 945–3002. Transporting *mobile and modular homes, new and used, and materials and parts for mobile and modular homes*, between points in AZ, CA and NV.

MC 166724, filed April 26, 1983. Applicant: SHASTA-SISKIYOU TRANSPORT, INC., P.O. Box 604, Redding, CA 96001. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *petroleum and petroleum products*, between points in CA, OR, and NV.

MC 167274, filed April 29, 1983. Applicant: L & D ENTERPRISES, INC., 14909 NE 26 Street, Vancouver, WA 98664. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 228–6491. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OK, OR, TX, UT, WA and WY.

MC 167674, filed April 26, 1983. Applicant: SAUK-RIO TRANSPORTATION COOPERATIVE 603 Phillips Boulevard, Sauk City, WI 53583. Representative: Patricia Thimmig, 25 W. Main Street, Suite 801, Madison, WI 53703, (608) 255–7277. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Rio Farmers Union Cooperative, Rio, WI, and Consumers Cooperative Oil Company, Sauk City, WS.

Volume No. OP3–212

Decided: May 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 145084 Sub-3, filed April 26, 1983. Applicant: MARATHON FREIGHT LINES, INC., Height Rd., P.O. Box 264, Noxapater, MS 39346. Representative: Donald L. Kilgore, 435 Center Ave., P.O. Box 96, Philadelphia, MS 39350, (601) 656–1871. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167714, filed April 29, 1983. Applicant: HULCHER TRUCKING COMPANY, a corporation, P.O. Box 167, Virden, IL 62690. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *general commodities* (except household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Hulcher Emergency Service, Inc., and (2) *road building and construction machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hulcher Equipment Company, both of Virden, IL. Condition: The certificate in this proceeding to the extent it authorizes the transportation of classes A and B explosives in part (1) shall expire 5 years from the date of issuance.

MC 167715, filed April 29, 1983. Applicant: OSCAR BARNETT, d.b.a. FAIRFIELD STAGE LINES, 721 Jefferson St., Fairfield, CA 94533. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Over *regular routes*, transporting *passengers*, between Oakland, CA and Sacramento, CA, over Interstate Hwy 80, serving Travis Air Force Base as an off-route point.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 167715(a), filed April 29, 1983. Applicant: OSCAR BARNETT, d.b.a. FAIRFIELD STAGE LINES, 721 Jefferson St., Fairfield, CA 94533. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Over *regular routes*, transporting *passengers*, between Oakland, CA and Sacramento, CA, over Interstate Hwy 80, serving Travis Air Force Base as an off-route point.
Condition: Issuance of a certificate in this proceeding is conditioned upon the grant and issuance of a certificate pending No. MC–167715. Failure to be granted and issued authority in the indicated proceeding shall render any grant of pertinent intrastate authority in this proceeding null and void.

Note—Applicant seeks to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

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MC 167715(b), filed April 29, 1983. Applicant: OSCAR BARNETT, d.b.a. FAIRFIELD STAGE LINES, 721 Jefferson St., Fairfield, CA 94533. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–6666. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Please direct status inquires about the following to Team 4 at (202) 275–7669.

Volume No. OP4–296

Decided: May 12, 1983.

By the Commission, Review Board No. 1 Members Parker, Chandler, and Fortier.

MC 22527 (Sub-15), filed May 6, 1983. Applicant: RIVERESIDE SERVICE CORPORATION, 7 Austin St., Buffalo, NY 14207. Representative: Frederick H. Staub (same address as applicant), (716) 875–5600. Transporting *metal products*, between points in NY, on the one hand, and, on the other, points in PA, OH, NJ, MA, CT, RI, NH, VT, and ME.

MC 40497 (Sub-5), filed May 3, 1983. Applicant: LAWRENCE MOVING & STORAGE CO., P.O. Box 1194, Sacramento, CA 95806. Representative: Robert J. Gallagher, 1000 Connecticut Ave., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, between points in WA, OR, CA, NV, ID, UT, AZ, NM, CO, WY and MT.

MC 59117 (Sub-86), filed May 6, 1983. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 64301. Representative: Tom B. Kretsinger, Jr., 20 E Franklin, Liberty, MO 64068, (918) 256–5535. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 71296 (Sub-11), filed May 5, 1983. Applicant: FORT TRANSPORTATION & SERVICE CO., INC., 1600 Janesville Ave., Fort Atkinson, WI 53538. Representative: Richard D. Armstrong, 925 Hyland Dr., Stoughton, WI 53589, (608) 873–8829. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk, between (1) points in IL and WI, and (2) points in IL and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 98596 (Sub-3), filed May 6, 1983. Applicant: R P FREIGHT LINES, INC., 69 Campanelli Dr., Braintree, MA 02184. Representative: Lawrence T. Sheils, 316 Summer St., 5th Floor, Boston, MA 02210, (617) 482–3830. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between (1) points in ME, NH, VT, MA, CT and RI, and (2) between points in ME, NH, VT, MA, CT and RI, on the one hand, and, on the other, points in DC, DE, MD, NJ, NY and PA. Condition: Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–98596 Sub 2.

MC 106937 (Sub-75), filed May 6, 1983. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164, (612) 633–7911. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with J. C. Penney Company of New York, NY.

MC 124117 (Sub-50), filed May 5, 1983. Applicant: MID-TENN EXPRESS, INC., P.O. Box 101, Eagleville, TN 37060. Representative: Robert L. Baker, 618 United States Southern Bank Bldg., Nashville, TN, 37219, (615) 244–6100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of KS, NE, ND, OK, SD, and TX.

MC 133966 (Sub-64), filed May 3., 1983. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, DC 20004, (202) 628–4600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145637 (Sub-13), filed May 6, 1983. Applicant: B&B EXPRESS, INC., P.O. Box 552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146226 (Sub-11), filed May 9, 1983. Applicant: J & P TRUCKING CO., INC., P.O. Box 47, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., 110 North 2nd St., P.O. Box 1320, Clearfield, PA 16830, (814) 765–9611. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Mecklenburg County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156066 (Sub-1), filed May 9, 1983. Applicant: GARY TRANSFER COMPANY, INC., 300 West Ridge Rd., Gary, IN 46408. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, (312) 953–0330. Transporting *metal products*, between points in IL, IN, IA, KY, MI, MO, OH, PA, NY, and WI.

MC 159986 (Sub-6), filed May 6, 1983. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480 24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ervin Industries, Inc., of Ann Arbor, MI, and Dawn Food Products, Inc., of Jackson, MI.

MC 160767 (Sub-9), filed May 4, 1983. Applicant: LADD TRANSPORTATION, INC., No. 1 Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889–0333. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Artco-Bell Corporation, of Temple, TX, Certified Brokerage Services, Inc., of Hagerstown, MD, Bigelow Sanford, Inc., of Greenville, SC, and Lowe's Company, Inc., of North Wilkesboro, NC.

MC 161236 (Sub-1), filed May 5, 1983. Applicant: BARBARA KRAKLIO, d.b.a. K & K TRUCKING, R.R. No. 1, Box 106, Eldridge, IA 52748. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *silica sand*, between points in Scott County, IA, on the one hand, and, on the other, points in Ottawa County, OK, and IL, and (2) *crushed glass*, between points in Polk County, IA, on the one hand, and, on the other, St. Louis, Mo, and points in Okmulgee County, OK, and IL.

MC 166736, filed May 6, 1983. Applicant: RKM EQUIPMENT & TRUCKING, INC., 7000 Frisco Rd., Yukon, OK 73099. Representative: William P. Paker, 4400 N. Lincoln Blvd., Suite 10, Oklahoma City, OK 73105, (405) 424–3301. Transporting (1) *metal products*, and (2) *machinery*, between points in the U.S. (except AK and HI).

MC 167016, filed May 4, 1983. Applicant: QUALITY DELIVERY SERVICE, INC., 10508 Goodnight Lane, Dallas, TX 75220. Representative: William Sheridan, P.O. Box 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in LA, OK and TX.

MC 167837, filed May 6, 1983. Applicant: NORTH BROTHERS,INC., 2802 W. Virginia, Phoenix, AZ 85009. Representative: Michael DeMarco, 17422 Chatsworth St., Granada Hills, CA 91344, (213) 368–4941. Transporting *malt beverages and near-beer*, between Phoenix, AZ, on the one hand, and on the other, points in CA, under continuing contract(s) with G. Heileman Brewing Co., of Phoenix, AZ, and Community Beverage, of Los Angeles, CA.

MC 167847, filed May 6, 1983. Applicant: CHARLES R. MILLER ENTERPRISES, INC., 4504 Bells Lane, Louisville, KY 40211. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives, household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with B-T Energy Corporation, of Louisville, KY.

MC 167857, filed May 4, 1983. Applicant: EQUINE TRANSPORTATION, LTD., 2629 W Horsetooth Rd., Fort Collins, CO 80526. Representative: Lynne Wagers-Reese (same address as applicant), (303) 226–3364. Transporting *horses and mules*, valuable for breeding, racing, show, or other special purposes, between points in the U.S. (except AK and HI).

MC 167866, filed May 9, 1983. Applicant: BUENEMAN'S INC., 105 North Elm, P.O. Box 246, Wright City, MO 63390. Representative: Jane E. Leonard, 515 Olive St., Suite 1700, St. Louis, MO 63101, (314) 231–2800. Transporting *lumber and wood products, livestock, grain, feed, and fertilizer*, between points in AR, IL, OK, KS, TX, KY, IN, IA, TN, NE, WI, and MO.

Volume No. OP4–298

Decided: May 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 89387 (Sub-4), filed May 2, 1983. Applicant: FRANK MARTUCCIO ENTERPRISES, INC., 1059 Mercer Ave., Hermitage, PA 16148. Representative: Gene Martuccio (same address as applicant), (412) 346–4144. Transporting *commodities in bulk*, between points in Erie, Niagara, Chautauqua, and Cattaraugus Counties, NY, and Brooke, Ohio, and Hancock Counties, WV, and points in PA and OH.

MC 167916, filed May 9, 1983. Applicant: JIM COLLINS TOWING, INC., 12090 SW. Cheshire Rd., Beaverton, OR 97005. Representative: Lawrence V. Smart, Jr., 419 NW. 23d Ave., Portland, OR 97210, (503) 226–3755. Transporting *transportation equipment*, between points in OR, WA, CA, ID, MT, WY, UT, CO, NV, NM, and AZ.

MC 167917, filed May 9, 1983. Applicant: MASA TRUCK LINES, 2630 E. 81st St., Bloomington, MN 55420. Representative: Louis J. Roehl, (same address as applicant), (612) 854–3888. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U,S, (except AK and HI), under continuing contract(s) with Midwest Airfreight Shippers Association, of Bloomington, MN.

Volume No. OP 4–301

Decided: May 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167667, filed April 22, 1983. Applicant: THE TRANSPORT COMPANY OF TEXAS, 5503 Agnes, P.O. Box 4726, Corpus Christi, TX 78408. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, (512) 472–8800. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in LA, OK and TX; and (2) *commodities in bulk*, between points in LA, OK and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application is directly related to MC–F–15250, and is published in this same Federal Register issue.

Volume No. OP 4–303

Decided: May 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 148556 (Sub-4), filed May 9, 1983. Applicant: KEEBLER COMPANY, One Hollow Tree Lane, Elmhurst, IL 60126. Representative: John M. Sanderson, Jr., (same address as applicant), (312) 833–2900. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with the Beltran Corporation, of Acton, MA.

MC 152717 (Sub-2), filed May 9, 1983. Applicant: STEVECO, INC., P.O. Box 489, Dickson, TN 37055. Representative: Roland M. Lowell, 501 Union St., Nashville, TN 37219, (615) 255–0540. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162106 (Sub-1), filed May 9, 1983. Applicant: EXPEDITED TRANSPORTATION SERVICE, INC., One W. Court Square, Suite 465, Decatur, GA 30030. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163496 (Sub-1), filed May 10, 1983. Applicant: L. B. GUIGNARD, INC., P.O. Box 28067, Charlotte, NC 28213. Representative: Charles Ephraim 918 16th St., N.W., Suite 406, Washington, DC 20006, (202) 833–1170. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Savannah Foods and Industries, Inc., of Savannah, GA, and its subsidiaries, and Bird & Son, Inc., of East Walpole, MA.

MC 164676, filed May 9, 1983. Applicant: BYRON McCUNE, CLARK McCUNE, SCOTT McCUNE, DARRELL McCUNE, d.b.a. McCUNE TRUCKING, 4817 Harper St., Salt Lake City, UT 84117. Representative: Eldon E. Bresee, 1553 W. 7th St., Upland, CA 91786, (714) 983.0811. Transporting *such commodities* as are dealt in by grocery and food business houses, department stores and variety stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Safeway Stores, Inc., of Oakland, CA.

MC 167817, filed May 4, 1983. Applicant: JUNIOR E. STANLEY, d.b.a. STANLEY ENTERPRISES, 100½ Parkway Blvd., Elizabethton, TN 37643. Representative: Junior E. Stanley (same address as applicant), (615) 543–1356. Transporting *general commodities* (except classes A and B explosives, household goods and ommodities in bulk), between points in the U.S., under continuing contract(s) with MKS Company, Inc., of Elizabethton, TN, and MKS Batting (N.C.), Inc., of Donover, NC.

MC 167926, filed May 10, 1983. Applicant: CARL WORTHINGTON AND SONS TRUCKING, INC., 107 West Side Ave., Jersey City, NJ 07305. Representative: Pamela A. Falls 30 Bordeaux Dr., Parsippany, NJ 07054, (201) 887–7927. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under

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continuing contract(s) with Fesco Plastics Corp., of Farmingdale, NJ.

MC 167927, filed May 10, 1983. Applicant: WEIL WRECKER SERVICE, INC., 2607 2nd Ave., So., Birmingham, AL 35233. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–5223. Transporting *transportation equipment*, between points in AL, FL, GA, LA, MS, and TN.

MC 167936, filed May 9, 1983. Applicant: EVERGREEN CARTAGE, INC., 8159 West Irving Park Rd., Chicago, IL 60634. Representative: Thomas M. O'Brien, 180 North Michigan Ave., Suite 1700 Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, MO, NE, OH, and WI.

Please direct status inquires about the following to Team 5 at (202) 275–7289.

Volume No. OP5–230

Decided: May 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 119099 (Sub-43), filed April 29, 1983. Applicant: BJORKLUND TRUCKING, INC., First Avenue N.E. and 8th Street, Buffalo, MN 55313. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *chemical and related products*, between points in MN, IA, ND, SD, and WI.

MC 119968 (Sub-27) filed May 2, 1983. Applicant: A. J. WEIGAND, INC., P.O. Box 130, Dover, OH 44622. Representative: John R. Boynton (Same addresses as applicant), (216) 878–5501 Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 136786 (Sub-1(a)), filed March 17, 1983. Applicant: SALEM TRANSPORTATION COMPANY OF NEW JERSEY, INC., 133–03 35 Ave., Flushing, NY 11354. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10017, (212) 755–9500. Over regular routes, transporting *passengers*, (a) between Trenton, NJ, and New York, NY: From Trenton over U.S. Hwy 1 to junction Interstate Hwy 95 (NJ Turnpike) at New Brunswick, NJ, then over Interstate Hwy 95 to Newark International Airport, then over Interstate Hwy 95 to George Washington Bridge, then over George Washington Bridge and Interstate Hwy 95 to junction Interstate Hwy 678, then over Interstate Hwy 678 to Whitestone Bridge, then over Whitestone Whitestone Bridge and Interstate Hwy 678 to Grand Central Parkway, then over Grand Central Parkway to La Guardia Airport, then over Grand Central Parkway to Van Wyck Expressway, then over Van Wyck Expressway to John F. Kennedy International Airport, and return over the same route, serving all intermediate points and the off-route points of Edison, Highland Park, North Brunswick, South Brunswick, Plainsboro, Penn's Neck, Franklin, Princeton, and Lawrenceville, NJ; and (b) between New York, NY, and Elizabeth, NJ, serving all intermediate points: (i) From John F. Kennedy International Airport over Belt Parkway to Verrazano Narrows Bridge, then over Verrazano Narrows Bridge to Interstate Hwy 278 (Staten Island Expressway), then over Interstate Hwy 278 to junction Interstate Hwy 95 (NJ Turnpike), at or near Elizabeth, NJ; and: (ii) From La Guardia Airport over Interstate Hwy 278 to Verrazano Narrows Bridge to junction Interstate Hwy 95 at or near Elizabeth, NJ.

Note.—Applicant seeks additional authority in MC–136786 Sub 1(b) published in this same **Federal Register**.

MC 143118 (Sub-5), filed April 21, 1983. Applicant: SWINFORD TRUCKING CO, INC., Route #10 Bleich Rd., Paducah, KY 42001. Representative: Peggy J. Gray, P.O. Box 786 Paducah, KY 42001, (502) 442–7300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 146248 (Sub-5), filed May 2, 1983. Applicant: QUALITY HAULERS, INC., 606 Hilda St., Jefferson City, MO 65101. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636–2321. Transporting (1) *malt beverages and related products*, (2) *glass and glass products*, (3) *paper and paper products*, (4) *metal and metal products*, (5) *plastic and plastic products*, and (6) *recyclable materials*, between points in AR, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, OK, TN, TX, and WI.

MC 146758 (Sub-28), filed April 29, 1983. Applicant: LADLIE TRANSPORTATION, INC., 1701 Margaretha Street, Albert Lea, MN 56007. Representative: Phillip H. Ladlie (same address as applicant), (507) 373–2553. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, MN, IL, IA, MO, KS, UT, TX, CA, OR, WA, ID, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151678 (Sub-14), filed May 2, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1000 Potomac St., NW, Suite 501, Washington, DC 20007, 202–337–0104. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Three Way Brokerage, of Sunnyvale, CA.

MC 159978 (Sub-1), filed May 2, 1983. Applicant: TRANSCORP CARRIERS, INC., 1809 Carmel Rd., Greensboro, NC 27408. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163429 (Sub-2), filed May 2, 1983. Applicant: GENE TRIPP JR. AND DAVID SAUERBIER, d.b.a. BEARMOUTH EXPRESS, POB 7103, Missoula, MT 59807. Representative: William E. Selisiki, 2 Commerce St., POB 8255, Missoula, MT 59807, (406)543–8369. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Oliver Rubber Company, of Oakland, CA, IAMS Company of Lewisburg, OH, Jerry Noble Tires, of Great Falls, MT, and Caras Cabinet Manufacturing, High Noon, Inc., and High Mountain Distributing, all of Missoula, MT.

MC 167139, filed April 26, 1983. Applicant: DANMARR TRANSIT, INC., 24 Royale Drive, Van Buren, AR 72956. Representative: Dan Bearden (same address as applicant), (501)474–8756. Transporting *paper and related products*, between points in AR, OK, KS, MO, TX, TN, and GA.

MC 167728, filed May 2, 1983. Applicant: PENNY A. FIX, d.b.a. VICTORY EXPRESS, P.O. Box 24403 Seattle, WA 98124. Representative: Jack R. Davis, Suite 1200, IBM Bldg., Seattle, WA 98101, 206–624–7373. Transporting *general commodities* (except classes A and B explosives), between points in WA, OR, ID and MT.

MC 167729, filed May 2, 1983. Applicant: JUICE SERVICES, INC., Blackstone Valley Way, 146–295 Industrial Park, P.O. Box 304, Lincoln, RI 02865. Representative: Edward G. Bazelon, 135 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. Under continuing contract(s) with DFC Transportation Company of Huntley, IL.

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Decided: May 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 41098 (Sub-107), filed May 3, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA. 92803 Representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, DC 20006, (202)833–8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Lockheed Corporation, of Burbank, CA and its subsidiaries.

MC 88368 (Sub-60), filed April 28, 1983. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902 (301) 649–5074. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S.

MC 94599 (Sub-3), filed May 4, 1983. Applicant: JOHN D. TONKOVICH & SON, INC., Rt. 2, P.O. Box 208, Shadyside, OH 43947. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, KY, MD, MI, NY, OH, PA, VA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107229 (Sub-15), filed May 4, 1983. Applicant: AMODIO MOVING, INC., 600 East St., New Britain, CT 06014. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036, 202–785–0024. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with American Relocation Services, Inc. of Hamden, CT.

MC 123329 (Sub-65), filed May 3, 1983. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59401, 406–452–6417. Transporting *lumber and wood products*, between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in AK.

MC 123748 (Sub-31), filed April 15, 1983. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 1060 State St., New Haven, CT 06511. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103 (203) 278–1330. Over regular routes, transporting *passengers*, between Hartford, CT, and LaGuardia Airport and John F. Kennedy International Airport, New York, NY: (a) from Hartford over access roads to junction Interstate Hwy 84, then over Interstate Hwy 84 to Farmington, then over access roads to junction Interstate Hwy 84, then over Interstate Hwy 84 to Interstate Hwy 684, then over Interstate Hwy 684 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 91, then over Interstate Hwy 91 to junction Insterstate Hwy. 95, than over Interstate Hwy 95 to New York, NY, then over city streets and highways to LaGuardia Airport and John F. Kennedy International Airport, serving all intermediate points, and (b) from Hartford over access roads to junction Interstate Hwy 91, then over Interstate Hwy 91 to Wethersfield, CT, then over access roads to junction Interstate Hwy 95, then over Interstate Hwy 95 to New York, NY, then over city streets and highways to LaGuardia Airport and John F. Kennedy International Airport, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 158689 (Sub-1), filed May 4, 1983. Applicant: TODD LOISEAU, d.b.a. RAPID EXPRESS, 115 Suffield Village, P.O. Box 404, Suffield, CT 06078. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, 413–732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, ME, MA, NH, RI, VT, NY NJ and PA.

MC 166068, filed March 28, 1983. Applicant: A–PLUS TRUCKING, INC., 5506 Northpoint Dr., Cincinnati, OH 45239. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212, 614–481–8821. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166538 (Sub-2), filed May 3, 1983. Applicant: ACE EXPRESS TRANSPORTATION, P.O. Box 9380, Salt Lake City UT, 84109. Representative: Stuart Breinholt (same address as applicant), 801 268–0257. Transporting (1) *metal products*, (2) *machinery*, (3) *baggage handling equipment*, and *such commodities* as are dealt in or used by department, discount and grocery stores, between points in the U.S. (except AK and HI)

MC 167749, filed May 2, 1983. Applicant: PELLERIN MILNOR CORPORATION, d.b.a. MILNOR TRANSPORTATION SERVICES, 700 Jackson St., Kenner, LA 70062. Representative: U.S. Florane, Jr. (same address as applicant), 504–467–9591. Transporting *machinery*, between points in Jefferson Parish, LA, On the one hand, and, on the other, points in the U.S. (except HI).

MC 167788, filed May 3, 1983. Applicant: SPIRIT TRUCKING, INC., 310 Fourth St., Blawnox, PA 15238. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–0494. Transporting (1) *machinery*, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of metal products and construction materials, between those points in the U.S. in and east of MN, IA, MO, OK and TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13573 Filed 5–19–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-68)]

Rail Carriers; Seaboard System Railroad, Inc.—Abandonment—in Lee County, NC; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc. to abandon its 2.32 mile rail line between milepost AE 242.28 near Jonesboro and milepost AE 244.60 near Sanford in Lee County, NC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905

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and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13568 Filed 5-19-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30175]

Illinois Central Gulf Railroad Co.—Merger—Chicago & Illinois Western Railroad Co.; Exemption

May 17, 1983.

Illinois Central Gulf Railroad Company (ICG) and its subsidiary Chicago & Illinois Western Railroad Company (CIW) filed a notice of exemption relating to the merger of CIW into ICG.

Pursuant to a stock purchase agreement dated April 15, 1983, ICG purchased from its wholly-owned subsidiary, Mississippi Valley Corporation (MV) all issued and outstanding shares (1,000) of CIW capital stock. Under a plan of merger, scheduled for consummation on April 29, 1983, it is the intention of the parties that ICG surrender the CIW stock for cancellation in exchange for all of the assets of CIW, and that CIW will merge into ICG.

This is a transaction within a corporate family and will not result in adverse changes in service levels, significant operational changes or a change in the competitive balance with carriers outside the corporate family. Therefore, the proposed transaction is of the type specifically exempted from the necessity for prior review and approval, 49 CFR 1180.2(d)(3).

As a condition to use of the exemption, any employee of the ICG or CIW affected by this transaction shall be protected pursuant to the labor conditions set forth in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2) regarding protection of employees affected by this transaction.

By the Commission, Herber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13629 Filed 5-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

May 17, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

- Immigration and Naturalization Service

Department of Justice

Canadian Border Boat Landing Card

On occasion

Individuals or households

Used to permit U.S. citizens, lawful permanent residents, Canadian Nationals and other residents of Canada having a common nationality with Canadians to visit the immediate shore area of Canada and the United States in a small pleasure craft during boating season: 5,000 responses; 830 hours; not applicable under 3504(h).

David Reed—395-7231.

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-13560 Filed 5-19-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of North Carolina

This notice announces the ending of the Extended Benefit Period in the State of North Carolina, effective on May 14, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of North Carolina on February 13, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on April 23, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on May 14, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on May 11, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-13535 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Ending of Extended Benefit Period in the State of Ohio

This notice announces the ending of the Extended Benefit Period in the State of Ohio, effective on May 14, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Ohio on January 17, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on April 23, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on May 14, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on May 12, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-13536 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Arthur Winer, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 31, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 31, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 16th day of May 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date petition	Petition No.	Articles produced
Arthur Winer, Inc. (ACTWU)	Petersburg, VA	5/6/83	5/3/83	TA-W-14,635	Trousers, dress—men's.
E. I. du Pont de Nemours & Co., Inc., Photo Products Dept., Magnetic Products Div. (company).	Newport, DE	5/6/83	4/6/83	TA-W-14,636	Tape, recording—magnetic.

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APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date petition	Petition No.	Articles produced
Eaton Corp., Axle Div. (MESA)	Cleveland, OH	5/9/83	5/1/83	TA-W-14,637	Parts for rear truck axles.
I. M. Industries (teamsters)	Lake St. Louis, MO	5/10/83	4/20/83	TA-W-14,638	Laparotomy sponges.
Jones & Laughlin Steel Corp., Memphis District Sales Office (workers).	Memphis, TN	5/6/83	5/2/83	TA-W-14,639	District sales office.
Melville Footwear Manufacturing (workers)	Aulander, NC	5/10/83	5/6/83	TA-W-14,640	Women's shoes.
Nannette Manufacturing Company (United Garment Workers of American).	Glassboro, NJ	5/11/83	5/5/83	TA-W-14,641	Baby dresses and toddlers clothing.
Soho Chemical Company (OCAW)	Lima OH	5/9/83	5/2/83	TA-W-14,642	Ammonia and urea.
Bristol Steel & Iron Works, Inc. (Inter'l Assoc. of Bridge Structural & Ornamental Iron Wrks).	Bessemer, AL	5/13/83	5/9/83	TA-W-14,643	Fabrication of bridges, steel for buildings, locks, gates.

[FR Doc. 83-13084 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Hollis Manufacturing Co. et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 9, 1983–May 13, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,924; Hollis Manufacturing Co., Wrightsville, PA

Affirmative Determinations

TA-W-13,748; Bethlehem Steel Corp., Wire Rope Div., Williamsport, PA

A certification was issued covering all workers of the firm separated on or after January 1, 1982.

TA-W-13,867; Bethlehem Steel Corp., General Offices, Bethlehem, PA

A certification was issued covering all workers of the firm separated on or after September 28, 1981.

TA-W-13,911; Sloan Glass, Inc., Culloden, WV

A certification was issued covering all workers separated on or after October 19, 1981.

TA-W-13,900; CTS of West Liberty, West Liberty, OH

A certification was issued covering all workers separated on or after July 4, 1982 and before January 1, 1983.

TA-W-13,732; R. M. Formed Products, Modulus Div., Gary, IN

A certification was issued covering all workers separated on or after August 11, 1981.

I hereby certify that the aforementioned determinations were issued during the period May 9, 1983–May 13, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 17, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-13683 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-29-C]

B.S.B. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

B.S.B. Coal Company, General Delivery, Pathfork, Kentucky 40863 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its K.O.K. No. 3 Mine (I.D. No. 15–13741) located in Harlan County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 42 to 66 inches, with rolls and fluctuations.

3. Petitioner states that the use of cabs or canopies on the mine's shuttle cars would result in a diminution of safety because the cab or canopy could strike and dislodge the roof support system. The cabs and canopies also cause a cramped operator compartment, forcing the operator to hang out from under the cab or canopy, exposing body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13537 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-10-C]

Chrissy Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Chrissy Coal Company, Box 17, Beaver, Kentucky 41604 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Kim No. 2 Mine (I.D. No. 15–04085) located in Floyd County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the working place where self-propelled mining equipment is working must be illuminated.

2. The coal seam ranges from 25 to 34 inches in height.

3. Petitioner states that the installation of lighting devices on the self-propelled mining equipment would result in a diminution of safety for the miners affected. The lights are so bright that when the scoops come into the section, the lights temporarily blind the equipment operators and nearby persons, increasing the chances of an accident. All equipment have headlights and reflectors, as well as reflectors in each section.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13538 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-5-M]

Hecla Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Hecla Mining Company, P.O. Box 320, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 57.4–43 (buildings near mine openings; fire resistance requirements) to its Sherman Mine (I.D. No. 05–00604) located in Lake County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that buildings and other structures located within 100 feet of mine openings used for intake air and those designated as escapeways in exhaust air be constructed of fire-resistant materials.

2. As an alternate method, petitioner proposes that:

a. The maintenance area will be moved from the portal end of the shop to the opposite end of the shop and a fire partition, build of noncombustible blocks, will be installed to separate the shop from the portal end of the building;

b. The cat-walk joining the stairs and the shop building will be lined on the inside with ⅝-inch, type X gypsum wallboard, on both the catwalk and shop side;

c. Gypsum wallboard will be nailed to the underside of the joists supporting the second floor on the portal side of the shop building; and

d. In the snowshed adjoining the underground haulage drift to the mine workings, gypsum wallboard will be nailed vertically to both sides of the adjacent upper portion of the snowshed. All wood inside and outside of the fan housing in the snowshed will be covered with sheet steel.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13539 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-7-M]

Hecla Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Hecla Mining Company, P.O. Box 320, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 57.19–11 (flanges on drums) to its Republic Unit Mine (I.D. No. 45–00365) located in Ferry County, Washington. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that flanges on drum shall extend radially a minimum of four inches or three rope diameters beyond the last wrap, whichever is the lesser.

2. The hoist is used approximately 3 to 4 times per month to lower miners to inspect the secondary escapeway system or to repair or check the pumps and/or the air door located on the sixth level. No problems have been encountered concerning rope jumping the drum flange or any other related problems during the operating history of the hoist.

3. The hoist was made by Ottumwa and has a single drum which is 63 inches in diameter, and 36 inches wide, powered by a 112 horsepower electric motor, operating on AC current. It has a friction clutch with two braking systems, one manually operated and the other mechanically. The type of safety control is a Hubbell. The hoist rope is a ⅞ inch, 6 × 21 filler wire, RLL, with a fibre core, 875 feet long. The cage weighs approximately 600 pounds.

4. Petitioner states that when the cage is at the collar of the shaft, the hoist rope is 10 wraps into the second layer. At this point the flange on the drum extends one inch radially beyond the last wrap. The hoist operating speed is 250 feet per minute. Because of the limited use of this hoist, the slow operating speed, and the fact that there have been no problems due to the size of the flange, petitioner believes that the existing hoist flange construction guarantees the same measure of protection as that afforded by the standard, and therefore, request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13540 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-8-M]

Independent Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

Independent Salt Company, P.O. Box 36, Kanopolis, Kansas 67454 has filed a petition to modify the application of 30 CFR 57.4–61A (ventilation doors) to its

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mine (I.D. No. 14-00411) located in Ellsworth County, Kansas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway to prevent the spread of smoke or gas in the event of a fire.

2. The air intake shaft is the designated escape shaft and is located approximately 1800 feet northeast of the production shaft. The intake shaft is maintained solely for air intake and emergency escape. This wood-lined shaft is kept brine soaked.

3. The system is designed to control the air flow from the surface by opening and closing surface openings. The air is kept flowing into the secondary (escape) shaft and out of the primary (production) shaft to avoid contamination by fumes from operating equipment. Any fire and subsequent noxious fumes would be from the production shaft area. Petitioner states that if it becomes necessary to reverse air flow it would be more practical and effective to do so from the surface, where the openings are more stable and more quickly reached.

4. Petitioner states that the installation of a ventilation or fire door at either of the shafts would create additional uncertainties and potential danger to the personnel in the mine should a fire occur. With the constant movement of floor, sides and roof, it is impossible to install and maintain an airtight closure. With the salt and allowed moisture in the shaft area, keeping a remote or automatic closing system dependably operable, is also not feasible; surface control is much more dependable.

5. Fore these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

Dated: May 10, 1983.

[FR Doc. 83-13541 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-4-M]

Kentucky Stone Co.; Petition for Modification of Application of Mandatory Safety Standard

The Kentucky Stone Company, 400 Sherburn Lane, P.O. Box 7556, Louisville, KY 4007 has filed a petition to modify the application of 30 CFR 57.20-32 (telephones or two-way communication equipment) to its Mt. Vernon Operation (I.D. No. 15-00051) located in Rockcastle County, Kentucky, its Marion Operation (I.D. No. 15-00003) located in Crittenden County, Kentucky, its Tyrone Operation (I.D. No. 15-00043) located in Anderson County, Kentucky, its Princeton Operation (I.D. No. 15-00013) located in Caldwell County, Kentucky, and its Yellow Rock Operation (I.D. No. 15-00048) located in Lee County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that telephones or other two-way communication equipment with instructions for their use be provided for communication from underground operations to the surface.

2. The mines have multiple openings ranging in size from 40 to 50 feet wide and 30 feet high consisting of noncombustible limestone. Petitioner can drive straight in and out of the mines with a variety of vehicles, ranging from a small pickup to a large 35 ton haul truck. In case of a serious accident, the emergency vehicle would be able to drive to the exact location in a matter of minutes.

3. As an alternate method, petitioner proposes to use a system of CB radios located in the main office and in the superintendent's and mine foreman's trucks.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

Dated: May 10, 1983.

[FR Doc. 83-13542 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-24-C]

Olga Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Olga Coal Company, Drawer B, Coalwood, West Virginia 24824 has filed a petition to modify the application of 30 CFR 49.6 (mine rescue teams, equipment and maintenance requirements) to its Olga No. 1 and No. 2 Mine (I.D. No. 46-01407), Roadfolk Mine (I.D. No. 46-05319) and its Cavetta Mine (I.D. No. 46-02858), all located in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A Summary of the petitioner's statements follows:

1. The petition concerns the requirement that a mine rescue station be provided with equipment for two mine rescue teams.

2. As an alternate method, petitioner proposes to assure that at least two mine rescue teams and the necessary equipment for two teams, as required by the standard, are available when miners are underground. In this regard, petitioner proposes to maintain the appropriate equipment for one mine rescue team and provide a second equipped mine rescue team by agreement with the Shannon Branch Coal Company, which is within two hours ground travel time from the petitioner's mines.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13543 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-22-C]

Plateau Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Plateau Mining Company, P.O. Drawer PMC, Price, Utah 84501 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Star Point No. 2 Mine (I.D. No. 42-00171) located in Carbon and Emery Counties, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. Due to the geology of the coal seams, petitioner proposes, as an alternate method, to use a 2-entry panel development longwall mining system in lieu of room-and-pillar methods or 3-entry longwall systems, with the following safeguards:

a. A continuous low-level carbon monoxide (CO) monitoring system and a continuous methane monitoring system will be installed and maintained in the belt/return entry. Each system will be capable of providing an audio and visual signal at a continuously staffed location on the surface equipped with 2-way communications with the section;

b. Air will be monitored for CO at each belt drive, tailpiece and 2,000-foot intervals between the methane monitors will be placed near the mouth of the section and immediately outby the tailpiece;

c. At any time the CO monitoring system is inoperative and the belts continue to run, the belts will be patrolled by a qualified person who will physically monitor CO levels. The methane monitor system will sound an alarm at 0.8% methane content and de-energize the beltline and section face equipment if methane exceeds 1.0% at any location;

d. Both monitoring systems will be inspected at least once each twenty-four hours, tested at least once each seven days and calibrated at least every thirty days with known mixtures of carbon monoxide/air and methane/air, as applicable.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13544 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-12-C]

Rob-Rob Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Rob-Rob Mining Co., Inc., P.O. Box 426-A, East Stone Gap, Virginia 24246 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; construction) to its No. 1 Mine (I.D. No. 44-05964) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that refuse piles be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations, and that such piles not be located over abandoned openings or steamlines.

2. Petitioner seeks a modification of the standard to permit the placement of coal process waste over three known abandoned mine entries of the completely removed Imboden seam. In support of this proposal, petitioner will provide a conditional plan for control of mine water drainage should the abandoned Imboden works prove the discharge water from the works when cut into. The operator will provide a rock underdrain or pipe sized to convey such drainage approximately 180 feet across the East Fork Branch hollow into a known mine opening in the Imboden seam prior to disposal of refuse. Should the abandoned Imboden works be dry, the mine openings will be sealed through installation of a dry plug. These dry plug seals will extend into the mine openings for a minimum of 25 feet. The exposed coal seams to be covered with refuse will be covered with 3 feet of noncombustible material above and below the exposed outcrop.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13545 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-26-C]

Saginaw Mining Co., Petition for Modification of Application of Mandatory Safety Standard

Saginaw Mining Company, P.O. Box 275, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Saginaw Mine (I.D. No. 33-00941) located in Belmont County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. As an alternate method, petitioner proposes to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity in lieu of providing one portable fire extinguisher and 240 pounds of rock dust.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

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Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 10, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13546 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-31-C]

Scorpio Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Scorpio Energy, Inc., P.O. Box 355, Big Rock, Virginia 24603 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine. (I.D. No. 44-05244) located in Buchanan County, Virginia. The petition is filed under Section 10(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam measures about 43 inches in natural height with allowances for uneven contour areas. At present, approximately 2 inches of draw rock is giving an additional overall height; however, this condition is not expected to continue for an extended period of time.

3. The installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies strike and catch roof bolts while the equipment is in motion. The canopies also hamper the equipment operator's visibility, forcing the operator to lean out from under the canopy, exposing body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 20, 1983. Copies of the petition are available for inspection at that address.

Dated: May 11, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-13547 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1-5 of Executive Order 12196 of February 26, 1980, published in the Federal Register February 27, 1980 (45 FR 12769), will meet on June 9, 1983 starting at 10:00 AM at the Occupational Safety and Health Administration's Training Institute, 1555 Times Drive, Des Plaines, Illinois 60018. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Welcome
III. Approval of Minutes of January 12, 1983 Meeting
IV. Announcement of Appointments
V. Proposed OSHA Procedures
  A. Procedure for Handling Reports of Unsafe or Unhealthful Working Conditions
  B. Procedures for Handling Reports of Fatalities and Catastrophies, Agency Investigative Reports, and OSHA Investigations
VI. Reports
  A. Interdisciplinary Committee on Hazard Abatement
  B. Interdisciplinary Committee on Fleet Safety
  C. Subcommittee on Federal Accident Reporting Systems
  D. Ad Hoc Committee on Elevator Safety
VII. New Business
VIII. Adjournment

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business June 3, 1983, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business June 3, 1983. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue, N.W., Room N3613, Washington, D.C. 20210, telephone (202) 523-6021.

Signed at Washington, D.C., this 16th day of May 1983.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 83-13834 Filed 5-19-83; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences.

Date and time: June 6 & 7 1983; 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW. Room 338.

Type of meeting: Part Open—Closed June 6; 9:00 a.m. to 5:00 p.m. Open June 7; 9:00 a.m. to 5:00 p.m.

Contact person: Dr. Richard T. Louttit, Director, Division of Behavioral and Neural Sciences; Room 320, National Science Foundation, Washington, DC 20550 (202) 357-7564.

Summary minutes: May be obtained from the Contact Person at the above stated address.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in the Division of Behavioral and Neural Sciences.

Agenda: Open—General discussion of the current status and future plans of the Division of Behavioral and Neural Sciences.

Closed—Review and comparison of declined proposals (and supporting documentation) with successful awards under the Division of Behavioral anod Neural Sciences, including review of peer review materials and other privileged materials. A report will be prepared on the Advisory Panel's findings and recommendations.

Reason for closing: The oversight portion of the meeting will deal with a review of grants and declinations in which the Advisory Panel will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be enextricably intertwined with the discussion of exempt material and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Dated May 17, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-13878 Filed 5-19-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-400/401]

Carolina Power & Light Co. and North Carolina Eastern Municipal Power Agency; Availability of Draft Environmental Statement for Shearon Harris Nuclear Power Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0972) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Shearon Harris Nuclear Power Plant, Units 1 and 2, located in Wake and Chatham Counties, North Carolina. The owners of Shearon Harris are Carolina Power and Light Company and North Carolina Eastern Municipal Power Agency.

The Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence and their consequences.

Copies of NUREG-0972 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at the Wake County Public Library, 104 Fayetteville Street, Raleigh, North Carolina 27601. The document is also being made available at the State Clearinghouse, Office of the Governor, Office of State Budget and Management, 116 West Jones Street, Raleigh, North Carolina and at the Triangle J Council of Governments, P.O. Box 12276, Research Triangle Park, North Carolina 27709. Request for copies of the DES should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (other local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Wake County Public Library. Comments are due by July 5, 1983. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 12th day of May 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-13000 Filed 5-19-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection For OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed information collection submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed information collection from the public. Standard Form 2802—Application for Refund of Retirement Deductions, is used by the Civil Service Retirement System, Compensation Group, Office of Personnel Management, to collect pertinent information for use in determining whether all conditions for payment of refund are met as provided by Section 8342, Title 5, U.S. Code. The application also provides for the payee to make an election on whether Federal income tax should or should not be withheld from the interest portion of the refund as provided by Pub. L. 97-248. For copies of this proposal, call John F. Weld, Agency Clearance Officer, on (202) 632-7720.

DATE: Comments on this proposal should be received within 30 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 669, Washington, DC 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: William J. Washington, (202) 632-5472, Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-13944 Filed 5-19-83; 8:45 am]

BILLING CODE 6325-01-M

Excepted Service; Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This give notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on April 26, 1983 (48 FR 18974). Individual authorities established or revoked under Schedules A, B, or C between April 1, 1983 and April 30, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

Department of Defense

Not to exceed 30 positions at grades GS-11/15 in the Defense Mobilization Systems Planning Activity, Office of the

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Deputy Assistant Secretary of Defense (Mobilization Planning and Requirements.) No new appointments may be made under this authority after March 31, 1984. Effective April 7, 1983.

The following exception revoked:

Department of Health and Human Services

In the National Center for Health Statistics, up to 20 positions of Health Examination Representative, GS–7 and 9, serving on the Health and Nutrition Examination Survey Teams. (Positions now excepted under Schedule B.) Effective April 21, 1983.

Schedule B

The following exceptions are established:

Department of the Army

Two Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical school surgical residency programs. Employment under this authority shall not exceed 12 months. Effective April 19, 1983.

Department of Health and Human Services

Not to exceed 68 positions at GS–11 and below on the Health and Nutrition Examination Survey Teams of the National Center for Health Statistics. Effective April 21, 1983.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective April 4, 1983.

One Staff Assistant (Typing) to the Assistant Secretary for Administration, Office of the Secretary. Effective April 6, 1983.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective April 18, 1983.

Department of the Army

One Assistant Director to the Chairman and Executive Director, President's Foreign Intelligence Advisory Board. Effective April 11, 1983.

One Confidential Staff Assistant to the Special Assistant to the President and Director, Office of Cabinet Affairs. Effective April 25, 1983.

Department of Commerce

One Congressional Liaison Officer, Office of the Secretary. Effective April 11, 1983.

One Special Assistant to the Director, Bureau of the Census. Effective April 14, 1983.

One Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective April 18, 1983.

One Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective April 19, 1983.

One Confidential Assistant to the Director, Office of Minority Business Development Agency. Effective April 22, 1983.

One Confidential Assistant to the Associate General Counsel for Legislation and Regulation, Office of the Secretary. Effective April 25, 1983.

One Congressional Affairs Specialist, National Oceanic and Atmospheric Administration. Effective April 25, 1983.

Department of Defense

One Private Secretary to the Assistant Secretary of Defense (Comptroller), Office of the Assistant Secretary of Defense (Comptroller). Effective April 18, 1983.

Department of Education

One Confidential Assistant to the Executive Assistant, Office of the Secretary. Effective April 4, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective April 4, 1983.

One Confidential Assistant to the Executive Secretary, Office of the Secretary. Effective April 13, 1983.

One Special Assistant to the Under Secretary, Office of the Under Secretary. Effective April 13, 1983.

One Deputy Commissioner, Office of Special Education and Rehabilitative Services. Effective April 13, 1983.

One Confidential Assistant to the General Counsel, Office of the General Counsel. Effective April 25, 1983.

Department of Energy

One Intergovernmental Affairs Specialist, Office of the Assistant Secretary for Congressional, Intergovernmental and Public Affairs. Effective April 12, 1983.

One Confidential Assistant to the Commissioner, Federal Energy Regulatory Commission. Effective April 18, 1983.

Department of Health and Human Services

One Special Assistant to the Secretary, Office of the Secretary. Effective April 4, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective April 6, 1983.

One Special Assistant for Private Sector Coordination, Office of Program Coordination and Review. Effective April 14, 1983.

Department of Housing and Urban Development

One Staff Assistant to the President, Government National Mortgage Association. Effective April 4, 1983.

One Confidential Assistant to the Under Secretary, Office of the Under Secretary. Effective April 22, 1983.

One Special Assistant to the General Manager, Office of the General Manager, New Community Development Corporation. Effective April 28, 1983.

Department of the Interior

One Staff Assistant to the Assistant to the Director for Royalty Management, Minerals Management Service. Effective April 25, 1983.

Department of Justice

One Staff Assistant to the General Counsel, Immigration and Naturalization Service. Effective April 14, 1983.

One Attorney-Advisor, Office of Justice Assistance, Research, and Statistics. Effective April 28, 1983.

Department of Labor

One Staff Assistant to the Director, Women's Bureau. Effective April 6, 1983.

One Secretary (Typing) to the Assistant Secretary for Employment and Training, Office of the Assistant Secretary. Effective April 19, 1983.

Department of State

Manager, President's Guest House, Office of the Chief of Protocol. Effective April 4, 1983.

One Special Assistant to the Counselor. Effective April 4, 1983.

One Special Assistant to the Counselor. Effective April 4, 1983.

One Secretary (Stenography) to the Assistant Secretary, Bureau of Economic and Business Affairs. Effective April 4, 1983.

One Deputy Assistant Secretary for Private Sector and Public Affairs, Bureau of African Affairs. Effective April 6, 1983.

One Secretary (Stenography) to the Assistant Secretary, Bureau of European Affairs. Effective April 17, 1983.

One Special Assistant to the Under Secretary, Office of the Under Secretary for Security Assistance, Science and Technology. Effective April 11, 1983.

One Deputy Assistant Secretary, Office of the Assistant Secretary for Congressional Relations. Effective April 28, 1983.

Department of Transportation

One Special Assistant to the Director, Office of Public Affairs. Effective April 5, 1983.

One Staff Assistant to the Maritime Administrator, Office of the Administrator. Effective April 6, 1983.

One Congressional Liaison Specialist, Office of the Secretary. Effective April 6, 1983.

Department of the Treasury

One Public Affairs Specialist, Office of the Assistant Secretary (Public Affairs). Effective April 18, 1983.

ACTION

One Special Assistant to the Assistant Director, Office of Compliance. Effective April 7, 1983.

Administrative Office of the United States Courts

One Supervisory Attorney-Adviser (Legislative). Effective April 14, 1983.

Agency for International Development

One Deputy Director, Women in Development, Bureau for Program and Policy Coordination. Effective April 6, 1983.

Equal Employment Opportunity Commission

One Congressional Affairs Officer. Effective April 14, 1983.

Environmental Protection Agency

One Special Assistant to the Associate Administrator for Policy and Resources Management, Office of Policy and Resources, Management. Effective April 6, 1983.

One Special Assistant to the Director, Office of Public Affairs. Effective April 6, 1983.

One Special Assistant to the Director, Office of Public Affairs. Effective April 6, 1983.

Federal Home Loan Bank Board

One Assistant to the Board Member, Office of Board Member Gray. Effective April 13, 1983.

General Services Administration

One Chief of Staff, Office of the Administrator. Effective April 29, 1983.

National Endowment for the Arts

One Congressional Liaison Specialist. Effective April 13, 1983.

Office of Personnel Management

One Special Assistant to the Executive Assistant Director, Office of Policy and Communications. Effective April 15, 1983.

One Confidential Assistant to the Director, Office of the Director. Effective April 15, 1983.

One Special Assistant to the Director, Office of the Director. Effective April 29, 1983.

Pension Benefit Guaranty Corporation

One Secretary (Typing) to the Deputy Executive Director. Effective April 15, 1983.

Securities and Exchange Commission

One Secretary to the General Counsel, Office of the General Counsel. Effective April 18, 1983.

Small Business Administration

One Director, Office of Public Affairs. Effective April 20, 1983.

One Assistant Director of Public Affairs. Effective April 20, 1983.

U.S. Information Agency

One Special Assistant to the Associate Director for Programs, Bureau of Programs. Effective April 11, 1983.

One Special Assistant (Congressional Relations) to the General Counsel and Congressional Liaison, Office of General Counsel and Congressional Liaison. Effective April 18, 1983.

One Special Assistant (Media Relations) to the Director, Office of Public Liaison. Effective April 18, 1983.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-13443 Filed 5-19-83; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Retainage Policy for Federal Construction Contracts

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Issuance of Policy Letter 83–1.

SUMMARY: Policy Letter 83–1, reprinted below, sets forth Government-wide policy regarding the retention or withholding of funds from progress payments made under Federal Construction contracts. The policy letter provides that retention of funds should not be used as a substitute for good contract management and Federal contracting officers should not with hold funds without cause.

The initial draft of the policy letter was published in the **Federal Register** on November 16, 1982, 47 FR 51643, for public and agency comment. Comments in response to the **Federal Register** notice were received from 5 agencies, 5 universities, and 28 private firms and associations.

The main issues raised about the policy letter by the various firms and organization that commented have been reconciled. Specifically:

1. Subcontractor organizations and firms suggested that retainage only be used for cause and, if used, it be limited to 10%. The policy now conforms to this suggestion.

2. Prime contractor organizations and firms suggested that language be dropped from the proposed policy that would encourage prime contractors not to withhold from subcontractors. The prime contractors viewed the proposed language as an unnecessary intrusion of the Government into private business relationships, and their suggestion has been adopted.

The major issue to surface during the circulation of the proposed letter that is not dealt with in the final letter is a concern expressed by the universities about lengthy contract close-out procedures and retention on cost reimbursable research contracts. The final draft (consistent with many comments received on the proposed draft) addresses only construction contracts. Contract close-out procedures for R&D and other types of contracts are being reviewed under the Executive Order 12352 program and corrective actions, as appropriate, will be considered by the Executive Committee on Procurement Reform.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Clark, Office of Federal Procurement Policy, (202) 395–3254.

Dated: May 6, 1983.

Donald E. Sowle,

Administrator.

Policy Letter No. 83–1

To the Heads of Executive Agencies and Departments

Subject: Withholding of Funds from Construction Contract Progress Payments

1. *Purpose.* This Policy Letter is intended to provide uniform policy guidance regarding the retention or withholding of funds from progress payments made under Federal construction contracts.

2. *Background.* Most construction contracts provide for monthly progress payments to be made to contractors. The progress payments are based on the contracting officer's estimate of the work completed by the contractor and the value of delivered materials. The general provisions for Federal construction contracts, Standard Form 23A, previously required contracting officers to

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withhold 10% from progress payments made to a contractor prior to the contractor's completion of 50% of the contract work. This requirement for mandatory withholding has, however, been superseded (see CFR 1–16.401(h)). Present practice, as reflected in the Federal Procurement Regulations (1–7.602–7) and the Defense Acquisition Regulation (7–602.7), is that in making progress payments on construction contracts: (1) 10% of the estimated amount shall be retained until final completion and acceptance of the contract work; and (2) if the contracting officer finds that satisfactory progress is achieved during any period for which a progress payment is to be made, the payment may be made in full without retention of a percentage. These regulations are subject to varying interpretations. Some agencies routinely withhold a percentage of each progress payment. Others, such as the Department of Defense, have recently stated that retainage will not be used as "a routine administrative practice."

3. *Policy.* Retainage should not be used as a substitute for good contract management, and contracting officers should not withhold funds without cause. Determinations regarding the use of retainage and the specific levels to be withheld shall be made by contracting officers on a case-by-case basis. Such decisions will be based on the contracting officer's assessment of past performance and the likelihood that such performance will continue. The level of retainage withheld, if any, should not exceed ten percent of the amount billed by a contractor in accordance with the contract terms and may be adjusted as contracts approach completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon completion of all contract requirements, retained amounts shall be paid promptly.

4. *Responsibilities.* This policy shall be implemented through the Defense Acquisition Regulation (DAR) and the Federal Procurement Regulations (FPR). Appropriate changes shall be made to these regulations to accommodate the policy. Agencies that do not use the DAR and FPR shall make appropriate procurement regulatory changes to implement the policy.

5. *Applicability.* This policy is applicable to Federal contracts. It is not applicable to Federal grants.

6. *Information Contact.* Information about this policy may be obtained by contacting Charles W. Clark, Office of Federal Procurement Policy, (202) 395–3254.

7. *Effective Date.* This policy is to be effective 60 days after issuance.

8. *Concurrence.* This Policy Letter has the concurrence of the Director of the Office of Management and Budget.

Donald E. Sowle,

Administrator.

[FR Doc. 83–13806 Filed 5–19–83; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

[Order No. 499; Docket No. A83–20]

Windsorville, Connecticut 06018; Scott and Marily Stolinas, Raymond and Helen Ross, Petitioners; Order of Filing of Appeal

Issued: May 17, 1983.

On May 9, 1983, the Commission received a petition from Scott and Marily Stolinas of Windsorville, Connecticut (hereinafter "Petitioner") concerning the alleged United States Postal Service (hereinafter "Postal Service" or "Service") intent to close the Windsorville, Connecticut post office. The petitioner contends that the Postal Service failed to consider the level of service to be provided, in its proposal to close the Windsorville, Connecticut post office. In addition the Commission received a handwritten letter from Raymond and Helen Ross which also complained of the level of service in the event this post office were closed.

The Act requires that the Service provide the affected community with at least 60 days notice prior to issuance of its Final Decision. The requirement is to "* * * ensure that such persons will have an opportunity to express their views."[1] Neither petition mentions whether this notice was provided. Moreover, there is no explicit mention in either petition of any hearings, nor is there any indication of any Final Determination, in this matter, pursuant to 39 U.S.C. 404(b)(3).[2] Furthermore, petitioners have neither attached a copy of the Postal Service's Final Determination to their petitions as is required by Commission rules of practice, nor made any specific reference to 39 U.S.C. 404(b), which gives the Postal Rate Commission jurisdiction in the matter.

However, both documents do clearly indicate that petitioners are requesting the type of review provided by statute. Furthermore, petitioners have made sufficient statements to enable the Commission to assume jurisdiction in this matter. Thus, we conclude that petitioners have substantially complied with Commission rules of practice and their petitions will be considered petitions for review pursuant to section 404(b) of the Postal Reorganization Act (hereinafter "Act").

Applicable Law in This Proceeding

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[3]

section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close or consolidate post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act.

Upon preliminary inspection, the petitioners appear to raise but one issue of law, namely, is the Postal Service's proposed closing of this post ofice consistent with the "maximum degree of effective and regular postal service" standard of section 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had an opportunity to examine the determination made by the Postal Service. Such additional issues may emerge during Commission review of the Service's determination. Conversely, the determinaton may be found to resolve adequately upon the issues described above.

Commission Procedure in This Docket

In view of the statory requirements, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the Determination and record pursuant to section 113 of the rules of practice [4] make the request by order specifying the issues to be addressed. When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on Petitioner by the Service.

In addition, the Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

[1] 39 U.S.C. 404(b)(1).

[2] Petitioner has not supplied a copy of the Postal Service's Final Determination, if indeed one is in existence.

[3] 39 U.S.C. 101(b).

[4] 39 CFR 3001.113.

[5] CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 86 to the Postal Service upon receipt of each appeal.

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[6]

The Commission orders:

(A) The petitions from Scott and Marily Stolinas, and Raymond and Helen Ross shall be construed as petitions for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Acting Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before May 24, 1983, pursuant to the Commission's rules of practice [39 CFR 3001.112(a)].

By the Commission.

Cyril J. Pittack,

Acting Secretary.

May 9, 1983—Filing of Petition.
May 17, 1983—Notice and Order of Filing of Appeal.
May 24, 1983—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
May 31, 1983—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
June 8, 1983—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)].
June 22, 1983—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
July 11, 1983—(1) Petitioners' Reply Brief should Petitioners choose to file one [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
September 6, 1983—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83–13803 Filed 5–19–83; 8:45 am]

BILLING CODE 7715–01–M

[6] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[83–20]

Public Hearing on Multistate Charter Applications

AGENCY: Comptroller of the Currency, Treasury.

Notice: On March 3, 1983, the Office of the Comptroller of the Currency accepted for filing applications to charter 31 national banks in 25 states. The applications were all filed by Dimension Financial Corporation, a Deleware corporation recently organized for the purpose of establishing, owning and operating the proposed banks. The banks will be affiliated with Valley Federal Savings and Loans Association, an existing savings and loan association in Hutchinson, Kansas. The application proposes that the banks provide consumer loans, trust services, and consumer and commercial deposit services, including demand deposits; they would not offer commercial loans.

The proposed banks would be located in the following cities:

1. Phoenix, Ariz.
2. Northbrook, Ill.
3. Tulsa, Ok.
4. San Mateo, Cal.
5. Louisville, Ky.
6. Portland, Or.
7. Englewood, Col.
8. New Orleans, La.
9. Bryn Mawr, Pa.
10. Stamford, Conn.
11. Bethesda, Md.
12. Newport, R.I.
13. Wilmington, Del.
14. Newton, Mass.
15. Nashville, Tenn.
16. Boca Raton, Fla.
17. Edina, Minn.
18. Austin, Tx.
19. Ft. Myers, Fla.
20. Kansas City, Mo.
21. Dallas, Tx.
22. Sarasota, Fla.
23. Las Vegas, Nev.
24. Houston, Tx.
25. Winter Park, Fla.
26. Morristown, N.J.
27. San Antonio, Tx.
28. Atlanta, Ga.
29. White Plains, N.Y.
30. McLean, VA.
31. Bellevue, Wash.

The Comptroller will hold one or more public hearings on the applications. It is anticipated the hearing proceedings will take place in the summer of 1983. The location or locations of the proceedings have not been determined at this time.

All parties who wish to participate in the hearing proceedings ("participants") must notify this Office in writing on or before June 6, 1983. The notices should be sent to: Office of the Comptroller of the Currency, Patrick M. Frawley, Director, Bank Organization and Structure, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

The notice should state the nature of the issues or facts the participants wishes to present orally.

Based on the information in the notices and or other relevant factors the Comptroller will decide on the location and number of the hearings. This information will be provided in writing to all parties who submit a timely notice as described above.

The purpose of the hearing proceedings is to explore the broad issues of public policy involved in the applications. Therefore, participants are strongly encouraged to focus their oral presentations on those issues, rather than on public convience and needs issues of a strictly parochial nature. Because the broad public policy issues involved are intertwined with legal matters to a significant extent, oral presentations containing statements of legal opinion will be allowed. However, because the hearing proceedings are being held to develop issues of public policy, participants are strongly encouraged to avoid oral presentations containing detailed arguments of legal theories. The Office believes that such detailed arguments will be more useful if submitted in written form as provided below.

While participants are encouraged to focus their oral presentations on broad issues of public policy, the Office notes that participants and any other interested parties are free to submit written materials on any relevant topic whatsoever. Such written materials may be submitted up to the final day of the public hearings proceedings. Any party who submits a written request to participate at a hearing that conforms to the requirements of this notice will be informed in writing of the decision of this Office on that request.

Dated: May 16, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 13809– Filed 5–19–83; 8:45 am]

BILLING CODE 4810–33–M

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held July 20, 1983.

FOR FURTHER INFORMATION CONTACT: Wiley Grant, CC:C:E:V, 1111 Constitution Avenue NW., Room 5545,

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Washington, D.C. 20224, Telephone No. (202) 566–4196 (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Advisory Panel will be held on July 20, 1983, beginning at 9:30 a.m. in Room 4132, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

James I. Owens,

Acting Commissioner.

[FR Doc. 83-13722 Filed 5-19-83; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 99
Friday, May 20, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Short notice additions and notice of closure of items for the May 19, 1983 meeting.

TIME AND DATE: 9:30., May 19, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

34. Docket 41207, *Report to Congress on Computer Reservations Systems*, Options Paper. (OGC, BDA).
35. Report on ECAC. (BIA).
36. Negotiations with the United Kingdom. (BIA).
37. Report on Spain. (BIA).
38. Report on Israel. (BIA).
39. Report on Jamaica. (BIA).
40. Report on Italy. (BIA).
41. Report on Thailand. (BIA).
42. Report on Egypt. (BIA).
43. Report on France. (BIA).
44. Report on Japan. (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor The Secretary, (202) 673–5068.

[S-726-83 Filed 5-18-83; 3:55 pm]

BILLING CODE 6320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, May 24, 1983.

PLACE: Commission Conference Room No. 200 on the 2nd floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED.

1. Ratification of Notation Vote/s.
2. A Report on Commission Operations—EEOC Training Plan for fiscal year 1983.
3. Freedom of Information Act Appeal No. 83–3–FOIA–34–DA, concerning a request for an ADEA charge file.
4. Freedom of Information Act Appeal No. 82–12–FOIA–143–CH, concerning a request for documents from a closed age discrimination charge file.
5. Freedom of Information Act Appeal No. 83–02–FOIA–23–CH, concerning a request for ADEA investigative file.
6. Freedom of Information Act Appeal No. 83–03–FOIA–032–MK, concerning a request for a copy of a Title VII charge file.
7. Regulations Implementing Section 4(g) of the Age Discrimination in Employment Act (TEFRA).
8. Proposed Section 603 of the Compliance Manual Identifying and Processing Charges which Raise Issues not covered by a Commission Decision Precedent.
9. Modification of Base Rate Payable. Under FY 1983 Title VII and ADEA Funding Principles.
10. Proposed Funding Principles for EEoC's Title VII and ADEA Funding Program for Fair Employment Practices Agencies for fiscal year 1984.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued May 17, 1983.

[S-723-83 Filed 5-18-83; 9:53 am]

BILLING CODE 6570-06-M

3

FEDERAL RESERVE SYSTEM,
Board of Governors.

TIME AND DATE: 10:00 a.m., Thursday, May 26,1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: May 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-727-83 Filed 5-18-83; 4:00 pm]

BILLING CODE 6210-01-M

4

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, May 24, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of resumption of Line of Business data collection for years subsequent to 1977.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information, (202) 523–1892; Recorded Message: (202) 523–3806.

[S-724-83 Filed 5-18-83; 10:53 am]

BILLING CODE 6750-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–11]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 22042, May 16, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, May 17, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was deleted from the agenda:

3. *Special Interest Briefs* of aviation accidents involving air traffic control as a cause or factor.

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CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

May 17, 1983.

[S-722-83 Filed 5-17-83; 5:14 pm]

BILLING CODE 4910-58-M

6

NEIGHBORHOOD REINVESTMENT CORPORATION

Annual meeting.

TIME AND DATE: 2:00 p.m., Wednesday, May 25, 1983.

PLACE: Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, DC 20552.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Associate Director, Communications, 202-653-2705.

AGENDA:

I. Call to Order and Remarks of the Chairman.
II. Approval of Minutes, March 15, 1983.
III. Election of Chairman.
IV. Election of Vice Chairman.
V. Committee Structure: Executive; Audit; Personnel; Budget.
VI. Election of Officers.
VII. Appointment of Assistant Secretary; Appointment of Assistant Treasurer.
VIII. Executive Director's Report.
IX. Treasurer's Report.

Deborah W. Smith,

Assistant Secretary.

[S-725-83 Filed 5-18-83; 2:39 pm]

BILLING CODE 6000-00-M

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federal register

Friday
May 20, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

VOL 48 ISS 99 MAY 20 1983 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA 82-5112	July 16, 1982.
Alabama:	
AL83-1036	May 6, 1983.
AL83-1037	Do.
Alaska: AK82-5125	Oct. 22, 1982.
Delaware: DE82-30-15	June 4, 1982.
Florida: FL83-1031	Apr. 22, 1983.
Kansas:	
KS83-4015	Apr. 1, 1983.
KS83-4013	Feb. 4, 1983.
KS83-4014	Do.
Maryland:	
MD80-3047	Aug. 29, 1980.
MD81-3074	Oct. 9, 1981.
Virginia: VA82-3035	Dec. 3, 1982.
Maryland: MD81-3017	Apr. 3, 1981.
Louisiana: LA82-4053	Nov. 5, 1982.
Montana: MT83-5101	Feb. 18, 1983.
Oklahoma:	
OK83-4011	Jan. 14, 1983.
OK83-4012	Do.
Pennsylvania: PA82-3007	Feb. 26, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Maryland: MD81-3020(MD83-3020)	Mar. 20, 1981
New Hampshire: NH81-3066(NH83-3012)	Nov. 13, 1981
Ohio: OH81-2041(OH)83-2042	July 6, 1981.
New York:	
NY82-3016(NY83-3018)	Mar. 6, 1981.
NY82-3025(NY83-3018)	Sept. 3, 1982.
NY81-3084(NY83-3018)	Sept. 18, 1981.

Signed at Washington, DC. this 13th day of May 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2

DECISION KS83-4015(Cont'd)
LABORERS (CONT'D):
Zones 1 and 4:
Group 1 — 7.65 — 2.30
Group 2 — 7.80 — 2.30
Group 3 — 7.90 — 2.30
Group 4 — 8.05 — 2.30

DECISION NO. DE82-3015 MOD. NO. 4 (47 FR 24526 - June 4, 1982)
State of Delaware

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Millwrights:		
Kent & New Castle Cos:	$10.80	4.14
Plumbers & Steamfitters:		
Newcastle & Kent Cos: (Area south of the southern boundary of Dover City)		
Counties:		
Steamfitters	$15.85	2.55

DECISION NO. FL83-1031 -- MOD. # 1 (48 FR 17502 -- April 22, 1983)
BUILDING CONSTRUCTION
HILLSBOROUGH COUNTY, FLORIDA

	Basic Hourly Rates	Fringe Benefits
CHANGES:		
BRICKLAYERS:		
Industrial	$ 14.45	2.10
Commercial	9.35	2.10
IRONWORKERS	15.96	2.95
PILEDRIVERMEN	14.96	2.10
MILLWRIGHTS	15.55	2.72

DECISION #KS83-4015-MOD#2 (48 FR 14302-April 1, 1983)
Douglas,Jefferson,Shawnee,Miami & Leavenworth Counties, Kansas

	Basic Hourly Rate	Fringe Benefits
CHANGE:		
Laborers:		
Zone 2:		
Group 1	8.45	2.30
Group 2	8.60	2.30
Group 3	8.70	2.30
Group 4	8.85	2.30
Zone 3:		
Group 1	8.85	2.25
Group 2	9.00	2.25
Group 3	9.10	2.25
Group 4	9.25	2.25

DECISION #KS83-4013-MOD#3 (48 FR 5446-February 4, 1983)
Shawnee County, Kansas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters-Lathers Building	12.45	1.80
Millwrights	13.45	1.80
Piledrivermen	12.825	1.80
Laborers (building & residential):		
Group 1	9.30	2.30
Group 2	9.50	2.30
Group 3	9.60	2.30
Group 4	9.70	2.30

DECISION #KS83-4014-MOD#3 (48 FR 5447-February 4, 1983)
Sedgwick County, Kansas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	14.29	2.14
Elevator Constructors	14.11	2.69+a
Elevator Constructors: Helper	9.88	2.69+a
Plumbers & Pipefitters	15.30	2.46
Sheetmetal Workers: Sheetmetal & Terrazzo	12.75	1.08
Carpenters	12.90	1.08
Millwrights & Piledrivermen	12.80	1.08
Bricklayers	13.33	1.78
Laborers (building construction):		
Group 1	9.10	1.55
Group 2	9.30	1.55

FOOTNOTE:
a- Employer contributes 8% of basic hourly rate for over 5 years service, and 6% of basic hourly rate for 6 months to 5 years service. Vacation Pay Credit: After 1 year service 2 weeks paid vacation. Also 7 paid holidays.

Modification Page 1

DECISION NO. CA82-5112 - Mod. #13
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 2:		
Electricians	$14.15	84.75+ 3%

DECISION NO. AL83-1038 - MOD. # 1 (48 FR 20604 - May 6, 1983)
HIGHWAY CONSTRUCTION
CALHOUN,ETOWAH,ST.CLAIR, SHELBY,TALLADEGA,TUSCALOOSA, & WALKER COS. IN ALABAMA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Air Tool	4.00	
Asphalt Raker	3.85	
Concrete Laborers	4.75	
Pipelayers	4.10	
Powderman & Blasters	5.50	
Saw Side Rail or Form	3.75	
Setters	5.03	
Unskilled	3.50	
Wagon Drill	5.00	

DECISION NO. AL83-1037 - MOD. # 1 (48 FR 20605 - May 6, 1983)
HIGHWAY CONSTRUCTION
MOBILE COUNTY, ALABAMA

	Basic Hourly Rates	Fringe Benefits
OMIT:		
POWER EQUIPMENT OPERATORS:		
Asphalt Spreader Operator	$7.00	

DECISION NO. AK82-5125 - Mod. #2 (47 FR 47150 - October 22, 1982)
Statewide, Alaska

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$30.60	2.33
Boilermakers	25.13	3.86
Carpenters:		
Area 1:		
Carpenters	23.51	4.85
Power actuated tool Operator; Power saw operator; Insulation and acoustical; Marlite and acoustical; Fire or floor repair work Applicators; Mailing Machine Operator; Saw Filer	24.00	4.85
Millwrights	24.18	4.85

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DECISION NO. MD80-3047-MOD. #10
(45 FR 57922-Aug. 29,1980)
Allegany & Garrett Ctys,MD

CHANGE:
POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits
Group 1	$15.19	2.95
Group 2	14.65	2.95
Group 3	14.08	2.95
Group 4	13.62	2.95
Group 5	13.19	2.95
Group 6	12.66	2.95
HIGHWAY CONSTRUCTION:		
Group 1	14.98	2.95
Group 2	14.40	2.95
Group 3	13.78	2.95
Group 4	13.38	2.95
Group 5	12.90	2.95
Group 6	12.43	2.95

DECISION NO. MD81-3074-MOD. # 13
(46 FR 50238-October 9, 1981)
ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY, MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD CTYS.,MD

CHANGE:
ROOFERS:
ANNE ARUNDEL COUNTY:
All areas south of the following line: From the point where Maryland Route 175 crosses into Anne Arundel County from Howard County, southeast on Highway No. 175 into Highway No. 179 into Highway No. 50, then to Highway No. 2 to West Street;east to Hay Bridge Road, and follow Hay Bridge Road to the bay.

Mooman	15.44	1.69
Composition Roofers	14.72	1.69
Material Handlers	9.92	1.69
REMAINDER OF JURISDICTION:		
Roofers	11.35	1.45

DECISION NO. VA82-3035-MOD. #2
(47 FR 54747-December 3, 1982)
YORK COUNTY, & THE CITIES OF HAMPTON & NEWPORT NEWS (INCLUDING LANGLEY AFB, FORT EUSTIS & FORT MONROE)

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Unskilled		
Unskilled	7.80	.66
ADD:		
Laborers:		
Unskilled	7.80	.66

DECISION NO. MD81-3017-MOD. #1
(46 FR 2043-April 3,1981)
CAROLINE,CECIL,DORCHESTER, HARFORD,KENT,QUEEN ANNES, SOMERSET,TALBOT,WICOMICO, & WORCESTER COUNTIES,MD

	Basic Hourly Rates	Fringe Benefits
OMIT:		
GRADERS	7.14	
ADD:		
GRADALLS	7.14	

DECISION NO. LA82-4053 - MOD. #11
(47 FR 50421 - 11/5/82)
Statewide Louisiana

Roofers modified in Mod. #10 dated 5/6/83 on page 20602 should apply to ZONE 1

	Basic Hourly Rates	Fringe Benefits

Modification Page 4

DECISION NO. MT81-5101 - Mod. #2
(48 FR 7370 - February 18, 1983)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits

Change:
Carpenters in Modification No. 1, published in the Federal Register, Volume 48, Page 17499, dated April 22, 1983, to read:

CARPENTERS:		
Area 2		
Carpenter	$12.43	$2.46
Piledrivermen	12.68	2.46
Millwrights	13.43	2.46

DECISION #OK83-4011-MOD.#6
(48 FR 1913 - January 14, 1983)

	Basic Hourly Rates	Fringe Benefits
Adair,Atoka,Bryan,Coal, Cherokee,Craig,Creek, Delaware,Haskell,Hughes, Leflore,Latimer,McIntosh,Mayes,Muskogee, Nowata,Okfuskee,Okmulgee,Osage,Ottawa,Pawnee, Pittsburg,Pushmataha, Rogers,Tulsa,Sequoyah, Wagoner & Washington Cos., Oklahoma		
CHANGE:		
Ironworkers:		
Area 1	15.59	2.92
Cement Masons:		
Area 2		
Cement Masons	13.83	.75
Power Tool Operators	14.08	.75

DECISION #OK83-4012-MOD.#5
(48 FR 1916 - January 14, 1983)
Alfalfa, Beckham,Blaine, Caddo,Canadian,Carter, Cleveland,Comanche,Cotton,Custer,Dewey,Ellis, Garfield,Garvin,Grady, Grant,Greer,Harmon,Harper,Jackson,Jefferson, Johnston,Kay,Kingfisher, Kiowa,Lincoln,Logan, Love,McClain,Major, Marshall,Murray,Noble, Oklahoma,Payne,Pontotoc, Roger Mills,Pottawatomie, Seminole,Stephens,Tillman,Washita,Woods & Woodward Cos., Oklahoma

CHANGE:		
Ironworkers:		
Area 4	15.59	2.92
Painters:		
Area 2		
Brush	13.05	2.28
Spray under 30 ft.	13.55	2.28
Spray over 30 ft.	14.05	2.28
Paperhanging	14.05	2.28
Tapers using machine tools	13.55	2.28
Cement Masons:		
Area 1		
Cement Masons	10.80	
Power Tool Operators	11.50	

DECISION NO. PA82-3007 - MOD. #10
(47 FR 8529 - February 26, 1982)
BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA COUNTIES, PENNSYLVANIA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS		
ZONE 1	17.26	3.58
PAINTERS		
ZONE 2		
Commercial, Brush	14.83	2.75
Commercial, Spray	15.33	2.75
ROOFERS:		
Residential structure of not more than 4 stories re-roofing assistant		
ZONE 1	6.25	2.10

SUPERSEDEAS DECISION

STATE:MARYLAND COUNTY:BALTIMORE
DECISION NO.: MD83-3020 DATE: DATE OF PUBLICATION
Supersedes Decision No. MD81-3020 dated March 20, 1981 in 46 FR 17988
DESCRIPTION OF WORK:Highway Construction Projects (excluding tunnels,building structures in rest area projects & railroad consstruction;bascule,suspension & spandrel arch bridges designed for commercial navigation;bridges involving marine construction, & other major bridges)

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.70	1.51
CEMENT MASONS	8.69	
IRONWORKER:STRUCTURAL	14.48	4.14
IRONWORKER:REINFORCING	12.00	
LABORERS	6.35	
ASPHALT RAKERS	6.70	
PIPELAYERS	7.00	
SCREEDMAN	6.35	
TRUCK DRIVERS	8.65	2.05
POWER EQUIPMENT OPERATORS:		
ASPHALT DISTRIBUTOR	7.55	
BACKHOE	8.83	
BULLDOZER	9.00	
CRANE	9.00	
GRADALL	10.73	
GRADER	10.30	
LOADER	8.00	
PILEDRIVER	12.72	1.44
ROLLER	8.60	
SCRAPER	9.00	

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: New Hamsphire COUNTIES: Hillsborough and Merrimack
DECISION NUMBER: NH83-3012 DATE: Date of Publication
Supersedes Decision No. NH81-3086 dated November 13, 1981, in 46 FR 56126
DESCRIPTION OF WORK: Building (Hillsborough County Only) and Heavy Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.56	$3.31
BOILERMAKERS	18.25	3.295
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONEMASONS, TERRAZZO WORKERS and TILE SETTERS	13.14	1.92
CARPENTERS:		
Area 1:		
Carpenters and Soft Floor Layers	15.81	3.52
Millwrights	17.00	3.20
Area 2:		
Carpenters and Soft Floor Layers	15.96	3.37
Millwrights	17.00	3.20
Area 3:		
Carpenters and Soft Floor Layers	12.36	1.55
Piledrivermen and Millwrights	13.46	1.55
ELECTRICIANS:		
Area 1	14.87	2.65+ 3%
Area 2	15.35	3%+.83
Area 3	15.35	3%+.83
Area 4:		
General Contracts $400,000 and over	13.07	1.32+ 3%
General Contracts less than $400,000	8.05	1.32+ 3%
ELEVATOR CONSTRUCTORS:		
Constructors	13.88	2.180 +a+b
Helpers	9.72	2.180 +a+b
GLAZIERS	9.47	1.49
IRONWORKERS:		
Structural, Ornamental, and Reinforcing	15.23	3.19
LINE CONSTRUCTION:		
Linemen	$12.00	$1.45+C 3-3/8%
Equipment Operator	10.20	1.45+C 3-3/8%
Groundman	9.60	1.45+C 3-3/8%
Driver Groundman	7.80	1.45+C 3-3/8%
PAINTERS:		
Brush	10.65	1.00
Paperhangers	11.65	1.00
Spray and Sandblasting	12.50	1.00
Structural Steel	11.90	1.00
Steeple Jack	11.65	1.00
Work 20 ft. and over, excluding steel work or Steeple Jack, for entire drop	11.90	1.00
PLUMBERS and STEAMFITTERS:		
Area 1	17.52	2.34
Area 2	15.60	2.10
ROOFERS	7.80	
SHEET MERAL WORKERS	14.60	2.33
SPRINKLER FITTERS	14.37	2.83

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction:		
Group 1	$10.13	$2.35+d
Group 2	10.23	2.35+d
Group 3	10.49	2.35+d
Group 4	10.86	2.35+d
Group 5	11.43	2.35+d
Heavy Construction:		
Group 1	8.25	2.35+d
Group 2	8.75	2.35+d
Group 3	9.00	2.35+d
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Class 1	14.01	2.30+e
Class 2	13.76	2.30+e
Class 3	13.56	2.30+e
Class 4	12.43	2.30+e
Class 5	12.40	2.30+e
Class 6	11.38	2.30+e
Class 7	11.58	2.30+e
Class 8	15.01	2.30+e
Class 9	14.51	2.30+e
POWER EQUIPMENT OPERATORS: (Cont'd)		
Heavy Construction:		
Class 1	$11.21	$1.95+f
Class 2	10.90	1.95+f
Class 3	10.66	1.95+f
Class 4	9.98	1.95+f
Class 5	9.96	1.95+f
Class 6	8.95	1.95+f
Class 7	11.82	1.95+f
TRUCK DRIVERS:		
Class 1	6.41	1.30+g
Class 2	6.64	1.30+g
Class 3	6.87	1.30+g
Class 4	7.02	1.30+g

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:

a. Employer contributes 6% basic hourly rate for 5 years or more of service or 4% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

b. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day

c. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day, plus Columbus Day, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday

d. Holidays: Memorial Day, Independence Day; and Thanksgiving Day provided employee works the day before and after each holiday

e. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Veteran's Day; Washington's Birthday and Columbus Day

f. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Veteran's Day; Washington's Birthday and Columbus Day

g. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Veteran's Day; and Columbus Day provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigend prior to the holiday and first day assigned following the holiday

DECISION NO. NH83-3012 Page 3

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Hillsborough County (Pelham Township)
Area 2: Hillsborough County (Greenville Township)
Area 3: Remainder of Hillsborough County

ELECTRICIANS:
Area 1: Hillsborough (Pelham Township)
Area 2: Remainder of Hillsbrough County
Area 3: Merrimack County (Hookset Township)
Area 4: Remainder of Merrimack County

PLUMBERS and STEAMFITTERS:
Area 1: Hillsborough County (Hudson and Pelham Townships)
Area 2: Remainder of Hillsborough County

GROUP DESCRIPTIONS

LABORERS
Building Construction

Group 1: Laborers

Group 2: Plasterers' Tenders

Group 3: Pipelayers, Fence and Guard Rail Erectors

Group 4: Pneumatic Tool Operators, Pavement Breakers, Drilling, Chipping Gun Operator, Creosote work, Powdermen and Blasters

Group 5: Pnumatic Tool Operators on Boiler and Stack Work

Heavy Construction

Group 1: Laborers and Pipelayers

Group 2: Pneumatic Tool Operator, Drillers, Concrete Vibrators, and Electric Chipping Machines

Group 3: Blasterers and Powdermen

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POWER EQUIPMENT OPERATORS
Building Construction

Class 1: Shovel, Crane, Dragline, Derrick, Backhoe, Elevator with Chicago Boom, Gradall, Elevating Grader, Front End Loader 6 yds. and over, Cherry Picker, Pile Driving Rigs, Concrete Road Pavers, all three Drum Hoisting and Trenching Machines

Class 2: Rotary Drill with Mounted Compressor, Compressor House (3-6 compressors), Rock and Earth Boring Machines excluding McCarthy and similar Drills, Graders, 4 yds. and over, Front End Loader, Two Drum Hoists, High Fork Lifts with capacity of 15' and over, Scrapers, Sonic Hammer, Vibratory Hammer

Class 3: Bulldozers, Push Cats, Scrapers (tractor drawn), Asphalt Paver, Front End Loader 3/4 yds. to 4 yds., Well Driller, Mechanics, Pumpcrete Machines, Concrete Pumps and similar type Pumps, Engineer or Fireman on High Pressure Boiler (on job), Self Loading Batch Plant, Well Point Operators including installing, Engineer - in-charge of Power Grease Truck, all Automatic Elevators permanent or temporary operated manually or by remote controls

Class 4: Single Drum Hoist, Self powered Roller, Self Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, Front End Loaders under 3/4 yds., McCarthy and similar Drills, Batch Plant not Self Loading, Bulk Cement Plants Self-propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15'

Class 5: Compressor 315 cu. ft. and over, (one or two), Pumps (4 inches and over total discharge) when total discharge is over 12 inches, Classification 3 will be paid, Tractor (without blade or Bucket) Drawing Roller Compactors or other Machines

Class 6: Compressors (up to 315 cu. ft.) Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines (when 3 or more heaters or welding Machines are used on one job, Classification 4 rate will be paid), Conveyor Oiler including Helpers on Grease Trucks and Grease Trucks with Hand Greasing Equipment

Class 7: Oilers on Truck Cranes and Gradalls

Class 8: Cranes with boom length of 200 feet or more

Class 9: Crane with boom length of 150 feet or more

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POWER EQUIPMENT OPERATORS (Cont'd)
Heavy Construction

Class 1: Shovel, Crawler, Tower Truck and Hydraulic Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradalls, Piledrivers, Concrete Pavers, Engineers on Site Processing Plant, Dragline, Clamshell, Cableways

Class 2: Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors) Rock and earth Boring Machine (excluding McCarthy and similar drills), Grader, Front End Loader (4 yds. or over)

Class 3: Bulldozer, Push Cats, Scraper (self-propelled or tractor drawn), Self-powered Asphalt Paver, (Front End Loader 3/4 to 4 yds.), Mechanics, Well Driller, Pumpcrete Machine, Engineer to Fireman on High Pressure Boiler (on job), Well Point Operators

Class 4: Hoists, Conveyors, Self-powered Rollers and Compactors, Self-propelled Material Spreaders, Self-powered Concrete Finishing Machine Mixers (2 bags with skip), Front End Loader (under 3/4 yd.), McCarthy and similar Drills, Batch Plant (not a self-loading), Bulk Cement Plant

Class 5: Compressor (315 C.F. or over - one or two), Pump 4" or over, Tractor without blades, Drawing Sheeps-foot, Rubber Roller or other type Compactor including Machines for Pulverizing and aerating Soil

Class 6: Compressor (up to 315 C.F.), Small Mixers with skip, Oiler Pumps up to 4", Grease Truck, Power Heaters, Welding Machines (when 3 or more Welding Machines Class 4 rate applied), A-Frame, Forklifts, (where Grease Truck contains powered grease equipment, Engineer in charge shall be paid Class 3 rate)

Class 7: Crane with boom length of 200 feet or more including jib

TRUCK DRIVERS

Class 1: Two Axle Equipment

Class 2: Three Axle Equipment including Low Beds

Class 3: Special Earth Hauling Equipment other than Conventional Type on the Road Truck and Semi-trailers Trailer Dumps

Class 4: Off Highway

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: OHIO
COUNTY: CLARK
DATE: Date of Publication
DECISION NO. OH83-2042
Supersedes Decision No. OH81-2041 dated July 6, 1981 in 46 FR 35013
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$6.62	
BRICKLAYERS; Blocklayers	10.46	
CARPENTERS	9.79	
CEMENT MASONS	8.00	
DRYWALL FINISHERS	8.00	
DRYWALL HANGERS	8.00	
ELECTRICIANS	9.80	
LABORERS	5.99	
PAINTERS	7.00	
PLUMBERS	8.93	
ROOFERS	8.00	
SHEET METAL WORKERS	7.24	
SOFT FLOOR LAYERS	8.42	
TILE SETTERS	7.75	
TRUCK DRIVERS	6.00	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.43	
Bulldozers	7.50	
Front End Loaders	7.48	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTIES: DUTCHESS; ORANGE; ULSTER; SULLIVAN
DATE: DATE OF PUBLICATION
DECISION NO.: NY83-3018
Supersedes Decision No. NY81-3016 dated March 6, 1981 in 46 FR 15657, Decision No. NY82-3025 dated September 3, 1982 in 47 FR 39079, and Decision No. NY81-3064 dated September 18, 1981 in 46 FR 46518.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy (except water well drilling) and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
DUTCHESS; ORANGE	19.3675	3.3893
ULSTER; SULLIVAN	15.35	2.21
BOILERMAKERS	19.09	.04+ 32%
BRICKLAYERS; CEMENT MASONS; PLASTERERS; POINTERS; CAULKERS; CLEANERS; MARBLE MASONS; TILE AND TERRAZZO WORKERS:		
DUTCHESS & ULSTER:		
Building	12.15	5.96
Heavy & Highway	12.65	5.96+ a
BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS:		
Area 1:		
Building	13.35	4.37
Heavy & Highway	13.60	4.37+ b
Area 2:		
Building	13.96	3.80
Heavy & Highway	14.21	3.80+ c
CARPENTERS; SOFT FLOOR LAYERS; BRIDGE, DOCK & WHARF:		
ORANGE (Tuxedo, Woodbury, Monroe, part of Cornwall, Chester, Blooming Grove, Highlands)		
Building	13.40	4.60
Heavy & Highway	13.40	4.60+ d
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; DOCKBUILDERS:		
ULSTER; SULLIVAN:		
Building	13.00	4.00
Heavy & Highway	13.20	4.00
CARPENTERS:		
ORANGE (Remainder of County):		
Building	13.00	4.00
Heavy & Highway	13.20	4.00
DUTCHESS (Wappinger Falls, New Hackensack, Pawling, Beacon)		
Building	14.91	3.02
Heavy & Highway	14.91	3.02+ e
DUTCHESS (Remainder of County)		
Building	14.89	3.30
Heavy & Highway	14.89	3.30+ e
DOCKBUILDERS		
DUTCHESS; ORANGE (Remainder of County)	16.35	5.835
ELECTRICIANS		
Area 1	13.90	3.05+ 3%
Area 2	14.20	3.65+ 13½%
Area 3	14.00	38%
Area 4	15.90	2.09+ 11%
Area 5	16.40	2.09+ 11%
ELEVATOR CONSTRUCTORS:		
DUTCHESS; ORANGE	16.07	2.69+f +g
ELEVATOR CONSTRUCTORS' HELPERS		
DUTCHESS; ORANGE	11.75	2.69+f +g
ELEVATOR CONSTRUCTORS HELPERS (PROBATIONARY)		
DUTCHESS; ORANGE	8.035	
GLAZIERS	16.75	5.35
IRONWORKERS	13.15	9.17
LABORERS (BUILDING)		
ULSTER; ORANGE; SULLIVAN:		
Where total contract price exceeds $200,000:		
Class 1	12.20	2.90
Class 2	12.45	2.90
Class 3	12.85	2.90
Where total contract price does not exceed $200,000:		
Class 1	10.98	2.90
Class 2	11.21	2.90

DECISION NO. NY83-3018	Basic Hourly Rates	Fringe Benefits
LABORERS (BUILDING) CONT'D:		
Class 3	11.57	2.90
DUTCHESS		
Class 1	9.84	4.20+h
Class 2	10.09	4.20+h
Class 3	10.24	4.20+h
LABORERS (HEAVY & HIGHWAY)		
ULSTER; ORANGE; SULLIVAN:		
Group 1	12.35	3.90+i
Group 2	12.60	2.90+i
Group 3	13.00	2.90+i
DUTCHESS:		
Group 1	10.31	4.20+j
Group 2	10.66	4.20+j
Group 3	10.06	4.20+j
LINE CONSTRUCTION SEE END OF DECISION		
PAINTERS		
DUTCHESS; ULSTER; SULLIVAN (except twsp. of Forrestburg):		
Brush Structural Steel, Bridges, Towers, Fire Escapes, Smoke Stacks, Flagpoles, and other exposed areas 15' or more in height, Swing Stage, Window Jacks, Boatswain Chairs, Safety Belts and Spray gun	14.14	2.03+k
ORANGE; SULLIVAN (Forrestburg):		
Commercial Spray, Sandblasting, Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers, Epoxy and other toxic materials	12.59	1.65
	13.59	1.65
PLUMBERS & STEAMFITTERS:		
SULLIVAN; ULSTER (Warwarsing, Shawarqurk, Plattekill, Marlboro); ORANGE (except Tuxedo and Monroe)	15.62	4.33
DUTCHESS; ULSTER (Remainder of County)	15.35	5.30
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Poughkeepsie & South thereof):		
BUILDING:		
Group I-A	18.8525	1.20+ 18.25% +1
Group I-B	17.035	"
Group II	17.94	"
Group III-A	17.2975	"
Group III-B	15.9775	"
Group IV-A	17.015	"
Group IV-B	15.835	"
Group V-A	16.0125	"
Group V-B	14.6925	"
Group VI-A-1	20.22	"
Group VI-A-2	19.3675	"
Group VI-A-3	18.3675	"
Group VI-A-4	19.0825	"
Group VI-A-5	23.0825	"
Group VI-A-6	16.5125	"
Group VI-A-7	22.7975	"
Group VI-B-1	13.7125	"
Group VI-B-2	14.6775	"
Group VI-B-3	13.7275	"
Group VI-B-4	16.91	"
Group VII	18.8525	"
HEAVY & HIGHWAY:		
Group I-A	17.25	1.20+ 17.75% +1
Group II	16.45	"
Group III	16.33	"
Group IV-A	15.20	"
Group IV-B	13.33	"
Group V-A-1	18.45	"
Group V-A-2	17.70	"
Group V-A-3	20.70	"
Group V-A-4	17.45	"
Group V-A-5	16.83	"
Group V-A-6	20.95	"
Group V-A-7	15.20	"
Group V-A-8	16.29	"
Group V-B-1	13.33	"
Group V-B-2	12.50	"

DECISION NO. NY83-3018	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remaindes of County):		
BUILDING:		
Class I	13.81	2.85+m
Class II	14.70	2.85+m
Class III	15.21	2.85+m
Class IV	15.40	2.85+m
HEAVY & HIGHWAY:		
Class A	15.29	3.50+m
Class B	14.97	3.50+m
Class C	13.36	3.50+m
Class D	12.10	3.50+m
Class E	16.20	3.50+m
ORANGE; ULSTER; SULLIVAN:		
BUILDING, HEAVY, HIGHWAY, ROAD, STREET and SEWER:		
Class A	20.07	3.90
Class B	18.68	3.90
Class C	17.07	3.90
Class D	15.64	3.90
Class E	14.33	3.90
Class F	21.89	3.90
STEEL ERECTION:		
Class A	21.89	3.90
Class B	20.98	3.90
Class C	19.84	3.90
Class D	17.48	3.90
Class E	16.15	3.90
Class F	14.79	3.90
Class G	23.70	3.90
TANK ERECTION:		
Class A	22.56	3.90
Class B	21.72	3.90
Class C	23.70	3.90
Class D	20.83	3.90
Class E	15.52	3.90
OILOSTATIC MAINLINES & TRANSPORTATION PIPELINES:		
Class A	20.70	3.90
Class B	19.25	3.90
Class C	17.41	3.90
Class D	16.17	3.90
Class E	14.79	3.90
Class F	22.63	3.90
ROOFERS:		
Asphalt built-up, slate, asbestos tile or tiles, shingles, ceramic tile, tectum, spray roofing & isolation	13.90	4.75+n
Coal tar pitch, application of or ripping off or both in all built-up roofing	14.40	4.40+n
SHEET METAL WORKERS	15.65	.13+ 33%
SOFT FLOOR LAYERS:		
DUTCHESS; ORANGE:		
Soft floor layers	16.37	5.93
Hand sewers	10.52	5.93
SPRINKLER FITTERS	16.92	2.83
TRUCK DRIVERS (Building):		
Group 1	13.20	2.55+o
Group 2	13.10	2.55+o
Group 3	12.90	2.55+o
Group 4	12.80	2.55+o
Group 5	12.70	2.55+o
TRUCK DRIVERS (Heavy & Highway):		
Group 1	13.95	2.55+o
Group 2	13.85	2.55+o
Group 3	13.65	2.55+o
Group 4	13.55	2.55+o
Group 5	13.45	2.55+o

WELDERS - Receive the rate prescribed for the craft performing the operation to which the welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

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FOOTNOTES:

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Employees receive 2 hours off with pay on election day for the purpose of voting.

b. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Election Day, and Veterans Day.

c. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Veterans Day and Election Day.

d. Paid Holidays: A through F, plus Good Friday and Veterans Day.

e. Paid Holidays: A through F, provided the employee works within 7 days before or after the holiday.

f. Paid Holidays: A through F, plus day after Thanksgiving.

g. Employer contributes 6% of the basic hourly rate for 6 months to 5 years of service or 8% of the basic hourly rate for 5 years or more of service as vacation pay credit.

h. Paid Holidays: A through F.

i. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, and Veterans Day, provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

j. Paid Holidays: A through F, plus Lincoln's Birthday, Columbus Day, Good Friday, Washington's Birthday, Veterans Day and November Election Day, providing the employee works 1 day within the calendar week in which a holiday falls. Whenever an employee physically works at least 10 days, excluding holiday pay, during the months of November, December, January or February, he shall be paid for all holidays in that month.

k. Paid Holidays: A through F, providing employee works within 7 days before or after the holiday.

l. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, November Election Day, Veterans Day.

m. Paid Holidays: A through F.

n. Two hours off with pay on General Election Day, provided the employee has received 4 hours pay on that day.

o. Paid Holidays: A through F, plus Washington's Birthday, Election Day, and Veterans Day, provided the employee works one day in the calendar week during which the holiday occurs.

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AREA DESCRIPTIONS

BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS:

AREA 1: SULLIVAN; ORANGE (Starting at the junction of Ulster, Sullivan and Orange Counties, Southeast along the Ulster County line to the New York, New Haven and Hartford R.R. line to a point south of Wisner, then east to the top of the Bellvale Mountain Range, then south to the New Jersey state line, including the towns of Warwick, New Milford and Bellvale).

AREA 2: ORANGE (Portion bounded on the east by the Hudson River to Woodbury Township line south of Bear Mt., along the Tuxedo township line to a point south of Lake Mombasha, due West to the Lehigh-Hudson River R.R. line, northerly along this R.R. line to Haybrook, northerly along the Penn Central R.R. line to the Ulster County line, and along this line east to the Hudson River.

ELECTRICIANS:

AREA 1: SULLIVAN; ULSTER (Hardenburg, Denning, Rochester, Warwarsing, portion of Gardiner & Shawangunkfrom Orange county line north to the Wallkill River and continuing north along the Wallkill River Lloyd New Paltz, Esopus, Rosendale, Marbletown, Ulster, Hurley).

AREA 2: DUTCHESS (Except Fishkill & part of East Fishkill, Beekman, Pawling).

AREA 3: ORANGE (Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfield, Tuxedo Lake, Tuxedo).

AREA 4: ORANGE (Remainder of County); ULSTER (Plattekill, Marlborough) DUTCHESS (Remainder of County West of Taconic State Parkway).

AREA 5: DUTCHESS (Remainder of County East of Taconic State Parkway).

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CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING CONSTRUCTION):
ULSTER, ORANGE; SULLIVAN:

CLASS 1: Common laborers, mason tenders, mortar mixers, hod carriers, scaffold builders, concrete men, signalman, vibrator men, poured gypsum roof work, wrecking, walking power buggy, landscaper, chipping hammer (air or electric 1" or under), operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing, and accoustic pumps and mixers.

CLASS 2: Asphaltmen, pipelayers, air or electric jackhammer, air track, wagon, joy and jib drills, powdermen, gunite or sandblasting barmen, chain saw operator, riding power buggy, vibro barmo, joy tamper or similar type tamper (air or gas), walk behind roller, granite curbing, all fork lifts and laser operations.

CLASS 3: Blasters, form setters, burner acetylene torch, Ingersoll Rand, heavy duty crawler-master type HCM2, drill machine or equivalent all wrecking work 50' or more above the ground.

DUTCHESS:

CLASS 1: General laborers, mason tender, carpenter tender, labor stripping, cleaning forms, labor sweepers, cleaners, grading, digging ditches.

CLASS 2: Hod carriers, plasterers tenders, scaffold builders (padlock and self supporting scaffold 14 feet or under all runways), mortar mixers (machine and hand); concrete mixers (by machine under 21E), vibrators, form setters, pipelayers, asphalt rakers, handling reinforcement rods, drillers, jackhammer operator, signalman, gunniting, motorbugs, water pump 2" or under, barco machine, wreckers, paving breakers, power saw operators, other machine operators.

CLASS 3: Blasters, laser beam operator.

LABORERS (HEAVY & HIGHWAY CONSTRUCTION):
ULSTER; ORANGE; SULLIVAN:

GROUP 1: Laborer, pitman, chuck tender, dump men, handling and distributing drinking water, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control.

GROUP 2: Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self propelled power saw, walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), sheeting and sharing, bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man.

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LABORERS (HEAVY & HIGHWAY CONSTRUCTION):
ULSTER; ORANGE; SULLIVAN: (CONT'D)

GROUP 3: Concrete finisher on highways, form setter, granite stone layer, Ingersoll Rand heavy duty crawler-master type HCM2 or equivalent or any drill using a 4" or larger bit.

DUTCHESS (Poukeepsie and south thereof):

GROUP 1: Concrete men, signal man, mason tender, pipelayers, riprap and dry stone layers, asphlat workers, screed bar operator, steel rod carrier, jackhammerman, wagon driller, airtrack operator, nippers, powder man high scalers, power buggy operator, vibratory operator compactor, wrecking laborers, gunite and sandblasting coal passer, water pumps 2" or under.

GROUP 2: Concrete finisher on highways, blaster, form setter, laser beam operator.

GROUP 3: General laborers.

POWER EQUIPMENT OPERATORS:
DUTCHESS (Poukeepsie and south thereof):
BUILDING CONSTRUCTION:

GROUP I-A: Backhoe Oliver 88, Fordson, Dynahoe dual purpose and similar machines; Barber green loader-euclid loader or similar type; Conway or similar mucking machines; dragline, gradall, shovel, backhoe, etc. (crawler or truck); front end loaders; hydraulic boom; Jersey spreader; Letourneau or tournapull (scrapers over 20 yards struck); mucking machines; pavement breaker (air ram); paver (concrete); road boring machine; road mix machines; Ross carrier and similar machines; post hole digger; shovel (tunnels); side boom; spreader (asphalt); scoopmobile-tractor-shovel over 1½ yards; trenching machines-vermeer concrete saw trencher and similar; tractor type demolition equipment; winch truck (A Frame); hydraulic crane 10 ton to 25 ton; cherry picker under 25 ton.

GROUP I-B: Compressor (steel erection); pulser meter; push button (buss box) elevator

GROUP II: Compactor self-propelled; grader; bulldozer D7 and similar tractors with a draw bar horsepower of 100 or over; bulldozer D6; mechanic (outside) all types; welder; scrapers-20 yards struck and under; machine pulling sheep's foot roller; vibratory rollers, etc.; roller 4 ton and over

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POWER EQUIPMENT OPERATORS:
DUTCHESS (Poukeepsie and south thereof):
BUILDING CONSTRUCTION: (CONT'D)

GROUP III-A: Asphalt plant; boiler (high pressure); concrete mixing plants; concrete pump; firemen; forklift; forklift (electric); joy drill or similar tractor drilling machine; loader-1¼ yards and under; locomotive (all sizes); mixer concrete-21E and over; portable asphalt plant; portable batch plant; portable crusher; quarry master; stone crusher; well drilling machine; well point system; cherry picker under 10 ton; hydraulic crane under 10 ton.

GROUP III-B: Compressor over 125 cu. feet; conveyor belt machine regardless of size.; lighting unit (portable & generator); welding machine (steel erection and excavation); compressor plant.

GROUP IV-A: Air tractor drill; batch plant; bending machine; concrete breaker; concrete spreader; curb cutter machine; farm tractor (all types); finishing machine-concrete; material hopper-sand stone-cement; mixer-concrete-under 21E; mulching grass spreader; pump-gypsum, etc., pump-plaster; roller under 4 ton; spreading and fine grading machine; steel cutting machine; syphone pump-air-steam; tar joint machine; turbo jet burner or similar equipment; vibrator (1 to 5); fine grading machine; roof hoist (tugger hoist).

GROUP IV-B: Compressor to 125 feet; dust collector; heater all types; pump; pump station (water and sewer); steam Jenny; sweeper.

GROUP V-A: Concrete saw; oiler fuel truck, oiler grease truck.

GROUP V-B: Oiler; paint compressor; motorized roller (walk behind).

GROUP VI-A-1: Master mechanic; assistant master mechanic.

GROUP VI-A-2: Helicopter hoist operator

GROUP VI-A-3: Welder certified

GROUP VI-A-4: Engineer pile driver

GROUP VI-A-5: Helicopter pilot

GROUP VI-A-6: Helicopter signalman

GROUP VI-A-7: Engineer,-all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 Manitowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

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POWER EQUIPMENT OPERATORS:
DUTCHESS (Poukeepsie and south thereof):
BUILDING CONSTRUCTION: (CONT'D)

GROUP VI-B-1: Utility man.

GROUP VI-B-2: Second engineer.

GROUP VI-B-3: Oiler (asphalt paver).

GROUP VI-B-4: Cable splicer.

GROUP VII: Concrete-portable hoist; crane & hoist engineer-steel (concrete, material, super structure sub-structure); derrick (stone-steel); elevator & cage; hoist-single, double, or triple drum; hoist-portable mobile unit; hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material; overhead crane power house plant, telephies (cableway), whirly, maintenance engineer, Lull hi-lift or similar, hydraulic crane 25 ton and over, cherry picker 25 ton and over.

DUTCHESS: (Poukeepsie and south thereof):
HEAVY & HIGHWAY CONSTRUCTION:

GROUP I-A: Auger; auto grader; Dynahoe; dual purpose and similar machines; Barber green loader - euclid loader or similar type machine; central mix plant operator; cherry picker (Cableway) -hydraulic compactor with blade; concrete portable hoist; C.M.I. or similar; Conway or similar mucking machines; crane (crawler or truck) dragline; gradall, shovel backhoe, etc., grader; derrick (stone-steel); elevator & cage; front end loaders over 1¼ yds.; hoist single, double, triple drum; hoist portable mobile unit; hoist engineer-concrete (crane-derrick-mine hoist); hoist engineer-material; hydraulic boom; Letourneau or tournapull (scrapers over 20 yards struck); mucking machines; overhead crane; paver (concrete); pulsemeter; push button (buzz box) elevator; road mix machines, Ross carrier and similar machines; shovels (tunnels), side boom; spreader (asphalt); scoopmobile-tractor-shovel over 1¼ yards; trenching machines; telphies-vermeer concrete saw trencher and/or similar tractor type demolition equipment, whirly.

GROUP II: Compactor self-propelled; bulldozer D6 and over-similar tractors; mechanic (outside) all types; welder; scraper - 20 yards struck and under; vibrator roller, etc.; roller 4 ton and over.

GROUP III: Air track drill; asphalt plant; batch plant; boiler (high pressure); concrete breaker; concrete; pump,; concrete spreader; curb cutter machine; farm tractor (all types); finishing machine (concrete) fine grading machine; fireman; forklift; forklift (electric); joy drill or similar tractor drilling machine; loader - 1¼ yards and under; locomotive (all sizes), maintenance engineer; machine pulling sheeps foot roller; material hopper; mixer concrete - 21-E and over; mulching grass spreader, portable asphalt plant, portable batch plant, portable crusher, powerhouse plant; quarry master; roller

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POWER EQUIPMENT OPERATORS:
DUTCHESS: (Poukeepsie and south thereof):
HEAVY & HIGHWAY CONSTRUCTION: (CONT'D)

GROUP III (CONT'D): under 4 ton; spreading and fine grading machine; steel cutting machine; stone crusher; sweeper; tubo jet burner or similar; well drilling machine (except water well drilling); winch truck "A" frame.

GROUP IV-A: Concrete saw; oiler (fuel or grease truck).

GROUP IV-B: Compressor-compressor plant-paint compressor-steel erection; conveyor belt machine; lighting unit (portable & generator); oiler; pumps-pump station-water-sewer-gypsum-plaster, etc.; roller-motorized (walk-behind); welding machine (steel erection excavation); well point system; bending machine; dust collector; mixer concrete under 21-E; heater all types; steam Jenny; syphon pump-air-steam; tar joint machine; vibrator (1 to 5).

GROUP V-A-1: Master mechanic; assistant master mechanic.

GROUP V-A-2: Helicopter hoist operator.

GROUP V-A-3: Engineer-all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 Manitowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

GROUP V-A-4: Hoist Engineer-steel-sub-structure; Engineer-pile driver.

GROUP V-A-5: Welder-certified.

GROUP V-A-6: Helicopter - pilot.

GROUP V-A-7: Helicopter - signalman.

GROUP V-A-8: Jersey-spreader, pavement breaker (air ram); post hole digger.

GROUP V-B-1: Second eng. 60 ton crane and over.

GROUP V-B-2: Oiler; asphalt paver; utility man.

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POWER EQUIPMENT OPERATORS: (CONT'D)
DUTCHESS (Remainder of County):
BUILDING CONSTRUCTION:

CLASS I - Oiler, fireman and heavy-duty greaser, boilers, and steam generators, pump, vibrator, mortar mixer, air compressor, dust collector, welding machine, well point, mechanical heater, generators, temporary light plants, concrete pumps, electric submersible pump 4" and over, murphy type diesel generator, conveyor, elevators, concrete mixer and beltcrete power pack (belcrete system),

CLASS II - Bulldozer, push cat, tractor, traxcavator scraper, LeTourneau grader, form fine grader, road roller, blacktop roller, blacktop spreader, power brooms, sweepers, trenching machine, Barber Green loader, side booms, hydro hammer, concrete spreader, concrete finishing machine, high lift, fork lift, one drum hoist, power hoisting (single drum), hoist - two drum or more, three drum engine, power hoisting (two drum and over), two drum and swinging engine, three drum swinging engine, hod hoist, A-L frame winches, core and well drillers (one drum), post hole digger, model CHB Vibro-Tamp or similar machine, batch bin and plant operator, dinkey locomotive, seeding and mulching machines.

CLASS III - Crane, hydraulic cranes, tower crane, locomotive crane, piledriver, cableway, derricks, whirlies, dragline, shovel, backhoe, gradalls, power road grader, all CMI equipment, front-end rubber tire loader, tractor-mounted drill (quarry master), mucking machine, concrete central mix plant, concrete pump, belcrete system, automated asphalt concrete plant, and tractor road paver.

CLASS IV - Maintenance Engineer

DUTCHESS (Remainder of County):
HEAVY & HIGHWAY CONSTRUCTION:

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal), hoist (2 or 3 drum), Holland loader mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power garder, quad 9, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt-type loader, truck crane, truck or trailer mounted log chipper (self feeder), tug operator (except manned rental equipment); tunnel shovel.

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POWER EQUIPMENT OPERATORS:
DUTCHESS (Remainder of County):
HEAVY & HIGHWAY CONSTRUCTION: (CONT'D)

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, L.C.M. work boat operator, locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), sea mule tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, ballast regulator (ride-on), compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), dust collectors, generators, pumps, welding machines, light plants (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), grout pump gunite machine, hammers (hydraulic-self-propelled), hydra-spiker (ride-on), hydro-blaster water, post hole digger and post driver, power sweeper, roller (grade and fill), scarifier (ride-on spanner saw (ride-on), submersible electric pump (when used in lieu of well point system), tamper (ride-on), tie extractor (ride-on), tie handler, tie inserter (ride-on), tie spacer (ride-on), track liner, tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), dust collectors, generators, pumps, welding machines, light plants (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, Revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY83-3018

POWER EQUIPMENT OPERATORS:
ORANGE; ULSTER; SULLIVAN:
BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION:

CLASS A: Autograde-combination sub-grader, base mtl. spreader 7 base trimmer (CMI & similar Types); autograde placer-trimmer spreader-combination (CMI & similar types); autograde slipform paver (CMI & similar types); backhoe; central power plants (all types); concrete paving machines; cranes (all types, including Overhead & straddle travelling type); cranes, gantry; derricks (land or floating); drillmaster, quarrymaster (down the hole drill) rotary drill, self-propelled hydraulic drill, self-powered drill; draglines; elevator graders; front end loaders (5 yds. and over); gradalls; grader, rago; locomotive (large); mucking machines; pavement & concrete breaker, i.e., superhammer & hoe ram; pile driver, length of boom including length of leads, shall determine premium rate applicable; roadway surface grinder, scooper (loader & shovel); shovels; tree chopper with boom; and trench machines.

CLASS B: "A" frame; backhoe (combination); boom attachment on loaders rate based on size of bucket) not applicable to pipehook; boring & drilling machines; brush chopper, shredder and tree shredder, tree shearer; cableways; carryalls; concrete pump; concrete pumping system, pumpcrete & similar types; conveyors, 125 ft. and over; drill doctor (including dust collector maintenance); front end loaders (2 yds. but less than 5 yds.); graders (finish); groove cutting machine (ride on type); heater planer; hoists (All type hoists, shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, snorkel roof, and/or any other similar type hoisting machines, portable or stationary, except Chicago Boom type); hoist - (Chicago boom type); hydraulic cranes-10 tons and under; hydraxle; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); log skidder; pans; pavers (all) concrete; pumpcrete machines, squeezecrete & concrete pumping (regardless of size); scrapers; sidebooms; "straddle" carrier, Rose and similar types and winch trucks (hoisting).

CLASS C: Asphalt curbing machine; asphalt plant engineer; asphalt spreader; autograde tube finisher & texturing machine (CMI & similar types); autograde curecrete machine (CMI & similar types); autograde curb trimmer & sidewalk, shoulder, slipform (CMI & similar types); Bar bending machines (power); batchers, batching plant & crusher on site; belt conveyor systems; boom type skimmer machines; bridge deck finisher; bulldozers (all); car dumpers (railroad); compressor and blower type units (used independently or mounted on dual purposes trucks, on job site or in conjunction with job site, in loading and unloading of concrete, cement, fly ash, instantcrete, or similar type materials); compressor (2 or 3) in a battery; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders, hetzel, rexomatic and similar types; concrete vibrators; conveyors, under 125 ft.; crushing

DECISION NO. NY83-3018

POWER EQUIPMENT OPERATORS:
ORANGE; ULSTER; SULLIVAN:
BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION: (CONT'D)

CLASS C (CONT'D): machines; ditching machine, small (ditchwitch or similar type); dope pots (mechanical with or without pump); dumpsters; elevator; fireman; fork lifts (economobile, lull & similar types of equipment); front end loaders (1 yd. and over but less than 2 yds.); generators (2 or 3) in battery; giraffe grinders; graders & motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoists (root, tugger, aerial platform hoist and house cars); hoppers; hopper doors (power operated); ladders (motorized); laddervator; locomotive, dinky type; maintenance, utility man; mechanics; mixers (excepting paving mixers); motor patrols & graders; pavement breakers, small, self-propelled ride on type (also maintaining compressor or hydraulic unit); pavement breaker, truck mounted; pipe bending machine (power); pitch pump; plaster pump (regardless of size); post hole digger (post pounder and auger); rod bending machines (power); roller, black top; scales, (power); seaman pulverizing mixer; shoulder widener; silos; skimmer machines (boom type); steel cutting machine, service & maintaining; tractors; tug captain; vibrating plants (used in conjunction with unloading) and welder & repair mechanics.

CLASS D: Brooms and sweepers; chippers; compressor (single); concrete spreaders (small type); conveyor loaders (not including elevator graders); engines, large diesel (1620 H.P.) and staging pump; farm tractors; fertilizing equipment (operation and maintenance); fine grade machine (small type); form line graders graders (small type); front loader (under 1 yd.); generator (single); grease, gas, fuel and oil supply trucks; heaters (Nelson or other type inmluding propane, natural gas or flowtype units); lights, portable generating light plants; mixers, concrete small; mulching equipment (operation and maintenance); pumps (2 of less, than 4 inch suction); pumps (4 inch suction and over including submersible pumps); pumps (diesel engine & hydraulic) immaterial of power; road finishing machines (small type); rollers, grade, fill or stone base; seeding equipment (operation and maintenance of); sprinkler and water pump; steam jennies and boilers; stone spreader; tamping machines, vibrating ride on; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); water and sprinkler trucks; welding machines (gas, diesel, and/or electric convertors of any type, single; two or three in a battery); welding system, multiple (rectifier transformer type), trucks and wellpoint systems

CLASS E: Oiler.

CLASS F: Helicopters-Pilot.

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POWER EQUIPMENT OPERATORS:
ORANGE; ULSTER; SULLIVAN: (CONT'D)
STEEL ERECTION

CLASS A: Cranes - (all cranes, land or floating with booms including jib, 140 ft. and over, above ground); derricks-(all derricks, land or floating with boom including jib, 140 ft. and over, above ground).

CLASS B: Cranes-(all cranes, land or floating with booms including jib, less than 140 ft. above ground); derricks-(all derricks, land or floating with booms including jib, less than 140 ft. above ground).

CLASS C: "A" frame; cherry pickers 10 tons and under; hoists: all types hoists shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, or any other similar type hoisting machines, portable or stationary, except Chicago Boom type; jacks-screw air hydraulic power operated unit or console type (not hand jack or pile load test type); side booms.

CLASS D: Aerial platform used hoist; compressor, 2 or 3 in battery; elevators or house cars; conveyors and tugger hoists; fireman; forklift; generators, 2 or 3 maintenance-utility man; rod bending machine (power); welding machines--(gas or electric, 2 or 3 in battery, including diesels); captain power boats; tug master power boats.

CLASS E: Compressor, single, welding machine, single, gas, electric converters of any type, diesel; welding system multiple (rectifier transformer type); generator, single.

CLASS F: Straddle carrier.

CLASS G: Helicopter-pilot.

TANK ERECTION:

CLASS A: Operating engineers--on all cranes, derricks, etc. with booms including jib 140 ft. or more above the ground.

CLASS B: Operating engineers--on all equipment, including cranes, derricks, etc. with booms including jib, less than 140 ft. above the ground.

CLASS C: Helicopter--pilot.

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DECISION NO. NY83-3018

POWER EQUIPMENT OPERATORS:
ORANGE; ULSTER; SULLIVAN: (CONT'D)
TANK ERECTION:

CLASS D: Air compressors, welding machines and generators (gas, diesel, or electrical driven equipment and sources of power from a permanent plant, i.e., steam, compressed air, hydraulic or other power, for the operating of any machine or automatic tools used in the erection, alteration, repair and dismantling of tanks and any and all "dual purpose" trucks used on the construction job site.

CLASS E: Oiler.

OILOSTATIC MAINLINES & TRANSPORTATION PIPELINES:

CLASS A: Backhoe; cranes (all types); drag lines; front end loaders (5 yds. & over); gradalls; scooper (loader & shovel) Koehring and trench machines.

CLASS B: "A" frame; backhoe (combination hoe loader); boring & drilling machines; ditching machine, small ditchwitch or similar type; fork lifts; front end loaders (2 yds. & over but less than 5 yds.); graders, finish (fine); hydraulic cranes-10 tons & under (over 10 tons, crane rate applies); side booms and winch trucks (hoisting).

CLASS C: Backfiller; brooms & sweepers; bulldozers; compressors (2 or 3 in battery); front end loaders (Under 2 yds.); generators; giraffe grinders; graders & motor patrols; mechanic; pipe bending machine (power); tractors; water & sprinkler trucks; welder & repair mechanic.

CLASS D: Compresser (single); dope pots (mechanical with or without pump); dust collectors; farm tractors; pumps (4 inch suction & over); pumps (2 of less than 4 inch suction); pumps, diesel engine & hydraulic (immaterial or power); welding machines, gas or electric converters of any type-single; welding machines, gas or electric converters of any type- 2 or 3 in battery multiple welders; wellpoint systems (including installation & maintenance).

CLASS E: Oiler; grease, gas, fuel & oile supply trucks; tire repair & maintenance.

CLASS F: Helicopter-pilot.

DECISION NO. NY83-3014

TRUCK DRIVERS:
BUILDING CONSTRUCTION AND HEAVY & HIGHWAY CONSTRUCTION:

GROUP I: Drivers on Letourneau tractors, Double Barrel Euclids, Athey Wagons and similar equipment (except when hooked to scrapers), Drivers of low beds, 1-Team and pole Trailers, Drivers of Road Oil Distributors, Fire Trucks and Tractors and Trailers with 5 axles and over.

GROUP II: Drivers on all equipment 25 yards and over, up to and including 30 rear bodies and cable Dump Trailers and Powder and Dynamite Trucks.

GROUP III: Drivers on all equipment up to and including 24 yard bodies, Mixer Trucks, Dump Crete Trucks and similar types of equipment, Fuel Trucks and all other Tractor Trailers.

GROUP IV: Drivers of Ten- wheelers, Grease Trucks and Tillermen; Drivers of Straight Trucks.

GROUP V: Drivers on Pick-up trucks used for materials & parts, Drivers on escort man over-the-road.

DECISION NO. NY83-3018

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work For RR And For R.E.A. Where No Other Trade Is Or Has Been Involved		
Journeyman Lineman & Technician	13.22	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	11.90	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	10.58	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer)	11.24	5%+3.60 +a
Driver Mechanic, Groundman - Experienced	9.92	5%+3.60 +a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Techanician	15.18	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	13.66	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	12.14	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	12.90	5%+3.60 +a
Driver Mechanic Groundman	11.39	5%+3.60 +a

Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems Where Other Trades Involved	Basic Hourly Rates	Fringe Benefits
Journeyman Lineman & Technician	15.99	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.39	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	12.79	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	13.59	5%+3.60 +a
Driver Mechanic, Groundman	11.99	5%+3.60 +a
All Pipe type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	15.99	5%+3.60 +a
Certified Lineman Welder	16.79	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Equipment Operator	15.99	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	13.59	5%+3.60 +a
Groundman Truck Drivers	12.79	5%+3.60 +a
Groundman	11.99	5%+3.60 +a

FOOTNOTE:
a. Paid holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence day, Labor Day, Thanksgiving Day, Chirstmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

[FR Doc. 83-13384 Filed 5-19-83; 8:45 am]
BILLING CODE 4510-27-C

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federal register

Friday
May 20, 1983

Part III

Department of Labor

Employment and Training Administration

Procedures for Classifying Civil Jurisdictions as High Unemployment Areas Under Public Law 98-8

VOL
48
ISS
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MY
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DEPARTMENT OF LABOR

Employment and Training Administration

Procedures for Classifying Civil Jurisdictions as High Unemployment Areas Under Public Law 98–8

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: These procedures are effective on April 23, 1983.

SUMMARY: The Employment and Training Administration is announcing the procedures for classifying civil jurisdictions as areas having high unemployment, pursuant to Pub. L. 98–8.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Gilliland, Director, United States Employment Service, Employment and Training Administration, Room 8000, 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6289.

SUPPLEMENTARY INFORMATION: Section 101(a)(3) of Pub. L. 98–8, 97 Stat. 13 (March 24, 1983), (the "Act") requires the Assistant Secretary for Employment and Training, United States Department of Labor, to

> Classify a civil jurisdiction as having high unemployment whenever, as determined by the Bureau of Labor Statistics using the latest comparable data available from Departmental, State, or local sources, the civil jurisdiction has had an average unadjusted unemployment rate over the previous twelve months of not less than ninety percent of the unadjusted average unemployment rate for all States during the same period. The Assistant Secretary, upon petition submitted by the appropriate State agency, may classify a civil jurisdiction as having high unemployment whenever the civil jurisdiction has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

97 Stat. at 29–30.

Section 101(a)(3) of the Act further requires the Assistant Secretary to publish a list of civil jurisdictions with high unemployment, together with descriptions thereof, as soon as practicable, but no later than 30 days after the date of enactment of the Act. 97 Stat. at 30. That list was published at 48 FR 17456 (April 22, 1983).

The list will be updated on a monthly basis hereafter, by adding civil jurisdictions that the Assistant Secretary deems to meet the above criteria. *Id.* The procedures by which civil jurisdictions are placed on the list are set forth below:

I. *Definitions.* For the purposes of these procedures:

(a) "Assistant Secretary" shall mean the Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Civil jurisdiction" shall mean:

(1) A city of 50,000 population on the basis of the most recently available Bureau of the Census estimates; or

(2) A town or township in the State of New Jersey, New York, Michigan, or Pennsylvania of 50,000 or more population and which possesses powers and functions similar to those of cities; or

(3) A county, except those counties which contain any type of civil jurisdictions defined in paragraphs (b)(1) or (2) above; or

(4) A "balance of county" consisting of a county less any component cities and townships identified in paragraphs (b)(1) or (2) above;

(5) A county equivalent which is a town in the State of Massachusetts, Rhode Island, and Connecticut.

(c) "State" shall mean each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) "Appropriate State agency" shall mean the State employment security agency in the respective States.

(e) "Reference period" shall mean the most recent 12-month period for which comparable data on unemployment are available.

II. *Classification of high unemployment areas:*

(a) *Basic criteria.* The Assistant Secretary shall classify a civil jurisdiction as having high unemployment whenever, as determined by the Bureau of Labor Statistics, using the latest comparable data available from Departmental, State or local sources, the civil jurisdiction has had an average unadjusted unemployment rate over the previous 12 months of not less than 90 percent of the unadjusted average unemployment rate for all States during the same period. The reference period for which comparable data were available for the most recent 12 months was January through December 1982. The unadjusted average unemployment rate for all States during this reference period was 9.8 percent. The average unadjusted unemployment rate during the reference period necessary for a civil jurisdiction to be classified as having high unemployment was 8.8 percent (90 percent of the unemployment rate of 9.8 percent for all States during the reference period).

(b) *Criteria for Monthly Updates.* The Assistant Secretary, upon petition submitted by the appropriate State agency, may classify a civil jurisdiction as having high unemployment whenever the civil jurisdiction has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the unemployment rate of the area. The initial list of high unemployment areas will be updated on a monthly basis to add those civil jurisdictions which meet these criteria for classification as areas with high unemployment.

III. *Effective dates of high unemployment area classifications.* The initial list of high unemployment areas (48 FR 17456), together with the monthly updates to the list, will remain in effect through September 30, 1983.

Signed at Washington, D.C., this 11th day of May, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83–13533 Filed 5–10–83; 8:45 am]

BILLING CODE 4510–30–M

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Part IV

Department of Health and Human Services

Food and Drug Administration

Performance Standard for Sunlamp Products; Proposed Rule

VOL 48 ISS 99 MY 20 1983 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1040

[Docket No. 82N-0188]

Sunlamp Products; Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the performance standard for sunlamp products and ultraviolet lamps intended for use in these products to accommodate new products, employing design concepts significantly different from those for which the current standard was developed. Also, FDA's experience in applying the current standard, which went into effect on May 7, 1980, indicates that some requirements are either inappropriate for, or inapplicable to, some products. The proposed amendments are intended to establish a standard that conforms with the present technology of suntanning and new sunlamp product designs.

DATE: Comments by July 19, 1983. FDA intends that any final rule based on this proposal would become effective 1 year after the date of publication of the final rule in the **Federal Register**. The agency will not object to manufacturers complying voluntarily with this proposed amended standard, and any final rule based on this proposal, prior to the effective date of the amended standard.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263b et seq.)), FDA administers an electronic product radiation control program to protect the public health and safety. This authority provides for developing and administering radiation safety performance standards for electronic products. In the **Federal Register** of November 9, 1979 (44 FR 65352), FDA published the radiation safety performance standard for sunlamp products and ultraviolet lamps intended for use in sunlamp products (21 CFR 1040.20). The standard became effective on May 7, 1980.

This proposed rule, which would amend the present standard, was developed by FDA's National Center for Devices and Radiological Health (the Center) (formerly the Bureau of Radiological Health). On October 15, 1981, the Center wrote to all sunlamp product and ultraviolet lamp manufacturers or importers known to the Center, and to all interested persons, including professional associations, consumer groups, government agencies, and individuals who had requested information about sunlamp products. The letter transmitted for review and comment informal views of the agency on the problems with the performance standard along with draft proposed amendments to the standard. The Center mailed nearly 900 copies of the letter and received 11 comment letters in return. The comments were generally supportive of the proposed changes.

In addition to sending out the October 15, 1981 letter, FDA has taken action to allow interested persons to participate in the development of the proposed amendments to the standard. The Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) was established by the Secretary of Health and Human Services pursuant to 42 U.S.C. 263f(f) and is composed of technically qualified members from State and Federal governments, affected industries, and the general public. The agency is required to consult with TEPRSSC prior to prescribing any standard under the Radiation Control for Health and Safety Act of 1968. A status report on the agency's experience with the current sunlamp standard and with tanning booths was presented on December 3 and 4, 1980, at the meeting of TEPRSSC. The draft proposed amendments and the comments that the agency received were reviewed by TEPRSSC at its meeting on December 9, 1981. The draft proposed amendments, the comments received, and the summary of TEPRSSC meetings are on file with the Dockets Management Branch (address above) under Docket No. 75N-0047.

In developing this proposal, FDA has considered all comments received on the draft of the proposed amendments, the latest available scientific and medical data concerning radiation hazards associated with sunlamp products, and the results of FDA testing and research.

Background

Changes in product technology and design. The technology of tanning and the design of sunlamp products to induce skin tanning have changed substantially since the current performance standard was developed. Recently, FDA has observed, in the United States, a shift to the use of longer ultraviolet (UV) wavelengths for tanning purposes, especially for commercial tanning equipment. More than 95 percent of the radiant energy of some new tanning systems is at wavelengths longer than 320 nanometers (nm), the upper limit of the wavelength range of a sunlamp product under the current standard. For these wavelengths, the risks of the acute hazards of corneal keratitis and erythema (reddening of the skin—a prelude to sunburn) are reduced. However, there is additional risk associated with deeper penetration into the skin of radiation at these wavelengths. There has also been a rapid growth in new sunlamp product designs in which an array of fluorescent and/or mercury vapor sunlamps is used in the configuration of a "tanning booth"; a bed, with or without an overhanging irradiator; or as a room in which the lamps are installed on the ceiling and walls, and which may accommodate many people. Tanning booths, beds, couches, rooms, and facial units may have almost any intensity and spectral distribution in the UV region of the light spectrum. Thus, these new products are in considerable contrast to the typical over-the-counter suntanning lamp and fixture that the current standard was primarily designed to control.

Biological effects. The standard currently applies to products intended to induce tanning by irradiating the human body with UV radiation in the wavelength region between 180 and 320 nm. The wavelengths which elicit melanogenesis (delayed, long-term tanning) also elicit deleterious biological responses. Therefore, as with natural sunlight, emissions from sunlamps are hazardous. The user must decide whether the tanning as a benefit is worth the risk.

In the UV region of the spectrum, two wavelength regions are of importance in tanning: UVB (280 to 320 nm) and UVA (320 to 400 nm). This division is made because the biological responses are somewhat different for each region and may result from different photobiological and photochemical processes (Ref. 8).

The most effective wavelengths for melanogenesis are in the UVB region

(Ref. 8). Also, UVB and the shorter wavelengths to 200 nm are also effective in causing erythema. The individual variation of sensitivity for UVB erythema is at least threefold (Ref. 11) and there is a variation in sensitivity from one part of the body to another.

An important relation exists between erythema and melanogenesis: the exposure necessary for UVB radiation to elicit erythema is less than that necessary to elicit melanogenesis (Ref. 9). Further, the effects of such exposures are cumulative for both biological responses, so that the effect of each exposure depends on previous exposures (Refs. 5 and 9). The cumulative effect even occurs for exposures which do not elicit a detectable single-exposure response (Refs. 5 and 9). Also, once the radiant exposure level which elicits a minimal erythema is reached, small increases in exposure to UVB radiation can result in large increases in erythema and edema. Therefore, the difference in magnitude between an exposure which elicits tanning and one which can cause severe buring is small. An exposure that is just enough to elicit melanogenesis in one individual may cause severe sunburn in another.

Tanning and erythema are considered acute effects because these responses occur within a few hours or days after UV exposure. Also, there are several other quite serious responses which occur much later and usually result from long-term, chronic exposures; these include precancerousactinic damage, basal and squamous cell carcinomas, and skin aging. FDA has previously discussed in detail these effects and part of the suspected cellular basis for the delayed responses (Ref. 1).

Radiation in the UVA region can cause increased pigmentation by mechanisms resulting in immediate tanning as well as delayed tanning (Ref. 8). Immediate tanning is transient, does not result in a long-term tan, and will not be considered further in this discussion. Delay tanning is longer lasting and presumably is similar to the melanogenesis elicited by UVB.

UVA is approximately one thousand times less effective than UVB at eliciting erythema (Ref. 9). The individual variation of sensitivity for UVA erythema is at least fourfold (Ref. 8). There is evidence that within the UVA region the different wavelength segments differ in effectiveness by more than an order of magnitude, with the shorter wavelengths (near 320 nm) being more effective (Ref. 12). However, at present the erythema-eliciting potential of a given UVA emission spectrum cannot be predicted as accurately as desired.

UVA radiation differs from UVB radiation in that an erythemogenic exposure does not appear to be necessary to elicit melanogenesis (Ref. 9). An exposure less than that which causes erythema can result in tanning. As with UVB radiation, the effectiveness for both tanning and erythema production depend on previous cumulative exposures (Refs. 5 and 9), but for UVA radiation, the cumulative tanning effect is greater than the cumulative erythema effect, so that with controlled multiple exposures it is possible to obtain melanogenesis without suffering erythema (Ref. 9).

However, melanogenic UVA exposures are not without hazard. Severe edema and damage to vascular structures can occur at the greater depths to which UVA radiation penetrates. The photosensitivity induced by medication or cosmetics can be expected to be particularly important in the UVA region, where the sensitivity may be greatly enhanced. In addition, the effective wavelengths may be different for each cause of photosensitivity. Although the biological effects of UVA radiation have not been studied to the same extent as those induced by UVB radiation, many of the same risks to the skin exist (Ref. 8).

Numerous studies have shown that optical radiation below 400 nm is hazardous to both the cornea and lens of the eye (Refs. 7 and 10). Although some authors hav suggested that beneficial endocrine and behavioral effects may result from UVA exposure to the eye (Ref. 4), little direct experimental evidence has been published in the scientific literature to substantiate or document these claims. Acute exposure to UVB can induce corneal keratitis and lens cataracts, while chronic or repeated subthreshold exposures to UBV or UVA radiation can induce cataract formation (Ref. 10). The lens absorbs UVA radiation, thereby inducing browning of the lens (brunescent cataract) (Ref. 7). The proportion of UVA transmitted to the retina is small because most is absorbed by the lens. However, there are some exceptions to this: (1) the lens has a window of low transmission of UVA near 325 nm resulting in higher transmission of UVA in that wavelength region (Ref. 10); (2) some individuals have lenses removed for medical reasons; (3) lenses of children under 8 years of age, as reported by on investigator, may transmit 2 to 4 times more UVA to the retina than do the lenses of older individuals (Ref. 6). In these circumstances, the retina is also sensitive to damage from UVA radiation (Ref. 2).

UVA and UVB sunlamp products. Comments on the draft proposed amendments on which this proposal is based suggested that, because of the reduced erythemogenic potential of the UVA wavelength region, FDA should make a regulatory distinction between those sunlamp products that emit primarily in the UVA and those that emit primarily in the UVB. The agency does not believe the performance standard should distinguish between UVA and UVB products because the products all are broad-band sources of UV radiation and they generally overlap is spectral distribution. Moreover, as discussed above, both UVA and UVB radiation can cause adverse biological effects.

Commercial tanning equipment. The rapid development of the commercial tanning industry after issuance of § 1040.20 caused FDA to consider the effectiveness and appropriateness of the standard for control of the hazards of commercial tanning equipment, especially tanning booths. FDA issued recommendations for users of tanning booths and other similar products and worked with manufacturers of tanning equipment and owners of commercial tanning establishments to increase the overall safety of both their new and prestandard equipment. Careful consideration was given to possible different requirements in the performance features and the labeling of various categories of sunlamp products, e.g., commercial use products, home use products, UVA products, and UVB products. The agency believes that performance features and warning statements that are valid for commercial use products also are valid for the other types of products. Therefore, the proposed amended standard would apply to all sunlamp products manufactured on or after the effective date of the new provisions.

Proposed Amendments

Minimum use distance. FDA believes that the concept of "minimum use distance" should be generalized. This term as currently defined in § 1040.20(b)(5) was included in the standard to assist the user of portable, over-the-counter sunlamps in selecting an appropriate exposure distance. The current definition is not appropriate for some commercial tanning equipment such as booths where the user stands in the center of the booth for a uniform tan, of for certain tanning rooms where the user stands, sits, or lies wherever he or she chooses, or for beds in which there

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generally is only one location where the user can be positioned. In these circumstances, the position for exposure is determined by product design or by positioning indicators. FDA believes that the concept of "minimum use distance" should be generalized to include the concepts of position, orientation, and location relative to the radiation source. Therefore, FDA proposes to delete the definition of "minimum use distance" and to establish in § 1040.20(b)(1) a new definition of "exposure position."

Wavelength range of applicability. The agency proposes to change the wavelength range of applicability of the standard from the current limits of 180 nm through 320 nm to new limits of 200 nm through 400 nm.

The trend in sunlamp product design is toward the longer wavelengths, between 320 nm and 400 nm (UVA), a wavelength range that has associated risks. Typical UVA sunlamp products are subject to the current sunlamp standard because they emit measurable amounts of UV radiation at wavelengths shorter than 320 nm, that is, a small portion of the radiation which they emit is in the UVB region. However, there are sunlamp products currently being marketed outside of the United States that do not emit measurable levels of radiation at wavelenghts shorter than 320 nm. These products are outside the scope of the existing standard but would be subject to the proposed standard when marketed here. Also, the agency has determined that UV emissions from sunlamp products at wavelengths shorter than 200 nm are negligible. The lower wavelength limit of 180 nm requires the use of expensive measurement equipment that FDA believes is not justified by any corresponding gain in radiation safety. Thus, FDA proposes to revise the definitions of sunlamp product and ultraviolet lamp in § 1040.20(b) (9) and (11) to include those products emitting UV radiation between 200 nm and 400 nm.

Maximum timer interval. Section 1040.20(c)(2)(ii) currently provides that the timer on a sunlamp product shall have a maximum timer interval that does not exceed the manufacturer's recommended maximum exposure time, or 10 minutes, whichever is less. For many present-day products, the 10-minute interval is too short.

The purposes of the timer are to provide for reliable control of exposures and to limit acute damage from unintentionally long exposures. The timer limits the maximum exposure to UV radiation that can be achieved during one timer interval, but does not prevent intentional long exposures because a timer can be reset as many times as the user wants. Therefore the maximum timer interval, by itself, does not guarantee that users will not receive injurious, acute exposures. Reliance must be placed on the user's following instructions for use in order to prevent injuries from occurring. Instructions for safe use are required to be provided by the manufacturer with the sunlamp product.

Several comments on the draft proposed amendments suggested that the concept of specific maximum timer intervals should be retained for sunlamp products. These comments suggested that FDA should establish a 30-minute maximum interval for UVA systems and continue the 10-minute maximum interval for UVB systems.

FDA disagrees. To establish a system of specific timer intervals that would be appropriate under all use conditions and product designs or configurations would be difficult and unjustifiably complicated. A sunlamp product may have almost any spectral distribution and irradiance depending upon varying factors, e.g., product design, lamp design, and lamp age. Further, human skin varies greatly from individual to individual in sensitivity to burning. Sensitive individuals could use a timer setting at less than the maximum timer interval but individuals whose skin is not particularly sensitive may need to restart the sunlamp product several times.

FDA also has recognized the need for different timer intervals for some UVA products, and under the provisions of 21 CFR 1010.4, the Center has granted variances from the current 10-minute maximum timer interval. A condition under which these variances were granted is that the maximum timer interval shall not exceed the manufacturer's recommended maximum exposure time as stated on the product. The manufacturer is thus responsible for specifying the maximum timer interval. The Center's experience has been that manufacturers do select appropriate maximum timer intervals for their products. Based on these considerations, the agency proposes to revise § 1040.20(c)(2) to require only that the maximum timer interval may not exceed the manufacturer's recommended maximum exposure time as stated on the product and in its instructions.

Resumption of radiation emission. Previously, the General Electric Co., the GTE Products Corp., and the National Electrical Manufacturers Association had submitted petitions to the agency to stay § 1040.20(c)(4) and to amend the standard to permit automatic resumption of emissions under certain circumstances. The petitioners argued that to require the user in all instances to reactivate the timer manually is unnecessarily restrictive with negligible increase in radiation safety, especially when momentary losses of line power are considered. The petitioners also argued that the requirement adds significantly to the cost of small portable sunlamp units.

On September 25, 1980, the Center announced its intent to delay until January 1, 1981, the enforcement of § 1040.20(c)(4) and requested comments from manufacturers and potential manufacturers. Several comments and additional petitions were received. The center subsequently delayed the enforcement of the provision proscribing automatic resumption of radiation emissions in order to allow time to consider adequately these comments and petitions.

Having reconsidered the issues, the agency tentatively concludes that the potential hazard associated with resumption of radiation emission after termination is small. The human exposure to UV radiation after restart could only be to that time remaining in the unused portion of the maximum timer interval. Thus, total exposure would be no greater than that to which the user potentially would be exposed by the initial timer setting. Thus, FDA proposes to provide, in renumbered § 1040.20(c)(2)(iv), only that the timer may not automatically reset and cause radiation emission to resume when emission from the sunlamp product has been terminated.

Protective eyewear. By design, UVA sunlamp products emit UVA radiation at levels which are much higher than those associated with the conventional, over-the-counter UVB sunlamp product marketed at the time the current standard was developed. As a result, the UVA levels transmitted through protective eyewear that comply with current § 1040.20(c)(5)(ii) could be greater than those envisioned when the standard was issued.

There is no need for radiation at wavelengths below 400 nm to reach the eyes because eyes are not involved in skin melanogenesis. Therefore, protective goggles should be used to limit UV radiation incident on the eye (Ref. 3). Protective eyewear must be highly absorbing in the UV wavelengths shorter than the UVA spectral region if acute injury to the cornea is to be prevented. FDA believes that a spectral transmittance not exceeding 0.001 over the wavelength range from 200 nm through 320 nm would be small enough

to meet this criterion, and FDA proposes to so provide (in renumbered § 1040.20(c)(4)(ii)). for the wavelength range from 320 nm through 400 nm, the agency proposes to permit a spectral transmittance that does not exceed 0.01. The agency believes that protective eyewear with this degree of absorption would reduce the UVA radiation transmitted to the eye, from the products that emit the most intense levels, to the ambient level outdoors on a sunny day.

Two clarifying changes to the protective eyewear requirements also are proposed in new § 1040.20(c)(4)(ii). The agency proposes to add the phrase "to the eye" to emphasize that the function of protective eyewear is to provide protection to the eye from UV radiation, including that which may enter from the sides of the eyewear. Also, in response to a comment on the draft proposed amendments, the agency proposes to remove the phrase "read the labels and". This change would make the visualization requirement consistent with the Underwriters Laboratory Standard (UL–482) Paragraph 14.3 and with FDA's initial intent (see paragraph 12 in the preamble to the November 9, 1979 final rule; 44 FR 65354).

Label requirements. FDA proposes to revise § 1040.20(d)(1)(i) to require manufacturers to provide a warning statement that is more appropriate for sunlamp products, including those with enhanced emissions in the UVA range. The sentence "Avoid overexposure" is proposed to be added to the warning statement as prudent advice.

The sentence "As with natural sunlight, overexposure can cause eye injury and sunburn" would be changed (1) to include the term "allergic reactions" because these reactions occur from exposure to UV radiation and (2) to substitute the more appropriate general term "skin injury" for "sunburn." Contrary to facts, some manufacturers of the new design sunlamps have implied in their product literature that the UV radiation from their products is not hazardous to the eyes. Accordingly, the explicit warning statement "FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES" is proposed to be added to assure that the user is warned that exposure of the eyes (cornea, lens, and retina) to UV radiation is hazardous and is unnecessary to the tanning process.

The phase "applied to the skin" is proposed to be removed from the present warning that reads, "Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light," because the warning is incorrectly restrictive. The advice to consult a physician before use of the sunlamp when a person has a history of skin problem is proposed as additional prudent advice.

The statement "If you do not tan in the sun, you are unlikely to tan from the use of this product" also is proposed to be added to the current warning statement for the benefit of individuals who are most susceptible to injury.

New proposed § 1040.20(d)(1)(ii) would require that the label for sunlamp products include the manufacturer's recommended exposure position or positions. The new provision would permit the manufacturer to use markings on the product, or any other means that would clearly indicate the recommended exposure position to the person being exposed. However, for those products for which use distance is stated, the current requirement that distance be specified both in metric and U.S. customary units would continue to apply.

A comment on the draft proposed amendments objected to the requirement in the current standard that "exposure position" be stated both in meters and in feet. FDA advises that the proposal is consistent with the objectives of the Metric Conversion Act of 1975 (Pub. L. 94–168; 15 U.S.C. 205a) and with the requirements of the current sunlamp products standard. Accordingly, the agency believes that the requirement for dual declaration should be retained.

Some manufacturers of sunlamp products also make special, unique UV lamps which are designed for use only in their products and which are not compatible with other sunlamp products. These lamps do not appear on the open market either as an original or as a replacement component for other sunlamp products. FDA believes that any manufacturer that maintains and services sunlamp products that it has manufactured would be unlikely to cause an inappropriate lamp and timer combination by substituting an incompatible or incorrect UV lamp. Thus, the agency believes that ultraviolet lamps that are uniquely designed for a particular sunlamp product may be exempted from compliance with the standard's labeling requirements and proposes to revise § 1040.20(d)(2) to so provide.

Label specifications. The specifications for labels should provide for greater flexibility in relating the label to the product. FDA believes that in some cases a label as required by the current standard may be inappropriate for the product to which the label is applied. The agency anticipates that size, configuration, design, or function of future products may, in certain instances, preclude compliance with some or all label requirements or may render inappropriate some or all of the wording required.

Manufacturers frequently contact FDA to obtain permission to make additions to labels. Many of these additions could be made without the agency's permission if appropriate criteria are available. The current standard does not adequately provide for positioning of required labels for certain commercial sunlamp products, e.g., tanning booths or rooms. Labels for all sunlamp products should be positioned so that the person who is to be exposed to UV radiation in order to obtain a tan can read the labels prior to use of the product. Labels for UV lamps need to be permanent, legible, and readily accessible to view by the user.

To resolve these problems, FDA proposes to establish label specifications for sunlamp products and UV lamps in new § 1040.20(d)(3) (i), (ii), (iii), and (v). Existing § 1040.20(d)(3) would be renumbered as § 1040.20(d)(3)(iv).

Instructions to be provided to users. The agency proposes that the user instructions provided with any sunlamp product be more explicit concerning instructions for "safe use." New § 1040.20(e)(1) (iii) and (iv) would add requirements that the user instructions include instructions for proper operation of the product, use of protective eyewear, and determination of the correct exposure time.

The language of the standard is simplified by deleting § 1040.20(f) (1)(ii) and (2)(ii). Amendments to paragraphs (e) (1)(i) and (2)(ii) retain the required instructions.

Testing requirements. The agency proposes to revise current § 1040.20(e) as new § 1040.20(f) to allow for increased flexibility in testing sunlamp products for compliance. The revision would provide general criteria for determining compliance and would remove the currently specified test voltages and test instrument positioning requirements. As amended, the regulation would provide that the measurements are to be made under those operational conditions for lamp voltage, lamp current, and exposure position recommended by the manufacturer. However, as in the current standard, in determining compliance, the manufacturer would still need to account for all errors and statistical uncertainties in the measurement process as well as to account for changes in UV emission or

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degradation of radiation safety of the product with age.

General. Except for minor editorial changes and the renumbering of several paragraphs of § 1040.20 to accommodate the proposed revisions, other existing provisions of § 1040.20 would be reissued without revision.

Effective Date

FDA intends that any final rule based on this proposal would become effective 1 year after its date of publication in the **Federal Register.** The agency will not object to manufacturers complying voluntarily with this proposed amended standard, and any final rule based on this proposal, prior to the effective date of the amended standard, provided that the manufacturer specifies on the certification label that the product complies with this proposed amended standard and provided that the manufacturer complies with the recordkeeping and reporting requirements of 21 CFR 1002.

References

The references and pertinent background data and information supporting the proposal are on file under the docket number appearing in the heading of this document and are available for public review at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

1. Andersen, F. A., L. E. Bockstahler, P. G. Chissler, K. B. Hellman, J. I. Levine, C. D. Lytle, L. F. Mills, and P. Segal, "A Review of Biological Effects Considered in the Development of a Performance Standard for Sunlamp Products," FDA Bylines No. 2, pp. 65–85, April 1981.

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11. Everett, M. A., R. M. Sayre, and R. L. Olson, "Physiologic Response of Human Skin to Ultraviolet Light," *in* "The Biologic Effects of Ultraviolet Radiation" (ed. F. Urbach), New York, Pergamon Press, 1969, pp. 181–186.

12. Parrish, J. A., K. F. Jaenicke, and R. R. Anderson, "Erythema and Melanogenesis Action Spectra of Normal Human Skin," *Photo-chemistry and Photobiology*, 36: 187–191, 1982.

FDA has evaluated the economic consequences of this proposed action in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). This action has been determined not to be a major rule as defined in Executive Order 12291. Further, the agency certifies that the final rule, if implemented, would not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. A threshold assessment supporting this conclusion is on file with the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 1040

Electronic products, HID lamps, Lasers, Medical devices, Radiation protection, Standards, Sunlamps.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 1040 be amended by revising § 1040.20, to read as follows:

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

§ 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.

(a) *Applicability.* The provisions of this section are applicable as specified herein to the following products manufactured on or after May 7, 1980.

(1) Any sunlamp product.

(2) Any ultraviolet lamp intended for use in any sunlamp product.

(b) *Definitions.* As used in this section the following definitions apply:

(1) "Exposure position" means any position, distance, orientation, or location relative to the radiating surfaces of the sunlamp product at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

(2) "Intended" means the same as "intended uses" in § 801.4 of this chapter.

(3) "Irradiance" means the radiant power incident on a surface at a specified location and orientation relative to the radiating surface divided by the area of the surface, as the area becomes vanishingly small, expressed in units of watts per square centimeter (W/cm^2).

(4) "Maximum exposure time" means the greatest continuous exposure time interval recommended by the manufacturer of the product.

(5) "Maximum timer interval" means the greatest time interval setting on the timer of a product.

(6) "Protective eyewear" means any device designed to be worn by users of a product to reduce exposure of the eyes to radiation emitted by the product.

(7) "Spectral irradiance" means the irradiance resulting from radiation within a wavelength range divided by the wavelength range as the range becomes vanishingly small, expressed in units of watts per square centimeter per nanometer ($W/(cm^2\ nm)$).

(8) "Spectral transmittance" means the spectral irradiance transmitted through protective eyewear divided by the spectral irradiance incident on the protective eyewear.

(9) "Sunlamp product" means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

(10) "Timer" means any device incorporated into a product that terminates radiation emission after a preset time interval.

(11) "Ultraviolet lamp" means any lamp that produces ultraviolet radiation in the wavelength interval of 200 to 400 nanometers in air and that is intended for use in any sunlamp product.

(c) *Performance requirements.*—(1) *Irradiance ratio limits.* For each sunlamp product and ultraviolet lamp, the ratio of the irradiance within the wavelength range of greater than 200 nanometers through 260 nanometers to the irradiance within the wavelength range of greater than 260 nanometers through 320 nanometers may not exceed 0.003 at any distance and direction from the product or lamp.

(2) *Timer.* (i) Each sunlamp product shall incorporate a timer with multiple timer settings adequate for the recommended exposure time intervals for different exposure positions and expected results of the products as specified in the label required by paragraph (d) of this section.

(ii) The maximum timer interval may not exceed the manufacturer's recommended maximum exposure time that is indicated on the label required by paragraph (d)(1)(iv) of this section.

(iii) No timer interval may have an error greater than 10 percent of the maximum timer interval of the product.

(iv) The timer may not automatically reset and cause radiation emission to resume when emission from the sunlamp product has been terminated.

(v) The timer requirements do not preclude a product from allowing a user to reset the timer before the end of the preset time interval.

(3) *Control for termination of radiation emission.* Each sunlamp product shall incorporate a control on the product to enable the person being exposed to terminate manually radiation emission from the product at any time without disconnecting the electrical plug or removing the ultraviolet lamp.

(4) *Protective eyewear.*—(i) Each sunlamp product shall be accompanied by the number of sets of protective eyewear that is equal to the maximum number of person that the instructions provided under paragraph (e)(1)(ii) of this section recommend to be exposed simultaneously to radiation from such product.

(ii) The spectral transmittance to the eye of the protective eyewear required by paragraph (c)(4)(i) of this section shall not exceed a value of 0.001 over the wavelength range of greater than 200 nanometers through 320 nanometers and a value of 0.01 over the wavelength range of greater than 320 nanometers through 400 nanometers, and shall be sufficient over the wavelength greater than 400 nanometers to enable the user to see clearly enough to reset the timer.

(5) *Compatibility of lamps.* An ultraviolet lamp may not be capable of insertion and operation in either the "single-contact medium screw" or the "double-contact medium screw" lampholders desribed in American National Standard C81.10–1976, Specifications for Electric Lamp Bases and Holders—Screw-Shell Types.

(d) *Label requirements.* In addition to the labeling requirements in Part 801 of this chapter and the certification and identification requirements of §§ 1010.2 and 1010.3 of this chapter, each sunlamp product and ultraviolet lamp shall be subject to the labeling requirements prescribed in this paragraph and paragraph (e) of this section.

(1) *Labels for sunlamp products.* Each sunlamp product shall have a label(s) which contains:

(i) A warning statement with the words "DANGER—Ultraviolet radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer. FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult physician before using sunlamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product."

(ii) Recommended exposure position(s). Any exposure position may be expressed either in terms of a distance specified both in meters and in feet (or in inches) or through the use of markings or other means to indicate clearly the recommended exposure position.

(iii) Directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure.

(iv) A recommended exposure schedule including the duration and spacing of sequential exposures and a maximum exposure time in minutes.

(v) A statement of the time it may take before the expected results appear.

(vi) Designation of the ultraviolet lamp type to be used in the product, except that this provision does not apply to a sunlamp product that incorporates lamps uniquely designed for that product and is maintained and serviced only by the manufacturer of the product or by the agent of the manufacturer.

(2) *Labels for ultraviolet lamps.* Each ultraviolet lamp, except that uniquely designed and intended for use only in the sunlamp product of the same manufacturer, shall have a label which contains:

(i) The words "Sunlamp—DANGER—Ultraviolet radiation. Follow instructions."

(ii) The model identification.

(iii) The words "Use ONLY in fixture equipped with a timer."

(3) *Label specifications.* (i) Any label prescribed in this paragraph for sunlamp products shall be permanently affixed or inscribed on an exterior surface of the product when fully assembled for use so as to be legible and readily accessible to view by the person being exposed immediately before the use of the product.

(ii) Any label prescribed in this paragraph for ultraviolet lamps shall be permanently affixed or inscribed on the product so as to be legible and readily accessible to view.

(iii) If the size, configuration, design, or function of the sunlamp product or ultraviolet lamp would preclude compliance with the requirements for any required label or would render the required wording of such label inappropriate or ineffective, or would render the required label unnecesary, the National Center for Devices and Radiological Health, on the Center's own initiative or upon written application by the manufacturer, may aprove alternate means of providing such label(s), alternate wording for such label(s), or deletion, as applicable.

(iv) In lieu of permanently affixing or inscribing tags of labels on the ultraviolet lamp as required by §§ 1010.2(b) and 1010.3(a) of this chapter, the manufacturer of the ultraviolet lamp may permanently affix or inscribe such required tags or labels on the lamp packaging uniquely associated with the lamp, if the name of the manufacturer and month and year of manufacture are permanently affixed or inscribed on the exterior surface of the ultraviolet lamp so as to be legible and readily accessible to view. The name of the manufacturer and month and year of manufacture affixed or inscribed on the exterior surface of the lamp may be expressed in code or symbols, if the manufacturer has previously supplied the National Center for Devices and Radiological Health with the key to such code or symbols and the location of the coded information or symbols on the ultraviolet lamp. The label or tag affixed or inscribed on the lamp packaging may provide either the month and year of manufacture without abbreviation, or information to allow the date to be readily decoded.

(v) A label may contain statements or illustrations in addition to those required by this paragraph if the additional statements are not false or misleading in any particular; e.g., diminishing the impact of the required statements; and are not prohibited by this chapter.

(e) *Instructions to be provided to users.* Each manufacturer of a sunlamp product and ultraviolet lamp shall provide or cause to be provided to purchasers and, upon request, to others at a cost not to exceed the cost of

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publication and distribution, instructions for safe use, including the following technical and safety information as applicable:

(1) *Sunlamp products.* The users' instructions for a sunlamp product shall contain:

(i) A reproduction of the label(s) required in paragraph (d)(1) of this section prominently displayed at the beginning of the instructions.

(ii) A statement of the maximum number of people who may be exposed to the product at the same time and a warning that ony that number of protective eyewear has been provided.

(iii) Instructions for the proper operation of the product including the function, use, and setting of the timer and other controls, and the use of protective eyewear.

(iv) Instructions for determining the correct exposure time and schedule for persons according to skin type.

(v) Instructions for obtaining repairs and recommended replacement components and accessories which are compatible with the product, including compatible protective eyewear, ultraviolet lamps, timers, reflectors, and filters, and which will, if installed or used as instructed, result in continued compliance with the standard.

(2) *Ultraviolet lamps.* The users' instructions for an ultraviolet lamp not accompanying a sunlamp product shall contain:

(i) A reproduction of the label(s) required in paragraph (d)(1)(i) and (2) of this section, prominently displayed at the beginning of the instructions.

(ii) A warning that the instructions accompanying the sunlamp product should always be followed to avoid or to minimize potential injury.

(f) *Test for determination of compliance.* Tests on which certification pursuant to § 1010.2 of this chapter is based shall account for all errors and statistical uncertainties in the process and, wherever applicable, for changes in radiation emission or degradation in radiation safety with age of the product. Measurements for certification purposes shall be made under those operational conditions, lamp voltage, current, and position as recommended by the manufacturer. For these measurements, the measuring instrument shall be positioned at the recommended exposure position and so oriented as to result in the maximum detection of the radiation by the instrument.

Interested persons may, on or before July 19, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-13449 Filed 5-19-83; 8:45 am]

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federal register

Friday
May 20, 1983

Part V

Department of Labor

Mine Safety and Health Administration

Safety Standards for Electricity

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Safety Standards for Electricity

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability of preproposal draft.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to existing electricity standards for the metal and nonmetal mining industry. MSHA seeks comment from all interested parties on the preproposal draft. Copies of the draft may be obtained by contacting the Agency.

DATE: Comments must be received on or before July 19, 1983.

ADDRESS: Send comments to the Office of Standards, Regulations, and Variances, MSHA, Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. The Agency is reviewing the standards to eliminate duplicative and unnecessary standards, provide alternative methods of compliance, reduce recordkeeping requirements, and upgrade provisions consistent with advances in mining technology.

MSHA believes this review will result in more effective regulations for assuring the safety and health of miners. The review is consistent with the specific goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (45 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to electrical hazards were included in the priority group.

On March 9, 1982, MSHA published a notice in the **Federal Register** announcing public conferences to discuss issues related to the standards under priority review. The Section .12 conferences were concluded in the Spring of 1982. During the conferences many commenters requested that the Agency make available a preproposal draft of the standards under review before issuing a proposed rule.

MSHA has now completed development of the preproposal draft for Section .12. In addition to revising the substance of the existing standards, the Agency has reorganized Parts 55, 56, and 57 into a single Part 58. This reorganization would eliminate the current repetition of identical standards in the Code of Federal Regulations. The proposed revisions designate each standard as: "General" (G), applies to both surface and underground mines; or "Surface" (S) applies to the surface areas of any mine; or "Underground" (U) applies to underground mines. These designations ensure that the standards will apply only to the appropriate types of operations, thus eliminating unnecessary duplication. In addition, the standards in Section .12 have been reorganized to provide more logical groupings and an index has been developed to enable ready reference among existing standard numbers and their new numerical designations.

The Agency requests comment on the substance of the preproposal standards, as well as on the reorganization of the standards. In addition, the Agency is interested in any economic data or other regulatory impact information commenters may wish to submit. A copy of the preproposal draft notice has been mailed to persons and organizations known to MSHA. A copy of the preproposal draft may be obtained by submitting a request to the address provided above. The draft document contains the Agency's recommended revisions, a comparison with existing provisions, and a summary explanation of the proposed changes.

Dated: May 17, 1983.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 83–13623 Filed 5–19–83; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
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Monday, May 23, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 83-067]

Exotic Newcastle Disease; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document releases a portion of Santa Clara County in California from the list of areas quarantined because of the existence of exotic Newcastle disease. Surveys indicate that exotic Newcastle disease no longer exists in such portion of Santa Clara County. Therefore, in order to relieve unnecessary restrictions, it is necessary to take this action.

EFFECTIVE DATE: May 17, 1983.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This document on an emergency basis amends 9 CFR Part 82 by releasing a portion of Santa Clara County in California from the areas quarantined because of exotic Newcastle disease, a communicable viral disease affecting all species of poultry and birds. Surveys indicate that exotic Newcastle disease no longer exists in this portion of Santa Clara County. It is therefore necessary, in order to relieve unnecessary restrictions, to release this area from quarantine. The restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Certification Under the Regulatory Flexibility Act

Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to exotic Newcastle disease concerning only one premises and this premises in not owned by a small entity.

List of Subjects in 9 CFR Part 82

Animal diseases, Exotic Newcastle disease, Poultry and poultry products, Quarantine, Transportation.

PART 82—[AMENDED]

Accordingly, 9 CFR Part 82 is amended as follows:

§ 82.3 [Amended]

1. In § 82.3(c)(2), relating to the State of California, the following premises is removed: 229 East St. Johns Street, San Jose, Santa Clara County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs.1–4, 33 Stat. 1264, 1265, as amended; Secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 17th day of May 1983.

Dale F. Schwindaman,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13087 Filed 5-20-83; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 81-051F]

Disposition of Condemned Poultry Carcasses and Parts

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends § 381.78 of the Federal poultry products inspection regulations by eliminating the requirement that poultry carcasses and any parts of carcasses condemned for disease, in an official establishment, be kept separate from poultry carcasses and parts of carcasses that are condemned for other causes. Official establishments will be permitted to keep all condemned poultry carcasses and parts of carcasses in the same container except those lots of poultry suspected of containing biological residues. This final rule removes the burdensome requirement that official establishments keep separate containers for condemned

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diseased poultry and other condemned poultry and allows more efficient operations by these official establishments.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT:
Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made an initial determination that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The final rule eliminates an unnecessary, burdensome requirement previously imposed on poultry slaughter establishments under Federal inspection.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). The final rule removes certain restrictions imposed on the regulated industries. Establishments are no longer required to maintain separate containers for carcasses condemned because of disease and carcasses condemned for other reasons. This final rule eliminates the separate container requirement and thus eliminates the possibility of any production delays due to an unnecessary requirement.

Background

Section 6 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 455) requires that all poultry carcasses and parts of carcasses found to be adulterated must be condemned and destroyed for human food purposes under the supervision of an inspector. Section 11 of the PPIA (21 U.S.C. 460) prohibits the sale, purchase, transportation, offer for sale or transportation, or receipt for transportation in commerce or import of any poultry carcasses, parts or products not intended for use as human food unless such articles are denatured or otherwise identified as required by regulations or are naturally inedible by humans.

Under these and other provisions of the PPIA, the Food Safety and Inspection Service (FSIS) promulgated regulations specifying the handling and disposal of condemned poultry in official establishments. Section 381.95 of the poultry products inspection regulations (9 CFR 381.95) lists the methods by which condemned poultry carcasses, parts or products must be disposed. Poultry which has been condemned for any reason, other than because it contains biological residues, must be steam treated (rendered), incinerated, chemically denatured, or treated with any other substance or method approved by the Administrator in specific cases. Poultry carcasses and parts which have been condemned for biological residues must be either incinerated or buried under USDA supervision.

However, for the purposes of handling condemned products prior to being made inedible, FSIS established a requirement in § 381.78 of the poultry products inspection regulations (9 CFR 381.78) that poultry carcasses and parts condemned because of disease be kept separate from poultry carcasses and parts condemned for other purposes. This required that the offical establishment provide at least two containers for condemned poultry on the inspection line, with the diseased condemned poultry going into one and the nondiseased condemned poultry in the other.

This provision requiring separation of condemned diseased poultry and nondiseased poultry was promulgated on May 16, 1972 (37 FR 9706), along with many other regulations, in an effort to comply with the extensive revision of the PPIA by the Wholesome Poultry Products Act in 1968. The original purpose for separating diseased from nondiseased condemned carcasses and parts is not set forth in the rulemaking. However, FSIS was concerned at that time that handling procedures in some establishment might allow diseased poultry carcasses and parts to spread infectious agents to health flocks if commingled with other condemned poultry which would be used for animal feed. Avian influenza, pullorum-typhoid, and other such diseases are highly infectious, and, given the frequent practice of using condemned carcasses, parts and products for animal feed purposes, separating the condemned carcasses and parts was deemed appropriate to permit special handling as may have been required by State animal disease officials.

The Proposal

The National Broiler Council recommended that FSIS eliminate the requirement for two condemnation cans because such a requirement is too restrictive.

The requirement for two containers is irrelevant in most establishments for two reasons. First, most of the larger establishments find it uneconomical to make distinctions between diseased carcasses and parts and those which were condemned for other reasons, such as contamination, death by other than slaughter, decomposition, or overscald. They dispose of both diseased and nondiseased condemned product in the same way, by rendering it as provided in § 381.95(a), which destroys any disease organisms and, therefore, eliminates the threat of the spread of the diseases to live poultry through the use of the condemned poultry in animal feed. Second, most establishments are not located in States with restrictive rules on the transportation of condemned, diseased poultry.

FSIS determined that the requirement that all establishments separate condemned poultry carcasses and parts into two containers, one for diseased and one for nondiseased product, was overbroad in its application and unnecessary for the implementation of the PPIA. Therefore, on August 9, 1982, FSIS published in the **Federal Register** (47 FR 34428) a proposal to eliminate the requirement that establishments keep separate those carcasses and parts of carcasses condemned because of disease from carcasses and parts of carcasses condemned for other causes. FSIS is retaining the requirement that carcasses and parts of carcasses condemned for biological residues must be keep separate from all other condemned carcasses or parts.

FSIS received two comments on the proposal—one from the National Broiler Council and one from the Poultry and Egg Institute of America. Both commenters favored the proposal and commended FSIS for proposing to eliminate such a burdensome, unnecessary requirement. Therefore, FSIS has determined to adopt the proposal as published.

The Final Rule

This final rule does not prevent an establishment from placing condemned material into as many different containers as it wishes to serve its special needs. For example, if an establishment wishes to set aside a specific kind of poultry condemned because of "plant error" for a specific purpose, such as animal food for a mink farm, it may have a separate container for such purpose. If an establishment wishes to appeal an inspector's disposition in accordance with § 381.35 of the Federal poultry products inspection regulations (9 CFR 381.35), it may provide a separate container to fulfill such purpose.

List of Subjects in 9 CFR Part 381

Condemned products, Poultry products inspection.

PART 381—[AMENDED]

Section 381.78 of the Federal poultry products inspection regulations (9 CFR 381.78) is revised as follows:

1. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C. 1254)

2. Section 381.78 (9 CFR 381.78) is amended by revising the title, by removing paragraph (b) and redesignating paragraph (c) as paragraph (b), and by revising the redesignated paragraph (b) to read as follows:

§ 381.78 Condemnation of carcasses and parts; separation of poultry suspected of containing biological residues.

* * * * *

(b) When a lot of poultry suspected to containing biological residues is inspected in an official establishment, all carcasses and any parts of carcasses in such lot which are condemned shall be kept separate from all other condemned carcasses or parts.

Done at Washington, D.C., on: May 11, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-13804 Filed 5-20-83; 8:45 am]
BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

[Amdt. to NCUA IRPS 82-3]

Amendment to Interpretive Ruling and Policy Statement; Membership in Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Amendment to Interpretive Ruling and Policy Statement (IRPS 82–3).

SUMMARY: In IRPS 82–3, effective April 21, 1982, the NCUA Board delegated to NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group. Where the multiple groups involve common bonds of occupation or association, they must be within a "well-defined area," as that phrase is defined by the Regional Director. This amendment would clarify that the Regional Director may include, in a definition of "well-defined areas," in IRPS 82–3, groups meeting all specified criteria but that are not only within a well-defined area of the home office but also are situated around an existing branch office of the Federal credit union.

EFFECTIVE DATE: May 23, 1983.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Deputy General Counsel or Todd Okun, Assistant General Counsel, at the above address, or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: In IRPS 82–3, effective April 21, 1982, the NCUA Board delegated to NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group. Where the multiple groups involve common bonds of occupation or association, they must be within a "well-defined area," as that phrase is defined by the Regional Director. Other standards must also be met, including a request for service from affected groups, proof that service can be provided and proof of economic feasibility and general advisability. A Federal credit union requesting such an expansion must be well-run and have a satisfactory performance record or its request will be denied.

At issue in a request for comments preceding this action was the requirement that the groups must be within a "well-defined area." Even though not specifically addressed in IRPS 82–3, each Regional Director has consistently applied a policy that restricted consideration of the "well defined area" when granting a multiple-group charter expansion, i.e., an existing credit union request to expand its field of membership to include another group is limited to groups within a "well-defined area" of the *home office* of the applicant. This Regional policy limited charter amendment requests and further resulted in automatic disapproval of requests to include groups that were beyond the "well-defined area" of the home office but within a "well-defined area" of an existing branch office. This amendment provides greater flexibility to credit unions within the statutory common bond constraint to expand their fields of membership and, obviously, provides credit union services to a greater number of people.

This policy that expansions within a "well-defined area" of existing branch offices be permitted will only occur if the branch office serves the existing field of membership. The latter distinction is significant because its purpose is not to encourage credit unions to establish branch offices for the purpose of adding groups. Rather, it is geared to provide credit unions with the flexibility to add groups that are within a "well defined area," as determined by the Regional Director, of a branch office that exists for the primary purpose of serving its existing field of membership.

Analysis of Comments

Of the 62 comment letters received, 58 supported the change in policy because it fosters the goal of providing credit union service to the greatest number of persons. These comments also raised one other issue for clarification, as discussed below.

All of the 4 commenters opposing the proposed amendment felt that the proposal was (1) not consistent with the principles of the common bond and (2) harmful to smaller Federal credit unions not having the capability to compete in a given locale where a branch office of a larger Federal credit union exists.

First, the NCUA Board is satisfied that this policy, as adopted, is in compliance with the principles of common bond found in Section 109 of the Federal Credit Union Act (12 U.S.C. 1759). Second, while the NCUA Board agrees that the adoption of this policy will increase competition among Federal credit unions, to add groups not now being served, this impact will be felt by large and small Federal credit unions alike. Better services, greater efficiency and, generally, a greater servicing of a greater number of members could be the

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result of competition. The NCUA Board does not feel that this necessarily puts smaller Federal credit unions at a disadvantage. Rather, it gives an advantage to the efficient and imaginative Federal credit union, regardless of size.

The issue raised by several commenters was exactly what constitutes a "branch office." More specifically, is an automated teller machine (ATM), for instance, a "branch office" for purposes of IRPS 82–3? It is the NCUA Board's view that the performance of any credit union function at a different locale does not cause that locale to become a branch office. It is the intent of the NCUA Board to consider a "branch office" to be any office associated with the home office of the Federal credit union where an employee accepts payment on shares *and* disburses loans i.e., where the basic business of a Federal credit union occurs. Therefore, ATM's would not constitute "branch offices" for purposes of IRPS 82–3. In addition, overdraft protection, would not, by itself, be considered the granting of a loan for purposes of IRPS 82–3.

Therefore, IRPS 82–3 is amended as follows. Under heading II, Multiple Group Charters, the third paragraph deals with the "first multiple group field of membership category," the subject of this amendment. The following sentences should be added to the end of that paragraph:

For purposes of this IRPS, a "well-defined area as determined by the Regional Director" may mean a well-defined area of both the home office and an existing branch office of a Federal credit union. In addition, the term "branch office" shall mean any office associated with the home office of a Federal credit union where an employee accepts payment on shares and disburses loans, including lines of credit but not including overdraft protection of ATM machines.

Of course, all other portions of IRPS 82–3 remain operative. The NCUA Board continues to find that IRPS 82–3, with the amendment herein adopted will result in fields of membership that meet the membership requirements of Section 109 of the Federal Credit Union Act (12 U.S.C. 1759).

List of Subjects in 12 CFR Part 701

Credit unions.

Dated: May 12, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-13784 Filed 5-20-83; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 700

Definitions; Limited Income Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final regulation.

SUMMARY: On March 16, 1983, 48 FR 11130, the National Credit Union Administration (NCUA) published for public comment a proposal to amend its defintion of low income credit unions to include those predominantly serving student members. The NCUA has adopted this change. The change will enable credit unions predominantly serving student members to accept insured share accounts from non-members, including local businesses, philanthropic organizations and others. These funds may in turn be used for loans to members, including students, and for other purposes.

EFFECTIVE DATE: May 12, 1983.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Harry Blaisdell, Director, Department of Administration, or Robert M. Fenner, Director, Department of Legal Services at the above address or telephone (202) 357–1055 (Mr. Blaisdell) or 357–1030 (Mr. Fenner).

SUPPLEMENTARY INFORMATION: Eight comment letters were received. Seven of the eight commentors supported the proposed addition to the regulation. Several commentors suggested that some limit be placed on the rule by defining "student". To clarify the Board's intent, student has been defined in the regulation as any member enrolled as a full-time or part-time student in a college, university, high school or vocational school. Two commentors suggested that the NCUA encourage or perhaps even mandate the involvement of school officials in the operation of student credit unions. The NCUA Board believes that school officials will take an interest in working with their student run credit unions without further regulation. Due to NCUA's policy of deregulation and belief that credit unions should manage their own affairs, no further regulations are promulgated at this time. The one commentor opposed to the proposed change reasoned that the poor track record in the collection of student loans indicates that student credit unions could incur losses that would result in liquidation, creating a drain on the Share Insurance Fund. The Board is convinced that with proper loan granting procedures, this change will support public policy goals without presenting undue risk to the insurance fund. Also, to eliminate any confusion, it should be noted shares attracted to a student credit union pursuant to this change may be loaned or invested in any manner that is lawful, and are not limited solely to making loans to students. After reviewing all of the comments, the NCUA Board has determined that the proposed change should be invoked defining students as members who are enrolled full-time or part-time in a college, university, high school, or vocational school.

Federal credit unions "serving predominantly low income members," as that phrase is defined by the NCUA Board are authorized pursuant to Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) to receive insured share, share draft and share certificate accounts from non-members. Section 700.1(i) of NCUA's regulations (12 CFR 700.1(i)) defines "predominantly" to mean a simple majority. The amended § 700.1(h) now defines "low income members" to include members below certain income levels published by the U.S Department of Labor, certain members residing in public housing projects, members who qualify as recipients in community action programs and members who are students as defined above. In both §§ 700.1(h) and 700.1(i) there was an incorrect reference to Section 101(4) of the Federal Credit Union Act. The amended sections have been corrected and now refer correctly to Section 101(5) of the Act.

The expanded definition of low income members allows credit unions serving predominantly student members, e.g. credit unions sponsored by colleges, high schools, vocational schools or universities or student groups thereof, to receive insured accounts from individuals, corporations and philanthropic organizations. These funds may in turn be used for student loans to members, including student members for books, tuition and housing, and for other permissible purposes. The expanded regulation will foster self-help among student credit unions.

Regulatory Flexibility Analysis

This rule will not have a significant impact on a substantive number of small credit unions (less than $1 million assets). Therefore, a Regulatory Flexibility Analysis is not required, 5 U.S.C. 605(b).

Effective date: This final rule is being made effective in less than 30 days because it relieves restrictions, 5 U.S.C. 553(d)(1).

List of Subjects in 12 CFR Part 700

Credit unions.

By the National Credit Union Administration Board on the 12th day of May, 1983.

(12 U.S.C. 1752(5), 1757(6), 1766(a))

Rosemary Brady,

Secretary of the Board.

PART 700—[AMENDED]

Accordingly, 12 CFR Part 700.1 (h) and (i) is revised as set forth below:

§ 700.1 [Amended]

* * * * *

(h) Pursuant to Section 101(5) of the Federal Credit Union Act, the term "low income members" shall include (1) those members whose annual income falls at or below the lower standard of living classification as established by the Bureau of Labor Statistics, U.S. Department of Labor, (2) those members who are residents of a public housing project who qualify for such residency because of low income, (3) those members who qualify as recipients in a community action program, and (4) those members who are enrolled as full-time or part-time students in a college, university, high school, or vocational school.

(i) As used in Section 101(5) of the Federal Credit Union Act, the term "predominantly" is defined as a simple majority.

* * * * *

[FR Doc. 83-13783 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule continues the 21% Federal credit union loan interest rate ceiling through November 12, 1984. The 21 percent ceiling was scheduled to expire on September 4, 1983. This rule is necessary because of interest rate fluctuations and continued high costs of funds for Federal credit unions.

DATES: Effective date: May 12, 1983. Expiration date: November 12, 1984 or as otherwise determined by the NCUA Board.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Director, Department of Legal Services or Vince Olive, Director, Department of Statistics, at the above address. Telephone numbers: (202) 357–1030 (Mr. Fenner); (202) 357–1065 (Mr. Olive).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221 raised the interest rate ceiling for Federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the NCUA Board to set a higher limit, after consultation with Congress and other Federal financial agencies, for a period not to exceed 18 months, if the Board should determine that (i) money market interest rates have risen over the preceding six months and (ii) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings and growth.

On December 3, 1980, the NCUA Board, having consulted with the appropriate Congressional committees, the Department of the Treasury, and other Federal financial regulatory agencies, determined that these conditions had been met. The Board therefore raised the interest rate ceiling to 21 percent for a nine month period. In subsequent actions, the Board extended the period governed by the 21 percent ceiling. The current 21 percent ceiling is scheduled to expire on September 4, 1983.

Economic Conditions

There are a number of possible definitions of "money market interest rates" as that term is relevant to Federal credit unions and any decision by the NCUA Board concerning the Federal credit union loan interest rate ceiling. The Board believes, however, that the best indicator of money market rates for this purpose is the actual cost of funds experienced by Federal credit unions.

The cost of funds to Federal credit unions during the previous six months has increased, presumably due to various factors including increased competition, deregulation of share account and deposit rate ceilings, and a reevaluation of the proper balancing of the interests of borrowers and savers. During 1981, the cost of credit union funds—total dividends plus interest on borrowed money—as a percent of average total savings and borrowed funds was 7.7%. During 1982, the cost of funds ratio rose to 8.36%, with most of the increase occurring in the last six months of the year. The increase in costs was the direct result of credit unions paying significantly higher dividend rates in 1982 than in 1981 and the increasing proportion of credit union savings held in interest sensitive type accounts. The average cost of regular shares to Federal credit unions in 1981 was 6.76% compared to 7.63% in 1982. In addition, credit unions had nearly $2.2 billion in IRA/Keogh and money market accounts as of December 31, 1982. The average rates paid on these accounts at year-end 1982 were 11.77% and 9.95% respectively.

Federal credit union assets and savings, on the average, grew at a relatively rapid pace during 1982 and the first three months of 1983. Liquidity also improved during 1982 due to rapid savings growth in relation to modest loan growth. However, loan demand is expected to increase as the economy continues to recover. This could lead to a significant drop in liquidity as has been the case during previous periods of economic recovery. In addition, if interest rates should increase above their current levels, Federal credit unions whose poor earnings will not permit them to pay competitive dividends could experience outflows of savings and a resulting decline in liquidity.

Below normal earnings during 1979 and 1980 prevented Federal credit unions from building their capital. The ratio of capital—regular reserves plus other reserves, the allowance for loan losses and retained earnings—to total assets declined from 6.2 percent to 6.0 percent from year-end 1979 to year-end 1980. Improved earnings during 1981 resulting from additional flexibility provided to Federal credit unions on loan rates and a modest increase in loans outstanding caused the capital ratio to increase. However, during 1982, the capital ratio declined slightly because earnings did not increase as rapidly as assets during the year. If the economy does not recover as expected, potential losses on credit union loans could erode capital.

Although credit union earnings were moderately higher than the previous year's earnings, they grew nearly 17 percent slower in the last six months of the year than they did during the January–July 1982 period. This resulted from the drop in market rates and an increase in cost of credit union funds that occurred over the last half of the year.

The trends in liquidity, capital earnings and growth are thus mixed and in a state of uncertainty when viewed on a system wide basis. Viewing individual cases, and supervisory problem cases in particular, a number of credit unions continue to suffer clearly adverse trends in all or many of these areas. Prevailing interest rate levels at

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most of these credit unions are in the 15–21 percent range for one or more categories of new loans. Thus, a lowering of the ceiling would necessarily reduce the earnings of these credit unions, stifle their recovery prospects and create or exacerbate adverse trends in capital and growth.

Accordingly, the NCUA Board has found that conditions exist warranting the continuation of a Federal credit union loan interest rate ceiling above 15 percent.

Extension of Interest Rate Ceiling

The NCUA Board is therefore extending the 21 percent interest rate ceiling for a period of 18 months from the date of this decision. Federal credit unions will continue to be able to charge interest rates of up to 21 percent per year on the unpaid balance inclusive of all finance charges. The ceiling will expire on November 12, 1984, unless otherwise ordered by the NCUA Board. The ceiling is being extended at this time in order to facilitate planning by credit union officials. Due to the time lag encountered in making changes to data processing systems and the time necessary to revise forms, without the change credit unions would now have to begin planning for the expiration of the interest rate ceiling. A delay in extending the ceiling could therefore result in additional costs being incurred by Federal credit unions.

The NCUA Board does not expect that this extension of the present ceiling will result in any increase in loan rates charged by Federal credit unions. Rather, the ceiling is being extended so that the board of directors of each credit union will continue to have the flexibility to react to economic conditions in the manner that is in the best interests of their members.

Regulatory Procedures

The NCUA Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C. 553(b)(B). Due to the need for a planning period and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, an immediate extension of the 21 percent interest rate ceiling is necessary. For these reasons and because the rule relieves a restriction, the Board has determined not to provide a delayed effective date, 5 U.S.C. 553d.

For the same reasons and because the change will increase the management flexibility and competitive positions of small credit unions, a regulatory flexibility analysis is not required, 5 U.S.C. 603(a), 604(a). Since the rule will relieve burdens and delays will cause unnecessary harm, the NCUA Board also finds that full and separate consideration of all the requirements of the Regulatory Simplification Act is impracticable. However, the NCUA Board has considered a number of these policies, as set forth in the preamble above.

Authority: 12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix), 1766.

List of Subjects in 12 CFR Part 701

Credit unions.

Accordingly, NCUA amends § 701.21–1A of its rules and regulations as set forth below.

Dated: May 12, 1983.

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

§ 701.21–1A [Amended]

Section 701.21–1A paragraph (c) is amended by replacing the date "September 4, 1983" with the date "November 12, 1984" each time it appears and by replacing the date "September 5, 1983" with the date "November 13, 1984" each time it appears.

[FR Doc. 83–13785 Filed 5–20–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AWP–1]

Alteration of Transition Area, Elko, Nev.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Elko, Nevada, 700 foot transition area by adding a circular extension. This amendment is necessary to provide additional controlled airspace for a new instrument approach procedure using the newly installed localizer (LOC) and distance measuring equipment (DME).

DATES: Effective 0900 G.m.t., September 2, 1983. Comments on the rule must be received by June 29, 1983.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP–530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6270.

FOR FURTHER INFORMATION CONTACT: Mateo M. Palenzuela, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, Telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a 700 foot transition area extension to provide controlled airspace for IFR operations. This amendment represents a change in the technical description of the transition area and imposes no greater constraints on the public than presently exists.

Request for Comments on the Rule

Although this action is in the form of a final rule and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking procedures to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Elko, Nevada, transition area by adding a circular extension which is predicated on the installation of the LOC and DME. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redesignate airspace based on the new approach navigational aids. Therefore, I find that notice or public procedure under 5 U.S.C. 353(b) is contrary to the public interest.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

§ 71.181 Elko, Nevada. [Amended]

Following * * * "above the surface within" add "a 9.5 mile radius of Elko Municipal Airport (latitude 40°49'35"N., longitude 115°47'20"W.) and within * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1955(c)0; and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on May 4, 1983.

Alex Hammond,

Acting Director, Western-Pacific Region.

[FR Doc. 83–13621 Filed 5–20–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–6]

Alteration of VOR Federal Airways; Albuquerque, NM, Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes certain alternate VOR Federal Airways and renumbers other alternate airway segments in the Albuquerque, NM, area. This action eliminates the assignment of alternate airway segments for the affected airways and supports the FAA's commitment to the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On March 24, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke V–12S between Zuni, NM, and Albuquerque, NM; (2) revoke V–421W between Gallup, NM, and Farmington, NM; (3) redesignate V–190S between St. Johns, AZ, and Albuquerque, NM, as V–234; (4) redesignate V–12S between Albuquerque, NM, and Anton Chico, NM, as V–234; (5) revoke V–83E between Otto, NM, and Sante Fe, NM; (6) revoke V–19W between Socorro, NM, and Albuquerque, NM; and (7) redesignate V–19E between Socorro, NM, and Albuquerque, NM, as V–187. This action will reduce chart clutter by eliminating airway segments that are no longer needed for flight planning or air traffic control and also support our commitment to ICAO to phase out alternate airway descriptions in the North American Airway System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. This amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes and/or renumbers certain alternate airway segments in the Albuquerque, NM, area.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 4, 1983, as follows:

V–12 [Amended]

By deleting the words ", including a south alternate via INT Zuni 104° and Albuquerque 253° radials" and ", including a S alternate from Albuquerque to Anton Chico via INT Albuquerque 103° and Anton Chico 249° radials".

V–190 [Amended]

By deleting the words ", including a south alternate via INT St. Johns 085° and Albuquerque 229° radials".

V–421 [Amended]

By deleting the words ", including a west alternate via INT Gallup 008° and Farmington 233° radials".

V–83 [Amended]

By deleting the words ", including an east alternate via INT Otto 019° and Santa Fe 117° radials".

V–234 [Amended]

By deleting the words "From Anton Chico, NM;" and substituting for them the words "From St. Johns, AZ, via INT St. Johns 085° and Albuquerque, NM, 229° radials; Albuquerque; INT Albuquerque 103° and Anton Chico, NM, 249° radials; Anton Chico;".

V–19 [Amended]

By deleting the words ", including a W alternate via INT Socorro 343° and Albuquerque 199° radials, and also an E alternate via INT Socorro 015° and Albuquerque 160° radials".

V–187 [Amended]

By deleting the words "From Albuquerque, NM, via" and substituting for them the words "From Socorro, NM, via INT Socorro 015° and Albuquerque, NM, 160° radials; Albuquerque;".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial

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number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 17, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-13786 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

[T.D. 83-116]

Tariff Classification of Footwear

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final position and guidelines.

SUMMARY: This document sets forth: (1) Customs position regarding the proper interpretation of provisions in the Tariff Schedules of the United States pertaining to imported footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper, and (2) guidelines relating to the characteristics of foxing and a foxing-like band.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Custom Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8161).

SUPPLEMENTARY INFORMATION:

Background

By notice published in the **Federal Register** on January 25, 1982 (47 FR 3375), Customs solicited public comments regarding: (a) The interpretation of the exclusionary parenthetical clause in the superior heading to item 700.56, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), pertaining to imported footwear having "foxing or a foxing-like band" applied or molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate tariff entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties. Interested parties were given until March 26, 1982, to submit comments on the proposal. Pursuant to a request to extend the period of time for the submission of comments, Customs published a notice in the **Federal Register** on March 22, 1982 (47 FR 12194), extending the period of time to April 26, 1982.

Because of the numerous substantive and conflicting comments received in response to the more significant issue to question (a) relating to foxing, question (b) relating to the issue of entireties was treated separately. Question (b) was the subject of a document prepared for publication in the **Federal Register**, in which Customs held that moon boots with separable liners are entireties for tariff purposes.

The issue raised in question (a) of what constitutes "foxing or a foxing-like band, " which is the subject of this document, has become more critical with the advent of the new TSUS classifications that replaced item 700.60, TSUS. Shoes which were dutiable at 20 percent ad valorem now demand a rate from 37.5 percent to 67.4 percent (equivalent rate) depending on whether Customs finds them to (1) have "foxing or a foxing-like band" of (2) in the case of slip-on type shoes, have "a foxing or a foxing-like band wholly or almost wholly of rubber plastics."

In view of the many divergent opinions held by the importing community, the domestic shoe industry, and Customs officers regarding the meaning of the terms "foxing" and "foxing-like band", Customs decided to solicit comments on the understanding of these terms within the footwear industry and the effect of such understanding on the tariff classification of footwear. Twenty-five comments were received in response to the notice of January 25, 1982. There follows a summary of these comments and Customs analysis and position, including Customs guidelines on the characteristics of foxing and a foxing-like band.

Position of Domestic Shoe Industry

The basic thrust of the arguments set forth on behalf of the domestic shoe industry is that the "foxing" language of the tariff schedules should be broadly construed.

(1) Position of Domestic Shoe Industry: "Foxing" Concepts

It is asserted that the language of the TSUS "foxing" provisions is broad enough to cover two basic concepts of foxing, namely "heel cap" foxing and "sole/upper reinforcement" foxing.

The basic purpose of both types of foxing is to reinforce the shoe at a point of particular wear of stress (*i.e.*, the back of the heel or the sole/upper juncture) and thus assure the shoe's structural integrity. The "heel cap" type of foxing has its classic application in traditional leather shoemaking while the "sole/upper reinforcement" type developed with the advent of the use of non-leather materials in footwear manufacture.

(2) Position of Domestic Shoe Industry: Foxing-Like Band

There is no standard trade definition for the term "foxing-like band." However, it is necessarily broader in scope than "foxing." Webster's New International Dictionary 2d. ed. (1943), p. 1431, defines "like" as an adjective:

> Having the same, or nearly the same, appearance, qualities or characteristics, similar;

Webster's New Twentieth Century Dictionary 2d. ed. (1961), p. 1048, defines "like" as:

> Similar, having the same or nearly the same qualities, characteristics, etc.

Therefore, a "foxing-like band" has the same, or nearly the same appearance, qualities or characteristics of "foxing." It follows that something which is molded to look like "foxing" is "a foxing-like band" even if it performs no function whatsoever. Undoubtedly, Congress understood this, and used "foxing-like band" to broaden the historical protection afforded the domestic shoe industry through the foxing parenthetical exception. A non-functional design or structural feature which simulates the appearance of "foxing" is "a foxing-like band."

(3) Position of Domestic Shoe Industry: Unit Molded Construction

The use of unit molded bottoming materials (*i.e.*, plastic or rubber bottoms in which the heel and sole are molded as a single unit) has grown in importance in recent years in connection with the production of both leather and non-leather footwear, especially so-called "casuals."

Unit molding encompasses two distinct manufacturing processes. In pre-molded construction, a pre-formed molded unit sole is separately attached to the upper after lasting. In direct molding, the molded sole is, at the time of its formation, molded directly to the assembled and lasted upper in a single step. When the soling compound is introduced into the mold in liquid form, the process is often called "direct injection molding." In both, there is by design a "foxing or a foxing-like band * * * molded at the sole and overlapping the upper."

In order to make the shoe conform to the shape of the wearer's foot as well as to disperse the tension exerted on the sides of the upper by the sole during wearing, lasts [*i.e.*, the foot-shaped forms around which shoes are constructed] are uniformly engineered with varying degrees of convex curvature along the bottom (sole side) of the last. Unit molded soles are unique in that they are always specifically engineered to contain a "cupping radius," that is, a concave curvature along the top surface of the mold corresponding to the numerous points of radius of the bottom of a specific last. Because a cupping radius is present, the unit sole appears roughly U-shaped in cross section. The "U-shape" permits the sole to ensconce the lasted upper, thus assuring total superposition and complementary adhesion of sole and upper. It should therefore be obvious that the cupping radius in unit molded footwear is indicative of "foxing or a foxing-like band." Clearly, the cupping radius is integral to the formation of foxing. Without the cupping radius, the shoe would be structually unstable at the juncture of sole and upper.

The Customs Service has held that particular unit molded shoes had "foxing or a foxing-like band * * * molded at the sole and overlapping the upper" for the reason that the shoes involved have a unit sole with a lip or flange which extended well above the feather line.

According to the domestic shoe industry, this line of reasoning, to wit, presenting the issue of "overlap" as a question of degree and of external appearance, is erroneous for several reasons. First, the TSUS language does not specify that a certain amount of overlap must be present, nor does it require "foxing or a foxing-like band" to resemble foxing on the outside of a sneaker. The TSUS requires only that foxing or a foxing-like band be present, and that there be "overlap of the upper."

Second, the presence of a lip or flange is sufficient, but not a necessary condition of having a foxing. If there is a lip or flange, there will be foxing, but a lip or flange need not be present for there to be a foxing. A lip or flange is an extension of the foxing in a unit molded sole. The foxing itself is present in the sole because the unit molded bottom is U-shaped in cross section.

A foxing or foxing-like band in a unit molded sole may "overlap the upper" in either or both of two ways. First, the foxing could, by virtue of an extended lip or flange, extend above the feather line.

There can be no doubt that, in such a case, the foxing of the unit sole would "overlap the upper." But in addition to this type of overlap, a unit sole will always "overlap the upper" by virtue of its cupping radius, even if no lip or flange is present. In the shoe industry, "upper" is more than the shoe material above the feather line which is exposed to view in the finished product. Upper also includes a "lasting allowance" of material which is turned under at the feather line and secured to the bottom of the insole and the top of the molded unit sole. Because a unit sole is, by virtue of its cupping radius, U-shaped in cross section, there will always be an overlap of the upper below the feather line.

Customs has always taken the position that a foxing-like band "overlaps the upper" only when it overlaps the exterior surface area of the upper (*i.e.*, extends above the feather line). There is no basis in reason or law for restricting the foxing exclusion in this manner. While the feather line test is implicit in the expressed statutory requirement that Customs classify footwear on the basis of the proportional composition of the "exterior surface area" of the upper, the foxing exclusion contains no such language. Thus, Congress must have recognized that a foxing need not extend over the feather line to accomplish its function of reinforcing and supplementing the attachment of sole and upper. While indeed the vast majority of unit molded footwear does have a lip or flange extending above the feather line, all unit molded footwear has a cupping radius or "U-shape" which creates, in the plain sense of the term, an "overlapping of the upper."

(4) Position of Domestic Shoe Industry: Slip-lasted (California) Construction

The slip-lasted (California) construction is utilized mainly for casual shoes and sandals; a classic example is a fabric, leather or plastic casual shoe, either closed upper or open toe/open back, with an insole or unit blended insole, an outsole, wedge or heel.

The slip-lasted method is similar to autoclave construction in that it incorporates a foxing or functional foxing-like band as an intrinsic design feature. As with autoclaved footwear, the purpose of this foxing or foxing-like hand is to provide structural integrity to the shoe by reinforcing the attachment of the sole and upper.

It is argued that the incorporated foxing strip constitutes a "foxing or a foxing-like band applied * * * at the sole and overlapping the upper." The material resembles a traditional sneaker foxing and serves the function of a foxing, namely, the securing and reinforcement of the attachment of the sole to the upper. Thus, the foxing furnishes the major connection between upper and sole. Moreover, it is clear that a slip-lasted foxing or foxing-like band is a distinct component "applied at the sole and overlapping the upper." Although the production process requires that the foxing strip first be stitched to the upper material and then cemented or otherwise attached to the bottom of the unit blended insole assembly, it is certainly "applied * * * at the sole" inasmuch as it is secured between insole and outsole, as in the traditional autoclaved sneaker. Furthermore, because the foxing strip is stitched at a point above the insole and then turned down, there will necessarily be an "overlapping of the upper."

(5) Position of Domestic Shoe Industry: Legislative Intent

An analysis of the legislative history of the 1963 TSUS foxing provision demonstrates that:

(1) Congress intended the provision to have an application coextensive with its broad commercial meaning;

(2) Congress must be presumed to have known that in 1963, the term "foxing" was not confined in meaning to the vulcanized band characteristic of sneakers;

(3) The 1960 Tariff Commission Study's specific mention of a sneaker-like vinyl shoe in describing the intent of the foxing exclusion does not imply that the exclusion of such shoes exhausted the intent of the exception; and

(4) To the contrary, the broad language chosen and Congress' manifest desire to maximize the protection afforded the domestic rubber footwear industry by making all shoes competitive with U.S. made footwear subject to the American Selling Price (ASP), convincingly shows that Congress intended the TSUS language to apply to all footwear containing any type of foxing or foxing-like bands.

(6) Position of Domestic Shoe Industry: Trade Agreements Act of 1979

An expansive meaning of the foxing provision is also supported by Congress' use of language in recent statutory amendments which is similar to the foxing language found in item 700.55, TSUS.

Specifically, item 700.60, TSUS, was replaced with items 700.57 through 700.71, TSUS. These new item numbers became effective on July 1, 1981. One of the new TSUS items (700.59) and the superior heading to three others (700.61-700.63) contain foxing language similar to that in the superior heading to items 700.54 and 700.56, TSUS. In the case of the headings to items 700.61-700.63, TSUS, the language is nearly identical. However, item 700.59 contains a similar

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foxing exclusion with a significant modification which specifies that the foxing or foxing-like band be wholly or almost wholly of rubber.

The March 1981 Summary of Trade and Tariff Information on Rubber Footwear (USITC Publication 841) explains that items 700.61–700.63, TSUS, were "primarily intended to cover joggers." A true "jogger" (a shoe designed for running) has a sole containing a wedge heel which is attached to the upper with cement only and overlaps the upper only at the heel and toe (unlike a traditional sneaker). These shoes are not unit molded and the soles are not molded to a specific last.

The popularity of the true "joggers" has spawned an injection molded variety. Injection molding requires the use of a specific last with numerous points of radius and necessarily incorporates a cupping radius and a foxing or foxing-like band within the mold. The manifest prupose of the exclusionary language of the headings to items 700.61–700.63, TSUS, is to assure that these cheaper molded shoes are dutied at the generally higher rates applicable to items 700.64–700.71, TSUS, the general "other" category, which includes sneakers and tennis shoes and all others having "foxing or a foxing-like band."

The International Trade Commission report (USITC Publication 841) also explained that one of the various shoe types covered by item 700.59, TSUS, is the so-called "espadrille." Imported varieties of these slip-on casuals are made using a variety of contruction techniques, including the slip-lasted (California) construction method and are distinguished by the fabric (usually jute) band securing the attachment of the sole to the upper. It is important to note that the language of item 700.59, TSUS, impliedly recognizes that regardless of how the espadrille is constructed this jute band is, in fact, a foxing or foxing-like band, for it specifically excludes from coverage under item 700.59, TSUS, only those shoes having a "foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper;" by negative implication, a shoe with foxing of fabric (*e.g.* jute) remains classifiable under item 700.59, TSUS.

Clearly, a slip-lasted shoe containing a plastic rather than jute foxing strip contains a type of foxing which disqualifies it from classification under item 700.59, TSUS. Because a shoe containing foxing of any composition may not be classified under items 700.61–700.63, TSUS, the only alternative is to classify such a shoe under items 700.64–700.71, TSUS, the general "other" category which includes sneakers. Similarly, if the upper of the slip-lasted shoe is over 90 percent by surface area of rubber or plastics, it may not be classified under item 700.56, TSUS, because of the general foxing exclusion contained in the superior heading to that item. The only alternative is to classify such a shoe under items 700.64–700.71, TSUS.

In the Trade Agreements Act of 1979 (Pub. L. 96–39, section 223(b), 93 Stat. 144, 204), Congress used foxing language substantially similar to that employed in 1963, but in particular contexts which convincingly negate the suggestion that the phrase "foxing or foxing-like band" was or is confined to the type of vulcanized rubber sole/upper reinforcement characteristic of sneakers. Rather, these recent TSUS amendments conclusively demonstrate that the foxing language has consistently been intended to have broad application to all types of foxing or foxing-like bands.

(7) Position of Domestic Shoe Industry: Moon Boots

One of the commenters representing the domestic shoe industry noted that a moon boot involved in the foxing issue is a unit sole construction having a pre-molded unit sole stitched to a non-molded upper. The sidewalls of the unit sole extend upward from the sole bottom for several inches before being stitched, at the top of the sidewall, to a non-molded upper. Customs, in Ruling Nos. 051928 and 062391, dated December 1, 1977, and September 14, 1979, respectively, found that the sidewalls of the moon boot did not overlap the upper and consequently classified it under item 700.56, TSUS.

However, according to the commenter, in Ruling No. 056047, dated June 21, 1978, Customs found that a practically identical moon boot, except that the stitched-in lining extended down below the insole, had a foxing which overlapped the upper and therefore classified it under item 700.60, TSUS. In so doing, Customs apparently concluded that a pre-molded unit sidewall overlaps the upper only if the sidewall extends above the point on a shoe at which Customs considers the exterior surface area of the upper to begin, to wit, at the bottom of the insole. Nothing in the statute, its legislative history, or any judicial decision gives the slightest suggestion that the overlapping of the upper by the foxing must only occur at the insole.

Plainly, the test should not depend on where the overlapping occurs, but rather if there is any overlapping of the upper by the foxing, for that is what the tariff provision requires.

There is only one reasonable and logical way of construing the foxing exclusionary clause in a fashion which is consistent with its legislative history and does not expand upon the words of the provision itself. The overlapping of the upper can occur at any point where the upper material is overlapped by the foxing, whether that be at, below, or above, the insole.

One commenter states that a moon boot having a band with the appearance of a foxing molded into the unit bottom at the point where the sole/upper joint would ordinarily be, possesses a "foxing-like" band. The same would be true if the boot possesses simulated "heel cap" foxing.

Another commenter would exclude from classification under item 700.56, TSUS, a moon boot having a raised cast in the mold design which is molded at the sole, overlaps the upper (the remainder of the sidewall over which the raised design is superimposed), and presents a foxing-like appearance.

Position of Importers

The major premise underlying the arguments presented on behalf of the importers is that the foxing provisions of the TSUS should be interpreted narrowly.

(1) Position of Importers: Legislative Intent

Some importers take the position that the limited legislative history confirms the fact that the only footwear to be affected by the exclusionary language was confined to the traditional sneaker or tennis shoe.

Other importers take a more liberal view asserting that the exclusionary language which precedes item 700.56, TSUS, was intended by Congress to preclude classification in that provision and its predecessors of imported footwear with plastic uppers "having the general outward appearance of the traditional sneaker or tennis shoe."

One commenter expressed the view that the legislative intent was accurately expressed in the following excerpt from the March 1981 Summary of Trade and Tariff Information on Rubber Footwear (USITC Publication 841).

> Item 700.59 provides for slip-on footwear and footwear with open toes or open heels. Items 700.61–700.63 provide for footwear that is held to the foot with the use of laces, buckles, or other fasteners and that is of cement construction and is primarily intended to cover joggers. Items 700.64, 700.67, 700.69, and 700.71 provide for similar footwear of other than cement construction, and primarily covers sneakers or tennis shoes. Item 700.57 in the new nomenclature provides for certain protective footwear.

Another commenter pointed out that the limited scope of the phrase "foxing or foxing-like band" is confirmed in the August 1979 analysis of the Multilateral Trade Negotiations (MTN) Customs Valuation Agreement, which confirms that the intent was to separate sneaker type shoes (TSUS items 700.64–700.71) from joggers (TSUS items 700.61–700.63) through the utilization of foxing terminology. (Committee on Finance, U.S. Senate MTN Studies 6, Part 2, p. 78).

In order to reinforce their position that an exclusionary clause in the tariff schedules should be narrowly interpreted, several commenters noted that it is of special significance that the Customs Court [now the Court of International Trade] found that an exception clause in a statute must be strictly construed in accordance with the legislative purpose underlying the statute. *International Seaway Trading Corp.* v. *United States*, 69 Cust. Ct. 144, C.D. 4385 (1972); *Canadian Pac. Ry. Co.* v. *United States*, 73 F.2d. 831, 834 (CCA 9, 1934).

(2) Position of Importers: Common and Commercial Meaning

It is a fundamental principle of customs law that tariff terms are to be construed in accord with their common meaning except that a different commercial meaning shall prevail in the absence of a clearly expressed legislative intent to the contrary.

The common meaning of the term "foxing" connotes trim added to the upper of a shoe. However, the common meaning is limited to leather footwear.

It is claimed that the common meaning was not intended by Congress because only rubber soled footwear is involved and the exclusionary language covers only those forms of foxing applied or molded at the sole and overlapping the upper.

The term "foxing" has a different more precise meaning, a commercial designation, which applies to rubber soled footwear with fabric uppers. A commercial designation which differs from the common meaning prevails over the common meaning. *American Express Co.* v. *United States*, 10 Ct. Cust. Appls. 295, T.D. 38680 (1920).

Commercial designation is established through sworn testimony of those experienced in buying and selling the merchandise at wholesale. *Daniel Green Shoe Co.* v. *United States*, 58 Cust. Ct. 7, C.D. 2868 (1967) Appeal dismissed, 54 CCPA 143 (1977). It is also established through reference to published materials such as the American Footwear Industries Association pamphlet entitled "The Art and Science of Footwear Manufacturing" (New York 1974), which defines the foxing in issue. See *Dolliff & Company Inc.* v. *United States*, 59 CCPA 101, C.A.D. 1047 (1972).

Based on such sworn testimony and reference to published materials defining foxing, it has been established that the commercial meaning or the trade understanding of the term "foxing" is that it is a strip wrapped around a shoe at the point where the upper and sole are joined. It is a component separate from either the sole or the upper and secures the sole or bottom and upper.

One commenter noted that a different definition for foxing exists. That definition is found in a B. F. Goodrich Company pamphlet entitled "Canvas Rubber and Koroseal Footwear Definitions" (1959). Foxing in that publication is described as:

> A thin narrow strip of material wrapped around the shoe upper, where it is joined with the outsole, which is folded under before attaching the outsole to the upper.

It is claimed that this type of foxing does not fall within the exclusion because it does not overlap the upper, which connotes an extension from one location to another. In this "foxing under" method the strip does not extend to the upper, but merely covers the upper, therefore, there is no overlap.

(3) Position of Importers: Characteristics of Foxing

A foxing is a strip of material which has the following characteristics:

(1) Is separate from the sole or upper;

(2) Covers and secures the joint between the sole and upper;

(3) Overlaps the upper and covers the juncture between the sole and upper. [One commenter suggests that the overlap should be significant and readily discernible to the eye, and should be more than *de minimus*. Anything less than ⅛ inch "overlap" should be considered *de minimus*];

(4) Is a band, *i.e.*, "a strip serving to join, hold together or integrate two or more things * * * a thin, flat encircling strip, strap, or flat belted material serving chiefly to bind or contain something";

(5) Encircles the entire shoe;

(6) Is attached by vulcanizing. [Another commenter states that foxing may be attached by any means including cement, stitching, vulcanizing or molding];

(7) Excludes components known by another name clearly recognized in the trade, such as mock welts, toe bumpers, mud guards, wedge wraps, California construction, and platform wraps; and

(8) Excludes unit molded bottoms.

In doubtful cases it is appropriate to look at the general class of footwear intended to be covered by the tariff provisions involved in order to avoid a result which is obviously not in harmony with legislative intent.

(4) Position of Importers: Characteristics of a Foxing-Like Band

(1) There is no trade understanding or commercial designation for the term "foxing-like band."

(2) Some of the briefs submitted on behalf of shoe importers indicate that a foxing-like band must be a separate component. Other submissions maintain that there need not be a separate band. For example, foxing-like bands may be found on many sneakers with rubber or plastic uppers including shell molded and injected molded varieties.

(3) A foxing-like band does not secure the joint between sole and upper. However, there is disagreement among the importers on this point. One commenter asserts that a foxing-like band must itself reinforce or supplement the juncture between the sole and upper of the footwear or must so closely simulate that function as to cause a person to reasonably believe that the foxing-like band is there solely for the purpose of reinforcement or to supplement.

(4) A foxing-like band must be applied or molded at the sole and must overlap the upper.

(5) A foxing-like band may be attached by methods other than vulcanization.

(6) The term "foxing-like" does not mean a "simulated" foxing, but instead applies to that which has the same, or mearly the same appearance, qualities, or characteristics as a true foxing appearing on a traditional tennis or sneaker-type shoe.

(7) The common meaning of the term "foxing-like band" is that it differs from "foxing" per se only with respect to functionality.

(8) A foxing-like band is usually cemented rather than molded.

(5) Position of Importers: Interpretation of Phrase "Molded At"

The phrase "molded at" does not cover injection molded processes. Rather, it describes processes in which a foxing, created separate from the sole, is vulcanized to the sole and upper rather than merely cemented. As used in the parenthetical exception, molded is a synonym for vulcanized.

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The phrase "molded at" does not require that the commercial meaning of the term "foxing", as a component separate from the sole or upper, be abandoned. Properly understood, it compliments the commercial meaning. Reading "molded at" as a synonym of vulcanized is consistent with the legislative history which clearly explains the parenthetical exception as a description of the traditional sneaker or tennis shoe, a form of footwear constructed with a foxing.

(6) Position of Importers: Footwear With Unit Molded Soles

Footwear with unit molded soles do not have a foxing or a foxing-like band for the following reasons:

(1) There is no band which is applied to or molded at the sole.

(2) There is no strip separate from the sole or upper.

(3) To the extent that the molded sole overlaps the upper and covers the juncture between the sole and the upper, such overlap is *de minimus*.

(4) The overlap is not functional, but rather a result of stylistic considerations.

(5) The appearance of casual footwear made by this construction is foreign to sneakers and other athletic footwear.

In Customs ruling No. 068764 dated August 14, 1981, footwear with a unit molded bottom was said to have a foxing because the sole extended higher than the point at which the upper turned under the insole.

The importers assert that footwear with unit molded soles has neither a foxing nor a foxing-like band. The so-called foxing is in reality a part of the sole. It is not a separate component. It is not a band. It is not applied or molded at the sole. It is a part of the sole. The lip or edge of the sole cannot cover the seam between the sole and the upper because it creates that seam.

With respect to the lip, another commenter maintains that the lip does not perform the function of a foxing in that it does not overlap the upper as foxing does nor does it strengthen the joint between the upper and sole. Such strengthening is unnecessary because of the cement process.

Another commenter claims that evidence that a lip is not foxing is found in the headnote to item 700.61, TSUS, et seq. There are two exception clauses designed to separate "joggers" from sneaker type shoes, "footwear having a foxing or foxing-like band applied to or molded at the sole and overlapping the upper" and "footwear with soles which overlap the upper other than at the toe or heel." If, in fact, a lip or ridge which is in effect part of the molded shell bottom of an injected molded piece of footwear is foxing or a foxing-like band, there would be no need for the second exception of soles overlapping the upper. In fact, this second exception correctly describes a product in which the sole extends upward so that it may overlap the upper and clearly indicates such construction is not properly defined as "foxing or a foxing-like band."

(7) Position of Importers: Footwear of the Slip-lasted (California) Construction

Footwear of the slip-lasted (California) construction does not contain a foxing or a foxing-like band within the established definition for the following reasons:

(1) The strip of material, or wrap does not secure the joint between the sole or upper. In fact, the strip does not overlap the sole at all,

(2) The strip or wrap cannot be said to be a "foxing-like band" since without covering the juncture between the sole and the upper it cannot be said to simulate functional "foxing", and

(3) The appearance of casual footwear made by this construction is foreign to "sneakers" and other athletic-type footwear.

(8) Position of Importers: Mud Guards, Wedge Wraps, Platform Wraps, Etc.

Mud guards, wedge wraps, platform wraps, etc., are entirely stylistic and do not function as foxing or simulate foxing. They do not come within the purview of the exclusionary language for the following reasons:

(1) These features are known in the trade as "mud guards," "wedge wraps," "platform wraps," etc., rather than as "foxing or foxing-like bands";

(2) These features do not cover or secure the joint between the sole and the upper; and

(3) Perhaps most important, these constructions are foreign to "sneakers" and other athletic-type footwear and, therefore, fall outside the tariff understanding of the term "foxing or foxing-like band".

(9) Position of Importers: Moon Boots

Moon boots do not contain a foxing or a foxing-like band for the following reasons:

(1) They are not within the class of footwear which Congress intended to protect;

(2) There is no separate piece of material used to join the bottom of the boot to the upper or which is used to strengthen the joint between the sole and the upper as those terms are understood by Customs and the moon boot industry;

(3) If one considers the joint between the sole and the upper to be the point where the insole ends, the sides of the molded shell bottom simply constitute the joint itself and are not applied separately as a foxing; and

(4) If one considers the juncture between the sole and upper to be the point where the pre-molded shell bottom ends and the stitched portion of the boot begins, there is, again, no piece of material reinforcing this joint.

A plastic non-functional lip or ridge molded parallel to the sole of the one piece bottom should not be considered foxing for the following reasons:

(1) There is no structural difference between the one piece molded shell bottoms which have the ridge and those that do not. Where a ridge exists, it is there for purely stylistic purposes and has no useful function;

(2) Not only does the lip not serve to cover the joint between the sole and upper, it does not overlap the sole, rather it is part of the bottom. Where a lip exists in the molded shell bottom, it is usually a decorative strip half-inch to an inch above the sole. This has no structural or functional resemblance to a foxing or foxing-like band; and

(3) The lip or ridge bears no resemblance to the foxing or foxing-like band found on sneakers or tennis shoes.

It has also been pointed out that in some instances because the bottom of the ornamented strip is above the insole platform it is a part of the upper and therefore cannot overlap itself.

The classification of a vinyl upper plastic shell bottom moon boot should not depend on the existence or position of a ridge which has no practical function, nor on basic design characteristics which have no component recognizable as foxing.

Customs Position

The relevant TSUS provisions provide as follows—

Footwear (whether or not described elsewhere in this subpart) which is over 50 percent by weight of rubber or plastics or over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber or plastics:

* * * * *

Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):

Having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having *foxing* or a *foxing-like band* applied or molded at the sole and overlapping the upper) (emphasis added):

700.54—Zoris (thonged sandals).

700.56—Other.

* * * * *

700.59—Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except footwear having a *foxing* or *foxing-like band* wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper (emphasis added).

Other:

700.61–.71 Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); the foregoing except footwear having a *foxing* or *foxing-like band* applied to or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel: (emphasis added)

The first issue to be resolved relates to a determination of the meaning of the terms "foxing" or "foxing-like band" as they pertain to rubber soled footwear with fabric uppers.

It is a cardinal principle of customs law that tariff terms are to be construed in accordance with their common meaning unless there is a different commercial meaning. In such cases, the latter shall prevail in the absence of a clearly expressed legislative intent to the contrary. *Jas. Akeroyd & Co. et al* v. *United States*, 15 Ct. Cust. Appls. 440, T.D. 42641 (1928); *United States* v. *Fung Chong Co.*, 34 CCPA 40, C.A.D. 342 (1964).

The common meanings of the term "foxing" as the term is traditionally used, have been defined as follows:

A piece of leather put on the upper leather of the shoe along the edge next to the sole. Funk and Wagnalls' New Practical Standard Dictionary (1958).

A piece of material applied to the upper or extending around the outsole of a boot or shoe. Webster's Third International Dictionary (1961).

These common or traditional definitions of foxing relate to leather footwear. Inasmuch as the provision covers foxing applied or molded at the sole and overlapping the upper, it is clear that Congress did not intend that the term "foxing" be construed in accord with its common meaning. In view of this inconsistency, it is equally clear that Congress went beyond the common or traditional meaning of the term "foxing" and adopted a more precise meaning found in the commercial designation of the term as it applied to rubber soled footwear with fabric uppers. A commercial designation which differs from the common meaning prevails over the common meaning. *American Express Co.* v. *United States, supra.*

Commercial designation may be shown through reference to trade publications. See *Dolliff & Company Inc.* v. *United States, supra.* For example, relevant definitions from trade publications are as follows:

With rubber soled canvas upper shoes, foxing is usually a strip of rubber covering the joint between the sole and upper. The Art and Science of Footwear Manufacturing (American Footwear Industries Association 1974).

A thin narrow strip of material wrapped around the shoe upper, where it is joined with the outsole, which is folded under before attaching the outsole to the upper. B. F. Goodrich Company pamphlet entitled "Canvas Rubber and Koroseal Footwear Definitions" (1959).

The above-cited definitions encompass the commercial or trade understanding of foxing. However, it is contended that the B. F. Goodrich definition does not fall within the exclusionary language because the strip does not overlap the upper, which connotes an extension from one location to another. It is Customs view that the B. F. Goodrich definition satisfies the exclusionary language because the strip can be considered as being applied at the sole, noting that it is folded under at the juncture of the sole and upper and it does extend upward thus overlapping the upper. It also acts to reinforce or supplement the juncture of the sole and upper.

The term "foxing-like band" has no commercial meaning. The meaning of "like" in customs usage connotes articles having the same, or nearly the same appearance, qualities, or characteristics. *Japan Import Co.* v. *United States*, 24 CCPA 167, T.D. 48642 (1936).

Thus, a foxing-like band has the same, or nearly the same appearance, qualities, or characteristics of foxing. It follows that something which is molded to look like "foxing" is "a foxing-like band" even if it performs no function. Undoubtedly, Congress used the term "foxing-like" to broaden the historical protection afforded the domestic industry through the foxing parenthetical exception.

Specifically, in using the term "foxing-like band", it is apparent that Congress intended to include rubber and plastic footwear that is not constructed with a traditional separate functional foxing. For example, certain injection molded sneakers have foxing-like bands. Upon compeletion, there exists a strip which covers what appears to be (but is not in fact) the joint between the upper and the sole. Unlike foxing, the foxing-like band is not a separate component but appears in all respects to be one. Thus, the foxing-like band envisioned by Congress applied to footwear constructed in a manner so that the end result was a shoe appearing to have the traditional foxing.

A sneaker with a shell bottom construction also has a foxing-like band. In that construction the sole is made or molded in one process and, rather than being merely the bottom or outsole portion, the molding process results in a cup-like unit (the sole) into which the upper is glued and sometimes sewn. The molded shell when affixed to the upper resembles in appearance and position a separately applied functional foxing.

The second issue relates to a determination of the types and characteristics of footwear which Congress intended to exclude from item 700.55, TSUS, the original predecessor provision to item 700.56, TSUS.

The Tariff Classification Study, Schedule 7, Explanatory and Bankground Materials (November 15, 1960), at page 214, contains the only direct reference to the parenthetical exception and reads as follows:

The parenthetical exception "except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper" in item 700.55 is designed to ensure the classification in item 700.60 of a style of imported shoe with plastic coated uppers but having the general outward appearance of the traditional "sneaker" or tennis shoe.

In C.I.E. 187/64, dated January 31, 1964, Customs categorically stated that the parenthetical exception in item 700.55, TSUS, refers specifically to the traditional sneaker or tennis shoe.

The foregoing interpretation of the parenthetical exception was modified by Customs in C.I.E. 187/64 supp. #1, dated April 19, 1966, which was abstracted as T.D. 66–47(8). In that ruling, Customs took the position that footwear of the type normally classifiable under item 700.55, TSUS, but which have a functional or non-functional foxing or foxing-like band applied or molded at the sole and overlapping the upper, are precluded from classification under item 700.55 whether or not of the traditional "sneaker" or tennis type.

It remains Customs opinion that C.I.E. 187/64 reflects the correct interpretation of the exclusionary language. This view is further buttressed by the language found in item 700.59, TSUS, one of the replacement item numbers for item 700.60, TSUS, added by the Trade Agreements Act of 1979, which reads as follows:

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Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except *footwear having a foxing or foxing-like band wholly or almost wholly or rubber or plastics applied or molded at the sole and overlapping the upper.* (Emphasis added).

A reading of item 700.59, TSUS, which includes casual footwear of the slip-on type, indicates that such footwear may contain "a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper." Consequently, it follows that the exclusionary language is not directed solely to sneakers or tennis type shoes.

Although the parenthetical exception in item 700.55, TSUS, was not limited by the legislative history to the traditional sneaker or tennis shoe, a limitation was contained therein. Specifically, shoes subject to the exclusionary language must have "the general outward appearance of the traditional "sneaker" or tennis shoe." It is apparent that the distinguishing feature or the essence of this general outward appearance was the presence of *a visible outside foxing.* (Emphasis added).

It is contended by the domestic interests that Congress must be presumed to have known in the early 1960's that foxing was used in and was a characteristic of a variety of shoes including slip-lasted and unit molded construction and intended that such constructions would fall within the parenthetical exception. In fact, the claim is also made that the language applies to all footwear containing any type of foxing or foxing-like bands. Further, the fact that this legislative history specifically mentioned a sneaker-like vinyl shoe in describing the intent of the foxing exclusion does not imply that the exclusion of such shoes exhausted the intent of the exception.

A fair reading of the legislative history of the parenthetical exception in item 700.55, TSUS, quoted previously, gives no indication that all foxing constructions were to be encompassed by the exception. It is obvious that if Congress had intended to include all types of foxing, such an intention would have been clearly expressed in the legislative history.

Further, it appears that an expansive interpretation of the parenthetical exception runs contrary to judicial precedent. See *International Seaway Trading Corp.* v. *United States*, 69 Cust. Ct. 144, C.D. 4385 (1972) and *Canadian Pac. Ry. Co.* v. *United States, supra*, which, as noted earlier, expressed the principle that an exception clause in a statute must be strictly construed in accordance with the legislative purpose underlying the statute.

Inasmuch as the foxing on the traditional sneaker or tennis shoe visibly overlapped the upper, Customs must necessarily conclude that unit molded footwear with plastic uppers do not, per se, have the type of visible outside foxing contemplated by the statute and consequently do not fall within the parenthetical exception.

It is also Customs view that footwear of the slip-lasted (California) construction does not contain foxing or a foxing-like band. This is so because this type construction does not exhibit a visible foxing which resembles that found in the traditional sneaker or tennis shoe. Consequently, such footwear does not contain foxing or a foxing-like band for tariff purposes.

The third issue relates to a determination of whether moon boots of a particular construction possess foxing or a foxing-like band.

The moon boot involved is a type of footwear designed to protect the feet from snow and cold. It is often worn as an "apres-ski" boot. It has a pre-molded rubber/plastic shell bottom, the sides of which extend up to 4 inches from the sole. This shell bottom is ultimately stitched to a polyurethane upper. An inserted polyfoam liner is permanently stitched at the top of the polyurethane upper. There are no design features such as a lip or ridge molded in the shell bottom which could be considered a foxing-like band.

This type of moon boot was the subject of an American manufacturer's petition asking that it be reclassified under item 700.60, TSUS, or item 700.53, TSUS. That request for reclassification was rejected by Customs in T.D. 81–79, published in the **Federal Register** on April 13, 1981 (46 FR 21741).

One commenter has renewed the argument that this type of moon boot possesses foxing or a foxing-like band and consequently should be excluded from classification under item 700.56, TSUS. Customs will not now address the argument because its position in this matter is clearly established in T.D. 81–79.

A claim has been advanced that the above-described moon boot with the addition of a design feature such as a lip or ridge in the form of a band molded on the shell bottom at the point where the sole/upper juncture would ordinarily be, possesses a foxing-like band which would exclude it from classification under item 700.56, TSUS.

An analysis of the parenthetical exception indicates that for the design feature in the form of a band to be considered a foxing-like band, it must be molded at the sole and must also overlap the upper. It is noted that for definitional purposes, the sole and upper can be separately conceived. However, in actuality, that portion of the shell bottom where the design feature is placed is an integral part of the combined sole and upper. The design feature molded in the shell bottom can be considered as being molded at the sole because part of the feature lies below the point where the sole/upper juncture would ordinarily be. However, this design feature cannot be said to overlap the upper because it is an integral part of the combined sole and upper. Consequently, the design feature described cannot be considered a foxing-like band for tariff purposes.

Summary of Customs Position

(1) Footware of unit-molded construction does not, per se, contain foxing or a foxing-like band for tariff purposes.

(2) Footware of slip-lasted (California) construction does not possess foxing or a foxing-like band for tariff purposes.

(3) Moon boots of the type described in T.D. 81–79 and those with a lip or ridge molded in the shell bottom, do not have foxing or a foxing-like band for tariff purposes.

Customs Guidelines Relating To Characteristics of Foxing and a Foxing-Like Band

The following gidelines relating to the characteristics of a foxing or a foxing-like band are set forth as an aid to Customs officers in classifying specific footware constructed with foxing.

Characteristics of a Foxing

1. A foxing is a trip of material which is separate from the sole and upper.

2. A foxing secures the joint between the sole and upper. It covers the joint but there may be other footware with a "foxing under" which does not cover the joint as in the B. F. Goodrich definition of foxing previously cited.

3. A foxing must overlap the upper and the overlap must be readily discernible.

4. A foxing is a band, *i.e.*, a strip serving to join, hold together or integrate two or more things * * * a thin, flat encircling strip, strap, or flat belted material serving chiefly to bind or contain something.

5. A foxing must encircle or substantially encircle the entire shoe.

6. A foxing may be attached by cementing, stitching, or vulcanizing.

7. A foxing does not include components known by another name clearly recognized in the trade such as mock welts, toe bumpers, wedge wraps, and platform wraps.

8. However, a mud guard may meet the definition of a foxing. It is usually applied at the sole and folded under at the juncture of the sole and upper and it does extend upward overlapping the upper. It also acts to reinforce or supplement the juncture of the sole and upper.

Characteristics of a Foxing-like Band

There is no trade understanding or commercial designation for the term "foxing-like band."

1. The term "foxing-like" applies to that which has the same, or nearly the same appearance, qualities, or characteristics as the foxing appearing on the traditional sneaker or tennis shoe.

2. A foxing-like band need not be a separate component.

3. A foxing-like band may or may not secure the joint between the sole and upper.

4. A foxing-like band upper must be applied or molded at the sole and must overlap the upper.

5. A foxing-like band must encircle or substantially encircle the entire shoe.

6. A foxing-like band may be attached by any means.

7. Unit molded footwear is considered to have a foxing-like band if a vertical overlap of ¼ inch or more exists from where the upper and the outsole initially meet, measured on a vertical plane. If this vertical overlap is less than ¼ inch, such footwear is presumed not to have a foxing-line band.

Drafting Information

The principal author of the document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: May 6, 1983.

William von Raab,

Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury

[FR Doc. 83-13809 Filed 5-20-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

Construction and Maintenance; Contract Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is amending its regulations which prescribe requirements for the letting of contracts in order to implement provisions mandated by section 112 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 112 of the STAA of 1982 amends 23 U.S.C. 112 to require the construction of each project by contract awarded by competitive bidding unless the State highway agency (SHA) demonstrates that some other method is shown to be more cost effective. Section 112 also limits the applicability of the waiver provisions contained in 23 U.S.C. 112(e) by excluding projects where employees of a political subdivision of a State are working on the project outside of such political subdivision. The regulations contained in 23 CFR Part 635 which implement 23 U.S.C. 112 are revised to reflect the statutory amendments.

EFFECTIVE DATE: This final rule is effective January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Chief, Construction and Maintenance Division, (202) 426–0392, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426–0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424, 96 Stat. 2097). Section 112 of the STAA of 1982 amended 23 U.S.C. 112 which prescribes requirements for the letting of Federal-aid highway contracts. Prior to enactment of the STAA of 1982, 23 U.S.C. 112 required a contract be awarded by competitive bidding unless the Secretary of Transportation found that some other method would be in the public interest. Section 112 of the STAA of 1982 now requires that a contract be awarded by competitive bidding unless the SHA demonstrates, to the satisfaction of the Secretary, that some other method is cost effective.

Also prior to enactment of the STAA of 1982, contracts for projects on the Federal-aid secondary system in those States where the Secretary has discharged his responsibility pursuant to 23 U.S.C. 117 were excluded from the contract requirements of 23 U.S.C. 112. Section 112 of the STAA of 1982 limits this exception as provided in 23 U.S.C. 112(e). For those Federal-aid secondary system projects where employees of a political subdivision of a State are working on a project outside of such political subdivision, the contract requirements will now apply.

The Contract procedures for Federal-aid contracts as required by 23 U.S.C. 112 are implemented by 23 CFR Part 635. Those regulations which must be revised due to the enactment of section 112 of the STAA of 1982 are contained in §§ 635.104, 635.105, 635.202 through 205, and 635.309(e). A summary of the revisions to the existing provisions are as follows:

Discussion of Amendments

Subpart A—Contract Procedures

(1) Section 635.104, *Method of construction.*

This section is revised to reflect the statutory requirements for a finding of cost effectiveness as it relates to determining the method of construction.

(2) Section 635.105(b)(2), *Supervising agency.*

This section requires that the SHA certify that the work of project supervision and construction that is performed by a local public agency is cost effective as required by section 112 of the STAA of 1982.

Subpart B—Force Account Construction

(1) Section 635.202, *Application.*

This section incorporates the exception to the applicability of the waiver provisions provided in 23 U.S.C. 112(e) as mandated by section 112 of the STAA of 1982. This subpart will not apply to projects constructed under a Certification Acceptance Plan in those States where the Secretary has discharged his responsibility pursuant to 23 U.S.C. 117 except where employees of a political subdivision of a State are working on a project outside such political subdivision.

(2) Section 635.203, *Definitions.*

This section adds the definition of the term "cost effective."

(3) Section 635.204, *Determination of more cost effective method.*

This section replaces the provisions for determining the public interest with provisions for determining cost effectiveness as they relate to

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justification for the selection of a method of construction other than by competitive bidding.

(4) Section 635.205, *Finding of cost effectiveness.*

This section is revised to reflect the statutory requirements for a finding of cost effectiveness as it relates to the performance by force account (method other than competitive bidding) of the adjustment of railroad or utility facilities and similar type facilities owned or operated by a public agency, railroad, or a utility company. This section also simplifies the definitions of the adjustments of railroad facilities and utilities. The title "division engineer" is replaced by the title "Division Administrator" whenever it appears in this section so as to reflect a previous change in title. The process for requesting construction by force account is revised to reflect the justification of cost effectiveness.

Subpart C—Physical Construction Authorization

Section 635.309, *Authorization.*

This section is revised to require that an affirmative finding of cost effectiveness be made when construction by some method other than contract based on competitive bidding is contemplated.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the amendments in this document are being issued for the purpose of literally complying with Section 112 of the STAA of 1982 and do not reflect interpretation of statutory language, public comment is impracticable and unnecessary. Therefore, the FHWA finds good cause to make the amendments final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. The statutory language incorporated in the regulation requires no interpretation and provides for no administrative discretion. In addition, the economic impact, if any, of this rulemaking action will be minimal. However, any impact would be positive as reflected by the requirement of cost effectiveness. Accordingly, a full regulatory evaluation is not required.

In consideration of the foregoing, and under the authority of 23 U.S.C. 315; Section 112, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2106; and 49 CFR 1.48(b), the FHWA is amending Part 635, Subparts A, B, and C of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs apply to this program)

List of Subjects in 23 CFR Part 635

Government contracts, Grant programs—transportation, Highways and roads.

Issued on: May 17, 1983.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

The Federal Highway Administration hereby amends Title 23, Code of Federal Regulations, Chapter I, Part 635, as set forth below.

PART 635—CONSTRUCTION AND MAINTENANCE

1. In § 635.104, paragraphs (a) and (b) are amended by changing the title "division engineer" to read as "Division Administrator" each time it appears in the text, and by revising the first sentence of each paragraph to read as follows:

§ 635.104 Method of construction.

(a) Except as provided in paragraph (b) of this section, or unless the State highway agency demonstrates to the satisfaction of the Division Administrator that some other method is more cost effective, actual construction work shall be performed by contract awarded to the lowest responsible bidder.* * *

(b) When the Division Administrator finds that it is cost effective, construction work may be performed by some method other than by contract awarded by competitive bidding pursuant to requirements and procedures prescribed by him or her.* * *

2. In § 635.105, paragraph (b)(2) is revised to read as follows:

§ 635.105 Supervising agency.

* * * * *

(b) * * *

(2) The State highway agency certifies that the work performed by the local public agency is cost effective.

* * * * *

3. Section 635.201 is revised to read as follows:

§ 635.201 Purpose.

The purpose of this subpart is to prescribe procedures in accordance with 23 U.S.C. 112(b) for a State highway agency to request approval that highway construction work be performed by some method other than contract awarded by competitive bidding.

4. Section 635.202 is revised to read as follows:

§ 635.202 Application.

This subpart applies to all Federal-aid and other highway construction projects financed in whole or in part with Federal funds and to be constructed by a State highway agency or a subdivision thereof in pursuant of agreements between any other State highway agency and the Federal Highway Administration (FHWA). This subpart does not apply to projects constructed under a Certification Acceptance Plan in those States where the Secretary has discharged his/her responsibility pursuant to 23 U.S.C. § 117, except where employees of a political subdivision of a State are working on a project outside such political subdivision.

5. Section 635.203 is amended by adding a new paragraph (e) to read as follows:

§ 635.203 Definitions.

* * * * *

(e) The term "cost effective" shall mean the efficient use of labor, equipment, materials and supplies to assure the lowest overall cost.

6. Section 635.204 is amended by changing the heading to read "Determination of more cost effective method" and by revising paragraphs (a) and (b) to read as follows:

§ 635.204 Determination of more cost effective method.

(a) Congress has expressly provided in the cited legislation that the contract method based on competitive bidding shall be used by a State highway agency or county for performance of highway work financed with the aid of Federal funds unless the State highway agency demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective.

(b) It may be found cost effective for a State highway agency or county to undertake a federally financed highway construction project by force account when a situation exists in which the rights of responsibilities of the community at large are so affected as to require some special course of action, including situations where there is a lack of bids or the bids received are unreasonable.

7. Section 635.205 is amended by changing the heading to read "Finding of cost effectiveness" and by revising paragraph (a)(1) to read as follows:

§ 635.205 Finding of cost effectiveness.

(a) * * *

(1) By reason of inherent nature of the operations involved, it is cost effective to perform by force account the adjustment of railroad or utility facilities and similar type facilities owned or operated by a public agency, a railroad or a utility company, provided that the organization is qualified to perform the work in a satisfactory manner. The installation of new facilities shall be undertaken by competitive bidding except as provided in § 635.205 (b) and (c). Adjustment of railroad facilities shall include minor work on the railroad's operating facilities routinely performed by the railroad with its own forces such as the installation of grade crossing warning devices, crossing surfaces, and minor track and signal work. Adjustment of utility facilities shall include minor work on the utility's existing facilities routinely performed by the utility with its own forces and includes minor installations of new facilities to provide power, minor lighting, telephone, water and similar utility services to a rest area, weigh-station, movable bridge, or other highway appurtenance, provided such installation cannot feasibly be done as incidental to major installation project such as an extensive highway lighting system.

8. Section 635.205(a)(2) is amended by changing the title "division engineer" to read as "Division Administrator."

9. Section 635.205 is amended by revising paragraphs (b) and (c) to read as follows:

§ 635.205 Finding of cost effectiveness.

* * * * *

(b) When a State hightway agency desires that highway construction work financed with the aid of Federal funds, other than the kinds of work designated under § 635.205(a) or projects constructed under an approved Certification Acceptance Plan, be undertaken by force account, it shall submit a request to the Division Administrator identifying and describing the project and the kinds of work to be performed, the estimated costs therefor, the estimated Federal funds to be provided, and setting forth the reason or reasons that force account for such project is considered to be cost effective.

(c) The Division Administrator shall notify the State highway agency in writing of his/her determination that under the circumstances relating to the project, force account is or is not found to be cost effective.

10. Section 635.309 is amended by revising paragraph (e) to read as follows:

§ 635.309 Authorization.

* * * * *

(e) An affirmative finding of cost effectiveness has been made as required by 23 U.S.C. § 112, in case construction by some method other than contract based on competitive bidding is contemplated.

* * * * *

(Sec. 112, Pub. L. 97–424, 96 Stat. 2097; 23 U.S.C. 112, 315; 49 CFR 1.48(b)).

[FR Doc. 83–13807 Filed 5–20–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 450

[Docket No. R–83–1076]

Evictions From Certain Subsidized and HUD-Owned Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule clarifies the Department's intent that evictions of tenants from certain subsidized and HUD-owned projects be effected solely by judicial action. This rule requires the landlord to advise the tenant, in a termination notice, that the tenant is entitled to a court proceeding pursuant to State or local law at which he or she may present a defense to the eviction. The landlord is prohibited from resorting to "self-help" evictions or any non-judicial process, even where these actions are authorized by State or local law. This rule is procedural only, and does not alter in any way the grounds for which the landlord may terminate a tenancy.

DATES: Effective date: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not before further notice of the effective date is published in the **Federal Register.** Comments must be received by July 22, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–5654. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 24 CFR Part 450 sets forth procedures for the termination of occupancy of tenants residing in multifamily housing projects subsidized under section 221(d)(3) (BMIR) or section 236 of the National Housing Act, the Rent Supplement Program under section 101 of the Housing and Urban Development Act of 1965, the Program of Housing for the Elderly or Handicapped under Section 202 of the Housing Act of 1959, or the Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages under Subpart A of 24 CFR Part 886. These procedures also apply to all HUD-owned multifamily projects, regardless of whether they were subsidized before HUD acquisition. The procedures do not apply where the termination of occupancy is a result of a proposed substantial rehabilitation or demolition of the project.

There exists some question concerning whether these regulations allow landlords to evict tenants from subsidized multifamily projects by self-help or non-judicial process, if so authorized by State or local law. 24 CFR 450(a)(3) currently requires that a landlord's termination notice advise the tenant "that *if* a judicial proceeding for eviction is instituted the tenant may present a defense" (emphasis added). However, the regulations are intended to require landlords to effect evictions only through court proceedings, notwithstanding State or local law to the contrary.

The question of whether HUD regulations permitted eviction by self-help or non-judicial process became an issue, indirectly, in a recent Federal District Court class action entitled *Love*

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v. *HUD*, Civ. No. 80–1041 B (W.D. Pa.). The evictions which gave rise to that litigation were by judicial process. However, the leases contained provisions waiving all rights to pre-eviction notices. The District Court entered an order on November 4, 1981, directing the Secretary to promulgate interim or final regulations assuring that unconscionable lease provisions are not contained in leases with tenants included in the class represented by plaintiffs. An interim rule pursuant to this order was published on July 23, 1982 (47 FR 31868). The District Court entered a further order on December 22, 1981, directing the Secretary to amend 24 CFR 450.4(a)(3) to require that the landlord's notice of termination advise the tenant that the landlord may seek to enforce the termination and evict the tenant only through a judicial proceeding at which the tenant may present a defense. (Other portions of the District Court's order not pertinent to this rulemaking proceeding were appealed by the Department and reversed. *Love* v. *HUD*, No. 82–506 (3d Cir. March 31, 1983).

In order to remove uncertainty about the Department's prohibition of self-help evictions and evictions through non-judicial processes and in compliance with a District court's order, the interim rule amends paragraph (a) of § 450.4 to require that the termination notice advise the tenant that the landlord may seek to enforce the termination of tenancy only by bringing a judicial action, at which time the tenant may present a defense. It also amends § 450.6 to prohibit expressly the landlord from evicting any tenant except by judicial action pursuant to State or local law.

The interim rule also makes a number of technical changes to Part 450. Section 450.1 is amended to delete outdated and superfluous language and to cross reference (for the reader's convenience) 24 CFR 882.215—the termination of tenancy procedures for tenants assisted under the Section 8 Existing Housing Program. Existing § 450.4 requires the landlord to send a tenant notice of termination by first class mail and to serve a copy of the notice on any adult answering the door of the leased unit. Section 450.4(b)(2) permits the landlord to place the termination notice under or through the door if service cannot be made on an adult at the tenant's unit. However, building codes in some localities require that doors be effectively sealed, making service as prescribed by § 450.4(b)(2) impossible. Therefore, § 450.4(b) is amended to permit affixing the notice to the door of the leased unit in the event the notice cannot be placed under or through the door.

The rule also makes technical, clarifying changes to present § 450.4(g) (dealing with the grounds for termination of occupancy a landlord may assert in a judicial action) and § 450.6 (dealing with the relationship between State and local law and the provisions of Part 450). Existing § 450.4(g) is incorporated in § 450.6(b) and is reworded in the positive, to make clear that the landlord must rely on grounds which were set forth in the termination notice and may not rely on any other grounds, unless he or she had no knowledge of them when the notice was sent. The language which constituted § 450.6 in its entirety is now contained in § 450.6(c), and has been rewritten to clarify that the tenant may rely on State or local law where that State or local law provides procedural rights which are in addition to those provided by the regulations.

Because this revision primarily clarifies that a landlord must institute a judicial action in order to proceed on an eviction and because the principal revision is directed by an outstanding court order, the Department has determined that a delay of effectiveness of the rule until receipt and consideration of public comments is unnecessary and notice and prior public procedure are contrary to the public interest. However, the Department is providing 60 days for submission of public comment on all aspects of this interim rule. Relevant comments and suggestions will be considered in the adoption of a final rule. This rule is procedural only and does not alter in any way the grounds for which the landlord may terminate a tenancy. Other changes are necessary technical and editoral changes.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (46 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. It is intended only as clarification of existing departmental policy regarding tenant evictions, and thus should have no significant economic impact.

The Catalogue of Federal Domestic Assistance Programs numbers and titles are 14.137, Mortgage Insurance-Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate; 14.103, Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families; 14.149, Rent Supplements-Rental Housing for Lower Income Families; 14.157, Housing for the Elderly or Handicapped; and 14.140, Low Income Housing-Assistance Program.

List of Subjects in 24 CFR Part 450

Low and moderate income housing, Tenant eviction.

PART 450—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

Accordingly, 24 CFR Part 450 is amended as follows:

1. By revising "§ 450.6 State and local law" in the table of contents to read as follows:

Sec.

* * * * *

450.6 Eviction.

2. By revising § 450.1 to read as follows:

§ 450.1 Applicability.

Except as provided in §§ 450.5 and 450.6(c), the provisions of this subpart shall apply to all decisions by a landlord to terminate the occupancy of a tenant in a subsidized project as defined in § 450.2(e). (For a tenant assisted under the Section 8 Existing Housing Program, see 24 CFR 882.215).

3. By revising paragraphs (a) and (b) of § 450.4 to read as follows:

§ 450.4 Termination notice.

(a) *Requisites of Termination Notice.* The landlord's determination to terminate the tenancy shall be in writing and shall: (1) State that the tenancy is terminated on a date specified therein; (2) state the reasons for the landlord's action with enough specificity so as to enable the tenant to prepare a defense; (3) advise the tenant that if he or she remains in the leased unit on the date specified for termination, the landlord may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense; and (4) be served on the tenant in the manner prescribed by paragraph (b) of this section.

(b) *Manner of Service.* The notice provided for in paragraph (a) of this section shall be accomplished by: (1) Sending a letter by first class mail, properly stamped and addressed, to the tenant at his or her address at the project, with a proper return address, and (2) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be deemed effective until both notices provided for herein have been accomplished. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first class letter provided for in this paragraph is mailed, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

* * * * *

4. By removing paragraph (g) of § 450.4.

5. By revising § 450.6 to read as follows:

§ 450.6 Eviction.

(a) *General.* The landlord shall not evict any tenant except by judicial action pursuant to State or local law and in accordance with the requirements of this subpart.

(b) *Limitations on allegations of new grounds.* In any judicial action instituted to evict the tenant, the landlord must rely on grounds which were set forth in the termination notice served on the tenant under this subpart. The landlord shall not, however, be precluded from relying on grounds about which he or she had no knowledge at the time the termination notice was sent.

(c) *State and local law.* A tenant may rely on State or local law governing eviction procedures where such law provides the tenant procedural rights which are in addition to those provided by this subpart, except where such State or local law has been preempted under 24 CFR Part 403 or by other action of the United States.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: April 28, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83–13805 Filed 5–20–83; 8:45 am]

BILLING CODE 4210–27–M

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–83–1086]

Community Development Block Grants; State of Hawaii Small Cities Program

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends 24 CFR Part 570, Subpart F, which governs the HUD-administered Small Cities Program for community development block grants, to add special procedures applicable only to the state of Hawaii. The new rule eliminates the current competitive procedure for allocating funds for the Small Cities Program in the State of Hawaii, and establishes a new distribution formula for that State. Factors unique to Hawaii, such as the small number of eligible applicants and the small amount of money distributed, make the current competitive system unnecessary, and it is expected that this new rule will facilitate a more efficient and predictable distribution of Small Cities Program funds.

DATES: Effective date: After expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not until the effective date that HUD will publish in a future issue of the **Federal Register**. Comment due date: July 22, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Letters should refer to the above docket number and title. A copy of each comment received will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, Small Cities Division, Office of Comunity Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6322.

SUPPLEMENTARY INFORMATION: 24 CFR Part 570, Subpart F, establishes a competitive application process and a National Selection System for the HUD-administered Small Cities Program which is intended to ensure that the best projects are funded. However, factors unique to the State of Hawaii, such as the relatively small amount of funds provided and the fact that the only applicants eligible for funding under the Small Cities program are three counties, make a competitive system unnecessary in that State. Therefore, HUD has determined that the formula used for allocating funds to the State of Hawaii contained in Section 106(d)(1)(A) of the Housing and Community Development Act of 1974, as amended, is also a logical and equitable basis for distributing those funds to eligible applicants under the Small Cities Program in Hawaii. A major advantage will be the predictable level of community development funding, subject to possible adjustments based on the applicant's performance. HUD is adding a new § 570.435 to Subpart F to implement this special procedure.

Except as otherwise provided in the new § 570.435, the policies and procedures contained in 24 CFR Part 570, Subpart F, will continue to apply to applicants in Hawaii. Generally, an applicant must ensure that all of the activities in its program address at least one of the broad national objectives described in § 570.420(k). Further, no grant will be made to an applicant that fails to meet the threshold requirements of § 570.423(c). Any funds that become available for reallocation would be distributed to the remaining eligible applicants on a pro rata basis and would be subject to the performance factors in § 570.435(c)(1)(ii). Each applicant must also comply with the citizen participation requirements of § 570.431.

During the drafting of this rule, comments were solicited from the three eligible counties in the State of Hawaii which would be affected by the rule.

One commenter suggested listing in § 570.435(b) the specific sections in Subpart F that are not applicable to the State of Hawaii. That process was considered in developing this rule; however, the Department feels that Section 570.435 is sufficiently clear in stating the applicable requirements and

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that to incorporate in § 570.435(b) the specific exclusions from Subpart F would be overly cumbersome.

The commenter further recommended that applicants comply with the Subpart F requirements for single purpose grantees. The Department believes that this would unnecessarily limit the flexibility of applicants in developing their program and prefers to continue to make available to applicants the option of developing their programs in the manner that best addresses their needs.

The commenter also recommended that grantees be given the flexibility to amend their programs under an imminent threat situation, with notification to the Area Office within a specified time. A grantee may amend its program under the amendment process in § 570.434, with prior approval by HUD. Therefore a specific amendment process for imminent threat is not considered necessary. Another commenter questioned the applicability of § 570.434(a)(1) to this section, since grants would not be awarded on a competitive basis, and would not have to be rerated. In response to this concern, a new paragraph § 570.435(d)(4) has been added to specify that § 570.434(a)(1) does not apply.

The Honolulu Area Office will notify applicants by certified mail of the dates for submission of applications and amounts for which they may apply. Applications must be submitted in a form prescribed by HUD.

As noted above, the three eligible counties in the State of Hawaii have already reviewed and commented on a draft of this amendment, and their comments have been considered in the development of this interim rule. Accordingly, the Secretary has found that prior notice and public procedure are unnecessary and that good cause exists for publishing this amendment as an interim rule, to become effective without a prior public comment period.

However, the Department is soliciting post-publication comments from the public on this amendment. All comments received within the 60-day comment period following publication of the interim rule will be considered by the Department in preparation of the final rule implementing this amendment.

The Secretary has also determined that, for the reasons stated above, good cause exists for exempting the interim rule from the 30-day delay in effectiveness required by 5 U.S.C. 553(d). However, the Section 7(o) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs.

The Secretary has requested the appropriate waivers by the Chairmen and Ranking Minority Members but, at the time of publication of this interim rule, it is not known whether or when such waivers will be granted. Therefore, notice of the effective date of this interim rule will be published in a future issue of the **Federal Register**.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes are procedural in nature, and the amount of funds available to the applicants remains the same, with minimal adjustments in the amounts for which each applicant may apply.

This rule was not listed in the Department's most recent Semi-Annual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Small Cities Program is listed in the Catalog of Federal Domestic Assistance as program number 14.219, Community Development Block Grants/Small Cities Program.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2506-0060.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, 24 CFR Part 570, Subpart F, is amended by adding a new § 570.435, to read as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart F—Small Cities Program

§ 570.435 Special procedures applicable to the State of Hawaii.

(a) *General.* This section shall apply to the HUD-administered Small Cities Program in the State of Hawaii.

(b) *Scope and applicability.* Except as otherwise provided in this section, the policies and procedures contained in this Subpart shall apply to the HUD-administered Small Cities Program in the State of Hawaii.

(c) *Grant amounts.* (1)(i) *Grant amount.* For each eligible unit of general local government, a formula grant amount shall be determined which bears the same ratio to the total amount available for the nonentitlement area of the State as the weighted average of the ratios between:

(A) The population of that eligible unit of general local government and the population of all eligible units of general local government in the nonentitlement areas of the State;

(B) The extent of poverty in that eligible unit of general local government and the extent of poverty in all the eligible units of general local government in the nonentitlement areas of the State; and

(C) The extent of housing overcrowding in that eligible unit of general local government and the extent of housing overcrowding in all the eligible units of general local government in the nonentitlement areas of the State.

In determining the average of the ratios under this paragraph, the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once. (0.25 + 0.50 + 0.25 = 1.00.)

(ii) Grant amounts under this section may be adjusted where an applicant's performance is judged inadequate, considering:

(A) Capacity to utilize the grant amount effectively and efficiently;

(B) Substantial compliance with the applicant's schedule or schedules submitted in each previously funded application;

(C) Compliance with other program requirements based on monitoring visits and audits.

(iii) Applicants shall be advised by certified mail of the date for submission of applications and of amounts of grants to be provided.

(2) *Reallocation.* (i) Any amounts which become available as a result of adjustments under paragraph (c)(1)(ii) of this section or reductions under Subpart O shall be reallocated in the same fiscal year to any remaining eligible applicants on a pro rata basis.

(ii) Any formula grant amounts reserved for an applicant that chooses not to submit an application shall be reallocated to any remaining eligible applicants on a pro rata basis.

(iii) No amounts shall be reallocated under paragraph (c)(2) in any fiscal year to any applicant whose grant amount was adjusted under paragraph (c)(1)(ii) or reduced under Subpart O.

(d) *Applications.* (1) *Submission.* HUD shall require all applicants to submit an application for the amount established under paragraph (c)(1) of this section or for reallocated funds, in a form prescribed by HUD. Each activity proposed by an applicant must meet at least one of the broad national objectives as described in § 570.420(k). (Approved by the Office of Management and Budget under OMB control number 2506-0060.)

(2) *Review and notification.* HUD shall review each application for compliance with the requirements of § 570.420(k) and with 24 CFR Part 570, Subpart C. Following review of the applications, each applicant that has met the requirements of § 570.423(c)(2) and of this subparagraph, will be notified that its application has been approved and will be offered a grant agreement.

(3) *Conditional approval.* HUD may make a conditional approval of a grant in accordance with the criteria established in § 570.433(b)(3).

(4) *Amendments.* Section 570.434 shall apply to program amendments, except that § 570.434(a)(1) shall not apply.

(Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: April 28, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-13806 Filed 5-20-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is adding a new provision to its rules at 28 CFR 2.40 to make clear that a parolee who absconds from supervision is bound by the conditions on his certificate of release notwithstanding the passage of the full-term date, and accordingly may be charged for violations occurring any time prior to execution of the Commission's warrant. This clarification reflects an interpretation of law, and is designed to protect the public by ensuring a penalty for all misdeeds committed by parole absconders.

EFFECTIVE DATE: This rule applies to all revocation hearings conducted on or after July 4, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Stover, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, Tel. (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is adding a provision to its rules at 28 CFR 2.40 Conditions of Release, to reflect a legal interpretation that the act of absconding from supervision by a parolee prevents his sentence from expiring on the original full term date. The Commission thus retains jurisdiction over the parolee under 18 U.S.C. 4210 for as long as the parolee is in absconder status. Therefore, any violations of the conditions of release (e.g., new crimes) committed prior to the execution of the warrant, whether committed before or after the original full term date, may be charged as a basis for revocation of parole.

This provision is added to make clear that a parolee cannot evade the conditions of his release by absconding until the sentence has technically expired, and cannot avoid the consequences of a parole violation by concealing it until after the full term date has passed.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.40(i) is added as follows:

§ 2.40 Conditions of release.

* * * * *

(i) Any parolee who absconds from supervision has effectively prevented his sentence from expiring. Therefore, the parolee remains bound by the conditions of his release and violations committed at any time prior to execution of the warrant, whether before or after the original expiration date, may be charged as a basis for revocation, and a warrant may be supplemented at any time.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 6, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-13772 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The United States Parole Commission, to simplify its procedures, is deleting the requirement that the Surgeon General recertify prisoners sentenced under the Narcotic Addict Rehabilitation Act (NARA) prior to reparole when the revocation of parole was based on a drug related violation.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Commission is deleting the requirement in its rules at 28 CFR 2.3 that the Surgeon General recertify prisoners serving NARA sentences prior to reparole when the revocation of parole was based on a drug related violation.

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This procedure is being dropped because it added unnecessary complexity to the Commission's rules for the relatively few NARA cases in the system. Recertification is not required by law nor does it appear to make an essential contribution to the release process. Moreover, a strict reading of the present rule would appear to limit certain reparole actions at local revocation hearings.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly pursant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.3 is revised as follows:

§ 2.3 Same; Narcotic Addict Rehabilitation Act.

A Federal prisoner committed under the Narcotic Addict Rehabilitation Act may be released on parole in the discretion of the Commission after completion of at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Commission, the Surgeon General or his designated representative must certify that the prisoner has made sufficent progress to warrant his release and the Attorney General or his designated representative must also report to the Commission whether the prisoner should be released. Recertification by the Surgeon General prior to reparole consideration is not required (18 U.S.C. 4254).

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 5, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-13768 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Interim rule with request for public comment.

SUMMARY: The U.S. Parole Commission is amending its rules at 28 CFR 2.36 to remove an ambiguity from its sanctions for escape. Presently this rule provides a lower guideline range for escape from custody when the prisoner is absent from a non-secure facility for less than seven days. This amendment clarifies this section by providing that the lower guideline range applies to voluntary return to custody in six days or less. Additionally, the guideline range for escape from a non-secure facility and voluntary return in six days or less is reduced from 3–6 months to less than or equal to 6 months (≦6 months).

DATES: Effective June 6, 1983. Public comment must be received July 22, 1983.

ADDRESS: Send comments to James L. Beck, Deputy Research Director, 5550 Friendship Blvd., Chevy Chase, MD 20815.

FOR FURTHER INFORMATION CONTACT: James L. Beck, Deputy Research Director, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD. 20815, Tel. (301) 492–5980.

SUPPLEMENTARY INFORMATION: Presently the Commission's rescission guidelines, 28 CFR 2.36, provides a range of 3–6 months for escape from a non-secure facility without force if the prisoner is absent less than 7 days, and 6–12 months if the prisoner is absent 7 days or more. The present rule seems to suggest that the sanction for escape may be determined by how swiftly the escapee is apprehend rather than by any efforts of the escapee to surrender. To remove this ambiguity, the present wording of "absent less than 7 days" is amended to read "voluntary return in 6 days or less."

Additionally, the present range of 3–6 months (with voluntary return in 6 days) is changed to less than or equal to 6 months (≦ months). A three month minimum for a walk away from a non-secure facility with a voluntary return before 7 days appears excessive, particularly when there is no minimum in the reparole guidelines for the violation of absconding from supervision.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.36(a)(2)(i) is revised as follows:

§ 2.36 Rescission guidelines.

(a) * * *

(2) * * *

(i) *Escape or Attempted Escape*

(A) Escape or attempted escape, except as listed below—6–12 months.

(B) If from non-secure custody with voluntary return in 6 days or less—≦ 6 months.

(C) If by fear or force applied to person(s), grade under (ii) but not less than Category Five.

Notes.—(1) If other criminal conduct is committed during the escape or during time spent in escape status, then time to be served for the escape/attempted escape shall be added to that assessed for the other new criminal conduct.

(2) Time in escape status shall not be credited.

(3) Voluntary return is defined as returning voluntarily to the facility or voluntarily turning one's self in to a law enforcement authority as an escapee (not in connection with an arrest on other charges).

(4) Non-secure custody refers to custody with no significant physical restraint [e.g., walkaway from a work detail outside the security perimeter of an institution; failure to return to any institution from a pass or unescorted furlough; or escape by stealth from an institution with no physical perimeter barrier (usually a camp or community treatment center)].

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 6, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-13769 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is deleting as obsolete that portion of its rules that discusses release of prisoners sentenced before June 29, 1932.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, Tel. (301) 492–5959.

SUPPLEMENTARY INFORMATION: As there are presently no prisoners in the Federal system sentenced prior to June 29, 1932, the Parole Commission is deleting 28 CFR 2.39(c) which discusses release of such prisoners.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

§ 2.39 [Amended]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.39(c) is removed and 28 CFR 2.39(d) is renumbered as 28 CFR 2.39(c).

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 5, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-13770 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its rules at 28 CFR 2.12 to provide that an initial hearing be conducted at least 90 days prior to completion of minimum term in the case of a prisoner with a minimum term of parole ineligibility of ten years or more.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815, Tel. (301) 492–5959.

SUPPLEMENTARY INFORMATION: As part of an effort to relieve federal prison overcrowding the Commission is amending its rules to provide initial hearings earlier, 90 days prior to completion of minimum term rather than 30 days prior to completion of minimum term, for prisoners with a minimum term of parole ineligibility of ten years or more. The Commission has decided to conduct these hearings earlier so that, if the decision is to parole the prisoner at eligibility, a release plan can be developed prior to the eligibility date and the prisoner can be released at eligibility without delay.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.12(a) is revised to read as follows:

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a Federal institution or as soon thereafter as practicable; except that in the case of a prisoner with a minimum term of parole ineligibility of ten years or more, the initial hearing shall be conducted at least 90 days prior to the completion of such minimum term, or as soon thereafter as practicable.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 13, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-13786 Filed 5-20-83; 8:45 am]

BILLING CODE 7035-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-4-FRL 2329-1]

Standards of Performance for New Stationary Sources; Alternative Test Requirements for Alumax of South Carolina's Mt. Holly Plant, Mt. Holly, South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today establishes an alternative performance testing frequency requirement for Alumax of South Carolina's primary aluminum reduction plant in Mt. Holly, South Carolina, as provided in 40 CFR 60.195(b). Rather than conduct monthly performance tests on the potline groups, this source will be allowed to test them once a year. The company has supplied data supporting this action in accordance with 40 CFR 60.195(b). This action was proposed in the **Federal Register** of December 14, 1982 (47 FR 55696); no comments were received.

DATE: This action is effective June 22, 1983.

ADDRESS: Background information is available for public inspection at the following address: Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Joe Riley of the EPA Region IV Air Management Branch at the Atlanta address given above, telephone 404/881–4901 (FTS: 257–4901).

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of Section 111 of the Clean Air Act. Under the original standards, the affected source was required to conduct a performance test on startup and on any other occasion the Agency might require a test under Section 114 of the Clean Air Act. On June 30, 1980 (45 FR 44202), EPA revised 40 CFR 60.195 to require performance testing at least once per month for the life of a new primary aluminum plant. At the same time, however, the Agency provided that alternative test requirements could be established for the primary control system or an anode bake plant if the source could demonstrate that emissions have low variability during day-to-day operations.

On October 19, 1976, the Environmental Protection Agency (EPA) delegated to the South Carolina Department of Health and Environmental Control (SCDHEC) authority to administer Subpart S of 40 CFR Part 60. Under the terms of the delegation, performance tests were to be scheduled and performed in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Accordingly SCDHEC transmitted to EPA for its approval a petition for alternative test requirements submitted by Alumax of South Carolina, Mt. Holly Plant.

Alumax requested that it be allowed to (1) use the historic mean for primary emissions to calculate total monthly pot-room group emissions instead of emissions from the most recent test; (2) change the frequency of testing the anode bake plant from once a month to once a year; and (3) change the frequency of testing the primary control systems from once a month to once a year.

On the basis of the supporting information submitted, EPA is granting the third item on the South Carolina Department of Health and Environmental Control's request since it meets the requirements of 40 CFR 60.195(b). Actual emissions from the

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primary potline control systems are far below the allowable emissions. Variations in primary potline emissions are not great enough to likely result in emissions in excess of the standard for fluorides.

The Agency does not find that the first two items on the SCDHEC's request can be justified under 40 CFR 60.8(b), however. To use the average of all past performance tests of the primary potline control systems to calculate emissions would defeat the purpose of periodic testing, which is to detect any deterioration in the control systems. The request for allowing annual testing of the anode bake plant cannot be allowed until sufficient data are submitted by the company.

The alternative test requirement established today will, therefore, apply only to the potline control systems of Alumax of South Carolina, in Mt. Holly, South Carolina. This alternative requirement will not preclude the Agency or SCDHEC from requiring performance testing at any time. Finally, it can be withdrawn at any time that the Administrator finds it is not adequate to assure compliance with emission standards applicable to this source.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 22, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget for review.

The information requirements for the primary aluminum reduction industry under the NSPS program have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2000-0207. This rule will reduce the total burden hours on the industry.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

(Sec. 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a)))

Dated: May 5, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 60—[AMENDED]

Part 60 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Standards of Performance for Primary Aluminum Reduction Plants

In § 60.195 paragraph (b)(2) is added as follows:

§ 60.195 Test methods and procedures.

* * * * *

(b) * * *

(2) An alternative testing requirement is established for Alumax of South Carolina's Mt. Holly Plant in Mt. Holly, South Carolina: the primary control system is to be tested once a year rather than once a month.

[FR Doc. 83-13784 Filed 5-20-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Ch. IV

Medicare Program; Provider Reimbursement Review Board; Expedited Administrative Review

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations amend procedures for providers to follow in order to obtain an expedited administrative review where the amount of Medicare reimbursement is in dispute. The changes are in response to comments we received on our final rule with comment period, published July 22, 1982. They are intended to clarify policy not included specifically in previous regulations text.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, (301) 594-9595.

SUPPLEMENTARY INFORMATION:

Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. To be reimbursed for services covered by the program, providers must file cost reports with their fiscal intermediaries. These cost reports are used by the intermediaries to determine the amount of reimbursement to providers. If a provider is dissatisfied with the amount of reimbursement (or if the intermediary does not make its determination within 12 months after receiving a cost report) and the amount in controversy is $10,000 or more, the provider has the right to request a hearing before the Provider Reimbursement Review Board.

The statute authorizes the Secretary to reverse, affirm, or modify a decision of the Board. (See Section 1878(f) of the Act, 42 U.S.C. 1395oo(f).) This authority has been delegated to the Administrator of the Health Care Financing Administration (HCFA), who in turn redelegated it to the Deputy Administrator. If a provider is dissatisfied with the decision of the Administrator or the Deputy Administrator (where there is a review) or the Board, the provider may request judicial review of the final agency decision by a United States district court.

The Board may grant a hearing under section 1878 of the Act only with respect to those matters for which providers have a right to review by the Board. In general, these are cases in which the amount in controversy is $10,000 or more, the provider is dissatisfied with the intermediary's determination or has not received a timely determination, and the provider has met specified time limits for filing an appeal.

In the exercise of its review authority, the Board decides all questions relating to its jurisdiction to grant a hearing. It may decide factual disputes and determine the applicability of Medicare law, regulations, and HCFA Rulings to the matter at issue. In doing so, the Board may accept any evidence presented by the parties and may enter findings of fact on any criterion relevant to the intermediary's decision that is provided in the controlling authority (statutes, regulations, or HCFA Rulings). The Board, however, may not reverse or overrule the applicable authority, since these authorities are binding on the Board.

Changes in the Statute

Section 955 of Pub. L. 96-499, the Omnibus Reconciliation Act of 1980, amended section 1878(f)(1) of the Social Security Act. Under this provision a provider that requests, and has the right to obtain, a hearing by the Board under section 1878(a) of the Act may bypass the Board hearing and obtain judicial review. However, this procedure is limited to those actions of the fiscal intermediary that involve a question of law, regulations, or HCFA Rulings

relevant to the matters in controversy, when the Board determines that although it has jurisdiction over the dispute, it is without authority to decide the question (that is, to change the outcome) because it is bound by statutes, regulations or HCFA Rulings. The Board may determine that it does not have the authority to decide a question either on its own motion or upon the request of a provider.

This provision did not in any way change the scope of the Board's jurisdiction; the Board has jurisdiction over no more and no fewer types of issues now than before the law was amended. However, if a provider requests and may obtain a Board hearing under section 1878(a) of the Act (that is, the Board accepts jurisdiction of the case), the provider may now request an expedited review; i.e., a determination by the Board of the Board's authority to decide the question of law or regulation relevant only to the matters that the Board has accepted for a hearing. (We refer to this determination as an "expedited review determination" in this preamble.)

Once the provider has requested an expedited review determination, the Board has 30 days in which to issue the determination in writing. The 30 days begins after the Board has accepted jurisdiction and has received the request, accompanied by whatever documents and other materials the Board requires to make the determination.

A provider may bring a civil action with respect to the matters for which the Board grants expedited review. If the Board does not make a determination either granting or denying expedited review within 30 days after receipt of a provider's request with accompanying documents, the provider may bring suit with respect to the matter in controversy contained in the request.

The provider must bring the civil action within 60 days of the date of the Board's determination, or, if the Board fails to make the determination within 30 days after receipt of a provider's appropriately documented request, within 60 days following the end of the 30-day period. (There is no provision for bringing civil suit within 60 days of the Board's determination not to grant expedited review.)

The law provides that an expedited review determination by the Board will be considered final and not subject to the Secretary's review.

The law applies equally to all providers, regardless of whether HCFA or another organization serves as fiscal intermediary.

Provisions of the Regulations

On July 22, 1982, we published a final rule with comment period (47 FR 31686) to implement the statutory amendment. The preamble to that final rule also addressed the 30 comments we received concerning very similar provisions included as part of regulations we proposed on February 14, 1980 (45 FR 9953). The final rule paralleled the statutory changes, with clarifying or implemeting policy included.

The regulations:

(a) Provided that a provider may obtain an expedited review when the validity of a law, regulation, or HCFA Ruling is in question;

(b) Specified what information a provider must include in its request to receive an expedited review;

(c) Indicated the intermediary's role in the process;

(d) Specified how the beginning and ending of the 30 days in which the Board is to respond to a request for an expedited review is determined;

(e) Indicated the effects of various Board determinations; and

(f) Limited their application to matters subject to the Board's review under section 1878 of the Act.

Analysis and Response To Comment

We received 27 comments from six commentors concerning the final rule. The commentors consisted of an association of Medicare fiscal intermediaries, a law firm, a management association and three hospital associations.

The comments are discussed below according to the order in which the provisions appear in the regulations.

1. *HCFA Rulings.* One commentor stated that 42 CFR 405.1842(a), "Basis and purpose," which refers to questions "of law, regulation or HCFA ruling relevant to the case", should include the specific title of the publication in which the rulings appear. That is, either we should name the source as "The Health Care Financing Administration Rulings", or otherwise include a specific definition of the HCFA Rulings that are binding on the Board. Use of a less specific reference to "HCFA Rulings" implies that other documents may also be included.

We agree, and are revising all references in title 42 of the Code of Federal Regulations from "ruling" and "rulings" to "HCFA Ruling" and "HCFA Rulings", respectively. We are also revising § 405.1867 to show that the rulings binding on the Board are those specified by 42 CFR 401.108, rather than those specified by 20 CFR 422.406, which discusses Social Security rulings. 42 CFR 401.108, which recodified 20 CFR 422.406 as of November 12, 1981 (46 55695), indicates that precedent final opinions and orders and statements of policy and interpretations adopted by HCFA but not published in the **Federal Register** will be made available in the publication *HCFA Rulings.*

We are making some technical revisions to 42 CFR 401.108 as well:

(a) We are revising the current section matter into paragraphs (a) and (b), and we are adding a paragraph (c).

(b) Paragraphs (a) and (b) will reflect our present method of publicizing HCFA Rulings: we may publish HCFA Rulings (labeled as such) in the **Federal Register** as well as in the publication HCFA Rulings. The paragraphs will indicate that precedent final opinions and orders and statements of policy and interpretations adopted by HCFA as HCFA Rulings (1) are published in *HCFA Rulings;* and (2) after September, 1981, may be published in the **Federal Register** as well as in *HCFA Rulings.* The statement in the current § 401.108 that all HCFA components are bound by HCFA Rulings will be in paragraph (c).

(c) We are adding a paragraph (c) to state that Social Security components are bound by HCFA Rulings to the extent that the Social Security components adjudicate matters under the jurisdiction of HCFA. Binding Social Security components by HCFA Rulings is not a new policy but has been implicit in the administration of HCFA since HCFA's inception in 1977.

We are also making a technical revision at this time to 42 CFR 401.106(a), which discusses methods of publication of various types of information. Section 401.106(a)(4) indicates that the indexes that the Freedom of Information Act (5 U.S.C. 552(a)(2)) requires will be published in *HCFA Rulings.* (These are indexes of precedential orders and opinions issued in the adjudication of claims, statements of policy and interpretations adopted by HCFA but not published in the **Federal Register,** and of administrative manuals and instructions to staff that affect a member of the public.) We are no longer publishing these indexes in *HCFA Rulings* but in a separate publication for which HCFA's office of Public Affairs will be responsible. Therefore, we are removing the references in § 401.106(a)(4) to HCFA Rulings.

2. *Time limit and Board acceptance of jurisdiction.* Four commentors disagreed with our reading of the statute, which we believe gives the Board 30 days after it accepts jurisdiction of a case to determine whether there can be expedited review. The commentors

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believed the Board should have 30 days to determine both its jurisdiction and appropriateness of an expedited review simultaneously.

We do not agree and the commentors furnished no additional information to change our position. The law reads, "If a provider may obtain a hearing under subsection (a) [of section 1878 of the Act] and has filed a request for such hearing, such provider may file a request for a determination by the Board of its authority. * * *." In order to determine whether a provider "may obtain a hearing", the Board has to decide whether it has jurisdiction under section 1878 of the Act. We interpret "may obtain a hearing" as meaning the Board has accepted the request and established the provider's right to "obtain a hearing under section 1878(a) of the Act". There is no requirement in the law that the Board determine its jurisdiction within a specified period of time.

As a practical matter, the regulations anticipate a number of possible combinations of time frames and do, for example, permit the Board to accept jurisdiction and make the expedited review determination simultaneously. Generally, the opportunity for the Board to determine its jurisdiction quickly is controlled, in a large measure, by the documentation the provider files with its request for a hearing and the need for the Board to request more information.

3. *Lack of factual issues in dispute.* Five commentors stated their belief that our requirement at § 405.1842(c)(2), that there be no factual issues in dispute before the Board can grant an expedited review, goes beyond the law. One comment suggested that the regulations be revised to provide that there be no factual issues in dispute that could constitute the basis for a Board decision favorable to the provider. Another was that the regulations should be revised and limited to factual issues that influence the Board's determination concerning the granting of the requested expedited review. Three comments indicated that the cases should proceed to judicial review if the Board finds it does not have the authority to decide the legal question.

We do not agree. In our view, the law authorizes the bypassing of the required Board hearing only with respect to those matters in dispute for which the *sole* issue to be resolved is the validity of the law, regulations, or HCFA Rulings which the Board cannot decide. Clearly, the law does not provide for a Board hearing and an expedited administrative review determination on separate facets of the same matter in dispute, nor does it provide for the Board hearing to be bypassed on disputed matters that are within the authority of the Board to decide. For such cases, there is the need to establish an administrative record before the Board when factual or legal matters are in dispute before the case is appropriate for judicial review. Thus, when there are factual matters in dispute with respect to the particular matter for which a provider requests an expedited review, we believe the law intends that these matters be resolved by the Board (subject, of course, to Administrator's review). A provider may, of course, still seek judicial review of any finding in the final administrative decision with which it is dissatisfied.

4. *Requests for additional information.* One commentor stated that the regulations at § 405.1842 (c)(3) and (h)(1) give the Board unlimited discretion to request additional information and suspend the running of the 30-day period. The commentor believed that the language of § 405.1842(c)(2)(iv) regarding what the provider must submit is too vague and should provide specific descriptions of the information and documentation required from providers.

We do not agree. In our view, the combined provisions of § 405.1842(c)(2) (§ 405.1842(c) is being redesignated as § 405.1842(d)) do spell out the requirements of a provider's request for expedited review. The particular provision in the redesignated paragraph (d)(2)(iv) requires that the provider's request include "all other" supporting information or details. The provision serves a dual purpose: (1) it further supports the obligation of the provider to furnish the information necessary for the Board to make its determination, and (2) it allows the provider to submit whatever additional information or details it believes will support its request. We believe the provision is consistent with the requirements of the law and that it would be inappropriate to limit the discretion of the provider or the Board in the manner suggested.

5. Intermediary participation. One commentor stated the provision in § 405.1842(d) that an intermediary may comment on a provider's request for expedited Board review should be accompanied by a provision for provider rebuttal.

We agree, and are revising the current § 405.1842(d) (which is being redesignated as § 405.1842(e)) to provide that if the Board receives intermediary comments that raise questions about the provider's request for expedited Board review, the Board may request additional information from the provider in the manner prescribed in § 405.1842(c)(3) (which is being redesignated as § 405.1842(d)(3)).

6. *HCFA Review.* Three commentors stated that section 1878(f)(1) of the Act and final regulations at § 405.1842(f)(3) make it clear that the Board's determination concerning its authority to decide an issue is not subject to the Secretary's review under § 405.1875. However, in a preamble statement, HCFA indicated that if there is to be judical review, it will review the case and may request the court to remand it to the Board when unresolved factual issues are found. The commentors believed that HCFA has no authority to perform this review.

The HCFA review under § 405.1842 is not an exercise of the Secretary's "own motion" review authority under section 1878 of the Act and § 405.1875. The purpose of our statement is to advise that HCFA will analyze the case for the purposes of determining whether there are any unresolved factual issues in dispute that are within the authority of the Board to decide, and whether the case should therefore be remanded to the Board for further action. It must be emphasized that this review will be conducted within the context of an adversary judicial proceeding and will not, indeed cannot, be used to support a unilateral administrative action on behalf of HCFA or the Secretary. In any event, there should be few instances when a request for remand will be necessary or desirable. The Board's review should have assured that there were no unresolved factual issues in dispute that are within its authority to decide. Additionally, we will be guided by the actions taken by the provider and will not request remand when the sole issue for judicial review is the provider's question as to the validity of a governing law, regulation, or HCFA Ruling relevant to the matters in controversy.

The remaining comments address concerns omitted from the regulations but which the commentors thought should be in regulations.

7. *Certification of Board record.* One commentor stated that the process for transmitting case records to the courts should be clarified. It is necessary to specify what documentation (including depositions) should be submitted, and the Board should have the authority to certify a record to the courts. The commentor understood that, presently, records can only be certified by the Office of the Attorney Advisor, even when a decision is rendered by the Board and there is no review by the Administrator.

As indicated in section 1878(f)(1) of the Act, judicial action brought by a provider is tried pursuant to the applicable provisions of Chapter 7 of Title 5 of the United States Code. The Secretary, as the defendant in the action, files a certified copy of the record established at the Board hearing or the record upon which the Board granted expedited review. The record must include all documentation (including depositions) upon which the findings and decision of the Board are based.

We believe the current arrangement within the Office of the Attorney Advisor for the certification of a Board record is appropriate. It permits us to identify a single component as the source of all case records and, when a judicial action is filed, provides the opportunity for necessary internal controls.

8. *Group appeals.* One commentor stated that the law and regulations fail to address group appeals specifically. The commentor urged a technical amendment in section 1878(f)(1) of the Act to include group appeals as eligible for expedited Board review.

It is our position that the expedited Board review procedures are available to group appeals, and that the current statutory provisions in section 1878 (a) and (b) of the Act cover the situation. The provisions of section 1878(a) set forth the requirements and conditions for establishing a provider's entitlement to a hearing by the Board. The provisions of paragraph (b) authorize group appeals, and make the provisions of paragraph (a) applicable to each provider in the group subject to certain specified modifications. Thus, the entitlement of each provider in the group to a hearing by the Board must be established under paragraph (a), as is required in section 1879(f)(1), to be eligible for expedited Board review. Regulations implementing the provisions of section 1878 (a) and (b) are at §§ 405.1835 and 405.1837, respectively.

However, because of this comment, the term "provider" in the first sentence of § 405.1842(b)(2) will be clarified to include each provider in a group appeal.

9. *"Own motion" review.* Four commentors indicated that the regulations are deficient because they do not provide a procedure for situation in which the Board, on its own motion, determines that expedited review is appropriate. They should provide for prior notice to the provider of the action contemplated by the Board, and give both the provider and the intermediary an opportunity to comment, as there may be a number of reasons why a provider does not want the Board hearing to be bypassed. In addition, regardless of who initiates expedited review, there should be an opportunity to compile a factual record at the Board.

We agree with the first part of this comment and are adding a new § 405.1842(c) to provide that the Board will give notice to the provider and the intermediary of the proposed expedited review determination and allow them a reasonable period of time in which to file additional evidence or argument in support of any objections they may have to that proposed determination. Former paragraphs (c) through (i) are redesignated as (d) through (j), respectively.

As for the opportunity to compile a factual record at the Board, the law does not provide for a Board hearing and an expedited administrative review on the same matter in dispute. If a case is appropriate for expedited review, there should not be any factual or legal matters within the authority of the board to decide. However, because of this and a related comment, we are adding, in addition to the new § 405.1842(c), a new paragraph (2) to the current 42 CFR 405.1842(f) (redesignated as § 405.1842(g) with current § 405.1842(f) (2) and (3) redesignated as § 405.1842(g) (3) and (4), respectively) to clarify the authority of the Board and to make it clear that when there are factual or legal issues in dispute within the authority of the Board to decide on the particular issue, the Board will not issue an expedited review determination and will proceed with a hearing. We believe these changes will give providers ample opportunity to establish a record at the Board hearing, while at the same time providing for the orderly conduct of the determination process and the fulfillment of the intent of the statute.

10. *The Department's authority to regulate Board proceedings.* One commentor stated that decisions about issues to be handled through expedited review should be made exclusively by the Board. The Department should not be authorized to design rules and regulations that constrict or direct the Board's judgment in these matters.

We do not agree with the comment and believe it misperceives the proper role of the Board. The Secretary is clearly authorized under sections 1871 and 1878(e) of the Social Security Act to design regulations that bear on the operations of the Board. In our view, the Board was created as an administrative body to make sure that reimbursement decisions were made accurately and fairly within the Secretary's overall responsibility for administering the Medicare program. While it is authorized under section 1878(e) of the Act to make rules and establish procedures necessary to carry out its prescribed function, the statute makes it clear that it must do this in a way consistent with the regulations of the Secretary as well as with title XVIII of the Social Security Act.

11. *Waiver of proposed rulemaking.* Three commentors disagreed with our decision to publish a final with comment period rather than a notice of proposed rulemaking. They all believed the public should have had a chance to comment and that our arguments for publishing the rule in final to be without merit. Our arguments were that (1) the regulations had to be published as close as possible to the effective date of the law (the commentors thought that the 19 month gap between the effective date of the law and that of the regulations did not support our statement); and (2) a notice of proposed rulemaking containing what we consider to have been substantively similar provisions obviated the need for proposed rules.

We do not agree that these regulations should have been published as a notice of proposed rulemaking. As we stated in the preamble, it was necessary to publish final regulations as close as possible to the effective date of the statute; although it took 19 months to publish the final rule, even more time would have elapsed before there were regulations in place had we published a notice of proposed rulemaking before the final rule.

We disagree that the proposed rule concerning expedited review published on February 14, 1980 (45 FR 9953) was so substantively different that it did not serve as a notice to the final rule. The majority of objections to the proposed rule were resolved by the legislation, indicating that Congress favored the providers' position. The final rule merely restated the statute with some clarification added.

12. *Deferral of expedited review.* One commentor stated that providers should be permitted to notify the Board of their intention to bypass a Board hearing for certain issues and to request that the Board proceed in the interim with its regular review of the remaining issues. This would allow a provider to delay its rights to an expedited review determination in order to consider and consolidate all litigation with respect to the issues for which expedited review is granted and those for which the Board proceeded normally.

We do not agree. In our view, this procedure would totally defeat the very purpose for which the statutory provisions were amended, which was to give providers the right to seek expedited review. The effect of the prior process was to delay the resolution of

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the same "certain issues" and to require providers to pursue a time-consuming review before having the right to seek judicial review. Clearly, the current law is intended to eliminate that delay previously experienced by providers and requires the Board without exception to make its determination within 30 days after the date of receipt of a provider's completed request for expedited review of issues for which the Board has accepted jurisdiction. A provider is, or course, not obligated to request an expedited review and is free, subject to the Board's "own motion" review, to make its decision as to whether it wishes to proceed with the expedited review or the regular Board review.

However, because of this comment and a related comment indicating that there should be an opportunity to establish a record at the Board hearing, we are adding a new § 405.1842 (c) and (g)(2). Please see our response in item number 9 above.

13. *Judicial review of Board determinations.* One commentor disagreed with our contention that there can be no judicial review of a Board determination not to grant an expedited review.

The purpose of our statement was to advise that there is no provision in the statute for seeking judicial review of the Board's determination not to grant an expedited review within 60 days after the Board's determination. We did not mean to imply, however, that the previously existing right of providers to seek judicial review under the provisions of section 1878 of the Act was also affected. If the Board determines it will not grant expedited review, it will follow its normal hearing procedures. We have revised the section entitled "Changes in the Statute" discussed earlier in this preamble to clarify that there is no provision in the statute for bringing civil suit within 60 days of the Board's determination not to grant expedited review. A provider may, of course, seek judicial review at the proper time after a hearing of any finding in the final administrative decision with which it is dissatisfied.

14. *Precedential value of Board decisions.* One commentor stated that consideration should be given to the precedential value of Board decisions granting expedited review.

The overall matter of establishing binding precedents in the Medicare reimbursement review process is currently being considered within HCFA. However, current regulations do not preclude the use of prior review decisions where similar facts and circumstances exist and, as a practical matter, a provider is free to cite any such decision in its request to the Board for a determination concerning the Board's authority to decide an issue.

Waiver of Proposed Rulemaking

We have made some technical and clarifying revisions to 42 CFR 401.106 and 401.108 because of our response to a comment concerning HCFA Rulings in § 405.1842. We are publishing these revisions in final rather than in a notice of proposed rulemaking because of their technical nature. Since they do clarify and are so technical, we find good cause to waive notice of proposed rulemaking; it is unnecessary and contrary to the public interest to delay their publication in final.

Executive Order 12291

We have determined that these final regulations are not likely to result in an annual economic effect of $100 million or meet other threshold criteria of section 1(b) of the Order.

As noted above, these final regulations amend procedures for providers to follow in order to obtain an expedited administrative review where the amount of Medicare reimbursement is an issue. We have made these policy amendments as a result of the public comments to the final rule published July 22, 1982. The changes are clarifications in nature; thus we believe that the economic effect of these changes is negligible. As this effect is significantly below the $100 million threshold, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these final regulations will not result in a significant impact on a substantial number of small entities.

The clarifications made as a result of the public comments may impact on some providers. For instance, under the newly designated § 405.1842(e), the Board may request additional information from a provider when an intermediary's comments raise questions about the provider's request for expedited review. However, we do not believe that this, or the other clarifications, will result in a significant impact on a substantial number of providers. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

Ch. IV (Parts 400–499) [Nomenclature Change]

A. Title 42 CFR Parts 400–499 are amended as follows: Wherever the word "ruling" or "rulings" appears, it is to be revised to read "HCFA Ruling" or "HCFA Rulings", respectively.

B. 42 CFR Part 401, Subpart B, is amended as set forth below:

PART 401—[AMENDED]

Subpart B—Confidentiality and Disclosure

1. The authority citation is revised to read as follows:

Authority: Secs. 205, 1102, 1106, and 1871 of the Social Security Act (42 U.S.C. 405, 1302, 1306, and 1395hh); the Freedom of Information Act (5 U.S.C. 552); and the Privacy Act (5 U.S.C. 552a).

2. In § 401.106, paragraph (a)(4) is revised as follows:

§ 401.106 Publication.

(a) Methods of Publication. * * *

(4) By publication of indexes of precedential orders and opinions issued in the adjudication of claims, statements of policy and interpretations which have been adopted but have not been published in the **Federal Register**, and of administrative staff manuals and instructions to staff that affect a member of the public.

* * * * *

3. Section 401.108 is revised as follows:

§ 401.108 HCFA Rulings.

(a) After September 1981, a precedent final opinion or order or a statement of policy or interpretation that has not been published in the **Federal Register** as a part of a regulation or of a notice implementing regulations, but which has been adopted by HCFA as having precedent, may be published in the **Federal Register** as a HCFA Ruling and will be made available in the publication entitled *HCFA Rulings*.

(b) Precedent final opinions and orders and statements of policy and interpretation that were adopted by HCFA before October, 1981, and that have not been published in the **Federal Register** are available in *HCFA Rulings*.

(c) HCFA Rulings are published under the authority of the Administrator, HCFA. They are binding on all HCFA Components, and on the Social Security Administration to the extent that components of the Social Security Administration adjudicate matters under the jurisdication of HCFA.

C. 42 CFR Part 405, Subpart R, is amended as set forth below:

Subpart R—Provider Reimbursement Determination and Appeals

1. The authority citation for Subpart R is revised as follows:

Authority: Secs. 1102, 1814(b), 1815(a) 1861(v), 1871, and 1878 (42 U.S.C. 1302, 1395f(b), 1395g(a), 1395x(v), 1395hh, 1395oo).

2. Section 405.1842 is amended by redesignating paragraphs (c) through (i) as (d) through (j) respectively, by revising paragraphs (a), (b) (1) and (2), newly redesignated (d)(3), (e), (g), (h)(1), (3), and (5), and (i)(1), and by adding a new paragraph (c) as follows:

§ 405.1842 Expediting Board proceedings.

(a) *Basis and purpose.* This section implements section 1878(f)(1) of the Social Security Act, as amended by section 955 of Pub. L. 96–499 (42 U.S.C. 1395oo(f)(1)). The amendment provides an opportunity for providers to obtain expedited administrative review when the Board determines that it does not have the authority to decide a question of law, regulation, or HCFA Ruling relevant to the case. Case (see § 405.1867).

(b) *Basic rule.* (1) Except as provided in paragraph (b)(4) of this section, a provider may submit a written request to the Board, with supporting documentation, to determine whether the Board has the authority to decide a question of law, regulations, or HCFA Rulings relevant to and controlling upon an issue to be reviewed by the Board. The Board is required to make an expedited review determination in writing, either denying or granting the request, within 30 days after the date of receipt of the request, as defined in paragraph (1) of this section. The Board may also issue a determination on its own motion that it lacks authority to decide a question of law, regulations or HCFA Rulings.

(2) The Board must determine that the provider (including each provider in a group appeal) is entitled to a hearing under section 1878(a) of the Act before making the determination described in paragraph (a)(1) of this section. Thus, the provider must file (or have already filed) a written request for a Board hearing that meets the requirements in § 405.1841. The information and documentation required with respect to the filing of a request for a hearing is used by the Board to determine jurisdiction under section 1878(a) of the Act.

* * * * *

(c) *"Own motion" review.* If the Board is considering issuing a determination on its own motion that it lacks the authority to decide a question of law, regulations, or HCFA Rulings, it will notify the provider and intermediary of its proposed determination and allow them a reasonable period of time to file evidence or arguments either to support or oppose the proposed determination.

(d) * * *

* * * * *

(3) If the information in the provider request is insufficient for the Board to determine whether it has the authority to decide an issue, the Board will request more information from the provider. Such a request will affect the 30-day time limit as provided in paragraph (i) of this section. If the provider does not send more information or sends inadequate information, the Board will determine that it has the authority to decide the issue and will begin the regular procedure for a hearing.

(e) *Intermediary participation* (1). After receiving a copy of the provider's request for an expedited review determination, the intermediary may send comments to the Board on the provider's request and supporting documentation. The intermediary will send a copy of its comments to the provider simultaneously.

(2) If the intermediary's comments raise questions about the provider's request for expedited review, the Board may request additional information from the provider as provided in paragraph (d)(3) of this section.

* * * * *

(g) *Board determination.* (1) Within 30 days after the date of receipt (as defined in paragraph (i) of this section) of a provider's request and all necessary documentation the Board will issue a determination concerning its authority to decide the question of law, regulations, or HCFA Rulings relevant to the issues identified by the provider in its request.

(2) If there are factual or legal issues in dispute on an issue within the authority of the Board to decide, the Board will not make an expedited review determination on the particular issue but will proceed with a hearing. The Board has the authority to decide when two or more issues are sufficiently related to preclude separation for purposes of an expedited review determination on one or more of them and a hearing on the other or others.

(3) The Board will promptly notify the provider in writing of its determination and will send a copy of the determination to the intermediary.

(4) The Board's determination concerning its authority or its lack of a determination is not subject to the Secretary's review under § 405.1875.

(h) *Effect of a Board decision.* (1) The Board's determination, issued on its own motion or at the request of a provider, that it lacks authority to decide a question of law, regulations or HCFA Rulings is a final decision permitting a provider to seek judicial review with respect to the matter or matters in controversy contained in the determination, within 60 days of the date of the Board's determination.

* * * * *

(3) If the Board fails to issue an expedited review determination within 30 days of the date of receipt of a complete request (as determined under paragraph (i) of this section), the provider may, within 60 days from the end of that period, seek judicial review of the matters for which it requested the Board's determination.

* * * * *

(5) If the provider seeks judicial review because the Board fails to make a determination as provided in paragraph (g)(1) of this section, it should notify the Board at the time it files for judicial review. The Board will not hold a hearing, even if one has been scheduled, on the matter or matters for which the provider is seeking judicial review.

* * * * *

(i) *Date of receipt.* * * *

(1) The actual date of receipt by the Board of the information required under paragraph (d)(2) of this section, or of additional information requested by the Board under paragraph (d)(3) of this section, whichever the Board receives later; or

* * * * *

3. Section 405.1867 is revised as follows:

§ 405.1867 Sources of Board's authority.

In exercising its authority to conduct the hearings described herein, the Board must comply with all the provisions of title XVIII of the Act and regulations issued thereunder, as well as HCFA Rulings issued under the authority of the Administrator of the Health Care Financing Administration (see § 401.108 of this subchapter). The Board shall afford great weight to interpretive rules, general statements of policy, and rules

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of agency organization, procedure, or practice established by HCFA.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medicare Insurance)

Dated: March 3, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-13318 Filed 5-20-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 630

[Docket No. 83-A]

Uniform System of Accounts and Records and Reporting System

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of Suspension of Reporting Requirement.

SUMMARY: In this document, the Urban Mass Transportation Administration (UMTA) announces the suspension of the requirement that grant recipients must report data pertaining to the average time per unlinked trip. This requirement is now part of UMTA's regulation on a Uniform System of Accounts and Records and Reporting System.

EFFECTIVE DATE: This suspension is effective May 23, 1983.

FOR FURTHER INFORMATION CONTACT: Philip G. Hughes, Office of Information Services, Room 6419, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-1957.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1983, UMTA issued a Notice in the **Federal Register** (48 FR 6143) requesting comments on UMTA's proposal to waive the requirement of 49 CFR 630.12(a)(7)(i), Table B-8 that requires the reporting of data concerning average time per unlinked trip. This requirement is part of UMTA's regulation on a Uniform System of Accounts and Records and Reporting System promulgated to implement Section 15 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1611) (UMT Act).

UMTA published regulations to implement Section 15 on January 19, 1977, (42 FR 3772). These regulations are codified at 49 CFR Part 630 and have been amended several times (43 FR 58928, December 18, 1978; 44 FR 4493, January 22, 1979; and 44 FR 26052, May 3, 1979).

Section 630.12(a)(7) of this regulation requires recipients to provide specific operating data elements as set forth in Table B-8 therein. This Table B-8 includes a data element for average time per unlinked trip. Average time per unlinked trip, as used in this context, means the average (i.e., arithmetic mean) number of minutes that the passenger spends aboard the revenue vehicle for an unlinked passenger trip.

After examining the particular requirements for data relating to average time per unlinked trip, UMTA has concluded that this data might be less useful than originally envisioned, both to UMTA in administering its program and to State and local governments in planning their transportation programs. In addition, recipients have indicated that collection of this data can be unnecessary, costly and burdensome.

UMTA received 23 written comments from various sources with an interest in mass transportation. All supported the waiver. None of the commenters expressed any qualified opposition, or reservations about the desirability of granting an overall waiver.

Waiver

Based on these comments and UMTA's experience in administering the Section 15 program, I have determined that the waiver, in all cases, of the reporting requirements concerning average time per unlinked trip set forth at 49 CFR 630.12(a)(7)(i), Table B-8 is clearly necessary to reduce costly and burdensome unneeded Federal requirements and that the waiver is consistent with the intent of the UMT Act. Therefore, pursuant to the authority of 49 CFR 630.7, acting in my capacity as Administrator of the Urban Mass Transporation Administration, effective immediately, I hereby waive, in all cases, the reporting requirement concerning average time per unlinked trip set forth at 49 CFR 630.12(a)(7)(i), Table B-8.

List of Subjects in 49 CFR Part 630

Mass transportation, Reporting and recordkeeping requirements, Uniform system of accounts.

PART 630—[AMENDED]

§ 630.12 [Temporarily waived and suspended in part]

Accordingly, 49 CFR 630.12(a)(7)(i), Table B-8 is waived and suspended until further notice.

Issued on: May 5, 1983.

Arthur E. Teele, Jr.,

Administrator, Urban Mass Transportation Administration.

[FR Doc. 83-13829 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-57-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC-100 (Sub-No. 4)]

Amendment to the Standards for Operations of Interstate Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The purpose of this document is to prescribe and give notice of an amendment to the standards for evidencing the lawfulness of operations of interstate motor carriers (49 CFR Part 1023). The amendment will permit a motor carrier to prepare two or more cab cards which are effective for the same vehicle at the same time to make it easier for the carrier to show the lawfulness of new interstate operations authorized by the Commission during the year but after the initial cab card has been prepared for the vehicle. The present standard precludes preparing two or more cab cards.

EFFECTIVE DATE: The amendment will be effective on May 23, 1983.

FOR FURTHER INFORMATION CONTACT: Nan Heald, (202) 275-7004 or Andrew L. Lyon, (202) 275-7805

SUPPLEMENTARY INFORMATION: The purpose of this document is to prescribe and give notice of an amendment to the standards for evidencing the lawfulness of operations of interstate motor carriers (49 CFR Part 1023).

On March 24, 1983, the National Association of Regulatory Utility Commissioners (NARUC) certified to the Commission, under the provisions of 49 U.S.C. 11506, an amendment to the standards prescribed by the Commission in Part 1023 of Title 49 of the Code of Federal Regulations. The amendment will permit a motor carrier to prepare two or more cab cards which are effective for the same vehicle at the same time to make it easier for the carrier to show the lawfulness of new interstate operations authorized by the Commission during the year but after the initial cab card has been prepared for the vehicle. The present standard precludes preparing two or more cab cards.

Pursuant to Pub. L. 89-170, 79 Stat. 648, approved September 6, 1965, which amended subsection (b) of section 302 of the Interstate Commerce Act (49 U.S.C. 11506), NARUC was authorized to determine and officially certify standards to the Commission for evidencing the lawfulness of interstate operations of motor carriers. The Commission is required to prescribe and maintain such standards, now set forth at 49 CFR Part 1023.

Under this same statutory provision, NARUC is authorized to amend these standards and certify them to the Commission for prescription. Pursuant to this authority, on March 11, 1983,

NARUC adopted a resolution amending the standards as noted above.

Energy and Environmental Considerations

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Statement

The Commission certifies that this amendment will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1023

Motor carriers; Insurance, Surety bonds.

Prescription of Amendment

We amend 49 CFR 1023.37 as set forth in the appendix. This action is taken under the authority of 49 U.S.C. 11506.

Dated: May 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1023—[AMENDED]

Part 1023, Title 49, Code of Federal Regulations is amended as follows:

In the last sentence of § 1023.7, the words "shall not" are revised to read "may," and, as amended, the last sentence is revised to read:

§ 1023.37 Use of cab cards in connection with vehicles not used in driveway operations.

* * * A motor carrier may prepare two or more cab cards which are effective for the same vehicle at the same time.

[FR Doc. 83-13741 Filed 5-20-83; 8:45 am]

BILLING CODE 7035-01-M

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Proposed Rules

Federal Register
Vol. 48, No. 100
Monday, May 23, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 102, 104, and 112

[Docket No. 82-047]

Viruses, Serums, Toxins, and Analogous Products; Licenses, Permits, and Labeling

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The regulations in 9 CFR Parts 102 and 104 governing licenses and permits for veterinary biologics products have been reviewed in accordance with the Agency's plan to periodically review existing regulations. As a result of that review the Agency is proposing certain changes. This proposed action would change the number of documents required to be submitted by licensees and applicants, would delete obsolete and incorrect information, and would provide for inclusion of additional components in combination package products. The purpose of this proposed revision is to update and simplify regulatory requirements applicable to veterinary biological products.

DATE: Comments must be received on or before July 22, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829-A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 829 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed amendments would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. They would also not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These proposed revisions would reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned businesses not dominant in the field of veterinary biologics manufacturing.

Background

This proposed rulemaking would amend 9 CFR 102.3 by deleting the numerical requirements with reference to the number of copies of plot plans, blueprints, legends, labels, and sketches. These are unnecessary because other 9 CFR references cited in Part 102 specify the number of required copies of such documents, as well as the distribution of copies after processing by Veterinary Services.

Changes in Department assignments of responsibility, revised filing procedures, and field office relocations have resulted in an overall reduction in copies of documents needed by Veterinary Services. Consequently, it is proposed that 9 CFR 112.5 be amended to reduce the number of copies of labels which are required to be submitted for approval from five to three, and sketches from three to two. One additional copy of each Outline of Production for each product imported for sale and distribution would be required.

In an October 6, 1976, revision of this subchapter, provisions for special licenses were deleted. Reference to these obsolete documents remains in the labeling regulations. This proposed revision would delete this reference.

An error in publishing a July 28, 1975, docket resulted in failure to delete certain requirements in 9 CFR 112.7 for labeling Rabies Vaccines. These requirements were made obsolete by establishment of new Standard Requirements for those products. This proposed revision would delete the superfluous and conflicting requirements.

Combination package products consist of a desiccated component and a liquid component in the same box. The liquid product is used as a diluent for rehydrating the desiccated component for administration. Current requirements in 9 CFR 112.7(h) only apply to products where desiccated live virus vaccines are combined with specified bacterins. This proposed revision would provide for other combinations, such as desiccated live bacterial and chlamydial vaccines as well as other liquid products as diluents in addition to bacterins.

Alternatives

The alternatives considered are:

1. Not amending the regulations would have the effect of continuing the duplication of sometimes conflicting references in the regulations to the number of documents needed for licensure. The number of Outlines of Production submitted to support a permit for sale and distribution of product would be insufficient to provide a copy for each office involved. Excess copies of labels and sketches would continue to be required. Reference to Special Licenses would be continued, resulting in confusion and misunderstanding. The erroneous material regarding labeling of Rabies Vaccine would continue, resulting in probable misunderstanding and increase in label preparation costs. No provisions would be available for use of liquid vaccines as diluents in combination package products. No provisions would be available for use of desiccated bacterial or chlamydial vaccines in combination packages. Therefore, this alternative was not selected.

2. Amending the regulations to delete obsolete and incorrect information, to change the number of documents required, and to remove restrictions on combination package components would result in the deletion of obsolete and incorrect information from the regulations, and in the elimination of confusion and misunderstanding. There would also be a significant reduction in the numbers of copies of documents required from licensees and permittees. New combination package products would be permitted resulting in increased convenience and reduced costs to users. Therefore, this alternative was adopted.

List of Subjects

9 CFR Part 102

Animal biologics.

9 CFR Part 104

Animal biologics, Imports, Transportation.

9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Transportation.

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

Section 102.3 would be amended by revising paragraphs (a)(4), (b)(2)(iii) and (b)(2)(iv) to read:

§ 102.3 License applications.

(a) * * *

(4) Facilities documents, prepared as prescribed in Part 108 of this subchapter, shall accompany the application for license unless previously filed with Veterinary Services.

* * * * *

(b) * * *

(2) * * *

(iii) Legends prepared as prescribed in § 108.5 of this subchapter designating which facilities are to be used in the preparation of each fraction; and

(iv) Labels in finished form or sketches prepared as prescribed in § 112.5 of this subchapter, together with information regarding all claims to be made on labels and in advertising matter to be used in connection with or related to the biological product.

* * * * *

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

Section 104.5 would be amended by revising paragraph (a)(4) to read:

§ 104.5 Products for distribution and sale.

* * * * *

(a) * * *

(4) The methods to be used in the preparation of each biological product shall be written into an approved Outline of Production prepared in accordance with the applicable provisions of Part 114 of this subchapter. Four copies of such Outlines of Production shall be submitted to Veterinary Services and be approved before the permit is issued.

* * * * *

PART 112—PACKAGING AND LABELING

Section 112.5 would be amended by revising paragraph (d)(1)(i), (d)(1)(ii), and (d)(3)(i)(*a*) to read:

§ 112.5 Review and approval of labeling.

* * * * *

(d) * * *

(1) * * *

(i) Two copies of each sketch shall be submitted. One copy shall be returned with applicable comments. One copy shall be held on file by Veterinary Services until replaced by a finished label but not for more than 1 year after processing: *Provided,* That, sketches submitted in support of a license or permit shall be held as long as the application is considered active.

(ii) At least three copies of a label shall be submitted: *Provided,* That, when an enclosure is to be used with more than one biological product, one extra copy shall be required for each additional product. Two copies of each label will be retained by Veterinary Services. All remaining copies shall be stamped and returned. Labels to which exceptions are taken shall be marked as sketches and handled according to § 112.5(d)(1)(i).

* * * * *

(3) To appear on the top of each page:

(i) (*a*) Name and product code number of the biological product as it appears on the product license or permit.

* * * * *

Section 112.7 would be amended by revising paragraphs (d)(4)(i) through (d)(4)(iv) and revising paragraph (h) to read:

§ 112.7 Special additional requirements.

* * * * *

(h) In the case of a liquid product authorized in a filed Outline of Production to be used as a diluent in a combination package, the carton labels and enclosures used for serials which are either not tested for bactericidal or viricidal activity or have been found unsatisfactory by such test shall contain the statement: "CAUTION: DO NOT USE AS DILUENT FOR LIVE VACCINES."

(37 Stat. 832-833 (21 U.S.C. 151-158))

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 17th day of May 1983.

Dale F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-13008 Filed 5-20-83; 8:45 a.m.]
BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 31

[Docket No. 83-19]

Extensions of Credit to Executive Officers, Directors and Principal Shareholders of National Banks and to Their Related Interests

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency proposes to amend 12 CFR Part 31, which governs loans by a national bank to certain insiders. The proposal implements the amendments of 12 U.S.C. 375a(4) and 375b(2) included in Title IV of the Garn-St Germain Depository Institutions Act of 1982. The amendments relate to limitations on "other" loans to executive officers, and the aggregate dollar limitation, above which loans to insiders must be approved in advance by the bank's board of directors.

DATE: Comments must be received by June 22, 1983.

ADDRESS: Comments should be sent to: [Docket No. 83-19], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219. Attention: C. Christine Jones. Comments will be available for inspection and photocopying at the same location.

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FOR FURTHER INFORMATION CONTACT: Peggy Shriner, National Bank Examiner, Commercial Examinations Division, (202) 447–1165, or Raija Bettauer, Senior Attorney, Legal Advisory Services Division, (202) 447–1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The principal drafter of this document is Raija Bettauer, Senior Attorney, Legal Advisory Services Division.

Background

The Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469) ("Act") amended, among other things, paragraph (4) of section 22(g) of the Federal Reserve Act (12 U.S.C. 375a(4)) by striking out the $10,000 limitation on loans by a member bank to its executive officer for purposes other than a residential mortgage or education of the officer's children. It also amended paragraph (2) of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(2)) by striking out the aggregate limit of $25,000 beyond which a loan to an executive officer, director or principal shareholder of a bank must be approved in advance by a disinterested majority of the bank's entire board of directors. Instead, the Act authorized the appropriate Federal banking agencies to prescribe new limits by regulation.

Pursuant to the Act, the Office of the Comptroller of the Currency ("Office") issued a regulation, 12 CFR Part 31, which stated that, until other limits will be issued, national banks must continue to observe the provisions of Regulation O, 12 CFR Part 215, in this respect. 47 FR 49347 (November 1, 1982). Regulation O restated the old statutory limits of $10,000 and $25,000, respectively. 12 CFR 215.5(c)(3) and 215.4(b). The Office is now proposing to raise these dollar limits.

The proposed rule provides that a national bank may make, under 12 U.S.C. 375a(4), "other" loans to its executive officer up to the amount of $25,000 of 2.5 per cent of its capital, whichever is higher. However, no such loans may be made in excess of $100,000.

The proposed rule also provides that a national bank must obtain the prior approval of the majority of its board of directors for a loan to an executive officer, director, or principal shareholder, or their related interests, if the aggregate amount of any loans to such an individual exceeds $25,000 or 5 per cent of the bank's capital, whichever is higher. All loans exceeding the aggregate of $500,000 must, nevertheless, be approved in advance by the bank's board of directors as provided in 12 U.S.C. 375b(2).

Regulatory Flexibility Act Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.), the Secretary of the Treasury has certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the application of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis

The Office has determined that the proposed amendments do not constitute a major rule within the meaning of Executive Order 12291. The amendments would ease burdens currently imposed by regulations and would have no adverse effect on the operations of the national bank subject to them. As such, the amendments would not have an annual effect on the economy of $100 million or more, would not affect costs or prices for consumers, individual industries, government agencies or geographic regions, and would not have an adverse effect on competition, employment investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 31

National banks, Lending limits, Credit.

Accordingly, pursuant to its authority under 12 U.S.C. 375a(4) and 375b(2), as amended, the Office proposes to revise 12 CFR Part 31 to read as follows:

PART 31—EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS AND PRINCIPAL SHAREHOLDERS OF NATIONAL BANKS AND TO THEIR RELATED INTERESTS

Sec.
31.1 Authority.
31.2 Loan limits.
31.3 Definitions.

Authority: 12 U.S.C. 375a(4) and 375b(2), as amended.

§ 31.1 Authority.

This subpart is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 375a(4) and 375b(2), as amended.

§ 31.2 Loan limits.

(a) A national bank is authorized to extend credit, for purposes not specifically authorized under 12 U.S.C. 375a, to an executive officer in an aggregate amount that equals the higher of $25,000 or 2.5 per cent of the bank's capital. In no event shall the aggregate outstanding amount of such loans to each executive officer exceed $100,000.

(b) No national bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit to that person and all related interests of that person, exceeds the higher of $25,000 or 5 per cent of the bank's capital, unless: (1) The extension of credit or line of credit has been approved in advance by a majority of the entire board of directors, and (2) the interested party has abstained from participating directly or indirectly in the vote. In no event shall a national bank extend credit to any of its executive officers, directors or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit to that person and all related interests of that person, exceeds $500,000, except by complying with the requirements set forth in paragraphs (b) (1), and (2) of this section.

§ 31.3 Definitions.

For the purposes of this subpart, the definitions of the terms contained in Regulation O, 12 CFR 215.2 and 215.3 apply.

Dated: April 14, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83–13732 Filed 5–20–83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Docket Number R–0469]

Loan To Executive Officers, Directors, and Principal Shareholders of Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to amend Regulation O (12 CFR Part 215), which governs loans by a member bank to certain insiders, to implement certain amendments to 12 U.S.C. 84, and sections 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 375a and 375b) that were included in Title IV of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469). The amendments relate to the limitations on loans by a member bank to its executive officers, the aggregate dollar limitation on loans by a member bank to its insiders, and the dollar amount above which loans by a member bank to its insiders must be approved in advance by the board of directors of the member bank.

DATE: Comments must be received by June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jennifer Johnson, Senior Counsel (202/452–3584), or Stephen Lovette, Supervisory Financial Analyst (202/452–3622), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469) (Garn Act), section 22(g) of the Federal Reserve Act prescribed the following limitations on loans by a member bank to its executive officers: $60,000 for a home mortgage; $20,000 to finance the education of the officer's children; and $10,000 for all other purposes. Section 421(a) of the Garn Act eliminated the specific dollar limitation on home mortgage and educational loans and on October 28, 1982, the Board amended Regulation O to eliminate the limitations on such loans.

Section 421(b) of the Garn Act eliminated the dollar limitation for "other" loans and now provides that the member bank's appropriate federal regulatory agency shall prescribe a limitation for such loans. The proposed rule provides that, for other than home mortgage or educational purposes, a member bank may lend to any of its executive officers up to $25,000 or 2.5 per cent of its capital, whichever amount is greater. However, at no time may the bank's outstanding loans to any executive officer exceed $100,000.

Also prior to the enactment of the Garn Act, section 22(h)(2) of the Federal Reserve Act provided that no member bank shall lend to any executive officer, director or principal shareholder or to any related interest of such person if the amount of the loan, when aggregated with all other loans to such executive officer, director or principal shareholder, or to any related interest of such person exceeds $25,000, unless such loan is approved in advance by a majority of the bank's entire board of directors, with the interested party abstaining from the vote. Section 422 of the Garn Act eliminated the specific dollar limitation in section 22(h)(2) and now provides that the member bank's appropriate federal regulatory agency shall prescribe the amount above which the prior approval of the bank's board of directors is required.

The proposed rule provides that a member bank must obtain the prior approval of its board of directors for a loan to an executive officer, director or principal shareholder or to any related interest of such person if the amount of such loan, when aggregated with all other loans to such person or to any related interest of such person, exceed $25,000 or 5 per cent of the member bank's capital, whichever is higher. All loans that exceed $500,000 in the aggregate require prior approval of the bank's board of directors.

Section 22(h)(1) of the Federal Reserve Act provides that no member bank shall may any loan to any of its executive officers, principal shareholders or to any related interest of such persons in an amount that, when aggregated with all other loans made to such person or to any related interest of such person, exceed the limit in section 5200 of the Revised Statutes (12 U.S.C. 84) on loans to a single borrower by national banks. Section 401 of the Garn Act increased the limit in section 5200 of the Revised Statutes, effective April 15, 1983, and the proposed rule amends the definition of "lending limit" in Regulation O accordingly.

To aid the Board's consideration of this matter, interested persons are invited to submit relevant data, views or comments. Any such materials should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by June 20, 1983, and should include the docket number R–0469. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System certifies that the amendments will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation. The amendments will liberalize existing regulations and will not have any particular effect on small entities that would be subject thereto.

List of Subjects in 12 CFR Part 215

Banks, banking, Credit, Reporting requirement, Federal Reserve System.

PART 215—[AMEMDED]

Accordingly, pursuant to its authority under sections 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 375a and 375b), the Board of Governors proposes to amend Regulation O (12 CFR Part 215) as follows:

1. Paragraph (f) of § 215.2 is amended by revising the second sentence of the definition to read as follows:

§ 215.2 Definitions [Amended]

* * * * *

(f) Lending limit. * * * This amount is 15 per cent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured by readily marketable collateral having a market value at least equal to the amount of the loan, and an additional 10 per cent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan. * * *

* * * * *

2. By revising paragraph (b)(1) of § 215.4 to read as follows:

§ 215.4 General prohibitions.

* * * * *

(b) Prior Approval. (1) No member bank may extend credit or grant a line of credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit to that person and to all related interests of that person, exceeds $25,000 or 5 per cent of the member bank's capital, whichever is higher, unless: (i) The extension of credit or line of credit has been approved in advance by a majority of the entire board of directors of that bank, and (ii) the interested party has abstained from participating directly or indirectly in the voting. In no event may a member bank extend credit to any of its executive officers, directors or principal shareholders or to any related interest of such a person in an amount that, when aggregated with all other extensions of credit to such person and all related interests of that person, exceeds $500,000, except upon compliance with the requirements in paragraphs (b)(1) (i) and (ii) of this paragraph.

* * * * *

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3. By revising paragraph (c)(3) of § 215.5 to read as follows:

§ 215.5 Additional restrictions on loans to executive officers of member banks.

* * * * *

(3) for any other purpose not specified in paragraphs 215.5(c) (1) and (2) of this section, if the aggregate amount of loans to that officer under this paragraph does not exceed at any one time 2.5 per cent of the bank's capital or $25,000, whichever is greater, but in no event more than $100,000.

* * * * *

Board of Governors of the Federal Reserve System, May 17, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13884 Filed 5-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NE-21]

Airworthiness Directives; Rolls-Royce, Ltd., RB211-22B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing Airworthiness Directive (AD), applicable to Rolls-Royce RB211-22B turbofan engines, by requiring accelerated removal from service of additional serial numbers of high pressure compressor (HPC) rotor stage 1 and 2 disk assemblies. The amendment is needed to prevent continued operation of disk assemblies which may have reduced mechanical properties due to possible manufacturing deficencies and which could result in uncontained engine failure.

DATE: Comments must be received on or before June 20, 1983.

ADDRESSES: Send comments on the proposal, in duplicate, to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Rules Docket No. 80-NE-21, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments delivered must be marked: Docket No. 80-NE-21.

Comments may be inspected at Room 311 weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

The applicable Alert Service Bulletin may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ.

A copy of the Alert Service Bulletin is contained in the Rules Docket at the above FAA address and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Robert J. Koenig, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7330.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed amendment, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 80-NE-21." The postcard will be date/time stamped and returned to the commenter.

This notice proposes to amend Amendment 39-3804 (45 FR 41397), AD 80-13-05, which currently requires progressive removal from service of certain HPC stage 1 and 2 disk assemblies manufactured prior to 1974 and used on Rolls-Royce RB211-22B engines. After issuing Amendment 39-3804, some HPC stage 1 and 2 disk assemblies manufactured since 1974 were identified as having been produced by manufacturing processes similar to the pre-1974 disks. Therefore, the FAA is considering amending Amendment 39-3804 by reducing the cyclic life limit of these later-manufactured disk assemblies which are identified by serial number and part number in Appendix 2 of Rolls-Royce Alert Service Bulletin No. RB211-72-A5722, Revision 3, and installed in Rolls-Royce RB211-22B turbofan engines.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending Amendment 39-3804 (45 FR 41397), AD 80-13-05, to read as follows:

Rolls-Royce, Ltd.: Applies to Rolls-Royce RB211-RB22B turbofan engines.

Compliance required as indicated, unless already accomplished.

To preclude possible high pressure compressor (HPC) rotor stage 1 and 2 disk assembly failure, remove from service all HPC rotor stage 1 and 2 disk assemblies, listed by part number and serial number in Appendices 1 and 2 of Rolls-Royce Alert Service Bulletin No. RB211-72-A5722, Revision 3, dated April 17, 1981, in accordance with the following compliance schedule:

1. For disk assemblies listed in Appendix 1:

a. After July 31, 1980, no disk assemblies may exceed 7,000 flight cycles.

b. After December 31, 1980, no disk assemblies may exceed 6,000 flight cycles.

c. All remaining disk assemblies by April 30, 1981.

2. For disk assemblies listed in Appendix 2:

a. After the effective date of this amendment, no disk assembies may exceed 9,000 flight cycles.

Note.—For the purpose of this AD, a flight cycle is considered to be an engine operating sequence from takeoff to landing.

Replace with an FAA-approved, serviceable HPC rotor stage 1 and 2 disk assembly.

The FAA has requested **Federal Register** approval to incorporate by reference the manufacturer's Alert Service Bulletin identified and described in this directive.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.85, Federal Aviation Regulations (14 CFR 11.85))

Note.—The FAA has estimated, in a Draft Regulatory Evaluation, that the total cost impact of the proposed amendment to the AD will not exceed $210,000. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only domestic air carriers operating Lockheed L-1011 aircraft in which the RB211 engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The Draft Regulatory Evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Rules Docket No. 80-NE-21, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on May 9, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-12125 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ANE-16]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Amend the Description of the Montpelier, Vermont, Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the Montpelier, Vermont Control Zone and 700-foot Transition Area. This revision is necessary due to the proposed relocation of the Montpelier VOR and the establishment of the VOR RWY 35 Original and NDB RWY 35 Original Standard Instrument Approach Procedures (SIAP) to Edward F. Knapp State Airport, Montpelier, Vermont.

DATE: Comments must be received on or before June 30, 1983.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 83-ANE-16.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Docket Clerk, ANE-7, Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 30, 1983, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area, Control zone.

The Proposal

The FAA is considering an amendment to Subpart F and Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the description of the Montpelier, Vermont Control Zone and Transition Area. This revision is necessary due to the proposed relocation of the Montpelier VOR and the establishment of the VOR RWY 35 Original and NDB RWY 35 Original Standard Instrument Approach Procedures (SIAP) to Edward F. Knapp State Airport, Montpelier, Vermont.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 and Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by amending the description of the Montpelier, Vermont Control Zone to read as follows:

Montpelier, Vermont Control Zone

Within a 6-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, VT; within 1.5 miles each side of the Montpelier VOR, lat. 44°05'08" N., long. 72°26'59" W., 324° radial extending from the 6-mile radius zone to 1.5 miles northwest of the VOR; within 3.5 miles each side of the 158° bearing from Williams NDB, lat. 44°07'14" N., long 72°31'08" W., extending from the 6-mile radius zone to 14 miles southeast of the NDB; within 2 miles each side of the center line of Runway 23 extending from the 6-mile radius zone to 8 miles southwest of the end of runway 23; excluding the airspace within a 1-mile radius of Washington (Carriers) Airport, lat. 44°07'00" N., long. 72°27'00" W.,

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Montpelier, Vermont Transition Area to read as follows:

Montpelier, Vermont 700-foot Transition Area

That airspace extending upward from 700 above the surface within a 10-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, VT; within 5 miles each side of the Montpelier VOR, lat. 44°05'08" N., long. 72°26'59" W., 144° radial extending from the 10-mile radius area to 11.5 miles southeast of the VOR; within 4 miles each side of the 158° bearing from Williams NDB, lat. 55°07'14" N., long. 72°31'08" W., extending from the 10-mile radius area to 11 miles southeast of the NDB; within 4.5 miles each side of the Mount Mansfield NDB, lat 44°23'11.8" N., long. 72°41'38.3" W., 331° and 151° bearings from the NDB extending from the 10-mile radius area to 10.5 miles northwest of the NDB, excluding that portion within the Morrisville, VT, transition area. (Secs. 307(a) of he Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a ""significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated will not have a significant

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economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on May 10, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-13622 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-43-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-12]

Proposed Alteration of VOR Federal Airways; Albuquerque, NM, Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to redesignate segments of VOR Federal Airways V-19, V-68, V-83, V-187, and V-291, revoke segments of V-19, V-68, and V-83, and establish a new V-389 to enhance the traffic flow within the Albuquerque Air Route Traffic Control Center area.

DATES: Comments must be received on or before July 7, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-12, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Boyd Archer, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWA-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-19E between Cimarron, NM, and Pueblo, CO; renumber V-68S between Roswell, NM, and Hobbs, NM; renumber V-68N and V-83E between Roswell, NM, and Corona, NM; renumber V-60S between Otto, NM, and Albuquerque, NM; renumber V-68N between Corona, NM, and Albuquerque, NM; renumber V-19E between Albuquerque, NM, and Socorro, NM; renumber V-19W between Albuquerque, NM, and Santa Fe, NM; renumber V-187E between Albuquerque, NM, and Farmington, NM; renumber V-291N between Albuquerque, NM, and Gallup, NM; revoke V-83E between Otto, NM, and Santa Fe, NM; revoke V-68S between Corona, NM, and Albuquerque, NM; and to revoke V-19W between Albuquerque, NM, and Socorro, NM, to enhance the traffic flow within the Albuquerque Air Route Traffic Control Center area. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airways.

PART 71—[AMENDED]

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. V-19 [Amended]

By deleting the words ", including a W alternate via INT Socorro 343° and Albuquerque 199° radials, and also an E alternate via INT Socorro 015° and Albuquerque 160° radials" after the words "Socorro; Albuquerque, NM" and by deleting the words ", including a west alternate via INT Albuquerque 019° and Santa Fe 268° radials" after the words "245° radials; Santa Fe" and deleting the words ", including an E alternate via INT Cimarron 053° and Pueblo 176° radials" after the words "Pueblo, CO"

2. V-68 [Amended]

By deleting the words ", including an N alternate via INT Albuquerque 103° and Corona 328° radials and also an S alternate via INT Albuquerque 160° and Corona 278° radials; 41 miles 85 MSL, Roswell, NM, including an N alternate 85 MSL INT Corona 124° and Roswell 335° radials, Roswell; Hobbs, NM, including an S alternate;" after the words "Corona, NM, 311° radials; Corona" and inserting the words "; 41 miles 85 MSL, Roswell, NM; Hobbs, NM, via" between the words "Corona, NM, 311° radials; Corona" and the words "INT Hobbs 120° and" and by inserting the words "Farmington, NM, via INT Farmington 128° and Albuquerque 345° radials;" after the word "From"

3. V-60 [Revised]

By substituting the words "From Gallup, NM, via INT Gallup 089° and Albuquerque 303° radials; Albuquerque, NM, via INT Albuquerque 103° and Otto 253° radials, Otto; to Las Vegas, NM."

4. V-83 [Amended]

By deleting the words ", including an E alternate INT Roswell 335° and Corona 124° radials, 85 MSL Corona; Otto, NM" and by deleting the words ", including an east alternate via INT Otto 019° and Santa Fe 117° radials" after the words "Otto, NM, Santa Fe, NM"

5. V-187 [Amended]

By inserting the words, "Socorro, NM, via INT Socorro 015° and Albuquerque 160° radials" after the word "From" and by deleting the words "including an E alternate via INT Albuquerque 345° and Farmington 128° radials;"

6. V-291 [Amended]

By inserting the words "Hobbs, NM, via INT Hobbs 287° and Roswell 136° radials, Roswell, NM, via INT Roswell 335° and Corona 124° radials, Corona, NM, via INT Corona 328° and Albuquerque 103° radials," after the word "From" and by deleting the words ", including a north alternate via INT Albuquerque 303° and Gallup 089° radials".

7. V-263 [Amended]

By inserting the words "Albuquerque, NM, via INT Albuquerque 019° and Santa Fe 268° radials; Santa Fe, NM; Las Vegas, NM;" after the word "From".

8. V-389 [New]

By adding the words "From Cimarron, NM, via INT Cimarron 053° and Pueblo 176° radials; Pueblo, CO.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 13, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-13789 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AGL-5]

Proposed Alteration of VOR Federal Airway V-128, Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a new segment of VOR Federal Airway V-128. This new airway will be a major facet of a forthcoming restructuring of the Chicago O'Hare, IL, metropolitan traffic flow.

DATE: Comments must be received on or before July 7, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AGL-5, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60016.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Boyd Archer, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a new segment of VOR Federal Airway V-128 between Rockford, IL, VORTAC and Peotone, IL, VORTAC. This new airway will be a major facet of a forthcoming restructuring of the Chicago O'Hare, IL, metropolitan traffic flow. The airway will provide a low altitude bypass route around the O'Hare Terminal Control Area. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airways.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows

1. V-128 [Amended]

By adding the words "Rockford, IL, via INT Rockford 154° and Peotone 281° radials;" after the word "From"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

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certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 17, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-13787 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-14]

Proposed Alteration of VOR Federal Airway V-436; Oklahoma City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airway V-436 between Oklahoma City and Tulsa, OK, so the airway will be in the Kansas City Air Route Traffic Control Center's airspace.

DATE: Comments must be received on or before July 7, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-14, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd Archer, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWA-14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-436 to the north, so the airway will be in Kansas City Air Route Traffic Control Center's airspace thereby reducing coordination. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airways.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-436 [Amended]

By deleting the words "INT Oklahoma City 079° and Tulsa, OK, 228° radials" and substituting for them the words "INT Oklahoma City 074° and Tulsa, OK, 230° radials".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 17, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-13790 Filed 5-20-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 304

Rules and Regulations Under the Hobby Protection Act

AGENCY: Federal Trade Commission.

ACTION: Proposed amendment and notice of opportunity to comment.

SUMMARY: The Federal Trade Commission, pursuant to the Hobby Protection Act (15 U.S.C. 2101, *et seq.*) has initiated a proceeding proposing an amendment to section 304.6 of the Rules and Regulations Under the Hobby Protection Act (16 CFR Part 304). The rule presently requires that the word "COPY" be marked on all imitation numismatic items in dimensions no less than 2 millimeters high and 6 millimeters wide. The amendment would permit use of a smaller marking on the many coins that are now being issued as miniature imitations.

All interested persons are hereby given notice of the opportunity to submit written data, views and arguments concerning this proposal.

DATE: Written comments will be accepted on or before July 22, 1983.

ADDRESS: Send comments to Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. Submissions should be marked "Hobby Protection Act—Amendment".

FOR FURTHER INFORMATION CONTACT: Kendall MacVey, Attorney, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024. (213) 209-7575.

List of Subjects in 16 CFR Part 304

Hobbies, Labeling and trade practices.

SUPPLEMENTARY INFORMATION: The Hobby Protection Act requires that all imitation numismatic items sold in or imported into the United States shall be marked with the word "COPY" in a manner to be determined by the Federal Trade Commission. In 1975 the Commission promulgated rules requiring the word "COPY" to be marked on either the obverse or the reverse surface of the item. The words must have a vertical dimension of not less than two millimeters and a horizontal dimension of not less than six millimeters. The concept of requiring the word "COPY" to be a minimum size rather than to vary with the size of the coin or words on a coin was selected to minimize compliance burdens and enforcement problems.

Since promulgation of the rules, miniature imitation numismatic items have become popular in the market. Marking some of these miniature imitations has posed a hardship since many are as small or smaller than the minimum size required for the word "COPY". When an item covered by the rules is of such a small size that it is impossible to conform with the minimum size requirement, the manufacturer must request the Commission to issue a variance.

The proposed amendment to the rule would permit manufacturers of miniature numismatic items to mark the word "COPY" in smaller diameter than those required under the present rule. For example, under the proposed amendment, a coin with a dimension of only six millimeters could have the word "COPY" in a horizontal dimension of no less than one-half the coin's diameter or three millimeters. The vertical dimension would be required to be no less than one-sixth of the diameter or one millimeter.

Because of the apparent increasing popularity of miniature imitation numismatic items, the amendment is considered appropriate to eliminate the necessity for individual variance applications.

Accordingly, it is proposed that Chapter I of 16 CFR Part 304 be amended as follows:

Authority: 15 U.S.C. 2101 *et seq.*

1. In § 304.1, paragraph (k) is added as follows:

§ 304.1 Terms defined.

* * * * *

(k) "Diameter" of a reproduction means the length of the longest possible straight line connecting two points on the perimeter of the reproduction.

2. In § 304.6, paragraphs (b)(3) and (b)(4) are revised to read as follows:

§ 304.6 Marking requirements for imitation numismatic items.

* * * * *

(b) * * *

(3) An imitation numismatic item of incusable material shall be incused with the word "COPY" in sans-serif letters having a vertical dimension of not less than two millimeters (2.0 mm) or not less than one-sixth of the diameter of the reproduction, and a minimum depth of three-tenths of one millimeter (0.3 mm) or to one-half (½) the thickness of the reproduction, whichever is the lesser. The minimum total horizontal dimension of the word "COPY" shall be six millimeters (6.0 mm) or not less than one-half of the diameter of the reproduction.

(4) An imitation numismatic item composed of nonincusable material shall be imprinted with the word "COPY" in sans-serif letters having a vertical dimension of not less than two millimeters (2.0 mm) or not less than one-sixth of the diameter of the reproduction. The minimum total horizontal dimension of the word "COPY" shall be six millimeters (6.0 mm) or not less than one-half of the diameter of the reproduction.

By the direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-13724 Filed 5-20-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 423

Care Labeling Rule; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Notice of application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of information collection requirements contained in the Care Labeling Rule.

SUMMARY: The Commission is seeking OMB clearance for information collection requirements contained in the Trade Regulation Rule Concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods, as amended.

The Care Labeling Rule, which became effective July 3, 1972, require manufacturers and importers of textile wearing apparel to attach a permanent label bearing care instructions that fully inform the consumer how to effect regular care maintenance. Manufacturers and importers of piece goods used to make wearing apparel must put care instructions on the end of the bolt. This rule is being amended as published in the **Federal Register** on May 20, 1983. The amendments more specifically define the required elements of a care instruction, provide standardized language that can be used in the instructions and make clear that any care instruction should be supported by a reasonable basis of accuracy.

DATES: Comments on this application must be submitted on or before June 22, 1983.

ADDRESS: Send comments to Ms. Nell Minnow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503. Copies of the applications may be obtained from Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carl D. Hevener, OMB Liaison Officer, Federal Trade Commission, Washington, D.C. 20580. (202) 523-3373.

List of Subjects in 16 CFR Part 423

Clothing, Labeling, Textiles, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-13697 Filed 5-20-83; 8:45 am]

BILLING CODE 6750-01-M

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 83-6]

Bridges, Structures, and Hydraulics; Discretionary Bridge Criteria

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on a proposed rating factor for use in selecting bridges to be funded under the Discretionary Bridge Program. The proposed rating factor was developed in accordance with the criteria specified by section 161 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). The rating factor will allow a more formalized process for selecting discretionary bridge projects.

DATE: Comments must be received on or before July 7, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-6, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D. C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Ahlskog, Chief, Design and Inspection Branch, Bridge Division, Office of Engineering and Operation, (202) 472-7697, or Ms. Ruth R. Johnson, Office of the Chief Counsel, (202) 426-0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the STAA of 1982 (Pub. L. 97-424, 96 Stat. 2097). Section 161 requires the Secretary of Transportation to develop a selection process for discretionary bridges authorized to be funded under Section 144(g) of Title 23, United States Code, Discretionary Bridge Program. The selection process is to include a formula resulting in a rating factor based on the following criteria:

1. Sufficiency Rating—Computed as illustrated in Appendix A of the Recording and Coding Guide for the Structure Inventory and appraisal of the Nation's Bridges, USDOT/FHWA (latest edition); [1]

2. Average Daily Traffic—Using the most current value form the national bridge inventory data;

3. Average Daily Truck Traffic;

4. Defense Highway System Status;

5. The State's unobligalted balance of funds received under Section 144 of Title 23, United States Code, and the total funds received under Section 144 of Title 23, United States Code;

6. Total Project Cost; and

7. Special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

The discretionary bridge funds are being used to finance the replacement or rehabilitation of deficient high-cost Federal-aid system bridges. House Report 95-1485 [2] to accompany the 1978 STAA states that it is the intent of Congress that only Federal-aid system bridges be funded with discretionary bridge funds. Funding priority will be given to continuation of those discretionary bridges already begun under the Discretionary Bridge Program. Section 161 specifies that after the issuance of a final regulation, new bridge projects eligible for the Discretionary Bridge Program will only include those with a rating factor of 100 or less, based on a scale of zero to infinity.

Any selection process must provide sufficient latitude to enable the FHWA to evaluate and select bridge projects considering nationwide needs and a balance in the national bridge program. For example, it would be unreasonable to allocate all or the major portion of the available discretionary bridge funds to only one or two States in any given year.

The rating factor will be used as part of a selection process for allocating discretionary bridge funds made available to the Secretary of Transportation under 23 U.S.C. 144(g). These funds may be used to finance deficient highway bridges on the Federal-aid highway system with replacment or rehabilitation costs exceeding $10 million or with an estimated cost that is less than $10 million but is twice the amount apportioned to that State for the year in which funds are requested.

[1] Available from the FHWA at the address above.

[2] H.R. Rep. No. 1485, 95th Cong., 2d Sess., page 19 (1978)

Applications for the discretionary bridge funds are requested each year through FWHA field offices. These applications are used to establish master funding plans for planning purposes. The States have submitted 215 bridges as candidates for the discretionary bridge program as of December 31, 1982. Sixty-three of these bridge projects have been selected for funding.

The following rating factor formula is proposed to be used in the selection process for ranking discretionary bridge candidates:

$$\text{Rating Factor (RF)} = \frac{SR}{ADT'} \times \frac{10}{D} \times \frac{TPC}{ADT'} \times \left[1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}\right]$$

The lower the rating factor, the higher the priority for selection and funding. (For definition of terms, see proposed regulation below.)

Discussion of Rating Factor Components—The Rating Factor formula can be thought of as a compilation of four components:

Essentiality Component—SR/ADT'—The sufficiency rating and the average daily traffic are principal factors in the selection process. The higher the ADT' and the lower the sufficiency rating, the more critical the bridge.

Defense Component—10/D—Because it is vitally important to the nation to maintain the defense highway system, the proposed formula applies a 50 percent reduction in the rating factor for bridges that are on defense highways. The defense highway system consists of all routes that might reasonably be used for important defense shipments, movements of troops or military hardware and/or supplies, or for the evacuation of the general public from disaster areas. All routes identified by the States for these purposes are incorporated into and collectively form the Nation's Defense Highway Network.

Cost-Effectiveness Component—TPC/ADT'—A good measure of project cost-effectiveness is the cost of the project for each vehicle using it each day.

HBRRP Fund Use Component –

$$\left[1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}\right]$$

Unobligated balance of HBRRP funds are to be determined at the time the State's application is received.

States with a large unobligated balance of HBRRP funds are not making use of available funds. The rating factor will be increased for those States. However, to limit the effect of an obligated balance on States who receive the minimum amount of apportioned funds or who may be accumulating their funds to finance a high cost bridge project, only States that have an unobligated balance of $10 million or greater will be affected.

Both the Essentiality and Cost-Effectiveness Components include a truck magnifier factor to emphasize the importance of major bridges to the transport of commodities, raw materials, manufactured goods and the special problems imposed upon trucks when heavy loads are restricted from using bridges.

Since States would be under no obligation to submit bridge projects for discretionary bridge funds and because the rating factor criteria merely formalizes existing selection procedures for the continuation of an ongoing program, it is not anticipated that this proposal will have a significant economic effect. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this proposal will not have a significant economic impact on a substantial number of small entities.

Comments are requested on the proposed rule from all interested parties. The comments should specifically address the effects of the proposed rating factor formula on the effectiveness of the Discretionary Bridge Program.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

In consideration of the foregoing, and under the authority of section 161 of the 1982 Surface Transportation Assistance Act, 23 U.S.C. 144 and 49 CFR 1.48(b), the FHWA proposes to amend Part 650 of Title 23, Code of Federal Regulations, by adding thereto a new Subpart G, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A-95 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

Issued on: May 16, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

Accordingly, Part 650 of title 23 of the Codes of Federal Regulations is proposed to be amended by adding Subpart G as set forth below:

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Subpart G—Discretionary Bridge Candidate Rating Factor

Sec.

650.701 Purpose.
650.703 Eligible projects.
650.703 Application for discretionary bridge funds.
650.707 Rating factor.
650.709 Special considerations.

Authority: 161, Pub. L. 97-424, 96 Stat. 2097; 23 U.S.C. 144, 315; 49 CFR 1.48(b).

Subpart G—Discretionary Bridge Candidate Rating Factor

§ 650.701 Purpose.

The purpose of this regulation is to describe a rating factor used as part of a selection process of allocation of discretionary bridge funds made available to the Secretary of Transportation under 23 U.S.C. 144.

§ 650.703 Eligible projects.

(a) Deficient highway bridges on Federal-aid highway system roads may be eligible for allocation of discretionary bridge funds to the same extent as they are for bridge funds apportioned under 23 U.S.C. 144, provided that the total project cost for a discretionary bridge candidate is at least $10 million or twice the amount of 23 U.S.C. 144 funds apportioned to the State during the fiscal year for which funding for the candidate bridge is requested.

(b) After the effective date of this regulation for the discretionary bridge candidate rating factor, only candidate bridges not previously selected with a computed rating factor of 100 or less will be eligible for consideraton.

§ 650.705 Application for discretionary bridge funds.

The FHWA will each year through its field offices issue an annual call for discretionary bridge candidate submittals including updates of previously submitted but not selected projects. Each State is responsible for submitting such data as required for candidate bridges. Data requested will include structure number, funds needed by fiscal year, total project cost, current average daily truck traffic and a narrative describing the existing bridge, the proposed new or rehabilitated bridge and other relevant factors which the State believes may warrant special consideration.

§ 650.707 Rating factor.

(a) The following formula is to be used in the selection process for ranking discretionary bridge candidates:

$$\text{Rating Factor (RF)} = \frac{SR}{ADT'} \times \frac{10}{D} \times \frac{TPC}{ADT'} \times \left[1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}\right]$$

The lower the rating factor, the higher the priority for selection and funding.

(b) The terms in the rating factor are defined as follows: SR is Sufficiency Rating computed as illustrated in Appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition); (If SR is less than 1.0, use SR=1.0);

ADT is Average Daily Traffic in thousands taking the most current value from the national bridge inventory data;

ADTT is Average Daily Truck Traffic in thousands (Pick up trucks and light delivery trucks not included);

D is Defense Highway System Status
D=1 if not on defense highway
D=2 if bridge carries a designated defense highway

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The last term of the rating factor expression includes the State's unobligated balance of funds received under 23 U.S.C. 144 at the time the State's application is received by FHWA, and the total funds received under 23 U.S.C. 144 for the last four fiscal years ending with the most recent fiscal year of the FHWA's annual call for discretionary bridge candidate submittals; (if unobligated HBRRP balance is less than $10 million, use zero balance);

TPC is Total Project Cost in millions of dollars;

HBRRP is Highway Bridge Replacement and Rehabilitation Program;

ADT' is ADT plus ADTT.

(c) In order to balance the relative importance of candidate bridges with very low (less than one) sufficiency ratings and very low ADT's against candidate bridges with high ADT's, the minimum sufficiency rating used will be 1.0. If the computed sufficiency rating for a candidate bridge is less than 1.0, use 1.0. in the rating factor formula.

(d) If the unobligated balance of HBRRP funds for the State is less than $10 million, the HBRRP modifier is 1.0. This will limit the effect of the modifier on those States with small apportionments or those who may be accumulating funds to finance a major bridge.

§ 650.709 Special considerations.

(a) The selection process for new discretionary bridge projects will be based upon the rating factor priority ranking. However, although not specifically included in the rating factor formula, special consideration will be given to bridges that are closed to all traffic or that have a load restriction of less than 10 tons. Consideration will also be given to bridges with other unique situations, and to bridge candidates in States which have not previously been allocated discretionary bridge funds.

(b) The need to administer the program from a balanced national perspective requires that the special cases set forth in paragraph (a) of this section and other unique situations be considered in the discretionary bridge candidate evaluation process.

(c) Priority consideration will be given to the continuation and completion of bridge projects previously begun with discretionary bridge funds.

[FR Doc. 83-13009 Filed 5-20-83; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[LR-200-76]

Qualified Conservation Contribution; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to contributions of partial interests in property for conservation purposes. Changes to the applicable tax law were made by section 6 of the Tax Treatment Extension Act of 1980. This document is intended to clearify the statutory rules in effect under that Act.

DATE: Written comments and requests for a public hearing must be delivered or mailed by July 22, 1983. The amendments are proposed to be applicable for contributions made on or after December 18, 1980, and are proposed to be effective the date final regulations are published in the **Federal Register.**

ADDRESS: Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-200-76).

FOR FURTHER INFORMATION CONTACT: John R. Harman of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments proposed to conform the Income Tax Regulations (26 CFR Part 1) under section 170 of the Internal Revenue Code of 1954 (Code) relating to contributions not in trust of partial interests in property to section 6 of the Tax Treatment Extension Act of 1980.

The Tax Reform Act of 1969 and the regulations promulgated thereunder limited the deductibility of the donation of easements generally to charitable contributions of perpetual open space easements in gross, (section 170(f)(3)(B)(ii) of the Code and § 1.170A-7(b)(1)(ii) of the Income Tax Regulations). Although subsequent revenue rulings held that a variety of easements were deductible under the limitation of the 1969 Act (See, *e.g.*, Rev. Rul. 75-358, 1975-2 C.B. 76), Congress in 1976 added further legislative authority for the deductibility of easement donations.

Section 2124(e) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1919) provided, for the first time, specific statutory authority under section 170 of the Code for the deductibility of the donation to a qualified organization of easements, remainder interests, and certain other partial interests in property. The 1976 Act allowed the deduction for partial interests donated for a term of 30 years or more, but required that the donation be made "for conservation purposes." Conservation purposes was defined in section 170(f)(3)(C).

Section 309 of the Tax Reduction and Simplification Act of 1977 (Pub. L. 95-30, 91 Stat. 154) made two changes in the statutory language codified by the 1976 Act. The first change eliminated the deductibility of term easements for conservation purposes and required that such easements be perpetual in order to qualify for a deduction under section 170. The second change set the expiration date of these provisions at June 14, 1981.

Section 6 of the Tax Treatment Extension Act of 1980 made extensive changes in the existing statute, eliminated the expiration date, and incorporated the relevant language into a new section 170(h). The House and Senate Committee reports accompanying the legislation also provided, for the first time, an in-depth statement of congressional intent concerning the donation of partial interests for conservation purposes (H.R. Rep. No. 96-1278, S. Rep. No. 96-1007). The regulations reflect the major policy decisions made by the Congress and expressed in these committee reports.

Additional Information

Generally, the donation of an easement to preserve open space is deductible under section 170(h)(4)(A)(iii) if such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or its pursuant to a clearly delineated governmental policy. The most difficult problem posed in this regulation was how to provide a workable framework for donors, donees, and the Internal Revenue Service to judge the deductibility of open space easements.

Defining "Significant public benefit" with any degree of precision is impossible. Any attempt to reduce the test to a mathematical formula would be arbitrary. The factors included at § 1.170A-13(d)(4)(iv) are not intended to be exclusive; however, a longer list of factors would always fall short of being all-inclusive. The same statements can be made concerning the list of factors proposed under § 1.170A-13(d)(4)(ii) with respect to "scenic enjoyment."

It is believed, however, that the "sliding scale" approach proposed in §1.170A-13(d)(4)(vi) that establishes a relationship between the requirements of "significant public benefit" and "clearly delineated governmental policy" will eliminate much of the uncertainty that surrounds this part of the statute. Additionally, by including prior state and local governmental determinations of specific resources to be protected as a criteria for meeting the "significant public benefit" and "scenic enjoyment" tests, a degree of certainty will be available to taxpayers in jurisdictions that have carefully articulated preservation policies. In the end, of course, some exercise of judgment and of responsibility is ultimately required by both donors and donees.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comments, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal authors of this regulation are John R. Harman and Stephen J. Small of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.61-1-1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 20, and 25 are as follows:

PART 1—[AMENDED]

§ 1.167(a)-5 [Amended]

Paragraph 1. Section 1.167(a)-5 is amended by adding at the end thereof the following new sentence: "For the adjustment to the basis of a structure in the case of a donation of a qualified conservation contribution under section 170(h), see § 1.170A-13(h)(3)(iii)."

Par. 2. Paragraph (a)(2)(ii) of § 1.170A-1 is amended by adding at the end thereof the following new paragraph:

§ 1.170A-1 Charitable, etc., contributions and gifts; allowance of deduction.

(a) *In general.* * * *

(2) *Information required in support of deductions.* * * *

(ii) *Contribution by individual of property other than money.* * * *

(*f*) In the case of a "qualified conservation contribution" under section 170(h), see § 1.170A-13(i).

Par. 3. Section 1.170A-7 is amended as follows:

a. The first sentence of paragraph (b)(1)(ii) is revised to begin with the phrase "With respect to contributions made on or before December 17, 1980,".

b. Paragraph (b)(1)(ii) is revised by adding at the end the following new sentence: "For the deductibility of a qualified conservation contribution, see § 1.170A-13.".

c. Paragraph (b)(3) is revised by adding at the end the following new sentence: "For the deductibility of the donation of a remainder interest in real property exclusively for conservation purposes, see § 1.170A-13.".

d. Paragraph (b)(4) is revised by adding at the end the following new sentence: "For the deductibility of the donation of a remainder interest in real property exclusively for conservation purposes, see § 1.170A-13.".

e. A new paragraph (b)(5) is added immediately after paragraph (b)(4), as set forth below.

f. The first sentence of paragraph (c) is revised to begin with the phrase "Except as provided in § 1.170A-13,".

g. Paragraph (e) is revised as set forth below.

§ 1.170A-7 Contributions not in trust of partial interests in property.

* * * * *

(b) *Contributions of certain partial interests in property for which a deduction is allowed.* * * *

(5) *Qualified conservation contribution.* A deduction is allowed under section 170 for the value of a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A-13.

* * * * *

(e) *Effective date.* This section applies only to contributions made after July 31, 1969. The deduction allowable under § 1.170A-7(b)(1)(ii) shall be available only for contributions made on or before December 17, 1980. The deduction allowable under § 1.170A-7(b)(5) shall be available for contributions made on or after December 18, 1980.

Par. 4. A new § 1.170A-13 is added after § 1.170A-12 to read as set forth below.

§ 1.170A-13 Qualified conservation contributions.

(a) *Qualified conservation contributions.* A deduction under section 170 is generally not allowed for a charitable contribution of any interest in property that consists of less than the donor's entire interest in the property other than certain transfers in trust (see § 1.170A-6 relating to charitable contributions in trust and § 1.170A-7 relating to contributions not in trust of partial interests in property). However, a deduction may be allowed under section 170(f)(3)(B)(iii) for the value of a qualified conservation contribution if the requirements of this section are met. A qualified conservation contribution is the contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. To be eligible for a deduction under this section, the conservation purpose must be protected in perpetuity.

(b) *Qualified real property interes'—*(1) *Entire interest of donor other than qualified mineral interest.* The entire interest of the donor other than a qualified mineral interest is a qualified real property interest. A qualified mineral interest is the taxpayer's interest in subsurface oil, gas, or other

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minerals and the right of access to such minerals. A property interest shall not be treated as a qualified real property interest by reason of section 170(h)(2)(A) or this paragraph (b)(1), if any time over the entire term of the taxpayer's interest in such property the taxpayer transferred any portion of that interest (except in the case of a donation of a perpetual conservation restriction under paragraph (b)(3) of this section) to any other person (except for minor interests, such as rights-of-way, that will not interfere with the conservation purposes of the donation).

(2) *Remainder interest in real property.* A remainder interest in real property is a qualified real property interest. A property interest shall not be treated as a qualified real property interest by reason of section 170(h)(2)(B) or this paragraph (b)(2), if at any time over the entire term of the taxpayer's interest in such property the taxpayer transferred any portion of that interest (except in the case of a donation under paragraph (b)(3) of this section) to any other person (except for minor interests, such as rights-of-way, that will not interfere with the conservation purposes of the donation).

(3) *Perpetual conservation restriction.* A perpetual conservation restriction is a qualified real property interest. A "perpetual conservation restriction" is a restriction granted in perpetuity on the use which may be made of real property—including, an easement or other interest in real property that under state law has attributes similar to an easement (e.g., a restrictive convenant or equitable servitude). For purposes of this section, the terms "easement", "conservation restriction", and "perpetual conservation restriction" have the same meaning. The definition of "perpetual conservation restriction" under this paragraph (b)(3) is not intended to preclude the deductibility of a donation of affirmative rights to use a land or water area under § 1.170A–13(d)(2). Any rights reserved by the donor in the donation of a perpetual conservation restriction must conform to the requirements of this section. See *e.g.*, paragraphs (d)(4)(ii), (d)(5)(i), (e)(3), and (g)(4) of this section.

(c) *Qualified organization*—(1) *Eligible donee.* To be considered an eligible donee under this section, an organization must have the resources to enforce the restrictions and must be able to demonstrate a commitment to protect the conservation purposes of the donation. An established group organized exclusively for conservation purposes, for example, would meet this test. A qualified organization need not set aside funds, however, to enforce the restrictions that are the subject of the contribution. For purposes of this section, the term "qualified organization" means:

(i) A governmental unit described in section 170(b)(1)(A)(v);

(ii) An organization described in section 170(b)(1)(A)(vi);

(iii) A charitable organization described in section 501(c)(3) that meets the public support test of section 509(a)(2);

(iv) A charitable organization described in section 501(c)(3) that meets the requirements of section 509(a)(3) and is controlled by an organization described in paragraphs (c)(1) (i), (ii), or (iii) of this section.

(2) *Transfers by donee.* A deduction shall be allowed for a contribution under this section only if in the instrument of conveyance the donor prohibits the donee from subsequently transferring the easement (or, in the case of a remainder interest or the reservation of a qualified mineral interest, the property), whether or not for consideration, unless the donee organization, as a condition of the subsequent transfer, requires that the conservation purposes which the contribution was originally intended to advance continue to be carried out. Moreover, subsequent transfers must be restricted to organizations qualifying, at the time of the subsequent transfer, as an eligible donee under paragraph (c)(1) of this section. When a later unexpected change in the conditions surrounding the property that is the subject of a donation under paragraph (b) (1), (2), or (3) of this section makes impossible or impractical the continued use of the property for conservation purposes, the requirement of this paragraph will be met if the property is sold or exchanged and any proceeds are used by the donee organization in a manner consistent with the conservation purposes of the original contribution. In the case of a donation under paragraph (b)(3) of this section to which the preceding sentence applies, see also paragraph (g)(5)(ii) of this section.

(d) *Conservation purposes*—(1) *In general.* For purposes of section 170(h) and this section, the term "conservation purposes" means—

(i) The preservation of land areas for outdoor recreation by, or the education of, the general public, within the meaning of paragraph (d)(2) of this section,

(ii) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of paragraph (d)(3) of this section,

(iii) The preservation of certain open space (including farmland and forest land) as described in paragraph (d)(4) of this section, or

(iv) The preservation of a historically important land area or a certified historic structure, within the meaning of paragraph (d)(5) of this section.

(2) *Recreation or education*—(i) *In general.* The donation of a qualified real property interest to preserve land areas for the outdoor recreation of the general public or for the education of the general public will meet the conservation purposes test of this section. Thus, conservation purposes would include, for example, the preservation of a water area for the use of the public for boating or fishing, or a nature or hiking trail for the use of the public.

(ii) *Public use.* The preservation of land areas for recreation or education will not meet the test of this section unless the recreation or education is for the substantial and regular use of the general public or the community.

(3) *Protection of environmental system*—(i) *In general.* The donation of a qualified real property interest to protect a significant relatively natural habitat in which a fish, wildlife, or plant community, or similar ecosystem, normally lives will meet the conservation purposes test of this section. The fact that the habitat or environment has been altered to some extent by human activity will not result in a deduction being denied under this section if the fish, wildlife, or plants continue to exist there in a relatively natural state. For example, the preservation of a lake formed by a man-made dam or a salt pond formed by a man-made dike would meet the conservation purposes test if the lake or pond were a nature feeding area for a wildlife community that included rare, endangered, or threatened native species.

(ii) *Significant habitat or ecosystem.* Significant habitats and ecosystems include, but are not limited to, habitats for rare, endangered, or threatened species of animal, fish, or plants; natural areas that represent high quality examples of a terrestrial community or aquatic community, such as islands that are undeveloped or not intensely developed where the coastal ecosystem is relatively intact; and natural areas which are include in, or which contribute to, the ecological viability of a local, state, or national park, nature preserve, wildlife refuge, wilderness area, or other similar conservation area.

(4) *Preservation of open space*—(i) *In general.* The donation of a qualified real property interest to preserve open space (including farmland and forestland) will meet the conservation purposes test of this section if such preservation is—

(A) Pursuant to a clearly delineated Federal, state, or local governmental polic and will yield a significant public benefit, or

(B) For the scenic enjoyment of the general public and will yield a significant public benefit.

An open space easement donated on or after December 18, 1980, must meet the requirements of this section in order to be deductible under section 170. See § 1.170A–7(b)(1)(ii).

(ii) *Scenic enjoyment*—(A) *Factors.* A contribution made for the preservation of open space may be for the scenic enjoyment of the general public. "Scenic enjoyment" will be evaluated by considering all pertinent facts and circumstances germane to the contribution. Regional variations in topography, geology, biology, and cultural and economic conditions require flexibility in the application of this test, but do not lessen the burden on the taxpayer to demonstrate the scenic characteristics of a donation under this paragraph. The application of a particular objective factor to help define a view as "scenic" in one setting may in fact be entirely inappropriate in another setting. Among the factors to be considered are:

(*1*) The compatibility of the land use with other land in the vicinity;

(*2*) The degree of contrast and variety provided by the visual scene;

(*3*) The openness of the land (which would be a more significant factor in an urban or densely populated setting or in a heavily wooded area);

(*4*) Relief from urban closeness;

(*5*) The harmonious variety of shapes and textures;

(*6*) The degree to which the land use maintains the scale and character of the urban landscape to preserve open space, visual enjoyment, and sunlight for the surrounding area;

(*7*) The consistency of the proposed scenic view with a methodical state scenic identification program, such as a state landscape inventory; and

(*8*) The consistency of the proposed scenic view with a regional or local landscape inventory made pursuant to a sufficiently rigorous review process, especially if the donation is endorsed by an appropriate state agency.

(B) *Preservation of a view.* To satisfy the requirement of scenic enjoyment by the general public, visual (rather than physical) access to or across the property by the general public is sufficient. This, preservation of land may be for the scenic enjoyment of the general public if development of the property would impair the scenic character of the local rural or urban landscape or would interfere with a scenic panorama that can be enjoyed from a park, nature preserve, road, waterbody, trail, or historic structure or land area, and such area or transportation way is open to, or utilized by, the public.

(C) *Visible to public.* Under the terms of an open space easement on scenic property, the entire property need not be visible to the public for a donation to qualify under this section, although the public benefit from the donation may be insufficient if only a small portion of the property is visible to the public.

(iii) *Governmental conservation policy*—(A) *In general.* The requirement that the preservation of open space be pursuant to a clearly delineated Federal, state, or local governmental policy is intended to protect the types of property identified by representatives of the general public as worthy of preservation or conservation. A general declaration of conservation goals by a single official or legislative body is not sufficient. This requirement will be met by donations that further a specific, identified conservation project, such as the preservation of land within a state or local landmark district that is locally recognized as being significant to that district; the preservation of a wild or scenic river; the preservaton of farmland pursuant to a state program for flood prevention and control; or the protection of the scenic, ecological, or historic character of land that is contiguous to, or an integral part of, the surroundings of existing recreation or conservation sites. For example, the donation of a perpetual conservation restriction to a qualified organization pursuant to a formal declaration (in the form of, for example, a resolution or certification) by a local governmental agency established under state law specifically identifying the subject property as worthy of protection for conservation purposes will meet the requirement of this paragraph. A program need not be funded to satisfy this requirement, but the program must involve a significant commitment by the government with respect to the conservation project.

(B) *Effect of acceptance by governmental agency.* Acceptance of an easement by an agency of the Federal Government or by an agency of a state or local government (or by a commission, authority, or similar body duly constituted by the state or local government and acting on behalf of the state or local government) tends to establish the requisite clearly delineated governmental policy, although such acceptance, without more, is not sufficient. The more rigorous the review process by the governmental agency, the more the acceptance of the easement tends to establish the requisite clearly delineated governmental policy.

(iv) *Significant public benefit*—(A) *Factors.* All contributions made for the preservation of open space must yield a significant public benefit. Public benefit will be evaluated by considering all pertinent facts and circumstances germane to the contribution. Factors germane to the evaluation of public benefit from one contribution may be irrelevant in determining public benefit from another contribution. No single factor will necessarily be determinative. Among the factors to be considered are:

(*1*) The uniqueness of the property to the area;

(*2*) The intensity of land development in the vicinity of the property (both existing development and foreseeable trends of development);

(*3*) The consistency of the proposed open space use with public programs (whether Federal, state or local) for conservation in the region, including programs for outdoor recreation, irrigation or water supply protection, water quality maintenance or enhancement, flood prevention and control, erosion control, shoreline protection, and protection of land areas included in, or related to, a government approved master plan or land management area;

(*4*) The consistency of the proposed open space use with existing private conservation programs in the area, as evidenced by other land, protected by easement or fee ownership by organizations referred to in § 1.170A–13(c)(1), in close proximity to the property;

(*5*) The likelihood that development of the property would lead to or contribute to degradation of the scenic, natural, or historic character of the area;

(*6*) The opportunity for the general public to use the property or to appreciate its scenic values;

(*7*) The importance of the property in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;

(*8*) The likelihood that the donee will acquire equally desirable and valuable substitute property or property rights;

(*9*) The cost to the donee of enforcing the terms of the conservation restriction;

(*10*) The population density in the area of the property; and

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(*11*) The consistency of the proposed open space use with a legislatively mandated program identifying particular parcels of land for future protection.

(B) *Illustrations.* The preservation of an ordinary tract of land would not in and of itself yield a significant public benefit, but the preservation of ordinary land areas in conjunction with other factors that demonstrate significant public benefit or the preservation of a unique land area for public enjoyment would yield a significant public benefit. For example, the preservation of a vacant downtown lot would not by itself yield a significant public benefit, but the preservation of the downtown lot as a public garden would, absent countervailing factors, yield a significant public benefit. The following are other examples of contributions which would, absent countervailing factors, yield a significant public benefit: the preservation of farmland pursuant to a state program for flood prevention and control; the preservation of a unique natural land formation for the enjoyment of the general public; the preservation of woodland along a Federal highway pursuant to a government program to preserve the appearance of the area so as to maintain the scenic view from the highway; and the preservation of a stretch of undeveloped property located between a public highway and the ocean in order to maintain the scenic ocean view from the highway.

(v) *Limitation.* A deduction will not be allowed for the preservation of open space under section 170(h)(4)(A)(iii), if the terms of the easement permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land or with the governmental conservation policy that is being furthered by the donation.

(vi) *Relationship of requirements*—(A) *Clearly delineated governmental policy and significant public benefit.* Although the requirements of "clearly delineated governmental policy" and "significant public benefit" must be met independently, for purposes of this section the two requirements may also be related. The more specific the governmental policy with respect to the particular site to be protected, the more likely the governmental decision, by itself, will tend to establish the significant public benefit associated with the donation. For example, while a statute in State X permitting preferential assessment for farmland is, by definition, governmental policy, it is distinguishable from a state statute, accompanied by appropriations, naming the X River as a valuable resource and articulating the legislative policy that the X River and the relatively natural quality of its surrounding be protected. On these facts, an open space easement on farmland in State X would have to demonstrate additional factors to establish "significant public benefit." The specificity of the legislative mandate to protect the X River, however, would by itself tend to establish the significant public benefit associated with an open space easement on land fronting the X River.

(B) *Scenic enjoyment and significant public benefit.* With respect to the relationship between the requirements of "scenic enjoyment" and "significant public benefit," since the degrees of scenic enjoyment offered by a variety of open space easements are subjective and not as easily delineated as are increasingly specific levels of governmental policy, the significant public benefit of preserving a scenic view must be independently established in all cases.

(C) *Donations may satisfy more than one test.* In some cases, open space easements may be both for scenic enjoyment and pursuant to a clearly delineated governmental policy. For example, the preservation of a particular scenic view identified as part of a scenic landscape inventory by a rigorous governmental review process will meet the tests of both paragraphs (d)(4)(i)(A) and (d)(4)(i)(B) of this section.

(5) *Historic preservation*—(i) *In general.* The donation of a qualified real property interest to preserve an historically important land area or a certified historic structure will meet the conservation purposes test of this section. When restrictions to preserve a building or land area within a registered historic district permit future development on the site, a deduction will be allowed under this section only if the terms of the restrictions require that such development conform with appropriate local, state, or Federal standards for construction or rehabilitation within the district. See also, § 1.170A–13(h)(3)(ii).

(ii) *Historically important land area.* The term "historically important land area" includes:

(A) An independently significant land area (for example, an archaeological site or a Civil War battlefield) that substantially meets the National Register Criteria for Evaluation in 36 CFR 60.4 (Pub. L. 89–665, 80 Stat. 915);

(B) Any building or land area within a registered historic district (except buildings that cannot reasonably be considered as contributing to the significance of the district); and

(C) Any land area adjacent to a property listed individually in the National Register of Historic Places (but not within a registered historic district) in a case where the physical or environmental features of the land area contribute to the historic or cultural integrity of the structure.

(iii) *Certified Historic structure*—(A) *Definition.* The term "certified historic structure," for purposes of this section, generally has the same meaning as in section 191(d)(1) (as it existed prior to the Economic Recovery Tax Act of 1981, relating to 5-year amortization of expenditures incurred in the rehabilitation of certified historic structures). However, a "structure" for purposes of this section means any structure, whether or not it is depreciable. Accordingly, easements on private residences may qualify under this section. In addition, a structure would be considered to be a certified historic structure if it were certified either at the time the transfer was made or at the due date (including extensions) for filing the donor's return for the taxable year in which the contribution was made.

(B) *Interior and exterior easements.* A deduction under this section will not be allowed for the donation of an interior or exterior easement prohibiting destruction or alteration of architectural characteristics inside or on the outside of a certified historic structure unless there is substantial and regular opportunity for the general public to view the architectural characteristics that are the subject of the easement.

(e) *Exclusively for conservation purposes.* (1) *In general.* To meet the requirements of this section, a donation must be exclusively for conservation purposes. See paragraphs (c)(1) and (g)(1) through (g)(5)(ii) of this section. A deduction will not be denied under this section when incidental benefit inures to the donor merely as a result of conservation restrictions limiting the uses to which the donor's property may be put.

(2) *Access.* Any limitation on public access to property that is the subject of a donation under this section shall not render the donation nondeductible if such limitation is necessary for protection of the conservation interests that are the basis of the deduction. For example, a restriction on all public access to the habitat of a threatened native animal species protected by a donation under paragraph (d)(3) of this section would be appropriate if such

restriction were necessary for the survival of the species.

(3) *Inconsistent use.* Except as provided in paragraph (e)(4) of this section, a deduction will not be allowed if the contribution would accomplish one of the enumerated conservation purposes but would permit destruction of other significant conservation interests. For example, the preservation of farmland pursuant to a State program for flood prevention and control would not qualify under paragraph (d)(4) of this section if under the terms of the contribution a significant naturally occurring ecosystem could be injured or destroyed by the use of pesticides in the operation of the farm. A donor is not required to demonstrate that all possible conservation interests associated with the property will be protected; rather, the terms of the donation must not permit destruction of significant conservation interests.

(4) *Inconsistent use permitted.* A use that is destructive of conservation interests will be permitted only if such use is necessary for the protection of the conservation interests that are the subject of the contribution. For example, a deduction for the donation of an easement to preserve an archaeological site that is listed on the National Register of Historic Places will not be disallowed if site excavation consistent with sound archaeological practices may impair a scenic view of which the land is a part. A donor may continue a pre-existing use of the property that does not conflict with the conservation purposes of the gift.

(f) *Examples.* The provisions of this section relating to conservation purposes may be illustrated by the following examples.

Example (1). State S contains many large track forests that are desirable recreation and scenic areas for the general public. The forests' scenic values attract millions of people to the State. However, due to the increasing intensity of land development in State S, the continued existence of forestland parcels greater than 45 acres is threatened. J grants a perpetual easement on a 100-acre parcel of forestland that is part of one of the State's scenic areas to a qualifying organization. The easement imposes restrictions on the use of the parcel for the purpose of maintaining its scenic values. The restrictions include a requirement that the parcel be maintained forever as open space devoted exclusively to conservation purposes and wildlife protection, and that there be no commercial, industrial, residential, or other development use of such parcel. The law of State S recognizes a limited public right to enter private land, particularly for recreational pursuits, unless such land is posted or the landowner objects. The easement specifically restricts the landowner from posting the parcel, thereby maintaining public access to the parcel according to the custom of the State. J's parcel is regarded by the local community as providing the opportunity for the public to enjoy the use of the property and appreciate its scenic values. Accordingly, J's donation qualifies for a deduction under this section.

Example (2). A qualified conservation organization owns Greenacre in fee as a nature preserve. Greenacre contains a high quality example of a tall grass prairie ecosystem. Farmacre, an operating farm, adjoins Greenacre and is a compatible buffer to the nature preserve. Conversion of Farmacre to a more intense use, such as a housing development, would adversely affect the continued use of Greenacre as a nature preserve because of human traffic generated by the development. The owner of Farmacre donates an easement preventing any future development on Farmacre to the qualified conservation organization for conservation purposes. Normal agricultural uses will be allowed on Farmacre. Accordingly, the donation qualifies for a deduction under this section.

Example (3). H owns Greenacre, a 900-acre parcel of woodland, rolling pasture, and orchards on the crest of a mountain. All of Greenacre is clearly visible from a nearby national park. Because of the strict enforcement of an applicable zoning plan, the highest and best use of Greenacre is as a subdivision of 40-acre tracts. H wishes to donate a scenic easement on Greenacre to a qualifying conservation organization, but H would like to reserve the right to subdivide Greenacre into 90-acre parcels with no more than one single-family home allowable on each parcel. Random building on the property, even as little as one home for each 90 acres, would destroy the scenic character of the view. Accordingly, no deduction would be allowable under this section.

Example (4). Assume the same facts as in *example (3),* except that not all of Greenacre is visible from the park and the deed of easement allows for limited cluster development of no more than five nine-acre clusters (with four houses on each cluster) located in areas generally not visible from the national park and subject to site and building plan approval by the donee organization in order to preserve the scenic view from the park. The donor and the donee have already identified sites where limited cluster development would not be visible from the park or would not measurably impair the view. Owners of homes in the clusters will not have any rights which respect to the surrounding Greenacre property that are not also available to the general public. Accordingly, the donation qualifies for a deduction under this section.

Example (5). State S has experienced a marked decline in open acreage well suited for agricultural use. In the parts of the State where land is highly productive in agricultural use, substantially all active farms are small, family-owned enterprises under increasing development pressures. In response to those pressures, the legislature of State S passed a statute authorizing the purchase of "agricultural land development rights" from farm owners and the placement of "agricultural preservation restrictions" on their land, in order to preserve the State's open space and farm resources. Agricultural preservation restrictions prohibit or limit construction or placement of buildings except those used for agricultural purposes or dwellings used for family living by the farmer and his family and employees; removal of mineral substances in any manner that adversely affects the land's agricultural potential; or other uses detrimental to retention of the land for agricultural use. Money has been appropriated for this program and some landowners have in fact sold their "agricultural land development rights" to State S. K owns and operates a small dairy farm in State S. K desires to preserve his farm for agricultural purposes in perpetuity. Rather than selling the development rights to State S, K grants to a qualifying conservation organization an agricultural preservation restriction on his property in the form of a conservation easement. K reserves to himself, his heirs and assigns the right to manage the farm consistent with sound agricultural and management practices. K's farm is located in one of the more agriculturally productive areas within State S. Accordingly, a deduction is allowed under this section.

(g) *Enforceable in perpetuity*—(1) *In general.* In the case of any donation under this section, the interest in the property retained by the donor (and the donor's successors in interest) must be subject to legally enforceable restrictions that will prevent uses of the retained interest inconsistent with the conservation purposes of the donation. In the case of a contribution of a remainder interest, the contribution will not qualify if the tenants, whether they are tenants for life or a term of years, can use the property in a manner that diminishes the conservation values which are intended to be protected by the contributions.

(2) *Remote future event.* A deduction shall not be disallowed under section 170(f)(3)(B)(iii) and this section merely because the interest which passes to, or is vested in, the donee organization may be defeated by the performance of some act or the happening of some event, if on the date of the gift it appears that the possibility that such act or event will occur is so remote as to be negligible. See paragraph (e) of § 1.170A–1. For example, a state's statutory requirement that use restrictions must be rerecorded every 30 years to remain enforceable shall not, by itself, render an easement nonperpetual.

(3) *Retention of qualified mineral interest*—(i) *In general.* The requirements of this section are not met and no deduction shall be allowed in the case of a contribution of any interest when there is a retention of a qualified mineral interest if at any time there may be extractions or removal of minerals by

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any surface mining method. Moreover, in the case of a qualified mineral interest gift, the requirement that the conservation purposes be protected in perpetuity is not satisfied if any method of mining that is inconsistent with the particular conservation purposes of a contribution is permitted at any time. See also § 1.170A–13(e)(3). However, a deduction under this section will not be denied in the case of certain methods of mining that may have limited, localized impact on the real property but that are not irremediably destructive of significant conservation interests. For example, a deduction will not be denied in a case where production facilities are concealed or compatible with existing topography and landscape and when surface alteration is to be restored to its original state.

(ii) *Examples.* The provisions of paragraph (g)(3)(i) of this section may be illustrated by the following examples:

Example (1). K owns 5,000 acres of bottomland hardwood property along a major watershed system in the southern part of the United States. Agencies within the Department of the Interior have determined that southern bottomland hardwoods are a rapidly diminishing resource and a critical ecosystem in the south because of the intense pressure to cut the trees and convert the land to agricultural use. These agencies have further determined (and have indicated in correspondence with K) that bottomland hardwoods provide a superb habitat for numerous species and play an important role in controlling floods and in purifying rivers. K donates to a qualifying conservation organization all his interest in this property other than his interest in the gas and oil deposits that have been identified under K's property. K covenants and can ensure that, although drilling for gas and oil on the property may have some temporary localized impact on the real property, the drilling will not interfere with the overall conservation purpose of the gift, which is to protect the unique bottomland hardwood ecosystem. Accordingly, the donation qualifies for a deduction under this section.

Example (2). Assume the same facts as in *example (1)*, except that K does not own the mineral rights (or the right of access to those minerals) on the 5,000 acres and can not ensure that the mining and drilling will not interfere with the overall conservation purpose. Accordingly, a deduction for the donation of the easement would not be allowable under this section. The same rule would apply to disallow a deduction by K for the donation of a remainder interest in the land for conservation purposes. A different result would follow if under applicable State law the qualifying organization had sufficient rights to protect the conservation purpose of the gift. Additionally, a donation of K's entire interest in the 5,000 acres to an eligible organization would qualify for a deduction under section 170(f)(3)(A) without regard to this section.

Example (3). Assume the same facts as in example (1), except that K sell the mineral rights to an unrelated party in an arm's length transaction, subject to a recorded prohibition on the removal of any minerals by any surface mining method and a recorded prohibition against any mining technique that will harm the bottomland hardwood ecosystem. After the sale, K donates an easement for conservation purposes to a qualifying organization to protect the bottomland hardwood ecosystem. Since K can ensure in the easement that the mining of minerals on the property will not interfere with the conservation purposes of the gift, the donation qualifies for a deduction under this section.

(4) *Protection of conservation purpose where taxpayer reserves certain rights.* (i) *Documentation.* In the case of a donation made after (the date final regulations are published in the **Federal Register**) of any qualified real property interest when the donor reserves rights the exercise of which may have an adverse impact on the conservation interests associated with the property, for a deduction to be allowable under this section the donor must make available to the donee, prior to the time the donation is made, documentation sufficient to establish the condition of the property at the time of the gift. Such documentation may include:

(A) The appropriate survey maps from the United States Geological Survey, showing the property line and other contiguous or nearby protected areas;

(B) A map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings, fences, or gravel pits), vegetation and identification of flora and fauna (including, for example, rare species locations, animal breeding and roosting areas, and migration routes), land use history (including present uses and recent past disturbances), and distinct natural features (such as large trees and aquatic areas);

(C) An aerial photograph of the property at an appropriate scale taken as close as possible to the date the donation is made; and

(D) On-site photographs taken at appropriate locations on the property.

If the terms of the donation contain restrictions with regard to a particular natural resource to be protected, such as water quality or air quality, the condition of the resource at or near the time of the gift must be established. The documentation, including the maps and photographs, must be accompanied by a statement signed by the donor and a representative of the donee clearly referencing the documentation and in substance saying "This natural resources inventory is an accurate representation of [the protected property] at the time of the transfer.".

(ii) *Donee's right to inspection and legal remedies.* In the case of any donation referred to in paragraph (g)(4)(i) of this section, the donor must agree to notify the donee, in writing, before exercising any reserved right, *e.g.*, the right to extract certain minerals which may have an adverse impact on the conservation interests associated with the property. The terms of the donation must provide a right of the donee to enter the property at reasonable times for the purpose of inspecting the property to determine if there is compliance with the terms of the donation. Additionally, the terms of the donation must provide a right of the donee to enforce the conservation restrictions by appropriate legal proceedings, including but not limited to, the right to require the restoration of the property to its condition at the time of the donation.

(5) *Extinguishment.* (i) *In general.* If a subsequent unexpected change in the conditions surrounding the property that is the subject of a donation under this paragraph can make impossible or impractical the continued use of the property for conservation purposes, the conservation purpose can nonetheless be treated as protected in perpetuity if the restrictions are extinguished by judicial proceeding and all of the donee's proceeds (determined under paragraph (g)(5)(ii) of this section) from a subsequent sale or exchange of the property are used by the donee organization in a manner consistent with the conservation purposes of the original contribution.

(ii) *Proceeds.* In case of a donation made after (the date final regulations are published in the **Federal Register**), for a deduction to be allowed under this section, at the time of the gift the donor must agree that the donation of the perpetual conservation restriction gives rise to a property right, immediately vested in the donee organization, with a fair market value that is a minimum ascertainable proportion of the fair market value to the entire property. See § 1.170A–13(h)(3)(iii). For purposes of this paragraph (g)(5)(ii), that original minimum proportionate value ot the donee's property rights shall remain constant. Accordingly, when a change in conditions give rise to the extinguishment of a perpetual conservation restriction under paragraph (g)(5)(i) of this section, the donee organization, on a subsequent sale, exchange, or involuntary conversion of the subject property, must be entitled to a portion of the proceeds at least equal to the original proportionate value of the perpetual conservation restriction, unless state law provides that the donor is entitled to the full proceeds from the conversion without regard to the terms of the prior perpetual conservation restriction.

(h) *Valuation*—(1) *Entire interest of donor other than qualified mineral interest.* The value of the contribution under section 170 in the case of a contribution of a taxpayer's entire interest in property other than a qualified mineral interest is the fair market value of the surface rights in the property contributed. The value of the contribution shall be computed without regard to the mineral rights. See paragraph (h)(4), *example (1)*, of this section.

(2) *Remainder interest in real property.* In the case of a contribution of any remainder interest in real property, section 170(f)(4) provides that in determining the value of such interest for purposes of section 170, depreciation and depletion of such property shall be taken into account. See § 1.170A–12. In the case of the contribution of a remainder interest for conservation purposes, the current fair market value of the property (against which the limitations of § 1.170A–12 are applied) must take into account any pre-existing or contemporaneously recorded rights limiting, for conservation purposes, the use to which the subject property may be put.

(3) *Perpetual conservation restriction*—(i) *In general.* The value of the contribution under section 170 in the case of a charitable contribution of a perpetual conservation restriction is the fair market value of the perpetual conservation restriction at the time of the contribution. See § 1.170A–7(c). If no substantial record of market-place sales is available to use as a meaningful or valid comparison, as a general rule (but not necessarily in all cases) the fair market value of a perpetual conservation restriction is equal to the difference between the fair market value of the land it encumbers before the granting of the restriction and the fair market value of the encumbered land after the granting of the restriction. The amount of the deduction in the case of a charitable contribution of a perpetual conservation restriction covering a portion of the contiguous land owned by a taxpayer and the taxpayer's family (see section 267(c)(4)) is the difference between the fair market value of the entire contiguous tract before and after the granting of the restriction. Accordingly, in the case of the donation of a perpetual conservation restriction in all or a portion of the contiguous land owned by a taxpayer and the taxpayer's family (see section 267(c)(4)), if the donor or the donor's family receives, or can reasonably expect to receive, financial or economic benefits that are greater than those that will inure to the general public from the transfer, no deduction is allowable under this section. However, if the transferor receives, or can reasonably expect to receive, a financial or economic benefit that is substantial, but it is clearly shown that the benefit is less than the amount of the transfer, then a deduction under this section is allowable for the excess of the amount transferred over the amount of the financial or economic benefit received or reasonably expected to be received by the transferor. (See *example (11)* of paragraph (h)(4) of this section.)

(ii) *Fair market value of property before and after restriction.* If before and after valuation is used, the fair market value of the property before contribution of the conservation restriction must take into account not only the current use of the property but also an objective assessment of how immediate or remote the likelihood is that the property, absent the restriction, would in fact be developed, as well as any effect from zoning, conservation, or historic preservation laws that already restrict the property's potential highest and best use. Further, there may be instances where the grant of a conservation restriction may have no material effect on the value of the property or may in fact serve to enhance, rather than reduce, the value of property. In such instances no deduction would be allowable. In the case of a conservation restriction that allows for any development, however limited, on the property to be protected, the fair market value of the property after contribution of the restriction must take into account the effect of the development. Additionally, if before and after valuation is used, an appraisal of the property after contribution of the restriction must take into account the effect of restrictions that will result in a reduction of the potential fair market value represented by highest and best use but will, nevertheless, permit uses of the property that will increase its fair market value above that represented by the property's current use. The value of a perpetual conservation restriction shall not be reduced by reason of the existence of restrictions on transfer designed solely to ensure that the conservation restriction will be dedicated to conservation purposes. See § 1.170A–13(c)(2).

(iii) *Allocation of basis.* In the case of the donation of a qualified real property interest for conservation purposes, the basis of the property retained by the donor must be adjusted by the elimination of that part of the total basis of the property that is properly allocable to the qualified real property interest granted. The amount of the basis that is allocable to the qualified real property interest shall bear the same ratio to the total basis of the property as the fair market value of the qualified real property interest bears to the fair market value of the property before the granting of the qualified real property interest. When a taxpayer donates to a qualifying conservation organization an easement on a structure with respect to which deductions are taken for depreciation, the reduction required by this paragraph (h)(3)(ii) in the basis of the property retained by the taxpayer must be allocated between the structure and the underlying land.

(4) *Examples.* The provisions of this section may be illustrated by the following examples. In examples illustrating the value or deductibility of donations, the applicable restrictions and limitations of § 1.170A–4, with respect to reduction in amount of charitable contributions of certain appreciated property, and § 1.170A–8, with respect to limitations on charitable deductions by individuals, must also be taken into account.

Example (1). A owns Goldacre, a property adjacent to a state park. A wants to donate Goldacre to the state to be used as part of the park, but A wants to reserve a qualified mineral interest in the property, to exploit currently and to devise at death. The fair market value of the surface rights in Goldacre is $200,000 and the fair market value of the mineral rights is $100,000. In order to ensure that the quality of the park will not be degraded, restrictions must be imposed on the right to extract the minerals that reduce the fair market value of the mineral rights to $80,000. Under this section, the value of the contribution is $200,000 (the value of the surface rights).

Example (2). Assume the same facts as in *example (1)*, except that A would like to retain a life estate in Goldacre. A donates a remainder interest in Goldacre to the county government to use Goldacre as a park after A's death, but reserves the mineral rights in Goldacre (with restrictions on extraction similar to those in *example (1)*). A's gift does not meet the requirements of § 1.170A–7, with respect to contributions not in trust of partial interests in property, of § 1.170A–13(b)(1), with respect to qualified mineral interests, or of § 1.170A–13(b)(2), with respect to remainder interests in real property. Accordingly, no income tax deduction is allowable under this section.

Example (3). In 1982, B, who is 62, donates a remainder interest in Greenacre to a qualifying organization for conservation purposes. Greenacre is a tract of 200 acreas

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of undeveloped woodland that is valued at $200,000 at its highest and best use. Under § 1.170A–12(b), the value of a remainder interest in real property following one life is determined under § 25.2512–9 of the Gift Tax Regulations. Accordingly, the value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is $95,358 ($200,000×.47679).

Example (4). Assume the same facts as in *example (3),* except that Greenacre is B's 200-acre estate with a home built during the colonial period. Some of the acreage around the home is cleared; the balance of Greenacre, except for access roads, is wooded and undeveloped. See § 170(f)(3(E)(i). However, B would like Greenacre to be maintained in its current state after his death, so he donates a remainder interest in Greenacre to a qualifying organization for conservation purposes pursuant to sections 170(f)(3)(B)(iii) and (h)(2)(B). At the time of the gift the land has a value of $200,000 and the house has a value of $100,000. The value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is computed pursuant to § 1.170A–12. See § 1.170A–12(b)(3).

Example (5). Assume the same facts as in *example (3),* except that at age 62 instead of donating a remainder interest B donates an easement in Greenacre to a qualifying organization for conservation purposes. The fair market value of Greenacre after the donation is reduced to $110,000. Accordingly, the value of the easement, and thus the amount eligible for a deduction under section 170(f), is $90,000 ($200,000 less $110,000).

Example (6). Assume the same facts as in *example (5),* and assume that three years later, at age 65, B decides to donate a remainder interest in Greenacre to a qualifying organization for conservation purposes. Increasing real estate values in the area have raised the fair market value of Greenacre (subject to the easement) to $130,000. Accordingly, the value of the remainder interest, and thus the amount eligible for a deduction under section 170(f), is $67,324 ($130,000×.51788).

Example (7). Assume the same facts as in *example (3),* except that at the time of the donation of a remainder interest in Greenacre, B also donates an easement to a different qualifying organization for conservation purposes. Based on all the facts and circumstances, the value of the easement is determined to be $100,000. Therefore, the value of the property after the easement is $100,000 and the value of the remainder interest, and thus the amount eligible for deduction under section 170(f), is $47,679 ($100,000×.47679).

Example (8). C owns Greenacre, a 200-acre estate containing a house built during the colonial period. At its highest and best use, for home development, the fair market value of Greenacre is $300,000. C donates an easement (to maintain the house and Greenacre in their current state) to a qualifying organization for conservation purposes. The fair market value of Greenacre after the donation is reduced to $125,000. Accordingly, the value of the easement and the amount eligible for a deduction under section 170(f) is $175,000 ($300,000 less $125,000).

Example (9). Assume the same facts as in example (8) and assume that three years later, C decides to donate a remainder interest in Greenacre to a qualifying organization for conservation purposes. Increasing real estate values in the area have raised the fair market value of Greenacre to $180,000. Assume that because of the perpetual easement prohibiting any development of the land, the value of the house is $120,000 and the value of the land is $60,000. The value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is computed pursuant to § 1.170A–12. See § 1.170A–12(b)(3).

Example (10). D owns property with a basis of $20,000 and a fair market value of $80,000. D donates to a qualifying organization an easement for conservation purposes that is determined under this section to have a fair market value of $60,000. The amount of basis allocable to the easement is $15,000 ($60,000/$80,000=$15,000/$20,000). Accordingly, the basis of the property is reduced to $5,000 ($20,000 minus $15,000).

Example (11). E owns 10 one-acre lots that are currently woods and parkland. The fair market value of each of E's lots is $15,000 and the basis of each lot is $3,000. E grants to the county a perpetual easement for conservation purposes to use and maintain eight of the acres as a public park and to restrict any future development on those eight acres. As a result of the restrictions, the value of the eight acres is reduced to $1,000 an acre. However, by perpetually restricting development on this portion of the land, E has ensured that the two remaining acres will always be bordered by parkland, thus increasing their fair market value to $22,500 each. If the eight acres represented all of E's land, the fair market value of the easement would be $112,000, an amount equal to the fair market value of the land before the granting of the easement ($8\times\$15,000=\$120,000$) minus the fair market value of the encumbered land after ($8\times\$1,000=\$8,000$). However, because the easement only covered a portion of the taxpayer's contiguous land, the amount of the deduction under section 170 is reduced to $97,000 ($150,000−$53,000), that is, the difference between the fair market value of the entire tract of land before ($150,000) and after ($(8\times\$1,000)+(2\times\$22,500)$) the granting of the easement.

Example (12). Assume the same facts as in *example (11).* Since the easement covers a portion of E's land, only the basis of that portion is adjusted. Therefore, the amount of basis allocable to the easement is $22,400 ($(8\times\$3,000)\times(\$112,000/\$120,000)$). Accordingly, the basis of the eight acres encumbered by the easement is reduced to $1,600 ($24,000−$22,400), or $200 for each acre. The basis of the two remaining acres is not affected by the donation.

Example (13). F owns and uses as professional offices a two-story building that lies within a registered historic district. F's building is an outstanding example of period architecture with a fair market value of $125,000. Restricted to its current use, which is the highest and best use of the property without making changes to the facade, the building and lot would have a fair market value of $100,000, of which $80,000 would be allocable to the building and $20,000 would be allocable to the lot. F's basis in the property is $50,000, of which $40,000 is allocable to the building and $10,000 is allocable to the lot. F's neighborhood is a mix of residential and commercial uses, and it is possible that F (or another owner) could enlarge the building for more extensive commercial use, which is its highest and best use. However, this would require changes to the facade. F would like to donate to a qualifying preservation organization an easement restricting any changes to the facade and promising to maintain the facade in perpetuity. The donation would qualify for a deduction under this section. The fair market value of the easement is $25,000 (the fair market value of the property before the easement, $125,000, minus the fair market value of the property after the easement, $100,000). Pursuant to § 1.170A–13(h)(3)(iii), the basis allocable to the easement is $10,000 and the basis of the underlying property (building and lot) is reduced to $40,000.

(i) *Substantiation requirement.* If a taxpayer makes a qualified conservation contribution and claims a deduction, the taxpayer must maintain written records of the fair market value of the underlying property before and after the donation and the conservation purpose furthered by the donation and such information shall be stated in the taxpayer's income tax return if required by the return or its instructions.

(j) *Effective date.* This section applies only to contributions made on or after December 18, 1980.

PART 20—[AMENDED]

Par. 5. Paragraph (e)(2) of § 20.2055–2 is amended as follows:

a. The sixth sentence of paragraph (e)(2)(i) is revised to read: "However, except as provided in paragraphs (e)(2)(ii), (iii), and (iv) of this section, for purposes of this subdivision a charitable contribution of an interest in property not in trust where the decedent transfers some specific rights to one party and transfers other substantial rights to another party will not be considered a contribution of an undivided portion of the decedent's entire interest in property.".

b. The eighth sentence of paragraph (e)(2)(i) is revised to read: "A bequest to charity made on or before December 17, 1980, of an open space easement in gross in perpetuity shall be considered the transfer to charity of an undivided portion of the decedent's entire interest in the property.".

c. Paragraphs (e)(2)(iv), (e)(2)(v), a (e)(2)(vi) are redesignated (e)(2)(v), (e)(2)(vi), and (e)(2)(vii), respectively.

d. A new paragraph (e)(2)(iv) is inserted after paragraph (e)(2)(iii) to read as set forth below.

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(e) *Limitations applicable to decedents dying after December 31, 1969.* * * *

(2) *Deductible interests.* * * *

(iv) *Qualified conservation contribution.* The charitable interest is a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A–13.

PART 25—[AMENDED]

Par. 6. Paragraph (c)(2) of § 25.2522(c)–3 is amended as follows:

a. The sixth sentence of paragraph (c)(2)(i) is revised to read: "However, except as provided in paragraphs (e)(2)(ii), (iii), and (iv) of this section, for purposes of this subdivision a charitable contribution of an interest in property not in trust where the decedent transfers some specific rights to one party and transfers other substantial rights to another party will not be considered a contribution of an undivided portion of the decedent's entire interest in property.".

b. The eighth sentence of paragraph (c)(2)(i) is revised to read: "A bequest to charity made on or before December 17, 1980, of an open space easement in gross in perpetuity shall be considered the transfer to charity of an undivided portion of the decedent's entire interest in property.".

c. Paragraphs (c)(2)(iv), (c)(2)(v), and (c)(2)(vi) are redesignated (c)(2)(v), (c)(2)(vi), and (c)(2)(vii), respectively.

d. A new paragraph (c)(2)(iv) is inserted after paragraph (c)(2)(iii), to read as set forth below.

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(c) *Transfers of partial interest in property.* * * *

(2) *Deductible interest.* * * *

(iv) *Qualified Conservation Contribution.* The charitable interest is a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A–13.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-13869 Filed 5-20-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: As part of an effort to assist in relieving prison overcrowding, and to enhance equity among similarly situated offenders, the Commission is proposing to add a provision to its rules concerning the referral to the Bureau of Prisons, and ultimately to the sentencing court, of certain selected cases where the Commission would recommend reduction of a judicially imposed minimum sentence.

DATE: Public comment must be received by July 15, 1983.

ADDRESS: Send comment to Peter Hoffman, Research Director, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, telephone: (301) 492–5980.

FOR FURTHER INFORMATION CONTACT: Peter Hoffman, Research Director, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, (301) 492–5980.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons and Department of Justice have recently asked the Parole Commission for assistance in addressing the problem of federal prison overcrowding. In their view, the federal prison population has seriously exceeded the Bureau's capacity.

As one part of an effort to assist in relieving this overcrowding, the Commission is proposing the following addition to its rules. This proposal involves a joint effort by the Bureau of Prisons and the Parole Commission to: (1) Identify certain prisoners who could be safely released from prison under current Parole Commission standards (see 18 U.S.C. 4206 and 28 CFR 2.20) but whose release is barred by a judicially imposed minimum sentence and (2) seek a reduction of the minimum sentence in such cases under the provisions of 18 U.S.C. 4205(g). Under 18 U.S.C. 4205(g) the Director of the Bureau of Prisons is vested with the authority to petition the sentencing court at any time for a reduction of minimum sentence. Under this proposal referrals to the sentencing court would be made when the prisoner has served the time required by the maximum of the applicable guideline range.

The Commission believes that through cooperation between the Commission, the Bureau of Prisons and the sentencing court, this proposal could reduce the prison population by up to 500 beds over the course of a year without increasing the risk to public safety.

It is to be stressed that this proposal is only one part of a larger effort. The Commission intends to explore other methods for assisting in addressing the problem of prison overcrowding. For example, the Commission intends to stress through staff training for its hearing examiners the need for parsimony in making decisions within the Commission's guidelines, and to initiate special review procedures to ensure that decisions are made consistent with this principle.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), the Commission proposes the addition of § 2.62 to 28 CFR Part 2:

§ 2.62 Recommendation for reduction of minimum sentence.

Under 18 U.S.C. 4205(g) the sentencing court may reduce a minimum sentence upon the motion of the Director of the Bureau of Prisons. Where it appears that a prisoner with a minimum sentence exceeding the applicable guideline range under § 2.20 of this part would otherwise be suitable for release after service of the time required by the maximum of the applicable guideline range, the Regional Commissioner may recommend to the Director of the Bureau of Prisons a motion under 18 U.S.C. 4205(g) for reduction of the minimum sentence to the time required by the maximum of the applicable guideline range.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 5, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-13773 Filed 5-20-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Parole, Release, Supervision and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents

AGENCY: Parole Commission, Justice.

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ACTION: Notice of proposed rulemaking.

SUMMARY: The Parole Commission seeks public comment on a proposal to establish a policy with respect to providing a reward for prisoners to offer their assistance in the investigation and prosecution of other criminals. The proposal calls for the establishment of a specified range of reductions from the cooperating prisoner's presumptive parole date, provided that his assistance has been otherwise unrewarded and the release of the prisoner would not threaten the public safety. The need for a clear policy on this matter arises from the fact that in many cases, some response from the Parole Commission is the only form of incentive or reward available to the Government.

DATE: Comment must be received by July 15, 1983.

ADDRESS: U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, Attention: Michael A. Stover.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: A frequently critical factor in law enforcement is the informant who is able to provide accurate information and testimony in the investigation and prosecution of serious offenders. This proposal recognizes the practical need for a response from the Parole Commission when the informant is a Federal prisoner serving a sentence for some other crime.

Under this proposal, such assistance must not have been adequately rewarded by other official action and must be reported in sufficient detail by prosecuting authorities for the Commission to make an independent evaluation, the endorsement of the responsible Chief Criminal Assistant U.S. Attorney (or official of equivalent or superior rank) would be required, and prosecutors would not be permitted to guarantee a parole reward in advance.

If the release of the prisoner would not threaten the public safety, the Commission would consider a reduction of up to a certain proportion of the prison time required by the parole decision which would be otherwise ordered. The specified proportion would be for the most clearly meritorious case, where the assistance was a key factor in the successful prosecution of a major crime and/or a serious offender. Greater reductions would be considered only for extraordinary circumstances.

The Commission would not penalize the prisoner for any confession of wrongdoing made during testimony covered by a grant of immunity, unless the confession raised a compelling concern for the public safety.

Accordingly the Commission invites both comments and suggestions as to what appropriate percentage of actual prison time might be considered a fair standard to recognize valuable assistance to law enforcement, without overriding the need to satisfy justice in the prisoner's own case.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 12, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83–13774 Filed 5–20–83; 8:45 am]

BILLING CODE 4410–01–M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The United States Parole Commission seeks public comment on a rule designed to implement the Victim and Witness Protection and Assistance Act of 1982, insofar as that law gives the Parole Commission certain responsibilities with respect to the enforcement of orders of restitution imposed by the sentencing judge. The proposed rule provides that the Parole Commission will set a presumptive release date for such prisoners, but will not release any prisoner on his or her parole date if there is evidence of willful non-compliance with the order of restitution. Further, the proposed rule restates the Commission's statutory responsibilities in supervising parolees who have undischarged orders of restitution.

DATE: Comments must be submited by July 15, 1983..

ADDRESS: United States Parole Commission, Office of the General Counsel, 5550 Friendship Blvd., Chevy Chase, MD 20815.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, (301) 492–5959.

SUPPLEMENTARY INFORMATION: The new law, Pub. L. 97–291, imposes major new responsibilities on sentencing judges to consider whether or not to impose an order of restitution in all offenses under 18 U.S. Code and 49 U.S.C. 1472 (the aircraft piracy statute). 18 U.S.C. 3579. If an order of restitution is not satisfied by the time of a defendant's release from prison, the order becomes a condition of parole supervision which the Parole Commission is obliged to enforce. Of course, this enforcement responsibility does not supersede the continuing responsibility of the U.S. Attorney's Office to enforce the order by normal civil collection methods. 18 U.S.C. 3579(h). Therefore, it is the Commission's intent that enforcement of a restitution order should routinely involve the active participation of the prosecutor, both in determining which enforcement method or combination thereof (civil action, the imposition of additional financial disclosure requirements to the conditions of parole, or the revocation of parole) will be best suited to bring about compliance, and in ensuring that the Commission has all available evidence in any parole revocation proceeding that is held.

The only important policy choice in this proposed rule is that the Commission would not release a prisoner on parole if it appeared that failure to satisfy an order of restitution was a willful defiance or evasion of that obligation. The Commission sees no point in placing a parolee under threat of revocation and return to prison for non-compliance, if the parolee's ability to pay has not changed since the date the Commission granted his release.

It should also be noted that a reasonable plan of payment must be included in every release plan where the prisoner proposes to accept a parole date without first satisfying an order of restitution. This places an additional responsibility on U.S. Probation Officers in investigating and conditionally approving such plans.

PART 2—[AMENDED]

The text of the proposed new paragraph (d), (e), and (f) of § 2.7 is as follows:

§ 2.7 Committed fines and restitution orders.

* * * * *

(d) When there is an unsatisfied order of restitution and it appears that the prisoner has the ability to pay and has willfully failed to do so, the Commission shall require satisfaction of such order of restitution prior to granting an effective parole date. A hearing under § 2.28(e) of this part will be scheduled if a release date is retarded by more than 120 days because of an unsatisfied order of restitution.

(e) Upon the release of a prisoner with an unsatisfied order of restitution, such order automatically becomes a condition of parole. A reasonable plan for payment (or performance of services, if so ordered by the court) must be included in the prisoner's release plan to be acceptable to the Commission, and this plan becomes part of the conditions of release. The plan may be modified thereafter under § 2.40 (b) or (e) of this part, as circumstances may warrant.

(f) In determining whether to revoke parole for non-compliance with a condition of restitution, the Parole Commission shall consider the parolee's employment status, earning ability, financial resources, the willfulness of the failure to pay and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unles the parolee is found to be deliberately evading or refusing compliance.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 12, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83–13775 Filed 5–20–83; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 83–4]

Notice of Inquiry Deposit Of Computer Programs and Other Works Containing Trade Secrets

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of Inquiry.

SUMMARY: This notice of inquiry is issued to advise the public that the Copyright Office of the Library of Congress is reviewing its regulations with respect to the deposit under sections 407 and 408 of title 17 of the U.S. Code of computer programs and other works which contain material referred to as "trade secrets." The existing regulations of the Copyright Office governing the deposit of works in satisfaction of mandatory deposit under section 407 or in connection with registration of claims to copyright under section 408 appear at 37 CFR 202.19–21.

Owners of copyright in works containing trade secrets, especially owners of copyright in computer programs, have expressed concern about public availability of materials deposited in the Copyright Office, and have asked that the Office consider the possibility of special deposit provisions. This notice is intended to elicit public comment, views, and information which will assist the Copyright Office in evaluating its present pratices and in considering possible changes in its regulations.

DATES: Initial comments should be received on or before July 18, 1983. Reply comments should be received on or before August 15, 1983.

ADDRESS: Interested persons should submit ten copies of their written comments to the Copyright Office, Library of Congress. If delivered by hand, the copies should be brought to: Office of the General Counsel, James Madison Building, Room 407, First and Independence Ave., SE., Washington, D.C.

If sent by mail: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Department DS, Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 29559. Telephone (202) 287–8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 702 of title 17 of the U.S. Code, the Copyright Act, authorizes the Register "to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title." 17 U.S.C. 702. One of these duties, in the case of published works, is to enforce the mandatory deposit requirements, which apply to any work published in the United States with notice of copyright. 17 U.S.C. 407. Another is to register claims to copyright in any published or unpublished work upon receipt of an adequate application, deposit, and fee, provided the Register determines that the work constitutes copyrightable subject matter and that other legal and formal requirements have been satisfied. 17 U.S.C. 408 and 410. The Register also has the duty to retain articles deposited in the Copyright Office under section 408 but not selected by the Library of Congress for its collections. The Copyright Office also makes certain records of registration available for public inspection, including copyright deposits. 17 U.S.C. 704, 705.

a. *Mandatory deposit.* Deposit is made under two sections of the Copyright Act. Section 407 requires that the owner of copyright or the owner of the exclusive right of publication in any work which has been published in the United States with notice of copyright deposit two complete copies or phonorecords of the best edition of the work for the collections of the Library of Congress. 17 U.S.C. 407. The Register is authorized under this section to exempt from the deposit requirement any types of works not needed for the Library of Congress collections, and has done so in 37 CFR 202.19(c). There is presently no general exemption in this regulation for material which contains trade secrets, although it is possible that most material containing trade secrets is not normally "published" within the meaning of the Copyright Act and is therefore not subject to section 407. 17 U.S.C. 101 (definition of "publication"). Moreover, computer programs are exempt from mandatory deposit under 37 CFR 202.19(c)(5).

b. *Deposit for registration.* Registration of a claim to copyright under section 408, though voluntary, also requires deposit. Title 17 U.S.C. 408 governs the nature of the deposit required in connection with copyright registration. Except as provided by subsection (c) thereof, subsection (b) generally requires the deposit of one complete copy or phonorecord in the case of an unpublished work, or two complete copies or phonorecords of the best edition in the case of a published work. For works first published outside the United States, the Act requires deposit of one complete copy or phonorecord as so published. Subsection (c) of section 408 authorizes the Register to specify administrative classes of works for purposes of deposit and registration, to determine the nature of the copies to be deposited, and to permit or require the deposit of identifying materials in lieu of actual copies.

In reliance on this authorization, the Copyright Office established regulations governing deposit for registration of claims to copyright at 37 CFR 202.20 and 202.21. Section 202.20 of 37 CFR provides a number of modifications to the deposit requirement in the case of certain works, but does not specifically provide for the deposit of identifying material in lieu of copies solely on the ground that the work contains trade secrets. However, special provision has been made for the deposit of literary works fixed or published in machine-readable form. 37 CFR 202.20(c)(vii). For computer programs, the regulations now require the deposit of "one copy of identifying portions of the program," which means the first and last 25 pages or their

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equivalent. In applying this regulation, the Copyright Office has taken the position that the source code format of a computer program constitutes the best representation of the authorship in the program and therefore satisfies the "identifying portions" requirement.

Registration may be made for computer programs under the Office's "rule of doubt" based on an object code format as the deposit. In this exceptional case, the Office makes no independent determination that the object code format identifies an original work of authorship. The registration is made for whatever it may be worth based on an applicant's assertion that the object code identifies an original work of authorship. The Office also examines all other elements of the claim to determine whether formal and legal requirements have been satisfied.

The regulations also allow applicants the opportunity in exceptional cases to seek "special relief" from the deposit requirements by specific written request. Special relief may consist of allowing the deposit of identifying material in lieu of a copy or copies. 37 CFR 202.20(d). Under this procedure, the Examining Division has received many requests for such relief where the applicant seeks to maintain the confidentiality of a trade secret. Where it is possible to excise the confidential material and deposit a substantial representation of the authorship in the works, special relief is more likely to be granted.

c. *"Secure test" regulation.* Special provision is made in the deposit regulations for the registration of any work which is a "secure test." Section 202.20(c)(vi) provides that:

> In the case of tests, and answer material for tests, published separately from other literary works, the deposit of one complete copy will suffice in lieu of two copies. In the case of any secure test the Copyright Office will return the deposit to the applicant promptly after examination: Provided, that sufficient portions, description, or the like are retained so as to constitute a sufficient archival record of the deposit.

Section 202.20(b)(4) defines a "secure test" as:

> • • • nonmarketed test administered under supervision at specified centers on specific dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration.
>
> For these purposes a test is not marketed if copies are not sold but it is distributed and used in such a manner that ownership and control of copies remain with the test sponsor or publisher."

In the case of the mandatory deposit of published works under section 407, "tests, and answer material for tests, when published separately from other literary works," are completely exempt from deposit. 37 CFR 202.19(c)(8). Although no specific mention is made of "secure tests," this exemption is meant to encompass them and will, in almost every case, since most secure tests are published separately, if published at all.

Special provision for secure tests first appeared in our proposed rulemaking on deposit requirements, in Volume 42, No. 221 of the **Federal Register** for Wednesday, November 16, 1977 (pp. 59302–9). The preamble to the proposed regulations explained that the Copyright Office had considered the "special problems of confidentiality" faced by creators and administrators of secure tests. Consideration of the matter was prompted by correspondence from Educational Testing Service, whose position was supported by the American College Testing Program, The College Entrance Examination Board, The American Council on Education, and nineteen other examining boards and councils including the Law School Admission Council, the National Board of Medical Examiners, the Federation of State Medical Boards, and the National Conference of Bar Examiners.

After examining the concerns raised by these interested parties, the Copyright Office concluded that, although secure tests should be deposited in the Copyright Office for examination incident to registration under section 408, their retention by the Office and availability for public inspection could "severely prejudice the future utility, quality, and integrity of the materials." Accordingly, the proposed deposit regulation required that only one copy of any such test need be deposited, and provided for the special treatment which became, without change from the language in the proposed rulemaking, the present § 202.20(c)(vi). The proposed rulemaking also noted that the Library of Congress does not require such works for its collections and exempted them from mandatory deposit in proposed § 202.19, the regulation which prescribed deposit requirements for works subject to 17 U.S.C. 407. This exemption also became part of the final deposit regulations, as quoted above, at § 202.19(c)(8).

(d) *Retention of copyright deposits and public access.* Retention and disposal of deposits and public access to deposits made under sections 407 and 408 are governed by sections 704 and 705 of the Copyright Act, respectively, and material containing trade secrets, as well as all other deposit material retained by the Copyright Office, is subject to these provisions.

The statutory duty of the Register to retain works deposited in the Copyright Office is set forth in 17 U.S.C. 704. Subsection (a) recognizes three types of deposits: Copies, phonorecords, and identifying materials. The subsection provides that all types of deposits become U.S. Government property. In subsection (b), deposits for published works are available to the Library of Congress for its collections or for exchange or transfer to any other library, and the Library may select unpublished works for its collections or for transfer to the U.S. National Archives or to a Federal records center. Subsection (d) states that any deposits not selected are retained for the longest period practicable and desirable by the Register and the Librarian, but then may be destroyed or otherwise disposed of in accordance with the Act. The Copyright Office has recently published a policy decision regarding retention of deposits. (48 FR 12862). Published deposits will be retained for five years, except for works of the visual arts, which will be retained ten years or longer. No unpublished deposit will be disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made and added to the Copyright Office records.

Title 17 U.S.C. 705 imposes upon the **Register** a duty to prepare and maintain records of "all deposits," registrations, recordations and other actions [subsection (a)]. Under subsection (b), such records and all articles deposited in connection with completed copyright registrations "shall be open to public inspection."

2. Some Policy Considerations

a. *General.* A number of requests for special relief from the deposit requirement, asking that various exceptions be made for computer programs and works containing trade secret material, caused us to institute this inquiry. Many requests asked for treatment similar to that now provided for "secure tests."

The secure test provision of the deposit regulations were sustained in a challenge in *National Conference of Bar Examiners and Educational Testing Service v. Multistate Legal Studies, Inc.*, 629 F. 2d 478 (7th Cir. 1982), (petition for certiorari filed), a copyright and trademark infringement case in which the defendant asserted that either the regulations under which plaintiffs' claims to copyright were registered, § 202.20(c)(vi), were inconsistent with the Copyright act, or that the Act was unconstitutional. The Seventh Circuit held that the secure test regulation is

authorized by 17 U.S.C. 408(c), that the regulation does not conflict with 17 U.S.C. 704(d), and that the regulation does not violate Article I, Section 8 of the Constitution.

Based on the *Multistate* decision, representations have been made to the Copyright Office that the Register has the necessary authority to promulgate regulations allowing the deposit of identifying material for works containing trade secrets. The purpose of this notice is to elicit comment, views, information, and suggestions that will assist the Office in reaching policy decisions regarding the appropriate deposit for computer programs and works containing trade secrets in general. The policy issues are important and may have profound significance for the system of copyright registration.

Registration before or within five years of publication creates a legal presumption of copyright validity and of the facts stated in the certificate of registration. 17 U.S.C. 410(c). Certain remedies (statutory damages and attorneys fees) are conditioned on timely registration. In the case of unpublished works, the registration record arguably establishes the metes and bounds of the claim to copyright, which, although arising upon creation of the work, is amorphous and undefined before registration.

To what extent should the benefits of a public registration record be offered to the claimants who may, for various reasons, be unwilling to disclose on the record at least a substantial portion of the authorship on which the claim is based? Is there any public interest in encouraging the disclosure of the scope of the claim to copyright? Can infringement actions be defended effectively where the public record discloses none or only a small portion of the authorship in a work which is the subject of litigation?

b. *Freedom of Information Act and the Trade Secrets Act.*

The Freedom of Information Act requires Federal agencies to make public all material in their possession that does not fall within nine specific exemptions. The fourth of these exemptions covers trade secrets and confidential commercial or financial information. 5 U.S.C. 552(b)(c)(4). In *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979), the Supreme Court held that a private party had no right under FOIA to block the release of documents containing trade secrets that had been submitted to a government agency, stating that Congress intended the agency, and not the private entity submitting the documents, to have discretion over disclosure.

The Court left open the possibility that another federal law, the Trade Secrets Act, in combination with the requirements of the Administrative Procedure Act, could be used to block such disclosures of confidential material. The Trade Secrets Acts, 18 U.S.C. 1905.

If the Freedom of Information Act were applicable to copyright deposits, the Copyright Office would have discretion under the *Chrysler* case to issue a regulation governing disclosure of material which contains trade secrets. The Copyright Act, however, in making the Copyright Office subject to the Administrative Procedure Act of June 11, 1946, as amended, specifically exempted copyright deposits. 17 U.S.C. 701(d). The controlling disclosure provision is therefore section 705(b) of the Copyright Act which expressly requires that all section 408 copyright deposits, as well as other related material, "shall be open to public inspection." 17 U.S.C. 705. The Trade Secrets Act does not prevent disclosure where authorized by another federal statute. Disclosure of copyright deposits, whether they contain trade secrets or not, is not only authorized, but mandated by law.

Nevertheless, it is not clear that trade secrets are actually disclosed by copyright registration. Since the Copyright Office records are grouped in broad subject matter classifications, extensive searching may be required to locate a work unless one or more identifiers (title, author, claimant) is known precisely before hand.

c. *Alleged impairment of trade secrets.*

The principal argument for granting special treatment to works containing trade secret material, as expressed in requests for special relief, is that the public access that attends the deposit of such works arguably destroys or impairs their value to the copyright owner. In the case of deposit in connection with a copyright registration, it is argued that the harm done by public access may vitiate the benefits that copyright registration would otherwise provide to the copyright owner and thus discourage registration.

Some of the benefits of copyright registration were noted earlier. Additionally, no action for infringement of a copyright may be instituted until registration has been made or refused. 17 U.S.C. 411(a). Moreover, the importance of having deposits on record in the Copyright Office as evidence in litigation has long been acknowledged, particularly in the case of unpublished works. House Report 94–1476 notes the "continued value of deposits in identifying copyrighted works," and refers to the "many difficulties encountered when copies needed for identification in connection with litigation or other purposes have been destroyed." [1] This philosophy lies behind the retention provision of section 704 of the Act.

The Copyright Office and the public have long been concerned with having an adequate record of a copyright registration or refusal to register, to protect those who must rely on the public record in infringement actions and commercial transactions. It is possible that the deposit of minimal identifying material in lieu of an actual copy or a reproduction of the complete authorship would weaken the value of the registration record in litigation.

The definition of the term "trade secret" is fundamental to consideration of any system of special treatment in the deposit regulations. The Roger Milgrim treatise, *Trade Secrets*, Volume II, Sec. 2.01, defines the term as follows:

> A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving material, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business • • • in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a process or device for continuous use in the operation of the business. Generally it relates to the production of goods, as for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other consessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

It is unclear whether this definition is adequate to describe all of the "trade secret" materials likely to be submitted for deposit. If special provision is to be made by regulation, for works containing trade secrets, a workable definition which can be applied by examiners and the public, must be developed. The Copyright Office is concerned that the universe of "trade

[1] H.R. REP. No. 94–1476, 94th Cong., 2d Sess. 171–172 (1976).

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secret" materials may be exceedingly large.

Variations in deposit requirements which involve the submission of identifying material (unless adopted to conserve storage space) or special processing of any kind, tend to add significant administrative costs to the operating expenses of the Copyright Office. This additional expense must be considered by the Copyright Office in making its decision regarding deposit of computer programs and other material containing trade secrets.

The Office must also consider carefully the benefit to the public in having the most complete and representative collections possible in the Library of Congress. To some degree any replacement of actual copies by identifying material, for a large category such as trade secret materials, undermines the scope and worth of the Library's collections.

Finally, the Copyright Office in this Notice of Inquiry does not invite comment on deposit of confidential materials in general. The Office believes that exceptions from the deposit requirements for non-trade secret, confidential material can continue to be considered by means of requests for special relief under 37 CFR 202.19(e) and 202.20(d). However, if members of the public believe it is not possible to define trade secret material in a way that excludes confidential material, the Office will consider such comments.

3. Specific Questions

The Copyright Office is interested in receiving comments, views, information about business practices, and alternative deposit suggestions relevant to the deposit of computer programs and of material containing trade secrets. Of particular interest are answers to the following questions:

(1) To what extent is "industrial espionage" a problem with materials containing trade secrets, and to what extent would the presence of a copy of such a work in the Copyright Office records or in the Library of Congress collections exacerbate that problem?

(2)(a) Are works containing trade secrets usually registered for copyright? (b) Would a significantly greater number be registered but for the problem of public access to deposits? (c) What is the most typical type of trade secret material for which registration would be sought? (d) Is copyright registration considered an important system of protection for trade secret material by the owners of such material?

(3)(a) How should trade secret material be defined for the purposes of allowing special treatment, if any? (b) What proof regarding trade secrecy should be required, if any? (c) Should specific assertions of the harm which would be caused by public disclosure be required, e.g. an assertion that disclosure would jeopardize national security, or would completely or substantially destroy the value of the work? (d) Should any attempt at definition be made, or should a simple assertion that a work contains trade secret material be sufficient?

(4) Are most materials containing trade secrets published or unpublished in terms of the definition of publication in 17 U.S.C. 101?

(5)(a) What are the public benefits in keeping trade secrets confidential? (b) How do such benefits compare to the public benefit in maintaining complete and open records of copyright registration? (c) To what extent should the benefits of copyright registration be available to claimants who are unwilling or unable to disclose on the public record at least a substantial portion of the authorship on which the claim is based?

(6)(a) To what extent are deposit copies of trade secret materials valuable in infringement actions or other lawsuits? (b) How would the evidentiary value of the deposit be affected if the deposit consisted of identifying material? (c) What type of identifying material would be best as an evidentiary copy? (d) Can infringement actions be defended effectively where the public record discloses none or only a small portion of the authorship in the contested work?

(7) If special treatment is granted for materials containing trade secrets, should it be handled as special relief on a case-by-case basis, or as a specific exemption in the deposit regulations?

(8) Would copyright owners be willing to bear part or all of the administrative cost of special treatment?

(9) What specific proposals for special treatment would be most effective in meeting the concerns of copyright owners in trade secret material?

(10)(a) Would owners of copyright in such materials be willing to maintain a secure file copy and produce it in court, or deposit the entire work whenever the material loses its trade secret status, as a condition of special treatment? (b) How could the Copyright Office enforce the condition, if adopted?

(11) Since the Copyright Office has no subject matter classifications other than the broad literary, visual arts, performing arts, and sound recording classes, does not the extensive searching ordinarily required to locate a work containing trade secret material constitute a generally effective bar to actual disclosure of the trade secret?

(12)(a) Since object code formats of computer programs cannot be examined by the Copyright Office, under what conditions, if any, should the Office accept object code as the identifying reproduction of a computer program? (b) Should the Office require the deposit of both source code and object code, make its examination, and then return the source code? (c) Should the Office retain part of the source code in such form that no trade secret is disclosed? (d) What should be deposited if source code never existed?

(17 U.S.C. 407, 408, 410, and 701-706)

List of Subjects in 37 CFR Part 202

Copyright registration requirements.

Dated: May 12, 1983.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 83-13847 Filed 5-20-83; 8:45 am]
BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 764

[OPTS-62029; TSH-FRL 2345-7]

4,4'-Methylene Bis (2-Chloroaniline); Initiation of Regulatory Investigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: This notice announces the Environmental Protection Agency's intent to consider proposing the regulation of the chemical 4,4'-methylene bis (2-chloroaniline) (MBOCA) under the Toxic Substances Control Act (TSCA). MBOCA is used as a curing agent in the manufacture of certain polyurethane plastics and has been demonstrated to be carcinogenic in animals. EPA is concerned that the risk from exposure to MBOCA may be unreasonable and will explore a range of regulatory options including a complete or partial ban. EPA solicits comments on whether the manufacture, processing, use, or distribution in commerce of MBOCA should be subject to controls.

DATE: All comments must be received by July 22, 1983.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, D.C. 20460.

Comments should include the docket number OPTS 62029. Comments received on this notice will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has strong evidence that MBOCA is carcinogenic in several species and at multiple sites for at least one species. In rates, malignant tumors have been produced by MBOCA at statistically significant rates of incidence in the lung, liver, mammary gland, and Zymbal's gland. In mice, malignant tumors have been observed in the liver; in dogs, in the urinary bladder. The carcinogenicity of MBOCA in animal studies demonstrates its potential for human carcinogenicity.

MBOCA is used as a hardener or curing agent in the production of certain castable polyurethane elastomers (90 percent of domestic use) and polyurethan surface coatings (10 percent). Most elastomers using MBOCA are industrial products (such as solid tires, gears, gaskets, belts, rollers, etc.), while some are consumer products (such as shoe heels and soles, sport boots, and skate wheels).

The Toxic Substances Inventory compiled by EPA under section 8(b) of TSCA reports U.S. production of MBOCA in 1977 to be 2 to 20 million pounds. However, MBOCA is not currently manufactured in the United States. Of the former domestic manufacturers of MBOCA, E.I. du Pont de Nemours and Co., Inc. (Elastomaer Chemicals Department, Deepwater, New Jersey) voluntarily ceased production in 1978, and Anderson Development Company (Adrian, Michigan) halted production in 1979 by order of the State of Michigan. This State order has since expired, however, and domestic production could theoretically resume at any time. Current importation/domestic consumption estimates range from 1 to 3.5 million pounds per years. MBOCA is used in some 200 to 400 polyurethane production plants, and most of these firms are relatively small.

Workplace procedures using MBOCA in polyurethane production present many opportunities for human exposure. The main occupational exposure to MBOCA at present occurs during its use as a polyurethane hardener. Release of MBOCA can occur during a number of steps in both manual and automated systems. Exposure to MBOCA occurs primarily from dust during handling and vapor from heat curing via the skin and lungs. Other populations potentially receiving lower but significant exposures are: (1) Persons living near MBOCA-using manufacturing facilities; (2) families of highly exposed workers from MBOCA-using manufacturing facilities; and (3) children playing in contaminated soils near a former production site. Should MBOCA manufacture resume in the United States, workers directly involved in MBOCA manufacture are expected to have exposure levels well above what presently occurs during processing and use of MBOCA.

In 1973, because of concern for carcinogenic effects of MBOCA, the Occupational Safety and Health Administration (OSHA) issued an Emergency Temporary Standard [38 FR 10929, May 3, 1973] and in 1974, a permanent health standard [39 FR 3756, January 29, 1974]. Later that year, the MBOCA standard was overturned by the courts solely on procedural grounds [506 F. 2nd 385 (3rd Cir. 1974)]. In 1975, the identical standard was reproposed [40 FR 4932, February 3, 1975]. MBOCA is not presently on the OSHA regulatory calendar. The National Institute of Occupational Safety and Health (NIOSH) recommends a time-weighted average exposure limit of 3 micrograms per cubic meter and avoidance of skin contact (Occupational Health Guidelines for Chemical Hazards, January 1981).

OSHA has communicated to EPA its intention to defer to OTS on potential MBOCA regulations (see Public Record). Because TSCA provides a broad range of unique regulatory strategies that can reach small processors, it is appropriate for OTS to consider regulation of MBOCA.

Because of concern about carcinogenic risk to humans from MBOCA exposure, EPA is considering regulation under section 6 of TSCA to control any unreasonable risks from MBOCA use. Section 6 of TSCA provides a number of alternative controls for reducing human exposure to chemicals which pose an unreasonable risk to health or the environment. Control alternatives under this section include total or partial ban on the manufacture, processing, use, or distribution in commerce of a chemical; engineering controls for handling a chemical; or quality controls on the manufacture or processing of a chemical. EPA is especially interested in comments on the appropriateness of both a partial or total ban on the manufacture or import of MBOCA or its use in specified ways.

To determine whether an unreasonable risk exists and what type of control might be needed, the Agency will consider the costs, risks, and benefits of known MBOCA uses; and for those uses, the economic impact of regulations which might be developed including the suitability of substitutes.

To this end, the Agency is seeking views, arguments, and available data in three major areas: substitutes for MBOCA; sources of, adverse effects of, and ways to control exposure to MBOCA; and the economic impact of altering the present status of MBOCA.

1. *Substitutes.* We are aware that substitutes are available for at least some uses of MBOCA. In determining the proper control action, the Agency must evaluate what will happen if the availability or use of MBOCA is limited. Information on substitutes is important for the this purpose to ensure that more harmful substitutes would not replace restricted or banned uses of MBOCA, should the Agency take such action. Therefore, the Agency seeks further information on the identity, use, availability, costs, suitability, and toxicology of substitutes; whether there are MBOCA uses for which substitutes do not exist; and what process or equipment changes would be needed to use substitutes.

2. *Exposure.* Exposure is an important component of determining whether the manufacture, processing, distribution, or use of MBOCA poses an unreasonable risk. There are a number of steps during use of MBOCA when exposure can occur with either manual or automated handling. Available monitoring data are limited but sufficient to establish that human exposure to MBOCA can and does occur. The Agency needs to characterize better current exposures to MBOCA. Therefore, we solicit existing MBOCA monitoring and urine sampling data and information on the adverse effects of MBOCA exposure to humans.

In addition, we will examine ways to reduce/control exposure which could result from either elimination of certain uses or application of engineering controls and altered handling practices. To do this, additional information is

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sought on current and alternative work practices and engineering controls or restricted use. In particular, information is sought on whether and what types of personal protective equipment is used, whether adequate equipment is available and effective, and whether such equipment is reasonable to purchase and place in the work setting.

Low-level contamination of surface water (streams, ditches, and shallow wells subject to contaminated run-off) occurred near the former manufacturing site in Michigan. For this reason, the Agency also solicits comments on the potential for water pollution from manufacturing or use of MBOCA; the environmental transport, distribution, and fate characteristics of MBOCA; and the potential exposures to humans through recreational uses of water, drinking of contaminated water, or consumption of contaminated fish.

The Agency also solicits information on disposal practices for unused MBOCA, the quantities being disposed (and what quantities of MBOCA dust or spilled pellets are included in ordinary trash from facilities using MBOCA to manufacture polyurethane parts), and whether disposal of products containing MBOCA could cause environmental contamination and resultant human exposure due either to leaching of the chemical from the solid matrix or from emissions during incineration of products made with MBOCA.

3. *Economics.* In determining whether an unreasonable risk exists, the Agency will evaluate the costs and benefits of specific uses of MBOCA and its substitutes and the differential costs of risk reduction options. To support this analysis, the Agency solicits information on the cost of substitutes versus MBOCA, the benefits of continued use of MBOCA, time required to switch to substitutes, costs of changing over to substitutes, and the expected impact on the regulated industry of the possible control actions indicated above. In addition, the Agency needs to identify and characterize better both the uses and users of MBOCA.

The Agency solicits information in each of these areas and any other relevant issues. EPA will consider all information supplied in response to this notice in determining the best course of action regarding MBOCA. Users of MBOCA and manufacturers of substitutes are encouraged to submit pertinent information.

Confidential Business Information

Information submitted as comments on this notice may be claimed confidential by marking any part of all of that information as "TSCA Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A sanitized copy of any material containing TSCA Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Public Record

EPA has established a public record for this proceeding (docket number OPTS 62029) which, along with a complete index, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days in (Rm. E–197, 401 M St., SW., Washington, D.C. 20480). This record includes basic information considered by the Agency in developing this ANPR. The Agency will supplement the record with additional information as it is received. The public record will include:

1. This notice.

2. All comments on this ANPR. Only sanitized versions of materials claimed to be TSCA Confidential Business Information will be included.

3. All relevant supporting documents and studies, including the OTS Priority Review Level 1 document which contains the factual information cited in this Notice.

4. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or Intra-agency memoranda unless specifically noted in the index of this record.) The record will include a letter to OSHA which confirms EPA's understanding that OSHA has no plans to regulate MBOCA.

List of Subjects in 40 CFR Part 764

Chemicals, Environmental protection, Hazardous materials, Record keeping and reporting requirements.

(Sec. 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605))

Dated: May 11, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR Doc. 83–13613 Filed 5–20–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6521]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, National Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determination, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Alabama	City of Piedmont, Calhoun County	Mill Creek	Approximately 120 feet upstream of confluence of Dry Creek at State Highway 9.	*665
			Just upstream of State Highway 200	*694
			Approximately 100 feet upstream of confluence of Mill Creek Tributary 1.	*696
		Mill Creek Tributary 1	Just downstream of Southern Railway	*700
			Approximately 150 feet upstream of Seaboard Coast Line Railroad.	*707
		Dry Creek	Approximately 90 feet upstream of Old State Highway 9 (Centre Avenue).	*696
		Nances Creek	Approximately 100 feet upstream of Babbling Brook Road.	*682
			Just downstream of Spencer Street	*684
		Nances Creek Tributary 2	Just upstream of U.S. Highway 278	*675

Maps available for inspection at City Administration Building, 109 North Center Avenue and at Piedmont Public Library, 101 North Main Street, Piedmont, Alabama 36272.
Send comments to Mayor James Garner or Mr. Brent Morrison, City Clerk, City Hall, P.O. Box 112, Piedmont, Alabama 36272.

Alabama	City of Fayette, Fayette County	Sipsey River	Just downstream of County Road 35	*318
			Just downstream of Southern Railway	*321
			Just downstream of U.S. Highway 43 (State Highway 18).	*323

Maps available for inspection at City Clerk's Office, City Hall, 102 Second Avenue, S.E., Fayette, Alabama 35555.
Send comments to Mayor Guthrie Smith or Ms. Pat Bagwell, City Clerk, City Hall, 102 Second Avenue, S.E., Fayette, Alabama 35555.

Arizona	Pima (town), Graham County	Cottonwood Wash	Intersection of First West Street and U.S. Highway 70	#2
		Ash Creek	Intersection of Second South Street and U.S. Highway 70.	#2
		Mud Hollow	Intersection of Fifth South Street and Second East Street.	#2

Maps available for inspection at the Town Clerk Office, Town Hall, 50 South 2nd West Street, Pima, Arizona.
Send comments to the Honorable John Bryce, P.O. Box 426, Pima, Arizona 85543.

Connecticut	Fenwick, borough, Middlesex County	Long Island Sound	Entire shoreline within community	*16
		Connecticut River	Entire shoreline within community	*16
			Shoreline of South Cove at Nepersett Avenue (extended).	*13
			Shoreline of South Cove at Nibang Avenue (extended)	*12

Maps available for inspection at the Borough Office, Maple Avenue, Fenwick, Connecticut.
Send comments to Honorable Elsworth Grant, Borough Warden of Fenwick, Maple Avenue, Fenwick, Connecticut 06475.

Connecticut	Stonington, town, New London County	Fishers Island	Murphy Point	*13
			Pine Point	*13
			Ram Point	*15
			Entire shoreline of Baker Island	*16
			Southern end of Joyce Street extended	*13
			Latimer Point	*16
			Entire shoreline of Quambog Cove	*11
			Lords Point	*16
			Stonington Harbor south of Conrail	*14
			Stonington Harbor north of Conrail	*13
			Palmer Neck Road extended	*16
			Pawcatuck Point	*16

Maps available for inspection at the Building Inspector's in the Town Clerk's Office, Stonington, Connecticut.
Send comments to Honorable James Spellman, First Selectman of the Town of Stonington, Town Hall, Stonington, Connecticut 06378.

Florida	Seminole (city), Pinellas County	Boca Ciega Bay	200 feet south from center of intersection of North Seminole Drive and State Highway 595.	*10
			Center of intersection of State Highway 595 (46th Avenue North) and 94th Street.	*11
			700 feet east from center of intersection of 94th Street and 46th Avenue North, along 46th Avenue North.	*13
		Lake Seminole	Easternmost end of Lake Vista Drive Loop	*11

Maps available for inspection at City Hall, 7464 Ridge Road, Seminole, Florida.
Send comments to Honorable Everett B. Allen, P.O. Box 3197, Seminole, Florida 33542.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Sarasota County, unincorporated areas	Gulf of Mexico	Center of intersection of West River Road and Venice Farm Road.	*8
			Center of intersection of Mangrove Point Road and Midnight Pass Road.	*10
			Center of intersection of Cedar Park Circle and Higel Avenue.	*11
			Center of intersection of State Highway 789 and City Island Road.	*12
			Center of intersection of Givens Street and Ocean Boulevard.	*13
			Western most tip of Sarasota Point	*16
			200 feet due west from center of intersection of Sandspur Lane and Casey Key Road.	*17
			500 feet southwest from center of intersection of Uplands Boulevard and Parkview Drive.	*18

Maps available for inspection at the Building Department, 1301 Cattlemen Road, Sarasota, Florida.

Send comments to Honorable Robert Anderson, P.O. Box 8, Sarasota, Florida 33578.

Florida	Venice (city), Sarasota County	Gulf of Mexico	Center of intersection of Firenze Avenue and Riviera Street.	*11
			100 feet west from center of intersection of Esplenade North and Tarpon Center Drive.	*12
			200 feet west from center of intersection of Granada Avenue and Esplenade North.	*15
			300 feet west from center of intersection of Granada Avenue and Esplenade North.	*17

Maps available for inspection at the Building Inspector Department, 401 West Venice Avenue, Venice, Florida.

Send comments to Honorable William F. Proctor, 401 West Venice Avenue, Venice, Florida 33595.

Georgia	Town of Tyrone, Fayette County	Line Creek	Approximately 300 feet downstream of Castlewood Road.	*856
			Approximately 500 feet upstream of Castlewood Road	*857

Maps available for inspection at Town Hall, Town Clerk's Office, Highway 74, Tyrone, Georgia 30290.

Send comments to Mayor Willard Wright or Ms. Betty Percival, Town Clerk, Town Hall, P.O. Box 262, Tyrone, Georgia 30290.

Idaho	Fayette (city), Fayette County	Fayette River	100 feet south of the intersection of Sixth Avenue South and Sixth Street.	*2,143

Maps available for inspection at City Hall, 700 Center Avenue, Fayette, Idaho.

Send comments to the Honorable Dirk C. Butcher, 700 Center Avenue, Fayette, Idaho 83661.

Idaho	Fayette County (unincorporated areas)	Fayette River	Intersection of U.S. Highway 95 and Killebrew Drive	*2,150
		Snake River	Intersection of Kennedy Road and Northwest 10th Avenue.	*2,139

Maps available for inspection at County Clerk's Office, 1130 3rd Avenue North, Fayette, Idaho.

Send comments to the Honorable Arnold Howard, 1130 3rd Avenue North, Fayette, Idaho 83661.

Indiana	(Uninc.) Jackson County	East fork White River	About 1 mile downstream of confluence with Medora Creek.	*523
			About 1.8 miles upstream of U.S. Highway 31A	*579
		Little Salt Creek	Just upstream of State Highway 135	*615
			Just downstream of State Highway 258	*643
		Hough Creek	Just upstream of Chessie System	*541
			Just downstream of Venus Road	*578
		Runt Run	Just upstream of abandoned railroad	*640
			Just downstream of State Highway 258	*643
		Grassy Creek	Just upstream of County Road 600 South	*531
			Just downstream of Interstate 65	*547
		Blau ditch	Mouth at Grassy Creek	*531
			About 2,000 feet upstream of U.S. Highway 31	*545
		Kiper Creek	Mouth at Little Salt Creek	*616
			About 1.22 miles upstream of County Road 680 North	*659
		Hound Hollow Creek	Mouth at Kiper Creek	*629
			About 0.63 mile upstream of County Road 550 West	*677
		Medora Creek	Mouth at east fork White River	*523
			About 100 feet upstream of town of Medora corporate limit.	*525
		Vernon fork Muscatatuck River	Just upstream of County Road 600 South	*531
			At confluence with east arm tributary	*533
		South fork Medora Creek	At Town of Medora corporate limits	*531
			About 800 feet upstream of town of Medora corporate limits.	*534
		Shallow flooding (overflow from south fork Medora Creek).	South and west of intersection of Chessie System with western corporate limits of town of Medora.	#1
		Shallow flooding (overflow from Medora Creek).	At western corporate limits of town of Medora (near Main Street).	#2

Maps available for inspection at the County Courthouse, Brownstown, Indiana.

Send comments to Honorable Alfred Forgey, Planning Director, County of Jackson, Jackson County Planning Commission, County Courthouse, Brownstown, Indiana 47220

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Indiana	(T) Medora, Jackson County	Medora Creek	About 0.16 mile downstream of Washington Street	*524
			At northern corporate limit	*535
		South fork Medora Creek	At mouth	*528
			About 0.22 mile upstream of Jackson Street	*532
		East fork White River	Just downsteam of State Highway 235	*524
			About 0.1 mile upstream of State Highway	*525
		Shallowing flooding (overflow from south fork Medora Creek).	Along southern corporate limits (south of Spariville Road.	#1
			At western corporate limits just north of Chessie System.	#1
		Shallow flooding (overflow from Medora Creek).	South of Chessie System and east of State Highway 235.	#2
			Intersection of Adams Street and State Highway 235	#1
			Intersection of Main Street and Elm Street	#2

Maps available for inspection at the Town Hall, Medora, Indiana.

Send comments to Honorable James Fish, Town Board President, Town of Medora, Town Hall, Box 65, Medora, Indiana 47260.

Indiana	(C) Peru, Miami County	Wabash River	About 1.14 miles downstream of U.S. Route 31	*633
			About 1.45 miles upstream of Wayne Street	*645
		Little Pipe Creek	Mouth at Wabash River	*634
			About 0.13 mile upstream of 200 South Road	*651
			Just upstream of dam (about 200 feet upstream of Norfolk Southern Railway).	*675
			About 0.32 mile upstream of Norfolk Southern Railway	*682
		Parkview Heights ditch	Just upstream of Bob Tail Pike	*704
			About 0.73 mile upstream of Bob Tail Pike	*734

Maps are available for inspection at the Miami County Courthouse, Peru, Indiana.

Send comments to Honorable Larry Oyler, Mayor, City of Peru, Miami County Courthouse, Peru, Indiana 46970.

Indiana	(C) Wabash, Wabash County	Wabash River	About 1.1 miles downstream of River Street	*861
			About 1.45 miles upstream of Huntington Street	*867

Maps available for inspection at the City Hall, 111 South Wabash, Wabash, Indiana.

Send comments to Honorable George Dingledy, Mayor, City of Wabash, City Hall, 111 South Wabash, Wabash, Indiana 46992.

Illinois	(Uninc.) Calhoun County	Illinois River	Just upstream of State Route 100	*440
			At upstream County Boundary	*442
		Mississippi River	About 2 miles upstream of confluence of Illinois River	*441
			About 2.5 miles upstream of Lock & Dam No. 24	*459

Maps available for inspection at the County Clerk's Office, Hardin, Illinois.

Send comments to Honorable Jerome Sibley, Chairman, Calhoun County Board, Calhoun County Courthouse, Hardin, Illinois 62047.

Illinois	(V) Clay City, Clay County	Little Wabash River	About 0.6 mile upstream of Chessie System	*429
			About 0.5 mile upstream of Main Street	*432

Maps available for inspection at the Village Hall, 140 South Main Street, Clay City, Illinois.

Send comments to Honorable Kenneth Hostettler, Village President, Village of Clay City, Village Hall, 140 South Main Street, Clay City, Illinois 62824.

Illinois	(C) Edwardsville, Madison County	Mooney Creek	About 250 feet downstream of Kiowa Street	*475
			Just downstream of Dunlap Lake Dam	*486
			Just upstream of Dunlap Lake Dam	*514
			Just downstream of East Lake Drive	*518
		Cahokia Creek	Just upstream of Old Edwardsville Road	*455
			About 650 feet upstream of Springfield Road	*458

Maps available for inspection at the City Clerk's Office, 400 North Main Street, Edwardsville, Illinois.

Send comments to Honorable Kenneth Evers, Sr., Mayor, City of Edwardsville, 400 North Main Street, Edwardsville, Illinois 62025.

Illinois	(Uninc.) Gallatin County	Ohio River	Just upstream confluence of Saline River	*365
			At confluence of Wabash River	*389

Maps available for inspection at the Clerk's Office, Gallatin County Courthouse, Shawneetown, Illinois.

Send comments to Honorable Edward Hines, Chairman, Gallatin County Board, Gallatin County Courthouse, Shawneetown, Illinois 62964.

Illinois	(V) Gardner, Grundy County	Illinois Central Gulf Railroad ditch	Just upstream of State Route 53	*585
			About 0.3 mile upstream of East Street	*589

Maps available for inspection at the Village Hall, Major and Center Streets, Gardner, Illinois.

Send comments to Honorable Ray Serena, Mayor, Village of Gardner, Village Hall, P.O. Box 545, Major and Center Streets, Gardner, Illinois 60424.

Illinois	(V) Hainesville, Lake County	Squaw Creek	Within corporate limits	*783
		Shallow flooding	Northeast section of community (about 1,100 feet south, 800 feet east of intersection of Hainesville Road and Washington Street).	*783

Maps available for inspection at the Village Hall, Hainesville, Illinois.

Send comments to Honorable George Benjamin, Village President, Village of Hainesville, Route 1, Box 21A, Grayslake, Illinois 60030.

Illinois	(V) Hamburg, Calhoun County	Mississippi River	At the confluence of Irish Creek	*451
			About 0.86 mile upstream of confluence of Irish Creek	*452

Maps available for inspection at the City Clerk's Office, Village Hall, Hamburg, Illinois.

Send comments to Honorable James E. Smith, Mayor, Village of Hamburg, Village Hall, Hamburg, Illinois 62045.

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	Jersey County	Mississippi River	At downstream County Boundary	*436
			About 3.3 miles upstream of confluence of Illinois River.	*441
		Illinois River	At mouth	*440
			About 6.0 miles above mouth	*441
			About 1.8 miles upstream of confluence of Macoupin Creek	*440

Maps available for inspection at the County Clerk's Office, County Courthouse, 201 W. Pearl, Jerseyville, Illinois.
Send comments to Honorable J. Richard Allen, Chairman, Jersey County Board, County Courthouse, 201 W. Pearl, Jerseyville, Illinois 62052.

Illinois	(Uninc.) Jo Daviess County	Mississippi River	At downstream county boundary	*600
			About 0.7 mile upstream of Illinois Central Gulf Railroad.	*611
		Galena River	At mouth	*604
			About 0.9 mile upstream of County Route 3	*619
		Hughlett branch	At city of Galena corporate limits	*624
			About 250 feet upstream of the city of Galena corporate limits.	*626

Maps available for inspection at the Jo Daviess County Clerk's Office, J. Daviess County Courthouse, Galena, Illinois.
Send comments to Honorable Tom Cullen, Chairman of the County Board, Jo Daviess County, Jo Daviess County Clerk's Office, Jo Daviess County Courthouse, Galena, Illinois 61036.

Illinois	(V) Junction, Gallatin County	Ohio River	Within the corporate limits	*367

Maps available for inspection at the Clerk's Office, Village Hall, Junction, Illinois.
Send comments to Honorable Leon Bryant, Village President, Village of Junction, Village Hall, Junction, Illinois 62954.

Illinois	(Uninc.) Marshall County	Illinois River	About 0.7 mile downstream of Atchison, Topeka and Santa Fe Railroad.	*460
			Upstream county boundary	*462

Maps available for inspection at the Marshall County Courthouse, Lacon, Illinois.
Send comments to Honorable James Quinn, County Board Chairman, Marshall County, Marshall County Courthouse, Lacon, Illinois 61540.

Illinois	(Uninc.) Mason County	Illinois River	Downstream county boundary	*450
			Upstream county boundary	*455

Maps available for inspection at the Zoning Administrator's Office, County Building, Main and Broadway Streets, Havanna, Illinois.
Send comments to Honorable Paul Martine, Chairman of the County Board, Mason County, County Building, Main and Broadway Streets, Havanna, Illinois 62644.

Illinois	(V) Sparland, Marshall County	Illinois River	Within corporate limits	*461

Maps available for inspection at the Village Hall, 123 Center Street, Sparland, Illinois.
Send comments to Honorable Lyle Schupp, Village Vice President, Village of Marshall, Village Hall, 123 Center Street, Sparland, Illinois 61565.

Illinois	(C) Sycamore, DeKalb County	South Branch Kishwaukee River	About 0.21 mile upstream of Rich Road	*834
			About 0.21 mile downstream of Bethany Road	*836
		East Branch Kishwaukee River	About 0.5 mile downstream of Brickville Road	*826
			About 0.4 mile upstream of State Route 64	*837

Maps available for inspection at City Clerk's Office, Sycamore Municipal Building, Sycamore, Illinois.
Send comments to Honorable Harold L. Johnson, Mayor, City of Sycamore, Sycamore Municipal Building, 535 DeKalb Avenue, Sycamore, Illinois 60178.

Illinois	(Uninc.) Woodford County	Illinois River	Within the County Boundary	*460

Maps available for inspection at the Woodford County Courthouse, Eureka, Illinois.
Send comments to Honorable Lawrence Guard, Chairman, Woodford County Board, Woodford County Courthouse, P.O. Box 38, Eureka, Illinois 61530.

Kentucky	City of Russellville, Logan County	Town Branch	Approximately 120 feet upstream of confluence of Town Branch Tributary D.	*575
			Approximately 125 feet downstream of West Third Street.	*584
			Approximately 150 feet upstream of Blue Grass Avenue.	*596
		Town Branch Tributary A	Approximately 300 feet upstream of Louisville and Nashville Railroad.	*620
			Approximately 300 feet upstream of Emerson By-pass (Industrial Road).	*630
		Town Branch Tributary B	Approximately 60 feet downstream of West Sixth Street.	*592
			Approximately 130 feet upstream of U.S. Highway 79	*605
		Town Branch Tributary C	Just upstream of U.S. Highway 431	*585
		Town Branch Tributary D	Approximately 100 feet upstream of East Second Street.	*582
			Approximately 110 feet downstream of East Fifth Street.	*591
			Approximately 100 feet downstream of State Highway 100.	*601
		Town Branch Tributary E	Approximately 120 feet upstream of State Highway 100.	*610
		Town Branch Tributary F	Approximately 100 feet downstream of East Ninth Street.	*597
			Just upstream of Gravel Street	*615

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Town Branch Tributary G	Approximately 450 feet upstream of confluence with Town Branch.	*565
		Proctor Branch Tributary A	Just upstream of the West Corporate Limits	*589
		Proctor Branch Tributary B	Just upstream of Modern-Maid Drive	*605

Maps available for inspection at City Hall, Russellville, Kentucky 42276.
Send comments to Mayor Ken Smith or Ms. Peggy Jenkins, City Clerk, City Hall, Russellville, Kentucky 42276.

Maine	Saco, City, York County	Atlantic Ocean	Shoreline at Palmer Avenue extended	*19
			Shoreline at Brooke Avenue (extended)	*14
			Shoreline at Lower Beach Road (extended)	*15
		Saco River	Upstream Cataract Dam	*48
			Upstream Springs Dam	*57
			Upstream Interstate Route 95	*61
			Upstream State Route 5	*69
			Upstream corporate limits	*73
		Goosefare Brook	Approximately 0.5 mile downstream of Boston & Maine Railroad.	*9
			Downstream Boston & Maine Railroad	*10
			Upstream Old Orchard Road	*15
			Upstream Ocean Park Road	*20
			Upstream Ross Road	*26
			Approximately 150' downstream U.S. Route 1	*30

Maps available for inspection at the Building Inspector's Office, City Hall, 300 Main Street, Saco, Maine.
Send comments to Honorable David Wright, City Manager, City Hall, 300 Main Street, Saco, Maine 04072.

Maryland	Chestertown, Town, Kent County	Chester River	Entire shoreline within community	*7
		Radcliffe Creek	Approximately 2,500 feet downstream of High Street/State Route 20.	*7
			Upstream High Street/State Route 20	*12
			Upstream corporate limits	*14

Maps available for inspection at the Town Hall, Maple Avenue and Cross Streets, Chestertown, Maryland.
Send comments to Honorable Elmer E. Horsey, Mayor of Chestertown, P.O. Box 38, Chestertown, Maryland 21620.

Maryland	Havre de Grace, City, Harford County	Chesapeake Bay	Shoreline of Susquehanna River above Chessie System bridge.	*12
			Shoreline of Susquehanna River at Pulaski Highway	*14
			Shoreline of Susquehanna River at Revolution Street extended.	*17
			Shoreline at Seneca Avenue extended	*16

Maps available for inspection at the City Hall, Havre de Grace, Maryland.
Send comments to Honorable Charles Montgomery, Mayor of the City of Havre de Grace, 121 North Union Street, Havre de Grace, Maryland 21078.

Massachusetts	Tisbury, Town, Dukes County	Vineyard Sound	Shoreline at Memphremagog Avenue (extended)	*13
			Shoreline at Minnesota Street (extended)	*13
		Lake Tashmoo	Shoreline at Lake Street (extended)	*11
		Vineyard Haven Harbor	Shoreline at Grove Avenue (extended)	*12
			Approximately 650' east of intersection of Lagoon Pond Road and shoreline at Crong Way (extended).	*10
		Lagoon Pond	Shoreline at Weaver Lane	*12

Maps available for inspection at the Tisbury Town Hall and the Town Hall Annex, Tisbury, Massachusetts.
Send comments to Honorable John Shilling, Chairman of the Tisbury Board of Selectmen, Town of Tisbury, P.O. Box 1239, Vineyard Haven, Massachusetts 02563.

Michigan	(Twp) Hamburg, Livingston County	Huron River	Downstream corporate limit	*855
			Upstream corporate limit	*860
		Huron River-South Branch	About 3450 feet downstream of Beach Road	*855
			About 1000 feet upstream of Beach Road	*856
		Ore Lake	Shoreline	*860
		Zukey lake	Shoreline	*856

Maps available for inspection at the Clerk's Office, Town Hall, 7209 Stone Street, Hamburg, Michigan.
Send comments to Honorable Henry Wuckert, Township Supervisor, Township of Hamburg, Town Hall, 7209 Stone Street, Hamburg, Michigan 48139.

Michigan	(Twp) Highland, Oakland County	Pettibone Creek	Downstream corporate limit	*957
			Just downstream of Livingston Road	*962
			Just upstream of Dam near Livingston Road	*975
			About 600 feet upstream of State Highway 59	*976
			Just upstream of Abandoned Dam (upstream of State Highway 59).	*985
			About 1000 feet downstream of Harvey Lake Road	*991
			Just upstream of Harvey Lake Road	*997
			Just upstream of Dunleavy Drive	*998
		Harvey Lake	Shoreline	*1001
		Duck Lake	Shoreline	*1017
		White Lake	Shoreline	*1021

Maps available for inspection at the Clerk's Office, Town Hall, 205 N. John Street, Highland, Michigan.
Send comments to Honorable Willis Bullard, Jr., Township Supervisor, Township of Highland, Town Hall, 205 N. John Street, Highland, Michigan 48031.

Minnesota	(C) Middle River, Marshall County	Middle River	Just downstream of Burlington Northern Railroad	*1138
			About 2350 feet upstream of 2nd Street	*1141

Maps available for inspection at Office of the City Clerk, Community Building, Middle River, Minnesota.
Send comments to Honorable Sally Gentry, Mayor, City of Middle River, Community Building, Middle River, Minnesota 56737.

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(Unincorporated) Callaway, County	Stinson Creek	About 1.2 miles downstream of confluence of Smith Branch.	*685
				*692
			At City of Fulton downstream corporate limits (about 1800 feet downstream of confluence of Smith Branch).	*770
			About 1800 feet upstream of U.S. Highway 54	
		Big Hollow Creek	About 0.9 mile downstream of Cote Sans Dessein Road.	*768
			About 800 feet downstream of Cote Sans Dessein Road.	*780
			About 1400 feet upstream of U.S. Highway 54	*804
		Missouri River	At downstream county boundary	*529
			At upstream county boundary	*582

Maps available for inspection at the County Clerk's Office, Callaway County Courthouse, Fulton, Missouri.

Send comments to Honorable Charles Austahl, Presiding Judge, Callaway County, Callaway County Courthouse, Fulton, Missouri 65251.

Missouri	(C) Cedar City, Callaway County	Missouri River	About 0.28 mile downstream of U.S. Highway 54	*556
			About 1000 feet upstream of confluence of Turkey Creek.	*558

Maps available for inspection at the Fire Station, Cedar City, Missouri.

Send comments to Honorable George O. Schupp, Mayor, City of Cedar City, P.O. Box 118, Cedar City, Missouri 65022.

New Jersey	Bridgeton, City, Cumberland County	Cohansey River	Downstream corporate limits	*9
			Upstream corporate limits	*10
		Mill Creek/Indian Field Branch	At confluence with Cohansey River	*9
			Downstream Commerce Street/East Lake Dam And Spillway.	*18
			At confluence of Jacksons Run	*27
			Downstream of North Burlington Road	*41
			Upstream corporate limits	*46
		Jackson Run	At confluence with East Lake	27
			At Kingsway	*52
			Upstream corporate limits	*58
		Sunset Lake	Entire area within community	*20
		Raceway	Entire length within community	*18
		Jacksons Run (shallow flooding)	400 feet upstream of confluence with East Lake to Orchard Street.	*2

Maps available for inspection at the City Hall Annex, 168 East Commerce Street, Bridgeton, New Jersey.

Send comments to Honorable Donald Rainer, Mayor of the City of Bridgeton, 168 East Commerce Street, Bridgeton, New Jersey 08302.

New Jersey	Byram, Township, Sussex County	Musconetcong River	Downstream corporate limits	*842
			Downstream Access Road between CONRAIL and Lubbers Run.	*855
				*711
			Corporate Limits upstream of Chestnut Road (extended).	*870
			Corporate limits at CONRAIL bridge upstream of Lake Musconetcong.	
		Lubbers Run	Confluence with Musconetcong River	*661
			Upstream of U.S. Route 206	*685
			Upstream of Mansfield Drive	*714
			Upstream of Dam at Lake Lackawanna	*722
			Downstream of Lake Drive	*723
			Upstream of Spillway which is upstream of Lackawanna Drive.	*786
			Upstream of Old Stanhope Road	*809

Maps available for inspection at the Municipal Building, 10 Mansfield Drive, Byram, New Jersey.

Send comments to Honorable Catherine M. Tomey, Mayor of Byram Township, Municipal Building, 10 Mansfield Drive, Stanhope, New Jersey 07874.

New Jersey	Franklin, Borough, Sussex County	Wallkill River	Downstream corporate limits	*479
			Upstream concrete weir	*504
			Confluence of Wallkill River Tributary	*511
			Upstream Church Street	*517
			Confluence of Black Creek	*533
			Upstream corporate limits	*555

Maps available for inspection at the Municipal Building, 46 Main Street, Franklin, New Jersey.

Send comments to Honorable John F. Carroll, Mayor of the Borough of Franklin, Municipal Building, 46 Main Street, Franklin, New Jersey 07416.

New Jersey	Hamburg, Borough, Sussex County	Wallkill River	Downstream corporate limits	*403
			Upstream Wheatsworth Road	*434
			Upstream second dam	*479

Maps available for inspection at the Municipal Building, 6 Wallkill Avenue, Hamburg, New Jersey.

Send comments to Honorable T. Pearse Reynolds, Mayor of the Borough of Hamburg, Municipal Building, 6 Wallkill Avenue, Hamburg, New Jersey 07419.

New Jersey	Lavellette, Borough, Ocean County	Atlantic Ocean	Entire shoreline within community	*13
		Barnegat Bay	Entire shoreline of harbor	*7
			Swan Point Road (extended)	*8

Maps available for inspection at the Borough Hall, Brooklyn and Great Avenues (Route 35 N), Lavellette, New Jersey.

Send comments to Honorable Ralph D. Gorga, Mayor of the Borough of Lavellette, P.O. Box 67, Lavellette, New Jersey 08735.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Sea Girt, Borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
			Wreck Pond at Second Avenue extended	*9
			Wreck Pond at CONRAIL bridge	*10
			Wreck Pond at State Route 71	*9

Maps available for inspection at the Municipal Building, 4th and Baltimore Avenue, Sea Girt, New Jersey.

Send comments to Honorable Thomas Black, Mayor of the Borough of Sea Girt, P.O. Box 296, Sea Girt, New Jersey 08750.

New Mexico	City of Las Cruces, Dona Ana County	Flow Path 1	Just upstream of Elks Drive	*4010
			Just downstream of Interstate Highway 25	*4068
			Just upstream of Del Rey Boulevard	*4080
		Flow Path 2	Just downstream of of U.S. Highways 70 and 82	*3971
			Just upstream of Triviz Drive	*4043
			Just upstream of Don Foser Drive	*4067
		Flow Path 3	Just downstream of Roadrunner Road	*4131
		Flow Path 4	Just upstream of U.S. Highway 70 and 82 (Main Street) Just downstream of Mesquite Street.	*3916 *3919
		Flow Path 5	Just downstream of Mesquite Street	*3915
			Just upstream of Solano Drive	*3930
		Flow Path 6	Just upstream of Conway Avenue	*3882
			Just downstream of of May Avenue	*3894
			Just upstream of Van Patten Avenue	*3898
		Flow Path 7	Just upstream of Park View Drive	*3887
			Just upstream of Perkins Drive (upstream most crossing).	*3891
		Flow Path 8	Just downstream of Roadrunner Expressway	*4143
		Flow Path 9	Approximately 300 feet upstream of centerline of Government Dam.	*4105
		Flow Path 10	Just upstream of Interstate Highway 25	*4009
		Flow Path 11	Just upstream of Stern Drive	*3920
			Just downstream of Frontage Road	*3925
		Flow Path 12	Just downstream of Interstate Highway 25	*3948
			Just upstream of Las Alturas Road	*3964
		Flow Path 13	Just downstream of Farney Drive	*3885
		Flow Path 15	Just upstream of West Hadley Avenue	*3891
			Just upstream of U.S. Highways 70 and 80 (West Picacho Avenue).	*3896

Maps available for inspection at City Engineering Department, City-County Building, 575 S. Alameda, Las Cruces, New Mexico 88004.

Send comments to Mayor David Steinborn or Mr. Larry Rodriques, Chief City Engineer, P.O. Drawer CLC, Las Cruces, New Mexico 88004.

New York	Macedon, Town, Wayne County	Ganargua Creek	Approximately 470 feet downstream of downstream Village of Macedon corporate limits.	*456
			At upstream Village of Macedon corporate limits	*470
			Upstream of Canandaigua Road	*478
			Upstream of Nolan Road	*486
			Upstream of Victor Road	*499
			Upstream of footbridge	*504
			At upstream corporate limits	*511
		New York State Barge Canal	Approximately .26 mile downstream of Village of Macedon corporate limits.	*448
			Upstream of Canandaigua Road	*464
			At upstream corporate limits	*464

Maps available for inspection at the Town Hall, 30 West Main Street, Macedon, New York.

Send comments to Honorable Wayne Schiek, Mayor of the Town of Macedon, 30 West Main Street, Macedon, New York 14502.

New York	Onondaga, Town, Onondaga County	Onondaga Creek	Downstream corporate limits	*421
			Roswell Avenue (extended)	*426
			Upstream corporate limits	*433
		Harbor Brook	Approximately 850 feet downstream of Farm Road	*781
			Harris Road (upstream side)	*863
			Approximately 1,900 feet upstream of Harris Road	*869

Maps available for inspection at the Town Hall, 4801 West Seneca Turnpike, Syracuse, New York.

Send comments to Honorable Paul Wickers, Jr., Supervisor of the Town of Onondaga, Town Hall, 4801 Seneca Turnpike, Syracuse, New York 13036.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13625 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6522]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

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ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevation and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Georgia	City of Lafayette, Walker County	Chattooga Creek	Just upstream of Shattuck Industrial Drive	*758	*767
			Just downstream of the confluence of Chattooga Creek Tributary.	*769	*769

Maps available for inspection at the City Hall, P.O. Box 89, Lafayette, Georgia.

Send comments to Honorable E. R. Gasque, Mayor, City of Lafayette, City Hall, P.O. Box 89, Lafayette, Georgia 30728.

Maine	Fort Kent, Town, Aroostook County	St. John River	Approximately 700 feet along Alfred Street from the intersection with Dufour Street.	None	*519

Maps available for inspection at the New Municipal Center, Fort Kent, Maine.

Send comments to Honorable Claude Dumont, Mayor of Fort Kent, New Municipal Center, P.O. Box 329, Fort Kent, Maine 04743.

Maryland	Hagerstown, City, Washington County	Antietam Creek	Downstream of Mt. Aetna Road	*477	*475
			Upstream of Mt. Aetna Road	*480	*475
			Confluence with Hamilton Run	*480	*475
			Downstream of U.S. 40	*481	*476
			Upstream corporate limits	*481	*476
			Approximately 800' upstream of upstream corporate limits.	*481	*476
		Hamilton Run	Approximately 800' downstream of Chessie System Railroad (area not previously identified).	None	*552

Maps available for inspection at the City Hall, Hagerstown, Maryland.

Send comments to Honorable Donald R. Frush, Mayor of Hagerstown, City Hall, Hagerstown, Maryland 21740.

Massachusetts	Lowell, City, Middlesex County	Concord River	Upstream side of State Route 133 (Church Street).	*72	*73
			Downstream side of Wamesit Power Company Dam	*93	*101

Maps available for inspection at the City Hall, 375 Merrimack Street, Lowell, Massachusetts.

Send comments to Honorable Brendan Fleming, Mayor of Lowell, City Hall, 375 Merrimack Street, Lowell, Massachusetts 01852.

New Hampshire	Claremont, City, Sullivan County	Sugar River	Broad Street/Monadnock Dam (directly upstream).	*530	*520
				*531	*530
			Confluence with Grandy Brook	*531	*532
			Approximately 860 feet downstream of Claremont and Concord Railroad.		
		Grandy Brook	Confluence with Sugar River	*531	*530

Maps available for inspection at the City Hall, Claremont, New Hampshire.

Send comments to Honorable Charles Puksta, Mayor of Claremont, City Hall, Claremont, New Hampshire 03743.

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
New Jersey	Fairfield, Township, Essex County	Passaic River	Phyllis Lane extended	None	*173
			Farmstead Lane	None	*173
		Deepaval Brook	Orlando Drive	None	*172
			Kingsbridge Road	None	*172

Maps available for inspection at the Township Building, 230 Fairfield Road, Fairfield, New Jersey.

Send comments to Honorable Theodore Nalesnik, Mayor of Fairfield 230 Fairfield Road, Fairfield, New Jersey 07006.

New Jersey	Greenwich, Township, Gloucester County	Clonmel Creek	Downstream of Swedesboro-Paulsboro Road.	None	*10

Maps available for inspection at the Greenwich Township Building, Broad and Walnut Streets, Gibbstown, New Jersey.

Send comments to Honorable Francis A. McDevitt, Mayor of Greenwich, Broad and Walnut Streets, Gibbstown, New Jersey 08027.

New Jersey	Westwood, Borough, Bergen County	Musquapsink Brook	Approximately 200 feet upstream of Forest Avenue Extension (area previously not identified).	None	*54
			Approximately 400 feet upstream of Forest Avenue Extension (area previously not identified).	None	*54

Maps available for inspection at the Borough Building, 51 Jefferson Avenue, Westwood, New Jersey.

Send comments to Honorable Charles A. Bellon, Mayor of Westwood, 51 Jefferson Avenue, Westwood, New Jersey 07675.

New York	Brutus, Town Cayuga County	Skaneateles Creek	From corporate limits approximately 600' along Hall Road (extended).	None	*398
			Conrail (upstream side)	None	*401

Maps available for inspection at the Brutus Town Hall, 9021 North Seneca Street, Weedsport, New York.

Send comments to Honorable David Coyle, Town Supervisor of Brutus, 9021 North Seneca Street, Weedsport, New York 13166.

New York	Fort Edward, Village Washington County	Hudson River	Downstream corporate limits	*128	*131
			Divergence with East Channel	*129	*131
			Approximately 3,100 feet upstream of State Route 197.	*130	*131
		East Channel	Downstream corporate limits	*128	*131
			Along Bond Creek at U.S. Route 4 (extended.	*128	*131

Maps available for inspection at the Village Hall, 118 Broadway, Fort Edward, New York.

Send comments to Honorable Leonard King, Mayor of Fort Edward, Village Hall, 118 Broadway, Fort Edward, New York, 12828.

Pennsylvania	Solebury, Township Bucks County	Delaware River	Downstream corporate limits	*65	*62
			Downstream corporate limits of Borough of New Hope.	*69	*67
				*74	*73
			Upstream corporate limits of Borough of New Hope.		
			Upstream Upper York Road bridge	*84	*83
			Upstream Lumberville bridge	*96	*95
			Upstream corporate limits	*97	*96
		Paunacussing Creek	Upstream River Road bridge	*97	*96
			Upstream Paunacussing Road bridge	*210	*207
			Upstream Fleecy Dale Road bridge	*230	*225
			Upstream Sawmill Road bridge	None	*267
			Upstream Mechanicsville Road bridge	None	*400
		Paunacussing Creek Tributary No. 1	Upstream Stovers Mill Road bridge	*232	*231
			Approximately 1,500 feet upstream Stovers Mill Road bridge.	*240	*245

Maps available for inspection at the Township Building, Solebury, Pennsylvania.

Send comments to Honorable Patricia Knight, Chairwomam of the Solebury Board of Supervisors, P.O. Box 139, Solebury, Pennsylvania 18938.

Pennsylvania	Whitehall, Township Lehigh County	Jordan Creek	Downstream corporate limits	*264	*260
			Upstream North Fifth Street Bridge	*264	*267
			Upstream McArthur Road Bridge	*268	*272
			Upstream Lehigh Valley Thruway Bridge	*274	*280

Maps available for inspection at the Township Building, 3219 McArthur Road, Whitehall, Pennsylvania.

Send comments to Honorable Edward J. Galgon, Whitehall Township Executive, 3219 McArthur Road, Whitehall, Pennsylvania 18052.

Texas	Abilene, City Taylor & Jones Counties	*Elm Creek	Approximately 1.2 miles upstream of confluence of Cedar Creek.	None	*1,647
			Downstream of Lake Phantom Hill Road	None	*1,653
		Cedar Creek	*Downstream corporate limits (located approximately 2 miles upstream of confluence with Elm Creek).	None	*1,651
		Lytle Creek	Corporate limits (located 1.5 miles upstream of Industrial Boulevard.	*None	*1,746
		Cat Claw Creek	Downstream of Buffalo Gap Road	*None	*1,802
			Upstream of Buffalo Gap Road	None	*1,805

Maps available for inspection at the City Hall, 555 Walnut Street, Abilene, Texas.

Send comments to Honorable Elbert E. Hall, Mayor of Abilene, 555 Walnut Street, Abilene, Texas 79601.

Texas	Coppell, City Dallas & Denton Counties	Elm Fork of Trinity River	FM 1380, Bettline Road (downstream side)	*439	*440

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PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Grapevine Creek	Ledbetter Road (upstream side)	*437	*438
		Denton Creek	Approximately 4,900' downstream of confluence of Cottonwood Branch.	*455	*456
				None	*458
			Approximately 4,900' upstream of Denton Tap Road.	*465	*466
		Cottonwood Branch	Approximately 1,250' upstream of Denton Tap Road.	*463	*464
				*470	*471
			Approximately 3,200' downstream of Sandy Lake Road.	*483	*482
			Approximately 1,000' upstream of Sandy Lake Road.		

Maps available for inspection at the City Hall, 616 Coppel Road, Coppell, Texas.

Send comments to Honorable Andrew Brown, Jr., Mayor of Coppel, P.O. Box 478, Coppell, Texas 75019.

Texas	Palestine, City, Anderson County	Wells Creek Northwest	Approximately 400 feet upstream of U.S. Route 79.	None	*400
			Upstream of U.S. Route 155	None	*412
			Upstream of Old Bushy Creek Road	None	*412

Maps available for inspection at the City Hall, Palestine, Texas.

Send comments to Honorable Jack Conboy, Mayor of Palestine, P.O. Drawer Z, Palestine, Texas 75801.

Virginia	Rockbridge County	Maury River	Confluence with James River	None	*723
			Upstream State Route 130 bridge	None	*724
			Approximately 600 feet downstream of confluence of Davidson Run.	None	*730

Maps available for inspection at the County Courthouse, Courthouse Square, Lexington, Virginia.

Send comments to Honorable Don G. Austin, Administrator of Rockbridge County, Courthouse Square, Lexington, Virginia 24450.

Virginia	Smyth County	Middle Fork, Holston River	Downstream side of State Route 714 bridge.	*2,199	*2,200
			Upstream side of Norfolk and Western Railway bridge.	*2,205	*2,204
			Upstream side of Snider Branch Road bridge.	*2,210	*2,209
			Confluence of Nicks Creek	*2,274	*2,275
			Upstream side of Hickory Lane bridge	*2,303	*2,304

Maps available for inspection at the County Building, Marion, Virginia.

Send comments to Honorable Marvin R. Perry, Smyth County Administrator, P.O. Box 188, Marion, Virginia 24354.

West Virginia	Follansbee, City, Brooke County	Ohio River	Upstream corporate limits extended to incorporate annexation.	None	*669

Maps available for inspection at the City Manager's Office, City Hall, Follansbee, West Virginia.

Send comments to Honorable Adam Dalesso, Mayor of Follansbee, City Hall, P.O. Box X, Follansbee, West Virginia 26037.

West Virginia	Wheeling, City, Ohio and Marshall Counties	Wheeling Creek	Downstream of Ford	*704	*705
			Upstream corporate limits	*707	*708

Maps available for inspection at the City-County Building, 1500 Chapline Street, Wheeling, West Virginia.

Send comments to Honorable Wayne Barte, City Manager of Wheeling, City-County Building, 1500 Chapline Street, Wheeling, West Virginia 26003.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13827 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 57062 on December 22, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Clanton, Chilton County, Alabama.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction of the Notice of Proposed Determinations

of base (100-year) flood elevations for selected locations in the City of Clanton, Chilton County, Alabama, previously published at 47 FR 57062 on December 22, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 383 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new restrictions; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The following sources of flooding have been amended to as follows. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Possum Creek	Just upstream of 16th Avenue North	*579
			Just downstream of Center Street	*586
		Cripple Coon Creek	Just upstream of Old Thorsby Road	*580
			Just upstream of 14th Avenue	*589

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

David McLaughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13838 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Maplesville, Chilton County, Alabama.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 57062 on December 22, 1982 and in the *Independent Advertiser* on November 23, and November 30, 1982 and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at Town Clerk's Office, Town Hall, Main Street, Maplesville, Alabama 36750.

Send comments to: Mayor Aubrey C. Morrison or Mr. Jesse J. Hayes, Jr., Town Councilman, Town Hall, P.O. Box 9, Maplesville, Alabama 36750.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Maplesville in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A).

These base (100 year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal Standards, the elevations prescribe how

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high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Town of Maplesville, Calhoun County	Byrd Creek	Just downstream of Illinois Central Gulf Railroad	*323
			Just downstream of Farm Road	*352
		Little Mulberry Creek	Approximately 150 feet downstream of State Highway 22.	*325
			Approximately 100 feet upstream of State Highway 22	*326
		Mulberry Creek	At southeastern corporate limits approximately 50 feet north of the intersection of Illinois Central Gulf Railroad and Lee Broadhead Road.	*305

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 20, 1983.

David McLaughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13039 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Oxford, Calhoun County, Alabama.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 57062 on December 1, 1982, and in the *Oxford Sun* on November 24 and December 1, 1982, and hence supersedes those previously published rules..

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at the City Administrator's Office, City Hall, 100 Choccolocco Street, Oxford, Alabama 36203.

Send comments to: Mayor Thurman Whitmore or Mr. Tom Simpson, City Administrator, City Hall, P.O. Box 3383, Oxford Alabama 36203.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Oxford, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of Flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Alabama	City of Oxford, Calhoun County	Choccolocco Creek	Just downstream of Friendship Road	*605
		Snow Creek	Just upstream of Interstate Highway 20	*612
			Just downstream of Snow Street	*618
		Golden Springs Branch	Just upstream of U.S. Highway 78 and 431	*623
		Boiling Springs Branch	Just upstream of U.S. Highway 78 and 431	*632
		Park Creek	Approximately 80 feet downstream of McDaniel Street	*662
		Hobson Creek	Approximately 350 feet downstream of Southern Railway.	*647
		DeArmanville Branch	Approximately 100 feet upstream of corporate limits	*627

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

David McLaughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13040 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 10880 on March 15, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Lebanon, Hunterdon County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Lebanon, Hunterdon County, New Jersey, previously published at 48 FR 10880 on March 15, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding	Location	Elevation in feet. National Geodetic vertical datum
South Branch Raritan River.	CONRAIL (upstream side)	*411
Spruce Run	Approximately 50 feet upstream of 2nd Private Drive (upstream side).	*327
Willoughby Brook	Most downstream corporate limits.	*293
	Approximately 80' upstream of upstream crossing of Buffalo Hollow Road (upstream side).	*467

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

FR Doc. 83-13041 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6373]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations shown on your community's preliminary Revised Flood Insurance Rate Map (FIRM).

Due to recent engineering analysis, this proposed rule revises the proposed modified determinations of base (100-year) flood elevations published in the **Federal Register** at 47 FR 34799 on August 11, 1982, and hence supersedes those previously published ruies.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed

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flood elevations are available for review at the office of the Public Works Director, City Hall, 105 West Juan Linn, Victoria, Texas.

Send comments to: Honorable Ted B. Reed, Mayor of Victoria, P.O. Box 1758, Victoria, Texas 77901.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed modified base (100-year) flood elevations are listed below for selected locations in the City of Victoria, Victoria County, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in Feet (NGVD)	
				Existing	Modified
Texas	Victoria, City, Victoria County	Lone Tree Creek	Downstream corporate limits	None.	*86
			Approximately 3,100' upstream of downstream corporate limits.	None.	*87
			Southern Pacific Railroad (upstream side)	None.	*91
			Houston Highway (upstream side)	*95	*92
			Lenora Drive (extended)	*101	*96
		Spring Creek	Downstream corporate limits	*75	*77
			Confluence of Wiapering Creek, North Outfall.	None.	*78

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 6, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13642 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 10880 on March 15, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Lebanon, Hunterdon County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Lebanon, Hunterdon County, New Jersey, previously published at 48 FR 10880 on March 15, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a

local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding and location	Elevation in feet, national geodetic vertical datum
South Branch Raritan River:	
Downstream corporate limits	*327
CONRAIL (upstream side)	*411
Hoffmans Crossing Road (upstream)	*442
Approximately 300 feet upstream of confluence of Little Brook	*451
Vernon Road (downstream side)	*487
Upstream corporate limits	*489
Musconetcong River:	
State Route 31 Access Road (upstream side)	*346
Springtown Road (upstream side)	*357
Downstream Footbridge (downstream side)	*364
Approximately 150 feet downstream of confluence of Derry Run	*377
Mowder Road (upstream side)	*384
Mowder Hill Road (upstream side)	*395
Penwell Road (upstream side)	*413
Upstream corporate limits	*424
Spruce Run:	
Van Syckels Corner Road	*275
Confluence of Rocky Run	*302
Approximately 50 feet upstream of 2nd Private Drive (upstream side)	*327
Upstream corporate limits	*365
Rocky Run:	
Confluence with Spruce Run	*302
Approximately 75 feet upstream of CONRAIL	*336
Private Drive (downstream side)	*426
Rocky Run Road (upstream side)	*473
Approximately 1,235 feet upstream of Rocky Run Road	*530
Willoughby Brook:	
Confluence with Spruce Run Reservoir	*275
State Route 31 (upstream side)	*276
Most downstream corporate limits	*293
Downstream footbridge (upstream side)	*365
Upstream footbridge (downstream side)	*440
Approximately 60' upstream of upstream crossing of Buffalo Hollow Road (upstream side)	*467

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13643 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Wyoming County, West Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the **Federal Register** at 48 FR 10886 on March 15, 1983, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for reveiw at the Office of the County Clerk, County Courthouse, Pineville, West Virginia.

Send comments to: Honorable William W. Bailey, President of the Wyoming County, Board of Commissioners, P.O. Box 309, Pineville, West Virginia 24874.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Wyoming County, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

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List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Guyandotte River:	
Downstream County Boundary	*857
Downstream of RD Bailey Dam	*896
Approximately 2.0 miles downstream of Lanes Branch	*1,162
Downstream of County Route 10–7	*1,181
Upstream of Norfolk & Western Railway	*1,211
Upstream of County Route 160	*1,239
Upstream of County Route 19	*1,367
Upstream of State Route 10	*1,396
Upstream of State Route 16 (downstream crossing)	*1,444
Upstream of County Route 41	*1,479
Upstream of County Route 114	*1,510
Upstream of County Route 16–2	*1,525
Upstream corporate limits	*1,566
Laurel Fork:	
Downstream corporate limits	*1,270
Upstream of County Route 30	*1,351
Downstream of State Route 10	*1,383
Laurel Fork (Ravenscliff Reach):	
Upstream of County Route 34	*1,758
Laurel Fork (Glen Rogers Reach):	
Upstream of Norfolk & Western Railway (1st crossing)	*1,813
Upstream of Norfolk & Western Railway (2nd crossing)	*1,823
Approximately 0.8 mile upstream of Norfolk & Western Railway (2nd crossing)	*1,839
Clear Fork:	
Approximately 0.46 mile downstream of most downstream Private Road	*1,215
At confluence of McDonald Mill Creek	*1,220
Upstream of State Route 971	*1,234
Approximately 0.25 mile upstream Norfolk & Western Railway	*1,241
Milam Fork:	
Confluence with Laurel Fork	*1,730
Upstream of Abandoned Railway	*1,757
Upstream of Norfolk & Western Railway	*1,794
Upstream of County Route 5	*1,805
Approximately 1.93 miles upstream of County Route 5	*1,823
Indian Creek:	
Approximately 1.37 miles downstream of Turkey Wallow Road	*1,269
Upstream of Turkey Wallow Road	*1,292
Upstream of most upstream Private Road	*1,506
Approximately 200 feet downstream of State Route 16	*1,556
Slab Fork:	
Downstream corporate limits	*1,502

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13844 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Princeton, Mercer County, West Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the **Federal Register** at 48 FR 10886 on March 15, 1983, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, Princeton, West Virginia.

Send comments to: Honorable Emory J. Reaser, Mayor of the City of Princeton, Municipal Building, Princeton, West Virginia 24740.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington , D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Princeton, Mercer County, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance in existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction with the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of Flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Brush Creek	Downstream corporate limits.	*2,386
	Downstream Thorn Street bridge.	*2,388
	Upstream Brick Street bridge.	*2,389
	Upstream Ingleside Road bridge.	*2,393
	Upstream corporate limits	*2,393
Daves Fork	At confluence with Brush Creek.	*2,389
	Upstream Athens Road bridge.	*2,393
	Upstream Thorn Street bridge.	*2,396
	Approximately .10 mile upstream Prince Street Bridge.	*2,398
Glady Fork	At confluence with Brush Creek.	*2,391
	Upstream Old Bluefield-Princeton Road bridge.	*2,397
	Upstream Bluefield Road bridge.	*2,400
	Approximately .20 mile upstream Bluefield Road bridge.	*2,401
	Approximately .66 mile upstream Bluefield Road bridge.	*2,408

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804 November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 29, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13845 Filed 5-20-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

Maritime Administration

46 CFR Parts 221 and 355

[CGD 82-103]

Change in Interpretation of Section 2 of the Shipping Act, 1916, as Amended, for Coastwise Trading Purposes

AGENCY: Maritime Administration, (MARAD) and Coast Guard, DOT.

ACTION: Notice of Withdrawal of Advance Notice of Proposed Rulemaking.

SUMMARY: Notice is hereby given of the withdrawal of the advance notice of proposed rulemaking (ANPRM) that would have permitted a change in the interpretation of Section 2 of the 1916 Act for coastwise trading purposes. The ANPRM was published in the **Federal Register** on November 4, 1982 (47 FR 49990). MARAD and Coast Guard have determined that the proposed change in the longstanding interpretation of Section 2 of the 1916 Act cannot be accomplished without a change in the law.

FOR FURTHER INFORMATION CONTACT: Ms. Doris Lansberry, Office of the Chief Counsel, Maritime Administration, (202/426–5711), or CDR John Distin, Maritime and International Law Division, United States Coast Guard (202/426–1527).

SUPPLEMENTARY INFORMATION: An ANPRM seeking comments on a proposed change in the interpretation of Section 2 of the 1916 Act was published in the **Federal Register** on November 4, 1982 (47 FR 49990) with comments due by January 3, 1983. On December 30, 1982 a notice was published extending the comment period to January 24, 1983 (47 FR 58314).

Section 2 of the 1916 Act, as amended (46 U.S.C. 802), sets forth U.S. citizen ownership and control requirements for corporations and other forms of business entities which own vessels to be operated or that are operating in the U.S. coastwise trade. Based upon the statute, its legislative history, and various court decisions relating to the requirements of Section 2 of the 1916 Act, MARAD and Coast Guard require the legal title owner and the beneficial owner of such vessels to be U.S. citizens. The ANPRM addressed a proposal submitted to MARAD and Coast Guard, Department of Transportation, concerning the agencies' interpretation of the citizenship requirements for equity investors in leveraged lease financings. The proponent stated that since the stock of major U.S. corporations is traded on the U.S. stock exchanges, foreign purchases of publicly traded stock can result in the loss of Section 2 citizenship of these banks and other financing institutions.

Because of this loss of Section 2 citizenship and the resultant sale of the equitable interest in the vessels to avoid loss of coastwise trading privileges, recapture of tax benefits can occur. It was maintained that based on the potential for recapture of tax benefits, some major banks and financial institutions may be reluctant to participate in future vessel financings possibly causing a shortage in funds available for vessel construction.

The proposal was limited to typical ship leveraged lease transactions in which any bank wishing to participate as a vessel owner in tax benefits establishes a trust with a passive U.S. citizen as trustee and itself as beneficiary. If it appears at some point that the bank's stockholders may not be 75% U.S. citizens required for coastwise trade vessel ownership, the bank forms a limited partnership as beneficiary of the trust and sells part of its interest in the trust to a U.S. citizen general partner. The partnership was stated to be in compliance with the new Vessel Documentation Act (VDA) which no longer requires all partners to be U.S. citizens. However, the VDA did not change the ownership requirements for vessels engaging in the coastwise trade. The proponent asked that the agencies permit this arrangement for ownership of vessels in the coastwise trade provided the noncitizen bank limited partner could not exercise control of the vessel and it only took a financing return (interest) on its ownership of the vessel plus the tax benefits of vessel ownership. No other commenter, however, approved of this use of the VDA partnership provision.

Most said this use of the partnership provision was not permissible under Section 2 of the Shipping Act. The proposal has been considered with and without the partnership aspect.

Comments

Summary

Approximately forty comments were received from members of Congress, law firms, U.S. shipping companies, and maritime associations and committees. The bank that submitted the proposal also commented.

Twenty-nine commenters said or implied that Section 2 sought to limit to 25% foreign participation in equitable ownership of vessels entitled to operate in the coastwise trade. Many claimed that the stock ownership provision in 46 U.S.C. 802(c) which addressed voting power *and* stock ownership apart from voting power, was clear evidence that equity ownership as well as control must meet the 75% citizenship test. Five members of the Congress stated in a joint letter referring to Section 2 that "The proposal contemplated in the ANPRM cannot legally be adopted as a matter of law unless the law is changed to permit such a course of action." Many recited the legislative history of Section 2 of the 1916 Act and referenced court decisions, including *Meacham Corp. v United States*, 207 F.2d 535 (4th Cir. 1953), *cert. dismissed* 348 U.S. 801, (1954), as a basis for finding the proposal unacceptable as a matter of law. In addition, some comments cited cases stating that agencies cannot "exceed their authority when they promulgate rules or regulations that are inconsistent with the statutory mandate."

Twelve commenters said that the participant with the greatest financial stake has real control of the vessel even if the various documents purport to deprive that party of control. Two commenters believe that the trustee is required by law to consider the noncitizen bank's interests which will give the bank "control" of a prohibited kind. One comment said allowing such an arrangement would permit a

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corporation (the bank) to avoid the requirements on stock ownership which the drafters of Section 2 took such care to impose and which can only be eased by the Congress. Another said the proposal would enable foreigners to benefit from a U.S. subsidy program. Several said the national interest required the coastwise trade to be reserved to citizens to ensure the availability of a U.S. owned fleet.

Two commenters favored the proposal as helping to ensure availability of financing. Eight said they would consider a more limited proposal to ensure the largest number of potential participants in vessel financing. Two commenters said that equity and control are not synonomous and, if done with careful limitations, the permissible percentage of foreign equity could rise above 25%.

Seven commenters said there was no shortage of financing available for viable shipbuilding projects and some said there was no shortage of coastwise qualified vessels. Two commenters said that it was possible for a publicly traded corporation to protect itself against excessive foreign participation and one provided a document used by at least one vessel owning corporation that sets forth such protection.

Discussion

MARAD and Coast Guard are unaware of any current or projected shortage of private funds for viable construction projects for ships to be operated in the coastwise trade. No financing institution other than the proponent responded to the ANPRM.

MARAD is aware of instances where major corporations have called in unrestricted stock and reissued stock with foreign ownership restrictions to avoid losing coastwise trade entitlement for its vessels. Accordingly, any institution wishing to participate in vessel ownership and willing to issue restricted stock is able to protect against inadvertent loss of coastwise trade entitlement on account of foreign stock purchases, and therefore avoid loss of tax benefits.

Finally, although some question was raised by the law firm and the bank offering the proposal as to whether MARAD and Coast Guard properly interpreted the proposal in the ANPRM, it is clear that the proposal submitted encompassed foreign equitable ownership in a U.S. flag vessel operating in the U.S. coastwise trade in excess of 25%.

Supplementary Proposal

As part of its January 19, 1983 comment contained in the docket, the proponent submitted another proposal which would permit equity in excess of 25% to be held by non-citizens. The new proposal dropped the partnership format and limited the applicability of the proposed regulation to regulated banks which receive only a financing return (interest) with no share of the profits. There would be, however, some indemnification of the nominal participants against losses. Limiting the coverage to regulated banks was purported to provide an objective limit on the scope of the proposed change from past Section 2 interpretations.

Although not requested by the agencies, the revised proposal was circulated to others who commented on same to the agencies. Two commenters supported and one would consider such an arrangement. Two said it was subject to the same Section 2 objections as the original proposal and should fail.

Discussion

The revised proposal is subject to the same problems as the original proposal. No shortage of private funds for ship construction for these types of projects has been identified; stock ownership arrangements are available to protect against inadvertent loss of U.S. citizenship status by financial institutions; and greater than 25% foreign equity ownership in vessels engaged in the coastwise trade is contrary to section 2.

Conclusion

The agencies' ultimate conclusion is that the proposal set forth in the ANPRM and the supplementary proposal which permit in excess of 25% non-citizen equity ownership in vessels engaged in coastwise trading are not permitted by Section 2 of the Shipping Act. Therefore, the agencies cannot change their longstanding interpretation of Section 2 of the Shipping Act. Such change requires legislation.

Advance Notice of Proposed Rulemaking CG 82–103 is withdrawn. No further rulemaking on this subject is under consideration.

(75 Stat. 766 (46 U.S.C. 841(a)); 94 Stat. 3458 (46 U.S.C. 65v).)

Dated: May 4, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

Georgia P. Stamas,

Secretary, Maritime Administration.

[FR Doc. 83–13801 Filed 5–20–83; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 48, No. 100
Monday, May 23, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82–321]

Khapra Beetle Eradication Program; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service has prepared an environmental assessment for the proposed khapra beetle eradication program in Elizabeth and Jersey City, New Jersey. On the basis of the assessment, the Animal and Plant Health Inspection Service has determined that no significant adverse impact on the environment of the areas will result from the implementation of any of the identified alternatives. Therefore, and environmental impact statement (EIS) on this program will not be prepared.

FOR FURTHER INFORMATION CONTACT: Richard L. Cowden, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (303) 436–8295.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA), in cooperation with the New Jersey Department of Agriculture (NJDA), intend to eradicate an outbreak of khapra beetle on two infested premises in Elizabeth and Jersey City, New Jersey. If these infestations are not eradicated, it could have a significant adverse effect on International, national, State, and local agriculture and commerce due to damage to plant products, control costs, increased costs to consumers, and decreased exports due to quarantine action by foreign governments.

Khapra beetle, *Trogoderma granarium* Everts, is considered to be the most destructive stored product pest in the world. If feeds on most stored plant products and some animal products and derivatives. The pest occurs in Asia, the Middle East, and Africa. It is also found in protected environments in Great Britian and Germany. The economic importance of the Khapra beetle is well documented in scientific literature.

Surveys for khapra beetle infestation have been conducted since the 1950's. The beetle was found in California in 1953 and subsequently in Arizona, New Mexico, Texas, and adjacent areas of the Republic of Mexico. It was eradicated from this country primarily by methyl bromide fumigation of infested premises. This operation required several years and large expenditures to accomplish. Other than these infestations and infestations found at ports-of-entry on import products, the nation has been free of this pest until October 30, 1980, when a khapra beetle infestation was detected at a spice company premises in Moonchie, New Jersey. Between that time and March 1983, 26 Khapra beetle infested properties were found at scattered locations within the United States. Sixteen of these infestations were concentrated in four Northeastern States.

Actions by APHIS and State personnel, to eradicate khapra beetle from infested premises have included careful cleaning of the structures involved, methyl bromide fumigation, including separate fumigation of contents and susceptible commoditties if necessary, and the proper disposal of all trash. In metal or newer structures malathion high pressure spray and crack and crevice treatments have been carried out in lieu of fumigation with methyl bromide. Actual treatments were applied under the supervision of certified pesticide applicators experienced in pest control and certified pursuant to section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136b).

Currently, one building located in Elizabeth, New Jersey, and one building located in Jersey City, New Jersey, are known to be infested with khapra beetle. A series of alternatives to eradicate the pest are available and were considered. These alternatives are:

(a) No action.

(b) Methyl bromide fumigation.

(c) Surface spray and crack and crevice treatment.

(d) Dursban®/DDVP fogging.

APHIS has selected alternative (b), methyl bromide fumigation, to eradicate khapra beetle from the two premises because this alternative appears to be the only viable choice. With alternative (b) a single application of methyl bromide gas would be made. Fumigation with methyl bromide has been successfully utilized to eradicate prior khapra beetle infestations. Alternative (a) is not acceptable because no control or eradication measures would be undertaken allowing the pest to persist in the premises. Alternative (c), which involves the use of an insecticide applied in accordance with label directions to all accessible areas of the premises including cracks and crevices, was not selected since khapra beetle eradication is not assured and the operations of these corporations do not lend themselves to this treatment. If such treatment were ineffective, the application of a fumigant would be subsequently required. The use of an ineffective treatment would result in the unnecessary application of pesticides in the environment. Lastly, alternative (d), which prescribes cleaning of the building of trash or food residues and a 3 month treatment schedule using Dursban and DDVP applied as a fog, has not been proven effective for khapra beetle eradication.

APHIS and NJDA after considering cumulative adverse effects of the implementation of any of the identified alternatives, has concluded that there will be no primary, secondary, or cumulative adverse effects on the quality of the human environment based on the properties and rates of application of the pesticide being proposed for use in this eradication program. No chain reactions or secondary adverse effects of interrelated activities are expected from any of the proposed alternatives. These officials have evaluated the uniqueness or rareness of resources being affected and have determined that the selected alternative will not have an effect on the continued existence of any endangered or threatened species or result in the

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destruction or adverse modification of the habitats of such species. APHIS and NJDA have the technical expertise to minimize any environmental disturbance which could result from the proposed alternative and also possess the expertise to conduct the selected alternative safely land efficiently.

This action has been reviewed under the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et. seq.),* the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR Parts 1500–1508), and the APHIS Guidelines concerning Implementation of NEPA Procedures (44 FR 50381–50383).

Done at Washington, D.C. this 18th day of May 1983.

Richard R. Backus,

Acting Deputy Administrator, Plant Protection and Quarantine Animal and Plant Health Inspection Service.

[FR Doc. 83-13787 Filed 5-20-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

International Trade Administration

Tuna From the Philippines; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary countervailing duty determination.

SUMMARY: The preliminary determination on tuna, packed or preserved in any manner (not in oil) in airtight containers from the Philippines is being postponed. We intend to issue it not later than August 8, 1983.

EFFECTIVE DATE: May 23, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1281.

SUPPLEMENTARY INFORMATION: On March 31, 1983, we announced our initiation of a countervailing duty investigation to determine whether producers, manufacturers or exporters in the Philippines of tuna, packed or preserved in any manner (not in oil) in airtight containers, receive directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (48 FR 15505). The notice stated that we would issue a preliminary determination by June 6, 1983, if the investigation proceeded normally.

Petitioner has alleged that nine manufacturers and exporters in the Philippines are receiving countervailable benefits under approximately 20 complex programs. Moreover, the Administering Authority has not examined allegations of subsidies involving products from the Philippines since 1978. Major changes in Philippine investment incentive laws have occurred since that time; in effect, the Department is examining these programs for the first time. The parties are cooperating in this investigation.

Therefore, we conclude that this case is extraordinarily complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended, and that additional time is necessary to make the preliminary determination. We intend to issue a preliminary determination not later than August 8, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-13728 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Extension of Comment Period on Permit Application; Sea World, Inc.

On March 17, 1983, notice was published in the **Federal Register** (48 FR 11310) that an application was received from Sea World, Inc., 1720 South Shores Road, Mission Bay, San Diego, California 92109, for a Scientific Research/Public Display Permit under the Marine Mammal Protection Act of 1972 to take killer whales (*Orcinus orca*). On April 20, 1983, Notice was published in the **Federal Register** (48 FR 16934) that the comment period on this application was extended until May 19, 1983.

Notice is hereby given that the comment period for this application is further extended until June 17, 1983. Written data or views should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. Information concerning this notice or the application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 17, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-13750 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mystic Marinelife Aquarium (P13Q).

b. Address: Mystic, Connecticut 06355.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Belukha whales (Delphinapterus leucas)—2.

4. Type of Take: Live import.

5. Location of Activity: Canada, Southwest Hudson Bay.

6. Period of Activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-13756 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Cotton Apparel Products from Thailand; Correction

May 19, 1983.

On April 27, 1983 a notice was published in the **Federal Register** (47 FR 19063) which adjusted the import levels for cotton textile products in Categories 331 and 338/339, produced or manufactured in Thailand and exported during the eighteen-month period which began on January 1, 1982. The unit of measure shown for Category 338/339 in the letter to the Commissioner of Customs which followed that notice, should have read "dozen" instead of "dozen pairs."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13729 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-25-M

Announcing Additional Import Controls for Certain Cotton Textiles and Cotton Textile Products from the Republic of Singapore

May 18, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of cotton yarn in Cafegory 301, cotton gloves and mittens in Category 331, and cotton sweaters in Category 345, produced or manufactured in Singapore and exported during the agreement year which began on January 1, 1983, at respective levels of 260,869 pounds, 275,000 dozen pairs, and 24,000 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, the United States Governments has decided to control imports of cotton textile products in Categories 301, 331 and 345 in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 23, 1982, there was published in the **Federal Register** (47 FR 56322) a letter dated December 17, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. The letter published below further amends the letter of December 17, 1982 to include the designated import control levels for Categories 301, 331, and 345 during the same agreement period. The levels have not been adjusted to account for any imports after December 31, 1982. As the data become available, charges will be made for the period which began on January 1, 1983 and extends to the effective date of this action, as well as thereafter.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 18, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 17, 1982 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1983.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 24, 1983 and for the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 301, 331, and 345, produced or manufactured in Singapore, in excess of the following levels of restraint:

Category and 12-Month Level of Restraint [1]	
301	260,869 pounds
331	275,000 dozen pairs
345	24,000 dozen

Textile products in Categories 301, 331, and 345 which have been exported to the United States prior to January 1, 1983 shall not be subject to this directive.

Textile products in Categories 301, 331, and 345 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13730 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.

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Increasing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From the Republic of Singapore

May 18, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation levels for women's, girls', and infants' cotton and man-made fiber blouses in Categories 341 and 641, produced or manufactured in the Republic of Singapore and exported during the agreement year which began on January 1, 1983, to respective levels of 77,304 dozen from 48,276 dozen and to 90,000 dozen from 48,276 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, the consultation levels established for cotton and man-made fiber textile products in Categories 341 and 641 are being increased for the agreement year which began on January 1, 1983 and extends through December 31, 1983.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 23, 1982, there was published in the **Federal Register** (47 FR 57322) a letter dated December 17, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Categories 341 and 641, produced or manufactured in singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the twelve-month levels previously established for Categories 341 and 641 to the designated amounts.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 18, 1983.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 17, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983, of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Singapore, in excess of designated levels of restraint.

Effective on May 24, 1983, you are directed to increase the levels previously established for cotton and man-made fiber textile products in Categories 341 and 641 to the following amounts:

Category and Amended 12-Month Level of Restraint [1]
341 77,304 dozen
641 90,000 dozen

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton and man-made fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-13731 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1982.

Defense Science Board Task Force on Supercomputer Applications; Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in closed session on 20–21 June 1983 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 29–30 June 1983, the Task Force will consider the basic requirements for fire support during amphibious warfare operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 17, 1983.

[FR Doc. 83-13744 Filed 5-20-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Advisory Committee Meeting

The Defense Science Board Task Force on Fire Support for Amphibious Warfare will meet in closed session on 29–30 June 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 20–21 June 1983, the Task Force will conduct a review of the Defense Department's programs to apply the emerging capacity of computers to contribute to military programs and issues. It will attempt to identify areas where the expected many orders of magnitude improvement in computing power can be of aid to the Defense establishment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

May 17, 1983.

[FR Doc. 83-13745 Filed 5-20-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the scheduled and proposed agenda of a forthcoming meeting of the full Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATES: Executive Committee Meeting: June 7, 1983, 9:00 a.m. to 5:00 p.m.; and June 8, 1983, 9:00 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: NACIE Advisor, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202/376–8882).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318 (20 U.S.C. 1221g). The Council is established to submit to the Secretary of Education a list of nominees for the position of Director of Indian Education Programs; advise the Secretary of Education with respect to the administration of any program in which Indian children or adults participate from which they can benefit; review applications for assistance under Title III of the Act of September 30, 1950, and make recommendations to the Secretary with respect to their approval; evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit and disseminate the results of such evaluations; provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations; assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950; submit to Congress not later than June 30 of each year a report of its activities; and be consulted by the Secretary of Education regarding the definition of the term Indian.

The meeting will be open to the public. This meeting will be held at the National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202/376–8882).

The proposed agenda includes:

(1) NACIE Budget Meeting.
(2) NACIE Planning Meeting.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Pennsylvania Building, Washington, D.C. 20004.

Dated: May 18, 1983.

Signed at Washington, D.C.

James Burris,

Advisor, National Advisory Council on Indian Education.

[FR Doc. 83-13800 Filed 5-20-83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Indian Education; Amended Notice of Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Amendment of notice.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the National Advisory Council on Indian Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is an addition to the Notice of meeting of the National Advisory Council on Indian Education published April 22, 1983, on page 17370, Vol. 48, No. 79.

DATE: May 10, 1983.

ADDRESS: National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202/376–8882).

FOR FURTHER INFORMATION CONTACT: NACIE Advisor, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202/376–8882).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting of the Council was close to the public on May 10, 1983, from 5:00 p.m. to 6:30 p.m. The agenda for the meeting included a review of applications for the position of Executive Director of the Council. Discussion of the applications included consideration of the qualifications and fitness of the candidates and touched upon matters which would constitute a serious invasion of personal privacy if conducted in open session. A summary of the activities which are informative to the public, consistent with 5 U.S.C. 552b, will be available to the public within fourteen days of the meeting. The meeting was closed under the authority of Section 10(d) of Pub. L. 92–463; 5 U.S.C. Appendix 1; and under exemptions (2) and (6) of Section 552b(c) of Pub. L. 94–409; 5 U.S.C. 552b(c) (2) and (6).

Records are kept of all Council proceedings and are available for public inspection at the Office of the National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street NW., Washington, D.C., from the hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Dated: May 16, 1983.

James Burris,

Advisor, National Advisory Council on Indian Education.

[FR Doc. 83-13799 Filed 5-20-83; 8:45 am]

BILLING CODE 4000-01-M

Secretary's Initiative To Improve the Quality of Chapter 1, ECIA Projects; Application Notice for Fiscal Year 1983 Grants

Applications are invited from State educational agencies (SEAs) for new projects under the Secretary's Initiative to improve the quality of Chapter 1, Education Consolidation and Improvement Act (ECIA) compensatory education programs. These awards will be made in Fiscal Year 1983 under the authority of Section 183 of Title I of the Elementary and Secondary Education Act (ESEA), for activities designed to apply the results of evaluation activities in order to improve the effectiveness of local projects funded by Chapter 1, ECIA. These efforts will draw upon SEA and local education agency (LEA) evaluation experiences and expertise, and upon the findings of evaluations of local Title I, ESEA or Chapter 1, ECIA programs. Efforts are particularly encouraged that will draw upon evaluation findings related to school and classroom effectiveness, and which will disseminate evaluation results and evaluated materials related to the teaching of disadvantaged children.

Section 183 of Title I, ESEA provides, among other things, that the Secretary shall: consult with SEAs and LEAs to develop jointly sponsored evaluation

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activities within States (Section 183(c)), provide technical and other assistance to SEAs to enable them to assist LEAs and State agencies in the development and application of systematic evaluations (Section 183(e)), develop a system for identifying exemplary projects, or particularly effective elements of projects, and for disseminating information about such projects to SEAs and LEAs (Section 183(h)), and give priority to assisting States, LEAs and State agencies to conduct Chapter 1 evaluations (Section 183(i)).

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered by July 15, 1983.

Program Information

1. *Scope of the Secretary's Initiative.* The Secretary's Initiative is aimed at encouraging the participation of SEAs and LEAs, through a grants competition, in activities designed to improve Chapter 1 projects. This grant competition will provide financial assistance directly to SEAs for the purposes of local program improvement efforts. Other components of the Initiative will be carried out directly by the Department of Education (ED). These additional components may include dissemination or other activities: e.g., conferences hosted by the Secretary's Regional Representatives which are designed to share information and to disseminate materials developed under this grant competition in order to enhance their use nationwide.

2. *Eligible Applicants.* Only SEAs may apply for grants under this competition. SEAs are encouraged to involve LEAs and other public or private agencies, organizations or institutions in planning and implementing project activities. However, SEAs are not required to do so as a condition of applying for or receiving funds under this competition. Applicants may apply only for a project that does not exceed one year in duration.

3. *Rationale for Program Focus.* Funds available for Fiscal Year 1983 under the authority of Section 183 of Title I, ESEA will be used, among other purposes, to provide assistance to SEAs to support evaluation-related activities, at the State and local school district level. These activities will be designed to apply the findings of national, State and local evaluations, including findings on school and classroom effectiveness, on the teaching of disadvantaged children, and on dissemination strategies, to programs designed by the applicants to improve the effectiveness of Chapter 1, ECIA local projects. The activities funded under this competition will result in Chapter 1 projects that provide better services to students as a result of planned improvements in instruction, management, or both.

The major goal of the Initiative, and the focus of the criteria used to review applications, relates to the potential improvements in Chapter 1 instruction or management that will lead to improved project effectiveness and efficiency. This Initiative in Chapter 1 reflects the major goal and performance priority of ED—excellence in education through the promotion of more effective learning. The Chapter 1 Initiative will achieve that end specifically through activities to assist local educators in renewing our Nation's commitment to excellence and achievement in education at the local level by promoting identification, development, and communication of effective practices.

The rationale for a program of competitive grants to SEAs is based on several factors:

- States and local school districts have spent considerable resources on developing and implementing evaluation systems for their Title I projects. They are now in a position to identify the strengths and weaknesses of programs, and thus improve them;
- Years of Federal, State and local research and evaluation on compensatory education, on principles of effective schooling, and on dissemination strategies, have provided a solid body of knowledge, and knowledgeable educators, for teaching the basic skills to disadvantaged and educationally deprived children. This set of projects will capitalize on the knowledge gained, and on the resources developed by State and local school districts, to establish more intensive efforts to identify, validate and disseminate information about exemplary projects and practices, and to incorporate the results thereof into Chapter 1 projects; and
- Planning and conserving is necessary to enhance the cost-effectiveness of projects, especially in light of limited monetary resources. Thus, a major goal of the Secretary's Initiative is to encourage SEA's and LEA's to identify and implement practices or projects that can serve more children, and serve them more effectively.

4. *Types of Projects.* SEA's may propose activities ranging from those designed to be implemented primarily at the State level to activities most appropriately conducted by LEA's, that will result in the development of new strategies that will lead to improved Charter 1 instruction or management, or that will expand upon programs already underway in the State or region for which an application is submitted.

The eventual goal of all evaluation activities is to increase the effectiveness and efficiency of programs through a systematic process. The evaluation process is evolutionary in nature, but it can be characterized in part by three phases: identification and validation, dissemination, and implementation. The first phase includes activities aimed at ascertaining and verifying the overall effectiveness of programs and in assessing the relative strengths and weaknesses of programs. In the second phase, information about effective practices and programs, results of research and development activites, and other materials and strategies for enhancing the effects and operations of programs are shared with concerned program managers. In the third phase, program managers try to incorporate components from exemplary programs, or research and evaluation-based strategies, into their own programs.

SEA's and LEA's across the country are at various stages in developing evaluation systems that include all three phases of the total process. The major purpose of this Initiative is to assist in the improvement of instructional or management aspects of Chapter 1 projects by building upon Federal, State, and district evaluation and dissemination activities.

For purposes of application development and project planning, States may propose efforts that include activities in *any or all of the following three areas:*

A. *Identification or Validation Efforts.* SEA's may propose to initiate or expand upon already existing processes, methods or materials, which can be used to identify exemplary projects or to recognize more completely the full range of effective Chapter 1 projects and practices within a State. SEA's may also propose the development or expansion of processes, methods or materials which can be used to validate the effectiveness of previously identified projects, or to examine, the effectiveness of adoptions/adoptations of exemplary, projects or activities. Some *examples* of projects in this area are—

- Improving or expanding State systems for identifying or validating exemplary Chapter 1 programs within the State or region. Specific activities may include, but are not limited to—

Building upon their accumulated Title I evaluation data in order to develop methods to identify their most consistently successful (or least successful) projects; or,

Designing a review process aimed at determining what practices are contributing to the success, or failure of projects. This review process may utilize reviewers from LEA's, intermediate agencies, institutions of higher education, SEA's, regional organizations, or other private or public organizations, and may incorporate training for these reviewers.

- Developing or refining evaluation methods which can be used to identify the strengths and weaknesses of Chapter 1 programs, for instance, developing, training, and supporting review teams or school district staff to conduct on-site evaluations or validation activities.

B. *Dissemination Efforts.* SEA's may apply for assistance in order to support activities to produce and disseminate information or materials about exemplary projects and practices under Chapter 1. Dissemination activities should be designed to bring information about effective Chapter 1 projects and practices, or about related technical assistance or services that can aid districts with their program improvement activities, to the attention of all Chapter 1 projects. Specific efforts may include—

- Developing activities or networks which will enable Chapter 1 directors and instructional staff from around the State (or from other States) to visit with and learn from staff who have developed and are operating exemplary Chapter 1 projects. When designing dissemination strategies for providing information, technical assistance, or training, SEA's may build upon existing systems, such as State publications, computerized information files, dissemination by State or National Diffusion Network facilitators, or assistance from regional resources;
- Developing materials and sharing information about problems and activities in Chapter 1 projects. These may take the form of periodic newsletters, publications, or specific information packages;
- Designing workshop presentations and follow-up activities, discussions, or training materials which may be presented at scheduled State meetings or conferences, to bring to the attention of school district personnel some of the issues related to Chapter 1 program improvement; or,
- Designing or expanding upon existing networks already used to support Title I/Chapter 1 dissemination and/or program improvement activites. Elements in such intrastate or interstate networks may include staff (e.g. State Federal program directors, State facilitators, intermediate or service district staff), technology (satellite communications, computerized information files, electronic mail systems), and technical assistance organizations (e.g., Research and Development Exchanges, Technical Assistance Centers).

C. *Provision of Technical Assistance for Program Improvement Through the Use of Evaluation Findings Related to Specific Programs or Practices.* SEAs may apply for assistance to work with school districts interested in evaluation-based program improvement activities, instructional practices or management strategies.

Activities may include evaluation-based planning and technical assistance services by SEAs to LEAs in such areas as:

- Developing program improvement strategies for increasing the cost-effectiveness of Chapter 1 projects, to allow more children to receive Chapter 1 services. Such projects may be based on the adaptation of strategies from previously-identified cost-effective programs;
- Developing strategies for incorporating into projects some of the factors identified by evaluation as being associated with successful programs. For instance, SEAs and their participating LEAs can develop staff planning and training activities, propose methods for examining and improving classroom management techniques so as to increase students' actual time-on-task, or devise systems for better evaluation feedback for students and parents;
- Using district and student level evaluation procedures in order to design instructional activities focused on the academic needs of project participants; or
- Modifying SEA program monitoring procedures in order to encourage local Chapter 1 projects to consider possible systematic improvements.

5. *Required Grantee Activities.—Documentation and Evaluation.* SEAs must discuss in their applications how they plan to document and evaluate the nature and effectiveness of all projects and activities for which they apply. The purpose in requiring thorough documentation and evaluation is to enhance the potential for national dissemination and utilization of activities and materials developed by SEAs and LEAs as part of this Initiative. SEAs should be aware that they must produce a final evaluation report and should consider these factors when preparing applications—

- Documentation of each activity undertaken, including the nature of the activity, the types of staff involved, the results of the activity, and unanticipated problems and their solutions. SEAs must provide budget planning and actual expenditure information in the final evaluation report. This document can then be shared with other project directors and staff, nationwide, who are planning to undertake similar types of efforts;
- Provision for evaluations that assess the process of implementation of new Chapter 1 instructional strategies or classroom management techniques. Documentation in the final evaluation report must describe actual program improvement activities, and the experiences of staff, students and other project participants when the changes are implemented; or,
- Provision for evaluations that assess the effects of programmatic change supported by the project.

Other Activities and Requirements. SEAs are encouraged to discuss their needs for additional technical assistance in order to carry out their proposed activities. Technical or other assistance may be provided directly by ED, where appropriate and upon request, or may be proposed and budgeted for in the application. For instance, in the former case, the services of the Chapter 1 evaluation technical Assistance Centers (TACs) are available to chapter 1 grantees for assistance or training in evaluation-related areas. Assistance from regional research and Development exchanges (RDx's) is available to SEAs, in some cases without additional charge and in other cases via contractual agreement. applicants may also consider using, where appropriate and beneficial to the project, consultants, regional organizations, university faculty, private firms, or staff of other Chapter 1 projects that have implemented similar program improvement activities.

All applicants should budget $500 for one person, for one trip. Applicants *may* be invited to attend a meeting either in Washington, D.C. or at an ED regional office. the purposes of this trip will include–

- Meeting and conferring with other grantees under this competition, particularly those who will undertake or have experience with similar program improvement activities;
- Meeting and consulting with staff of the Office of the Secretary, and with other officials of ED, especially on ED Project Officer who will be responsible

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for Federal monitoring of the project; and

• Conferring with grant specialists from the Assistance Management and Procurement Service of ED, in order to review the requirements and responsibilities of grantees under this Initiative.

6. *Evaluation Criteria.* It is anticipated that applications will describe a wide variety of projects appropriate under the Secretary's Initiative. The Secretary also anticipates applications from States with diverse geographic and demographic characteristics. In evaluating applications, the Secreatry will apply the following criteria.

(a) *Quality of the Project Plan.* (35 points) The Secretary reviews each application for information that shows how well the project will meet the purposes of the Initiative, and how well each project addresses the specific needs of the applicant. The Secretary looks for information that describes—

(1) A statement of the needs of the applicant and a statement of how the objectives of the project relate to those needs; (5 points)

(2) the proposed tasks and activities of the project, including a timeline appropriate for completing each task; (10 points)

(3) How the tasks and activities of the project are designed to meet the objectives of the project; (10 points) and

(4) The potential utility of proposed activities, materials and products for enabling an applicant to improve Chapter 1 instruction or program management, within the SEA or in other States with similar concerns. (10 points)

(b) *The Commitment of the Applicant SEA.* (15 points) The Secretary reviews each application for information that describes the applicant's commitment to the project and its goals, and the commitment of any other participating SEAs and LEAs to the project, including documentation of any in-kind contributions, and plan for appropriate use of other resources, e.g., district or State staff, consultants, TACs, or RDx's.

(c) *Plan of Operation.* (20 points) The Secretary reviews each application for information that shows the quality of the plan of operation for the project. The Secretary looks for information that shows—

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of this initative;

(4) The way the applicant plans to use its resources and personnel to achieve each objective;

(5) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women or handicapped persons; and

(6) A clear description of how the applicant will provide opportunity for participation of students enrolled in private schools.

(d) *Quality of Key Personnel.* (15 points) The Secretary reviews each application for information that shows the qualifications for the key personnel the applicant plans to use on the project. To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides. The Secretary looks for information that shows—

(1) The qualifications of the project director (if one is to be used);

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each key person will commit to the project; and

(4) The extent to which the applicant, as part of its nondiscrimiatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(e) *Budget and Cost Effectiveness.* (5 points) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective. The Secretary looks for information that shows—

(1) The budget for the project is adequate to support project activities; and

(2) The costs reasonable in relation to the objectives of the project.

(f) *Evaluation Plan.* (7 points) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. The Secretary looks for information that shows methods of evaluation taht are appropriate for the project and, to the extent possible, are objective and quantifiable.

(g) *Adequacy of Resources.* (3 points) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project. The Secretary looks for information that shows—

(1) The facilities that the applicant plans to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

Waiver of Rulemaking

In accordance with Section 431 of the General Education Provisions Act and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Department of Education to provide an opportunity for public comment in response to proposed regulations before issuing the regulations in final form. However, the Secretary of Education has determined that proposed rulemaking would be impracticable and contrary to the public interest for the rules in this notice and is therefore waiving the opportunity for public comment, in accordance with 5 U.S.C. 553(b)(3)(B).

The rules in this notice apply only to a competition for grant awards that must be made in the current fiscal year, which ends September 30, 1983. The awards should be made as far in advance of that date as possible to permit planning by grantees for use of funds during the 1983–84 school year. Given the time required to prepare, clear, and publish proposed and final regulations, to invite and review applications, and to negotiate and award grants, there is insufficient time to follow proposed rulemaking procedures and still obligate funds on a timely basis in this fiscal year. Therefore, it is impracticable and contrary to the public interest to follow rulemaking procedures. (5 U.S.C. 553(b); 20 U.S.C. 1232).

Effective Dates: Unless the Congress takes certain adjournments the funding criteria and other rules in this notice are expected to take effect 45 days after publication in the **Federal Register.** For further information as to the effective date of these funding criteria and other rules, call or write the Department of Education contact person.

Available Funds: There may be up to 20 separate awards made, depending on the technical quality of applications received and on the amount of available funds. The size of awards will range between $25,000 and $75,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.157, Secretary's Initiative to Improve the Quality of Chapter 1 Projects, Washington D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(a) A legibly dated U.S. Postal Service Postmark;

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(c) A dated shipping label, invoice, or receipt from a commercial carrier; or

(d) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Application Forms: Application forms and information packages are expected to be available on or around May 23, 1983 and may be obtained by writing to Dr. Robert M. Stonehill, State and Local Grants Division, Office of Planning, Budget and Evaluation, 400 Maryland Ave., S.W., Room 4032, Washington, D.C. 20202.

Copies of application forms and information packages will be sent directly to all Chief State School Officers and to all State Chapter 1, ECIA Coordinators.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package.

The Secretry strongly urges that applicants not submit information that is not requested. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

Applicable Regulations: Regulations applicable to this competition include:

(a) Regulations contained in this Notice, applicable solely to awards made during Fiscal Year 1983; and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: For further information, contact Dr. Robert Stonehill, State and Local Grants Division, Office of Planning, Budget and Evaluation, U.S. Department of Education, 400 Maryland Ave., S.W., Room 4032, Washington, D.C. 20202. Telephone: (202) 245–9401.

(20 U.S.C. 2833)

Dated: May 18, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-13796 Filed 5-20-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective June 1, 1983. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.57
Arizona [1]	3.77
Arkansas [1]	3.57
California	3.74
Colorado [2]	3.72
Connecticut	3.84
Delaware [1]	3.75
Florida	3.56
Georgia [1]	3.73
Idaho [2]	3.72
Illinois [1]	3.59
Indiana	3.57
Iowa [1]	3.96
Kansas [1]	3.96
Kentucky [1]	3.59
Louisiana	3.56
Maine [1]	3.90
Maryland [1]	3.75
Massachusetts	3.79
Michigan [1]	3.59
Minnesota	3.85
Mississippi [1]	3.73
Missouri [1]	3.96
Montana [2]	3.72
Nebraska [1]	3.96
Nevada [1]	3.77
New Hampshire [1]	3.90
New Jersey	3.65
New Mexico	3.21
New York	3.74
North Carolina [1]	3.73
North Dakota [1]	3.96
Ohio	3.37
Oklahoma [1]	3.57
Oregon [1]	3.77
Pennsylvania [1]	3.75
Rhode Island [1]	3.90
South Carolina [1]	3.73
South Dakota [1]	3.96
Tennessee [1]	3.73
Texas [1]	3.57
Utah [2]	3.72
Vermont [1]	3.90
Virginia [1]	3.73
Washington [1]	3.77
West Virginia [1]	3.59
Wisconsin [1]	3.59
Wyoming [2]	3.72

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM–79–21.

[2] Region based price computed as the weighted average price of Regions E, F, G, and III.

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Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during March 1983 was $31.02 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective June 1, 1983, is $6.95 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of January 1983, February 1983, and March 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective June 1, 1983 (shown in Section I), are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, January 1983, February 1983, and March 1983. Reported prices for sales in January 1983 were adjusted by the percent change in the nationwide volume-weighted average price from January 1983 to March 1983. Prices for February 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from February 1983 to March 1983. The volume-weighted 3-month average of the adjusted January 1983 and February 1983, and the reported March 1983 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of January, February, and March 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending May 13, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of March 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., May 18, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-13616 Filed 5-19-83; 11:15 am]

BILLING CODE 6450-01-M

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

Federal Energy Regulatory Commission

[Docket No. TA83-2-31-004]

Arkansas Louisiana Gas Co.; Compliance Filing

May 16, 1983.

Take notice that on April 29, 1983, Arkansas Louisiana Gas Company (Arkla) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule G–2, copies of 5th Revised Sheet No. 12B, 6th Revised Sheet No. 12C, 6th Revised Sheet No. 12D and 2nd Substitute 33rd Revised Sheet No. 4 to become effective April 1, 1983.

Arkla states that this filing is in compliance with Ordering Paragraphs (D) and (D) of the Commission's order dated March 31, 1983, which required Arkla to file tariff sheet changes on exchange gas within a 30-day period. This supplementary filing also makes certain reductions in cost projections in the supporting work sheets and summary sheets of the PGA filing concerning reductions in costs for certain deep deregulated gas and certain tight formation gas.

Arkla states that copies of the filing were mailed to the customers served under Arkla's Rate Schedule No. G–2.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13714 Filed 5-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-291-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc; Request Under Blanket Authorization.

May 17, 1983.

Take notice that on April 25, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP 83–291–000 a request pursuant to § 157.205 of the regulations under the Natural Gas Act (18, CFR 157.205) that Arkla proposes to construct and operate two sales taps and related appurtenant facilities, one on its line KM–12 and the other on its line LAC–10, to permit the direct sales of natural gas to Tosco Corporation (Tosco) and Coloma Petroleum, Inc. (Coloma), respectively, under the authorization issued in Docket Nos. CP82–340–000 and CP82–340–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla states that the peak day volumes to be delivered to Tosco and Coloma by the proposed facilities is estimated to be approximately 12 Mcf and 1,500 Mcf, respectively, with an estimated 4,380 Mcf and 72,000 Mcf, respectively, being delivered annually. Arkla further states these volumes are *de minimis* when compared with Arkla's 1982 peak day and annual deliveries of 1,827,927 Mcf and 394,607,813 Mcf, respectively. Arklas further states that the volumes delivered to Tosco to operate its DeLone-Burns oil pumping station in Union County, Arkansas, would be billed at the retail rates applicable under Arkla's effective rates as filed with the Arkansas Public Service Commission. It is asserted that the volumes delivered to Coloma for the use and consumption of its gas lift operations in Kingfisher County, Oklahoma, would be billed at the retail rates applicable under Arkla's effective rates as filed with the Oklahoma Corporation Commission. It is estimated that the cost of the construction of the proposed facilities for Tosco and Coloma would be $1,330 and $22,990, respectively.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13715 Filed 5-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-69-001]

Interstate Power Co.; Amended Application

May 17, 1983.

Take notice that on May 9, 1983, Interstate Power Company (Applicant) filed an amendment to its application in Docket No. ES82–69–001 with the Federal Energy Regulatory Commission. Applicant seeks authority to increase its short-term borrowings from $40 million to $50 million outstanding consisting of promissory notes and/or commercial paper to be issued on or before December 31, 1983, and to mature not later than December 31, 1984.

Any person desiring to be heard or to make any protest with reference to such application, as amended, should, on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application, as amended, is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 13717 Filed 5-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-316-000]

Intrastate Gathering Corp., Application

May 17, 1983.

Take notice that on May 9, 1983, Intrastate Gathering Corporation (Applicant), P.O. Box 32999, San Antonio, Texas 78216, filed in Dicket No.

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CP83–318–000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and § 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tenneco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently engaged in the transportation of natural gas on behalf of Tenneco pursuant to a transportation agreement dated July 5, 1979. It is stated that service under this agreement commenced July 6, 1979, for an initial term of two years under the self-implementing provisions of § 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing July 6, 1981, pursuant to § 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Applicant has requested the Commission issue an order authorizing a continuation of the transportation arrangement for a period of two years commencing July 6, 1983, and ending July 5, 1985.

Applicant proposes to transport up to 25,000 Mcf of gas per day for Tenneco or such additional daily volumes which Applicant determines that its operating conditions shall reasonably permit. Applicant states that it would transport Tenneco's volumes from Gulf Oil Corporation's wells in Zapata, Starr, Cameron and Hidalgo Counties, Texas, to Tenneco's Webb, Corckett, Sullivan or Starr redelivery points in Webb, Hidalgo and Zapata Counties, Texas, and other mutually agreeable point or points. A transportation rate of 5.0 cents per Mcf would be charged for gas transported to te Webb redelivery point, 21.91 cents per Mcf for gas transported to the Crockett redelivery point and 25.94 cents per Mcf for gas transported to the Sullivan or Starr redelivery points.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13716 Filed 5–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–290–000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

May 17, 1983.

Take notice that no April 25, 1983, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83–290–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for United Gas Pipe Line Company (United), all as more fully set forth in the application which is file with the Commission and open to public inspection.

It is stated that Applicants were authorized to transport up to 100,000 Mcf of gas per day on an interuptible basis for United from Dewey County, Oklahoma, to St. Mary and LaSalle Parishes, Louisiana, and Waller County, Texas. Applicants assert that the reaons for the abandonment is that the sale of gas to United in Dewey County, Oklahoma, has been terminated as of April 21, 1982, and no gas has been received for transportation since March 1982. It is further asserted that no facilities would be abandoned.

Any perons desiring to be heard or to make any protect with refernece to said application should on or before June 7 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protestests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any perons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to itervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13718 Filed 5–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–277–000]

Transcontinental Gas Pipe Line Corp.; Application

May 17, 1983.

Take notice that on April 14, 1983, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83–277–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to transport up to 1,800 dt equivalent of natural gas per day for Columbia, an existing resale customer, pursuant to the provisions of Transco's Rate Schedule T.

It is stated that the gas would be made available to Transco at its existing point of delivery to Columbia at Dranesville, Fairfax County, Virginia, where Columbia would reduce its takes of equivalent quantities of gas under Transco's Rate Schedule CD–2 and Transco would transport such gas and deliver it by displacement for the account of Columbia to Lynchburg, Virginia.

The Rate Schedule T transportation rate for this upstream delivery is currently 4.0¢ per dt equivalent with no retention for fuel requirements, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Kenneth F. Plumb.

Secretary.

[FR Doc. 83–13719 Filed 5–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–30–002]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

May 16, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on April 21, 1983 tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff, and alternatives thereto, which propose changes in the rates applicable to three transportation rate schedules covering service performed in the production area of Transco's system. Transco states that the purpose of its filing is to establish rates for the involved rate schedules which are comparable to those transportation rates that were filed by Transco on December 15, 1982 in Docket No. RP83–30 and which are applicable to similar production area transportation service performed by Transco. Transco's preferred alternative tariff sheets filed in this case reflect the adjustments required by the Commission's January 14, 1983 suspension order in Docket No. RP83–30 as well as the rate of return provided for in Article IV of the settlement agreement filed by Transco on April 13, 1983 in Docket Nos. RP83–11 and RP83–30. In the event that the Commission does not approve the settlement in a timely fashion, Transco has submitted alternative tariff sheets that do not reflect the rate of return provided for therein.

Transco has requested that its filing in this case be made effective concurrently with the effectiveness of the rates filed in Docket No. RP83–30 on April 22, 1983 and that this case be consolidated with the proceedings in Docket No. RP83–30. Transco requests that the Commission grant all necessary waivers to allow concurrent effective dates.

Copies of the filing were served upon the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 2.14 and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before May 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 83–13720 Filed 5–20–83; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

[Rate Order No. WAPA–19]

Colorado River Storage Project; Order Confirming, Approving, and Placing Increased Power and Transmission Rates in Effect on an Interim Basis

Correction

In FR Doc. 83–11569, beginning on page 19990, in the issue of Tuesday, May 3, 1983, make the following correction.

On page 19992, first column, the twenty-second line of the third paragraph should have read: "Fort Collins Area. In many of the years since the inception of CRSP O&M program, it has".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS—59123C; TSH–FRL 2367–8]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–83–46, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–204, 401 M St. SW., Washington, DC 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk

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of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records avialable to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83–46

Date of Receipt: April 7, 1983.

Notice of Receipt: April 15, 1983 (48 FR 16330).

Applicant: The Warfield Company, Inc.

Chemical: Polyamine adduct (Generic).

Use: Confidential.

Import Volume: Confidential.

Test Marketing Period: 1 year.

Commencing On: May 12, 1983.

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter and other information presently available to the Agency. In addition, the potential for exposure and release are very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: May 12, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-13751 Filed 5-20-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59123B; TSH-FRL 2367-5]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–83–44, and TM–83–45, two applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–204, 401 M St. SW., Washington, D.C. 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME83–44

Date of Receipt: April 6, 1983.

Notice of Receipt: April 15, 1983 (48 FR 16330).

Applicant: Morton Thiokol, Incorporated.

Chemical: Polyalykyl polyurethane, acrylate capped.

Use: Coating for photographic film.

Production Volume: 50,000 kg.

Worker Exposure: Manufacture: dermal, 5 workers, 8 hours/day, 10 days/year. Processing: 6 workers, 8 hours/day, 5 days/year.

Test Marketing Period: 1 year.

Commencing on: May 12, 1983.

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter and other information presently available to the Agency. The TME substance is expected to be poorly absorbed and cause little or no systemic toxicity. Based on the molecular weight and low water solubility, it is of low concern for environmental effects. In addition, the potential for significant exposure and release is very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

TME83–45

Date of Receipt: April 7, 1983.

Notice of Receipt: April 15, 1983 (48 FR 16330).

Applicant: Confidential.

Chemical: Lignosulfate, reaction product with a phenolic monomer and an oxidant (Generic).

Use: Confidential.

Production Volume: 60,000 lb. of a solution containing approximately 50% final solids content. (Production volume was mistakenly cited as 60,000 gallons in the notice of receipt.)

Number of Customers: 1.

Worker Exposure: Manufacture: dermal and inhalation, 2–3 workers. Transport and use: dermal and inhalation, 4 workers.

Test Marketing Period: 5 months.

Commencing on: May 12, 1983.

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter on a closely-related analog and on other information presently available to the Agency. In addition, potential for exposure and release are very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: May 12, 1983.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-13750 Filed 5-20-83; 8:45 am]

BILLING CODE 6560-50-M

[WH–FRL 2352–2]

Approval of West Virginia's NPDES Program To Use a Surface Mine Application Form

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of West Virginia's request to use a National Pollutant Discharge Elimination System (NPDES) application form for surface mine discharges.

SUMMARY: On May 10, 1983, the Environmental Protection Agency (EPA) approved the State of West Virginia's request to use a new NPDES permit application form for surface mine discharges. Previously the State had been approved to participate in the NPDES program, which included use of an application form covering all mining discharges.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION: On May 10, 1982, the EPA Administrator approved West Virginia's request to administer the NPDES program. This action included approval of an NPDES permit application form for mining discharges. The approved mining form covered all mining discharges, including deep mines and surface mines. Shortly thereafter, West Virginia requested EPA approval of a revised NPDES application form to cover surface mine discharges only. The revised application form provides more complete State coverage of surface mining and eliminates non-applicable deep mining items. Today's **Federal Register** notice is to announce the approval of the State of West Virginia's request to use an NPDES application form for surface mine discharges. EPA received only one comment during the public comment period, which requested changes in the stream sampling conditions of the form. Since these conditions are required by the State Department of Natural Resources and not by the Federal NPDES regulations, EPA has forwarded these comments to the State for its review.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have significant impact on a substantial number of small entities. The approval of the West Virginia NPDES permit application form for surface mine discharges merely provides more specific State requirements for surface mine discharges. No new substantive Federal requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR Doc. 83-13749 Filed 5-20-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–51464; TSH–FRL 2355–5]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83–11622, beginning on page 20487, in the issue of Friday, May 6, 1983, on page 20488, in the first column, "PMN 83–44" should read "PMN 83–644".

BILLING CODE 1505–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

General Counsel's Opinion No. 6—The Legality of Discount Brokerage Services When Offered By Insured Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of FDIC General Counsel's Opinion No. 6.

SUMMARY: The FDIC's Legal Division has received numerous inquiries from insured nonmember banks and their counsel concerning whether or not insured nonmember banks may offer discount brokerage services to their customers. The inquiries have primarily focused on whether or not an insured nonmember bank may lawfully enter into a contractual arrangement with an unrelated discount broker whereby the broker executes securities transactions for bank customers and the bank shares in commissions generated by those transactions. FDIC General Counsel's Opinion No. 6 set forth below responds to those inquiries.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division, (202–389–4171), Room 4126E, 550 17th Street, NW., Washington, D.C. 20429.

Opinion

The FDIC has received numerous inquiries from insured nonmember banks and their counsel asking whether or not it is lawful for an insured nonmember bank to offer discount brokerage services to its customers. The inquiries primarily focus on the lawfulness of contractual arrangements between banks and unrelated discount brokers whereby the discount broker executes securities transactions for bank customers and the bank shares in the commissions generated by the transactions. A response to those questions necessarily involves an inquiry into the permissible scope of an insured nonmember bank's direct securities activities under the Banking Act of 1933 (popularly known as the Glass-Steagall Act and codified in several sections of the United States Code). The Glass-Steagall Act is generally recognized as separating the business of banking from that of investment banking (*i.e.*, the securities business). Most of what is the Glass-Steagall Act applies solely to member banks of the Federal Reserve System. (*See* section 20 (prohibiting the affiliation of *member* banks and companies engaged principally in the issue, floatation, underwriting, public sale, or distribution of stocks, bonds, debentures, notes or other securities, 12 U.S.C. 377) and section 32 (prohibiting officers, directors, or employees of companies primarily engaged in the issue, floatation, underwriting, public sale, or distribution of stocks, bonds, or similar securities, or partners or employees of a partnership so engaged, from serving as directors, officers, or employees of *member* banks, 12 U.S.C. 78)).

Section 21 of the Glass-Steagall Act (12 U.S.C. 378) is applicable, however, to member and nonmember banks alike. Section 21 provides, in part, that it shall be unlawful for, any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing * * * stocks, bonds, debentures, notes or other securities, to engage at the same time to any extent whatever in the business of receiving deposits * * *.

Section 21 further provides, however, that nothing therein should be read to prohibit " * * * State banks * * * whether or not members of the Federal Reserve System) * * * from dealing, underwriting, purchasing, and selling investment securities to the extent permitted to national banking

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associations by the provisions of section 24 of this title." Section 24(7th) of Title 12 of the United States Code (hereinafter referred to as section 16 of the Glass-Steagall Act) limits "the business of dealing in securities and stock * * * to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers * * *." Section 16 ends with the proviso that a national banking association (and thus a nonmember bank) may purchase certain listed investment securities for its own account.

A nonmember bank may therefore, consistent with the Glass-Steagall Act, purchase and sell securities for the account of a customer if it is without recourse and solely upon the order of the customer. It is the opinion of the Legal Division of the FDIC, after reviewing the language of the statute, current case law interpreting the Glass-Steagall Act, and the Act's legislative history, that "discount brokerage" is a permissible activity falling within the language of section 16. By the term "discount brokerage" we are referring to the practice by a bank of executing securities transactions solely at the direction of a bank customer but not providing that customer with any investment advice.

As explained in the Senate Report accompanying the Glass-Steagall Act, section 16 would permit national banks "to purchase and sell investment securities for their customers to the same extent as heretofore * * *." S. Rep. No. 77, 73rd Cong., 1st Sess. 16 (1933). National banks were engaged in brokerage type activities prior to the enactment of the Glass-Steagall Act and their involvement in such activities had been judicially recognized. (*See Blakley* v. *Brinson*, 286 U.S. 254 (1932); *McNair* v. *Davis*, 68 F. 2d 935 (5th Cir.), *cert. denied*, 292 U.S. 647 (1934); and *Block* v. *Pennsylvania Exchange Bank*, 253 N.Y. 227, 170 N.E. 900 (1930)). Bank trust departments also had traditionally performed brokerage functions with regard to trust accounts administered by banks. Therefore in our opinion both the legislative history of section 16 and the historical involvement of banks in brokerage activities support the conclusion that a nonmember bank is not prohibited from engaging in disccunt brokerage activities as defined above.

Further support for the opinion that discount brokerage activities are a permissible activity for banks can be found in court decisions construing the Glass-Steagall Act. As early as 1947 the Supreme Court, in determining whether a securities firm was "primarily engaged" in securities activities covered by section 32 of the Glass-Steagall Act, did not give any weight to the firm's substantial brokerage activities. *Board of Governors of the Federal Reserve System* v. *Agnew*, 329 U.S. 441 (1947). Implicit in that decision, and the later observations of the Court concerning section 16, is the premise that the Glass-Steagall Act is not concerned with activities in which banks traditionally engaged which do not raise the types of hazards sought to be addressed by the Glass-Steagall Act.

As recognized by the Supreme Court in *Investment Company Institute* v. *Camp*, 401 U.S. 617, 630–634 (1971), the legislative history of the Glass-Steagall Act reflects concern that a bank might be harmed by its direct or indirect involvement in certain securities activities. Those hazards included the possibility that: (1) The association of the bank with a securities company affiliate could impair public confidence in the bank if the latter performed poorly; (2) the bank might be tempted to make unsound loans to its securities affiliate or to companies whose securities the bank's affiliate was underwriting; (3) bank customer goodwill could suffer if any customer suffered losses after investing in a security associated with the bank; (4) the bank may make unsound "purpose loans" (loans obtained for the purpose of acquiring securities) in order to facilitate the sale of securities in which the bank or its securities affiliate dealt; (5) the bank's affiliate could dump poor issues into the bank's trust department; and (6) the bank's promotional interest in the securities would be in direct conflict with its obligation to render impartial investment advice.

The above hazards have been found not to be present in the case of discount brokerage. The U.S. District Court for the District of Columbia, for example, found automatic investment services ("AIS") by banks not to violate the Glass-Steagall Act. *New York Stock Exchange* v. *Smith*, 404 F. Supp. 1091 (D.D.C. 1975), *vacated on other grounds sub nom. New York Stock Exchange* v. *Bloom*, 562 F. 2d 736 (D.C. Cir 1977) *cert. denied*, 435 U.S. 942 (1978). Under an AIS program, a bank periodically makes purchases of equity stocks for bank customers from among a list of corporations provided by the bank and debits the customer's account accordingly, *i.e.*, the service is essentially a discount brokerage program. As stated by the lower court in *New York Stock Exchange* v. *Smith*.

> Banks offering AIS do not have a salesman's interest in the securities performances. Since the banks do not manage the customers' investments, they need not prove that they perform better than anyone else. This is quite different from the situation in *Investment Company Institute*, where banks were compelled to outperform mutual funds. Under AIS, banks are in competition with investment brokers only in terms of convenience, cost, and dependability. This sort of competition does not engender the threat to banks' solvency which concerned the drafters of the Glass-Steagall Act because it is independent of any investment decision. 404 F. Supp. at 1099–1100.

Based on the foregoing, it is the opinion of the Legal Division that discount brokerage services offered by a nonmember bank are permissible under the Glass-Steagall Act. The legality of any particular brokerage activity may, however, vary from circumstance to circumstance. Discount brokerage can function in as many ways as there are discount brokers or banks. A bank may merely introduce its customers to the broker/dealer services of a discount broker with the bank's subsequent involvement in any securities transaction being limited to debiting or crediting the customer's bank account after each securities transaction (*i.e.*, the customer directly contacts the broker/dealer to initiate transactions and the broker/dealer confirms all transactions directly with the customer). A bank's involvement may typically increase along a continuum. For example, the bank customer may contact the bank for price quotations, for the placing of buy and sell orders, etc. The bank may act as a conduit of information to the broker/dealer, with the bank confirming transactions with the customer; the bank transmitting funds and securities from the customer to the broker/dealer; and the bank possibly acting as custodian for the customers' securities. In either case the bank would receive a portion of the broker's commission generated by each transaction.

While we obviously cannot comment on all discount brokerage programs as the facts may vary in each, we will observe that generally speaking the Legal Division would not cite as a violation of the Glass-Steagall Act a program in which: (1) The bank clearly acted solely at the customer's direction; (2) the transactions are for the account of the customer and not the account of the bank; (3) the transactions are without recourse; (4) the bank makes no warranty as to the performance or quality of any security; and (5) the bank did not advise the customer to make any particular investment decision. (Trust and agency accounts with regard to which the bank has investment discretion are not subject to this restriction.) Item (5) is in keeping with the traditional role played by banks with respect to investment advice. The Legal Division is of the opinion that investment advice to bank customers is appropriately confined to the administration of trust accounts and should not be done on the commercial side of the bank. This separation plays a significant role in avoiding conflicts of interest and avoiding loss of confidence in the bank due to the performance of a particular securities investment and thus is significant in determining that discount brokerage services do not violate the Glass-Steagall Act.

It is further the Legal Division's opinion that the bank may lawfully promote the discount brokerage service. The bank should assure itself, however, that its promotional literature does not mischaracterize the bank's role in providing the discount brokerage service. This will serve to prevent public misconception about the bank's function with regard to the securities investment. If the bank intends to utilize the contractual arrangement with the broker/dealer for transactions executed in connection with trust department accounts, the bank should not receive any additional compensation with regard to those transactions from the broker/dealer, *i.e.*, the bank trust department should not share in any commission associated with the transaction. To do so would raise possibilities of a breach of fiduciary obligation toward the bank's trust account customers.

If a bank's discount brokerage activities are anything more involved than merely introducing bank customers to a broker/dealer pursuant to a contractual arrangement, the bank is advised to review and comply with Part 344 of FDIC's regulations to the extent that they are applicable. (12 CFR Part 344). Part 344 sets forth recordkeeping and confirmation requirements for securities transactions. Nonmember banks are also reminded that any margin lending engaged in with regard to the discount brokerage services must comply with Part 221 of the Federal Reserve Board's regulations (12 CFR Part 221) and should fully comport with sound banking practices.

Lastly, we reiterate that while we are generally of the opinion that discount brokerage comports with the Glass-Steagall Act whether or not the broker/dealer through whom the transaction is executed is an affiliate or a subsidiary of the bank, the FDIC will have to judge each particular program on a case-by-case basis. Any discount brokerage activities on the part of a nonmember bank must fully comport with State law and be consistent with the powers and authorities of any State nonmember bank as defined by State law. This opinion is not intended to address the issue of whether or not discount brokerage presents any conflicts of interests or any safety or soundness concerns. That issue and others are presently being studied by the FDIC in connection with the agency's Proposed Rulemaking concerning the need, if any, to condition, restrict or prohibit securities activities of subsidiaries of nonmember banks and the need for regulations to govern the relationship between a nonmember bank and its securities affiliates.

Dated: May 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-13626 Filed 5-20-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

Filing Dates for Illinois Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Illinois Special Primary and General Elections.

SUMMARY: Committees required to file reports in connection with the special primary election to be held in the 1st Congressional District of Illinois on July 26, 1983, must file a combined 12-day pre-primary and semiannual report by July 14, 1983. Committees required to file reports in connection with *both* the special primary election *and* the special general election to be held on July 26, 1983, and August 23, 1983, respectively, must file a combined 12-day Pre-primary and semiannual report by July 14, 1983, the 12-day pre-general election report by August 11, 1983, and the 30-day post-election report by September 22, 1983.

After filing these reports, committees should resume filing reports on a semiannual basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, NW, Washington, D.C. 20463, Telephone: (202) 523–4068, Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Primary and Special General Elections, 1st Congressional District, Illinois

All principal campaign committees of candidates in the special primary election and all other semiannually filing political committees supporting candidates in this special primary election shall file a combined 12-day pre-primary election and semiannual report due on July 14, 1983, with coverage dates from date of candidacy, or last report, through July 6, 1983.

All principal campaign committees of candidates in the special primary election and the special general election and all other semiannually filing political committees supporting candidates in these elections shall file a combined 12-day pre-primary election and semiannual report due on July 14, 1983, with coverage dates from date of candidacy, or last report, through July 6, 1983, a 12-day pre-general election report due on August 11, 1983, with coverage dates from July 7, 1983, through August 3, 1983, and a 30-day post-election report due on September 22, 1983, with coverage dates from August 4, 1983, through September 12, 1983.

After filing these reports, committees should resume filing reports on a semiannual basis.

Dated: May 18, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-13782 Filed 5-20-83; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Maria I. Borges, 1998 West 64th Street, Hialeah, FL 33012

C & R Freight Forwarders, Inc., 22–22 Harman Street, Ridgewood, NY 11385, Officer: Christa A. Ciaccio, Sole Officer

Dated: May 18, 1983.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-13796 Filed 5-20-83; 8:45 am]

BILLING CODE 6730-01-M

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FEDERAL TRADE COMMISSION

Commission Determination Re Barclay Cigarettes

AGENCY: Federal Trade Commission.

ACTION: Announcement of Commission Clarification of Past Federal Register Notice.

SUMMARY: This document announces the Commission's clarification of its announcement at 48 FR 15953.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Federal Trade Commission, Bureau of Consumer Protection, (202) 724–1499, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On April 13, 1983, the Commission published a **Federal Register** notice entitled "Commission Determination Re Barclay Cigarettes; Amendment of Report of "Tar", Nicotine and Carbon Monoxide Content of 208 Varieties of Cigarettes; Request for Comment on Possible Testing Modifications", 48 FR 15953.

In that notice, the Commission stated, *inter alia*, that, based on information developed to date, the Commission has determined that its present testing methodology for "tar", nicotine, and carbon monoxide does not accurately measure Barclay cigarettes and that without a new testing methodology precise statements as to the appropriate "tar", nicotine, and carbon monoxide rankings for Barclay cigarettes are not possible.

The Commission announced that it was amending its March, 1983 *Report of "Tar," Nicotine and Carbon Monoxide of the Smoke of 208 Varities of Domestic Cigarettes*, 48 FR 12368 (March 30, 1983) "by appending copies of this Notice to the Report." However, to avoid any possible ambiguity the Commission hereby gives further notice that all "tar," nicotine and carbon monoxide values for all varieties of Barclay cigarettes should be considered as having been deleted from both its March 1983 *Report*, 48 FR 13268, and its December, 1981 *Report of "Tar," Nicotine and Carbon Monoxide of the Smoke of 200 Varieties of Cigarettes*, 46 FR 61928.

By direction of the Commission.

Emily H. Rock,

Secretary

[FR Doc. 83–13706 Filed 5–20–83; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Epidemiological Investigations of Falls From Ladders; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Date: June 8, 1983
Time: 9:00 a.m. to 4:30 p.m.
Place: Appalachian Laboratory for Occupational Safety and Health, Safety Wing, Room S.120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505
Purpose: To discuss the efficacy of epidemiolgical techniques in the study of traumatic injury and the specific protocol and instruments developed for this study. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.
Additional information may be obtained from: Joseph Custin, Division of Safety Research, National Institute for Occupational Safety and Health, Center for Disease Control, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephone: FTS: 923–4676, Commercial: 304/291–4576

Dated: May 10, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83–13703 Filed 5–20–83; 8:45 am]

BILLING CODE 4160–19–M

Review of Current Literature on Polyhalogenated Aromatic Compounds; Open Meeting

The following meeting will be convened by the Center for Environmental Health of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by space available:

Date: June 28–29, 1983
Time: June 28, 8:30 a.m.–5:00 p.m., June 29, 8:30 a.m.–12 noon
Place: Conference Room, Building 9, CDC Chamblee Facility, 4770 Buford Highway, Chamblee, Georgia 30341
Purposes: The review and discuss current literature related to the toxicity and environmental occurrence of polyhalogenated aromatic compounds
Additional Information may be obtained from: Ms. Linda Anderson, Special Studies Branch, Chronic Disease Division, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, Telephones: FTS: 236–4161, Commercial: 404/452–4161

Dated: May 12, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83–13794 Filed 5–20–83; 8:45 am]

BILLING CODE 4160–19–M

Office of Child Support Enforcement

Redelegations of Authority To Make Various Certifications and to Cause the Department Seal To Be Affixed or Impressed

On September 27, 1982 (47 FR 44159–60, dated October 6, 1982), the Assistant Secretary for Management and Budget (the Assistant Secretary) of the Department of Health and Human Services (HHS) delegated to the Director (the Director), of HHS' Office of Child Support Enforcement (OCSE) authority to certify true copies of any books, records, papers or other documents on file in OCSE, or extracts from such documents; authority to certify that true copies are true copies of the entire record on file on OCSE; authority to certify the complete original record on file in OCSE; authority to certify that particular records are not on file in OCSE; and authority to cause the Department Seal to be affixed or impressed to such certifications and to agreements, awards, citations, diplomas and similar documents. The Director may redelegate these authorities.

Notice is hereby given that the Director has redelegated the authorities specified above to the Deputy Director of OCSE and the Director of OCSE's Divison of Management and Budget. These redelegations are effective as of the date this notice is published in the **Federal Register.**

Any actions by these delegates prior to this date which amount to the exercise of any of the subject authorities are affirmed and ratified.

Dated: May 13, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Patuxent Wildlife Research Center

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Dr. John G. Rogers, Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, MD, PRT 2–8045.

Applicant: James C. Cook, Montague, CA, PRT 2–10465.

The applicant requests a permit to purchase in interstate commerce 2 pairs of captive-born masked bobwhite quail (*Colinus virginianus ridgwayi*) for enhancement of propagation.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT 2–10470.

The applicant requests a permit to import one female captive-born African wild ass (*Equus africanus*) from the Basel Zoo in Switzerland for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 18, 1983.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 13792 Filed 5–20–83; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Reclamation

Colorado Coastal Plains Project, Texas; Intent To Prepare an Environmental Statement and To Hold Environmental Scoping Meetings

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement (ES) and hold environmental scoping meetings for the Colorado Coastal Plains Project, Texas, here referred to as "project." A draft environmental statement is scheduled to be filed with the Environmental Protection Agency and be available for review and comment by June 1985.

The project purpose is to provide a dependable municipal and industrial water supply for projected needs in the Lower Cororado River Basin coastal counties. Other project purposes may include fish and wildlife, recreation, and envioronmental enhancement. The most promising alternative identified in the first phase of the study is a dam and reservior on the Colorado River between La Grange and Columbus, Texas. A reservior in this reach of the river could increase the Lower Colorado River Authority's system yield by as much as 190,000 acre-feet a year.

A public information meeting was held at Columbus, Texas, on November 29, 1982, to present background information and receive comments regarding the proposed action and other alternatives considered. The purpose of environmental scoping meetings is to determine the scope of issues to be addressed in the ES and to identify the significant environmental issues related to the proposed action.

The Bureau of Reclamation plans to hold these meetings in Columbus, Texas, on June 7, 1983, in the Veterans Community Center at 7 p.m.; and at Bay City, Texas, on June 8, 1983, in the District Court Room, Matagorda County Courthouse, at 7 p.m.

Interested public entities and individuals may obtain information on the proposed project and provide information for preparation of the ES by contacting Brooks Gallman, Study Manager, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, telephone (806) 378–5475.

Dated: May 20, 1983.

H. W. Furman II,

Acting Commissioner.

[FR Doc. 83–13958 Filed 5–20–83; 11:05 am]

BILLING CODE 4310–09–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. circular Public Debt series No. 15–83]

Treasury Notes of May 31, 1985, Series U–1985

May 19, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,750,000,000 of United States securities, designated Treasury Notes of May 31, 1985, Series U–1985 (CUSIP No. 912827 PN 6). The securities will be sold at auction, with bidding on the basis of yeild. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated May 31, 1983, and will bear interest from that date, payable on a semiannual basis on November 30, 1983, and each subsequent 6 months on May 31 and November 30 until the principal becomes payable. They will mature May 31, 1985, and will not be subject to call for redemption prior to maturity. In the event and interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of these amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registerd or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Savings time, Tuesday, May 24, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 23, 1983, and received no later than Tuesday, May 31, 1983.

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3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of acceptable bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extend required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, May 31, 1983. Payment in full must accompany tenders submitted by all other ivestors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 26, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completely timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-13981 Filed 5-20-83; 11:56 am]
BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series No. 16-83]

Treasury Notes of August 15, 1988, Series J-1988

May 19, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,750,000,000 of United States securities, designated Treasury Notes of August 15, 1988, Series J-1988 (CUSIP No. 912827 PP 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated June 1, 1983, and will bear interest from that date, payable on a semiannual basis on February 15, 1984, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer or registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 25, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 24, 1983, and received no later than Wednesday, June 1, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal palaces on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the treasury shall be final. If the amount of noncompetitive tenders received would aborb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of

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their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it is the public interest. The secretary's action under this Section is final.

Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, June 1, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, May 27, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-13962 Filed 5-20-83; 11:58 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP1-177]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 13, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redsignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not participating.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275-7992.

MC 153901 (Sub-5)X, filed April 29, 1983. Applicant: AIM INDUSTRIES, INC., 330 Manhattan Ave., Jersey City, NJ 07307. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. Sub-No. 4 Certificate: Remove the following restriction, "restricted to traffic having an immediately prior or subsequent movement by water."

[FR Doc. 83-13739 Filed 5-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 2, (202) 275-7030.

Volume No. OP2-230

Decided: May 16, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 156062 (Sub-1), filed May 6, 1983. Applicant: NYACK BUS CO., INC., 88 Brookside Ave., Nyack, NY 10960. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, 212-759-3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162063 (Sub-1), filed May 6, 1983. Applicant: LDI TRANSPORT, INC., 5600 North County Rd. 18, Minneapolis, MN 55428. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612-542-1121. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167823, filed May 5, 1983. Applicant: INTERSTATE TRANSPORTATION SERVICES, INC., 1401 N. Little, Cushing, OK 74023. Representative: Steven B. Cochran, (same address as applicant), 918-225-0365. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167843, filed May 6, 1983. Applicant: ARNOFF LIVERY SERVICE, Millerton Rd., Lakeville, CT 06039. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to team 4 at (202) 275-7669.

Volume No. OP4-299

Decided: May 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167846, filed May 6, 1983. Applicant: EAGLE COURIER SERVICES, P.O. Box 1663, Rockville, MD 20850. Representative: Emil H. Tabassi, (same address as applicant), (301) 279-8787. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167907, filed May 9, 1983. Applicant: D & S BROKERAGE, INC., 40 N. Front, Suite 5, Central Point, OR 97502. Representative: David English (same address as applicant), (503) 664-3337. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4-302

Decided: May 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 153497 (Sub-3), filed May 9, 1983. Applicant: UNITED AMERICAN FREIGHT, INC., 9324 Harrison Rd., Romulus, MI 48174. Representative: Wilhelmina Boersma, 1600 1st Federal Bldg., Detroit, MI 48226, (313) 962-6492. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167937, filed May 9, 1983. Applicant: CITY TOURES, INC., 8 Station Square, Rutherford, NJ 07070. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167946, filed May 9, 1983. Applicant: BOB BUTLER, Rt. 6, Box 127,

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Vincennes, IN 47591. Representative: Charles H. Wickman, 901 Burlington Ave., P.O. Box 128, Western Springs, IL 60558, (312) 246–9090. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167947, filed May 9, 1983. Applicant: CAM-CON CORPORATION, 16 Sturtevant St., Somerville, MA 02145. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption from Commission action. Such a petition should include the notice required by section 11343(e)(2). See Ex Parte 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR. 42947.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13742 Filed 5-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 17051 (Sub-1–6TA), filed May 9, 1983. Applicant: BARNET'S EXPRESS, INC., 28 Garfield Place, South Hackensack, NJ 07606. Representative: Carl S. DiPiazza (same as applicant). *General commodities, except Classes A and B explosives, household goods, and commodities in bulk, and garments on hangers*, between Jackson, TN and GA, OH, IL and TX, on the one hand, and, on the other, between AL, AR, GA, KY, IL, OH, TN and TX. Supporting shipper: Sears Roebuck and Co., Sears Towers, Chicago, IL 60684.

MC 167687 (Sub-1–1TA), filed May 9, 1983. Applicant: CLAUSE WAREHOUSING & DISTRIBUTION CORP., 420 Paterson Plank Road, Carlstadt, NJ 07072. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, except Classes A and B explosives, household goods and commodities in bulk* between Commercial Zone of New York, NY and points in NJ, on the one hand, and, on the other, points in CT, DE, DC, MD, MA, NJ, NY, PA and RI. Supporting shipper(s): There are six statements of support attached to this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 154639 (Sub-1–2TA), filed May 9, 1983. Applicant: CRAIG TRANSPORTATION, INC., 110 Shrewsbury Drive, Livingston, NJ 07039. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except Class A and B explosives, household goods and commodities in bulk)* between Suffolk County, NY and New York, NY Commercial Zone, on the one hand, and, on the other, points in CT, DE, DC, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VA and WV. Supporting shipper(s): There are six statements of support attached to this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 167793 (Sub-1–1TA), filed May 4, 1983. Applicant: CROSS TOWN EXPRESS, INC., 478 Court Street, P.O. Box 572, Binghamton, NY 13902. Representative: Jeffrey P. Bump (same as above). *Contract carrier:* irregular routes: *Machines, copying, duplicating, or reproducing, and/or parts and accessories thereof*, between Savin Corp. facilities in Binghamton, Apalachin, Owego, NY and Hallstead, PA, under continuing contract(s) with Savin Corp, Binghamton, NY. Supporting shipper: Savin Corp, 33 Lewis Road, Binghamton, NY 13905.

MC 167834 (Sub-1–1TA), filed May 6, 1983. Applicant: CUMBERLAND FARMS DAIRY INC., 777 Dedham Street, Canton, MA 02021. Representative: George Joseph Kerins III, c/o Cumberland Farms Dairy Inc., 165 Flanders Road, Westboro, MA 01581. *(1) Such merchandise as is dealt in by wholesale, retail and chain grocery and good business houses and, (2) Rubber or miscellaneous plastic products* between points in AL, CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, and WV. Supporting shipper(s): Springfield Sugar and Products Co. Northboro Division, P.O. Box 638, Northboro, MA 01532; Dunkin Donuts Northeast Distribution Center, Inc., Box 664, 195 Flanders Road, Westboro, MA 01581; New England Apple Products Co., Inc., Box 425, Harwood Station, Littleton, MA 01460.

MC 50307 (Sub-1–5TA), filed May 6, 1983. Applicant: INTERNATIONAL DISTRIBUTION CENTERS, INC., 215 County Avenue, Secaucus, NJ 07094. Representative: Irwin Rosen (same as applicant). *Contract carrier:* irregular routes: *Food and related products* between Queens, NY and points in the U.S. (excluding AK and HI), under continuing contract(s) with Modern Maid, Garden City, NY. Supporting shipper(s): Modern Maid, 200 Garden Plaza, Garden City, NY.

MC 161984 (Sub-1–2TA), filed May 5, 1983. Applicant: DON JACKSON EXPRESS, INC., 575 Kennedy Road, Cheektowaga, NY 14227. Representative: Jerry B. Sellman, 50 West Broard Street, Columbus, OH 43215. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods, commodities in bulk, and commodities which, because of their size or weight, require special equipment)*, between points in Erie, Niagara, Monroe and Onondaga Counties, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with SPEC/COM Corporation of Cheektowaga, NY. Supporting shipper: SPEC/COM Corporation, 575 Kennedy Road, Cheektowaga, NY 14227.

MC 167795 (Sub-1–1TA), filed May 4, 1983. Applicant: MARTIN BAKER, d.b.a. M & B TRANSPORT, Route 196, Topsham, ME 04086. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *Commodities sold and distributed in retail grocery stores*, between points in the U.S. (except AK and HI) under continuing contract(s) with S. Prawer Company, Portland, ME 04106. Supporting shipper: S. Prawer Company, 150 Read Street, So. Portland, ME 04106.

MC 77129 (Sub-1–1TA), filed May 4, 1983. Applicant: PUFFER TRANSPORT, INC., RFD 1, Box 15, Vernon, VT 05354. Representative: David M. Marshall, Marshall and Marshall, Sixth Floor—95 State Street, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such commodities as are dealt in by distributors of beverages, food products and related items*, between Brattleboro, VT, Merrimack, NH, Springfield and Danvers, MA, Hartford, CT, Baldwinville, NY, Newark, NJ, Columbus, OH, and Williamsburg, VA, under continuing contract(s) with DeWitt Grocery Company, d.b.a. DeWitt Beverage, of Brattleboro, VT. Supporting shipper: DeWitt Grocery Company d.b.a. DeWitt Beverage, Putney Road, Brattleboro, VT 05301.

MC 166843 (Sub-1–1TA), filed May 9, 1983. Applicant: JOHN ROBERT REID, d.b.a. REID'S BUS SERVICE, Hillside, R.R. 1, Trenton, Nova Scotia, CD B0K 1X0. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Passengers and their baggage, in charter operations* beginning and ending at ports of entry on the International Boundary line between the U.S. and CD in ME, and extending to Bangor, ME. Supporting shipper(s): Steeltown Friendly Group Sr. Citizens, Maple Street, Trenton, Nova Scotia, CD B0K 1X0 and Golden Years Senior Citizens Club, 95 Pine Street, New Glasgow, Nova Scotia, CD.

MC 167796 (Sub-1–1TA), filed May 5, 1983. Applicant: NORMAN RICHARD, d.b.a. N. RICHARD & SONS, RFD No. 1, Box 43, Champlain, NY 12919. Representative: Norman Richard (same address as applicant). *Contract carrier:* irregular route: *General commodities (except Classes A and B explosives and household goods)*, from Clinton County, NY to points in NY, VT, NH, ME, MA, CT, RI, NJ, MD, WV, VA, NC, SC, GA, FL, TN, KY, IL, IN, OH, PA, MI and WI, under continuing contract(s) with Harris Graphics Corp. of Champlain, NY; Champlain Agway, Inc., Mooers Forks Agway, Inc., Champlain, NY. Supporting shipper(s): Champlain Agway Inc., Mooers Forks Agway, Inc., Champlain, NY 12912; Harris Graphics Corp., Elm St., Champlain, NY 12912.

MC 164768 (Sub-1–3TA), filed May 9, 1983. Applicant: S & F ENTERPRISES, INC., 9 Albert Avenue, Newark, NJ 07105. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Beverages, and (2) Materials, equipment, and supplies used in the manufacture and sale of beverages*, between New York, NY, on the one hand, and, on the other, Baldwinsville, Fulton, and Albany, NY; Milwaukee, WI; Winston-Salem, NC; Philadelphia, and Allentown, PA; Baltimore, MD; and Newark, NJ. Supporting shipper(s): There are seven statements of support attached to this application which may be examined at the Regional Office in Boston, MA.

MC 167781 (Sub-1–TA), filed May 4, 1983. Applicant: TRANSPORT QUEB-U.S., INC., No. 1 50th Avenue South, Bois-des-Filions, Terrebonne, Quebec, CD J6Z 2N3. Representative: Russell R. Sage, Suite 304, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Lumber and wood products* between ports of entry on the International Boundary line between the U.S. and CD on the one hand, and, on the other, points in the U.S. located east of the western boundaries of MN, IA, MO, AR, and LA. Supporting shipper(s): There are eight statements in support of this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 167833 (Sub-1–1TA), filed May 9, 1983. Applicant: VHR ENTERPRISES, INC., 10065 Route 60, Fredonia, NY 14063. Representative: E. Stephen Heisley, P.C., 1919 Pennsylvania Avenue, N.W., Suite 500, Washington, DC 20006. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)*, between points in the U.S. (except AK and HI), under continuing contract(s) with Coast to Coast Shippers Association, Inc., Cheswick, PA. Supporting shipper: Coast to Coast Shippers Association, Inc., Traffic Concepts, Inc., Allegheny Industrial Park, Harmer Township, Cheswick, PA 15024.

MC 167840 (Sub-1–1TA), filed May 9, 1983. Applicant: VAN INTERNATIONAL TRANSFER D.C. INC., 7665 Lacordaire Boulevard, St. Leonard (Montreal) PQ, CD H1S 2A7. Representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, PQ, CD J6A 1H5. *(1) Wood Veneer, (2) Paper Rolls and paper products, (3) Steel cases for industrial batteries and ancillary commodities, and (4) Animal hides* between ports of entry on the International Boundary Line between the U.S. and CD and points in AL, AR, CA, CT, FL, GA, IA, IL, IN, KY, KS, LA, MD, MI, MN, MO, MS, NC, NJ, ND, NE, NY, OH, OK, PA, SC, SD, TN, TX, VA, WI and WV. Supporting shipper(s): Placage Rustic Ltee, Route 20, Sortie 228, St. Louis de Blandford, PQ, CD G0Z 1B0; Martin & Stewart Inc., 3500 St. Patrick Street, Montreal, PQ, CD H4E 1A2; Termaco Limitee, 325 Boulevard Industrial, St. Jean, PQ, CD J3B 7M3; and Oxford Paper Company Limited, 5350 Ferrier Street, Montreal, PQ, CD H4P 1L4.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 167804 (Sub-II–1TA), filed May 4, 1983. Applicant: BROOKSON MOTOR LINES, INC., P.O. Box 6245, Akron, OH 44312. Representative: Donald E. Watson (same address as applicant). Contract, iregular: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the United States (except AK and HI) under contract with Matco Tools Corporation of Tallmadge, OH for 270 days. Supporting shipper(s) Matco Tools Corp., 124 West Ave., Tallmadge, OH 44278.

MC 167253 (Sub-II–1TA), filed May 3, 1983. Applicant: HAROLD G. LOWYN, JR., d.b.a. CAMEO TOURS, P.O. Box 543, Pittston, PA 18640. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036. *Passengers and their baggage, in special and charter operations*, beginning and ending in Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, PA, and extending to points in DE, MD, NJ, NY, VA and DC. An underlying ETA seeks 120 days authority. Supporting

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shipper(s): There are seven support statements attached to this application which may be examined at the Phila. Regional office.

MC 167822 (Sub-II–1TA), filed May 5, 1983. Applicant: JOSEPHINE PROVANCE, d.b.a. D & J DELIVERY, 465 Clark Street Road, Columbus, OH 43230. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956. *Such commodities as are dealt in by retail fashion outlets* between the facilities of The Limited, Inc. at Columbus, OH, on the one hand, and, on the other, points in PA and WI for 270 days. Supporting shipper(s): The Limited, Inc., One Limited Parkway, Columbus, OH 43216.

MC 167755 (Sub-II–1TA), filed May 3, 1983. Applicant: DIRECT OVERLAND EXPRESS, INC., Rt. 4, Box 326—A Airport Rd., Charlottesville, VA 22901. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *General commodities (except class A and B explosives, household goods and commodities in bulk)* between Boston, MA, Providence, RI, Hartford, CT, New York, NY, Newark, NJ, Philadelphia, PA, Baltimore, MD, Washington, DC, Richmond, VA, Charlottesville, VA, Norfolk, VA, Hampton, VA, Roanoke, VA, Lynchburg, VA, Raleigh, NC, Durham, NC, Chapel Hill, NC, Greensboro, NC, Charlotte, NC, Greenville, SC, Spartanburg, SC, Atlanta; GA and their commercial zones, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, PA, DE, MD, DC, VA, NC, SC, and GA. Supporting shipper(s): There are eight statements of support attached to this application which may be examined at the Phila. Regional office.

MC 167065 (Sub-II–1TA), filed May 4, 1983. Applicant: EDMISON TRUCKING, INC., 4801 E. St. Rte. 55, Casstown, OH 45312. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. *Food and related products* between the plant facilities of Dinner Bell Foods at Definance and Troy, OH and Wilson, NC, on the one hand, and, on the other, points in NY, PA, CT, MA, VT, ME, MD, NJ, DE, VA, KY, IL, IN, MI and WI for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Dinner Bell Foods, Inc., P.O. Box 388, Defiance, OH 43512.

MC 143308 (Sub-II–3TA), filed May 5, 1983. Applicant: GENERAL TRUCKING SERVICE, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: Carla T. Novak, 1101 31st St., Downers Grove, IL 60515. Contract, irregular: *Automobile Parts*, between Chicago, IL, on the one hand, and, on the other, Altanta and Valdosta, GA, under continuing contract(s) with Acme Consolidated, Inc. of Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Acme Consolidated, Inc., 6151 S. State St., Chicago, IL 60621.

MC 107012 (Sub-II–293TA), filed May 3, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 US Hwy 30 West, PO Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S. under continuing contract(s) with Hon Industries, Muscatine, IA. An underlying ETA seek 120 days authority. Supporting shipper: Hon Industries, 200 Oak Street, Muscatine, IA 52761.

MC 107012 (Sub-II–294TA), filed May 3, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Nixdorf Computer Corp., of North Reading, MA, and its divisions and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Nixdorf Computer Corp., 80 Main Street, North Reading, MA 01864.

MC 107012 (Sub-II–295TA), filed May 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in the United States under continuing contract(s) with Mister Minit America, Inc. of Mathews, NC, and its divisions and subsidaries. An underlying ETA seeks 120 days authority. Supporting shipper: Mister Minit America, Inc., 600–51 Highway 51, Mathews, NC 28105.

MC 107012 (Sub-II–296TA), filed May 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Structural Display, Inc., of Long Island City, NY, and its divisions and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Structural Display, Inc., 12–12 33rd Avenue, Long Island City, NY 11106.

MC 107012 (Sub-II–297TA), filed May 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract, irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Amfac Hotels and Resorts, Inc., of Burlingame, CA. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Amfac Hotels and Resorts, Inc., 111 Amza, Burlingame, CA 94010.

MC 124111 (Sub-II–19TA), filed May 5, 1983. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Metal products*, and (2) *equip., materials and supplies (except commodities in bulk) used in the manufacture and distribution of metal products*, between points in OH and PA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and TX for 270 days. Supporting shippers: There are a total of ten statements of support attached to the application which can be examined at the office of the Interstate Commerce Commission at Philadelphia, PA.

MC 2202 (Sub-II–37TA), filed May 2, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington., D.C. 20814. Contract, irregular: *General commoditie*(except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) from Dillon, SC, Greenville, MS, and Dublin, GA to points in the U.S., except AK and HI, under contract or contracts with Mohasco Corporation, Atlanta, GA 30339 for 270 days. Supporting shipper(s): Mohasco Corp., 1755 The Exchange, Atlanta, GA 30339.

MC 110683 (Sub-II–23TA), filed May 3, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. BOX 1000, Staunton, VA 24401. Representative: Harry J. Jordan, 1090 Vermont, Ave., NW, Washington, DC 20005. Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives)*: between points in the U.S. (except AK and HI), under continuing contract(s) with Rohm & Haas Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): Rohm & Haas Company,. Independence Mall West, Philadelphia, PA 19105.

MC 167805 (Sub-II–1TA), filed May 4, 1983. Applicant: UNION TRANSPORT COMPANY, 785 Union Commerce Building, Cleveland, OH 44115. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *Alcoholic beverages* from Detroit, MI to Dimondale, MI for 270 days. An underlyig ETA seeks 120 days authority. Supporting shipper: Sea-Land Service, Inc., P.O. Box 800, Iselin, N.J. 08830.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E. Atlanta, GA 30309.

MC 167375 (Sub-3–1TA), filed April 17, 1983. Applicant: DONALD H. AND FLORENCE T. AMMON, d.b.a. D AND F ENTERPRISES, 1103 Sam Davis Road, Smyrna, TN 37167. Representative: Donald H. Ammon (same as above). *Contract carrier;* irregular routes; *new and used truck parts*, between Nashville, TN, Birmingham, AL, Chattanooga, TN, and Cookeville, TN. Supporting shipper: Safety Service Company, 15 Fairfield Avenue, Nashville, TN 37202.

MC 140484 (Sub-3–34TA), filed May 6, 1983. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, D.C. 20005. *Contract carrier* over irregular routes, *General commodities, except Classes A & B explosives, household goods as defined by the Commission and commodities in bulk*, between points in the United States (Except AK and HI), under contract(s) with Coast to Coast Shipper's Association, Inc. 101 Kappa Drive, Pittsburgh, PA 15238.

MC 167290 (Sub-3–1TA), filed May 10, 1983. Applicant: SHELTON WILLIAMS TRUCKING, Route 3, Box 83B, Douglas, GA 31533. Representative: Shelton Williams (same address as applicant). *Solite in bulk in dump vehicle* from Green Cove Springs, FL to Douglas, GA. Supporting shipper: Hercules Block Co., Box 941, Douglas, GA 31533.

MC 2934 (Sub-3–75TA), filed May 9, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Household goods*, between points in the U.S. (excluding AK and HI), under continuing contracts with Burlington Northern, Inc., 1111 Third Avenue, Seattle, WA 98101. Supporting shipper: Burlington Northern, Inc., 1111 Third Avenue, Seattle, WA 98101.

MC 94201 (Sub-3–8TA), filed May 9, 1983. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Gerald D. Colvin, Jr., Bishop, Colvin & Johnson, 601–09 Frank Nelson Building, Birmingham, AL 35203. *Contract;* Irregular; *General Commodities (except Classes A and B explosives, commodities in bulk, and household goods)*, between all points in the United States (except AK and HI) under continuing contract with J. C. Penney Company, Inc.,

MC 2473 (Sub-3–6TA), filed May 9, 1983. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Road, Lexington, N.C. 27292. Representative: Homer M. Curry (same as above). *General commodities (except Household goods as defined by the Commission and Classes A and B explosives)*, between points in AL, on the one hand, and, on the other, points in DC, DE, GA, MD, NC, NJ, NY, PA, SC, TN, and VA. Supporting shippers: L. P. Muller and Company, Inc., 500 East Morehead Street, Charlotte, N.C.; Talladega Manufacturing, Inc., West Parkway, Talladega, AL, and Color Sciences, Inc., 20–07 40th Avenue, Long Island City, N.Y.

MC 166220 (Sub-3–1TA), filed May 12, 1983. Applicant: CARPET CITY CONSOLIDATORS, INC., P.O. Box 3128, Dalton, GA 30721. Representative: Kim G. Meyer, Suite 1006, 225 Peachtree St., N.E., Atlanta, GA 30303. Contract, irregular: *General commodities (except classes A and B explosives, household goods and commodities in bulk)*, between points in the US, (except AK and HI) under continuing contract(s) with Highway Marketing & Sales, Inc., Dalton, GA. Supporting shipper: Highway Marketing & Sales, Inc., 4868 Highway 42, Suite E, Ellenwood, GA 30049.

MC 152631 (Sub-3–1TA), filed May 12, 1983. Applicant: THE LEADER COMPANY, P.O. Box 2142, Shelby, NC 28150. Representative: W. Franklin Howell, Jr., (same address as applicant). *General commodities (except Class A and B explosives, household goods, commodities in bulk, or those requiring special equipment)* between points in NC, SC, GA, AL. Supporting shipper: The Baxter Corporation, 211 N. Poston St., Shelby, NC 28150.

MC 168013 (Sub-3–1TA), filed May 12, 1983. Applicant: WALLACE TRUCKING CO., INC. 13700 N.W. 19th Avenue, Opa-Locka, FL 33054. Representative: Charles E. Wallace, P.O. Boc 6513, Bay Harbor Isl. FL 33154. *Foodstuffs and related products (bakers and confectioners products and edible nuts) pre-packaged for sale and distribution*, between points in FL, on the one hand, and, on the other, points in MA. Supporting shipper: Schrafft Candy Company, 529 Main Street, Charlestown, MA 02129 and International Nut Corp., 100 Phoenix Ave., Lowell, MA 01853.

MC 155816 (Sub-3–2TA), filed May 12, 1983. Applicant: D & W TRUCKING SERVICE, Route One, Box 98, Abbeville, AL 36310. Representative: Wayne Money (same as applicant). *Contract, irregular: Lumber, Plywood & Wood Products* between AL, GA, FL, MS, TN. Supporting shippers: Ft. Gaines Lumber Co., Inc., Highway 39 North, Ft. Gaines, GA, Dun-Ply Inc., Industrial Park, Abbeville, AL 36310, St. Regis Paper Co. Allied Operations, P.O. Box 249, Abbeville, AL 36310, Great Southern Wood Preserving, Inc., P.O. Box 458, Abbeville, AL 36310.

MC 167972 (Sub-3–1TA), filed May 12, 1983. Applicant: WALKER TRUCKING, INC., 10201 West Beaver Street, Lot 89, Jacksonville, FL 32220. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except Classes A and B explosives, commodities in bulk, household goods, hazardous waste and materials)*, between Jacksonville, FL on the one hand, and, on the other, points in FL, GA, SC, NC, VA, AL, MS, LA, TN, KY, OH and MI, having a prior or subsequent movement by water. Supporting shippers: Transcaribe Freight Corporation, 8525 Mallory Street, Jacksonville, FL 32220; Valley Freight Systems, 8525 Mallory Street, Jacksonville, FL 32220; Rainbow Express, Inc., 8525 Mallory Street, Jacksonville, FL 32220; Southeastern Maritime Company, 2040 East 19th Street, Jacksonville, FL 32201.

MC 159155 (Sub-3–4TA), filed May 12, 1983. Applicant: PULLEN BROS., INC., 2901 Swindell Rd., Lakeland, FL 33801. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Automotive parts*, between Paragould, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Monroe Auto Equipment, International Dr., Monroe, MI 48161.

MC 2934 (Sub-3–76TA), filed May 12, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as

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above). *Contract:* Irregular; *EDM machine tool systems and accessories, used machine tools, electronic controls, used household goods, and exhibit materials,* between points in the U.S. (excluding AK and HI), under continuing contracts with Agietron Corporation, P.O. Box 469, 839 South Route 53, Addison, IL 60101–0469. Supporting shipper: Agietron Corporation, P.O. Box 469, 839 South Route 53, Addison, IL 60101–0469.

MC 2900 (Sub-3–43TA), filed May 11, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., (same address as above). *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with The Quaker Oats Company. Supporting shipper: The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654.

MC 167966 (Sub-3–1TA), filed May 11, 1983. Applicant: HOUSTON TRANSPORT COMPANY, INC., 632 South Center Street, Statesville, NC 28677. Representative: Melvin L. Watt, 951 S. Independence Blvd., Charlotte, NC 28202. *Passengers and their baggage and personal property in charter operations* beginning and ending at points in Iredell, Alexander, Wilkes, Forsyth, Catawba, Mecklenburg, Rowan, Davidson, Yadkin, Davie, Cabarrus, and Lincoln County, NC, And extending to points in FL, GA, SC, TN, VA, MD, DE, NJ, NY, PA, Washington, DC, AL, LA, MA, MS, KY, TX, OH, CT, and WV. There are 12 support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 159978 (Sub-3–1TA), filed May 11, 1983. Applicant: TRANSCORP CARRIERS, INC., 1809 Carmel Road, Greensboro, NC 27408. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Tobacco and tobacco products* between points in KY, NC, and VA on the one hand, and, on the other, AL, CT, DE, DC, FL, GA, KY, ME, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VA, WV, and VT. Supporting shipper: Lorillard Division of Loews Theatres, Inc., 2525 East Market Street, Greensboro, NC 27401.

MC 167945 (Sub-3–1TA), filed May 11, 1983. Applicant: Kenneth Timmons, d.b.a. KENNETH TIMMONS TRUCKING COMPANY, P.O. Box 64, Fyffe, AL 35971. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract carrier,* irregular; *Floor Covering Materials* between all points in the U.S., except AK and HI, under continuing contract with Mohawk International, d.b.a. International Supply Company, Inc., and its subsidiaries and divisions, of Portland, OR. Supporting shipper: Mohawk International, d.b.a. International Supply Company, 6408 N.E. Halsey, Portland, OR 97213.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5–19TA), filed May 9, 1983. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representative: Robert C. Mills, or Michael L. Harvey (same as above). *Household goods* between points in the U.S. (except AK and HI) under continuing contract(s) with Butler's Shoe Corporation, Marietta, GA.

MC 117832 (Sub-5–3TA), filed May 10, 1983. Applicant: Bill Bruton, d.b.a. TRI-WESTERN EXPRESS, #8 Westwood Lane, Little Rock, AR 72204. Representative: Bill Bruton (same as applicant). *Bakery products and related items* from Dallas, TX to points in AR, LA, and MS. Supporting shippers: Oroweat Baking Company, Dallas, TX. Griggs Distributing Company, Benton, AR.

MC 135762 (Sub-5–1STA), filed May 9, 1983. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Fort Smith, AR 72913. Representative: Don A Smith, P.O. Box 43 Fort Smith, AR 92902. *Contract;* Irregular: *General commodities (except Classes A and B explosives, commodities in bulk and household goods as defined by the Commission),* between points in the U.S. (except AK and HI) under a continuing contract with L.S.T. Corporation, Toledo, OH.

MC 141950 (Sub-5–3TA), filed May 9, 1983. Applicant: IOWA MINNESOTA EXPRESS, LTD., 2216 5th Avenue, South, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, JR., 1980 Financial Center, Des Moines, IA 50309. *Food and related* products between Chicago, IL, Des Moines, IA, Minneapolis, MN, Sioux Falls, SD, Fargo, ND and Arkansas City, KS on the one hand and, on the other, points in the U.S. except AK and HI. Supporting shipper: CFS Continental, North Region, Minneapolis, MN.

MC 147354 (Sub5-6TA), filed May 9, 1983. Applicant: FAUBION TRUCK LINES INC., P.O. Box 5795, Alexandria, LA 71301. Representative Donald Sharp, P.O. Box 6118, Alexandria, LA 71307–6118. Contract; Irregular. *Food and kindred products* between New Orleans, LA and points in CA, OR, WA. Supporting shipper: Baumer Foods, Inc., New Orleans, LA 70179–0164.

MC 151383 (Sub-5–16TA), filed May 9, 1983. Applicant: NICKELL TRUCKING CO., 4901 West 51st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. *Contract,* Irregular: *iron and steel articles;* and *Materials and supplies used in the manufacture and distribution thereof* between points in the U.S. (except AK and HI) under continuing contract(s) with Babcock & Wilcox Tubular Products Group, Babcock & Wilcox Co. of Beaver Falls, PA.

MC 156124 (Sub-5–2TA), filed May 9, 1983. Applicant: RAPID DELIVERY SERVICE, INC., P.O. Box 2516, Des Moines, IA 50315. Representative: Michael A. Mauro, (same as above). (1) *Tires* (2) *Beer* (1) from Des Moines, IA to Milwaukee, WI; (2) from Milwaukee, WI to Des Moines, IA. Supporting shipper(s): Armstrong Ruber Co., Des Moines, IA Rite Beverage Co., Des Moines, IA.

MC 158003 (Sub-5–2TA), filed May 9, 1983. Applicant: CROWN TRANSPORTATION & DELIVERY SERVICE INC., 810 Lynwood Lane, Broken Arrow, OK 74012. Representative: Jack R. Anderson, Suite 305 Reunion Center, Tulsa, OK 74103. Contract, irregular; *General commodities (except classes A and B explosives, household goods and commodities in bulk),* between all points in the U.S. (except AK and HI) under a continuing contract(s) with Avon Products, Inc. New York, NY.

MC 162576 (Sub-5–2TA), filed May 10, 1983. Applicant: TANCO DISTRIBUTING COMPANY, 6930 Market St. (Rear), El Paso, TX 79915. Representative: Dann L. Drewry (same as applicant). *Foodstuffs, including Meats, Meat By-Products and Packinghouse Products,* between Amarillo and El Paso, TX, on the one hand, and, on the other, points in CA, CO, IA, IL, KS, LA, MO, NE, OH, OK, SD, TN, and UT. Supporting shipper: John Morrell & Company, Northfield, IL.

MC 162577 (Sub-5–3TA), filed May 9, 1983. Applicant: TIFFANY TRUCK LINES LIMITED, 419 Rue Decatur, Suite 108 New Orleans, LA 70130. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *General commodities (except Classes A and B explosives, household goods, and commodities in bulk)* between Savannah, GA; New Orleans, LA; Gulfport, MS; Galveston, TX; Houston, TX; and Charleton, SC on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, and NM; restricted to transportation of commodities having a prior or subsequent movement by water. Supporting Shippers: Panalpina, Inc., New Orleans, LA; L.E.P. Transport, New Orleans, LA; McTeer International Freight Forwarding Company, Savannah, GA.

MC 167092 (Sub-5–2TA), filed May 9, 1983. Applicant: FISHER TRUCKING, INC., 4204 Oak Grove Rd., P.O. Box 181, Springdale, AR 72764. Representative: Joseph C. Fisher (same as above). *Waterbeds, waterbed parts, accessories and furniture; treated wood products and materials and supplies* used in the manufacture, sale, and distribution thereof; between points in the U.S. (except AK and HI). Supporting shipper: Waterbeds Unlimited, WKRP, Ft. Smith, AR, Treatwood Products, Marshall, AR.

MC 167582 (Sub-5–2TA), filed May 10, 1983. Applicant: CHUCK ELLIS TRUCKING CO., INC. d.b.a. Ellis Trucking Company, Inc., P.O. Box 445, Gainesville, MO 65655. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. *General commodities, except Class A&B Explosives and household goods,* between The R.T. French plant site in Springfield, MO and points in the U.S. except AK and HI. Supporting shipper: The R.T. French Company, Springfield, MO.

MC 167791 (Sub-5–1TA), filed May 9, 1983. Applicant: ROLLA TRANSPORTATION, INC., Box T, Rolla, MO 65401. Representative: B. W. LaTourette, Jr., 11 South Meramac, Suite 1400, St. Louis, MO 63105. *General commodities, except Classes A and B explosives and household goods,* between points in the U.S., except AK and HI. Supporting shippers: Grellner Sales & Service, Inc., Rolla, MO; Floyd Charcoal Co., Salem, MO; and Con Agra Inc., Pet Products, Rolla, MO.

MC 167886 (Sub-5–1TA), filed May 9, 1983. Applicant: JAMES B. SIZEMORE, d.b.a. EAGLE OILFIELD HAULING, 709 Plaza Drive, Moore, OK 73160. Representative: William P. Parker, 400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Mercer commodities,* between Oklahoma City and Moore, OK on the one hand, and, on the other, point in TX, LA, AR, KS, WY, CO, NM and CA. Supporting shipper(s): Driltrol, Moore, OK; LOR, Inc., Oklahoma City, OK; and N.L. Shaffer Co., Oklahoma City, OK.

MC 135469 (Sub-5–3TA), filed May 5, 1983. Applicant: HAWKEYE TRANSPORT CO., P.O. Box 126, Stanwood, IA 52337. Representative: Carl E. Munson, P.O. 796, Dubuque, IA 52001. *Liquid fertilizer and liquid fertilizer ingredients, in bulk,* from points in Jo Daviess County, IL, Cedar and Lee Counties, IA, to points in IL, IA, MN, MO and WI. Supporting shipper: Getty Refining & Marketing, Tulsa, OK.

MC 142463 (Sub-5–TA), filed May 12, 1983. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha St., Sioux City, IA 51102. Representative: Daniel O. Hands, 104 South Michigan Ave., Suite 410, Chicago, IL 60603. *Meal products* from the facilities of Revere Copper Products, Inc., Rome Div., at or near Rome, NY to points in AZ, CA, CO, NV, UT and WY. Supporting shipper: Revere Copper Products, Inc., Rome Division, Rome, NY.

MC 152152 (Sub-5–1TA), filed May 13, 1983. Applicant: THOMAS J. WEBER, 12122 W Street, Omaha, NE 68137. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Food and related products,* between points in Pottawattamie County, IA and Douglas and Sarpy Counties, NE, and Monmouth County, NJ on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: Blue Star Foods, Inc., Council Bluffs, IA.

MC 153392 (Sub-5–7TA), filed May 13, 1983. Applicant: CENTRAL TRACTOR FARM & FAMILY CENTER, INC., 1515 East Euclid, Des Moines, IA 50316. Representative: WILLIAM L. FAIRBANK, 2400 Financial Center, Des Moines, IA 50309. Contract; Irregular. *General commodities (except household goods, Classes A and B explosives and commodities in bulk),* between points in the U.S. (except AK and HI), under contract with National Commercial Services Co., Inc., of Des Moines, IA.

MC 167976 (Sub-5–1TA), filed May 12, 1983. Applicant: B & E TRUCKING, INC., 508 Guadalupe Drive, Saginaw, TX 76176. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General commodities* (except classes A and B explosives, household goods or bulk commodities) between Superior, WI; TN and TX, on the one hand, and, on the other, points in the U.S. Restricted to shipments for the accounts of AMSOIL, Inc., Certified Shipping or White River Hardwoods. Supporting shippers: AMSOIL, Inc., Superior, WI, Certified Shipping, Duncanville, TX; and White River Hardwoods, Fayetteville, AR.

MC 168006 (Sub-5–1TA), filed May 13, 1983. Applicant: ABELN EXPRESS CO., INC., 3322 Marbury Drive, St. Louis, MO 63129. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375. *Coca-Cola syrup* from St. Louis, MO to the facilities of P.F.D. Supply Corp., located at or near Lebanon, IL. Supporting shipper: P.F.D. Supply Corp., Lebanon, IL.

MC 167483 (Sub-5–1TA), filed May 12, 1983. Applicant: Chalmette Drayage, P.O. Box 7178, New Orleans, La. 70186. Representative: Harold E. Potts (same as above). *General commodities of foreign commerce in steamship or railroad containers/trailers,* within the commercial zone of the City of New Orleans, La. Supporting shippers. Kerr Steamship Co., Inc., New Orleans, La., Venezuelan Lines, New Orleans, La.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 167860 (Sub-1TA), filed May 5, 1983. Applicant: AMERICAN FURNITURE WAREHOUSE. 5445 Bannock St., Denver, CO. 80216. Representative: Ron Catlin (same as applicant). *Contract Carrier,* Irregular Routes: *New furniture and fixtures, Rubber and Plastic Products,* from: Denver and Adams Counties, CO, to points in AZ, CA, NM, NV, ID, and UT, for the accounts of Shafer Commercial Seating, Inc., and United Foam Corporation, for 270 days. Supporting shippers: Shafer Commercial Seating, Inc., 4101 E. 48th Ave., Denver, CO and United Foam Corporation, 11020 Leroy Dr., Northglenn, CO.

MC 155793 (Sub-6–3TA), filed May 6, 1983. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC., a California Corporation d.b.a. BIG VALLEY EXPRESS, 2201 Branstetter Lane, Redding, CA. 96001. Representative: M. D. Burrows (same as above). *Contract carrier; Irregular route, General Commodities (except Class A and B explosives, household goods, hazardous waste, and commodities in bulk),* (1) Between points and places in Washoe County, NV, on the one hand, and, Carson City, NV, on the other. (2) Between points and places in Washoe County, NV, on the one hand, and points and places in CA on the other, for 270 days. Supporting shipper(s): K Mart Corporation, 3100 W. Big Beaver Road, Troy MI 48084.

MC 167766 (Sub-G–1TA), filed May 3, 1983. Applicant: BOB'S AUTO SERVICE, INC., 4300 South Federal Blvd., Englewood, CO 80110. Representative: James A. Beckwith, Suite 228, 770 Grant St., Denver, CO. 80203. (1) *Wrecked or disabled motor vehicles and trailers and replacements therefor* between points lying in and west of AR, IA, LA, MN, and MO; and (2) *Total loss settlement and salvage vehicles* between points in

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AZ, CO, KS, NE, NM, OK, UT and WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined in the office listed.

MC 165930 (Sub-6–2TA), filed May 6, 1983. Applicant: COLORADO AIR FREIGHT EXPRESS, INC., 3955 Newport St., Suite B, Denver, CO 80207. Representative: Robert E. Butts, (same as applicant). *Contract Carrier* Irregular routes: *Hospital and drug supplies including medicines, pharmaceuticals and narcotics,* from Denver County, CO, to points in NM and WY for the account of Fox Meyer for 270 days. Supporting shipper: Fox Meyer, 1100 W. 47th Ave., Denver, CO 80217.

MC 166941 (Sub-6–1TA), filed May 10, 1983. Applicant: CORNUCOPIA LINES, INC., 4880 N. Cedar #102, Fresno, CA 93726. Representative: E.D. Anderson, 1001 Connecticut Ave., N.W., Suite 838, Washington, D.C. 20016. *Contract carrier,* irregular routes, *General commodities (except household goods, class A & B explosives, mercer commodities which because of size or weight require special equipment, and hazardous materials)* between points in the U.S. for the account of S & S Enterprises of Wilmington, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: S & S Enterprises, POB 1357, Wilmington, NC 28402.

MC 146044 (Sub-6–3 TA), filed May 5, 1983. Applicant: JOE COSTA TRUCKING, Highway 299 at Arlington Way, P.O. Box 748, Drawer BB, Arcata, CA 95521. Representative: Marvin Handler, 100 Pine St. #2550, San Francisco, CA 94111. *Lumber and forest products* from Humboldt County, CA to Shasta, Glenn, Sacramento, Mendocino, Sonoma, Tehama, Lassen and Trinity counties, CA for 270 days. An underlying ETA seeks 120 days authority. Interline privileges requested. Supporting shipper: Simpson Timber Company, P.O. Drawer V, Arcata, CA 94429.

MC 158622 (Sub-6–2 TA), filed May 11, 1983. Applicant: LEONARD N. CRUSE, d.b.a. LEONARD CRUSE TRUCKING, 4403 Stone St., Billings, MT 59101. Representative: (same as applicant). *contract carrier,* irregular routes, *cement* between points in MT and ND on the one hand, on the other, between points in the U.S. under continuing contract with Vizina's Ready Mix of Williston, ND for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Vizina's Ready Mix, Box 108, Williston, ND 58801.

MC 167428 (Sub-6–1 TA), filed May 3, 1983. Applicant: DESERT EMPIRE TRANSFER & STORAGE, INC., Building 5, 3016 Kansas Ave., Riverside, CA 92507. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Tobacco products,* from Riverside, CA, to points in Clark County, NV, for 270 days. Supporting shipper(s): Philip Morris U.S.A., P.O. Box 26603, Richmond, VA 23261.

MC 41098 (Sub-6–27 TA), filed May 6, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K. St., NW., Washington, D.C. 20006. *Contract,* irregular, *Household Goods* between points in the U.S. under continuing contract(s) with Lockeed Corp. of Burbank, CA and its subsidiaries, for 270 days. Supporting shipper: Lockheed Corp., P.O. B 551, Burbank, CA 91520.

MC 153183 (Sub-6–1 TA), filed May 5, 1983. Applicant: GUILLERMO GUILLEN, d.b.a. GUILLEN & SON TRUCKING, 5809 Pilar Court, San Jose, CA 95120. Representative: Eldon M. Johnson, 650 California St., Suite 2908, San Francisco, CA 94108. *Contract carrier,* irregular routes, *Food and related products,* between points in AR, AZ, CA, KY, LA, NM, OK, TN and TX, for 270 days. Supporting shippers: Glazer's Wholesale Drug Co., Inc., 508 Park Ave., Dallas, TX 75221; Beech-Nut California Corp., P.O. Box 5759, San Jose, CA 95150; Quality Beverage Co., Inc., 11515 S. Main St., Houston, TX.

MC 146740 (Sub-6–1TA), filed May 6, 1983. Applicant: EARL HANSON TRUCKING CO., 2517 Riverbend Road, Mount Vernon, WA 98273. Representative: James D. Hanson (same as applicant). (1) *Dry Commodities* in *Bulk* and/or *Bags* between OR, WA, ID, and British Columbia, CD for 270 days. ETA was applied for 120 days. Supporting shipper: IMC Olivine, 915 Pettit Street, P.O. Box 58, Hamilton, WA 98255.

MC 159401 (Sub-6–2TA), filed May 5, 1983. Applicant: JOHNSON DISTRIBUTORSHIP, INC., Route 1, Box 920AA, Flagstaff, AZ 86001. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012. *General commodities,* excluding classes A and B explosives and household goods, between points in AZ, for 270 days. Supporting shippers: There are 9 shippers. Their statements may be examined in the office listed.

MC 167965 (Sub-6–1TA), filed May 11, 1983. Applicant: GUILLERMO G. ZAVALA & RENE LOPEZ, d.b.a. L & Z TRUCKING CO., 3130 Juniper St., No. B, San Diego, CA 92104. Representative: William R. Daly, P.O. Box 20597, San Diego, CA 92120. *Contract carrier,* Irregular routes, *asphalt in bulk* from the U.S. Mexican border at San Ysidro (San Diego) CA to points and places in Los Angeles and Orange counties, CA for HY Building Materials for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: HY Building Materials, Inc., 840 W. 24th St., National City, CA 92050.

MC 151623 (Sub-6–3TA), filed May 9, 1983. Applicant: MC DOUGALD OIL, INC., 459 Nichols Ln., Moab, UT 84532. Representative: Dale E. Isley, 50 S. Steele St., No. 330, Denver, CO 80209. *Contract Carrier:* irregular routes: *Petroleum products in bulk,* between points in Nye County, NV; Mesa County, CO; Davis and Salt Lake Counties, UT; and San Juan and McKinley Counties, NM, for 270 days; for the account of Petro Source, Inc. An underlying ETA seeks 120-day authority. Supporting shipper: Petro Source, Inc., 11767 Katz Freeway, No. 420, Houston, TX 77079.

MC 144319 (Sub-6–1TA), filed May 2, 1983. Applicant: JOHN BRACY, d.b.a. NORTHWEST AGRI SUPPLY, 1056 Wiloma Dr., Billings, MT 59105. Representative: Timothy R. Stivers, POB 1578, Boise, ID 83701. *Fertilizer* from points in ID, UT and WA to points in MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): McIntosch Grain and Feed, Inc., POB 1425, Great Falls, MT 59403.

MC 167859 (Sub-6–1TA), filed May 6, 1983. Applicant: PORT DELIVERY SYSTEMS, INC., P.O. Box 17069, Portland, OR 97217. Representative: John Rogers (same as applicant). *Contract Carrier,* Irregular routes: *Paper and paper products,* between points in OR and WA, for the account of Paper Products Marketing, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Paper Products Marketing, 806 S.W. Broadway, Portland, OR.

MC 157421 (Sub-6–3TA), filed May 9, 1983. Applicant: JESSE ROBERTS, d.b.a. POWER TRANSPORT, East 6607 Broadway, Spokane, WA 99206. Representative: Andrew D. Shafer, 1200 IBM Bldg., Seattle, WA 98101. *Contract carrier,* Irregular routes: *Canned foodstuffs and materials used in the production of canned foodstuffs* between points in CA, OR, WA, ID, UT and NV, for 270 days, for the account of Del Monte. Supporting shipper: Del Monte Corporation, 1111 Civic Drive, Suite 200, Walnut Creek, CA 94596.

MC 167726 (Sub-6–1TA), filed May 2, 1983. Applicant: PROMPT REFRIGERATED TRANSPORT, INC., 6401 E. UpRiver Dr., Spokane, WA 99207. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Food and food products* between points in WA, OR, ID, MT, WY, ND, SD, NB, KS, IA, MN, WI, CO, and UT, for 270 days. Supporting shippers: Fast Food Merchandisers, 1811 19th St., S.W., Mason City, Iowa 50401 and Vern's Pies, Inc., 1730 W. Sharp, Spokane, WA 99201.

MC 166734 (Sub-6–1TA), filed May 3, 1983. Applicant: ROBINSON EXCAVATING & TRUCKING, P.O. Box 232, Metaline Falls, WA 99153. Representative: James E. Wallingford, P.O. Box 11841, Spokane, WA 99214. *Coal, Bituminous, Crushed Gypsum Rock or Anhydrite* between points from the U.S./Canadian border and points in the WA for 270 days. Supporting shippers: Lehigh Portland Cement Ltd., P.O. Box 1882, Allentown, PA 18105; Esso Minerals, 237 Fourth Ave., S.W., Calgary, Alberta, CD T2P–OH6.

MC 167599 (Sub-6–1TA), filed May 6, 1983. Applicant: SHERWOOD BROS., INC., 5222 Pinemont Dr., Murray, UT 84107. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carrier,* irregular routes, *building materials,* between points in WA, ID, OR, and UT for 270 days. Under a continuing contract(s) with Glu-Laminated Wood Systems, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Glu-Laminated Wood Systems, Inc., 3090 S. 8000 W. Magna, UT 84044.

MC 167858 (Sub-6–1TA), filed May 6, 1983. Applicant: SONOMA AIRPORTER, INC., P.O. Box 301, Sonoma, CA 95476. Representative: Warren I. Jaycox (same address as applicant). *Passengers* in charter and special operations betwen points in CA, NV, OR, WA and AZ for 270 days. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 167782 (Sub-6–1TA), filed May 10, 1983. Applicant: SOUNDVIEW LIMO SERVICE, INC., d.b.a. SOUNDVIEW TOUR AND LIMO SERVICE, INC., 5710 38th Avenue, N.W., Gig Harbor, WA 98335. Representative: Frank R. Gately (same as applicant). *Passengers* in charter operations, beginning and ending at points in Kitsap, Pierce, and King Counties, WA and extending to points in the U.S. (excluding AK and HI), for 270 days. Supporting shippers: There are 5 shippers. Their statements may be examined in the office listed.

MC 156408 (Sub-6–2TA), filed May 5, 1983. Applicant: SOUTHWEST CANNERS, INC., P.O. Box 862, Portales, NM 88130. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Frwy., Dallas, TX 75237–2385. *General Commodities (except Classes A & B explosives, household goods and commodities in bulk)* from points in CA on and North of CA St. Hwy. 46, 99 and 178; to points in UT and CO on and North of US Hwy. 50, for 270 days. Supporting shipper: Johanson Transportation Service, P.O. Box 2645, Fresno, CA.

MC 151878 (Sub-6–14TA), filed May 5, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1000 Potomac St., N.W., Suite 501, Washington, D.C. 20007. *Contract Carrier,* irregular routes *General commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S., for 270 days. Supporting shippers: Three Way Brokerage Co., 1120 Karlstad Drive, Sunnyvale, CA 94086.

MC 167461 (Sub-6–1TA), filed May 10, 1983. Applicant: WIL-MAK AGRICULTURAL ENTERPRISES, P.O. Box 1088, Umatilla, OR 97882. Representative: John H. Goslin, P.O. Box 921, Caldwell, ID 83605. *Contract carrier;* irregular route; *Dry Bulk Fertilizer,* between points in AZ, CA, ID, NV, OR, UT, and WA, for the account of J. R. Simplot Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J. R. Simplot Company, P.O. Box 27, Boise, ID 83707.

MC 166942 (Sub-6–1TA), filed May 12, 1983. Applicant: LEILANI SPELL d.b.a. ELITE TRUCKING, 100 Harter Ave., Woodland, CA 95695. Representative: Leilani Spell (same as applicant). *General commodities* (except classes A & B explosives, bulk commodities) between Woodland, CA and WA and OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Radio Shack warehouse (0603), 700 Santa Anita Dr., Woodland, CA 95695.

MC 167395 (Sub-6–1TA), filed May 5, 1983. Applicant: P. SAWCHUK TRUCKING LTD., 12345 90 Street, Edmonton, Alberta, T5B 3Z6. Representative: Peter Sawchuk (same as above). *Contract Carrier,* Irregular routes: (1) *Precut Lumber,* between Port of Entry on U.S. CD Border in ID, MT on the one hand and on the other points in CA, WA, OR, NV, AZ for the account of Sunchild Forest Products (1983) Ltd. (2) *Office Furniture,* between Port of Entry on U.S. CD Border in ID, MT, on the one hand and the other points in CA, WA, OR, TX, for the account of Superior Steel Desk (Mfg) Ltd. for 270 days. An underlying ETA seeks 120 days authority. SUPPORTING SHIPPER: Superior Steel Desk (Mfg) Ltd., 11415–168 St., Edmonton, Alberta; and Sunchild Forest Products, Box 68, Winterburn, Alberta T0E 2N0.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13743 Filed 5-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contracting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP4F–305

Decided: May 13, 1983.

Groendyke Investment, Inc.—Continuance in control exemption—The Transport Company of Texas and Groendyke Transport, Inc.

MC–F–15250. Groendyke Investment, Inc. (GII), a non-carrier, and, in turn H.C. Groendyke, who controls GII through stock ownership, seeks an exemption from the requirement of prior regulatory approval for his continuance in control of GII's subsidiaries, Texas Carriers, Inc. (a non-carrier), Groendyke Transport, Inc. (MC–111401), and The Transport Company of Texas (MC–167667).

The Transport Company of Texas has filed as a directly related application its initial common carrier application. This application, docketed No. MC–167667, is published in this same **Federal Register** issue.

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Send comments to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative, Mike Cotten, P.O. Box 1148, Austin, TX 78767.

Comments should refer to No. MC–F–15250.

This request is republished here to indicate the proper type of application and manner of comments required.

Volume No. OP5F–235

Decided: May 17, 1983.

Thomas C. Lange—Continuance in control exemption—TLC Lines, Inc., and WTS, Inc.

MC–F–15259. Thomas C. Lange, an individual, seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continued control of TLC Lines, Inc., and WTS, Inc. Mr. Lange is the owner of all of the outstanding stock of TLC Lines, Inc. (No. MC–144117), and 50 percent of the outstanding stock of WTS, Inc.

Send comments to:
(1) Motor section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative, Peter W. Kinsella, Jr., 9717 Landmark Dr., Suite 201, St. Louis, MO 63127.

Comments should refer to No. MC–F–15259.

[FR Doc. 83–13738 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

[No. 38893]

Motor Carriers; Roberts & Oake, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioner's existing operations granted at 47 F.R. 46592 (October 19, 1982) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioner's future contracts is granted.

DATE: Comments are due on June 7, 1983. The provisional exemption of petitioner's future contracts will become final 15 days after the close of the comment period, unless in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38893, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Leonard L. Arnaiz, (202) 275–7831
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 13, 1983.

By the Commission, Division 1, Commissioners Andre, Sterrett, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–13736 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 145F)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—Larimer County, Co.; Notice of Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 13.29-mile rail line between milepost 79.00 near Fort Collins and milepost 92.29 at the end of the line near Rex in Larimer County, CO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–13740 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

[I.C.C. Order No. 84 Under Service Order No. 1344]

Rail Carriers; Rerouting Traffic; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Co.; Michigan Northern Railway Co., and Soo Line Railroad Co.

In the opinion of J. Warren McFarland, Agent, the Detroit and Mackinac Railway Company is unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service. As this matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, this action by the Commission is required.

It is ordered:

(a) *Rerouting Traffic.* The Detroit and Mackinac Railway Company being unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service, those lines named above are authorized to reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authroity of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting. This order vacates Reroute Orders SOO 1–83 and MN 1–83, and SOO Embargo 1–83.

(b) *Notification to shippers.* Each originating carrier accepting traffic to be rerouted in accordance with this order, shall notify each shipper at the time each shipment is accepted and, to the best of its ability, shall furnish to such shipper the new routing provided for under this order.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as orginally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., May 10, 1983.

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1983, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Divison, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the FFederal Register.

Issued at Washington, D.C., May 9, 1983.

J. Warren McFarland
Agent.

[FR Doc. 83–13737 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

[No. 38909 et al.°]

Riverside Transportation, Inc.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 47 FR 51638 (November 16, 1982), 47 FR 52237 (November 19, 1982), and 47 FR 52573 (November 22, 1982) respectively, are made final. Additional, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATE: Comments are due on June 7, 1983. The provisional exemption of petitioners' future contracts will become final 15 days after the close of the comment period, unless in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38909, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423..

FOR FURTHER INFORMATION CONTACT:
Robin Williams, (202) 275–7697,
or
Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, D.C. 20423, or call 289–4357 in the D.C. metropolitan area or toll free (800) 424–5403.

Decided: May 13, 1983.

By the Commission, Division 1, Commissioners Andre, Sterrett, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 13734–5 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs; Pittsburgh and Lake Erie Railroad Co., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.* These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register**..

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review board*	Decided date
925	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–14, Supplement 3, (Scrap iron or steel)	2	5–13–83
928	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–0105, (Bituminous steam coal) Via Port of Ashtabula Harbor, OH	2	5–13–83
930	The Pittsburgh and Lake Erie Railroad Co., ICC–PLE–C–0032, (Slabs, iron or steel)	3	5–13–83
931	Canadian Pacific Rail, ICC–CPE–C–0017, (Cement, natural or Portland)	1	5–13–83
933	Seaboard System Railroad, Inc., ICC–SBD–C–0046, Supplement 2, (Scrap iron)	1	5–13–83

*Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating. Review Board No. 3, Members Krock, Joyce, and Dowell. Member Dowell not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–13572 Filed 5–20–83; 8:45 am]
BILLING CODE 7035–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 22939; 70–6645]

American Electric Power Co., Inc.; Proposed Additional Indemnification by Holding Company in Connection With Subsidiaries' Self-Insured Workers' Compensation Programs

May 13, 1983.

American Electric Power Company, Inc. ("AEP") 180 East Broad Street, Columbus, Ohio 43215, a registered holding company, has filed with this Commission a further post-effective amendment to the declaration in this proceeding pursuant to Section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

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[1] For final notice purposes, the following individual provisional exemption petitions were consolidated: No. 38909, Riverside Transportation, Inc.; No. 38919, Shippers service Transport, Inc. and No. 38925, All Freight Transportation, Inc.

*Note tariff supplements advancing contract's effective date shall refer to these decisions for authority.

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By orders in this proceeding dated October 29, 1981, and September 17, 1982 (HCAR Nos. 22248 and 22810), AEP was authorized to enter into an agreement or agreements of indemnity with one or more surety bonding companies providing for indemnification by AEP of liabilities incurred by any such surety bonding company or companies in connection with the issuance of surface mining reclamation surety bonds, self-insurance workers' compensation surety bonds, and self-insurance pneumoconiosis (black lung) disability bonds that are required by certain AEP system companies operating in Virginia, West Virginia, Ohio, and Utah. The maximum amount of indemnity from AEP at any one time outstanding with respect to each type of bonds will not exceed $45,000,000, $39,000,000, and $5,000,000 respectively. AEP was also authorized to indemnify one or more surety bonding companies with respect to any liability that may be incurred as a result of any default under performance bonds purchased by certain subsidiaries of AEP to comply with the terms of coal leases on federal lands in Utah and permits issued by the Ohio Department of Natural Resources for the construction of dams, spillways, or levees.

AEP now requests authority to enter into an agreement to indemnify Appalachian Power Company ("Appalachian"), a subsidiary of AEP, for any liability, claims, or obligations for payments Appalachian may have in connection with its self-insured workers' compensation program under the Workmen's Compensation Act of Virginia. The Industrial Commission of Virginia has required that Appalachian obtain such indemnification from AEP. AEP also requests authority to act as guarantor and/or surety and to provide indemnification on behalf of any AEP System company which now operates or which in the future seeks to operate as a self-insurer under the workers' compensation laws of any state. It is stated that AEP System companies that operate or may in the future operate self-insured workers' compensation programs have or will have the advantage of substantial annual savings over the costs of purchased workers' compensation insurance.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 7, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be futher amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13756 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 16, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Hart, Schaffner & Marx, Common Stock, $2.50 Par Value (File No. 7-6638)

Hazeltine Corporation, Common Stock, No Par Value (File No. 7-6639)

Helene Curtis Industries, Inc., Common Stock, $1 Par Value (File No. 7-6640)

Hudson Bay Mining & Smelting Company, Ltd., Common Stock, No Par Value (File No. 7-6641)

Integrated Resources, Inc., Common Stock, $.10 Par Value (File No. 7-6642)

Jamesway Corporation, Common Stock, $1 Par Value (File No. 7-6643)

Johnson Controls, Inc., Common Stock, $1 Par Value (File No. 7-6644)

Jorgensen (Earle M.) Company, Common Stock, $1 Par Value (File No. 7-6645)

Jostens, Inc., Common Stock, $.33⅓ Par Value (File No. 7-6646)

Kaneb Services, Inc., Common Stock, No Par Value (File No. 7-6647)

Kane-Miller Corp., Common Stock, $1 Par Value (File No. 7-6648)

Kellwood Company, Common Stock, No Par Value (File No. 7-6649)

Enterra Corp., Common Stock, $1 Par Value (File No. 7-6650)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 7, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13752 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 12460]

Fedders Corp.; Notice of Application and Opportunity for Hearing

May 16, 1983.

Notice is hereby given that Fedders Corporation (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under Indentures dated April 22, 1971 ("1971 Indenture") and May 23, 1974 ("1974 Indenture") (collectively, the "Indentures"), previously qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting under both of the Indentures. The Debentures issued pursuant to the Indentures are wholly unsecured.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act, seeks to exclude the Indentures from the operation of Section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the Indentures may be excluded from the operation of Section 310(b)(1) of the Act if the Company shall have sustained the burden of proving, by this application to the Commission and after opportunity for hearing thereon, that the trusteeship of Schroder under the Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under each of the Indentures.

The Company alleges that:

(1) Schroder is presently Trustee of the Company's 8⅞ percent Subordinated Debentures due 1994 ("8⅞ percent Debentures") of which $18,717,000 are presently outstanding. The 8⅞ percent Debentures were issued pursuant to the 1974 Indenture with the Chase Manhattan Bank, N.A. as Trustee. On August 19, 1977, the Company appointed Schroder as successor Trustee of the 8⅞ percent Debentures.

(2) On April 28, 1983, Schroder was appointed successor Trustee of the Company's 5 percent Convertible Subordinated Debentures due 1996 ("5 percent Debentures") of which $29,976,000 are presently outstanding. The 5 percent Debentures were issued pursuant to the 1971 Indenture with Chemical Bank as Trustee. Bradford Trust Company became successor Trustee to Chemical Bank in 1977 and resigned as Trustee on April 28, 1983, since it is becoming Trustee of two other debentures issues of the Company which are to be equally and partially secured (Act File Nos. 22-12201 and 12208).

(3) The Company presently is making exchange offers of new debentures for the 5 percent Debentures and 8⅞ percent Debentures. Based on tenders as of April 25, 1983, there will be $14,366,000 of the 5 percent Debentures and $2,445,000 of the 8⅞ percent Debentures outstanding on April 29, 1983. The 5 percent Debentures and 8⅞ percent Debentures are each unsecured.

(4) Such differences as exist between each of the Indentures are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under any of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after June 13, 1983, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, no later than June 10, 1983, at 5:30 p.m., Eastern Daylight Time, in writing submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13761 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[70-6709; Rel No. 22938]

New England Electric System et al.; Notice of Proposed Merger of Utility Subsidiaries

May 13, 1983.

In the matter of New England Electric System, Massachusetts Electric Company, 25 Research Drive, Westborough, Massachusetts 01581 and Manchester Electric Company, 35 Beach Street, Manchester, Massachusetts 01944.

The New England Electric System ("NEES"), a registered holding company, and two of its electric utility subsidiaries, Manchester Electric Company ("Manchester"), a retail electric company serving the community of Manchester, Massachusetts, and Massachusetts Electric Company ("Mass Electric"), have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to Sections 9, 10, 11, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 40, 43, and 45 promulgated thereunder.

By prior order in this proceeding (HCAR No. 22699, November 8, 1982), the Commisson approved NEES' proposal to acquire the common stock of Manchester by offering to exchange 2.5 shares of NEES common stock for one share of Manchester common stock. As of April 1, 1983, NEES had acquired 98.8% of the authorized and issued shares of Manchester common stock. An extension of the exchange offer was authorized by the Commission on May 6, 1983 (HCAR No. 22929) to permit the remaining shareholders of Manchester to receive common shares of NEES pending review of the transactions proposed in said post-effective amendment.

NEES and its subsidiaries have requested authority to effect a merger of Manchester and Mass Electric. The proposed transaction would include: (1) the merger of Manchester into Mass Electric with the latter being the surviving company; (2) the contribution by NEES to the capital of Mass Electric, on the consummation date of the merger, of all the common stock of Manchester than held by NEES; (3) the cancellation of all Manchester common stock with cash compensation to any remaining shareholders and (4) the consolidation of accounts by appropriate accounting entries.

Mass Electric and Manchester have entered into an Agreement of Merger subject to necessary regulatory approvals. The directors and stockholders of Mass Electric and Manchester have approved the propose merger. The capital contribution by NEES is subject to the approval of the NEES Board of Directors.

On the consummation date of the merger, subsequent to the capital contribution by NEES of all Manchester shares then held by it, all Manchester shares of common stock then issued and outstanding will be automatically cancelled and of no value. Mass Electric will pay to any holder of record, other than itself, an amount equal to 2.5 times the average weekly high and low prices of NEES common stock on the New York Stock Exchange during the time period of the exchange offer. The exchange offer period terminates on the date immediately preceding the consummation date of the merger and the compensation valuation will be determined as of the last business day of the week preceding the merger date. By way of illustration, the average weekly high and low price of NEES common stock as of the week ending May 6, 1983 was $34.55 so that, if the proposed merger had taken place in the week immediately thereafter, the compensation amount would have equaled $86.37.

Upon consummation of the merger, Mass Electric will assume all the liabilities of Manchester, including short-term indebtedness, and any potential liabilities under pending litigation. Mass Electric may seek a

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waiver from the holder of a Manchester long-term note in the amount of $195,000 to permit it to assume the note, or, in the alternative, Mass Electric may repay the note in accordance with the terms set forth therein.

Mass Electric also seeks specific approval to account for the merger by combining Manchester's accounts with its accounts, pursuant to "Note to Instruction 5, Electric Plant Instructions," of the Federal Energy Regulatory Commission Uniform System of Accounts for Public Utilities, as adopted by the Massachusetts Department of Public Utilities.

NEES and its subsidiaries have stated that several benefits will result from the proposed merger. It would simplify the NEES System by reducing the number of corporate entities therein and eliminating minority interests in Manchester. There will be a reduction in expenses incurred by Manchester operating as a separate entity, including the maintenance of a separate accounting and billing system, the costs of the ratemaking process, and compliance with various regulatory requirements. The reliability of electric service to the town of Manchester should be improved through the availability of greater financial and personnel resources of Mass Electric to maintain and improve the Manchester distribution system. Mass Electric's rates currently average ten to fifteen percent less than Manchester's and these lower rates would be used for future billings to Manchester's customers. It is stated that any reduction in revenues to the NEES System would be more than offset by savings generated to the merged company.

The application-declaration, as amended by said post-effective amendment, and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 7, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice of order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13757 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19763; SR-PSE-83-6]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 13, 1983.

The Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, CA 90014, submitted on February 15, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend options floor procedure Advice b-5 to correct an anomaly that currently exists in the PSE's policies governing transactions in options traded on the PSE by market makers on a leave of absence. Options Floor Procedure Advice B-5, in discussing market maker leaves of absence, provides that a market maker is not permitted to make opening transactions in PSE listed options through the use of a floor broker while he is on leave of absence. Options Floor Procedure Advice B-11 provides that only transactions initiated while a market maker is on the floor shall be counted as market maker transactions and receive exempt credit treatment. Advice B-11 provides an exception for certain "good-til-canceled" ("GTC") orders entered with a floor broker while a market maker is on the floor. These orders may open new positions in the market maker's account which can properly be granted exempt credit treatment.

Although an exception is provided for certain GTC orders in Advice B-11, Advice B-5 does not provide the same exemption for a market maker on a leave of absence. Thus, the language of Advice B-5 would appear to prohibit any opening transaction while a market maker is on a leave of absence. This language, according to the PSE, creates an anomaly in the rules. A market maker who simply leaves the floor for a period of longer than two weeks without applying for a leave of absence may leave GTC orders which will open new positions in his account and receive exempt credit treatment. However, a market maker who does apply for a leave of absence would not be accorded the privilege of leaving GTC orders with a floor broker prior to the effective date of the leave of absence which opens positions while he is gone. The proposed rule change will provide the same exemption for all GTC orders left with a floor broker by a market maker during the market maker's absence, provided the requirements of Advice B-11 are met.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19643, March 31, 1983) and by publication in the **Federal Register** (48 FR 15062, April 6, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13753 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[812-5469; Rel. No. 13243]

Wingate Housing Partners, Ltd. II and Continental Wingate Co., Inc.; filing of Application for an Order Granting Exemption from all Provisions of the Act

May 13, 1983.

Notice is hereby given that Wingate Housing Partners, Ltd. II (the "Partnership"), a California limited partnership, and its general partner, Continental Wingate Company, Inc. (the "General Partner" and, together with the Partnership, referred to herein as "Applicants"), Suite 2020, One Boston Place, Boston, Mass. 02108, filed an application on March 4, 1983, and an amendment thereto on april 29, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the Uniform Limited Partnership Act of the State of California on February 25, 1983, for the purpose of providing investors with a vehicle for diversified investment in government-assisted rental housing in accordance with the express determination made by Congress in Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants represent that the partnership will operate as a "two-tier" partnership, i.e., the Partnership, a limited partnership, will invest in other limited partnerships ("Local Limited Partnerships") which, in turn, will primarily be engaged in the acquisition, ownership and operation of existing government-assisted housing developments ("Housing Developments"). The application states that each Housing Development is financed and/or operated with one or more forms of assistance from federal, state and/or local governments or agencies. Applicants represent that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual tax return the deductions, losses and other tax items arising from the ownership and operation of the Housing Developments, and (2) liability limited to their capital investment.

The application states that on March 2, 1983, the Partnership filed a Registration Statement on Form S-11 (File No. 2-82165) which covers the sale of a minimum of 4,700 (which may be increased to 7,500 in the discretion of the General Partner) and a maximum of 15,000 limited partnership interests ("Interests") (not including 15,000 Interests subject to an over-allotment option) to be offered at $1,000 per Interest including selling commissions, with a minimum subscription of five Interests ($5,000). Applicants submit that offers to sell and sales of Interest are proposed to be effected, on a best efforts basis, through Continental Wingate Capital Corporation, a wholly-owned subsidiary of the General Partner, and other registered broker-dealers. Applicants represent that no subscription for Interests will be accepted unless it is approved by the General Partner, which approval will be conditioned upon representations as to the suitability of the investment for each subscriber. Applicants submit that each subscriber will represent, among other things, that some part of his income for the foreseeable future will, but for the effect of his investment in the Interests, be taxable at a combined federal and state income tax rate of 40% or more (which combined rate represents a minimum 1983 marginal federal tax rate of approximately 35.8%) and that he is aware of the risks involved in investing in the Partnership. Applicants submit that a 1983 marginal federal tax rate of 35% applies to the same taxable income bracket as a 1982 marginal federal tax rate of 39%, because of the reductions in tax rates in the Economic Recovery Tax Act of 1981. Applicants further submit that each transferee of Interests must, as a condition to being admitted to the Partnership as a substitute limited partner ("Limited Partner"), represent that he meets the same suitability standards as those applicable to original investors.

Applicants state that the Housing Developments in which the Partnership invests may have only from 8 to 15 years remaining under their respective government assistance payments contracts with the Department of Housing and Urban Development ("HUD") or other agencies. Applicants state that some older Housing Developments may be operated under 5-year renewable rental assistance contracts, at the expiration of which the owner has the option not to renew the contract. Applicants further state that when any of these contracts terminate, the Local Limited Partnerships may also elect, subject to any required approval of HUD or the applicable governmental agency, to refinance the underlying mortgage and to replace it with conventional financing, thereby removing all forms of governmental regulation with respect to the Housing Development. Applicants represent that proceeds from the sale or refinancing of any Housing Development will not be reinvested.

Applicants state that the Partnership anticipates having a minimum of $4,206,500 and a maximum of $26,850,000 (assuming the over-allotment option is exercised) available for investment from this offering. Applicants represent that the Partnership will invest substantially all of its available capital in Local Limited Partnerships which will own and operate Housing Developments. The application states that the Partnership has agreed to invest in two Local Limited Partnerships which will utilize approximately 32% of the net proceeds of an offering of 15,000 Interests. Applicants represent that affiliates of the General Partner will be a general partner and a limited partner in the two Local Limited Partnerships.

Applicants state that the Partnership has not yet identified other Local Limited Partnerships in which to invest the remaining proceeds, if any, of the offering; however, the Partnership has reserved the right to invest in a Local Limited Partnership that will acquire and rehabilitate a "Certified Historic Structure" as that term is defined in the Internal Revenue Code of 1954, as amended ("Code"), in order to obtain the 25% investment tax credit available for qualified rehabilitation expenditures for such structures. Applicants state that such a structure would be rehabilitated for use as an income-producing property, which may or may not be multi-family housing and which may or may not receive government assistance.

According to the application, the Partnership will be controlled by the General Partner pursuant to a Certificate and Agreement of Limited Partnership of the Partnership (the "Partnership Agreement") and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. Applicants submit, however, that the majority in interest of the Limited Partners will have the right to remove the General Partner, and to elect successor general partners, if to do so will not adversely affect the tax or limited liability status of the Limited Partners, and to continue the Partnership upon the bankruptcy or other incapacity of the General Partner. Applicants further submit that, under the Partnership Agreement, each Limited Partner is entitled to review the records of the Partnerhip at reasonable times, including the register of the names, addresses and number of Interests owned by each other Limited Partner.

Applicants state that, as provided in the Partnership Agreement, annual reports will be distributed to each Limited Partner within 90 days after the end of each fiscal year containing a balance sheet, statement of income, partners' equity and changes in financial position for such fiscal year, all of which will be prepared in accordance with generally accepted accounting principles and accompanied by a report and opinion of a certified public accountant. Applicants state that such annual report shall also include a report of the Partnership's activities during the year

[1] Floor Procedure Advices B-5 and B-11 are based on Rule 15c3-1, promulgated by the Commission, and Regulation T, promulgated by the Federal Reserve Board, which provide that market makers may receive special credit treatment in return for meeting their obligations as market makers. The rationale behind the Advices is that only those transactions that market makers initiate while on the floor of the Exchange enable them to perform their obligations as market makers and, therefore, only these transactions should receive exempt credit treatment.

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and a cash flow statement setting forth distributions to Limited Partners and specifying the specific sources of such cash. Applicants also state that the General Partner will distribute the following interim reports of operations to the Limited Partners: (1) A semi-annual report within 60 days after the end of the first six-month period of each year containing an unaudited balance sheet, statement of income, cash flow statement and other pertinent information concerning the Partnership's activities; (2) within 60 days after the end of each quarter, a report setting forth the fees from the Partnership or the Local Limited Partnerships which the General Partner or its affiliates received and the services they rendered during that quarter; and (3) a special report within 60 days after the end of each quarter in which the Partnership acquires or disposes of any Local Limited Partnership interest, detailing the material terms of such transactions and the aggregate investments to that date. Applicants represent that the Partnership will also file with the Commission pursuant to Section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports and current reports on Forms 10-K, 10-Q and 8-K, as well as any other reports required by such Act, all of which will be available to Limited Partners at the Commission's offices.

Applicants state that the General Partner expressly recognizes that it has fiduciary obligations to the Partnership and the Limited Partners and will act in accordance with such fiduciary obligations in offering and selling interests in other limited partnerships it may sponsor. Applicants represent that, although the General Partner is engaged in other real estate transactions and manages other limited partnerships, the Partnership will not sell, acquire or lease properties or interests therein to or from the General Partner or its affiliates. Applicants represent that the General Partner or its affiliates may, however, purchase interests in a Local Limited Partnership in its own name (and assume loans in connection therewith) and temporarily hold such interests for purposes of facilitating the acquisition of the interests by the Partnership or the borrowing of money or obtaining of financing for the Partnership or any other purpose related to the Partnership's business. Applicants further represent that the interests in the Local Limited Partnership may not be sold to the Partnership for a purchase price greater than the cost of the interests to the General Partner or its affiliate.

The application states that, as set forth in the Partnership Agreement, the General Partner and its affiliates will receive substantial reimbursements, fees and other compensation from the proceeds of the sale of the Interests and from the operations of Local Limited Partnerships in which affiliates of the General Partner are Local General Partners. Applicants maintain that such reimbursements, fees and other compensation are comparable to those which would be paid to third parties or charged to third parties for the services rendered and are competitive with those generally paid or received for similar services in the multi-family government-assisted housing industry. Applicants represent that such remibursements and fees are in substantial conformity with the standards imposed by the North American Securities Administrators Association, Inc., and the California Corporations Commissioner. Applicants further represent that such fees and reimbursements are reasonable and fair, do not involve overreaching and are competitive from the point of view of the Partnership, the Local Limited Partnerships and the Limited Partners in the Partnership. It is stated that Front-End Fees, as defined in the Registration Statement, are expected to be approximately 25% of the gross proceeds of the offering.

Section 6(c) of the Act provides in part that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that neither the Partnerhip nor the General Partner concedes that the Partnership is an investment company, as that term is defined by the Act. Applicants assert that the Partnership's exemption from the provisions of, and the rules and regulations promulgated pursuant to, the Act is both necessary and appropriate in the public interest. Applicants assert that, by investing in limited partnership interests in Local Limited Partnerships developing government-assisted, low-income housing, the Partnership is implementing the national policy enunciated by Congress in Section 901 of Title IX. Applicants assert that investment in government-assisted, low income housing is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; the limited partnership structure is the only way to bring substantial private equity capital into government-assisted housing. Applicants submit, however, that the limited partnership form of organization is incompatible with the Act, and that it would be impossible for the partnership to comply with certain provisions of the Act. Applicants further submit that to discourage two-tier limited partnership arrangements by application of the Act would result in elimination of a prime format with which to attract equity capital into government-assisted housing, and would frustrate national policy.

Applicants state that the contemplated arrangement is not susceptible to abuses of the sort the Act was designed to remedy. Applicants assert that the regulations imposed on each Local Limited Partnership by various federal, state and municipal agencies, and the Partnership Agreement, provide protection to investors comparable to, and in some cases greater than that provided by the Act. Applicants state that Interests will be sold only to investors who have special qualifications, and it is expected that the prospective Limited Partners will have both the ability and incentive to inform themselves concerning their investment and to exercise sound judgment in connection therewith.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13754 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5260]

Zero Corp. 10% Subordinated Sinking Fund Debentures (due 1989); Notice of Application To Withdraw From Listing and Registration

May 13, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of private purchases and the offer to purchase by Zero Corporation ("Company"), as of February 1, 1983 the number of debenture holders of record has been reduced to 685. In addition, the Company was advised by Amex that only $36,000 principal amount of debentures were traded on the Exchange during the twelve months ended February 28, 1983. For the above reasons, the Company has determined that the costs and expenses of continued listing on the Amex is not justified. The Amex has posed no objection to this matter.

Any interested person may, on or before June 6, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13754 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19769; File No. SR-DTC-83-3]

Filing and Immediate Effectiveness of Proposed Rule Change by the Depository Trust Co.

May 16, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 2, 1983, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises DTC's current fees for certain major services. The fee change raises the fees for certain corporate securities services, including deposits, urgent withdrawals, maintenance of long positions and continuous net settlement deliveries. The proposed rule change restructures the fee schedule for municipal bond services by establishing new, lower fees for services involving fully registered municipal bonds. The proposed rule change also adds new fees for money adjustments made at settlement to correct participant initiated errors or adjustments due to added or killed deliveries and late deliver orders when the receiving participant requests a reversal during the reclamation period. DTC believes that the proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 by providing for the equitable allocation of fees among DTC's participants and by more accurately reflecting the depository's cost in providing those services.

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-DTC-83-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13763 Filed 5-20-83; 8:45am]

BILLING CODE 8010-01-M

[Release No. 19771; File No. SR-Phlx-83-6]

Self Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

May 16, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 13, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposed to extend temporary Rules 933 and 941 until July 13, 1983. Both these rules terminated by their own terms on May 14, 1983.[1] Rule

[1] The Commission approved adoption or Rule 933 for a one year period on December 21, 1981 (Securities Exchange Act Release No. 18356, December 21, 1981; 46 FR 63434 December 31, 1981); approved its extension through March 14, 1983 on December 14, 1982; (Securities Exchange Act Release No. 19334, December 14, 1982; 47 FR 51776, December 22, 1982) and approved its extension through May 14, 1983 on March 11, 1983 (Securities Exchange Act Release No. 19594, March 11, 1983; 48 FR 11547, March 18, 1983). The Commission initially approved the adoption of Rule 941 on October 21, 1982, (Securities Exchange Act Release No. 19335, October 21, 1982; 47 FR 49503, November 1, 1982); approved its extension through March 14, 1983 on December 14, 1982 (Securities Exchange Act Release

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933 requires Phlx members who lease their seats to execute a sale and subordination agreement under which the Exchange may sell the membership upon termination of the lease and apply the proceeds of such sale to the satisfaction of the priority claims specified in Phlx By-law XV. Rule 941 requires Phlx member organizations and members who are parties to a-b-c agreements to execute a similar sale and subordination agreement. The Phlx states in its filings that the purpose of extending these two rules is to keep them effective until their principal provisions are incorporated in the Phlx rules on a permanent basis under a pending Phlx proposed rule change contained in File No. SR-Phlx-82-4.[2] The Phlx states that the statutory basis for the proposed rule changes is Section 6(b)(1), 6(b)(5) and 6(c)(3)(A) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-83-6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filings and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change merely keeps in effect two Phlx rules that currently are operative. Both rules terminated on May 14, 1983, and an extension is necessary in order to allow time for consideration of their proposed adoption as permanent rules as part of SR-Phlx-82-4. The Commission believes it is appropriate to extend the effectiveness of these rules for an additional two-month period pending final Commission action on SR-Phlix-82-4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13782 Filed 5-20-83; 8:45 am]

BILLING CODE 8010-01-M

No. 19335, December 14, 1982; 47 FR 51776, December 22, 1982); and approved its extension through May 14, 1983, on March 11, 1983 (Securities Exchange Act Release No. 19594, March 11, 1983; 48 FR 11547, March 8, 1983).

[2] Notice of SR-Phlx-82-4 has been given by Commission Release (Securities Exchange Act Release No. 19163, October 21, 1982); and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). On May 13, 1983, Phlx granted an extension of time to July 13, 1983, for Commission action on this filing.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2085]

Kansas; Declaration of Disaster Loan Area

Shawnee County in the State of Kansas constitutes a disaster area as a result of damage caused by tornadoes which occurred on May 6 and 7, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on July 14, 1983, and for economic injury until the close of business on February 13, 1984, at the address listed below:

U.S. Small Business Administration, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106

or other locally announced locations.

Interest rates for applicants filing for assistance are as follows:

	Percent
Homeowners with credit available elsewhere	11.125
Homeowners without credit available elsewhere	5.625
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organization including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 13, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-13808 Filed 5-20-83; 8:45 am]

BILLING CODE 8025-01-M

Region V—Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting at 3:00 P.M., Wednesday, June 1, 1983, in the SBA Classroom, 610-C Butler Square, 100 North Sixth Street, Minneapolis, MN, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Celso C. Moreno, District Director, U.S. Small Business Administration, 610-C Butler Square, 100 North Sixth Street, Minneapolis, MN 55403, 612/349-3530.

May 17, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-13809 Filed 5-20-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 863]

Visa Office; Change of Address

Notice is hereby given that on Thursday, May 26, and Friday, May 27, the Visa Office of the Department of State will move to new quarters in the Columbia Plaza Office Building located at 2401 E Street, NW., Washington, D.C. 20520. All Visa Office telephone numbers will remain the same in the new quarters. The Visa Office will terminate its regular business at twelve noon on Wednesday, May 25, 1983 and will not reopen for regular business until 8:15 a.m. on Thursday, June 2, 1983.

Telephone communication with the Visa Office by the general public, during the period when regular business is suspended, should be limited to emergency calls where urgent action is required. These calls will be handled by a skeleton staff at the following number(s): (202) 632-3732, 3733, 3734.

Dated: May 18, 1983.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-13812 Filed 5-20-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-11]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before June 13, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 16, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
19651	Gates Learjet Corp.	14 CFR 21.197	Extension of Exemption 2981 to permit the issuance of special flight permits to petitioner for ferrying aircraft, for the purpose of completion, between Wichita, KS, and Tucson, AZ, subject to certain conditions and limitations.
12638	Air Transport Association of America	14 CFR 121.99	Extension of Exemption 2081E to allow dispatch with only a single HF communication system on certain oceanic routes between Northeastern U.S. and the San Juan ARTCC boundary.
21397	Flight Safety International	14 CFR 135.303	Extension of Exemption 3315 to permit petitioner's instructor pilots seeking FAA-approval for check pilot status to take the flight test in an FAA-approved simulator in lieu of the aircraft, subject to certain conditions.
23588	Executive Air Fleet Corp.	14 CFR 21.197(a)	To allow petitioner to apply for the issuance of a special flight permit with continuing authorization for Part 91 aircraft operated by petitioner.
2365	Jack Vance McCain	14 CFR 65.93	To enable you to become eligible for renewal of your inspection authorization without complying with the requirements of this section.
23624	Air Transport Association of America	14 CFR 121.413(c)(1)	To allow certain pilot check airmen and pilot flight instructors to be trained by qualifying in a Part 121 carrier's advanced simulator.
22872	Air Transport Association of America	14 CFR 61.157(a), 121.424 (a) and (b), Part 61, Appendix A, & Part 121, Appendix E.	Amendment to Exemption 3653, as amended, to permit the use of an approved advanced pictorial means in training for preflight inspection. It would be used in lieu of conducting an actual visual inspection of the exterior and interior of an actual static airplane. This training method would be used in the case of pilot a candidate employed by a certificate holder who is enrolled in that certificate holder's course of instruction for initial training in a large airplane which requires only two flight crewmembers for its operation and who is a candidate for a type rating in a large airplane which requires only two flight crewmembers for its operation.
19109	Pyramid Airlines	14 CFR Portions of Parts 21 & 91	Extension of Exemption 2948A to allow petitioner to obtain a supplemental type certificate covering the operations of YS-11 A-500 aircraft N159P and N167P, and YS-11 A-600 aircraft N924 in accordance with Piedmont Airlines FAA-approved minimum equipment list for those aircraft. Also requested is an amendment which would add an additional aircraft to the exemption.
21844	Airborne Express, Inc.	14 CFR 121.623, 121.643, & 121.645	To extend Exemption 3443A to allow petitioner to operate its DC-9 and YS-11 aircraft under the provisions of Sections 121.619 and 121.639 in the conduct of its all-cargo air service, subject to conditions and limitations.
23572	Grand Canyon Airlines	14 CFR 141.35(e)	To permit Mr. Robert Donaldson to serve as Chief Instructor for petitioner's Twin Otter Ground School without fully meeting experience requirements.
23622	Mr. Ivor Oberholtzer	14 CFR 91.27	To allow petitioner to apply for a special flight authorization for four F-51D and one P-51D aircraft to be displayed and operated at various airshows. Maintenance on those aircraft would be performed as needed.
20352	Amway Corp.	14 CFR 61.58(c)	To allow petitioner's BAC 1-11 aircraft pilots in command to complete the entire 24-month pilot-in-command check in an FAA-approved simulator with the stipulation that the pilot taking the flight check must have completed three takeoffs and landings within the preceding 90 days in the particular type aircraft for which the check is required.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23528	Air Wisconsin	14 CFR 121.411 (a)(1), (a)(2), (a)(3), (a)(6), and 121.413(c).	Amendment to Exemption 3733 to permit petitioner to substitute two different British Aerospace pilots for training petitioner's check airmen, flight instructors, and flight crewmembers in the BAe 146 aircraft. Granted 4/29/83.

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DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23537	Frank B. Angerole	14 CFR 61.16(b)	To permit petitioner to apply for an airline transport pilot certificate with a rotocraft rating although he has not flown 1,200 hours of flight time as pilot within the past 6 years. Granted 5/3/83.
23540	Sperry Flight Systems	14 CFR 21.195(b)	To allow petitioner to apply for an experimental certificate to operate its owned and leased aircraft in market survey. Granted 5/10/83.
21245	New York Air	14 CFR 91.307	To amend Exemption No. 3110 to add 2 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 14 DC–9s. Granted 5/9/83.
23331	American International Airways, Inc	14 CFR 91.307	To amend Exemption No. 3619a to delete one aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified "Stage 1 airplanes," powered by two engines, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 4 DC–9s. Granted 5/9/83.
23469	Jet Fleet International Airlines, Inc	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of 1 civil, subsonic "Stage 1 airplane" powered by two-engines identified by registration and serial number, that has not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 BAC–1–11: N800DM. Granted 5/9/83.
23464	Richard L. Wyatt	14 CFR 103.1, 103.7, and 103.15	To permit petitioner to operate ultralight vehicles over congested areas for purposes other than sport and recreation. Denied 4/29/83.
23050	Boeing Commercial	14 CFR 21.231(a)(1)	To allow application of Airplane Company Delegation Option Authorization (DOA) procedures to the type, production, and airworthiness certification of Boeing Models 727, 737, and 747 including derivatives involving major changes exemplified by the 737–300. Granted 5/12/83.
23053	Cessna Aircraft Co	14 CFR 21.231	To permit petitioner to use the authority in Delegation Option Authorization procedures for type, production, and airworthiness certification of airplanes, regardless of type certification basis, as long as the airplanes are of 75,000 pounds maximum gross takeoff weight or less and are not intended for operations under Part 121 of the FAR. Granted 5/12/83.
20044	Air Transport Association of America	14 CFR 61.63(b) and 121.437(c)	An extension of Exemption 2965A to permit petitioner, its member airlines and any other Part 121 certificate holder and its pilot employees to be issued an additional category and class rating to that person's pilot certificate subject to certain conditions and limitations. Partial grant 4/29/83.
18920	Transamerica Airlines, Inc	14 CFR Part 121	To extend Exemption 2947, as amended, to permit petitioner to conduct scheduled passenger service, authorized by the CAB over certain routes utilizing the flight control dispatch procedures, communications procedures, airport and route qualification procedures of Part 121 that are applicable to supplemental air carriers. Partial grant 4/29/83.
19113	Capitol Air, Inc. formerly Capitol International Airways, Inc.	14 CFR Portions of Part 121	To extend Exemption 2746 to permit petitioner to continue to conduct scheduled passenger service over routes authorized by the Civil Aeronautics Board (CAB) utilizing the flight control dispatch procedures and communication procedures of Part 121 that are applicable to supplemental air carriers. Partial grant 4/29/83.
23390	Ms. Gail Hall	14 CFR 103.1(e)	To permit occupancy of an ultralight vehicle by two persons, one of whom is legally blind. Denied 4/29/83.

[FR Doc. 83-12126 Filed 5-20-83; 8:45 am]
BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Privacy Act of 1974; Report of Proposed System

AGENCY: United States Information Agency—German-American Tricentennial Commission.

ACTION: Notice of proposed system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records on behalf of the German-American Tricentennial Commission. The system is intended to provide names, telephone numbers, and mailing adresses of persons or institutions interested in German-American relations and the Tricentennial. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the Commission and Tricentennial events, to solicit information on programs they may be planning for the Tricentennial, to solicit participation in these activities, or to obtain support, financial or otherwise, and to enable the Commission to carry out its activities. The public is requested to submit comments.

DATE: Comments are due June 22, 1983.

ADDRESS: Comments should be addressd to: Director, Office of Public Liaison, USIA, 400 C Street SW, Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Director, Office of Public Liaison, USIA, 400 C Street SW, Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: The United States Information Agency is seeking comments on the proposed system of records for the German-American Tricentennial Commission Contact System. The system is intended to provide names, telephone numbers, and mailing addresses of persons or institutions interested in German-American relations and the Tricentennial. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the Commission and Tricentennial events, to solicit information on programs they may be planning for the Tricentennial, to solicit participation in these activities, or to obtain support, financial or otherwise, and to enable the Commission to carry out its activities.

SYSTEM NAME:

Contacts.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Presidential Commission for the German-American Tricentennial, 730 Jackson Place, Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

U.S. private sector leaders; representatives of foreign countries resident and not resident in the U.S.; U.S. legislative and executive branch personnel; private citizens, business, academic, student, cultural, labor, military and social leaders, federal and state employees, members of the press, organizations, and corporations interested in German-American relations and the German-American Tricentennial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, affiliation, address, telephone number, participation in Tricentennial and German-American activities, amount of money contributed or pledged by individuals and by organizations to the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system of records is derived from the Federal Records Act, 44 U.S.C. 3101, U.S. Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 *et seq.*) and the Mutual Educational and Cultural Exchange Act of 1981, as amended (22 U.S.C. 2451 *et seq.*).

PURPOSE OF THE SYSTEM:

The Presidential Commission for the German-American Tricentennial has established a contact system for use by the Commission Staff. The system is intended to provide names, telephone numbers, and mailing addresses of persons or institutions interested in German-American relations and the Tricentennial. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the Commission and Tricentennial events, to request information on programs they may be planning for the Tricentennial, to solicit participation in these activities, or to obtain support, financial or otherwise, to enable the Commission to carry out its activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Identification of persons or institutions who may have interest in German-American relations and the Tricentennial; distribution of information to individuals interested in the Tricentennial; solicitation of support, including contributions; and recording participation of individuals in various activities of the Tricentennial.

Information is available to the Presidential Commission for the German-American Tricentennial staff, including volunteers, as may be required for the performance of their official duties.

These records may be turned over to a contractor for use in the name of the Presidential Commission for the German-American Tricentennial and under conditions specified by the Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information will be maintained on an automated system—on a magnetic disk for active use and back-up.

RETRIEVABILITY:

Records are retrieved by name, function title, organization, address, city, state, ZIP code, occupational category, specialty, affiliation and comments.

SAFEGUARDS:

Files are kept at the offices of the Presidential Commission for the German-American Tricentennial and may be called up only by the Commission staff, including volunteers.

RETENTION AND DISPOSAL:

Files will be destroyed upon the termination of the Commission no later than January 13, 1984.

SYSTEM MANAGER(S) AND ADDRESS:

Presidential Commission for the German-American Tricentennial, 730 Jackson Place, Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Director, Office of Public Liaison, United States Information Agency, 400 C Street, SW., Washington, D.C. 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Director, Office of Public Liaison, USIA, 400 C Street, SW., Washington, D.C. 20547.

CONTESTING RECORD PROCEDURES:

The United Information Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned are published in Part 505 of Title 22, Code of Federal Regulations.

RECORD SOURCE CATEGORIES:

Information is provided by the individual concerned, from published sources or from lists provided by German-American organizations and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: April 18, 1983.

Gilbert A. Robinson,

Acting Director, United States Information Agency.

[FR Doc. 83-13781 Filed 5-20-83; 8:45 am]
BILLING CODE 8230-01-M

Privacy Act of 1974; Report of Proposed System

AGENCY: United States Information Agency.

ACTION: Notice of proposed system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records for the International Youth Exchange Contact System. The system is intended to provide names, telephone numbers, and mailing addresses of persons or institutions interested in youth exchange. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the President's Council for International Youth Exchange, to solicit participation in these activities, or to obtain support, financial or otherwise, for participation in the youth exchange initiative. The public is requested to submit comments.

DATE: Comments are due on or before June 22, 1983.

ADDRESS: Comments should be addressed to: Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: The United States Information Agency is seeking comments on the proposed system of records for the International Youth Exchange Contact System. The system is intended to provide names, telephone numbers, and mailing addresses of persons or institutions interested in youth exchange. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the President's Council for International Youth Exchange, to solicit participation in these activities, or to obtain support, financial or other wise, for participation in the youth exchange initiative.

SYSTEM NAME:

Staff for International Youth Exchange Contact System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of International Youth Exchange Staff, United States Information Agency, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

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CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

U.S. private sector leaders; representatives of foreign countries resident and not resident in the U.S.; U.S. legislative and executive branch personnel; grantee organizations and grant applicants; private citizens, organizations, and corporations interested in the President's Council; federal employees; and members of the press.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, affiliation, address, telephone number, degree of participation in Youth Exchange activities, attendance records of President's Council events, amount of money contributed or pledged to President's Initiative by individuals and by companies, tracking of correspondence.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

Authority for this system of records is derived from the Federal Records Act, 44 U.S.C. 3101, U.S. Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 *et seq.*) and the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*).

PURPOSE OF THE SYSTEM:

The United States Information Agency intends to establish a contact system for use by the International Youth Exchange Staff. The system is intended to provide names, telephone numbers, and mailing addresses of persons or institutions interested in youth exchange. Individuals or institutions so identified may be contacted in order to provide them with information on the activities of the President's Council for International Youth Exchange, to solicit participation in these activities, or to obtain support, financial or other wise, for participation in the youth exchange initiative.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Identification of persons or institutions who may have interest in international youth exchange, distribution of information to individuals interested in supporting youth exchange and to solicit support including contributions, and recording participation of individuals in various activities of the President's Council for International Youth Exchange.

Information is available to the International Youth Exchange Staff, the President's Council for Youth Exchange, and to other personnel of the United States Information Agency as may be required for the performance of their official duties.

Information in these records is available to individuals, organizations, or agencies outside the U.S. Information Agency, involved in youth exchange activities or other programs benefitting youth. The released information may be used to solicit support including contributions and to record participation of individuals in various activities of the President's Council for International Youth Exchange.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information will be maintained on an automated system—on a magnetic disk for active use and back-up.

RETRIEVABILITY:

Records are retrieved by name, affiliation, geographic location, occupation, invitation lists contact history, telephone number, invitation history, pledge and contribution records.

SAFEGUARDS:

Files are to be called up by designated persons only with preassigned passwords on a terminal in the Office of the Staff for International Youth Exchange, the office of the President's Council for International Youth Exchange, and the Office of the Chairman of the Council whether or not situated at the USIA.

RETENTION AND DISPOSAL:

Files will be reviewed annually and retained, retired, or destroyed as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

International Youth Exchange Staff, USIA, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

NOTIFICATION PROCEDURE:

Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to: Director, Office of Public Liaison, USIA, 400 C Street SW., Washington, D.C. 20547.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned are published in Part 505 of Title 22, Code of Federal Regulations.

RECORD SOURCE CATEGORY:

Information is provided by the individual concerned or from published sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: April 21, 1983.

Gilbert Robinson,

Acting Director, United States Information Agency.

[FR Doc. 83-13780 Filed 5-20-83; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Board; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) noitce is hereby given that the Annual report of the Veterans Administration Medical Research Service Merit Review Boards for calendar year 1982 has been issued.

The report summarizes activities of the Boards on matters related to the review, discussion and evaluation of individual investigator initiated medical research projects. It is available for public inspection at two locations: Library of Congress, Serial and Government, Publications Reading Room, LM 133, Madison Building, Washington, DC 20540; and Veterans Administration, Medical Research Service, Chief, Merit Review Board Staff Division, Room 755, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: May 13, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-13727 Filed 5-20-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 100
Monday, May 23, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ENERGY REGULATORY COMMISSION

Notice of meeting

May 18, 1983.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., May 25, 1983.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—771st Meeting, May 25, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6389-001, Lawrence J. McMurtrey
CAP-2. Project No. 6397-001, Lawrence J. McMurtrey
CAP-3. Project No. 6802-000, Snowbird, Ltd.
CAP-4. Project No. 6186-001, Birch Creek Hydro, Inc.
CAP-5. Project No. 6839-000, Fairview Orchards Association
CAP-6. Project Nos. 2774-000 and 001, Modesto and Turlock Irrigation Districts and City and County of San Francisco; Project Nos. 5642-001 and 002, Tuolumne County, California
CAP-7. Project No. 4839-002, City of Rohnert Park
CAP-8. Project Nos. 349-018 and 2408-000, Alabama Power Co.
CAP-9. Project No., 6513-001, Village of Winnetka, Illinois and River Cities Associates; Project No. 6892-001, the Village of Channahon, Illinois
CAP-10. Omitted
CAP-11. Project No. 3738-002, Mitchell Energy Company, Inc.; Project No. 3813-000, Energenics Systems, Inc.; Project No. 4145-000, City of Valentine, Nebraska; Project No. 4225-002, Ainsworth Irrigation District
CAP-12. Omitted
CAP-13. Project No. 6814-002, Sheep Creek Irrigation Co.
CAP-14. Project No. 5448-000, Western Power, Inc.; Project No. 6071-000, Public Utility District No. 1 of Lewis County, Washington; Project No. 6387-001, Western Hydro Electric, Inc.
CAP-15. Project No. 2701-002, Niagara Mohawk Power Corp.
CAP-16. Project No. 4929-000, City of Rohnert Park; Project No. 5049-001, Modesto Irrigation District
CAP-17. Project Nos. 5653-000, 5655-000 and 5656-000, Flathead Joint Board of the Flathead Mission and Jocko Valley Irrigation Districts
CAP-18. Docket No. ER83-418-000, Kansas Power and Light Co.
CAP-19. Docket No. ER83-420-000, Northern States Power Co. (Wisconsin)
CAP-20. Docket No. ER83-425-000, Ohio Edison Co.
CAP-21. Docket Nos. ER83-427-000 and ER83-428-000, Utah Power & Light Co.
CAP-22. Docket No. ER83-429-000, Wisconsin Power and Light Co.
CAP-23. Docket No. ER83-430-000, Virginia Electric and Power Co.
CAP-24. Docket No. ER83-433-000, Rochester Gas & Electric Co.
CAP-25. Docket No. ER83-437-000, Commonwealth Edison Co.
CAP-26. Docket No. ER83-438-000, Montana Power Co.
CAP-27. Docket No. ER83-424-000, Pacific Power & Light Co.
CAP-28. Docket No. ER83-444-000, Maine Public Service Co.
CAP-29. Docket Nos. ER79-126-007, 008 and 009, Arizona Public Service Co.
CAP-30. Docket No. ER83-299-001, Public Service Co. of New Mexico
CAP-31. Docket No. ER83-114-001, Western Massachusetts Electric Co.
CAP-32. Docket No. EL82-21-001, Sacramento Municipal Utility District V. Pacific Gas and Electric Co., Southern California Edison Co. and San Diego Gas and Electric Co.
CAP-33. Docket Nos. ER81-400-001 and 002, Pennsylvania Power and Light Co.
CAP-34. Docket No. ER81-820-001, Public Service Co. of New Hampshire
CAP-35. Docket No. ER83-164-000, Iowa Public Service Co.
CAP-36. Omitted
CAP-37. Docket No. EL83-16-000, Louisiana Power & Light Co.
CAP-38. Docket No. EF83-4021-000, Southwestern Power Administration—Sam Rayburn Project
CAP-39. Docket Nos. ER82-80-000 and ER82-389-000, Public Service Co. of Oklahoma
CAP-40. Docket Nos. ER80-592, et al., Allegeheny Power System; Docket Nos. ER80-664-000, ER80-666-001, ER80-667-000, ER80-668-000, ER80-616-002, ER80-618-001, ER80-782-001, Wisconsin Power and Light Co.; Docket Nos. ER80-628-000 and ER80-586-000, Duquesne Light Co.
CAP-41. Docket Nos. ER76-827-000 and 001, ER77-427-000 and 001, ER80-5-000 and 004, Minnesota Power and Light Co.
CAP-42. Docket Nos. ER82-426-000, ER82-610-000 and ER83-115-000, Jersey Central Power and Light Co.
CAP-43. Docket No. ER82-743-000, Carolina Power and Light Co.
CAP-44. Docket No. ER82-751-003, Delmarva Power & Light Co.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM79-76-093 (Texas-18), High-Cost Gas Produced From Tight Formations
CAM-2. Docket No. RM79-76-154 (Texas-27), High-Cost Gas Produced From Tight Formations
CAM-3. Docket No. RM79-76-178 (Texas-35), High-Cost Gas Produced From Tight Formations
CAM-4. Docket No. RM79-76-179 (New Mexico-19), High-Cost Gas Produced From Tight Formations
CAM-5. Docket No. GP82-30-000, Railroad Commission of Texas, Natomas North America, Inc., Section 102 NGPA Determination, jones, No. 1 Well, FERC No. JD81-43076
CAM-6. Docket No. GP82-49-000, Railroad Commission of Texas, Section 108 NGPA Determinations, Shell Oil Co., Logsdon, C.W.-E-No. 1 Well, FERC JD No. 8211279, Logsdon, C.W.-E.-No. 3 Well, FERC JD No. 8206941, Steedman, L.A. No. 1 Well, FERC JD No. 8232812, University Block 9, Penn Unit No. 15 Well, FERC JD No. 8206936

Consent Gas Agenda

CAG-1. Docket Nos. RP76-94-014, 015 and 016, Texas Gas Transmission Corp.
CAG-2. Docket Nos. RP83-53-005 and RP83-53-000, United Gas Pipe Line Co.
CAG-3. Docket No. TA83-2-42-001 (PGA83-2 and IPR83-2), Transwestern Pipeline Co.
CAG-4. Docket No. TA83-2-33-001, El Paso Natural Gas Co.
CAG-5. Docket Nos. RP80-91-004 and RP80-93-000, Arkansas Louisiana Gas Co., a Division of Arkla, Inc.
CAG-6. Docket No. TA83-2-29-000 (PGA83-2a), Transcontinental Gas Pipe Line Corp.

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CAG–7. Docket No. TA83–2–28–000 (PGA83–3), Panhandle Eastern Pipeline Corp.
CAG–8. Docket No. 83–2–35–000 (PGA83–2), Peoples Natural Gas Co.
CAG–9. Docket No. TA83–2–55–000 (PGA83–2), Mountain Fuel Resources, Inc.
CAG–10. Docket No. TA83–2–56–000 (PGA83–2), Valero Interstate Transmission Co.
CAG–11. Docket No. TA83–2–9–000 (PGA83–2), Tennessee Gas Pipeline Co.
CAG–12. Docket No. TA83–2–32–000 (PGA83–3), Colorado Interstate Gas Co.
CAG–13. Docket No. TA83–2–58–000 (PGA83–2), Texas Gas Pipe Line Corp.
CAG–14. Docket Nos. CP81–477–000 and CP82–103–000, Migc, Inc.; Docket No. CP81–531–000, Mountain Fuel Supply Co., Docket No. CP81–472–000, Colorado Interstate Gas Co.
CAG–15. Docket No. RP83–79–000, Michigan Wisconsin Pipe Line Co.
CAG–16. Docket No. RP83–80–000, Ringwood Gathering Co.
CAG–17. Docket No. RP83–81–000, Montana-Dakota Utilities Co.
CAG–18. Docket No. RP83–82–000, Valley Gas Transmission, Inc.
CAG–19. Docket No. RP83–83–001, Border Gas, Inc.
CAG–20. Docket No. OR81–3–000, Loop, Inc.; Docket No. OR81–4–000, Locap, Inc.
CAG–21. Docket No. OR83–2–000, Coastal States Marketing, Inc. and Coastal States Trading, Inc. v. Texas-New Mexico Pipeline Co. and the Texas Pipeline Co., Operator
CAG–22. Docket Nos. RP78–68–015, RP80–121–010, RP81–81–005 and RP82–57–009, United Gas Pipe Line Co.
CAG–23. Docket No. RP83–8–000, Columbia Gas Transmission Corp. v. Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Docket No. RP83–19–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. v. Columbia Gas Transmission Corp.
CAG–24. Docket No. RP81–95–000, Pacific Interstate Transmission Co.
CAG–25. Docket No. RP82–137–000, Texas Gas Transmission Corp.; Docket No. RP83–4–000, Columbia Gas Transmission Corp. v. Texas Gas Transmission Corp.
CAG–26. Docket Nos. RP83–6–000, RP82–33–000, RP72–116, RP82–86–000, RP82–94–000, RP82–108–000, RP81–141–000 and RP83–13–000, El Paso Natural Gas Co.
CAG–27. Docket Nos. IS81–60–000 and IS82–25–000, Dome Pipeline Corp.
CAG–28. Docket No. ST80–299–001, Sugar Bowl Gas Corp.
CAG–29. Docket No. ST83–165–000, Tangram Transmission Co.
CAG–30. Docket No. CI83–146–001, Eugene Shoal Oil Co.
CAG–31. (A) Docket No. CS83–62–001, Lois D. Cannady; (B) Docket No. CI83–148–001, Oxy Petroleum, Inc.; Docket No. CI79–800–002, Northwestern Mutual Life Insurance
CAG–32. Docket No. CP83–134–002, Houston Pipe Line Co.
CAG–33. Docket Nos. CI75–633–003, 004, 005, and 006, et al., MRT Exploration Co., et al., Docket No. CP77–558–001, et al., United Gas Pipe Line Co.; Docket No. CP77–580–001, et al., Sea Robin Pipeline Co.
CAG–34. Docket No. CP82–368–001, United Gas Pipe Line Co.
CAG–35. Docket No. CP82–177–001, United Gas Pipe Line Co.
CAG–36. Docket No. CP65–379–000, Husky Pipeline Co.
CAG–37. Docket No. CP83–196–000, National Fuel Supply Corp.
CAG–38. Docket No. CP83–220–000, Houston Pipe Line Co.
CAG–39. Docket No. CP83–220–000, Houston Pipe Line Co.; Docket No. CP83–224–000, Oasis Pipe Line Co.
CAG–40. Docket No. CP83–269–000, Mountain Fuel Supply Co.
CAG–41. Docket Nos. CP83–213–000 and CP83–214–000, Northwest Pipeline Corp.; Docket No. CP83–251–000, the Washington Water Power Co.
CAG–42. Docket No. CP82–319–000 and CP82–319–001, Cities Service Gas Co.
CAG–43. Docket Nos. TA81–1–21–000 and TA81–2–21–000, Columbia Gas Transmission Corp.
CAG–44. Docket No. TA83–1–22–000 (PGA83–1, IRP83–1 and AP83–1), Consolidated Gas Supply Corp.
CAG–45. Docket Nos. RP82–116–000 and TA83–2–7–000, Southern Natural Gas Co.
CAG–46. Docket Nos. TA81–2–48–05 and TA82–1–48–003, Michigan Wisconsin Pipe Line Co.

I. Licensed Project Matters

P–1. Project No. 5951–000, Gordon Ravenscroft; Project No. 6660–000, Raleigh and Virginia Stevens
P–2. Omitted
P–3. Omitted
P–4. Omitted

II. Electric Rate Matters

ER–1. Docket No. ER78–417–000, Kentucky Utilities Co.
ER–2. Docket No. ER78–490–000, Ohio Edison Co.; Docket No. ER80–673–000, Ohio Power Co.
ER–3. Docket Nos. EF81–2011–000, EF81–2021–000 and EF82–2011–001, Bonneville Power Administration—System Power and Transmission Rates
ER–4. Docket No. PL83–4–000, Policy Statement Regarding the Commission's Enforcement Role Under Section 210 of the Public Utility Regulatory Policies Act of 1978

Miscellaneous Agenda

M–1. Docket No. RM81–41–000, Sales of Electric Power to the Bonneville Power Administration: Methodology and Filing Requirements
M–2. Reserved
M–3. Reserved
M–4. Docket No. RM83–64–000, Amendment to Notice and Protest Procedures for Oil Pipeline Tariff Filings
M–5. (A) Docket No. GP81–34–000, State of Ohio, Section 103 NGPA Determination, Charles O. Lighthizer, A. R. Crawford No. 1 Well, FERC No. JD79–6124, State Docket No. 2595, Marshall No. 1 Well, Ferc No. JD79–12527, State Docket No. 3903
(B) Docket No. GP83–9–000, State of Kansas, Section 102 NGPA Determination, TXO Production Corp., Cromer No. 1 Well, JD No. 83–03969, State Docket No. K–82–0899 Docket No. GP83–10–000, State of Mississippi, Section 107 NGPA Determination, Sun Exploration and Production Co., Sun Gas Division, Ross Beatty No. 1 Well, JD No. 82–52240
(C) Docket No. GP83–12–000, Kansas Corporation Commission, Continential Energy Co., Section 103 NGPA Determination, Stanley No. 1 Well, JD81–01760; Docket No. GP82–9–000, State of West Virginia, Section 103 NGPA Determination, Patrick Petroleum Corp., Jacob Daugherty No. 1 Well, FERC No. JD81–27387; Docket No. GP82–48–000, State of New Mexico, Section 103 NGPA Determination, Warren Petroleum Co. (a Division of Gulf Oil Corp.), Mark Well No. 8, FERC Docket No. JD79–16337
M–6. Omitted
M–7. Docket Nos. GP80–37–000 and GP80–83–000, Oklahoma Natural Gas Gathering Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted

II. Producers Matters

CI–1. Docket No. RI 73–60–006 and RI73–60–007, Mitchell Energy Corp.

III. Pipeline Certificate Matters

CP–1. Docket No. CP82–392–000, Natural Gas Pipeline Co. of America; Docket No. CP82–462–000, Florida Gas Transmission Co.

Kenneth F. Plumb,
Secretary.

[S–730–83 Filed 5–19–83; 3:38 pm]
BILLING CODE 6717–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 18, 1983.

TIME AND DATE: 10 a.m., Wednesday, May 25, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following.

1. Secretary of Labor *ex rel.* Bennett, *et al.* v. Emery Mining Corporation, WEST 80–489–D(A). (Issues include whether the A.I.J correctly calculated awards due to discriminatees).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5632.

[S 731–83 Filed 5–19–83; 3:38 pm]
BILLING CODE 6735–01–M

3

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held the following meeting on Tuesday, May 17, 1983, at 9:30 a.m. at 450 5th

Street, NW., Washington, D.C., to consider the following item.

Formal order of investigation.

The Commissioners, Counsel for the Commissioners and the Secretary of the Commission attended the closed meeting. Certain staff members who are responsible for the calendared matter were present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item considered at the closed meeting was considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Longstreth and Treadway voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2014.

May 18, 1983.

[S–729–83 Filed 5–19–83; 12:40 pm]
BILLING CODE 8010–01–M

4

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: June 6, 1983.

TIME: 10 a.m.–5 p.m.

PLACE: Cannon House Office Building, Room 311.

PURPOSE: To receive reports from several Commission subcommittees.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer, (202) 724–2914.

This meeting was called by the Commission Chairman, Mr. David R Jones.

Submitted the 17th day of May, 1983

Richard T. Jerue,
Chief Executive Officer.

[S–728–83 Filed 5–19–83; 10:39 am]
BILLING CODE 6820–BC–M

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Monday
May 23, 1983

Part II

Federal Home Loan Bank Board

Implementation of New Powers; Limitation on Loans to One Borrower; Final Rule

federal register

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 526, 541, 545, 555, 561, and 563

Implementation of New Powers; Limitation on Loans to One Borrower

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has implemented the new powers granted to Federal associations by the Garn-St Germain Depository Institutions Act of 1982 by issuing new regulations on public unit NOW accounts, demand deposits, commercial lending, and operating leases, and by amending its regulations on real estate lending, consumer loans, commercial paper and corporate debt security investments, investments in government securities, service corporation activities and limits on loans to one borrower. The Board has also made revisions to its regulations to permit certain suretyship and trust activities and collateralization of deposits. Further, the Board has revised Part 545 to permit Federal associations to engage in all activities authorized by statute subject to these regulations and to incorporate various technical amendments. These amendments expand the investment authority of, and services offered by, Federal associations.

EFFECTIVE DATE: May 26, 1983. Paragraph (i) of § 545.33 shall expire on December 31, 1983.

FOR FURTHER INFORMATION CONTACT:

General authority, Federal preemption, Election of classification, Government securities, Commercial paper and corporate debt securities, Service corporations: Wendy B. Samuel, Deputy Director, Policy and Projects Division, Office of General Counsel, (202) 377–6465

Consumer lending, Educational lending, Leasing, Overdraft loans, Title VIII notice: Robert S. Monheit, Attorney, Office of General Counsel, (202) 377–6466

Commercial lending, Letters of credit, Manufactured home lending, Loans-to-one-borrower limitations: Michael D. Schley, Attorney, Office of General Counsel, (202) 377–6444

Real estate lending: Neil R. Crowley, Attorney, Office of General Counsel, (202) 377–6417

Demand deposit accounts, Governmental unit NOW accounts, Suretyship, Passive trusts: Robert H. Ledig, Attorney, Office of General Counsel, (202) 377–7057

All other aspects not specifically listed above Wendy B. Samuel, (202) 377–6465, Deputy Director, or Peter M. Barnett, (202) 377–6445, Director, Policy and Projects Division, Office of General Counsel

SUPPLEMENTARY INFORMATION: The Garn-St Germain Depository Institutions Act of 1982 (DIA), Pub. L. No. 97–320, 96 Stat. 1469, signed into law on October 15, 1982, granted broad new powers to Federally chartered savings and loan associations and mutual savings banks (Federal associations). As part of an effort to strengthen home mortgage lenders and ensure the availability of mortgage loans and credit for other goods and services, the DIA amended the Home Owners' Loan Act of 1933 (HOLA), 12 U.S.C. 1461–1470, to permit Federal associations new authority to accept demand deposits, to offer NOW accounts to governmental units, to invest in time deposits in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation (FSLIC), to make commercial loans and to engage in leasing operations. The DIA also expanded the existing power of Federal associations to make real estate loans, to invest in governmental obligations and commercial paper and corporate debt securities, and to make educational and consumer loans. The Board implemented certain of these authorities by interim regulations which have remained in effect pending adoption of permanent regulations. Board Resolution No. 82–730 (November 4, 1982), 47 FR 51732 (November 17, 1982).

On December 16, 1982, the Board proposed to amend its regulations in order to implement fully these new powers. Borad Resolution No. 82–813 (December 16, 1982), 48 FR 2340 (January 19, 1983). In addition to incorporating the new powers specifically authorized by the DIA, the Board reconsidered existing regulations in light of the scope and purpose of the legislation, and accordingly proposed other new authorizations for Federal associations. These included the authority to collateralize deposits, to act as surety, to issue letters of credit and to engage in certain trust activities. The Board also proposed to expand the list of preapproved service corporation activities to include leasing and commercial lending. Lastly, the proposal included simplification, reduction and renumbering of the existing authority contained in Part 545.

Comment Summary

The Board received seventy-nine comment letters on the proposal. Forty-five commenters are FSLIC-insured institutions, ten are law firms, four are bank trade associations, five are thrift trade associations, four are other trade associations, three are savings and loan service corporations, and two are securities brokers. Comment letters were also received from a savings and loan holding company, a government corporation, an investment banker, an equipment lease marketing firm, an insurance company, and an unidentified lender. Generally, commenters supported the proposal, commending particularly the Board's quick response to the new statutory authority and the broad scope of the proposed implementation of these new powers. Many comment letters also contained suggestions or raised questions concerning particular sections of the proposal, and these will be discussed below in conjunction with the specific elements of this action.

General

Scope of Authority

Current Part 545 is based upon the premise that the investment authority of the HOLA must be implemented expressly by regulation. Many of the provisions of the statute, however, do not require regulatory action. In order to grant associations the maximum flexibility to exercise the authorities granted by the HOLA, the Board has determined to revise the general approach to regulating investment activities of Federal associations. Accordingly, Part 545 now addresses the authority of associations only to limit, interpret or recognize incidental authority. Federal associations may exercise all of the authority granted by the HOLA subject only to limitations contained in the regulations. Because this approach differs from the current treatment, these amendments to Part 545 include a section specifically stating that Federal associations may exercise all statutory authority subject to the limitations in this Part. The Board emphasizes that deletion of sections specifically implementing existing authority does not mean that any authority can no longer be exercised. In addition, to facilitate the transition to the new rules, § 545.3 provides that until December 31, 1983, associations may continue to rely on the regulations as they existed prior to adoption of these amendments.

Federal Preemption

The proposal included a new section stating specifically the Board's intent that these regulations preempt state law. The preemptive effect of the Board's

regulations has been amply recognized by the courts; it derives from and is an integral part of the Board's exercise of its authority under Federal law. Although a statement is unnecessary to give these regulations preemptive effect, the Board desires to make clear its views on the preemptive nature of the authority conferred on Federal associations by the HOLA and the Board's regulations.

Election of Classification

The Board has long taken the position that where a loan or investment meets the requirements of more than one authority, the association could elect to place it in any applicable category. The Board proposed to substitute a general codification of this position to replace specific election provisions contained in the regulations. The proposed section has been revised in light of comments requesting clarification, and has been expanded to include apportioning loans or investments among categories, and moving such items from one category to another. Also, the provision on collateral loans—authorizing associations to make loans secured by assignments of loans which the association could make or purchase—has been incorporated into this section.

One commenter suggested that the regulations should provide that a loan sold "without recourse" will nevertheless be counted toward investment limits if it is sold with an understanding that repurchase will be required in the event of an impairment in the borrower's credit standing. The Board believes no such amendment is necessary because such a loan sale would be treated as a "with recourse" sale for purposes of the regulation.

Another commenter suggested that associations should be given a reasonable period of time to divest assets that exceed percentage-of-assets limitations. This is in fact the present case; examiners and supervisory staff now permit divestiture of loans in violation on a schedule designed to avoid undue loses. The Board believes this case-by-case approach works well, and therefore refrains from inserting a specific time requirement in the regulation.

Liability Powers

Savings Accounts

Continuing the process of deregulating the issuance and maintenance of accounts by Federal associations begun by Board Resolution No. 82–193 (47 FR 13776 (1982)), the Board proposed to provide Federal associations with broad authority to structure their account-related operations. The final regulations modify the proposal by deleting sections that address matters within a Federal association's discretion as an account-issuing institution. The final regulations also include several substantive changes from the proposal which are discussed below. The Board believes that, as adopted, the regulations governing savings accounts will provide Federal associations with the management flexibility necessary to compete for funds subject only to the liquidity, insurance, and rate-control regulations that apply to all insured institutions.

Section 312 of the DIA (12 U.S.C. 1464 (b)(1)(A)–(b)(1)(B)) authorizes Federal associations to offer savings accounts for various periods of time, and demand accounts to the extent permitted by the Act. The proposal would have authorized Federal associations to issue insured accounts as permitted by their charters subject only to the provisions of the Bank System Regulations (12 CFR Part 526), the Insurance Regulations (12 CFR Part 563), and the regulations of the Depository Institutions Deregulation Committee (DIDC) (12 CFR Part 1204). Accordingly, the proposal deleted provisions regarding rates of return and renewal of fixed-term accounts that applied only to Federal associations.

The final regulation adopts the proposal in substance but deletes several provisions included in the proposal that are inconsistent with the general approach to Part 545 outlined above. Provisions concerning premiums, fees, sales commissions, determination date, small accounts, amounts withdrawn between distribution dates, duplicate evidence of accounts, debit cards, travelers' convenience withdrawals, and payments to third parties have been deleted as unnecessary restrictions on the flexibility of associations pursuant to the statute to develop savings instruments. Of course, provisions of Parts 526, 563, and 1204 will continue to apply to accounts issued by Federal associations.

The provisions governing account records in the proposal differed from the existing regulations (§ 545.2) in two respects. The signature card requirement was modified in favor of a more general provision, and the evidence-of-account provision was amended to codify an interpretation which permitted Federal associations to issue accounts in book-entry form. In the final regulations, the requirements relating to evidence of ownership and account forms have been combined and reference the corresponding provisions of the Insurance Regulations. The evidence-of-account provision has been modified to require that accounts must be evidenced by a written agreement with transactions confirmed by issuance of a receipt.

Two commenters expressed concern that aspects of the regulation did not conform to an association's authority to establish accounts in book-entry form. The Board does not believe that the regulations as adopted restrict the use of book-entry accounts. The evidence-of-account regulation, when applied to an account established in book-entry form by an agent, requires only that the association enter into a written agreement with the agent rather than with each party having a beneficial interest in the account. Similarly, when a party with a benefical interest in an account established in book-entry form by an agent transfers his interest to another individual, the underlying book-entry account is unaffected. Both commenters suggested that the Board consider at this time making changes in Part 564 of the Insurance Regulations to reflect the use of book-entry accounts and to conform to current industry practices. The Board declines to undertake such a revision without benefit of comments on a proposed regulation.

The current authorization for a Federal association to use an FDIC- or FSLIC-insured institution as a collecting agent is being amended to clarify that an institution may also act as a transfer and paying agent for the association. This will assist Federal associations in obtaining funds on a nationwide basis. The final regulation also amends the provisions governing payment of withdrawal requests by a Charter N association where the association does not pay such requests in full, to apply to all Federal associations. Pursuant to the reduction in the notice of withdrawal requirement contained in Section 312 of the DIA (12 U.S.C. 1464(b)(1)(C) from thirty days to fourteen days, the Board is adding a provision to conform to the requirements of the statute. The final regulation deletes proposed § 545.1–3(a) which relates to penalties for an early withdrawal from a certificate account and the right of a Federal association to prohibit such withdrawals. The right to impose a penalty or to prohibit an early withdrawal is encompassed in the general authority for associations to set terms and conditions for accounts.

Demand Deposit and NOW Accounts

The proposal restated the authority of Federal associations contained in section 312 of the DIA to offer demand accounts to persons or organizations that have a business, corporate,

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commercial or agricultural loan relationship with the association, or to a commercial, corporate, business or agricultural entity for the sole purpose of effectuating payments thereto by nonbusiness customers. The proposal defined a business, corporate, commercial or agricultural loan to include any loan other than a loan on a home occupied or to be occupied by the borrower, a loan to a natural person for personal, family, or household use, or a participation interest in such loans. A loan relationship was defined as an outstanding loan, a line of credit, or a previous loan and a reasonable expectation of a renewal of a lending relationship based on the usual and customary activities and needs of the borrower. One commenter expressed concern that the language of the proposed regulation does not expressly require the loan relationship to be more than *de minimis*. The Board takes this opportunity to state that it will expect associations to issue and maintain demand accounts only under circumstances that indicate that there is a bona fide loan relationship. The final regulation merely references the statutory authority of Federal associations to issue demand accounts but retains the interpretations of the terms "business, corporate, commercial, or agricultural loan" and "loan relationship." In accordance with the suggestion of one commenter, the Board has determined to include a finance lease as an outstanding loan for purposes of § 545.12(b).

The final regulation omits the authorization in the proposal for Federal associations to issue NOW accounts, since associations may offer NOW accounts pursuant to their authorization to issue savings accounts. The Board's interpretation of the statutory eligibility provisions for NOW accounts, which now extend to the deposit of public funds by a unit of a Federal, State or local government pursuant to section 706 of the DIA, is found in § 526.1(*l*) in the final rule.

Depositaries, Fiscal Agents and Suretyship

Proposed § 545.1–5 combined an existing regulation regarding public deposits and suretyship with one concerning the authority of Federal associations to act as depositaries and fiscal agents of the United States Government. The substance of both regulations was unchanged by the proposal. In response to a comment, § 545.16(c) of the final regulations has been clarified to provide that Board approval is not necessary in order for an association to serve, subject to regulation of the U.S. Treasury Department, as a depositary for Federal taxes, as a Treasury tax and loan depositary, or as a depositary of public money and fiscal agent of the Government. The proposal specifically requested comments on the authority of Federal associations to act as surety under proposed § 545.1–5(b)(3), particularly in regard to the procedures the Board should follow in reviewing requests to exercise this authority. One commenter suggested that associations be granted general authority to act as surety subject to the right of the Board to deny an association's application within ten days of receipt.

The Board is empowered by 12 U.S.C. 1464(b)(2) to act by regulation or in writing to authorize Federal associations to be surety as defined by the Board. Under the regulation in its proposed and existing form the Board had to approve individual suretyship applications. In view of the Board's experience derived from reviewing such applications and the likelihood that the number of applications will begin to increase, the Board has decided to authorize Federal associations expressly to enter into suretyship agreements, provided such agreements meet conditions developed through the Board's review of individual applications. The Board's primary concern is the protection of the association in the event that it is called upon to discharge its role as surety.

Accordingly, the Board has adopted § 545.103 which will govern the general suretyship activities of Federal associations. An association may act as surety subject to several restrictions. An association may enter into a suretyship agreement only if performance under the agreement would create an obligation authorized for investment by an association. The association's obligation under the suretyship agreement must be treated as a loan to its principal for purposes of Board regulations governing loans to one borrower and loans to affiliated persons. The association must maintain a security interest in qualified assets of its principal. Qualified assets may consist of real estate or marketable securities. If real estate, a qualified person designated by the association's board of directors must submit a signed appraisal showing the value of the property to be at least 110 percent of the association's obligation under the suretyship agreement. In determining compliance with the 110 percent requirement, the association must consider the value of prior mortgages, liens or other encumbrances on the property, except those held by the party for whose protection the suretyship agreement is made. If marketable securities, the association must provide for establishment and maintenance of the market value of the securities at a level at least equal to 110 percent of the association's obligation. When an association is required to meet its obligation under a suretyship agreement, the amount expended shall be treated as an extension of credit for purposes of percentage-of-assets limitations. Any pledge of assets by the association to secure its obligation must be made subject to the FSLIC right to purchase contained in § 563.8–2.

Funds Transfer

The proposed regulations included a section affirming the broad authority of a Federal association to transfer both its own funds and those of its customers. One commenter requested that the regulations include specific references to methods by which associations may effectuate transfers of their own funds. While the final regulation does not refer to an association's transfer of its own funds, the Board believes that an association may employ any mechanism or device conforming with applicable laws and established commercial practice with respect to its own funds under its incidental authority.

Net Worth Certificates

The proposal included new provisions regarding the issuance of stock and net worth certificates. The net worth certificate provision is retained in the final regulation along with an existing regulation concerning the issuance of mutual capital certificates. The issuance of stock, of course, is authorized by the charter of a stock association.

Collateralization of Deposits

The proposal included the elimination of the current prohibition on collateralization of savings deposits by Federal associations. Collateralization would be permitted provided that the collateral was subject to purchase by the FSLIC, pursuant to § 563.8–2, within thirty days of a notification of an association's default on the obligation, at a price to be set by sale or other means. The FSLIC right to purchase would not extend to liquid assets, as defined in 12 CFR 523.10, or to assets which would be liquid but for their remaining term to maturity. Proposed § 563.8–2 would apply to security given for Eurodollar deposits, borrowing, and savings deposits. Three commenters approved of the elimination of the prohibition on collateralization of savings deposits. One expressed the view that it would improve the ability of

Federal associations to attract deposits from entities acting in a fiduciary capacity. Another commenter supported proposed § 563.8–2 but suggested that the thirty-day period for FSLIC to exercise its right to purchase collateral be reduced to ten business days, based on a concern that the longer period could have an impact on the price an association would receive for collateral it had to sell.

The final regulation governing the authority of Federal associations to borrow and to give security eliminates the prohibition on collateralization of savings deposits and provides express authority for such activities, deleting the existing requirement of authorization by charter or in writing by the Board. The FSLIC right to purchase is adopted as proposed, and will also apply to collateral used by a Federal association to meet its obligation under a suretyship agreement. Upon consideration the Board has concluded that the protection of the insurance fund requires that the FSLIC continue to be permitted to have 30 days to exercise a right to purchase collateral that is not liquid or actively traded in organized markets.

Borrowing From State-Chartered Central Reserve Institutions

Both the existing and proposed regulations include a section concerning borrowing from a state-chartered central reserve institution, including a state mortgage finance agency. This provision is deleted by the final amendments. The restrictions on borrowing from state mortgage finance agencies are contained in 12 U.S.C. 1464(b)(3), with the exception of proposed § 545.4–1(e), which is a matter which is within the authority of the state mortgage finance agency. Federal associations will continue to be subject to the express provisions of the statute. The Board views borrowing from state-chartered central reserve institutions as an aspect of a Federal association's general power to borrow, contained in 12 U.S.C. 1464(b)(2) and implemented by § 545.20.

Remote Service Units

The Board did not propose changes in the remote service unit (RSU) regulation, but received two comments concerning this section. One commenter suggested that the definition of an "RSU account" should be expanded to include demand accounts. The Board has adopted this suggestion and has also provided that an RSU may not be used to open a demand account. Another commenter expressed several concerns about the current regulations. The commenter stated that the regulation precluded the use of personal security identifiers (PSIs) other than a personal identification number. The Board does not regard the regulation as prohibiting the use of other identification techniques. The final regulation does retain the prohibition on the use of a passbook as a PSI. The commenter requested that nonautomated telephone transfer systems be exempted from the requirement that an accountholder not be required to disclose a PSI to another person. The Board notes that this type of transaction is not subject to the RSU provision. The commenter also suggested changes in the provision of security for RSUs. The Board believes that the current regulation provides appropriate guidance and procedures for Federal associations. In response to a comment, the Board has clarified § 545.140(f) by providing that a Federal association may share an RSU controlled by a party not subject to examination by a Federal regulatory agency if that party agrees that the RSU is subject to examination by the Board. The final regulation also deletes the provisions regarding service charges and bonding because the Board believes there is no need to address these matters by regulation.

Passive Trusts

The proposal included an amendment to § 545.17–1 authorizing Federal associations to act as trustees having no active fiduciary duties, without obtaining Board approval under 12 CFR Part 550, provided that state law permitted other financial institutions to act in such a capacity. The Board regards this authorization to be incident to its power under 12 U.S.C. 1464(n)(1) to grant full trust powers to Federal associations. The Board received three comments supporting this proposal, and adopts the amendment as proposed. In accordance with this amendment, Federal associations in Puerto Rico may act as trustees for IRA-type accounts established under Puerto Rican law.

Issuance of GNMA-guaranteed, Mortgage-Backed Securities

The proposal included the existing section concerning the authority of Federal associations to issue and sell GNMA-guaranteed mortgage-backed securities. One commenter suggested that the provision be extended to apply to FNMA-guaranteed mortgage-backed securities. The final regulation deletes the existing section, since broad authority for Federal associations to deal in loans and to issue securities includes the issuance and sale of GNMA securities and the marketing of FNMA securities.

Correspondent Services

The correspondent services regulation was unchanged in the proposal. The Board received one comment suggesting that the regulation authorize associations to receive interest-bearing as well as noninterest-bearing deposits from correspondent institutions. In the final rule this provision has been deleted. The Board regards the HOLA as providing the implied authority for a Federal association to provide to other parties, primarily other depository institutions, services it would be authorized to generate in-house for itself in the course of its regular business. The Board also notes that two aspects of correspondent services have been expressly authorized by the DIA. Federal associations may accept either interest-bearing deposits, which may now be made by other Federal associations pursuant to Section 323 of the DIA (12 U.S.C. 1464(c)(1)(G)), or noninterest-bearing demand deposits pursuant to Section 312 of the DIA (12 U.S.C. 1464(b)(1)(A)). The Board has also deleted the provisions of previously existing § 545.9–2 which expressly permitted maintenance of accounts at institutions subject to state deposit insurance programs in conjunction with a correspondent relationship. This authority is inherent in the authority to maintain correspondent relationships.

Investment Powers

Real Estate Loans

Section 322 of the DIA provides that Federal associations may make "[l]oans on the security of liens upon residential or nonresidential real property" subject to a forty percent-of-assets limitation for investments in nonresidential real property. In implementing this provision, the Board proposed to define the terms "residential real estate" and "nonresidential real estate," to revise other definitions pertaining to real estate lending, and to reorganize and consolidate many of the remaining real estate lending regulations. The Board also proposed to retain the existing loan-to-value ratios, notwithstanding their deletion from the statute, for reasons of safety and soundness, but requested comment on whether the ratios were necessary. The Board further requested comment on whether a loan on the security of an interest in a time-share unit should be considered a real estate loan in those instances where state law gives the owner a fee simple interest in the real estate comprising the unit. The proposal included a Board ruling that would allow Federal associations to receive a portion of the

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interest on a loan in the form of a share of the income generated by the security property. The proposed ruling would have clarified those situations in which an association would be permitted to participate in the loan with a borrower without acquiring an equity interest in the security property. The proposal further made several other minor changes and generally solicited comment on all aspects of the Board's real estate lending regulations.

Definitions

In the final amendments, the Board has adopted the proposed definitions essentially unchanged, and has renumbered several sections to reflect the deletion of other definitions. "Residential real estate" (or "residential real property") is defined substantially the same as in section 5(c)(6)(A) of the HOLA (12 U.S.C. 1464(c)(6)(A)) and includes homes, multi-family dwellings, combinations of either of these and business property, farm residences, combinations of farm residences and commercial farm real estate, or property that will be improved by the construction of such structures. "Nonresidential real estate" (or "nonresidential real property") includes all other real estate.

Residential real estate includes "real estate used for primarily residential purposes other than a home (but which may include homes)," and "combinations of such real estate and business property involving only minor business use." This language includes those types of real estate that were defined in the previously existing regulations (12 CFR 541.16) as "other dwelling units," such as multi-family dwellings, structures (or parts thereof) designed or used as fraternity or sorority houses which include sleeping accommodations for students at a college or university, structures used primarily for living accommodations for students, employees, or staff of a college, university, or hospital, or for a nursing home or convalescent home. In light of the broad definition of residential real estate, the Board believes that the definition of "other dwelling unit" is no longer necessary and for that reason has deleted it from Part 541.

The amendments also revise § 541.3, "Combination of residential real estate and business property involving only minor or incidental business use" to reflect the deletion of the term "other dwelling unit" from the regulations. The substance of this definition has not been changed, but the Board has amended it to state that no more than twenty percent of the total "appraised" value of the property may be attributable to business use. This change makes clear that for such combinations of real estate the proper measure is the appraised value, rather than some other figure such as the income generated by the property. The amendments also adopt several other minor definitional changes as they had been proposed.

Authorization and General Provisions

The authorization for Federal associations to make real estate loans, § 545.32(a), is in substance the same as in the proposal. A Federal association may originate, invest in, sell, purchase, service, or participate in real estate loans subject to the limitations of the HOLA and Part 545. The final amendments expressly include the brokerage and warehousing of loans within the authority to "otherwise deal in" real estate loans in order to clarify that such activities are permissible. The final amendments also incorporate into the general provisions for real estate loans the regulations pertaining to appraisals and initial repayments, formerly 12 CFR 545.8–5(a), 545.8–8 (1982). The substance of these provisions is essentially unchanged and they have been moved in order to consolidate the general requirements that apply to all real estate loans into one section.

In addition, the amendments allow an association to adjust the interest rate, payment, balance, or term to maturity on a real estate loan (other than a home loan secured by borrower-occupied property) to the extent permitted by the loan contract. The Board's most recent amendments to the real estate lending regulations imposed limitations on the adjustments that an association could make on any home loan. 12 CFR 545.6–2(a)(2) (47 FR 36612 (1982)). The final amendments provide that only those home loans that are secured by borrower-occupied property are subject to the regulatory limitations on adjustments which are discussed below. For all other real estate loans, adjustments are a matter to be negotiated and incorporated into the loan contract. The amendments also allow the receipt of interest in the form of a share of the appreciation of the security property or a share of the income generated from the property, as permitted by the new Board ruling at § 555.19.

Security Property

The proposal enumerated three instances in which a loan would be considered to be secured by a lien on real estate. In conjunction with this issue the Board asked for comment on whether it would be appropriate to include within the real estate lending authority loans on the security of time-share units where under state law the borrower has a fee interest in the unit, rather than merely a right to use the property. Previously, loans on a time-share unit were authorized only as consumer loans. Most commenters supported this proposal, but suggested that the loans be allowed to the full value of the unit and all incidental benefits rather than the borrower's *pro rata* share of the market value of the real estate, as had been proposed.

In the final amendments the Board has revised the prior regulation in order to make clear what is required for a loan to be secured by real estate. As adopted, § 545.32(c) provides that a loan will be considered to be secured by real estate if: (1) the security property is real estate under state law, (2) the association's security interest may be enforced as a real estate mortgage or its equivalent under state law, (3) the security property is capable of being separately appraised, (4) the association relies substantially on the real estate as primary security for the loan, and (5) if the security property is a leasehold or another interest for a term of years, it must extend or be subject to extension at the option of the association for at least five years beyond maturity of the loan.

Under the revised regulation, an association may make a real estate loan on the security of a time-share unit if the security property is real estate under state law. This is broader than the proposed rule, which would have required a fee interest. The Board believes that the proposed language was unnecessarily restrictive in excluding property interests other than a fee simple where the interests are real estate and extend for at least five years beyond the maturity of the loan. By requiring that the security property be real estate that is capable of separate appraisal, the Board intends that those rights and benefits that do not constitute real estate interests but are included in the price of a unit are not to be considered part of the security property. To the extent that an association makes a loan, consistent with its applicable loan-to-value ratios, on the basis of a unit's purchase price, the part of the loan balance attributable to non-real estate factors may be made only as a consumer loan. The Board believes that this restriction is necessary because real estate loans, by statute, must be secured by real estate. Thus, any part of a loan that is used to finance any facilities in which the borrower's interest does not meet the requirements of § 545.32(c) may not be included as part of the real estate loan.

Loan-to-Value Ratios

The Board had proposed to retain loan-to-value-ratio requirements for all real estate loans but also requested comment on whether the ratios are necessary. Most commenters favored the elimination of regulatory loan-to-value requirements so that Federal associations could make real estate loans as they deem prudent. After considering the issue, the Board has determined that loan-to-value ratios are an important part of the underwriting process and that they should be retained in some form. The Board also believes, however, that associations are capable of establishing their own underwriting standards, including their loan-to-value ratios. Accordingly, the Board has deleted the regulatory loan-to-value ratios for loans on the security of real estate. In lieu of the former requirements, the Board is requiring associations to establish loan-to-value ratios for real estate loans, subject to certain conditions.

The final amendments provide that at the time of origination a real estate loan may not exceed 100 percent of the appraised value of the security property. Prior to the expiration of the transition period for these amendments, an association's board of directors must establish loan-to-value ratios for all types of real estate loans that it makes, and the resolution adopting the ratios must be included in the minutes of its meeting. An association may establish the ratios at any percent of the initial appraised value of the security property. Home loans made on the combined security of real estate and savings accounts may be made in excess of the ratios adopted by the association if the excess is secured by the funds in the account and the funds belong to the borrower, his family members, or his employer. The substance of this exception derives from the former provision on pledged-account loans, 12 CFR 545.6–2(a)(5) (amended 47 FR 36612 (1982)), which has been deleted as unnecessary in light of these amendments. Loans originated in excess of 90 percent of the property's value must comply with certain requirements.

For home loans originated in excess of ninety percent of the initial appraised value, an association must obtain private mortgage insurance for that part of the loan balance that exceeds eighty percent of the property's value. In addition, for all other loans on the security of real estate that are originated in excess of ninety percent of value, the board of directors must review and approve each loan prior to its origination and the board's approval must be included in the minutes of its meeting. For purposes of determining compliance with the loan-to-value ratios, the amendments provide that "value" includes only the current appraised value of the real estate securing the loan. This effectively excludes other benefits that may constitute part of the market value of the real estate, such as in the case of a time-share unit. The Board believes that this limitation is necessary in order for the loan to be considered secured by real estate, which is required by 12 U.S.C. 1464(c)(1)(B).

The Board's intent in amending the loan-to-value regulations is to provide associations with more flexibility in establishing their underwriting standards, to the extent that they are consistent with safe and sound lending practices. The Board believes that the prior approval of each real estate loan (other than a home loan) originated in excess of ninety percent, will enable the directors to evaluate the prospective loan, thereby ensuring that the security property and the income generated by it will be sufficient to protect the association's financial interest. The requirement for private mortgage insurance on home loans allows associations to make loans with high loan-to-value ratios, yet also provides protection against the increased risk of default that is associated with such loans. Statistically, home loans for which a borrower has little or no equity in the security property have a greater incidence of default than do loans for which the borrower has some equity at stake.

The final amendments further provide that the loan-to-value ratios established under these amendments may not exceed 100 percent of the value of the security property. If an association originates a loan secured by real estate in excess of 100 percent of the property's value, the excess portion must be made under another source of an association's investment authority, such as that conferred by 12 U.S.C. 1464(c)(1)(R) to make unsecured loans. Such a loan would, of course, also require prior approval of the association's directors.

Subsequent to origination, the loan-to-value ratio on a home loan may increase above 100 percent of the appraised value of the security property if the increase is due to an adjustment authorized by paragraph (c) or (e) of § 545.33. The loan-to-value ratio may not exceed 125 percent as a result of such an adjustment unless it does so pursuant to paragraph (e)(2)(i) of § 545.33, or unless the loan contract provides for payment adjustments at least once every five years, beginning not later than the tenth year, that are sufficient to amortize the loan over the remaining term. This is unchanged from the previous regulations. For all other loans on the security of real estate, the loan-to-value ratio may at no time exceed 100 percent as a consequence of any adjustments.

Home Loans

General. Section 545.33 of the regulations defines a home loan as one made on the security of homes, including a unit of a condominium or cooperative, combination of homes and business property, farm residences, and combinations of farm residences and commercial farm real estate, and states the applicable limitations. The existing maximum term of 40 years for a home loan has been retained, as has the requirement for semi-annual payments of interest, except as expressly authorized. Home loans must be repaid in semi-annual installments, except for those loans that are nonamortized (*i.e.*, interest-only loans) or that are line-of-credit loans. Nonamortized loans, by their nature, require no repayments of principal until maturity and the Board has expressly excluded them in order to clarify its position with respect to questions that have arisen about repayment of principal on such home loans.

In response to comments on the matter of repayments of principal, the Board is amending the regulations pertaining to the loans on the security of farm residences and combinations of farm residences and commercial farm real estate. Borrowers that obtain such loans often receive their income on an annual basis concurrently with their crop sales. The Board believes that associations providing services to this type of borrower should have the flexibility to structure the loan repayments to meet the ability of these borrowers to pay. Accordingly, § 545.33 expressly authorizes home loans to such borrowers to be repaid in at least annual installments.

Section 545.33 of the final amendments states that a home loan may be fully amortized (principal payments made over the term of the loan), partially amortized (balloon loan), nonamortized (interest-only), or a line-of-credit loan (either open-end or closed-end). In addition, the loan contract may provide for negative amortization of a portion of the interest, or of all interest on a loan such as a reverse annuity mortgage. The

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substance of these provisions is unchanged from the Board's prior regulations. As provided in § 545.33(b)(3), an association may also receive part of the consideration for making a home loan in the form of a share of the property's appreciation since origination or as allowed by the Board ruling at § 555.19.

Loan-to-Value Ratios. Section 545.33(d) sets forth the loan-to-value provisions that are applicable to home loans. The regulation refers to § 545.32 and states that at origination the ratio may not exceed that adopted by the association pursuant to § 545.32. During the loan term the ratio may increase above the limits if the increase is due to an adjustment permitted by § 545.33 (c) or (e). The ratio may not increase above 125 percent of the original value of the security property as a result of such adjustments, unless the increase is authorized by paragraph (e)(2)(i) of this section or unless the contract provides for subsequent adjustments that will be sufficient to amortize the balance over the remaining term. These provisions have been retained unchanged in substance from the prior regulations. The final amendments nave also retained unchanged the provision authorizing associations to refinance a home loan if the loan balance exceeds otherwise applicable loan-to-value ratios due to adjustments made to the loan.

Adjustments. In August 1982, the Board amended its real estate lending regulations by allowing adjustments to the terms of home loans subject to certain conditions. 12 CFR 545.6–2(a)(2) (47 FR 36612 (1982)). Although these regulations have been in effect since August 16, 1982, associations have had the option of using the regulations in effect prior to that date during the transition period, which was extended in January 1983 to the later of June 30, 1983 or the adoption of these amendments. Since August, the Board has had the opportunity to review these provisions and now believes that it is not necessary to apply these restrictions to loans made to developers and investors simply because the security property is a home. The adjustment limitations are most necessary when the loan is secured by the borrower's residence and, accordingly, the final amendments provide that only for such home loans must the adjustments to the interest rate, payment, balance, or term be made in compliance with the provisions of § 545.33(e). As before, an association may contractually impose further limits on its right to make adjustments and may decrease the interest rate at any time.

The Board has retained the requirement that interest rate adjustments must correspond directly to the movement of an interest rate index or of an index that measures the rate of inflation or the rate of change in consumer disposable income. The final amendments also specify that the inflation or consumer income index may be either a regional or national index, in order to be consistent with the similar provision in paragraph (e)(2) of the same section. In addition, the rate may be increased pursuant to a formula or schedule in the loan contract that specifies the amount of the increase and the time at which it may be made. The question has arisen as to whether an association may make a loan on which the interest rate may be fixed for an initial period (typically below market rates) and, following that period, adjusted periodically to correspond to the movement of an index. In this case, the amount of the increase set forth in the loan contract is the difference between the initial rate and the index value (or some other value determined with reference to the index) at the end of the initial period. In substance, such a loan is nothing more than a combination of a formula or schedule of adjustments with adjustments that correspond to the movement of an index. Accordingly, an association may make such a loan if each type of adjustment complies with the applicable regulatory restrictions.

Under the former regulations for adjustable mortgage loans, 12 CFR 545.6–4(a)(1982), an association was required to adjust the interest rate by calculating the difference between the initial index value at origination and the index value at the adjustment date, and adding or subtracting that difference to the initial loan interest rate. An association may continue to use this method of calculation if it desires to do so for any reason, such as for facilitating sale in the secondary market. The amendments, however, require only that the change in the loan interest rate correspond directly to the movement of the index.

The remaining limitations on adjustments to home loans are in most respects unchanged from the proposal and the prior regulations. Section 545.33(e)(2) has been amended by including a provision pertaining to line-of-credit loans. Under the amendments of August 1982, a Federal association may make line-of-credit loans secured by a lien on a home. Adjustments to the payment or balance of a home loan that did not reflect an interest rate adjustment, however, could only be made in two specified instances. Furthermore, an association must give notice of any adjustments to the rate, payments, balance, or term. These provisions have hindered the ability of Federal associations to make line-of-credit loans on the security of a home.

As amended, the final regulations provide that adjustments to the payment or the balance that do not reflect an interest rate adjustment also may be made if the adjustments reflect an advance taken by a borrower under the line of credit. Where a borrower draws funds under an open-end line-of-credit loan secured by a home, the outstanding balance and the payments needed to repay the loan within the amortization period must necessarily change correspondingly. The amendments simply allow such adjustments in order to facilitate these types of loans.

In this context, the Board is also amending § 545.33(e)(4), regarding notice of adjustments, to provide that notice of an adjustment to the payments or balance need not be given if the adjustment reflects an advance taken by a borrower under an open-end line-of-credit loan. Similarly, notice of a change in the interest rate and any resulting changes in the payment need not be given on such a line-of-credit loan. Such loans would, of course, continue to be subject to Truth in Lending regulations, 12 CFR 226.1–226.29 (1982) and the Board's disclosure requirements.

The final rule also relocates two provisions that had formerly been included within the section limiting adjustments on home loans. Under § 545.32(b)(3) of the final amendments, the Board allows associations to make shared appreciation loans and to take as part of their consideration on any real estate loan a share of the income from the property, as permitted by the Board ruling at § 555.19. Because this provision contains no limitations on an association's authority, as do the other provisions pertaining to home loans, the Board believes that it should be incorporated as part of the general provisions in § 545.32 which apply to all real estate loans. The final amendments have also included the authorization for deferral and capitalization of interest on a home loan with the other general provisions regarding amortization on a home loan. This provision applies to all home loans and thus should no longer be included with limitations on adjustments that apply only to loans secured by borrower-occupied property.

Disclosure. In August 1982, the Board revised its real estate lending regulations and made the disclosure

provisions applicable to all home loans. 12 CFR 545.6–2(a)(7) (47 FR 36612 (1982)). Prior to that time the disclosure requirements for home loans applied only to specific types of adjustable mortgage instruments. A number of commenters have suggested that these disclosures mandated by the August amendments are unnecessary for standard fixed-rate mortgages and that they are unworkable in practice. Since the most recent amendments, the Board has had the opportunity to assess this issue and has decided to revise further the disclosure requirements.

Under the final amendments, disclosures must be given only for home loans that are secured by property occupied or to be occupied by the borrower. In addition, the amendments provide that for a standard fixed-rate loan an association need only disclose information about loan provisions pertaining to a due-on-sale clause, prepayment penalty, late charge, and escrow account. The remaining disclosure requirements, which are substantially the same as in the August amendments, apply only to adjustable home loans.

The Board believes that the full disclosures formerly required for all home loans are not necessary for standard fixed-rate home loans. The general public is more familiar with this type of instrument and is more likely to understand the manner in which it works. Furthermore, much of the information required to be disclosed about fixed-rate loans under the prior regulations is also included in the Truth in Lending disclosures that Federal associations provide in compliance with Regulation Z (12 CFR 226.1–226.29 (1982)). The Board believes that as a result of these changes, applicants most in need of the protection afforded by mandatory disclosure—those whose homes are to be used as security—will receive it, while associations will be able to establish their own disclosure practices with regard to other applicants, such as investors and developers. This will also ease the administrative burden on associations somewhat by reducing the number of applicants that must receive the disclosures.

All Home Loans Secured by Borrower-Occupied Property. Under the final amendments there are two categories of information that must be disclosed: that which is required for all home loans secured by borrower-occupied property, and that additional information which is required for adjustable loans (*i.e.*, any loan other than one that is fully amortizing and on which the interest rate, balance, term, and the amount of the payments are fixed). Under the first category an association must disclose the existence of a due-on-sale clause in the loan contract and the rights of the association under the clause. In a separate resolution, the Board is also adopting a new Part 591, which implements section 341 of the DIA and governs the use of a due-on-sale clause (*See* Res. No. 83–242; April 26, 1983).

Late charges and prepayment penalties also are in the first category of information. The Board has amended its regulations to allow an association, subject to certain conditions, to impose such a charge or penalty as provided in the loan contract. (*See* § 545.34 of these amendments). The Board believes that in the absence of substantive limits on the authority to impose these charges an association should disclose to the loan applicants the substance of the contractual provisions authorizing the charges or penalities. Such disclosure must include the amount of the charge or penalty or, if the amount may not be determined at the time of disclosure, the manner in which the charge is to be calculated.

If the penalty or charge may vary—*i.e.*, is to be calculated on the basis of the movement of an index—an association must also disclose a reasonable estimate of the minimum and maximum amounts that may be assessed for a loan of the same type and comparable initial principal balance as that of the borrower. By this the Board intends that a prospective borrower should have an understanding of the possible magnitude of the penalty that may be incurred on prepayment of the loan. If there is no limit in the loan contract as to the maximum penalty that may be assessed, the disclosure must state that there is no limit and that the penalty may increase to any degree allowed by the index. The Board is aware that where a loan contract includes an interest-rate-sensitive prepayment penalty it is not possible beforehand to state precisely the amount of the penalty that may be assessed. Accordingly, the regulation permits the use of reasonable estimates and an association may comply with this requirement by providing an example of the size of the increases that may occur under the penalty provision for a comparable loan.

The final information that must be disclosed under this first category concerns escrow payments. The former provisions, 12 CFR 545.6–3(b) (47 FR 36612 (1982)), specified in detail the limitations applicable to such accounts, and largely restated the provisions of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C 2601–2617) ("RESPA"). The Board proposed to simplify this regulation by only referencing the requirements of RESPA. In the final amendments the Board has decided to remove the substantive provisions pertaining to escrow accounts, allowing such matters to be governed by the loan contract, and in their place require a more detailed disclosure about the accounts. Of course, associations will remain subject to the requirements of RESPA in addition to the Board's regulations and, if consistent with that statute, may require escrow accounts to the extent agreed to in the loan contract.

If the loan contract requires escrow accounts, the association must disclose this fact. It must also disclose the purpose served by the accounts (*i.e.*, what the funds are used for), how the amount of the escrow payment is determined, and the rights of the association in the event that the borrower fails to make the escrow payments (*i.e.*, the right to deduct the amounts from the monthly payment). The Board believes that the provision of this information will adequately apprise the applicant of the amount and types of payments that must be held in escrow. In light of this disclosure and the provisions of RESPA, the Board believes that the existing provisions on escrow accounts are no longer necessary and for that reason has deleted them.

Adjustable Home Loans. The second cateogry of information that must be disclosed applies only to home loans on the security of borrower-occupied property that are adjustable in some way. The amendments exclude from this requirement those loans that are fully amortizing, and on which the interest rate, balance, payments, and term are fixed at origination. The information required to be disclosed under this paragraph is substantially the same as under the August 1982 regulations. The Board has made some amendments, however, to clarify further the disclosure requirements and to make them consistent with the remaining disclosure provisions.

Under the disclosure regulations adopted in August 1982, an association was required to disclose a "description of all contractual contingencies under which the loan may become due or which may result in a forced sale of the home." This language caused some uncertainty about exactly what information must be disclosed. As a result, there has been a lack of uniformity in the types of information

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being received by prospective borrowers. The final amendments clarify this language by excluding from this requirement the standard default provisions that arise "from the borrower's breach or nonperformance of an obligation under the loan contract or mortgage." The Board believes that compliance with this provision will not be unduly burdensome because most mortgage instruments contain relatively few such provisions. For example, this paragraph would require disclosure of provisions in a contract for a reverse annuity mortgage under which the outstanding loan principal may become due and payable as a result of the borrower's death, upon maturity of the loan, or upon a failure to maintain the security property.

The prior regulations also required disclosure of how an association "establishes an amortization schedule for the loan". In attempting to comply with this requirement, some associations have provided borrowers with such information as a mathematical formula according to which the loan amortizes. This clearly conflicts with the general requirement that the information must be in plain language and must convey an understanding of how the loan provision operates. To clarify this matter the Board has amended the wording of this provision. Thus, an association must disclose how the amount of the payment relates to, and is determined by, the initial balance, the interest rate, and the term to maturity. The Board intends that the concept of amortization, not the mathematics of it, be disclosed so that the borrower will understand generally that the monthly payment depends on the other factors. To the extent that adjustments to any of the factors affects the amortization of the loan, that effect should also be explained. The provision requiring disclosure of the proportion of each payment that is credited to interest has been deleted from the second category of information because the requirement pertains generally to all types of loans, not just adjustable loans.

Timing. Under the August 1982 amendments, the disclosures were required to be given "[p]rior to accepting an application for a loan." Because this language has proven susceptible to varying interpretations, the final amendments clarify the time at which disclosures must be given. The disclosures must now be given within three business days after receipt of a written application. By adopting this time frame, the Board intends that borrowers will receive adequate information about their loans before becoming obligated on the loan contract. In addition, this time frame will make compliance with the disclosure requirements less burdensome because associations will be able to provide the information within the same maximum time limit, three days, as is required for most mortgage loans under the Truth in Lending regulations, 12 CFR 226.1–226.29 (1982), to which associations are also subject. The Board does not intend to require unnecessary duplication of disclosure material. Accordingly, if information given in compliance with some other authority conveys the information required by the Board, it may be considered as part of the Board's disclosure if given within the required time frame.

One issue raised in the comments was whether purchased loans must conform with the Board's disclosure requirements. Purchased loans may be originated by lenders not subject to disclosure requirements or subject to different disclosure requirements. It has long been the view of the Board that a Federal association may puchase only those loans that it may make itself. However, in order that the Board's disclosure requirements do not hinder an association's ability to participate in the secondary market, the Board has decided to permit an association to purchase home loans without regard to compliance with the Board's disclosure requirements for loan originations in certain circumstances.

The final amendments provide that the disclosures must be provided for loans originated by Federal associations, for loans purchased from an affiliated entity, and for loans purchased under a business arrangement to purchase loans not yet originated. The Board believes that this provision will allow associations to participate in legitimate secondary market transactions without creating the risk that they will circumvent the disclosure requirements by purchasing their loans from entities not subject to the Board's regulations.

As noted in § 545.3, the home lending provisions are subject to the transition period stated in § 545.33(i). The Board is establishing this separate transition period, which closes contemporaneously with the period stated in § 545.3, in order to prevent any confusion that may arise from the overlap of a transition period for the most recent amendments to the home loan provisions.

Effective August 16, 1982, the Board substantially amended its home lending regulations (12 CFR 545.6–2(a) (47 FR 36612)), and provided that between that date and December 31, 1982 Federal associations could make home loans pursuant to either the August amendments or the home lending regulations as constituted prior to that date. (12 CFR 545.6–2(a), 545.6–4, 545.6–4a, 545.6–b (1982)). The Board subsequently extended this transition period to the later of June 30, 1982, or final Board action on these amendments. Board Resolution No. 83–42 (48 FR 3584 (1983)).

These amendments become effective on May 26, 1983. Until that date associations may, or may commit to, make, purchase, participate, or otherwise deal in home loans pursuant to either the regulations as they were constituted prior to August 16, 1982 (12 CFR 545.6–2(a), 545.6–4, 545.6–4a, 545.6–4b (1982)) or the regulations as amended effective August 16, 1982. (12 CFR 545.6–2(a) (47 FR 36612)). As of May 26, 1983, and until December 31, 1983, an association may, or may commit to, make, purchase, participate, or otherwise deal in home loans pursuant to either the regulations as constituted prior to August 16, 1982. (12 CFR 545.6–2(a), 545.6–4, 545.6–4a 545.6–4b (1982)), or these amendments. (12 CFR 545.33) The home lending regulations that became effective on August 16, 1982 (12 CFR 545.6–2(a) (47 FR 36612)) have been subsumed into these amendments and the authority to make home loans pursuant to the August amendments shall cease as of May 26, 1983.

General Provisions for Loans Secured by Owner-Occupied Home

In the final amendments the Board has adopted a new § 545.34, "Limitations for home loans secured by borrower-occupied property," which concerns due-on-sale clauses, late charges, loan payments, and prepayment penalties for such loans. The substance of these provisions had formerly been part of the proposed § 545.6–7, which also included provisions regarding initial fees and charges, loan contract provisions, escrow accounts, and appraisal. As part of its efforts at deregulation, the Board has deleted a number of these provisions as being unnecessary, and has moved others to more appropriate sections of the regulations.

The Board has deleted from the proposed § 545.6–7 paragraph (a), pertaining to initial fees and charges, parts of paragraph (b), pertaining to loan contract provisions, escrow accounts, late charges, and loan payments. In the final amendments the Board has replaced much of the substantive provisions on escrow accounts, late charges, and prepayment penalties with expanded disclosure requirements. (*See* § 545.33(f) of these amendments). As explained above, the Board believes that the increased disclosure obviates the need for most of the substantive limitations in the prior regulations. The Board has, however, retained some of the limitations on late charges and prepayment penalties, and, in a separate resolution, has adopted a new Part 591, which pertains to due-on-sale clauses (*See* Res. No. 83–242; April 26, 1983).

In essence, an association may include a provision in the loan contract imposing such a charge or penalty as a matter of negotiation with the borrower, provided it complies with certain requirements. For late charges the limitations are in substance unchanged from the previous regulations, with the exception that the association must comply with the disclosure requirements for borrower-occupied home loans.

With respect to prepayment penalties, an association may impose a penalty if the loan contract provides for one and if the provision is disclosed pursuant to § 545.33(f). If the interest rate on a home loan may be adjusted, an association may not impose a prepayment penalty within ninety days of notice of an adjustment. The Board believes that if an association may adjust the interest rate and payments on a home loan to keep pace with market rates of interest, the borrower should have a limited period following notice of the adjustment within which to prepay without penalty. On a traditional fixed rate mortgage instrument such a grace period would not be necessary, though disclosure of the penalty provision would be required.

The final amendments also provide that an association may include a due-on-sale clause in its mortgage instruments. Section 341 of the DIA and the new Part 591, concerning preemption of state due-on-sale prohibitions, are also referenced. This reiterates the Board's long-standing position on this issue.

Multi-Family Dwellings and Nonresidential Real Estate

The DIA deleted the statutory requirement that loans on the security of nonresidential real estate must be secured by a first lien, and allowed investment in such property to forty percent of an association's assets. The Board implemented these changes on an interim basis and incorporated them into the proposal. In the proposal the provisions pertaining to multi-family dwellings and nonresidential real estate loans were nearly identical, with the exception that construction loans for the former property were repayable within six years, and for the latter within five years. Because these types of loans are so similar, the Board has decided to consolidate the prior provisions into one section. Accordingly, the loan-to-value-ratio requirements for each of these types of loans may not exceed the limits established by the association's directors. If the loan exceeds ninety percent, however, it must also be approved by the directors. The loan term may not exceed thirty years, except that nonamortized loans (*i.e.*, interest-only loans) must be repaid within five years.

The final amendments have also changed from five years to six years the time within which construction loans on nonresidential real estate must be repayable, making the period the same as for multi-family dwelling construction loans. The amended regulation requires semi-annual payment of interest, except to the extent that the loan contract provides for negative amortization. The ratio of the loan balance to the initial appraised value of the property, however, may not exceed 100 percent as a result of any negative amortization. The provisions of § 545.32 also apply to all loans made under this section.

Loans To Acquire or Develop Real Estate

The Board proposed to consolidate into one provision the investment limitations pertaining to loans for the acquisition on development of real estate, loans on the security of building lots and sites, and loans for the construction or rehabilitation of real estate. Previously, most of these provisions had applied only to loans on the security of residential real estate.

In the final amendments these provisions apply to all loans on the security of real estate. In addition, the final amendments include a statement that the term "building lots and site" may include a lot on which a manufactured home will be located. The prior regulations were unclear about whether associations could make such loans secured only by the land on which a manufactured home was to be located. The amendments clarify this by allowing associations to make loans on the security of a manufactured home site to the same extent that they may make loans on the security of lots or sites to be used for the construction of homes or other structures. Any such loan must comply with the loan-to-value limitations adopted by the association and the maximum loan terms (15 years for lots on which the borrower will have his principal residence and six years for other lots), that are applicable to loans on lots and sites generally.

With one change, the Board has adopted that part of the proposal that pertained to the maximum permissible loan terms for construction and rehabilitation loans, loans (other than for an individual residence) on the security of lots and sites, loans to finance the development of real estate, and combination loans. The amendments have deleted the provisions allowing extensions of the loan term for these loans, and have increased the length of the maximum terms by the amount of the extension formerly permitted for the respective types of loans. In order to provide parity for nonresidential real estate loans and multi-family dwelling loans, the Board has increased the maximum term for construction and rehabilitation loans on the security of nonresidential real estate from five to six years, as is permitted for loans for the construction or rehabilitation of multi-family dwellings.

Combination Loans

The Board had proposed to simplify the method required to be used in amortizing the outstanding principal balance by requiring calculations to be made on a straight-line basis, rather than at a rate of 1½ percent. The final amendments adopt this part of the proposal unchanged.

The proposal also would have required that the proceeds of any combination loan be repaid at the end of the third year following initial disbursement if the development or construction to be financed with the proceeds had not commenced by that time. The Board's intent in proposing this provision was to prevent associations from using their authority to make combination loans as a means of making loans for the acquisition of land with terms that would exceed the three years permitted for such loans. The Board has clarified this provision in the final amendments. It provides that for a combination loan that includes the acquisition of land, the loan contract must provide that any development or construction that is to be funded by the loan must commence no later than the end of the third year. If no development or construction is intended within this time, the loan is essentially equivalent to one for the acquisition of unimproved land and should be subject to the limitations for that type of loan.

The proposed amendments would have required repayment within eleven years of combination loans for construction, inclusive of acquisition and/or development of land. The substance of the proposal was unchanged from the existing regulations,

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but the Board has clarified the language somewhat to indicate that where the loan pertains to a single-family dwelling that is to be used as the borrower's principal place of residence, the maximum term may be forty years, which is the maximum term permitted for home loans, plus the period allowed by this section.

Leeway Authority

The proposed amendments made no substantive changes to an association's leeway authority to invest in nonconforming loans. The final amendments have deleted this provision from the Board's regulations. The Board believes that the prior regulatory language, which in large part simply restated the provisions of 12 U.S.C. 1464(c)(3)(C), is unnecessary and that associations desiring to make such loans may simply refer to the statute, which was amended by the DIA by deleting section 1464(c)(3)(D). The Board has also included within the disclosure requirements a statement that an association making a home loan secured by borrower-occupied property must also comply with the applicable disclosure provisions.

Insured and Guaranteed Loans; Home Improvement Loans

In the proposal, the various regulatory provisions pertaining to investment in insured and guaranteed loans were consolidated into one section without substantive changes. In the final amendments the Board has condensed these provisions considerably in order to simplify them. Under § 545.38 an association may, without regard to any other limitations in Part 545, invest in any loan on the security of residential real estate if the loan is insured or guaranteed by an agency or instrumentality of the Federal government, or if it is insured or guaranteed by a state where either the full faith and credit of the state supports the insurance or guarantee, or the state program is approved by the Federal Home Loan Mortgage Corporaion or the Federal National Mortgage Association. The Board believes that this amendment serves the same purpose as the prior provisions and is more easily understandable.

The limitations on investment in loans guaranteed under the Farmers Home Administration (FmHA) Rural Housing Program are in substance unchanged from the prior regulations, though the final amendments delete the record-keeping requirement as being redundant. In addition, the provision authorizing investment in loans on the security of nonresidential real estate have been retained with no substantive changes.

With respect to loans guaranteed under the Foreign Assistance Act of 1961, the final amendments are unchanged in substance from the previous regulations, but have been condensed. The Board has deleted from the regulation the limitation on investment to one percent of assets. This investment restriction is stated in the statute and the Board believes that it need not be repeated in the regulations. Similarly, for home improvement loans the Board has simplified the regulation, 12 CFR 545.42, by referring to the statutory authority, 12 U.S.C. 1464(c)(1)(J), rather than repeating its provisions. The Board's limitations on the authority to make these loans have been retained without change.

The final amendments adopt the proposed regulation for loans on low-rent housing, 12 CFR 545.40, which is essentially the same as the proposal, with one minor change. The proposal had provided that no loan under this section may be made in excess of ninety percent of the appraised value of the security property. The final amendments change this by stating that no loan may exceed the loan-to-value ratios established by the association's directors.

With respect to community development loans and investments, and loans to and investments in state housing corporations, the final amendments have not changed the substance of the prior regulations. Each of these regulations has been condensed somewhat and refers to the statutory investment authority, rather than repeat it. The former provision pertaining to insured loans for title purchase has been deleted from the regulations in its entirety, because it simply repeated the provisions of 12 U.S.C. 1464(c)(1)(K).

Board Ruling

As part of the revisions to its real estate lending regulations, the Board proposed to adopt a new ruling that would clarify the extent to which a Federal association may participate with a borrower in the income generated by security property. As proposed, an association would be permitted to receive a share of the income from the security property if, in substance, it constituted no more than a portion of the interest received by the association in return for the use of its money. Most commenters favored such a ruling and some urged the Board to allow fuller participation (*i.e.*, out-right ownership of the security property or participation as a joint venturer) with the borrower. As noted in the proposal, Federal associations lack statutory authority to acquire equity interests in real estate except in certain limited circumstances. For that reason the Board proposed, and is now adopting in final form, the limitation that any such participation must in substance constitute a part of the interest on the loan.

In the final amendment, the Board has adopted the substance of the proposal, with some additions. An association may receive a share of the income from the property securing a real estate loan, regardless of the method of calculating the share, if the income "in substance constitutes no more than a part of the compensation received for the use of the association's funds." The Board considered specifying maximum percentages of interest that may be received in this manner, but believes that at this time it is best to require only that a "substantial" amount of the total interest received be calculated periodically as a percentage of the outstanding balance. The Board intends that interest received under this section should be considered as an addition or supplement to the periodic interest and should constitute no more than a small part of the total interest. The Board does not intend that associations use this authority as a basis of calculating all, or a substantial part, of the interest received on a given loan. If, at a later time, it becomes apparent that specific limitations are necessary the Board will reconsider the issue.

In light of the new authority to make commercial loans, the Board is incorporating additional provisions into the ruling that make it applicable to loans other than those secured by real estate. Thus, the final amendments provide that an association may receive interest calculated by reference to the income of a corporate borrower or some other measure of the venture's success. The Board wishes to emphasize that, as a general matter, Federal associations lack the authority to acquire the stock of a corporate borrower. Thus, they may not receive such shares as a form of interest under this section. It would be permissible, however, to use the market value of the stock as a point of reference or as a measure of the success of the project in calculating a share of the borrower's income to be received as interest. Additionally, the Board believes that an association could receive and sell marketable contract rights (including stock warrants) consistent with this authority. An association could not, due to the absence of statutory authority to own stock, exercise such warrants or any other contractual rights that it could not otherwise exercise.

Manufactured Home Financing

In the proposal, the Board requested comment on two significant changes to the existing regulations on manufactured home financing (12 CFR 545.7–6 (1982), as amended at 47 FR 10787, 36820 (1982)) designed to enhance the ability of Federal associations to invest in manufactured home chattel paper.

One proposed change was the deletion of the requirement currently found in § 545.7–6(e)(2) that a Federal association may invest in conventional retail manufactured home chattel paper only if the manufactured home is to be maintained as a residence of the owner (or beneficial owner) or the owner's relative. The proposal stated the Board's belief that owner occupancy does not necessarily provide significant enhancement of the security afforded by manufactured home collateral. Some commenters noted that the proposed change would relieve a present competitive disadvantage of manufactured housing in the rental markets. Other commenters supported the proposal because it would enhance the success of manufactured housing pass-through securities by eliminating a restriction on the make-up of underlying loan pools. After considering these comments, the Board believes elimination of the owner-occupancy requirement will foster the availability of alternative forms of housing, will promote the Board's policy of deregulation without significantly increasing risks to Federal associations, and will be consistent with the broad statutory authority for manufactured home financing in section 5(c)(1)(J) of the HOLA. The change is therefore adopted as proposed.

The second proposed change related to current § 545.7–6, which provides that a Federal association may invest in manufactured home chattel paper secured by property located outside the association's normal lending territory only if the seller of the paper retains a 25 percent interest in each document evidencing a loan secured by the paper. The Board noted that this requirement effectively prevents Federal associations from investing in secondary market offerings of pass-through securities based on manufactured home loans, and proposed either to delete the requirement entirely or to impose substitute or alternate requirements relating to primary credit insurance, pool insurance (for pass-through and similar securities), investment-grade rating of secondary market securities, or any combination of these criteria. Commenters who addressed this proposal overwhelmingly supported elimination of the 25 percent retention requirement, although there was little agreement regarding whether substitute criteria should be adopted. Commenters disagreed on whether the Board should adopt all three criteria (primary credit insurance, pool insurance, and investment ratings), adopt only one or two of the criteria, or permit associations to choose which of the three criteria to satisfy in the case of particular chattel paper. From these comments the Board has determined that primary credit insurance might in some cases prove unduly expensive, and that safeguards identical or comparable to those proposed will be found in secondary market securities in the absence of regulatory requirements. In light of these considerations, the Board has decided to eliminate the 25 percent retention requirement and adopt no substitute requirements. The Board believes deregulation is most appropriate in cases where, as here, there is evidence that adequate safeguards will arise as the result of market discipline.

Two commenters suggested that in connection with elimination of the 25 percent retention requirement, the Board should make other changes to its manufactured home financing regulation to treat manufactured home loans more like loans on site-built homes. These suggestions included a higher, 95 percent loan-to-value ratio with a primary credit insurance requirement corresponding to that in the residential real estate regulations, and an elimination of the maximum twenty-year loan term requirement. Without addressing the desirability of these suggestions, the Board declines to adopt them at this time, believing that such major changes would more appropriately be considered at a later date after an opportunity for additional public comment.

No comment was received on the Board's proposal to make a technical change in the language of the existing regulation to clarify that the ninety percent loan-to-value ratio applies to new homes; accordingly, the change is adopted as proposed. In addition, the cross-reference in paragraph (e)(2)(ii) of the proposed regulation to the residential real estate lending regulations has been corrected so that it has the same substantive effect as the cross-reference in the current regulation.

Letters of Credit

Although not conferred expressly by statute, the authority for Federal associations to issue letters of credit is implicit in at least two provisions of the Act and also flows from one preexisting statutory provision. Within the DIA one source of authority is section 325, which authorizes commercial lending activities for Federal associations. As discussed under "Commercial Loans" below, Congress intended to give Federal associations competitive parity (subect to percentage-of-assets limitations) with national banks with respect to the types of credit services they may provide to business customers. That national banks may issue commercial and standby letters of credit as an activity incidental to commercial lending is well established. *See Border National Bank v. American National Bank*, 282 F. 73 (5th Cir. 1922). This same authority was therefore conferred on Federal associations by section 325. Another source of authority is the commercial real estate lending authority broadened by section 322 of the DIA. Implicit in the authority to make a real-estate-secured loan for commercial purposes is the authority to commit to extend such credit in the form of a letter of credit, and to provide standby letters of credit that facilitate the project being financed.

A third source of authority for letters of credit predates the DIA. Since 1974, section 5(b)(2) of the HOLA has authorized Federal associations to "be surety as defined by the Board." That standby letters of credit are in fact used as a suretyship device is widely recognized by legal commentators although courts discussing this issue have given some emphasis to technical distinctions. Thus, section 5(b)(2) empowers the Board to authorize by regulation the issuance of standby letters of credit by Federal associations for the purpose of guaranteeing obligations of others.

In its proposed rule, the Board set forth a new regulation authorizing commercial and standby letters of credit with general requirements regarding safe and sound practices that are comparable to those applicable to national banks. The requirements constitute prudent practice guidelines derived from case law and the Comptroller's experience in supervising letter-of-credit practices of national banks, and are equally relevant for Federal associations. Thus, each letter of credit must conspicuously state that it is a letter of credit, the undertaking of the issuer must be for a specified term and amount, the obligation to pay must be dependent only on presentation of confirming documents, and the account party must have an unqualified obligation to reimburse the issuer for payments made.

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One of the few comments addressing the proposed letter of credit regulation suggested that the Board reconsider and clarify the applicable percentage-of-assets limitations, if any, for issuance of letters of credit. Under the proposal, the amounts of all outstanding standby letters of credit would be included with commercial loans for purposes of the investment limitation under the commercial lending regulations. After careful consideration of the comments, however, the Board has decided to revise this rule to reflect better the investment authorities underlying letters of credit and the credit risks involved.

Under the final rule, a letter of credit will not be counted toward any investment basket until funds are actually advanced. Thus rule is appropriate because no investment of assets actually occurs until funds are advanced, and it is consistent with the Board's treatment of loan commitments and loans in process under the final regulations. In addition, funds advanced pursuant to a letter of credit will not be counted toward a percentage-of-assets limitation if the association has been fully compensated (*i.e.*, paid in cash) by the account party. Finally, an association may allocate funds advanced under a letter of credit to the percentage-of-assets limitation for any loan authority that describes the type of credit extended. For example, if credit extended under a letter of credit is secured by nonresidential real estate and conforms to the regulations on nonresidential real estate loans, it may be counted toward the forty percent-of-assets limitation in § 545.35(d). The Board believes this treatment is more consistent with the congressional intent underlying investment authority limitations in the HOLA, as it permits letters of credit to be categorized with other investments posing similar risks.

Pursuant to a suggestion in the comments, the regulation has been amended to state specifically the authority to collateralize letters of credit, which was only implicit in the proposed regulation.

Issuance of letters of credit brings many attendant risks. The treatment of standby letters of credit under the final regulation on loans to one borrower, discussed below, is designed to reduce the risk that an association may have too many letters of credit outstanding for one account party at one time. There is no limitation, however, on the total letters of credit an association may have outstanding at one time; the percentage-of-assets limitations are triggered only when funds are advanced. The Board notes that accounting rules require associations to disclose significant letter-of-credit commitments in notes to audited financial statements, and the Board is considering adding this information to regulatory reporting requirements. The Board believes that these factors will provide sufficient inducement for Federal associations to follow prudent guidelines in issuing letters of credit and making other off-balance-sheet commitments; however, industry practices in this regard will be closely monitored in the coming months in case further regulatory restrictions should be appropriate.

Consumer Loans

Section 329 of the DIA expands the consumer lending authority to include loans reasonably incident to personal, family, or household purposes. The legislative history specifically indicated that this authorization is intended to include inventory and floor planning financing to facilitate the purchase by consumers of retail goods. This section also increased, from twenty to thirty percent, the proportion of an association's assets that may be invested in consumer loans.

The proposed rule would have implemented this expanded authority by increasing the percent-of-assets limitation to thirty percent; by expanding the scope of the rule to include inventory and floor planning loans, overdrafts on NOW accounts, and loans reasonably incident to loans for personal, family or household purposes. The Board requested comments and suggestions of other types of financing that might be covered, including loans secured by accounts receivable derived from credit sales of consumer goods. The proposed rule also would have substituted the commercial loans-to-one-borrower limitations for the more restrictive limits contained in the current rule.

The commenters addressing this portion of the proposal all favored the expansion of consumer lending authority. Some, but not all, supported extension of this authority to include loans secured by accounts receivable derived from credit sales of consumer goods. In addressing this suggestion, the Board notes that loans to businesses secured by accounts receivable are permitted as commercial loans. Thus, the issue is not whether these loans can be made by associations, but rather in which "basket" (consumer or commercial) should these loans be included? The language of section 5(c)(2)(B) of the HOLA indicates that the test to be applied to determine if a loan is a "consumer" loan is a test based upon purpose, *i.e.*, "* * * loans for personal, family, or household purposes * * *." 12 U.S.C. 1464(c)(2)(B). The expansion of this authority under section 329 of the DIA did not eliminate this test. Instead, it broadened it to include loans reasonably incident to these purposes. Loans to businesses are not necessarily for personal, family, or household purposes, or even reasonably incident to these purposes, even if secured by accounts receivable derived from credit sales or consumer goods. While Congress specifically stated that inventory and floor planning financing are intended to be included in the expansion of consumer lending, there is not indication by Congress that loans for other business or commercial purposes should also be included merely because they are secured by accounts receivable derived from credit sales of consumer goods. Without an equally clear statement of legislative intent, the Board is reluctant to expand the consumer loan "basket" to include loans that are clearly for commercial purposes. Therefore, the Board is not adopting the suggestions to include loans secured by accounts receivable derived from credit sales of consumer goods.

One commenter suggested that overdraft loans on NOW accounts should not be included in the provision on consumer loans. The issue of overdraft authority has created some confusion. The purpose of a bona fide overdraft loan is to permit occasional and infrequent payment of drafts and other orders made in excess of a customer's available balance. The provision on overdraft loans (§ 545.47) has been clarified to indicate that only bona fide overdraft loans may be made under that authority. If a debit balance created through a draft drawn in excess of the available balance continues to exist for more than thirty days after notice, it is not a bona fide overdraft. A line of credit accessed by a NOW account, in which a separate balance is maintained (or added to a credit card or line of credit balance) and which is repaid over time is not a bona fide overdraft. Rather, if this line of credit is established for personal, family, or household purposes, then it will be considered to be a consumer loan, even though it is accessed by a NOW account. A loan made for these purposes that is secured by real estate (such as a home equity line-of-credit loan) will be considered a real estate loan, and thus subject to the limitations for such loans, if it is made in compliance with the provisions of § 545.32(c) of this Part. To avoid confusion, the Board is dropping reference to overdrafts on NOW accounts from the consumer loan

regulation. The definition of consumer loan has been deleted from Part 541 and consolidated into § 545.50. The percentage-of-assets limitation is expanded from twenty to thirty percent as proposed. Finally, the proposed rule is revised to clarify that loans to dealers in consumer goods to finance inventory and floor planning are to be treated as commercial loans for loans-to-one-borrower limitations.

Commercial Loans

Section 325 of the DIA added a new Section 5(c)(1)(R) to the HOLA (12 U.S.C. 1464(c)(1)(R)), which authorizes Federal associations to invest in "[s]ecured or unsecured loans for commercial, corporate, business, or agricultural purposes." The legislative history of this provision indicates that Congress intended to authorize the same types of investments and activities that constitute "commercial lending" as practiced by national banks. Loans made under this provision are subject to the same loans-to-one-borrower limits applicable to national bank loans. The only distinction between the commercial lending authority in Section 5(c)(1)(R) and the commercial lending authority of national banks is that the percentage of assets a Federal association may invest in such loans is limited—to five percent (7½ percent in the case of a Federal savings bank) prior to January 1, 1984, and ten percent thereafter.

The proposal was designed to implement as broadly as possible the new commercial lending authority and to provide guidelines for application of the percentage-of-assets limitations. The proposed regulation restated the statutory definition of a commercial loan, adding that an association may rely in good faith on the borrower's statement of a loan's purpose in cases where the borrower is a natural person. The proposal further provided that the statutory percentage-of-assets limitation must be applied to overdraft loans on demand accounts, standby letters of credit, and commercial loans made by a service corporation and not secured by real estate (with *pro rata* attribution in the case of service corporations owned by multiple stockholders); but the limitation would not apply to loan commitments, or to loans sold without recourse to third parties.

Commenters generally supported the approach of the proposed regulations while submitting some suggestions for minor improvements. Several commenters addressed the inclusion of standby letters of credit in the percentage-of-assets limitation for commercial loans. This treatment was proposed on the assumption that standby letters of credit are issued for commercial purposes, and thus generally result in an extension of credit comparable or identical to a commercial loan. However, various considerations suggest that different regulatory treatment would be appropriate. The reference to standby letters of credit accordingly has been removed from the regulation. New §§ 545.31 and 545.48 set forth rules regarding calculation of percentage-of-assets limits for letters of credit, which are explained in the discussions of these provisions elsewhere in the supplementary information. Because the proposed rules on commercial loan commitments and commercial loans sold belong more appropriately in a general provision regarding lending authorities, they also have been moved to new § 545.31.

The remaining comments were addressed to the scope of the commercial lending authority under the new regulation. The Board intends to implement fully the broad statutory commercial lending authority described above, in order to give Federal associations competitive parity with commercial banks with respect to the types of loans they may make for business purposes. The Board interprets the regulatory "purpose test" to be satisfied in the case of any loan to a business enterprise, since a business purpose may be presumed in such instances. The proposed rule provided that the purpose test would be satisfied in the case of a loan to an individual if an association relies in good faith on his statement that the loan is for a commercial, corporate, business, or agricultural purpose. The Board believes it is unnecessary to state this rule in the final regulation, because the small percentage-of-assets authority for commercial loans will serve as a disincentive to classification of loans to individuals as commercial loans; nevertheless, good faith reliance on an individual's statement of purpose will satisfy the regulatory purpose test. Any project or investment that an individual seeks to finance for the purpose of producing income, including a part-time venture or an investment in stocks, will satisfy the purpose test. In addition, the Board interprets the purpose test to be satisfied in the case of any loan to a government or nonprofit organization, since such loans are included in the commercial lending authority of national banks.

Commercial loans made pursuant to the new authority may take the form of loan transactions in which funds are advanced in exchange for a term note or under a revolving credit agreement, or may take less conventional forms. For example, commercial credit may be extended through a purchase of a business' accounts receivable ("factoring"); through a reverse repurchase agreement with a corporate entity; through a "deposit" with a financial institution; through the acceptance of a customer's time draft; or through the purchase of debt obligations of a business entity. With respect to the last example, the Board wishes to clarify that an investment in notes, paper, or debt securities may be treated as a commercial loan to the issuer whether or not they satisfy the rating, marketability, and other requirements of § 545.75.

Commenters who addressed the issue agreed that there is no need for special recordkeeping requirements for commercial loans; consequently, none are being adopted at this time.

Educational Loans

Section 330(3)(B) of the DIA expands the authority of Federal associations to make loans for any educational purpose. Current regulations reflect the limited authority to make loans for the payment of college, university, or vocational education. The proposed amendment made changes in the language of the regulation to correspond to the expanded statutory authority. In keeping with the approach towards eliminating unnecessary and duplicative regulations, the final rule eliminates the regulation. This action is taken because the proposed rule merely restated the statutory authority to make educational loans and referenced other general features applicable to this type of loan. This action does not in any way diminish a Federal association's authority.

Government Securities

Section 324 of the DIA extended the authority of Federal associations to invest in general obligations of or issued by states and political subdivisions to include other types of obligations, subject to a ten percent of capital and surplus limitation on obligations other than general obligations of a single issuer. The proposal added this statutory limitation on obligations of a single issuer and removed the limitation to general obligations, while retaining the current rating requirement, and the authority to invest up to one percent of capital and surplus in government obligations without regard for investment rating where the issuer is located in the same political subdivision as the home office of the association.

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Two comment letters suggested changes in the proposal. One stated that the rating requirement is unnecessary because none appeared in the statute, and also stated that the limitation on purchases of obligations of a single issuer should be ten percent instead of one percent. The second letter requested clarification of whether the one percent of assets permitted to be invested in obligations not meeting the rating requirement was includable in the ten percent limit on other than general obligations of a single issuer.

The Board believes that prudent oversight requires that an association be subject to some limitations that assure the quality of its government securities investment. Therefore, the Board has retained the rating requirement even though not required by statute. The comment with respect to the limitation on purchases from a single issuer demonstrates a misreading of the proposal, and the request for clarification underscores the necessity for amplification of this aspect. The one percent of assets investment is a special category for investments that do not meet rating requirements. While investments in this category would have to be counted as part of the ten percent of assets of a single issuer (if in obligations other than general obligations), it is not a substitute for the limitation on obligations of a single issuer. For these reasons, the Board has elected to make no change in content, but to revise the form of this section from that in the proposal to make its intentions clear. While the ten percent of assets limitation on purchases of other than general obligations of a single issuer is not restated, it is incorporated by reference to the statutory authority.

Service Corporations

Section 5(c)(4)(b) of the HOLA, 12 U.S.C. 1464(c)(4)(B), provides that a Federal association may invest up to three percent of its assets in a corporation chartered in the state where the association has its home office; investments in excess of two percent of assets must be for community development purposes. The Board implemented this authority in 12 CFR 545.9–1 by authorizing investment in service corporations, listing activities in which service corporations may engage without prior approval, and setting investment limitations. The DIA made no changes in the service corporation authority. The proposal to implement the DIA, however, included some expansion of the list of preapproved activities by adding activities newly authorized for parent associations—commercial lending and personal property leasing. The proposal also included various technical changes.

The comments on the service corporation proposal were generally favorable. Seven comment letters addressed particular aspects of the service corporation proposal. Several noted that the existing authority of service corporations to engage in futures transactions and to invest in certain securities was inadvertently deleted along with the existing authority to invest in inventory loans to dealers in consumer goods in the restatement of permissible activities. More substantive suggestions concerned extending the time limits for development of real property, deleting the requirement that leased property retain no more than seventy percent of its value, extending the limits for conforming loans to subsidiaries, and permitting third party real estate brokerage and options trading.

The final regulation is in many substantive respects identical to the proposal; it also incorporates many of these suggestions and some additional amendments. Commercial lending has been added to the preapproved list as proposed, as has the issuance of letters of credit. The leasing provision now deals only with personal property leasing, as real property leasing is included in § 545.74(c)(3)(iii), and it does not include the proposed seventy percent residual value requirement. This reflects the Board's belief that service corporations should have more freedom to experiment, and that the percent-of-assets limitation on investment in service corporations is sufficient to insulate the parent institution from large losses as a result of service corporation activity. The regulation also restates the existing authority to invest in inventory loans to dealers in consumer goods. Investing in financial futures and options trading have also been added as preapproved activities since these activities are permitted to parent institutions.

Moreover, the Board has extended the time for real estate development to eleven years, the same time permitted for loans made by the parent institution. The Board has raised the limit on conforming loans that may be made to service corporations, so that loans to "statewide" service corporations or service corporations of which the lender owns less than ten percent are unlimited, except by the loans-to-one-borrower regulations, and conforming loans to other service corporations may be made up to fifty percent of the loans-to-one-borrower limit. This reflects the Board's view that the dealing of a parent and a closely held subsidiary cannot be assumed to be at arm's length, but that conforming loans are less likely than other types of investments to be damaging to an association economically. The Board has again considered permitting real estate brokerage for third parties, an activity in which many associations have expressed an interest. However, in view of the significant extensions of opportunity granted by the DIA and these regulations, the Board sees no necessity for such a change at this time.

The Board also has removed the restriction on transfer of real estate owned to service corporations. Since these investments are required to be treated by the association as scheduled items even if owned by the service corporation, there is no need for this provision. The service corporation authority has deleted provisions on insider dealing, now covered by the conflict of interest regulations, as well as certain definitions now included in the text rather than a separate section. The prohibition on use of terms in the name suggesting identification with the government or an insurance fund has also been deleted, because it reiterates a general statutory prohibition contained at 18 U.S.C. 709.

Technical amendments to the service corporation authority include clarification of the Board's existing requirement that a service corporation permit and pay the cost of examination, and of the prior provision, which proved confusing in the proposal, not requiring prior notification for formation of a service corporation or establishment of preapproved activities. The revised regulation also codifies the Board's long standing position that it may deny or curtail service corporation activities for supervisory reasons. Because data processing generally is now a preapproved activity, reference to data processing in connection with the provision of clerical, accounting and internal auditing for financial institutions has been deleted.

Commercial Paper and Corporate Debt Securities

Section 329 of the DIA extended the authority of Federal associations to invest in commercial paper and corporate debt securities by eliminating the percentage-of-assets limitation. The proposal would have carried this forward into the regulation, and in addition would have established new limitations on purchases from a single issuer and a separate category of one percent of assets that could be invested in securities that an association had

reasonable grounds to believe would be repaid even where the rating and marketability requirements were not met. The proposal retained rating and marketability requirements generally, but deleted domestic issuer requirements.

Eight comment letters addressed this type of investment, three in some detail. Several commenters suggested that the percentage limitations should be increased to permit greater investment in unrated securities and in purchases from a single issuer, and requested a broader definition that would clearly include such instruments as mortgage pass-through certificates. One commenter stated that there should be no rating requirements, and another that rating by two nationally recognized rating services should be required; the latter also suggested deletion of the authority for unrated paper of an issuer with rated paper outstanding. It was also suggested that the six-year average maturity is too short and that permissible average maturities should be increased. The deletion of the domestic issuer requirement was favored, and some commenters requested additional broadening of this section to include purchase of securities issued by foreign governments. Several commenters opposed imposition of the commercial loans-to-one-borrower limitation, which they pointed out would usually be stricter than the prior one-percent-of-assets limitation.

Based on these comments and its own reconsideration of these issues, the Board has restructured this investment authority in the final regulations. Investment in commercial paper will be required to be rated in either of the two highest grades by two nationally recognized rating services. The proposal would also have permitted investment in unrated commercial paper if issued by an entity with rated securities outstanding. The final amendments have modified this section to permit purchase of such securities only if guaranteed by the issuer of securities meeting the rating requirement. Securities meeting the rating requirements will not be considered commercial loans for purposes of the percentage-of-assets limitation, but will be subject to the commercial loans-to-one-borrower limit. Corporate debt securities will be limited to investment in instruments that are marketable and are rated in one of the four highest categories by two nationally recognized rating services. Investment in securities not meeting one or both of the rating or marketability requirements will be permitted up to one percent of assets. The Board believes that this approach effectively strikes a balance between permitting flexibility and preventing speculative investment and excessive investment in instruments issued by a single entity. The reference to the statutory authority in the amended regulation incorporates the Board's reading of section 329 of the DIA as deleting percentage-of-assets limitations for this investment category.

This amendment adopts the proposed deletion of the requirement that commercial paper and corporate debt securities eligible for purchase by Federal associations be issued by an entity domiciled in the United States. The Board believes that where such instruments meet the marketability and rating requirements, they pose no greater risk of loss than similarly rated, marketable domestic issues. However, the Board has declined to take other steps to permit purchases of issues by foreign governments. Where such instruments qualify as commercial paper or corporate debt securities under the definitions contained in §§ 541.25 and 541.26, they are permissible investments under the revised regulations without reference to the identity of the issuer; the Board does not believe that the statutory authority was intended to include instruments not issued by a corporation.

Although many commenters opposed imposition of the commercial loans-to-one-borrower restriction, the Board has adopted it as proposed, with two changes. The Board believes that the large expansion of this category caused by removal of the percent-of-assets limitation and the new authority to invest in unrated and foreign securities will give associations an opportunity to make substantial investments in commercial paper and corporate debt securities. Precisely because this category has been expanded so greatly, the Board believes that it is necessary to prevent an association from becoming too heavily involved in the securities of a single issuer, and therefore exposed to heavy losses if that entity suffers reverses. However, the Board has added a provision permitting investment of one percent of assets or one million dollars, whichever is greater, in the highly rated securities of a single issuer, notwithstanding the commercial loans-to-one-borrower limitation. This should ease the difficulties the tighter limit might impose, particularly on smaller institutions. In addition, the revised regulation permits waiver of the loans-to-one-borrower limitations for purchases of commercial paper and corporate debt securities in connection with the purchase or sale of branch offices, or supervisory mergers or acquisitions. These are situations in which the Board has ample opportunity to assure that these transactions will not be detrimental to the institution involved, and where the imposition of the loans-to-one-borrower limitation might prove a serious impediment.

The proposal included corresponding amendments to the liquidity regulations concerning commercial paper and corporate debt securities. This results from the statutory authority to make investments in liquid assets, and also in the tradition that permissible investments for federally chartered associations may be counted in satisfaction of the liquidity requirement. The final amendment adopts this approach, but the Board believes that a general reconsideration of this position may have to be made in the future because of the expansion of the investment authority of Federals.

Finally, the authority to invest in open end management investment companies registered with the Securities and Exchange Commission under the Investment Company Act of 1940 has been placed in a separate section. These investments result from separate statutory authority, and are not subject to the commercial loans-to-one-borrower limitation. No substantive amendments to this authority have been made.

Small Business Investment Corporations

Section 330 of the DIA provided new authority for Federal associations to invest up to one percent of assets in obligations or securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958. Because this authority was inadvertently omitted from the proposed revision, it is implemented at new § 545.80 in order to give associations notice of this expansion.

Time Deposits in FSLIC-Insured Institutions

Section 323 of the DIA expanded the authority of Federal associations to invest in deposits to include authority to invest in accounts of institutions insured by the FSLIC. Because this new power is fully implemented by statute, and the Board sees no reason to limit or interpret it, this authority has not been codified.

Overdraft Loans

In recognition of the expanded authority granted to Federal associations to offer demand accounts (as well as NOW accounts), section 321

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of the DIA also expanded the authority of Federal associations to make overdraft loans specifically related to transaction accounts. The proposed rule implemented this authority, defining overdraft loans as secured or unsecured credit to cover payment of drafts or other funds transfer orders in excess of the available balance of an account on which they are drawn. The proposed rule also provided that overdraft loans on demand accounts would be included in the percentage-of-assets limitations for commercial loans, while overdraft loans on NOW accounts would be included in the percentage-of-assets limitations for consumer loans.

The classification of overdraft loans on demand accounts as commercial loans for purposes of the percentage-of-assets limitations is based on a clear statement of Congressional intent:

> The aggregate commercial and agricultural loans authorized under this section are intended to include any overdraft loans on commercial demand deposits permitted under this bill. Thus, the aggregate limits are for the entire operation of the savings and loan association.

S. Rep. No. 97–536, 97th Cong., 2d Sess. 16. No similar statement of intent, however, was made concerning the treatment of overdraft loans on NOW accounts as consumer loans, either in the original grant of authority (section 401, Pub. L. 96–221, 94 Stat. 151) and its legislative history or in the expansion authorized by the DIA. In light of this contrast in the legislative history of overdraft loans on demand accounts versus those on NOW accounts the Board has decided to retain the commercial loan percentage-of-assets limitations for demand accounts and to eliminate the reference to overdraft loans on NOW accounts in the provision on consumer loans.

The Board is concerned that the authority to make overdraft loans may be subject to abuse and employed as a method to circumvent other regulatory requirements. For example, a zero balance "shell" NOW account could be established having an overdraft loan secured by a second mortgage on a borrower's home. Similarly, a NOW account might have an authorization to access an open-end line of credit agreement in which the credit is carried as part of the customer's credit card balance. The Board believes that these types of arrangements constitute other types of loans that are merely accessed through the use of a draft or other transfer order. As such, these transactions do not constitute bona fide overdrafts and are not authorized by the section of the regulations pertaining to overdrafts. Rather, these transactions are authorized only under those regulations governing the type of credit extension which the draft or transfer order is used to access. A bona fide overdraft loan would only be authorized under this section if it is a short term extension of credit, not exceeding thirty days from notice to the customer, made as a convenience to customers when they occasionally draw drafts or make other transfer orders in excess of their available balance.

The final rule thus authorizes the extension of secured or unsecured credit to cover payment of bona fide overdrafts. All other extensions of credit through the use of drafts or funds transfer orders are not considered to be made pursuant to this rule. The final rule continues to treat overdrafts on demand accounts as commercial loans for percentage-of-assets limitations, but does not treat overdrafts on NOW accounts as consumer loans.

Technical Amendments to Investment Authority

As a result of the Board's new approach, the investment authority previously codified at 12 CFR 545.9 (a), (b), (c), (d), and (f) has been deleted. The authority to invest in liquid assets, United States government obligations, Government National Mortgage Association securities, Federal Home Loan Mortgage Corporation obligations, Federal National Mortgage Association obligations, Federal Home Loan Bank stock, and Student Loan Marketing Association obligations is contained in 12 U.S.C. 1464(c)(1)C–(F), and therefore is no longer codified. This amendment has the additional effect of permitting investment in securities of the Federal Home Loan Mortgage Corporation, which is authorized by statute but had not been included in the previous regulation. An additional amendment to the investment authority is an expansion of the provision, previously contained at § 545.9(a), which permitted investment in assets other than time deposits and bankers' acceptances that would qualify as liquid assets but for their term to maturity. While the Board has retained the exclusion of bankers' acceptances, which the Board believes are instruments that by their nature should have a short term to maturity, this limitation has been eliminated with respect to time deposits. Because there is a developing secondary market for these instruments, the Bank Board no longer believes that a short maturity is necessary to make these investments proper for a Federal association.

Business Development Credit Corporations

In keeping with the approach adopted in revising Part 545 (whereby the regulations only include limitations, interpretations, or recognitions of incidental authority), § 545.8–4 "Loans to and investments in business development credit corporations" has been deleted. The authority of Federal associations to make these loans is fully implemented by section 5(c)(4)(A) of HOLA (12 U.S.C. 1464(c)(4)(A)) and the Board sees no reason to limit or interpret it. Therefore, it has not been codified in the final rule.

Finance Leasing

It has been the Board's view that Federal associations have the authority to engage in leasing activities under the lending authority provided by the HOLA, provided that the leasing activities are the functional equivalent of lending. This type of leasing, referred to as "finance leasing", is distinguished from, and in addition to, the operational leasing authority conferred by section 330 of the DIA. Current regulations (12 CFR 545.7–10a) implement this authority by providing that Federal associations may become legal or beneficial owners of personal property to be leased to consumers for personal, family, or household purposes. This authority, however, is circumscribed by requirements that reflect the guidelines established by courts for bank leasing activities that are the functional equivalent of lending. *See M & M Leasing Co.* v. *Seattle First National Bank*, 563 F. 2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978). These limitations include requirements that the lease be "net" (prohibiting the association from taking responsibility for maintenance of the leased property), "full-payout" (requiring the association to expect full return of its investment plus the estimated cost of financing from rentals, estimated tax benefits, and residual value of the property), and limit the association's residual value risk (by requiring that the residual value not exceed 25 percent of its acquisition cost unless the excess over that amount is guaranteed).

The proposed rule was intended to expand existing finance leasing authority to reflect the new commercial lending authority and to permit real property leasing that is the functional equivalent of real estate lending. The authority of a Federal association to purchase real property for leasing is derived from the authority to lend on the security of real property, but only if the lease transaction is the functional equivalent of a real estate loan. Therefore, the net, full-payout, and residual value requirements were retained. The proposed rule would have required that, in the finance leasing of real property, the estimated residual value of the real estate could not exceed twenty percent of its acquisition costs. Since these finance leases are the functional equivalents of consumer, commercial, or real estate lending, the proposed rule would subject them to all of the limitations on investments in comparable loans, including limitations on loans-to-one-borrower and limitations on total investments.

The Board believes that it is necessary to impose limitations on finance leasing that ensure that these transactions are the functional equivalents of the lending activities authorized by the HOLA. Contrary to the suggestions of some commenters, imposing only those restrictions on loans to one borrower would not be sufficient to ensure that a finance lease is viewed as an equivalent of a particular type of loan. While the application of some requirements may make the use of finance leasing less desirable, these requirements should not substantially reduce the advantages of a finance lease over the functionally equivalent loan. The Board further believes that the decision in *M & M Leasing, supra*, while pertaining directly to the lease of personal property by a national bank, provides guidance that should be applied to all forms of finance leasing by Federal associations. Thus, the proposed rule was formulated to prevent Federal associations from leasing on a daily or short-term basis, from providing operational services, and from relying on the residual value of the property (in any substantial way) for the return on their investment.

The Board proposed that the residual value of the leased property not exceed 25 percent of its acquisition value for personal property or twenty percent of its acquisition value for real property. While the comments received acknowledged that the 25 percent residual value requirement was reasonable for leases of personal property, the commenters objected to the twenty percent residual value requirement for real property. The commenters noted that real property usually retains a far greater value over the life of a functionally equivalent real estate loan. The Board agrees, but wants to ensure that finance leasing of either personal property or real estate does not require the lessor association to look to the residual value for a substantial portion of its return nor to enter into repeated short term leases of the same property. These actions would lead a court to conclude that the association is participating in the rental business and not in the functional equivalent of lending. Therefore, the final rule does not require the residual value of either personal property or real estate at the end of the lease to be, respectively, 25 percent or twenty percent of its acquisition cost, but instead limits the association's reliance on the residual value of the personal or real property to no more than twenty percent of its return (along with rental payments and tax benefits) under the full-payout requirement. As a result, there is no need to require that the portion of the estimated residual value in excess of the proposed limitation be guaranteed.

The final rule extends the existing authority of Federal associations to make finance leases that are the functional equivalent of lending by permitting leases of personal property for business purposes and real property in addition to leases of personal property. The leases must be net, *i.e.*, precluding the association from directly or indirectly becoming obligated to provide for the repair or maintenance of the property, the purchasing of parts or accessories, the loan of replacement or substitute property, the purchasing of insurance for the lessee, or the renewal of any license, registration, or filing required for the property. The lease must be a full-payout lease in which the association reasonbly could expect to recover its investment in the property, plus the cost of financing it over the lease term, from rental payments, estimated tax benefits, and the estimated residual value at the expiration of the lease term. As discussed above, the amount of the recovery derived from the residual value of leased real property cannot exceed twenty percent. The final rule would permit the association to protect the value of the property or its interest as the lessor or lessor's assignee by including in the lease any appropriate provisions. Since finance leasing is the functional equivalent of lending on the security of the leased property, the final rule requires that the transaction be subject to all of the limitations on investment in comparable loans. Also, the final rule requires associations to liquidate their interest in the property as soon as practicable upon expiration of the lease.

General Leasing Authority

Section 330 of the DIA authorizes Federal associations to invest up to ten percent of assets in all types of tangible personal property for the purpose of leasing such property. This authority differs from the authority to enter into finance leases that are the functional equivalent of loans (discussed above). Under the authority granted by section 330, associations would not be limited to entering into net, full-payout leases, but would be permitted to assume responsibility for, among other things, servicing and maintaining the property. In addition, an association would not have to expect to be reimbursed for its investment in the leased property within the lease term.

The new regulation implements this authority with only one limitation. Leases in which the estimated residual value of the leased property would exceed seventy percent of the acquisition cost of the property will be prohibited. The effect of this limitation will be to prevent an association from entering into extremely short-term leases, such as daily rentals of cars. The Board believes that this limitation is necessary at this time to allow Federal associations to enter the leasing business in a gradual, safe, and sound manner.

Several commenters suggested that the authority granted by Section 330 included the authority for Federal associations to purchase and sell tangible personal property. It is the Board's position that it would be inappropriate at present to permit associations generally to enter the business of selling personal property. Therefore, the Board has limited the authority to sell tangible personal property only to sales incidental to the lease of such property. This would include the authority to offer lease-purchase options and to dispose of the property at the end of its useful life.

The final rule authorizes Federal associations to invest in tangible personal property for the purpose of leasing such property, provided that the residual value of the leased property does not exceed seventy percent of its acquisition cost. Federal associations should account for such activities in accordance with GAAP and the Financial Accounting Standards Boards technique described in FASB Statement No. 13.

Agencies

A Federal association has been permitted to establish agencies for limited administrative purposes, without prior approval, in the same state as the association's home office. Because of the recent developments in the industry that have resulted in associations operating branches outside the state

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where the home office is located, the Board proposed to permit the establishment of agencies without Board approval in the state where the home office or any branch office approved by the Board is located. No comments were received discussing this proposal, and it is adopted as proposed.

Insurance Regulation Amendments

Liquidity Base

Section 5A of the Federal Home Loan Bank Act sets certain liquidity requirements for members of the Federal Home Loan Bank System, and provides that the Board shall determine how these requirements shall be calculated. Pursuant to this authority, the Board has promulgated 12 CFR 523.10(d), which provides that "net withdrawable accounts" used in calculating the liquidity base includes all withdrawable accounts. Since the Board has determined that deposits can be collateralized, it has amended the definition to exclude accounts to the extent that security has been given upon them. No comments addressed this provision, which is adopted as proposed.

Scheduled Items

"Scheduled items" are those items whose value may not be fully realizable. The value of these items is factored into the calculation of net worth requirements, and contributes generally to the Board's assessment of an institution's financial soundness. The Board proposed to expand this concept to include non-real estate items, based on the broadened authority of associations to invest in other types of assets. No comments addressed this section of the proposal, and the Board has adopted it unchanged.

Limitations on Loans to One Borrower

Pursuant to its authority under Title IV of the National Housing Act (12 U.S.C. 1724 *et seq.*) to issue regulations relating to safe and sound practices of FSLIC-insured institutions, the Board has for many years imposed limitations on the amount of credit an insured institution may have outstanding to one borrower. These limitations are currently codified in § 563.9–3 of the Board's insurance regulations (12 CFR 563.9–3). Section 325 of the DIA superimposes a new layer of loans-to-one-borrower restrictions on existing Board regulations by providing that Federal associations may not make commercial loans to one borrower, under the authority of that section, in excess of the amount a national bank having an identical total capital and surplus could lend such borrower.

In its December proposal the Board set forth revisions to § 563.9–3 that would (1) clarify the operation of existing rules and (2) implement new rules on the extension of commercial credit to one borrower by insured institutions that would be comparable to those applicable to national banks. The Board cited the increased insurance risks posed by excessive commercial lending to one borrower as justification for the application of stricter loans-to-one-borrower limits to commercial lending by state-chartered insured institutions. The Board formulated a proposed definition of "capital and surplus" for purposes of applying the commercial-loans-to-one-borrower rule, and described the types of loans and investments that would be subject to the new rule. The details of each of these proposals follow, with an analysis of the comments received and the provisions of the final rule.

One borrower. The Board did not propose any changes to the definition of "one borrower" in § 563.9–3. During the comment period the Board received several inquiries regarding whether the term is intended to include a subsidiary of an insured institution. Historically there has been no exception from the loans-to-one-borrower rule for loans to a subsidiary of an insured institution. As the Board is currently studying investments by insured institutions in their subsidiaries, no action will be taken in response to this comment at this time.

The new definition of one borrower incorporates a change in the attribution rules regarding loans to limited partnerships that was adopted by Board Resolution No. 83–90–A of February 16, 1983 (48 FR 8431 (1983)). The second part of the definition of one borrower states a clarification of the phrase "loan on the security of * * * real estate the title to which has been conveyed to a bona fide purchaser of such real estate," which appeared in the proposal. As explained in Resolution No. 83–90–A, the purpose of this phrase was to exclude from the definition of outstanding loans to one borrower a loan to that borrower that has been assumed by a third party. For purposes of clarity, the exception has been moved to the definition of one borrower, and it has been broadened to apply to any assumed loan, in view of the many new types of loans made by insured institutions that are not secured by real estate.

Two commenters suggested a new approach to loans-to-one-borrower limits that would disregard the identity of the borrower in cases of loans involving certain types of security. One commented that no limit should apply to loans that are insured or guaranteed by the United States Government, regardless of the identity of the borrower, because no risk is involved. The other commenter suggested a broader approach that would exempt from § 563.9–3 any loans on the security of collateral in which the lending insured institution is authorized to invest. In view of the many issues raised by these comments, the Board will postpone consideration of a regulatory amendment until it has had an opportunity to study the issues involved and, if appropriate, request further public comment.

The Board notes that the definition of one borrower set forth in paragraph (a)(1) of the regulation is different in some respects from the attribution rules found in currently effective regulations of the Comptroller of the Currency interpreting 12 U.S.C. 84, as well as those in new 12 CFR 32.5 (48 FR 15844, April 12, 1983), which takes effect on June 14, 1983. The definition in paragraph (a)(1) will be enforced by the Board as it applies the limits in 12 U.S.C. 84 to commercial lending by insured institutions. This means there will not be exact parity in treatment between national banks and Federal associations with respect to this issue. While the Board acknowledges that parity was a goal of section 325 of the DIA, it does not believe that Congress would have intended to impose upon Federal associations the inordinate administrative burden of applying two different sets of attribution rules—the Comptroller's rules for purposes of the commercial lending limits in 12 U.S.C. 84, and the Board's historic rules for purposes of the aggregate lending limit in § 563.9–3. Furthermore, the Board believes that the stricter rules set forth in its new regulation are warranted by safety and soundness concerns, in view of the industry's inexperience in this area. Accordingly, only one set of rules will apply for purposes of both lending limits. The Board believes this will not result in any significant disparity of treatment between Federal associations and national banks, because both sets of rules are based on principles of economic benefit and common enterprise, and because the few differences in result do not uniformly benefit either industry.

Outstanding loans. The primary change proposed for the regulatory definition of outstanding loans was to exclude loan commitments specifically, in order to codify a longstanding Board

interpretation. Several commenters supported an approach that would focus on the amount of funds advanced to a borrower, rather than on potential credit obligations, since the former approach more accurately reflects the true risk of loss. The Board favors a "funds advanced" approach for this reason, and also because it permits sound credit management practices, as it enables an institution to enter into total loan commitments to one borrower in excess of the loans-to-one-borrower limits, provided that total credit outstanding at one time does not exceed the limits. This ability may be important to lending institutions that do not expect all of their loan commitments to be called, or engage in lending that involves partial advances in several stages over a long term. Therefore, the Board's final regulation clarifies that the lending limits are applied only to funds actually advanced.

Consistent with this approach, loan commitments are not included in outstanding loan amounts, and "wraparound" mortgages are counted only to the extent credit has actually been extended to the borrower (although an obligation to pay a prior lien will be treated as credit extended). However, because an obligation to disburse loan proceeds under an executed note is usually more immediate than such an obligation under a loan commitment, undisbursed loan proceeds will be counted toward the regulatory limits unless the institution has obtained an overline buyout commitment covering the loan involved. The Board encourages institutions making use of the funds advanced approach to ensure that they will not be forced to choose between honoring a commitment and violating the regulation. This dilemma may be prevented through careful credit-flow planning, overline participation commitments from correspondents and other prudent credit management practices. The Board's examinations and supervision staff will be monitoring this particular area for unsafe and unsound practices, and the FSLIC will continue to pursue legal remedies against negligent directors and management for losses sustained as a result of violations of § 563.9–3.

In its December action the Board proposed to include in its definition of "outstanding commercial loans to one borrower" commercial paper and corporate debt securities of one issuer, financing leases for commercial loan purposes, and amounts of standby letters of credit. Each of these has been retained in the final regulation, notwithstanding recommendations to the contrary by commenters.

The proposal to include commercial paper and corporate debt securities in the limit on commercial loans generated significant opposition. Several commenters noted that the fifteen percent-of-capital-and-surplus limit is, for most institutions, stricter than the one percent-of-assets limit to which such investments were previously subject. Others pointed out that the number of issuers of investment-quality obligations has decreased recently, which will make it more difficult to abide by the stricter limits. Some commenters suggested that there should be a limit on investment securities separate from the loans-to-one-borrower limits, similar to the ten percent-of-capital-and-surplus investment securities limit for national banks. After careful consideration of all these comments, the Board has decided that investments in these obligations generally should be treated as loans subject to § 563.9–3, as proposed because commercial paper and corporate debt securities evidence extensions of credit that raise the same risks of credit concentration that arise from more conventional types of loans. The Board believes it is appropriate to subject them to the limitation on commercial loans to one borrower because they are in fact a form of commercial credit. Under the final rule, § 563.9–3(a)(2) clarifies that these investments are loans subject to both the aggregate and commercial loan limits. However, in response to comments regarding the diminished number of issuers of highly rated paper and debt securities, the Board has decided to adopt a separate one-percent-of-assets limitation for obligations in the top rating for commercial paper and the top two ratings for corporate debt securities. This rule is appropriate because of the reduced risk involved in such obligations; a lower limit might serve to frustrate the purposes of the regulation by encouraging investment in poorer-quality credits. It should be noted, finally, that investments in certain commercial and business paper will be exempt from the commercial lending limit pursuant to 12 U.S.C. 84(c)(1) (as amended effective April 14, 1983).

One commenter objected to the treatment of financing leases as outstanding loans. The Board believes this approach is appropriate and necessary because finance leases are the substantive equivalent of loans (*see M&M Leasing Co.* v. *Seattle First National Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978)) and thus pose the same credit concentration risks that arise from conventional loans. A different rule would elevate form over substance and permit frustration of the regulatory policies underlying § 563.9–3. The final rule provides that a finance lease is a loan to the lessee; the commercial lending limit will be applicable if the lease serves the same purpose as a commercial loan.

Standby letter of credit and guarantee or suretyship obligations are treated as outstanding loans to the account party or principal, rather than loan commitments, contrary to the suggestion of one commenter. The legal liabilities involved in these obligations are much greater than those involved in loan commitments; furthermore, they pose credit risks of a type with which most insured institutions have little or no experience at this time. These obligations will be subject to the commercial-loans-to-one-borrower limit if they serve a business purpose of the customer. The Board notes that this approach is comparable to that taken by lending regulations of national banks.

One commenter believed that the exclusion for loans sold without recourse should be amended to encompass a loan sold subject to the obligation, whether express or tacit, to repurchase the loan in the event the credit standing of the borrower should deteriorate. The Board already interprets such a sale to be one with recourse, and thus believes no amendment is necessary.

The final regulation also clarifies that § 563.9–3 does not apply to deposits and sales of federal funds covered by § 563.9–6, which are subject to a separated limitation.

Outstanding commercial loans. The final rule states that "outstanding commercial loans" are outstanding loans described in the preceding paragraph of the regulation that are made for commercial, corporate, business, or agricultural purposes. Also included are commercial loans made by a subsidiary of an insured institution, since such loans would be commercial loans for a Federal association (*See* new § 545.46) and thus must be subject to the commercial-loans-to-one-borrower limit, pursuant to section 325 of the DIA.

The definition excludes loans for commercial purposes to the extent they are secured by real property. The purpose of this exclusion, as stated in the proposal, is to separate the commercial real estate credit, with which insured institutions already have considerable experience. As

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recommended in the comments, this exclusion applies to all types of commercial credit, regardless of form, that are described in the definition of outstanding loans. The Board realizes that the definition of outstanding commercial loans includes commercial-purpose loans such as inventory financing that could be made by a Federal association under a percentage-of-assets authority other than the commercial lending authority introduced by section 325, and thus is broader than required by that statute. Nevertheless, the Board has adopted this definition out of safety and soundness concerns, because the percentage-of-assets classification applicable to the lending authority of Federal associations bears no relation to the credit risks § 563.9–3 is designed to protect against.

Unimpaired capital and unimpaired surplus. The final rule defines "unimpaired capital and unimpaired surplus" for purposes of applying the commercial-loans-to-one-borrower limit as "regulatory net worth plus specific reserves for loan losses, less appraised equity capital," as proposed. One commenter suggested that appraised equity capital should be included, since it is used for some purposes as a measure of net worth. However, the Board is persuaded that appraised equity capital should be excluded because it has no equivalent in the capital and surplus of a national bank, and because of its scheduled phaseout in the near future.

One commenter noted that the proposal to use the Semiannual Financial Report for measuring an institution's unimpaired captial and unimpaired surplus precludes a more accurate application of the limit by institutions that calculate current net worth figures on a frequent basis. The Board agrees, and has decided to eliminate the reference to the Semiannual Financial Report. Institutions will thus be able to lend on the basis of their most current net worth figures.

Aggregate loan limit. The final rule states the limitation on aggregate loans to one borrower that was set forth in the proposal and is currently found in the regulation, with one significant change. The $200,000 "floor" one-borrower limit has become applicable to an increasing number of institutions during the recent period of deteriorating net worth. In response to the September 30, 1982 solicitation of comments on this issue (Res. No. 82–668; 47 FR 44334 (1982)), many commenters recommended higher one-borrower limits in view of the greater profitability of large commercial-purpose loans, such as real estate development loans. The Board continues to believe that credit risk exposure to one borrower generally should not exceed an institution's net worth; however, an alternative ceiling of $500,000 will permit more troubled institutions to make sizable loans that will help restore them to profitability. Accordingly, the provision now contains a $500,000 alternative ceiling that will be adjusted annually for inflation.

One commenter suggested that the aggregate lending limit should be replaced with a requirement that each institution establish its own prudent lending limitations. The Board in fact expects each institution to establish its own policy regarding concentration of credit in one borrower; the limitations set forth in the regulation are outer limits on such policies, mandated by basic safety and soundness considerations. Thus, it is possible that an institution may be cited by an examiner for excessive lending to one borrower, even though no violation of § 563.9–3 has occurred, if the particular fact situation indicates that the lending posed undue risk to the institution. The Board believes the commenter's recommendation of new regulatory requirements for internal lending guidelines would involve additional interference in management discretion that is not warranted by any specific evidence of abuse before the Board at this time.

One commenter suggested that the lending limits should be revised to apply only at the time a loan is made, so that costly divestitures would not be required by a diminution of net worth. This is in fact the Board's present policy; the final regulation more clearly reflects this rule. Since the Comptroller of the Currency follows the same rule in applying 12 U.S.C. 84, new § 563.9–3(b)(2) also states the rule.

Commercial loan limit. The final regulation language limiting commercial loans to one borrower is basically unchanged from the proposal. Some commenters recommended that the statutes referred to in this section that limit loans by national banks, together with interpretive regulations of the Comptroller of the Currency (12 CFR Part 32), be reproduced in full for the convenience of insured institutions. The Board has chosen not to reproduce the statutes and laws in this regulation because to do so would multiply the length of § 563.9–3 several times, and would be inconsistent with the approach to drafting regulations announced in this resolution. Instead, the Board will codify in § 563.9–3 only those interpretations that are necessary to adapt the national bank lending limits to the thrift industry, such as the definition of "unimpaired capital and unimpaired surplus" in § 563.9–3(a)(4). The Board intends to publish a T Memorandum in the near future that will reproduce the applicable statutes and regulations. Until such time, institutions engaging in commercial lending would be well advised to examine the Comptroller's new regulations (12 CFR Part 32) reproduced at 48 FR 15844 (April 12, 1983) for a thorough explanation of the applicable lending limits and their exceptions.

Waiver. The final regulation contains a new waiver provision for certain loans with prior Board approval. This recognizes that the limitations in § 563.9–3 are designed for ordinary business operations of insured institutions, and do not necessarily reflect appropriate guidelines in extraordinary cases such as mergers and consolidations. The waiver is similar to that found in 12 U.S.C. 84(c)(7) for national banks.

Geographic Lending Restrictions

Historically, Federal associations evolved as local home-financing institutions. Until amended by the Depository Institutions Deregulation and Monetary Control Act of 1980, section 5(c) of the HOLA imposed complex geographic restrictions on the investment authority of the Federal associations. However, even those restrictions were subject to exceptions, such as the authority still found in section 5(c)(4)(C) to make loans guaranteed under the Foreign Assistance Act of 1961 and the authority to invest in various securities of nationwide issuers. The elimination of these geographic restrictions and the recent removal of the section 5(a) characterization of Federal associations as "local" thrift institutions by section 311 of the DIA indicate Congress' recognition and approval of the geographic diversification of Federal associations' lending and investment activities in response to the evolution of the credit markets in which they participate. Specifically, the Board believes Congress intended that Federal associations be able to make commercial-purpose loans without limitations based on the domicile of the borrower or the location of security property, in order to provide parity with national banks.

One issue raised in the comment letters was whether section 403(b) of the National Housing Act (12 U.S.C. 1728(b)) and corresponding regulations at 12 CFR 563.9 impose any geographic limitations on the lending activities authorized under Part 545; and, if so, whether such a restriction should continue in light of the new lending powers of insured institutions. Section 403(b) reads in pertinent part:

> Each applicant for [FSLIC] insurance shall also file with its application an agreement that during the period that the insurance is in force it will not make any loans beyond one hundred miles from its principal office, except * * * loans which are made pursuant to regulations of the Corporation * * *.

In response to this comment, the Board has decided to revise section 563.9 to provide for no geographic limitations on the lending activities of insured institutions. The effect of the revised section is to lift entirely the 100-mile restriction in section 403(b) of the National Housing Act, in order that an insured institution may make loans to the extent authorized by its chartering authority. The Board believes that this issue is most appropriately regulated by chartering authorities at this time.

Notice to Housing Creditors

Title VIII of the DIA authorizes certain housing creditors to make alternative mortgage transactions, notwithstanding any State constitution, law, or regulation. Section 80.4(a) of the DIA specifies that housing creditors other than banks, credit unions, and Federal associations may make alternative mortgage transactions only in accordance with regulations governing alternative mortgage transactions issued by the Board for federally chartered savings and loan associations. "Alternative mortgage transactions" is defined in section 803(1) to include loans or credit sales secured by residential real property, a dwelling, all stock in a residential cooperative, or a residential manufactured home (1) in which the interest rate finance charge may be adjusted or renegotiated, (2) in which rate adjustments are implicitly permitted by having the debt mature during an interval shorter than the term of amortization, or (3) in which the method of determining return, term, or repayment is not common to traditional fixed-rate, fixed-term transactions. This definition, however, requires that permissible transactions be described and defined by applicable regulation.

Section 807(b) directs the Board to identify, describe and publish those portions of its regulations that are inappropriate for, and thus inapplicable to, the non-federally chartered housing creditors. On November 17, 1982, the Board published a "Notice to Housing Creditors" (47 FR 51732, 51733), and requested comments thereon. The Notice provided that housing creditors that are not commercial banks, credit unions or Federal associations may make alternative mortgage loans secured by a single-family dwelling or dwelling units for four or fewer families, subject to the limitations contained in 12 CFR 545.6–2(a) (2), (7) (as amended, 47 FR 36612 (1982)). These housing creditors would, therefore, comply with the Board requirements on adjustments to rate, payment, balance or term and on disclosure. Requirements concerning loan-to-value ratios and other requirements designed to ensure safety and soundness in residential real estate lending by Federal associations were deemed inappropriate for, and thus inapplicable to, these housing creditors. For all other residential real property loans, all requirements as to adjustments to rate, payment, balance or term, and to disclosures were deemed inappropriate and inapplicable as well.

The Board's approach to the applicability of its regulations is premised on the clear statement of Congressional intent that Title VIII "does not place non-federally chartered housing creditors under the supervision of the federal agencies, but instead merely enables them to follow a federal program as an alternative to state law." S. Rep. No. 97–463, 97th Cong., 2d Sess. 55. The Notice to Housing Creditors should, therefore, identify as appropriate those regulations that further "describe and define" (section 803(1)) alternative mortgage transactions, and not those regulations intended for the general supervision of Federal associations. Also, those requirements applicable to mortgage lending generally (*i.e.*, fixed-rate, fixed-term, fully amortized loans as well as alternative mortgage transactions) are deemed inappropriate because they do not further "describe or define" alternative mortgage transactions defined in section 803(1) of Pub. L. 97–320.

The comments received on the November 17, 1982 Notice raised a number of issues. Some commenters requested that the Notice be expanded to include references to partially amortized loans, to forty year amortization limitations, to regulations on manufactured home loans, and to loan-to-value requirements.

In responding to these suggestions, the Board adheres to the approach that those regulatory provisions that describe and define alternative mortgage transactions should be deemed applicable, but those provisions that apply generally to mortgage loans, those outside of the authority granted by Title VIII, and those imposed on Federal associations for safety and soundness purposes should not be applied. The revised Notice, therefore, does not include a reference to the forty year amortization limit because this requirement is not one particular to alternative mortgage transactions. The provisions on loan-to-value ratios are not deemed appropriate because they reflect the consideration of safety and soundness in the Board's supervision of Federal associations. References to manufactured home loans or other types of loans are not included in the Notice because section 803(1) clearly defines the types of loans to which the authority to make alternative mortgage transactions is applicable.

The final rule incorporates a revised Notice to Housing Creditors as an Appendix to Part 545. The Board believes that codification of the Notice in this manner will make reference to the applicable regulations easier for housing creditors that must rely on the regulations pursuant to section 804(a)(3). The revised Notice references the basic authority to make alternative mortgage transactions and the statutory definition set forth in section 803. The Notice identifies only the following rules as applicable:

§ 545.33(c), setting forth the authority to make partially amortized or non-amortized loans and to adjust the interest rate, payment, balance, or term to maturity;

§ 545.33(e), setting forth limitations on adjustments to loans secured by borrower-occupied property; and

§ 545.33(f) (4) thru (11), setting forth requirements for disclosures on loans secured by borrower-occupied property that are not fixed-rate and fully amortized.

The Board believes that these provisions are an integral part of, and particular to, alternative mortgage transactions made by Federal associations. The adjustment and disclosure provisions are further limited in applicability to loans secured by borrower-occupied property, and therefore are limited in the same manner for housing creditors other than commercial banks and credit unions. All other regulations are deemed inappropriate and, therefore, inapplicable.

Equalization of Interest Rates

Most favored lender status is conferred on FSLIC-insured institutions by section 522 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 1730g). The Board, therefore, deletes existing § 545.8–9 relating to the equalization of interest rates.

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Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–35, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated elsewhere into the supplementary information regarding the rule.

2. *Small entities to which the rule will apply.* The rule will apply only to Federal savings and loan associations and institutions the accounts of which are insured by the FSLIC.

3. *Impact of the rule on small institutions.* The rule will permit institutions to expand their services and investment activities regardless of size. There will be no disproportionate effect on small institutions.

4. *Overlapping or conflicting federal rules.* There are no known Federal rules that may duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rule.* To the extent that there are alternatives to any elements of the rule, discussion of them has been incorporated into the supplementary information.

List of Subjects in 12 CFR Parts 523, 526, 541, 545, 555, 561, and 563

Federal home loan banks, Savings and loan associations.

Effective Date

The Board has determined that the full thirty day delay of effective date following publication of the regulations pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because they relieve limitations imposed by regulations currently in effect, and it is in the public interest to provide for implementation of new powers as expeditiously as possible. Therefore, the regulations will take effect on May 26, 1983.

SOURCES OF REVISED SECTIONS

Revised section(s)	Title	Original section(s)
523.10	Definitions for purposes of this section, § 523.11 and § 523.12	523.10.
526.1	Definitions used in this Part	526.1.
541.1	General	541.1.
541.2	Act	541.2.
541.3	Combination of residential real estate and business property involving minor or incidental business use	541.3.
541.4	Combination of home and business property	541.4.
541.5	Cooperative housing development	541.5.
541.6	Director	541.6.
541.7	Dwelling unit	541.7.
541.8	Federal association	541.8.
Redesignated as § 541.9	Interim Federal association	541.8–1.
Redesignated as § 541.10	Interim state institution	541.8–2.
Redesignated as § 541.11	Insured institution	541.8–3.
Redesignated as § 541.12	General reserves	541.9.
Redesignated as § 541.13	Guaranteed loan	541.10.
Redesignated as § 541.14	Home	541.11.
Redesignated as § 541.15	Improved residential real estate	541.12 and 541.17(b).
(Removed)	Loans secured by liens on real estate	541.14.
Redesignated as § 541.16	Insured loan	541.13.
Redesignated as § 541.17	Regulatory net worth	541.15.
Incorporated as § 541.29	Other dwelling unit	541.16.
Incorporated as §§ 541.15 and 541.31	Other improved real estate	541.17.
541.18	Principal Supervisory Agent	541.18.
541.19	Short-term savings accounts	541.19.
541.20	Single-family dwelling	541.20.
541.21	Supervisory Agent	541.21.
541.22	Surplus	541.22.
Redesignated as § 541.23	Withdrawal value of a savings account	541.24.
Incorporated as § 541.50	Consumer loans	541.25.
Redesignated as § 541.24	Loans	541.26.
Redesignated as § 541.25	Commercial paper	541.27.
Redesignated as § 541.26	Corporate debt security	541.28.
Redesignated as § 541.27	Unimproved real estate	541.29.
Redesignated as § 541.28	Debit card	541.30.
541.29	Residential real estate	Encompasses § 541.16. with added provisions
541.30	Nonresidential real estate	[New].
541.31	Improved nonresidential real estate	541.17(a) and 541.17(c)
545.1	General authority	[New].
545.2	Federal preemption	545.6a.
545.3	Transition period	[New].
545.4–545.10	[Reserved]	
545.11	Insured accounts	545.1, 545.1–1, 545.1–2, 545.1–3, 545.1–4, 545.2–1, and 545.2–2.
545.12	Demand deposit accounts	[New].
545.13	Account records	545.2.
545.14	Determination and distribution of earnings	545.1–1, 545.3, and 545.3–1.
545.15	Withdrawals	545.4.
545.16	Public deposits, depositaries, and fiscal agents	545.24–2 and 545.24–3.
545.17	Funds transfer services	545.4–1.
545.18	Issuance of mutual capital certificates	545.5–1.
545.19	Issuance of net worth certificates	[New].
545.20	Borrowing, issuing obligations and securities, and giving security	545.24.
545.21	Give-aways	545.5.
545.22–545.30	[Reserved]	
545.31	Election regarding classification of loans or investments	Encompasses § 545.7–9 with added provisions.
545.32	Real estate loans	545.8, 545.8–2, 545.8–4, 545.8–5, and 545.8–6.
545.33	Home loans	545.8–2.
545.34	Limitations for home loans secured by borrower-occupied property	545.8–3, 545.8–4, and 545.8–5.

SOURCES OF REVISED SECTIONS—Continued

Revised section(s)	Title	Original section(s)
545.35	Other real estate loans	545.8–2(b) and 545.8–6.
545.36	Loans to acquire or to improve real estate	545.8–2(c), 545.8–2(d), and 545.8–2(e).
545.37	Combination loans	545.8–2(a).
545.38	Insured and guaranteed loans	545.8–1, 545.8–13, and 545.8–14.
545.39	Loans guaranteed under the Foreign Assistance Act of 1961	545.8–11.
545.40	Loans on low-rent housing	545.8–9.
545.41	Community development loans and investments	545.8–10
545.42	Home improvement loans	545.8–3.
545.43	State housing corporation investment-insured	545.7–3a.
545.44	Mortgage transactions with the Federal Home Loan Mortgage Corporation	545.8–10.
545.45	Manufactured home financing	545.7–8.
545.46	Commercial loans	[New].
545.47	Overdraft loans	545.4–1.
545.48	Letters of credit	[New].
545.49	Loans on securities	545.7–1.
545.50	Consumer loans	545.7–10
545.51	Credit cards	545.7–7.
545.52	Loans on savings accounts	545.7.
545.53	Finance leasing	545.7–10a.
545.54–545.70	[Reserved]	
545.71	Liquid Assets	545.9.
545.72	Government obligations	545.7–11 and 545.9
545.73	Inter-American Savings and Loan Bank	545.9(h).
545.74	Service corporations	545.9–1
545.75	Commercial paper and corporate debt securities	545.9–4
545.76	Investment in open-end management investment companies	545.9–4
545.77	Real estate for office and related facilities	545.10.
545.78	Leasing	[New].
545.79	Gold transactions	545.8–11
545.80	Small business investment Corporations	[New]
545.81–545.90	[Reserved]	
545.91	Home office	545.13.
545.92	Branch offices	545.14.
545.93	Upgrading of approved branch office	545.14–1.
545.94	Closing a branch office	545.14–2
545.95	Change of office location and redesignation of offices	545.15.
545.96	Agency	545.16.
545.97–545.100	[Reserved]	
545.101	Fiscal agency	545.17.
545.102	Trustee	545.17–1
545.103	Suretyship	545.24–2.
545.104–545.110	[Reserved]	
545.111	Adjustments to book value of assets	545.18.
545.112	Real estate owned	545.19.
545.113	Accounting records	545.20.
545.114	Monthly reports	545.22.
545.115	Statement of condition	545.23.
545.116–545.120	[Reserved]	
545.121	Indemnification of directors, officers and employees	545.25.
545.122	Employment contracts	545.25–1
545.123	Advisory boards and committees	545.26
545.124–545.125	[Reserved]	
545.126	Referral of insurance business	545.27
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545.136	Financial futures transactions	545.29.
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545.138	Data-processing services	545.16–1.
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545.140	Remote Service Units (RSUs)	545.4–2.
545.141	Home banking services	[New].
Appendix	Notice to Housing Creditors Regarding Alternative Mortgage Transactions	[New]
555.3	Real estate	555.3.
555.15	Prepayment penalty on mortgage loans	555.15.
555.19	Receipt of interest expressed as a percentage of other income	555.19.
561.15	Scheduled items	561.15.
561.42	Non withdrawable account	[New].
563.3–3	Eurodollar deposits	563.3–3.
563.8	Borrowing limitations	563.8.
563.8–2	Corporation's right of purchase	[New].
563.9	Geographic lending restrictions	563.9.
563.9–3	Loans to one borrower	563.9–3

STATUTORY AUTHORITY NOT CODIFIED

Statutory authority	Title	Original section(s) (removed by this action)
12 U.S.C. 1464(c)(3)(C)	Leeway authority for loans relating to residential real estate and farms	545.8–6.
12 U.S.C. 1464(c)(1)(O)	Loans and investments relating to development of new communities	545.7–2.
12 U.S.C. 1464(c)(4)(A)	Loans to and investments in business development credit corporations	545.7–3.
12 U.S.C. 1464(c)(4)(D)	Educational loans	545.7–4.
12 U.S.C. 1464(c)(1)(K)	Insured loans for title purchase	545.7–5.
12 U.S.C. 1730g	Equalization of interest rates	545.8–8.
12 U.S.C. 1464(c)(1) (C), (D), (E) and (F)	Securities and other investments	545.9 (a), (b), (c), (d), and (f).

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STATUTORY AUTHORITY NOT CODIFIED—Continued

Statutory authority	Title	Original section(s) (removed by this action)
12 U.S.C. 1464(c)(1)(H)	Investments in corporations and partnerships authorized by title IX of the Housing and Urban Development Act of 1968.	545.9–3.
12 U.S.C. 1464(b)(2) and 1464(c)	Issuance of GNMA-guaranteed, mortgage backed securities	545.24–1.
12 U.S.C. 1464(e)	Correspondent services	545.30.
12 U.S.C. 1464(c)(1)(G)	Time deposits in FSLIC-insured institutions	[New].
12 U.S.C. 1464(b)(3)	Borrowing from a state-chartered central reserve institution	545.24a.

Accordingly, the Board hereby amends Parts 523 and 526 of Subchapter B, Parts 541, 545 and 555 of Subchapter C, and Parts 561 and 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS LIQUIDITY

1. Revise paragraphs (d), (g) (6) and (9), and (h) (3) and (5) of § 523.10, as follows:

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

* * * * *

(d) *Net withdrawable accounts.* All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts, note accounts, accounts to the extent that security has been given upon them pursuant to § 563.8–2 of this Chapter, United States Treasury General Accounts, or United States Treasury Time Deposit-Open Accounts.

* * * * *

(g) *Liquid assets.* * * *

(6) Obligations of or obligations issued by (other than gold-related obligations) any state, territory or possession of the United States or political subdivision thereof, including any agency, corporation or instrumentality of a state, territory, possession or political subdivision: *Provided, That:*

(i) Such obligations continue to meet the requirements of § 545.72(a); and

(ii) Such obligations will mature in 2 years or less;

* * * * *

(9) Corporate debt obligations and commercial paper denominated in dollars provided that:

(i) Such corporate debt obligations (*a*) continue to be rated in one of the four highest grades by the most recently published rating of such obligations by two nationally recognized investment rating services, (*b*) are marketable as defined by § 541.26 of this part, (*c*) will mature in three years or less, and (*d*) are not convertible to common stock;

(ii) Such commercial paper (*a*) continues to be rated in one of the two highest grades by the most recently published rating of such paper by two nationally recognized investment rating services, or, if unrated, is guaranteed by a company having outstanding paper that is so rated, (*b*) will mature in 270 days or less; and

Provided, That an amount not in excess of one percent of such institution's assets invested in eligible corporate debt obligations or commercial paper of a single issuer shall be counted as a liquid asset; and

* * * * *

(h) *Short-term liquid assets.* * * *

(3) Savings accounts, including loans of unsecured day(s) funds, that qualify as liquid assets under paragraph (g)(4) of this section, and, in the case of negotiable savings accounts, will mature in six months or less;

* * * * *

(5) obligations specified in paragraph (g)(6)(i)(*b*) of this section that will mature in 6 months or less;

* * * * *

PART 526—LIMITATIONS ON RATE OF RETURN

2. Amend § 526.1 by (1) removing the word "notice" from the first sentence of paragraph (e) thereof and substituting in its place the word "note", and (2) revising paragraph (1) thereof, as follows:

§ 526.1 Definitions used in this Part.

* * * * *

(1) *NOW (negotiable order of withdrawal) account.* A savings account authorized by 12 U.S.C. 1832 on which interest is paid subject to the rate limitation in § 526.3 of this Part. For purposes of 12 U.S.C. 1832:

(1) An organization shall be deemed "operated primarily for religious, philanthropic, charitable, educational, or other similar purposes * * * and not for * * * profit" if it is described in sections 501(c)(3) through (13), 501(c)(19), or 528 of the Internal Revenue Code, and

(2) The funds of a sole proprietorship or unincorporated business owned by a husband and wife shall be deemed beneficially owned by "one or more individuals."

* * * * *

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

3. Revise Part 541 in its entirety as follows:

Sec.

541.1 General.
541.2 Act.
541.3 Combination of residential real estate and business property involving only minor or incidental business use.
541.4 Combination of home and business property.
541.5 Cooperative housing development.
541.6 Director.
541.7 Dwelling unit.
541.8 Federal association.
541.9 Interim Federal association.
541.10 Interim state institution.
541.11 Insured institution.
541.12 General reserves.
541.13 Guaranteed loan.
541.14 Home.
541.15 Improved residential real estate.
541.16 Insured loan.
541.17 Regulatory net worth.
541.18 Principal Supervisory Agent.
541.19 Short-term savings accounts.
541.20 Single-family dwelling.
541.21 Supervisory Agent.
541.22 Surplus.
541.23 Withdrawal value of a savings account.
541.24 Loans.
541.25 Commercial paper.
541.26 Corporate debt security.
541.27 Unimproved real estate.
541.28 Debit card.
541.29 Residential real estate.
541.30 Nonresidential real estate.
541.31 Improved nonresidential real estate.

Authority: Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp., p. 1071, unless otherwise noted.

§ 541.1 General.

Unless another definition is provided in this subchapter, definitions in Part 521 of this Chapter apply.

§ 541.2 Act.

The Home Owners' Loan Act of 1933, as amended.

§ 541.3 Combination of residential real estate and business property involving only minor or incidental business use.

Residential real estate for which no more than twenty percent of the total appraised value of the real estate is attributable to the business use.

§ 541.4 Combination of home and business property.

A home used in part for business.

§ 541.5 Cooperative housing development.

Real estate primarily comprising a group of single-family dwellings owned by a non-profit cooperative housing organization.

§ 541.6 Director.

The Director or Deputy Director—Office of Examinations and Supervision.

§ 541.7 Dwelling unit.

The unified combination of rooms designed for residential use by one family, other than a single-family dwelling.

§ 541.8 Federal association.

A savings and loan association or savings bank chartered by the Board under section 5 of the Act and, except as the Board may otherwise provide, any building and loan, savings and loan, building, or homestead association, organized or incorporated under the laws of the District of Columbia.

§ 541.9 Interim Federal association.

An association chartered by the Board under section 5 of the Act to facilitate the acquisition of 100 percent of the voting shares of an existing Federal stock association or other insured stock institution by a newly formed company or an existing savings and loan holding company or to facilitate any other transaction the Board may approve.

§ 541.10 Interim state institution.

An insured institution, other than a Federal association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, to facilitate the acquisition of 100 percent of the voting shares of an existing Federal stock association or other insured stock institution by a newly formed company or an existing savings and loan holding company or to facilitate any other transaction the Board may approve.

§ 541.11 Insured institution.

An insured institution as defined in § 561.1 of this Chapter.

§ 541.12 General reserves.

Aggregate reserves established solely to meet losses.

§ 541.13 Guaranteed loan.

A loan guaranteed or as to which a commitment to guarantee has been made under the Servicemen's Readjustment Act of 1944, or Chapter 37 of Title 38, United States Code, as amended.

§ 541.14 Home.

Real estate comprising a single-family dwelling(s) or a dwelling unit(s) for four or fewer families in the aggregate.

§ 541.15 Improved residential real estate.

Residential real estate containing offsite or other improvements sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

§ 541.16 Insured loan.

A loan as to which the mortgagee is insured, or as to which a commitment for such insurance has been made under the National Housing Act or the Servicemen's Readjustment Act of 1944, or Chapter 37 of Title 38, United States Code, as amended.

§ 541.17 Regulatory net worth.

Any reference to the term "net worth" included in this Subchapter shall mean "regulatory net worth" as defined in § 561.13 of this Chapter.

§ 541.18 Principal Supervisory Agent.

The President of the Bank of the district in which a Federal association, or insured institution (as defined in § 561.1 of this Chapter), is, or will be, located or any other person designated in writing as Principal Supervisory Agent by the Board to serve as such for such term as under such conditions as may be specified.

§ 541.19 Short-term savings account.

A savings account which will be withdrawn in less than twenty-four months or was established to accumulate funds to pay taxes or insurance premiums on real estate securing a loan.

§ 541.20 Single-family dwelling.

A structure designed for residential use by one family, or a unit so designed, whose owner owns, directly or through a non-profit cooperative housing organization, an undivided interest in the underlying real estate, including property owned in common with others which contributes to the use and enjoyment of the structure unit.

§ 541.21 Supervisory Agent.

The Principal Supervisory Agent or any other officer or employee of the Bank designated under § 501.10 or § 501.11 of this Chapter.

§ 541.22 Surplus.

Undistributed earnings held as unallocated reserves for general corporate use.

§ 541.23 Withdrawal value of a savings account.

The amount invested in a savings account plus earnings credited thereto, less lawful deductions therefrom.

§ 541.24 Loans.

Obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

§ 541.25 Commercial paper.

Any note, draft, or bill of exchange which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

§ 541.26 Corporate debt security.

A marketable obligation, evidencing the indebtedness of any corporation in the form of a bond, note and/or debenture which is commonly regarded as a debt security and is not predominantly speculative in nature. A security is marketable if it may be sold with resonable promptness at a price which corresponds reasonably to its fair value.

§ 541.27 Unimproved real estate.

Real estate that will be improved, as defined in §§ 541.15 or 541.31 of this Part.

§ 541.28 Debit card.

A card that enables an accountholder to obtain access to a savings account for the purpose of making withdrawals or of transferring funds to a third party by non-transferable order or authorization.

§ 541.29 Residential real estate.

The terms "residential real estate" or "residential real property" mean homes (including condominiums and cooperatives), combinations of homes and business property, other real estate used for primarily residential purposes other than a home (but which may include homes), combinations of such real estate and business property involving only minor business use, farm

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residences and combinations of farm residences and commercial farm real estate, property to be improved by the construction of such structures, or leasehold interests in the above real estate.

§ 541.30 Nonresidential real estate.

The terms "nonresidential real estate" or "nonresidential real property" mean real estate that is not "residential real estate," as that term is defined in § 541.29 of this Part.

§ 541.31 Improved nonresidential real estate.

Nonresidential real estate (a) containing a permanent structure(s) constituting at least 25 percent of its value, or (b) containing improvements which make it usable by a business or industrial enterprise; or (c) used, or to be used within a reasonable time, for commercial farming, excluding hobby and vacation property.

PART 545—OPERATIONS

4. Revise Part 545 in its entirety as follows:

Sec.
545.1 General authority.
545.2 Federal preemption.
545.3 Transition period.
545.4–545.10 [Reserved]
545.11 Insured accounts.
545.12 Demand deposit accounts.
545.13 Account records.
545.14 Determination and distribution of earnings.
545.15 Withdrawals.
545.16 Public deposits, depositaries, and fiscal agents.
545.17 Funds transfer services.
545.18 Issuance of mutual capital certificates.
545.19 Issuance of net worth certificates.
545.20 Borrowing, issuing obligations and securities, and giving security
545.21 Give-aways.
545.22–545.30 [Reserved]
545.31 Election regarding classification of loans or investments.
545.32 Real estate loans.
545.33 Home loans.
545.34 Limitations for home loans secured by borrower-occupied property.
545.35 Other real estate loans.
545.36 Loans to acquire or to improve real estate.
545.37 Combination loans.
545.38 Insured and guaranteed loans.
545.39 Loans guranteed under the Foreign Assistance Act of 1961.
545.40 Loans on low-rent housing.
545.41 Community development loans and investments.
545.42 Home improvement loans.
545.43 State housing corporation investment-insured.
545.44 Mortgage transactions with the Federal Home Loan Mortgage Corporation.
545.45 Manufactured home financing.
545.46 Commercial loans.
545.47 Overdraft loans.
545.48 Letters of credit.
545.49 Loans on securities.
545.50 Consumer loans.
545.51 Credit cards.
545.52 Loans on savings accounts.
545.53 Finance leasing.
545.54–545.70 [Reserved]
545.71 Liquid assets.
545.72 Government obligations.
545.73 Inter-American Savings and Loan Bank.
545.74 Service corporations.
545.75 Commercial paper and corporate debt securities.
545.76 Investment in open-end management investment companies.
545.77 Real estate for office and related facilities.
545.78 Leasing.
545.79 Gold transactions.
545.80 Small Business Investment Corporations.
545.81–545.90 [Reserved]
545.91 Home office.
545.92 Branch offices.
545.93 Upgrading of approved branch office.
545.94 Closing a branch office.
545.95 Change of office location and redesignation of offices.
545.96 Agency.
545.97–545.100 [Reserved]
545.101 Fiscal agency.
545.102 Trustee.
545.103 Suretyship.
545.104–545.110 [Reserved]
545.111 Adjustments to book value of assets.
545.112 Real estate owned.
545.113 Accounting records.
545.114 Monthly reports.
545.115 Statement of condition.
545.116–545.120 [Reserved]
545.121 Indemnification of directors, officers and employees.
545.122 Employment contracts.
545.123 Advisory boards and committees.
545.124–545.125 [Reserved]
545.126 Referral of insurance business.
545.127–545.130 [Reserved]
545.131 Communication between members of a Federal mutual association.
545.132–545.135 [Reserved]
545.136 Financial futures transactions.
545.137 Financial options transactions.
545.138 Data-processing services.
545.139–545.140 [Reserved]
545.141 Remote Service Units (RSUs).
545.142 Home banking services.
Appendix—Notice to Housing Creditors Regarding Alternative Mortgage Transactions.

Authority: Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp., p. 1071, unless otherwise noted.

§ 545.1 General authority.

A Federal association may exercise all authority granted it by the Home Owners' Loan Act of 1933, 12 U.S.C. 1464, as amended, and its charter and bylaws, whether or not implemented specifically by Bank Board regulation, subject to the limitations and interpretations contained in this Part.

§ 545.2 Federal preemption.

The regulations in this Part 545 are promulgated pursuant to the plenary and exclusive authority of the Board to regulate all aspects of the operations of Federal associations, as set forth in section 5(a) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464, as amended. This exercise of the Board's authority is preemptive of any state law purporting to address the subject of the operations of a Federal association.

§ 545.3 Transition period.

Except for § 545.33 (which is subject to the transition period in § 545.33(i)) until December 31, 1983, a Federal association may continue to rely on the provisions of Part 545 as constituted prior to May 26, 1983. This section shall expire automatically as of December 31, 1983.

§§ 545.4–545.10 [Reserved]

§ 545.11 Insured accounts.

Pursuant to 12 U.S.C. 1464 (b)(1)(A)–(b)(1)(B) a Federal association may issue insured accounts as defined in § 561.3 of this Chapter in the form of demand deposit accounts and savings accounts for indefinite or fixed terms ("certificate accounts"), in the form of shares or deposits. An association may establish classes of accounts and specify terms and conditions for such accounts. Amounts deposited in insured accounts may be in cash or property in which the association is authorized to invest. The authority of an association to issue insured accounts pursuant to this Part is subject to any applicable provisions of Parts 526 and 563 of this Chapter and Part 1204 of this Title.

§ 545.12 Demand deposit accounts.

For purposes of 12 U.S.C. 1464 (b)(1)(A)–(b)(1)(B) pursuant to which an association may issue demand accounts:

(a) A "business, corporate, commercial or agricultural loan" shall include any loan other than a home loan on property occupied or to be occupied by the borrower, a loan to a natural person for personal, family, or household use, or a participation interest in such loans.

(b) A "loan relationship" is established where there is a line of credit, any outstanding loan (including a finance lease), or a previous loan and a reasonable expectation of the renewal of a lending relationship based on the usual and customary activities and needs of the borrower.

§ 545.13 Account records.

(a) *Evidence of ownership and account.* An association shall comply with the requirements found at §§ 563.1 and 563.17–1(c)(5) of the Chapter. Accounts must be evidenced by a written agreement with transactions confirmed by issuance of a receipt or advice.

(b) *Ownership of record.* (1) *General rule.* An association may treat the holder of record of an insured account as the owner, regardless of any notice to the contrary, until the account is transferred on the association's books. Insured accounts shall be transferable only on the association's books on proper application by the transferee and acceptance of the transferee as a member on terms approved by the board of directors.

(2) *Exception.* Paragraph (b)(1) of this section notwithstanding, an association may issue negotiable certificate accounts in bearer form without recording ownership on the books of the association: *Provided,* That any provisions of the association's charter regarding membership and voting shall not apply to such certificates.

(c) *Use of collecting and paying agent.* An association may authorize any bank that is a member of the Federal Deposit Insurance Corporation or any institution that is a member of the Federal Savings and Loan Insurance Corporation to prepare, sign and deliver evidence of accounts, to collect and transmit funds obtained from those accounts, and to maintain records with respect to such accounts. The association may provide for issuance of duplicate certificates, bond, security and other protection in connection with such activities. An association may also authorize any such institution to pay an account according to its terms.

§ 545.14 Determination and distribution of earnings.

(a) *Rates of return.* An association may issue savings accounts earning interest at different rates of return which may be fixed at the time the account is issued or may vary, on any basis specified at the time the deposit is accepted, or in accordance with § 1204.201 of this Title. The authority referred to in this paragraph is subject to any applicable provisions of Part 526 of this Chapter and Part 1204 of this Title.

(b) *Time of distribution.* An association may distribute earnings on savings accounts, or designated classes thereof, as provided in its charter and bylaws and the terms of the account.

(c) *Distribution on share accounts.* No distribution of earnings on share accounts may be made under this section until provision has been made for payment of expenses and for the *pro rata* portion of credits to reserves required by the association's charter and by Part 563 of this Chapter.

§ 545.15 Withdrawals.

(a) *Right to require notice for withdrawal from savings account.* A Federal association shall reserve the right to require a fourteen day advance notice of intention to withdraw from savings accounts not having a fixed or minimum term of at least fourteen days or a prior notice-of-withdrawal requirement of at least fourteen days.

(b) *Payment of withdrawal requests.* Unless otherwise specified in its charter, when a Federal association cannot pay withdrawal requests within fourteen days of the date of receipt of written request therefor, it shall number and file all requests in the order received and proceed in the following manner while any request remains unpaid for more than fourteen days:

(1) Requests shall be paid in numerical order, and as each number is reached the accountholder shall be paid the lesser of $1,000 or the amount of the withdrawal request. If the amount of the request is not paid in full the request shall be renumbered, placed at the end of the list of requests, and acted upon in the same way when its new number is reached, until the request is paid in full. However, when a request is reached for payment, the association shall so notify the accountholder by registered mail to his last address as recorded on the association's books and, unless the holder, within fourteen days from the mailing of the notice, applies in person or in writing for payment, the request shall be cancelled and not paid. Regardless of any other provision in this section, the board of directors may pay on an equitable basis an amount not exceeding $200 to any accountholder in any calendar month; and

(2) The association shall allot to the payment of withdrawal requests the remainder of the association's receipts from all sources after deducting therefrom amounts for expenses, required payments on indebtedness, earnings distributable in cash to holders of savings accounts, and a fund for general corporate purposes of not more than twenty percent of the association's receipts from its accountholders and its borrowers.

(c) *Grace period with respect to withdrawals.* An association may compute earnings on amounts withdrawn from its insured accounts having an indefinite term during the last three business days of any period for which earnings are distributable as if the withdrawal had been made immediately after the close of that period.

§ 545.16 Public deposits, depositaries, and fiscal agents.

(a) *Definitions.* As used in this section—

(1) "Moneys" includes "monies" and has the meaning it has in applicable state law;

(2) "State law" includes actions by a governmental body which has a charter adopted under the constitution of the state with provisions respecting deposits of public money of that body;

(3) "Surety" means surety under real and/or personal suretyship, and includes guarantor; and

(4) Terms in paragraph (b) of this section have the meanings they have under applicable state law.

(b) *Authority to act as surety for public deposits.* (1) An association that is a deposit association may give bond or security for deposit in it of public moneys or investment in it by a governmental unit if required to do so by state law, either as an alternative condition or otherwise, regardless of the amount required. Any bond or security may be given and any substitution or increase thereof may be made under this section at any time.

(2) If state law requires as a condition of such deposit or investment that the association or its bond or security, or any combination thereof, be surety for or with respect to other deposits or instruments, whether of that depositor or investor or of any other(s), and whether in the association or in any other institution(s) having, when the investments or deposits were made, insurance by the Federal Savings and Loan Insurance Corporation, the same shall become, or if the state law is self-executing shall be, such surety.

(c) *Depositaries and fiscal agents.* Subject to regulation of the U.S. Treasury Department, an association may serve as a depositary for Federal taxes, as a Treasury tax and loan depositary, as a depositary of public money and fiscal agent of the Government or with regard to any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the Board, and satisfy any requirement in connection therewith, including: (1) maintaining accounts described in § 526.1 (n), (o), (p) and (q) of this Chapter, (2) pledging collateral, and (3) performing the services outlined in 31 CFR 202.3(b) (1981), or any section that supersedes or amends § 202.3(b).

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§ 545.17 Funds transfer services.

An association is authorized to transfer, with or without fee, its customers' funds from any account (including a line of credit) of the customer at the association or at another financial intermediary to third parties or other accounts of the customer on the customer's order or authorization by any mechanism or device, including cashier's checks, conforming with applicable laws and established commercial practices.

§ 545.18 Issuance of mutual capital certificates.

A Federal mutual association may issue mutual capital certificates as its charter permits, subject to the requirements of § 563.7–4 of this Chapter or as the Board may otherwise authorize in writing.

§ 545.19 Issuance of net worth certificates.

A Federal association may issue net worth certificates as its charter permits, in accordance with Part 572 of this Chapter or as the Board may otherwise authorize in writing.

§ 545.20 Borrowing, issuing obligations and securities, and giving security.

Pursuant to 12 U.S.C. 1464(b)(2)–(b)(3), a Federal association may borrow, give security, and issue notes, bonds, debentures, or other obligations, or other securities, including capital stock, subject to the provisions of Parts 561–571 of this Chapter.

§ 545.21 Give-aways.

(a) *Definitions used in this section.* (1) "Give-away" means any thing of value, or service performed in any part outside an association's premises, given without adequate payment, but not including (i) providing safety deposit facilities at reduced rental to members of the association, or (ii) repaying to members of any part of amounts paid by them for safe deposit facilities located outside the association's facilities.

(2) "Doing business" has the meaning it has in the statute described in paragraph (c) of this section, and "domestic association" means any savings and loan, building and loan, homestead association, or cooperative bank which is a domestic association under that statutory provision.

(b) *Prohibition.* No Federal association doing business in a state which has in effect a statutory provision as described in paragraph (c) of this section and regulatory restrictions adopted under that statute, shall (1) condition the distribution of a give-away on the recipient's possessing, opening, or adding to a savings account, or maintaining a minimum balance therein; (2) except under paragraph (d) of this section, refer in any of its advertising to any give-away, other than printed material of an educational or informational nature or a coin bank, with a cost not exceeding $2.50; or (3) enter any agreement with, or accept funds for investment in a savings account from, any person engaging in such activities.

(c) *Reciprocal statutory provision.* The statutory provision referred to in paragraph (b) of this section must authorize a specified state official to impose any regulation restrictions on domestic associations of the state equivalent to those imposed on Federal associations by paragraphs (b) (1) and (2) of this section if, while the restriction is in force, Federal associations doing business in the state are likewise restricted.

(d) *Exception.* Notwithstanding paragraph (b) of this section, a Federal association may advertise give-aways during a single period of thirty days ending not more than one year after it opens its first office.

§§ 545.22–545.30 [Reserved]

§ 545.31 Election regarding classification of loans or investments.

(a) If a loan or other investment is authorized under more than one section of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464, as amended, or this Part, an association may designate under which section the loan or investment has been made. Such a loan or investment may be apportioned among appropriate categories, and may be moved, in whole or part, from one category to another.

(b) For purposes of determining whether aggregate investments under one provision of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464, as amended, or this Part exceed an applicable percentage-of-assets limitation, a loan commitment shall be counted as an investment and shall be included in total assets of an association only to the extent that funds have been advanced (and not repaid) pursuant to the commitment. The term "loan commitment" used in the preceding sentence includes a loan in process, a letter of credit, or any other commitment to extend credit.

(c) Loans sold to a third party shall be included in calculation of a percentage-of-assets investment limitation only to the extent they are sold with recourse.

(d) An association may make a loan secured by assignment of loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loans.

§ 545.32 Real estate loans.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(c)(1)(B), a Federal association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) loans made on the security of residential or nonresidential real estate, or interests in such loans, subject to the limitations of this Part.

(b) *General.* (1) *Appraisals.* An association may make a real estate loan only after a qualified person designated by its board has submitted a signed appraisal of the security property, except that an insured or guaranteed loan may be made on the basis of a valuation of the security property furnished to the association by the insuring or guaranteeing agency. The association shall pay the cost of any appraisal of the security property obtained by the association after loan closing but prior to maturity of a loan, unless the borrower specifically requests the appraisal or the appraisal is made pursuant to the borrower's request to modify or refinance the loan.

(2) *Initial repayments on real estate loans.* Except as expressly authorized by this Part, repayments on real estate loans shall begin not later than 60 days after the loan is disbursed: *Provided,* That if such loans are for construction, substantial alteration, repair, or improvement, repayments may begin not later than 36 months (24 months for loans secured by real estate consisting solely of a home or combination of home and business property) after the date of the first disbursement, and interest shall be payable at least semi-annually until regular periodic payments begin.

(3) *Adjustments.* Subject to the limitations of § 545.33(e), an association may adjust the interest rate, payment, balance, or term to maturity on any real estate loan as authorized by the loan contract, and may receive a portion of the consideration for making a real estate loan in the form of a percentage of the amount by which the current market value of the property, during the loan term or at maturity, exceeds the original appraised value, or as provided in § 555.19 of this subchapter.

(c) *Security property.* A loan is made on the security of real estate if:

(1) The security property is real estate pursuant to the law of the state in which the property is located;

(2) The security interest of the association may be enforced as a real estate mortgage or its equivalent

pursuant to the law of the state in which the property is located;

(3) The security property is capable of separate appraisal;

(4) The association relies substantially upon the real estate as the primary security for the loan; and

(5) With regard to a security property that is a leasehold or other interest for a period of years, the term of the interest extends, or is subject to extension or renewal at the option of the association, for a term of at least five years following maturity of the loan.

(d) *Loan-to-value ratios.* (1) At the time of origination, a real estate loan may not exceed 100 percent of the market value of the security property. A Federal association shall, by a vote of its board of directors, establish maximum loan-to-value ratios for loans made on the security of real estate, and the resolution adopting such ratios shall be included in the minutes of the directors' meeting. Home loans made on the combined security of real estate and savings accounts may be made in excess of the maximum loan-to-value ratios adopted pursuant to this paragraph (d) with such excess secured by the savings account, if the account consists only of funds belonging to the borrower, members of his family, or his employer.

(2) With respect to home loans originated or refinanced in excess of 90 percent of the appraised value of the security property, that part of the unpaid balance that exceeds 80 percent of the property's value shall be insured or guaranteed by a mortgage insurance company that the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer."

(3) With respect to all other loans on the security of real estate originated in excess of 90 percent of the appraised value of the security property, an association's board of directors shall approve each such loan prior to its origination and such approval shall be recorded in the minutes of its meeting.

(4) In determining compliance with maximum loan-to-value-ratio limitations for real estate loans, at the time of making a loan an association shall add together the unpaid amount, or in the case of a line-of-credit loan the approved credit limit, of all recorded loans secured by prior mortgages, liens or other encumbrances on the security property that would have priority over the association's lien, and shall not make such a loan unless the total amount of such loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed the applicable maximum loan-to-value-ratio limitations prescribed in this paragraph (d). In valuing the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed. "Value" for a real estate loan means the market value of the real estate.

§ 545.33 Home loans.

Any loan made on the security of homes (including a unit of a condominium or cooperative), combinations of homes and business property, farm residences, and combinations of farm residences and commercial farm real estate (home loans) shall be subject to the limitations of this section.

(a) *Term; interest.* The loan term shall not exceed 40 years, with interest payable at least semi-annually, except as expressly authorized by this section.

(b) *Repayment of principal.* The loan balance, for other than nonamortized and line-of-credit loans, shall be repayable in at least semi-annual installments: *Provided,* That loans on the security of farm residences and combinations of farm residences and commercial farm real estate may be repayable in annual installments.

(c) *Amortization.* The loan may be fully amortized, partially amortized, nonamortized, or a line-of-credit loan. The loan contract may provide for the deferral of principal and capitalization of a portion of interest, or of all interest on loans to natural persons secured by borrower-occupied property and on which periodic advances are being made.

(d) *Loan-to-value ratios.* (1) At origination, the loan balance may not exceed the maximum loan-to-value ratios established pursuant to § 545.32(d) of this Part. During the term of the loan, the loan-to-value ratio may increase above the maximum permissible percentage if the increase results from an adjustment authorized by paragraph (c) or (e) of this section. The Board will assume continued compliance with the loan-to-value-ratio limitations where the original ratio met the requirements of this paragraph (d), but in no event may the loan balance exceed 125 percent of the original appraised value of the property during the term of the loan, unless pursuant to the paragraph (e)(2)(i) of this section or unless the loan contract provides that the payment shall be adjusted at least once every five years, beginning no later than the tenth year of the loan, to a level sufficient to amortize the loan at the then-existing interest rate and loan balance over the remaining term of the loan. The 125–percent limitation shall not apply to that portion of a loan balance that is interest received in the form of a percentage of the appreciation in value of the security property pursuant to paragraph (b)(3) of § 545.32 or as permitted by § 555.19 of this Subchapter.

(2) If, at maturity of a home loan that provides for adjustments pursuant to paragraph (c) or (e) of this section, the ratio of the loan balance to the current market value of the security property exceeds the maximum permissible under § 545.32(d) the association may offer to refinance the loan if (i) it complies with § 545.32(d)(2), and (ii) the loan contract requires that, in addition to full or partial amortization of the loan, the *pro rata* portion, based on the number of installments due annually, of estimated annual taxes and assessments on the security property be paid in advance to the association with each installment payment.

(e) *Adjustments.* For any home loan secured by borrower-occupied property, adjustments to the interest rate, payment, balance, or term to maturity shall comply with the limitations of this paragraph (e).

(1) Adjustments to the interest rate shall correspond directly to the movement of an interest-rate index or of a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, which index is readily available to and verifiable by the borrower and is beyond the control of the association. An association also may increase the interest rate pursuant to a formula or schedule that specifies the amount of the increase, the time at which it may be made, and which is set forth in the loan contract. An association may decrease the interest rate at any time.

(2) Adjustments to the payment and the loan balance that do not reflect an interest-rate adjustment may be made if (i) the adjustments reflect a change in a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, is readily available to and verifiable by the borrower, and is beyond the control of the association, (ii) in the case of a payment adjustment, the adjustment reflects a change in the loan balance or is made pursuant to a formula, or to a schedule specifying the percentage or dollar change in the payment as set forth in the loan contract or (iii) in the case of an open-end line-of-credit loan, the adjustment reflects an advance taken by the borrower under the line-of-credit and is permitted by the loan contract.

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(3) Any combination of indices or a moving average of index values may be used as an index, and an association may use more than one index during the term of a loan, if set forth in the loan contract.

(4) At least 30 but not more than 120 days prior to an adjustment and at least 90 but not more than 120 days prior to the expected maturity of a non- or partially-amortized loan (including a loan with a "call" provision pursuant to paragraph (e)(5) of this section), an association shall provide the borrower with notice of the adjustment or of maturity. However, where the loan contract provides that changes in the interest rate shall occur more frequently than changes in the payment, the association need not notify the borrower of changes in the rate, nor of changes in the loan balance or term resulting from a rate change, until notice of a payment adjustment is given. (For purposes of notification, a payment adjustment is considered to occur as of the date of the interest-rate change immediately preceding the due date of the adjusted payment.) In addition, where the loan contract sets out a schedule of payment adjustments, notice need not be given of payment changes made pursuant to that schedule. In the case of an open-end line-of-credit loan, notice of an adjustment to the payment or the balance need not be given if the adjustment reflects advances taken by the borrower under the line of credit, and notice of a change in the interest rate permitted by the loan contract (and any resulting change in the payment) need not be given.

(5) The loan term may be adjusted only to reflect a change in the interest rate, the payment or the loan balance. A loan contract may provide an association with the right to call the loan due and payable either after a specified number of years has elapsed following closing or upon the occurrence of a specified event external to the loan.

(f) *Disclosure.* Not later than three business days following receipt of a written application an association shall disclose to each applicant for a home loan, including a nonconforming loan made pursuant to 12 U.S.C. 1464(c)(3)(C), that is secured by property occupied or to be occupied by the borrower the information specified by this paragraph (f). These disclosures must be provided for all such loans that are originated by the association, for loans purchased from an affiliate (as defined in § 583.15 of this Chapter) and for loans purchased from an unaffiliated entity as part of a business arrangement or agreement to purchase loans not yet originated. The disclosures shall be in one or more documents other than the loan documents and shall be in plain language. The purpose of this disclosure requirement is to ensure full understanding of the operation of the loan for which the individual is applying. The disclosures do not constitute a commitment on the part of an association to make a loan to the applicant. For all home loans secured by borrower-occupied property the disclosure material provided to an applicant shall include at least such of the following information as is relevant to the type of loan being offered:

(1) Whether the loan contract contains a due-on-sale clause, and, if so, what rights the association has under the clause.

(2) A statement about whether the loan contract authorizes the imposition of a late charge or a prepayment penalty and, if so, the amount of the charge or penalty or the manner in which it is to be determined. If the amount of the charge or penalty may vary over the term of the loan, the association must indicate the approximate minimum and maximum amounts that may be imposed for a loan of the same type and with an initial balance comparable to that of the borrower.

(3) If the loan contract provides for escrow payments, a statement explaining the purpose of requiring escrow payments, how the amount of the escrow payment is established, and the rights of the association if the borrower fails to make the escrow payments.

(4) The term to maturity, if known, or the manner in which the term will be established.

(5) The initial interest rate, if known, or the manner in which the initial interest rate will be established.

(6) The amount of the initial payment, if known, and an explanation of how the amount of the payment is determined by reference to the initial loan balance, the interest rate, and the term over which the balance is scheduled to be repaid.

(7) If the interest rate, the payment, the loan balance, or the term to maturity may be adjusted, a full explanation of how the adjustments may be made, including identification of the index(es) to be used and how index values may be obtained by the borrower, and how the adjustment of one item may affect the others.

(8) What information will be contained in each notice of an adjustment and, in the case of a non- or partially-amortized loan (including a loan giving the association the right to call the loan due and payable after a number of years or upon the occurrence of an event external to the loan), in the notice of maturity, and how far in advance of an adjustment or maturity each notice will be provided.

(9) A description of all contractual contingencies, other than those arising from the borrower's breach or nonperformance or an obligation under the loan contract, under which the loan may become due or which may result in a forced sale of the home.

(10) In the case of a non- or partially-amortized loan, unless the association unconditionally obligates itself to refinance the loan, a statement that a large payment will be due at maturity of the loan and that the association is under no obligation to refinance the loan; if the loan gives the association the right to call the loan due and payable after a number of years or upon the occurrence of an event external to the loan, a statement that a large payment may be due at such time and that the association is not obligated to refinance the loan.

(11) An example of the interaction of all variable features of the loan over any period of time.

(12) Notwithstanding any provisions in this paragraph (f), for all home loans secured by borrower-occupied property that are fully amortizing and on which the interest rate, balance, term and the amount of the payments are fixed, an association need only provide the information specified in paragraphs (f)(1)–(3) of this section.

(g) *Loans on cooperatives.* A loan made on the security of a cooperative under this section shall comply with the following requirements:

(1) *Loans on the security of cooperative housing developments ("blanket" loans).* The association shall require that the cooperative housing development maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(2) *Loans on individual cooperative units.* Such loans may be made on the security of (i) a security interest in stock, membership certificate, or other evidence of ownership issued to a stockholder or member by a cooperative housing organization; and (ii) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(h) *Loans to facilitate trade-in or exchange.* Loans made to facilitate the trade-in or exchange of security property shall not exceed the loan-to-value ratios adopted by the association and shall be repayable within eighteen months.

(i) *Transition period.* (1) Effective August 16, 1982, the Board substantially amended its home lending regulations (12 CFR 545.6–2(a) (47 FR 36612)), and provided that between that date and December 31, 1982 Federal associations could make home loans pursuant to either the August amendments or the home lending regulations as constituted prior to that date. (12 CFR 545.6–2(a), 545.6–4, 545.6–4a, 545.6–4b (1982)). The Board subsequently extended this transition period to the later of June 30, 1982, or final Board action on these amendments. Board Resolution No. 83–24 (48 FR 3584 (1983)).

(2) These amendments become effective on May 26, 1983. Until that date associations may, or may commit to, make, purchase, participate, or otherwise deal in home loans pursuant to either the regulations as they were constituted prior to August 16, 1982 (12 CFR 545.6–2(a), 545.6–4, 545.6–4a, 545.6–4b (1982)) or the regulations as amended effective August 16, 1982. (12 CFR 545.6–2a (47 FR 36612)). As of May 26, 1983, and until December 31, 1983, an association may, or may commit to, make purchase, participate, or otherwise deal in home loans pursuant to either the regulations as constituted prior to August 16, 1982 (12 CFR 545.6–2(a), 545.6–4, 545.6–4a, 545.6–4b (1982)), or these amendments (12 CFR 545.33). The home lending regulations that became effective on August 16, 1982 (12 CFR 545.6–2(a) (47 FR 36612)) have been subsumed into these amendments and the authority to make home loans pursuant to the August amendments shall cease as of May 26, 1983.

(3) This paragraph (i) shall expire automatically as of December 31, 1983.

§ 545.34 Limitations for home loans secured by borrower-occupied property.

(a) *Due-on-sale clauses.* Subject to the provisions of 12 U.S.C. 1701j–3 (which preempts state prohibitions of due-on-sale clauses) and Part 591 of this Chapter, an association may include a provision in its loan instrument whereby the association may, at its option, declare immediately due and payable sums secured by the association's security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the association's prior written consent.

(b) *Late charges.* With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, no late charge, regardless of form, shall be assessed or collected by an association, unless (1) any monthy billing, coupon, or notice the association may provide regarding installment payments due on the loan discloses the date after which the charge may be assessed, and (2) the association has disclosed the information pertaining to the charge pursuant to § 545.33(f)(1)(ii) of this Part. An association may not impose a late charge more than one time for late payment of the same installment, and any installment payment made by the borrower shall be applied to the longest outstanding installment due. An association shall not assess a late charge as to any payment received by it within fifteen days of the due date of such payment.

(c) *Loan payments and prepayments.* Except for loans to natural persons secured by borrower-occupied property and on which periodic advances are being made, payments on the principal indebtedness of all loans on real estate shall be applied directly to reduction of such indebtedness, but prepayments made on an installment loan may be reapplied from time to time wholly or partly to offset payments which subsequently accrue under the loan contract. Subject to the disclosure provisions of § 545.33(f)(1)(ii), an association may impose a penalty on prepayment of a loan as provided in the loan contract. Notwithstanding the above, for any home loan secured by borrower-occupied property and on which the yield may be adjusted pursuant to § 545.33(e), an association may not impose a penalty on any prepayment made within 90 days of a notice of an adjustment.

§ 545.35 Other real estate loans.

A loan made on the security of residential real estate other than a home or on the security of nonresidential real estate shall be subject to the limitations of this section.

(a) The loan term shall not exceed 30 years, except for nonamortized loans, which shall be repayable within five years.

(b) Interest shall be payable at least semi-annually, except to the extent that the loan contract provides for the deferral and capitalization of interest.

(c) At origination, the loan balance may not exceed the maximum loan-to-value ratios specified in § 545.32(d) of this Part. During the term of the loan, the loan-to-value ratio may increase above the maximum permissible percentage if the increase results from the deferral and capitalization of interest, but at no time during the loan term may the ratio of the loan balance to the initial appraised value of the security property exceed 100 percent as a result of the deferral and capitalization of interest.

(d) An association's aggregate investment in nonresidential real estate loans under this section shall not exceed 40 percent of assets.

§ 545.36 Loans to acquire or to improve real estate.

In addition to any other limitations in this Part pertaining to real estate loans, loans for the purpose of acquiring unimproved real estate, for financing the development of real estate, on the security of building lots and sites (including a lot on which a manufactured home will be located), for construction of structures on real estate, or for the rehabilitation of real estate shall be subject to the provisions of this section.

(a) Such loans shall not exceed the loan-to-value ratios adopted under § 545.32(d) of this Part.

(b) Such loans shall be repayable within the following terms:

(1) *Two years:* loans for the construction or rehabilitation of an individual single-family dwelling;

(2) *Three years:* loans for the acquisition of land;

(3) *Six years:* loans for the construction or rehabilitation of multi-family dwellings, of nonresidential real estate, or of more than one single-family dwelling, and loans on the security of building lots and sites (other than for a borrower's principal residence);

(4) *Eight years:* loans to finance the development of real estate;

(5) Fifteen years: loans on the security of building lots and sites for single-family dwellings to be used as the borrower's principal place of residence (as evidenced by a borrower's certification of intention that the property will be so used).

(c) For loans made to finance the development of real estate, loans on the security of building lots and sites, and construction loans, upon release of any portion of the security property from the lien securing the loan, the principal balance of the loan shall be reduced by an amount at least equal to that portion of the outstanding loan balance attributable to the value of the property to be released. "Value" for the purposes of the preceding sentence is the appraised value fixed at the time the loan was made.

(d) Loan documentation for development loans shall contain a preliminary development plan that is satisfactory to the association. In addition, loans to one borrower (as defined in § 563.9–3 of this Chapter) made under this section for any one development project shall not exceed two percent of an association's assets. A

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development project may include all facilities that compose an integrated development plan. With respect to construction loans, associations shall reserve the right to impose limits on the number of structures under construction at a given time.

§ 545.37 Combination loans.

(a) Any loans authorized by this Part may be combined, with the term of each loan beginning at the end of the term of the preceding loan and interest and principal payment requirements as specified in the applicable sections of this Part.

(b) With respect to a combination of loans to finance development of real estate and loans on building lots and sites and/or construction loans, whether or not development has been completed, (i) beginning not more than three years after the initial disbursement of loan proceeds for construction purposes, the borrower shall make monthly payments sufficient to amortize, on a straight-line basis, that portion of the principal loan balance applicable to any improvement, including the building site, over the remaining term of the loan, and (ii) beginning not more than four years after such disbursement, the borrower shall make monthly payments sufficient to amortize, on a straight-line basis, that portion of the loan balance not applicable to the construction of any improvement and its building site, over the remaining term of the loan.

(c) For a combination loan that includes the acquisition of land, the loan contract shall provide that if the development or construction to be financed with the loan has not commenced by the end of the third year from the initial disbursement of the loan proceeds, the loan balance outstanding shall be due and payable.

(d) Notwithstanding any other provisions of this section, a combination loan for construction inclusive of acquisition and/or development, other than loans for single-family dwellings to be used as the principal place of residence of the borrower (which may be repayable within the period allowed by this section plus 40 years), shall be repayable within eleven years.

§ 545.38 Insured and guaranteed loans.

Without regard to any other limitations of this Part, a Federal association may make or invest in any of the following:

(a) Loans on the security of residential real estate that constitute guaranteed or insured loans as defined in §§ 541.13 or 541.16 of this Chapter, or that are insured or guaranteed by an agency or instrumentality of a state (1) whose full faith and credit is pledged to support the insurance or guarantee, or (2) whose insurance or guarantee program is approved by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b) Loans on the security of residential real estate guaranteed under the Farmers Home Administration (FmHA) Rural Housing Program: *Provided,* That (1) FmHA guarantees at least eighty percent of the principal amount and accrued interest of each loan made under the program; (2) the loan terms must be acceptable to FmHA; and (3) the association invests not more than the greater of 2.5 percent of its assets or one-half of its net worth in the aggregate out-standing balance of the non-guaranteed portions of all loans made under the program and held by the association.

(c) Loans on the security of non-residential real estate that are guaranteed by one of the following agencies: (1) Economic Development Administration (under the Public Works and Economic Development Act of 1965, as amended, or the successor to that Act; or the Trade Act of 1974, as amended); (2) Farmers Home Administration (under the Consolidated Farm and Rural Development Act of 1974, as amended); (3) Small Business Administration (under the Small Business Investment Act of 1958, as amended; or the Small Business Act of 1953, as amended).

§ 545.39 Loans guaranteed under the Foreign Assistance Act of 1961.

(a) Pursuant to 12 U.S.C. 1464(c)(4)(C) a Federal association may invest in any housing project loan guaranty under Section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1969; any loans guaranteed under Section 224 of that Act, as in effect before December 30, 1969; or any loan guaranteed under Sections 221 or 222 of that Act, as in effect after December 29, 1969, subject to paragraph (b) of this section.

(b) *Requirements.* For any investment made pursuant to this section:

(1) The loan agreement shall specify what constitutes an event of default, and provide that upon default in payment of principal or interest under such agreement, the entire amount of the outstanding indebtedness thereunder shall become immediately due and payable, at the lender's option; and

(2) The contract of guaranty shall cover 100 percent of any loss of investment thereunder, except for any portion of the loan arising out of fraud or misrepresentation for which the party seeking payment is responsible, and provide that the guarantor shall pay for any such loss in U.S. dollars within a specified reasonable time after the date of application for payment.

§ 545.40 Loans on low-rent housing.

(a) *General.* Limitations in this Part relating to maximum loan terms and loan-to-value ratios shall not apply to any loan secured by a lien on real estate which is, or is being constructed, remodeled, rehabilitated, or renovated to be, the subject of (1) an annual contributions contract for low-rent housing under former Sections 23 or 5 of the United States Housing Act of 1937, as amended, or (2) a Housing Assistance Payment (HAP) contract for low-income housing under Section 8 of the United States Housing Act of 1937, as amended, which the borrower has agreed in writing to enter into for the maximum term available for the particular project type and financing; *Provided,* That no loan by a Federal association pursuant to the authority of this section shall exceed the applicable loan-to-value ratio specified in § 545.32(d) or, the purchase price if the security property is to be purchased by a local public housing authority, and in no event, shall loan proceeds in excess of 80 percent of such appraised value be disbursed to the borrower until the Department of Housing and Urban Development has issued its final approval of the project under the subsidy program. Loans insured under the National Housing Act may be made on terms and conditions permitted by the insuring agency as provided in § 545.38 of this Chapter.

(b) *Appraisals.* The appraisals of any real estate required by § 545.32(b)(1) shall be rendered in accordance with the general appraisal guidelines issued by the Office of Examinations and Supervision.

§ 545.41 Community development loans and investments.

(a) *General.* A Federal association may make investments pursuant to 12 U.S.C. 1464(c)(3)(B) that are located within any of the following areas: (1) Any neighborhood strategy area (as defined in 24 CFR 570.301(c)) receiving concentrated development assistance under Title I of the Housing and Community Development Act of 1974, as amended; (2) Any general location (as specified in 24 CFR 570.306(b)(3)(ii)) which is specified in a community's Housing Assistance Plan (as defined in 24 CFR 570.306) as an area for housing assistance goals and which is receiving such concentrated assistance; (3) Any urban renewal area (as defined in Section 110(a) of the Housing Act of 1949, as amended) receiving such concentrated assistance in order to finish uncompleted urban renewal projects; and (4) Any locales specified by a community as receiving Urban Development Action Grants or otherwise receiving significant amounts of such concentrated assistance.

(b) *Investment in loans and other obligations secured by liens on real estate.* Such investments shall conform to all limitations in this Part 545 applicable to the type of real estate securing the investments.

(c) *Investments in real estate.* Investments in real estate may not exceed the appraised value of the property plus usual settlement costs. In determining the two-percent statutory investment limit, the following rules shall apply:

(i) A reasonable allowance for depreciation computed under the straight-line method may be deducted from the cost of improved real property or investments in improved real property owned by the association;

(ii) If a leasehold interest in land is acquired, the amount of the investment as to rental obligations under the lease shall be determined on the basis of the "present value of an annuity due" and for the purpose of such determination, the worth of money shall be deemed to be a market rate as of the date of the lease; and

(iii) The investment in improvements to land in which the association has a leasehold interest shall be the cost to the association of the improvement, less reasonable allowance for amortization computed under the straight-line method.

§ 545.42 Home improvement loans.

For any home improvement loan, with or without security, made pursuant to 12 U.S.C. 1464(c)(1)(J), installments shall be payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan complies with mortgage provisions authorized under § 545.33(e) of this Part.

§ 545.43 State housing corporation investment-insured.

A Federal association may make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation (as defined in § 571.6 of this chapter), pursuant to 12 U.S.C. 1464(c)(1)(P), provided that the aggregate outstanding direct investment and investment in loans and loan commitments under this section shall not exceed 30 percent of the association's assets at the time of investment, and shall not exceed 10 percent of such assets for investments in state housing corporations located outside the association's home state.

§ 545.44 Mortgage transactions with the Federal Home Loan Mortgage Corporation.

Without regard to any other provisions of this Part, a Federal association may enter into and perform any mortgage transaction with the Federal Home Loan Mortgage Corporation specified in § 305(a) of the Federal Home Loan Mortgage Corporation Act. For purposes of this section, the term "mortgage" shall have the meaning prescribed in section 302(d) of such Act.

§ 545.45 Manufactured home financing.

(a) *Definitions.*

(1) "Manufactured home" shall have the same definition as that contained in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6).

(2) "Manufactured home chattel paper"—a document evidencing an installment sales contract or a loan or interest in a loan secured by a lien on one or more manufactured homes and equipment installed or to be installed therein.

(3) "Manufacturer's invoice price"—a manufacturer's itemized charges, shown on its invoice, for a specifically identified manufactured home, furnishings, equipment, and accessories installed by the manufacturer, and freight.

(b) *General investment authority.* Pursuant to 12 U.S.C. 1464(c)(1)(J), an association may invest in manufactured home chattel paper and interests therein without limitation as to percentage of assets.

(c) *Inventory financing.* An association may invest in manufactured home chattel paper which finances a manufactured home dealer's acquisition of inventory, if:

(1) The inventory is held for sale by the dealer in its ordinary course of business;

(2) The loan evidenced by the chattel paper is the dealer's obligation; and

(3) The loan amount does not exceed the following:

(i) For new manufactured homes, 100 percent of manufacturer's invoice price for each manufactured home and equipment to be installed by the dealer;

(ii) For used manufactured homes, 75 percent of appraised market value or other generally accepted valuation of each manufactured home, including installed equipment.

(d) *Retail financing.* (1) *Insured and guaranteed loans.* An association may invest in retail manufactured home chattel paper that is insured or guaranteed, as defined in § 541.13 or § 541.16 of this Subchapter, or that has a commitment for such insurance or guarantee.

(2) *Conventional loans.* An association may invest in conventional retail manufactured home chattel paper if:

(i) The manufactured home is located at a manufactured home park or other permanent or semi-permanent site;

(ii) The manufactured home chattel paper is payable within 20 years, in monthly payments which are substantially equal except to the extent that the financing complies with mortgage provisions authorized under § 545.33 (c), (e) and (f) of this Part; and

(iii) The financed amount (excluding time-price differential or interest, however computed) does not exceed (*a*) in the case of a new manufactured home, 90 percent of the buyer's total costs, including freight, itemized set-up charges, sales or other taxes, filing and recording fees imposed by law and premiums for related insurance, or (*b*) in the case of a used manufactured home, 90 percent of the appraised market value or other generally accepted valuation of the manufactured home plus sales and other taxes, filing and recording fees imposed by law, premiums for related insurance, and freight and itemized set-up changes, if any.

(3) *Combination loans.* An association may invest in manufactured home chattel paper secured by combinations of manufactured homes and lots on the following terms:

(i) *Affixed manufactured homes.* If the wheels and axles have been removed and the manufactured home is premanently affixed to a foundation, a loan secured by a combination of manufactured home and lot on which it sits may be treated as a residential real estate loan under § 545.33(b) of this Part.

(ii) *Unaffixed manufactured homes.* If the manufactured home is not affixed in the manner described in paragraph 3(i) of this section, an association may make a loan secured by a combination of manufactured home and lot on which it is or is to be located if the financing complies with the requirements of paragraphs (d)(2) (i), (ii) and (iii) of this section and the loan-to-value ratio does not exceed 75 percent of the appraised value of the lot and lot improvements and 90 percent of the buyer's total costs of the manufactured home (or valuation of used manufactured home) as defined in paragraph (d)(2)(iii) of this section.

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(iii) *Insured and guaranteed loans.* Notwithstanding the other provisions of this paragraph (d)(3), of this section, an association may invest in a combination manufactured home and lot chattel paper that is insured or guaranteed as defined in §§ 541.13 or 541.16 of this Subchapter, or that has a commitment for such insurance or guarantee.

(e) *Sale of paper.*

(1) All manufactured home chattel paper sold by an association shall be sold without recourse, as defined in § 561.8 of this Chapter.

(2) No association may sell manufactured home chattel paper if, at the close of its most recent semi-annual period, it has manufactured home chattel paper scheduled items (other than assets acquired in a supervisory merger) in excess of five percent of its total portfolio in such paper: *Provided,* That application may be made to the Board for a waiver of this restriction.

§ 545.46 Commercial loans.

(a) *Investment authority.* Pursuant to 12 U.S.C. 1464(c)(1)(R), an association may invest in, sell, purchase, participate in, or otherwise deal in loans for commercial, corporate, business, or agricultural purposes: *Provided,* That at any one time the total investment made under this section shall not exceed five percent of the association's assets (or 7.5 percent in the case of a savings bank) prior to January 1, 1984, and ten percent thereafter.

(b) *Loans covered.* Notwithstanding the provisions of § 545.31 of this Chapter, the percentage-of-assets limitations in paragraph (a) of this section shall apply to:

(i) Overdraft loans on demand accounts; and

(ii) Commercial loans not secured by real estate that are made by a service corporation of the association: *Provided,* That, in the case of a service corporation with multiple stockholders, the amount of such loans attributed to one stockholder association will be calculated *pro rata* on the basis of the percentage of the service corporation's stock owned by the association.

§ 545.47 Overdraft loans.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(c)(1)(A), a Federal association may extend secured or unsecured credit to cover payment of drafts or other funds transfer orders in excess of the available balance of an account on which they are drawn, subject to the limitations of this section.

(b) *Loans not subject to this section.* Extensions of credit through the use of drafts or other funds transfer orders for purposes other than the payment of bona fide overdrafts or which result in a debit balance existing for more than 30 days after notice shall not be considered to be made pursuant to this section.

(c) *Demand accounts.* Overdraft credit relating to demand accounts is subject to specific limitations set forth in § 545.46 of this Chapter.

§ 545.48 Letters of credit.

(a) An association may issue commercial and standby letters of credit in conformance with the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits and may pledge collateral to secure its obligations thereunder, subject to the following requirements:

(1) Each letter of credit must conspicuously state that it is a letter of credit;

(2) The issuer's undertaking must contain a specified expiration date or be for a definite term, and must be limited in amount;

(3) The issuer's obligation to pay must be solely dependent upon the presentation of conforming documents as specified in the letter of credit, and not upon the factual performance or nonperformance by the parties to the underlying transaction; and

(4) The account party must have an unqualified obligation to reimburse the issuer for payments made under the letter of credit.

(b) To the extent funds are advanced under a letter of credit without compensation from the account party, the amount shall be treated as an extension of credit subject to percentage-of-assets limits and other requirements under an applicable provision of this Part.

§ 545.49 Loans on securities.

A Federal association may invest in loans secured by obligations of, or by obligations fully guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States named in § 523.10(g)(3) of this Chapter, if:

(a) The borrower is a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or is a broker or dealer registered with the Securities and Exchange Commission; and

(b) The market value of the securities for each loan at least equals the amount of the loan at the time it is made.

§ 545.50 Consumer loans.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(c)(2)(B), a Federal association may make consumer loans, subject to the limitations of this section.

(b) *Definition.* Consumer loans are defined as loans for personal, family or household purposes and loans reasonably incident thereto, and may be made as either open-end or closed-end consumer credit, but does not include credit extended in connection with credit cards nor bona fide overdraft loans.

(c) *Loans to dealers in consumer goods.* A Federal association may include loans to dealers in consumer goods to finance inventory and floor planning in the total investment made under this section. For purposes of the limitations on loans to one borrower, loans to dealers in consumer goods to finance inventory and floor planning shall be treated as commercial loans.

§ 545.51 Credit cards.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(b)(4), a Federal association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations, subject to the limitations of this section.

(b) Credit card operations may be subject to § 545.140 of this Part. If a personal security identifier, as defined in § 545.140(a)(2), is used in conjunction with a credit card, the identifier may not be disclosed to a third party.

§ 545.52 Loans on savings accounts.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(c)(1)(A), a Federal association may make loans on the security of its savings accounts, whether or not the borrower is the owner of the account, subject to the limitations of this section.

(b) Loans may be made pursuant to this section if the association obtains a lien on, or a pledge of, such accounts as security therefor. Such a loan shall not exceed the withdrawal amount of the savings account and shall not be made when the association has any unpaid application for withdrawal on file more than 14 days.

§ 545.53 Finance leasing.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464 (c)(1)(B), (c)(1)(R), and (c)(2)(B), a Federal association may engage in leasing activities that are the functional equivalent of lending, subject to the limitations of this section.

(b) *General.* (1) A Federal association may become the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property, may obtain an assignment of a lessor's interest in a lease of such property, and may incur obligations incidental to its position as

the legal or beneficial owner and lessor of the leased property, if (i) the lease is a net, full-payout lease representing a non-cancelable obligation of the lessee, notwithstanding the possible early termination of the lease and (ii) at the expiration of the lease, the association's interest in the property shall be liquidated or released on a net basis as soon as practicable.

(2) A lease of tangible personal property made to a natural person for personal, family or household purposes pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in consumer loans. A lease made for commercial, corporate, business or agricultural purposes pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in commercial loans. A lease of residential or nonresidential real property made pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in real estate loans.

(c) *Definitions.* For the purposes of this section:

(1) A "net lease" is a lease under which the association will not, directly or indirectly, provide or be obligated to provide for:

(i) The servicing, repair or maintenance of the leased property during the lease term;

(ii) The purchasing of parts and accessories for the leased property: *Provided,* That improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of this section;

(iii) The loan of replacement or substitute property while the leased property is being serviced;

(iv) The purchasing of insurance for the lessee, except where the lessee has failed to discharge a contractual obligation to purchase or maintain insurance; or

(v) The renewal of any license, registration of filing for the property unless such action by the association is necessary to protect its interest as an owner or financer of the property.

(2) A "full-payout" lease is one from which the lessor can reasonably expect to realize a return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from rentals, estimated tax benefits, and the estimated residual value of the property at the expiration of the initial term of the lease: *Provided,* That no more than 20 percent of the return may be realized from the residual value of the property at the expiration of the initial term of the lease. Both the estimated residual value of the property and that portion of the estimated residual value relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property depends primarily on the creditworthiness of the lessee, and not on the residual market value of the leased property. The maximum term of a full-payout lease shall be 40 years.

(d) *Salvage powers.* If, in good faith, an association believes that there has been an unanticipated change in conditions that threatens its financial position by significantly increasing its exposure to loss, the provisions of paragraphs (b) and (c) of this section shall not prevent the association:

(1) As the owner and lessor under a net, full-payout lease, from taking reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease;

(2) As the assignee of a lessor's interest in a lease, from becoming the owner and lessor of the leased property pursuant to its contractual right, or from taking any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease; or

(3) From including any provisions in a lease, or from making any additional agreements, to protect its financial position or investment in the circumstances set forth in paragraphs (d) (1) and (2) of this section.

§§ 545.54–545.70 [Reserved]

§ 545.71 Liquid assets.

An association may invest in assets that are described in § 523.10(g) of this Chapter. For purposes of this section, the maturity limitations (except those for banker's acceptances) of § 523.10(g) shall not apply.

§ 545.72 Government obligations.

Pursuant to 12 U.S.C. 1464(c)(1)(H), an association may invest in obligations of or issued by any state, territory or possession of the United States or political subdivision thereof (including any agency, corporation, or instrumentality), subject to the following conditions:

(a) Government obligations must continue to hold one of the four highest national investment grade ratings, or must be issued by a public housing agency and backed by the full faith and credit of the United States.

(b) Notwithstanding the limitations contained in paragraph (a) of this section, an association may invest up to one percent of its assets in the obligations of a state, territory, possession or political subdivision in which the association's home office or a branch office is located.

(c) Investment in gold-related obligations is prohibited.

§ 545.73 Inter-American Savings and Loan Bank.

Pursuant to 12 U.S.C. 1464(c)(4)(C), an association may invest in the share capital and capital reserve of the Inter-American Savings and Loan Bank, subject to the following conditions:

(a) The association's net worth meets the requirements of § 563.13 of this Chapter, its scheduled items do not exceed 2.5 percent of its specified assets, and all appraised losses have been offset by specific loss reserves to the extent required by § 563.17–2 of this Chapter;

(b) The association's aggregate investment pursuant to this paragraph, including the amount of any obligations undertaken to provide said Bank with reserve capital in the future [callable capital], will not, as a result of such investment, exceed one-quarter of one percent of its assets or $100,000, whichever is less; and

(c) The association's aggregate investment under this paragraph and its aggregate outstanding principal amount of investment under 12 U.S.C. 1464(c)(4)(C) of this Part, will not, as a result of such investment, exceed one percent of its assets.

§ 545.74 Service corporations.

(a) *Definitions.* As used in this section—

(1) "Aggregate outstanding investment" means the sum of amounts paid to acquire capital stock or securities and amounts invested in obligations of service corporations less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the association to retire obligations of service corporations. It also includes all nonconforming loans and conforming loans to the extent that they exceed in the amounts specified in paragraph (d)(2) of this section.

(2) "Confirming loan" means a loan or portion thereof which a Federal association may make under any provision of this Part other than this section, except a loan made under 12 U.S.C. 1464(c)(3)(C). A guarantee or

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take-out commitment with respect to a loan which could have been made by a Federal association as a conforming loan may be deemed a conforming loan for purposes of this section if the Federal association complies with all requirements of this Chapter, including appraisal and recordkeeping requirements, as though it were itself making the loan subject to its guarantee or take-out commitment.

(3) "Joint venture" means any joint undertaking by a service corporation or a wholly-owned subsidiary thereof with one or more persons or legal entities in any form, including a joint tenancy, tenancy in common, or partnership and including investment in a corporation other than a wholly-owned subsidiary.

(4) "Scheduled items" and "specified assets" have the meanings prescribed in §§ 561.15 and 561.17 of this Chapter.

(5) "Subsidiary" includes a wholly-owned subsidiary and any joint venture in which a service corporation or wholly-owned subsidiary thereof (i) owns, controls, or holds with power to vote more than 25 percent of the capital stock, (ii) is a general partner, or (iii) is a limited partner and has contributed more than 25 percent of the limited partnership's capital.

(b) *General.* Pursuant to 12 U.S.C. 1464(c)(4)(B), a Federal association may invest in service corporations organized under the laws of the state (including District, commonwealth, territory or possession) in which the association's home office is located, provided that:

(i) The service corporation's activities, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the activities set forth in paragraph (c) of this section, or are otherwise specifically approved by the Board subsequent to its review of an application;

(ii) If all of the capital stock is held by fewer than five savings and loan associations, or more than 40 percent of such stock is held by one savings and loan association, with a home office in such State, then the consolidated debt outstanding at any one time (to holders of its capital stock and to others) of the service corporation and its subsidiaries may not exceed:

(*a*) Ten times the total of the service corporation's consolidated net worth and its unsecured debt (excluding accounts payable incurred in the ordinary course of business and paid within 60 days) to holders of at least 25 percent of its capital stock; or

(*b*) Twenty times such total if the service corporation is engaged solely in the activities set forth in paragraph (c)(1)(i) of this section. The consolidated debt of the service corporation and its subsidiaries shall include the entire amount of any obligation of the service corporation or subsidiary resulting from the sale of loans with recourse;

(iii) The service corporation must agree in writing to permit and to pay the cost of such examination as the Board deems necessary;

(iv) The Board may limit service corporation activities, or refuse to permit activities, for supervisory reasons.

(c) *Permitted activities.* A service corporation in which a Federal association may invest is permitted to engage in activities reasonably related to the activities of Federal associations as the Board may approve. Applications for approval to engage in such activities shall be made to the Supervisory Agent. In addition, a service corporation may engage in the following activities without prior Board approval:

(1) *Loans.* Originating, investing in, selling, purchasing (including purchasing participations in) servicing, or otherwise dealing in (including brokerage or warehousing), any of the following:

(i) Loans, and participations in loans, on a prudent basis and secured by real estate or liens on manufactured homes;

(ii) Loans, and participations in loans with or without security, for altering, repairing, improving, equipping, or furnishing real estate;

(iii) Loans and participations in loans for business purposes secured in part by real estate and insured or guaranteed by an agency of the United States;

(iv) Educational loans and participations therein;

(v) Consumer loans, including inventory and floor planning loans, and participations therein;

(vi) Commercial loans and participations therein: *Provided,* That: such loans together with commercial loans made by the parent association pursuant to § 545.46 of this Part do not exceed five percent of the assets of the parent, or 7.5 percent if the parent is a Federally chartered savings bank, prior to January 1, 1984, or ten percent thereafter. Where a service corporation is owned by more than one association, each parent for purposes of this calculation shall include a portion of the subsidiary's commercial loans in the proportion of that parent's investment in the service corporation.

(2) *Services primarily for financial institutions.* Performing any of the following services, primarily for financial institutions:

(i) Credit analysis, appraising, construction loan inspection, and abstracting;

(ii) Developing and administering personnel benefit programs, including life insurance, health insurance, and pension or retirement plans;

(iii) Research, studies, and surveys;

(iv) Developing and operating storage facilities for microfilm or other duplicate records;

(v) Advertising, brokerage and other services to procure and retain both savings accounts and loans, but not pooling savings accounts or soliciting or promoting pooled savings accounts;

(vi) Serving as escrow agent or as trustee under deeds of trust, including executing and delivering conveyances, reconveyances, and transfers of title;

(vii) Providing liquidity management, investment, advisory and consulting services;

(viii) Providing clerical, accounting, and internal auditing services;

(ix) Establishing, owning, leasing, operating or maintaining remote service units.

(3) *Real estate services.*

(i) Maintaining and managing real estate, including real estate used for agricultural purposes;

(ii) Managing owners' associations for condominium, cooperative, Planned Unit Development or other rental real estate projects;

(iii) Providing home ownership and financial counseling;

(iv) Providing relocation services;

(v) Providing real estate brokerage services for property owned by an association that owns capital stock of the service corporation, the service corporation, or a joint venture in which the service corporation participates, but not for property owned by third parties;

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided,* That any development, subdivision, and construction of improvements is to be completed within eleven years after acquisition of the real estate, unless such period is extended by the Principal Supervisory Agent upon written application by the service corporation, which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction: and *Provided further,* That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in this subparagraph;

(vii) Acquiring improved real estate or manufactured homes to be held for rental or resale, or for remodeling, renovating, or demolishing and rebuilding for sale or rental;

(viii) Acquiring, maintaining and managing real estate (improved or unimproved) to be used for offices and related facilities of a stockholder of the service corporation, or for such offices and related facilities and for rental or sale, if such acquisition, maintenance and management is performed under a prudent program of property acquisition to meet either the stockholder's present needs or reasonable future needs for office and related facilities: *Provided,* That without prior approval of the Board, no service corporation shall acquire such real estate if, as a result of the acquisition, the outstanding aggregate book value of all such real estate owned by the stockholder and its service corporations would exceed their consolidated net worth.

(4) *Other investments.*

(i) Making investments in securities and in corporations or partnerships authorized by title IX of the Housing and Urban Development Act of 1968;

(ii) Investing in savings accounts in an insured institution that is a stockholder of the service corporation: *Provided,* That the service corporation receives no consideration, other than interest at the current market rate, for opening or maintaining any such account;

(iii) Investing in the capital stock or in the accounts of an interim Federal association or an interim state institution that has been chartered solely for the purpose of becoming a constituent in a merger that will result in the acquisition of a stock association by a savings and loan holding company or by a company which will, after the acquisition, be a savings and loan holding company;

(iv) Investing in tax-exempt bonds of state governments or political subdivisions thereof used to finance residential real property for family units and issued pursuant to section 103 of the Internal Revenue Code, and tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies and issued pursuant to section 11(b) of the United States Housing Act of 1937, as amended; and

(v) Investing in the capital of a small business investment company or minority enterprise small business investment company licensed pursuant to section 301(d) of the Small Business Investment Act of 1958 by the U.S. Small Business Administration to invest in small businesses engaged exclusively in the activities listed in paragraphs (c) (1)–(5) of this section;

(vi) Engaging in interest rate futures transactions subject to the provisions of § 563.17–4 of this Chapter, but not subject to any notification requirements thereof;

(vii) Engaging in financial options trading subject to the provisions of § 563.17–5 of this Chapter;

(viii) Making investments specified in §§ 545.71–73, and 545.76 and in 12 U.S.C. § 1464(c)(1)(C)–(F), (M) and (N).

(5) *Other services.*

(i) Preparing state and Federal tax returns for individuals or organizations that are not corporations operated for profit;

(ii) Insurance brokerage or agency for liability, casualty, automobile, life, health, accident, or title insurance, but not private mortgage insurance;

(iii) Providing fiduciary services upon application to the Board pursuant to § 550.2, and subject to the conditions provided in §§ 550.1–550.16, of this Subchapter;

(iv) Issuing notes, bonds, debentures, or other obligations or securities;

(v) Issuing credit cards, extending credit in connection therewith, and otherwise engaging in or participating in credit card operations;

(vi) Acquiring personal property, including office equipment, for the purpose of leasing such property or obtaining an assignment of a lessor's interest in a lease of such property;

(vii) Providing data processing services to the extent permitted to the parent association pursuant to § 545.138 of this Part;

(viii) Issuing letters of credit.

(6) Activities reasonably incident to those listed in paragraphs (c) (1)–(5) of this section.

(d) *Amount of investment.* (1) An association may invest under this section in the capital stock, obligations, or other securities of service corporations: *Provided,* That its aggregate outstanding investment does not exceed three percent of assets, and any investment in excess of two percent of assets serves primarily community, inner-city or community development purposes. The investment limitations of this paragraph shall include all loans (but not including accounts payable incurred in the ordinary course of business and paid within 60 days) secured and unsecured, and all guarantees or take-out commitments of such loans, to service corporations or any subsidiaries thereof, and to joint ventures of such service corporations or subsidiaries, whether or not the association is a stockholder therein. An association with an aggregate outstanding investment in excess of two percent of assets shall designate investments that serve primarily community, inner-city or community development purposes which shall include the following:

(i) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;

(ii) Investments for the preservation or revitalization of either urban or rural communities;

(iii) Investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or

(iv) Other community, inner-city or community development-related investments approved by the Principal Supervisory Agent.

(2) In addition to amounts which it may invest under paragraph (d)(1) of this section, an association that has a net worth at least equal to the minimum net-worth requirement for an association on the annual closing date of the twentieth anniversary of insurance of accounts as provided in paragraph (b) of § 563.13 of this Chapter, and that has a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets of not more than 2.5 percent (except as provided in paragraph (d)(4) of this section), may loan additional amounts as follows:

(i) An aggregate outstanding amount, not to exceed the loans-to-one borrower limit, may be invested in conforming loans made to a service corporation of which the association owns or holds with power to vote not more than ten percent of the capital stock, or to a joint venture in which service corporations in which the association is a stockholder, including subsidiaries of such service corporations, (*a*) own or hold with power to vote not more than a total of ten percent of the capital stock, or (*b*) are limited partners and have contributed not more than ten percent of such joint venture's capital.

(ii) Conforming loans in an aggregate amount up to 50 percent of the loans-to-one borrower limit may be made to service corporations in which the association owns more than ten percent of the capital stock, or to a joint venture in which service corporations in which the association is a stockholder, including subsidiaries of such service corporations, (*a*) own or hold with power to vote more than a total of ten percent of the capital stock, or (*b*) are partners and have contributed more

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than ten percent of such joint venture's capital.

(3) The limitation in paragraph (d)(1) of this section does not apply to conforming loans to any service corporation in which the lending association does not have any investment made under authority of this section, or to conforming loans to a statewide service corporation in which

(i) All of the capital stock is available for purchase by, and only by, any and all savings and loan associations with a home office in such state;

(ii) No savings and loan association owns, or may own, more than ten percent of the service corporation's outstanding capital stock, except that in any state in which the home offices of fewer than fifteen savings and loan associations are located, no association owns, or may own, more than one-third of such stock;

(iii) Every eligible savings and loan association may own an equal amount of capital stock or may, on such uniform basis as the service corporation may determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, but capital stock outstanding on December 31, 1964, may be disregarded in determining compliance with this requirement.

(4) An association that has a net worth at least equal to the minimum net-worth requirement for an association on the annual closing date of the twentieth anniversary of insurance of accounts as provided in paragraph (b) of § 563.13 of this Chapter, may apply to the Board by filing an application with the Supervisory Agent for an exception from the scheduled-items limitation in paragraph (d)(2) of this section. The application shall be supported by information evidencing the association's sound investment, lending, appraisal, and underwriting policies and favorable operating results. The application shall be filed with the Principal Supervisory Agent with a copy to the Director, Office of Examinations and Supervision.The application is approved if, within 30 calendar days after the date the Principal Supervisory Agent receives it, he has not notified the applicant that approval is withheld. If approval is withheld, the Principal Supervisory Agent shall promptly cause the application to be submitted to the Board for its decision. The Principal Supervisory Agent may request additional information from the applicant, but need not consider such additional information received less than five calendar days before the end of the 30-day period.

(e) *Disposal of investment.* Whenever a service corporation, including any subsidiary thereof, engages in an activity which is not permissible for, or exceeds limitations on, a service corporation in which a Federal association may invest, or whenever the capital stock ownership requirements of this section are not met, a Federal association having an interest in the corporation, including any subsidiary thereof, shall dispose of its investment promptly unless, within 90 days after the Board mails written notice to the association, the impermissible activity is discontinued, the limitation is complied with, or the capital stock ownership requirements are met.

§ 545.75 Commercial paper and corporate debt securities.

(a) *General.* Pursuant to 12 U.S.C. 1464(c)(2)(B) a Federal association may invest in, sell, or hold commercial paper and corporate debt securities, including corporate debt securities convertible into stock, subject to the limitations set forth in paragraph (b) of this section.

(b) *Limitations.* (1) Commercial paper must be: (i) denominated in dollars and (ii) as of the date of purchase, as shown by the most recently published rating made of such investments by at least two nationally recognized investment rating services, rated in either one of the two highest grades or (iii) if unrated, guaranteed by a company having outstanding paper that is rated as provided in paragraph (b)(1)(ii) of this section.

(2) Corporate debt securities must be: (i) denominated in dollars, (ii) securities that may be sold with reasonable promptness at a price which corresponds reasonably to their fair value, and (iii) rated in one of the four highest grades by at least two nationally recognized investment rating services at their respective most recent published rating before the date of purchase of the security.

(3) An association's total investment in the commercial paper and corporate debt securities of any one issuer, or issued by any person or entity affiliated with such issuer, together with other commercial loans, shall not exceed the limitations contained in § 563.9–3.

(4) Investments in corporate debt securities convertible into stock are subject to the following additional limitations: (i) the purchase of securities convertible into stock at the option of the issuer is prohibited; (ii) at the time of purchase, the cost of such securities must be written down to an amount which represents the investment value of the securities considered independently of the conversion feature; (iii) associations are prohibited from exercising the conversion feature.

(5) At any one time, the average maturity of an association's portfolio of corporate debt securities may not exceed six years.

(6) An association shall maintain information in its files adequate to demonstrate that it has exercised prudent judgment in making investments under this section.

(c) Notwithstanding the limitations contained in this section, the Board may permit investment in corporate debt securities of another insured institution in connection with the purchase or sale of a branch office or in connection with a supervisory merger or acquisition.

(d) Notwithstanding any rating and marketability limitations contained in paragraphs (b) (1) and (2) of this section, an association may invest up to one percent of its assets in commercial paper and corporate debt securities if in the exercise of its prudent business judgment it determines that there is adequate evidence that the obligor will be able to perform all that it undertakes to perform in connection with such securities, including all debt service requirements.

§ 545.76 Investment in open-end management investment companies.

A Federal association may invest in, redeem, or hold shares of any open-end management investment company which has registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and whose portfolio is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to the investments that an association is authorized to make. An association's total investment in the shares of any one such company shall not exceed five percent of the association's assets.

§ 545.77 Real estate for office and related facilities.

(a) *General.* A Federal association may invest in real estate (improved or unimproved) to be used for office and related facilities of the association, or for such office and related facilities and for rental or sale, if such investment is made and maintained under a prudent program of property acquisition to meet the association's present needs or its reasonable future needs for office and related facilities. The association shall obtain Board approval before making an investment which would cause the outstanding aggregate book value of all such investments (including investments under § 545.74(c)(3)(viii) of this Part) to exceed its net worth. The association shall also obtain Board approval before investing in real estate which the Board has not approved for the establishment or maintenance of an office facility, if the investment, together with the association's other investments in real estate lacking such approval, would exceed 25 percent of its net worth.

(b) *Requests for Board approval of exceptions.* An association shall send requests for Board approval of exceptions to limitations in this section to the Supervisory Agent, with a copy to the Director, Office of Examinations and Supervision.

§ 545.78 Leasing.

(a) *Authorization.* Pursuant to 12 U.S.C. 1464(c)(2)(A), a Federal association may invest in tangible personal property for the purpose of leasing that property, subject to the limitations of this section.

(b) *Residual value.* The estimated residual value of the property at the expiration of the initial term of the lease shall not exceed 70 percent of the acquisition cost to the lessor.

§ 545.79 Gold transactions.

No Federal association shall engage in any transaction or activity involving gold (including gold coins) or gold-related instruments or securities.

§ 545.80 Small Business Investment Corporations.

Pursuant to 12 U.S.C. 1464(c)(4)(D), an association may invest in small business investment companies formed pursuant to section 301(d) of the Small Business Investment Company Act of 1958.

§ 545.81–545.90 [Reserved]

§ 545.91 Home office.

All operations of a Federal association shall be subject to direction from the home office.

§ 545.92 Branch offices.

(a) *General.* A branch office of a Federal association is any office other than its home office, agency office, data processing or administrative office, or a remote service unit. Except as limited by this section, any business of a Federal association may be transacted at a branch office. A Federal association shall not establish a branch office without prior written approval of the Board or its Principal Supervisory Agent.

(b) *Eligibility.* A Federal association may apply for a branch regardless of the number of branch applications it has pending before the Board, unless otherwise currently restricted under an agreement between the Board and a state agency that regulates state-chartered savings and loan associations.

(c) *Application form; filing; completion; supervisory objection.* Applicants shall obtain Board-approved application and notice forms and related instructions from the Supervisory Agent. An application is filed when four copies are delivered to the Supervisory Agent; the application is complete when the Supervisory Agent determines that all required information has been submitted. The Board shall not accept an application if in its opinion the association is not eligible or its policies, condition, or operations afford a basis for supervisory objection. The Supervisory Agent shall determine that the application is complete, the applicant is eligible, and that as a preliminary matter there is no basis for supervisory objection to the application, before giving direction for publication of notice.

(d) *Processing of application.* Processing of an application under this Part shall follow the procedures set forth in § 543.2 (c), (d), (e), and (f) of this Subchapter except that the applicant shall publish the required newspaper notice of application in the applicant's home office community and in the community to be served by the proposed branch office.

(e) *Approval by the Board or the Principal Supervisory Agent.* (1) The Board shall approve an application only if, in its opinion, the overall policies, condition, and operation of the applicant afford no basis for supervisory objection and the proposed branch will open within twelve months of approval unless otherwise allowed by the Board or the Principal Supervisory Agent. In considering whether to approve an application, the Board will assess and take into account an institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, pursuant to Part 563e of this Chapter; assessment of an institution's record of performance may be the basis for denying an application. An application may also be denied on the basis of restrictions imposed by the Board pursuant to an existing agreement between the Board and a state agency that regulates state-chartered savings and loan associations.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on Part 563e of this Chapter has been filed. Such application shall be deemed to be approved by the Board 30 days after notification that the application is complete, unless the applicant is notified by the Principal Supervisory Agent that objection has been taken on grounds set forth in paragraph (e)(1) of this section.

(f) *Approval of temporary or permanent location.* The Supervisory Agent may approve a temporary and/or permanent location of an approved branch office if the new location is in the immediate vicinity of the approved location.

(g) *Offices not requiring prior written approval.* A Federal association may establish without prior approval a drive-in and/or pedestrian office opened in conjunction with an approved branch or home office of the association, located within 500 feet of a public entrance of that office and closer to that entrance than to a public entrance of any other FSLIC-insured institution, and the functions of which are limited to the ordinary functions performed at a teller-window.

(h) *Application for and maintenance of branch office after conversion, consolidation, purchase of bulk assets, merger or purchase from receiver.* (1) An existing institution which converts to a Federal association may not maintain an existing office, and a Federal association which acquires offices through consolidation, purchase of bulk assets, merger or purchase from the receiver of an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation may not maintain any acquired office, without written Board approval.

(2) A Federal association may not file a branch application after having filed an application to merge or otherwise surrender its Federal charter, unless the merger or conversion application has been pending for at least six months.

(3) The Board may deny a branch application if it determines that the applicant will not in fact operate such branch as an office of a Federal association.

(i) *Exclusive agreements prohibited.* A Federal association may not enter into any kind of agreement(s) that would result in the exclusive right to operate a branch office in a regional shopping center, as defined in § 571.11(b) of this Chapter, or in a majority of all locations of a chain store, or enter into an agreement under which other financial institutions would be excluded from operating offices in a regional shopping center or any location of a chain store where the Federal association does not have an office.

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§ 545.93 Upgrading of approved branch office.

(a) *General.* A branch office is upgraded if the association is relieved of any of the restrictions imposed on operation of the office when it opened.

(b) *Notice.* A Federal association operating a limited, mobile, or satellite facility approved before January 1, 1981, or a branch office with conditions imposed on its operation shall notify the Supervisory Agent at least 30 days before upgrading the facility.

(c) *Approval.* If, within 30 days of receipt of the notice, the Supervisory Agent does not notify the association of supervisory objection which would require the association to submit an application or additional information before upgrading, the association may upgrade the facility.

(d) *Upgrading with change of location.* Any upgrading which involves a permanent change of location must be approved under § 545.95 of this Part.

§ 545.94 Closing a branch office.

A Federal association shall notify the Supervisory Agent not less than 60 days or, in the case of an emergency, as early as circumstances permit, before closing a branch office.

§ 545.95 Change of office location and redesignation of offices.

(a) *General.* A Federal association shall not change the permanent location of its home office or any approved branch office, or redesignate a home or branch office, without prior approval of the Board or the Supervisory Agent.

(b) *Processing of application.* (1) Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.92 (c), (d), (e), (f), (g), (h), and (i) of this Part, except that (1) the applicant shall publish the required newspaper notice of application in (i) the applicant's home office community, (ii) the community to be served by the new office, and (iii) the community where the office is to be closed or the home office is to be redesignated as a branch; and (2) the applicant shall post notice of the application for seventeen days from the date of first publication in a prominent location in the office to be closed or redesignated.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an amendment to section 2 of an association's charter in connection with approval of a home office relocation or redesignation under this section.

(c) *Short-distance relocations.* (1) Notwithstanding paragraph (a) of this section, an association may change the permanent location of a home or branch office, without applying for Board approval, to a site within the market area and short-distance relocation area of the office site that has been approved in accordance with § 545.92 of this Part or paragraph (a) of this section. The short-distance relocation area of an office site is:

(i) The area within a 1,000-foot radius of the site if it is located within a central city of a Standard Metropolitan Statistical Area ("SMSA") designated by the U.S. Department of Commerce;

(ii) The area within a one-mile radius of the site if it is located within an SMSA designated by the U.S. Department of Commerce but not within a central city; or

(iii) The area within a two-mile radius of the site if it is not located within an SMSA.

(2) An association shall notify the Supervisory Agent in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the Supervisory Agent notifies the association that the relocation does not satisfy the criteria in the first sentence of this paragraph (c), in which case the association must file an application and obtain Board approval in accordance with paragraph (b) of this section.

§ 545.96 Agency.

(a) *General.* A Federal association may, without approval of the Board, to the extent authorized by its board of directors, establish or maintain, within the same state as the home office of the association or the same state as any branch office approved by the Board, agencies which only service and originate (but do not approve) loans and contracts and/or manage or sell real estate owned by the association.

(b) *Additional services.* Except for payment on savings accounts and loan approval services, offering of any services not listed in paragraph (a) may be approved by the Principal Supervisory Agency.

(c) *Records.* An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the association.

(d) *Notice.* A Federal association shall notify the Supervisory Agent when it opens or closes an agency.

§§ 545.97–545.100 [Reserved]

§ 545.101 Fiscal agency.

A Federal association designated fiscal agent by the Secretary of the Treasury or, with Board approval by another instrumentality of the United States, shall, as such, perform such reasonable duties and exercise only such powers and privileges as the Secretary of the Treasury or such instrumentality may prescribe.

§ 545.102 Trustee.

A Federal association may act:

(a) As a trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan qualifying for specific tax treatment under Section 401(d) of the Internal Revenue Code of 1954, and (b) as trustee or custodian of an individual retirement account within the meaning of Section 408(a) of the Code, or (c) as trustee with no active fiduciary duties if state law authorizes a financial institution to act in such capacity; *Provided,* That the funds of the trust or account are invested only in the association's savings accounts or deposits or its obligations or securities. The association may receive reasonable compensation for acting in any trust capacity authorized by this section.

§ 545.103 Suretyship.

Pursuant to the authority given to the Board under 12 U.S.C. 1464(b)(2), a Federal association is authorized to enter into an agreement to act as surety subject to the following provisions:

(a) An association may enter into a suretyship agreement only if performance under the agreement would create an obligation authorized for investment by an association. An association's obligation under the suretyship agreement will be treated as a loan to its principal for purposes of the requirements of §§ 563.9–3 and 563.43 of this Chapter.

(b) An association must take and maintain a security interest in real estate or marketable securities of its principal having a market value of at least 110 percent of the association's suretyship obligation. If real estate, the value must be established by a signed appraisal by a person designated by the association's board of directors. In determing compliance with the 110 percent requirement, the association must consider the value of prior mortgages, liens or other encumbrances on the property, except those held by the party for whose protection the suretyship agreement is made. If marketable securities, such securities must be of a type in which the association is authorized to invest, and the association must provide for maintenance of the security at the required level during the term of the suretyship agreement.

(c) To the extent an association is required to meet its obligation under a suretyship agreement, the amount expended shall be treated as an extension of credit subject to percentage-of-assets limits in accordance with the obligation thereby created to the association.

§§ 545.104–545.110 [Reserved]

§ 545.111 Adjustments to book value of assets.

If the Supervisory Agent determines that an asset's stated book value exceeds its value or that documentation in the association's loan file is inadequate to demonstrate that an investment made under 12 U.S.C. 1464(c)(3)(C) is sound, the Supervisory Agent may require the association to charge off the asset immediately or establish and maintain a special reserve(s) equalling the overvaluation.

§ 545.112 Real estate owned.

A Federal association may not carry real estate on its books for a sum in excess of the total amount invested by the association on account of such real estate, including advances, costs, and improvements, but excluding accrued but uncollected interest.

§ 545.113 Accounting records.

(a) *Accounting practices.* Each Federal association shall use such forms and follow such accounting practices as the Board may require, and shall close its books at least annually as of the end of such month(s) as the association's board of directors may designate. The date of the association's annual closing shall be not less than fifteen days or more than three months and fifteen days before its annual meeting.

(b) *Maintenance of records.* An association shall maintain a complete record of its business transactions and maintain at its home office, or at a branch or service office located within 100 miles of the home office, all general accounting records, including control records, of its business transactions. The association may not transfer the general accounting or control records or the maintenance thereof from any of its offices to another, unless its board of directors has (1) by resolution authorized the transfer or maintenance and (2) sent a certified copy of the resolution to the District Director-Examinations of its district. An association which determines to maintain any of its records by means of data processing services shall so notify the District Director-Examinations, in writing, at least 90 days before such maintenance will begin. Notification shall include identification of the records and the location at which they will be maintained. Any contract, agreement, or arrangement under which data processing services are to be performed shall expressly provide that the records maintained by such services shall at all times be available for examination and audit.

§ 545.114 Monthly reports.

A Federal association's officers shall make a monthly report to the association's board of directors on forms prescribed by the Board and available from any Federal Home Loan Bank. The association shall send a copy of the report to the Bank of which it is a member and two copies to the Board.

§ 545.115 Statement of condition.

Within the month after the annual closing of a Federal association's books, the association shall mail to all of its members, or if it is a Charter S association to all of its depositors and borrowers, at their last address appearing on the association's books, or publish in an English-language newspaper of general circulation in the county in which the association's home office is located, a statement of the association's condition as of such closing, on forms prescribed by the Board and available from any Federal Home Loan Bank or from the Board. Within five days after mailing or publishing the statement, the association shall send a certification to that effect signed by one of its executive officers, and a copy of the statement, to the Bank of which it is a member. This section shall not apply in a year in which the association sends to its voting members an annual report as required by § 563.45(a) of this Chapter.

§§ 545.116–545.120 [Reserved]

§ 545.121 Indemnification of directors, officers and employees.

A Federal association shall indemnify its directors, officers, and employees in accordance with the following requirements:

(a) *Definitions and rules of construction.* (1) Definitions for purposes of this section.

(i) *Action.* Any judicial or administrative proceeding, or threatened proceeding, whether civil, criminal, or otherwise, including any appeal or other proceeding for review;

(ii) *Court.* Includes, without limitation, any court to which or in which any appeal or any proceeding for review is brought.

(iii) *Final judgment.* A judgment, decree, or order which is not appealable or as to which the period for appeal has expired with no appeal taken.

(iv) *Settlement.* Includes entry of a judgment by consent or confession or a plea of guilty or nolo contendere.

(2) References in this section to any individual or other person, including any association, shall include legal representatives, successors, and assigns thereof.

(b) *General.* Subject to paragraph (c) of this section, an association shall indemnify any person against whom an action is brought or threatened because that person is or was a director, officer, or employee of the association, for:

(1) Any amount for which that person becomes liable under a judgment in such action; and

(2) Reasonable costs and expenses, including reasonable attorney's fees, actually paid or incurred by that person in defending or settling such action, or in enforcing his rights under this section if he attains a favorable judgment in such enforcement action.

(c) *Requirements.* Indemnification shall be made to such person under paragraph (b) of this section only if:

(1) Final judgment on the merits is in his favor; or

(2) In case of: (i) Settlement (ii) final judgment against him, or (iii) final judgment in his favor, other than on the merits, if a majority of the rectors of the association determine that he was acting in good faith within the scope of his employment or authority as he could reasonably have perceived it under the circumstances and for a purpose he could reasonably have believed under the circumstances was in the best interests of the association or its members. However, no indemnification shall be made unless the association gives the Board at least 60 days' notice of its intention to make such indemnification. Such notice shall state the facts on which the action arose, the terms of any settlement, and any disposition of the action by a court. Such notice, a copy thereof, and a certified copy of the resolution containing the required determination by the Board of directors shall be sent to the Supervisory Agent, who shall promptly acknowledge receipt thereof. The notice period shall run from the date of such receipt. No such indemnification shall be made if the Board advises the association in writing, within such notice period, of its objection thereto.

(d) *Insurance.* An association may obtain insurance to protect it and its directors, officers, and employees from potential losses arising from claims against any of them for alleged wrongful acts, or wrongful acts, committed in their capacity as directors, officers, or employees. However, no association

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may obtain insurance which provides for payment of losses of any person incurred as a consequence of his willful or criminal misconduct.

(e) *Payment of expenses.* If a majority of the directors of an association concludes that, in connection with an action, any person ultimately may become entitled to indemnification under this section, the directors may authorize payment of reasonable costs and expenses, including reasonable attorneys' fees, arising from the defense or settlement of such action. Nothing in this paragraph shall prevent the directors of an association from imposing such conditions on a payment of expenses as they deem warranted and in the interests of the association. Before making advance payment of expenses under this paragraph, the association shall obtain an agreement that the association will be repaid if the person on whose behalf payment is made is later determined not to be entitled to such indemnification.

(f) *Exclusiveness of provisions.* No association shall indemnify any person referred to in paragraph (b) of this section or obtain insurance referred to in paragraph (d) of this section other than in accordance with this section. However, an association which has a bylaw in effect relating to indemnification of its personnel shall be governed solely by that bylaw, except that its authority to obtain insurance shall be governed by paragraph (d) of this section.

§ 545.122 Employment contracts.

(a) *General.* A Federal savings and loan association with bylaws amended under § 544.6(k), a Federal mutual savings bank or a Charter S or Charter T association, upon specific approval of its board of directors, may enter into employment contracts with its officers and other employees in accordance with § 563.39 of this Chapter.

(b) *Contracts with other entities or persons.* An officer of an association shall have no other written or oral agreement concerning employment as an officer of the association with any entity or person other than the association.

§ 545.123 Advisory boards and committees.

A Federal association's board of directors may establish one or more advisory boards of directors or advisory committees to advise the association as the board of directors may authorize. Each member of such a board or committee shall be appointed by the board of directors on a year-to-year basis. Such members may be permitted to attend meetings of the board of directors, but they shall have no vote on matters acted upon by the board of directors.

§ 545.124 and 545.125 [Reserved]

§ 545.126 Referral of insurance business.

(a) For purposes of this section the terms "owned" and "referral" have the meanings prescribed in § 555.17(a) (1) and (3) of this Subchapter.

(b) No Federal association shall refer any insurance business to an agency owned by officers or directors of the association, or by persons having power to direct its management, unless:

(1) A specific state statute or regulation precludes Federal associations' service corporations (or wholly owned subsidiaries thereof) from engaging in the insurance business;

(2) The association, after filing any necessary applications and making a bona fide attempt to obtain any necessary approval (with or without instituting legal proceedings against state officials to compel approval) has been denied permission by the appropriate state licensing or regulatory authorities for its service corporation, or a wholly owned subsidiary thereof, to engage in the insurance business;

(3) Such state authorities follow an established and well-known policy of refusing to accept or approve such applications (the association need not demonstrate existence of such a policy by instituting legal proceedings against such authorities to compel approval);

(4) The referral takes place within a reasonable period of time (not exceeding 18 months) after a change in such state law, regulation, or policy for the association to investigate the feasibility and desirability of acquiring or establishing its own service corporation insurance business; or

(5) An application for permission to establish or acquire a service corporation insurance business is on file with the appropriate state agencies and/or the Board.

§§ 545.127–545.130 [Reserved]

§ 545.131 Communication between members of a Federal mutual association.

(a) *Disclosure of membership list prohibited.* (1) As used in this section, "membership lists" means any document of the association containing: (i) a list of members of the association; (ii) their addresses; (iii) their savings account or loan balances or records; or (iv) any data from which that information reasonably could be constructed.

(2) Federal mutual associations may not disclose in any manner, directly or indirectly, their membership lists to any person (other than officers of the association, or others employed by them, in the usual course of conducting the association's business) except with prior written approval of the Board.

(3) The Supervisory Agent may approve or disapprove requests made under paragraph (a)(2) of this section, and may specify terms and conditions of approval.

(b) *Right of inspection of member's own records.* A member of a Federal mutual association has the right to inspect the association's books and records pertaining solely to the member's own savings or borrowing account(s).

(c) *Right of communication with other members.* A member of a Federal mutual association has the right to communicate, as prescribed in paragraph (d) of this section, with other members of the association regarding any matter related to the association's affairs, except for "improper" communications, as defined in paragraph (e) of this section. The association may not defeat that right by redeeming a savings member's savings account in the association.

(d) *Member communication procedures.* If a member of a Federal mutual association desires to communicate with other members, the following procedures shall be followed:

(1) The member shall give the association a written request to communicate;

(2) If the proposed communication is in connection with a meeting of the association's members, the request shall be given at least thirty days before the annual meeting or 10 days before a special meeting;

(3) The request shall contain—

(i) The member's full name and address;

(ii) The nature and extent of the member's interest in the association at the time the information is given;

(iii) A copy of the proposed communication; and

(iv) If the communication is in connection with a meeting of the members, the date of the meeting;

(4) The association shall reply to the request within either—

(i) Fourteen days;

(ii) Ten days, if the communication is in connection with the annual meeting; or

(iii) Three days, if the communication is in connection with a special meeting;

(5) The reply shall provide either—

(i) The number of the association's members and the estimated reasonable cost to the association of mailing to them the proposed communication; or

(ii) Notification that the association has determined not to mail the communication because it is "improper", as defined in paragraph (e) of this section;

(6) After receiving the amount of the estimated costs of mailing and sufficient copies of the communication, the association shall mail the communication to all members, by a class of mail specified by the requesting member, either—

(i) Within fourteen days;

(ii) Within seven days, if the communication is in connection with the annual meeting;

(iii) As soon as practicable before the meeting, if the communication is in connection with a special meeting; or

(iv) On a later date specified by the member;

(7) If the association refuses to mail the proposed communication, it shall return the requesting member's materials together with a written statement of the specific reasons for refusal, and shall simultaneously send to the Supervisory Agent two copies each of the requesting member's materials, the association's written statement, and any other relevant material. The materials shall be sent within (i) fourteen days, (ii) ten days if the communication is in connection with the annual meeting, or (iii) three days, if the communication is in connection with a special meeting, after the association receives the request for communication.

(e) *Improper communication.* A communication is an "improper communication" if it contains material which: (1) at the time and in the light of the circumstances under which it is made (i) is false or misleading with respect to any material fact or (ii) omits a material fact necessary to make the statements therein not false or misleading, or necessary to correct a statement in an earlier communication on the same subject which has become false or misleading; (2) relates to a personal claim or a personal grievance, or is solicitous of personal gain or business advantage by or on behalf of any party; (3) relates to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the association or is not within the control of the association; or (4) directly or indirectly and without expressed factual foundation (i) impugns character, integrity, or personal reputation, (ii) makes charges concerning improper, illegal, or immoral conduct, or (iii) makes statements impugning the stability and soundness of the association.

§ 545.132–545.135 [Reserved]

§ 545.136 Financial futures transactions.

A Federal association may engage in financial futures transactions in compliance with § 563.17–4 of this Chapter.

§ 545.137 Financial options transactions.

A Federal association may enage in financial options transactions in compliance with § 563.17–5 of this Chapter.

§ 545.138 Data-processing services.

(a) *Authorization.* A Federal association may engage in any permissible activity or service by using data processing equipment or technology, and may provide data processing and data transimission services to others on a for-profit basis as permitted by this section. An association may establish and maintain an office to provide such services to others without observing the application and approval procedures for branch offices set forth in this Part.

(b) (1) *Permissible data.* The data to be processed or transmitted by an association pursuant to paragraph (a) of this section must be financial, economic, or related to thrift, home financing, or the activities of depository institutions.

(2) *Customer restrictions.* An association must provide data processing and transmission services primarily for itself, other depository institutions (including the parent or a subsidiary of either), and persons with whom the association has established a loan or deposit relationship. An association may also provide such services to other persons if the services constitute less than one half of the data processing services provided under paragraphs (a) and (b) of this section.

(3) *Facilities.* In conjunction with providing services pursuant to paragraphs (a) and (b), an association may supply data processing software, documentation, and operating personnel. Any such facilities, as well as those used by the association, must be designed and operated for the processing or transmission of permissible data.

(c) *By-products and excess capacity.* As an incident to providing data processing and data transmission services pursuant to paragraph (b) of this section, an association may:

(1) Market by-products of such services (including software and compilations of data) to any person, only if the by-products are not designed, created, or substantially enhanced primarily for the purpose of such marketability, and

(2) Market excess capacity of its data processing facilities, provided that the involvement of the association is limited to furnishing access to its facilities and providing the necessary operating personnel, and that the association has not artificially created excess capacity by acquiring equipment or facilities whose capacity is substantially greater than that necessary to accommodate its present or expected future needs for providing permissible data processing services.

(d) *Controls.* An association providing data processing services or marketing excess capacity to any person under this section shall establish internal and system controls for both hardware and software such that the integrity of its records and those of its depositors and customers are adequately protected. At a minimum, the controls shall be consistent with Generally Accepted Auditing Standards. Any agreement pursuant to which the association provides data processing services shall contain a provision that generally describes the security measures so taken.

(e) *Contract and tying restrictions.* Any contract for data processing services authorized by this section shall incorporate the relevant limitations specified herein and state that the association's facilities are to be used only for the processing and transmission of permissible data. An association providing such services under this section shall comply with the anti-tying provisions of 12 U.S.C. 1464(q) (Pub. L. 97–320, § 331, 96 Stat. 1469, 1503 (1982)).

(f) An association may participate with others in establishing or maintaining a data processing office: *Provided,* That the association may participate in establishing or maintaining a data processing office controlled by an entity not subject to examination by a Federal agency regulating financial institutions only if such entity has agreed in writing with the Board that it will permit and pay for such examination of the office as the Board deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the office.

§§ 545.139 and 545.140 [Reserved]

§ 545.141 Remote Service Units (RSUs).

(a) *Definitions.* As used in this section—

(1) "Generic data" means statistical information which does not identify any individual accountholder.

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(2) "Personal security identifier" (PSI) means any word, number, or other security identifier essential for an accountholder to gain access to an account.

(3) "Remote service unit" (RSU) means an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of a Federal association that, for activation and account access, requires use of a machine-readable instrument and PSI in the possession and control of an accountholder, is an RSU. The term includes, without limitation, point-of-sale terminals, merchant-operated terminals, cash-dispensing machines, and automated teller machines. It excludes automated teller machines on the premises of a Federal association, unless shared with other financial institutions. An RSU is not a branch, satellite, or other type of facility or agency of a Federal association under § 545.92 *et seq.* of this Part.

(4) "RSU account" means a savings or loan account or demand account that may be accessed through use of an RSU.

(b) *General.* Subject to the requirements of the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205.2), a Federal association may establish or use RSUs and participate with others in RSU operations, on an unrestricted geographic basis. No RSU may be used to open a savings account, a demand account or establish a loan account.

(c) *RSU access techniques.* A Federal association shall provide a PSI to each accountholder and require its use when accessing an RSU; it may not employ RSU access techniques that require the accountholder to disclose a PSI to another person. The association must inform each accountholder that the PSI is for security purposes and shall not be disclosed to third parties. Any device used to activitate an RSU shall bear the words "Not transferable" or their equivalent. A passbook may not be such a device.

(d) *Privacy of account data.* A Federal association shall allow accountholders to obtain any information concerning their RSU accounts. Except for generic data or data necessary to identify a transaction, no Federal association may disclose account data to third parties, other than the Board or its representatives, unless express written consent of the accountholder is given, or applicable law requires. Information disclosed to the Board will be kept in a manner to ensure compliance with the Privacy Act, 5 U.S.C. 552a. A Federal association may operate an RSU according to an agreement with a third party or share computer systems, communications facilities, or services of another financial institution only if such third party or institution agrees to abide by this section as to information concerning RSU accounts in the Federal association.

(e) *Security.* A Federal association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of Part 563a of this Chapter as though such units were offices, as defined in § 563a.1 of said Part, except to the extent that an association satisfies the Board's Supervisory Agent that those requirements are inappropriate. In such a case, alternative measures satisfactory to the Board's Supervisory Agent must be taken for installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, larcenies, and computer theft and to assist in identification and apprehension of persons who commit such acts.

(f) *Board supervision.* A Federal association may share an RSU controlled by an institution or another party not subject to examination by a Federal regulatory agency only if such institution or other party has agreed in writing that the RSU is subject to such examination by the Board as it deems necessary.

§ 545.142 Home banking services.

A Federal association may utilize any electronic technology to provide its customers with home banking services. Any such services provided under this section are subject to the Electronic Funds Tranfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205) (as construed by Supplement II—Official Staff Interpretation, 2–23). "Home banking services" means the transfer of funds or financial information, or the performance of other transactions initiated by a customer by means of an electronic home terminal, such as a telephone, a home computer terminal, or a television set that is linked to an association's computer by telephone or cable television lines. An association providing services authorized by this section shall adopt security measures adequate to prevent unauthorized access to its records or those of its customers or the use of a home terminal to defraud the association or any of its customers.

Appendix

Notice to Housing Creditors Regarding Alternative Mortgage Transactions.

Pursuant to Title VIII, Pub. L. 97–320, housing creditors that are not commercial banks, credit unions, or Federal associations may make alternative mortgage transactions (as defined by Section 803 of Pub. L. 97–320 and as further defined and described by applicable regulations identified herein) notwithstanding any state constitution, law or regulation. In accordance with Section 807(b) of Pub. L. 97–320, the provisions listed below are identified as appropriate and applicable to the exercise of this authority, and all regulations not identified herein are deemed inappropriate and inapplicable: §§ 545.33 (c), (e), and (f) (4)–(11).

PART 555—BOARD RULINGS

5. Revise § 555.3 by amending the first sentence of paragraph (a) thereof, removing paragraph (b) thereof, and redesignating paragraph (c) as paragraph (b) as follows:

§ 555.3 Real estate.

(a) For lending purposes, a motel is generally considered "improved nonresidential real estate."* * *

§ 555.11 [Removed]

6. Remove § 555.11.

7. Amend §555.15 by removing the second sentence, by removing all references to "§ 545.8–5(b)" and inserting in their place "§ 545.34(c)", and by amending the first sentence to read as follows:

§ 555.15 Prepayment penalty on mortgage loans.

Section 545.34(c) makes clear that, with the exception of certain instances enumerated therein, the charging of a prepayment penalty is a matter of contract between a Federal association and a borrower, and that the borrower may wholly or partly prepay the loan without penalty unless the loan contract contains an express provision imposing a prepayment penalty.* * *

8. Add a new § 555.19 as follows:

§ 555.19 Receipt of interest expressed as a percentage of other income.

(a) With limited exceptions, Federal Associations lack the statutory authority to acquire an equity interest either in real estate or in a corporation. Accordingly, associations cannot, as part of a loan transaction, acquire an ownership interest in the security property or in a corporate borrower. The issue has arisen as to whether the receipt of a share of the income

generated by the security property or of a corporate borrower, or any similar participation with the borrower in the loan project, necessarily constitutes an unauthorized acquisition of an equity interest.

(b) The Board has determined that the receipt of such income or the right to receive income should not be considered an equity interest if it in substance constitutes no more than a part of the compensation received for the use of the association's funds. Accordingly, if the borrower has an unconditional obligation to repay the loan principal, and if an association receives a substantial payment of interest calculated periodically as a percentage of the outstanding principal loan balance, it may receive additional interest calculated on the basis of the income from or the appreciation of the security property, the income of a corporate borrower, or some other measure of a venture's success. The means by which an association calculates its share of the income is not a material consideration in determining whether the share constitutes an equity interest in the property.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

9. Amend § 561.15 by revising paragraphs (g), (h), (i), the introductory text of (j), and (k) as follows:

§ 561.15 Scheduled items.

* * * * *

(g) Assets acquired in exchange for any of the scheduled items described in this section except (1) securities, if the market value of a security when it is acquired at least equals its unpaid principal balance, or (2) securities that qualify as liquid assets under § 523.10(g) of this Chapter.

(h) Assets transferred by an insured institution to a service corporation referred to in § 545.74 of this Chapter, or to any other corporation in which an insured institution has an investment, to the same extent that they, or the amount invested therein, would be counted as scheduled items if not transferred.

(i) The amount invested in personal property acquired through enforcement of a security interest, including manufactured homes and any personal property in the possession of any servicing company or dealer acting on behalf of an insured institution but excluding personal property owned pending transfer to an issuing or guaranteeing agency of the U.S Government.

(j) The unpaid principal balance of any loan secured by, and any contract for the sale of, personal property described in paragraph (i) of this section, if the unpaid balance exceeds any applicable lending limitation or 100 percent of the wholesale value, including any installed equipment, of the personal property as established at the time of sale in a dealer's market or by appraisal; except that, with respect to loans secured by or contracts for the sale of manufactured homes, only twenty percent of the unpaid principal balance of any such loan or contract will be included in "scheduled items" if all of the following requirements are met: * * *

(k) For purposes of this section, a lease made or otherwise invested in by an insured institution that conforms to the description of a finance lease, as set out in § 545.53 of this Chapter, shall be treated as if it were a loan secured by the type of property leased.

10. Add a new § 561.42 to read as follows:

§ 561.42 Nonwithdrawable account.

An account which by the terms of the contract of the holder with the institution or by provisions of state law cannot be paid to the holder until all liabilities, including other classes of share liability, of the institution have been fully liquidated and paid upon the winding up of the institution is referred to as a "nonwithdrawable account."

PART 563—OPERATIONS

11. Amend § 563.3–3 by revising paragraph (c) as follows:

§ 563.3–3 Eurodollar deposits.

* * * * *

(c) *Collateralization of certificates.* An institution may give security for Eurodollar deposits subject to the provisions of § 563.8–2 of this Part.

* * * * *

12. Amend § 563.8 by revising paragraph (c) as follows:

§ 563.8 Borrowing limitations.

* * * * *

(c) An institution may give security for borrowings other than from a Federal Home Loan Bank or state-chartered central reserve institution subject to the provisions of § 563.8–2 of this Part.

13. Add a new § 563.8–2 as follows:

§ 563.8–2 Corporation's right of purchase.

(a) *General rule.* For any security given by an insured institution other than for borrowings from a Federal Home Loan Bank or state-chartered central reserve institution, the terms of the security agreement or other documentation shall provide that the Corporation receive prompt written notification of any default on the obligation and, before a sale or other disposition of any portion of the collateral, that the Corporation shall have thirty (30) days after receipt of written notice of the proposed sale or other disposition to exercise a right to repurchase the collateral at the price to be paid at the sale or to acquire the collateral at the value to be assigned to it in any other disposition.

(b) *Exceptions.* The notice and right of purchase required by paragraph (a) of this section shall not apply to collateral consisting of liquid assets as defined in § 523.10 of this Chapter or collateral that would qualify as liquid assets but for its remaining term to maturity.

14. Revise § 563.9 as follows:

§ 563.9 Geographic lending restrictions.

An insured institution may invest in, sell, purchase, participate or otherwise deal in loans or interests therein without geographic restriction.

15. Revise paragraphs (a) and (b) of § 563.9–3 as follows:

§ 563.9–3 Loans to one borrower.

(a) *Definitions used in this section.* (1) *One borrower. (i)* The term "one borrower" means:

(*a*) Any person or entity that is, or that upon the making of a loan will become, obligor on a loan;

(b) nominees of such obligor;

(*c*) All persons, trusts, syndicates, partnerships, and corporations of which such obligator is a nominee, a beneficiary, a member, a general partner, a limited partner owning an interest of ten percent or more (based on the value of his contribution), or a record or beneficial stockholder owning ten percent or more of the capital stock; and

(*d*) If such obligor is a trust, syndicate, partnership, or corporation, all trusts, syndicates, partnerships, and corporations of which any beneficiary, member, general partner, limited partner owning an interest of ten percent or more, or record or beneficial stockholder owning ten percent or more of the capital stock, is also a beneficiary, member, general partner, limited partner owning an interest of ten percent or more, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor.

(ii) In the case of a loan that has been assumed by a third party with the consent of the lending insured institution, the former debtor shall not be deemed an "obligor."

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(2) *Outstanding loans.* The term "outstanding loans" means the total amounts of funds advanced under a loan agreement or commitment plus any additional advances and interest due and unpaid, less repayments. The term also includes: (i) credit extended in the form of finance leases satisfying the criteria set forth in § 545.53 of this Chapter; (ii) potential liabilities under standby letters of credit, lines of credit, and guarantee or suretyship obligations, except to the extent the institution has recourse to cash or a segregated deposit account of its customer to indemnify it against such liabilities; (iii) undisbursed loan proceeds, unless the loan is subject to an overline purchase commitment of another financial institution; and (iv) investments in commercial paper and corporate debt obligations. The term does not include a loan or participation interest sold without recourse, a loan secured by a first lien on real estate subject to an annual contributions contract under former section 23 of the United States Housing Act of 1937, as amended, a loan on the security of the institution's deposit accounts, or a deposit or a loan of unsecured day(s) funds described in § 563.9–6 of this Chapter. The amount of an outstanding "wraparound" loan is determined by the amount of funds advanced by the institution, except to the extent the institution has become liable to pay an obligation secured by a lien on the security property prior to its own.

(3) *Outstanding commercial loans.* The term "outstanding commercial loans" means:

(i) Outstanding loans for commercial, corporate, business, or agricultural purposes, except to the extent secured by real property; and

(ii) Loans described in paragraph (d)(3)(i) of this section made by an institution's subsidiary, attributed *pro rata* on the basis of the percentage of the subsidiary's stock owned by the institution.

(4) *Unimpaired capital and unimpaired surplus.* The term "unimpaired capital and unimpaired surplus" means regulatory net worth plus specific reserves for loan losses, less appraised equity capital.

(b) *Limitations.* (1) *Aggregate loans.* No insured institution shall make any loan to one borrower if the sum of (i) the amount of such loan and (ii) the total balances of all outstanding loans owed to such institution and its service corporation affiliates by such borrower exceeds an amount equal to ten percent of such institution's withdrawable accounts or an amount equal to such institution's net worth, whichever amount is less: *Provided,* That, notwithstanding any other limitation of this sentence, any such loan may be made if the sum of items (b)(1) (i) and (ii) above does not exceed $500,000 and, beginning on January 1, 1984, and annually thereafter, such amount adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous twelve months as shown in the November-to-November index.

(2) *Commercial loans.* No insured institution may make any commercial loan to one borrower if the sum of such loan and the total balances of outstanding commercial loans to such borrower exceeds the amount a national bank having an identical unimpaired capital and unimpaired surplus could lend such borrower. The general rule stated in § 5200 of the Revised Statutes (12 U.S.C. 84) is that total loans and extensions of credit by a national bank to one borrower are limited to fifteen percent of the bank's unimpaired capital and unimpaired surplus, plus an additional ten percent for loans fully secured by readily marketable collateral. Several exceptions to these limits are set forth in section 5200; and additional limitations on loans to one borrower are found in sections 11(m) and 13 of the Federal Reserve Act (12 U.S.C. 248(m), 372).

(3) *Rated obligations.* Notwithstanding the limitations in paragraphs (b) (1) and (2), an insured institution may invest up to one percent of assets or one million dollars, whichever is more, in obligations of one issuer evidenced by:

(i) Commercial paper rated, as of the date of purchase, as shown by the most recently published rating by at least two nationally recognized investment rating services, in the highest grade; or

(ii) Corporate debt securities that may be sold with reasonable promptness at n price that corresponds reasonably to their fair value, and that are rated in one of the two highest grades by at least two nationally recognized investment rating services at their respective most recently published ratings before the date of purchase of the security.

(4) *Waiver.* The Board may waive the application of the limitations in this paragraph to any loan that is part of the resolution of a supervisory case or integral to the acquisition, merger, consolidation, or corporate reorganization of an insured institution.

* * * * *

(Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947; 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–13317 Filed 5–16–83; 8:45 am]

BILLING CODE 6720–01–M

federal register

Monday
May 23, 1983

Part III

Environmental Protection Agency

Biphenyl; Proposed Test Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42031; TSH-FRL 2338-7]

Biphenyl; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In the Tenth Report of the Interagency Testing Committee (ITC), submitted to the Administrator on May 10, 1982 and published in the **Federal Register** of may 25, 1982 (47 FR 22585), the ITC designated biphenyl for priority consideration for environmental effects and chemical fate testing. Under section 4 of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of biphenyl test this chemical for acute toxicity to aquatic macrophytes and oysters, chronic toxicity and bioconcentration in oysters, chronic toxicity to aquatic vertebrates and invertebrates, and aerobic and anaerobic sediment biodegradation. Testing would be performed according to test standards prescribed in a subsequent rulemaking. This notice constitutes EPA's response to the ITC's designation of biphenyl as a priority candidate for testing.

DATES: The public is invited to submit written comments on or before July 22, 1983. If persons request time for oral comment by July 7, 1983, EPA will hold a public meeting on August 8, 1983 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VI of this preamble.

ADDRESS: Address written comments identified by the document control number [OPTS-42031] in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

For exact time and place of meeting contact Jack P. McCarthy (See "For Further Information Contact").

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substance, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.)* established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals for priority consideration and for testing under section 4(a) of the Act.

The ITC designated biphenyl for priority consideration in its Tenth Report, published in the **Federal Register** of May 25, 1982 (47 FR 22585). The ITC recommended that biphenyl be tested for chronic toxicity to fish and invertebrates, acute toxicity to aquatic macrophytes, and chemical fate. The ITC based its designation of biphenyl on substantial production, on the reported use/disposal pattern of biphenyl in dye-carrier applications, and on the potential persistence of biphenyl and biphenyl byproducts in the aquatic environment.

The ITC was concerned about the use of biphenyl as a fungicide. Use of biphenyl as a fungicide is regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and cannot be regulated under TSCA [see TSCA section 3(2)(B)(ii)].

The ITC was also concerned that mono- and dichlorobiphenyls might be released from the chlorination of biphenyl at dye-carrier waste treatment facilities. EPA has concluded that release of mono and dichlorobiphenyls resulting from the chlorination of biphenyl at dye-carrier waste treatment facilities is likely to be insignificant. The EPA has reached this conclusion based on existing data on effluent concentrations of biphenyl from dye-carrier facilities and on chlorination of biphenyl under simulated wastewater treatment conditions.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental test data if the Agency finds that:

> (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making section 4(a)(1)(A) findings in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the first finding under section 4(a)(1)(B), EPA considers only production, exposure, and release information to determine if there is substantial exposure or release. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if existing information is adequate to determine or reasonably predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules. The section 4(a)(1)(A) finding is discussed in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300) and the section 4(a)(1)(B) finding is discussed in the **Federal Register** of June 18, 1981 (46 FR 30302).

In evaluating the ITC's testing recommendations concerning biphenyl, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of biphenyl under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies voluntarily submitted by some (but not all) manufacturers and processors of biphenyl under the TSCA section 8(d) Health and Safety Data reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency. Based on its evaluation, as described in this proposed rule and the accompanying technical support document, EPA is proposing environmental effects and chemical fate testing requirements for biphenyl under section 4(a)(1)(A) of TSCA.

II. Proposed Rule

A. Profile

Biphenyl (CAS No. 92-52-4) is a solid organic compound at ambient temperature and pressure. Between 37 and 47 million pounds of biphenyl (42 million pounds average) were domestically produced in 1981. Biphenyl is used to produce dye carriers, heat-transfer fluids, and alkylated biphenyls. The use/disposal pattern for biphenyl suggests that biphenyl has the potential to be released into the environment at significant concentrations from dye-carrier applications through wastewater discharge or from leakage of heat-transfer fluids.

B. Findings

EPA is basing its proposed testing on the authority of section 4(a)(1)(A) of TSCA. The analyses on which these findings are based are presented in the biphenyl technical support document for this rulemaking which is available from the Industry Assistance Office.

1. EPA has concluded that the use and disposal of biphenyl may present an unreasonable risk of injury to organisms in the aquatic environment. EPA has reached this conclusion because: (1) Available information indicates that use and disposal of biphenyl-containing dye carriers and heat transfer fluids are the principal sources of release of this compound to the acquatic environment; (2) monitoring studies report measurable concentrations of biphenyl in the water and sediment of several U.S. rivers; and (3) existing toxicity data indicate that biphenyl may be toxic to organisms in the aquatic and sediment environment at the measured concentrations and may persist in the sediment environment.

2. EPA has concluded that there are insufficient data to reasonably determine or predict the acute effects of biphenyl for aquatic plants and that testing is necessary to develop such data. EPA has reached this conclusion because existing algae acute toxicity data for biphenyl, measured concentrations of biphenyl in the aquatic environment and existing data on the sensitivity of aquatic plants versus algae to detect acute effects of chemicals suggest, but are not sufficient to conclude, that biphenyl is acutely toxic to acquatic plants.

3. EPA has concluded that there are insufficient data to reasonably determine or predict the chronic effects of biphenyl for aquatic vertebrates and invertebrates and that testing is necessary to develop such data. EPA has reached this conclusion because existing biphenyl acute toxicity data for vertebrates and invertebrates and measured concentrations of biphenyl in the aquatic environment suggest, but are not sufficient to conclude, that biphenyl is chronically toxic to aquatic vertebrates and invertebrates.

4. EPA has concluded that there are insufficient data to reasonably determine or predict the biodegradation of biphenyl in sediments and the acute and chronic toxicities and bioconcentration of biphenyl for and in benthic (sediment-dwelling) organisms. EPA has reached this conclusion because existing data on biphenyl sorption to sediments and measured concentrations of biphenyl in sediments suggest, but are not sufficient to conclude that biphenyl will persist in sediments and may be acutely or chronically toxic to or will bioconcentrate in benthic organisms.

The ITC's recommendations and EPA's proposed tests are summarized in Table 1. EPA concurs with the ITC's recommendations and in addition believes that acute, chronic and bioconcentration testing in the oyster is necessary because biphenyl may sorb to sediments and persist or accumulate to levels potentially toxic to such benthic invertebrates.

TABLE 1.—BIPHENYL TEST SUMMARY

Test	ITC recommendation	EPA proposed test
Acute aquatic macrophyte	Yes	Yes.
Chronic fish	Yes	Yes
Chronic daphnid	Yes	Yes
Acute oyster	No	Yes
Bioconcentration and chronic oyster	No	Yes
Chemical fate	Yes	Yes

C. Test Substance

EPA is proposing that biphenyl of 99 percent purity be used as the test substance because biphenyl of this purity is readily available commercially and may provide more definitive information on biphenyl toxicity than biphenyl of lower purity.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufactuirng ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the use and disposal of biphenyl may present an unreasonable risk to the environment. EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, biphenyl at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement (as discussed in Unit II.F. below).

E. Development and Adoption of Study Plans

EPA proposed generic test methodology requirements (generic test standards) in the **Federal Register** of May 9, 1979 (44 Fr 27334), July 26, 1979 (44 FR 44054), and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic test methodolody requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS)

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for health effects (PB 82–232984), environmental effects (PB 82–232992), and chemical fate (PB 82–233008). Good Laboratory Practice (GLP) standards for development of data on health effects of chemical substances were proposed in the **Federal Register** of May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054). GLP standards for development of data on physical, chemical, persistence, and ecological effects of chemical substances were proposed in the **Federal Register** of November 21, 1980 (45 FR 77353). These GLP standards will continue to be promulgated as generic requirements.

Under the new approach, test rule development will be a two-phase process. In Phase I, test rules will be promulgated for individual chemicals, specifying the health and/or environmental characteristics and the reporting requirements for which test data are to be developed. In Phase II, following promulgation of a test rule, those persons subject to the rule will be required to provide study plans for the development of data pertaining to the effects and characteristics specified in the rule. For guidance in preparing study plans, it is recommended that test sponsors consult the TSCA Test Guidelines as referenced above: the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981; or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Pesticide Registration Guidelines: Proposed Data Requirements published by NTIS (see the **Federal Register** of November 24, 1982 [47 FR 53192] for a list of these guidelines). Pesticide Assessment Guidelines related to this rulemaking include Subparts E (Hazard Evaluation: Wildlife and Aquatic Organisms; PB 83–153908), J (Hazard Evaluation: Nontarget Plants; PB 83–153940), and N (Chemistry Requirements: Environmental Fate; PB 83–153973).

Sponsors must submit their study plans to EPA within 90 days from the effective date of the test rule. After an opportunity for public comment, EPA will issue a final rule adopting the study plans as proposed or modified. The approved and adopted study plans will become the enforceable test requirements and will serve as the chemical specific test standards for the test rule. Testing will also be subject to EPA's generic GLP standards. Modifications to the adopted study plans may be made only with EPA approval; see **Federal Register** of March 26, 1982 (47 FR 13012) for a more detailed explanation of the new approach to providing generic test methodology guidelines.

EPA intends to issue a procedural rule which will set out the details of the two-phase rulemaking process. That procedural rule will apply to the test rule for biphenyl and all other test rules. Information on this proposed procedure appears in the July 18, 1980 **Federal Register** (45 FR 48512), which describes the proposed exemption policy and procedures, in the March 26, 1982 **Federal Register** (47 FR 10312) which provides the policy statement on the test rules development process; and in the proposed test rule for diethylenetriamine, see the April 29, 1982 **Federal Register** (47 FR 18390). The final procedural rule will be issued before the biphenyl rule is promulgated. If there are significant changes in the final procedural rule, EPA may allow a short period of supplementary comment on the biphenyl proposal.

F. Exemption Procedures

Within 30 days after the effective date of the final rule, each biphenyl manufacturer or group of biphenyl manufacturers must either: (1) Notify EPA that it intends to conduct or sponsor testing and to submit study plans for the required tests, or (2) apply for an exemption on a belief that testing will be performed by others. Study plans must be submitted 90 days after the effective date of this rule.

If no manufacturer notifies EPA of its intent to sponsor testing, EPA will inform manufacturers that their exemptions will not be granted and will give them an opportunity to submit study plans in compliance with this rule.

Processors of biphenyl will not be required to apply for an exemption, submit study plans or conduct testing unless manufacturers fail to sponsor the required tests. If manufacturers do not submit study plans and conduct testing, EPA will issue a notice in the **Federal Register** requiring processors to submit notices of intent to test or apply for an exemption, submit study plans and conduct testing. No exemptions will be granted until a study plan for each of the required tests is received and approved.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for biphenyl. As noted in Unit II.C. above, EPA is interested in evaluating the effects attributable to biphenyl itself and has specified a relatively pure substance for testing.

EPA proposed exemption procedures for section 4 test rules in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to issue these procedures as a final rule shortly. If there are significant changes in the exemption procedures, EPA may allow a short period of supplementary comment on the biphenyl proposal.

G. Reporting Requirements

EPA is proposing that all data be reported in accordance with its proposed GLP Standards to appear in 40 CFR Part 792. EPA has reviewed public comments on the proposed GLP Standards and is now developing final GLP Standards. The final GLP Standards will apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the Phase II rulemaking in which study plans are approved.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA. The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for biphenyl. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the protocols established in the Phase II rule.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4 and the seizure of chemical substances manufactured or processed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported.

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical or chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

For a more complete and thorough discussion of the methodology used to conduct the economic analysis of this test rule, see the *Level I Economic Impact Analysis for Biphenyl* (EPA Contract No. 68–01–6630).

Total testing costs for the proposed rule for Biphenyl are estimated to range from $27,500 to $90,300. The annualized cost range is $7,100 to $23,400 based on a 25 percent cost of capital over 15 years; the estimated unit costs range from 0.02 to 0.06 cents per pound.

The Level I analysis of the biphenyl industry indicates that, despite relatively high price elasticity and declining markets, the potential for adverse economic effects due to the estimated testing costs is low. This conclusion is based on the following observations: (1) The estimated test cost is very low (i.e., from 0.02 to 0.06 cents per pound or 0.06 to 0.2 percent of the 1981 selling price of 36 cents per pound). (2) Biphenyl is a secondary product that is manufactured at large petrochemical plants. Minor adjustments in its production can occur without disrupting overall plant operations.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82–140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

V. Environmental Impact Statement

EPA is not required to prepare Environmental Impact Statements (EISs), under the National Environmental Policy Act (NEPA), 41 U.S.C. 4321, for test rules. EPA has determined that voluntary preparation of an EIS is not appropriate for regulations issued under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

VI. Public Meetings

If persons wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on August 8, 1983 in Washington, D.C. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. Information on the exact time and place of the meeting will be available from the OTS Industry Assistance Office (IAO). Toll Free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the U.S.A. (Operator–202–554–1404).

Persons who wish to attend or present comments at the meeting should call the IAO by July 7, 1983. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the IAO before making travel plans because the meeting will not be held if members of the public do not wish to make oral presentations.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a public record for this rulemaking (docket number OPTS–42031) which is available for inspection in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C., from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

The Public Record shall include the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rule on biphenyl.

(b) Notice containing the ITC designation of biphenyl to the Priority List.

(c) Notices relating to EPA's environmental effects and chemical fate test guidelines and GLP standards.

(d) Notice of proposed rule on exemption policy and procedures.

(e) Notice of proposed rulemaking on reimbursement policy and procedures.

(2) Support Documents: consisting of:

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(a) Biphenyl support document.
(b) Biphenyl economic evaluation.
(3) Minutes of informal meetings.
(4) Communications before proposal consisting of:
(a) Written public and intra-agency or interagency memoranda and comments.
(b) Telephone conversations.
(c) Meetings.
(d) Reports—published and unpublished factual materials, including contractors' reports.

VIII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the estimated annualized cost of the testing proposed for biphenyl is less than $24,000 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume the rule will have only very minor effects on users' prices (less than 0.2 percent) for this chemical, even if all test costs were passed on. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.* Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They will not perform testing themselves, or will not participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

X. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) authorizes the Director of OMB to review certain information collection requests by Federal agencies. The test rule proposed in this Notice, if promulgated, could result in the submission of several types of information related to the required testing, including study plans and final reports for each test required by persons sponsoring the tests. For the reasons set forth in the **Federal Register** of June 5, 1981 (46 FR 30300), EPA believes that the test rule contained in this Notice does not constitute an information collection request as defined in the Paperwork Reduction Act.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 799—IDENTIFICATION OF SPECIFIC CHEMICAL SUBSTANCE TESTING REQUIREMENTS

Therefore, it is proposed that a new § 799.925 be added to the proposed Part 799 to read as follows:

Subpart A—[Reserved]

Subpart B—Specific Chemical Testing

§ 799.925 Biphenyl.

(a) *Identification of test substance.* (1) Biphenyl (CAS No. 92–52–4) shall be tested in accordance with this Part.

(2) Biphenyl of 99 percent purity shall be used as the test substance.

(b) *Persons required to test.* (1) All persons who manufacture, process or intend to manufacture or process biphenyl from the effective date of this rule June 22, 1983, to the end of the reimbursement period shall submit study plans, conduct tests and submit data as specified by this part.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission, testing and data submission. No later than 30 days after the effective date of this rule, each manufacturer of biphenyl must notify EPA by letter, of its intent either to submit a proposed study or to be exempted from testing for each test required in this rule.

(3) If manufacturers submit study plans, conduct testing, and submit data in a satisfactory manner, processors will be given an automatic exemption by EPA. If manufacturers fail to submit satisfactory study plans or data, all persons who process or intend to process biphenyl from the effective date of this rule to the end of the reimbursement period shall be directed in a special **Federal Register** Notice to submit study plans, and to conduct tests and submit data as specified by this Part or be in violation of this rule.

(c) *Study plans*—(1) *Testing.* Testing shall be performed using a study plan submitted and approved in accordance with 40 CFR Part 770. All raw data, documentation, records, protocols, specimens and reports generated as a result of a study shall be developed, reported and retained in accordance with the EPA Good Laboratory Practice (GLP) standards in 40 CFR Part 792. These data and other reports shall be made available during an inspection or submitted to EPA upon request by EPA or its authorized representative.

(2) *Submission.* (i) Manufacturers of biphenyl who indicate they will perform testing must submit proposed study plans on or before 90 days after the effective date of this rule. Only one set of study plans should be prepared and submitted by persons who are jointly sponsoring testing.

(ii) If, by the date specified in paragraph (b)(2) of this section, no manufacturer of biphenyl files a letter of intent to submit a proposed study plan for any test required by this rule, EPA will so notify the manufacturers of biphenyl. If no manufacturer promptly decides to submit a study plan and conduct testing, EPA will publish a **Federal Register** notice of this fact and then (A) no later than 30 days after publication of such a notice, each processor must notify EPA by letter of its intent either to submit a proposed study plan for each test that will not be covered by a manufacturer's study plans or to be exempted from testing and (B) processors who indicate they will perform testing must submit proposed study plans on or before 90 days after publication of such a notice.

(iii) Manufacturers who do not notify EPA of their intent, either to submit a proposed study plan or to be exempted from testing for each test or study for which testing is required in this rule, will be considered in violation of the rule beginning on the 31st day after the effective date of the rule. Manufacturers who indicate they will perform testing and which do not submit proposed study plans on or before 90 days after the effective date of this rule will be considered in violation of the rule beginning on the 91st day after the effective date of this rule. Each processor who fails to submit a letter of intent to submit a study plan or to request an exemption when required will also be considered in violation of this rule beginning on the 31st day after publication of the notice described in paragraph (c)(2)(ii) of this section.

(iv) If no study plan for conducting tests and submitting data is proposed for each test or study required in this rule, every manufacturer and every processor of biphenyl will be in violation of this rule beginning on the 91st day after publication of the notice described in paragraph (c)(2)(ii) of this section, until such a study plan is submitted by an appropriate sponsor.

(3) *Content.* (i) All study plans are required to contain the following information:

(A) Identity of the test rule and the specific test requirements of that rule to be covered by the study plan.

(B) (*1*) The names and addresses of the test sponsors..

(*2*) The names and addresses of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(*3*) The name, address and telephone number of the appropriate individual for oral and written communications with EPA.

(*4*)(*i*) The name and address of the testing facility, including responsible administrative officials and project manager(s) responsible for this testing.

(*ii*) Brief summaries of the training and experience of each professional involved in the study including study director, toxicologist(s), chemist(s), microbiologist(s), and laboratory assistants.

(C) Identity and data on biphenyl, including appropriate physical constants, spectral data, chemical analysis and stability under test and storage conditions.

(D) Study protocols, including rationale for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; incubation temperature; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; a description of culture medium and its source; and a summary of expected spontaneous chronic disease, genealogy, and life span.

(E) Schedule for initiation and completion of major phases of long-term tests; schedule for submission of interim progress and final reports to EPA.

(ii) Information given under paragraph (c)(3)(i)(B)(*4*) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(4) *Adoption.* Upon receipt of proposed study plans, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plans to ensure that data from the tests are reliable and adequate. EPA will provide a 45-day comment period, and will provide an opportunity for an oral presentation on the request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or public comment that further comment is warranted. Following the close of the comment period, EPA will publish a final rule adopting the study plans as proposed or modified as test standards for the testing of biphenyl.

(5) *Modification of study plans during conduct of study*—(i) *Application.* Any test sponsor who wishes to modify the adopted study plan for any test required under this rule must submit an application in accordance with this section. Application for modification shall be made in writing or by phone to the Chief, Test Rules Development Branch, with written confirmation to follow as soon as feasible. Applications must explain why the modification is necessary.

(ii) *Adoption.* To the extent feasible, EPA will seek comment on all significant changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications in accordance with section 4(b)(5) of TSCA. However, EPA will act on the requested modification without seeking public comment (A) if EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy of an on-going study or (B) if EPA determines that a modification clearly does not pose any significant, substantive issues. EPA will notify the sponsor of the Agency's approval or disapproval. When the Agency approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(d) *Environmental effects testing*—(1) *Aquatic macrophyte acute toxicity testing*—(i) *Required testing.* Testing shall be conducted with *Lemna gibba* G3 to develop data on the acute toxicity of biphenyl to aquatic plants.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for *Lemna* acute toxicity testing (EG–23) available in the public record for this rulemaking, be consulted. Additional guidance may be obtained by consulting the Organization for Economic Cooperation and Development (OECD) test guideline for *Lemna* available in the public record for this rulemaking and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908).

(2) *Fish early life stage toxicity testing*—(i) *Required testing.* Testing using flow-through systems shall be conducted with rainbow trout to develop data on the chronic toxicity of biphenyl to aquatic vertebrates.

(ii) *Study plans.* For guidance in preparing study plans it is recommended that the TSCA Environmental Effects Test Guidelines for the Fish Early Life Stage Toxicity Test (EG–11) published by NTIS (PB 82–232992), be consulted. Additional guidance may be obtained by consulting the OECD test guidance for fish partial life cycle available in the public record for this rulemaking and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908).

(3) *Daphnid chronic toxicity testing*—(i) *Required testing.* Testing using flow-through systems shall be conducted with daphnids to develop data on the chronic toxicity of biphenyl to aquatic invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for the daphnid chronic toxicity test (EG–2) published by NTIS (PB 82–232992), be consulted. Additional guideline may be obtained by consulting the OECD test guidance for aquatic invertebrates partial life cycle available in the public record for this rulemaking, and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), and references cited in the support document for this test rule.

(4) *Oyster acute toxicity testing*—(e) *Required testing.* Testing using systems that control for biphenyl evaporation shall be conducted with oysters to develop data on the acute toxicity of sediment-associated biphenyl to benthic invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test guidelines for the oyster acute toxicity test (EG–5) published by NTIS (PB 82–232992), be consulted. Additional guidance may be obtained by consulting the OECD guidelines for mollusk acute toxicity testing available in the public record for this rulemaking and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908). Since the testing requires the use of sediment-associated biphenyl, the paper of Lynch and Johnson (1982), which is available in the public record for this rulemaking, should also be consulted.

(5) *Oyster bioconcentration testing*—(i) *Required testing.* Testing using systems that control for biphenyl

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evaporation shall be conducted with oysters to develop data on the potential chronic toxicity and bioconcentration of sediment-associated biphenyl to and in benthic invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for the oyster bioconcentration test (EG–6) published by NTIS (PB 82–232992), be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and references cited in the support document for this test rule. Since the testing requires the use of sediment-associated biphenyl, the paper of Lynch and Johnson (1982), which is available in the public record for this rulemaking, should also be consulted.

(e) *Chemical fate testing*—(i) *Aerobic biodegradation*—(1) *Required testing.* Testing using systems that control for biphenyl evaporation shall be conducted to develop data on the persistence of biphenyl in aerobic sediments.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Chemical Fate Test Guidelines for Aerobic Aquatic Biodegradation (CG–2000) published by NTIS (PB 82–233008), be consulted. Additional guidance may be obtained by consulting the OECD test guidelines for ready biodegradability (301 A, B, C, D, and E) available in the public record for this rulemaking and the FIFRA Guidelines for Chemistry Requirements: Environmental Fate (PB 83–153973).

(2) *Anaerobic biodegradation*—(i) *Required testing.* Testing using systems that control for biphenyl evaporation shall be conducted with biphenyl to develop data on the persistence of biphenyl in anaerobic sediments.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Chemical Fate Test guidelines for Anaerobic Biodegradation (CG 2050) published by NTIS (PB82–233000), be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Chemistry Requirements: Environmental Fate (PB 83–153973).

(Sec. 4(e) of TSCA, Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*)

[FR Doc. 83–13746 Filed 5–20–83; 8:45 am]
BILLING CODE 6560–50–M

federal register

Monday
May 23, 1983

Part IV

Environmental Protection Agency

Ethyltoluenes, Trimethylbenzenes, and the C_9 Aromatic Hydrocarbon Fraction; Proposed Test Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS–42034; TSH–FRL 2346–5]

Ethyltoluenes, Trimethylbenzenes, and the C_9 Aromatic Hydrocarbon Fraction; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In its Tenth Report, the Interagency Testing Committee (ITC) designated mixed ethyltoluenes (ET) and 1,2,4-trimethylbenzene (1,2,4-TMB) for priority consideration for environmental and health effects testing. In its Eleventh Report, the ITC recommended that the other trimethylbenzenes be considered for testing. Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of the C_9 aromatic hydrocarbon fraction, which contains ethyltoluene (*ortho-*, *meta-* and *para-*isomers), and the 1,2,3-, 1,3,5- and 1,2,4-isomers of trimethylbenzene as primary components, test the C_9 aromatic fraction for health effects, including neurotoxicity, mutagenicity, teratogenicity, reproductive effects and carcinogenicity (in the event the results of the mutagenicity studies are positive). Health effects testing would be performed according to test standards prescribed in a subsequent rulemaking. Environmental effects testing is not being proposed at this time. This notice constitutes EPA's response to the ITC's designation of ET (mixed isomers) and 1,2,4-TMB as priority candidates for testing, and to the ITC's recommendation that the other trimethylbenzenes (1,2,3- and 1,3,5-isomers) be considered for testing.

DATES: The public is asked to submit written comments on or before July 22, 1983. If persons request time for oral comment by July 7, 1983, EPA will hold a public meeting on August 6, 1983 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VII of this preamble.

ADDRESS: Address written comments identified by the document control number (OPTS–42034) in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

For exact time and place of meeting contact Jack P. McCarthy (see **"FOR FURTHER INFORMATION CONTACT"**).

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(e) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated ET (mixed isomers) and 1,2,4-TMB for priority consideration in its Tenth Report, published in the **Federal Register** of May 25, 1982 (47 FR 22585) and recommended in its Eleventh Report published in the **Federal Register** of December 3, 1982 (47 FR 54624) that the other trimethylbenzenes (1,2,3- and 1,3,5-isomers) be considered for testing. These actions were based on the exposure potential and the lack of sufficient information on health and environmental effects.

Under section 4(a)(1) of TSCA, the Administrator shall by rule require testing of a chemical substance to develop appropriate test data if the Agency finds that:

> (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making section 4(a)(1)(A) findings in which both exposure and toxicity information are evaluated to make the finding that the chemical may present an unreasonable risk. For the first finding under section 4(a)(1)(B), EPA considers only production, exposure and release information to determine if there is or may be substantial production, and substantial release and/or significant or substantial human exposure. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if existing information is adequate either to determine or reasonably predict the effects of human exposure to, or environmental release of the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would provide the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300).

In evaluating the ITC's testing recommendations concerning ET and TMB, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure and release information reported by manufacturers of ET and TMB under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); and other published and unpublished data available to the Agency. The 8(a) rule covered only isomers of ET and 1,2,4-TMB; it did not require manufacturers of the C_9 fraction or the other TMB isomers to report. Based on its evaluation, as described in this proposed rule and the accompanying technical support document, EPA is proposing health effects testing requirements for the C_9 aromatic hydrocarbon fraction based on EPA's findings of substantial exposure to the C_9 fraction [section 4(a)(1)(B)]. No health effects testing of individual ET or TMB isomers is being proposed at this time. EPA has also concluded that no enviromental effects testing should be required for the C_9 fraction, ET, 1,2,4-, 1,2,3- or 1,3,5-TMB at this time.

II. Proposed Rule

A. Profile

1. *Ethyltoluenes.* Ethyltoluene (ET) occurs in three isomeric forms: 2-ET (*ortho*), 3-ET (*meta*) and 4-ET (*para*). Unless otherwise noted, the term "ethyltoluene" in this document refers to mixed ethyltoluenes, a substance containing all three isomers. ET (CAS No. 25550–14–5) is a colorless liquid readily soluble in most organic solvents, but relatively insoluble in water. ET is sufficiently volatile to enter the atmosphere, and is chemically stable under normal environmental conditions at room temperature. The individual isomers of ET are found in crude oil, gasoline, petroleum products, and have been detected in air and water, and in foods and natural products. ET, along with other nine-carbon aromatic hydrocarbons (C_9), is produced during the catalytic reforming of petroleum which is one of several processes involved in the production of gasoline. A portion of this C_9 stream is used as a solvent or a component in solvents. The remainder, estimated to be more than 90 percent, is used in gasoline blending. The solvents produced from the C_9 aromatic hydrocarbons are used in paint and varnish formulations, paint thinners, printing inks, pesticide formulations and, to a lesser extent, hydrocarbon lubricating oils for refrigerants. Solvents known to contain significant amounts of ET are Suresol 100, Aromatic 100 and Espersol 10.

Nearly pure ortho-ET is synthetically produced by Dow Chemical and used in the production of ortho-vinyltoluene which is used in fiber reinforced polyesters, vinyltoluene alkyds and copolymer resins. Conversion of ortho-ET to these products is nearly complete. Mobil synthesizes para-ET to produce para-vinyltoluene.

Total ET production (pure isomers plus that contained in the C_9 aromatic hydrocarbon fraction) is estimated to be between 30–50 billion pounds annually. All refiners of petroleum are manufacturers of the C_9 fraction. Despite the ITC's designation of ET and the existence of a CAS number, EPA has been unable to identify any product containing only mixed ET isomers. With the exception of the *ortho*-ET manufactured by Mobil, ET is found exclusively as one of the major components of the C_9 fraction.

2. *Trimethylbenzenes.* Trimethylbenzene (TMB) also occurs in three isomeric forms: 1,2,3-TMB, (CAS No. 526–73–8); 1,3,5-TMB, (CAS No. 108–67–8), and 1,2,4-TMB, (CAS No. 95–63–6). The 1,2,4-isomer is the most abundant and commercially is the most important isomer. 1,2,4-TMB is a clear, colorless liquid, readily soluble in organic solvents, but with low solubility in water. It is a stable compound under normal conditions, it undergoes typical electrophilic substitutions such as nitration, halogenation, sulfonation and alkylation, and is oxidized in the presence of catalysts.

Similar to ET, 1,2,4-TMB and other trimethylbenzenes are produced during catalytic reforming and compromise a major portion of the aromatic C_9 fraction. The uses of the C_9 fraction were discussed in the profile of ET.

1,2,4-TMB is separated from the aromatic C_9 reformate by the Koch Refining Company. Koch's 1,2,4-TMB production was in the range of 10 to 50 million lbs in 1977. Current volume appears to be in excess of 50 million lbs, with imports in 1981 of approximately 11.9 million lbs. Phillips Petroleum Company has reported production only of research quantities of 1,2,4-TMB since 1971. No synthetic process is currently used commercially for the production of 1,2,4-TMB.

Most of the isolated 1,2,4-TMB appears to be consumed as a raw material in the manufacture of trimellitic anhydride (approximately 50 million lbs/yr) which is subsquently used in the production of plasticizers, alkyd resins, unsaturated polyesters, and other industrial chemicals.

The other isomers of TMB are also present in the C_9 fraction. Some of the 1,3,5-isomer (mesitylene) is separated from the C_9 fraction and is used as an intermediate, primarily for production of 1,3,5-trimethyl-2,4,6-tris(3,5,-di-tert-butyl-4-hydroxybenzyl) benzene. This is produced by Ethyl Corporation and sold as Ethanox 330. It is an important antioxidant (noncoloring stabilizer) for plastics such as polypropylene, high-density polyethylene, polyamides, adhesives, specialty rubbers such as spandex fibers, and waxes.

The 1,2,3,-isomer (hemimellitene) is used principally to make a musk, similar to xylene musk. It is also oxidized to anhydro hemimellitic acid. No information is currently available to EPA on the quantities consumed through these uses, although those quantities are expected to be a small percentage of the total TMB production which is estimated to be approximately 30 billion pounds per year. EPA plans to require reporting under Section 8(a) of TSCA to obtain information on the production, exposure and release of 1,2,3- and 1,3,5-TMB. Should such reports indicate that there is substantial production of and exposure to these isolated isomers, EPA will reconsider the need for their testing as separate substances.

B. Findings

The EPA is basing its proposed testing on the authority of section 4(a)(1)(B) of TSCA. EPA finds that:

1. There is no production of the mixed ETs aside from production of the C_9 aromatic hydrocarbon fraction. Likewise, although there is no evidence of substantial release of isolated TMB isomers to the environment, available data are adequate to predict that these isolated TMB isomers neither persist nor accumulate in the environment in sufficient quantity that would likely result in an unreasonable risk to the environment. The exposure of potential concern is to the C_9 fraction, not to mixed ETs, or isolated TMB isomers.

2. There are substantial amounts of the C_9 aromatic hydrocarbon fraction produced in the U.S. each year (approximately 80 billion pounds).

3. A substantial number of workers and consumers are exposed to the C_9 aromatic fraction through exposure to solvents and gasoline. EPA has concluded that this constitutes "substantial exposure" as that term is used in section 4 of TSCA.

4. There are insufficient data on neurotoxicity, reproductive effects, teratogenicity, and mutagenicity upon which to reasonably determine or predict the effects of exposure to the C_9 fraction, and testing is necessary to develop such data.

5. There are sufficent data on the subchronic effects and metabolism of the C_9 fraction; therefore, EPA is not proposing testing for these effects.

6. There are no data to indicate that exposure to 1,2,4-TMB or other isolated isomers of TMB is substantial and there

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is no basis for finding that exposure to isolated isomers of TMB may present an unreasonable risk to human health from the effects mentioned by the ITC; therefore, EPA is not proposing testing of 1,2,4-TMB or otherr isomers separate from the proposed testing of the C_9 fraction.

7. Although the C_9 fraction is released to the environment in substantial quantities, available data are adequate to predict that this material neither persists nor accumulates in the environment in sufficient quantity that would likely result in an unreasonable risk to the environment. For this reason, EPA is not proposing that environmental effects testing be conducted at this time.

8. EPA is not proposing an oncogenicity bioassay based on the section 4(a)(1)(B) finding because EPA considers the required mutagenicity tests as an appropriate first tier for oncogenicity. However, EPA finds that if certain of the required mutagenicity tests produce positive results, this will be sufficient to indicate that the C_9 fraction may present an unreasonable risk of oncogenic effects. In such circumstances, EPA finds that unless a 2-year bioassay has been initiated, there will be insufficient data to predict oncogenicity, and testing will be necessary to develop oncogenicity data.

The ET and TMB technical support documents are available from the Industry Assistance Office. The ITC's recommendations and EPA's proposed tests are summarized below.

Test	ITC recommendation		EPA proposed testing
	ET	1,2,4-TMB[1]	C_9
Health effects:			
Subchronic	X	X	No testing.
Neurotoxicity		X	X.
Reproduction		X	X.
Teratogenicity		X	X.
Mutagenicity	X		X.
Metabolism	X		No testing.
Carcinogenicity			X (if mutagenicity test results are positive).
Environmental effects:			
Acute and chronic (fish and invertebrates).	X	X	No testing.
Aquatic and terrestrial plants	X	X	Do.
Bioconcentration	X	X	Do.
Environmental fate:			
Aquatic persistence and transformation.	X	X	Do.
Atmospheric persistence and transformation.	X	X	Do.

[1] No specific testing recommendations were made for 1,2,3-TMB and 1,3,5-TMB.

C. Test Substance

EPA is proposing that a synthetic C_9 petroleum fraction, composed of specific concentrations of mixed isomers of ET, and 1,2,4-, 1,2,3- and 1,3,5-TMB, in such proportion that it is representative of a typical aromatic hydrocarbon fraction produced during the refining of crude petroleum, be formulated and used as the test substance. EPA is requesting comment on the range of composition of the C_9 fraction, on whether a single test substance can adequately represent the C_9 fraction and, what the composition of the test substance should be. Comments are also requested on the use of a representative composite sample of actual C_9 fractions gathered from industrial sources for use as the test substance.

D. Persons Required To Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacturing, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). All petroleum refiners located in the U.S. are considered "manufacturers" of the C_9 petroleum fraction, as are importers (if any) of the C_9 fraction. Processors are required to test if the findings are based on processing. (Section 3(7) of TSCA, defines "process" as the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce.) Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the use of the C_9 fraction may give rise to substantial exposure, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, the C_9 aromatic hydrocarbon fraction at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period will be 5 years after the submission of the final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement. As discussed in Unit II.F, EPA expects that manufacturers will conduct testing and processors will ordinarily be exempted from testing.

E. Development and Adoption of Study Plans

EPA proposed generic test methodology requirements (generic test standards) for various health effects in the **Federal Register** of May 9, 1979 (44 FR 27334) and of July 26, 1979 (44 FR 44054). In response to concerns about rigid generic test methodology requirements, EPA changed its approach for providing test standards for TSCA section 4 test rules and has instead issued generic test methodology guidelines to replace previously proposed generic test methodology requirements. The guidelines have been published by the National Technical Information Service (NTIS) under publication number PB 82–232984. Test methodology requirements for particular chemicals will be developed on a case-by-case basis. Good Laboratory Practice (GLP) standards will continue to be promulgated as generic requirements. (See the **Federal Register** of March 26, 1982; 47 FR 13012.)

Under the new approach, test rule development will be a two-phase process. In Phase I, test rules will be promulgated for individual chemicals specifying the health or environmental effects characteristics for which test data are to be developed. In Phase II, following promulgation of a test rule, those persons subject to the rule will be required to develop study plans for the development of data pertaining to the effects and characteristics specified in the rule. For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the Organization for Economic Cooperation and Development (OECD) Test Guidelines and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

Manufacturers who sponsor testing must submit their study plans to EPA within 90 days from the effective date of the test rule. After an opportunity for public comment, EPA will issue a rule adopting the study plans as proposed or modified. The approved and adopted study plans, including the names and addresses of laboratories conducting the tests, will become the enforceable test requirements and will serve as the chemical specific test standards for the test rule. Testing will also be subject to EPA's generic Good Laboratory Practice (GLP) standards. Modifications to the adopted study plans may be made only with EPA approval.

For the purposes of announcing the carcinogenicity test if it is needed, the Agency will publish a Notice in the **Federal Register** announcing the receipt of the mutagenicity test data, EPA's evaluation of the results of the testing, and the need for the carcinogenicity testing. This Notice will then start the Phase II portion of the rule requiring carcinogenicity testing. Persons subject to the rule will follow the existing mechanisms for submission of study plans within the allowed time.

EPA intends to issue a procedural rule outlining the details of the two-phase rulemaking process, which will apply to the test rule for the C_9 aromatic hydrocarbon fraction and all other test rules. Information on this proposed procedure appears in the July 18, 1980 **Federal Register** (45 FR 48512), the March 26, 1982 **Federal Register** (47 FR 10312), and the April 29, 1982 **Federal Register** (47 FR 18390). If there are significant changes in the final procedural rule which will be issued before the C_9 hydrocarbon mixture rule is promulgated, EPA may allow a short period of supplementary comment on the C_9 aromatic hydrocarbon proposal.

F. Exemption Procedures

Within 30 days after the effective date of the final rule, each manufacturer of the C_9 aromatic hydrocarbon fraction must either (1) notify EPA that it intends to conduct or sponsor testing and to submit study plans for the required tests, or (2) apply for an exemption on a belief that testing will be performed by others. Study plans must be submitted within 90 days after the effective date of this rule. If no manufacturer notifies EPA of its intent to sponsor testing, EPA will inform manufacturers that their exemption will not be granted. They will, nevertheless, have the opportunity to submit study plans in compliance with this rule until 90 days from the effective date of this rule.

Processors of the C_9 fraction will not be required to apply for an exemption, submit study plans or conduct testing unless manufacturers fail to sponsor the required tests. If manufacturers do not submit study plans and conduct testing, EPA will issue a notice in the **Federal Register** requiring processors to submit notices of intent to test or apply for an exemption, to submit study plans and to conduct testing. No exemptions will be granted until a study plan for each of the required tests is received and approved.

EPA is not proposing to require equivalence data as a condition for exemption from the proposed testing of the C_9 fraction. EPA will require for testing a mixture that is representative of the C_9 fractions to which persons are most commonly exposed. comment is being solicited in this rulemaking on the appropriate makeup of the representative C_9 fraction.

EPA proposed exemption procedures for section 4 test rules in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to issue these procedures as a final rule shortly. If there are significant changes in the exemption procedures, EPS may allow a short period of supplementary comment on the C_9 aromatic hydrocarbon proposal.

G. Reporting Requirements

EPA is proposing that all data be reported in accordance with TSCA Good Laboratory Practice (GLP) standards. Such standards were proposed in the **Federal Register** of May 9, 1979 (44 FR 28369) and November 21, 1980 (45 FR 77332) and will appear in final form in 40 CFR Part 792. EPA has reviewed public comments on the proposed GLP Standards and is now developing final GLP standards. The final GLP standards will apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the Phase II rulemaking in which study plans are approved.

TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA. The Agency considers that failure to comply with any aspect of a section 4 rule may be a violation of sections 15(1) and 15(3) of TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be periodically conducted in accordance with the authority and procedures outlined in TSCA section 11 by authorized representatives of the EPA for the purpose of determining compliance with any final rule issued in this proceeding. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to TSCA GLP standards and the test standards adopted in the rule.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4 and the seizure of chemical substances

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manufactured or processed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Section 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported.

III. Issues For Comment

1. Is the C_9 fraction the appropriate test substance? Can a single C_9 substance or mixture be selected which will be representative, for toxicological purposes, of the C_9 fraction to which persons are exposed through exposure to solvents and gasoline? If so, what should the specifications be for such substance or mixture? If not, what substances should be selected for testing and why? Should a commercial C_9 fraction be used for testing instead of a synthetic mixture?

2. Can a negative result (or a high no-observed-effect-level) on the C_9 fraction be used to make reasonable predictions that the individual ET and TMB isomers will not present an unreasonable risk of that effect?

3. Should the testing of the individual isomers be required for any of the tests? If so, which isomers and which tests?

4. Should oncogenicity testing of the C_9 fraction be required only if selected mutagenicity tests produce non-negative results, or should oncogenicity testing be required immediately on the basis of the TSCA section 4(a)(1)(B) findings?

5. What should the routes of exposure for the test substance be?

IV. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical or chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with a consideration of the cost of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

For a more complete and thorough discussion of the methodology used to conduct economic analyses of this test rule, see the *Level I Economic Impact Analysis for Ethyltoluene and 1,2,4-Trimethylbenzene* (EPA Contract No. 68-01-6630).

Total testing costs for this proposed rule are estimated to range from $513,800 to $1,537,900. The annualized cost range is $133,100 to $398,500 over 15 years based on a 25 percent cost of capital. Because of the huge production volume of the C_9 petroleum fraction, the unit test costs (i.e., the cost per pound) are negligible.

The potential for adverse economic effects resulting from testing requirements for the C_9 fraction is low for the following reasons:

The overall demand for the C_9 fraction is relatively inelastic due to: (1) The superior octane qualities of the aromatic C_9 fraction, (2) the relatively inelastic demand for gasoline, and (3) the price advantages of aromatic solvents containing unisolated ethyltoluene.

The estimated unit test costs are negligible; approximately 0.0004 cents per pound of the C_9 fraction in the upper bound case.

V. Availability of Test Facilities and Personnel

Section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," can be obtained through the National Technical Information Service (NTIS), Springfield, Virginia (Publication No. 82-140773).

The conclusions reached in the laboratory availability study were: (1) The chemical testing industry's anticipation of increased testing requirements has prompted the rapid expansion of testing facilities in recent years; (2) currently, excess capacity exists in all major testing areas, and surveyed laboratories indicated they could perform about 29 percent more testing; (3) measurable industry concentration exists, but it is not enough to restrict market entry or control key resources; and (4) currently, capital and professional manpower are the most constraining resources on industry expansion of testing facilities. Capital is understandably a cyclical constraint. The constraint imposed by a shortage of professional personnel can be long-term because of the lengthy period required for professional preparation; however, current personnel numbers appear adequate relative to present testing levels.

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this proposed rule.

VI. Evironmental Impact Statement

EPA is not required to prepare Environmental Impact Statements (EIS) under the National Environmental Policy Act (NEPA), 41 U.S.C. 4321, for test rules. EPA has determined that voluntary preparation of an EIS is not appropriate for regulations issued under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

VII. Public Meetings

If persons wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on August 8, 1983 in Washington, D.C. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. Information on the exact time and place of the meeting will be available from the Industry Assistance Office. Toll Free: (800-424-9065). In Washington, D.C.: 554-1404. Outside the U.S.A.: (Operator—202-554-1404).

Persons who wish to attend or present comments at the meeting should call the Industry Assistance Office by July 7, 1983. While the meeting will be open to the public, active participation will be limited to those persons who have arranged to present comments and to designated EPA participants. Attendees should call the Industry Assistance Office before making travel plans because the meeting will not be held if members of the public do not wish to make oral comments.

The Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VIII. Public Record

EPA has established a public record for this rulemaking, docket number OPTS-42034, which is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M St. SW., Washington, D.C., from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes the basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

The Public Record shall include the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of Proposed Rule on C_9 Aromatic Hydrocarbon Fraction and Response to the ITC on ET and 1,2,4-, 1,2,3- and 1,3,5-TMB

(b) Notice containing the ITC designation of ET and 1,2,4-TMB to the Priority List.

(c) Notice containing the ITC recommendation of the other trimethylbenzenes to the Priority List.

(d) Notices relating to EPA's health effects test guidelines and TSCA GLP standards.

(e) Notice of Proposed Rule on Exemption Policy and Procedures.

(f) Notice of Proposed Rulemaking on Reimbursement Policy and Procedures.

(g) Notice of change in Test Standards Policy and Test Rule Development Process.

(2) Support Documents: consisting of:

(a) ET and TMB Technical support documents

(b) Economic analysis support document

(3) Minutes of informal meetings

(4) Communications before proposal consisting of:

(a) Written public comments

(b) Summaries of telephone conversations

(5) Reports-published and unpublished factual materials, including contractors' reports.

IX. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of preparing a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the estimated annual cost of the testing proposed is less than $398,500 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on users' prices for these chemicals, even if all tests cost were passed on. Finally, taking into account the nature of the market for the C_9 fraction, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

X. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. Small manufacturers or processors will not perform testing themselves, or participate in the organization of the testing effort.

2. Small manufacturers or processors will experience only very minor costs in securing exemption from testing requirements.

3. Small manufacturers and processors are unlikely to be affected by reimbursement requirements.

The basis for this decision is the same as that discussed in detail in the **Federal Register** of June 5, 1981 (46 FR 30300).

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C 3501 *et seq.*) authorizes the Director of OMB to review certain information collection requests by Federal agencies. The test rule proposed in this notice, if promulgated, could result in the submission of several types of information related to the required testing, including study plans and final reports for each test required by persons sponsoring the tests. For the reasons set out in the **Federal Register** of June 5, 1981 (46 FR 30300), EPA believes that the test rule contained in this notice does not constitute an information collection request as defined in the Paperwork Reduction Act. An information collection request subject to the provisions of the Paperwork Reduction Act might be triggered by the exemption provisions related to this test rule. The need for such information will be reviewed by the Office of Management and Budget as part of its review of EPA's rule on TSCA section 4(c) exemptions.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 799—IDENTIFICATION OF SPECIFIC CHEMICAL SUBSTANCES TESTING REQUIREMENTS

Therefore, it is proposed that a new § 799.1625 be added to Part 799 Chapter I of 40 CFR , to read as follows:

Subpart A—[Reserved]

Subpart B—Specific Chemical Testing

§ 799.1625 C_9 aromatic hydrocarbon fraction.

(a) *Identification of test substance.* (1) A synthetic C_9 mixture consisting of *ortho-*, *meta-* and *para-*ethyltoluene, 1,2,4-, 1,2,3- and 1,3,5-trimethylbenzene that is representative of a typical C_9 aromatic petroleum fraction obtained from the reforming of crude petroleum shall be prepared.

(2) A synthetic C_9 mixture as described above shall be used as the test substance in all tests.

(b) *Persons required to test.* (1) All persons who manufacture (includes import), process, or intend to manufacture or process the C_9 aromatic product of petroleum refining (hereafter known as manufacturers and processors as defined in sections 3(7) and 3(10) of TSCA) from the effective date of this rule to the end of the reimbursement period shall submit study plans and conduct tests and submit data as specified by this part.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission, testing, and data submission. No later than 30 days after the effective date of this rule, each manufacturer of the C_9 fraction must notify EPA by letter of an intent either to submit a proposed study plan or to be exempted from testing for each test or study required in this rule.

(3) If manufacturers submit study plans, conduct testing, and submit data in a satisfactory manner, processors will be given an automatic exemption by EPA. If manufacturers fail to submit satisfactory study plans or data, all persons who process or intend to process the C_9 fraction from the effective date of this rule to the end of the reimbursement period shall be directed in a special **Federal Register** Notice to submit study plans, and to conduct tests

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and submit data as specified by this Part or be in violation of this rule.

(c) *Study plans*—(1) *Testing.* Testing shall be performed using a study plan submitted and approved in accordance with 40 CFR Part 770. All raw data, documentation, records, protocols, specimens and reports generated as a result of a study shall be developed, reported and retained in accordance with the EPA Good Laboratory Practices (GLP) standards in 40 CFR Part 792. These data and other reports shall be made available during an inspection or submitted to EPA upon request by EPA or its authorized representative.

(2) *Submission.* (i) Manufacturers of the C_o fraction who indicate they will perform testing must submit proposed study plans on or before 90 days after the effective date of this rule. Only one set of study plans should be prepared and submitted by persons who are jointly sponsoring testing.

(ii) If, by the date specified in paragraph (b)(2) of this section, no manufacturer files a letter of intent to submit a proposed study plan for any test required by this rule, EPA will so notify the manufacturers to assure them an opportunity to submit study plans and conduct testing in compliance with this rule. If no manufacturer intends to conduct testing, EPA will publish a **Federal Register** notice of this fact and then (A) no later than 30 days after publication of such a notice, each processor must notify EPA by letter of its intent either to submit a proposed study plan for each test that will not be covered by a manufacturer's study plans or to be exempted from testing and (B) processors who indicate they will perform testing must submit proposed study plans on or before 90 days after publication of such a notice.

(iii) Manufacturers who do not notify EPA of their intent, either to submit a proposed study plan or to be exempted from testing for each test or study for which testing is required in this rule, will be considered in violation of the rule beginning on the 31st day after the effective date of the rule. Manufacturers who indicate they will perform testing and which do not submit proposed study plans on or before 90 days after the effective date of this rule will be considered in violation of the rule beginning on the 91st day after the effective date of this rule. Each processor who fails to submit a letter of intent to submit a study plan or to request an exemption when required will also be considered in violation of this rule beginning on the 31st day after publication of the notice described in paragraph (c)(2)(ii) of this section.

(iv) If no study plan is proposed for each test or study required in this rule, every manufacturer and every processor of such chemicals will be in violation of TSCA beginning on the 91st day after the publication of the notice described in paragraph (c)(2)(ii) of this section, until such a study plan is submitted by an appropriate sponsor.

(3) *Content.* (i) All study plans are required to contain the following information:

(A) Identity of the test rule and the specific test requirements of that rule to be covered by the study plan.

(B)(*1*) The names and addresses of the test sponsors.

(*2*) The names and addresses of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(*3*) The name, address and telephone number of the appropriate individual for oral and written communications with EPA.

(*4*)(*i*) The name and address of the testing facility, including responsible administrative officials and project manager(s) responsible for this testing.

(*ii*) Brief summaries of the training and experience of each professional involved in the study including study director, veterinarian(s), pathologist(s), and pathology assistants.

(C) Identity and data on the mixture or substance being tested including appropriate physical constants, spectral data, chemical analysis and stability under test and storage conditions.

(D) Study protocols including rationale for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; incubation temperature; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; a description of culture medium and its source; and a summary of expected spontaneous chronic disease, genealogy, and life span.

(E) Schedule for initiation and completion of major phases of long-term tests; schedule for submission of interim progress and final reports to EPA.

(ii) Information given under paragraph (c)(3)(i)(B)(*4*) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(*4*) *Adoption.* Upon receipt of proposed study plans, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plans to ensure that data from the tests are reliable and adequate. EPA will provide a 45-day comment period, and will provide an opportunity for an oral presentation on the request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or public comments that further comment is warranted. Following the close of the comment period, EPA will publish a final rule adopting the study plans as proposed or modified as test standards for the testing of the C_o fraction.

(5) *Modification of study plans during conduct of study*—(i) *Application.* Any test sponsor who wishes to modify the adopted study plan for any test required under this rule must submit an application in accordance with this section. Application for modification shall be made in writing or by phone to the Chief, Test Rules Development Branch, with written confirmation to follow as soon as feasible. Applications must explain why the modification is necessary.

(ii) *Adoption.* To the extent feasible, EPA will seek comment on all significant changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications in accordance with section 4(b)(5) of TSCA. However, EPA will act on the requested modification without seeking pubic comment (A) if EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy of an on-going study or (B) if EPA determines that a modification clearly does not pose any significant, substantive issues. EPA will notify the sponsor of the Agency's approval or disapproval. When the Agency approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(d) *Health Effects Testing*—(1) *Mutagenic effects—Chromosomal aberrations.* (i) *Required testing.* (A) An *in vitro* cytogenetics test shall be conducted with the synthetic C_o mixture as specified in paragraph (a) of this section.

(B) An *in vivo* cytogenetics test shall be conducted if the synthetic C_o mixture produces a negative result in the *in vitro* cytogenetics test.

(C) A dominant lethal assay shall be conducted for the synthetic C_o mixture if it produces a positive result in the *in vitro* or *in vivo* cytogenetics test.

(D) A heritable translocation assay shall be conducted with the synthetic C_o mixture if it produces a positive result in the dominant lethal assay.

(E) Further testing for chromosomal aberrations is not required for the synthetic C_o mixture if it produces a negative result in the *in vivo* cytogenetics test or the dominant lethal assay.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Chromosomal Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

(2) *Mutagenic effects—Gene Mutation*—(i) *Required testing.* (A) A *Salmonella* micorsomal assay shall be conducted on the synthetic C_o mixture specified as the test substance, both with and without activation.

(B) A DNA damage assay shall be conducted.

(C) A sister chromatid exchange (SCE) assay shall be conducted.

(D) A gene mutation in mammalian cells in culture assay shall be conducted.

(E) A second gene mutation in mammalian cells in culture assay, using a different cell line from that used in the first assay, shall be conducted if the synthetic C_o mixture produces a negative result in the first gene mutation in cells in culture assay, specified by paragraph (d)(2)(i)(D) of this section, coupled with positive results in at least two of the following three tests: the *Salmonella* microsomal, DNA damage or SCE assays.

(F) The synthetic C_o mixture shall be tested in a *Drosophila* sex-linked recessive test, in the event it produces a positive result in the *Salmonella* microsomal assay, DNA damage assay, SCE assay or a gene mutation in cells in culture assay.

(G) A mouse specific locus assay shall be conducted with the synthetic C_o mixture if it produces a positive result in the *Drosophila* sex-linked recessive test.

(H) Further testing for gene mutations is not required for the synthetic C_o mixture if it produces a negative result in the *Drosophila* sex-linked recessive test.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Gene Mutations and DNA Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology, and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

(3) *Carcinogenicity*—(i) *Required testing.* A 2-year inhalation oncogenicity bioassay shall be conducted with the synthetic C_o mixture unless it produces negative results in all of the following tests: *In vitro* cytogenetics test, *in vivo* cytogenetics test, first gene mutation in cells in culture assay, second gene mutation in cells in culture assay (if required) and *Drosophila* sex-linked recessive test.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Guidelines for Chronic Exposure-Oncogenicity published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects Section #451 and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

(4) *Teratogenicity*—(i) *Required testing.* An inhalation teratogenicity study shall be conducted with the synthetic C_o mixture.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity-Teratogenicity, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects, and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

(5) *Reproductive Effects*—(i) *Required testing.* A two-generation inhalation reproductive effects study shall be conducted with the synthetic C_o mixture.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity-Reproduction/Fertility Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained and the Pesticide Assessment Guidelines, published by NTIS (PB 83–153916).

(6) *Neurotoxicity*—(i) *Required testing.* The neurotoxicity test battery shall consist of a 90-day subchronic inhalation exposure incorporating the following tests:

(A) A neuropathology test shall be conducted with the synthetic C_o mixture.

(B) A motor activity test shall be conducted with the synthetic C_o mixture.

(C) A functional observation battery shall be conducted with C_o mixture.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Neurotoxicity, published by NTIS (PB 82–232984), and the Pesticide Assessment Guidelines (NTIS; PB 83–153916) be consulted.

(Sec. 4(e) of TSCA, Pub. L. 94–469, 90 Stat. 2003 et seq.; 15 U.S.C. 2601 *et seq.*)

[FR Doc. 83–13747 Filed 5–20–83; 8:45 am]

BILLING CODE 6560–50–M

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48
ISS
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federal register

Monday
May 23, 1983

Part V

Environmental Protection Agency

Formamide; Response to the Interagency Testing Committee

VOL
48
ISS
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ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42032 TSH-FPL 2346-4]

Formamide; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Tenth Report of the Interagency Testing Committee (ITC) designated the chemical formamide for health effects testing consideration. Subsequent to the designation, BASF Wyandotte Corporation, the sole importer of formamide, presented to EPA plans for subchronic effects testing of formamide. In addition, the National Toxicology Program (NTP) initiated a testing program to define formamide's genotoxic potential. The Agency has concluded that these combined programs are sufficient to evaluate chronic effects, other than oncogenicity, and genotoxic effects, as recommended for testing by the ITC. Further, the Agency believes that oncogenicity testing recommended by the ITC is not warranted based on the available data. Consequently, the EPA is not initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require additional health effects testing of formamide. This notice constitutes the Agency's response to the ITC's designation of formamide, as mandated by section 4(e) of TSCA.

DATE: Interested persons are invited to comment on this proposed decision. All comments should be submitted on or before July 7, 1983.

ADDRESS: Written comments should bear the document control number [OPTS-42032] and should be submitted in triplicate to: TSCA Public Information Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-108, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack F. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) (Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) of the Toxic Substances Control Act (TSCA) authorizes EPA to promulgate regulations which require manufacturers and processors to test chemical substances and mixtures. Data developed through these test programs are used by EPA to determine the risks that these chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC may designate up to 50 of its recommendations at any one time for priority consideration by EPA. EPA is required to respond within 12 months of the date of designation, either by initiating rulemaking under section 4(a) or publishing in the **Federal Register** reasons for not doing so.

On May 10, 1982, the ITC forwarded to EPA its Tenth Report which designated formamide for priority consideration by EPA (Ref. 29). It recommended that formamide be considered for testing for genotoxic effects, carcinogenicity, and other chronic effects. The reasons for the ITC's recommendations were: (1) The presumed high worker exposure resulting from formamide's widespread use as a solvent and chemical intermediate, (2) insufficient data to determine its genotoxic potential, (3) observed teratogenic effects in laboratory animals, and (4) the lack of data on chronic and carcinogenic effects.

Subsequent to the ITC Report, BASF Wyandotte Corporation, the sole importer of formamide, submitted to EPA market information, industrial and consumer use descriptions, and health effects data (Refs. 3, 4, 5, 7 thru 15). EPA also considered the data reported by BASF under TSCA section 8(a) which includes importation volume, use, exposure, and release information. EPA has used these data, in conjunction with other information, to reach its decision not to initiate rulemaking on formamide under section 4(a).

II. Assessment of Exposure and Health Effects

A. Production, Use, and Exposure

Formamide (CAS No. 75-12-7), or methanamide, is a clear, viscous, hygroscopic liquid with low volatility and a faint ammonia-like odor. Production of formamide in the United States ceased in 1979 (Ref. 22). BASF Wyandotte Corporation, Wyandotte, Michigan, imports formamide in volumes between 1 and 11 million pounds per year from BASF Aktiengesellschaft (Federal Republic of Germany) (Ref. 3).

About 82 percent of the imported formamide is used as a chemical intermediate, primarily by the pharmaceutical industry, in the production of antibacterial, antiviral, and antiulcer drugs for human and animal health (Ref. 22). About 1.0 percent of the formamide imported from Germany is exported to countries outside the United States (Ref. 3). The major TSCA use of formamide (13 percent) is in petroleum production, where it acts as a carrier for the corrosion inhibiting additives pumped into wells during drilling operations. In this capacity, formamide is expected to be quickly hydrolyzed because of the high temperature, high pressure, and low pH conditions of the well (Ref. 3 and 4). Other non-consumptive TSCA uses include soil stabilization (1.0 percent), polymerization (0.5 percent), laboratory (1.0 percent), and ink solvent (1.5 percent) uses (Ref. 3). Consumer products containing formamide as a result of its use as an ink solvent include a number of porous-tip writing instruments (fiber, plastic, and felt-tip pens and markers) (Ref. 5).

The National Occupational Hazard Survey conducted between 1972 and 1974 by the National Institute for Occupational Safety and Health (NIOSH) estimated that 6,516 workers in 1,010 plants or businesses were exposed to formamide (Ref. 25). This exposure estimate was cited by the ITC as the number of workers exposed to formamide (Ref. 29). However, these numbers reflect worker exposure when formamide was still being produced in the United States. Since over 50 percent of the workers included in the survey were employed in plants producing either the chemical or allied products, EPA has concluded that the NIOSH figure cited by the ITC substantially overstates the number of workers currently being exposed to formamide.

BASF Wyandotte, using data from a customer survey, estimates that about 400 workers are currently being exposed to formamide (Ref. 4). A representative sample of BASF's large and small customers from every market segment was interviewed to determine their handling procedures and the number of potentially exposed workers. The following is excerpted from that survey. When formamide is used as a chemical intermediate or polymerization solvent the reactions take place in enclosed systems resulting in low worker exposure. Points of potential exposure appear to occur on an intermittent basis from loading, mixing or drumming operations. Formamide's use in oil production would also result in low

worker exposure due to controlled use conditions. In this process drummed formamide is pumped into closed mixing tanks and combined with other additives. The drummed additive package is injected into the well by pumping. Exposure in the production area and at the wells occurs on an intermittent basis. Potential for exposure to formamide from its use as a solvent in water soluble inks occurs both in the formulation of the ink and in the loading of the ink into the writing instrument. The larger manufacturers of these instruments use automated equipment which approach enclosed systems. In less automated equipment, some inhalation of formamide could occur, although dermal exposure to the inks is expected to be minimal. One percent of the imported volume of formamide is used as a laboratory chemical for end uses in life science research. BASF's customers indicated that hazard warnings are clearly indicated on their bottles. In addition, BASF reported that company labels advise the use of protective equipment, such as gloves, respirators, and goggles. A special warning to pregnant workers to avoid contact with formamide unless adequate precautions are observed to minimize exposure is also given.

Based on the above information, EPA believes that the number of workers exposed to formamide is not substantial. Although no data on the levels of exposure in any of the industries using formamide was submitted, EPA has no evidence which might suggest that the levels of exposure are significant given the use of proper protective equipment recommended on existing labels.

Consumer exposure to formamide may result from its use in water soluble ink formulations. Formamide is used in about 4.0 percent of the pens used in the United States, or 130 million pens (Ref. 3). However, a substantial percentage of these pens are for high performance industrial uses, such as high speed computer plotter pens, which would result in very little opportunity for human exposures (Ref. 4). It is difficult to characterize the uses of the remainder of pens containing formamide. Because of its characteristic quick absorption to paper, resistance to smearing, and added expense, EPA would expect that it is generally used in finer point pens, not the marker pens often used by children (Ref. 4).

Several factors tend to minimize the potential for exposure to persons writing with pens containing formamide. Formamide's low vapor pressure and high surface tension tend to reduce the possibility of inhalation. Thus, the only significant potential route of exposure would be from skin contact with wet ink. Because formamide is rapidly absorbed in the fiber of the paper through a wicking action, smearing is prevented. As a result, once the ink is applied to paper, there would be no opportunity for dermal exposures. EPA recognizes that a person may from time to time get a small amount of ink on his hands from accidental contact with the tip of a pen. However, the amount of ink that would be applied to an entire written page would contain only 1 milligram of formamide (Ref. 5). EPA believes that the amount of ink which a person would generally place on the hands accidentally would be a very small percentage of that which would be applied to a page of writing. In addition, the construction of these porous-tip devices usually is such that the ink is held within the device and will emerge only through the porous tip. Thus, under reasonably foreseeable conditions, including abuse by children, the ink should stay in the device. Devices of similar construction and limited ink capacity are exempt from the special labeling requirements normally necessary for hazardous substances under the Federal Hazardous Substances Act as administered by the Consumer Product Safety Commission (40 CFR 1500.83).

Worst case exposure estimates using a child as a model were submitted to EPA by BASF (Ref. 5) Calculations for the ink application exposures were based on a total formulation loading of 1.5 gm for a pen; 6.0 gm for a marker; and an average formamide concentration of 20 percent. Oral exposure to a 20 kg child who ingested the entire ink contents from a porous-tip pen or marker would be, 0.3 gm (.015 g/kg) and 1.2 gm (.06 g/kg), respectively. If a child painted the central surface of both hands with ink from a broad-tip marker, assuming 100 percent absorption of formamide, the dermal exposure would be about 0.1 mg/kg. Both the oral and dermal exposure values are well below the reported values for acute toxicity (Oral LD_{50} Mouse 3.2 g/kg; Dermal LD_{LO} Rat 6.0 g/kg). Considering the physical-chemical properties of formamide and the construction of the porous-tip device, which acts to hold the ink in the pen, EPA believes the use of these products would not result in substantial exosure.

Based on the above information, EPA has concluded that although a large number of consumers may use writing instruments containing formamide, the levels of individual exposure are likely to be extremely low. EPA does not believe that this exposure should be considered substantial or significant as those terms are used in section 4 of TSCA.

B. Health Effects Data

Formamide and its vapors can cause moderate irritation to the skin, eyes, and mucous membranes (Ref. 7). The acute toxicity of formamide to laboratory animals is in the slight to moderate range. Oral LD_{50} values range from 3.2 g/kg in the mouse to 7.5 g/kg in the rat (Refs. 32, 17). Dermal LD_{50} values are reported to be as high as 17 g/kg in the rabbit; the lowest lethal dermal dose for this species is 6.0 g/kg (Refs. 16, 28).

Formamide has not demonstrated a mutagenic response in *in vitro* assays. Limited studies performed to date using bacterial, yeast, and cell culture systems show that formamide exhibits a slight degree of cellular toxicity but not a mutagenic response. When tested for use as a vehicle in the *Salmonella* mutagenicity test formamide was nontoxic and nonmutagenic in concentrations up to 200 micrograms per plate but was toxic to the bacteria at 500 micrograms per plate (Ref. 23). No indication of mutagenicity was seen using strains TA-98, TA-100, TA-1535, and TA-1537 (+S9) using the *Salmonella* assay (Ref. 30). Formamide's effect on cell survival was studie in yeast and mammalian cells (Ref. 1). Relatively low toxicity was reported in *Schizosaccharomyces pombe* and V 79 lines of Chinese hamster cells; however, no data on the mutagenic activity of formamide was reported in this study (Ref. 1). Negative results were also observed in a dominant lethal assay on formamide, and on a series of structurally related amides (Refs. 9, 27). No mutagenic effects were demonstrated after single intraperitoneal applications (⅛ LD_{50}) to NMRI mice of formamide, acetamide and their mono- and dimethyl-/ derivatives.

Formamide was without effect in a cell transformation test of carcinogenic potential using rat embryo cells infected with Rausher leukemia virus (Ref. 19). Concentrations ranged from 0.001 to 100 mg/ml. In the same test, acetamide, a structural analogue, which is a weak hepatocarcinogen in rats, gave variable results with transfromation induced in two out of five trials. The authors postulated that the variable results seen with acetamide in this test may be consistent with *in vivo* studies of this agent where large doses and extended periods were needed to induce a response (Ref. 19).

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The teratogenic effects of formamide have been studied following administration by the dermal, oral, and intraperitoneal routes (Refs. 10 thru 15, 20). Dose-dependent embryotoxic and/or teratogenic effects have been observed in rats, mice, and rabbits (Refs. 10, 13, 14, 15, and 24). These studies indicate that formamide is embryotoxic and teratogenic in animals, but the effective doses appear to vary widely depending on the route of exposure, species, strain, time of application, and the methods used to identify teratogenic effects.

Very little is known about the chronic effects of formamide. The Agency received one study showing that repeated doses of formamide administered by gavage to rats 5 days per week for 4 weeks resulted in dose-dependent cumulative effects expressed as gastritis and erosion of the gastric mucosa, probably related to the release of formic acid (and ammonia) by stomach acid (Ref. 8). The no-observed-effect level reported in the study was 34 mg/kg. While this study cannot be used to predict the likely chronic effects of formamide, it does demonstrate the limitations of the oral route of exposure for testing formamide. The Agency could find no data to predict the potential chronic effects of formamide resulting from dermal exposure, the most common route of human exposure.

EPA is aware of no bioassays performed to assess the carcinogenic potential of formamide. However, there are no data which indicated any potential for oncogenic effects.

III. Ongoing Testing

The National Toxicology Program is currently screening formamide for its potential genetic toxicity. Measurement of potential gene mutation in somatic cells (Ames test) and germinal cells (Drosophila) has been initiated. Testing commenced in August, 1982, with the Ames Test and is scheduled for completion in April, 1983. A program review of the data by the NTP staff will then be made before further testing is initiated. Cytogenetic testing on formamide is not planned at this time.

IV. Planned Testing

BASF Wyandotte Corporation presented a testing proposal to EPA designed to characterize the potential subchronic effects of formamide. The BAPF proposal consists of a range-finding study followed by a 90-day subchronic study. Because dermal exposure is the most common route of human exposure the program is designed to clarify the doses at which formamide causes toxic effects after repeated exposure to intact skin over a prolonged period (Ref. 6). the study will be conducted according to the Organization for Economic Cooperation and Development Subchronic Dermal Toxicity Guideline No. 411 (Ref. 26). The study will be performed in male and female Wistar rats, using dermal exposure for 6 hours/day and 5 days/week. the protocols for these studies have been reviewed by EPA scientists and appear to be acceptable. They are also available for examination in the public record of this proceeding.

Industry has agreed to begin the range-finding study on or about October 1, 1983. A program review by BASF and EPA personnel will occur after the range finding study is complete to review the data and select doses for the subchronic study. The subchronic phase of testing can be expected to being by early 1984. The subchronic testing, including histopathology, will be completed in 6–8 months, i.e., late 1984. An additional three months will be required for preparation of the study report and consultation among BASF and EPA scientists. The final report would be completed in early 1985.

BASF Wyandotte has furnished EPA with the name and address of the laboratory conducting the tests under this agreement. BASF has also agreed to adhere to the Good Laboratory Practice Standards issued by the U.S. Food and Drug Administration as published in the **Federal Register** of December 22, 1978 (43 FR 59986). BASF has agreed to permit laboratory inspections and study audits in accordance with the provisions outlined in TSCA section 11 at the request of authorized representatives of the EPA for the purpose of determining compliance with this agreement. These inspections may be conducted for purposes which include verfication that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practice provisions.

BASF has further agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained for at least 10 years from the date of publication of the acceptance of any protocols by EPA and made available during an inspection or submitted to EPA if requested by EPA or its designated representative. BASF understands that the Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Finally, BASF understands that failure to conduct the testing according to the specified protocols and failure to follow Good Laboratory Practices procedures may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to require further testing.

V. Decision Not To Inititate Rulemaking

EPA believes that the testing program proposed by BASF Wyandotte will provide sufficient data to reasonably predict the potential chronic effects of formamide. EPA has concluded that there is not a sufficient basis to require carcinogenicity testing of formamide under section 4 of TSCA at this time or to require additional genotoxicity testing of formamide beyond that being conducted by the NTP. For these reasons, EPA has decided not to initiate rulemaking under section 4(a) of TSCA to require testing of formamide. EPA's specific responses to the recommendations of the ITC are discussed below.

1. *Genotoxicity.* EPA has concluded not to propose to require any further genotoxicity testing for formamide. This decision is based on the fact that the testing being conducted by the NTP, in conjunction with existing genotoxic data, is expected to provide sufficient data to reasonably predict the genotoxic potential of formamide.

EPA recognizes that gene mutation is only one aspect of mutagenicity, and that the existing data and data from tests currently underway will not provide sufficient data to predict formamide's potential to induce chromosomal damage. However, EPA has concluded that there is not a sufficient basis to require such testing under section 4 of TSCA. The number of workers exposed to formamide is not substantial, and EPA has no reason to believe that the levels of exposure are significant. Although a large number of consumers may be potentially exposed to formamide in ink pens, EPA has concluded that this does not constitute "substantial human exposure" as those terms are used in section 4, because information about the use and design of the products indicates that even when exposure occurs, levels are extremely low. In addition, there are no data indicating that formamide is likely to cause chromosomal damage or any other mutagenic effect, and thus there is no basis for EPA to find that formamide may present a risk from mutagenic effects.

2. *Carcinogenicity.* EPA has concluded that there is no basis for proposing testing for carcinogenicity at this time. As discussed above, the evidence indicates that there is neither significant nor substantial human exposure to formamide as those terms are used in section 4. EPA has also concluded that the existing data do not support a finding that formamide "may present an unreasonable risk" of carcinogenicity. Formamide has given consistently negative results in *in vitro* tests used to predict mutagenicity and carcinogenicity. Additionally, there were not other data indicating that formamide has potential carcinogenic activity.

EPA recognizes that acetaimide, a structural analogue of formamide, is a carcinogen. In some cases this may be sufficient basis to require that a bioassay be conducted. However, as discussed below, EPA believes that based on the negative mutagenicity data for formamide and the uniqueness of acetamide's carcinogenic response in animals, a risk finding for the carcinogenicity of formamide cannot be made at this time.

Based on the available data, EPA believes that acetamide is not a valid indicator of the potential carcinogenicity of formamide. Formamide belongs to a series of compounds which include the amides of simple carboxylic acids, their N,N-dialkyl derivatives, and related compounds. Weak carginogenic activity of acetamide, one member of this series, has been reported in rodents in a number of studies (Refs. 18, 21, 31). However, a recent review of the literature on acetamide and structurally related amides indicates that acetamide is unique in this amide series (Ref. 2). Despite its well established hepatocarcinogenic activity, acetamide is not mutagenic *in vitro* in various test systems (Ref. 2). Furthermore, in a cell transformation assay using rat embryo cells, acetamide induced transformation in two out of five trials, whereas the results for formamide were clearly negative (Ref. 19). As noted in section II B, acetamide required high doses (2.5–5.0 percent of the diet) over most of the animals' life span to induce liver tumors in rodents (Refs. 18, 21, 31). This fact has led a number of investigators to postulate reasons for the unique effects seen in rodent liver from high doses of acetamide; including *in situ* liberation of ammonia, interaction with latent viruses or hormones, or the alteration of cell membranes (Refs. 2, 18, 31). EPA has no reason to believe that formamide, even at the high doses used in the acetamide bioassays, would induce cancer. Other structurally related amides, such as dimethyformamide and dimethylacetamide, have also failed to demonstrate any carcinogenic activity in a variety of animal studies (Ref. 2). In another series of screening tests of structurally related amides conducted by the NCI, only acetamide induced significant compound-related tumors (Ref. 18). Therefore, EPA has concluded that the acetamide data are insufficient to predict that formamide may present an unreasonable risk from oncogenic effects. Accordingly, EPA finds no current basis to require oncogenicity testing.

3. *Chronic Effects.* EPA has decided not to initiate a rulemaking to require chronic effects testing of formamide at this time because the Agency believes that the 90-day subchronic study to be conducted by BASF is likely to provide sufficient data to reasonably predict the potential of formamide to cause chronic health effects. EPA generally will accept, for purposes of section 4, a well conducted 90-day subchronic study as providing sufficient data to reasonably predict the chronic risks of a chemical other than oncogenicity. The protocols submitted by BASF have been reviewed by the Agency and appear to be acceptable.

Because of the expectation that the data received from the testing already undertaken by the NTP and committed to by BASF Wyandotte will be provided more expeditiously than would be possible under a test rule, EPA has tentatively concluded not to initiate rulemaking to require testing at this time. EPA's conclusion that the test data to be provided will serve to reasonably determine or predict chronic effects is reinforced by the provision for inspection to verify that the testing is being properly conducted by BASF. In addition, the data developed by BASF will be available to the public on a similar basis as the results of a test rule.

EPA is soliciting comments on the BASF Wyandotte's program and the Agency's decision to accept it and the NTP program in lieu of section 4(a) rulemaking at this time. After considering these comments, EPA will either publish in the **Federal Register** a final notice of acceptance of a negotiated test program or will initiate rulemaking under section 4(a) of TSCA.

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VII. Public Record

The EPA has established a public record of this testing decision (docket number OPTS–42032). This record includes:

(1) **Federal Register** notice designating formamide to the priority list.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversation, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: May 10, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR Doc. 83–13385 Filed 5–20–83; 8:45 am]

BILLING CODE 6560–50–M

federal register

Monday
May 23, 1983

Part VI

Department of Health and Human Services

Office of Human Development Services

Foster Care Maintenance Payments, Adoption Assistance, and Child Welfare Services; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356, 1357 and 1392

Foster Care Maintenance Payments, Adoption Assistance, and Child Welfare Services

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Final rule.

SUMMARY: The Department is issuing final rules to govern two Social Security Act programs: the new title IV–E program, Federal Payments for Foster Care and Adoption Assistance, and the title IV–B program, Child Welfare Services. This final regulation implements the provisions of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) and provides the basic programmatic requirements under titles IV–E and IV–B. Final fiscal rules for these two programs were published on July 15, 1982 (47 FR 30922).

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–7418.

SUPPLEMENTARY INFORMATION:

Background

The Child Welfare Services program has been a part of the Social Security Act since the Act's inception in 1935. In 1968 Congress transferred this program to title IV, Part B of the Act (sections 420–425 of the Act). Historically, title IV–B, has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) was enacted on June 17, 1980. In addition to amending title IV–B, Pub. L. 96–272 establishes a new program, the title IV–E program, Federal Payments for Foster Care and Adoption Assistance, which replaced on October 1, 1982, the title IV–A foster care program in the States. The law creates links between the two programs with numerous program and fiscal incentives.

The impetus behind the passage of Pub. L. 96–272 was the belief of Congress and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from their parent(s). Congress envisioned in the new legislation a system that would help families remain together by assisting parents in carrying out their roles and responsibilities and providing alternative permanent placement for those children who cannot return to their own homes. Studies showed that thousands of children were stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States. Other findings included:

- The number of children in foster care had increased during the last decade while the length of stay in substitute care has also increased.
- Caseloads are large in the social service field and case workers are often unable to provide full and appropriate services to children in care and to their families.
- Many children in foster care could have been cared for in their own homes if homemaker, day care or other services had been available.
- Home based services and adoptive care are the most cost beneficial forms of care.

Content and Purpose of Pub. L. 96–272

The passage and enactment into law of Pub. L. 96–272 demonstrated a Congressional concern and commitment to provide financial assistance and technical consultation to States to make changes in their child welfare services systems. To reduce the number of children entering foster care, the law emphasizes the use of preplacement preventive services to help solve or alleviate the family problems that would otherwise result in the child's removal from the home. To reduce the number of children already in the foster care system, the law requires States to undertake several initiatives:

1. A State must enact a law by October 1, 1982, establishing annual goals for the number of children funded under the title IV–E program who remain in foster care over 24 months.

2. If a State is to receive Federal financial participation (FFP) in foster care maintenance payments under title IV–E after October 1, 1983, it must provide services to facilitate the reunification of foster children with their families.

3. To ensure that children do not remain adrift in the foster care system, a State must implement case plan and case review procedures that periodically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and the family.

4. To encourage family reunification, a State must attempt to place a child in close proximity to the family and in the least restrictive (most family-like) setting.

5. Finally, for those children who cannot be reunited with their families and who have "special needs," financial assistance will be available to families adopting these children.

In short, the new law rests on three pillars:

- Prevention of unnecessary separation of the child from the parents;
- Improved quality of care and services to children and their families; and
- Permanency through reunification with parents or through adoption or other permanency planning.

Discussion of Major Comments on the NPRM and Changes in This Final Rule

The Department published an initial NPRM to implement the provisions of Pub. L. 96–272 on December 31, 1980 (45 FR 86817). Subsequently, the Department determined that a less prescriptive approach to implement the statutory requirements was advisable. Therefore, a second NPRM was published on July 15, 1982 (47 FR 30932). That second NPRM and the public comments received by the Department are the basis of this final rule.

The Department received 97 letters from individuals, advocacy organizations, national and local service organizations and State agencies in response to the second NPRM. Included below is a summary of comments from respondents, the Department's response to those comments and a discussion of the changes made in the final rule.

Changes Made in the Code of Federal Regulations

This final rule amends three Parts (Parts 1355, 1356 and 1357) in Subchapter G (The Administration for Children, Youth and Families, Foster Care and Adoption Assistance; Child Welfare Services). These Parts were created by a final regulation published July 15, 1982 (47 FR 30922).

In addition to amending Parts 1355, 1356 and 1357, this final rule removes Part 1392 of this title, which contains the current requirements for the title VI–B program. New requirements for this program will be found in Parts 1355 and 1357 of this title. Part 1392 also contained the requirements for the

Social Services program under title IV–A provided only by the Territories. The title IV–A services program was abolished by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. The Territories now provide social services under the Social Services Block Grant Program (Title XX).

Final rules have already been published to implement the titles IV–B and IV–E fiscal provisions and the Medicaid requirements of Pub. L. 96–272.

Section by Section Discussion

Part 1355—General

45 CFR 1355.20—Definitions

45 CFR 1355.20 contains several definitions which have common applicability to both titles IV–E and IV–B. There were several supportive comments for these definitions. Beyond the general support, however, several commenters made specific suggestions for improving the definitions of "detention", "foster family home" and "State agency."

Comment—"Detention facility"

The definition of "child care institution" in section 472(c)(2) of the Act excludes certain facilities from that definition including "detention facilities". The NPRM defines the term "detention" in an effort to clarify what type of facilities were "detention facilities."

Several commenters were concerned that the second NPRM language for "detention" could be read to preclude "time-out rooms" within a facility, as distinct from the statutory exclusion (section 472(c)(2) of the Act) of an entire detention facility. Some commenters were also concerned about the use of the vague term "determined" when speaking of the juvenile's delinquency status in the NPRM definition of "detention". Other commenters were concerned about the broadness of the definition itself.

Response

The Department has made two changes to clarify the statutory intent of section 472(c)(2) of the Act. First, we have defined "detention facility" rather than "detention". It is the Department's intent to make clear that it is the overall nature and purpose of the institution that determines whether or not it may be considered a "child care institution" under the Act, and not a particular treatment activity within the institutional program that determines whether a child in that institution may receive a title IV–E payment. Second, we have reworded the definition to make clear that the prohibition in section 472(c)(2) of the Act applies to facilities housing both pre- and post-adjudication children. This means that the status of the child, whether having been adjudicated or awaiting adjudication, is essentially irrelevant to the purpose of the Act's prohibition. It is the nature of the facility—is it secure custody, does it house children who are in need of a physically restricting facility, etc.—that is determinative.

Comment—"Foster family home"

The NPRM provided a definition of "foster family home" which included group homes if the group home was licensed or approved by the State as a foster family home.

Several commenters pointed out that their State licensing law licensed group homes as a separate category of living arrangement, not as foster family homes. Other commenters suggested that the NPRM definition did not take into account other categories of possible foster care placements. Suggestions were made to allow for placements which, while providing foster care, were not licensed or approved under a State's foster family home provisions but under another provision of State law, including agency operated boarding homes.

All commenters agreed, however, that all foster care placements must be licensed or approved under some provision of State law or rules whether called foster family care or not.

Response

The Department's intent was to make the broadest possible range of appropriate foster care placements eligible for FFP. Therefore, the Department has revised the definition of "foster family home" to include a variety of possible foster care placements giving States the greatest flexibility in selecting the most appropriate placement. At the same time, we have maintained the important principle of licensing or approval. This would include Indian foster homes, both on and off the reservation, provided that the homes are licensed or approved.

Comment—"State agency"

The definition of "State agency" in the NPRM included local agencies administering the State plan. This addition is not consistent with section 472(a)(2)(B) of the Act and raised questions about the roles and responsibilities for administering the program.

Response

The State agency supervising the administration of the title IV–E State plan may enter into an agreement with other public agencies to implement the placement and care responsibilities under the plan (section 472(a)(2)(B)). However, the responsibility for assuring that the plan is administered in accordance with the Act and this final rule rests with the title IV–E/IV–B State agency. Thus, to avoid confusion, we have deleted the reference to local agencies from the definition of State agency.

45 CFR 1355.21—State plan requirements for titles IV–E and IV–B

Comment—"Fair Hearings" (45 CFR 1355.21(b))

The NPRM contained a cross-reference in § 1355.21(c) to 45 CFR 1355.30, a previously published final rule to implement the fiscal requirements of titles IV–E and IV–B. Paragraph (k) of 45 CFR 1355.30 is a State plan requirement for fair hearings for recipients of both title IV–E and title IV–B programs.

One commenter suggested that the Department eliminate the requirement for fair hearings under title IV–B because the NPRM language exceeded the statutory authority.

Response

The Department believes that the close programmatic and fiscal relationship between titles IV–E and IV–B make a fair hearings requirement appropriate. In addition, the fair hearing requirement has been a part of the title IV–B regulations since the 1960's (see 45 CFR 1392.11). Therefore, under the general rulemaking authority granted to the Secretary by section 1102 of the Act, the Department has not made any change in the language of the final rule.

One commenter asked if fair hearings were available under the adoption assistance program. Section 471(a)(12) of the Act is clear that fair hearings are available for both the foster care maintenance payments and adoption assistance programs under title IV–E.

Comment—"Public Access" (45 CFR 1355.21(c))

The NPRM did not contain a specific provision to require public access to the State plan document and materials for either title IV–E or title IV–B.

There was strong interest in and support for requirements for public participation in a variety of areas including development of the State plans for both titles IV–E and IV–B, review of foster care and adoption assistance payment standards, and review of State foster care standards.

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Response

The Department has given consideration to the comments and how to address the legitimate need for public information and participation. We believe that, at a minimum, public access to the fundamental document, materials and information which form the basis of the State's title IV–E and IV–B plans and activities is essential. Therefore, the Department is requiring (45 CFR 1355.21(c)) that the State agency make the State plans and plan amendments available for public review and inspection.

While the Department has chosen to limit this requirement to making the materials and information available, we strongly encourage the States to involve representatives from a broad cross-section of the community in the development of and on-going reviews of the State plans and programs.

The Department has declined to require public participation in reviews of foster care standards and foster care and adoption assistance payments. However, as with the plan development and program reviews, the Department also strongly encourages the States to involve a broad cross-section of the community in these efforts.

Part 1356—Requirements Applicable to Title IV–E

45 CFR 1356.20—State plan document and submission requirements

Comment

The NPRM (§ 1356.20) provided the procedural framework for development, submission and approval of the title IV–E State plan. The NPRM language proposed to give the State flexibility on the format and effective period of the plan. This section also specified the additional State plan document requirements which become applicable if a State chooses to claim FFP for voluntary care. The comments on this section fell into two categories. One category dealt with the effective period and format of the plan document. The other addressed the optional nature of the voluntary care provisions.

Response

Compared with other State plans (e.g., title IV–B), the title IV–E State plan is a relatively static document. The State is required to provide assurances that the statutory and regulatory requirements are being implemented. These fundamental requirements and assurances are not likely to change from year to year even though specific methods of implementation may change. To the extent that substantial changes are made or required to be made, the final rule mandates a plan amendment. The Department believes that requiring an annual plan, the specific content or format of the plan, or similar recommendations are unnecessary to achieve the goals of the title IV–E program. Therefore, no change was made in the final rule.

The second area of comment suggested making mandatory State participation in the voluntary placement FFP program. Section 102 of Pub. L. 96–272, as it amends section 472(d) of the Act, clearly makes the voluntary care provision optional in that the State may receive FFP for the costs of voluntary placements only if it meets the requirements of section 427(b) of the Act. It is a State decision and cannot be mandated by the Department. Therefore, no change was made in the final rule.

In the NPRM, we proposed in paragraph (c) of this section that the approval procedures in 45 CFR 201.3 would apply to the title IV–E program. We have incorporated the pertinent language of § 201.3 into the final regulation.

The Department wishes to call to the reader's attention that the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, corrected an erroneous cross-reference in section 471(a)(10) of the Act to day care standards. The correct reference is now to the foster care standards which are reasonably in accord with recommended standards of national organizations concerned with foster homes and institutions.

45 CFR 1356.21—Foster care maintenance payments program implementation requirements

The Department received a great many comments on this section of the NPRM.

General implementation (45 CFR 1356.21(a))

Comment

The provisions of the NPRM (45 CFR 1356.21(a)) and those of this final rule (also 45 CFR 1356.21(a)) give the general implementation and FFP requirements for the title IV–E foster care maintenance payments program.

Comments received regarding 45 CFR 1356.21(a) fell into two categories: requests for specification in the regulation of the Federal monitoring approach and methodology, and requests for specification of the "procedural safeguards" required under section 475(5) of the Act.

Additionally, commenters pointed out an incorrect reference to section 475(5) was included in the NPRM.

Response

We have made the correction to the erroneous reference by changing the final rule to provide that States must meet the requirements of sections 475(5)(A) and (B) of the Act.

The Department believes that the Federal monitoring approach and methodology are best described in another forum.

As to the "procedural safeguards" recommendation, the incorrect reference in the NPRM to section 475(5) created some confusion. The statutory requirement for "procedural safeguards" arises only in the context of the dispositional hearing requirement in section 475(5)(C) and not under section 475(5) (A) and (B) as the reference should have read. Moreover, the Department's approach to development of this final rule has been to give the States maximum operational flexibility. Consequently, inclusion of detailed requirements is not appropriate under this provision of the final rule. (See discussion under "dispositional hearings", 45 CFR 1356.21(e).)

"Reasonable efforts" (45 CFR 1356.21(b))

Sections 471(a)(15) and 472(a)(1) of the Act require that, after October 1, 1983, in each child's case, "reasonable efforts" be made to prevent removal and to reunify children separated from their parent(s).

Comment

In 45 CFR 1356.21(e), the NPRM proposed that if a State had a system of preplacement preventive and reunification services as required by section 427(a)(2)(C) and (b)(3) of the Act, the requirement for "reasonable efforts" would be met.

Commenters strongly objected to this proposed section arguing that the establishment of a Statewide services program under section 427 in no way ensures that "reasonable efforts" will be made for an individual child. They recommended, alternatively, that the regulations specify a list of core services that must be provided; mandate at least three services; list the acceptable services from which the State could select a fixed minimum number; or require that the specific services provided to the child be identified in the case plan.

In general, State agencies responded to the proposed regulation by supporting the approach and the flexibility it offered. In these times of limited resources and substantial service demands, they commented, the States must have wide latitude to develop resource priorities and service choices.

Response

As a general principle, the Department agrees with the State agencies' comments. The Department believes that it is an inappropriate and unnecessary Federal intrusion to dictate nationally a specific set of services which may or may not address a particular State's situation. Moreover, the Department believes that it is essential to give States the flexibility and responsibility for these service decisions.

However, we agree with commenters that reasonable efforts must be made on behalf of each child. Therefore, the Department has provided in 45 CFR 1356.21(b), that in order to meet the reasonable efforts requirement, the State agency must identify, in the child's case plan, those services offered and the services provided to the child and/or his parent(s) to prevent placement or achieve reunification of the family. This is not a new or additional requirement. It is similar to the case plan requirement in 45 CFR 1356.21(d)(4) upon which we received no negative comments.

In implementing these requirements, the Department does recognize the importance and need for information and guidance to the States. Therefore, after this final rule is published the Department will issue non-binding informational materials which will discuss preplacement preventive and reunification services and "reasonable efforts". In the interim, the Department believes that the States may want to consider inclusion of the services listed in 45 CFR 1357.15(e) as they move toward implementing the "reasonable efforts" and service program requirements of the Act.

Case Review (45 CFR 1356.21(c))

Comment

A number of comments were received regarding various aspects of the requirements under section 471(a)(16) of the Act, the State's case review system. These comments recommended that the final rule address the Federal monitoring role; require various forms of public and parental participation; specify the review panel composition, procedures and role; clarify access to the review process; define a method of calculation of due dates for reviews; and include criteria and guidelines for the various worker decisions required by the Act.

Specific concerns revolved around the case review requirements in sections 471(a)(15), 475 (5) and (6) of the Act, particularly regarding the use of the public as members of the case review boards and panels. One of the requirements of the case review system is for a periodic (six month) review. Section 475(6) of the Act requires that if the periodic (six month) review is an administrative review conducted by the State agency, at least one member of the review panel, whatever its makeup, must be an appropriate person not responsible for the case management of, or delivery of services to, either the child or the parent(s) who are the subject of the review. The commenters recommended a detailed and prescriptive regulation, e.g., that the Department specify the type of person(s) permissible on review panels, the role they may play and the procedural ground rules. At the same time, several State agencies concurred in the language of the proposed regulation stating that the statutory provisions were more than adequate to protect the child's best interests and needs.

Similar comments were received regarding public participation in the dispositional hearing as required by section 475(5)(C) of the Act.

Response

The Department considered the comments but chose to make no changes in this particular provision. The Department has opted to give the States the responsibility for development of standards, procedures and guidelines in implementing this program. We have, however, added a definition of "original foster care placement" in 45 CFR 1356.21(f) to assist States to calculate due dates for the periodic reviews and dispositional hearings. As noted earlier, the Department believes that the regulation is not the appropriate place to specify the Federal monitoring role.

In addition, the Department wishes to clarify several questions and concerns raised by the comments. First, the requirement for dispositional hearings is applicable only in three circumstances: when the State requests additional FFP under section 427 of the Act; chooses to implement a program of voluntary foster care maintenance payments; or transfers unneeded title IV–E foster care funds to title IV–B.

Second, dispositional hearings may be held by the court or by an administrative body appointed or approved by the court. This may include court appointed or approved review panels comprised of members of the public. Periodic (six month) reviews which are conducted through the courts may be done by the court itself or by an administrative panel appointed or approved by the court.

Periodic (six month) reviews conducted by the State agency can take various forms at the State's option. These reviews may be conducted by State agency staff, by a review panel made up of members of the public selected by the State agency, or by a panel comprised of both agency staff and the public.

The Department believes that the realities of program operations in dealing with State courts and other review bodies necessitates decision-making at the State agency level. Therefore, while strongly encouraging the use of voluntary sector in the periodic and dispositional reviews, the Department does not believe it is in the best interest of the program to mandate specific requirements. We believe it is better left to the judgment of the State agencies, courts and legislatures to determine the method of review and participation of outside parties. However, the State agency must still observe the provisions of section 475(5)(B) and 475(6) of the Act when they are applicable.

Case Plan Requirements (45 CFR 1356.21(d))

Comment—"Case plan elements" (45 CFR 1356.21(d)(1))

The NPRM (45 CFR 1356.21(b)) proposed several case plan requirements, i.e. the case plan must be developed within 60 days of the original foster care placement; include a discussion of how the plan is designed to achieve the least restrictive most family-like setting in close proximity to the home of the parent(s); and after 10/1/83, include a description of the preplacement preventive and reunification services offered or provided to the child and family.

Many commenters recommended returning to the specific case plan elements proposed in the December 1980 NPRM. Commenters alleged that the statute and practical reality require the Department to mandate the specific elements to be included in the case plan in order to achieve the aims of the Act.

At the same time, many State agencies commented that the proposed regulation was too prescriptive and needed more flexibility. They suggested that the language of the Act is sufficiently clear and specific and requires no regulatory augmentation.

Some commenters also suggested that rather than addressing how "close proximity" and "least restrictive setting" were achieved in each case plan (section 475(5)(A) of the Act), the case plan should discuss these topics by

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exception, i.e. only if these requirements were not met.

Response

On balance, the Department has concluded that the regulation as proposed adequately addressed the elements of the case plan required by the Act. There was considerable support for the 60 day time period to develop the case plan. Given the current state of practice, the Department believes this time period is reasonable and has retained this provision in the final rule. However, as some commenters suggested, and as became apparent in the Department's reviews of program implementation, a specific document as opposed to a massive case record, is needed if the case planning process is to be helpful to both parent(s) and agency.

Therefore, the Department, in 45 CFR 1356.21(d), has required that the case plan be a written document which is a discrete part of the case record and that the document be available to the parent(s) or guardian of the child. The State may determine the format of the case plan document.

With respect to the suggestion that the case plan requirement for a discussion of close proximity and least restrictive setting be discussed by exception, this suggestion has merit and the Department intends to explore its possibilities. In the interim, however, we have chosen to lease this case plan requirement unchanged.

In addition, some commenters interpreted with words in the NPRM (i.e., a description of the services offered or provided) to mean that a case plan should contain either the services offered or the services provided. That was not the intent of the provision. We have clarified. in paragraph (d)(4), that, after October 1, 1983, the child's case plan must include a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family. The purpose of having the case plan also describe the services offered is to enable the State to demonstrate that it meets the statutory case plan requirements by offering the needed services whether or not the services are accepted by the child and/or the family.

Dispositional Hearing (45 CFR 1356.21 (e) and (f))

Comment

The NPRM (45 CFR 1356.21(d)) proposed that the first dispositional hearing shall take place within 18 months of the original foster case placement and within reasonable time periods thereafter as defined by the State. This requirement is based upon section 475(5)(C) of the Act.

Two distinct groups of commenters emerged regarding the timing of the dispositional hearing. One group, comprised mainly of individuals and advocacy groups, strongly recommended return to the first NPRM requirement for annual dispositional hearings following the initial hearing. These commenters argued that good practice and the Act do not allow the Department to give the States the broad flexibility in defining "periodically thereafter" or specifying procedures and guidelines for the conduct or content of the dispositional hearing. They further argue that without a specific Federally mandated definition for "periodically thereafter" (section 475(5)(C) of the Act—and content of the hearing, the intent of the Act to move children out of foster care could be thwarted. Therefore, they believe that annual dispositional hearings and specified content are essential to give meaning to the Act's requirements and protect the best interests of the children in care.

Another area of concern expressed by this group of commenters was the coverage of the case review system and specifically which children are entitled to dispositional hearings. Comments received claimed that in some jurisdictions, children entitled to the dispositional hearing protection were not receiving it. Whether this was by design or by circumstance was not clear. A number of suggestions were made, therefore, that all children in care receive annual dispositional hearings.

The second group of commenters, primarily State agencies, essentially supported the flexibility of the proposed rule. They argued that State law or regulation will assure that the rights of children in care will be adequately protected and the intent of the Act fully met. They also believed that it is essential to have some flexibility in this area to allow for the individual needs, resources and procedures of the various States, particularly in relation to a State's judicial system.

In addition, the comment letters from both States and other commenters evidenced considerable confusion and requested clarification in 3 areas: When dispositional hearings are required; what children are covered by the requirement for a dispositional hearing; and the definition of the term "date of original placement" as an aid to calculating the various time periods for reviews.

Response

As noted earlier, the requirement for dispositional hearings, as part of the overall case review system, becomes operative under any of the three following circumstances:

(1) If a State seeks additional funds under section 427(a) or seeks to avoid a reduction of funds under section 427(b), it must certify that it has met the requirements of the appropriate section. Section 427(a)(2)(B) requires the State to have a case review system "* * * as defined in section 475(5) * * *" Part of section 475(5) is the dispositional hearing requirement (section 475(5)(C)).

(2) If a State wishes to claim FFP under title IV–E for children voluntarily placed in foster care (as provided in section 102 of Pub. L. 96–272 as it amends section 472 of the Act), it must meet the requirements of section 427(b) of the Act. Section 427(b) references section 427(a) which in turn references section 475(5) and the requirement for a dispositional hearing.

(3) If a State wishes to transfer unneeded foster care funds from title IV–E to title IV–B, under the provisions of section 474(c) of the Act, the State must meet the requirements of section 427 of the Act. Again, section 427 references section 475(5) and its dispositional hearing requirements in section 475(5)(C) of the Act.

For purposes of clarifying this matter, the final rule indicates the situations which trigger the dispositional hearing requirement in 45 CFR 1356.21(e), 45 CFR 1356.30(a) and 45 CFR 1357.25(d).

Assuming, then, that one of the three situations above applies, the State must hold dispositional hearing(s) for each child for whom the title IV–E/title IV–B agency has the responsibility for placement and care.

The Department wishes to clarify which children are covered by the requirement for dispositional hearings. The Act in section 475(5)(C) says that "* * * each child in foster care under the supervision of the State * * *" is to receive the protections of dispositional hearings. The Department has interpreted this section of the Act to mean that all children in foster care under the responsibility for placement and care of the title IV–E/IV–B State agency must receive the protections of dispositional hearings if any of the three circumstances described previously obtain. This includes children who are voluntarily placed as well as children placed through court decision. It also includes all children in foster care both within the State and those placed outside the State. It includes all foster children regardless of the type of placement, e.g. foster family homes, group homes, child care institutions, etc.

However, we agree with the comments that the proposal to require dispositional hearings for all children in foster care under the responsibility of the title IV–E/IV–B State agency warrants some limited modification. After review of the examples given in the comment letters and our practical experience in reviewing program operations, the Department has concluded that under two specific circumstances a subsequent dispositional hearing is not necessary. The first circumstance is when a court has determined that the child should remain permanently in foster care with a specified foster family. In this specific situation, a dispositional hearing, as defined in section 475(5)(C) of the Act, would yield no productive result because the maximum benefit of the dispositional hearing, i.e., permanency, has been achieved. To the extent, therefore, that the placement and care-giver remain constant, no additional benefit to the child would derive from further court involvement.

The second circumstance is a child who is placed in a home awaiting the finalization of his adoption. To the extent that this child is free for adoption, placed in an approved home for the purpose of adoption and the child's case plan goal is adoption, a subsequent dispositional hearing is not required. Assuming the child is adopted within a reasonable time after placement (e.g., mandatory waiting period under State law prior to filing a formal petition for a final decree of adoption), no additional dispositional hearing is required. However, it should be noted that if, in either circumstance, the care-giver or placement were to change or the final decree of adoption was not obtained within a reasonable period of time, that child would be entitled to subsequent dispositional hearings. We have incorporated these exceptions in 45 CFR 1356.21(e) (1) and (2).

We have made several other changes in 45 CFR 1356.21 in response to comments.

First, in 45 CFR 1356.21(e), the Department is requiring each State to have a reasonable specific time-limited definition of the phrase "periodically thereafter." This means that States will have the flexibility to determine the dispositional hearing time-frame(s) as a policy matter, but that they cannot arbitrarily hold subsequent hearings on an unplanned basis. A reasonable schedule for the next hearing must be established by the State in advance. The interval may be a specified time period for all children (e.g., 18 months) or a specified time period or range of time periods (e.g., 12 to 24 months) within which all hearings must take place.

Second, the Department also agrees with the comments that a definition of the date of original foster care placement is needed and has included the definition in 45 CFR 1356.21(f). We believe this definition will assist States in the calculation of the due dates for both the six month periodic reviews and the required dispositional hearings.

Payments and Standards Review (45 CFR 1356.21(g))

Comment

The NPRM (45 CFR 1356.21(g)) proposed that the payment and standards reviews (section 471(a)(11) of the Act) be conducted at intervals and in a manner determined by the State.

Several commenters strongly recommended the final rule require either a three year cycle for reviews or public participation in the various standards and payment reviews mandated by section 471(a)(11) of the Act. Commenters asserted that without either of these requirements, standards would not be reviewed and would become outdated or ineffective, and foster care and adoption assistance payments would not be based on current economic conditions nor attract qualified persons. They gave examples of States that had not reviewed standards or payments in the last ten years. They also asserted that the public has a right to know and participate in the important policy decisions of these programs.

Generally, the State agencies took a differing view. They supported the permissive approach of the proposed regulation arguing that the form public input takes is essentially a State matter and does not need regulatory prompting.

Response

As a general principle, the Department is committed to voluntary public involvement in these programs. In reviewing the comments and operational experience, the Department has concluded that additional Federal mandates are not the answer. However, the Department does encourage the States to involve the public in the review process. The Department is also concerned that these reviews be conducted at reasonable intervals. Therefore, the Department is requiring the State agency to establish reasonable specific time-limited intervals for conducting these reviews (45 CFR 1356.21(g)).

Foster Care Goals (45 CFR 1356.21(h))

Comment

The NPRM proposed that the State could establish by either State law or administrative regulation the specific foster care goals required under section 471(a)(14) of the Act. The Act requires that these goals be established by State law.

The Department received two types of comments: general support for the requirement; and requests to delete the option for the State to set goals by administrative regulation.

Response

The Department believes that the NPRM language is a fair interpretation of the Act's requirements and intent. The Department also believes that this approach strikes a reasonable balance between effective implementation and State flexibility and appropriate Federal stewardship. Consequently, no change was made in this provision in the final rule.

45 CFR 1356.30—Implementation requirements for children voluntarily placed in foster care

Comment

The NPRM (45 CFR 1356.30) established the general requirements for States claiming FFP for voluntarily placed children.

The Department received recommendations in three areas: make State participation in the voluntary placement program mandatory; require a judicial determination after 90 days (not 180 days as in Act); and specify the timing and procedures for the return home of a voluntarily placed child.

Response

The first two recommendations are not possible under the provisions of the Act. Section 102 of the Adoption Assistance and Child Welfare Act of 1980, as it amends section 472 of the Act, makes clear that participation is optional to the State and that a judicial determination is required within 180 days of the voluntary placement, not 90 days as recommended.

In response to the third recommendation, the Department has concluded that the practice among the States in returning children voluntarily placed is sufficiently responsive as to obviate the need for Federal requirements. Moreover, whatever process the State establishes, 45 CFR 1356.30(c) requires that the process be consistent with State law. Therefore, no change was made in the final rule.

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45 CFR 1356.40—Adoption assistance program: Administrative requirements to implement section 473 of the Act

The NPRM (45 CFR 1356.40) outlined the requirements for implementing the adoption assistance program required under sections 471 and 473 of the Act and these regulations.

General requirements (45 CFR 1356.40(a))

Comments

45 CFR 1356.40(a) addresses the general implementation requirements for the adoption assistance program.

Commenters suggested that the Department strongly advocate use of the "Model Adoption Act" as a fundamental resource for implementing this program. Another suggestion was that the Department mandate the adoption assistance program as an entitlement to all eligible children. Another commenter suggested extending the coverage of the program to age 21 for those children engaged in educational programs.

Response

The Department has considered these comments but cannot accept them. The "Model Act" has been widely distributed and discussed in many ways and forums. It would be inappropriate to mandate what was originally designed to be resource information for the States. The Department encourages the States to make use of the Model Act but will not mandate its use. There is no legal basis for the Department to accept the remaining two recommendations. Section 473(a)(1) of the Act specifies the children eligible for the adoption assistance program. It also makes clear that FFP in adoption assistance payments is available up to age 18 with the exception of a child with mental or physical handicaps which warrant continuation of assistance up to age 21.

Adoption assistance agreement (45 CFR 1356.40(b))

Comments

The NPRM (45 CFR 1356.40(b)) proposed the requirements for the adoption assistance agreement document. Two comments were received regarding the beginning date of an agreement. One of these comments suggested that the Department clarify and strengthen the required timing of agreement signature by the State and parent(s). The other comment suggested we eliminate the timing requirement altogether. The remaining comments addressed the need for specifying procedures to ensure continuation of the agreement if the family changes its State of residence.

Response

In reviewing the comments, the Department compared the NPRM, the comments, the Act and its program experience. We have reached the conclusion that the comments on timing offer no additional constructive material justifying modification of the regulatory language. The NPRM and the referenced provisions of the Act are clear on signature and timing.

With regard to the recommendation to specify procedures for ensuring continuation of the agreement when a family moves out of State, no change is necessary. The final rule (45 CFR 1356.40(b)(4)) specifies that, under section 475(3)(B) of the Act and section 101(a)(4)(A) of Pub. L. 96–272, any adoption assistance agreement meeting the requirements of the Act and this final rule entered into after October 1, 1983 must remain in effect if a family moves to another State. The Department has opted not to unnecessarily specify procedures and the final rule is unchanged.

FFP and interlocutory decree (45 CFR 1356.40(c))

Comment

The NPRM (45 CFR 1356.40(c)) proposed a definition of the phrase "interlocutory decree" which appears in section 473(a)(4) of the Act. This section of the Act provides that FFP in an adoption assistance payment may begin when an eligible child is placed for adoption pursuant to an interlocutory decree or upon final adoption.

Several commenters, particularly from States with no interlocutory decree, suggested that we allow alternate State agency or court procedures to substitute for an interlocutory decree.

Response

Given the clear language of the Act (section 473(a)(4)), it is not possible to accept these recommendations.

"Means test" (45 CFR 1356.40(d))

Comment

The NPRM (45 CFR 1356.40(d)) proposed that there may not be a "means test" for eligibility for adoption assistance. In general, respondents supported this provision. However, there was some confusion on how it should be applied.

Response

The various provisions of section 473, particularly sections 473(a)(1), (2) and (3), are clear that the issue in determining eligibility for adoption assistance is related to the child and not the parent. Section 473(a)(1) of the Act contains the specific eligibility requirements a child must meet to receive adoption assistance. Section 473 refers to parental resources only in the context of determining how much the adoption assistance payment should be, not in the context of eligibility to receive such payments.

Moreover, the legislative history of Pub. L. 96–272 directly rejects the concept of a "means test." (Congressional Record, October 25, 1979, S15157—S15162; October 29, 1979, S15286). Therefore, the Department has concluded that it is appropriate to prohibit a means test.

Medicaid and social services (45 CFR 1356.40(e))

Comment

The NPRM (45 CFR 1356.40(e)) proposed to clarify eligibility for Medicaid (title XIX of the Act) and social services (title XX of the Act) of a child receiving adoption assistance when the family moves out of State.

The comments generally supported the NPRM language but recommended that the Department specify that the eligibility under titles XIX and XX be automatic; asked for procedures to implement these requirements; and sought clarification of the State's actual responsibility for providing services when the family moves to another State.

Response

While the eligibility for title XIX (Medicaid) remains automatic, the Department does not have the legal authority to mandate automatic eligibility for title XX because the social services block grant leaves the determination of eligibility criteria to the States.

However, section 473(b) of the Act provides that all children receiving adoption assistance payments are deemed to be recipients of AFDC. Since all States are currently offering title XX services to AFDC eligible children, the Department does not see the commenters' concern as a serious problem area.

The Department believes that the development of arrangements and procedures for continuation of services when the family moves to another State are best left to the States.

Placement across State lines (45 CFR 1356.40(f))

Comment

The NPRM (45 CFR 1356.40(f) proposed that a State may enter into an adoption assistance agreement with a parent(s) who resides in another State

In that event, all provisions of the regulation regarding adoption assistance (45 CFR 1356.40) would be applicable.

One comment was received which sought to have the Department specify the procedural steps in such a situation. Several commenters also requested clarification on the coverage of titles XIX and XX for children placed across State lines for the purpose of adoption.

Response

The Department is working with the American Public Welfare Association to develop non-binding guidance materials for use by the States in implementing out-of-State placements. That information should be available to the States shortly. The Department believes that these guidance materials will more than adequately address this problem. Given the differences among the various States' laws and the interaction of other Federal programs, the Department has elected this flexible approach over a prescriptive provision in the final rule. No change, therefore, was made in the final rule.

Promotion of the program (45 CFR 1356.40(g))

Comments

The NPRM proposed that the States must actively seek ways to promote the adoption assistance program. Several commenters sought to have the Department specify the means of promotion and to strengthen this requirement.

Response

The Department believes that the decision on how to promote the program is best left to each individual State. Requirements established by the Department would, of necessity, be general in nature and could not address individual State needs and interests. Consequently, the Department believes that States will see the self-interest in this requirement and develop their own means of promoting the program.

Part 1357—Requirements Applicable to Title IV–B

45 CFR 1357.10—Scope and definitions

Comment—(45 CFR 1357.10(b))

The NPRM (45 CFR 1357.10(b)) proposed that child welfare services were to be available on the basis of need for services, and should not be denied on the basis of legal residence or financial need.

One comment asked the basis of the proscription of a "means test" for title IV–B services. Another comment was received which raised the issue of residency as an eligibility criteria for receipt of services under the State's title IV–B program. The problem raised was that the proposed regulation, as written, could be read to allow a person living in one State to cross the State line in order to receive a service not available in his own State of residence. This would be done, in the context of the commenter's concern, solely for the purpose of obtaining a service while the person remained a resident and domiciled in the other State. This would have the effect of causing one State to bear the costs of services to residents of another.

Response

Regarding the issue of a financial "means test" for title IV–B service eligibility, the Department believes that the Act, the legislative history and the history of title IV–B program have always supported the proscription of a "means test." Therefore, the Department has made no change in the final rule.

The Department agrees that the commenter's residency concern may be valid. The sole intent of the prohibition of a "residency" restriction in the final rule is to ensure that people moving from one State to another will be able to obtain needed services without having to reside in the new State a specified period of time before being able to obtain those services. The regulation has been revised to make this clear.

Definitions (45 CFR 1357.10(c))

Comment—"Child Welfare Service"

The NPRM (45 CFR 1357.10(c)) proposed to define child welfare services as all services meeting the definition of section 425(a)(1) of the Act regardless of the funding source (title IV–B or otherwise) for that service.

Several commenters voiced criticism regarding this definition as going beyond the law. The essential concern was that by inclusion of the phrase " * * * regardless of funding source of such services * * * " the Department had overstepped the definition in the law. They recommended deletion of this phrase.

Response

After examining the statutory definition (section 425(a)(1) of the Act) and the history of the program, and considering the comments, the Department has chosen to modify the definition as it appeared in the NPRM. The Department believes that the statutory definition is intended to cover only the social services for which the title IV–B State agency is responsible, not all child welfare services throughout the State. The expectation is that in order to develop an effective and dynamic title IV–B State plan, the resources utilized by the title IV–B State agency need to be considered. In this way, the joint planning process will yield a realistic view of services provided by or under the auspices of the title IV–B State agency and consequently will form the foundation upon which an effective and comprehensive child welfare services program may be built.

Consequently, the title IV–B State plan should include all those services for which the title IV–B State agency is responsible.

Comment—"Child welfare services plan"

The NPRM (45 CFR 1357.10(c)) proposed that "child welfare services plan" means the document which describes the State agency's total child welfare services program. Commenters found this definition confusing particularly in regard to the broad definition of "child welfare services."

Response

The Department agrees and has revised the definition to require the State to describe only those child welfare services for which the title IV–B State agency is responsible.

Comments—"Joint Planning"

The NPRM (45 CFR 1357.10(c)) proposed to define "joint planning" as a "* * * State and Federal review and analysis of the State's child welfare services * * *" Three comments were received on this definition. Two recommended inclusions of the public and service providers (other than governmental agencies) and one suggested limiting the review and analysis strictly to the requirements of section 422(b) of the Act.

Response

The definition proposed by the Department does not limit additional participants. However, since the formal relationship under title IV–B is between the Federal and State governments, the Department will leave the decision on additional participants to the State's discretion.

In terms of the substantive program matter to be covered in the planning process itself, section 422(a) of the Act speaks of a plan for "child welfare services" which has been developed jointly and the title IV–B State plan requirements of section 422(b) of the Act. The Department believes that the definition of "joint planning" appropriately takes into account these

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tasks. Therefore, no change in the final rule was made.

45 CFR 1357.15—Child welfare services State plan requirements and submittal

Comments—State plan document

The NPRM (45 CFR 1357.15 (a) and (c)) proposed to require the State agency to enter into a joint planning effort with the Federal Government to develop the State's child welfare services State plan. The joint planning process was defined but the format of the State plan document which resulted was left to the State's discretion.

Several commenters recommended annual State plan documents which would include a careful examination of needs, services and resource allocations. One suggestion was made to eliminate the requirement of services specified by political subdivision on the grounds that it limited State planning by regional or geographical districts. Another was to require public and voluntary agency participation in the development of the plan. One commenter raised the question of coordination of the State's title IV–B plan with those of Indian Tribal Organizations (ITO) directly funded under section 428 of the Act.

Response

In response to the suggestion that annual State plans be required, the Department cannot accept this suggestion for two reasons. To undertake the comprehensive joint planning process each year places an undue burden on the States and would not yield constructive results in relation to the effort required.

In addition, in the interest of greater flexibility and reduced paperwork burden and reporting requirements, in § 1357.15(b), we have allowed States to submit the title IV–B State plan in two parts. The assurances required by the Act (section 422(b) (1) through (4) and (7) and (8)) may be submitted on a one time only basis with amendments required only if significant changes are made in a State's program in these areas.

The descriptive information pertaining to the State's ongoing services program required by section 422(b) (5) and (6) must be submitted and be in effect for one, two or three fiscal years. The State may elect either one, two or three year intervals to be used for this portion of the plan.

The comment regarding elimination of the State plan's discussion of services available by political subdivision is acceptable to the Department. While the Department would like States to describe their title IV–B program by political subdivision, we recognize that such a provision is inappropriate as a requirement. Therefore, the Department has eliminated this provision in the final rule.

Regarding the recommendation that the public and voluntary agencies should be required to participate in the development of the State plan, the Department believes that this is a matter for a State decision. Nothing in the final rule would preclude such involvement. However, the Department believes that it would be inappropriate to mandate such a requirement.

With regard to the coordination of the State's title IV–B plan with that of an ITO, the Department has added a requirement that the State coordinate its plan and services with those provided under the ITO's (45 CFR 1357.15(d)). This provision also contains the requirements proposed in 45 CFR 1357.40(d)(3), that upon request by the ITO the State must make available a copy of the title IV–B State plan. Moreover, both these provisions are consistent with the coordination requirements contained in section 422(b)(2) of the Act.

Comments—State plan and section 427 implementation (45 CFR 1357.15(e))

The NPRM (45 CFR 1357.15(b)) proposed that the State plan document specify what preplacement preventive and reunification services are available. An illustrative list of services was included but the NPRM did not require any specific service to be provided.

Many commenters recommended a return to the detailed prescriptive approach of the first NPRM by recommending, alternatively, that the Department require States to provide certain core services that haven proven effective; require States to provide at least three services or limit services to those on the illustrative list. Others requested additional language to specify the Federal monitoring and evaluation activities as well as suggesting several additional services for inclusion in our list.

Response

After reviewing the comments and the Department's operational experience of the last year, we have concluded that a change in the regulatory language is not necessary. We have reached this conclusion for essentially the same reasons discussed under the "reasonable efforts" response (45 CFR 1356.21(b) and (d)(4)).To require States to implement a Federally selected list of specific services is not consistent with the discretion and flexibility necessary for the States to operate their title IV–B program. We have included two additional services, as suggested: services to unmarried parents and post-adoption services. This provision is now found in paragraph (d).

45 CFR 1357.25—Requirements for eligibility for additional payments under section 427

This section of the NPRM (45 CFR 1357.25) proposed the programmatic requirements for implementing section 427 of the Act, when applicable. It included the coverage requirements for the inventory and statewide information system and case review system (specifically the dispositional hearing requirement in section 475(5)(C) of the Act).

Comments

Many comments, questions and recommendations were received on this provision of the NPRM. Commenters were concerned that the provisions of section 427 of the Act were not clear on their face and required clarification and interpretation so that they would be sure of the standards for receipt of the additional FFP available. Commenters also recommended that the final rule require: specific data elements in the Statewide information system and the inventory; child health information in the information system; the data gained from the inventory be submitted to the Federal Government; annual publication of and public access to aggregate data in the information system and inventory; a requirement that the inventory and information system cover all children in the State in foster care not just those under the responsibility for placement and care of the title IV–E/IV–B State agency.

In addition, several letters provided detailed comments on the section 427 compliance review process being conducted in the States and urged that the Department's requirements for FFP and for meeting the compliance requirements be specifically included in the final rule.

Response

The language of section 427 of the Act is unusually detailed. Thus, the Department believes there is no need for further specification of data elements for either the inventory or the information system, and has not changed the final rule.

With regard to access to information by the public, we reject these suggestions in so far as other than aggregate data are sought. We do so for two reasons. First, the nature of the data on individuals in foster care or their families developed in either the inventory or the information system is by good practice confidential, as indicated by section 471(a)(8) of the Act. The risk of highly private and personal information leakage is too high to justify a reporting or information collection mandate. If, however, the State wished to aggregate its data and publish it, that is an option available but that decision would have to be made by the State. Second, the Department has embarked on a voluntary reporting system for certain aggregate data in its work with the States. We choose to pursue this course rather than mandate reporting.

In regard to coverage of the inventory and information system, Congress, in its debate, continually referred to the "500,000 children in foster care." when one looks at the various research studies done on foster care, it quickly becomes apparent that the 500,000 number often referred to by the Congress are those children in the public social service/State social service agency foster care programs and not all children in foster care, both public and private.

Therefore, it is the Department's belief that Congress did not intend to cover all children in foster care but rather only those for whom the title IV–A(FC)/IV–E/IV–B State agencies have the responsibility for placement and care. Consequently, we have maintained the NPRM language with some very minor editorial changes in the final rule.

One of these editorial changes was the deletion of the language in this provision which referred to "* * * other agencies with which these agencies have an agreement to provide care * * *." We have changed the language to make clear that the title IV–E/IV–B State agency may not delegate away its ultimate responsibility to ensure that the State plan is carried out. The confusing and unclear language was, therefore, deleted.

Beyond the changes discussed above, two new provisions have been added to the regulation. One as a clarification of the Act and the other in response to our operational experience and comments on section 427 of the Act.

As discussed under "dispositional hearings" in this preamble (45 CFR 1356.21(e)), section 427 references section 475(5) of the Act. The Department has added paragraph (d) to 45 CFR 1357.25 in order to clarify and simplify the relationship of these two statutory provisions and the applicability of the dispositional hearing requirement. This provision is consistent with those found in 45 CFR 1356.21(e) and 1356.30.

The Department has also added a provision (45 CFR 1357.25(e)) which establishes the Departmental Grant Appeals Board (45 CFR Part 16) as the arbiter in disputes arising under section 427 of the Act and 45 CFR 1357.25 or its related provisions. The Department believes that this forum is best suited to resolve disputes between a State and the Department regarding whether the State meets the requirements of section 427 of the Act. These disputes would arise in three circumstances: when a State certifies that it meets section 427 requirements in order to obtain additional funds under section 427(a) or to avoid a reduction in funds under section 427(b); when the provisions of section 427(b) of the Act become applicable under the voluntary care provisions of section 102 of Pub. L. 96–272 as it amends section 472 of the Act; and when section 427 is applicable to a State wishing to transfer unneeded title IV–E foster care funds to title IV–B, Child Welfare Services.

45 CFR 1357.40—Direct Payments to Indian Tribal Organizations

Under section 428 of the Act, the Secretary is empowered to establish a system for making direct title IV–B grants to Indian Tribal Organizations. The NPRM, in 45 CFR 1357.40, proposed the eligibility criteria and procedural requirements for the direct funding program. Those requirements included eligibility criteria for tribes; procedural steps for applying for funds; child welfare services plan and document requirements; joint planning; section 427 requirements as applicable; and general requirements.

Comments

The Department received only a few comments on this section. One was a statement of general support for the NPRM language but also raised the commenter's concerns regarding the lack of specificity in the title IV–B requirements applicable to the tribes and States; one suggested requiring public input to the Federal/tribe joint planning process; one sought a clearer statement of the Indian Tribal Organization/State relationship; another recommended that the information disclosure provisions (45 CFR 1355.21(b)) applicable to States be made applicable to tribal grantees; and one supported the coordination provision of the NPRM.

Response

As stated previously, the Department declined to add more specificity to the requirements applicable to the States. We maintain that approach in implementing section 428 of the Act and direct funding of Indian Tribal Organizations (ITO). Also as stated previously, public input is optional to the State or tribe and this provision needs no change.

However, the Department agrees that the information disclosure (safeguarding of information) provision should apply to the ITO as well as to States. We have included this requirement in 45 CFR 1357.40(c)(3) by a cross reference to 45 CFR 1355.21(a).

Also in 45 CFR 1357.40(c), we have clarified by cross references that the following provisions are also applicable to tribal grantees: the definitions found in 45 CFR 1357.20; the requirement that the services under section 427 of the Act be specified in the ITO's title IV–B plan; and the other applicable regulations as required by 45 CFR 1355.30.

We have revised paragraph (d)(3) to allow ITOs the same planning options as States, i.e., ITOs may submit the required assurances on a one time only basis with amendments as necessary. The other statutory requirements must be submitted and be in effect for one, two or three fiscal years. The interval must be selected by the ITO.

To parallel the requirements for public access to State plans and plan amendments, we have required, in paragraph (e), that the ITO make its title IV–B plan and plan amendments available for public review and inspection.

Finally, as proposed in 45 CFR 1357.40(d)(3), we have included in paragraph (e) the requirement that the ITO must provide a copy of its title IV–B plan to the State on request.

Impact Analysis

Executive Order 12291

This rule primarily codifies statutory provisions. The rule itself imposes no significant burdens on the States or other affected parties. Therefore, the Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a major rule because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or process for consumers, any industries, any governmental agency or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

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Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed final rule if the rule would have a significant economic impact on a substantial number of "small entities," i.e. small businesses, small non-profit organizations, or small governmental jurisdictions.

Although actual delivery of services may be provided in some circumstances by proprietary, public and not-for-profit agencies or organizations under contract to the State agency, the responsibility for meeting the requirements of this regulation is on the State agencies, which are not "small entities" within the meaning of the Act. This final rule will impose no significant burdens on States or other affected parties and will provide flexibility to States in implementing the provisions of the amended Social Security Act. For these reasons, the Secretary hereby certifies that this final rule will not have a significant impact on a substantial number of small entities.

Recordkeeping and Reporting

This rule contains certain information collection requirements which have been approved by OMB under section 3507 of the Paperwork Reduction Act. These information collection requirements are as follows:

1. Case Plan Review System OMB Control No. 0980–0140 (§ 1356.21 (c) and (d)).
2. Statewide Information System, OMB Control No. 0980–0138 (§ 1357.25(b)).
3. Child Welfare Services State Plan, OMB Control No. 0980–0142 (§ 1357.15).
4. State Plan for Foster Care Assistance, OMB Control No. 0980–141 (§ 1356.20).

List of Subjects

45 CFR Part 1355

Adoption assistance, Child welfare services, Foster care, Information (confidentiality), State plan requirements.

45 CFR Part 1356

Adoption assistance, Administrative costs, Administrative practice and procedure, Administrative reviews, Allotments to States, Case plan, Case review system, Contacts (agreements), Definitions, Dispositional hearings, Federal financial participation, Foster care maintenance payments, Medicaid, Preplacement preventive services, Reunification services, Social services, Statewide information system, State plan, Training, Voluntary placements.

45 CFR Part 1357

Child welfare services, Federal financial participation, Foster care, Grants-in-Aid, Indians, Inventory, Preplacement preventive services, Reunification services, State plan, Training.

(Catalogue of Federal Domestic Assistance Program No. 13.645, Child Welfare Services—State Grants; 13.658, Foster Care Maintenance; and 13.659, Adoption Assistance)

Dated: April 4, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary for Health and Human Services.

45 CFR Chapter XIII is amended for the reasons set forth in the preamble as follows:

1. The title and table of contents of Subchapter G is revised to read as follows:

SUBCHAPTER G—THE ADMINISTRATION FOR CHILDREN YOUTH AND FAMILIES, FOSTER CARE MAINTENANCE PAYMENTS, ADOPTION ASSISTANCE, CHILD WELFARE SERVICES

Sec.
1355 General.
1356 Requirements Applicable to Title IV–E.
1357 Requirements Applicable to Title IV–B.

PART 1355—GENERAL

2a. The authority citation for Part 1355 reads as follows:

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620 et seq., 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

2b. The table of contents for Part 1355 is amended by adding §§ 1355.10, 1355.20 and 1355.21 to read as follows:

Sec.
1355.10 Scope.
1355.20 Definitions.
1355.21 State plan requirements for titles IV–E and IV–B.

3. Part 1355 is amended by adding §§ 1355.10, 1355.20, 1355.21 to read as follows:

§ 1355.10 Scope.

Part 1355 applies to State programs and contains general requirements for Federal financial participation under titles IV–E and IV–B of the Social Security Act, as amended.

§ 1355.20 Definitions.

(a) Unless otherwise specified, the following terms as they appear in 45 CFR Parts 1355, 1356 and 1357 of this title are defined as follows—*Act* means the Social Security Act, as amended.

ACYF means Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health and Human Services.

Child abuse and neglect means the definition contained in 45 CFR Part 1340, Child Abuse and Neglect Prevention and Treatment Program.

Commissioner means the Commissioner for Children, Youth and Familes (ACYF), Office of Human Development Services, U.S. Department of Health and Human Services.

Department means the United States Department of Health and Human Services.

Detention facility in the context of the definition of child care institution in section 472(c)(2) of the Act means a physically restricting facility for the care of children who require secure custody pending court adjudication, court disposition, execution of a court order or after commitment.

Foster family home means the home of an individual or family licensed or approved by the State licensing or approval authority(ies) (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that provides 24-hour out-of-home care for children. The term may include group homes, agency operated boarding homes or other facilities licensed or approved for the purpose of providing foster care by the State agency responsible for approval or licensing of such facilities.

State means the 50 States, the District of Columbia, and, except in 45 CFR 1356.65 and 1356.70, the Commonwealth of Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands.

State agency means the State agency administering or supervising the administration of the title IV–E and title IV–B State plans.

(b) Unless otherwise specified, the definitions contained in section 475 of the Act apply to all programs under titles IV–E and IV–B of the Act.

§ 1355.21 State plan requirements for titles IV–E and IV–B.

(a) The State plans for titles IV–E and IV–B must provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

(b) The State plans for titles IV–E and IV–B must provide for compliance with the Department's regulations listed in 45 CFR 1355.30.

(c) The State plans and plan amendments for titles IV–E and IV–B must be made available by the State agency for public review and inspection.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

4a. The authority citation for Part 1356 reads as follows:

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620 et seq., 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

4b. The table of contents for Part 1356 is amended by adding §§1356.10, 1356.20 1356.21, 1356.30, 1356.40 and 1356.50 to read as follows:

Sec.
1356.10 Scope.
1356.20 State plan document and submission requirements.
1356.21 Foster care maintenance payments program implementation requirements.
1356.30 Implementation requirements for children voluntarily placed in foster care.
1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.
1356.50 Withholding of funds for non-compliance with the approved title IV–E State plan.

5. Part 1356 is amended by adding §§ 1356.10, 1356.20, 1356.21, 1356.30, 1356.40 and 1356.50 to read as follows:

§ 1356.10 Scope

This part applies to State programs for foster care maintenance payments, adoption assistance payments and related administrative and training expenditures under title IV–E of the Act.

§ 1356.20 State plan document and submission requirements.

(a) To be in compliance with the State plan requirements and to be eligible to receive Federal financial participation (FFP) in the costs of foster care maintenance payments and adoption assistance under this part, a State must have a State plan approved by the Secretary that meets the requirements of this part, Part 1355 and section 471(a) of the Act. The title IV–E State plan must be submitted to the appropriate Regional Office, ACYF, in a form determined by the State.

(b) If a State chooses to claim FFP for voluntary foster care placements, the State must meet the requirements of paragraph (a) of this section and section 102 of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, as it amends section 472 of the Act.

(c) The following procedures for approval of State plans and amendments apply to the title IV–E program:

(1) The State plan consists of written documents furnished by the State to cover its program under Part E of title IV. After approval of the original plan by the Commissioner, ACYF, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that ACYF may determine whether the plan continues to meet Federal requirements and policies.

(2) *Submittal.* State plans and revisions of the plans are submitted first to the State governor or his designee for review and then to the regional office, ACYF. The States are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

(3) *Review.* Staff in the regional offices are responsible for review of State plans and amendments. They also initiate discussion with the State agency on clarification of significant aspects of the plan which come to their attention in the course of this review. State plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the central office for technical assistance. Comments and suggestions, including those of consultants in specified areas, may be prepared by the central office for use by the regional staff in negotiations with the State agency.

(4) *Action.* The Regional Office, ACYF, exercises delegated authority to take affirmative action on State plans and amendments thereto on the basis of policy statements or precedents previously approved by the Commissioner, ACYF. The Commissioner, ACYF, retains authority for determining that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval, except that a final determination of disapproval may not be made without prior consultation and discussion by the Commissioner, ACYF with the Secretary. The Regional Office, ACYF, formally notifies the State agency of the actions taken on State plans or revisions.

(5) *Basis for approval.* Determinations as to whether State plans (including plan amendments and administrative practice under the plans) originally meet or continue to meet, the requirements for approval are based on relevant Federal statutes and regulations.

(6) *Prompt approval of State plans.* The determination as to whether a State plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and not later than the 45th day following the date on which the plan submittal is received in the regional office, unless the Regional Office, ACYF, has secured from the State agency a written agreement to extend that period.

(7) *Prompt approval of plan amendments.* Any amendment of an approved State plan may, at the option of the State, be considered as a submission of a new State plan. If the State requests that such amendment be so considered the determination as to its conformity with the requirements for approval shall be made promptly and not later than the 45th day following the date on which such a request is received in the regional office with respect to an amendment that has been received in such office, unless the Regional Office, ACYF, has secured from the State agency a written agreement to extend that period. In absence of request by a State that an amendment of an approved State plan shall be considered as a submission of a new State plan, the procedures under § 201.6 (a) and (b) shall be applicable.

(8) *Effective date.* The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted, and with respect to expenditures for assistance under such plan, may not be earlier than the first day on which the plan is in operation on a statewide basis. The same applies with respect to plan amendments.

(d) Once the title IV–E State plan has been submitted and approved, it shall remain in effect until amendments are required. An amendment is required if there is any significant and relevant change in the information or assurances in the plan, or the organization, policies or operations described in the plan.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980–0141)

§ 1356.21 Foster care maintenance payments program implementation requirements.

(a) To implement the foster care maintenance payments program provisions of the title IV–E State plan and to be eligible to receive Federal financial participation for foster care maintenance payments under this part, a State must meet the requirements of this section, and sections 472, 475(1), 475(4), 475(5) (A) and (B) and 475(6) of the Act.

(b) In meeting the "reasonable efforts" requirements of sections 471(a)(15) and 472(a)(1) of the Act, effective October 1, 1983, the State must meet the requirements of paragraph (d)(4) of this

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section. (See also section 45 CFR 1357.15(e) for examples of services.)

(c) In meeting the requirements of section 471(a)(16) of the Act for a case review system, each State's case review system must meet the requirements of sections 475(5)(B) and 475(6) of the Act.

(d) In meeting the case plan requirements of sections 471(a)(16), 475(1) and 475(5)(A) of the Act, the State agency must promulgate policy materials and instructions for use by State and local staff to determine the appropriateness of and necessity for the foster care placement of the child. The case plan for each child must:

(1) Be a written document, which is a discrete part of the case record, in a format determined by the State, which is available to the parent(s) or guardian of the foster child; and

(2) Be developed within a reasonable period, to be established by the State, but in no event later than 60 days starting at the time the State agency assumes responsibility for providing services including placing the child; and

(3) Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interest and special needs of the child; and

(4) After October 1, 1983, include a description of the services offered and the services provided to prevent removal of the child from the home and to reunify the family.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0140)

(e) If a State chooses to claim FFP for the costs of voluntary foster care maintenance payment; chooses to transfer funds from title IV-E to title IV-B, or certifies compliance with the requirements of section 427 of the Act, it must, among other requirements, meet the requirements for dispositional hearings in section 475(5)(C) of the Act. In meeting the requirements of section 475(5)(C), the dispositional hearing must take place within 18 months of the date of the original foster care placement and within reasonable, specific, time-limited periods to be established by the State. The provisions of this paragraph and section 475(5)(C) of the Act must apply to all children under the responsibility for placement and care of the title IV-E/IV-B State agency except:

(1) For those children who are placed in a court sanctioned permanent foster family home placement with a specific care giver, no subsequent dispositional hearings are required during the continuation of that specific permanent placement. If the foster care placement of such a child is subsequently changed, the child is again entitled to dispositional hearings.

(2) For those children who are free for adoption and are placed in adoptive homes pending the finalization of the adoption, no subsequent dispositional hearings are required during the continuation of that placement. If such a child is not adopted within a reasonable time after placement, the child is again entitled to dispositional hearings.

(f) For purposes of meeting the requirements of the Act and regulation with respect to paragraphs (c), (d) and (e) of this section, 45 CFR 1356.30(b) and sections 471(a)(16) and 475(5) of the Act, the following definition applies: *Original foster care placement* means the date of the child's most recent removal from his home and placement into foster care under the care and responsibility of the State agency. This definition is the point in time used in calculating all time periods related to the case review system. (See also section 475(5) of the Act.)

(g) In meeting the requirements of section 471(a)(11) of the Act, the State must review at reasonable, specific, time-limited periods to be established by the State:

(1) The amount of the payment made for foster care maintenance and adoption assistance to assure their continued appropriateness; and

(2) The licensing or approval standards for child care institutions and foster family homes.

(h) The specific foster care goals required under section 471(a)(14) of the Act must be incorporated into State law by statute or administrative regulation provided such administrative regulation has the force of law.

§ 1356.30 Implementation requirements for children voluntarily placed in foster care.

(a) As a condition of receipt of Federal financial participation (FFP) in foster care maintenance payments for a dependent child removed from his home under a voluntary placement agreement, the State must meet the requirements of:

(1) Section 472 of the Act (as amended by section 102(a) of Pub. L. 96-272);

(2) Section 102(d) of Pub. L. 96-272;

(3) Sections 427(b) and 475(5) of the Act;

(4) 45 CFR 1356.21 (e) and (f); and

(5) The requirements of this section.

(b) Federal financial participation is available only for voluntary foster care maintenance expenditures made within the first 180 days after the date of the original foster care placement unless there has been a judicial determination by a court of competent jurisdiction within the first 180 days of the date of that original placement to the effect that the continued voluntary placement is in the best interests of the child.

(c) The State agency must establish and maintain a uniform procedure or system, consistent with State law, for revocation by the parent(s) of a voluntary placement agreement and return of the child.

§ 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.

(a) To implement the adoption assistance program provisions of the title IV-E State plan and to be eligible for Federal financial participation in adoption assistance payments under this Part, the State must meet the requirements of this section and sections 471(a), 473 and 475(3) of the Act.

(b) The adoption assistance agreement must meet the requirements of section 475(3) of the Act and must:

(1) Be signed and in effect at the time of or prior to the interlocutory decree or at the time of or prior to the final decree of adoption. A copy of the signed agreement must be given to each party; and

(2) Specify its duration; and

(3) Specify the amount of assistance and other services to be provided and, for purposes of eligibility under title XIX of the Act, specify that the child is eligible for medicaid services; and

(4) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement remains in effect if a family changes its State of residence.

(c) For purposes of implementing section 473 of the Act, *interlocutory decree* means a court order granting legal custody or guardianship to the adoptive petitioners prior to the final decree of adoption.

(d) There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments.

(e) In the event an adoptive family moves from one State to another State, the family may apply for social services on behalf of the adoptive child in the new State of residence. However, for agreements entered into on or after October 1, 1983, if a needed service(s) specified in the adoption assistance agreement is not available in the new State of residence, the State making the original adoption assistance payment remains financially responsible for providing the specified service(s).

(f) A State may make an adoption assistance agreement with adopting parent(s) who reside in another State. If so, all provisions of this section apply.

(g) The State agency must actively seek ways to promote the adoption assistance program.

§ 1356.50 Withholding of funds for non-compliance with the approved title IV-E State plan.

(a) To be in compliance with the title IV-E State plan requirements, a State must meet the requirements of the Act and 45 CFR 1356.20, 1356.21 and 1356.40 of this part.

(b) To be in compliance with the title IV-E State plan requirements, a State that chooses to claim FFP for voluntary placements must meet the requirements of the Act, 45 CFR 1356.30 and paragraph (a) of this section; and

(c) For purposes of this section, the provisions of 45 CFR Part 213, Practice and Procedure for Hearings to States on Conformity of Public Assistance Plans to Federal Requirements, apply.

6. In Part 1356, § 1356.60 is amended by revising paragraph (a)(1) to read as follows:

§ 1356.60 Fiscal requirements (title IV-E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments.* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV-E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with 45 CFR 1356.20 through 1356.30 of this part, section 472 of the Act and section 102(d) of Pub. L. 96-272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with 45 CFR 1356.20 and 1356.40 and sections 473 and 475(3) of the Act.

* * * * *

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV-B

7a. The authority citation for Part 1357 reads as follows:

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96-272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620 et seq., 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

7b. The table of contents for Part 1357 is amended by adding §§ 1357.10, 1357.15, 1357.20, 1357.25 and 1357.40 to read as follows:

Sec.
1357.10 Scope and definitions.
1357.15 Child welfare services State plan requirements and submittal.
1357.20 Child abuse and neglect programs.
1357.25 Requirements for eligibility for additional funds under section 427.
1357.40 Direct payments to Indian Tribal Organizations.

8. Part 1357 is amended by adding §§ 1357.10, 1357.20, 1357.25 and 1357.40 to read as follows:

§ 1357.10 Scope and definitions.

(a) *Scope*—This Part applies to State programs for child welfare services (including related administrative expenditures) under title IV-B of the Act.

(b) Child welfare services under the title IV-B State plan must be available on the basis of need for services and must not be denied on the basis of financial need or length of residence in the State.

(c) *Definitions. Child Welfare Services* means the definition of services contained in section 425(a)(1) of the Act for which the State agency is responsible. (For purposes of 45 CFR 1357.40, Direct Payments to Indian Tribal Organizations, substitute "Indian Tribal Organization" for "State agency" wherever State agency appears.)

Child Welfare Services Plan (CWSP) means the document developed through joint planning which describes the child welfare services program for which the State agency is responsible, including services, program deficiencies, plans for program improvement and allocation of resources by type of service.

Joint Planning means State and Federal review and analysis of the State's child welfare services, including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of the State in providing child welfare services.

§ 1357.15 Child welfare services State plan requirements and submittal.

(a) In order to be eligible for Federal financial participation (FFP) under this Part and title IV-B of the Act, a State must have a Child Welfare Services State Plan (CWSP) which meets the requirements of this section, sections 422 (a) and (b) of the Act and 45 CFR Part 1355.

(b) (1) The title IV-B State plan assurances required by sections 422(b) (1) through (4) and (7) and (8) of the Act may be submitted one time only and will remain in effect on an on-going basis. However, these assurances must be amended when significant changes are made in a State's program in these areas.

(2) The descriptive information on the State's services program required by section 422(b) (5) and (6) of the Act must be submitted and be in effect for one, two or three fiscal years. The State may select which of the three intervals it wishes to use.

(c) In meeting the requirements of section 422(b)(5) of the Act, the State plan must contain a description of child welfare services provided to children and their families in the State and specify the geographic areas where these services will be available.

(d) In meeting the coordination requirements of section 422(b)(2) of the Act, and in the event that an Indian Tribal Organization (ITO) in a State applies for and receives direct title IV-B funding under section 428 of the Act, the State agency must make every reasonable effort to coordinate its title IV-B program with the title IV-B program of the ITO. The State must provide a copy of the title IV-B State plan upon request of the ITO.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0142)

(e) (1) In implementing the requirements of this section and sections 427(a) (2)(C) and 427(b) (3) of the Act, the State must specify, in its title IV-B State plan, which preplacement preventive and reunification services are available to children and families in need.

(2) The services specified may include: twenty-four hour emergency caretaker, and homemaker services; day care; crisis counseling; individual and family counseling; emergency shelters; procedures and arrangements for access to available emergency financial assistance; arrangements for the provision of temporary child care to provide respite to the family for a brief period, as part of a plan for preventing children's removal from home; other services which the agency identifies as necessary and appropriate such as home-based family services, self-help groups, services to unmarried parents, provision of, or arrangements for, mental health, drug and alcohol abuse counseling, vocational counseling or vocational rehabilitation; and post adoption services.

(f) The State plan may be written in a form determined by the State.

(g) The jointly developed State plan must be submitted to the appropriate Regional Office, ACYF. The Regional Office, ACYF will notify the State when the State plan meets all the requirements of the Act.

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§ 1357.20 Child abuse and neglect programs.

The State agency must assure that, with regard to any child abuse and neglect programs or projects funded under title IV–B of the Act, the requirements of paragraph (3) of section 4(b) of the Child Abuse Prevention and Treatment Act of 1974, as amended 42 U.S.C. Sec. 5103(b)(3) (Pub. L. 93–247), are met.

§ 1357.25 Requirements for eligibility for additional payments under section 427.

(a) For any fiscal year after FY 1979 in which a sum in excess of $141,000,000 is appropriated under Section 420 of the Act, a State is not eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the State complies with the requirements of Section 427(a) of the Act.

(b) In meeting the requirements for the inventory and statewide information system in sections 427 (a)(1) and (2)(A) of the Act, the inventory and statewide information system must include those children under the placement and care responsibility of the State title IV–B or IV–E agencies. At the State's discretion, other children may be included. The six month requirement in section 427(a)(1) and the twelve month requirement in section 427(a)(2)(A) of the Act must also be met.

(The requirement has been approved by the Office of Management and Budget under OMB Control Number 0980–0138.)

(c) If, for each of any two consecutive fiscal years after FY 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $266,000,000, a State's allotment amount for any fiscal year after two such consecutive fiscal years shall be reduced to an amount equal to what the allotment amount would have been for FY 1979 unless the State has implemented the requirements of Section 427(b) of the Act.

(d) In meeting the requirements of section 427(a)(2)(B) of the Act for dispositional hearings the State agency must meet the requirements of section 475(5)(C) of the Act and 45 CFR 1356.21(e).

(e) A State may appeal a final decision by ACYF that the State has not met the requirements of this section and section 427 of the Act to the Department Grant Appeals Board under the provisions of 45 CFR Part 16.

§ 1357.40 Direct payments to Indian Tribal Organizations.

(a) *Who may apply for direct funding?* Any Indian Tribal Organization (ITO) that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them is eligible to apply for direct funding if:

(1) The Indian tribe (or tribes comprising the ITO) is providing, under a contract (or grant) with the Secretary of the Interior under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) child welfare services which would, otherwise, be provided directly by the Secretary of the Interior; and

(2) The Indian tribe, consortium or group has a plan for child welfare services provided by the ITO that is jointly developed by the Indian Tribal Organization and the Department.

(b) *Joint planning.* For purposes of this section, Joint Planning means ITO and Federal review and analysis of the ITO's child welfare services including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of the tribe providing child welfare services.

(c) *Title IV–B plan requirements.* The Indian Tribal Organization's Title IV–B plan must meet all of the requirements of this paragraph. With respect to paragraph (c)(1) through (c)(5), of this section, the Indian Tribe/ITO must meet the requirements applicable to the State/State (or local) agency.

(1) Sections 422(a) and 422(b) (2) through (8) of the Act;

(2) 45 CFR 1355.20 and the definition of child welfare services in 45 CFR 1357.10(c);

(3) 45 CFR 1355.21(a);

(4) 45 CFR 1357.15(e);

(5) 45 CFR 1355.30 except that requirements of paragraphs (i) and (m) do not apply;

(6) The name of the ITO;

(7) A brief description of the ITO;

(8) A brief description of the legal and organizational relationship of the Tribal Organization to the Indians in the area to be served;

(9) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and those awaiting adoption;

(10) A description of tribal jurisdiction in civil and criminal matters, existence or nonexistence of a tribal court and the type of court and codes, if any;

(11) An identification of the standards for foster family homes and institutional care and day care;

(12) The Indian Tribal Organization's political subdivisions, if any;

(13) Whether the Tribal Organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(14) Any limitations on authorities granted the ITO; and

(15) The tribal resolution(s) authorizing it to apply for a direct title IV–B grant under this Part.

(d) *Submittal of the title IV–B services plan and annual budget request.* (1) The ITO's title IV–B Annual Budget Request must be submitted, in a form and manner prescribed by the Department to the appropriate regional Office, ACYF.

(2) The title IV–B services plan must be submitted to the appropriate Regional Office, ACYF, in a form, determined by the ITO.

(3) (i) ITO's title IV–B plan may, at the ITO's option, be submitted in two parts. One part may contain the information and assurances that typically remain in effect on an on-going basis. This part of the plan may be submitted one time only but must be amended when significant changes occur in an ITO's program.

(ii) The items in paragraph (c) of this section that may be submitted on a one time only basis are: the assurances required by section 422(b)(1) through (4) and (7) and (8) of the Act and the information required in paragraphs (c) (6) through (15) of this section.

(iii) The second part of the ITO's IV–B plan must be submitted and in effect for one, two or three fiscal years. The ITO may select which of the three intervals it wishes to use. This part of the plan must contain the information required by section 422(b) (5) and (6) of the Act.

(4) Upon submission to the appropriate Regional Office, ACYF, of a jointly developed plan, the ITO must promptly notify the title IV–B agency of the State(s) in which the tribe is located of the submission.

(e) *Coordination of services.* (1) In meeting the requirements of section 422(b)(2) of the Act, the ITO's plan must assure coordination of services with other Federal, State or tribal programs to ensure maximum availability and utilization of resources that promote and enhance the welfare of children, youth and families served under title IV–B.

(2) For purposes of coordination, the ITO must provide a copy of its plan to the State(s) upon request. The ITO must also make its title IV–B plan and plan amendments available for public review and inspection.

(f) *Requirements for eligibility for additional payments.* (1) For any fiscal year after FY 1979 in which a sum in excess of $141,000,000 is appropriate under Section 420 of the Act, an ITO is not eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the Indian Tribe/ITO has implemented the requirements applicable to the State/State agency in section 427(a) of the Act.

(2) If, for each of any two consecutive fiscal years after fiscal year 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $266,000,000, a Tribe's allotment amount for any fiscal year after those two consecutive fiscal years must be reduced to an amount equal to what the allotment amount would have been for fiscal year 1979 unless the Indian Tribe/ITO has implemented the requirements applicable to the State/State agency in section 427(b) of the Act.

(3) The provisions applicable to the State/State agency in 45 CFR 1357.25 (d) and (e) apply to the Indian tribe/ITO.

(g) *Grants: General.* (1) Grants may be made to eligible Indian Tribal Organizations in a State which has a jointly developed Child Welfare Services Plan under title IV–B of the Act.

(2) Federal funds made available for a direct grant to an eligible ITO shall be paid by the Department, from the title IV–B allotment for the State in which the ITO is located. Should a direct grant be approved, the Department shall promptly notify the State(s) affected.

(3) If an eligible ITO includes population from more than one State, a proportionate amount of the grant will be paid from each State's allotment.

(4) The receipt of title IV–B funds must be in addition to and not a substitute for funds otherwise previously expended by the ITO for child welfare services.

(5) The Indian Tribe/ITO must adhere to the requirements applicable to the State/State agency in 45 CFR 1357.30, Fiscal Requirements (title IV–B).

SUBCHAPTER J—[RESERVED]

PART 1392—[REMOVED]

9. 45 CFR Part 1392 is removed from subchapter J; subchapter J is reserved.

[FR Doc. 83–13081 Filed 5–20–83; 8:45 am]
BILLING CODE 4130–01–M

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federal register

Monday
May 23, 1983

Part VII

Department of Commerce

Patent and Trademark Office

Trademark Applications and Examination Proceedings; Trademark Interference, Concurrent Use, Opposition and Cancellation Proceedings; Trademark Post-Registration Proceedings; Final Rule and

Revision of Foreign Filing License Procedure; Proposed Rule

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 30428-69]

Trademark Applications and Examination Proceedings; Trademark Interference, Concurrent Use, Opposition and Cancellation Proceedings; Trademark Post-Registration Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in trademark cases to clarify and revise procedures for the examination of applications; appeals from final refusals of registration; the institution and/or conduct of trademark interference, concurrent use, opposition and cancellation proceedings; the examination of affidavits or declarations under section 8 of the Trademark Act of 1946; amendments to registrations under section 7 (d) of the Trademark Act; and petitions to the Commissioner. The procedures revise or codify existing practices, or simplify procedures, or establish periods of time, to assist the orderly and prompt resolution of issues.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Miss Janet E. Rice by telephone at (703) 557-3551 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: Miss Janet E. Rice, Crystal Square 5, Suite 1008, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION:

Amendments to §§ 2.20, 2.27, 2.63, 2.64, 2.65, 2.72, 2.81, 2.96, 2.98, 2.99, 2.101, 2.102, 2.103, 2.104, 2.105, 2.106, 2.107, 2.111, 2.112, 2.113, 2.115, 2.116, 2.117, 2.120, 2.121, 2.122, 2.123, 2.124, 2.125, 2.127, 2.128, 2.129, 2.131, 2.132, 2.134, 2.135, 2.142, 2.146, 2.165, 2.173, 2.184, and 2.186 and the removal of §§ 2.88, 2.94, 2.95, 2.97, 2.126, 2.147, and 2.148 were proposed in a rulemaking notice published in the **Federal Register** on June 29, 1982, at 47 FR 28324, the Patent and Trademark Office *Offical Gazette* of July 27, 1982, at 1020 O.G. 25, and Vol. 24 of *BNA's Patent, Trademark & Copyright Journal* (July 1, 1982) at p. 236. The purpose of these proposed amendments was to revise and codify existing practices. One of the proposed amendments (subsequently not adopted) was to interchange §§ 2.101 and 2.102. Interested parties were requested to submit written comments on or before October 4, 1982. An oral hearing was held on the same date. Written comments were submitted by four organizations and four individuals. Three persons testified at the oral hearing. Two of the individuals testified in behalf of organizations which also submitted written comments. Each of the two testified that the organization which he represented approved of the proposed amendments except as indicated in the organization's written comments. The third individual testified concerning the history and purpose of the proposed amendments and expressed his approval of them.

However, further changes to several of these proposed rules, as well as amendments to other trademark rules, were required in order to implement certain trademark provisions of intervening Pub. L. 97-247 enacted August 27, 1982. The text of the law is published in the Patent and Trademark Office *Official Gazette* of October 26, 1982, at 1023 O.G. 31.

Provisions of Pub. L. 97-247 relating to trademark fees were implemented by trademark fee rule changes which were published in the **Federal Register** on July 30, 1982 at 47 FR 33088 and which took effect on October 1, 1982. That final rule document was based alternatively on the law in effect at that time, Pub. L. 96-517, and on H.R. 6260, which was then pending but is now Pub. L. 97-247. As a result of the fee rule changes, which were based on Pub. L. 97-247 and subsequently confirmed in a document published in the **Federal Register** on September 17, 1982 at 47 FR 41282, further changes to § 2.101 [identified in the June 29, 1982 notice as § 2.102] were required.

Additional changes to § 2.101 [identified in the June 29, 1982 notice as § 2.102] and § 2.111, the removal of § 2.103, and changes to §§ 2.161 and 2.162 were required in order to implement the provisions of Sections 8 and 9 of Pub. L. 97-247. Section 8 of the new law amends Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) to require that an affidavit or declaration filed under Section 8 show use of the mark in commerce. Section 9(a) amends Section 13 of the Trademark Act (15 U.S.C. 1063) to eliminate the requirement for verification of oppositions (thus permitting a party's attorney to sign an opposition before the Trademark Trial and Appeal Board), and to require that additional requests for extension of time to oppose be filed prior to the expiration of the extension. Section 9(b) amends Section 14 of the Trademark Act (15 U.S.C. 1064) to eliminate the requirement for verification of petitions to cancel (thus permitting a party's attorney to sign petitions to cancel before the Trademark Trial and Appeal Board). The provisions of Sections 8 and 9 of the new law became effective February 27, 1983.

The additional proposed changes to § 1.101 (identified in the June 29, 1982 notice as § 2.102) and § 2.111, the changes to §§ 2.161 and 2.162, and the proposed removal of § 2.103, all required as a result of the enactment of Pub. L. 97-247, were published in the **Federal Register** on November 24, 1982 at 47 FR 53054. In that notice, as in the June 29, 1982 notice, §§ 2.101 and 2.102 were interchanged, and it was indicated in the notice that although § 2.102 [identified in the notice as § 2.101] and § 2.112, as proposed in the June 29, 1982 notice, already included the necessary changes called for by Pub. L. 97-247 and thus were not being republished, further comments on the two proposed rules would be entertained. Interested parties were requested to submit written comments on or before January 7, 1983. Comments were received from one organization.

In a notice of final rulemaking published in the **Federal Register** on January 28, 1983 at 48 FR 3972, and in the *Official Gazette* of February 22, 1983 at 1027 O.G. 129, § 2.103 was removed, and §§ 2.101, 2.102, 2.111, 2.112, 2.161, and 2.162 were amended, to incorporate changes adopted both as a result of the notice of proposed rulemaking of June 29, 1982 (to revise and codify existing practices) and as a result of the notice of proposed rulemaking of November 24, 1982 (to implement the provisions of Sections 8 and 9 of Pub. L. 97-247). All of the comments relating to §§ 2.101, 2.102, 2.103, 2.111, 2.112, 2.161, and 2.162 which were received in response to the two notices of proposed rulemaking were discussed in that final rule notice and the rule changes adopted therein became effective on February 27, 1983.

Accordingly, this final rule notice does not include a discussion of the comments relating to §§ 2.101, 2.102, 2.103, 2.111, and 2.112 which were received in response to the June 29, 1982 notice of proposed rulemaking.

Discussion of Specific Sections Changed:

The rules which are being amended are discussed below. [The designation § is used in The Code of Federal Regulations to denominate a rule. If internal division of a section is necessary, it is divided into paragraphs designated as follows: "a", "b", etc. at the first level; "1", "2", etc. at the second level; "i", "ii", etc. at the third level; "A", "B", etc. at the fourth level; "*1*", "*2*", etc. at the fifth level; and "*i*", "*ii*", etc. at the sixth level.)

In this preamble to the rulemaking, "Patent and Trademark Office" is abbreviated as "PTO" and "Trademark Trial and Appeal Board" is abbreviated as "TTAB".

Section 2.20 was proposed to be amended by the addition of a new paragraph (b) to codify the practice whereby a nonofficer of a corporation or association who is authorized to sign a notice of opposition or petition for cancellation may verify the pleading by a declaration in lieu of an oath or affirmation. Inasmuch as the requirement for verification has been eliminated (see Pub. L. 97-247, enacted August 27, 1982 and the final rule notice published in the **Federal Register** on January 28, 1983 at 48 FR 3972), this proposal is withdrawn as moot.

Section 2.27(e) is added to permit the PTO to retain in confidence, not available for public inspection, anything filed under seal pursuant to a protective order [see amended §§ 2.120(f) and 2.125(e)]. Conforming amendments are made in paragraphs (b) and (d) of § 2.27.

Section 2.63 is clarified and designated as paragraph (a).

Section 2.63(b) is added to codify the practice of allowing an applicant to petition to the Commissioner for relief from either an examiner's repeated but nonfinal formal requirement which is appropriate for petition to the Commissioner or a final action which is limited to subject matter which is appropriate for petition to the Commissioner. The paragraph also requires that a petition be timely and sets a time limit for action after denial of a petition. See amended § 2.146(b) for a description of nonpetitionable subject matter and amended § 2.146(d) for the time limit (sixty days) for a petition. The final text includes a phrase that was not included in the proposed paragraph, namely, the phrase "and the subject matter of the requirement is appropriate for petition to the Commissioner" which now appears in the clause "(1) the requirement is repeated, but the examiner's action is not made final, and the subject matter of the requirement is appropriate for petition to the Commissioner;". The phrase has been added in order to further clarify the intent of the paragraph and is not considered to result in a material alteration thereof.

Section 2.64 is designated as paragraph (a) and revised to agree with the provision in § 2.63(b) permitting petitions to the Commissioner concerning some requirements which have been made final.

Section 2.64(b) is added to clarify the existing practice of replying to requests for reconsideration after final action, and to permit entry of amendments accompanying such requests if they comply with the Act of 1946 and the rules of practice in trademark cases.

Section 2.65 is designated as paragraph (a) and amended by the addition of a sentence to provide that a timely and proper petition under § 2.63(b) avoids the abandonment of an application. A new paragraph (b) permits the examiner to allow an applicant additional time to explain and supply an inadvertent omission which would otherwise have resulted in the application being held abandoned. The final text of (b) includes a phrase that was not included in the paragraph as proposed, namely, the phrase "filed within the six-month response period" which now appears in the clause beginning "When action by the applicant filed within the six-month response period is a bona fide attempt to advance the examination of the application * * *." The phrase has been added in order to further clarify the intent of the paragraph and is not considered to result in a material alteration thereof.

Section 2.72 is revised so that the standard for amendment of a mark in an application now is the same in terms as the standard for amendment of a registered mark set forth in section 7(d) of the Act of 1946.

Section 2.72 was proposed to be further revised to allow non-material changes in the drawing to be supported by specimens which were not necessarily in use at the time the original application was filed. However, upon further consideration, it appears that the proposed revision might result in so many amendments to marks as to constitute a burden on the Patent and Trademark Office. Accordingly, this part of the proposal is withdrawn.

Section 2.81 is revised to clarify the language of the section. Proposed § 2.81 has been slightly reworded herein so as to further improve the clarity of the section.

Section 2.88 is deleted because requests to consolidate applications are very rare and the procedure is unworkable. See Official Gazette notice of July 29, 1981, 1009 TMOG 17.

Section 2.94 is deleted because interferences are declared only upon petition [see § 2.91], which assumes proper review before an interference is declared, and existing § 2.94 is unnecessary.

Section 2.95 is deleted because the deletion of § 2.94 makes § 2.95 unnecessary.

Section 2.96 is amended to codify existing practice on the issues determinable in an interference and the order of the parties and burden of proof. The amended rule states who is the junior party if two applications have the same filing date but different dates of execution. The third and fourth sentences of proposed § 2.96 have been reworded herein so as to improve the clarity of the section.

Section 2.97 is deleted because it is unnecessary in veiw of the codification in § 2.96.

Section 2.98 is amended to make the rule consistent with existing § 2.91.

Section 2.99 is reorganized and amended to describe the concurrent use application procedure in greater detail. Paragraph (a) of the amended rule provides that an application for a concurrent use registration will be examined in the same manner as other applications for registration.

Paragraphs (b) and (c) and paragraph (d)(1) of § 2.99 describe the procedure to be used to institute a concurrent use proceeding.

Paragraphs (d) (2) and (3) of § 2.99 codify existing practice on who must file an answer to a notice of institution of a concurrent use proceeding and the effect of not filing an answer.

Section 2.99(e) codifies existing practice on the order of the parties and the burden of proof and states who is the junior party if two applications have the same filing date but different dates of execution. A person specified as an excepted user but who has not filed an application is stated to be a senior party to every party that has an application involved in the proceeding because a party without an application is seeking no relief and therefore has no burden of proving entitlement to relief.

Section 2.99(f) provides for the issuance of a concurrent use registration upon the basis for a court's determination of the rights of the parties to use their marks in commerce, without the institution of a proceeding by the TTAB, when all of the conditions specified in the rule are fulfilled. The first clause in paragraph (f), which, as proposed, read "when a concurrent use registration is sought on the basis of a court's determination of the rights of the parties to use the marks in commerce, * * *", has been modified herein to read "When a concurrent use registration is sought on the basis that a court of competent jurisdiction has finally determined that the parties are entitled to use the same or similar marks in commerce, * * *." The modified clause closely follows the language of that portion of section 2(d) of the Act of 1946

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upon which the rule is based. The modification has been made in order to clarify the subsection and is not considered to result in a material alteration thereof.

Section 2.99(g) codifies existing law that registrations and applications to register on the Supplemental Register and registrations under the Act of 1920 are not subject to concurrent use registration proceedings and implements section 26 of the Act of 1946, which provides, inter alia, that applications for and registrations on the Supplemental Register shall not be subject to section 17 of the Act, which is the statutory authority for a concurrent use registration proceeding [cf. existing § 2.91(b)].

Section 2.104 is amended to clarify existing § 2.104.

Section 2.105 is amended to clarify existing § 2.105 and codify the practice thereunder.

Section 2.106(c) is amended to codify the practice under existing § 2.106(c) that, after an answer is filed, an opposition may be withdrawn without prejudice only with the written consent of the applicant.

Section 2.107 is amended to codify the practice under existing § 2.107 whereby any pleading, including the answer, may be amended.

Section 2.113 is amended to clarify existing § 2.113, which described the procedure for notifying a registrant of the filing of a proper petition for cancellation of his registration. The amended section includes cross-references to §§ 2.111 and 2.112 (amended effective February 27, 1983), which pertain to the "filing" of and proper form for a petition for cancellation, and to § 2.118, which pertains to undelivered Office notices.

Section 2.115 is amended to codify the practice under existing § 2.115 whereby any pleading, including the answer, may be amended.

Section 2.116(b) is amended to clarify the language and intent of existing § 2.116(b).

Section 2.116(c) is amended to clarify existing § 2.116(c). Any complaint filed by a party in an interference or concurrent use proceeding would be a petition for cancellation, and the position of the parties in the consolidated proceeding will be set by the TTAB as required.

Section 2.117 is amended by designating the present section as paragraph (a) and adding two new paragraphs, (b) and (c). Section 2.117 as proposed contained four subsections. Proposed paragraph (b) is withdrawn and proposed paragraphs (c) and (d) are redesignated (b) and (c).

Section 2.117(b) codifies existing practice as to determination of a potentially dispositive motion when the question of suspension of proceedings is raised.

Section 2.117(c) permits a party to move, or parties to stipulate, for suspension, which usually occurs when negotiations for settlement are undertaken and the parties want proceedings suspended for that purpose.

Section 2.120 is amended in several respects, commencing with a reorganization of the rule to state how discovery may be taken, then how discovery may be compelled, then how admissions may be requested and the sufficiency of admissions or objections to requests therefor may be tested, and then how the results of discovery may be used in a proceeding.

Section 2.120(a) clarifies the language of the introductory paragraph of existing § 2.120.

Section 2.120(b) clarifies existing § 2.120(a)(1) and codifies the practice thereunder, and is made applicable to domestic parties.

Section 2.120(c)(1) restates in modified form the provisions of existing § 2.120(a)(2), and in addition, permits oral discovery depositions in foreign countries on motion for good cause or by stipulation of the parties.

Section 2.120(c)(2) provides for oral discovery depositions within the United States of foreign parties or their officers, etc. if they will be in the United States during a discovery period.

Section 2.120(d) makes specific provision for requests for production and codifies the practice for this kind of discovery.

Section 2.120(e) clarifies existing § 2.120(c)(1) and codifies the practice on motions to compel discovery.

Section 2.120(f) adds provisions pertaining to protective orders during discovery.

Section 2.120(g) clarifies existing § 2.120(c)(2) and further codifies the practice on sanctions for failing to obey orders pertaining to discovery.

Section 2.120(h) adds to the discovery rules provisions pertaining to requests for admissions and codifies the practice pertaining to requests for admissions.

Section 2.120(i) codifies the practice on the use of telephone and pre-trail conferences to resolve disputes.

Section 2.120(j) clarifies existing § 2.120(a)(3) relating to the use of discovery depositions, and codifies and revises the practice on the filing with the TTAB of matter obtained during discovery and the use thereof at trial.

Section 2.121 clarifies existing § 2.121 and codifies the practice thereunder.

Section 2.122 consolidates in one section the rules governing the introduction and admission of certain types of evidence in inter partes proceedings before the TTAB.

Section 2.122(a) identifies the sources of the law of evidence to be applied in inter partes proceedings.

Section 2.122(b)(1) clarifies the language and codifies the practice under existing § 2.122(a).

Paragraph (b)(2) and paragraph (c) of § 2.122 clarify existing § 2.126 and codify the practice under that section.

Section 2.122(d)(1) incorporates all of the substance of existing § 2.122(b) relating to the introduction in evidence of a plaintiff's pleaded registration with the complaint, except that the provision permitting the submission of an order for status and title copies of a pleaded registration with the complaint has been eliminated.

Section 2.122(d)(2) provides for the introduction in evidence of a registration owned by a party to a proceeding during the taking of testimony or by the filing of a notice of reliance on the registration, together with status and title copies thereof, during that party's testimony period.

Section 2.122(e) [identified in the notice of proposed rulemaking as § 2.122(c)(1)] clarifies and adds to the provisions of existing § 2.122(c) relating to printed publications and official records. Section 2.122(e) requires that an official record or copy thereof offered under the rule be an authentic record or copy pursuant to the Federal Rules of Evidence and also requires that, when a copy of a relevant portion of a printed publication is offered, the copy include the title page and any other page needed to show the place and date of publication, the name and address of the the publisher, and the name of the author or the editor, which information is intended to enable the party against whom the evidence is offered to identify what it is. In the proposed and final rules, a new phrase, namely, "among members of the public or that segment of the public which is relevant under an issue in a proceeding", has been added to the opening clause of existing § 2.122(c), so that that clause now reads "Printed publications, such as books and periodicals, available to the general public in libraries or of general circulation among members of the public or that segment of the public which is relevant under an issue in a proceeding". The phrase was added so that it would be clear that a trade journal, for example, is a printed publication of the type contemplated by the rule notwithstanding the fact that it

may be circulated only among members of the trade rather than among members of the general public; the addition is not to be construed as an indication that an individual company's promotional literature, product booklets, annual reports, etc., are admissible under this section. Cf. Glamorene Products Corporation v. Earl Grissmer Company, Inc., 203 USPQ 1090 (TTAB 1979); Litton Industries, Inc. v. Litronix, Inc., 188 USPQ 407 (TTAB 1975); and Minnesota Mining and Manufacturing Company v. Stryker Corporation, 179 USPQ 433 (TTAB 1973).

Section 2.122(f) clarifies existing § 2.122(d) and codifies the practice thereunder.

Section 2.123 is amended by revising paragraphs (a), (e)(3), (j), and (k) thereof.

Section 2.123(a)(1) provides that testimony may be taken by depositions upon oral questions or upon written questions and further provides that if a party serves a notice of taking a testimonial deposition upon written questions, any adverse party may move to have the deposition taken upon oral questions if the witness, even though he may be a foreign party or a person who usually resides in a foreign country, is, or at the time of the deposition will be, in the United States or any territory under the control and jurisdiction of the United States.

Section 2.123(a)(2) provides that testimony in a foreign country is ordinarily to be taken by a deposition upon written questions but that the party against whom a testimonial deposition will be taken may move for good cause shown to have it taken by oral questions in a foreign country, and further provides that the parties may stipulate to have testimony taken by an oral deposition in a foreign country.

Section 2.123(e)(3) codifies the practice that a party who did not receive a proper notice of the taking of a deposition with respect to any witness may cross-examine that witness under protest while preserving his right to move to strike the whole of the testimony of that witness.

Section 2.123(j) is revised to provide that Rule 32(d) (1), (2), and (3) (A) and (B) of the Federal Rules of Civil Procedure shall apply to errors and irregularities in depositions; that notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and that in case of such injury it must be made to appear that the objection was raised at the time specified in the aforesaid rule.

Section 2.123(k) is revised to provide that objections to the competency of a witness or to the competency, relevancy, or materiality of testimony must be raised at the time required by Rule 32(d)(3)(A) of the Federal Rules of Civil Procedure, and that such objections will not be considered until final hearing.

Section 2.124 sets out the procedure to be followed in taking a discovery deposition or a testimonial deposition upon written questions.

Section 2.124(a) provides that a deposition upon written questions may be taken before any of the persons described in Rule 28 of the Federal Rules of Civil Procedure.

Section 2.124(b)(1) provides for the kind of notice which must be served by a party desiring to take a testimonial deposition upon written questions and further provides that a copy of the notice, without the questions, must be filed with the TTAB.

Section 2.124(b)(2) provides for the kind of notice which must be served by a party desiring to take a discovery deposition upon written questions and further provides that a copy of the notice, without the questions, must be filed with the TTAB. This paragraph also provides that, if the name of the person to be deposed is not known to the party who will take the deposition, a general description sufficient to identify the class or group to whom the prospective witness belongs shall be stated in the notice and the party to be deposed shall designate one or more discovery witnesses.

Section 2.124(c) requires that every notice of deposition upon written questions name or describe by title the officer before whom the deposition will be taken.

Section 2.124(d)(1) specifies the procedure and timetable for serving the questions, objections, and substitute questions for a deposition upon written questions.

Section 2.124(d)(2) provides that the TTAB may reset the times specified in § 2.124(d)(1) and, when a testimonial deposition is to be taken upon written questions, shall suspend or reschedule other proceedings in the matter to allow for the completion of the deposition.

Section 2.124(e) provides the procedure for sending the notice and questions to the officer designated in the notice, the taking of the deposition, and the certification and mailing of the transcript to the party who took the deposition.

Section 2.124(f) provides for the service of copies of the transcript and exhibits, states that the party who took the deposition is responsible for the correctness of the transcript, permits the use of a discovery deposition as provided by § 2.120(j), and provides for the filing with the TTAB of a testimonial deposition, a copy thereof, and the exhibits.

Section 2.124(g) states that objections to questions and answers may be considered at final hearing.

Section 2.125(a) provides for the service of a transcript of an oral testimonial deposition and the exhibits, and, in respect of that requirement, continues the rule of existing § 2.125(a).

Section 2.125(b) makes the party who took a deposition responsible for its correctness and for serving the adverse party with a corrected transcript or corrected pages.

Section 2.125(c) continues the requirement of existing § 2.125(a) that a certified transcript and the exhibits be filed promptly with the TTAB and further provides that notice of filing be served on the adverse party and that a copy of the notice be filed with the TTAB. The requirement for the filing of a copy of the transcript (in addition to the certified transcript), which appeared both in existing § 2.125(a) and in proposed § 2.125(c), has not been retained in the final rule since the TTAB does not really need the copy and the printing of it is an unnecessary expense for parties involved in proceedings before the TTAB.

Section 2.125(d) continues the requirements of existing § 2.125(b).

Section 2.125(e) provides that the TTAB, on motion, may order that any part of a deposition transcript or exhibits that directly disclose a trade secret or other confidential research, development, or commercial information may be filed under seal and kept confidential and provides for sanctions for failure to comply with the order.

Section 2.126 is deleted because the substance of the existing section has been shifted to § 2.122 (b)(2) and (c).

Paragraphs (a), (b), and (c) of § 2.127 clarify, and codify the practice under, existing paragraphs (a), (b), and (c) of that section.

Section 2.127(d) codifies the practice with respect to suspending all matters in a case not germane to a potentially dispositive motion until the determination thereof.

Section 2.128(a)(1) clarifies existing § 2.128(a) except that the rule requiring copies of a brief is shifted to final § 2.128(b).

Section 2.128(a)(2) codifies the practice of having the TTAB set the briefing schedule by order when proceedings are consolidated, or when there is a counterclaim, or when more than two parties are involved.

Section 2.128(a)(3) contains a new provision enabling the TTAB to enter judgment against a plaintiff who fails to

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file a brief at final hearing and also fails to respond to an order to show cause why such judgment should not be entered against him or files a response indicating that he has lost interest in the case.

Section 2.128(b) clarifies and codifies the practice under the last sentence of existing § 2.128(a) and existing § 2.128(b).

Section 2.129(a) clarifies and codifies the practice under existing § 2.128(c) and existing § 2.129(a).

Section 2.129(b) clarifies existing § 2.129(b).

Section 2.129(c) clarifies existing § 2.129(c), from which the language referring to a decision on a motion which is finally dispositive of a case has been deleted because any requests for reconsideration or modification of a decision issued on a motion would be made under final § 2.127(b).

Section 2.131 clarifies and codifies the practice under existing § 2.131. The effect is to eliminate the dichotomy between inter partes and ex partes issues and to provide for the determination by the TTAB of all issues that have been expressly pleaded by the parties or tried by their express or implied consent and to reserve for remand to the examiner for reexamination only issues neither pleaded nor tried but which appear to make the mark of an applicant unregistrable.

Section 2.132(a) changes the practice under existing § 2.132(a) by eliminating the step of having the TTAB issue an order to the plaintiff to show cause why judgment should not be entered against him. Under amended § 2.132(a), the plaintiff will have fifteen days from the date of service of the defendant's motion for dismissal within which to show cause why judgment should not be rendered against the plaintiff.

Section 2.132(b) clarifies existing § 2.132(b).

Section 2.134(a) codifies the practice under existing § 2.134 that the written consent of the adverse party is required to avoid judgment against a cancellation respondent who applies to cancel his registration under section 7(d) of the Act of 1946 while the registration is involved in a proceeding.

Section 2.134(b) provides that, after the commencement of a cancellation proceeding, if it comes to the attention of the TTAB that a respondent (registrant) has permitted his registration to be cancelled under section 8 of the Act of 1946 or has failed to renew his registration under section 9 of the Act, an order may be issued allowing respondent until a set time in which to show cause why the resulting demise of the registration should not be deemed to be the equivalent of a cancellation of the registration by request of the respondent without the written consent of the adverse party and should not result in entry of judgment against the respondent; and that, in the absence of a showing of good and sufficient cause, judgment may be entered against respondent. Section 2.134(b) is added to avoid situations where a respondent in a cancellation proceeding may moot the case and avoid judgment because of the fortuitous circumstance that his registration happens to reach its sixth anniversary or twentieth anniversary while a proceeding is pending and the respondent exploits this situation by simply failing to file an affidavit under section 8 of the Act or a renewal application under section 9 of the Act.

Section 2.135 codifies the practice under existing § 2.135, which is parallel to the practice under existing § 2.134 and final § 2.134(a), that the written consent of the adverse party is required to avoid judgment against an applicant who abandons his application or mark while the application is involved in an opposition, concurrent use or interference proceeding. It should be noted that existing § 2.135 begins, "If, in a proceeding, an applicant * * *", but that the section as proposed referred only to "an opposition proceeding". The narrowing of the application of the rule in the section as proposed was an inadvertent error. In order to correct the error, the proposal to revise the section to include only a reference to an opposition proceeding is withdrawn. The wording of the beginning of final § 2.135, namely, "After commencement of an opposition, concurrent use, or interference proceeding, if the applicant * * *", is legally equivalent to the beginning of existing § 2.135.

Section 2.142(a) clarifies existing § 2.142(a).

Section 2.142(b) requires the examiner to file with the TTAB a brief answering the appellant's brief and requires the examiner to file the brief within sixty days after appellant's brief is sent to the examiner by the TTAB. Section 2.142(b) as proposed required that the examiner's brief (referred to therein as a "statement") answer "every point in" the appellant's brief, whereas existing § 2.142(b) requires only that the examiner furnish a written statement "in answer to" appellant's brief. Upon further consideration, the proposal to modify § 2.142(b) to require that the examiner's brief answer "every point in" the appellant's brief is withdrawn since it is likely to result in briefs which are unduly lengthy. An appellant's brief may contain points which are so insignificant, immaterial, etc. as to require no response.

Section 2.142(c) codifies the practice that all requirements made by the examiner and not the subject of appeal shall be complied with prior to the filing of an appeal.

Section 2.142(d) provides that the record in the application should be complete prior to the filing of an appeal, states that the TTAB will ordinarily not consider additional evidence filed with the TTAB by the appellant or by the examiner after an appeal is filed, and provides that either the appellant or the examiner may request the TTAB to suspend the appeal and remand the application for further examination if the appellant or the examiner desires to introduce additional evidence.

Section 2.142(e)(1) amends existing § 2.142(c), and codifies the practice under the existing rule, by changing the due date for a request for an oral hearing on an appeal from the date when the appellant's brief is filed to a date ten days after the due date for a reply brief.

Section 2.142(e)(2) requires the examiner to present an oral argument if an oral argument is requested by the appellant.

Section 2.142(e)(3) allots twenty minutes to the appellant for oral argument and ten minutes to the examiner for oral argument.

Section 2.142(f) provides for situations where, during an appeal, it appears to the TTAB that an issue not previously raised may render the mark of the appellant unregistrable, that is, when something on the face of the record on appeal indicates that a question concerning the registrability of the mark may exist but has not been considered. The paragraph provides the procedure to be followed by the TTAB, the Examiner, and the appellant when the TTAB suspends an appeal and remands an application on the TTAB's own initiative. The paragraph as amended includes certain words, namely, "to be completed", appearing in the phrase "and remand the application to the examiner for further examination to be completed within thirty days", which were not included in the paragraph as proposed. The words have been added in order to further clarify the intent of the paragraph and are not considered to result in a material alteration thereof. Further, for the reason indicated in connection with § 2.142(b), the words "every point in" have been omitted from § 2.142(f)(4).

Section 2.146 collects in one section the rules on petitions to the

Commissioner in existing §§ 2.146, 2.147, and part of § 2.148. For this reason existing § 2.147 is removed. In the notice of proposed rulemaking, it was also proposed that existing § 2.148 be deleted. The reason for the proposal was a belief that the entire substance of § 2.148 was incorporated in proposed § 2.146(a)(5), which provides that petition may be taken to the Commissioner in any extraordinary situation, when justice requires and no other party is injured thereby, to request a suspension or waiver of any requirement of the rules not being a requirement of the Act of 1946. However, existing § 2.148 provides that in an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of the rules not being a requirement of the statute may be suspended or waived by the Commissioner. That rule is not limited to waiver upon petition but rather also encompasses waiver upon the Commissioner's own initiative. Inasmuch as the entire substance of existing § 2.148 is not incorporated in proposed and final § 2.146(a)(5), the proposal to remove § 2.148 is withdrawn.

Section 2.146(a) reflects the change in § 2.63(b) permitting petitions concerning some requirements which have been made final.

Section 2.146(b) delineates classes of questions which are not considered to be appropriate subject matter for petitions to the Commissioner. These questions are substantive issues of registrability of marks and are considered to be appropriate for appeal to the TTAB. Section 2.146(b) as proposed read "Questions arising under Sections 2, 3, 4, 5, 6 and 23 of the Trademark Act during the ex parte prosecution of applications are not considered to be appropriate subject matter for petitions to the Commissioner.", whereas paragraph (b) as adopted herein reads "Questions of substance arising during the ex parte prosecution applications, including, but not limited to, questions arising of under Sections 2, 3, 4, 5, 6, and 23 of the Act of 1946, are not considered to be appropriate subject matter for petitions to the Commissioner." The wording of the paragraph has been modified for purposes of clarification, and such modification is not considered to result in a material alteration of the paragraph.

Section 2.146(c) specifies the contents of a petition to the Commissioner, and in this respect clarifies requirements previously included in § 2.146(b).

Section 2.146(d) specifies the time limit for filing a petition on any matter not otherwise specifically provided for. In proposed § 2.146(d), an attempt was made to list the matters otherwise specifically provided for. However, several matters were inadvertently omitted. In order to ensure that the rule is correct, the list has been omitted from the final rule.

Section 2.146(e) provides time limits and specifies the procedure for a petition to the Commissioner from the denial of a request for an extension of time to file an opposition or from an interlocutory order of the TTAB. Section 2.146(e)(1) contains a new requirement that a petition from the denial of a request for an extension of time to oppose must be served on the applicant or his attorney and provides for a response by the applicant to the petition.

Section 2.146(f) clarifies a provision previously included in § 2.146(c).

Section 2.146(g) clarifies and codifies the practice previously under § 2.146(d) and, in addition, makes § 2.146 consistent with §§ 2.63(b) and 2.65, as adopted herein.

Section 2.146(h) codifies the practice previously under § 2.146(e) whereby authority to act on classes of petitions, in addition to any particular petition, may be delegated.

Paragraphs (a), (b), and (c) of § 2.165 specify the procedure when an affidavit or declaration filed under section 8 of the Act of 1946 is refused. The steps to be taken by the registrant to request reconsideration and to petition to the Commissioner and the time limits for such requests and petitions are stated.

Section 2.165(d) states that a petition to the Commissioner for review of the action refusing the affidavit or declaration under section 8 of the Act of 1946 shall be a condition precedent to an appeal to or action for review by any court. This implements section 21 (a)(1) and (b)(1) of the Act, which provides, inter alia, that a registrant who has filed an affidavit under section 8 of the Act who is dissatisfied with the decision of the Commissioner may appeal to the U.S. Court of Appeals for the Federal Circuit or may have remedy by a civil action.

Section 2.173(b) clarifies the circumstances in which an amendment of the indentification of goods or services of a registration is permitted. The rules states that an identification of goods or services can be restricted or can be otherwise changed in ways that would not require republication of the mark.

Paragraphs (a), (b), and (c) of § 2.184 specify procedures and time limits for relief when an application for renewal of a registration under section 9 of the Act of 1946 is refused, in parallel with final § 2.165.

Section 2.184(d) is parallel to final § 2.165(d) and has the same statutory basis.

Section 2.186 clarifies and codifies the practice under existing § 2.186 that action with respect to an assigned application or registration may be taken by the assignee provided that the assignment has been recorded.

Response to Comments on the Rules

The written comments and oral testimony offered in response to the notice of proposed rulemaking published in the **Federal Register** on June 29, 1982 have been given careful consideration, and a substantial number of the suggested modifications have been adopted. The comments and responses (except those pertaining to §§ 2.101, 2.102, 2.103, 2.111, and 2.112, which were included in the final rule notice published in the **Federal Register** on January 28, 1983 at 48 FR 3972) appear below:

Comment: In response to the proposal to amend § 2.20 by adding a new paragraph (b) to codify a particular practice relating to the verification of oppositions and petitions for cancellation, one organization noted that the question of verification of oppositions and petitions for cancellation appeared to be moot in view of Pub. L. 97–247; indicated its belief, with respect to the phrase "person who is authorized to sign" in proposed § 2.20(b), that the rules pertaining to oppositions and petitions for cancellation should be amended to require that when an opposition or petition for cancellation is signed on behalf of a corporation or an association by a person who is authorized to sign the document but who is not an officer, the person must represent that he has such authority; and submitted its proposal for a substitute § 2.20 (modeled on the corresponding patent rule, § 1.68) which is broader in scope than present § 2.20.

Response: Inasmuch as Pub. L. 97–247 has amended the Tradmark Act of 1946 so as to eliminate the requirement for verification of oppositions and petitions for cancellation, the proposal to amend § 2.20 by adding a new paragraph (b) relating to verification of oppositions and petitions for cancellation has been withdrawn. The other two suggestions involve substantive rule changes which are outside the scope of the proposed rule changes as published and hence cannot be adopted without affording members of the public an opportunity to comment thereon. However, these

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suggestions will be considered in connection with any future proposals to amend the rules in question. In this regard, it should be noted that when an opposition or petition for cancellation is signed by a person whose authority to sign is not apparent, it is the practice of the Trademark Trial and Appeal Board to inquire as to that person's authority to sign.

Comment: One organization suggested that the word "Anything" be substituted in proposed § 2.27(e) for the phrase "Any documents, tangible things, answer to interrogatories, or all or any part of any discovery or testimonial deposition transcripts" because the attempt to list all of the types of things subjected to the rule might invite disputes as to whether particular items are covered. The same organization suggested that the following sentence be added to paragraph (e): "When possible, only confidential portions of filings with the Board shall be filed under seal."

Response: The parapraph has been modified as suggested.

Comment: One organization and three members of another organization suggested that proposed § 2.64(b), which concerns requests for reconsideration after final action by the examiner, be modified to require that any request for reconsideration filed within three months of the final action be responded to by the examining attorney before the time for appeal.

Response: The six-month period for appealing from a final refusal of registration, or for complying with a requirement which has been made final, or for petitioning the Commissioner [if permitted by § 2.63(b)] with respect to such a requirement, is statutory, and the Patent and Trademark Office cannot guarantee that any request for reconsideration filed within three months of the final action will be responded to by the examining attorney before the time for appeal. However, the paragraph has been modified to provide that normally the examiner will reply to a request for reconsideration before the end of the six-month period if the request is filed within three months after the date of the final action.

Comment: Two organizations expressed disapproval of the final sentence of proposed § 2.64(b), which reads: "Amendments accompanying requests for reconsideration after final action will be entered if they place the application in condition for publication or in better form for appeal." The organizations criticized this provision as being unduly restrictive and vague, and suggested that the subsection be modified to permit any amendment that complies with the Trademark Act of 1946 and the Rules of Practice in Trademark Cases.

Response: The paragraph has been modified as suggested.

Comment: One organization suggested that proposed § 2.65(a), which includes a reference to proposed § 2.63(b), be modified to include also a reference to proposed § 2.146, for the asserted reason that if reference is made to other sections of the rules, the reference should include all the most pertinent rules.

Response: The Paragraph has been modified as suggested.

Comment: Two organizations urged with respect to proposed § 2.65(b) (which concerns the filing of an incomplete response to an examiner's action), that the word "may" in the clause "opportunity to explain and supply the omission may be given before the question of abandonment is considered" be changed to "shall".

Response: The suggestion has not been adopted. A requirement that an opportunity to explain and supply an omission be given in every case would result in a significant increase in the work load of the Trademark Examining Operation and hence an undue burden upon the Patent and Trademark Office. Accordingly, the word "may" has been retained in the final paragraph so as to leave the Trademark Examining Attorney with the descretion to determine whether such an opportunity should be given, depending upon the nature of the omission. The final paragraph parallels corresponding patent § 1.135(c).

Comment: One member of one of the organizations commented that as a result of the proposed revision of § 2.72 (which would allow non-material changes in the drawing of a mark to be supported by specimens which were not necessarily in use at the time the original application was filed), an applicant might amend its mark sought to be registered in order to overcome a reference under section 2(d) of the Trademark Act of 1946.

Response: The proposed revision might well have the result suggested in the comment, and an amendment for such a purpose would not be wrong, in and of itself. However, upon further consideration it appears that the proposed revision might result in so many amendments to marks as to constitute a burden upon the Patent and Trademark Office. Accordingly, the proposal to revise § 2.72 in the manner described above is withdrawn. A second proposal to change the last sentence of § 2.72 from "Amendments may not be made if the nature of the mark is changed thereby." to "Amendments may not be made if the character of the mark is materially altered.", so that the standard for amendment will be the same as the standard for amendment of registered marks (see section 7(d) of the Act of 1946), is adopted.

Comment: One organization commented, with respect to proposed § 2.81, that there is a typographical error in the first line of the section, namely, that "with" should be "within." Another organization noted certain errors in the corrections to proposed § 2.121(b)(1) and (c) published in the **Federal Register** at 47 FR 32955.

Response: The noted errors were made in printing. They do not appear in the original text of the notice of proposed rulemaking which was prepared and retained by the Patent and Trademark Office.

Comment: One individual, one organization, and one member of another organization expressed their belief that the second sentence in proposed § 2.99(a) (which states, "The examiner may require an applicant for registration as a concurrent user to make a prima facie showing that the applicant is entitled to a concurrent use registration") is too vague to be of help in drafting a concurrent use application, and suggested that this portion of the paragraph either be deleted or made more specific.

Response: Upon further consideration, it appears that the subject matter of this portion of the subsection should be developed either through decisional law or in the Trademark Manual of Examining Procedure. Accordingly, the sentence has been deleted.

Comment: Proposed § 2.99(f) lists the conditions which must be met when an applicant seeks to obtain a concurrent use registration under the provisions of section 2(d) of the Act of 1946 based on a court decree, without the necessity of a concurrent use proceeding in the Patent and Trademark Office. One organization urged that the fifth condition (which states: "the excepted use specified in the concurrent use application does not involve a registration") be deleted for the reason that it is vague and, in any event, inappropriate where the registration involved was otherwise before the court.

Response: When the excepted use specified in a concurrent use application based on a court decree involves an unrestricted registration, a concurrent use registration proceeding must be instituted in order that the Trademark Trial and Appeal Board may restrict the registration in accordance with the court decree. In such cases, the concurrent use registration proceeding does not go forward to trial but rather is terminated on the basis of the court decree immediately after institution of the proceeding. However, if the registration has been restricted by the Commissioner in accordance with the court decree, and the other conditions listed in paragraph (f) have been met, there is ordinarily no need for a concurrent use registration proceeding. Accordingly, paragraph (f) has been modified to read: "the excepted use specified in the concurrent use application does not involve a registration, or any involved registration has been restricted by the Commissioner in accordance with the court decree."

Comment: One organization noted that in §§ 2.104 and 2.105, as proposed, the term "opposition", when used to refer to the complaint in an opposition proceeding, has been changed to "notice of opposition". The organization expressed its belief that there is no reason for reverting to the phrase "notice of opposition" except tradition, and that that phrase is confusingly similar to the phrase "notification of opposition".

Response: The proposal to change "opposition" to "notice of opposition" in certain instances has not been adopted.

Comment: One organization commented that proposed § 2.113 should be modified to indicate that the effective filing date of a petition for cancellation will be the date that the statutory requirements, including payment of the required fee(s), are satisfied. The organization indicated that it was concerned here and elsewhere (see comment and response pertaining to § 2.111 in the final rule notice published in the **Federal Register** on January 28, 1983 at 48 FR 3972) about cases in which an incomplete filing is made within five years of the date of registration and not perfected until the five-year period of section 14(a) of the Act of 1946 has passed. The organization also suggested that the section be modified to include a cross-reference to existing § 2.118, which pertains to undelivered notifications.

Reponse: The section has been modified to include a cross-reference to § 2.118. Additionally, the first clause in the section, which as proposed read "When a petition for cancellation has been filed in proper form and the correct fee(s) have been submitted,", has been modified by the inclusion of a cross-reference to §§ 2.111 and 2.112 and by the deletion of the words "and the correct fee(s) have been submitted,", so that the modified clause reads "When a petition for cancellation has been filed in proper form (see §§ 2.111 and 2.112),". Section 2.111, as amended effective February 27, 1983 (see the final rule notice published in the **Federal Register** on January 28, 1983 at 47 FR 3972) provides in effect that the filing date of a petition for cancellation with respect to each named party petitioner and each class sought to be cancelled is the date of receipt in the Patent and Trademark Office of the petition together with the required fee for that party petitioner and class, and that is those cases where the five-year limitation of sections 14 (a) and (b) of the Acts of 1946 is applicable, the petition and required fee(s) must be filed prior to the expiration of the five-year period. Section 2.112, as amended effective February 27, 1983, pertains to the proper form for a petition for cancellation.

Comment: One organization stated, with respect to proposed § 2.117(b), that it failed to appreciate the necessity for requiring that issue be joined in both the civil action and the proceeding in the Patent and Trademark Office before the Trademark Trial and Appeal Board will consider suspension of the Board proceeding pending the outcome of the civil action. The organization also noted that the retained paragraph of § 2.117 needs a paragraph reference, i.e., "(a)".

Response: The retained paragraph of § 2.117 has designated been "a". Insofar as proposed paragraph (b) is concerned, it is not in fact the practice of the Board to require that issue be joined in the civil action before suspension of the Board proceeding will be considered [see Tokaido v. Honda Associates, Inc., 179 USPQ (TTAB 1973)]. Moreover, while it may not be possible in some cases to determine whether a civil action is likely to be determinative of a proceeding before the Board until an answer has been filed in one or both proceedings, in other cases it is feasible and advantageous to suspend prior to answer. Accordingly, proposed § 2.117(b) has been withdrawn, and proposed paragraphs (c) and (d) have been redesignated (b) and (c).

Comment: One organization suggested that suspension be considered automatic upon the showing of the institution of a civil action between the parties provided that the party in the position of plaintiff in the Board proceeding has neither commenced taking testimony nor filed any evidence in such proceeding.

Response: It is the normal practice of the Board to suspend under the circumstances outlined in the comment if it appears that the civil action may be dispositive of the proceeding before the Board. However, even under these circumstances there are times when it may be desirable to go forward with the Board proceeding, as, for example, when the civil court has a large backlog or suspends its own action pending the final determination of the Board proceeding. Accordingly, it is believed that the matter of suspension should be left to the discretion of the Board, and the suggested amendment has not been adopted.

Comment: With respect to § 2.117(b) [identified in the notice of proposed rulemaking as § 2.117(c)], which as proposed reads "Whenever there is pending, at the time when the question of the suspension of proceedings is raised, a motion which is potentially dispositive of the case, the motion will be decided before the question of suspension will be considered.", one organization and two members of another organization suggested that the phrase "the motion will be decided" be changed to "the motion may be decided", so that the Board will have the discretion to either suspend or rule in such a case, and will not be compelled to determine the motion before it if, for example, a similar motion is pending in the civil action.

Response: The paragraph has been modified in accordance with this suggestion.

Comment: Four members of one organization objected to proposed § 2.120(c)(2) (which provides in effect that whenever a foreign party or its officers, etc., is or will be in the United States during a discovery period, such party may be deposed in the United States by oral examination upon notice by the party seeking discovery). The reason given for the objection was that the foreign officer could be seriously inconvenienced because of the proposed rule, which invites abuse.

Response: While it is true that a foreign officer who is traveling in the United States on other business might find it inconvenient to have his oral discovery deposition taken, it is equally true that there are instances in which it is inconvenient for a domestic officer to have his oral deposition taken. Further, there can be no doubt that the oral deposition is a far better discovery device than the deposition upon written questions. It is believed that the advantages offered by the oral deposition outweigh the disadvantage of possible inconvenience. Accordingly, proposed § 2.120(c)(2) is being adopted herein as a final rule.

Comment: With respect to proposed § 2.120(d), which provides for the production of documents, in response to a request for production of documents, at the place where the documents are usually kept, or where the parties agree, or where and in the manner which the

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Trademark Trial and Appeal Board, upon motion, orders, one individual suggested that the paragraph be modified to require that the party upon which the request is served respond to the request by sending copies of all documents requested to the party making the request.

Response: The purpose of § 2.120(d) is to permit the Board, upon motion, to order that a party produce requested documents by photocopying and mailing them to the requesting party at the latter's expense. However, inasmuch as there are cases in which some other manner of production is more appropriate or feasible, the manner of production is a matter which is better left to the discretion of the Board. Accordingly, the suggestion has not been adopted.

Comment: One individual suggested that proposed § 2.120(e), which concerns motions to compel discovery, be modified to provide that if counsel for the parties reach an agreement relating to a disputed discovery matter, a motion may be brought to enforce the agreement.

Response: Inasmuch as it is not the function of the Board to enforce agreements between parties, this suggestion has not been adopted. However, a party may always argue the existence of such an agreement as a factor bearing on the merits of a motion to compel discovery.

Comment: With respect to proposed § 2.120(i) (which provides, in essence, that the Board may at its discretion request that the parties come to its offices for a pre-trial conference when pre-trial questions or issues have been so complex that their resolution by correspondence or telephone conference is not practical), one individual, noting that the paragraph provides for a pre-trial conference at the Board's option and discretion, suggested that the paragraph be modified to indicate that such a conference may also be requested by a party to a proceeding but that the Board be left with the discretion to grant the request. The same individual also suggested that the paragraph, which as proposed contains only a passing reference to a "telephone conference", be broken into two parts, the first being devoted to the telephone conference (with provision therefor at the option of the Board or at the request of a party to a proceeding, but again leaving the Board with discretion to grant the request), and the second being devoted to the pre-trial conference. The individual expressed his belief that attorneys should be made aware of the telephone conference procedure since it can be very useful to them as well as to the Board.

Response: The paragraph has been modified as suggested to include two paragraphs and to provide that the Board may utilize the telephone and pre-trial conference procedures either upon its own initiative or upon request made by one or both of the parties. Although neither of the new paragraphs contains the words "at its discretion," both contain the words "the Board may," which clearly indicate that the utilization of these procedures is a matter which is left to the discretion of the Board.

Comment: A number of comments were received with respect to proposed § 2.120(j), which pertains to the use of discovery depositions, admissions, or answers to interrogatories. Two organizations noted that proposed § 2.120(j)(2) (which incorporates the "fairness exception" of Rule 32(a)(4) of the Federal Rules of Civil Procedure ("F.R.C.P.") apparently limits the use of discovery depositions only to the inquiring party, while Rule 32(a)(4) F.R.C.P. allows the use of the deposition for any purpose by either party once the adverse party has relied upon any part of it. These organizations recommended that the paragraph be modified to follow Rule 32(a)(4) F.R.C.P. One organization objected to proposed § 2.120(j)(3) (which permits the introduction into evidence on motion of the discovery deposition of a non-party under certain circumstances provided that the motion is filed promptly after the circumstances claimed to justify use of the deposition become known) on the ground that the timing requirement for the motion is unnecessary and unduly restrictive and that the better practice would be to let the motion be filed at the time of the purported offer of the deposition into evidence. Another organization recommended that consideration be given to permitting much greater use of non-party discovery depositions than permitted by proposed § 2.120(j)(3), or at least that the burden imposed by the last of the listed instances in which such depositions may be introduced into evidence, namely, "upon a showing of extraordinary circumstances and necessity in the interest of justice", should be lessened. Three members of one organization commented that any party, not just the deposing party, should be able to make a discovery deposition of record if its use at trial is permitted by Rule 32 F.R.C.P. Finally, one individual noted that proposed § 2.120(j), which permits only the inquiring party to introduce a discovery deposition into evidence (unless the "fairness exception" applies), conflicts with Rule 32(a)(2) F.R.C.P., which provides that a deposition of a party "may be used by an adverse party for any purpose", and with Rule 32(a)(3) F.R.C.P., which provides that the deposition of "a witness, whether or not a party, may be used by any party for any purpose" in the limited circumstances corresponding to those set forth in proposed § 2.120(j)(3) (except for the 100-mile exception, which is not applicable to proceedings before the Trademark Trial and Appeal Board). This individual submitted a suggested alternative text for § 2.120(j) which conforms to Rule 32(a) F.R.C.P. by (a) eliminating the restriction in proposed § 2.120(j) (1) and (2) that only the inquiring party may offer a discovery deposition in evidence, and (b) broadening proposed § 2.120(j)(2) to cover any "witness, whether or not a party". In the suggested text, paragraphs (1)–(3) of proposed § 2.120(j) are also reorganized and rearranged for clarity.

Response: The text suggested by the individual has been adopted with certain modifications in order to resolve the conflicts and objections noted by this individual and others, as outlined above. In the final paragraph, the text of § 2.120(j)(1) follows the text of Rule 32(a)(2) F.R.C.P. The text of the discovery deposition "fairness exception", which appears in final § 2.120(j)(4), is essentially the same as the text of Rule 32(a)(4) F.R.C.P. The provision relating to the introduction into evidence, by order of the Board upon motion, of the discovery deposition of a non-party under certain circumstances [which appears in final § 2.120(j)(2)] has been broadened to permit the introduction, by order of the Board upon motion, of the discovery deposition of a witness, whether or not a party, by any party under the stated circumstances. The final such circumstance, which in the proposed paragraph read "upon a showing of extraordinary circumstances and necessity in the interest of justice", has been modified to read "upon a showing that such exceptional circumstances exist as to make it desirable, in the interest of justice, to allow the deposition to be used," which closely follows the wording of Rule 32(a)(3) F.R.C.P. The timing requirement for a motion filed under the paragraph has been changed from "filed promptly after the circumstances claimed to justify use of the deposition became known" to "filed at the time of the purported offer of the deposition in evidence" for all such motions except those based upon a claim of exceptional circumstances. In the latter instance, the proposed timing requirement, namely, "filed promptly after the circumstances claimed to justify use of the deposition became known", has been retained in the final rule for two reasons; first, to provide an adverse party with the best possible opportunity to investigate the claim of exceptional circumstances, and second, so that in those cases where the circumstances become known prior to the taking of the deposition, the motion will be filed, and hence can be determined, before the deposition is taken. Finally, in order to make it clear that once a discovery deposition, or a part thereof, or an answer to an interrogatory, or an admission, has been properly made of record by one party, it may be referred to by any party for any purpose permitted by the Federal Rules of Evidence, a provision to that effect, identified as paragraph (j)(7), has been included in the final paragraph.

Comment: With respect to proposed § 2.122(c)(2) (which provides that a registration owned by a party to a proceeding may be made of record by that party by filing a notice of reliance accompanied by a certified copy of the registration showing current status and title), two organizations and three members of another organization objected to the requirement for certification of the status and title copies as being unnecessary, expensive, and unduly harsh. One of these organizations, noting that proposed § 2.122 is modified to eliminate the practice set forth in existing § 2.122(b) (which provides that a registration of an opposer or petitioner pleaded in an opposition or petition to cancel will be received in evidence and made part of the record if two copies showing status and title of the registration or an order for such copies accompany the opposition or petition), expressed its belief that, accepting the Patent and Trademark Office's position that the practice set forth in existing § 2.122(b) has caused delays and problems for the Office, still there is no reason for requiring that the status and title copies of the registration be certified when made of record, pursuant to proposed § 2.120(c)(2), by the filing of a notice of reliance during the testimony period of the party filing the notice.

Response: The proposal to require that status and title copies of registrations also be certified has not been adopted herein. Further, since the only part of existing § 2.122(b) which caused trouble was the provision involving the submission of an *order* for status and title copies with the complaint, the proposal to modify existing § 2.122 by eliminating that provision is adopted herein, but the proposal to eliminate the provision involving the submission of actual status and title copies with the complaint is withdrawn. Hence, final § 2.122 provides, in paragraph (d)(1), that a registration of the opposer or petitioner pleaded in an opposition or petition to cancel will be received in evidence and made part of the record if the opposition or petition is accompanied by two copies of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration.

Comment: One organization suggested that the word "competent" should be inserted before the word "evidence" in two (unspecified) places in proposed § 2.122(b)(2) and in one place in proposed § 2.122(b)(3), and that the first clause in proposed § 2.122(c)(2) be changed from "A registration owned by any party to a proceeding may be made of record in the proceeding by that party by filing a notice of reliance," to "A registration owned by any party to a proceeding may be made of record in the proceeding by that party by appropriate identification and introduction during the proper testimony period or by filing a notice of reliance,". The same organization also submitted a suggested plan for reorganizing proposed § 2.122 and for giving each paragraph therein a heading. Three members of another organization expressed their agreement with these suggestions.

Response: The suggested plan for reorganization and for headings has been adopted herein with certain minor modifications necessitated by the response to the foregoing comment (e.g., the comment concerning the introduction of registrations in evidence).

The word "competent" has been inserted before the word "evidence" only once in final § 2.122(b)(2) and not at all in final § 2.122(c) [identified in the notice of proposed rulemaking as § 2.122(b)(3)]. The clauses in these paragraphs where the word "competent" might have been, but was not, inserted before the word "evidence" read "The allegation in an application for registration, or in a registration, of a date of use is not evidence on behalf of the applicant or registrant;"; "Specimens in the file of an application for registration, or in the file of a registrant, are not evidence on behalf of the applicant or registrant * * *"; and "An exhibit attached to a pleading is not evidence on behalf of the party to whose pleading the exhibit is attached * * *" The reason why the word "competent" was not inserted in these instances is that in each one the matter in question is not evidence *on behalf of the named party* at all (although specimens, or the allegation of a date of use, for example, may be used as evidence against an applicant or registrant, e.g., as an admission against interest).

Finally, the first clause in proposed § 2.122(c)(2) [identified herein as § 2.122(d)(2)] has been modified to read "A registration owned by any party to a proceeding may be made of record in the proceeding by that party by appropriate identification and introduction during the taking of testimony or by filing a notice of reliance." There is a slight difference between the clause as adopted and the clause as suggested by the organization (the organization's suggested wording "during the proper testimony period" has been changed to "during the taking of testimony"). The change in the wording was made so that it would be clear that this portion refers to identification and introduction during the taking of testimony as distinguished from identification and introduction by notice of reliance. This change is not to be construed as an indication that such identification and introduction does not have to be made "during the proper testimony period"; with the deception of status and title copies of a plaintiff's pleaded registration submitted with the complaint, any evidence which a party offers on the case must be offered during the proper testimony period.

Comment: With respect to proposed § 2.123(a)(1) (which provides, inter alia, that if a party serves notice of the taking of a testimonial deposition upon written questions of a witness within the United States, any adverse party may, within fifteen days from the date of service of the notice, file a motion with the Trademark Trial and Appeal Board, for good cause, for an order that the deposition be taken by oral examination), one individual, noting that the procedure for taking testimony by written questions is unsatisfactory and often frustrating, suggested that the paragraph be changed to require that a party seeking to utilize this procedure (in lieu of an oral examination) file a motion requesting, for good cause shown, permission to by-pass the oral examination of its witness, that is, that the burden of filing a motion and showing good cause be shifted to the party who wants to take testimony upon written questions.

Response: If the burden of filing the motion were shifted in the manner suggested, the Trademark Trial and

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Appeal Board would have to rule on a motion in every case where a party desires to take testimony by written questions. Under the rule as proposed, the Board would have to rule on a motion only in those cases where one party desires to take testimony by written questions and the adverse party objects to the use of this procedure in lieu of an oral deposition. Often, the adverse party does not object. Moreover, Rule 31 F.R.C.P., which provides for the use of depositions upon written questions in federal district courts, does not require that a party who wishes to use this procedure file a motion requesting permission to do so. Accordingly, this suggestion has not been adopted.

Comment: Two organizations commented that proposed paragraphs (j) and (k) of § 2.123, which relate to the raising of objections to testimony depositions taken in inter partes proceedings, appear to be inconsistent and unclear as to the timing of objections. Both organizations suggested that the paragraphs be modified to rely upon the pertinent portion of the Federal Rules of Civil Procedure, namely, Rule 32(d)(3). Similarly, one individual commented that proposed paragraph (k) is ambiguous as to the timing of an objection to testimony based upon lack of competency of the witness.

Response: In order to improve their consistency and clarity, the paragraphs have been modified as suggested. It should be noted that the result of the modification of paragraph (j) is that if a party fails to attend the taking of a deposition, he thereby waives any objection which under Rule 32(d)(3)(A) and (B) F.R.C.P. is deemed to be waived if not made at the taking of the deposition. This is a significant change from existing § 2.123(j), which permits the raising of formal or technical objections as soon as a party becomes aware of them, e.g., in the case of a party who did not attend the taking of a deposition, at the time when such party receives a copy of a transcript of the deposition.

Comment: With respect to the same paragraphs, one individual suggested that the Trademark Trial and Appeal Board entertain and determine, prior to the briefing period, motions to strike testimony, so that parties to a proceeding before the Board will know exactly what is in the record when they write their briefs.

Response: The adoption of this suggestion would put an intolerable burden on the Board because the Board would have to read testimony depositions both at the time of determination of a motion to strike them and again at final hearing. It is the longstanding policy of the Board not to read trial testimony taken in a proceeding before it, or to examine other evidence offered by the parties in support of their respective cases, until final hearing. See, for example: *Curtice-Burns, Inc.* v. *Northwest Sanitation Products, Inc.*, 182 USPQ 572 (Comr. 1974), and *Clairol Incorporated* v. *Holland Hall Products, Inc.*, 161 USPQ 616 (TTAB 1969). Accordingly, the suggestion has not been adopted.

Comment: With respect to proposed § 2.124(d)(2) (which provides in part that when one or more testimonial depositions are to be taken upon written questions, the Trademark Trial and Appeal Board may suspend or reschedule other proceedings in the matter to allow for the orderly completion of the depositions upon written questions), one individual expressed his belief that when the Board receives notice that a deposition is to be taken upon written questions, it should immediately suspend proceedings for a sixty-day period to allow for the completion of the deposition, thereby avoiding unnecessary motions to extend the trial periods.

Response: The paragraph has been modified to provide that in such situations the Board "shall" suspend or reschedule other proceedings in the matter to allow for the orderly completion of the deposition. The length of the suspension has been left to the discretion of the Board since the time required to complete the taking of a deposition upon written questions varies according to the place where the witness is located.

Comment: One organization, noting that the words "the letter" in proposed § 2.124(e) have no antecedent and hence create an unnecessary ambiguity, suggested that the words "the notice and of all of the questions mailed" be substituted therefor. With respect to the statement in proposed § 2.124(f) that it is the responsibility of the party who takes a deposition upon written questions to assure that the transcript is correct, the same organization suggested that the paragraph be modified to include a cross-reference to proposed § 2.125(b), which specifies procedures for correcting transcripts.

Response: The paragraphs have been modified as suggested.

Comment: With respect to proposed §§ 2.27(e), 2.120(f), and 2.125(e), which relate to the provision, in inter partes proceedings before the Trademark Trial and Appeal Board, of certain types of discovery information, and the submission of certain types of trial evidence, under protective order, one individual commented that the proposed rules would appear to permit parties to keep virtually all relevant information confidential from the public at large.

Response: Under the rules as proposed and adopted, only trade secrets and confidential information are held under seal and kept confidential by the Board. Very little of the evidence offered in inter partes proceedings before the Trademark Trial and Appeal Board is of this nature.

Comment: Two organizations objected to proposed § 2.128(a)(3) (which provides in essence that when a party fails to file a brief on the case, the Trademark Trial and Appeal Board may treat such failure as a concession of the case) on the grounds that the proposed rule is unduly harsh; that it constitutes an abrogation of the Board's responsibility to decide cases on the record before it, regardless of the absence of briefs; that the granting or denial of a registration with its evidentiary presumptions is too important an issue to be decided on the basis of a presumed concession; and that a party who fails to file a brief should at least be given an opportunity to show cause why judgment should not be entered against him for such failure. Similarly, one member of another organization believes that the proposed rule would encourage the filing of spurious oppositions in cases where the opposer feels that the applicant may not be in a position to afford the legal fees required for preparing a brief.

Response: For the reasons indicated in the comments, proposed § 2.128(a)(3) has been modified to refer only to the party in the position of plaintiff, and proposed § 2.128(a)(1) has been modified to make it clear that the filing of a brief on the case is not mandatory for the party in the position of defendant. Further, the primary purpose of proposed § 2.128(a)(3) was to save the Board the burden of determining cases of the merits in instances where the parties have settled, but have failed to inform the Board thereof, or where one party, particularly the plaintiff, has lost interest in the case. It is not the intention of the Board to enter judgment against a plaintiff for failure to file a brief on the case if the plaintiff still desires to obtain a determination of the case on the merits. Accordingly, proposed § 2.128(a)(3) has been modified herein to provide an opportunity for the plaintiff who fails to file a main brief on the case to show cause why such failure should not be treated as a concession of the case. Additionally, the paragraph has been modified to indicate that judgment may be entered against a plaintiff for failure to file a main brief only if plaintiff fails to file a response to the order to show cause or files a response indicating that he has lost interest in the case.

Comment: One organization, noting that proposed § 2.128(b) permits briefs to be filed on legal or letter size paper, suggested that since the federal courts now permit only the use of letter size paper, consideration should be given to requiring that briefs and all other formal papers filed in the Patent and Trademark Office by on letter size paper only. With respect to the same paragraph, one individual recommended, because of the different paper sizes permitted under the rule, that the rule be modified to specify the number of words that a brief can contain or, alternatively, to specify separately the number of pages permitted for briefs written on each size of paper. The same individual suggested that it should be made clear that the permitted number of pages in a brief does not include pages containing the index and the alphabetical list of cases.

Response: The paragraph has been modified to require that briefs be submitted on letter size paper. As to what is included within the specified page limitations, the paragraph as proposed and adopted states in part that "no brief shall contain more that fifty pages *of argument* and, in the case of a reply brief, *the entire brief* shall not exceed twenty-five pages" (emphasis added). It is believed that the paragraph as written clearly indicates that the fifty-page limitation for a main brief applies only to the length of the argument and does not include the index and case list pages, but that the twenty-five page limitation for a reply brief applies to the entire brief, e.g., argument, index, case list, and all. Accordingly, no further modification has been made.

Comment: With respect to proposed § 2.134(b) (which provides that if the respondent in a cancellation proceeding permits his involved registration to be cancelled under section 8 of the Act of 1946 or fails to renew the registration under section 9 of the Act of 1946, such cancellation or failure to renew shall be deemed to be the equivalent of a cancellation by request of respondent without the consent of the adverse party and shall result in entry of judgment against respondent), two organizations commented that the judgment entered against a respondent under the proposed paragraph would have a res judicata effect; that the entry of such a judgment would be unduly harsh where the cancellation or expiration was the result of an inadvertence or mistake; and that, at a minimum, a respondent should be allowed to "show cause" why such a judgment should be entered. Similarly one individual commented that in such situations, a respondent whose use of its registered mark has in fact been discontinued should be put in a position whereby it can terminate the dispute with prejudice only as to the ground of abandonment.

Response: The paragraph has been modified to provide an opportunity for the respondent in such situation to "show cause" why judgment should not be entered against it. If respondent submits a showing that the cancellation or expiration was the result of an inadvertence or mistake, judgment will not be entered against it. If respondent submits a showing that the cancellation or expiration was occasioned by the fact that its registered mark had been abandoned and that such abandonment was not made for purposes of avoiding the proceeding but rather was the result, for example, of a two-year period of nonuse which commenced well before respondent learned of the existence of the proceeding, judgment will be entered against it only and specifically on the ground of abandonment.

Comment: Apparently with respect to proposed § 2.135 (which provides that after the commencement of an opposition proceeding, if applicant files a written abandonment of the application or of the mark without the written consent of every adverse party, judgment shall be entered against the applicant), one individual expressed his belief that if an applicant involved in an opposition were allowed to abandon its mark or application without the consent of the opposer without incurring entry of judgment against itself, more applicants would abandon, thus saving money for the Patent and Trademark Office.

Response: The purpose of § 2.135 is to prevent an applicant involved in an opposition from abandoning its opposed application and then refiling, thus putting opposer (and the Patent and Trademark Office) to the expense of multiple proceedings. A rule to the contrary would be inequitable. Accordingly, § 2.135 has not been modified in the manner suggested by this comment.

Comment: One individual questioned the necessity for the requirement in proposed § 2.142(e)(2) that if the appellant in an ex parte proceeding requests an oral argument, the examiner who issued a refusal of registration or a requirement from which an appeal is taken, or in lieu thereof another examiner from the same examining division as designated by the supervisory attorney thereof, shall present an oral argument.

Response: The purpose of the requirement is to ensure that the examining attorney will be present at the oral hearing to respond to any new arguments raised by appellant and to answer any questions which the members of the panel assigned to hear the case may have. The examining attorney's oral argument need not be lengthy; if he(she) has nothing to add to what he(she) has already said in his(her) appeal brief, he(she) may simply say so.

Comment: With respect to the last sentence of proposed § 2.165(a) (which states in essence that the certificate of mailing procedure provided by § 1.8 does not apply to affidavits or declarations filed under section 8 (a) or (b) of the Act), one organization expressed its belief that the sentence should be deleted in light of H.R. 6260.

Response: H.R. 6260, which was enacted on August 27, 1982 as Pub. L. 97-247, amended 35 U.S.C. 21 to include a provision that the Commissioner may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Commissioner. As a result thereof, a new section, § 1.10, effective February 27, 1983, has been added, by final rule notice published in the **Federal Register** on January 20, 1983 at 48 FR 2696, to Part 1 of Title 37 CFR. The new section provides a procedure for assigning the date on which any paper or fee is deposited as "Express Mail" with the United States Postal Service as the filing date of the paper or fee in the Patent and Trademark Office. Inasmuch as this new section applies to "any paper or fee", it applies to affidavits or declarations filed under section 8 (a) or (b) of the Act of 1946. However, the § 1.8 certificate of mailing procedure has not been eliminated, and that section still specifically provides that the procedure outlined therein does not apply to affidavits filed under section 8 (a) or (b) of the Act. In view thereof, the last sentence of § 2.165(a) has been amended by the addition of a final clause, namely, "but the certificate of mailing by 'Express Mail' procedure provided by § 1.10 does apply thereto."

Comment: One organization has submitted suggestions for changes to rules not involved herein.

Response: The suggested changes cannot be adopted without affording

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members of the public an opportunity to comment thereon. However, these suggestions will be considered in connection with any future proposals to amend the rules in question.

Environmental, energy and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96-354). The rule change includes no additional or increased fees. Substantive rights to use valuable trademarks are not adversely affected.

The rule change does not impose a record keeping or reporting burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. No additional information is required from the public. No additional records are required to be maintained by the Patent and Trademark Office because there are no additional fees or proceedings to monitor.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant, adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 2

Administrative practice and procedures, Courts, Lawyers, Trademarks.

Amendment of Regulations

After consideration of the comments received and pursuant to the authority contained in 15 U.S.C. 1123, Part 2 of Title 37 of the Code of Federal Regulations is amended as set forth below.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. Section 2.27 is amended by revising paragraphs (b) and (d) and adding paragraph (e) to read as follows:

§ 2.27 Pending trademark application index; access to applications.

* * * * *

(b) Except as provided in paragraph (e) of this section, access to the file of a particular pending application will be permitted prior to publication under § 2.80 upon written request.

* * * * *

(d) Except as provided in paragraph (e) of this section, after a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

(e) Anything ordered to be filed under seal pursuant to a protective order issued or made by any court or by the Trademark Trial and Appeal Board in any proceeding involving an application or a registration shall be kept confidential and shall not be made available for public inspection or copying unless otherwise ordered by the court or the Board, or unless the party protected by the order voluntarily discloses the matter subject thereto. When possible, only confidential portions of filing with the Board shall be filed under seal.

2. Section 2.63 is revised to read as follows:

§ 2.63 Reexamination.

(a) After response by the applicant, the application will be reexamined or reconsidered. If registration is again refused or any formal requirement[s] is repeated, but the examiner's action is not stated to be final, the applicant may respond again.

(b) After reexamination the applicant may respond by filing a timely petition to the Commissioner for relief from a formal requirement if: (1) The requirement is repeated, but the examiner's action is not made final, and the subject matter of the requirement is appropriate for petition to the Commissioner (see § 2.146(b)); or (2) the examiner's action is made final and such action is limited to subject matter appropriate for petition to the Commissioner. If the petition is denied, the applicant shall have until six months from the date of the Office action which repeated the requirement or made it final or thirty days from the date of the decision on the petition, whichever date is later, to comply with the requirement. A formal requirement which is the subject of a petition decided by the Commissioner may not subsequently be the subject of an appeal to the Trademark Trial and Appeal Board.

3. Section 2.64 is revised to read as follows:

§ 2.64 Final action.

(a) On the first or any subsequent reexamination or reconsideration the refusal of the registration or the insistence upon a requirement may be stated to be final, whereupon applicant's response is limited to an appeal, or to a compliance with any requirement, or to a petition to the Commissioner if permitted by § 2.63(b).

(b) During the period between a final action and expiration of the time for filing an appeal, the applicant may request the examiner to reconsider the final action. The filing of a request for reconsideration will not extend the time for filing an appeal or petitioning the Commissioner, but normally the examiner will reply to a request for reconsideration before the end of the six-month period if the request is filed within three months after the date of the final action. Amendments accompanying requests for reconsideration after final action will be entered if they comply with the rules of practice in trademark cases and the Act of 1946.

4. Section 2.65 is revised to read as follows:

§ 2.65 Abandonment.

(a) If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed to have been abandoned. A timely petition to the Commissioner pursuant to §§ 2.63(b) and 2.146 is a response which avoids abandonment of an application.

(b) When action by the applicant filed within the six-month response period is a bona fide attempt to advance the examination of the application and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

5. Section 2.72 is revised to read as follows:

§ 2.72 Amendments to description or drawing of the mark.

Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimilies) as originally filed, or supported by additional specimens (or facsimilies) and a supplemental affidavit or declaration in accordance with § 2.20 alleging that the mark shown in the amended drawing was in actual use prior to the filing date of the application. Amendments may not be made if the character of the mark is materially altered.

6. Section 2.81 is revised to read as follows:

§ 2.81 Allowance of application.

If no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared and no concurrent use proceeding is instituted, the application will be prepared for issuance of the certificate of registration as provided in § 2.151.

§ 2.88 [Removed]

7. Section 2.88 is removed.

§ 2.94 [Removed]

8. Section 2.94 is removed.

§ 2.95 [Removed]

9. Section 2.95 is removed.

10. Section 2.96 is revised to read as follows:

§ 2.96 Issue; burden of proof.

The issue in an interference between applications is normally priority of use, but the rights of the parties to registration may also be determined. The party whose application involved in the interference has the latest filing date is the junior party and has the burden of proof. When there are more than two parties to an interference, a party shall be a junior to and shall have the burden of proof as against every other party whose application involved in the interference has an earlier filing date. If the involved applications of any parties have the same filing date, the application with the latest date of execution will be deemed to have the latest filing date and that applicant will be the junior party. The issue in an interference between an application and a registration shall be the same, but in the event the final decision is adverse to the registrant, a registration to the applicant will not be authorized so long as the interfering registration remains on the register.

§ 2.97 [Removed]

11. Section 2.97 is removed.

12. Section 2.98 is revised to read as follows:

§ 2.98 Adding party to interference.

A party may be added to an interference only upon petition to the Commissioner by that party. If an application which is or might be the subject of a petition for addition to an interference is not added, the examiner may suspend action on the application pending termination of the interference proceeding.

13. Section 2.99 is revised to read as follows:

§ 2.99 Application to register as concurrent user.

(a) An application for registration as a lawful concurrent user will be examined in the same manner as other applications for registration.

(b) When it is determined that the mark is ready for publication, the applicant may be required to furnish as many copies of this application, specimens and drawing as may be necessary for the preparation of notices for each applicant, registrant or user specified as a concurrent user in the application for registration.

(c) Upon receipt of the copies required by paragraph (b) of this section, the examiner shall forward the application for concurrent use registration for publication in the Official Gazette as provided by § 2.80. If no opposition is file, or if all oppositions that are filed are dismissed or withdrawn, the Trademark Trial and Appeal Board shall prepare a notice for the applicant for concurrent use registration and for each applicant, registrant or user specified as a concurrent user in the application. The notices for the specified parties shall state the name and address of the applicant and of the applicant's attorney or other authorized representative, if any, together with the serial number and filing date of the application.

(d)(1) The notices shall be sent to each applicant, in care of his attorney or other authorized representative, if any, to each user, and to each registrant. A copy of the application shall be forwarded with the notice to each party specified in the application.

(2) An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified as a concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application, and answer must be filed within forty days after the mailing of the notice.

(3) If an answer, when required, is not filed, judgment will be entered precluding the specified user from claiming any right more extensive than that acknowledged in the application(s) for concurrent use registration, but the applicant(s) will remain with the burden of proving entitlement to registration(s).

(e) The applicant for a concurrent use registration has the burden of proving entitlement thereto. If there are two or more applications for concurrent use registration involved in a proceeding, the party whose application has the latest filing date is the junior party. A party whose application has a filing date between the filing dates of the earliest involved application and the latest involved application is a junior party to every party whose involved application has an earlier filing date. If any applications have the same filing date, the application with the latest date of execution will be deemed to have the latest filing date and that applicant will be the junior party. A person specified as an excepted user in a concurrent use application but who has not filed an application shall be considered a party senior to every party that has an application involved in the proceeding.

(f) When a concurrent use registration is sought on the basis that a court of competent jurisdiction has finally determined that the parties are entitled to use the same or similar marks in commerce, a concurrent use registration proceeding will not be instituted if all of the following conditions are fulfilled:

(1) The applicant is entitled to registration subject only to the concurrent lawful use of a party to the court proceeding; and

(2) The court decree specifies the rights of the parties; and

(3) A true copy of the court decree is submitted to the examiner; and

(4) The concurrent use application complies fully and exactly with the court decree; and

(5) The excepted use specified in the concurrent use application does not involve a registration, or any involved registration has been restricted by the Commissioner in accordance with the court decree.

If any of the conditions specified in this paragraph is not satisfied, a concurrent use registration proceeding shall be prepared and instituted as provided in paragraphs (a) through (e) of this section.

(g) Registrations and applications to register on the Supplemental Register and registrations under the Act of 1920 are not subject to concurrent use registration proceedings.

14. Section 2.104 is revised to read as follows:

§ 2.104 Contents of opposition.

The opposition must set forth a short and plain statement showing how the opposer would be damaged by the registration of the opposed mark and state the grounds for opposition. A duplicate copy of the opposition, including exhibits, shall be filed with the opposition.

15. Section 2.105 is revised to read as follows:

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§ 2.105 Notification of opposition proceeding(s).

When an opposition in proper form has been filed and the correct fee(s) have been submitted, a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the application involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the attorney or other authorized representative of the opposer, if any, or to the opposer. The duplicate copy of the opposition and exhibits shall be forwarded with a copy of the notification to the attorney or other authorized representative of the applicant, if any, or to the applicant.

16. Section 2.106 is amended by revising paragraph (c) to read as follows:

§ 2.106 Answer.

* * * * *

(c) The opposition may be withdrawn without prejudice before the answer is filed. After the answer is filed, the opposition may not be withdrawn without prejudice except with the written consent of the applicant.

17. Section 2.107 is revised to read as follows:

§ 2.107 Amendment of pleadings in an opposition proceeding.

Pleadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court.

18. Section 2.113 is revised to read as follows:

§ 2.113 Notification of cancellation proceeding.

(a) When a petition for cancellation has been filed in proper form (see §§ 2.111 and 2.112), a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the registration or registrations involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the attorney or other authorized representative of the petitioner, if any, or to the petitioner. The duplicate copy of the petition for cancellation and exhibits shall be forwarded with a copy of the notification to the respondent (see § 2.118). If the petition is found to be defective as to form, the party filing the petition shall be so advised and allowed a reasonable time for correcting the informality.

19. Section 2.115 is revised to read as follows:

§ 2.115 Amendment of pleadings in a cancellation proceeding.

Pleadings in a cancellation proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court.

20. Section 2.116 is amended by revising paragraphs (b) and (c) to read as follows:

§ 2.116 Rules of Procedure.

* * * * *

(b) The opposer in an opposition proceeding or the petitioner in a cancellation proceeding shall be in the position of plaintiff, and the applicant in an opposition proceeding or the respondent in a cancellation proceeding shall be in the position of defendant. A party that is a junior party in an interference proceeding or in a concurrent use registration proceeding shall be in the position of plaintiff against every party that is senior, and the party that is a senior party in an interference proceeding or in a concurrent use registration proceeding shall be a defendant against every party that is junior.

(c) The opposition or the petition for cancellation and the answer correspond to the complaint and answer in a court proceeding.

21. Section 2.117 is revised to read as follows:

§ 2.117 Suspension of proceedings.

(a) Whenever it shall come to the attention of the Trademark Trial and Appeal Board that parties to a pending case are engaged in a civil action which may be dispositive of the case, proceedings before the Board may be suspended until termination of the civil action.

(b) Whenever there is pending, at the time when the question of the suspension of proceedings is raised, a motion which is potentially dispositive of the case, the motion may be decided before the question of suspension is considered.

(c) Proceedings may also be suspended, for good cause, upon motion or a stipulation of the parties approved by the Board.

22. Section 2.120 is revised to read as follows:

§ 2.120 Discovery.

(a) *In general.* The provisions of the Federal Rules of Civil Procedure relating to discovery shall apply in opposition, cancellation, interference and concurrent use registration proceedings except as otherwise provided in this section. The Trademark Trial and Appeal Board will specify the closing date for the taking of discovery.

(b) *Discovery deposition within the United States.* The deposition of a natural person shall be taken in the Federal judicial district where the person resides or is regularly employed or at any place on which the parties agree by stipulation. The responsibility rests wholly with the party taking discovery to secure the attendance of a proposed deponent other than a party or anyone who, at the time set for the taking of the deposition, is an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure. See 35 U.S.C. 24.

(c) *Discovery deposition in foreign countries.* (1) The discovery deposition of a natural person residing in a foreign country who is a party or who, at the time set for the taking of the deposition, is an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, shall, if taken in a foreign country, be taken in the manner prescribed by § 2.124 unless the Trademark Trial and Appeal Board, upon motion for good cause, orders or the parties stipulate, that the deposition be taken by oral examination.

(2) Whenever a foreign party is or will be, during a time set for discovery, present within the United States or any territory which is under the control and jurisdiction of the United States, such party may be deposed by oral examination upon notice by the party seeking discovery. Whenever a foreign party has or will have, during a time set for discovery, an officer, director, managing agent, or other person who consents to testify on its behalf, present within the United States or any territory which is under the control and jurisdiction of the United States, such officer, director, managing agent, or other person who consents to testify in its behalf may be deposed by oral examination upon notice by the party seeking discovery. The party seeking discovery may have one or more officers, directors, managing agents, or other persons who consent to testify on behalf of the adverse party, designated under Rule 30(b)(6) of the Federal Rules of Civil Procedure. The deposition of a person under this paragraph shall be taken in the Federal judicial district where the witness resides or is regularly employed, or, if the witness neither resides nor is regularly employed in a Federal judicial district, where the witness is at the time of the deposition. This paragraph does not preclude the taking of a discovery deposition of a foreign party by any other procedure provided by paragraph (c)(1) of this section.

(d) *Request for production.* The production of documents and things under the provisions of Rule 34 of the Federal Rules of Civil Procedure will be made at the place where the documents and things are usually kept, or where the parties agree, or where and in the manner which the Trademark Trial and Appeal Board, upon motion, orders.

(e) *Motion for an order to compel discovery.* If a party fails to designate a person pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, or if a party, or such designated person, or an officer, director or managing agent of a party fails to attend a deposition or fails to answer any question propounded in a discovery deposition, or any interrogatory, or fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion before the Trademark Trial and Appeal Board for an order to compel a designation, or attendance at a deposition, or an answer, or production and an opportunity to inspect and copy. The motion shall include a copy of the request for designation or of the relevant portion of the discovery deposition; or a copy of the interrogatory with any answer or objection that was made; or a copy of the request for production, any proffer of production or objection to production in response to the request, and a list and brief description of the documents or things that were not produced for inspection and copying. The motion must be supported by a written statement from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.

(f) *Motion for a protective order.* Upon motion by a party from whom discovery is sought, and for good cause, the Trademark Trial and Appeal Board may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the types of orders provided by clauses (1) through (8), inclusive, of Rule 26(c) of the Federal Rules of Civil Procedure. If the motion for a protective order is denied in whole or in part, the Board may, on such conditions (other than an award of expenses to the party prevailing on the motion) as are just, order that any party provide or permit discovery.

(g) *Failure to comply with order.* If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery, including a protective order, the Board may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except that the Board does not have authority to hold any person in contempt or to award any expenses to any party. The Board may impose against a party any of the sanctions provided by this subsection in the event that said party or any attorney, agent, or designated witness of that party fails to comply with a protective order made pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.

(h) *Request for admissions.* Requests for admissions shall be governed by Rule 36 of the Federal Rules of Civil Procedure except that the Trademark Trial and Appeal Board does not have authority to award any expenses to any party. A motion by a party to determine the sufficiency of an answer or objection to a request made by that party for an admission shall include a copy of the request for admission and any exhibits thereto and of the answer or objection. The motion must be supported by a written statement from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.

(i) *Telephone and pre-trial conferences.* (1) Whenever it appears to the Trademark Trial and Appeal Board that a motion filed in an inter partes proceeding is of such nature that its resolution by correspondence is not practical, the Board may, upon its own initiative or upon request made by one or both of the parties, resolve the motion by telephone conference.

(2) Whenever it appears to the Trademark Trial and Appeal Board that questions or issues arising during the interlocutory phase of an inter partes proceeding have become so complex that their resolution by correspondence or telephone conference is not practical and that resolution would be likely to be facilitated by a conference in person of the parties or their attorneys with a Member or Attorney-Examiner of the Board, the Board may, upon its own initiative or upon motion made by one or both of the parties, request that the parties or their attorneys, under circumstances which will not result in undue hardship for any party, meet with the Board at its offices for a pre-trial conference.

(j) *Use of discovery deposition, admission, or answer to interrogatory.* (1) The discovery deposition of a party or of anyone who at the time of taking the deposition was an officer, director or managing agent of a party, or a person designated by a party pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, may be offered in evidence by an adverse party.

(2) Except as provided in paragraph (j)(1) of this section, the discovery deposition of a witness, whether or not a party, shall not be offered in evidence unless the person whose deposition was taken is, during the testimony period of the party offering the deposition, dead; or out of the United States (unless it appears that the absence of the witness was procured by the party offering the deposition); or unable to testify because of age, illness, infirmity, or imprisonment; or cannot be served with a subpoena to compel attendance at a testimonial deposition; or there is a stipulation by the parties; or upon a showing that such exceptional circumstances exist as to make it desirable, in the interest of justice, to allow the deposition to be used. The use of a discovery deposition by any party under this paragraph will be allowed only by stipulation of the parties approved by the Trademark Trial and Appeal Board, or by order of the Board on motion, which shall be filed at the time of the purported offer of the deposition in evidence, unless the motion is based upon a claim that such exceptional circumstances exist as to make it desirable, in the interest of justice, to allow the deposition to be used, in which case the motion shall be filed promptly after the circumstances claimed to justify use of the deposition became known.

(3) A discovery deposition, an answer to an interrogatory, or an admission to a request for admission, which may be offered in evidence under the provisions of paragraph (j) of this section may be made of record in the case by filing the deposition or any part thereof with any

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exhibit to the part that is filed, or a copy of the interrogatory and answer thereto with any exhibit made part of the answer, or a copy of the request for admission and any exhibit thereto and the admission (or a statement that the party from whom an admission was requested failed to respond thereto), together with a notice of reliance. The notice of reliance and the material submitted thereunder should be filed during the testimony period of the party who files the notice of reliance. An objection made at a discovery deposition by a party answering a question subject to the objection will be considered at final hearing.

(4) If only part of a discovery deposition is submitted and made part of the record by a party, an adverse party may introduce under a notice of reliance any other part of the deposition which should in fairness be considered so as to make not misleading what was offered by the submitting party.

(5) An answer to an interrogatory, or an admission to a request for admission, may be submitted and made part of the record by only the inquiring party except that, if fewer than all of the answers to interrogatories, or fewer than all of the admissions, are offered in evidence by the inquiring party, the responding party may introduce under a notice of reliance any other answers to interrogatories, or any other admissions, which should in fairness be considered so as to make not misleading what was offered by the inquiring party.

(6) Paragraph (j) of this section will not be interpreted to preclude the reading or the use of a discovery deposition, or answer to an interrogatory, or admission as part of the examination or cross-examination of any witness during the testimony period of any party.

(7) When a discovery deposition, or a part thereof, or an answer to an interrogatory, or an admission, has been made of record by one party in accordance with the provisions of paragraph (j)(3) of this section, it may be referred to by any party for any purpose permitted by the Federal Rules of Evidence.

(8) Interrogatories, requests for production, requests for admissions, and materials or depositions obtained during the discovery period should not be filed with the Board except when submitted with a motion to compel discovery, or in support of or response to a motion for summary judgment, or under a notice of reliance during a party's testimony period.

23. Section 2.121 is revised to read as follow:

§ 2.121 Assignment of times for taking testimony.

(a)(1) The Trademark Trial and Appeal Board will issue a trial order assigning to each party the time for taking testimony. No testimony shall be taken except during the times assigned, unless by stipulation of the parties approved by the Board, or, upon motion, by order of the Board. Testimony periods may be rescheduled by stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board. The resetting of the closing date for discovery will result in the rescheduling of the testimony periods without action by any party.

(2) The initial trial order will be mailed by the Board after issue is joined.

(b)(1) The Trademark Trial and Appeal Board will schedule a testimony period for the plaintiff to present its case in chief, a testimony period for the defendant to present its case and to meet the case of the plaintiff, and a testimony period for the plaintiff to present evidence in rebuttal.

(2) When there is a counterclaim, or when proceedings have been consolidated and one party is in the position of plaintiff in one of the involved proceedings and in the position of defendant in another of the involved proceedings, or when there is an interference or a concurrent use registration proceeding involving more than two parties, the Board will schedule testimony periods so that each party in the position of plaintiff will have a period for presenting its case in chief against each party in the position of defendant, each party in the position of defendant will have a period for presenting its case and meeting the case of each plaintiff, and each party in the position of plaintiff will have a period for presenting evidence in rebuttal.

(c) A testimony period which is solely for rebuttal will be set for fifteen days. All other testimony periods will be set for thirty days. The periods may be extended by stipulation of the parties approved by the Trademark Trial and Appeal Board, or upon motion granted by the Board, or by order of the Board.

(d) when parties stipulate to the rescheduling of testimony periods or to the rescheduling of the closing date for discovery and the rescheduling of testimony periods, a stipulation presented in the form used in a trial order, signed by the parties, or a motion in said form signed by one party and including a statement that every other party has agreed thereto, and submitted in one original plus as many photocopies as there are parties, will, if approved, be so stamped, signed, and dated, and the copies will be promptly returned to the parties.

24. Section 2.122 is revised to read as follows:

§ 2.122 Matters in evidence.

(a) *Rules of evidence.* The rules of evidence for proceedings before the Trademark Trial and Appeal Board are the Federal Rules of Evidence, the relevant provisions of the Federal Rules of Civil Procedure, the relevant provisions of Title 28 of the United States Code, and the provisions of this Part of Title 37 of the Code of Federal Regulations.

(b) *Application files.* (1) The file of each application or registration specified in a declaration of interference, of each application or registration specified in the notice of a concurrent use registration proceeding, of the application against which a notice of opposition is filed, or of each registration against which a petition or counterclaim for cancellation is filed forms part of the record of the proceeding without any action by the parties and reference may be made to the file for any relevant and competent purpose.

(2) The allegation in an application for registration, or in a registration, of a date of use is not evidence on behalf of the applicant or registrant; a date of use of a mark must be established by competent evidence. Specimens in the file of an application for registration, or in the file of a registration, are not evidence on behalf of the applicant or registrant unless identified and introduced in evidence as exhibits during the period for the taking of testimony.

(c) *Exhibits to pleadings.* Except as provided in paragraph (d)(1) of this section, an exhibit attached to a pleading is not evidence on behalf of the party to whose pleading the exhibit is attached unless identified and introduced in evidence as an exhibit during the period for the taking of testimony.

(d) *Registrations.* (1) A registration of the opposer or petitioner pleaded in an opposition or petition to cancel will be received in evidence and made part of the record if the opposition or petition is accompanied by two copies of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration. For the cost of a copy of a registration showing status and title, see § 2.6(n).

(2) A registration owned by any party to a proceeding may be made of record

in the proceeding by that party by appropriate identification and introduction during the taking of testimony or by filing a notice of reliance, which shall be accompanied by a copy of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration. The notice of reliance shall be filed during the testimony period of the party that files the notice.

(e) *Printed publications and official records.* Printed publications, such as books and periodicals, available to the general public in libraries or of general circulation among members of the public or that segment of the public which is relevant under an issue in a proceeding, and official records, if the publication or official record is competent evidence and relevant to an issue, may be introduced in evidence by filing a notice of reliance on the material being offered, which notice shall specify the printed publication or the official record and the pages to be read, indicate generally the relevance of the material being offered, and be accompanied by the official record or a copy thereof whose authenticity is established under the Federal Rules of Evidence, or by the printed publication or a copy of the relevant portion thereof, including the title page and any other page needed to show the place and date of publication, the name and address of the publisher, and the name of the author or the editor. A copy of an official record of the Patent and Trademark Office need not be certified to be offered in evidence. The notice of reliance shall be filed during the testimony period of the party that files the notice.

(f) *Testimony from other proceedings.* By order of the Trademark Trial and Appeal Board, on motion, testimony taken in another proceeding, or testimony taken in a suit or action in a court, between the same parties or those in privity may be used in a proceeding, so far as relevant and material, subject, however, to the right of any adverse party to recall or demand the recall for examination or cross-examination of any witness whose prior testimony has been offered and to rebut the testimony.

25. Section 2.123 is amended by revising paragraphs (a), (e)(3), (j) and (k) to read as follows:

§ 2.123 Trial testimony in inter partes cases.

(a)(1) The testimony of witnesses in inter partes cases may be taken by depositions upon oral examination as provided by this section or by depositions upon written questions as provided by § 2.124. If a party serves notice of the taking of a testimonial deposition upon written questions of a witness who is, or will be at the time of the deposition, present within the United States or any territory which is under the control and jurisdiction of the United States, any adverse party may, within fifteen days from the date of service of the notice, file a motion with the Trademark Trial and Appeal Board, for good cause, for an order that the deposition be taken by oral examination.

(2) A testimonial deposition taken in a foreign country shall be taken by deposition upon written questions as provided by § 2.124, unless the Board, upon motion for good cause, orders that the deposition be taken by oral examination, or the parties so stipulate.

* * * * *

(e) *Examination of witnesses.* * * *.

(3) Every adverse party shall have full opportunity to cross-examine each witness. If the notice of examination of witnesses which is served pursuant to paragraph (c) of this section is improper or inadequate with respect to any witness, an adverse party may cross-examine that witness under protest while reserving the right to object to the receipt of the testimony in evidence. Promptly after the testimony is completed, the adverse party, if he wishes to preserve the objection, shall move to strike the testimony from the record, which motion will be decided on the basis of all of the relevant circumstances. A motion to strike the testimony of a witness for lack of proper or adequate notice of examination must request the exclusion of the entire testimony of that witness and not only a part of that testimony.

* * * * *

(j) *Effect of errors and irregularities in depositions:* Rule 32(d) (1), (2), and (3) (A) and (B) of the Federal Rules of Civil Procedure shall apply to errors and irregularities in depositions. Notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that the objection was raised at the time specified in said rule.

(k) *Objections to admissibility:* Subject to the provisions of paragraph (j) of this section, objection may be made to receiving in evidence any deposition, or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence from consideration. Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony must be raised at the time specified in Rule 32(d)(3)(A) of the Federal Rules of Civil Procedure. Such objections will not be considered until final hearing.

26. Section 2.124 is revised to read as follows:

§ 2.124 Depositions upon written questions.

(a) A deposition upon written questions may be taken before any person before whom depositions may be taken as provided by Rule 28 of the Federal Rules of Civil Procedure.

(b)(1) A party desiring to take a testimonial deposition upon written questions shall serve notice thereof upon each adverse party within ten days from the opening date of the testimony period of the party who serves the notice. The notice shall state the name and address of the witness. A copy of the notice, but not copies of the questions, shall be filed with the Trademark Trial and Appeal Board.

(2) A party desiring to take a discovery deposition upon written questions shall serve notice thereof upon each adverse party and shall file a copy of the notice, but not copies of the questions, with the Board. The notice shall state the name and address, if known, of the person whose deposition is to be taken. If the name of the person is not known, a general description sufficient to identify him or the particular class or group to which he belongs shall be stated in the notice, and the party from whom the discovery deposition is to be taken shall designate one or more persons to be deposed in the same manner as is provided by Rule 30(b)(6) of the Federal Rules of Civil Procedure.

(c) Every notice given under the provisions of paragraph (b) of this section shall be accompanied by the name or descriptive title of the officer before whom the deposition is to be taken.

(d)(1) Every notice served on any adverse party under the provisions of paragraph (b) of this section shall be accompanied by the written questions to be propounded on behalf of the party who proposes to take the deposition. Within twenty days from the date of service of the notice, any adverse party may serve cross questions upon the party who proposes to take the deposition; any party who serves cross questions shall also serve every other adverse party. Within ten days from the date of service of the cross questions, the party who proposes to take the deposition may serve redirect questions on every adverse party. Within ten days from the date of service of the redirect

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questions, any party who served cross questions may serve recross questions upon the party who proposes to take the deposition; any party who serves recross questions shall also serve every other adverse party. Written objections to questions may be served on a party propounding questions; any party who objects shall serve a copy of the objections on every other adverse party. In response to objections, substitute questions may be served on the objecting party within ten days of the date of service of the objections; substitute questions shall be served on every other adverse party.

(2) Upon motion for good cause by any party, or upon its own initiative, the Trademark Trial and Appeal Board may extend any of the time periods provided by paragraph (d)(1) of this section. Upon receipt of written notice that one or more testimonial depositions are to be taken upon written questions, the Trademark Trial and Appeal Board shall suspend or reschedule other proceedings in the matter to allow for the orderly completion of the depositions upon written questions.

(e) Within ten days after the last date when questions, objections, or substitute questions may be served, the party who proposes to take the deposition shall mail a copy of the notice and copies of all the questions to the officer designated in the notice; a copy of the notice and of all the questions mailed to the officer shall be served on every adverse party. The officer designated in the notice shall take the testimony of the witness in response to the questions and shall record each answer immediately after the corresponding question. The officer shall then certify the transcript and mail the transcript and exhibits to the party who took the deposition.

(f) The party who took the deposition shall promptly serve a copy of the transcript, copies of documentary exhibits, and duplicates or photographs of physical exhibits on every adverse party. It is the responsibility of the party who takes the deposition to assure that the transcript is correct (see § 2.125(b)). If the deposition is a discovery deposition, it may be made of record as provided by § 2.120(j). If the deposition is a testimonial deposition, the original, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be filed promptly with the Trademark Trial and Appeal Board.

(g) Objections to questions and answers in depositions upon written questions may be considered at final hearing.

27. Section 2.125 is revised to read as follows:

§ 2.125 Filing and service of testimony.

(a) One copy of the transcript of testimony taken in accordance with § 2.123, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be served on each adverse party within thirty days after completion of the taking of that testimony.

(b) The party who takes testimony is responsible for having all typographical errors in the transcript and all errors of arrangement, indexing and form of the transcript corrected, on notice to each adverse party, prior to the filing of one certified transcript with the Trademark Trial and Appeal Board. The party who takes testimony is responsible for serving on each adverse party one copy of the corrected transcript or, if reasonably feasible, corrected pages to be inserted into the transcript previously served.

(c) One certified transcript and exhibits shall be filed promptly with the Trademark Trial and Appeal Board. Notice of such filing shall be served on each adverse party and a copy of each notice shall be filed with the Board.

(d) Each transcript shall comply with § 2.123(g) with respect to arrangement, indexing and form.

(e) Upon motion by any party, for good cause, the Trademark Trial and Appeal Board may order that any part of a deposition transcript or any exhibits that directly disclose any trade secret or other confidential research, development, or commercial information may be filed under seal and kept confidential under the provisions of § 2.27(e). If any party or any attorney or agent of a party fails to comply with an order made under this paragraph, the Board may impose any of the sanctions authorized by § 2.120(g).

§ 2.126 [Removed]

28. Section 2.126 is removed.

29. Section 2.127 is revised to read as follows:

§ 2.127 Motions

(a) Every motion shall be made in writing, shall contain a full statement of the grounds, and shall embody or be accompanied by a brief. A brief in response to a motion shall be filed within fifteen days from the date of service of the motion unless another time is specified by the Trademark Trial and Appeal Board or the time is extended by order of the Board on motion for good cause. When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded. An oral hearing will not be held on a motion except on order by the Board.

(b) Any request for reconsideration or modification of an order or decision issued on a motion must be filed within thirty days from the date thereof. A brief in response must be filed within fifteen days from the date of service of the request.

(c) Interlocutory motions, requests, and other matters not actually or potentially dispositive of a proceeding may be acted upon by a single Member of the Trademark Trial and Appeal Board or by an Attorney-Examiner of the Board to whom authority so to act has been delegated.

(d) When any party files a motion to dismiss, or a motion for judgment on the pleadings, or a motion for summary judgment, or any other motion which is potentially dispositive of a proceeding, the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper which is not germane to the motion. If the case is not disposed of as a result of the motion, proceedings will be resumed pursuant to an order of the Board when the motion is decided.

30. Section 2.128 is revised to read as follows:

§ 2.128 Briefs at final hearing.

(a)(1) The brief of the party in the position of plaintiff shall be due not later than sixty days after the date set for the close of rebuttal testimony. The brief of the party in the position of defendant, if filed, shall be not later than thirty days after the due date of the first brief. A reply brief by the party in the position of plaintiff, if filed, shall be due not later than fifteen days after the due date of the defendant's brief.

(2) When there is a counterclaim, or when proceedings have been consolidated and one party is in the position of plaintiff in one of the involved proceedings and in the position of defendant in another of the involved proceedings, or when there is an interference or a concurrent use registration proceeding involving more than two parties, the Trademark Trial and Appeal Board will set the due dates for the filing of the main brief, and the answering brief, and the rebuttal brief by the parties.

(3) When a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen days, in which to show cause why the Board should not treat such failure as a concession of the case. If plaintiff fails to file a response to the order, or files a response indicating that he has lost

interest in the case, judgment may be entered against plaintiff.

(b) Briefs shall be submitted in typewritten or printed form, double spaced, on letter size paper. Without leave of the Trademark Trial and Appeal Board, no brief shall contain more than fifty pages of argument and, in the case of a reply brief, the entire brief shall not exceed twenty-five pages. Each brief shall contain an alphabetical index of cases cited therein. One original and two legible copies, on good quality paper, of each brief shall be filed.

31. Section 2.129 is revised to read as follows:

§ 2.129 Oral argument; reconsideration.

(a) If a party desires to have an oral argument at final hearing, the party shall request such argument by a separate notice filed not later than ten days after the due date for the filing of the last reply brief in the proceeding. Oral arguments will be heard by three Members of the Trademark Trial and Appeal Board at the time specified in the notice of hearing. If any party appears at the specified time, that party will be heard. If the Board is prevented from hearing the case at the specified time, a new hearing date will be set. Unless otherwise permitted, oral arguments in an inter partes case will be limited to thirty minutes for each party. A party in the position of plaintiff may reserve part of the time allowed for oral argument to present a rebuttal argument.

(b) The date or time of a hearing may be reset, so far as is convenient and proper, to meet the wishes of the parties and their attorneys or other authorized representatives.

(c) Any request for rehearing or reconsideration or modification of a decision issued after final hearing must be filed within thirty days from the date of the decision. A brief in response must be filed within fifteen days from the date of service of the request. The times specified may be extended by order of the Trademark Trial and Appeal Board on motion for good cause.

32. Section 2.131 is revised to read as follows:

§ 2.131 Remand after decision in inter partes proceeding.

If, during an inter partes proceeding, facts are disclosed which appear to render the mark of an applicant unregistrable, but such matter has not been tried under the pleadings as filed by the parties or as they might be deemed to be amended under Rule 15(b) of the Federal Rules of Civil Procedure to conform to the evidence, the Trademark Trial and Appeal Board, in lieu of determining the matter in the decision on the proceeding, may refer the application to the examiner for reexamination in the event the applicant ultimately prevails in the inter partes proceeding. Upon receiving the application, the examiner shall withhold registration pending reexamination of the application in the light of the reference by the Board. If, upon reexamination, the examiner finally refuses registration to the applicant, an appeal may be taken as provided by §§ 2.141 and 2.142.

33. Section 2.132 is revised to read as follows:

§ 2.132 Involuntary dismissal for failure to take testimony.

(a) If the time for taking testimony by any party in the position of plaintiff has expired and that party has not taken testimony or offered any other evidence, any party in the position of defendant may, without waiving the right to offer evidence in the event the motion is denied, move for dismissal on the ground of the failure of the plaintiff to prosecute. The party in the position of plaintiff shall have fifteen days from the date of service of the motion to show cause why judgment should not be rendered against him. In the absence of a showing of good and sufficient cause, judgment may be rendered against the party in the position of plaintiff. If the motion is denied, testimony periods will be reset for the party in the position of defendant and for rebuttal.

(b) If no evidence other than a copy or copies of Patent and Trademark Office records is offered by any party in the position of plaintiff, any party in the position of defendant may, without waiving the right to offer evidence in the event the motion is denied, move for dismissal on the ground that upon the law and the facts the party in the position of plaintiff has shown no right to relief. The party in the position of plaintiff shall have fifteen days from the date of service of the motion to file a brief in response to the motion. The Trademark Trial and Appeal Board may render judgment against the party in the position of plaintiff, or the Board may decline to render judgment until all of the evidence is in the record. If judgment is not rendered, testimony periods will be reset for the party in the position of defendant and for rebuttal.

(c) Any motion filed under paragraph (a) or (b) of this section must be filed before the opening of the testimony period of the moving party.

34. Section 2.134 is revised to read as follows:

§ 2.134 Surrender or voluntary cancellation of registration.

(a) After the commencement of a cancellation proceeding, if the respondent applies for cancellation of the involved registration under section 7(d) of the Act of 1946 without the written consent of every adverse party, judgment shall be entered against the respondent.

(b) After the commencement of a cancellation proceeding, if it comes to the attention of the Trademark Trial and Appeal Board that the respondent has permitted his involved registration to be cancelled under section 8 of the Act of 1946 or has failed to renew his involved registration under section 9 of the Act of 1946, an order may be issued allowing respondent until a set time, not less than fifteen days, in which to show cause why such cancellation or failure to renew should not be deemed to be the equivalent of a cancellation by request of respondent without the consent of the adverse party and should not result in entry of judgment against respondent as provided by paragraph (a) of this section. In the absence of a showing of good and sufficient cause, judgment may be entered against respondent as provided by paragraph (a) of this section.

35. Section 2.135 is revised to read as follows:

§ 2.135 Abandonment of application or mark.

After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party, judgment shall be entered against the applicant.

36. Section 2.142 is proposed to be revised to read as follows:

§ 2.142 Time and manner of ex parte appeals.

(a) Any appeal filed under the provisions of § 2.141 must be filed within six months from the date of final refusal or the date of the action from which the appeal is taken. An appeal is taken by filing a notice of appeal and paying the appeal fee.

(b) The brief of appellant shall be filed within sixty days from the date of appeal. If the brief is not filed within the time allowed, the appeal may be dismissed. The examiner shall, within sixty days after the brief of appellant is sent to the examiner, file with the Trademark Trial and Appeal Board a written brief answering the brief of appellant and shall mail a copy of the

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brief to the appellant. The appellant may file a reply brief within twenty days from the date of mailing of the brief of the examiner.

(c) All requirements made by the examiner and not the subject of appeal shall be complied with prior to the filing of an appeal.

(d) The record in the application should be complete prior to the filing of an appeal. The Trademark Trial and Appeal Board will ordinarily not consider additional evidence filed with the Board by the appellant or by the examiner after the appeal is filed. After an appeal is filed, if the appellant or the examiner desires to introduce additional evidence, the appellant or the examiner may request the Board to suspend the appeal and to remand the application for further examination.

(e)(1) If the appellant desires an oral hearing, a request therefor should be made by a separate notice filed not later than ten days after the due date for a reply brief. Oral argument will be heard by three Members of the Trademark Trial and Appeal Board at the time specified in the notice of hearing, which may be reset if the Board is prevented from hearing the argument at the specified time or, so far as is convenient and proper, to meet the wish of the appellant or his attorney or other authorized representative.

(2) If the appellant requests an oral argument, the examiner who issued the refusal of registration or the requirement from which the appeal is taken, or in lieu thereof another examiner from the same examining division as designated by the supervisory attorney thereof, shall present an oral argument. If no request for an oral hearing is made by the appellant, the appeal will be decided on the record and briefs.

(3) Oral argument will be limited to twenty minutes by the appellant and ten minutes by the examiner. The appellant may reserve part of the time allowed for oral argument to present a rebuttal argument.

(f)(1) If, during an appeal from a refusal of registration, it appears to the Trademark Trial and Appeal Board that an issue not previously raised may render the mark of the appellant unregistrable, the Board may suspend the appeal and remand the application to the examiner for further examination to be completed within thirty days.

(2) If the further examination does not result in an additional ground for refusal of registration, the examiner shall promptly return the application to the Board, for resumption of the appeal, with a written statement that further examination did not result in an additional ground for refusal of registration.

(3) If the further examination does result in an additional ground for refusal of registration, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, 2.63 and 2.64. If the ground for refusal is made final, the examiner shall return the application to the Board, which shall thereupon issue an order allowing the appellant sixty days from the date of the order to file a supplemental brief limited to the additional ground for the refusal of registration. If the supplemental brief is not filed by the appellant within the time allowed, the appeal may be dismissed.

(4) If the supplemental brief of the appellant is filed, the examiner shall, within sixty days after the supplemental brief of the appellant is sent to the examiner, file with the Board a written brief answering the supplemental brief of appellant and shall mail a copy of the brief to the appellant. The appellant may file a reply brief within twenty days from the date of mailing of the brief of the examiner.

(5) If an oral hearing on the appeal had been requested prior to the remand of the application but not yet held, an oral hearing will be set and heard as provided in paragraph (e) of this section. If an oral hearing had been held prior to the remand or had not been previously requested by the appellant, an oral hearing may be requested by the appellant by a separate notice filed not later than ten days after the due date for a reply brief on the additional ground for refusal of registration. If the appellant files a request for an oral hearing, one will be set and heard as provided in paragraph (e) of this section.

(g) An application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under section 6 of the Act of 1946 or upon order of the Commissioner, but a petition to the Commissioner to reopen an application will be considered only upon a showing of sufficient cause for consideration of any matter not already adjudicated.

37. Section 2.146 is revised to read as follows:

§ 2.146 Petitions to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any repeated or final formal requirement of the examiner in the ex parte prosecution of an application if permitted by § 2.63(b); (2) in any case for which the Act of 1946, or Title 35 of the United States Code, or this Part of Title 37 of the Code of Federal Regulations specifies that the matter is to be determined directly or reviewed by the Commissioner; (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances; (4) in any case not specifically defined and provided for by this part of Title 37 of the Code of Federal Regulations; (5) in an extraordinary situation, when justice requires and no other party is injured thereby, to request a suspension or waiver of any requirement of the rules not being a requirement of the Act of 1946.

(b) Questions of substance arising during the ex parte prosecution of applications, including, but not limited to, questions arising under sections 2, 3, 4, 5, 6 and 23 of the Act of 1946, are not considered to be appropriate subject matter for petitions to the Commissioner.

(c) Every petition to the Commissioner shall include a statement of the facts relevant to the petition, the points to be reviewed, the action or relief that is requested, and the requisite fee (see § 2.6). Any brief in support of the petition shall be embodied in or accompany the petition. When facts are to be proved in ex parte cases (as in a petition to revive an abandoned application), the proof in the form of affidavits or declarations in accordance with § 2.20, and any exhibits, shall accompany the petition.

(d) A petition on any matter not otherwise specifically provided for shall be filed within sixty days from the date of mailing of the action from which relief is requested.

(e)(1) A petition from the denial of a request for an extension of time to file a notice of opposition shall be filed within fifteen days from the date of mailing of the denial of the request and shall be served on the attorney or other authorized representative of the applicant, if any, or on the applicant. Proof of service of the petition shall be made as provided by § 2.119(a). The applicant may file a response within fifteen days from the date of service of the petition and shall serve a copy of the response on the petitioner, with proof of service as provided by § 2.119(a). No further paper relating to the petition shall be filed.

(2) A petition from an interlocutory order of the Trademark Trial and Appeal Board shall be filed within thirty days after the date of mailing of the order from which relief is requested. Any brief in response to the petition shall be filed, with any supporting exhibits, within fifteen days from the date of service of the petition. Petitions and responses to petitions, and any papers accompanying a petition or response, under this subsection shall be served on every adverse party pursuant to § 2.119(a).

(f) An oral hearing will not be held on a petition except when considered necessary by the Commissioner.

(g) The mere filing of a petition to the Commissioner will not act as a stay in any appeal or inter partes proceeding that is pending before the Trademark Trial and Appeal Board nor stay the period for replying to an Office action in an application except when a stay is specifically requested and is granted or when §§ 2.63(b) and 2.65 are applicable to an ex parte application.

(h) Authority to act on petitions, or on any petition, may be delegated by the Commissioner.

§ 2.147 [Removed]

38. Section 2.147 is removed.

39. Section 2.165 is revised to read as follows:

§ 2.165 Reconsideration of affidavit or declaration.

(a)(1) If the affidavit or declaration filed pursuant to § 2.162 is insufficient or defective, the affidavit or declaration will be refused and the registrant will be notified of the reason. Reconsideration of the refusal may be requested within six months from the date of the mailing of the action. The request for reconsideration must state the grounds for the request. A supplemental or substitute affidavit or declaration required by section 8 of the Act of 1946 cannot be considered unless it is filed before the expiration of six years from the date of the registration or from the date of publication under section 12(c) of the Act. The certificate of mailing procedure provided by § 1.8 does not apply to affidavits or declarations or to supplemental or substitute affidavits or declarations filed under section 8 (a) or (b) of the Act, but the certificate of mailing by "Express Mail" procedure provided by § 1.10 does apply thereto.

(2) A request for reconsideration shall be a condition precedent to a petition to the Commissioner to review the refusal of the affidavit or declaration unless the first action refusing the affidavit or declaration directs the registrant to petition the Commissioner for relief, in which event the petition must be filed within six months from the date of mailing of the action.

(b) If the refusal of the affidavit or declaration is adhered to, the registrant may petition the Commissioner to review the action under § 2.146(a)(2). The petition to the Commissioner requesting review of the action adhering to the refusal of the affidavit or declaration must be filed within six months from the date of mailing of the action which denied reconsideration.

(c) The decision of the Commissioner on the petition will constitute the final action of the Patent and Trademark Office. If there is no petition to the Commissoner, the Commissioner will notify the registrant of the refusal of the affidavit or declaration after the expiration of six years from the date of registration or from the date of publication under section 12(c) of the Act of 1946, and such notice will constitute the final action of the Office.

(d) A petition to the Commissioner for review of the action shall be a condition precedent to an appeal to or action for review by any court.

40. Section 2.173 is amended by revising paragraph (b) to read as follows:

§ 2.173 Amendment; disclaimer in part.

* * * * *

(b) No amendment in the identification of goods or services in a registration will be permitted except to restrict the identification or otherwise to change it in ways that would not require republication of the mark. No amendment seeking the elimination of a disclaimer will be permitted.

* * * * *

41. Section 2.184 is revised to read as follows:

§ 2.184 Refusal of renewal.

(a) If the application for renewal is incomplete or defective, the renewal will be refused. The application may be completed or amended in response to a refusal, subject to the provisions of § 2.183. If a response to a refusal of renewal is not filed within six months from the date of mailing of the action, the application for renewal will be considered abandoned. A request to reconsider a refusal of renewal shall be a condition precedent to a petition to the Commissioner to review the refusal of renewal.

(b) If the refusal of renewal is adhered to, the registrant may petition the Commissioner to review the action under § 2.146(a)(2). The petition to the Commissioner requesting review of the action adhering to the refusal of the renewal must be filed within six months from the date of mailing of the action which adhered to the refusal. If a timely petition to the Commissioner is not filed, the application for renewal will be considered abandoned.

(c) The decision of the Commissioner on the petition will constitute the final action of the Patent and Trademark Office.

(d) A petition to the Commissioner for review of the action shall be a condition precedent to an appeal to or action for review by any court.

42. Section 2.186 is revised to read as follows:

§ 2.186 Action may be taken by assignee of record.

Any action with respect to an assigned application or registration which may or must be taken by a registrant or applicant may be taken by the assignee provided that the assignment has been recorded.

Dated: April 26, 1983.

Donald J. Quigg,

Deputy Commissioner of Patents and Trademarks.

[FR Doc. 83-13500 Filed 5-20-83; 8:45 am]
BILLING CODE 3510-16-M

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 30422-84]

Revision of Foreign Filing License Procedure

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to revise the rules of practice in patent cases to establish a streamlined procedure for granting a license for foreign filing. The term "transmitting" as used in the proposed rules would include transmittal of technical data to a foreign country for purposes of filing a patent application. The proposed rules also specify the content of a petition for retroactive license. The proposed changes would simplify the obtaining of foreign filing licenses for amendments, modifications, and supplements and would result in reduced work for both patent applicants and the Patent and Trademark Office. At the same time, national security protections would be strengthened.

DATES: Comments must be submitted on or before July 20, 1983; a public hearing will be held July 20, 1983; requests to present oral testimony should be received prior to July 13, 1983.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks; Attention: Kenneth L. Cage, Special Laws Administration, Group 220, Room 4–10D17, Washington, D.C. 20231. The hearing will be held in Room 3–11C24 of Building 3, Crystal Plaza, located at 2021 Jefferson Davis Highway, Arlington, VA. Written comments and transcripts of the public hearing will be available for public inspection in Room 3–11A13 of Building 3, Crystal Plaza.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Cage by telephone at (703) 557–2877 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Under the present procedures, all licenses for foreign filing of a patent application have the same scope, as set forth in current § 5.15. The scope of these licenses, as held by the Court in *In re Gaertner*, 202 USPQ 714 (C.C.P.A. 1979), does not include amendments and modifications of an application which contain additional subject matter.

Under the proposed rules, there would be two types of licenses of differing scope for foreign filing. The first type under § 5.15(a), the grant of which would be indicated on the filing receipt in accordance with § 5.12(a) published at 48 FR 2696, would permit the transmittal for filing of the application and of any amendments or modifications to the application in a foreign country, even if "additional subject matter" were introduced into the foreign application provided the subject matter did not change the general nature of the subject matter disclosed and did not pertain to certain categories of potentially sensitive material which are set forth in proposed § 5.15(a) (1)–(5). This scope of license under § 5.15(a) would also be granted under § 5.12(b) pursuant to § 5.13 petition, if the § 5.15(a) scope of license is indicated on the license grant.

The second type of license under § 5.15(b) would be limited in scope to the original subject matter disclosed at the time the license was granted and would not cover "additional subject matter" as the phrase is currently interpreted (*In re Gaertner*, 202 USPQ 714 (C.C.P.A. 1979)). The licenses under §§ 5.12(b), 5.13, and 5.14 would be of the same scope as those granted under present practice unless a § 5.15(a) license is indicated on the license grant. If a petition for a license under § 5.12(b) is granted prior to the grant of the § 5.12(a) filing receipt licenses, the former would merge into the latter and would be considered a § 5.12(a) license for the purpose of proposed § 5.15.

A new § 5.20 is proposed which would set forth in the regulations the requirements to be met for the granting of a retroactive license. The proposed requirements include (1) a list of the foreign countries which received the information; (2) the date(s) of transmittal; (3) an oath or declaration which avers to (i) the non-sensitive nature of the material, (ii) a showing of diligence in attempting to obtain the license upon discovery of the error, and (iii) a showing of facts which support a conclusion of inadvertence; and (4) the required fee. The section as proposed also provides in paragraph (b) for review from a denial of a petition for a retroactive license.

A revised § 5.11(a) is proposed which would set forth in the regulations a requirement that a license from the Commissioner of Patents and Trademarks is required before transmitting an application to a foreign country, if the United States application has not been on file for six months, or no application has been filed in the United States. This proposed rule change would more accurately reflect the intent of the statutes and make the rules more closely conform with the regulations of other agencies which deal with the export of technical data to a foreign country. The proposed change requiring a license before transmitting an application to a foreign country is not intended to interpret the language in 35 U.S.C. 184 "file or cause or authorize to be filed" as necessarily requiring a license before an application is transmitted to a foreign country. Further, the proposed change is not intended to imply that every transmission within six months of U.S. filing without a license is prohibited under the existing regulations, such as where an application has been transmitted to a foreign agent without an authorization to file a foreign application. The proposed regulations are intended to change existing practice by requiring a license in all situations to transmit an application abroad. This change is proposed under the authority of 35 U.S.C. 6 to assure adequate protection of sensitive material under title 35 and to provide for consistency with the Arms Control Act and the Export Administration Act and their implementing regulations.

A revised § 5.11(b) is proposed which would state that applications under secrecy order under § 5.2 cannot be transmitted or filed in a foreign country except in accordance with § 5.5.

A revised § 5.11(c) is proposed which would state that a license pursuant to paragraph (a) is not required where the invention is not made in the United States, or the U.S. application was on file for six months withour a secrecy order being issued.

A new § 5.11(d) is proposed which would state that a license for foreign filing may be revoked at any time upon written notice.

Sections 5.1, 5.12(b), 5.13, 5.14, 5.15 and 5.17, as proposed are revised to conform to the § 5.11 requirement of a license for transmittal of an application to a foreign country.

Finally, §§ 5.12(b), 5.13, 5.14, 5.15, and 1.17, as proposed, also would refer to the new fees for these services.

Discussion of Specific Sections Proposed To Be Changed

Section 1.17(h) is proposed to be amended to include a specific reference to § 5.20 petitions for retroactive licenses for which the petition fee is charged, rather than having the present retroactive license fee under § 1.182 petitions. The fee for § 5.12(b) licenses is new and is for special handling of these license request.

Section 5.1, as proposed, would reflect the proposed § 5.11 license requirement for transmittal to a foreign country.

Section 5.11, as proposed, would require a license for transmitting an application to a foreign country for filing if the U.S. application has not been on file for at least six months prior to the date of transmittal, or no application has been filed in the United States. This will enable the Patent and Trademark Office to better exercise the export control functions set forth in §§ 5.18 and 5.19 established in accordance with 35 U.S.C. 184, the Arms Control Act of 1977 and the Export Administration Act of 1979, respectively.

Under these Acts, the export of technical data is the activity to be controlled. Proposed § 5.11(a) controls export activity by requiring a license for transmittal of technical data in connection with foreign filing of an application and to that extent implements the Arms Control Act and the Export Administration Act. If a license as required by proposed § 5.11 is obtained under §§ 5.12, 5.13 or 5.14, no license for the export of technical data to a foreign country in connection with a patent application is required under the Export Administration Act of 1979 or the Arms Control Act of 1977. It is emphasized that the scope of the license for transmittal of technical data is limited to transmitting an application for foreign filing and does not include selling or using the technical data in a foreign country. These latter acts continue to require separate licenses under the Export Administration Act and the Arms Control Act.

Also, the transmittal of technical data in any form to a foreign country for purposes other than filing or supporting the filing of a patent application or consideration whether a patent application should be filed is not controlled by title 35 United States Code or the exiting or proposed regulations in Part 5. The transmittal of data to a foreign country in such cases would be subject to other laws and regulations such as the export and arms control regulations.

Section 5.11(b), as proposed, states that an application cannot be transmitted to a foreign country when the corresponding United States application is under secrecy order except under § 5.5.

Section 5.11(c), as proposed, states that no license is required if the invention was not made in the United States, or the application was on file in the United States at least six months and is not under a secrecy order issued under § 5.2.

Section 5.11(d), as proposed, states that any license for foreign filing may be revoked at any time by written notification.

Section 5.12(b), as proposed, would refer to the license fee under proposed § 1.17(h).

Section 5.13, as proposed, would refer to the fee under proposed § 1.17(h) for a petition for license where no corresponding national or international application has been filed in the United States.

Section 5.14(a), as proposed, would indicate that petitions under this section require a fee as set forth in proposed § 1.17(h).

The other changes make grammatical corrections and would not alter the intent of the section.

Section 5.14(c), as proposed, would reflect the proposed § 5.11 license requirement for transmittal to a foreign country.

Section 5.15, as proposed, would change the scope of licenses granted under § 5.12(a). Paragraph (a) of § 5.15 defines the scope of licenses to be granted under § 5.12(a), the granting of which is indicated on the filing receipt. This license permits transmitting corresponding subject matter in the application to any foreign country for filing and any amendments, modifications, and supplements, including divisions, changes or supporting matter consisting of the illustration, exemplification or explanation of subject matter disclosed in the application. This includes new matter which does not change the general nature of subject matter disclosed and does not pertain to certain prohibited subjects or areas listed on various export restriction lists. These lists are established by the Department of State, the Department of Commerce, the Departmenmt of Energy, and various executive orders and statutes.

These changes also permit an applicant to take action in the prosecution of the foreign or international application and submit supporting data such as affidavits, test data or the like as long as it directly relates to the application and does not pertain to the prohibited subjects or areas enumerated in § 5.15(a).

New paragraph (b) of § 5.15, as proposed, would define the scope of a license granted under § 5.12(b) to be the same as a license granted under the provisions of present § 5.15. The existing prohibition against the filing of "subject matter additional to that covered by the license" is being continued. Accordingly, court interpretations of this language would still apply. Only the scope of a § 5.12(a) license would be different from foreign filing licenses which have been granted in the past. Subject matter listed in § 5.15(a)(1)–(a)(5) would require an additional license, regardless of which provision authorized the original license grant.

New paragraph (c) of § 5.15, as proposed, would define the scope of a license granted pursuant of § 5.13 to be of the same scope as a paragraph (a) license, if it is indicated on the license grant.

New paragraph (d) of § 5.15, as proposed, would provide for a reorganization of paragraphs with no significant change in substance.

New paragraph (e) of § 5.15, as proposed, would recite the situations in which a license would be required to file any amendment or other papers abroad. Amendments to applications under both types of licenses are covered. Any amendment to an application licensed under proposed § 512(a) requires a separate license only if it pertains to specifically identified areas or subjects. Any amendment to an application licensed under § 5.12(b) requires a separate license if the amendment discloses additional subject matter.

Paragraph (f) of § 5.15, as proposed, would set forth the licensing requirements for combining or dividing applications. If any of the applications have not been licensed under § 5.12(a), then any additional subject matter must be separately licensed. If all of the applications have been licensed under § 512(a), then only subject matter listed in paragraph 5.15 (a)(1)–(a)(5) need be separately licensed.

Paragraph (g) of § 5.15, as proposed, would include a reference to the section dealing with the requirements for a petition for a retroactive license.

Section 5.17, as proposed, would include the transmittal requirement of proposed § 5.11 in the use of a license.

Section 5.20, as proposed, is new and would set forth the requirements for seeking a retroactive license.

New § 5.20(a) requires identification of the subject matter which is to be licensed as in §§ 5.13 or 5.14. New § 5.20 (a)(1) and (a)(2) identify the specific proscribed transmittal for filing for which the license is made retroactive. New § 5.20(a)(3) provides for the specific showing of inadvertence. New § 5.20(a)(4) refers to the required fee. New § 5.20(b) provides for time periods to renew petitions that have been denied, and procedures to be followed after denial of a renewed petition.

Section 5.23, as proposed, would reflect the new organizational title.

Environmental, energy, and other considerations: The proposed rule

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change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The proposed rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96-354) for several reasons. Under this proposed rulemaking, small entities would be able to obtain licenses without filing separate requests therefor. In general, the rule change will also expedite proceedings before the Patent and Trademark Office, changing existing procedures where they can be simplified.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increases in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule change would not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3401 *et seq.*, since no additional recordkeeping or reporting requirements are placed on the public.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Lawyers, Small businesses.

37 CFR Part 5

Classified information, Foreign relations, Inventions and patents.

Proposed Amendment of Regulations

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below.

It is proposed to amend 37 CFR, Parts 1 and 5 as follows, with deletions indicated by brackets and additions by arrows:

PART 1—[AMENDED]

1. Section 1.17 is proposed to be amended by revising paragraph (h) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) For filing a petition to the Commissioner under a section of ►Part 1 or 5◄ [this part] listed below which refers to this paragraph, $120.00.

—§ 1.47—for filing by other than all the inventors or a person not the inventor
—§ 1.48—for correction of inventorship
—§ 1.182—for decision on questions not specifically provided for
—§ 1.183—to suspend the rules
—§ 1.288—for late filing of interference settlement agreement
►—§§ 5.13 and 5.14—for special handling of foreign filing license
—§ 5.20—for retroactive license◄

PART 5—[AMENDED]

2. Section 5.1 is proposed to be amended by revising paragraph (a) to read as follows:

§ 5.1 Defense inspection of certain applications.

(a) The provisions of this part shall apply to both national and international applications filed in the Patent and Trademark Office and, with respect to inventions made in the United States, to applications filed in any foreign country or any international authority other than the United States Receiving Office. The

(1) ►transmittal for◄ filing of a national or an international application in a foreign country or with an international authority other than the United States Receiving Office, or

(2) transmittal of an international application to a foreign agency or an international authority other than the United States Receiving Office is considered to be a foreign filing within the meaning of Chapter 17 of Title 35, United States Code.

* * * * *

3. The center heading preceding § 5.11 and § 5.11 are proposed to be amended by revising the center heading and paragraphs (a), (b), and (c), and adding new paragraph (d) to read as follows:

Licenses for Foreign ►Transmittal or◄ Filing

§ 5.11 License for ►transmitting◄ [filing] application ►on an invention made in the United States to a◄ [in] foreign country [or for transmitting international applications].

(a) [When no secrecy order has been issued under § 5.2, a] ►A◄ license from the Commissioner of Patents and Trademarks [under 35 U.S.C. 184] is required before [filing] any application for patent or for the registration of a utility model, industrial design, or model [, in a foreign country, or transmitting an international application to any foreign patent agency or any international agency other than the United States Receiving Office, or causing or authorizing such filing or transmittal, with respect to] ►on◄ an invention made in the United States ►can be transmitted to a foreign country (including an international agency in a foreign country) for filing if:

(1) An application on the invention has been on file in the United States less than six months prior to the date on which the application is to be transmitted, or

(2) No application on the invention has been field in the United States.

The license from the Commissioner of Patents and Trademarks referred to in this paragraph would be issued pursuant to, and meet the requirements of, 35 U.S.C. 184 and §§ 5.18 and 5.19 of this part. ◄[, if:

(1) The foreign application is to be filed or its filing caused or authorized before a national or international application for patent is filed in the United States, or

(2) The foreign application is to be filed, or its filing caused or authorized, or the transmittal of the international application is caused or authorized, prior to the expiration of six months from the filing of the application in the United States.]

(b) ►If a secrecy order has been issued under § 5.2, an application cannot be transmitted to, or filed in, a foreign country (including an international agency in a foreign country), except in accordance with §5.5.◄ [When there is no secrecy order in effect, a license under 35 U.S.C. 184 is not required if:

(1) The invention was not made in the United States, or

(2) The foreign application is to be filed or the international application is to be transmitted, or its filing or transmittal caused or authorized, after the expiration of six months from the filing of the national application in the United States.]

(c) ►No license pursuant to paragraph (a) of this section is required if:

(1) the invention was not made in the United States, or

(2) the United States application is not subject to a secrecy order under § 5.2, and was filed at least six months prior to the date on which the application is transmitted to a foreign country.◄ [When a secrecy order has been issued under § 5.2, an application cannot be filed in a foreign country, nor can an international application be transmitted to any agency other than the United States Receiving Office except in accordance with § 5.5.]

►(d) A license pursuant to paragraph (a) of this section can be revoked at any time upon written notification by the Patent and Trademark Office.◄

4. Section 5.12 is proposed to be amended by revising paragraph (b) to read as follows:

§ 5.12 Petition for license.

* * * * *

(b) Petitions for license under 35 U.S.C. 184 should be presented in letter form and [should] ►must◄ include ►any required fee,◄ petitioner's address, and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner.

5. Section 5.13 is proposed to be revised to read as follows:

§ 5.13 Petition for license; no corresponding application.

►If◄ [Where there is] no corresponding national or international application ►has been filed in the United States◄ , the petition for license ►under § 5.12(b)◄ must be accompanied by ►any required fee (§ 1.17(h)) and◄ a legible copy of the material upon which ►a◄ license is desired. This copy will be retained as a measure of the license granted. For assistance in the identification of the subject matter of each license so issued, it is suggested that the petition or requesting letter be submitted in duplicate and provide a title and other description of the material. The duplicate copy of the petition will be returned with the license or other action on the petition. [Where an international application is being filed in the United States Receiving Office, the petition may accompany the international application.]

6. Section 5.14 is proposed to be amended by revising paragraphs (a) and (c) to read as follows:

§ 5.14 Petition for license; corresponding U.S. application.

(a) Where there is a corresponding United States application on file ►a◄ [the] petition for license ►under § 5.12(b) must include any required fee (§ 1.17(h)) and◄ must identify this application by serial number, filing date, inventor, and title, ►but◄ [and] a copy of the material upon which the license is desired is not required. The subject matter licensed will be measured by the disclosure of the United States application. Where the title is not descriptive, and the subject matter is clearly of no interest from a security standpoint, time may be saved by a short statement in the petition as to the nature of the invention.

* * * * *

(c) where the application to be [filed or] transmitted abroad ►for filing◄ contains matter not disclosed in the United States application or applications, including the case where the combining of two or more United States applications introduces subject matter not disclosed in any of them, a copy of the application as it is to be ►transmitted for filing◄ [filed] in the foreign country or international application ►as it◄ [which] is to be transmitted to a foreign international or national agency [as it is to be filed] ►for filing◄ in the Receiving Office must be furnished with the petition. If, however, all new matter in the foreign or international application to be ►transmitted◄ [filed] is readily identifiable, the new matter may be submitted in detail and the remainder by reference to the pertinent United States application or applications.

7. Section 5.15 is proposed to be amended by revising paragraph (a), redesignating paragraphs (b), and (c) as paragraphs (f) and (g) and revising new paragraphs(f) and (g) and adding new paragraphs (b), (c), (d), and (e) to read as follows:

§ 5.15 Scope of license.

(a) [A] ►Grant of a◄ license ►under § 5.12(a) authorizes the transmittal of◄ [to file] an application ►to◄ [in] a foreign country or [transmit] ►the transmittal of◄ an international application to any foreign ►patent agency◄ or international ►patent ◄agency [other that the United States Receiving Office, when granted.] ►where the subject matter of the foreign or international application corresponds to that of the domestic application. Further, this license◄ includes authority to forward all duplicate and formal papers to the foreign country or international agencies and to make amendments ►, modifications and supplements, including new matter which does not change the general nature of the subject matter disclosed, at the time of transmittal, or later, ◄and► to◄ take any action in the prosecution of the foreign or international application [.] ►unless the paper, modification, amendment, supplemnt of action involves subject matter pertaining to:

(1) Defense services or articles designated in the United States Munitions List applicable at the time of filing, the unlicensed exportation of which is prohibited pursuant to the Arms Export Control Act of 1977;

(2) Restricted Data, sensitive nuclear technology or technlogy useful in the production or utilization of special nuclear material or atomic energy, the dissemination of which is subject to restrictions of the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as implemented by the Regulations for unclassified Activities in Foreign Atomic Energy Programs;

(3) Articles, materials and supplies, the export of which is prohibited or restricted pursuant to the Export Administration Act of 1979, as implemented by the Export Administration Regulatons;

(4) Information subject to classification in accordance with executive orders protecting national security information from disclosure; or

(5) Information, the dissemination, disclosure or exportation of which is restricted by a statute, regulation or executive order which amends or supersedes any of paragraphs (a)(1)–(4) of this section.◄ [Provided subject matter additional to that covered by the license is not involved. In those cases in which no license is required to file the foreign application or transmit the international application, no license is required to file papers in connection with the prosecution of the foreign or international application not involving the disclosure of additional subject matter. Any paper filed abroad or with an international agency following the filing of a foreign or international application which involves the disclosure of additional subject matter must be separately licensed in the same manner as a foreign or international application.]

►(b) Grant of a license under § 5.12(b) authorizes the transmittal of an application to a foreign country or the transmittal of an international application to any foreign patent agency or international patent agency. Further, this license includes authority to forward all duplicate and formal papers to the foreign patent agency or international patent agency and to make amendments, modifications or supplements to and take any action in the prosecution of the foreign or international application, provided subject matter additional to that covered by the license is not involved.

(c) Grant of a license under § 5.12(b) pursuant to § 5.13 shall have the same scope of a license granted in paragraph (a) of this section, if it is so specified in the license.

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(d) In those cases in which no license is required to transmit the foreign application or the international application, no license is required to transmit papers in connection with the prosecution of the foreign or international application not involving the disclosure of additional subject matter.

(e) Any paper transmitted abroad or to an international patent agency following the transmittal of a foreign or international application which involves the disclosure of subject matter listed in paragraphs (a)(1)–(a)(5) of this section must be separately licensed in the same manner as a foreign or international application. Further, if no license has been granted under § 5.12(a) on filing the corresponding United States application, any paper filed abroad or with an international patent agency which involves the disclosure of additional subject matter must be licensed in the same manner as a foreign or international application.◄

►(f)◄ [(b)] Licenses separately granted in connection with two or more United States applications may be exercised by combining or dividing the disclosures, as desired, provided►:

(1) Subject matter listed in paragraph (a)(1)–(a)(5) of this section is not introduced and,

(2) In the case where at least one of the licenses was obtained under § 5.12(b),◄ additional subject matter is not introduced.

►◄ [(c)] A license does not apply to acts done before the license was granted unless the petition specifically requests and describes the particular acts and the license is worded to apply to such acts.►See § 5.20.◄

8. Section 5.17 is proposed to be revised to read as follows:

§ 5.17 Who may use license.

Licenses may be used by anyone interested in the ►transmitting for◄ foreign filing or international transmittal for or on behalf of the inventor or the inventor's assigns.

9. A new § 5.20 is proposed to be added to read as follows:

►§ 5.20 Petition for retroactive license.

(a) A petition for retroactive license under 35 U.S.C. 184 shall be presented in accordance with § 5.13 or § 5.14, and shall include:

(1) A listing of the foreign countries to which the patent application material was transmitted,

(2) The dates on which the material was transmitted,

(3) A verified statement containing:

(i) An averment that the subject matter in question was not under a secrecy order at the time it was transmitted and filed abroad, and that is is not currently under a secrecy order,

(ii) A showing that the license has been diligently sought after discovery of the proscribed transmittal and foreign filing, and

(iii) An explanation of why the material was inadvertently transmitted and filed broad without the required license under § 5.11 first having been obtained, and

(4) The required fee (§ 1.17(h)).

The above explanation must include a showing of facts from which a conclusion of inadvertence may be drawn rather than a mere allegation of inadvertence. The showing of facts should include statements by those persons having personal knowledge of the acts regarding transmitting and filing in a foreign country and should be accompanied by copies of any necessary supporting documents such as letters of transmittal or instructions for filing. The acts which are alleged to constitute inadvertence should cover the period from the time of transmission until actual filing of the petition under this section.

(b) If a petition for a retroactive license is denied, a time period of not less than thirty days shall be set, during which the petition may be renewed. Failure to renew the petition within the set time period will result in a final denial of the petition. If a renewed petition is denied, the denial is final unless recourse be had under § 1.181 within two months of the date of the denial. If the petition for a retroactive license is denied with respect to the invention of a pending application and no petition under § 1.181 has been filed, a final rejection of the application under 35 U.S.C. 185 will be made.◄

10. Section 5.23 is proposed to be revised to read as follows:

§ 5.23 Correspondence.

All correspondence in connection with this part, including petitions, should be addressed to "Commissioner of Patents and Trademarks (Attention ►Licensing and Review◄ [Patent Security Division]), Washington, D.C. 20231."

Dated: May 18, 1983.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 83-13810 Filed 5-20-83; 8:45 am]

BILLING CODE 3510-16

federal register

Monday
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Part VIII

Department of Education

Student Assistance General Provisions

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DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes a new definition of an independent student. Over the past several years, as the definition of an independent student has been liberalized, the number of independent students has increased. This increase has raised a question of equity in the distribution of funds. The new proposed definition of an independent student includes a more stringent definition for some students. It is intended that the new definition will result in a reemphasis of the traditional premise of student aid that the student and/or his or her parents have the main responsibility for financing the cost of postsecondary education.

DATE: Comments must be received on or before July 7, 1983.

ADDRESS: Comments should be addressed to Mr. Brian Kerrigan, Basic Grant Policy Section, Office of Student Financial Assistance, U.S. Department of Education, Room 4318, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: David Morgan or Deborah Cohen, (202) 472–4300.

SUPPLEMENTARY INFORMATION: In the 1976–77 award year, when half-time students became eligible to participate in the Pell Grant Program, 38 percent of the eligible Pell Grant applicants filed as independent students. Since then, the percentage of eligible independent applicants has steadily increased, with 1981–82 estimates indicating that independent students will comprise 42–46 percent of the eligible Pell Grant applicant pool. A similar trend exists in the other aid programs. In addition, there is concern about both the legitimacy and ramifications of many claims of independency.

The Department of Education published a comprehensive analysis of the independent student issue in the December, 1981 *OSFA Bulletin*, and requested comments from the financial aid community. That analysis elicited a wide range of suggestions from members of the community, and almost all of them requested a more stringent definition. From those suggestions three concepts were frequently repeated:

1. The use of age as a criterion for determining automatic dependency. Those suggestions focused on a specific age or on the use of four years of elapsed time after high school graduation. Advocates of automatic dependency expressed a concern for an equitable distribution of a limited amount of funds. Parents who are able to contribute to a student's education are expected to contribute at least until the student reaches the age of twenty-two.

2. An emphasis on using prior year data to determine dependency, rather than estimated information. Many commenters suggested extending the current criteria to one or two years before the base year. (The base year for the 1984–85 award year would be 1983.)

3. A distinction between undergraduate and graduate students. Many commenters thought that parents should not be automatically responsible for financing the student's cost for graduate study merely becaue they supported the student as an undergraduate. Such a presumption of dependency is often made when there is an emphasis on data from prior years.

The Secretary has incorporated many of these concepts in his proposal to change the definition of the independent student. Under this proposal, for award year 1984–85, a non-veteran, unmarried student who does not have any dependents of his or her own would be deemed to be dependent if he or she is not at least twenty-two years old on December 31, 1983, and the student received or will receive more than $750 from the parents, was claimed or will be claimed as a dependent for Federal income tax purposes by the parent(s), or lived or will live for more than six weeks in the home of the parent(s) in any of the three calendar years before, or the first calendar year of, the award year. A non-veteran, unmarried student who is at least 22, or who has dependents, would be dependent if any of the above three criteria affirmatively apply to him or her during either the most recent calendar year before, or the first calendar year of, the award year. As in award years 1982–83 and 1983–84, a married student will be considered dependent if any of the three criteria affirmatively apply to him or her for the first calendar year of an award year only. This rule for married students will also apply to students who are veterans. For the 1984–85 award year, the first calendar year of an award year will be 1984. As in the past, if a student is a ward of the court or both the parents of the student are deceased, the student would automatically be independent.

The extension of the three traditional criteria to prior years has been favored by many members of the finanical aid community, including the National Association of Student Financial Aid Administrators. This extension also emphasizes the traditional focus of the parental duty of providing for the student's postsecondary education. The state of California currently applies these three dependency criteria to four calendar years for most students under the age of 30 who apply for state-sponsored financial aid programs. However, the California model does not make explicit exceptions for married students or students with dependents.

The Secretary has agreed to the suggestion of many commenters that his extension to prior years should be phased in gradually. The Secretary is phasing in the new definition for these students so that he will not have to go beyond 1982 in determining independence. This assures that a student who begins post-secondary education in award year 1983–84 will not have his or her independent student status changed as a result of events transpiring before 1982.

The current criteria for determining dependency are retained for those students above the age of twenty-two. This separate criteria for students above the age of 22 is proposed because of the widely held view that, while parents should at least finance their children's undergraduate education, they should not be expected continually to pay for their children's schooling. The age of 22 was chosen because most students complete their undergraduate education at this age. Most students are not eighteen years old before the calendar year they graduate from high school. In most cases, a student is expected to complete his or her undergraduate education in four years, therefore, a student who is 22 before the first calendar year of an award year is likely to have completed his or her undergraduate studies. In those instances where the parents help the student through his or her undergraduate studies, a student might retain his or her dependency status for one year beyond the undergraduate level since the dependency criteria apply to the base year and the first calendar year of the award year. However, inclusion of the current dependency criteria for several years prior to the base year would cause a student to retain his or her dependency status *well beyond* the undergraduate level.

The extension of the dependency criteria to prior years does not apply to married students because of the statutory mandate found in section 482(c)(1)(E) of the Higher Education Act of 1965, as amended. That section calls for a determination of a married student's independent status based on the student's relationship with his or her parents in the year of application. For reasons of form design and ease of application, the term "the year of application" has been equated with the term "the first calendar year of the award year." Further, since students with dependents are more often financially independent, regardless of age, compared to unmarried students with no dependents, the same exemption from the age requirement that applies to married students is proposed to apply to students with dependents.

The proposal with regard to veterans is made in cooperation with the Department of Defense and reflects the special circumstances of a veteran. A person who has served in the military has almost always established a history of economic independence from his family for a period of several years, including living away from the parental home. However, the special circumstances of military service (e.g., tours of duty outside of the country) often result in a tendency for the veteran to return home for a brief period to renew family ties once he or she is discharged from the armed services. This situation is not adequately taken into account when the current dependency criteria are applied. Since the veteran would ordinarily have established his independence while in the military, the Secretary believes it would be appropriate to ignore the relationship with his or her parents during a transitional period in determining his independent student status. Thus, in determining whether a veteran is an independent student, the definition proposes to disregard whether the veteran resided with his or her parents or received financial support from them during a one year period immediately following the veteran's date of discharge from active duty.

The definition of an "award year" as the period of time between July 1 of one calendar year and June 30 of the following calendar year already exists in the Pell Grant and campus-based regulations. It is repeated here as a component of the "independent student" definition because it does not currently exist either in the regulations for, or the administration of, the Guaranteed Student Loan or the PLUS program. The term is needed in the proposed "independent student" definition since one of the dependency criteria applies to students who are twenty-two years old before the first calendar year of an award year. Thus, for the 1984–85 award year, the age criterion would apply to students who were twenty-two before January 1, 1984, i.e., by December 31, 1983.

The proposed regulation refers to dependents as defined in 34 CFR 690.42. Section 690.42, *"Special definitions,* is taken from the proposed 1984–85 Pell Grant Family Contribution Schedule. Currently, the Secretary is proposing alternative regulations for determining the expected family contributions for the 1984–85 award year under the Pell Grant Program.

The proposed definitions of "dependent of the student" as written in § 690.42 under Alternatives A and B are listed below:

Alternative A

A "dependent of the student" means, the student's spouse, and other persons who have been claimed on the 1983 Federal income tax return as a dependent by the student and student's spouse. If the student has not filed a 1983 Federal tax return at the time of application, "dependent of the student" means the student's spouse and other persons who were eligible to be claimed in 1983 by the student and the student's spouse under the Internal Revenue Code of 1954.

Alternative B

A "dependent of the student" means—

(a) The student's spouse (unless separated or divorced from the student).

(b) Any of the student's or spouse's children who are deemed to be dependent students (with respect to the student or spouse) when filing for title IV aid.

(c) Other dependent children of the student or spouse, and

(d) Other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than half of their support from the student or spouse for the 1984–85 award year.

The Secretary will include in the final regulation for the 1984–85 Family Contribution Schedule, a definition based on one of these alternatives. That final definition in 34 CFR 690.42 will be the one referred to in the final independent student regulation, which will apply to all student financial assistance programs (except for the State Student Incentive Grant Program), authorized by title IV of the Higher Education Act of 1965, as amended.

Executive Order 12291: These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations revise the definition of an independent student for the title IV student financial aid programs. The definition is used in determining a student's eligibility for financial assistance. The regulations will not have an impact on small entities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, ROB–3, 7th and D Streets, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Loan programs.education, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalogue of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; Auxiliary Loan Program (PLUS), 84.032; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038; Pell Grant Program, 84.063)

Dated: May 11, 1983.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Part 668 of Title 34 of the Code of Federal Regulations as follows:

1. The table of contents for subpart A is amended by adding a new section to read as folows:

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PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

Subpart A—General 8

Sec.

* * * * *

668.1a Independent Student.

* * * * *

2. A new § 668.1a is added to read as follows:

* * * * *

§ 668.1a Independent Student

(a) An independent student is—

(1) An unmarried student who is not a veteran, and who is not 22 years old before the first calender year of an award year, and who does not have dependents as defined in 34 CFR 690.42, who during the three calender years immediately before, and the first calender year of, an award year—

(i) Has not lived and will not live for more than six weeks in any of those years in the home of the parent(s) for whom income must be reported according to 34 CFR 690.33;

(ii) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to 34 CFR 690.33; and

(iii) Has not received and will not receive financial assistance of more than $750 in any of those years from the parent(s) for whom income must be reported according to 34 CFR 690.33;

(2) An unmarried student who is not a veteran, and who is 22 years old before the first calendar year of an award year, or who is not 22 years old, but has dependents as defined in 34 CFR 690.42, who during the most recent calendar year before, and the first calendar year of, an award year—

(i) Has not lived and will not live for more than six weeks in the home of the parent(s) for whom income must be reported according to 34 CFR 690.33;

(ii) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to 34 CFR 690.33; and

(iii) Has not received and will not receive financial assistance of more than $750 from the parent(s) for whom income must be reported according to 34 CFR 690.33; or

(3) A married student or a veteran who, for the first calendar year of an award year—

(i) Has not lived and will not live for more than six weeks in the home of the parent(s) for whom income must be reported according to 34 CFR 690.33;

(ii) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to 34 CFR 690.33; and

(iii) Has not received and will not receive financial assistance of more than $750 from the parent(s) for whom income must be reported according to 34 CFR 690.33.

(b) However, if both parents have died, or the student has been declared a ward of the court, the student is independent.

(c) Under paragraph (a)(3) of this section, in determining whether a veteran is an independent student, disregard whether the veteran resided with his parents or received financial assistance from them during a one year period immediately following the date the veteran was discharged from active duty from the Armed Services.

(d) An award year is the period of time between July 1 of one calendar year and June 30 of the following calendar year.

(e) A veteran is a person who served on active duty for more than 365 consecutive days in the U.S. Armed Forces and was discharged or released with an honorable discharge.

(f) Paragraph (a)(1) of this section will not become effective until the 1985–86 award year. In 1984–85 an unmarried student who is not a veteran, and is not 22 years old before January 1, 1984, and who does not have dependents as defined in 34 CFR 690.42 is independent if for 1982, 1983, and 1984, he or she—

(1) Has not lived and will not live for more than six weeks in any of those years in the home of the parent(s) for whom income must be reported according to 34 CFR 690.33;

(2) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to 34 CFR 690.33; and

(3) Has not received and will not receive financial assistance of more than $750 in any of those years from the parent(s) for whom income must be reported according to 34 CFR 690.33.

[FR Doc. 83-13222 Filed 5-20-83; 8:45 am]

BILLING CODE 4000-01-M

federal register

Monday
May 23, 1983

Part IX

Department of Commerce

Economic Development Administration

Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act; Interim Rule and Public Works and Development Facilities Program; Interim Rule

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DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 302

Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interm rule.

SUMMARY: This rule amends EDA's Designation of Areas regulation to modify the meaning of "substantial unemployment". This term is now defined as an annual average rate of unemployment equal to or above the national average rate of unemployment during the most recent quarter for which appropriate data is available, instead of as a fixed rate of unemployment. The amendment will not apply to projects authorized prior to May 23, 1983.

DATES: Effective date: May 23, 1983.
Comments by: July 22, 1983.

ADDRESS: Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Walter Archibald, Director, Office of Compliance Review, U.S. Department of Commerce, Economic Development Administration, Room 7325, Washington, D.C. 20230, (202) 377–2710.

SUPPLEMENTARY INFORMATION: EDA is amending its Designation of Areas regulation at 13 CFR Part 302, Subpart A—Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act. The regulation to be amended states one of the conditions which if met enables an area to be designated as a Public Works Impact Area. The amendment defines "substantial unemployment" as an annual average unemployment rate equal to or above the national average unemployment rate during the most recent quarter for which appropriate data is available. This change will assure designation of areas where unemployment is highest.

Because this rule relates to EDA's public works program, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, while the rule will become effective upon publication in interim form, the public will be given an opportunity to comment before it is published in final form.

In accordance with Section 3(c)(3) of Executive Order No. 12291, this rulemaking has been submitted to the Director of the Office of Management and Budget. Since this is a "major rule," a Regulatory Impact Analysis is required.

In accordance with section 8(a)(1) of Executive Order 12291, "Federal Regulation" this regulation is exempt from the procedures precribed by such Order because it responds to an emergency situation. The emergency situation to which this regulation responds is the implementation of Pub. L. 98–8 (97 Stat. 13), the Emergency Jobs Act. Public Law 98–8, enacted on March 24, 1983, is intended to "provide productive employment for hundreds of thousands of jobless Americans". Sections 101 (e) and (f) of Pub. L. 98–8 (97 Stat. 32) provide:

(e) Notwithstanding any other provision of law, the head of each Federal agency to which appropriations are made under this title, with respect to project grants or project contracts in this section, shall expedite final approval of projects * * *. Nothing required by this section shall impede the rapid expenditure of funds under this section.

(f) Notwithstanding any other provisions of law, any agency rulemaking proceeding conducted in order to implement the provisions of this title shall be conducted expeditiously, and in no case shall an agency hearing on the record be required.

The amendment to 13 CFR 302.7, "Designation of public works impact program areas," in concert with an amendment to 13 CFR 305.5, "Supplementary grant rates", will promote the purposes of the Emergency Jobs Act by ensuring a fairer distribution of the limited funds available to EDA under that Act and by ensuring that projects located in areas of relatively greater economic distress, as indicated by unemployment rates, receive a proportionately greater share of Federal funding.

In addition, there are no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

It has been determined by the General Counsel of the Department of Commerce that this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 302

Community development.

Accordingly, EDA revises 13 CFR 302.7(a)(3) as follows:

PART 302—DESIGNATION OF AREAS

§ 302.7 Designation of public works impact program areas.

(a) The Assistant Secretary shall designate communities or neighborhoods defined without regard to political or other subdivisions or boundaries when he determines one of the following conditions has been met.

* * * * *

(3) Substantial unemployment as established by an annual average unemployment rate equal to or more than the national average unemployment rate during the most recent quarter for which appropriate data is available. Notwithstanding, the minimum substantial unemployment rate for designation under this section is fixed at 8.5 percent. This definition of substantial unemployment does not apply to projects authorized prior to May 23, 1983.

* * * * *

(Sec. 701, Pub. L. 89–136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1–105, E.O. 12185, DOC Organization Order 10–4, as amended (40 FR 56702, as amended)

Dated: May 13, 1983.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 83–13953 Filed 5–20–83; 10:33 am]

BILLING CODE 3510–24–M

13 CFR Part 305

Public Works and Development Facilities Program

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends EDA's Public Works and Development Facilities Program regulations. The amendment to 13 CFR 305.5(b)(iv) changes requirements for supplementary grant rates for Public Works Impact Program (PWIP) projects so that such rates will be determined on a graduated basis. This change will not apply to projects authorized prior to May 23, 1983. The amendment to 13 CFR 305.5(e) provides for retention of the highest applicable maximum grant rate in effect between the time of authorization by the Assistant Secretary—the Regional Directors no longer authorize projects—and the time of project approval.

DATES: Effective date: May 23, 1983.
Comments by July 22, 1983.

ADDRESS: Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Walter Archibald, Director, Office of Compliance Review, U.S. Department of Commerce, Economic Development Administration, Room 7019, Washington, D.C. 20230, (202) 377–2710.

SUPPLEMENTARY INFORMATION: EDA is amending its Public Works and Development Facilities Program regulation at 13 CFR Part 305, Subpart A—*Direct and Supplementary Grants for Public Works and Development Facilities.* The regulation to be amended at 13 CFR 305.5(b)(iv) provides for a maximum grant rate of 80 percent for Public Works Impact Program (PWIP) projects in areas designated under Section 401(a)(6) (42 U.S.C. 3161(a)(6)) of the Public Works and Economic Development Act of 1965, as amended which cannot meet the requirements for a 100 percent maximum grant rate under 13 CFR 305.5(b)(3)(ii). The amendment will assure that grant rates for projects authorized on or after May 23, 1983, will be determined on a graduated basis. This change will assure equitable treatment for PWIP grantees. The regulation to be amended at 13 CFR 305.5(e) states that projects are authorized by the Assistant Secretary—not the Regional Directors. Maximum applicable grant rates for the period from project authorization to project approval, are to be applied.

Because this rule relates to EDA's public works program, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553).

In accordance with Section 3(c)(3) of Executive Order No. 12291, this rulemaking has been submitted to the Director of the Office of Management and Budget. Since this is a "major rule," a Regulatory Impact Analysis is required.

In accordance with section 8(a)(1) of Executive Order 12291, "Federal Regulation" this regulation is exempt from the procedures prescribed by such Order because it responds to an emergency situation. The emergency situation to which this regulation responds is the implementation of Pub. L. 98–8 (97 Stat. 13), the Emergency Jobs Act. Pub. L. 98–8, enacted on March 24, 1983, is intended to "provide productive employment for hundreds of thousands of jobless Americans". Sections 101(e) and (f) of Pub. L. 98–8 (97 Stat. 32) provide:

(e) Notwithstanding any other provision of law, the head of each Federal agency to which appropriations are made under this title, with respect to project grants or project contracts in this section, shall expedite final approval of projects * * *. Nothing required by this section shall impede the rapid expenditure of funds under this section.

(f) Notwithstanding any other provisions of law, any agency rulemaking proceeding conducted in order to implement the provisions of this title shall be conducted expeditiously, and in no case shall an agency hearing on the record be required.

The amendment to 13 CFR 305.5, "Supplementary grant rates", in concert with an amendment to 13 CFR 302.7, "Designation of public works impact program areas," will promote the purposes of the Emergency Jobs Act by ensuring a fairer distribution of the limited funds available to EDA under that Act and by ensuring that projects located in areas of relatively greater economic distress, as indicated by unemployment rates, receive a proportionately greater share of Federal funding.

In addition, there are no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

It has been determined by the General Counsel of the Department of Commerce that this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 305

Community development, Community facilities, Grant programs—community development, Indians, Loan programs—community development.

Accordingly, EDA revises 13 CFR 305.5 (b)(3)(iv) and (e) as follows:

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

§ 305.5 Supplementary grant rates.

* * * * *

(b) In determining the amount of supplementary grant assistance, the Assistant Secretary will take into consideration the following factors:

* * * * *

(3) The maximum grant rate of funds granted under authority of title I of the Act for projects in designated areas, determined by relative needs, is as follows:

* * * * *

(iv) Projects located in redevelopment areas designated under section 401(a)(6) of the act but which cannot meet the requirement of paragraph (b)(3)(ii) of this section will be:

(A) The annual average unemployment rate for the preceding 12 months is 12 percent or higher,

(B) The annual average unemployment rate for the preceding 12 months is 10.5 percent to 11.9 percent,

(C) The annual average unemployment rate for the preceding 12 months is 9 percent to 10.4 percent,

(D) The annual average unemployment rate for the preceding 12 months is less than 9 percent,

This amendment will not affect projects authorized prior to May 23, 1983.

* * * * *

(e) Notwithstanding paragraphs (c) and (d) of this section an applicant shall be eligible for the highest applicable maximum grant rate in effect between the time the Assistant Secretary authorizes the application and the time the project is approved.

Authority: (Sec. 701, Pub. L. 89–136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1–105, E.O. 12185, DOC Organization Order 10–4, as amended (40 FR 56702, as amended)

Dated: May 13, 1983.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 83–13954 Filed 5–20–83; 10:33 am]

BILLING CODE 3510–24–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Last Listing May 18, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S.J. Res. 51 / Pub. L. 98–30 Designating May 21, 1983, as "Andrei Sakharov Day". (May 18, 1983; 97 Stat. 190) Price $1.75.

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5-24-83
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federal register

Tuesday
May 24, 1983

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Federal Register
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Executive Order 12422 of May 20, 1983

Level IV of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, in order to place an additional position in level IV of the Executive Schedule, Section 1–101 of Executive Order No. 12154, as amended, is further amended by adding thereto the following new subsection:

"(i) Executive Secretary of the National Security Council.".

Ronald Reagan

THE WHITE HOUSE,
May 20, 1983.

[FR Doc. 83-14096
Filed 5-23-83; 11:03 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212 and 214

Documentary Requirements for Nonimmigrants; Admission of Certain Inadmissible Aliens; Foreign Medical Graduates in Exchange Programs

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule makes a technical amendment in reference to the name change of the "International Communiction Agency" to "United States Information Agency". The rule also requires exchange aliens participating in graduate medical education and training programs to file annual affidavits attesting to their standing in the programs and certifying that they will leave the United States upon completion of their education and training. A new form which includes the affidavit must be submitted to the Service annually and must accompany all extension of stay applications filed by these exchange aliens.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048. For Specific Information: Ron Lindquist, Immigration Examiner, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: This rule changes the name "International Communication Agency" to "United States Information Agency" in paragraphs (c)(2), (c)(9), and (c)(10) of 8 CFR 212.7. The name of the agency was changed by Executive Order 12388 of October 14, 1982.

Additionally, paragraph (j) of 8 CFR 214.2 is revised to provide that an alien in the exchange visitor program who is participating in graduate medical education or training (nonimmigrant admitted temporarily to the United States as defined in section 101(a)(15)(J) of the Immigration and Nationality Act) is required to submit an affidavit to the Service each year attesting to his good standing in the program and that he will return to the country of his nationality or last residence upon completion of the program. This affidavit requirement was added to section 212 (j)(1)(E) of the Immigration and Nationality Act by Pub. L. 97–116, section 5, 95 Stat. 1612, (8 U.S.C. 1182(j)(1)(E)), effective December 29, 1981. The Service has developed Form I–644, Supplementary Statement for Medical Graduate Trainees, which form, containing the affidavit, is required to be filed yearly and also must accompany all requests for extensions of stay in the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the agency name change is a technical correction and the amendment requiring the filing of affidavits by nonimmigrant exchange visitors participating in graduate medical training is mandated by statute.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This order is not a major rule within the definition of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens.

8 CFR Part 214

Administative practice and procedure, Aliens Health professions.

Accordingly, Title 8, Chapter I is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANT; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

§ 212.7 [Amended]

1. In § 212.7, paragraphs (c)(2), (c)(9), and (c)(10) are amended by removing the words "International Communication Agency" and inserting, in their place, the words "United States Information Agency."

PART 214—ADMISSION OF NONIMMIGRANTS

2. In § 214.2, paragraph (j) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(j) *Exchange aliens*—(1) *General.*—(i) "Exchange alien" means a nonimmigrant admitted under section 101(a)(15) (J) of the Act or who acquired such status, or who acquired exchange-visitor status under the United States Information and Education Exchange Act. Any exchange alien coming to the United States as a participant in a program designated under section 101(a)(15)(J) of the Act and accompanying spouse and minor children shall not be admitted without submitting a completely executed Form IAP–66. The spouse and minor children following to join the participant shall not be admitted without a copy of current Form IAP–66 endorsed by the program sponsor indicating the expiration of stay date as shown on Form I–94. Any alien seeking to change nonimmigrant status to exchange visitor status shall file Form I–506 and attach a valid Form IAP–66.

(ii) *Extensions of stay.* The initial admission and extensions of stay of an exchange aliens, spouse, and minor children may be authoried in increments of not more than 12 months, limited to the period specified on Form IAP–66. Exchange aliens shall apply for extensions of stay on current Form IAP–66. Extensions of stay for spouse and children require, as an attachment to Form IAP–66, forms I–94 and names of the applicants, dates and places of birth, passport numbers, issuing countries, and

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expiration dates. Form IAP–66 presented by an exchange alien returning from a temporary absence may be retained for re-entries during the balance of the alien's stay.

(ii) *Readmission.* Any nonimmigrant alien, whose visa is revalidated under 22 CFR 41.125(f)(2) or who is within the purview of that regulation except that the alien's visa has not expired, returning as a nonimmigrant as defined by section 101(a)(15)(J) of the Act shall, if otherwise admissible, be readmitted without Form IAP–66 for the remainder of the initial admission or current extension of stay as shown on the alien's Form I–94.

(iv) *Extension of stay for spouse or child.* When granting an extension of stay, a spouse or child shall be classified under section 101(a)(15)(J) unless the extension of stay is for a purpose other than to accompany the participant. An accompanying spouse or child shall not be granted an extension of stay unless the participant has been granted an extension of stay.

(v) *Employment.* The accompanying spouse and minor children of a participant may accept employment for support (including, but not limited to, customary recreational and cultural activities and related travel) of the accompanying nonparticipating spouse and minor children in the United States if authorized by the Service. Employment shall not be authorized if this income is needed to support the participant. Application to accept employment must be made to the district director having jurisdiction over the place where the participant is residing temporarily. The application for employment does not have to be in writing.

(2) *Special Reporting Requirement.* Each exchange alien participating in a program of graduate medical education or training shall file Form I–644 (Supplementary Statement for Graduate Medical Trainees) annually with the Service attesting to the conditions as specified on the form. The exchange alien shall also submit Form I–644 as an attachment to a completed Form IAP–66 when applying for an extension of stay.

(3) *Alien in Cancelled Programs.* When the approval of an exchange visitor program is withdrawn by the Director of the United States Information Agency, the district director shall send a notice of the withdrawal to each participant in the program and a copy of each such notice shall be sent to the program sponsor. If the exchange visitor is currently engaged in activities authorized by the cancelled program, the participant is authorized to remain in the United States to engage in those activities until expiration of the period of stay previously authorized. The district director shall notify participants in cancelled programs that permission to remain in the United States as an exchange visitor, or extension of stay may be obtained if the participant is accepted in another approved program and a Form IAP–66, executed by the new program sponsor, is submitted. In this case, a release from the sponsor of the cancelled program will not be required

(4) *Eligibility requirements for section 101(a)(15)(J) classification for aliens desiring to participate in programs under which they will receive graduate medical education or training.*—(i) *Requirements.* Any alien coming to the United States as an exchange visitor to participate in a program under which the alien will receive graduate medical education or training, or any alien seeking to change nonimmigrant status to that of an exchange visitor on Form I–506 for that purpose, must have passed parts of I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), and must be competent in oral and written English, and shall submit a completely executed and valid Form IAP–66.

(ii) *Exemptions.* From January 10, 1978 until December 31, 1983, any alien who has come to or seeks to come to the United States as an exchange visitor to participate in an accredited program of graduate medical education or training, or any alien who seeks to change nonimmigrant status for that purpose, may be admitted to participate in such program without regard to the requirements stated in subparagraphs (A) and (B)(ii)(I) of section 212(j)(1) of the Act if a substantial disruption in the health services provided by such program would result from not permitting the alien to participate in the program: *Provided* that the exemption will not increase the total number of aliens then participating in such programs to a level greater than that participating on January 10, 1978.

* * * * *

(Secs. 212 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1181 and 1184)

Dated: May 6, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-13839 Filed 5-23-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 214

Nonimmigrant Classes; Revisions in Regulations Pertaining to Nonimmigrant Students and the Schools Approved for Their Attendance

Correction

In FR Doc. 83–8728 beginning on page 14575 in the issue of Tuesday, April 5 1983 make the following correction:

On page 14592, column one, § 214.3(l)(3), line ten, "§ 214.1(c)" should read "§ 248.1(c)".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 961

Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste

AGENCY: Department of Energy.

ACTION: Final rule; correction.

SUMMARY: On April 18, 1983 the Department of Energy (DOE) published its final rule entitled, "Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste" (48 FR 16590). This notice corrects the definition of "kilowatt hours generated" in the said final rule (48 FR 16600), which inadvertently omitted a phrase from DOE's proposed rule published on February 4, 1983 (48 FR 5458). It also deletes superfluous words inadvertently repeated in Article IV.A.1(a) of the said final rule (48 FR 16601). Additionally, a reference omitted from § 961.11 is inserted.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: W. Michael Kurgan, Deputy Director, Office of Business, Operations and Financial Management, Nuclear Waste Policy Act Project Office, Department of Energy, Room 7B–084, Washington, D.C. 20585, (202) 252–6842.

Issued in Washington, D.C., May 16, 1983.

Hilary J. Rauch,

Director, Procurement & Assistance Management Directorate.

PART 961—[AMENDED]

§ 961.11 [Corrected]

Accordingly, 10 CFR 961.11 is corrected as follows:

1. Immediately following § 961.11, "Text of the contract," "(Approved by the Office of Management and Budget under control number 1091–0260)"

2. Article I, paragraph 13 (48 FR 16600) is corrected to read as follows:

13. The term 'kilowatt hours generated' means electricity generated by nuclear fuel at a civilian nuclear power reactor specified in Appendix A hereto as measured at the output terminals of the turbine generator, including an equivalent amount of electricity for any process heat generated by the reactor and used other than at the reactor.

3. Article IV.A.1(a) (48 FR 16601) is corrected so that the first sentence thereof shall read as follows:

(a) On an annual basis, commencing October 1, 1983, the Purchaser shall provide DOE with information on actual discharges to date and projected discharges for the next ten (10) years in the form and content set forth in Appendix B, annexed hereto and made a part hereof. * * *

[FR Doc. 83-13820 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R–0389]

Credit by Brokers and Dealers; Complete Revision and Simplification of Regulation T

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting a completely revised and simplified Regulation T, credit by brokers and dealers. The new Regulation incorporates changes made in response to comments received on the complete revision of Regulation T as well as proposals previously published and adopted. The 11 accounts currently required to be maintained by brokers and dealers will be consolidated into 7 accounts along functional lines. In addition, the new regulation will facilitate options writing by institutions and permit options clearing agencies to accept, under specified conditions, any underlying security as the required Regulation T deposit. Terminology throughout the new regulation has been conformed to that of modern-day industry usage so that the regulation will henceforth refer to "equity/margin requirement" instead of "maximum loan value/adjusted debit balance."

In response to comments received, the revised Regulation T will permit brokers to maintain more than one account for a customer in two situations. Under the old regulation, a customer's transactions had to be consolidated into a single margin account. Under the new regulation, a clearing broker will be permitted to maintain separate margin accounts for a single person who is introduced by different brokers. Introducing brokers will also be permitted to maintain separate accounts for the same person if the accounts are cleared by different clearing brokers. A separate margin account may also be established for the same person if it is controlled by an investment adviser with discretionary authority.

The new regulation establishes a separate account for arbitrage transactions. This differs in form from the proposed revision, under which arbitrage transactions were to be recorded in the Market Functions Account.

Another difference between the proposed revision and the regulation adopted today is the elimination of the requirement in the Specialists' provision (§ 220.12) that exchanges file monthly reports with the Board disclosing the use of specialist credit. Regulation T currently requires a 25% margin on long and short positions in underlying stock serving as permitted offsets. The new regulation provides for a "good faith" margin in those situations. Specialists will have 7 days to deposit margin instead of the present 5 days in an effort to provide specialists with treatment parallel to that given public customers.

The regulation also takes cognizance of new instruments—securities-exchange-traded options on foreign currency, and options on certificates of deposit and equity stock indices—which were defined to be "securities" for purposes of the Securities Exchange Act of 1934 by Pub. L. 97–303. As has been previously announced (47 FR 47464 Oct. 26, 1982), Board staff is in the process of conducting a special study of the effectiveness, scope and structure of federal regulation of margin requirements. Accordingly, for the present time, the Board has set the margin level of these instruments as the amount specified by the rules of the national securities exchange on which the option is traded, provided that all such rules have been approved by the SEC. This is comparable to action taken in 1981 by the Board with respect to options on exempted debt securities (46 FR 49827 Oct. 8, 1981).

Other changes adopted today that are different from the proposed revision are as follows: (1) Permission to use a convertible or exchangeable security instead of the present 50% margin when the underlying security is sold short in a margin account; (2) permission for the use of convertible or exchangeable securities as proxies for the related security when call options are written in the cash account; (3) in connection with the writing of put options, permission to use the following instruments as substitutes for cash, provided their current market value at the time the put is written equals or exceeds the exercise price of the option and provided further that they mature in one year or less: securities issued or guaranteed by the United States or its agencies, negotiable bank certificates of deposit, or bankers acceptances issued by banking institutions in the United States and payable in the United States; (4) one of the conditions under which an over-the-counter margin bond will be marginable has been changed to make the $25 million size criterion applicable only at time of issuance, rather than at the time of the extension of credit, as was formerly the case and (5) minor refining language changes to the definitional section which will have no substantive effect on the regulation, but which were made to conform to industry usage.

EFFECTIVE DATE: November 21, 1983 but may be implemented after June 20, 1983, at the option of the creditor.

FOR FURTHER INFORMATION CONTACT: At the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, contact: Laura Homer, Securities Credit Officer, or Robert Lord, Attorney, Division of Banking Supervision and Regulation (202) 452–2781. At the Federal Reserve Bank of New York, contact: Mindy Silverman, Assistant Counsel, (212) 791–5032.

SUPPLEMENTARY INFORMATION:

I. History of the Proposed Revision of Regulation T

As part of its Regulatory Improvement Project, and after an extensive study conducted by the Federal Reserve Bank of New York on the margin regulations, the Board, on March 30, 1982 published for public comment a completely revised and simplified Regulation T, which governs credit extended by securities brokers and dealers. (FR 13376). The proposed simplification incorporated amendments to Regulation T adopted by the Board earlier in the year, as well as two proposed amendments issued for public comment prior to publication of the proposed simplification. The amendments already adopted by the Board and incorporated into the proposed complete revision expanded the permissible arranging activities of brokers and dealers and removed the automatic equity building features in the Regulation. (47 FR 2981, Jan. 21, 1982). The two amendments that were still in the proposal stage at the time of publication of the complete revision were adopted, with certain

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modifications, as final rules in May, 1982. They amended Regulation T (1) to permit letters of credit, CD's government securities and banker's acceptances to be used, in addition to cash, as collateral in broker/dealer securities borrowing and lending transactions (47 FR 21238, May 18, 1982), and (2) to specify new criteria for eligibility on the Board's List of OTC Margin Stocks (47 FR 21756, May 20, 1982).

Another amendment to Regulation T, proposed and adopted by the Board after publication of the complete revision, has been incorporated into the final rule. The amendment permits brokers and dealers to extend credit on the collateral of private mortgage pass-through securities meeting specified issue-size and reporting requirements (47 FR 55912, December 14, 1982).

A proposal to amend Regulation T by providing a framework for the regulation of credit extended in connection with transactions in stock index futures contracts has not been incorporated into the final rule adopted today. (47 FR 8788, March 2, 1982). This proposal is still under consideration by the Board.

II. Summary of Comments

There were thirty-eight (38) respondents to the Board's proposal to revise Regulation T. The respondents consisted of nine Federal Reserve Banks, sixteen broker/dealers, four self-regulatory organizations and exchanges, three trade associations, one clearing corporation, two law firms, two individuals and one State agency (North Carolina State Treasurer).

The majority of respondents supported the Board's efforts to simplify and reduce the language of Regulation T and to facilitate compliance with it. While the majority of the respondents requested both technical and language modifications, most felt that the proposed simplification would greatly reduce the burdens of recordkeeping and margin calculations for broker/dealers while not interfering with the Board's ability to regulate the extension of credit for the purchase of securities. Respondents such as the National Association of Securities Dealers, Merrill Lynch Pierce Fenner & Smith, and the Credit Division of the Securities Industry Association stated that the proposed regulation was responsive to changes taking place within the securities industry.

Several respondents, however, including the New York Stock Exchange (NYSE), repeated earlier positions that they have expressed to the Board and its staff that Regulation T should be eliminated and replaced by uniform margin regulations established by the self-regulatory organizations with or without oversight authority by the Federal Reserve Board. Seven of the thirty-eight respondents argued in support of this position. Most of these respondents suggested technical and language changes to the proposed revised regulation in the event Regulation T was not eliminated. The NYSE acknowledged that some of its proposals to amend Regulation T may first require amendments to the Securities Exchange Act of 1934.

The continued role of the Board in the area of margin regulation is now being reviewed by Board staff in cooperation with the staffs of the Securities and Exchange Commission and the Commodity Futures Trading Commission (47 FR 47464, October 26, 1982). The study will consider possible recommendations for legislative change.

Many of the commenters requested that the Board provide an adequate implementation period to give firms time to adapt existing computer programs to changes required by the proposed revision. The implementation period requested ranged from two to six months. Several commenters also requested that the Board allow an additional comment period before the proposed regulation changes become mandatory. In view of the nature of the comments received, the Board does not believe that an additional comment period is necessary and that implementation of the revised regulation at an early date outweighs any further technical changes that may be necessary. The new regulation will go into effect on November 21, 1983, but creditors may at their option, begin to operate under its terms as early as June 20, 1983.

Many commenters requested that specific requirements, the imposition of which is currently left up to exchanges of firms, be mandated by the Board. For example, a request was made that the Board establish mandatory procedures for transferring accounts between brokers and fixed time periods for completion. The commenter making this request believes that such Board-imposed requirements would better serve the public than the system where each self-regulator designs its own requirements. The Board believes that granting such a request would be inconsistent with its efforts to simplify the Regulation and, therefore, has not adopted such requirements.

III. Detailed Explanation of Changes

1. General Applicability

(a) The titles of the accounts have been changed to titles that are more descriptive of the contents of each account or simply to remove the term "special."

(b) The change in terminology from "adjusted debit balance/maximum loan value" to "margin/equity" is reflected in three sections of the regulation: Definitions (§ 220.2(a), (d), (f), (1), (m), and (n)), Margin Account (§ 220.4), and the Supplement (section 220.18).

2. Definitions, § 220.2

(a) The definition of "creditor" has been changed to conform the language to section 7 of the Securities Exchange Act of 1934 ("the Act") (15 U.S.C. section 78g) and to identify specific categories of persons coming within the definition.

(b) Language that is presently contained in paragraph (3) of the definition of "registered security" has been eliminated from the definition. That language is not necessary in light of the Board's authority, since 1968, to designate any security as marginable, *i.e.*, as having loan value in a margin account.

(c) The definition of "exempted security" has been removed from the regulation. The definition in section 3(a)(12) of the Act is sufficient because the only additional language presently in the regulatory definition is no longer necessary for the reason described in paragraph (b) above.

(d) In the definition of "OTC Margin Stock", the word "stock" has been replaced with the words "equity security" to clarify that the term includes convertible bonds and other instruments that are often not considered "stock." The criteria for inclusion on the list of OTC margin stocks has been moved from the Supplement to the body of the regulation, because it is not the type of requirement that the Board may need to change quickly, as are the margin levels.

(e) In response to several comments, the terms "equity deficiency" and "equity excess" have been changed to "margin deficiency" and "margin excess" in the definition section and throughout the regulation, as the terms in the proposal had a different meaning in the industry.

(f) A definition of "good faith margin" has been added because such a definition was added to the proposed revisions of Regulations G and U and is useful in simplifying language.

(g) A more descriptive definition of "short call or short put" (§ 220.2(w)) has been substituted for the definition contained in the original proposed revision. The new definitions will also refer to securities exchange-traded options on foreign currency, and options on certificates of deposit and stock indices as these new instruments came within the Board's margin setting authority as a result of a legislative amendment (Pub. L. 97-303, amending 15 U.S.C. 78c(a)(10)) defining them as "securities" for purposes of the Securities Exchange Act of 1934.

(h) The definition of "OTC margin bond" has been changed to make the issue-size criterion applicable at time of issuance only. This will make the circumstances under which an OTC margin bond may be marginable consistent with the marginability of private mortage pass-through securities (adopted by the Board in December 1982, 47 FR 55912, December 14, 1982).

3. General Provisions, § 220.3

(a) *Separation of accounts, § 220.3(b).* (i) The term "segregation" has been replaced with "separation." A statement has been added to require written entries to be made when cash or securities are used to meet requirements in another account, if withdrawals of cash or securities are permitted under the regulation.

(b) *Receipt of Funds or Securities, § 220.3(e).* (i) The language that a creditor may "at his option" treat the various types of noncash payment as receipt of payment was removed as unnecessary.

(ii) Certain language was removed from the existing regulation describing a check, draft or order as drawn on a bank or a savings bank, which in the ordinary course of business is payable on presentation, as unnecessary. As long as the instrument is, by its terms or usage, payable on presentation and is accepted by the creditor in good faith, it may be considered receipt of payment, whether it is drawn on a "bank" or on one of the other types of depository institutions that may issue such payment instruments.

(iii) The reference to "telegraphic" notice was also removed; since the creditor has the right to obtain hard copy of a telegraphic notice, it may be considered to be included in the term "written notice."

(c) *Exchange of Securities, § 220.3(f).* The subsection entitled "Reorganizations" and certain language of that section was changed. Staff has received inquiries from time to time on the meaning of "reorganization" and "recapitalization," and there has not been a clear understanding of the scope of the section. The new language is intended to clarify that the section covers any exchange offer that is made to all holders of an issue of securities. The new language also clarifies the requirement that the consideration received in the exchange must be deposited in the account.

(d) *Variable Annuity Contracts Issued by Insurance Companies, § 220.3(i).* Most of the language from the present § 220.7(f) was eliminated as unnecessary.

(e) *Valuing Securities, § 220.3(g)(1).* Language has been added specifying that the computation of the total cost of a purchase or the net proceeds of a sale must include any commission charged. This is a formal statement of the accepted practice of including the cost of a commission when determining the cost of a transaction. Because the treatment of commissions has been addressed in this section, the reference to commissions in the section on service charges (present § 220.6(g)) has been deleted. (See new § 220.4(f).)

(f) *Innocent mistakes, § 220.3(h).* In response to comments the word "mechanical" was deleted so as to avoid any inference that violations may be excused for only "non-human" errors.

4. Margin Account, § 220.4(a)

In contrast to the proposed revision, this section permits separate margin accounts to be established for the same person by creditors that: (1) Clear transactions for other creditors where the transactions are introduced to the clearing creditor by separate creditors or (2) clear transactions through other creditors if the transactions are effected by separate creditors. Separate accounts may also be established for the same person by a creditor to provide one or more accounts over which the creditor or a third party investment advisor has investment discretion.

5. Transfer of Account, § 220.5(f)

(a) The description of the statement to be obtained by the transferee in present §220.6(d) was rephrased to state simply that any margin call issued under Regulation T has been satisfied.

(b) In subsection (2), the term "*bona fide*" was removed as unnecessary. Since the transaction must be one that is not undertaken to avoid Regulation T and the creditor is required to accept in good faith the statement describing the circumstances giving rise to the transfer, the creditor may not accept a statement that indicates that the transfer was not a legitimate incident to the transaction.

6. Cash Account, § 220.8

(a) The statement that *bona fide* cash transactions may be effected in the cash account has been removed as unnecessary. The description of permissible transactions includes only those that are *bona fide* cash transactions. Use of the term "*bona fide*" is redundant since permissible transactions must be done in good faith. The reference in the present § 220.4(c)(6) to "*bona fide* cash transactions" was removed for the same reason.

(b) A substantive change has been added in paragraph (a)(3)(i) concerning the issuance of a call option before payment is made for the purchase of a security. This will permit customers who cannot or do not maintain a margin account to take advantage of the investment strategy of taking a position in an option at the same time that they take a position in the underlying security or a security immediately convertible into the underlying security without the payment of money. It is anticipated that creditors permitting customers to write options on an underlying security using a convertible or exchangeable security as the proxy will require the customer to give written authorization for the conversion in the event an option exercise notice is received. Banks issuing escrow agreements against convertible securities should also have such written authorization.

(c) In response to comments received, securities issued by the United States or its agencies, negotiable certificates of deposit and bankers acceptances will be permitted as substitutes for cash in connection with the writing of put options, provided these instruments have a maturity of one year or less and their current market value at the time the put is written is equal to or greater than the put exercise price.

(d) Language has been added in § 220.8(b)(2) to clarify that the extension of time in a delivery against payment transaction is permitted if delivery of the security is delayed due to market conditions. See ¶ 5-501 in Securities Credit Transactions Handbook. The phrase "delivery against payment" is defined in the Definitions Section (see § 220.2(e)) rather than in the Cash Account Section.

(e) The 90-day freeze provision has been modified, as a clarifying measure, to apply only to transactions in *non-exempted* securities.

7. The Special Memorandum Account, § 220.6

As described in the proposal (46 FR 37517), the account is a renamed version of section 6 of the Special Miscellaneous Account. The types of deposit permitted in the Special Memorandum Account are now listed in the regulation.

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8. Broker Dealer Credit Account, § 220.11

(a) As noted in the proposal (46 FR 37517 (1981)), this account contains the provisions that are presently in sections 1, 2 and 3 of the Special Miscellaneous Account and adds a provision to cover jointly owned clearing firms.

(b) There is new language that approval for emergency credit, credit for capital contributions and subordinated credit for capital purposes should be obtained from the appropriate Examining Authority, rather than from a committee of a national securities exchange. This reflects the fact that all creditors may not be members of a national securities exchange; it does not change the requirement for members of exchanges for whom the appropriate Examining Authority would be the exchange.

9. The Non-Securities Credit Account, § 220.9

(a) As described in the proposal (46 FR 37517 (1981)), this account contains provisions that are presently in the Special Commodity Account and sections 7 and 8 of the Special Miscellaneous Account.

(b) In the language comparable to present § 220.7(c) the phrase "on a margin security (other than an exempted security)" has been removed. The revised language will clarify that the required nonpurpose statement applies to unsecured credit as well as secured credit.

(c) Specific reference to form F.R. T–4 has been deleted from the Nonsecurities Credit Account (§ 220.9), but creditors must obtain such forms when extending nonpurpose credit.

10. The Market Functions Account, § 220.12

This account combines the Specialist Account and two sections of the Special Miscellaneous Account for credit to odd-lot dealers and to finance the underwriting or distribution of securities. There is a substantive addition, which provides for credit to OTC marketmakers and third-marketmakers similar to the provisions for bank loans to such marketmakers in present § 221.3(w) and (y) of Regulation U. Under the new regulation, exchanges will no longer have to file monthly reports (Form 2020) on the use of specialist credit. The required margin on long and short positions in underlying stock that serve as permitted offsets has been changed from a proposed 25% requirement to a "good faith" requirement. In addition, like public customers, specialists will have 7 days in which to deposit margin. The original proposal would have imposed a 5 day requirement.

11. The Arbitrage Account, § 220.7

Under the Board's March 30, 1982 proposal (47 FR 13376) this account would have been folded into the Market Functions Account. Due to comments received, a separate account for arbitrage transactions has been established.

12. Arranging for Loans by Others, § 220.13

The arranging provision has been clarified to indicate that sales of all non-margin securities (not just non-margin securities with installment or other deferred payment provisions) are excluded from the arranging prohibitions if such sales are exempt from registration under sections 4(2) or 4(6) of the Securities Act of 1933 (§ 220.13(b)).

13. Borrowing By Creditors, § 220.15

(a) The statutory prohibition in section 8 of the Act was rephrased to make it clear that borrowing "on" a security means using that security as collateral for a loan.

(b) The last sentence of present § 220.5(b) was removed as unnecessary. Blank forms and information regarding filing or termination of agreements are available at any Federal Reserve Bank.

(c) The provisions for loans from other creditors has been shortened considerably. The substance of present §§ 220.15(a)(3) and (c) are contained in § 220.5(a)(3) of the revised version. The revised version does not specifically refer to loans from other creditors to meet emergency needs or to the fact that credit from another creditor would be subject to any other applicable provisions of law. The former provision is included in the list of permissible loans by creditors under a provision of the Broker Dealer Credit Account (§ 220.11(a)); the latter provision applies to all activities of a creditor, *i.e.*, a creditor is always subject to any other applicable provisions of law in addition to those provisions contained in Regulation T.

14. Credit for Clearance of Securities, § 220.14

(a) The terminology was changed from a "fraction of a day" to "not for more than one day" because it is simpler and does not actually expand the permissible time period from that defined in present § 220.6(i). Since § 220.6(i) places no limit on the fraction of a day during which the credit may be extended, it could apply to credit outstanding for an entire day (minus one minute, for example). Recognizing that that is the case, it is less confusing to simply permit the credit for no more than one day. Also, the term "association" (referring to a national securities association) was added in recognition of the fact that creditors may be members of a national securities exchange or association.

(b) A provision was added to permit a clearing broker to acquire an option position from an option clearing agency, such as the Options Clearing Corporation, by depositing securities other than the particular securities underlying the option. Under the present provisions, only cash, government securities, letters of credit or the particular securities may be used for the required deposit.

15. Supplement, § 220.18

In view of a pending SEC rule change (Release No. 34–19162 October 20, 1982), the language of the section describing margin required for OTC options on exempted debt securities has been modified to exclude any options on exempt securities that the SEC determines are themselves exempt securities.

16. Reports

The subsection entitled "Reports" (§ 220.7(d)) in the present Regulation was removed as unnecessary; section 17 of the Securities Exchange Act of 1934 (15 U.S.C. § 78q) requires persons subject to the margin regulations to file reports required by the Board.

17. Miscellaneous

(a) As under the present regulation, convertible or exchangeable securities may be used instead of the present 50% margin when the related security is sold short.

(b) Other requests for modification of the proposed revision have not been adopted because of insufficient supporting data or because they are inappropriate in light of the Board's statutory responsibilities.

Final Regulatory Flexibility Analysis

The **Federal Register** documents published in June and July of 1981 (46 FR 32592 and 46 FR 37516) by the Board contained an Initial Regulatory Flexibility Analysis for the complete revision of Regulation T. Comments received on the proposal appear to agree with the Board's analysis.

List of Subjects 12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, Reporting requirements, Securities.

Accordingly, pursuant to sections 3, 7, 8 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, g, h and w) the Board completely revises Regulation T as follows:

PART 220—CREDIT BY BROKERS AND DEALERS

Sec.

220.1 Authority, purpose, and scope.
220.2 Definitions.
220.3 General provisions.
220.4 Margin account.
220.5 Margin account exceptions and special provisions.
220.6 Special memorandum account.
220.7 Arbitrage account.
220.8 Cash account.
220.9 Nonsecurities credit account.
220.10 Omnibus account.
220.11 Broker-dealer credit account.
220.12 Market functions account.
220.13 Arranging for loans by others.
220.14 Clearance of securities.
220.15 Borrowing by creditors.
220.16 Borrowing and lending securities.
220.17 Requirements for list of OTC margin stocks.
220.18 Supplement to Regulation T.

§ 220.1 Authority, purpose, and scope.

(a) *Authority and purpose.* Regulation T (this part) is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Securities Exchange Act of 1934 (the Act) (15 U.S.C. 78a et seq.). Its principal purpose is to regulate extensions of credit by and to brokers and dealers; it also covers related transactions within the Board's authority under the Act. It imposes, among other obligations, initial margin requirements and payment rules on securities transactions.

(b) *Scope.* (1) This part provides a margin account and seven special purpose accounts in which to record all financial relations between a customer and a creditor. Any transaction not specifically permitted in a special account shall be recorded in a margin account.

(2) This part does not preclude any exchange, national securities association, or creditor from imposing additional requirements or taking action for its own protection.

§ 220.2 Definitions.

The terms used in this part have the meanings given them in section 3(a) of the Act or as defined in this section.

(a) "Credit balance" means the cash amount due the customer in a margin account after debiting amounts transferred to the special memorandum account.

(b) "Creditor" means any broker or dealer (as defined in sections 3(a)(4) and 3(a)(5) of the Act), any member of a national securities exchange, or any person associated with a broker or dealer (as defined in section 3(a)(18) of the Act), except for business entities controlling or under common control with the creditor.

(c) "Customer" includes: (1) Any person or persons acting jointly: (i) to or for whom a creditor extends, arranges, or maintains any credit; or (ii) who would be considered a customer of the creditor according to the ordinary usage of the trade;

(2) any partner in a firm who would be considered a customer of the firm absent the partnership relationship; and

(3) any joint venture in which a creditor participates and which would be considered a customer of the creditor if the creditor were not a participant.

(d) "Debit balance" means the cash amount owed to the creditor in a margin account after debiting amounts transferred to the special memorandum account.

(e) "Delivery against payment," "Payment against delivery," or a "C.O.D. transaction" refers to an arrangement under which a creditor and a customer agree that the creditor will deliver to, or accept from, the customer, or the customer's agent, a security against full payment of the purchase price.

(f) "Equity" means the total current market value of security positions held in the margin account plus any credit balance less the debit balance in the margin account.

(g) "Escrow agreement" means any agreement issued in connection with a call or put option under which a bank, holding the underlying security, foreign currency, certificate of deposit, or required cash, is obligated to deliver to the creditor (in the case of a call option) or accept from the creditor (in the case of a put option) the underlying security, foreign currency, or certificate of deposit against payment of the exercise price upon exercise of the call or put.

(h) "Examining authority" means: (1) The national securities exchange or other self-regulatory organization of which a creditor is a member; or

(2) if not a member of any such self-regulatory organization, the Regional Office of the Securities and Exchange Commission (SEC) where the creditor has its principal place of business; or

(3) if a member of more than one self-regulatory organization, the organization designated by the SEC as the examining authority for the creditor.

(i) "Good faith margin" means the amount of margin which a creditor, exercising sound credit judgment, would customarily require for a specified security position and which is established without regard to the customer's other assets or securities positions held in connection with unrelated transactions.

(j) "In or at the money" means the current market price of the underlying security is not more than one standard exercise interval below (with respect to a call option) or above (with respect to a put option) the exercise price of the option.

(k) "In the money" means the current market price of the underlying security is not below (with respect to a call option) or above (with respect to a put option) the exercise price of the option.

(l) "Margin call" means a demand by a creditor to a customer for a deposit of additional cash or securities to eliminate or reduce a margin deficiency as required under this part.

(m) "Margin deficiency" means the amount by which the required margin exceeds the equity in the margin account.

(n) "Margin excess" means the amount by which the equity in the margin account exceeds the required margin. When the margin excess is represented by securities, the current value of the securities is subject to the percentages set forth in § 220.18 (the Supplement).

(o) "Margin security" means any registered security, OTC margin stock, OTC margin bond, or any security issued by either an open-end investment company or unit investment trust which is registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

(p) "Nonexempted security" means any security other than an exempted security (as defined in section 3(a)(12) of the Act).

(q) "Nonmember bank" means a bank that is not a member of the Federal Reserve System.

(r) "OTC margin bond" means: (1) A debt security not traded on a national securities exchange which meets all of the following requirements:

(i) At the time of the original issue, a principal amount of not less than $25,000,000 of the issue was outstanding;

(ii) The issue was registered under section 5 of the Securities Act of 1933 (15 U.S.C. 77e) and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Act or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Act; and

(iii) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not

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in default on interest or principal payments; or

(2) A private mortgage pass-through security (not guaranteed by an agency of the U.S. government) meeting all of the following requirements:

(i) An aggregate principal amount of not less than $25,000,000 (which may be issued in series) was issued pursuant to a registration statement filed with the SEC under section 5 of the Securities Act of 1933;

(ii) Current reports relating to the issue have been filed with the SEC; and

(iii) At the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest, principal payments and other distributions are being passed through as required and that the servicing agent is meeting its material obligations under the terms of the offering.

(s) "OTC margin stock" means any equity security not traded on a national securities exchange that the Board has determined has the degree of national investor interest, the depth and breadth of market, the availability of information respecting the security and its issuer, and the character and permanence of the issuer to warrant being treated like an equity security traded on a national securities exchange. An OTC stock is not considered to be an "OTC margin stock" until it appears on the Board's periodically published list of OTC margin stocks.

(t) "Overlying option" means: (1) A put option purchased or a call option written against a long position in an underlying security in the specialist record in § 220.12(b); or

(2) a call option purchased or a put option written against a short position in an underlying security in the specialist record in § 220.12(b).

(u) "Purpose credit" means credit for the purpose of: (1) Buying, carrying, or trading in securities; or

(2) buying or carrying any part of an investment contract security which shall be deemed credit for the purpose of buying or carrying the entire security.

(v) "Registered security" means any security that: (1) Is registered on a national securities exchange; or

(2) Has unlisted trading privileges on a national securities exchange.

(w) "Short call or short put" means a call option or a put option that is issued, endorsed, or guaranteed in or for an account.

(1) A short call obligates the customer to sell the underlying security, foreign currency, or certificate of deposit at the exercise price upon receipt of an exercise notice at any time prior to the expiration date of the option.

(2) A short put obligates the customer to purchase the underlying security, foreign currency, or certificate of deposit at the exercise price upon receipt of an exercise notice at any time prior to the expiration date of the option.

(3) A short call or a short put on stock index options obligates the customer to pay the holder of an "in the money" long put or call who has exercised the option the cash difference between the exercise price and the current assigned value of the index as established by the option contract.

(x) "Specialist joint account" means an account which, by written agreement, provides for the commingling of the security positions of the participants and a sharing of profits and losses from the account on some predetermined ratio.

(y) "Underlying security" means the security that will be delivered upon exercise of an option.

§ 220.3 General provisions.

(a) *Records.* The creditor shall maintain a record for each account showing the full details of all transactions.

(b) *Separation of accounts.* Except as provided for in the margin account and the special memorandum account, the requirements of an account may not be met by considering items in any other account. If withdrawals of cash or securities are permitted under the regulation, written entries shall be made when cash or securities are used for purposes of meeting requirements in another account.

(c) *Maintenance of credit.* Except as prohibited by this part, any credit initially extended in compliance with this part may be maintained regardless of: (1) Reductions in the customer's equity resulting from changes in market prices;

(2) any security in an account ceasing to be margin or exempted; or

(3) any change in the margin requirements prescribed under this part.

(d) *Guarantee of accounts.* No guarantee of a customer's account shall be given any effect for purposes of this part.

(e) *Receipt of funds or securities.* (1) A creditor, acting in good faith, may accept as immediate payment:

(i) Cash or any check, draft, or order payable on presentation; or

(ii) Any security with sight draft attached.

(2) A creditor may treat a security, check or draft as received upon written notification from another creditor that the specified security, check, or draft has been sent.

(3) Upon notification that a check, draft, or order has been dishonored or when securities have not been received within a reasonable time, the creditor shall take the action required by this part when payment or securities are not received on time.

(f) *Exchange of securities.* (1) To enable a customer to participate in an offer to exchange securities which is made to all holders of an issue of securities, a creditor may submit for exchange any securities held in a margin account, without regard to the other provisions of this part, provided the consideration received is deposited into the account.

(2) If a nonmargin, nonexempted security is acquired in exchange for a margin security, its retention, withdrawal, or sale within 60 days following its acquisition shall be treated as if the security is a margin security.

(g) *Valuing securities.* The current market value of a security shall be determined as follows:

(1) Throughout the day of the purchase or sale of a security, the creditor shall use the security's total cost of purchase or the net proceeds of its sale including any commissions charged.

(2) At any other time, the creditor shall use the closing sale price of the security on the preceding business day, as shown by any regularly published reporting or quotation service. If there is no closing price, the creditor may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day.

(h) *Innocent mistakes.* If any failure to comply with this part results from a mistake made in good faith in executing a transaction or calculating the amount of margin, the creditor shall not be deemed in violation of this part if, promptly after the discovery of the mistake, the creditor takes appropriate corrective action.

(i) *Variable annuity contracts issued by insurance companies.* Any insurance company that issues or sells variable annuity contracts or engages in a general securities business as a broker or dealer shall be subject to this part only for transactions in connection with those activities. Extensions of credit associated with conventional lending practices of insurance companies are subject to Part 207 of this Chapter.

§ 220.4 Margin account.

(a) *Margin transactions.* (1) All transactions not specifically authorized for inclusion in another account shall be recorded in the margin account.

(2) A creditor may establish separate margin accounts for the same person to:

(i) Clear transactions for other creditors where the transactions are introduced to the clearing creditor by separate creditors; or

(ii) Clear transactions through other creditors if the transactions are effected by separate creditors; or

(iii) Provided one or more accounts over which the creditor or a third party investment adviser has investment discretion.

(b) *Required margin.* The required margin for each position in securities is set forth in section 220.18 (the Supplement) and is subject to the exceptions and special provisions contained in section 220.5 (Margin Account Exceptions and Special Provisions).

(c) *When additional margin is required.* (1) *Computing deficiency.* All transactions on the same day shall be combined to determine whether additional margin is required by the creditor. For the purpose of computing equity in an account, security positions are established or eliminated and a credit or debit created on the trade date of a security transaction. Additional margin is required on any day when the day's transactions create or increase a margin deficiency in the account and shall be for the amount of the margin deficiency so created or increased.

(2) *Satisfaction of deficiency.* The additional required margin may be satisfied by a transfer from the special memorandum account or by a deposit of cash, margin securities, exempted securities, or any combination thereof.

(3) *Time limits.* (i) A margin call shall be satisfied within 7 business days after the margin deficiency was created or increased.

(ii) The 7 day period may be extended for one or more limited periods upon application by the creditor to a self-regulatory organization or national securities association unless the organization or association believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action. Applications shall be filed and acted upon prior to the end of the 7 day period or the expiration of any subsequent extension. However, applications filed by firms having no direct electronic access to the organization or association may be accepted as timely filed if postmarked by midnight of the last day of the 7 day period or any subsequent extension.

(4) *Satisfaction restriction.* Any transaction, position, or deposit that is used to satisfy one requirement under this part shall be unavailable to satisfy any other requirement.

(d) *Liquidation in lieu of deposit.* If any margin call is not met in full within the required time, the creditor shall liquidate securities sufficient to meet the margin call or to eliminate any margin deficiency existing on the day such liquidation is required, whichever is less. If the margin deficiency created or increased is $500 or less, no action need be taken by the creditor.

(e) *Withdrawals of cash or securities.* (1) Cash or securities may be withdrawn from an account, except if:

(i) Additional cash or securities are required to be deposited into the account for a transaction on the same or a previous day; or

(ii) The withdrawal, together with other transactions, deposits, and withdrawals on the same day, would create or increase a margin deficiency.

(2) Margin excess may be withdrawn or may be transferred to the special memorandum account (§ 220.6) by making a single entry to that account which will represent a debit to the margin account and a credit to the special memorandum account.

(3) If a creditor does not receive a distribution of cash or securities which is payable with respect to any security in a margin account on the day it is payable and withdrawal would not be permitted under this paragraph, a withdrawal transaction shall be deemed to have occurred on the day the distribution is payable.

(f) *Interest, service charges, etc.* (1) Without regard to the other provisions of this section, the creditor, in its usual practice, may debit the following items to a margin account if they are considered in calculating the balance of such account:

(i) Interest charged on credit maintained in the margin account;

(ii) Premiums on securities borrowed in connection with short sales or to effect delivery;

(iii) Dividends, interest, or other distributions due on borrowed securities;

(iv) Communication or shipping charges with respect to transactions in the margin account; and

(v) Any other service charges which the creditor may impose.

(2) A creditor may permit interest, dividends, or other distributions credited to a margin account to be withdrawn from the account if:

(i) The withdrawal does not create or increase a margin deficiency in the account; or

(ii) The current market value of any securities withdrawn does not exceed 10 percent of the current market value of the security with respect to which they were distributed.

§ 220.5 Margin account exceptions and special provisions.

(a) *Unissued securities* (1) The required margin on a net long or net short commitment in an unissued security is the margin that would be required if the security were an issued margin security, plus any unrealized loss on the commitment or less any unrealized gain.

(2) Margin is not required on a net short commitment in unissued securities when the account contains the related issued securities, nor for any net short or net long position in unissued exempted securities.

(b) *Short Sales.* (1) The required margin for the short sale of a security shall be the amount set forth in § 220.18 (the Supplement).

(2) A short sale "against the box" shall be treated as a long sale for the purpose of computing the equity and the required margin.

(c) *Options.* (1) *Margin or cover for options on exempted debt securities, certificates of deposit, stock indices, or securities exchange traded options on foreign currencies.* The required margin for each transaction involving any short put or short call on an exempted debt security, certificate of deposit, stock index, or foreign currency (if the option is traded on a securities exchange), shall be the amount or positions in lieu of margin set forth in § 220.18 (the Supplement).

(2) *Margin for options on equity securities.* The required margin for each transaction involving any short put or short call on an equity security shall be the amount set forth in § 220.18 (the Supplement), plus any unrealized loss on the commitment or minus any unrealized gain. However, the required margin may not exceed the current market value of the underlying security in the case of a call, or the exercise price in the case of a put.

(3) *Cover or positions in lieu of margin.* No margin is required for an option written on an equity security position when the account holds any of the following:

(i) the underlying security in the case of a short call, or a short position in the underlying security in the case of a short put;

(ii) securities immediately convertible into or exchangeable for the underlying security without the payment of money in the case of a short call, if the right to convert or exchange does not expire on or before the expiration date of the short call;

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(iii) an escrow agreement for the underlying security or foreign exhange (in the case of a short call) or cash (in the case of a short put);

(iv) a long call on the same number of shares of the same underlying security if the long call does not expire before the expiration date of the short call, and if the amount (if any), by which the exercise price of the long call exceeds the exercise price of the short call is deposited in the account;

(v) a long put on the same number of shares of the same underlying security if the long put does not expire before the expiration date of the short put, and if the amount (if any), by which the exercise price of the short put exceeds the exercise price of the long put is deposited in the account;

(vi) a warrant to purchase the underlying security, in the case of a short call, if the warrant does not expire on or before the expiration date of the short call, and if the amount (if any), by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account. A warrant used in lieu of the required margin under this provision shall contribute no equity to the account.

(4) *Adjustments.* (i) When a short position held in the account serves in lieu of the required margin for a short put, the amount prescribed by paragraph (c)(2) of this section as the amount to be added to the required margin in respect of short sales shall be increased by any unrealized loss on the position.

(ii) When a security held in the account serves in lieu of the required margin for a short call, the security shall be valued at no greater than the exercise prices of the short call.

(5) *Straddles.* When both a short put and a short call are in a margin account on the same number of shares of the same underlying security, the required margin shall be the margin on either the short put or the short call, whichever is greater, plus any unrealized loss on the other option.

(6) *Exclusive designation.* The customer may designate at the time the option order is entered which security position held in the account is to serve in lieu of the required margin, if such service is offered by the creditor; or the customer may have a standing agreement with the creditor as to the method to be used for determining on any given day which security position will be used in lieu of the margin to support an option transaction. Only security held in the account which serves in lieu of the required margin for a short put or a short call shall be unavailable to support any other option transaction in the account.

(d) *Accounts of partners.* If a partner of the creditor has a margin account with the creditor, the creditor shall disregard the partner's financial relations with the firm (as shown in the partner's capital and ordinary drawing accounts) in calculating the margin or equity of the partner's margin account.

(e) *Contribution to joint venture.* If a margin account is the account of a joint venture in which the creditor participates, any interest of the creditor in the joint account in excess of the interest which the creditor would have on the basis of its right to share in the profits shall be treated as an extension of credit to the joint account and shall be margined as such.

(f) *Transfer of accounts.* (1) A margin account that is transferred from one creditor to another may be treated as if it had been maintained by the transferee from the date of its origin, if the transferee accepts, in good faith, a signed statement of the transferor (or, if that is not practicable, of the customer), that any margin call issued under this part has been satisfied.

(2) A margin account that is transferred from one customer to another as part of a transaction, not undertaken to avoid the requirements of this part, may be treated as if it had been maintained for the transferee from the date of its origin, if the creditor accepts in good faith and keeps with the transferee account a signed statement of the transferor describing the circumstances for the transfer.

§ 220.6 Special memorandum account.

(a) A special memorandum account (SMA) may be maintained in conjunction with a margin account. A single entry amount may be used to represent both a credit to the SMA and a debit to the margin account. A transfer between the two accounts may be effected by an increase or reduction in the entry. When computing the equity in a margin account, the single entry amount shall be considered as a debit in the margin account. A payment to the customer or on the customer's behalf or a transfer to any of the customer's other accounts from the SMA reduces the single entry amount.

(b) The SMA may contain the following entries:

(1) dividend and interest payments;

(2) Cash not required by this part, including cash deposited to meet a maintenance margin call or to meet any requirement of a self-regulatory organization that is not imposed by this part;

(3) Proceeds of a sale of securities or cash no longer required on any expired or liquidated security position that may be withdrawn under §220.4(e) of this part; and

(4) Margin excess transferred from the margin account under § 220.4(e)(2) of this part.

§ 220.7 Arbitrage account.

In an arbitrage account a creditor may effect and finance for any customer *bona fide* arbitrage transactions. For the purpose of this section, the term *"bona fide* arbitrage" means:

(1) A purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable for the purpose of taking advantage of a difference in prices in the two markets, or

(2) A purchase of a security which is, without restriction other then the payment of money, exchangeable or convertible within 90 calendar days of the purchase into a second security together with an offsetting sale of the second security at or about the same time, for the purpose of taking advantage of a concurrent disparity in the prices of the two securities.

§ 220.8 Cash account

(a) *Permissible transactions.* In a cash account, a creditor, may:

(1) Buy for or sell to any customer any security if: (i) There are sufficient funds in the accounts; or (ii) the creditor accepts in good faith the customer's agreement that the customer will promptly make full cash payment for the security before selling it and does not contemplate selling it prior to making such payment;

(2) Buy from or sell for any customer any security if: (i) The security is held in the account; or (ii) the creditor accepts in good faith the customer's statement that the security is owned by the customer or the customer's principal, and that it will be promptly deposited in the account;

(3) Issue, endorse, or guarantee an option for any customer if:

(i) In the case of a call option, the underlying security (or a security immediately convertible into the underlying security, without the payment of money) is held in or purchased for the account on the same day, and the option premium is held in the account until cash payment for the underlying or convertible security is received; or

(ii) In the case of a put option, the creditor obtains cash in an amount equal to the exercise price or holds in the account any of the following instruments with a current market value at least equal to the exerecise price and with one year or less to maturity: securities issued or guaranteed by the United States or its agencies, negotiable bank certificates of deposit, or bankers acceptances issued by banking institutions in the United States and payable in the United States.

(4) Use an escrow agreement in lieu of the cash or underlying security position if:

(i) In the case of a call or a put, the creditor is advised by the customer that the required securities or cash are held by a bank and the creditor independently verifies that an appropriate escrow agreement will be delivered by the bank promptly; or

(ii) In the case of a call issued, endorsed, or guaranteed on the same day the underlying security is purchased in the account and the underlying security is to be delivered to a bank, the creditor verifies that an appropiate escrow agreement will be delivered by the bank promptly.

(b) *Time periods for payment; cancellation or liquidation.* (1) *Full cash payment.* A creditor shall obtain full cash payment for customer purchases within 7 business days of the date:

(i) Any nonexempted security was purchased;

(ii) Any unissued security was made available by the issuer for delivery to purchasers;

(iii) Any "when distributed" security was distributed under a published plan;

(iv) A security owned by the customer has matured or has been redeemed and a new refunding security of the same issuer has been purchased by the customer, provided:

(A) The customer purchased the new security no more than 35 calendar days prior to the date of maturity or redemption of the old security;

(B) The customer is entitled to the proceeds of the redemption; and

(C) The delayed payment does not exceed 103 percent of the proceeds of the old security.

(2) *Delivery against payment.* If a creditor purchases for or sells to a customer a security in a delivery against payment transaction, the creditor shall have up to 35 calendar days to obtain payment if delivery of the security is delayed due to the mechanics of the transaction and is not related to the customer's willingness or ability to pay.

(3) *Shipment of securities, extension.* If any shipment of securities is incidental to consummation of a transaction, a creditor may extend the 7 business day period by the number of days required for shipment, but not by more than 7 business days.

(4) *Cancellation; liquidation; minimum amount.* A creditor shall promptly cancel or otherwise liquidate a transaction or any part of a transaction for which the customer has not made full cash payment within the required time. A creditor may, at its option, disregard any sum due from the customer not exceeding $500.

(c) *90 day freeze.* (1) If a nonexempted security in the account is sold or delivered to another broker or dealer without having been previously paid for in full by the customer, the privilege of delaying payment beyond the trade date shall be withdrawn for 90 calendar days following the date of sale of the security. Cancellation of the transaction other than to correct an error shall constitute a sale.

(2) The 90 day freeze shall not apply if: (i) Within 7 business days of the trade date, full payment is received or any check or draft in payment has cleared and the proceeds from the sale are not withdrawn prior to such payment or check clearance; or (ii) the purchased security was delivered to another broker or dealer for deposit in a cash account which holds sufficient funds to pay for the security. The creditor may rely on a written statement accepted in good faith from the other broker or dealer that sufficient funds are held in the other cash account.

(d) *Extension of time periods; transfers.* (1) Unless a self-regulatory organization or association believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action, it may, upon application by the creditor:

(i) Extend any period specified in paragraph (b) of this section;

(ii) Authorize transfer to another account of any transaction involving the purchase of a margin or exempted security; or

(iii) Grant a waiver from the 90 day freeze.

(2) Applications shall be filed and acted upon prior to the end of the 7 day period or the expiration of any subsequent extension. However, an application filed from firms having no direct electronic access to the exchange or association may be accepted as timely filed if it is postmarked no later than midnight of the last day of the 7 day period or any subsequent extension.

§ 220.9 Nonsecurities credit account.

(a) In a nonsecurities credit account a creditor may:

(1) Effect and carry transactions in commodities;

(2) Effect and carry transactions in foreign exchange;

(3) Extend and maintain secured or unsecured nonpurpose credit, subject to the requirements of paragraph (b) of this section.

(b) Every extension of credit, except as provided in paragraphs (a) (1) and (2) of this section, shall be deemed to be purpose credit unless, prior to extending the credit, the creditor accepts in good faith from the customer a written statement that it is not purpose credit. The statement shall conform to the requirements established by the Board. To accept the customer's statement in good faith, the creditor shall be aware of the circumstances surrounding the extension of credit and shall be satisfied that the statement is truthful.

§ 220.10 Omnibus account.

(a) In an omnibus account, a creditor may effect and finance transactions for a broker or dealer who is registered with the SEC under section 15 of the Act and who gives the creditor written notice that:

(1) all securities will be for the account of customers of the broker or dealer; and

(2) any short sales effected will be short sales made on behalf of the customers of the broker or dealer other than partners.

(b) The written notice required by paragraph (a) shall conform to any SEC rule on the hypothecation of customers' securities by brokers or dealers.

§ 220.11 Broker-dealer credit account.

(a) *Permissible transactions.* In a broker-dealer credit account, a creditor may:

(1) Purchase any security from or sell any security to another creditor under a good faith agreement to promptly deliver the security against full payment of the purchase price.

(2) Effect or finance transactions of any of its owners if the creditor is a clearing and servicing broker or dealer owned jointly or individually by other creditors.

(3) Extend and maintain credit to any partner or stockholder of the creditor for the purpose of making a capital contribution to, or purchasing stock of, the creditor, affiliated corporation or another creditor.

(4) Extend and maintain, with the approval of the appropriate examining authority:

(i) Credit to meet the emergency needs of any creditor; or

(ii) Subordinated credit to another creditor for capital purposes, if the other creditor:

(A) Is an affiliated corporation; or

(B) Will not use the proceeds of the loan to increase the amount of dealing in securities for the account of the creditor,

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its firm or corporation or an affiliated corporation.

(b) For purposes of paragraphs (a) (3) and (4) of this section "affiliated corporation" means a corporation all the common stock of which is owned directly or indirectly by the firm or general partners and employees of the firm, or by the corporation or holders of the controlling stock and employees of the corporation and the affiliation has been approved by the creditor's examining authority.

§ 220.12 Market functions account.

(a) *Requirements.* In a market functions account, a creditor may effect or finance the transactions of market participants in accordance with the following provisions. A separate record shall be kept for the transactions specified for each category described in paragraphs (b) through (f) of this section. Any position in a separate record shall not be used to meet the requirements of any other category.

(b) *Specialists.* (1) *Applicability.* A creditor may clear or finance specialist transactions for any specialist, or any specialist joint account, in which all participants, or all participants other than the creditor, are registered as specialists on a national securities exchange that requires regular reports on the use of specialist credit from the registered specialists.

(2) *Permitted offset positions.* A specialist in options may establish, on a share-for-share basis, a long or short position in the securities underlying the options in which the specialist makes a market, and a specialist in securities other than options may purchase or write options overlying the securities in which the specialist makes a market, if the account holds the following permitted offset positions:

(i) A short option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(ii) A long option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(iii) A short option position against which an exercise notice was tendered;

(iv) A long option position which was exercised;

(v) A net long position in a security (other than an option) in which the specialist makes a market; or

(vi) A net short position in a security (other than an option) in which the specialist makes a market.

(3) *Required Margin.* The required margin for a specialist's transactions shall be:

(i) Good faith margin for any long or short position in a security in which the specialist makes a market;

(ii) Good faith margin for any wholly-owned margin security or exempted security;

(iii) The margin prescribed by section 220.18 (the Supplement) when a security purchased or sold short in the account does not qualify as a specialist or permitted offset position.

(4) *Additional margin; restriction on "free-riding."* (i) Except as required by paragraph (b)(8) of this section, the creditor shall issue a margin call on any day when additional margin is required as a result of specialist transactions. The creditor may allow the specialist a maximum of 7 business days to satisfy a margin call.

(ii) If a specialist fails to satisfy a margin call within the period specified in this paragraph (and the creditor is required to liquidate securities to satisfy the call), the creditor shall be prohibited for a 15 calendar day period from extending any further credit to the specialist to finance transactions in nonspecialty securities.

(iii) The restriction on "free-riding" shall not apply to:

(A) Any specialist on a national securities exchange that has an SEC-approved rule on "free-riding" by specialists; or (B) the acquisition or liquidation of a permitted offset position.

(5) *Deficit status.* On any day when a specialist's separate record would liquidate to a deficit, the creditor shall not extend any further specialist credit in the account and shall issue a margin call at least as large as the deficit. If the call is not met by noon of the following business day, the creditor shall liquidate positions in the specialist's account.

(6) *Withdrawals.* Withdrawals may be permitted to the extent that the equity exceeds the margin requirements specified in paragraph (b)(4) of this section.

(c) *Underwritings and distributions.* A creditor may effect or finance for any dealer or group of dealers transactions for the purpose of facilitating the underwriting or distribution of all or a part of an issue of securities with a good faith margin.

(d) *OTC Marketmakers and Third Marketmakers.* (1) A creditor may clear or finance with a good faith margin, marketmaking transactions for an OTC marketmaker or a third marketmaker who:

(i) Is in compliance with any applicable SEC rule, including minimum net capital rules;

(ii) Regularly submits *bona fide* competitive bid and offer quotations to a recognized inter-dealer quotation system;

(iii) Is ready, willing, and able to effect transactions in reasonable amounts with other brokers and dealers at the quoted prices; and

(iv) Has a reasonable average rate of inventory turnover.

(2) If the credit extended to a marketmaker ceases to be for the purpose of marketmaking, or the dealer ceases to be a marketmaker for an issue of securities for which credit was extended, the credit shall be subject to the margin specified in section 220.18 (the Supplement).

(e) *Odd-lot dealers.* A creditor may clear and finance odd-lot transactions for any creditor who is registered as an odd-lot dealer on a national securities exchange with a good faith margin.

§ 220.13 Arranging for loans by others.

A creditor may not arrange for the extension or maintenance of credit to or for any customer by any person upon terms and conditions other than those upon which the creditor may itself extend or maintain credit under the provisions of this part, except that this limitation shall not apply to credit arranged for a customer which does not violate Parts 207 and 221 of this Chapter and results solely from:

(a) Investment banking services, provided by the creditor to the customer, including, but not limited to, underwritings, private placements, and advice and other services in connection with exchange offers, mergers or acquisitions, except for underwritings that involve the public distribution of an equity security with installment or other deferred payment provisions; or

(b) The sale of nonmargin securities (including securities with installment or other deferred payment provisions) if the sale is exempted from the registration requirements of the Securities Act of 1933 under section 4(2) or section 4(6) of the Act.

§ 220.14 Clearance of Securities.

(a) *Credit for clearance of securities.* The provisions of this part shall not apply to the extension or maintenance of any credit that is not for more than one day if it is incidental to the clearance of transactions in securities directly between members of a national securities exchange or association or through any clearing agency registered with the SEC.

(b) *Deposit of securities with options clearing agency.* The provisions of this part shall not apply to the deposit of securities with an options clearing agency for the purpose of meeting its deposit requirements if:

(1) The clearing agency issues options on securities;

(2) The clearing agency is registered with the SEC;

(3) The deposit consists of any underlying securities for classes of option contracts outstanding at the time of the deposit; and

(4) The deposit complies with the rules of the clearing agency which have been approved by the SEC.

§ 220.15 Borrowing by Creditors.

(a) *Restrictions on borrowing.* A creditor may not borrow in the ordinary course of business as a broker or dealer using as collateral any registered nonexempted security, except:

(1) From or through a member bank of the Federal Reserve System; or

(2) From any nonmember bank that has filed with the Board an agreement as prescribed in paragraph (b) of this section, which agreement is still in effect; or

(3) From another creditor if the loan is permissible under this part.

(b) *Agreements of nonmember banks.* (1) A nonmember bank shall file an agreement that conforms to the requirements of section 8(a) of the Act (See Form F.R. T–2) if:

(i) Its principal place of business is in a territory or insular possession of the United States; or

(ii) It has an office or agency in the United States and its principal place of business is outside the United States.

(2) Any other nonmember bank shall file an agreement that conforms to the requirements of section 8(a) of the Act (See From F.R. T–1).

(3) Any nonmember bank may terminate its agreement if it obtains the written consent of the Board.

§ 220.16 Borrowing and Lending Securities.

Without regard to the other provisions of this part, a creditor may borrow or lend securities for the purpose of making delivery of the securities in the case of short sales, failure to receive securities required to be delivered, or other similar situations. Each borrowing shall be secured by a deposit of one or more of the following: cash, securities issued or guaranteed by the United States or its agencies, negotiable bank certificates of deposit and bankers acceptances issued by banking institutions in the United States and payable in the United States, or irrevocable letters of credit issued by a bank insured by the Federal Deposit Insurance Corporation or a foreign bank that has filed an agreement with the Board on Form F.R. T–2. Such deposit made with the lender of the securities shall have at all times a value at least equal to 100 percent of the market value of the securities borrowed, computed as of the close of the preceding business day.

§ 220.17 Requirements for list of OTC margin stocks.

(a) *Requirements for inclusion on the list.* Except as provided in paragraph (d) of this section, OTC margin stock shall meet the following requirements:

(1) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(2) The minimum average bid price of such stock, as determined by the Board, is at least $5 per share.

(3) The stock is registered under section 12 of the Act, or is an American Depository Receipt (ADR) of a foreign issuer whose securities are registered under section 12 of the Act, or is a stock of a foreign issuer required to file reports under section 15(d) of the Act;

(4) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(5) The stock has been publicly traded for at least six months;

(6) The issuer has at least $4 million of capital, surplus, and undivided profits;

(7) There are 400,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors or beneficial owners of more than 10 percent of the stock;

(8) There are 1,200 or more holders of record, as defined in SEC Rule 12g5–1 (17 CFR 240.12g5–1), of the stock who are not officers, directors or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock as determined by the Board, is at least 500 shares; and

(9) The issuer has been in existence for at least three years.

(b) *Requirements for continued inclusion on the list.* Except as provided in paragraph (d) of this section, OTC margin stock shall meet the following requirements:

(1) Three or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(2) The minimum average bid price of such stocks, as determined by the Board, is at least $2 per share;

(3) The stock is registered as specified in paragraph (a)(3) of this section;

(4) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(5) The issuer has at least $1 million of capital, surplus, and undivided profits;

(6) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock; and

(7) There continue to be 800 or more holders of record, as defined in SEC Rule 12g5–1 (17 CFR 240.12g5–1), of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock, as determined by the Board, is at least 300 shares.

(c) *Removal from the list.* The Board shall periodically remove from the list any stock that:

(1) Ceases to exist or of which the issuer ceases to exist, or

(2) No longer substantially meets the provisions of paragraph (b) of this section or § 220.2(s).

(d) *Discretionary authority of Board.* Without regard to the other paragraphs of this section, the Board may add to, or omit or remove from the OTC margin stock list, any equity security, if in the judgment of the Board, such action is necessary or appropriate in the public interest.

(e) *Unlawful Representations.* It shall be unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the list of OTC margin stocks is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the list or stocks on that list shall be an unlawful representation.

§ 220.18 Supplement to Regulation T.

Margin Requirements

The required margin for each security position held in a margin account shall be as follows:

(a) *Margin security except for (b) below:* 50 percent of the current market value of the security.

(b) *Exempted security, registered non-*

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convertible debt security or OTC margin bond: the margin required by the creditor in good faith.

(c) *Short put or short call on an equity security:* 30 percent of the current market value of the underlying security, but not less than $250, adjusted or waived in accordance with section 220.5(c).

(d) *Short sale of nonexempted security:* 150 percent of the current market value of the security or 100 percent of the current market value if a security exchangeable or convertible within 90 calendar days without restriction other than the payment of money into the security sold short is held in the account.

(e) *Short sale of an exempted security:* 100 percent of the current market value of the security plus the margin required by the creditor in good faith.

(f) *Nonmargin, nonexempted security or a long position in any option:* 100 percent of the current market value.

(g) *Short put or short call on an exempted debt security or certificate of deposit:* (1) The amount or other position specified by the rules of the national securities exchange on which the option is traded, provided that all such rules have been approved or amended by the SEC; or

(2) In the case of an over-the-counter option on an exempted debt security that the SEC has not determined to be an exempted security, an amount or other position which the creditor in good faith deems to be equivalent to the margin or cover on comparable exchange-traded options.

(h) *Short put or short call (securities exchange traded) on foreign currency:* The amount, other option position, or foreign currency position specified by the rules of the national securities exchange on which the option is traded, provided that all such rules have been approved or amended by the SEC.

(i) *Short put or short call on a stock index:* The amount or other security positions specified by the rules of the national securities exchange on which the option is traded, provided that all such rules have been approved or amended by the SEC.

By order of the Board of Governors of the Federal Reserve System, May 16, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13709 Filed 5-23-83; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2-Amdt. 28]

Delegation of Authority To Conduct Program Activities in Field Offices

Correction

In FR Doc. 83-11775 beginning on page 19872 in the issue of Tuesday, May 3, 1983 make the following correction in the **SUMMARY**, paragraph two, line one, "not" should read "now"

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 5

Amendments to Commission Standards of Conduct

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This amends the Commission's Standards of Conduct to authorize certain Commission officials to require employees below Grade GS-13 to file statements of employment and financial interests under the conditions set forth in Office of Personnel Management (OPM) regulations.

DATE: Effective May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Jerome A. Tintle, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3487.

SUPPLEMENTARY INFORMATION: OPM regulations provide that agencies shall require statements of employment and financial interests from, among others, employees classified below GS-13 who are in positions which otherwise meet the criteria of 5 CFR 735.403 (b) or (c); the provision applies when the requirement for submitting statements has been specifically justified in writing to OPM as essential to protect the integrity of the Government and to avoid employee involvement in possible conflicts of interest. 5 CFR 735.403(d). The Commission amends 16 CFR 5.32(j) to conform to this OPM requirement.

Since the amendments relate solely to matters involving agency management and personnel, they are not subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 553(a)(2). For the same reason, the requirements of the Regulatory Flexibility Act do not apply. 5 U.S.C. 601(2) (Supp. V 1981).

List of Subjects in 16 CFR Part 5

Administrative practice and procedure, Conflict of interests.

PART 5—[AMENDED]

Accordingly, paragraph (j) of 16 CFR 5.32 is revised to read as follows:

§ 5.32 Statements of employment and financial interests under Executive Order 11222.

* * * * *

(j) The Executive Director, the General Counsel, or a Bureau Director may require any of the following employees under his or her supervision, in addition to those specified in paragraphs (c)—(i) of this section, to file statements pursuant to this section and to submit the statements to him or her:

(1) An employee classified at GS-13 or above, or at a comparable pay level under another authority, whose position meets the criteria established by the Office of Personnel Management in 5 CFR 735.403; and

(2) An employee classified below GS-13, or at a comparable pay level under another authority, who is in a position which otherwise meets the criteria of 5 CFR 735.403 and whose requirement to file statements has been specifically justified in writing by his or her supervising official to the Office of Personnel Management as essential to protect the integrity of the Government and to avoid the employee's involvement in possible conflicts of interest. The names of employees designated to file statements pursuant to this paragraph shall be reported to the General Counsel.

* * * * *

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46(g)); 80 Stat. 383, as amended; 81 Stat. 54 (5 U.S.C. 552); 92 Stat. 1824, as amended; EO 11222 of May 8, 1965, (30 FR 6469; 3 CFR 1964-1965 Comp. p. 306); 5 CFR 734.103; 5 CFR 735.104).

By direction of the Commission, dated May 9, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-13723 Filed 5-23-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-52]

Staff Accounting Bulletin No. 52

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin expresses the staff's views regarding accounting for terminations of overfunded defined benefit pension plans.

DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Jones, Office of the Chief Accountant (202/272-2158); or Howard P. Hodges, Jr., Division of Corporation Finance (202/272-2553), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and recordkeeping requirements, Securities.

George A. Fitzsimmons,

Secretary.

PART 211—[AMENDED]

Accordingly, Part. 211 of title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 52 to the table found in Subpart B.

Staff Accounting Bulletin No. 52

The staff herein adds Section I to Topic 5 of the Staff Accounting Bulletin Series. This section discusses the staff's position on the recognition of gains on termination of overfunded denied benefit pension plans.

Topic 5: Miscellaneous Accounting

* * * * *

I. Terminations of Defined Benefit Pension Plans

Facts: Company A terminates its defined benefit pension plan and replaces it with a defined contribution plan. Pension plan assets in excess of requirements for benefits accumulated under the terminated plan are returned to the company.

Question 1: May the company recognize a gain upon termination of its pension plan and recovery of the excess plan assets?

Interpretive Response: The staff will not object to the recognition of a gain on termination of a company's pension plan if all obligations under the terminated plan are fully funded and the substituted employee benefit arrangements are not linked to the prior plan. The staff does not believe gain recognition is appropriate, however, when benefit provisions under the new plan are based on such factors as past employee service or guaranteed minimum benefits because the substituted plan would in substance be a continuation of the termination plan.

Question 2: Assuming gain recognition is appropriate, how should the gain be presented in the company's income statement?

Interpretive Response: The staff believes that the termination of a pension plan meets the criteria for classification as an extraordinary item under Accounting Principles Board Opinion No. 30. Terminations of pension plans are of an unusual nature and not expected to recur as a consequence of customary and continuing business activities. A company's expectation that it would terminate several pension plans over a few years, for example, through negotiations with employee unions, would not affect the staff's position.

Gains or losses from pension plan terminations which arise in connection with decisions to dispose of a segment of the business or close a plant should be reported in the same manner as the costs related to the discontinued operations or plant closing.

[FR Doc. 83-13756 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 241

[Release No. 34-19756]

Interpretations of Rule 16b-3

AGENCY: Securities and Exchange Commission.

ACTION: Publication of interpretations.

SUMMARY: The Commission is setting forth its views on certain interpretive questions arising with respect to Rule 16b-3 as the result of a recent judicial decision. Rule 16b-3 provides an exemption from the short-swing profit recovery provisions of section 16(b) of the Securities Exchange Act of 1934, for certain securities transactions occurring under employee benefit plans not considered within the purpose of section 16(b).

FOR FURTHER INFORMATION CONTACT: William E. Toomey, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2573.

SUPPLEMENTARY INFORMATION: In *Colema Realty Corp.* v. *R. D. Bibow, et al.*,[1] a United States District Court recently held that an amendment to an existing stock option plan permitting the delivery of already owned stock in payment for the exercise of a stock option conferred material benefits on option holders and must be approved by shareholders in order for the plan to retain the exemption provided by Rule 16b-3 [17 CFR 240.16b-3] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. This decision is in conflict with an earlier Commission position on the same issue, and thus has raised substantial questions for issuers attempting to maintain stock option plans in accordance with Rule 16b-3. The Commission wishes to make known its views on certain of these questions for the guidance of those concerned with compliance with the rule.

I. Background

Rule 16b-3[2] was adopted by the Commission to provide an exemption from the short-swing profit recovery provisions of Section 16(b) of the Exchange Act [3] for securities transactions under employee benefit plans not considered within the purposes of Section 16(b). One of the conditions of the rule is that certain types of amendments to a plan must receive the approval of shareholders, including any amendment which would materially increase the benefits accruing to participants under the plan.[4]

In 1979, the Internal Revenue Service ruled that an employee could deliver already owned stock in payment for the exercise of a stock option without recognizing any taxable gain on the unrealized appreciation of the delivered shares. The tax advantages of this ruling, however, were generally thought to be unavailable to employees who were also officers or directors of a company and subject to Section 16(b) of the Exchange Act, since the stock-for-stock exercise appeared to involve the simultaneous purchase and sale of an equity security subject to the short-swing profit recovery provisions of Section 16(b).

The Commission received a number of requests for exemptive relief from the possible application of Section 16(b) to this new compensation technique. In April 1980, the Commission proposed

[1] *Colema Realty Corp.* v. *R. D. Bibow, et al.*, No. H-82-430 (D.Conn. Feb. 9, 1983).

[2] Rule 16b-3 is discussed in some detail in Section IV. C. of Release No. 34-18114 (September 23, 1981) [46 FR 46147] (October 1, 1981).

[3] Section 16(b) provides in part that any profit realized by an insider as a result of a purchase and sale or sale and purchase of an equity security of his company, made within a six-month period shall inure to the company.

[4] Rule 16b-3[a][2][ii][A].

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the amendment of Rule 16b–3 to exempt from Section 16(b) the mechanical transactions of exchange necessary to exercise an option through the delivery of already owned stock.[5] In the release proposing the change, the Commission noted that without such an exemption, the legitimate use of certain types of employee compensation plans would be largely frustrated, and that the safeguards inherent in Rule 16b–3 made the opportunities for abuse slight. The Commission also expressed the view that, under the proposal, an amendment to an existing stock option plan allowing the delivery of already owned stock upon exercise of an option would not be a material amendment to the plan requiring stockholder approval, since it would not result in any additional remuneration for directors and officers not already contemplated by the plan.

The release proposing the amendment for comment specifically requested comment with respect to the Commission's view on the materiality of an implementing plan amendment and the need for shareholder approval thereof. The release adopting the proposed amendments stated that virtually all public comment had been favorable, and that every commentator who had addressed the issue of materiality of plan amendments had agreed with the Commission's opinion that such amendments did not materially increase participants' benefits and therefore did not necessitate shareholder approval under Rule 16b–3.[6] Accordingly, the Commission reaffirmed its view that amendments to existing stock option plans permitting the stock-for-stock exercise of options need not be submitted to shareholders for approval under Rule 16b–3.

II. The Colema Decision

The *Colema* case, in brief, involved a shareholder derivative suit alleging that the delivery of already owned stock as payment for an option exercise, and the exercise of that option through a multiple series of exchanges of shares, resulted in short-swing profits for officers that should be returned to the company. The defendants contended, among other things, that the exchange transactions were specifically exempted from Section 16(b) liability by the new, stock-for-stock amendments to Rule 16b–3. The District Court disagreed, indicating that amendments to stock option plans permitting the use of the stock delivery technique conferred material benefits upon plan participants, and thus required shareholder approval in accordance with Rule 16b–3. In *Colema,* shareholder approval had not been obtained, and the court held that the exemption provided by Rule 16b–3 was not available to the defendants. The court took notice of the Commission's contrary position on the materiality of such amendments for purposes of the rule, but did not find it controlling. The court did find, however, that the defendants had acted in good faith reliance on Commission rules and regulations, and so were immune from liability under Section 23(a) of the Exchange Act.[7]

III. The Commission's Views

The Commission continues to believe that its determination not to require shareholder approval of plan amendments designed to implement stock-for-stock exercise of options was based on cogent reasons, among them the fact that officer and director participants do not receive any additional remuneration by virtue of such arrangements. While rulemaking action with respect to the issue raised by *Colema* is not being considered at this time, this issue will be included in the Commission's review of its rules under Section 16 which it anticipates conducting later this year. Until such review is completed, the Commission will take the position that stockholder approval is required under Rule 16b–3 of plan amendments allowing the delivery of stock to exercise options.

The Commission recognizes that issuers with unapproved stock delivery amendments are faced with the problem of devising a method to eliminate liability under Section 16(b) during the interim period between the date of the *Colema* decision (February 9, 1983) and the date stockholder approval of the amendments is obtained. In the Commission's view, the exemption provided by Rule 16b–3 would be preserved if issuers submit the stock delivery amendments for stockholder approval as soon as practicable (usually at the next meeting of security holders, whether annual or special) and make all transactions occurring under such amendments after the *Colema* decision contingent on stockholder approval of the amendments and ratification of the interim transactions.[8] Accordingly, if such approval and ratification are not forthcoming, the transactions would be rescinded.

The Commission believes it is appropriate to address two other issues indirectly raised by the *Colema* decision. The first is whether the Rule 16b–3 exemption is lost for all transactions under a plan which contains a stock delivery amendment that has not been approved by stockholders.[9] The Commission does not believe such a result is required by the rule or consonant with its intent where stockholder approval of such an amendment was not solicited because of reliance upon the Commission's position on the matter. In the Commission's view, it would be inappropriate to subject plan participants to liability for transactions unrelated to stock delivery amendments under the above circumstances.

The second issue is whether the *Colema* decision affects the availability of Rule 16b–3 for the so-called "pyramiding" of shares. The *Colema* case involved pyramiding, which is a technique under which an optionee requests the issuer to automatically apply the shares received upon the exercise of a portion of a stock option to satisfy the exercise price for additional portions of the option. The effect of pyramiding is to allow a participant to deliver a relatively small number of shares in satisfaction of the exercise price of even the largest option. The Commission believes that the use of pyramiding is within the meaning of Rule 16b–3, so long as the technique yields an optionee no more than the appreciation or "spread" inherent in the very exercise of the option. This position, of course, is based on the assumption that shareholder approval will be obtained, after appropriate disclosure of the pyramiding technique, and that all other applicable conditions of the rule will be satisfied.

[5] Release No. 34–16770 (April 30, 1980) [45 FR 29663].

[6] Release No. 34–17080 (August 21, 1980) [45 FR 57389].

[7] Section 23(a) provides in pertinent part that liabilities imposed by the Exchange Act shall not apply to any act done or omitted in good faith in conformity with a rule, regulation or order of the Commission. It is unclear, however, to what extent reliance may be placed on Section 23(a) for transactions under unapproved stock delivery amendments occurring after February 9, 1983, the date of the court's decision.

[8] There also would appear to be other measures that similarly would preserve the Rule 16b–3 exemption until stockholder approval could be obtained. For example, an issuer may retain the stock delivery provisions but limit their use to persons who are not officers or directors. This measure is based on the principle, articulated in Release No. 34–13659 (June 2, 1977) [42 FR 33283] (June 30, 1977), that a plan which is bifurcated in its treatment of insiders and non-insiders will be in compliance with Rule 16b–3, so long as the transactions with insiders comply with the applicable requirements of the rule.

[9] Of course, if the stock delivery amendment is rescinded until such time as it is approved by stockholders, there clearly would be no issue regarding the availability of Rule 16b–3 for transactions under the plan occurring after the rescission.

List of Subjects in 17 CFR Part 241

Insider trading, Reporting requirements, Securities.

Text of Amendment

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER [AMENDED]

* * * * *

1. By adding this Release No. 34–19756 (May 11, 1983) to the list of interpretive releases.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13838 Filed 5–23–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–163 (Colorado–31); Order No. 300]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: May 19, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that a portion of the Mesaverde Formation, located in Rio Blanco County, Colorado be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357–357–8316 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations to include a portion of the Mesaverde Formation as located in Rio Blanco County, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued January 17, 1983 (48 FR 2778, January 21, 1983),[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that a portion of the Mesaverde Formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the recommended portion of the Mesaverde Formation meets the guidelines contained in § 271.703(c)(2).[2] The Commission adopts the Colorado recommendation.

This amendment shall become effective June 20, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is revised by adding paragraph (d)(127) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(127) *Mesaverde Formation in Colorado.* RM79–76–163 (Colorado–31).

(i) *Delineation of formation.* The Mesaverde Formation is located in Rio Blanco County, Colorado, in Township 2 South, Range 98 West, Section 31 S½, S½, NW¼, Section 32 S½, S½, Section 33 SW¼, SW¼; Township 2 South, Range 97 West, Section 4 W½, W½, Sections 5, 8, 9, 16, 17, 20, 21, 22, All, Section 23 W½, Section 25 SW¼, Section 26 W½, SE¼, Sections 27, 28, 29, 31 through 36, All; Township 3 South, Range 97 West, Sections 3 through 7, All; all 6th P.M.

(ii) *Depth.* The average depth to the top of the Mesaverde Formation is approximately 7,790 feet. The producing interval is approximately 4,800 feet in thickness and begins at the base of the Ohio Creek Conglomerate and extends to the top of the Marine Mancos Shale.

[FR Doc. 83–13882 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–180 (New Mexico–20); Order No. 301]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: May 19, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the New Mexico Energy and Minerals Department, Oil Conservation Division that the Abo-Wolfcamp Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Craig Ellis, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations to include the Abo-Wolfcamp Formation, underlying Chaves and Eddy Counties, New Mexico, as a designated tight

[1] Comments were invited on the proposed rule and no comments were received. No party requested a hearing and no hearing was held.

[2] The Department of the Interior, Minerals Management Service, concurs with Colorado's recommendation.

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formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued February 4, 1983, 48 FR 5953 (February 9, 1983)[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703, that the Abo-Wolfcamp Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Abo-Wolfcamp Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective June 20, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(126) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(126) *Abo-Wolfcamp Formation in New Mexico.* RM79–76–180 (New Mexico–20).

(i) *Delineation of formation.* The Abo-Wolfcamp Formation is located in Chaves County, New Mexico, in Township 15 South, Ranges 23, 24, and 25 East, All Sections; Townships 19 and 20 South, Range 20 East, All Sections; in Eddy County, New Mexico in Township 16 South, Ranges 23, 24, and 25 East, All Sections; Township 16 South, Range 26 East, Sections 4 through 9, 16 through 21, and 28 through 33; Township 17 South, Ranges 21, 23, and 24 East, All Sections; Township 17 South, Range 25 East, Sections 1 through 12, 16 through 21, and 30 and 31; Township 18 South, Ranges 21, 23, and 24 East, All Sections; Township 18 South, Range 25 East, Sections 6 and 7, 18 and 19, and 30 and 31; Township 19 South, Ranges 21 and 23 East, All Sections; Township 19 South, Range 24 East, Sections 1 through 20, and 29 through 32; Township 20 South, Ranges 21 and 23 East, All Sections; and Township 20 South, Range 24 East, Sections 5 through 8, NMPM

(ii) *Depth.* The average depth to the top of the Abo-Wolfcamp Formation is 3,615 feet. The top and base of the Abo-Wolfcamp Formation are found at 4,722 feet and 5,122 feet, respectively, as measured on the Induction-Electrical Log of the Yates Petroleum Corporation State DF well No. 1.

[FR Doc. 83–13694 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–159 (Texas—29); Order No. 299]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: May 19, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Vicksburg Formation in the Portilla (9000') Field be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations to include the Vicksburg Formation in the Portilla (9000') Field, in San Patricio County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued December 16, 1982, 47 FR 57057 (December 22, 1982)[1] based on a recommendation by the Railroad Commission of Texas (Texas), in accordance with § 271.703, that the Vicksbury Formation in Portilla (9000') Field, be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Vicksburg Formation in the Portilla (9000') Field meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective June 20, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553).

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding subparagraph (d) (128) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(128) *Vicksburg Formation in the Portilla (9000') Field in Texas.* RM79–76 (Texas—29).

(i) *Delineation of formation.* The Vicksburg Formation in the Portilla (9000') Field is located in the northern portion of San Patricio County, Texas, Railroad Commission District 4, approximately six miles northeast of Sinton, Texas, and underlies 15,000 acres of land bounded by the Chiltipin Creek to the south, U.S. Highway 77 to the west, and the Aransas River to the north. The eastern boundary is a line extending from the Chiltipin Creek on the south to the Aransas River on the north and approximately bisecting the following surveys: Isaac Clover A–89, N.J. Devenny A–105, and Ralph Ellis Hrs. A–115.

(ii) *Depth.* The depth to the top of the Vicksburg Formation in the Portilla (9000') Field varies between 8,600 feet and 9,000 feet and the formation extends to depths in excess of 11,000 feet.

[FR Doc. 83–13683 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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[1] Comments were invited on the proposed rule and none were received. No requests for a public hearing were received by the Commission in this docket.

[1] Comment and requests for a public hearing were invited and none were received by the Commission in this docket.

18 CFR Part 271

[Docket No. RM79–76 (Colorado—17)]

High-Cost Gas Produced from Tight Formations; Correction

Issued May 5, 1983.

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule that concerned high-cost gas produced from tight formations, Docket No. RM 79–76 (Colorado—17). The final rule appeared in the **Federal Register** on January 29, 1982 (47 FR 4248), and contained an incorrect depth description.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

The following restates the depth description in FR Doc. 82–2362, appearing on page 4248. On page 4248, § 271.703(d)(64)(ii) should read as follows:

* * * * *

(ii) *Depth.* The Mesaverde Formation is defined as that formation encountered between the base of the Wasatch Formation (Tertiary) and the top of the Mancos shale. The average depth to the top of the Mesaverde Formation is 4,475 feet.

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13691 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–120 (Oklahoma—2)]

High-Cost Gas Produced from Tight Formation Oklahoma; Final Rule

May 5, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule; correction.

SUMMARY: This document corrects a final rule that concerned high-cost gas produced from tight formations, Docket No. RM79–76–120 (Oklahoma—2). The final rule appeared in the **Federal Register** on February 1, 1983 (48 FR 4461), and designated an incorrect paragraph number under § 271.703(d) of the Commission's regulations (18 CFR 271.703(d)).

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8316.

The following restates, and corrects the paragraph number in FR Doc. 83–2636, appearing on page 4462. On page 4462, the paragraph allocated for the designation of the "Cleveland Sand of the Kansas City Group" in Oklahoma as a tight formation should read as follows:

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(116) to read as follows:

§ 271.703 tight formations.

* * * * *

(d) *Designated Tight formations.*

* * * * *

(116) *"Cleveland Sand" of the "Kansas City Group" in Oklahoma.* RM79–76–120 (Oklahoma—2).

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13691 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76 (Texas—11 Addition); Order No. 208]

High-Cost Gas Produced From Tight Formations; Correction

Issued: February 22, 1982

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects the subparagraph number assigned to the designated tight formation, the Wilcox Formation in Texas, Docket No. RM79–76 (Texas—11) and (Texas—11 Addition) as it was issued by the Commission in Order No. 208 and appeared in the **Federal Register** on February 12, 1982 at 47 FR 6425.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of General Counsel, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8511.

SUPPLEMENTARY INFORMATION: A correction is made in FR Doc. No. 82–3973, as it appears in the center column of page 6425 in the issue of February 12, 1982, so that in the revision of § 271.703, the reference is to paragraph (d)(63) instead of (d)(58), as it appears both in the sentence announcing the revision of the regulation and in the regulation itself appearing in that column.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13829 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Subpart K—Income

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations implement section 101(a)(2)(B) of Pub. L. 96–222 and section 202 of Pub. L. 96–265 which amend section 1612(a)(1) of the Social Security Act. The regulations provide that certain payments received due to the earned income tax credit provisions of section 43 of the Internal Revenue Code will be included in the definition of earned income. These regulations provide further that payment for services performed in a sheltered workshop or work activities center also constitutes earned income.

EFFECTIVE DATE: These regulations are effective May 24, 1983. The statutes which these rules implement establish that all sheltered workshop payments are to be treated as earned income beginning October 1, 1980, and earned income tax credit payments are to be treated as earned income beginning January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7112.

SUPPLEMENTARY INFORMATION: We are revising our recodified regulations on income under the Supplemental Security Income program, Part 416 of the Code of Federal Regulations. The recodified regulations, Subpart K of Part 416, were published October 3, 1980 (45 FR 65541).

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The notice of proposed rulemaking (NPRM) which proposed amending Subpart K to include the rules described in these final regulations was published January 19, 1981 (46 FR 4949). Only one comment has been received since publication of the NPRM. A State Department of Public Welfare praised the clarity and simplicity of the rules.

These regulations are necessary because of legislation. The effect of the legislation is significant because the amount of income individuals have is a factor in determining eligibility for SSI and the amount of benefits payable. The law and regulations classify income as either earned or unearned income and provide greater exclusions from earned income than from unearned income. Thus, a beneficiary who receives a given amount of earned income can receive a higher benefit than another who receives a like amount of unearned income.

Sections 416.1110 and 416.1111 of the regulations are amended to include two changes in the definition of earned income because of the enactment of Pub. L. 96–222 and Pub. L. 96–265. The amended § 416.1110 describes the new types of earned income and § 416.1111 tells how we count that income to determine the amount of benefits payable.

Pub. L. 96–222, section 101(a)(2)(B), added a new type of earned income for SSI purposes—payments received due to the earned income credit provisions of section 43 of the Internal Revenue Code of 1954 as Federal income tax refunds or as advance payments of these credits made by employers under section 3507 of the same code. These payments are earned income as of January 1, 1980. The retroactive effective date of this law (Pub. L. 96–222 was enacted April 1, 1980) fills the gap that occurred because section 105(f) of the prior statute, Pub. L. 95–600, excluded these payments from income for SSI purposes only until December 31, 1979. If the new statute had not been enacted, SSA would have counted the earned income credit payments as unearned income after the exclusions expired. Individuals who received payments of earned income tax credits in 1980 or later would have received lower SSI benefits since unearned income is subject to lesser exclusions than earned income.

Earned income tax credits are available to people who meet certain conditions of family composition and amount of income. The credit payments can be received in a lump sum subsequent to the filing of an income tax return as an addition to any regular income tax refund due the individual. As an alternative, they may be advanced to individuals by employers over a period of employment during the tax year under procedures established by the Internal Revenue Service. If the advance payments turn out to be incorrect because the employer advanced more than was due, SSA adjusts benefits to make up for the resulting SSI underpayment at the time the correct amount is established. The new statute states that the adjustment will be made in benefits payable to the individual. SSA will carry out this provision under the rules in Subpart E of the Regulations (20 CFR, Part 416). These rules provide that an SSI underpayment will be made to the underpaid individual or, if the individual is deceased, to his or her eligible spouse.

Pub. L. 96–265, section 202, states that beginning October 1, 1980, payment for services performed in a sheltered workshop or work activities center constitutes earned income. Since all payments for these services are not earned income, there is no need to distinguish between sheltered workshops or work activities centers and other employers. Prior to Pub. L. 96–265, these payments were either earned income or unearned income depending on whether the individual's effort constituted employment or therapy. Thus, if two beneficiaries received payments in the same workshop, one may have been receiving earned income as an employee and the other unearned income because he or she was in a rehabilitative training program. The second beneficiary received a lower SSI benefit because unearned income is subject to fewer exclusions. Beneficiaries and agencies that serve the handicapped found the different treatment hard to understand and considered it unfair. SSA was obliged to develop cases to determine whether the income received in a sheltered workshop or work activities center was earned or unearned. The new law and regulations advantage beneficiaries as well as end these administrative problems.

We have made minor editorial changes in the regulations as they were published with the Notice of Proposed Rulemaking and have deleted the effective dates that were included in § 416.1110. The effective dates have been deleted because they had only temporary value.

Regulatory Procedures

Executive Order No. 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. SSA estimates that the provision of Pub. L. 96–222 that provides that earned income tax credit payments are earned income will result in $4 million in program savings each year and administrative costs will be negligible. SSA estimates that the provision of Pub. L. 96–265 that provides that sheltered workshop payments are earned income will come to $2 million per year in program costs and will create no additional administrative costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980—These regulations impose no additional reporting and recordkeeping requirement requiring OMB clearance. SSA has clearance for form SSA–8150 (OMB No. 0960–0128) on which beneficiaries are to report income.

Regulatory Flexibility Act—We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they primarily affect individuals with some impact on States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: January 19, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart K of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614 and 1631 of the Social Security Act as amended; Sec. 211 of Pub. L. 93–66; 49 Stat. 647, as amended, 86 Stat. 1465, 1466, 1468, 1470, 1471, 1473, 1475, 87 Stat. 154; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1383c and 1383. Sec. 202 of Pub. L. 96–265, 94 Stat. 449; 42 U.S.C. 1382c.

2. Section 416.1110 is amended by revising the material preceding paragraph (a) and by adding new paragraphs (c) and (d) to read as follows:

§ 416.1110 What is earned income.

Earned income may be in cash or in kind and consists of the following types of payments:

* * * * *

(c) *Refunds of Federal income taxes and advance payments by employers made in accordance with the earned income credit provisions of the Internal Revenue Code.* Refunds on account of earned income credits are payments made to you under the provisions of section 43 of the Internal Revenue Code of 1954, as amended. These "refunds" may be greater than taxes you have paid. You may receive earned income tax credit payments along with any other Federal income tax refund you receive because of overpayment of your income tax, (Federal income tax refunds made on the basis of taxes you have already paid are not income to you as stated in § 416.1103(d).) Advance payments of earned income tax credits are made by your employer under the provisions of section 3507 of the same code. You can receive earned income tax credit payments only if you meet certain requirements of family composition and income limits.

(d) *Payments for services performed in a sheltered workshop or work activities center.* Payments for services performed in a sheltered workshop or work activities center are what you receive for participating in a program designed to help you become self-supporting.

3. Section 416.1111 is being revised by redesignating paragraph (c) as paragraph (e) and adding new paragraphs (c) and (d) to read as follows:

§ 416.1111 How we count earned income.

* * * * *

(c) *Refunds of Federal income taxes and advance payments by employers made under the earned income credit provisions of the Internal Revenue Code.* We count payments advanced by your employer and refunds of Federal income taxes made under the earned income credit provisions of the Internal Revenue Code of 1954 in the quarters in which you receive them. You receive refunds in a single quarter if they are paid as a result of the filing of your income tax return and as an addition to the refund of taxes withheld by your employer. You receive payments advanced by your employer along with your wages spread over the period of your employment. If we do not pay you the correct amount of benefits (that is, we withheld too much from your benefits) because your employer has advanced you more than was actually due, SSA will make up the difference in benefits when the correct amount of your earned income credits is determined by the Internal Revenue Service (see § 416.542 for the rules on underpayments). If your employer advanced less than you were actually due we will count the additional amount in the quarter in which you receive it from Internal Revenue Service.

(d) *Payments for services in a sheltered workshop or activities center.* We count payments you receive for service performed in a sheltered workshop or work activities center when you receive them or when they are set aside for your use. We determine the amount of the payments for each calendar quarter.

* * * * *

[FR Doc. 83–13894 Filed 5–23–83; 8:45 am]

BILLING CODE 4190–01–M

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of D&C Yellow No. 10 for Use in Drugs and Cosmetics; Postponement of Closing Date

Correction

In FR Doc. 83–11284 beginning on page 19366 in the issue of Friday, April 29, 1983, make the following correction:

On page 19367, first column, second line, "Title XI" should have read "Title II".

BILLING CODE 1505–01–M

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21 CFR Part 172

[Docket No. 81F–0031]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Anoxomer; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the docket number in the heading of the final rule that amended the food additive regulation providing for the safe use of anoxomer, an antioxidant, in food for human consumption.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–11192, appearing at page 18798 in the **Federal Register** of Tuesday, April 26, 1983, the second line in the heading is changed from "[Docket No. 80F–0031]" to "[Docket No. 81F–0031]."

Dated: May 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–13711 Filed 5–23–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 178

[Docket No. 81F–0210]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

Correction

In FR Doc. 83–3973 beginning on page 6704 in the issue of Tuesday, February 15, 1983, make the following correction:

On page 6705, first column, § 178.1010, eighth line of paragraph (b)(24), "alyl" should have read "alkyl".

BILLING CODE 1505–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazine Sterile Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Syntex Agribusiness, Inc., providing for the safe and effective use of a combination antibacterial drug for treating dogs.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed NADA 132–486 providing for subcutaneous use of Di-Trim 24% Injection (a sterile suspension containing 40 milligrams (mg) of trimethoprim and 200 mg of sulfadiazine per milliliter) for the treatment of bacterial infections of dogs. The product is indicated where control of bacterial infections is required during treatment of acute urinary tract infections, acute bacterial complications of distemper, acute respiratory tract infections, acute alimentary tract infections, wound infections and

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abscesses, and acute septicemia due to *Streptococcus zooepidemicus*. The NADA is approved and the regulations are amended to reflect the approval.

The basis of this approval is discussed in the freedom of information summary (FOI summary). In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.2610 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.2610 *Trimethoprim and sulfadiazine sterile suspension* is amended in paragraph (a)(2) by adding before the number "017220" the phrase "000033 and".

Effective date: May 24, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 13, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-13862 Filed 5-23-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR PART 610

[Docket No. 81N-0116]

Hepatitis Requirements; Amendment of Restrictions on Use as Injectable Biological Products

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending restrictions on the collection and use of blood, plasma, or serum that has been shown to be reactive for hepatitis B surface antigen (HBsAg). Current regulations do not permit use of reactive blood, plasma, or serum in the manufacture of injectable biological products. The agency is amending the regulations to permit the collection and use of blood, plasma, or serum reactive for HBsAg for further manufacture into hepatitis B vaccine.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 7, 1981 (46 FR 35121), FDA proposed to amend §§ 610.40 and 610.41 of the biologics regulations (21 CFR 610.40 and 610.41) to permit the collection and use of blood, plasma, or serum reactive for HBsAg for further manufacture into hepatitis B vaccine. Data submitted to the agency demonstrate that blood, plasma, or serum that is reactive for HBsAg can be used effectively to produce an inactivated vaccine against hepatitis B. In November 1981, the Commissioner of Food and Drugs announced the approval of the first licensed hepatitis B vaccine to combat hepatitis B infections, a major public health problem in the United States.

Interested persons were given until September 8, 1981, to submit written comments regarding this proposal. Five letters, some containing a number of comments, were received on the proposal, and one letter fully endorsed the proposal. A summary of the comments and the agency's responses are as follows:

1. Two comments objected to the continuation of the requirements contained in § 610.40(d) (1)(v) and (2)(iv) that the Office of Biologics be notified in writing of each shipment of hepatitis reactive source blood, plasma, or serum.

The agency advises that any amendment of the shipment reporting requirements is beyond the scope of this final rulemaking. However, the agency believes that the comment has merit and is exploring the possibility of deleting hepatitis shipment reporting requirements. Accordingly, FDA is rejecting the comment at this time.

2. One comment stated that the proposed regulations appeared to be at variance with an agency guideline, issued in April 1981 and revised in August 1981, for plasmapheresing HBsAg reactive donors. The guideline provides that hepatitis reactive source blood, plasma, or serum, can be labeled "Collected from a donor known to be reactive for hepatitis B surface antigen. This plasma is presumed to be infectious". This cautionary labeling statement permits a source supplier to assume that source material collected from a known positive donor is reactive for hepatitis B without first having to perform confirmatory hepatitis testing. In the proposed rule, however, FDA proposed to require that labeling on such source material or final product state that the source blood, plasma, or serum, was reactive when tested for HBsAg and may transmit viral hepatitis. The proposed cautionary labeling statement indicates that confirmatory hepatitis testing was performed on source material and it was found to be reactive.

FDA agrees with the comment's observation regarding a conflict between the guideline and the proposal. FDA believes that the labeling alternative set forth in the April 1981 guideline provides adequate notice to handlers and users of the plasma that the plasma may be infectious. Therefore, in the final rule, the agency is allowing use of an alternative cautionary labeling statement equivalent to that found in the guideline. The agency is also amending § 610.40(d) (1)(v) and (2)(iv) of the biologics regulations to make clear that, if properly labeled, shipments of such plasma may be made without prior testing for HBsAg. Section 610.40 of the final rule has been amended in paragraph (d) (1)(v) and (2)(iv) by adding the sentence "Such shipments shall not be subject to the requirements of paragraph (b)(3) of this section".

3. One comment stated that the current regulations permit donors with past histories of being reactive for HBsAg and currently with anti-HBs antibodies to serve as a source of hepatitis B immune globulin, an injectable product. The comment noted that the proposed rule would permit use of these donors only for the preparation of in vitro diagnostic products and not for the preparation of hepatitis B immune globulin.

The agency acknowledges that it inadvertently proposed to change the requirements of the regulation as described by the comment. Therefore, the agency is amending § 610.41 of the final rule to permit donors with anti-HBs antibodies to serve as a source for hepatitis B immune globulin.

4. One comment stated that proposed § 610.41 does not clearly allow persons with a prior history of clinical viral hepatitis and persisting HBsAg infection to serve as a source of HBsAg for hepatitis B vaccine production or preparation of diagnostic products.

The agency intended that the proposed rule permit collection of blood or plasma from such donors provided that adequate donor protection and personnel safety procedures are followed, e.g., the agency guideline of August 1981 for plasmapheresing HBsAg reactive donors. For clarification, in the final rule, the agency is amending § 610.41 to state "A person known to have previously tested positive for hepatitis B surface antigen, testing positive, or both, * * *" rather than "A person testing positive or known to have previously tested positive * * *."

5. One comment stated that the proposed rule does not provide for the use of large quantities of blood, plasma, or serum reactive for HBsAg for research and development of other new vaccines or similar products either in the United States or in other countries. The comment suggested that hepatitis B reactive source material should be available for interstate and international shipments for the manufacture of unlicensed vaccines for preclinical and clinical trials.

The agency agrees with this comment. Accordingly, in the final rule, the agency is removing the word "licensed" from the phrase "licensed hepatitis B vaccine" in proposed §§ 610.40 (d)(1) and 610.41. This revision will permit shipment of hepatitis B source material to manufacturers who are not yet licensed or are awaiting licensure, and who intend to manufacture biological products derived from hepatitis B reactive source material.

6. One comment asked whether recipients of hepatitis B vaccine may serve as a source of blood donations for hepatitis B immune globulin within 6 months of vaccination. Current Source Plasma (Human) regulations in § 640.63(c)(13) permit collection of plasma containing antibody to hepatitis B antigen within such a time period.

The agency advises that prospective blood donors who have been immunized with the hepatitis B vaccine potentially could become blood donors for hepatitis B immune globulin within 6 months of vaccination. The recipients of an inactivated hepatitis B vaccine are not precluded from donating blood as a consequence of the vaccination procedure.

Accordingly, FDA is amending restrictions on the collection and use of blood, plasma, or serum that has been shown or is presumed to be reactive to HBsAg to permit the use of such products in the manufacture of hepatitis B vaccine. Further, FDA is making minor clarifying changes in the regulation.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act of 1980

Section 610.40 (d) (1) and (2) of this final rule contains information collection requirements that were submitted for review and approval to the Office of Management and Budget (OMB), as required by section 3507 of the Paperwork Reduction Act of 1980. The requirements were approved and assigned OMB control number 0910–0136. In this final rule, FDA is continuing these approved information collection requirements, but is providing more flexible requirements for certain blood products that are reactive for hepatitis B surface antigen to allow use of such products for further manufacture into hepatitis B vaccine.

The agency has examined the economic impact of this final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The agency concludes that this rule will not result in any increase in the cost of biological products being regulated, and that it may serve to decrease the production cost of hepatitis B vaccine by increasing the availability of source material for its manufacture. There were no public comments on the proposed rule in response to the initial regulatory flexibility analysis. The agency believes that the final rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. The final rule removes restrictions placed on the collection and use of blood, plasma, or serum reactive for HBsAg so that a potential life-saving vaccine may be manufactured. The agency certifies that a final regulatory flexibility analysis is not warranted.

List of Subjects in 21 CFR Part 610

Biologics, Labeling.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 610 is amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. By revising paragraph (d) and adding paragraph (f) of § 610.40 to read as follows:

§ 610.40 Test for hepatitis B surface antigen.

* * * * *

(d) *Restrictions on use.* Blood, plasma, or serum that is reactive when tested for hepatitis B surface antigen or that was collected from a donor known to be reactive for hepatitis B surface antigen shall not be used in manufacturing biological products except as provided in paragraph (d) (1) and (2) of this section.

(1) *Injectable biological products and licensed in vitro diagnostic biological products.* Blood, plasma, or serum that is reactive when tested for hepatitis B surface antigen or that was collected from a donor known to be reactive for hepatitis B surface antigen may be used in manufacturing hepatitis B vaccine and licensed in vitro diagnostic biological products if all of the following conditions are met:

(i) The final product cannot be prepared from blood, plasma, or serum that is nonreactive when tested for hepatitis B surface antigen, due either to the nature or to the scarcity of the final product.

(ii) The label of the source blood, plasma, or serum conspicuously states either that it is reactive when tested for hepatitis B surface antigen and it may transmit viral hepatitis; or that the source blood, plasma, or serum was collected from a donor known to be reactive for hepatitis B surface antigen and it may transmit viral hepatitis, although confirmatory hepatitis testing has not been done.

(iii) The package label of the licensed in vitro diagnostic biological product prepared from such blood, plasma, or serum states conspicuously that either the product was prepared from source material that was reactive when tested for hepatitis B surface antigen and it may transmit viral hepatitis; or that the source material was collected from a donor known to be reactive for hepatitis B surface antigen and it may transmit viral hepatitis, although confirmatory hepatitis testing has not been done.

(iv) The package label of the licensed injectable biological product prepared from such blood, plasma, or serum states that the product has been inactivated.

(v) The Director, Office of Biologics (HFN–800), National Center for Drugs and Biologics, Food and Drug

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Administration, 8800 Rockville Pike, Bethesda MD 20205, is notified in writing at the time of the shipment, or in the case of repetitive shipments, or April 1 and October 1 of each year, of each shipment of source blood, plasma, or serum for manufacture into hepatitis B vaccine or into a licensed in vitro diagnostic biological product. Such shipments shall not be subject to the requirements of paragraph (b)(3) of this section. Each notification shall identify the kind and amount of source material shipped, the name and address of the consignee, the date of shipment, and the manner in which the source material is labeled.

(2) *Unlicensed in vitro diagnostic biological products.* Blood, plasma, or serum that is reactive when tested for hepatitis B surface antigen or that was collected from a donor known to be reactive for hepatitis B surface antigen may be used in manufacturing unlicensed in vitro diagnostic biological products including clinical chemistry control reagents if all of the following conditions are met:

(i) The final product cannot be prepared from blood, plasma, or serum that is nonreactive when tested for hepatitis B surface antigen, due either to the nature or to the scarcity of the final product.

(ii) The label of the source blood, plasma, or serum states conspicuously that either it is reactive when tested for hepatitis B surface antigen and it may transmit viral hepatitis; or that the source blood, plasma, or serum was collected from a donor known to be reactive for hepatitis B surface antigen and it may transmit viral hepatitis, although confirmatory hepatitis testing has not been done.

(iii) The manufacturer of the source blood, plasma, or serum obtains written assurance from the manufacturer(s) of the final unlicensed product that package labels of all unlicensed products will conspicuously state, as required by § 809.10(a)(4) of this chapter, that the product was prepared from blood, plasma, or serum that was reactive when tested for hepatitis B surface antigen and it may transmit viral hepatitis; or that the source material was collected from a donor known to be reactive for hepatitis B surface antigen and it may transmit viral hepatitis, although confirmatory hepatitis testing has not been done.

(iv) At the time of shipment, the Director, Office of Biologics (HFN–800), National Center for Drugs and Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, is notified in writing of each shipment of source blood, plasma, or serum signifying the kind and the amount of source material shipped, the name and address of the consignee, the date of shipment, and the manner in which such source material was labeled. Such shipments shall not be subject to the requirements of paragraph (b)(3) of this section.

* * * * *

(f) The information collection requirements in paragraph (d) of this section were approved by the Office of Management and Budget and assigned OMB control number 0910–0136.

2. By revising § 610.41 to read as follows:

§ 610.41 History of hepatitis B surface antigen.

A person known to have previously tested positive for hepatitis B surface antigen, testing positive, or both, may not serve as a donor of human blood, plasma, or serum, except that under § 640.75 of this chapter, such a donor may serve as a source of hepatitis B surface antigen for the manufacture of hepatitis B vaccine or the preparation of a diagnostic product for laboratory tests, or a person known to have previously tested positive for hepatitis B surface antigen may serve as a source of antibody to hepatitis B surface antigen for the preparation of a biological product or a diagnostic product for laboratory tests.

Effective date. This regulation is effective May 24, 1983.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: May 9, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-13083 Filed 5-23-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-4, Notice No. 7]

Truck Size Policy Statement; Cancellation of Certain Interim Truck Route Designations in the State of Connecticut

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Modification of policy statement.

SUMMARY: On April 5, 1983 (48 FR 14844), the FHWA made an interim designation of certain Federal-aid primary system highways in each State that must be made available to certain size trucks for the period from April 6 through October 3, 1983. By this notice the FHWA is canceling the interim designation of those primary system highways in the State of Connecticut that had not been designated by that State. The agency will address the interim designation for qualifying primary system highways in Connecticut in a separate proceeding, which will be instituted in the near future.

EFFECTIVE DATE: The modifications are effective May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On April 5, 1983 (48 FR 14844), the FHWA published a notice of policy statement that designated, on an interim basis, qualifying Federal-aid primary system (FAP) routes available to certain size vehicles pursuant to sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424, 96 Stat. 2097), as amended by Pub. L. 98–17. On the same date, the Governor of the State of Connecticut signed into law Connecticut Substitute Bill 6018 (SB 6018). SB 6018 purports to prohibit the operation of certain vehicles authorized by the STAA on public highways in Connecticut. The terms of the Connecticut statute directly conflict with the STAA.

The Federal Government expects to commence litigation against the State of Connecticut in order to enjoin those provisions of SB 6018 that directly conflict with Federal law. In order to clarify the issues in that litigation, FHWA is cancelling the interim designation of all FAP routes added by FHWA in the April 5 notice beyond those previously proposed for designation by the State of Connecticut. The issue of an interim designation primary system in Connecticut will be addressed in a rulemaking proceeding that will be instituted in the near future. At that time, the State and other interested parties will be able to submit comments on FHWA proposals for interim designations.

We wish to emphasize that, pursuant to the clear language of the STAA, the entire Interstate System in Connecticut remains open to the trucks authorized by the STAA. In addition, so that the public is aware of which highways will be open to these vehicles, we are setting out, in an Appendix to this notice, the FAP highways in Connecticut on which the trucks may operate.

Issued on May 20, 1983.

R. A. Barnhart,

Federal Highway Administrator.

Appendix—State Proposed Other Qualifying Highways Connecticut

Posted route No.	From	To
CT-2	Columbus Blvd. Hartford.	Jct. I-290 Norwich.
CT-8	I-95 Bridgeport	Jct. I-84 Waterbury.
CT-9	I-95 Old Saybrook	Jct. I-91 Cromwell.
CT-20	Jct. CT 401 (Bradley International Airport, Windsor Locks.	I-91 Windsor.
CT-52[1]	I-95 East Lyme	Massachusetts St. Line, Thompson.
CT-401	Jct. CT 20 Windsor Locks.	Bradley International Airport Access Rd. Windsor Locks.

[1] CT 52 was approved as I-290 on April 18, 1983.

[FR Doc. 83-14013 Filed 5-23-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-83-1074]

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date.

SUMMARY: This document announces the effective date for the interim rule published in the **Federal Register** on April 15, 1983 (48 FR 16424) which amends the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for all market areas, in compliance with the requirements of Section 8(c)(1) of the U.S. Housing Act of 1937. The rule provided for a 30-day public comment period from the date of publication, and the effective date provision of the rule stated that, after the comment due date of May 16, 1983, a notice of the effective date of the rule would be published in the **Federal Register**.

On the basis of its consideration of the comments received during the public comment period, HUD has determined not to make any changes at this time in the Fair Market Rents published on April 15, 1983. Accordingly, all of the Fair Market Rents contained in Schedule A, as published in the **Federal Register** on April 15, 1983, will become effective as provided under "Effective Date", below.

However, HUD will continue carefully to evaluate all comments received, whether during or after expiration of the public comment period, to determine whether any further revision of the Fair Market Rent schedules should be made. If this evaluation indicates a need to make any further revision of the Fair Market Rent schedules for particular market areas, HUD will publish a revision of those schedules at a future date.

EFFECTIVE DATE: The effective date for the interim rule published April 15, 1983, at 48 FR 16424, is May 19, 1983. (For application of the Fair Market Rents in the interim rule in cases where the owner's application for Section 202/Section 8 assistance or owner's proposal for other Section 8 new construction or substantial rehabilitation assistance is accepted for processing by HUD (by FmHA in the case of assistance under Part 884; by the State Agency in the case of assistance under Part 883) prior to the effective date of this Rule, see Note 2 to Schedule A in the interim rule.)

FOR FURTHER INFORMATION CONTACT: Linda Cheatham, Director, Technical Support Division, Department of Housing and Urban Development, Room 6138, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: (202) 426–7113. This is not a toll-free number.

Dated: May 19, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-13800 Filed 5-23-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Parole Commission

Paroling, Recommitting, and Supervising Federal Prisoners

28 CFR Part 2

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: To remove redundancy in its regulations the U.S. Parole Commission is editorially simplifying its rules.

DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD. 20815, Tel. (301) 492–5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is simplifying its rules at 28 CFR 2.13(d), Initial Hearing; Procedure. The generic language of this provision is redundant with 28 CFR 2.18.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4206(a)(6), 28 CFR 2.13 is amended by revising paragraph (d) as follows:

§ 2.13 Initial hearing; procedure.

* * * * *

(d) In accordance with 18 U.S.C. 4206, the reasons for establishment of a release date shall include a guidelines evaluation statement containing the prisoner's offense severity rating and salient factor score (including the points credited on each item of such score) as described in § 2.20, as well as the specific factors and information relied upon for any decision outside the range indicated by the guidelines.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 5, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-13787 Filed 5-23-83; 8:45 am]

BILLING CODE 7035-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: Because of administrative costs the Commission is simplifying its current procedures concerning a prisoner's refusal to sign a parole certificate.

EFFECTIVE DATE: July 4, 1983.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of the General Counsel, U.S. Parole Commission, 5550

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Friendship Blvd., Chevy Chase, MD. 20815, Tel. (301) 492–5959.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules at 28 CFR 2.40, Conditions of Release, by removing the requirement that a prisoner be given a special interview on the next docket when he refuses to sign a parole certificate. This change is intended to simplify Commission procedures and reduce costs. The Commission has found that the consequences of a prisoner's refusal to sign a parole certificate (i.e., waiver of parole) can be adequately explained to the prisoner by institutional staff and documented. A prisoner can, of course, reapply for parole at any time in accordance with 28 CFR 2.11.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.40 is amended by revising paragraph (h) as follows:

§ 2.40 Conditions of release.

* * * * *

(h) A prisoner who, having been granted a parole date, subsequently refuses to sign the parole certificate, or any other consent form necessary to fulfill the conditions of parole, shall be deemed to have withdrawn the application for parole as of the date of refusal to sign. To be again considered for parole, the prisoner must reapply for parole consideration. With respect to prisoners who are required to be released to supervision through good time reductions (pursuant to 18 U.S.C Sections 4161 and 4164), the conditions of parole set forth in this rule, and any other special conditions ordered by the Commission, shall be in full force and effect upon the established release date regardless of any refusal by the releasee to sign the parole certificate.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: May 5, 1983.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 83-13771 Filed 5-23-83; 8:45 am]

BILLING CODE 7035-01-M

Office of the Attorney General

28 CFR Part 45

[Order No. 1013-83]

Delegation of Authority With Respect to Review of Financial Disclosure Reports

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends Department of Justice Standards of Conduct regulations to provide for the Deputy Attorney General to review financial disclosure reports filed by the Associate Attorney General, the Solicitor General, and the Director of the Federal Bureau of Investigation. The Attorney General retains responsibility for reviewing financial disclosure reports filed by the Deputy Attorney General.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Beth Nolan, Attorney-Adviser, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530. Tel: (202) 633–3711.

SUPPLEMENTARY INFORMATION: This action is not a rule within the meaning of Executive Order No. 12291 or the Regulatory Flexibility Act, 6 U.S.C 601 *et seq.*

List of Subjects in 28 CFR Part 45

Conflicts of interests.

PART 45—[AMENDED]

Accordingly, by the authority vested in me by 28 U.S.C. 509 and 510; 5 U.S.C. 301; and the Ethics in Government Act of 1978, 92 Stat. 1824, § 45.735–27(d)(1) (ii) and (iii) of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 45.735–27 Public financial disclosure requirements.

* * * * *

(d) * * *

(1) * * *

(ii) The Attorney General shall review reports filed by the Deputy Attorney General;

(iii) The Deputy Attorney General shall review reports filed by the Associate Attorney General, Solicitor General, Director of the Federal Bureau of Investigation, and the head of each division under his supervision;

* * * * *

Dated: May 16, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-13808 Filed 5-23-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1912 and 1912a

Advisory Committees; Notice of Meetings, and Quorum Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: This document changes the notice requirements for OSHA advisory committee meetings from 7 to 15 days in order to conform to the applicable Federal law. In order to improve these regulations and to establish better organization and management in the use of the National Advisory Committee on Occupational Safety and Health (NACOSH) the quorum requirement is changed to be a simple majority.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N–3637, United States Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION: In October 1973, OSHA regulations with regard to advisory committees were promulgated. 29 CFR Part 1912, entitled "Advisory Committees on Standards," was promulgated on October 11, 1973 (38 FR 28035); and Part 1912a, entitled "National Advisory Committee on Occupational Safety and Health," was promulgated on October 18, 1973 (38 FR 28934). This document amends Parts 1912 and 1912a with respect to the provisions concerning notices of meetings. Additionally, Part 1912a is amended with regard to the quorum requirements.

Notice of Meetings

Section 1912.27 currently requires that public notice of any advisory committee meeting be given "at least seven (7) days in advance of the meeting." Section 1912a.7 has a similar seven day notice requirement. Since this notice must be published in the **Federal Register** these minimum tme periods should conform to the Federal Register Act (FRA) (44 U.S.C. Chapter 15). Section 1508 of the FRA requires a minimum of 15 days notice under normal circumstances. OSHA has generally provided the 15 days' notice required by the FRA. In order to conform these OSHA regulations to applicable federal law and to OSHA's practice, this amendment changes the seven day notice periods to 15 day notice periods.

Quorum requirements for NACOSH

Under current NACOSH regulations a quorum is a majority of the members of the committee, provided that a member representing management, labor, and the public are included in the majority (§ 1912a.6(a)). While the need for a majority of the members to constitute a quorum is common, the additional requirements are not. In the preamble to the **Federal Register** document adopting the NACOSH regulations, no reason was given for adopting such a quorum rule. Section 7(a) of the Act, which establishes NACOSH, sets forth the representational make-up of the committee but is silent with regard to a quorum. Similarly, section 5(b)(2) of the Federal Advisory Committee Act (FACA) requires a fair balance in the representational composition of advisory committees, but does not address any special procedures or requirements related to a quorum.

This quorum requirement, for NACOSH meetings, has created a difficult and unnecessary scheduling burden on OSHA. Since there are only two members each of the management and the labor groups in NACOSH, and at least one of each group must be in attendance to satisfy current quorum requirements, it is often very difficult to accommodate members' schedules and to set dates for NACOSH meetings. And once meetings are set, unforeseen changes in plans of even one member (if he is the only labor or management representative who was to attend) can defeat the quorum. This in turn creates problems for other committee members and the public.

Additionally, these issues were discussed at length at the December 2, 1982, meeting of NACOSH. By a vote of seven to two with one abstention, the committee after deliberation recommended amending the quorum requirement to be a simple majority (Transcript at 89). In light of the above, OSHA finds that the quorum requirements of § 1912a.6(a) for NACOSH present an unnecessary burden of scheduling meetings that could work to impede the orderly functioning of the committee and could prevent it from performing its important statutory function. A simple majority quorum will promote the orderly functioning of the Committee by reducing scheduling burdens placed on OSHA by the current representational requirements of the quorum. Nothing in this amendment will prevent any member's or group's full participation in Committee meetings. Achieving a balanced point of view in Committee recommendations is assured by the representational composition of the Committee and the protections of § 1912a.5 which assures that all views—majority, dissenting, and individual—will be included in any report by NACOSH, and assures that any committee member may submit his own views directly to the Secretary.

A similar quorum requirement for the Advisory Committee for Construction Safety and Health (the only existing § 7(b) committee) has not created scheduling difficulties since each representational group has five members on the committee. Hence no changes in these quorum regulations are warranted at this time.

OSHA, in accordance with Executive Order 12291 (46 CFR 13193), hereby states that this rulemaking does not constitute a "major rule" since its effect will not meet any of the definitional elements in section 1(b) of the Executive Order.

Notice of proposed rulemaking, public rulemaking procedures, and delay in effective date are not required for these amendments to Parts 1912 and 1912a since they relate solely to agency management and procedure.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C.

List of Subjects in 29 CFR Parts 1912 and 1912a

Advisory committees, Occupational safety and health.

Accordingly, pursuant to sections 7 and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1597, 1599, 29 U.S.C. 656, 657), 5 U.S.C. 553, and App. I, and Secretary of Labor's Order No. 8–76 (41 FR 25059), Parts 1912 and 1912a of Title 29, Code of Federal Regulations, are hereby amended as set forth below.

Signed at Washington, D.C. this 19 day of May, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PARTS 1912 AND 1912a—[AMENDED]

Parts 1912 and 1912a of Title 29 CFR are amended by revising §§ 1912.27, 1912a.6(a) and 1912a.7 to read as follows:

§ 1912.27 Notice of meetings.

Public notice of any meeting of an advisory committee shall be given by the officer or employee calling the meeting at least fifteen (15) days in advance of the meeting; except when it is impractical to do so, or in an emergency situation, in which event shorter advance notice may be given to the extent that any advance notice is practical. It shall, however, be a general policy to publish notices as far in advance of the meeting as circumstances will permit. Such notice shall be given by publication in the **Federal Register.** In addition, notice may be given by such other means as press releases.

§ 1912a.6 Quorum.

(a) A majority of the members of the Committee shall constitute a quorum.

* * * * *

§ 1912a.7 Notice of meetings.

Public notice of any meeting of the Committee shall be given by the person calling the meeting in accordance with § 1912a.4 or at his direction at least fifteen (15) days in advance of the meeting; except when it is impractical to do so, or in an emergency situation, in which event shorter advance notice may be given. Such notice shall be given by publication in the **Federal Register** as much in advance of the meeting as circumstances will permit. In addition, notice may be given by such other means as press releases.

[FR Doc. 83-13935 Filed 5-23-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Removal of Certain Conditions on the Approval of the Ohio Permanent Regulatory Program and Approval of Amendments to the Regulatory Program and Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 935 by: 1) removing certain conditions and modifying the deadline for Ohio to meet other conditions on the approval of the Ohio program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA); 2) approving additional amendments to the Ohio

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regulatory program and abandoned mine land reclamation (AML) plan; 3) adding two new conditions of approval concerning appeal rights and bond release requirements. Ohio received conditional approval of its permanent regulatory program and approval of its AML plan effective August 16, 1982.

EFFECTIVE DATE: The actions in this notice are effective May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982, **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)—(f)(10), (g), (h)(1)—(h)(3), (i)(1)—(i)(3), (j), and (k)(1)—(k)(5). In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1), and (k)(1) by August 8, 1983, deficiency (e) by September 16, 1982, and the remaining deficiencies by February 8, 1983. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

Ohio did submit to OSM on September 16, 1982, a revised program regulation satisfying condition (e). The Secretary approved the revised regulation and removed condition (e) on January 17, 1983 (48 FR 1957).

On February 1, 1983, Ohio requested an extension of the deadline for the State to meet conditions (k)(3), (k)(4), and (k)(5). These conditions were due February 8, 1983. On February 28, 1983, OSM published notice that it was considering modifying the deadline for Ohio to meet those parts of condition (k), and requesting public comment. The comment period closed March 15, 1983 and no comments were received. Accordingly, the Secretary is extending the deadline by which Ohio must meet conditions (k)(3), (k)(4), and (k)(5) to August 8, 1983.

II. Submission of Amendments

On January 6, 1983, Ohio submitted materials to OSM intended to: satisfy conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k)(1) and (k)(2); amend the approved State program; and amend the approved Abandoned Mine Land Reclamation Plan. The materials submitted included two legislative bills (Amended Substitute Senate Bills 240 and 323) to amend the Ohio Revised Code (ORC); numerous regulation changes to the Ohio Administrative Code (OAC), and two policy statements from the Division of Reclamation.

On January 21, 1983, OSM published notice in the **Federal Register** announcing receipt of these provisions and inviting public comments (48 FR 2800).

On May 18, 1983, the Administrator of the Environmental Protection Agency transmitted written concurrence on the amendments to the Ohio program which were submitted January 6, 1983.

III. Secretary's Findings

Conditions of Approval

1. *Condition (a).* Condition (a) required the State to enact legislation amending the Ohio Revised Code (ORC) section 1513.01(G)(2) to eliminate the phrase "but not to include public roadways." As discussed in Finding 1.2 of the Secretary's approval (47 FR 34688), the State's definition of "coal mining operations" included this phrase, making it inconsistent with section 701(28)(b) of SMCRA.

The proposed program amendment in Am. Sub. SB 240 does not remove the phrase. Instead, language was added to qualify which public roadways are excluded. The amendment would exclude public roadways, "unless the roadway has been constructed for access to or haulage of coal from a coal mining and reclamation operation or unless public access to the roadway has been denied or restricted."

OSM has clarified the issue of when a road will be excluded from being considered a part of the affected area of a mine, in final rules published August 2, 1982 (47 FR 33430) and April 5, 1983 (48 FR 14814). For a public road to be excluded from the affected area of a mine, it must meet three criteria:

(1) The road has been designated as a public road pursuant to the laws of the jurisdiction in which it is located;

(2) The road is maintained with public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction in which it is located; and

(3) There is substantial (more than incidental) public use of the road.

The amended Ohio definition of "operation" does not include these criteria. Therefore, the amended Ohio language does not sufficiently prescribe which roads are public roads.

The Secretary finds that condition (a) has not been satisfied. However, because Ohio submitted material which it, in good faith, believed to be adequate to satisfy this condition, the Secretary has decided to allow the State until August 8, 1983 (the date originally set for this condition) to submit revised provisions. Such provisions could be an adoption of the criteria now set under the Federal definition or an assurance that such criteria will be utilized. On April 8, 1983, the State was advised of the need to further amend the Ohio Revised Code or otherwise amend its program to meet this condition. By letter dated April 27, 1983, the State agreed to do so by August 8, 1983. In the interim, Ohio has agreed to apply the above mentioned criteria to determine when a road may be excluded from being considered part of the affected area of a coal mining operation as defined in ORC 1513.01(G).

2. *Condition (b).* Condition (b) required the State to enact legislation or provide an opinion from the Ohio Attorney General limiting the effect of Section 5 of ORC Chapter 1513 to Federal courts with jurisdiction in the State. As discussed in Finding 1.12, the State provision would nullify the effect of SMCRA or the Federal regulations if a Federal court in a jurisdiction outside Ohio were to overturn a provision of the Federal Act or regulations.

In response to this condition, Am. Sub. SB 323 has repealed Section 5 and amended Section 4 to limit the effect of Section 4 to Federal courts with jurisdiction in Ohio. The Secretary finds that the amendment satisfies condition (b).

3. *Condition (c).* Condition (c) required the State to amend the Ohio Code and promulgate regulations to require work be performed by registered professional engineers in instances required by SMCRA and the Federal regulations. SMCRA requires that qualified registered professional engineers or, in some instances, professional geologists, design and certify certain cross-section maps or plans for a permit application. These requirements are found in SMCRA sections 507(b)(14), 515(b)(10)(B), 515(b)(22)(H), and 515(c)(3)(B)(vii). (See Finding 1.5, 47 FR 34690). Am. Sub. SB 240 amends ORC Chapter 1513 in several ways relating to this condition.

The proposed changes to ORC Chapter 1513 are as follows:

(1) In ORC section (1513.07(B)(2)(n)(i), the words "registered surveyor" have been deleted. The Secretary finds this change is consistent with SMCRA.

(2) In ORC section 1513.16(B)(3)(b)(vii), the words "registered surveyor" have been deleted. The Secretary finds this change is consistent with SMCRA.

(3) In ORC section 1513.07(B)(2)(n)(i), the following language was added, "Registered Surveyors shall be allowed to perform all plans, maps, and certifications under this chapter as they are authorized under ORC Chapter 4733 of the Ohio Revised Code". ORC Chapter 4733 provides for the registration of professional engineers and surveyors in Ohio. The Secretary finds this amendment would allow registered surveyors to perform duties which SMCRA requires be done by registered professional engineers, and allows surveyors to certify work which SMCRA provides only engineers or geologists certify. Therefore, the Secretary cannot approve this amendment.

The Secretary further notes that ORC section 1513.16(A)(10)(b)(ii) has not been amended to remove the authorization for registered surveyors to perform duties which SMCRA requires be performed by registered professional engineers, nor has the Ohio Administrative Code been amended as required by condition (c).

The Secretary approves the amendments deleting "registered surveyor" from ORC section 1513.07(B)(2)(n)(i) and 1513.16(B)(3)(b)(vii). The proposed amendment to ORC section 1513.07(B)(2)(n)(i), referencing ORC Chapter 4733, concerning registered surveyors, is disapproved. The Secretary finds that condition (c) has not been satisfied. However, because Ohio submitted material which it, in good faith, believed to be adequate to satisfy this condition, the Secretary has decided to allow the State until August 8, 1983 (the date originally set for this condition) to submit revised provisions. On April 8, 1983, the State was advised of the need to further amend the Ohio Revised Code and otherwise amend its program to meet this condition. By letter dated April 27, 1983, the State agreed to do so by August 8, 1983. In the interim, the State has agreed as a matter of policy to require that registered professional engineers certify work performed by registered surveyors in all cases where the Federal Act and regulations require such work to be done by registered professional engineers.

4. *Condition (d).* Condition (d) required the State to amend its rules to require the modification of existing structures under the circumstances specified in 30 CFR 701.11(d)(iii). Ohio has amended its rule 1501:13-1-01(E)(2) by substituting the word "shall" for the word "may", so that the rule now requires that an existing structure must be modified. The Secretary finds that the amendment satisfies condition (d) and is approving it.

5. *Condition (f)(1).* Condition (f)(1) required the State to amend its regulations to add a provision for regulating the disposal of coal waste in excess spoil fills, consistent with 30 CFR 816.71(k). Ohio has added rule OAC 1501:13-9-07(H) which provides that coal wastes shall not be disposed of in head-of-hollow or valley fills and may be disposed of in other excess spoil fills if certain requirements are met. The Secretary finds that the regulation is no less effective than 30 CFR 816.71(k) and thus satisfies condition (f)(1).

6. *Condition (f)(2).* Condition (f)(2) required the State to delete the portion of its rule allowing an exemption from contemporaneous reclamation where required by the "method of mining". Ohio has amended its rule OAC 1501:13-9-13(B) to delete the phrase "or where required by the method of mining." The Secretary finds that the revised rule satisfies condition (f)(2).

7. *Condition (f)(3).* Condition (f)(3) required the State to amend its rule OAC 1501:13-9-14(C)(4) to delete the provision allowing areas affected by underground mining operations that have become stabilized over the long term to be retained in their existing configuration. Ohio has deleted this provision and the Secretary finds that condition (f)(3) is statisfied.

8. *Condition (f)(4).* Condition (f)(4) required the State to promulgate regulations requiring resoiling as contemporaneously as practicable with mining. Ohio has added rule OAC 1501:13-9-13(A). The Secretary finds it is no less effective than 30 CFR 816.100, and thus satifies condition (f)(4).

9. *Condition (f)(5).* Condition (f)(5) required the State to promulgate regulations requiring notification to the Division of Reclamation of slides that may have a potential adverse effect on public property, health, safety, or the environment. Ohio has amended its rule OAC 1501:13-9-12(B) to require notification and to require compliance with any remedial measures. The Secretary finds the amended rule is no less effective than 30 CFR 816.99(b) and thus satisfies condition (f)(5).

10. *Condition (f)(6).* Condition (f)(6) required the State to promulgate regulations providing public notice of underground mining schedules consistent with 30 CFR 817.122. Ohio has amended its rule OAC 1501:13-12-02(B) to require such public notice. The Secretary finds that the amended rule satisfies condition (f)(6).

11. *Condition (f)(7).* Condition (f)(7) required the State to promulgate regulations requiring establishing the beginning of the period for extended responsibility under the performance bond requirements consistent with 30 CFR 816.116(b)(1) and to delete or limit the examples of normal management practices and minor regrading. Ohio has amended its rule OAC 1501:13-9-15(E)(5) to delete the two examples of normal management practices and minor regrading, and the Secretary finds that this part of condition (f)(7) has been satisfied. However, condition (f)(7) also required the State to establish the beginning of the period for extended responsibility consistent with the Federal rule. The Federal rule provides that the period begins at the last time of augmented seeding, fertilizing, irrigation or other work necessary to ensure successful revegetation, whereas the Ohio rule provides that the period begins "at the last time of *substantially* augmented seeding." * * *." Ohio has not deleted or defined the word "substantially" to enable the Secretary to conclude that the rule is consistent with Section 515(b)(20) of SMCRA and no less effective than the Federal rule. Therefore, the Secretary finds that condition (f)(7) has not been fully satisfied. The Secretary is amending condition (f)(7) to reflect that part of the condition has been satisfied. Because Ohio submitted material which it, in good faith, believed to be adequate to satisfy this condition, the Secretary has decided to allow the State until August 8, 1983, to submit revised provisions. The State was advised of the need to further amend its rules and by letter of April 27, 1983, agreed to do so by August 8, 1983. In the interim, the State has agreed to satisfy the terms of this condition as a matter of policy.

12. *Condition (f)(8).* Condition (f)(8) required the State to promulgate regulations amending its rule OAC 1501:13-9-09 to require inspection of coal waste banks consistent with 30 CFR 816.82. Ohio has added paragraph (I) to 1501:13-09-9, to require such inspections. The Secretary finds that the amended rule is no less effective than 30 CFR 816.82 and therefore condition (f)(8) is satisfied.

13. *Condition (f)(9).* Condition (f)(9) required the State to promulgate regulations amending OAC 1501:13-9-04(G)(18) to delete authority to grant a variance from applicable Federal and State effluent limitations at the time for

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removal of sediment ponds. Ohio has deleted the authority to grant such a variance. The Secretary finds the amended rule no less effective than 30 CFR 816.46(u) and therefore condition (f)(9) is satisfied.

14. *Condition (f)(10).* Condition (f)(10) required the State to amend its regulations to require subsidence control plans to include consideration of damage to streams, water, and associated structures, consistent with 30 CFR 817.126(a). Ohio has added subparagraph (D)(4) to OAC 1501:13–12–02, which provides for such consideration. The Secretary finds that the amended regulation is no less effective than 30 CFR 817.126(a) and satisfied condition (f)(10).

15. *Condition (g).* Condition (g) required the State to amend its regulations to delete the provision in OAC 1501:13–8–01(C), exempting persons who conduct coal exploration from complying with performance standards. Ohio has deleted paragraph (C) and (D) from OAC 1501:13–8–01. The Secretary thus finds that condition (g) is satisfied.

16. *Condition (h)(1).* Condition (h)(1) required the State to amend its program to revise the bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited.

Ohio has enacted Senate Bill 323 which amends ORC Section 1513.09(A) to create the reclamation supplemental forfeiture special account (previously called the reclamation special account) and allow the Auditor of State to transfer $1 million annually (instead of the previous limit of $500,000) to replace funds spent from the account.

However, condition (h)(1) required revision to the current bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited. Increasing the available amount of money to be annually transferred is a step toward more timely reclamation on sites upon which bond has been forfeited; however, this in itself is not an *assurance* of more timely reclamation of these sites. Ohio will have to provide assurance through an analysis of the revised bonding system to show that the system can achieve the objectives and purpose of the bonding program pursuant to SMCRA section 509(c), and ensure reclamation as contemporaneously as practicable without unreasonable delay of the postmining land use pursuant to SMCRA section 515(b)(2) and (b)(16).

The proposed amendment is approved, but the Secretary finds that it does not satisfy condition (h)(1), in that Ohio fails to provide assurance of more timely reclamation of sites upon which bond has been forfeited. However, because Ohio submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to allow the State until August 8, 1983 (the date originally set for this condition) to submit new assurances. On April 8, 1983, the State was advised of the need to further amend its program to satisfy this condition. By letter dated April 27, 1983, the State agreed to do so by August 8, 1983.

17. *Condition (h)(2).* Condition (h)(2) required the State to promulgate regulations consistent with 30 CFR 800.11(b)(2), ensuring that bonds shall be filed at least 30 days prior to commencement of mining on the next incremental areas.

Ohio has added, at OAC 1501:13–7–01(B)((6)(b), a requirement that bonds be filed 30 days prior to commencement of mining on the next incremental area. The Secretary finds that the amended regulation is no less effective than 30 CFR 800.11(b)(2) and therefore condition (h)(2) is satisfied.

18. *Condition (h)(3).* Condition (h)(3) required the State to promulgate regulations consistent with 30 CFR 806.12(e)(6)(iii) assuring that an operator will not be allowed to operate without bond coverage beyond a reasonable period in order to replace coverage.

Ohio has amended OAC 1501:13–7–03(B)(5)(g) to remove the discretion to suspend the permit when the operator is without bond coverage. The amended rule now provides that the Chief "*shall* suspend all or any part of the permit until bond coverage is replaced."

The Secretary finds the amended rule is no less effective than 30 CFR 806.12(e)(6)(iii) and therefore condition (h)(3) is satisfied.

19. *Condition (i)(1),* Condition (i)(1) required the State to submit a statement of policy indicating that Ohio will develop and implement procedures for data coordination and exchange with State and Federal agencies.

Ohio has submitted a statement of policy by the Chief of the Division of Reclamation addressing data coordination and exchange as required by condition (i)(1). This condition referred to the requirements in 30 CFR 795.4, responsibilities under the Small Operator Assistance Program (SOAP). Since this condition was placed on Ohio's program, 30 CFR 795.4 has been revised and numbered 30 CFR 795.9(d), and now requires the program administrator to "develop procedures for interstate coordination and exchange of data." The Secretary finds that Ohio's policy statement of December 28, 1982, meets the requirements found in 30 CFR 795.9(d) and therefore satisfies conditions (i)(1) .

20. *Condition (i)(2).* Condition (i)(2) required the State to submit promulgated regulations requiring additional information to be submitted by SOAP applicants including: (i) The anticipated termination date of the operation, (ii) a statement of coal seam thickness, and (iii) the legal right of entry.

Ohio has amended OAC 1501:13–6–03(E) to require the applicant to provide the information in (i)(2) (i), (ii), and (iii). The Secretary finds that amended OAC 1501:13–6–03(E) (7), (10)(b), and (11) are no less effective than the Federal regulations and therefore condition (i)(2) is satisfied.

21. *Condition (i)(3).* Condition (i)(3) required the State to submit promulgated regulations requiring small operators to submit a permit application within one year of receiving approved SOAP reports.

Ohio has amended OAC 1501:13–6–03(J)(1)(b) to require small operators to submit a permit application within one year of receiving approved SOAP reports. The Secretary finds that amended OAC 1501:13–6–03(J) is no less effective than 30 CFR 795.12 and therefore condition (i)(3) is satisfied.

22. *Condition (j).* Condition (j) required the State of submit a statement of policy that costs to small operators for test borings, corings, and observation wells will be paid using funds other than SOAP operational funds provided by OSM.

Ohio has submitted a policy statement that no costs to small operators for test borings, corings, and observation wells will be paid from SOAP operational grant funds provided by OSM. The Secretary finds that the policy statement is acceptable and satisfies condition (j). The Secretary notes that since this condition was placed in Ohio's program, 30 CFR 795.9 has been revised to provide that observation well drilling costs may now be paid on a case-by-case basis by operational grant funds, so that Ohio may wish to revise its policy statement in accordance with revised Federal rule.

23. *Condition (k)(1).* Condition (k)(1) required the State to enact legislation and promulgate regulations to require the pre-payment of a civil penalty in order to contest either the amount or the fact of the violation.

Am. Sub. SB 240 revises ORC section 1513.02(F) (2) and (3) to eliminate the formal hearing by the Chief so that the first opportunity for formal review of an assessment is before the Reclamation Board of Review.

ORC section 1513.02(F)(3), as amended, requires that, at the time the petition for review of the proposed assessment is filed with the Secretary of the Reclamation Board of Review, the person shall forward the amount of the penalty to the Secretary of the Board. In addition, this amendment provides for an informal assessment conference to review the amount of the penalty. The conference is to be presided over by the Chief or his appointee, excluding the inspector that issued the notice of violation or order. The proposed penalty need not be paid prior to this informal conference.

The Secretary finds that the amendments to ORC section 1513.02(F) are consistent with SMCRA section 518(c) and 30 CFR 845.18 and are approved. The amendments satisfy condition (k)(1).

24. *Condition (k)(2).* Condition (k)(2) required the State to promulgate regulations eliminating the opportunity for a *de novo* hearing or providing safeguards against abuses to the record developed at the initial hearing in an administrative appeal to the Reclamation Board of Review.

Ohio has submitted Senate Bill 240 which amends ORC section 1513.02 and sections 1513.13 to eliminate and appeal to the Chief of the Division of Reclamation on notices, orders, and decisions. The first level of review is now the Reclamation Board of Review. Thus, the opportunity for *de novo* review has been eliminated, because the only administrative hearing is now before the Board. The Secretary approves the amendment and finds that condition (k)(2) is satisfied.

Other Regulatory Program Amendments

Ohio submitted Amended Substitute Senate Bills 240 and 323 (hereinafter referred to as Am. Sub. SB 240 or 323) which amend the Ohio Revised Code (ORC). The amendments and the Secretary's findings are discussed below.

1. *ORC Section 127.16(D)(8).* Am. Sub. SB 323 allows the Chief of the Division of Relcamation to contract reclamation work with an operator mining adjacent land. This applies to State funded projects or bond forfeitures from permits issued before and during the interim program. It does not impact upon the permanent program requirements of SMCRA. Consequently, the amendment is approved.

2. *ORC Section 1513.02(A)(4): Determination of the Probable Hydrologic Consequences and State Funding for S.O.A.P.* Am. Sub. SB 323 amends this section to clarify that an applicant must request the Chief to make a determination of the probable hydrologic consequences. The present language states that the Chief shall perform the hydrologic study.

Section 507(b)(11) of SMCRA requires that the permit application contain a determination of the probable hydrologic consequences (PHC) of the mining and reclamation operations * * * so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area. Section 507(b)(15) requires a statement of the results of test borings or core samplings to be submitted. Section 507(c) of SMCRA provides that the PHC is to be performed by a qualified laboratory and the cost is to be borne by the regulatory authority, for an operator whose total annual production will not exceed 100,000 tons.

The change in ORC section 1513.02(A)(4) would require the Chief to "make a determination" of the PHC within 60 days of submission of a permit application. Although section 1513.02 does not contain a specific power to enter into contracts with qualified laboratories for the performance of the PHC, section 1501:13–6–03(G)(2) of the Ohio Administrative Code (OAC) requires the PHC to be made by a qualified lab. Furthermore, section 1501:13–6–03(A)(4)(b) directs the Chief to pay to labs or reimburse eligible applicants for PHC determinations. The Secretary finds this proposed change is not inconsistent with section 507(b)(11) of SMCRA, with the understanding that applications may not be considered complete until they include the data and the PHC determination required by sections 507(b)(11) and 507(b)(15).

In addition, Ohio's Am. Sub. SB 323 deletes a provision authorizing the Chief to transfer up to $500,000 from the unreclaimed land special account to cover the cost of making PHC determinations and performing chemical analyses of test borings or core samplings for small operators who have a total annual production that does not exceed one hundred thousand tons. The Secretary finds this deletion is not inconsistent with section 507(c) of SMCRA, with the understanding that Federal funds may be used only to perform work for eligible operators under section 507(c), and may not be used for any other purpose.

3. *ORC Section 1513.02(A)(5): Authority to use up to $1 Million.* Am. Sub. SB 323 amends ORC section 1513.02(A) by adding subparagraph (5), which will allow the Chief to transfer up to $1 million annually from the coal mining and administration and reserve special account created in ORC section 1513.181 to the Reclamation Supplemental Forfeiture Special Account created in ORC section 1513.08.

In light of the number of present and potential reclamation defaults and bond forfeitures, the Secretary conditioned his approval of the Ohio permanent program, as stated in 30 CFR 935.11(h)(1), on Ohio amending its program to revise the current bonding system to provide assurance of more timely reclamation at the site of operations on which bond has been forfeited. While raising the amount available annually will reduce the reclamation backlog, the State must still demonstrate to the Secretary that the $1 million amount transferred annually into the Reclamation Supplemental Forfeiture Special Account provides the assurance of more timely reclamation on all forfeited operations.

The change from $500,000 to $1 million is not in conflict with SMCRA, but in itself does not satisfy condition 30 CFR 935.11(h)(1). The condition will not be removed until the State demonstrates the effect of the changed amount. (See also discussion on condition (h)(1)).

4. *ORC Section 1513.07(B)(2) (d) and (e): Permits.* Am Sub. SB 323 amends ORC section 1513.07(B)(2)(d) by requiring the applicant to provide a list of persons responsible for ensuring compliance with the requirements of the surface mining chapter. ORC section 1513.07(B)(2)(e), as amended by Am. Sub. SB 323, expands the provision to be more specific, wherein the applicant, owners, and managers must state whether they were ever owners or managers of another business entity that has had a permit suspended, revoked, or forfeited. This amendment is consistent with the requirements of SMCRA section 507(b) (4) and (5) and is approved.

5. *ORC Section 1513.07(B)(2)(q): Permits.* Am. Sub. SB 323 amends ORC section 1513.07(B)(2)(q) to include the requirement for liability insurance which had been covered under repealed ORC section 1513.06 (annual license requirements). The language of ORC section 1513.07(B)(2)(q) also includes notification of lapses in insurance policy, and allows the Chief to suspend permits until proper coverage is obtained. This amendment is consistent with SMCRA section 507(f) and is approved.

6. *ORC Section 1513.07(E): Permits.* ORC section 1513.07(E) has been amended by Am. Sub. SB 323 to: require a statement in the permit application

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that any civil penalties owed to the state for a violation and not subject to an appeal have been paid; require the Chief to deny a permit if he finds that persons in control of the company have ever forfeited a coal mining bond anywhere in the United States or materially failed to comply with ORC Chapter 1513; and provide that the Chief may deny a permit if persons in control of the company have had a permit suspended or revoked in the United States.

The amendments to ORC section 1513.07(E)(3) are consistent with SCMRA section 510 and are approved.

7. *ORC Section 1513.08(A): Bonds.* Am. Sub. SB 323 amends ORC section 1513.08(A) to provide that the bond shall cover areas of land affected by mining within, or immediately adjacent to, the permit area. This change will allow bond to be applied to any areas which may be affected outside the permit area, which was not previously allowed, with the result that surety companies claimed that they were not responsible for areas affected outside the permit during forfeiture proceedings. This amendment, which was not in response to a condition placed on the Ohio program, is found to be in accordance with SMCRA, and is, therefore, approved.

8. *ORC Section 1513.17: Need for permit.* Am. Sub. SB 323 adds the word "knowingly" to the violations listed in ORC section 1513.17(B), (C), and (D), and requires that strict criminal liability can be imposed. This change results in penalties no less stringent than those in SMCRA section 518(e) and is approved.

9. *ORC Section 1513.18: State special revenue fund.* Am. Sub. SB 323 amends section 1513.18 so that the Chief is authorized to contract with landowners, operators mining under valid permits, or contractors hired by the surety to complete reclamation without advertising for bid. This allows the Chief to contract for bond forfeiture work with anyone, including the operator who defaulted if the defaulted operator is the contractor hired by the surety. The provision is not inconsistent with SMCRA, and the amendment is approved.

10. *ORC Section 1513.27: Reclaiming damage to adjacent property. Section 1513.28: Reclamation grants, criteria contracts with applicants. Section 1513.32: Agreements.* Am. Sub. SB 323 amended ORC sections 1513.27, 1513.28, and 1513.32 regarding the administrative operation of the State "unreclaimed lands special account" which receives no Federal funding. As this account is entirely State-funded and separate from the approved abandoned mine land reclamation program for the State of Ohio, these proposed changes are amendments which are not inconsistent with SMCRA.

11. *ORC Section 1513.99: Penalties.* Am. Sub. SB 323 amends ORC section 1513.99, to incorporate ORC sections 1513.17(B), (C), (D) and (E) into the penalty section. These provisions are as follows:

(1) ORC section 1513.17(B)—mining without a permit;

(2) ORC section 1513.17(C)—knowingly violate a permit condition or exceed the limits of a permit;

(3) ORC section 1513.17(D)—knowingly fail to comply with a Chief's Order;

(4) ORC section 1513.17(E)—knowingly violate a requirement of ORC Chapter 1513 not specifically mentioned in the section.

This amendment was made in conjunction with the amendment to sections 1513.17(B), (C), (D), and (E). The amendment provides penalties that are no less stringent than the requirements of SMCRA section 518 and is approved.

12. *ORC Section 1513.02(A)(5): Authority to issue rules.* Am. Sub. SB 240 adds ORC section 1513.02(A)(5) which authorizes the Chief to receive, administer, and expend moneys from Federal agencies to implement the program. The amendment is not inconsistent with SMCRA and is approved.

13. *ORC Section 1513.02(D) (1) and (2): Authority to issue rules.* Am. Sub. SB 240 amends ORC section 1513.02(D) (1) and (2) to authorize the Reclamation Board of Review to modify, vacate, or terminate a cessation order. This authority is consistent with the requirements of SMCRA section 525(b) and is approved.

The amendment to ORC section 1513.02(D)(2) allows the State, by reference, to have the same requirements on abatement periods as 30 CFR Part 843. This is consistent with the Federal regulations, and is approved.

14. *ORC Section 1513.02 (I) and (J): Hearing Officers.* Am. Sub. SB 240 amends ORC section 1513.02 (I) and (J) by removing requirements to submit violation information required in ORC section 1513.06 (repealed) and eliminating the requirement for the Chief to appoint hearing officers. Both changes were due to other changes in Am. Sub. SB 240 and are not inconsistent with SMCRA, so they are approved.

15. *ORC Section 1513.05: Reclamation Board of Review.* Am. Sub. SB 240 amends ORC section 1513.05 by requiring the Reclamation Board of Review to appoint hearing officers and to adopt rules governing procedure of appeals. These amendments are not inconsistent with SMCRA and are approved.

16. *ORC Section 1513.06: Licenses.* Am. Sub. SB 240 repeals ORC section 1513.06, which required a license to conduct a coal mining and reclamation operation. All information required by this section is now required in a permit application. This amendment is not inconsistent with SMCRA and is approved.

17. *ORC Section 1513.07: Permits.*

(1) ORC section 1513.07(A)(1) is amended by Am. Sub. SB 240, in that a permit fee will not be collected for areas covered by an interim program permit if the same areas are contained in an application for a permanent program permit. Section 507(a) of SMCRA requires that an application fee may be less than but not exceed the actual or anticipated costs of reviewing, administering, and enforcing such permit. The Ohio amendment is not inconsistent with SMCRA section 507(a) and is approved.

(2) ORC section 1513.07(B)(2)(n)(i) is amended by Am. Sub. SB 240 to delete, "or potentiometric surface; and the anticipated final configuration of the water table or potentiometric surface." Since this language is more extensive than the requirements of Section 507(b)(14) of SMCRA, the Secretary finds this section of the Ohio Revised Code remains consistent with the requirements of SMCRA.

(3) ORC section 1513.07(B)(2)(q) is amended by Am. Sub. SB 240 to require the business phone number of the applicant. This amendment is approved.

(4) ORC section 1513.07(B)(6) is amended by Am. Sub. SB 240 to remove the requirement to include a copy of the license with the application for a permit. (See findings under ORC section 1513.06.) The amendment is approved.

(5) ORC section 1513.07(B) is amended by Am. Sub. SB 240 to remove the reference to a license application. (See findings under ORC section 1513.06.) The amendment is approved.

(6) ORC section 1513.07(E)(3) is amended by Am. Sub. SB 240 to require that the State regulatory authority (SRA) provide applicants with a listing for the past three years of all notices of violations of Chapter 1513 of the Revised Code. Section 510(e) of SMCRA requires the applicant to file such a listing with the application. The Secretary finds that it is not inconsistent with SMCRA to have the SRA furnish a listing of violations of Chapter 1513. It should be noted that the applicant would still be responsible for furnishing a listing of violations from other agencies as required by the approved State program. The amendment is approved.

(7) ORC section 1513.07(I) (3), (4) and (5) is amended by Am. Sub. SB 240 to change the appeal procedure on the Chief's decision on a permit application. The appeal will be heard by the Reclamation Board of Review instead of the Chief or his representative. See finding under ORC section 1513.13 (A), (B), and (C). The amendment is not inconsistent with SMCRA section 525 and is approved.

(8) Am. Sub. SB 240 amends ORC section 1513.07(J) by removing the reference to an annual license. This amendment is not inconsistent with SMCRA and is approved.

18. *ORC Section 1513.074: Adjacent area permit.* Am. Sub. SB 240 adds ORC section 1513.074 to classify a permit application adjacent to existing permits as an adjacent area permit application and to allow the applicant to incorporate by reference current information contained in the application for the original permit.

Section 511(a)(3) of SMCRA requires that any extension to the permit area, if not an incidental boundary revision, must be made by application for another permit. ORC section 1513.074 meets this requirement by assuring that the operator supplements information available for public inspection with additional information and makes the application subject to the standards for new applications.

The Secretary finds that this amendment is consistent with SMCRA section 511(a)(3) and is approved.

19. *ORC § 1513.13 (A)(1), (B) and (C): Appeal rights.* (1) The amendment to ORC section 1513.13(B) concerns elimination of the appeal to the Chief and establishes the Reclamation Board of Review to hear appeals. ORC section 1513.13(B)(3) allows a decision from appeal on a bond release to be made within 60 days. SMCRA does not establish a 60-day limit, but the Secretary finds that this is reasonable as long as the bond is not released because of the Board's failure to render a decision within the time period. The amendments to ORC section 1513.13(B) are consistent with SMCRA sections 514, 520, and 525 and are approved.

(2) Am. Sub. SB 240 amends ORC section 1513.13(A)(1) to allow any person to appeal any notice, order, or decision by the Chief by appealing to the Reclamation Board of Review. It eliminates the appeal to the Chief, and requires notice of appeal to be filed within 30 days after a notice, order, or decision is issued, which is a change from "receipt thereof". The amendment gives the Reclamation Board of Review exclusive original jurisdiction to hear and decide such appeals.

The change of time for appeal is inconsistent with SMCRA section 525(a)(1), which provides for appeal within 30 days from receipt of a notice or order. Since a notice, order, or decision may be mailed to an operator or other party, the change is significant in that it shortens the time in which the operator or other party may appeal. Therefore, the Secretary cannot approve this amendment. This deficiency could be corrected by an Attorney General's opinion or a policy statement. The other changes are consistent with SMCRA Section 525 and are approved.

(3) The amendment to ORC section 1513.13(C) eliminates the requirements concerning hearings by the Chief and temporary relief. It provides that the Chairman of the Board may, under conditions he prescribes, grant temporary relief he consider appropriate pending final determination of an appeal if (1) all parties to the appeal have been notified or given an opportunity to be heard, (2) the person requesting relief shows that there is a high likelihood that he will prevail on the merits, and (3) the relief will not adversely affect public health or safety or cause significant imminent environmental harm.

Section 525(c)(1) of SMCRA requires that a hearing be held in the locality of the permit area on the request for temporary relief in which all parties are given an opportunity to be heard. The amendment to ORC section 1513.13(C)(1) does not require that the hearing be in the locality of the permit area. This omission could hamper an operator or other party in their attempt to obtain temporary relief.

The Secretary finds that the amendment to ORC section 1513.13(C)(1) is not consistent with section 525(c)(1) of SMCRA in that it omits a requirement that the temporary relief hearing be held in the locality of the permit area. This deficiency could be corrected by a policy statement or an Attorney General's opinion.

(4) ORC section 1513.13(C), as amended by Am. Sub. SB 240, allows the Chairman of the Reclamation Board of Review to make determinations concerning the granting of temporary relief. The decision of the Chairman on temporary relief cannot, however, be appealed, because an Ohio appellate court has determined that appeals to it are limited to decisions of the Board, *Barack* v. *Call*, Seventh District Court of Appeals, Case No. 83–B–1 (1983). Thus, decisions of the Chairman not to grant temporary relief cannot be reviewed by an appellate court until the Board renders a decision on the merits.

The amendment is not consistent with SMCRA section 526, which provides for a judicial appeal of the decision relating to temporary relief.

Therefore, the Secretary finds that the proposed amendments to ORC 1513.13(A)(1) and 1513.13(C) are not fully consistent with SMCRA and hereby imposes an additional condition of program approval.

On April 8, 1983, the State was advised of the need to amend ORC 1513.13(A)(1) and 1513.13(C) so that these provisions are consistent with SMCRA Sections 525 (a)(1), (c)(1) and 526(c). By letter dated April 27, 1983, the State agreed to so amend its program by August 8, 1983. In the interim, Ohio has agreed as a matter of policy: (1) Not to challenge the time limit on an appeal brought within 30 days of the receipt of a notice, order or decision; (2) that hearings on requests for temporary relief will be held in the locality of the permit area; and (3) that all requests for temporary relief and subsequent decisions will be acted upon by the Reclamation Board of Review.

20. *ORC Section 1513.14: Review of orders by Board of Review and courts.* Am. Sub. SB 240 amends ORC section 1513.14 by removing the provision concerning appeal of decisions by the Chief and vests the exclusive jurisdiction on appeals in the Board of Review. This change is not inconsistent with section 525 of SMCRA.

However, the State must provide for appeal of the Chairman's decision on temporary, relief. See finding concerning ORC 1513.13.

21. *ORC Section 1513.16(F): Reclamation standards.* Am. Sub SB 240 makes the following changes to ORC section 1513.16(F):

(1) ORC section 1513.16(F) is amended to create two actions to be taken on a bond: "reduction" and "release." If only a certain amount of the bond is being reduced, it is a reduction. At the completion of the liability period, the bond is then "released." A bond is reduced upon completion of backfilling and regrading (phase one) and upon the beginning of the liability period (phase two) after reseiling and the establishment of vegetation.

The change from the phrase "bond release" to "bond reduction" for phase one and two release eliminates the requirement that the operator advertise and give public notice to allow for public participation and the right to file written objections concerning those phases. The result is that the Chief could release as much as 85% of the bond without any public notice or opportunity for public comment. This amendment is

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in conflict with SMCRA section 519(a), which clearly states that:

* * *the permittee may file a request with the regulatory authority for release of all or part of a performance bond or deposit * * *. The operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

The "bond reduction" is still a release of the bond liability of the permittee, so that "bond reductions" are nevertheless "bond releases" as referred to in SMCRA section 519 and must meet the same requirements concerning public notice and the right to file written objections as required by section 519.

The Secretary finds that SMCRA does not allow for bond reductions as provided for by ORC section 1513.16(F), and therefore, conditions his approval of this amendment on a further revision to ORC section 1513.16(F).

On April 8, 1983, the State was advised of the need to amend ORC section 1513.16(F) to meet this condition by revising the ORC to require that all bond reductions must meet the same public participation requirements as bond releases consistent with section 519 of SMCRA. By letter dated April 27, 1983, the State agreed to amend its program by August 8, 1983. In the interim, Ohio agreed not to reduce or release any portion of a bond unless the bond release requirements specified in ORC section 1513.16(F) have been met.

(2) Revised ORC section 1513.16(F) also allows for an informal conference to be held by the Chief, if requested by interested parties, on bond releases. The conference proceedings are to be recorded unless waived by all parties. The revision eliminates the formal hearing by the Chief and directs any appeals from the conference to the Reclamation Board of Review. This is consistent with SMCRA section 519(g) and is approved.

(3) Amended ORC section 1513.16(F) eliminates resoiling as a requirement for approval of the first phase of bond reduction and reduces from 60% to 50% of the total bond to be released upon approval of the first phase of reclamation. Resoiling is now required as part of the second phase of reclamation before reduction. This provision is consistent with SMCRA section 519(c)(1) and (2) and is approved.

(4) The phase two reduction is also limited, in ORC section 1513.16(F), to 35% of the original bond deposited. Limiting the phase two bond release to 35% is not inconsistent with section 519(c) of SMCRA because, although it places an upper limit on the amount of the bond to be released, the Chief must still determine the amount of the bond which would be necessary for a third party to re-establish vegetation. This amendment is consistent with SMCRA and is approved.

22. *ORC Section 1513.16(H): Reclamation standards.* Am. Sub. SB 240 adds section (H) to ORC section 1513.16. This section gives the State the statutory authority for reclamation standards and procedures for bond release for permits issued prior to the effective date of revised Chapter 1513 for the permanent program, September 1, 1981. The standards and procedures had been deleted in that legislation by error, thereby requiring that interim program permits meet permanent bond release and forfeiture criteria. The addition of paragraph (H) reinstates interim program standards in permits issued prior to September 1, 1981. This change is not inconsistent with SMCRA and is approved.

23. *ORC Section 1513.131: Adjudicatory hearings.* Am. Sub. SB 240 amends ORC section 1513.131 to assign the duties of the Reclamation Board of Review to a hearing officer. This amendment is not inconsistent with SMCRA and is approved.

Abandoned Mine Land Reclamation Plan

ORC Section 1513.37: Abandoned mine special account. Am. Sub. SB 323 revises ORC section 1513.37(D)(2) to require the State board on unreclaimed strip mined lands to review all applications for administrative costs, imminent hazards, or emergency projects before the Chief may make application for such funds to the Secretary. This change is not in conflict with SMCRA and is approved, although the Secretary notes that any proposed projects must meet the criteria established in the approved Title IV program for Ohio.

Am. Sub. SB 323 also renumbers paragraph D(4) as D(5), while leaving the wording unchanged. A new paragraph D(4) is inserted to require the review and approval of the State board on unreclaimed strip mined lands of all specific reclamation project proposals prior to any expenditures of funds. This change does not conflict with SMCRA, and is approved, although the Secretary notes that any proposed projects using federal grant funds must meet the criteria established in the approved Title IV program for Ohio.

Am. Sub. SB 323 adds a new paragraph under section (J), which would require all contractors performing reclamation work under this section to pay its workers at the greater of their regular rate of pay or the average wage rate paid in the State for the same or similar location by private companies doing their own reclamation work. This amendment is not inconsistent with SMCRA and is approved.

Non-Substantive Amendments

Ohio has made numerous revisions tc the ORC and OAC to make non-substantive, primarily editorial, changes The Secretary finds the corrections consistent with SMCRA and 30 Chapter VII.

Effect of Secretary's Decision

Section 503 of SMCRA establishes that a State may not exercise jurisdiction under the Act unless the State program is approved by the Secretary. Similarly, the Secretary's regulations at 30 CFR 732.17(a) require that any alteration of an approved State program must be submitted to OSM as a program amendment. Thus, any changes to the program are not enforceable by the State until approved by the Secretary. The Federal regulations at 30 CFR 732.17(g) clearly prohibit any unilateral changes to approved State programs. In his oversight of the State program, the Secretary will recognize only the statutes and regulations approved by him, and will require the enforcement by the State of only such provisions. Therefore, the provisions that the Secretary is approving today will take effect today for purposes of the State program. Those provisions the Secretary has not approved today or has affirmatively disapproved may not be implemented by the State in any manner until such time as the Secretary approves them.

IV. Public Comments

Comments were solicited from Federal agencies pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i). Of those agencies invited to comment, responses were received from the following: Bureau of Mines, Fish and Wildlife Service, Farmers Home Administration, Mine Safety and Health Administration, Environmental Protection Agency, Soil Conservation Service, and Corps of Engineers. The responses either offered no comments or offered ones directed to aspects of the approved Ohio program not included in the present rulemaking. The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(b)(10)(i).

No other comments were received in response to the January 21, 1983 Federal Register.

V. Approval

Accordingly, conditions (b), (d), (f)(1)–(f)(6), (f)(8)–(f)(10), (g), (h)(2)–(h)(3), (i)(1)–(i)(3), (j), (k)(1) and (k)(2) are hereby removed and 30 CFR Part 935 is amended to: (1) Indicate approval of the Ohio regulatory program and AML amendments; (2) modify condition (f)(7); (3) extend the time by which Ohio must satisfy conditions (f)(7), (k)(3), (k)(4), and (k)(5); and (4) impose two new conditions of program approval.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 935 of Title 30 is amended as set forth herein.

Dated: May 9, 1983.

Daniel N. Miller Jr.,

Assistant Secretary for Energy and Minerals.

PART 935—OHIO

1. 30 CFR 935.10 is revised to read as follows:

§ 935.10 State regulatory program approval.

The Ohio State regulatory program as submtted on February 29, 1980, and resubmitted on January 22, 1982, is conditionally approved, effective August 16, 1982. Beginning on that date, the Department of Natural Resources shall be deemed the regulatory authority in Ohio for all surface coal mining and reclamation operations on non-Indian and non-Federal lands. Only surface coal mining and reclamation operations on non-Indian and non-Federal lands shall be subject to the provisions of the Ohio permanent regulatory program. Copies of the approved program, as amended, are available at:

(a) Division of Reclamation, Ohio Department of Natural Resources, Fountain Square, Building B, Columbus, Ohio 43224; Telephone: (614) 265–6633.

(b) Office of Surface Mining, Room 5315, 1000 L Street, N.W., Washington, D.C. 20240; Telephone: (202) 343–4728.

2. 30 CFR 935.11 is amended by removing and reserving paragraphs (b), (d), (f)(1) through (f)(6), (f)(8) through (f)(10), (g), (h)(2), (h)(3), (i), (j), (k)(1), and (k)(2).

3. 30 CFR 935.11 is amended by revising paragraph (k)(3), (k)(4), and (k)(5) by substituting "August 8, 1983" for "February 8, 1983" each time it appears.

4. 30 CFR 935.11 is amended by revising paragraph (f)(7) and adding paragraphs (l) and (m) as follows:

§ 935.11 Conditions of State regulatory program approval.

* * * * *

(f) Steps will be taken to terminate the approval found in § 935.10:

* * * * *

(7) Unless Ohio submits to the Secretary by August 8, 1983, copies of promulgated regulations deleting the word "substantially" from OAC 1501:13–9–15(E)(5) to establish the beginning of the period of extended responsibility consistent with 30 CFR 816.116(b)(1).

* * * * *

(l) Steps will be taken to terminate the approval found in § 935.10 unless Ohio submits to the Secretary by August 8, 1983, copies of fully enacted legislation amending ORC sections 1513.13(A)(1) and 1513.13(C) to provide that:

(1) The time for filing a notice of appeal is within 30 days after receipt of a notice, order or decision; (2) a hearing on a request for temporary relief shall be held in the locality of the permit area; and (3) temporary relief decisions by the Chairman of the Reclamation Board of Review are judicially reviewable. Until the condition is satisfied, Ohio has agreed as a matter of policy not to challenge the time limit on an appeal brought within 30 days of the receipt of a notice, order or decision; that hearings on requests for temporary relief will be held in the locality of the permit area; and that all requests for temporary relief and subsequent decisons will be acted upon by the Reclamation Board of Review.

(m) Steps will be taken to terminate the approval found in § 935.10 unless Ohio submits to the Secretary by August 8, 1983, copies of enacted legislation amending ORC section 1513.16(F) to require that all bond reductions must meet the same public participation requirements as bond releases, consistent with Section 519 of SMCRA. Until the condition is satisfied, Ohio has agreed not to reduce or release any portion of a bond unless the bond release requirements specified in ORC section 1513.16(F) have been met.

5. Part 935 is amended by adding a new § 935.15 as follows:

§ 935.15 Approval of regulatory program amendments.

(a) The following amendment was approved effective January 17, 1983: Ohio revised rule OAC 1501:13–1–01, adopted September 16, 1982.

(b) The following amendments were approved effective January 31, 1983: Ohio revised rules OAC 1501:13–1–07, 1501:13–4–03, 1501:13–4–04, and 1501:13–4–05, adopted November 4, 1982.

(c) The following amendments were approved effective May 24, 1983:

(1) Ohio revised code (ORC), as amended by SB 240 and 323, adopted March 18, 1983, with the following exceptions: ORC Sections 1513.01(G)(2), 1513.07(B)(2)(n), 1513.13(A)(1), 1513.13(C), 1513.16(A)(10)(b)(ii) and 1513.16(F).

(2) Ohio revised rules, submitted January 6, 1983.

(3) Ohio policy statements dated December 28, 1982.

6. Part 935 is amended by adding a new § 935.25 as follows:

§ 935.25 Approval of AML plan amendments.

(a) The following amendments were approved effective May 24, 1983:

(1) Ohio revised code (ORC) section 1513.37(D)(2), (D)(4), (D)(5) and (J), adopted March 18, 1983.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–12961 Filed 5–23–83; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department of the Navy Freedom of Information Act Program. The rule reflects changes in the Secretary of the Navy Instruction 5720.42 series from which it is derived.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken (Op–09B1P), Office of the Chief of Naval Operations, Washington, DC 20350, Telephone: (202) 694–2004.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 701, Subparts A, B, C, and D, derived from the Secretary of the Navy Instruction 5720.42 series, which implements within the Department of the Navy the provisions of Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (32 CFR Part 286) pertaining to action on requests for release of departmental records under the Freedom of Information Act (5 U.S.C. 552). This rule is being published by the Department of the Navy for the guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on these changes to the Department of the Navy's implementing instruction prior to adoption would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR Parts 296 and 701, Subpart E. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR Part 701, Subparts A, B, C, and D, or the instruction upon which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Gwendolyn R. Aitken (Op–09B1P), Office of the Chief of Naval Operations, Washington, DC 20350. It has been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291 and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 701

Administrative practice and procedure, Freedom of information, Privacy.

Accordingly, 32 CFR Part 701, Subparts A, B, C, and D are amended. Subparts E, F, and G remain unaffected by this amendment. Subpart C is amended by its removal, and that subpart is reserved for future use. Subparts A, B, C, and D are revised to read as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Subpart A—Department of the Navy Freedom of Information Act Program

Sec.
701.1 Purpose.
701.2 Scope and effect.
701.3 Definitions.
701.4 Policy.
701.5 Responsibility and authority for determinations.
701.6 Format and procedures for requesting records.
701.7 Procedures for processing FOIA requests.
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701.9 For Official Use Only (FOUO).

Subpart B—Guidelines on Matters Which Are Exempt From Public Disclosure

701.21 General rule.
701.22 Reasonably segregable matters.
701.23 Judicial review.
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Subpart C—[Reserved]

Subpart D—Guidelines for Assessment/ Waiver/Reduction of Fees

701.40 Purpose.
701.41 Fee Assessment.
701.42 Waiver/ reduction of fees.
701.43 Computation of fees.
701.44 Collection of fees.
701.45 Search and duplication fees.

Authority: 5 U.S.C. 552, 32 CFR Part 286.

Subpart A—Department of the Navy Freedom of Information Act Program

§ 701.1 Purpose.

Subparts A, B, and D of this Part 701 implement the Freedom of Information Act (5 U.S.C. 552), and the Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program, (*See* 32 CFR Part 286) and outline the policies and procedures for the disclosure of records, establish mandatory time limits for Freedom of Information Act (FOIA) responses and explain how members of the public may inspect or obtain copies of Department of the Navy records.

§ 701.2 Scope and effect.

(a) *Applicability.* Subparts A, B, and D of this Part 701 apply throughout the Department of the Navy. They govern the disclosure of records to the general public, including military and civilian employees of the government acting as private citizens. Informal requests, requests for information other than naval records, and inquiries for which no record exists are not subject to the technical requirements of these subparts.

(b) *Requests from government officials.* Requests from officials of federal, state, or local governments for Department of the Navy records shall be honored on an expeditious basis whenever possible. For purposes of determining whether record(s) shall be provided, such officials acting in an individual capacity shall be considered the same as any other requester.

(c) *Requests from foreign governments.* Foreign governments seeking information from the Department of the Navy should use established official channels for obtaining information.

(d) *Exclusion of requests.* The following categories of requests are excluded from the scope of Subparts A, B, and D of this Part 701:

(1) Requests from the Congress, which are governed by Secretary of the Navy Instruction 5730.5 series, Procedures for the Handling of Naval Legislative Affairs and Congressional Relations:

(2) Requests from individuals, including Department of the Navy personnel, for records pertaining to themselves and located in "systems of records," which are governed by Secretary of the Navy Instruction 5211.5 series, Personal privacy and rights of individuals regarding records pertaining to themselves (32 CFR Part 701, Subparts F and G);

(3) Requests from the General Accounting Office (GAO) for records in connection with audits, which are governed by Secretary of the Navy Instruction 5741.2 series, Relations with the General Accounting Office, and;

(4) Court orders or subpoenas demanding production of records, discovery, or testimony of witnesses, which are governed by the Manual of the Judge Advocate General (JAGINST 5800.7A), Chapter XIII (32 CFR Part 720).

(e) *Publication and public availability of special classes of records.* The requirements of 5 U.S.C. 552 that certain classes of Department of the Navy

regulatory, rulemaking, and organizational records be published in the **Federal Register** for the guidance of the public and be made available for public inspection and copying, are implemented in 32 CFR Part 701, Subpart E.

(f) *Public affairs regulations.* Subparts A, B, and D of this Part 701 are intended to complement, not restrict, the conduct of Department of the Navy public affairs, media relations, community relations, internal relations functions and practices authorized in Secretary of the Navy Instruction 5720.44 series, Department of the Navy Public Affairs Regulations. Should the practices authorized in that regulation conflict in any respect with any provisions of these Subparts A, B, and D of Part 701, the provisions of these subparts shall be controlling.

(g) *U.S. Navy Regulations.* For the purposes of Article 1116.3, U.S. Navy Regulations (1973) (32 CFR 700.1116(c)), the release of a record to a member of the public under the Freedom of Information Act shall be deemed to have been done in the discharge of official duties. For the purposes of Article 1116.4 (32 CFR 700.1116(c)), the release of a record designated as FOR OFFICIAL USE ONLY to a member of the public upon a request shall be processed in accordance with instructions outlined in § 701.9.

(h) *Other directives.* The following directives, to the extent that they do not conflict with these Subparts A, B, and D of this Part 701, and serve to supplement it, include:

(1) Marine Corps Manual, paragraph 1015 (also, for Headquarters Marine Corps, HQO P5000.12G, Chapter 11)—release on information from the personnel records of members and former members of the Marine Corps.

(2) Federal Personnel Manual, Chapters 293, 294, 297, 335, 339, and 713—release of information from active and inactive civilian personnel records.

(3) Manual of the Medical Department, U.S. Navy NAVMED P–117, Chapter 23, Section III—release of information from active and inactive medical records.

§ 701.3 Definitions.

As used in Subparts A, B, and D of this Part 701 the following terms and meanings apply:

(a) *Administrative appeal.* An appeal made by a requester to the appellate authority (Judge Advocate General or General Counsel) or his/her designee to reverse a decision made by an initial denial authority in which all or part of a requested record was denied or a request for waiver/reduction of fees was denied. A requester may also file an administrative appeal on the basis of nonresponse to an FOIA request within the statutory time limit.

(b) *Agency records.* Information or products of data compilation, regardless of physical form or characteristics, (e.g., written documents, ADP storage media, computer printouts, etc.) made or received by a naval activity in connection with the transaction of public business and preserved by a naval activity as evidence of the organization, policies, functions, decisions, or procedures of the naval activity. The term "agency records" does not include:

(1) Library and museum material made, acquired, and preserved solely for reference or exhibition.

(2) Objects or articles, such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, and parts of wrecked aircraft, whatever their historical value, or value as evidence.

(3) Commercially exploitable resources, including but not limited to musical arrangements and compositions, formulae, designs, drawings, maps, and charts, map compilation manuscripts and map research materials, research data, computer programs, and technical data packages that were not created and are not utilized as primary sources of information about organizations, policies, functions, decisions or procedures of the Department of the Navy.

(4) Unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geographical materials, that are available to the public through an established distribution system with or without charges.

(5) Anything that is an intangible or documentary record, such as an individual's memory or oral communication.

(6) Supervisor's personal notes on his/her employees (which are not required to be prepared or maintained by any naval instruction or regulation), concerning their performance, etc., and used solely as a memory aid in preparing evaluation reports. These notes are not made available to other persons in the agency, are not filed with agency records, and are destroyed after the evaluation period by the individual who prepared them. Among this category of notes are Division Officer's notebooks and Marine Corps Unit Leader's notebooks, etc.

(c) *Appellate authority.* The Judge Advocate General or the General Counsel are the naval officials having jurisdiction over administrative appeals or partial denials of FOIA requests under their cognizance as delineated in § 701.8.

(d) *FOIA request.* A written request for Department of the Navy records made by a member of the public, or an organization, business, etc., that either explicitly or implicitly invokes 5 U.S.C. 552, Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (*see* 32 CFR Part 286) and/or Subparts A, B, and D of this Part 701. The written request must also contain a reasonable description of the record(s) being sought and contain some statement as to the requester's willingness to pay all fees or those up to a specified amount. A record must exist and be in the possession and control of the Department of the Navy at the time of the request to be considered subject to Subparts A, B, and D of this Part 701. There is no requirement to create or complile a record not already in existence.

(e) *Initial Denial Authority (IDA).* An official who has been granted authority to withhold records, either in whole or in part, which are requested under the FOIA based on one or more of the nine FOIA exemptions. IDA's may also grant requests for reduction/waiver of fees. A list of IDA's are contained in § 701.5.

§ 701.4 Policy.

In accordance with the spirit and intent of 5 U.S.C. 552, Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (*see* 32 CFR Part 286) the Department of the Navy will make available to any person the maximum information concerning its operations, activities, and administration. The FOIA does not permit agencies to distinguish between U.S. citizens and foreign citizens. A naval record shall be withheld only when it is exempt from disclosure under the FOIA. In the event a requested record is exempt under the FOIA, it may nonetheless be released when it is determined that no governmental interest will be jeopardized by the release of the record. Therefore, subject to the conditions of Subparts A and B of this Part 701 concerning exemptions and the requester's compliance with prescribed minimum requirements, records requested by the public will be made available promptly, fully, and willingly, as a matter of right.

(a) *Requests for Records.* Naval activities receiving written or oral requests from members of the public are responsible for advising the requester of the correct means for obtaining

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permission to examine or copy records at appropriate times and at locations where they are held, or for obtaining copies of such records. Minimum requirements are prescribed in § 701.6.

(b) *Time limits.* Each naval activity is responsible for developing procedures for ensuring the expeditious handling and prompt retrieval and review of the requested records. The cognizant official having responsibility for the record(s) has 10 working days (excluding Saturdays, Sundays, and legal holidays) to respond to the requester regarding the FOIA request. The 10 working day time limit commences upon receipt of the request by the cognizant activity. If the cognizant official is unable to meet the statutory time limit of 10 working days, he/she may, in limited instances, seek a time extension (*See* § 701.7).

(c) *Identification of records.* Subject to the provisions of Subparts A, B, and D of this Part 701, requests shall be honored for records which are "reasonably described." A "reasonably described" record provides sufficiently accurate and specific descriptions (i.e., memorandum, title, index citation, subject area, date the record was created, originator, type and location of incident) which enable naval personnel to locate and identify particular records with a reasonable amount of effort. A record must exist and be in the possession and control of the Department of the Navy at the time of the request to be considerd subject to Subparts A, B, and D of this Part 701. Mere possession of a record does not presume departmental control and such records, or identifiable portions thereof, shall be referred to the originating agency or activity for direct response to the requester. There is no obligation to create, compile, or obtain a record not already in existence to satisfy an FOIA request.

(d) *Fee assessment.*—(1) In addition to reasonably describing the record(s), the requester should make a clear statement that he/she is willing and able to pay all fees or those up to a specified amount, or satisfactorily show that he/she is entitled to a waiver/reduction of fees, if the fees for reproduction and/or search of the requested record(s) are expected to exceed the $30 minimum fee waiver threshold. Fees may not be used as a means to discourage requesters from seeking records. Collection of fees is limited to the charges associated with direct document search and duplication efforts. Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. Documents shall be furnished without charge or at a reduced rate when the naval activity determines that a waiver or reduction of fees is in the public interest because furnishing the information is considered as primarily benefiting the general public. Minimum fees shall not be charged. *See* 32 CFR Part 701, Subpart D for determining fees.

(2) In order to be as responsive as possible to FOIA requests, while minimizing unwarranted costs to the taxpayer and meeting the 10 working day response time, naval activities shall adhere to the following procedures:

(i) If the requester declares an unwillingness to pay fees and does not substantiate a request for waiver/reduction of fees, and it appears that the direct search and reproduction costs associated with the request shall exceed the automatic fee waiver threshold, the request need not be processed and the requester shall be so informed.

(ii) If the requester declares a willingness to pay fees up to a specified amount and does not substantiate a request for waiver/reduction of fees, then the specified amount or the automatic fee waiver threshold, whichever is greater, shall not be exceeded without the consent of the requester.

(iii) If the requester makes no declaration concerning fees and does not substantiate a request for waiver/reduction of fees, and if it appears that the direct search and reproduction fees to be assessed shall exceed the automatic fee waiver threshold, the request shall not be processed until the requester is advised of anticipated charges and agrees to pay them.

(iv) Activities may require payment of all or a portion of estimated fees before processing extensive or costly requests.

(v) Subsequent requests from persons who have failed to pay fee obligations need not be processed until previous obligations have been met or waived.

(vi) The response to the requester should contain information concerning the fee status of the request. Generally, the information shall reflect one or more of the following conditions:

(A) All fees have been received.

(B) Fees have been waived because they fall below the automatic fee waiver threshold.

(C) A request for waiver has been denied.

(D) Fees have been waived or reduced from a specified amount to another specified amount because the rationale provided in support of a request for waiver has been accepted.

(E) Fees due in a specified amount have not been received.

§ 701.5 Responsibility and authority for determinations.

(a) *Release authorities.* Commanding officers and heads of all Navy and Marine Corps activities (departmental and field) are authorized to furnish copies of records under their cognizance, or to make such records available for examination, upon proper request, subject to the exceptions noted in paragraphs (c) (2) and (3) of this section. Coordination with officials having cognizance over the subject matter of the requested record is advised when there is a question as to its releasability. If it is determined that a requested record should not be released in whole or in part, the release authority should forward the request, a copy of the requested document(s) and his/her recommendations, to the initial denial authority in the chain of command for release determination. For records which are part of record systems governed by the Privacy Act, the record custodian specified in the systems notice published annually by the Chief of Naval Operations is the appropriate authority to respond to an initial request for a record.

(b) *Initial Denial Authorities (IDA's).* The following chief officials, their respective vice commanders, deputies, and those principal assistants specifically designated by the chief official are authorized to deny, as well as grant requests, either in whole or in part, for documents or records; to grant a one 10 working day extension to the time limits for responding to FOIA requests; and to deny requests to waive or reduce FOIA fees, when the information sought relates to matters within their respective areas of responsibility:

(1) For the Navy Department: The Civilian Executive Assistants; the Chief of Naval Operations; the Commandant of the Marine Corps; the Chief of Naval Material; the Chief of Naval Personnel; the Commanders of Naval Systems Commands; the Commanders of the Naval Intelligence Command, Naval Security Group Command, and Naval Telecommunications Command; the Chief, Bureau of Medicine and Surgery; the Auditor General of the Navy; the Naval Inspector General; the Assistant Deputy Chief of Naval Operations (Civilian Personnel/Equal Employment Opportunity); the Chief of Naval Education and Training; the Chief of Naval Reserve; the Chief of Naval Research; the Chief of Naval Development; the Commander, Naval Oceanography Command; the Director, Naval Civilian Personnel Command; the heads of Department of the Navy Staff Offices, Boards, and Councils; the Assistant Judge Advocate General (Civil Law); and the Assistant Judge Advocate General (Military Law). The Judge Advocate General and his Deputy, and the General Counsel and his Deputies are excluded from this grant of authorization, but the Assistant Judge Advocates General, the Assistants to the General Counsel and the Director, Litigation Office, Office of the General Counsel, are so authorized.

(2) For the shore establishment:

(i) All officers authorized pursuant to Article 22, UCMJ, or designated as empowered in section 0103d, Manual of the Judge Advocate General, to convene general courts martial.

(ii) The Director, Naval Investigative Service, the Assistant Commander (Management and Operations), Naval Legal Service Command, and the Director of Navy Laboratories.

(3) In the operating forces: All officers authorized pursuant to Article 22, UCMJ, or designated as empowered in section 0103d, Manual of the Judge Advocate General, to convene general courts martial.

(c) *Responsibility for acting on requests.*

(1) General rule. Subject to § 701.7(c) when a Department of the Navy official receives a request for a copy of, or permission to examine a record under his/her cognizance, that official is responsible for acting on the request in the time and manner prescribed in Subparts A, B, and D of this Part 701.

(2) If an official receives a request for records that he/she holds, but which were originated by another naval activity, the official shall ordinarily refer the FOIA request and copies of the requested documents to that activity for direct response, after direct coordination and obtaining concurrence from the activity. The naval activity that initially received the request has the responsibility for notifying the requester of the referral. That naval activity shall not, in any case, release or deny such records without prior consultation with the other naval activity.

(3) The following actions shall be taken with regard to requests for:

(i) Classified records.—(A) If a naval activity receives an FOIA request or mandatory declassification review request for information whose existence or nonexistence is itself classifiable under the provisions of Executive Order 12356, the naval activity shall refuse to confirm or deny the existence or nonexistence of the requested information.

(B) If a naval activity receives a request for documents in its custody that were classified by another agency, it shall refer the request and copies of the requested documents to the originating agency for processing, and may, after consultation with the originating agency inform the requester of the referral. Referred records shall only be identified to the extent consistent with security requirements. In cases in which the originating agency determines in writing that a response under paragraph (c)(3)(i)(A) of this section is required, the referring agency shall respond to the requester in accordance with that paragraph.

(C) If a naval activity receives a request which includes classified records originated by another naval activity for which the head of the activity is not the classifying authority in accordance with OPNAV Instruction 5510.1 series, Department of the Navy Information Security Program Regulation, the request and copies of the requested documents shall promptly be readdressed and forwarded to the official having classification authority for the subject matter. The appropriate official will then review and make a determination as to the releasability of the classified portions of the records and so notify the requester within 10 working days after he/she has received the request. The naval activity that initially received the request has the responsibility for notifying the requester of the referral. Referred records shall only be identified to the extent consistent with security requirements.

(ii) NIS reports—a request for a Naval Investigative Service report or any portion thereof shall promptly be readdressed and forwarded to the Director, Naval Investigative Service, for review and release determination. The naval activity that initially received the request has the responsibility for notifying the requester of the referral. Direct liaison with NIS prior to the referral is encouraged.

(iii) JAG Manual investigative reports—a request for a JAG Manual investigative report shall promptly be readdressed and forwarded to OJAG, Code 21, for review and release determination except as provided in section 1331(b)(1) of the Manual of the Judge Advocate General (JAGINST 5800.7A) (§ 720.31(b)(1) of this chapter). The naval activity that initially received the request has the responsibility for notifying the requester of the referral.

(iv) Mishap investigation reports—a request for a mishap investigation report shall promptly be readdressed and forwarded to the Commander, Naval Safety Center, for review and release determination. The naval activity that initially received the request has the responsibility for notifying the requester of the referral.

(v) Naval Audit Service reports—a request for a Naval Audit Service report shall promptly be readdressed and forwarded to the Naval Audit Service Headquarters (Code OPS) for review and release determination. The naval activity that initially received the request has the responsibility for notifying the requester of the referral.

(vi) Technical documents controlled by distribution statements—a request for a technical document to which "Distribution Statement B" is affixed shall promptly be readdressed and forwarded directly to the "controlling DoD office" in accordance with Chief of Naval Material Instruction 5200.29 series, Distribution Statements on Technical Documents, for review and release determination. The naval activity that initially received the request has the responsibility for notifying the requester of the referral. Direct liaison with the cognizant official prior to referral is encouraged.

(vii) Records originated by other government agencies—When a request for records is received which was originated by an agency outside the Department of the Navy, promptly readdress it, forward the request and copies of the requested documents to the cognizant agency having the responsibility for acting on the request and notify the requester of the readdressal. This may be accomplished by sending a copy of the readdressal letter to the requester. The 10 working day time limit commences when the request is received by the cognizant agency. If additional guidance is required, contact the Chief of Naval Operations (OP-09B1P) or the Commandant of the Marine Corps (Code PAP), as appropriate. Direct liaison with the agency having cognizance over the record is encouraged for ensuring the expeditious handling of the request.

(d) *Misdirected requests.* Misdirected/misaddressed requests received for copies of or permission to examine Department of the Navy records shall be promptly readdressed and forwarded directly to the cognizant naval activity having the responsibility for acting on the request. Although the 10 working day time limit does not commence until the request is received by the cognizant official, telephonic liaison is encouraged to alert the official that the request is being referred. The naval activity that initially received the request is responsible for notifying the requester of the readdressal.

(e) *Records on Non-U.S. Government Source.* When a request is received for a

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record that was obtained from a non-U.S. Government source, or for a record containing information clearly identified as having been provided by a non-U.S. Government source, the source of the record or information normally shall be notified promptly of the request and afforded reasonable time to present any objections concerning the release unless it is clear that there can be no valid basis for objection. If for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and that it would be made available to the public upon request, there is no obligation to notify the source. Any objections shall be evaluated. When a substantial issue has been raised, the official may seek additional information from the source of the information and afford the source and requester reasonable opportunities to present their arguments on the legal issues involved prior to making an agency determination. When the source advises it will seek a restraining order or take court action to prevent release of the record or information, the requester shall be notified and action on the request normally shall not be taken until after the outcome of the court action is known.

§ 701.6 Format and procedures for requesting records.

(a) *Minimum requirements.* To qualify as an FOIA request within the technical requirements of Subparts A, B, and D of this Part 701, a request for copies of, or for permission to examine Department of the Navy records must, at a minimum:

(1) Be in writing and indicate expressly, or by clear implication, that it is a request made under 5 U.S.C. 552, Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (*See* 32 CFR Part 286) or Subparts A, B, and D of this Part 701.

(2) Contain a reasonable description of the particular record(s) requested. For example, provide details of the subject matter, type and location of incident, dates, originator, etc., to enable naval personnel to locate or identify the particular record(s) desired with a reasonable amount of effort; and,

(3) Contain a clear statement that the requester is willing and able to pay all fees or fees up to a specified limit, or provide satisfactory evidence that he/she is entitled to a waiver/reduction of such fees in accordance with 32 CFR Part 701, Subpart D, if the documents to be released are expected to exceed the minimum fee waiver threshold.

Note: Fees totaling $30 or less normally waived (*See* 32 CFR Part 701, Subpart D).

(b) *Treatment of request not meeting minimum requirements.*—(1) Requests which do not conform to the minimum requirements should, if possible, be answered within 10 working days after receipt. Whenever possible, the response should attempt to assist the requester in obtaining the desired records in accordance with the provisions of Subparts A, B, and D of this Part 701. For example, if the requester has not provided a reasonable description of the desired record(s), assist the requester in framing a new request in a way which might facilitate identification of the record(s). If the requester fails to offer to pay fees, furnish the requester with a reasonable estimate of any search and reproduction costs associated with the processing of the request. Activities are encouraged to contact the requester, if practicable, to clarify what he/she is seeking.

(2) If a request fails to qualify for treatment within the technical requirements of Subparts, A, B, and D of this Part 701, but the requested record is available and is releasable in its entirety, the responding official may provide a copy of the record if he/she determines it to be in the best interests of the activity to do so. The application of this provision shall be within the sole and exclusive discretion of the responsible official of the activity concerned and shall not be construed as creating an exception to, or grounds for, waiver of the minimum requirements.

§ 701.7 Procedures for processing FOIA requests.

(a) *Administrative controls.* Upon receipt of a written request for examination or copies of records, the naval activity will immediately ensure that action is taken to control the request and provide for its priority and expeditious handling, and for responding to the requester within the 10 working day limit (excluding Saturdays, Sundays, and legal holidays).

(b) *Time limits for determinations.* Once the request is received by the official having responsibility for acting on it, a response shall be made to the requester within 10 working days (excluding Saturdays, Sundays, and legal holidays), unless an extension of the time limit is needed to complete the processing of the request.

(1) Extension of Time Limits.—(i) Statutory extensions of time limits are only authorized in accordance with the following conditions:

(A) The need to search for and collect records that are located in whole or part at places separate from the activity processing the request;

(B) The need to search for, collect, and examine a substantial number of records responsive to a request; or,

(C) The need to consult with another naval activity or another agency which has a substantial subject-matter interest in the determination of the request.

(ii) When a statutory extension of time is needed, the IDA shall acknowledge the request in writing, within the 10 working day period, decribe the circumstance(s) requiring the delay, and indicate the anticipated date for a substantive response.

(iii) If it appears to be a substantial possibility that the request might be ultimately denied, in whole or in part, the Judge Advocate General (Code 14) or the General Counsel, as appropriate, may be consulted by expeditious means prior to authorizing such extension.

(iv) When it is anticipated that the normal statutory time limits (including the statutory time extension) are insufficient to provide a response, the IDA shall acknowledge the request in writing prior to the expiration of the normal statutory time limits (including the statutory time extension), describe the circumstance(s) requiring the dalay, and indicate the anticipated date for the substantive response. The requester shall be advised that he/she may appeal to the designee of the Secretary of the Navy within 45 days or await a substantive determination by a specified date. It shall be made clear that such an agreement does not prejudice the right of the requester to appeal an adverse substantive determination.

(v) As an alternative to the taking of formal extensions of time as described in paragraphs (b)(1)(i) (A) through (C) of this section, the official having responsibility for the release of requested information may negotiate informal extensions of time with requesters where appropriate, as an alternative to the procedure described in paragraph (b)(1) (i) or (iv) of this section.

(2) [Reserved.]

(c) *Action by officials who are not IDA's.* When the head of the activity responsible for acting on a request is not authorized under § 701.5(b) to deny requests, that official shall, within the applicable time limit, take one of the following actions:

(1) If it has been determined that the requested record is releasable in its entirety and is available, and the fees for search and duplication have either been met or waived, forward a copy of the requested record directly to the requester. However, if search and duplication fees exceed the minimum fee waiver threshold, the requester may

be instructed to forward payment prior to the record(s) being provided.

(2) If it has been determined that the requested record is releasable in its entirety but is not yet available, notify the requester that the request has been approved and that the requested record will be forwarded by a specified date, subject to appropriate directions concerning the payment of fees.

(3) If it has been determined that the request for examination of records is approved, notify the requester of the time and place where the records may be examined, subject to appropriate directions concerning the payment of fees, if any, incurred for searching for the records.

(4) If it has been determined that the request for records has been misaddressed or that the records being sought are held by another naval activity or government agency, promptly readdress it and advise the requester of the action taken.

(5) If it has been determined that the requested record should not be released in whole or in part, forward the request, a copy of the requested record(s), and the recommendation for denial (which briefly states the applicable exemption(s) and whether a governmental interest would be jeopardized by its release) to the next superior in the administrative chain of command authorized under § 701.5(b).

(d) *Action by IDA's.* When an IDA receives a request referred by a subordinate official or receives any other request to which he/she may respond, the IDA shall, within a 10 working day time limit, take one of the following actions:

(1) Execute one of the actions specified in paragraph (c) (1) through (4) of this section or, if appropriate, direct a subordinate to do so.

(2) If the processing of a request cannot be completed within the applicable time limit, explain the reason(s) for the delay to the requester, with notification that he/she may treat this delay as an initial denial with a right to submit an administrative appeal to the designee of the Secretary of the Navy (Judge Advocate General or General Counsel) within 45 days, or that the requester may agree to await a substantive determination by a specified date. It shall be made clear that any such agreement does not prejudice the right of the requester to appeal an adverse substantive determination.

(3) If the IDA determines that the requested record contains information which is not releasable under the FOIA, and the releasable information contained in the record is not reasonably segregable from the nonreleasable information, notify the requester of the determination, the reasons therefor, and the name(s) and title(s) of the person(s) responsible for the denial. Such notification shall also include the specific citation of the exemption(s) upon which the denial is based, a brief discussion that there is a jeopardy to the governmental interest served by invoking the exemption(s), and advisement of the requester's right to appeal to the designee of the Secretary of the Navy (Judge Advocate General or General Counsel) within 45 days. Additionally, if the denial is based, in whole or in part, on a security classification, the notification shall include a summary of the particular provisions of paragraph 5–101 of OPNAV Instruction 5510.1 series, Department of the Navy Information Security Program Regulation, which contains the rationale for the correct classification of the requested record.

(4) If the IDA determines that the requested record contains releasable information that is reasonably segregable from the nonreleasable information, he/she shall:

(i) With respect to the releasable information of the record, take the actions indicated in paragraph (c)(1) through (3) of this section; and,

(ii) With respect to the nonreleasable information of the record, take the action indicated in paragraph (d)(3) of this section.

(5) If the requester relies upon a claimed entitlement to a waiver/reduction of applicable fees, the IDA shall, if he/she determines that the requester's entitlement to such waiver/reduction is not warranted, notify the requester of such determination, the reason(s) therefor, the name(s) and title(s) of the person(s) responsible for the determination, and the right of the requester to appeal the determination to the designee of the Secretary of the Navy (Judge Advocate General or General Counsel), within 45 days. If the requester appeals the denial to waive/reduce fees, the release of the records may be withheld until the fee is paid or the appellate authority grants a waiver/reduction of fees.

(e) *Other reasons.* Other reasons that an FOIA request cannot be acted upon, but which are not considered to be denials are:

(1) The referring official is unable to make a determination as to the releasability of a requested record within the applicable time limit because the record has not been located or obtained.

(2) The information requested is not a record within the meaning of the FOIA and Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (*See* 32 CFR Part 286).

(3) A record has not been described with sufficient particularity to enable it to be located by conducting a reasonable search.

(4) The requester has failed to comply with procedural requirements concerning time, place, or fees. Note: Officials who are not IDA's may not deny requests for waiver or reduction of search and duplication fees.

(5) The activity has determined through knowledge of its files and a reasonable search effort that it does not hold the requested record.

(f) *Consultation encouraged.* Consultation with officials in other naval activities or other government agencies having a substantial interest in or useful advice concerning the determination of requests under the purview of Subparts A, B, and D of this Part 701 is encouraged wherever practicable, and, in some instances, is required.

(1) Consultation is required with other naval activities or agencies having substantial interest in the subject matter of requested records which may be withheld under the exemptions cited in 32 CFR Part 701, Subpart B.

(2) Consultation with the Office of the Judge Advocate General, the Office of the General Counsel, or the appropriate naval attorney in the field is encouraged concerning the interpretation and application of the technical provisions of Subparts A, B, and D of this Part 701, or where a denial of a request is expected to be appealed or judicially challenged.

(3) Consultation with a public affairs officer or the Chief of Information (OP–007) is encouraged when the requested records are considered newsworthy; a request is received from a news media representative; or, a denial of a request is expected to be publicly challenged. Further, the Chief of Information shall be notified of any release having evident public affairs implications.

(4) In the case of a denial of a request, in whole or in part, under Subparts A, B, and D of this Part 701 or a denial of waiver/reduction of fees, the IDA shall maintain a legible copy of the case file containing all pertinent correspondence and the requested record for prompt forwarding, upon request, to the Judge Advocate General or the General Counsel, in the event of an appeal.

(g) *Mailing lists.* Frequent FOIA requests are received which seek mailing lists of the home addresses and/or duty station addresses of naval personnel.

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(1) A request for a mailing list of home addresses is not releasable without the individuals' consent. This is construed to be a clearly unwarranted invasion of the individual' privacy and therefore may be withheld from disclosure under 5 U.S.C. 552(b)(6).

(2) A request for a mailing list for names and duty station addresses may be releasable, however certain facts must be brought to the attention of the requester prior to releasing the list. For example, many existing duty station address listings do not contain sufficient information to enable either the U.S. Postal Service or Navy-operated mail and distribution facilities to ensure delivery. These incomplete addresses would necessitate directory service which is often not available. As a result, such mailings will normally be endorsed as undeliverable and returned to the sender or otherwise disposed of. Further, if during the processing of a mailing list request it is determined that the duty station address is insufficient to effect delivery, the requester should be advised by letter of the potential for nondelivery. Fees associated with the processing of mailing list requests are determined in accordance with 32 CFR Part 701, Subpart D.

§ 701.8 Appeals from denials of requests for records.

(a) *Responsibility and authority.*—(1) Delegation of authority. The Judge Advocate General and the General Counsel are authorized to determine appeals made to the Secretary of the Navy on denials of requests for copies of Department of the Navy records or portions thereof, or refusals to waive or reduce fees, concerning matters which are within their respective areas of cognizance for legal services. This shall include the authority to release or withhold records, or portions thereof, waive fees, and to perform such other acts as may be required of the Secretary of the Navy in connection with the appeals made under 5 U.S.C. 552 and Subparts A, B, and D of this Part 701.

(2) Respective areas of cognizance. As delineated in Secretary of the Navy Instructions 5430.25 and 5430.27 series, the respective areas of cognizance of the Judge Advocate General and the General Counsel for providing legal services for the Department of the Navy are:

(i) Judge Advocate General—In addition to military law, all matters except those falling under the cognizance of the General Counsel.

(ii) General Counsel—

(A) the business and commercial law aspects of matters relating to:

(*1*) The acquisition, custody, management, transportation, taxation, and disposition of real and personal property and the procurement of services, including the fiscal, budgetary, and accounting aspects thereof; excepting, however, tort claims and admiralty claims arising independently of contracts, and matters relating to the naval petroleum reserves;

(*2*) Operations of the Military Sealift Command, excepting tort and admiralty claims arising independently of contracts;

(*3*) The Office of the Comptroller of the Navy;

(*4*) The Naval Data Automation Command;

(*5*) All matters in the fields of patents, inventions, trademarks, copyrights, royalty payments, and similar matters;

(*6*) Procurement aspects of foreign military sales, co-production and cooperative research and development and related agreements, NATO standardization agreements and matters relating to the Arms Exports Control Act.

(*7*) Department of the Navy litigation before the Armed Services Board of Contract Appeals; and,

(B) Civilian personnel law matters pertaining to the employment of present and former Navy civilian employees.

(b) *Addresses for appeals.* Appeals to the Secretary of the Navy under the provisions of 5 U.S.C 552 and Subparts A, B, and D of this Part 701 should be addressed to the appropriate authority as noted above. The appropriate mailing addresses are:

(1) The Judge Advocate General (Code 14), Navy Department, 200 Stovall Street, Alexandria, VA 22332.

(2) The General Counsel, Navy Department, Washington, DC 20360.

(c) *Time and format for filing appeals.* To be effective for the purposes of the provisions of 5 U.S.C. 552 and Subparts A, B, and D of this Part 701, an appeal from an initial denial, in whole or in part, for requested records or a refusal to waive/reduce fees, must be in writing and be received by the appellate authority not more than 45 days following the date of transmittal of the notification of the initial denial. Additionally, such appeal must clearly state that it is an appeal from a denial of a request made under the "Freedom of Information Act" or Subparts A, B, and D of this Part 701, and must attach a copy of the letter denying the request.

(d) *Time limits for determining appeals.*—(1) Normal requirement. A final determination on an appeal to the Secretary of the Navy normally shall be sent to the appellant within 20 working days after the appeal is received in the Office of the Judge Advocate General or the General Counsel.

(2) Extension of time limits. If additional time is needed due to unusual circumstances (*See* § 701.7(b)(1)(i)(A) through (C), the final decision may be delayed for the number of working days (not to exceed 10), that were not utilized as additional time for responding to the initial request. If, however, a determination cannot be made and the requester notified within 20 working days, the appellate authority may acknowledge to the requester, in writing, the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters may be advised that, if the delay exceeds the statutory extension provision or is for reasons other than "unusual circumstances" they may consider their administrative remedies exhausted. Further, requesters should be advised that they may await a substantive response without prejudicing their right to judicial remedy. The appellate authority shall continue to process the case expeditiously whether or not the requester seeks a court order for release of the record(s). A copy of any response provided subsequent to filing of a complaint shall be forwarded to the Department of Justice.

(e) *Action upon receipt.* Upon receipt of an appeal, the Judge Advocate General or the General Counsel shall inform the IDA who shall expeditiously forward the case file with such comments and recommendations as he/she or other interested officials may deem appropriate. The Director of Naval Intelligence (OP–009DX) may be consulted, when appropriate, in appeal cases to resolve inconsistences or disputes involving classified records. All naval activities are directed to provide rapid and responsive assistance, as required, for facilitating correct and timely determinations of appeals. Direct liaison with appropriate officials within the Department of the Navy and other interested federal agencies is authorized at the discretion of the appellate authority, who also shall be responsible for coordinating with appropriate officials of the Departments of Defense and Justice in such manner as may be prescribed by directives of the Secretary of Defense. The Secretary of the Navy or appropriate Civilian Executive Assistants shall be consulted and kept advised of cases having unusual implications, and the Chief of Information shall be consulted and kept advised on cases described in § 701.7(f)(3).

(f) *Notification of final determination.* Upon resolving the issue(s) involved, the appellate authority shall provide the appellant with a written notification of the final determination made on the appeal. If the determination has the effect of granting a request, in whole or part, the appellate authority shall cause the requested records, or the releasable portions thereof, to be made promptly available to the appellant. If the final determination has the effect of denying a request, in whole or part, the notification shall contain the name(s) and title(s) of the individual(s) reponsible for such denial, an advisement of the requester's right to seek judicial review, and the following additional matters, as applicable:

(1) An explanation of the exemption(s) upon which the determinaton is based and the governmental interest that will be jeopardized by its release.

(2) If the determination is based, in whole or part, upon a security classification, a statement be provided that based on a declassification review it is determined that the record meets specified criteria and rational of OPNAV Instruction 5510.1 series, Department of the Navy Information Security Regulation.

§ 701.9 For Official Use Only (FOUO).

(a) *General.*—(1) *For Official Use Only* applies to information, records, and other materials which have not been given a security classification under the criteria of an Executive Order, but which contain information which may be withheld from the public for one or more of the reasons cited in FOIA exemptons 2 throught 9. No other materials shall be considered or marked FOR OFFICIAL USE ONLY (FOUO), as FOUO is not authorized as a form of classification to protect national security interests.

(2) Prior FOUO application. The prior application of FOUO markings is not a conclusive basis for withholding a record requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding all or part of the record. Information which is "reasonably segregable" and does not fall under an FOIA exemption(s) must be considered for release to the requester. In the event any exemption(s) applies(y), it may nonetheless be released when it is determined that no governmental interest will be jeopardized by its release.

(3) Historical papers. Documents such as notes, working papers, and drafts properly considered to be "records" under the FOIA and retained as historical evidence of Department of the Navy actions enjoy no special status apart from their exemptions under 5 U.S.C. 552.

(4) Unauthorized disclosure. The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of Department of the Navy information classified for security purposes. However, appropriate administrative action shall be taken to the extent feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in criminal and civil sanctions against the responsible person(s). The naval activity that originated the FOUO information shall be informed of its unauthorized disclosure.

(b) [Reserved.]

Subpart B—Guidelines on Matters Which are Exempt From Public Disclosure

§ 701.21 General rule.

No record or portion thereof shall be withheld from disclosure to the public unless it falls within the scope of one or more of the nine FOIA exemptions listed in § 701.24. Notwithstanding that a record falls under one or more FOIA exemptions, the record (or a reasonably segregable portion thereof) is releasable and shall be made available to the requester unless the cognizant official determines that a governmental interest would be jeopardized by its release. In no event, however, shall information be denied because its release might embarrass the Department of the Navy or its military or civilian officials in the performance of their duties.

§ 701.22 Reasonably segregable matters.

If a record contains both releasable and nonreleasable information, the releasable information shall be made available if it is reasonably segregable from the nonreleasable information in the record. Releasable information is "reasonably segregable" if it provides the requester with meaningful and undistorted information after the nonreleasable information is excised and if it can be reasonably assumed that a skillful and knowledgeable person could not reconstruct the nonreleasable information of the record. Further, all information in a record is releasable and shall be made available to a member of the public, unless in the judgment of the official making the determination:

(a) The release of the information would be inconsistent with a statutory requirement or OPNAV Instruction 5510.1 series, Department of the Navy Information Security Program Regulation; or,

(b) The release of the information would jeopardize a governmental interest.

§ 701.23 Judicial review.

All total and partial denials of information are subject to both administrative and judicial appeals. In the event of a judicial review, a U.S. District Court may examine the withheld record or portions thereof in their entirety to determine whether the record or portions thereof are exempt from disclosure. Therefore, extreme care should be taken when claiming an exemption to ensure that a governmental interest does exist for the withholding of the information.

§ 701.24 Specific exemptions.

The following types of matters may be withheld from public disclosure unless otherwise prescribed by law:

(a) *"Exemption 1" Matters (5 U.S.C. 552(b)(1)).* Refers to information which is currently and properly classified under criteria established by Executive Order 12356 and is authorized to remain classified in the interest of national security. The withholding of such information is implemented in the U.S. Navy in OPNAV Instruction 5510.1 series, Department of the Navy Information Security Program Regulation. If a requested record is classified in accordance with the OPNAV Instruction 5510.1 series, the record must be reviewed for the basis of the security classification. The following general rules are applicable:

(1) The request must be referred, with information and recommendations, to an official who is authorized under Sec. 701.5, to deny requests and who has cognizance of the classified matters in the record, if the basis of the classification is:

(i) An approved security classification guide promulgated in accordance with the OPNAV Instruction 5510.1 series;

(ii) Resource document originated by another naval activity or government agency;

(iii) An original classification determination for which there is written justification for classification, and the justification remains valid; or,

(iv) Not readily identifiable, but classification is believed to be warranted on the basis of classification criteria contained in the OPNAV Instruction 5510.1 series.

(2) If the original classifier of a record within his/her classification jurisdiction receives a request for the recorded and,

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upon review, determines that there is no basis for continued classification, either in whole or part, the record should be declassified, in whole or in part, and reviewed to determine whether any other FOIA exemptions are applicable to the declassified information, and, if so whether a governmental interest would be jeopardized by its release.

(b) *"Exemption 2" Matters (5 U.S.C 552(b)(2)).* Refers to information containing or constituting rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or practices of the Department of the Navy if their release to the public would substantially hinder the effective performance of a significant function of the Department of the Navy and they do not impose requirements directly on the general public. Examples include:

(1) Operating rules, guidelines and manuals for investigators, inspectors, auditors, or examiners, and certain schedules or methods of operation which would reveal:

(i) Negotiating and bargaining techniques;

(ii) Bargaining limitations and positions;

(iii) Inspection schedules and methods, and

(iv) Audit schedules and methods.

(2) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement, or promotion.

(c) *"Exemption 3" Matters (5 U.S.C. 552(b)(3)).* Refers to information which is specifically exempted from disclosure by statute that permits no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to the particular types of information to be withheld. Such authorization or requirement may be found in the terms of the statute itself or in Executive Orders or regulations authorized by, or in implementation of, a statute. The Privacy Act, 5 U.S.C. 552a, is not considered an applicable statute under 5 U.S.C. 552(b)(3). Examples include:

(1) Public Law 86–36 (50 U.S.C. 402 note)—National Security Agency information.

(2) 35 U.S.C. 181–188—any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.

(3) 42 U.S.C. 2162—Restricted Data and Formerly Restricted Data.

(4) 18 U.S.C. 798—Communication Intelligence.

(5) 50 U.S.C. 402(d)(3) and (g)—Intelligence sources and methods.

(6) 21 U.S.C. 1175—Drug abuse prevention/rehabilitation.

(7) 42 U.S.C. 4582—Alcohol abuse prevention/rehabilitation.

(d) *"Exemption 4" Matters (5 U.S.C. 552(b)(4)).* Refers to trade secrets or commercial or financial information obtained from a person or organization outside the government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records falling under this exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the government's ability to obtain necessary information in the future; or, impair some other legitimate government interest. Examples include records that contain:

(1) Commercial or financial information received in confidence in connection with loans, bids, contracts or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(3) Personal statements given in the course of inspections, investigations, or audits, where such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(4) Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate employees within the Department of the Navy.

(5) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

(e) *"Exemption 5" Matters (5 U.S.C 552(b)(5)).* Refers to internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies or within or among Department of Defense and the Department of the Navy components, except as provided in paragraph (e)(2) through (5) of this section.

(1) Examples include:

(i) The nonfactual portions of staff papers, to include after-action reports and situation reports containing staff evaluations, advice, opinions, or suggestions.

(ii) Advice, suggestions, or evaluations prepared on behalf of the Department of the Navy by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(iii) Those nonfactual portions of evaluations by Department of the Navy personnel of contractors and their products.

(iv) Information of a speculative, tentative, or evaluative nature on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

(v) Trade secrets or other confidential research development, or commercial information owned by the government, where premature release is likely to affect the government's negotiating position or other commercial interests.

(vi) Records that are exchanged among agency personnel and within and among Department of the Navy, Department of Defense, or other agencies as part of the preparation for anticipated administrative proceeding by an agency or litigation before any federal, state, or military court, as well as records that qualify for the attorney-client privilege.

(vii) Those portions of official reports of inspections, reports of the Inspector Generals, audits, investigations or surveys pertaining to safety, security, or the internal management, administration, or operation of the Department of the Navy, when these records have traditionally been treated by courts as privileged against disclosure in litigation.

(2) If any such intra- or interagency record or reasonably segregable portion of such record would hypothetically be made available through the "discovery process" (i.e., the legal process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing) in the course of litigation with the Department of the Navy, such record, should not be withheld even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the discovery process by special order of the court based on the particular needs of a litigant, balanced against the interests of the Department of the Navy in maintaining its confidentiality, the record or document need not be made available.

(3) Intra- or interagency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through "discovery," and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(4) A direction or order from a superior to a subordinate, though contained in internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(5) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

(f) *"Exemption 6" Matters (5 U.S.C 552(b)(6)).* Refers to information in personnel and medical files as well as similar personal information in other files, that, if disclosed, to the requester would result in a clearly unwarranted invasion of personal privacy.

(1) Examples of files containing personal information similar to that contained in personnel and medical files include:

(i) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(ii) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(2) This exemption is relevant to a request for information that is intimate to an individual or that possibly could have adverse effects upon that individual or his/her family if disclosed. Section 701.105 lists several examples of nonderogatory information about the official character of a naval member or employee that can routinely be disclosed to a member of the public, without constituting a clearly unwarranted invasion of the personal privacy of the individual concerned. The determination of whether disclosure of other information about an individual would constitute a "clearly unwarranted" invasion of his/her right of personal privacy is a subjective judgment requiring careful weighing of the privacy interest to be protected—including consideration of the nature of the information requested, the degree of its sensitivity from the standpoint of the individual or his/her family, and its potential for being misused to the harm, embarrassment, or inconvenience of the individual or his/her family—against the importance of the requester's expressed or inferred purposes for seeking the information. In no event shall information be denied because its release might embarrass the Department of the Navy or its military or civilian officials in the performance of their duties.

(3) When the only basis for withholding information is protection of the personal privacy of an individual who is the subject of the record, information should not be withheld from that individual or from his/her designated representative. A clearly unwarranted invasion of the personal privacy of others discussed in that record may, however, constitute a basis for deleting reasonably segregable portions of the record even when providing it to the subject of the record. Note: This exemption shall not be used to protect the privacy of a deceased person, since deceased persons do not have a right to privacy. Information, however, may be withheld under this exemption to protect the privacy of the next of kin of the deceased person.

(g) *"Exemption 7" Matters (5 U.S.C. 552(b)(7)).*—(1) Refers to investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of executive orders, or regulations issued pursuant to law, but only to the extent that their release would:

(i) Interfere with enforcement proceedings (5 U.S.C. 552(b)(7)(A));

(ii) Deprive a person of the right to a fair trial or an impartial adjudication (5 U.S.C. 552(b)(7)(B));

(iii) Constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record (5 U.S.C. 552(b)(7)(C));

(iv) Disclose the identity of a confidential source; disclose confidential information furnished only from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation by an agency conducting a lawful national security intelligence investigation (5 U.S.C. (b)(7)(D));

(v) Disclose investigative techniques and procedures not already in the public domain and requiring protection from public disclosure to ensure their continued effectiveness (5 U.S.C. 552(b)(7)(E)); or,

(vi) Endanger the life or physical safety of law enforcement personnel or their families (5 U.S.C. 552(b)(7)(F)).

(2) Examples include:

(i) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(ii) The identity of firms or individuals being investigated for alleged irregularities involving contracting with the Department of Defense and Navy when no indictment has been obtained nor any civil action filed against them by the United States.

(iii) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within the Navy, or a lawful national security intelligence investigation conducted by an authorized agency or office within the Department of the Navy. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

(h) *"Exemption 8" Matters (5 U.S.C. 552(b)(8)).* Refers to information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(i) *"Exemption 9" Matters (U.S.C. 552(b)(9)).* Refers to geological and geophysical information and data (including maps) concerning wells.

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Subpart C—[Reserved]

Subpart D—Guidelines for Assessment/Waiver/Reduction of Fees

§ 701.40 Purpose.

The fees described in this subpart apply to FOIA requests. They reflect direct search and duplication costs, recovery of which are permitted by 5 U.S.C. 552, Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program.

§ 701.41 Fee assessment.

(a) *Minimum fees.* Minimum fees shall not be charged. When direct search and duplication costs for a single FOIA request total $30 or less, fees shall be waived automatically. Naval activities, however, may set aside the automatic fee waiver provision when, on the basis of good evidence, the activity can demonstrate that the waiver of fees is not in the public interest. Multiple requests from a single requester or from those acting on behalf of a single requester in an effort to take advantage of the waiver may create a situation in which a waiver should be denied. The automatic fee waiver is not applicable when the full costs for search and duplication exceed $30. For example, if the search and duplication costs total $45, the fee assessment charged to the requester is $45.

(b) *Decisions to waive or reduce fees.* Decisions to waive or reduce fees that exceed the automatic fee waiver threshold of $30, shall be made on a case-by-case basis. The following circumstances, however, describe the most common instances in which waiver or reduction of fees are most likely to be warranted:

(1) No record is located or all records are denied. However, fee charges are appropriate if the requester insists upon a search and agrees to such fees after being informed that the search is likely to be nonproductive or that the records are all likely to be exempt from release.

(2) A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records, including additional information not requested.

(3) The records are to be made available in response to a news media requester whose requests are reasonable in scope and frequency. Fee charges are appropriate for news media requesters and may be assessed when:

(i) The charges exceed the fee waiver threshold of $30; and,

(ii) The requester record does not contain information that can be considered as primarily benefiting the general public, or the search for the requested record requires an inordinate amount of naval personnel time, and impacts adversely on the naval activity concerned in accomplishing its primary functional missions.

(iii) When news media requests are broad in scope and are considered unreasonable by the head of the naval activity, a response should be forwarded to the requester, advising that the requester provide greater specificity. An estimate of fee charges may be included in the specificity letter, if practicable, or provided after receiving a reframed request.

(4) The record is for a nonprofit public interest group and the subject of the requested record is known to be of wide public interest, and furnishing the information can be considered as primarily benefiting the general public.

(5) A previous denial is reversed in whole or in part and the search and reproduction costs involved are not substantial.

§ 701.42 Waiver/reduction of fees.

(a) The principal fee waiver policy objectives of the Freedom of Information Act are twofold:

(1) To strengthen the ability of citizens to exercise their rights to understand, and by lawful means establish, support, modify, or terminate national laws, programs, policies of all kinds; and,

(2) To strengthen major aspects of national life in well-recognized areas of public concern where such strengthening will significantly benefit the general public.

(b) A request for a reduction or waiver of fees may be denied when:

(1) There is no definitive evidence to suggest the requested information contains significant potential for benefiting the general public, or releasing the information would not result in any such potential benefits actually being received by the general public; or,

(2) The requester fails to provide indication of his/her expertise on the subject, or the ability to extract and convey potentially beneficial information from the data provided, or the ability to effectually disseminate any extracted information; or,

(3) An inordinate amount of time is required to respond to the request, thus causing an adverse impact on the activity's mission. Cases which involve masses of information or data, (e.g., wide-ranging requests), are examples of cases requiring extraordinary time expenditure.

§ 701.43 Computation of fees.

The fee schedule contained in this subpart is used to compute the search and duplication costs associated with processing a given FOIA requests. Search fees shall be computed based on time actually spent. Neither time-based nor dollar-based minimum charges for search and duplication are authorized.

§ 701.44 Collection of fees.

Collection of fees need not be made in advance of rendering the service unless the costs are expected to exceed the minimum fee waiver threshold and the requester has not indicted a willingness in writing to pay. It frequently is more practical to collect fees at the time of providing the service to the recipient when the requester specifically states that the cost involved shall be acceptable up to a specified limit that covers anticipated costs. Collection of fees in advance is an appropriate requirement when the requester has not agreed in writing to pay the anticipated fee; has not honored previous commitments to pay fees that were owed the naval activity; or, when substantial costs are involved.

§ 701.45 Search and duplication fees.

(a) *Search fees.* The following delineates the fees authorized to be assessed to the requester seeking information concerning the Department of the Navy:

(1) Manual Search

Type	Grade	Hourly rate
Clerical	E8/GS8 and below	$8
Professional	01–06/GS9–GS15	16
Executive	07/GS16,ES1 and above	26

(2) Computer search is based on direct cost of the central processing unit, input/output devices, and memory capacity of the actual computer configuration.

(3) Actual cost of transporting records of personnel to the computer site/location may be included.

(b) *Duplication fees*

Type	Cost per page
Printed material	$.01
Office copy	.10
Microfiche	.25

(c) *Audiovisual documentary material.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(d) *Other records.* Direct search and duplication costs for any record not described above will be computed in the manner described for audiovisual documentary material.

* * * * *

Dated: May 19, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc 83-13925 Filed 5-23-83; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Parts 730 and 770

Administrative Discharges and Related Matters Concerning Separation From the Naval Service—Subpart B—Marine Corps; and Rules Limiting Public Access to Particular Installations—Subpart A—Hunting and Fishing at Marine Corps Base, Quantico, Va.; Miscellaneous Amendments

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending 32 CFR Part 730 by removal of Subpart B thereof, whose publication is not required in that it relates to internal management and personnel rules and practices and does not affect the public. Removal of the subpart will not cancel the underlying source directives upon which it is derived. Additionally, miscellaneous amendments are made to 32 CFR Part 770, Subpart A, to reflect revisions to the underlying directive upon which it is derived.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Major G. B. Roberts, USMC, Headquarters Marine Corps (Code JAR), Washington, D.C. 20380. Telephone: (202) 694–1513.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Parts 730 and 770. It has been determined that these final rules are not major rules within the criteria specified in section 1(b) of Executive Order 12291 and do not have substantial impact on the public. It has further been determined in accordance with 32 CFR Parts 296 and 701 that publication of these amendments for public comment prior to adoption is impractical, unnecessary, and contrary to the public interest.

List of Subjects

32 CFR Part 730

Administrative practice and procedure, Conscientious objectors, Military personnel.

32 CFR Part 770

Federal buildings and facilities, National defense, Restricted access areas, Security measures.

Accordingly, 32 CFR Chapter VI is amended as follows:

PART 730—[AMENDED]

1. The authority citation for Part 730 reads as follows:

Authority.—Secs. 280, 1162, 1163, 6291–6298, 70A Stat. 14, 89, 391–393, as amended, 76 Stat. 508, 517, sec. 301, 80 Stat. 379; 5 U.S.C. 301; 10 U.S.C. 133, 280, 1162, 1163, 1168, 6291–6298, unless otherwise noted.

§§ 730.50–730.163 [Subpart B, Removed]

2. 32 CFR Part 730 is amended by removing Subpart B, §§ 730.50–730.163.

PART 770—[AMENDED]

3. The authority citation for Part 770 reads as follows:

Authority.—5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714, unless otherwise noted.

4. 32 CFR Part 770 is amended as follows:

a. Section 770.2 is amended by revising paragraph (b)(2), (c), and (d)(2) to read as follows:

§ 770.2 Licenses.

* * * * *

(b) * * *

(2) The privilege cards are effective for the same period as the Virginia hunting and fishing licenses.

(c) All hunters must obtain a Base hunting permit, and a parking permit, if applicable, from the Game Warden for each day of hunting. The hunting permit must be carried by the hunter and the parking permit must be displayed on the left dashboard of parked vehicles. The hunting and parking permits must be returned within one hour after either sunset or the hour hunting is secured on holidays or during special season.

(d) * * *

(2) Attendance at a safety lecture given daily except Sunday during the hunting season given at the Game Checking Station located at the intersection of Russell Road and MCB–1. The lectures commence an hour before sunrise, 0800, and 1200;

* * * * *

b. Section 770.3 is amended by removing the last sentence in paragraph (a) and adding in its place the following sentence which reads: "A Base Fishing Privilege Card is required for all persons aged 16 to 65."

c. Section 770.3 is amended in the last sentence of paragraph (b) by adding ", Building 5–9," between the words "Headquarters" and prior".

d. Section 770.3 is amended in paragraph (c)(2) by removing the word "trout" and adding in its place the word "trot".

e. Section 770.3 is amended in paragraph (c)(3) by removing the semicolon at the end of the sentence and adding a period in its place. After that sentence add the following sentence as follows: "All Large Mouth Bass under this size will be immediately returned to the water."

f. Section 770.3 is amended by revising paragraph (c)(4) to read as follows:

§ 770.3 Fishing regulations.

* * * * *

(c) * * *

(4) No Striped Bass will be taken, creeled or possessed under the size of twenty (20) inches in length. All Striped Bass under this size will be immediately returned to the water;

* * * * *

g. Section 770.3 is amended in paragraph (c)(5) by removing the remainder of the paragraph after the word "card" in line 4 and adding a period after the word "card". After that sentence add the following language:

* * * * *

(c) * * *

(5) * * * The card may be obtained from the report boxes located in the vicinity of all fishing areas. The creel report must be completed at the conclusion of the day's fishing and returned to any fishing report box.

§ 770.6 [Amended]

h. Section 770.6 is amended in paragraph (b) by removing the remainder of the paragraph after the word "adult" and adding in its place the following language:

* * * * *

(b) * * * (18 years of age or older) while hunting or in a hunting area. The adult is limited to a maximum of two underage hunters, and must stay within sight and voice contact and no more than 100 yards away from the underage hunters.

i. Section 770.6 is amended in paragraph (c) by adding the following language after the last sentence:

* * * * *

(c) * * * Those personnel who are authorized to hunt on Base, desiring to train or exercise dogs other than deer

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dogs between 2 September and 28 February, may do so by obtaining clearance to enter training areas at the Range Control Office. This clearance is not permission to hunt, and carrying weapons under these conditions is prohibited.

j. Section 770.6 is amended in paragraph (d) by removing the remainder of the paragraph after the word "sunset" in line 3 and adding a period after the word "sunset". After that sentence add the following sentence which reads: "The hours of sunrise and sunset are posted daily at the Game Checking Station."

§ 770.8 [Amended]

k. Section 770.8 is amended by removing the term "Game Warden's Office" and adding in its place the term "Game Checking Station".

l. Section 770.8 is amended in the last sentence by adding between the words "game" and "killed" a comma and the words "not requiring a tag,".

§ 770.9 [Amended]

m. Section 770.9 is amended by adding the following sentence prior to the first sentence: "Hunters are encouraged to build and use tree blinds for hunting deer."

Dated: May 19, 1983.

F. N. Ottie,

Lieutenant Commander, JACC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-13906 Filed 5-23-83; 8:45 am]

BILLING CODE 3810-AE-M

Department of the Air Force

32 CFR Part 888h

Separation Documents and General Separation Procedures

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its Military Personnel regulations by removing Part 888h—Separation Documents and General Separation Procedures, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 35-6 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Lopez, HQ Air Force Military Personnel Center, MPCAKP, Randolph AFB, TX 78150, telephone (512) 652-2148.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by removing Part 888h.

List of Subjects in 32 CFR Part 888h

Military personnel, Aliens, Records, Military law.

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13940 Filed 5-23-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 318

Training Personnel For the Education of the Handicapped

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues these regulations for the implementation of Part D of the Education of the Handicapped Act (EHA), as amended. The Training Personnel for the Education of the Handicapped program provides financial assistance through grants to State educational agencies, institutions of higher education, and other nonprofit institutions or agencies to increase the quantity and to improve the quality of personnel available to educate handicapped children. The existing regulations were reviewed for regulatory burden reduction. These regulations are issued as a result of that review.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations call or write the Department of Education contact person. At a later date, the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Dr. William R. Peterson, (202) 245-9491.

SUPPLEMENTARY INFORMATION: The Training Personnel for the Education of the Handicapped program was originally established under Pub. L. 89-10 in 1966 and is currently authorized under Part D of the Education of the Handicapped Act, as amended (20 U.S.C. 1431, 1432, and 1434). Proposed amended regulations were published as a notice of proposed rulemaking in the **Federal Register** on November 23, 1982 (47 FR 52948). That notice's preamble fully described the background and major issues.

These final regulations provide, among other things, for the distribution of program funds among the following seven priorities to eligible institutions and agencies: preparation of special educators; preparation of leadership personnel; preparation of related services personnel; State educational agency programming; special projects; specialized training of regular educators; and preparation of trainers of volunteers, including parents.

These final regulations implement the provisions of sections 631, 632, and 634 of Part D of the Education of the Handicapped Act (EHA), and the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

There are differences between the notice of proposed rulemaking and these final regulations. Section 318.10(b)(3) has been changed to clarify that the list of related services personnel who may be trained under this program is illustrative, not exhaustive. Section 318.10(c) has been changed to show that when the Secretary annually selects training priorities, the Secretary may elect not to identify the personnel preparation priority as preservice, inservice, or both. Section 318.43(a) has been changed to permit payment of stipends to part-time students with no reference to length of enrollment. Section 318.44 has been changed to permit payment of stipends to students who join the program at any point during the academic year.

The application notice that established the closing date for transmittal of Fiscal Year 1983 applications, published in the **Federal Register** on November 23, 1982 (47 FR 52743), advised applicants to prepare new applications in accordance with the November 23, 1982 proposed regulations.

Potential applicants were additionally advised that if there were any substantive changes in the final regulations they would be afforded the opportunity to amend or resubmit their applications. The changes in the final regulations are not sufficiently significant to classify as substantive.

The Department of Education received some public comments on the proposed regulations. Following is a summary of those comments and the Secretary's responses:

Section 318.1 General.

Comment. One commenter recommended that the word "educate" in the third line can be replaced by a clause "provide education and related services to" to reflect more closely the program's scope.

Response. No change has been made. In the context of these regulations the term "educate" can be construed broadly to encompass "related services".

Section 318.2 Eligibility.

Comment. One commenter recommended that only State educational agencies be eligible for Federal assistance under the grant program.

Response. No change has been made. The statute specifically authorizes federal assistance for institutions of higher education or other nonprofit institutions or agencies, in addition to State educational agencies (20 U.S.C. 1431, 1432, 1434). Limiting grants to State educational agencies would undesirably reduce competition by limiting the pool of eligible applicants.

Comment. Several commenters recommended that eligibility specification for institutions of higher education be qualified by prescribing regionally accredited institutions of higher education with State approved programs of teacher education.

Response. No change has been made. The statute does not require institutions of higher education to be regionally accredited or to have State approved programs of teacher education. It is anticipated that the majority of applications received from institutions of higher education will be from institutions that have State approved programs of teacher education. Federally mandating such requirements, however, would increase prescriptiveness and decrease flexibility contrary to current burden reduction policies. The proposed added qualifications could cause an otherwise worthy application to be declared unacceptable solely on grounds that the submitting institutions of higher education was not regionally accredited, State approved, or both.

Comment. One commenter recommended the addition of the word "organizations" for the clarity of eligibility to apply for grants in § 312.2(c).

Response. No change has been made. The phrase "nonprofit institutions and agencies" is taken from the statute, is generic, and therefore includes "organizations".

Section 318.4 Definitions.

Comment. Several commenters recommended that a § 318.4(b) be added with definitions for preservice and inservice preparation, training, or both.

Response. No change has been made. Definitions are unnecessary as these terms are in common use.

Section 318.10 Training Priorities.

Comment. One commenter recommended that the criteria, procedures, or both to be used by the Secretary to select priorities be included in this regulation.

Response. No change has been made. The procedures used to establish and implement priorities are included in EDGAR, specifically 34 CFR 75.105, and the restatement of them in this regulation would be redundant. The seven priorities included in these regulations were selected on the basis of program experience in training personnel to educate handicapped children.

Comment. One commenter recommended that § 318.10(a) be amended in the final clause to permit doctoral and post-doctoral preparation of personnel under the related services personnel priority in addition to the leadership personnel and special projects priorities.

Response. No change has been made. Doctoral and post-doctoral preparation of professional personnel under the leadership personnel priority includes training of "other specialists" (§ 318.10(b)(2)); consequently, it encompasses all professional personnel specified in the related services personnel priority (§ 318.10(b)(3)).

Comment. Several commenters recommended that a minimum funding allocation of five to eight percent be made to each of the seven training priorities with Secretarial discretion for the remaining 44 to 65 percent

Response. No change has been made. The specification of a fixed minimum percentage for each training priority would undesirably limit the discretion of the Secretary to make awards congruent with the selection criteria for award of a grant (§ 318.30).

Comment. Several commenters recommended that "quality indicators" for imaginative and innovative criteria for the special projects training priority be defined.

Response. No change has been made. It is unnecessary to define these terms. Doing so could undermine the purpose of the criteria.

Comment. Several commenters recommended that institutions of higher education be included as eligible to apply for grants in the State educational agency programming priority (§ 318.10(b)(4)) to promote statewide collaborative personnel preparation efforts.

Response. No change has been made. Where or when unique statewide training is needed to provide comprehensive service to handicapped children, the State educational agency can work collaboratively with other agencies under this priority. While Federal regulations can support that collaboration, it is preferable that the collaboration be initiated by the State educational agency.

Comment. Several commenters recommended that 90% of Federal funding under the specialized training of regular educators training priority be restricted to deans or equivalent administrators at institutions of higher education.

Response. No change has been made. The specification of a fixed percentage of funds for award to any one class of applicants under this training priority would undesirably limit the discretion of the Secretary to make an award congruent with the selection criteria for award of a grant (§ 318.30).

Comment. Several commenters recommended reconsideration of the exclusion of inservice training under five of the seven training priority areas specified in the notice of closing date announcement for transmittal of Fiscal Year 1983 new applications (47 FR 52743, November 23, 1982).

Response. A change has been made. The announcement of Fiscal Year 1983 new applications did exclude inservice training under five of the seven training priorities. However, § 318.10(c) has been changed to make it clear that the Secretary may include or exclude annually any priority from preservice or inservice preparation, or both.

Comment. Two commenters recommended either the addition of an eighth training priority for "bilingual, rural minority populations" or the specification of a minimum percentage of funds for such populations in each of the seven priorities.

Response. No change has been made. The designation of an eighth priority for "bilingual, rural minority populations" or a percentage specification within the seven priorities would tend to isolate such populations and would be overly prescriptive. The selection criteria in §§ 318.30(b)(2)(v) and 318.30(c)(2)(iv) for the evaluation of applications require a clear description of how an applicant will provide equal access and treatment for members of groups who have been traditionally underrepresented and

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evidence of encouraging applications for employment from members of such groups.

Comment. One commenter asked if an institution of higher education that does not award doctoral degrees but does award Educational Specialist (Ed.S) degrees may submit an application under the preparation of leadership personnel priority (§ 318.10(b)(2)).

Response. No change has been made. The leadership personnel priority supports only doctoral and post-doctoral preparation. Preparation of personnel for the Education Specialist degree is included under other priorities, including the preparation of special educators.

Comment. One commenter recommended that both vocational educators and career educators be included in both the special educators (§ 318.10(b)(1)) and the related services personnel (§ 318.10(b)(3)) preparation priorities.

Response. No change has been made. Vocational education programs at times must be specifically designed to enable a handicapped student to benefit fully from these programs; consequently, vocational educators are included in the priority for preparation of special educators. Career education is a more generic and less academic term with trainees therefore being trained to provide guidance, career counseling, and other related servies.

Comment. One commenter asked if vocational educators are included under the term "regular classroom teachers" in § 318.10(b)(6).

Response. Vocational educators who are not included in the term "special educators" because they do not work primarily with handicapped children are included in the term "regular classroom teachers" as used in § 318.10(b)(6).

Comment. One commenter recommended that the priority for preparation of trainers of volunteers, including parents (§ 318.10(b)(7)) not be identified as either preservice or inservice preparation.

Response. A change has been made. Section 318.10(c) has been reworded to add a phrase providing for the Secretary to identify *where appropriate* priorities in paragraphs § 318.10(b) (1) to (7) as preservice or inservice preparation, or both.

Comment. One commenter recommended that the specialized training of regular educators priority should be focused on the preparation of regular classroom teachers and not on deans and equivalent administrators.

Response. No change has been made. The quality of education for handicapped children who receive part of their education in regular classes is more efficiently effectuated by training the leaders of regular classroom teachers.

Comment. One commenter recommended that the State educational agency programming priority (§ 318.10(b)(4)) be reworded to specify support groups included under this training priority. The commenter suggested that the support groups include, as a minimum, local educational agencies institutions of higher education, and appropriate parent coalition groups.

Response. No change has been made. Specification of support groups is overly prescriptive and unnecessary.

Comment. One commenter recommended the addition of the clause "speech-language pathologists, audiologists", following "school psychologists" in § 318.10(b)(3) on the ground that "Pub. L. 94-142 regulations include speech-language pathology as both 'special education' and 'related services' ".

Response. A change has been made. The lists of personnel being prepared in the special educators and related services personnel priorities are not exhaustive. In the second sentence of § 318.10(b)(3) which identifies personnel who may be trained under the priority, the phrase "and other related services personnel" has been added at the end of the sentence to clarify the intent of this priority.

Comment. One commenter recommended that § 318.10(c) be deleted on the ground that the Secretary should not have authority to prescribe the mode of training, preservice versus inservice.

Response. No change has been made. Changes in national personnel preparation needs justify permitting the Secretary to allocate scarce Federal resources among the seven training priorities and to specify, as appropriate, preservice, inservice, or both preparation modes. Also, the discretion permitted the Secretary is based on both the wording and intent of the governing statute (20 U.S.C. 1431, 1432, 1434).

Comment. One commenter recommended that the Secretary's authority to select annually priorities for funding be changed to either biennially or triennially to enhance stability and quality of Federally assisted personnel preparation programs.

Response. No change has been made. Changing to a less frequent than annual selection of priorities would unduly restrict the Secretary's flexibility to address changing needs.

Comment. One commenter recommeded that each of the seven training priorities include provisions that require the use of general and child psychiatrists as consultants to provide preparation in rehabilitation and child psychiatry to personnel being trained.

Response. No change has been made. Mandating the employment of particular consultants for every grant awarded would be overly prescriptive. The participation and program content selection criteria, in § 318.30 (g) and (i) respectively, are sufficient interdisciplinary regulatory requirements.

Section 318.30 Selection Criteria

Comment. Two commenters recommended that more specific and concrete steps be prescribed to better assure that applicants will provide equal access and treatment of project participants who are members of traditionally underrepresented groups (§ 318.30(b)(2)(v)) and that applicants shall encourage the recruitment and employment of such persons (§ 318.30(c)(2)(iv)).

Response. No change has been made. Section 318.30(c)(2)(iv) provides adequate information on how the applicant intends to provide equal access and treatment. More detailed Federal specification would be overly prescriptive.

Comment. One commenter recommended that the ten selection criteria be weighted instead of unweighted.

Response. No change has been made. The selection criteria are not weighted because they are all of equal importance given the range of activities that this program supports.

Comment. One commenter recommended that an eleventh selection criterion entitled "Accreditation" be added as § 318.30(k). The commenter's proposed wording includes "[p]riority for awarding preservice grants" to applicants "that have received accreditation from agencies recognized by the Council on Postsecondary Accreditation (COPA) and/or the Department of Education".

Response. No change has been made. Addition of an accreditation selection criterion would unnecessarily increase Federal prescriptiveness and decrease flexibility contrary to the current burden reduction policy. The proposed additional criterion could cause an otherwise worthy application to be rejected solely on grounds that the applicant was not accredited at the time application was submitted.

Section 318.43 Financial assistance: part-time students

Comment. One commenter recommended that the "at least two days per week" clause in § 318.43(a) be amended to alternatively prescribe an appropriate number of class hours per week for part-time students to be eligible for financial assistance. The commenter's explanation to justify the change is that some training is conducted for several hours once per week that often equals or exceeds the total hours in twice per week training sessions.

Response. A change has been made. That portion of § 318.43(a) which reads "Students enrolled for less than a full calendar year or a full-time academic year but for at least four hours per week may receive a daily stipend" has been amended to read "Students enrolled for less than a full calendar year or a full-time academic year may receive a stipend". This change will allow greater flexibility to the grantee to train part-time students in accordance with State or local circumstances.

Section 318.44 Financial Assistance Adjustments

Comment. One commenter recommended that funds accrued as the result of a financially assisted student's withdrawal or dismissal be permitted to pay partial awards to new students who "join the program at any point during the academic year", in addition to students currently enrolled.

Response. A change has been made. The word "currently" has been deleted. The criteria for student financial assistance stated in §§ 318.41 and 318.43 would not exclude the payment of stipends to students who "join the program at any point during the academic year".

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations are more flexible and less prescriptive than the existing regulations and it is expected that more small entities will apply to participate in the program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of comment on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 318

Education, Education of handicapped, Grant programs—education, Student aid, Teacher.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed amended regulations.

Dated: May 18, 1983.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.029, Handicapped Personnel Preparation Program)

Part 318 of Title 34 of the Code of Federal Regulations is revised as follows:

PART 318—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

Subpart A—General

Sec.

318.1 Training personnel for the education of handicapped program.
318.2 Who is eligible for a grant under Training Personnel for the Education of Handicapped program?
318.3 What regulations apply to training personnel for the education of handicapped program?
318.4 What definitions apply to the training personnel for the education of the handicapped Program?
318.5–318.9 [Reserved]

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

318.10 What types of training priorities are considered for support by the Secretary under this part?
318.11 How does the Secretary use priorities?
318.12–318.19 [Reserved]

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

318.30 What are the selection criteria used to award a grant?
318.31–318.39 [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee Under the Student Financial Assistance Program?

318.40 Is student financial assistance authorized?
318.41 What are the student financial assistance criteria?
318.42 What amount of assistance is authorized?
318.43 What financial assistance is authorized for part-time students?
318.44 What is required for a financially assisted student who withdraws or is dismissed?
318.45–318.49 [Reserved]

Authority: Secs. 631, 632, 634, Pub. L. 91-230, 84 Stat. 184 (20 U.S.C. 1431, 1432, 1434), unless otherwise noted.

Subpart A—General

§ 318.1 Training Personnel for the Education of Handicapped program.

This program serves to increase the quantity and improve the quality of personnel available to educate handicapped children through the provision of grants to eligible agencies that have or will develop personnel preparation programs.

(20 U.S.C. 1431, 1432, 1434)

§ 318.2 Who is eligible for a grant under the Training Personnel for the Education of Handicapped program?

The following agencies are eligible for assistance under this part—

(a) State educational agencies.

(b) Institutions of higher education.

(c) Other appropriate nonprofit institutions or agencies.

(20 U.S.C. 1431, 1432, 1434)

§ 318.3 What regulations apply to the Training Personnel for the Education of Handicapped program?

The following regulations apply to assistance under the Training Personnel for the Education of the Handicapped program—

(a) The regulations in this Part 318.

(b) The Education Department General Administration Regulations (EDGAR) established in Title 34 of the Code of Federal Regulations in—

(1) Part 74 (Administration of Grants);

(2) Part 75 (Direct Grant Programs);

(3) Part 77 (Definitions); and

(4) Part 78 (Education Appeal Board).

(20 U.S.C. 1431, 1432, 1434; 20 U.S.C. 1221e-3(a)(1))

§ 318.4 What definitions apply to the Training Personnel for the Education of Handicapped program?

Definitions in EDGAR. The following terms used in this part are defined in 34 CFR Part 77:

Applicant.

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Application.
Award.
Budget period.
Department.
EDGAR.
Fiscal year.
Grant period.
Local educational agency.
Nonprofit.
Preschool.
Private.
Project.
Public.
Secretary.
State.
State educational agency.

(20 U.S.C. 1431, 1432, 1434; 20 U.S.C. 1221e-3(a)(1))

§§ 318.5—318.9 [Reserved]

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 318.10 What types of training priorities are considered for support by the Secretary under this part?

(a) Projects supported under this part which meet a priority as described in paragraphs (b) and (c) of this section may provide training to degree, non-degree, certified, and non-certified personnel except that doctoral and post-doctoral preparation can be supported only under the priorities described in paragraph (b)(2) and (b)(5) of this section.

(b) The Secretary may select annually one or more of the following priority areas for funding:

(1) *Preparation of special educators.* This priority supports projects designed to provide training for personnel engaged or preparing to engage in employment as special educators of handicapped children ages 0–21 years or as supervisors of such educators. The priority includes the preparation of early childhood specialists, special educators of the handicapped, special administrators and supervisors, speech-language pathologists, audiologists, physical educators, and vocational educators.

(2) *Preparation of leadership personnel.* This priority supports doctoral and post-doctoral preparation of professional personnel to conduct training of teacher trainers, researchers, administrators, and other specialists.

(3) *Preparation of related services personnel.* This priority supports the preparation of individuals who provide developmental, corrective, and other supportive services as may be required to assist a handicapped child to benefit from special education. The priority supports the preparation of paraprofessional personnel, career educators, recreation specialists, health services personnel, school psychologists, social service providers, physical therapists, occupational therapists, and other related services personnel.

(4) *State educational agency programming.* This priority supports projects dealing with unique State-wide training in all of several of the need areas identified by the Comprehensive System of Personnel Development (CSPD) and may include training in management and organizational design which enhance the ability of States to provide comprehensive services to handicapped children. Only State educational agencies are eligible to submit applications under this priority.

(5) *Special projects.* This priority supports the development, evaluation, and distribution of imaginative or innovative approaches to personnel preparation, and includes development of materials to prepare personnel to educate handicapped children.

(6) *Specialized training of regular educators.* This priority supports projects that provide deans or equivalent administrators from institutions of higher education or local educational agency officials the skills necessary to promote development of regular classroom teachers, administrators, and supervisors. The purpose is to provide quality education to handicapped children who receive part of their education in regular classes.

(7) *Preparation of trainers of volunteers, including parents.* This priority supports the preparation of trainers of volunteers, including parents, to assist in the provision of educational services to handicapped students. In addition to the preparation of volunteers and parents by experienced professionals, this priority may support projects which emphasize the training of parents by parents.

(c) The Secretary will select annually priorities authorized to be addressed and also will identify, where appropriate, the priorities that include only preservice or inservice preparation, or both.

(20 U.S.C. 1431, 1432, 1434)

§ 318.11 How does the Secretary use priorities?

(a) The Secretary establishes a separate competition for each priority selected for support in a given year. Activities proposed by eligible applicants which do not address selected annual priorities will not be considered for competition.

(b) If an application contains activities which address both a priority and a non-priority area, the Secretary considers for support only those activities that address a selected priority.

(20 U.S.C. 1431, 1432, 1434)

§§ 318.12–318.19 [Reserved]

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 318.30 What are the selection criteria used to award a grant?

The Secretary uses the criteria in this section to evaluate applications for new awards. The criteria are not weighted.

(a) *Extent of need for the project.* (1) The Secretary reviews each application for information that shows the project meets the needs recognized in Part D of the Act.

(2) In conducting this review, the Secretary looks for information that—

(i) Describes the needs addressed by the project;

(ii) Specifies the personnel needs identified by each State educational agency for each State served under the proposed project;

(iii) Describes how the project relates to personnel needs identified by each State educational agency and any other needs data source; and

(iv) Describes the benefits to be gained by meeting those personnel needs.

(b) *Plan of operation.* (1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Quality of key personnel.* (1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) *Budget and cost effectiveness.* (1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR § 75.590, *Evaluation by the grantee.*)

(2) The Secretary reviews each application for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(f) *Adequacy of resources.* The Secretary reviews each application for information that shows—

(1) The applicant plans to devote adequate resources to the project;

(2) The facilities that the applicant plans to use are adequate; and

(3) The equipment and supplies that the applicant plans to use are adequate.

(g) *Participation.* The Secretary reviews each application for information on—

(1) The extent to which program philosophy, program objectives, and activities implemented to attain program objectives are related to the educational needs of handicapped children; and

(2) The extent to which the applicant involves students, employing agencies and other concerned individuals in program planning, implementation, and evaluation.

(h) *Evaluation design.* The Secretary reviews each application for information that shows the extent to which the evaluation design and procedures—

(1) Provide for assessment of the effectiveness and efficiency of the use of program resources in the attainment of program objectives; and

(2) Provide for the collection of quantifiable program performance information including—

(i) The number of personnel prepared;

(ii) The number of personnel placed in positions relevant to the education of handicapped children; and

(iii) The type of locations and positions accepted by program graduates.

(3) Describe procedures for assessing the impact of the program. In the case of an application for continuation support, provide evidence of the impact of the program upon other related programs within the institution, upon community programs for the education of handicapped children, and upon improvement of services for handicapped children at the local, State, and/or national level.

(i) *Program content.* The Secretary reviews each application for information that shows—

(1) The extent to which the application includes a delineation of competencies that each program graduate will acquire and how the competencies will be evaluated;

(2) The extent to which substantive content and organization of the program—

(i) Are appropriate for the student's attainment of professional knowledge and competencies that are necessary for the provision of quality educational services for handicapped children; and

(ii) Demonstrate an awareness of relevant methods, procedures, techniques, and instructional media or materials that can be used in the preparation of personnel who serve handicapped children;

(3) The extent to which appropriate practicum facilities are accessible to the applicant and students and are used for observation, participation, practice teaching, laboratory or clinical experience, internship, and other supervised experiences of adequate scope, combination and length.

(j) *Contributions.* The Secretary reviews each application for information that shows—

(1) The amount of fiscal and other effort the applicant will contribute to the program; and

(2) A delineation of the procedures that will be implemented for the increase of this effort over a specified time period in relationship to the amount of Federal funds awarded for the support of the program.

(20 U.S.C. 1431, 1432, 1434)

§§ 318.31–318.39 [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee Under the Student Financial Assistance Program?

§ 318.40 Is student financial assistance authorized?

A grantee may use any portion of a grant awarded under this Part to pay direct financial assistance to students.

(20 U.S.C. 1431, 1432, 1434)

§ 318.41 What are the student financial assistance criteria?

Direct financial assistance may be paid to students only if—

(a) The student is qualified for admission to the program of study;

(b) The student maintains acceptable progress in a course of study;

(c) The student demonstrates need for financial assistance as determined by criteria established by the grantee; and

(d) The student is a citizen or a national of the United States, or is legally in the United States for other than a temporary purpose and intends to become a permanent resident.

(20 U.S.C. 1431, 1432, 1434)

§ 318.42 What amount of assistance is authorized?

Subject to the limitations stated in §§ 318.43 and 318.44, grantees shall disburse financial assistance to students in amounts consistent with established grantee policies for providing financial assistance for various levels of study, and for policies relevant to providing financial assistance to part-time and full-time students.

§ 318.43 What financial assistance is authorized for part-time students?

(a) Students enrolled for less than a full calendar year or a full-time academic year may receive a stipend. Such short-term students are not eligible for allowances for dependents.

(b) Students who are receiving calendar year or full-time academic year assistance at the time of their short-term study are not eligible for financial assistance under this section.

(20 U.S.C. 1431, 1432, 1434)

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§ 318.44 What is required for a financially assisted student who withdraws or is dismissed?

A grantee shall make financial adjustments when the student withdraws or is dismissed before the end of the program. In those instances where students withdraw from graduate and undergraduate academic year and short term programs, a grantee may give the remaining funds as a partial award to another student who is enrolled in the program assisted under this part. The Secretary considers the funds made available as a result of a financial adjustment as an overpayment, unless these funds are used as a partial award or are used in ways otherwise consistent with the requirements of this Part.

(20 U.S.C. 1431, 1432, 1434)

§§ 318.45–318.49 [Reserved]

[FR Doc. 83-13786 Filed 5-23-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Freedom of Choice; Waivers of and Exceptions to State Plan Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS

ACTION: Final rule.

SUMMARY: These final rules clarify and amend regulations published on October 1, 1981, that implement section 2175 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Those regulations revised several of the requirements regarding a Medicaid beneficiary's right to choose among participating providers of covered items or services.

Based on the comments received on those regulations, we are making changes that provide further direction to States, beneficiaries and providers with regard to freedom of choice requirements while at the same time maintaining State flexibility in administering their Medicaid programs.

We are also amending the October 1, 1981 regulations to implement section 137 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). That section makes several technical changes to section 2175 of Pub. L. 97–35 with respect to a Medicaid beneficiary's right to choose among participating providers of covered items or services.

EFFECTIVE DATE: These regulations are effective June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, (301) 594–9595.

SUPPLEMENTARY INFORMATION:

I. Background

We issued interim final regulations with comment period on October 1, 1981 (46 FR 48524) that implemented paragraphs (a), (b), (d), (e), and (f) of section 1915 of the Social Security Act (Act). Under section 1915(a), a State will not be found out of compliance with otherwise applicable requirements solely because it enters into certain arrangements to purchase laboratory services or medical devices through competitive bids or otherwise, or if, under certain circumstances, it restricts for a reasonable period of time a specific beneficiary's choice of providers or the participation of a specific provider. (Previously existing statutory provisions concerning beneficiaries served by prepayment health care organizations and rural health clinics were also transferred to section 1915(a).) Under section 1915(b), the Secretary may waive certain statutory requirements, to the extent the Secretary finds State proposed improvements in the provision of services to be cost-effective and efficient, and consistent with the purposes of the medicaid program. Sections 1915(d), 1915(e), and 1915(f) of the Act govern how waivers granted under section 1915(b) are to be approved, monitored, and terminated.

Sections 1915(a), (b), (d), and (e) were effective with enactment on August 13, 1981. Section 1915(f) was effective 90 days after enactment.

In order to have regulations in place as close as possible to the effective date of the law, we waived proposed rulemaking and published the regulation in interim final form with a comment period allowing for public participation. In general, in developing the regulations, we tried to afford States the greatest possible flexibility and opportunity for innovation in administering their Medicaid programs, consistent with the statutory requirements. We, therefore, minimized Federal prescription of definitions and procedures in implementation of these provisions. It was our intention that the Secretary's waiver authority should not be used to impose restrictions on the States beyond those contained in the statute, or to compel them to meet unnecessary and burdensome regulatory requirements in order to receive or qualify for waivers. Therefore, whenever possible, we permitted each State to determine its own program content and administration, consistent with the law.

Specifically, the interim final rule amended regulations at 42 CFR 431.50 and 431.51 that implement the Statewideness (section 1902(a)(1) of the Act) and free choice (section 1902(a)(23) of the Act) provisions, respectively, and regulations at 42 CFR 440.200 and 440.250 that implement the comparability provision (section 1902(a)(10) of the Act), to reference the appropriate waivers or exceptions applicable under section 1915. A new § 431.54, Exceptions to certain State plan requirements, was added to implement section 1915(a) of the Act concerning exceptions, and a new § 431.55, Waiver of other medicaid requirements, was added to implement section 1915(b) of the Act concerning waivers.

A. Exceptions

With regard to the exceptions allowed under section 1915(a), the regulations provided that a State shall not be deemed to be out of compliance with the requirements of sections 1902(a)(1), (10), and (23) solely by reason of certain allowable exceptions set forth below.

1. *Services on a Prepayment Basis.* If a Medicaid agency contracts on a prepayment basis with an organization that provides services additional to those offered under the State plan, the agency may restrict the provision of the additional services to beneficiaries who live in the area served by the organization and wish to obtain services from it. (§ 431.54(b))

2. *Rural Health Clinics.* The State Medicaid agency may require in its State plan that payment will be made for rural health clinic services only if those services are provided by a rural health clinic. (§ 431.54(c))

3. *Competitive Arrangements.* The Medicaid agency may enter into arrangements to purchase through a competitive bidding process or otherwise, certain laboratory services (including X-ray) and medical devices. The State must submit a report assuring, and the Secretary must find, that adequate services or devices are available to beneficiaries under the arrangements. The State must also assure and the Secretary must find that laboratory services purchased are supplied through hospital or independent laboratories meeting Medicare conditions for coverage. These laboratories can have no more than 75 percent Medicare and Medicaid utilization. (§ 431.54(d))

4. *Lock-in of Beneficiaries Who Overutilize Services.* A Medicaid agency may lock-in chronic overutilizers of services, as determined in accordance with utilization guidelines established by the State, to a single physician or limited group of providers for a reasonable period of time. The agency must give the beneficiary notice and opportunity for a hearing before implementation of lock-in and must assure that the beneficiary has reasonable access (taking into account geographic location and reasonable travel time) to Medicaid services of adequate quality. (§431.54(e))

5. *Lock-out of Providers Who Abuse the Medicaid Programs.* A Medicaid agency may restrict, for a reasonable period of time, either through suspension or otherwise, the participation of providers in their Medicaid programs. This restriction can be imposed if, after notice and opportunity for hearing, the State determines that the provider, in a significant number or proportion of cases, provided services to beneficiaries when the services were not medically necessary (as determined in accordance with utilization guidelines established by the agency) or of a quality not meeting professionally recognized standards of care. The agency must assure that beneficiaries do not lose reasonable access to services of adequate quality as a result of those restrictions and must give general notice to the public of the restriction, its basis, and its duration. (§431.54(f))

6. *Reporting Requirements.* States must report to HCFA regarding program changes under section 1915(a) no later than the end of the calendar quarter in which a State first implements these changes. (In the case of competitive arrangements discussed in section 3 above, the report must be submitted, and a positive finding made by the Secretary before the arrangements can be implemented.) The report must describe how the program change meets the statutory requirements for an exception. Exceptions for services provided on a prepayment basis or through an RHC will not require a report.

B. Waivers

With respect to waivers under section 1915(b), the regulations authorized the Secretary to waive the requirements of sections 1902 and 1903(m) of the Act to the extent he or she finds proposed improvement in the provision of services under Medicaid to be cost-effective, efficient, and consistent with the objectives of the Medicaid program. (See section C following for recent amendments regarding waiver of the requirements of section 1903 (m).)

1. *Case-management System.* A State may implement a case-management system or a specialty physician services arrangement which restricts the provider from or through whom a beneficiary can obtain primary care services (other than in emergency circumstances) provided that those restrictions do not substantially impair access to services of adequate quality where medically necessary. (See section C following regarding recent amendments with respect to case-management systems.) The agency must assure that a specific person or agency will be responsible for locating, coordinating, and monitoring Medicaid services on behalf of a beneficiary. (§ 431.55(c))

2. *Locality as Central Broker.* A State may allow a locality to act as a central broker in assisting individuals in selecting among competing health care plans. (§431.55(d))

3. *Sharing of Cost Savings.* A State may share with beneficiaries (through the provision of additional services) cost savings resulting from use by the beneficiary of more cost-effective medical care. (§ 431.55(e))

4. *Restriction of Beneficiaries to Selected Cost-effective Providers.* A State may restrict a beneficiary's freedom of choice to a provider or providers who demonstrate effectiveness and efficiency in providing those services; undertake to provide the covered care or medical services needed; and comply with State plan standards for reimbursement, quality, and utilization. States may qualify for these waivers only if:

(a) Their applicable State standards are consistent with access, quality, and efficient and economic provision of covered care and services; and

(b) The restrictions they impose do not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services. (§ 431.55(f))

5. *Conditions Applicable to all Section 1915(b) Waivers.* In applying for a waiver, a Medicaid agency must document the cost-effectiveness of the project, the effect on beneficiaries regarding access to quality care, and the projected impact of the program. Waivers approved under section 1915(b) may extend for no more than two years, unless the State requests continuation of the waiver. The Secretary will monitor the implementation of waivers granted to assure that the requirements for those waivers are being met. After notice and opportunity for a hearing, the Secretary must terminate a waiver if the Secretary finds noncompliance has occurred. The agency will then be given a specified date by which it must demonstrate that it meets the applicable requirements of sections 1902 and 1903(m) of the Act. (§ 431.55(b))

C. Tax Equity and Fiscal Responsibility Act of 1982 (TEFBA)

Section 137 of Pub. L. 97–248, enacted on September 3, 1982, made several changes to section 1915 of the Act. It deleted the Secretary's authority under section 1915(b) to waive the requirements contained in section 1903(m) of the Act. However, this change in the Secretary's waiver authority does not apply where a waiver was granted by the Secretary and waivered arrangements were in place before August 10, 1982. This exemption extends only for the period for which the waiver was initially approved.

Section 137 also amended statutory language in section 1915(b)(1) to specify that this section applies specifically to "primary care case-management systems" rather than "case-management systems" and to specify that the Secretary could waive certain requirements of the Act to implement primary care case-management systems or specialty physician service arrangements which restrict the provider from (or through) whom an individual can obtain medical care services (the statute previously used the term "primary care services" instead of "medical care services").

II. Final Regulations

We received comments on our interim final rule from 31 provider organizations and organizations representing beneficiaries, professional amd medical societies, and State and local agencies. Generally the comments can be grouped into two categories: Those that challenged our interim final regulations on procedural grounds with regard to the requirements of the Administrative Procedures Act (APA), Regulatory Flexibility Act (RFA) and Executive Order 12291; and those that, while supportive, had suggestions for ways we might further clarify the regulations.

Based on the comments received and the amendments required by section 137 of Pub. L. 97–248, we are making changes in current regulations as set forth below. (The specific comments received and our responses to these comments are discussed in section IV.

Public Comments

A. General

We are amending regulations located at § 431.51(d) to:

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—Require States (in lieu of the State report describing how program changes meet the statutory requirements for an exception) to cerfity to HCFA that statutory safeguards and requirements will be complied with when the State implements a project for competitive bidding, lock-in, or lock-out.

We are amending regulations located at § 431.55(a) and (c) through (f), and adding paragraph (h) (Paragraph (g) was added by the final rule published February 8, 1983, 48 FR 5733, that implements section 131 of TEFRA regarding cost sharing under Medicaid.) to:

—Specify that the requirements of section 1903(m) of the Act may be waived by the Secretary under section 1915(b) of the Act only where a waiver of such requirements was granted by the Secretary and the arrangement was in place before August 10, 1982. Such a waiver may remain in effect only for the period for which it was initially approved.

(Alternative arrangements to section 1903(m) waivers may be available to States that would largely meet their objectives consistent with the law and the intent of Congress. HCFA is prepared to assist States in developing alternative arrangements)

We are amending regulations located at § 431.55(b) to:

—Specify that HCFA will consider only waiver requests submitted by or through the Governor, State cabinet members responsible for State Medicaid agency activities, director of the State Medicaid agency, or someone with the authority to act on behalf of the director (this clarification is a result of several inquiries as to who may submit a waiver); and

—Require that States maintain certain data to assist HCFA in determining whether statutory requirements for waivers are met.

B. Competitive Arrangements

We are amending regulations located at § 431.54(d) to clarify which laboratories are subject to competitive bidding and what categories of services provided in those laboratories qualify for competitive bidding. We are also making a technical correction to paragraph (d)(3) to clarify that services are purchased *from* laboratories rather than *for* laboratories.

C. Lock-in

We are amending regulations located at § 431.54(e) to:

—Clarify that this provision does not apply to emergency services furnished to a beneficiary.

D. Lock-out

We are amending regulations located at § 431.54(f) to:

—Require that a State notify HCFA when it imposes restrictions;

—Specify that an agency may not impose restrictions under this provision which would result in denying beneficiaries access to emergency services (this is consistent with the intent of the statute that beneficiaries have access to necessary services); and

—Clarify what must be taken into account with respect to a beneficiary's access to services of adequate quality (this is a statutory requirement).

E. Case-management System

We are amending regulations located at § 431.55(c) to:

—In accordance with TEFRA, insert "primary care" before "case-management system", replace "primary care services" with "medical care services" and to make conforming changes where necessary;

—Specify that several persons (e.g., a group practice) may perform the primary care case-management function; and

—Distinguish between a primary care case-management system and a specialty physician services arrangement.

F. Locality as Central Broker

We are amending regulations located at § 431.55(d) to:

—Define locality;

—Clarify that a locality may utilize any agency or agent, public or private, profit or nonprofit, on its behalf in carrying out its central broker function; and

—Include the statutory safeguard that beneficiaries have access to services of adequate quality.

G. Sharing of Cost Savings

We are amending regulations located at § 431.55(e) to specify what "additional services" may include.

H. Restriction to Cost-effective Providers

We are amending regulations located at § 431.55(f) to:

—Specify that this provision does not apply to a beneficiary's access to emergency services;

—Define demonstrated effectiveness and efficiency;

—Specify that this provision does not apply to beneficiaries residing at a long-term care facility when a restriction is imposed unless the State arranges for reasonable and adequate beneficiary transfer; and

—Require that standards providers must meet under the waiver be included in a State's waiver request.

We have also redrafted § 431.55(f) for clarity and to conform more consistently with statutory language.

III. Applicability of the Regulations

The limitations permitted by these regulations pertain to the Medicaid program only. Individuals who are eligible under both the Medicare and Medicaid programs will not be subject to these regulations with respect to services provided to the individual under Medicare.

IV. Public Comments

The specific comments received on our interim final rule and our responses are as follows:

1. General

Comment:

Four commenters suggested that we withdraw the interim final rule and replace with an NPRM. The commenters believed that our publication of an interim final rule was inconsistent with the APA in that it abrogated the right of those affected to participate in the rulemaking process. They also believed that waiver of the NPRM was inconsistent with Congressional intent stated in the Conference Report which indicated that regulations should be issued "consistent with hearing and comment requirements". (H.R. Report No. 97–208, p. 964)

Response:

Authority for State action under section 1915 of the Act is based on the statute itself, not the regulations. As stated earlier, sections 1915(a), (b), (d) and (e) were effective with enactment on August 13, 1981. Section 1915(f) which was effective November 11, 1981 specifies that if the Secretary, within 90 days, fails to either deny a waiver request or inform the State that additional information is required, the waiver request is automatically "deemed granted". It is impossible to reconcile an NPRM process with Congress' explicit intent to give the statutory provisions immediate effect.

It is precisely because the statute had immediate effect that it was in the public interest to issue an interim final rule with comment period. Without regulations, States could conceivably have implemented programs without sufficient regard to statutory requirements. The regulations merely restate the statute with the stipulations that States may not implement programs that impinge on a beneficiary's reasonable access to services of adequate quality or restrict access to emergency services. Without regulations, HCFA could have been inundated with inappropriate waiver requests, many of which would have become effective if HCFA did not have the administrative resources to complete action on the requests within 90 days.

The pertinent section of the Conference Report reads:

> The conferees recognize the Secretary may begin granting waivers under this section shortly after enactment. They intend, however, that regulations be issued as soon as possible, consistent with hearing and comment requirements, so that States will receive guidance concerning the standards for waiver requests the Secretary will apply.

The interim final rule with comment period procedure allows for public participation. Various changes to the interim regulations show not only that public comments were considered, but often were adopted into the regulations. Thus, the interim final rule with comment period served the purpose of the APA as well as Congressional intent for immediate implementation "consistent with hearing and comment requirements".

Comment:

Several commenters believed that HCFA did not give adequate guidance to States either by failing to sufficiently clarify or "flesh out" the legislation or by failing to define specific terms (for example, "cost-effective" and "efficient"). One commenter believed that HCFA, therefore, was declining to exercise any of the prerogatives of a regulator.

Response:

We agree that certain portions of the regulations could be clarified or expanded upon. For instance, we have revised § 431.54(d) on competitive bidding to clarify which laboratories are subject to competitive bidding and have expanded upon the procedures an agency must follow before implementing lock-out. We have also made several other clarifying changes which are set forth in Section II, Final Regulations, and discussed in these comments.

However, in general HCFA has exercised its administrative discretion by determining to regulate less, thereby reducing administrative burdens on the States to the extent possible. We believe that in many cases statutory safeguards are sufficient and require no further expansion. HCFA's policy is to afford States maximum flexibility within statutory constraints. We believe this policy is both proper and reasonable and reflects Congressional intent.

With respect to defining specific terms, differences in State Medicaid programs and varying circumstances within each State often make it impractical to develop a uniform quantifiable definition for all States. We have amended regulations to define certain terms: *cost-effective* means reducing costs or slowing the rate of increase while *efficiency* means maximizing output or outcomes per unit of cost. Other terms which we have defined are discussed in the appropriate sections of these comments.

Comment:

Several commenters believe that limitations on freedom of choice could result in States steering Medicaid patients toward certain providers over others. This limitation on freedom of choice could adversely affect the physician-patient relationship and the physician's right to use certain services.

Response:

It is the intent of Congress and of these regulations to allow States to limit freedom of choice, but States are precluded from restricting freedom of choice if it results in a reduction in the quality of services provided.

Comment:

One commenter suggested that before a State limits access to particular providers under the exception and waiver provisions, the State should publish criteria it uses for selecting such providers and make the criteria subject to public review and comment.

Response:

States must give general notice to the public of the restrictions it imposes under the lock-out provisions of § 431.54(f). Although States may voluntarily submit proposals for public review and comment, nothing in the statute requires that they do so.

Under the waiver provisions, it could contravene States' flexibility, the efficient implementation of the regulations, and Congressional intent to require States to submit proposals for public review and comment.

Comment:

Four commenters suggested that exceptions under § 431.54 be treated as State plan amendments and receive HCFA approval before implementation. One of these commenters suggested the same treatment for waivers under § 431.55 and, further, that HCFA should establish performance standards for evaluating States' proposed exception and waiver requests.

Response:

To require State submissions to be in the form of State plan amendments would be contrary to the intent of the statute since the new section 1915 of the Act is not framed as a State plan requirement. Preprinted State plans have been amended to allow for exceptions and waivers.

With regard to prior approval, had Congress intended HCFA to approve all projects in advance, there would have been no need to distinguish in the statute between the waiver provisions of section 1915(b) and the exception provisions of section 1915(a). All waivers require approval. However, the only affirmative findings required by the exception provisions in section 1915(a) of the Act pertain to competitive bidding processes; the regulations reflect this requirement

Performance standards are not required for the exceptions under § 431.54. Waiver requests under § 431.55 must be evaluated on a State-by-State basis, bearing in mind special circumstances that may apply in each State. In general, HCFA's standards require that waiver requests hold out promise of being more cost-effective, do not impair beneficiary access to services, and are not contrary to statutory intent. HCFA is developing general standards for issuance as administrative guidelines under § 431.55(f), to be used by States in assessing their waiver proposals.

Comment:

One commenter objected to the reports required for competitive bidding arrangements and lock-in and lock-out projects. In connection with reporting, one commenter believed that the same 90-day period that applies to consideration of waiver requests should also apply to consideration of the report required for competitive bidding under § 431.54(d).

Response:

We, too, are concerned with the burden of reporting requirements. Therefore, we have amended regulations to require only that a State certify to HCFA that statutory requirements and safeguards are met. States will no longer be required to describe in a detailed report to HCFA specifically how program changes meet the statutory requirements for exceptions. See *Section*

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VI. Clearance of Reporting Requirements regarding the Office of Management and Budget's clearance of reporting requirements contained in § 431.51. Under final regulations a State's certification, in the case of competitive bidding, will suffice for the Secretary's positive finding that statutory requirements are met unless we determine otherwise, at a later date, through the State assessment process. Therefore, in this context we believe the 90-day approval period suggested by the commenter is no longer material.

Comment:

Two commenters were concerned that long-term care facilities will experience great financial difficulty as a result of the regulations and may revert to less-than-adequate care situations. They believe that with minimal supervision by the Federal government, States will limit beneficiary's freedom of choice and direct beneficiaries to the least costly providers. Consequently, the commenters believe that the regulations will impair the ability of long-term care providers to offer quality services.

Response:

The intent of Congress was that provision of services be made more cost-effective while quality and beneficiary access to services are maintained. HCFA will not approve waiver rquests that do not assure reasonable access to quality services.

Additionally, HCFA regional offices are charged with monitoring the implementation of waiver projects. Failure to continue to comply with the requirements for a waiver will result in termination of the waiver. These waivers may be approved only for a period of two years. If there are serious problems with a waiver project, HCFA can refuse to extend it beyond two years.

Comment:

Some commenters believed that an agency, in establishing the fees it will pay for Medicaid services and setting reasonable standards relating to the qualifications of providers and utilization review guidelines, should develop those fees, standards, and guidelines in conjunction with providers. One commenter suggested that States provide HCFA their utilization guidelines for purposes of lock-out.

Response:

The language relating to fees and standards in § 431.51(c)(1) and (2) was taken verbatim from freedom of choice regulations previously located at § 431.51(d). HCFA does not intend to attach additional requirements to pre-existing regulatory language. However, as in the past, States are free to work with providers in developing standards.

With regard to utilization guidelines, the statute gives States authority to develop guidelines unilaterally. We expect that State agencies would consult with local medical societies in developing these guidelines, but the regulations will not require it. With respect to States providing HCFA their utilization guidelines, the statute is designed so that States may implement programs without first obtaining approval from HCFA.

2. Competitive Bidding

Comment:

Two commenters objected to classifying X-ray procedures as a laboratory service under the competitive bidding process. They believe that HCFA has exceeded the intent of Pub. L. 97–35, since there is no mention of X-rays as a laboratory service in the statute.

Response:

The statute refers to section 1905(a)(3) of the Act, which specifies "other laboratory and X-ray services." Laboratory and X-ray services are closely related, in that both are designed to produce findings used in evaluating the state of a person's health. This close relationship is demonstrated in both the statute (section 1905(a)(3)) and the regulations at 42 CFR 440.30, in that "other laboratory and X-ray" comprises a single phrase preceding "services" (as opposed to, for instance, "other laboratory services or X-ray services"). Therefore, we believe it is the intent of Congress to allow competitive bidding among both laboratory and X-ray facilities, as a means of increasing efficiency and reducing costs.

Comment:

Two commenters believed that HCFA has not faithfully represented the intent of Congress, in that it has not made reference to Congressional intent that monopolies be avoided under the competitive bidding arrangements. Also one commenter believed that due to the unique nature of certain prosthetic devices, competitive bidding would be inappropriate.

One commenter questioned whether competitive bidding arrangements are limited solely to laboratory services and medical devices.

Response:

Congressional language (H.R. Report No. 97–158, Vol. II, pp. 300–301) reads: "* * * it is the Committee's expectation that States making arrangements with providers of laboratory services under the legislation would generally not make such arrangements with only one provider of such services in any large health care delivery area * * *. If a State does determine that restriction of providers is appropriate, the Committee emphasizes that the test of availability of quality services should be stringently enforced." (Emphasis added)

The Committee language does not preclude arrangements with a single provider. If circumstances warrant, a State may use a single provider. The determining criterion is availability of quality services.

We agree that successful arrangements for competitive bidding for prosthetic devices could pose special problems for the States; for example, we expect that only rarely would a State find it feasible to engage in competitive bidding for certain orthopedic devices such as artificial limbs which must be custom-made and custom-fitted. Moreover, Congress gave States flexibility to exercise judgment in applying this provision. States are under no obligation to implement competitive bidding arrangements. Presumably, a State will not engage in competitive bidding arrangements which are less cost-effective and efficient than current arrangements.

Competitive bidding is limited to laboratory and X-ray services and medical devices. However, as indicated in H.R. Report No. 97–208, pp. 963–964, competitive bidding for drugs is permissible under the waiver provisions of § 431.55(f).

Comment:

One commenter requested clarification as to which laboratories are subject to competitive bidding. Further, interstate laboratories winning a competitive bid to serve beneficiaries across State lines must meet standards set forth under the Clinical Laboratory Improvement Act of 1967 (Pub. L. 90–174), and, therefore, should be approved by the Center for Disease Control or the College of American Pathologists (CAP). This should be stated in the regulations.

Response:

We have clarified regulations to state that laboratories able to engage in competitive bidding are independent laboratories, hospital laboratories (in- or out-patient) That provide services to non-hospital patients, and physician laboratories that process at least 100 specimens during any calendar year from other physicians' patients. Hospital and physician laboratories may only participate in competitive bidding with regard to the outside referrals accepted.

With regard to interstate laboratories, in 1979 HCFA assumed the licensing function previously performed by the Center for Disease Control. The regulations will specify that, in order to participate in competitive bidding, laboratories requiring an interstate license must be licensed by HCFA or receive an exemption from the licensing requirement by the College of American Pathologists.

Comment:

One commenter suggested that care be taken in reviewing "waiver requests" for competitive bidding arrangements to assure that States select only qualified and proximate laboratories for Medicaid beneficiaries.

Response:

Competitive bidding arrangements do not fall under the waiver provisions of section 1915(b). However, HCFA is requiring under these final regulations that States certify that safeguards and requirements will be complied with when implementing a project under section 1915(a). Among these is the assurance that adequate services are available to beneficiaries under competitive arrangements. Therefore, to the extent that proximity of laboratories affects the availability of services in competitive arrangements, this would be a consideration. We believe this sufficiently addresses the commenter's concerns.

3. Lock-in of Beneficiaries

Comment:

One commenter believed that it is important to know how States will identify chronic overutilization and exactly how "overutilization" will be defined. Another commenter stated that patients who have varied and complex medical problems may be identified and penalized based on the primary diagnosis rather than on a complete medical review. Utilization review guidelines have yet to be developed that cover a patient's appropriateness of care based on varied and complex medical problems.

Response:

The statute gives each State the authority to set its own utilization guidelines. As a matter of Federal policy, States will not be required to divulge their tolerance rules or detection procedures. However, any lock-in arrangement must ensure beneficiary access to all necessary medical care.

Comments:

Some commenters suggested that a "reasonable period of time" for lock-in should be limited to 12 months. After a lock-in period, a State should review a beneficiary's utilization and reinstitute a lock-in if necessary.

One commenter also suggested that if a State restricts beneficiaries to specific providers, the State should make provision to pay other providers who provide emergency services to the beneficiary, or services where the beneficiary conceals information regarding his or her assignment to a particular provider or providers.

Response:

It is the intent of Congress to afford States greater flexibility in the operation of their Medicaid program. Therefore, with regard to a reasonable length of time for a lock-in, we believe that time frames should be determined by the State.

With respect to the provision of emergency services, we have amended regulations to require beneficiary access to emergency services; therefore, States must reimburse for these services. In other than these circumstances, we would expect that States would reimburse providers upon a showing that services were furnished in good faith (the provider did not have reason to know that there was a restriction in place) when beneficiary action was in appropriate or improper.

Comment:

One commenter suggested that the regulations should state that the Secretary encourages States to waive, during the start-up period, State regulations that may impede the development of cost-effective lock-in programs.

Response:

We recognize that lock-in provisions may, in certain instances, conflict with existing State regulations. In such cases, the State must decide whether it can or will waive other regulations in order to implement a lock-in program.

Comment:

Two commenters believe that regulations should specify that the hearing processes under lock-in (and lock-out) need not be completed before restrictions are imposed. Action may be taken after the affected party has been notified of relevant findings and given a chance to respond.

Response:

Under the statute, States are charged with the responsibility for establishing adequate notice and hearings processes. Therefore, we do not believe it appropriate to contravene States' flexibility with regard to the hearings process.

4. Lock-out of Providers

Comment:

One commenter believes that lock-out should apply to both institutional and non-institutional providers. Three other commenters requested that we clarify how the lock-out provision applies to an institutional provider.

Four commenters believe that the regulations should specify that lock-out provisions apply to physicians and practitioners, but not to institutional providers since the latter are judged under an established certification process based on Federal conditions of participation and associated State licensure requirements, enforcement, and due process provisions.

Response:

There is no indication in either the statute or legislative history that Congress intended to exclude institutional providers from the lock-out provisions. Therefore, the provision will apply to both institutional and non-institutional providers.

We note, however, that the lock-out provisions apply only in those situations where a provider has furnished services at a frequency or amount that is not medically necessary or of a quality that does not meet professionally recognized standards of health care. These regulations do not apply to other circumstances warranting adverse action. Additionally, the statute protects beneficiaries by prohibiting a lock-out which would deprive them of reasonable access to services.

Comment:

One commenter suggested that we provide lock-out guideline criteria to the States and establish criteria to evaluate effects on beneficiary access. One other commenter requested specific regulatory guidance on how to ensure reasonable access.

Response:

We recently published regulations on the suspension of health care professionals which include additional guidance to be used by States in arriving at appropriate provider sanctions. (48 FR 3742, January 8, 1983)

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We will evaluate effects on beneficiary access via procedures contained in HCFA's *State Assessment Guide*. With regard to a regulatory definition of reasonable access, we believe that because of the infinite number of combinations of facts and circumstances, reasonable access is best determined only on a case-by-case basis.

Comment:

One commenter stated that the statute did not require that a general notice be given to the public regarding the basis and duration of a lock-out and, therefore, our regulations should not require it. One other commenter believed that this requirement could result in legal action against the State due to damage to a provider's reputation.

Response:

Although section 1915(a)(2)(B) does not require a general notice, HCFA believes it is necessary to keep the public informed concerning provider restrictions. Further, in all program restrictions HCFA imposes, we provide public notice (e.g., the newspaper notice required under 42 CFR 420.102(b)(4)). HCFA does not believe that States will be subject to legal action as a result of the notification since it will not be issued until after the provider is given an opportunity to rebut State allegations.

Comment:

One commenter was concerned that regulations provide adequate protection for providers that are suspended from program participation, including adequate notices, hearings, and appeals.

Response:

As indicated above, under the statute, States are charged with the responsibility for establishing adequate notice and hearing processes. However, we have amended regulations to require that States notify HCFA when it imposes a restriction.

5. Waiver Provisions—General

Comment:

Four commenters suggested that States be required to give general notice to the public of specific waiver requests, allow for public review of State proposals, and submit to HCFA a summary of public comments along with each waiver request. They believe also that States should be required to make public the basis for selecting or limiting providers and establish a reasonable and timely opportunity for appealing State decisions. One commenter suggested that waiver requests under consideration be published by HCFA in the **Federal Register** for comment.

Response:

We do not believe that the suggested restrictions would be helpful. Congress intended to streamline the waiver process and to enhance rather than restrict State flexibility. However, we believe that as a practical matter, States will adopt procedures for making information regarding selection of providers available to the public. Publication by HCFA of a **Federal Register** notice of each waiver request would delay waiver implementation and could prevent compliance with the 90-day statutory deadline for approving or disapproving a waiver request.

Comment:

One commenter believes that we should impose additional reporting requirements on States and that HCFA should retain State survey and certification capacity at current levels.

Response:

Legislative intent was to grant flexibility to the States, not place new reporting requirements upon them. However, HCFA will continue to monitor how States implement their projects under these regulations. HCFA will monitor the implementation of waivers through its State assessment procedures or other review procedures. We have also amended regulations to require that States maintain certain data to assist HCFA in determining whether statutory requirements for waivers are met.

Comment:

Several commenters stated that waivers should not reduce the quality of care or beneficiary access to that care.

One commenter also suggested that the provision for HCFA to monitor the implementation of waivers should include a procedure for the general public to petition HCFA for a compliance review. The public should be notified and given the opportunity to participate in noncompliance hearings.

Response:

We agree that quality health care must be maintained. Therefore, our regulations require that a State must ensure continued beneficiary access to quality health care. Waivers will not be approved where there is insufficient provider participation to assure reasonable access. However, in developing their selection process, States must take a cost effective approach in selecting providers of care without hampering beneficiary access to quality services. As stated previously, HCFA will monitor approved waivers through methods including its State assessment procedures.

HCFA is always open to considering information from the public with respect to compliance with program requirements and we do not believe a separate special process need be established for this purpose in connection with waivers.

6. Case-management

Comment:

One commenter stated that the initiation of a case-management program could result in short-term increases in expenditures (e.g., "start-up money"). The commenter believed that regulations should specify that an initial increase in expenditures is acceptable given the long-term potential for savings.

Response:

Savings over the entire period of the waiver will be considered by HCFA in reviewing waiver proposals. However, we do not believe it is necessary to amend the regulations for this purpose.

Comment:

Two commenters suggested that the agency, in assigning a specific person or agency to act as a case manager, must ensure that the case manager has the necessary medical expertise for monitoring health-related services.

One commenter believes that regulations should include qualifications or certification requirements for case managers.

Response:

We are revising the requirement that a single person or agency act as the case manager to specify also that several persons may act as a case manager. This is because we do not want to preclude those situations where it may be more appropriate to have more than one manager; for example, in a group practice where several members may assume this responsibility at various times. We believe that selection of a case manager is a matter for the State to decide based on its own assessment as to what qualifications are needed. We do not believe that the legislation contemplated specific prescribed certification standards for case managers.

Comment:

One commenter believes that terms such as "provider" and "specialty physician services" should be defined. This commenter urges that regulations prohibit discrimination among types of health providers for purposes of case-management. It also urged a provision whereby a patient may reject a State-selected provider, since decisions concerning health care must reside with the patient. The patient should have the right to terminate an unsatisfactory or unproductive patient-practitioner relationship.

Response:

A change to section 1915(b)(1) of the Act brought about by Pub. L. 97-248 revises "case-management system" to "primary care case-management system". In general, terms used in § 431.55(c) on primary care case-management arrangements are fairly common, non-technical terms. Consequently, we believe it is unnecessary to define them within the regulation itself.

We do agree, however, that the distinction between "primary care case-management system" and "specialty physician services arrangements" should be clarified in the regulations. Under a primary care case-management system, a case manager is responsible for locating, coordinating, and monitoring primary care or primary care and other medical care and rehabilitative services on behalf of a beneficiary. The specialty physician services arrangement differs from a case-management system in that it allows States to restrict beneficiaries to providers of specialty physician services for those specialty services regardless of whether such restriction is part of a case-management system. The regulations have been expanded to reflect this distinction.

Congress intended that case-management selection be a State prerogative. Therefore, it would be inappropriate to prohibit discrimination among types of providers, since the objective of a case-management system is to limit beneficiary access to specified primary care providers. Similarly, it would be inappropriate to allow a beneficiary to reject a State-selected provider, since such a stipulation could prevent the implementation of a case-management system, which inherently places restrictions on a beneficiary's freedom of choice.

7. Locality as Central Broker

Comment:

Several commenters believe that clarification of regulations was necessary in the following areas:

a. Two commenters requested that "locality" be defined.

b. One commenter believes that the regulations should require that all health care plans be considered on a fair and equitable basis.

c. One commenter suggested that the regulations should state that the central broker concept be limited to public or non-profit groups.

d. Two commenters stated that the regulations should describe what criteria the Secretary will apply in judging applications for this waiver, e.g., specify minimum benefits that must be offered by competing health care plans.

Response:

We have taken the following action:

a. We have amended the regulations to define "locality" as any defined jurisdiction, e.g., district, town, city, borough, county, parish, or State.

b. We believe the States are in the best position to determine the basis for evaluating alternative plans.

c. We have amended the regulations to specify that public or non-profit groups may act on a locality's behalf in carrying out its central broker function. However, we will not require that localities be limited to these groups.

d. We are not specifying the minimum benefits that must be offered by competing health care plans. However, States are responsible for ensuring that their State plan obligations are met irrespective of whether competing plans partially or totally supplant the current Medicaid program.

Comment:

One commenter stated that there are no controls upon a locality's ability to "coerce" individuals to select prepaid plans. States should be required to develop training, certification, and monitoring procedures to ensure fair performance by central brokers.

Response:

The purpose for using a locality as a central broker is to inform beneficiaries so that they can choose from among available plans. It is not intended that States use this waiver to "coerce" beneficiaries. We believe that States are in the best position to determine the procedures necessary to ensure fair performance by central brokers.

8. Restriction to Selected Cost-efficient Providers

Comment:

One commenter had the following suggestions:

(1) Regulations should contain requirements that States specify their standards for allowing providers to participate under the waiver.

(2) Regulations should be expanded to establish criteria for assuring that adequate access to services is provided.

(3) States should not be allowed to impose bed quotas.

Response:

We agree with the commenter and have amended the regulations to require that States specify, in their waiver requests, their standards with regard to provider participation.

With regard to establishing specific criteria for assuring adequate access, it is the intent of Congress to afford States greater flexibility in the operation of their Medicaid programs. Since circumstances vary in each State, HCFA would perpetuate current inefficiency by determining standard criteria to fit differing State circumstances. It is up to the States to demonstrate that reasonable access to care is protected. Waivers that do not show that access to services will be maintained will not be approved.

HCFA will not approve waiver requests that seek to restrict all provider agreements to a specified percentage or number of otherwise Medicaid certified beds.

Comment:

One commenter suggested that where State and Federal law requires hospitals to participate in Medicaid, a State should provide a hearing and appeal mechanism for settling disputes that arise over reimbursement, quality, and utilization standards. The commenter is concerned that the State may set arbitrary and unfair standards.

Response:

As a practical matter, it would appear to be inconsistent for a State which requires participation of qualifying hospitals to seek a waiver which would have the effect of excluding those same hospitals from participation. The commenter did not provide examples of State laws that require participation, or what impact those laws would have in a waiver situation. The providers, as well as the beneficiaries, are protected from the application of arbitrary standards. HCFA in granting a waiver, reviews the proposed State standards to assure that they are consistent with the purposes of title XIX, as well as with access, quality, efficiency, and economic provisions of covered care and services, and that they do not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services. Therefore, we believe that no change in regulations is necessary.

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Comment:

One commenter believes that the regulations should contain criteria HCFA will use in determining whether a waiver will be "consistent with access, quality, and efficient and economic provisions of * * * services" and "not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency".

Response:

Because of differing circumstances in the various States, we believe specific, quantifiable standards are not appropriate. We intend to issue general standards as administrative guidelines for use by States in determining whether their proposals are acceptable.

As stated earlier in the preamble, in general, HCFA's standards require that waiver requests hold out promise of being more cost-effective, do not impair beneficiary access to services and are not contrary to statutory intent. HCFA will rely on these principles in evaluating waiver requests, and administrative guidelines issued by HCFA will also reflect these principles.

Comment:

Two commenters were opposed to States having the right to bar qualified providers from the program despite their compliance with all rules and regulations and willingness to accept the Medicaid rate as payment in full. They believed that the regulations do not manifest Congressional intent in this regard and want appropriate clarification.

Response:

The mere fact that a provider complies with all rules and regulations and is willing to accept the Medicaid rate in full does not guarantee that the provider is cost-efficient and efficient since reimbursement and utilization rates vary from provider to provider. It is the intent of Congress to allow States to conserve Medicaid funds by selecting providers that offer quality services in a most cost-effective and efficient manner. States may select among classes of providers. Restrictions must be based solely on cost-effectiveness and efficiency considerations as long as access to quality services is maintained.

Comment:

One commenter requested that the phrases "classes of providers" and "demonstrated effectiveness and efficiency" should be clarified.

Response:

We have not clarified the term "classes of providers" in the regulation because we do not believe that a definition fully encompassing the kinds of discrimination meant to be prohibited can be drafted. States may not discriminate among classes of providers on any basis unrelated to their demonstrated effectiveness and efficiency. Examples of classes could include distinctions based on the nature of the provider's ownership (e.g. non-profit vs. for profit) or professional qualifications (e.g. physicians vs. physical therapists) or numerous other factors.

The regulations have been changed to clarify that the term "demonstrated effectiveness and efficiency" refers to reducing costs or slowing the rate of increase and maximizing outputs or outcomes per unit of cost.

Comment:

One commenter believed in general that economic concerns of the States may override their concern for the beneficiary, especially with regard to protecting residents of long-term facilities. The commenter thought that States would engage in mass transfers of patients out of these facilities despite absence of appropriate beds for these patients.

Another commenter suggested that the regulations should state that Medicaid would continue to pay for, and would not transfer, beneficiaries in long-term care facilities that are restricted from program participation under these regulations. Resident transfers should be done only in accordance with a specific and detailed relocation plan.

Response:

States must show that beneficiaries continue to have access to services of adequate quality. This will be one determining criterion in evaluating waiver requests. If States are unable to assure reasonable access to services, a waiver request will not be approved. With regard to mass transfers, we have amended regulations so that they do not apply to beneficiaries residing in a long-term care facility when a restriction is imposed unless the State arranges for reasonable and adequate beneficiary transfer. In order to minimize disruption to beneficiaries we would expect States, under this requirement, to provide beneficiaries and their families with sufficient advance notice to allow them to prepare for the transfer. However, the regulations will not require a specific and detailed relocation plan.

Comment:

One commenter indicated that the regulations should explicitly exclude emergency services from any freedom of choice restrictions as the statute requires.

Response:

We agree and have amended the regulations accordingly.

V. Impact analysis

Executive Order 12291

We have determined that neither the interim final nor the final regulations which clarify and amend the interim regulations, will result in an annual economic impact of $100 million or meet any of the other threshold criteria of section 1(b) of the Order.

Several commenters believed that a regulatory impact analysis was required because the impact would be greater than $100 million. Upon review of 50 waiver requests and the approval of 22 waivers, we have determined that the annual cumulative economic effect of individual State actions, may exceed $100 million. For example, one regional office estimates that one State's request to procure hospital services for its Medicaid recipients, could result in State savings of $140 million in fiscal 1984. The other approved waivers are estimated to produce smaller savings. However, there is potential for States' actions to result in an impact exceeding the $100 million threshold.

However, as noted in the October 1, 1981 regulation, the actions States may take under section 1915 do not result from the provisions of these regulations, but on the provisions of section 1915 itself. Therefore, the economic impact generated by State decisions result from the Omnibus Budget Reconciliation Act of 1981 and not these regulations, and a regulatory impact analysis is not required.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that neither the interim final regulations nor these final regulations, which would clarify and amend the interim regulations, will result in a significant impact on a substantial number of small entities.

The primary impact of these interim final and final regulations is on the States, which are not "small entities" within the meaning of the Act. However, several commenters did suggest that many providers would be significantly impacted, but no specific evidence was provided supporting their contention. And as discussed in the Executive Order analysis, any such impact on providers would be the result of the statute and not these regulations. Section 2175 of the Omnibus Reconciliation Budget Act of 1981 (Pub. L. 97-35), was expressly designed to allow States to place restrictions on the beneficiary's free choice of medical providers. As stated in the preamble, the interim final and the final regulations merely implement the intent of Congress. We would encourage States that are developing section 1915 waiver requests to consider their effect on small entities and to analyze alternative choices. We believe that States are best qualified to determine whether a given adverse effect on small entities is appropriate in view of the benefits offered by a waiver request that is consistent with the provisions of these regulations.

Further, in view of the provisions of section 1915, while a State may consider the effect on small entities before submitting a request, we may not consider this effect in reviewing the request. Accordingly, a regulatory flexibility analysis is not required.

VI. Clearance of Reporting Requirements

In the preamble to the interim final rule published October 1, 1981, a statement was made that the reporting requirements contained in §§ 431.51, and 431.55 of the regulations would not be effective until the Office of Management and Budget (OMB) approved the reporting. OMB has completed its review of the reporting requirements contained in § 431.51. Under OMB No. 0938-0193, OMB has approved this section of the regulations only as a certification. A certification would not be considered to have any reporting burden. Regulation § 431.51(d) under this rule meets this OMB requirement.

With respect to § 431.55, again, under section 3507 of the Paperwork Reduction Act, reporting/recordkeeping would not be required until OMB approval has been obtained. This will also apply with respect to the reporting/recordkeeping contained in § 431.54(f)(3). We will notify States of the effective date of the reporting/recordkeeping requirements when approval has been obtained.

VII. List of Subjects in 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting and recordkeeping requirement.

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

42 CFR Part 431, Subpart B is amended as set forth below:

Subpart B—Administrative Requirements: General Program Services

1. Section 431.51 is amended by revising paragraphs (c)(3) and (d) to read as follows:

§ 431.51 Free choice of providers.

* * * * *

(c) *Limitations on applicability.* Paragraph (b) of this section does not prohibit the agency from—* * *

(3) Restricting recipients' free choice of providers in accordance with one or more of the exceptions provided for under § 431.54, or under a waiver as provided for under § 431.55.

(d) *Certification requirement.* If a State implements a project under one of the exceptions allowed under § 431.54 (d), (e) or (f), it must certify to HCFA that the statutory safeguards and requirements for an exception under section 1915(a) of the Act are met. The certification must be submitted by the end of the quarter in which the State implements the project, except that the certification must be submitted prior to instituting the project in the case of an exception under § 431.54(d), for which the Secretary must make certain findings before the project may be initiated.

2. Section 431.54 is amended by revising paragraphs (d), (e), and (f) to read as follows:

§ 431.54 Exceptions to certain State plan requirements.

* * * * *

(d) *Competitive bidding or other arrangements.* The Medicaid agency may enter into arrangements to purchase medical devices or laboratory and X-ray tests (as defined in § 440.30) through a competitive bidding process or otherwise, if the State assures in the certification required under § 431.51(d), and the Secretary finds, that adequate services or devices are available to recipients under the arrangements. In addition, the State must certify and the Secretary must find that:

(1) Laboratory services purchased under such arrangements are provided through independent laboratories, hospital laboratories (in-or-outpatient) that provide services for non-hospital patients, and physician laboratories that process at least 100 specimens during any calendar year from other physicians. These laboratories must meet the requirements of Part 405, Subpart J or Part 405, Subpart M of this chapter. Laboratories requiring an interstate license under 42 CFR Part 74 must be licensed by HCFA or receive an exemption from the licensing requirement by the College of American Pathologists. (Hospital and physician laboratories may participate in competitive bidding only with regard to services to non-hospital patients and other physicians' patients, respectively.)

(2) Any laboratory from which a State purchases services under this section has no more than 75 percent of its charges based on services to beneficiaries or recipients of Medicaid or Medicare.

(e) *Lock-in of recipients who over-utilize Medicaid services.* If a Medicaid agency finds that a recipient has utilized Medicaid services or items at a frequency or amount that is not medically necessary, as determined in accordance with utilization guidelines established by the State, the agency may restrict that recipient for a reasonable period of time to obtain Medicaid services or items from designated providers only. The agency may impose these restrictions provided that:

(1) The agency gives the recipient notice and opportunity for a hearing (in accordance with procedures established by the agency) before such restrictions are imposed.

(2) The agency assures that the recipient has reasonable access (taking into account geographic location and reasonable travel time) to Medicaid services of adequate quality.

(3) The restrictions will not apply to emergency services furnished to the recipient.

(f) *Lock-out of providers.* If a Medicaid agency finds that a provider of items or services under the State plan has abused the Medicaid program, the agency may restrict the provider, through suspension or otherwise, from participating in the Medicaid program for a reasonable period of time. The agency may impose these restrictions subject to the following limitations:

(1) Before imposing any restriction, the agency gives the provider notice and

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opportunity for a hearing, in accordance with procedures established by the agency.

(2) The agency must find, before restricting a provider, that in a significant number or proportion of cases, the provider has:

(i) Provided Medicaid items or services at a frequency or amount not medically necessary, as determined in accordance with utilization guidelines established by the agency; or

(ii) Provided Medicaid items or services of a quality that does not meet professionally recognized standards of health care.

(3) The agency must—

(i) Notify HCFA when it imposes a restriction; and

(ii) Give a general notice to the public of the restriction and its duration.

(4) The agency may not impose restrictions which would result in denying recipients reasonable access (taking into account geographic location and reasonable travel time) to Medicaid services of adequate quality, including emergency services.

3. Section 431.55 is revised to read as follows:

§ 431.55 Waiver of other Medicaid requirements.

(a) Basis and purpose. This section implements section 1915(b) of the Act, as added by section 2175 of Pub. L. 97–35 and as amended by section 137 of Pub. L. 97–248, which authorizes the Secretary to waive the requirements of sections 1902 and 1903(m) (as permitted under paragraph (h) of this section) of the Act to the extent he or she finds proposed improvements in the provision of services under Medicaid to be cost-effective, efficient, and consistent with the objectives of the Medicaid program. This section also implements sections 1915 (d), (e), and (f) of the Act, which govern how such waivers are to be approved, continued, monitored, and terminated. Additionally, paragraph (g) of this section implements section 1916(a)(3) and (b)(3) of the Act, which authorizes the Secretary to waive the requirement in those sections that cost-sharing amounts be nominal.

(b) *General requirements.*

(1) HCFA will consider only waiver requests submitted to HCFA by or through the Governor, State cabinet members responsible for State Medicaid agency activities, director of the State Medicaid agency, or by someone with the authority to submit waiver requests on behalf of the director.

(2) In applying for a waiver to implement an approvable project under paragraphs (c), (d), (e), or (f) of this section, a Medicaid agency must document in the waiver request and maintain data regarding:

(i) The cost-effectiveness of the project;

(ii) The effect on recipients regarding access to care and quality of services; and

(iii) The projected impact of the program.

(3) No waiver under this section may be granted for a period longer than 2 years, unless the agency requests a continuation of the waiver.

(4) HCFA will monitor the implementation of waivers granted under this section to assure that requirements for such waivers are being met.

(i) Where monitoring demonstrates evidence that the agency is not in compliance with the requirements for a waiver under this section, the agency shall be given notice and opportunity for a hearing.

(ii) If, after a hearing, HCFA finds an agency to be out of compliance with the requirements of a waiver, that waiver shall be terminated, and the agency shall be given a specified date by which it must demonstrate that it meets the applicable requirements of sections 1902 and 1903(m) of the Act.

(c) *Case-management system.* Waivers of appropriate requirements of sections 1902 and 1903(m) (as permitted under paragraph (h) of this section) of the Act may be authorized for a State to implement a primary care case-management system or specialty physician services arrangements which restricts the provider from or through whom a recipient can obtain medical care services (other than in emergency circumstances) provided that those restrictions do not substantially impair access to such services of adequate quality where medically necessary.

(1) Under a primary care case-management system the agency assures that a specific person or persons or agency will be responsible for locating, coordinating, and monitoring all primary care or primary care and other medical care and rehabilitative services on behalf of a recipient.

(2) A specialty physician services arrangement allows States to restrict recipients of specialty services to designated providers of such services, even in the absence of a primary care case-management system.

(d) *Locality as central broker.* Waivers of appropriate requirements of sections 1902 and 1903(m) (as permitted under paragraph (h) of this section) of the Act may be authorized for a State to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans.

States must ensure that access to medically necessary services of adequate quality is not substantially impaired.

(1) A locality is any defined jurisdiction, e.g., district, town, city, borough, county, parish, or State.

(2) A locality may utilize any agency or agent, public or private, profit or nonprofit, to act on its behalf in carrying out its central broker function.

(e) *Sharing of cost savings.* Waivers of appropriate requirements of section 1902 and 1903(m) (as permitted under paragraph (h) of this section) of the Act may be authorized for a State to share (through provision of additional services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care.

Additional services include those offered by plans selected by recipients, as well as those offered expressly by a State as an inducement for recipients to participate in a primary care case-management system, a "competing health care plan", or other arrangements that result in more cost effective medical care.

(f) Restriction of freedom of choice. Waiver of appropriate requirements of sections 1902 and 1903(m) (as permitted under paragraph (h) of this section) of the Act may be authorized for States to restrict recipients to obtaining services from (or through) qualified providers or practitioners that meet, accept, and comply with the State reimbursement, quality and utilization standards specified in the State's waiver request.

(1) An agency may qualify for such a waiver only if——

(i) Its applicable State standards are consistent with access, quality and efficient and economic provisions of covered care and services;

(ii) The restrictions it imposes do not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services; and

(iii) The restrictions it imposes do not apply in emergency circumstances.

(2) Demonstrated effectiveness and efficiency refers to reducing costs or slowing the rate of increase and maximizing outputs or outcomes per unit of cost.

(3) The provisions of this section do not apply to recipients residing at a long-term care facility when a restriction is imposed unless the State arranges for reasonable and adequate recipient transfer.

(g) *Cost sharing requirement.* Beginning October 1, 1982, under sections 1916(a)(3) and (b)(3), the Secretary may permit by waiver, copayments of up to double the nominal amount, as described in § 447.54, to be imposed on nonemergency services furnished in a hospital emergency room.

(1) Nonemergency services are those services that do not meet the definition of emergency services at § 447.53(b)(4).

(2) In order for a waiver to be approved under this provision, the State must establish to the satisfaction of HCFA, that alternative sources of nonemergency, outpatient services are available and accessible to eligible individuals.

(3) Although, in accordance with paragraph (b)(2) of this section, a waiver will generally be granted for a 2 year duration, HCFA will re-evaluate approved waivers if the State increases the nominal copayment amounts in effect when the waiver was approved.

(h) *Section 1903(m) waivers.* Appropriate requirements under section 1903(m) of the Act are waived only where a waiver of those requirements was granted by the Secretary and the arrangements were in place before August 10, 1982. Such a waiver may remain in effect only for the period for which it was initially approved.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 15, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: April 26, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-13759 Filed 5-23-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6386

[NEV-058307]

Nevada; Partial Revocation of Public Land Order 3035

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes PLO No. 3035 which withdrew land for a Bureau of Mines Administrative Site in Boulder City, Nevada. The surface and mineral estate of the .606 acre involved are now in private ownership. The remaining 17.481 acres of the site will remain withdrawn.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. PLO No. 3035, dated April 15, 1963, which withdrew land for use by the Bureau of Mines as an administrative site, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian, Nevada

T. 23 S., R. 64 E.,
Sec. 8, lots 30, 31, 32 and 33, Block 10 as shown on the Plat of Boulder City, Nevada, dated July 15, 1959 (X300460, Sheet 9 and 20), on file at City Hall, Boulder City, Clark County, Nevada; except the north approximately 5 feet of lot 30 as shown on the unrecorded Record of Survey, prepared on September 14, 1976, by Elmer S. Radig, Registered land Surveyor, Nevada Certificate No. 2878) 581 Avenue "C," Boulder City.

The area described aggregates approximately .606 acre within the city limits of Boulder City in Clark County, Nevada.

The above described land, including all minerals, is now in private ownership.

Inquiries concerning the land should be addressed to Chief, Division of Operations, Nevada State Office, Branch of Lands and Minerals Operations, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 16, 1983.

[FR Doc. 83-13907 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6387

[C-1269]

Colorado; Revocation of Public Land Order 5029; Partial Revocation of Executive Order 5327 and Public Land Order 4522

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order 5029 in its entirety and partially revokes Executive Order 5327 and Public Land Order 4522 as to 1,066,880 acres of public and national forest lands withdrawn for oil shale classification purposes. This order will restore approximately 508,640 acres to operation of the public land laws, including mining and mineral leasing, and 258,040 acres to such forms of disposition as may by law be made of national forest lands. The remaining 300,000 acres are privately owned and will not be affected by this action.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order 5029, dated March 11, 1970, is hereby revoked in its entirety; Executive Order 5237, dated April 15, 1930, as amended, and Public Land Order 4522, dated September 13, 1968, are hereby revoked as far as they affect the following described lands:

Sixth Principal Meridian

T. 2 N., R. 95 W.,
Secs. 2 thru 11, 14 thru 23, 27 thru 33.
T. 3 N., R. 95 W.,
Secs. 7, 17 thru 20, 28 thru 34.
T. 12 N., R. 95 W.,
Secs. 13 thru 24.
T. 2 N., R. 96 W.,
Secs. 1 thru 14, 24, 25, 36.
T. 3 N., R. 96 W.,
Secs. 1 thru 4, 10 thru 15, 22 thru 28, 31 thru 36.
T. 4 N., R. 96 W.,
Secs. 7 thru 9, 14 thru 23, 25 thru 30, 32 thru 36.
T. 5 N., R. 96 W.,
Secs. 31 thru 33.
T. 8 N., R. 96 W.,
Secs. 3 thru 10, 15 thru 21, 29 thru 31.
T. 9 N., R. 96 W.,
Secs. 6, 7, 18, 19, 30.
T. 10 N., R. 96 W.,
Secs. 5 thru 8, 17 thru 20, 30, 31.
T. 11 N., R. 96 W.,
Secs. 5 thru 8, 17 thru 20, 29 thru 32.
T. 12 N., R. 96 W.,
Secs. 13 thru 24, 31.
T. 2 N., R. 97 W.,
Secs. 1 and 12.
T. 3 N., R. 97 W.,
Secs. 36.
T. 4 N., R. 97 W.,
Secs. 11 and 12.
T. 5 N., R. 97 W.,
Secs. 36.
T. 8 N., R. 97 W.,
Secs. 1 thru 30, 33 thru 36.
T. 9 N., R. 97 W.,
Secs. 1 thru 36.
T. 10 N., R. 97 W.,
Secs. 1 thru 36.
T. 11 N., R. 97 W.,
Secs. 1 thru 3, 5 thru 36.
T. 12 N., R. 97 W.,

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Secs. 13 thru 24, 29 thru 31, 34 thru 36.
T. 8 N., R. 98 W.,
Secs. 1 thru 27.
T. 9 N., R. 98 W.,
Secs. 1 thru 36.
T. 10 N., R. 98 W.,
Secs. 1 thru 36.
T. 11 N., R. 98 W.,
Secs. 1 thru 36.
T. 12 N., R. 98 W.,
Secs. 13 thru 36.
T. 8 N., R. 99 W.,
Secs. 1 and 12.
T. 9 N., R. 99 W.,
Secs. 1 thru 29, 33 thru 36.
T. 10 N., R. 99 W.,
Secs. 1 thru 36.
T. 11 N., R. 99 W.,
Secs. 1 thru 5, 7 thru 17, 20 thru 36.
T. 12 N., R. 99 W.,
Secs. 13 thru 17, 20 thru 29, 32 thru 36.
T. 9 N., R. 100 W.,
Secs. 1 thru 5, 9 thru 15, 24.
T. 10 N., R. 100 W.,
Secs. 1 thru 4, 12, 13, 21 thru 28, 32 thru 36.
T. 11 N., R. 100 W.,
Secs. 25, 26, 34 thru 36.
T. 12 N., R. 102 W.,
Secs. 13 thru 25.
T. 1 N., R. 103 W.,
Secs. 3 Thru 10, 15 thru 20, 29 thru 32.
T. 2 N., R. 103 W.,
Secs. 29 thru 33.
T. 1 N., R. 104 W.,
Secs. 1 thru 3, 10 thru 15, 22 thru 27, 34 thru 36.
T. 2 N., R 104 W.,
Secs. 10, 11, 13, 14, 15, 22 thru 27, 34 thru 36.
T. 10 S., R. 93 W.,
Secs. 4, 5, 7 thru 10.
T. 7 S., R 94 W.,
Secs. 14 and 15.
T. 10 S., R. 94 W.,
Sec. 28.
T. 7 S., R. 95 W.,
Secs. 22 thru 27, 33 thru 36.
T. 8 S., R. 95W.,
Secs. 4, 5, 8, 9, 16 thru 21.
T. 10 S., R. 95W.,
Sec. 36.
T. 11 S., R. 95 W.,
Secs. 5 and 6.
T. 8 S., R. 96 W.,
Secs. 12 and 13.
T. 11 S., R. 96 W.,
Secs. 1, 10, 15;
Sec. 16, W½, SE¼;
Secs. 18, 19, 21.
T. 11 S., R. 97 W.,
Secs. 10 thru 16, 20 thru 29, 32 thru 36.
T. 1 S., R. 103 W.,
Secs. 6, 7, 18, 19, 30 thru 32.
T. 1 S., R. 104 W.,
Secs. 1 thru 3, 10 thru 15, 22 thru 27, 34 thru 36.
T. 2 S., R. 104 W.,
Secs. 22, 23, 26, 27, 34, 35.
T. 3 S., R. 104 W.,
Secs. 2, 3, 26, 35.

Approximately 508,640 acres of public land.

2. Executive Order 5327 and Public Land Order 4522 are hereby revoked insofar as they affect the following described national forest land:

Sixth Principal Meridian

T. 8 S., R. 96 W.,
Secs. 24 thru 36.
T. 11 S., R. 96 W.,
Secs. 11 thru 14;
Sec. 16, NE¼.

Approximately 11,040 acres of national forest land.

3. Executive Order 5327 is hereby revoked insofar as it affects the following described national forest land:

Sixth Principal Meridian

T. 10 S., R. 92 W.,
Secs. 18 thru 20, 29 thru 33.
T. 11 S., R. 92 W.,
Secs. 3 thru 10, 15 thru 22, 28 thru 33.
T. 12 S., R. 92 W.,
Secs. 3 thru 6, 10.
T. 7 S., R. 93 W.,
Secs. 30, 31.
T. 8 S., R. 93 W.,
Secs. 6 thru 9, 15 thru 22, 27 thru 30.
T. 10 S., R. 93 W.,
Secs. 13 thru 36.
T. 11 S., R. 93 W.,
Secs. 1 thru 36.
T. 12 S., R. 93 W.,
Secs. 1 thru 6, 8 thru 11, 13 thru 17, 20 thru 24.
T. 7 S., R. 94 W.,
Secs. 19 thru 36.
T. 8 S., R. 94 W.,
Secs. 1 thru 30.
T. 10 S., R. 94 W.,
Secs. 23 thru 27, 31 thru 36.
T. 11 S., R. 94 W.,
Secs. 1 thru 36.
T. 12 S., R. 94 W.,
Secs. 1 thru 11, 16.
T. 8 S., R. 95 W.,
Secs. 1 thru 3, 10 thru 15, 22 thru 35.
T. 9 S., R. 95 W.,
Secs. 4 thru 6.
T. 11 S., R. 95 W.,
Secs. 1 thru 4, 7 thru 36.
T. 12 S., R. 95 W.,
Secs. 1 thru 22, 28 thru 31.
T. 9 S., R. 96 W.,
Secs. 11 thru 15.
T. 11 S., R. 96 W.,
Secs. 22 thru 36.
T. 12 S., R. 96 W.,
Secs. 1 thru 27, 33 thru 36.
T. 12 S., R. 97 W.,
Secs. 1 thru 4, 9 thru 16, 22 thru 24.

Approximately 247,000 acres of national forest land.

4. At 10 a.m. on June 21, 1983, the land described in paragraph one shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 10 a.m. on June 21, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 10 a.m. on June 21, 1983, the land described in paragraph one shall be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a rights of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 10 a.m. on June 21, 1983, the land described in paragraph three shall be open to nonmetalliferous mineral location and entry under the United States mining laws, subject to valid existing rights, and the requirements of applicable regulations. The land has been and remains open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

7. At 10 a.m. on June 21, 1983, the land described in paragraphs 1 and 2 shall be open to applications and offers for sodium leasing under the mineral leasing laws. The land has been and remains open to leasing for minerals other than sodium.

8. The land described in paragraph 3, which was withdrawn by Executive Order 5327 only, remains open to all mineral leasing, including sodium leasing.

9. At 10 a.m. on June 21, 1983, the land described in paragraphs 2 and 3 will be open to such forms of surface appropriation as may by law be made of national forest land.

10. Approximately 300,000 acres are privately owned and will not be affected by this action.

Inquiries concerning these lands should be directed to the State Director, Bureau of Land Management, 1037 - 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 16, 1983.
[FR Doc. 83-13904 Filed 5-23-83; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6388

[W-29044]

Wyoming; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes four orders as they affect 21,519 acres of public lands withdrawn for the Eden Reclamation Project. This action constitutes record clearing only as lands are within an oil shale withdrawal and, as such, will remain closed to surface entry and mining. The lands have been and remain open to mineral leasing, except for oil shale.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT:
W. Scott Gilmer, Wyoming State Office, 307–772–2540.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 US.C. 1714, it is ordered as follows:

1. The Secretarial Orders of July 18, 1940, and April 14, 1941, and the Commissoners' Orders of January 24, 1952, and August 19, 1954, which withdraw lands for the Eden Reclamation Project are hereby revoked insofar as they affect the following described land:

Sixth Principal Meridian, Wyoming

T. 24 N., R. 105 W.,
Sec. 6, lots 1 to 6, inclusive, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½SW¼, E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, E½;
Sec. 31, lots 1 to 4, inclusive, E½W¼, E½;
T. 25 N., R. 105 W.,
Sec. 4, lots 1 to 4, inclusive, S½NE¼, SE¼;
Sec. 14, SW¼;
Sec. 23, W½;
Sec. 33, E½, E½NW¼, SW¼NW¼, SW¼.
T. 26 N., R. 105 W.,
Sec. 22, S½NE¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 28, E½;
Sec. 33, E½, E½NW¼, SW¼NW¼, SW¼;
T. 27 N., R. 105 W.,
Sec. 19, lot 8, SE¼SW¼;
Sec. 30, lots 1, 2, 4, E½W½;
Sec. 31, lots 1, 2, E½NW¼, E½.
T. 23 N., R. 106 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½ (All);
Sec. 2, lots 1 to 4, inclusive, S½N½, S½ (All);
Sec. 5, lots 1 to 4, inclusive, S½N½, S½ (All);
Sec. 8, All;
Sec. 9, All;
Sec. 10, All.
T. 25 N., R. 106 W.,
Sec. 4, lot 4, SW¼NW¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½ (All);
Sec. 8, W½NE¼, NW¼, W½SW¼;
Sec. 16, W½NW¼;
Sec. 17, All;
Sec. 20, NE¼NE¼, W½NE¼, NW¼, W½SW¼.
T. 26 N., R. 106 W.,
Sec. 3, lot 4, SW¼NW¼, W½SW¼;
Sec. 10, W½NW¼, S½;
Sec. 14, All;
Sec. 22, SE¼;
Sec. 27, N½NE¼, NW¼, W½SW¼;
Sec. 33, N½, N½SW¼, SW¼SW¼;
Sec. 34, NW¼NW¼.
T. 27 N., R. 106 W.,
Sec. 7, lot 1, 2, 5, 7, E½NW¼, E½;
Sec. 8, S½;
Sec. 17, NE¼, N½NW¼, SW¼SW¼;
Sec. 18, lots 1 to 4 inclusive, NE¼NE¼, E½W½, SE¼;
Sec. 19, lots 1 to 4 inclusive, E½W½, E½ (All);
Sec. 20, W½NW¼, SW¼;
Sec. 22, SW¼, W½SE¼, NE¼SE¼;
Sec. 23, S½;
Sec. 24, SW¼, W½SE¼, S½SE¼SE¼, NE¼SE¼;
Sec. 25, N½NW¼;
Sec. 26, N½N½;
Sec. 29, W½E½;
Sec. 30, lots 1 to 4 inclusive, E½W½, E½ (All);
Sec. 31, lots 1 and 2, NE¼, E½NW¼;
Sec. 32, NE¼.
T. 24 N., R. 107 W.,
Sec. 2, lot 2, W½SE¼;
Sec. 11, W½NE¼;
Sec. 27, N½.
T. 27 N., R. 107 W.,
Sec. 12, lots 1, 2, 3, W½NE¼;
Sec. 13, E½;
Sec. 25, E½.

The area described contains 21,519.37 acres in Sublette and Sweetwater Counties, Wyoming.

2. The lands described above will remain closed to operation of the surface land laws, and the United States mining laws since they lie within an overlapping oil shale withdrawal. The lands have been and will remain open to applications and offers under the mineral leasing laws, except for oil shale.

The Bureau of Land Management will assume administrative jurisdiction of the lands and will recognize all rights-of-way, and easements previously granted by the Bureau of Reclamation.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
[FR Doc. 83-13903 Filed 5-23-83; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6389

[U-31071]

Utah; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial Order as to 785,850.04 acres of land withdrawn for the Glen Canyon Unit, Colorado River Storage Project, Utah. A total of 207,483.94 acres will be restored to surface entry. This portion has been and will remain open to mining and mineral leasing. The remaining 578,366.10 acres will continue to be withdrawn for the Glen Canyon National Recreation Area.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT:
Ken Latimer, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and it is ordered as follows:

1. The Secretarial Order of June 11, 1954, is hereby revoked as it pertains to the following lands:

Salt Lake Meridian

Glen Canyon National Recreation Area

T. 43 S., R. 3 E.
Sec. 1, All;
Secs. 7–21, incl.;
Sec. 22, NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 23, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 24, E½, N½NW¼, SE¼NW¼;
Sec. 25, NE¼SE¼;
Sec. 26, NE¼NW¼;
Sec. 27, NW¼NE¼, N½NW¼;
Sec. 28, N½N½, SW¼SW¼;
Sec. 29, NE¼NE¼, W½E½, W½, SE¼SE¼;
Sec. 30, All;
Sec. 33, W½NE¼, SE¼NE¼, NW¼, S½;
Sec. 34, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 35, SW¼SW¼.
T. 44 S., R. 3 E.
Sec. 1, SW¼SW¼;
Secs. 3–5, 7–11, incl.;
Sec. 12, Lots 1, 2, 4.
T. 42 S., R. 4 E.
Secs. 25–29, incl.;
Sec. 33, NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 34, N½, N½S½, S½SE¼;
Sec. 35, All.
T. 43 S., R. 4 E.
Sec. 1, All;
Sec. 3, Lots 1, 2, SE¼NE¼, E½SE¼;
Sec. 4, Lots 3, 4, S½NW¼, SW¼, W½SE¼;
Secs. 5–7, incl.;
Sec. 8, NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 9, NW¼, N½SW¼, N½SE¼;
Sec. 11, NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 12, E½, NW¼, NW¼SW¼;
Sec. 13, E½, SE¼NW¼, E½SW¼
Secs. 17–21, incl.;
Sec. 22, SW¼, S½SE¼;
Sec. 24, E½E½;
Sec. 27, W½;
Sec. 28, All;
Sec. 29, E½, NW¼, NE¼SW¼;
Sec. 30, Lots 1–3, NE¼, E½W½;

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Sec. 33, N½N½;
Sec. 34, NW¼NW¼.
T. 41 S., R. 5 E.
Secs. 32–36, incl.
T. 42 S., R. 5 E.
Sec. 1, Lots 1–4, S½N½, N½S½, SE¼SW¼, SW¼SE¼;
Sec. 2, Lots 1–4, S½N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 3, Lots 1–4, S½N¼, N½S½, S½SW¼, SW¼SE¼;
Secs. 4, 5, 9;
Sec. 10, W½E½, W½;
Sec. 11, NW¼NE¼;
Sec. 12, E½NE¼, NW¼NE¼, NE¼NW¼;
Sec. 13, S½NW¼, SW¼, SW¼SE¼;
Sec. 14, SE¼NE¼, W½NW¼, SE¼NW¼, S½;
Secs. 15, 22, 23;
Sec. 24, W½NE¼, NW¼, S½;
Sec. 25, W½NE¼, NW¼, S½;
Secs. 26, 27, 34–36, incl.
T. 43 S., R. 5 E.
Sec. 1, Lots 3, 4, S½NW¼, NE¼SW¼;
Sec. 3, Lots 3, 4, S½NW¼, SW¼;
Secs. 4–8, incl.;
Sec. 9, NE¼NE¼, W½E½, W½, SE¼SE¼;
Sec. 10, N½NW¼;
Secs. 17, 18;
Sec. 19, Lots 1–4, W½NE¼, E½NW¼;
Sec. 20, N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 21, NE¼NE¼, W½E½, W½;
Sec. 27, S½;
Sec. 28, SE¼NE¼, W½E½, E½W½, NW¼NW¼, SW¼SW¼, E½SE¼;
Sec. 33, All;
Sec. 34, NE¼, W½, N½SE¼;
Sec. 35, N½NW¼, SW¼NW¼.
T. 44 S., R. 5 E.
Sec. 3, N½NW¼, SW¼NW¼;
Sec. 4, N½;
Sec. 5, N½N½, SE¼NE¼, NE¼SE¼
T. 41 S., R. 6 E.
Secs. 27, 28;
Sec. 29, E½, E½W½, NW¼NW¼;
Sec. 30, Lots 1–4, N½NE¼, SW¼NE¼, E½W½;
T. 41 S., R. 6 E.
Sec. 31, Lots 1–4, E½W½;
Sec. 32, E½, E½W½;
Secs. 33–36, incl.
T. 42 S., R. 6 E.
Sec. 1, Lots 1–4, S½N½, N½SW¼, NW¼SE¼;
Sec. 2, 3;
Sec. 4, Lots 1–4, S½N½, SW¼, NE¼SE¼, W½SE¼;
Sec. 5, Lots 1–3, S½NE¼, SE¼;
Sec. 6, Lots 3–7, SE¼NW¼;
Sec. 7, Lot 1, NE¼SE¼;
Sec. 8, NE¼NE¼, W½E½, E½W½, W½NW¼, NW¼SW¼;
Sec. 9, NW¼NE¼, N½NW¼;
Sec. 10, NE¼, S½;
Sec. 11, All;
Sec. 12, SW¼NW¼;
Sec. 13, SW¼NW¼, SW¼, SW¼SE¼,
Secs. 14, 15;
Sec. 17, NE¼NW¼;
Sec. 19, Lot 3;
Sec. 21, S½SE¼;
Secs. 22–24, incl.;
Sec. 25, N½, N½S½, SE¼SE¼,
Sec. 26, All;
Sec. 27, E½, N½SW¼, SE¼SW¼;
Sec. 30, SW¼SE¼;
Sec. 31, Lots 1–4, NE¼SW¼;
Sec. 34, N½NE¼, SW¼;
Sec. 35, E½, E½NW¼, NW¼NW¼;
Sec. 36, SW¼SW¼.
T. 43 S., R. 6 E.
Sec. 1, W½W½, SE¼SW¼, SW¼SE¼;
Sec. 11, E½E½, NW¼NE¼;
Sec. 12, W½NW¼, NW¼SW¼.
T. 41 S., R. 7 E.
Sec. 31, Lots 1–4, E½W½, E½SE¼, NE¼;
Secs. 32–36, incl.
T. 42 S., R. 7 E.
Secs. 1–4, incl.;
Sec. 5, Lots 1–4, S½N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 6, Lots 1, 4, SE¼NE¼;
Sec. 8, E½, NE¼NW¼, S½NW¼, NE¼SW¼;
Sec. 9, NE¼NE¼, W½W½;
Secs. 10–13, incl.;
Sec. 14, NE¼, NE¼NW¼, W½NW¼, NW¼SW¼, E½SE¼;
Sec. 15, NE¼, E½NW¼, NE¼SW¼, NE¼SE¼;
Sec. 16, W½W½;
Sec. 17, E½, SE¼NW¼;
Sec. 21, W½NW¼;
Sec. 23, E½, E½SW¼;
Sec. 24, All;
Sec. 25, NE¼NE¼, W½W½, SE¼SW¼;
Sec. 26, N½, N½S½, SE¼SE¼;
Sec. 27, E½E½, E½SW¼, W½SE¼;
Sec. 30, Lots 2–4, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 31, Lot 1, W½NE¼, E½NW¼, NE¼SW¼;
Sec. 33, NE¼SE¼;
Sec. 34, N½NE¼, NE¼NW¼, S½N½, N½S½, S½SW¼, SW¼SE¼.
T. 39 S., R. 8 E.
Secs. 1, 2, 11;
Sec. 12, N½NE¼, W½;
Sec. 13, W½NE¼, W½;
Secs. 14, 23–26, 35, 36, incl.
T. 40 S., R. 8 E.
Sec. 1, 2, 8–12, incl.
Sec. 13, NE¼NE¼, W½E½, W½, SE¼SE¼;
Secs. 14–16, 17, Part of S½NE¼ and S½; 21, E½E½; 22–26, 27, N½, NE¼SW¼, SE¼; Sec. 28, NE¼NE¼; 35, 36, incl.
T. 41 S., R. 8 E.
Secs. 1, 2, 11–14, 21–28, 31–36, incl
T. 42 S., R. 8 E.
Sec. 1–18, incl.;
Sec. 19, Lots 1–4, NE¼, E½NW¼, NE¼SW¼, N½SE¼SE¼SE¼;
Sec. 20, N½, W½SW¼, E½SE¼;
Sec. 21, All;
Sec. 22, N½, N½S½, S½SW¼, SW¼SE¼,
Sec. 23, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 24, N½, N½S½, S½SE¼;
Sec. 25, N½NE¼, SW¼NE¼;
Sec. 26, E½NE¼, NW¼NE¼, NE¼NW¼;
Sec. 27, NW¼NE¼, NE¼NW¼, W½W½, SE¼SW¼;
Sec. 28, E½E½, W½NW¼, NW¼SW¼;
Sec. 29, E½;
Sec. 30, Lot 1;
Sec. 32, NE¼, NE¼NW¼, N½SE¼;
Sec. 34, NE¼NW¼.
T. 41 S., R. 8½ E.
All of Township.
T. 42 S., R. 8½ E.
Secs. 1, 2, 11, 12;
Sec. 13, NE¼, NE¼SE¼;
Sec. 14, 23;
Sec. 24, W½W½;
Sec. 25, N½NW¼.
T. 37 S., R. 9 E.
Sec. 1–3, 10–15, 22–27, 34–36, incl.
T. 38 S., R. 9 E.
Sec. 1–3, 10–15, incl.;
T. 39 S., R. 9 E.
Sec. 6, All;
Sec. 7, Lots 1, 2, E½, E½W½;
Sec. 18, NE¼, E½SE¼;
Sec. 19, Lots 1–4, SE¼NW¼, E½SW¼;
Sec. 20, NE¼, NW¼NW¼, NE¼SE¼;
Sec. 21, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 28, E½, E½W½;
Sec. 29, SW¼NW¼, W½SW¼;
Sec. 30, Lots 1–4, E½W½, S½NE¼, SE¼;
Sec. 31, All;
Sec. 32, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 34, E½, E½W½, W½NW¼;
Sec. 35, 36.
T 40 S., R. 9 E.
Secs. 1–3, incl.;
Sec. 4, Lot 1, SE¼NE¼, E½SE¼;
Sec. 5, Lots 3, 4;
Sec. 6, Lots 1–7, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 7, All;
Sec. 8, SW¼NW¼, N½SW¼;
Sec. 9, NE¼NE¼;
Sec. 10, N½N½, S½SE¼;
Sec. 11, All
Sec. 12, NW¼NE¼, W½;
Sec. 13, W½, W½SE¼;
Sec. 14, E½, N½NW¼;
Sec. 15, NE¼, NE¼SE¼;
Sec. 16, W½NW¼;
Sec. 17, E½NE¼, SW¼NE¼, SE¼NW¼, SW¼;
Sec. 18, Lots 3, 4, E½SW¼, SE¼;
Sec. 19, Lots 1–4, W½NE¼, E½W½, SE¼;
Sec. 20, SE¼NE¼, S½;
Sec. 21, S½NE¼, NW¼, NE¼SW¼, W½SW¼;
Sec. 22, SE¼SW¼;
Sec. 23, N½NE¼, SE¼NE¼;
Sec. 24, All;
Sec. 27, SE¼NE¼, W½E½, W½, NE¼SE¼;
Sec. 28, S½NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 29, NW¼NE¼, W½;
Secs. 30–33, incl.;
Sec. 34, NW¼NE¼, NW¼, W½SW¼, SE¼SE¼;
Sec. 35, SE¼NW¼, SW¼, S½SE¼;
Sec. 36, SE¼NW¼, NE¼SW¼, S½SW¼
T 40½ S., R. 9 E.
Sec. 26, Lots 3, 4, SW¼;
Secs. 27–34 incl.;
Sec. 35, NW¼, NE¼SW¼, W½SW¼
T. 41 S., R. 9 E.
Sec. 1, S½S½, NE¼SE¼;
Sec. 3, Lot 4, SW¼NW¼, W½SW¼;
Secs. 4–7, incl.;
Sec. 8, N½, N½S½, SW¼SW¼;
Sec. 9, N½, W½SW¼;
Sec. 10, NW¼;
Sec. 11, SE¼SE¼;
Sec. 12, E½NE¼;
Sec. 13, S½NE¼, W½, SE¼;
Sec. 14, E½E½, SE¼SW¼, SW¼SE¼;

Sec. 16, S½N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 17, NW¼NW¼, S½N½, S½;
Sec. 18, All;
Sec. 19, Lots 1–4, NE¼, E½NW¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 20, N½NE¼;
Sec. 21, W½E½, E½W½, W½NW¼, NW¼SW¼, NE¼SE¼;
Sec. 23, N½, E½SW¼, N½SE¼;
Sec. 24, All;
Sec. 25, E½NE¼, SE¼;
Sec. 26, NE¼NW¼;
Sec. 28, W½NE¼, E½NW¼;
Sec. 29, SW¼;
Sec. 30, Lots 1–4, NW¼NE¼, S½NE¼, E½NW¼; NE¼SW¼, N½SE¼, SE¼SE¼,
Sec. 31, Lots 1–4, NE¼NE¼, E½SW¼, SW¼SE¼;
Sec. 32, W½NW¼;
Sec. 36, N½NE¼, SE¼NE¼, NE¼SE¼.
T. 42 S., R. 9 E.
Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, SW¼NE¼, SE¼NW¼, NE¼SW¼; W½SE¼.
T. 38 S., R. 9½ E.
Secs. 6, 7, 16.
T. 39 S., R. 9½ E.
Secs. 31, All.
T. 37 S., R. 10 E.
Secs. 1–3, 10, incl.;
Sec. 11, NE¼, W½W½, NE¼SE¼;
Sec. 12, N½ N½S½, SE¼SW¼ S¼SE¼;
Sec. 13, E½, E½W½;
Sec. 14, W½NW¼, NW¼SW¼;
Sec. 15, NE¼, N½NW¼, N½SE¼;
Sec. 16–20, incl.;
Sec. 21, W½;
Sec. 24, N½NE¼, NE¼NW¼;
Sec. 27, W½, W½SE¼;
Sec. 28–32, incl.;
Sec. 33, N½, SW¼, W½SE¼, NE¼SE¼;
Sec. 34, S½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼.
T. 38 S., R. 10 E.
Sec. 3, Lots 1–3, SE¼NE¼;
Sec. 4, Lots 2–4, SW¼NE¼, S½NW¼, NW¼SE¼;
Sec. 5, Lots 1–4, S½NE¼, SE¼NW¼;
Sec. 6, Lots 3–7, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 7, All;
Sec. 8, NW¼NW¼, S½NW¼, S½;
Sec. 15, SW¼SW¼;
Sec. 17–21, incl.;
Sec. 22, SE¼NE¼, W½NW¼, S½;
Sec. 23, SW¼NW¼, NW¼SW¼;
Sec. 25, SW¼SW¼;
Sec. 26, NE¼NE¼, W½E½, W½, SE¼SE¼;
Sec. 27–35.
T. 38½ S., R. 10 E.
Secs. 26–28, 33–36, incl.
T. 39 S., R. 10 E.
Sec. 1–4, 9–11, incl.;
Sec. 12, NE¼NE¼, W½NE¼, NW¼, NE¼SW¼, W½SW¼;
Sec. 13, W½W½, SE¼SW¼;
Secs. 14–16, 19–23, incl.;
Sec. 24, SW¼SW¼;
Sec. 25, SW¼, S½SE¼;
Sec. 26, W½NE¼, SE¼NE¼, NW¼, S½;
Secs. 27–30, incl.;
Sec. 31, Lots 1, 2, NE¼, NE¼NW¼, N½SE¼;
Secs. 32–34, incl.;
Sec. 35, W½NE¼, W½, SE¼.
T. 40 S., R. 10 E.
Sec. 1, SE¼SE¼;
Sec. 2, Lots 3, 4, SW¼NE¼, S½NW¼, NE¼SW¼, W½SW¼;
Sec. 3, All;
Sec. 5, Lots 1–4, S½N½, E½SE¼;
Sec. 5, Lots 1–4;
Sec. 6, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 12, NE¼SW¼, W½SW¼;
Sec. 13, W½W½, E½SW¼, NE¼SE¼, W½SE¼;
Sec. 14, S½NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 15, S½SW¼, SW¼SE¼;
Sec. 16, W½;
Sec. 17, E½, NE¼NW¼;
Sec. 20, E½;
Sec. 21, W½, S½SE¼;
Sec. 22, All;
Sec. 23, N½NE¼, S½N½, S½;
Sec. 24, W½E½, W½;
Sec. 25, NW¼NE¼, S½NE¼, W½, SE¼;
Secs. 26–30, incl.;
Sec. 31, Lot 1, E½, NE¼NW¼, SE¼SW¼;
Secs. 32–36, incl.
T. 41 S., R. 10 E.
Secs. 1–5, incl.;
Sec. 6, Lots 1–4, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1–3, NE¼, E½NW¼, E½SW¼, SE¼;
Secs. 8–17, incl.;
Sec. 18, Lots 2–4, NE¼, E½NW¼, E½SW¼, SE¼;
Secs. 19–24, incl.;
Sec. 25, N½, N½S½, S½SE¼;
Sec. 26, N½, N½S¼, S½SW¼, SW¼SE¼;
Sec. 27, N½, NW¼SE¼, E½SE¼;
Secs. 28–30, incl.;
Sec. 32, NE¼, E½NW¼;
Sec. 33, N½N½, SW¼NW¼;
Sec. 36, NE¼.
T. 27 S., R. 11 E.
Sec. 12, NE¼, N½SE¼, SW¼SE¼;
Sec. 13, W½E½, E½SE¼;
Sec. 15, S½;
Sec. 16, S½;
Sec. 18, W½;
Sec. 19, N½NW¼;
Sec. 21, W½E½, W½, E½SE¼;
Sec. 22, E½E½, W½NE¼, NE¼NW¼;
Sec. 23, S½;
Sec. 24, W½E½, SW¼;
Sec. 25, NE¼NE¼, W½E½, W½;
Sec. 26, E½E½, W½NE¼, NW¼NW¼;
Sec. 27, SW¼NW¼, NW¼SW¼, S½SW¼;
Secs. 28, 29;
Sec. 30, E½E½;
Sec. 31, E½E½;
Sec. 32, 33;
Sec. 34, W½, SE¼;
Sec. 35, NE¼NE¼, SW¼SW¼;
Sec. 36, W½NW¼.
T. 38 S., R. 11 E.
Sec. 1, SW¼SE¼;
Sec. 2, Lot 4, SW¼NE¼, S½NW¼, SW¼;
Secs. 3, 4;
Sec. 5, Lots 1–4, S½N½, SE¼;
Sec. 6, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 9, All;
Sec. 10, N½, SW¼;
Sec. 12, E½, SE¼NW¼, SW¼;
Sec. 13, NE¼, E½NW¼, NE¼SE¼;
Sec. 15, SW¼NE¼, W½, NW¼SE¼;
Sec. 16, N½N½, SE¼NE¼, SW¼NW¼, NE¼SE¼;
Sec. 22, N½NW¼;
Sec. 25, SW¼NE¼, S½;
Sec. 26, SE¼SW¼, S½SE¼;
Sec. 32, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 33, NW¼NE¼, NE¼NW¼, S½N½, S½;
Sec. 34, NE¼NE¼, S½N½, S½;
Sec. 35, 36.
T. 38½ S., R. 11 E.
Sec. 25, Lots 1–4, S½S½;
Secs. 26–29, incl.;
Sec. 33, NE¼, N½NW¼, NE¼SE¼;
Sec. 34, N½NE¼, NW¼, W½SW¼;
Sec. 35, N½NE¼, NW¼;
Sec. 36, N½, N½S½, SE¼SW¼, S½SE¼;
T. 39 S., R. 11 E.
Sec. 1, N½NE¼, SE¼NE¼, NW¼SW¼, S½SW¼;
Sec. 2, S½NE¼, S½SW¼, SE¼;
Sec. 3, SE¼SW¼, SW¼SE¼, E½SE¼;
Sec. 5, S½N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 6, Lots 2–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lot 1, N½NE¼, NE¼NW¼;
Sec. 8, W½NE¼, NW¼, NE¼SW¼;
Sec. 9, NE¼NE¼, S½NE¼, SE¼;
Secs. 10, 11;
Sec. 12, N½NW¼, S½N½, S½;
Secs. 13–15, incl.;
Sec. 16, N½NE¼, S½N½, S½;
Sec. 17, S½;
Sec. 18, SW¼NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 20, N½N½, SE¼NE¼, E½SE¼;
Secs. 21, 28;
Sec. 29, SE¼;
Sec. 30, E½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 32, E½, E½W½;
Sec. 33, All.
T. 40 S., R. 11 E.
Sec. 4, Lots 1–4, S½NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 5, Lot 1, SW¼, S½SE¼;
Sec. 6, Lots 6, 7, E½SW¼, SE¼;
Sec. 7, Lot 1, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Secs. 8, 9, 16;
Sec. 17, N½, N½S½, S½SE¼;
Sec. 18, NE¼NE¼;
Sec. 20, E½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 28, N½, SW¼, NW¼SE¼;
Sec. 29, All;
Sec. 30, Lots 2–4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, All;
Sec. 32, N½, SW¼, W½SE¼;
Sec. 34, E½E½, NW¼NE¼, NE¼NW¼;
Sec. 35, N½, N½S½;
Sec. 36, N½, N½S½, SE¼SW¼, S½SE¼.
T. 41 S., R. 11 E.
Sec. 1, Lots 1–4, S½N½, NE¼SW¼, N½SE¼;
Sec. 5, Lot 5, S½SW¼;
Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 7, All;
Sec. 8, SE¼NE¼, W½NE¼, W½, SE¼;
Sec. 9, S½NW¼, S½;
Sec. 10, NW¼SW¼, S½SW¼, SW¼SE¼;

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Sec. 15, NE¼NW¼, W½W½;
Secs. 17–21, incl.:
Sec. 22, W½;
Sec. 27, NW¼NW¼;
Sec. 28, N½;
Sec. 29, NE¼, N½NW¼;
Sec. 30, Lots 1–3, N½NE¼, NE¼NW¼.
T. 35½ S., R. 12 E.
Secs. 25, 26, 36.
T. 36 S., R. 12 E.
Secs. 1, 12, 13;
Sec. 14, N½, N½S½, SW¼SW¼, SE¼SE¼;
Sec. 15, All;
Sec. 21, N½, W½SW¼, E½SE¼;
Sec. 22, N½, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 23, NE¼NE¼, NW¼NW¼;
Sec. 24, NW¼NE¼, N½NW¼, SE¼NW¼, NE¼SW¼;
Sec. 25, S½;
Sec. 26, NW¼NE¼, S½NE¼, SE¼;
Sec. 28, W½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 29, S½;
Sec. 31, S½;
Sec. 32, N½N½, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 33, N½N½, S½NW¼;
Sec. 34, N½NW¼;
Sec. 35, E½, NE¼SW¼, S½SW¼;
Sec. 36, All.
T. 37 S., R. 12 E.
Sec. 2, Lots 1, 2, S½NE¼, SE¼;
Sec. 3, Lots 1, 2;
Sec. 4, SE¼SE¼;
Sec. 5, W½;
Sec. 6, Lots 1–5, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 7, E½;
Sec. 8, W½;
Sec. 9, E½NE¼;
Sec. 10, S½NE¼, NW¼, N½SW¼;
Sec. 11, N½, N½S½, S½SE¼;
Secs. 12, 13;
Sec. 14, E½, S½NW¼, SW¼;
Sec. 15, SE¼NE¼, S½;
Sec. 16, SE¼;
Sec. 17, N½NW¼;
Sec. 18, NE¼, NW¼SE¼;
Sec. 20, S½NE¼;
Sec. 21, N½, NE¼SE¼;
Secs. 22–26, incl.;
Sec. 27, E½, E½W½, W½SW¼;
Sec. 28, S½;
Sec. 29, S½NE¼, SW¼NW¼, S½;
Sec. 30, E½, SE¼SW¼;
Sec. 31, NE¼, NE¼NW¼;
Sec. 32, E½, E½W½, W½NW¼, NW¼SW¼;
Secs. 33–36, incl.
T. 38 S., R. 12 E.
Secs. 1–4, incl.:
Sec. 5, Lots 1, 2, 3, S½NE¼, S½NW¼, S½;
Sec. 6, Lots 3–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1–3, E½, E½W½;
Secs. 8–14, incl.;
Sec. 15, N½, NE¼SW¼, W½SW¼, NW¼SE¼;
Sec. 16, E½, E½W½, W½NW¼, NW¼SW¼;
Sec. 17, NE¼, E½NW¼, N½S½
Sec. 18, NE¼NW¼;
Sec. 19, Lots 1–4, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, E½SE¼;
Sec. 21, S½S½;
Sec. 22, S½NE¼, NE¼SE¼;
Sec. 23, E½, E½W½, W½NW¼ NW¼SW¼;
Secs. 24, 25;
Sec. 25, All;
Sec. 26, E½, E½W½, SW¼NW¼, W½SW¼;
Sec. 27, NW¼NE¼, N½NW¼, S½N½, S½;
Secs. 28–31, incl.
T. 39 S., R. 12 E.
Secs. 6, 7, 18.
T. 40 S., R. 12 E.
Sec. 36, All.
T. 41 S., R. 12 E.
Sec. 1, Lots 2–4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 3, All;
Sec. 6, Lots 1–6, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 7, E½E½;
Sec. 8–10, incl;
Sec. 11, NE¼, W½;
Sec. 12, W½NE¼, E½NW¼, NW¼NW¼;
Sec. 14, SW¼NE¼, NW¼;
Sec. 15, N½;
Sec. 17, NE¼, N½NW¼;
Sec. 18, NE¼NE¼.
T. 33 S., R. 13 E.
Secs. 22–27, incl.;
Sec. 34, All;
Sec. 35, NE¼NE¼, W½W½, SW¼SE¼, SE¼SW¼;
Sec. 36, NE¼, N½NW¼, SE¼NE¼, N½SE¼, SE¼SE¼.
T. 34 S., R. 13 E.
Sec. 1, SW¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼;
Secs. 2, 3, 10–12, incl.;
Sec. 13, W½NE¼, NW¼, NE¼SW¼, W½SW¼;
Sec. 14–16, incl.;
T. 34 S., R. 13 E.
Sec. 17, N½, N½S½, SW¼SW¼, SE¼SE¼;
Secs. 18, 19;
Sec. 20, W½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 21, NE¼;
Sec. 22, NE¼, N½SE¼;
Sec. 23, N½, N½S½, S½SE¼;
Sec. 26, NW¼NE¼;
Sec. 27, W½SW¼;
Sec. 28, NW¼NW¼, S½N½, S½;
Secs. 29–31, incl.;
Sec. 32, N½N½S½, S½SW¼, SW¼SE¼;
Sec. 33, W½NE¼, NW¼, N½SW¼.
T. 35 S., R. 13 E.
Sec. 3, SW¼SW¼;
Sec. 4, S½S¼;
Secs. 5–8, incl.:
Sec. 9, N½, N½S½, S½SW¼;
Sec. 10, W½NW¼, NW¼SW¼;
Sec. 14, SW¼, N½SE¼, SW¼SE¼;
Sec. 15, SE¼NE¼, S½;
Sec. 16, S½;
Sec. 17, W½NE¼, NW¼, S½;
Secs. 18–22, incl.;
Sec. 23, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 24, SE¼SE¼;
Sec. 25, NE¼NE¼;
Sec. 27, NE¼NE¼, W½NE¼, W½;
Secs. 28–33, incl.;
Sec. 34, NW¼.
T. 35½ S., R. 13 E.
Sec. 25, S½S½;
Sec. 26, NW¼SE¼, S½S½;
Sec. 28, NW¼NE¼, N½NW¼, SE¼NW¼;
Sec. 29, N½N½, SW¼NE¼, SE¼NW¼;
Sec. 30, Lots 1–4, NE¼NE¼, SE¼SE¼;
Sec. 31, Lots 1–4, E½E½;
Sec. 32, SW¼NW¼, S½;
Sec. 34, NE¼NE¼;
Secs. 35, 36.
T. 36 S., R. 13 E.
Sec. 1, All;
Sec. 2, Lots 1–4, SE¼SW¼, S½SE¼;
Sec. 3, Lots 1–4;
Sec. 5, Lots 2–4, SW¼SE¼, S½SW¼;
Secs. 6, 7;
Sec. 8, W½;
Sec. 10, SW¼, W½SE¼, SE¼SE¼;
Sec. 11, E½, E½W½, NW¼NW¼, SW¼SW¼;
Secs. 12, 14;
Sec. 15, N½N½, SE¼SE¼;
Sec. 16, NE¼NE¼;
Sec. 18, W½NW¼;
Sec. 19, SE¼NE¼, SE¼;
Sec. 20, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 21, E½SE¼;
Secs. 22, 23, 27–29, incl.;
Sec. 30, Lots 2–4, E½, E½W½.
T. 40 S., R. 13 E.
Secs. 13, 24;
Sec. 25, NW¼, N½SW¼;
Secs. 26, 27;
Sec. 28, E½, N½NW¼;
Sec. 29, 31;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, NE¼SW¼, W½SW¼, NW¼SE¼;
Sec. 33, NE¼, N½SE¼;
Sec. 34, N½N½, SW¼NW¼;
Sec. 35, E½NW¼, NW¼NW¼.
T. 31 S., R. 14 E.
Secs. 4–7, incl.;
Sec. 8, N½, N½S½, SE¼SE¼;
Sec. 9, All;
Sec. 16, E½, E½W½;
Sec. 17, S½NW¼, SW¼, W½SE¼;
Secs. 18, 19;
Sec. 20, W½;
Sec. 21, E½, E½W½, SW¼NW¼, NW¼SW¼;
Sec. 28, E½, SE¼NW¼, SW¼SW¼, E½SW¼;
Sec. 29, NE¼NW¼, W½W½;
Secs. 30, 31;
Sec. 32, E½E½, W½NW¼;
Secs. 33, All.
T. 32½ S., R. 14 E.
Secs. 26, 27;
Sec. 28, Lots 1, 2, S½NE¼, SE¼;
Sec. 29, Lots 3, 4, S½NW¼, S½;
Secs. 30, 31;
Sec. 32, W½E½, W½, NE¼SE¼;
Sec. 33, E½E½;
Secs. 34, 35.
T. 33 S., R. 14 E.
Secs. 1, 2;
Sec. 3, Lots 1–4, S½NE¼, SE¼;
Sec. 4, Lot 1, SW¼NW¼, SW¼, SW¼, SE¼;
Sec. 5, Lots 2–4, S½N½, S½;
Secs. 6, 7;
Sec. 8, NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 9, N½NW¼, NE¼SE¼;
Sec. 10, E½, SW¼;
Secs. 11–15, incl.;

Sec. 16, S½NE¼, SE¼;
Sec. 17, NW¼NE¼, W½;
Secs. 18, 19;
Sec. 20, NW¼, N½SW¼;
Sec. 21, NE¼;
Sec. 22, N½;
Sec. 23, N½;
Sec. 24, NE¼, E½NW¼, NW¼NW¼;
Secs. 25–27;
Sec. 28, S½NE¼, E½SW¼, SE¼;
Sec. 33, E½, E½NW¼, SW¼NW¼, SW¼;
Secs. 34–36.
T. 34 S., R. 14 E.
Secs. 2–4;
Sec. 5, E½SE¼;
Sec. 7, SE¼NE¼, E½SE¼;
Sec. 8, N½, W½SW¼;
Secs. 9–11, 14, 15, incl.;
Sec. 16, N½N½, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 17, NW¼NW¼;
Sec. 18, NE¼NE¼;
Sec. 21, NE¼, E½W½, NE¼SE¼, W½SE¼;
Sec. 22, E½, NW¼, NW¼SW¼;
Secs. 23, 26;
Sec. 27, E½, E½SW¼;
Sec. 28, NW¼NE¼, NW¼;
Sec. 29, S½NE¼;
Sec. 31, SE¼;
Sec. 32, S½;
Sec. 33, SW¼NE¼, S½NW¼, S½;
Sec. 35, All.
T. 35 S., R. 14 E.
Secs. 4, 5;
Sec. 6, Lots 1, 2, SE¼NE¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 7, Lots 2–4, E½, E½W½;
Secs. 8, 9, 16, 17;
Sec. 18, Lot 1, NE¼, NE¼NW¼;
Sec. 19, NE¼NE¼, S½NE¼;
Secs. 20, 21, 28, 29;
Sec. 31, Lots 1–4, E½SW¼, SW¼SE¼;
Sec. 32, E½, E½NW¼, NW¼ NW¼, SE¼SW¼;
Sec. 33, All.
T. 36 S., R. 14 E.
Secs. 5–8, incl.
T. 40 S., R. 14 E.
Sec. 13, NE¼, W½;
Sec. 14, 15, 17, 18;
Sec. 19, Lots 1, 2, N½NE¼, NE¼NW¼;
Sec. 20, N½N½, SE¼NE¼;
Sec. 21, N½, N½S½, SE¼SE¼;
Sec. 22, NE¼, W½, W½SE¼;
Sec. 23, NW¼NW¼.
T. 32½ S., R. 15 E.
Secs. 25–27, 34–36, incl.
T. 33 S., R. 15 E.
Secs. 1–18, incl.;
Sec. 19, N½;
Sec. 20, N½, N½SE¼, SE¼SE¼;
Sec. 21, NE¼NW¼, W½W½, SE¼SE¼;
Sec. 22, S½;
Sec. 23, N½N½, S½S½;
Sec. 24, N½N½, SE¼NE¼, S½SW¼;
Secs. 25–27, incl.;
Sec. 28, NE¼, E½SE¼;
Sec. 29, E½E½, SW¼NW¼, W½SW¼;
Secs. 30, 31;
Sec. 32, W½NW¼, SW¼, S½SE¼;
Sec. 33, NE¼NE¼, S½S½;
Secs. 34–36, incl.
T. 40 S., R. 15 E.
Sec. 11, All;
Sec. 12, Lots 1, 2, N½, SW¼, N½SE¼;
Sec. 13, NW¼NW¼;
Sec. 14, NE¼, W½, N½SE¼, SW¼SE¼;
Secs. 15, 17;
Sec. 18, Lots 1, 2, 3, E½, E½W½;
Sec. 19, NE¼, NE¼SE¼;
Sec. 20, NE¼, W½, N½SE¼;
Sec. 21, N½N½, SW¼NW¼;
Sec. 22, N½N½;
Sec. 23, N½NW¼.
T. 31 S., R. 16 E.
Secs. 12, 13, 24, 25, 36.
T. 32 S., R. 16 E.
Secs. 1–9, incl.;
Sec. 10, N½, N½S½, S½SW¼;
Sec. 11, N½;
Sec. 12, NE¼, N½NW¼;
Sec. 13, W½NE¼, NW¼, S½;
Sec. 14, E½, E½NW¼, SW¼;
Sec. 15, NW¼, N½SW¼, SW¼SW¼;
Secs. 16–20, incl.;
Sec. 21, W½, NW¼NE¼;
Sec. 22, E½NE¼, SW¼NE¼, S½SW¼, SE¼;
Secs. 23–27, incl.;
Sec. 28, E½E½, W½NW¼, NE¼NW¼;
Sec. 29, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 30, All;
Sec. 31, Lots 1–4, NE¼, E½NW¼, NE¼SW¼;
Sec. 32, NW¼NW¼, SE¼SW¼, SE¼;
Sec. 33, E½, NE¼NW¼, S½NW¼, SW¼;
Secs. 34–36, incl.
T. 33 S., R. 16 E.
Sec. 6, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 7, NE¼NE¼, SW¼NW¼, NW¼SW¼, S½SW¼;
Sec. 8, All;
Sec. 17, NE¼, E½NW¼, SW¼NW¼;
Sec. 18, W½W½, E½SE¼;
Sec. 19, E½NE¼, S½SW¼;
Sec. 20, E½SW¼, NW¼SW¼, SE¼;
Sec. 29, E½, E½NW¼, SW¼;
Sec. 30, Lots 1–4, W½NE¼, E½NW¼, E½SW¼, SE¼;
Secs. 31, 32.
T. 40 S., R. 16 E.
Sec. 7, Lots 1–4, 6, 8, 10, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 8, Lots 1, 3, 5, 7, N½, N½S½;
Sec. 9, Lots 1–3, 6, N½, N½SW¼;
Secs. 10–15, incl.;
Sec. 16, Lots 1, 5, 6, 9, 10, NE¼SE¼;
Sec. 21, Lot 1;
Sec. 22, Lots 1, 2, 4, 8, NE¼NE¼;
Sec. 23, Lots 1–3, 7, 8, N½N½, S½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 24, All;
Sec. 25, Lots 1, 3–5, 10, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 26, Lot 1;
Sec. 36, Lots 1, 4, 5, 8.
T. 31 S., R. 17 E.
Secs. 19, 20;
Sec. 21, W½E½, W½, SE¼SE¼;
Secs. 25, 26;
Sec. 27, E½;
Sec. 28, N½, N½S½, SW¼SW¼;
Secs. 29–31, incl.;
Sec. 32, NE¼NE¼, W½NE¼, W½, NW¼SE¼;
Sec. 33, S½NE¼, E½SW¼, SE¼;
Secs. 34–36, incl.
T. 32 S., R. 17 E.
Secs. 2–4, incl.;
Sec. 5, Lots 3, 4, SW¼NW¼, W½SW¼, SE¼SE¼;
Secs. 6, 7;
Sec. 8, NE¼NE¼, W½W½;
Sec. 9, N½, NW¼SW¼, E½SW¼, SE¼;
Secs. 10, 11, 14, 15;
Sec. 16, E½, E½W½, SW¼NW¼, W½SW¼;
Sec. 17, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 18, N½NE¼, NE¼NW¼, S½SW¼;
Secs. 19, 20.
T. 40 S., R. 17 E.
Secs. 19, 29, 30;
Sec. 31, Lots 1–16;
Sec. 33, E½E½, E½NW¼NE¼, SW¼NW¼NE¼, SW¼NE¼, S½NE¼NW¼, S½SW¼NW¼, SE¼NE¼, SW¼, E½SE¼.
T. 41 S., R. 17 E.
Secs. 2, 3;
Sec. 4, Lots 1–3, N½, N½S½, SE¼SE¼;
Sec. 5, Lots 1, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 6, Lots 1–7;
Sec. 7, Lot 1;
Sec. 8, Lots 1–3;
Sec. 9, Lots 1–4, E½SE¼;
Secs. 10–13, incl.;
Sec. 14, Lots 1–7;
Sec. 15, Lots 1–7, NW¼, N½SW¼;
Sec. 16, Lots 1–3;
Sec. 23, Lots 1–7;
Sec. 24, Lots 1–8, W½NW¼;
Sec. 25, Lot 1.
T. 41 S., R. 18 E.
Secs. 4–6, 9, 16, 20, 21, 28;
Sec. 29, Lots 1–3, E½, N½NW¼, SE¼NW¼;
Sec. 31, Lot 1;
Sec. 32, Lots 1–5, E½;
Sec. 33, Lots 1–3, N½, NW¼SW¼, E½SE¼.

Public Land

T. 43 S., R. 3 E.
Secs. 3–5, incl.;
Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, All.
T. 44 S., R. 3 E.
Sec. 6, All.
T. 42 S., R. 4 E.
Secs. 19–24, incl.;
Secs. 30, 31.
T. 41 S., R. 5 E.
Secs. 19–31, incl.
T. 42 S., R. 5 E.
Secs. 6–8, 16–26.
T. 41 S., R. 7 E.
Secs. 19, 20, 23;
Sec. 24, N½, SW¼;
Secs. 25–27, 29, 30.
T. 40 S., R. 8 E.
Secs. 3–7, incl.;
Sec. 17, Part of S½NE¼ and S½;
Secs. 18–20, incl.;
Sec. 21, W½E½, W½;
Sec. 27, NW¼SW¼, S½SW¼;
Sec. 28, W½NE¼, SE¼NE¼, W½, SE¼;
Secs. 29–34, incl.
T. 41 S., R. 8 E.
Secs. 3–10, 15–20, 29–30.
T. 36 S., R. 10 E.
Secs. 19–21, 28–33, incl.
T. 37 S., R. 10 E.
Secs. 4–9, incl.
T. 37 S., R. 11 E.
Secs. 1–11, incl.;

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Sec. 12, W½;
Sec. 13, W½;
Sec. 14, All;
Sec. 15, N½;
Sec. 16, N½;
Sec. 17, All;
Sec. 18, E½;
Sec. 19, E½;
Sec. 20, All;
Sec. 23, N½;
Sec. 24, NW¼.
T. 35½ S., R. 12 E.
Secs. 27, 34, 35.
T. 36 S., R. 12 E.
Secs. 2–11, 16–20, incl.;
Sec. 29, N½;
Sec. 30, All;
Sec. 31, N½.
T. 36 S., R. 12 E.
Sec. 32–36, incl.
T. 39 S., R. 12 E.
Secs. 4, 5, 8, 9, 16, 17.
T. 40 S., R. 12 E.
Secs. 22–27, 34, incl.;
Sec. 35, W½.
T. 41 S., R. 12 E.
Sec. 4, N½;
Sec. 5, NE¼.
T. 31 S., R. 13 E.
Secs. 1, 12, 13, 22–27, 34–36, incl.
T. 32 S., R. 13 E.
Secs. 1, 12, 13, 24, 25, 36.
T. 33 S., R. 13 E.
Secs. 1–3, 10–15, incl.
T. 34 S., R. 13 E.
Secs. 4–9, incl.
T. 36 S., R. 13 E.
Secs. 13, 24–26, 31–36, incl.
T. 40 S., R. 13 E.
Secs. 1–12, 14–19, incl.;
Sec. 20, N½, SW¼;
Sec. 21, N½;
Sec. 22, N½;
Sec. 23, N½;
Sec. 30, All.
T. 31 S., R. 14 E.
Secs. 4–9, 16–21, 28–33, incl.
T. 32 S., R. 14 E.
Secs. 1–3, 10–15, 22–27, 34–36, incl.
T. 32 S., R. 14 E.
Secs. 1–3, 10–15, 22–27, 34–36, incl.
T. 40 S., R. 13 E.,
Secs. 11, 12, 14–25, and 30.
T. 32½ S., R. 14 E.
Secs. 25, 36.
T. 34 S., R. 14 E.
Secs. 1, 12, 13, 24–26, incl.
T. 35 S., R. 14 E.
Secs. 3, 10, 15, 22, 27, 34.
T. 36 S., R. 14 E.
Secs. 4, 9, 16–18, incl.
T. 40 S., R. 14 E.
Secs. 1, 3–12, incl.
T. 34 S., R. 15 E.
Secs. 5–8, 17–20, incl.
T. 40 S., R. 15 E.,
Secs. 1, 3–10, incl.
T. 33 S., R. 16 E.
Sec. 4, All;
Sec. 5, E½;
Secs. 9, 16;
Sec. 17, S½;
Sec. 20, N½;
Secs. 1, 3–6, incl.
T. 32 S., R. 17 E.
Secs. 21, 28, 33.
T. 40 S., R. 16 E.
Secs. 1, 12, 13, 21–24, incl.
T. 40 S., R. 17 E.
Secs. 20, 21, 28.
T. 41 S., R. 17 E.
Sec. 1, All.
T. 41 S., R. 18 E.
Secs. 7, 8, 17, 18;
Sec. 19, Lots 1–4, NE¼, E½NW¼, E½SW¼, SE¼;
Sec. 30, Lots 1–4.
T. 29½ S., R. 19 E.
Sec. 36, Lots 1, 2, S½NE¼, SE¼.
T. 30 S., R. 19 E.
Sec. 1, NE¼.

The areas described aggregate 785,850.04 acres in Garfield, Kane, and San Juan Counties.

2. At 10 a.m. on June 21, 1983, 207,483.94 acres of public lands located outside on the Glen Canyon National Recreation Area shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. The lands have been and will remain open to mineral leasing and mining location. All valid applications received at or prior to 10 a.m. on June 21, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The above described lands lying within the Glen Canyon National Recreation Area remain segregated from operation of the public land laws generally, including the United States Mining laws, and are open to such leasing as may be allowed under the Act of October 27, 1972. Therefore, this revocation will have no effect on these lands except to clear the records.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136, East South Temple, University Club Building, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 16, 1983.

FR Doc. 83-13902 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-84

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

National Flood Insurance Program; Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newpaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Associate Director, State and Local Programs and Support has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Maps (FIRM) for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Tennessee:					
Shelby	Collierville, city of, docket No. 6450	*The Collierville Herald* Sept. 23, 1982 and Oct. 28, 1982.	Hon. Herman W. Cox, Mayor, City of Collierville, City Hall, 101 Walnut Street, Collierville, Tenn. 38017.	Oct. 1, 1982	470263B
Washington and Carter	City of Johnson City, docket No. 6385.	*Johnson City Press Chronicle*, Aug 20, 1982, Aug. 27, 1982.	Hon. John Love, Mayor of Johnson City, 1006 S. Roan St., P.O. Box 941, Johnson City, TN 37601.	June 1, 1983	475432B
Sevier	City of Sevierville, docket No. 6405.	*The Sevier County News-Record*, Sept. 10, 1982 and Sept. 17 1982.	Mr. Russel Treadway, City Administrator, city of Sevierville, 448 Park Road, Sevierville, TN 37862.	July 5, 1983	475444B
Missouri: Unincorporated areas.	Buchanan County, docket No. 6429.	*St. Joseph Gazette and News Press*, Oct. 19, 1982 and Oct. 26, 1982.	Hon. Gerald Vanover, presiding judge, Buchanan, County, County Courthouse, Fifth and Jules, St. Joseph, MO 64501.	Aug. 1, 1983	290040B
Tennessee: Hamilton County	(C) East Ridge, docket No. 6422	*Chattanooga News Free Press*, Oct. 15, 1982 and Oct. 22, 1982.	Hon. J. David, Mays, Jr., City Administrator, city of East Ridge, 1501 Tombras Ave., East Ridge, TN 37412.	do	475424D
Missouri: Franklin and St. Louis Counties.	Pacific, City of, docket No. 6447	*Meramec Valley Transcript*, Oct. 27, 1982, Nov. 3, 1982.	Hon. Kenneth Quennoz, Sr., Mayor, City of Pacific, 221 South First Street, Pacific, MO 63063.	Aug. 15, 1983	290134B
South Carolina: Richland County	Columbia, city of, docket No. 6451	*The Columbia Record*, Nov. 5, 1982 and Nov. 12, 1982.	Hon. Kirkman Finley, Mayor, City of Columbia, P.O. Box 147, Columbia, SC 29217	Sept. 1, 1983	450172C

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13631 Filed 5-23-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

National Flood Insurance Program; Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication The Associate Director, State and Local Programs and Support has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Maps (FIRM) for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65).

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum

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that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No
Arkansas	Jackson	City of Diaz, (FEMA Docket No. 6425).	*Newport Independent*, Oct. 12 and Oct. 19, 1982.	Hon. Blount Hohn, Mayor, City of Diaz, P.O. Box 136, Diaz, AR 72043.	Aug. 1, 1983	050100C
Oklahoma	Caddo	City of Anadarko, (FEMA Docket No. 6438).	*The Anadarko Daily News*, Oct. 21 and Oct. 28, 1982.	Hon. Edward Otey, Mayor, City of Anadarko, 501 West Virginia, P.O. Box 647, Anadarko, OK 73005.	do	400018C
Oklahoma	Delaware	City of Grove, (FEMA Docket No. 6426).	*The Grove Sun*, Oct. 20 and Oct. 27, 1982.	Hon. Huber Logue, Mayor, City of Grove, P.O. Box 1268, Grove, OK 74344.	do	400385C
Texas	Coryell	City of Copperas Cove, (FEMA Docket No 6407).	*Copperas Cove Leader-Press*, Sept. 16 and Sept. 23, 1982.	Hon. Kenneth J. Ambler, Mayor, City of Copperas Cove, Copperas Cove, TX 76552.	do	480155D
Texas	Hays and Caldwell	City of San Marcos (Docket No. FEMA-6428).	*Daily Record*, Oct. 20 and Oct 27, 1982.	Hon. Emmie Craddock, Mayor of San Marcos, 630 East Hopkins, San Marcos, TX 78666.	Sept. 1, 1983	485505C
Texas	Wichita	City of Wichita Falls (Docket No. FEMA-6415).	*Wichita Falls Times*, Sept 15 and Sept. 22, 1982.	Hon. Gary D. Cook, Mayor of Wichita Falls, 1300 Seventh Street, P.O. Box 1431, Wichita Falls, TX 76307.	do	480662C
Kentucky	Jefferson	City of Louisville (Docket No. FEMA-6450).	*The Louisville Times*, Oct 15, 1982 and Oct. 22, 1982.	Hon. Harvey I. Sloane, Mayor, City of Louisville, City Hall, 601 West Jefferson, Louisville, KY 40202.	Oct. 22, 1982	210122C
Missouri	Cass	(C) Belton (Docket No. FEMA-6423).	The Star Herald, Oct. 14, 1982 and Oct. 21, 1982.	Hon. Gary Mallory, Mayor, City of Belton, P.O. Box 230, Belton, MO 64012	Aug. 1, 1983	290082 0003C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13632 Filed 5-23-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6520]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain

management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Oklahoma: Tulsa and Osage	City of Tulsa	*Tulsa Daily Business Journal and Legal Record*, May 9, 1983 and May 16, 1983.	Hon. James M. Inhofe, Mayor of Tulsa, City Hall, 200 Civic Center, Tulsa, OK 74103.	May 2, 1983, Letter of Map Revision.	405381E
Texas: Tarrant	Bedford, city	*Mid-Cities Daily News*, Jan. 10, 1983 and, Jan. 17, 1983.	Hon. L. Don Dodson, Mayor of Bedford, 2000 Forest Ridge Drive, Bedford, TX 76021.	Dec. 15, 1982, Letter of Map Revision.	480585A

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128 E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 5, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-13630 Filed 5-23-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Union Springs, Bullock County (FEMA-6470)	Conecuh River—Old	Just upstream of U.S. Highway 29/State Highway 15	*464
			Approximately 220 feet downstream of confluence of tributary No. 3.	*467
			Approximately 330 feet upstream of U.S. Highway 82/ State Highway 6.	*477
		Tributary No. 1	Approximately 250 feet upstream of confluence with Conecuh River—Old Town Creek.	*465
		Tributary No. 2	Just upstream of South Rooney Street	*470
		Tributary No. 3	Just upstream of Southern Railway	*479
		Slaughter Creek	Approximately 70 feet upstream of confluence of Slaughter Creek tributary No. 1.	*359
		Slaughter Creek Tributary 1	Approximately 100 feet upstream of confluence with Slaughter Creek.	*359
Maps available for inspection at City Administrator's Office, City Hall, 303 North Prairie Street, Union Springs, Alabama 36089.				
Florida	Unincorporated areas of Franklin County (FEMA-6431).	Apalachicola River	Just upstream of Apalachicola Northern Railroad	*11
		Ochlockonee River	Just upstream of the confluence of the Ochlockonee River and Crooked River.	*13
		Apalachicola Bay/East Bay	Intersection of State Highway 384 and Apalachicola northern Railroad	*10
		St. Georges Sound	Intersection of U.S. Highways 98, 319 (State Highway 30) and State Highway 379.	*12
			Intersection of Alternate State Highway 90 and U.S. Highways 98, 319 (State Highway 30)	*12
			Intersection of U.S. Highways 98, 319 (State Highway 30) and State Road 91A.	*14
			Intersection of U.S. Highways 98, 319 (State Highway 30) and State Highway 376.	*14
		Gulf of Mexico	Just downstream of State Highway 377 (U.S. Highway 319) (Ochlockonee Bay).	*13
			Intersection of Alligator Point Road and Gulf Shore Boulevard.	*14
			Intersection of U.S. Highway 99 (State Highway 30) and Interstate Highway 370.	*14
Maps available for inspection at Office of the Franklin County Commissioners, Franklin County Courthouse, Highway 98, Apalachicola, Florida 32320.				
Florida	Longboat Key (town), Manatee and Sarasota Counties, FEMA-6401	Gulf of Mexico	Intersection of Gulf of Mexico Drive and Cedar Street	*10
			Intersection of Gulf of Mexico Drive and Bay View Drive.	*10
			Intersection of Gulf of Mexico Drive and Edlee Lane	*10
			Intersection of Harbor Road and Old Compass Road	*10
			Intersection of Companion Way and Gulf of Mexico Drive.	*10
			Intersection of Gulf of Mexico Drive and Sutton Place	*11
			Intersection of Buttonwood Drive and Gulf of Mexico Drive	*11
			Intersection of Gulf of Mexico Drive and Shell Ridge Drive.	*11
			Intersection of Bogey Lane and Bowsprit Lane	*11
			Intersection of Hoffman Lane and Gulf of Mexico Drive	*11
Maps are available at City Hall, 501 Bay Isle Road, Longboat Key, Florida				
Idaho	Albion (city), Cassia (county), FEMA-6470	College Creek	5 feet downstream from center of Main Street	*4,719
			At the intersection of Market Street and West Street	#2
		Marsh Creek	60 feet downstream from center of Main Street	*4,714
Maps available for inspection at City Hall, Albion, Idaho.				
Idaho	Cassia County (unincorporated areas), FEMA-6470	Marsh Creek near Declo	10 feet upstream from center of 4th West Street	*4,198
		Marsh Creek near Albion	95 feet upstream from center of North Street	*4,664
		College Creek	Center of State Highway 77,600 feet southwest along highway from its intersection with Bowden Alley	*4,735
		Land Creek	50 feet downstream from center of State Highway 77	*4,732
Maps available for inspection at Civil Defense Office, 129 E. 14th Street, Burley, Idaho.				
Idaho	Declo (city), Cassia County FEMA-6470	Marsh Creek	At the intersection of stream and Clark Street	*4,203
Maps available for inspection at City Hall, Declo, Idaho.				
Idaho	Lapwai (city), Nez Perce County, FEMA-6449	Lapwai	300 feet east from the intersection of Main Street and 2nd Street East	*949
		Lapwai Creek upper overflow	At the intersection of Alder Avenue and First Street West	*951
Maps available for inspection at City Hall, Main Street, Lapwai, Idaho.				
Illinois	(V) Eldred, Greene County (Docket No. FEMA-6442)	Hurricane Creek	About 0.5 mile downstream of Bluff Street	*443
			About 320 feet upstream of Bluff Street	*452
Maps available for inspection at the Eldred Post Office, Eldred, Illinois.				
Illinois	(V) Florence, Pike County (Docket No. FEMA-6442)	Illinois River	About 0.92 mile downstream of U.S. Route 36 (at downstream corporate limits).	*444
			About 0.14 mile upstream of U.S. Route 36 (at upstream corporate limits).	*445
Maps available for inspection at the Florence Village Hall, R.R. #1, Pittsfield, Illinois.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Hardin, Calhoun County (Docket No. FEMA-6442)	Illinois River	Within corporate limit	*440
Maps available for inspection at the Village Hall, Main and Water Streets, Hardin, Illinois.				
Illinois	(V) Kampsville, Calhoun County (Docket No. FEMA-6442).	Illinois River	Within the corporate limits	*441
Maps available for inspection at the Village Hall, Kampsville, Illinois.				
Illinois	(V) Valley City, Pike County (Docket No. FEMA-6442)	Illinois River	Just downstream of Norfolk and Western Railway (at downstream corporate limit).	*445
			About 0.48 mile upstream of Norfolk and Western Railway (at upstream corporate limit).	*446
Maps available for inspection at the Village Hall, Route 2, Griggsville, Illinois.				
Indiana	(T) Alton, Crawford County (Docket No. FEMA-6442)	Ohio River	About 0.66 mile downstream of confluence of Little Blue River.	*423
			At confluence of Little Blue River	*424
Maps available for inspection at Town Hall, Rural 1, Leavenworth, Indiana.				
Indiana	(Uninc.) Hamilton County (Docket No. FEMA-6449)	White River	About 1 mile downstream of dam near East 211th Street.	*771
			Just downstream of State Highway 13	*803
		Duck Creek	At confluence with White River	*783
			Just downstream of County Line Road	*823
		Beer Creek	At confluence with Duck Creek	*786
			Just upstream of East 266th Street	*821
		Stony Creek	About 300 feet downstream of County Line Road	*846
			About 0.38 mile downstream of State Highway 38	*771
			Just downstream of East 186th Street	*781
Maps available for inspection at the Hamilton County Courthouse, Noblesville, Indiana.				
Indiana	(T) Jonesboro, Grant County (Docket No. FEMA-6442).	Mississinewa River	About 1,000 feet downstream of State Route 22	*819
			About 1.37 miles upstream of State Route 22	*825
Maps available for inspection at the Town Hall, 210 North Water, Jonesboro, Indiana.				
Indiana	(T) Leavenworth, Crawford County (Docket No. FEMA-6449).	Ohio River	Within the community	*431
Maps available for inspection at the Town Hall, Leavenworth, Indiana.				
Indiana	(T) Middlebury, Elkhart County (Docket No. FEMA-6470).	Little Elkhart River	About 1 mile downstream of State Route 13	*808
			About 0.95 mile downstream of State Route 13	*813
			About 0.87 mile upstream of County Road 16	*825
Maps available for inspection at the Town Hall, Middlebury, Indiana.				
Indiana	(C) Nappanee, Elkhart and Kosciusko Counties (Docket No. FEMA-6470).	Bertin Court ditch	About 1,400 feet downstream of County Road 7	*850
			About 400 feet upstream of County Road 3	*859
Maps available for inspection at the City Hall—Municipal Center, 300 West Lincoln, Nappanee, Indiana				
Iowa	(C) Elk Run Heights Black Haw County (Docket No. FEMA-6056.	Elk Run Creek	About 300 feet downstream of Lafayette Road	*838
			About 0.26 mile upstream of South Elk Run Road	*848
Maps available for inspection at the City Hall, 5042 Lafayette, Elk Run Heights, Iowa.				
Kansas	(C) Ellis, Ellis County (Docket No. FEMA-6442)	Big Creek tributary No. 2	About 950 feet upstream of Dorrance Street	*2,123
		Big Creek tributary No. 3	Within corporate limits	*2,112
		Big Creek	About 1,750 feet downstream of Ellis Dam	*2,111
			About 700 feet upstream of West 11th Street (near Baughman Street).	*2,129
Maps available for inspection at City Hall, P.O. Box 27, Ellis, Kansas.				
Kansas	(Uninc.) Harvey County (Docket No. FEMA-6470)	Little Arkansas River	At downstream county boundary	*1,374
			At confluence of Kisiwa Creek	*1,385
			Just upstream of Atchison, Topeka, and Santa Fe Railway.	*1,392
			Just downstream of U.S. Route 50	*1,398
		Sand Creek	At confluence with Little Arkansas River	*1,375
			Just upstream of County Road 584	*1,386
			Just upstream of County Road 580	*1,398
			Just upstream of County Road 617	*1,406
			Just downstream of West First Street	*1,420
			About 600 feet downstream of Missouri Pacific Railroad.	*1,425
			Just upstream of County Road 584	*1,440
			About 2,100 feet downstream of County Road 580	*1,451
		Mud Creek	At confluence with Sand Creek	*1,398
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,416
			Just upstream of U.S. Route 50	*1,420
			Just upstream of West First Street	*1,431

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of County Road 568	*1,440
			Just downstream of old U.S. Route 81	*1,454
		Slate Creek	At confluence with Sand Creek	*1,415
			At City of Newton corporate limits	*1,417
		Emma Creek-West Emma Creek	At confluence with Little Arkansas River	*1,378
			Just upstream of County Road 580	*1,389
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,403
			Just downstream of County Road 570	*1,410
		East Emma Creek	At confluence with Emma Creek	*1,397
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,403
			Just downstream of County Road 570	*1,416
		Middle Emma Creek	Just upstream of Interstate 35	*1,456
			Just upstream of County Road 556	*1,461
			About 6,100 feet upstream of County Road 556	*1,468
		Middle Emma Creek tributary No. 1.	At confluence with Middle Emma Creek	*1,457
			About 1,000 feet upstream of confluence with Middle Emma Creek.	*1,461
			Just downstream of County Road 556	*1,473
		Middle Emma Creek tributary No. 3.	At confluence with Middle Emma Creek	*1,462
			About 5,900 feet upstream of confluence with Middle Emma Creek.	*1,478
		Halstead Slaugh	Just upstream of County Road 803	*1,389
			Just upstream of Sarth Street	*1,393
			About 0.08 mile upstream of Atchison, Topeka and Santa Fe Railway.	*1,396
		Shallowflooding from sedgwick Ditch.	At county boundary	*1,377
			About 0.56 miles upstream of Seventh Street	*1,381
			About 1.1 miles upstream of Seventh Street	*1,388

Maps available for inspection at the Harvey County Courthouse, Newton, Kansas.

Massachusetts	Adams, town Berkshire County (Docket No. FEMA-6442).	Dry Brook	Confluence with south branch Hoosic River	*847
			Leonard Street (upstream side)	*867
			Approximately 900' upstream of Leonard Street	*887
		Fisk Brook	Confluence with south branch Hoosic River	*817
			Upstream of dam	*860
			Confluens of Pecks Brook	*930
			West Road (downstream side)	*979
		Hoxie Brook	Forest Park Avenue (upstream side)	*830
			Gritead Street (upstream side)	*870
			Approximately 200' upstream of West Road	*906
		Miller Brook	Confluence with Tophet Brook	*778
			Richmond Lane (upstream side)	*820
			Hoosac Street (upstream side)	*932
			East Road (downstream side)	*974
		Pecks Brook	Confluence with Fisk Brook	*930
			Fisk Street (downstream side)	*969
		South branch Hoosic River	Downstream corporate limits	*721
			Confluence of Cheesebro Brook	*724
			Lime Street (upstream side)	*742
			Cook Street (upstream side)	*767
			Hoosac Street (upstream side)	*780
			Park Street (upstream side)	*795
			Downstream crossing of Commercial Street (upstream side).	*818
			Upstream crossing of Commercial Street (upstream side).	*852
			Grove Street (upstream side)	*873
			Upstream corporate limits	*926
		Southwick Brook	Confluence with south branch Hoosic River	*743
			Judson Street (upstream side)	*797
			Approximately 150' upstream of East Road	*855
		Tophet Brook	Confluence with south branch Hoosic river	*769
			North Summer Street (upstream side)	*790
			East Street (downstream side)	*1,006
		Tributary No 4	Confluence with south branch Hoosic River	*736
			Columbia Street (upstream side)	*754
			Burt Street (upstream side)	*760
			Approximately 200' upstream of Friend Street	*784
		Tributary No. 5	Confluence with south branch Hoosic River	*743
			Downstream crossing of Powers Street (upstream side).	*775
			Upstream crossing of Powers Street (upstream side)	*884
			East Road (downstream side)	*894
		Tributary No. 6	Confluence with south branch Hoosic River	*892
			Approximately 300' upstream of Grove Street	*985
			West Road (downstream side)	*1,093

Maps available for inspection at the Office of the Planning Board, Town Hall, 65 Park Street, Adams, Massachusetts.

Massachusetts	Middleborough, town, Plymouth County (Docket No. FEMA-6449).	Nemasket River	At Murdock Street	*25
			U.S. Route 44 downstream	*27
			East Main Street upstream	*35
			Downstream Wareham Street	*47

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			East Grove Street upstream	*54
			Downstream Assawompset Pond Dam	*55
Minnesota	(Uninc.) Polk County (Docket No. FEMA-6449)	Red River of the North	At northern county boundary	*813
			Just downstream of County Highway 9	*842
		Red Lake River	About 4.2 miles downstream of County Highway 58	*832
			About 5.4 miles upstream of County Highway 58	*833
			About 8.8 miles downstream of U.S. Highway 75	*848
			About 1.6 miles downstream of U.S. Highway 75	*858
			About 9.6 miles upstream of U.S. Highway 75	*876
		Burnham Creek	About 1.6 miles downstream of County Highway 217	*856
			Just upstream of County Highway 14	*872
			Just downstream of State Highway 9	*892
		Burham Creek tributary	Confluence with Burnham Creek	*858
			Just upstream of County Highway 217	*862
			Just upstream of unamed county highway (about 1.2 miles downstream of County Highway 45.	*869
			Just downstream of County Highway 14	*877
		Judicial	Confluence with Burnham Creek	*878
			Just upstream of County Highway 45	*880
			Just downstream of State Highway 9	*888
		Snake River	About 2,000-feet upstream of County Highway 104	*835
			About 1,200 feet upstream of Burlington Northern Railroad.	*857
			About 100 feet upstream of Second Street (in city of Warren).	*858
		Shallow flooding	Within section 19 T. 154 N., R. 49 W	*816
			Within sections 20, 21 T. 154 N., R. 49 W	*817
			Within sections 29, 30, 31, 32 T. 154 N., R. 49 W. and sections 35 and 36 T. 154 N., R. 50 W.	*818
			Within sections 28 and 33 T. 154 N., R. 49 W	*819
			Within sections 11, 14, 27, and 34, T. 154 N., R. 49., and 4 and 8, T. 153 N., R. 49 W.	*820
			Within sections 23 and 26 T. 154 N., R. 49 W., and 9, T. 153 N., R. 49 W.	*821
			Within sections 17 and 18, T. 153 N., R. 49 W	*822
			Within sections 12 and 13, T. 154 N., R. 49 W., and 3, 10, 16, 19, and 20, T. 153 N., R. 49 W.	*823
			Within sections 15, T. 153 N., R. 49 W., and 21, T. 153 N., R. 49 W.	*824
			Within sections 35, T. 154 N., R. 49 W., and 2, 11, 14, and 29, T. 153 N., R. 49 W.	*825
			Within sections 24, T. 154 N., R. 49 W; 22, 26, and 33, T. 153 N., R. 49 W., and 18 and 19, T. 154 N., R. 48 W.	*826
			Within sections 25, T. 154 N., R. 49 W., and 23, 27, and 34, T. 153 N., R. 49 W.	*827
			Within section 30 T. 154 N., R. 48 W	*828
			Within sections 36, T. 154 N., R. 49 W., 1, 12, 13, 26, and 35 T. 153N., R. 49 W., and 6 and 17, T. 154 N., R. 48 W.	*829
			Within sections 24 T. 153 N., R. 49 W., and 20, T. 154 N., R. 48 W.	*831
			Within sections 25, T. 153 N., R. 49 W., and 31, T. 154, R. 48 W.	*832
			Within sections 6, T. 153 N., R. 48, W., and 36, T. 153 N., R. 49 W.	*833
			Within sections 26, 29, and 32, T. 154 N., R. 48 W., and 7 and 18, T. 153 N. , R. 48 W.	*834
			Within sections 19, 30, and 31, T. 153 N., R. 48 W	*835
			Within sections 16 and 21, T. 154 N., R. 48 W	*836
			Within sections 33, T. 154 N., R. 48 W., and 5, T. 153 N., R. 48 W.	*837
			Within section 32 T. 153 N., R. 48 W	*838
			Within section 8 T. 153 N., R. 48 W	*839
			Within sections 15 and 22, T. 154 N., R. 48 W., and 26, and 29 T. 153 N., R. 48 W.	*840
			Within sections 27 and 34, T. 154 N., R. 48 W., and 4, 17, and 20 T. 153 N., R. 48 W.	*841
			Within section 9, T. 153 N., R. 48 W	*842
			Within sections 3, and 10, T. 153 N., R. 48 W	*843
			Within sections 35, T. 154 N., R. 48 W., and 10 and 21, T. 153 N., R. 48 W.	*844
			Within sections 14, 23 and 26, T. 154 N., R. 48 W., and 2, 11, 15, 22, 27, and 34, T. 153 N., R. 48 W.	*846
			Within sections 14, 23, 26, and 35, T. 153 N., R. 48 W	*848
			Within section 25, T. 154 N., R. 48 W	*849
			Within sections 13 and 36, T. 154 N., R. 48 W. and 1, 12, and 13, T. 153 N., R. 48 W.	*850
			Within sections 24, T. 154 N., R. 48 W., and 24, T. 153 N., R. 48 W.	*851
			Within sections 31, T. 154 N., R. 48 W., and 6 30, T. 153 N., R. 47 W., and 25, T. 153 N., R. 48 W.	*852
			Within section 19, T. 153 N., R. 47 W	*853
			Within sections 36, T. 153 N., R. 48 W., and 31, T. 153 N., R. 47 W.	*854
			Within sections 18, 19, and 30, T. 154 N., R. 47 W.; 7, 18, and 30, T. 153 N., R. 47 W., and 25, T. 153 N., R. 48 W.	*856
			Within section 8, T. 153 N., R. 47 W	*859

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Within sections 32, T. 154 N., R. 47 W., 4, 5, 17, 20, and 29, T. 153 N., R. 47 W.	*860
			Within sections 29, T. 154 N., R. 47 W., and 32, T. 153 N., R. 47 W.	*861
			Within sections 9, 28, and 33, T. 153 N., R. 47 W.	*866
			Within sections 16 and 21 T. 153 N., R. 47 W.	*867
			Within section 34, T. 153 N., R. 47 W.	*870
			Within section 27, T. 153 N., R. 47 W.	*871
			Within section 22, T. 153 N., R. 47 W.	*872
Maps available for inspection at County Assessor's Office, 600 North Broadway, Crookston, Minnesota.				
Montana	Missoula County, unincorporated areas, FEMA-6513	Bitterroot River	100 feet upstream of intersection of river and McClay Bridge.	*3,110
			Intersection of river and U.S. Highways 93 and 12	*3,127
			200 feet south on Trudy Lane from the intersection with Leo Hanson Road.	*3,178
		Blackfoot River	Intersection of river and Chicago, Milwaukee, St. Paul & Pacific Railroad.	*3,271
			100 feet upstream of intersection of river and Marco Flat Bridge.	*3,288
		Clark Fork	50 feet upstream of intersection of Clark Fork and Harper Bridge Road.	*3,056
			150 feet north on Big Flat Road from the intersection with Virginia Drive.	*3,074
			Intersection of Clark Fork with Russell Street Bridge	*3,166
			100 feet upstream of intersection of Clark Fork and Montana Power Co. dam at Milltown.	*3,265
		Clearwater River	100 feet downstream of intersection of river and Placid Lake Road.	*3,923
			50 feet upstream of intersection of river and Riverview Road.	*3,997
		Lolo Creek	50 feet downstream of intersection of Creek and Burlington Northern Railroad.	*3,171
			Intersection of creek and Mormon Creek Road	*3,308
		Rattlesnake Creek	Intersection of creek and Lolo Street	*3,300
			Intersection of creek and Rattlesnake Creek Road	*3,555
			Intersection of Missoula and Lolo Street	#1
		Pattee Creek	At the upstream corporate limits of the city of Missoula.	*3,348
		Shallow sheet flow	Intersection of Cloverdale and 23d Avenue near South Hills.	#2
Maps available for inspection at Missoula County Courthouse, 200 W. Broadway, Missoula, Montana.				
New Jersey	Lumberton (township), Burlington County, FEMA-6449	South branch Rancocas Creek	Center of intersection of Main and Church Streets	*11
		Southwest branch Rancocas Creek.	150 feet upstream from center of Stacy Haines Road	*13
		Masons Creek	100 feet upstream from center of Airport Runway	*39
		Little Creek	50 feet upstream from center of Eayrestown Road	*17
		Bobbys Run	50 feet upstream from center of Lumberton Newbolds Corner Road.	*11
		Tributary to south branch	150 feet upstream from center of Crispin Road	*19
Maps available for inspection at Municipal Building, Newbolds Corner Road, Lumberton, New Jersey.				
New Jersey	Medford (township), Burlington County, FEMA-6470	Southwest branch Rancocas Creek.	60 feet upstream from center of South Main Street	*33
		Sharps Run	50 feet upstream from center of Jennings Road	*40
		Barton Run	50 feet upstream from center Tuckerton Road	*44
		Tributary No. 1 to Barton Run	200 feet upstream from confluence with Barton Run	*42
		Haynes Creek	50 feet upstream from center of Elm Drive	*41
		Ballinger Run	50 feet upstream from center of Ramblewood Lane	*47
		Tributary to Ballinger Run	50 feet upstream from center of South Lakeside Drive East.	*49
		Blue Lake Run	100 feet upstream from center of Berlin Road	*50
		Mimosa Lake Run	50 feet upstream from center of Shanty Dam Drive	*68
		Little Creek	150 feet upstream from center of Church Road	*24
		Skeet Run	25 feet upstream from center of Charville Road	*34
Maps available for inspection at Office of the Township Planners, 19 N. Main Street, Medford, New Jersey.				
New York	Head-of-Harbor, Suffolk County (Docket No. FEMA-6449).	Stony Brook Harbor	Shoreline at Shep Jones Lane extended	*14
			Shoreline west of intersection of Hitheebrook Road and Hebor Road.	*11
			Shoreline southwest of Thompson Alley extended	*14
Maps available for inspection by contacting the Village Clerk, M.B. L'Hommedieu, at (516) 584-5550.				
New York	Lexington, town, Greene County (Docket No. FEMA-6449).	Schoharie Creek	Aproximately 4,100 feet upstream Van Road	*1,382
			Van Road (upstream)	*1,367
			State Route 42 (upstream)	*1,336
			Confluence of West Kill	*1,317
			Approximately 5,100 feet upstream Mosquito Point Road.	*1,300
			Mosquito Point Road (upstream)	*1,280
			Approximately 5,600 feet upstream corporate limits	*1,250
			Downstream corporate limits	*1,226

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Municipal Building, Lexington, New York.				
New York	Middleport, village, Niagra County (Docket No. FEMA-6449).	Johnson Creek	Approximately 400' downstream of downstream corporate limits.	*476
			Upstream of Church Street	*515
			Upstream of corporate limits	*544
		Tributary J-1	At Kelly Street	*526
			Upstream corporate limits	*527
Maps available for inspection at the Village Hall, 24 Main Street, Middleport, New York.				
New York	Poquott, village, Suffolk County (Docket No. FEMA-6449).	Port Jefferson Harbor	Entire shoreline within community	*14
		Setauket Harbor	Shoreline north of Shore Road	*11
Maps available for inspection at the residence of the Village Clerk, Joseph Newfield, Three Harrison Avenue, Poquott, New York.				
New York	Silver Creek, village, Chautauqua County (Docket No. FEMA-6449)	Lake Erie	Entire shoreline within community	*579
		Silver Creek	Confluence with Lake Erie	*579
			Upstream of Central Avenue (U.S. Route 20)	*581
			Upstream corporate limits	*607
		Walnut Creek	Confluence with Silver Creek	*579
			Upstream of Main Street	*587
			Upstream corporate limits	*607
Maps available for inspection at the Village Hall, 172 Central Avenue, Silver Creek, New York.				
Ohio	(V) Aberdeen, Brown County (Docket No. FEMA-6449).	Ohio River	At confluence of Big Threemile Creek	*515
			About 1,000 feet upstream of U.S. Route 62	*518
Maps available for inspection at the Mayor's Office, Village Hall, Aberdeen, Ohio.				
Ohio	(V) Addyston, Hamilton County (Docket No. FEMA-6449).	Ohio River	Within corporate limits	*493
		Muddy Creek	Within corporate limits	*493
Maps available for inspection at Mayor's Office, 235 Main Street, Addyston, Ohio				
Ohio	(V) Cheshire, Gallia County (Docket No. FEMA-6470)	Ohio River	Within the community	*574
Maps available for inspection at the Village Hall, Cheshire, Ohio.				
Ohio	(C) Gahanna, Franklin County (Docket No. FEMA-6442)	Big Walnut Creek	About 0.7 mile downstream of Hamilton Road	*783
			Just downstream of Morse Road	*809
		McKenna Creek	About 0.13 mile upstream of mouth	*799
			Just downstream of Cherry Bottom Road	*808
			Just downstream of Hamilton Road	*887
		Sycamore Creek	At mouth	*793
			Just upstream of Granville Street	*799
			Just downstream of Larry Lane	*810
		Rock Fork Creek	At mouth	*793
			Just upstream of Granville Street	*799
			About 0.65 mile upstream of Hamilton Road	*822
Maps available for inspection at the Department of Public Service, 200 South Hamilton Road, Gahanna, Ohio				
Ohio	(Uninc.) Medina County (Docket No. FEMA-6442)	West branch Rocky River	At northern county boundary	*784
			About 250 feet upstream of Columbia Road	*820
			About 1.4 miles upstream of Fenn Road	*902
			Just upstream of State Route 18	*918
			Just downstream of Interstate 71	*941
		Mallet Creek	At mouth	*831
			Just downstream of New Lester Dam	*939
			Just upstream of New Lester Dam	*943
			Just downstream of State Route 18	*956
		East branch Black River	Just upstream of Smith Road	*834
			About 3.4 miles upstream of Smith Road	*842
			About 1,800 feet upstream of State Route 162	*851
			Just upstream of dam about 1,200 feet upstream of Old Mill Road.	*858
			At confluence of West Fork and East Fork	*877
		West Fork	About 200 feet upstream of Norfolk & Western Railway.	*865
			At confluence of Clear Creek	*904
		East Fork	About 300 feet upstream of U.S. Route 42 and 224 west of State Route 83.	*866
			About 0.5 mile downstream of U.S. Route 42 and 224 east of State Route 83.	*925
			About 150 feet upstream of Kennard Road	*969
			Just downstream of Coon Club road	*1,035
		Wolf Creek	Just upstream of Medina Line Road	*1,013
			Just upstream of Ridge Road	*1,033
			About 100 feet downstream of Sharon-Copley Road	*1,042
		River Styx	Just upstream of Eastern Road	*961
			Just upstream of Greenwich Road	*972
			About 100 feet upstream of Wadsworth Road	*993
		Tommy Run	At southern county boundary	*1,031
			Just downstream of dam	*1,047
			Just upstream of dam	*1,054
			Just downstream of Seville Road	*1,145

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Chippewa Creek	At southern county boundary	*974
			Just upstream of Mill Road	*982
			Just upstream of Interstate 76	*990
			About 0.6 mile upstream of Kennard Road	*995
		The inlet	Just upstream of Chippewa Road	*995
			Just downstream of Wedgewood Road	*998
		Hubbard Creek	About 1.03 miles downstream of Greenwich Road	*994
			About 100 feet downstream of Interstate 76	*1,032
			Killbuck CreekAbout 400 feet downstream of Conrail	*948
			About 1,100 feet upstream of confluence with Camel Creek.	*954
		Camel Creek	At mouth	*954
			Just upstream of Norfolk & Western Railway	*957
			About 200 feet upstream of Chessie System	*961
			Just downstream of Interstate 71	*972
Maps available for inspection at the County Engineer's Center, Medina County Administration Building, 144 North Broadway, Medina, Ohio.				
Ohio	(C) Portsmouth, Scioto County (Docket No. FEMA-6470).	Ohio River	About 0.8 mile downstream of U.S. Route 23	*536
			About 0.7 mile upstream of the Chessie System	*538
Maps available for inspection at the Engineer's Office, 728 Second Street, Portsmouth, Ohio.				
Ohio	(V) Racine, Meigs County (Docket No. FEMA-6470)	Ohio River	About 1 mile upstream of confluence of Wolf Run	*582
			About 1.6 miles upstream of confluence of Wolf Run	*583
Maps available for inspection at the Mayor's Office, Village Hall, Third Street, Racine, Ohio.				
Pennsylvania	Johnstown, city, Cambria County (Docket No. FEMA-6401)	Conemaugh River	Downstream corporate limits	*1,154
			Coopersdale Bridge (upstream)	*1,159
			Fourth Avenue (upstream)	*1,164
			Confluence of Little Conemaugh River and Stonycreek River.	*1,167
		Little Conemaugh River	Confluence with Conemaugh River and Stonycreek River.	*1,167
			Chessie System (first crossing)	*1,171
			Swank Court (upstream)	*1,182
			Upstream corporate limits	*1,212
		Stonycreek River	Confluence with Conemaugh River and Little Conemaugh River.	*1,167
			Haynes Street	*1,173
			Horner Street	*1,179
			Upstream corporate limits	*1,198
		St. Clair Run	Confluence with Conemaugh River	*1,158
			D Street (upstream)	*1,165
			Bachus Avenue	*1,181
			Fairfield Avenue (upstream)	*1,211
			Upstream corporate limits	*1,257
		Elk Run	Shallow flooding affecting community	#1
Maps available for inspection at the City Hall, Room 106, Johnstown, Pennsylvania.				
Utah	Salt Lake City (city), Salt Lake County, FEMA-6431	Jordan River	100 feet downstream of the intersection of Redwood Road and Jordan River.	*4,215
			50 feet downstream of the intersection of 21st South Street and Jordan River.	*4,229
		Red Buttle Creek	Intersection of 11th East Street and Red Buttle Creek	*4,371
			60 feet upstream of the intersection of Fort Douglas entrance road and Red Buttle Creek.	*4,869
		Emigration Creek	110 feet upstream of the intersection of 13th East Street (State Highway 181) and Emigration Creek.	*4,412
			80 feet downstream of the intersection of Foothill Drive (U.S. Highway 40 and State Highway 186) and Emigration Creek.	*4,682
Maps available for inspection at Planning and Zoning Department, City-County Building, 4th South and State Street, Salt Lake City, Utah.				
Vermont	Plainfield, town Washington County (Docket No. FEMA-6431).	Winooski River	Downstream corporate limits	*681
			Upstream U.S. Route 2	*685
			Downstream of village corporate limits	*704
			Approximately 1,300' downstream of Plainfield Dam	*721
Maps available for inspection at the Town Hall, Plainfield, Vermont.				
Vermont	Plainfield, village, Washington County (Docket No. FEMA-6431).	Winooski River	Downstream corporate limits	*704
			Downstream of Plainfield Dam	*732
			Upstream corporate limits	*751
Maps available for inspection at the Village Hall, Plainfield, Vermont.				
Wisconsin	(C) Delafield, Waukesha County (Docket No. FEMA-6442).	Bark River	About 150 feet downstream of Delafield Pond Dam	*877
			About 300 feet upstream of Delafield Pond Dam	*885
			Just upstream of Genesee Street	*890
			About 200 feet downstream of Nagewicka Road	*895
			About 200 feet upstream of Nagewicka Road	*898
		Nagewicka Lake	At upstream corporate limits	*902
			Shoreline	*891
Maps available for inspection at the City Clerk's Office, City Hall, 500 Genesee Street, Delafield, Wisconsin.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(V) New Glarus, Green County (Docket No. FEMA-6449).	Little Sugar River	About 0.25 mile downstream of Sugar River Trail (downstream corporate limits).	*866
			About 0.5 mile upstream of State Highway 69 (upstream corporate limits).	*868
		Ledger School Branch	Just upstream of State Highway 39 and 69	*855
			About 1 mile upstream of Second Street	*878
Maps available for inspection at Village Hall, 807 Third Street, New Glarus, Wisconsin.				
Wisconsin	(V) Pardeeville, Columbia County (Docket No. FEMA-6449).	Fox River	At downsteam of corporate limits	*789
			Just downstream of Park Lake Dam	*798
			Just upstream of Park Lake Dam	*808
Maps available for inspection at Village Hall, 124 Lake Street, Pardeeville, Wisconsin.				
Wisconsin	(C) Portage, Columbia County (Docket No. FEMA-6449).	Wisconsin River	About 1.74 miles downstream of divergence with Portage Canal.	*789
			About 300 feet upstream of State Highway 78	*795
		Fox River	About 2,400 feet downstream of the confluence of Portage Canal.	*784
			Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	*789
		Interbasin flow area	An area north of Portage levee, southeast of Portage Canal.	*789
Maps available for inspection at the City Engineers' Office, City Hall, 210 Brooke, Portage, Wisconsin.				
Wisconsin	(Uninc.) Rock County (Docket No. FEMA-6000)	Rock River	At Beloit's upstream corporate limits	*749
			Approximately 0.35 mile upstream of Eau Claire Road	*757
			Janesville corporate limits, approximately 1.21 miles upstream of confluence of Fisher Creek.	*781
			Just upstream of U.S. Highway 14	*778
			At upstream county boundary	*784
		Yahara River	At confluence with Rock River	*781
			Just downstreme of Fulton Dam	*787
			Just upstream of Fulton Dam	*794
			Just downstream of Caledonia Road	*798
			Just downstream of Stebbinsville Dam	*805
			Just upstream of Stebbinsville Dam	*814
		Sugar River	At downstream county boundary	*743
			Just upstream of Nelson Road	*756
			Just upstream of Beloit-Newark Road	*761
			Just downstream of County Highway T, at upstream county boundary.	*764
		Raccoon Creek	At downstream county boundary	*741
			Just upstream of Lawrence Avenue	*752
			Just upstream of Mill Pond Dam	*759
			Just downstream of State Highway 81	*772
		Unnamed tributary No. 1 to Raccoon Creek.	At confluence with Raccoon Creek	*761
			Just upstreeam of State Highway 81	*772
			Just upstream of Beloit-Newark Road	*804
		Unnamed tributary No. 2 to Raccoon Creek.	At confluence with unnamed tributary No. 1 to Raccoon Creek.	*762
			Just upstream of State Highway 81	*774
			Just upstream of County Highway H	*787
			Just downstream of Beloit-Newark Road	*826
		Otter Creek	Just upstream of county line road	*783
			Just downstream of State Highway 26	*821
			Just downstream of Klug Road	*835
			Just upstream of Klug Road	*840
			Just downstream of Bowers Road	*859
		Marsh Creek	Confluence with Rock River	*777
			About 150 feet upstream of County Highway E	*785
			Approximately 125 feet downstream of Chicago & North Western railroad.	*787
			Just upstream of Chicago & North Western railroad	*798
			Approximately 140 feet downstream of Burdick Road	*839
			Just upstream of Burdick Road	*843
			Just upstream of Gravel Drive	*860
			Just upstream of Polzin Road	*878
			Just downstream of State Highway 184	*861
		Bass Creek	Mouth at Rock River	*755
			Just upstream of a dam located about 0.22 mile downstream of County Highway D.	*760
			Just upsream of Johnson Road	*772

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Schaffner Road	*791
			Just upstream of old State Highway 11	*804
		Turtle Creek	At city of Beloit corporate limits, located about 0.53 mile downstream of the Chicago, Milwaukee, St. Paul & Pacific Railroad.	*760
			Approximately 100 feet upstream of Milwaukee Road	*774
			Just upstream of Shopiere Road	*796
			Just upstream of Interstate 90	*802
			Just upstream of Sweet Allyn Park Dam	*816
			Just upstream of State Highway 140	*831
			Just upstream of Carvers Rock Road	*840
			About 2.1 miles upstream of Johnson Road	*856
		Unnamed tributary No. 1 to Turtle Creek.	At confluence with Turtle Creek	*821
			Just downstream of Milton-Shopiere Road	*843
			About 150 feet upstream of Elm Drive	*856
		Unnamed tributary No. 2 to Turtle Creek.	At confluence with Turtle Creek	*819
			Just upstream of Chicago & North Western railroad	*853
			Just upstream of State Highway 15	*876
			Just upstream of Buss Road	*898
			Just downstream of County Highway J	*906
		East fork Raccoon Creek	At downstream State Boundary	*746
			Just upstream of Lawrence Avenue	*753
			Just upstream of State Highway 81	*763
			Just downstream of Spring Creek Road	*770
		Unnamed tributary to east fork Racoon Creek.	At confluence with east fork Raccoon Creek	*755
			Just upstream of State Highway 81	*761
			Just upstream of Spring Creek Road	*784
			Just downstream of Beloit-Newark Road	*814
		Spring Brook (near city of Janesville).	About 400 feet upstream of Sharon Road	*778
			About 1,900 feet upstream of Sharon Road	*780
		Spring Brook	City of Beloit corporate limits at Chicago, Milwaukee, St. Paul & Pacific Railroad, located approximately 3,170 feet upstream of Townhall Road.	*827
			Just downstream of second Chicago, Milwaukee, St. Paul & Pacific Railroad bridge at the Beloit corporate limits, about 0.9 mile downstream of Walker Road	*835
			Just upstream of second Chicago, Milwaukee, St. Paul & Pacific Railroad bridge at the Beloit corporate limits, about 0.9 mile downstream of Walker Road.	*847
			Just upstream of Walker Road	*854
			Approximately 100 feet upstream of Gustafson Road	*884
			Just downstream of Clinton Corners Road	*911
		Blackhawk Creek	About 0.61 mile downstream of U.S. Highway 14	*821
			About 500 feet downstream of U.S. Highway 14	*831
		Allen Creek	About 0.36 mile upstream of State Highway 213	*874
			About 1.73 mile upstream of State Highway 213	*888
			At City of Evansville upstream corporate limits	*910
			About 1.1 miles upstream corporate limits	*921

Maps available for inspection at the Office of the Director of Planning, Rock County Courthouse, 51 South Main Street, Janesville, Wisconsin.

Wisconsin	(Unico.) Walworth County (Docket No. FEMA-6449)	Como Creek	At mouth	*824
			About 300 feet upstream of State Highway 36	*832
			About 100 feet upstream of County Highway NN	*849
			Just downstream of Lake Como Dam	*852
		East branch Nippersink Creek	At mouth	*828
			Just upstream of Powers Lake Road	*835
			About 1.23 miles upstream of Powers Lake Road	*848
		Honey Creek	At county boundary, about 0.5 miles downstream of County Highway DD.	*770
			About 2000 feet upstream of Himebauch Road	*796
			About 200 feet upstream of Bell School Road	*802
			Just downstream of dam about 1000 feet downstream of State Highway 20	*809
			Just upstream of dam about 1000 feet downstream of State Highway 20	*813
			Just downstream of State Highway 15	*819
			Just upstream of State Highway 15	*824
			Just upstream of County Highway G	*827
			Just upstream of dam near County Highway G	*834
			Just upstream of County Highway N	*843
			About 2100 feet downstream of Pleasant Lake Road	*848
			About 100 feet downstream of Pleasant Lake Road	*862
			Just upstream of dam at Pleasant Lake Road	*874
			Just downstream of Old Highway 12 and 67	*876

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Jackson Creek	Just downstream of Mound Road	*930
			Just upstream of Old Highway 12	*968
			Just downstream of U.S. Highway 12	*977
		North branch Nippersink Creek	About 200 feet upstream of Darling Road near Genoa City corporate limits.	*826
			About 1.8 miles upstream of County Highway H	*838
		Pell Lake tributary	At mouth	*832
			Just upstream of County Highway U	*835
			Just downstream of Dasey Road	*851
			Just upstream of Dasey Road	*855
			Just downstream of Pell Lake Road	*860
		Spring Brook	About 1300 feet downstream of State Highway 89	*819
			About 0.76 mile upstream of State Highway 89	*841
			Just upstream of Island Road	*848
			About 0.7 mile upstream of Island Road	*849
		Sugar Creek	At mouth at Honey Lake	*772
			About 300 feet upstream of Hargreaves Road	*810
			About 200 feet upstream of Hodunk Road	*847
			Just downstream of U.S. Highway 12	*860
			Just downstream of Cobble Road	*863
		Swan Creek	About 1.46 miles downstream of County Highway O	*908
			Just upstream of County Highway O	*919
			Just downstream of Delavan Lake Dam	*924
		Turtle Creek	About 800 feet downstream of County Highway C	*858
			Just upstream of State Highway 11	*874
			About 1.5 miles upstream of Pounder Road	*878
			About 2000 feet downstream of Dam Road	*891
			Just downstream of Turtle Lake Road	*897
		White River	Just downstream of State Highway 11	*768
			About 200 feet upstream of State Highway 36	*774
			About 300 feet downstream of Spring Valley Road	*791
			Just upstream of dam near Spring Valley Road	*799
			Just upstream of Sheridan Springs Road downstream of Como Creek.	*822
			About 500 feet upstream of U.S. Highway 12	*836
		Whitewater Creek	About 1400 feet downstream of Willis Ray Road	*824
			Just upstream of Willis Ray Road	*830
			Just downstream of Moraine Road	*858
		Lake Geneva	Shoreline	*965
		Pell Lake	Shoreline	*960
		Powers Lake	Shoreline	*833
		Turtle Lake	Shoreline	*900
		Comus Lake	Shoreline	*891
		Delavan Lake	Shoreline	*929
		Green Lake, Middle Lake, Mill Lake, Don Jean Bay.	Shoreline	*866
		Lake Como	Shoreline	*852
		Cravath Lake	Shoreline	*815
		Honey Creek Lake	Shoreline	*834

Maps available for inspection at the Walworth County Office of Planning and Zoning, Walworth County Courthouse, Elkhorn, Wisconsin.

Wisconsin	(Uninc.) Waukesha County (Docket No. FEMA-6442)	Bark River	About 0.5 mile downstream of U.S. Highway 18	*862
			About 500 feet downstream of Mill Road	*873
			Just upstream of Mill Road	*878
			Abut 350 feet upstream of County Highway E	*903
			About 700 feet downstream of County Highway K	*923
			Just downstream of Dorn Road	*939
		Brandy Brook	At mouth	*809
			About 150 feet downstream of County Highway DT	*818
			About 200 feet upstream of County Highway DT	*823
			About 0.64 mile upstream of County Highway DT	*823
		Deer Creek	At mouth	*828
			Just upstream of Brookfield Avenue	*830
		Fox River	About 0.5 mile upstream of southern county boundary	*777
			About 0.47 mile upstream of Sunset Drive	*795
			About 0.61 mile downstream of Bluemound Road	*816
			About 1.7 miles upstream of State Highway 190	*828
		Genesee Creek	At mouth	*787
			About 300 feet upstream of County Highway X (just downstream of dam).	*794
			About 400 feet upstream of County Highway X (just upstream of dam).	*801

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 100 feet downstream of Old Vill Road	*839
			Just upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad.	*897
		Jericho Creek	At mouth	*816
			Just upstream of County Highway X	*925
		Mason Creek	At mouth	*900
			About 200 feet upstream of the Chicago and North Western Railroad.	*902
			About 100 feet upstream of Mapleton Road	*942
		Mukwonago River	At mouth	*783
			About 400 feet downstream of County Highway I	*792
			About 150 feet downstream of Eagle Spring Lake Dam	*817
		Oconomowoc River	Just upstream of Morgan Road	*848
			About 600 feet upstream of Lapham Street	*862
			Just upstream of U.S. Highway 18 (just downstream of dam).	*863
			About 1,200 feet downstream of County Highway E	*875
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*913
			About 300 feet upstream of Funk Road (just upstream of dike).	*919
			About 100 feet downstream of County Highway F	*924
			Just upstream of County Highway F	*932
		Pebble Brook	At mouth	*784
			About 200 feet upstream of County Highway XX	*797
			Just upstream of Big Bend Road	*820
			Just downstream of County Highway X	*848
		Pebble Creek	At mouth	*793
			Just upstream of State Highway 59	*796
			Just upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad.	*803
			About 0.74 mile upstream of County Highway TT	*808
		Pewaukee Lake Tributary	At mouth	*855
			About 100 feet upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad.	*856
			About 1,900 feet upstream of U.S. Highway 16	*866
		West Branch Pewaukee Lake Tributary.	At mouth	*860
			About 1,600 feet upstream of Yench Road	*861
		Pewaukee River	At mouth	*821
			Just upstream of Susse Road	*839
			Just downstream of County Highway SS	*847
			Just upstream of Lisbon Road	*862
		Poplar Creek	About 950 feet downstream of County Highway Y	*824
			Just downstream of County Highway SS	*830
		Sussex Creek	At mouth	*828
			Just upstream of Soo Line Railroad	*837
			Just upstream of County Highway JF	*855
			About 1.1 miles upstream of County Highway K (at Village of Sussex corporate limits).	*893
		Lac LaBelle	Shoreline	*854
		Upper Nemahbin Lake	Shoreline	*872
		Lower Nemahbin lake	Shoreline	*872
		North Lake	shoreline	*900
		Okauchee Lake	shoreline	*875
		Pewaukee Lake	Shoreline	*855
		Upper Phantom Lake	Shoreline	*792
		Lower Phantom Lake	Shoreline	*792

Maps available for inspection at the Waukesha County Park and Planning Commission, 500 Riverview Avenue, Waukesha, Wisconsin.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected location in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Galveston, Galveston County (FEMA–6364)	Galveston Bay	At intersection of Avenue P and 47th Street	*11
		West Bay	At intersection of Shader Road and 103rd Street	*13
			At intersection of Musket Lane and Carthagena Way	*14
		Gulf of Mexico	At intersection of 81st Street and Stewart Boulevard	*11
			Approximately 50 feet north of intersection of Stewart Boulevard and 87th Street.	12
		At intersection of Durican Way and Vista Boulevard.	*15	
		Approximately 100 feet south of intersection of Seawall Boulevard and 97th Street.	*19	

Maps available for inspection at City Hall, building Inspection Department, 823 Rosenberg Street, Galveston, Texas 77553.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: April 25, 1983.

Dave McLoughlin,
Deputy Associate Director, State and Local Program and Support.

[FR Doc. 83-13620 Filed 5-23-83; 8:45 am]
BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1170

[Ex Parte No. MC-161; Sub-No. 1]

Employee Protection—Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: This document contains final rules that implement Section 27 of the Bus Regulatory Reform Act of 1982. Section 27 deals with reemployment rights of employees of motor passenger carriers who lose their jobs because of discontinuances or reductions of regular-route bus services. This proceeding was instituted by a notice of proposed rulemaking served on November 19, 1982, and published at 47 FR 53297 (November 24, 1982). The rules adopted establish procedures for determining the eligibility of individual employees for protection under the statute, and for publishing a periodic listing of jobs available with class I motor passenger carriers.

EFFECTIVE DATE: These rules will be effective June 23, 1983.

FOR FURTHER INFORMATION CONTACT:
Public Assistance Branch, (202) 275–7863
James L. Brown, (202) 275–7898
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Section 27 of the Bus Regulatory Reform Act of 1982 ("Bus Act") gives certain preferential rights to those employees of motor passenger carriers who lose their jobs because of discontinuances or reductions in regular-route passenger services in both interstate and intrastate commerce. We proposed rules that would implement this section at 47 FR 53297, November 24, 1982. Section 27 requires a carrier, when it has a position available, to rehire its own laid off employees whose jobs were lost because of a termination or reduction of service authorized by the Bus Act. Section 27 also requires carriers to consider for hiring a person who had worked for any carrier and lost his or her job under the same circumstances. The Commission is required to gather and publish a list of jobs available with class I carriers. The Commission does not, however, have direct enforcement powers under the statute. Commission authority is limited to determining the eligibility of individual employees for protection and publishing a list of available jobs. The rules published on November 24 proposed to implement these responsibilities.

Comments on the proposed rules were filed by American Bus Association [ABA], Greyhound Lines, Inc., the Commission's Office of the Special Counsel, United Transportation Union [UTU], and WMA Interstate Motor Lines, Inc. For the most part, these parties supported the thrust and content of the proposed rules. Each, however, requested clarification of some provisions, and noted areas that needed additional spelling out of rights and obligations. The comments are discussed, in the context of each proposed rule, below.

The applications. We proposed that applications filed under these rules be subject to a $10 filing fee for each individual covered by the application. The Special Counsel and UTU question whether any filing fee is appropriate in these cases. The applicants will be unemployed individuals, to whom any filing fee—no matter how small—can be expected to be a significant economic burden. At the same time, the proposed $10 fee is too low to defray any significant portion of the Commission's processing costs.

We are persuaded that the filing fee should be deleted for these applications. The costs to the Commission of processing applications of this sort will be minimal in comparison with other cases within our jurisdiction. Unemployed individuals should be spared the burden of any minimal processing expenses.

For the same reasons, we will adopt the suggestion of the Special Counsel that applicants not be rquired to sent a copy of the application to any carrier other than the one with whom the applicant was formerly employed. The additional notification of other carriers with whom the individual is seeking employment does not provide enough benefit to balance the burden which would be imposed on the applicant. Other carriers have the duty only to consider eligible individuals for employment—not an obligation to give them priority in hiring—and the individual need only provide the carrier a copy of our certification of eligibility in order to inform the carrier of his or her eligibility. We have also simplified the rules to make it easier for individuals to file their own applications without legal representation.

The Special Counsel also suggested that our rules require that statements submitted in these cases be verified under oath. It argues that, in the absence of a verification requirement, the Commission may find that it is unable to resolve factual controversies where the individual and the carrier present conflicting versions of the circumstances surrounding the termination of the individual's employment. We are not persuaded that the burden which a verification requirement would impose on the individual applicants is warranted in these circumstances. Any potential factual dispute would be no less difficult to resolve simply because the statements had been verified. Accordingly, we will not adopt a verification rquirement. The Special Counsel desires that the Commission undertake special efforts to inform employees of passenger carriers of their rights under Section 27. We are

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considering this suggestion, but note that such an undertaking does not require adoption of procedural rules.

The priority reemployment and consideration rights are, by the terms of the statute, valid only in the occupational specialty of the individual. Greyhound requests that the Commission's certifications of eligibility specify the occupational specialty covered, and ABA suggests that the individual's application be required to identify the occupational specialty.

Although it may develop that there is some ambiguity in the definition of various occupational specialties, we see merit in these suggestions and will incorporate them in the final rules. We do not intend, however, that minor technical discrepancies in the terminologies which might be used to describe an occupational specialty be construed against an individual. Descriptions which have substantially the same meaning are to be considered identical, regardless of the actual wording used.

Hiring from within. Greyhound and ABA question whether "hiring from within" a company is subject to the priority rights of eligible persons. They take the position that when a carrier hires and promotes from within its own employee ranks it is not "hiring additional employees" within the ambit of Section 27 of the Bus Act, and thus the carrier has no duty to consider eligible employees. They note that recall of furloughed employees is not subject to the priority rights, by the explicit terms of the statute. ABA suggests that we incorporate a provision in our regulations to exempt "hiring from within" from coverage of the law.

We agree with this position, but we do not think it necessary or practical to define "hiring additional employees" in the rules. If problems arise in the context of actual cases, we will decide them on a case-by-case basis or, if needed, develop standards or definitions.

Employee qualification. ABA asks whether an individual must remain "qualified" for the job he or she is seeking. It argues that an employer can lawfully require a driver seeking priority reemployment to prove he or she continues to be qualified for the position sought, and suggests the addition of a regulation to that effect. A carrier may, in good faith, require that an individual be currently qualified for a position sought, notwithstanding the priority to which he or she may otherwise be entitled. We do not, however, conclude that it is necessary to incorporate this concept specifically into our procedural rules. Certainly, it is not possible for us to determine the individual's qualifications (particularly for the entire time the determination may be valid). Rather, the carrier's own employment application procedures provide the most appropriate means for the applicant to show his or her conformity with legitimate job qualifications.

Term of eligibility. Several parties ask how long a determination of eligibility for protection is valid. Greyhound suggests a fixed one-year term, subject to a simplified renewal procedure. UTU asserts that an individual should not be required to file a new application each time he or she seeks and is denied reemployment. ABA argues that the priority rights afforded by the statute should terminate once the individual does, in fact, find employment within the individual's occupational specialty.

We conclude that ABA's position on this issue is correct. Once we determine that an individual is eligible for protection, that determination remains effective for as long as it takes for that individual to find reemployment or new employment in his or her occupational specialty (subject to the statutory expiration date of November 18, 1994). It is not intended that the individual file a separate application each time he or she applies for employment with a new carrier; the first determination of eligibility is valid for any number of job applications by that individual with any number of motor passenger carriers. Only when the individual finds reemployment in his or her occupational specialty may the eligibility be considered to be fulfilled and thus at an end. If the individual's new employment is later terminated, the individual could file a new application (if the new employment is with the same carrier and the other criteria for eligibility are again satisfied). In general, once the eligibility has been fulfilled, however, the statutory protection has been satisfied and the eligibility cannot be retained or renewed.

Decision timetable. Both the Special Counsel and UTU ask that our projected timetable for deciding eligibility applications (60 days to issue a decision in unopposed cases; 120 days in contested cases) be shortened. UTU suggests 30 days for an unopposed application and 60 days for a contested application. The Bus Act does not provide deadlines for Comission decisions of eligibility. Nevertheless, we are persuaded that our proposed timetable can be shortened. Accordingly, in the final rules we will provide 30 days for issuing decisions in unopposed cases and 60 days for issuing decisions in contested proceedings.

Selection criteria. UTU suggests that the Commission specify the selection procedure to be used by carriers among job applicants with the same priority eligibility. We find this suggestion to be an inappropriate intrusion into carrier management discretion. Should a pattern of difficulty actually arise in this area that warrants our intervention, we will consider it at that time.

Enforcement power. In our notice of proposed rulemaking, we stated that the statute does not give the Commission direct enforcement power in relation to the priority rights and duties. UTU complains that we are inappropriately trying to avoid enforcement of the statute. UTU argues that the law does not limit the Commission's enforcement power in this area and points to the Commission's power to protect rail employees as an example of a similar enforcement power.

UTU fails to describe the specific enforcement actions it wishes us to take. Clearly, our functions in determining individuals' eligibility are greatly different in scope from those we exercise in connection with railroads. The parallels between the abandonment of rail lines and the discontinuance of regular-route bus services is superficial in this context, because many—if not most—of the bus service reductions which may give rise to priority rights in affected employees will be accomplished by the carriers without the need for a decision by us to authorize such action. More importantly, legal remedies available through the courts provide greater relief for the aggrieved individual than we have the power to fashion, given the confines of our jurisdiction. In the absence of some clear suggestion of a proper and meaningful remedy which we have the power to grant, we are not prepared to undertake further consideration of enforcement powers at this time.

List of available jobs. We proposed that individuals with pending applications for determination of eligibility would receive free copies of the periodical list of available jobs. Special Counsel and UTU suggest that we include all individuals who have been found eligible for protection under the statute; the Special Counsel suggests free copies be sent for six months, while UTU does not indicate any time limitation. We find merit in these suggestions. We will enter a 6 month subscription to the periodical list for each person who has been found eligible for protection by a Commission decision. Upon request, the free six month subscription of an eligible person may be renewed.

Publication schedule. We proposed that the periodical list of available jobs be published on a monthly basis, with the due date for the filing of information by the carriers falling midway between the publication dates. WMA Interstate and ABA raised the concern that a monthly reporting requirement would create an unreasonable paperwork burden. The Special Counsel, on the other hand, argues that the job information which would be contained in a monthly publication would not be timely, since most job opportunities are likely to be filled before the periodical list can be published, no matter how frequently the publication may be scheduled.

Both of these positions have merit, and we will undertake to minimize the burdens of the reporting requirement and make the Commission more responsive to qualified employee needs. We will modify the proposed rules to allow carriers to transmit the job information either orally or in writing. Furthermore, if a carrier does not have any new job opening in a monthly period, it need not transmit a report to the regional office. Reporting will be greatly facilitated by making it a matter between the carrier and the appropriate regional offices of the Commission. The details of the reporting method can be arranged between each carrier and the regional offices so as to be as simple and convenient as possible. The regional offices will transmit the job information to headquarters for preparation of the monthly publication. We stress again that the submission of this information is required only of class I carriers, and creates no burden on smaller carriers.

The Special Counsel advocates that the Commission establish a toll-free telephone number to supply more current job availability information than can be published in the periodical list. We expect that the regional offices which are gathering the job listings will make this information available to interested persons in the regional offices or by telephone. The establishment of a toll-free service would exceed the Commission's available resources at this time. The Commission will monitor the use of the employee protection provisions and propose changes in our rules if they are required.

Energy and Environmental Considerations

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Statement

The notice of proposed rulemaking certified that these rules would not have a significant economic impact on small business. No comments have been received concerning regulatory flexibility issues. We affirm our prior conclusions in this regard.

Index

List of Subjects in 49 CFR Part 1170

Employment, Buses.

It is ordered:

Title 49 of the Code of Federal Regulations is amended by the addition of a new Part 1170 in the manner described in the appendix to this decision.

This decision is issued pursuant to 49 U.S.C. 10321, 5 U.S.C. 553, and Pub. L. 97-261, section 27.

Decided: May 13, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended by adding a new Part 1170, to read as follows:

PART 1170—RULES GOVERNING EMPLOYEE PROTECTION FOR MOTOR PASSENGER CARRIERS

Subpart A—Determination of Eligibility

Sec.

1170.1 General provisions.
1170.2 Filing an application.
1170.3 Contesting the application.
1170.4 Replies and motions.
1170.5 Commission action.
1170.6 Appeals.
1170.7 Miscellaneous.

Subpart B—Lists of Available Jobs

1170.11 Filing of information.
1170.12 Publication of list.

Authority: 49 U.S.C. 10321, 5 U.S.C. 553, and Pub. L. 97-261 § 27.

Subpart A—Determination of Eligibility

§ 1170.1 General provisions.

Section 27 of the Bus Regulatory Reform Act of 1982 is designed to protect employees of bus companies who lose their jobs because of reduction or discontinuance of regular-route bus service. These rules govern applications under Section 27 by individuals seeking a determination of eligibility for protection. To be eligible for protection in the form of priority in seeking reemployment, the individual must establish that he or she worked for a bus company on or before September 20, 1980, and was fired after September 20, 1982, because of a reduction or discontinuance of regular-route bus operations. Furloughed employees who have a right of recall by their employer are not eligible for this protection.

§ 1170.2 Filing an application.

(a) There is no application form. The application may be in the form of a letter or other written statement, typed or written legibly in dark ink.

(b) The top of the first page of the application, should state: "Bus Employment Protection Application".

(c) The application shall include all the evidence upon which the individual intends to rely. (Note: the former employer has the right to contest the facts which are set forth in the application.) The application must, at least, include the following information:

(1) The name and address of the individual;

(2) The name of the motor passenger carrier by whom the individual was employed (giving the carrier's full name and "MC" number, if known);

(3) The dates on which the individual's employment with that carrier began and terminated;

(4) The reasons for the termination;

(5) The specific discontinuance or reduction of regular-route service which caused the termination of employment;

(6) The occupational specialty of the individual; and

(7) The name(s) and address(es) of the applicant's representative(s) (if any), to whom opposition statements and the Commission's decision should be sent.

(d) A copy of the application must be sent to the carrier by whom the individual was employed. Every effort must be made to ensure that the carrier receives this copy at the same time as the application is filed with the Commission. The application shall state that the copy was sent, and the date and manner in which it was sent.

(e) The original and one copy of the application shall be sent to the Interstate Commerce Commission, Office of the Secretary, Washington, DC 20423. The lower left corner of the envelope should state: "Bus Employment Protection Application:", followed by the full name of the applicant. (If the application is made on behalf of more than one individual, list only the name of the first individual, and indicate the number of others.)

(f) An applicant must notify the Commission promptly of any change in his or her address.

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§ 1170.3 Contesting the application.

(a) Any interested party may contest the application by filing a letter or other written statement within 20 days after the application is filed.

(b) A letter or statement contesting an application shall include all the evidence upon which the party contesting the application intends to rely. Evidence must be submitted to show that discontinuance or reduction in service was not a contributing factor causing termination of the applicant's employment, and/or that the applicant or the circumstances are not covered by the statutory criteria.

(c) At the end of the letter or statement, the following must appear:

(1) The name(s) and address(es) of the contesting party or his representative(s) (if any); and

(2) A statement that a copy of the letter or statement has been sent, and the date and means by which it was sent, to the applicant (and to the applicant's representative, if any).

(d) Every effort must be made to ensure that the applicant and/or his representative receives this copy at the same time as the letter or statement is filed with the Commission.

(e) The original and one copy of the letter or statement shall be sent to the Interstate Commerce Commission, Office of the Secretary, Washington, DC 20423. The lower left corner of the envelope, should state: "Bus Employment Protection Opposition:", followed by the full name of the applicant. (If the application was made on behalf of more than one individual, list only the name of the first individual, and indicate the number of others.)

§ 1170.4 Replies and motions.

(a) Applicant may reply to any letter or statement contesting the application within 15 days after the contesting letter or statement is filed. At the end of the reply, applicant must state that a copy of the reply has been sent or delivered to the party contesting the application.

(b) If a party wishes to file a motion relating to any other pleading, the motion must be filed within 15 days after the filing date of the pleading toward which the motion is directed.

§ 1170.5 Commission action.

(a) If no letters or statements are filed contesting the application, service of a decision may be expected within 30 days after the application is filed.

(b) If any interested person files a letter or statement contesting the application, service of a decision may be expected within 60 days after the application is filed.

§ 1170.6 Appeals.

Appeals are governed by 49 CFR 1115.2. Information on appellate procedures can also be obtained from Commission regional and field offices.

§ 1170.7 Miscellaneous.

(a) If an applicant wishes to withdraw an application, of if a person contesting an application wishes to withdraw the opposition, such a request shall be made in writing. The request shall be directed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and shall identify the full name of the applicant.

(b) When a person wishes to contact another party or serve a pleading on that party, it shall do so through the party's representative (if any).

(c) All pleadings filed with the Commission shall include an original and one copy.

Subpart B—List of Available Jobs

§ 1170.11 Filing of information.

(a) Each carrier having annual gross revenues from operations as a motor common carrier of passengers in excess of $3,000,000 shall supply orally or in writing to any regional office of the Commission, a monthly list of jobs it has available. If a carrier has no new job openings in a monthly reporting period, the carrier is not required to transmit a report.

(b) The list must include a job description and identify the job location and the required skills, for each available position.

(c) The list may also be submitted voluntarily by any other motor common carrier of passengers.

§ 1170.12 Publication of list.

The Commission will publish a comprehensive list of available jobs and related information based on the data supplied each month by the carriers.

(a) Information about the published list and updated information on job vacancies will be available at each Commission field and regional office by telephone or personal visit.

(b) A copy of the published list will be mailed to each individual who has a pending application for determination of eligibility for protection. A copy of the list will also be sent directly to each individual who has been found eligible, for a six month period following the Commission's determination of that individual's eligiblity subject to renewal upon the request of the qualified individual.

(c) Additional copies of the published list will be available by paid subscription.

[FR Doc 83-13847 Filed 5-23-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 101
Tuesday, May 24, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

GENERAL ACCOUNTING OFFICE

DEPARTMENT OF JUSTICE

4 CFR Parts 101, 102, 103, 104 and 105

[Order No. 1014-83]

Federal Claims Collection

AGENCIES: General Accounting Office; and Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Federal Claims Collection Standards issued jointly by the Department of Justice and the General Accounting Office to reflect changes to the fundamental claims collection authority made by the Debt Collection Act of 1982 (Pub. L. 97-365), which was enacted on October 25, 1982. The proposed amendment also makes a number of technical changes made necessary because of the recent codification of a number of laws, including the former Federal Claims Collection Act into title 31, U.S.C.

It is therefore necessary to amend the existing Federal Claims Collection Standards in order to reflect the changes made by the Debt Collection Act of 1982, and to offer guidance on the meaning of some ambiguous provisions of the Act.

DATE: Comments must be received by July 25, 1983.

ADDRESS: U.S. General Accounting Office, Office of General Counsel, Associated General Counsel Rollee Efros, Room 7041, 441 G Street, N.W., Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT: Chris Farley, Jr., U.S. General Accounting Office, Accounting and Financial Management Division, Claims Group, (202) 275-8145.

SUPPLEMENTARY INFORMATION: Public Law 97-365, the Debt Collection Act of 1982, was enacted on October 25, 1982. As its legislative history indicates, its primary purpose was to enhance the capability of Federal agencies to collect money or property owed to them by persons as a result of their participation in Federal programs or activities. To this end, Federal agencies were given new or broader authorities to collect debts by administrative offset; by offset against the salary of Federal employees; by encouraging the use of credit bureaus; by specifically authorizing agencies to contract for commercial collection services; and to assess interest, processing and handling costs, and penalty charges, under specified conditions. At the same time, the Act provided a number of new procedures and safeguards, designed to assure that alleged debtors will be provided appropriate due process protections if they dispute the merits of the debt or the amount or terms for its collection.

While the primary responsibility for promulgating detailed implementing regulations lies with each individual Federal agency, their regulations must be consistent with the Federal Claims Collection Standards published jointly by the General Accounting Office and the Department of Justice. It is therefore necessary to amend the existing Federal Claims Collection Standards in order to reflect the changes made by the Debt Collection Act of 1982, and to offer guidance on the meaning of some ambiguous provisions of the Act.

While we are not proposing amendments to all of the Standards at this time but only to those necessary to implement Pub. L. 97-365, we shall consider comments received regarding any of the Standards, whether new, amended or unchanged. The principal changes are as follows:

Collection by Administrative Offset

The term "administrative offset" is defined in the Debt Collection Act as "the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed to the United States by that person." While administrative offset has always been a useful debt collection tool for agencies, exercised by virtue of a common law right to offset debts which is reflected in existing regulations, the new act provides specific procedures which must be followed when exercising this right, to ensure due process protections for the debtor. The procedures, however, do not apply when the debtor is a Federal, State, or local government agency since the Act defines the term "person" as excluding such entities. Finally, the Act permits collection of a claim by administrative offset for a period up to 10 years, even though the 6-year statute of limitations for bringing an action on the claim has expired.

All these new procedures are set forth for guidance of the individual Federal agencies who are required by the Act to issue their own regulations, consistent with these Standards, before attempting to collect claims by administrative offset against persons.

Collection of debts by offset against the current salary of Federal employees is beyond the scope of these Standards. Agencies should be aware that regulations dealing with salary offset under 5 U.S.C. 5514(a) must be approved by the Office of Personnel Management. See 5 U.S.C. 5514(b)(1) and Executive Order 11609, 3 U.S.C. 301 note.

Contracting for Collection Services

While § 102.6 closely follows the requirements of the Act, preliminary questions from some agencies indicated a degree of confusion about whether use of commercial collection organizations to collect debts was authorized, in the absence of specific authority in advance in an appropriation act. This section interprets section 13 of the Act as restricting only the use of contingency fee arrangements in collection contracts with such organizations in the absence of authority in an appropriation act. The authority is necessary to exempt the agency from the requirements of 31 U.S.C. 3302, which would otherwise require all receipts collected from debtors to be deposited, without deductions of any kind, in the miscellaneoous receipts account of the Treasury.

Limitation on Agency Compromise Authority

The law requires that claims which exceed $20,000 can only be compromised by the Department of Justice. This requirement has been interpreted quite literally for many years by Federal agencies, in a manner that serves no useful purpose under the law. The Department of Justice points out that regardless of the overall amount of the claim, if the debtor has offered a sum in compromise that brings the total

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amount still in dispute well below the $20,000 ceiling, referral to the Department of Justice seems completely unnecessary. Section 103.1 reflects this view.

Referrals to Department of Justice or GAO

Section 105.1—In the interest of expediting the collection of claims through litigation, this section makes it clear that prior referral to the General Accounting Office is required only when the claim arose from an audit exception taken by the GAO to an agency expenditure, or when the merits of the claim, the amount owed, or the propriety of accepting a proposed compromise, suspension, or termination of a claim is in doubt.

The existing regulations require referral of uncollectible claims to GAO, unless GAO grants an exception. GAO has liberally authorized exceptions in recent years, and the routine referral of uncollectible claims to GAO has decreased considerably as GAO has worked with the agencies to facilitate direct referrals to the Department of Justice. The proposed regulation recognizes this trend and, with the two exceptions noted, eliminates the requirement for routine referral to GAO. The proposed regulation also instructs agencies to use the "Claims Collection Litigation Report" developed by the Department of Justice and recently distributed to all Federal agencies.

This proposed amendment is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Attorney General certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

List of Subjects

4 CFR Part 101

Antitrust, Claims, Fraud, General Accounting Office, Taxes.

4 CFR Part 102

Administrative practice and procedure, Claims, Military personnel, Penalties, Privacy.

4 CFR Part 103

Claims.

4 CFR Part 104

Claims.

4 CFR Part 105

Claims.

Accordingly, we propose to revise 4 CFR Parts 101–105 as follows:

PART 101—SCOPE OF STANDARDS

Sec.

101.1 Prescription of standards.
101.2 Omissions not a defense.
101.3 Fraud, antitrust, and tax claims excluded.
101.4 Compromise, waiver, or disposition under other statutes not precluded.
101.5 Conversion claims.
101.6 Subdivision of claims not authorized.
101.7 Required administrative proceedings.
101.8 Referral of litigation.

Authority: 31 U.S.C. 3711

§ 101.1 Prescription of standards.

The regulations in this chapter, issued jointly by the Comptroller General of the United States and the Attorney General of the United States under 31 U.S.C. 3711(e)(2), prescribe standards for the administrative collection, compromise, termination of agency collection, and the referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims as defined by 31 U.S.C. 3701(b), by the Federal Government for money or property. Additional guidance is contained in Title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. Regulations prescribed by the head of an agency pursuant to 31 U.S.C. 3711(e)(1) will be reviewed by the General Accounting Office as part of its audit of the agency's activities.

§ 101.2 Omissions not a defense.

The standards set forth in this chapter shall apply to the administrative handling of civil claims of the Federal Government for money or property but the failure of an agency to comply with any provision of this chapter shall not be available as a defense to any debtor.

§ 101.3 Fraud, antitrust, and tax claims excluded.

The standards set forth in this chapter do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on conduct in violation of the antitrust laws. Only the Department of Justice has authority to compromise or terminate collection action on such claims. However, matters submitted to the Department of Justice for consideration without compliance with the regulations in this chapter because there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, may be returned to the agency forwarding them for further handling in accordance with the regulations in this chapter if it is determined that action based upon the alleged fraud, false claim, or misrepresentation is not warranted. Tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply, are also excluded from the coverage of this chapter.

§ 101.4 Compromise, waiver, or disposition under other statutes not precluded.

Nothing contained in this chapter is intended to preclude agency disposition of any claim under statutes other than subchapter II of chapter 37 of Title 31 of the United States Code, providing for the compromise, termination of collection action, or waiver in whole or in part of such a claim. See, *e.g.*, "The Federal Medical Care Recovery Act," 76 Stat. 593, 42 U.S.C. 2651 *et seq.*, and applicable regulations, 28 CFR 43.1 *et seq.* The standards set forth in this chapter should be followed in the disposition of civil claims by the Federal Government by compromise or termination of collection action (other than by waiver pursuant to statutory authority) under statutes other than subchapter II of chapter 37 of Title 31 of the United States Code, to the extent such other statutes or authorized regulations issued pursuant thereto do not establish standards governing such matters.

§ 101.5 Conversion claims.

The instructions contained in this chapter are directed primarily to the recovery of money on behalf of the Government and the circumstances in which Government claims may be disposed of for less than the full amount claimed. Nothing contained in this chapter is intended, however, to deter an agency from demanding the return of specific property or from demanding, in the alternative, either the return of property or the payment of its value.

§ 101.6 Subdivision of claims not authorized.

Claims may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered a single claim in determining whether the claim is one of less than $20,000, exclusive of interest, penalties, and administrative costs, for purposes of suspension or termination of collection action (§ 104.1 of this chapter), or in determining the applicability of the $20,000 limit with respect to compromise (§ 103.1 of this chapter).

§ 101.7 Required administrative proceedings.

Nothing contained in this chapter is intended to require an agency to omit or foreclose administrative proceedings required by contract or by law.

§ 101.8 Referral for litigation.

As used in this chapter, "referral for litigation" means referral to the Department of Justice for appropriate legal proceedings, unless the agency concerned has statutory authority for handling its own litigation.

PART 102—STANDARDS FOR THE ADMINISTRATIVE COLLECTION OF CLAIMS

Sec.

102.1 Aggressive agency collection action.
102.2 Demand for payment.
102.3 Collection by administrative offset.
102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund and similar funds.
102.5 Use of consumer reporting agencies.
102.6 Contracting for collection services.
102.7 Personal interview with debtor.
102.8 Contact with debtor's employing agency.
102.9 Suspension or revocation of license or eligibility.
102.10 Liquidation of collateral.
102.11 Collection in installments.
102.12 Exploration of compromise.
102.13 Interest, penalties, and administrative costs.
102.14 Analysis of costs.
102.15 Documentation of administrative collection action.
102.16 Automation.
102.17 Prevention of overpayments, delinquencies, and defaults.
102.18 Use and disclosure of mailing addresses.
102.19 Exemptions.
102.20 Additional administrative collection action.

Authority: Subchapter II of chapter 37 of Title 31, United States Code.

§ 102.1 Aggressive agency collection action.

(a) The head of an agency or his designee shall take aggressive action, on a timely basis with effective followup, to collect all claims of the United States for money or property arising out of the activities of, or referred to, his agency in accordance with the standards set forth in this chapter. However, nothing contained in this chapter is intended to require the General Accounting Office or the Department of Justice to duplicate collection actions previously undertaken by any other agency, or to perform collection actions which should have been undertaken by any other agency in accordance with the standards set forth in this chapter.

(b) All agencies are expected to cooperate with one another in their debt collection activities.

§ 102.2 Demand for payment.

(a) Appropriate written demands shall be made upon a debtor of the United States in terms which inform the debtor of the consequences of his failure to cooperate. Three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that further demand would be futile and the debtor's response does not require rebuttal. However, in determining the timing of demand letters, agencies should give due regard to the need to act promptly so that ordinarily referrals to the Department of Justice for litigation are made within 6 months of the agency's final determination of the fact and the amount of the debt. Written demand may be waived where necessary to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring).

(b) The initial notification should inform the debtor of (1) the basis for the indebtedness, (2) the applicable requirements for assessing interest, administrative costs, and penalties (§ 102.13), and (3) the date by which payment is to be made, which normally should be not more than 30 days from the date of the initial notification. Apart from this, there is no prescribed format for the demand letters. Agencies should utilize demand letters and demand procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for legal action. As appropriate to the circumstances, agencies may consider including, either in the initial letter or in subsequent letters, such items as the agency's willingness to discuss alternative methods of payment, policies with respect to use of consumer reporting agencies (§ 102.5) and collection services (§ 102.6), the agency's intentions with respect to referral of the debt to the Department of Justice for litigation and, depending on agency policy and legal requirements, the debtor's entitlement to consideration of waiver.

(c) Agencies should respond promptly to communications from the debtor, and should advise debtors who dispute the debt to furnish available evidence to support their contentions.

(d) If an agency determines, either prior to the initiation of or during the demand cycle, that collection by offset is feasible, then the procedures specified in § 102.3 or § 102.4, as applicable, should be followed.

§ 102.3 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these standards and implementing regulations established by the head of each agency on claims which are liquidated or certain in amount in every instance in which this is feasible and not otherwise prohibited. For purposes of this section, the term "administrative offset" has the meaning provided in 31 U.S.C. 3701(a)(1).

(b) When collecting debts by administrative offset under the authority of 31 U.S.C. 3716, the standards in this paragraph shall apply.

(1) Agencies shall prescribe regulations for the exercise of administrative offset.

(2) At a minimum, agency regulations shall establish procedures for providing a debtor, before the offset is made, with full due process rights prescribed by 31 U.S.C. 3716, including: written notice of the nature and amount of the debt and the agency's intention to collect by offset; opportunity to inspect and copy agency records pertaining to the debt; opportunity to obtain review within the agency of the determination of indebtedness; and opportunity to enter into a written agreement with the agency to repay the debt.

(3) Agencies may not inititate administrative offset to collect a debt under this subsection more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts.

(4) The procedures set forth in this paragraph do not apply to debts owed by agencies of the United States or by any State or local government, nor do

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they apply in any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

(c) When collecting debts by offset under any other statutory authority, agencies shall provide to the debtor such notice and opportunity to be heard as are prescribed in the governing statute or in regulations implementing that statute.

(d) Appropriate use should be made of the cooperative efforts of other agencies in effecting collections by offset, including use of the Army Holdup List.

(e) Collection by offset against a judgment obtained by the debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the agency holding the debt is not the agency which is responsible for making the payment against which administrative offset is sought the latter agency shall not initiate the requested administrative offset until it has been provided by the agency holding the debt with an appropriate written certification that the debtor owes a debt (including the amount and basis of the debt and the date on which payment is or was due) and that the provisions of this section have been fully complied with.

§ 102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund, and similar funds.

(a) Unless otherwise prohibited by law, agencies may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund, or other similar funds, be administratively offset in reasonable amounts in order to collect debts owed to the United States by that debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management, or of other administering agencies as appropriate.

(b) When making a request for administrative offset under paragraph (a) of this section, an agency shall include a written certification that:

(1) The debtor owes the United States a debt, including the amount and basis of the debt, and the date on which payment is or was due;

(2) The requesting agency has complied with the applicable statutes, regulations, and procedures of the agency that administers the fund or program against which administrative offset is sought;

(3) The requesting agency has complied with the requirements of § 102.3 of this chapter; and

(4) If the debtor requested waiver or review of the indebtedness, the requesting agency has accorded him a reasonable opportunity for a pre-offset hearing in accordance with this section.

(c) Agencies shall accord the debtor a reasonable opportunity for a pre-offset oral hearing when (1) the debtor requests waiver of the indebtedness and the waiver determination turns on an issue of credibility or veracity, or (2) the debtor requests reconsideration of the debt and the head of the agency or his designee determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity.

(d) Paragraph (c) of this section does not require pre-offset oral hearings with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and where the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, the agency is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity.

(e) In cases where a pre-offset oral hearing is not required, the agency shall nevertheless accord the debtor a "pre-offset paper hearing," that is, the agency will make its determination on the request for waiver or reconsideration based upon a review of the written record.

(f) This section does not require or authorize the Office of Personnel Management, or other administering agency, to review the merits of the requesting agency's determination with respect to the amount and validity of the debt or the determination to provide or not provide a pre-offset oral hearing.

§ 102.5 Use of consumer reporting agencies.

(a) Agencies shall develop and implement procedures for reporting delinquent debts to consumer reporting agencies. For purposes of this section:

(1) The term "consumer reporting agency" has the meaning provided in 31 U.S.C. 3701(a)(3); and,

(2) A debt is considered delinquent if it has not been paid by the date specified in the agency's initial written notification (§ 102.2), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the creditor agency.

(b) In developing procedures under paragraph (a) of this section, agencies must have due regard for compliance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a. However, consumer reporting agencies themselves are not subject to the privacy Act.

(c) Agency procedures developed under paragraph (a) of this section shall be consistent with the requirements of 31 U.S.C. 3711(f).

§ 102.6 Contracting for collection services.

(a) All agencies have authority to contract for collection services, provided that the following conditions are satisfied:

(1) The authority to resolve disputes, compromise claims, terminate collection action, and refer the matter for litigation (§ 105.1) must be retained by the agency;

(2) The contractor shall be subject to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692; and

(3) The contractor must be required to account strictly for all amounts collected.

(b) If and to the extent provided in advance in appropriation acts, agencies may include, as part of a collection service contract, a provision permitting the contractor to deduct his fee from amounts collected under the contract. The fee may be based on a percentage of the amount collected, consistent with prevailing commercial practice. If an agency has not received advance authority in its appropriation act or other legislation, then, unless otherwise specifically provided by law, it must deposit all amounts recovered under collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts, pursuant to 31 U.S.C. 3302, and may pay for collection service contracts only by using available agency appropriations.

§ 102.7 Personal interview with debtor.

Agencies will undertake personal interviews with their debtors when this is feasible, having regard for the amounts involved and the proximity of agency representatives to such debtors.

§ 102.8 Contact with debtor's employing agency.

When a debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the employing agency will be contacted for the purpose of arranging with the debtor for payment of the indebtedness by allotment or otherwise in accordance with section 206 of Executive Order 11222 of May 8, 1965, 30 FR 6469.

§ 102.9 Suspension or revocation of license or eligibility.

Agencies seeking the collection of statutory penalties, forfeitures, or debts provided for as an enforcement aid or for compelling compliance will give serious consideration to the suspension or revocation of licenses or other privileges for any inexcusable, prolonged or repeated failure of a debtor to pay such a claim and the debtor will be so advised. Any agency making, guaranteeing, insuring, acquiring, or participating in loans will give serious consideration to suspending or disqualifying any lender, contractor, broker, borrower or other debtor from doing further business with it or engaging in programs sponsored by it if such a debtor fails to pay its debts to the Government within a reasonable time and the debtor will be so advised. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 is to be reported to the Treasury Department at once. Notification that a surety's certificate of authority to do business with the Federal Government has been revoked or forfeited by the Treasury Department will be forwarded by that Department to all interested agencies.

§ 102.10 Liquidation of collateral.

An agency holding security or collateral which may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure should do so by such procedures if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

§ 102.11 Collection in installments.

Claims, with interest in accordance with § 102.13, should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. The size and frequency of such installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $25 per month should be accepted in only the most unusual circumstances. An agency holding an unsecured claim for administrative collection should attempt to obtain an executed confess-judgment note, comparable to the Department of Justice form USA-70a, from a debtor when the total amount of the deferred installments will exceed $750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. Security for deferred payments, other than a confess-judgment note, may be accepted in appropriate cases. An agency may accept installment payments notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security, at the agency's option.

§ 102.12 Exploration of compromise.

Agencies will attempt to effect compromise (preferably during the course of personal interviews), in accordance with the standards set forth in Part 103 of this chapter in all cases in which it can be ascertained that the debtor's financial ability will not permit payment of the claim in full, or in which the litigative risks or the costs of litigation dictate such action.

§ 102.13 Interest, penalties, and administrative costs.

(a) Except as provided in paragraph (h) of this section, agencies shall assess interest, penalties, and administrative costs on debts being collected under this chapter. Before assessing these charges, an agency must mail or hand-deliver a written notice to the debtor explaining the agency's requirements concerning the charges (§ 102.2).

(b) Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor (on or after October 25, 1982), using the most current address that is available to the agency. If an agency uses an "advance billing" procedure—that is, if it mails a bill before the debt is actually owned—it can include the required interest notification in the advance billing, but interest may not start to accrue before the debt is actually owed.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (*i.e.*, the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the **Federal Register** and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. An agency may assess a higher rate of interest if it reasonably determines that a higher rate is neccessary to protect the interests of the United States. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the agency may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest should not be assessed on interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

(d) An agency shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt—that is, the additional costs incurred in processing and handling the debt because it became delinquent. For purposes of this paragraph, the term "delinquent" has the same meaning as provided in § 102.5(a)(2). Calculation of administrative costs should be based upon actual costs incurred or upon cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency.

(e) An agency shall assess a penalty charge, not to exceed 6 percent a year, on any portion of a debt that is delinquent, as defined in § 102.5(a)(2), for more than 90 days.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(g) An agency shall waive the collection of interest if the debt is paid within 30 days after the date on which interest began to accrue. An agency may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, an agency may waive the collection of interest, penalties, and administrative costs assessed under this section under the criteria specified in Part 103 of this chapter relating to the compromise of

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claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience or not in the best interests of the United States. Waiver under the first sentence of this paragraph is mandatory. Under the second and third sentences, it may be exercised only in accordance with regulations issued by the agency identifying the standards and appropriate circumstances for waiver.

(h) Interest, penalty, and administrative cost charges under this section shall not apply:

(1) To debts owed by any agency of the United States or of any State or local government;

(2) To debts arising under contracts which were executed prior to, and were in effect on, October 25, 1982; and

(3) To debts where an applicable statue, a regulation required by statute, a loan agreement, or a contract, either prohibits such charges or explicitly fixes the charges that apply to the debts involved.

§ 102.14 Analysis of costs.

Agency collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection program, and in determining appropriate charges for administrative costs under § 102.13(d)

§ 102.15 Documentation of administratvie collection action.

All administrative collection action shall be documented and the bases for compromise, or for termination or suspension of collection action, should be set out in detail. Such documentation shall be retained in the appropriate claims file.

§ 102.16 Automation.

Agencies should automate their debt collection operations to the extent it is cost effective and feasible.

§ 102.17 Prevention of overpayments, delinquencies, and defaults.

Agencies should establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed.

§ 102.18 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt under this chapter, and agency may send a written request to the Secretary of the Treasury or his designee in order to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) An agency may disclose a mailing address obtained under subsection (a) of this section to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts under this chapter, except that a mailing address may be disclosed to a consumer reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) Each agency shall ensure, by appropriate regulations and contract administration, that the agency and its agents, including consumer reporting agencies and collection service contractors, comply with the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

§ 102.19 Exemptions.

(a) The preceding sections of this Part, to the extent they reflect authority newly granted by Pub. L. 97–365, such as administrative offset (§ 102.3), use of consumer reporting agencies (§ 102.5), contracting for collection services (§ 102.6), and interest, penalties, and administrative costs (§ 102.13), do not apply to claims or debts arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States.

(b) This section should not be construed as prohibiting use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in the preceding paragraph unless the debt "arose under" those laws.

§ 102.20 Additional administrative collection action.

Nothing contained in this chapter is intended to preclude the utilization of any other administrative remedy which may be available.

PART 103—STANDARDS FOR THE COMPROMISE OF CLAIMS

Sec.
103.1 Scope and application.
103.2 Inability to pay.
103.3 Litigative probabilities.
103.4 Cost of collecting claim.
103.5 Enforcement policy.
103.6 Joint and several liability.
103.7 Settlement for a combination of reasons.
103.8 Further review of compromise offers.
103.9 Restrictions.

Authority: 31 U.S.C. 3711.

§ 103.1 Scope and application.

The standards set fourth in this part apply to the compromise of claims, pursuant to 31 U.S.C. 3711. The head of an agency or his designee may exercise such compromise authority with respect to claims for money or property arising out of the activities of his agency where the difference between the amount offered in settlement by the debtor and the amount owed to the Government, exclusive of interest, penalties, and administrative costs, does not exceed $20,000, prior to the referral of such claims to the General Accounting Office or to the Department of Justice for litigation. The Comptroller General or his designee may exercise such compromise authority with respect to claims referred to the General Accounting Office prior to their further referral for litigation. Only the Comptroller General or his designee may effect the compromise of a claim that arises out of an exception made by the General Accounting Office in the account of an accountable officer, including a claim against the payee, prior to its referral by that Office for litigation.

§ 103.2 Inability to pay.

(a) A claim may be compromised pursuant to this part if the Government cannot collect the full amount because of (1) the debtor's inability to pay the full amount within a reasonable time, or (2) the refusal of the debtor to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings.

(b) In determining the debtor's inability to pay, the following factors, among others, may be considered:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income which may be realized upon by enforced collection proceedings.

(c) The agency will give consideration to the applicable exemptions available to the debtor under State and Federal law in determining the Government's ability to enforce collection. Uncertainty as to the price which collateral or other property will bring at forced sale may properly be considered in determining the Government's ability to enforce collection. A compromise effected under this section should be for an amount which bears a reasonable relation to the amount which can be recovered by enforced collection procedures, having regard for the exemptions available to the debtor and the time which collection will take.

(d) Compromises payable in installments are to be discouraged. However, if payment of a compromise by installments is necessary, an agreement for the reinstatement of the prior indebtedness less sums paid thereon and acceleration of the balance due upon default in the payment of any installment should be obtained, together with security in the manner set forth in § 102.11 of this chapter, in every case in which this is possible.

(e) If the agency's files do not contain reasonably up-to-date credit information as a basis for assessing a compromise proposal, such information may be obtained from the individual debtor by obtaining a statement executed under penalty of perjury showing the debtor's assets and liabilities, income and expenses. Forms such as Department of Justice Form DJ 35 may be used for this purpose. Similar data may be obtained from corporate debtors by resort to balance sheets and such additional data as seems required.

§ 103.3 Litigative probabilities.

A claim may be compromised pursuant to this Part if there is a real doubt concerning the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or a *bona fide* dispute as to the facts. The amount accepted in compromise in such cases should fairly reflect the probability of prevailing on the legal question involved, the probabilities with respect to full or partial recovery of a judgment, paying due regard to the availability of witnesses and other evidentiary support for the Government claim, and related pragmatic considerations. Proportionate weight should be given to the probable amount of court costs which may be assessed against the Government if it is unsuccessful in litigation, with regard to the litigative risks involved. See 28 U.S.C. 2412.

§ 103.4 Cost of collecting claim.

A claim may be compromised pursuant to this Part if the cost of collecting the claim does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, paying heed to the the time which it will take to effect collection. Costs of collecting may be a substantial factor in the settlement of small claims. The cost of collecting claims normally will not carry great weight in the settlement of large claims.

§ 103.5 Enforcement policy.

Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised pursuant to this Part if the agency's enforcement policy in terms of deterrence and securing compliance, both present and future, will be adequately served by acceptance of the sum to be agreed upon. Mere accidental or technical violations may be dealt with less severely than willful and substantial violations.

§ 103.6 Joint and several liability.

When two or more debtors are jointly and severally liable, collection action will not be withheld against one such debtor until the other or others pay their proportionate shares. The agency should not attempt to allocate the burden of paying such claims as between the debtors but should proceed to liquidate the indebtedness as quickly as possible. Care should be taken that compromise with one such debtor does not release the agency's claim against the remaining debtors. The amount of a compromise with one such debtor shall not be considered a precedent or as morally binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

§ 103.7 Settlement for a combination of reasons.

A claim may be compromised for one or for more than one of the reasons authorized in this part.

§ 103.8 Further review of compromise offers.

If an agency holds a debtor's firm written offer of compromise which is substantial in amount and the agency is uncertain as to whether the offer should be accepted, it may refer the offer, the supporting data, and particulars concerning the claim to the General Accounting Office or to the Department of Justice, The General Accounting Office or the Department of Justice may act upon such an offer or return it to the agency with instructions or advice.

§ 103.9 Restrictions.

Neither a percentage of a debtor's profits nor stock in a debtor corporation will be accepted in compromise of a claim. In negotiating a compromise with a business concern, consideration should be given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

PART 104—STANDARDS FOR SUSPENDING OR TERMINATING COLLECTION ACTION

Sec.
104.1 Scope and application.
104.2 Suspension of collection activity.
104.3 Termination of collection activity.
104.4 Transfer of claims.

Authority: 31 U.S.C. 3711(a)(3)

§ 104.1 Scope and application.

The standards set forth in this part apply to the suspension or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $20,000, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. The head of an agency or his designee may suspend or terminate collection action under this part with respect to claims for money or property arising out of activities of his agency prior to the referral of such claims to the General Accounting Office or to the Department of Justice for litigation. The Comptroller General or his designee may exercise such authority with respect to claims referred to the General Accounting Office prior to their further referral for litigation.

§ 104.2 Suspension of collection activity.

(a) Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, having consideration for its size and the amount which may be realized thereon. The following sources may be of assistance in locating missing debtors: Telephone directories; city directories; postmasters; drivers' license records; automobile title and license records; state and local governmental agencies; the Internal Revenue Service (§ 102.18 of this chapter); other Federal agencies; employers, relatives, friends; credit agency skip locate reports, and credit bureaus. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Every reasonable effort should be made to locate missing debtors sufficiently in advance of the bar of the applicable statute of limitations, such as 28 U.S.C. 2415, to permit the timely filing of suit if such action is warranted. If the missing

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debtor has signed a confess-judgment note and is in default, referral of the note for the entry of judgment should not be delayed because of his missing status.

(b) Collection action may also be suspended temporarily on a claim when the debtor owns no substantial equity in reality and is unable to make payments on the Government's claim or effect a compromise thereof at the time but his future prospects justify retention of the claim for periodic review and action, and:

(1) The applicable statute of limitations has been tolled or started running anew, or

(2) Future collection can be effected by offset, notwithstanding the statute of limitations, with due regard to the 10-year limitation prescribed by 31 U.S.C. 3716(c)(1), or

(3) The debtor agrees to pay interest on the amount of the debt on which collection action has been temporarily suspended at the time he has agreed to pay the debt, and such temporary suspension is likely to enhance the debtor's ability to pay the debt in full, with interest, at a later time.

(c) Collection action may also be suspended pending agency action on requests for administrative review or waiver based upon appropriate consideration by the agency head or his designee, on a case-by-case basis, as to whether:

(1) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(2) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail;

(3) Collection of the debt will cause undue hardship; and

(4) The applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected, should the agency act favorably on the debtor's request.

§ 104.3 Termination of collection activity.

The head of an agency or his designee may terminate collection activity and consider the agency's file on the claim closed under the following standards:

(a) *Inability to collect any substantial amount.* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay, the following factors, among others, may be considered: Age and health of the debtor; present and potential income; inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; the availability of assets or income which may be realized by enforced collection proceedings.

(b) *Inability to locate debtor.* Collection action may be terminated on a claim when the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, is too remote to justify retention of the claim.

(c) *Cost will exceed recovery.* Collection action may be terminated on a claim when it is likely that the cost of further collection action will exceed the amount recoverable thereby.

(d) *Claim legally without merit.* Collection action should be terminated on a claim whenever it is determined that the claim is legally without merit.

(e) *Claim cannot be substantiated by evidence.* Collection action should be terminated when it is determined that the evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.

§ 104.4 Transfer of claims.

When an agency has doubt as to whether collection action should be suspended or terminated on a claim, it may refer the claim to the General Accounting Office for advice. When a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as the suspension or revocation of a license or the privilege of participating in a Government sponsored program, an agency may refer such a claim for litigation even though termination of collection activity might otherwise be given consideration under § 104.3(a) or (c). Claims on which an agency holds a judgment by assignment or otherwise will be referred to the Department of Justice for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this Part, unless the agency concerned has statutory authority for handling its own litigation.

PART 105—REFERRALS TO DEPARTMENT OF JUSTICE OR GAO

Sec.

105.1 Prompt referral.
105.2 Current address of debtor.
105.3 Credit data.
105.4 Report of prior collection actions.
105.5 Preservation of evidence.
105.6 Minimum amount of referrals to the Department of Justice.
105.7 Preliminary referrals to GAO.

Authority: 31 U.S.C. 3711.

§ 105.1 Prompt referral.

(a) Except as provided in paragraphs (b) and (c) of this section, claims on which aggressive collection action has been taken in accordance with Part 102 of this chapter and which cannot be compromised, or on which collection action cannot be suspended or terminated, in accordance with Parts 103 and 104 of this chapter, shall be promptly referred to the Department of Justice for litigation. Referrals should be made as early as possible, consistent with aggressive agency collection action and the observance of the regulations contained in this chapter, and in any event, well within the period for bringing a timely suit against the debtor. Ordinarily, referrals should be made within 6 months of the agency's final determination of the fact and the amount of the debt.

(b) Claims arising from audit exceptions taken by the General Accounting Office to payments made by agencies must be referred to the General Accounting Office for review and approval, prior to referral to the Department of Justice for litigation, in accordance with 31 U.S.C. 3702, unless the agency concerned has been granted an exception by the General Accounting Office.

(c) When the merits of the Government's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the agency concerned should refer the matter to the General Accounting Office for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) The Claims Collection Litigation Report (CCLR), which was officially implemented by the General Accounting Office on January 20, 1983, shall be used to refer all administratively uncollectible claims either to the Department of Justice for litigation and enforced collection or to the General Accounting Office.

§ 105.2 Current address of debtor.

Referrals to the Department of Justice for litigation will be accompanied by the current address of the debtor or the name and address of the agent for a corporation upon whom service may be made. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice for the institution of foreclosure or other proceedings, in which the current address of any party is unknown, will be accompanied by a listing of the prior known addresses of such a party and a statement of the steps taken to locate him.

§ 105.3 Credit data.

(a) Claims referred to the Department of Justice for litigation will be accompanied by reasonably current credit data indicating that there is a reasonable prospect of effecting enforced collections from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(b) Such credit data may take the form of: (1) A commercial credit report, (2) an agency investigative report showing the debtor's assets and liabilities and his income and expenses, (3) the individual debtor's own financial statement executed under penalty of perjury reflecting his assets and liabilities and his income and expenses, or (4) an audited balance sheet of a corporate debtor.

(c) Such credit data may be omitted if: (1) A surety bond is available in an amount sufficient to satisfy the claim in full, (2) the forced sale value of the security available for application to the Government's claim is sufficient to satisfy its claim in full, (3) the referring agency wishes to liquidate loan collateral through judicial foreclosure but does not desire a deficiency judgment, (4) the debtor is in bankruptcy or receivership, or (5) the debtor's liability to the Government is fully covered by insurance, in which case the agency will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage.

§ 105.4 Report of prior collection actions.

A checklist or brief summary of the actions previously taken to collect or compromise a claim will be forwarded with the claim upon its referral to the Department of Justice. If any of the administrative collection actions enumerated in Part 102 of this Chapter have been omitted, the reason for their omission must be given with the referral. The Department of Justice may return or retain claims at it option when there is insufficient justification for th omission of one or more of the administrative collection actions enumerated in Part 102 of this chapter.

§ 105.5 Preservation of evidence.

Care will be taken to preserve all files, records, and exhibits on claims referred or to be referred to the Department of Justice for litigation.

§ 105.6 Minimum amount of referrals to the Department of Justice.

Agencies will not refer claims of less than $600, exclusive of interest, penalties, and administrative costs, for litigation unless: (a) Referral is important to a significant enforcement policy or (b) the debtor has not only the clear ability to pay the claim but the Government can effectively enforce payment, having due regard for the exemptions available to the debtor under State or Federal law and the judicial remedies available to the Government.

§ 105.7 Preliminary referrals to GAO.

Preliminary referrals of claims to the General Accounting Office, as required by § 105.1 (b) and (c), will be in accordance with instructions, including monetary limitations, contained in the General Accounting Office Policy and Procedures Manual for the Guidance of Federal Agencies, and the provisions of § 105.2 through § 105.5.

Dated: May 19, 1983.

Charles A. Bowsher,

Comptroller General of the United States.

Dated: May 20, 1983.

William French Smith,

Attorney General of the United States.

[FR Doc. 83-13977 Filed 5-23-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

Amdt. 251

Food Stamp Program, Work Registration, Job Search, and Voluntary Quit

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the Food Stamp Program's work registration, job search and voluntary quit provisions in accordance with the 1981 Food Stamp Act Amendments and the Food Stamp Act Amendments of 1982. As required by the 1981 Food Stamp Act Amendments, the rule proposes disqualifying participating households whose primary wage earners voluntarily quit their jobs, denying food stamp participation to households containing a member who failed to comply with comparable work registration requirements in the Work Incentive Program or unemployment compensation programs, as well as other changes. As required by the Food Stamp Act Amendments of 1982, the rule lengthens the disqualification period for noncompliance from 60 to 90 days; allows State agencies an option to apply job search requirements at the time of application; and requires the second parent in a household where there is another able-bodied parent subject to work requiremtns to register for work when the youngest child reaches six. The rule also proposes changes in the Program intended to simplify the administration of the work registration and job search procedures and to allow State agencies more flexibility in administering these procedures. In addition, the rule proposes that State welfare agencies advise and monitor work registrants in their search for jobs. This change is intended to give State agencies more flexibility and control in administering the work registration and job search requirements of the Food Stamp Act.

DATES: Comments on the proposed rulemaking must be received on or before July 25, 1983, to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions contained in this proposed rule have been approved by the Office of Management and Budget. (OMB approval numbers: 0584-0246.)

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Classification

This rule has been reviewed under Executive Order No. 12291 and Secretary's Memorandum No. 1512–1. This action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individuals, Federal, State or local governments, or geographical regions. The proposed action will result in an increase in costs to State agencies due to the requirement that they monitor work registrants in their search for jobs. The administration of job search activities was previously done by the Dpartment of Labor (DOL). We estimate that under DOL administration the cost of operating job search in Fiscal Year 1982 would have been $75 million. As this proposed action includes only the requirements and procedures for monitoring job search and as State agencies will assume 50% of the costs, the transfer of this function to State agencies will not result in a major cost shift to State agencies. The proposed action would reduce federal costs by temporarily disqualifying households who fail to comply with particular work requirements, and by limiting the exemptions from work registration. Additionally, this rule will not have significant effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has determined that this rule is not major.

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert Leard, Acting Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant impact on a substantial number of small entities. This action would disqualify food stamp households who fail to comply with specific additional work requirements and would amend certain work registration procedures and exemptions. State and local welfare agencies will be affected to the extent that they administer the Program. Those most affected will be potential and current participants who are or would be required to register and search for work as a condition of food stamp eligibility.

Work requirements

This rule proposes significant modifications in the area of work registration and job search. To place these changes in context, it is helpful to review the Food Stamp Program's work requirements. The work requirements consist of two separate components. The first, work registration/job search, encompasses the following requirements: (1) Registering for work at time of application and once every twelve months; (2) reporting to and cooperating with the State agency administering the work registration requirements; (3) conducting job search, i.e., contacting a designated number of employers and attending periodic follow-up reviews; (4) accepting and continuing suitable employment; and (5) not voluntarily quitting a job without good cause. These requirements must be complied with by Program applicants and participants not otherwise exempt in order to maintain eligibility for the Program and are the subject of this proposed rule.

The second component of the Food Stamp Program's work requirements is workfare, an optional program for State agencies and political subdivisions which actually places work registrants in assigned jobs. Details of workfare can be found in the **Federal Register** of October 8, 1982.

The Department of Health and Human Services has similar work requirements for the Aid to Families with Dependent Children Program (AFDC). Work registration in the Food Stamp Program is paralleled in AFDC by the Work Incentive Program (WIN). Win participation satisfies the Food Stamp Program work registration requirement. Workfare is paralleled in AFDC by the Community Work Experience Program (CWEP).

State agency operated work registration and job search

Section 6(d) of the Food Stamp Act of 1977, as amended, requires work registrants to "fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary." In light of State Employment Service Agencies' (SESA's) expertise in interviewing and placing job applicants, the Department had contracted with DOL to have SESA's assist work registrants in carrying out their job search responsibilities. The Department has assumed the full cost of funding SESA administered job search activities. In addition, section 6 required that to the extent SESA's are involved in these activities, the Department should issue regulations on work registration/job search jointly with DOL. Section 160 of the 1982 Food Stamp Amendments (Pub. L. 97–253, 96 Stat. 763, September 28, 1982) removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor. This section also eliminates the requirement that food stamp work registration rules be patterned after those issued for WIN. Given these statutory changes, the Department is proposing to change the way the work registration requirements are administered. The responsibility for carrying out job search activities would continue to be that of food stamp work registrants in conducting these activities. The Department believes this change will be more successful and cost effective in producing jobs for work registrants, and will give State agencies more flexibility and an opportunity to take greater control in registering work eligibles and advising them in finding employment. The deletion of the requirement to issue regulations jointly with DOL facilitates the Department's plans to allow State flexibility in administering work registration and monitoring job search activities, potentially through agencies other than Labor Department supervised SESA's.

The deletion of the requirement that work registration rules be patterned after WIN rules does not alter the need to make food stamp work registration requirements as consistent as possible with WIN requirements. Indeed, consistency with WIN will be increasingly important as certain food stamp work registration/job search functions are assumed by State agencies which are now handling similar functions for their public assistance containing WIN registrants.

This proposed rule would have State agencies advise and monitor work registrants in their job search. The proposal would adopt many of the procedures currently used by the SESA's to administer job search. To understand the rationale for these procedures, it may thus be helpful to refer to the Department's rules on job search published in the January 16, 1981 **Federal Register** (46 FR 4622).

Work registration

Record of registration. Because State agencies would no longer be required to forward work registration forms containing information about registrants to the SESA's the Department believes it is no longer necessary to mandate use of a specific registration form. State agencies should be able to record and keep track of employment related information about registrants by annotating application forms or work sheets, or by utilizing a form of their own design. The applicant may complete work registration records for

other household members. However, the initial record of registration must contain the applicant's signature stating that he or she agrees to explain to the registered members of the household their work requirements and the consequences of failure to comply. The Department believes that the signature of the applicant signifies an acknowleged awareness of the work responsibilities. Because the Food Stamp Act requires a 12 month work registration period the proposal specifies that household members would be registered when an identifiable, signed, work registration form is submitted to the State agency or when the signed registration of these members is otherwise annotated or recorded.

Reregistration for employment. Current rules at 273.7(a) require households who are not exempt by § 273.7(b)(1) to register for employment at the time of application and once every six months after initial registration, as a condition of eligibility. Section 1310 of the 1981 Food Stamp Amendments (Pub. L 97–98, 95 Stat. 1282, Dec. 22, 1981) changes this procedure to require reregistration once every twelve months after initial registration. The proposed rule would implement this legislative provision.

Exemptions from work registration. Current rules at § 273.7(b)(1)(iv) exempt from the work registration requirement a parent or other household member who is responsible for the care of a dependent child under twelve or an incapacitated person. Section 1311 of the 1981 Food Stamp Amendments changes current procedures to exempt only those responsible for the care of either a child under six or an incapacitated person. Current rules at §§ 273–7(b)(1)(v) and 273.22(e)(1) also exempt from work registration and workfare a second parent or caretaker of a child under 18 in a household where another parent is registered for work. Section 159 of the Food Stamp Act Amendments of 1982 repeals this latter exemption for work registrants by requiring a second parent to begin seeking employment when the youngest child becomes six. The legislation did not eliminate this exemption for households subject to workfare requirements. The proposed rule would implement that above legislative changes with regard to work registration and would make the necessary conforming changes to the workfare provision at 273.22(e)(1)(iii) of current regulations.

Job Search

Job search requirements. The proposed rules would require State agencies to inform work registrants that they must perform job search activities continuously instead of in one 8 week job search period as currently required. This change reflects the Department's belief that a registrant's obligation to search for work should not end after a short, concentrated, but unsuccessful job search. The proposed rule would require registrants to contact a number of potential employers each month as determined by the State agency. The number of required contacts should be linked to the immediate employability of the individual and could vary from month to month. State agencies would thus be given the flexibility to intensify the number of required job contacts in the period immediately following registration and, thus, increase the registrant's ability and chances to find employment as quickly as possible. The State agency would have the flexibility to intensify a registrant's job search activities in periods of favorable economic conditions or reduce a registrant's job search activities in periods of unfavorable economic conditions. The Department is anxious to receive comments on this provision.

Current rules require work registrants to be placed in one of three job search categories based on their capabilities and characteristics. The Department is proposing to delete this requirement, and instead, to allow State agencies to establish the guidelines they wish to use in this area. The State agency would thus make a decision on how feasible it is to require intensive job search efforts on the part of each work registrant. The determination should be made on such criteria as distance the registrant lives from the place of employment, the capabilities of the participant, including age and physical condition, and the job market situation in the area. The State agency would thus be able to set up it's own system of categorization on job readiness if it so desires.

State agencies would be given the option of determining how many job contacts a registrant must make in a month based on information collected either at the time of application or at an assessment interview scheduled within 2 weeks of the household's being certified. If the State agency chooses not to schedule assessment interviews, decisions on how many job contacts are required would be made when the household is certified. To preclude unnecessary trips to the food stamp office by exempt participants, State agencies that use a system of assessment interviews would determine exempt status before scheduling an assessment interview. Registrants who are not determined exempt would be informed either at the application interview or by letter of the date of their assessment interview, that attending the interview is a condition for participation in the Food Stamp Program, and that failure to attend the interview without good cause or without first contacting the State agency will cause the State agency to take steps to disqualify the household. The Department believes it is the work registrant's responsibility to contact the State agency if he or she is unable to attend the scheduled interview. The proposed rule thus provides that if the registrant fails to attend the interview without good cause or has not contacted the State agency in advance to reschedule it, the household would be sent a notice of adverse action and would be disqualified at the end of the advance notice period unless the household contacted the State agency prior to this time either to reschedule the interview or to request a fair hearing. The State agency would also enclose along with the notice of adverse action a written explanation of the household's obligation to contact the State agency prior to the expiration of the advance notice period to reschedule the missed interview and of the consequences of failing to do so. The proposed rule would allow for this cure of a missed interview once—if the work registrant missed the second interview, the State agency would send the household a notice of adverse action informing them of the pending disqualification.

The proposal would require State agencies to notify work registrants in writing of their job search responsibilities, procedures to be followed, manner in which job contacts should be reported, and consequences of failure to comply. This notice would be provided at the time of the assessment interview or when the number of assigned job contacts is determined.

The State agency would also be given the option of providing or contracting with State or private employment agencies to provide work registrants with such services as referrals to employment, training opportunities and/or Job Finding Clubs. Job Finding Club activities include instruction on how to prepare for interviews, where to look for jobs and also include actual interviews with employers. Referrals to such services would be considered job contacts for food stamp purposes. The number of required independent job contacts plus State agency referrals could not exceed the numerical limits set forth above.

Follow-up and reassessment activities. The proposal would allow State agencies to schedule periodic

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follow-up interviews for such purposes as reviewing job contacts made by the work registrant, reviewing job listings for potential referrals, and assisting the work registrant in establishing his or her future plans for seeking employment. The follow-up interviews could also be used to reassess the number of monthly job contacts required for each work registrant. The proposal does not restrict the frequency with which follow-up interviews are scheduled. It gives State agencies the flexibility to take into account the likelihood of a registrant's job readiness having changed.

Job contact. The proposed rule does not change the definition of job contact. To make a valid job contact, the work registrant must present himself or herself as available for work to a prospective employer who ordinarily employs persons in areas of work that meet the suitability requirements discussed in § 273.7(i) and for which the registrant is reasonably qualified.

Reporting job contacts. The proposal would require work registrants to report their job contacts in writing in a manner prescribed by the State agency. State agencies would be responsible for informing work registrants about the manner in which job contacts should be reported. State agencies would be required to give work registrants a reasonable period of time following the end of each month in which to submit the written report. This reporting requirement is intended to give State agencies flexibility to coordinate the reporting of job contacts with the household's monthly reporting obligations under the Monthly Reporting and Retrospective Budgeting (MRRB) system which State agencies will be implementing in the near future.

Evaluating job contacts. The proposed rule would require State agencies to evaluate work registrants' reported job contacts to determine whether the required number of contacts were completed. Registrants who had good cause for failing to complete the required number of contacts would be excused from completing these contacts. Work registrants who failed to complete the required number of contacts without good cause would not be permitted to make up incomplete contacts. Work registrants would be allowed to make up contacts only if the State agency failed to accept, for reasons such as suitability or manner of contact, job contacts reported by the work registrants. In this case, the State agency would send the registrants a letter explaining which job contacts were disallowed and why the contacts were not accepted. The letter would also inform the registrants that they would be allowed two weeks from the receipt of the letter to make up the disallowed contacts and to report these contacts to the State agency. The State agency would determine how the registrants would report the made up contacts.

Optional job search at time of application. Section 157 of the Food Stamp Act Amendments of 1982 permits State agencies to apply job search requirements at the time households apply for participation in the Program. Previously, the law required able bodied food stamp recipients to engage in job searches. The proposed rules reflect this change and allow State agencies this option. The Department wants to stress that if a State agency opts to require job search at time of application, this requirement must not be allowed to delay the application processing. The Department continues to expect all applicatios to be processed as expeditiously as possible. Each State agency may set up its own system for applicants' reporting of job contacts. Failure to comply with this requirement is discussed later in this preamble.

Contracting with employment agencies. The proposed rule would allow State agencies to contract with public or private employment agencies to administer the job search requirements of this section. State agencies which choose to contract with employment agencies would be responsible for ensuring that the work registration and job search procedures are administered in accordance with food stamp regulations.

Additional Work Requirements

Current rules at § 273.7(e) require work registrants to accept and continue suitable employment to which they are referred by the State Employment Service Agency (SESA). Failure to comply results in disqualification of the registrants' households. Because the proposed job search rules would require many registrants to make their own contacts with employers in addition to following up on any State agency referrals, the proposal makes clear that registrants would be required to accept and continue suitable employment regardless of whether they were referred to the employer or found the job on their own.

Noncompliance/Sanctions

We are retaining current rules at § 273.7(g) which provide that if a household member fails to comply with work registration requirements, including the job search requirements, then the entire household shall be ineligible to participate until the member complies or for 60 days, whichever occurs earlier. In response to 1982 legislation changing the 60 day disqualification period for voluntary quit to 90 days, the Department is proposing several changes in the regulations on disqualification.

The proposed rule applies the 90 day disqualification period to all work registration requirements. While Congress has never legislated the length of the general work registration penalty, the Department has always, in the interest of consistency, applied the same disqualification penalty to all components of the work registration requirements. The proposed rule reflects that premise.

Current rules also specify that the disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested. The proposed rules retain this provision with three modifications. One modification is necessitated by Section 157 of the Food Stamp Act Amendments of 1982 which permits State agencies to apply job search requirements at time of application. If a State agency opts to require job search at application and an applicant does not comply, then any failure to comply with this requirement would result in a disqualification of 90 days, calculated from the day of application in those instances where noncompliance is determined before certification. If noncompliance is discovered after certification the disqualification period would run 90 days or 3 months from the first of the month after all normal procedures for taking adverse action have been taken. If the 90 day period would cover months of more or less than 30 days each, the 90 day disqualification period would be 3 calendar months for participating households to coincide with the current monthly issuance procedure.

The second modification in the proposed rule allows a delay of the beginning of the disqualification period not only if a fair hearing is requested but also if, in the case of a missed interview, a rescheduled interview is requested. This allows the household one chance to correct a missed interview.

The third change is language in the proposed rule which specifies that in the event a household leaves the Program before the sanction can be levied, the sanction shall not be imposed until the household returns to the Program. Current rules permit the imposition and continuation of a sanction even when the household leaves the Program. This change is consistent with the optional workfare rules published on October 6, 1982, in the **Federal Register** at 47 FR 44692. The disqualification process is discussed in greater detail later in this preamble in the section on voluntary quit.

Ending Work Registration/Job Search Noncompliance Disqualification

Current rules at § 273.7(h) provide that eligibility may be reestablished during a disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the noncomplying member becomes exempt from the work registration requirements or is no longer a member of the household. If the noncomplying individual joins another household during the disqualification period then the household receiving the member shall be subject to disqualification for the remainder of the disqualification period. In addition, eligibility may be reestablished if the noncomplying member "cures" the violation by complying with the provision that he or she violated. For example, an individual who refused to respond to a request for supplemental information regarding employment status or availability for work could cure this noncompliance by responding to the request. The cure provision was intended to encourage noncomplying household members to take corrective action.

The proposed rule would continue to permit the household to reestablish its eligibility during the disqualification period if the noncomplying member becomes exempt from the work registration requirements, but not if the noncompliant member leaves the household. This rule specifically addesses the situation where a household to be sanctioned splits into two or more households. When any household member leaves the household the sanction will follow all the original household members and will begin for all members once the sanction can be levied against any one. Consequently, if one household member leaves the household and the program, the remaining household members would be ineligible to receive benefits for the sanction period. If the household member returns after the sanction has concluded, then that household member would have, in effect, already been sanctioned. If the departing household member has joined another food stamp household, that member would be ineligible to participate for the sanction period. However, that member's income and all of that member's resources would be included in their entirety in determining the new household's benefits. Applying the sanctions in this manner ensures that the whole household, as it existed during the time of noncompliance, is penalized, just as it would have been if the household did not separate. To permit the remaining household member to avoid the penalty by only applying it to the noncomplying members would encourage household breakup. The Department believes this possible consequence was not Congress' intent and should be avoided. As with the voluntary quit disqualification, discussed later in this preamble, the proposed rule permits State agencies to accept applications from such households during the third month of the disqualification period. In these cases, the same application would be used for the denial of the month of application and the determination of eligibility for subsequent months.

Suitable employment

Current rules at § 273.7(i) provide that employment offered within the first 30 days of registration shall be considered unsuitable if it is not in the household member's major field of experience. This provision would be deleted by the proposed rule. We believe that this provision could stand in the way of recipients finding and accepting employment which would otherwise be considered suitable.

The Department would hope that in areas where referrals are made, registrants, when possible, would be referred to available employment opportunities in their major field before they would be referred to opportunities outside of their major field.

Unreasonable distance

Current rules at § 273.7(l)(1)(iv) provide that employment shall be considered unsuitable if the distance from the household member's home to the place of employment is considered unreasonsable. Similarly, the job search rules at 273.7(f)(1)(ii)(C) provide that work registrants shall be classified as exempt from job search activities if they reside an unreasonable distance from potential employers. The two provisions specify that a distance shall be considered unreasonable if daily commuting time exceeds 2 hours. The Department believes that a given hourly limit is not always a valid indicator of an unreasonable distance. Therefore, the proposed rule would delete current provisions which specifically define a distance to be unreasonable if the round trip commuting time exceeds 2 hours. The proposed change gives State agencies the flexibility to consider all relevant factors in determinig whether the distance from a household member's home to places of employment is unreasonable.

Alternate work registration procedures

Section 273.7(k)(1) requires State agencies to request approval from FNS to substitute State or local procedures for work registration for PA households not subject to the WIN registration requirement or for GA households. State agencies may also substitute, with prior FNS approval, work requirements imposed on refugees participating in refugee resettlement programs. The Department believes that a State agency should be permitted to substitute, without prior FNS approval, any State or Federal work procedures for any food stamp work registration requirement. This change will make the work registration requirement more flexible for State agencies and will reduce the administrative approval process at all levels. The Department is including this suggested change in the proposed rule. Although advance approval would no longer be necessary, the alternate procedures could only be substituted if they are comparable to the food stamp work registration requirements and the conditions specified below are met. The registrant's activities must be monitored so that appropriate sanctions would be applied when necessary provided that a household shall not be sanctioned for the failure of a member to comply with an alternate requirement that exceeds the requirements of the food stamp work registration rules. Households which are being sanctioned are entitled to, and must be accorded, the same fair hearing rights as households which are found to have violated the food stamp work registration rules. Finally, all household members who were not exempt by food stamp rules must be subject to these alternative rules.

Failure to comply with a comparable WIN, Unemployment Compensation or alternate work registration procedures requirement

Current rules at § 273.7(k)(2) exempt from work registration household members who are subject to and complying with WIN or Unemployment Compensation work registration requirements. If a household member fails to comply with the WIN or Unemployment Compensation work registration rules, that member loses his or her food stamp work registration exemption and is required to register for work in accordance with food stamp regulations. Unlike a participant who is work registered with the Food Stamp Program, the participant who fails to comply with the work requirements of the alternate program would not be disqualified from food stamp

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participation. To correct this unequal treatment of participants, Section 1311 of the 1981 Food Stamp Act Amendments mandates that if a household contains a member who was exempted from the food stamp work registration requirements because he or she was subject to and complying with a work registration requirement under Title IV of the Social Security Act or a State or Federal unemployment compensation program's work registration requirements, and if the member fails to comply with a requirement which is comparable to a food stamp work registration or job search requirement, the household shall be treated as though the member had failed to comply with the corresponding food stamp requirement. The proposed rule would implement this statutory provision and to promote consistency this policy would also be applied to a household member who fails to comply with other alternate work registration procedures (discussed in the preceding section). Thus, if a household member fails to comply with the comparable WIN, Unemployment Compensation or alternate procedures requirement, the entire household would be disqualified from food stamp participation. The proposed rule makes clear, however, that the household would not be disqualified if the noncomplying member was exempt from the food stamp work registration requirements in accordance with one of the provisions of § 273.7(b) other than the exemptions for compliance with WIN, unemployment compensation or alternate procedures work registration or job search requirements. For example, a 17 year old participant would be exempt from the food stamp work registration requirements in accordance with § 273.7(b)(1). However, this individual would not necessarily be exempt form WIN. Thus, if this participant failed to comply with WIN work registration procedures, he or she would not be disqualified from the Food Stamp Program because of this non-compliance. Similary, the household would not be disqualified if a member failed to comply with a work registration requirement which was not comparable to one of the Department's requirements. The requirement would not be comparable if it placed responsibilities on the individual which exceeded those imposed by the food stamp work registration and job search rules. For example, if in accordance with the requirements of this rule a State agency chooses to refer food stamp work registrants to training opportunities, it would not disqualify a participant who failed to comply with the training requirement of the WIN Program. If a member failed to comply with a non-comparable requirements, he or she would have to register for work and fulfill the Food Stamp Program job search requirements if not otherwise exempt.

The proposed rule also provided that households found to have failed to comply with the WIN, unemployment compensation, or alternate procedures requirements and which as a result, are disqualified from particpation in the Food Stamp Program, shall be entitled to the same fair hearing procedures as households who are found to have violated the food stamp work registration rules. The proposal would also require that a State agency representative be available to participate at the hearing if appropriate.

Determining good cause

The Food Stamp Act of 1977, Pub. L. 95–113, September 29, 1977, provided that no household would be eligible for food assistance if it contained a member who refused without good cause to accept a suitable offer of employment. The House Report on the Act explained that the good cause criteria would apply to failure to comply with the other work registration and job search requirements as well. H.R. Rep. No. 95–464, 95th Cong. 1st Sess., 168 (1977). The Department's rules thus contain one set of criteria governing determination of good cause for noncompliance with any of the work registration or job search requirements. Under current rules at §§ 273.7(g) and 273.7(m), households containing members who had good cause for failing to comply with the Department's work registration and job search requirements shall not be disqualified.

Section 1311 of the 1981 Food Stamp Act Amendments adds the requirement that good cause for refusing to accept an offer of suitable employment shall include the lack of adequate child care for children who have reached the age of six but are under the age of twelve. Because of the previously mentioned legislative intent that the good cause criteria apply to other instances of noncompliance, the proposed rule incorporates the 1981 Food Stamp Act Amendments' example of good cause for failure to accept a suitable offer of employment and also applies it to failure to comply with the other work registration and job search requirements.

Voluntary Quit

Application of voluntary quit provisions. There are several proposed changes to the current regulations on voluntary quit resulting from legislative action. Currently, the voluntary quit provisions apply only to applicant households. Section 1311 of the 1981 Food Stamp Amendments mandates that where the head of a participating household voluntarily quits his or her job without good cause the entire household shall be disqualified from participation. The House Report makes it clear that the Department's traditional practice of interpreting "head of household" to mean the household's primary wage earner would apply to the 1981 Food Stamp Amendments provision as well (H.R. Rep. No. 97–106 97th Cong. 1st Sess. 139 (1981)). Thus, under the proposed rule, whenever a household applies or a participating household reports the loss of a source of income, the State agency would be required to determine whether or not the household's primary wage earner voluntarily quit his or her employment without good cause.

Section 158(b) of the 1982 Food Stamp Amendments extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved. This proposed rule would extend the voluntary quit provisions to these individuals.

Disqualification due to voluntary quit/ending disqualification. The proposed rule would revise the procedures used to disqualify applicant households whose primary wage earners voluntarily quit their jobs without good cause, and, pursuant to Pub. L. 97–98, the proposal would subject participating households to these disqualification procedures. The procedures for ending the disqualification period also contain several modifications. Under current rules, when a household files an application, the State agency must determine whether the household's primary wage earner voluntarily quit his or her job within the last 60 days. If such a quit is established, the household is denied participation for a period of two months beginning with the month of the quit. Section 158 of the 1982 Food Stamp Amendments increased from 60 to 90 days the disqualification period for recipients and applicants who voluntarily quit their jobs and it deleted the language in the law which specified when the disqualification will begin.

This change permits the Secretary to determine when the 90 day disqualification period will begin for a household when the head of household voluntarily quits a job. The prior legislative language, which tied the disqualification period to the date of the quit, presented problems if applied to participants because the 60 day penalty period could end before a voluntary quit would be discovered, notice sent and disqualification of the household begun. Congress believes that while tying the start of the disqualification period to the date of the quit should continue for applicants, more flexibility is needed for sanctions for participants to ensure that all noncomplying households will be disqualified for a three calendar month period (S. Rep. No. 97–504, p. 39). The proposed rule thus changes the disqualification period from 60 to 90 days (or 3 calendar months as discussed above) and modifies when the disqualification would begin.

In the case of an applicant who voluntarily quits a job the disqualification period would begin from the date of the quit. The proposal also clarifies the current rule to explain that if the State agency learns that an applicant household lost a source of earned income after the date of application but before the household was certified, it will determine whether a voluntary quit occurred. At the time of application the State agency shall also explain to the applicant the consequences of the household's primary wage earner's voluntarily quitting his or her job without good cause.

In the case of a participant voluntarily quitting, the disqualification period would be 90 days (or three months), beginning the first of the month after all normal procedures for taking adverse action have been followed. For those households which leave the Program before the sanction can be levied, the sanctions shall not be imposed until the household returns to the Program. In the case of participating households, when a loss of income is reported State agencies would be required to determine whether or not a voluntary quit occurred. If a voluntary quit is found, the household must be sent a notice of adverse action within 10 days after the loss of income is reported. The notice would contain the proposed period of disqualification and would specify that the household may reapply at the end of the disqualification period. The household would have at least 10 days after the date the notice was mailed to request a fair hearing. The State agency would not be able to take action to terminate the household's benefits until the time to request a fair hearing expired. The Department believes that this advance notice period is necessary to protect participants' due process rights. If the participating household receives a fair hearing and the State agency is upheld, then the 90 day disqualification period would begin the first of the month after the decision is rendered. As mentioned earlier in this preamble, the 90 day disqualification period mandated by the Act would be converted to 3 calendar months only for participating households if necessary to better coincide with the current procedure of issuing benefits based on monthly periods. The rule makes clear that a participating member will not be considered to have voluntarily quit if, at the time of the quit, he or she was exempt from the work registration provisions.

As mentioned earlier, under current rules the State agency must determine whether a voluntary quit by the primary wage earner has occurred within the last 60 days. This 60 days time period was specified by the Department to provide some time limit within which to make this determination. The 60 days was selected because it was consistent with the legislated 60 day disqualification period. Now that the disqualification period has been changed from 60 to 90 days, the time period within which to determine if a voluntary quit has occurred will also be changed from 60 to 90 days. The proposed rules thus specify that a State agency will determine if the primary wage earner in an applicant household has voluntarily quit his or her job in the last 90 days. If the State agency determines that the primary wage earner in a participant household has voluntarily quit a job at any time during Program participation, the household shall be disqualified.

The proposed rule would also extend the good cause and verification provisions of § 273.7(n)(3) and (n)(4), currently pertaining to the voluntary quit of applicant households, to participating households as well.

Following the end of the disqualification period, a disqualified household would be permitted to resume participation in the Program if it applied again and was determined eligible. The proposed rule would permit a disqualified household to resume participation during the disqualification period if the member who caused the disqualification cures the voluntary quit by returning to the job that he or she quit at the same weekly earnings or by securing any other employment which yields weekly earnings equivalent to the terminated job. The rule would also permit the household to resume participation during the disqualification period if the primary wage earner becomes exempt from the work registration requirements in accordance with one of the exemptions provided in § 273.7(b) other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(vi) of that section. These two paragraphs exempt individuals who are participating in work registration procedures in the WIN and Unemployment Compensation Programs. The Department does not believe that a household should be able to terminate the disqualification merely because its primary wage earner has begun to participate in a work registration system operated by another assistance program. In addition, as described earlier in this preamble, the proposed rule would provide that if a quitting primary wage earner leaves the household, the household continues to be disqualified for the remainder of the disqualification period.

In accordance with current rules at 7 CFR 273.10(a) on application processing, the proposed rule would require State agencies to accept, during the third month of disqualification, applications from households which are ineligible to reestablish eligibility during the disqualification period. In such cases the same application would be used for the denial for the month of application and the determination of eligibility for subsequent months.

Reporting requirements

Currently, information from the work registration form is entered into the Employment Service Automated Reporting System (ESARS) by the SESA. With State agencies assisting and monitoring work registrants' job search activities, information will no longer be entered into the ESARS. The Department believes that it is necessary to collect enough information about the functioning of this proposed work registration system to be able to evaluate the system. Consequently, the Department is proposing some general reporting requirements in this rule. The Department is proposing to require State agencies to maintain information on the number of individuals registered for work, the number of registrants actively engaged in job search, the number of registrants who find jobs, and the number of participants disqualified because of noncompliance with any of the work registration requirements. The specifics on how this information is collected and stored would be left up to each State agency. This information would be submitted annually to FNS Regional Offices.

Miscellaneous—In 273.7(b)(1)(vii), (in current rules viii), a portion of a

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sentence dropped in error by prior rulemaking was added. Conforming language in §§ 273.1(b)(2)(v), 273.9(b)(3) and 273.11(c)(1) has been added to indicate that failure to comply with work registration or job search requirements will result in sanctions equal to those for failure to comply with workfare.

Implementation

The proposal would require State welfare agencies to implement the provisions of this rulemaking no later than the first of the month 90 days following publication of final regulations. The Department is interested in the earliest possible implementation and believes that this is a reasonable time period within which to expect implementation. The Department is especially interested in receiving comments on this implementation schedule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, it is proposed that 7 CFR Parts 272 and 273 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(63) is added to read as follows:

§ 272.1 General terms and conditions

* * * * *

(g) Implementation * * *

(*63*) Amendment No. 251. State Welfare agencies shall implement the provisions of this amendment no later than the first of the month 90 days following publication of final regulations.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1 a new paragraph (v) is added to paragraph (b)(2) to read as follows:

§ 273.1 Household Concept.

* * * * *

(b) *Nonhousehold and exludes household members.* * * *

(2) *Excluded household members.*

* * *

(v) *Work Registration/Job Search Sanctioned.* Individuals against whom a sanction was imposed while they were participating in a household disqualified for failure to comply with work registration or job search requirements, in accordance with § 273.7.

* * * * *

§ 273.7 [Amended]

3. In § 273.7, paragraph (a) is amended by removing the word "six" in the second sentence and inserting in its place the word "twelve". In addition, the third and fourth sentences of paragraph (a) are revised to read as follows:

§ 273.7 Work registration requirements.

(a) *Persons required to register.* * * * Registrants who move out of a project area shall register at their new location. Under the provisions of § 273.1(f)(1), the registration form need not be completed by the member required to register.

* * * * *

4. In § 273.7(b)(1), paragraph (iv) is amended by removing the "12" in the first sentence and the "12th" in the second sentence and substituting in their places "6" and "6th", paragraph (v) is removed and paragraphs (vi) through (ix) are redesignated (v) through (viii) respectively. Newly redesignated paragraph (b)(1)(vii) is amended by adding the words "as determined by averaging such activity over the certification period" before the word "shall" in the last sentence. In addition, paragraph (b)(2)(i) is revised to read as follows:

* * * * *

(b) *Exemptions from work registration.* * * *

(2)(i) Persons losing exemption status due to any changes in circumstances that are subject to the reporting requirements of § 273.12 (such as a loss of employment that also results in a loss of income of more than $25 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall register for employment when the change is reported. If the State agency does not use a work registration form, it shall annotate the change in the member's exemption status. If a work registration form is used, the State agency shall provide the participant with a work registration form when the change it reported. Participants shall be responsible for returning the form to the State agency within 10 calendar days from the date the form was handed to the household member reporting the change in person, or the date the State agency mailed the form. If the household fails to return the form, the State agency shall issue a notice of adverse action stating that the household is being terminated but that the household can avoid termination by returning the form.

* * * * *

5. In § 273.7, paragraph (c) is revised to read as follows:

* * * * *

(c) *State agency responsibilities.*—(1) *Registration procedures.* Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the State agency shall explain to the applicant the work registration and job search requirements, his or her rights and responsibilities, and the consequences of failure to comply. The State agency shall permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a) of this section. The applicant must sign a form attesting that he or she will inform the work registrants in the household that a record has been completed on their behalf, and that they will describe the work registration and job search requirements and the consequences of failure to comply to those registrants. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration of these members is otherwise annotated or recorded by the State agency.

(2) *Other responsibilities.* After the household is certified, the State agency shall be responsible for taking the following actions:

(i) Establishing, and monitoring the job search requirements established in § 273.7(f) of this section.

(ii) Disqualifying work registrants who fail to comply, with good cause, with either the job search requirements established in § 273.7(f) or the additional work requirements established in § 273.7(e).

(iii) Deregistering those work registrants who obtain employment or otherwise become exempt from the work registration requirement subsequent to registration, who are no longer certified for participation in the Program, or who move from the area.

(3) *Reporting requirements.* The State agency shall collect and maintain information on the number of individuals registered for work, the number of registrants actively engaged in job search, the number of registrants who find jobs, and the number of participants disqualified because of noncompliance with any of the work registration requirements. This information shall be reported annually to FNS Regional Offices.

* * * * *

6. In § 273.7, paragraph (d) is removed and reserved.

7. In § 273.7 paragraph (e)(1) is amended by removing the words "appropriate State employment service office" and inserting, in their place, the words "State agency." Paragraphs (e)(2) and (e)(3) are amended by removing the words "State employment service office" and inserting in their place, the words "State agency." In addition, paragraph (e)(4) and the first sentence of paragraph (e)(5) are revised to read as follows:

* * * * *

(e) *Additional work requirements.*

* * *

(4) Accept a bona fide offer of suitable employment, as defined in paragraph (i) of this section, whether referred by the State agency or located by the registrant; and

(5) Continue suitable employment.

* * *

* * * * *

8. In § 273.7 paragraph (f) is revised to read as follows:

* * * * *

(f) *Job search.* Persons required to register for work shall be subject to the appropriate job search requirements discussed below. The State agency may require Program applicants to conduct job search. Failure to comply with the job search requirements, without good cause, shall result in household disqualification or denial as established in paragraph (g) of this section. A State agency opting to require job search of applicants shall not delay disposition of the application pending proof of compliance with this requirement. For the remainder of section (f) the term "State agency" shall be interpreted as the agency or organization designated by the State agency administering the Food Stamp Program to administer the job search requirements.

(l) *Job search assignment.* (i) Based on the immediate employability of the participant, which may include such factors as his or her age, physical condition, ability or inability to speak English, current enrollment in job training programs, and recent employment history, as well as the distance he or she lives from potential employers and the job market situation in the area, the State agency shall require each work registrant to contact an assigned number of potential employers per month. The State agency may thus intensify the registrants' job search activities at the time(s) it believes the job search would be most effective, taking into account such factors as job market conditions and the registrant's skills and experience. The State agency may reduce the number of required contacts for particular registrants if economic or personal circumstances warrant. The State agency could suspend job search and then resume it later if factory closings or other circumstances made it likely that the job search period for that individual would be most productive at a subsequent time.

(ii) The State agency shall determine the number of job contracts required of work registrants based on information collected at the time of application or it may schedule a subsequent assessment interview after the household is certified to determine the work registrant's job contact assignment. If the State agency chooses to schedule assessment interviews, the interview shall be held and a determination of the number of job search contacts to be required shall be made within two weeks of the date the household is certified. To preclude unnecessary trips to the local food stamp office, those persons who are exempt from job search shall not be required to report to an interview. Accordingly, the determination of exempt status shall be made before an assessment interview is scheduled. To schedule an assessment interview, the State agency shall send the registrant a letter informing the registrant of the date of the interview, that appearance for an interview is a condition of participation in the Food Stamp Program, that failure to attend the interview without good cause or without first contacting the State agency will result in the State agency taking action to disqualify the entire household.

(iii) If the work registrant fails without good cause to appear for the interview or has not contacted the State agency in advance to reschedule the interview, the State agency shall send the household a notice of adverse action. The State agency shall include with the notice of adverse action a written explanation of the household's obligation to contact the State agency prior to the expiration of the advance notice period to reschedule the missed interview and of the consequences of failing to do so. If the work registrant does not contact the State agency to reschedule the interview or to request a fair hearing before the advance notice period expires, the State agency will disqualify the household in accordance with paragraph (g) of this section. The State agency may establish alternative methods for scheduling or rescheduling interviews as long as the registrant is afforded an opportunity to reschedule a missed interview and the timeframes established by this paragraph and by paragraph ii are met. A missed interview shall be rescheduled only once; if the rescheduled interview is missed, the State agency shall send the household a notice of adverse action notifying the household of the disqualification and of their right to a fair hearing.

(iv) The State agency shall provide work registrants with written notification regarding their job search requirements, procedures to be followed, and consequences of failure to comply. Work registrants shall also be informed about the manner in which job contacts must be reported to the State agency in accordance with paragraph (f)(5) of this section. The notification required in this paragraph shall be provided either at the time of the assessment interview or shall be mailed to the household when the job search assignment is determined. This notification shall be provided at the time of application, if the State agency opts to require job search of applicants as well as of recipients.

(2) *Requirements.* (i) The job search requirements are effective for 12 months starting with the month of initial registration or, at the time of application if the State Agency chooses to require job search activities to be conducted by Program applicants. Once an individual is deregistered, any new registration for that individual constitutes a new 12 month timeframe for which new job search assignments would be made. A participant would be reregistered, for example, after losing a work registration exemption or reentering the Food Stamp Program after a period of absence. If the State agency is aware that a registrant has been registered more than once in a 12-month period, it shall consider the registrant's previous job search activity during the 12-month period, and the anticipated impact of additional job search, in determining the registrant's new job search requirements.

(ii) Registrants subject to the job search requirements must take the following actions:

(A) Contact, as required by the State agency, a specified number of prospective employers each month. A referral to an employer, SESA, or a training program as authorized in paragraph (f)(5) of this section, shall be considered a job contract or job contracts for Food Stamp Program purposes, provided the registrant presents himself/herself to the employer, SESA or training program as

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described in paragraph (f)(4) of this section.

(B) Report job contacts to the State agency. Job contacts shall be reported in writing to the State agency as specified in paragraph (f)(5) of this section.

(C) Attend follow-up or reassessment interviews which may be scheduled by the State agency in accordance with paragraph (f)(3) of this section.

(3) *Follow-up and reassessment activities.* (i) State agencies may schedule periodic follow up interviews for such purposes as reviewing job contacts made by the work registrant, reviewing job listings for potential referrals, and assisting the work registrant in establishing his or her future plans for seeking employment. State agencies may also schedule interviews to reassess the number of job contacts the work registrant is required to make. The follow-up interviews could also be used to reassess work registrants' job contact assignments.

(ii) To schedule a follow-up interview the State agency shall send the registrant a letter informing the registrant of the date of the interview, that appearance for the interview is a condition of participation in the Food Stamp Program, and that failure to attend the interview without good casue will result in the State agency taking action to disqualify the entire household. If the work registrant fails to appear for the interview without good cause or has not contacted the State agency in advance to reschedule this interview, the State agency shall send the household a notice of adverse action. The State agency shall also include with the notice of adverse action a written explanation of the household's obligation to contact the State agency prior to the expiration of the advance notice period to reschedule the missed interview and the consequences of failing to do so. If the work registrant does not contact the State agency to reschedule the interview or to request a fair hearing before the advance notice period expires, the State agency shall disqualify the household in accordance with paragraph (g) of this section.

(4) *Job contact.* To qualify as a job contact, two conditions must be met. First, the work registrant must present himself or herself to a prospective employer as available for work. Second, the prospective employer must ordinarily employ persons in areas of work that meet the suitability requirements discussed in paragraph (i) of this section and for which the work registrant is reasonably qualified by means of experience, training or ability. Depending upon the position being sought, the job contact requirement may be fulfilled by either a personal visit to the prospective employer or another method of aplication which is considered by the State agency to be generally accepted practice. The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.

(5) *Reporting job contacts.* Job contacts shall be reported in writing in a manner prescribed by the State agency. At the time of the assessment interview or at the time the job contact assignment is determined, the work registrant shall be told about the manner of reporting. States agencies may confirm one or more of the reported contacts with the listed employers. The State agency shall give the work registrant a reasonable period of time following the end of each month in which job contacts were required to submit the written report.

(6) Evaluating job contacts. The State agency shall evaluate on a monthly basis the work registrant's monthly job contact report to determine whether the work registrant has completed the assigned number of contacts in the month for which the report was submitted. The work registrant who failed to complete the required number of contacts without good cause shall not be allowed additional time to complete the required contacts unless the State agency fails to accept, for reasons such as suitability or manner of contact, job contact(s) reported by the registrant. In this case, the State agency shall send the registrants a letter explaining which job contacts were disallowed and why these contacts were not accepted. The letter shall also inform the registrants that they would be allowed two weeks from the receipt of this letter to make up the disallowed contacts and to report these contacts to the State agency. The State agency shall provide the registrants with a form on which to report the made up contacts.

(7) Optional State agency referrals. State agencies may provide the work registrant with job market information (such as a list of job market opportunities) and/or referrals to available employment, Job Finding Clubs, and/or training opportunities. However, the number of State agency referrals added to the number of required independent job contacts shall not exceed the limitations set forth in paragraph (f)(2)(A) of this section.

(8) *Contracting with employment agencies.* State agencies may contract with State Employment Security Agencies (SESA's) or other public or private employment agencies to proivde the work registration and job search services required by this section. State agencies which choose to contract with employment agencies shall be responsible for ensuring that the work registration and job search procedures are administered in accordance with the requirements of this section.

* * * * *

9. In § 273.7, paragraph (g) is revised to read as follows:

* * * * *

(g) *Failure to comply.* (1) If a State agency opts to require job search at time of application, and the State agency determines, prior to certification, that a registrant required to job search has not complied, without good cause, then the household's application shall be denied for a period of 90 days beginning with the date of application. The household shall be advised of the reason for the denial and of its right to reapply and/or to request a fair hearing. If the applicant's noncompliance is determined after certification then disqualification shall be calculated as for any other participating household as described in paragraph (g)(2) of this section.

(2) If the State agency determines that a household member has refused or failed without good cause to comply with the requirements of this section, the entire household shall be ineligible to participate for 90 days or 3 calendar months, as provided in this paragraph. The 90 day disqualification period may be converted to a 3 calendar month period only for participating households. Such ineligibility shall continue as outlined in paragraph (h) of this section. Prior to disqualifying the household, the State agency shall be responsible for contacting the work registrant to determine whether good cause existed for the noncompliance, as discussed in paragraph (m) of this section. However, in cases where a work registrant fails to attend a scheduled assessment or follow-up interview without first contacting the State agency, it shall be the household's responsibility to contact the State agency to demonstrate good cause for not being able to attend an interview or to reschedule the missed interview. Within 10 days from the date the State agency determines that a work registrant has failed to comply with the requirements of this section, the State agency shall provide the household with a notice of adverse action, as specified in § 273.13. Such notification shall contain the proposed period of disqualification and shall specify that the household may reapply at the end of the disqualification period. Information shall also be included with the notification on the procedures and requirements to end the disqualification as contained in paragraph (h) of this section. The disqualification period for participating households shall begin with the first of the month following the expiration of the adverse notice period, unless a fair hearing is requested, or, in the case of a missed first interview, a rescheduled interview is requested. For those households which leave the Program before the sanction can be levied, the sanction shall not be imposed until the household returns to the Program.

(3)(i) Each household has a right to a fair hearing to appeal a denial, or termination of benefits due to a determination of nonexempt status, or a determination of failure to comply with the work registration and job search requirements of this section. The household can appeal such actions as State agency refusal to accept an action as a job search contact, or refusal to make a finding of good cause, if the household believes that a finding that the household has failed to comply has resulted from improper decisions on these matters.

(ii) If the administration of the work program is contacted out, and a fair hearing is scheduled, the State agency shall provide the agency administering the work program sufficient advance notice to either permit the attendance of an agency representative or ensure that an agency representative will be available for questioning over the phone during the hearing. The administering agency shall be available to participate in the hearing through one of these means. The availability of an agency representative for questioning over the phone shall be sufficient, unless the hearing official determines prior to the hearing (after examining the facts of the case and pursuant to a request for such a ruling by the household) that, taking into account the nature of the issues in dispute and the nature and importance of the evidence to be given by the agency representative, fairness requires that the household be given an opportunity to confront the agency representative in person. Such a determination should be necessary in only a very small number of cases. A household shall be allowed to examine the casefile maintained by the agency administering the work program at a reasonable time before the date of the fair hearing, except for confidential information (which may include test results) that the agency determines should be protected from release. Information not released to a household may not be used by the State agency or the agency administering the work program at the fair hearing.

* * * * *

10. In § 273.7, paragraph (h) is revised to read as follows:

* * * * *

(h) *Ending disqualification.* Following the end of the 90 day or 3 month disqualification period for noncompliance with the work registration, job search, or comparable WIN, unemployment compensation, or alternate procedures requirements prescribed under paragraphs (e), (f), and (k)(2) of this section, a household may resume participation if it applies again and is determined eligible. Eligibility may be reestablished during a disqualification period and the household shall (if otherwise eligible) be permitted to resume participation if the member who caused the disqualification becomes exempt from the work requirement in accordance with paragraph (b) of this section or is willing to comply with § 273.7 of these regulation. In these cases, the household shall be permitted to file an application before the end of the disqualification period. Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow all the members of the household at the time of the noncompliance. None of those household members shall be eligible to participate in the food stamp program for the length of the sanction beginning at the point when the sanction can be placed against any one of them. If a sanctioned household member joins another food stamp household, that household's eligibility and benefit level shall be determined by treating the sanctioned member's income and resources as specified in paragraph 273.11(c) for treating the income and resources of household members excluded because of disqualification for intentional Program violation or for failure to comply with workfare requirements. If an application for participation in the Program is filed in the third month of disqualification, the State agency shall in accord with § 273.10(a)(3) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

* * * * *

11. In § 273.7, paragraph (i)(2)(iii) is removed and paragraphs (i)(2)(iv) and (i)(2)(v) are redesignated as paragraphs (i)(2)(iii) and (i)(2)(iv) respectively. In addition the second sentence of newly designated paragraph (i)(2)(iii) is removed.

12. In § 273.7, the title of paragraph (k) and the introductory text of paragraph (k)(1) are revised, a title is added to paragraph (k)(1), paragraph (k)(1)(i) is revised, paragraph (k)(1)(iii) is redesignated as (k)(1)(iv), a new paragraph (k)(1)(iii) is added, and paragraph (k)(2) is revised. The revisions and additions read as follows:

* * * * *

(k) *Alternate work registration procedures.* (1) *Requirements for substituting alternate procedures.* State agencies may, in accordance with the provisions of this paragraph, substitute State or local procedures for work registration procedures. Work requirements imposed on refugees participating in refugee resettlement programs, including but not limited to the Indochinese Refugee Assistance Program, may also be substituted. The alternate requirements shall only be substituted however, under the following conditions:

(i) The alternate requirements are not less stringent than food stamp work registration requirements.

* * * * *

(iii) Households who are being disqualified for failure to comply with the alternate requirements are provided the same fair hearing rights as households who are found to have violated the food stamp work registration requirements.

* * * * *

(2) *Failure to comply with a comparable WIN, unemployment compensation or alternate procedures work requirement.* A household containing a member who was exempted from work registration in accordance with paragraph (b)(1)(iii) or (b)(1)(vi) of this section because he or she was registered for work under WIN, unemployment compensation or alternate procedures work requirements and who fails to comply with a WIN, unemployment compensation, or alternate procedures requirement comparable to a food stamp work registration or job search rule shall be treated as though the member had failed to comply with the corresponding food stamp requirement.

(i) If the State agency is informed by the agency administering the comparable work requirement that a household member has refused or failed without good cause to comply with a WIN work registration or an alternate procedures requirement, the State agency shall determine whether the requirement was comparable. Similarly,

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if the household reports the loss or denial of unemployment compensation or if the State agency otherwise learns of such loss or denial, the State agency will determine whether the loss or denial was caused by a determination by the administering agency that a household member refused or failed without good cause to comply with an unemployment compensation work registration requirement and, if so, whether the requirement was comparable to a food stamp work registration or job search requirement. The WIN, unemployment compensation, or alternate procedures requirement would not be considered comparable if it placed responsibilities on the household which exceeded those imposed by the food stamp work registration rules.

(ii) If the State agency determines that the requirement was comparable, the entire household shall be disqualified in accordance with the following provisions. The State agency shall provide the household with a notice of adverse action as specified in § 273.13 within 10 days after being informed, by the agency administering the work requirement, of the WIN noncompliance or 10 days after learning of the household member's noncompliance with the unemployment compensation or alternate work registration procedures requirement. The notice shall comply with the requirements of paragraph (g) of this section. A household shall not be disqualified from participation if the noncomplying member meets one of the work registration exemptions provided in § 273.7(b) other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(vi). Household members who fail to comply with a non-comparable WIN, unemployment compensation, or alternate procedures requirement, shall lose their exemption under paragraph (b) of this section and must register for work if required to do so in paragraph (a) of this section.

(iii) If a determination by the agency administering the work requirement that a household member failed to comply with a comparable WIN, unemployment compensation or alternate work registration requirement leads to a denial, or termination of the household's food stamp benefits, the household has a right to a fair hearing in accordance with the provisions of paragraph (g) of this section.

(iv) A disqualified household may resume participation in the program in accordance with paragraph (h) of this section.

* * * * *

13. In § 273.7, paragraph (m) is revised to read as follows:

* * * * *

(m) *Determining good cause.* The State agency shall be responsible for determing good cause in those instances where the work registrant has failed to comply with the work registration, job search, and voluntary quit requirements of this section. In determining whether or not good cause exists, the State agency shall consider the facts and circumstances, including information submitted by the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

* * * * *

14. In § 273.7, the introductory text of paragraph (n), the title of paragraph (n)(1), and paragraph (n)(1)(i) are revised; a title is added to paragraph (n)(1)(ii); paragraph (n)(1)(iii) is revised; paragraph (n)(1)(iv) is removed; paragraph (n)(2) is revised, and new paragraphs (n)(5) and (n)(6) are added. The revisions and additions read as follows:

* * * * *

(n) *Voluntary Quit.* No household whose primary wage earner voluntarily quit his or her most recent job without good cause shall be eligible for participation in the Program as specified below. At the time of application, the State agency shall explain to the applicant the consequences of the household's primary wage earner quitting his or her job without good cause.

(1) *Processing applications and reporting forms.*—(i) *Determining whether a voluntary quit occurred.* When a household files an application for participation, and when a participating household reports the loss of a source of income, the State agency shall determine whether any household member quit his or her job. Quitting a job means quitting employment which involves 20 hours or more per week or which provides weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employment enterprise or resigning from a job at the demand of the employer will not be considered a voluntary quit for purpose of this subsection. An employee of the Federal government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike shall be considered to have voluntarily quit his or her job without good cause.

(A) In the case of an applicant household, the State agency shall determine whether any currently unemployed (i.e, employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for work has voluntarily quit his or her most recent job within the last 90 days. If the State agency learns that a household has lost a source of income after the date of application but before the household is certified, the State agency shall determine whether a voluntary quit occurred.

(B) In the case of a participating household, the State agency shall determine whether any household member voluntarily quit his or her job while participating in the program.

(ii) *Determining whether the voluntary quit was by the household's primary wage earner.* * * *

(iii) *Determining good cause.* Upon a determination that the primary wage earner voluntarily quit employment, the State agency shall determine whether the voluntary quit was with good cause as defined in paragraph (n)(3) of this section.

(2) *Exemption from voluntary quit provisions.* Person who are exempt from the full time work registration provisions as stated in § 273.7(b) shall be exempt from the voluntary quit provisions.

* * * * *

(5) *Disqualification period.* If the State agency determines that the voluntary quit of a household's primary wage earner was not for good cause, the household shall be denied participation in the program as specified below.

(i) If the State agency determines that the primary wage earner of an applicant household voluntarily quit his or her job, within the last 90 days the household's application shall be denied for a period of 90 days beginning with the date of the quit. The household shall be advised of the reason for the denial and of its right to reapply and/or to request a fair hearing.

(ii) If the State agency determines that the primary wage earner of a participating household voluntarily quit his or her job, while participating in the Program, the State agency shall provide the household with a notice of adverse action as specified in § 273.13 within 10 days after the loss of a source of income was reported. Such notification shall contain the proposed period of disqualification and shall specify that the household may reapply at the end of the disqualification period. The disqualification period shall be for three months or 90 days beginning with the first of the month after all normal procedures for taking adverse action have been followed. The 90 day disqualification period may by converted to a three calendar month period only for participating households. For those households which leave the Program before the sanction can be levied the sanction shall not be imposed until the household returns to the Program. Each household has a right to a fair hearing to appeal a reduction or termination of benefits due to a determination that the household's primary wage earner voluntarily quit his or her job without good cause. If the participating household requests a fair hearing and the State agency determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered. Eligibility may be reestablished during the disqualification period, however, in accordance with paragraph (n)(6)(ii) of this section.

(6) *Ending disqualification.* (i) Following the end of the disqualifcation period, a household may begin participation in the program if it applies again and is determined eligible.

(ii) Eligibility may be reestablished during a disqualification period and the household shall (if otherwise eligible) be permitted to resume participation if the member who caused the disqualification returns to the terminated employment at the same wages if still available, secures any other employment which yields earnings per week equivalent to the terminated job, or becomes exempt from the work registration requirement in accordance with one of the exemption provided in § 273.7(b) other than the exemptions provided in paragraphs (B)(1)(ii) and (b)(1)(vi) of that section. Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow all the members of the household at the time of the noncompliance, None of those household members shall be eligible to participate in the food stamp program for the length of the sanction beginning at the point when the sanction can be placed against any one of them. If a sanctioned household member joins another food stamp household, that household's eligibility and benefit level shall be determined by treating the sanctioned household member's income and resources in accordance with the procedures in § 273.11(c) for treating the income and resources of excluded household members.

(iii) If an application for participation in the Program is filed in the third month of disqualification, the State agency shall in accordance with § 273.10(a)(3) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

15. In § 273.9, the first sentence of paragraph (b)(3) is revised as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for intentional Program violation, in accordance with § 273.16, or as a result of a sanction imposed while he/she was participating in a household disqualified for failure to comply with workfare requirements, in accordance with § 273.22, or in a household disqualified for failure to comply with work registration or job search requirements, in accordance with § 273.7, shall continue to be attributed in their entirety to the remaining household members. * * *

* * * * *

16. In § 273.11 the first sentence of paragraph (c) is revised to read as follows:

§ 273.11 Action on houssholds with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for failing to comply with work registration, job search or workfare requirements, for fraud, for refusal to obtain or to provide an SSN, or for being an ineligible alien. * * *

* * * * *

17. In § 273.11, paragraph (c)(1) is revised to read as follows:

* * * * *

(c) *Treatment of income and resources of excluded members.* * * *

(1) *Excluded for intentional Program violation disqualification or workfare, work registration or job search sanction.* The eligibility and benefit level of any remaining household members of a household containing individuals excluded because of disqualification for intentional Program violation or due to imposition of a sanction while they were participating in a household disqualified for failure to comply with workfare, work registration or job search requirements shall be determined as follows: * * *

* * * * *

18. In paragraph § 273.22, paragraph (e)(1)(iii) is revised as follows:

§ 273.22 Optional workfare program.

* * * * *

(e) *Household responsibilities.* * * *

(1) *Persons subject to workfare* * * *

(ii) A parent or other caretaker of a child under 18 in a household where there is another able-bodied parent who is subject to the workfare requirements shall be exempt from workfare requirements. If a child has its 18th birthday within a certification period, the parent or caretaker must fulfill the workfare requirement as part of the next scheduled recertification process, unless the parent or caretaker qualifies for another exemption.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: May 18, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-13948 Filed 5-23-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Parts 725 and 726

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations and Burley Tobacco Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rules; extension of comment period.

SUMMARY: On April 22, 1983, proposed rules were published in the **Federal Register** (48 FR 17528 and 48 FR 17532) to implement the provisions of the No Net Cost Tobacco Program Act of 1982 with respect to the sale or forfeiture of burley tobacco quotas and flue-cured tobacco acreage allotments and marketing quotas which are established for farms owned by persons other than individuals. This document extends the comment period period with regard to those proposed rules. Several requests have been made to extend the comment period in order to allow ample time for evaluation of the proposals by those who may be affected.

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DATE: Comments must be received on or before June 22, 1983 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to the proposed rules will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013: (202) 382–0200.

SUPPLEMENTARY INFORMATION: The proposed rules published on April 22, 1983 provided that written comments must be submitted on or before May 23, 1983 in order to be assured of consideration. Several requests have been made to extend the comment period in order to allow ample time for evaluation of the proposals by those who may be affected. Therefore, the comment period is being extended an additional 30 days from May 23, 1983.

Signed at Washington, D.C. on May 20, 1983.

Merrill Marxman,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-14015 Filed 5-20-83; 3:01 pm]

BILLING CODE 3410-05-M

FEDERAL TRADE COMMISSION

16 CFR Part 437

Termination of Proposed Trade Regulation; Rule on Food Advertising

AGENCY: Federal Trade Commission.

ACTION: Termination or rulemaking proceeding.

SUMMARY: The Federal Trade Commission has decided to terminate its rulemaking proceeding concerning food advertising, 39 FR 39842 (November 11, 1974); 40 FR 23686 (May 28, 1975); 41 FR 8980 (March 2, 1976). However, the areas which would have been covered by the proposed rule will continue to be scrutinized by the Commission on a case-by-case basis.

FOR FURTHER INFORMATION CONTACT: Andrew Sacks, Attorney, Division of Advertising Practices, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1524.

SUPPLEMENTARY INFORMATION: On December 17, 1982, the Commission decided to terminate its proposed trade regulation rule on food advertising. The proposed rule would have regulated energy and weight control claims, fatty acid and cholesterol claims, and "natural food" claims. The termination includes all phases of the rulemaking proceeding. However, the areas which would have been covered by the proposed rule will continue to be scrutinized by the Commission on a case-by-case basis.

In addition, the Director of the Bureau of Consumer Protection was instructed to submit a Report to the Commission within six months, recommending an overall strategy to approaching this matter on a case-by-case basis, with an emphasis on potential actions, if warranted, in the fatty acid and cholesterol claims area.

By direction of the Commissions.

Carol M. Thomas,

Secretary.

Separate Statement of Chairman James C. Miller III

In view, it is entirely appropriate for the Commission to scrutinize nutrition claims of the kind the proposed rule would regulate. Consumers can be deceived by misleading nutritional advertising because it is often difficult to evaluate such claims. However, I do not think that a rulemaking proceeding is the appropriate way for the Commission to address this problem. In my view, a rule should be promulgated only when there is evidence that the problems it addresses are so widespread that the benefits of the rule justify the regulatory burdens it would impose. The record does not support the conclusion that the nutritional claims in food advertising fall into this category.

The alternative to a rulemaking proceeding is to deal with the problems that exist on a case-by-case basis, vigorously pursuing individual violations as they are identified. Such an approach is likely to provide more protection for consumers, more quickly, with less risk of offsetting harm to consumers and unjustified burden on businesses.

The advantages of a case-by-case approach are most apparent in considering the staff's proposal which would require advertising discussing the link between diet and heart disease to disclose that the subject is not free from controversy. Certainly, we should act against advertising that overstates the evidence concerning the diet-heart relationship, since consumer injury may result from such advertising. We cannot, however, conclude that all advertising that mentions the relationship overstates it. There is no evidence that consumers are unaware of the controversy, or that they misinterpret the simple statement that many doctors recommend less cholesterol. Moreover, it is doubtful whether consumers will correctly understand the disclosure that some experts disagree. If consumers interpret this disclosure to mean that new evidence casts the hypothesis in greater doubt, our rule would mislead them.

In any case, despite controversy, numerous public health authorities have recommended a prudent diet, with less fat and cholesterol. Even if it turns out that there is no relationship between diet and heart disease, the consequences of mistakenly following the prudent diet appear to be insignificant. On the other hand, if consumers are dissuaded from following such a diet and a relationship to heart disease is substantiated, more people will die. Forcing all ads to mention the controversy could reduce this type of advertising substantially, or make it less effective. In either case, fewer consumers might resort to the prudent diet, to their detriment. Our responsibility to the public requires that we not take this risk. Less advertising about this important problem could injure consumers, not protect them.

Closely related to this concern is the possible chilling effect of requiring advertisers to mention that foods with reduced cholesterol nevertheless contain fat. There is no evidence that consumers misinterpret advertising references to no cholesterol. Moreover, to the extent this rule would discourage references to cholesterol levels, it would deprive consumers of useful information to help them distinguish products that contain both cholesterol and fat from those that are at least low in cholesterol.

The proposed rule would also define "natural" foods as those with no artificial ingredients and only minimal processing. Quite aside from the significant difficulties that would be posed in enforcing this rule, a fundamental problem exists by virtue of the fact that the context in which "natural" is used determines its meaning. It is unlikely that consumers expect the same thing from a natural apple as they do from natural ice cream. The proposed rule assumes, without any evidence, that "natural" means the same thing in every context. We should concentrate our resources on more serious consumer protection problems than addressing whether a claim that "milk is a natural," is deceptive.

The last section of the rule concerns energy and calorie claims. The most significant information this section would provide is that foods that provide energy also contain calories. For those who are interested, this information is readily available on product labels. Those who are not interested now are unlikely to find the same information more useful in advertising.

Finally, we should keep in mind that the proposed rule concerns advertising, *not* labeling. Significant information, such as the specific number of calories in foods advertised as low calorie, is already contained on product labels. Thus, consumers have ready access to much of the information covered in the food rule at the point of sale, where it is of most value to the decision to purchase.

Separate Statement of Commissioner Michael Pertschuk

Two years ago, this Commission approved in principle a modest proposal aimed at food advertising claims which appealed to the public's concern about diet and health. The thrust of the rule was straightforward:

advertisements promoting beneficial health and diet features of food products could not deceptively cover up adverse health and diet facts about those products.

The evidence has not changed in the last two years. The policy considerations have not changed in the last two years. If anything, rising popular and medical concern with diet and health makes action in this area all the more important. I saw no basis for a reconsideration of the decisions we made two years ago. I was, however, willing to consider amendments to meet concerns other Commissioners might have had. Now there is no longer a majority on the Commission to support *any* form or part of a rule, however modified and however modest, and it would be pointless to maintain the facade of an "active" rulemaking proceeding. Therefore, I reluctantly agreed to terminate it.

This abdication invites a free-for-all for deceptive health claims for food—claims which will cynically exploit and distort growing public concern with diet and health. Advertisers will continue to spend fortunes to promote high fat foods as healthful, highly processed foods as natural, and high calorie foods as "dietetic" or as miracle energy tonics. The very fact that these claims continue to proliferate is evidence that they are effective in getting consumers to buy—and often to pay a premium. We do not need lawyers or economists to obscure the plain evidence of our senses.

It may well be a cornerstone of a free market that consumers have an inalienable right to clog up their arteries if they want to do so. But it seems to me that there are two modest proposals that should go along with that freedom. One is that consumers, particularly those looking for healthful alternatives, not be misled by deceptive health claims for food. The other is that consumers should be informed about the risks associated with those choices.

I cannot say I'm entirely surprised to find the Commission abandoning those goals today. While professing general support for the Commission's consumer education program, the Reagan deregulators at the FTC oppose the role of the FTC as a "consumer educator" in the food area. They obstensibly prefer such education to come from voluntary groups like the Network for Better Nutrition, which is a broad coalition of consumers, food manufacturers, and nutritional experts organized to promote better nutrition. Unfortunately, the Reagan administration, including Chairman Miller, withheld critical support for the Network for Better Nutrition and the effort collapsed. Nutrition education is being left to the magic of the marketplace. Coming from an administration that once proposed ketchup as a nutritional vegetable, this policy is hardly surprising.

Preventing deception won't cure the nation's coronary disease epidemic. But the claims that are a part of this record certainly do not help. For all of his concerns about cost, Chairman Miller ignores the costs of not acting. How many millions of dollars will now be spent by consumers under the illusion they are buying the good health that food ads promise but can't deliver?

I do not disagree with Chairman Miller's belief that a regulation should be issued only if there is proof that the proposed rule is needed and that the benefits will exceed the costs. Indeed, the FTC was engaging in exactly such a careful balancing of costs and benefits long before his arrival.

My fundamental disagreement is with the application of this standard. The novel evidentiary standard for rulemaking embraced by the Chairman would require every issue to be independently supported by statistical evidence of nearly scientific purity. In rejecting the food advertising rule, the majority of the Commission indicated that it was not adopting those evidentiary standards. In my view, that is a wise choice, since those standards would likely prevent the Commission, or any decision-maker, from ever having sufficient evidence to do anything.

[FR Doc. 83-13725 Filed 5-23-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-158 (Texas—28)]

High-Cost Gas Produced From Tight Formation; Correction

May 19, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a notice of proposed rulemaking that concerned high-cost gas produced from tight formations, Docket No. RM79-76-158 (Texas—28). The notice of proposed rulemaking appeared in the **Federal Register** on January 5, 1983 (48 FR 423); and contained an incorrect acreage description.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357–8571.

The following restates and corrects the description of the recommendation as well as the delineation of the formation, in FR DOC. 83–1250, appearing on pages 423 and 424, respectively. On page 423, the first paragraph of the description of the formation should read as follows:

"II. Description of Recommendation

Texas recommends that the Vicksburg (12,000 Boyt Sand) Formation in Hidalgo County, Texas, Railroad Commission District 4, be designated as a tight formation. The recommended area is within a 2.5 mile radius, centered roughly 1670 feet south of the CNG Producing Company Boyt No. 1 well and consisting of approximately 12,000 acres. The center point of this radius is located 18,725 feet south and 1,800 feet east of the northwest corner of the Dyonisio Ramirez Porcion 78, Abstract No. 563, Hidalgo County, Texas."

On page 424, the delineation of the formation should read as follows:

"(154) *Vicksburg (12,000' Boyt Sand) Formation in Texas.* RM79–76–158 (Texas—28).

(i) *Delineation of formation.* The Vicksburg (12,000' Boyt Sand) Formation is located in Hidalgo County, Texas, Railroad Commission District 4. The designated area is within a 2.5 mile radius the center point of which is located 18,725 feet south and 1,800 feet east of the northwest corner of Dyonisio Ramirez Porcion 78, Abstract No. 563."

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13879 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-197 (Colorado-36]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 5, 1983. Public Hearing: No public hearing is scheduled in this

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docket as yet. Written requests for a public hearing are due on June 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission as recommendation, in accordance with § 271.703 of the Commission's regulations (45 *FR* 56034, August 22, 1980), that the Dakota formation located in Mesa County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Bureau of Land Management concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Dakota Formation is located 20 miles east of the city of Grand Junction, Colorado, and underlies Township 11 South, Range 95 West, Sections 1 through 36, and Township 11 South Range 96 West, Sections 1 through 36, 6th P.M. The recommended area contains approximately 50,830 acres, of which 87% is federal land and 13% is fee land.

The Dakota Formation is defined as the formation that occurs between the top of the Morrison Formation and the base of the Mancos Shale. The top of the Dakota Formation is found at a depth of 7,300 to 8,900 feet in the recommended area and the average depth to the top of the formation is 8,100 feet. The average thickness of the Dakota Formation is 200 feet and the formation is of Cretaceous age.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–41 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability thoughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Dakota Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, on or before July 5, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–197 (Colorado–36), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by paragraph (d)(177) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(126) through (176) [Reserved]

(177) *Dokota Formation in Colorado.* RM79–76–197 (Colorado-36).

(i) *Delineation of formation.* The Dakota Formation is located in Mesa County, Colorado, in Township 11 South, Range 95 West, Sections 1 through 36, and Township 11 South, Range 96 West, Sections 1 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Dakota Formation is 8,100 feet. The Dakota Formation is defined as that formation which occurs between the top of the Morrison Formation and the base of the Mancos Shale. The Dakota Formation averages 200 feet in thickness.

[FR Doc. 83-13886 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76–198 (Colorado-37)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Morrison Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 5, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commisson's regulations (45 FR 56034, August 22, 1980), that the Morrison Formation located in Mesa and Garfield Counties, Colorado, be designated as a tight formation. Pursuant to § 271.793(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Morrison Formation be designated a tight formation should be adopted. The United States Department of the Interior, Bureau of Land Management concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Morrison Formation is located northeast of the city of Grand Junction, Colorado, and underlies portions of Townships 7 through 11 South, Ranges 95 through 100 West, 6th P.M. The recommended area contains approximately 581,036 acres, of which 72.2% is federal land, 27.5% is fee land, and 0.3% is state land.

The Morrison Formation is overlain by the Dakota Formation and consists of the upper Brushy Basin Member and the lower Salt Wash Member. The top of the Morrison Formation is found at depths of 6,300 to 9,800 feet in the recommended area and the average depth to the top of the formation is 8,050 feet. The thickness of the Morrison Formation varies from 400 to 600 feet and the formation is of Jurassic age.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–42 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Morrison Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 5, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–198 (Colorado-37), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(178) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(126) through (177) [Reserved].

(178) *Morrison Formation in Colorado.* RM79–76–198 (Colorado–37).

(i) *Delineation of formation.* The Morrison Formation is located in Mesa and Garfield Counties, Colorado, in Township 7 South, Ranges 95 through 101 West; Township 8 South, Ranges 95 through 100 West; Township 9 South, Ranges 95 through 99 West; Township 9 South, Range 100 West, Sections 1 through 4, 9 through 16, 22 through 26, and 36; Township 10 South, Ranges 95 through 99 West; Township 11 South, Ranges 95, 96, and 99 West; Township 11 South, Range 98 West, Sections 1 through 24, 27 through 34; and Township 22 South, Range 97 West, Sections 1 through 12, 17 through 20, 6th P.M.

(ii) *Depth.* The average depth to the top of the Morrison Formation is 8,050 feet. The Morrison Formation is overlain by the Dakota Formation and consists of the upper Brushy Basin Member and the lower Salt Wash Member. The Morrison

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Formation varies from 400 to 600 feet in thickness.

[FR Doc. 83-13887 Filed 5-23-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-199 (New Mexico-24)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the state of New Mexico that the Morrow Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 5, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

I. Background

On april 22, 1983, the State of New Mexico Energy and Minerals Department Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Morrow Formation located in Eddy County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Morrow Formation be designated a tight formation should be adopted. The United States Department of the Interior, Bureau of Land Management concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Morrow Formation is located in southeast New Mexico. The recommended formation includes all of Sections 25 and 36, Townships 23 South, Range 26 East, NMPM and consists of approximately 1,280 acres. The top of the Morrow Formation is found at an average depth of 11,553 feet and has approximately 190 feet of gross thickness.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7784 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed areas is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Morrow Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 5, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-199 (New Mexico-24), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. William,
Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(180) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(126) through (179) [Reserved].

(180) *Morrow Formation in New Mexico.* RM79-76-199 (New Mexico-24).

(i) *Delineation of formation.* The Morrow Formation is located in Eddy County, New Mexico, in Sections 25 and 36, Township 23 South, Range 26 East, NMPM.

(ii) *Depth.* The type section for the Morrow Formation is found at a depth of approximately 11,458 feet to 11,648 feet on the log from the Jake L. Hamon State V-249 Well No. 1. The average depth to the top of the Morrow Formation is 11,553 feet. Thickness of the Morrow Formation is approximately 190 feet.

[FR Doc. 83-13885 Filed 5-23-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-191; (Tennessee-1)]

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Tennessee State Oil and Gas Board that the Monteagle Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 5, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written request for a public hearing are due on June 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 1983, the Tennessee State Oil and Gas Board (Tennessee) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Monteagle Formation located in Morgan, Scott, and portions of Fentress Counties in the north-central part of the state of Tennessee, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Tennessee's recommendation that the Monteagle Formation in Morgan, Scott, and portions of Fentress Counties, be designated a tight formation should be adopted. Tennessee's recommendations and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Tennessee recommends that the Monteagle Formation encountered in Morgan, Scott, and portions of Fentress Counties, located on the Cumberland Plateau of the north-central part of the state of Tennessee, be designated as a tight formation. The designated interval represents a Mississippian age limestone with lesser amounts of dolomite, chert, and shale. The production zones of the Monteagle Formation are restricted to the oolitic sandstones of lenticular and elongate lime sand bodies deposited in a high energy environment.

The Monteagle Formation is overlain by the Hartselle Formation and is underlain by the St. Louis Dolomite Formation, both of Mississippian age. The depth to the top of the Monteagle Formation varies from 750 t0 2,050 feet with an average depth of 1,100 feet. The thickness varies from 180 to 250 feet.

III. Discussion of Recommendation

Tennessee claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Tennessee on the matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271,703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Tennessee further asserts that existing federal regulation assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980, notice is hereby given of the proposal submitted by Tennessee that the Monteagle Formation, described and delineated in Tennessee's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before july 5, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-191 (Tennessee-1), and should give reasons, including supporting data, for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communication concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set

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forth below, in the event Tennessee's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(191) to read as follows:

§ 271.703 Tight formation.

* * * * *

(d) *Designated tight formations.*

* * * * *

(19) *Monteagle Formation in Tennessee.* RM79–76–191 (Tennessee-1).

(i) *Delineation of formation.* The Monteagle Formation is found in Morgan, Scott, and portions of Fentress Counties located in the northcentral part of the state of Tennessee.

(ii) *Depth.* The average depth to the top of the Monteagle Formation is 1,100 feet. The thickness varies from 180 to 250 feet.

[FR Doc. 83–13888 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–195 (Texas–22 Addition IV)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Strawn-Detrital Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 5, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On April 4, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that additional areas of the Strawn-Detrital Formation in the Ozona, S.W. (Strawn) Field in Crockett County, Texas, be designated as a tight formation. On August 24, 1982, the Commission issued Order No. 249 in Docket No. RM79–76–111 (Texas-22), and on April 21, 1983, the Commission issued Order No. 295 in Docket Nos. RM79–76–150 (Texas-22 Addition) and RM79–76–157 (Texas-22 Addition II) in which the Commission designated as tight formations portions of the Strawn-Detrital in the University Block 31 (Strawn-Detrital) Field and the Howards Creek (Penn) Field and portions of the Detrital Formation in the Perner Ranch area. A recommendation is currently under consideration to designate additional areas of the Strawn-Detrital Formation in the University Block 31 (Strawn-Detrital) and Howards Creek (Penn) Fields, in Docket No. RM79–76–169 (Texas-22 Addition III), Notice of Proposed Rulemaking issued March 1, 1983, as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the additional areas of the Strawn-Detrital Formation be added to the previously designated tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Strawn-Detrital Formation in portion of the Ozona, S.W. (Strawn) Field in Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area consists of approximately 14,000 acres located 15 miles southwest of Ozona, Texas, and just to the south of the area of the Strawn-Detrital Formation in the University Block 31 Field designated by the Commission as a tight formation by Order No. 249, issued August 24, 1982. Specifically, the recommended area consists of the south halves of Sections 1, 12 and 13, the west halves of Sections 17 and 23, the east half of Section 8, and all of Sections 2, 3, 4, 9, 10, 11, 14, 15, 16 and 21, Block M, GC and S.F. Survey; Sections 4, 5, 6, 11, 12, 13 and the south quarters of Sections 7 and 10, Block S.L., T and S.T.L. Survey; and a portion of Block Z, J. W. Henderson Survey.

The vertical extent of the Strawn-Detrital Formation in Texas' recommendation is defined as the interval from the base of the Canyon Formation (top of Strawn series) to the top of the Simpson Shale (base of the Devonian), which includes the Strawn, Strawn-Detrital and Devonian zones. In the recommended area the average depth to the top of the Strawn series is approximately 8,800 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Procedure Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the additional area of the Strawn-Detrital Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 5, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–195 (Texas–22 Addition IV) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding paragraph (d)(106)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(106) *Strawn-Detrital Formation in Texas.* RM79–76 (Texas–22).

* * * * *

(iii) *Ozona, S.W. (Strawn) Field.*

(A) *Delineation of Formation.* The Strawn-Detrital Formation in the area of the Ozona, S.W. (Strawn) Field is located in Crockett County, Texas, Railroad Commission District 7C. The designated area consists of the south half of Section 1, Sections 2, 3, 4, the east half of Section 8, Sections 9, 10, 11, the south halves of Sections 12 and 13, Sections 14, 15, 16, the west half of Section 17, Section 21, and the west half of Section 23, Block M, GC and S.F. Survey; Sections 4, 5, 6, the south quarters of Sections 7 and 10, Sections 11, 12, and 13, Block S.L., T and S.T.L. Survey; and a portion of Block Z, J. W. Henderon Survey.

(B) *Depth.* The vertical extent of the Strawn-Detrital Formation in the Ozona, S.W. (Strawn) Field is defined as the interval from the base of the Canyon Formation (top of the Strawn series) to the top of the Simpson Shale (base of the Devonian), which includes the Strawn, Strawn-Detrital and Devonian zones. The average depth to the top of the Strawn series is approximately 8,800 feet.

[FR Doc. 83–13889 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 158

[Docket No. 83N–0108]

Quick Frozen Brussels Sprouts; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

Correction

In FR Doc. 83–11423 beginning on page 19413 in the issue of Friday, April 29, 1983, make the following corrections:

1. On page 19415, first column, the paragraph designated "2.3.1" should have been designated "2.4.3.1".

2. On page 19416, center column, paragraph 6.3, fifth line, "3.2(o)" should have read "3.2(c)".

3. On page 19417, first column, second full paragraph from the top of the page, fifth line, "556, 577" should have read "556, 557".

BILLING CODE 1505–01–M

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21 CFR Part 158

[Docket No. 83–0105]

Quick Frozen Corn-on-the-Cob; Possible Establishment of a Standard

Correction

In FR Doc. 83–11461 beginning on page 19399 in the issue of Friday, April 29, 1983, make the following corrections:

1. On page 19401, Table I, in the entry for the defect *Column variation (Ears)—Pronounced,* under the defect category *Major,* the number "1" should have read "2".

2. Same table, in the entry for the defect *difference in size outside given range (in standard sample unit),* under the defect category *Minor,* "2" should have read "1".

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21 CFR Part 158

[Docket No. 83N–0109]

Quick Frozen Green Beans and Quick Frozen Wax Beans; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

Correction

In FR Doc. 83–11429 beginning on page 19409 in the issue of Friday, April 29, 1983, make the following correction:

On page 19413, first column, under paragraph 8.1.1, fifth line, "*FAO/HOW*" should have read "*FAO/WHO*".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–140–82]

Top-Heavy Plans

Correction

In FR Doc. 83–6629 beginning on page 10868 in the issue of Tuesday, March 15, 1983, the telephone number in the "For Further Information Contact" Section should read "202–566–3430."

BILLING CODE 1505–01–M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 31

Salary Offset for Federal Employees Indebted to the United States Under Programs Administered by the Secretary of Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations that would establish rules for offsetting a debt against the Federal pay of a current or former Federal employee who is indebted to the United

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States under a program administered by the Secretary of Education. These proposed regulations implement debt collection procedures provided for under the Debt Collection Act of 1982.

DATES: Comments must be received on or before June 23, 1983.

ADDRESS: Comments should be addressed to Mr. Jack Reynolds, Student Loan Collection Task Force, Office of Postsecondary Education, 400 Maryland Avenue, S.W., (ROB-3—Room 3661), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Reynolds, (202) 755-1467.

SUPPLEMENTARY INFORMATION:

Background

The Debt Collection Act or 1982, Pub. L. 97-365, authorizes the Federal Government to collect debts owed to it by its own current and retired military and civilian employees through the use of a salary offset. In this respect, the law puts the Federal Government in a position similar to that of a private employer, since a private employer may collect a debt owed to it by one of its employees without resort to litigation.

Under the law, when the head of a Federal agency determines that one of the agency's current or retired employees is indebted to the United States, or is notified by the head of another Federal agency that one of the agency's employees is indebted to the United States, the employee's debt may be repaid by offsetting the debt against that employee's pay. The amount of the offset may not exceed 15 percent of the employee's disposable pay. Disposable pay is defined in the law as gross Federal pay minus deductions required by law to be withheld. These deductions include amounts withheld for Federal, State, and local income taxes, Social Security taxes, and Federal retirement programs.

The law also includes safeguards to protect the rights of employees. Thus, at least 30 days before an offset may be initiated, the head of the agency holding the debt must notify the debtor that he or she (1) is indebted to the United States, (2) may inspect and copy Government records relating to the debt, (3) may enter into an agreement with the head of the agency concerning a repayment schedule, and (4) may request a hearing contesting the existence or amount of the debt, or the proposed offset schedule.

The Secretary of Education is proposing regulations to implement the offset provisions of the Debt Collection Act of 1982 with regard to Federal employees who are indebted to the United States under programs administered by the Secretary. In general, Federal employees most frequently become indebted to the United States under programs administered by the Secretary if they are in default on loans made under the Guaranteed Student Loan/PLUS, National Direct Student Loan, Cuban Student Loan or Law Enforcement Education Programs, or have not repaid overpayments on grants received under the Pell Grant or Law Enforcement Education Programs.

The procedures the Secretary is proposing reflect the major purpose of the offset authority, namely, collecting debts owed the United States by current and former Federal employees in a cost-effective and expeditious manner, while allowing the employee an opportunity to be heard regarding the nature and amount of the debt and the decision to offset 15 percent of the employee's disposable pay.

Before initiating an offset proceeding, the Secretary will notify any Federal employee who is indebted to the United States under a program administered by the Secretary of the existence and amount of that indebtedness, and the Secretary's intention to satisfy that indebtedness by offsetting 15 percent of the employee's disposable pay. The Secretary will, however, agree to reconsider his determination regarding the existence or amount of the debt if the employee can convince the Secretary that his initial determination was incorrect. In making his or her argument against being indebted to the United States, the employee may submit documents to the Secretary or raise factual matters not previously submitted or r aised with the Secretary. Moreover, the Secretary may enter into an agreement with the employee to offset a smaller amount from the employee's disposable pay if the employee can convince the Secretary that an offset of 15 percent against his or her disposable pay would produce an extreme financial hardship. In this connection, the employee must submit an alternative offset schedule that would not produce such a hardship. The Secretary will allow an employee 45 days to present his or her arguments and documents with respect to these issues.

If the Secretary agrees, after reviewing the material submitted by the employee, that the employee is not indebted to the United States, or that the alternative offset schedule proposed by the employee is appropriate to satisfy that indebtedness, the Secretary so informs the employee. If the Secretary determines that the employee is indebted to the United States, he will formally notify the employee of his determination and his rationale for that determination, and of his intention to collect the debt by offsetting the amount he originally scheduled, or a modified amount if he believes a modification is appropriate in light of the employee's submissions. The Secretary will, in addition, inform the employee of his or her right to a hearing before a hearing official, who is not under the supervision or control of the Secretary, if the employee wishes to contest the Secretary's determination of the existence or amount of the debt, or the Secretary's determination that the proposed schedule will not produce an extreme financial hardship for that employee.

The Debt Collection Act of 1982 prohibits the Secretary from offsetting the pay of an employee to satisfy that employee's debt until the procedures set forth in the Act are satisfied. Yet, the Act recognizes that any delay in these procedures benefits the employee and injures the United States, sine it requires that the hearing official, if a hearing is requested by the employee, issue his decision as soon as possible, but not later than 60 days after the employee files a petition for a hearing. The rather short deadline dates proposed by the Secretary in the regulations reflect this statutory deadline and that recognition.

Hearings—Existence or Amount of Debt

The Debt Collection Act of 1982 permits an employee to request a hearing on the determination of the agency regarding the existence or amount of debt owed by the employee to the United States. Thus, the hearing is not to determine anew whether the employee is indebted to the United States; it is a hearing on the determination of an agnecy that the employee is indebted to the United States. In this respect, the hearing is in the nature of an appeal of the decision of the agency. Accordingly, the Secretary is proposing an appeal standard if an employee requests a hearing to challenge the Secretary's determination of the existence and amount of the employee's debt.

Under the Secretary's proposed standard, an employee must demonstrate to the hearing official that the Secretary's determination of the existence or amount of the employee's debt was clearly erroneous before the hearing official can overturn the Secretary's determination. In order for the hearing official to find that the Secretary's determination of the existence and amount of the debt was clearly erroneous, the employee must demonstrate that the Secretary's determination was without legal support. Thus, even if there is legal support for the position of the employee that he is not indebted to the United States, the hearing official may not find that the Secretary's determination was clearly erroneous if there is also support for the position of the Secretary. Moreover, since the hearing official is evaluating whether the Secretary's determination of the existence or amount of the debt was clearly erroneous, the hearing official must base his opinion on the same facts that were available to the Secretary. Therefore, no evidence may be introduced at the hearing that has not already been provided to the Secretary before he made his determination.

In making this finding, the hearing official shall be governed by the statutes and regulations authorizing and implementing the programs giving rise to the debt, and State law, if relevant. In view of the limited scope of the hearing regarding the Secretary's determination of the existence or amount of the debt, the Secretary's expertise regarding the circumstances which give rise to a debt to the United States under programs he administers, and the lack of the expertise by the hearing official in that area, the Secretary has proposed a series of legal principles to guide official in his deliberations on whether the Secretary's determination of the existence and amount of the debt was clearly erroneous. Further, the Secretary anticipates that the hearing official will give great weight to the Secretary's interpretations of the program statutes and regulations.

Hearings—Amount of Offset

The Debt Collection Act also permits the employee to request a hearing regarding the offset schedule established by the head of an agency. The Act, however, estalishes no standards with regard to this review. The Secretary is proposing a standard that he, as well as the hearing official, will follow.

The Secretary believes that it is appropriate in almost all cases, where an employee of the United States is indebted to the United States, to have that employee repay that debt by the Government offsetting 15 percent of his disposable pay. However, the Secretary recognizes that there may be a circumstance where a 15 percent offset against disposable pay would be inappropriate if the offset would produce an extreme financial hardship for the employee. The Secretary believes that an extreme financial hardship is produced only if the offset would prevent the employee from meeting the costs necessarily incurred for essential subsistence expenses of the employee and his family. The Secretary further believes that these essential subsistence costs are costs incurred for medical care, and for food, housing, clothing, and transportation.

The Secretary has defined the family of an employee to include the employee's spouse and dependents. In determining whether an employee will suffer an extreme financial hardship if his pay is offset, the Secretary is proposing to take into account the expenses of the family unit. The Secretary also believes the income and assets of the family unit should also be taken into account when making this determination.

The Secretary acknowledges that the standard he is proposing for demonstrating extreme financial hardship is strict and may be difficult to meet. The Secretary intends this result and expects that very few employees will be able to demonstrate this need. The Secretary believes that a 15 percent offset will not produce a hardship for most employees and further believes that the lifestyle of an employee should be modified, if necessary, to accommodate the repayment of his debt to the United States. The Secretary is also mindful of the fact that if the employee was employed by a private employer, or if a judgment was obtained against the employee by the United States, the remedies permitted to satisfy that debt or judgment would be harsher to the employee than the procedure proposed by the Secretary.

If an employee contends that an offset of 15 percent, or a lesser amount as determined by the Secretary, against his disposable pay would produce an extreme financial hardship, the employee must document that hardship and propose an alternative offset schedule. In order for the Secretary and the hearing official to determine whether an offset would produce an extreme financial hardship for the employee, the employee must provide information concerning his current and future financial situation. The employee satisfies this requirement by providing the information called for in the regulations for the one year period preceding the notice to the employee of the offset, and for a future period which coincides with repayment period proposed by the employee in his or her offset schedule.

Before determining whether the Secretary's proposed offset schedule would produce an extreme financial hardship for the employee, the Secretary and hearing official will: (1) examine the income form all sources of the employee and his spouse and dependents; (2) examine these individual's assets to determine whether the assets could be sold or could serve as collateral for a loan to accommodate the offset; (3) determine whether the employee's essential expenses could be minimized to accommodate the offset; (4) determine whether these individuals could borrow money to accommodate the offset; and (5) take into account exceptional expenses of the employee and his spouse and defendents, and whether such expenses could be avoided or minimized.

Finally, the Secretary does not intend to offset the pay of an employee who, in reality, is not indebted to the United States. Accordingly, in extraordinary circumstances, the Secretary may, after the conclusion of the procedures established in this part, determine that an employee is not indebted to the United States in the amount previously established, based upon conclusive documents producted by the employee after the deadline date established by the regulations.

The Secretary in the part is not establishing rules for offsetting a debt against the pay of a Federal employee to satisfy a judgment obtained by the United States against that employee in a court of the United States. Further, the Secretary in this part is not establishing rules for offsetting the pay of one of his employees who received an overpayment of pay or allowances.

When the Department of Justice and the General Accounting Office issue their final joint regulations implementing the Federal Claims Collection Act as amended by the Debt Collection Act of 1982, the Secretary will revise the Department's salary offset regulations if the Department's regulations are inconsistent with the joint regulations.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Certification Act Certification.

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

These regulations do not affect small entities. They affect only individual employees of the United States.

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Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the adddress given at the beginning of this document. All comments submitted on or before the 30th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4019–FOB 6, 400 Maryland Avenue, S. W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 31

Administrative practice and procedure Debt collection, Governnment employees, Student Aid, Loan Programs—education, Grant programs—education.

Citation of Legal Authority

A citation of statutory or other authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance number does not apply.)

Dated May 20, 1983.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new part, Part 31, to read as follows:

PART 31—SALARY OFFSET FOR FEDERAL EMPLOYEES WHO ARE INDEBTED TO THE UNITED STATES UNDER PROGRAMS ADMINISTERED BY THE SECRETARY OF EDUCATION

Sec.

31.1 Scope
31.2 Definitions.
31.3 Pay subject to offset.
31.4 Notice of debt—request for records—submission of information.
31.5 Formal notice to employee.
31.6 Request for a hearing-prehearing submissions.
31.7 Hearings—time, date, and location.
31.8 Consequence of employee's failure to meet deadline dates.
31.9 Hearing procedures.
31.10 Representation.
31.11 Applicable legal principles.
31.12 Standards for determining extreme financial hardship.

Authority: 5 U.S.C. 5514, as amended by section 5 of Public Law 97–365, 96 Stat. 1751–1752.

§ 31.1 Scope.

(a) If a Federal employee is indebted to the United States under a program administered by the United States Secretary of Education ("the Secretary"), the employee's pay may be offset to satisfy that indebtedness under the procedures set forth in this part.

(b) The Secretary in this part establishes rules for offsetting a debt against the pay of an employee of the United States if that employee—

(1) Is in default and indebted to the United States on a loan made under the Guaranteed Student Loan (GLS)/PLUS Program (20 U.S.C. 1071 *et seq.*);

(2) Is in default and indebted to the United States on a loan made under the National Defense/Direct Student Loan (NDSL) Program (20 U.S.C. 1087aa *et seq.*);

(3) Has not repaid an overpayment on a grant made under the Pell Grant Program (20 U.S.C 1070a);

(4) Has not repaid money owed under the terms of a grant, or is in default on a loan, made under the Law Enforcement Eduation Program (42 U.S.C. 3775);

(5) Is in default and indebted to the United States on a loan made under the Cuban Student Loan Program (22 U.S.C. 2601 *et seq.*); or

(6) Is indebted to the United States under any other program administered by the Secretary.

(c) An offset against pay shall be carried out in accordance with the standards established under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951 *et seq.*).

(d) The Secretary in this part is not establishing rules for offsetting a debt against the pay of a Federal employee—

(1) To satisfy a judgment obtained by the United States against that employee in a court of the United States; or

(2) To recover an overpayment of pay or allowances.

(5 U.S.C. 5514)

§ 31.2 Definitions.

As used in this part:

(a) "Agency" means—

(1) An Executive department, military department, Government corporation or independent establishment as defined in 5 U.S.C. 101, 102, 103, or 104, respectively.

(2) The United States Postal Service; or

(3) The Postal Commission.

(b) "Disposable pay" means the amount that remains from an employee's Federal pay after required deductions for Federal, State, and local income taxes; Social Security taxes, including Medicare taxes; and Federal retirement programs.

(c) "Employee" means a current or former—

(1) Civilian employee, as defined in 5 U.S.C. 2105;

(2) Member of the Armed Forces or Reserves of the United States;

(3) Employee of the United States Postal Services; or

(4) Employee of the Postal Rate Commission.

(d) "Offset" means a deduction from the pay of an employee to satify a debt.

(e) "Pay" means basic pay, special pay, incentive pay, retired pay, retainer pay, or, in case of an employee not entitled to basic pay, other authorized pay.

(5 U.S.C. 105, 2105 and 5514(a))

§ 31.3 Pay to offset.

(a) An offset from an employee's pay may not exceed 15 percent of the employee's disposable pay, unless the employee agrees in writing to a larger offset.

(b) An offset from pay shall be made monthly or at officially established pay intervals from the employee's current pay account.

(c) If an employee retires, resigns, or is discharged, or if his or her employment period or period of active duty otherwise ends, an offset may be made from subsequent payments of any nature due the individual.

(5 U.S.C. 5514(a))

§ 31.4 Notice of debt—request for records—submission of information.

(a) Before initiating an offset proceeding, the Secretary notifies an employee that—

(1) The Secretary has determined that the employee is indebted to the United States in a specified amount under a program administered by the Secretary; and

(2) The Secretary intends to satisfy that indebtedness by offsetting 15 percent of the employee's disposable pay unless the employee can demonstrate that this offset schedule would produce an extreme financial hardship under § 31.12.

(b)(1) An employee notified of the Secretary's determination of the existence and amount of the debt, and the offset schedule, may submit a request to the Secretary to—

(i) Send a copy of the records in his possession relating to the debt, not later than 10 days from the date the employee receives the notice;

(ii) Reconsider his determination of the existence or amount of the debt, within the time period specified in paragraph (c) of this section; or

(iii) Reconsider the proposed offset schedule if it would produce an extreme financial hardship for the employee under § 31.12, within the time period in paragraph (c) of this section.

(2) If the employee requests the Secretary to reconsider his determination concerning the existence or amount of the debt, the employee shall submit to the Secretary a statement, with supporting documents, indicating why the employee believes he or she is not so indebted.

(3) If the employee requests the Secretary to reconsider the proposed offset schedule, the employee shall file an alternative proposed offset schedule and a statement, with supporting documents, showing why the Secretary's schedule would produce an extreme financial hardship for the employee under § 31.12. The supporting documents must show, for the employee and his or her spouse and dependents, for the one year period preceding the Secretary's notice and for the repayment period proposed by the employee in his or her offset schedule, their—

(i) Income from all sources,

(ii) Assets,

(iii) Liabilities,

(iv) Number of dependents,

(v) Expenses for food, housing, clothing, and transportation,

(vi) Medical expenses, and

(vii) Exceptional expenses, if any.

(c) An employee, who requests the Secretary to reconsider the existence or amount of the debt, or the Secretary's proposed offset schedule, shall submit his or her statement with supporting documents to the Secretary not later than—

(1) 45 days from the date the employee receives the Secretary's notice, if he or she did not request records; or

(2) 45 days from the date the employee receives the records, if the records were requested.

(d) If the employee submits the appropriate statements and documents in a timely manner, the Secretary reconsiders whether the employee is indebted to the United States, the amount of the indebtedness, or the appropriate offset schedule.

(e) The Secretary notifies the employee, if the Secretary so determines on the basis of the statements and documents provided, that—

(1) The employee is not indebted to the United States; or

(2) The employee's proposed alternative offset schedule is approved.

(f) If, after considering the statement and supporting documents, the Secretary determines that the employee is indebted to the United States, the Secretary sends the employee—

(1) A statement indicating the reasons for the decision regarding the indebtedness, including, if applicable, the reasons for reducing the amount of the indebtedness; and

(2) The notice described in § 31.5.

(g) If, after considering the statement and supporting documents, the Secretary determines that his original offset schedule, or a modification to that schedule, will not impose an extreme financial hardship for the employee under § 31.12, the Secretary sends the employee—

(1) A statement indicating why he concluded that his original or modified offset schedule will not impose an extreme financial hardship under § 31.12; and

(2) The notice described in § 31.5.

(5 U.S.C. 5514(a))

§ 31.5 Formal notice to employee.

At least 30 days before requesting an agency to offset the pay of one of its employees under this part, the Secretary sends the employee a notice informing the employee of—

(a) The nature and amount of the debt the Secretary believes the employee owes the United States under a program administered by the Secretary;

(b) The Secretary's intention to collect the debt by having the employee's employing or payor agency offset 15 percent, or the amount that the Secretary determines under § 31.4, from the employee's disposable pay until the debt is fully repaid;

(c) The employee's opportunity for a hearing regarding—

(1) Whether the Secretary's determination concerning the existence or amount of the debt was clearly erroneous based on information that was available to the Secretary before he issued this notice; and

(2) Whether the Secretary's proposed offset schedule, as described in paragraph (b) of this section, would produce an extreme financial hardship for the employee under § 31.12; and

(d) Applicable hearing procedures and requirements.

(5 U.S.C. 5514(a)(1))

§ 31.6 Request for a hearing—prehearing submissions

(a)(1) An employee must fille a petition for a hearing not later than 15 days from the date the employee receives the notice described in § 31.5 if an employee wants a hearing concerning—

(i) The existence or amount of the debt; or

(ii) The Secretary's proposed offset schedule.

(2) The employee shall also indicate whether he or she wishes the hearing to consist solely of written submissions. However, the employee may, not later than 3 days before the hearing date, request that the hearing consist solely of written submissions if the employee did not originally request that type of hearing.

(b) If an employee timely files a petition for a hearing under paragraph (a) of this section, the Secretary—

(1) Notifies the employee of the time, date, and location of the hearing if the employee does not request a hearing consisting solely of written submissions: and

(2) Provides the employee, if the employee has not received the records under §312.4, and the hearing official with a copy of the records in the Secretary's possession relating to the employee's debt.

(c) Not later than 15 days from the date the employee receives the records described in paragraph (b) of this section, or not later than 25 days from the date the employee receives the notice described in § 31.5 if he or she has received records under §31.4, the employee shall file with the Secretary and the hearing official—

(1) The items listed in paragraph (d) of this section, if the employee contests the Secretary's determination of the existence or amount of the debt; or

(2) The items listed in paragraph (e) of this section, if the employee contests the Secretary's offset schedule.

(d)(1) An employee, contesting the Secretary's determination of the existence or amount of the debt, shall file—

(i) A statement of the reasons why the employee believes that the Secretary's determination of the existence or amount of the debt was clearly erroneous. The statement shall include a recitation of the facts on which the employee relies to support his or her belief and any legal arguments supporting that belief.

(ii) A list of witnesses the employee will call at the hearing and a summary of their anticipated testimony; and

(iii) A copy of the records that the employees intends to introduce at the hearing if they differ from the ones provided by the Secretary.

(2) However, the employee may not—

(i) Raise any issue that he or she has not previously raised with the Secretary concerning the existence or amount of the debt; or

(ii) Introduce any facts or records that he or she has not previously submitted to the Secretary concerning the existence or amount of the debt.

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(e) An employee contesting the Secretary's proposed offset schedule shall file with the Secretary—

(1) A proposed alternative offset schedule;

(2) A statement of the reasons why the Secretary's proposed offset against disposable pay will produce an extreme financial hardship under §31.12;

(3) The information required in § 31.4(b)3);

(4) A list of witnesses the employee intends to call at the hearing and a summary of their anticipated testimony; and

(5) A copy of the records that the employee intends to introduce at the hearing if they differ from the ones provided by the Secretary.

(f) As applicable, not later than 15 days from the date the Secretary receives the materials submitted under paragraph (c) of this section, the Secretary provides the employee and the hearing official with—

(1) A statement supporting the Secretary's determination regarding the existence and amount of the debt;

(2) A statement setting forth the reasons why the Secretary's proposed offset schedule does not produce an extreme financial hardship for the employee under §31.12;

(3) A list of witnesses that the Secretary intends to call at the hearing; and

(4) A summary of their anticipated testimony.

(5 U.S.C. 5514(a))

§ 31.7 Hearings—time, date, and location.

(a) If an employee timely files a petition for a hearing under § 31.6, the Secretary selects the time, date, and location for the hearing. The Secretary selects, to the extent feasible, the location that is most convenient for the employee.

(b) For a civilian employee or a former employee, the hearing will be held in Washington, D.C. or in one of the following cities: Boston, Philadelphia, New York, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, or Seattle.

(c) For a current military employee, the Secretary shall select the time, date, and location of the hearing after consultation with the Secretary of Defense.

(d) For a current Coast Guard employee, the Secretary selects the time, date, and location of the hearing after consultation with the Secretary of Transportation.

(5 U.S.C. 5514(a))

§ 31.8 Consequence of employee's failure to meet deadline dates.

(a) An employee waives his or her right to a hearing, and will have his or her disposable pay offset in accordance with the Secretary's offset schedule, if the employee—

(1) Fails to file a petition for a hearing before the deadline date established under § 31.6;

(2) Is scheduled to appear and fails to appear on time at the hearing; or

(3) Fails to file the required submissions under § 31.6 within 5 days after the deadline date established under § 31.6

(b)(1) If the employee files his or her required submissions within 5 days after the deadline date established under § 31.6, and the hearing official finds that the employee has shown good cause for the failure to comply with the established deadline date, the hearing official may find that an employee has not waived his or her right to a hearing.

(2) In making the determination under paragraph (b)(1) of this section, the hearing official shall take into account that the employee was provided 45 days to respond to the Secretary's positions on the same issues under § 31.4.

(5 U.S.C. 5514)

§ 31.9 Hearing procedures.

(a)(1) The hearing is conducted by a hearing official who is not an employee of the United States Department of Education or otherwise under the supervision or control of the Secretary.

(2) A record or transcript of the hearing shall not be made.

(b)(1) The hearing shall not be conducted in accordance with formal rules of evidence with regard to the admissibility of evidence or the use of evidence once admitted.

(2) The hearing official may only permit the introduction of evidence described in the pre-hearing submissions under § 31.6 that are relevant to the issues being considered. However, the employee may introduce other evidence previously provided to the Secretary before he issued the notice set forth in § 31.5, to rebut the evidence of the Secretary.

(3) The hearing official may not require discovery other than that permitted in § 31.6.

(c)(1) At the hearing, the employee and the Secretary may introduce evidence and may call witnesses, consistent with the provisions of paragraph (b) of this section.

(2) Witnesses shall testify under oath.

(3) Witnesses may be cross examined.

(d)(1) At the hearing, the Secretary has the burden of first presenting his evidence on the relevant issues.

(2) The employee then has the burden of presenting his or her evidence regarding these issues.

(3) The Secretary may then offer evidence rebutting the evidence introduced by the employee.

(e)(1)(i) If the Secretary's determination regarding the existence or amount of the debt is contested, the hearing official shall issue a decision in favor of the Secretary's determination, unless the hearing official finds that the employee has demonstrated that the Secretary's determination was clearly erroneous based on information that was available to the Secretary before he issued the notice set forth in § 31.5.

(ii) If the hearing official finds that the Secretary's determination of the amount of the debt was clearly erroneous based on information that was available to the Secretary before he issued the notice set forth in § 31.5, the hearing official shall indicate the amount owned by the employee, if any.

(2)(i) If the Secretary's offset schedule is contested, the hearing official shall uphold the Secretary's offset schedule unless the employee has demonstrated by clear and convincing evidence that the payments called for under the Secretary's schedule will produce an extreme financial hardship for the employee under § 31.12.

(ii) If the hearing official finds that the payments called for under the Secretary's offset schedule will produce an extreme financial hardship for the employee, the hearing official shall establish an offset schedule that will result in the repayment of the debt in the shortest period of time without producing an extreme financial hardship for the employee.

(f) The hearing official shall issue a written opinion stating his or her decision with a rationale supporting that decision as soon as practicable after the hearing.

(g) The Secretary does not offset the debt against the employee's disposable pay during the course of the hearing.

(5 U.S.C. 5514(a))

§ 31.10 Representation.

An employee may represent himself or herself or may be represented by another person, including an attorney, during any portion of any proceedings under this part.

(5 U.S.C. 5514(a))

§ 31.11 Applicable legal principles.

(a) The hearing official may not find that the Secretary's determination of the existence or amount of the employee's debt was clearly erroneous—

(1) If a judgment was obtained against the employee on the dept in a court of competent jurisdiction;

(2) On the basis of Federal, State or local statues of limitations;

(3) On the basis of the quality, or lack of quality, of the education provided by the educational institution the student attended, unless the student is indebted to the United States as a result of being in default on a loan made by that institution and the employee has a legal defense to the repayment of the loan by reason of the lack of quality of the education provided by that institution;

(4) On the basis that the employee is owed a refund by the institution he attended and that refund would eliminate or reduce the debt, unless the employee, not later than the period of time specified §31.4,—

(i) Submitted written confirmation from the institution to the Secretary that the refund is owned, and

(ii) Assigned the refund to the Secretary; or

(5) On the basis of any factual or legal argument that was decided on the merits adverse to the employee in a court of competent jurisdiction.

(b) In determining whether the Secretary's determination of the existence or amount of the employee's debt was clearly erroneous, the hearing official is governed by the relevant Federal statutes and regulations authorizing and implementing the programs giving rise to the debt, and State law, if relevant.

(5 U.S.C. 5514(a))

§ 31.12 Standards for determining extreme financial hardship.

(a)(1) An offset produces an extreme financial hardship for an employee if the offset prevents the employee from meeting the costs necessarily incurred for essential subsistence expenses of the employee and his or her spouse and dependents.

(2) These essential subsistence expenses only include costs incurred for medical care and for food, housing, clothing, and transportation.

(b) In determining whether an offset would prevent the employee from meeting the essential subsistence costs described in paragraph (a) of this section, the Secretary and the hearing official shall consider—

(1) The income from all sources of the employee and his or her spouse and dependents;

(2) The extent to which the assets of the employee and his or her spouse and dependents are available to meet the offset and the essential subsistence expenses;

(3) Whether these essential subsistence costs have been minimized to the greatest extent possible;

(4) The extent to which the employee and his or her spouse and dependents can borrow money to meet the offset and the other essential costs; and

(5) The exstent to which the employee and his or her spouse and dependents have other exceptional expenses that should be taken into account, and whether these expenses have been minimized.

(5 U.S.C. 5514(a))

[FR Doc. 83-14020 Filed 5-23-83; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50502/FRL 2306-6; TSH-FRL 2306-6]

Category of Chemical Substances Known as Chlorinated Naphthalenes; Proposed Determination of Significant New Uses

Correction

In FR Doc. 83-12046, beginning on page 20668, in the of edition Friday, May 6, 1983, make the following changes:

1. On page 20670, in the second column, in the third complete paragraph, in the eighteenth line, "less than" should read "less than 70".

2. On page 20671, in the first column, in the third complete paragraph in the sixth line, "minow" should read "minnow".

3. On page 20673, in the third column, in the first paragraph under *"IV. Other Regulatory Options"*, in the fourth line "6(b)(4)." should read "5(b)(4)."

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

Office of Plans, Programs, and Financial Management

41 CFR Part 101-41

Administrative Offset and Interest Assessment on Delinquent Refunds for Totally Unused Tickets

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to enable Government agencies to collect by administrative offset when carriers fail to make refunds for totally unused passenger tickets in accordance with 41 CFR 101-41.210. The amendment will also permit agencies to assess interest and penalties on delinquent refunds due the Government for totally unused passenger tickets. This amendment is necessary to further improve the efficiency of Government-wide efforts to collect debts owed the United States, as prescribed by the Federal Claims Collection Act of 1966 (31 U.S.C. 3701-3711) as amended by the Debt Collection Act of 1982 (Pub. L. 97-365).

DATE: Written comments must be received by July 25, 1983.

ADDRESS: Comments should be sent to the General Services Administration (BWCP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: The GSA has determined that this proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this proposed rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this proposed rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101-41 as follows:

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

1. Section 101-41.210-4a is added to read as follows:

§ 101-41.210-4a Unused ticket setoff.

SF 1170 claims for totally unused tickets are administratively determined

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debts as opposed to overcharges (see § 101–41.506(a)). When past due, they are subject to agency setoff action and the interest and penalty provisions of the Federal Claims Collection Act of 1966 (31 U.S.C. 3701–3711) as amended by the Debt Collection Act of 1982 (Pub. L. 97–365). Claims uncollected after 90 days should be transmitted to the General Services Administration (BWCPG) for further action.

Subpart 101–41.5—Claims by the United States Relating to Transportation Services

2. § 101–41.506 paragraph (a) is revised to read as follows:

§ 101–41.506 Transportation debts administratively determined to be due the United States.

(a) Under the Federal Claims Collection Act of 1966 (31 U.S.C. 3701–3711), the Comptroller General of the United States and the Attorney General have joint responsibility for promulgating standards for the collection, compromise, termination, or suspension of collection action on any debts determined by administrative agencies to be due the United States (see 4 CFR 102). Totally unused tickets, where no ticket coupon has been used and for which an SF 1170 has been issued to the carrier, will be considered an administratively determined debt under this section (§ 101–41.210). Regulations defining agency responsibilities for collecting amounts determined to be due the United States, establishing principles governing agency collection procedures for reporting uncollectible debts to the General Accounting Office (GAO) or the Justice Department are found in 4 CFR Parts 101 through 105 and in Title 4, Debt Claims-General Policies and Procedures of the GAO Policy and Procedures Manual for the Guidance of Federal Agencies.

* * * * *

(31 U.S.C. 3701–3711, Pub. L. 97–365, 31 U.S.C. 3726, and 40 U.S.C. 486(c))

Dated: May 2, 1983.

Raymond A. Fontaine,

Assistant Administrator of General Services.

[FR Doc. 83–13014 Filed 5–23–83; 8:45 am]

BILLING CODE 6820–34–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6492]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 83–4041 beginning on page 7214 in the issue of Friday, February 18, 1983, make the following correction on page 7223:

In the entry for "Ohio, Clarington, Monroe County", the first entry in the third column which presently reads "°264" should read "°642".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 48, No. 101
Tuesday, May 24, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–190. Applicant: University of Miami School of Medicine, Dept. of Ophthalmology, Bascom Palmer Eye Institute, P.O. Box 016880, 900 NW 17 St., Miami, FL 33101. Instrument: Rotating Photo Slit Lamp Model SL–45 w/table plate and table leg Model A1T–5. Manufacturer: Topcon Deutschland GMBH, West Germany. Intended use of instrument: The instrument is intended to be used to study and classify the various types of angle closure glaucoma. Measurements will be made of the anterior chamber depth at various locations, including the curvature and configuration of the lens, iris, peripheral cornea, etc. The purpose is to identify the specific anatomic characteristics that lead to the development of various types of glaucoma in order to be able to predict the individuals that require surgical therapy based on the knowledge of the anatomical configuration of the individual. The effectiveness of surgical and medical therapy on changing the anatomic configuration will also be investigated. Application received by Commissioner of Customs: May 12, 1983.

Docket No. 83–192. Applicant: Northwestern University Medical School, Dept. of Pharmacology, Ward Bldg.; Rm. 12–031, 303 East Chicago Avenue, Chicago, IL 60611. Instrument: 2 (each) Three-dimensional Hydraulic Microdrive and K-type Micromanipulator. Manufacturer: Narashigi Scientific Instruments Laboratory, Japan. Intended use of instrument: The instrument is intended to be used for research in which the long term objectives are to understand the nature of channel gating, ion permeation, and molecular mechanisms by which drugs and blocking ions interact with sodium and potassium channels. To achieve this, recently developed gigaseal patch clamp techniques will be used to permit direct measurement of current through individual channels and the suction pipette technique will be used to allow macroscopic current measurement. Application received by Commissioner of Customs: May 12, 1983.

Docket No. 83–193. Applicant: Northwestern University Medical School, Dept. of Pharmacology, Ward Bldg.; Rm. 12–031, 303 East Chicago Avenue, Chicago, IL 60611. Instrument: 1 (each) Three-dimensional Hydraulic Microdrive and K-type Micromanipulator. Manufacturer: Narashigi Scientific Instruments Laboratory, Japan. Intended use of instrument: The instrument is intended to be used for research in which the long term objectives are to understand the nature of channel gating, ion permeation, and molecular mechanisms by which drugs and blocking ions interact with sodium and potassium channels. To achieve this, recently developed gigaseal patch clamp techniques will be used to permit direct measurement of current through individual channels and the suction pipette technique will be used to allow macroscopic current measurement. Application received by Commissioner of Customs: May 10, 1983.

Docket No. 83–195. Applicant: University of California at Davis, Department of Biological Chemistry, Davis, CA 95616. Instrument: Topical Magnetic Resonance Spectrometer, Model TMR 32/200. Manufacturer: Oxford Research Systems, United Kingdom. Intended use of instrument: The instrument is intended to be used in basic and applied research of tissue metabolism in living animals. The experiments will include a broad range of metabolic studies of heart, brain, kidney, liver, and muscle metabolism in animal models of disease, stroke, and drug toxicity. The objectives of such experimentation is to gain more extensive insights and knowledge of fundamental biochemical events associated with tissue damage in various disease states, the effects of drug therapies treating disease, and the toxic effects of certain drugs on various internal organs. Application received by Commissioner of Customs: May 10, 1983.

Docket No. 83–196. Applicant: NCI–Frederick Cancer Research Facility, P.O. Box B, Frederick, MD 21701. Instrument: 14800–3 Cryokit, including 14860–1 Cryotools (without Dewar Flasks). Manufacturer: LKB Produkter AB, Sweden. Intended use of instrument: The instrument is an accessory to an existing ultramicrotome being used for studies of the macromolecular composition of biological material and the localization of cancer-associated metals in biological material. Application received by Commissioner of Customs: May 10, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 83–13023 Filed 5–23–83; 8:45 am]

BILLING CODE 3510–25–M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published

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pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a) (3) (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–183. Applicant: Yale University, School of Medicine, 333 Cedar Street, New Haven, CT 06510. Instrument: Electron Microscope, Model JEM 1200EX and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of instrument: The instrument is intended to be used for studies of the struture of the cells and extracts from experimental slow virus disease (Creutzfeldt-Jakob Disease). Also, the instrument will be used for basic chromosomal structural studies. In addition, it will be used in the training of graduate students requiring fine structural work in their masters, doctoral thesis research and for post-doctoral trainees, mostly on a one to one basis. Application received by Commissioner of Customs: April 28, 1983.

Docket No. 83–50. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, 223 Administration Building, Urbana, IL 61801. Instrument: Superconducting Magnet System, 8.5 Tesla, 89 mm RT Bore. Manufacturer: Oxford Instruments, Inc., United Kingdom. Intended use of instrument: The instrument is intended to be used for fourier transform nuclear magnetic resonance analysis of ^{13}C, ^{2}H, ^{11}B, ^{17}O, ^{23}Na, ^{27}Al, ^{29}Si, ^{51}V, ^{55}Mn, and ^{183}W nuclei. The objective of these studies is to more fully understand the structure and function of a variety of biological and geochemical systems. In addition, the article will be used in the course Chem 499, Graduate (Ph. D.) research to provide training in chemical research techniques. Application received by Commissioner of Customs: January 10, 1983.

Docket No. 83–139. Applicant: State University of New York at Buffalo, 202 Crofts Hall, Amherst, NY 14260. Instrument: Fan Test Set, #TE.84. Manufacturer: Experimental Engineering Equipment Ltd., Canada. Intended use of instrument: The instrument is intended to be used for educational purposes in the course Aerodynamics Laboratory (MEA 471). Instrument will be used by students under the supervision of the course instructor, to obtain familiarity and experience with experimental methods in Aerodynamics and Gas Dynamics. The students conduct a series of laboratory experiments which they write up and discuss in laboratory reports which are graded by the instructor. Application received by Commissioner of Customs: May 3, 1983.

Docket No. 83–181. Applicant: Harvard University, The Biological Laboratories, 16 Divinity St., Cambridge, MA 02138. Instrument: Fluorescence Lifetime Instrument (Optical Sub-system). Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use of instrument: The instrument is intended to be used for the study of weak complexes (called exciplexes) formed between simple molecules like acetone and benzene after absorption of ultraviolet light. The decay kinetics of dibromoanthracene fluorescence will be studied in the presence of pair of compounds forming exciplexes. This will involve monitoring the fluorescence of dibromoanthracene by the time-resolved single-photon counting on the nanosecond to microsecond time scale. The fluorescence decay kinetics of the probe reflect the formation and decomposing of the exciplexes present in the solution, which energize the fluorescent probe via energy transfer. Application received by Commissioner of Customs: April 28, 1983.

Docket No. 83–185. Applicant: New York University Medical Center, 550 First Avenue, New York, NY 10016. Instrument: Cryokit, LKB 14800–3 complete with Accessories. Manufacturer: LKB Instruments, Inc., Sweden. Intended use of instrument: The instrument is an accessory to an ultramicrotome which will be used for immunological studies of frozen thin sections of biological materials utilizing labelled antibodies or enzymes. Application received by Commissioner of Customs: April 28, 1983.

Docket No. 83–186. Applicant: Brookhaven National Laboratory, Department of Physics, Bldg., 510B, Upton, NY 11973. Instrument: Toroidal Grazing Incidence Mirror for VUV Monochromator. Manufacturer: Astron, United Kingdom. Intended use of instrument: The instrument is intended to be used in studies of the electronic and geometric structure of molecules adsorbed onto single crystal surfaces using photoemission and surface EXAFS. This knowledge is essential in the understanding of catalytic reactions. Application received by Commissioner of Customs: April 28, 1983.

Docket No. 83–187. Applicant: U.S. Department of Interior, Bureau of Reclamation, P.O. Box 25007, Code D–1523, Denver, CO 80225. Instrument: Fast Atom Bombardment Accessory for Mass Spectrometer. Manufacturer: VG Organic Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used in a number of research programs which require the identification and/or characterization of thermally labile, high molecular weight, organic materials. The research programs are as follows:

(1) Establish the effects that chlorination in an aqueous environment has on the chemical composition of cellulose acetate reverse osmosis membranes and (2) Characterization and identification of changes in the seams joining flexible membrane liners after the seams have been exposed to potential hazardous wastes.

Application received by Commissioner of Customs: May 2, 1983.

Docket No. 83–188. Applicant: Purdue University, FREH Building, W. Lafayette, IN 47907. Instrument: Single Tilting Specimen Cooling Holder, SCH, for JEM 200CX Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is an accessory to an existing electron microscope being used for solid state materials research. Application received by Commissioner of Customs: May 3, 1983.

Docket No. 83–189. Applicant: Temple University School of Medicine, Department of Anatomy, 3400 North Broad Street, Philadelphia, PA 19140. Instrument: Scanning Microdensitometer, Model M85a complete with Accessories. Manufacturer: Vickers Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used to study the development and function of several cell types in the testis of the normal rat and the implications of diabetes for the reproductive capability of the adult animal. The various experiments to be conducted fall into two general categories, those involving Sertoli or supportives cells and those centered on the Leydig cells that are responsible for the production of male sex hormone (testoterone). The instrument will also be used for educational purposes in the courses: Advanced Embryology (#502), Light and Electron Microscope Methods (#504), Methods in Cell Biology (#513) and Anatomical Research (#997) to enable to student to gain experience in research problems, planning of experiments, experimental techniques, experimental methologies and analysis of data. Application received by Commissioner of Customs: May 2, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 83-13934 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A–428–062]

Animal Glue and Inedible Gelatin From West Germany; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany. The review covers the eight known manufacturers and/or exporters and one third-country reseller of West German animal glue and inedible gelatin to the United States and generally the period December 1, 1980 through November 30, 1981. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during their individual periods of review. Where company-supplied information was inadequate or no information was received, we used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 29865–6) the final results of its last administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany (42 FR 64116, December 22, 1977) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers the eight known manufacturers and/or exporters and one third-country reseller of West German animal glue and inedible gelatin to the United States and generally the period December 1, 1980 through November 30, 1981.

Three firms did not export West German animal glue and inedible gelatin during the review period. The estimated antidumping duty cash deposit rates for these firms will be the most recent information for each firm. Four firms, Ph. Carl Weiss, Marcuse & Company (London) Limited, Nienburger Gelatin, and Deutsche Gelatin-Fabrieken Stoess & Co., failed to respond to our questionnaire or provided inadequate responses. Even though Gould Metall provided an adequate response to our questionnaire, the response did not enable the Department to analyze its marketing practices without an adequate response from its supplier, Deutsche Gelatin-Fabrieken Stoess & Co. For Gould Metall and the four non-responsive firms, we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the most recent rate for each firm or the fair value rate.

We are not covering in this review Animal Produkten, a firm include in the last review, because it is no longer in business.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the CIF, packed price. Where applicable, deductions were made for foreign inland freight, ocean freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the ex-factory, packed price with an adjustment for cash discounts. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Chemische Dungerfabriek Rendsburg	12/01/80–11/30/81	[1] 158.00
G. Conradt & Sohn	12/01/80–11/30/81	[1] 67.00
Johannes Martens	12/01/80–11/30/81	[1] 0
Ph. Carl Weiss	12/01/80–11/30/81	16.34
Nienburger Gelatin	01/01/78–11/30/81	158.00
Deutsche Gelatin-Fabrieken Stoess & Co./ Gould Metall	12/01/80–11/30/81	158.00
Fritz Hacker	12/01/80–11/30/81	0
Third-Country Reseller: Marcuse & Company (London) Limited	12/01/80–11/30/81	16.34

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

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be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing. The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries, with purchase dates during the time periods involved. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of West German animal glue and inedible gelatin from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. We will not require a cash deposit on future entries for any shipment from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1981 and who is unrelated to any covered firm. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 16, 1983.

[FR Doc. 83-13800 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Forged Undercarriage Components From Italy

AGENCY: International Trade Administration, Commerce

ACTION: Initiation of Antidumping Investigation

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether forged undercarriage components from Italy are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of forged undercarriage components from Italy are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value include an allegation that home market sales are being made at less than the cost of production in Italy. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 13, 1983, and we will make ours on or before October 6, 1983.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-5403.

SUPPLEMENTARY INFORMATION:

Petition

On April 29, 1983, we received a petition filed by counsel on behalf of Jernberg Forgings Co., Lindell Drop Forge Co., Portec, Inc., Presrite Corporation, Presarite of Jefferson, Inc., Walco Metal Forming Group and Walker Forge, Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from Italy of forged undercarriage components are being, or are likely to be, sold in the United States at less than fair value within the meaning of Section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

The allegation of sales at less than fair value is supported by comparisons of United States prices based on published export price lists and discount schedules for sales of merchandise in the United States with published domestic price lists and discount schedules for sales made in Italy. In addition, the allegation of sales at less than fair value is further supported by comparing United States prices with prices for sales to third countries developed by the petitioners.

There is also an allegation of sales at less than the cost of production. The cost of production in Italy was based on petitioners' cost of production adjusted for differences in Italian wage rates and, where necessary, finishing costs.

Initiation of Investigation

Under Section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on forged undercarriage components and found it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether forged undercarriage components from Italy are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by October 6, 1983.

Scope of Investigation

For purposes of this investigation, the term "forged undercarriage components" covers forged components for the undercarriages of crawler-mounted machinery as currently classifiable under items 664.06, 692.34 and 692.35 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 13, 1983 whether there is a reasonable indication that imports of forged undercarriage components from Italy are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will continue according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 16, 1983.

[FR Doc. 83-13926 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Forged Undercarriage Components From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Italy of forged undercarriage components, as described in the "Scope of Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before July 25, 1983.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-5403.

SUPPLEMENTARY INFORMATION:

Petition

On April 29, 1983, we received a petition from counsel for Jernberg Forgings Co., Lindell Drop Forge Co., Portec, Inc., Presrite Corporation, Presrite of Jefferson, Inc., Walco Metal Forming Group and Walker Forge, Inc., on behalf of the U.S. industry producing forged undercarriage components. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Italy of forged undercarriage components directly or indirectly receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act. Title VII of the Act, therefore, applies to this investigation, and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on forged undercarriage components and found it meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Italy of forged undercarriage components, as listed in the "Scope of Investigation" section of this notice, receive subsidies. If our investigation proceeds normally, we will make our preliminary determination by July 25, 1983.

Scope of the Investigation

The products covered by this investigation are forged components for the undercarriages of crawler-mounted machinery. The merchandise is currently classified under item numbers 664.06, 692.34 and 692.35 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegation of Subsidies

The petition alleges that producers, manufacturers, or exporters in Italy of forged undercarriage components receive the following benefits that constitute subsidies: government equity infusions inconsistent with commercial considerations, preferential financing through government involvement, excessive rebates of indirect taxes, capital grants under the Industrial Reconstruction and Reconversion Act, preferential export insurance, financing and guarantees, forging quality steel purchased at preferential prices and regional development incentives.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 18, 1983.

[FR Doc. 83-13922 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-036]

Instant Potato Granules From Canada; Final Results of Administrative Review of Antidumping Finding and Revocation in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding and revocation in part.

SUMMARY: On September 23, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on instant potato granules from Canada. The review covered the three known exporters of this merchandise to the United States and generally the period October 1, 1980 through September 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of two of the exporters, we held a public hearing on October 25, 1982. After our analysis of the comments received, we have adjusted the margin for one of the firms. The margins in the preliminary results remain unchanged for the two remaining firms.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Fargo or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1972, the Treasury Department published in the **Federal Register** an antidumping finding with respect to instant potato granules from Canada (T.D. 72-263, 37 FR 18505). On September 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 42013-14) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of instant potato granules from Canada, currently classifiable under items 140.5000, 140.7000, and 141.8610 through 141.8630 of the Tariff Schedules of the United States Annotated.

The Department knows of three exporters of Canadian instant potato granules to the United States. This review covers all three exporters and the period October 1, 1980 through September 30, 1981. In addition, we have reviewed for one of the three firms, Carnation, Inc., the period October 1, 1981 through the date of publication of the Department's tentative determination to revoke with regard to that firm, November 30, 1981.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on our preliminary results. At the request of two respondents the Department held a hearing on October 25, 1982.

Comment 1: One of the exporters, Vauxhall Foods, Ltd., exported only ingredient potato granules to the United States during the period of review. Vauxhall did provide adequate responses for those U.S. sales. Vauxhall argues that ingredient potato granules were a commercial product in 1971-72 (the period of the fair value investigation), were not the subject of the antidumping investigation and therefore are outside the scope of the finding. The Tariff Commission

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investigated the market for instant potato granules and not ingredient granules. Instant potato granules are normally packaged in a six-pound tin called a number 10 can. Inegredient granules are packaged in considerably larger packages, for example, 50-pound kraft bags, 420-pound metal drums, or one-ton nylon bags.

Although the basic manufacturing process is similar, there are significant differences between ingredient granules and instant potato granules that would preclude diversion. The products differ in sodium bisulphite content, butylated hydroxyanisole content, sodium acid pyrophosphate, monoglycerides, flavor and texture. In addition, ingredient granules have a maximum reducing sugar level not specified for instant potato granules. All of these differences would eliminate using ingredient granules as a substitute for instant potato granules in instant potato mixes. Even after adding the preservatives, vitamins, skim milk, butter flavor, seasonings, etc., mixes using ingredient granules would still be "an unacceptable (certainly noncompetitive) product in the marketplace." Diversion in the United States of ingredient granules to instant potato granule use also would be prohibitively expensive, requiring establishment of a mixing line in the United States, and would be easily discovered, again because mixing facilities do not now exist. The destination of granules could be monitored by the Commerce Department.

Department's Position: We agree that potato granules used as ingredients in the manufacture of snack foods and other food products were a commercial product during and prior to the period of the fair value investigation. We also agree that a product known as ingredient potato granules was not the subject of the antidumping investigation. However, we disagree that ingredient potato granules are a different product than instant potato granules. The Tariff Commission investigated the market for instant potato granules but considered granules that were to be used in "certain new food items" (undefined, but in our view broader than mashed potatoes) to be instant potato granules. (*See* U.S. Tariff Commission Report AA1921–97, *Instant Potato Granules from Canada*, Determination of Likelihood of Injury, September 7, 1972. The Department has previously recognized that price comparisons need not be conducted on all types of merchandise within the class that is the subject of an investigation. *See* "Final Results of Administrative Review of Antidumping Findings" on large power transformers from France, 47 FR 10288–89 (March 10, 1982).

Vauxhall submitted as Appendix I to its post-hearing brief to the Department its "Specification for Dehydrated Potato Granules" which was also referred to in the Appendix title page as "Specification for instant potato granules." The text of the specification refers to neither instant nor ingredient potato granules. Four types of packaging were offered in the specification: cases containing 24 boxes with 2 pouches per box, cases containing six number 10 cans, polyethylene-lines kraft bags, and epoxy.lines steel drums. Thus, even assuming the specification is for only instant granules, the packaging can be the same (bag or drum) as for ingredient granules.

Appendix II to Vauxhall's post-hearing brief lists certain home market sales of potato granules. The product specification in Appendix II matches Vauxhall's specifications for "instant" granules, in Appendix I, of sodium bisulfite, butylated hydroxyanixole, sodium acid pyrophosphate, and monoglycerides. The uses listed for the Appendix II product are as pyrogy dough, cake and bread mix, and stews and meat filler.

Appendix III to Vauxhall's post-hearing brief is specifically for potato granules to be used in the preparation of snack foods. The individual physical or chemical properties required by the Appendices I and III specifications generally overlap. We believe that the Appendix III specification is merely a variant of the Appendix I specification and therefore of the same class or kind of merchandise.

The potentially overlapping chemical and other physical specifications presented by Vauxhall ostensibly for ingredient or for instant potato granules are of such variety as to make diversion a practical possibility. Vauxhall sells to unrelated customers in the United States. Consequently, the expenses incurred in establishing a mixing line in the United States would be incurred by a customer, not by Vauxhall. We do not agree that diversion would be easily discovered. Monitoring importations of ingredient granules would require the Department to track importations to their destinations and oversee the use to which they are put.

Comment 2: Vauxhall failed to provide adequate responses on all of its home market sales of such or similar merchandise. Vauxhall argues that it has made a good-faith effort to answer the Department's questionnaire. Vauxhall misunderstood or was confused concerning requested information regarding certain home market sales. Vauxhall was prepared to answer the detailed questions if the Department had explained why Vauxhall should respond regarding those sales of "similar" merchandise.

Department's Position: We specifically told Vauxhall the exact information required. Vauxhall responded that we did not need the information because the merchandise was not comparable to the merchandise sold to the United States.

We do not allow respondents to our questionnaires to determine what data they will report to us. We gave Vauxhall an opportunity to supplement its original submission. Vauxhall did not furnish all of the information requested on sales of such or similar merchnadise. There could be no confusion about what the Department required. The Department does not bear the responsibility to explain why it requires each piece of information requested. Therefore, we used in the preliminary results the best information otherwise available, Vauxhall's most recent rate, to establish the assessment and cash deposit rates. We have continued the use of that information in these final results.

Comment 3: Vauxhall argues case and less than truckload (LTL) merchandise sold in the Canadian market is not comparable to the merchandise sold to the United States. The specifications of the cash/LTL sales (citing Appendices I and II) are different than those of full truckload sales in the Canadian market (citing Appendix III) or to the United States. The market for cash/LTL sales in Canada is different than that for the United States sales. The size of the orders and end use differ from sales to the United States and full truckload sales in Canada. If the cash/LTL sales were used, a difference in merchandise adjustment would be necessary based on the difference in the method and cost of production. Finally the cash/LTL sales are not contemporaneous with the United States sales or are for a much smaller quantity.

Department's Position: As described in our response to Comment 1, a comparision of Vauxhall's standard product specification (Appendix I) with the Appendix III specification shows overlap between the two. None of the reasons given by Vauxhall in this comment relieve Vauxhall of the responsibility of reporting all home market sales of such or similar merchandise. The evidence in the appendices concerning end use is contradictory and the size of an order is not dispositive. While the Department does make adjustments for physical differences in merchandise in accordance with § 353.16 of the Commerce Regulations, Vauxhall has not provided adequate information to make such adjustments. The Department generally may use home market sales made up to 90 days preceding a sale to the United States for comparison with that United States sales. Appendix V, which Vauxhall claims demonstrates that the cash/LTL sales are not contemporaneous with the United States sale, lists sales within such a period.

Comment 4: McCain Foods, Ltd. argues that its submitted questionnaire response should be considered timely filed because of the confusion between the Department and the company as to when the response was due. Even if considered untimely, there were mitigating circumstances which should permit acceptance of the response. Finally, McCain's response was not incomplete. If further information is required, McCain should be allowed to supplement is response.

Department's Position: We have decided that there was sufficient misunderstanding regarding the deadline for the submission of the response to allow us to consider the response as received on time. The response was incomplete; however, because the Department had accepted a comparably incomplete response for the previous review, we have allowed McCain to supplement its response and have used that infomation in completing this review.

Final Results of the Review and Revocation in Part

Based on our analysis of the comments received, we have changed the margin for McCain Foods Inc. The final results of our review for the other two firms are the same as those in our preliminary results:

Manufacturer/exporter	Time period	Margin (percent)
Carnation	10/1/80–11/30/81	[1] 0
Vauxhall	10/1/80–9/30/81	38.5
McCain	10/1/80–9/30/81	2.98

[1] No Shipments during the review period.

Also as a result of the review the Department revokes the antidumping finding on instant potato granules from Canada with respect to such merchandise manufactured and exported to the United States by Carnation. This partial revocation applies to all shipments of this merchandise from Carnation entered, or withdrawn from warehouse, for consumption on or after November 30, 1981, the date of publication of our tentative determination to revoke with regard to Carnation.

The Department shall determine and the U.S. Customs Service shall assess antidumping duties on all appropriate entries from the other two exporters with purchase or export dates during their periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian instant potato granules from the two remaining firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred after the most recent period reviewed and who is unrelated to any covered firm, a cash deposit shall be required for future entries at the 2.98 percent rate.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review, revocation in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1),(c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 13, 1983.

[FR Doc. 83-13927 filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A-586-058]

Metal-Walled Above Ground Swimming Pools From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan. The review covers the three known Japanese exporters and one known third-country reseller of Japanese metal-walled above ground swimming pools to the United States and various periods from November 1, 1977 through August 31, 1982. The review indicates the existence of dumping margins in particular periods for certain exporters.

As a result of the review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value on each of their sales during the periods of review. Where company-supplied information was inadequate, we used the best information available for assessment and estimated antidumping duty cash deposit rate purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 15822) the final results of its last administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan (42 fR 44811, September 7, 1977) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of metal-walled above ground swimming pools. This merchandise is currently classifiable under item numbers 657.2590 and 774.5595 of the Tariff Schedules of the United States Annotated.

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Metal-walled above ground swimming pools exported from third countries which contain walls, frames, and vinyl liners manufactured in Japan are within the scope of the finding.

The review covers the three known Japanese exporters and one known third-country reseller of Japanes metal-walled above ground swimming pools to the United States. The review covers various periods from November 1, 1877 through August 31, 1982. Though covered in the last administrative review, the Kenny firm is not included in the current review as it has gone out of business.

In our last review we deferred eleven third-country resellers because we were uncertain whether they exported Japanese metal-walled above ground swimming pools to the U.S. which were subject to the finding. We have determined that only one third-country reseller, Irwin Toy, Ltd. (Canada) ("Irwin"), exported merchandise subject to the finding to the United States.

Irwin submitted an inadequate response to our questionnaire. Therefore, for this non-responsive firm we used the best information available for assessment purposes. The best information available is the highest rate for responding firms with shipments in each period in which Irwin had shipments.

For the period September 1, 1980 through August 31, 1982, there were no shipments of Japanese metal-walled above ground swimming pools to the United States. The estimated antidumping duty cash deposit rate for each firm will be the most recent information for that firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 203 of the 1921 Act and section 772 of the Tariff Act. Purchase price was based on the packed, delivered price to unrelated purchasers in the United States, with deductions, where applicable, for U.S. and foreign inland freight, ocean freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to unrelated purchasers in third countries (Australia and France) in accordance with section 773 of the Tariff Act or section 205 of the 1921 Act, since there were no sales in the home market of such or similar merchandise. Where there were insufficient quantities of such or similar mechandise sold to Australia and/or France above the cost of production, we used constructed value as defined in section 773 of the Traiff Act or section 206 of the 1921 Act. Third-country sales prices were based on a packed price to an unrelated party with adjustments, where applicable, for Japanese inland freight, ocean freight, and marine insurance. Further adjustments were made for differences in the merchandise, in accordance with § 353.16 of the Commerce Regulations and § 153.11 of the Customs Regulations. No other adjustments were claimed or allowed.

Constructed values were calculated as the sum of the costs of materials, fabrication, general expenses, profit and the cost of packing. The amount added for general expenses was the statutory minimum of ten percent of the sum of materials and fabrication costs because the statutory minimum was higher than the actual general expenses. The amount added for profit was the statutory minimum of eight percent of the sum of materials, fabrication costs, and general expenses because the actual profit was less than eight percent.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Asahi Chemical Industry Co., Ltd.	11/01/77–10/31/78	29.09
	11/01/78–10/31/79	28.67
	11/01/79–08/31/80	20.40
	09/01/80–08/31/82	[1] 20.40
Serwa Sangyo Co., Ltd	09/01/80–08/31/82	[1] 72.00
Hakuyo Sangyo	09/01/80–08/31/82	[1] 72.00
Irwin Toy Ltd (Canada)	04/01/78–10/31/78	29.09
	11/01/78–10/31/79	28.67
	11/01/79–08/31/80	20.40
	09/01/80–08/31/82	[1] 20.40

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above.

The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required on all shipments of Japanese metal-walled above ground swimming pools from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. For any future shipment for a new exporter not covered in this review or prior reviews, whose first shipments occurred after August 31, 1982 and who is unrelated to any reviewed firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the review period, that is 20.40 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (9 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

May 13, 1983.

[FR Doc. 83-13928 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

[A-427-072]

Viscose Rayon Staple Fiber From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On September 8, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on viscose rayon staple fiber from France. The review covered the known exporters, Rhone-Poulenc Textile and Achille Bayart et Cie, and the period March 1, 1980 through February 28, 1981. Interested parties were given an opportunity to submit written or oral comments on these preliminary results. One importer requested a hearing which was held on November 6, 1981. As a result of our analysis of oral and written comments received, we determine that the shipments in question are subject to this finding and therefore there are no changes in these final results from those presented in the preliminary results of review.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Michael R. Cox or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/5496.

SUPPLEMENTARY INFORMATION:

Background

On March 21, 1979, an antidumping finding with respect to viscose rayon staple fiber from France was published in the **Federal Register** as Treasury Decision 79-88 (44 FR 17157-8). On September 8, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 44804-5) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covered the two known exporters of French viscose rayon staple fiber to the United States, Rhone-Poulenc Textile and Achille Bayart et Cie, and the period March 1, 1980 through February 28, 1981.

Analysis of Comments Received

We invited interested parties to submit written comments or request a hearing. One importer, Adolf O. Fuchs ("AOF"), requested a hearing, which was held on November 6, 1981.

Comment 1: AOF argued that its imported viscose rayon staple fiber is white and therefore falls within the "solution dyed" exception to the scope of the finding. The petitioner, the Committee of U.S. Rayon Producers, argued that the exception for solution dyed fiber from the scope of this finding must be interpreted in the context of its origin. Such an interpretation will demonstrate that white was not intended to be a color within the meaning of "solution dyed."

Department's Position: The phrase "except solution dyed" first appeared in the notices of "Discontinuance of Antidumping Investigation" regarding viscose rayon staple fiber from Austria (43 FR 3234-35) and "Withholding of Appraisement" for viscose rayon fiber from Belgium (43 FR 3233-34). In each case, the phrase was explicitly added as a modification of the "class or kind" of merchandise covered in each case. The identical phrase later appeared in the product descriptions of four other antidumping cases concerning viscose rayon staple fiber, initiated on May 5, 1978 (43 FR 19489-92), including viscose rayon staple fiber from France.

On the basis of a review of correspondence between the Treasury Department ("Treasury") and the interested parties in the Austrian viscose rayon staple fiber case, the Department is satisfied that Treasury did not intend white to be a color for purposes of the solution dyed exception in that case. The Department further concludes that Treasury implicitly incorporated this same interpretation of "except solution dyed" into the four later cases when it used precisely the same product description in initiating those cases. Therefore, the Department does not consider white fiber to be solution dyed fiber.

Comment 2: AOF argued that its viscose rayon staple fiber imports were explicitly exempt from this finding because Photine, a chemical brightener, has been added to the imported fiber, thereby making it "solution dyed" fiber. In response, the petitioner argued that the viscose rayon staple fiber imported by AOF is not solution dyed because Photine does not dye white fiber, but merely brightens it.

Department's Position: The Department concludes that the fiber imported by AOF is not "solution dyed" as that term is used in the U.S. industry. Solution dyeing requires the addition of color to the fiber prior to extrusion. Based on our analysis of data submitted by AOF and the petitioner, we find that, while Photine is added prior to extrusion, Photine is an optical brightener that simply makes already white viscose rayon staple fiber whiter, but does not alter viscose rayon staple fiber color. Therefore, the addition of Photine does not place it within the solution dyed exception.

Comment 3: The petitioner also stated that the fiber imported by AOF competes directly with fiber produced by the domestic fiber industry. Exclusion of AOF's fiber from the finding will potentially permit substantial importations of unfairly priced viscose rayon staple fiber.

Department's Position: The Department has determined that the imported viscose rayon staple fiber is within the intended scope of the finding. During an administrative review under section 751 of the Tariff Act, the Department may only clarify the scope of a particular finding. See *Royal Business Machines, Inc. v. United States*, 1 CIT 80, 86-87, 507 F. Supp. 1007, 1013 (1980). The Department can neither add merchandise to the scope of a finding that was previously beyond the scope nor drop merchandise that was previously included.

Comment 4: AOF contended that, prior to the assessment of anidumping duties, notice must be given of the class or kind of merchandise to which the finding will apply.

Department's Position: The Department's notice of final results for its first administrative review was published on April 2, 1981 and covered imports of identical fiber by AOF. This constitutes clear notice of our position at that time. AOF had an opportunity to contest this decision prior to publication of those final results and an opportunity to appeal to the Court of International Trade.

Comment 5: AOF commented that equity requires the Department to weigh the injurious effect of its decision on the opposing interests. The imports by AOF represent a minute segment of the domestic market but a substantial portion of AOF's business.

Department's Position: The Department cannot ignore certain importations simply because of their small relative magnitude. The purpose of the antidumpting finding is to eliminate all sales at less than fair value of the class or kind of merchandise that caused material injury to a domestic industry. The International Trade Commission is charged with responsibility for reviewing questions of continuing injury.

Comment 6: AOF asserted that no margins in fact exist with respect to importations of viscose rayon staple fiber from France during the period of review.

Department's Position: Neither exporter has provided an adequate response to our questionnaire. Absent adequate response we used the best information available, which in this case is the dumping margin calculated during the fair value investigation.

Comment 7: At the request of the Department AOF submitted comments in an attempt to substantiate its claim that, although the imported flat fibers are specialty fibers, they are not of the class or kind of merchandise intended to be included in the finding, and should be specifically excluded.

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Department's Position: Specialty fiber is expressely covered by the antidumping finding. AOF has not demonstrated that the Treasury Department intended to cover only certain types of specialty fiber. Therefore, flat fiber imports are covered by the finding.

Final Results of the Review

Based on our analysis of the comments received, we have made no changes in these final results from those presented in the preliminary results of review. We therefore determine that a weighted-average dumping margin of 24 percent exists for the period of review.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties of 24 percent on all shipments of viscose rayon staple fiber from France with purchase dates during the period of review. The Department will issue appraisement instructions on both exporters directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margin, that is, 24 percent of the entered value, shall be required on all shipments of French viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 12, 1983.

[FR Doc. 83-13929 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Groundfish Management Team; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., and the Council has established a Groundfish Management Team which will meet to discuss current groundfish management matters; prepare projections of groundfish landings for 1983, and develop a report for presentation to the Council at its June 8–9, 1983, meeting. Time is scheduled for public comment at 3 p.m., on June 1, and members of the public will be permitted to submit oral or written statements regarding these matters.

DATES: June 1, 1983; 9 a.m. to 5 p.m.; June 2, 1983, 8 a.m. to 5 p.m.

ADDRESS: The meeting will take place at the Oregon Department of Fish and Wildlife, Beaver Room, 506 S.W. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: May 19, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13932 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Groundfish Task Force; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., and the Council has established a Groundfish Task Force which will meet to discuss current groundfish management matters; review projections of groundfish landings for 1983, and, if necessary, develop groundfish management options for the remainder of 1983. The results of this meeting will be presented to the Council at its June 8–9, 1983, meeting, in Portland. A public comment period will be scheduled at 3 p.m., on June 3, 1983, and members of the public will be permitted to submit oral or written statements regarding these matters.

DATE: June 3, 9 a.m. to 5 p.m.

ADDRESS: The public meeting will take place at the Oregon Department of Fish and Wildlife, Commission Room, 506 S.W. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: May 19, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13933 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council, Public Meeting With a Partially Closed Session Public Meetings of Its Groundfish Advisory Subpanel and Its Scientific and Statistical Committee

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meeting with a partially closed session.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management council, its Groundfish Advisory Subpanel, and its Scientific and Statistical Committee (SSC). The Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., and the Council has established a Groundfish Advisory Subpanel and a SSC to assist the Council in carrying out its responsibilities under the Act. All portions of the meetings will be open to the public with the exception of the Council's closed session. The agenda items in the closed session are exempt from public attendance and participation pursuant to Section 302(i)(3) of the Magnuson Act.

DATES: June 7–9, 1983.

ADDRESS: The meetings will take place at the Cosmopolitan Motor Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 331–6352.

Agendas

Council (open session)—June 8–9, 1983. (9:00 a.m. to 5:00 p.m. on June 8; 8:00 a.m. to 5:00 p.m. on June 9) in the Capri-Del Rio Room. Review the final draft of the Groundfish Plan Amendment which, among other things, would allow joint ventures for Pacific whiting south of 39°N latitude; review projections of groundfish landings for 1983 and, if necessary, adopt proposed groundfish management options for the remainder of 1983; tentatively adopt alternatives for the Salmon Framework Plan Amendment; consider other matters which may come before the Council by that date; and conduct a public comment period beginning at 4:00 p.m on June 8.

Council (closed session—June 8, 1983. (8:00 a.m. to 9:00 a.m.) in the Capri-del Rio Room. Discussion of the status of fishery negotiations between the U.S. and Canada, litigation and personnel matters. Only those Council members and staff having security clearances will be allowed to attend this session.

Groundfish Advisory Subpanel (open session)—June 7, 1983. (10:00 a.m.—5:00 p.m.) in the Hall of Fame Room. Draft recommendations to the Council on the Groundfish Plan Amendment and groundfish management options for the remainder of 1983, and conduct a public comment period beginning at 3:00 p.m. on June 7.

Scientific and Statistical Committee (open session)—June 7–8, 1983. (10:00 a.m.–5:00 p.m. on June 7; 8:00 a.m. to 5:00 p.m. on June 8) in the Bombay Room. Review final draft of the Groundfish Plan Amendment, groundfish management options for the remainder of 1983, and tentative alternatives for the 1984 Salmon Framework Plan Amendment, discuss other matters that may be referred to the committee by that date, and conduct a public comment period at 3:30 p.m. on June 7.

Dated: May 19, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-13934 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of Agriculture

SN 6–272,842 (4,376,633— Zwitterion Compounds as Catalysts in Easy-Care Finishing

SN 6–455,727 A Method for the Control of Insects

Department of Health and Human Services

SN 6–457,666 Method of Differentiating Kilham Strain Mumps

SN 6–468,950 2,5-Riboadenylate-morpholinoadenylate Nucleotides

SN 6–475,215 Multi-Layer Coil Assembly Mounted Around the Rotary Axis for Prepatory Counter-current Chromatography

SN 6–480,142 Cell Lines Secreting Anti-insulin Anti-Bodies and Test Kits

Department of Interior

SN 6–460,102 Recovery of Metals from Grinding Sludges

SN 6–460,201 Separation of Lithium from Aluminum and Sodium

SN 6–455,187 Universal Ripper Miner

[FR Doc. 83-13862 Filed 5-23-83; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Public Law 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on May 10, 1983, that the service of the members of the groups known as the China Mission, Foreign Economic Administration; and United States Army Signal Corps Enlisted Reserve Corps Trainees World War II not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

For Further Information Contact: Lt. Colonel Phelps, telephone 692–4751, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Washington, D.C. 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13841 Filed 5-23-83; 8:45 am]

BILLING CODE 3910-01-M

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Public Law 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on may 10, 1983, that the service of the members of the group known as the Guam Combat Patrol be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

For Further Information Contact: Lt. Colonel Phelps, telephone 692–4751, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Washington, D.C. 20330

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-13842 Filed 5-23-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS) "Multipurpose Deepwater Port and Crude Oil Distribution System at Galveston, Tex."

AGENCY: Corps of Engineers, DOD, Galveston District.

ACTION: Notice of intent to prepare a draft supplement to an FEIS.

SUMMARY: 1. *Proposed Action.* The proposed action is to prepare a Draft Supplement to an FEIS in response to the January 20, 1983 decision of the Fifth Circuit Court of Appeals (New Orleans, Louisiana) that determined that, in order for Galveston District to reconsider its decision for five Department of the Army Permits (10400, 13576, 13577, 13578, and 13579), the District must rework the FEIS to correct two deficiencies: lack of a "worst case" oil spill analysis; and failure to adequately discuss the environmental impacts of bulk commodities activities. The Draft

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Supplement will address both deficiencies in detail.

2. *Reasonable Alternatives.* Alternatives under consideration include:

a. Reissue the permits.

b. Reissue the permits with special conditions.

c. Deny issuance of the permits.

3. *Scoping Process.*

a. A notice has been prepared and will be circulated to agencies, organizations, and interested individuals inviting views and comments on the types of studies and depth of analyses which are required to address the two deficiencies noted by the Fifth Circuit Court. The Final Scope of Studies for the Draft Supplement will then be determined in consideration of the views submitted by the public and agencies.

b. Significant issues to be analyzed in the Draft Supplement include: frequency, fate and environmental impacts of a "worst case" oil spill; and effects of bulk commodities that may be induced by the project.

c. The Draft Supplement will be coordinated with all required Federal, State, and local agencies, environmental groups, the applicants, and interested individuals.

d. Environmental consultation and review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and all other applicable laws, regulations and guidelines.

4. *Scoping Meetings.* No future public meeting to discuss the scope of the Draft Supplement has been scheduled.

5. *Estimated Availability Date of Draft Supplement.* The Draft Supplement is expected to be available to the public in Spring 1984.

ADDRESS: Questions about the proposed action and Draft Supplement to the FEIS can be answered by Mr. C. R. Harbaugh, Chief, Environmental Resources Branch, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, (409) 766–3044.

Dated: May 16, 1983.

Alan L. Laubscher,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-13908 Filed 5-23-83; 8:45 am]

BILLING CODE 3710-GK-M

Department of the Navy

Privacy Act of 1974; Proposed New System of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Marine Corps proposes to add a system of records to its inventory of systems of records subject to the Privacy Act of 1974. The system notice for the new system is set forth below.

DATE: The proposed system notice will be effective without further notice on June 23, 1983.

ADDRESSES: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202/694–1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for record systems subject to the Privacy Act of 1974, as amended, Title 5 United States Code section 552a have been previously published in the **Federal Register** (46 FR 6639 Jan. 31, 1981).

A new system report as required by 5 U.S.C. 552a(o) was submitted on April 18, 1983.

May 19, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

MMN00049

SYSTEM NAME:

Manpower Management Information System.

SYSTEM LOCATION:

Marine Corps Base, Camp Lejeune, North Carolina.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marines who are joined to Base organizations and filling a Table of Organization (T/O) line number; all nonchargeable military personnel who are administratively attached to Base organizations (except students); and wage grade employees assigned to Base and tenant units.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personal identification data such as name, social security number, pay grade, military occupational specialties, dates current tour began and other information extracted from the existing Manpower Management System and Naval Automated Civilian Manpower Information System master records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 5031 and Title 10, U.S. Code 5201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the Blanket Routine Uses at the head of the published Marine Corps systems notices in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and disk.

RETRIEVABILITY:

Records are accessed by social security number and T/O line number.

SAFEGUARDS:

Building has a 24-hour security watch. Computer terminals and records are located in areas accessible only to authorized personnel that are properly screened, cleared and trained. Use of terminals requires knowledge of passwords. Terminals are physically locked when not being used by authorized personnel.

RETENTION AND DISPOSAL:

Records on magnetic disk are retained from one file recreation to the next generally one month. Magnetic tapes are forwarded to Headquarters, U.S. Marine corps.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief of Staff for Manpower, Marine Corps Base, Camp Lejeune, North Carolina 28542, Telephone: (919) 451–2220.

NOTIFICATION PROCEDURES:

Requests from individuals should be addressed to the system manager. Written requests for information should contain the full name and social security number, date and place of birth and signature of the individual concerned. For personal visits, the individual should be able to provide identification bearing picture and signature or sufficient verbal data to ensure that the individual is the subject of inquiry.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the Manpower Management System, the Naval Automated Civilian Manpower Information System, the Table of Manpower Requirements, from the individual's commanding officer or supervisor, and from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-13886 Filed 5-23-83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Privacy Act of 1974; Amendment to a Notice for a System of Records

AGENCY: Office of Inspector General, Office of the Secretary, DoD.

ACTION: Amendment to a notice for a system of records.

SUMMARY: The Office of the Inspector General, Department of Defense, proposed to amend the notice for a system of records. The amendment is set forth below.

DATE: The proposed system notices will be effective without further notice on June 23, 1983.

ADDRESSES: Send any comments to the system manager.

FOR FURTHER INFORMATION CONTACT: Mr. David Stewart, Office of the Assistant Inspector for Administration, Department of Defense, Washington, D.C. 20301. Telephone: 694–0491.

SUPPLEMENTARY INFORMATION: The system notice for system of records: CIS–06, entitled: Investigative Files, appeared in the **Federal Register** on July 15, 1983 at 47 FR 30809 (FR Doc. 82–19152).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 19, 1983.

Changes

CIS–06

System name: Investigative Files.

In *System location,* add: "The Office of the Inspector General, the Department of Defense, the Pentagon, Washington, D.C. 20301, has temporary control over portions of the records in the system."

In *Categories of records in the system,* delete the third paragraph and insert in its place:

* * * * *

"Case control documents which are not included in RO1s but which serve as the basis of investigation or which guide and facilitate investigative activities, including documents providing the data to open, conduct, transfer and close cases, as well as Defense Hot Line Complaints;"

* * * * *

As revised, "System location" and "Categories of records in the system" read as follows:

CIS–06

SYSTEM NAME:

Investigative Files.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), a component of the Assistant to the Secretary of Defense (Review and Oversight) (ATSD(R&O)), Cameron Station, Alexandria, VA 22314, has primary control over the system.

Regional field offices, resident agencies, and various DCIS headquarters staff elements originate and have temporary control over portions of the records.

The Office of the Inspector General, the Department of Defense, the Pentagon, Washington, DC 20301 has temporary control over portions of the records in the system.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (RO1s) including any attachments prepared by DCIS or other DoD federal, state, or local official investigative activities;

DCIS Information Summary Reports (ISRs) which record unsolicited information of criminal nature received by DCIS concerning a person or incident which is of direct interest to other DoD Components or federal agencies;

Case control documents which are not included in the ROIs but which serve as the basis of investigation or which guide and facilitate investigative activities, including documents providing the data to open, direct, conduct, transfer and close cases; as well as Defense Hot Line Complaints;

DCIS file administration and management documents accounting for disclosure, control, and access to a file; and

Grand Jury information not contained in case files, agent notes, fingerprint cards, duplicate files at the local level and other miscellaneous documents supporting the criminal investigation file to include court documents and on occasion reports of administrative proceedings.

* * * * *

[FR Doc. 83-13885 Filed 5-23-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Gary Energy Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announced that it has adopted a Consent Order with Gary Energy Corporation (Gary) as a final order of the Department.

EFFECTIVE DATE: May 24, 1983.

FOR FURTHER INFORMATION CONTACT: Donald A. Muncy, Deputy Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 200 E, Dallas, Texas 75247, 214/767–7408.

SUPPLEMENTARY INFORMATION: On March 14, 1983, 48 FR 10731, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Gary Energy Corporation on February 18, 1983, which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c) interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order with Gary, a refiner and NCL processor with its home office located in Englewood, Colorado, resolves potential liability of Gary, arising out of Gary's compliance with the Mandatory Petroleum Allocation and Price Regulations during the period from January 1, 1983 through January 28, 1981. The Consent Order requires Gary to pay the sum of $600,000 to the administrator of the ERA ultimate disposition by DOE.

Fifteen comments were received. All of the comments addressed the issue of the appropriate disposition of the $600,000 refund. Nine comments asserted that the most suitable distribution of the funds after payment to identified injured customers, could be accomplished through allotment of the

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funds to individual state governments for energy conservation programs and other energy-related programs directly benefiting consumers, by pro-rata allotments based on a state's petroleum consumption. Three comments averred that the most equitable distribution of refunds could be accomplished by allotment of funds directly to the individual state governments for energy programs.

Two commentors made claims against the refunds proceeds, but neither of them furnished information on which a determination could be made that they had been injured by any actions of Gary. Rather, each merely asserted that it has been a purchaser of products from Gary.

The remaining comment stated that the proposed Consent Order should be clarified by explaining the relationship between Gary and both Gary Operating Company and a third company, Spruce, and whether activities by these entities fell within the purview of the Consent Order. The comment stressed that failure to clarify the relationship between these firms will make it difficult for purchasers of Gary Operating Company and Spruce to determine if such purchasers qualify for a portion of the proposed refund.

After consideration of the suggestion that the proposed Consent Order be clarified, it was concluded that such clarification is unnecessary for the following reasons. First, as set out in the Consent Order, all alleged violations of Gary Energy Corporation and Gary Operating Company are resolved by the Consent Order, and because of the combination of information of the two entities for compliance auditing purposes, specific allegations and therefore, resolution of them cannot be separated. Secondly, the Consent Order does not address and has no impact on the compliance or noncompliance of Spruce (which is not an affiliate of Gary Energy or Gary Operating) with any regulatory provisions.

With respect to the disposition of the $800,000 Gary has agreed to refund, DOE has not yet determined the appropriate disposition. The suggestions of the commentors will be duly considered in determining the appropriate disposition of funds.

Having considered all coments submitted, DOE has determined that the proposed Consent Order with Gary Energy Corporation should be made final on May 24, 1983.

Issued in Dallas, Texas on 5th day of May, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-13800 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-011]

Kerr Glass Manufacturing Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Kerr Glass Manufacturing Corporation (KERR), 501 South Shatto Place, Los Angeles, California 90020, filed an application on April 11, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its glass production facility in Dunkirk, Indiana, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). The application was amended on May 6, 1983, to add an eligible seller; the volumes remain the same. More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its amended application, KERR indicates that the volume of natural gas for which it requests certification is approximately 5,000 Mcf per day. This volume is estimated to displace the use of approximately 794 barrels of No. 6 fuel oil (1.0-2.0 percent sulfur) per day.

The eligible sellers are SW Pipeline Company, c/o Industrial Gas Services, Inc., 4501 Wadsworth Boulevard, Wheatridge, Colorado 80033; and IGC Energy, Inc., 1630 North Meridian Street, Indianapolis, Indiana 46202. The gas will be transported by Panhandle Eastern Pipeline Company, P.O. Box 1642, Houston, Texas 77001; and by Indiana Gas Company, P.O. Box 1231, Muncie, Indiana 47305, a local distribution Company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to KERR and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on May 18, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-13900 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to John M. Holland, Jr., et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to John M. Holland, Jr., Jack Holland & Son, Inc. and P.H.D. Corp., Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA), of the Department of Energy (DOE) gives notice that a Proposed Remedial Order (PRO) was issued on May 4, 1983, to John M. Holland, Jr. whose address is Post Office Box H, Safford, Arizona or 815 Hillsborough Boulevard, Hillsborough, California; Jack Holland & Son, Inc. which is located at 799 Fletcher Lane, Room 204, Hayward, California 94544; and P.H.D. Corp., Inc. which is located at 570 "B" Street, Hayward, California 94541. Any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before the fifteenth day after the publication of this Notice, or on the first federal workday thereafter.

In this Proposed Remedial Order, ERA sets forth proposed findings of fact and conclusions of law concerning sales of crude oil in the western United States, principally in California, Arizona and Nevada, by Jack Holland & Son, Inc. and P.H.D. Corp, Inc. during the period January 1978 through December 1979.

During that period Jack Holland & Son, Inc. and P.H.D. Corp., Inc., and John M. Holland, Jr. as an officer and controlling shareholder of both corporations, are alleged to have overcharged customers of crude oil by $22,177,306.85, in violation of the price rules applicable to resales of crude oil set forth in 10 CFR Part 212, Subpart L.

The Proposed Remedial Order alleges that Jack Holland & Son, Inc. and P.H.D. Corp., Inc.: (1) Sold crude oil at prices in excess of lawful prices in violation of 10 CFR 212.183, (2) failed to certify properly sales of crude oil in violation of 10 CFR 212.131, (3) sold crude oil while failing to perform any service or other function traditionally associated with the resale of crude oil, and (4) circumvented the pricing and certification regulations applicable to crude oil by selling crude oil as "fuel oil," thereby violating 10 CFR 205.202 and 210.62(c), which prohibited activities resulting in the circumvention of DOE regulations.

Request for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Raymond G. Gong, Chief Counsel, San Francisco Office, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105.

Aggrieved persons may object to this Proposed Remedial Order by filing a Notice of Objection to the Proposed Remedial Order. This notice must comply with the requirements of 10 CFR 205.193.

To be considered, a Notice of Objections must be filed with: Office of Hearings and Appeals, Department of Energy, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

The notice must be filed in duplicate, by 4:30 p.m. e.d.t. on or before the fifteenth day after publication of this Notice, or the first federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on John M. Holland, Jr., Jack Holland & Son, Inc., and P.H.D. Corp., Inc. and on each of the following persons pursuant to 10 CFR 205.193(c):

Raymond G. Gong, Chief Counsel, San Francisco Office, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105

Tony Miles, Assistant General Counsel for Administrative Litigation, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585

No data or information which is confidential should be included in any Notice of Objection.

Issued in San Francisco, California on the fourth day of May, 1983.

Raymond G. Gong,

Chief Counsel, Economic Regulatory Administration, San Francisco Office.

[FR Doc. 83-13897 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

Oil-Tex Petroleum, Inc. and David E. Myres; Amended Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of an Amended proposed Remedial Order which was issued to Oil-Tex Petroleum, Inc. and David E. Myres, Houston, Texas. This Amended Proposed Remedial Order alleges pricing violations in the amount of $2,477,378.00 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210, and 212, Subparts J and L during the time period March 1980 through December 1980.

A copy of the Amended Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193

Issued in Dallas, Texas, on the 29th day of April, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-13898 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

[Form AD-R0177]

National Survey of Compensation Paid to Scientists and Engineers Engaged in Research and Development; Inquiry

AGENCY: Office of the Assistant Secretary for Management and Administration, DOE.

ACTION: Request for comments on proposed extension of Form AD-R0177.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of a form and invites comments on the form. Form AD-R0177, "National Survey of Compensation Paid to Scientists and Engineers Engaged in Research and Development," collects salary information. It is completed on a voluntary basis by employers and employees in research and development. The Department of Energy and survey participants use the published survey data to evaluate compensation of scientists and engineers employed in their respective operations (in case of DOE, contractor-operated government facilities). Nonparticipants may purchase the report on survey data from the National Technical Information Service.

DATE: Written comments must be submitted on or before June 23, 1983.

ADDRESS: Send comments to Cornelius J. Carr at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the Form AD-R0177, contact Cornelius J. Carr, MA-262.1, Room 4H023, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9037.

SUPPLEMENTARY INFORMATION:

I. Current Action.
II. Request for Comments.

I. Current Action

DOE proposes extension of the Form AD-R0177, "National Survey of Compensation Paid to Scientists and Engineers in Research and Development." The form is completed by employers and employees in research and development. DOE uses the published summary survey data to evaluate the compensation of scientists and engineers employed in contractor-operated government facilities. Moreover, many private sector research and development institutions use the published survey for the purpose of salary comparison. The survey data will be collected and processed by the Battelle Columbus Laboratories. DOE will publish the survey results and provide copies to survey participants. The form is the same as previously used.

II. Request for Comments

The DOE invites prospective respondents to comment on the planned revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

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(As a potential data provider)

a. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

b. Can data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your organization require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved?

(As a potential user)

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data? (Be specific.)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiencies?

DOE is also interested in receiving comments from persons as to their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., May 18, 1983.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 83-11476 Filed 5-23-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-490-000]

Connecticut Light and Power Co.; Notice of Filing

May 18, 1983.

The filing Company submits the following:

Take notice that on May 2, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated November 1, 1982 between (1) CL&P and Western Massachusetts Electric Company (WMECO, and together with CL&P the NU Companies) and (2) Westfield Gas and Electric Department (WG&E).

CL&P states that the Transmission Agreement provides for transmission services to WG&E for the wheeling of WG&E's purchase from the Massachusetts Municipal Wholesale Electric Company (MMWEC) of a portion of MMWEC's entitlement obtained from Point Lepreau Unit No. 1 (located in New Brunswick, Canada) during the period commencing on the date Point Lepreau Unit No. 1 achieves commercial operation to October 31, 1987.

The transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of transmission service on the electric transmission system of the NU Companies determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The monthly transmission charge is determined by the product of: (i) The transmission charge rate ($/kW-month), and (ii) the number of kilowatts transmission charge is reduced by 50% to give due recognition for payments made by WG&E to other utility systems also providing related transmission service.

CL&P requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements. CL&P states that copies of this rate schedule have been mailed to WMECO, and WG&E.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 210 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.210, 385.211 and 385.214). All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13822 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-42-000]

Edison Sault Electric Co.; Notice of Application

May 18, 1983.

Take notice that on May 12, 1983, Edison Sault Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $1,250,000 principal amount of short-term debt, with final maturities of not later than December 31, 1984.

Any person desiring to be heard or to make any protest with reference to the said application should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13823 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP68-179-001]

Florida Gas Transmission Co.; Notice of Informal Conference

May 18, 1983.

On November 12, 1981, Florida Gas Transmission Company (FGT) filed an application with the Federal Energy Regulatory Commission (FERC) pursuant to Section 7(c) of the Natural Gas Act, 15 U.S.C. Section 717f(c), requesting that the certificate issued to it in the above-styled proceeding be amended in order to enable it to replace the current volumetric limitations authorized for that system so as to permit unlimited load growth for its Priorities 1 through 4 customers and to freeze the level of service to its Priorities 5 through 9 customers after providing for some additional growth.

Several protests and petitions to intervene (some supporting and some opposing) FGT's application to amend filed in the instant proceeding have been filed with the Commission. In addition certain customers have recently expressed a current interest in this proceeding and indicated a strong desire to see it move forward to a final determination.

In view of all these factors an informal conference will be convened on June 1, 1983 at 10:00 a.m. for the purposes of discussing the issues involved in the above-styled proceeding.

This informal conference will be held at the offices of the FERC at 825 North Capitol Street, NE., Washington, D.C. 20426. All interested parties are invited to attend this conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13824 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1741-001]

James E. Tribble; Notice of Application

May 18, 1983.

The filing individual submits the following:

Take notice that on May 2, 1983, James E. Tribble filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

President and Director, Yankee Atomic Electric Company
Vice President, Vermont Yankee Nuclear Power Corporation
Vice President, Maine Yankee Atomic Power Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13825 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-492-000]

Niagara Mohawk Power Corp.; Notice of Tariff Filing

May 18, 1983.

The filing Company submits the following:

Take notice that on May 2, 1983, Niagara Mohawk Power Corporation (Niagara), tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated March 3, 1983 between Niagara and the Power Authority of the State of New York (PASNY).

Niagara states that the Transmission Agreement provides for Niagara to deliver for PASNY over Niagara's transmission system, power and energy of PASNY to PENELEC at the New York-Pennsylvania State Line. Niagara requests an effective date of July 1, 1983.

Niagara states that copies of this rate schedule have been mailed to the Allegheny Electric Cooperative, Inc., PASNY, and PSCNY.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any party wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13826 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER33-491-000]

Niagara Mohawk Power Corp.; Notice of Filing

May 18, 1983.

The filing Company submits the following:

Take notice that on May 2, 1983, Niagara Mohawak Power Corporation (Niagara), tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated March 3, 1983 between Niagara and the Power Authority of the State of New York (PASNY).

Niagara states that the Transmission Agreement provides for Niagara to deliver for PASNY over Niagara's transmission system power and energy of PASNY to PENELEC at the New York- Pennyslvania Satate Line. Niagara is requesting an effective date of July 1, 1983.

Niagara states that copies of this rate schedule have been mailed to the Division of Light and Power, City of Cleveland, PASNY, and PSCSNY.

Any person desiring to be heard or to to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the preceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13827 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-116-005 (PGA83-2) and TA83-2-7-003]

Southern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

May 18, 1983.

Take notice that Southern Natural Gas Company (Southern), on May 18, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective June 1, 1983. The revised tariff amends previous PGA and general rate increase filings on the above-styled proceedings to effect a major rate reduction following settlement conference with its customers, the Commission Staff and other parties. The proposed changes would decrease Southern's rates as a result of the following items.

(1) An amendment to its most recently filed PGA reflecting certain decreases in cost of purchased gas to jurisdictional customers of 294.549¢ of approximately 21.4¢ per Mcf.

(2) A reduction in its general rate increase in Docket No. RP82-116 to reflect reduced costs including a reduction in the cost of equity capital to 13 percent and a reduction in mainline depreciation expense to 3.00 percent.

The rate reductions requested herein are in anticipation of a rate settlement to be entered into by all parties prior to June 1, 1983. Absent such a settlement, Southern reserves the right to restore jurisdictional rates to the current level.

Copies of the filing were served upon all parties to Docket Nos. RP82-116 and

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TA83–2–7, the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the preceedings. Any person wishing to become a party must file a petition to intervene.

Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13828 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–496–000]

Cleveland Electric Illuminating Co.; Filing

May 19, 1983.

The filing company submits the following:

Take notice that on May 5, 1983, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 40 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60–day notice requirement in order to permit commencement of transmission service on May 1, 1983.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before June 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13829 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–495–000]

Cleveland Electric Illuminating Co.; Filing

May 19, 1983.

The filing company submits the following:

Take notice that on May 5, 1983, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on May 1, 1983.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before June 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13827 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–501–000]

Florida Power Corp.; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, Florida Power Corporation (Florida Power) tendered for filing a Contract for Interchange Service (Contract) between Florida Power and the City of Tallahassee, Florida entered into on May 1, 1983. The Contract provides for the following interchange services: emergency energy, short-term and long-term firm capacity and energy, and economy energy.

Florida Power asks that the sixty (60) day notice requirement be waived so that the Contract, in acordance with its terms, may be permitted to become effective on May 1, 1983.

Florida Power states that copies of this filing have been mailed to the City of Tallahassee and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13868 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83494–000]

Florida Power Corp; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 5, 1983, Florida Power Corporation (Florida Power) rendered for filing a revision to the daily capacity charge of its scheduled interchange service to Florida Power & Light Company, Tampa Electric Company, the Orlando Utilities Commission, the Sebring Utilities Commission, the Jacksonville Electric Authority, and the Cities of Gainesville, Kissimmee, St. Cloud and Lakeland, Florida under interconnection agreements with each of these utilities. According to Florida Power, the revised charge of $127.29 per MW per day is based on 1982 data and is derived according to the same method shown in

cost support schedules submitted with the inteconnection agreements. According to Florida Power, the present daily capacity charge based on 1981 data is $96.27 per MW per day.

Florida Power requests that the revised daily capacity charge be made effective on May 1, 1983, and request waiver of notice requirement.

According to Florida Power, the filing has been served on each of the above-named utilities and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13869 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–500–000]

Idaho Power Co.; Compliance Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supesedes Original Volume No. 1) during March, 1983, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 17
Montana Power Company—Supplement 15
Sierra Pacific Power Company—Supplement 15

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13870 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–503–000]

Kansas Power & Light Co.; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, the Kansas Power and Light Company (KPL) tendered for filing Amendment #8 to the General Participation Agreement to Mokan Pool members.

Amendment #8 provides for the addition of City Power & Light Department of the City of Independence, Missouri to the Mokan Power Pool.

KPL states that the following are presently Participants under the General Participation Agreement with the following FPC Rate Schedule Numbers:

Kansas City Power & Light Company—Rate Schedule FPC No. 32
Missouri Public Service Company—Rate Schedule FPC No. 8
The Empire District Electric Company—Rate Schedule FPC No. 73
Kansas Gas and Electric Company—Rate Schedule FPC No. 94
The Kansas Power & Light Company—Rate Schedule FPC No. 7
Central Telephone & Utilities Corporation—Rate Schedule FPC No. 53
St. Joseph Light & Power Company—Rate Schedule FPC No. 17
Midwest Energy, Inc.
Sunflower Electric Cooperative, Inc.
Board of Public Utilities of the City of Kansas City, Kansas

KPL states that all Participants under the General Participation Agreement filed certificates of concurrence to the proposed change with KPL's submittal.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–13872 Filed 5–23–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–499–000]

Pacific Gas & Electric Co.; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, Pacific Gas and Electric Company (PG&E) tendered for filing as an initial rate schedule a January 28, 1983 Letter Agreement for interruptible transmission service by PG&E for the Western Area Power Administration (Western).

The agreement provides that PG&E will transmit non-firm energy obtained by Western, from the Colorado River Storage Project, from Midway Substation to Tracy Substation, subject to the availability of transmission capacity in the PG&E system. The transmission rate of 1.0 mill-kWh is a negotiated rate. Energy delivered at Midway shall be reduced by 1.7% to compensate for transmission losses.

PG&E requests an immediate effective date of October 2, 1981, and therefore requests waiver of the 60-day notice requirement.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the preceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

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Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13873 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-498-000]

Pacific Gas & Electric Co.; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, Pacific Gas and Electric Company (PG&E) tendered for filing a signed letter agreement dated March 28, 1983, amending Article 14(a)(3) of the United States Power Contract No. 14-06-200-2948A (Contract) between the Western Area Power Administration (Western) and PG&E dated July 31, 1967 (Original FPC Volume No. 4).

The letter agreement states that PG&E agrees to support, under the terms of the Contract, a load level of up to 1152 MW.

PG&E requests an effective date of March 1, 1983 as agreed by both parties, and therefore requests waiver of the 60-day notice requirement.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13874 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-502-000]

Public Service Company of Colorado; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 9, 1983, the Public Service Company of Colorado (PSCo) tendered for filing a proposed change in its FERC Electric Service Tariff. PSCo states that the proposed change is a Supplemental Agreement (Supplement) to PSCo's Power Purchase Agreement (Agreement) with the City of Burlington, Colorado (Burlington), dated February 19, 1974, as amended, filed with the Commission under PSCo's FERC Rate Schedule No. 15.

PSCo indicates that the Supplement provides that Burlington may reduce its obligation to accept and pay for its requirements of electric power and energy provided by the Company by the amount of electric power obtained from Western Area Power Administration (WAPA) for peak shaving purposes only. PSCo will act as the scheduling agent for Burlington in scheduling repayment energy to WAPA. PSCo will provide all repayment energy to WAPA for Burlington's account, including any required losses, Mt. Elbert pump back energy, and Burlington will pay PSCo for same at the energy charge in effect for PSCo's deliveries of energy to Burlington.

PSCo requests waiver of the notice requirements as there is no change in rates proposed by this filing.

PSCo states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13875 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1864-001]

Jackson H. Randolph; Application

May 19, 1983.

The filing individual submits the following:

Take notice that on May 13, 1983, Jackson H. Randolph filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Vice President—The Cincinnati Gas & Electric Company.

Director, Vice President—The Union Light, Heat and Power Company.

Vice President—Miami Power Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 385.214). All such motions or protests should be filed on or before June 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13871 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-493-000]

Southern California Edison Company; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 3, 1983, Southern California Edison Company (Edison) tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate Schedules FERC No.
City of Los Angeles	102, 118, 140, 141
San Diego Gas & Electric Co.	139, 151
Pacific Gas & Electric Co.	117, 147
City of Burbank	114, 135
City of Pasadena	115, 158, 137
Western Area Power Administration	120
Arizona Power Pooling Association	93
Arizona Electric Power Cooperative	132, 161
M-S-R Public Power Agency	153
City of Glendale	136, 143
Imperial Irrigation District	138

Edison requests waiver of the Commission's prior notice requirements and an effective date of January 1, 1983, for these rate changes.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed in or before June 1, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13870 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-504-000]

Utah Power & Light Company; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 10, 1983, Utah Power & Light Company (Utah) tendered for filing new service agreements providing for sales under Service Schedules UTAH-1B and UTAH-1C of Volume 2 of Utah FERC Electric Tariff, under which Utah sells and delivers non-firm energy to electric utilities. The new service agreements are with the following purchasers:

Idaho Power Company—(UTAH-1B).

City of Riverside, California—(UTAH-1B and 1C).

Southern California Edison Company—(UTAH-1B and 1C).

Western Area Power Administration—(UTAH-1B).

Arizona Electric Power Cooperative, Inc.—(UTAH-1C).

Utah requests that the UTAH-1B agreements be made effective retroactively on the date of the first delivery or the date of the agreement, whichever is earlier and that the UTAH-1C agreements be made effective retroactively to the date of the agreement. Utah also requests that the notice requirements be waived.

Copies of this filing were served on the potential customers involved, and also on the regulatory commissions of Utah, Idaho, Wyoming, California, and Arizona.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13877 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-497-000]

Wisconsin Public Service Commission; Filing

May 19, 1983.

The filing Company submits the following:

Take notice that on May 6, 1983, Wisconsin Public Service Commission (WPSC) tendered for filing a Supplement to the "Partial Requirements Service Agreement" with the City of Manitowoc, Wisconsin, FERC, Electric Service Tariff, original Volume I, Appendix "B." This Supplement revises the contract demand quantities for peak load, intermediate load, and base load in accordance with Exhibit 1 of the agreement, Paragraph 6. The Supplement also changes the location of points of delivery of energy designated in Paragraph 2 of said Exhibit 1.

WPSC requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-13878 Filed 5-23-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL 2368-1]

Science Advisory Board; Environmental Health Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on June 10, 1983, in Conference Room 3906-3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. and adjourn not later than 4:30 p.m.

The principal purpose of the meeting will be: (1) To review and comment on the scientific adequacy of the revised draft of the Carcinogen Assessment of Coke Oven Emissions (Revised May 1983); (2) To continue the Committee's deliberations on EPA's Health Advisory Program for unregulated contaminants in drinking water; and (3) To hear a report on final revisions of the Health Assessment Documents for Acrylonitrile; 1,1,1-Trichloroethane (Methyl Chloroform); and 1,1,2-Trichloro-1,2,2-Trifluoroethane (Chlorofluorocarbon FC-113).

The agenda will also include briefings and informational items of current interest to the members including briefings on (a) The recent published report of the National Research Council on "Risk Assessment in the Federal Government: Managing the Process;" (b) Exposure assessment in EPA's Office of Health and Environmental Assessment; and (c) Exposure assessment in EPA's Office of Air Quality Planning and Standards.

For information on how to how to obtain copies of the revised draft of the Carcinogen Assessment of Coke Oven Emissions and the Health Assessment Documents for Acrylonitrile, 1,1,1-Trichloroethane (Methyl Chloroform) and 1,1,2-Trichloro-1,2,2-Trifluoroethane (Chlorofluorocarbon FC-113) please call or write the Center for Environmental Research Information, 20 West St. Clair Street, Cincinnati, Ohio 45268 (513) 684-7531.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a

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paper, or wishing further information should contact the Executive Secretary, Environmental Health Committee, Science Advisory Board (A–101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. June 6, 1983. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382–2552.

Dated: May 16, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83–13861 Filed 5–23–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100004; PH–FRL 2368–8]

Battelle Memorial Institute; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3 and 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Battelle Memorial Institute of Columbus, under Contract No. 68–02–3169. Some of the information has been claimed to be confidential business information (CBI). The contractor, Battelle Memorial, has met all the requirements of 40 CFR 2.301(h)(2) and consequently the data wil be transferred for performance of the contract. This action will enable Battelle Memorial to fulfill the obligations of the contract and serves to notify affected persons.

DATE: May 31, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Grosse, Chief, Information Services Branch, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 222, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2613).

SUPPLEMENTARY INFORMATION: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 10(e) provides that confidential business information (CBI), or business information which is alleged to be confidential, may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA section 3(c)(2). Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning contract 68–02–3169 with Battelle Memorial.

Battelle Memorial's work will require their access to internal scientific reviews prepared by the Toxicology Branch of the Office of Pesticide Programs (OPP) Hazard Evaluation Division. Battelle Memorial must also have access to the data discussed in the reviews. These data consist of chronic feeding studies submitted by pesticide registrants to OPP. Because of the large number of studies involved, Battelle's staff will be evaluating the reviews and data in a selective manner. Not all companies' data will necessarily be reviewed.

Battelle Memorial has been cleared in accordance with the procedures in the EPA FIFRA Confidential Business Information Security Manual to have access to confidential business information. FIFRA subsection 10(f)(1) provides a criminal penalty for wrongful disclosure of confidential information, whether such disclosure is made by an EPA employee or an EPA contractor. Battelle Memorial's contract with EPA specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and Battelle Memorial's personnel will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: May 16, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83–13860 Filed 5–23–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140035; BH–FRL 2368–7]

General Accounting Office; Disclosure of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The General Accounting Office (GAO) has requested access to information submitted to EPA under the Toxic Substances Control Act (TSCA), including confidential business information submitted under sections 4, 5, 6, 7, and 8 of the Act. The GAO states that it will require access to this information to conduct a review of EPA's program to regulate existing chemicals for the Senate Committee on Environment and Public Works.

DATE: This information will be provided to the GAO no sooner than June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (544–1404), Outside the USA: (Operator—202–544–1404).

SUPPLEMENTARY INFORMATION: The GAO, on behalf of the Comptroller General, has informed EPA that it has been asked by the Senate Committee on Environment and Public Works to conduct a review of EPA's program to regulate existing chemicals. Specifically, the Committee has asked the GAO to "undertake a new study of EPA's actions and progress in identifying the hazards associated with the 55,000 existing chemicals that were identified by EPA as of January 1979 and in protecting the public and environment from those existing chemicals that pose an unreasonable risk."

To perform its review, the GAO has requested access to information submitted to EPA under TSCA, including confidential business information submitted under sections 4, 5, 6, 7 and 8 of the Act. Pursuant to 40 CFR 2.209(b), which applies to information submitted under TSCA 40 CFR 2.306(h), EPA must provide access to confidential business information in response to a written request from the Comptroller General. (In this case, the request is from the GAO on behalf of the Comptroller General.) Before providing such information, EPA is required by 40 CFR 2.209(b) to notify the submitters of the information at least ten days in advance of disclosure.

This is a notice under 40 CFR 2.209(b) to all submitters of information under section 4, 5, 6, 7 or 8 of TSCA that EPA will provide the GAO with access to confidential business information no sooner than ten days after publication of this notice in the **Federal Register.**

EPA will identify any information that is subject to a confidentiality claim and will inform the GAO of the provisions of section 14(d) of TSCA which set criminal penalties for wrongful disclosure of confidential business information.

The GAO recognizes the sensitivity of the confidential business information it may review in the course of its study. Prior to access, the GAO personnel performing this work will be briefed on EPA's security procedures as set forth in the TSCA Confidential Business Information Security Manual. These employees will then be given access to information as requested and will be allowed to attend meetings in which such information is discussed. In addition, EPA employees will be authorized to discuss this confidential business information with the designated GAO personnel.

The GAO intends to have access to confidential business information only on EPA's premises. In addition, it does not intend to include any such information in its report to the Senate Committee. In order to ensure confidentiality, the GAO will ask EPA to review any technical information to be included in the final report to verify that it does not contain confidential business information.

Dated: May 12, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–13859 Filed 5–23–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M–0122]

CILCO™, Inc.; Premarket Approval of 1S and 1P 2-Loop Binkhorst Iridocapsular Intraocular Lenses

Correction

In FR Doc. 83–10964, appearing on page 18897, in the issue of Tuesday, April 26, 1983, in the second column, in the **SUPPLEMENTARY INFORMATION** paragraph, in the twentieth line "viscul" should read "visual"; and in the same column, the ninth line from the bottom, "and" should read "any".

BILLING CODE 1505–01–M

[Docket No. 82N–0381]

Notice to Manufacturers and Importers of Confectionery Containing Alcohol

Correction

In FR Doc. 83–11133, appearing on page 18896, in the issue of Tuesday, April 26, 1983, in the first column, in the second line of the **SUPPLEMENTARY INFORMATION** paragraph, "401(d)(2)" should read "402(d)(2)".

BILLING CODE 1505–01–M

[Docket No. 82N–0061; DESI 9366]

Deanol Acetamidobenzoate; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The commissioner of Food and Drugs denies a request for hearing and withdraws approval of the new drug application for Deaner Tablets, a drug used to treat children with learning and behavior problems. The drug lacks substantial evidence of effectiveness for its labeled indications.

EFFECTIVE DATE: June 23, 1983.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9366) published in the **Federal Register** of May 15, 1970 (35 FR 7616), the Food and Drug Administration (FDA) evaluated reports received from the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group, and concluded that Deaner Tablets, NDA 11–417, held by Riker Laboratories, Inc., 19901 Nordhoff St., Northridge, CA 91324 (Riker), is possibly effective for its labeled indications. (The NAS/NRC rating system categorized drugs as "effective," "effective but," "probably effective," "possibly effective," or "ineffective.") The notice provided Riker, and any person marketing this drug without approval, 6 months to obtain and submit data providing substantial evidence of effectiveness for the indications evaluated as possibly effective. In response to this notice, Riker submitted four studies on Deaner Tablets.

In a notice (formerly Docket No. FDC–D–566) published in the **Federal Register** of January 8, 1975 (40 FR 1533), the Director of the Bureau of Drugs (predecessor to the National Center for Drugs and Biologics) evaluated these four studies and concluded that they do not constitute substantial evidence of effectiveness. Accordingly, the Director proposed to withdraw approval of the new drug application for Deaner Tablets and offered an opportunity for a hearing.

On February 3, 1975, Riker requested a hearing, and on March 5, 1975, submitted the material on which it relied to justify a hearing. The Director of the National Center for Drugs and Biologics reviewed the material and concluded that summary judgment was appropriate (21 CFR 314.200(g)(3)). Accordingly, on July 19, 1982, the Director provided Riker an opportunity to comment on a proposed order denying a hearing and withdrawing approval of Deaner Tablets. Riker responded to the proposed order on September 14, 1982 by submitting the results of a 1975 study. Riker did not attempt to critique the draft order.

The Commissioner has considered all of the material submitted by Riker and has concluded that there is no genuine and substantial issue of fact requiring a hearing. A full discussion follows.

I. The drug

Deaner Tablets, each containing 25, 100, or 250 milligrams (mg) of deanol (2-dimethylaminoethanol) as the para-acetamidobenzoic acid salt.

II. Recommended Uses

Deaner Tablets is currently labeled as possibly effective for the following indications:

1. Learning problems—learning in deficit of that usually associated with apparent level of intelligence, including I.Q. Reading difficulties. Shortened attention span.

2. Behavior problems—hyperkinetic behavior problem syndrome characterized by distractibility, motor disinhibition, dissociation, and perseveration.

3. Or, as more frequently encountered, hyperkinetic behavior and learning disorders incorporating varying combinations of both of the above. Under-achievers. Reading and speech difficulties. Impaired motor coordination. Hyperactive, impulsive/compulsive behavior, often described as asocial, antisocial, delinquent, stimulus-governed.

III. Data Submitted to Support Claims of Effectiveness

1. Oettinger, L., "A Double-Blind Study of Dimethylaminoethanol (Deaner) and Placebo in Children with Minimal Brain Dysfunction," unpublished, 1971. Riker Number 546–054.

This was a double-blind, parallel study comparing Deaner Tablets to placebo in 46 children between 8 and 14 years of age. These children were referred to this study by their schools, pediatricians, social agencies, parents, and other patients, because of learning and behavior problems. The investigator's criteria for exclusion from this study were overt psychosis, gross neurological abnormalities, primary emotional disorders, or I.Q.'s below 80 (as measured by a standard group or individual intelligence test).

The children were randomly separated into two groups, one receiving Deaner, the other placebo. Each child received five 100-mg tablets of Deaner or look-like placebo tablets every day over a period of 4 weeks. Their responses to treatment were measured by questionnaires answered by parents and school personnel, and a battery of psychological tests administered by the investigator.

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The Bureau of Drugs reviewed this study in the notice of January 8, 1975, and found that it failed to demonstrate a significant difference between Deaner and placebo. Riker does not dispute this finding in its hearing request submission and describes the study as merely a "probing clinical experiment." Riker's consultant found no significant treatment effects under the parent questionnaire or the school questionnaire when analyzed by a factor analysis developed before the study. Nor did the consultant find any significant treatment effects under the Draw-A-Man Test, Bender Gestalt, Porteus Maze Test, Wipman Test, Flowers-Costello Test, and Paired Associate Learing Test. Although the consultant did find a "weak suggestion" of drug effect for total symptoms score under the school questionnaire and the continuous performance test, he concluded that, in view of the large number of variables examined and the marginal levels of significance, these results should be accepted with caution. Accordingly, even under Riker's own analysis, this study fails to substantiate Deaner's effectiveness. But even if the study had produced positive results, it fails to meet the standards of an adequate and well-controlled clinical investigation as set forth in 21 CFR 314.111(a)(5)(ii).

First, the investigator did not provide adequate assurance that the subjects selected were suitable for the purposes of this study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). To assure a suitable population, the investigator is required to provide a method of selection that provides adequate assurance that the subjects have the condition for which the drug is offered, including criteria of diagnosis and appropriate confirmatory laboratory tests. Where such assurances are not provided, there is no rational basis for determining precisely which conditions may be effectively treated with this regimen.

In this study, the investigator failed to provide in its method of selection adequate assurance that the population had learning disabilities (reading difficulties and shortened attention span) and behavior problems (distractibility), motor disinhibition, dissociation, and perservation) as described in Deaner's labeling. Some of the people who referred patients to the study had no professional expertise to identify the symptoms described above. These referrals were not based upon any clear diagnostic criteria relating to the conditions described in Deaner's labeling. Nor did the investigator establish clear diagnostic criteria to select a suitable population from the patients referred. The investigator asserts that children were selected who fit the general critera of minimal brain dysfunction, as outlined in Monograph 3 of the National Institute of Neurological Diseases and Blindness ("Minimal Brain Dysfunction in Children," PHS Pub. No. 1415, 1966). This statement is not helpful because: (1) Even if "minimal brain dysfunction" were equated with the conditions listed in Deaner's labeling, the cited monograph does not provide a method of identifying a child with minimal brain dysfunction, and (2) a substantial number of children in this study were not diagnosed as having minimal brain dysfunction. Because the investigator failed to provide adequate confirmation that the population had the conditions identified in Deaner's labeling, the study is not adequate and well controlled.

In addition, the investigator failed to employ a method of selection that assures the comparability of the treatment and control groups with respect to known pertinent variables such as the severity and duration of the conditions in Deaner's labeling. If variables that can influence the outcome of a study are known, randomized patient assignment is not sufficient to assure comparability between test and control groups; a poststudy comparison of the manner in which known pertinent variables are distributed between the test and control groups is required (21 CFR 314.111(a)(5)(ii)(*a*)(2)(*iii*)). The purpose of randomization is to promote, insofar as possible, the equal distribution of unknown variables which may affect treatment outcome. Here, the investigator selected children whose conditions had a variety of etiologies ranging from organic brain disease to severe psychiatric disturbances, some with abnormal neurological conditions and histories of febrile seizures. These children exhibited varying degrees of learning disabilities and behavior problems. Because the treatment and control groups are not demonstrably comparable with respect to etiologies and symptoms, the results of the study are unreliable.

The investigator also failed to employ a method of selection that assures comparability of the treatment and control groups with respect to concomitant medication (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). Although the medical history included a question on whether the patient was receiving concomitant medication, the investigator failed to record the answer to this question in a substantial number of cases (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). This omission is particularly critical where as here, there is no indication that patients were cautioned to refrain from using other medication.

2. Duncan, C., "Double-Blind Study of the Effects of Deaner (2-Dimethylaminoethanol) and Placebo on the Attention Span of Children with the Hyperkinetic Syndrome," unpublished, 1971. Riker Number 546–055.

This was a double-blind, parallel study comparing Deaner, placebo, and a no-treatment group over a 4-week period. The investigator selected 43 children between 6 and 14 years of age. These children were referred by a pediatric neurology clinic and local pediatric neurologists. Children with histories of repetitive petit mal or grand mal epileptic seizures or other psychomotor seizures were excluded from the study.

The children were divided into 3 groups: 18 received 500 mg per day of Deaner, 20 received placebo, and 5 received no treatment. None of the children in this study received other medication having a stimulating or soporific effect during the study or during the 2 weeks immediately preceding the study in which the predrug psychological testing was done.

The patients were evaluated on the basis of psychological tests, a neurologist's global rating, a parent symptom report, a teacher symptom report, and clinical electroencephalograms.

The Bureau of Drugs reviewed this study in the notice of January 8, 1975, and found that it failed to demonstrate a significant drug effect. Riker concedes in its hearing request submission that this study, like the Oettinger study, was merely a "probing clinical experiment." Riker's consultant found that the data do not support the hypothesis that Deaner differs from placebo at the dosages employed, except in two instances which he dismissed as "obscure" or "marginal." In fact, the consultant concluded that "no reliable treatment effects were discovered" in this study.

This study, therefore, failed to reveal drug effect. In addition, the study was not adequate and well controlled as required by 21 CFR 314.111(a)(5)(ii). In the notice of January 8, 1975, the Bureau noted several defects in this study that were not disputed by Riker in its hearing request submission.

First, the investigator failed to employ a method of selection that provides adequate assurance that the population was suitable for the purposes of the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Although the protocol for this study states that subjects would be limited to those presenting the subjective symptoms of distractibility, hypermobility, impulsiveness, short attention span, and learning deficits, no objective diagnostic criteria for the identification of these subjective symptoms are provided. In fact, the patient case reports provide no record of even a subjective determination of the presence of these symptoms. Because diagnostic criteria have not been provided, it is not possible to determine whether the population actually had the conditions described in Deaner's labeling. Second, without diagnostic criteria to quantify the severity and duration of the disease, comparability of the treatment and control groups is not assured (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). Other criticisms noted by the Bureau in its January 8, 1975 notice, such as conditions of blinding, scheduling of tests, and time of drug administration, were also not addressed by Riker in its hearing request submission (21 CFR 314.111(a)(5)(ii)(*a*) (*3*) and (*4*)). For these reasons the study lacks the essentials of an adequate and well-controlled clinical investigation.

3. Lewis, J. A., and R. Young, "Deanol and Methylphenidate in Minimal Brain Dysfunction," *Clinical Pharmacology and Therapeutics*, 17(5):534–40, 1975. Riker Number 546–056.

This was a double-blind, parallel study comparing the effects of Deaner, Ritalin (methylphenidate), and placebo on 74 children. These children were referred to the study by public school teachers and counselors, pediatricians, and personnel from child development clinics who believed that the children's classroom performance was below potential. The investigators selected children from these referrals who met the following criteria: (1) inappropriate poor school performance as defined by the teacher; (2) acceptance by the parent that the child was having problems in school; (3) between 6 and 12 years of age; (4) full-scale I.Q. on the WISC (Wechsler Intelligence Scale for Children) of 80 or above; (5) absence of diagnosable mental retardation, epilepsy, or other neurological disease; and (6) absence of any diagnosable major psychiatric illness.

The investigators conducted this study over 12 weeks. Twenty-four children received Deaner (250 mg per day for the first 2 weeks, 500 mg per day for the next 10 weeks); 25 children received Ritalin (20 mg per day for the first 2 weeks, 40 mg per day for the next 10 weeks); and 25 children received placebo.

The investigators evaluated the children on the following psychological tests: WISC Verbal, Performance, and Full Scale I.Q.; the visual sequential memory subtest from the Illinois Test of Psycholinguistic Abilities; Bender Gestalt; Goodenough Draw-A-Person test; and a reaction time measurement test. The parents also rated the children's behavior on the Werry-Weiss-Peter Scale.

The investigators found significant differences favoring Deaner over placebo in all measurements except visual sequential memory and the Draw-A-Person test. No significant differences were found between Deaner and Ritalin. (Ritalin is a proven effective regimen for attention deficit disorders, previously referred to as minimal brain dysfunction (35 FR 15771; October 7, 1970).)

In the notice of January 8, 1975, the Bureau of Drugs evaluated this study and found that it was not adequate and well controlled because it failed to provide details about methods of blinding the investigators and analysts (21 CFR 314.111(a)(5)(ii)(*a*) (*3*) and (*4*)). Riker's hearing submission provided an adequate description of the blinding and coding procedures followed in this study. However, the study is not adequate and well controlled for other reasons.

First, the study failed to contain a method of selection that assured that suitable subjects would be selected for the purpose of this study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). As discussed previously, a study must provide adequate confirmation of the condition for which the drug is offered, including criteria of diagnosis and appropriate confirmatory laboratory tests. Here, the investigators did not provide adequate diagnostic criteria of the condition, but relied upon, in their own words, "relatively loose criteria" on the theory that "they would most closely approximate the population actually being treated by medical practitioners."

The investigators' reliance upon vague and overbroad diagnostic criteria such as "poor school performance" as perceived by the teacher and "acceptance" by the parents that the children were "having school problems" renders the study less than an adequate and well-controlled trial. These diagnostic criteria, which are different from the symptomatology described in Deaner's labeling (i.e., reading difficulties, short attention span, hyperkinetic behavior characterized by distractibility, motor disinhibition, dissociation, and perseveration), and inadequate. Without precise diagnostic criteria characterizing the medical condition to be treated, there can be no precise conclusions reached on the study. "Poor school performance" or "school problems" does not necessarily imply the existence of a problem requiring drug treatment.

Second, the investigators failed to follow a method of selection that assures comparability of the test and control groups in certain pertinent variables (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). An adequate comparison of drug therapies is possible only when the patient groups studied are substantially identical, or when any differences are accounted for in the analysis. Two of the most important variables in a comparison of treatment groups are the etiology and pathogenesis (i.e., cause and development) of the condition being treated. This is especially important in this study, in which the condition being treated ("poor school performance" and "school problems") could be the result of many different causes. In this instance, the investigators failed to ensure the comparability of the treatment and placebo groups with respect to the cause of the condition or the duration and severity of any learning disability, behavior problem, hyperactivity, neurological "hard" and "soft" signs, and EEG abnormalities.

Finally, the investigators failed to assure the comparability of the treatment and control groups with respect to concomitant medication (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). Riker's own consultant questions whether children in this study received concomitant medication. Because concomitant medication can significantly influence the results of this study, it is necessary to assure that these groups are comparable in this important variable. Because of the investigators' failure to provide such information, the study cannot be considered adequate and well controlled.

4. Coleman, N., P. Dexheimer, A. DiMascio, W. Redman, and R. Finnerty, "Deanol in the Treatment of Hyperkinetic Children," *Psychosomatics*, 17:69–72, 1976. Riker Number 546–057. This was published after Riker's hearing request submission, and was submitted to FDA under the name of A. DiMascio only.

This was a double-blind, parallel study comparing Deaner and placebo in 50 hyperkinetic children between 6 and 12 years of age. The children in the study were referred by physicians, mental health centers, pupil adjustment counselors, and teachers. The

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investigators selected children from this population who exhibited behavior disturbances or symptoms on the Connors' Teacher Rating Scale (a minimum of five disturbances or symptoms, or three at the "very much" level). In addition, the investigators selected only those children who were diagnosed as suffering hyperkinesis of 6 months' duration as confirmed by their parents. The investigators' criteria for excluding children from this study were: (1) Signs (or history) of definite organic brain damage, (2) I.Q. below 80 (as measured by WISC), (3) psychosis, (4) physical contraindications, or (5) under the treatment of other physicians.

The children were randomly separated into two groups, one receiving Deaner, and the other placebo. Deaner was administered at 300 mg per day the first week, 400 mg per day the second week, and 500 mg per day for the remaining 10 weeks of the study. Drug effect was measured by the following tests given at baseline and at the end of the study: (1) WISC; (2) Wide Range Achievement Test (WRAT); (3) Porteus Maze Test; (4) Connors' Teacher Rating Scale; (5) Connors' Parent Rating Scale; and (6) global evaluations by the teacher, parents, and psychiatrist.

The Bureau of Drugs reviewed this study in the notice of January 8, 1975. The Bureau criticized the study because the investigators had selected a method of analyzing the data after the study was completed without an adequate explanation of steps taken to minimize analyst bias. Riker's hearing submission reanalyzed the study using Connors' Rating Scales, an acceptable method.

This study, as now analyzed, fails to establish the effectiveness of Deaner. The investigators found no significant differences between Deaner and placebo groups under the parent and teacher questionnaire using Connors' Rating Scales. Nor did they find any significant differences under any of the achievement tests. The fact that there were no significant differences under these critical paramenters diminishes the value of the psychiatrist's global evaluation, the only parameter which significantly favored Deaner. Accordingly, this study fails to substantiate a claim of effectiveness for Deaner.

Nevertheless, even if the results of this study had favored Deaner more significantly, it is not an adequate and well-controlled clinical investigation within the meaning of 21 CFR 314.111(a)(5)(ii).

Contrary to the investigators' assertion, there is no assurance provided by a method of selection that the test and control groups were comparable in pertinent variables as required by 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Similar to the investigators in the Lewis study discussed above, the investigators in this study did not ensure that the conditions of the patients admitted to the study were of similar etiology.

Another deficiency of this study is the investigators' failure to explain the methods of observation and recording of results in making the psychiatrist's global evaluation (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). This is particularly critical to an evaluation of this study because only this parameter revealed a significant result favorable to Deaner. The investigators' failure to explain how the children were assessed in the global evaluations obscures the meaning of this parameter. Contrary to Riker's assertion, this omission was not resolved by the investigators' final report of this study.

E. Other medical data. Riker's hearing request submission also included data on neurological involuntary movements, such as Dopa-induced dyskinesias, tardive dyskinesias, and Huntington's chorea. Riker admits that these data are inconclusive as to whether Deaner is effective treatment for these conditions. Moreover, because these data concern indications not in Deaner's labeling, they are irrelevant to this proceeding.

Riker also submitted an article on the influence of 2-dimethylaminoethanol on the level of acetylcholine in the brains of mice, and two articles on the suppressant effects of two stimulants (neither of which was Deaner) on the growth of hyperactive children. These articles clearly are not related to the effectiveness of Deaner.

Finally, Riker submitted a study entitled "Deanol vs. Placebo in Hyperactive Children," Riker Number 546–058, by James A. Lewis (unpublished). Riker retracted this study after notification from the Bureau that it was not filed in conformance with 21 CFR 314.200(c)(2). It is worth noting, however, that the investigator found no significant differences between Deaner and placebo.

IV. Riker's Response to the Proposed Final Order

On July 23, 1982, the Director of the National Center for Drugs and Biologics served upon Riker a proposed order denying a hearing and withdrawing approval of the new drug application for Deaner Tablets for the reasons noted above (21 CFR 314.200(g)(3)). Riker's response to the proposed final order was a single-page letter and a final report on study 546–058, "Deanol vs. Placebo in Hyperactive Children," by James A. Lewis and Barbara S. Lewis.

Riker does not dispute any of the specific criticisms found in the proposed order, but maintains without explanation that the data were not afforded an adequate and fair medical review. This bare assertion does not raise a genuine and substantial issue of fact which justifies a hearing.

Nor does Riker's untimely resubmission of study 546–058 raise a genuine and substantial issue of fact which would justify a hearing in this matter. The study, as noted in the proposed order, found no significant differences between Deaner and placebo. This finding is not disputed in the study's final report which has not been submitted by Riker. (See page 25.) Consequently, even if the Commissioner were to consider this study as appropriately filed, it fails to reveal any drug effect.

V. Findings

On the basis of the foregoing review of all the evidence submitted, and after providing an opportunity to comment on this order, the Commissioner finds that (1) there is a lack of substantial evidence that Deaner has the effects it purports or is represented to have under the conditions of use, prescribed, recommended, or suggested in its labeling, and (2) Riker has failed to set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052–1053 as amended (21 U.S.C. 355(e)) and under authority delegated to the Commissioner (21 CFR 5.10) the request for a hearing is denied, and the approval of NDA 11–417 for Deaner Tablets, including all amendments and supplements thereto, is hereby withdrawn. Distribution of this drug product in interstate commerce without an approved new drug application is illegal and subject to regulatory action. This order is effective June 23, 1983.

Dated: May 12, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83–13710 Filed 5–23–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 81N–0391 and 82N–0095; DESI 6514 AND 11935]

Drugs for Human Use; Drug Efficacy Study Implementation; Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application for Omni-Tuss Suspension and those parts of another application that pertain to Pyribenzamine and Ephedrine Tablets. The basis of the withdrawal is that there is a lack of substantial evidence that the fixed-combination drugs are effective in the relief of symptoms that the fixed-combination drugs are effective in the level of symptoms of cough, cold, or allergy.

EFFECTIVE DATE: June 23, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identifed with the appropriate docket number and directed to the Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** of May 25, 1982 (47 FR 22606 and 22604), the Director of the then Bureau of Drugs revoked the temporary exemption for the two drug products described below which permitted these products to remain on the market beyond the time limit scheduled for the implementation of the Drug Efficacy Study. Those notices also proposed to issue orders withdrawing approval of the new drug applications, or parts thereof, that provide for these drug products. The proposal was based on the lack of substantial evidence of effectiveness that each ingredient in the combination products contributes to the claimed effects or is present in an amount considered to be effective, as required by section 305(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and 21 CFR 314.111(a)(5) and 300.50. The two products are:

1. NDA 12–666: Omni-Tuss Suspension, containing codeine sulfate, phenyltoloxamine dihydrogen sulfate, chloropheniramine maleate, ephedrine sulfate (all as cation exchange resin complexes of sulfonated polystyrene), and guaiacol carbonate; Pennwalt Corp., Pharmaceutical Division, 755 Jefferson Rd., Rochester, NY 14623 (DESI 6514; Docket No. 81N–0391).

2. NDA 5–914: As it pertains to Pyribenzamine and Ephedrine Tablets containing tripelennamine hydrochloride and ephedrine sulfate; Ciba Pharmaceuticals Co., 556 Morris Ave., Summit, NJ 07901 (DESI 11935; Docket No. 82N–0095).

Neither Pennwalt Corp. nor Ciba Pharmaceuticals requested a hearing on the two products listed above. Failure to file an appearance and request a hearing constitutes a waiver of the opportunity for a hearing.

The three other products listed in the two May 25, 1982, notices—Ambenyl Expectorant (47 FR 22604; see also 47 FR 50344), and Tussionex Tablets and Suspension (47 FR 22606—and a product related to Omni-Tuss Suspension called Ru-Tuss Expectorant, manufactured by Boots Pharmaceuticals, Inc., are not affected by this notice. The manufacturers of these products have requested hearings; the products will be the subject of future **Federal Register** notices.

Any drug product that is identical, related, or similar to Omni-Tuss Suspension and Pyribenzamine and Ephedrine Tablets and is not the subject of a pending hearing request or an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drug and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (see 21 CFR 5.82 and 47 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is lack of substantial evidence that the two drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 5–914 that provide for Pyribenzamine and Ephedrine Tablets, and approval of NDA 12–666, and all amendments and supplements thereto, are withdrawn effective June 23, 1983.

Shipment in interstate commerce of the above products, or any identical, related, or similar product that is not the subject of a pending hearing request or an approved new drug application, will then be unlawful.

Dated: May 18, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–13667 Filed 5–23–83; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Home Health Services; Section 339 of the Public Health Service Act; Delegation of Authority

Notice is hereby given that the following delegations have been made regarding home health services under section 339 of the Public Health Service Act (42 U.S.C. 255), as amended.

1. Delegation from the Administrator, Health Resources and Services Administration, to the Regional Health Administrators, Regions I–X, with authority to redelegate, of the following authorities under Section 339 of the Public Health Service Act (42 U.S.C. 255) within their respective regions (for projects that are not multiregional or national in scope):

(a) Under section 339(a), to make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating home health programs;

(b) Under section 339(b), to make grants to public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

2. Delegation from the Administrator, Health Resources and Services Administration, to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, of all the authorities under section 339 of the Public Health Service Act except those authorities specifically delegated to the Regional Health Administrators, excluding the authorities to submit reports to Congress or a Congressional committee and to issue regulations.

Previous delegations and redelegations made to officials within the Public Health Service of authorities under Title III of the Public Health Service Act may continue in effect provided they are consistent with this delegation.

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The above delegation was effective on May 12, 1983.

Dated: May 12, 1983.

Robert Graham,

Administrator, Health Resources and Services Administration.

[FR Doc. 83-13865 Filed 5-23-83; 8:45 am]

BILLING CODE 4160-16-M

Public Health Service

National Center For Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness and use (indications) of ambulatory electroence phalographic (EEG) monitoring in the diagnosis of seizure disorders. Specifically, we are interested in: (1) The technical issues concerning the reliability and usefulness of the data gained from 24-hour monitoring while the patient follows usual daily activities and sleep; (2) general indications for use of the procedure; and (3) its diagnostic implications.

For the purposes of this announcement, ambulatory electroencephalographic (EEG) monitoring is defined as long-term (24-hour), continuous brain activity monitoring. The ambulatory EEG monitor uses a portable cassette recorder capable of recording brain rhythms during a patient's routine daily activities and sleep. The recorder stores signals derived from on-head differential preamplifiers. Ambulatory EEGs using cassette tape recorders usually have only four channels available for detecting epileptiform events, except in instances where the fourth channel is used for cardiac monitoring.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sectors and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than September 15, 1983, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well-designed clinical studies since 1978 and other information related to the characterization of the patient population most likely to benefit, the clincial acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Martin N. Erlichman, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20852.

For further information contact Martin Erlichman, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: May 16, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83-13856 Filed 5-23-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Idaho; Modification of District Boundaries, Resource Areas and a Resource Area Headquarters Office

May 16, 1983.

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) as amended and delegated to the Director, Bureau of Land Management by 235 DM 1.1, the boundaries of the Burley and Idaho Falls Districts are changed.

In conjunction with the boundary change one Resource Area is modified, an office is moved and its name is changed, three Resource Areas are abolished and two Resource Areas are established.

SUMMARY: This notice sets forth a series of administrative boundary and name changes between Bureau of Land Management administrative units in Idaho. Part of the lands involved are managed under Section 3 and part under Section 15 of the Taylor Grazing Act. The jurisdiction transfer will not affect the status or use of the public lands in any way. The changes are confined to the Burley and Idaho Falls Districts.

DATE: The changes in boundaries and unit names become effective on July 1, 1983.

ADDRESSES: Bureau of Land Management District Offices involved are:

Burley District Office, Route 3, Box 1, 200 South Oakley Highway, Burley, Idaho 83318.

Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401

FOR FURTHER INFORMATION CONTACT: Fred Cook, Public Affairs Office, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, (208) 334-1170, FTS 554-1770.

SUPPLEMENTARY INFORMATION: As a part of the merger of the Bureau of Land Management and the Minerals Management Service activities in Idaho, the relocation of personnel in the southern and southeastern part of Idaho to better serve the public and improve the management of resources on public lands was approved by the National Director on February 17, 1983. A summary of these changes is as follows:

1. The boundary between the Idaho Falls and Burley Districts is changed. All of the Public Lands administered by the Burley District in Bannock County and a portion of Caribou County are transferred to the Idaho Falls District. A map of the Idaho Falls District is available at the Idaho Falls District Office, located in Idaho Falls, Idaho.

2. In the Idaho Falls District, the Soda Springs Resource Area is abolished. Established in its place is the Pocatello Resource Area which includes the lands transferred to this district along with the lands that were encompassed by the Soda Springs Resource Area. A map of the new Resource Area is available at the Idaho Falls District Office, located in Idaho Falls.

3. The Bureau of Land Management Resource Area Headquarters Office at Soda Springs, Idaho is to be closed and a new Resource Area Headquarters Office established at Pocatello, Idaho known as the Pocatello Resource Area, Idaho Falls District.

4. The three Resource Areas in the Burley District; Magic RA, Raft River, RA, and Bannock-Oneida RA are abolished. In their place, two Resource Areas are established in the Burley District. They are the Snake River RA and Deep Creek RA. The Snake River RA encompasses the public lands generally found in Twin Falls and Cassia Counties. The Deep Creek RA encompasses the public lands generally found in Oneida County and that portion of Power County lying south of the Snake River. A map of the specific unit boundaries is available at the Burley District Office located in Burley, Idaho.

5. Management of public lands and resources affected by these changes will continue under the direction of current office heads until July 1, 1983.

Clair M. Whitlock,

State Director.

[FR Doc. 83-13901 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-84-M

Casper District Office, Wyoming; Proposed Coal Exchange

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Environmental Assessment on Proposed Exchange of Coal Leases in Campbell County, Wyoming (I-90 Exchange).

SUMMARY: The Bureau of Land Management proposes to accept portions of coal leases W-0313666 and W-0111833 from Wyodak Resource Development Corporation, in exchange for other Federal coal in the same county. Part of the coal offered for exchange is under Interstate Highway 90. Notice of this exchange proposal is required under 43 CFR 3435.3-5.

FOR FURTHER INFORMATION CONTACT: Charles F. Wilkie, Special Projects Team Leader, Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601, (307) 261-5598.

SUPPLEMENTARY INFORMATION: The Wyodak Resources Development Corporation, a division of Blackhills Power and Light, wants to exchange 16 million tons of coal under its current lease for 20 million tons of Federal coal adjacent to the existing Wyodak mine. The Bureau of Land Management proposes to authorize this exchange. Such an exchange was made possible in 1978 by Pub. L. 95-554, which amended the Minerals Leasing Act of 1920. Bureau of Land Management Environmental Assessment WY-061-3-51 covers this proposal. Copies are available from the Casper District Office on request.

The proposed exchange is in the public interest because the only effect of mining the selected area would be to increase the life of the Wodak mine by 5 years. If the exchange did not take place, 16 million tons of coal would not be produced, approximately 65 jobs would be lost 5 years earlier and approximately 2.4 million dollars in revenue to the county, city and schools would be discontinued in 2014 rather than 2019. Therefore, fewer significant impacts would result from making the exchange than from not making the exchange.

A public hearing will be held on this exchange if requested.

Dated: April 18, 1983.

Robert S. Childs,

Acting District Manager.

[FR Doc. 83-11011 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 9299]

Realty Action Exchange, Public Lands in Mono County, California

The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian, California

T. 5S., R. 33E.,
Sec. 34, SW¼.
Comprising 160.00 acres, more or less.

In exchange for these lands, the Federal government will acquire non-Federal land from the M&A Zack Lifetime Trust described as follows:

Mount Diablo Meridian, California

T. 5S., R. 32E.,
Sec. 23, SE¼SE¼;
Sec. 25, W½NW¼;
Sec. 26, N½NE¼.
Comprising 202.167 acres, more or less.

The purpose of the exchange is to acquire non-Federal lands which contain important wildlife habitat resources needed for the continued survival of the endangered Owens pupfish. The exchange is consistent with the Bureau's planning system. The public interest will be well served by making the exchange.

The selected land containing 160.00 acres will no longer be included under grazing authorization in the Chalfant Valley Allotment (Allotmen No. 6030) once the public land is transferred out of public ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945).

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. A prior existing electric transmission line right-of-way granted to California Electric Power Company, its successors and assigns, by right-of-way grant LA 0170777 under authority of the Act of March 4, 1911 (43 U.S.C. 961).

4. A prior existing telephone line right-of-way granted to California Interstate Telephone Company, its successor and assigns, by right-of-way grant LA 0170726 under authority of the Act of March 4, 1911 (43 U.S.C. 961).

In accordance with 43 CFR 2201.1(b), this notice shall segregate the public lands identified herein from further appropriations under all public land laws, including the mining laws. This segregation shall terminate upon issuance of patent or 2 years from the date of this publication, whichever occurs first.

Detailed information concerning the exchange, including the environmental assessment, is available at the Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301.

For a period of 45 days after publication of this notice, interested parties may submit comments to the District Manager, Bakersfield District Office at the above address. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this action will become the final determination.

Glenn A. Carpenter,

Acting District Manager.

[FR Doc. 83-13905 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting a Seismic Survey, ARCO Exploration Co., Big Thicket National Preserve, Texas

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from ARCO Exploration Company a Plan of Operations for the purpose of conducting a seismic survey in the Big Sandy Unit of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the

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documents are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: May 12, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-13615 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-70-M

Gulf Islands National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Gulf Islands National Seashore Advisory Commission will be held at 1:00 p.m. on June 2, 1983, in the Matador Room of the Sheraton Inn, 224 E. Garden Street, Pensacola, Florida.

The purpose of the Gulf Islands National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and development of Gulf Islands National Seashore.

The members of the Advisory Commission are as follows:

Mrs. Courtney Blossman, Chairman (Mississippi)
Ms. Gordon D. Allen (Mississippi)
Mr. Margaret Allen (Mississippi)
Mr. Sherman Barnes (Florida)
Mr. J. Earle Bowden (Florida)
Mr. George Byars (Mississippi)
Mr. Lloyd J. Caillavet (Mississippi)
Mr. Edwin Cake, Jr. (Mississippi)
Mr. Bill Davis (Mississippi)
Mr. Paul Delcambre (Mississippi)
Donald Edwards (Mississippi)
Ms. Betty Gerrity (Florida)
Mr. Lee Hodges (Mississippi)
Mr. R. K. Hollister (Mississippi)
Mrs. M. G. Kennedy (Florida)
Mr. Charles Liberis (Florida)
Ms. Sara Megehee (Mississippi)
Mr. Michael Mitchell (Florida)
Mr. Grady Don Pope (Florida)
Mr. Stuart Reynolds (Florida)
Ms. Diana Rettenhouse (Florida)
Mr. Richard Schmidt (Mississippi)
Mr. Vince Whibbs (Florida)
Ms. Erica Woolley (Florida)

The matter to be discussed at this meeting will be an evaluation report of the seashore's development and operations program.

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Franklin D. Pridemore, Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561, telephone (904) 932-6316. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: May 16, 1983.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 83-13616 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-70-M

Land and Water Conservation Fund Grants Manual; Availability

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of Land and Water Conservation Fund Grants Manual.

SUMMARY: The National Park Service announces the availability of the 1983 revised edition of the Land and Water Conservation Fund Grants Manual for sale through the Government Printing Office.

Purchasing Information: Copies of the L&WCF Grants Manual (Document Number: 024-016-81001-5) may be purchased for $45.00 (Domestic) or $56.25 (Foreign) from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. This purchase price covers a three year subscription including up to six amendments. Mail orders should include payment by check or money order. Telephone orders (202-783-3238) may be charged to Master Card or VISA.

FOR FURTHER INFORMATION CONTACT: Cathy-Martin Urbanek, National Park Service, Division of Recreation Grants, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-3700.

SUPPLEMENTARY INFORMATION: The Land and Water Conservation Fund (L&WCF) Grants Manual sets forth the administrative policies, procedures and guidelines for grants awarded to State and local governments pursuant to the Land and Water Conservation Fund Act of 1965, as amended (Pub. L. 88-578). This Manual is intended to serve as a basic reference for those engaged in the administrative and financial management of L&WCF grants to States, and to achieve uniformity in the administration of the L&WCF program by the States. Copies of this Manual were sent to the State Liaison Officers through National Park Service Regional Directors in April 1983.

(Catalog of Federal Domestic Assistance Number 15.916).

(Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, as amended).

Dated: May 17, 1983.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 83-13617 Filed 5-23-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 13, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 8, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Talladega County

Talladega, *Boxwood*, 406 E. North St.

CALIFORNIA

Santa Clara County

Saratoga vicinity, *Masson, Paul, Mountain Winery*, Pierce Rd.

CONNECTICUT

Fairfield County

Danbury, *Meeker's Hardware (The Red Block)*, 88-90 White St.

GEORGIA

Floyd County

Rome, *Between the Rivers Historic District*, Roughly bounded by the Etowah and Oostanaula Rivers, and 7th Ave.

INDIANA

Boone County

Zionsville, *Town Hall (Castle Hall)*, 65 E. Cedar St.

KENTUCKY

Bourbon County

Carlisle vicinity, *Sandusky House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68
Millersburg vicinity, *Williams, Hubbard, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36
Millersburg, *Miller's House at Ruddels Mills (Early Stone Buildings of Central Kentucky TR)*, SR 1940
Millersburg, *Stephens, Joseph L., House (Early Stone Buildings of Central Kentucky TR)*, SR 1940

N. Middletown vicinity, *Bayless quarters (Early Stone Buildings of Central Kentucky TR)*, KY 13
N. Middletown vicinity, *Harrod, Ephram, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 460
N. Middletown vicinity, *Hopkins House (Early Stone Buildings of Central Kentucky TR)*, KY 537
Paris vicinity, *Clay, Dr. Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 227
Paris vicinity, *McLeod Spring House (Early Stone Buildings of Central Kentucky TR)*, SR 1939
Paris vicinity, *Rodgers, Thomas, House (Early Stone Buildings of Central Kentucky TR)*, U.S. 460
Paris vicinity, *Widow McDowell House (Early Stone Buildings of Central Kentucky TR)*, KY 537
Shawhan vicinity, *Cooper's Run Baptist Church (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27
Shawhan vicinity, *Eales, James, House (Early Stone Buildings of Central Kentucky TR)*, Off Cook Rd.
Shawhan vicinity, *Garrard, James, House (Early Stone Buildings of Central Kentucky TR)*, Peacock Pike
Shawhan vicinity, *Kennedy, Joseph, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1940
Shawhan vicinity, *Mauck, Rudolph, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1893
Shawhan vicinity, *Rymill, Elias, House (Early Stone Buildings of Central Kentucky TR)*, Off Brentsville Rd
Shawhan vicinity, *Shipp, Laban, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1940
Shawhan vicinity, *Spears, Jacob, House (Early Stone Buildings of Central Kentucky TR)*, SR 1876
Shawhan vicinity, *Spears, Jacob, Distillery (Early Stone Buildings of Central Kentucky TR)*, SR 1876
Tyrone vicinity, *Stone House on Steele's Grant (Early Stone Buildings of Central Kentucky TR)*, Off SR 1964

Boyle County

Bryantsville vicinity, *Crow, William, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 52
Bryantsville vicinity, *Barber, John, House (Early Stone Buildings of Central Kentucky TR)*, KY 34
Bryantsville vicinity, *Stone House on Old Stage Road (Early Stone Buildings of Central Kentucky TR)*, KY 34
Danville vicinity, *Caldwell House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 150
Danville vicinity, *Harlan, Elijah, House (Early Stone Buildings of Central Kentucky TR)*, U.S. 150
Danville vicinity, *Knox, Abner, Farm (Early Stone Buildings of Central Kentucky TR)*, U.S. 150
Danville vicinity, *Mock, Randolf, Farm (Early Stone Buildings of Central Kentucky TR)*, Off KY 33
Danville, *Crow-Barber House (Old Crow Inn) (Early Stone Buildings of Central Kentucky TR)*, Stanford Rd and Alta Ave.
Junction City vicinity, *Marshall House (Early Stone Buildings of Central Kentucky TR)*, Off KY 34
Perryville vicinity, *Thompson, William, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68

Breckinridge County

Cloverport, *Cloverport Historic District (Cloverport MRA)*, Roughly bounded by 3rd, Main, Chestnut, and Lynn Sts.
Cloverport, *Fisher Homestead (Cloverport MRA)*, U.S. 60
Cloverport, *Oglesby-Conrad House (Cloverport MRA)*, Off U.S. 60
Cloverport, *Skillman House (Cloverport MRA)*, Tile Plant Rd.

Fayette County

Centerville vicinity, *Russel, Robert, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 353
Clintonville vicinity, *Shryack, Frederick, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 859
Ford vicinity, *Pettit's, James, Mill (Early Stone Buildings of Central Kentucky TR)*, KY 418
Lexington vicinity, *Bell, John, House (Early Stone Buildings of Central Kentucky TR)*, SR 1978
Lexington vicinity, *Burrier, John, House (Early Stone Buildings of Central Kentucky TR)*, SR 1966
Lexington vicinity, *McConnell, William, House (Early Stone Buildings of Central Kentucky TR)*, Forbes Rd.
Lexington vicinity, *Payne, Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421
Lexington, *McConnell, James, House (Early Stone Buildings of Central Kentucky TR)*, Old Frankfort Pike
Versailles vicinity, *O'Neal, Lewis, Tavern (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60

Franklin County

Frankfort vicinity, *Old Stone Tavern (Early Stone Buildings of Central Kentucky TR)*, Scruggs Lane and Old Lustown Pk.
Frankfort vicinity, *Patteson, Charles, House (Early Stone Buildings of Central Kentucky TR)*, SR 1689
Frankfort vicinity, *Todd, Robert, Summer home (Early Stone Buildings of Central Kentucky TR)*, U.S. 421
Midway vicinity, *Haggin Farm (Early Stone Buildings of Central Kentucky TR)*, SR 1685

Garrard County

Bryantsville vicinity, *Leavell, John, Quarters (Spring Gardens) (Early Stone Buildings of Central Kentucky TR)*, Off KY 753
Bryantsville vicinity, *Proctor House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27
Bryantsville vicinity, *Smith, James, Tanyard (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27
Buckeye vicinity, *Hutcherson, John House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39
Kirksville vicinity, *Wallace, Michael, House (Early Stone Buildings of Central Kentucky TR)*, Broadus Branch Rd.
Lancaster vicinity, *Thomas, Kings, III House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39
Paint Lick vicinity, *Arnold, John, House (Early Stone Buildings of Central Kentucky TR)*, Off 1295

Harrison County

Cynthiana vicinity, *Fraizer, Joel, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 982
Cynthiana vicinity, *Haviland House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62
Cynthiana vicinity, *Stone House of Indian Creek (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62
Shawhan vicinity, *Hinkson, John, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27
Shawhan vicinity, *Lair, John House (Early Stone Buildings of Central Kentucky TR)*, Old Lair Rd.
Shawhan vicinity, *McKee, John, House (Early Stone Buildings of Central Kentucky TR)*, Cook Rd.
Shawhan vicinity, *McMillan, Samuel, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62
Shawhan vicinity, *Shawhan, Joseph, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27
Shawhan vicinity, *Smith House (Early Stone Buildings of Central Kentucky TR)*, Off Old Lair Rd.
Shawhan vicinity, *Williams, John, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36

Jessamine County

Keene vicinity, *Ebenezer Presbyterian Church (Early Stone Buildings of Central Kentucky TR)*, Off SR 1267
Keene vicinity, *January, Ephriam, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1267
Keene vicinity, *Lancaster, John, House (Early Stone Buildings of Central Kentucky TR)*, KY 169
Keene vicinity, *Steele, Robert, House (Early Stone Buildings of Central Kentucky TR)*, Troy Rd.
Little Hickman vicinity, *Scott House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27
Nicholasville vicinity, *Stone House on West Hickman (Early Stone Buildings of Central Kentucky TR)*, SR 1980
Wilmore vicinity, *Stone House on Brooklyn Hill (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68

Kenton County

Covington, *Covington Downtown Commercial Historic District*, Roughly bounded by C&O Railroad, Robbins, Greenup and 4th Sts.

Lincoln County

Hustonville, *Huston, Nathan, House (Early Stone Buildings of Central Kentucky TR)*, KY 78
Lancaster, *Hoffman House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27

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Madison County

Kirksville vicinity, *Hawkins, Nathan, House (Early Stone Buildings of Central Kentucky TR)*, Curtis Rd.
Little Hickman, *Murphy, Stephen, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39
Moberly vicinity, *Moberly, John, House (Early Stone Buildings of Central Kentucky TR)*, Bum Bottom Rd.
Richmond vicinity, *Newland, Isaac, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25

Mercer County

Cornishville vicinity, *McAfee, George House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1160
Cornishville vicinity, *McGee, John, House (Early Stone Buildings of Central Kentucky TR)*, Jackson Rd.
Harrodsburg vicinity, *McAfee, James, House (Early Stone Buildings of Central Kentucky TR)*, Talmage Rd
Harrodsburg vicinity, *Shaker Wist Lot Farm (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68
Harrodsburg vicinity, *Stone Quarters on Burgin Road (Early Stone Buildings of Central Kentucky TR)*, KY 152

Montgomery County

Mt. Sterling vicinity, *Bondurant House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60

Nicholas County

Carlisle vicinity, *Riggs, Erasmus, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 13
Carlisle vicinity, *Stone Barn on Brushy Creek (Early Stone Buildings of Central Kentucky TR)*, U.S. 68
Millersburg vicinity, *Thompson, John Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36

Scott County

Centerville vicinity, *Flournoy, Matthew, House (Early Stone Buildings of Central Kentucky TR)*, Off Crombough Pike
Centerville vicinity, *Henry, Matthew, House (Early Stone Buildings of Central Kentucky TR)*, KY 922
Delaplain vicinity, *Briscoe, James, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25
Delaplain vicinity, *Emison, Ash, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25
Delaplain vicinity, *Ward, William, House (Early Stone Buildings of Central Kentucky TR)*, Off I–75
Georgetown vicinity, *Coppage, Rhodin, Spring House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25
Georgetown vicinity, *Johnson, James, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off KY 227
Georgetown vicinity, *Suggett, John, House (Elkton) (Early Stone Buildings of Central Kentucky TR)*, U.S. 460
Georgetown vicinity, *Thomsons Mill Warehouse (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 460
Georgetown vicinity, *Whitaker, Charles, House (Early Stone Buildings of Central Kentucky TR)*, Off Old Oxford Rd.
Midway vicinity, *Branham, Richard, House (Early Stone Buildings of Central Kentucky TR)*, Prate Rd.
Midway vicinity, *Patterson, Joseph, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421

Woodford County

Keene vicinity, *Allen, John, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 169
Keene vicinity, *Garrett, William, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 169
Keene vicinity, *Hammon, Ezra, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 33
Midway vicinity, *Alexander Plantation House (Early Stone Buildings of Central Kentucky TR)*, Off Old Frankford Pike
Midway vicinity, *Big Spring Baptist Church (Early Stone Buildings of Central Kentucky TR)*, SR 1685
Midway vicinity, *Stone House at Fisher's Mill (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421
Midway vicinity, *Stone House on Beale's Run (Early Stone Buildings of Central Kentucky TR)*, Off SR 1685
Salvisa vicinity, *Miller's House at Mortonsville Mill (Early Stone Buildings of Central Kentucky TR)*, SR 1965
Salvisa vicinity, *Stone House on Tanner's Creek (Early Stone Buildings of Central Kentucky TR)*, Carpenter Pike
Salvisa vicinity, *Thomas, Solomon, House (Early Stone Buildings of Central Kentucky TR)*, Craigs Creek Rd.
Tyrone vicinity, *DuPuy, Joel, House (Early Stone Buildings of Central Kentucky TR)*, Griers Creek Rd.
Tyrone vicinity, *Edwards, Thomas, House and Quarters (Early Stone Buildings of Central Kentucky TR)*, SR 1659
Tyrone vicinity, *McCrackin Distillery and Mill (Early Stone Buildings of Central Kentucky TR)*, SR 1659
Tyrone vicinity, *McCrackin, Cyrus, House and Quarters (Early Stone Buildings of Central Kentucky TR)*, Off Steele Rd.
Tyrone vicinity, *Muldrow, Andrew, Quarters (Early Stone Buildings of Central Kentucky TR)*, Griers Creek Rd.
Tyrone vicinity, *Robertson Place (Early Stone Buildings of Central Kentucky TR)*, Clifton and Steele Rds.
Tyrone vicinity, *Stone House on Clifton Pike (Early Stone Buildings of Central Kentucky TR)*, SR 1964
Versailles vicinity, *Hogan Quarters (Early Stone Buildings of Central Kentucky TR)*, Off KY 33
Versailles vicinity, *Humphries Estate Quarters (Early Stone Buildings of Central Kentucky TR)*, SR 1967
Versailles vicinity, *Moore, George F., Place (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62
Versailles vicinity, *Mt. Pisgah Presbyterian Church (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60
Versailles vicinity, *W.B. Spring House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62
Versailles vicinity, *Wilson, Benjamin, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62

MINNESOTA

Hennepin County

Minneapolis, *Madison School*, 501 E. 15th St.

Ramsey County

St. Paul, *Lowertown Historic District*, Roughly bounded by Kellogg Blvd., Broadway, 7th and Jackson Sts.

MISSOURI

Clay County

Excelsior Springs, *Hall of Waters*, 201 E. Broadway

Jackson County

Kansas City, *South Side Historic District*, Roughly bounded by 38th, 40th, Walnut, and Baltimore Sts.

NORTH DAKOTA

Grank Forks County

Grand Forks, *DeRemer, Joseph Bell, House*, 625 Belmont Rd.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Harriscon Building (Harrison Stores)*, 1001–1023 Filbert St.

Sullivan County

Lopez vicinity, *Ricketts, Clemuel, Mansion*, Off PA 487

SOUTH CAROLINA

Greenville County

Greenville, *Beattie, Fountain Fox, House (Greenville Woman's Club)*, 1 Beattie Pl. (Proposed Move)

TEXAS

Austin County

Wallis, *Church of the Guardian Angel (Churches with Decorative Interior Painting TR)*, 5614 Demel St.
Wesley, *Wesley Brethren Church (Churches with Decorative Interior Painting TR)*, Off TX 332

Cooke County

Lindsay, *St. Peter's Catholic Church (Churches with Decorative Interior Painting TR)*, Main St.

Fayette County

Ammansville, *St. John the Baptist Catholic Church (Churches with Decorative Interior Painting TR)*, FM 1383
High Hill, *Notivity of Mary, Blessed Virgin Catholic Church (Churches with Decorative Interior Painting TR)*, FM 2672
Praha, *St. Mary's Church of the Assumption (Churches with Decorative Interior Painting TR)*, FM 1295

Galveston County

Galveston, *St. Joseph's Catholic Church (Churches with Decorative Interior Painting TR)*, 2201 Avenue K

Gillespie County

Fredericksburg, *St. Mary's Catholic Church (Churches with Decorative Interior Painting TR)*, 306 W. San Antonio

Harris County

Houston, *All Saints Roman Catholic Church (Houston Heights MRA)*, 201 E. 10th St.
Houston, *Allbach House (Houston Heights MRA)*, 2023 Arlington St.
Houston, *Banta House (Houston Heights MRA)*, 119 E. 20th St.
Houston, *Borgstrom House (Houston Heights MRA)*, 1401 Cortlandt St.
Houston, *Building at 430 Harvard Street (Houston Heights MRA)*, 430 Harvard St.
Houston, *Burge House (Houston Heights MRA)*, 1801 Heights Blvd.
Houston, *Coop, Dr. B.F., House (Houston Heights MRA)*, 1536 Heights Blvd.
Houston, *Countryman House (Houston Heights MRA)*, 402 E. 9th St.
Houston, *Cummings House (Houston Heights MRA)*, 1418 Heights Blvd.
Houston, *Dexter House (Houston Heights MRA)*, 224 W. 17th St.
Houston, *Eaton House (Houston Heights MRA)*, 510 Harvard St.
Houston, *Elkins House (Houston Heights MRA)*, 602 E. 9th St.
Houston, *Ellis, Dr. Billie V., House (Houston Heights MRA)*, 1515 Heights Blvd.
Houston, *Ezzell House (Houston Heights MRA)*, 1236 Rutland St.
Houston, *Gillette House (Houston Heights MRA)*, 301–303 E. 15th St.
Houston, *Hamilton, Alexander, Jr. High School (Houston Heights MRA)*, 139 W. 20th St.
Houston, *Hartley House (Houston Heights MRA)*, 315 W. 17th St.
Houston, *Hawkins House (Houston Heights MRA)*, 1015 Heights Blvd.
Houston, *Heights Boulevard (Houston Heights MRA)*, Heights Boulevard from White Oak Bayou to 20th St.
Houston, *Heights Christian Church (Houston Heights MRA)*, 1703 Heights Blvd.
Houston, *Heights State Bank Building (Houston Heights MRA)*, 3620 Washington St.
Houston, *House at 1111 Heights Boulevard (Houston Heights MRA)*, 1111 Heights Blvd.
Houston, *House at 112 W. 4th Street (Houston Heights MRA)*, 112 W. 4th St.
Houston, *House at 1210 Harvard Street (Houston Heights MRA)*, 1210 Harvard St.
Houston, *House at 1227 Rutland Street (Houston Heights MRA)*, 1227 Rutland St.
Houston, *House at 1230 Oxford Street (Houston Heights MRA)*, 1230 Oxford St.
Houston, *House at 1237 Rutland Street (Houston Heights MRA)*, 1237 Rutland St.
Houston, *House at 1304 Cortlandt Street (Houston Heights MRA)*, 1304 Cortlandt St.
Houston, *House at 1323 Heights Boulevard (Houston Heights MRA)*, 1328 Heights Blvd.
Houston, *House at 1343 Allston Street (Houston Heights MRA)*, 1343 Allston St.
Houston, *House at 1421 Harvard St. (Houston Heights MRA)*, 1421 Harvard St.
Houston, *House at 1421 Heights Boulevard (Houston Heights MRA)*, 1421 Heights Blvd.
Houston, *House at 1421–1423 Waverly Street (Houston Heights MRA)*, 1421–23 Waverly St.
Houston, *House at 1437 Heights Boulevard (Houston Heights MRA)*, 1437 Heights Blvd.
Houston, *House at 1437 Waverly Street (Houston Heights MRA)*, 1437 Waverly St.
Houston, *House at 1443 Allston Street (Houston Heights MRA)*, 1443 Allston St.
Houston, *House at 1509 Allston Street (Houston Heights MRA)*, 1509 Allston St.
Houston, *House at 1515 Allston Street (Houston Heights MRA)*, 1515 Allston St.
Houston, *House at 1515 Harvard Street (Houston Heights MRA)*, 1515 Harvard St.
Houston, *House at 1517 Cortland Street (Houston Heights MRA)*, 1517 Cortland St.
Houston, *House at 1531 Tulane Street (Houston Heights MRA)*, 1531 Tulane St.
Houston, *House at 1537 Tulane Street (Houston Heights MRA)*, 1537 Tulane St.
Houston, *House at 1614 Harvard Street (Houston Heights MRA)*, 1640 Harvard St.
Houston, *House at 201 W. 15th Street (Houston Heights MRA)*, 201 W. 15th St.
Houston, *House at 2035 Rutland Street (Houston Heights MRA)*, 2035 Rutland St.
Houston, *House at 217 E. 5th Street (Houston Heights MRA)*, 217 E. 5th St.
Houston, *House at 2402 Rutland Street (Houston Heights MRA)*, 2402 Rutland St.
Houston, *House at 402 E. 11th Street (Houston Heights MRA)*, 402 E. 11th St.
Houston, *House at 505 W. 18th Street (Houston Heights MRA)*, 505 W. 18th St.
Houston, *House at 532 Harvard Street (Houston Heights MRA)*, 532 Harvard St.
Houston, *House at 828 Heights Boulevard (Houston Heights MRA)*, 828 Heights Blvd.
Houston, *House at 844 Columbia Street (Houston Heights MRA)*, 844 Columbia St.
Houston, *House at 844 Cortlandt Street (Houston Heights MRA)*, 844 Cortlandt St.
Houston, *House at 917 Heights Boulevard (Houston Heights MRA)*, 917 Heights Blvd.
Houston, *Houston Heights Fire Station (Houston Heights MRA)*, Yale and 12th Sts.
Houston, *Houston Heights Waterworks Reservior (Houston Heights MRA)*, W. 20 and Nicolson Sts.
Houston, *Houston Heights Woman's Club (Houston Heights MRA)*, 1846 Harvard St.
Houston, *Houston Public Library (Heights Branch) (Houston Heights MRA)*, 1302 Heights Blvd.
Houston, *Immanuel Lutheran Church (Houston Heights MRA)*, 1448 Cortlandt St.
Houston, *Isbell House (Houston Heights MRA)*, 639 Heights Blvd.
Houston, *Jones House (Houston Heights MRA)*, 1115–1117 Allston St.
Houston, *Kleinhaus House (Houston Heights MRA)*, 803 Yale St.
Houston, *Knittel House (Houston Heights MRA)*, 1601 Ashland St.
Houston, *Kronenberger House (Houston Heights MRA)*, 612 W. 26th St.
Houston, *Lund House (Houston Heights MRA)*, 301 E. 5th St.
Houston, *Mansfield House (Houston Heights MRA)*, 1802 Harvard St.
Houston, *McDonald House (Houston Heights MRA)*, 1801 Ashland St.
Houston, *Meitzen House (Houston Heights MRA)*, 725 Harvard St.
Houston, *Miller House (Houston Heights MRA)*, 1245 Yale St.
Houston, *Milroy House (Houston Heights MRA)*, 1102 Heights Blvd.
Houston, *Milroy-Muller House (Houston Heights MRA)*, 1602 Harvard St.
Houston, *Mulcahy House (Houston Heights MRA)*, 1046 Harvard St.
Houston, *Ogle, Joseph, House (Houston Heights MRA)*, 530 Harvard St.
Houston, *Oriental Textile Mill (Houston Heights MRA)*, 2201 Lawrence St.
Houston, *Otto House (Houston Heights MRA)*, 835 Rutland St.
Houston, *Perry-Swilley House (Houston Heights MRA)*, 1101 Heights Blvd.
Houston, *Reagan, John H., Senior High School (Houston Heights MRA)*, 401 E. 13th St.
Houston, *Renn House (Houston Heights MRA)*, 1007 Heights Blvd.
Houston, *Schauer Filling Station (Houston Heights MRA)*, 1400 Oxford St.
Houston, *Schlesser-Burrows House (Houston Heights MRA)*, 1123 Harvard St.
Houston, *Thornton, Dr. Penn B., House (Houston Heights MRA)*, 1541 Tulane St.
Houston, *Upchurch House (Houston Heights MRA)*, 301 E. 14th St.
Houston, *Ward House (Houston Heights MRA)*, 323 W. 17th St.
Houston, *Webber House (Houston Heights MRA)*, 1011 Heights Blvd.
Houston, *Webber, Samuel H., House (Houston Heights MRA)*, 407 Heights Blvd.
Houston, *Wilkins House (Houston Heights MRA)*, 1541 Ashland St.
Houston, *Williams-Brueder House (Houston Heights MRA)*, 245 W. 18th St.
Houston, *Wilson House (Houston Heights MRA)*, 1206 Cortlandt St.
Houston, *Wimberly House (Houston Heights MRA)*, 703 Harvard St.
Houston, *Woodard House (Houston Heights MRA)*, 740 Rutlant St.
Houston, *Woodward House (Houston Heights MRA)*, 1605 Heights Blvd.

Lamar County

Paris, *First United Methodist Church (Churches with Decorative Interior Painting TR)*, 322 Lamar St.

Lavoca County

Moravia, *Ascension of Our Lord Catholic Church (Churches with Decorative Interior Painting TR)*, FM 957
Shiner, *Sts., Cyril and Methodius Church (Churches with Decorative Interior Painting TR)*, 100 St. Ludmilla's St.
St. Mary's, *Church of the Immaculate Conception of Blessed (Churches with Decorative Interior Painting TR)*, FM 2672
Sweet Home, *Church of the Blessed Virgin Mary, the Queen of Peace (Churches with Decorative Interior Painting TR)*, FM 340

Potter County

Amarillo, *First Baptist Church (Churches with Decorative Interior Painting TR)*, 218 W. 13th St.

Randall County

Umbarger, *St. Mary's Catholic Church (Churches with Decorative Interior Painting TR)*, Off U.S. 60

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Williamson County

Round Rock, *Round Rock Commercial Historic District*, 100 and 200 Blks E. Main St.

UTAH

Tooele County

Ophir, *Ophir Town Hall*, 43 S. Main St.

VERMONT

Chittenden County

Burlington, *City Hall Park Historic District*, Church, College, Main and St. Paul Sts.

[FR Doc. 83-13918 Filed 5-23-83; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the gounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will service a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly authorized.

Please direct status inquiries about the following to Team 1 at (202) 275-7992.

Volume No. OP1-181(N)

Decided: May 16, 1983.
By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 44370 (Sub-3), filed May 9, 1983. Applicant: E. M. LERIT, INC., P.O. Box 306, Dunellen, NJ 08812. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting *telephones, telephone supplies and materials, metal products, and scrap*, between Philadelphia, PA, and New York, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, SC, and VA.

MC 61440 (Sub-227), filed May 9, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant), (405) 840-5551. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. M. Huber Corporation, of Edison, NJ.

MC 94201 (Sub-207), filed May 5, 1983. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Gerald D. Colvin, 601-09 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251-2881. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 115730 (Sub-100), filed May 9, 1983. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50316. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243-4191. Transporting *chemicals and related products*, between points in IL, IN, IA, KS, MN, MO, NE, SD, and WI.

MC 117940 (Sub-380), filed May 9, 1983. Applicant: NATIONWIDE

CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479-1984. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Knox Lumber Company, of St. Paul, MN.

MC 127820 (Sub-24), filed May 6, 1983. Applicant: TRANS-SERVICE, INC., 1943 S. Lawn Ext., Coshocton, OH 43812. Representative: James Duval, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889-2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Co., of Fairfield, CT.

MC 138741 (Sub-137), filed May 9, 1983. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 914 East Highway H, Liberty, MO 64068. Representative: Tom B. Kretsinger, Jr., 20 E. Franklin, Liberty, MO 64068, (816) 781-6000. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, CO, OK and TX.

MC 139420 (Sub-51), filed May 6, 1983. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, (612) 340-0808. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 149021 (Sub-2), filed May 6, 1983. Applicant: HODGE TRUCKING CO., INC., P.O. Box 128, Axton, VA 24054. Representative: Ernest Hodges (same address as applicant). Transporting *textile mill products and food and related products*, between points in Henry County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149081 (Sub-4), (Republication), Filed March 28, 1983, previously published in the FR on April 14, 1983. Applicant: SUBURBAN TRAILS, INC., 750 Somerset St., New Brunswick, NJ 08901. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675 (201) 666-5111. Over regular routes, transporting *passengers*, (1) between Trenton, NJ and New Brunswick, NJ, from Trenton, NJ over US Hwy 206 to junction NJ Hwy 27 in the Borough of Princeton, NJ, then over NJ Hwy 27 to New Brunswick, NJ, and return over the same route, (2) between junction US Hwy 1 and Mercer County Hwy 571 in West Windsor Township, NJ and Junction Mercer County Hwy 571 and NJ Hwy 27 in the Borough of Princeton, NJ, from junction US Hwy 1 and Mercer County Hwy 571 over Mercer County Hwy 571 (also Washington Rd) to junction NJ Hwy 27, and return over the same route, (3) between junction NJ Hwy 27 and Finnegan Lane, at or near the South Brunswick Township-Franklin Township, NJ boundary line and junction Finnegan Lane and US Hwy 1 at or near the South Brunswick Township-North Brunswick township, NJ boundary line, over Finnegan Lane, (4) between junction NJ Hwy 33 and Interstate Hwy 95 (also NJ Turnpike) at Interchange No. 8 in East Windsor Township, NJ, and Trenton, NJ, from junction NJ Hwy 33 and Interstate Hwy 95 (also NJ Turnpike) at Interchange No. 8, over Interstate Hwy 95 (also NJ Turnpike) to junction Interstate Hwy 195, then over Interstate Hwy 195 to Trenton, NJ, and return over the same route, (5) between junction Interstate Hwy 195 and South Broad St. in Hamilton Township, NJ and Trenton, NJ, over South Broad St., (6) between junction Middlesex County Hwy 535 and NJ Hwy 32 (also Forsgate Dr) in South Brunswick Township, NJ and East Brunswick, NJ, from junction Middlesex County Hwy 535 and NJ Hwy 32 (also Forsgate Dr) over Middlesex County Hwy 535 to junction NJ Hwy 18 in East Brunswick, then over NJ Hwy 18 to East Brunswick, NJ, and return over the same route, (7) between junction Forsgate Drive and Applegarth Rd in Monroe township, (Middlesex County), NJ and junction NJ Hwy 18 and Interstate Hwy 95 (also NJ Turnpike) in East Brunswick, NJ, from junction Forsgate Drive and Applegarth Rd, over Forsgate Drive to junction East Railroad Ave. in Jamesburg, NJ, then over East Railroad Ave to junction Stockton Ave., then over Stockton Ave to junction Lincoln Ave, then over Lincoln Ave, to junction Helmetta Rd, then over Helmetta Rd to junction Main St. at or near Monroe Township-Helmetta, NJ boundary line, then over Main St to junction Old Bridge-New Brunswick Trunpike in East Brunswick, NJ, then over Old Bridge-New Brunswick Turnpike to junction NJ Hwy 18, then over NJ Hwy 18 to junction Interstate Hwy 95 (also NJ Turnpike) at Interchange No. 9 in East Brunswick, NJ, and return over the same route except operating directly over NJ Hwy 18 to junction Main St in East Brunswick, NJ, (8) between East Brunswick Transportation and Commerce Center is East Brunswick, NJ and juinction Tices Lane and New Jersey Hwy 18 in East Brunswick, NJ, over Tices Lane, (9) between junction NJ Hwy 18 and Interstate Hwy 95 (also NJ Turnpike) in East Brunswick, NJ and East Brunswick Transportation and Commerce Center, in East Brunswick, NJ, from Junction NJ Hwy 18 and Interstate Hwy 95, over NJ Hwy 18 to Junction Old Bridge Turnpike, then over Old Bridge Turnpike to the East Brunswick transportation and Commerce Center (located at the junction of NJ Hwy 18 and Tices Lane), then over Old Bridge Turnpike to junction Tices Lane, then over Tices Lane to East Brunswick Transportation and Commerce Center in East Brunswick, NJ, and return over the same route, ant serving all intermediate points in (1) throught (9) above.

Note.—Applicant intends to tack the authority in this proceding with its existing authority. Applicant seeks to provide regular route service in interstate and intrastate commerce under 49 U.S.C. 10922(c)(2)(b). The purpose of this republication is to clarify the involved terminus and route descriptions.

MC 150621 (Sub-2), filed May 6, 1983. Applicant: TED L. CLARK d.b.a. CLARK TRUCK LINE, P.O. Box 317, Carrington, ND 58421. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, (701) 235-4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Log End Industries Inc., of Carrington, ND.

MC 151380 (Sub-3), filed May 6, 1983. Applicant: RICLYN ENTERPRISES, INC., Room 201, Amman Building, Port Everglades, Ft. Lauderdale, FL 33335. Representative: Gerald J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Tampa, FL, on the one hand, and, on the other, points in AL, DE, GA, KY, MA, NJ, NY, NC, OH, PA, SC, TN, VA, and WI, under continuing contract(s) with Strachan Shipping Company, of Tampa, FL.

MC 152681 (Sub-2), filed May 3, 1983. Applicant: FRANK BATY, 2045 Tulare Wy., Upland, CA 91786. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 156340 (Sub-3), filed May 6, 1983. Applicant: VALLEY GRAIN CO., TRKG., P.O. Box 299, Browns Valley, MN 56219. Representative: Samuel Rubenstein, P.O.

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Box 5, Minneapolis, MN 55440. Transporting *chemicals and related products,* and *food and related products,* between points in Salt Lake County, UT, on the one hand, and, on the other, points in IL, IA, MN, NE, ND, SD, and WI.

MC 156680 (Sub-2), filed May 9, 1983. Applicant: HANKINS LUMBER SALES INC., P.O. Box 1051, Grenada, MS 38901. Representative: J. D. Hankins II (same address as applicant), (601) 226–7500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 157421 (Sub-3), filed May 9, 1983. Applicant: JESSE ROBERTS, d.b.a. POWER TRANSPORT, East 6607 Broadway, Spokane, WA 99206. Representative: Andrew D. Shafer, 1200 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting *canned foodstuffs,* between points in CA, OR, WA, ID, UT, and NV, under continuing contract(s) with Del Monte Corporation, of San Francisco, CA.

MC 167051, filed May 9, 1983. Applicant: JERRY LEE WILSON AND BEVERLY O. WILSON, A Partnership, d.b.a. HERMITAGE EXPRESS, Rt. 1, Box 82, Brookline, MO 65619. Representative: Jerry Lee Wilson (same address as applicant), (417) 883–1964. Transporting *general commodities* (except class A and B explosives, household goods and commodities in bulk), between points in Dallas, Greene, Hickory, and Polk Counties, MO.

MC 167771, filed May 2, 1983. Applicant: DONCO TRANSPORTATION CO., 1921 N.E. 58th Ave., Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300 Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with General Commodities Brokerage Co., and L & L Insulation and Supply Company, Inc., both of Des Moines, IA, and Webster City Products Co., of Webster City, IA.

MC 167791, filed May 2, 1983. Applicant: ROLLA TRANSPORTATION, INC., Box T, Rolla, MO 65401. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167840, filed May 6, 1983. Applicant: VAN INTERNATIONAL TRANSFER D.C. INC., 7665 Lacordaire Blvd., St. Leonard (Montreal) PQ, Canada H1S 2A7. Representative: J. P. Vermette, 250 Napoleon-Provost St., Repentigny, PQ, Canada J6A 1H5, (514) 353–0550. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AL, AR, CA, CT, FL, GA, IA, IL, IN, KY, KS, LA, MD, MI, MN, MO, MS, NC, NJ, ND, NE, NY, OH, OK, PA, SC, SD, TN, TX, VA, WI, and WV.

MC 167851, filed May 6, 1983. Applicant: JORGE CORREIA TRUCKING CO., 73 Vineyard Ave., Cumberland, RI 02864. Representative: James F. Martin, Jr., 6 W. Morse Road, Bellingham, MA 02019, (617) 966–2093.Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, RI, ME, CT, NY, NJ and PA.

MC 167860, filed May 6, 1983. Applicant: AMERICAN FURNITURE WAREHOUSE CO., 5445 Bannock St., Denver, CO 80216. Representative: Ron Catlin (same address as applicant), (303) 296–1651. Transporting *new furniture and fixtures, and rubber and plastic products,* between points in the U.S. in and west of MN, IA, MO, AR and LA (except AK and HI).

Volume No. OP1–183(N)

Decided: May 17, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

FF–691, filed May 5, 1983. Applicant: PAUL ARPIN & SONS STORAGE WAREHOUSES, INC., West Warwick Industrial Park, Box 1302, East Greenwich, RI 02818–0998. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *used household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S. (except ND, SD and MT.

MC 67340 (Sub-17), filed April 28, 1983. Applicant: RESORT BUS LINES, INC., 475 Saw Mill River Rd., Yonkers, NY 10702. Representative: Vincent P. Nesci (same address as applicant), (914) 969–3113. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 117940 (Sub-379), filed May 9, 1983. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479–1984. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Minnesota Mining and Manufacturing Company (3M), of St. Paul, MN.

MC 143630 (Sub-8), filed May 9, 1983. Applicant: GRIEBEL TRUCKING CO., P.O. Box 243, 20219 Telegraph Road, Marengo, IL 60152. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or the coincidental cancellation, at applicant's written request, of its permits in MC–143680 Sub-Nos. 3, 4, 6 and 7, issued November 13, 1978, March 27, 1979, November 20, 1980, and February 11, 1981, respectively.

Note.—The purpose of this application is to convert applicant's existing contract carrier authority in MC–143680 Sub-Nos. 3, 4, 6 and 7 to common carrier authority.

MC 154460 (Sub-8), filed May 9, 1983. Applicant:"Q" CARRIERS, INC., 14086 Rutgers Street, N.E., Prior Lake, MN 55372. Representative: Randall D. Quiring (same address as applicant), (612) 445–7529. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Trans-Consolidated, Inc., of St. Paul, MN.

MC 156121 (Sub-3), filed May 4, 1983. Applicant: KOPH TRUCKING, INC., 18470 Victoria Drive, Goshen, IN 43526. Representative: Theodore Polydoroff, 6810 Fleetwood Rd., McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with United Freight Dispatch, Inc., of Elkhart, IN.

MC 159401 (Sub-2), filed May 9, 1983. Applicant: JOHNSON DISTRIBUTORSHIP, INC., Route 1, Box 920AA, Flagstaff, AZ 86001. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting

general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in AZ.

MC 164510 (Sub-1), filed May 6, 1983. Applicant: WILLIAM E. PINCKNEY d.b.a. CEDAR MOUNTAIN EXPRESS, 1732 "E" Ave., N.E., Cedar Rapids, IA 52402. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and related products,* between points in Linn County IA, on the one hand, and, on the other, points in CA, FL, IN, MI, OH, OR and WA.

MC 165800 (Sub-1), filed May 9, 1983. Applicant: NEW CONCEPT TRANSPORTATION, INC., 458 Kleman Rd., Gilbertsville, PA 19525. Representative: Alan Kahn, 1430 L and Title Bldg., Philadelphia, PA 19110. (215) 561–103. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in MA, CT, RI, NY, NJ, PA, MD, DE, VA, NC, SC, GA and DC.

MC 167150, filed May 9, 1983. Applicant: J. R. SIMPLOT COMPANY, P.O. Box 27, One Capitol Center, Boise, ID 83707. Representative: John H. Goslin, P.O. Box 921, Caldwell, ID 83605, (208) 459–6485. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with (1) IND/AG Chemicals, of Walnut Creek, CA, (2) Union Chemicals, Div. of Union Oil Company of California, of Los Angeles, CA, (3) Bay Zinc Company, Div. of Bay Chemical Co., of Moxee, WA, and (4) Cenex, of St. Paul, MN.

MC 167801, filed May 4, 1983. Applicant: DYCO PIPE & TUBE, INC., 5315 Oates Road, Houston, TX 77013. Representative: Paul S. Broussard, 501 Crawford, Suite 401, Houston, TX 77002, (713) 227–9735. Transporting *Mercer commodities,* between points in Los Angeles County, CA, on the one hand, and, on the other, points in Harris County, TX, under continuing contract(s) with Baker Packers, a division of Baker International Corporation, Houston, TX.

MC 167830, filed May 5, 1983. Applicant: SOUTHEASTERN MILLS, INC., d.b.a. S.E.M. TRUCKING, P.O. Box 908, Rome, GA 30161. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Castellaw Transportation and Consultants, Inc., of Jonesboro, GA, and Southeastern Mills, Inc., and S. E. M. Baking Company, both of Rome, GA.

MC 167841, filed May 6, 1983. Applicant: SUNSHINE EXPRESS, INC., 6905 N.W. 41st St., Miami, FL 33172. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, (305) 434–7621. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL.

MC 167921, filed May 9, 1983. Applicant: BENTON TRUCKING COMPANY, INC., Rt. 1, Box 522, Poplar Tent Rd., Concord, NC 28025. Representative: Terrell Price, 600 Briar Creek Rd., Suite DD504, Charlotte, NC 28205, (704) 372–8212. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NC, SC, VA, TN and GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 2 at (202) 275–7293.

Volume No. OP2–231

Decided: May 16, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 52793 (Sub-130), filed April 29, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transportation *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed-Georgia Company, of Burbank, CA.

MC 81952 (Sub-2), filed April 27, 1983. Applicant: ADVANCE RELOCATION & STORAGE, INC., 153 Merrick Rd., Freeport, NY 11520. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *bowling alley equipment and accessories,* between points in the U.S. (except AK and HI), under continuing contract(s) with AMF Incorporated, of Westbury, NY.

MC 146592 (Sub-4), filed May 9, 1983. Applicant: AVERY TRANSPORT, INC., 11026 Roswell, Pomona, CA 91766. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805–872–1106. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lance Camper Mfg. Corp., of North Hollywood, CA.

MC 141293(Sub-6), filed May 3, 1983. Applicant: J.R.R.W. TRANSPORT, INC., P.O. Box 470, Iowa City, IA 52244. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, 515–682–8154. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with (a) A. E. Staley Manufacturing Company, of Decatur, IL, (b) Crest Foods Company, Inc., of Ashton, IL, (c) Hall Roberts' Son, Inc., of Postville, IA, (d) National Oats Co., of Cedar Rapids, IA, and (e) Wholesale Feeds, Inc., of Cedar Rapids, IA.

MC 147093 (Sub-4), filed May 9, 1983. Applicant: B & L TRUCKLINE, INC., Highway 125 South, Middleton, TN 38052. Representative: Dale Woodall, 6077 Primacy Parkway, Suite 209, Memphis, TN 38119, 901–683–5400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153093 (Sub-3), filed April 29, 1983. Applicant: ASSOCIATED MOVING & STORAGE CO., INC., P.O. Box 23053, New Orleans, LA 70183. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW-Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC.

MC 153583 (Sub-1), filed May 9, 1983. Applicant: S & F TRUCKING, INC., Route 1, Box 79, Joseph, OR 97846. Representative: Rex L. Smith (Same address as applicant), 503–432–3341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AK, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, and WY.

MC 155223 (Sub-9), filed May 5, 1983. Applicant: HIGHWAY EXPRESS, INC., P.O. Box 11234, Phoenix, AZ 85061. Representative: Robert Fuller, 13215 E. Penn St.-Suite 310, Whittier, CA 90602, 213–945–3002. Transporting *plastic articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Inveantive Packaging Corporation, of Englewood, CO.

MC 155223 (Sub-10), filed May 5, 1983. Applicant: HIGHWAY EXPRESS, INC., P.O. Box 11234, Phoenix, AZ 85061. Representative: Robert Fuller, 13215 East Penn St.-Suite 310, Whittier, CA 90602, 213–945–3002. Transporting

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electronic automobile parts, wire harnesses, and parts used in the assembly of automobiles, between points in the U.S. (except AK and HI), under continuing contract(s) with Coleman Products, of Nogales, AZ.

MC 156133 (Sub-1), filed May 5, 1983. Applicant: CONTRACT TRANSPORTATION SERVICE, INC., 1711 South 2nd St., Piscataway, NJ 08854. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kaiser Aluminum & Chemical Corporation, of Oakland, CA.

MC 162822, filed May 2, 1983. Applicant: TRADE SHOW SPECIALISTS, INC., Rte. 5, Box 365, Rosie, AR 72571. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, 901–526–4114. Transporting (1) *such commodities* as are used and displayed in trade shows and exhibitions, and (2) *furniture and fixtures*, between points in the U.S. (except AK and HI).

MC 163443 (Sub-1), filed May 6, 1983. Applicant: G. L. TRUCKING—DIVISION OF G. L. RENTAL & ENGINEERING, INC., R.R. 1, Box 97H, Williston, ND 58801. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056, 701–223–5300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 164713 (Sub-1), filed May 5, 1983. Applicant: LEASEWAY DELIVERIES, INC., 65 Stanton St., Rochester, NY 14611. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under continuing contract(s) with Meier & Frank, of Portland, OR.

MC 167762, filed May 3, 1983. Applicant: KERRY TRANSPORT, INC., 5395 George St., Saginaw, MI 48603. Representative: John F. Doyle, 7920 S. Webster Rd., P.O. Box 177, Freeland, MI 48623, 517–695–6868. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Dow Chemical Company, of Midland, MI.

MC 167773, filed May 3, 1983. Applicant: WILLIAM L. TAYLOR, d.b.a. TAYLOR & SONS FREIGHT LINES, 10209 Rodgers Rd., Fairfax, VA 22030. Representative: William L. Taylor (same address as applicant), 703–273–1892. Transporting (1) *tractor parts and equipment*, (2) *ship and aircraft parts*, and (3) *steel sheets and steel plate*, between points in Fairfax and Loudon Counties, VA, on the one hand, and, on the other, points in VA, NC, SC, GA, TN, FL, PA, OH, IN, MI, NY, MD, NJ, CT, ME, DE, NH, VT, MA, RI, WV, KY, AL, and DC.

Volume No. OP2–234

Decided: May 12, 1983.
By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 161922 (Sub-1), filed May 3, 1983. Applicant: REXLOR TRANSPORT, INC., P.O. Box 13, Upper Sandusky, OH 43351. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, KY, MI, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165853, filed May 3, 1983. Applicant: MARC MOTORS TRANSPORT, 685 N. Shore Rd., Revere, MA 02151. Representative: Hughan R. H. Smith, 28 Kenwood Pl., Lawrence, MA 01826, (617) 657–8250. Transporting *automobiles*, between points in the U.S. (except AK and HI).

Volume No. OP2–236

Decided: May 17, 1983.
By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell. Member Dowell not participating.

MC 52793 (Sub-131), filed May 9, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Schlumberger-North America, of Houston, TX.

MC 87113 (Sub-35), filed May 6, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA, and its subsidiaries.

MC 116063 (Sub-172), filed May 9, 1983. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, 2929 W. 5th St., Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant), (817) 335–4821. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 123863 (Sub-1), filed May 9, 1983. Applicant: W. H. SHAFFER, INC., 430 South Dirksen Parkway, Springfield, IL 62703. Representative: Michael T. Shaffer (same address as applicant), (217) 528–7568. Transporting *wrecked and disabled vehicles and replacements for said vehicles*, between points in Sangamon and Logan Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142132 (Sub-3), filed May 5, 1983. Applicant: T. J. KERVIN, LEASING, INC., P.O. Box 48, Winnfield, LA 71483. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203 (318) 322–5252. Transporting *lumber and wood products and building materials*, between points in Union County, AR, Union and Winn Parish, LA, Tarrant County, TX, Adams County, MS, on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OK, TN, and TX.

MC 151383 (Sub-13), filed May 9, 1983. Applicant: NICKELL TRUCKING CO., 4901 West 51st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., Ste. 305 Reunion Center, 9 East Fourth St., Tulsa, OK 74103 (918) 583–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Babcock & Wilcox Tubular Products Group, Babcock & Wilcox Co., of Beaver Falls, PA.

MC 165773 (Sub-1), filed May 5, 1983. Applicant: GENESIS TRANSPORTATION CO., INC., 2900 Kage Rd., Cape Girardeau, MO 63701. Representative: Kermit J. Meystedt, P.O. Box 291, Cape Girardeau, MO 63701, 314–335–2275. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 167873, filed May 9, 1983. Applicant: TATER TOTERS, INC., 19393 S E Kay St., Milwaukie, OR 97222. Representative: Bill L. Watkins (same address as applicant) (503) 656–4098. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Happy Rock Transportation, Inc., of Milwaukie, OR.

MC 167913, filed May 9, 1983. Applicant: KENNETH CLARK, 2332 South Peck Rd. #120, Whittier, CA 90601. Representative: Kenneth Clark (same address as applicant), 208–533–3814. Transporting *general commodities* (except Classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–221

Decided: March 28, 1983.
By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 128205 (Sub-112), filed March 8, 1983, previously published in the **Federal Register** on April 6, 1983. Applicant: BULKMATIC TRANSPORT COMPANY, a Corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contracts with (a) Hammond Lead Products, Inc., of Hammond, IN, (b) Chicago Sweetners, of Hillside, IL, (c) International Multifoods, of Minneapolis, MN, and (d) Morton Salt Division, of Morton Thiokol, Inc., of Chicago, IL.

Note.—This republication adds the supporting shipper, Hammond Lead Products, Inc., of Hammond, IN.

Volume No. OP3–228

Decided: May 12, 1983.
By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 139084 (Sub-14), filed April 11, 1983, previously noticed in the **Federal Register** under Volume OP3–194. Applicant: TOTRAN TRANSPORT LTD., Nisku Business Park, POB 4830, South Edmonton, Alberta, Canada T6E 5G7. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *Mercer commodities* and *machinery*, between points in the U.S. (except HI), on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in ME.

Note.—This republication corrects the territorial exceptions.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13850 Filed 5–23–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the Appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–FC–184

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell. Member Dowell not participating.

MC–FC–81404. By decision of May 12, 1983, issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to PFD TRANSPORTATION SERVICES, INC., Richmond, VA, of Permit No. MC–149230, issued May 28, 1982, to BRAMCO TRANSPORT, INC., Sandston, VA, authorizing the transportation of general commodities, with exceptions between points in the U.S. (except AK and HI), under continuing contract(s) with Brenco, Inc., of Petersburg, VA, The Chesapeake Corporation of Virginia, of West Point, VA, Old Dominion Warehouse and Distribution, of Richmond, VA, Scott Paper Company, of Philadelphia, PA, Richfoods, Inc., of Mechanicsville, VA, and A. H. Robins Co., and its subsidiaries, Miller-Morton Co., Chap Stick and Elkins-Sinn, Inc., all of Richmond, VA. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235. (804) 745–0446.

Volume No. OP1–FC–185

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC–81443. By decision entered May 17, 1983, issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to Federal Armored Transport, Inc., of bronx, NY, of all of the operation rights in Certificates No. MC–148890 Sub 2, issued August 18, 1980, Sub 3, issued May 27, 1981 and Sub 4, issued July 30, 1981, to Sentry Armored Courier Corp., of Bronx, NY, authorizing the transportation of (1) coin and currency, between points in the U.S., under continuing contract(s) with the Federal Reserve Bank, of New York, NY, and (2) shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Representative: Ronald I. Shapaa, 450 7th Ave., New York, NY, 10123, (212) 239–4610.

Please direct status inquiries about the following to Team 2 at (202) 275–7030.

Volume No. OP2–FC–229

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC–FC–81419. By decision of May 16, 1983, issued under 49 U.S.C. 10928 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the lease for a period of 1 year, to U.S. TRANSPORT, INC., of Alexandria, VA, of all of the operating rights under Certificate No. MC–9722 Sub–No. 2, issued February 24, 1983, to Golden Worldwide Van Service, Inc., of Hohenwald, TN, authorizing the transportation, as a common carrier, over irregular routes, of (1) general commodities (with exceptions), and (2) used household goods incidental to a pack-and-crate service, for or on behalf of the United States Government, between points in the U.S. Representative: Martin R. Martino, 333 So. Glebe Rd., Arlington, VA 22204, (703) 979–1627.

MC–FC–81441. By decision of May 16, 1983, issued under 49 U.S.C. 10928 and the transfer rules of 49 CFR Part 1181, Review Board Number 3 approved the

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transfer to transferee MARK W. GEIB, d.b.a. WHITE OAK VALLEY TRUCKING, Manheim, PA, of Permit MC–143653, issued September 12, 1978, to transferor, NORMAN B. GEIB, d.b.a. WHITE OAK VALLEY FARMS, authorizing the transportation of salt, in bags, from White Marsh, MD, to the facilities of Agway, Inc., at Manheim, PA, and minerals, dicalcium phosphate (feed grade), and animal and poultry feed ingredients, in bags, from Baltimore, MD, and East Aurora, NY, to the facilities of Agway, Inc., at Manheim, PA, under continuing contract(s) with Agway, Inc., of Syracuse, NY. Representative: Louis T. Glantz, 1315 South Allen St., State College, PA 16801.

Volume No. OP2–FC–232

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC–FC–81401. By decision of May 17, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to J. McCABE & SON, INC., of Stoneham, MA, of Certificates No. MC–61942 Sub-Nos. 3 and 4, issued June 9, 1961 and May 28, 1982, respectively, to JAMES J. McCABE, JR., d.b.a. J. McCABE AND SON, of Everett, MA, authorizing the transportation, over irregular routes, of (1)(a) household goods, between Somerville, MA and points in MA within 10 miles of Somerville, MA, on the one hand, and, on the other, points in MA, NH, ME, RI, CT, NY, and NJ, and (b) such merchandise as are dealt in by retail home furnishings stores, when transported on delivery instructions of such stores, from Somerville, MA, and points in MA within 10 miles of Somerville, MA, to points in CT and RI; and (2) general commodities (with exceptions), between points in (a) CT, ME, MA, NH, RI, and VT, and (b) between points in CT, FL, ME, MA, NH, NC, RI, and VT, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, IN, MD, NJ, NY, NC, OH, PA, SC, VA, and DC. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530.

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–FC–224.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC–FC–81244. By decision of May 16, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to TOMBRO TRUCKING LIMITED, of Streetsville, Ontario, Canada L5M 2C2, of Permit No. MC–146284 Sub 3, issued February 1, 1983, to JAMES A. GOULD, of Mississauga, Ontario, Canada, authorizing the irregular route transportation of *building material*, between points in the U.S. (except AK and HI), under contract(s) with (1) Domtar, Inc., The Construction Materials Group, of Mississauga, Ontario, Canada, and (2) Claybelt Lumber Limited, of Hearst, Ontario, Canada. Transferee holds authority from the Commission under MC–153656. Representative: William J. Hirsch, 64 Niagara Street, Buffalo, NY 14202, (716) 853–0200.

MC–FC–81388. By decision of May 16, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to RUSSELL E. BRAWNER, Germantown, WI, of Certificate No. MC–44445, issued August 14, 1968, and Sub 6, issued March 22, 1980, to HAROLD KLEIN CARTAGE, INC., Milwaukee, WI, authorizing the transportation of (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing house* as described in Sections A and C of Appendix I to the report in *Modification of Permits-Packing House Products*, 46 M.C.C. 23, from Milwaukee, WI, to points in Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties, WI, and (2) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766, from Milwaukee, WI, to points in Rock, Dane, Sheboygan, Fond du Lac, Green Lake, Marquette, Waushara, Winnebago, Calumet, Manitowoc, Brown, Outagamie, Marathon, and Langlade Counties, WI, and (3) *empty containers* used in transporting the above-specified commodities, from points in the Wisconsin Counties specified above to Milwaukee, WI. RESTRICTION: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act, and (4) *meats, meat products and meat byproducts and articles distributed by meat-packing house*, as described in Sections A and C of Appendix I in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except those in bulk, in tank vehicles), from Milwaukee, WI, to points in Sauk, Columbia, and Green Counties, WI, and Lake and McHenry Counties, IL. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203.

Please direct status inquiries about the following to Team 5 at (202) 275–7289

Volume No. OP3–FC–234

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. Member Ewing not participating.

MC–FC–81384. By decision of May 12, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to O & B TRANSPORTATION, INC., of Santa Ana, CA, of Certificate No. MC 156899 Sub 1, issued April 22, 1983, to GARY LEE NELSON, of Ontario, CA, authorizing the transportation of (1) *lumber and wood products*, between points in OR, WA, and ID, on the one hand, and, on the other, points in CA, (2) *foodstuffs*, between points in Orange County, CA, on the one hand, and, on the other, points in NV, WA, and OR, and (3) *furniture and fixtures*, between points in Orange County, CA, on the one hand, and, on the other, points in NV, AZ, OR, and WA. Transferee has authority pending with the Commission in MC 162166. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA. 92702.

MC–FC–81435. By decision of May 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to SOUTHERN MARITIME TRANSPORT, INC., of Houston, TX of Certificate No. MC 163308 issued March 25, 1983 to G & T TRUCKING (Asa Willis, Trustee in Bankruptcy), authorizing the transportation of *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI). An application for temporary authority has been filed. Representative: J. Phillip Goode, P.O. Box 45, Shreveport, LA 71161.

MC–FC–81454. By decision of May 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to WOOD FABRICATORS TRANSPORTATION of Permit No. MC 144148 issued September 19, 1978 to PATRICK D. BEAVER, d.b.a. P.I.B. TRUCKING, authorizing the transportation of *structural wood and structural wood products*, from North Billerica, MA, to points in the U.S. in and east of WI, IL, KY, TN, and MI (except MA), under continuing contract(s) with Wood Fabricators, Inc., of N. Billerica, MA. Representative: Andrew E. Snider, Iron Horse Park, N. Billerica, MA.

MC–FC–81460. By decision of May 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to CAST NORTH AMERICA (TRUCKING) LTD., of Montreal, Quebec, Canada, of Certificate Nos. MC–143698 issued November 7, 1977, authorizing the transportation of general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), in ocean containers, between the ports of entry on the United States-Canada boundary line, located at or near Champlain, NY, and High Gate Springs, VT, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, and Vermont, restricted to the transportation of traffic having a prior or subsequent movement by water through the port of Montreal, Quebec, Canada, MC–143698 Sub 1F issued October 2, 1979, authorizing the transportation of general commodities (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), in intermodal containers, between Chicago, IL, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Missouri (except points in Andrain, Callaway, and Montgomery Counties) and Wisconsin (except Baileys Harbor, Algoma, Alaska, Rostok, Kewaunee, Two Creeks, Two Rivers, Manitowoc, Newton, Cleveland, Haven, Sheboygan, Port Washington, Wausau, and Milwaukee), restricted to the transportation of traffic having a prior or subsequent movement by water, MC–143698 Sub 2F issued October 20, 1980, authorizing the transportation of general commodities (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), in intermodal containers, between Detroit, MI, on the one hand, and, on the other, points in OH, KY, IN, and MI, restricted against service to those points on and north of U.S. 10 and on and west of Interstate 75 in Michigan, and restricted to the transportation of shipments having a prior or subsequent movement by water, Condition: Tacking is authorized, MC–143698 Sub 3F issued May 1, 1981, authorizing the transportation of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), in ocean containers, between the ports of entry on the international boundary line between the United States and Canada located at or near Champlain, NY, and High Gate Springs, VT, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, and Vermont, restricted to the transportation of traffic having a prior or subsequent movement by water through the port of Montreal, Quebec, Canada, and MC–143698 Sub 4 issued February 11, 1983, authorizing the transportation of general commodities (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), (a) between points on the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, and Maryland, and (b) between points in Tennessee, Nebraska, Kansas, and Minnesota, on the one hand, and, on the other, Chicago, IL and Detroit, MI, to CAST NORTH AMERICA LTD., of Montreal, Quebec, Canada. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–13849 Filed 5–23–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers: Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 24, 1983. Petitions for reconsideration must be filed by June 13, 1983. Petitions for stay must be filed by June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Decided: May 12, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

Rowley Interstate Transportation Company, Inc.—Purchase (Portion) Exemption—Sawyer Transport, Inc. (Nathan Yorke, Trustee-in-Bankruptcy)

[No. MC–F–15138]

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603.

Pleadings should refer to No. MC–F–15138.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Rowley Interstate Transportation Company, Inc. of a portion of the operating rights of Sawyer Transport, Inc. i.e., Certificate No. MC–123407 (paragraph 3) and Certificate No. MC–123407 Sub-Nos. 661, 662, 669, 673, 668X (paragraph 11a, 11b, 14, 18a, 18b, 21, 37, 39a, 39b, 39c, 41, 49, 58, 66, 71, 74a, 74b, 76, 91, 94, 98a, 98b, 98c, 98d, 100, 104, 108, 112, 115, 117a, 117b, 119a, 119b, 121a, 121b, 125, 127, 133, 140a, 140b, 146, 150a, 150b, 156, 170, 173a, 173b, 178a, 178b, 183, 186, 191, 201, 209, 226, 228a, 228b, 232, 235, 242, 247, 249a, 249b, 253a, 253b, 253c, 256a, 256b, 256c, 260, 264, 271, 273, 279, 282a, 282b, 287a, 287b, 287c, 290, 297a, 297b, 297c, 304a, 304b, 304c, 304d, 304e, 304f, 307, 309, 317, 321a, 321b, 321c, 322, 323, 330, 332, 3, 31, 52, 55, 61, 110, 145, 162, 185, 212, 251, 281, 283a, 283b, 286, 12a, 12b, 280, 23, 47, 67a, 67b, 134, 153, 163, 268 and 213), 24, 26, 36, 45, 48, 54, 70, 75, 76, 80, 101, 117, 130, 135, 141, 142, 146, 180, 183, 185, 186, 188, 201, 208, 218, 227, 232, 241, 243, 245, 247, 251, 256, 264, 265, 274, 283, 286, 298, 313, 334, 337, 338, 347, 349, 366, 372, 382, 400, 418, 442, 444, 446, 451, 457, 468, 475, 478, 482, 486, 488, 490, 493, 501, 515, 517, 534, 538, 539, 547, 550, 551, 544, 576, 601F, 604F, 605F, 612F, 616F, 630F, 634F, 635F, 636F, 639F, 642F, 650F, 653F, 65, 105, 110, 122, 220, 287, 325, 371, 424, 480, 536, 540, 543, 546, 29, 535, 56, 95, 131, 132, 275, 305, 326, 508, and 425.

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authorizing generally the irregular-route motor common carrier transportation of metal products between points in specified counties, on the one hand, and, on the other, points in the United States.

[FR Doc. 83-13844 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[No. 39156 et al.[1]]

Motor Carriers; McDaniel Hauling, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: The four motor contract carriers named in the footnote below have individually requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due on June 8, 1983. The sought relief will become final 15 days after the close of the comment period unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing the relief.

ADDRESS: Send an original and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Paul W. Schach (202) 275–7885 or Howell I. Sporn (202) 275–7691.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 in the D.C. metropolitan area or toll free (800) 424–5403.

Decided: May 16, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13876 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[1] This proceeding embraces No. 39156, McDaniel Hauling, Inc., No. 39157, James B. Degen, No. 39159, Trident Truck Line, Inc., and No. 39160, J. C. Vaughn.

[No. 38999]

Rail Carriers; Conticarriers and Terminals, Division of Continental Grain Co.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioner's existing operations granted at 48 FR 6902 (February 16, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioner's future contracts is granted.

DATE: Comments are due on June 8, 1983. The provisional exemption of petitioner's future contracts will become final 15 days after the close of the comment period, unless in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38999, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robin Williams, (202) 275–7697 or Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 13, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13845 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[No. 38959 et al.[1]]

Rail Carriers; Johnsrud Transport, Inc.—Petition For Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

[1] This proceeding embraces seven petitions for exemption filed by motor contract carriers: No. 38959, Johnsrud Transport, Inc.; No. 38960, Case Heavy Hauling, Inc.; No. 38962, RBC Transportation, Inc.; No. 38963, Oneida-Columbus Express Company; No. 38964, Wegman's Express, Inc.; No. 38978, Harco Trucking Corporation; and No. 38979, Clearfield Transportation Company, Inc.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 48 FR 2226 (January 18, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATE: Comments are due on June 8, 1983. The provisional exemption of petitioners' future contracts will become final 15 days after the close of the comment period, unless in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38959 et al., Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robin Williams (202) 275–7697 or Howell I. Sporn (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 13, 1983.

By the Commission, Division 1, Commissioners Andre, Sterrett, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13846 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30170]

Rail Carriers; Somerset Railroad Corporation—Exemption From 49 U.S.C. 10746

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts Somerset Railroad Corporation from the provisions of 49 U.S.C. 10746 for the operation of 15.5 miles of track in New York.

DATES: This exemption shall be effective on June 23, 1983. Petitions for reconsideration of this action must be filed by June 3, 1983 and petitions for stay must be filed by June 13, 1983.

ADDRESS: Send pleadings to: Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423. Petitioner's representative: Allen E. Kintigh, President, Somerset Railroad Corporation, c/o New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, NY 13902.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan Area) or toll free (800) 424–5403.

Decided: May 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13843 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-932)]

Rail Carriers; Pittsburgh and Lake Erie Railroad Co.; Exemption for Contract Tariff; ICC-PLE-C-0107 (Bituminous Steam Coal)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice.[1] This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power, moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: May 16, 1983.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13735 Filed 5-23-83; 8:45 am]
BILLING CODE 7035-01-M

[1] Note tariff supplements advancing contract's effective date shall refer to this decision for authority.

DEPARTMENT OF JUSTICE

Agency Forms Under Review

May 20, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Agency Clearance Officer Larry E. Miesse—202–633–4312.

New

Bureau of Justice Statistics.

Department of Justice.

D.C. Crime Victimization Survey.

On occasion.

Individuals or households.

To measure the nature and extent of criminal victimization among residents of the District of Columbia, adjacent counties, and employees of congressional agencies on Capitol Hill. The survey is mandated by the Congress: 8,545 respondents; 4,614 hours; not applicable under 3504(h).

David Reed—395–7231.

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-13861 Filed 5-23-83; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

Cincinnati Bell Inc. Pension Plan and Trust et al.; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the

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notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Cincinnati Bell Inc. Pension Plans Trust Located in Cincinnati, Ohio

[Prohibited Transaction Exemption 83-88; Exemption Application No. D-3403]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) shall not apply to:

A. Effective January 1, 1975, the past extensions of credit by the Cincinnati Bell Inc. Pension Plan, and the Cincinnati Bell Inc. Management Pension Plan (the Plans) as a result of the Plans' acquisition of debt obligations of American Telephone and Telegraph Company (AT&T) and its subsidiaries, provided that the transactions have complied with the provisions of section 408(e) of the Act, as if the securities were deemed to be qualifying employer securities as defined in the Act; and

B. Effective this date, the purchases by the Plans of debt and/or equity securities issued by AT&T or any subsidiary as would be permitted under section 408(e) of the Act if AT&T and its subsidiaries were considered to be affiliates of Cincinnati Bell Inc. (the Employer), provided that the Plans' assets involved in such transactions are subject to the investment discretion and control of a fiduciary who is independent of both AT&T and the Employer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 15, 1983, at 48 FR 10953.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83-89; Exemption Application No. D-3748]

Joseph M. Wiesenbaugh, Jr., D.D.S. & Associates, P.A. Pension Plan (the Plan) Located in Hagerstown, Maryland

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the past and future borrowing by the Plan of the maximum loan values of life insurance policies held by the Plan on the lives of Plan participants, provided that the terms and conditions of such loans are at least as favorable to the Plan as those it could obtain from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983, at 48 FR 14078.

Effective Date: This exemption is effective August 3, 1982.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83-90; Exemption Application No. D-3763]

Emjay Corporation Master Profit Sharing Trust and Plan as Adopted by the Warner S. Bump Medical Group, S.C. Profit Sharing Plan and Trust (the Plan) Located in Rhinelander, Wisconsin

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of funds by the Plan to Warner S. Bump Medical Group, S.C., and the Warner S. Bump Medical Building, parties in interest with respect to the Plan, provided that the terms and conditions of the loans are not less favorable to the Plan than those obtainable in similar transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 11, 1983, at 48 FR 10498.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83-91; Exemption Application No. D-3946]

The Dupps Company Profit Sharing Plan Located in Germantown, Ohio

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $500,000 by the Plan to Dupps Company, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983, at 48 FR 14082.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83-92; Exemption Application No. D-4127]

T. C. Consultant Pension Trust (the Plan) Located in West Orange, New Jersey

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective September 30, 1982, to the contribution to the Plan of 734 shares of American Telephone & Telegraph Company common stock (the Stock) by Theodore Cohn Consultant, Inc. (the Employer), the sponsor of the Plan, provided that the stock was valued at its fair market value as of the date it was contributed to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983, at 48 FR 14085.

Effective Date: This exemption is effective September 30, 1982.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 17th day of May, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-13838 Filed 5-23-83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[Order 7-83]

Delegation of Authority and Assignment of Responsibilities for Architectural Accessibility in Department of Labor Structures

May 9, 1983.

1. *Purpose.* To delegate authority and assign responsibilities for carrying out Department of Labor (DOL) policies, programs and activities under the Architectural Barriers Act of 1968, as amended, and Section 502 of the Rehabilitation Act of 1973, as amended.

2. *Policy.* It is the policy of DOL to promote accessibility of structures, buildings, and facilities to physically handicapped individuals, and to ensure that buildings controlled by DOL or constructed, leased or acquired with DOL financial assistance fully comply with statutory and regulatory provisions which required the elimination of architectrural, transportation, and communication barriers in covered structures.

3. *Background.* Pursuant to the Acts above, DOL if required to ensure that certain buildings and facilities under its control or funded subject to its standards are accessible to handicapped persons. Through a Memorandum of Agreement (a copy of said memorandum is attached), the Architectural and Transportation Barriers Compliance Board (A&TBCB) permits DOL to institute its own system of compliance which meet the general features and objectives set forth by the A&TBCB as well as the needs of individual agencies. This delegation assigns responsibilities for development and implementation of such a compliance system in DOL.

4. *Delegation of Authority and Assignment of Responsibilities*

a. *The Assistant Secretary for Administration and Management* is hereby delegated authority and assigned responsibilities for:

(1) developing policy, setting standards, and coordinating investigative and enforcement activities of other component offices and administrations of the Department of Labor pursuant to the Acts referred to in Paragraph 1, above, and the Memorandum of Agreement between A&TBCB and DOL.

(2) monitoring, investigating, and enforcing the provisions of the Acts mentioned in Paragraph 1, above, with respect to DOL buildings and facilities, and facilities financed in whole or part by grants or loans which are subject to standards for design, construction or alteration issued by the Department of Labor under the laws authorizing such grants or loans, except for those facilities referred to in Paragraph 4b, below.

b. *The Assistant Secretary for Employment and Training Administration (ETA)* is hereby delegated authority and assigned responsibility, in accordance with the policies and standards established by the Assistant Secretary for Administration and Management, for monitoring, investigating and enforcing the laws referred to in Paragraph 1 above, with respect to buildings and facilities financed in whole or in part by ETA grants or loans and which are subject to standards for design, construction or alteration issued by ETA under the laws authorizing such grant or loan.

c. *DOL Agency Heads* are required to adhere to the policies, standards, and directives established by the Assistant Secretary for Administration and Management in accordance with Paragraph 4a, above.

d. *The Solicitor of Labor* shall have responsibility for providing legal advice and assistance to and representing DOL officials in legal proceedings, as appropriate, with regard to the administration of the Acts referred to in Paragraph 1 above.

5. *Redelegation of Authority.* The authority and responsibility delegated in this Order to the departmental officials identified above may be redelegated.

6. *Effective Date.* This Order is effective immediately.

Raymond J. Donovan,

Secretary of Labor.

Memorandum of Agreement Between the Architectural and Transportation Barriers Compliance Board and the Department of Labor

Whereas the Architectural and Transportation Barriers Compliance Board (ATBCB) is charged with ensuring compliance by the Department of Labor (DOL) in the elimination of architectural, transportation, and communication barriers to physically handicapped persons in structures for which DOL is responsible under the Architectural Barriers Act of 1968, as amended, and section 502 of the Rehabilitation Act of 1973, as amended, in accordance with standards issued pursuant to these Acts and with minimum guidelines determined and issued by the ATBCB; and *Whereas* the DOL seeks to assure continued progress in making these buildings, for which it is responsible, accessible to physically handicapped persons; and *Whereas* the Parties wish

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to fully cooperate in achieving these mutual goals;

It is hereby agreed by the Executive Director of the ATBCB and the Secretary of Labor on behalf of the DOL that

(a) The Department of Labor shall:

(1) institute a clearly defined Department-wide system of compliance which meets the general features and objectives as set forth by the ATBCB in the ATBCB Guidance Manual, Federal Agency System Self-Compliance With Accessibility Standards, as well as the needs of the individual agencies;

(2) with regard to covered structures constructed, leased or acquired by recipients of DOL financial assistance, require from each recipient a clear commitment to prevent or eliminate phusical barriers in covered structures in accordance with minimum guidelines of the ATBCB and standards of the General Services Administration;

(3) monitor progress in preventing or removing barriers in covered structures occupied by the Department of Labor or constructed, leased or acquired with DOL financial assistance;

(4) develop a system of tracking and resolving complaints which adheres to the standards and timetables set forth in ATBCB regulations;

(5) require each agency to inventory its covered structures and to obtain information necessary to maintain proper compliance;

(6) survey and inspect selected facilities, by appropriate sampling, to evaluate progress in achieving accessibility to the extent permitted by available resources;

(7) adhere to the bases for waivers and modifications and to the procedures for initiating and resolving waiver applications, as set forth in the statutes and ATBCB regulations and interpretations;

(8) maintain an effective system of communication and information exchange among the separate agencies, and recipients and with the ATBCB to ensure uniformity and effectiveness of the enforcement program (such information exchange shall include but shall not be limited to standards, coverage, waiver policy, and complaint procedure); and

(9) coordinate these activities and recommend periodically whatever changes may be needed;

(b) The Executive Director shall:

(1) refrain from initiating any enforcement proceedings against DOL for alleged noncompliance in relation to any building or facility if the Executive Director has approved a detailed plan for removal of the barriers from that building or facility, and he or she is satisfied that reasonable progress is being made in accordance with the detailed plan. Reasonable progress in a specific case shall be evaluated by comparing the time elapsed since the plan was submitted in relationship to the undone portion of the construction. The Executive Director shall not withhold approval of a plan if he or she determines that:

(a) The plan meets the current applicable Federal accessibility standard and

(b) actual construction for barrier removal is scheduled to start within 3 months after the presentation of the plan to him or her.

(2) provide the DOL and its covered recipients with whatever technical assistance and information are found necessary to meet their compliance obligations;

(3) maintain full cooperation with the DOL in resolving differences in interpretation of ATBCB regulations and guidelines where the DOL has requested clarification or change;

(4) affirm that this Agreement is entered into in order to acknowledge the DOL's program and policies of providing increased accessibility to buildings and facilities; and

(5) provide assistance in developing a training program for DOL staff in operating DOL's self-compliance system.

Both parties state that this Agreement shall be in effect for an indefinite period of time, and may be modified by the mutual consent of both or terminated by either party upon thirty (30) days advance written notice to the other party.

Dated: March 15, 1983.

Approved:

Robert M. Johnson,

Executive Director, Architectural and Transportation Barriers Compliance Board.

Dated: May 9, 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-13831 Filed 5-23-83; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-45)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Systems.

DATE AND TIME: June 8, 1983, 9 a.m. to 5 p.m.; June 9, 1983, 9 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley R. Sadin, National Aeronautics and Space Administration, Code RS-5, Washington, DC 20546 (202/755-8557).

SUPPLEMENTARY INFORMATION: This Informal Advisory Subcommittee was formed to make a technical review of the Office of Aeronautics and Space Technology (OAST) Space Systems Technology Program. The Subcommittee, chaired by Mr. Adrain O'Neal, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open

AGENDA:

June 8, 1983

9 a.m.—Review and Comments on the NASA/OAST Long Range Plan and the FY 1985 Plan.

2 p.m.—Review and Comments on OAST High Priority Technology Goals.

5 p.m.—Adjourn.

June 9, 1983

9 a.m.—Critique of Landmark Mission Sets for Planning.

1 p.m.—Summary, Conclusions and Draft Minutes of Meeting.

4 p.m.—Adjourn.

Ann P. Bradley,

Acting Associate Administrator for Management Office of Management.

May 16, 1983.

[FR Doc. 83-13831 Filed 5-23-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-46)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of the Mission of NASA.

DATE AND TIME: June 9, 1983, 9 a.m. to 4 p.m.

ADDRESS: NASA Headquarters, Room 6004, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of the Mission of NASA was established under the NASA Advisory Council to conduct a study of the directions NASA should take in the future (including goals, programmatic objectives, and possible missions) and to report its findings and recommendations to the Council. The Task Force is chaired by Dr. George E. Solomon, and has a total of 14 members.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA:

June 9, 1983

9 a.m.—Introduction.

9:30 a.m.—Status reports by subgroups.

11 a.m.—Task Force Working Session.

4 p.m.—Adjourn.

Dated: May 16, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-13832 Filed 5-23-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-47)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Chemical Propulsion Technology.

DATE AND TIME: June 9-10, 1983, 8:30 a.m. to 5:30 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, Lewis Research Center, Administration Building, Room 225, 21000 Brookpark Road, Cleveland, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Gabris, National Aeronautics and Space Administration, Code RST, Washington, DC 20546 (202/755-2490).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Chemical Propulsion Technology was established to provide guidance and direction to the Chemical Propulsion research and technology programs of NASA's Office of Aeronautics and Space Technology. The Subcommittee, chaired by Dr. Sanders Rosenberg, is comprised of six members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

June 9, 1983

8:30 a.m.—Welcome.
Chairperson's Remarks
Presentation of Agenda.

9:30 a.m.—Orbit Transfer Vehicle Propulsion Program—Propulsion Test-bed New Initiatives.

3:30 p.m.—Space Long-Range Plan—High Priority Technology Goals.

4:00 p.m.—Landmark Missions for Chemical Propulsion.

4:30 p.m.—Subcommittee Discusion of "Center of Excellence" Criteria.

5:30 p.m.—Adjourn.

June 10, 1983

8:30 a.m.—Lewis Research Center—A Center of Excellence in Advance Liquid Chemical Propulsion.

5:30 p.m.—Adjourn.

Dated: May 16, 1983.

Ann P. Bradley,

Acting Associate Administrator for Management, Office of Management.

[FR Doc. 83-13833 Filed 5-23-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice (83-48)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on General Aviation Technology.

DATE AND TIME: June 15, 1983, 8:30 a.m. to 5 p.m., June 16, 1983, 8:30 a.m. to 5 p.m., June 17, 1983, 8:30 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Lewis Research Center, Building 3, Room 215, Cleveland, OH.

FOR FURTHER INFORMATION CONTACT: Mr. Harry W. Johnson, National Aeronautics and Space Administration, Code RJ-2, Washington, D.C. 20546, (202/755-3228).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on General Aviation Technology was established to assist the NASA in assessing the adequacy of its aeronautics research and technology program to meet the specific needs of general aviation, including commuter transport aircraft, and to recommend any modifications or augmentations of current and planned activities deemed necessary to increase their value and effectiveness in achieving program objectives. These objectives include advanced technology for increased safety, energy efficiency, utility, environmental compatibility, and economic usefulness. The program is multidisciplinary in scope, encompassing aerodynamics and flight dynamics, propulsion, materials and structures, avionics, controls and human factors. The Subcommittee, chaired by Mr. John W. Olcott, is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Subcommittee members and participants).

Type of meeting: Open.

Agenda

June 15, 1983

8:30 a.m.—Opening Remarks and Reports by Chairperson and Executive Secretary.

9 a.m.—Research Center Aeronautics Program Status Reports: NASA Langley Research Center, NASA Lewis Research Center, NASA Ames Research Center.

5 p.m.—Adjourn.

June 16, 1983

8:30 a.m.—Research Center Program Reports Concluded.

10 a.m.—Overview: Long Range Plan and Proposed New Initiatives.

11 a.m.—General Aviation Safety Panel Report and Discussion.

1 p.m.—NASA Lewis Research Center Facilities Tour.

3 p.m.—Discussion of Issues Regarding General Aviation and Commuter Aircraft Technology.

5 p.m.—Adjourn.

June 17, 1983

8:30 a.m.—Discussion of Issues Concluded.

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9:30 a.m.—Evaluation of NASA Program by Subcommittee.

10:30 a.m.—Subcommittee Conclusions and Recommendations.

12 Noon—Adjourn.

Dated: May 18, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-13834 Filed 5-23-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Inter-Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Folk Arts Section) to the National Council on the Arts will be held on June 9-11, 1983, from 9:00 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 18, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-13894 Filed 5-23-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advance Reactors will hold a meeting on June 7, 1983, Room 1167, 1717 H Street, NW, Washington, D.C. The Subcommittee will review NRC Research Programs in Advanced Reactors for the ACRS Report to the Commission on the FY 1985-1986 research budget.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss such proprietary information. One or more closed sessions may be necessary to discuss information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, June 7, 1983—1:00 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding the topics to be discussed.

The Subcommittee will than hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary Information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-13918 Filed 5-23-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on June 7, 1983, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee wil discuss the portion of the NRC Safety Research Budget related to equipment qualification and plant aging.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, June 7, 1983—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-13919 Filed 5-23-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policy and Procedures; Meeting

The ACRS Subcommittee on Regulatory Policy and Procedures will hold a meeting on June 8, 1983, Room 1167, 1717 H Street, NW, Washington, DC. The Subcommittee will review the matter of the current status of regulatory reform, particularly regarding backfitting requirements.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only be members of the Subcommittee and its Staff. Persons desiring to make oral statemens should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting will be as follows: *Wednesday, June 8, 1983—8:30 a.m. until 12:30 p.m.*

During the initial portion of the meeting, the Subcommittee members may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and others regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Marvin C. Gaske (telephone 202/634-3285) between 8:15 a.m. and 5:00 p.m. edt.

Dated: May 19, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-13920 Filed 5-23-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on June 8, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will continue its discussion on the NRC Safety Research Program and Budget for fiscal years 1985 and 1986; it will discuss also a draft ACRS report to the Commission on the related matter. Notice of this meeting was published April 27, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, June 8, 1983—8:30 a.m. until the conclusion of business.*

During the meeting, the Subcommittee will hear presentations from and hold discussions with the representatives of the Office of Nuclear Regulator Research and research user offices of the NRC with regard to the proposed NRC Safety Research Program and Budget for fiscal years 1985 and 1986. It will discuss also a draft ACRS report to the Commission on the related matter.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: May 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-13921 Filed 5-23-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 17, 1983.

In the matter of application of the, Cincinnati Stock Exchange; for unlisted Trading Privileges in Certain Securities: Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Gulf United Corporation Common Stock, $1 Par Value (File No. 7-6652)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 8, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commision will approve the application if it finds, based upon all the information available to it, that the extension of unlised trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13866 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

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Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 17, 1983.

In the matter of application of the Philadelphia Stock Exchange, Inc.; for Unlisted Trading Privileges in Certain Securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Cincinnati Milacron Inc.
Common Stock, $5 Par Value (File No. 7–0651)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 8, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13864 Filed 5–23–83; 8:45 am]

BILLING CODE 8010–01–M

[811–2785; Rel. No. 13248]

Adams Fiduciary Bond Fund; Filing of Application

May 17, 1983.

Notice is hereby given that Adams Fiduciary Bond Fund ("Applicant"), 55 Court Street, Boston, Mass. 02108, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 25, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was organized under the laws of Massachusetts on October 20, 1977. Applicant states that it filed its Form N–8A on October 20, 1977, and its Form 8B–1 on December 13, 1977. According to the application, as of February 25, 1983, Applicant had 191,913.059 shares of beneficial interest outstanding. Such shares were the single class of Applicant's shares outstanding and had a $47.78 net asset value per share. The application indicates that, as of February 25, 1983, Applicant's aggregate net asset value was $9,169,949.

Applicant represents that its Board of Trustees called a special meeting of Applicant's shareholders held on February 11, 1983, for the purpose of considering and acting on a proposal to adopt a plan of liquidation (the "Plan"). Applicant represents further that the Plan provides for the sale of Applicant's assets and (after provision for the payment of all outstanding obligations, taxes and other liabilities of Applicant, accrued or contingent) the pro rata distribution of Applicant's remaining assets in cash to its shareholders. Applicant indicates that, at the special meeting, its securityholders approved the Plan by a favorable vote of 83.46 percent of the shares outstanding. Applicant states that its portfolio of investments was sold to the highest bidder on February 28, 1983.

Applicant states that, on February 28, 1983, distributions were made pro rata in complete liquidation to Applicant's securityholders, on surrender of their shares, by checks mailed to such securityholders, in the total aggregate amount of $9,169,949. Applicant states further that it had no securityholders at the time of the filing of the application. Applicant states that it is not party to any litigation or administrative proceeding and that it does not intend to engage in business activities other than those necessary for the winding-up of its affairs. Applicant states further that it filed a Certificate of Termination with the Secretary of the Commonwealth of Massachusetts on March 24, 1983.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13910 Filed 5–23–83; 8:45 am]

BILLING CODE 8010–01–M

[70–6860; Rel. No. 22942]

AEP Generating Co.; Proposed Issuance of Fixed Rate Notes by Service Company; Interest Rate Hedging Agreement

May 17, 1983.

AEP Generating Company ("AEGCo") 180 East Broad Street Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an application-declaration pursuant to Sections 6(a), 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2), 50(b), and 50(a)(2) promulgated thereunder.

In accordance with Commission orders dated March 24, 1982, and February 16, 1983 (HCAR Nos. 22429 and 22857, respectively), AEGCo has entered into a Revolving Credit Agreement for the issuance of up to $450 million of notes through December 31, 1987. Such notes bear interest at AEGCo's option at either a fluctuating rate equal at all times to the prime rate (as defined in the Revolving Credit Agreement), or at a fixed rate per annum equal to ½ of 1% above the applicable London Interbank Offering ("LIBO") Rate until December 31, 1985, and ⅝ of 1% above the LIBO Rate thereafter through December 31, 1987.

The proceeds of AEGCo's revolving credit borrowings, $150 million as of March 31, 1983, together with other available funds, are applied to the construction cost of the Rockport Generating Station. AEGCo is acquiring a 35% undivided ownership interest as tenant-in-common in the two-unit Rockport plant from Indiana & Michigan Electric Company, AEGCO's associate company.

AEGCo seeks authorization to issue up to $300 million principal amount of unsecured, fixed rate notes to banks from time to time through March 31, 1984, pursuant to a fixed rate term loan agreement ("Term Loan Agreement"). The proceeds of these fixed rate notes will be used to refinance borrowings at fluctuating interest rates under AEGCO's $450 million Revolving Credit Agreement or, in lieu of further borrowings under the Revolving Credit Agreement. An exception from competitive bidding pursuant to subparagraph (a)(2) of Rule 50 is requested.

The fixed rate notes will mature on a date not less than two nor more than ten years from date of issuance. No compensating balances or commitment fees will be required. Each such note will bear interest not greater than 200 basis points over the prime rate, but in no event greater than 14% per annum. The proposed agreement will provide that in the event a note is paid prior to maturity, AEGCo will be required to pay a fee to the lending bank calculated to reimburse the bank for the difference, if any, between the stated loan rate and the bank's opportunity rate calculated on the basis of Treasury obligation rates. AEGCo states that it believes that funds at a fixed rate at or near the applicable prime rate are currently available on loans having maturities of up to, but not exceeding, two years. Rates quoted to AEGCo on loans having longer maturities have generally been in the range of up to 200 basis points higher than the prime rate. AEGCo believes that it will be of long-term benefit to the company and its customers to refund a portion of its outstanding variable rate notes, in whole or in part, with the proceeds of fixed rate notes having longer maturities, even though such long-term notes may bear a fixed rate of interest higher than current short-term rates at the time of such borrowings.

AEGCo also proposes on or before March 31, 1984, to enter, through competitive bidding, into one or more hedging agreements ("interest rate swaps") with banks. The interest rate swaps would involve the contractual exchange of interest payments on up to $300 million principal amount of unsecured variable rate debt of AEGCo under its Revolving Credit Agreement. Under such contracts, AEGCo would agree to make payments of interest at a fixed rate to a bank up to a principal amount of $300 million, in return for the bank's agreement to pay interest to AEGCo on the same principal amount and bearing interest at a variable rate that is a function of the LIBO rate payable by AEGCo under the Revolving Credit Agreement. The aggregate amount of notes outstanding under the revolving credit agreement, with or without any associated interest rate swaps, or under the proposed fixed rate term loan agreement would not exceed $450 million.

Essentially, an interest rate swap would enable AEGCo and a fixed rate borrower to exchange interest payments thus permitting AEGCo to enter into fixed rate obligations despite the limited availability of fixed-rate long term funds from domestic banks and eliminates the need to issue new long-term debt obligations. Because the bank arranging the swap guarantees this stream of interest payments, each party is insulated from the credit risks of the other. Under the hedging agreement, AEGCo would agree to make fixed rate payments, not exceeding a ceiling of 14%, to a bank and the bank agrees to make fluctuating rate interest payments based on AEGCo's LIBO rate borrowings under its Revolving Credit Agreement. The fixed rate obligation would mature not later than December 31, 1987, the maturity date of AEGCo's revolving credit borrowings. Although the typical swap involves hedging a floating rate against a fixed rate Eurobond with seven years maturity, AEGCo's rate will probably be hedged against a certificate of deposit in light of the 1987 maturity date of AEGCo's revolving credit borrowings.

AEGCo also anticipates that the floating rate paid to AEGCo by the bank would not fully cover AEGCo's LIBO Rate obligations under the Revolving Credit Agreement. For example, the bank may agree to pay AEGCo the present LIBO rate and AEGCo would be required to pay any percentage over LIBO payable under the Revolving Credit Agreement. Also, any additional fees, such as a bank's swap arrangement fee, may be paid on a lump sum at commencement or be reflected in the fixed rate payment to the bank. A typical interest rate swap agreement would contain early termination, or unwind provisions, pursuant to which AEGCo may be required to make or would be entitled to receive a settlement payment in the form of liquidated damages in the event of early termination.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 9, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–13910 Filed 5–23–83; 8:45 am]

BILLING CODE 8010–01–M

[811–1960 and 811–2713; Rel. No. 13247]

Alpha Income Fund, Inc. and Alpha Tax-Exempt Bond Fund, Inc.; Filing of Applications

May 17, 1983.

Notice is hereby given that Alpha Income Fund, Inc. ("Income Fund") 2 Piedmont Center, Suite 500, Atlanta, Geogria 30363 and Alpha Tax-Exempt Bond Fund, Inc. ("Bond Fund") (together, "Applicants"), each registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, have each filed an application on April 20, 1983, for an order of the Commission pursuant to Section 8(f) of the Act declaring that it has ceased to be an investment company, as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of relevant provisions thereof.

Income Fund, a Maryland corporation, and Bond Fund, a Georgia corporation, filed their respective registration statements pursuant to Section 8 of the Act on October 22, 1969 and November 29, 1976. The registration statements of Income Fund and Bond Fund filed under the Securities Act of 1933 were declared effective on July 24, 1970 and January 25, 1978 respectively, and each of the Applicants commenced its initial public

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offering immediately following such declaration.

Each Applicant represents that its board of directors by unanimous written consent dated March 17, 1983, following a meeting of such board on January 27, 1983, approved a sale of all its assets and liquidation. According to the applications, in the case of Income Fund such sale was to Fidelity Corporate Bond Fund, Inc., and in the case of Bond Fund it was to Fidelity Municipal Bond Fund, Inc. Each Applicant states that while its corporate existence continues in effect at present, it will file in the near future the necessary documentation to effect its dissolution.

Each Applicant states that the method of distribution to its security holders in connection with winding up its affairs pursuant to its liquidation was to credit to open accounts in the names of such securityholders on the books of the company acquiring its assets the shares of the acquiring company received by Applicant in exchange for its assets on an equivalent net asset value basis. Each such securityholder was credited with the number of shares of the acquiring company corresponding to his percentage ownership of shares of Applicant. The securityholders, according to each Applicant, were credited with such shares of the respective acquiring company on April 15, 1983.

Applicant represents that it has no debts or other outstanding liabilities, and is not a party to any litigation or administrative proceeding. Each Applicant states that within the last 18 months it has not transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Finally, each Applicant states that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and upon the taking effect of that order the registration of that investment company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13015 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[812-5460; Rel. No 13251]

The Bond Fund for Bank Trust Departments; Filing of an Application

May 17, 1983.

Notice is hereby given that The Bond Fund for Bank Trust Departments ("Applicant"), 24 Federal Street, Boston, Massachusetts 02110, registered under the investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on February 17, 1983, and an amendment thereto on April 4, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder as to the provisions to which the exemption applies.

A Massachusetts business trust consisting of four series, Applicant seeks to value the portfolio securities in its Government Money Market Portfolio ("GMM") and any future money market series on the amortized cost basis. GMM will invest in U.S. Treasury bills, notes and bonds, and other obligations guaranteed by the U.S. Government, its agencies and instrumentalities. Subsequently formed money market series will make investments, including any repurchase agreements, limited to those that GMM may invest in, or other appropriate investments. To the extent that subsequently formed money market series might invest in bank instruments, Applicant represents that such money market series will not invest in the securities of any of its affiliates without obtaining prior Commission approval.

Section 6(c) of the Act permits the Commission, among other things, to grant an exemption by order upon application from any provision or provisions of the Act, or from any rule or regulation thereunder, provided such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by policy and provisions of the Act.

In support of the relief requested, Applicant submits that the amortized cost method of valuation will enable GMM to maintain he constant net asset value per share required by many investors. Applicant represents that its proposed use of a one dollar amortized cost per share would offer GMM's shareholders the convenience of being able to value their investments simply by knowing the number of shares they own. Applicant's trustees have determined in good faith that, absent unusual circumstances, the amortized cost method of valuing securities will reflect the fair value of such securities. Applicant believes that the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly agrees that the following conditions may be imposed in any order of the Commission granting the exemption requested:

1. In supervising the operations of GMM and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within its overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and GMM's investment objectives, to stabilize GMM's net asset value per share, as computed for the purpose of distribution, redemption, and repurchase, at $1.00 per share.

2. Included among the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the current net asset value per share as determined by using available market quotations from Applicant's amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portolio instruments, or (ii) values obtained from yield data relating to classes of instruments published by reputable sources.

(b) In the event such deviation from Applicant's amortized cost price per share exceeds ½ of 1%, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from GMM's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. GMM will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant undertakes that, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserve pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service; or, in the case of any instruments that are not rated, of comparable quality as determined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13013 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[70-6859; Rel. No. 22943]

The Connecticut Light & Power Co.; Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds and Preferred Stock With an Adjustable Dividend Rate

May 17, 1983.

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

CL&P proposes to issue and sell during the time period ending March 31, 1984, in one or more issues, (1) up to $180 million principal amount of first and refunding mortgage bonds, and (2) up to 1,600,000 shares ($80 million aggregate par value) of preferred stock, $50 par value. During the same time period, CL&P may also effect other long-term or intermediate-term debt financings in the form of debenture sales in the Eurobond market or term loans coupled with an interest rate swap contract, the authorizations for which were previously granted by this Commission (HCAR No. 22715, November 17, 1982, and HCAR No. 22940, May 17, 1983). The total principal amount of first mortgage bonds to be issued would not exceed $180 million, less the amounts raised with any Eurobond issues and any term loan/interest rate swap contract.

In issuing and selling the preferred stock and the first mortgage bonds, CL&P may employ alternative competitive bidding procedures in accordance with the Commission's delayed or continuous offering and sale procedures under Rule 415 of the Securities Act of 1933 (17 CFR 230.415). Pursuant to Rule 50(a)(5) of the Act, the Commission has issued a statement of policy (HCAR No. 22623, September 2, 1982) authorizing the use of alternative competitive bidding procedrues in lieu of the procedures prescribed by Rule 50(b). CL&P has also stated, however, that market conditions may require that these securities be sold through a negotiated public offering, in which case, CL&P would seek an exception from all competitive bidding requirements.

The bonds will be issued under CL&P's Indenture of Mortgage and Deed of Trust dated May 1, 1921, as supplemented. The bonds will mature in not less than five nor more than thirty years, and the interest rate and price

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(which shall be not less than 98% nor more than 100% of the principal amount thereof, exclusive of accrued interest, if any) will be determined by competitive bidding. Terms applicable to each series of bonds will include a prohibition, for a period of not more than five years, against redeeming the bonds, directly or indirectly, with funds borrowed at a lower effective interest cost than the cost of the applicable series. The terms will also provide that no more than one percent in principal amount of a series of bonds shall be redeemed with the use of a sinking fund in any twelve-month period prior to five years from date of issue of a series of bonds.

The number of shares of preferred stock to be issued and sold will be approved and authorized and the special terms thereof will be established by resolutions of CL&P's Board of Directors. CL&P proposes to issue the preferred stock with either a fixed dividend rate (which shall be a multiple of 0.08%) or an adjustable dividend rate. Dividend rates, price to CL&P (which shall not be less than $50 nor more than $51.375 per share), and the underwriters' compensation will be determined by competitive bidding. If the option of an adjustable dividend rate is chosen for any series of preferred stock, the initial dividend rate would be a fixed percentage rate to be set by CL&P. However, for all subsequent dividend payment periods the annual dividend per share would, subject to maximum (not higher than 15 percent per annum) and minimum (not lower than 6 percent per annum) rates that would be fixed by CL&P, be computed at a fixed percentage rate above or below the Applicable Rate (as described below), from time to time in effect, for each subsequent quarterly dividend period. The fixed rate above or below the Applicable Rate would be established by the competitive bidding process.

The Applicable Rate for any dividend period would be the highest of: (i) The Three-month Treasury Bill Rate, (ii) the Ten Year Constant Maturity Rate and (iii) the Twenty Year Constant Maturity Rate for such dividend period. If CL&P determines that for any reason one or more of such rates cannot be determined for any dividend period, then the Applicable Rate for such dividend period would be the higher of whichever of such rates can be so determined. If CL&P determines that none of such rates can be determined for any dividend period, the the Applicable Rate in effect for the preceding dividend period would be continued for such dividend period.

Depending upon market conditions at the time of the offering of the securities, if CL&P determines that preferred stock having a resale price of approximately $25 per share is likely to have a significantly better market reception than the preferred stock having a resale price of approximately $50 per share, CL&P may issue and sell the preferred stock to underwriters for deposit with a Depositary. The underwriters would then receive from the Depositary and deliver to the repurchasers in the subsequent public offering Depositary Receipts evidencing Depositary Preferred Shares, each representing one-half share of preferred stock. Holders of Depositary Preferred Shares would be entitled to withdraw one share of preferred stock for every two Depositary Preferred Shares surrendered to the Depositary. Holders of preferred stock would be entitled to withdraw two Depositary Preferred Shares for every share of preferred stock surrendered to the Depositary. Under certain circumstances, upon notice to the holders of Depositary Preferred Shares, the deposit arrangements could be terminated.

The net proceeds from the sales of the bonds and preferred stock will be used to repay in part short-term borrowings (consisting of bank loans and commercial paper) and construction trust borrowings, which were incurred to finance CL&P's construction program and, in the case of short-term borrowings, for general working capital purposes. CL&P's 1983–1984 construction program (including allowance for funds used during construction but excluding nuclear fuel) is expected to total about $1,059.2 million, of which $526.7 million is expected to be expended in 1983 and $532.5 million is expected to be incurred in 1984.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by June 9, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13909 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[812-5519; Rel. No. 13250]

Heizer Corp.; Filing of Application

May 17, 1983.

Notice is hereby given that Heizer Corporation ("Applicant"), 20 North Wacker Drive, Chicago, Illinois 60606, filed an application on March 25, 1983, for an order, pursuant to Section 61(a)(3)(B) of the Investment Company Act of 1940 ("Act"), approving the issuance of stock options to: (1) Charles L. Palmer, a nonemployee director of Applicant, and to (2) each future nonemployee director of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

A business development company as defined by Section 2(a)(48) of the Act, Applicant seeks long-term capital appreciation. Applicant has historically invested in new and developing companies whose securities have no established public market, and in mature companies—including some that are experiencing financial difficulties. Applicant typically acquires a substantial or controlling interest in its portfolio companies, and furnishes them with significant managerial assistance, particularly in the early stages of their development. Applicant represents that it has no external "investment adviser" within the meaning of the Act, and that its management makes its investment decisions in accordance with policies approved by the board of directors. In addition to overseeing Applicant's management, Applicant's board of directors devotes substantial time and attention to matter relating to its portfolio companies, thus functioning more like the board of an operating company than like the board of a traditional investment company. To attract and retain the highly qualified and motivated personnel needed to assist in the development of Applicant and its portfolio companies, Applicant instituted a stock option plan for its directors.

Applicant's nonemployee directors may purchase shares of Applicant pursuant to an order of the Commission (Investment Company Act Release No. 12136, January 4, 1982) and Applicant's own limitations. The Commission's order approved Applicant's issuance of options to purchase up to 10,000 shares of Applicant's common stock to each of its nonemployee directors. The Commission approved Applicant's exemptive request on the basis that the stock options' terms, and the manner in which Applicant issued them, appeared, based on representations in the application, to be fair, reasonable, involve no overreaching of shareholders, and complied with all applicable conditions of Section 61(a)(3)(B) of the Act.

Applicant seeks to place Mr. Palmer, and any future nonemployee director, in parity with those nonemployee directors whose stock options have been approved by the Commission. On September 20, 1982, Applicant granted options to Mr. Palmer to purchase up to 10,000 shares of its common stock at a price of $9.875 per share, Applicant's closing price on the American Stock Exchange on that day. On January 25, 1983, Applicant's board of directors concluded that Applicant should grant stock options to all future nonemployee directors comparable to those issued to current nonemployee directors.

Like the stock options earlier approved by the Commission, Applicant contends the options it seeks approval for meet all applicable requirements of Section 61(a)(3)(B) of the Act. Such options will or already: have an exercise price equal to the fair market value of Applicant's voting stock at the date of issuance, as measured by the voting stocks' closing price on a national securities exchange for that day; be issued pursuant to an executive compensation plan approved by Applicant's shareholders; be non-transferable except for disposition by will or intestacy; expire by their terms on the lesser of (1) ten years less one day from the date of issuance, or (2) 90 days after the nonemployee director ceases to be a director of Applicant for any reason except death, in which case the options will not expire for a maximum of one year from the date of death; and vest and become exercisable with respect to ten percent of the shares subject to the option on each of the first nine anniversary dates of the date of issuance, with the final ten percent exercisable sixty days prior to the tenth anniversary of the date of issuance.

Also in accordance with Section 61(a)(3)(B), Applicant represents that it has no investment adviser who receives any compensation described in Section 205(1) of the Investment Advisers Act of 1940, and that it has no profit-sharing plan of the type described by Section 57(n) of the Act. Applicant asserts that as of September 20, 1982, the date it issued the options to Mr. Palmer, the amount of voting securities that would result from the exercise of all then outstanding options issued to its directors, officers, and employees, approximated 7.4% of its outstanding voting stock. Applicant represents that it has issued no warrants, options, or rights to purchase its voting securities other than those issued to its directors, officers, and employees, and thus its stock options easily meet the percentage limitations imposed by Section 61(a)(3)(B)(iv). Applicant recognizes that Section 61(a)(3)(B)(iv) also limits the total number of shares it could issue, pursuant to options, to future nonemployee directors.

Applicant characterizes the options it seeks approval for as identical in all material respects to those already approved by the Commission, with the date of issuance, the exercise price, and the recipient's identity constituting the only significant differences. Applicant believes the stock options it issues to its nonemployee directors have and will continue to provide significant incentive to its directors to remain on its board of directors and to devote their best efforts to Applicant's future success. Applicant asserts that the stock options allow its directors to increase their ownership interest in Applicant, thereby helping to ensure a close identity of their interests with those of Applicant and its shareholders. Applicant represents that savings generated by reduced paperwork, legal expenses, and Applicant management and Commission staff time will benefit Applicant, its stockholders, the Commission, and the public. Applicant submits that the options granted Mr. Palmer and the options to be issued to future nonemployee directors are fair, reasonable, and involve no overreaching of Applicant or its shareholders insofar as the options granted to nonemployee directors represent only a small percentage of Applicant's outstanding shares (even if an option to purchase 10,000 shares were immediately exercisable, instead of over the stated ten-year period, it would represent only .0625 percent of Applicant's voting securities). Finally, Applicant submits that its total compensation program for nonemployee directors, in which stock options function as an integral component, is fair and reasonable.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13917 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[812-5462; Rel. No. 13249]

Kemper Corp.; Filing of an Application for an Order

May 17, 1983.

Notice is hereby given that Kemper Corporation ("Applicant"), Kemper Center, Long Grove, Illinois 60049, filed an application on February 28, 1983, and amendments thereto on March 3, April 15, and April 20, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the purchase of securities issued by Applicant from the provisions of Section 12(d)(3) of the Act and Rule 12d-1 thereunder to the extent requested. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

A non-operating holding company, Applicant, through its subsidiaries, offers: automobile, property, casualty, and life insurance; reinsurance; and investment services. Lumbermens Mutual Casualty Company ("Lumbermens") owned approximately 52% of applicant's common stock as of December 31, 1982. Applicant's property-casualty insurance business, operated on a regional, national, and international basis, includes automobile,

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homeowners, accident, and health insurance, and worker's compensation. Applicant's reinsurance business also operates on an international as well as national basis.

Applicant offers life insurance products through Federal Kemper Life Assurance Company and Kemper Investors Life Insurance Company ("KILICO"). Among other products, KILICO offers variable annuities and universal life insurance through broker-dealers and independent agents. KILICO provides investment management services, as a registered investment adviser, to the KILICO Money Market Separate Account, Total Return Separate Account, and Income Separate Account. KILICO owns Investors Brokerage Services, Inc. ("Investors"), a broker-dealer designed to provide discount brokerage services to Applicant's employees. Applicant represents that Investors now services retail accounts.

Applicant provides investment services through Kemper Financial Services, Inc. ("KFS") and two regional broker-dealers, Blunt Ellis & Loewi Inc. ("BEL") and Prescott, Ball & Turben, Inc. ("PBT"). KFS and its subsidiaries sponsor and distribute money market, stock, and bond mutual funds, tax-exempt unit investment trusts, and life insurance and annuity products. KFS's life insurance subsidiary, KILICO, issues the forementioned life insurance and annuity products. KFS markets most of its products through retail distributors of financial products, although it sells its no-load mutual fund products directly to the public. A registered broker/dealer and investment adviser, KFS manages pension, insurance company, and other institutional investment portfolios. KFS, as of December 31, 1982, managed approximately $19 billion of assets. KFS owns a 50.5 percent interest in Kemper-Murray Johnstone International, Inc., a registered investment adviser providing international investment management services. KFS owns fifty percent of Investors Fiduciary Trust Company, a limited purpose trust company specializing in trust services.

Licensed as a broker-dealer, BEL also acts as an investment banker. Applicant represents that BEL serves as one on the largest distributors of KFS products. Applicant describes BEL as retail-oriented, handling securities transactions primarily for individual clients, with some institutional business. BEL's parent, Loewi Financial Companies, Ltd., merged with and into a wholly-owned subsidiary of Applicant, itself owns subsidiaries that, among other things, act as an investment adviser.

Applicant acquired eighty percent of PBT, another broker-dealer, in 1982. Like BEL, PBT engages in investment banking, but PBT serves more institutional clients that BEL. Applicant represents that PBT trades for its own account in various arbitrage transactions.

Applicant has an option to purchase, from Lumbermens, Bateman Eichler, Hill Richards, Inc. ("BEHR") a broker-dealer and investment banker like BEL and PBT. Applicant claims that none of BEHR's revenues inure directly or indirectly to Applicant. On April 5, 1983, the executive committees of the boards of directors of Lumbermens and Applicant approved, subject to approval of the relief herein requested, the purchase by Applicant of all the outstanding stock of Batehill, Inc. ("Batehill"), BEHR's parent company. Batehill's subsidiaries operate real estate management and equipment leasing businesses. Applicant's other investments include a 21.4 percent interest in the common stock of Gibralter Financial Corporation of California, a savings and loan association holding company that offers discount brokerage services.

Applicant seeks an order, pursuant to Section 6(c) of the Act, exemping from the provisions of section 12(d)(3) of the Act the purchase or other acquisition solely for investment pruposes by a registered investment company, or any security issued by Applicant, provided that all of the conditions of Rule 12d-1 (or any successor rule) are satisfied but for the requirement that not in excess of fifteen percent of the total gross revenues of Applicant be derived directly, indirectly, or both, from the business of a broker, a dealer, an underwriter, an investment adviser of an investment company, or an investment adviser registered under the Investment Advisers Act of 1940 (hereinafter referred to as "Such Businesses"), and that in lieu thereof a condition be established that not in excess of twenty-five percent of the total gross revenues be derived, directly or indirectly, from such businesses. Applicant has further agreed to the condition that no registered investment company may avail itself of the exemptive order when purchasing securities issued by Applicant if, immediately after such purchase: (1) That investment company and all other registered investment compaanies having the same (or an affiliated) investment adviser own in the aggregate more than 5% of the securities of that class outstanding (in determining the amount of outstanding securities of a class, the registered investment company may rely upon information set forth in applicant's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to the Securities Exchange Act of 1934, unless such investment company knows or has reason to believe that the information contained therein is inaccurate); or (2) the ergistered investment company has invested more than 10% of the value of its total assets or, if lower, the maximum percentage permitted by its investment policies and restrictions, in any class of securities of Applicant; or (3) where the registered investment company is an open-end company, 10% or more of the gross dollar amount of shares issued by it or by any other open-end registered investment company having the same (or an affiliated) investment adviser within the preceding 24-month period (excluding shares issued upon the reinvestment of dividends) were sold in transactions where BEL, PBT, Investors, or any other registered broker-dealer subsidary of Applicant acted as broker-dealer. The foregoing 24-month period is a rolling period, *i.e.*, the most recent month is substituted for the earliest month as time passes. A change in circumstances subsequent to a purchase that complied with the foregoing condition (such as a decrease in the number of Applicant's shares outstanding, an increase in the value of the investment company's position in applicant relative to its total assets, or sales by Applicant's broker-dealer subsidiaries in excess of the 10% threshold) shall not require any disposition of Applicant's securities, but no further purchases may be made until such condition is again satisfied.

Without the requested relief, Applicant submits that registered investment companies may be precluded from purchasing, or compelled to sell, Applicant's securities, not withstanding that the acquisition or retention of such securities does not present the dangers that Section 12(d)(3) seeks to eliminate. For the year ended December 31, 1982, Applicant derived approximately eleven percent of its gross revenues (restated on an annualized pooling of interest basis to account for the BEL acquisition in May, 1982, and PBT in October, 1982, although Applicant treated both acquisitions as "purchases" for accounting purchases) from Such Businesses. If applicant purchases Batehill, it estimates that approximately 14.5% of its gross revenues would have emanated, based on December 31, 1982, annualized figures, from Such Businesses.

Applicant anticipates that, because NASDAQ began reporting Applicant's common stock on its national marketing quotation system on February 8, 1983, its increased visibility will attract more equity-oriented investment companies to its stock. Applicant asserts that it has a large institutional following and that, as of December 31, 1982, registered investment companies held approximately 9.4% of its common stock. Applicant believes that many investment companies may begin disposing of its securities if financial reports show Applicant's subsidiary broker-dealers and investment advisers contributing even 31–14% of Applicant's consolidated revenues.

Applicant acknowledges three principal risks cited to justify Section 12(d)(3): (1) the entrepreneurial risks of the investment banking business; (2) the risk that an investment company might invest in a broker-dealer in reciprocity for broker-dealer's sales of the investment company's shares; and (3) the risk that an investment company might direct brokerage to a broker-dealer that it had invested in to enhance the broker-dealer's profitability or to rescue it from financial difficulty. Applicant submits that these risks, in the context of an investment in Applicant, do not warrant the application of Section 12(d))3) to an extent greater than that contemplated by the requested order.

Applicant asserts that it will continue to have a large asset base and a considerable revenue stream not exposed to the entrepreneurial risks of investment banking, in part because the relief it requests would prohibit investment companies from investing in Applicant when Applicant's gross revenes derived from Such Businesses exceeded twenty-five percent of Applicant's total gross revenues. Applicant further states that its total, consolidated gross revenues for the year ended December 31, 1982, approximated $2.1 billion; its net income approximated $93.4 million. For the year ended December 31, 1981, Applicant represents its consolidated gross revenues approximated $2.2 billion and its net income approximated $83 million.

Applicant characterizes the risk that an investment company might invest in Applicant's securities in reciprocity for the sale of that company's shares by Applicant's broker-dealers as remote. Applicant asserts that such an arrangement might constitute a joint transaction in violation of Section 17(d) of the Act. Moreover, as a result of the third provision of the condition imposed as a prerequisite to the contemplated order, nor more than a *de minimis* relationship could exist between an investment company investing in Applicant whose securities were sold by BEL, PBT, Investors, or any other registered broker-dealer subsidiary of Applicant.

Finally, Applicant describes the risk that an investment company might direct brokerage to Applicant's broker-dealers to enhance its profitability or to rescue it from financial difficulty as virtually non-existent. Given the size and variety of Applicant's business on a consolidated basis, Applicant finds it inconceivable that any investment company could have any discernable impact upon its profitability or financial stability simply through directed brokerage commissions.

Section 6(c) of the Act permits the Commission, among other things, to grant an exemption by order upon application from any provision or provisions of the Act, or from any rule or regulation thereunder, provided such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant concludes that the risks that Section 12(d)(3) seeks to eliminate are not present in Applicant or are adequately addressed by Rule 12d–1 as sought to be modified by the application and the conditions Applicant has agreed to. Without the requested relief, Applicant believes the range of securities that an investment company may invest in might needlessly shrink despite the desirability of Applicant's securities. Applicant submits that the relief it requests is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20504. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13814 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[31-792; Rel. No. 22947]

Transamerica Delaval Inc.; Application To Be Declared Not To Be an Electric Utility Company

May 18, 1983.

Transamerica Delaval Inc. ("Delaval"), 3450 Princeton Pike, Lawrenceville, New Jersey 08648, a Delaware corporation and a wholly-owned subsidiary of Transamerica Corporation, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order declaring Delaval not to be an electric utility company under Section 2(a)(3).

Delaval is engaged, through 16 divisions, in the manufacture of precision engineered machinery and components for a variety of industrial markets. Its products include turbines, compressors, valves, pumps, forgings, filters, and diesel engines. Delaval is currently developing and testing a new 12-cylinder prototype engine at its manufacturing facilities in California. The testing process produces electrical energy which, prior to 1982, was wasted in a water rheostat. In February 1982 Delaval entered into a 3-year power sales agreement ("Agreement") with Pacific Gas & Electric Company ("PG&E"). Under the Agreement, PG&E purchases all the energy produced during the testing process, and Delaval repurchases sufficient energy to power its manufacturing plant while testing is underway from PG&E at its established rates for industrial customers.

The prototype engine drives a generator, which produces approximately 8 MW of power that is delivered and sold to PG&E. Delaval's manufacturing facilities consume

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approximately 2,000 KW per hour, purchased from PG&E, an amount far less than the 8,000 KW per hour produced during the periods of the testing process. In 1982 Delaval sold to PG&E 11.5 million KWH of electricity for approximately $690,000, and purchased from PG&E approximately 13.2 million KWH. Testing of the 12-cylinder prototype engine is expected to be completed by the end of 1983. At that time Delaval expects to replace that prototype with a 6-cylinder prototype, the testing of which will produce less electric energy for sale to PG&E.

Delaval's revenues of $690,000 from sales of electricity to PG&E constituted approximately 0.18% of its total revenues of $400,000,000 for 1982. Delaval requests an order declaring it not to be an electric utility company pursuant to Section 2(a)(3) of the Act. That section provides that the Commission shall by order declare a company not to be an electric utility company if it finds "such company is primarily engaged in [non-utility business], and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company for purposes of [the Act]."

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 15, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13911 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13234A (812-4707); Administrative Proceeding File No. 3-6244]

Union-Investment-Gesellschaft m.b.H.; Hearing on Application for an Order Permitting Registration of an Investment Company Organized in West Germany and Granting Exemptions

May 17, 1983.

On December 1, 1982, the Commission issued a notice (Investment Company Act Release No. 12863) of an application filed by Union-Investment-Gesellschaft m.b.H. ("Applicant") c/o Franz M. Oppenheimer, Esq., Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue, NW., Washington, D.C. 20006, a West German management company, on behalf of Unifonds, a West German mutual fund, for an order of the Commission pursuant to Section 7(d) of the Investment Company Act of 1940 ("Act") permitting registration of Applicant under the Act so that it may sell Unifonds shares in the United States, and pursuant to Section 6(c) of the Act granting exemptions from the following provisions of the Act and various rules adopted thereunder: Sections 10 (a), (b), (f) and (g); 12 (b) and (d)(3); 13; 15; 16; 17 (a), (e), (f), (g) and (j); 18(i); 22 (c), (d), and (e); 30 (a), (c), and (d); 31 (a) and (b); 32; and 34. The notice, which is incorporated herein by reference, gave any interested person until December 27, 1982, to file a request in writing for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted.

On December 27, 1982, a request for a hearing was filed with the Commission by the Investment Company Institute ("ICI"), which was supplemented by a letter dated March 4, 1983. Counsel to Applicant on January 31, 1983, filed a letter with the Commission responding to the contentions made by the ICI in its hearing request. The ICI states in its hearing request that it is the national trade association of the American mutual fund industry and it asserts, among other things, that granting the requested approvals and exemptions could be detrimental to both the American investing public and the American mutual fund industry. Specifically, the ICI contends that Applicant has failed to meet the standard of enforceability that must be met to permit its registration under Section 7(d) of the Act. The ICI argues, with respect to Section 7(d) of the Act, that Applicant and Unifonds would fail to comply with what it asserts are among the most important provisions of Rule 7d-1, promulgated under that section, and that such failure would seriously undermine the ability of the Commission or a shareholder of Unifonds to enforce the provisions of the Act against those companies. In addition, the ICI questions the propriety of granting Applicant's specific exemptive requests which have been made pursuant to Section 6(c) of the Act, arguing that such requests do not meet the standards for exemptive relief set forth in Section 6(c).

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to said application. Accordingly,

It is ordered, pursuant to section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act and Rules of the Commission thereunder be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice [17 CFR 201.6], and that an Administrative Law Judge to be designated by further order preside at said hearing. Any person, other than Applicant, desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission, on or before June 6, 1983, his application as provided by Rule 9(c) of the Commission's Rules of Practice (17 CFR 201.9(c)), setting forth the nature and extent of his interest in the proceeding and any issues of fact or law which he desires to controvert, or any additional issues which he deems raised by this Notice and Order by said application. A copy of such request shall be served personally or by mail upon Applicant at the address noted above, and proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of this proceeding.

The Division of Investment Management has advised the Commission that it has made an examination of the application, the request for hearing, and the response to such request by counsel to Applicant and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination.

(1) Whether, given the failure and/or inability of Applicant to agree to comply with all of the provisions of Rule 7d-1 under the Act in its offering of Unifonds shares in the United States, the conditions and representations which Applicant has agreed will govern the offering of shares will make it both legally and practically feasible to enforce the provisions of the Act against Applicant;

(2) Whether allowing Applicant to offer shares of Unifonds in the United States in the manner proposed in its application, with the resultant reliance on provisions of West German law to provide protections to investors in this country, which are allegedly substantially equivalent to those contained in those provisions of the Act which Applicant has requested exemption, is consistent with the public interest and the protection of investors;

(3) Whether it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act to grant Applicant the exemptions it seeks from the various provisions of the Act, and relevant rules and regulations thereunder; and

(4) Whether the formation of a United States corporation is a reasonable alternative to Applicant's proposed operations, and if so, what, if any, advantages or disadvantages would result from that approach.

It is further Ordered that at the aforesaid hearing attention should be given to the foregoing matters.

It is further Ordered that the Division of Investment Management shall be a party to the proceeding.

It is further Ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to Applicant at the address noted above and the Investment Company Institute; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket;" and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13912 Filed 5-23-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5271]

Alpha Venture Capital Corporation

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et. seq.*), has been filed by Alpha Venture Capital Corporation with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1983).

The officers, directors and stockholders of the Applicant are as follows:

Joaquin A. DeLima, #6 Timberline, Austin, Texas 78746, President/Director, 100%
Franklin K. Busse, 7607 Long Point Drive, Austin, Texas 78731, Vice President/Director, Secretary & General Manager
Adalex A. DeLima, #6 Timberline, Austin, Texas 78746, Director & Treasurer

An Applicant, a Texas Corporation with its principal place of business at 1013 East 38-½ Street, Austin, Texas 78751 will begin operations with private capital of $500,000.

The applicant will conduct its activities principally in the State of Texas.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Austin, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 19, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13939 Filed 5-23-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/10-5183]

Eastpac, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Eastpac, Inc., for a license to operate as a Section 301(d) small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), and the SBA Rules and Regulations promulgated thereunder.

The officers, directors and 10 or more percent stockholders of the Applicant are as follows:

Charles Ying, 2207 Fairview Avenue, No. 7, Seattle, Washington 98102, President, Treasurer General Manager and Director, 47.62 percent General Manager and Director,
Richard Ying, 2207 Fairview Avenue, No. 7, Seattle, Washington 98102, Secretary and Director, 47.62 percent
Patrick R. McDonald 312 12th Avenue, Huntington, West Virginia 25701, Vice President and Assistant Secretary
David W. Howe, 6356 136th Place, NE., No. 216, Redmond, Washington 98052, Vice President and Director

The Applicant, a Washington corporation, with its principal place of business at 1940 116th Avenue NE., Suite B, Bellevue, Washington 98004 will begin operations with $1,050,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the states of Washington, Oregon and California.

As a small business investment company under Section 301(d) the Act, the Applicant has been organized and chartered solely for the purpose of the performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small

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business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successfull operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Bellevue, Washington.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 19, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13940 Filed 5-23-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5272]

Myriad Capital, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Myriad Capital, Inc. (Myriad), 8820 South Sepulveda Boulevard, Suite 204, Los Angeles, California 90045, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)) for approval of a conflict of interest transaction.

Myriad proposes to make a $400,000 investment in the shares of Western Underwriters Insurance Company (WUIC), 11548 South Street, Suite 20, Cerritos, California 90701.

The conflict arises because Chuang-I Lin, President of Myriad, became a director of WUIC on February 12, 1982, to protect Myriad's investment after its board of Directors on February 1, 1982, made a commitment to purchase the shares.

WUIC is a new insurance company in organization. Mr. Lin was required by section 2807.03 of Title X, California Administrative Code, to purchase $200,000 of its common stock. The securities cannot be sold to the public or to Myriad until $3,250,000 is raised and a Certificate of Authority is issued by the California Insurance Commissioner. In the meantime the funds are held in escrow.

Approval is requested for Myriad, after the issuance of the Certificate of Authority, to purchase 4,000 shares of WUIC's Stock from Mr. Lin, at the cost, $200,000, and 4,000 shares from WUIC for $200,000.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 18, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13941 Filed 5-23-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0129]

P.R. Peterson Venture Capital Corp.; License Surrender

Notice is hereby given that P.R. Peterson Venture Capital Corporation, 7301 Washington Avenue, South, Edina, Minnesota 55435 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). P.R. Peterson Venture Capital Corporation was licensed by the Small Business Administration on September 12, 1978.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was accepted on March 7, 1983, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 18, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13939 Filed 5-23-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5219]

Venture Group, Inc.; Issuance of License to Operate as a Small Business Investment Company

On September 29, 1982, a notice was published in the **Federal Register** (47 FR 42860), stating that an application had been filed by Venture Group, Inc., 5433 Buffalo Avenue, Jacksonville, Florida 32208, with the Small Business Administration (SBA) for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)).

Interested parties were given until the close of business October 14, 1982, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 04/04-5219, on April 25, 1983, to Venture Group, Inc. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 18, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-13937 Filed 5-23-83; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 101
Tuesday, May 24, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting.
Thursday, May 26, 1983.
May 19, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, May 26, 1983, following the Open Meeting which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Enforcement—1—Field Investigation of Spanish International Communications Corporation, licensee of five television stations and five translators. Spanish International Network, et al.

Hearing—1—Motion for Stay of Commission Order terminating comparative renewal proceeding for a VHF television station in New York City (Docket Nos. 19991 and 19992).

2—Application for Review of Hearing Designation Order in the North Miami, Florida, comparative FM proceeding (BC Docket Nos. 82-731 through 82-742).

Court remand of the RKO General, Inc., Fidelity Television, Inc. comparative television renewal proceeding (Docket Nos. 16679-16680).

Enforcement Item 1, is closed to the public because it concerns Investigatory Records Matters (See 47 CFR 0.603 (g)).

Hearing Items 1 thru 3, are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend the appropriate portions of this meeting: Commissioners and their Assistants; Managing Director and members of his staff; General Counsel and members of his staff; Chief, Mass Media Bureau and members of his staff; Chief, Office of Public Affairs and members of his staff.

Action by the Commission:

Enforcement Item 1, April 11, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

Hearing Items 1 thru 3, May 18, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

This meeting may be continues the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-733-83 Filed 5-20-83; 10:24 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, May 26, 1983.
May 19, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 26, 1983, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—Title: Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Service (General Docket 80-112).

Amendment of Part 21 of the Commission's Rules to permit the use of alternative procedures in choosing applicants for radio authorizations in the Multipoint Distribution Service (CC Docket No. 80-116).

Application of Channel View, Inc., for an experimental (developmental) station at Salt Lake City, Utah (File No. 8938-ED-MR-82).

Summary: The Commission will consider whether a reallocation of the 2500-2690 MHz band should be made and other related matters.

2—Title: Amendment of Part 74 of the Commission's Rules and Regulations in regard to Instructional Television Fixed Service

Summary: The Commission will consider proposed changes regarding the technical requirements imposed on ITFS licensees and proposed relaxation or elimination of non-technical requirements.

3—Title: *Memorandum Opinion and Order* in the Matter of Various Methods of Transmitting Program Materials to Hotels and Similar Locations and Use of the Business Radio Service for the Transmission of Motion Pictures or Other Program Material to Hotels or Other Similar Points.

Summary: The FCC will consider the issues raised in petitions for reconsideration concerning its May 1981 decision in Docket 19671 which permitted eligibles in the Private Operational-Fixed Microwave Radio Service to distribute their products and services to customers.

Private Radio—1—Title: Amendment of Part 90 of the Rules to allow wildlife tracking telemetry in the Forestry-Conservation Radio Service, PR Docket No. 82-618, RM-4016.

Summary: The FCC will consider whether to adopt a Report and Order which will allow the use of wildlife tracking telemetry in the Forestry-Conservation Radio Service.

2—Title: Amendment of certain Amateur Radio Service Rules (Part 97) by deletion, clarification, relaxation and codification.

Summary: The Commission will consider whether to adopt an Order which would make several minor amendments to Part 97 of the Rules to delete unnecessary rules, clarify rules, revise unnecessarily restrictive rules and codify into the rules certain statutory requirements.

3—Title: Report and Order proposing to eliminate unnecessary reporting and record keeping requirements in the Maritime Services.

Summary: The FCC will consider whether to amend Parts 81 and 83 (Maritime Services) to remove certain reporting and record keeping requirements which appear to impose unnecessary burdens on the maritime public.

4—Title: Amendment of the Amateur Radio Service Rules, Part 97, to eliminate requirements that licensees maintain a detailed log of station operation.

Summary: The Commission will consider whether to adopt an Order amending Part 97 of the Rules to eliminate most record-keeping requirements for licensees of amateur radio stations.

5—Title: Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies.

Summary: The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97

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of the Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies.

Common Carrier—1—Title: in the Matter of Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Meet Caribbean Region Telecommunications Needs During the 1985–1995 Period

Summary: The Commission will consider a Notice of Inquiry to develop policies and guidelines for the construction and use of cable and satellite transmission facilities to meet demands for common carrier services in the Caribbean region for the period 1985–1995.

2—Title: Rules for Establishment and Management of an Exchange Carrier Association (Access Charges)

Summary: The Commission will consider adopting rules concerning the formation and management of an Exchange Carrier Association for access charges.

3—Title: Application of the Western Union Telegraph Company to acquire facilities for the provision of Teletex service within the United States and Germany.

Summary: .The Commission will consider whether to authorize facilities to the Western Union Telegraph Company for the provision of Teletex service within the United States and between the United States and Germany.

4—Title: MTS/WATS Market Structure. CC Docket No. 78–72, Phase IV (Access Monitoring Plan)

Summary: In the Third Report and Order in this proceeding the Commission stated it would monitor the access of the institution of end user access charges. The Commission gave the Common Carrier Bureau 90 days to develop a proposed plan. This item contains the proposed plan.

Audio—1—Title: Application for the involuntary assignment of license of station KPRQ(AM), Murry, Utah, from Murry Broadcasting Company, Inc. to Kirk Merkley, Receiver: (2) a contingent application to assign the license from the Receiver to Tri-Alpha Broadcasting Corporation: (3) license renewal application filed by Murry Broadcasting Company, Inc.; and (4) objections to the applications.

Summary: The Commission will consider the significance of the appointment of a receiver of broadcast assets by a state court where the court's decision is based on the enforcement of a reversionary interest in the station's license.

Video—1—Title: "Request for Issuance of Tax Certificate" (CSR–2258) filed November 29, 1982, by Midessa Television Company, licensee of Station KMID–TV (NBC, Channel 2), Midland, Texas.

Summary: Midessa Television Company, licensee of Station KMID–TV (NBC, Channel 2), Midland, Texas, seeks issuance of a tax certificate for its sale of its interest in Community Cablevision Company d/b/a Community Cable of Odessa.

2—Title: A. Request of RKO General Inc., for temporary waiver of the main studio rule (section 73.1125) for station WOR-TV, channel 9, Secaucus, New Jersey.

B. Motion for stay filed by Multi-State Communications, Inc., of the action of the Commission changing the allocation of channel 9 from New York City to Secaucus, New Jersey.

Summary: The Commission will consider whether a grant of the waiver request and of the motion for stay would serve the public interest.

3—Title: Application for review and request for stay of Bureau action returning as untimely filed the application of Caldwell Television Associates, Ltd. for a new commercial television station in Caldwell, Idaho.

Summary: The Commission will determine whether it properly returned the application as untimely filed.

Policy—1—Title: Amendment of Section 73.37(b) of the Commission's Rules.

Summary: On its own motion the Commission is considering an amendment to this rule governing the acceptance, processing and grant of certain AM applications.

2—Title: Amendment of FM Table of Assignments regarding Helena, Montana (BC Docket No. 80–523).

Summary: The Commission will review a Broadcast Bureau decision which assigned four Class C FM channels to Helena, Montana and will review a petition for stay.

3—Title: Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments. (BC Docket No. 80–90)

Summary: The Commission will consider changing the technical rules governing the allotment of FM broadcast channels to allow the operation of more stations.

Enforcement—1—Title: Application for Review filed by Decency in Broadcasting, Inc. of the former Broadcast Bureau's (now Mass Media Bureau) action denying its request for action against alleged obscenities and profanities broadcast by Rahall Broadcasting of Indiana, Inc., licensee of Radio Station WFBQ(FM), Indianapolis, Indiana.

Summary: FCC considers an application for Review filed by Decency in Broadcasting, Inc., asking the Commission to reverse the Mass Media Bureau's refusal to take action against Rahall Broadcasting of Indiana, Inc., licensee of Radio Station WFBQ(FM), Indianapolis, Indiana for broadcast of alleged obscene, indecent and profane material in violation of 18 U.S.C. 1464.

2—Title: License application to cover construction permit (BLH–810206 AN) and renewal application (BRH–810803 WT) and apparent operation contrary to the rules and the construction permit.

Summary: The Commission will determine the appropriate action to be taken with respect to WSEZ(FM)'s applications in light of the apparent operation contrary to the terms of the CP and the Rules.

3—Title: Application for Review of Eulogio Cardona y Beltran.

Summary: Mr. Beltran seeks review of Broadcast (now Mass Media) Bureau's ruling of November 9, 1981. The Bureau denied Mr. Beltran's personal attack complaint because he failed to show that he was attacked during discussion on a controversial issue of public importants.

This meeting may be continued the following work day to allow the Commission to compete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–733–83 Filed 5–20–83; 10:25 am]

BILLING CODE 6712–01–M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: May 24, 1983, 3:00 p.m.

PLACE: 1776 G Street, N.W., Washington, D.C., Conference Room 4G.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

Matters To Be Considered

Closed: Minutes of March 22, 1983, Board of Directors' Meeting Minute Entry
Closed: President's Report
Closed: Financial Report Minute Entry

Date sent to **Federal Register:** May 19, 1983.

[S–734–83 Filed 5–20–83; 12:49 pm]

BILLING CODE 6720–02–M

4

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Thursday, June 9, 1983.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

Matters To Be Considered

1. Ratification of Board actions taken by notation voting during the month of May 1983.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Date of notice: May 18, 1983.

[S–735–83 Filed 5–20–83; 2:34 pm]

BILLING CODE 7550–01–M

5

POSTAL SERVICE (Board of Governors)

Amendment to Notice of a Meeting.

"Federal Register" citation of previous announcement: 48 FR 22254, May 17, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Briefing Session (Closed): 1:00 p.m., Wednesday, June 1, 1983. Meeting (Open) 8:00 a.m., Thursday, June 2, 1983.

CHANGE: Preceding the briefing session on June 1, the Board will hold a meeting for the purpose of continuing the discussion of the Postal Service's possible strategies concerning future postal ratemaking, which was commenced at the Board's January 31, 1983, meeting and continued at its March 7, April 4, and May 2 meetings. The meeting will be closed to public observation, the Board having duly determined to close its discussion in accordance with the provisions of the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 245–3734.

David F. Harris,

Secretary.

[S–736–83 Filed 5–20–83; 3:06 pm]

BILLING CODE 7710–12–M

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federal register

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Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Backfilling and Grading Requirements

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816, 817, and 826

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Backfilling and Grading

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is issuing final rules relating to the backfilling and grading requirements for surface and underground mining activities. The rules are reorganized, duplication is eliminated, some specific design criteria are removed, and the backfilling and grading performance standards for steep slope mining are combined with the backfilling and grading performance standards for other types of surface coal mining operations. These changes will allow more flexibility in the backfilling and grading procedures.

EFFECTIVE DATE: June 23, 1983.

FOR FURTHER INFORMATION CONTACT: Robert A. Wiles, P.E., Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of comments and rules adopted.
III. Procedural matters.

I. Background

OSM proposed revisions on June 21, 1982 (47 FR 26760), to the performance standards that govern the backfilling and grading of areas disturbed by surface coal mining operations. The proposed rules were issued to remove some specific design criteria, to eliminate duplication in the previous rules, and to consolidate backfilling and grading standards for steep slope operations with the standards for other operations. These final rules cover the performance standards for backfilling and grading of disturbed areas in surface mining activities and underground mining activities. In addition, the rules include provisions for backfilling and grading in areas involving thin and thick overburden.

The public hearing on the proposed rules scheduled for August 4, 1982, was not held since no one requested to speak at the hearing. However, two public meetings were conducted on the proposed rules, and the records of these meetings are filed in the Administrative Record.

When the rules were proposed on June 21, 1982, it was announced that the public comment period would remain open until further notice (47 FR 26760). A subsequent **Federal Register** notice (47 FR 30266, July 13, 1982) announced that the public comment period would close at 5:00 p.m., August 25, 1982, to coincide with the closing of the public comment period on the draft Supplemental Environmental Impact Statement on the proposed rules and other related proposals. As a result of persons wishing to testify on various aspects of the proposed rules at oversight hearings before the House Committee on Interior and Insular Affairs on September 9–10, 1982, the public comment period was reopened through September 10, 1982, to allow admission of relevant portions of the hearing transcripts into the Administrative Record (47 FR 39201, September 7, 1982).

These final rules implement the environmental protection standards for surface coal mining operations as set forth in the Surface Mining Control and Reclamation Act of 1977 (Act), 30 U.S.C. 1201 *et seq.* The backfilling and grading rules for areas disturbed by surface mining activities are based on Section 515(b)(3) of the Act, and the rules for areas disturbed by underground mining activities are based on Section 516(b) of the Act. The final rules governing surface coal mining operations on steep slopes are based on the performance standards in Section 515(d) of the Act.

Backfilling and grading rules for the permanent regulatory program were promulgated on March 13, 1979 (44 FR 15411). Part 816 of those rules included general requirements for backfilling and grading (§§ 816.101 and 816.102), requirements for covering coal and acid- and toxic-forming materials (§816.103), and requirements for areas with thin and thick overburden (§§ 816.104 and 816.105). Similar requirements for the surface effects of underground mining activities were included in Part 817, except that there were no rules for areas with thin or thick overburden. In the same March 13, 1979, rulemaking, special backfilling and grading rules for steep slope operations were included in 30 CFR Part 826.

The June 21, 1982, notice proposed that §§ 816.101 and 816.103 be conbined with § 816.102 into a section on general requirements for backfilling and grading and that §§ 816.101 and 816.103 be removed. The requirements for areas with thin and thick overburden (§§ 816.104 and 816.105, respectively) that duplicated the general backfilling and grading requirements were proposed to be deleted. The same changes were proposed for Part 817, except that rules for thin and thick overburden are unnecessary for underground mining activities. In the June 21, 1982, rulemaking it was proposed that the special backfilling and grading rules for steep slope operations (Part 826 of the permanent program rules) be moved to Parts 816 and 817 as new §§816.107 and 817.107, respectively.

The final rules generally adopt the provisions of the proposed rules. The final rules include general requirements for backfilling and grading in § 816.102, requirements for areas with thin and thick overburden in §§ 816.104 and 816.105, respectively, and additional provisions for backfilling and grading operations on steep slope areas in § 816.107. In order to simplify the preamble, the following discussion of the rules in §§ 816.102 and 816.107 also applies to §§ 817.102 and 817.107, unless otherwise noted. The sections for thin and thick overburden, §§ 816.104 and 816.105, respectively, apply only to surface mining activities. As discussed below, Part 826, governing mining on steep slopes, is being removed at this time. For additional discussion of the proposed rules, see the preamble to the proposed rules published June 21, 1982 (47 FR 26760).

II. Discussion of Comments and Rules Adopted

A. General Comments

During the comment period, OSM received comments from industry and associations, individuals, environmental groups, and Federal and State agencies. More than 100 comments on the proposed backfilling and grading rules were received and evaluated in preparing the final rules. All of the relevant comments received concerning this final rule are addressed below.

Several general comments that did not address specific aspects of the rules will be addressed before discussing the changes to the proposed rules.

OSM received support for the change to the performance standards in the proposed backfilling and grading rules, but was also criticized for providing too much flexibility to the State regulatory authorities. Several commenters indicated that the move to performance standards and allowing flexibility to the States was needed.

OSM concludes that Congress intended the States to have flexibility in implementing the performance standards. Section 201(c)(9) of the Act requires OSM to assist the States in developing State programs which meet the standards of the Act "and at the same time, reflect local requirements and local environmental and agricultural conditions * * *." The standards of Section 515(b) of the Act are minimum requirements which the States may add to at their discretion. The emphasis of the rules is on performance standards; the regulatory authority may develop design criteria or other standards that are appropriate to the local program.

One commenter criticized the time and effort required to perform unnecessary and unrealistic studies with no benefit other than to satisfy the rules. However, the commenter did not identify any studies that were characterized as a waste of effort and money. OSM believes that the information required by these backfilling and grading rules is reasonable and necessary for the regulatory authority to determine that the operation is, and will be, in compliance with the Act.

One commenter requested that a technical handbook being developed by OSM to provide state-of-the-art knowledge for backfilling and grading be clearly designated for reference purposes only. This request was made to ensure that the handbook mentioned in the preamble of the proposed rules (47 FR 26762) would not be misconstrued to have the force of rules over a period of time. The commenter continued by stating that updating the handbook would be a major undertaking and that there would be times when the handbook would lack the latest information developed by industry.

The technical handbook being developed by OSM will present only guidelines for the design and construction of the backfilling and grading portion of the reclamation operation and will not have the force of law. OSM is aware that keeping the handbook current will be a major undertaking and that new developments in the industry must be conscientiously followed and incorporated into the handbook.

B. Specific Comments and Discussion of Rules Adopted

Part 816—Permanent Program Performance Standards—Surface Mining Activities

Previous Section 816.101 Backfilling and grading: General requirements

The proposed rules combined some provisions of previous § 816.101 with § 816.102, deleted others because of duplication with proposed § 816.102, and removed some specific design criteria as discussed in the preamble of June 21, 1982 (47 FR 26762).

The proposed backfilling and grading rules removed the timing and distance requirements in previous § 816.101(a) for rough backfilling and grading of contour, open pit, and area strip mining operations. The change was proposed since a detailed timetable for each step in the reclamation plan already is required by 30 CFR 780.18(b)(1), and the specific design criteria would more properly be described in the technical handbook or be set by the regulatory authority on the basis of local conditions.

Most State regulatory authorities supported the deletion of the timing and distance requirements for backfilling and grading since it grants additional flexibility to them. However, some States requested authorization to specify these requirements in their State programs. They believed some criteria are necessary to eliminate constant disputes between the regulatory authority and the operator on what constitutes contemporaneous reclamation. Another State wanted flexibility to set requirements for the timing of backfilling and grading to meet specific conditions within the State, which are needed to maintain contemporaneous and quality reclamation. One State believed that national guidance is appropriate with respect to time periods and suggested setting the times based on mine method and technology. The suggested time periods for backfilling and grading, various types of mining operations would fall within the scope of contemporaneous reclamation. It also indicated that any standard should have an "escape" clause. The escape clause would allow the regulatory authority to approve different time periods if the mine conditions or other site-specific conditions made it impossible to meet the established standards.

One commenter believed that the rationale given in the preamble to the proposed rules for deleting the time and distance requirements was insufficient. The commenter felt that the timetable in the previous rule was well explained and should not be changed because one of the chief purposes of the Act is to establish minimum national standards that all operators have to meet. The commenter also stated that specific requirements are necessary as enforcement measures, because under the proposed rules the inspector would be unable to detect violations without review of the permit and that parameters must be established within which compliance can be measured.

OSM agrees that the regulatory authorities should be able to establish schedules that specify contemporaneous reclamation. In a related rulemaking (47 FR 16604, April 16, 1982) concerning concurrent surface and underground mining activities, OSM proposed to amend § 816.100, the provision that governs contemporaneous reclamation. As part of the final rule in that rulemaking, OSM will add language to § 816.100 that will allow the regulatory authority to set time and distance requirements for mining operations that take into account conditions that are unique to their locale. Such standards established by the regulatory authority will be at least as effective as those in the previous rule which allowed the regulatory authority to grant additional time for backfilling and grading when a need was demonstrated by the operator. Under revised § 816.100, the regulatory authority will be able to establish a timetable more in keeping with State needs. OSM does not believe it imposes an undue burden on inspectors to review permits to determine the approved timing for contemporaneous reclamation. However, under the final rule a State will still have the flexibility to establish time periods for backfilling and grading as part of the State program rather than on a permit-by-permit basis.

OSM believes that different State time frames for backfilling will not affect interstate competition, as stated by one commenter. In either area- or contour-mining, an operation will generally have the economic incentive to transport spoil the shortest distance possible and to move the material only one time. In most cases spoil will be moved directly to the final location and backfilling will occur at the same time as mining. Where material must be rehandled, the costs of rehandling and backfilling would be the same regardless of the time frame specified. Thus, the primary consideration, in terms of costs for backfilling, is not the time frame involved, but rather the distance and number of times material must be handled. Under final § 816.100, the time frame chosen by each State will have to be the shortest practicable period between mining and backfilling given the particular conditions in that State. A difference among States before backfilling is completed would not confer any advantage on operators in one State over those in another. Operators in all States are still required to accomplish reclamation contemporaneously with mining. This rule merely acknowledges that "contemporaneous reclamation" is a relative term which must be interpreted

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by each State on the basis of the mining conditions in its territory. In fact, costs may be greater for some types of mining if there is a longer distance between the mining area and the backfilling operation because of additional cost in moving the overburden a greater distance.

OSM received no other comments on the requirements that were proposed of deletion from § 816.101. Therefore, § 816.101 will be removed from the final rules for the reasons stated in the preamble to the proposed rules (47 FR 26762 June 21, 1982).

Section 816.102 Backfilling and grading: General requirements

Section 816.102 sets the general provisions for backfilling and grading areas disturbed by surface mining activities. The section requires return to the approximate original contour (AOC) except under certain situations; sets standards for handling and placing spoil and coal processing waste; and establishes general performance standards for exposed coal seams, acid- and toxic-forming materials, cut-and-fill terraces, small depressions, impoundments, and final-graded surfaces. Various changes were made to the proposed rule, consisting of primarily rearranging some of the provisions, adding cross references to some of the provisions, and providing additional clarifying language. Further discussion of these changes is included with the response to comments set forth below.

Section 816.102(a) [Proposed § 816.102(b)]

Final § 816.102(a) establishes the requirements for reclaiming areas disturbed by the mining operation. These provisions were proposed as §§ 816.102 (a) and (b). OSM has reorganized § 816.102 in the final rules to specifically identify the requirements for backfilling and grading the spoil in the disturbed areas in § 816.102(a) as the first paragraph, for the convenience of the user, and has placed the exceptions to the AOC-restoration requirement, included in proposed § 816.102(a)(1)–(a)(3), as the last paragraph in § 816.102. Also, the language in final § 816.102(a) is slightly different from the proposal, due to the reorganization; however, the rephrasing does not change the meaning of the paragraph. Comments were received on each paragraph of proposed § 816.102(b) and these along with the changes to the final rules, are discussed below in sequence.

Final § 816.102(a) introduces the specific requirements by stating that the disturbed areas shall be backfilled and graded. This provision is a combination of the introductory phrase of proposed § 816.102(b) and proposed § 816.102(b)(2) which stated that spoil shall be backfilled and graded. In the final rule, OSM has replaced the word "spoil" with the more inclusive term "disturbed areas" to indicate that there are other areas that may require backfilling and grading in addition to the mined-out area and that materials other than spoil may be used as backfill. A disturbed area is defined in § 701.5 to mean "an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. . . ." With this change, the rules are more in line with the intent of Section 515(b)(3) of the Act.

Final § 816.102(a)(1) states that the disturbed areas must be backfilled and graded to achieve AOC, except as provided in § 816.102(k). Paragraph (k) indicates the circumstances under which the postmining slopes may vary from AOC for certain mining conditions. The requirement to return to AOC was in proposed § 816.102(a), which introduced the exceptions to AOC for certain mining conditions. Because no comments were required on the general requirement to return to AOC, no change has been made in this rule.

Final § 816.102(a)(2) requires that the disturbed areas be backfilled and graded to eliminate all highwalls, spoil piles, and depressions except as provided in Paragraph (h) for small depressions and in Paragraph (k)(3)(iii) for previously mined highwalls. This provision is the same as proposed § 816.102(b)(2)(i) except that a reference for highwall exceptions has been added and the small-depression reference has been reworded in accordance with the reorganization of the section.

One commenter wanted the term "spoil piles" clarified so that it does not mean excess spoil sites. The commenter noted that excess spoil is used for purposes other than backfilling and grading and is disposed of according to the revised excess spoil rules in proposed § 816.71. Another commenter wanted this paragraph changed to reflect the proposed new definition of excess spoil, which excludes spoil that is used to blend spoil from the mined-out area with the surrounding terrain (47 FR 24954, June 8, 1982).

In area mining, the spoil piles referred to in final § 816.102(a)(2) are those formed during the mining operation from shovel or dragline operations. These are the spoil piles that must be backfilled, compacted, and graded according to Section 515(b)(3) of the Act. In other mining methods, spoil piles are comprised of overburden that is disposed of in the pit area after the coal is removed. Such overburden is not considered excess spoil and must be placed according to the provisions of §§ 816.102–816.105.

Excess spoil includes material that is disposed of in a location other than the mined-out area, except for material used to blend spoil with the surrounding terrain in achieving AOC in nonsteep slope areas. Generally, excess spoil includes only that spoil that is not needed to restore AOC. The spoil piles referred to in § 816.102(a)(2) are not considered excess spoil which would be disposed of according to the provisions of § 816.71 because they are necessary to restore AOC. The spoil piles referred to in § 816.102(a)(2) remain in, or are returned to, the area from which the overburden was removed.

One commenter suggested replacing the section reference for small depressions in proposed § 816.102(b)(2)(i) with the language from § 816.102(h) that pertains to small depressions. The commenter offered no explanation for this suggested change.

The depressions which Section 515(b)(3) of the Act requires to be removed are those formed during the mining operation before any backfilling and grading of the spoil has been accomplished. They may be of any size and are not planned as part of the postmining land-use plan. The small depressions allowed to remain by the Act and § 816.102(h) are small depressions used for specific purposes and formed during the reclamation operation. OSM has retained the organization of these two paragraphs as set out in the proposed rule because to combine them would create a long and confusing paragraph.

Under final § 816.102(a)(3), the disturbed areas must be backfilled and graded to achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides. These provisions were taken from proposed § 816.102(b)(2)(ii), which was similar to the final rule except it contained a requirement that the spoil be backfilled and graded to achieve the "most moderate slope possible" after being replaced. Also, it did not include the provision to prevent slides.

A commenter believed that the word "moderate" should be deleted from the sentence "[a]chieve the most moderate slope possible that * * *" because the interpretation of "moderate" is a matter of relative judgment that does not relate to actual land use. OSM accepts the commenter's assertion that "moderate" is a matter of relative judgment and should not be adopted. After evaluating the comment, OSM has decided that it is not necessary to describe the postmining slope further since the required slope is defined by the AOC of the land. The definition of AOC states that the postmining surface configuration should closely resemble the general surface configuration of the land prior to mining. OSM believes this description of the final slope is sufficient under the Act and that this rule need only set limits based on safety considerations.

One commenter indicated that the 1.3 minimum long-term static safety factor was satisfactory as an indication of spoil stability. However, the commenter believed OSM should recognize the fact that it is not necessary to determine the factor of safety in all designs. It was pointed out that many highway fills are designed on 2*h*:1*v* slope without calculating a factor of safety during design. The commenter concluded by saying that it is not reasonable to require the operator to determine the factor of safety for embankments well above the design requirements.

The rigorousness of the analysis used to determine the safety factor for an individual structure is based to a large degree on the conditions surrounding the structure. For example, the embankment of a high dam is analyzed more rigorously than the fill for a highway embankment. The rule specifies the long-term factor of safety which must be achieved for each backfilled area. It does not specify the level of detail of analysis to be completed for every situation within the permit area. When determining the proper method of analysis for the stability of a postmining slope, the operator and the regulatory authority should consider all the conditions surrounding the structure, with particular attention given to foundation conditions and the presence of ground water.

Another commenter stated that there are local conditions where the undisturbed slope may not have had a 1.3 static safety factor prior to mining. For these situations, the commenter continued, the operator should not be required to have slopes more stable than naturally occurring surrounding slopes and that the operator should be able to document them and then have the regulatory authority approve a lesser factor of safety.

The commenter has described a situation that may be fairly common in steep slope coal mining country. However, OSM believes that the 1.3 safety factor is appropriate to meet the stability requirements of the Act in Sections 515 (b)(3) and (b)(4) and 515(d)(2). The basis for establishing the 1.3 safety factor is discussed in the preamble to the previous rules at 44 FR 15228 (March 13, 1979). OSM believes those reasons are still valid and, therefore, this rule will retain the 1.3 safety factor for the backfilled and graded area.

Final § 816.102(a)(4) states that the disturbed area must be backfilled and graded to minimize erosion and water pollution both on and off the site. This provision is derived from proposed § 816.102(b)(2)(iii), which stated that the spoil must be backfilled and graded to minimize disturbance of the hydrologic balance both on and off the site. The change was made to make the standard more applicable to reclamation operations.

Two commenters stated that the provision to minimize disturbance of the hydrologic balance in proposed Paragraph (b)(2)(iii) was redundant and that it was adequately covered elsewhere in the proposed rules. One commenter suggested using the phrase "prevent slides, erosion and water pollution" in place of the phrase "minimize disturbance of the hydrologic balance". This change, the commenter contended, would make the rules consistent with Section 515(b)(3) of the Act.

OSM agrees that the phrase in proposed § 816.102(b)(2)(iii) repeated the language of § 816.41(a) on minimizing the disturbance to the hydrologic balance and, therefore, does not need repeating. The phrase "prevent slides" has been added to final § 816.102(a)(3) in response to the comment. The remaining segment of the suggested phrase has been added to § 816.102(a)(4), with the substitution of "minimize" for "prevent". Although the commenter believed the latter term would make the rule consistent with Section 515(b)(3) of the Act, the phrase is used in the Act only with respect to the thick-overburden condition (to which proposed § 816.102(b)(2)(iii) would also have applied). OSM believes this performance standard should apply to all backfilling and grading operations in order to ensure that the standards of Section 515 (b)(4) and (b)(21) of the Act are met. Section 515(b)(4) requires all operations to stabilize and protect all surface areas, including the backfilled area, to control erosion and attendant air and water pollution. Section 515(b)(21) requires the operator to protect offsite areas from slides or damage during the operation. To provide the protection cited in the Act, OSM has clarified final § 816.102(a)(4) to require that the disturbed areas be backfilled and graded so that erosion and water pollution will be minimized. The goal of the Act is to minimize these conditions, so that language is used in the final provision.

Final § 816.102(a)(5) states that the disturbed areas shall be backfilled and graded to support the approved postmining land use and is the same as proposed § 816.102(b)(2)(iv). No substantive comments were received concerning this provision.

Section 816.102(b) [Proposed § 816.102(b)(1)]

Final § 816.102(b) states that the spoil, except excess spoil disposed of in accordance with §§ 816.71–816.74, must be returned to the mined-out area. This provision was proposed as § 816.102(b)(1), which stated that the spoil must be retained in the mined-out area unless disposal elsewhere in the permit area is approved. The rule has been changed to specifically identify the section for disposal of excess spoil and to replace the phrase "retained in" with "returned to" in response to comments.

Two commenters wanted the term "mined-out area" defined. One commenter pointed out that the mined-out area for underground mines could be either the mine workings or the surface area overlying them. The commenter further suggested that instead of using the phrase "mined-out area," OSM should require the spoil to be retained in the "area where overburden has been removed."

OSM has decided not to define the phrase "mined-out area" in the final rules. OSM believes the term "mined-out area" is sufficiently descriptive for surface mining activities to mean the area of the mining pit where the coal has been removed. Additional discussion of the meaning of this term in relation to underground mines is included in the preamble to §817.102 covering underground mining activities.

Several commenters wanted to allow disposal of spoil anywhere in the permit area instead of being limited to the mined-out area and suggested deleting the phase requiring approval to dispose of spoil elsewhere in the permit area. They believed the mined-out area was too restrictive and that this limited the flexibility of the operator. They pointed out that spoil from first cuts of surface mines and faceup areas of underground mines cannot be retained in the mined-out area because there is no mined area at that time. The commenters suggested requiring only that the spoil be retained

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in a permitted area. They argued this would give the operator flexibility to place the spoil on the downslope in nonsteep slope areas, along the contour, or anywhere else in the permit area in keeping with "common practice." Environmental protection would be ensured, they argued, because any spoil disposal area would have to be permitted.

OSM has not adopted the proposed provisions specifically requiring the regulatory authority to approve the location for disposal of spoil within the permit area which is outside the mined-out area. A specific approval process is unnecessary because the rule prohibits the indiscriminate placement of spoil in the permit area since upon permanent placement it must either be returned to the mined-out area, disposed of as excess spoil, or placed in accordance with § 816.102(d). Also, the reclamation plan prepared in accordance with § 780.18(a)(3), which requires a plan for backfilling, would show the anticipated locations for the disposal of spoil and must be approved by the regulatory authority. The approval process for placement and disposal of spoil is a part of the total process of reviewing and approving a permit application for a surface coal mining operation under 30 CFR Parts 780 and 784 and would be covered by these parts.

The commenters are correct in stating that spoil generated by the first cut of an area mine or during faceup operations of an underground mine may be temporarily placed in the permit area on a surface outside the precise area from which the spoil was removed. Ultimately, however, it must be returned to the area from which it was removed or disposed of as excess spoil. Thus, the phrase "returned to" rather than "retained in" the minded-out area is used in final § 816.102(b).

One commenters advocated adding the language "in accordance with the approved postmining land use in the reclamation plan" after introducing backfilling and grading at the beginning of proposed § 816.102(b)(2). By using this language, the commenter believed the regulatory authority would be able to ensure that the procedures to eliminate highwalls, spoil piles, and depressions were presented to its satisfaction and the operator had an approved set of plans to follow during the reclamation operation. Also, the inspector would then have a set of plans against which to check actual performance.

The final rule has not been changed from the proposed rule because final § 816.102(a)(5) states that the area must be backfilled and graded to support the approved postmining land use. Since mining cannot begin without an approved permit, it is not necessary to add the language suggested by the commenter.

Section 816.102(c) [Proposed § 816.102(b)(3)]

Final § 816.102(c) was proposed as § 816.102(b)(3) and states that spoil and waste materials must be compacted where advisable to ensure stability or to prevent leaching of toxic material. Because of the reorganization of the section and because waste materials may be used for backfilling under § 816.102(e), the term "spoil and waste materials" is added as the subject of the sentence. The term "toxic material" is added as a phrase modifying "leaching," in keeping with the language of Section 515(b)(3) of the Act. No comments were received on this provision.

Section 816.102(d) [Proposed § 816.102(c)]

Final § 816.102(d) allows spoil to be placed on the area outside the mined-out area in nonsteep slope areas in order to restore the AOC by blending the spoil into the surrounding terrain, if the following three requirements are met: (1) All vegetation and organic material must be removed from the area, (2) topsoil must be treated in accordance with § 816.22, and (3) spoil must be backfilled and graded in accordance with § 816.102. OSM has replaced the proposed phrase "active mine working" with the phrase "mined-out area" and has made an editorial change to § 816.102(d) to clarify that the provision provides for requirements for the area outside the mined-out area in nonsteep slope areas.

The comments generally supported the proposal to allow spoil to be placed on the area outside the mined-out area in nonsteep slope areas for blending purposes. One commenter asserted that spoil from the first cuts on area mines should not be treated as excess spoil, but gave no justification for this position. Spoil from the first cut or any other cut may be treated as excess spoil if it is not needed to achieve AOC. One commenter proposed allowing spoil to be placed in draws and valleys where slopes are too steep for safe topsoil removal. The commenter seemed to indicate that rather than removing the topsoil, a topsoil substitute would be used in the area to adequately facilitate quality reclamation. The commenter offered no background information or justification for this procedure.

The provision allowing blending of spoil has been retained in the final rule. OSM does not intend that there be a difference between the treatment of areas used for blending and the areas mined for coal. The environmental protection performance standards in Section 515 of the Act apply to the blended area to the same extent as they do to other disturbed areas. Paragraph (d)(3) states that the blended area must be backfilled and graded in accordance with this section; therefore, the blended area must be reclaimed to the same performance standards as other disturbed areas.

Another commenter advocated adding a fourth requirement in Paragraph (d) to state that the blended areas must meet all the other performance standards of Part 816. Such a provision is unnecessary since § 816.102(d)(3) makes all of the backfilling and grading provisions mandatory and the rest of the provisions of Part 816 will apply where relevant.

One commenter contended it was unclear how the regulatory authority and the mine operator would distinguish between material used for blending and excess overburden [excess spoil]. The commenter asserted that under the previous rules, excess overburden [excess spoil] was any material placed outside the active mine workings. The commenter concluded by saying that OSM should discuss methods of making the distinction in this preamble to the final rules.

As previously discussed, OSM is changing the definition of excess spoil to mean material not required to achieve AOC that is disposed of outside the mined-out area but not including material used in blending under this section. The distinction between the applicability of the excess spoil rules and this rule depends upon whether the material is being used to achieve AOC. If the spoil used for blending the mined-out area into the surrounding terrain is used to achieve AOC, it may be so placed in accordance with § 816.102(d). If it is not used to achieve AOC, it is excess spoil to which the provisions of § 816.71 apply. It is only in nonsteep slope areas that a distinction needs to be made between material used for blending and that placed in an excess spoil fill. In steep slope areas, all spoil disposed of outside the mined-out area requires approval according to the provisions of § 816.71.

One commenter believed that the requirement to remove all vegetative and organic material from the area to be used for blending is too restrictive, especially if the topsoil has already been removed from the area. The commenter believed early successional herbaceous and/or shrubby species

should not be regrubbed but that larger trees should be removed.

The commenter did not explain why the delay between removing topsoil and placing spoil on the area would be long enough to allow reestablishment of vegetation. In fact, allowing such a long time to elapse after topsoil removal could likely cause increased erosion. The provison has not been changed in the final rule and the requirement to remove all vegetation and organic material applies to an area whether it has been grubbed once or not. Clearing, grubbing, and removing the topsoil should be done just prior to placing spoil over the area to prevent erosion and regrowth of vegetation. The preparation and reclamation of areas outside the mined-out area used for placement of spoil should follow the same process as is used in the areas from which the overburden and coal is removed and where spoil is normally placed.

Section 816.102(e) [Proposed §816.102(d)]

Section 816.102(e) allows disposal of coal processing waste and underground development waste in the mined-out area if it is done in accordance with §§ 816.81 and 816.83, except that a long-term static safety factor of 1.3 rather than 1.5 must be achieved. The term "mined-out" is substituted for the word "backfilled" in the final rule to accurately describe the area suitable for disposal of such waste materials. No changes were made to the paragraph as a result of comments.

Section 816.102(d) was supported by industry commenters who believed coal processing waste and underground development waste could be safely placed in the mined-out area without harm to the hydrologic regime. The proposal was opposed by commenters who believed that OSM was allowing waste in the mined-out area without adequate regulation, which might result in numerous and serious problems. One of the commenters continued that by deleting the previous 4-foot-cover requirement, OSM would be seriously deficient in meeting its responsibility to establish minimum national environmental protection performance standards.

OSM does not believe it is necessary to include additional design criteria, such as the previous 4-foot-cover requirement for acid- and toxic-forming materials in this section. That provision was suspended pending rulemaking to allow treatment of those materials as an alternative to covering them (47 FR 67943, November 27, 1979).

Referencing the coal mine waste disposal performance standards of §§ 816.81 and 816.83 provides the necessary environmental protection requirements for placing coal processing waste and underground development waste in the mined-out area. In addition, the provision allowing disposal of waste in the mined-out area does not waive any other applicable requirements, such as those pertaining to the protection of the hydrologic balance and controlling drainage from acid- and toxic-forming materials. Thus, there is no basis for the assertion that the provisions allows for waste disposal without adequate regulation.

One commenter stated that by allowing coal waste in the mined-out area, OSM would be increasing the possibility of acid mine drainage and the release of toxic metals. OSM is aware that there is the possibility of problems caused by the disposal of coal mine waste in mined-out areas. However, this potential is no greater, and may be less than, disposal in any other area. In fact, this method can be the most environmentally desirable approach provided there is enough space and suitable nontoxic overburden to cover both the wastes and any toxic material from the mine. With proper burial and treatment, there should be no long-term problems with placing coal waste in mined-out areas.

Another commenter stated that because of the potential fire hazard in coal processing refuse, it must be placed no less than 10 feet from a coal seam and isolated from the seam with a noncombustible barrier. The commenter continued that if more than one coal seam is exposed in the highwall, the barrier must be the length and height of the highwall. Also the material must have 90-percent Proctor compaction. In addition, the commenter said that because of changes in drainage requirements, waste should be eliminated from fill, but that if it was to be allowed, impermeable material must be used as a barrier to isolate the refuse from the water-drainage areas.

OSM does not believe it is necessary or appropriate to establish specific design criteria, as proposed by the commenter. Incorporation in § 816.102(e) of OSM's revised rules on coal processing waste should alleviate these concerns. A full discussion on the treatment of coal processing waste will be contained in the preamble to the revised coal mine waste disposal rules, §§ 816.81–816.89. Those rules will incorporate the rules of the U.S. Mine Safety and Health Administration, 30 CFR 77.214, which require clay or inert material to be placed between new refuse piles and old refuse piles or exposed coal beds. Also, 30 CFR 77.215 specifies the compaction requirements to minimize air and water infiltration into refuse piles and reduce the possibility of combustion (OSM's proposed rules at 47 FR 26602–26603, June 18, 1982). For contour suface mining situations, it has been recommended that the waste be encapsulated by 3 feet of impermeable material at the base of the cut (U.S. Environmental Protection Agency, 1973, pp. 79–80). According to another article, on fires in coal processing waste, burning refuse has been extinguished by sealing and smothering with 2 feet of compacted clay (U.S. Mining Enforcement and Safety Administration, 1975, p. 7.15). OSM has not been able to locate references that show it is necessary to isolate coal processing waste from a coal seam by a distance of 10 feet, or, for more than one coal seam, that the barrier must be the length and height of the highwall as advocated by the commenter. By adhering to the above-cited rules, coal processing can be successfully disposed of in backfilled areas.

One commenter suggested that if it was allowable to mix the waste throughout the backfilled spoil the results might be better than if the waste was in flat, compacted layers, as long as the hydrologic regime is not significantly changed in the area. Another commenter believed there would be no problem in placing waste materials in mined-out areas as long as the waste is sufficiently covered with 4 or more feet of overburden or topsoil.

The final rules do not prevent coal processing wastes from being mixed with the overburden material if the performance standards are met. This is one factor that could be considered during the design of a backfill area containing coal waste.

A State regulatory authority explained that under its program when waste material is placed in a backfilled area, the area is treated as a waste structure and must be designed to a 1.5 safety factor. It stated that with a 1.3 safety factor, the operator will need to make a greater demonstration of stability and that there will need to be a more stringent review by the regulatory authority.

A State regulatory authority could adopt a 1.5 static safety factor for such situations. However, OSM believes that a 1.3 static safety factor is adequate. The mere characterization of a material as waste does not make it less stable than other materials not so classified. The specific properties of the material, such as water content, particle size, coefficient of friction, and others, must

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be accounted for in achieving fill stability. If the required static safety factor can be achieved, it is irrelevant for stability purposes that waste is included in the backfill. In addition, OSM believes that a 1.3 static safety factor provides the necessary level of confidence because, in general, backfilling occurs on solid benches or mining-pit areas for which the foundation characteristics have been reasonably determined. Furthermore, a State has the prerogative of setting more stringent criteria for the disposal of coal waste than the performance standards published by OSM.

One commenter proposed deleting the references in § 816.102(e) to §§ 816.81 and 816.83 and the 1.3 long-term static safety factor and replacing them with a reference to the hydrologic-balance rules. The commenter expressed the need for giving the design professional more latitude. Further, the commenters contended that the rules should address backfilling in such a manner as to prevent detrimental impacts to vegetation and water quality and added that a reference to §§ 816.41 and 816.48 would be more appropriate.

The language of the proposed paragraph has not been changed. OSM believes the reference to the coal mine waste rules is appropriate to ensure the proper disposal of coal waste. Reference to the coal waste rules, moreover, does not waive the general requirements for protection of the hydrologic balance.

Section 816.102(f) [Proposed § 816.102(e)]

Final § 816.102(f) contains the requirements for covering or treating exposed coal seams, acid- and toxic-forming materials, and combustible materials to control the impact on surface and ground water, to prevent sustained combustion, and to minimize adverse effects on plant growth and land use. After evaluating the comments, OSM has made no substantive changes to the proposed rules except to clarify that the "land use" referenced in the proposal is the approved postmining land use.

One commenter supported OSM's proposed deletion of the 4-foot-cover requirement for acid- and toxic-forming materials from the previous rules and replacement with a provision to either treat or bury these materials. The commenter continued that this provides the operator with a heretofore unavailable option for disposing of these materials because some spoils do not require 4 feet of cover and treatment can be more economical and adequate than coverage under such conditions.

Two commenters advocated that OSM retain the minimum 4-foot-cover requirement for acid- and toxic-forming material. They believed that without a design criterion, the term "adequate" in § 816.102(f) would lead to arguments between the regulatory authority and the operators as to how much cover was adequate. Also, they believed the changed requirements would require more effort in the review of the design for the cover. The commenters concluded that the regulatory authority needs to be as certain as possible about adequacy of cover because if the cover fails, the operator may need to redisturb additional areas to borrow materials to cover the toxic materials properly.

OSM is aware of the many potential problems that attend the proper disposal of toxic materials. However, a national standard for cover thickness is not the solution to these problems. Instead, the regulatory authority should set whatever standards, specific or otherwise, which provide the best solution within the State. The problems of interpretation will be avoided by allowing the State regulatory authorities to set and explain standards designed for local conditions. These standards must be based on the national performance standard requiring successful covering or treatment in accordance with the provisions of § 816.102(f).

One commenter indicated that problems such as inadequate rooting depth for plant growth and contamination and damage to the hydrologic balance would be caused by removing the 4-foot-depth requirement. The commenter stated that OSM provided no analysis, data, or technical literature to support the deletion of the requirement. Also, the commenter pointed out that one study (Murray, 1978) recommended that in Appalachia, toxic spoil be covered with 5 feet of soil.

In one respect, this comment actually supports OSM's new rule. The commenter asserts that some areas need 5 feet of cover. In such situations, OSM would not be adequately protecting the environment by specifying only 4 feet as a national standard.

Also, the above-referenced document points out that the characteristics of the cover material may cause burial depth to vary from place to place and region to region. In a study on acid formation from a restored refuse pile, no significant variation in acid production resulted with a cover of 1 foot, 2 feet, or 3 feet of soil (Murray, 1978, p. 321). Since the proper burial depth for acid- and toxic-forming material will vary in different locations, OSM will rely on regulatory authorities to ensure that the performance standard is met. Some considerations for establishing the depth of cover are the approximate rooting depth for the plants, the depth needed to place the refuse below the zone of significant oxidation (Murray, 1978, p. 140), the difficulty of placing the cover material in layers, and the erosion potential of the site. In addition, OSM believes that treatment of acid- and toxic-forming materials or a combination of treatment and cover may, in some situations, be a more effective method of eliminating the problem. Therefore, the final rule allows this as an alternative to covering with nontoxic material.

Section 816.102(g) [Proposed § 816.102(f)]

Cut-and-fill terraces are allowed by final § 816.102(g) where they are compatible with the approved postmining land use and are needed to conserve moisture, ensure stability, and control erosion or where specialized grading, foundation conditions, or roads are required. The proposed rule has been changed as a result of a commenter's suggestion to clarify that the regulatory authority must approve cut-and-fill terraces.

Mixed comments were received on the proposed revision of the cut-and-fill terrace provisions. Commenters supporting revision of the rules cited increased operator discretion in constructing the width of the terraces and no foreseeable impacts from wider terraces as long as the fill material is retained on the solid bench. One of the commenters recommended that the rule state that the regulatory authority must approve the cut-and-fill terraces. Those commenters in opposition to the changes said that the change is no more than an attempt to defeat the AOC requirements and that OSM has established a major loophole in the AOC requirements. The commenters believed that the only way to remedy the problem is to return to the design standards of the previous rule.

Terraces are an acceptable grading technique for achieving the surface configuration after a mining operation. They are specifically authorized by the definition of AOC in Section 701(2) of the Act as long as "the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain * * *." At the suggestion of a commenter, the proposed rule has been changed to show that the regulatory authority may approve cut-and-fill terraces. The final rule clarifies that the

regulatory authority will review the terrace design for meeting the objectives of the approved postmining land use. Regulatory authority approval of cut-and-fill terraces shall prevent potential abuse. Thus, additional design standards are not necessary for proper execution of the provision. Terraces are standard soil-conservation practices for controlling the runoff of water and reducing the soil loss caused by erosion.

For terraces to be most effective in reducing sheet and rill erosion and retaining runoff in areas of inadequate rainfall, the terrace design must follow accepted engineering practices including considering the specific conditions of the site. Terrace design involves selecting the proper spacing and location of the terraces and the design of the channel with adequate capacity to carry the runoff from the land area above the terrace. In determining the physical features of terraces, the operator and the reviewing officials should consider such soil characteristics as infiltration and water-holding capacity, cropping and soil-management practices, and climate, which includes intensity, duration, and distribution of precipitation (Schwab and others, 1966, pp. 224–248). The necessity for site-specific design of terraces was emphasized for surface mining operations in arid and semiarid regions of the western U.S. where terraces are used for erosion control and moisture conservation. Some of the terraces in those regions are designed to retain all of the onsite precipitation. (Verma and Thames, 1978, pp. 401–402).

One commenter remarked that if terraces are wider than 20 feet; which was not allowed in previous rules, it is harder to stablize the backfill. No additional clarification of the statement was given by the commenter. OSM believes that properly designed terraces using accepted engineering practices could enhance the stability of the disturbed area.

Another commenter believed that the qualifiers in the provisions for cut-and-fill terraces set requirements that seem to discourage the use of agricultural terraces. The provision of special concern was that terraces had to be compatible with the approved postmining land use and that their width had to be adequate to ensure the safety, stability, and erosion control of the postmining land-use plan. The commenter wanted the section redrafted to encourage the use of contour and level bench terraces on reclaimed lands to facilitate sediment control and successful revegetation. The commenter suggested using terraces for enhancing the value of reclaimed areas for agricultural lands, but added that agricultural terraces should not be used in lieu of reducing postmining slopes to at least premining slope conditions.

The language in the final rule does not discourage agricultural use of reclaimed land. Terraces are a physical feature that could be compatible with various postmining land uses, including agriculture. They should be identified in the land-use plan and approved by the regulatory authority. An agricultural land use could be approved just as could any other postmining land use.

Section 816.102(h) [Proposed § 816.102(g)]

Final § 816.102(h) states that small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation. The creation and enhancement of wildlife habitat was not included in the proposed rule.

One commenter advocated constructing small depressions to create and enhance wildlife habitat. It was suggested that this new use for small depressions be added to proposed § 816.102(g). OSM has accepted the comment that benefiting wildlife is a reasonable use of small depressions. Section 515(b)(3) of the Act allows small depressions as authorized pursuant to the Act. Section 515(b)(24) of the Act requires fish, wildlife, and related environmental values to be enhanced where practicable. OSM believes small depressions could, in certain cases, be a practicable means of benefiting wildlife and increasing wildlife habitat. The final rule reflects this position.

Another commenter described using depressions as a means of requiring less backfilling in the final cut of an area mine. A depression would be created between the sloped highwall and the last spoil ridge which would be terraced. The depression would undoubtedly collect water during some periods of the year. However, the Act, in section 515(b)(3), does not allow depressions to circumvent the AOC restoration requirements. Also, the depressions described by the commenter would not qualify as small depressions under § 816.102(h). Depressions cannot substitute for fully backfilling the mining pit. Congress intended that depressions that would collect and store water be barred from the surface area unless permanent impoundments are approved (Senate Report 95–128, 95th Congress, 1st Session, 1977, p. 99). Therefore, the depressions described by the commenter are not allowable.

Section 816.102(i) [Proposed § 816.102(h)]

Permanent impoundments on backfilled areas may be approved according to final § 816.102(i) if they meet the requirements of §§ 816.49 and 816.56 and if they are suitable for the approved postmining land use. No changes in the rule resulted from OSM's evaluation of comments; the only change will be to note the proper reference for impoundments, §§ 816.49 and 816.56. A commenter stated that construction of impoundments should be forbidden in overburden which contains high concentrations of sulfur or iron because impoundments in these areas will increase the potential for acid mine drainage. The commenter also stated that OSM has not addressed how this rule will affect the stability of the backfilled and graded spoil. Section 515(b)(8) of the Act provides performance standards for permanent water impoundments. That section requires that water impoundments not degrade the water quality below established water-quality standards. Under § 816.102(i), the water impoundments must be designed and constructed according to the provisions of § 816.49, which considers the quality of water and the stability of the structure as part of the design process. Since properly designed impoundments may be authorized in the approved mining and reclamation plan and permit, there is no need to duplicate those provisions as part of this rulemaking. Properly designed impoundments will not increase the potential for acid mine drainage nor decrease the stability of the backfill. The impoundment should not affect the stability of the backfilled area since the operator must achieve a static safety factor of 1.3 for the backfilled area, and the static safety factor for the impoundment must comply with the requirements of § 816.49. The permit review process will allow the regulatory authority to determine the feasibility of impoundments.

Proposed § 816.102(i)

Proposed § 816.102(i), which stated that overland and shallow ground-water flow from undisturbed areas and flow in ephemeral streams must be controlled by diversions and other water-control measures in accordance with § 816.41(f), has not been adopted. The provision concerning ground-water flow is not included in the final rules because all aspects of backfilling and grading are subject to the hydrologic-balance provisions of §§ 816.41–816.46. It was a redundant provision since it merely

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referred the operator to the appropriate section.

A commenter wanted the provision on controlling overland and shallow ground-water flow in proposed § 816.102(i) removed from the final rule because existing § 816.43 would have been removed under proposed OSM rule changes. Section 816.43 was deleted from the proposed hydrology rules published June 25, 1982 (47 FR 27712), but the requirements of that section were to be incorporated in proposed § 816.41(f). Subsequent to publication of those proposed rules, the provisions on controlling overland and shallow ground-water flow are returned to § 816.43 and the reference to them in § 816.102 is not needed.

Section 816.102(j)

Final § 816.102(j) is unchanged from the proposed rule. This section states that preparation of final-graded surfaces must be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage. No comments were received on the provision. For further explanation of this provision, see the preamble to the proposed rule (47 FR 26763, June 21, 1982).

Section 816.102(k) [Proposed § 816.102(a)]

Final § 816.102(k) states that the postmining slope may vary from AOC under certain conditions. These conditions are limited to when the standards for thin overburden in § 816.104 are met (§ 816.102(k)(1)); the standards for thick overburden in § 816.105 are met (§ 816.102(k)(2)); or when approval is obtained for any of the following situations—mountaintop removal in accordance with, a variance from 30 CFR 785.14 AOC requirements (in accordance with § 785.16, or incomplete elimination of highwalls in previously mined areas in accordance with § 816.108 (§§ 816.102(k)(3)(i), (k)(3)(ii), and (k)(3)(iii), respectively). Changes made to the proposed provisions included adding cross references where appropriate and clarifying some of the provisions of the proposed rule. Although the thick-overburden situation has been included as an exception to the AOC-restoration requirement, the exception is allowed only after AOC has been restored.

Proposed § 816.102(a)(3) would have required the postmining slopes to be returned to AOC except when a variance was obtained from the regulatory authority for mountaintop removal, alternative postmining land use or remining. For the final rules, OSM has replaced the word " variance" with "approval" because the word "approval" more accurately describes the action of the regulatory authority during the permitting process with regard to mountaintop removal and incomplete elimination of highwalls. Not requiring a return to AOC for alternative postmining land uses under § 785.16 is a variance process that is referred to as such in final § 816.102(k)(3)(ii).

One commenter believed that proposed § 816.102(a)(3)(ii) was totally inadequate in the treatment of variances from the AOC requirement. The commenter asserted that since there is little opportunity for operators to upgrade land-use classification as would be required by proposed § 816.133(d), the postmining surface contour would have to be restored to AOC and consequently the operator would not be able to realize some environmental improvements on the land surface. The commenter provided examples of such environmental improvements as elimination of steep slopes, reduction of sedimentation, and improvement in grazing and wildlife habitat. At the same time, the commenter felt that a cost savings could be realized through efficient earthwork design. The commenter believed that the rules should not ignore these possibilities and that requiring return to AOC was too great a restriction.

Returning the postmining land surface to AOC is generally required by Section 515(b)(3) of the Act, which is the basis for the backfilling and grading rules. The Act does not allow a general variance from the AOC-restoration requirement. The provisions for obtaining a variance from the requirements to restore the land to AOC, which were proposed in §§ 785.16 and 816.133(d) (47 FR 16152, April 14, 1982), must satisfy the conditions of Section 515(e) of the Act.

Section 785.16 contains the permitting procedures for obtaining a variance from AOC requirements, and proposed § 816.133(d) contains the performance standards for the variance from AOC for an alternative postmining land use. Since final revisions to §§ 785.16 and 816.133(d) are in another rulemaking, there is no need in this preamble for a detailed discussion of variance procedures except for the reference to § 785.16 in § 816.102(k)(3)(ii). It is sufficient to note that in some situations the performance standards in § 816.133(d) would allow many of the improvements cited by the commenter.

A commenter suggested that when the final rules are written, the land-use variance provision of § 816.102(k)(3)(ii) should reference § 816.133(d) as an aid to the reader. OSM has retained the reference to the permit application process in § 785.16 in the final provision of § 816.102(k)(3)(ii). OSM believes § 785.16 is the proper cross reference because that section includes the permit application process for obtaining a variance from AOC for the postmining land use. The phrase "land-use variances" which was proposed to introduce the paragraph has been replaced by "a variance from approximate original contour requirements." This phrase is more in keeping with §§ 785.16 and 816.133(d).

Another commenter asserted that hill-and-depression topography is the result of backfilling and grading the final-cut area of an area mine. The commenter did not relate how the postmining surface contour would be different from the premining surface contour or why such a contour would not necessarily satisfy the AOC-restoration requirement. In response, it is possible for hill-and-depression topography to meet AOC requirements, depending on the premining topography. The regulatory authority would determine during the review and approval process of the permit if the proposed topography would meet AOC requirements.

An exception from the requirement to return to AOC for those situations in which the incomplete elimination of highwalls is allowed in previously mined areas is allowed by § 816.102(k)(3)(iii). A commenter concurred with the variance from AOC for remining of previously mined areas but, without any explanation, did not agree with allowing a variance from elimination of the highwall. Another commenter believed that the rule should include a reference to the rules on remining. OSM agrees with the latter comment, and the final rule will include a reference to § 816.107(e). If proposed § 816.106, as set forth in OSM's "Final Environmental Impact Statement OSM-EIS-1: Supplement" is adopted, appropriate conforming amendents will be adopted.

Previous Section 816.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials

The preamble for the proposed rule discussed moving the requirements for this section to proposed § 816.102(e), and the reasons were outlined at 47 FR 26763–27674 (June 21, 1982). OSM received no comments on this proposal; therefore, § 816.103 will be deleted in the final rule and its essential provisions transferred to final § 816.102(f) as discussed above.

Section 816.104 Backfilling and grading: Thin overburden

Proposed § 816.104 applied to thin-overburden situations where replacement of all spoil and waste materials in the permit area would be insufficient to restore the disturbed area to AOC. In addition, the proposed rule required the operator to "backfill, grade, and compact (where advisable)" those areas of thin overburden using all available spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose and to meet the other requirements of § 816.102. The language of the proposed rule was the same as that of Section 515(b)(3) of the Act. The proposed rule was changed as a result of comments in order to specify more clearly which provisions of § 816.102 an operator must meet in thin-overburden conditions.

One commenter objected to using the term "insufficient" in describing the amount of spoil available to the operator to use in achieving AOC. The commenter believed that the term "insufficient" was unenforceable and provided too much discretion. The commenter asserted that such usage would require that regulatory authority would be required to develop specific guidelines for mining in thin-overburden areas. OSM disagrees with this comment. In a thin-overburden situation the operator must meet all of the performance standards, except for the AOC-restoration requirement. The operator must demonstrate in the permit application that there is insufficient material to return to AOC. With this demonstration, the regulatory authority will have an objective decision to make as to whether there is enough spoil to return to AOC. There are no unreasonable problems of discretion associated with the final rule. The final rule follows the thin-overburden language in the first proviso of section 515(b)(3) of the Act.

Two commentors pointed out some areas of confusion as to which provisions in § 816.102 apply to thin-overburden situations. The commenters were not sure which requirements in § 816.102 would be waived if insufficient spoil was available to the operator. As previously discussed, the only exception to the performance standards of the Act for thin-overburden conditions is the return to AOC provision. The rule that requires all available spoil and waste material be used to attain the lowest practicable grade but not to exceed the angle of repose. All of the provisions in § 816.102 apply to thin overburden except Paragraph (a)(1). The backfiling, grading, and compacting process is the same regardless of the thickness of the overburden above the coal. Therefore, the phrase "backfill, grade, and compact" has not been adopted from proposed § 816.104(a). Section 816.104(b) specifically addresses which backfilling and grading performance standards must be met when the overburden is thin. The final rule will show that the only requirement waived for thin-overburden situations is return to AOC.

In addition, one commenter wanted the rule to state that use of borrow areas is not intended for thin-overburden situations. The commenter indicated this could be accomplished by specifying that only spoil and waste materials generated from the mined-out areas would be used for backfilling and grading in § 816.104(a). Since return to AOC is not mandated, borrow areas are not required in thin-overburden situations to reach AOC.

In summary, the final rule for thin-overburden situations includes the same description of thin overburden as did the proposed rule, the phrase "backfill, grade and compact" has been deleted in § 816.104(a), and § 816.104(b) provides that thin overburden must meet the requirements of §§ 816.102(a)(2)–816.102(j). Except for these changes, the final rule is the same as the proposed rule, which is further explained in the preamble to the proposed rule (47 FR 26764, June 21, 1982).

Section 816.105 Backfilling and grading: Thick overburden

Proposed § 816.105 applied to thick-overburden situations where the volume of the spoil and other waste materials was more than sufficient to restore the disturbed area to AOC. In addition, the proposed rule required the operator to "backfill, grade, and compact (where advisable)" the excess overburden to attain the lowest practicable grade but not more than the angle of repose, meet the other requirements of § 816.102, and dispose of any excess spoil in accordance with §§816.71–816.74. The language of the proposed rule was the same as that of the second proviso of Section 515(b)(3) of the Act. The final rule has been changed as a result of evaluation of comments to specify more clearly the provisions of § 816.102 that an operator must meet for thick-overburden conditions.

One commenter objected to using the term "more than sufficient" to describe the amount of spoil available to the operator for achieving the AOC. The commenter believed it was unenforceable and provided too much discretion to use the term "more than sufficient". This would require the regulatory authority to develop specific guidelines for mining coal in a thick-overburden area, the commenter argued.

Another commenter wanted OSM to emphasize the exclusion of thick-overburden operations from the requirements of proposed § 816.102(a) by requiring that they meet the other requirements of proposed § 816.102(b).

In a thick-overburden situation the operator must meet all of the performance standards of the rules except that the operator, after achieving AOC, may exceed the AOC requirement. The amount of excess overburden is a site-specific condition and easily documented. Therefore, each permit application requesting consideration under this section should be evaluated by the regulatory authority. The final rule follows the thick-overburden language in Section 515(b)(3) of the Act and will retain the proposed description of thick overburden.

As discussed above, the only exception to the Act's performance standards for thick-overburden conditions operation is from the requirement to return to AOC. The Act replaces the AOC standards with a requirement that the operator, after achieving AOC, shall use the additional spoil to attain the lowest practicable grade but not exceeding the angle of repose. Thus, all of the provisions in § 816.102 would apply to thick overburden except Paragraph(a)(1). The backfilling, grading, and compacting process is the same regardless of the amount of overburden removed and backfilled, and therefore, those terms have not been adopted from proposed § 816.105(a). Section 816.105(b) specifically addresses the particular backfilling and grading performance standards which must be met.

One commenter was concerned that there be no prohibition in § 816.105 on disposing of excess spoil before the backfilling is completed to restore AOC. The commenter indicated that the amount of excess spoil is based on design estimates and is often disposed of before the backfilling operation is completed.

Section 816.105(c) refers to the provisions in §§816.71–816.74 for the disposal of excess spoil. Section 816.105(c) does not require excess spoil to be retained until backfilling is completed. Therefore, excess spoil may be disposed of anytime in the mining operation. However, adequate spoil must be available for backfilling to meet the AOC requirements.

In summary, the final rule for thick-overburden situations will include the same description of thick overburden as

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the proposed rule; the phrase "backfill, grade, and compact" has been deleted in § 816.105(a), and § 816.105(b) provides that in thick-overburden situations operators must meet the requirements of §§ 816.102(a)(2)–816.102(j). For editorial clarity, the word "use" will be the first word in § 816.105(a). For further explanation of this rule, see the preamble to the proposed rule (47 FR 26764, June 21, 1982).

Section 816.107 Backfilling and grading: Steep slopes

OSM proposed to transfer the requirements of §§ 826.11 and 826.12, the special backfilling and grading requirements for steep slope operations, from Part 826 to form a new § 816.107. The new section contains only the requirements needed for steep slopes and removes the repetition in the rules that was needed when Part 826 was a self-contained part. OSM received no comment on the proposed transfer, and § 816.107 will be adopted as proposed. For a complete explanation of this proposal, the reader is referred to the standards for the proposed rule (47 FR 26764, June 21, 1982).

New § 816.107(a) describes the conditions under which the steep slope rules apply. Section 816.107(b) prohibits placing the following materials on the downslope: spoil, waste materials of any type, debris and abandoned or disabled equipment. The reference to haul-road construction debris in the proposed rule has been changed in the final rule to include all debris, without specifying haul-road debris. Section 816.107(c) provides that land shall not be disturbed above the highwall except with the approval of the regulatory authority. Section 816.107(d) states the conditions under which woody material may be buried in the backfill. After considering the comments received on the steep slope provisions, OSM has decided to adopt the final rules as described above.

One additional consideration has arisen because of the removal of Part 826. Its removal has required the redesignation of § 816.12(b) as § 816.107(e). Section 816.107(e) states that the highwall does not have to be fully eliminated in contour-mining operations in steep slope areas that affect previously mined, unreclaimed lands if it is demonstrated that the volume of all reasonable available spoil is insufficient to completely backfill the highwall. The provision is the same as interim final § 826.12(b) published on November 12, 1982 (47 FR 51316) with appropriate changes in the references to backfilling and grading rules to conform with other changes adopted. For further information and discussion of comments relevant to this provision, see the interim final rule. If the June 25, 1982, proposed remaining rules (47 FR 27734) become final, § 816.107(e) may be incorporated in § 816.106.

Several commenters believed that the provisions in § 816.107(c) on disturbing land above the highwall were not completely consistent with Section 515(d)(3) of the Act. In explaining their rationale, two commenters wanted to replace "shall not" in the proposed rules with "may not" to repeat the exact language of the Act. Another commenter suggested changing the sentence from the negative to the positive by having the sentence read "[l]and above the highwall *may* be disturbed *if* the regulatory authority * * *" instead of "[l]and above the highwall *shall not* be disturbed *unless* the regulatory authority * * *." The commenter continued by stating that this change would allow the flexibility for steep slope mining that Congress intended when it wrote the Act.

Section 515(d)(3) of the Act provides that "[t]he operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards applicable to steep slope operations." The phrase "may not" is used in this context to create a condition precedent to allowing disturbance above the highwall. Since such actions are not permitted until the proper finding has been made, OSM used the standard regulatory language for describing mandatory actions. OSM believes that substituting "shall not" for "may not" does not change congressional intent regarding disturbance above the highwall. Also, using a positive or negative sentence structure does not change the flexibility of the provision. The paragraph has not been changed; the operator will not be allowed to disturb land above the highwall unless permission is received from the regulatory authority after the proper finding is made.

It should noted that final § 816.107(c) neither supersedes nor waives the Mine Safety and Health Administration rule at 30 CFR 77.1001 which requires that loose hazardous material be stripped for a safe distance from the top of highwalls to protect miners from falling material hazards.

Two commenters believed that the provisions in § 816.107(d) should apply only to the prohibition of woody materials in the backfill area and not to any mulching provisions. They reasoned that the revegetation rules, §§ 816.111–816.116, would cover the mulching requirements and that the language in § 816.107(d) would be repetitive.

OSM has accepted these comments and revised proposed § 816.107(d) accordingly. Since the revegetation rules separately provide that the regulatory authority may require mulching where deemed necessary, similar language is not needed in § 816.107(d) to clarify that mulch may be used in steep slope areas.

Part 817—Permanent Program Performance Standards—Underground Mining Activities

The changes in proposed §§ 816.101–816.107 will also be made to the corresponding provisions of §§ 817.101–817.107 and will not be discussed any further under this portion of the preamble.

The discussion below refers only to specific comments received and changes made on requirements that pertain specifically to underground mining activities.

Section 817.102 Backfilling and grading: General requirements

The backfilling and grading requirements proposed for the surface effects of underground mining activities were the same as those proposed for surface mining activities, except that the nonapplicable exceptions to the requirement to restore AOC listed in § 816.102 were not proposed for Part 817 and a Paragraph (k) was added to consider the situation of settled, revegetated fills for underground mining activities. The rationale for proposed Paragraphs 817.102(a)–(j) is the same as that for proposed Paragraphs (a)–(j) of § 816.102. For comments which pertain to these sections, the reader is referred to the preamble for Part 816.

In the earlier discussion of § 816.102, it was noted that a commenter pointed out that the mined-out area for underground mines could be either the mine workings or the surface area overlying them. Because of the possible ambiguity, OSM has decided to use the term "mined-out surface area" in reference to underground mining activities. OSM believes the term is appropriate for underground mining activities because OSM's primary concern is the surface impacts incident to an underground coal mine rather than the underground workings. Therefore, these rules concern activities completed on surface areas such as faceup operations for underground coal mine development or other types of surface excavation incident to the underground mining activity.

Section 817.101(l) [Proposed § 817.102(k)]

OSM has added a new § 817.102(l) to provide flexibility for settled fills that have become stabilized and revegetated, as a result of the U.S. District Court remanding the rule requiring return to AOC for underground mines. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. May 16, 1980) (Slip Op. at 17–18). For additional discussion of the reasons for the new paragraph, see the preamble for the proposed rules (47 FR 26765–26767 June 21, 1982).

Under final § 817.102(l), fills that are sufficiently stable and revegetated to the standards of the Act can remain in place if they meet the following four criteria: That the fill be composed only of spoil or non-acid or non-toxic-forming underground development waste Paragraph (1)(i)); that the spoil not be located so as to be detrimental to the environment, to the health and safety of the public, or to the approved postmining land use (Paragraph (1)(ii)); that the spoil also be stable as demonstrated by geotechnical analysis (Paragraph (1)(iii)); and that the fill be sufficiently vegetated to prevent erosion and contribution of suspended solids to streams from normal runoff (Paragraph (1)(iv)). In addition, the regulatory authority may decide to leave the spoil in place if more environmental harm or injury to the public health and safety would be caused by moving it (Paragraph (2)). Finally, the regulatory authority may require stabilization of the spoil if it does not meet the criteria of Paragraphs (l)(1)(i)–(l)(1)(iv).

Except for minor renumbering and as discussed below, the proposed rule was not changed as a result of consideration of comments received. OSM has added some clarifying language to the rule and also indicated that the spoil or underground development waste shall not be detrimental to the approved postmining land use.

Three commenters suggested alternative regulatory language to implement the District Court order to provide some flexibility for settled fills that have become stabilized and revegetated. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.C.C. May 16, 1980) (Round II). They suggested replacing the term "fill" or its contents in Paragraph (l) with "area."

OSM will retain the proposed language in the final rule. In remanding the rule, the court used the term "fills," not "areas." This is significant since the plaintiffs (commenters here) had argued that stabilized and revegetated "areas" should not be required to be regraded. OSM believes the proper course is to use the term actually used by the court rather than a term that was not used even though it was brought to the attention of the court. Therefore, OSM is of the opinion that the court order was correctly interpreted in the proposed rule. For additional discussion of settled fills, see the preamble to the proposed rule (47 FR 26766, June 21, 1982).

Three commenters also suggested that proposed § 817.102(k)(l), which referred to non-toxic or non-acidic-forming underground development waste and proposed § 817.102(k)(l)(i), which referred to protection of the environment and public health and safety, be deleted from the rule. The rationale for this suggestion is that the court order included all types of fill material and did not exclude fills of toxic or acidic underground development waste from consideration as revegetated and stabilized. The commenters did not explain why proposed § 817.102(k)(l)(i) on protection of the environment and public health and safety should be deleted.

One commenter stated that the rule should not be limited to spoil or non-toxic or non-acidic-forming underground development waste because the court's opinion was not so limited. The court directed OSM to provide "some flexibility for settled fills * * *." The final rule provides such flexibility. The court did not direct OSM to adopt any specific regulatory language. After considering all the comments, past experience, the court's opinion, and all other relevant factors, OSM has determined that only fills composed of spoil or non-acid- and non-toxic-forming underground development waste should be allowed to remain without regrading.

Thus, the limitation has been retained in the final rule. Although the above environmental conditions were not discussed in the court's opinion, OSM believes these provisions are necessary to fully implement the environmental protection performance standards for underground mining. Section 516(b)(9) of the Act provides the authority to limit the possibility of acid and toxic drainage. Section 516(b)(8) of the Act provides the authority to eliminate conditions which constitute a hazard to the health and safety of the public.

Regarding proposed Paragraph (k)(3) (now the last sentence of (1)(2)), one commenter stated that if the spoil is detrimental to the environment or to the public health and safety, then the regulatory authority must require stabilization of the spoil. The proposed language gives the regulatory authority the discretion to require stabilization.

The change suggested by the commenter was not made for the final rule. OSM agrees that generally the spoil should be stabilized to prevent further adverse impacts resulting from the spoil. However, to make stabilization mandatory could, in certain situations, cause degradation of the spoil, which could cause more damage than the present conditions. The term "may" provides the regulatory authority the discretion to provide the best solution to a given situation and still retain the flexibility to specify the requirements for stabilization or relocation of the fill that best meet the site-specific conditions.

The same commenter believed that it was inappropriate in proposed § 816.102(k)(3) to refer to proposed § 817.102(k)(1)(i) on the detrimental aspects of the fill but instead should use the phrase "minimize adverse impacts to the environment and health and safety of the public."

The commenter provided no justification for this suggestion and OSM has not changed the language in the final rule. The language of final § 817.102(l)(1)(ii) that "waste shall not be located so as to be detrimental to the environment, to the health and safety of the public, or to the approved postmining land use" is a clearer and more enforceable performance standard than the suggested language to "minimize adverse impacts." Therefore, OSM has adopted the language as proposed.

Part 826—Special Permanent Program Performance Standards—Operations on Steep Slopes

The proposed rules indicated that Part 826, which applied to both surface and underground mining activities, would be removed from the rules and the provisions moved to §§816.107 and 817.107. The justification for this action was discussed in the preamble for the proposed rules (47 FR 267565, June 21, 1982) and the reader is referred to that preamble for more information. OSM received no comments on deleting Part 826, and the final rules reflect this change.

Reference Materials

Reference materials (on file in OSM's Administrative Record) used to develop these final rules are as follows:

Murray, F. X., editor, 1978, Where we agree: Report of the National Coal Policy Project, Vol. 2 Westview Press, Inc., Boulder, Colo. 477 pp.

Schwab, G. O., Frevert, R. K., and Edminister, T. W., 1966, Soil and water conservation engineering, Second edition.

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The Ferguson Foundation Agricultural Engineering Series. John Wiley and Sons, New York. 663 pp.

U.S. Environmental Protection Agency. 1973. Processes, procedures, and methods to control pollution from mining activities. U.S. Environmental Protection Agency Report EPA–430/9–73–011. 300 pp. (Prepared by Skelly and Loy, Harrisburg, Pa., and Penn Environmental Consultants, Inc. Pittsburgh, Pa.; available from U.S. Department of Commerce, NTIS PB 257–297).

U.S. Mining Enforcement and Safety Administration. 1975. Engineering and design manual—Coal refuse disposal facilities: U.S. Mining Environmental and Safety Administration report. Various pagings. (Prepared by D'Appolonia Consulting Engineers, Inc., Pittsburgh, Pa.)

Verma, T. K., and Thames, J. L., 1978, Grading and shaping for erosion and vegetative establishment in dry regions: Chapter 22 *in* Reclamation of drastically disturbed lands, Scheller, F. W., and Sutton, Paul, Eds., American Society of Agronomy, Inc., Crop Science Society of America, Inc., and Soil Science Society of America, Inc., Madison, Wis., pp. 399–409.

III. Procedural Matters

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving compliance.

The Department has also determined pursuant to the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The regulatory authority will allow all operators adequate flexibility for regional conditions to be considered in backfilling and grading operations. This flexibility could result in cost savings for small operators in allowing for site-specific backfilling and grading operation design and in availing small operators of the opportunity to employ innovations in the design of backfilling and grading operations.

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the Final Environmental Impact Statement OSM EIS–1: Supplement according to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)). The final supplement is available in OSM's Administrative Record in Room 5315, 1100 L Street, N.W., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, DC 20240. This preamble serves as the record of decision under NEPA. The final rule is different from the draft final rules published in Volume III of the final EIS in that two paragraphs have been reorganized and additional clarifying language has been added to the rule which does not change the findings of the EIS analysis. In addition, one sentence of § 816.107(d) in the final EIS relating to the distribution of woody material has not been included in the final rules. The removal of this sentence has no environmental effect because it would have been duplicative of a provision in the revegetation rules. Finally, until the adoption of §§ 816.106 and 817.106, final §§ 816.107(e) and 817.107(e) will reflect the substance of draft final §§ 816.106 and 817.106, as set forth in the FEIS, regarding contour remining on steep slopes. This was analyzed in the FEIS.

Paperwork Reduction Act

There are no information collection requirements established by these rules requiring approval of the Office of Management and Budget under 44 U.S.C. 3507 *et seq.*

Agency Approval

Section 516(a) of the Act requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 826

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 816, 817, and 826 are amended as set forth herein.

Dated: April 15, 1983.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.101 [Removed]

1. Part 816 is amended by removing § 816.101.

2. Section 816.102 is revised to read as follows:

§ 816.102 Backfilling and grading: General requirements.

(a) Disturbed areas shall be backfilled and graded to—

(1) Achieve the approximate original contour, except as provided in paragraph (k) of this section;

(2) Eliminate all highwalls, spoil piles, and depressions, except as provided in paragraph (h) (small depressions) and in paragraph (k)(3)(iii) (previously mined highwalls) of this section;

(3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;

(4) Minimize erosion and water pollution both on and off the site; and

(5) Support the approved postmining land use.

(b) Spoil, except excess spoil disposed of in accordance with §§816.71–816.74, shall be returned to the mined-out area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with §816.22.

(3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with §§ 816.81 and 816.83, except that a long-term static safety factor of 1.3 shall be achieved.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible material, or treated, to control the impact on surface and ground water in accordance with § 816.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use.

(g) Cut-and-fill terraces may be allowed by the regulatory authority where—

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 816.49 and 816.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when—

(1) The standards for thin overburden in §816.104 are met;

(2) The standards for thick overburden in §816.105 are met; or

(3) Approval is obtained from the regulatory authority for—

(i) Mountaintop removal operations in accordance with § 785.14 of this chapter;

(ii) A variance from approximate original contour requirements in accordance with § 785.16 of this chapter; or

(iii) Incomplete elimination of highwalls in previously mined areas in accordance with § 816.107(e).

§ 816.103 [Removed]

3. Part 816 is amended by removing § 816.103.

4. Section 816.104 is revised to read as follows:

§ 816.104 Backfilling and grading: Thin overburden.

In surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and where the thickness of the coal deposit relative to the thickness of the overburden is large and where the operator demonstrates that the spoil and other waste materials available from the entire permit area are insufficient, giving due consideration to volumetric expansion, to restore the disturbed area to its approximate original contour, the operator shall, at a minimum—

(a) Use all available spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose; and

(b) Meet the requirements of §§ 816.102(a)(2)–816.102(j).

5. Section 816.105 is revised to read as follows:

§ 816.105 Backfilling and grading: Thick overburden.

In surface coal mining where the thickness of the overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that the volume of the spoil and other waste materials is more than sufficient to restore the disturbed area to approximate original countour, the operator shall, at a minimum, after restoring to approximate original contour—

(a) Use the spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose;

(b) Meet the requirements of §§ 816.102(a)(2)–816.102(j); and

(c) Dispose of any excess spoil in accordance with §§ 816.71–816.74.

6. Section 816.107 is added to read as follows:

§ 816.107 Backfilling and grading: Steep slopes.

(a) Surface mining activities on steep slopes shall be conducted so as to meet the requirements of § 816.102, and the requirements of this section except where mining is conducted on flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area or where operations are conducted in accordance with Part 824 of this chapter.

(b) The following materials shall not be placed on the downslope:

(1) Spoil.

(2) Waste materials of any type.

(3) Debris, including that from clearing and grubbing.

(4) Abandoned or disabled equipment.

(c) Land above the highwall shall not be disturbed unless the regulatory authority finds that this disturbance will facilitate compliance with the environmental protection standards of this subchapter and the disturbance is limited to that necessary to facilitate compliance.

(d) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area.

(e) The disturbed area shall be backfilled and graded to comply with the provisions of § 816.102 to return the site to the approximate original contour and completely cover the highwall; *Provided, however,* that where contour-mining operations affect previously mined areas that were not reclaimed to the standards of this chapter and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall, the highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

(1) The person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority that the fill, designed by a qualified registered professional engineer, has a minimum static safety factor for the stability of the backfill of at least 1.3.

(2) All spoil generated by the mining operation and other reasonably available spoil shall be used to backfill the area. Reasonably available spoil shall include spoil generated by the mining operation and other spoil located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to the public safety or significant damage to the environment.

(3) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(4) Any remnant of the highwall shall be stable and not pose a hazard to the public health and safety or to the environment.

(5) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

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PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.101 [Removed]

7. Part 817 is amended by removing § 817.101.

8. Section 817.102 is revised to read as follows:

§ 817.102 Backfilling and grading: General requirements.

(a) Disturbed areas shall be backfilled and graded to—

(1) Achieve the approximate original contour, except as provided in paragraph (k) of this section;

(2) Eliminate all highwalls, spoil piles, and depressions, except as provided in paragraph (h) (small depressions) and in paragraph (k)(2) (previously mined highwalls) of this section;

(3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;

(4) Minimize erosion and water pollution both on and off the site; and

(5) Support the approved postmining land use.

(b) Spoil, except as provided in paragraph (l) of this section, and except excess spoil disposed of in accordance with §§ 817.71–817.74, shall be returned to the mined-out surface area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out surface area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

(1) All vegetative and organic materials shall be removed from the area.

(2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with § 817.22.

(3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out surface area shall be in accordance with §§ 817.81 and 817.83, except that a long-term static safety factor of 1.3 shall be achieved.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with § 817.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use.

(g) Cut-and-fill terraces may be allowed by the regulatory authority where—

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 817.49 and 817.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when approval is obtained from the regulatory authority for—

(1) A variance from approximate original contour requirements in accordance with § 785.16 of this chapter; or

(2) Incomplete elimination of highwalls in previously mined areas in accordance with § 817.107(e).

(l) Regarding of settled and revegetated fills to achieve approximate original contour at the conclusion of underground mining activities shall not be required if the conditions of Paragraph (l)(1) or (l)(2) of this section are met.

(1)(i) Settled and revegetated fills shall be composed of spoil or non-acid- or non-toxic-forming underground development waste.

(ii) The spoil or underground development waste shall not be located so as to be detrimental to the environment, to the health and safety of the public, or to the approved postmining land use.

(iii) Stability of the spoil or underground development waste shall be demonstrated through standard geotechnical analysis to be consistent with backfilling and grading requirements for material on the solid bench (1.3 static safety factor) or excess spoil requirements for material not placed on a solid bench (1.5 static safety factor).

(iv) The surface of the spoil or underground development waste shall be vegetated according to § 817.116, and surface runoff shall be controlled in accordance with § 817.43.

(2) If it is determined by the regulatory authority that disturbance of the existing spoil or underground development waste would increase environmental harm or adversely affect the health and safety of the public, the regulatory authority may allow the existing spoil or underground development waste pile to remain in place. The regulatory authority may require stabilization of such spoil or underground development waste in accordance with the requirements of paragraphs (l)(1)(i)–(l)(1)(iv) of this section.

§ 817.103 [Removed]

9. Part 817 is amended by removing § 817.103.

10. Part 817 is amended by adding new § 817.107 to read as follows:

§ 817.107 Backfilling and grading: Steep slopes.

(a) Underground mining activities on steep slopes shall be conducted so as to meet the requirements of § 817.102 and the requirements of this section.

(b) The following materials shall not be placed on the downslope:

(1) Spoil.

(2) Waste materials of any type.

(3) Debris, including that from clearing and grubbing.

(4) Abandoned or disabled equipment.

(c) Land above the highwall shall not be disturbed unless the regulatory authority finds that this disturbance will facilitate compliance with the environmental protection standards of this subchapter and the disturbance is limited to that necessary to facilitate compliance.

(b) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area.

(e) The disturbed area shall be backfilled and graded to comply with the provisions of § 817.102 of this chapter to return the site to the approximate original contour and completely cover the highwall; *Provided, however,* that where contour-mining operations affect previously mined areas that were not reclaimed to the standards of this chapter and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall, the highwall shall be eliminated to the maximum extent technically practical in accordance with the following criteria:

(1) The person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority that the fill, designed by a qualified registered professional engineer, has a minimum static safety factor for the stability of the backfill of a least 1.3.

(2) All spoil generated by the mining operation and other reasonably available spoil shall be used to backfill the area. Reasonably available spoil shall include spoil generated by the mining operation and other spoil located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to the public safety or significant damage to the environment.

(3) The backfill shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

(4) Any remnant of the highwall shall be stable and not pose a hazard to the public health and safety or to the environment.

(5) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES [REMOVED]

11. Part 826 is removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-13511 Filed 5-23-83; 8:45 am]
BILLING CODE 4310-05-M

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federal register

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May 24, 1983

Part III

Office of Management and Budget

Budget Rescissions and Deferrals

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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one new deferral of budget authority totaling $2,750,000 and two increases to previously reported deferrals, increasing the amounts deferred by $57,047,000.

The deferrals affect Energy Activities, the Department of Justice, and the Railroad Retirement Board.

The details of each deferral are contained in the attached reports.

Ronald Reagan.

The White House,
May 19, 1983.

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CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Energy Activities	
	Energy programs	
D83-48A	Energy supply, R&D activities (plant and capital equipment)	68,052
	Department of Justice	
	Federal Prison System	
D83-35A	Buildings and Facilities	67,837
	Other Independent Agencies	
	Railroad Retirement Board	
D83-75	Limitation on administration	2,750
	Total, deferrals	138,639

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message		
New items	---	2,750
Change to amounts previously submitted	---	57,047
Effects of eighth special message	---	59,797
Amounts previously submitted that were changed by this message	---	78,842
Total, rescissions and deferrals	---	138,639
Amounts previously submitted that were not changed by this message	1,554,015 1/	13,375,333
Total amount proposed to date in all special messages	1,554,015 1/	13,513,972 2/

1/ This amount includes $23,400,000 in current budget authority for the rural telephone bank that is offset by a corresponding increase in permanent budget authority (R83-20).

2/ All amounts listed represent budget authority except for $15,944,000 of outlays only in one general revenue sharing deferral (D83-16B).

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Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report updates Deferral No. D83-48, transmitted to the Congress on February 1, 1983.

The amount currently deferred in the Energy supply R&D—plant and capital equipment account is $68,052,000, a net decrease of $23,055,000 from the $91,107,000 originally reported. Of the funds originally reported, $28,595,000 were subsequently made available for obligation. Then, the account received an additional $5,540,000 through a re-interpretation of the current rate available under the second continuing resolution for FY 1983 (Pub. L. 97-377). These additional funds exceeded amounts required under the current program plan and, accordingly, have been deferred.

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Deferral No: D83-48A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-377): $367,262,000 *
Bureau: Energy Programs	Other budgetary resources: 9,680,058 *
Appropriation title & symbol: Energy Supply, R&D Activities (Plant and Capital Equipment) 89X0225 1/	Total budgetary resources: 376,942,058 *
	Amount to be deferred: Part of year: ____ Entire year: 68,052,000 *
OMB identification code: 89-0224-0-1-271	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation provides plant and capital equipment support for research and development of energy technologies.

The FY 1983 level of appropriations for this account in the Act Making Further Continuing Appropriations FY 1983 (P.L. 97-377) is based upon the FY 1982 current rate of operations. The Conference Report directed the Department of Energy to follow the program recommendations of the Appropriation Committees contained in the House and Senate Reports accompanying the 1983 appropriations bills. The Department of Energy has, therefore, prepared a program plan for Energy Supply R&D activities in accordance with this expression of Congressional intent. As a result, use of the entire amount provided under the Continuing Resolution is not expected to be needed in FY 1983. Accordingly, the excess is being deferred.

Estimated Effects: This deferral will not have any identifiable programmatic effects since the funds deferred are in excess of the amount required to satisfy Congressional directives.

Outlay Effects: This deferral will have no effect on FY 1983 outlays.

1/ This account was the subject of a deferral in FY 1982 (D82-104).

* Revised from previous report.

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Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93–344.

This report revises the previous Deferral No. D83–35, transmitted to the Congress on December 16, 1982.

This revised deferral report for the Department of Justice, Federal Prison System, Buildings and facilities increases the amount deferred from $16,330,000 to $67,837,000. This $51,507,000 increase is taken to establish a reserve pending consideration of a reprogramming request and due to unanticipated delays in completing construction projects.

BILLING CODE 3110-01-M

Deferral No: DR3-35A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93–344

Agency: Department of Justice	New budget authority (P.L. 97-377; 98-8): $66,667,000*
Bureau: Federal Prison System	Other budgetary resources: 64,710,854*
Appropriation title & symbol: Buildings and Facilities 15X1003 1/	Total budgetary resources: 131,377,854*
	Amount to be deferred: Part of year: —
	Entire year: 67,837,000*
MB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [Y] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other: —
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [Y] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other: —

Justification:* This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. Part of the deferral is related to a reprogramming request pending before Congress to permit $43,400,000 of Jobs Bill (P.L. 98-8) funding to be used for new construction projects. Also, due to the time required for planning, design efforts and selection of contractors, it would not be possible to complete those projects, for which funding is deferred, during FY 1983.

Estimated Effects: Would not have a negative impact on the building and facilities program because the deferred amount cannot be efficiently used if made available in FY 1983.

Outlay Effect: This deferral will have no effect on FY 1983 outlays.

* Revised from previous report.
1/ This account was the subject of two deferrals in FY 1982 (D82-178 and D82-192).

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Deferral No: DA3-75

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Railroad Retirement Board	New budget authority (P.L. 97-377): $46,361,000
Bureau:	Other budgetary resources: 700,000
Appropriation title & symbol: Limitation on administration (6038011)	Total budgetary resources: 47,061,000
	Amount to be deferred: Part of year: 2,750,000
	Entire year:
MB identification code: 60-8011-0-7-601	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other

Justification: This account funds administrative expenses of the Railroad Retirement Board. The Board sought funds to upgrade and modernize its data processing based on conceptual planning. Detailed planning has not been completed and the Board is reassessing the most appropriate scope and timing of its modernization effort in light of the rail industry pension's serious underfunding. This is a routine deferral taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There will be no effect on the operation of the program as these funds would not be obligated until the normal planning process and associated financial plans have been completed:

Outlay Effect: This deferral will have no effect on FY 1983 outlays.

[FR Doc. 83-14005 Filed 5-23-83; 8:45 am]
BILLING CODE 3110-01-C

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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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federal register

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Federal Register
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 83-6 of April 8, 1983

Eligibility of Algeria To Make Purchases of Defense Services Under the Arms Export Control Act

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to the authority vested in me by Section 3(a)(1) of the Arms Export Control Act, I hereby find that the furnishing of defense services to the Government of Algeria will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, April 8, 1983.

[FR Doc. 83-14216
Filed 5-24-83; 9:20 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 48, No. 102
Wednesday, May 25, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

Consumer Products Containing Small Quantities of Radioactive Material; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rulemaking; correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on March 24, 1983 (48 FR 12331) that modified reporting and recordkeeping requirements imposed on persons specifically licensed to distribute consumer products containing byproduct material. The action is necessary to correct the inadvertent omission of a reference to a section of the Commission's regulations covered by this reporting requirement.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 443–5825.

1. On page 12333, second column, fourth line of § 32.16(b), the phrase "§ 30.15 or" should be inserted after the word "under."

Dated at Bethesda, Maryland, this 13 day of May, 1983

Jack W. Roe,
Acting Executive Director for Operations.

[FR Doc. 83–14059 Filed 5–24–83; 8:45 am]
BILLING CODE 7590–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Applications Under the Energy Policy and Conservation Act; Ranges of Comparability for Clothes Washers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for clothes washers.

Under the rule, each required label on a covered appliance must show a range, or scale, indication the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges, which show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule, are published in the **Federal Register** by the Commission no more often than annually, and are called "ranges of comparability." The figures to be used on the ranges are provided by the Commission after an analysis of data submitted by appliance manufacturers, who derive the energy costs or efficiencies of their appliances by following test procedures prescribed by the Department of Energy ("DOE"). One element used in calculating the ranges is the representative average unit cost of the energy used by the appliances, which is calculated annually by DOE. Because this average cost usually changes annually, and because appliance models are constantly being added, changed, or dropped by manufacturers, the ranges of comparability are likely to change from year to year. This has been the case with the ranges for clothes washers, and this notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used in the labeling and advertising of clothes washers, beginning August 23, 1983.

EFFECTIVE DATE: August 23, 1983

FOR FURTHER INFORMATION CONTACT: James Mills, 202–376–2891, or Lucerne D. Winfrey, 202–376–2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA)[1] required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under the statute, DOE is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [2] covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezer, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels and fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained information on the estimated annual cost or energy

[1] Pub. L. 94–163, 89 Stat. 871 (Dec. 22, 1975).
[2] 44 FR 66466, 16 CFR 305 (November 19, 1979).

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efficiency rating for the seven categories of appliances derived from tests performed pursuant to the DOE test procedures. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From that information, the Commission compiled and published [3] ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this initial report, shall report annually by specified dates for each product type.[4] The date submitted by manufacturers is based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. Because the costs for the various types of energy appear to be increasing steadily, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the date base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually), if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for clothes washers, which were calculated using the 1983 representative average energy costs published by DOE on January 25, 1983 [5] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission publishes the following ranges of comparability for use in the labeling and advertising of clothes washers beginning August 23, 1983.

[3] 45 FR 13998 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 28036 (April 17, 1980), 46 FR 3829 (January 16, 1981).

[4] Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[5] 48 FR 3408.

PART 305—[AMENDED]

Appendix F to Part 305 is revised to read as set forth below:

Appendix F.—Clothes Washers

Ranges of comparability	Ranges of estimated yearly energy costs			
	Electrically heated water		Natural gas heated water	
	Low	High	Low	High
Compact	$43.00	$97.00	$15.00	$41.00
Standard	37.00	150.00	19.00	62.00

Authority: Sec. 324, Energy Policy and Conservation Act, (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1976) (42 U.S.C. 8294) sec. 553, Administrative Procedure Act, 5 U.S.C. 553.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83–13984 Filed 5–24–83; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 123

[T.D. 83–118]

Foreign Locomotives and Railroad Equipment; Entry and Use

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The rule amends the Customs Regulations to provide that:

1. Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country;

2. Foreign railroad equipment other than locomotives may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a foreign country; and

3. Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported to or through any foreign country.

A conforming amendment to the regulations relating to foreign-based truck trailers also is made.

This action is taken to remove a serious hinderance to strictly international traffic, while retaining the prohibition against diversions of foreign locomotives and railroad equipment to unpermitted point-to-point local traffic.

The purpose of the amendments is to allow a three country movement (Canada-U.S.-Mexico, or reverse) of foreign locomotives and railroad equipment in international traffic, and thus not subject those locomotives or that equipment to formal entry or duty.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: John Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Section 322(a) of the Tariff Act of 1930, as amended (19 U.S.C. 12322(a)), provides that vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted "the customary exceptions from the applications of the customs laws" to the extent of, and subject to, to the terms and conditions prescribed in the regulations or instructions of the Secretary.

Section 123.12(a), Customs Regulations (19 CFR 123.12(a)), presently provides that foreign locomotives or other foreign railroad equipment in use on a continuous route crossing an international boundary into the United States, shall be admitted without formal entry or the payment of duty to proceed to the end of the run and return to the country in which the run began in certain specified situations. Section 123.12(a)(2) further provides that foreign railroad equipment other than locomotives may be used on the outward (*i.e.*, return) trip only in connection with trains crossing the boundary, or for such local traffic as is reasonably incidental to the economical and prompt return of the equipment to the country from which it entered the United States.

In addition, § 123.12(b), Customs Regulations (19 CFR 123.12(b)), now provides that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through the country from which the equipment entered the United States.

However, it is clear that the underlying purpose of § 123.12 (a) and (b), and their antecedents, was to prohibit wholesale diversions to unpermitted point-to-point local traffic of foreign locomotives and railroad equipment moving through the United States in international traffic, but not to hinder any strictly international traffic.

Accordingly, to give full effect to a 1978 ruling in which Customs held that a three country movement (Canada-U.S.-Mexico) is international traffic, and to eliminate the dichotomy between the strict language of the regulations and current administrative practice, a notice of proposed rulemaking to amend § 123.12 was published in the **Federal Register** on August 27, 1982 (47 FR 37924).

The proposed amendment to § 123.12(a) provided that foreign locomotives or other foreign railroad equipment in use on a continuous route crossing one international boundary into the United States (*e.g.*, Canada) shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for another foreign country (*e.g.*, Mexico). Section 123.12(a)(2) also was to be amended to provide that foreign railroad equipment other than locomotives may be used on an outward trip in such trains or for such local traffic as is reasonably indcidental to its economical and prompt departure for a (any) foreign country. The "outward" trip, then would no longer refer exclusively to a return trip to the country in which the railroad equipment began its run. The equipment might return, or it might proceed to another foreign country.

The proposed amendment to § 123.12(b) provided that empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty if the passengers or goods to be loaded are to be transported directly to or through any foreign country.

A conforming amendment also was to be made to § 123.14(c)(2), Customs Regulations (19 CFR 123.14(c)(2)), to provide that a foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other foreign railroad equipment" in proposed § 123.12(a)(2).

No comments were received in response to the notice of proposed rulemaking. Therefore, after a review of the matter Customs has determined to adopt the proposal as described in that notice.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that the amendments in this document are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs Offices participated in its development.

List of Subjects in 19 CFR Part 123

Canada, Customs duties and inspection, Exports, Freight, Imports, Mexico, Motor carriers, Railroads.

Amendments to the Regulations

Part 123, Customs Regulations (19 CFR Part 123), is amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: May 6, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Section 123.12(a) introductory text is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without formal entry or the payment of duty to proceed to the end of the run and depart for a foreign country, in accordance with the following:

* * * * *

2. Section 123.12(a)(2) is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* * * *

(2) *On outward trip.* Foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. Other foreign railroad equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt departure for a foreign country.

* * * * *

3. Section 123.12(b) is revised to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

* * * * *

(b) *Admission of empty equipment.* Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through a foreign country.

* * * * *

4. Section 123.14(c)(2) is revised to read as follows:

§ 123.14 Entry of foreign-based trucks, buses, and taxicabs in international traffic.

* * * * *

(c) *Use in local traffic.* * * *

(2) A foreign-based truck trailer may carry merchandise between points in the United States on its departure for a foreign country under the same conditions as are prescribed for "other foreign railroad equipment" in § 123.12(a)(2).

(R.S. 251, as amended, sec. 14, 67 Stat. 516, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; and Gen. Hdnte. 11, Tariff Schedules of the U.S. (19 U.S.C. 66, 1202,1322(a), 1624))

[FR Doc. 83–14000 Filed 5–24–83; 8:45 am]

BILLING CODE 4820–02–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 3H5202/R565; PH-FRL 2367–7]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Fluridone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a regulation permitting residues of the herbicide fluridone in potable water in connection with an experimental use permit concurrently being extended. This regulation was requested in a petition submitted by the Elanco Products Company.

EFFECTIVE DATE: Effective on March 17, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Environmental Protection Agency, Rm. 253, CM #2, 1921 Jefferson

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Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a regulation, published in the **Federal Register** of March 17, 1981 (46 FR 17015), which established a regulation permitting residues of the herbicide fluridone [1-methyl-3-phenyl-5-[3-(trifluoromethyl)-phenyl]-4(1*H*)-pyridinone in potable water at 0.01 part per million (ppm) as a result of application of the herbicide to lakes and ponds under an experimental use permit to expire June 1, 1983.

Under the experimental use permit (1471–EUP–67), fishing, swimming, drinking, or other use of the treated pond/lake water is restricted for 150 days after application.

Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285, in a petition (FAP 9H5202), has requested extension of this regulation to permit continued use of fluridone in potable water while further data are collected on fluridone.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the experimental use permit which is being extended concurrently.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the regulation permitting residues of fluridone may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751. U.S.C. 135(a) *et seq*). Therefore, the regulation permitting residues of fluridone in potable water at 0.01 ppm is extended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1))).

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: May 16, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR 193.219 is revised to read as follows:

§ 193.219 Fluridone.

(a) [Reserved].

(b) A tolerance of 0.01 part per million is established for residues of the herbicide fluridone [1-methyl-3-phenyl-5-(3)-trifluoromethyl)-phenyl)-4(1*H*)-pyridinone] in potable water. Such residues may be present therein only as a result of application of the herbicide fluridone to lakes and ponds under an experimental use program which expires June 1, 1954.

This program is to be conducted by the Elanco Products Company. Residues remaining in potable water after June 1, 1984 will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit and the food additive tolerance.

[FR Doc. 83-13779 Filed 5-24-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207 and 255

[Docket No. R–83–953]

Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule, with request for comments.

SUMMARY: This interim rule revises an earlier interim rule which was published on March 31, 1982 (47 FR 13517), amending 24 CFR Part 255, Coinsurance for Private Lenders. Part 255 provides for FHA mortgage insurance, on a coinsurance basis under section 244 of the National Housing Act, for the financing or refinancing of existing multifamily rental housing projects. The earlier interim rule amended Part 255, among other things, by broadening eligibility for participation in the program to include private mortgage companies, adding a "sound capital resources" requirement for coinsured lenders, and providing for protection of the Government National Mortgage Association (GNMA) in the event of loss on coinsured mortgages backing GNMA-guaranteed securities.

As a result of public comments received on the March 31 rule and a continuing analysis of the coinsurance program within the Department, additional program changes are deemed necessary. In order to provide a continuing opportunity for public participation in the development of the program, these changes are again being issued as an interim rule.

Major changes contained in this rule include (1) further extension of program eligibility to State Housing Agencies, (2) provision for reinsurance of half, all or the maximum amount otherwise authorized of the lender's coinsurance risk, (3) revision of the maximum repair limits permitted under the program, (4) tightening of the "sound capital resources" requirement, (5) more favorable terms and conditions for the insurance of mortgages covering multifamily housing projects in older, declining urban areas, and (6) changes in the procedures and methods of calculating insurance benefits under the program. A discussion of the public comments and a complete section-by-section summary of the changes made both in this interim rule and the earlier interim rule are set forth below.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

DATES: *Effective:* Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver. Further notice of the effectiveness of this interim rule will be published in the **Federal Register.**

Comment due date: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Office of Multifamily Housing Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 2, 1980, the Department published at 45 FR 45116 a final rule to revise 24 CFR by adding a new Part 255 entitled, "Coinsurance for Private Lenders." The new Part 255 set forth an experimental program for the coinsurance of loans originated by depository institutions to finance the purchase or refinancing of existing multifamily rental housing projects. This new program was based upon statutory authorities found in section 207 (authority to insure mortgages on muiltifamily projects), section 223(f) (authority to insure mortgages executed in connection with the purchase or refinancing of an existing multifamily housing project), and section 244 (authority to insure pursuant to a coinsurance contract) of the National Housing Act.

On March 31, 1982, the Department published at 47 FR 13517 an interim rule which revised 24 CFR Part 255 to accomplish the following: broaden eligibility of originating lenders from depository institutions only to include mortgage bankers and other private FHA lenders, add a "sound capital resources" requirement to existing net worth criteria required of originating lenders, provide for reimbursement to GNMA for payments made to holders of GNMA-guaranteed securities backed by coinsured loans in the event of a default by the loan originators, change the coinsurance premium sharing formula, allow assignment of coinsured mortgage loans and coinsurance obligations under certain conditions, and make miscellaneous technical modifications. Although the interim rule became effective on May 17, 1982 following the required congressional review period, interested parties were given until June 1, 1982, to submit written comments.

Three comments were received in response to publication of the interim rule. These expressed the views of one mortgage company (Banco Mortgage Company), one trade association (the Mortgage Bankers Association of America— MBA), and the New York City Community Preservation Corporation ("CPC"), a nonprofit corporation representing savings and commercial banks. The Department's resolution of the suggestions offered in these comments is summarized below:

Response to Public Comments

1. *Reinsurance.* All three of the comments urged that HUD allow originating lenders discretion to reinsure their loss exposure, either partially (Banco, MBA) or completely (CPC). This issue has also been discussed informally by industry and departmental officials and received lengthy consideration before and during the public comment period. The Department believes that originating lenders should be required to retain a share of the risk inherent in coinsurance. However, the Department also agrees that discretion to reinsure may provide a necessary incentive for participation in the coinsurance program. Consequently, § 255.106 has been revised in this interim rule to permit a lender to purchase reinsurance coverage of (1) 50 percent of its coinsurance risk, (2) 100 percent of its coinsurance risk, or (3) that portion of its coinsurance risk which equals the maximum amount which the mortgage guarantee insurer is authorized to insure. However, where 100 percent of risk, or the maximum amount authorized, is reinsured, insurance benefits, as determined by § 255.425(a) and (b), will be reduced by 15 percent (§ 255.425(c)). A detailed description of how these provisions would work is contained in the section-by-section description below.

To help meet the cost of reinsurance coverage or self insurance by the lender, § 255.402(b) authorizes the lender to charge the mortgagor a separate annual fee of not to exceed 0.25 percent of the average outstanding principal balance of the loan in addition to the HUD mortgage insurance premium. This is a lender fee only and is not shared with HUD. It may be collected without regard to whether reinsurance coverage is, in fact, purchased by the lender. See also the section-by-section summary of this provision.

2. *Mortgage Insurance Premium (MIP) Sharing.* One commenter objected to the requirements that the initial MIP be collected entirely for HUD's account and that subsequent annual MIP be shared on an 80/20 percent basis between HUD and the lender, on grounds that, because the lender must absorb the first 5 percent of any loss, HUD's share of actual losses would reach 80 percent only in the unlikely event of total loss on the project. In response, the Department notes that the risk and premium sharing formulas contained in Part 255 were formulated on the basis of careful actuarial analysis. The coinsurance provisions of the National Housing Act specifically require sharing of premiums "on a sound actuarial basis" (Section 244(a), second sentence). The Department is concerned about equity with respect to its coinsurance requirements, however, and will monitor closely actuarial results under the new program for any indications that premium sharing revisions are justified. It should be noted that § 255.428 of the rule places an additional risk upon the FHA insurance fund, in that it obligates the Commissioner to protect GNMA from absorbing any coinsurance loss caused by the default of a lender-issuer of GNMA mortgage-backed securities. Considering this and the newness of the program concept, the MIP and risk sharing provisions of Part 255 are not being changed in response to this comment.

The Department considered an alternative coinsurance risk sharing formula for specially designated low-income neighborhoods, under which HUD would pay 100 percent of the losses resulting after deducting 10 percent of the outstanding principal balance of the mortgage on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default. This alternative was determined to be actuarially unsound because it provided inadequate incentive to the mortgagee to sell a foreclosed property at the highest possible price.

3. *Special Provisions for Neighborhood Rehabilitation.* Comments from CPC (which serves as a mortgage originating consortium for New York City depository lenders) suggested a special program within Part 255 to promote moderate rehabilitation in specially defined low-income neighborhoods. The proposed special terms were as follows: per unit rehabilitation of up to $20,000; insured financing of up to 90 percent of project value; a loss sharing formula of 90/10 percent between HUD and the lender,

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elimination of the 5 percent deductible, and lender discretion to reinsure any portion of its 10 percent risk share.

The interim rule makes a number of changes in Part 255 which are responsive to these comments. 24 CFR 207.32a(1) currently makes advantageous terms under Section 233(f) of the National Housing Act available to certain older, declining urban neighborhoods, designated as Target Preservation Areas under the Target Area Preservation Program (TAP). An insured mortgage amount is permitted at 90 percent (instead of 85) of appraised value and the repayment term may extend to the lesser of 40 years (instead of 35) or 100 percent (instead of 75 percent) of the estimated remaining economic life of the project. The combination of the 90 percent loan-to-value ratio and permissible subordinated financing in Section 233(f) provides for 95 percent financing in TAP areas. This interim rule incorporates revisions at § 255.210, § 255.211, and § 255.212 to assure that these terms are available for coinsured mortgages which meet the TAP eligibility criteria.

The rule also revises the restrictions on refinancing mortgages in portfolio (§ 255.208) to give HUD discretion to approve additional portfolio refinancing by a lender where the property securing a loan is in a Target Preservation Area. Further, as noted above, provision is made for reinsurance of a coinsurer's risk, and, as noted below, the maximum repair limits permitted under the program are being liberalized. All of these changes, taken together, should help reduce lender reluctance to use the Part 255 program in riskier urban neighborhoods and make the program more effective where it is used. We do not believe it necessary or desirable, at this time, to make further changes in the coinsurance program, which could expose the FHA insurance fund to unacceptable actuarial risks.

4. *Assignment of Coinsured Mortgages.* One comment suggested that the limitations on mortgage assignments and transfers contained in § 255.408 are intended only to supplement, not supersede, the basic multifamily assignment provisions of 24 CFR 207.261. In fact, the Department drafted § 255.408 with the intention of placing discrete restrictions upon the assignability of Section 223(f) coinsured mortgages. This is necessary because of the statutory right of assignees of coinsured mortgages to elect to receive full insurance, rather than coinsurance, coverage of losses in the event of default (see parenthetical phrase in the second sentence of Section 244(a) of the National Housing Act). A policy of general assignability would defeat the purpose of the coinsurance program, and, therefore, § 255.408 is retained without substantial change.

5. *Capital and Reserve Requirements.* One public comment and informal inquiries to the Department have revealed a technical problem in the definition of "sound capital resources" in § 255.8(h), i.e., the likelihood that loss reserves established by a lender to cover its coinsurance liability will be treated by accountants as a liability, and thus be excluded from "unencumbered resources" as the term is used in this rule. The interim rule revises § 255.8(h) to make clear that coinsurance loss reserves should be considered unencumbered resources for purposes of establishing the minimum sound capital resources required of lenders.

In view of the continuing risks inherent in multifamily loans, this rule does not revise, as was recommended in a public comment, the 1/300 ratio for maintaining ongoing reserves under § 255.102(b) to take account of seasoning of mortgages in portfolio. Future changes can be adopted if program experience supports an actuarial projection that insurance risk will decline as mortgage life advances.

6. *Clarification of Date of Application.* Since Part 255 is a program for existing multifamily properties, HUD regulations require that the multifamily project must have been completed three years before the application for Part 255 mortgage insurance. One commentator suggested clarifications to assure that completion of construction refers to the original construction of the project and not to completion of repairs or moderate rehabilitation financed under Section 223(f) of the National Housing Act. Accordingly, § 255.228(g) (redesignated as § 255.228(f)) is revised in the rule to refer to "construction or substantial rehabilitation" as the event which must be completed three years before application.

7. *Definition of Date of Default.* One comment pointed out that § 255.411 deems a default as occurring 30 days after the events (failure to make a payment or default on a covenant) which are considered a default in the Section 207 basic multifamily regulations (24 CFR 207.255(d)) and that this, combined with the 30-day grace period in § 255.412, could cause the lender to lose 60 days of interest in the computation of the insurance claim amount in § 255.426(b), which includes interest on unpaid mortgage principal between the time of default and the date of foreclosure or property acquisition. While the Department does not believe that a loss of 60 days interest would in fact occur under existing regulations, this interim rule revises § 255.411 to define the date of default as the date of failure to make a payment or perform a covenant, not 30 days thereafter. This, combined with the revision to § 255.426(b), assures that interest will be payable from the date of default to the date of payment of the insurance benefits.

8. *Sharing of Losses: Mortgage Interest and Foreclosure Costs.* The same commenter objected to provisions in § 255.426, which provide for reimbursement of lenders for interest on a defaulted mortgage at the debenture rate (from default to foreclosure/acquisition), instead of at the higher mortgage interest rate, on the ground that these limited reimbursements afford a degree of coinsurance protection to HUD under full insurance programs but are out of place in this coinsurance program. While the Department recognizes no imperative for restricting its coinsurance protection solely to the risk sharing formula of a five percent deductible and 85/15 percent loss split, the Department is taking this opportunity to revise § 255.426(b) to make clear that upon claim settlement, a lender will receive interest on unpaid principal from date of default to acquisition of title at the mortgage interest rate, not at the debenture rate. The rationale for this change in policy is set forth below in the section-by-section description of § 255.426(b).

9. *Reinstatement of Defaulted Mortgages.* One comment suggested that reinstatement of a defaulted mortgage should be optional, rather than mandatory, since lenders would thereby have more leverage in working out problems with defaulting mortgagors. The reinstatement provision in § 255.413 (and its counterpart in Part 207—§ 207.256a) is not entirely mandatory, since reinstatement is required only where the mortgagor cures the default. If the mortgagor cures the default, reinstatement should be mandatory. This reflects HUD policy for all multifamily programs.

Additional Departmental Amendments

In addition to the revisions described above, the Department has included in this interim rule several other modifications to Part 255. Some are in response to largely technical recommendations made in the course of internal clearance of this rule. Revisions are made to the following sections: §§ 255.1, 255.3, 255.5, 255.6, 255.101, 255.102, 255.104, 255.201, 255.203, 255.216, 255.217, 255.224, 255.225, 255.239, 255.401, 255.403, 255.404, 255.407, 255.408, 255.415, 255.424, 255.425, 255.427, 255.428, and 255.429. Minor alterations to improve sentence structure and clarity have also been made throughout the rule.

One revision of a substantive nature is the extension of Part 255 program eligibility to State Housing Finance Agencies. There appeared to be little reason to exclude State Agencies as eligible coinsurance mortgagees. Most have sufficient underwriting and servicing capabilities already in place, and almost invariably have a mandate to provide decent housing for lower and moderate-income families. Also, program eligibility will permit these Agencies to take advantage of a Federal program concerned with the moderate rehabilitation of existing structures—an activity they may not carry out under the Part 250 State Agency program, which is limited to new construction and substantial rehabilitation.

Another substantive revision would revise § 255.228, relating to the maximum repair limits permitted under the program. The purpose of the Section 223(f) program, with or without coinsurance, is to assist in the conservation of neighborhoods by providing a viable means for financing or refinancing the existing housing resources in these neighborhoods for projects which are not in need of substantial rehabilitation. In developing 24 CFR Part 255 for the coinsurance aspect of this program, substantial public comment was received to the effect that the purpose of the program was no longer being adequately served because of the restrictive nature of the existing repair limitations. The present limit (briefly, the greater of 15% of project value after repairs or $3,000 per unit) has been used since the inception of the Section 223(f) program in 1975. The Department was urged to increase this limitation because it is now much too low to permit use of the program in connection with large numbers of otherwise eligible projects which do not require substantial rehabilitation. Further, the fact that the $3,000 limitation was applied equally in all parts of the country (despite the National Housing Act's recognition of, and provision for, the application of a high-cost factor adjustment to the cost limits of other programs), was forcing a further reduction in permitted work in the higher cost areas of the country.

In considering alternatives to the current repair limitations, attention was also given to simplifying and clarifying the complex description of the types of repairs permitted under current policy, and to contrasting that language more directly and more clearly with the requirements of HUD's substantial rehabilitation mortgage insurance programs.

The Department has decided, therefore, to revise the repair limit upward to keep pace with the actual repair needs of projects not requiring substantial rehabilitation, while providing a simplified definition of the type of work permitted in order to assure mutual exclusivity between permissible activity under this program and the substantial rehabilitation programs.

A dollar limitation of $6,500 per unit, adjusted by any applicable high-cost factor of the area, is proposed to (1) adequately reflect the increased cost of basic repairs and improvements and (2) recognize the differing costs of the same level of repairs and improvements in various parts of the country. A simplified definition of permitted work-type is also provided, which allows the replacement of no more than one major building component under this repair program.

To comply with congressional intent and sound practice, a distinction must necessarily be made between this kind of repair activity and the substantial rehabilitation programs to avoid duplication. The repair limits definition included here is also incorporated by regulation change as the program eligibility qualifier for the basis Section 223(f) program (24 CFR 207.32a) and as the cut-off for the Section 207 mortgage insurance program permitting substantial rehabilitation (24 CFR 207.24). The limitation will generally permit projects which would have been eligible for substantial rehabilitation in the past to continue to make use of the higher loan-to-value ratios and insurance of advances features of the basic section 207 program, while permitting the section 223(f) repair programs (both insured and coinsured) to serve the needs of a larger pool of projects not requiring substantial rehabilitation.

All of these repair-related changes are described in detail in the section-by-section summary of §§ 255.228, 207.24 and 207.32a.

Procedural Requirements With Respect to Rule

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (a) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary has determined that good cause exists for making this rule effective as soon after publication as possible. The revisions made to Part 255 in the interim rule promulgated in March of 1982 made private mortgage bankers eligible to originate coinsured loans, added a "sound capital resources" requirement, and provided a GNMA secondary market facility. Both public comments and a continuing program analysis within the Department demonstrate that these changes, by themselves, are inadequate and the further program revisions contained in this rule are essential if the section 223(f) coinsurance program is to realize its potential as a cost-effective way to conserve existing market rate rental housing.

Section 7(o)(3) of the Department of the HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. At the time of publication of this interim rule, it is not known whether or when such waivers will be granted. When this is known, or after the 30 day period expires, a notice stating the effective date of this rule will be published in the **Federal Register.**

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule was listed as item H–53–81 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 28,

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1982 (47 FR 48437) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title is 14.155, Mortgage Insurance for the Purchase of Refinancing of Existing Multifamily Housing Projects.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of shall entities. The changes made by this rule can be considered technical adjustments to the existing structure of the multifamily coinsurance program. They do not change the goals toward which program activities are directed and any effect on small entities should be minor and positive.

Certain of the information collection requirements contained in this regulation (24 CFR Part 255) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 2502–0001, 2502–0014, 2502–0018, 2502–0029, 2502–0118, 2502–0178, 2502–0256, 2502–0257, and 2502–0259. The remaining information collection requirements will be submitted to the Office of Management and Budget and, after OMB review and approval, the public will be notified through a technical amendment to this regulation.

Description of Part 255 as Amended

For the convenience of the reader, and to provide a clear record of the changes being made in Part 255, the entire text of that part, as amended, is being republished. What follows is a section-by-section description of Part 255, focusing upon the changes made since its initial publication as a final rule on July 2, 1980.

Part 255—Coinsurance for Mortgage Lenders

Subpart A—General Provisions

This interim rule revises the heading of Part 255 to read "Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects."

Section 255.1 Purpose. This section states that it is the intention of Part 255 to carry out a demonstration multifamily coinsurance program which will assist in the conservation of neighborhoods and existing housing resources. A revised paragraph (f) was added to this section on March 31, 1982, stating that Part 255 permits assignment of coinsured loans under specified conditions (§ 255.408) and provides certain protections to the Government National Mortgage Association. (§ 255.428). No substantive changes are made in this interim rule.

Section 255.2 Effect of implementation of program on mortgage market. This section covers the Secretary's obligation, under section 244(c) of the National Housing Act, to consult with the mortgage lending industry to determine that the demonstration coinsurance program will not disrupt the mortgage market or reduce availability of mortgage credit to borrowers who depend upon full FHA mortgage insurance. No amendments have been made to this section since its initial publication on July 2, 1980.

Section 255.3 Utilization of existing multifamily insurance authorities. This section provides that mortgages covering multifamily projects which meet Part 244 eligibility requirements shall be insured under section 207 of the National Housing Act (the basic FHA multifamily insuring authority) pursuant to section 223(f) (authority to insure existing multifamily properties) and section 244 (authority to enter into coinsurance contracts) of that Act and the "regulations implementing those sections as set forth in Part 255." This interim rule deletes the quoted material as unnecessary and confusing.

Section 255.4 Effect of availability of coinsurance on insurance otherwise authorized. This section states that the full insurance authorized under the National Housing Act shall not be withdrawn, denied or delayed by reason of availability of coinsurance under Part 255. This section reflects a requirement found in section 244(e) of the National Housing Act and remains unamended.

Section 255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas. This section states that insurance will continue to be available under Part 255 only to the extent the Secretary determines its availability does not adversely affect the flow of mortgage credit to older and lower cost housing. Insurance under Part 255 will not be available for mortgages on properties which are eligible to be insured solely pursuant to the authority of section 223(e) of the National Housing Act (special insurance for properties in older declining urban areas).

This interim rule corrects an error in this section by providing that the Secretary must determine that the availability of coinsurance does not adversely affect the flow of mortgage credit "to older and declining neighborhoods and to the purchasers of older and lower cost housing." This more accurately reflects the statutory requirement found in section 244(e) of the National Housing Act.

Section 255.6 Safeguards for consumers. Paragraph (a) of this section provides that the inspection of repairs and improvements on projects coinsured under Part 255 shall be conducted in accordance with the intent of minimum property standards and criteria set forth in Subpart S of Part 200 of the CFR. Paragraph (b) provides that principals involved in Part 255 projects are subject to the Previous Participation and Review Procedure of §§ 200.210–200.218 of Part 200. Paragraph (c) states that the Secretary is responsible for compliance with the National Historic Preservation Act to the extent applicable to properties repaired with assistance under Part 255. This section remains unamended.

Section 255.7 Definition of private lender. Originally, this section limited participation in the Part 255 program to lenders which were insured depository institutions. On March 31, 1982, the section was amended to expand eligibility to lenders meeting the requirements of §§ 203.3 through 203.6 of 24 CFR (approval of FHA mortgagees), plus the additional requirements concerning technical review and sound capital resources set forth in §255.102. In effect, this amendment extended participation in the program to private mortgage companies. In this interim rule eligibility is further extended to lenders meeting the requirements of §203.8(b) (State Housing Agencies). To conform with this change, the heading of the section is changed to *"Definition of lender"*.

Section 255.8 Definitions. This section contains definitions of certain technical terms used throughout Part 255. On March 31, 1982, a new paragraph (h), providing a definition of the term "sound capital resources", was added to this section. In this interim rule the subsection remains as published in March 1982, except that an unconditional irrevocable "letter" of credit (rather than "line" of credit) will be treated as a "sound capital resource." The reason for this change is discussed under §255.101, below.

Also, a provision is added stating that, for purposes of this definition, a loss reserve established with respect to coinsurance liability and treated as a liability in the lender's balance sheets, may be treated as a capital item rather than a liability. (See also comments on §255.102 (b) infra.)

The rule also specifies that a "mortgage insurance premium" is a premium collected pursuant to § 255.402(a). This is to distinguish clearly the required FHA premium due HUD from any reinsurance fee or premium collected on behalf of the lender. (See § 255.402(b)

Subpart B—Approval of Lender as Coinsurer

The heading of Subpart B is revised in this interim rule to read "Subpart B—Approval of Lender as Coinsurer."

Section 255.101 Review of operation prior to approval as coinsurer. This section provides that a lender (as defined in § 255.7) currently approved as an FHA mortgagee may, upon request, be approved for participation in the Part 255 program after a review of the lender's operations by HUD as prescribed in § 255.102. Section 255.101 was amended in March 1982 to make a technical correction to a cross reference to §§ 203.3 through 203.6 of 24 CFR, relating to requirements for approval as an FHA mortgagee. This interim rule extends the cross reference additionally to § 203.8(b), in order to include State Housing Finance Agencies as eligible lenders. It also substitutes the more general term "lender" for the term "private lender" in the first sentence in recognition of this expansion of eligibility.

Section 255.102 Technical review before approval as a coinsurer. This section requires a lender to undergo an on-site technical staff and procedural review before being approved as a Part 255 coinsurer. As part of the review, the following special requirements must be met: (a) opinion of Counsel on legal authority to participate in the program; (b) evidence satisfactory to the Commissioner that the lender has "sound capital resources"; (c) evidence satisfactory to the Commissioner that the lender has the technical capability, either directly or through contract, to carry out necessary underwriting, servicing, management and property disposition functions; (d) agreement to submit to periodic auditing and review by the FHA Commissioner, Inspector General of HUD or the Comptroller General of the U.S.; (e) submission of the lender's most recent detailed audit report of its books by an independent public accountant; (f) agreement to file with the FHA Commissioner similar independent audits on an annual basis; (g) agreement to notify the FHA Commissioner of any adjustments in its processing procedures and to make no adjustments inconsistent with the requirements of Part 255; (h) adequate technical staff in its immediate employ; (i) a staff competent to monitor the performance of any technical work it contracts to have done in its immediate employ; (j) appraisers assigned by the lender to determine the value of coinsurance properties who meet minimum education and experience standards established by the Commissioner; (k) satisfactory proof that the lender has the capacity to service mortgages coinsured under Part 255; and (1) agreement to abide by all applicable requirements issued by the Commissioner for discharging its coinsurance functions under Part 255.

Paragraph (b) of this section (relating to the sound capital resources requirement) was amended on March 31, 1982. Before that time the lender was required to submit such evidence as the Commissioner might require regarding net worth, surplus accounts, equity capital or other similar category satisfactory to the Commissioner of at least $1 million, and acceptable evidence that its assets were properly proportioned to its liabilities and were adequate for the character and extent of its intended operations. The March 1982 amendment (which was published in conjunction with an extension of program eligibility to private mortgage companies) requires that lenders have "sound capital resources" (as defined in § 255.8(h)) of not less than $1.5 million, which includes at least $500,000 in the form of liquid funds or an unconditional irrevocable firm line of credit from a supervised financial institution. The lender is also required to agree that during the period of coinsurance it will maintain these "sound capital resources," plus an additional amount of one dollar of sound capital resources for each 300 dollars of outstanding principal indebtedness of mortgages it has coinsured under this part.

In this interim rule language with respect to the requirement for sound capital resources is clarified to specify that no more than $500,000 of the sound capital resources requirement may be met by an unconditional and irrevocable letter of credit. The term "letter of credit" has been substituted for "line of credit" to assure that the lender's undertaking differs from the traditional warehousing line of credit. It is intended that the letter of credit be issued for Section 223(f) coinsurance purposes only. The dollar ceiling of $500,000 for the letter of credit is intended to assure that a lender cannot meet the sound capital resources requirement predominantly from a letter of credit, since such a letter, when drawn upon, entails an offsetting liability.

Paragraph (c) requires coinsured lenders to have ability, either directly or by contract, to carry out full mortgage underwriting, servicing, and management and property disposition functions. The interim rule expands this paragraph (1) to require that coinsured lenders have operating procedures, as well as the ability, to carry out these functions, and (2) to specify that activities covered include property repair and other necessary functions. This is intended to make explicit the full range of activities which coinsured lenders are expected to carry out. Paragraphs (h) and (k) currently require coinsured lenders to be able to carry out themselves some of the same functions which paragraph (c) permits them to perform by contract. These paragraphs are deleted as confusing and inconsistent.

Section 255.103 Duration of approval. Certification as an approved coinsurer under § 255.102 will be valid until the Secretary's authority to coinsure expires, unless this approval is withdrawn pursuant to § 255.104. This section remains substantially unamended.

Section 255.104 Withdrawal of approval. This section sets forth the conditions under which certification as an approved lender under Part 255 may be suspended or withdrawn. Such an action would be carried out under the provisions of Part 24 which govern the debarment, suspension and ineligibility of HUD contractors and grantees. Except for a technical correction in March of 1982 of an improper cross reference, and the substitution in this interim rule of the more general term "lender" for "private lender", this section remains unamended.

Section 255.105 Effects of withdrawal or suspension of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved. This section remains unamended. It states that withdrawal or suspension of approval will not affect commitments made, or the insurance of mortgages accepted for insurance, while the lender was an approved coinsurer

Section 255.106 Mortgage servicing and insurance of lender's risk. As originally promulgated on July 2, 1980, this section authorized the lender to delegate its servicing functions, provided that the lender retained its Part 255 coinsurance obligations. The lender was required to inform HUD of any servicing transfers and could be required to rescind any servicing so delegated if the servicing is unsatisfactory to HUD. During the coinsurance period, the lender was prohibited from transferring its risk of loss as a result of default, through reinsurance or otherwise.

In March 1982, this section was amended to require that the entity

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delegated servicing functions be a HUD-approved mortgagee pursuant to 24 CFR 203.1 through 203.6 and 203.8. Those sections set forth the requirements, including net worth requirements, that must be met by a HUD-approved mortgagee.

This interim rule retains the March 1982 requirement that the servicer be a HUD-approved mortgage, but adds a condition that any servicing must be consistent with any applicable contractual requirements the coinsuring lender may have entered into. Specifically, if the lender is also a GNMA issuer of mortgage backed securities, it must comply with GNMA policy with respect to servicing. Under this interim rule, the lender also may obtain insurance for all or part of its coinsurance risk as further described below. If such insurance is obtained, the insurance policy is required to name the FHA Commissioner as a contingent beneficiary in the event that default by the lender results in payment by the Commissioner of any amounts contractually owed by the lender to investors in GNMA securities backed by coinsured mortgages.

Essentially, there are now two options for insurance of coinsurance risk. Under the first option, the coinsuring lender may insure, with a licensed mortgage guaranty insurer, 50% of its coinsurance liability. For this option, the loss-sharing formula distributing the losses between HUD and the lender remains the same, i.e., the lender assumes the top portion of the loss up to 5% of the mortgage outstanding at default and then shares (in an amount of 15%) with HUD in any remaining loss.

Under the second option, the lender may insure either 100% of its coinsurance liability or that part of the coinsurance risk which equals the maximum amount which the mortgage guaranty insurer is authorized to insure. If the lender does so, the loss-sharing formula changes as described in new § 255.425(c): i.e., the lender assumes the top portion of the loss up to 5% of the mortgage outstanding at default and the next 15% of any remaining loss, and then shares (in an amount of 15%) with HUD in any remaining loss. Arithmetically, the coinsurer's liability is equal to the 5% deductible plus 27.75% (15% plus 15% of the residual 85%) of the remaining loss; HUD's liability is 72.25% (85% of 85%) of the loss remaining after the 5% deductible.

Both this section and § 225.425(c) allude to "the maximum amount which the insurer is authorized to insure." This will generally be stated in terms such as "25% at risk of the entire indebtedness to the insured," which possibly, although not probably, will be a lesser amount than the coinsuring lender's potential loss. Although there is nothing in this interim rule which specifically precludes the lender from obtaining additional insurance from another source, or the insurer from reinsuring a part of the risk, the limitation of .25% per annum which the lender may charge the mortgagor for such insurance might tend to restrict the attractiveness of this additional insurance.

HUD would prefer that the lender retain its coinsurance liability to assure careful underwriting. If only 50% of the lender's coinsurance liability is insured, the lender is still at risk. With 100% insurance of such risk, or with the maximum insurance which the mortgage guaranty insurer is permitted to underwrite, that risk is substantially, but not necessarily entirely removed. By increasing the proportion of loss which the mortgage guaranty insurer must bear if there is maximum insurance of the coinsurance risk to the 5% deductible plus 27.75% of the remaining loss, HUD is increasing the incentive of the insurer to bring about good credit underwriting by the lender. In addition, the lender has an incentive to provide good underwriting to maintain its status as a HUD-approved mortgagee/GNMA issuer.

In keeping with the addition of authority to insure the lender's risk, the heading of this section is amended to read "Mortgage servicing and insurance of lender's risk."

Section 255.107 Required regulatory agreement with mortgagors. Paragraph (a) of this section requires the lender and mortgagor to enter into a contract whereby the mortgagor agrees to fulfill the provisions of §§ 255.222 through 255.226, relating to lender supervision of mortgagor's rents, sales, charges, capital structure, rate of return, methods of operation, nondiscrimination, etc. Paragraph (b) authorizes the lender to regulate the mortgagor, as a condition to making the loan, on other matters as it may require insofar as such conditions do not conflict with the requirements of the FHA Commissioner under Part 255. This section remains substantially unchanged.

Subpart C—Eligibility Requirements Applicable to Mortgages Coinsured Under Section 207 Pursuant to Section 223(f)

Section 255.201 Application. The application for a commitment to make a coinsured mortgage loan shall be submitted by the project sponsor to the lender. The lender will act as agent for the Secretary and may require such exhibits as it deems necessary to comply with the requirements of Part 255. This section remains unamended.

Section 255.202 Application fees, inspection fees, and service charges. The lender may collect from the mortgagor such application, inspection and initial service charges as it may require to reimburse itself for application, inspection and closing costs. In no event will the total fees be permitted to exceed those allowed in the fully insured Section 223(f) program—insurance of mortgages covering existing multifamily properties. This interim rule revises this section to give the Commissioner discretion to allow charges in excess of those permitted under section 223(f) where necessary. This is intended to assure that coinsured lenders, where necessary, are eligible to receive reimbursement consistent with their responsibilities under the program.

Section 255.203 Processing and commitment. The lender shall, as agent for the Secretary, perform all of the processing, including the issuance of both conditional and firm commitments, and make all of the determinations of the eligibility of a mortgage for coinsurance. The firm commitment to coinsure upon completion shall be effective for 90 days, with provision for amendment or reopening of an expired commitment upon application to the Commissioner. This rule deletes, as unnecessary, the requirement that the Commissioner approve each extension, amendment or reopening of a commitment. This is consistent with HUD's policy of delegating as much responsibility as possible to coinsured lenders.

Eligible Mortgages

Section 255.208 Refinancing of mortgages in portfolio. This section authorizes the Commissioner to coinsure mortgages refinancing loans already held in an approved lender's portfolio if (a) the loan is current in payments and has not been in default, modification, or forbearance at any time during a continuous period of at least two years preceding the date of insurance application, and (b) the number of such loans do not exceed one-fourth of the total number of loans submitted by the lender for coinsurance under Part 255 in any period of twelve consecutive months. The Commissioner retains discretion to review, before commitment, the lender's property appraisal and mortgage credit analysis with respect to such transactions.

This section was not amended in March 1982, but this interim rule amends the section to provide that the Commissioner may grant permission to

exceed the one-fourth limit on refinancing loans already held in an approved lender's portfolio, if the additional refinancing relates to Target Area Preservation projects which meet the eligibility requirements of 24 CFR 207.32a(1). This amendment is made in response to concern expressed by potential loan originators already involved in urban neighborhood rehabilitation that the 1:4 portfolio restriction could penalize this worthwhile lending activity by limiting arbitrarily the number of projects in such areas which could benefit from Section 223(f) refinancing. The Department wishes to encourage, not place restrictions on, use of Section 223(f) coinsurance to facilitate financing of housing conservation in older urban neighborhoods.

The interim rule also provides that the Commissioner retains discretion to review the "entire loan transaction" before commitment. Previously this review was limited to review of property appraisal and the mortgage credit analysis. The Department believes review of an entire loan transaction may sometimes be necessary, especially where the parties have a community of interest as, for example, that between a parent company and its subsidiary or an affiliate. For this reason the rule also broadens the concept of a lender's portfolio to also include the portfolio of any "related entity".

Section 255.209 Mortgage provisions. This section provides that the mortgage shall be on a form approved by the Commissioner; executed by a qualified mortgagor; and be a first lien on property that conforms with the intent of the property standards prescribed by the Commissioner. This section remains unamended.

Section 255.210 Mortgage lien and other obligations. This section provides that the mortgagor shall certify at endorsement of the loan for insurance and the lender shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the lender, in accordance with standards established by the Commissioner.

(b) There will not be outstanding unpaid obligations contracted for in connection with the project except obligations approved by the lender, in accordance with standards established by the Commissioner.

(c) When a loan is made to finance the purchase of an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of (1) seven and one-half percent of the lender's estimate of value; *or* (2) seven and one-half percent of the cost of acquisition.

(d) When a loan is made to refinance an existing multifamly housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of (1) seven and one-half percent of the lender's estimate of value *or* (2) fifty percent of the difference between the cost to refinance (as defined in § 255.211(c)(2)) and the maximum mortgage amount, as determined by the lender.

(e) The additional obligations of the mortgagor, provided for in paragraphs (c) and (d), shall be represented by promissory notes on forms approved by the Commissioner which shall not be due and payable until the maturity date of the coinsured mortgage, but may be prepaid from surplus cash or residual receipts.

This interim rule adds a new paragraph (e) to this section (redesignating the existing paragraph (f)). The new paragraph states that, for projects which meet the eligibility requirements of 24 CFR 207.32a(1) (Target Preservation Area Projects), the limitations with respect to secondary financing found in § 207.32a(j)(4) shall apply. This amendment is added to assure that housing projects in Target Preservation Areas financed under the coinsurance program enjoy mortgage terms comparable to those financed under the Section 223(f) full insurance program. (See also amendments with respect to these areas in §§ 255.211 and 212).

Section 255.211 Maximum mortgage amount. This section sets forth the maximum mortgage amounts which may be insured under Part 255.

(a) Paragraph (a) sets forth specific dollar limitations per family unit which vary according to the number of bedrooms and type of structure—whether elevator or non-elevator. These limitations may be increased by up to 20 percent where the purchase and installation of a solar energy system is involved. They may be increased by up to 75 percent (or by up to 90 percent on a project-by-project basis) in high-cost areas designated by the Commissioner. If the Commissioner finds it necessary due to high costs in Alaska, Guam and Hawaii, these limitations, including high-cost area increases, may be further increased by up to 50 percent.

This rule amends this paragraph to authorize increases on a project-by-project basis of up to 140 (rather than 90) percent, provided that there is no GNMA purchase commitment involved. If such a purchase commitment is involved, the increase would continue to be limited to 90 percent. This new authority to increase mortgage limits was provided in the Further Continuing Appropriations Act of 1983. (Pub.L. 97-377)

Paragraph (b) limits the principal obligation of any insured mortgage to 85 percent of the lender's estimate of value. Value is to be determined in accordance with specific criteria set forth in the paragraph. This interim rule amends this paragraph to permit a principal obligation of up to 90 percent of value if the project meets the eligibility requirements contained in § 207.32a(1)—Target Preservation Area projects. The amendment is intended to further the Department's policy of encouraging the financing of housing rehabilitation in older urban neighborhoods, by providing mortgage terms for coinsured Target Preservation Area projects comparable to the favorable terms enjoyed by these projects under the section 223(f) full insurance program.

Paragraph (c) provides that, if the property is to be refinanced by the insured mortgage, the maximum mortgage amount shall not exceed the greater of (1) 70 percent of value or (2) the cost of refinancing existing indebtedness (which may include estimated repair costs). This paragraph remains unamended.

Paragraph (d) provides that if the property is to be acquired by the mortgagor, the maximum amount shall not exceed 85 percent of the cost of acquisition (which may include estimated repair costs). This interim rule amends this paragraph to permit a mortgage amount of up to 90 percent of cost of acquisition, if the project meets the eligibility requirements contained in § 207.32a(1)—Target Preservation Area projects.

Paragraph (e) requires that debt service on the mortgage must be an amount which can be amortized by 85 percent of the projected net income of the project after payment of operating expenses and taxes. This paragraph remains unamended.

Paragraph (f) requires that, if a mortgage is secured by a leasehold, the value of the property covered by the mortgage shall be the value of the leasehold estate. This paragraph remains unamended.

Section 255.212 Maturity. The mortgage shall have a maturity of not less than 10 years nor more than the lesser of 35 years or 75 percent of the estimated remaining economic life of the physical improvements. This interim rule amends the section to permit a

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maximum term of 40 years or 100 percent of the estimated remaining economic life, if the project meets the eligibility requirements of § 207.32a(1)—Target Preservation Area project. As in § 255.211(b) and (c), the intent of the amendment is to further the Department's policy of encouraging the financing of housing rehabilitation in older urban neighborhoods.

Section 255.213 Payment Requirements. Payments shall be monthly in accordance with an amortization plan agreed upon by mortgagor and lender. The FHA Commissioner may prohibit specific types of mortgage instruments which would have the effect of automatically adjusting the mortgage interest rate as established at the time of endorsement of the loan. This section remains unamended.

Section 255.214 Maximum mortgage interest rate. This section provides that commitments to insure shall be issued at an interest rate not exceeding any HUD limit applicable to section 233(f) loans at the time of commitment. Provision is made for the issuance of amended commitments at higher rates if certain conditions are met. This interim rule does not amend this section except to correct a typographical error (changing the word "request" to "issue") in the fourth sentence of paragraph (b).

Section 255.215 Mortgage to cover the entire property. The mortgage must cover the entire property included in the housing project. This section remains unamended.

Section 255.216 Covenant for hazard insurance. The mortgage shall contain a covenant to keep the property insured against loss from fire or other hazards for no less than 80 percent of the actual cash value of insurable improvements and equipment. This interim rule amends the section by adding a requirement that the lender be responsible for verifying that hazard insurance remains in force. This will help preserve HUD's financial interest in the coinsured property. It also adds a new paragraph (b) requiring the lender to ascertain the general physical condition of the mortgaged property in each calendar year. The lender shall furnish the mortgagor and HUD a copy of its inspection report, which shall contain the lender's recommendations for any necessary corrective actions. This inspection requirement is consistent with a similar requirement found in § 207.260. Also, this rule changes the heading of this section to read *"Hazard insurance and physical inspection."*

Section 255.217 Soundness of project. No mortgage shall be insured unless the lender finds that the property is economically sound or, in Alaska, Guam or Hawaii, unless the lender, with prior notice to the FHA Commissioner, finds the property an acceptable risk giving consideration to the acute housing shortage in those areas. This section remains unamended.

Section 255.218 Accumulation of accruals. This section provides for the timely accrual, through equal monthly payments, of amounts needed for mortgage insurance premiums, taxes, insurance, ground rents or other special assessments. The rule makes no substantive change to this section.

Section 255.219 Application of mortgage payments. This section provides for a single monthly payment by the mortgagor to be applied by the lender in a specified order to the various items required by the mortgage transaction. The section remains unamended.

Section 255.220 Prepayment privileges. The mortgagee may establish such conditions or penalties for prepayment as may be agreed upon by the mortgagee and mortgagor.

The rule amends this section to implement the prepayment restrictions contained in section 223(f) of the National Housing Act. The restrictions are similar to those found in § 207.32a(e)(2) with respect to the Target Area Preservation Program. Generally, prepayment is prohibited (except as required by the Commissioner) for a period of five years unless specified conditions are met demonstrating that prepayment does not adversely affect the provision of adequate rental housing opportunities for low- and moderate-income families.

Section 255.221 Late charges. This section makes provision for the collection of late charges by the lender. It remains unamended.

Supervision of Mortgagors

Section 255.222 In general. In order to be eligible for insured financing, the mortgagor must agree to be regulated by the lender as to rents, sales, charges, capital structure, rate of return, and methods of operation. This section remains unamended.

Section 255.223 Required supervision of mortgagors. This section states that the regulatory agreement required by § 255.107 shall provide that the following items are regulated or restricted as follows:

Paragraph (a) of this section, relating to capital structure, is revised to reflect the fact that the capital structure has been agreed upon before entering into a regulatory agreement and to specify that this structure may not subsequently be changed without the lender's approval.

Paragraph (b), relating to rate of return, contains a technical revision requiring segregation of "an amount equal to the project's total liability for tenant security deposits" rather than segregation of "all tenant security deposits held". It also deletes obsolete references to "dividends".

Paragraph (c), relating to regulation of rents and charges, is revised to delete the requirement for FHA Commissioner review of any charges to be made by the mortgagor for facilities or services offered by the project in excess of those approved by the lender before opening of the project for rental. In lieu of this requirement, the lender would be subject to standards established by the Commissioner with respect to such charges. This is in keeping with HUD policy of delegating servicing and processing functions to the maximum extent feasible under its coinsurance programs.

Section 255.223(d)(4) is revised to include the Inspector General of HUD among the parties to whom the mortgagor's books will be made available for examination and audit, and to provide that the mortgagor's books shall be kept in accordance with requirements of the FHA Commissioner as well as those of the lender. Specific requirements concerning certification of the availability of such books and records by the mortgagor are deleted as unnecessary. The Department believes wide availability for inspection and establishment of specific bookkeeping requirements by the Commissioner provide a more effective method of oversight than the present certification process. The rule also deletes duplicative and unnecessary language regarding the form and timing of submissions of required annual financial reports from the mortgagor.

This interim rule also adds a new paragraph (e) to this section relating to investment of reserves. Money placed in the Reserve for Replacements shall be invested to earn interest in interest-bearing deposits that are Federally insured, in Treasury securities, or in securities issued by a Federal agency or a Federally sponsored agency.

Section 255.224 Nondiscrimination in housing. This section requires the mortgagor to certify in the regulatory agreement required by § 255.107 that, so long as the mortgage is coinsured, the mortgagor will comply with certain specified requirements relating to nondiscrimination in housing. This interim rule amends the section to delete the certification requirement as an unnecessary formality, substituting a requirement (which reflects current practice) that the regulatory agreement contain these nondiscrimination provisions.

Section 255.225 Discrimination in employment. This section requires the mortgagor to certify that it will not discriminate against any employee or applicant for employment. This interim rule amends that section to delete the certification requirement, substituting a requirement that the regulatory agreement contain these nondiscrimination provisions.

Section 255.226 Covenant regarding use of property. This section requires the mortgage to contain a covenant prohibiting the use of the property covered for any purpose other than that for which it was intended at the date the mortgage was executed. The section remains unamended.

Property Requirements

Section 255.227 Eligibility of property. The mortgage, to be eligible for insurance, must be on real estate held in fee simple or on certain specified types of long-term leasehold interests. Also, it must be free and clear of liens except those approved by the lender. This section remains unamended.

Section 255.228 Development of property. Paragraph (a) of this section states that the mortgagor shall be obligated to either purchase or refinance existing housing and make such repairs and improvements as are deemed necessary by the lender. The property must not require substantial rehabilitation, as defined in the section. This interim rule revises the paragraph to make clear that the prohibition against substantial rehabilitation means rehabilitation which consists of repairs, replacements and improvements in excess of the limitations set forth in paragraph (c).

Paragraph (b) requires the mortgagor to include a plan to minimize involuntary displacement of tenants if it is contemplated that repairs financed with insured mortgage proceeds will cause involuntary displacement. This paragraph remains unamended.

Paragraph (c) defines a property requiring substantial rehabilitation. These are properties which do not provide safe and adequate shelter, and in their present condition endanger the health and well-being of the occupants. Such housing has a critical defect (defined in paragraph (e)) or combination of critical defects requiring extensive repair or rebuilding, or necessitating required repairs the cost of which would exceed the greater of: (1) 15 percent of the property's value after repairs; or (2) $3,000 per dwelling unit, or such higher amount that the FHA Commissioner determines is justified when compared with amounts expended in the area for the majority of other rehabilitation projects assisted by the Department.

This interim rule extensively revises paragraph (c). Its heading is changed from "Properties requiring substantial rehabilitation" to "Limitation on cost and nature of repairs, replacements, and improvements". A property would be deemed eligible for Part 255 mortgage insurance if (1) the cost of repairs, replacements and improvements does not exceed the greater of (A) 15 percent of the property's value after completion of all repairs, replacements and improvements, or (B) $6,500 (adjusted by any applicable high-cost area factor) per dwelling unit, and (2) no more than one major building component is being replaced. The term "high-cost area factor" refers to the percentage increases over basic dollar limitations per dwelling unit authorized in § 255.211(a)(4) and the term "major building component" includes roof structures; ceiling, wall or floor structures; foundations; elevators; and plumbing, heating, air conditioning or electrical systems.

Paragraph (d) provides that, in determining whether a property exceeds the substantial rehabilitation threshold described in paragraph (c), the lender may exempt (from the total which must not exceed the threshold), the purchase price, but not the installation cost of, certain specific items of replacement such as ovens, refrigerators, etc., or fire safety equipment required by Federal, State or local law. This paragraph remains unamended.

Paragraph (e) defines the term "critical defect" as including, but not limited to, certain specified types of defects or hazardous conditions. This interim rule deletes this definition as unnecessary, since the term "critical defect" is no longer used in this section as amended.

Paragraph (f) is redesignated as paragraph (e). It provides that a project shall consist of not less than five dwelling units. The substance of the paragraph remains unamended.

Paragraph (g) is redesignated as paragraph (f). It provides that, in order to be eligible for mortgage insurance, 3 years must have elapsed from the date of completion of the project or beginning of occupancy (whichever is later) to date of application for mortgage insurance. This interim rule substitutes a more specific reference to "completion of construction or substantial rehabilitation of the project" for the term "completion of the project."

Paragraph (h) is redesignated as paragraph (g). It relates to financial viability. A project must have attained sustaining occupancy before endorsement of the mortgage for insurance, or else the mortgagor shall provide an operating deficit fund in an amount approved by the lender at the time of endorsement. This paragraph remains unamended.

Section 255.229 Commercial facilities. The project may include such commercial and community facilities as the lender determines to be appropriate to serve the occupants. In no event shall net rentable commercial area exceed 20 percent of total net rentable area unless this limitation is waived, for good cause, by the Commissioner. This section remains unamended.

Title

Section 255.230 Eligibility of title. The lender must determine that marketable title is vested in the mortgagor as of the date the mortgage is filed for record. This section remains unamended.

Section 255.231 Title evidence. This section requires a policy of title insurance or other specified evidence of title to be furnished the lender by the mortgagor upon insurance of the mortgage. This section remains unamended.

Cost Certification Requirements

Section 255.232 Agreement to certify cost requirements. Before the commencement of repairs and endorsement of the loan, the lender shall enter into an agreement with the mortgagor wherein the mortgagor agrees to (1) execute a certificate of actual costs upon completion of all physical improvements and (2) accept the mortgage loan reduced by the amount, if any, required by § 255.239. This section remains unamended.

Section 255.235 Certificate of actual cost—contents in general. The mortgagor shall submit a certificate of actual cost to the lender before endorsement and upon completion of the improvements to the satisfaction of the lender. This submission is not required in those refinancing transactions where 70 percent of value is the controlling mortgage limitation. Items to be included if paid by the mortgagor in acquiring property are listed in § 255.211(d). Items to be included if paid for by the mortgagor in refinancing property are listed in § 255.211(c)(2). This section remains unamended.

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Section 255.239 Reduction in mortgage amount. If the principal obligation of the mortgage exceeds the applicable statutory percentage of the approved actual cost, the mortgage shall be reduced by the amount of such excess before endorsement for insurance upon completion. This rule amends the section to make clear that the principal obligation limitations referred to are those established pursuant to § 255.211 (Maximum Mortgage Amounts).

Section 255.240 Requisites of certification of actual costs. A statement of certification of actual costs shall specifically state that it has been made, presented and delivered for the purpose of influencing an official action of the FHA Commissioner and the lender as a true statement of the facts contained therein. This section remains unamended.

Section 255.241 Cost certification incontestable. Upon lender approval of the mortgagor's certification, it shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor. This section remains unamended.

Subpart D—Contract Rights and Obligations

Section 255.401 Insurance endorsement of mortgage. Upon compliance with a commitment, the FHA Commissioner will insure the lender against a portion of losses resulting from nonpayment of the debt, evidencing the insurance by an appropriate endorsement placed on the original credit instrument. This interim rule amends the third sentence of this section to make clear that endorsement of the credit instrument is in fact made by the HUD Area Manager, Service Office Supervisor or other designee.

Section 255.402 Amount of MIP collected from the mortgagor. The lender shall collect from the mortgagor MIP from the date of the contract of coinsurance which shall not exceed an initial MIP of one percent of the principal obligation for the first year of the mortgage and 0.5 percent per annum of the amount of the principal obligation of the mortgage outstanding any time thereafter, without taking into account delinquent payments or prepayments. This interim rule makes clear that the lender shall collect an initial MIP not to exceed one percent per annum of the average outstanding principal balance of the mortgage from the date of contract insurance to one year after the first payment to principal, and thereafter an MIP not to exceed .5 percent per annum of the average outstanding principal balance of the mortgage. This change is made to facilitate HUD's method of accounting for MIP payments.

The rule also adds a new paragraph (b) to this section which provides that, in addition to the MIP required by the FHA Commissioner, beginning not earlier than 12 months after the date of the first payment to principal, the lender may charge the mortgagor an additional annual reinsurance premium for the account of the lender, or a reinsurer, not in excess of .25 percent per annum of the amount of the average annual outstanding principal balance of the mortgage, without taking into account delinquent payments or prepayments. This charge would help cover the cost of reinsurance or of self-insurance by the lender. The .25 percent charge would be subject to any requirements with respect to duration of charge, pro rata payments, etc., that the Commissioner may establish.

Section 255.403 Method of payment of MIP. Payments of MIP to the FHA Commissioner by the lender shall be made annually, in cash or debentures, on a level percentage of the declining principal balance. This rule remains unamended.

Section 255.404 Annual payment of MIP on a level percentage of the declining principal balance. Originally, this section provided that, from the proceeds of the premium collections authorized in § 255.402, the lender would pay to the FHA Commissioner on the effective date of the contract of coinsurance, a first-year mortgage insurance premium, covering a period of one year, equal to 0.75 percent of the outstanding principal balance of the mortgage. Each year thereafter, the lender, on the anniversary date of the contract of coinsurance, was required to pay a premium for the following year, equal to 0.38 percent per annum of the average outstanding principal obligation of the mortgage.

On March 31, 1982, this section was amended by increasing the required initial premium payment from 0.75 percent to 1.0 percent, and by increasing the annual payments thereafter from 0.38 percent per annum to 0.4 percent per annum.

This interim rule further amends this section to accommodate the Department's technical accounting procedures. The initial one percent premium requirement is modified to provide for collection in two installments, one at insurance endorsement (when the coinsurance contract becomes effective), the other at the date of first payment to principal, with the combined payments adding up to one percent of the average principal balance outstanding from the date of insurance endorsement to one year following the initial payment to principal.

The interim rule also changes the heading of this section to read "Payment of MIP by the lender.".

Section 255.405 Duration of MIP. The MIP shall continue to be paid until (1) the mortgage is paid in full, (2) a deed to the lender is filed for record, or (3) the coinsurance contract is otherwise terminated with the consent of the FHA Commissioner. This section remains unamended, except for the correction of a cross reference to § 255.404.

Section 255.406 Pro rata payment of annual MIP. If the contract of coinsurance is terminated by prepayment or voluntary termination after the due date of the initial first year MIP, the FHA Commissioner shall refund to the lender for the account of the mortgagor that portion of the current annual MIP applicable to the portion of the year subsequent to the date of termination. This section remains unamended, except for the correction of a cross reference to § 255.404.

Section 255.407 Late charge—payment of MIP. Mortgage insurance premiums which are paid to the FHA Commissioner more than 15 days after the billing date or due date, whichever is later, shall include a late charge of 4 percent of the payment due.

This interim rule adds a new paragraph (b) to this section which provides that, in addition to the 4 percent late charge, MIP paid to the FHA Commissioner more than 30 days after billing date or due date, whichever is later, shall be subject to interest from the billing or due date at a rate set in conformity with the Treasury Fiscal Requirements Manual. The Treasury Fiscal Requirements Manual prescribes that an interest charge, computed using the current value of funds to the Treasury, be assessed on overdue payments to Federal departments and agencies.

Section 255.408 Assignment of coinsured mortgages. This section was added to Part 255 on March 31, 1982. It permits a lender to assign or transfer a coinsured mortgage if (1) the assignee is an FHA-approved coinsuring mortgagee, (2) the lender shows good cause for such assignment, (3) the FHA Commissioner finds the assignment is for good cause and that there will be an advantage to the FHA, and (4) the FHA Commissioner gives prior written approval for such assignment.

This interim rule revises requirement numbered (3) above to read "the Commissioner finds that such assignment is for good cause and that there will be no disadvantage to FHA." The original language would have been exceedingly difficult to interpret in HUD's Handbook Instructions, because it required a finding that loan assignment by the originator to another approved lender would result in an advantage to FHA. In reality, the impact of such assignment need only be neutral, i.e., no disadvantage.

Default Under the Mortgage

Section 255.410 Definition of default. This section provides that failure to make any payment due under the mortgage, or failure to perform any other covenant, if the lender because of such failure accelerates the debt, shall be considered a default. This section remains unamended.

Section 255.411 Date of default. This section specifies that the date of default shall be considered as 30 days after the first uncorrected failure to perform any obligation under the mortgage or the first failure to make a monthly payment which is not covered by subsequent payments. This interim rule amends this section to establish the date of default as the date of failure to perform or make payment. This change is consistent with § 207.255(d). See also the discussion of public comment 7, above.

Section 255.412 Notice of default. The language of the current section provides that, within 30 days after the date of default, the lender shall give written notice to the FHA Commissioner. This interim rule amends the section to provide that if the default, as defined in § 255.410, continues for a period of 30 days, the lender shall, within 30 days thereafter, give written notice of the default to the Commissioner, unless the default has been cured or the Commissioner has been notified of a previous default which remains uncured. This change retains the current 30-day grace period after default before procedures to acquire title to the property can be taken.

Section 255.413 Reinstatement of a defaulted mortgage. If before completion of foreclosure proceedings the mortgagor cures the default, insurance shall continue as if a default had not occurred. This section remains unamended.

Section 255.414 Forbearance relief. The mortgagor and lender may enter into an agreement for the reduction or suspension of regular mortgage payments, according to standards set forth by the FHA Commissioner, provided that during the forbearance period all project income from rents or other sources are applied toward payment of operating costs, with any excess applied toward mortgage payments. This section remains unamended.

Termination

Section 255.415 Termination of coinsurance contract. The contract of coinsurance shall be terminated if (a) the mortgage is paid or prepaid in full, (b) the lender acquires the property and notifies the FHA Commissioner that no insurance claim will be made, (c) after a foreclosure the property is redeemed, (d) the property is acquired at a foreclosure sale by a party other than the lender, or (e) the mortgagor and lender jointly request termination. This rule adds a new subparagraph (e), providing for termination of coinsurance if the lender fails to file a claim within the period (generally 12 months and 15 days) prescribed in § 255.424(b). Current paragraph (e) is redesignated as paragraph (f).

Section 255.416 Notice and date of termination by Commissioner. This section requires the FHA Commissioner to notify the lender that the contract of coinsurance on a mortgage has been terminated and to establish the effective termination date. This section remains substantially unamended.

Section 255.417 Effect of termination. Upon termination, the obligation to pay any subsequent MIP shall cease and all rights of the mortgagor and lender under the coinsurance contract shall be terminated. This section remains unamended.

Claim Procedure

Section 255.420 Acquisition of property. After default and determination by the lender to accelerate payment under the mortgage, the lender shall (1) commence foreclosure proceedings or (2) acquire possession of, and title to, the property by other means. The lender shall notify the FHA Commissioner of its election. This section remains substantially the same.

Section 255.421 Deed in lieu of foreclosure. Conveyance of the property by deed in lieu of foreclosure is approved subject to certain specified requirements. This section remains unamended.

Section 255.422 Notice to Commissioner. When the lender elects to acquire title either by foreclosure or deed in lieu of foreclosure, it shall give written notice to the FHA Commissioner of its intention to file a claim for insurance benefits. This section remains unamended.

Payment of Insurance Benefits

Section 255.423 Method of payment. Payment of the insurance claim shall be in cash unless the lender files a written request for payment in debentures. This section remains unamended.

Section 255.424 Disposition of property and application for insurance benefits. Paragraph (a) provides that, upon acquisition of marketable title to the property securing a defaulted mortgage, the lender shall obtain an appraisal of the property by an independent appraiser. The appraisal shall be based upon the market value of the property for use for the market originally intended.

This interim rule amends this paragraph to require the lender to obtain two appraisals of the property by independent appraisers selected from a panel approved by the FHA Commissioner. Appraisals shall reflect the market value of the property, as of the date of acquisition, for its highest and best use.

The term "highest and best use" replaces "for the market originally intended." The latter restricts project value to market value as rental housing. The revised version enables appraisers to take into account the higher value which a project might have as condominium or cooperative housing, or for non-residential commercial use, and thereby minimizes the amount of loss where claims are settled on the basis of an appraisal, rather than through sale of the property by the lender. It is assumed that the lender, in disposing of foreclosed property, will maximize sales proceeds. Confining the value basis to rental housing values could make possible windfall gains for lenders, because HUD's claim payment would be offset only by the lower rental market value of a property. On the other hand, there will be cases where "highest and best use" is continued rental housing use. Thus, this provision will not inevitably lead to conversion of rental housing to condominiums or cooperative tenancy or to non-residential use. In any case, HUD's contract of insurance terminates upon claim settlement and HUD retains no leverage to require continued use of the property as rental housing.

Paragraph (b) authorizes the lender, after sale of the property, or after the expiration of 12 months from acquisition, whichever occurs first, to file with the FHA Commissioner a claim for insurance benefits. To be eligible for payment, a claim shall be filed no later than 15 days after sale, or after expiration of this 12 month period.

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whichever is applicable. This paragraph remains essentially unamended. This rule does, however, clarify the language in the last sentence of the paragraph.

Paragraph (c) provides that, upon making a claim for insurance benefits, the lender shall provide the FHA Commissioner with information concerning any sale of the property and shall assign to the FHA Commissioner any and all claims (other than the mortgage financing the sale) which the lender has acquired in connection with the transaction. This interim rule deletes the requirement that the lender assign any and all claims to the FHA Commissioner. Such claims would instead be listed under § 255.427 as items to be deducted from the payment of insurance benefits.

Paragraph (d) provides that, if the property has not been disposed of at the time of the lender's request for payment, the lender shall utilize, in lieu of the sales price, the appraised value of the property secured in accordance with paragraph (a) in its notification to the FHA Commissioner. This interim rule amends this paragraph to require that the higher of the two appraised values of the property secured in accordance with paragraph (a) be utilized in the notification to the FHA Commissioner.

Section 255.425 Amount of payment. Paragraph (a) provides that the basis for the computation of insurance benefits shall be the sum of the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, plus the amount of all payments made by the lender and allowances for items as set forth in § 255.426 (items included in payment), less all items set forth in § 255.427 (items deducted from payment). This paragraph remains unamended.

Paragraph (b) provides that the amount of total insurance benefits shall be 85 percent of the amount computed under paragraph (a). This interim rule limits this 85 percent payment to cases where the lender has obtained no insurance of its coinsurance risk or has insured 50 percent of its coinsurance risk.

This interim rule also adds a new paragraph (c) to this section which provide for the calculation of insurance benefits where the lender has obtained insurance for either 100 percent of its coinsurance risk or that portion of its coinsurance risk which equals the maximum amount which the insurer is authorized to insure. This calculation is explained in detail in the description of § 255.100, above.

Section 255.426 Items included in payment. This section lists the items upon which insurance benefits are payable. Paragraph (b) of the section lists as a payable item an amount equivalent to debenture interest at the rate established pursuant to § 255.423 on the principal amount of the mortgage which is unpaid on the date of the institution of foreclosure proceedings or on the date of the acquisition of the property otherwise after default, which amount is payable from the date of default to the date of acquisition of title.

This interim rule amends paragraph (b) to provide that, instead of debenture interest, a lender shall receive an amount equivalent to mortgage interest on the principal of the mortgage unpaid on the appropriate date. This change recognizes that upon default, a lender-issuer of GNMA mortgage-backed securities is expected to continue periodic payments to securities holders at the securities interest rate, which is the mortgage interest rate, less the GNMA-approved servicing fee of 0.25 percent. Insurance settlement computed at the debenture rate from time of default to acquisition of title would not fully compensate the lender-insurers' cost of making pass-through payments. Therefore, it is deemed reasonable to pay this category of lenders at the mortgage interest rate. In order not to discriminate against financing which does not involve GNMA, the Department is extending this mortgage interest rate payment policy to all lenders.

Section 255.427 Items deducted from payment. This section lists the items which shall be deducted in the computation of insurance benefits. Paragraph (b) of this section lists as deductible items all amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property otherwise after default.

This interim rule revises paragraph (b) to also include as an additional deductable item "any other reimbursement to the lender other than pursuant to the coinsurance contract." This language enables HUD to reduce the claim settlement by the amount of any other reimbursements which the lender obtains to offset its loss.

The rule revises paragraph (f), relating to the sale of the mortgaged property, to make clear that if the property is not sold within 12 months of acquisition or is sold on a negotiated basis, the higher of the appraised values of the property determined in accordance with § 255.424(a) is to be used in determining the amount of claim payment.

Finally, the rule also adds a new paragraph (g) to the section adding, as an item to be deducted, any and all claims which the lender has acquired in connection with the acquisition and sale of the property. This change is in keeping with HUD's policy of delegating as much responsibility as possible to the coinsured lender. The value of these claims would be determined by HUD.

Section 255.428 Remedies in the event of a default by a lender—issuer under the GNMA mortgate backed securities program. This section makes provision for the FHA Commissioner to protect the Government National Mortgage Association from absorbing any coinsurance loss caused by a default of a lender-issuer of GNMA mortgage-backed securities. This section was added to Part 255 on March, 31, 1982. This rule expands the protection of GNMA to include the increased risk exposure to the lender in the case of maximum insurance of its coinsurance risk. It also deletes a reference to the differential in interest between the securities rate and the FHA debenture rate. Since, under §255.426(b), the mortgage interest rate will be paid on insurance claims, this reference is no longer necessary.

Section 255.429 Effect of amendments. Subpart D of Part 255 (Contract Rights and Obligations) may be amended from time to time, but such amendment shall not adversely affect the interests of a lender under (1) an existing contract of coinsurance, or (2) a mortgage to be coinsured on which the lender has made a commitment to insure. This section remains unamended.

Section 255.430 Compliance with National Flood Insurance Program and Coastal Barrier Resources Act. This interim rule adds a new section at the end of the part 255.

Paragraph (a) provides that no insurance shall be made available under Part 255 for acquisition, refinancing or repair of a building or manufactured home located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR 59–79), or less than a year has passed since FEMA notification regarding such hazards, and flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 42 U.S.C. 4001, *et seq.*)

Paragraph (b) provides that no insurance shall be made available under Part 255, except pursuant to a commitment issued before October 18, 1982, with respect to any property within the Coastal Barriers Resources System established by the Coastal Barriers Resources Act (10 U.S.C. 3501).

Conforming Amendments to Part 207

Part 255 is a program to aid in the conservation of neighborhoods by providing, through combined use of coinsurance authority under section 244 of the National Housing Act, authority to insure existing multifamily properties under section 223(f) of that Act, and the basic authority to insure multifamily rental housing under section 207 of the Act, a viable means for financing the purchase or refinancing of existing multifamily housing resources.

Since its inception in 1980, it was recognized that, incidental to any financing or refinancing that takes place pursuant to section 223(f), certain repairs and improvements to the multifamily properties would often be required. In order that use of the section 223(f) insuring authority not duplicate or overlap existing multifamily authority (in this case section 207 of the National Housing Act), the extent of any repairs and improvements which may be covered by a section 223(f) insured loan was limited to that which clearly would not fall under the category of substantial rehabilitation since, as a general matter, FHA multifamily insuring authorities outside of section 223(f) relate to properties which are to be newly constructed or substantially rehabilitated. Section 255.228 is designed to take account of this issue. It expressly sets forth a limitation on the extent of repairs, replacements and improvements allowable.

The Department deems it necessary, however, in order fully to ensure against a duplication or overlap between the section 223(f) and section 207 insuring authorities, to provide for a complementary description of allowable repairs, replacements and improvements in the section 207 program regulations.

Accordingly, this interim rule also revises §§ 207.24 and 207.32a(f) of Part 207 of the CFR. Section 207.24 relates to the development of properties to be covered by mortgages insured under the basic 207 rental housing program. Eligible properties must involve new construction or require substantial rehabilitation. "Substantial rehabilitation" is then defined as repairs, replacements and improvements which *exceed* the limitations on repairs, replacements and improvements set forth in § 255.228.

Section 207.32a(f) relates to eligibility for section 207 *full* insurance of mortgages covering existing multifamily properties. As in Part 255, the program utilizes the section 223(f) insuring authority. Section 207.32a(f) is revised to provide limitations on allowable repairs, replacements and improvements identical to those set forth in § 255.228.

List of Subjects

24 CFR Part 207

Mobile homes, Mortgage insurance, Solar energy.

24 CFR Part 255

Mortgage insurance.

Accordingly, 24 CFR Part 255, § 207.24 and § 207.32a(f) are amended as set forth below:

1. 24 CFR Part 255 is revised to read as follows:

PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS

Subpart A—General Provisions

Sec.
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255.2 Effect of implementation of program on mortgage market.
255.3 Utilization of existing multifamily insurance authorities.
255.4 Effect of availability of coinsurance or insurance otherwise authorized.
255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.
255.6 Safeguards for consumers.
255.7 Definition of lender.
255.8 Definitions.

Subpart B—Approval of Lender as Coinsurer

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255.102 Technical review before approval as a coinsurer.
255.103 Duration of approval.
255.104 Withdrawal of approval.
255.105 Effects of withdrawal or suspension of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved.
255.106 Mortgage servicing and insurance of lender's risk.
255.107 Required regulatory agreement with mortgagors.

Subpart C—Eligibility Requirements Applicable to Mortgages Coinsured Under Section 207 Pursuant to Section 223(f)

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Mortgage Insurance Premiums

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255.408 Assignment of coinsured mortgages.

Default Under the Mortgage

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255.411 Date of default.
255.412 Notice of default.
255.413 Reinstatement of a defaulted mortgage.
255.414 Forbearance relief.

Termination

255.415 Termination of coinsurance contract.
255.416 Notice and date of termination by Commissioner.
255.417 Effect of termination.

Claim Procedure

255.420 Acquisition of property.
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255.422 Notice to Commissioner.

Payment of Insurance Benefits

255.423 Method of payment.

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255.424 Disposition of property and application for insurance benefits.
255.425 Amount of payment.
255.426 Items included in payment.
255.427 Items deducted from payment.
255.428 Remedies in the event of a default by a lender-issuer under the GNMA mortgage backed securities program.
255.429 Effect of amendments.
255.430 Compliance with national flood insurance program and Coastal Barriers Resources Act.

Authority: Sec. 244 of the National Hbusing Act, 12 U.S.C. 1715z(9), unless otherwise noted.

Subpart A—General Provisions

§ 255.1 Purpose.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act by adding a new section 244 entitled, "Co-insurance." Section 244 authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provisions, pursuant to a coinsurance contract providing that the lender will (1) assume a percentage of any loss and (2) carry out (subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition or other functions as the Secretary approves.

(b) Section 311 of the Housing and Community Development Act of 1974 also added a new section 223(f) to the National Housing Act. Section 223(f) authorizes the Secretary to insure a mortgage executed in connection with the purchase or refinancing of an existing multifamily project.

(c) It is intended that a demonstration coinsurance program under section 244 to provide insured financing or refinancing for existing housing will assist in the conservation of neighborhoods and existing housing resources. By placing some of the risks, which HUD now assumes when insuring mortgages o approved private mortgage lenders, the demonstration program authorized by section 244 could help to assure more careful initial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for rental housing projects. It could also make feasible assumption by lenders of the processing responsibilities incidental to a mortgage insurance program and perhaps reduce the present length of time required to approve applications for mortgage insurance.

(d) Congress, in enacting section 307 of the Housing and Community Development Act of 1974, which authorized the program which would be implemented by this part, made clear that it was concerned that implementation of this program not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend on mortgage insurance authorized under provisions of the National Housing Act other than section 244. The Congress also indicated its concern that in delegating mortgage insurance processing duties to lenders, physical inspections of dwelling units be continued in accordance with the same standards used under the regular FHA program. To accord with these concepts, this part sets forth HUD regulations describing a coinsurance program for mortgages on existing multifamily projects underwritten by private mortgage lenders.

(e) In recognition of the capabilities of private lenders, these regulations vest the maximum amount of processing responsibilities with these lenders and to the maximum extent permissible under the statutes authorizing this program, permit these lenders to retain autonomy in their underwriting practices.

(f) This part permits originating coinsuring lenders to assign or transfer coinsured loans to other qualified coinsuring lenders with the prior written approval of the Commissioner, and provides protections to the Government National Mortgage Association (GNMA) for expenditures by GNMA to assure full payments of amounts contractually owed to holders of GNMA securities backed by coinsured loans resulting from defaults by coinsuring lenders under their guaranty agreements with GNMA.

§ 255.2 Effect of implementation of program on mortgage market.

Section 244 of the National Housing Act requires that no contract of coinsurance will be entered into under this part until the Secretary has, after due consultation with the mortgage lending industry, determined that the program described in this part will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under provisions of the National Housing Act other than section 244. The mortgage lending industry has received adequate opportunity through the public comment period which was devoted to these regulations when proposed to make its views known and the issuance of these regulations shall be considered a determination that no adverse effects on the mortgage market are reasonably predictable from such an issuance. The Department intends, however, to continously monitor the impact of this program and to consider evidence submitted at any time which would tend to suggest that disruptions in the mortgage market or reduced availability of mortgage credit to borrowers are causally related to the availability of coinsurance under this part.

§ 255.3 Utilization of existing multifamily insurance authorities.

Mortgages for multifamily projects which meet the requirements for eligibility of this part shall be insured under section 207 pursuant to section 223(f) and pursuant to section 244 of the National Housing Act.

§ 255.4 Effect of availability of coinsurance or insurance otherwise authorized.

No insurance authorized under any provision of the National Housing Act other than section 244 of that Act shall be withdrawn, denied, or delayed by reason of the availability of insurance under the program authorized by this part.

§ 255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.

Insurance will continue to be available under this part only to the extent the Secretary has determined that the availability of insurance authorized by this part does not adversely affect the flow of mortgage credit to older and declining neighborhoods, and to the purchasers of older and lower cost housing. Insurance authorized by this part will not be available for mortgages on properties which are eligible to be insured solely pursuant to the authority of section 223(e) of the National Housing Act.

§ 255.6 Safeguards for consumers.

(a) The inspection of repairs and improvements on projects covered by mortgages approved for coinsurance prior to the beginning of repairs under this part shall be conducted in accordance with the intent of the standards and criteria set forth in Subpart S of Part 200 of this chapter and used with respect to dwellings or projects approved for mortgage insurance under provisions of title II of the National Housing Act other than section 244.

(b) Principals in projects proposed to be financed with mortgages insured under this part shall comply with the Previous Participation Review and

Clearance Procedure of §§ 200.210–200.218 of 24 CFR Part 200.

(c) The Secretary is responsible for compliance with the National Historic Preservation Act, to the extent applicable to properties repaired with mortgage financing pursuant to this part.

§ 255.7 Definition of lender.

The provisions of §§ 203.3 through 203.6, inclusive, and of § 203.8(b) of this Chapter shall govern the eligibility of mortgagees under this part, except as otherwise provided in § 255.102 of this part. Hereafter, the term "lender" is used to mean mortgagee for the purpose of this part.

§ 255.8 Definitions.

As used in this subpart the following terms shall have the meaning indicated:

(a) "Commissioner" means the Federal Housing Commissioner.

(b) "Act" means the National Housing Act, as amended.

(c) "Mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State, district, or territory in which the real estate is located, together with the credit instruments, if any, secured thereby.

(d) "Insured mortgage" means a mortgage which has been insured by the endorsement of the mortgage note pursuant to this part by the Commissioner, or his duly authorized representative.

(e) "Contract of coinsurance" means the agreement between the private lender and the Commissioner for the coinsurance of a mortgage evidenced by the endorsement of a mortgage note by the Commissioner and includes the terms, conditions and provisions of this part and of the National Housing Act.

(f) "Mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Commissioner.

(g) "Mortgage insurance premium" (MIP) means the mortgage insurance premium collected pursuant to § 255.402(d) of this part.

(h) "Sound capital resources" means the excess of the mortgagee's assets (net of any valuation allowances) over its liabilities generally referred to as its net worth, including paid-in capital stock, surplus, reserves, undistributed earnings and any other unencumbered resource of the mortgagee which may include an unconditional and irrevocable firm letter of credit from a supervised financial institution with assets of not less than $100,000,000. For purposes of determining "sound capital resources", a loss reserve, which is established with respect to coinsurance liability under this part and treated as a liability in the mortgagee's balance sheets, may be deemed a capital item rather than a liability.

Subpart B—Approval of Lender as Coinsurer

§ 255.101 Review of operation before approval as coinsurer.

Approval of a lender as defined in § 255.7, as a coinsurer of mortgage loans, eligible to underwrite and service mortgages on multifamily projects for coinsurance, will be made for lenders who have requested approval and who are currently approved as mortgagees under the provisions of §§ 203.3 through 203.6 or of § 203.8(b) of this chapter, after a review of the lender's operations by HUD as precribed in § 255.102 of this part.

§ 255.102 Technical review before approval as a coinsurer.

A lender's technical staff and procedures must undergo a review by the Commissioner before being approved as a coinsurer. This review shall include an on-site evaluation of the lender's operations, specifically, adequacy of technical staff, procedures for screening and processing applications for mortgage insurance, and capability to service such mortgages, supervise project management and carry out property disposition. As part of this review, the following special requirements are necessary for certification as an approved coinsurer eligible to underwrite mortgages for multifamily projects under this part:

(a) It shall provide a written opinion of its Counsel that it has the necessary powers to participate in the program authorized under this part;

(b) It shall submit evidence satisfactory to the Commissioner that it has sound capital resources, acceptable to the Commissioner, of not less than $1,500,000, which shall include liquid funds of at least $500,000. No more than $500,000 of the sound capital resources requirement may be met by an unconditional and irrevocable firm letter of credit. It shall also agree that, during the period of coinsurance, it will maintain such sound capital resources plus an additional amount of one dollar of sound capital resources for each 300 dollars of outstanding principal indebtedness or mortgages it has coinsured under this part.

(c) It shall submit evidence to the Commissioner that it has the operating procedures and the ability, either through technical staff employed by it, or through contracts with persons not on the lender's staff, for discharging full mortgage underwriting, servicing, and management, property repair and disposition, and other necessary functions in a manner which is consistent with the requirements of this part;

(d) It shall submit to periodic auditing and review by the Commissioner, the Inspector General or the Comptroller General of the United States with respect to its participation in the program authorized by this part;

(e) It shall submit its most recent detailed audit report of its books made by an independent certified public accountant selected in accordance with applicable State law or procedures, or by an independent public accountant licensed by a regulatory authority of a State of other political subdivision on or prior to December 31, 1970. The audit may be supplemented by such additional information as the Commissioner shall request;

(f) It shall file with the Commissioner similar annual audits (1) within such period of time required pursuant to applicable State law and procedures or (2) within 75 days of the closing of its fiscal year so long as it continues as an approved lender;

(g) It shall promptly notify the Commissioner of any adjustments in its processing procedures which take place after its certification as an approved lender and shall make no adjustments in its processing procedures that are inconsistent with the requirements of this part;

(h) It shall have in its immediate employ staff with sufficient professional and technical competence to monitor the performance including fraud, waste, and mismanagement, of any work it contracts to have done by persons not in the lender's employ such as appraisals, cost, credit analysis, architectural, engineering and management services;

(i) All appraisers assigned by the lender to determine the value of properties intended to serve as security for coinsured mortgages must adhere to minimum standards of education and experience established by the Commissioner;

(j) It shall abide by all applicable requirements issued by the Commissioner for discharging its mortgage underwriting, servicing, and management and property disposition functions pursuant to this part.

§ 255.103 Duration of approval.

Initial certification of a private lender as an approved coinsurer under § 255.102 of this part will be valid until the Secretary's authority to coinsure

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pursuant to this part shall have expired, unless such approval is withdrawn under § 255.104 of this part. A temporary lapse in the Secretary's authority to coinsure shall not terminate lenders' approved coinsurer status. However, lenders are responsible during such periods for suspending issuance of commitments, extension of commitment periods, reopening of expired commitments, and mortgage modifications.

§ 255.104 Withdrawal of approval.

(a) Except as provided in § 255.105, the Commissioner may refrain from endorsing a credit instrument for mortgage insurance authorized by this part with respect to any project proposed for coinsurance by a lender which has been given written notice by the Commissioner that its approval as a coinsurer under this part has been suspended or withdrawn. Certification as an approved lender under this part may be suspended or withdrawn pursuant to the provisions of Part 24 of this title for any of the following causes:

(1) Failure to maintain satisfactory capital funds or structure;

(2) Failure to perform underwriting, servicing, or management and property disposition functions consistent with the requirements of this part;

(3) Failure to discharge its responsibilities under a coinsurance contract;

(4) Failure to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, and to deposit such funds to a special account or accounts;

(5) Use of escrow funds for any purpose other than that for which they were received.

(6) Payment by the lender of any fee, kickback, or other consideration, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person including an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder, or real estate agent if such person has received any other payment or other consideration from the mortgagor, the seller, the builder, or any other person for services related to such transaction or property, except that compensation may be paid for the actual performance of such services as may be approved by the Commissioner.

(7) Such other reasons as the Commissioner determines to be justified in accordance with Part 24 of this title, by action of the agency review board in accordance with Part 25 of this title.

(b) A principal whose participation in a proposed project has been disapproved and whose request for reconsideration has resulted in confirmation of the disapproval may appeal under § 24.10 of this title.

§ 255.105 Effects of withdrawal or suspension of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved.

Withdrawal, suspension, or termination of a private lender as an approved coinsurer under this part will not affect any mortgage insurance commitments issued or the insurance of any mortgages accepted for insurance while the lender was an approved coinsurer.

§ 255.106 Mortgage servicing and insurance of lender's risk.

(a) Servicing functions during the period when the Commissioner is a coinsurer of the mortgage shall be performed only by the lender, except that the lender may, consistent with any applicable contractual requirement, elect to delegate servicing to another entity if the lender retains its obligations under this part. This servicing entity must be a HUD-approved mortgagee under §§ 203.1 through 203.6, or § 203.8(b) of this chapter. The lender is required to inform the Department of any servicing transfers, and may be required to rescind any servicing so delegated if such servicing is unsatisfactory to HUD.

(b) The lender may obtain insurance from a licensed mortgage guarantee insurer for (1) 50 percent of its coinsurance risk under this part, (2) 100 percent of such coinsurance risk, or (3) that portion of such coinsurance risk which equals the maximum amount which the mortgage guarantee insurer is authorized to insure. The insurance benefits payable by the Commissioner under each of these options shall be calculated pursuant to § 255.425. Any such insurance policy shall name the Commissioner as contingent beneficiary in the event that default by the lender results in payment by the Commissioner to GNMA of any amount contractually owed by the lender to investors in GNMA securities backed by mortgages coinsured under this part.

§ 255.107 Required regulatory agreement with mortgagors.

(a) The lender and the mortgagor shall effect an agreement whereby the mortgagor, as further consideration for the making of the mortgage loan, contracts with the lender that it will fulfill the provisions of Subpart C, §§ 255.222 through 255.228. Such regulation or restriction will be in the form of a regulatory contract between the mortgagor and the lender. The lender shall be responsible for enforcing the provisions of the regulatory contract.

(b) The lender may regulate and restrict the mortgagor, as long as the Commissioner and the lender are coinsurers of the mortgage, on such other matters as may be required by the lender as conditions for lending which do not conflict with the requirements of the Commissioner under this part, as determined by the Commissioner.

Subpart C—Eligibility Requirements Applicable to Mortgages Coinsured Under Section 207 Pursuant to Section 223(f)

§ 255.201 Application.

The application for a commitment to make a coinsured mortgage loan on a project shall be submitted to the lender, as agent for the Secretary, by the sponsor of the project. The application shall be accompanied by such exhibits as may be required by the lender to enable the lender to comply with requirements for coinsurance of the mortgage established under this part.

§ 255.202 Application fees, inspection fees, and service charges.

The lender may collect from the mortgagor such application fees, inspection fees, and initial service charges as it may require to reimburse itself for the cost of processing an application, conducting inspections, and closing a mortgage transaction. In no event will the total fees be permitted to exceed those allowed in the fully insured section 223(f) program, except as approved by the Commissioner.

§ 255.203 Processing and commitment.

The lender shall, as agent for the Secretary, perform all of the processing, including the issuance of both conditional and firm commitments, and make all of the determinations of the eligibility of a mortgage for coinsurance under this part. The firm commitment to insure upon completion shall be effective for 90 days. The term of the commitment may be extended or may be amended in such a manner as the lender may prescribe from time to time. An expired commitment may be reopened if a request for reopening is received by the lender from the mortgagor within 90 days of the expiration of the commitment.

Eligible Mortgages

§ 255.208 Refinancing of mortgages in portfolio.

The Commissioner may only coinsure a mortgage refinancing a loan already held in the portfolio of an approved lender or related entity, where (a) the loan is current in payments and has not been in default, modification or forbearance at any time during a continuous period of at least two years preceding the date of insurance application; (b) such portfolio loans of an approved lender do not exceed one-fourth of the total number of loans submitted by that approved lender for coinsurance under this part in any period of twelve consecutive months (except that the Commissioner may permit lenders to exceed this limit if the additional refinancing relates to projects which meet the eligibility requirements of paragraph (a)(1) of § 207.32 of this chapter); and (c) the Commissioner retains discretion to review the entire loan transaction before commitment.

§ 255.209 Mortgage provisions.

The mortgage shall be:

(a) Executed on a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.

(b) Executed by a mortgagor with the qualifications as provided by this subpart.

(c) A first lien on property that conforms with the intent of the property standards prescribed by the Commissioner.

§ 255.210 Mortgage lien and other obligations.

A mortgagor shall certify at endorsement of the loan for insurance and the lender shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the lender, in accordance with standards established by the Commissioner. Liens other than the insured mortgage which may be approved (other than liens of taxes and assessments of the State or subdivisions of the State not yet due and payable, or ground rents) may not have under applicable law a priority equal or superior to the insured mortgage.

(b) There will not be outstanding unpaid obligations contracted for in connection with the mortgage transaction, the purchase of the mortgage property, or the repairs and improvements to the project, except obligations approved by the lender, in accordance with standards established by the Commissioner. Obligations of the mortgagor shall be approved by the lender under this section only if such obligations are determined by the lender to be of a lesser priority for payment than the obligation of the insured mortgage.

(c) When a loan is made to finance the purchase of an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value as defined in § 255.211(b), or

(2) Seven and one-half percent of the cost of acquisition as defined in § 255.211(d).

(d) When a loan is made to refinance an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value, or

(2) Fifty percent of the difference between the cost to refinance as defined in § 255.211(c)(2) and the maximum mortgage amount as determined by the lender.

(e) For projects which meet the eligibility requirements of § 207.32a(a)(1) of this Chapter, the provisions of § 207.32a(j)(4) shall apply.

(f) The additional obligations, if any, provided for in paragraphs (c) and (d) of this section shall be represented by promissory notes on forms approved by the Commissioner. Such notes shall not be due and payable until the maturity date of the mortgage to be insured pursuant to this part, but may be prepaid from surplus cash and in accordance with the conditions prescribed in the regulatory agreement between the lender and the mortgagor.

§ 255.211 Maximum mortgage amounts.

In addition to the limitations in paragraphs (c) and (d) of this section, a mortgage may not involve a principal obligation in excess of the lesser of the following:

(a) *Dollar limitations on units.* (1) The total of the amounts per family dwelling unit for other than elevator type structures (excluding exterior land improvements as defined by the Commissioner) depending upon the number of bedrooms, which may be: $19,500 per family unit without a bedroom, $21,600 per family unit with one bedroom, $25,800 per family unit with two bedrooms, $31,800 per family unit with three bedrooms, $36,000 per family unit with four or more bedrooms.

(2) The dollar amount limitations per family unit provided in paragraph (a)(1) of this section may be increased by up to 20 percent if such increase is necessary to account for the cost of the purchase and installation of a solar energy system.

(3) *Increased mortgage amount—elevator type structures.* In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the lender may, pursuant to guidelines issued by the Commissioner, increase the dollar amount limitations per family unit for these type structures to not in excess of: $22,500 per family unit without a bedroom, $25,200 per family unit with one bedroom, $30,900 per family unit with two bedrooms, $38,700 per family unit with three bedrooms, $43,758 per family unit with four or more bedrooms.

(4) *Increased mortgage amount—high cost areas.* (i) In any geographical area where the Commissioner finds cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a) (1) and (3) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 140 percent, except where the mortgage involved has been or is committed to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of the National Housing Act, in which case the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.

(ii) If the Commissioner finds that because of high costs in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum mortgage amounts provided in this section, the principal obligation of mortgages may be increased in such amounts as may be necessary to compensate for such costs but not to exceed in any event the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

(b) *Value.* An amount not exceeding 85 percent of the lender's estimate of value (90 percent if the property meets the eligibility requirements contained in § 207.32a(l) of this chapter).

(1) The final estimate of value for the purpose of this section shall result from consideration of three indicators of value:

(i) The estimated market value of the project by capitalization;

(ii) The estimated market value by direct sales comparison;

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(iii) The total estimated replacement cost of the project (without deducting depreciation).

(2) Capitalization will use net income which results from market rents estimated by comparison with unsubsidized projects, capitalized at rates extracted from market transactions of comparable properties. Market value by direct sales comparison will be estimated by comparison of the subject property with competing properties recently sold, using at least two units of comparison. The total estimated replacement cost of the project (before depreciation) provides only an upper limit. The final estimate of value must lie between that indicated by capitalization and that indicated by direct sales comparison, but in no event shall the final estimate of value exceed the total estimated replacement cost of the project.

(c) *Property to be refinanced.* If the property is to be refinanced by the insured mortgage without a change of ownership, or, if property is sold to a purchaser who has an identity of interest with the seller and the purchase is to be financed with the insured mortgage, then the maximum mortgage amount shall not exceed the greater of:

(1) 70 percent of the lender's estimate of value of the project, or,

(2) The cost to refinance the existing indebtedness which will consist of the following items, the eligibility and amounts of which must be determined by the lender:

(i) The amount required to pay off the existing indebtedness;

(ii) An amount for the initial deposit for the reserve fund for replacements;

(iii) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender;

(iv) The estimated repair costs, if any, including the estimated cost of installing safety and fire prevention components, as defined by the Commissioner, in the project;

(v) Architect's municipal inspection and/or engineering fees.

(d) *Property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with the insured mortgage, the maximum amount shall not exceed 85 percent (90 percent if the project meets the eligibility requirements contained in § 207.32a(1) of this chapter) of the cost of acquisition as determined by the lender. The cost of acquisition shall consist of the following items (to the extent that each item is paid by the purchaser separately from the purchase price), the eligibility and amounts of which must be determined by the lender:

(1) Purchase price as indicated in the purchase agreement;

(2) An amount for the initial deposit to the reserve fund for replacements;

(3) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender, as permitted by the Commissioner;

(4) The estimated repair cost, if any, including the estimated cost of installing fire prevention and safety components, as defined by the Commissioner, in the project;

(5) Architect's and engineer's fees, municipal inspection fees, and any other required professional or inspection fees.

(e) *Debt service.* Debt service is the amount that can be amortized by 85 percent of the projected net income of the project after payment of operating expenses and taxes.

(f) *Reduced mortgage amount—leaseholds.* In the event the mortgage is secured by a leasehold estate rather than a fee simple estate, the value of the property described in the mortgage shall be the value of the leasehold estate (as determined by the lender) which shall in all cases be less than the value of the property in fee simple.

§ 255.212 Maturity.

The mortgage shall have a maturity satisfactory to the lender, not less than 10 years, nor shall it exceed the lesser of 35 years (40 years if the project meets the eligibility requirements contained in § 207.32a(1) of this chapter) or 75 percent of the estimated remaining economic life of the physical improvements (100 percent if the project meets the eligibility requirements contained in § 207.32a(1) of this chapter). The term of the mortgage shall begin on the first day of the second month following the date of endorsement of the mortgage for insurance upon completion.

§ 255.213 Payment requirements.

Method of payment. The mortgage shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with an amortization plan as agreed upon by the mortgagor and the lender. The Commissioner may prohibit specific types of mortgage instruments which would have the effect of automatically adjusting the mortgage interest rate as established at time of endorsement of the loan pursuant to §255.214.

§ 255.214 Maximum mortgage interest rate.

(a) Commitments to insure shall be issued at an interest rate not exceeding any HUD maximum limit applicable to Section 223(f) loans at the time of commitment.

(b) The insured mortgage shall bear interest at such rates as may be agreed upon by the mortgagor and the lender but such rate shall not exceed the rate specified in the commitment to insure. At the option of the lender, it may issue an amended commitment to insure at a higher or lower interest rate. If the amended commitment is to insure at a higher rate, such higher rate shall not exceed the maximum rate in effect at the time of the issuance of the amended commitment, which shall be no later than the date the the mortgage is endorsed for insurance. The lender shall only issue a commitment to insure a mortgage at a higher rate than that specified in the original commitment to insure if it is determined by the lender that the project which is the security for the mortgage will be able to charge the increased rentals required to amortize a mortgage at the higher rate without adversely affecting the economic soundness of the project. Such increase in the interest rate requires reprocessing of the application in order to determine the new debt service limitation and, where appropriate, a new capitalization rate and value.

§ 255.215 Mortgage to cover the entire property.

The mortgage shall cover the entire property included in the housing project.

§ 255.216 Hazard insurance and physical inspection.

(a) The mortgage shall contain a covenant acceptable to the Commissioner binding the mortgagor to keep the property insured by a standard policy or policies against loss from fire and such other hazards as the lender, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the coinsurance clause applicable to the location and character of the property, but not less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss payable to the lender and the Commissioner as their interests may appeal. The lender shall be responsible for verifying that such insurance is maintained in force.

(b) *Annual inspection of property by lender.* As long as the mortgage is insured, the lender shall ascertain the general physical condition of the mortgaged property in each calendar year. The lender shall furnish the Commissioner and the mortgagor with a copy of its inspection report, which shall contain the lender's recommendation for any necessary corrective actions.

§ 255.217 Soundness of project.

No mortgage shall be accepted for insurance unless the lender finds that the property or project with respect to which the mortgage is executed is economically sound, except that as to mortgages covering property located in Alaska, or in Guam, or in Hawaii, no mortgage shall be accepted for insurance unless the lender, with prior notice to the Commissioner, finds that the property or project is an acceptable risk giving consideration to the acute housing shortage in Alaska, or in Guam, or in Hawaii.

§ 255.218 Accumulation of accruals.

(a) The mortgage shall provide for payments by the mortgagor to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date, the next annual mortgage insurance premium. Such payments shall continue only so long as the contract of coinsurance shall remain in effect.

(b) The mortgage shall provide for such equal monthly payments by the mortgagor to the lender as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month before the date on which any such obligation becomes delinquent, the mortgage must also make provisions for adjustments, in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more or less than the actual amount paid by the mortgagor.

§ 255.219 Application of mortgage payments.

The mortgage shall provide that all monthly payments being made by the mortgagor to the lender shall be added together and the aggregate thereof shall be paid by the mortgagor upon each monthly payment date in a single payment. The lender shall apply all payments received from the mortgagor or for the account of the mortgagor to the following items in the order set forth:

(a) Premium charges under the contract of insurance, where applicable.

(b) Ground rents, taxes, special assessments and fire and other hazard insurance premiums.

(c) Interest on the mortgage.

(d) Amortization of the principal of the mortgage.

§ 255.220 Prepayment privileges.

(a) Prepayment of the mortgage indebtedness is prohibited (except as required by the Commissioner) for a period of five years from the date of endorsement of the mortgage (or for a period of twenty-years where the mortgage was purchased by the Government National Mortgage Association under Chapter II of Subtitle B of Title 24) except where, at the time of prepayment:

(1) The mortgagor has entered into an agreement with the Commissioner to maintain the property as rental housing for the remainder of the specified five-year (or twenty-year) period;

(2) The Commissioner has determined that the conversion of the property to cooperative or condominium ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(3) The Commissioner has determined that continuation of the property as rental housing is unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(4) The Commissioner has determined that continuation of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

(b) Subject to the requirements of paragraph (a) of this section the mortgage may establish such further conditions or penalties for prepayment as may be agreed upon by the lender and mortgagor.

§ 255.221 Late charges.

The mortgage may provide for the collection by the lender of a late charge, not to exceed four cents for each dollar, of each payment to interest and principal more than 15 days in arrears, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

Supervision of Mortgagors

§ 255.222 In general.

In order to be eligible for the benefit of insured financing under this part, a mortgagor must agree to be regulated and restricted by the lender as to rents, sales, charges, capital structure, rate of return, and methods of operation.

§ 255.223 Required supervision of mortgagors.

The regulatory agreement required by § 255.107 shall provide that the following items are regulated or restricted:

(a) *Capital structure.* (1) The number of shares of capital stock, in the case of a corporation, may be issued in such amounts and in a form as may be agreed upon by the sponsors and the lender before the endorsement of the mortgage for insurance. The number of shares may not be changed without the lender's approval; and

(2) In the case of a trust entity, beneficial certificates of interest may be issued in such amounts and form as may be agreed upon by the mortgagor and the lender.

(b) *Rate of return.* Distributions, as defined in the regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No distributions of any kind may be made from borrowed funds. No distributions shall be made or declared except out of surplus cash legally available and remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any mortgage or note insured under this part;

(ii) All amounts required to be deposited in the reserve fund for Replacements;

(iii) All obligations of the project other than the mortgage insured under this part, unless funds for payment are set aside or deferment of payment has been approved by the lender.

(2) The segregation of:

(i) An amount equal to the aggregate of all special funds required to be maintained by the project;

(ii) An amount equal to the project's total liability for tenant security deposits.

(c) *Rents and charges.* No charge shall be made by the mortgagor for the accommodations, facilities, or services offered by the project in excess of those approved by the lender. In approving such charges and in passing upon applications for changes, the lender shall be subject to standards established by the Commissioner, which shall give consideration to the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Rental income necessary to provide reasonable return on the investment consistent with providing reasonable rentals to tenants.

(d) *Methods of operation.* (1) The mortgagor shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and will promptly complete necessary

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repairs and maintenance as required by the lender.

(2) In all projects, a reserve fund for replacements, shall be established and maintained with the lender. The amount and type of such funds, and the conditions under which it shall be accumulated, replenished, and used, shall be specified in the regulatory agreement.

(3) The mortgagor, its property, equipment, buildings, plans, offices, apparatus, and devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the Commissioner and the lender, or their authorized agents at all reasonable times. The books and accounts of the mortgagor shall be established in a manner satisfactory to the Commissioner and the lender. So long as the mortgage is coinsured, the mortgagor's books and accounts shall be maintained in accordance with the requirements of the Commissioner and the lender, shall be in such form as to permit an effective audit and as may otherwise be prescribed by the Commissioner and the lender, be maintained for such periods of time as may be prescribed by the lender and the Commissioner, and will be available to the Commissioner, the Inspector General of HUD, the lender and the Comptroller General of the United States for such examination and audits as they may desire to make. The mortgagor shall file with the Commissioner and the lender the following reports verified by the signature of such officers of the mortgagor as the lender may designate and in such form as prescribed by the Commissioner and the lender.

(i) Monthly occupancy reports, when required by lender.

(ii) Complete annual financial reports based upon examinations of the books and records of the mortgagor, prepared in accordance with the requirements of the Commissioner and the lender.

(iii) Specific answers to questions upon which information is desired from time to time relative to the actual cost of repairs and improvements, the disposition of mortgage funds, the operation and condition of the property and the status of the insured mortgage.

(iv) Properly certified copies of minutes of meetings of the directors, officers, stockholders, shareholders, or beneficiaries.

(e) *Investment of Reserve for Replacements.* Money placed in the Reserve for Replacements shall be invested in interest bearing deposits that are federally insured, in Treasury securities, or in securities issued by a Federal agency or a federally sponsored agency.

§ 255.224 Nondiscrimination in housing.

The regulatory agreement required by § 255.107 shall provide that so long as the mortgage is coinsured under this part the mortgagor shall:

(a) Agree to refrain from utilizing criteria or methods of selecting tenants which discriminate against any family because there are children in the family, unless the project was designed specifically for occupancy by elderly people; or discriminate against any family because of the sex of the head of the household.

(b) Comply with the provisions of title VIII of the Civil Rights Act of 1968 and regulations issued under that Act which prohibit discrimination because of race, color, religion, sex, or national origin, and administer the program and related activities in a manner to affirmatively further fair housing. The mortgagor shall also comply with State and local fair housing laws and ordinances.

(c) Comply with the provisions of Executive Order 11063 on Equal Opportunity in Housing which prohibits discrimination on the basis or race, color, creed or national origin in housing and related facilities provided through Federal financial assistance, and all regulations issued pursuant thereto.

(d) Not rent, permit the rental or permit the offering for rental of the housing, or any part thereof, covered by such mortgage, for transient or hotel purposes. For the duration of the regulatory agreement, the term rental for transient or hotel purposes shall mean (1) rental for any period less than 30 days, or (2) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellboy service.

(e) Not sell the project as long as the mortgage is coinsured under this part, unless the purchaser agrees to comply with the requirements of this section.

§ 255.225 Discrimination in employment.

The regulatory agreement required by § 255.107 shall provide that the mortgagor shall not discriminate on the basis of race, color, religion, sex or national origin against any employee or applicant for employment. Any contract or subcontract executed for project repairs and improvements shall contain a provision to this effect. In addition, the provisions of Executive Order 11246 and title 24 CFR Part 130 shall apply, when appropriate, to such contracts.

§ 255.226 Convenant regarding use of property.

The mortgage shall contain a covenant prohibiting the use of the property covered thereby for any purpose other than that for which it was intended at date the mortgage was executed.

Property Requirements

§ 255.227 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) On the interest of the lessee under a lease for not less than 99 years, which is renewable; or

(3) Under a lease having a period of not less than 75 years to run from the date the mortgage is executed; or

(4) Under a lease executed by a governmental agency, or such other lessor as the Commissioner approves, for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

(b) The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of other liens except those approved by the lender.

§ 255.228 Development of property.

(a) *Obligation of the mortgagor.* The mortgagor shall be obligated to either purchase or refinance existing housing and make such repairs and improvements as are deemed necessary by the lender. The property must not require substantial rehabilitation which consists of repairs, replacements, and improvements in excess of the limitations set forth in paragraph (c) of this section. The property, including improvements, shall comply with any material zoning or deed restrictions applicable to the project site and with all applicable building and other governmental regulations.

(b) *Displacement.* In accordance with the policy of minimizing displacement in the conduct of HUD programs, the mortgagor's application shall include a plan to minimize involuntary displacement of tenants if it is contemplated that repairs financed with insured mortgage proceeds will cause involuntary displacement.

(c) *Limitation on cost and nature of repairs, replacements, and improvements:*

(1) A property is eligible for mortgage insurance under this part if:

(i) the cost of repairs, replacements, and improvements does not exceed the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) $6,500 (adjusted by any applicable high-cost area factor) per dwelling unit, and

(ii) no more than one major building component is being replaced.

(2) For purposes of this paragraph the term "high cost area factor" refers to the percentage increases over basic dollar limitations per dwelling unit authorized in § 255.211(a)(4). The term "major building component" includes roof structures; ceiling, wall, or floor structures; foundations; elevators; and plumbing, heating, air-conditioning or electrical systems.

(d) *Costs of replacement items and fire safety equipment.* In determining whether a property exceeds the substantial rehabilitation threshold described in paragraph (c) of this section, the lender may exempt from the total which must not exceed the threshold, the purchase price but not the installation cost of the following specific items of replacement or fire safety equipment:

(1) Replacement of:

(i) Ranges/hoods,

(ii) Ovens,

(iii) Refrigerators,

(iv) Garbage disposals, and

(v) Dishwashers.

(2) Fire safety equipment required by Federal, State or local law.

(e) *Minimum number of units.* A project shall consist of not less than five dwelling units.

(f) *Date of application.* In order to be eligible for mortgage insurance under this part, 3 years must have elapsed from the date of completion of construction or substantial rehabilitation of the project or beginning of occupancy (whichever is later) to the date of application for mortgage insurance.

(g) *Financial viability.* The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements) as determined by the lender, before endorsement of the project for insurance; alternatively, the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the lender.

§ 255.229 Commercial facilities.

The project may include only such commercial and community facilities as the lender determines will be adequate and appropriate to serve the occupants. In no event shall net rentable commercial area exceed 20 percent of the total net rentable area, both commercial and residential. Notwithstanding the above, this limitation may be waived, for good cause, by the Commissioner.

Title

§ 255.230 Eligibility of title.

In order for the mortgaged property to be eligible for insurance, the lender must determine that marketable title thereto is vested in the mortgagor as of the date the mortgage is filed for record. The title evidence will be examined by the lender and the original endorsement of the credit instrument for insurance will be evidence of its acceptability.

§ 255.231 Title evidence.

Upon insurance of the mortgage, the mortgagor shall furnish to the lender a survey of the mortgaged property, satisfactory to the lender, and a policy of title insurance covering such property, as provided in paragraph (a) of this section. If, for reasons the lender deems satisfactory, title insurance cannot be furnished, the mortgagor shall furnish such evidence of title in accordance with paragraph (b), (c), or (d) of this paragraph as the lender may require. Any policy of title insurance, or evidence of title required under this section shall be furnished without expense to the lender. The types of title evidence are:

(a) A policy of title insurance issued by a company and in a form satisfactory to the lender. The policy shall name as the insured the lender and the mortgagor as their interests may appear. The policy shall provide that upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(b) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by the legal opinion satisfactory to the lender as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens of similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

Cost Certification Requirements

§ 255.232 Agreement to certify cost requirements.

Before the commencement of repairs and endorsement of the loan the lender shall enter into an Agreement and Certification with the mortgagor in form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory and regulatory limitations. Under this agreement, the mortgagor shall agree:

(a) To execute a certificate of actual costs, upon completion of all physical improvements on the mortgaged property, in accordance with § 255.235.

(b) To accept the mortgage loan reduced by the amount, if any, required by § 255.239.

§§ 255.233–255.234 [Reserved]

§ 255.235 Certificate of actual cost—contents in general.

(a) *Submission of certificate.* The mortgagor's certificate of actual cost, in a form approved by the Commissioner, shall be submitted to the lender before endorsement and upon completion of the improvements to the satisfaction of the lender. Cost certification is not required in those refinancing transactions where 70 percent of value is the controlling mortgage limitation.

(b) The certificate shall show the actual cost to the mortgagor of acquiring the property or refinancing property which secures an existing indebtedness. Items which shall be included if paid by the mortgagor in acquiring property are listed in § 255.211(d). Items which shall be included if paid by the mortgagor in refinancing property are listed in § 255.211(c)(2).

(c) The certificate shall be verified by an independent certified public accountant, or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision on or prior to December 31, 1970.

§§ 255.236–255.238 [Reserved]

§ 255.239 Reduction in mortgage amount.

If the principal obligation of the mortgage exceeds the applicable limitations established under § 255.211, the mortgage shall be reduced by such excess amount before endorsement for insurance upon completion.

§ 255.240 Requisites of certification of actual costs.

Any statement of certification required by § 255.232 shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as a true statement of the facts contained therein.

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§ 255.241 Cost certification incontestable.

Upon the lender's approval of the mortgagor's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

Subpart D—Contract Rights and Obligations

§ 255.401 Insurance endorsement of mortgage.

Upon compliance with a commitment, the Commissioner will insure the lender against a portion of losses resulting from nonpayment of the debt, evidencing the insurance by an appropriate endorsement placed on the original credit instrument, which will identify the regulations under which the loan is insured and the date of insurance. To obtain insurance endorsement, the lender shall certify to completion of repairs and improvements, and inspections thereof, and satisfaction of all conditions of the commitment, as evidenced by submission to the Commissioner of the commitment, and supporting documents, such as note, mortgage, and any other exhibits required by the terms of the commitment. The mortgage shall be insured from the date of the endorsement of the credit instrument by the Commissioner, HUD Area Manager, Service Office Supervisor or other designee. The Commissioner and the lender shall thereafter be bound by the regulations in this part with the same force and to the same extent as if a separate contract has been executed relating to the insured mortgage, including the provisions of the regulations in this subpart and the provisions of the of the Act.

Mortgage Insurance Premiums

§ 255.402 Amount of MIP to be collected from the mortgagor.

(a) The lender shall collect from the mortgagor an initial MIP calculated from the date of the contract of coinsurance which shall not exceed the sum of one percent per annum of the average outstanding principal balance of the mortgage for the period from the date of the contract of coinsurance to one year following the date of the first payment to principal. For each year thereafter, the lender shall collect an annual MIP in an amount not to exceed 0.5 percent of the average outstanding principal balance of the mortgage. MIP shall be determined without taking into account delinquent payments or prepayments.

(b) In addition to the MIP required in the preceding paragraph, beginning not earlier than 12 months after the date of the first payment to principal, the lender may charge the mortgagor, subject to standards established by the Commissioner, an additional annual premium, for the account of the lender or an insurer of the lender, in an amount not in excess of 0.25 per annum of the average outstanding principal balance of the mortgage, without taking into account delinquent payments or prepayments.

§255.403 Method of payment of MIP.

The payment of any MIP under this part shall be made to the Commissioner by the lender in cash or debentures. The MIP will be paid annually on a level percentage of the declining principal balance.

§ 255.404 Payment of MIP by the lender.

(a) On the date of the contract of coinsurance, the lender shall pay to the Commissioner a first MIP equal to one percent of the original face amount of the mortgage. On the date of the first principal payment, the lender shall be liable for a second MIP equal to one percent of the average outstanding principal obligation of the mortgage for the year following the date of the first principal payment. The first and second MIP shall be adjusted as of the date of the first principal payment so that the aggregate of the first and second MIP shall equal the sum of one percent per annum of the average outstanding principal balance of the mortgage for the period from the date of the contract of coinsurance to one year following the date of the first principal payment.

(b) The lender, on each anniversary of the date of the first principal payment, shall pay an annual MIP equal to 0.4 percent of the average outstanding principal balance of the mortgage for the year following the date on which such MIP becomes payable.

(c) The MIP payable on and after the date of the first principal payment shall be calculated in accordance with the amortization provisions of the mortgage, without taking into account delinquent payments or prepayments. All MIP are payable in advance, and no refund can be made of any portion thereof, except as provided in § 255.406.

§ 255.405 Duration of MIP.

The MIP under § 255.404 shall continue annually until the earliest date on which one of the following occurs:

(a) The mortgage is paid in full.

(b) A deed to the lender is filed for record, or

(c) The contract of coinsurance is otherwise terminated with the consent of the Commissioner.

§ 255.406 Pro rata payment of annual MIP.

(a) If the contract of coinsurance is terminated by prepayment or voluntary termination after the due date of the initial first year MIP due in accordance with § 255.404, the Commissioner shall refund to the lender for the account of the mortgagor that portion of the current annual MIP applicable to the portion of the year subsequent to the date of termination.

(b) For the purpose of computing the pro rata portion of the annual MIP, the date of termination of coinsurance shall be the last day of the month in which the mortgage was prepaid or a voluntary termination request is received by the Commissioner.

§ 255.407 Late charge-payment of MIP.

(a) Mortgage insurance premiums which are paid to the Commissioner more than 15 days after the billing date or due date, whichever is later, shall include a late charge of 4 percent of the amount of the payment due.

(b) In addition to the late charge required under paragraph (a), MIP paid to the Commissioner more than 30 days after the billing date or due date, whichever is later, shall be subject to interest from the billing or due date, whichever is later, at a rate set in conformity with the Treasury Fiscal Requirements Manual.

§ 255.408 Assignment of coinsured mortgages.

A lender may assign or transfer a coinsured mortgage if the following requirements are satisfied:

(a) The assignee is an FHA-approved coinsuring mortgagee;

(b) The lender shows good cause for such assignment;

(c) The Commissioner finds that such assignment is for good cause and that there will be no disadvantage to FHA; and

(d) The Commissioner gives prior written approval for such assignment.

Default Under the Mortgage

§ 255.410 Definition of default.

The following shall be considered a default under this subpart:

(a) Failure of the mortgagor to make any payment due under the mortgage;

(b) Failure of the mortgagor to perform any other covenant under the provisions of the mortgage if the lender, because of such failure, has accelerated the debt.

§ 255.411 Date of default.

For purposes of this subpart, the date of default shall be considered as:

(a) The date of the first uncorrected failure to perform any obligation under the mortgage; or

(b) The date of the first failure to make a monthly payment which is not covered by subsequent payments made by the mortgagor when such subsequent payments are applied to the overdue monthly payments in the order in which they became due.

§ 255.412 Notice of default.

If the default as defined in § 255.410 continues for a period of 30 days, the lender shall, within 30 days thereafter, give written notice of the default to the Commissioner on a form prescribed by the Commissioner unless the default has been cured or unless the Commissioner has been notified of a previous default which remains uncured.

§ 255.413 Reinstatement of a defaulted mortgage.

If, after default and before the completion of foreclosure proceedings, the mortgagor cures the default, the insurance shall continue as if a default had not occurred. The mortgagor shall pay to the lender such expenses as the lender has incurred in connection with the foreclosure proceedings, and the lender shall give written notice of reinstatement to the Commissioner.

§ 255.414 Forbearance relief.

A mortgagor and a lender may enter into an agreement for the reduction or suspension of regular mortgage payments according to standards set forth by the Commissioner. However, during such periods of modification of terms of forbearance, all moneys received from rents or other sources must be applied toward the payment of operating costs, with any receipts in excess of operating costs applied during such period to payments required under the mortgage. During periods of modification in mortgage terms of forbearance in requiring payment-in-full of all payments when due under the mortgage, the mortgagor shall agree that no distribution or dividends shall be payable by the mortgagor to any shareholder, partner, or other investor in the mortgagor entity.

Termination

§ 255.415 Termination of coinsurance contract.

The contract of coinsurance for each individual mortgage shall be terminated if:

(a) The mortgage is paid in full at maturity or is prepaid in full;

(b) The lender acquires the mortgaged property and notifies the Commissioner that no claim for insurance benefits will be made;

(c) After foreclosure the property is redeemed;

(d) The property is acquired at a forelosure sale by a party other than the lender;

(e) The lender fails to file a claim within the period prescribed in § 255.424(b); or

(f) The mortgagor and lender jointly request termination.

§ 255.416 Notice and date of termination by Commissioner.

The Commissioner shall notify the lender that the contract of coinsurance on a mortgage has been terminated and shall establish the effective termination date. The termination date shall be the last day of the month in which any one of the events specified in § 255.415 occur.

§ 255.417 Effect of termination.

Upon termination of the contract of insurance, the obligation to pay any subsequent MIP shall cease and all rights of the mortgagor and lender under the contract for insurance shall be terminated.

Claim Procedure

§ 255.420 Acquisition of property.

Any time after a default and a determination by the lender to accelerate the total principal amount of the mortgage, the lender, at its election, shall (if no other eligible entity has assumed the obligations of the mortgagor) either (a) commence foreclosure of the mortgage or (b) acquire title to the mortgage property by deed in lieu of foreclosure. The lender shall notify the Commissioner of its election either to commence foreclosure of the mortgage or acquire title by deed in lieu of foreclosure.

§ 255.421 Deed in lieu of foreclosure.

In lieu of instituting or completing a foreclosure, the lender may acquire property by voluntary conveyance from the mortgagor. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(a) The mortgage is in default at the time the deed is executed and delivered;

(b) The credit instrument is canceled and surrendered to the mortgagor;

(c) The mortgage is satisfied of record as a part of the consideration for such conveyance; and

(d) The deed from the mortgagor conveys marketable title and contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him.

§ 255.422 Notice to Commissioner.

At the time the lender elects to acquire title either by foreclosure or deed in lieu of foreclosure, it shall give written notice to the Commissioner of its intention to file a claim for insurance benefits.

Payment of Insurance Benefits

§ 255.423 Method of payment.

Payment of the insurance claim shall be made in cash unless the lender files a written request for payment in debentures. In the event that the lender requests debentures, all of the provisions of § 207.259(e) of this chapter shall apply.

§ 255.424 Disposition of property and application for insurance benefits.

(a) Upon the acquisition of marketable title to the property securing a defaulted mortgage in accordance with § 255.420, the lender shall obtain two appraisals of the property performed by independent appraisers selected from a panel approved by the Commissioner. The appraisals shall reflect the market value of the property, as of the date of acquisition, for its highest and best use.

(b) After the lender sells the property, or after the expiration of 12 months from the date of acquisition of title, whichever occurs first, the lender may file with the Commissioner a claim for the insurance benefits to which it is intitled in accordance with § 255.425. To be eligible for payment, a claim shall be filed no later than 15 days after sale or expiration of the 12 month period, whichever is applicable.

(c) Upon making a claim to the Commissioner for insurance benefits, the lender shall notify the Commissioner, on an approved form, of the sale of the property, the sales price, and income and expenses incurred in connection with the acquisition, repair, operation, and sale of the property.

(d) If the property has not been disposed of at the time of the lender's request for payment, the lender shall use the higher of the two appraised values of the property secured in accordance with paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

§ 255.425 Amount of payment.

(a) The basis for the computation of insurance benefits shall be the sum of the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, plus the amount of all payments made by the lender and allowances for items

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as set forth in § 255.426, less all items as set forth in § 255.427.

(b) The amount of such insurance benefits shall be 85 percent of the amount computed under paragraph (a) of this section if the lender has obtained no insurance of its coinsurance risk or has insured 50 percent of its coinsurance risk.

(c) The amount of insurance benefits payable by the Commissioner shall be 72.25 percent of the amount computed under paragraph (a) of this section if the lender has obtained insurance for either 100 percent of its coinsurance risk or that portion of its coinsurance risk which equals the maximum amount which the insurer is authorized to insure.

§ 255.426 Items included in payment.

The insurance benefits paid shall include the following items:

(a) The amount of all payments made by the lender for taxes, special assessments, and water rates which are liens prior to the mortgage; for fire and hazard insurance on the property; and for any mortgage insurance premiums paid after default;

(b) An amount equivalent to mortgage interest on the principal amount of the mortgage unpaid on the date of the institution of foreclosure proceedings or on the date of the acquisition of the property otherwise after default, which amount shall be payable from the date of default to the date of payment of the insurance benefits.

(c) [Reserved]

(d) Costs, actually paid by the lender and approved by the Commissioner, of acquiring the property through foreclosure or otherwise, in an amount not in excess of two-thirds of such costs. Such costs shall not include loss or damage resulting from the invalidity or unenforceability of the lien of the mortgage or the unmarketability of the title of the mortgagor;

(e) Reasonable payments made by the lender for:

(1) Preservation, operation, and maintenance of the property;

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and such additional repairs as may be specifically approved in advance by the Commissioner;

(3) Expenses in connection with the sale of the property.

§ 255.427 Items deducted from payment.

The following items shall be deducted in the computation of insurance benefits:

(a) An amount equal to 5 percent of the outstanding principal balance of the mortgage on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property by direct conveyance or otherwise after default, and any other reimbursement to the lender, other than pursuant to the coinsurance contract.

(c) All cash or funds related to the mortgaged property and held by the lender or its agent or to which the lender is entitled, including deposits and escrows made for the account of the mortgagor.

(d) The amount of any undrawn balance under a letter of credit accepted by the lender in lieu of a cash deposit for an escrow agreement.

(e) Any net income received by the lender from the property securing the mortgage after the date of default.

(f) The proceeds from the sale of the project, except that if the lender sells the project for an amount less than the appraised value in a negotiated sale, the amount to be deducted will be the higher of the appraised values determined in accordance with § 255.424(a). If the property is sold on the basis of a competitive bidding procedure approved by the Commissioner, the sales price will be deducted notwithstanding that it is lower than the appraised value. If the property has not been disposed of within 12 months from the date of acquisition, the lender shall use the higher of the appraised values of the property, determined in accordance with § 255.424(a), as a substitute for the sales price.

(g) Any and all claims which the lender has acquired in connection with the acquisition and sale of the property.

§ 255.428 Remedies in the event of a default by a lender-issuer under the GNMA mortgage backed securities program.

(a) If, after payment by the Commissioner of a coinsurance claim, the lender-issuer fails to pay the full amount, or any part thereof, which is contractually owed to an investor which holds Government National Mortgage Association (GNMA) securities backed by coinsured mortgages, the Commissioner shall pay such amount to GNMA upon request, which amount shall not exceed 15 percent, or 27.75 percent, whichever is appropriate, of the amount computed pursuant to § 255.425(a), plus the amount referenced in § 255.427(a) of this Part. The Commissioner shall make such payments in cash. After such payment by the Commissioner, the lender-issuer shall have no claim against the Commissioner for any such funds.

(b) If the Commissioner is required to make such payments because of the lender-issuer's failure to pay any amount contractually owed to an investor which holds GNMA securities backed by coinsured mortgages, the Commissioner may request that the Mortgagee Review Board withdraw approval of the lender-issuer as a HUD-approved mortgagee, under the provisions of Part 25 of this title.

(c) If the Commissioner is required to make such payments because of the lender-issuer's failure to pay any amount contractually owed to an investor which holds GNMA securities backed by coinsured mortgages, the lender-issuer shall be liable for reimbursing the Commissioner for such payments.

(d) If there occurs a default under the GNMA Mortgage-Backed Securities Program by a coinsuring lender-issuer, GNMA shall have the right, notwithstanding the requirements of § 255.408, to cause all coinsured mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer or to itself, subject to the requirements of this paragraph.

(1) For any coinsured mortgage which is not in default and is held by a defaulting lender-issuer, GNMA shall first attempt to have such mortgage assigned to another eligible coinsuring lender by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the mortgage from those eligible coinsuring lenders which are indicated on a periodically updated listing furnished to GNMA by the Commissioner and are also GNMA issuers.

(2) If all such offers are rejected by GNMA as nonresponsive or otherwise acceptable, or if no offers are received, GNMA shall have the right to perfect an assignment of the nondefaulted mortgage to itself.

(3) For any coinsured mortgage which is in default and held by a defaulting lender-issuer, GNMA shall have the right to perfect an assignment of the coinsured mortgage directly to itself before extinguishing the mortgage by completion of foreclosure action or acquisition of title by deed in lieu of foreclosure in accordance with § 255.420.

(4) GNMA as assignee shall give the Commissioner written notice within 30 days after taking a mortgage by assignment pursuant to this paragraph, in order to allow an appropriate

endorsement and necessary changes in the Commissioner's records.

(5) Any coinsured mortgage so assigned to GNMA shall be endorsed for full insurance in accordance with § 207.254 of this title, effective as of the date of the assignment. Any subsequent insurance claim by GNMA or any assignee of the fully insured mortgage shall be governed by §§ 207.255 through 207.259 of this title, except that payment will be made in cash instead of debentures.

§ 255.429 Effect of amendments.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interests of a lender under the contract of coinsurance on any mortgage already coinsured and shall not adversely affect the interest of a lender on any mortgage to be coinsured on which the lender has made a commitment to insure.

§ 255.430 Compliance with National Flood Insurance Program and Coastal Barriers Resources Act.

(a) No insurance shall be made available under this part for acquisition, refinancing or repair of a building or manufactured home located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulation thereunder (44 CFR 59–79) or less than a year has passed since FEMA notification regarding such hazards, and flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 42 U.S.C. 40001, *et seq*).

(b) No insurance shall be made available under this part, except pursuant to a commitment issued before October 18, 1982, with respect to any property within the Coastal Barriers Resources System established by the Coastal Barriers Resources Act (16 US.C. 3501).

2. 24 CFR § 207.24 is revised to read as follows:

§ 207.24 Development of property.

(a) At the time the mortgage is insured, the mortgagor shall be obligated to construct and complete new housing accommodations on the mortgaged property, designed principally for residential use, conforming to standards statisfactory to the Commissioner, and consisting of not less than five rental dwelling units on one site and may be detached, semi-detached, or row houses, or multifamily structures; except that the Commissioner may insure a mortgage on a completed project constructed pursuant to a Commitment to Insure upon Completion, or

(b) At the time the mortgage is insured, there shall be located on the mortgaged property a building or buildings which require substantial rehabilitation (as defined in paragraph (c) of this section) and which, upon completion of substantial rehabilitation, shall constitute a single project and provide housing accommodations designed principally for residential use, conforming to standards satisfactory to the Commissioner, and containing at least five rental dwelling units so located in relation to one another as to effect a substantial improvement of housing standards and conditions in the neighborhood; and in either case such dwelling and other improvement if any, must not violate any material zoning or deed restrictions applicable to the project site, and must comply with all applicable building and other governmental regulations; and any project may include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

(c)(1) "Substantial rehabilitation" consists of repairs, replacements, and improvements:

(i) the cost of which exceeds the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements and improvements, or

(B) $6,500 (adjusted by any applicable high-cost area factor) per dwelling unit, or

(ii) which involve the replacement of more than one major building component.

(2) For purposes of this paragraph, the term "high-cost area factor" refers to the percentage increases over basic dollar limitations per dwelling unit authorized in § 207.4(c). The term "major building component" includes roof structures; ceiling, wall, or floor structures; foundations; elevators; and plumbing, heating, air conditioning, or electrical systems.

(3) In determining whether repairs, replacements, and improvements are substantial rehabilitation for purposes of this paragraph, the purchase price, but not the installation cost, of the following specific items of replacement or fire safety equipment shall be exempted:

(i) Replacement of:

(A) Ranges/hoods,

(B) Ovens,

(C) Refrigerators,

(D) Garbage disposals, and

(E) Dishwashers.

(ii) Fire safety equipment required by Federal, State or local law.

3. Paragraphs (f) and (g) of 24 CFR § 207.32a are revised to read as follows:

§207.32a Eligibility of mortgages on existing projects.

* * * * *

(f)(1) *Eligible property.* A mortgage given to purchase or refinance an existing project shall be eligible for insurance if such project contains at least five dwelling units. The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements), as determined by the Commissioner, prior to endorsement of the mortgage for insurance, or the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount and under an agreement, approved by the Commissioner.

(2) A property is eligible for mortgage insurance under this section if:

(i) The cost of repairs, replacements, and improvements does not exceed the greater of

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) $6,500 (adjusted by any applicable high cost area factor) per dwelling unit, and

(ii) No more than one major building component is being replaced.

(3) For purposes of this paragraph, the term "high-cost area factor" refers to the percentage increases over basic dollar limitation per dwelling unit authorized in § 207.(4)(c). The term "major building component" includes roof structures: ceiling, wall, or floor structures; foundations; elevators; and plumbing, heating, air conditioning, or electrical systems.

(4) In determining whether a property exceeds the rehabilitation threshold described in paragraphs (f) (2) and (3) of this section, the purchase price, but not the installation cost, of the following specific items of replacement or fire safety equipment shall be excluded:

(i) Replacement of:

(A) Ranges/hoods,

(B) Ovens,

(C) Refrigerators,

(D) Garbage disposals and

(E) Dishwashers.

(ii) Fire safety equipment required by Federal, State or local law.

(5) Before filing an application for mortgage insurance, the project, except

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one which meets the requirements of paragraph (k) of this section, must have been fully completed and at least three years must have elapsed from the date of completion or initial occupancy, as determined by the Commissioner, whichever is later.

(g) *Eligible property in older declining urban areas.* In addition to meeting the requirement in paragraph (f)(5) of this section, and the other requirements of this section, an existing project to be purchased or refinanced in an older, declining urban area, shall comply with the following conditions:

(1) The maximum mortgage amount shall be limited by the lesser of paragraphs (b)(1), (b)(2), (c) or (d)(2) of this section.

* * * * *

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d), sec. 244, National Housing Act, 112 U.S.C. 1715z(9).

Dated: April 28, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-13828 Filed 5-20-83; 10:40 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Removal of Certain Conditions and Extension of the Deadline for Meeting Other Conditions on the Approval of the Illinois Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 913 by removing one condition concerning performance bonds and part of a second condition relating to blasting, and modifying the deadline for Illinois to meet a third condition relating to abatement and the remaining part of the second condition on the Illinois program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois received conditional approval of its permanent program on June 1, 1982 (47 FR 23858–23883), subject to the correction of five minor deficiencies. On November 30, 1982, Illinois submitted to OSM provisions intended to satisfy three of the conditions. Approval of these rules as program amendments will be reflected in 30 CFR Part 913.

EFFECTIVE DATE: The removal of these conditions and the extension of the deadline are effective May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Field Office Director, Springfield Field Office, Office of Surface Mining, No. 4 Old Capitol Plaza North, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was approved on June 1, 1982 (47 FR 23858–23883). The approval was conditioned on the correction of five minor deficiencies. In accepting the Secretary's conditional approval, Illinois agreed to correct deficiencies (a), (d), and (e) by December 1, 1982, and deficiencies (b) and (c) by June 1, 1983. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register**.

II. Submission of Amendments

Illinois submitted rules, by letter dated November 30, 1982, intended to satisfy conditions (a), (d), and (e). On December 28, 1982, OSM published notice in the **Federal Register** announcing receipt of these provisions and inviting public comment on whether the provisions satisfied the conditions of approval (47 FR 57739).

III. Secretary's Findings

(1) To satisfy condition (a), Illinois amended its rules 1816.64(a) and 1817.65(a) as follows:

Section 1816.64 Use of Explosives: Public Notice of Blasting Schedule

(a) Blasting schedule publication.

(1) Each person who conducts surface mining activities shall publish a blasting schedule at least 30 days, but not more than 60 days, before beginning a blasting program in which blasts that use more than 5 pounds of explosive or blasting agent are detonated. The blasting schedule shall be published in a newspaper of general circulation in the locality of the blasting site.

Section 1817.65 Use of Explosives: Surface Blasting Requirements

(a) A resident or owner of a dwelling or structure that is located within one-half mile of any area affected by any surface blasting event shall be notified in writing at least 30 days, but not more than 60 days, before beginning a blasting program in which blasts that use more than 25 pounds of explosive or blasting agent are detonated. Such notification shall be accompanied by information advising the owner or resident how to request a pre-blast or condition survey.

Condition (a), as set forth in the June 1, 1982 **Federal Register**, required Illinois to amend its program to: (1) Allow only five pounds of explosives or less to be detonated without-publishing notice of the operator's blasting schedule as required in 30 CFR 816.64(a)(1); and (2) require that surface owners or residents be notified prior to any surface blasting event as required by 30 CFR 817.65(a).

The Secretary finds that the amended Illinois rule 1816.64(a) satisfies condition (a)(1) by substituting "5 pounds" for "25 pounds".

The Secretary further finds that Illinois has amended its rule 1817.65(a) to require notification of owners and residents for *any surface blasting event* before beginning a blasting program in which *blasts that use more than 25 pounds* of explosives or blasting agent are detonated. While Illinois has added the phrase "any surface blasting event", the net result is that notification would be required only for blasts using more than 25 pounds of explosives. This requirement is not as effective as 30 CFR 817.65(a), and does not satisfy condition (a)(2).

However, because Illinois submitted material to satisfy this condition which the State, in good faith, believed to be adequate to satisfy this deficiency, the Secretary has decided to extend the date by which Illinois must submit new material to satisfy condition (a)(2). OSM has discussed this matter with the State, including the State administrative procedures involved in rulemaking. In order to allow Illinois adequate time to draft and promulgate a suitable amendment, the Secretary hereby extends the date by which Illinois must satisfy condition (a)(2) to August 15, 1983.

(2) To satisfy condition (d), Illinois amended its rule 1807.11(d) as follows:

Section 1807.11 Procedures for Seeking Release of Performance Bond

(d) Inspection by Department. The Department shall inspect and evaluate the reclamation work involved within 30 days after receiving a completed application for bond release, or as soon thereafter as weather conditions permit. The surface owner, or lessee, or agent thereof shall be given notice of such inspection, and may participate with the regulatory authority in making the bond release inspection.

Condition (d), as set forth in the June 1, 1982 **Federal Register**, required Illinois to amend its program to guarantee the surface owner the right to participate in the inspection prior to bond release, consistent with 30 CFR 807.11(d).

The Secretary finds that the amended Illinois rule expressly provides that the surface owner may participate in the bond release inspection and thus satisfies condition (d).

(3) Condition (e), as set forth in the June 1, 1982 **Federal Register**, and discussed in Finding 21.3, required Illinois to amend its program to provide for extensions of time beyond 90 days for abatement of violations in accordance with 30 CFR 843.12(f) and 843.12(j). Finding 21.3 noted that Illinois rule 1843.12(f)(1) authorized an extension in any situation where abatement would cause more environmental harm than it would prevent. The Federal rule, 30 CFR 843.12(f)(4), limits this basis for an extension to situations where climatic conditions preclude abatement within 90 days, or where due to climatic conditions, abatement within 90 days clearly: (i) would cause more environmental harm than it would prevent, or (ii) requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act. Further, the Federal rule, 30 CFR 843.12(j), also requires that no extension may be granted for longer than 90 days. Instead, where the condition which prevented abatement within 90 days exists at the expiration of the extension, the operator must make a fresh showing and meet all other requirements for an additional extension.

To satisfy condition (e), Illinois submitted provisions intended to be substantively identical to 30 CFR 843.12(f)(4) and (j). Illinois amended its rule 1843.12(f) to remove subparagraph (f)(1) and reword subparagraph (f)(4), and added a new 1843.12(i). The revised Illinois rule is as follows:

Section 1843.12 Notices of Violation

* * * * *

(f) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

(1) Where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) Where there is a valid judicial or administrative order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;

(3) Where the permittee cannot abate within 90 days due to a labor dispute;

(4) Where climatic conditions preclude abatement within 90 days, clearly:

(i) Would cause more environmental harm than would prevent; or

(ii) Requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

(5) Where abatement of the violation within 90 days would create an imminent danger to the health or safety of the public or would cause, or could reasonably be expected to cause, significant imminent environmental harm to land, air, or water resources.

* * * * *

(i) No extension granted under paragraph (h) exceed 90 days in length. Where the condition or circumstances which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the procedures of paragraph (h).

Although the revised Illinois rule is intended to be substantively identical to the Federal rule, several key words and phrases have been omitted. Listed below are the relevant portions of the Illinois rule, with the omitted words and phrases underlined.

(f)(4) Where climatic conditions preclude abatement within 90 days, *or where, due to climatic conditions, abatement within 90 days* clearly:

(i) would cause more environmental harm than *it* would prevent; or * * *.

(i) No extension granted under paragraph (h) *may* exceed 90 days in length. * * *

The omitted words and phrase are substantive, not merely typographical omissions, and therefore, render the meaning unclear. Although the revised rule satisfies a number of the concerns raised by the condition, the Secretary is unable to find that it is no less effective than the Federal regulations when taken in its entirety. However, because Illinois submitted material to satisfy this condition which the State in good faith believed to be adequate to correct this deficiency, the Secretary has decided to extend the date by which Illinois must submit new material to satisfy condition (e). OSM has discussed this matter with the State, including the State's rulemaking procedures. Accordingly, in order to allow Illinois adequate time to draft and promulgate a suitable amendment, the Secretary hereby extends the date by which Illinois must satisfy condition (e) to August 15, 1983.

IV. Public Comments

Public comments were submitted by the Illinois South Project, Inc. on behalf of itself and other commenters. The comments will be referred to as ISP et al.

1. ISP et al commented (Comment No. 1) that the rule change to section 1816.64 appeared to meet the condition and should be approved.

The Secretary is removing that part of the condition pertaining to 1816.64(a).

2. ISP et al commented (Comment No. 2) that the amended Illinois rule 1817.65(a) does not provide for notice prior to any blasting event as do the Federal rules.

The Secretary agrees and has extended the date by which Illinois must submit amended material to satisfy condition (a)(2).

3. ISP et al commented (Comment No. 3) that amended rule 1807.11(d) appears to meet the condition and should be approved.

The Secretary is removing condition (d) which pertains to rule 1807.11(d).

4. ISP et al commented (Comment Nos. 4, 5, 6, 7 and 8) that Illinois rule 1843.12 contains defects in addition to those noted in Finding 21.3 and thus fails to provide for extensions of the 90-day abatement period in accordance with 30 CFR 843.12.

However, these comments are addressed to issues not within the scope of the present rulemaking. The Secretary requested public comment only on whether the provisions submitted by Illinois satisfy the condition set forth in the June 1, 1982 **Federal Register**, and discussed under Finding 21.3. The Secretary will consider these additional comments in the course of his oversight responsibility and will, if necessary, advise Illinois that further changes to its program may be required.

5. ISP et al commented (Comment No. 9) that the Illinois rule must contain a counterpart to 30 CFR 843.12(j) which requires that further extensions beyond 90 days must meet the same standards as the original extension.

Illinois has adopted rule 1843.12(i), which is a virtually identical counterpart to 30 CFR 843.12(j), and provides that further extensions must meet the same standards as the original extension.

6. ISP et al commented (Comment No. 10) that it supports the deletion of existing 1843.12(f)(1) and the corresponding change in (f)(4).

The Secretary agrees, but for the reasons explained above under Secretary's Findings, is extending the deadline for Illinois to meet condition (e).

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7. ISP et al commented (Comment No. 11) that Illinois failed to follow §9.01 of the Illinois Surface Coal Mining Land Conservation and Reclamation Act (SCMLCRA) in proposing the rule changes and therefore the proposed rule changes should be disapproved. ISP et al charged that Illinois failed to provide ISP with an advance notice of the proposed rulemaking and as a result, ISP had only 14 days, rather than the required 35 days, in which to submit comments.

The Secretary notes that the Illinois Department of Mines and Minerals (IDMM) itself had not received a copy of the September 10 Illinois Register when ISP requested it on September 29. ISP was sent a copy of the official Illinois Register as soon as the IDMM received one. The Secretary will review the State's rulemaking procedures during oversight to ensure that they are being conducted in accordance with the approved State program.

8. ISP et al. commented (Comment No. 12) that the proposed amendments must be disapproved because the State failed to respond to comments submitted during the State's rulemaking proceedings.

IDMM did file copies, in the Secretary of State's office, of its responses to comments in accordance with the Illinois Administrative Procedures Act. As noted above, the Secretary will consider these additional comments in the course of his oversight responsibility for monitoring the State's administration of its permanent program.

9. ISP et al. commented (Comment No. 13) that in the decision on these program amendments, the Director should inform the State that its request to have the submittal "not be deemed a formal 'amendment' under your rules" and the State's assertion that its submittal is not substantively an amendment to its State program is contrary to 30 CFR 732.17(a) that "*any* alteration of an approved State program" (emphasis added) must be considered as a program amendment.

The Secretary agrees that 30 CFR 732.17(a) requires any alteration of an approved State program be submitted as a program amendment. Section 503 of SMCRA establishes that a State may not exercise jurisdiction under the Act unless the State program is approved by the Secretary. Thus, any changes to the program are not enforceable by the State until approved by the Secretary. 30 CFR 732.17(g) clearly prohibits any unilateral changes to approved State programs, thus implementing Section 503 of SMCRA. In his oversight of the State program the Secretary will recognize only the statutes and regulations approved by him, and will require the enforcement by the State of only such provisions.

V. Approval of Amendments To Satisfy Conditions

Accordingly, conditions (a)(1) and (d) are hereby removed and 30 CFR Part 913 is amended to: (1) indicate approval of the Illinois program amendments and (2) extend the time by which Illinois must satisfy conditions (a)(2) and (e).

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 913 of Title 30 is amended as set forth herein.

Dated: May 18, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 913—ILLINOIS

1. 30 CFR 913.11 is amended by revising paragraphs (a) and (e) and removing and reserving paragraph (d) as follows:

§ 913.11 Conditions of State regulatory program approval.

* * * * *

(a) Steps will be taken to terminate the approval found in § 913.10 unless Illinois submits to the Secretary by August 15, 1983, copies of promulgated regulations or otherwise amends its program to require that surface owners or residents be notified prior to any surface blasting event as required by 30 CFR 817.65(a).

* * * * *

(d) [Reserved]

(e) Steps will be taken to terminate the approval found in § 913.10 unless Illinois submits to the Secretary by August 15, 1983, copies of promulgated regulations or otherwise amends its program to provide more than 90 days for abatement of violations in accordance with 30 CFR 843.12(f) and 843.12(j).

2. 30 CFR 913.15 is revised to read as follows:

§ 913.15 Approval of regulatory program amendments.

(a) The following amendment was approved effective November 23, 1982: Illinois revised rule 1823.14(a), adopted August 13, 1982.

(b) The following amendments were approved effective May 25, 1983: Illinois revised rules 1816.64(a) and 1807.11(d), adopted December 10, 1982.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–14007 Filed 5–24–83; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 936

Oklahoma Permanent Regulatory Program; Informal Conference on Status

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of informal conference.

SUMMARY: On January 19, 1981, the Secretary of the Interior approved Oklahoma's program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (See 46 FR 4902). On March 10, 1983, the Director, OSM, notified Oklahoma's Governor that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance and enforcement of Oklahoma's approved regulatory program (See "Supplemental Information" below).

Under the provisions of OSM's regulations at 30 CFR 733.12(c), the Director may hold an informal conference to discuss the facts surrounding the Director's notification if such an informal conference is requested by the State. By letter dated April 27, 1983, the Oklahoma Department of Mines requested that the Director hold an informal conference. Accordingly, the Director hereby notifies Oklahoma and the public that OSM will hold an informal conference on June 15, 1983, at the address shown below under **"ADDRESSES."** All interested persons may attend the informal conference.

DATE: OSM has scheduled an informal conference on June 15, 1983, to be held at the address below.

ADDRESSES: The informal conference will be held on June 15, 1983, beginning at 9:00 a.m. at the Old Post Office Building, Room 129, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma.

Copies of Administrative Record documents referenced in this notice are available for public inspection and copying during normal business hours at:

Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103

Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markey, Tulsa Field Office Director, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION: On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program (46 FR 4902–4911).

On March 10, 1983, the Director, OSM, notified the Governor of Oklahoma that OSM had reason to believe that serious problems exist which are adversely affecting the effective implementation, administration, maintenance, and enforcement of Oklahoma's approved permanent regulatory program under SMCRA. (OK–458)

Since the approval of Oklahoma's program, and in keeping with its policy of working closely with the State, OSM has had numerous discussions with officials from the Oklahoma Department of Mines (ODOM) about the State's performance. Recent discussions and investigations have centered on inadequacies of ODOM's implementation of the approved program in the areas set forth below.

1. *State actions on petitions to designate lands as unsuitable for mining:* OSM has received information from a citizen group that ODOM failed to process an unsuitability petition in accordance with the provisions of its approved program. OSM has made a prima facie determination that ODOM may have violated its rules when it rejected an unsuitability petition on procedural grounds.

2. *Permitting:* OSM has reason to believe that ODOM is: (a) not processing permit applications in accordance with the provisions of Oklahoma's program; (b) making inadequate completeness determinations on permit applications; (c) conducting inadequate technical review of permit applications; and (d) allowing the processing of applications for new mines to take precedence over applications for existing mine operations that are continuing to operate illegally under initial regulatory program permits (including those permits issued during the period between January 1981 and April 1982 when the State did not have regulations in effect). OSM is also concerned that ODOM is not allowing for public comment on significant modifications made to permit applications, failing to follow up on requests from applicants for additional permit application information, and is not requiring the posting of adequate performance bond.

3. *Inspection and Enforcement:* OSM has identified certain problems in ODOM's inspection and enforcement actions including information causing OSM to have reason to believe that operators who did not file a timely permanent program permit application are continuing to mine. Furthermore, OSM is concerned that: (a) ODOM inspectors have overlooked serious violations which should have been cited during State inspections; (b) ODOM has failed to take follow-up action on notices of violation that it has previously issued; and (c) ODOM has failed to respond promptly to most ten-day notices issued by OSM. Moreover, OSM has reason to believe that ODOM is not meeting the required standards for frequency of complete and partial inspections, and the ODOM has failed to adequately assess civil penalties for violations ODOM did cite.

4. *Administrative Procedures and Records:* OSM is concerned that ODOM has not created or maintained adequate administrative record procedures or tracking systems for such matters as permit application reviews, unsuitability petitions, citizen complaints, ten-day notices from OSM, enforcement actions, civil penalty assessments, and bonding.

5. *Conditions of Approval:* The Director's March 10, 1983, letter to the Governor of Oklahoma expressed concerns about the State's ability to meet the Secretary's four conditions of approval by the May 15, 1983, deadline. ODOM has since submitted program amendments on May 13, 1983, to address its conditions of approval. OSM will conduct a review of those program amendments and announce a public comment period for that purpose by separate notice in the **Federal Register**. However, it is possible that discussions at the June 15, 1983, informal conference may focus on the adequacy of the State's May 13, 1983, program amendments. Briefly, the four conditions of approval which may be discussed are: (1) a requirement that Oklahoma provide citizens with the same access to courts (i.e., without having to exhaust administrative remedies) as provided under section 520 of SMCRA; (2) a requirement that Oklahoma amend its rules of practice for hearings to make the public participation aspects of those rules no less effective than the Federal requirements; (3) that Oklahoma provide for the award of costs and expenses, including attorney's fees, in administrative proceedings; and (4) that Oklahoma provide for the administration of the Small Operator Assistance Program in accordance with section 507(c) of SMCRA and 30 CFR 795.

Pursuant to 30 CFR 733.12(b)(3), the Director specified a proposed schedule for ODOM to correct the dificiencies in its program.

Section 733.12(c) of 30 CFR requires, in part, that the Director provide the State regulatory authority an opportunity for an informal conference within 15 days of receipt of the Director's written notification. On April 27, 1983, the Deputy Chief Mine Inspector of the ODOM requested that the Director hold such an informal conference. (OK–465)

The Director has agreed to Oklahoma's request, and hereby gives public notice of the informal conference for all persons wishing to attend. The date, time and location of the informal conference are identified above under the "Date" and "Addresses" sections of this notice.

The informal conference may pertain to the facts or the time period for accomplishing remedial actions as specified in the Director's notification.

Conference Rules

The informal conference is an opportunity for the Director to discuss the status of the implementation of Oklahoma's program with Oklahoma officials.

No testimony from the public will be taken but a verbatim transcript of the meeting will be kept.

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Dated: May 19, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-14014 Filed 5-24-83; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 938

Permanent State Regulatory Program of Pennsylvania; Modification of Deadline

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for Pennsylvania to meet portions of seven of the conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.* The Secretary is extending the deadline for the State to resolve conditions (a)(1), (b), (e), (f), (g), (h) and (j)(1) to November 1, 1983, and condition (j)(2) to June 1, 1983. These conditions relate to archeological information in permit applications, historic land use information in permit applications for anthracite mining operations, preparation of the general plan for impoundments, existing non-conforming structures, impoundment requirements, variances to approximate original contour in non-steep slope areas, vegetative cover for underground mining operations, abatement times in excess of 90 days, and review of permits for patterns of violation.

EFFECTIVE DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Pennsylvania Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, (717-782-4036).

SUPPLEMENTARY INFORMATION: On April 15, 1983, the Director, OSM, published a proposed rule to extend the deadline for Pennsylvania to meet eight of the conditions of approval of its approved regulatory program under the Act (48 FR 16294-16295). Public comment was invited for 15 days.

Parts 730-732 of OSM's regulations establish the procedures for the submission, review, and decision on State permanent regulatory programs whereby the State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(j), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on its administrative needs and the time required for changes to be adopted under State rulemaking or legislative procedures.

The Pennsylvania program was conditionally approved on July 30, 1982 (47 FR 33050-33080). The Secretary's approval was conditioned on the State's correction of 10 minor deficiencies. Eight of these deficiencies were to be corrected by May 1, 1983, and two by August 1, 1983.

On March 24, 1983, OSM received a letter from the Commonwealth of Pennsylvania, requesting an additional 6 months to satisfy conditions (a), (b), (c), (e), (f), (g), (h) and (j). By the terms of the conditional approval, these conditions were to be met by May 1, 1983. The State explained that because of the recently passed Regulatory Review Act, which took effect on March 1, 1983, proposed regulations must be submitted to both houses of the Pennsylvania General Assembly and an Independent Regulatory Review Commission prior to adoption. Proposed regulations can be disapproved by either the General Assembly or the Commission. Since portions of these conditions require regulatory changes, and such revisions must be submitted to the General Assembly and the Commission, Pennsylvania claimed it would be highly unlikely that the State would be able to meet the May 1, 1983, deadline for these conditions.

Therefore, the Secretary proposed to allow the State until November 1, 1983, to meet the following conditions: (a) on archeological information in permit applications, and historic land use information in permit applications for anthracite mining operations; (b) on preparation of the general plan for impoundments; (c) on maps for anthracite and bituminous underground mining operations; (e) on existing, non-conforming structures; (f) on impoundment requirements; (g) on variances to approximate original contour in non-steep slope areas; (h) on vegetative cover for underground mining operations; and (j) on abatement times in excess of 90 days, and review of permits for patterns of violation.

Secretary's Findings

By letter dated April 25, 1983 (Administrative Record No. PA-403), Pennsylvania further defined its request for an extension of the above mentioned conditions. The State therein requested an extension to November 1, 1983, to meet the following conditions: (a)(1) on archeological information in coal refuse permit applications; (b) on the preparation of the general plan for impoundments; (e) on existing, non-conforming structures; (f) on impoundment requirements; (g) on variances to approximate original contour in non-steep slope areas; (h) on vegetative cover for underground mining operations; and (j)(1) on abatement times in excess of 90 days.

The State also requested an extension to June 1, 1983, to meet condition (j)(2) on review of permits for patterns of violations.

Pennsylvania further stated that it believes it has satisfied the following conditions by incorporating their requirements into the State permit application: (a)(2) on historic land use information in permit applications for anthracite mining operations; and (c) on maps for anthracite and bituminous underground mining operations. The satisfaction of these conditions will be the subject of a later rulemaking.

Finally, Pennsylvania agreed to implement the requirements of the following conditions as a matter of policy until the applicable regulations are promulgated, and to submit such policies to OSM by June 1, 1983: (e) on existing, non-conforming structures; and (j)(1) on abatement times in excess of 90 days.

The Secretary has decided to grant the State's request for extensions as explained in the April 25, 1983, letter except that the Secretary hereby requires Pennsylvania, in regard to condition (j)(1), not to authorize a total time for the abatement for any State notice of violation, abatement order or any combination thereof in excess of 90 days except as set forth in 30 CFR 843.12.

Public comment: The public comment period on the proposed extension ended May 2, 1983. No comments were received.

Additional Findings

Paperwork Reduction Act. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

National Environmental Policy Act. The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 18, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 938—PENNSYLVANIA

§ 938.11 [Amended]

30 CFR 938.11 is amended as follows:

1. 30 CFR 938.11(a)(1), (b), (e), (f), (g), (h) and (j)(1) are amended by substituting "November 1, 1983", for May 1, 1983, each time it appears.

2. 30 CFR 938.11(j)(2) is amended by substituting "June 1, 1983", for May 1, 1983, each time it appears.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-14008 Filed 5-24-83; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[SWH-FRL 2365-Y]

General Grant Regulations and Procedures

AGENCY: Environmental Protection Agency.

ACTION: Deviation from rule.

SUMMARY: Under the Authority of 40 CFR 30.1000, the Environmental Protection Agency (EPA) has issued a class deviation from 40 CFR 30.720(a) of EPA's general grant regulations for cooperative agreements awarded for remedial planning activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This deviation waives EPA's usual ten percent cost-sharing requirement for these planning activities. We are publishing the class deviation as a part of this document. Remedial planning activities are the first stage of EPA's response to releases or threats of releases of hazardous substances.

EFFECTIVE DATE: This deviation was effective on May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Marshall Schy, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-382-5298)

SUPPLEMENTARY INFORMATION: Section 104 of CERCLA authorizes EPA to undertake investigations, monitoring, surveys, testing and other information gathering in addition to planning, legal, fiscal, economic, engineering, architectural and other studies or investigation as deemed necessary or appropriate to plan and direct response actions.

EPA's experience has shown that a ten percent cost-share impedes the progress of remedial actions at CERCLA identified priority sites.

There are several reasons for not requiring grantees to share in the costs of this aspect of the program. First, requiring cost-sharing would delay the implementation of these program activities until States were able to provide additional funds to meet their share. Second, response efforts at directed remedying serious threats to public health and the environment would be unreasonably delayed while EPA was awaiting the State cost-share. Finally requiring State cost-sharing for these activities might, because of limited resources, make it more difficult for States to meet their cost-sharing obligations under CERCLA projects.

A copy of the class deviation follows this document.

List of Subjects in 40 CFR Part 30

Administrative practice and procedure, Environmental protection, Grant programs—environmental protection, Inventions and patents, Copyright, Reporting and recordkeeping requirements.

Dated: May 12, 1983.

Alfred Zuck,

Acting Assistant Administrator for Administration.

Dated: May 12, 1983.

Lee M. Thomas,

Acting Assistant Administrator for Solid Waste and Emergency Response (WH-562A).

May 12, 1983.

Memorandum

To: William N. Hedeman, Jr., Director, Office of Emergency and Remedial Response (WH-548)

From: Harvey Pippen, Jr., Director, Grants Administration Division (PM-216)

Subject: Class Deviation from 40 CFR 30.720(a)

This responds to your April 1, 1983, request for a class deviation from 40 CFR 30.720(a) of the general grant regulations for remedial planning activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

Section 30.720(a) requires EPA assistance receipients to share project costs: at a minimum, recipients must contribute five percent of allowable project costs. In addition, your March 11, 1982, memorandum to Regional Administrators and Regional Superfund Coordinators stated that "* * * States are now required to pay 10 percent of remedial planning * * *." This action implemented a policy decision made by EPA Administrator Anne Gorsuch. On May 11, 1983, I received a memorandum from Acting Deputy Administrator Lee M. Thomas reversing the previous policy of requiring cost-sharing for Superfund remedial planning actions.

EPA believes there are several reasons for not requiring grantees to share the cost of this program. First, States maintain that the cost-sharing requirement is an unrealistic financial burden which, given their limited resources, reduces the number of sites at which they are able to take action. In addition, since many States do not have existing response funds, remedial planning activities often are delayed while the State legislature appropriates funds on a site specific basis. Many of these sites contain a variety of carcinogenic, mutagenic, and other toxic chemicals. Thus, imposing a cost-share delays EPA response actions to threats to public health and the environment.

Therefore, I am approving a class deviation from 40 CFR 30.720(a) for remedial planning activities under CERCLA. This deviation waives the cost-sharing requirement in EPA's general grant regulation (40 CFR Part 30) for this program.

Dated: May 12, 1983.

Concur:

Alfred M. Zuck,

Acting Assistant Administrator for Administration (PM-208).

Dated: May 12, 1983.

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Concur:

Lee M. Thomas,

Acting Assistant Administrator for Solid Waste and Emergency Response (WH–562A).

[FR Doc. 83–13993 Filed 5–24–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 1F2562, 9F2196, 2F2675/R535; PH–FRL 2367–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide permethrin and its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for the combined residues of permethrin was requested, pursuant to petitions, by FMC Corporation.

EFFECTIVE DATE: Effective on May 25, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTRACT: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued notices in the **Federal Register** that announced that FMC Corporation, Agricultural Chemical Group, 2000 Market Street, Philadelphia, PA 19103, had filed the following pesticide petitions (PP) proposing establishing tolerances for the combined residues of the insecticide permethrin [(3)-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) calculated as parent in or on plant commodities; and for residues of permethrin and its metabolites indicated above plus 3-phenoxybenzoic acid calculated as parent in or on animal commodities.

1. *PP 9F2196,* published June 7, 1979 (44 FR 32727). Proposed establishing tolerances for the combined residues of the insecticide permethrin and its metabolites in or on the raw agricultural commodity soybeans at 0.1 ppm. The proposed tolerance was subsequently amended to 0.05 ppm.

2. *PP 1F2562,* published October 19, 1981 (46 FR 51282). Proposed establishing tolerances for the combined residues of permethrin and its metabolites in or on the raw agricultural commodity apples at 2.0 ppm. The proposed tolerance was subsequently amended to 0.05 ppm.

3. *PP 2F2675,* published June 16, 1982 (47 CFR 26019). Proposed establishing tolerances for the combined residues of permethrin and the metabolites in or on the raw agricultural commodities almonds at 0.05 ppm and almond hulls at 19.0 ppm. The petition was subsequently amended by increasing the proposed tolerance to 20.0 ppm for almond hulls.

No comments were received in response to the notices of filing.

The tolerance requests for apples and soybeans were originally submitted with accompanying food additive petitions. The initial petition proposing the establishment of a tolerance for soybeans expressed a 21-day preharvest interval (PHI). At this PHI, food additive tolerances would have been required for soybean byproducts (hulls, oil, and soapstock). However, the amended petition, which proposed a tolerance of 0.05 ppm in or on soybeans, indicated that a 60-day PHI would be required on the product's labeling. Data reflecting the 60-day PHI and an exaggerated rate of application show no residues of permethrin and its metabolites were reported in or on the raw agricultural commodity (RAC) above the level of detectability of the method (0.01 ppm). Since permethrin is a non-systemic compound, and no residues were detected in or on the RAC after using an exaggerated rate, the 0.05 ppm tolerance is more than adequate to cover residues in or on soybeans; thus, food additive tolerances for soybean byproducts is unnecessary.

In the original petition proposing the establishment of a tolerance of 2.0 ppm in or on apples, the use directions proposed would have allowed multiple applications (after the fruit had started to form). However, the amended petition states that the use directions will allow application only before blossom or at blossom before the appearance of fruit-set. Based on residue data from a similar use pattern (PP OF2425-pears) which demonstrated no residues at or above the detectability of the residue analysis method even at an exaggerated rate, the 0.05 ppm tolerance on apples is more than adequate to cover residues, and a food additive tolerance on apple pomace is unnecessary.

The data submitted and other relevant material have been evaluated. The toxicological data considered in support of the tolerances have been discussed in detail in the **Federal Register** of October 13, 1982 (47 FR 45008).

Granting these tolerances will increase the theoretical maximum residue contribution from 0.6496 to 0.6522 mg/day. This increase is slight and, thus, the discussion of the toxicological concerns applies, without revision, to the newly listed commodities. The percentage of the maximum permissible intake used will increase from 21.65 to 21.74 percent.

The metabolism of permethrin is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. No actions are pending against continued registration of permethrin, nor are any other considerations involved in establishing the tolerances.

The tolerances established by amending 40 CFR 180.378 will be adequate to cover secondary residues that would result in eggs, milk, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversly affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. (Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: May 16, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.378(b) is amended by adding and alphabetically inserting the following commodities to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
Almonds	0.05
Almond hulls	20.0
Apples	0.05
Soybeans	0.05

[FR Doc. 83–13778 Filed 5–24–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3F2810/R564; PH–FRL 2366–1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the raw agricultural commodities apricots, plums, and prunes. This regulation to establish maximum permissible levels for residues of the pesticide was requested, pursuant to a petition, by Rhone-Polenc, Inc.

EFFECTIVE DATE: Effective on May 25, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTAL INFORMATION: EPA issued a notice published in the **Federal Register** of February 9, 1983 (48 FR 6018) which announced that Rhone-Polenc, Inc., PO Box 125, Monmouth Junction, NJ 08852, had submitted pesticide petition 3F2810 proposing to amend 40 CFR 180.399 by establishing tolerances for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the raw agricultural commodities stone fruits at 20 parts per million (ppm).

The petition was subsequently amended to propose tolerances on apricots, plums, and prunes at 20 ppm vice "stone fruits" as a result of application of the fungicide to the commodities apricots, plums, and prunes.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances include a 2-year rat feeding study with a no-observed-effect level (NOEL) of 1,000 ppm (50 mg/kg/day); a 90-day dog feeding study with a NOEL of 2,400 ppm (60 mg/kg/day); an 18-month mouse oncogenic study, negative for oncogenic potential at 1,250 ppm (187.5 mg/kg/day); a 3-generation rat reproduction study with a NOEL of 500 ppm (25 mg/kg/day); and a mutagenicity study in the mouse with no evidence of mutagenicity or adverse effect on fertility at 1,500 and 6,000 ppm.

Data current lacking include a teratology study in a second species, and mutagenicity studies including at least the following: (1) DNA repair, (2) gene mutation, mammalian, preferably in vitro, and (3) chromosomal aberration, mammalian, preferably in vitro.

The acceptable daily intake (ADI) based on the 3-generation rat reproduction study (NOEL of 25 mg/kg/day) and using a 100-fold safety factor is calculated to be 0.2500 mg/kg/ or bw/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 15.00 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0045 mg/day. The current action will utilize 2.49 percent of the ADI. Published tolerances utilize 5.67 percent of the ADI.

The nature of the residues is adequately understood and an analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes. Since no feed items are associated with apricots, plums, and prunes, there will be no secondary residues anticipated in eggs, meat, milk or poultry. There are presently no actions pending against the continued registration of the chemical.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). (Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

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List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 10, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.399 is amended by adding and alphabetically inserting the following commodities to read as follows:

§ 180.399 Iprodione; tolerances for residues.

* * * * *

Commodities	Parts per million
Apricots	20.0
* * * * *	
Plums	20.0
Prunes (fresh)	20.0

[FR Doc. 83-13777 Filed 5-24-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 704

[OPTS-82006; FRL 2370-7]

Recordkeeping and Reporting Requirements; Recodification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Redesignation.

SUMMARY: EPA established 40 CFR Part 704 to consolidate the regulations for reporting of chemical information. In the interest of making the Code of Federal Regulations easier to use, EPA is now recodifying Part 704 to create a simpler and more comprehensive organization.

EFFECTIVE DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: For the convenience of the user, the following redesignation table shows where the recodified materials may be found.

Old Section	*New Section*
704.95(a)	704.1(a)
704.95(b)	704.1(b)
704.95(c) (1) through (9), (11) and (14)	704.3
704.95(c)(10)	704.195(a)
704.95(c)(12)	704.195(c)(2) and 704.205(c)(2)
704.95(c)(13)	704.205(a)
704.95(d)	704.195(b) and 704.205(b)
704.95(e)(1)	704.195(c)(2) and 704.205(c)(2)
704.95(e) (2) through (4)	704.5 (a) through (c)
704.95(f) (1) and (2)	704.195(d) and 704.205(d)
704.95(f)(1)	704.195(e) and 704.205(e)
704.95(f)(3)	704.195(f) and 704.205(f)
704.95(g)	704.7
704.95(h)	704.195(g) and 704.205(g)

At this time EPA is also adding language to the definition of "Manufacture for commercial purposes" in the new § 704.3(j)(2). The language had been omitted inadvertently when the definition was first published as § 713.11(h)(2) in the **Federal Register** of October 24, 1980 (45 FR 70728). This error was not corrected when the definition was first recodified as § 704.95(c)(8)(ii) in the **Federal Register** of June 30, 1981 (46 FR 33525). The corrected definition now reads as EPA originally intended it to read in 1980.

This regulation is a nonsubstantive redesignation and reorganization and as such requires no opportunity for comment or public participation.

List of Subjects in 40 CFR Part 704

Environmental protection, Hazardous materials, Imports, Recordkeeping and reporting requirements.

Dated: May 17, 1983

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Chapter 1 of 40 CFR is amended by revising Part 704 to read as follows:

PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS

Subpart A—General Provisions

Sec.

704.1 Scope and compliance.
704.3 Definitions.
704.5 Exemptions.
704.7 Confidentiality claims.

Subparts B-D—[Reserved]

Subpart E—Specific Chemical Reporting Requirements

Sec.

704.195 Polybrominated Biphenyls (PBBs).
704.205 Tris (2,3-dibromopropyl).

Authority: Sec. 8(a), Pub. L. 94-169, 90 Stat. 2027, (15 U.S.C. 2607(a)).

Subpart A—General Provisions

§ 704.1 Scope and compliance.

(a) *Scope.* This part establishes procedures governing reporting by persons who manufacture or import or who propose to manufacture or import chemicals listed in Subpart E.

(b) *Compliance.* Violation of the requirements of this part may result in civil penalty or criminal prosecution, as provided in sections 15 and 16 of TSCA. In addition, under section 17, the Government may seek judicial relief to compel submission of required information.

§ 704.3 Definitions.

All definitions as set forth in the Toxic Substances Control Act (TSCA) section 3 apply for this part. In addition, the following definitions are provided for the purposes of this part.

(a) [Reserved]

(b) "Article" means a manufactured item (i) which is formed to a specific shape or design during manufacture, (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

(c) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(d) [Reserved]

(e) "EPA" means the United States Environmental Protection Agency.

(f) "Importer" means (1) any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States, and includes:

(i) The person primarily liable for the payment of any duties on the merchandise, or

(ii) An authorized agent acting on his behalf (as defined in 19 CFR 1.11).

(2) Importer also includes, as appropriate:

(i) The consignee.

(ii) The importer of record.

(iii) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(iv) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the United States consists of the 50 states, Puerto Rico, and the District of Columbia.

(g) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

(h) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(i) "Manufacture" means to manufacture for commercial purposes.

(j) "Manufacture for commercial purposes" means (1) to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(i) For commercial distribution, including for test marketing, and

(ii) For use by the manufacturer, including use for product research and development, or as an intermediate.

(2) Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(k) [Reserved]

(l) [Reserved]

(m) [Reserved]

(n) "Person" includes any individual, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(o) [Reserved]

(p) "Propose to manufacture or import" means that a person has made a firm management decision to commit financial resources for the manufacture or import of the specified chemical.

(q) [Reserved]

(r) [Reserved]

(s) [Reserved]

(t) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

§ 704.5 Exemptions.

Unless otherwise indicated, the following persons are not subject to this part.

(a) *Research and development.* Persons who manufacture or import and persons who propose to manufacture or import the specified chemical solely for research and development.

(b) *Byproducts and impurities.* Persons who manufacture or import and persons who propose to manufacture or import the specified chemical as a byproduct or impurity.

(c) *Import as part of an article.* Persons who import or propose to import the specified chemical as part of an article.

§ 704.7 Confidentiality claims.

(a) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Part 2 of this title.

(b) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(c) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(1) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential", "proprietary", or "trade secret".

(2) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(d) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(1) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(2) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

(3) The information is not publicly available elsewhere.

(4) Disclosure of the information would cause substantial harm to our competitive position.

Subpart E—Specific Chemical Reporting Requirements

§ 704.195 Polybrominated Biphenyls (PBBs).

(a) *Definitions.* "PBBs" (polybrominated biphenyls) means chemical substances the compositions of which, without regard to impurities, consist of brominated biphenyl molecules having the molecular formula $C_{12}H_xBr_y$, where $x+y=10$ and y ranges from 1 to 10.

(b) *Persons who must report.* Except as provided in paragraph (c) of this section, the following persons are subject to the rule:

(1) Persons who manufacture or propose to manufacture PBBs which have been reported for the Inventory.

(2) Persons who import (importers) or propose to import PBBs which have been reported for the Inventory as a chemical substance in bulk or as part of a mixture.

(c) *Persons not subject to this rule.* The following persons are not subject to this rule:

(1) Persons described at § 704.5 (a) through (c).

(2) Persons who are small manufacturers or importers, as described in this paragraph.

A small manufacturer or importer is a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to PBBs which such person manufactured at one site or imported in quantities greater than 10,000 pounds

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during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(d) *What information to report.* Persons subject to this rule as described in paragraph (b) of this section must notify EPA of current or proposed manufacture or import of PBBs. The notice must include, to the extent that it is known to the person making the report or is reasonably ascertainable, the following information:

(1) Company name and address.

(2) Principal technical contact.

(3) A description of the use or intended use for the PBBs.

(4) Estimated number of persons exposed to the PBBs during manufacture or importation, processing, distribution, use, and disposal.

(5) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(6) The proposed date for the initiation of manufacturing or importation of PBBs, if appropriate.

(e) *When to report.* Persons who are manufacturing or importing PBBs on the effective date of the rule must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import PBBs must notify EPA within 15 days when they propose to manufacture or import the substance.

(f) *Where to send reports.* Notices shall be submitted by certified mail to the Document Control Officer, for TSCA, Office of Pesticides and Toxic Substances (TS–793), Environmental Protection Agency, Washington, DC 20460. ATTN: PBB notification.

(g) *Sunset provision.* The reporting requirements of paragraph (d) of this section will terminate on May 1, 1985.

§ 704.205 Tris (2,3-dibromopropyl) phosphate.

(a) *Definitions.* "Tris" means tris (2,3-dibromopropyl) phosphate (also commonly named DBPP, TBPP, and Tris-BP).

(b) *Persons who must report.* Except as provided in paragraph (c) of this section, the following persons are subject to the rule:

(1) Persons who manufacture or propose to manufacture Tris.

(2) Persons who import (importers) or propose to import Tris as a chemical substance in bulk or as part of a mixture.

(c) *Persons not subject to this rule.* The following persons are not subject to this rule:

(1) Persons described at § 704.5 (a) through (c).

(2) Persons who are small manufacturers or importers, as described in this paragraph.

A small manufacturer or importer is a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to Tris which such person manufactured at one site or imported in quantities greater than 10,000 pounds during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(d) *What information to report.* Persons subject to this rule as described in paragraph (b) of this section must notify EPA of current or proposed manufacture or import of Tris. The notice must include, to the extent that it is known to the person making the report or is reasonably ascertainable, the following information:

(1) Company name and address.

(2) Principal technical contact.

(3) A description of the use or intended use for Tris.

(4) Estimated number of persons exposed to the Tris during manufacture or importation, processing, distribution, use, and disposal.

(5) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(6) The proposed date for the initiation of manufacturing or importation of Tris, if appropriate.

(e) *When to report.* Persons who are manufacturing or importing Tris on the effective date of the rule must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import Tris must notify EPA within 15 days when they propose to manufacture or import the substance.

(f) *Where to send reports.* Notices shall be submitted by certified mail to the Document Control Officer for TSCA, Office of Pesticides and Toxic Substances (TS–793), Environmental Protection Agency, Washington, DC 20460. ATTN: Tris notification.

(g) *Sunset provision.* The reporting requirements of paragraph (d) of this section will terminate on May 1, 1985.

(46 FR 33525, June 30, 1981)

[FR Doc. 83-14000 Filed 5-24-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80–634; FCC 83–121]

Changes in the Corporate Structure and Operations of the Communications Satellite System

AGENCY: Federal Communications Commission.

ACTION: Denial of petitions for reconsideration of policy statement.

SUMMARY: This order disposes of two petitions for reconsideration or clarification of the Commission's Memorandum Opinion and Order, *In the Matter of changes in the corporate structure and operations of the Communications Satellite Corporation*, 90 FCC 2d 1159 (1982); 47 FR 41116, Sept. 17, 1982. The order denies the petitions filed by Western Union International, Inc. and RCA Global Communications, Inc., except to the extent that the order clarifies the degree of separation required between the Comsat parent corporation and its subsidiaries.

FOR FURTHER INFORMATION CONTACT: Joel Pearlman, International Facilities Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554. (202) 632–4047.

Memorandum Opinion and Order

In the matter of changes in the corporate structure and operations of the Communications Satellite System; CC Docket No. 80–634, (11–2–82; 47 FR 49744).

Adopted: March 31, 1983.
Released: April 20, 1983.

By the Commission: Commissioner Jones concurring in part and dissenting in part and issuing a statement; Commissioner Dawson concurring and issuing a statement.

I. Background

1. On August 5, 1982, we adopted our Memorandum Opinion and Order in the above-captioned proceeding, *Communications Satellite Corporation*, 90 FCC 2d 1159 (1982) (hereinafter *Structure*). We now have before us a Petition for Reconsideration or Clarification of this order filed on October 20, 1982, by Western Union International, Inc. (WUI) and a Petition for Partial Reconsideration filed on October 18, 1982, by RCA Global Communications, Inc. (RCA Globcam). Also before us are oppositions to these petitions submitted on November 17, 1982, by the Communications Satellite Corporation (Comsat) and Aeronautical Radio, Inc. (ARINC). In addition, on November 26 and November 29, 1982, respectively, WUI and RCA Globcom filed replies to the Comsat and ARINC oppositions.

2. In the *Comsat Study*,[1] we undertook a comprehensive examination of Comsat and its operations. In that study, we noted that Comsat had in recent years begun to engage in activities other than its traditional statutory INTELSAT/INMARSAT functions and we found a number of areas where those new activities might create conflicts with its appropriate discharge of those statutory functions. On balance, though, we found that the public interest would be served by allowing Comsat to participate in non-INTELSAT/INMARSAT business activities so long as such participation is not inconsistent with its statutory responsibilities. We did, however, identify a number of specific changes in Comsat's structure and operations we felt should be made. Following that order, Comsat voluntarily reorganized itself to separate its INTELSAT and INMARSAT operations from its other functions.

3. In the *Structure* order which followed, we again affirmed that the public interest would be served by allowing Comsat to participate in non-INTELSAT/INMARSAT business activities so long as such participation is not inconsistent with its statutory responsibilities. We also said that Comsat's participation in all present and future non-INTELSAT/INMARSAT activities would be through its subsidiaries only; the parent organization would be limited to INTELSAT/INMARSAT functions.[2] We found that Comsat's reorganization generally conformed to this approach. However, in reviewing Comsat's reorganization, we found several areas where we believed Comsat's efforts had not gone far enough to answer the concerns we stated in the *Comsat Study*. These deficiencies concerned Comsat's accounting for research and development, its accounting for shared administrative and support services and its method of public dissemination of INTELSAT/INMARSAT information. We directed Comsat, within 90 days of the release of the order, to file with us reports explaining how it intended to establish mechanisms to remedy these deficiencies.[3] We stated that if Comsat were unable to implement appropriate accounting and information flow control mechanisms, then we would consider whether further structural separation is warranted.

[1] Communications Satellite Corporation, 77 FCC 2d 564 (1980) (hereinafter Comsat Study).

[2] We use the terminology "Comsat parent" in this order to refer to that part of the parent company which performs certain international common carrier functions and related duties with respect to the INTELSAT and INMARSAT systems. This entity is called the World Systems Division.

[3] Two extensions were granted. Comsat filed a report on information flow on December 13, 1982 and a report on allocation of shared services and capitalization of Comsat Labs on January 24, 1983.

II. Summary of Petitions

4. RCA Globcom seeks partial reconsideration of the *Structure* order in two respects. First, it requests us to modify the *Structure* decision to require that Comsat provide all communications services to non-carriers, including basic INTELSAT satellite transmission capacity at the earth stations,[4] exclusively through a retail subsidiary. RCA Globcom wants this modification to remain in effect at least until we have concluded our inquiries in CC Dockets Nos. 82–540 and 82–546 into the right of other carriers to have direct access to INTELSAT space segment and independent ownership of U.S. earth stations that operate with the INTELSAT system.[5] Second, it requests that, during the pendency of these proceedings, we establish adequate controls over rates to be charged by the subsidiary.

5. WUI seeks reconsideration or clarification of the order in six respects. First, it asks us to require Comsat to provide all non-carrier services through a separate subsidiary, irrespective of whether those services are provided at customers' premises or at earth stations. Second, it requests that we afford WUI and the other international service carriers access to INTELSAT information by granting them observer status at INTELSAT meetings. Third, it contends that we should restrain Comsat from serving end users until Comsat remedies the problems indentified in the *Structure* order. Fourth, it argues that we do not have power under the Communications Satellite Act of 1962, 47 U.S.C. §§ 701–744 (1976), to authorize or permit Comsat to engage in any activities other than those which are not intimately connected with, and directly and substantially in furtherance of, its limited statutorily mandated INTELSAT and INMARSAT missions. Fifth, it argues that our proposed structural and operational changes to Comsat will not adequately preserve competition or protect the public interest. Finally, WUI requests that we immediately grant its pending requests for: (1) cost-based access to INTELSAT space segment rates; (2) unbundled rates for the space-segment and earth-segment components of INTELSAT service; and (3) independent access and operational capability at the U.S. INTELSAT earth stations.

6. In the following sections we shall address each argument raised by RCA Globcom and WUI. At the same time, we shall consider matters raised by the responsive pleadings filed by the parties.

III. Discussion

A. Applicability of Separate Subsidiary Requirement to the Provision of INTELSAT Transmission Capacity

1. Arguments of the parties on separate subsidiary issue.

7. The parties to this proceeding are polarized on the issue whether Comsat should be required to provide INTELSAT transmission capacity to non-carrier users through a separate subsidiary, rather than through the parent. Both WUI and RCA Globcom argues that the service should be provided through a separate subsidiary, at least until we resolve the *Direct Access* and *Earth Station Ownership* inquiries. Comsat and ARINC disagree.

8. WUI argues that our action in the *Authorized User* order[6] was contrary to our pronouncements in the *Structure Order*. WUI sees possible contradictions in two areas—the definitions of "monopoly" and "competitive" services and the determination of which arm of Comsat would provide each type of service. As to the first point, WUI claims that the Commission recognized in *Authorized User* that provision of "basic" transmission capacity to non-carriers is a "competitive" service.[7] WUI

[4] The Structure order used the term "basic transmission capacity" to refer to INTELSAT transmission capacity. However, in order to avoid any possibility of confusion with the definition of "basic" in other Commission proceedings, we will henceforth refer to this capacity as INTELSAT transmission capacity.

[5] INTELSAT Satellite Facilities, 90 FCC 2d 1446 (1982) (hereinafter Direct Access); U.S. Earth Stations, 90 FCC 2d 1458 (1982) (hereinafter Earth Station Ownership).

[6] Authorized Users Policy, 90 FCC 2d 1394 (1982), *review pending sub nom.* RCA Global Communications Inc. v. FCC, No. 82–1972 (D.C. Cir., filed August 20, 1982), *case consolidated with* ITT v FCC, Nos. 79–1046 *et al.* (D.C. Cir. filed January 12, 1979) (hereinafter Authorized User).

[7] In Authorized User we defined "basic transmission capacity" as a two-way communications link—called a half circuit—between a U.S. earth station and an INTELSAT

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cites the following language in the decision as the basis for its claim: "Even if Comsat elects to limit itself to its current role of providing basic satellite transmission capacity at U.S. earth stations, affording customers the opportunity to deal directly with Comsat will impose competitive pressures on the existing carriers." 90 FCC 2d at 1142. In addition, WUI argues that competition has already developed between Comsat and WUI in the provision of "basic" transmission capacity to DOD at earth stations in Hawaii and Guam. WUI states that such competition will divert leased channel revenues from the international record carriers. WUI believes, however, that the definition of a "competitive" service as used in the *Structure* order may not encompass the provision of INTELSAT transmission capacity. WUI notes that the *Structure* order defines "competitive" as referring to all existing and future non-INTELSAT/INMARSAT activities in which Comsat engages. 90 FCC 2d at 1172 n.9. WUI states that it is unsure whether or not the provision of "basic" transmission capacity would be classed as an INTELSAT or a non-INTELSAT activity within the meaning of this definition. WUI concludes that if we meant "basic" transmission capacity to be an INTELSAT monopoly activity, such a result would be inconsistent with our pronouncements in *Authorized user.*[8]

9. The other inconsistency between the *Authorized User* and *Structure* orders, WUI alleges, relates to whch subdivision of Comsat we directed to provide competitive services. WUI reads the *Structure* decision as restricting the prent to monopoly INTELSAT/INMARSAT activities and allowing competitive activities only in the subsidiaries. WUI notes, however, that the *Authorized User* order directs the parent to lease INTELSAT transmission capacity to non-carriers. Since, WUI argues, the provision of INTELSAT transmission capacity is competitive with IRC leased-channel service,[9] WUI concludes that our *Authorized User* order thereby directs the Comsat parent to provide a competitive service in conflict with the limitation set out in the *Structure* decision. Therefore, WUI alleges these companion orders have this additional inconsistency.

10. RCA Globcom does not argue that the *Structure* order contradicts the *Authorized User* order, but that the latter order is wrong in that, by allowing the Comsat parent to mix competitive and monopoly activities, it fails to protect fair competition and important user interests.[10] Since it believes that *Authorized User* is incorrect, it asks us to change the *Structure* order to bring it into conformity with our alleged earlier recommendations in the *Comsat Study, supra,* by requiring Comsat to provide all communications services to non-carrier users, including INTELSAT satellite transmission capacity, exclusively through its "retail" subsidiary. RCA Globcom Petition, p. 8.

11. RCA Globcom states that, absent such safeguards, the actions we took, which were purportedly taken to foster competition, will have the opposite effect of giving Comsat a *de jure* monopoly over the provision of "basic" transmission capacity to users at the earth stations long before we have had a chance to determine whether INTELSAT services should continue to be provided on a monopoly basis. This monopoly is accentuated, RCA Globcom argues, because *Authorized User* directs the Comsat parent to lease INTELSAT satellite transmission capacity to carriers and to non-carriers at the same rate. It believes that such a result is directly contrary to the thrust of the *Comsat Study* which it asserts envisions that a subsidiary provide such capacity to non-carriers. RCA claims that it cannot engage in meaningful price competition under such circumstances and that, as a result, a considerable portion of its and the other international service carriers' revenues are at risk. Also, RCA Glocom avers that important consumer interests will be jeopardized by our policy. It argues that consumers may construct their own domestic facilities near the INTELSAT earth stations and, thus, become locked into Comsat's monopoly service for long periods of time. Finally, it claims that there will be a substantial diversion of traffic caused by the Comsat parent's entry into the "retail" market and this diversion will idle existing facilities, and shift those costs to users of remaining facilities.

12. In its opposition, Comsat asserts that the petitioners' contention that we should not have permitted the Comsat parent—as opposed to a Comsat subsidiary—to provide "basic" transmission capacity to non-carrier entities is improperly raised here. Comsat argues that the petitioners should have raised their arguments in the *Authorized User* proceeding since that is where we determined that the Comsat parent should provide such "basic" capacity. Comsat contends that even if the petitioners' arguments of inconsistency and of lack of promotion of competitive policies were valid, the relief that RCA Globcom and WUI seek is not a change in the *Structure* order to conform to *Authorized User,* as they assert, but a change in the *Authorized User* order to conform to *Structure*—relief which cannot appropriately be granted in this proceeding.

13. Although Comsat raises this procedural point as a threshold issue, it also addresses the substance of the petitioners' arguments. In so doing, it disputes the petitioners' contentions of inconsistency among the *Authorized User,* the *Structure* and the *Comsat Study* proceedings. It reads the *Comsat Study* and *Structure* proceedings as limiting the Comsat parent to performing jurisdictional monopoly—defined as INTELSAT/INMARSAT—activities while allowing the subsidiaries to carry out all other ventures. Further, it contends that it is the *Authorized User* proceeding, not the Comsat Study or *Structure* proceedings, which defined the contours of Comsat's INTELSAT jurisdictional monopoly activities. First, Comsat argues that the *Authorized User* decision clarified that the provision of "basic" satellite capacity is an INTELSAT jurisdictional monopoly activity. Second, Comsat points out that in *Authorized User* we interpreted the term "authorized users" in the satellite Act to include non-carrier entities. Comsat concludes that we thus found that non-carrier entities are entitled to obtain "basic" INTELSAT satellite capacity directly from Comsat. Comsat concludes that the provision of such satellite capacity to non-carriers is a jurisdictional monopoly activity and that it should therefore be provided by the parent consistent with the requirements of the *Structure* order.

14. ARINC, in its opposition, states that RCA Globcom's and WUI's petitions are noting but attempts to attack collaterally the Commission's determination in *Authorized User* that users should be permitted to acquire satellite capacity from Comsat on the same terms and conditions as the international record carriers. ARINC contends that we should not further delay the public benefits which we have found will accrue from permitting non-carrier users to obtain "basic" INTELSAT capacity directly from Comsat.

15. ARINC also finds no inconsistency among the Commission's decisions. ARINC notes that our *Structure* order defines "competitive" to include "existing and future non-INTELSAT/INMARSAT activities engaged in by Comsat." 90 FCC 2d at 1172 n.9. ARINC asserts that the provision of "basic" satellite capacity is an "INTELSAT activity" since Comsat currently obtains the space-segment and earth-station services it provides users as a result of its role as the United States signatory to INTELSAT and that the provision of such capacity therefore does not fall within the scope of "competitive" services as that term is used in the *Structure* order. Further, since, at present, Comsat is the only entity authorized to acquire satellite circuits directly from INTELSAT, ARINC argues that the provision of this capacity to Comsat's customers, such as the international record carriers (IRCs), DOD, ARINC, and others, cannot be deemed "competitive" even in the ordinary sense of the word. ARINC contends that the mere desire of the IRCs to become competitors in providing such capacity does not in and of itself change the nature of the service from monopoly to competitive.

16. RCA Globcom in its reply disputes Comsat's procedural arguments and contends that we can grant the relief sought in either the *Authorized User* or the *Structure* proceeding. RCA also reasserts its view that the provision of "basic" capacity is "competitive" with the IRCs' leased channel services and that Comsats position that "basic" INTELSAT transmission service is "jurisdictional" is irrelevant to the issue involved, since both INTELSAT transmission and end-to-end services are "jurisdictional" to the extent that they fall within Title II of the Communications Act of 1934, 47 U.S.C. 201–224 (1976). It further states that equality of competitive opportunity can be achieved only if the Comsat parent is prohibited from providing either type of service directly to non-carrier users.

17. WUI in its reply claims that Comsat's opposition is essentially procedural and not helpful to the Commission's resolution of the substance of the issues. WUI notes that Comsat did not deny that the *DOD Hawaii-Guam* [11] case demonstrated that Comsat and WUI were "competitors" for DOD's "private line" business at the earth stations.[12] WUI Reply, p. 3. WUI also faults ARINC's opposition for failing to justify its claim that the Commission's interrelated satellite orders of August 5, 1982 are clear and complete.

2. Discussion of separate subsidiary issue

18. As an initial procedural matter, we question whether the relief sought appropriately may be granted in this proceeding. We shall first address WUI's arguments. WUI does not argue with our findings in *Structure* that the Comsat parent shall provide jurisdictional monopoly services and the Comsat subsidiary(ies) shall provide other than jurisdictional monopoly services.[13] Rather, WUI disagrees with our treatment in *Authorized User* of the provision of INTELSAT transmission capacity to non-carriers as a jurisdictional monopoly service. Therefore, WUI is really asking us to change our definition in *Authorized User,* not in *Structure.*

19. Similarly, RCA Globcom argues that the relief it seeks is necessary because our decision in *Authorized User* is directly contrary to the thrust of the *Comsat Study. RCA Petition, p. 8. Again, even were we to accept RCA Globcom's argument, the appropriate relief would be a modification of the Authorized User* decision and not the *Structure* decision. The *Structure* decision does not even mention the provision of INTELSAT transmission capacity; it merely states that activities in furtherance of Comsat's INTELSAT functions are to be provided by the parent and non-INTELSAT activities by the subsidiary(ies). The *Authorized User* decision clarifies the status of the provision of INTELSAT transmission capacity as an INTELSAT activity regardless of whether it is provided to carriers or directly to non-carrier users. It is this latter interpretation with which RCA Globcom takes issue here and for which it seeks relief. As a result, RCA Globcom is similarly seeking relief which cannot appropriately be granted in this proceeding.

20. Although we could dismiss this aspect of the petitions on procedural grounds, we believe that the petitioners have misconstrued our *Structure* and *Authorized User* orders, as well as the nature of the service Comsat will be providing, and that it would be helpful for us to clear up those misunderstandings. First, we will discuss the allegations of inconsistency and, second, the allegations of unfairness. The petitioners have argued that our orders are inconsistent in that they could allow the Comsat parent to engage in competitive activities which we have found it should not engage. The petitioners have each alleged a different inconsistency. WUI contends that the *Structure* decision is inconsistent with the *Authorized User* decision, while RCA Globcom seems to be contending that both the *Structure* and *Authorized User* decisions are inconsistent with the *Comsat Study.*

21. As noted in paras. 8 and 9, *supra,* WUI believes that our *Authorized User* policy directed the Comsat parent, rather than a subsidiary, to compete for what WUI characterizes as the "private line" business of larger users at the U.S. earth stations. WUI reasons that since it and other carriers intend to compete with Comsat for this "private line" business the provision of such service must then be a competitive and not a monopoly activity. It follows, argues WUI, that to be consistent with *Structure,* a Comsat subsidiary, rather than the parent, should have been required to provide this service.

22. We disagree with WUI's analysis. The *Authorized User* order did not direct, or even allow, the Comsat parent to offer "private line" service to large users. Rather, it directed the Comsat parent to make available to all users only INTELSAT satellite-transmission capacity at U.S. earth stations. Nothing in the *Authorized User* decision alters the fact that Comsat is currently the only entity with access to this INTELSAT capacity. Because of Comsat's unique position, the provision of INTELSAT capacity is effectively a monopoly service. The nature of this monopoly service, which had previously been supplied primarily to carriers, does not change because Comsat may now supply it directly to non-carriers, who are also potential customers of end-to-end carriers. Since in either case the provision of INTELSAT satellite capacity is essentially the same service, it retains its monopoly characteristics, independent of the nature of the buyer.

satellite. Provision of "basic" or INTELSAT transmission capacity does not include the making of additional service arrangements including those with a U.S. domestic carrier for connecting circuits to the U.S. earth station and with a foreign telecommunications entity for the foreign satellite half circuit and the necessary connecting links within the foreign country. 90 FCC 2d at 1402–03.

[8] *See* para. 6, *supra.*

[9] Similarly, WUI states that if we intended by this definition to exclude from competition the provision to non-carrier users of "basic" transmission capacity, then the *Structure* order is also "internally inconsistent and totally at odds with reality." WUI Petition, p. 6.

[10] Nevertheless, RCA Globcom contends that it is not challenging the *Authorized User* decision, but that it merely seeks "safeguards to preserve the *status quo* while the Commission resolves the claims of other carriers that they should not have to use Comsat as a middleman for access to INTELSAT." RCA Globcom Petition, p. 2.

[11] Western Union International, Inc. v. Communications Satellite Corporation, CC Docket No. 81–356 (released December 10, 1981) (hereinafter, DOD Hawaii-Guam).

[12] We are not certain that WUI means by the term "private line" in this connection. We assume that WUI is referring to IRC leased channel service. *See* 90 FCC 2d at 1397 n.3.

[13] Jurisdictional monopoly services are those granted to Comsat by virtue of its unique roles under the Communications Satellite Act of 1962, 47 U.S.C. 701–744 (1976). They are not necessarily delineated by economic forces or theories, such as those arising from a natural monopoly position.

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Further, the Comsat parent realizes no additional profit by providing capacity directly to non-carriers, than by providing the same capacity indirectly to non-carriers through "middlemen" carriers who put together an "end-to-end" service. Therefore the Comsat parent cannot be said to be competing with the end-to-end carriers for "private line" service to non-carrier users since Comsat is indifferent financially as to whether it leases capacity directly or indirectly to these users.

23. Nowhere in the *Authorized User* order did we state, or even imply, that the provision of INTELSAT transmission capacity is a competitive activity. We did recognize that the provision of end-to-end service is a competitive activity when we stated that Comsat's entry into the end-to-end market would increase competition in that market.[15] We did not treat the provision of INTELSAT capacity in a similar fashion. Instead, we distinguished between a competitive activity and an activity which only exerted "competitive pressures." We reasoned that provision of INTELSAT capacity to non-carrier users does not include services traditionally provided by end-to-end carriers. Instead we said that a user must make its own communications arrangements for the facilities necessary to transmit its message between its office and a U.S. earth station, and must also make its own arrangements with a correspondent for the foreign end of the circuit. Under this scheme, the existing carriers would not be competing with Comsat to serve non-carrier users, although they would be under "competitive pressures" to reduce their end-to-end rates. The competitive pressures arise because of the possible differences in the charges set by carriers to provide the domestic and foreign segments of international service with the costs to users of making their own domestic and foreign arrangements. Comsat's provision of INTELSAT capacity is the same in either case. Further, pursuant to Comsat's *Authorized User* tariff, this INTELSAT satellite capacity is available to carriers and non-carriers at the same rate and on the same terms and conditions. Thus, giving non-carrier users the option of dealing directly with Comsat for monopoly satellite capacity permits these users to decide whether they can arrange a better deal for the additional facilities and services necessary to complete an end-to-end service than that offered by the existing "middlemen" carriers. The availability of this option to users does not make the provision of INTELSAT transmission capacity "competitive" with the provision of end-to-end service, because INTELSAT capacity is an input to end-to-end service, not a substitute for it.[16]

24. The competitive/monopoly distinction in the above decision is also consistent with that in our *Structure* order. In the *Structure* order we defined "competitive" as follows: "We use the term competitive in this document to refer to existing and future non-INTELSAT/INMARSAT activities engaged in by Comsat." 90 FCC 2d at 1172, n.9. Therefore, non-competitive refers to existing and future INTELSAT/INMARSAT activities engaged in by Comsat. Looking at the INTELSAT side, we observe that the furnishing of INTELSAT transmission capacity—defined as the provision of INTELSAT half circuits—is clearly an INTELSAT activity, and thus "non-competitive" within the meaning of the *Structure* dichotomy.[17]

25. As we have indicated, the fact that Comsat's provision of INTELSAT capacity is non-competitive does not change simply because Comsat offers it directly to non-carriers as well as to carriers. Under current policy, Comsat is the only entity authorized to participate in INTELSAT and is therefore the only entity who can supply INTELSAT capacity in the United States. We, therefore, recognize that competition in the form of additional suppliers of INTELSAT capacity is virtually impossible under current INTELSAT earth station and space segment access policies.[18] In fact, one of the reasons we have instituted the inquiries in CC Dockets Nos. 82–540 and 82–548 is to gauge the possibility of competition in the provision of INTELSAT capacity. Should we find such additional competition feasible and desirable, we can take any actions to implement that finding—including further changes to Comsat's corporate structure and operations—at that time. Until such time, however, we find no public interest benefit to be gained from trying even temporarily to make the provision of INTELSAT capacity "competitive" by inserting a layer of carrier middlemen between the sole supplier of such capacity, Comsat, and its non-carrier customers. Such a scheme would only produce inefficiency as far as non-carrier users are concerned. The benefits of the *Authorized User* policy are primarily in the "add-on" category; users can now benefit if they can perform the services added by end-to-end carriers to Comsat's INTELSAT service more efficiently than the carriers themselves perform these services.

26. Therefore, we reject WUI's arguments that the *Authorized User* decision improperly directed the Comsat parent to provide INTELSAT transmission capacity. Such provision is a monopoly INTELSAT activity which the *Structure* decision correctly relegated to the parent company.

27. RCA Globcom makes a somewhat different argument concerning inconsistencies. RCA Globcom recognizes that both the *Authorized User* and the *Structure* decisions provide that the Comsat parent lease INTELSAT transmission capacity at U.S. earth stations to non-carrier users as well as to carriers. However, RCA Globcom argues that such a policy is inconsistent with the policy of the *Comsat Study*. We do not find this argument persuasive. The recommendations in the *Comsat Study* were clearly only tentative findings pending completion of a notice and comment rulemaking proceeding. All of the findings in the *Structure* decision are not necessarily present in the *Comsat Study*. Therefore, resolution of this issue is not relevant to the instant reconsideration. Nevertheless, in the interests of clarity, we shall address RCA Globcom's argument to determine if the *Comsat Study* recommendation differs from the procedures adopted in the above decisions.

28. RCA Globcom cites the following language in the study:

> The structural changes we describe in this Report would establish a framework to locate all of Comsat's jurisdictional monopoly activities with [the Comsat parent] Comsat Global . . . . [These] jurisdictional monopoly activities will be isolated from activities in the competitive environment in which the corporation could engage through its Comsat National subsidiary. COMSAT Global would be required to sell INTELSAT half-circuits including space segment and ground segment (earth station services), to all competitive retailers on fair and equal terms pursuant to tariff. . . . [the Comsat competitive subsidiary] Comsat National could enter the competitive retail market for provision of international satellite services directly to end-users. 77 FCC 2d at 750 (footnote omitted)[19]

RCA Globcom apparently believes that our failure to include in this paragraph the lease of INTELSAT half circuits to non-carriers was intended to indicate that the Comsat parent is not to offer them.[20] We disagree. First of all the focus of this sentence was simply to make it clear that when Comsat provided this capacity to the end-to-end carriers it had to make it available on fair and equal terms pursuant to tariff. Moreover, the *Comsat Study* was adopted well before we issued our *Authorized User* order and, thus, could not dispose of matters which were still at issue in the then pending *Authorized User* rulemaking. We note, however, that the *Comsat Study* cited (in a footnote to the same paragraph quoted by RCA Globcom) proposals in the *Authorized User-NPRM*[21] which were intended to allow non-carrier entities to obtain INTELSAT half circuits (what *Authorized User* called "basic" INTELSAT transmission capacity) for their own use.[22] The *Comsat Study* further recognized that this NPRM proposed to treat these non-carrier entities as "authorized users" with the authority to acquire space segment directly from Comsat's monopoly are (i.e., the parent).[23] It is thus apparent that when we decided the *Comsat Study* we were aware of the fact that the Comsat parent would likely be authorized to deal directly with non-carrier users. Therefore, we conclude that these *Comsat Study* recommendations are not inconsistent with both the *Authorized User* and *Structure* orders.

29. Finally, both petitioners make arguments based on equity for preventing the Comsat parent from offering capacity to non-carriers. They claim that allowing Comsat to lease INTELSAT capacity to non-carrier users will allow Comsat to capture the major share of this market before we have had a chance to decide the issues of direct access and independent earth station ownership. They contend that Comsat's "basic" INTELSAT service customers will be permanently lost to them because of the timing advantage Comsat would have. Further, they contend that traffic will be diverted from their private line services to Comsat's INTELSAT transmission service.

30. We do not agree with these bleak predictions of future harm. If the IRCs and other carriers are permitted at some future time to compete for some or all aspects of the provision of INTELSAT satellite capacity they should be able with superior price and/or service to attract Comsat's customers. There may be some cases in which Comsat has received a relatively long term commitment from a customer so that the customer is not immediately in a position to obtain competitive services from these carriers. We believe, however, that such situations will constitute a small share of the market. As to diversion of traffic from IRC private line service to Comsat's INTELSAT transmission service, we have recently addressed this issue in our order authorizing Comsat to provide INTELSAT transmission capacity directly to non-carriers. In that order, we found that the conclusions of the RCA submitted traffic and revenue diversion study were speculative and that any diversion of traffic that may occur would not likelt be so substantial as to threaten the IRCs' ability to provide service to the public.[24] Therefore, we see no reason to withhold the benefits of reduced costs to those customers who can efficiently use INTELSAT satellite capacity by providing themselves the services added by end-to-end carriers. We find that the benefit of this customer choice outweighs the above speculative detriment to a framework for the competitive provision of INTELSAT capacity that may result from future Commission actions.

B. Commission Measures To Ensure That the Separate Subsidiary Establishes Just and Reasonable Charges

31. RCA Globcom addressed ways it believes the separate subsidiary approach in the *Structure* decision should be strengthened to promote competition. RCA Globcom contends that merely requiring Comsat to operate through a separate subsidiary in all its "retail" ventures will not, without supplemental safeguards, adequately protect other carriers from anti-competitive abuses or avoid burdening INTELSAT ratepayers while the Commission is resolving the *Direct Access* and *Earth Station Ownership* proceedings. It asks us to establish additional procompetitive safeguards to assure that the subsidiary establishes lawful charges, free of any cross-subsidization or misallocation of costs resulting from its corporate affiliation with the parent company. It argues that such safeguards should be established by modifying the *Structure* order in three respects. First, it asks us to affirm that the subsidiary must have separate officers, facilities, advertising and marketing, records and books of account, procurement, and operating personnel from the parent. Second, it requests us to scrutinize carefully Comsat's response pertaining to changes in allocation of common costs ordered by the *Structure* decision. Finally, it requests us to require the Comsat subsidiary to justify any rate initiatives on the basis of fully allocated costs.

32. Comsat, in its opposition, contends that RCA Globcom's argument is not germane to the order under reconsideration. Comsat states (1) that the Commission has already approved of Comsat's organizational changes, (2) that the Commission has already made clear that it would strutinize Comsat's allocation of costs, and (3) that once the *Structure* issues are resolved by the Commission, there is no reason to treat the rates of a Comsat subsidiary differently from those of other carriers. ARINC's opposition avers that RCA Globcom's argument is not novel and was adequately considered by the Commission in Dockets Nos. 80–170 and 80–634.

33. We shall address RCA Globcom's contentions in the same order as RCA Globcom presents them. First, to the extent that the *Structure* order only implicitly described the structural separation required between the Comsat parent and its competitive subsidiaries, we shall now state these separation requirements more explicitly. We affirm

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[14] ". . . our decision permits Comsat to provide additional end-to-end services directly to the public. Although Comsat has expressed no present intention to do so, we find that the industry would benefit from entry of a new competitor such as Comsat which has the resources and experience to play a major role in providing satellite services to the public." 90 FCC 2d at 1420.

[15] When we indicate that our Authorized User decision has not provided for direct competition in the provision of INTELSAT capacity (earth segment and space segment) between the Comsat-parent and the end-to-end carriers, we do not imply that this decision has not altered the structure of the market. It has, of course, intentionally done so. But the "competition" it creates is among the end-to-end carriers who are competing both with each and with potential customers for the "packaging" type functions required to put together an end-to-end service.

[16] We are not taking issue with WUI's assumption that "private line" or "leased channel" service is competitive. Indeed, the Authorized User decision found that Comsat can provide "leased channel" service only through a subsidiary. *See* 90 FCC 2d at 1421.

[17] However, some form of competition is feasible through the offering of services over substitutable media, such as coaxial or fiber optic submarine cable.

[18] Comsat Global was used to refer to the parent company and Comsat National to a subsidiary.

[19] RCA Globcom also believes that the Commission's use of the term "jurisdictional" in this quotation is irrevelant to a determination of whether basic service should be provided by the parent or by a subsidiary. RCA Globcom believes that "jurisdictional" means all services subject to Title II of the Communications Act of 1934, 47 U.S.C. 201–224 (1976). We disagree with this interpretation. The quotation speaks of "jurisdictional monopoly" activities, not merely "jurisdictional" activities. As indicated in footnote 12, *supra*, by "jurisdictional monopoly" we were referring to Comsat's role under the Communications Satellite Act of 1962, 47 U.S.C. 701–744 (1976). A part of this role is to provide INTELSAT half circuits—"basic" transmission capacity—to authorized users.

[20] Aeronautical Radio Inc., *et al.*, 77 FCC 2d 535 (1980) (hereinafter Authorized User-NPRM).

[21] 77 FCC 2d 750 n.245.

[22] 77 FCC 2d 752.

[23] Communications Satellite Corporation, FCC 83–41 (released February 2, 1983). *See also* Authorized User, 90 FCC 2d at 1415–19.

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the *Structure* conclusion that Comsat's current organization is generally adequate. Under Comsat's current structure, the parent has separate officers, records and books of accounts, and operating personnel from the subsidiaries. The parent and subsidiaries also provide their own facilities and their own financial, personnel, procurement, advertising and marketing services, except for sharing of certain corporate administrative support services and the laboratories. We said in the *Structure* decision that we would permit this limited sharing of resources if Comsat submitted a plan to ensure proper allocation of common costs associated with such sharing. We also said that if Comsat is unable to establish appropriate accounting and information control mechanisms, then we would consider whether additional structural separation is warranted. We have not as yet completed evaluation of Comsat's plans and therefore have not made a final decision as to the required degree of separation. We also note that we have required Comsat to provide us with 90 days notice if it intends on its own initiative to alter the current structure of the company. If we should receive such notification, we shall determine at that time if the new proposed structure adequately addresses our goal of maximal separation of competitive and regulatory activities and properly handles the allocation of any justifiable common costs.

34. Second, we have already instructed the Chief, Common Carrier Bureau, to assess the proposals submitted by Comsat to remedy the problems we raised in the *Comsat Study* and the *Structure* orders and to apprise Comsat of any deficiencies found. 90 FCC 2d at 1198. These proposals relate to deficiencies in Comsat's allocation of research and development costs among regulated and unregulated accounts, its accounting for its labs, its accounting of shared administrative and common costs, and its procedures for use and dissemination of technical data generated by INTELSAT and INMARSAT funded work. We direct the Bureau to scrutinize carefully these proposals in order to assure that our policies are effectively implemented.

35. Finally, we note that no Comsat subsidiary has yet filed an application for authority to provide any end-to-end communications service between the United States and overseas points and that there is no tariff covering such service. Hence, only fears that such filings devoid of cost justification might be forthcoming have been cited. We believe that our rules adequately address such fears. For example, if an existing Comsat subsidiary were to file a tariff for such a service, it would be subject to Section 61.38 of the Commission's Rules and Regulations, 47 CFR 61.38 (1981). In particular, Section 61.38(a) requires that economic data and information be submitted to support a tariff request for a new service. Therefore, we will be in a position to determine if the tariff is justified and we conclude that no additional rules are required to satisfy WUI's request.

C. Observer Status at INTELSAT Meetings

36. WUI cites the Commission's finding in *Structure* that Comsat has an advantage over competitors by reason of its access to information flow from INTELSAT. It believes, though, that our proposed remedy in that order under what it terms the "Freedom of Information Act" is cumbersome and does not offset Comsat's lead time advantages. It restates its earlier proposal to allow the international carriers observer status at INTELSAT meetings. It asks that we instruct Comsat to advocate this position before INTELSAT. Comsat, in its opposition, states that this matter has already been fully briefed by the parties and fully considered by the Commission. It argues that WUI presents no new facts or analysis here.

37. First, we also affirm our conclusion in the *Comsat Study* that the INTELSAT Agreement does not explicitly provide for attendance of private corporations or entities as observers at INTELSAT meetings. On the issue of whether or not such attendance is implicitly permitted by the INTELSAT Agreement, the Department of State would be the appropriate agency to render an interpretation on this point. In any case, we believe that carrier attendance at meetings is not necessary at this time to offset possible advantages that Comsat may gain as signatory. In the *Structure* order, we have directed Comsat to broaden public access to INTELSAT Board of Governors' documents consistent with requirements imposed on us by the Freedom of Information Act. We have also prohibited Comsat from releasing these documents to its subsidiaries before release to the public. We believe these measures should be sufficient to satisfy any concerns about possible lead time advantages Comsat's subsidiaries may have over competitors. However, we have not permanently foreclosed consideration of carrier observer status should future conditions warrant and should the Department of State issue an opinion that some form of private participation is implicitly permitted by the Agreement.

D. Restraint on Comsat's Service to Users Pending Resolution of Structure Issues

38. WUI has asked that we restrain Comsat from serving end users unless and until Comsat remedies the problems set forth in the *Structure* order. It argues that Comsat could be competing for "earth station forward" services [35] with WUI and others for an indefinite period of time, during which period Comsat could continue to misuse its monopoly powers and to misallocate costs—all to the detriment of its carrier competitors. Comsat states in its opposition that this complaint is wholly frivolous and does not warrant substantive response.

39. We find that WUI's concerns have already been adequately addressed by our *Authorized User* order. In that order, we distinguished between two types of international service Comsat may offer to users through the INTELSAT system. The first type is the provision of INTELSAT capacity. As we have earlier indicated, this service is currently provided on a monopoly basis. Therefore, we see no need to condition the offering of this service to users on the implementation of competitive safeguards contained in the *Structure* order.[36] The second type is the provision of so called "end-to-end" communications service between the United States and overseas points. This type of service, should Comsat choose to initiate it, would be provided by a subsidiary on a competitive basis. The *Authorized User* order states that as a condition of providing this latter service, Comsat must comply with the requirements set forth in the *Structure* decision. 90 FCC 2d at 1435. We see no reason to change this requirement. Therefore, before any Comsat subsidiary is authorized to provide any international communications service through INTELSAT, we will verify that Comsat has made sufficient changes in its accounting, cost allocation and information flow procedures which satisfy the concerns we expressed in that decision.

[35] WUI does not define "earth station forward" service. Notwithstanding, we shall address WUI's argument giving the term its broadest possible interpretation in this INTELSAT context.

[36] *See* Paragraph 108 of the Authorized Users order in which we required Comsat to file for appropriate amendments to its Section 214 authorizations and its FCC Tariff No. 101.

E. Restrictions on Comsat's Business Activities

40. WUI argues that, as a matter of law, all of Comsat's activities must be intimately connected with, and directly and substantially in furtherance of, its statutorily mandated and limited INTELSAT and INMARSAT missions. It avers that the Commission may not legally authorize or permit Comsat to expand beyond these activities into regulated or unregulated markets. In its opposition, Comsat contends that this argument has been fully briefed by the parties and fully considered by the Commission. It believes that WUI has presented no new facts or analysis here.

41. WUI has presented no new facts or analysis to support changing our prior findings. In the *Structure* order, we affirmed our *Comsat Study* determination that no legal bar exists to Comsat's participation in non-INTELSAT/INMARSAT business so long as such participation is not inconsistent with Comsat's statutory responsibilities under the 1962 Satellite Act or its Articles of Incorporation. We also affirmed in the *Structure* order our prior determination in the *Comsat Study* that as a matter of law and regulatory policy Comsat should not be limited to its INTELSAT/INMARSAT roles. We reasoned that Comsat's involvement in diversified satellite-related activities would contribute to the overall development of satellite communications technology and would therefore serve the public interest. We do not believe WUI has shown anything to justify changing those determinations.[37]

F. Adequacy of Structural and Operational Changes

42. WUI argues that the Commission's proposed structural and operational changes to Comsat will not be adequate either to preserve competition or to protect the public interest. It avers that the Comsat parent and subsidiary(ies) will have both the incentive and the ability to engage collusively in anticompetitive activities, conflicts of interest and cross-subsidization schemes. Neither Comsat nor ARINC addressed this contention in its opposition.

43. WUI does not specify what relief it seeks were we to agree with its contentions. It merely states that it disagrees with certain concepts in the *Structure* order. This bare statement of disagreement is not sufficient to conform to the requirements of our Rules and Regulations. Section 1.429(c) of the Rules requires that the petition for reconsideration shall state with particularity the respects in which petitioner believes the action should be changed. WUI has not stated how it would want to have the *Structure* order changed to satisfy its concerns. In any event, we adhere to our earlier view that our required structural and operational safeguards are adequate. Therefore, we deny this aspect of WUI's request.

G. Acceleration of the Commission's Schedule for Other Matters

44. WUI argues that the Commission should immediately grant its requests for: (1) "cost-based" access to INTELSAT space segment rates; (2) unbundled rates for INTELSAT space segment and earth station segment components; and (3) independent access and operational capability at U.S. INTELSAT earth stations. WUI contends that deferral of these matters will irreparably harm WUI through customers and revenues lost to Comsat and severely abridged operational flexibility at U.S. INTELSAT earth stations. Comsat states in its opposition that this complaint is wholly frivolous and does not warrant substantive response.

45. We find that WUI has presented no new facts or analysis to support our changing our prior findings in the *Authorized User* proceeding. 90 FCC 2d at 1432–35. See also *Communications Satellite Corporation, supra*, n.20. We have considered WUI's contentions of unfairness in paras. 29 and 30, *supra*, and have found that WUI will not be irreparably harmed from revenues lost by a policy allowing customers to provide their own arrangements in lieu of paying "middlemen" end-to-end carriers for their services. We also have fully addressed WUI's contentions in the *Authorized User* proceeding and have found that there is no direct connection between the policies we announced in that proceeding and our inquiries into potential changes in earth-station ownership and INTELSAT access policies. In general, by permitting Comsat to offer end-to-end services through a subsidiary, we have established a mechanism to strengthen competition in the provision of communications services. This mechanism for strengthened competition is present regardless of the outcome of the earth-station ownership and INTELSAT access inquiries. The possibility that these inquiries may ultimately result in additional competition in a different market (e.g., provision of INTELSAT capacity) does not make resolution of these inquiries a prerequisite for the actions that we have taken in the *Authorized User* proceeding. In particular, as to the earth-station-ownership issue, we said that our current ownership policy does not prevent the carriers from competing with a Comsat subsidiary for end-to-end services. The ability to compete results from the requirement that ESOC make earth station facilities and services available to other carriers on the same reasonable and non-discriminatory terms available to the Comsat subsidiary. As to the INTELSAT access issue, we similarly found that carriers would be able to compete with a Comsat subsidiary for end-to-end services adequately through their ability to obtain INTELSAT half circuits from Comsat at the same reasonable and non-discriminatory rates charged a Comsat subsidiary. Finally, as to the unbundling aspect, we found no reason to require immediate tariff unbundling of space and earth segment rates since we had not yet decided which entities may individually own earth stations or obtain direct access to INTELSAT. WUI presents no new facts or arguments here. We, therefore, affirm our findings in the *Authorized User* proceeding.

IV. Ordering Clauses

46. Accordingly, it is ordered, that the Petitions for Reconsideration or Clarification filed by Western Union International, Inc. and RCA Global Communications, Inc. are denied, except as indicated in paragraph 33 herein.

Federal Communications Commission.[38]

William J. Tricarico,

Secretary.

March 31, 1983.

Separate Statement of Commissioner Anne P. Jones Concurring and Dissenting in Part

In Re: Changes in the corporate structure and operation of the Communications Satellite Corporation (CC Docket No. 80–634)

When the Commission issued the Memorandum Opinion and Order for which reconsideration is sought here, I dissented because I was not convinced of the correctness of the Commission's position on two threshold points. I take this opportunity to state my position on those points and thereby explain my dissent.

First, I was and am not persuaded that it is the proper function of this Commission to bless Comsat's diversification into non-INTELSAT/INMARSAT business activities. As indicated in the Comsat Study, the Notice of Proposed Rulemaking in this proceeding, and the August MO&O, entry by Comsat into such activities involves substantial risk of

[37] *See also* Application of Satellite Television Corporation for Authority to Construct an Experimental Direct Broadcast System, FCC 82–427, at 9–15 (released October 13, 1982).

[38] See attached statements of Commissioners Anne P. Jones and Mimi Weyforth Dawson.

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behavior by Comsat detrimental to its competitors, its rate-payers, and its statutory INTELSAT/INMARSAT functions. In view of this risk, I believe the Commission was quite correct in suggesting in the Study and the Notice that Congress should address in further legislation the scope of Comsat's authority, if any, to engage in non-INTELSAT/INMARSAT activities.

My second concern relates to the Commission's decision to rely entirely on structural safeguards and existing statutory filing requirements to monitor entry by Comsat into non-INTELSAT/INMARSAT activities. In this regard, it seems to me well arguable that repeated references in the Comsat Study and the Notice of Proposed Rulemaking to the possibility that particular proposed activities by Comsat might conflict with its INTELSAT/INMARSAT activities implied that the Commission would establish some monitoring mechanism to guard against such conflict. It is therefore also arguable that the Commission's decision not to establish *any* monitoring mechanism, but to rely instead entirely on structural safeguards and existing filing requirements, was not fairly within the scope of this rulemaking as required by notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

I concur in the present Memorandum Opinion and Order insofar as it denies reconsideration of the structural and operational limitations imposed last August. In my judgment those limitations should be retained, despite my own doubts that they, or any other limitations within the power of this Commission to impose and enforce, will or can achieve their purpose.

I understand the argument reflected in paragraph 41 of this MO&O that entry by Comsat into diversified, unregulated, satellite-related activities may contribute to the overall development of satellite communications technology and thereby serve the public interest. But I am not persuaded by that argument.

For one thing, I am not convinced that whatever contribution ComSat's entry into unregulated activities may make to overall development of satellite communications technology could not or would not be made by others.[*] And even assuming *arguendo* that ComSat is uniquely able to make such contributions, it is not clear that the possibility of its doing so outweighs the dangers which the limitations imposed on it in this proceeding are intended to prevent. And finally, it seems to me that the unhappy history of this Commission's efforts to police the boundary between regulated and unregulated activities of communications common carriers strongly suggests that such efforts are expensive, frustrating, and frequently vain.

It is with some reluctance that I conclude that a company with ComSat's resources and energy should be confined to statutorily mandated, regulated activities. However, I am even more reluctant to approve the creation of yet another partly regulated, partly unregulated telecommunications company, with all the dangers and regulatory problems such companies generate, without a much more convincing case for doing so than has in my judgment been made in this proceeding. I therefore again dissent from the basic decision to permit Comsat to engage in unregulated activities, regardless of the structure through which it does so.

Concurring Statement of Commissioner Mimi Weyforth Dawson Re: Comsat Structure Reconsideration

In the Comsat Structure and Authorized User decisions we have taken another step in establishing the framework for introducing additional competition in the provision of international telecommunications services. In the Comsat Structure decision we have followed the recommendations of our Comsat Study to require the separation of Comsat's monopoly (Intelsat/Inmarsat) services from its other activities. We have thus required the establishment of separate subsidiaries and the institution of appropriate accounting techniques to preclude Intelsat ratepayers from subsidizing non-Intelsat endeavors. In Authorized User we authorized Comsat to provide Intelsat capacity directly to users through its jurisdictional arm, the World Systems Division, and to provide end-to-end services through a separate subsidiary.

These and other decisions have permitted Comsat to enter new markets and to compete with other carriers. For example, Comsat may now directly compete with the international record carriers, Western Union, direct broadcast satellite providers and AT&T. Additionally, as in the Authorized User decision, we can modify the structure of a market so that all service providers will have an incentive to establish rates closer to cost. Yet Comsat remains a monopoly service provider of international earth station facilities and the Intelsat space segment. I anticipate, at least for reasons of equity, that the Commission will consider in the not too distant future the outstanding NOIs on earth station ownership and direct access. While considerations unique to international services and facilities must be recognized, the introduction of additional competition in the provision of international satellite services may provide the same public benefits that augmented competition has produced domestically, i.e., additional service offerings, greater efficiencies and lower rates.

[FR Doc. 83-14017 Filed 5-24-83; 8:45 am]

BILLING CODE 6712-01-M

[*] As I noted in dissenting from the Commission's approval of ComSat's entry into the manufacturing and marketing of shipboard earth stations and into direct satellite broadcasting, there is no shortage of other entrants or would-be entrants into these businesses. See 90 FCC 2d 505 and FCC 82-427 (released October 13, 1982).

47 CFR Part 0

[FCC 83-197]

Delegation of Authority to the Chief, Private Radio Bureau and to the Chief, Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action delegates certain authority to the Chief, Common Carrier Bureau concerning public coast stations in the maritime service. This action was staff initiated and is intended to improve Commission organization.

EFFECTIVE DATE: June 13, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 0

Commission organization, Organization and functions (Government agencies).

Order

In the matter of Amendment of Part 0 of the rules concerning authority delegated to the Chief of the Private Radio Bureau and to the Chief of the Common Carrier Bureau.

Adopted: April 27, 1983.
Released: May 5, 1983.

By the Commission. Commissioner Jones absent.

1. By Order, released April 7, 1980 (FCC 80-179), The Commission adopted § 0.335 of the rules which delegates authority for all common carrier matters involving public coast stations in the maritime service to the Chief, Private Radio Bureau. Before this action was taken, authority had been delegated jointly to the Chief, Common Carrier Bureau and the Chief, Private Radio Bureau.

2. After almost three years of experience with the new arrangement, it now appears that improved administration of public coast stations can be achieved by restoring some of the delegated authority and responsibility to the Chief of the Common Carrier Bureau. This Order does so. Under § 1.412(b)(5) of the rules, a rule making proceeding is not needed to accomplish this action because these rule changes affect only internal Commission organization.

3. For these reasons, it is ordered, that part 0 of the rules regarding authority delegated to the Chief of the Common Carrier Bureau and the Chief of the Private Radio Bureau is amended as set forth in the attached appendix, effective June 13, 1983.

4. Authority for this action is contained in 1.4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 1.412(b)(5) of the Commission's rules.

5. For information concerning this action, contact Robert DeYoung at (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William Tricarico,

Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. In § 0.91, paragraph (k) is added as follows:

§ 0.91 Functions of the Bureau.

* * * * *

(k) Acts on matters affecting public coast stations in the maritime service which concern tariffs, terms of interconnection, rate or economic analysis, and applications for closure pursuant to Section 214 of the Communications Act.

2. In § 0.291, paragraph (i) is added as follows:

§ 0.291 Authority delegated.

* * * * *

(i) *Authority concerning public coast stations in the maritime service.*

The Chief, Common Carrier Bureau, shall have authority to act on matters affecting public coast stations in the maritime service which concern tariffs and rates, terms of interconnection, and applications for closure pursuant to Section 214 of the Communications Act.

§ 0.335 [Removed and reserved]

3. Section 0.335 is removed and designated reserved.

[FR Doc. 83-14014 Filed 5-24-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 0

[FCC 83-201]

Authority Delegation to Engineer-In-Charge of Each Field Office To Extend Safety Radiotelephony Certificates

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action delegates to the Engineer-in-Charge of each field office authority to extend the Communications Act Safety Radiotelephony Certificate for a period of up to 90 days. The Commission initiated this action to increase agency efficiency in scheduling compulsory ship radiotelephone inspections. This rule change should also result in more convenient service to the maritime public.

EFFECTIVE DATE: May 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Gagnato, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Order

In the matter of amendment of Part 0 to delegate to the Engineer-in-Charge of each field office authority to extend Safety Radiotelephony Certificates.

Adopted: April 27, 1983.
Released: May 5, 1983.

By the Commission. Commissioner Jones absent.

1. In this Order we are delegating to the Engineer-in-Charge (EIC) of each field office, authority to extend Communications Act Safety Radiotelephony Certificates for a period of up to 90 days.

Background and Discussion

2. Small passenger vessels subject to Title III, Part III of the Communications Act [1] are currently required to have their radiotelephone stations inspected each 24 months. These vessels are usually employed in such activities as party fishing trips, scuba diving and sightseeing. Because of their relatively small size, these vessels are able to operate from the myriad of harbors and marinas along the entire coastline of the United States, often at considerable distances from the FCC field offices. Due to the large distances involved and the limited resources available, field offices are not always able to timely perform the required inspections when requested by the licensees. When it is not possible for a FCC field office to timely perform such an inspection, the licensee is instructed to contact the Commission's Private Radio Bureau to request that the vessel's Safety Certificate be extended. Typically, such temporary relief is routinely granted for a period of 30 to 90 days after coordination with the particular field office. An extension of 30 to 90 days allows the field office to perform the inspection when an engineer is scheduled to be in the given geographical area.

3. A valid Safety Radiotelephony Certificate is a prerequisite for legal operation of these passenger vessels. Further, the U.S. Coast Guard will not issue a Passenger Ship Safety Certificate unless the vessel has a valid Safety Radiotelephony Certificate. Therefore, it is important that the Commission act promptly when an inspection cannot be timely performed and the licensee requests an extension of the Safety Certificate.

4. We believe that by delegating authority to extend Safety Certificates to the Commission's field offices, we will be able to process such requests more efficiently. In essence, the new streamlined procedure will eliminate the current necessity for coordination between the field office and Commission Headquarters in Washington. Additionally, this new procedure will be more convenient for the ship station licensee since it will only be necessary to contact one Commission office for the subject radiotelephone inspection and, if required, to request an extension of the Safety Certificate.

5. Authority for this amendment to the Commission's rules is contained in Sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d) and 303(r). Because the amendment relates to matters of procedure and internal organization, the procedural and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

6. Regarding questions on matters covered in this document contact Nicholas G. Gagnato (202) 632-7175.

7. Accordingly, it is ordered, that §0.314 of the Commission's rules is amended as set forth in the attached Appendix, effective on the date that this order is published in the Federal Register.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] In Title III, Part III, of the Act, the first section, 47 U.S.C. 381, reads as follow: "Except as provided in section 382, it shall be unlawful for any vessel of the United States, transporting more than six passengers for hire, to be navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, unless such vessel is equipped with an efficient radiotelephone installation in operating condition."

Federal Communications Commission.
William J. Tricarico,
Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

In § 0.314, paragraph (e) is amended by designating existing paragraph (e) as (e)(1) and adding new paragraph (e)(2) as follows:

§ 0.314 Additional authority delegated.

* * * * *

(e)(1) For periodic survey as required by section 385 of the Communications Act of 1934, as amended, and issuance of Communications Act radiotelephony certificates in accordance with § 83.512 of this chapter.

(2) Extend the Communications Act Safety Radiotelephony Certificate for a period of up to 90 days beyond the specified expiration date.

* * * * *

[FR Doc. 83-14012 Filed 5-24-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 81 and 83

[FCC 83-203]

Amendment To Expedite Operation of Shore Based Radionavigation Radar Stations, Permit the Use of the 14.0 to 14.05 GHz Band by Maritime Radar Test Stations and To Delineate the Equipment Specifications for Ships Required To Carry Two Radar Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes the rule which requires shore based radionavigation radar station licensees to obtain approval from the U.S. Coast Guard to operate their stations; adopts rules to permit maritime radar test stations to use the 14.0 to 14.05 GHz band; and delineates the equipment specifications for ships which are required to carry two radar systems. The Commission initiated these actions in order to eliminate unnecessary rules and policies and to implement new radar requirements applicable to certain large ocean-going ships.

EFFECTIVE DATE: June 13, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632-7175.

List of Subjects

47 CFR Part 81

Communications equipment, Vessels.

47 CFR Part 83

Communications equipment, Vessels.

Order

In the matter of amendment of Parts 81 and 83 of the Commission's rules to expedite operation of shore based radionavigation radar stations, permit the use of the 14.0 to 14.05 GHz band by maritime radar test stations and to delineate the equipment specifications for ships required to carry two radar systems.

Adopted: April 27, 1983.
Released: May 5, 1983.
By the Commission: Commissioner Jones absent; Commissioner Sharp concurring in the result.

1. This Order makes three unrelated changes to the Commission's maritime rules. First, it removes the condition which requires shore based radionavigation radar station licensees to obtain approval from the U.S. Coast Guard for the operation of these stations. Second, it adds the band 14.0 to 14.05 GHz to the frequencies available to shore test stations. Third, it delineates the radar specifications applicable to ships that are required to carry two radar stations.

Shore Based Radionavigation Stations

2. Section 81.403 of the Commission's rules states that shore radionavigation stations shall be treated as private aids to navigation (NAVAIDS) and that licensees are required to obtain approval from the U.S. Coast Guard for their operation. The U.S. Coast Guard no longer considers these stations to be NAVAIDS and, therefore, no longer desires to approve their operations. Accordingly, we are removing the requirement for U.S. Coast Guard approval by deleting § 81.403 of the rules.

Shore Radar Test Stations

3. Section 83.404 of the Commission's rules authorizes the operation of shipboard maritime radar equipment in the 14.0 to 14.05 GHz band.[1] This band is not included among the frequencies available to maritime radar test stations which may be used as sales equipment demonstrators. The Commission receives and grants a number of requests for rule waivers each year from sales representatives seeking to demonstrate the use of radars operating in the 14.0 to 14.05 GHz band. We believe that this procedure is unnecessary and burdensome for the public and the Commission. Accordingly, we are including the 14.0 to 14.05 GHz band in Section 81.402 of the Commission's rules for assignments to shore radar test stations on a routine basis.

Second Radar Specifications

4. The International Convention for the Safety of Life at Sea (SOLAS), 1974, currently requires vessels of 1,600 gross tons or more to be equipped with at least one radar systems Section 83.465 of the Commission's rules references the specifications for such compulsory radar system. Regulation 12 of Chapter V of SOLAS, 1974, as amended, requires ships of 10,000 gross tons or more engaged in international voyages on or after September 1, 1984, to carry two radar systems. Additionally, we note that the U.S. Coast Guard recently adopted requirements for certain tankers of 10,000 gross tons or more carrying oil or bulk hazardous materials to be equipped with two radar systems. (See 47 FR 34388, August 9, 1982.) In view of the above, a new paragraph is added in § 83.465 of the Commission's rules applying specifications for a compulsory second radar system.

Conclusion

5. Regarding questions on matters covered in this document contact William P. Berges at (202) 632-7175.

6. Authority for this amendment is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). The prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary in this proceeding because: (1) The U.S. Coast Guard no longer requires that radionavigation station licensees obtain its permission for the operation of such stations, (2) the addition of the 14.0 to 14.05 GHz band to the frequencies available to maritime shore radar test stations merely codifies a long standing Commission policy, and (3) applying equipment specifications to a second compulsory radar system implements a U.S. Coast Guard requirement and a provision in the SOLAS Convention. The first two actions reduce burdens on the public, while the third implements a treaty requirement and U.S. Coast Guard regulation. Therefore, we conclude that significant public participation would be neither likely nor useful if the subject notice and public provisions were utilized in this proceeding.

[1] The *Reporting and Order* in Docket No. 18762, released May 28, 1970, 23 FCC 2d 313, amended Part 83 of the Commission's rules to permit the operation of shipboard radars in the 14.0 to 14.05 GHz band.

8. Accordingly, it is ordered that effective June 13, 1983, the Commission's rules are amended as set forth in the attached Appendix.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

§ 81.403 [Removed]

1. Part 81 is amended by removing § 81.403.

2. In § 81.402 a new paragraph (c) is added to read as follows:

§ 81.402 Assignable frequencies.

* * * * *

(c) The following frequency bands are authorized for use by shore radar test stations indicated in § 81.404:
2900 to 3100 MHz
5460 to 5650 MHz
9300 to 9500 MHz
14000 to 14050 MHz

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.465 paragraphs (c) and (d) are changed to (d) and (e) respectively and a new paragraph (c) is added to read as follows:

§ 83.465 Ship radar station.

* * * * *

(c) For ships of 10,000 gross tons or more required by SOLAS or any other ship than is required to be equipped with two radar systems, each of these systems must be capable of operating independently and must comply with the specifications referenced in paragraphs (a) and (b) of this section. One of the systems must provide a display with an effective diameter of not less than 16 inches (340 millimeters) and the other a display with an effective diameter of not less than 12 inches (250 millimeters).

* * * * *

[FR Doc. 83-13900 Filed 5-24-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

Amendment To Relax Adjacent Channel Minimum Re-Use Standards in the 150–170 MHz Band; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission corrects the text of rules adopted in the matter of relaxing adjacent channel minimum re-use standards in the 150–170 MHz band. These errata bring the new rules into conformance with the Commission's decision in the Order (#32559) issued by the Commission's Managing Director on December 17, 1982 and published in the Federal Register on January 27, 1983 on page (48 FR 3758).

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C., (202) 634-2443.

Errata

In the matter of amendment of Part 90 of the Commission's rules and regulations to relax adjacent channel minimum re-use standards in the 150–170 MHz band.

Released: May 5, 1983.

The Appendix to the Order released December 17, 1982 in the above-captioned matter [#32559) is corrected to read as follows:

Appendix

Part 90 of the Commission's Rules and Regulations is amended as follows:

PART 90—[AMENDED]

1. Section 90.173 is amended by revising paragraph (f) to read:

§ 90.173 Policies governing the assignment of frequencies.

* * * * *

(f) In the 150–170 MHz band, except in the Taxicab Radio Service, applications will not ordinarily be granted in situations in which the proposed base station is located less than 16 km (10 miles) from an existing base station on a frequency 15 kHz removed, unless the application is accompanied by a signed letter of concurrence from the licensee of each base station located within 16 km (10 miles) of the proposed base station that is operated on a frequency 15 kHz removed from the proposed frequency assignment. In the Taxicab Radio Service, applications will not ordinarily be granted in situations in which the proposed base station is located less than 12 km (7 miles) from an existing base station on a frequency 15 kHz removed, unless the application is accompanied by a signed letter of concurrence from the licensee of each base station located within 12 km (7 miles) of the proposed base station that is operated on a frequency 15 kHz removed from the proposed frequency assignment.

* * * * *

2. Section 90.175 is amended by removing the final sentence of paragraph (a)(1) and inserting a new sentence in its place as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(a) For frequencies below 470 MHz: (1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 120 km (75 miles) of the proposed stations, together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply. In addition, for frequencies in the range 150–170 MHz, a report based on a field study indicating the degree of probable interference to existing stations located between 16 and 56 km (10 and 35 miles) (12 and 56 km for taxicabs) from the proposed station operating on a frequency 15 kHz removed and a statement that the licensees of such stations have been notified of the applicant's intention to apply. The field study report required by this section need not address the degree of probable interference to existing adjacent-channel stations 15 kHz removed within the prescribed mileage limits when evidence of consent set forth in § 90.173(f) is included with the application; however, all other provisions of the field study requirement must be satisfied.

* * * * *

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 83-14016 Filed 5-24-83; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR 1039

[Ex Parte No. 346 (Sub-8)]

Rail Carriers; Exemption From Regulation—Box Car Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Correction of final rules.

SUMMARY: At 48 FR 20412 [May 6, 1983], the Commission published final rules which exempt, with certain exceptions, the rail transportation of all commodities in box cars from 49 U.S.C. Subtitle IV. The purpose of this notice is to correct certain errors which appear in that decision.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245 or

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Thomas Gire, (202) 275–7759.

SUPPLEMENTARY INFORMATION: The byline in the Commission's decision at 48 FR 20412 should be corrected to read as follows: By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor dissented with a separate expression.

The textual material which appears after the last paragraph of the separate expression of Chairman Taylor and before the Appendix at 49 CFR 20415 is corrected to be shown as footnote 11 to the last word of the last sentence of Chairman Taylor's separate expression. The material in footnote 11 is corrected to begin with the following sentence: "On February 28, 1983, former Commissioner Simmons submitted the following separate expression".

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13975 Filed 5–24–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 30520–91]

Atlantic Sea Scallop Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; inseason adjustment.

SUMMARY: NOAA adjusts the meat count and shell height standards to impose a meat count standard of 35 meats per pound (3⅜ inch shell height) for the Atlantic sea scallop fishery through December 31, 1983. Adjustment of the standard will eliminate inconsistencies in management measures imposed on Canadian and U.S. sea scallop fishermen that would adversely affect the U.S. domestic fishery if the meat count were to remain at 30 meat per pound (3½ inch shell height). The adjustment will allow U.S. fishermen to harvest sea scallops at sizes smaller than would be allowed in the absence of the adjustment.

EFFECTIVE DATE: May 25, 1983 through December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Scallop Management Coordinator, National Marine Fisheries Service, Northeast Regional Office, State Fish Pier, Gloucester, Massachusetts 01930. Telephone 617–281–3600.

SUPPLEMENTARY INFORMATION: The regulations (50 CFR Part 650) implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) (47 FR 35990, August 18, 1982) require the Regional Director, National Marine Fisheries Service, to review the status of the Atlantic sea scallop resource on a continuing basis.

In addition, the Director must prepare a report annually concerning the status of the fishery and possible changes in the resource, fishery, or industry which might require adjustment of the ananagement program. Such a report was prepared and reviewed at a public hearing held in conjunction with the February 1983 meeting of the New England Fishery Management Council (Council). That report recommended that no changes be made in the meat count and shell height standards which are established by the FMP and implementing regulations. The report recognized, however, that when the management standards automatically change from a 40 meat count (3¼ inch shell height) to a 30 meat count (3½ inch shell height) on May 15, 1983, inconsistencies could develop between the meat count and shell height measures imposed on Canadian and U.S. fishermen.

Following presentation of the report, Canadian fisheries officials advised the Regional Director that social and economic considerations make it impossible for the Canadian Department of Fisheries and Oceans to modify its management program to impose a 30 meat count standard on Canadian sea scallop fishermen and thus assure that management measures imposed on the Canadian and U.S. sea scallop fishermen are consistent at the 30 meat count standard. The Canadian officials stated their intention to alter their standards to prohibit the taking of sea scallops smaller than the 35 meat count.

The fishery regulations at 50 CFR 650.22(c)(4) include a provision for adjustment of U.S. management standards by the Regional Director if he finds four criteria are met as follows: (1) That the objective of the scallop FMP would be achieved more readily and be better served through an adjustment of the prevailing standards; (2) that the recommended alteration in the standards would not reduce expected catch over the following year by more than 5% from that which would have been expected under the prevailing standard; (3) that the recommended standards for meat count and shell height are consistent with each other; and (4) that inconsistencies exist in the management measures applied to sea scallop stocks in areas harvested by both domestic and foreign fishermen, and those inconsistencies provide foreign fishermen with an advantage over domestic fishermen which can be demonstrated to adversely affect the domestic fishery. After considering the position of the Canadian Department of Fisheries and Oceans, the Regional Director determined that, in the absence of an adjustment of the U.S. management standard from a 30 to a 35 meat count, the domestic fishery would be adversely affected because of the harvest by Canadian fishermen of smaller scallops. Domestic fishermen would experience a decline in the relative share of sea scallops they can harvest from jointly fished stocks. The ability of Canadian sea scallop fishermen to harvest smaller scallops would not only deprive U.S. sea scallop fishermen of the opportunity to harvest those scallops once they grow to the U.S. legal size, but it would also deprive the resource of the potential reproductive contribution those scallops could have made. The investment made by domestic fishermen in growth and recruitment to the fishery resource would thus be subject, at least in part, to capture by foreign fishermen.

On April 27, 1983, the Regional Director issued notice of his recommendation (48 FR 19046) to alter the meat count and shell height standards to eliminate the inconsistencies in these measures as applied to U.S. and foreign fishermen fishing on the same scallop stocks. A public hearing was scheduled in conjunction with the meeting of the Council on May 12, 1983, to solicit comments on the recommendation from the Council and the public. Written comments on the proposal were requested through May 12, 1983. At the meeting, the Council voted to endorse the recommendation. No public comments in opposition to the action were received. Thus, the Regional Director determined that the proposed changes in management standards met the four criteria outlined above. The Regional Director has therefore determined, in accordance with § 650.22(c), to adjust the management standards to allow the harvest of sea scallops, the size standard for which is no more than a 35 meat count per pound (or less than a 3⅜ inch shell height) during the period from May 25, 1983, through December 31, 1983. On January 1, 1984, the standard will revert to the 30 meat count (3½ inch shell height) level.

This action is taken under the authority of 50 CFR Part 650, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 650

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: May 20, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Resource Conservation and Management, National Marine Fisheries Service.

[FR Doc. 83–14028 Filed 5–20–83; 4:52 pm]

BILLING CODE 3510–22–M

50 CFR Part 658

[Docket No. 30519–89]

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: NOAA adjusts the beginning date of the Texas closure from June 1, 1983 to May 27, 1983 for closure of the fishery conservation zone off Texas to trawl fishing. This closure applies for all species of shrimp except royal red shrimp beyond the 100-fathom depth contour. The area will remain closed through July 15, 1983. The action is prescribed by existing regulations, and its intended effect is to allow harvest of brown shrimp at optimal commercial size.

EFFECTIVE DATE: Closure is effective from 30 minutes after sunset on May 27, 1983, to 30 minutes after sunset on July 15, 1983. Public notice has been issued at least 72 hours prior to closure as stipulated under 50 CFR 658.24(b) (3) and (4).

FOR FURTHER INFORMATION CONTACT: Edward E. Burgess, National Marine Fisheries Service, Southeast Regional Office, Fishery Operations Branch, 9450 Koger Boulevard, St. Petersburg, Florida 33702, 813–893–3723.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico provides for adjustments to the closing and opening dates for the seasonal closure of the fishery conservation zone (FCZ) off Texas. Implementing rules at 50 CFR 658.24 describe the Texas closure and specify that these adjustments be made by the Regional Director under criteria set out in that section.

Available information and estimates indicate that an early closure is warranted and desirable. Biological data collected by the Texas Parks and Wildlife Department on the size of shrimp indicate an earlier-than-usual movement of brown shrimp from the bays into the Gulf. The regulations state that the closure date must be based on a prediction of when the average size of brown shrimp leaving the bays to enter the Gulf will be 80 to 90 mm, on the strength of outgoing tides at that time, and on periods of larger-than-average tidal duration, which this year occur May 15 to 18, 1983; May 27–June 3, 1983; and June 12–16, 1983. It is predicted that the average size of shrimp entering the Gulf of Mexico will be 90 mm on or about May 27, 1983. Based on this information, the Regional Director has determined that the customary closure dates of June 1 to July 15 will be changed to May 27 to July 15. The State of Texas will close its waters during these same days.

All trawling is prohibited between May 27 to July 15, 1983, in the area described in § 658.24(a), except that vessels may trawl for royal red shrimp beyond the 100-fathom depth contour. These vessels need no special permit or letter of authorization.

This action is taken under the authority of 50 CFR 658.24, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 658

Fish, Fisheries.

Dated: May 20, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–14025 Filed 5–20–83; 4:52 pm]

BILLING CODE 3510–22–M

50 CFR Part 671

[Docket No. 30520–90]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the condition of Tanner crab (*Chionoecetes bairdi* and *C. opilio*) in certain areas of the Bering Sea District of Registraion Area J is substantially different from the condition anticipated at the beginning of the fishing year and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce therefore issues this notice of closure of those parts of the Southeastern and Pribilof Subdistricts south of 57°30'N. latitude in the Bering Sea District to fishing for both species of Tanner crab by vessels of the United States on May 22, 1983, in order to prevent harm to Tanner crab stocks in those areas.

DATES: This notice is effective from 12:00 noon Alaska Daylight Time (ADT), May 22, 1983, until 12:00 noon Alaska Standard Time (AST), February 15, 1984. This motice of clousure was filed for public inspection with the Office of the Federal Register on May 20, 1983, at 4:50 p.m. Public comments on this notice of closure are invited until June 6, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP), which governs this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustment by field order to season and area opentings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce (Secretary) under the criteria set out in that section. This authority has been delegated to the Director, Alaska Region, National Marine Fisherise Service.

50 CFR 671.26(f)(1) established five districts within Registraion Area J. One of these districts is the Bering Sea District, which is further divided under § 671.26(f)(1)(v) into three subdistricts: Southeastern, Pribilof, and Northern. The optimum yields in the entire Bering Sea District for *C. bairdi* and *C. opilio* are 28.0–36.0 million pounds and 39.5–91.0 million pounds, respectively. To prevent local overfishing of individual Tanner crab stocks, however, closure or partial closure of subdistricts is allowed under § 671.27(b).

Those parts of the Southeastern and Pribilof Subdistricts south of 57°30'N. latitude are being closed by this notice to all further Tanner crab fishing this fishing year. Fishing north of this latitude is still allowed. Hence, fuller utilization of Tanner crab stocks will be promoted while protecting those Tanner

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crab stocks south of 57°30'N. latitude. Reasons for the closure are as follows:

Southeastern Subdistrict

C. bairdi—The fishery opened in the Southeastern Subdistrict on February 15, and about 4.0 million pounds of legal crab have been harvested by 100 vessels through May 8. Although trawl surveys conducted in 1982 by the National Marine Fisheries Service (NMFS) indicated 6.6 million pounds of *C. bairdi* were available for harvest, inseason analysis of the catches indicate only about 2–5 million pounds of crab are available. This analysis includes a study of the catch per unit of effort (CPUE), which has declined from 24 to 7 crabs per pot. On the basis of this analysis, the optimum harvest level for *C. bairdi* is set at 4.6 million pounds in the area south of 57°30'N. latitude. This harvest level will be achieved on May 22, 1983.

C. opilio—This species is being taken simultaneously in the *C. bairdi* fishery and about 3.0 million pounds have been harvested through May 8. Although 1982 trawl surveys conducted by NMFS indicated 15 million pound of *C. opilio* were available for harvest, inseason analysis of the catches indicated only about 3.0–3.4 million pounds of crab are available from the southern part of the subdistrict. This analysis includes a study of the CPUE, which has declined from 52 to 24 crabs per pot in the same area. On the basis of this analysis, the optimum harvest level for *C. opilio* is set at 3.4 million pounds in the area south of 57°30'N. latitude. This harvest level will be achieved on May 22, 1983.

Pribilof Subdistrict

C. opilio—The fishery opened in the Pribilof Subdistrict on February 15, and about 10.0 million pounds have been harvested by 100 vessels. Trawl surveys conducted in 1982 by NMFS indicated 10.0–13.0 million pounds of *C. opilio* were available for harvest in this area. Inseason analysis of the catches, including a study of the CPUE, which has declined from 171 to 85 crabs per pot, indicate 12.5 million pounds of crab are available from the southern part of the subdistrict, which approximates the results of the 1982 survey. On the basis of this analysis, the optimum harvest level for *C. opilo* is set at 12.5 million pounds in the area south of 57°30' N. latitude. This harvest level will be achieved on May 22, 1983.

C. bairdi—This species has been taken incidentally in the *C. opilio* fishery. About 600,000 pounds have been taken through May 8. Although 1982 trawl surveys conducted by NMFS indicated about 3.6 million pounds of *C. bairdi* were available for harvest, inseason analysis of the catches indicates less than one million pounds of crab are available from the southern part of the subdistrict. This analysis includes a study of th CPUE, which has declined from six crabs to one per pot. On the basis of this analysis, the optimum harvest level for *C. bairdi* is set at 700,000 pounds in the area south of 57°30' N. latitude. This harvest level will be achieved on May 22, 1983.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.26(b), has determined that —

1. The actual condition of *C. bairdi* and *C. opilio* Tanner crab stocks in the Southeastern and Pribilof Subdistricts south of 57°30' N. latitude is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Southeastern and Pribilof Subdistricts south of 57°30' N. latitude to further fishing for Tanner crab during the current fishing year after 12:00 noon, ADT, on May 22, 1983, until the next season's opening.

For these reasons, the Southeastern and Pribilof Subdistricts south of 57°30' W. latitude in the Bering Sea District Area J, as defined in 50 CFR 671.26(f)(1)(v), is closed to all fishing for *C. bairdi* and *C. opilio* Tanner crab from 12:00 noon, ADT, May 22, 1983, until 12:00 noon, AST, February 15, 1984, at which time the fishing season of this district prescribed in 50 CFR 671.26(f)(2)(v) will begin.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through Alaska Department of Fish and Game (ADF&G) procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15–day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other matters

The *C. bairdi* and *C. opilio* Tanner crab stocks in these areas of the Bering Sea District described above will be subject to further harm due to overharvest unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Fishing, Reporting requirements

(16 U.S.C.1801 et seq.)

Dated: May 20, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–14024 Filed 5–20–83; 4:20 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 102
Wednesday, May 25, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Alternative Packaging for Burley Tobacco

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend 7 CFR Part 29, beginning with the 1983–84 marketing season, to provide farmers official grading on U.S. Type 31 burley tobacco offered for sale at auction untied on burlap sheets, in addition to the present methods of tied in hands or untied in bales. These proposals are issued in an effort to provide the burley industry and opportunity to comment on untied sheeted tobacco as an alternative marketing package. Additional proposals concern the manner in which burley tobacco is to be displayed for inspection.

DATE: All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal should file the same not later than July 11, 1983.

ADDRESS: Submit comments to Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, (202) 447–2567.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the regulations to allow burley tobacco, U.S. Type 31, to be eligible for official grading when marketed untied on burlap sheets, thereby providing tobacco farmers with an alternative for the marketing of their tobacco. Additional proposals by the Department concern the manner in which burley tobacco is to be displayed for inspection.

These proposals are issued in an effort to provide the burley industry an opportunity to comment on untied sheeted tobacco as an alternative marketing package. The authority for promulgating these regulations is contained in the Tobacco Inspection Act of 1935 (49 Stat. 731, 7 U.S.C. 511 *et seq.*).

In an effort to improve the current burley marketing program and in the interest of promoting and maintaining orderly marketing conditions in the tobacco industry, the Department, on April 26, 1982 (47 FR 17825) issued an advance notice of proposed rulemaking soliciting the industry's views on alternative packaging for burley tobacco and the problems of "nesting." The advance notice of proposed rulemaking, which generated more than 1500 comments, was a joint project by the Agricultural Marketing Service (AMS) and the Commodity Credit Corporation (CCC). After evaluation of these comments, the Department issued a proposal (47 FR 09688) soliciting comments for (1) alternative packaging for burley tobacco sold at auction, and (2) identifying and preventing the problem of "nesting" in the flue-cured and burley tobaccos. That proposal generated over 7,000 comments from the industry.

After evaluation of these comments, the Department determined that tobacco marketed untied on burlap sheets would not be officially graded nor receive price support during the 1982–83 marketing season. The major determining factors for the Department's decision were (1) that more time was needed to observe the relatively new "bale" marketing package and (2) the possibility of market congestion and deterioration of quality in "sheeted" sales. A press release announcing the decision was issued November 8, 1982, and the final rule was published at 47 FR 51719, the day the 1982–83 burley season opened.

The Department's decision was the subject of numerous lawsuits brought in the burley producing area and resulted in the issuance of several temporary restraining orders and preliminary injunctions directing the Department to provide official grading and price support on untied, sheeted tobacco. In conformance with the District Court decisions the Department provided official grading and price support on untied, sheeted burley tobacco during the 1982-83 burley season as announced in a press release issued December 3, 1982. The Department indicated at that time that a further evaluation of alternative packaging would be made and proposed rulemaking considered prior to the 1983–84 burley season.

A small quantity of untied tobacco on burlap sheets has appeared on the burley markets for the last few years with the amount increasing each year. During the 1981 marketing season, approximately 5 percent of the crop was sold untied in burlap sheets. The Department recorded "sheeted" tobacco sales on a belt-wide basis only until the 1982 marketing season. At that point, records were kept by markets within each State. According to the Department's records, untied sheeted sales represented 6 percent of total sales, up one percent from the 1981–82 season, as reflected by the following:

State	Statewide percentage	Highest percentage and market	Lowest percentage and market(s)
Kentucky	5	18—Bowling Green	1—Cynthiana, Harrodsburg, London, Richmond.
Tennessee	7	41—Rogersville	1— Clarksville, Franklin, Greeneville, Johnson City.
Virginia	18	34—Gate City	9—Abingdon.
North Carolina	6	10—Boone	5—Asheville.
West Virginia	3	(1)	(1)
Indiana	9	12—Madison	3—New Albany.
Ohio	1	(1)	(1)
Missouri	.4	(1)	(1)

[1] Only one burley market is located in the State.

As noted above, there was strong opposition to the Department's decision disallowing official grading and price support on untied, sheeted tobacco in the 1982–83 season. Numerous court rulings in favor of the proponents of untied sheeted tobacco sales, coupled with recognition of the fact that the timing of the decision may have posed hardships on many burley producers

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who were convinced by proponents of sheeted tobacco that "sheets" would be an alternative package for the 1982–83 season, as well as the Department's commitment to reevaluate the packaging issue prior to the 1983–84 season, prompts the Department to again address the issue. Therefore, for the 1983–84 and succeeding seasons, the Department proposes to provide official grading and price support on U.S. Type 31 burley tobacco offered for sale at auction untied on burlap sheets in addition to the present methods of tied in hands or untied in bales.

In addition to the packaging proposal, it is appropriate that the Department give consideration to the manner in which burley tobacco is displayed for inspection. In the final rule published at 47 FR 51719, based on the recommendation of the Council for Burley Tobacco regarding display of baled tobacco at auction, the Department amended the regulations to provide that the stems of the tobacco packed in bales be turned towards the aisle. However, based on experience gained from grading baled tobacco packed in this manner during the 1982–83 season, it was found that visibility in inspecting the product substantially decreased, particularly in the lower portions of the lot. For this reason, in our effort to improve the current burley marketing program, the Department proposes to amend the regulations to provide that for the 1983–84 and succeeding seasons that bales be placed lengthwise on the pallets so that the midribs of the leaves run parallel to the aisle.

These proposed rules have been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and have been determined to be "nonmajor" rules because they do not meet any of the criteria established for major rules under the executive order. Initial review of the regulations continued in 7 CFR Part 29, for need, currency, clarity, and effectiveness has been completed.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these proposed regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, AMS, has certified that these actions will have no significant economic impact upon all entities, small or large and will, in no way, affect the normal competition in the market place.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file the same with Lioniel Edwards, Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agriculture, Washington, D.C. 20250, not later than July 11, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposal because all segments of the burley industry must be informed of any changes affecting the marketing process prior to the opening of the marketing season and producers must be provided substantial lead time to decide on the method in which they will market their tobacco. Therefore, a 45-day comment period will be provided on this proposal.

All written submissions made pursuant to this notice will be made available for public inspection at the above location during regular business hours (7 CFR 1.29(b)).

List of Subjects in 7 CFR Part 29

Administrative practices and procedure, Tobacco.

Accordingly, the Regulations under the Tobacco Inspection Act contained in 7 CFR Part 29 are proposed to be amended as follows:

PART 29—[AMENDED]

1. Section 29.75a, is amended by revising paragraph (a)(2) to read as follows:

§ 29.75a Display of burley tobacco on auction warehouse floors in designated markets.

(a) * * *

(2) The number of bales on a pallet shall not exceed eight. Tobacco packed in bales shall be placed lengthwise so that the midribs of the leaves run parallel to the aisle.

* * * * *

2. Section 29.3036 is revised to read as follows:

§ 29.3036 Lot.

A pile, basket, bulk, bale or bales, sheet, case hogshead, tierce, package, or other definite package unit.

3. Section 29.3044 is revised to read as follows:

§ 29.3044 Oriented.

A term applied to untied tobacco which denotes the arrangement of leaves in a straight and orderly manner. Oriented includes:

(a) Any lot of baled tobacco in which the leaves are packed parallel to the length of the bale with the butts to the outside and the tips of the leaves overlapping sufficiently to make a level, solid and uniform package;

(b) Any lot of sheeted tobacco in which the leaves are arranged in a circular pattern with the butts to the outside

Dated: May 19, 1983.

C. W. McMillan,

Assistant Secretary Marketing and Inspection Services.

[FR Doc. 83-14085 Filed 5-24-83; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2900

Proposed Amendment Regarding Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to amend its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act. This amendment would add salt (sodium chloride) for human consumption to the list of essential agricultural uses certified by the Secretary of Agriculture. The proposed amendment is in response to a petition submitted by Morton Salt, a division of Morton-Norwich Products, Inc.

DATE: Written comments are due by 4:30 p.m., July 25, 1983.

ADDRESS: All written comments should be sent to Earle E. Gavett, Director, Office of Energy, Room 144–E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20250; Telephone Number 202–447–2634.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Director, Office of Energy, Room 144–E Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue S.W., Washington, D.C. 20250; Telephone Number 202–447–2634.

SUPPLEMENTARY INFORMATION:

I. Background
II. Description of Proposal
III. Regulatory Information
IV. Public Comments and Hearing Procedures

I. Background

Under Section 401 of the Natural Gas Policy Act of 1978 (NGPA), the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary on May 17, 1979 (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rule promulgating and implementing agricultural priority in curtailment plans of interstate pipelines, in accordance with the NGPA.

This proposed action has an impact only in instances of curtailments of deliveries from interstate natural gas pipelines, in which case it would grant priority for 100 percent of current natural gas requirements of the facilities. Additional impacts arising from the exemption of the facilities from incremental pricing under Title II as a result of FERC's exemption under that Title of all uses certified by the Secretary of Agriculture will not occur because food-grade salt already has such an exemption.

II. Description of Proposal

Section 401(a) of the Natural Gas Policy Act provides certain protection against the curtailment of those "agricultural uses" of natural gas that the Secretary of Agriculture determines under section 401(c) to be "essential" uses. Such "agricultural uses" fall into two classes.

Those uses certified under section 401(f)(1)(A) such as irrigation, crop drying, and food processing, are protected from curtailment to the extent of their total natural gas use for feedstock, process, and boiler fuel uses. Those certified under section 401(f)(1)(B), including fertilizers and agricultural chemicals, are protected only to the extent of the process and feedstock use of natural gas. Boiler fuel use is not protected from curtailment under this section.

The NGPA does not permit distinctions in determining the types of food products to be certified as essential agricultural uses. Instead, its language indicates that all food products are to be so certified. The production of food-grade salt should be included in the list of essential agricultural uses under section 401(f)(1)(A) because it is manufactured under food-grade standards for sanitation and cleanliness, is used as a food additive or preservative, and is sold in retail stores for food use.

Although Standard Industrial Classification (SIC) Codes have been used by the Department as a method of certifying large groups of products, the SIC Code under which a product is produced has never been considered determinative in the certification process. For example, SIC Code 3497 Metal Foil and Leaf initially was not included among essential agricultural uses but certain of the products produced under that SIC Code have been shown to be integral to food quality maintenance and have therefore been certified as essential agricultural uses of natural gas under section 410(f)(1)(A) as "SIC 3497 Metal Foil and Leaf (food related only)". Likewise here, no attempt is being made to include all the SIC 2899 Chemicals and Chemical Preparations, Not Elsewhere Classified as essential agricultural uses. The majority of these products have no food application. However, since food-grade salt is a food product and a principal means of preserving many food products, it must be certified as an essential agricultural use of natural gas under section 401(f)(1)(A).

Salt for food and animal feed uses, classified in SIC Code 2899 Chemicals and Chemical Preparations, Not Elsewhere Classified, has been certified by the Secretary under section 401(f)(1)(B)—that is, only to the extent of its process and feedstock natural gas requirements. 44 FR 28786.

Morton Salt, a division of Morton-Norwich Products, Inc. ("Morton") has petitioned the USDA to amend 7 CFR 2900.3 to include under the "Food and Natural Fiber Processing—Food" list, the production of food-grade salt. Such an action would protect the total natural gas use of the food-grade salt industry from curtailment of deliveries from interestate natural gas pipelines in the case of a curtailment.

Salt is produced by 47 companies operating 88 salt-producing plants in 16 States. Of these 47 companies, nine use vacuum pan or open pan processing in at least one of their plant locations. The total quantity of domestic salt sold or used by producers in 1981 was 38.9 million short tons, and consisted of salt in brine, 53 percent; rock salt, 31 percent; vacuum and open pan salt, 9 percent; solar evaporated, 6 percent; and pressed blocks, 1 percent.

The salt production with which this petition is concerned is the food portion of the nine percent produced by the vacuum and open pan methods. In these processes, salt is obtained by dehydrating brine using heat alone or in combination with vacuum. In one technique, the grainer or open pan process, open, rectangular pans with steam-heated immersion coils that evaporate the water in the brine are used. The final product is usually flake shaped rather than the typical cubic form. Flake salt is preferred for production of cheese, butter, and baked goods. Another modified open pan technique, the Alberger process, is a grainer operation that mainly produces cubic salt with some flake salt. The pans are shallow, circular units with external heating units, rather than heating coils. Open pan salt production is more energy intensive due to the greater amount of heat required to evaporate the brine.

Salt produced by the vacuum pan process conserves energy by utilizing multiple-effect evaporators connected to vacuum pumps. A saturated salt solution will boil at a higher temperature than pure water. When a vacuum is applied, the brine boils at a lower temperature enabling the superheated vapor that is generated to act as the heating medium of the next evaporator.

Total vacuum open pan salt for food use in fiscal year 1982 was estimated at 1.1 million short tons. This includes food grade salt used in food processing, sold in grocery stores, used by the Federal government.

Natural gas use for vacuum and open pan salt was estimated by the Bureau of Mines in 1974 to total approximately 3.2 thousand cubic feet per ton. More recent industry figures indicate that natural gas consumption may be as high as 4.44 thousand cubic feet per ton. Total natural gas use, therefore, for the 1.1 million short tons of food grade salt produced by the vacuum and open pan methods in 1982 was between 3.52 and 4.88 billion cubic feet.

Industry figures indicate that boiler fuel use represents approximately 94 percent of total natural gas use in vacuum and open pan salt production. Therefore, inclusion of the boiler fuel use will add a maximum of 4.6 billion cubic feet to the total agricultural gas use of approximately 1,400 billion cubic feet at the 1982 salt production level. This is less than four-tenths of one percent of the interstate gas component identified as essential agricultural use in the May 14, 1979 combined Environmental Impact Statement and Final Impact Statement.

USDA believes that sufficient justification exists to institute rulemaking procedures to modify the existing Essential Agricultural Use certification.

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III. Regulatory Information

The proposed action does not alter the impacts described or conclusions drawn in the combined Final Economic and Environmental Impact Statement issued May 14, 1979, in connection with the Essential Agricultural Uses and Volumetric Requirements certification rule (7 CFR Part 2900). A paper describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Earle R. Gavett, Office of Energy, Room 144–E Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Executive Order 12291

This proposed action has been reviewed under U.S. Department of Agriculture procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor". This proposed action has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million, and there will be no increase in costs or prices for individuals, organizations, or other government agencies affected. There will be no significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets because the proposed action affects only about 4.6 billion cubic feet of natural gas per year.

Paperwork Reduction Act

This rule imposes no information requirements.

Regulatory Flexibility Act of 1980

Earle E. Gavett, Director, Office of Energy has determined that this action will not have a significant economic impact on a substantial number of small entities since only about 4.6 billion cubic feet of natural gas per year are involved.

National Environmental Policy Act of 1969

The proposal has been reviewed pursuant to USDA responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and USDA has determined that the proposed action alters the impacts disclosed by less than four-tenths of 1 percent and does not affect the conclusions drawn in the combined Final Economic and Environmental Impact Statement issued May 14, 1979 in connection with the initial Essential Agricultural Uses and Volumetric Requirements certification rule. Therefore, this action is proposed under the same analysis.

List of Subjects in 7 CFR Part 2900

Salt, food grade.

IV. Public Comments and Hearing Procedures

The public is invited to participate in any aspect of this proposed amendment by submitting data, views, or arguments with respect to the proposal herein set forth.

Written comments must be submitted by 4:30 p.m., July 25, 1983, to the address indicated in the "Address" section of the preamble, and should be identified in the outside envelope and on the document with the designation: "Part 2900—Salt". Five copies should be submitted.

All comments received will be available for public inspection in Room 144–E. Administration Building, 14th and Independence SW., Washington, D.C. 20250 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. All comments received by 4:30 p.m., July 25, 1983, and other relevant information will be considered by the Director, Office of Energy before final action is taken on this proposed amendment.

Any information or data submitted which is considered by the party submitting it to be confidential must be so identified and submitted in writing, one copy only. The Director reserves the right to determine the confidential status of the information or data and to treat it accordingly.

PART 2900—[AMENDED]

§ 2900.3 [Amended]

In consideration of the foregoing, it is proposed to amend Chapter XXIX of Title 7, § 2900.3 Code of Federal Regulations by adding at the end of the "Food and Natural Fiber Processiing—Food" list: 2899 Chemicals and Chemical Preparations, n.e.c. (Salt for food use only) and by changing, in the "Fertilizer and Agricultural Chemicals (Process and Feedstock Use Only)" list, "2899 Chemicals and Chemical Preparations, n.e.c. (Salt—food and feed grade only)" to: 2899 Chemicals and Chemical Preparations, n.e.c. (Salt—Feed grade only).

Authority: 15 U.S.C. 3391.

Dated: May 20, 1983.

John R. Block,

Department of Agriculture.

[FR Doc. 83-14028 Filed 5-24-83; 8:45 am]

BILLING CODE 3410-23-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the March 1983 Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action and all petitions for rulemaking which have been received and are pending disposition by the Commission is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESS: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 2, No. 1 is available for inspection and copying at a cost of five cents per page at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555.

Single copies of the report may be obtained at a cost of $6.00, payable in advance from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Telephone (301) 492–7086, Toll free number (800) 368–5642.

Dated at Bethesda, Maryland this 16th day of May 1983.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 83-14058 Filed 5-24-83; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140, 145, 146, and 147

Release of Information; Delegation of Authority To Release Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rules to Effectuate Amendments to the Commodity Exchange Act.

SUMMARY: Pursuant to the Futures Trading Act of 1982, the Commodity Futures Trading Commission ("Commission") is proposing to amend its regulations to allow withholding of information contained in records of a pending investigation; to provide for notice prior to release of information pursuant to a subpoena for summons; and to delegate to certain Commission employees the authority to disclose information in connection with a receivership or bankruptcy proceeding.

DATE: Comments must be received on or before June 24, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futurers Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Tena Friery, Office of the General Counsel, 2033 K Street, N.W., Washington, D.C. 20581, telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 (1983) ("1982 Act"), Includes several provisions which affect the disclosure of information in the possession of the Commission.

First, section 8(a), of the Commodity Exchange Act ("Act"), 7 U.S.C. 12(a), has been amended by section 222 of the 1982 Act (96 Stat. 2309) to authorize the Commission to "withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person. "[1] The effect of this amendment to Section 8(a) is to place "* * * information concerning or obtained in connection with any pending Commission investigation of any person in the same category * * * as, for example, trade secrets or names of customers." *See* H.R. Rep. No. 964, 97th Cong., 2d Sess. 44 (1982)("Conference Report"). The conference Report further explains that "[t]his category of information is protected from public disclosure under the provision of the Freedom of Information Act (5 U.S.C. 552(b)(3)) applicable to information exempted from disclosure by a statute that specifically refers to particular types of matters to be withheld." *Id.* In order that the Commission's regulations implementing the Freedom of Information Act, 5 U.S.C. 552, and the Government in the Sunshine Act, 5 U.S.C. 552b, reflect this statutory amendment, the Commission proposes to revise § 145.5(c) and 147.3(b)(3) of its regulations.[2]

Secondly, Section 222 of the 1982 Act revised Section 8(b) of the Act, 7 U.S.C. 12(b), to authorize the Commission to "disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person" in connection with "any receivership proceeding involving a receiver appointed in a judicial proceeding brought under th[e] Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code." (96 Stat. 2309) The Commission recognizes that data or information which it is authorized to disclose pursuant to this section may include information from records maintained on individuals which is subject to the Privacy Act, 5 U.S.C. 552a. The Commission believes, however, that its current regulations implementing the Privacy Act (Part 146) together with the "routine uses"[3] most recently published on October 4, 1982, 47 FR 43759, contain adequate notice to the public of possible disclosure in connection with judicial proceedings and provide the Commission with a sufficient regulatory basis upon which to carry out the authority for disclosure contained in the amendments to Section 8(b).[4] However, in order to assure timely and efficient disclosures pursuant to Section 8(b) and to relieve the Commission of the necessity of considering each instance of disclosure, the Commission proposes to delegate its authority to certain Commission employees to disclose market positions, business transactions, trade secrets, or names of customers in connection with a receivership or bankruptcy proceeding. The Commission intends to effect this delegation by adding § 140.76 to Part 140.

Finally, Section 8(f), added by Section 222 of the Futures Trading Act of 1982 (96 Stat. 2308–10), prohibits the Commission from disclosing, pursuant to a summons or subpoena, information which has been submitted to it by a third party before the expiration of fourteen days from the date of notice of the summons or subpoena for that information to the person who submitted the information.[5] Accordingly, the Commission proposes to amend Part 145 of its rules regarding Commission records and information and Part 146 of its rules regarding records maintained on individuals to conform to the Section 8(f) provisions governing release of information pursuant to a summons or subpoena. Section 145.10, which the Commission proposes to add to its regulations, is intended to codify the notice and time restrictions on

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[1] Section 8(a) continues to prohibit the Commission from disclosing "* * * data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." unless such a disclosure is otherwise authorized by the Act. In this regard, the proposed amendments to § 145.5(c) and 147.3(b)(3) would delete surplus references in the existing rules to information obtained by the Commission in an investigation conducted pursuant to Section 8 or Section 16 of the Act. These references suggest a limitation not contained is Section 8(a) of the Act.

[2] The Commission notes that the authority conferred by the amendment to Section 8(a) extends only to matters contained in pending investigations. Thus, this amendments to Section 8(a) required no change to existing regulations §145.5(g) and 147.3(b)(7) concerning investigatory records compiled for law enforcement purposes, as these regulations may apply to records and information contained in closed as well as pending investigations.

[3] In addition to the existing rules implementing the Privacy Act and the published "routine uses," Section 12(a) of the Commodity Exchange Act, as amended, 7 U.S.C. 16(a), generally authorizes the Commission to cooperate with any department or agency of the government, any State, territory, district or possession, or department, agency, or political subdivision thereof or any person.

[4] Commission Regulation § 146.6(a)(7) allows disclosure of information which pertains to an individual to a third party when

The disclosure is made to another agency or to an instrumentality of any Governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the Commissio specifying the particular portion desired and the law enforcement activity for which the record is sought . . .

Commission Rule 146.6(a)(11) allows disclosure to third parties when

[5] The disclosure is pursuant to the order of a court of competent jurisdiction.

In addition, the Privacy Act and the Commission's rules permit disclosure of records pertaining to an individual, if the disclosure is for a "routine use," defined as a use of a record which is compatible with the purpose for which it was collected. *See* 5 U.S.C. 552a(a)(7). The Commission has adopted eight routine uses which apply to all its systems of records. *See* 47 FR 43759, 43760 (October 4, 1982). The first of these "routine uses" is as follows:

The information in the system may be used by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act or in any other action or proceeding in which the Commission or any member of the Commission or its staff participates as a party or the Commission participates as amicus curiae, and may be disclosed in response to a subpoena issued in the course of a proceeding to which the Commission is not a party.

[6] Specifically Section 8(f) reads as follows:

(f) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

(1) A copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpena or summons to such person, and

(2) At least fourteen days have expired from the date of such mailing of the subpena or summons, or such other notice.

This subsection shall not apply to congressional subpenas or congressional requests for information.

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disclosure set forth in Section 8(f). In addition, in amending § 146.6(b), the Commission intends to expand the existing notice requirement of that Section, which pertains generally to a summons or subpoena for Commission records maintained on individuals, to include the specific notice and time restrictions of Section 8(f) in those instances where a record maintained on an individual has been submitted to the Commission by such individual.[6] Both the proposal to add Rule 145.10 and the proposed amendment to Rule 146.6(b) incorporate the Section 8(f) prohibition against release of information pursuant to a summons or subpoena unless at least fourteen days have expired from the date of notice.[7]

Although the Administrative Procedure Act does not require that these proposed rules, which pertain to Commission organization and procedure and reflect statutory revisions to these procedures, be published for public comment, the Commission is inviting comment on the proposed changes since they will affect the treatment of confidential information received from or concerning the public. *See* 5 U.S.C. 553.[8]

[6] Commission Rule 146.6(b), as presently written, corresponds with Section (e)(8) of the Privacy Act, 5 U.S.C. § 552a(e)(8) and, as such, requires the Commission to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. Unlike the mandate in Section 8(f), the "reasonable efforts to serve notice" requirement of the Privacy Act is not limited to those instances where a record has been submitted to the Commission by the individual who is the subject of the record. Thus, under circumstances where records subject to the Privacy Act *have not* been submitted to the Commission by the individual who is the subject of the record, the Commission will continue, as Section (e)(8) of the Privacy Act requires, to make reasonable efforts to notify such individual. However, in those instances where records covered by the Privacy Act *have* been submitted to the Commission by the individual who is the subject of the record and such records are sought pursuant to a summons or subpoena, the Commission's response to the summons or subpoena will be subject to the specific requirements of Section 8(f) of the Act.

[7] Section 8(f) anticipates that notice of the existence of a summons or subpoena will ordinarily be given by mailing a copy to the last known home or business address of the person who submitted the information sought by the summons or subpoena. The Conference Committee, however, in adopting Section 8(f), recognized that notice by mail would be impractical in instances where, for example, a summons or subpoena asks for data or information which consists of material obtained from several different sources. *See* Conference Report, 44. Under such circumstances, where notice by mail would be "extremely costly or burdensome," Section 8(f) would allow for an alternative means of notice such as publication in the **Federal Register**. *Id.*

[8] The Commission has determined that the provisions of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, do not apply to these proposed procedural amendments to the regulations. *See* 5 U.S.C. 601. Similarly, the Commission notes that these rule amendments do not constitute new paperwork collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

List of Subjects in 17 CFR Part 140

Disclosure of information, Bankruptcy or receivership proceeding.

List of Subjects

17 CFR Part 145

Records and information, Disclosure of information, Investigatory records, Disclosure exempted by statute, Disclosure pursuant to a summons or subpoena.

17 CFR Part 146

Records maintained on individuals, Disclosure of information, Disclosure pursuant to a summons or subpoena.

17 CFR Part 147

Closed commission meetings, Disclosure exempted by statute, Investigatory records.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(11) and 8, 7 U.S.C. 4a(j) and 12, as amended by Pub. L. No. 97-444, the Commission hereby proposes to amend Parts 140, 145, 146 and 147 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

1. Section 140.76 is proposed to be added to read as follows:

§ 140.76 Delegation of authority to disclose information in connection with a receivership or bankruptcy proceeding.

Pursuant to sections 2(a)(11) and 8(b) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, the General Counsel and any Commission employee under their direction as they may designate, the authority to disclose data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers, when such disclosure is made in connection with any receivership proceeding involving a receiver appointed in a judicial proceeding brought under the Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under Title 11 of the United States Code. Notwithstanding the provisions of this paragraph, in any case in which the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, the General Counsel, or any employee designated by them to make disclosures pursuant to this section believes it appropriate, the matter may be submitted to the Commission for consideration. In addition, the Commission reserves to itself the authority to determine whether to grant a request for information in any particular case.

PART 145—COMMISSION RECORDS AND INFORMATION

2. Paragraph (c) of § 145.5 is proposed to be revised to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(c) Specifically exempted from disclosure by statute, including:

(1) Data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers; and

(2) Any data or information concerning or obtained in connection with any pending investigation of any person;

* * * * *

3. Section 145.10 is proposed to be added to read as follows:

§ 145.10 Disclosure of information pursuant to a subpoena or summons.

The Commission shall serve notice on any person who has submitted any information to the Commission which is the subject of a summons or subpoena. Notice will ordinarily be made by mailing a copy of the summons or subpoena to the last known home or business address of the person who submitted the information. However, under circumstances which would make notice by mail unduly burdensome or costly, notice of the existence of the summons or subpoena may be effected by alternative means such as publication in the **Federal Register**. The Commission will not disclose such information until the expiration of at least fourteen days from the date of mailing, or such other notice as is given. This section shall not apply to congressional subpoenas or congressional requests for information.

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

4. Paragraph (b) of § 146.6 is proposed to be revised to read as follows:

§ 146.6 Disclosure to third parties.

* * * * *

(b) The Commission will make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. In any instance where a record on an individual, which has been submitted to the Commission by such individual, is sought pursuant to a summons or subpoena, notice will be given in accordance with the provisions of Section 8(f) of the Commodity Exchange Act, and § 145.10 of this Chapter, at least fourteen days prior to disclosure.

* * * * *

PART 147—OPEN COMMISSION MEETINGS

5. Paragraph (b)(3) of § 147.3 is proposed to be revised to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, as amended, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld. This includes, but is not limited to, data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers and data or information concerning or obtained in connection with any pending investigation of any person;

* * * * *

Issued in Washington, D.C. on May 19, 1983, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-13078 Filed 5-24-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales: Stumpage Rate Adjustment Procedures for West Side of Region 6

AGENCY: Forest Service, USDA

ACTION: Notice of proposed policy.

SUMMARY: On April 15, 1982, the Chief of the Forest Service published a notice of adoption of final policy (47 FR 16178) for new National Forest timber sale procedures. Included in these procedures was the Forest Service decision to develop a suitable index and provide stumpage rate adjustment for National Forest timber sales on the west side of Region 6. Stumpage rate adjustments were to be implemented as soon as a suitable index was developed, but not for sales advertised before April 1, 1983. The Forest Service proposes to use the newly developed Western Wood Products Association (WWPA) Pacific Northwest Coast Lumber Price Indices for Douglas-fir, western hemlock and true firs, and the WWPA Inland Lumber Price Indices for Pines. Sitka spruce, cedars, hardwoods and Per Acre Material will not be subject to stumpage rate adjustment.

DATES: Comment must be received not later than June 24, 1983.

ADDRESSES: Send written comments to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013

All written submissions made pursuant to this notice will be available for public inspection during regular business hours in the offices of the Forest Service Timber Management Staff, Room 3207, South Agriculture Building, 12th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wendall L. Jones, Timber Management Staff, (202) 447-4051.

SUPPLEMENTARY INFORMATION: Stumpage rate adjustment is in effect in all areas of the Western United States except for western Oregon and western Washington. Stumpage rate adjustment permits the price paid for National Forest timber to fluctuate, within stated limits, in response to established market indices. This allows prices paid for timber to be partially responsive to market conditions and encourages continued operation during the down portion of market cycles.

An index is used to measure the change in market values between the time a timber sale is appraised and the time the logs are presented for scaling. Stumpage rates are adjusted quarterly based on the change in the market indices appropriate to the particular timber sale contract. This proposal would establish appropriate indices for the timber sales sold in western Oregon and western Washington.

Because Douglas-fir is used to manufacture both lumber and plywood products, several indexing procedures could be used for the stumpage rate adjustment. The following alternatives have been considered:

1. Use of a composite index of the Western Wood Products Association (WWPA) Inland Dry Douglas Fir-Larch Lumber Price Index and the Bureau of Labor Statistics Western Plywood Index. Each index is converted from a mill tally basis to a log scale basis using an overrun value factor. Such a composite index was used by the Pacific Northwest Region for indexing Douglas-fir, hemlock and true firs for the stumpage rate adjustment when this procedure was previously used in west side timber sale contracts.

2. Use the previous composite index, but substitute the new WWPA PNW Coast Douglas Fir Lumber Price for the WWPA Inland Dry Douglas Fir-Hemlock Lumber Index.

3. Use either 1 or 2 above, but do not convert the index to a log scale basis. Convert the Bureau of Labor Statistics Western Plywood Index from a percent change to a dollar change.

4. Use the new WWPA PNW Coast Douglas Fir Lumber Price Index. The index would be patterned after the procedure now used with the WWPA Inland Lumber Price Indices in timber sale contracts elsewhere in the western Regions. This would eliminate plywood representation in the indexing procedure.

5. Use only the new WWPA PNW Coast Douglas Fir Lumber Price Index as in item 4 above but convert to a log scale basis using an overrun value factor. Plywood would not be represented under this approach.

6. Use only the Bureau of Labor Statistics Western Plywood Index, either converted to a log scale basis or with its current value but converted from a percent change to a dollar change. Lumber would not be represented in the indexing procedure.

7. Use the American Plywood Association's Monthly Market Report on Plywood values to substitute for the Bureau of Labor Statistics Western Plywood Index in alternatives 1, 2, 3, and 6 above.

8. Use whichever index the timber purchaser may choose at time of sale,

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i.e., WWPA PNW Coast Douglas Fir Lumber Price Index, Bureau of Labor Statistics Western Plywood Index, or American Plywood Association's Monthly Market Report plywood values.

The criteria used in selecting among these alternatives were that the values used:

a. Must reflect market changes in the product selling values.

b. Must be compatible with the established appraisal method and timber sale accounting and billing procedures.

c. Must be easily verifiable and be furnished by a recognized authority.

d. Must be readily available to the timber industry.

e. Must be readily understood by all users.

Following discussions with forest industry representatives and evaluation of how well each alternative meets the established criteria, the Forest Service proposes to use only the WWPA Lumber Price Indices in indexing timber sale contracts in western Oregon and western Washington. The following indices would be used:

Species	WWPA index
Douglas-fir	PNW Coast Douglas Fir.
Western Hemlock and Mountain Hemlock.	PNW Coast Hem-fir.
True firs	Do.
Englemann Spruce and Lodgepole Pine.	Inland Whitewoods.
Sugar Pine	Inland Sugar Pine.
Western White Pine	Inland Idaho White Pine.
Ponderosa and other pines	Inland Coast-Inland North Ponderosa Pine.

The following species would not be subject to stumpage rate adjustment procedures but would continue to be priced at flat rates:

Sitka Spruce
Cedars
Per Acre Material—all species

The Forest Service finds that the WWPA indices best meet the selection criteria. Indices which include plywood were not selected because:

a. It was found that lumber and plywood product selling values follow the same general trend lines.

b. The process of combining lumber and plywood into a single index is quite complex because they are manufactured and sold on entirely different measurement units; i.e., lumber on a board foot basis and plywood on a square foot basis.

c. It was found that neither the Bureau of Labor Statistics Western Plywood Index nor the American Plywood Association's Monthly Market Report plywood values were suitable for plywood indices for stumpage rate adjustment. It would be impractical and expensive to develop a suitable plywood index.

This proposal has been reviewed against the criteria in 36 CFR Part 216, and it has been determined that the proposal does not constitute a significant standard, policy or guideline as defined in those rules. This proposal is sub-regional in scope, affecting only purchasers of timber sale contracts in western Oregon and western Washington. The selection of a stumpage pricing index is highly technical and therefore is not likely to be a matter of general public interest. Moreover, the indexing system chosen to implement the April 15, 1982, decision to install stumpage rate adjustment for this area will involve only a minor effect on future sutmpage receipts in comparison with the other indexing systems considered. The Forest Service has actively consulted with representatives of the timber industry who would be affected by adoption of this proposal and has involved these representatives in the development of the proposed indices and alternatives for over 6 months.

After considering public comments on this proposed policy, the Forest Service will announce its final decision on indexing procedures. The final policy will be issued through amendment to Chapter 2400—Timber Management, of the Forest Service Manual.

F. Dale Robertson,
Associate Chief.
May 19, 1983.

[FR Doc. 83-13964 Filed 5-24-83; 8:45 am]
BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program; Implementing Legislation

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: The Veterans' Compensation, Education and Employment Amendments of 1982 contain several provisions which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). One of these provisions requires the VA (Veterans Administration) to consider a serviceperson's lump-sum payments to the fund to have been made at the rate of $100 per month unless the serviceperson specifies a lower rate. In addition, individuals who are receiving educational assistance under VEAP no longer will have the assistance reduced or eliminated when they are incarcerated.

This proposal will implement these provisions of the law.

DATES: Comments must be received on or before June 24, 1983. As is required by the Veterans' Compensation, Education and Employment Amendments of 1982, the VA and the Department of Defense propose that the effective date of the regulations be October 14, 1982. It is proposed that the revocation of 38 CFR 21.5139 be made effective the same date.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 5, 1983. Anyone visiting Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office, and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.5052, Title 38, Code of Federal Regulations is amended to change the provisions concerning lump-sum payments to the VEAP fund. The VA will now consider lump-sum payments to have been made at the rate of $100 per month unless the serviceperson specifies a lower rate.

Section 21.5071, Title 38, Code of Federal Regulations is amended to show how the VA will calculate an individual's entitlement when entitlement is based on the new, higher rate for lump-sum payments.

Sections 21.5072, 21.5138 and 21.5294, Title 38, Code of Federal Regulations are amended and § 21.5139 is revoked to eliminate lower rates of payments to VEAP participants who are incarcerated.

These proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no signifiant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b). These proposed regulations therefore are exempt from the initital and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these proposed regulation changes concern only individual participants in VEAP, and simply reflect changes which have been made by Pub. L. 97–306, 96 Stat. 1429. Accordingly, they will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 8, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,
Deputy Administrator, Veterans Administration.

Approved: May 6, 1983.

R. Dean Tice,
Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

It is proposed to amend 38 CFR Part 21 as follows:

1. In § 21.5052, paragraph (f)(2) is revised as follows:

§ 21.5052 Contribution requirements.

* * * * *

(f) *Lump-sum contribution.* After September 30, 1980, an individual may make a lump-sum contribution or contributions in place of or in addition to monthly contributions.

* * * * *

(2) The Veterans administration will consider the lump-sum contributions to have been made by monthly deductions from the participant's military pay at the rate of $100 per month unless the participant specifies a different rate which must be

(i) No lower than $25 per month,

(ii) No higher than $100 per month, and

(iii) Evenly divisible by five. (38 U.S.C. 1622(d); Pub. L. 97–306; 96 Stat. 1429)

* * * * *

2. In § 21.5071, paragraph (b) is revised as follows:

§ 21.5071 Months of entitlement allowed.

* * * * *

(b) *Entitlement based on lump-sum contributions.* If an individual elects to make a lump-sum contribution, the Veterans Administration will credit an individual with 1 month of entitlement for—

(1) Every $100 included in the lump sum, or

(2) Every amount included in the lump sum which—

(i) Is at least $25 but no more than $100,

(ii) Is evenly divisible by five, and

(iii) Is specifically designated by the individual at the time he or she makes the contribution. (38 U.S.C. 1622(d); Pub. L. 97–306, 96, Stat. 1427)

* * * * *

3. In § 21.5072, paragraph (a)(1) is revised as follows:

§ 21.5072 Entitlement charge.

* * * * *

(a) *Residence training.* (1) a charge against the period of entitlement for a program other than one leading to a secondary school diploma or an equivalency certificate where the monthly rate is based on the individual's tuition and fees or one consisting exclusively of flight training will be made as follows:

(i) The Veterans Administration will charge an individual who is a full-time student 1 month's entitlement for each monthly benefit paid to him or her. (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

(ii) The Veterans Administration will charge an individual who is other than a full-time student 1 month's entitlement for each sum of money paid equivalent to what the individual would have been paid had he or she been a full-time student for 1 month.

* * * * *

4. In § 21.5138, the introductory portion preceding paragraph (a) and the introductory portion of paragraph (b) are revised to read as follows:

§ 21.5138 Computation of benefit payments and monthly rates.

The Veterans Administration will compute all monthly rates and benefit payments as stated in this section except for those individuals to whom § 21.5136(b)(1) applies. (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

(b) *Computation of benefit payment.* The Veterans Administration will compute benefits payments as follows for all training except for those individuals to whom § 21.5136(b)(1) applies: (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

§ 21.5139 [Removed]

5. Section 21.5139 is removed.

6. In § 21.5294, paragraph (d)(2)(iv) is revised as follows:

§ 21.5294 Transfer of entitlement.

* * * * *

(d) *Application of sections to this portion of the pilot program.* * * *

(2) The following sections apply to this portion of the pilot program with amendments as noted:

* * * * *

(iv) In §§ 21.5132 through 21.5138 references to payment to the individual apply equally to payment to the spouse or child. (Sec. 903, Pub. L. 96–342; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

[FR Doc. 83-14002 Filed 5-24-83; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-276; RM-4060]

TV Broadcast Stations in Billings, Miles City, and Lewistown, Montana; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving VHF television channel assignments at Miles City, Billings, and Lewistown, Montana. Comanche Enterprises requests the additional time to conduct

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an engineering study for another allocation option at Billings.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Billings, Miles City, and Lewistown, Montana); BC Docket 82-270 RM-4060.

Adopted: May 9, 1983.

Released: May 12, 1983.

By the Chief, Policy and Rules Division.

1. On March 14, 1983, the Commission adopted a *Further Notice of Proposed Rule Making*, 48 Fed. Reg. 14681, published April 5, 1983, in response to a petition filed by Comanche Enterprises. The *Further Notice* proposed two options, (1) to reserve Channel 10 at Miles City, Montana, and reassign Channel °6 from Miles City to Billings, Montana, for commercial use or (2) to reassign Channel 13 from Lewistown to Billings, Montana. Comments and reply comments are currently due May 9 and May 24, 1983, respectively.

2. On May 4, 1983, counsel for Comanche Enterprises, filed a request seeking additional time in which to file comments to and including May 23, 1983. Counsel states there has been an application filed for Channel 13 at Lewistown which would appear to foreclose further consideration of Channel 13 being reassigned to Billings. Counsel adds that he has been conducting an engineering study to determine the feasibility of assigning another channel to Billings. However, the site selected would not meet the Commission's coverage requirements. Counsel states that the additional time is needed to complete the technical analysis for a new site and coordinate the filing of appropriate comments with his consulting engineer. We are also told by counsel that he has informed each of the commenting parties in this proceeding of his intent to file this request and they have imposed no objection to the extension.

3. Although the request did not meet the filing deadline as specified in Section 1.46 of the Commission's Rules, it appears that the circumstances noted in paragraph 2 justify the extension. It does not appear that any party involved in this proceeding would be adversely affected by the extension of time.

4. Accordingly, IT IS ORDERED, That the dates for filing comments and reply comments in Docket 82-276 (RM-4060) ARE EXTENDED to and including May 23, and June 7, 1983, respectively.

5. This action is taken pursuant to authority found in §§ 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-13967 Filed 5-24-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

[PR Docket No. 83-426; FCC 83-200]

Expansion of Inspection Interval for Small Passenger Vessels and Vessels Operating on the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to expand the inspection interval from 2 to 5 years for small passenger vessels carrying more than six passengers for hire, and from 12 to 24 months for vessels operating on the Great Lakes. The Commission initiated this proceeding in order to alleviate the burden of unnecessarily frequent inspections. It is expected that this action will result in significant work hour savings for the Commission and increased convenience for the affected vessel operators.

DATES: Comments must be received on or before June 13, 1983 and reply comments must be received on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Communications equipment, Marine safety, Telephone.

Proposed Rule Making

In the matter of amendment of Part 83 of the rules concerning the inspection interval for small passenger vessels subject to Title III, Part III of the Communications Act and vessels subject to the Great Lakes Agreement, 1973; PR Docket No. 83-426.

Adopted: April 27, 1983.

Released: May 5, 1983.

By the Commission: Commissioner Jones absent.

Summary

1. In this Notice of Proposed Rule Making we proposed to amend Part 83 of the Commission's rules to expand the inspection interval for small passenger vessels subject to Title III, Part III of the Communications Act from 2 years to 5 years, and for vessels subject to the Great Lakes Agreement, 1973, from twelve months to twenty-four months.

Small Passenger Vessel Inspections

2. The Communications Act requires any vessel of the United States carrying more than 6 passengers for hire, navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent to or contiguous to the open sea, to be equipped with an efficient radiotelephone in operating condition.[1] The Commission has the responsibility to make such inspections as may be necessary to insure compliance with this radiotelephone requirement.[2] Section 83.512 of the Commission's rules now requires an inspection at least every 24 months. When the vessel is found to be in compliance, a Communications Act Safety Radiotelephone Certificate (FCC Form 824) is issued for a period of 24 months.

[1] See Section 381, 47 U.S.C. 381.

[2] See Section 385, 47 U.S.C. 385.

3. Generally, the vessels affected by these requirements are boats used for party fishing, scuba diving and sightseeing. Typically, these small passenger vessels, operating within 20 nautical miles of the shore, are equipped with VHF radiotelephone installations; while those operating between 20 and 100 nautical miles from the shore are equipped with medium frequency (MF) radiotelephone installations.

4. Vessels navigated in the open sea, regardless of size, carrying or certificated to carry more than 12 passengers are subject to the *radiotelegraph* requirements of Title III, Part II of the Communications Act. However, the Commission exempted all passenger vessels of less than 100 gross tons not subject to the Safety Convention, from the radiotelegraph requirements provided the vessel complies with the radiotelephone provisions adopted pursuant to Title III, Part III of the Communications Act.[3] Thus, this is a second category of vessels which are subject to the requirements ot Title III, Part III.

5. The certification and 24 month inspection interval requirement became effective March 1, 1958.[4] The Commission had proposed this 24 month interval based on its judgment of the safety factors involved and the circumstances of voyages. No comments were received concerning the merits of the inspection interval or certification requirement. Therefore, the Commission adopted the 24 month interval as proposed.

6. Since 1958, maritime radiotelephony communications have been improved by the use of solid state radiotelephone equipment which is more reliable. There has also been an increase in the number of coast stations operating on radiotelephony, and a large increase in the number of radiotelephone equipped vessels. These factors have increased the reliability of the equipment and the probability of distress calls being heard and assistance rendered. The marine safety system is primarily a vessel-to-vessel system and its effectiveness is directly proportional to the number of participants in the system. In consideration of these improvements in the last 25 years, we believe that the interval between inspections and certification can be increased to five years without any negative impact on safety. This will not only help alleviate an administrative burden on small passenger vessel operators but will also permit the Commission to better allocate its scarce resources.[5] Accordingly, we are proposing that § 83.512 be amended to change the interval of inspection for vessels subject to Title III, Part III of the Communications Act from 24 months to 5 years. The U.S. Coast Guard has agreed to request the masters of the vessels to conduct an operational test of the radiotelephone during its inspection which will provide a satisfactory indication of the functioning of the radiotelephone installation between FCC inspections.

Great Lakes Inspections

7. The Agreement between the United States of America and Canada for the Promotion of Safety on the Great Lakes by Means of Radio, 1973 (GLA) now requires annual inspection. The United States and Canada have commenced discussions on amendment of Article XII of the GLA to extend the periodic inspection of the radiotelephone installations from not less than once every 13 months to not less than once every 25 months. For the same reasons indicated above, we are proposing to amend the rules to extend the periodic inspection from one year to two years (the rules permit a one month extension). Comments are solicited on merits of this proposal.

Procedure

8. The proposed amendment to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

9. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

10. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

12. The rule amendments proposed in this proceeding will expand the period of inspection for specified small boat operators. While this action would result in a more convenient inspection schedule for certain members of the

[3] See § 83.480 of the rules, 47 CFR Part 80.

[4] Report and Order, Docket No. 11824, released January 4, 1957, 22 FR 184 January 9, 1957.

[5] Implementation of the proposed inspection cycle can by done in two ways: (a) present certificates can be extended for 3 additional years' or (b) five-year certificates can be issued as each vessel is inspected under its present term. We seek comment as to which is preferable and we will provide a copy of this Notice to the United States Coast Guard and to the National Transportation Safety Board, in order to ascertain their views on this question.

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maritime pubic, little if any economic benefit will result because the Commission typically performs these relatively brief inspections at the convenience of the vessel operator, i.e., between voyages or in the offseason. Therefore, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rulemaking proceeding, because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

13. Regarding questions on matters covered in this document contact Nicholas G. Bagnato (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.512 is revised to read as follows:

§ 83.512 Inspection of radiotelephone installation.

Every vessel subject to Part III of the Title III of the Communications Act shall have a detailed inspection by the Commission of the equipment and apparatus prescribed therein not less than once every five years. If after inspection the Commission determines that all relevant provisions of Part III of Title III of the Communications Act, the rules of the Commission made pursuant thereto, and the station license, are complied with in an efficient manner, a Communications Act Safety Rediotelephony Certificate will be issued. The issuance date of such certificate shall be the date the installation is found to be in compliance, or not later than one business day following such in-compliance date.

§ 83.537 [Amended]

2. Section 83.537 is amended by replacing the word twelve with twenty-four.

[FR Doc. 83-14009 Filed 5-24-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30309-34]

Atlantic Tuna Fisheries

Correction

In FR Doc. 83-8207 beginning on page 13200 in the issue of Wednesday, March 30, 1983, make the following corrections:

1. On page 13200, middle column, the eighteenth line from the bottom, the word "zero" should appear immediately after "near".

2. On page 13202, the third column, the second complete paragraph, the third line, the word "gain" should read "giant".

3. On page 13203, the first column, the third complete paragraph, the twenty-fifth line, add the following language immediately after "NOAA": "proposes to set aside a special portion of the quota for inseason adjustments. NOAA".

4. On page 13205 (§ 285.1(a)), the middle column, the second line from the bottom, add the word "Tuna" after "Atlantic".

5. On the same page (§ 285.1(b)), the third column, the fourth line, the word "purposes" should read "persons".

6. On page 13206 (§ 285.2), the middle column, in the definition for "Metric ton", the kilograms should read "1000".

7. On page 13208 (§ 285.22(d)), the middle column, the eighth line, the word "less" should appear immediately after "tuna".

BILLING CODE 1505-01-M

Notices

Federal Register

Vol. 48, No. 102

Wednesday, May 25, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Rescheduled meeting.

SUMMARY: On Tuesday, May 18, the Advisory Council on Historic Preservation published a notice in the **Federal Register**, Vol. 48, No. 91, p. 20968 of its intent to meet at the Old Post Office, 1100 Pennsylvania Avenue NW., West Conference Room, Washington, D.C. at 9 a.m. on June 1, 1983. This meeting has been rescheduled to June 23, 1983. All other particulars remain the same.

FOR FURTHER INFORMATION CONTACT: Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 430, Washington, D.C. 20005, 202-245-3967.

Dated: May 20, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-14029 Filed 5-24-83; 8:45 am]

BILLING CODE 4310-10-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: June 9 and 10, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of advisory committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on Arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

June 9

A.M. Verification Issues
P.M. Compliance Issues

June 10

A.M. Discussions of the foregoing and possibly other similar matters.

Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to close meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated May 9, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act as amended.

William J. Montgomery,

Administrative Director.

[FR Doc. 83-13602 Filed 5-24-83; 8:45 am]

BILLING CODE 6820-32-M

Office of the Secretary

Forms Under Review by Office of Management and Budget

May 20, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108-W Admin. Bldg., Washington, D.C. 20250, (202) 447-6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of you intent as early as possible.

New

- Animal and Plant Health Inspection Service
- Field Investigation (READI)
- VS-12-27, 12-27A, 12-27B, 12-27C
- On occasion
- Farms, businesses: 150 responses; 150 hours; not applicable under 3504(h)
- Dr. William W. Buisch (301) 436-8073

Marshall L. Dantzler,

Acting Department Clearance Officer.

[FR Doc. 83-13963 Filed 5-24-83; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Stockyards; Posting and Deposting; Correction

On March 7, 1983, a notice was published in the **Federal Register** (48 FR 9548) giving notice in the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility No. assigned to Checotah Livestock Auction, Checotah, Oklahoma.

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The notice should have read: OK–202 Checotah Livestock Auction, Checotah, Oklahoma.

Done at Washington, D.C., this 19th day of May, 1983.

Jack W. Brinckmeyer,

Chief,

Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83–14030 Filed 5–24–83; 8:45 am]

BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

[Order 83–5–95]

Fitness Determination of Aviation Associates, Inc. d.b.a. Sunaire

AGENCY: Civil Aeronautics Board..

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–5–95, Order to Show Cause.

SUMMARY: The Board is proposing to find that Aviation Associates, Inc. d.b.a. Sunaire is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 7, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–5–95 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–5–95 to that address.

By the Civil Aeronautics Board: May 19, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–14021 Filed 5–24–83; 8:45 am]

BILLING CODE 6320–01–M

[Order 83–5–94; Docket 41499]

Institution of Buffalo Airways, Inc.; Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order instituting the Buffalo Airways, Inc. Fitness Investigation, Order 83–5–94, Docket 41499.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Buffalo Airways, Inc. to engage in interstate/overseas and foreign charter air transportation of persons, property, and mail under Section 401(d)(3) of the Act.

DATES: Persons wishing to file petitions to intervene in the Buffalo Airways, Inc. Fitness Investigation shall file their petitions in Docket 41499 by June 2, 1983 and serve their filings on all persons listed below.

ADDRESS: Petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 41499, Buffalo Airways, Inc. Fitness Investigation.

In addition, copies of such filings should be served on Buffalo Airways, Inc.; Transamerica Airlines, Inc.; the Mayor and Airport Manager of Waco, Texas; the Texas Aeronautical Commission; and the Federal Aviation Administration.

Service will also be required on any other person filing a petition. For further information contract: Nicholas Lowry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428; (202) 673–5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–5–94, is available from the Distribution Section, C.A.B. Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 83–5–94 to Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 19, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–14022 Filed 5–24–83; 8:45 am]

BILLING CODE 6320–01–M

[Order 83–5–107]

Orion Lift Service, Inc. d.b.a. Orion Air; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 83–5–107.

SUMMARY: The Board has tentatively decided to issue a certificate of public convenience and necessity to Orion Lift Service, Inc. d.b.a. Orion Air to authorize the carrier to engage in worldwide charter air transportation of property and mail.

Objections: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than June 3, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41166, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Orion Lift Service, Inc. d.b.a. Orion Air and to the United States Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and issue Orion Air's certificate of public convenience and necessity to authorize it to engage in worldwide charter air transportation of property and mail.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ira Lwibowitz, (202) 673–5203, Bureau of International Aviation, Civil Aeronauatics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 19, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–14023 Filed 5–24–83; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations

of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 10:00a and will end at 4:00p, on June 17, 1983, at the Travelodge, 125 Main Street, Frontier Room, Rapid City, South Dakota 55701. The purposes of this meeting are to review the status of current Committee activities and plan future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Rae Johnson, Box 276, Mission, South Dakota 57558, (605) 747–2312, or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 827–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 20, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–13987 Filed 5–24–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Nails From Japan; Announcement of Third Quarter Monitoring Prices

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Announcement of Third Quarter 1983 Monitoring Prices for Carbon Steel Wire Nails from Japan.

SUMMARY: The Department of Commerce continues to monitor imports of carbon steel wire nails from Japan in accordance with an August 11, 1981 memorandum of understanding which expires two years from its inception. The Department announces that third quarter 1983 monitoring prices for carbon steel wire nails from Japan will remain unchanged from the second quarter 1983 levels. The third quarter 1983 monitoring price applies to those products exported to the United States on or after July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Juanita S. Kavalauskas, Agreements Compliance Division, Import Administration, Room 3099, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3793.

SUPPLEMENTARY INFORMATION: In compliance with a memorandum of understanding submitted August 10, 1981, Japanese nail manufacturers provided assurances that all contracts for the sale of carbon steel wire nails to the United States below trigger prices ceased on or about March 5, 1981, and that all sales of the product for a two year period beginning August 11, 1981 would be made at prices at or above the relevant trigger prices.

The Japanese nail manufacturers agreed to supply all costs of production and transportation information necessary to monitor the import prices. The Japanese manufacturers agreed that if the Trigger Price Mechanism (TPM) were terminated or suspended prior to the two year period, they would continue to provide TPM type cost information through the Japanese Ministry of International Trade and Industry (MITI) in order that the Department of Commerce could continue to calculate monitoring prices. The TPM was suspended January 11, 1982 and trigger price monitoring was reinstated only for stainless steel round wire products in April 1982.

Commerce will continue to monitor imports of certain carbon steel wire nails from Japan through the use of Special Summary Steel Invoices to assure compliance with the third quarter 1983 price levels.

For its calculation of monitoring price levels the dollar/yen exchange rate the Department uses to convert Japanese steel producers' yen-denominated production cost to dollars is the average of the 36 months preceeding the calculation and publication of the quarter's monitoring price levels. The exchange rate used in the Department's third quarter 1983 production cost estimate is 232 yen to the dollar (the yen/dollar exchange rate average for May 1980 through April 1983).

Other Charges

The third quarter 1983 carbon steel wire nail monitoring prices are an estimate of the Japanese nail manufacturers' production cost plus the cost of transporting to the United States and handling in the United States. Thus, charges for ocean freight, interest, handling and insurance must be added to the production costs described above and reflected in monitoring price base and extras. The freight and handling charges remain unchanged from second quarter 1983 levels. Interest charges have been adjusted to reflect the current prime interest rate.

A list of the carbon steel wire nails subject to monitoring and applicable base prices and extras are reproduced in the Appendix to this notice.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

BILLING CODE 3510–25–M

APPENDIX

MONITORING PRICES FOR CARBON STEEL WIRE NAILS FROM JAPAN

AISI Category 20

3rd Quarter Base Price per Metric Ton...$393

Charges to CIF	Ocean Freight	Handling	Interest
Pacific Coast	$51	$9	$ 8
Gulf Coast	65	5	10
Atlantic Coast	70	4	10
Great Lakes	79	4	13

Insurance-1% of base price + extras + ocean freight

Extras:

1. General Extras
2. Regular and Semi-Regular Wire Nails
3. Smooth Shank Specialty Wire Nails
   Special Order Size Extras
4. Ring, Screw and Fluted Shank Specialty Wire Nails
   Special Order Size Extras

1. General

	Extras
A. Machine Use Quality	38
B. Packing	
Standard 50 lb. Carton (loose)	Base
100 lb. Carton	Base
1 lb. x 50	215
5 lb. x 10	129
C. Palletizing	17
D. Quantity	
Less than 2,400 lb. per:	14
Size	
Order	
Marking	
Destination	
Shipment	

Regular and Semi-Regular Nail Extras ($/M.T.)

			Size Extra
		(1) Bright Common Nails	
2 d	ASWG	# 15 x 11/64" x 1"	$ 91
3 d		# 14 x 13/64" x 1-1/4"	75
4 d		# 12-1/2 x 1/4" x 1-1/2"	61
5 d		# 12-1/2 x 1/4" x 1-3/4"	50
6 d		# 11-1/2 x 17/64" x 2"	33
7 d		# 11-1/2 x 17/64" x 2-1/4"	31
8 d		# 10-1/4 x 9/32" x 2-1/2"	26
9 d		# 10-1/4 x 9/32" x 2-3/4"	26
10 d		# 9 x 5/16" x 3"	22
12 d		# 9 x 5/16" x 3-1/4"	22
16 d		# 8 x 11/32" x 3-1/2"	18
20 d		# 6 x 13/32" x 4"	Base
30 d		# 5 x 7/16" x 4-1/2"	31
40 d		# 4 x 15/32" x 5"	31
50 d		# 3 x 1/2" x 5-1/2"	31
60 d		# 2 x 17/32" x 6"	37
		(2) Bright Smooth Box Nails	
2 d	ASWG	# 15-1/2 x 3/16" x 1"	$110
3 d		# 14-1/2 x 7/32 x 1-1/4"	89
4 d		# 14 x 7/32" x 1-1/2"	72
5 d		# 14 x 7/32" x 1-3/4"	57
6 d		# 12-1/2 x 17/64" x 2"	44
7 d		# 12-1/2 x 17/64" x 2-1/4"	43
8 d		# 11-1/2 x 19/64" x 2-1/2"	37
9 d		# 11-1/2 x 19/64" x 2-3/4"	37
10 d		# 10-1/2 x 5/16" x 3"	31
12 d		# 10-1/2 x 5/16" x 3-1/4"	31
16 d		# 10 x 11/32" x 3-1/2"	29
20 d		# 9 x 3/8" x 4"	26
30 d		# 9 x 3/8" x 4-1/2"	44
40 d		# 8 x 13/32" x 5"	44

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		Size Extra
	(3) Bright Finishing Nails Cupped Head	
3 d ASWG	# 15-1/2 x # 12-1/2 x 1-1/4"	$109
4 d	# 15 x # 12 x 1-1/2"	87
5 d	# 15 x # 12 x 1-3/4"	80
6 d	# 13 x # 10 x 2"	53
8 d	# 12-1/2 x # 9-1/2 x 2-1/2"	50
9 d	# 12-1/2 x # 9-1/2 x 2-3/4"	50
10 d	# 11-1/2 x # 8-1/2 x 3"	44
12 d	# 11-1/2 x # 8-1/2 x 3-1/4"	44
16 d	# 11 x # 8 x 3-1/2"	43
	(4) Bright Casing Nails	
2 d ASWG	# 15-1/2 x # 12-1/2 x 1"	$125
3 d	# 14-1/2 x # 11-1/2 x 1-1/4"	99
4 d	# 14 x # 11 x 1-1/2"	76
5 d	# 14 x # 11 x 1-3/4"	69
6 d	# 12-1/2 x # 9-1/2 x 2"	51
7 d	# 12-1/2 x # 9-1/2 x 2-1/4"	50
8 d	# 11-1/2 x # 8-1/2 x 2-1/2"	44
9 d	# 11-1/2 x # 8-1/2 x 2-3/4"	44
10 d	# 10-1/2 x # 7-1/2 x 3"	43
12 d	# 10-1/2 x # 7-1/2 x 3-1/4"	43
16 d	# 10 x # 7 x 3-1/3"	37
	(5) E/G (Electro Galvanized) Common Nails	
2 d ASWG	# 15 x 11/64" x 1"	$194
3 d	# 14 x 13/64" x 1-1/4"	176
4 d	# 12-1/2 x 1/4" x 1-1/2"	163
5 d	# 12-1/2 x 1/4" x 1-3/4"	152
6 d	# 11-1/2 x 17/64" x 2"	121
7 d	# 11-1/2 x 17/64" x 2-1/4"	117
8 d	# 10-1/4 x 9/32" x 2-1/2"	111
9 d	# 10-1/4 x 9/32" x 2-3/4"	111
10 d	# 9 x 5/16" x 3"	107
12 d	# 9 x 5/16" x 3-1/4"	107
16 d	# 8 x 11/32" x 3-1/2"	104
20 d	# 6 x 13/32" x 4"	87
30 d	# 5 x 7/16" x 4-1/2"	117
40 d	# 4 x 15/32" x 5"	117
50 d	# 3 x 1/2" x 5-1/2"	117
60 d	# 2 x 17/32" x 6"	125

		Size Extra
	(6) E/G Smooth Box Nails	
2 d ASWG	# 14-1/2 x 3/16" x 1"	$213
3 d	# 14-1/2 x 7/32" x 1-1/4"	192
4 d	# 14 x 7/32" x 1-1/2"	174
5 d	# 14 x 7/32" x 1-3/4"	159
6 d	# 12-1/2 x 17/64" x 2"	133
7 d	# 12-1/2 x 17/64" x 2-1/4"	131
8 d	# 11-1/2 x 19/64" x 2-1/2"	125
9 d	# 11-1/2 x 19/64" x 2-3/4"	125
10 d	# 10-1/2 x 5/16" x 3"	117
12 d	# 10-1/2 x 5/16" x 3-1/4"	117
16 d	# 10 x 11/32" x 3-1/2"	115
20 d	# 9 x 3/8" x 4"	111
30 d	# 9 x 3/8" x 4-1/2"	133
40 d	# 8 x 13/32" x 5"	133
	(7) E/G Finishing Nails Cupped Head	
3 d ASWG	# 15-1/2 x # 12-1/2 x 1-1/4"	$211
4 d	# 15 x # 12 x 1-1/2"	190
5 d	# 15 x # 12 x 1-3/4"	181
6 d	# 13 x # 10 x 2"	141
8 d	# 12-1/2 x # 8-1/2 x 2-1/2"	137
9 d	# 12-1/2 x # 9-1/2 x 2-3/4"	137
10 d	# 11-1/2 x # 8-1/2 x 3"	133
12 d	# 11-1/2 x # 8-1/2 x 3-1/4"	133
16 d	# 11 x # 8 x 3-1/2"	131
20 d	# 10 x # 7 x 4"	125
	(8) E/G Casing Nails	
2 d ASWG	# 14-1/2 x # 12-1/2 x 1"	$227
3 d	# 14-1/2 x # 11-1/2 x 1-1/4"	203
4 d	# 14 x # 11 x 1-1/2"	178
5 d	# 14 x # 11 x 1-3/4"	170
6 d	# 12-1/2 x # 9-1/2 x 2"	140
7 d	# 12-1/2 x # 9-1/2 x 2-1/4"	138
8 d	# 11-1/2 x # 8-1/2 x 2-1/2"	133
9 d	# 11-1/2 x # 8-1/2 x 2-3/4"	133
10 d	# 10-1/2 x # 7-1/2 x 3"	131
12 d	# 10-1/2 x # 7-1/2 x 3-1/4"	131
16 d	# 10 x 7 x # 3-1/3"	125

		Size Extra
	(9) H/D (Hot Dip Galvanized) Common Nails	
2 d	ASWG # 15 x 11/64" x 1"	$337
3 d	# 14 x 13/64" x 1-1/4"	320
4 d	# 12-1/2 x 1/4" x 1-1/2"	306
5 d	# 12-1/2 x 1/4" x 1-3/4"	296
6 d	# 11-1/2 x 17/64" x 2"	264
7 d	# 11-1/2 x 17/64" x 2-1/4"	261
8 d	# 10-1/4 x 9/32" x 2-1/2"	255
9 d	# 10-1/4 x 9/32" x 2-3/4"	255
10 d	# 9 x 5/16" x 3"	252
12 d	# 9 x 5/16" x 3-1/4"	252
16 d	# 8 x 11/32" x 3-1/2"	248
20 d	# 6 x 13/32" x 4"	230
30 d	# 5 x 7/16" x 4-1/2"	261
40 d	# 4 x 15/32" x 5"	261
50 d	# 3 x 1/2" x 5-1/2"	261
60 d	# 2 x 17/32" x 6"	269
	(10) H/D Smooth Box Nails	
2 d	ASWG # 15-1/2 x 3/16" x 1"	$357
3 d	# 14-1/2 x 7/32" x 1-1/4"	336
4 d	# 14 x 7/32" x 1-1/2"	317
5 d	# 14 x 7/32" x 1-3/4"	303
6 d	# 12-1/2 x 17/64" x 2"	277
7 d	# 12-1/2 x 17/64" x 2-1/4"	275
8 d	# 11-1/2 x 19/64" x 2-1/2"	269
9 d	# 11-1/2 x 19/64" x 2-3/4"	269
10 d	# 10-1/2 x 5/16" x 3"	261
12 d	# 10-1/2 x 5/16" x 3-1/4"	261
16 d	# 10 x 11/32" x 3-1/2"	258
20 d	# 9 x 3/8" x 4"	256
30 d	# 9 x 3/8" x 4-1/2"	277
40 d	# 8 x 13/32" x 5"	277
	(11) H/D Finishing Nails Cupped Head	
3 d	ASWG # 15-1/2 x # 12-1/2 x 1-1/4"	$355
4 d	# 15 x # 12 x 1-1/2"	334
5 d	# 15 x # 12 x 1-3/4"	325
6 d	# 13 x # 10 x 2"	284
8 d	# 12-1/2 x # 9-1/2 x 2-1/2"	281
9 d	# 12-1/2 x # 9-1/2 x 2-3/4"	281
10 d	# 11-1/2 x # 8-1/2 x 3"	277
12 d	# 11-1/2 x # 8-1/2 x 3-1/4"	277
16 d	# 11 x # 8 x 3-1/2"	275
20 d	# 10 x # 7 x 4"	269

		Total Extra	Size Extra	H/D Extra
	(12) H/D Casing Nails			
2 d	ASWG # 15-1/2 x # 12-1/2 x 1"	$371	($125)	($246)
3 d	# 14-1/2 x # 11-1/2 x 1-1/4"	345	(99)	(246)
4 d	# 14 x # 11 x 1-1/2"	322	(76)	(246)
5 d	# 14 x # 11 x 1-3/4"	315	(69)	(246)
6 d	# 12-1/2 x # 9-1/2 x 2"	281	(51)	(230)
7 d	# 12-1/2 x # 9-1/2 x 2-1/4"	280	(50)	(230)
8 d	# 11-1/2 x # 8-1/2 x 2-1/2"	274	(44)	(230)
9 d	# 11-1/2 x # 8-1/2 x 2-3/4"	274	(44)	(230)
10 d	# 10-1/2 x # 7-1/2 x 3"	273	(43)	(230)
12 d	# 10-1/2 x # 7-1/2 x 3-1/4"	273	(43)	(230)
16 d	# 10 x # 7 x 3-1/3"	267	(37)	(230)
	(13) Cement Coated Box Nails			
4 d	ASWG # 15 x 13/64" x 1-3/8"		$116	
4-1/2 d	# 15 x 7/32" x 1-1/2"		116	
5 d	# 15 x 7/32" x 1-5/8"		96	
6 d	# 13-1/2 x 1/4" x 1-7/8"		84	
7 d	# 13-1/2 x 1/4" x 2-1/8"		82	
8 d	# 12-1/2 x 17/64" x 2-3/8"		72	
9 d	# 12-1/2 x 17/64" x 2-5/8"		72	
10 d	# 11-1/2 x 19/64" x 2-7/8"		65	
	(14) Cement Coated Corkers Nails			
3 d	ASWG # 15 x 3/16" x 1-1/4"		$121	
4 d	# 13-1/2 x 7/32" x 1-1/2"		93	
5 d	# 13-1/2 x 7/32" x 1-5/8"		84	
6 d	# 12-1/2 x 1/4" x 1-7/8"		72	
7 d	# 12-1/2 x 1/4" x 2-1/8"		69	
8 d	# 11 x 9/32" x 2-3/8"		63	
9 d	# 11 x 9/32" x 2-5/8"		63	
10 d	# 10 x 5/16" x 2-7/8"		59	
12 d	# 10 x 5/16" 3-1/8"		57	
16 d	# 9 x 11/32" x 3-3/8"		56	
20 d	# 7 x 3/8" x 3-7/8"		50	
30 d	# 6 x 13/32" x 4-3/8"		63	
40 d	# 5 x 7/16" x 4-7/8"		63	
50 d	# 4 x 15/32" x 5-3/8"		63	
60 d	# 3 x 1/2" x 5-7/8"		72	

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		Size Extra
	(15) Cement Coated Coolers Nails	
3 d ASWG	# 15-1/2 x 3/16" x 1-1/8"	$121
4 d	# 14 x 7/32" x 1-3/8"	93
5 d	# 13-1/2 x 15/64" x 1-5/8"	84
6 d	# 13 x 1/4" x 1-7/8"	72
7 d	# 12-1/2 x 17/64" x 2-1/8"	69
8 d	# 11-1/2 x 9/32" x 2-3/8"	63
9 d	# 11-1/2 x 9/32" x 2-5/8"	63
10 d	# 11 x 19/64" x 2-7/8"	59
	(16) Cement Coated or Vinyl Coated Sinkers Nails	
3 d ASWG	# 15-1/2 x 11/64" x 1-1/8"	$121
4 d	# 14 x 13/64" x 1-3/8"	93
5 d	# 13-1/2 x 7/32" x 1-5/8"	84
6 d	# 13 x 15/64" x 1-7/8"	72
7 d	# 12-1/2 x 1/4" x 2-1/8"	69
8 d	# 11-1/2 x 17/64" x 2-3/8"	63
10 d	# 11 x 9/32" x 2-7/8"	59
12 d	# 10 x 5/16" x 3-1/8"	57
16 d	# 9 x 11/32" x 3-1/4"	56
20 d	# 7 x 3/8" x 3-3/4"	50
30 d	# 6 x 13/32" x 4-1/4"	63
40 d	# 5 x 7/16" x 4-3/4"	63
60 d	# 3 x 1/2" x 5-3/4"	72
	(17) Cement Coated Apple Box Nails	
5 d ASWG	# 14 x 15/64" x 1-5/8"	$ 96
5-1/2 d	# 14 x 15/64" x 1-3/8"	96
	(18) Cement Coated Fruit Box Nails	
4 d ASWG	# 15 x 7/32" x 1-3/8"	$116
	(19) Cement Coated Orange Box Nails	
4 d ASWG	# 15 x 7/32" x 1-1/4"	$116
	(20) Cement Coated Egg Case Nails	
3 d ASWG	# 15 x 7/32" x 1-1/8"	$130

		Size & E/G Extra
	(21) Bright Barbed Roofing Nails	
ASWG	# 11 x 7/16" x 1"	$116
	# 11 x 7/16" x 1-1/4"	105
	# 11 x 7/16" x 1-1/2"	93
	# 11 x 7/16" x 1-3/4"	87
	# 11 x 7/16" x 2"	69
	# 12 x 3/8" x 1"	142
	# 12 x 3/8" x 1-1/4"	127
	# 12 x 3/8" x 1-1/2"	117
	# 12 x 3/8" x 1-3/4"	108
	# 12 x 3/8" x 2"	93
	(22) E/G (Electro Galvanized) Barbed Roofing Nails	
ASWG	# 11 x 7/16" x 1"	$156
	# 11 x 7/16" x 1-1/4"	143
	# 11 x 7/16" x 1-1/2"	130
	# 11 x 7/16" x 1-3/4"	125
	# 11 x 7/16" x 2"	105
	# 12 x 3/8" x 1"	178
	# 12 x 3/8" x 1-1/4"	166
	# 12 x 3/8" x 1-1/2"	156
	# 12 x 3/8" x 1-3/4"	150
	# 12 x 3/8" x 2"	130

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		Total Extra	Size Extra	Head Extra
(23) Bright Duplex Head Nails				
6 d ASWG	# 11-1/2 x 17/64" x 1-3/4"		$ 95	
8 d	# 10-1/4 x 9/32" x 2-1/4"		84	
10 d	# 9 x 5/16" x 2-3/4"		84	
16 d	# 8 x 11/32" x 3"		72	
(24) Bright Smooth Joist Hanger Nails				
ASWG	# 11 x 9/32" x 1-1/4"		$ 98	
	# 10-1/4 x 9/32" x 1-1/2"		95	
	# 9 x 5/16" x 1-1/2"		95	
(25) Tempered Hardened Steel Concrete Nails				
ASWG	# 9 x 3/16" x 1"	$253	($109)	($144)
	# 9 x 3/16" x 1-1/2"	249	(105)	(144)
	# 9 x 3/16" x 2"	235	(91)	(144)
(26) Bright Smooth Shank Drywall Nails				
ASWG	# 12-1/2 x 19/64" x 1-1/8"		$105	
	# 12-1/2 x 19/64" x 1-3/8"		103	
	# 12-1/2 x 19/64" x 1-1/2"		98	
(27) Bright Barbed Shank Plywood Nails				Barbed Extra
ASWG	# 9 x 5/16" x 2"	$ 92	($ 80)	($12)
	# 9 x 5/16" x 2-1/8"	92	(80)	(12)
	# 9 x 5/16" x 2-1/2"	88	(76)	(12)
	# 10-1/4 x 9/32" x 1-1/4"	98	(86)	(12)
(28) Bright Barbed Shank Joist Hanger Nails				
ASWG	# 11 x 9/32" x 1-1/4"	$ 99	($ 87)	($12)
	# 10-1/4 x 9/32" x 1-1/2"	94	(82)	(12)
	# 9 x 5/16" x 1-1/2"	94	(82)	(12)
(29) Bright Barbed Shank Truss Nails				
ASWG	# 11 x 9/32" x 1-1/2"	$ 99	($ 87)	($12)

3. Smooth Shank Specialty Nails Extras ($/M.T.)

		Total Extra	Size Extra	C.C. Extra	Head Extra	Barbed Extra	Barbed Extra	Phosphate Extra
(30) C.C. (Cement Coated) Plaster Board Nails						($12)	($12)	($57)
ASWG	# 13 x 19/64" x 1"	$133	($107)	($26)				(57)
	x 1-3/8"	133	(107)	(26)				
	x 1-1/2"	129	(103)	(26)	($32)			
	# 13 x 11/32" x 1-1/2"	161	(103)	(26)	(32)			
	x 1-3/4"	161	(103)	(26)	(32)			
	# 13 x 3/8" x 1-1/2"	161	(103)	(26)	(32)			
	x 1-3/4"	161	(103)	(26)				
(31) C.C. Smooth Shank Drywall Nails								
ASWG	# 12-1/2 x 19/64" x 1-3/8"	$129	($103)	($26)				
	x 1-1/2"	124	(98)	(26)				
	# 12-1/2 x 1/4" x 1-3/8"	129	(103)	(26)				
	x 1-1/2"	124	(98)	(26)	($32)			
	# 12-1/2 x 11/32" x 1-1/2"	156	(98)	(26)				
(32) C.C. Barbed Shank Truss Nails						Barbed Extra ($12)		
ASWG	# 11 x 9/32" x 1-1/2"	$131	($ 93)	($26)				
(33) C.C. (or Vinyl Coated) Barbed Drywall Nails							Barbed Extra ($12)	
ASWG	# 14 x 1/4" x 1-1/4"	$145	($107)	($26)			(12)	
	# 13 x 19/64" x 1-1/8"	141	(103)	(26)			(12)	
	# 12-1/2 x 19/64" x 1-1/2"	136	(98)	(26)				
(34) Phosphate Coated Drywall Nails (Flat Head)								Phosphate Extra ($57)
ASWG	# 14 x 1/4" x 1-1/4"	$164	($107)					(57)
	# 13 x 19/64" x 1-5/8"	160	(103)					

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		Total Extra	Size Extra		
(35) Phosphate Coated Drywall Nails (Full Cup Head)					
				Phosphate Extra	Full Cup Extra
ASWG	# 14 x 1/4" x 1-1/4"	$188	($107)	($ 57)	($24)
	# 13 x 9/32" x 1-3/8"	184	(103)	(57)	(24)
	# 13-1/2 x 19/64" x 1-5/8"	180	(99)	(57)	(24)
(36) H/D Galv. Smooth Siding Nails					
				H/D Extra	
7 d ASWG	# 11-1/2 x 7/32" x 2-1/4"	$314	($ 84)	($230)	
8 d	# 11-1/2 x 7/32" x 2-1/2"	306	(76)	(230)	
(37) Sterilized Blued Plaster Board Nails					
				Blued Extra	Head Size Extra
ASWG	# 13 x 19/64" x 1"	$179	($107)	($ 72)	
	x 1-1/8"	179	(107)	(72)	
	x 1-1/2"	175	(103)	(72)	
	# 13 x 3/8" x 1"	211	(107)	(72)	($32)
(38) Sterilized Blued Lath Nails					
				Blued Extra	
3 d ASWG	# 15 x 11/64" x 1-1/8"	$205	($133)	($ 72)	
(39) Sterilized Blued Shingle Nails					
				Blued Extra	
ASWG	# 15 x 7/32" x 1-1/4"	$205	($133)	($ 72)	

		Total Extra	Size Extra		
(40) E/G Smooth Siding Nails					
				E/G Extra	
5 d ASWG	# 14 x 1-3/4"	$206	($105)	($101)	
6 d	# 12-1/2 x 2"	178	(91)	(87)	
7 d	# 12-1/2 x 2-1/4"	178	(91)	(87)	
8 d	# 11-1/2 x 2-1/2"	171	(84)	(87)	
(41) E/G Shingle Nails					
				E/G Extra	
3 d ASWG	# 14 x 1/4" x 1-1/4"	$206	($105)	($101)	
4 d	# 13 x 1/4" x 1-1/2"	199	(98)	(101)	
(42) E/G Plaster Board Nails					
				E/G Extra	
ASWG	# 13 x 19/64" x 1"	$208	($107)	($101)	
	x 1-1/4"	208	(107)	(101)	
	x 1-1/2"	199	(98)	(101)	
(43) E/G Smooth Joist Hanger Nails					
				E/G Extra	
ASWG	# 9 x 5/16" x 1-1/4"	$196	($ 95)	($101)	
	x 1-1/2"	180	(93)	(87)	
	# 10-1/4 x 9/32" x 1-1/4"	197	(96)	(101)	
(44) E/G Barbed Shank Joist Hanger Nails					
				E/G Extra	Barbed Extra
ASWG	# 8 x 11/32" x 2"	$175	($ 76)	($ 87)	($12)
	# 9 x 5/16" x 1-1/2"	190	(91)	(87)	(12)
	# 10-1/4 x 9/32" x 1-1/2"	194	(95)	(87)	(12)
	# 11 x 19/64" x 1-1/4"	197	(98)	(87)	(12)

	Size Extra	E/G Extra	Total Extra	Barbed Extra ($12)
(45) E/G Barbed Shank Plywood Nails				
ASWG # 10-1/4 x 7/16" x 1-7/8"	($ 95)	($ 87)	$194	
(46) E/G Barbed Shank Truss Nails				
ASWG # 11 x 9/32" x 1-1/2"	($ 98)	($ 87)	$197	
(47) E/G Barbed Shank Siding Nails				
ASWG # 14 x 3/16" x 1-3/4"	($105)	($101)	$218	($12)
# 13-1/2 x 5/32" x 1-1/2"	(98)	(101)	211	(12)

			T.H. Extra	Barbed Extra
(48) E/G Tempered Hardened Steel Concrete Stub Nails				
ASWG # 9 x 5/16" x 1"	($109)	($101)	($144)	($12)
x 1-1/2	(105)	(101)	(144)	(12)
x 2"	(91)	(87)	(144)	(12)

			Paint Extra	Barbed Extra
(49) E/G Barbed Shank Painted Siding Nails				
ASWG # 12-1/2 x 3/16" x 2"	($ 91)	($ 87)	($163)	($12)
x 2-1/2	(91)	(87)	(163)	(12)
# 13 x 3/16" x 1-1/4"	(106)	(101)	(163)	(12)
x 1-1/2"	(105)	(101)	(163)	(12)
x 2"	(95)	(87)	(163)	(12)

SPECIAL ORDER SIZE EXTRAS FOR SMOOTH SHANK SPECIALTY NAILS
($/M.T.)

Length	4- 6-1/2	7- 8-1/2	9- 10-1/2	11- 11-1/2	12- 12-1/2	13- 13-1/2	14- 14-1/2	15- 16-1/2	17- 18
						Gauge			
1/2			127				146	156	174
5/8			110						
					116	121	136	150	166
3/4			101						
					109	113	128	144	159
7/8			98		101	105	121	136	
1-1-3/8			95	98	96	99	113	128	
1-1/2-1-7/8			91	93					
					91	95	109		
2-2-3/8		91	87	87	84	87			
2-1/2-3		87	84	80					
3-1/8-4	84	84	76						
4-1/8-5	80	80	68						
5-1/8 up	76	76							

Note: Size extras determined from this table apply only to items 30-49.

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3. Ring, Screwed and Fluted Shank Nail Extras ($/M.T.)

		Total Extra	Size Extra	E/G Extra
	(50) Bright Annular Threaded Drywall Nails			
ASWG	# 12-1/2 x 19/64" x 1-3/8"	$186		
	# 12-1/2 x 19/64" x 1-1/2"	178		
	# 12-1/2 x 19/64" x 1-5/8"	178		
	# 12-1/2 x 1/4" x 1"	186		
	# 12-1/2 x 1/4" x 1-1/4"	186		
	(51) Bright Ring Shank Underlay Nails			
ASWG	# 13 x 3/16" x 1"	$246		
	# 13 x 3/16" x 1-1/4"	242		
	# 13 x 3/16" x 1-3/4"	219		
	# 12-1/2 x 3/16" x 1-1/4"	186		
	# 12-1/2 x 3/16" x 1-3/8"	186		
	# 12-1/2 x 7/32" x 1"	186		
	# 12-1/2 x 7/32" x 1-1/4	186		
	# 12-1/2 x 7/32" x 1-1/2"	186		
	# 12-1/2 x 1/4" x 1-1/4"	186		
	# 12-1/2 x 1/4" x 1-3/8"	186		
	# 12-1/2 x 1/4" x 2"	174		
	# 14 x 3/16" x 1"	356		
	(52) E/G Annular Threaded Drywall Nails			
ASWG	# 12-1/2 x 19/64" x 1-1/4"	$287	($186)	($101)
	# 12-1/2 x 19/64" x 1-3/8"	287	(186)	(101)
	# 12-1/2 x 19/64" x 1-1/2"	280	(179)	(101)
	# 12-1/2 x 19/64" x 1-5/8"	279	(178)	(101)
	# 13 x 19/64" x 1"	347	(246)	(101)
	# 13 x 19/64" x 1-5/8"	320	(219)	(101)
	(53) E/G Annular Threaded Shake Nails			
ASWG	# 13 x 3/16" x 1-1/2"	$358	($257)	($101)
	# 13 x 3/16" x 1-3/4"	358	(257)	(101)
	# 13 x 3/16" x 2"	301	(200)	(101)

		Total Extra	Size Extra	
	(54) Blued Annular Threaded Drywall Nail			Blued Extra
ASWG	# 12-1/2 x 19/64" x 1-1/4"	$258	($186)	($72)
	# 12-1/2 x 19/64" x 1-3/8"	258	(186)	(72)
	# 12-1/2 x 19/64" x 1-1/2"	250	(178)	(72)
	# 12-1/2 x 19/64" x 1-5/8"	250	(178)	(72)
	(55) Blued Annular Threaded Underlay Nails			Blued Extra
ASWG	# 14-1/2 x 3/16" x 1"	$435	($363)	($72)
	# 14 x 3/16" x 1"	428	(356)	(72)
	# 14 x 3/16" x 1-1/4"	420	(348)	(72)
	# 13 x 3/16" x 1"	318	(246)	(72)
	# 13 x 3/16" x 1-3/4"	291	(219)	(72)
	# 12-1/2 x 7/32" x 1-1/4"	258	(186)	(72)
	# 12-1/2 x 7/32" x 1-1/2"	258	(186)	(72)
	(56) C.C. Annular Threaded Drywall Nails			C.C. Extra
ASWG	#12-1/2 x 19/64" x 1-1/4"	$212	($186)	($26)
	#12-1/2 x 19/64" x 1-3/8"	212	(186)	(26)
	#12-1/2 x 19/64" x 1-1/2"	204	(178)	(26)
	#12-1/2 x 19/64" x 1-5/8"	204	(178)	(26)
	#13 x 19/64" x 1"	272	(246)	(26)
	#13 x 19/64" x 1-1/4"	272	(246)	(26)
	(57) H/D Annular Threaded Shake Nails			H/D Extra
ASWG	# 14 x 5/32" x 1-3/8"	$571	($341)	($230)
	# 14 x 5/32" x 1-3/4"	556	(326)	(230)
	# 13 x 5/32" x 2"	428	(198)	(230)
	# 12-1/2 x 13/64" x 2-1/2"	400	(170)	(230)

		Total Extra	Size Extra	
	(58) Tempered Hardened Steel Ring Shank Pole Barn Nails			T.H. Extra
ASWG	# 7 x 3/8" x 4"	$322	($178)	($144)
	# 7 x 3/8" x 5"	352	(208)	(144)
	(59) Bright Drive Screw Nails (Regular Steel C-1023)			
ASWG	# 12 x 1/4" x 1-1/2"		$174	
	# 12 x 1/4" x 2"		170	
	# 11-1/2 x 9/32" x 2-1/4"		166	
	# 11 x 9/32" x 2-1/4"		166	
	# 11 x 9/32" x 2-1/2"		159	
	# 10 x 5/16" x 3"		159	
	(60) Bright Drive Screw Nails (Stiff Stock C-1030)			Grade Extra
ASWG	# 11-1/2 x 9/32" x 2"	$194	($166)	($28)
	# 11-1/2 x 9/32" x 2-1/4"	194	(166)	(28)
	# 11 x 9/32" x 2-1/2"	187	(159)	(28)
	(61) Bright Drive Screw Nails (Stiff Stock C-1040)			Grade Extra
ASWG	# 11-1/2 x 9/32" x 2"	$197	($166)	($31)
	# 11-1/2 x 9/32" x 2-1/4"	197	(166)	(31)
	# 11 x 9/32" x 2-1/2"	190	(159)	(31)
	(62) C.C. Drive Screw Nails (Regular Steel C-1023)			C.C. Extra
ASWG	# 12 x 1/4" x 1-1/2"	$200	($174)	($26)
	# 11-1/2 x 9/32" x 2"	192	(166)	(26)
	# 11-1/2 x 9/32" x 2-1/4"	192	(166)	(26)
	# 11 x 9/32" x 2-1/2"	185	(159)	(26)
	# 10 x 5/16" x 3"	185	(159)	(26)
	# 9 x 5/16" x 3-1/2"	185	(159)	(26)

		Total Extra	Size Extra	T/H Extra	E/G Extra	H/D Extra
	(63) Tempered Hardened Steel Drive Screw Nails				($ 86)	($ 86)
ASWG	# 11-1/2 x 9/32" x 2-1/4	$307	($164)	($143)	(86)	(86)
	# 11 x 9/32" x 2-1/2"	301	(158)	(143)		
	(64) Tempered Hard Steel Drive Screw Flooring Nails					
6 d	# 11-1/2 x 13/64" x 2"	$307	($164)	($143)		
7 d	# 11-1/2 x 13/64" x 2-1/4"	307	(164)	(143)		
8 d	# 11-1/2 x 13/64" x 2-1/2"	301	(158)	(143)		
	(65) Bright Annular Threaded Truss Nails					
ASWG	# 11 x 9/32" x 1-1/2"	$169	($169)			
	(66) Tempered Hardened Steel E/G Screw Siding Nails					
7 d	ASWG # 11-1/2 x 7/32" x 2-1/4"	$393	($164)	($143)		
8 d	ASWG # 11-1/2 x 7/32" x 2-1/2"	395	(166)	(143)		
	(67) Tempered Hardened Steel Fluted Masonry Nails					
ASWG	# 9 x 5/16" x 1"	$336	($193)	($143)		
	x 1-1/4"	336	(193)	(143)		
	x 1-1/2"	327	(184)	(143)		
	x 2"	320	(177)	(143)		
	x 2-1/2"	302	(159)	(143)		
	(68) Tempered Hardened Steel H/D Galv. Screw Siding Nails					
7 d	ASWG # 11-1/2 x 7/32" x 2-1/4"	$393	($164)	($143)		
8 d	ASWG # 11-1/2 x 7/32" x 2-1/2"	388	(159)	(143)		

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SPECIAL ORDER SIZE EXTRAS FOR RING, SCREWED AND FLUTED SHANK SPECIALTY NAILS
($/M.T.)

Length	Gauge 4- 6-1/2	7- 8-1/2	9- 10-1/2	11- 11-1/2	12- 12-1/2	13- 13-1/2	14- 14-1/2	15- 16-1/2
3/4			235				409	
7/8			219			281	385	417
1-1/8			200	178	186	242	352	377
1-1/2-1-7/8			194	170	181	219	338	360
2-2-3/8		166	186	166	174	198	302	
2-1/2-3		166	166	161	166	181		
3-1/8-4	211	166	166					
4-1/2 up	227	200						

Note: Size extras determined from this table apply only to items 50-68.

[FR Doc. 83-13830 Filed 5-24-83; 8:45 am]
BILLING CODE 3510-25-C

[Case No. 626]

Piher Semiconductores, S.A., Order Amending Temporary Denial of Export Privileges

By Orders of April 9, 1982, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982), December 7, 1982, 47 FR 55989 (December 14, 1982), and March 22, 1983, 48 FR 12762 (March 28, 1983), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp., Avda San Julian, s/n, Apartado Correos 177, Granallers (Barcelona), Spain. The Order of March 22, 1983 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a contiunuing consideratin of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still contiuning, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Heights, Illinois 60005, and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through August 1983 in the shipment release documents filed by Piher International Corp. in support of its Application for this extension, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Part 368, *et seq.* (1982)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after August 1983 should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective June 1, 1983.

Dated: May 19, 1983, 10:00 a.m. E.D.T.

Thomas W. Hoya,
Hearing Commissioner.

[FR Doc. 83-14011 Filed 5-24-83; 8:45 am]
BILLING CODE 3510-25-M

Postponement of Preliminary Antidumping Determination; Lightweight Polyester Filament Fabric From the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary antidumping determination involving lightweight polyester filament fabric from the Republic of Korea is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary antidumping determination not later than August 2, 1983.

EFFECTIVE DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone (202) 377–5288.

SUPPLEMENTARY INFORMATION: On January 24, 1983, we announced the initiation of an antidumping investigation to determine whether lightweight polyester filament fabric from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (48 FR 3797). The merchandise covered by this investigation is lightweight polyester filament fabric currently provided in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015, of the Tariff Schedules of the United States Annotated. The notice of initiation stated that if the investigation proceeded normally we would make our preliminary determination on or before June 13, 1983.

Section 733(c) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties concerned are cooperating, the case is extraordinarily complicated and additional time is necessary to make the preliminary determination. We find these factors to exist in the present case. Specifically, we determine this case to be extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) by reason of the number and complexity of the transactions to be investigated and the large number of firms whose activities must be investigated. We intend to issue a preliminary determination not later than August 2, 1983.

This notice is published pursuant to section 733(c) of the Act.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

May 20, 1983.

[FR Doc. 83-14033 Filed 5-24-83; 8:45 am]
BILLING CODE 3510-25-M

Postponement of Preliminary Antidumping Determination; Lightweight Polyester Filament Fabric From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary antidumping determination involving lightweight polyester filament fabric from Japan is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary antidumping determination not later than August 2, 1983.

EFFECTIVE DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone (202) 377–5288.

SUPPLEMENTARY INFORMATION: On January 24, 1983, we announced the initiation of an antidumping investigation to determine whether lightweight polyester filament fabric from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (48 FR 3797). The merchandise covered by this investigation is lightweight polyester filament fabric currently provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015, of the Tariff Schedules of the United States Annotated. The notice of initiation stated that if the investigation

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proceeded normally we would make our preliminary determination on or before June 13, 1983.

Section 733(c) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties concerned are cooperating, the case is extraordinarily complicated and additional time is necessary to make the preliminary determination. We find these factors to exist in the present case. Specifically, we determine this case to be extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) by reason of the number and complexity of the transactions to be investigated and the large number of firms whose activities must be investigated. We intend to issue a preliminary determination not later than August 2, 1983.

This notice is published pursuant to section 733(c) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 20, 1983.

[FR Doc. 83-14032 Filed 5-24-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Point Reyes Bird Observatory

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Point Reyes Bird Observatory (P132B).

b. Address: 4990 Shoreline Highway, Stinson Beach, California 94970.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals:

Northern elephant seals *(Mirounga angustirostris)* 9,250

Harbor seals *(Phoca vitulina)* 150+

Steller sea lions *(Eumetopias jubatus)* 75+

California sea lions *(Zalophus californianus)* +

4. Type of Take:

Up to 9,250 Northern elephant seals will be marked/tagged over 5 years. Up to 150 harbor seals will be captured, marked/tagged and/or radio tagged over 5 years. Up to 75 premature Steller sea lion pups will be collected over 5 years. Incidental harassment of harbor seals, Steller sea lions and California sea lions may result from research activities.

5. Location of Activity: California, Farallon Islands and Point Reyes Peninsula.

6. Period of Activity: 1983–1989.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 19, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-14009 Filed 5-24-83; 8:45 am]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council and Administrative Subcommittee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established an Administrative Subcommittee. The Council and the Administrative Subcommittee will hold separate public meetings. The Council will hold its 46th regular public meeting to consider status reports on fishery management plans (FMPs) under development (draft FMP for shallow-water reef fishes; draft FMP for the fishery resources of the Puerto Rican and St. Croix geological platforms), and to discuss other Council matters. The Administrative Subcommittee will meet to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Tuesday, June 28, 1983, at approximately 2 p.m., adjourn at approximately 5 p.m.; reconvene on Wednesday, June 29, at approximately 9 a.m., and will adjourn at approximately noon. The Council's Administrative Subcommittee will also convene on Tuesday, June 28, at approximately 10 a.m., and will adjourn at approximately noon.

ADDRESS: All meetings will take place at the University of Puerto Rico, Humacao Campus, Conference Room of the Students Center, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Banco De Ponce Building—Suite 1108, Hato Rey, Puerto Rico 00918, telephone: (809) 753–4926.

Dated: May 20, 1983.

Ann Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-14006 Filed 5-24-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Framework Plan Task Force; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., has established a Framework Plan Task Force which will meet to discuss elements contained in the Salmon Framework Plan. The Task Force will review possible options for spawning escapement goals and allocation of the harvest, and other items if necessary. The results of this meeting will be presented to the Council at its June 8–9, 1983, meeting in Portland. Members of the public will be permitted to submit oral or written statements regarding these matters. A public comment period will be scheduled at 3 p.m., on May 31, 1983.

DATES: May 31, 1983, at 9 a.m. to 5 p.m.; June 1, 1983, 9 a.m., to noon (if necessary).

ADDRESS: The public meeting will take place at the Oregon Department of Fish and Wildlife, 506 S.W. Mill Street, Chinook Room, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon, Telephone: (503) 221–6352.

Dated: May 20, 1983.

Ann Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-14065 Filed 5-24-83; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

Meeting of Chronic Hazard Advisory Panel on Asbestos and Notice of Availability of Draft Report for Public Comment

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public meeting and availability of draft report.

SUMMARY: A Chronic Hazard Advisory Panel, established by the Commission to provide advice about the potential chronic hazards presented by asbestos in consumer products, has scheduled a public meeting to hear comments on its draft report which is expected to be available June 1, 1983. On the day following the public meeting the Panel will meet in open session to consider changes to the draft report.

DATES: The public meeting will begin at 9:00 am on June 20, 1983, and will continue until 5:00 pm. Requests to make presentations are due by June 15, 1983. The Panel will meet in open session on June 21, 1983 starting at 9:00 am and continuing until 5:00 pm.

ADDRESS: The meetings will be at 5401 Westbard Avenue, Bethesda, Maryland, in room 456.

FOR COPIES OF THE DRAFT REPORT AND FURTHER INFORMATION CONTACT: Colin B. Church, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6957.

SUPPLEMENTARY INFORMATION: The Chronic Hazard Advisory Panel on Asbestos is a seven-member group which has been established to advise the Commission concerning the potential chronic hazard of cancer associated with the use of consumer products containing asbestos. The Panel, convened in January, 1983, is addressing the concern that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers.

At its meeting on June 20 the Panel will hear public comments on its draft "Report to the Commission". Those planning to make presentations on June 20 should submit their requests and typewritten copies or outlines of their presentations to Mr. Church by June 15, 1983. In order to accommodate all who wish to speak, presentations will be limited to 20 minutes or less. Written comments on the draft report are also welcome, if received by Mr. Church by June 15, for consideration by the Panel at its June 21 meeting.

On June 21, the Panel will meet in open session to consider oral and written public comments and appropriate changes, if any, to the draft report.

Dated: May 20, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-13983 Filed 5-24-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 11 July 1983 at the AGED Secretariat, 201 Varick Street, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. Section 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: May 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-13979 Filed 5-24-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 23 June 1983 at IBM, Essex Junction, Vermont.

The missin of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: May 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-13982 Filed 5-24-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 13–14 July 1983 at the AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical

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advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 1 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May, 20, 1983.

[FR Doc. 83-14007 Filed 5-24-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Research in Education of the Handicapped

AGENCY: Department of Education.

ACTION: Application Notice of Transmittal of Fiscal Year 1983 Applications for New Projects and Notice of Annual Priority Selection.

Applications are invited for new technology research project grants or cooperative agreements under the Research in Education of the Handicapped program. Authority for this program is contained in Section 641 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441)

The Secretary announces the selection of Technology Projects as a priority area for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(b), 324.10, and 324.11) and the Education Department's regulations governing the selection of annual priorities (34 CFR 75.105 (b) and (c)). This priority supports projects on the use of technological devices and systems in schools and by handicapped students.

Closing date for transmittal of applications: Applications for new technology projects must be mailed or hand delivered by July 25, 1983.

Program information: In accordance with 34 CFR 324.11 the Secretary will give an absolute preference applications that meet the priority for technology projects described above. Within this priority the Secretary particularly invites applications for projects that will use schools as research environments to provide information on (1) the effectiveness of technological innovations, especially microcomputers, for improving the educational achievement of handicapped students, and (2) the organizational, administrative, and personnel requirements associated with using this new technology for achieving such benefit. Applications that meet this invitational priority, however, will not receive a competitive or absolute preference over other applications that describe projects on the use of technological devices and systems in schools and by handicapped students, in accordance with the priority for technology projects at 34 CFR 324.9(b).

Available funds: There is expected to be available $1,000,000 in fiscal year 1983 for support of this program. It is expected that projects will be for 4 years, with annual budgets not to exceed $250,000. These estimates do not bind the Department of Education to a specific number of awards, or to the amount of any award unless that amount in otherwise specified by statute or regulations.

Applications delivered by mail: Applications must be addressed to the Department of Education, Application Control Center, *Attention:* 84.023R, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: Hand-delivered applications must be taken to the U.S. Department of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Section, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W. (Donohoe Building, Room 4839), Washington, D.C. 20202.

Application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) double-spaced pages in length. The Secretary further urges that applicants submit only information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Research in Education of the Handicapped (34 CFR Part 324); and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: For further information contact Allen Dittmann, Research Projects Section, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 472-4640.

(20 U.S.C. 1441-1444)

(Catalogue of Federal Domestic Assistance No. 84.023, Handicapped Research and Demonstration)

Dated: May 19, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-14010 Filed 5-24-83; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2225-6]

Approval of Revised NPDES Memorandum of Agreement With Delaware

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval of revised national pollutant discharge elimination system (NPDES) memorandum of agreement (MOA) with Delaware.

SUMMARY: On May 4, 1983, the Administrator of EPA approved a revised NPDES MOA between the State of Delaware and EPA. Previously the Administrator had approved an MOA as part of Delaware's original NPDES program approval.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, permits division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: Under section 402(b) of the Clean Water Act (33 U.S.C. 1251, et seq.), States may be authorized to participate in the NPDES program if they satisfy certain minimum requirements. On April 1, 1974, the State of Delaware was approved to administer the NPDES permit program within its borders. At that time, a Memorandum of Agreement (MOA) was entered into between EPA and Delaware governing the administration of the NPDES program.

In October 1977, Congress passed a new set of amendments to the Federal Water Pollution Control Act which made changes to the NPDES permit program. The Federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 FR 32854, et seq.) and on May 19, 1980 (45 FR 33290, et seq.). In order for the State of Delaware's NPDES program to conform to the new Federal regulations, many changes in the MOA were mandated. On November 18, 1982, a notice appeared in the **Federal Register** (47 FR 51897) announcing a proposed revision of the MOA. No responses to the public notice for the revised Delaware MOA were received.

Since the MOA meets are current EPA requirements, I have today approved the revised MOA with Delaware. No changes have been made to the version of the MOA on which the November 18, 1982 **Federal Register** notice requested comments.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the revised Delaware NPDES MOA merely provides an agreement for Delaware's administration and EPA review of the State's NPDES program. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: May 4, 1983.

Lee L. Verstandig,

Acting Administrator.

[FR Doc. 83-13945 Filed 5-24-83; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2369-1]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for Malpassi Filter King

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This announces the completion of the EPA evaluation of the "Malpassi Filter King" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. This notice also announces the findings, conclusions, and availability of the report.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone (313) 668-4299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) require that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) the effect of and retrofit device on fuel economy;

(2) the effect of any such device on emissions of air pollutants; and

(3) any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On February 8, 1982, the EPA received from Techimport Limited an application for evaluation of a device termed the Malpassi Filter King. EPA had previously evaluated the Malpassi Filter King but enough questions remained concerning this device that it was proper for EPA to accept a new application. The details and history of this situation are outlined in the report described below. The device is a fuel pressure regulator which is installed in the fuel line and is intended to prevent overfilling of the carburetor float bowl and consequential overenrichment of the air/fuel mixture. The device is claimed to reduce fuel consumption and to improve vehicle performance.

Report: "EPA Evaluation of the Malpassi Filter King Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report number EPA-AA-TEB-511-83-1 contains the analysis and conclusions. It consists of 68 pages and includes all of the attachments.

III. Availability of Evaluation Report

Copies of these reports may be obtained from the National Technical Information Service by using the above

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report number. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487–4650 or FTS 737–4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the applicant. The test data and other information supplied by the applicant were insufficient to substantiate the claims for the device. The applicant was asked to submit additional test data and EPA also provided him with a recommended test plan. Although the applicant attempted to work out test arrangements with Bendix Corporation and later Southwest Research Institute, testing was not actually performed. Because the applicant had not adequately responded to repeated requests for additional substantiating test data and also because it appeared he would not be doing so in the immediate future, EPA decided to conclude its evaluation of the device. Thus, EPA notified the applicant it would complete its evaluation on the basis of the information available and that he could reapply for another evaluation as soon as he obtained appropriate test data which substantiated his claims.

It is the Agency's conclusion that although some fuel is wasted as a result of overenrichment of the air/fuel mixture, there is no evidence that the Malpassi Filter King device can reduce such losses. Thus, there is no reason to expect the device to significantly change the fuel economy, or exhaust emission levels, or the performance of a typical vehicle in proper operating condition. Moreover, there remains some concern for the effect of the device on driveability and safety during certain operating conditions.

Dated: May 16, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83–13942 Filed 5–24–83; 8:45 am]

BILLING CODE 6560–50–M

[PP 3G2783/T412] PH–FRL 2369–2)

PPG Industries, Inc.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide 1-(carboethoxy)ethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate in or on the raw agricultural commodity soybeans. This temporary tolerance was requested by PPG Industries, Inc.

DATE: This temporary tolerance expires April 22, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1830).

SUPPLEMENTARY INFORMATION: PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203, has requested, in pesticide petition PP 3G2783 the establishment of a temporary tolerance for residues of the herbicide 1-(carboethoxy)ethyl 5-[2-cholor-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate in or the raw agricultural commodity soybeans at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 748–EUP–18 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. PPG Industries, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 22, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: May 17, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–13943 Filed 5–24–83; 8:45 am]

BILLING CODE 6560–50–M

[PP 8G2079/T413; PH–FRL 2369–3]

EM Industries, Inc.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers.

DATE: This temporary tolerance expires March 31, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 28, 1982 (47 FR 23021) stating that a temporary tolerance had been extended for the combined residues of the growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm). This tolerance was extended in response to pesticide petition PP 8G2079, submitted by EM Industries, Inc., 5 Skyline Drive, Hawthorne, NY 10532. The company has requested a one-year extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 21137–EUP–3 which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that an extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. EM Industries, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 31, 1984. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience of scientific date with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 17, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–13944 Filed 5–24–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–53049; TSH–FRL 2369–1]

Premanufacture Notices; Monthly Status Report for April 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for April 1983.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–108 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53049]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street SW., Washington, D.C. 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) PMNs for which the notice review period has ended during April; (d) chemical substances for which EPA has received a notice of commencement to manufacture during April; and (e) PMNs for which the review period has been suspended. Therefore, the April 1983 PMN Status Report is being published.

Dated: May 17, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report—April 1983

I. 73 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
83–608	Generic name: Substituted bis substituted benzeneaminium, dichloride	48 FR 16331 (4/15/83)	June 29, 1983.
83–609	Generic name: Substituted benzenesulfonic acid, sodium salt and substituted benzenesulfonic	48 FR 16331 (4/15/83)	Do.
83–610	Generic name: Disubstituted glycine complex	48 FR 16331 (4/15/83)	July 2, 1983.
83–611	Generic name: Disubstituted glycine	48 FR 16331 (4/15/83)	Do.
83–612	Generic name: Polymer of alkyl and heteromono-cyclic amines and an alkanedioic acid	48 FR 16331 (4/15/83)	Do.
83–613	Generic name: 1,3 Benzenedimethanamine polymer with (chloro-methyl) oxirane	48 FR 16331 (4/15/83)	July 3, 1983
83–614	Generic name: Modified fluoroaliphatic adduct	48 FR 16331 (4/15/83)	Do.
83–615	Generic name: Perfluoroaliphatic isocyanate adduct	48 FR 16331 (4/15/83)	Do.
83–616	Generic name: Cesium permanganate	48 FR 16332 (4/15/83)	July 4, 1983.
83–617	Generic name: Cesium aluminum sulfate	48 FR 16332 (4/15/83)	Do.
83–618	Generic name: CI direct red 250	48 FR 16332 (4/15/83)	July 5, 1983.
83–619	Cuprate (5-), [7-[2-[[1-[4-[2-[4-[[4-[[4-[2-[4-[2-carboxyphenyl] azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl] -2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfobenzoato(9-)]di, pentasodium.	48 FR 16332 (4/15/83)	July 5, 1983.
83–620	Generic name: CI direct red 260	48 FR 16332 (4/15/83)	Do.
83–621	Benzoic acid, 2- [[1-[4-[2-[4-[[4-[[4-[2-[4-[4-[(2-carboxyphenyl)azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1H-4-yl]azo]-5-sulfo-, pentasodium salt.	48 FR 16332 (4/15/83)	Do.

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I. 73 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-622	1,3,6-Naphthalenetrisulfonic acid, 7-[[4-[[4-[(4,8-disulfo-2-naphthalenyl)azo]-3-methyl-phenyl]]amino]-6-[(4-sulfophenyl)-1,3,5-triazin-2-yl]]amino]-2-methylphenyl]azo-,hexasodium salt.	48 FR 16332 (4/15/83)	Do.
83-623	Generic name: [Stellylphenenuno]-fluoren] ((phenimadzolyl)bis methylene] derivative, phosphate	48 FR 16332 (4/15/83)	Do.
83-624	Generic name: Styrene-acrylate-methacrylate copolymer	48 FR 16332 (4/15/83)	Do.
83-625	Generic name: Polyamine adduct	48 FR 16332 (4/15/83)	Do.
83-626	Generic name: Substituted melamine formaldehyde compound	48 FR 17365 (4/22/83)	July 6, 1983.
83-627	Generic name: Substituted diyne urethane	48 FR 17365 (4/22/83)	July 9, 1983.
83-628	Reaction product of diglycidyl ether of bisphenol A, dimer acid, soya fatty acid and dimethylol propionic acid	48 FR 17365 (4/22/83)	Do.
83-629	Reaction product of 2-butanone oxime and poly-methylene polyphenylene isocyanate	48 FR 17365 (4/22/83)	Do.
83-630	Generic name: Reaction product of an aromatic diglycidyl ether, and amine and a cyclic ester	48 FR 17365 (4/22/83)	Do.
83-631	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 17365 (4/22/83)	Do.
83-632	7-[4-chloro-6-[3-[2-(hydroxy sulfonyloxyethylsulfonyl)-N-ethylanilino]-1,3,5-triazine-2-ylamino]-4-hydroxy-3-(4-methoxy-2-sulfo-phenyl-azo)-2-naphthalenesulfonic acid, trisodium salt.	48 FR 17365 (4/22/83)	July 10, 1983.
83-633	4-amino-5-hydroxy-3-[3-[2-(hydroxysulfonyloxy) ethylsulfonyl]phenylazo-6-(1,5-disulfo-2-naphthylazo)-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 17365 (4/22/83)	Do.
83-634	Generic name: Substituted mono-azo aromatic	48 FR 17365 (4/22/83)	Do.
83-635	Generic name: Isocyanate functional polyester urethane prepolymer	48 FR 17366 (4/22/83)	July 11, 1983.
83-636	Generic name: Modified polyester polyurethane	48 FR 17366 (4/22/83)	Do.
83-637	Generic name: Polyether alkenyl alkanyl esters	48 FR 17366 (4/22/83)	July 12, 1983.
83-638	Do.	48 FR 17366 (4/22/83)	Do.
83-639	Generic name: Trisubstituted benzoxazolium salt	48 FR 17366 (4/22/83)	Do.
83-640	Generic name: Disubstituted benzenamine	48 FR 17366 (4/22/83)	Do.
83-641	Generic name: Trisubstituted benzothiazolium salt	48 FR 17366 (4/22/83)	Do.
83-642	Generic name: Disubstituted phenol	48 FR 20487 (5/6/83)	July 13, 1983.
83-643	Generic name: Disubstituted benzoxazole	48 FR 20488 (5/6/83)	Do.
83-644	Generic name: Trisubstituted benzoxazolium salt	48 FR 20488 (5/6/83)	Do.
83-645	Generic name: Alkyd polymer from a vegetable oil with substituted alkanediols and carbomono-cyclic acids	48 FR 20488 (5/6/83)	Do.
83-646	Generic name: Modified alkyd resin	48 FR 20488 (5/6/83)	Do.
83-647	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 20488 (5/6/83)	Do.
83-648	do.	48 FR 20488 (5/6/83)	Do.
83-649	do.	48 FR 20488 (5/6/83)	Do.
83-650	Generic name: Polymer of a diisocyanate, polyether, alkanol substituted cycloalkane, dipropylene glycol	48 FR 20488 (5/6/83)	July 16, 1983.
83-651	Generic name: Polymer of a diisocyanate, polyether glycol, alkanol substituted cycloalkane, dipropylene glycol, alkanol diamine, substituted bisphenol A polymer.	48 FR 20488 (5/6/83)	Do.
83-652	Generic name: Modified poly(emido-amine)	48 FR 20488 (5/6/83)	July 17, 1983
83-653	Generic name: Disubstituted isobenzofurandione, disubstituted bis phenylenoxy bis copolymer with tetracarboxy carbocycle and disubstituted benzenediamine.	48 FR 20488 (5/6/83)	Do.
83-654	Lauryl sulfate salt with 2-amino-2-methyl-1-propanol	48 FR 20488 (5/6/83)	Do.
83-655	Generic name: Naphthalenesulfonic acid, derivative, ester with hydrobenzo-phenone	48 FR 20488 (5/6/83)	Do.
83-656	Generic name: Substituted alkyl carboxylic acid, carbomonocyclic ester	48 FR 20488 (5/6/83)	July 18, 1983.
83-657	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20489 (5/6/83)	July 19, 1983.
83-658	Generic name: Trisubstituted benzenamine	48 FR 20489 (5/6/83)	Do.
83-659	Generic name: Tetrasubstituted benzene	48 FR 20489 (5/6/83)	Do.
83-660	Generic name: Perfluorinated hydrocarbon	48 FR 20489 (5/6/83)	Do.
83-661	Generic name: Polyimide ester	48 FR 20490 (5/6/83)	July 20, 1983.
83-662	Generic name: Melamine formaldehyde resin	48 FR 20490 (5/6/83)	Do.
83-663	Generic name: Alkyl-substituted aromatic amine	48 FR 20490 (5/6/83)	Do.
83-664	Generic name: Substituted benzoic acid	48 FR 20490 (5/6/83)	July 23, 1983.
83-665	Generic name: Mixed polyalkoxy alkyl siloxanes and silsesquioxanes	48 FR 20490 (5/6/83)	July 24, 1983.
83-666	Generic name: Aromatic alkyd	48 FR 20490 (5/6/83)	Do.
83-667	Generic name: Pentasubstituted benzimidazolium salt	48 FR 20490 (5/6/83)	Do.
83-668	Generic name: Tetrasubstituted benzenamine	48 FR 20490 (5/6/83)	Do.
83-669	Generic name: Chromium complex of substituted phenolsazosulfonaphthol with naphtholazosulfo-naphthinol	48 FR 20490 (5/6/83)	Do.
83-670	Polymer of: neopentyl glycol, trimellitic anhydride, phthalic anhydride, trimethyl pentanediol	48 FR 20491 (5/6/83)	Do.
83-671	Generic name: Tetrasubstituted benzothiazole salt	48 FR 20491 (5/6/83)	July 25, 1983.
83-672	Generic name: Trisubstituted benzothiazole salt	48 FR 20491 (5/6/83)	Do
83-673	Incomplete.		
83-674	do.		
83-675	Generic name: Vinyl acetate, butyl acrylate, substituted methacrylate, terpolymer	48 FR 20491 (5/6/83)	Do.
83-676	1-Naphthalenesulfonic acid, 8-amino-5-hydroxy-	48 FR 20491 (5/6/83)	July 26, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidophenol with sulfonaphtholazo-sulfophenylpyrazolone	48 FR 20490 (5/6/83)	Do.
83-678	Generic name: Dibutyltin mercaptoacetate derivative	48 FR 20490 (5/6/83)	Do.
83-679	Generic name: Alkyl ester of an epoxy acid	48 FR 20490 (5/6/83)	Do.
83-680	Generic name: Hydroxyethylaminomethylated tannin	48 FR 21370 (5/12/83)	July 27, 1983.
83-681	Generic name: Carbocyclic isocyante	48 FR 21370 (5/12/83)	Do.
83-682	do.	48 FR 21370 (5/12/83)	Do.

II. 86 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
83-520	Generic name: Polyester polycarboxylate salt	48 FR 10470 (3/11/83)	May 29, 1983.
83-521	Generic name: Carbomonocyclic ester	48 FR 10470 (3/11/83)	Do.
83-522	Reaction product of succinic anhydride and 1,2-ethanediamine, N-[3-(trimethoxysilyl)propyl]-	48 FR 10470 (3/11/83)	Do.
83-523	1,1'-[isopropylidenebis(6-hydroxy-m-phenylene)] bis(tetrahydrothiophenium hydroxide) mixed salts	48 FR 10470 (3/11/83)	Do.
83-524	Generic name: Polymer of trisubstituted methane, alkyl phenol and substituted bis benzene derivative	48 FR 10470 (3/11/83)	Do.
83-525	Generic name: Substituted benzendiolure, salt	48 FR 10470 (3/11/83)	Do.
83-526	Generic name: Isocyanate-derived polyamide	48 FR 10470 (3/11/83)	Do.
83-527	Generic name: Sulfonaphthobisanaphthol, chromium complex	48 FR 10470 (3/11/83)	May 30, 1983.
83-528	Generic name: Dimer-trimer triglycidyl ester	48 FR 10470 (3/11/83)	Do.
83-529	Generic name: Dicarboxylic acid, polyamine polymer	48 FR 10470 (3/11/83)	Do.
83-530	Generic name: Disubstituted carbomonocyclic ester	48 FR 10470 (3/11/83)	Do.
83-531	Generic name: Polyoxo arylene triazino epoxy derivative	48 FR 10470 (3/11/83)	Do.
83-532	Generic name: Glycenyl propoxy diacrylate	48 FR 10470 (3/11/83)	Do.
83-533	Generic name: Alkanearnine, alkane acid epoxy propyl ester, alkane aldehyde polymer	48 FR 11500 (3/18/83)	June 1, 1983.
83-534	Generic name: Etheric aromatic ester	48 FR 11500 (3/18/83)	Do.
83-535	N,N'-bis(2,2,6,6-tetramethyl-4-piperidyl) hexamethylenediamine polymer with ethane-1,2-dibromo	48 FR 11500 (3/18/83)	June 4, 1983

II. 86 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-536	Polymer of poly(oxytetramethylene)diol, toluene diisocyanate polymer, isocyanate terminated and benzenamine, 4,4'-methylenebis and 2-butanone oxime.	48 FR 11500 (3/18/83)	Do.
83-537	Generic name: Waterborne urethane-acrylic polymer	48 FR 11500 (3/18/83)	Do.
83-538	Generic name: Polymer of diethylenetriamine and higher polyamine with dibasic esters	48 FR 11500 (3/18/83)	June 5, 1983.
83-539	Generic name: Substituted aralkytsilanes	48 FR 11500 (3/18/83)	Do.
83-540	Generic name: Polyamidoamine	48 FR 11500 (3/18/83)	Do.
83-541	Generic name: Polymer of carbonic acid and mixed aromatic diols containing sulfone diol	48 FR 11500 (3/18/83)	Do.
83-542	Generic name: Alkyl, alkylene maleate	48 FR 11500 (3/18/83)	Do.
83-543	Generic name: Polymer of diethylenetriamine and higher polyamines with dibasic esters, reacted with epichlorohydrin	48 FR 11500 (3/18/83)	June 6, 1983.
83-544	Generic name: Unsaturated polyester	48 FR 11501 (3/18/83)	June 7, 1983.
83-545	Benzene, 1-3-bis(isocyanatomethyl)-	48 FR 11501 (3/18/83)	Do.
83-546	Generic name: Substituted phenolazo, substituted pyrazolone	48 FR 11501 (3/18/83)	Do.
83-547	do	48 FR 11501 (3/18/83)	Do.
83-548	Carboxylic acids, C_6-C_{10}, mono-and C_6-C_{10} di-, C_2-C_{12} di, polymers with phthalic anhydride and propylene glycol	48 FR 11501 (3/18/83)	Do.
83-549	Generic name: Substituted acetamide	48 FR 11501 (3/18/83)	Do.
83-550	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 12580 (3/25/83)	June 8, 1983.
83-551	Generic name: Modified polymer of formaldehyde and substituted phenols	48 FR 12580 (3/25/83)	Do.
83-552	Generic name: Phenol formaldehyde butanol resin	48 FR 12581 (3/25/83)	Do.
83-553	Ethanesulfonic acid, 2-[bis (2-cyanoethyl) phosphino]-potassium salt	48 FR 12581 (3/25/83)	Do.
83-554	Generic name: 1,3-benzenedicarboxylic acid, 5-substituted polymer with 1,2-ethanediol and oxo-heteropolycycle	48 FR 12581 (3/25/83)	Do.
83-555	do	48 FR 12581 (3/25/83)	Do.
83-556	Generic name: Polyester polyurethane	48 FR 12581 (3/25/83)	June 12, 1983.
83-557	Generic name: Disubstituted heteromonocycle	48 FR 12581 (3/25/83)	Do.
83-558	Generic name: Modified epoxy resin	48 FR 12581 (3/25/83)	Do.
83-559	Generic name: Organo phosphate	48 FR 12581 (3/25/83)	Do.
83-560	Generic name: Organo phosphate polymer	48 FR 12581 (3/25/83)	Do.
83-561	Generic name: Acrylic alkyd polymer	48 FR 12581 (3/25/83)	Do.
83-562	do	48 FR 12581 (3/25/83)	Do.
83-563	Generic name: Substituted indolium, salt	48 FR 12581 (3/25/83)	Do.
83-564	Generic name: Diallyl cycloaliphatic diester	48 FR 12581 (3/25/83)	Do.
83-565	Generic name: Sodium salt of a polymer of acrylic acid, acrylamide, and substituted acrylamide	48 FR 12582 (3/25/83)	June 13, 1983
83-566	Generic name: Substituted chlorobenzene	48 FR 12582 (3/25/83)	June 14, 1983
83-567	Generic name: Modified acrylic copolymer	48 FR 12582 (3/25/83)	Do.
83-568	Generic name: Substituted styrene	48 FR 12582 (3/25/83)	Do
83-569	Generic name: Phenyl substituted butane	48 FR 12582 (3/25/83)	Do.
83-570	Generic name: Substituted alkane diols	48 FR 14035 (4/1/83)	June 15, 1983.
83-571	Generic name: Fatty acids, carbomonocyclic ester	48 FR 14035 (4/1/83)	Do
83-572	Generic name: Polyester polycarboxylate salt	48 FR 14035 (4/1/83)	Do.
83-573	Generic name: Unsaturated polyester	48 FR 14035 (4/1/83)	Do.
83-574	Polymer of melonic acid, diethyl ester, trimethylolpropane, 1,6-hexanediol, neopentylglycol	48 FR 14035 (4/1/83)	Do.
83-575	Polymer of bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxypropyl ester, diethylaminopropylamine, diethanolamine	48 FR 14035 (4/1/83)	Do.
83-576	Generic name: Polymer of diphenylmethane diisocyanate, alkyl epoxides, alkane triol, and trisubstituted alkanol	48 FR 14035 (4/1/83)	Do.
83-577	Generic name: 2-(2-haloaryl)amino-6-(N,N-dialkylamino)fluoran	48 FR 14036 (4/1/83)	June 18, 1983.
83-578	Generic name: Alkoxymethylpolysilazanes	48 FR 14036 (4/1/83)	Do.
83-579	Invalid		
83-580	Generic name: Thio-substituted aromatic amine	48 FR 14036 (4/1/83)	Do
83-581	Generic name: (Substituted-acetacetanilidylazophenyl)-(substituted) benzothiazole alkanolamine salt	48 FR 14036 (4/1/83)	June 19, 1983
83-582	Dimethylsta-14-crown-5	48 FR 14036 (4/1/83)	Do.
83-583	Generic name: Organotrimethoxysilane	48 FR 14036 (4/1/83)	Do.
83-584	Generic name: Blocked isocyanate	48 FR 14036 (4/1/83)	Do.
83-585	Generic name: Polymer of styrene, mixed acrylates and acrylic amide	48 FR 14036 (4/1/83)	June 20, 1983
83-586	Generic name: Mixed acrylic copolymer	48 FR 14036 (4/1/83)	Do.
83-587	Generic name: Mixed metal oxide	48 FR 14036 (4/1/83)	June 21, 1983.
83-588	2,6-bis(picrylamino)pyridine	48 FR 15180 (4/7/83)	June 22, 1983.
83-589	2,6-bis(picrylamino)-3,5-dinitropyridine	48 FR 15180 (4/7/83)	Do
83-590	Generic name: Arylsulfonic acid, {[(arylamino)phenyl]azo} compound with alkanolamine	48 FR 15180 (4/7/83)	Do.
83-591	Generic name: Styrene-acrylic terpolymer	48 FR 15181 (4/7/83)	Do.
83-592	Generic name: Acrylic acid polymer	48 FR 15181 (4/7/83)	June 25, 1983
83-593	Generic name: Dialkylamino xylenol	48 FR 15181 (4/7/83)	Do
83-594	Generic name: Alkyl amino propyl carbamide	48 FR 15181 (4/7/83)	Do.
83-595	Generic name: Alkyl amino propyl amine	48 FR 15181 (4/7/83)	Do.
83-596	Generic name: Modified acrylic polymer	48 FR 15181 (4/7/83)	June 26, 1983
83-597	Generic name: Cycloaliphatic isocyanate-amine based polyol prepolymer	48 FR 15181 (4/7/83)	Do.
83-598	Generic name: Polyester resin of aliphatic polyols, mixed aromatic diacids and aliphatic diacid	48 FR 15181 (4/7/83)	Do.
83-599	Generic name: Polyester resin of aliphatic polyols, mixed aromatic diacids, aliphatic diacid, and aromatic diisocyanate	48 FR 15181 (4/7/83)	Do.
83-600	Generic name: Modified rosin ester	48 FR 15181 (4/7/83)	Do.
83-602	Generic name: Brominated polyol diester	48 FR 15181 (4/7/83)	June 27, 1983.
83-603	Generic name: Substituted nitrile	48 FR 15181 (4/7/83)	Do.
83-604	Generic name: Reaction product of a mixture of mono and disubstituted dioxocarbopolycyclic compounds and 1,4-disubstituted benzene with sulfur.	48 FR 15182 (4/7/83)	June 28, 1983.
83-605	Anthraquinone, 2,2'-benzo[1,2-d:5-d'] bisthiazole-2,6-diylbis [1-amino-	48 FR 15182 (4/7/83)	Do.
83-606	9,10-Anthracenedione, 2-methyl-1-nitro-	48 FR 15182 (4/7/83)	Do.
83-607	Generic name: Di (mixed alkyl) magnesium	48 FR 15182 (4/7/83)	Do.

III. 94 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity/generic name	FR citation	Expiration date
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-(sodium sulfooxyethyl) sulfonyl)aryl)azo, and monochlorotriazinyla-mino, substituted, copper complex.	47 FR 52224 (11/19/82)	Apr. 5, 1983.
83-255	Generic name: Dicarboxylic acid monoester	47 FR 54537 (12/3/82)	Apr. 11, 1983.
83-298	Generic name: Toluene alkylate	47 FR 57336 (12/23/82)	Apr. 17, 1983.
83-299	do	47 FR 57336 (12/23/82)	Do.
83-300	do	47 FR 57336 (12/23/82)	Do.
83-301	do	47 FR 57336 (12/23/82)	Do.
83-302	Generic name: Alkyl benzene	47 FR 57336 (12/23/82)	Do.
83-306	Generic name: Poly alkyl benzene sulfonate	47 FR 57337 (12/23/82)	Do.

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III. 94 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-307	....do	47 FR 57337 (12/23/82)	Do.
83-308	....do	47 FR 57337 (12/23/82)	Do.
83-309	....do	47 FR 57337 (12/23/82)	Do.
83-310	Generic name: Benzene alkyl sulfonate	47 FR 57337 (12/23/82)	Do.
83-356	Generic name: Substituted 1-aminoanthraquinone-2-sulfonic acid alkali metal salt	48 FR 1820 (1/14/83)	Apr. 2, 1983
83-357	Generic name: Isocyanate functional polyurethane derived from reaction of diisocyanate, polymeric ether glycols, polymeric aliphatic polyester glycols.	48 FR 1820 (1/14/83)	Do.
83-358	Generic name: Alkoxy amine salt	48 FR 1820 (1/14/83)	Do.
83-359	Generic name: Polyurethane resin	48 FR 1820 (1/14/83)	Do.
83-360	Generic name: Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acid	48 FR 1820 (1/14/83)	Do.
83-361	Generic name: Fatty acid, phthalic, polyol polymer	48 FR 1820 (1/14/83)	Do.
83-362	Generic name: Vinyl acrylic copolymer	48 FR 1820 (1/14/83)	Do.
83-363	Generic name: Acrylic grafted copolymer	48 FR 1820 (1/14/83)	Do.
83-364	Generic name: Polymer of 1,1'-methylene-bis(4-isocyanato-benzene); 1,9-nonanedioic acid (azelaic), and 1,4-butanediol	48 FR 1820 (1/14/83)	Apr. 3, 1983
83-365	Generic name: Aromatic methylurea	48 FR 3045(1/24/83)	Apr. 6, 1983
83-366	An aqueous solution of ammonium acrylate	48 FR 3045 (1/24/83)	Do.
83-367	Generic name: Metal complex substituted aromatic salt	48 FR 3045 (1/24/83)	Apr. 8, 1983
83-368	Generic name: Disubstituted benzenesulfonic acid alkali metal salt	48 FR 3045 (1/24/83)	Do.
83-369	Generic name: Methyl-methylenelmidazole derivative of methyl-pyrazoloquinazolonazo-methylphenylbenzothazole	48 FR 3045 (1/24/83)	Do.
83-371	Polymer of: neopentyl glycol, 1,6 hexanediol, trimethylol propane, dimethyl 1,4 cyclohexane dicarboxylate, azelaic acid, isophthalic acid.	48 FR 3045 (1/24/83)	Do.
83-372	Generic name: Metal complexed, substituted aromatic compound	48 FR 3046 (1/24/83)	Apr. 10, 1983
83-373	Generic name: Substituted polyurea	48 FR 3046 (1/24/83)	Do.
83-374	Generic name: Metal complexed substituted aromatic salt	48 FR 3046 (1/24/83)	Do.
83-375	Generic name: Substituted benzene	48 FR 3046 (1/24/83)	Do.
83-376	Spiro[2H-1-benzopyran-2,2'-[2H]] indole, 1',3'-dihydro-1',3',3'-trimethyl-6,8-dinitro-	48 FR 3046 (1/24/83)	Apr. 11, 1983
83-377	Generic name: Substituted benzene	48 FR 3046 (1/24/83)	Do.
83-378	Generic name: Methyl-methylenelmidazole derivative of copper phthalocyanine, compound with acetic acid	48 FR 3046 (1/24/83)	Do.
83-379	Generic name: Methyl-methylenelmidazole derivative of copper phthalocyanine, compound with methoxy-acetic acid		
83-380	Void		
83-381	....do		
83-382	Refer to PMN 83-292		
83-383	Refer to PMN 83-292		
83-384	....do		
83-385	....do	48 FR 3046 (1/24/83)	Apr. 12, 1983
83-386	Generic name: Disubstituted 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt	48 FR 3046 (1/24/83)	Do.
83-387	Isophthalic-phthalic-adipic-benzoic acid-trimethylol propane-neopentyl glycol resin	48 FR 3046 (1/24/83)	Do.
83-388	Tallow-ethylene glycol-pentaerythritol-phthalic-benzoic acid resin	48 FR 3046 (1/24/83)	Do.
83-389	Generic name: ((Substituted heterocycle)azo) substituted aniline, acid salts	48 FR 3047 (1/24/83)	Do.
83-390	Generic name: Polyester-imide resin	48 FR 3047(1/24/83)	Do.
83-391	Generic name: Disubstituted bis(phenylazo) 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt	48 FR 3047 (1/24/83)	Do.
83-392	3,5-dinitrosalicyaldehyde	48 FR 5034 (2/4/83)	Apr. 16, 1983
83-393	Generic name: Aromatic amine-epoxy resin adduct	48 FR 5304 (2/4/83)	Do.
83-395	Generic name: Modified alkyd polymer frm a vegetable oil, carbomonocyclic anhydride, carbomonocyclic acid, a substituted alkane triol, and a substituted alkanoic ester.	48 FR 5304 (2/4/83)	Do.
83-396	Generic name: Methoxy dicyclopentadiene carboxyaldehyde	48 FR 5304 (2/4/83)	Do.
83-397	Generic name: Amine salt of a phosphonic acid	48 FR 5304 (2/4/83)	Apr. 17, 1983
83-398	Generic name: Substituted 1,3,4-thiadiazole	48 FR 5304 (2/4/83)	Do.
83-399	Polymer of dimethyl ester of 4,4'(hydroxy-methylene)bis-1,2-benzenedicarboxylic acid with 4,4'-oxydianiline	48 FR 5304 (2/4/83)	Do.
83-400	Generic name: Copolymer of acrylic and methacrylic monomers	48 FR 5305 (2/4/83)	Do.
83-402	Generic name: Poly alkylene oxide-aromatic diisocyanate prepolymer	48 FR 5305 (2/4/83)	Do.
83-403	Generic name: Diazo aromatic compound	48 FR 5305 (2/4/83)	Apr. 18, 1983
83-404	Generic name: Unsaturated amide quaternary ammonium polymer	48 FR 5305 (2/4/83)	Do.
83-405	Generic name: Polymer of a methacrylate ester, an unsaturated alcohol ester and a maleated diester	48 FR 5305 (2/4/83)	Do.
83-406	Generic name: Benzenesulfonic acid, aminochloro-triazinly-aminocarboxychlorophenylpyrazo-lonylazo-	48 FR 5305 (2/4/83)	Do.
83-407	Generic name: Unsaturated ester of a substituted aryl ether polymer	48 FR 5305 (2/4/83)	Do.
83-408	Generic name: Triazine trisisocyanate	48 FR 5305 (2/4/83)	Do.
83-409	Generic name: N,N'-alkylene bis(di-2-ethylhexyl-phosphorodithoyl) alkanamide	48 FR 5305 (2/4/83)	Do.
83-410	Generic name: N,N'-dimethyl alkyl amine salts of mono-and di-2-ethylhexyl hydrogen phosphates	48 FR 5305 (2/4/83)	Do.
83-411	Generic name: C_{11}-C_{14}-alkylamine salts of alkyl acid phosphates	48 FR 5305 (2/4/83)	Do.
83-412	Generic name: Substituted pyridinium, chloride	48 FR 5305 (2/4/83)	Do.
83-413	Generic name: Modified epoxy polymethacrylate	48 FR 5305 (2/4/83)	Apr. 19, 1983
83-414	Generic name: Diazo substituted aromatic compound	48 FR 5308 (2/4/83)	Do.
83-415	Generic name: Aromatic diazo compound	48 FR 5308 (2/4/83)	Do.
83-416	Generic name: Diazo substituted aromatic compound	48 FR 5306 (2/4/83)	Do.
83-417	Generic name: Alkyldiamine	48 FR 5306 (2/4/83)	Do.
83-419	Generic name: Naphtholdisulfonic acid, chloro-triazinylamino-sulfophenylazo	48 FR 5306 (2/4/83)	Do.
83-420	Generic name: Acrylic-styrene oligomer	48 FR 5306 (2/4/83)	Do.
83-421	....do	48 FR 5306 (2/4/83)	Do.
83-422	Generic name: Aromatic polyamic acid	48 FR 6396 (2/11/83)	Apr. 20, 1983.
83-423	Generic name: Acrylic terpolymer	48 FR 6396 (2/11/83)	Do.
83-424	Generic name: Primary hydrogenated alkyl amine and silicone polymer	48 FR 6396 (2/11/83)	Apr. 23, 1983.
83-425	Polymer of diglycidyl ether cyclohexane, dimethanol, bisphenol A	48 FR 6396 (2/11/83)	Do.
83-426	Generic name: Epoxy resin ester	48 FR 6396 (2/11/83)	Do.
83-427	Generic name: Alkyl amino metal carboxylates	48 FR 6398 (2/11/83)	Apr 24, 1983
83-428	Generic name: Bis alkoxy aluminum acetoacetic ester complex	48 FR 6398 (2/11/83)	Do.
83-429	Generic name: Thiacarbocyanine hydroxide anhydro disulfoalkyl thalkyl compound with thalkyl amine (1:1)	48 FR 6398 (2/11/83)	Do.
83-430	Generic name: Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acids	48 FR 6398 (2/11/83)	Do.
83-431	....do	48 FR 6397 (2/11/83)	Do.
83-432	Generic name: Diazo aromatic compound	48 FR 6397 (2/11/83)	Do.
83-435	Generic name: Acrylate of polybutadiene	48 FR 6397 (2/11/83)	Apr. 25, 1983.
83-436	Generic name: Chloroaromatic compound	48 FR 6397 (2/11/83)	Do.
83-437	Generic name: Reaction product of a polyhalo-genated anhydride, maleic anhydride, alkylene glycols and amino alcohol	48 FR 6397 (2/11/83)	Do.
83-438	Generic name: Disubstituted 3-phenylazo-4-amin-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt	48 FR 6397 (2/11/83)	Apr. 26, 1983.
83-439	2,2-dimethyl-1,3-propanediol, polymer with 2,2'-oxybis (ethanol), 2-ethyl-2-hydroxy-methyl-1,3-propanediol and 1,3-isobenzofuran-dione.	48 FR 6397 (2/11/83)	Apr. 24, 1983.
83-440	Generic name: Methacrylate of polybutadiene	48 FR 6397 (2/11/83)	Apr. 26, 1983.
83-441	Polymer of: Methyl acrylate, ethyl acrylate, acrylamide	48 FR 6588 (2/14/83)	Apr. 27, 1983.
83-442	Generic name: Vegetable fatty acids; benezene carboxylic acid; hydroxymethyl alkanepolyol polymer	48 FR 6588 (2/14/83)	Do.
83-443	Generic name: Alkanediol dimethylalkanediol, alkanedioic acid; substituted alkanoic acid, benzenedicarboxylic acid polymer		

III. 94 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-444	....do	48 FR 6588 (2/14/83)	Do.
83-445	Generic name: Modified sodium polyacrylate	48 FR 6588 (2/14/83)	Apr. 30, 1983

IV. 64 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
81-58	Generic name: Phenolic novolak resin	46 FR 16953 (3/16/81)	Apr. 12, 1983.
81-89	Generic name: Epoxy resin/substituted amine	46 FR 20764 (4/7/81)	Mar. 19, 1983.
81-306	Generic name: Complex of a mixture of 4,4'-dihydroxyphenyl sulfone and 2,4-dihydroxyphenol sulfone and an alkylamine	46 FR 37967 (7/23/81)	Apr. 11, 1983.
81-310	Generic name: Modified phenolic novolak resin	46 FR 37968 (7/23/81)	Apr. 13, 1983.
81-352	Generic name: Epoxy urethane copolymer	46 FR 39886 (8/5/81)	Oct. 21, 1981.
81-428	Generic name: Substituted heteromonocyclic derivative of a substituted thioxantheno isoquinoline	46 FR 45808 (9/15/81)	Apr. 11, 1983.
81-571	Benzo (k,l,) thioxanthene 3,4-dicarboxylic anhydride	46 FR 56039 (11/13/81)	Mar. 21, 1983.
82-6	Generic name: (Dialkylaminophenylazo) azobenzene sulfonic acid	47 FR 2399 (1/15/82)	Apr. 11, 1983.
82-22	Generic name: Acrylic copolymer	47 FR 3594 (1/26/82)	May 23, 1983.
82-84	Generic name: Alkylthio metallic mercaptan	47 FR 7753 (2/22/83)	Apr. 1, 1983.
82-239	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-240	....do	47 FR 15407 (4/9/82)	Do.
82-271	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Jan. 26, 1983.
82-316	4-Butylmorpholine	47 FR 19782 (3/7/82)	Apr. 13, 1983.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Mar. 21, 1983.
82-354	....do	47 FR 22215 (5/21/82)	Do.
82-427	Generic name: Alkoxylated aliphatic glycol	47 FR 26235 (6/17/82)	Apr. 14, 1983.
82-428	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 26235 (6/17/82)	Do.
82-442	Generic name: Aromatic acids, polyether polyol alkyd	47 FR 27611 (6/25/82)	Apr. 18, 1983.
82-525	Generic name: Polyester modified epoxy resin	47 FR 34186 (8/6/82)	Mar. 21, 1983.
82-529	Generic name: Aliphatic acid ester salt	47 FR 34186 (8/6/82)	Apr. 15, 1983.
82-612	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 25°-35°	47 FR 39244 (9/7/82)	April 1, 1983.
82-613	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 35°-50°	47 FR 39244 (9/7/82)	Do.
82-614	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 50°-60°	47 FR 39244 (9/7/82)	Do.
82-615	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 60°-75°	47 FR 39244 (9/7/82)	Do.
82-616	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 75°-90°	47 FR 39245 (9/7/82)	Do.
82-617	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 90°-105°	47 FR 39245 (9/7/82)	Do.
82-618	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 105°-120°	47 FR 39245 (9/7/82)	Do.
82-619	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 120°-140°	47 FR 39245 (9/7/82)	Do.
82-620	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 140°-165°	47 FR 39245 (9/7/82)	Do.
82-621	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 165°-180°	47 FR 39245 (9/7/82)	Do.
82-622	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 180°-190°	47 FR 39245 (9/7/82)	Do.
82-623	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 190°-200°	47 FR 39245 (9/7/82)	Do.
82-624	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 200°-220°	47 FR 39245 (9/7/82)	Do.
82-625	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 220°-235°	47 FR 39246 (9/7/82)	Do.
82-626	Mixed C_4-C_{18} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 235°-255°	47 FR 39246 (9/7/82)	Do.
82-652	Generic name: Metal complexed substituted aromatic salt	47 FR 41166 (9/17/82)	Jan. 17, 1983.
82-664	Generic name: 4-Hydroxy-N-substituted-3-nitro-benzenesulfonamide	47 FR 42152 (9/24/82)	Feb. 8, 1983.
82-665	Generic name: 3-Amino-4-hydroxy-N-substituted benzenesulfonamide	47 FR 42152 (9/24/82)	Apr. 11, 1983.
83-17	Generic name: Fatty acids, substituted aromatic esters, alkali metal salts	47 FR 46372 (10/18/82)	Apr. 18, 1983.
83-47	Generic name: Polymer of acrylic acid and acrylic esters	47 FR 49073 (10/29/82)	Apr. 4, 1983
83-52	Reaction product of N, N' 2-bis(6-isocyanato-hexyl) imidodicabonic diamide with 3-(trimethoxy-silyl)-1-propanethiol	47 FR 49073 (10/29/82)	Apr. 1, 1983.
83-59	Generic name: Acrylic acid, polymer with vinyl acetate, acrylate esters, and substituted ethylene	47 FR 49074 (10/29/82)	Feb. 14, 1983.
83-68	Generic name: Alkylated isopropylbenzene	47 FR 50339 (11/5/82)	Apr. 18, 1983.
83-96	Generic name: (Substituted phenyllazo) benzene-sulfonic acid, aminum salt	47 FR 52222 (11/19/82)	Feb. 28, 1983.
83-118	Generic name: Polymeric polyamidoamine	47 FR 52224 (11/19/82)	Mar. 10, 1983.
83-237	Generic name: Substituted pyridine	47 FR 53782 (11/29/82)	Apr. 11, 1983.
83-255	Generic name: Dicarboxylic acid monoester	47 FR 54537 (12/3/82)	Apr. 25, 1983.
83-268	Generic name: Azobis-(nitrosulfophenyl-alkylsulfobenzene) compound with oxyalkylamine	47 FR 57333 (12/23/82)	Mar. 21, 1983.
83-297	Generic name: (Substituted) anthracenylimino-(substituted) carbomonocyclic acid alkylamine salt	47 FR 57335 (12/23/82)	Mar. 28, 1983.
83-317	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid, and a diisocyanate	47 FR 57338 (12/23/82)	Mar. 30, 1983.
83-330	Generic name: Substituted phenate	48 FR 73 (1/3/83)	Apr. 18, 1983.
83-338	Generic name: Substituted-1,8-triphenodiox-azinedisulfonic acid, sodium salt	48 FR 882 (1/7/83)	Mar. 27, 1983.
83-355	Generic name: Substituted aromatic secondary naphthalene amine	48 FR 1820 (1/14/83)	Mar. 21, 1983.
83-356	Generic name: Substituted 1-aminoanthraquinone-2-sulfonic acid alkali metal salt	48 FR 1820 (1/14/83)	Apr. 4, 1983.
83-357	Generic name: Isocyanate functional polyurethane derived from reaction of diisocyanate, polymeric ether glycols, polymeric aliphatic polyester glycols.	48 FR 1820 (1/14/83)	Apr. 25, 1983.
83-363	Generic name: Acrylic grafted copolymer	48 FR 1820 (1/14/83)	July 1, 1983.
83-368	Generic name: Disubstituted benzenesulfonic acid alkali metal salt	48 FR 3045 (1/24/83)	Apr. 11, 1983.
83-376	Spiro [2H-1-benzopyran-2,2',-(2H)] indole, 1',3'-dihydro-1',3',3'-trimethyl-6,8-dinitro-	48 FR 3046 (1/24/83)	Endo of April 1983.
83-386	Generic name: Disubstituted 4-amine-5-hydroxy-2,7-naphthalenesulfonic acid, alkali metal salt	48 FR 3046 (1/24/83)	Apr. 13, 1983.
83-390	Generic name: Polyester-imide resin	48 FR 3047 (1/24/83)	Apr. 20, 1983.
83-391	Generic name: Disubstrtued bis(phenylazo)4-amino-5-hydroxy-2,7-naphthalenesulfonic acid, alkali metal salt	48 FR 3047 (1/24/83)	Apr. 13, 1983
83-392	Generic name: 3,5-dinitrosalicylaldehyde	48 FR 3047 (1/24/83)	End of April 1983.
83-398	Generic name: Substituted 1,3,4-thiadiazole	48 FR 5304 (2/4/83)	Apr. 18, 1983.

V. 33 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
80-137	Benzenamine, 4,4'-methylene bis [N-(1-methylbutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980
80-138	....do	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid o,o'-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid o,o'-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeamine, [N-(1-methyl-hexylidene)-N-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980

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V. 33 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
81-559	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-560		46 FR 55146 (11/6/81)	Do.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt	47 FR 1021 (1/8/82)	Mar. 28, 1982
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt	47 FR 1021 (1/8/82)	Do.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-80	Generic name: Zinc, o,o-bis alkylphosphoro dithioate	47 FR 25401 (6/11/82)	July 30, 1982.
82-367	Phosphorodithioic acid, o,o', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	Do.
82-366	Phosphorodithioic acid, o,o', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 43161 (9/30/82)	Nov. 22, 1982
82-678	Generic name: Chlorinated aromatic azo anthraquinone pigment	47 FR 43161 (9/30/82)	Do.
82-679	Generic name: Chlorinated aromatic azo pigment	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46373 (10/18/82)	Dec. 24, 1982
83-25	Generic name: Substituted pyridine	47 FR 47068 (10/22/82)	Dec. 27, 1982.
83-36	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47068 (10/22/82)	Do.
83-37	...do	47 FR 52223 (11/19/82)	Jan. 26, 1983.
83-110	Generic name: Saturated acid diester	47 FR 53782 (11/29/82)	Jan. 25, 1983
83-237	Generic name: Substituted pyridine	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 17, 1983
83-335	Generic name: ((Substituted phenyl)azo) naphthalenesulfonic acid, sodium salt	48 FR 862 (1/7/83)	Mar. 21, 1983
83-341	Generic name: 7-[4-[4-chloro-6-[3-[2-(hydroxysulfonyloxy)ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 862 (1/7/83)	Do.
83-350	2-propoxyethyl acetate	48 FR 3045 (1/24/83)	Apr. 15, 1983
83-370	8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro [4,5]decane-2,4-dione	48 FR 5304 (2/4/83)	Apr. 23, 1983.
83-394	Generic name: Polyglycidyl amine	48 FR 5304 (2/4/83)	Apr. 19, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo	48 FR 5306 (2/4/83)	Apr. 13, 1983.
83-418	Generic name: Benzenedisulfonic acid, chlorotriazinyl-amino-dimethylphenylazo-sulfo-naphthalenazo	48 FR 6397 (2/11/83)	Apr. 19, 1983.
83-433	Generic name: Mono azo aromatic compound	48 FR 6397 (2/11/83)	Apr. 20, 1983.
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6589 (2/14/83)	Apr. 13, 1983
83-454	Generic name: Acrylamide copolymer	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-461	Generic name: Substituted alkoxy silane	48 FR 15181 (4/7/83)	Apr. 20, 1983.
83-601	Generic name: Halogenated alkene acid ester		

[FR Doc. 83-13838 Filed 5-24-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59122A; TSH-FRL 2362-8]

Certain Chemicals; Approval of Test Marketing Exemption

Correction

In FR Doc. 83-13063, beginning on page 21994, in the issue of Monday, May 16, 1983, make the following corrections:

1. On page 21994, third column, paragraph numbered "2.", last line, "TMA" should read "TME".

2. In the same column, tenth line from the bottom, the heading "**TMA 83-40**" should read "**TME 83-40**".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

May 11, 1983.

Main Committee and Working Group Meetings (June 8, 9 and 10, 1983)

Wednesday, June 8, 1983

Working Group C: Available U.S. Options & Strategies.
Chairman: P. G. Ackerman, (213) 648-4134.
Time: 2:00-4:30 p.m.
Location: Communications Satellite Corporation, 950 L'Enfant Plaza, S.W., Room 3282, Washington, D.C.

Thursday, June 9, 1983

Working Group A: Services, Facilities & U.S. Interests.
Chairman: William R. Schnicke, (202) 863-6691.
Time: 9:00-11:00 a.m.
Location: Federal Communications Commission, 1200 19th Street, N.W., Room 330, Washington, D.C.
Agenda: Review work to date.
Working Group B: Political, Institutional & International Considerations.
Chairman: R. F. Stowe, (703) 442-5022.
Time: 1:30-3:30 p.m.
Location: Federal Communications Commission, 1200 19th Street, N.W., Room 330, Washington, D.C.
Agenda: Review work to date.

Space WARC Advisory Committee, Main Committee & Working Group Meetings (June 8, 9 and 10, 1983)

Friday, June 10, 1983

Main Committee

Chairman: S. E. Doyle, (916) 355-6941.
Time: 9:00 a.m.-12 noon.
Location: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C.
Agenda:
(1) Adoption of Agenda.
(2) Adoption of minutes of previous meeting.
(3) Designation of replacement "Designated Federal Employee."
(4) Adoption of Final Report Outline.
(5) Schedule of Subsequent Meetings.
(6) Status Report on 1983 Regional RARC Developments.
(7) Other business.
(8) Adjournment.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-12331 Filed 5-24-83; 8:45 am]
BILLING CODE 6712-01-M

Natrona Broadcast Co. Inc., et al.; Applications for Construction Permit; Correction

Released: May 12, 1983.

By the Chief, Mass Media Bureau:

In re applications of Natrona Broadcast Company, Inc Casper, Wyoming, Req: 103.7 MHz, Channel 279C 59.1 kW (H&V), 1929 feet, MM Docket No. 83-301, File No. BPH-810916AI; Goodluck Broadcasting, Inc., Casper, Wyoming, Req: 103.7 MHz, Channel 279C 100 kW (H&V), 183 feet, MM Docket No. 83-302 File No. BPH-820330BA; Casper Broadcasting Partners, Casper, Wyoming, Req: 1037 MHz, Channel 279C 57.8 kW (H&V), 1909 feet, MM Docket No. 83-303 File No. BPH-820524AE for construction permit.

The Commission, by the Chief, Mass Media Bureau, has before it the hearing designation order designating for

comparative hearing the above-captioned applications, released April 4, 1983 (48 FR 15709, Apr. 4, 1983), which erroneously listed the applicant assigned to "MM Docket No. 83-303" as "HARVEY Q. GREGORY" and the requested facilities as "103.7 MHz, Channel 279C, 57.7 kW, 1929 feet. Also, the words "File No." were inadvertently deleted from the caption of each of the Docket Numbers listed in the heading.

Accordingly, it is ordered, that the caption of the application assigned to "MM Docket No. 83-303" is corrected to read: "Casper Broadcasting Partners, Casper, Wyoming, Req: 103.7 MHz, Channel 279C, 57.8 kW (H&V), 1909 feet."

It is further ordered, That the captions of each of the Docket Numbers listed in the heading are corrected to include the words "File No." before each file number listed.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau

[FR Doc. 83-13855 Filed 5-24-83; 8:45]
BILLING CODE 6712-01-M

[MM Docket Nos. 83-474 and 83-475 File Nos. BPCT-820312KF and BPCT 820510KZ]

Oswego Broadcasting and Communications, Inc. and Ithaca TV Associates; Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: April 29, 1983.
Released: May 12, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Oswego Broadcasting and Communications, Inc. (Oswego)[1] and Ithaca TV Associates (ITVA) for authority to construct a new commercial television broadcast station on Channel 52, Ithaca, New York; informal objections filed by L. Richard Stumbar; a petition to deny ITVA's application filed by Oswego [2]; and related pleadings.

[1] Oswego Broadcasting and Communications, Inc. changed its name from Paradise Broadcasting and Communications Systems, Inc., by amendment filed June 30, 1982.

[2] Oswego filed its petition to deny on August 30, 1982. Section 73.3584(a) of the Commission's Rules requires that if a "cut-off" date has been established "* * * such petitions must be filed by the date specified." The "cut-off" date for ITVA was June 30, 1982. Therefore, the petition will be dismissed, and will be considered as an informal objection filed pursuant to Section 73.3587 of the Commission's Rules. Objections from competing applicants are, in essence, predesignation petitions to specify issues and, as such, are no longer permitted; however, since Stumbar raises some of the same questions in his objection, we will consider Oswego's informal objection in this proceeding.

Oswego Broadcasting and Communications, Inc.

2. No determination has been reached that the tower height and location proposed by Oswego would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. On May 10, 1982, the Commission received a letter from L. Richard Stumbar objecting to a grant of Oswego's application. The statement alleges that Oswego failed to promptly publish its local public notice which, Stumbar says, may have denied others adequate time to file competing applications or petitions to deny. Stumbar also states that Oswego does not have reasonable assurance of a transmitter site; and lastly, Stumbar charges Oswego with imprudent use of the allocation, since only Ithaca, New York, and nearby environs will be served.

4. Oswego did give public notice late; however, this does not warrant dismissal of its application. The purpose of the local public notice is to inform area residents of the proposal. It is the Commission's "cut-off" list, however, which officially notifies the public that an application has been accepted for filing. The "cut-off" list affords all interested parties equal opportunity to file competing applications and comments. With regard to the transmitter site, Oswego states, in its "Comments on Statement of Objection," that it currently has a lease purchase agreement for use of an existing tower at its proposed site. Mr. Stumbar, in his letter of November 15, 1982, alleges that members of the zoning board will not approve the operation of a moderate to high power UHF television transmitter at Oswego's proposed site. However, Mr. Stumbar has submitted no affidavits or other documentary support for his contention. Finally, in regard to efficient utilization of the channel, § 73.614(a) of the Commission's Rules specifies a minimum effective radiated power, a standard that Oswego's 1.4 kW well exceeds. The efficiency of the proposed use, in accordance with normal practice, is a matter that will be considered under the standard comparative issue. Accordingly, L. Richard Stumbar's informal objection will be denied.

Ithaca TV Associates

5. On June 10, 1982, Stumbar filed an informal objection to ITVA's application that was similar in content to the one filed against Oswego. Stumbar lists a late published public notice; no reasonable assurance of a transmitter site; and violation of § 73.636 of the Commission's Rules as reasons for the dismissal of ITVA's application.

6. As specified above in paragraph 4, a late-filed public notice does not warrant dismissal of an application. Stumbar also contends that the proposed facility is a "major environmental action" as defined under § 1.1305(a)(6)(ii), since the proposed site is on an existing wildlife refuge. We note that there are other broadcast towers in the area of ITVA's proposed site. It appears, therefore, that the site is an "antenna farm." Consequently, no issue will be specified. Section 1.1305(b)(1).

7. Stumbar, as well as Oswego in its informal objection, raises questions regarding ITVA's compliance with §73.636 of the Commission's Rules. Essentially, Stumbar and Oswego allege that through interlocking interests among the principals of Stations WOLF(AM), Syracuse, New York, WQNY(FM) (previously WEIV(FM)), Ithaca, New York and this application, the ITVA's proposal violates both the one-to-a-market rule and the regional concentration of control rule. From our review of the material presented herein, we have determined that it may be appropriate to examine these questions in hearing. Notes 8 and 11 of §73.636 provide that applications for UHF television facilities ". . . will be treated on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be specified to determine whether there is common ownership, operation or control of WOLF(AM), Syracuse, New York, WQNY(FM), Ithaca, New York and the proposed television station inconsistent with the public interest.

8. The effective radiated visual power antenna height above average terrain and other technical data submitted by Oswego indicates that there would be a significant difference in the size of the area and population that it proposes to serve and the size of the area and population that ITVA proposes to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative

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preference should accrue to either of the applicants.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge, at a time and a place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Oswego Broadcasting and Communications, Inc. would constitute a hazard to air navigation.

2. To determine with respect to Ithaca TV associates whether there is common ownership, operation or control of WOLF(AM), Syracuse, New York, WQNY(FM), Ithaca, New York, and the proposed television station; and if there is, whether a grant of the proposed facility would be consistent with the public interest.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That, the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

12. It is further ordered, That, the informal objection filed by L. Richard Stumbar against Oswego Broadcasting and Communications, Inc. is denied.

13. It is further ordered, That, the petition to deny filed by Oswego Broadcasting and Communications, Inc. is dismissed, and when considered as an informal objection filed pursuant to §73.3587 of the Commission's Rules, is granted.

14. It is further ordered, That, L. Richard Stumbar is made a party respondent with respect to issue 2.

15. It is further ordered, That, the informal objection filed by Richard L. Stumbar against Ithaca TV Associates is granted to the extent indicated herein and is otherwise denied.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to §1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and §73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-13956 Filed 5-24-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Barnett Banks of Florida, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Boulevard Bank, Key West, Florida. The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than June 17, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13946 Filed 5-24-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities; First Amarillo Bancorporation, Inc. and First Security Corp.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First Amarillo Bancorporation, Inc.*, Amarillo, Texas (data processing and data transmission activities; Texas, New Mexico, Colorado, Oklahoma): To engage, through its subsidiary, Western Data Centers, Inc., in providing to others financial mortgage, banking, and economic data processing and

transmission services pursuant to a written agreement so describing and limiting the services. These activities would be performed both from its main office in Amarillo, Texas and remote locations in Lamar, Colorado; Lubbock, Perryton, and Quannah, Texas, serving the states of Texas, New Mexico, Colorado, and Oklahoma. Comments on this application must be received not later than June 17, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *First Security Corporation*, Salt Lake City, Utah (industrial loan company, lease finance, and insurance activities related to credit activities; Utah): To engage through its existing subsidiary, First Security Financial, in offering thrift savings accounts and thrift certficates; the business of making consumer, business and mortgage loans; the business of lease financing; acting as an agent in the sale of credit life and credit disability insurance related to extensions of credit where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit in the event of death, disability or involuntary unemployment of the debtor, pursuant to Section 601(A) of the Garn- St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Salt Lake County, Utah, serving the southeastern portion of Salt Lake County. Comments on this application must be received not later than June 13, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13948 Filed 5-24-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities; Southern Bancorporation, Inc.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*) directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance activities; Texas): To engage, through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender. These activities would be conducted from an office in Fort Worth, Texas, serving the approximate city limits of Fort Worth and certain other parts of Tarrant County within a ten mile radius of Fort Worth. Comments on this application must be recevied not later than June 17, 1983.

2. *Southern Bancorporation, Inc.*, Greenville, South Carolina (consumer finance activities; Texas): To engage, through its subsidiary, World Acceptance Corporation, in making extension of credit as a licensed consumer finance lender. These activities would be conducted from an office in San Antonio, Texas, serving the approximate city limits of San Antonio and certain other parts of Bexar County within a ten mile radius of San Antonio. Comments on this application must be received not later than June 17, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13947 Filed 5-24-83; 8:45 am]

BILLING CODE 6210-01-M

The Chase Manhattan Corp.; Proposed Acquisition of Rose & Company Investment Brokers, Inc.

The Chase Manhattan Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Rose & Company Investment Brokers, Inc., Chicago, Illinois.

Applicant states that the proposed subsidiary would engage in the activities of (1) retail securities brokerage, restricted to buying and selling securities (including municipal securities through an affiliated bank) solely upon the order and for the account of customers; and (2) extending securities credit in conformity with the Board's Regulation T (12 CFR 220). In addition, Applicant would offer the following incidental services to its customers through Rose: (a) the payment of interest on net free balances in the accounts of its customers; (b) the provision of securities custodial services; (c) the maintenance of an arrangement with a money market fund or funds that would permit customers to invest free balances in the fund, (d) providing to its customers access to IRA accounts; (e) securities borrowing and lending; (f) acting as "inadvertent principal" in the event of the mistaken purchase of securities; and (g) providing for customers' access to their net free balances awaiting investment through debit cards issued by or checks drawn on an unaffiliated commercial bank. These activities would be performed from offices of Applicant's subsidiary in Boston, Massachusetts; Chicago, Illinois; Houston, Texas; Los Angeles, California; New York, New York; Pittsburgh, Pennsylvania; San Francisco, California; and Washington, D.C., and the geographic areas to be served are all fifty (50) states and the District of Columbia. Such activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). However, the Board beleives that there is a reasonable basis for Applicant's opinion that such activities are closely related to banking or managing or controlling banks so as to warrant consideration of this proposal under § 225.4(a). See the Board's order approving the application of Bank American Corporation, San Francisco, California, to acquire the Charles

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Schwab Corporation, San Francisco, California, 69 *Federal Reserve Bulletin* 105 (1983).

Interested persons may express their views on the question whether the proposed activities are closely related to banking and whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than June 18, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.
William W. Wiles,
Secretary of the Board.

[FR Doc. 83-13861 Filed 5-24-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Benton Bancshares Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Benton Bancshares, Inc.*, Benton, Tennessee; to become a bank holding compnay by acquiring at least 80 percent of the voting shares of Benton Banking Company, Benton, Tennessee. Comments on this application must be received not later than June 17, 1983.

2. *Sequatchie Valley Bancshares, Inc.*, Dunlap, Tennessee; to beome a bank holding company by acquiring 80 percent of the voting shares of Citizens Bank of Dunlap, Dunlap, Tennessee. Comments on this application must be received not later than June 17, 1983.

3. *Staba Bancshares, Inc.*, Donaldsonville, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank and Trust Company, Donaldsonville, Louisiana. Comments on this application must be received not later than June 17, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rock Falls Bancshares, Inc.*, Rock Falls, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Rock Falls National Bank, Rock Falls, Illinois. Comments on this application must be received not later than June 15, 1983.

2. *Schooler Bancshares, Inc.*, Carlisle, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of Hartford-Carlisle Savings Bank, Carlisle, Iowa. Comments on this application must be received not later than June 17, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Community Bancorp, Inc.*, Northglenn, Colorado; to become a bank holding company by acquiring 99 percent of the voting shares of Community Bank, National Association, Northglenn, Colorado. Comments on this application must be received not later than June 17, 1983.

D. Federal Reserve Bank of Dallas Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Kermit Financial Corporation*, Kermit, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Kermit, Kermit, Texas. Comments on this application must be received not later than June 17, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.
William W. Wiles,
Secretary of the Board.

[FR Doc. 83-13860 Filed 5-24-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Citizens Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Bancshares, Inc.*, Ville Platte, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Ville Platte, Louisiana. Comments on this application must be received not later than June 17, 1983.

2. *Jeanerette First National Bancorp, Inc.*, Jeanerette, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Jeanerette, Jeanerette, Louisiana. Comments on this application must be received not later than June 15, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Centre 1 Bancorp, Inc., Beloit, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank and Trust Company of Beloit, Beloit, Wisconsin. Comments on this application must be received not later than June 13, 1983.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Beresford Bancorporation, Inc.*, Britton, South Dakota; to become a bank holding company by acquiring 92.5 percent of the voting shares of The First National Bank of Beresford, Beresford, South Dakota. Comments on this application must be received not later than June 17, 1983.

Board of Governors of the Federal Reserve System, May 19, 1983.
William W. Wiles,
Secretary of the Board.

[FR Doc. 83-13859 Filed 5-24-83; 8:45 am]
BILLING CODE 6210-01-M

Hometown Bancorporation, Inc.; Formation of Bank Holding Company

Hometown Bancorporation, Inc., Rock Island, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 51 percent or more of the voting shares of Financial Services Corporation of the Midwest, a bank holding company in Rock Island, Illinois and thus acquire indirect control of the Rock Island Bank, Rock Island, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Hometown Bancorporation, Inc., Rock Island, Illinois, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirect control of Federal Discount Corporation, Rock Island, Illinois; Financial Services Life Insurance Company; Second Financial Services Life Insurance Company; and FSC Money Shopes.

Applicant states that the subsidiaries would engage in the activities of consumer finance and insurance. These activities would be performed from offices of Applicant's subsidiaries in Illinois, Iowa, Minnesota, North Dakota and Wisconsin, and the geographic areas to be served are Illinois, Iowa, Minnesota, North Dakota and Wisconsin. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than June 18, 1983.

Board of Governors of the Federal Reserve System, May 19 1983.
William W. Wiles,
Secretary of the Board.

[FR Doc. 83-13862 Filed 5-24-83; 8:45 am]
BILLING CODE 6210-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of two loans to the Government of Costa Rica (Borrower) as part of A.I.D.'s development assistance program. One of these loans will be to the Ministry of Finance for $4,800,000. The other loan will be to the Central Bank of Costa Rica for a total of $20,000,000. At this time, the Central Bank will borrow only $4,000,000 of the total amount authorized. The proceeds of these loans will be used to finance shelter projects for low income families in Costa Rica. The following is the name, address, telex number, and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Costa Rica

Project: 515-HG-006-$4,800,000, 515-HG-007-$20,000,000, Luis Bell, Director of External Finance Ministry of Finance, P.O. Box 10104, San Jose, Costa Rica, Telex: 22-77, Answer Back: MINHAC, Telephone: (506) 22-80-86.

Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. Following its discussions with interested investors, the Borrower will decide upon a procedure for selecting an investor and will inform interested investors of the procedure to be followed.

The Borrower will contract for both the $4,800,000 and the $4,000,000 loans simultaneously and both loans will have the same terms and conditions. Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from:

Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523, Telephone: (202) 632-9637.

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Dated: May 19, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83-14008 Filed 5-24-83; 8:45 am]

BILLING CODE 6116-01-M

Commission on Security and Economic Assistance

The notice of the second meeting of the Commission on Security and Economic Assistance to be held on May 26, 1983, was prepared, signed and forwarded to the **Federal Register** in sufficient time to comply with the 15-day advance notice requirements of OMB Circular A-63. However, because of inadvertent delays, the notice was not published until May 17, 1983 (48 FR 22220).

The Commission is required to produce its report on or about September 1983, and the schedules of the members of the Commission cannot be adjusted on such short notice. Accordingly, the meeting must be held as scheduled.

For further information contact: Mr. John K. Wilhelm, Agency for International Development, PPC/C, Room 1004 New State Building, Washington, D.C. 20523 (202) 632-7800.

Dated: May 20, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83-14040 Filed 5-24-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-111; Final]

Bicycles From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: April 29, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Taiwan of bicycles, provided for in items 732.02 through 732.28, inclusive, of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of Investigation No. 731-TA-111 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before July 6, 1983, and the Commission will notify the Department of Commerce of its final injury determination by August 29, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0439.

SUPPLEMENTARY INFORMATION:

Background.—On November 8, 1982, the Commission notified the Department of Commerce, on the basis of the information developed during the course of its preliminary investigation, that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of alleged LTFV imports of bicycles from Taiwan. The preliminary investigation was instituted in response to a petition filed on September 24, 1982, by counsel on behalf of Roadmaster Corp. (formerly AMF Wheel Goods Division), Columbia Manufacturing Co., Huffy Corp., and Murray Ohio Manufacturing Co., individually, and as members of the Bicycle Manufacturers Association, Inc.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on July 12, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on July 26, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 13, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on July 15, 1983 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 21, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33628, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24), and must be submitted not later than the close of business on August 2, 1983.

Written submission.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 2, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of §201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 16, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-14084 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-113 and 114; Final]

Carbon Steel Wire Rod From Brazil and Trinidad and Tobago

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: May 4, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Brazil and Trinidad and Tobago of carbon steel wire rod, provided for in item 897.17 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731-TA-113 and 114 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in these cases on or before July 12, 1983, and the Commission will make its final injury determinations by August 31, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. John MacHatton (202-523-0439), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On November 15, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly LTFV imports of carbon steel wire rod from Brazil and Trinidad and Tobago. The preliminary investigations were instituted in response to a petition filed on September 30, 1982, by five producers of carbon steel wire rod.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on June 29, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearings.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on July 12, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 17, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on June 22, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 8, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22), as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on July 19, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 19, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelop and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for

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confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-14082 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-96; Final]

Nitrocellulose From France

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection therewith.

EFFECTIVE DATE: May 10, 1983.

SUMMARY: On May 10, 1983, the U.S. Department of Commerce made an affirmative final determination that imports from France of nitrocellulose, provided for in item 445.25 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). Accordingly, the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-96 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Commission will make its final injury determination by July 25, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Rausch (202-523-0286), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On August 16, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly less-than-fair-value imports of nitrocellulose from France. The preliminary investigation was instituted in response to a petition filed on July 2, 1982, by counsel for Hercules, Inc., Wilmington, Del.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and address of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on June 10, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 24, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 9, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on June 13, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 21, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual material relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 30, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 21, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 19, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-14080 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-148]

Processes for the Manufacture of Skinless Sausage Casings and Resulting Product; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337, 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 25, 1983, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a, on behalf of Teepak, Inc., 2 North Riverside Plaza, Chicago, Illinois 60606 and Bufpak Corp., c/o Hillside Capital Inc., 405 Park Ave., New York, New York 10022. The complaint alleges unfair methods of competition and unfair acts in the importation of certain skinless sausage casings into the United States, or in their sale, by reason of alleged (1) infringement of at least claims 1 and 2 of U.S. Letters Patent 3,456,286; (2) infringement of at least claims 1, 2 and 5 of U.S. Letters Patent 3,461,484; (3) infringement of at least claims 1 and 3 of U.S. Letters Patent 3,383,222; and (4) infringement of at least claims 1, 2 and 5 of U.S. Letters Patent Re 28,281. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that, during the pendency of the investigation, the Commission issue a temporary exclusion order, prohibiting importation of the articles into the United States except under bond and, after a full investigation, issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 17, 1983, *ordered that:*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain skinless sausage casings into the United States, or in their sale, by reason of alleged (1) infringement of the claims of U.S. Letters Patent 3,456,286; (2) infringement of the claims of U.S. Letters Patent 3,461,484; (3) infringement of the claims of U.S. Letters Patent 3,383,222; and (4) infringement of the claims of U.S. Letters Patent Re 28,281, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Teepak, Inc., 2 North Riverside Plaza, Chicago, Illinois 60606

Bufpak Corp., c/o Hillside Capital Inc., 405 Park Ave., New York, New York 10022

(b) The respondent is the following company, alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Viscofan, S.A., Industria Navarra de Involturas Cellulosicas S.A., Avenida Tolosa S/N, Torre Lorea I.C., San Sebastian, Spain.

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Pursuant to § 210.30(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.30(c)), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in deterimining whether temporary relief should be granted.

Responses must be submitted by the named respondent in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-1272.

By order of the Commission.

Issued: May 19, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-14081 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-133]

Vertical Milling Machines; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Arthur Wineburg, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Orest Russ Pirfo, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Respectfully submitted,

Dated: May 18, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-14083 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by

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Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environmental nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied befor the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team, (202) 275–7992.

Volume No. OP1–180(F)

Decided: May 16, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 143060 (Sub-3), filed May 10, 1983. Applicant: PENN-PACIFIC, INC., 20815 Currier Rd., Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. As a *broker*, of *general commodities* (except household goods), between points in the U.S.

MC 151990 (Sub-1), filed April 29, 1983. Applicant: HIGH COUNTRY EXPRESS, INC., 40 West Alameda, Denver, CO 80223. Representative: William C. Van Dyke (same address as applicant), (303) 722–6014. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting (a) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167800, filed May 3, 1983. Applicant: BIG "A" BUS CO., INC., 82 Chestnut Avenue, Irvington, NJ 07111. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in NJ and NY, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167810, filed May 3, 1983. Applicant: ROBERT Q'S TRAVEL MART INC., 155 York St., London, Otario, Canada N6A 1A8. Representative: John W. Ester, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting *passengers*, in charter and special operations, beginning and ending at the ports of entry on the international boundary line, between the U.S. and Canada, and extending to points in MI.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167821, filed May 3, 1983. Applicant: RICHARD A. REED, d.b.a. REED TRANSPORT, E. 1700 Twinlow Rd., Rathdrum, ID 83858. Representative: Helen M. Reed (same address as applicant), (208) 687–0909. Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167850, filed May 6, 1983. Applicant: NATIONWIDE EXPRESS, INC., 1215 Cetone Ave., Dayton, OH 45407. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 549, (414) 722–2848.Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 167870, filed May 9, 1983. Applicant: HIGH RAIL BROKERAGE, INC., 4327 Memorial Drive, Suite J, Decatur, GA 30032. Representative: Gregory P. Smith (same address as applicant) (404) 294–9100. As a *broker*, of *general commodities* (except household goods), between points in the U.S.

MC 167890, filed May 9, 1983. Applicant: THOMAS L. WILLITS, 423 Maxiums Drive, Littleton, CO 80124. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 167891, filed May 9, 1983. Applicant: TOM & HELEN D. BRADLEY, d.b.a. BRADLEY SALVAGE, RDF1, Box 125, Diamond, MO 64840. Representative: Helen D. Bradley (same address as applicant), (417) 624–2881. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167920, filed May 9, 1983. Applicant: ARTHUR CINQUINO 56 Chestnut St., Lodi, NJ 07644. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. As a *broker*, of *general commodities* (except household goods), between points in the U.S. (including AK and HI).

Volume No. OP1–182(F)

Decided: May 17, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167880, filed May 9, 1983. Applicant: FREIGHT RATE SERVICE COMPANY, 420 West 7th St., Kansas City, MO 64105. Representative: William L. Krause (same address as applicant), (816)–471–6141. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167900, filed May 9, 1983. Applicant: RAY F. FOLEY AND LARRY T. TYSON d.b.a. NATIONWIDE BROKERS, P.O. Box 364, Harrisburg, NC 28075. Representative: Larry T. Tyson (same address as applicant) (704) 455–2139. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167901, filed May 9, 1983. Applicant: JAMES F. STEPP, JR., d.b.a. MT. ST. HELEN'S GUIDED TOURS, 11112 Lewis River Road, Ariel, WA 98603. Representative: Diana Crainé, P.O. Box 3405, Salem, OR 97302, (503) 371–3404. Transporting *passengers*, (1) in charter and special operations, between Portland, OR, and Mount St. Helen's, WA, and (2) over regular routes, between Portland, OR, and Mount St. Helen's WA, from Portland, OR, over Interstate Hwy 5 to Woodland, WA, then over WA Hwy 403 to Cougar, WA, then over forest service roads to Mount St. Helen's, WA, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide privately-funded charter and special transportation in (1) above, and seeks to serve a community not regularly served by an ICC-authorized motor common carrier of passengers in (2) above.

Please direct status inquiries about the following to Team 2 at (202) 275–7030.Volume No. OP2–233

Decided: May 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167692, filed April 28, 1983. Applicant: TRANSPORT LOGISTICS CORPORATION, 10049 Lampson Ave., Garden Grove, CA 92640. Representative: William D. Dailey (same address as applicant) (714) 534–2331 or 775–8060. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167753, filed May 3, 1983. Applicant: CYRIL C. GUY, 13325 Sundale Rd., Houston, TX 77038. Representative: Cyril C. Guy (same address as applicant) (713) 445–9554. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167772, filed May 2, 1983. Applicant: DONALD L. HUNSINGER d.b.a. HUNSINGER AND ASSOCIATES, 771 Delaware Ave., Hellertown, PA 18055. Representative: Donald L. Hunsinger (same address as applicant) (215) 838–9104. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP2–235

Decided: May 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell. Member Dowell not participating.

MC 70272 (Sub-34), filed May 5, 1983. Applicant: AMBASSADOR MOVING SYSTEMS, INC., 5115 Andard Ave., Baltimore, MD 21226. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 145222 (Sub-1), filed May 5, 1983. Applicant: GLADES MOTOR LINES, INC., 2709 Meadow Lane, P.O. Box 1623, Ft. Myers, FL 33902. Representative: W. J. Wilkinson (same address as applicant), (813) 334–4500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 167872, filed May 9, 1983. Applicant: WAYNE R. HUSK d.b.a. WAYNE HUSK TRUCKING, 5290 S.W. Chinook Ct., Lake Oswego, OR 97034. Representative: Wayne R. Husk (same address as applicant), 503–639–7996. Transporting, *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167893, filed May 9, 1983. Applicant: COMMAND SERVICES, INC., 5215 Hesperus Dr., Columbia, MD 21044. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, 202–785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167902, filed May 9, 1983. Applicant: WILLIAM T. EDWARDS d.b.a. B–BAR COMMODITIES, 523 E. 100 N., Payson, UT 84651. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, 801–531–1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167923, filed May 9, 1983. Applicant: EWING BROKERAGE, 6161 W. 29th Pl., Wheatridge, CO 80214. Representative: Delbert Ewing (same address as applicant) 303–429–4065. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP2–237

Decided: May 18, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 167813, filed May 5, 1983. Applicant: WEST MONROE TRAVEL SERVICE, INC., 611 No. 7th St., West Monroe, LA 71291. Representative: Dean B. McDuffie (same address as applicant) 318–323–0343. Transporting *passengers*.

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in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–309

Decided: May 19, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 146657 (Sub-4), filed May 10, 1983. Applicant: LEGAN BUS LINES, LTD., 3027 130th Ave., Edmonton, Alberta, Canada T5A 3M1. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *passengers*, in special and charter operations, between points in U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167956, filed May 11, 1983. Applicant: GLENN'S TRUCK BROKERAGE, INC., 3812 N. 21st St., St. Louis, MO 63107. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 5031, (515) 244–2329. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to Team 5 at (202) 275–7269.

Volume No. OP5–238

Decided: May 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 161439 (Sub-1), filed May 9, 1983. Applicant: McBROOM COACH, INC., Route 1, Box 351–A, Durham, NC 27705. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, 919–635–4711. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162388 (Sub-1), filed April 29, 1983. Applicant: ARIZONA BUS SALES, INC., d.b.a. ARIZONA CHARTER ENTERPRISES, 4028 South 36th St., Phoenix, AZ 85040. Representative: G. Brian Hunt (same address as applicant) (602) 243–7143. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167739, filed May 2, 1983. Applicant: TERRY L. COMPSON d.b.a. TERRY COMPSON'S DELIVERY SERVICE, Rural Rte. #1, Horace, ND 58047. Representative: Terry L. Compson (same address as applicant), 701–588–4653. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167838, filed May 6, 1983. Applicant: CHARLES D. BOYSEN, 20626 Marilyn Lane, Spring, TX 77373. Representative: Charles D. Boysen (same address as applicant), 713–353–0759. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167839, filed May 6, 1983. Applicant: VERNON HEHN, d.b.a. HEHN TRUCKING, R.R. 2, Box 207, Garretson, SD 57030. Representative: Vernon Hehn (same address as applicant), 605–339–9375. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167858, filed May 9, 1983. Applicant: SONOMA AIRPORTER, INC., 18495 Sonoma Hwy., P.O. Box 301, Sonoma, CA 95476. Representative: Warren I. Jaycox (same address as applicant), 707–938–4246. Transporting *passengers* in charter and special operations between points in CA, NV, AZ, OR, and WA.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167909, filed May 9, 1983. Applicant: ZELLER BUS SERVICE, INC., 806 Cedar St., Highland, IL 62249. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, 314–421–0845. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–240

Decided: May 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 167779, filed May 3, 1983. Applicant: KENNETH L. COMPTON, JR., d.b.a. KEN COMPTON JR. TRUCKING, 709 16th Ave. W., Ashland, WI 54806. Representative: Donna M. Compton (same address as applicant) (715) 682–6539. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13998 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–263

The following applications were filed in Region 4: Send Protest to: ICC,

Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–94TA), filed May 3, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods* between points in the U.S. (except AK and HI), under a continuing contract with W.R. Grace & Co. and its subsidiaries. Supporting shipper: W.R. Grace & Co., 1114 Avenue of the Americas, New York, NY 10036.

MC 14288 (Sub-4–1TA), filed May 5, 1983. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Douglas G. Brown, P.C., 913 South Sixth Street, Springfield, IL 62703. *Transportation of beer, wine, liquor of all kinds, and plastic containers from Louisville, KY, Owensboro, KY, Columbus, OH, St. Paul, MN, New York, NY, Trenton and Newark, NJ, New Orleans, LA, Memphis, TN to Kenosha, WI; plastic conainers from Franklin, IN to Kenosha, WI and Racine, WI; soft drinks, flavoring extracts or syrups and Holland, MI to Racine, WI.* There are Five Supporting Shippers.

MC 153400 (Sub-4–4TA), filed May 5, 1983. Applicant: C.S.I. TRUCKING, INC., 15430 58th Street North, Stillwater, MN 55082. Representative: Philip W. Getts, PEPIN, DAYTON, HERMAN, GRAHAM & GETTS, 930 Lumber Exchange Building, 10 South Fifth Street, Minneapolis, MN 55402, 612/339–7633. Transporting *fertilizer and fertilizer products* from various points on the international boundary between the U.S. (MN and ND) and Canada (Manitoba and Saskatchewan) to points in IA, MN, ND, SD, and WI and between points in IA, MN, ND, SD and WI. Supporting shipper: Howe, Inc., 4821 Xerxes Ave., N. Minneapolis, MN.

MC 154716 (Sub-4–6TA), filed May 3, 1983. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Road, Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525. Contract; Regular: *general commodities* (except Classes A and B explosives, household goods and commodities in bulk) between Shelby County, TN on the one hand, and, on the other, points in LA, AR, KY, MO, IL and MS under continuing contract with U.S. Freight Forwarder Co., Inc. of Memphis, TN. Supporting shipper: U.S. Freight Forwarder Co., Inc., P.O. Box 161031, Old Tower Bldg., Memphis International Airport, Memphis, TN 38116.

MC 154769 (Sub-4–2TA), filed May 5, 1983. Applicant: ABRAHAMSON EXPRESS, INC., Route 3, Box 43, Waupaca, WI 54981. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086. *Paper and paper products, and materials, equipment and supplies used in the production and distribution of paper and paper products* between the facilities of Filter Materials, Inc., at or near Waupaca, WI on the one hand, and, on the other hand, points in GA, MA, MI, NJ, NC, PA, SC, and TN. An underlying ETA seeks 120 day authority. Supporting shipper: Filter Materials, Inc., 1401 Ware Street, Waupaca, WI 54981.

MC 156069 (Sub-4–6TA), filed May 6, 1983. Applicant: TRANSITALL SERVICES, INC., Two North Riverside Plaza, Suite 1402, Chicago, IL 60606. Representative: Anthony E. Young, Ltd., 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Contract; Irregular: Such commodities as are used or dealt in by wholesale, retail and chain grocery and food business houses, from points in IL, IN, OH and WI, to Grand Rapids and Plymouth, MI under continuing contracts with Spartan Stores, Inc. of Grand Rapids, MI. Supporting shipper: Spartan Stores, Inc., 850 76th Street Southwest, Grand Rapids, MI 49508.

MC 160670 (Sub-4–5TA) filed May 3, 1983. Applicant: HILLS ENTERPRISES OF SOUTHWESTERN MICHIGAN, INC., 6447 Niles Road, St. Joseph, MI 49085. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *Aluminum alloy ingots* between Berrien County, MI, on the one hand, and, on the other, points in WI, IL, VA, OH, PA, CT, and MA, under continuing contract(s) with Alreco Metals, Incorporated, of Benton Harbor, MI. An underlying ETA seeks 120-day authority. Supporting shipper: Alreco Metals, Incorporated, 900 Alreco Road, P.O. Box 1124, Benton Harbor, MI 49022.

MC 167109 (Sub-4–2TA), filed May 6, 1983. Applicant: TEE CEE TRANSPORT, 3641 West 115th St, Chicago, IL 60655. Representative: John R. Frondle, R.R. 1, Box 19, Irma, WI 54442. *Contract* irregular *General Commodities* (except Classes A&B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts(s) with Van Brode Industries, Inc. of Clinton, MA. Supporting shipper: Van Brode Industries, Inc., 56 Sterling Street, Clinton, MA 01510.

MC 167734 (Sub-4–1TA), filed May 3, 1983. Applicant: ALLIANCE TRANSPORTATION SERVICES, INC., Box 174, West Bend, WI 53095. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Common; irregular: *metal and related products* between Chicago, IL and points within IA on the one hand, and, on the other hand, points within IL, NY, and WI. Supporting shipper: Amtex Steel, Inc., 3720 South Albany Avenue, Chicago, IL 60630.

MC 167761 (Sub-4–1TA), filed May 3, 1983. Applicant: ATHERTON SERVICE, INC., Thomson, IL 61285. Representative: David E. Murray, 202 East Fifth St., Sterling, IL 61081. *Raw materials used in the manufacture of foodstuffs; Crystalline fructose in containers and bags* between all points in IL, CA, TX, OK, NY, NJ, OH, MA, MI, WI, IA and ID. Supporting shippers: American Xyrofin, Inc., P.O. Box 488, Thomson, IL 61285.

MC 167825 (Sub-4–1TA), filed May 5, 1983. Applicant: ART KENAH d.b.a. CHARIOT CARTAGE COMPANY, 1201 North Woodbine, Oak Park, IL 60302. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. *Chemicals*, between the Chicago Commercial Zone on the one hand and on the other, IA, WI, and IN. Supporting shipper Tamms Ind. P.O. "C" Itasca, IL 60143.

MC 167826 (Sub-4–1TA), filed May 5, 1983. Applicant: TRANSPORT BROKERS INC., 12314 Brookshire Pky., Carmel, IN 46032. Representative: Rudolph E. Wetzel, 12314 Brookshire Pky., Carmel, IN 46032. Contract, irregular: *Plastic materials*, from Terre Haute IN and Indianapolis, IN to all points in the U.S. excluding AK and HI. Supporting shipper: Polymar Industries, Inc., Terre Haute, IN.

MC 167827 (Sub-4–1TA), filed May 5, 1983. Applicant: S. & D. TRUCKING, INC., P.O. Box 408 Spearfish, SD 57783. Representative: J. Maurice Andren 1734 Sheridan Lake Road, Rapid City, SD 57701. *Lumber and Lumber Products*, treated or untreated between Eau Claire and Chippewa counties, WI on the one hand, and on the other hand, points in SD, WY, MN, IA and ND. An ETA application for 120 days has been filed. Supporting shipper: Midwest Distributors, Division of Menard, Inc., Route 2, Box 121, Eau Claire, WI 54701.

MC 167883 (Sub-4–1TA), filed May 6, 1983. Applicant: LAKEHEAD CONSTRUCTORS, INC., 2916 Hill Ave, P.O. Box 698, Superior, WI 54880. Representative: Dale Lunde, 2916 Hill Ave P.O. Box 698, Superior, WI 54880. Contract; Irregular: *Industrial and contractor's equipment and/or machinery* from Duluth, MN and Superior, WI to various points in MN, WI, IA, SD, ND, IL, OH, IN, WY, UT.

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and MI, under continuing contract(s) with Road Machinery and Supplies Company, National Iron Co., Bathke Company and U.S. Steel Great Lakes Fleet of Duluth, MN and Barko Hydraulics, Inc. of Superior, WI. Supporting shippers: There are five (5).

MC 6992 (Sub-4–11TA), filed May 10, 1983. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (same address as applicant). Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with FMC Corporation for 270 days. Supporting shipper: FMC Corporation, 200 E. Randolph Drive, Chicago, IL 60601.

MC 15735 (Sub-4–95TA), filed May 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph R. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Uninterruptable Computer Power Supply Units and such commodities as are dealt in and utilized by manufacturers and distributors thereof* between points in Orange County, CA., on the one hand, and, on the other, points in the U.S., (Except AK & HI), under a continuing contract(s) with Emergency Power Engineering. Supporting shipper: Emergency Power Engineering, 3580 Cadillac Avenue, Costa Mesa, CA 92626.

MC 108937 (Sub–4–1TA), filed May 10, 1983. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113 Representative: Jerry E. Hess, General Counsel, P.O. Box 43640, St. Paul, MN 55164 Contract irregular. *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in the U.S. under continuing contracts with the J. C. Penney Company. Supporting shipper: J. C. Penney Company Incorporated, 1301 Avenue of the Americas, New York, NY 10019.

MC 125543 (Sub–4–2TA) filed May 10, 1983. Applicant: PERISHABLE SERVICES, INC., 770 North Springdale Road, Waukesha, WI 53186. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Paper and paper products from Cloquet and Brainerd, MN and Escanaba, MI to all points in WI. An underlying ETA seeks 120 day authority. Supporting shipper: Reliable Paper Company, 3185 North 126th Street, Brookfield, WI 53005.

MC 146848 (Sub–4–1TA), filed May 10, 1983. Applicant: B & Z TRUCKING COMPANY, INC., Route 3, Markesan, WI 53946. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Metal, metal products, and related articles* between Markesan, WI, on the one hand, and, on the other hand, Cleveland, OH. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Precision Metalsmiths, Inc., P.O. Box L, Markesan, WI 53946.

MC 163896 (Sub–4–2TA), filed May 10, 1983. Applicant: S.D.H. CORPORATION, U.S. Route 40, West Terre Haute, IN 47885. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue, N.W., Suite 500, Washington, D.C. 20006. *Scrap paper*, between points in IN and IL. Supporting shipper: I. Erlichman Company, Inc., 3213 S. Washington Street, Peoria, IL 61602.

MC 166020 (Sub–4–1TA), filed May 10, 1983. Applicant: RIVER CITY TRANSPORT, DIVISION OF ALLIED BLACKTOP CORPORATION, Box 356, 915 Short St., Eau Claire, WI 54702. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Cement* from points in the Minneapolis-St. Paul, MN commercial zone to points in Barron, Chippewa, Dunn and Eau Claire counties, WI. Underlying ETA seeks 120 days authority. Supporting shipper: American Materials Corporation, #1 American Blvd., P.O. Box 388, Eau Claire, WI 54701.

MC 167942 (Sub–4–1TA), filed May 10, 1983. Applicant: CYCLE SHUTTLE SERVICE, 1423 Churchill St., Waupaca, WI 54981. Representative: Brian C. Whittow (same as above). Transportation equipment, specifically, crated motorcycles, between points in Cook County, IL, on the one hand, and, on the other, points in Marathon, Langlade, Washington, and Waupaca Counties, WI. There are 5 supporting shippers.

MC 167954 (Sub–4–1TA), filed May 10, 1983. Applicant: TANDEM CARTAGE, INC., 2916 Fourth Street, Peru, IL 61354. Representative: Edward D. McNamara, Jr., 907 South Fourth St., P.O. Box 5039, Springfield, IL 62705. *Silicon carbide and rock* between Hennepin, IL, on the one hand, and points in the States of MO, KY, MI, MS, NY, OH, PA, TN, WI, & IN, on the other hand. An underlying ETA seeks 180 days' authority. Supporting shipper: ESK Corporation, P.O. Box 412, Hennepin, IL 61327.

MC 15735 (Sub–4–96TA), filed May 11, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods* between points in the U.S. (except AK and HI), under a continuing contract(s) with Kerr-McGee Corporation and its subsidiaries of Oklahoma City, OK. Supporting shipper: Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

MC 15735 (Sub–4–97TA), filed May 11, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods* between points in the U.S. (except AK and HI), under a continuing contract(s) with U A L, Inc., of Elk Grove Township, IL and its subsidiaries. Supporting shipper: U A L, Inc., 1200 Algonquin Rd., Elk Grove Township, IL 60007.

MC 138550 (Sub–4–1TA), filed May 11, 1983. Applicant: W. SMITH CARTAGE CO., INC., 7013 Sands Road, Crystal Lake, IL 60014. Representative: James R. Madler, 120 W. Madison Street, Rm. 1308, Chicago, IL 60602. Transporting: *Filters* between Fox River Grove, IL and Birmingham, AL and Atlanta, GA. Supporting shipper: Dana Manufacturing, Inc., 204 Northwest Highway, Fox River Grove, IL 60021.

MC 160596 (Sub–4–1TA), filed May 11, 1983. Applicant: NANCY BAER TRUCKING, INC., 880 Conrad Ave., Jasper, IN 47546. Representative: Nancy Baer, 880 Conrad Ave., Jasper, IN 47546. *Contract carrier:* irregular routes: *Furniture group (in packages)*, between Huntingburg, IN and points in and East of U.S. Route 85, under continuing contract(s) with E F Executive Furniture of Huntingburg, IN. Supporting shipper: E F Executive Furniture, P.O. Box 167, Huntingburg, IN 47542.

MC 160596 (Sub–4–2TA), filed May 11, 1983. Applicant: NANCY BAER TRUCKING, INC., 880 Conrad Ave., Jasper, IN 47546. Representative: Nancy Baer, 880 Conrad Ave., Jasper, IN 47546. *Contract carrier:* irregular routes: *Plumbers' goods*, between points in Vanderburgh and Spencer Counties in IN and points in the East of U.S. Route 85, under continuing contract(s) with Peerless Pottery, Inc. of Evansville, IN. Supporting shipper: Peerless Pottery, Inc., 101 Plaza East, Evansville, IN.

MC 167633 (Sub–4–1TA), filed May 11, 1983. Applicant: TRANS-AMERICAN STORAGE, INC., 7540 South Western Avenue, Chicago, IL 60620. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Households goods*, as defined, between points in the U.S. (except AK, HI, and VT). Underlying ETA for 120 days pending. Supporting shipper: There are three.

MC 167792 (Sub–4–1TA), filed May 5, 1983. Applicant: GERALD F. WILLIAMS, d.b.a. JERRY WILLIAMS TRUCKING, Route 1, Box 12, Arena, WI 53503. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Cheese from the facilities of Wisconsin's Pride Cheese, Inc. at or near Soldiers Grove, WI to Phoenix and Tuscon, AZ and El Paso, TX and points in their respective commerical zones. An underlying ETA seeks 120 days authority. Supporting shipper: Wisconsin's Pride Cheese, Inc., Route 1, Soldiers Grove, WI 54655.

MC 167955 (Sub–4–1TA), filed May 11, 1983. Applicant: H. J. MARTENS, INC., P.O. Box 1, Junction City, WI 54443. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Fertilizer* from points in the township of Rosemount, Dakota County, MN and Winona, MN to points in Clark, Forest, Langlade, Portage, Shawano, Taylor, Waupaca, Waushara and Wood Counties, WI. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Antigo Co-op Oil Association, 104 Dorr Street, Antigo, WI 54409.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13969 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 39150 et al.] [1]

Motor Carriers; Conalco Contract Carrier, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: The four motor contract carriers named in the footnote below have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due June 9, 1983. The sought relief will become final 15 days after the close of the comment period unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

[1] This proceeding embraces No. 39150, Conalco Contract Carrier, inc., No. 39151, Gabor Trucking, Inc., No. 39153, Gregory James Treat, and No. 39154, Olen Blankinship d.b.a. Blankinship Transportation.

ADDRESS: Send an original and 15 copies of comments to Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Paul Schach, (202) 275–7885 or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 in the D.C. metropolitan area or toll free (800) 424–5403.

Decided: May 16, 1983.

By the Commission, Division 2 Commissioners Gradison, Taylor and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13972 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–6 (Sub-142]

Rail Carriers; Burlington Northern Railroad Company—Abandonment—in Peoria and Stark Counties, IL; Notice of Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 26.21-mile rail line between milepost 44.21 near Elmwood, IL and milepost 18.00 at the end of the line near Wyoming, Il, in Peoria and Stark Counties, IL. The abandonment certificate will become effective 30 days after the publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period. information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1115.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13971 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30162]

Rail Carriers; Burlington Northern Railroad Company and the Denver and Rio Grande Western Railroad Company—Exemption—Purchase and Trackage Rights

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 *et seq.* the proposed (1) purchase by The Denver and Rio Grande Western Railroad Company (DRG) from Burlington Northern Railroad Company (BN) of about 4,100 feet of track located between DRG's North Yard in Denver, CO, and the Denver Union Depot, (2) acquisition by BN from DRG of trackage rights over the track described in (1) above, and (3) acquisition by DRG from BN of trackage rights over BN track that lies parallel to the track described in (1) above.

DATES: This exemption will be effective on June 24, 1983. Petitions to stay must be filed by June 6, 1983 and petitions for reconsideration must be filed by June 14, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30162 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' respresentatives:

Peter M. Lee, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101

John S. Walker, The Denver and Rio Grande Western, Railroad Company, P.O. Box 5482, Denver, CO 80217

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is continued in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

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By the Commission, Chairman Taylor, Vice Chairman Sterrett Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13974 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30172]

Rail Carriers; Prairie Trunk Railway—Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of $6 million in preferred stock and $4 million in secured notes by Prairie Trunk Railway to finance its rail operations.

DATES: This exemption will be effective on June 24, 1983. Petitions to stay the effectiveness of this decision must be filed by June 6, 1983, and petitions for reconsideration must be filed by June 14, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30172 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Fritz R. Kahn, Suite 1100, 1660 L Street, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

Decided: May 17, 1983.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-13973 Filed 5-24-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities, NEAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 1100 Pennsylvanie Avenue, N.W., Washington, D.C. 20506.

DATE: June 2, 1983
TIME: 9:00 a.m. to 5:00 p.m.
ROOM: 315
PROGRAM: This meeting will review applications submitted for Central Disciplines/Promoting Excellence in a Field Program, submitted for Education for projects beginning after October 1, 1983.

DATE: June 3, 1983
TIME: 9:00 a.m. to 5:00 p.m.
ROOM: 315
PROGRAM: This meeting will review applications submitted for Central Disciplines/Fostering Coherence Throughout an Institution Program, submitted for Education for projects beginning after October 1, 1983.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-14036 Filed 5-24-83; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published April 27, 1983 (48 FR 19100). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting desinated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the June 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Coimmittee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Electric Systems*, May 26, 1983, Washington, DC. The Subcommittee will discuss the generic implications of the scram breaker failures at the Salem Nuclear Power Plant. Notice of this meeting was published May 12, 1983.

**Joint Metal Components and Reactor Fuels*, May 26-27, 1983, Washington, DC. The Subcommittees will discuss BWR pipe cracking phenomena and modifications, turbine disk cracking, reactor coolant pump seal failures, fuel cladding degradation, and NRC Action Plan on bolting integrity. Notice of this meeting was published May 9, 1983.

**Anticipated Transient Without Scram (ATWS)*, May 27, 1983, Washington, DC. The Subcommittee will continue review of the proposed Rule: "Reduction of Risk from Anticipated Transient Without Scram Events for Light Water Cooled Reactors." Notice of this meeting was published May 9, 1983.

**Quality Assurance During Construction*, June 1, 1983, Washington, DC. The Subcommittee will be brief by the NRC Staff on its quality assurance initiatives, including those related to the "Ford Amendment" of Pub. L. 97-415. The Subcommittee will also review the priorities given to generic items related to construction quality assurance in "A Prioritization of Generic Safety Issues" (NUREG-0933). Also, the Subcommittee will discuss, with representatives of the Institute of Nuclear Power Operations (INPO), INPO's efforts related to construction quality assurance (e.g., Construction Projects Evaluation Program).

**Qualification Program for Safety-Related Equipment*, June 7, 1983, Washington, DC. The Subcommittee will review the NRC Research Programs on Equipment Qualification and Plant Aging for the ACRS Report to the Commission on the FY 1985 and 1986 research budget.

**Plant Features Important to Safety*, June 7, 1983, Washington, DC. The Subcommittee will obtain from the NRC Staff a status report and program plan for equipment qualification and classification systems dealing with both mechanical and electrical components. New initiatives in the quality assurance area such as a graded approach to quality assurance will be explored.

**Advanced Reactors*, June 7, 1983, Washington, DC. The Subcommittee will review the NRC Research Programs on Advanced Reactors for the ACRS Report to the Commission on the FY 1985 and 1986 research budget.

**Safety Research Program*, June 8, 1983, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY 1985 and 1986, and also a draft ACRS report to the Commission on this matter.

**Generic Items*, June 8, 1983, Washington, DC—CANCELLED.

**Metal Components*, June 14-15, 1983, Oak Ridge, TN. On June 14, the Heavy Section Steel Technology (HSST) research site will be visited and the mid-year review of the HSST program will be discussed. On June 15, the Subcommittee will review the status of the pressurized thermal shock (PTS) program.

**Committee Activities*, June 22, 1983, La Jolla, CA. The Subcommittee will discuss the future scope and direction of ACRS activities.

**Joint Reactor Radiological Effects (RE)/Site Evaluation (SE)/Waste Management (WM)*, Date to be determined (June, Tentative), Washington, DC. The Subcommittees will review the NRC proposed Safety Research Program and Budget for RE/SE/WM for FY 1985 and 1986.

**Metal Components*, Date to be determined (June, Tentative), Washington, DC. The Subcommittee will review the NRC position on generic recommendations for steam generator tube integrity and multiple tube ruptures.

**Metal Components*, Date to be determined (June-July, Tentative), Washington, DC. The Subcommittee will review the NRC position on integrity of steel bolts.

**Systematic Evaluation Program*, July 20 and 21, 1983, Jackson, MI. The Subcommittee will discuss with Consumers Power Company the systematic evaluation program for the Big Rock Point Plant and visit the plant site.

**Midland Plant Unites 1 and 2*, Date to be determined (July, Tentative), Washington, DC. The Subcommittee will review Consumers Power Company's (CPCo) plan for an audit of plant quality at Midland Plant Units 1 and 2. In addition, representatives of CPCo will report on design and construction problems at Midland, their disposition, and the overall effectiveness of the effort to assure appropriate plant quality. The Committee will be briefed on CPCo's Construction Completion Plan.

**Human Factors*, Date to be determined (July-August, Tentative), Washington, DC. The Subcommittee will review the question of what qualifications would be desirable for members of a nuclear power plant operating staff.

**Decay Heat Removal Systems*, August 24, 1983 (Tentative), Washington, DC. The Subcommittee will discuss the Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves on the Combustion Engineering power reactor systems.

**Qualification Program for Safety-Related Equipment*, Date to be determined (August, Tentative), Washington, DC. The Subcommittee will discuss Regulatory Guide 1.89, "Qualification of Electrical Equipment Important to Safety in Nuclear Power Plants."

ACRS Full Committee Meeting

June 9-11, 1983: Items are *tentatively* scheduled

**A. GESSAR-II—Proposed FDA for this standardized nuclear plant.*

**B. Boiling Water Reactors*—Integrity of primary system piping.

**C. Systematic Evaluation Program Phase III*—Briefing by NRC Staff.

**D. Nuclear Reliability Evaluation Program*—Briefing by NRC Staff.

**E. Systems Interaction Program*—Briefing by NRC Staff.

**F. Generic Implications of Salem ATWS Event*—NRC Staff briefing regarding generic implications of Salem circuit breaker malfunction.

**G. Severe Accident Policy*—NRC Staff briefing on status of proposed NRC policy on consideration of severe accidents in nuclear regulation.

**H. Prioritization of Unresolved Generic Issues*—The members will discuss and provide comments to NRC regarding proposed priorities for unresolved generic issues.

**I. Integrity of Primary Coolant System Piping*—The Committee will consider proposed changes in use of the double-ended pipe break as the design basis accident.

**J. Boiling Water Reactors*—The Committee will consider proposed changes in ECCS Evaluation Models for BWRs.

**K. Regionalization of NRC Activities*—The Committee will continue its discussion of plans to regionalize NRC Staff activities.

**L. Reactor Safety Research Program and Budget*—The Committee will prepare its annual report to NRC regarding the NRC safety research program and budget.

**M. Station Blackout*—Discuss proposed NRC plan to resolve USI-44 Station Blackout.

**N. ACRS Subcommittee Reports*—Designated Subcommittees will provide reports of current safety-related activities including designation of plant features important to safety, human factors considerations in nuclear power plant regulation, and quality assurance considerations in the construction of nuclear plants.

July 7-9, 1983—Agenda to be announced.

August 4-6, 1983—Agenda to be announced.

Dated: May 19, 1983.

John C. Hoyle

Advisory Committee Management Officer.

[FR Doc. 83-14052 Filed 5-24-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; 277th Meeting; Correction

A session of the ACRS Meeting on May 12 concerning Regionalization of NRC Activities was indicated as closed

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to the public in the May 5, 1983, **Federal Register** Notice (FR 48 20309). This was conducted as an open session with members of the public in attendance.

Dated: May 19, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-14063 Filed 5-24-83; 8:45 am]

BILLING CODE 7590-01-M

Application for Licenses to Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the receipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 16th day of May at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

EXPORTS/IMPORTS

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Braunkohle Transport, May 10, 1983, May 12, 1983, tSNM83011.	4.0 percent enriched uranium.	500,000	20,000	For use in LWR Program	From various countries.
Exxon Nuclear Co., May 6, 1983, May 12, 1983 XSNM02044.	4.12 percent enriched uranium.	76,762	3,163	Two Reloads for Kuosheng II	Taiwan.
Westinghouse Electric, May 11, 1983, May 13, 1983, XSNM01067(01).	3.55 percent enriched uranium.	7,494 Additional	1,336 Additional	Increased material for KRSKO	Yugoslavia
Mitsui & Co., May 11,1983, May 13, 1983, XSNM02045.	3.95 percent enriched uranium.	26,866	816	Reload Fukushima I-3	Japan.

[FR Doc. 83-14064 Filed 5-24-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NUREG-0737, TMI Action Plan.

3. The form number if applicable: Not Applicable.

4. How often the collection is required: Nonrecurring.

5. Who will be required or asked to report: Nuclear Power Plant Licensees.

6. An estimate of the number of responses: 70.

7. An estimate of the total number of hours need to complete the requirement or request: 1.04 million hours.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not Applicable.

9. Abstract: NUREG-0737 provides requirements imposed on licensees as a result of TMI accident and requires licensees to report on progress to date. Also requires licenseęs to implement some short-term recommendations based on the experience from the accident at TMI and the official studies and investigation.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 19th day of May 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-14067 Filed 5-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co. (Turkey Point Plant, Unit Nos. 3 and 4); Revised Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power level not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of

nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) for items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Florida Power and Light Company responded to Generic Letter 82-05 by letters dated April 6, April 27, June 9, July 9, August 12, November 15, 1982, January 28, February 10 and 28, 1983; Florida Power and Light Company responded to Generic Letter 82-10, by letters dated July 2, July 22, and October 12, 1982. In these submittals, Florida Power and Light Company confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. On March 14, 1983, the Commission issued an Order confirming the licensee's commitments to implement certain Post-TMI related items set forth in NUREG-0737. By letters dated March 31 and April 11, 1983, Florida Power and Light Company requested that the schedules for completion of Items II.F.1 (2) and (6) be revised. The staff's evaluation of the licensee's delays for the remaining items is provided herein:

II.F.1 (2) and (6) Post-Accident Monitoring

* * * * *

Iodine Particulate Monitoring—The systems have experienced severe problems due to moisture accumulation. New moisture traps were installed in Unit 3 and preoperational tests were performed. Upon successful testing, the Unit 4 system was to be modified. However, the preoperational tests were unsuccessful and the completion dates of March 1, 1983 for Unit 3 and September 15, 1983 for Unit 4 cannot be met.

The licensee is pursuing potential solutions and resolution of the moisture problem with the equipment vendor. To allow for the necessary design changes and procurement of equipment, the licensee has committed to make the required modifications and have the systems operable by May 15, 1984 for both Units 3 and 4. In the interim, the capability exists to obtain grab samples.

* * * * *

(6) Containment Hydrogen Monitor—Both trains in Unit 4 and one train in Unit 3 were completed and preoperational tests performed. One train in Unit 4 failed the preoperational tests. The other train in Unit 3 is a one-inch pipe compared to ⅜" for the other trains. A temperature of 300°F is necessary for successful operation of the systems. Heat tracing appears to be a problem for the failed train in Unit 4 and the train with the larger pipe in Unit 3. In order to achieve the necessary temperature, the inoperable trains will require design modifications and the completion date of March 31, 1983 for the one train in Unit 4 cannot be met.

The licensee has contacted the equipment vendor to seek assistance in resolving the heat tracing problem for the inoperable trains. To allow for design changes and procurement of equipment the licensee has committed to have both remaining trains operable by May 15, 1984. In the interim, each unit has one operable train.

We find, based on the above evaluation that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted above, interim compensatory measures have been provided.

IV

Accordingly, pursuant to Sections 103 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that the licensee shall:

Implement and maintain items II.F.1(2) and II.F.1(6) described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon expiration of the time within which a hearing may be requested.

Dated at Bethesda, Maryland, this 11th day of May 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

[Turkey Point Units 3 and 4]

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)[1]
I.A.3.1	Simulator Exams	Superseded by Generic Ltr. 82-10.	Include simulator exams in licensing examinations	Complete.

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ATTACHMENT 1.—LICENSEE COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

[Turkey Point Units 3 and 4]

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
II.B.2	Plant shielding	Jan.1, 1982	Modify facility to provide access to vital areas under accident conditions.	Unit 3—Refueling outage (Sept. 1983); Unit 4—Steam Generator Repair (SGR) Outage (Oct. 1982–June 1983).
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	Units 3 and 4—Mar. 1984
II.B.4	Training for mitigating core damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.1.2	Aux FW indication and flow indicator.	July 1, 1981	Modify instrumentation to level of safety grade	Unit 3—refig. outage (Sept. 1983); Unit 4—SGR outage (OCt(ct. 1982–June 1983).
II.E.4.2	Containment isolation dependability.	do	Part 5—lower containment pressure setpoint to level compatible with normal operation.	Complete.
II.E.4.2	Containment isolation dependability.	do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	June 30, 1983.
		do	(2) Provide capability for effluent monitoring of iodine	May 15, 1984.
		do	(3) Install in-containment radiation-level monitor	Complete.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	One train operable for each unit Other trains operable May 15, 1984.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit overtimeOct. 1, 1982 per General Letter No. 82-12 dated June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by General Letter No. 82-12, dated June 15, 1982.	complete	
I.A.1.3.2	Minimum shift crew [2]	To be superseded by proposed rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be determined when final rule is issued.
I.C.1	Revise emergency procedures [2]	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
II.D.1.2	RV and SV test programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.D.1.3	Block valve test program	do	Submit report of results of test program	Do.
II.K.3.30 and 31	SBLOCA Analysis [2]	1 year after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing levels for emergency situations [2]	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
III.A.1.2	Upgrade emergency support facilities [2]	do	do	Do.
III.A.2.2	Meteorological data [2]	do	do	Do.
III.D.3.4	Control room habitability	To be determined by licensee	Modify facility as identified by licensee study	Unit 3 and 4—July 1983.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Conformatory Order.

[FR Doc. 83-14055 Filed 5-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-289 and 50-320]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Units 1 and 2); Request for Action

Notice is hereby given that by its letter dated March 23, 1983, the Three Mile Island Public Interest Resource Center called for the Nuclear Regulatory Commission to immediately halt all work at the Three Mile Island Nuclear Station, Units 1 and 2, with the exception of maintenance necessary for safety. The relief requested is based upon the allegations of Richard D. Parks, a senior startup engineer at Three Mile Island, Unit 2. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken on the request within a reasonable time. Copies of the request are available for inspection in the Commission's Public Document Room, located at 1717 H Street, N.W., Washington D.C., 20555, and in the local Public Document Room for the Three Mile Island Nuclear Station, located in the Government Publications Section of the State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pa., 17126.

Dated at Bethesda, Maryland, this 17th day of May 1983.

For the Nuclear Regulatory Commission.
Harold R. Denton,
Director Office of Nuclear Reactor Regulation.

[FR Doc. 83-14056 Filed 5-24-83; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Motion for Waiver of Section 54(f)(2) of the Commission's Rules in the Next Omnibus Rate Case Filing

May 19, 1983.

On May 17, 1983, the United States Postal Service filed its motion for waiver of Rule 54(f)(2) of the Commission's rules of practice, in the next general rate proceeding.

In pertinent part, Rule 54(f)(2) provides that, in formal requests for changes in rates and fees, the Service must set forth its estimate, by function, of total Postal Service accrued costs for a fiscal year "[B]eginning not more than 12 months subsequent to the filing date of the formal request."

In its motion, the Service indicates that this requirement precludes the use of a future test year in a general rate case, other than when the request for a recommended decision is filed within the first few weeks of a fiscal year. The Service concludes that application of the fiscal year requirement may result in new rates not being implemented until a portion of the test year has expired. This would result in the test year not being truly prospective "and hence not representative of the period during which the rates would be in effect."

The Service states that, in order to ensure a representative test year, it desires a test year in its next general rate filing on the basis of a hybrid year consisting of four consecutive postal quarters.

Prior to the last general rate case proceeding before this Commission, the Postal Service filed a similar request for waiver of the fiscal year requirement. In Order No. 324, the Commission granted this request subject to certain conditions. Specifically, the Commission required the Postal Service to provide data which would allow the parties and the Commission to replicate from basic source data, the Postal Service's estimates of costs, revenues, volumes, etc., for the interim as well as the test year periods. Further, Order No. 324 required a reconciliation between actual and estimated results for the prior test year on the basis of the hybrid test year that was used in the most recent omnibus rate case in this instance, Docket No. R80-1.

Finally, in Order No. 324, the Commission indicated that it expected the Postal Service to reapply for a waiver if a rate case was not actually filed within six months of the grant of the waiver request.

The Commission hereby requests all interested parties to file written responses to the Service's motion. These comments may address the feasibility of imposing conditions on granting the waiver similar to those adopted in Docket No. R80-1. All responses and comments should be filed with the Commission on or before June 2, 1983.

By the Commission.
Cyril J. Pittack,
Acting Secretary.

[FR Doc. 83-13955 Filed 5-24-83; 8:45 am]
BILLING CODE 7715-01-M

[Docket No. A83-21; Order No. 500]

Cropper, Kentucky 40015, Jimmie K. Cox, Petitioner; Order of Filing of Appeal

May 20, 1983.

On May 17, 1983, the Commission received an appeal letter from Jimmie K. Cox (hereinafter "Petitioner"), concerning the United States Postal Service's decision to close the Cropper, Kentucky post office. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)).[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2] The petition makes an appeal that the Cropper post office be kept open.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Did the Postal Service properly consider the effect on the community under 39 U.S.C. 404(b)(2)(A)?

2. Whether the Postal Service gave adequate consideration to the effect-on-service factors under 39 U.S.C. 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issues described above and/or any further issues of law disclosed by the detemination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed.

The Commission Orders

(A) The appeal letter from Jimmie K. Cox of the Cropper post office be accepted as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before June 1, 1983, pursuant to the Commission's rules of practice (39 CFR 3001.113(a)).

By the Commission.
Cyril J. Pittack,
Acting Secretary.

Docket No. A83-21, Cropper, Kentucky 40015.
May 17, 1983—Filing of Petition

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-13. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*
[2] 39 U.S.C. 404(b)(1).
[3] 39 U.S.C. 101(b).
[4] 42 FR 58079-85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).
[5] In the Matter of Gresham, S.C., Route #1, Docket No. A76-1 (May 11, 1976).

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May 20, 1983—Notice and Order of Filing of Appeal
June 1, 1983—Filing of Record by Postal Service (*see* 39 CFR 3001.113(a))
June 6, 1983—Last day for filing of petitions to intervene (*see* 39 CFR 3001.111(b))
June 16, 1983—Petitioner's Initial Brief (*see* 39 CFR 3001.115(a))
July 1, 1983—Postal Service Answering Brief (*see* 39 CFR 3001.115(b))
July 18, 1983—(1) Petitioner's Reply Brief should petitioner choose to file one (*see* 39 CFR 3001.115(c)) (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
September 14, 1983—Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5))

[FR Doc. 83-14047 Filed 5-24-83; 8:45 am]
BILLING CODE 7715-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Employee's Certification.
(2) Form(s) submitted: G–346.
(3) Type of request: New collection.
(4) Frequency of use: On occasion.
(5) Respondents: Individuals or households.
(6) Annual responses: 21,600.
(7) Annual reporting hours: 1,800.
(8) Collection description: Under section 2(c)(3) of the RR Act, spouses must meet the "living with" requirement to obtain a spouse annuity or Medicare benefits. The collection obtains from the employee certification that the requirements are met.

(1) Collection title: Vocational Report.
(2) Form(s) submitted: G–251.
(3) Type of request: Existing collection in use without an OMB control number.
(4) Frequency of use: On occasion.
(5) Respondents: Individuals or households.
(6) Annual responses: 7,850.
(7) Annual reporting hours: 3,990.
(8) Collection description: Section 2 of the RRA provides for payment of disability annuities to qualified employees and widow(er)s. The collection obtains the information needed to determine ability to work.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,
Director of Planning and Information Management.

[FR Doc. 83-14010 Filed 5-24-83; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[70–6845; Rel. No. 22945]

The Columbia Gas System, Inc.; Proposed Issuance and Sale of Fixed Rate Preferred Stock

May 18, 1983.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington Del. 19807, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

By order in this proceeding dated March 22, 1983 (HCAR No. 22886), Columbia was authorized to issue and sell 2,000,000 shares of its Adjustable Rate Cumulative Preferred Stock, Series C, par value $50 per share. Columbia now proposes to issue and sell during 1983 no more than 2,000,000 shares of (1) said adjustable rate preferred stock previously authorized, or (2) its——% Cumulative Preferred Stock, Series——, par value $50 per share ("fixed rate preferred stock"), or (3) any combination of adjustable and fixed rate preferred stock in one or more issues. Columbia will employ alternative competitive bidding procedures with respect to any fixed rate preferred stock in accordance with the Commission's statement of policy set forth in HCAR No. 22623 (September 2, 1982). It is stated that since March 22, 1983, the market for adjustable rate preferred stock has weakened materially and that long-term rates for debt and fixed rate preferred stock have declined.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by June 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-13989 Filed 5-24-83; 8:45 am]
BILLING CODE 8010-01-M

[File No. 1–8122]

Grubb & Ellis Co.; Application To Withdraw From Listing and Registration

May 18, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock ($1 par value) of Grubb & Ellis Company ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on April 13, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before June 9, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-13990 Filed 5-24-83; 8:45 am]
BILLING CODE 8010-01-M

[70–6744; Rel No. 22946]

Michigan Power Co.; Proposed Issuance and Sale of Notes to Banks

May 18, 1983.

Michigan Power Company ("Michigan"), P.O. Box 413, Three Rivers, Mich. 49093, a public-utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to the application in this proceedintg pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act").

By order in this proceeding noted June 29, 1982 (HCAR No. 22558), Michigan was authorized to issue and sell notes to a group of banks in an aggregate amount not to exceed $5,000,000 outstanding at any one time from time to time prior to July 1, 1983. Michigan now seeks authorization for the extension of this short-term financing program for the period from July 1, 1983, through December 31, 1983. Michigan proposes to issue and sell notes to a group of banks from time to time subsequent to June 30, 1983, and prior to January 1, 1984, as funds may be required, provided that none of such notes to banks shall mature later than June 30, 1984. Each note will mature not more than 270 days after the date of issuance or renewal thereof. Michigan's credit arrangements with "local" banks do not require it to maintain additional balances as compensation for the line of credit made available by the bank, since Michigan maintains deposit balances at such banks for its operational and financial needs in amounts sufficient to satisfy any compensating balances required with respect to borrowings from such banks. Borrowings from these banks will generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time. If the balances maintained and fees paid by Michigan with the "local" banks were maintained and paid solely to fulfill requirements for borrowing by Michigan, the effective annual interest cost to Michigan, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 15% on the basis of a prime commercial rate of 12%. Michigan's credit arrangements with larger nationally known banks generally require it to maintain compensating balances of 5% of the line of credit and to pay a fee that is equal to 3/8 of 1% of the size of the line. The combination of 5% compensating balances and the fee is generally equivalent to compensating balances not in excees of 10% of the line of credit made available. Borrowings from these banks will generally bear interest at an annual rate not greater than 108.5% of the bank's prime commercial rate in effect from time to time. The total cost of borrowing from these larger banks will not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line credit and 10% of the amount borrowed.

The proceeds of the short-term bank notes will be added to the general funds of Michigan and used to pay its maturing and general obligations, to provide needed working capital, for the purchase of natural gas for Michigan's operations, and for other corporate purposes.

The amended application and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-13988 Filed 5-24-83; 8:45 am]
BILLING CODE 8010-01-M

[SR–MSE 83–3; Rel. No. 19782]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 18, 1983.

The Midwest Stock Exchange, Inc. ("MSE"), 120 LaSalle Street, Chicago, Illinois submitted on March 14, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to make certain enhancements to MSE's Automated Execution System ("MAX"). These changes primarily involve the automation of certain functions that previously had to be done manually by the specialist. Specifically, under the proposed rule change (1) the specialist would be allowed to designate an order size per issue that he will accept for automatic execution with a minimum of 400 shares (the current system-wide threshold); (2) limit orders would automatically be executed when the primary market price trades through the limit price; (3) the specialist would be allowed to stop an order automatically for the purpose of guaranteeing the order to be filled at the price at the time the stop was indicated or a better price during the trading session; (4) pre-opening orders would be automatically matched by the system, and the specialist will only have to take a position when there is an imbalance after this matching; and (5) the current "hold" period would be decreased from 5 minutes to 2 minutes. In addition, certain other technical changes would be accomplished under the proposed rule change.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19629, (March 24, 1983), and by publication in the **Federal Register** (48 FR 14105, April 1, 1983).[1]

[1] On March 24, 1983, the Commission granted temporary approval on an accelerated basis to this proposed rule, making the MAX enhancements effective through May 20, 1983. Securities Exchange Act Release No. 19629, March 24, 1983, 48 FR 14105, April 1, 1983.

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The Commission finds that the automated order routing and execution enhancements of MAX, by providing a more efficient means of executing orders on the MSE, will facilitate transactions in securities at MSE. The Commission finds, therefore, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13980 Filed 5-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19774; File No. SR-PHLX-83-5]

Self-Regulatory Organization; Proposed Rule Change by Philadelphia Stock Exchange, Inc., Relating to Execution of Orders of 600 or More Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 9, 1983 the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to utilize existing computer facilities to enable member organizations to electronically transmit, directly to the specialist post, orders in eligible issues. Such orders will be executed manually, in accordance with applicable rules of the PHLX, and based upon arrangements worked out by the specialist and the member organization transmitting the order.

The eligible issues shall be those designated by the specialist.

The eligible order size shall be designated by the specialist, with a minimum order size of 600 shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will provide a more efficient means than is currently available by which PHLX floor members may execute orders, resulting in better service to specialists, member organizations transmitting orders, and customers of such organizations. The proposed rule change will not affect a specialist's responsibilities under PHLX rules. It will only permit the use of PHLX computer facilities to enable member organizations to transmit orders which they may currently transmit through other means.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it will facilitate transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on this proposed rule change have been solicited or received from members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has found good cause for approving the proposed rule change prior to the thirtieth day of the date of this publication in that the rules of at least two other regional exchanges (Pacific Stock Exchange, Inc., and Midwest Stock Exchange, Inc.) have for a period of time allowed the type of order routing that the proposed rule change will allow at PHLX.

IV. Solicitation of Comments

Interested Persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C., 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 17, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13987 Filed 5-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13255; (812-5476)]

Steinberg Commercial Paper, Inc.; Filing of Application for an Order of Exemption

May 18, 1983.

Notice is hereby given that Steinberg Commercial Paper, Inc. ("Applicant") 165 Broadway, New York, New York 10080, a Delaware corporation, filed an application on March 3, 1983, and an amendment thereto on May 3, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of those provisions of the Act relevant to this application.

Applicant states that its sole business will consist of issuing and selling the Applicant's commercial paper notes ("commercial paper notes") and advancing the net proceeds of sales thereof to Steinberg Inc., a corporation organized under the laws of the Province of Quebec, Canada (the "Borrower"). According to the Applicant, substantially all of its assets will consist of promissory notes issued to the Applicant by the Borrower ("loan notes") evidencing the obligations of the Borrower to repay to the Applicant indebtedness of the Borrower arising by reason of advances ("advances") made to the Borrower by the Applicant from the net proceeds of sales of the commercial paper notes or from the proceeds of borrowings ("borrowings") made by the Applicant from the Atlanta Agency ("Agency") of The Bank of Nova Scotia (the "Bank"). Payments of amounts owed by the Applicant in respect of each commercial paper note will be supported by an irrevocable letter of credit to be issued by the Agency in favor of the holder of such commercial paper note.

Applicant states that pursuant to the arrangements discussed below, each maturing commercial paper note will be paid directly to the holder of such commercial paper note with funds obtained through a drawing under the letter of credit attached to the commercial paper note. Applicant proposes to obtain funds for the repayment of disbursements under the letters of credit from the proceeds of sales of additional commercial paper notes from the proceeds of borrowings from the Agency and from the proceeds of repayments of advances by the Borrower.

Applicant represents that none of its outstanding common stock is, or in the future will be, owned by the Bank or by the Borrower, or by any affiliate of either of them. The Applicant further represents that there has been, and undertakes that in the future there will be, no public offering of the Applicant's common stock or of any other equity security of the Applicant.

Applicant states that the Borrower is one of the largest retailing organizations in Canada and, in addition, conducts business in the United States through an indirect wholly-owned subsidiary. Applicant further states that the Borrower, through its various operating groups and subsidiaries, is engaged primarily in retail food merchandising consisting of the operation of supermarkets, grocery stores and convenience markets. According to Applicant, Borrower, together with its subsidiaries, also conducts operations in the fields of real estate development, general merchandise retailing, food manufacturing and food services including the ownership and operation of restaurants. Applicant represents that it will receive assurance from the Borrower that the Borrower either is not an investment company within the meaning of subsection 3(a) of the Act or is deemed to be excluded from the definition of an investment company in the Act by virtue of the provisions of either subsection 3(b) or subsection 3(c) of the Act.

Applicant states that the Bank is the fourth largest bank in Canada as ranked by deposits at October 31, 1982, having total assets at that date of $53,630,484,000 and total deposits of $47,285,161,000 (per its audited financial statements). Applicant further states that the Bank provides a wide range of financial services to businesses, governments, financial institutions and individuals.

According to the application, the Agency is licensed under and regulated by the Financial Institutions Code of Georgia as an international banking corporation, and therefore may not transact any banking business within Georgia unless it has complied with certain statutory requirements, such as a requirement that it submit to the Georgia Department of Banking and Finance (the "Department") an application for a license which includes, among other things, a statement of the corporation's financial condition and a statement of the actual value of is assets, which must exceed its liabilities by at least $50,000,000 (U.S.). Applicant states that the Department may grant, once the necessary findings have been made, a license to engage in the banking business within the State of Georgia for a period not to exceed one year, and such license is renewable for periods of similar duration if the Department finds "that the international banking corporation is in a safe and satisfactory condition, that it has complied with requirements of law with respect to the international bank agency, and that such renewal of the license is proper and has been duly authorized by proper corporate action." Applicant further states that each corporation is subject to periodic examination by the Department, and is extensively regulated under the Georgia Code which governs significant aspects of the conduct of a banking business.

The Applicant proposes to enter into an arrangement with the Borrower pursuant to which the Borrower may request the Applicant to make advances to the Borrower. To obtain funds to make the advances, the Applicant proposes to issue and sell its short-term negotiable promissory notes which it asserts will be exempt from the registration requirements of the Securities Act of 1933 (the "Securities Act") by virtue of Section 3(a)(2) thereof, or to make borrowings from the Agency. Applicant states that the commercial paper notes will be sold in minimum denominations of $100,000 (U.S.), will have a maturity not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holder or the Applicant. The Applicant undertakes not to market any commercial paper notes prior to receiving an opinion of counsel to the effect that the proposed offering of commercial paper is exempt from the registration requirements of the Securities Act by virtue of Section 3(a)(2). The Applicant does not request Commission review or approval of counsel's opinion regarding the availability of an exemption for the commercial paper notes under Section 3(a)(2) of the Securities Act.

According to Applicant, the commercial paper notes will be offered publicly, through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. Applicant states that while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. The Applicant undertakes to insure that each dealer in the commercial paper notes will furnish to each offeree, memoranda describing the businesses of the Bank, the Applicant and the Borrower and providing the most recent annual financial information for the Bank and the Borrower, together with a description of the material differences between the Canadian accounting principles utilized in the preparation of the financial statements of the Bank and generally accepted accounting principles as applied in the United States. Applicant represents that the memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of the Applicant, the Borrower or the Bank and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States. Applicant consents to the inclusion, in any order granting this application, of an express condition that it comply with

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the undertakings in the last two sentences of this paragraph.

Applicant states that it will select a major commercial bank to act as issuing and paying agent for the commercial paper notes (the "Depositary"). Applicant further states that the Agency will consent to the appointment of the Depository.

According to the application, each commercial paper note will have a letter of credit attached thereto in the full amount payable under the commercial paper note. Applicant states that presentation by the holder of a commercial paper note to the Depositary for payment at maturity shall constitute a drawing under the attached letter of credit. Applicant further states that the Agency will be required to provide funds to the Depositary in an amount sufficient to satisfy the Agency's obligations under the letter of credit.

Applicant represents that, prior to their issuance, the commercial paper notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and counsel to the Applicant shall have certified that the rating was received. However, no such rating shall be required to be obtained with respect to an issue of the Applicant's debt securities other than the commercial paper notes if, in the opinion of counsel, an exemption is available for the issue pursuant to subsection 4(2) of the Securities Act.

Applicant represents that, prior to the issuance of any commercial paper notes, the Bank will have appointed an agent to accept service of process in the City of New York, and will have expressly consented to the nonexclusive jurisdiction of the courts of the State of New York and the federal courts of the United States located in the City of New York, with respect to any action which may be brought against it in connection with the transactions described herein. Such appointment of an agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the commercial paper notes have been paid.

Applicant states that it believes, on the basis of estimates provided by the Borrower, that in the first year in which commercial paper notes are issued, the face amount of commercial paper notes outstanding will not exceed $125,000,000 (U.S.).

Applicant states that it will enter into a credit agreement ("credit agreement") with the Borrower pursuant to which the Applicant will agree to make advances to the Borrower solely from the net proceeds of the sale of the commercial paper notes or from the net proceeds of borrowings from the Agency. Applicant further states that any borrowings will be made by the Applicant pursuant to the terms of a commercial paper support agreement between the Applicant and the Agency (the "commercial paper support agreement"). According to Applicant, the aggregate amount of commercial paper notes issued to obtain funds to make advances to the Borrower and to repay disbursements under the letters of credit will not be permitted to exceed a designated amount specified in the commercial paper support agreement.

Applicant states that it will advance to the Borrower all of the proceeds from sales of the commercial paper notes (after utilization of such amount of the proceeds as shall be required to reimburse the Agency for any disbursements made under the letters of credit and any borrowings made by the Applicant from the Agency and after deduction from the proceeds of amounts necessary to pay certain of the Applicant's liabilities in connection with the transaction, including a commission payable to the Applicant's commercial paper dealers on account of their services in connection with the purchase and sale of the commercial paper notes). Applicant further states that the Borrower will use the proceeds of the Advances for its general corporate purposes.

According to the application, the Borrower will agree to repay to the Applicant on the maturity date of each Advance made to the Borrower the principal amount thereof, together with interest thereon payable from time to time in an amount sufficient to enable the Applicant to meet its obligations to the Agency for interest payable under the commercial paper support agreement and to satisfy its other liabilities in connection with the transactions.

Applicant states that each advance made to the Borrower by the Applicant pursuant to the credit agreement will be evidenced by a loan note issued by the Borrower, and all of the advances will be made during one of two funding periods designated in the credit agreement. Applicant further states that each advance made during a particular funding period will mature on the date which is twenty-one business days after the fifth anniversary of the last day of such funding period. According to the application, other than in the event of a default under the credit agreement, no mandatory prepayment of any advance will be required, although the Borrower may elect to prepay an advance in whole or in part.

Applicant states that it will be required, pursuant to a pledge and security agreement, to assign and pledge to the Agency, for its own benefit and as collateral agent for the holders of the commercial paper notes, all of the Applicant's right, title and interest in the repayment obligations of the Borrower in respect of the advances.

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the requested relief, Applicant states that approval of the application is necessary or appropriate in the public interest. Applicant states that, as a company which is not an investment company within the meaning of subsection 3(a) of the Act or is deemed excluded from the definition of an investment company, the Borrower would be permitted to directly issue and sell debt securities in the United States without registering under the Act as an investment company. Accordingly, Applicant states that while it may technically be deemed to an investment company under Section 3(a) of the Act, its operations would be conducted only in order to provide funds to an entity which could itself directly issue and sell debt securities without registering under the Act as an investment company. According to the application, although the Borrower would itself be permitted to directly issue commercial paper in public offerings in the United States without compliance with the Act's registration provisions, under current Canadian law interest due on commercial paper issued by the Borrower in the United States would be subject to a fifteen percent Canadian non-residential withholding tax, and, accordingly, would not be competitive with commercial paper offered in the United States by other issuers. Applicant states that the Applicant, the Borrower and the Bank believe that the Borrower's financing objectives can, however, be fulfilled by the establishment of a program whereby a company, such as the Applicant, issues commercial paper and advances the proceeds to the Borrower. Applicant further states that such a program would enable the Borrower to expeditiously gain access to the attractive rates available to the commercial paper market and provide the Borrower with an efficient and reliable source of United States dollars without the imposition of the Canadian non-residential withholding tax of fifteen percent, and that prior to the commencement of the program, both Canadian counsel to the Borrower and the Canadian tax authorities will have confirmed the availability of an exemption from the Canadian non-resident withholding tax for a financing facility of the type to be established by the Applicant.

Applicant submits that approval of the application would be consistent with the protection of investors. Applicant asserts that its limited business purpose and its obligations to invest only in the loan notes, none of which will be an obligation of an investment company, as well as the irrevocable support of the commercial paper notes by the letters of credit to be issued by the Agency, obviate the need for the regulatory safeguards provided by the Act. Applicant further asserts that the holders of the Applicant's commercial paper notes do not require the protections accorded investors under the Act. Applicant states that repayment of the commercial paper notes will be supported by the letters of credit issued by the Agency, and that such letters of credit will be obligations of the Bank whose commercial paper notes are currently rated in the highest investment category by Moody's Investors Service, Inc., and whose letters of credit in support of commercial paper are currently rated in the highest investment category by Standard & Poor's Corporation. Applicant asserts that the characteristics of the commercial paper notes themselves also limit the possible exposure of investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13981 Filed 5-24-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12381]

Citicorp; Application and Opportunity for Hearing

May 19, 1983.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of Section 310(b) (1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York (the "Trust company") under four existing indentures, and a Pooling and Servicing Agreement under which certificates evidencing interests in a pool of mortgage loans have been issued is not so likely to involve a material conflict of interest as to make it necessay in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under any of such indentures or Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

(1) The Trust Company currently is acting as Trustee under four indentures in which Applicant is the obligor. The Indenture, dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989, the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the Indenture dates as of Auguest 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the Indenture dated of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said Indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b) and 2(a) to Applicants' respective Registration Statements Nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four Indentures issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On January 31, 1983, the Trust Company entered into a Pooling and Servicing Agreement dated as of January 1, 1983 (the "1983 Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on January 31, 1983 Mortgage Pass-Through Certificates, Series 1983-A, 12.70% Pass-Through Rate (the "Series 1983-A Certificates") which evidence fractional undivided interests in a pool of conventional single-family mortgage loans (the "1983 Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $28,013,816.21 at the close of business on January 1, 1983, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1983-A Certificates. On January 31, 1983, Applicant, the parent of Citibank, N.A. entered into a Guaranty of even date (the "1983 Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1983-A Certificates, to be liable for 8% of the initial aggregate principal balance of the 1983 Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1983 Guaranty. The 1983 Guaranty states that Applicants obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1983 Guaranty would

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rank on a parity with the obligations evidenced by the Notes. The Series 1983–A Certificates were registered under the Securities Act of 1933 (Registration Statement on Form S–11 and S–3, File No. 2–80415) as part of a delayed or continuous offering of $150,000,000 aggregate amount of Mortgage Pass-Through Certificates (the "Certificates") pursuant to Rule 415 under the Act. The Series 1983–A Certificates were offered by a Prospectus Supplement dated January 31, 1983, supplemental to a Prospectus dated November 15, 1982. The 1983 Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) The obligations of Applicant under the Indentures and the 1983 Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1983 Guaranty are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and the 1983 Agreement.

(5) Applicant has waived notice of hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Office of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than June 13, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–10130 Filed 5–24–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19792]

Advisory Committee on Tender Offers; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission Advisory Committee on Tender Offers.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on Tender Offers will conduct a meeting on June 10, 1983 in Room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 10:00 a.m. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: David Martin, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549; (202)272–2573.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a), the Securities and Exchange Commission Advisory Committee on Tender Offers [1] gives notice that it will conduct a meeting on June 10, 1983 in Room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 10:00 a.m. The purpose and agenda of the meeting will be to consider proposals developed for the Committee by its working groups and included in working group reports presented to the Committee at previous meetings. It is anticipated that as a result of the June 10 meeting the Committee will arrive at tentative conclusions for its final report. The meeting will be the fifth meeting of the Advisory Committee and will be open to the public.

Shirley E. Hollis,

Assistant Secretary.

May 20, 1983.

[FR Doc. 83–14094 Filed 5–24–83; 8:45 am]

BILLING CODE 8010–01–M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 19, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Dataproducts Corporation
Common Stock, $.10 Par Value (File No. 7–6653)
Houston Oil Trust
Units of Beneficial Interest (File No. 7–6654)
Resorts International, Inc.
Class A, $1 Par Value (File No. 7–6655)
Tech-Sym Corporation
Common Stock, $.10 Par Value (File No. 7–6656)
Texas Air Corporation
Common Stock, $.01 Par Value (File No. 7–6657)
Massey-Ferguson Ltd.
Common Stock, No Par Value (File No. 7–6659)
Stevens (J.P.) Company, Inc.
Common Stock, $7.50 Par Value (File No. 7–6660)
Unocal Corporation (DE)
Common Stock, $2½ Par Value (File No. 7–6661)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 10, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–14037 Filed 5–24–83; 8:45 am]

BILLING CODE 8010–01–M

[1] The Advisory Committe was established on February 25, 1983. *See* Release No. 34–19528 (48 FR 9111).

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 19, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Bell Canada Enterprises, Inc.
Common Stock, $25 Par Value (File No. 7–6619)
Cincinnati Milacron Inc. (Delaware)
Common Stock, $1 Par Value (File No. 7–6620)
Hexcel Corporation (Delaware)
Common Stock, No Par Value (File No. 7–6621)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 10, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–14036 Filed 5–24–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22948; (70–5862) (70–6322)]

Ohio Power Co.; Proposed Provision of Services by Electric Utility Subsidiary to Associated Companies and Nonaffiliates

May 19, 1983.

Ohio Power Company ("OPCo"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, an electric utility subsidiary of American Electric Power Company, Inc., ("AEP"), a registered holding company, has filed with this Commission post-effective amendments to applications-declarations previously filed and amended pursuant to Section 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 86, 87, 90 and 91 promulgated thereunder.

By prior order dated June 25, 1976 (HCAR No. 19594), OPCo was authorized to acquire under long-term lease and to operate a rail-to-river coal transfer facility, known as the Cook Coal Terminal ("Terminal"), located near Metropolis, Illinois. OPCo uses the Terminal to transfer low-sulfur coal arriving by unit train to river barges for delivery to its steam electric generating plants along the Ohio River. OPCo has also been authorized to acquire and operate railroad car maintenance facilities at the Terminal (HCAR No. 21173, August 3, 1979 and HCAR No. 21886, January 16, 1981). This would permit OPCo to provide maintenance and repair services to the fleet of railroad hopper cars acquired by it and other operating companies in the AEP System for the transport of coal to the Terminal.

By post-effective amendments, OPCo now seeks authority to provide the following services at the Terminal: (1) A coal transloading service to associated companies within the AEP System (with respect to which jurisdiction was expressly reserved in the aforementioned order of June 25, 1976), and, during times of nonutilization by OPCo and its associated companies, to other nonaffiliated companies, and (2) a railroad car maintenance and repair service to associated companies within the AEP System.

In support of the first proposal, OPCo states that the Terminal's transloading capacity of 12 to 15 million tons annually is in excess of that required for the delivery of coal to its existing and future generating stations. Sufficient excess capacity exists to provide the service while ensuring that OPCo's operating requirements are also satisfied. The service, and charges therefor, would be made in accordance with a proposed Coal Transfer Agreement ("Transfer Agreement"), which would be executed with each associated company using the Terminal. OPCo will be required to perform the transloading and incidental services, at cost, in accordance with Rules 90 and 91 under the Act.

The transfer fee charged by OPCo would be limited to the cost of providing the service, determined on the basis of the costs of operation and maintenance of the Terminal, associated lease payments, depreciation and overhead expenses, plus a provision for the cost of capital provided by OPCo. As of December 31, 1982, capital invested by OPCo in the Terminal (fixed investments and working capital commitments) amounted to approximately $4.1 million. OPCo proposes to apply a cost of capital rate of 12.6% annually which represents an after-tax, weighted rate on the combined, imputed investment components of long-term debt, preferred stock and common equity. The common equity component of the overall rate of return on OPCo's investment would be subject to annual adjustment in each succeeding year based on changes in the rate of return on common equity allowed by the Federal Energy Regulatory Commission ("FERC") in the last wholesale rate proceeding involving OPCo, or, in the absence of such a proceeding, based on changes in the return allowed OPCo by the Public Utilitites Commission of Ohio in its most recent retail electric rate proceeding.

Under the Transfer Agreement, service costs would be allocated to a particular client (including OPCo) on the basis of the percentage of utilization of the Terminal, measured by annual tons transferred. Billings will be made monthly. Within 10 days of receipt of an invoice, each client will pay OPCo a standard fee for each ton of coal transferred for such client during the billing period. The standard fee will be estimated based on operating experience gained in prior periods adjusted to reflect expected changes in material operating factors. Within 45 days after the end of each calendar year, OPCo will compute an adjusted fee for each ton of coal transferred during the preceding year by taking (i) OPCo's total actual costs allocable to the Terminal for the calendar year, subtracting therefrom (ii) the total revenues earned in the corresponding period from contracts with nonaffiliated parties, and dividing the difference between (i) and (ii) by the total number of tons of coal tranferred during the period for AEP System companies, including itself. If the adjusted fee multiplied by the number of tons of coal transferred for any client differs from the total standard fees paid or accrued by such client during the year, the difference will be charged or credited as appropriate.

In determining the basis upon which to bill for the coal transloading service, OPCo considered two cost accounting systems: (1) A process cost system using a transfer fee, as heretofore described, and (2) a work order system for allocating costs directly to each job for each client. It is stated that the latter is feasible and useful when allocating costs in situations where personal services are being rendered to a particular client, or significant direct material costs, which can be easily identified and classified, are involved. The process costs system is generally appropriate when desaling with a single, reptitive process with fungible items, such as the transloading of coal. It is stated that no major expenditures of direct materials need be allocated on a client-by-client basis during the transloading of coal and that a work

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order system would not be appropriately applied to this service.

Based on current and projected use of the Terminal, it is represented that there will be sufficient capacity available to permit its use to transfer coal under contract with nonaffiliated parties for a number of years. It is intended that any such service would be provided at the highest practicable rate, giving consideration to the competitive market applicable to such services. The proposed Transfer Agreement specifies that any revenues collected from nonaffiliated parties for such use of the Terminal will be applied as a reduction to the total cost of operating the Terminal and, thereby, will reduce the transfer fee which would be charged to FERC Account 151, Fuel Stock, by OPCo and all associated clients.

With reference to the rail car maintenance service, it has been stated that it would be economical and advantageous for all AEP System railroad hopper cars arriving at the Terminal to receive routine preventive and other maintenance. OPCo proposes to execute a Rail Car Maintenance Agreement ("Maintenance Agreement") with any interested associated company whereby the fee charged for such service would be limited to the cost of providing such service, in accordance with Rules 90 and 91 under the Act, determined on the basis of the expenses of operation and maintenance of the rail car repair facilities, overhead expenses, plus a provision for cost of capital on OPCo's associated investment. As of December 31, 1982, capital invested by OPCo in the maintenance facilities amounted to approximately $1.1 million. OPC proposes to apply a cost of capital rate of 11.96% annually which represents an after-tax, weighted rate on the combined, imputed investment components of long-term debt, preferred stock and common equity. The common equality component of the overall rate of return would be subject to annual adjustment in the same manner as set forth previously with reference to the transfer fee for the transloading service.

Under the cost accounting system currently in use, the costs of operation of the rail car maintenance facility (materials, direct labor and overheads) are accumulated using a job order costing system whereby costs are either directly assigned or allocated to each rail car repaired. A repair card (i.e., a work order) is completed for each rail car serviced. The cost of materials used are assigned directly to each rail car repaired (valued using that month's average price). Direct labor and overhead costs are allocated to each repair job based on the proportion of hours worked on each job to the total number of hours worked on all jobs.

Billings to associated companies will be based on monthly cost accumulations and will include the cost of all direct materials used in maintaining or repairing each rail car owned by an associated company, following OPCo's standard inventory valuation procedures applied on a consistent basis, and an allocation of all other costs to specific jobs and rail cars based on the ratio of the standard labor hours for a completed job to the total of such hours for all jobs completed during the monthly billing period.

The applications-declarations, as amended by said post-effective amendments and any amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 15, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the applications-declarations, as amended or as they may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14035 Filed 5-24-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0299]

Boston Hambro Capital Co.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Boston Hambro Capital Company, One Boston Place, Boston, Massachusetts 02106, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("Act"), (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration, (SBA) pursuant to Section 312 of the Act and covered by Section 107.1004(b)(1) of the Regulations governing small business investiment companies ("SBICs/Licensees") (15 FR 107.1004 (1982)), for approval of a conflict of interest transaction falling within the scope of the above sections of the Act and Regulations.

The Licensee proposes to purchase 41,667 shares of preferred stock of Telematics International, Inc., 8741 N.W. 57th St., Tamarac, Florida 33321 ("Telematics"). Telematics is considered to be an Associate of the Licensee under § 107.3(f) of the Regulations because certain persons who are Associates of the Licensee pursuant to § 107.3(d), own over 10 percent of the equity of Telematics.

Namely, Hambro International Venture Fund and Hambro International Venture Fund Off-Shore who are associates of the Corporate General Partner. Messrs. Edwin A. Goodman, Robert S. Sherman, Anders Brag, Richard G. Sampson and Richard D'Amore are officers of the General Partner.

Notice is hereby given that any person may, not later than ten (10) days from the date of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in the **Federal Register** and a newspaper of general circulation in Tamarac, Florida.

(Catalog of Federal Domestic Assistance, Program No. 59.011, Small Business Investment Companies)

Dated: May 18, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-14046 Filed 5-24-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0168]

Gulf Coast Capital Corp.; License Surrender

Notice is thereby given that Gulf Coast Capital Corporation, 70 North Baylen Street, Pensacola, Florida 32575 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Gulf Coast Capital Corporation was licensed by the Small Business Administration on February 19, 1980.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on May 2, 1983, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 19, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-14045 Filed 5-24-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 864]

Visa Office: Change of Address; Correction Notice

The notice concerning the Change of Address of the Visa Office which appeared in 48 FR 23014, May 23, 1983 is modified as follows:

The Visa Office move has been postponed to June 4th and 5th. There will be no interruption in normal service to the public and regular telephone numbers should be used. The telephone numbers given in the Notice of May 23, 1983 should not be used.

Dated: May 23, 1983.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-14210 Filed 5-24-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-120]

Reimbursable Services—Excess Cost of Preclearance Operations

Washington, D.C., May 19, 1983.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 29, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$20,989
Toronto, Canada	38,671
Kindley Field, Bermuda	7,667
Nassau, Bahama Islands	14,069
Vancouver, Canada	14,163
Winnipeg, Canada	2,556
Freeport, Bahama Islands	8,955
Calgary, Canada	9,436
Edmonton, Canada	3,440

William H. Russell,

Comptroller.

[FR Doc. 83-14051 Filed 5-24-83; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 83-121]

Fish—Tariff-Rate Quota; Tariff-Rate Quota for the Calendar Year 1983, on Fish Dutiable Under Item 110.50, Tariff Schedules of the United States (TSUS)

AGENCY: Customs Service, Treasury.

ACTION: Announcement of the quota quantity on certain fish for calendar year 1983.

SUMMARY: The tariff-rate quota for fish pursuant to item 110.50, TSUS, for the 1983 calendar year is 49,488,851 pounds.

EFFECTIVE DATES: The 1983 tariff-rate quota is applicable to fish described in item 110.50. TSUS, which are entered, or withdrawn from warehouse, for consumption during calendar year 1983.

FOR FURTHER INFORMATION CONTACT: William D. Slyne, Chief, Special Operations Branch, Duty Assessment Division, U.S. Customs Service, Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION: This tariff-rate quota for fish is equal to 15 percent of the average aggregate apparent annual consumption in the United States of fish, fresh, chilled or frozen, fillets, steaks, and sticks, of cod, cusk, haddock, hake, pollock, and rosefish, for the 3 preceding years, as provided for in headnote 1, part 3A, Schedule 1, and item 110.50, TSUS.

It has been determined that the average aggregate consumption for calendar year 1980 through 1982 was 329,925,674 pounds. Therefore, the quota quantity of fish, item 110.50, TSUS, for calendar year 1983 is 49,488,851 pounds.

Dated: May 19, 1983.

Edward F. Kwas,

Acting Commissioner of Customs.

[FR Doc. 83-14050 Filed 5-24-83; 8:45 am]

BILLING CODE 4820-02-M

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Polypropylene Ropes; Correction

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; correction.

SUMMARY: This document corrects an error in the notice of receipt of a domestic interested party requesting the reclassification of certain imported polypropylene ropes which was published in the **Federal Register** on April 29, 1983 (48 FR 19510).

In the notice, the words "strips and" were inadvertently omitted in several places.

In order to avoid any possible confusion as to the extent of the subject petition, it has been determined advisable to clearly provide that the petition is concerned with the classification of any cordage made from strips over one inch in width. It is not limited solely to plexiform filaments. Accordingly, this document amends the notice by:

1. Revising the beginning of the second sentence of the first paragraph under the heading "Background" to read as follows: "The petitioner contends that certain imported polypropylene ropes made from strips over one inch in width and 'plexiform filaments' derived from strips over one inch in width, which are currently classified . . ."

2. Adding the words "strips and" before the words "plexiform filaments" in the following paragraphs under the heading "Background".

a. The last sentence in the second paragraph.

b. In both the first and second sentences of the fifth paragraph.

c. In all three sentences of the seventh paragraph.

d. The first sentence in the eighth paragraph.

3. Extending the comment period due to the corrections to provide the public with an additional 30 days in which to submit written comments to Customs regarding the document. Thus, the new deadline for submitting written comments is July 27, 1983.

EFFECTIVE DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (566-8181).

Dated: May 20, 1983.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 83-14048 Filed 5-24-83; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 83-122]

Recordation of Trade Name; Chams De Baron Ltd.

AGENCY: U.S. Customs Service, Department of the Treasury.

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ACTION: Notice of recordation.

SUMMARY: On March 10, 1983, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHAMS DE BARON LTD." was published in the **Federal Register** (48 FR 10188–10189). The notice advised that before final action on the application, consideration would be given to revelant data, views, or arguments submitted in opposition to the recordation and received not later than May 10, 1983. No responses were received in opposition to the notice.

Accordingly, as provided in section 133.14, Customs Regulations (19 CFR 133.14), the name "CHAMS DE BARON LTD." is recorded as the trade name used by Chams De Baron Ltd., a corporation organized under the laws of the State of New York, located at 1350 Broadway, New York, New York 10018. The trade name is used in connection with the following merchandise which is manufactured in Taiwan, Hong Kong, South Korea and the Philippines: men's and women's wearing apparel, including shirts, tops, sweaters, jackets and pants.

DATE: May 25, 1983.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–556–5765).

Dated: May 20, 1983.

Donald W. Lewis,

Acting Director, Entry Procedures and Penalties Division.

A. Piazza,

[FR Doc. 83–14049 Filed 5–24–83; 8:45 am]

BILLING CODE 4820–02–M

Office of the Secretary

Income Tax Treaty Negotiations With Belgium and Tunisia To Be Resumed

The Treasury Department announced that income tax treaty negotiations with Belgium and Tunisia will be resumed in June. The negotiations with Tunisia will take place in Tunis during the week or June 5, 1983, and the negotiations with Belgium will take place in Brussels during the week of June 13. Since the last negotiations took place more than two years ago in each case, the Treasury Department invites interested persons to submit additional comments at this time on issues concerning Belgium and/or Tunisian income taxes imposed on income derived in those countries by U.S. taxpayers and concerning the U.S. income tax imposed on income derived in the United States by residents of those countries. Comments should be submitted in writing to Alan W. Granwell, International Tax Counsel, U.S. Treasury, room 3064, Washington, D.C. 20220.

Dated: May 20, 1983.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 83–14000 Filed 5–24–83; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a closed meeting in Room 800, 400 C Street, S.W., to discuss matters relating to the resignation of Mr. Gilbert A. Robinson as Deputy Director of the U.S. Information Agency. USIA Director Charles Z. Wick will meet with the Commission at 11:00 a.m., and Mr. John W. Shirley, Office of the Deputy Director, will meet with the Commission at 12:00 p.m., on May 25, 1983.

The emergency meeting is being held on short notice because of the unexpected resignation of Mr. Robinson and previous plans to travel abroad made by members of the Commission.

The meeting of the Commission will relate to the internal personnel rules and practices of the Agency. The information discussed, if disclosed, could result in the invasion of personal privacy and could significantly frustrate the implementation of proposed Agency actions (5 U.S.C. 552b(c) (2), (6), and 9(B)).

Dated: May 19, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83–14249 Filed 5–24–83; 11:23 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 102
Wednesday, May 25, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Deletion From the May 19, 1983 Meeting

TIME AND DATE: 9:30 a.m., May 19, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

9. Delegation of authority to the Bureau of Domestic Aviation to adjust interim subsidy levels. (Memo 1850, OGC, BDA)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–737–83 Filed 5–20–83; 4:03 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

Addition to the May 19, 1983 Meeting

TIME AND DATE: 9:30 a.m., May 19, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

45. Negotiating Procedure and Policy.

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–742–83 Filed 5–23–83; 3:57 pm]

BILLING CODE 6320–01–M

3

COMMODITY FUTURES TRADING COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 22675, Thursday, May 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, June 1, 1983.

CHANGES IN THE MEETING:

—Introducing Brokers—Final Rules (Deleted)
—NFA Mandatory Membership Rule (Added)

[S–740–83 Filed 5–23–83; 3:23 pm]

BILLING CODE 6351–01–M

4

FEDERAL RESERVE SYSTEM:

TIME AND DATE: 10 a.m., Tuesday May 31, 1983.

PLACE: 20th Street and Constitution Avenue N.W., Washington D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: May 20, 1983.

James McAfee,

Associate Secretary of the Board.

[S–738–83 Filed 5–20–83; 4:13 pm]

BILLING CODE 6210–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 23, 1983 (revised) and Week of May 30, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Monday, May 23:

10:30 a.m.:
Briefing on NRC Comments on EPA Proposed Title II Standards (Uranium Mill Tailings) (Public Meeting) (As Announced)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (New Item)
a. 10 CFR Part 60
b. Review of ALAB–701

Tuesday, May 24:

10:00 a.m.:
Briefing on Staff Revalidation of Management Competence at TMI–1 (Public Meeting) (As Announced)
2:00 p.m.:
Briefing on Review of ALAB–714 (Comanche Peak) (Closed—Exemption 10) (New Item)

Thursday, May 26:

10:00 a.m.:
Oral Presentations on Indian Point Emergency Planning and Preparedness (Public Meeting) (As Announced)

Friday, May 27:

10:00 a.m.:
Briefing on Nuclear Plant Reliability Data System (NPRDS) (Public Meeting) (As Announced)
1:30 p.m.:
Discussion/Possible Vote on Full Power Operating License for McGuire–2 (Public Meeting) (*Moved* from May 24)

Tuesday, May 31:

10:00 a.m.:
Discussion of Pending Investigations (Closed—Exemption 5)
2:00 p.m.:
Discussion of Possible Courses of Action on Indian Point (Closed—Exemption 5)

ADDITIONAL INFORMATION:

Discussion/Possible Vote on Contested Issues in Callaway scheduled for May 18, *postponed.*

On May 19 the Commission voted 4–0 (Commissioner Gilinsky abstaining) to hold Briefing on Enforcement Matter, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–741–83 Filed 5–23–83; 3:56 pm]

BILLING CODE 7590–01–M

6

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 22678, May 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 7:30 p.m. (e.d.t.), Tuesday, May 24, 1983.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Room 260 of the Student Center at Chattanooga State Technical Community College, 4501 Amnicola Highway, Chattanooga, Tennessee.

STATUS: Open.

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ADDITIONAL MATTER: The following item is added to the previoulsy announced agenda:

Old Business

Award of a contract to the Small Business Administration for the purchase of term coal for the Johnsville Steam Plant.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee.

Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

C. H. Dean, Jr.,

(Director S. D. Freeman, Out of Office, but has No Objection.)

Richard M. Freeman.

[S-738-83 Filed 5-23-83; 3:19 pm]

BILLING CODE 6120-01-M

federal register

Wednesday
May 25, 1983

Part II

Federal Reserve System

Bank Holding Companies and Change in Bank Control; Proposed Revision of Regulation Y; Proposed Rule

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0470]

Bank Holding Companies and Change in Bank Control; Proposed Revision of Regulation Y

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of its program to improve and simplify its regulations, the Board is proposing a revision of Regulation Y, its regulation implementing the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) and the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). The Bank Holding Company Act requires prior Board approval for a company to become a bank holding company or for a bank holding company to acquire more than five percent of the shares of a bank or a bank holding company. The Act also regulates the nonbanking activities of bank holding companies and of foreign banking organizations that control U.S. banks or have U.S. offices. The Change in Bank Control Act requires generally that persons and certain companies give notice to the Board prior to acquiring shares representing control of a bank holding company or state member bank.

The proposed revision will reduce the number of required applications for nonbanking activities, simplify the procedures for filing such applications, and expedite the processing of all applications. With respect to required applications or notices, the regulation clarifies and describes the transactions that are covered and those that are exempt, and the factors considered by the Board in acting on the application or notice. In addition, the Board is adopting a new internal procedure for the processing of applications that will result in a shorter period, 30 to 60 days instead of 90 days, for the processing of most bank and nonbank applications. The internal changes are being made independently of the proposed revision of Regulation Y and will be adopted as soon as they can be implemented.

DATE: All comments should be received by the Board by July 18, 1983.

ADDRESS: All comments, which should refer to Docket No. R-0470, should be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Associate General Counsel, Legal Division (202/452-3430); Bronwen Mason Chaiffetz, Senior Counsel, Legal Division (202/452-3564); Carl V. Howard, Senior Counsel, Legal Division (202/452-3786); David Kulig, Senior Counsel, Regulatory Improvement Project (202/452-2347); Lily T. Pilgrim, Attorney, Regulatory Improvement Project (202/452-2421); Don E. Kline, Associate Director, Division of Banking Supervision and Regulation (202/452-3421); or Sidney M. Sussan, Assistant Director, Division of Banking Supervision and Regulation (202/452-2638).

SUPPLEMENTARY INFORMATION: The Bank Holding Company Act of 1956, as amended ("BHC Act"), governs the acquisition of control of banks by companies and regulates the nonbanking activities of bank holding companies or covered foreign banking organizations. It was enacted to prevent the undue concentration of banking resources and to separate banking and commerce. Section 5(b) of the BHC Act (12 U.S.C. 1844(b)) authorizes the Board to adopt regulations to effectuate the purposes of the BHC Act and to prevent evasion of its provisions. The Change in Bank Control Act of 1978 ("Bank Control Act") imposes a 60-day prior notice requirement on persons seeking to acquire control of a bank holding company or an insured state-chartered bank that is a member of the Federal Reserve System ("state member bank").

I. BACKGROUND AND SUMMARY

In January 1979, the Board established a Regulatory Improvement Project and adopted procedures to improve the quality of its regulations. The Board's program calls for a thorough, periodic review of each of its existing regulations (Statement of Policy Regarding Expanded Rulemaking Procedures, 44 FR 3957 (1979)). The proposed revision of Regulation Y was conducted under this program and pursuant to the Financial Regulation Simplification Act of 1980 (12 U.S.C. 3521). In accordance with the Board's policy statement and the Simplification Act, the review focused on easing regulatory burden and clarifying and simplifying the regulation consistent with the terms and purposes of the BHC Act. In an effort to improve overall understanding of the regulation, the proposal specifies those transactions that do and those that do not require prior Board approval under the Act.

The Board carefully reviewed the procedures for handling applications, particularly those for nonbanking activities. As reflected in the revised regulation, the Board proposes reducing the number of required applications for nonbanking activities and simplifying the procedures for filing such applications. Over the past several years, the Board has consistently achieved its goal to complete the processing of 90 percent of all applications it receives within 90 days of acceptance of the applications. In addition, the Board had delegated to the Reserve Banks authority to act on more than 90 percent of BHC Act applications, a procedure which has shortened the time for decision on most applications to 45 days. In connection with its review of procedures for handling BHC Act applications, the Board is considering a new internal processing schedule.

The new schedule, which is embodied in the proposed revision, reduces the time for processing most bank and nonbank applications from 45 days to 30 days for applications acted on under delegated authority, and from 90 to 60 days for applications acted on by the Board. A 10-day deadline is also established for Reserve Banks to review applications submitted for processing to determine if they are complete. Based on past experience, it is anticipated that 90 percent or more of all applications will be acted upon under delegated authority, and thus be decided within 30 days.

The Board has also reviewed its application forms to simplify them by eliminating duplicative information and information already available to the Board. The Board estimates that these measures will reduce by between 40 to 60 percent the number of pages required in the current application forms.

The Board requests comments on all aspects of its proposed revision of Regulation Y, including definitions of terms. The Board will consider any additional areas for simplification and deregulation of Regulation Y that are suggested by commenters.

The Board, however, is not proposing for reexamination whether activities already on the list of permissible nonbanking activities in Regulation Y are closely related to banking. Those activities have been subject to rulemaking and extensive debate over the years. The Board does, however, propose to add to the list of permissible activities several activities that the Board has previously determined by order to be closely related to banking. In addition, commenters are invited to suggest other activities that should be considered for addition to the list of permissible nonbanking activities.

The changes proposed to ease regulatory burden and to clarify and simplify the regulation include:

(1) Elimination or modification of the requirement that a bank holding company obtain the Board's prior approval to open a new office to engage in a nonbanking activity in a state where the bank holding company has previously obtained the Board's approval to engage in the particular nonbanking activity (§ 225.25(a)(2));

(2) Expedited procedures (lasting 15 days) for relatively small acquisitions involving permissible nonbanking activities (§ 225.25(e));

(3) Expedited publication of notices of proposed new nonbanking activities (§ 225.25(c)(2));

(4) Elimination of applications for small acquisitions involving the assets of a consumer finance or mortgage banking office (§ 225.22(c)(8));

(5) Elimination of certain applications involving acquisitions of bank shares in a fiduciary capacity (§ 225.12(a));

(6) Incorporation into the regulation of deadlines for processing of applications and expediting of the application process (§§ 225.14 and 225.25);

(7) Incorporation of significant Board interpretations and statements of policy concerning regulatory and supervisory matters; and

(8) Specification of those types of transactions that do and those that do not require prior Board approval under the Act.

The proposed modification of the current requirement of Regulation Y for the approval of each new office of a nonbank subsidiary would reduce by about 75 percent the number of current nonbank applications filed with the Board under section 4(c)(8) of the BHC Act.

Another area that has been revised involves the purchase or redemption by a bank holding company of its own securities (§ 225.4(b)). The Board proposes to substitute for the current notice provision standards governing redemptions based upon the Board's capital adequacy guidelines.

With respect to the format of the proposed revision, the Board has incorporated all the important statutory provisions as they have been interpreted by the Board. Moreover, the material has been reorganized into self-contained subparts and stated as simply as possible. These structural changes should improve understanding of the regulation, facilitate compliance, and promote suggestions for further substantive improvements.

The Board certifies that none of the proposed changes will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C 601).

The commentary that follows includes several Board rulings that are not included in the body of the proposed revision of the regulation. In taking final action on the revision, the Board expects to preserve these rulings in a convenient format as a permanent source of guidance to the regulation.

II. SUBPART A—GENERAL PROVISIONS

Section 225.1—Authority, Purpose, and Scope

This section of the proposed regulation identifies the Board's statutory authority for issuing the regulation, states the primary purposes of the regulation, and describes the scope of each of the five subparts. Subpart A contains definitions, administrative provisions, and a section on corporate practices of bank holding companies; Subpart B sets forth the requirements for the acquisition of bank and bank holding company securities and assets; Subpart C describes the limitations and requirements regarding nonbanking activities and acquisitions; Subpart D contains the rules for control and divestiture proceedings; and Subpart E sets forth the provisions implementing the Bank Control Act. The four operational subparts are comprehensive in that each subpart identifies the transactions that are covered and those that are exempt, and each subpart sets forth the applicable procedures regarding applications, notices, and hearings.

Current regulation: 12 CFR 225.1(a).

Section 225.2—Definitions

This section contains the definitions of terms used in the proposed regulation, and differs from the current regulation, which merely incorporates by reference the statutory definitions. Some of the definitions in the proposed revision mirror those in the BHC Act; others incorporate various Board interpretations.

Statutory reference: 12 U.S.C. 1841.
Current regulation: 12 CFR 225.1(b).

Section 225.2(a) "Bank"

"Bank" is defined as any institution that accepts demand deposits and engages in the business of making commercial loans. This definition reflects the statutory definition in section 2(c) of the BHC Act and incorporates Board interpretations of the terms "demand deposits" and "commercial lending" for the purpose of determining whether an institution is a bank. The statutory exclusions from the definition of bank are also set forth in the regulation.

1. *Demand deposits.* "Demand deposits" are defined to include any deposit with transactional capability that is paid on demand as a matter of practice, and include accounts accessible by check, draft, or negotiable order of withdrawal (NOW). (First Bancorporation (Beehive Financial Corporation), 68 *Federal Reserve Bulletin* 253 (1982).)

2. *Commercial loans.* The definition proposed reflects the Board's position that all loans are "commercial" loans except those made to individuals for personal, household, family, or charitable purposes. In order to prevent evasion of the BHC Act, the definition proposes to identify a variety of instruments that may serve as substitutes for commercial loans. (*Cf.*, Board Ruling of December 10, 1982, 1 Federal Reserve Regulatory Service ("F.R.R.S.") 4-363.2.)

Statutory reference: 12 U.S.C. 1841(c).

Section 225.2(b) "Bank holding company"

The definition of "bank holding company" reflects the statutory definition. The six exemptions from the definition contained in section 2(a)(5) of the BHC Act are also included and have been consolidated into four exemptions. The proposed revision also incorporates the provisions of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), which applies certain certain provisions of the BHC Act to foreign banks (and their parent companies) operating branches, agencies and commercial lending companies in the United States.

Statutory reference: 12 U.S.C. 1841(a); 12 U.S.C. 3106.

Section 225.2(c) "Company"

The definition of "company" in the proposed regulation includes the statutory definition and the exclusions contained in section 2(b) of the BHC Act.

In accordance with a long-standing Board interpretation, the term "company" generally does not include buy-sell agreements, or voting trusts of 25 years or less duration, so long as the agreement or trust pertains solely to the securities of one bank and the parties involved in the agreement or trust do not engage jointly in any other banking or nonbanking activities. (Board Ruling of May 4, 1972, 1 F.R.R.S. 4-185.5.)

The Board has also taken the position that individuals and/or companies acting together must be joined under a formal agreement or structure in order to be an "association." (Board Ruling of September 13, 1977, 1 F.R.R.S. 4-420.

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aff'd sub. nom., Central Bank v. *Board of Governors*, No. 77–1937 (D.C. Cir. (Feb. 1, 1979).)

Statutory reference: 12 U.S.C. 1841(b).

Section 225.2(d) "Control" of a bank or company

The proposed definition of "control" of a bank or company incorporates the statutory definition from section 2 of the BHC Act, *i.e.*, control based on share ownership, election of directors or trustees, or controlling influence determinations by the Board. With respect to controlling influence determinations, the proposed regulation conforms the provisions of sections 2(a)(2)(C) and 2(d)(3) of the BHC Act by establishing that the Board may find control and a parent-subsidiary relationship where the Board determines that a company has the power to exercise a controlling influence over another company.

For purposes of § 225.2(d)(1) of the proposed regulation, "acting through one or more other persons" includes an arrangement under which a person acts as an agent or is indemnified by the company in purchasing or holding voting securities on behalf of the company. (Board letter, dated June 23, 1982, to Security Corp., Duncan, Oklahoma.) The Board has also taken the position that the ability to control the ultimate disposition of voting securities and to secure the economic benefits from the disposition indicates control of the securities. (Board Ruling of March 18, 1982, 1 F.R.R.S. 4–461.)

The definition of control in the proposed regulation incorporates the conclusive presumption of control now contained in § 225.2(a) of the current regulation, which relates to the transfer of 25 percent or more of the shares of a company being conditioned in any manner upon the transfer of 25 percent or more of the shares of another company. For example, if the voting shares of two companies are "stapled together" so that the transfer of one would automatically result in the transfer of the other, the presumption would apply. For purposes of this provision, the holders of securities of both companies constitute a company for the purposes of the BHC Act.

As provided in section 2(g) of the BHC Act, the proposed definition of control specifies that a company is deemed to control securities held by its subsidiaries, or held in a fiduciary capacity for its benefit or the benefit of shareholders or employees of the company or its subsidiaries. The Board has also interpreted this provision to include assets held in these capacities. For example, this provision would attribute control of securities or assets to a company if a profit sharing or pension plan for the benefit of the company's employees holds the securities.

Apart from the proposed regulation, the Board in its policy statement of July 8, 1982, outlined situations where nonvoting equity investments by a bank holding company in another company or a bank might give the bank holding company control of the other company or bank. (Statement of Policy on Nonvoting Equity Investments by Bank Holding Companies, 68 *Federal Reserve Bulletin* 413 (1982).)

Statutory reference: 12 U.S.C. 1841 (a)(2), (d); 12 U.S.C. 1841(g) (1), (2).

Section 225.2(e) "Management official"

The definition of management official is an abbreviated form for referring to a person who is an officer, director, partner, or trustee of a company or an employee of the company with policy-making functions. Directors include honorary and advisory directors. This definition, which codifies a Board interpretation of section 2(g)(3) of the BHC Act, is relevant in control and divestiture proceedings under Subpart D of the proposed regulation. (12 CFR 225.139.)

Statutory reference: 12 U.S.C. 1841(a)(2)(C) and 1841(g)(3).

Current regulation: 12 CFR 225.2(b) (1) and (2).

Section 225.2(f) "Outstanding shares"

This definition clarifies that the term "outstanding shares" refers only to shares that are issued and that have voting rights. For example, under this provision, outstanding shares would not include treasury shares held by a company where the company is precluded by law from voting its own shares that are held in its treasury.

Statutory reference: 12 U.S.C. 1843(c) (6), (7).

Section 225.2(g) "Person"

The definition of "person" reflects the definition of person contained in the Bank Control Act.

Statutory reference: 12 U.S.C. 1817(j) (8), (A).

Section 225.2(h) "Principle shareholder"

This definition reflects the current usage found in § 225.2(b) of Regulation Y concerning the rebuttable presumptions of control. It is relevant to determinations of control under Subpart D of the proposed regulation.

Current regulation: 12 CFR 225.2(b)(2).

Section 225.2(i) "Subsidiary"

The definition of "subsidiary" reflects the statutory definition in section 2(d) of the BHC Act, and refers to indirect as well as direct subsidiaries. For example, company C is a subsidiary of B which, in turn, is a subsidiary of A. Under the definition, C is deemed to be a subsidiary of A.

Statutory reference: 12 U.S.C. 1841(d).

Section 225.2(j) "Voting securities"

This definition clarifies the meaning of the term "voting shares" used in sections 2, 3 and 4 of the BHC Act. In the proposed regulation "voting securities" are defined to mean shared of common and preferred stock, partnership interests, and other similar interests, if the holders are entitled (under statute, charter, or in any manner) to vote for or select directors, trustees, or partners, or to vote on significant matters.

Under this definition, the acquisition by a bank holding company of "nonvoting stock" of another company would be limited to securities that do not normally carry the right to elect or appoint any directors, or to vote on significant matters. For example, the right to vote on or to veto payment of dividends, mergers, acquisitions by, or dissolution of the company would be regarded as the right to vote on significant corporate matters. In addition, the contingent right of the holders of a security to elect or appoint a director to the board of a company under specified conditions, such as failure to pay a dividend, would cause the security to be regarded as a voting security at the time the right to vote arises.

Even though securities may be voting securities for the purposes of this provision, it does not follow that they will be treated as equity for purposes of financial analysis. Whether voting securities are treated as debt or equity will depend upon their particular characteristics, *e.g.*, their term, right to dividends, and priority in creditor claims.

Statutory reference: 12 U.S.C. 1841(a)(2)(A)(3); 12 U.S.C. 1842(a); 12 U.S.C. 1843 (a)(1) and (c) (6), (7).

Section 225.3—Administration

Section 225.3(a) Delegation of authority

This provision indicates that certain actions of the Board may be taken by individuals or Reserve Banks delegated to act for the Board. For example, officials of the Board staff and individual Reserve Banks are authorized to act on applications, notices, and requests under certain conditions as well as to take certain administrative actions in the processing of applications or notices under this regulation. The functions delegated to particular Reserve Banks and Board officials, as well as the conditions under which the delegation of authority may be exercised, are detailed in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265). Any person aggrieved by a decision under delegated authority may appeal the decision to the Board. In addition, the Rules provide that an action taken by a Reserve Bank under delegated authority may be reviewed by the Board, if within 10 days after the action, a member of the Board requests such review (12 CFR 265.3).

Section 225.3(b) Appropriate Federal Reserve Bank

This section specifies the Reserve Bank with which individuals and companies are to file reports, applications, and notices under the regulation.

Current regulation: 12 CFR 225.1(c)

Section 225.4—Corporate Practices

Section 225.4(a) Bank holding company policy and operations

This section codifies the policy of the Board that a bank holding company should serve as a source of strength for its bank subsidiaries, and conduct its bank and nonbank operations in accordance with sound banking policy and practice. Under this provision, bank holding companies should observe the statements of policy issued by the Board from time to time concerning supervisory and other matters. The provision is derived from section 3(c) of the BHC Act, which requires the Board to consider the financial and managerial resources and future prospects of the company and banks concerned; from section 5(b) of the BHC Act, which authorizes the Board to issue regulations; and from the Board's authority under the Financial Institutions Supervisory Act to issue cease and desist orders to prevent unsafe or unsound banking practices (12 U.S.C. 1818(b)(1) and (3)).

This provision also describes the provision in section 5(e) of the BHC Act that the Board may order divestiture of a nonbank activity or subsidiary if it determines that the activity or subsidiary constitutes a serious risk to the financial safety, soundness or stability of a bank holding company bank and is inconsistent with sound banking principles or the purposes of the BHC Act.

Statutory reference: 12 U.S.C. 1842(c), 1844(b), 1844(e), 1818(b).

Section 225.4(b) Purchase or redemption by a bank holding company of its own securities

As reflected in the preceding provision of the proposed regulation, a bank holding company should serve as a source of strength to its bank subsidiaries. Each application for a bank holding company formation or bank acquisition that has been approved by the Board has been approved on this basis, and the bank holding company has a continuing obligation to serve as a source of strength to its subsidiary banks.

The current regulation requires 45 days notice to the Board for a redemption of its securities if the redemption exceeds 10 percent of the net worth of the bank holding company. This provision was adopted in 1976 before the Board issued its Policy Statement on Capital Adequacy (1 F.R.R.S. 3–1506), which reflects the Board's judgment as to the minimum adequate capital levels for banks and bank holding companies or various sizes. To update the regulation, the Board proposes to amend the provisions of Regulation Y regarding redemptions to prohibit a bank holding company from purchasing or redeeming its equity securities, unless, after giving effect to the redemption or acquisition, the bank holding company complies with the minimum standards in the Board's Policy Statement on Capital Adequacy. The references to capital contained in the proposed regulation should be calculated in accordance with the definitions of capital in the Board's policy statement.

The proposed regulation would also permit a redemption where the guidelines are not met only if the redemption is *de minimis* or with the Board's prior approval. Approval would only be granted in unusual circumstances, since the Board does not believe that it is appropriate for a bank holding company that does not meet the Board's capital adequacy guidlines to make redemptions of securities that detract from the bank holding company's ability to serve as a source of strength to its subsidiary banks.

As with the capital adequacy standards, the standards for permissible acquisitions of equity securities are keyed to the size of the organization, and the result of the proposed redemption of securities on capital ratios. Since the Board has not published capital guidelines for large multi-national banking organizations, those organizations would be required, for the purpose of the redemption provision, to meet the standards applicable to organizations with assets of $1 billion or more. Use of these standards does not indicate that the Board has determined that these standards should be applied to large multinational banking organizations for other capital adequacy purposes.

With respect to the smallest organizations (under $150 million), the capital ratios, after giving effect to the proposed redemption of securities, are those of either each of the subsidiary bank(s), or the consolidated organization. This difference recognizes that most smaller organizations exist primarily for financing the acquisition of the subsidiary bank and are highly leveraged. The use of consolidated ratios by these organizations in most instances would not allow them to make redemptions of equity securities. In order to compensate for the use of the more liberal bank-only capital ratios for smaller organizations, the proposed regulation imposes an additional test for permissible redemptions that, giving effect to the proposed redemption, the debt-to-equity ratio of the parent is not more than 30 percent. This additional test will limit the ability of highly-leveraged organizations to redeem securities where the redemptions may adversely affect their financial strength.

Statutory reference: 12 U.S.C. 1844(b), 1818(b)(3).

Current regulation: 12 CFR 225.6.

Section 225.4(c) Deposit insurance

This provision reflects the statutory requirement in section 3(e) of the BHC Act that a bank must obtain Federal Deposit Insurance before it becomes a bank holding company or a subsidiary of a bank holding company.

Statutory reference: 12 U.S.C. 1842(e).

Section 225.4(d) "Tie-in" arrangements

This provision, which is contained in the current regulation, imposes on bank holding companies and nonbanking subsidiaries conducting activities pursuant to section 4(c)(8) of the BHC Act the prohibition against "tie-in" arrangements contained in section 106(b) of the BHC Act Amendments of 1970. For example, a nonbank subsidiary that is engaged in lending may not fix or vary the interest rate on its loans on the condition that the borrower obtain additional credit, property, or services from the parent holding company or from another subsidiary of the bank holding company. On the other hand, consistent with this regulation, a nonbank lending subsidiary may vary the interest rate on its loan to a

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customer based on the volume of borrowing by the customer from the subsidiary.

Statutory reference: 12 U.S.C. 1972(1).
Current regulation: 12 CFR 225.4(c)(1).

Section 225.4(e) Acting as transfer agent, municipal securities dealer, or clearing agent

This provision replaces the detailed provisions in the current regulation concerning securities activities of a bank holding company or a nonbanking subsidiary that is a "bank" as defined in section 3(a)(6) of the Securities Exchange Act of 1943 (15 U.S.C. 78c(a)(6)). Under the Board's Regulation H (12 CFR 208.8(f)–(j)), a member bank acting as a transfer agent, municipal securities dealer, or clearing agent, or as a participant in a clearing agency, must comply with requirements that are identical to those now contained in Regulation Y. In order to avoid this duplication, the proposed regulation refers to the relevant provisions of Regulation H, and provides that a bank holding company or covered nonbanking subsidiary must comply with the requirements of Regulation H as if it were a state member bank. If the bank holding company is itself a bank, it would be subject instead to the regulations of its primary banking supervisor. Subsidiaries of bank holding companies that are national banks, insured state nonmember banks, or nonbanking subsidiaries not subject to this paragraph are subject to comparable rules of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission, respectively.

Current regulation: 12 CFR 225.5 (c)–(f).

Section 225.5—Registration, Reports, and Inspections

A bank holding company should consult with the appropriate Reserve Bank as to the manner, form, and content of the information it must furnish to comply with this section. At the time of approval of an application to become a bank holding company, the company is advised by letter of the information that must be filed to satisfy the registration requirement. Thereafter, the company is furnished the appropriate forms for filing annual and other required reports.

Bank holding companies and their subsidiaries are subject to examination and inspection by the appropriate Reserve Bank pursuant to instructions from the Board.

Statutory reference: 12 U.S.C. 1844.
Current regulation: 12 CFR 225.5 (a), (b).

Section 225.6—Penalties for Violations

This section has been added to the proposed regulation to refer the reader to those provisions of the BHC Act, the Bank Control Act, and the Financial Institutions Supervisory Act, that subject individuals and companies to civil and criminal penalties and other administrative sanctions for violations.

Statutory reference: The statutory references are set forth in the proposed regulation.

III. SUBPART B—ACQUISITION OF BANK SECURITIES OR ASSETS

Section 225.11—Transactions Requiring Board Approval

This section of the proposed regulation, which is based on section 3(a) of the BHC Act, sets out the following transactions for which prior Board approval is required: (a) formation of a bank holding company; (b) acquisition of a subsidiary bank; (c) acquisition by a bank holding company of control of more that 5 percent of the voting securities of a bank or a bank holding company; (d) acquisition of bank assets; (e) merger or consolidation of bank holding companies; and (f) any other qcquisition that the Board determines in a particular case requires prior approval under the BHC Act.

Generally, the acquisition by a bank or bank holding company of its own voting securities or those of its parent bank holding company would not require the Board's approval under this section of the proposed regulation. Such an acquisition may, however, be prohibited under § 225.4(b) of Subpart A because it reduces the capital below the minimum standards for capital adequacy established by the Board.

Statutory reference: 12 U.S.C. 1842(a).

Section 225.11(c) Acquisition of control of bank securities or bank holding company securities

Under this section, a bank holding company must apply for the Board's prior approval to acquire voting securities of a bank or bank holding company if, after the acquisition, it would hold more than 5 percent of any class of voting securities of the bank or bank holding company. This section differs from the literal terms of section 3(a)(3) of the BHC Act, which refers only to acquisition of voting shares of a bank. However, the Board has determined that section 3 also applies to the acquisition by a bank holding company of shares of another bank holding company. (*State Street Boston Corporation*, 67 Federal Reserve Bulletin 362 (1981).)

Questions have arisen with respect to the need for an application under section 3(a) of the BHC Act in the case of a stock dividend or split, and the need for an application by a shareholder whose interest in a bank or company increases through a redemption by a bank or company of its own securities. Under paragraph (c) of this section of the proposed regulation, the receipt of securities from a stock dividend or split is not considered an acquisition requiring the Board's prior approval as long as the dividend or split does not alter the holding company's proportional share of any class of voting securities. This reflects the position contained in an existing Board interpretation. (12 CFR 223.103.)

A redemption of securities by a bank or bank holding company that increases the proportional interest of a holder of such securities usually will be regarded as an "acquisition" of bank securities by the holder and will require the holder to file an application for prior Board approval, even though the holder receives no additional shares. For example, an application would be required under paragraph (a) of this section if the redemption results in the holder becoming a bank holding company because its proportional interest has increased to 25 percent or more of any class of voting securities of a bank or bank holding company.

Section 225.11(d) Acquisition of bank assets

Under section 3(a)(4) of the BHC Act and under this provision, the acquisition by a bank holding company or a nonbank subsidiary of all or substantially all of the assets of a bank requires the Board's prior approval. This requirement does not apply where the acquisition of bank assets is made by a subsidiary bank of a bank holding company. For the treatment of mergers involving subsidiary banks of a bank holding company, see § 225.12(d) of the proposed regulation and the commentary to that section below.

Section 225.11(e) Merger of bank holding companies

Under section 3(a)(5) of the BHC Act and under this provision, a merger or consolidation of two or more bank holding companies requires prior Board approval. An exception to this requirement is a consolidation or merger in connection with a corporate reorganization. For example, in a tiered corporate structure where a bank holding company has a subsidiary that is also a bank holding company, the subsidiary may be merged into the parent without filing an application. However, the addition of a new bank holding company to a tiered bank holding company system normally would require prior approval under § 225.11 of the proposed regulation.

Section 225.11(f) Other acquisitions

Under this provision, the Board may determine that certain other acquisitions of securities of an institution require the Board's prior approval under section 3 of the BHC Act. The Board would not make a determination that a particular acquisition requires its approval before giving the acquiring company notice. The Board may exercise its authority under this provision whether or not a notice or application with respect to the proposed acquisition has been filed under any other provision of law. This provision is proposed pursuant to the Board's authority under section 5(b) of the BHC Act of the BHC Act adopt regulations to carry out the purposes of the Act and to prevent evasions, and it codifies 12 U.S.C. 1817(j)(16), which provides that a transaction subject to the Board's approval under section 3 of the BHC Act is not subject to the Bank Control Act.

Section 225.12—Transactions Not Requiring Board Approval

This section specifies transactions for which prior Board approval is not required under section 3(a) of the BHC Act.

Statutory reference: 12 U.S.C. 1842(a).

225.122(a) Acquisition of securities in fiduciary capacity

This paragraph provides that Board approval is not required for the acquisition by a company (including a bank) of voting securities of a bank or bank holding company in good faith in a fiduciary capacity, unless (1) the company has sole discretionary authority to vote the securities and will retain that authority for more than two years, or (2) the acquisition is for the benefit of the company, its shareholders, employees, or subsidiaries. The second clause is based upon the statutory presumption in sections 2(g) (1) and (2) of the BHC Act.

Within 90 days of receiving voting securities of a bank or bank holding company in a fiduciary capacity with sole discretionary voting authority, a bank holding company is required under section 3(a) of the BHC Act to file an application to retain the shares. The current regulation provides that such an application (in the form of a letter) is automatically approved within 45 days if it is accompanied by an unconditional undertaking to dispose of the shares or the voting authority within two years. Since the BHC Act gives the applicant a 2 year grace period to retain the shares even if the application is denied, the Board believes this application procedure is of little value. Therefore, under the proposed regulation, no application is required unless the company proposes to retain the shares with sole discretionary voting authority beyond the two-year grace period. If an application is required under this provision, the application should be filed in time for Board action before the two-year grace period expires.

While the exception contained in section 3 of the BHC Act for the acquisition of bank or bank holding company securities in a fiduciary capacity is limited to such acquisitions made by a bank, the proposed regulation extends the exception for fiduciary acquisition of bank and bank holding company securities to those made by a nonbank company. This liberalization is being proposed in recognition of the fact that there are nonbank companies, including nonbank subsidiaries of bank holding companies, that are engaged in fiduciary activities and would receive securities in a fuduciary capacity.

The fiduciary exemption in the BHC Act does not exempt the acquisition of bank or bank holding company shares by a bank as fiduciary for a trust that is a "company" as defined in § 225.2(c) of Subpart A. Thus, an application must be filed by such a trust if it proposes to make an acquisition of bank or bank holding company securities covered under § 225.11 of the proposed regulation. In this situation, however, an application would not also be required from the fiduciary or its parent, if the fiduciary meets the requirements for the exemption described in § 225.12(a) of the proposed regulation.

The BHC Act also does not exempt a transaction where the fiduciary receives shares from a selling company that is deemed to continue to control the shares after the divestiture under section 2(g)(3) of the BHC Act. This statutory provision is implemented in Subpart D of the proposed regulation.

Statutory reference: 12 U.S.C. 1842(a)(A)(i).
Current regulation: 12 CFR 225.3(c).

Section 225(b) Acquistion of securities in satisfaction of debts previously contracted

This provision exempts from the prior approval requirement the acquisition by a company (including a bank) of voting securities of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith, so long as the company divests the securities within two years of acquisition. Under section 3(a) of the BHC Act, the Board may grant up to three one-year extensions of the two-year divestiture period.

For example, a bank subsidiary of a bank holding company that has made a loan collateralized by more than 5 percent of the voting securities of a bank may acquire those securities without the Board's approval in the event of a default by the borrower. The bank and its holding company would be required to file an application under this subpart for Board approval to retain those shares beyond the permissible time period.

While the statutory exception is limited to acquisitions made by banks, the proposed regulation extends the exception to any company that acquires bank securities in good faith in satisfaction of a debt previously contracted. This liberalization is being proposed in recognition of the fact that there are nonbank companies, including nonbank subsidiaries of bank holding companies, that make bank stock loans.

Statutory reference: 12 U.S.C. 1842(a)(A)(ii).

Section 225.12(c) Acquisition of securities by bank holding company with majority control

A bank holding company that lawfully controls a majority of the outstanding voting securities of a bank or bank holding company may acquire, without the Board's approval, any number of additional voting securities of the bank or bank holding company.

Statutory reference: 12 U.S.C. 1842(a)(B).

Section 225.12(d) Transactions subject to Bank Merger Act

It has been the Board's practice not to require an application under section 3(a) of the BHC Act for a merger, consolidation, or purchase of assets transaction involving a nonsubsidiary bank and an operating subsidiary bank of a bank holding company, or two or more subsidiary banks of a bank holding company if the transaction is subject to the approval of a federal supervisory agency under the Bank Merger Act (12 U.S.C. 1828) and the resulting bank is a subsidiary of the bank holding company. However, an application under the BHC Act would be required for a merger or consolidation involving the acquisition of shares of a nonsubsidiary bank, if the acquisition of shares and the merger or

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consolidation do not occur simultaneously.

Section 3(a)(4) of the BHC Act provides that prior Board approval is not required for the acquisition of bank assets by a *bank* subsidiary of a bank holding company. Based upon its practice in administering the statute, the Board has treated merger and consolidation transactions in the same manner as asset acquisitions so long as they were subject to approval under the Bank Merger Act, which contains standards that are identical to those in section 3 of the BHC Act.

The proposed regulation does not provide an exemption from prior approval where a merger is between a nonsubsidiary bank and a nonoperating ("phantom") bank formed by a bank holding company for the purpose of acquiring all the outstanding shares of the nonsubsidiary bank. This type of transaction is more appropriately viewed as a bank acquisition subject to the provisions of sections 3(a)(1), 3(a)(2), or (3)(a)(3) of the BHC Act and § 225.11 of the proposed regulation.

Statutory reference: 12 U.S.C. 1842(a)(4).

Section 225.12(e) Holding securities in escrow

This provision incorporates a Board interpretation that an application for prior approval is not required for the acquisition of securities of a bank or bank holding company in escrow, where the title to the securities and the voting rights remain with the seller and the seller has not received payment for the securities.

Current regulations: 12 CFR 225.134.

Section 225.13—Factors Considered in Deciding Applications Under Subpart B

Section 225.13(a) Prohibited anticompetitive transactions

Paragraph (a) of this section incorporates the statutory prohibition in section 3(c) of the BHC Act that the Board may not approve a transaction that results in a monopoly. Similarly, the BHC Act bars the Board from approving a transaction that would result in a violation of the antitrust laws (section 2 of the Sherman Act and section 7 of the Clayton Act), unless the Board finds that the anticompetitive effects are clearly outweighed by convenience and needs considerations. For example, in the case of a failing bank, the Board may find that the continuation of the bank as a viable institution providing financial services to the community clearly outweights the anticompetitive effects resulting from its acquisition by the particular bank holding company.

Statutory reference: 12 U.S.C. 1842(c)(1) and (2).

Section 225.13(b) Other factors considered

This paragraph, which is based on section 3(c) of the BHC Act, outlines the factors considered by the Board in acting on all applications for acquisitions of banks and bank holding companies under this subpart. The factors include financial and managerial resources and the convenience and needs of the communities to be served. The Board assesses these factors with respect to the applicant, the bank to be acquired, and all banks affiliated with the applicant by common management or shareholders. In assessing the impact of a transaction on community convenience and needs, the Board considers the effects of the proposal on existing and potential competition and on the concentration of banking resources.

In significant cases, the Board's order reflects the Board's consideration of these factors in the particular case. The more significant orders, including all denials, are reprinted in full in the "Legal Developments" section of the *Federal Reserve Bulletin*, typically in the following month's issue.

In addition to its orders, the Board from time to time issues general policy and information statements concerning bank holding company operations. (See, e.g., *Capital Adequacy Guidelines*, December 17, 1981, 1 F.R.R.S. 3–1506; *Policy Statement for Assessing Financial Factors in the Formation of Small One-Bank Holding Companies pursuant to the Bank Holding Company Act*, March 28, 1980, 1 F.R.R.S. 4–855; *Community Reinvestment Act Information Statement*, Jan. 3, 1980, 3 F.R.R.S. 6–1309; *Policy Statement Regarding Notice of Applications; Timeliness of Comments; and Guidelines for Public Meetings*, 12 CFR 262.25; see also proposed *Policy Statement for Assessing Competitive Factors Under the Bank Merger Act and the Bank Holding Company Act*, 47 FR 9017 (Docket No. R–0386, March 3, 1982). For other policy statements and directives, see *Miscellaneous Supervisory Material*, 1 F.R.R.S., 4–800, *et seq.*)

Statutory reference: 12 U.S.C. 1842(c).

Section 225.13(c) Interstate transactions

Paragraph (c) reflects the statutory prohibition in section (d) of the BHC Act ("Douglas Amendment"), which provides generally that the Board may not approve an application that will result in a bank holding company acquiring an interest in banks in two or more states. The provision makes clear that the prohibition applies to applications for the information of a multi-state bank holding company, as well as a bank or bank holding company acquisition by an existing bank holding company. It would not, however, apply to the formation of a bank holding company to acquire an existing interstate bank holding company.

Paragraph (C)(2) contains the two exceptions in section 3(d) of the BHC Act to the BHC Act's general prohibition against multi-state bank holding companies. The first exception is for an acquisition by an out-of-state bank holding company where the statute laws of the state in which the bank to be acquired is located specifically allow such an acquisition. The second exception is for the acquisition of a failing bank by an out-of-state bank holding company, and it is included to reflect the amendment to section 3(d) of the BHC Act by section 116 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain") (Pub. L. 97–320, 96 Stat. 1477).

Statutory reference: 12 U.S.C. 1842(d).

Section 225.14—Procedures for Applications, Notices, and Hearings

Section 225.14(a)–(d) Applications, notices, and action on applications

The proposed regulation sets forth the procedures for applications, notices, and hearings with respect to applications for the Board's prior approval of acquisitions of bank securities and assets.[1] In accordance with § 262.3 of the Board's Rules of Procedure, an applicant seeking Board approval under this subpart is required to file an application, on a form prescribed by the Board, with the appropriate Reserve Bank. An applicant is also required to arrange for notices in a newspaper of general circulation inviting comment on the application for 30 days in accordance with the requirements of the Board's Rules of Procedure (12 CFR 262.3(b)).

In an effort to expedite the processing of applications, the proposed regulation establishes time constraints for accepting an application for processing or notifying the applicant that the application is incomplete and seeking additional information. Upon recept of an application for processing, the Reserve Bank is required to give notice to and request the comments of the

[1] For a narrative description of the processing of applications, see the pamphlet *Processing Bank Holding Company and Merger Applications*, Federal Reserve System Information Series.

primary banking supervisor of the bank to be acquired. Notice of the application will also be sent to the **Federal Register** at that time for publication. The **Federal Register** notice will provide a comment period of no more than 30 days. The publication of the **Federal Register** notice upon receipt by the Reserve Bank of an application rather than awaiting formal acceptance of the application will reduce the processing time for many applications.

The proposed regulation provides that the application will be approved within 30 days after acceptance by the Reserve Bank, unless the applicant is notified that it has been referred to the Board for decision because the application does not meet the Board's criteria for delegated action. During 1982, 93 percent of all applications submitted to the System were approved under delegated authority. Thus, under the proposed regulation it is expected that the vast majority of applications will be acted upon within 30 days of their acceptance by the Reserve Bank. The Reserve Bank is authorized to extend this 30 day period for 15 days when the additional time is needed to resolve a protest or other substantive matter.

In the case of applications referred to the Board, the proposed regulation provides that the Board must act on an application within 60 days of its acceptance by the Reserve Bank. This period may be extended for additional time if the Board advises the applicant of the duration of the extension and the reasons for it. In no event may the Board extent the period for action beyond the 91-day period provided in paragraph (f) of this section discussed below. As discussed earlier, the Board has established an internal processing schedule of 60 days for cases to be acted upon by the Board and expects that the great majority of such cases will be acted upon with the 60 day period.

The proposed regulation omits a provision in the current regulation that provides for the automatic approval of certain one-bank holding company formations at the end of a 45-day period. In practice, the Federal Reserve System issues orders in the case of every application submitted under section 3 of the BHC Act, and thus the automatic approval procedure has not generally been followed. The omission of this provision should not have any impact on the processing time for routine one-bank holding company formations, however, since, as described above, the majority of such applications will be approved within 30 days of acceptance by the appropriate Reserve Bank, pursuant to delegated authority.

Statutory reference: 12 U.S.C. 1842(b).

Current regulation: 12 CFR 225.3.

Section 225.14(e) Hearings

The proposed regulation reflects the requirements in section 3(b) of the BHC Act that the Board shall order a hearing if it receives a timely written recommendation of disapproval of the application from the primary banking supervisor.

In administering the BHC Act, the Board has in particular instances found hearings or other proceedings useful in developing a complete record in connection with the processing of an application. Accordingly, under the proposed regulation, the Board has the discretion to order any proceeding that it deems appropriate to facilitate action on an application.

Statutory reference: 12 U.S.C. 1842(b).
Current regulation: 12 CFR 225.3(d).

Section 225.14(f) Approval through failure to act

In judicial decisions involving the 91-day provision in sections 3(a) and 4(c)(8) of the BHC Act, courts have indicated that adoption by the Board of a regulation regarding the calculation of the 91-day period would be desirable. Accordingly, the proposed regulation incorporates judicial constructions of the 91-day rule in the BHC Act, and provides that an application shall be deemed approved if the Board fails to act within 91 days after the date that the record on the application is complete. In conformance with established rules for computation of time periods, such as the Federal Rules of Civil Procedure, the first complete day of the 91-day period is the day following completion of the record. Under this method of computation, the date the record is completed is day zero and the Board must act within 91 days thereafter. The proposed regulation also specifies that Board action includes issuance of an order stating that the Board has approved or denied the application, reflecting the votes of the Board members, and indicating that a statement of the reasons for the action will follow.

The proposed provision specifies that the record on an application will not be considered complete before: (1) the date the Board receives an application accepted for processing by a Reserve Bank; (2) the last day of the formal comment period specified in any notice required under the regulation; (3) the date of the receipt of the last relevant, noncumulative information needed for the Board's decision on the application from a source outside the Federal Reserve System; or (4) the completion of any hearing required on the application.

Information from a source outside the Federal Reserve System includes any information submitted by the applicant in response to a request by the Board during the proceeding as well as information from a government agency or potential competitor. In addition, if the Board has requested information that the Board believes is necessary for its decision, the record is not complete until the Board receives that information. Similarly, if the Board is awaiting the results of an examination of any bank involved in the application, the record would not be complete until the Board receives the examination report. (See *Tri-State Bancorporation, Inc.* v. *Board of Governors*, 524 F. 2d 562 (7th Cir. 1975); *North Lawndale Economic Development Corp.* v. *Board of Governors*, 553 F. 2d 23 (7th Cir. 1977); *Central Wisconsin Bankshares, Inc.* v. *Board of Governors*, 583 F. 2d 294 (7th Cir. 1978); *Republic of Texas Corp.* v. *Board of Governors*, 649 F. 2d 1026 (5th Cir. 1981).)

An applicant or other interested person may contact Board staff for informal advice on the calculation of the 91-day period for a particular application. In response to such requests, Board staff will inform the applicant of the last date provided in any notice for comment on the application and the last date that any relevant information concerning the application has been received from outside the Federal Reserve System. It should be understood that dates provided by the staff in response to informal requests are subject to change if additional information is subsequently submitted to the Board.

Statuory reference: 12 U.S.C. 1842(b).

Section 225.14(g) Exceptions to notice and hearing requirements

This provision, which is derived from section 3(b) of the BHC Act, authorizes the Board to modify or dispense with the notice and hearing requirements in the case of a probable bank failure or other emergency situation. The procedures authorized under this provision normally will be utilized in close consultation with the appropriate financial regulatory agencies. Generally, an emergency situation is one that is less serious than a probable bank failure, and the Board has considerable discretion to determine that an emergency exists under particular circumstances.

Statutory reference: 12 U.S.C. 1843(b).

Section 225.14(h) Waiting period

Under section 11(b) of the BHC Act, transactions for which an application has been approved under section 3 of

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the Act, either as a result of Board approval or the 91-day rule, may not be consummated until the thirtieth day after approval of the application. Emergency and failing bank acquisitions are generally exempt from the 30-day waiting period. The purpose of the waiting period is to afford the United States Department of Justice an opportunity to review the proposal and determine whether it conforms to the antitrust laws. If the Department does not challenge the merger during this period, the merger is thereafter immune from challenge under section 7 of the Clayton Act.

The Board requests comment on the feasibility of an amendment to Regulation Y that will allow this waiting period to be reduced with the concurrence of the Department of Justice where the proposal does not present any anticompetitive effects. For example, one-bank holding company formations generally do not present anticompetitive effects and are not the type of proposals for which the 30-day waiting period was designed.

Statutory reference: 12 U.S.C. 1849(b).

IV. SUBPART C—NONBANKING ACTIVITIES AND ACQUISITIONS OF BANK HOLDING COMPANIES

Section 4 of the BHC Act embodies one of the primary purposes of the BHC Act, the separation of banking and commerce, by limiting the nonbanking activities in which a bank holding company and its subsidiaries may engage and by prohibiting the acquisition of shares in nonbanking entities unless such acquisitions are specifically permitted under one of the exemptions to the section. This subpart of the proposed regulation implements section 4 and applies to any bank holding company as defined in Subpart A (including certain foreign banking organizations).

The subpart sets forth the limitations on nonbanking activities and describes the major exemptions from the nonbanking prohibitions contained in the BHC Act. The statutory exemption in section 4(a)(2) of the BHC Act relating to retention of real estate holdings acquired prior to 1970, and the limited exemption in section 4(c)(10) for a bank that is a bank holding company have not been included in the regulation because of their limited applicability. Also, the provisions of section 4(c)(12) of the BHC Act, which pertain to the expansion of nonbanking activities that were required to be divested by 1980, are not included.

The statutory exemptions in sections 4(c) (9) and (13) of the BHC Act are implemented in various provisions of Regulation K ("International Banking Operations," 12 CFR Part 211). Section 4(c)(9) concerns shares held or activities conducted by a company organized under the laws of a foreign country. Section 4(c)(13) relates to the exemption for shares or activities of a company that does no business in the United States except as an incident to its international activities.

Section 4(c)(14) of the BHC Act, which was added in 1982 by the Bank Export Services Act (Title II of Pub. L. 97–290), involves an exemption for acquisition by a bank holding company of an investment in an export trading company. The Board's proposed amendment to Regulation K implementing this exemption was issued for comment on January 14, 1983 (48 FR 3775, Docket No. R–0445).

Section 225.21—Permissible Nonbanking Activities and Acquisitions; Exempt Bank Holding Companies

Section 225.21(a) Permissible nonbanking activities and acquisitions

This paragraph reflects the prohibition of section 4(a) of the BHC Act that a bank holding company and its subsidiaries may not engage in any activity other than those of banking or managing or controlling banks or activities otherwise deemed permissible under the BHC Act, and may not acquire voting securities of a company engaged in impermissible activities.

Since the statutory definition of company in section 2(b) of the BHC Act includes the term "partnership," the prohibition against engaging in a nonbanking activity also applies to a bank holding company or subsidiary becoming a partner in a partnership (or acquiring voting securities in a partnership) that is engaged in nonbanking activities. (See *Central Colorado Co. & C.C.B., Inc.*, 66 Federal Reserve Bulletin 655 (1980).) Similarly, the prohibition applies to acquiring an interest in a joint venture (either in corporate or partnership form), where the joint venture is engaged in a nonbanking activity.

Under § 225.4(c)(3) of the current regulation and a current Board interpretation, the prohibition against nonbanking acquisitions also includes acquisitions of assets of a going concern (12 CFR 225.132). Specifically, under these provisions, assets acquired other than in the ordinary course of business or that constitute the acquisition in whole or in part of a going concern, including a subsidiary, division, department or office, are subject to the prohibitions and prior approval requirements of section 4 of the BHC Act. (As discussed below, the Board is providing exemptions in §§ 225.22(c) (7) and (8) from prior approval requirements for assets acquired in the ordinary course of business and for certain assets acquired by consumer finance and residential mortgage banking companies.)

Statutory reference: 12 U.S.C. 1843(a) (1), (2).

Current regulation: 12 CFR 225.4(c)(3).

Section 225.21(b) Exempt bank holding companies

This paragraph specifies the types of companies that are exempt from the prohibitions against nonbanking activities of section 4 of the BHC Act and the proposed regulation. Included among them are certain labor, agricultural, and horticultural organizations; family-owned companies; and companies granted hardship exemptions by the Board under section 4(d) of the BHC Act.

Statutory reference: 12 U.S.C. 1843(c) (i) and (ii), and (d).

Section 225.22—Exempt Nonbanking Activities and Acquisitions

This section sets out the exemptions from the nonbanking prohibitions contained in section 4(a) of the BHC Act. The exemptions are derived, for the most part, from those set forth in section 4(c) of the BHC Act, as well as interpretations that have been issued by the Board. A bank holding company may engage in an activity or acquire shares of a nonbanking company without prior Board approval, if the activity or acquisition falls within one of the following exemptions.

Statutory reference: 12 U.S.C. 1843(c).

Section 225.22(a) Servicing activities.

Under sections 4(a)(2) and 4(c)(1) of the BHC Act, a bank holding company may provide services for its banking and nonbanking subsidiaries either directly or indirectly through a subsidiary. This section of the proposed regulation clarifies the scope of the servicing activities that may be performed for a bank holding company and its subsidiaries. Generally, a bank holding company may provide only services related to the internal operations of the bank holding company or its subsidiaries. Examples of the activities are set forth in the proposed regulation. The servicing exemption is not intended, however, to be used by a bank holding company as a guise for providing nonbank services to outside parties or otherwise engaging in nonbanking activities. Thus, as a general matter, a bank holding company or its subsidiaries may not rely on the

servicing exemption to act as principal or agent in soliciting business or providing services to parties other than the bank holding company or its subsidiaries. This provision differs from several Board interpretations issued before the 1970 amendments to the Act. These interpretations will be modified or deleted if this provision is adopted. (See *e.g.* 12 CFR 225.104, 225.109, 225.118, and 225.122.)

Statutory reference: 12 U.S.C. 1843 (a)(2) and (c)(1).

Section 225.22(b) Safe deposit business

As reflected in section 4(c)(1)(B) of the BHC Act, the proposed regulation allows a bank holding company to engage in or to acquire shares of a company that conducts a safe deposit business.

Statutory reference: 12 U.S.C. 1843(c)(1)(B).

Section 225.22(c) Nonbanking acquisitions not requiring prior Board approval

1. *DPC (debts previously contracted) acquisitions.* Section 4(c)(2) of the BHC Act provides that a bank holding company or subsidiary may acquire nonbank shares in satisfaction of a debt previously contracted and hold such shares for a two-year period, with the possibility of three additional one-year extensions being granted by the Board. This provision codifies the exemption and expands it to include interests in real or personal property. Under a current Board interpretation, the Board may approve an additional five-year period for a total of ten years for the divestiture of real estate acquired DPC (12 C.F.R. 225.140).

Statutory reference: 12 U.S.C. 1843(c)(2).

2. *Securities or assets required to be divested by subsidiary.* Section 4(c)(3) of the BHC Act permits certain acquisitions to be made by a bank holding company from its subsidiaries. The regulation allows for a temporary holding for up to two years of nonbanking shares that a subsidiary of the holding company has been required to divest by a federal or state examining authority.

Statutory reference: 12 U.S.C. 1843(c)(3).

3. *Fiduciary investments.* Bank holding companies and their subsidiaries are permitted under section 4(c)(4) of the BHC Act to acquire and hold nonbanking securities and activities in a fiduciary capacity so long as they are not held for the benefit of the bank holding company, its subsidiaries, or its employees. Under the BHC Act, this provision does not permit a bank holding company subsidiary to acquire nonbank securities and activities as fiduciary for a trust that is a "company" (as defined in section 2(b) of the BHC Act). The legislative history of this provision suggests this limitation is intended to apply only where the trust is also a bank holding company. Thus, if the trust itself is not a bank holding company, the exemption is available to the bank holding company subsidiary that acts as fiduciary. (Of course, if the trust is a bank holding company, it is subject to the same limitations of this subpart with respect to its nonbank securities and activities that apply to any other bank holding company.)

While the exception for the acquisition of nonbank shares and assets in a fiduciary capacity contained in section 4(c)(4) of the BHC Act is limited to such acquisitions made by a subsidiary bank, the proposed regulation extends the exception for fiduciary acquisition of nonbank shares and assets to those made by a nonbank company. This interpretation is being proposed in recognition of the fact that there are nonbank companies, including nonbank subsidiaries of bank holding companies, that hold securities and assets in a fiduciary capacity.

Statutory reference: 12 U.S.C. 1843(c)(4).

4. *Securities eligible for investment by a national bank.* This exemption derives from section 4(c)(5) of the BHC Act and permits a bank holding company to acquire directly or through a nonbank subsidiary securities of the kinds and amounts that are explicitly eligible by federal statute for investment by a national bank. Such investments, the authorization for which is contained in 12 U.S.C. 24, Par. Seventh, include securities issued by Federal Home Loan Banks, the Federal National Mortgage Association, and the Government National Mortgage Association, and stock issued by a safe-deposit company or agricultural credit corporation. (See discussion below of § 225.22(d) concerning investments that may be made by subsidiary banks of a bank holding company.)

The limitation to "explicitly eligible" investments was adopted by the Board in 1971 to prevent section 4(c)(5) of the BHC Act from being used to circumvent the requirements of section 4(c)(8). For example, a bank holding company may not acquire a consumer finance company without prior Board approval on the ground that a national bank is permitted by agency rule to own such a company. For the same reason, the Board believes that section 4(c)(5) should not be interpreted to exempt investments in bank service corporations under the Bank Service Corporation Act amendments in section 709 of the Garn-St Germain Act since these amendments, while greatly expanding the permissible services of such corporations, evidence an intent to limit the activities to those permissible under section 4(c)(8) of the BHC Act. The proposed regulation specifically excludes investments in bank service corporations.

Statutory reference: 12 U.S.C. 1843(c)(5), 24.

Current regulation: 12 CFR 225.4(e).

5. *Securities totalling 5 percent or less of a company.* This provision, which is derived from section 4(c)(6) of the BHC Act, permits passive investments by a bank holding company or subsidiary so long as the investment in a company or property does not amount to more than five percent of any class of voting securities of the company or more than a five percent interest in the property. The regulation codifies the Board's position, as reflected in a published interpretation, that section 4(c)(6) may only be used for passive investments and is not authority for a bank holding company to engage in entrepreneurial activity through the company or property in which the investment is made (12 CFR 225.137).

Statutory reference: 12 U.S.C. 1843(c)(6).

6. *Securities of investment company.* Under section 4(c)(7) of the BHC Act, a bank holding company may invest in an investment company that limits its activities to investing in securities that do not amount to more than five percent of any class of voting securities of any company.

Statutory reference: 12 U.S.C. 1843(c)(7).

7. *Assets acquired in the ordinary course of business.* Prior approval of the Board is not required for the acquisition of certain assets in the ordinary course of business, subject to the Board's interpretation of "ordinary course of business" in 12 CFR 225.132. Acquisitions exempt under this provision may not represent all or substantially all the assets of a subsidiary, division, department, or office or the employees of the selling company. This proposal, together with the next paragraph, represents a modification of the proposal that was issued several years ago (Docket No. R–0005) and supersedes that rulemaking proceeding.

8. *Asset acquisitions by consumer finance or mortgage company.* This provision establishes an exemption from section 4 of the BHC Act for a consumer finance or mortgage company to acquire

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assets of an office(s) engaged in making consumer loans, provided the acquisition amounts to no more than 10 percent of the assets of the acquiring consumer finance of mortgage company or $10 million, whichever is less. For purposes of this exemption, a consumer loan is any loan the proceeds of which are used for personal, family or household purposes.

The Board is proposing this exemption to promote competitive equity between holding company affiliates and independent companies in the consumer finance and mortgage banking industries. These independent companies buy and sell offices frequently and generally need not await regulatory approval. The Board believes that the BHC Act should not be interpreted to limit unduly the normal business operations of a nonbank affiliate of a bank holding company, as long as the exemption is not used to eliminate a competitor.

The proposed regulation indicates that the Board may withdraw the authority to make acquisitions under this exemption by notifying the bank holding company. It is contemplated that the Board would withdraw this authority only in unusual circumstances, for example, where the financial condition of the bank holding company or its subsidiaries does not warrant futher expansion.

Section 225.22(d) Acquisition of securities by subsidiary banks

This provision restates § 225.4(e) of the current Regulation Y concerning acquisitions by subsidiary banks of a bank holding company. Under the present and proposed language, a national bank or its subsidiary may acquire or retain shares in accordance with the rules and regulations of the Comptroller of the Currency.

In addition, for purposes of federal law, a state-chartered bank or its subsidiary may:

(i) acquire or retain shares if such shares are of the kinds and amounts explicitly eligible by federal statute for investment by a national bank; and

(ii) acquire or retain all of the shares (except directors' qualifying shares) of a company that engages solely in activities in which the parent bank may engage, at locations at which the bank may engage in the activity, and subject to the same limitations as if the bank were engaging in the activity directly.

Statutory reference: 12 U.S.C. 1843(c)(5).

Section 225.22(e) Activities and securities of new bank holding companies

This provision incorporates section 4(a)(2) of the BHC Act, which permits a company becoming a bank holding company a period of two years to bring its nonbanking activities and investments into conformity with section 4. The two-year period may be extended by the Board for three additional one-year periods.

A bank holding company may not further extend the divestiture period by forming a new bank holding company and transferring its bank and nonconforming activities to the new company to evade the requirements of the Act. Thus, consistent with section 2(a)(6) of the BHC Act, a successor to a bank holding company, as defined in section 2(e) of the BHC Act, would have to conform to any divestiture period to which the predecessor bank holding company was subject.

Statutory reference: 12 U.S.C. 1841(a)(6) and (e); 1843(a)(2).

Section 225.22(f) Grandfathered activities and securities

This provision incorporates the exemptions contained in sections 4(a)((2) and 4(c)(11) of the BHC Act, which provide certain grandfather privileges to a "company covered in 1970" (i.e., a company that became a bank holding company as a result of the 1970 Amendments to the BHC Act and would have been a bank holding company on June 30, 1968 if those amendments had been in effect then). Generally, such a company may continue to hold those interests and to engage in those activities that it held or engaged in on June 30, 1968, and may expand such activities, including by the formation of a new company to engage in such activities. Subsidiaries or activities acquired after June 30, 1968, pursuant to a binding written contract entered into prior to June 30, 1968, are similarly grandfathered. As provided in section 4(a)(2) of the BHC Act, the Board may find, after notice to the bank holding company, that divestiture of grandfathered activities is necessary to ensure safe and sound operations or to avoid certain anticompetitive effects.

Statutory reference: 12 U.S.C. 1843(a)(2) and (c)(11).

Section 225.22(g) Securities or activities exempt under Regulation K

This provision exempts securities acquired or activities engaged in by a bank holding company under the authority of the Board's Regulation K, "International Banking Operations" (12 CFR Part 211).

Statutory reference: 12 U.S.C. 1843(c)(9) and (13); 12 U.S.C. 3106.

Section 225.23—Nonbanking Activities Requiring Board Approval

The principal authority for bank holding companies to engage in nonbanking activities is set forth in section 4(c)(8) of the BHC Act, which was revised and expanded by the 1970 Amendments to the Act. That section provides generally that a bank holding company may seek Board approval to engage in, or acquire shares of a company engaged in, activities that the Board has determined, after notice and opportunity for hearing, "to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The statute provides that the Board may make this determination by order or by regulation. In the exercise of its rulemaking authority, the Board has to date determined that 14 activities are "closely related to banking."

Except for insurance agency activities descussed below, the proposed regulation incorporates the description of the activities contained in the current regulation, with only minor, nonsubstantive changes intended to restate the description in simpler language. Some descriptions of activities have not been simplified where they were the result of extensive regulatory proceedings and were upheld in their present form following judicial review. The revised list has been reduced to 13 activities by combining the making and servicing of loans. No comment is requested on the question of the appropriateness of the Board's determination that the listed activities are closely related to banking since such comment was reeived and considered in earlier proceedings.

In addition, the Board is proposing to add to the list five nonbanking activities that the Board has previously determined by order to be closely related to banking and therefore permissible for particular bank holding companies. The Board invites comment on whether they should be added to the list or modified in any respect, so that they would be permissible for bank holding companies generally. These activities are: issuing money orders with a face value of $1,000 or less; arranging commercial real estate equity financing; underwriting and dealing in certain federal, state, and municipal securities; acting as a futures commission merchant for certain financial assets; and offering certain foreign exchange services and

advice. In a separate proceeding, the Board has also proposed to amend the regulation to include providing certain securities brokerage services that were approved by order (48 FR 7746, Docket No. R–0455, Feb. 22, 1983). As indicated above, the Board also invites regulatory proposals for additional nonbanking activities.

For ease of reference, the descriptions of permissible data processing activities and courier activities include providing such services for the internal operations of the bank holding company and its subsidiaries. Such activities, if engaged in solely for the internal operations of the bank holding company, would be permissible on the basis of section 4(a)(2) or 4(c)(1)(C) of the BHC Act. The Board will consider deleting these provisions, which are also contained in the current regulation, if commenters consider their retention in the regulation misleading.

Set forth below in summary form is a list of the 13 current activities and the 5 additional proposed activities, together with citations to the current regulation and the *Federal Reserve Bulletin* containing the regulatory action of the Board, and judicial decisions relating to the Board's determinations. For the five proposed activities, a citation is given to the case where the activity was approved for a particular bank holding company.

(1) *Making and servicing loans.* 12 CFR 225.4(a) (1) and (3); 57 *Federal Reserve Bulletin* 512 (1971).

(2) *Industrial banking.* 12 CFR 225.4(a)(2); 57 *Federal Reserve Bulletin* 512, 513 (1971).

(3) *Trust company functions.* 12 CFR 225.4(a)(4); 57 *Federal Reserve Bulletin* 512, 513 (1971); 60 *Federal Reserve Bulletin* 446 and 504 (1974). An organization under this paragraph would usually be chartered by state or federal authorities to engage in trust activities and would be subject to regulation and examination by its chartering authority. The trust activities intended to be permitted under this section are traditional activities carried on by trust companies generally.

(4) *Investment or financial advice.* 12 CFR 225.4(a)(5); 57 *Federal Reserve Bulletin* 512, 513 (1971); 58 *Federal Reserve Bulletin* 149 and 571 (1972); *Board of Governors* v. *Investment Company institute, 450 U.S. 46 (1981).*

As reflected in a footnote to the current regulation, investment advising is to be contrasted with "management consulting" which the Board views as including, but not limited to, the provision of analysis or advice as to a firm's (i) purchasing operations, such as inventory control, sources of supply, and cost minimization subject to constraints; (ii) production operations, such as quality control, work measurement, product methods, scheduling shifts, time and motion studies, and safety standards; (iii) marketing operations, such as market testing, advertising programs, market development, packaging, and brand development; (iv) planning operations, such as demand and cost projections, plant location, program planning, corporate acquisitions and mergers, and determination of long-term and short-term goals; (v) personnel operations, such as recruitment, training, incentive programs, employee compensation, and management-personnel relations; (vi) internal operations, such as taxes, corporate organization, budgeting systems, budget control, data processing systems evaluation, and efficiency evaluation; or (vii) research operations, such as product development, basic research, and product design and innovation. The Board has determined that general management consulting—as opposed to management consulting to depository institutions—is not an activity that is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

(5) *Leasing.* 12 CFR 225.4(a)(6) (i) and (ii); 57 *Federal Reserve Bulletin* 512, 513 (1971); 60 *Federal Reserve Bulletin* 284, 285–86 (1974); 62 *Federal Reserve Bulletin* 944 (1976). The proposed regulation combines the provisions of the current regulation concerning personal and real property leasing, since those provisions are nearly identical.

(6) *Community development.* 12 CFR 225.4(a)(7); 12 CFR 225.127; 57 *Federal Reserve Bulletin* 512, 513 (1971). While this provision is not intended to allow for projects designed essentially for commercial gain, the Board believes bank holding companies should have flexibility in making investments or charitable contributions that result in or are designed for community improvement, and the receipt of modest profits would not be inconsistent with the nature of this activity.

(7) *Data processing.* 12 CFR 225.4(a)(8); 57 *Federal Reserve Bulletin* 512, 513 (1971); 68 *Federal Reserve Bulletin* 552 (1982).

(8) *Insurance sales.* 12 CFR 225.4(a)(9); 57 *Federal Reserve Bulletin* 674, 674–75 (1971); 65 *Federal Reserve Bulletin* 924 (1979); 67 *Federal Reserve Bulletin* 629 (1981). In its interpretation concerning this activity, the Board describes types of insurance that are regarded as directly related to an extension of credit. (12 CFR 225.128.) Several of these activities have been limited or prohibited by the amendments to section 4(c)(8) of the BHC Act made by Title VI of Garn-St Germain. The Board is reviewing the issues raised by the amendment in Garn-St Germain and will amend Regulation Y to reflect the resolution of these issues. In the interim, the Board will consider applications from companies to engage in insurance activities that the company believes are permissible under the provisions of Garn-St Germain.

(9) *Insurance underwriting.* 12 CFR 225.4(a)(10); 59 *Federal Reserve Bulletin* 19, 20 (1973). As stated in the current and proposed regulation, to assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. As reflected in a current interpretation, the Board also expects that once an application has been approved on this basis, a bank holding company will provide these benefits on a continuing basis by adjusting its rates and services in relation to adjustments in the *primo facie* rates provided by state law (12 CFR 225.135).

(10) *Courier services.* 12 CFR 225.4(a)(11); 59 *Federal Reserve Bulletin* 892 (1973); *National Courier Ass'n* v. *Board of Governors,* 516 F.2d 1229 (D.C. Cir. 1975). The Board's interpretation at 12 CFR 225.129 provides additional conditions on bank holding company performance of this activity. All applications for this activity must be acted on by the Board rather than the Reserve Banks, until the Board gains experience with these applications.

(11) *Management consulting for depository institutions.* 12 CFR 225.4(a)(12); 60 *Federal Reserve Bulletin* 223 and 446 (1974); 68 *Federal Reserve Bulletin* 237, 237–38 (1982). The Board's interpretation at 12 CFR 225.131 specifically describes permissible management consulting activities and provides an exemption from the prohibition against holding shares of a client bank where the shares are acquired in satisfaction of a debt previously contracted or held in a fiduciary capacity without sole voting authority.

(12) *Money orders, savings bonds, and travelers checks.* 12 CFR 225.4a(13); 65 *Federal Reserve Bulletin* 249, 250 (1979); 67 *Federal Reserve Bulletin* 912 (1981). The proposed revision regarding this

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activity includes the issuance of money orders having a face value of $1,000 or less. That additional activity was approved by the Board by order for a particular bank holding company (63 *Federal Reserve Bulletin* 416 (1977)).

(13) *Real estate appraising.* 12 CFR 225.4(a)(14); 68 *Federal Reserve Bulletin* 975 (1980).

(14) *Commercial real estate equity financing.* 68 *Federal Reserve Bulletin* 647 (1982).

(15) *Underwriting and dealing in government obligations.* 64 *Federal Reserve Bulletin* 222, 223 (1978); 65 *Federal Reserve Bulletin* 363 (1979); 68 *Federal Reserve Bulletin* 249 (1982)

(16) *Foreign-exchange advisory and transactional services.* 69 *Federal Reserve Bulletin* 221 (1983).

(17) *Futures commission merchant.* 63 *Federal Reserve Bulletin* 951 (1977); 68 *Federal Reserve Bulletin* 514 (1982).

Under the proposal, a bank holding company may engage in FCM activities pursuant to this provision on major domestic exchanges and such foreign commodities or financial futures exchanges as the Board has considered in previous applications. The Board will consider applications to engage in FCM activities on other foreign exchanges on a case-by-case basis. If this proposal is approved, all applications to undertake this activity would be acted on by the Board, not the Reserve Banks, until the Board gains more experience in this area.

Statutory reference: 12 U.S.C. 1843(c)(8).

Section 225.24—Factors Considered in Deciding Applications Under Subpart C

Section 225.24(a) Criteria for activities previously determined to be closely related to banking

This provision incorporates tha statutory test in section 4(c)(8) of the BHC Act, which requires the Board to weigh the public benefits that are likely to be derived by a particular bank holding company engaging in a specific nonbanking activity against the possible adverse effects in order to determine whether the proposal should be approved. The enumeration of benefits and adverse effects in the regulation, as in the statute, is meant to be illustrative and not exhaustive and, therefore, the Board is not precluded from considering other factors in deciding an application.

Section 4(c)(8) of the BHC Act allows the Board to differentiate between activities commenced *de novo* and those commenced through the acquisition of a going concern. Accordingly, the proposed regulation reflects the general finding of the Board that performance of an activity by a bank holding company on a *de novo* basis is likely to yield public benefits.

Statutory reference: 12 U.S.C. 1843(c)(8).

Section 225.24(b) Criteria for other nonbanking activities

Section 4(c)(8) of the BHC Act provides a two-step test for determining the permissibility of nonbanking activities for bank holding companies. First, the Board must determine that the activity is closely related to banking. Second, having made that finding, the Board must determine whether the activity is "a proper incident" to banking by weighing the benefits of a particular bank holding company engaging in a specific nonbanking activity against the possible adverse effects. (*Board of Governors* v. *Investment Company Institute*, 450 U.S. 46 (1981); *National Courier Ass'n.* v. *Board of Governors*, 516 F.2d 1229 (D.C. Cir. 1975).)

Under the provisions of the BHC Act, the Board has broad discretion in determining whether an activity is closely related to banking. In making this determination, the Board has found the following guidelines established by the court to be useful:

(1) banks generally have provided the proposed services;

(2) banks generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed service; and

(3) banks generally provide services that are so integrally related to the proposed service as to require their provision in a specialized form. (*National Courier Ass'n.* v. *Board of Governors*, F.2d 1229 (D.C. Cir. 1975).)

In addition, the Board consider other factors in deciding what activities are closely related to banking. (*Alabama Association of Insurance Agents* v. *Board of Governors*, 533 F.2d 224, 241 (5th Cir. 1976), *cert. denied*, 435 U.S. 904 (1978); *Board of Governors* v. *Investment Company Institute*, 450 U.S. 46, 55 (1981).)

Statutory reference: 12 U.S.C. 1843(c)(8).

Section 225.24(c) Financial and managerial criteria

In addition to the factors specified in § 225.24(a) of the regulation, derived from section 4(c)(8) of the BHC Act, the Board's evaluation of an application to engage in any nonbanking activity includes a review of the financial and managerial resources of the bank holding company, its subsidiaries and the company to be acquired, and the effect of the transaction on their resources. For example, a proposal that may detract from the financial condition of the applicant bank holding company would be weighed as an adverse factor in the Board's overall evaluation of the application.

Statutory reference: 12 U.S.C. 1843(c)(8).

Section 225.25—Procedures for Applications, Notices, and Hearings

The proposed regulation sets out the procedures for filing applications for Board approval to engage in nonbanking activities. As discussed below, where a bank holding company has received Board approval to engage in an activity in a particular state, subsequent expansion of that activity by opening additional offices or expanding its business in that state (other than by acquiring companies) will generally not require additional applications. In addition, expedited procedures for certain small acquisitions of going concerns engaged in permissible nonbanking activities are being proposed in order to reduce the regulatory burden on bank holding companies.

Statutory reference: 12 U.S.C. 1843(c)(8); 1844(b).

Current regulation: 12 CFR 225.4(b).

225.25(a)(1) Filing application

An application for board approval to engage in an activity that the Board has determined to be closely related to banking must be filed with the appropriate Reserve Bank.[2] In filing an application, the bank holding company should specify the activities in which it proposes to engage. For example, a bank holding company seeking to engage in mortgage lending activities should so specify, rather than referring to the general category of making, acquiring, or servicing loans under § 25.23(b)(1).

As indicated in § 225.23(a)(2), the Board will entertain applications to engage in other nonbanking activities that a bank holding company believes to be closely related to banking as to be a proper incident thereto. Any bank holding company may also request the Board to consider an activity previously rejected as impermissible, if the bank holding company can demonstrate that circumstances have changed since the Board's determination. In either case,

[2] In most cases, an application to engage in a permissible nonbanking activity will be acted upon by a Reserve Bank pursuant to delegated authority from the Board. The Board has decided, however, that applications involving courier activities or joint ventures should be acted upon by the Board, rather than the Reserve Bank.

the bank holding company must file its application in accordance with this section, provide reasons for its belief that the activity is closely related to banking or to managing or controlling banks within the meaning of section 4(c)(8) of the BHC Act, and describe the public benefits likely to result from the bank holding company engaging in the activity.

Statutory reference: 12 U.S.C. 1843(c)(8).

Section 225.25(a)(2) Geographic scope of nonbanking activities

Under the current regulation, an application is required to open each new office or to expand the service area of a previously approved nonbanking activity. The requirement for individual office approvals was imposed by the Board in 1971 in implementing the new nonbanking authority given bank holding companies under the 1970 Amendments to the BHC Act. However, the Board does not believe that the BHC Act requires an application for such *de novo* expansion. Section 4 of the BHC Act requires only that the Board's prior approval be obtained by a bank holding company to engage in a nonbank activity or to acquire shares of a company engaged in nonbank activities.

Based on its experience in administering this provision, the Board has found that, where the bank holding company and its subsidiaries are in satisfactory financial condition, the establishment of *de novo* offices has had insignificant adverse effects, particularly on competition and the concentration of resources. Hence, such applications have been uniformly approved. In light of this experience and in order to reduce the burden on bank holding companies, the Board believes it is appropriate to modify significantly the present application procedures by eliminating the requirement for individual applications for *de novo* expansion in a previously approved activity. The Board notes that section 4(c)(8) of the BHC Act provides that, in acting on applications under that section, the Board may distinguish between activities established *de novo* and the acquisition of a going concern.

Under the procedures proposed in this provision, a bank holding company will specify in its initial application for approval the state or states in which the bank holding company intends to engage in a nonbanking activity or to acquire a going concern engaged in a nonbanking activity. If the application is approved, the bank holding company may open new offices or form new subsidiaries to engage in the activity in any state(s) specified in the application without any additional Board approval. This authority is limited to engaging in the particular activity specified by the bank holding company in its application to enter a state. For example, a bank holding company that applied to engage in consumer finance in a particular state may not open offices or expand into mortgage banking without Board approval even though consumer finance and mortgage banking are both within the authority of lending in § 225.23(b)(1).

De novo expansion will continue to be monitored by the Board in connection with its ongoing supervision and regulation of the bank holding company. The regulation also authorizes the Board to require an application for permission to open a new office. This authority is expected to be exercised rarely, however, principally where the company is experiencing financial difficulty.

The bank holding company must engage in the activity or acquire the company engaged in the activity in each state(s) specified in the application within a period of two years from the Board's approval. For any state specified in the application where it fails to engage in the activity within two years, the holding company's authority to expand in that state would lapse and a new 4(c)(8) application to engage in the activity in that state must be filed in accordance with the procedures of this subpart. In administering this provision the Board will regard a bank holding company as having engaged in an activity in a particular state if, for example, it acquires a going concern, opens offices, or solicits customers in the state.

With respect to companies that have received approval in the past to engage in an activity in a particular state at specific offices or on some other limited basis under the Board's current Regulation Y, and wish to expand *de novo* within the state under the Board's proposed regulation, the Board proposes to permit the filing of a letter request for approval instead of the application normally required. (The letter should contain the date the company received approval to engage in the activity in a state and the extent of its authority.) Notice of these requests would be published in the **Federal Register**, and the requests would be acted upon after the close of the comment period. Such a procedure is being proposed as a matter of fairness to potential competitors who may not have commented on the company's earlier application due to the limited scope of the earlier proposal. (In such a case, of course, the company's earlier limited authorization to engage in the activity would not be subject to challenge.)

If, however, the holding company has received the Board's approval to engage in a given activity throughout a state, no further approval would be required to open additional offices within that state, nor would the holding company be required to file the type of letter referred to in the previous paragraph. To avoid any misunderstandings in this situation, the company should confer with its Reserve Bank about its existing authority before expanding on the basis of this section of the regulation.

As a further effort to reduce the regulatory burden, the Board is considering whether to eliminate the requirement for state-by-state approval for *de novo* expansion of permissible nonbanking activities. Under this alternative approach, a bank holding company would be permitted, without further application to the Board, to open new offices anywhere in the country that are engaged in nonbanking activities for which the bank holding company has previously received Board approval. Comments are specifically invited on this alternative, and the Board may adopt it as part of its final action on this proposed revision of Regulation Y.

Statutory reference: 12 U.S.C. 1843(c)(8); 1844(b).

Current regulation: 12 CFR 225.4 (b)(1), (c)(2).

Section 225.25(b)–(d) Applications and notices

These provisions are similar to the procedures for applications for bank acquisitions in § 225.14(a)–(d) of Subpart B of the proposed regulation discussed above. They establish time limits for accepting nonbanking applications for processing, require prompt publication of notice in the **Federal Register** inviting public comment on such applications, and provide for a prompt decision on applications, generally within 30 days of acceptance of an application regarding an activity on the Regulation Y list of permissible activities.

Under current practice, no time period is specified for publishing notice of a proposal to engage in a new nonbanking activity not on the list of those already found permissible by the Board. The decision whether to publish notice of the proposal for comment is currently made by the Board at a formal Board meeting. As a result, processing of such proposals has at times been delayed. In order to expedite the processing of these proposals, under the proposed regulation the Board will send notice of a proposed new activity to the **Federal**

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Register within 10 business days after receipt of the application from the Reserve Bank, unless there is no legal basis for publication of the activity. The notice will invite comment generally for a period of 30 days.

This 10-day period for sending notice to the Federal Register would not apply to a proposal involving a nonbanking activity that the Board has previously determined not to be closely related to banking. A decision whether to publish such a notice would be made only after the Board determines whether circumstances have changed to warrant reconsideration of the activity.

The Board requests comment on whether this proposal to publish routinely notice of proposed new nonbank activities will impose undue burdens on the public in commenting on an activity about which the Board has made no preliminary judgment. In this connection, the Board will consider as an alternative a provision that would authorize the extension of this 10-day period for publication for an additional 30 days in order to allow for full Board consideration of whether to publish notice of a proposed new activity. In the event the Board decides not to publish the proposal, the Board will notify the applicant of the reasons for the decision.

The proposed revision omits a provision in the current regulation that provides for automatic approval, at the end of a 45-day period, of applications to engage *de novo* in activities on the list of those permissible for bank holding companies. In practice, the Federal Reserve System issues letters of approval for every application to engage in permissible *de novo* nonbanking activities under section 4 of the BHC Act, and thus, the automatic approval procedure has not generally been followed. The omission of this provision should not have any adverse impact on applicants, however, since the Board proposes to reduce substantially the number of required applications for *de novo* activities by exempting from application requirements expansion in a state where nonbank operations have been approved for a bank holding company. Moreover, the remaining applications for *de novo* entry into a state will ordinarily be approved within 30 days of acceptance by the Reserve Bank.

Statutory reference: 12 U.S.C. 1843(c)(8).

Current regulation: 12 CFR 225.4(a).

Section 225.25(e) Simplified procedures for small acquisitions

In response to requests that the Board reinstitute the simplified procedures in 12 CFR 225.4(b)(3) (which were suspended in 1971) and to establish expedited consideration for small acquisitions that raise no significant issues, the Board is proposing in this section to adopt a simplified notice procedure for small acquisitions involving permissible nonbanking activities described in § 225.23. Under the proposal, a bank holding company may apply to acquire certain voting securities or assets of a company engaged in activities permissible under § 225.23 by filing with the Reserve Bank a brief description of the proposed transaction and a notice of the proposed acquisition that appeared in a newspaper of general circulation in the area(s) to be served as a result of the acquisition.

The description of the proposed transaction should include information responsible to items 1, 4 (a, c, d), 5 and 6 of Exhibit B and item 3 of Exhibit C in the Board's F.R. Y–4 application form. The newspaper notice must provide not less than 10 days for public comment. This procedure applies only to an acquisition where the book value of the assets acquired or the gross consideration paid for the securities or assets is $10 million or less and the bank holding company has previously received approval to engage in the activity in the relevant state. Within five business days after the close of the comment period the Reserve Bank will notify the bank holding company that the proposed acquisition has been approved pursuant to delegated authority or that the application has been referred to the Board if action is not appropriate under delegated authority.

The new notice procedure being proposed represents a significant reduction in the time and expense associated with making small acquisitions involving permissible activiies. It eliminates the need for a regular application and reduces the time a bank holding company must wait before making an acquisition, i.e., from a maximum of 90 days to usually 15 days after the date the newspaper notice is published. It should also be noted that the proposed notice procedure may be used for acquisitions involving any of the nonbanking activities in § 225.23 that the Board has determined to be closely related to banking, whereas the suspended simplified procedures were generally only available for the acquisition of small finance companies and certain insurance agency activities.

The Board's experience in administering the BHC Act suggests that the type of acquisitions that would be permitted under the new notice procedure would not result in adverse effects and would be in the public interest. In those instances where an acquisition might result in adverse effects, or where substantive adverse comments raising a material issue are filed in response to the newspaper notice, the Reserve Bank may extend the period for approval of refer the application to the Board for consideration.

Statutory reference: 12 U.S.C. 1843(c)(8); 1844(b).

Current regulations: 12 CFR 225.4(b)(3).

Section 225.25(f) Hearing

Section 4(c)(8) of the BHC Act requires the Board to provide notice and opportunity for hearing in connection with an application by a bank holding company to engage in an activity that is or may be closely related to banking. Various courts have held that the Board is required to hold a hearing only where material issues of fact are in dispute (*Independent Ins. Agents of America, Inc.* v. *Board of Governors,* 646 F.2d 868 (4th Cir. 1981); *Independent Inc. Agents of America, Inc.* v. *Board of Governors,* 658 F.2d 571 (8th Cir. 1981)).

Statutory reference; 12 U.S.C. 1843(c)(8).

Section 225.25(g) Approval through failure to act

Under section 4(c) of the BHC Act, an application under section 4(c)(8) of the BHC Act that the Board fails to act on within 91 calendar days of submission of the complete record to the Board is deemed approved. This statutory provision is identical to that provided in section 3 of the BHC Act with respect to bank acquisitions, and the regulatory provision in this subpart incorporates by reference that proposed in § 225.14(f) of Subpart B for banking acquisitions.

Statutory reference: 12 U.S.C. 1843(c).

Section 225.(h) Emergency thrift institution acquisitions

This provision implements the Board's authority under section 118 of Garn-St Germain to dispense with the notice and hearing requirements of section 4(c)(8) of the BHC Act if the Board finds that an emergency exists involving a thrift institution.

Statutory reference: 12 U.S.C. 1843(c)(8).

V. SUBPART D—CONTROL AND DIVESTITURE PROCEEDINGS

Section 225.31—Control Proceedings

Section 225.31(a) Preliminary determination of control

Under sections 2(a)(2)(C) and 2(d)(3) of the BHC Act, the Board may determine, after notice and opportunity for hearing, that a company exercises or has the power to exercise a controlling influence over the management and policies of a bank or other company, even though the company may not otherwise have control under § 225.2(d) of Subpart A of the proposed regulation. Section 225.2 (b) and (c) of the current regulation describe circumstances and procedures under which control determinations may be made. While these provisions have been reorganized and simplified in the proposed regulation, the basic approach of the current provisions has not been altered. Where facts and circumstances are present or information is received to indicate that a company exercises a controlling influence over the management or policies of a bank or another company, the Reserve Bank will review the relationship to determine if it would be appropriate for the Board to issue a preliminary determination of control.

While it is anticipated that most situations involving possible control relationships will be handled informally, where discussion does not resolve the issue, the Board may institute a formal proceeding by issuing a preliminary determination of control under the procedures described in this section. In those situations where a preliminary determination of control is issued, the company will be given notice of the facts and the circumstances upon which the determination is based and provided an opportunity to contest the presumption.

Statutory reference: 12 U.S.C. 1841 (a)(2)(C) and (d)(3).

Current regulation: 12 CFR 225.2(c).

Section 225.31(b) Response to preliminary determination of control

Upon receipt of the notice, the company would have 30 days to respond. The company may agree to the determination and submit for the Board's approval a specific plan for prompt termination of the control relationship, or alternatively, file an application for Board approval to retain the control relationship under Subpart B of the regulation in the case of a bank or a bank holding company, or Subpart C in the case of a nonbanking concern. If the company contests the ruling, it is required to submit its response to the preliminary determination of control along with any request for a hearing.

Statutory reference: 12 U.S.C. 1841 (a)(2)(C) and (d)(3) and 1844(b).

Current regulation: 12 CFR 225.2(c).

Section 225.31(c) Hearing and final determination

If there are material issues of fact in dispute, or if it is otherwise appropriate, the Board may order a hearing or other proceeding for the purpose of taking testimony and receiving evidence on the issue of whether a company exercises or has the power to exercise a controlling influence over a bank or other company. There is no statutory requirement that the Board hold a hearing with respect to a determination that a company controls voting securities of a bank or company. The Board may, however, order a hearing if appropriate in such a situation. After reviewing the evidence on the preliminary determination of control, including any record of a hearing, the Board will issue an order directing the company to take appropriate action.

Statutory reference: 12 U.S.C. 1841 (a)(2)(C) and (d)(3).

Current regulation: 12 CFR 225.2(c).

Section 225.31(d) Rebuttable presumptions of control

In 1971, the Board adopted five rebuttable presumptions of control for use in control proceedings. Two of these presumptions relate to control of voting securities; three relate to the existence of a controlling influence over the management or policies of a bank or other company. Where voting securities are deemed to be controlled by a company under this provision, they would be aggregated with any securities of the other company held by the company in other capacities (see § 225.2(d)(2) of the proposed regulation) to determine whether divestiture or an application is required. The proposed regulation simplifies the language of these presumptions without altering their substance. As discussed above, the conclusive presumption of control contained in § 225.2(a) of the current regulation relating to "stapled shares" arrangements is incorporated into the definition of "control" in the proposed regulation. It is contemplated that most situations involving these presumptions of control (or any other situation where the facts suggest control) will be resolved through informal discussion with the Reserve Bank.

Statutory reference: 12 U.S.C. 1841 (a)(2)(C) and (d)(3).

Current regulation: 12 CFR 225.2(b).

Section 225.32—Divestiture Proceedings

Section 225.32(a) Ineffective divestitures

Divestitures are at times required by the Board under the BHC Act and include divestitutes of DPC assets, liquidating assets, and impermissible nonbanking interests and activities. Section 2(g)(3) of the BHC Act provides generally that a company divesting shares to any other company that is indebted to the transferring company or has one or more management officials in common with the transferring company is deemed to continue to own or control the divested shares unless the Board determines, after opportunity for hearing, that the transferring company is not capable of controlling the company or individual that receives the divested shares. The provisions of this section of the proposed regulation set forth the basic requirements of the statute, the procedures for requesting a determination of noncontrol, and a description of the standards applied in reviewing the effectiveness of divestitures. There are no significant changes from current procedures.

In a previous interpretation, the Board (1) exempted certain routine business or personal credit from the definition of indebtedness, (2) provided that references to transferor and transferee in the statute included parents and subsidiaries of each, and (3) indicated that the presumption of continued control extends to property as well as shares (12 CFR 225.139). This interpretation is codified in the proposed regulation, and may be rescinded if the proposed provisions are adopted by the Board.

Statutory reference: 12 U.S.C. 1841(g)(3).

Section 225.32 (b) and (c) Request for divestiture determination; hearing

Any company that is deemed to control an acquiring person as a result of the presumptions set forth in this regulation may request a determination that the divestiture is effective notwithstanding the presumption. The company should submit a letter to the Board describing the transaction and setting forth the reasons why the company believes it does not control the acquiring person. Any request for a hearing should also be included in the letter. Under the proposal, if the Board finds there are material facts in dispute, the Board may order a hearing or other proceeding.

Statutory reference: 12 U.S.C. 1841(g)(3).

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Section 225.32(d) Standards for making divestiture determination

The proposed regulation sets out the factors that are generally considered in determining whether or not the divesting company controls the acquiring person. The first factor concerns the nature and extent of the indebtedness, and whether, as a result of the indebtedness, the divesting company would be capable of controlling the acquiring person. The second factor considered involves an assessment of the role of any interlocking officials in both the divesting company and the acquiring person. For example, if the interlocking official is an outside director who has no other relationship with the companies involved, it is more likely that a favorable determination would be issued.

Statutory reference: 12 U.S.C. 1841(g)(3); 1844(b).

Section 225.32(e) Final determination

After reviewing a company's request for a determination under this section, the Board will issue an order, which may be in the form of a letter, setting forth its determination as to the effectiveness of the divestiture.

Statutory reference: 12 U.S.C. 1841(g)(3); 1844(b).

Section 225.32(f) Review of Other Divestitures

This provision allows the Board to review a divestiture when a presumption of control under the statute or this regulation is not present. While it is not anticipated that this provision will be used frequently, the Board is, consistent with its authority to prevent evasions of the BHC Act, preserving its right to examine all divestitures.

Statutory reference: 12 U.S.C. 1844(b).

VI. SUBPART E—CHANGE IN BANK CONTROL

Section 225.41—Control Transactions Requiring Prior Notice

This section, which effectuates the Change in Bank Control Act (12 U.S.C. 1817(j)), is based for the most part on the existing provisions of section 225.7 of Regulation Y. (See also *Policy Statement on Change in Bank Control Act of 1978*, 1 F.R.R.S. 4–801.) The proposed section specifies those transactions involving the acquisition of voting securities of a state member bank or bank holding company for which 60 days' written notice must be given to the Board. Unless exempt under the Change in Bank Control Act or this subpart, any person or persons acting in concert must file prior notice with the Board if, after a proposed transaction, the acquiring person(s) will control or hold the power to vote 25 percent or more of any class of voting securities of a state member bank or bank holding company. Such voting power is defined as control under the Change in Bank Control Act. For the purposes of this section, a redemption of securities by a bank or bank holding company that increases any person's holdings to 25 percent or more of any class of voting securities, it triggers the rebuttable presumption described below, is an "acquisition" and requires the filing of a notice by that person.

The term "acting in concert" is not defined in the statute or the regulation. However, the Board regards this term as including two or more persons (which may also include a corporation or other entity) who have joined together informally through parallel action or intention for the purpose of acquiring voting securities of a bank or bank holding company. For example, a group of persons who have identified themselves as a group for purposes of the securities laws would constitute persons "acting in concert" for purposes of this section. Such an informal arrangement should be distinguished, however, from a formal agreement or contract among persons to purchase bank or bank holding company securities. A formal agreement among persons could result in the group being treated as a "company" within the meaning of section 2(c) of the BHC Act, and a purchase of bank securities by the group could be subject to Subpart B of the regulation instead of Subpart E.

In addition to control through the acquisition of 25 percent or more of a class of voting securities of a bank or bank holding company, the Board proposes to retain the presumption that the acquisition of between 10 percent and 25 percent of voting securities of a bank or bank holding company will also result in control, and thus requires prior notice, if either of two circumstances applies: (1) the institution being acquired has securities registered under the Securities Exchange Act of 1934 (12 U.S.C. 78*l*); or (2) after the transaction, no other person owns a greater percentage of that class of voting securities than the acquiring person. An acquiring person has the opportunity to rebut this presumption, but the Board's experience indicates that situations where the presumption has been rebutted successfully have been infrequent.

Statutory reference: 12 U.S.C. 1817(j)(1), (13).

Current regulation: 12 CFR 225.7(a).

Section 225.42—Transactions Not Requiring Prior Notice

The Bank Control Act specifically exempts from its coverage transactions that are otherwise subject to section 3 of the BHC Act or section 18 of the Federal Deposit Insurance Act (i.e., Bank Merger Act). In addition, the proposed regulation provides that certain other transactions do not require notice. These exemptions are essentially the same as in § 225.7(c) of the current regulation, except for a clarification of the exemption relating to proxy solicitation to indicate that the solicitation can be for a regular or special meeting of shareholders and the addition of an exemption for a stock dividend or split. As indicated in the current regulation, the exemption for the acquisition of voting securities of a foreign bank holding company does not extend to reports and information required under paragraphs 9, 10, and 12 of the Bank Control Act.

Statutory reference: 12 U.S.C. 1817(j)(13), (16).

Current regulation: 12 CFR 225.7(c).

Section 225.43—Procedures for Filing, Processing, and Acting on Notices

Section 225.43 (a) and (b) Filing notices; advice to bank supervisory agencies

This section sets forth the procedures for processing notices. Normally, notices are reviewed and acted upon by the appropriate Reserve Bank under delegated authority.

A notice required under this subpart must be filed with the appropriate Federal Reserve Bank at least 60 days prior to the contemplated consummation of a transaction. Information contained in the notice should conform to the notice form provided by the Reserve Bank and be responsive to every item specified in paragraph 6 of the Bank Control Act (12 U.S.C. section 1817(j)(6)). The Reserve Bank may waive any information requirement contained in the notice form, as well as require additional information as it deems appropriate. Once accepted, a copy of the notice is forwarded to the appropriate state bank supervisory agency if it relates to a state member bank; a copy of the notice is also forwarded to the Comptroller of the Currency and the Federal Deposit Insurance Corporation. In the case of a probable failure of a bank or bank holding company, the Board may modify the notice requirements of this section..

Statutory reference: 12 U.S.C. 1817(j)(1),(2),(6), and (11).

Current regulation: 12 CFR 225.7(b).

Section 225.43(c) Time period for Board action

A proposed transaction may be consummated 60 days after submission of an informationally complete notice to the Reserve Bank, unless the Board notifies the acquiring person of its disapproval of the proposed acquisition or of extension of the 60-day period for an additional 30 days. A proposed acquisition may be consummated before the expiration of the 60-day period if the Board notifies the acquiring party of its intention not to disapprove the acqusition.

The Board may return a notice at any time if it finds that the acquiring person has not furnished all the required information or has submitted material information that is substantially inaccurate. However, in unusual circumstances, rather than returning the notice as being incomplete, the Board may extend the time period further in order to permit an acquiring person to furnish the required information necessary to complete the processing.

Statutory reference: 12 U.S.C. 1817(j)(1).

Section 225.43(d) Investigation of notices

In investigating a Change in Bank Control notice, the Board may solicit or receive information or views from any source. The submission of information or presentation of views by any person other than the acquiring person, however, does not thereby afford that person status as a party to the proceeding or any standing or right to participate in the Board's decision on the notice.

Section 225.43(e) Disapproval and hearing

If the Board disapproves an acquisition, it must notify the acquiring person of its decision in writing and the reasons for its decision. The person will have 10 calendar days after receipt of the Board's disapproval decision to request a hearing. Any such hearing must be conducted in accordance with the Board's Rules of Practice for Formal Hearings and, at the conclusion of the hearing, the Board will issue an order either approving or disapproving the proposed acquisition on the basis of the record of the hearing.

Statutory reference: 12 U.S.C. 1817(j)(3) and (4).

Section 225.43(f) Factors considered in acting on notices

Paragraph 7 of the Change in Bank Control Act (12 U.S.C. 1817(j)(7)) describes the factors to be considered by the Board in disapproving a proposed acquisition. In assessing such factors, the proposed regulation provides that the Board will consider the information submitted in the notice, the views and recommendations of any supervisory agency, and any other information that is relevant to the statutory factors.

Statutory reference: 12 U.S.C. 1817(j)(7).

List of Subjects in 12 CFR Part 225

Banks, banking; Federal Reserve System; Holding companies; Reporting and recordkeeping requirements; Securities.

For the reasons set out in the preamble, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)); section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13)), it is proposed to revise 12 CFR Part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Subpart A—General Provisions

Sec.
225.1 Authority, purpose, and scope.
225.2 Definitions.
225.3 Administration.
225.4 Corporate practices.
225.5 Registration, reports, and inspections.
225.6 Penalties for violations.

Subpart B—Acquisition of Bank Securities or Assets

225.11 Transactions requiring Board approval.
225.12 Transactions not requiring Board approval.
225.13 Factors considered in deciding applications under Subpart B.
225.14 Procedures for applications, notices, and hearings.

Subpart C—Nonbanking Activities and Acquisitions of Bank Holding Companies

225.21 Permissible nonbanking activities and acquisitions; exempt bank holding companies.
225.22 Exempt nonbanking activities and acquisitions.
225.23 Nonbanking activities requiring Board approval.
225.24 Factors considered in deciding applications under Subpart C.
225.25 Procedures for applications, notices, and hearings.

Subpart D—Control and Divestiture Proceedings

225.31 Control proceedings.
225.32 Divestiture proceedings.

Subpart E—Change in Bank Control

Sec.
225.41 Control transactions requiring prior notice.
225.42 Transactions not requiring prior notice.
225.43 Procedures for filing, processing, and acting on notices.

Authority: Section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)); section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13)).

Subpart A—General Provisions

§ 225.1 Authority, purpose, and scope.

(a) *Authority.* This Part (Regulation Y) is issued by the Board of Governors of the Federal Reserve System ("Board") under section 5(b) of the Banking Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)) ("BHC Act"), under section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), and under section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13)) ("Banking Control Act"). The BHC Act is codified at 12 U.S.C. 1841, *et. seq.*

(b) *Purpose.* The principal purposes of this Part are to regulate the acquisition of control of banks by companies and individuals, to define the nonbanking activities in which bank holding companies and foreign banking organizations with U.S. operations may engage, and to set forth the procedures for securing approval for such transactions and activities.

(c) *Scope.*

(1) Subpart A contains general provisions and definitions of terms used in this regulation.

(2) Subpart B governs acquisitions of bank or bank holding company securities and assets by bank holding companies or by any company that will become a bank holding company as a result of the acquisition.

(3) Subpart C defines the nonbanking activities in which bank holding companies and foreign banking organizations may engage directly or through a subsidiary. In addition, certain nonbanking activities conducted by foreign banking organizations and certain foreign activities conducted by bank holding companies are governed by the Board's Regulation K. (12 CFR Part 211 International Banking Operations).

(4) Subpart D specifies situations in which a company is presumed to exercise control over voting securities or a controlling influence over the

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management or policies of a bank or other company, sets forth the procedures for making a control determination, and provides rules governing the effectiveness of divestitures by bank holding companies.

(5) Subpart E governs changes in bank control resulting from the acquisition by individuals or companies (other than bank holding companies) of voting securities of a bank holding company or state member bank of the Federal Reserve System.

§ 225.2 Definitions.

Except as modified in this section or unless the context otherwise requires, the terms used in this regulation have the same meanings as set forth in the relevant statutes.

(a)(1) "Bank" means any institution organized under the laws of the United States that accepts demand deposits and engages in the business of making commercial loans. For the purposes of this definition:

(i) "Demand deposits" means any deposit with transactional capability that as a matter of practice is payable on demand, and includes deposits accessible by check, draft, negotiable order of withdrawal, or other similar instrument;

(ii) "Commercial loans" means any loan other than a loan to an individual for personal, family, household, or charitable purposes, and includes the purchase of commercial paper, certificates of deposit, bankers' acceptances, and similar money market instruments, the extension of broker call loans, the sale of federal funds, and the deposit of interest-bearing funds; and

(iii) "United States" means the United States and include any state of the Unites States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(2) "Bank" does not include:

(i) Any institution that does not do business in the United States except as an incident to its activities outside the United States;

(ii) Any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any institution chartered by the Federal Home Loan Bank Board; or

(iii) "Agreement" or "Edge" corporations operating under sections 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601–604(a), 611–631).

(b)(1) "Bank holding company" means any company (including a bank) that has direct or indirect control of a bank, unless such control results from the ownership or control of:

(i) Securities held in good faith in a fiduciary capacity (other than as provided in paragraph (d)(2) (ii) and (iii) of this section) without sole discretionary voting authority, or as otherwise exempted under section 2(a)(5)(A) of the BHC Act;

(ii) Securities or voting rights held only for a reasonable period of time for the purpose of underwriting securities or participating in a proxy solicitation, as provided in section 2(a)(5) (B) and (C) of the BHC Act;

(iii) Securities acquired in satisfaction of debts previously contracted in good faith, as provided in section 2(a)(5)(D) of the BHC Act, if the securities are divested within two years of acquisition unless the time is extended by the Board; or

(iv) Securities of certain institutions owned by a thrift institution or a trust company, as provided in sections 2(a)(5)(E) and (F) of the BHC Act.

(2) Except for the purposes of § 225.4(b) of this subpart and Subpart E of this regulation or as otherwise provided in this regulation, the term "bank holding company" includes a "foreign banking organization" as defined in § 211.23 of the Board's Regulation K (12 CFR 211.23). For the purposes of Subpart B, the term bank holding company does not include a foreign banking organization that does not own or control a bank in the United States.

(c) "Company" includes any bank, corporation, general or limited partnership, association or similar organization, business trust, or any other trust unless by its terms it must terminate either within 25 years or within 21 years and 10 months after the death of individuals living on the effective date of the trust. "Company" does not include any organization the majority of whose voting securities are owned by the United States or any state.

(d)(1) "Control" of a bank or company includes (except for the purposes of Subpart E):

(i) Owning, controlling, or having power to vote 25 percent or more of the outstanding shares of any class of voting securities of the bank or company, directly or indirectly or acting through one or more other persons;

(ii) Controlling in any manner the election of a majority of the directors or trustees (or individuals exercising similar functions) of the bank or company;

(iii) Exercising or having the power to exercise directly or indirectly a controlling influence over the management or policies of the bank or company, as determined by the Board after notice and opportunity for hearing in accordance with § 225.31 of Subpart D of this regulation; or

(iv) Conditioning in any manner the transfer of 25 percent or more of any class of voting securities of a bank or company upon the transfer of 25 percent or more of any class of voting securities of another bank or company.

(2) As provided in section 2(g) of the BHC Act, a company shall be deemed to control securities or assets owned, controlled, or held directly or indirectly:

(i) By any subsidiary of the company;

(ii) In a fiduciary capacity (including by pension and profit-sharing trusts) for the benefit of the shareholders, members, or employees (or individuals serving in similar capacities) of the company or of any of its subsidiaries; or

(iii) In a fiduciary capacity for the benefit of the company or any of its subsidiaries.

(e) "Management official" means any officer, director (including honorary or advisory directors), partner, or trustee of a company or any employee of the company with policy-making functions.

(f) "Outstanding shares" means any securities with voting rights, but does not include securities owned by the United States or by a company wholly-owned by the United States.

(g) "Person" includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(h) "Principal shareholder" means a person that owns or controls directly or indirectly 25 percent or more of any class of voting securities of a company.

(i) "Subsidiary" means a bank or company that is controlled by another company or person, and unless otherwise indicated, refers to a direct or indirect subsidiary of a bank holding company. An "indirect subsidiary" of a bank holding company means a bank or company controlled by a subsidiary of the bank holding company.

(j) "Voting securities" means shares of common and preferred stock, general and limited partnership interests, and other similar interests, if the holders are entitled by statute, charter, or in any manner to vote for or select directors, trustees, or partners (or persons exercising similar functions), or to vote on other significant matters.

§ 225.3 Administration.

(a) *Delegation of authority.* Designated Board members and officers and the Federal Reserve Banks are authorized by the Board to exercise various functions prescribed in this regulation and in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265) and the Board's Rules of Procedure (12 CFR Part 262).

(b) *Appropriate Federal Reserve Bank.* In administering this regulation, the appropriate Federal Reserve Bank is as follows:

(1) For a bank holding company (or a company applying to become a bank holding company): the Reserve Bank of the Federal Reserve district in which the company's banking operations are principally conducted, as measured by total domestic deposits in its subsidiary banks on the date it became (or will become) a bank holding company;

(2) For a foreign banking organization (as defined in 12 CFR 211.23) that has no banking subsidiaries and is not subject to paragraph (b)(1) of this section: the Reserve Bank of the Federal Reserve district in which the total assets of the organization's United States branches, agencies, and commercial lending companies are the largest as of the later of January 1, 1980, or the date it becomes a foreign banking organization;

(3) For an individual or company submitting a notice under Subpart E of this regulation: the Reserve Bank of the Federal Reserve district in which the banking operations of the bank holding company or state member bank to be acquired are principally conducted, as measured by total domestic deposits on the date the notice is filed.

§ 225.4 Corporate practices.

(a) *Bank holding company policy and operations.* (1) A bank holding company shall serve as a source of financial and managerial strength to its bank subsidiaries and shall conduct all of its operations in accordance with sound banking policy and practice.

(2) Whenever the Board believes an activity or control of a nonbank subsidiary constitutes a serious risk to the financial safety, soundness, or stability of a bank subsidiary of a bank holding company, and is inconsistent with sound banking principles or the purposes of the BHC Act, the Board may require the bank holding company to terminate the activity or to terminate control of the subsidiary, as provided in section 5(e) of the BHC Act.

(b) *Purchase or redemption by a bank holding company of its own securities.* A bank holding company may not purchase or redeem its equity securities, unless:

(1) The gross consideration paid for the securities, when added to the net consideration [1] paid for all similar transactions during the preceding 12-month period, is not more than $10 million or 1 percent of the bank holding company's net worth, whichever is less; or

(2) The bank holding company has:

(i) Consolidated assets of $1 billion or more, and after the purchase or redemption, its consolidated primary capital-to-total assets ratio is at least 5 percent;

(ii) Consolidated assets of $150 million to $1 billion, and after the purchase or redemption, its consolidated primary capital-to-total assets ratio is at least 6 percent; or

(iii) Total banking assets of $150 million or less, and after the purchase or redemption,

(A) The primary capital-to-total assets ratio of the bank holding company (consolidated) is at least 6 percent or

(B) The primary capital-to-total assets ratio of each subsidiary bank of the holding company is at least 6 percent and the debt-to-equity ratio of the parent bank holding company (nonconsolidated) is no more than 30 percent; or

(3) The bank holding company obtains the prior approval of the Board for the redemption or purchase on the basis of unusual circumstances.

(c) *Deposit insurance.* Every bank shall obtain Federal Deposit Insurance prior to becoming a bank holding company or a subsidiary of a bank holding company, and shall remain an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

(d) *"Tie-in" arrangements.* A bank holding company and any nonbanking subsidiary conducting an activity under § 225.23 of this regulation may not in any manner extend credit, lease or sell property of any kind, provide any service, or fix or vary the consideration for any of these transactions, if the provision of the credit, property, or service is subject to any conidition that, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the BHC Act Amendments of 1970 (12 U.S.C. 1971 and 1972(1)).

(e) *Acting as transfer agent, municipal securities dealer, or clearing agent.* A bank holding company or any nonbanking subsidiary that is a "bank," as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)), and that is a transfer agent of securities, a municipal securities dealer, a clearing agency, or a participant in a clearing agency (as those terms are defined in section 3(a) of the Securities Exchange Act (12 U.S.C. 78c(a)), shall be subject to § 208.8(f)–(j) of the Board's Regulation H (12 CFR 208.8(f)–(j)) as if it were a state member bank.

§ 225.5 Registration, reports, and inspections.

(a) *Registration of bank holding companies.* Each company shall register within 180 days after becoming a bank holding company by furnishing information in the manner and form prescribed by the Board.

(b) *Reports of bank holding companies.* Each bank holding company shall furnish in the manner and form prescribed by the Board an annual report of the company's operations for the fiscal year in which it becomes a bank holding company, and for each fiscal year thereafter during which it remains a bank holding company. Additional information and reports shall be furnished as the Board may require.

(c) *Examinations and inspections.* The Board may examine or inspect any bank holding company and each of its subsidiaries and prepare a report of their operations and activities. With respect to foreign banking organizations the Board may examine any branch or agency of a foreign bank in a State of the United States and may examine or inspect each of its United States subsidiaries and prepare reports of their operations and activities. The Board shall rely as far as possible on the reports of examination made by the primary federal or state supervisor of the bank subsidiaries of a bank holding company or of the foreign bank.

§ 225.6 Penalties for violations.

(a) *Criminal and civil penalties.* (1) Section 8 of the BHC Act provides certain civil and criminal penalties for a violation by any company or individual of the BHC Act or any regulation or order issued under it, or for making a false entry in any book, report, or statement of a bank holding company. Civil money penalty assessments for violations of the BHC Act shall be made in accordance with Subpart B of the Board's Rules of Practice for Hearing (12 CFR 263, Subpart B). For any willful violation of the Bank Control Act or any regulation or order issued under it, the Board may assess a civil penalty as provided in 12 U.S.C. 1817(i)(15).

(b) *Cease and desist proceedings.* For any violation of the BHC Act, the Bank Control Act, this regulation, or any order or notice issued thereunder, the Board may institute a cease and desist

[1] For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

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proceeding in accordance with the Financial Institutions Supervisory Act of 1966, as amended (12 U.S.C. 1818(b) (1) and (3)).

Subpart B—Acquisition of Bank Securities or Assets

§ 225.11 Transactions requiring Board approval.

The following transactions require an application for the Board's prior approval under section 3 of the BHC Act unless otherwise exempted under § 225.12 of this subpart:

(a) *Formation of bank holding company.* Any action that causes a company to become a bank holding company.

(b) *Acquisition of subsidiary bank.* Any action that causes a bank to be come a subsidiary of a bank holding company.

(c) *Acquisition of control of bank securities or bank holding company securities.* The acquisition by a bank holding company of control of any voting securities of a bank or bank holding company, if the acquisition results in the company's control of more than 5 percent of the outstanding shares of any class of voting securities of the bank of bank holding company. An acquisition includes the purchase of additional securities through the exercise of preemptive rights, but does not include securities received in a stock dividend or stock split that does not alter the bank holding company's proportional share of any class of voting security.

(d) *Acquisition of bank assets.* The acquisition by a bank holding company (that is not a bank) or by a nonbank subsidiary of all or substantially all of the assets of a bank.

(e) *Merger of bank holding companies.* The merger or consolidation of bank holding companies, including a merger through the purchase of assets and assumption of liabilities.

(f) *Other acquisitions.* Any other acquisition of control of a bank or bank holding company that the Board determines, after notice to the acquiring company, requires prior approval under section 3 of the BHC Act.

§ 225.12 Transactions not requiring Board approval.

The following transactions do not require the Board's approval under § 225.11 of this subpart:

(a) *Acquisition of securities in fiduciary capacity.* The acquisition by a bank or company, as provided by section 3(a) of the BHC Act, of control of voting securities or assets of a bank or bank holding company in good faith in a fiduciary capacity, unless:

(1) The acquiring bank or company has sole discretionary authority to vote the securities and will retain such authority for more than two years; or

(2) The acquisition is for the benefit of the bank or company or its shareholders, employees, or subsidiaries.

(b) *Acquisition of securities in satisfaction of debts previously contracted.* The acquisition by a bank or company of voting securities or assets of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith, as provided in section 3(a) of the BHC Act, if the bank or company divests the securities or assets within two years of acquisition. The Board may grant requests for up to three one-year extensions.

(c) *Acquisition of securities by bank holding company with majority control.* The acquisition by a company of additional voting securities of a bank or bank holding company where more than 50 percent of the outstanding voting securities of the bank or company is controlled by the acquiring company prior to the acquisition.

(d) *Transactions subject to Bank Merger Act.* The merger, consolidation, or purchase of assets involving a nonsubsidiary bank and a subsidiary bank of a bank holding company, or a similar transaction involving subsidiary banks of a bank holding company, if the transaction requires the prior approval of a Federal supervisory agency under the Bank Merger Act (12 U.S.C. 8128(c)). This exception does not include the merger of a nonsubsidiary bank and a nonoperating subsidiary bank formed by a company for the purpose of acquiring the nonsubsidiary bank.

(e) *Holding securities in escrow.* The holding of bank or bank holding company securities or assets in a good faith escrow arrangement for the benefit of an applicant pending the Board's action on the application for approval of the proposed acquisition, if title to the securities and the voting rights remain with the seller and payment for the securities has not been made to the seller.

§ 225.13 Factors considered in deciding applications under Subpart B.

(a) *Prohibited anticompetitive transactions.* As specified in Sections 3(c) (1) and (2) of the BHC Act, the Board may not approve any application under this subpart if the transaction would:

(i) Result in a monopoly or would further an effort to monopolize the business of banking in any part of the United States; or

(ii) Substantially lessen competition, tend to create a monopoly, or in any other manner be in restraint of trade in any section of the country, unless the Board finds that the anticompetitive effects of the transaction are clearly outweighed by the probable effect of the transaction in meeting the convenience and needs of the community.

(b) *Other factors considered.* In deciding applications under this subpart, the Board's consideration shall include the following factors with respect to the applicant, its subsidiaries, any banks related to the applicant through common ownership or management, and the bank to be acquired:

(1) *Financial condition.* Their financial condition and future prospects, including whether current and projected capital positions and levels of indebtedness conform to the Board's standards.

(2) *Management.* The competence and character of the applicant's principals; the applicant's record of compliance with laws and regulations; and its record of fulfulling its commitments to, and any conditions imposed by, the Board in connection with prior applications.

(3) *Convenience and needs of the community and performance under Community Reinvestment Act.* The convenience and needs of the communities to be served, including:

(i) The impact of the proposed transaction on the number and availability of alternative sources of banking services, and on existing and potential competition and the concentration of banking resources; and

(ii) The record of performance under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) and the Board's Community Reinvestment Regulation (12 CFR Part 228, Regulation BB).

(C)(1) *Interstate transactions.* The Board may not approve any transaction that would result in:

(i) The formation of a bank holding company that controls more than 5 percent of any class of voting securities of two or more banks located in different states; or

(ii) The acquisition by a bank holding company or any of its subsidiaries of any voting securities of, any interest in, or substantially all of the assets of, an additional bank located in a state other than the state in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1966 (as measured by total deposits), or on the date on which the

company became a bank holding company, whichever is later.

(2) *Exceptions.* The prohibitions of this paragraph shall not apply if:

(i) The bank is located in a state that has by statute expressly authorized the acquisition of securities of, an interest in, or substantially all of the assets of, a bank within the state by an out-of-state bank holding company; or

(ii) The transaction involves the acquistion of a closed or failing bank that has been authorized under section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)).

§ 225.14 Procedures for applications, notices, and hearings.

(a) *Filing application.* An application by a company for the Board's prior approval under this subpart shall be filed with the appropriate Reserve Bank on the designated form and shall comply with § 262.3 of the Rules of Procedure (12 CFR 262.3), which contains a requirement for publication by the applicant of newspaper notice of the application.

(b) *Notice.*

(1) *Notice to primary banking supervisor.* Upon receipt of an application under this subpart, the Reserve Bank shall give prompt notice and a copy of the application to the primary banking supervisor of the bank to be acquired. The primary supervisor shall have 30 calendar days from the date of the letter giving notice in which to submit its views and recommendations to the Board.

(2) **Federal Register** *notice.* Upon receipt by the Reserve Bank of an application under this subpart, notice of the application shall be promptly sent to the **Federal Register** for publication. The **Federal Register** notice shall invite comment on the application for a period of no more than 30 days.

(c) *Accepting application for processing.* Within 10 calendar days after the Reserve Bank receives an application under this subpart, the Reserve Bank shall either accept the application for processing or advise applicant that the application is incomplete and requires additional information. In unusual circumstances, the Reserve Bank may extend this time period upon written notice to the applicant. Upon accepting an application, the Reserve Bank shall immediately send copies of the application to the Board.

(d) *Action on applications.*

(1) *Action under delegated authority.* An application shall be approved within 30 calendar days after it is accepted for processing under paragraph (c) of this section, unless the applicant is notified that the application has been referred to the Board for decision because action is not appropriate under delegated authority. The 30-day period may be extended for 15 days by the Reserve Bank upon written notice to the applicant.

(2) *Board action.* In the case of applications referred to the Board for decision, the application shall be approved within 60 calendar days after it is accepted for processing under paragraph (c) of this section, unless the applicant is notified that the 60-day period will be extended for a specified period and is given the reasons for the extension. In no event may the extension exceed the 91-day period provided in paragraph (f) of this section.

(e) *Hearings.* As provided in section 3(b) of the BHC Act, the Board shall order a hearing if it receives from the primary supervisor of the bank to be acquired a written recommendation of disapproval of an application within the 30-day period specified in paragraph (b)(1) of this section. The Board may order a formal or informal hearing or other proceeding in connection with the processing of an application, as provided in § 262.3(i)(2) of the Rules of Procedure. Any request for hearing other than from the primary supervisor shall comply with § 262.3(e) of the Rules of Procedure (12 CFR 262.3(e)).

(f) *Approval through failure to act.*

(1) *Ninety-one day rule.* An application under this subpart shall be deemed approved if the Board fails to act on the application within 91 calendar days after the date of submission to the Board of the complete record on the application. For this purpose, Board action includes the issuance of an order stating that the Board has approved or denied the application, reflecting the votes of the members of the Board, and indicating that a statement of the reasons for the decision will follow promptly.

(2) *"Complete record."* For the purpose of computing the 91-day period, the record shall be regarded as complete on the latest of:

(i) The date of receipt by the Board of an application that has been accepted for processing by the Reserve Bank under paragraph (c) of this section;

(ii) The last day provided in any notice for receipt of comments and hearings requests on the application;

(iii) The date of receipt by the Board of the last relevant material regarding the application that is needed for the Board's decision, if the material is received from a source outside of the Federal Reserve System and is not already in the record; or

(iv) The date of completion of any hearing or other proceeding ordered under paragraph (e) of this section.

(g) *Exceptions to notice and hearing requirements.*

(1) *Probable bank failure.* If the Board finds it must act immediately on an application in order to prevent the probable failure of a bank or bank holding company, the Board may modify or dispense with the notice and hearing requirements provided in this section.

(2) *Emergency.* If the Board finds that, although immediate action on an application is not necessary, an emergency exists requiring expeditious action, the Board may require the primary supervisor to submit its recommendation within 10 calendar days, and the Board may act on the application without a hearing, and may modify or dispense with the other notice and hearing requirements provided in this section.

(h) *Waiting period.* A transaction approved under this subpart shall not be consummated before the thirtieth day after the date of approval of the application, unless the Board has determined that the application involves a probable bank failure or an emergency situation under paragraph (g) of this section.

Subpart C—Nonbanking Activities and Acquisitions of Bank Holding Companies

§ 225.21 Permissible nonbanking activities and acquisitions; exempt bank holding companies.

(a) *Permissible nonbanking activities and acquisitions.* Except as provided in § 225.22 of this subpart, a bank holding company or a subsidiary may not engage in, or acquire or control voting securities or assets of a company engaged in, any activity other than:

(1) Banking or managing or controlling banks and other subsidiaries authorized under the BHC Act; and

(2) An activity determined to be closely related to banking as provided in § 225.23 of this subpart, provided the bank holding company has obtained the prior approval of the Board under § 225.25 of this subpart for that activity.

(b) *Exempt bank holding companies.* The following bank holding companies are exempt from the provisions of this subpart:

(1) *Family-owned companies.* Any company that is a "company covered in 1970," as defined in section 2(b) of the BHC Act, and that had more than 85 percent of its voting stock collectively owned on June 30, 1968, and

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continuously thereafter, by members of the same family or their spouses.

(2) *Labor, agricultural, and horticultural organizations.* Any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(3) *Companies granted hardship exemption.* Any bank holding company that has controlled only one bank since before July 1, 1968, and that has been granted an exemption by the Board under section 4(d) of the BHC Act, subject to any conditions imposed by the Board.

§ 225.22 Exempt nonbanking activities and acquisitions.

(a) *Servicing activities.* A bank holding company may, without the Board's prior approval, furnish directly, or acquire all the shares of a subsidiary to furnish, services for the internal operations of the holding company and its subsidiaries. Such services include: (i) accounting; (ii) advertising; (iii) data processing; (iv) holding or operating property used primarily by a subsidiary in its operations or for its future use; (v) liquidating property acquired from a subsidiary; (vi) liquidating property acquired from any source either prior to May 9, 1956, or the date on which the company became a bank holding company, whichever is later; (vii) personnel services; and (viii) selling, purchasing, or underwriting insurance such as blanket bond insurance, group insurance for employees, and property and casualty insurance.

(b) *Safe deposit business.* A bank holding company may, without the Board's prior approval, conduct a safe deposit business, or acquire voting securities of a company that conducts such a business.

(c) *Nonbanking acquisitions not requiring prior Board approval.* A bank holding company or subsidiary may, without the Board's prior approval, acquire:

(1) *DPC acquisitions.* (i) Securities and real or personal property, by foreclosure or otherwise, in satisfaction of debts previously contracted ("DPC property") in good faith, if the DPC property is divested within two years of acquisition.

(ii) Upon request, this 2-year period may be extended for three additional one-year periods by the Board. In the case of real estate, an additional 5-year period may also be permitted by the Board for a total of 10 years.

(iii) Transfers of DPC property within the bank holding company system shall not extend any period for divestiture of the property.

(2) *Securities or assets required to be divested by subsidiary.* Securities or assets required to be divested by a subsidiary at the request of an appropriate examining federal or state authority (except by the Board under the BHC Act or this regulation), if the bank holding company divests the securities or assets within two years from the date acquired from the subsidiary.

(3) *Fiduciary investments.* Securities or assets acquired by a company in good faith in a fiduciary capacity, if they are:

(i) Held in the ordinary course of business; and

(ii) Not acquired for the benefit of the company or its shareholders, employees, or subsidiaries.

(4) *Securities eligible for investment by a national bank.* Securities of the kinds and amounts explicitly eligible by federal statute (other than the Bank Service Corporation Act, 12 U.S.C. 1861 *et seq.*) for investment by a national bank, and securities acquired prior to June 30, 1971, in reliance on section 4(c)(5) of the BHC Act and interpretations of the Comptroller of the Currency under section 5136 of the Revised Statutes (12 U.S.C. 24(7)).

(5) *Securities totalling 5 percent or less of a company.* Securities or property that, in the aggregate, represent 5 percent or less of any class of outstanding voting securities of a company or a 5 percent interest or less in the property, provided the acquiring company holds the securities or property as a passive investment.

(6) *Securities of investment company.* Securities of an investment company that is solely engaged in investing in securities and that does not own or control more than 5 percent of any class of outstanding voting securities of any company.

(7) *Assets acquired in the ordinary course of business.* Assets of a company acquired in the ordinary course of business, subject to the limitations and provisions of 12 CFR 225.132, provided the assets relate to activities in which the acquiring company has previously received Board approval to engage under § 225.23 of this subpart in the areas to be served, and the assets do not represent all or substantially all of the assets of a company, or a subsidiary, division, department, or office of the company from which the assets are acquired.

(8) *Asset acquisitions by consumer finance or mortgage company.* Assets of an office(s) of a company that relate solely to making, acquiring, or servicing loans solely for personal, family, or household purposes, provided that:

(i) The acquiring company has previously received Board's approval to engage in consumer finance or residential mortgage banking activities under § 225.23(b)(1) of this subpart in the area to be served by the acquired office(s);

(ii) The assets sold from any company in any calendar year do not represent more than 10 percent of the assets of the acquiring consumer finance of mortgage company or more than $10 million, whichever is less;

(iii) The assets acquired do not represent more than 50 percent of the assets of the selling company;

(iv) The acquiring company notifies the Reserve Bank of the acquisition within 30 days after the acquisition; and

(v) The Board has not previously notified the acquiring company that it may not acquire assets under this paragraph.

(d) *Acquisition of securities by subsidiary banks.*

(1) A national bank or its subsidiary may acquire or retain securities on the basis of section 4(c)(5) of the BHC Act in accordance with the regulations of the Comptroller of the Currency.

(2) A state-chartered bank or its subsidiary may, insofar as federal law is concerned, acquire or retain securities on the basis of section 4(c)(5) to the BHC Act: (i) of the kinds and amounts explicitly eligible by federal statute for investment by a national bank; or (ii) that represent all of the voting securities of a company (except director's qualifying shares) that engages solely in activities in which the parent bank may engage, at locations at which the bank may engage in the activity, and subject to the same limitations as if the bank were engaging in the activity directly.

(e) *Activities and securities of new bank holding companies.* A company that becomes a bank holding company with the Board's approval under § 225.11 of Subpart B of this regulation may, for a period of two years, engage in nonbanking activities and hold nonbanking securities that it engaged in or held on the date it became a bank holding company. The Board may grant requests for up to three one-year extensions.

(f) *Grandfathered activities and securities.* Unless the Board orders divestiture or termination under section 4(a)(2) of the BHC Act, a "company covered in 1970," as defined in section 2(b) of the BHC Act, may:

(1) Retain securities and engage in activities that it has lawfully held or engaged in continously since June 30, 1968; and

(2) Acquire securities of a newly-formed company to engage in such activities.

(g) *Securities or activities exempt under Regulation K.* A bank holding company may acquire voting securities or assets and engage in activities authorized for that bank holding company under Regulation K (12 CFR Part 211).

§ 225.23 Nonbanking activities requiring Board approval.

(a) *Approval required to engage in nonbanking activities.* A bank holding company shall apply, in accordance with § 225.25 of this subpart, for the Board's prior approval to engage directly or indirectly, or to acquire or control voting securities or assets of a company engaged, in: (1) an activity specified in paragraph (b) of this section, including such incidental activities as are necessary to carry on the activities specified; and (2) in an activity not specified in paragraph (b) that the bank holding company believes is closely related to banking or to managing or controlling banks within the meaning of section 4(c)(8) of the BHC Act.

(b) *Activities determined to be closely related to banking.* The following activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto:

(1) *Making and servicing loans.* Making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made, for example, by the following types of companies: (i) consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring.

(2) *Industrial banking.* Operating an industrial bank, Morris Plan bank, or industrial loan company, as authorized under state law, so long as the institution is not a bank as defined in § 225.2(a) of Subpart A of this regulation.

(3) *Trust company functions.* Performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, so long as the institution does not make loans or investments or accept deposits other than:

(i) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law;

(ii) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent; provided such deposits are not employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account; or

(iii) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. (Such authorized loans and investments, however, may not be used as a method of channeling funds to nonbanking affiliates of the trust company.)

(4) *Investment or financial advice.* Acting as investment or financial adviser to the extent of:

(i) Serving as the advisory company for a mortgage or a real estate investment trust;

(iii) Serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(20)), to an investment company registered under that act;

(iii) Providing portfolio investment advice [2] to any other person;

(iv) Furnishing general economic information and advice, general economic statistical forecasting services and industry studies; [3] and

(v) Providing financial advice to state and local governments, such as with respect to the issuance of their securities.

(5) *Leasing personal or real property.* Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if:

(i) The lease is to serve as the functional equivalent of an extension of credit to the lessee of the property;

(ii) The property to be leased is acquired specifically for the leasing transaction under consideration or was acquired specifically for an earlier leasing transaction;

(iii) The lease is on a nonoperating basis; [4]

(iv) At the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions [5] will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease,[6] from:

(A) Rentals;

(B) Estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect);

(C) The estimated residual value of the property at the expiration of the initial term of the lease, which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor; and

(D) In the case of a lease of personal property of not more than seven years in duration, such additional amount, which shall not exceed 60 percent of the acquisition cost of the property, as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer, which has been determined by the lessor to have the financial resources to meet such obligation, that will assure the lessor of

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[2] The term "portfolio investment" intended to refer generally to the investment of funds in a "security" as defined in section 2(1) of the securities Act of 1933 (15 U.S.C. 77b) or in real property interests, except where the real property is to be used in the trade or business of the person being advised. In furnishing portfolio investment advice, bank holding companies and their subsidiaries shall observe the standards of care and conduct applicable to fiduciaries.

[3] This activity is to be contrasted with "management consulting." See the commentary for a discussion of impermissible management consulting activities.

[4] For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the bank holding company may not, directly or indirectly: (1) provide for the servicing, repair, or maintenance of the leased vehicle during the lease term; (2) purchase parts and accessories in bulk or for an individual vehicle after the lessee has taken delivery of the vehicle; (3) provided for the loan of an automobile during servicing of the leased vehicle; (4) purchase insurance for lessee; or (5) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor.

[5] The Board understands that some federal, state and local governmental entities may not enter into a lease for a period in excess of one year. Such an impediment does not prohibit a company authorized under § 225.23(a)(5) from entering into a lease with such governmental entities if the company reasonably anticipates that the governmental entities will renew the lease annually until such time as the company is fully compensated for its investment in the leased property plus its costs of financing the property. Further, a company authorized under § 225.23(a)(5) may also engage in so-called "bridge" lease financing of personal property, but not real property, where the lease is short term pending completion of long-term financing, by the same or another lender.

[6] The estimate by the lessor of the total cost of financing the property over the term of the lease should reflect, among other factors: the term of the lease, the modes of financing available to the lessor, the credit rating of the lessor and/or the lessee (if a factor in the financing), and prevailing rates in the money and capital markets.

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recovery of its investment and cost of financing; provided, that in the aggregate the amount derived from estimated residual value under subparagraph C and any unconditional guarantee shall not exceed 60 percent of the acquisition cost of the property;

(v) The maximum lease term during which the lessor must recover the lessor's full investment on the property, plus the estimated total cost of financing the property, shall be 40 years; and

(vii) At the expiration of the lease (including any renewals or extensions with the same lessee), all interest in the property shall be either liquidated or released on a nonoperating basis as soon as practicable but in no event later than two years from the expiration of the lease; [7] however, in no case shall the lessor retain any interest in the property beyond 50 years after its acquisition of the property.

(6) *Community development.* Investing in or making contributions to corporations or projects designed primarily to promote community welfare and to further the development of low income areas by providing housing, services, or jobs for residents.

(7) *Data processing.* (i) Providing data processing and data transmission services, data bases, or facilities (including data processing and data transmission hardware, software, documentation, and operating personnel) for the internal operations of the holding company or its subsidiaries;

(ii) Providing to others data processing and transmission services, facilities, data bases, or access to such services, facilities, or data bases by any technologically feasible means, where:

(A) Data to be processed or furnished are financial, banking, or economic, and the services are provided pursuant to a written agreement so describing and limiting the services;

(B) The facilities are designed, marketed, and operated for the processing and transmission of financial, banking, or economic data; and

(C) Hardware in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.

[7] In the event of a default on the lease agreement prior to the expiration of the lease term, the lessor shall either re-lease the property, subject to all the conditions of this subsection, or liquidate the property as soon as practicable but in no event later than two years from the date of default on the lease agreement.

(8) *Insurance sales.* Except as prohibited in Title VI of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, 96 Stat. 1536), acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance that (A) is directly related to an extension of credit by a bank or bank-related firm of the kind described in this regulation, or (B) is directly related to the provision of other financial services by a bank or such a bank-related firm; and

(ii) Any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census), provided the principal place of banking business of the bank holding company is located in a community having a population not exceeding 5,000. [8]

(9) *Insurance underwriting.* Acting as underwriter for credit life insurance and credit accident and health insurance that is directly related to an extension of credit by the bank holding company system.[9]

(10) *Courier services.* Providing courier services for:

(i) The internal operations of the bank holding company and its subsidiaries;

(ii) Checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that are exchanged among banks and financial institutions; and

(iii) Audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.[9]

(11) *Management consulting to depository institutions.* Providing, on an explicit fee basis without regard to any correspondent balances, management consulting advice to banks and other depository institutions [10], if:

[8] To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

[9] See also the Board's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for bank holding company entry into the activity.

[10] In performing this activity, bank holding companies are not authorized to perform tasks or operations or provide services to client institutions either on a daily or continuing basis, except as shall be necessary to instruct the client institution on how to perform such services for itself. See also the Board's interpretation regarding bank management consulting advice at 12 CFR 225.131. The provisions of this interpretation shall apply to the performance of management consulting services for nonbank depository institutions as well as commercial banks.

(i) The services are not provided on a daily or continuing basis;

(ii) The bank holding company does not control any equity securities issued by the client;

(iii) No management official, as defined in 12 CFR 212.2, of the bank holding company or subsidiary serves as a management official of the client, unless granted an exception by the appropriate federal regulatory agency; and

(iv) Each potential client is notified of all depository institutions affiliated with the bank holding company and of all other clients located in the same market areas as the potential client.

(12) *Money orders, savings bonds, and travelers checks.* The issuance and sale at retail of money orders having a face value of not more than $1,000; the sale of U.S. savings bonds; and the issuance and sale of travelers checks.

(13) *Real estate appraising.* Performing appraisals of real estate.

(14) *Commercial real estate equity financing.* Acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging the transfer of the title, control and risk of such a real estate project to one or more investors, if:

(i) The financing arranged exceeds $1 million;

(ii) The bank holding company and its affiliate do not provide financing to the investors to acquire a real estate project for which the bank holding company arranges equity financing;

(iii) The bank holding company and its affiliates do not have an interest in or participate in managing, developing or syndicating a real estate project for which it arranges equity financing, and do not promote or sponsor the development or syndication of such property; and

(iv) The fee received for arranging equity financing for a real estate project is not based on profits to be derived from the project and is not larger than the fee that would be charged by an unaffiliated intermediary.

(15) *Underwriting and dealing in government obligations.* Underwriting and dealing in obligations of the United States, general obligations of various states and of political subdivisions thereof, and other obligations that state member banks of the Federal Reserve System may be authorized to deal in under 12 U.S.C. 24 and 355, including bankers acceptances and certificates of deposit.

(16) *Foreign exchange advisory and transactional services.* Providing, by any means, general information and statistical forecasting with respect to foreign exchange markets; advisory services designed to assist customers in monitoring, evaluating and managing their foreign exchange exposures; and transactional services with respect to foreign exchange by arranging for "swaps" among customers with complementary foreign exchange exposures, if:

(i) The activity is conducted through a separately incorporated subsidiary of the bank holding company;

(ii) The foreign exchange subsidiary does not take positions in foreign exchange for its own account;

(iii) The foreign exchange subsidiary observes the standards of care and conduct applicable to fiduciaries with respect to its foreign exchange advisory and transactional services; and

(iv) The foreign exchange subsidiary does not itself execute foreign exchange transactions.

(17) *Futures commission merchant.* Acting as a futures commission merchant ("FCM") for nonaffiliated persons, in the execution and clearance on major commodity exchanges of future contracts for bullion, foreign exchange, government securities, negotiable United States money market instruments and certain other money market instruments, if:

(i) The activity is conducted through a separately incorporated subsidiary of the bank holding company, subject to the provisions of the Commodity Exchange Act (7 U.S.C. 1 to 26), and to regulation by the Commodity Futures Trading Commission ("CFTC") and at least one of the major domestic commodity exchanges or in the case of a foreign office, subject to regulation by a comparable regulatory authority and exchange;

(ii) The FCM does not become a clearing member of any exchange or clearing association that requires the parent corporation of a clearing member to also become a member of that exchange or clearing association unless a waiver of the requirement is obtained;

(iii) The FCM does not trade for its own account;

(iv) The FCM time stamps orders of all customers to the nearest minute, executes all orders in chronological sequence consistent with the customers' specifications, and executes all orders with reasonable promptness with due regard to market conditions;

(v) The FCM advises each of its customers in writing that doing business with it will not affect any provision of credit to that customer by other subsidiaries of the parent bank holding company, including its banking affiliates;

(vi) The FCM does not extend credit to customers for the purpose of meeting initial or maintenance margin required of customers except for posting margin on behalf of customers in advance of prompt reimbursement;

(vii) The FCM has initial capitalization that is in substantial excess of that required by CFTC regulations (or comparable regulatory authority), and will maintain fully adequate capitalization;

(viii) Services provided to the FCM by its affiliates are provided under specific contract on an explicit fee basis; and

(ix) The bank holding company and its subsidiaries have demonstrated expertise and an established capability in the cash, forward and futures markets for the contracts involved.

§ 225.24 Factors considered in deciding applications under Subpart C.

(a) *Criteria for activities previously determined to be closely related to banking.* In deciding any application by a bank holding company to engage in a nonbanking activity specified in § 225.23(b) of this subpart, the Board shall determine whether the activity is a proper incident to banking. In making this determination the Board shall consider whether the performance by the applicant bank holding company of the activity can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, and gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, and unsound banking practices). Unless the record clearly demonstrates otherwise, the commencement of a nonbanking activity *de novo* is presumed to result in benefits to the public through increased competition.

(b) *Criteria for other nonbanking activities.* In deciding any application by a bank holding company to engage in a nonbanking activity not specified in § 225.23(b) of this subpart, the Board shall determine whether the proposed activity (1) is closely related to banking or to managing or controlling banks, and (2) is a proper incident to banking, as described in paragraph (a) of this section.

(c) *Financial and managerial criteria.* In deciding any application described in paragraph (a) of (b) of this section, the Board shall also consider the financial and managerial resources of the applicant, including its subsidiaries, and any company to be acquired, and the effect of the proposed transaction on their resources.

§ 225.25 Procedures for applications, notices, and hearings.

(a) (1) *Filing application.* An application by a company for the Board's prior approval under § 225.23 of this subpart shall be filed with the appropriate Reserve Bank on the designated form and shall comply with § 262.3 of the Rules of Procedure (12 CFR 262.3). An application for Board approval to engage directly or through a subsidiary in an activity not specified in § 225.23(b) shall contain evidence and argument that the activity is closely related to banking or to managing or controlling banks within the meaning of section 4(c)(8) of the BHC Act.

(2) *Geographic scope of nonbanking activities.* (i) Any application required under § 225.23 of this subpart shall specify the states in which the company proposes to engage *de novo*, or to acquire a company engaged, in the nonbanking activity.

(ii) A bank holding company is not required to file an application under § 225.23 of this subpart to open a new office or to form a subsidiary to engage in a nonbanking activity in a state in which the bank holding company has received the Board's approval under § 225.23 for that activity, unless the Board has notified the company that an application is required for such expansion.

(iii) If a bank holding company fails to engage in the nonbanking activity in the state specified in its application within two years of Board approval of the application, the Board's approval of that activity in that state terminates and the bank holding company shall reapply for the Board's approval before commencing the nonbanking activity in that state.

(3) *Alteration or relocation of nonbanking activity.* With respect to an application approved under § 225.23 of this subpart, nonbanking activities shall not be altered in any significant respect from those considered by the Board in acting on the application, nor provided in any states other than those specified in the notice published with respect to such application.

(4) *Activities outside the United States.* With respect to activities to be engaged in outside the United States, the procedures of this section apply only to activities to be engaged in directly by a bank holding company that is not a qualifying foreign banking organization or by a United States nonbank

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subsidiary of any bank holding company.

(b) *Accepting application for processing.* Within 10 calendar days after the Reserve Bank receives an application under this subpart, the Reserve Bank shall either accept the application for processing or advise the applicant that the application is incomplete and requires additional information. In unusual circumstances, the Reserve Bank may extend this time period upon written notice to the applicant. Upon accepting an application, the Reserve Bank shall immediately send copies of the application to the Board.

(c) **Federal Register** *notice.*

(1) *Listed activities.* Upon receipt by the Reserve Bank of an application involving an activity listed in § 225.23(b) of this subpart, notice of the application shall be promptly sent to the **Federal Register** for publication. The **Federal Register** notice shall invite comment for a period of not more than 30 days.

(2) *Proposed new activities.* In the case of an application involving an activity not listed in § 225.23(b) of this subpart, notice of the application shall be sent to the **Federal Register** for publication within 10 business days after receipt by the Board of an application accepted for processing under paragraph (b) of this section, unless (i) the activity has previously been determined not to be closely related to banking or a proper incident thereto; or (ii) there is no basis for publishing for comment whether the activity is so closely related to banking as to be a proper incident thereto under § 225.24(b) of this subpart. In the event notice of an activity not listed in § 225.23(b) is not published for comment, the applicant shall be notified of the reasons for the decision. The **Federal Register** notice shall invite comment on the proposal for a reasonable period of time, generally for 30 days.

(d) *Action on applications.*

(1) *Action under delegated authority.* An application shall be approved within 30 calendar days after it is accepted for processing under paragraph (b) on this section, unless the applicant is notified that the application has been referred to the Board for decision because action is not appropriate under delegated authority. The 30-day period may be extended for 15 days by the Reserve Bank upon written notice to the applicant.

(2) *Board action.* In the case of applications referred to the Board for decision, the application shall be approved within 60 calendar days after it is accepted for processing under paragraph (b) of this section, unless the applicant is notified that the 60-day period will be extended for a specified period and is given the reasons for the extension. In no event may the extension exceed the 91-day period specified in paragraph (g) of this section.

(e) *Simplified procedures for small acquisitions.* (1) As an alternative to the application procedure of pargraph (a)(1) of this section, a bank holding company may apply to acquire voting securities or assets of a company engaged in activities authorized under § 225.23 of this subpart by providing the appropriate Reserve Bank with a brief description of the transaction and a copy of a newspaper notice, in a form prescribed by the Board. The newspaper notice shall have been published by the applicant within the preceding 5 days in a newspaper of general circulation in the areas to be served as a result of the acquisition, providing an opportunity for interested persons to comment on the application for a period of at least 10 calendar days. The procedure prescribed in this paragraph is available only where:

(i) Neither the book value of the assets acquired nor the gross consideration paid for the securities or assets exceed $10 million; and

(ii) The bank holding company has previously received Board approval to engage in the activity involved in the acquisition in the relevant state.

(2) Within five business days after the close the comment period, the application shall either be approved or referred to the Board for processing if action is not appropriate under delegated authority. If an adverse comment is received, the Reserve Bank may extend this 5-day period for a reasonable period of time upon written notice to the applicant.

(f) *Hearing.* Any request for hearing shall comply with the provisions of § 263.3(e) of the Rules of Procedure (12 CFR 262.3(e)). The Board may order a formal or informal hearing or other proceeding in connection with the processing of an application, as provided in § 263.3(i)(2) of the Rules of Procedure 12 CFR 22.3(i)(2)). A hearing shall be required only if there are disputed issues of material fact that cannot be resolved in some other manner.

(g) *Approval through failure to act.* An application under this subpart shall be deemed approved if the Board fails to act on the application within 91 calendar days after the date of the submission to the Board of the complete record on the application. The procedures for computation of the 91-day rule as set forth in § 225.14(f) of Subpart B of this regulation apply to applications under this subpart.

(h) *Emergency thrift institution acquisitions.* In the case of an application to acquire a thrift institution, the Board may modify or dispense with the notice and hearing requirements of this section if the Board finds that an emergency exists which requires the Board to act immediately and the primary Federal regulator of the institution concurs in this finding.

Subpart D—Control and Divestiture Proceedings Contents

§ 225.31 Control proceedings.

(a) *Preliminary determination of control.* (1) The Board may issue a preliminary determination of control under the procedures set forth in this section in any case in which:

(i) One of the presumptions of control set forth in paragraph (d) of this section is present; or

(ii) It appears that the company exercises or has the power to exercise a controlling influence over the management or policies of the other company or bank.

(2) If the Board makes a preliminary determination of control under this section, the Board shall send notice to the controlling company setting forth a statement of the facts upon which the preliminary determination is based.

(b) *Response to preliminary determination of control.* Within 30 calendar days of issuance by the Board of a preliminary determination of control under this section, the company against whom the determination has been made shall:

(1) Submit for the Board's approval a specific plan for the prompt termination of the control relationship;

(2) File an application under Subpart B or C of this regulation to retain the control relationship; or

(3) Contest the preliminary determination by filing a response, setting forth the facts and circumstances in support of its position that no control exists. The company may request a hearing or other proceeding to contest the preliminary determination. Any such request for a hearing or other proceeding shall accompany the response.

(c) *Hearing and final determination.* (1) The Board may order a formal hearing or other appropriate proceeding upon the request of a company that contests a preliminary determination that the company exercises or has the power to exercise a controlling influence over the management or policies of the other company or bank, if the Board finds that material facts are in dispute.

The Board may also order a formal hearing or other proceeding with respect to a preliminary determination that the company controls voting securities of the other company or bank under the presumptions in paragraph (d)(1) of this section.

(2) In the event a hearing or other proceeding is held, any applicable presumptions established by paragraph (d) of this section shall be considered in accordance with the rules of evidence.

(3) After considering the submissions of the company and other evidence, including the record of any hearing or other proceeding, the Board shall issue a final order determining whether the company controls voting securities or exercises or has the power to exercise a controlling influence over the management or policies of another company or bank. If a control relationship is found, the Board may direct the company to terminate the control relationship or to file an application for the Board's approval to retain the control relationship.

(d) *Rebuttable presumptions of control.* The following rebuttable presumptions shall be used in any proceeding under this section:

(1) *Control of voting securities.* (i) *Securities convertible into voting securities.* A company that owns, controls, or holds securities that are immediately convertible at the option of the holder or owner into voting securities of the other company or bank, controls the voting securities.

(ii) *Option or restriction on voting securities.* A company that has entered into a contract or agreement under which the rights of a holder of voting securities of another company or bank are restricted in any manner controls the securities subject to such contract or agreement. This presumption shall not apply where the contract or agreement:

(A) Is a mutual agreement among shareholders granting to each other a right of first refusal with respect to their shares;

(B) Is incident to a *bona fide* loan transaction; or

(C) Relates to restrictions on transferability and continues only for such time as may reasonably be necessary to obtain approval from a federal bank supervisory authority with respect to acquisition by the company of such securities.

(2) *Controlling influence over company.* (i) *Management agreement.* A company that has a contract or agreement under which it directs or exercises significant influence over the general management or major operations of another company or bank controls the other company or bank.

(ii) *Shares controlled by company and associated individuals.* A company that together with its management officials or principal shareholders (including members of the immediate families of either) owns, controls, or holds with power to vote 25 percent or more of any class of voting securities of another company or bank controls the other company or bank, if the company itself owns, controls, or holds with power to vote 5 percent or more of any class of voting securities of the other company or bank (except where such securities are held by the company in a fiduciary capacity and the company does not have sole discretionary authority to exercise the voting rights).

(iii) *Common management officials.* A company that has one or more management officials or principal shareholders in common with another company or bank controls the other company or bank, if the company owns, controls or holds with power to vote 5 percent or more of any class of voting securities of the other company or bank (except where such securities are held by the company in a fiduciary capacity and the company does not have sole discretionary authority to exercise the voting rights), and no other person controls as much as 5 percent.

§ 225.32 Divestiture proceedings.

(a) *Ineffective divestitures.* (1) As provided under section 2(g)(3) of the BHC Act, the divestiture of assets or voting securities by a bank holding company (or a company that would be a bank holding company but for the divestitute) shall be presumed ineffective and the divesting company shall be presumed to control the acquiring person or the divested assets or securities in the following circumstances:

(i) The acquiring person is indebted in any manner to the divesting company; or

(ii) The divesting company has any management official in common with the acquiring person.

(2) For the purposes of this section:

(i) "indebtedness" does not include routine business or personal credit that is unrelated to the divestiture transaction and that is extended by the divesting company in the ordinary course of its lending business; and

(ii) "Divesting company" and "acquiring person" include their parent companies and subsidiaries, and if the acquiring person is an individual, companies controlled by the individual.

(b) *Request for divestitute determination.* For any divestiture that is deemed ineffective under paragraph (a) of this section, the divesting company may request the Board to determine that the divestiture is effective notwithstanding the presumption of paragraph (a) by submitting a letter that includes:

(1) A description of the divesture transaction and the existing and prospective relationship between the divesting company and the acquiring person;

(2) Evidence and argument showing that the divesting company does not and is not capable of controlling the acquiring person or the divested assets or securities; and

(3) Any request for a hearing.

(c) *Hearing.* The Board may order a formal hearing or other appropriate proceeding upon the request of a divesting company under paragraph (b) of this section, if the Board finds that material facts are in dispute with respect to the divestiture. The Board may also order a formal hearing or other proceeding if, in the Board's judgment, such a proceeding would be appropriate

(d) *Standards for making divestiture determination.* In acting on the request of a divesting company under paragraph (b) of this section, the Board shall consider the following factors, among others, in determining whether the divesting company is capable of controlling the acquiring person or the divested assets or securities:

(1) *Indebtedness of acquiring person to divesting company.*

(i) The terms of the indebtedness, including the amount of the indebtedness in relation to the total purchase price;

(ii) The ability of the acquiring person to repay its indebtedness; and

(iii) The manner in which the divesting company would dispose of the divested assets in the event it reacquired the assets as a result of default on the indebtedness.

(2) *Management official interlocks.* The extent of the involvement of the interlocking managment official in the operations of the divesting company and the acquiring person, and the management official's relationship to the assets or securities being divested.

(e) *Final determination.* After considering the submissions of the divesting company and other evidence, including the record of any hearing or other proceeding, the Board shall issue an order determining whether the company controls or is capable of controlling the acquiring person or the divested assets or securities.

(f) *Review of other divestitures.* In any divestiture of assets or securities by a company that is not covered under paragraph (a) of this section, the Board

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or appropriate Reserve Bank may review the divestiture to assure that all control relationships between the divesting company and the divested assets or voting securities have been terminated.

Subpart E—Change in Bank Control

§ 225.41 Control transactions requiring prior notice.

(a) *Prior notice requirement.* (1) As provided in the Bank Control Act, any person acting directly or indirectly or through or in concert with one or more persons shall give the Board 60 days' written notice, as specified in § 225.43 of this subpart, before acquiring control of a state member bank or bank holding company, unless the acquisition is exempt under § 225.42 of this subpart.

(2) For the purposes of this paragraph, "acquisition" includes a purchase, assignment, transfer, or pledge of voting securities, or an increase in percentage ownership of a bank or company resulting from a redemption of voting securities.

(b) *Acquisitions requiring prior notice.* The following transactions constitute or are presumed to constitute the acquisition of control under the Bank Control Act, requiring prior notice to the Board:

(1) The acquisition of any voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person owns, controls, or holds with power to vote 25 percent or more of any class of voting securities of the institution; or

(2) The acquisition of voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person will own, control, or hold with power to vote 10 percent or more but less than 25 percent of any class of voting securities of such institution, and if:

(A) The institution has registered securities under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*); or

(B) No other person will own a greater percentage of that class of voting securities immediately after the transaction.

(c) *Rebuttal of presumption of control.* Prior notice to the Board is not required for any acquisition of voting securities under the presumption set forth in paragraph (b)(2) of this section if the Board finds that the acquisition will not result in control. The Board will afford the person seeking to rebut the presumption established in paragraph (b)(2) an opportunity to present views in writing or, where appropriate, orally before its designated representatives either at an informal conference or at an informal presentation of evidence.

(d) *Other transactions.* Transactions other than those set forth in paragraph (b)(2) resulting in a person's control of less than 25 percent of a class of voting shares of a state member bank or bank holding company do not result in control for purposes of the Bank Control Act.

§ 225.42 Transactions not requiring prior notice.

The following transactions do not require prior notice to the Board under this subpart:

(a) *Previously authorized acquisitions.* The acquisition of additional shares of a class of voting securities of a state member bank or bank holding company by any person who has lawfully acquired and maintained control of 25 percent or more of that class of voting securities after filing the notice required under § 225.41(b)(1) of this subpart.

(b) *Acquisitions subject to approval under BHC Act or Bank Merger Act.* Any acquisition of voting securities subject to approval under section 3 of the BHC Act (§ 225.11 of Subpart B), or section 18 of the Federal Deposit Insurance Act (Bank Merger Act, 12 U.S.C. 1828).

(c) *Transactions exempt under BHC Act.* Any acquisition described in sections 2(a)(5) or 3(a)(A) of the BHC Act by a person described in those provisions.

(d) *Grandfathered control relationships.* (1) The acquisition of additional voting securities of a state member bank or bank holding company by a person who continuously, since March 9, 1979, or since that institution commenced business, held power to vote 25 percent or more of any class of voting securities of that institution; or

(2) The acquisition of additional voting securities so long as the aggregate securities held does not exceed 25 percent of any class of voting securities of a state member bank or bank holding company by a person who is presumed under § 225.41(b)(2) of this subpart to have controlled the institution continuously since March 9, 1979.

(e) *Acquisitions in satisfaction of debts previously contracted or through inheritance or gift.* The acquisition of voting securities in any amount in satisfaction of a debt previously contracted in good faith, or through inheritance or a bona fide gift, if the acquiring person notifies the appropriate Reserve Bank within 30 calendar days after the acquisition and provides any relevant information requested by the Reserve Bank.

(f) *Proxy solicitations.* The acquisition of the power to vote securities of a state member bank or bank holding company through receipt of a revocable proxy in connection with a proxy solicitation for the purpose of conducting business at a regular or special meeting of the institution, if the proxy terminates within a reasonable period after the conclusion of the meeting.

(g) *Stock dividends.* The receipt of voting securities of a state member bank or bank holding company through a stock dividend or stock split so long as the proportional interest of the recipient in the institution remains substantially the same.

(h) *Acquisition of foreign banking organization.* The acquisition of voting securities of a foreign bank holding company, except that this exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Bank Control Act (12 U.S.C. 1817(j) (9), (10), and (12)).

§ 225.43 Procedures for filing, processing, and acting on notices.

(a) *Filing notice.* Any notice required under this subpart shall be filed with the appropriate Reserve Bank and shall contain information required by paragraph 6 of the Bank Control Act (12 U.S.C. 1817(j)(6)), or prescribed in the appropriate Board form. With respect to personal financial statements required by paragraph 6(B) of the Bank Control Act, an individual acquirer may include a current statement of assets and liabilities, as of a date within 90 days of the notice, a brief income summary, and a statement of material changes since the date thereof, subject to the authority of the Reserve Bank or the Board to require additional information.

(b) *Advice to bank supervisory agencies.* (1) Upon accepting a notice for processing, the Reserve Bank shall send a copy of the notice to the appropriate state bank supervisory agency where the notice relates to acquisition of securities of a state member bank. The state supervisor shall have 30 calendar days from the date it receives the notice in which to submit its views and recommendations to the Board. The Reserve Bank shall also send a copy of any notice it accepts to the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

(2) If the Board finds that it must act immediately in order to prevent the probable failure of the bank or bank holding company involved, the Board may dispense with or modify the requirements of paragraph (b)(1) of this section with respect to notice to the state supervisory agency.

(c) *Time period for Board action.* (1) *Consummation of acquisition.* (i) A proposed acquisition may be consummated 60 days after submission to the Reserve Bank of a complete notice under paragraph (a) of this section, unless the Board issues within that 60-day period a notice disapproving the proposed acquisition or extending the 60-day period as provided under paragraph (c)(2) of this section.

(ii) A proposed acquisition for which notice has been filed under paragraph (a) of this section may be consummated before the expiration of the 60-day period provided for review of the notice if the Board notifies the acquiring person in writing of the Board's intention not to disapprove the acquisition.

(2) *Extensions of time period.* (i) The Board may extend the 60-day period in paragraph (c)(1)(i) of this section for an additional 30 days by notifying the acquiring person.

(ii) The Board may further extend the time period for disapproval or may return the notice if the Board finds that the acquiring person has not furnished all the information required under paragraph (a) of this section or has submitted material information that is substantially inaccurate. If the Board extends the time period, it shall notify the acquiring person of the information that is incomplete or inaccurate.

(d) *Investigation of notice.* In investigating any notice accepted under this subpart, the Board or Reserve Bank may solicit from any person (including any bank or bank holding company involved in the notice, and any appropriate state, federal or foreign governmental authority) information or views regarding the proposal, which may be presented in any form or manner deemed appropriate. Any person, other than the acquiring person, whose views are solicited or who presents information, does not thereby become a party to the proceeding or acquire any standing or right to participate in the Board's consideration of the notice.

(e) *Disapproval and hearing.* Within three days after its decision to issue a notice of intent to disapprove any proposed acquisition, the Board shall notify the acquiring person in writing of the reasons for the action. Within 10 calendar days of receipt of a notice of intent to disapprove by the Board, the acquiring person may submit a written request for a hearing on the Board's decision. Any hearing conducted under this paragraph shall be in accordance with the Rules of Practice for Formal Hearings (12 CFR 263, Subpart A). At the conclusion of the hearing, the Board shall, by order, approve or disapprove the proposed acquisition on the basis of the record of the hearing. In the event that the acquiring person does not request a hearing, the notice of intent to disapprove becomes final and unappealable.

(f) *Factors considered in acting on notices.* In reviewing a notice filed under this subpart, the Board shall consider the information in the record and the views and recommendations of any bank supervisory agency. The Board may also consider any other relevant information obtained during any investigation of the notice. The Board may disapprove an acquisition if it finds adverse effects with respect to any of the factors (i.e., competitive, financial, managerial, banking, and completeness of information) set forth in paragraph 7 of the Bank Control Act (12 U.S.C. 1817(j)(7)).

By order of the Board of Governors of the Federal Reserve System, May 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-13821 Filed 5-24-83; 8:45 am]

BILLING CODE 6210-01-M

VOL
48
ISS
102
MAY
25
1983
UMI

federal register

Wednesday
May 25, 1983

Part III

Environmental Protection Agency

Notification Requirements; Reportable Quantity Adjustments; Proposed Rule and Designation of Additional Hazardous Substances; Advanced Notice of Proposed Rulemaking

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[SW H-FRL 2207-5]

Notification Requirements; Reportable Quantity Adjustments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Sections 103(a) and 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("Superfund," "CERCLA," or "the Act") require that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities ("RQs") immediately notify the National Response Center of the release. Section 102 sets a reportable quantity of one pound for hazardous substances, except those for which reportable quantities hav been established pursuant to Section 311(b)(4) of the Federal Water Pollution Control Act.

Section 102(b) authorizes the Environmental Protection Agency ("EPA" or "the Agency") to adjust reportable quantities. EPA is proposing in this notice to adjust many of the reportable quantities established under CERCLA. These RQ adjustments are intended to reduce the burdens of reporting on the regulated community, to allow EPA to focus its resources on the most serious releases, and to protect public health and welfare and the environment more effectively. To help implement these changes, the Agency is clarifying notification requirements for releases of hazardous substances under CERCLA.

The Agency is also proposing to revise reportable quantities established under Section 311(b)(4) of the Clean Water Act ("CWA") for discharges of hazardous substances into navigable waters, so that the CWA Section 311 reportable quantities will be identical to and therefore consistent with those ultimately promulgated under CERCLA.

DATES: Comments must be received on or before July 25, 1983.

ADDRESSES: *Comments:* Comments should be submitted in triplicate to: Emergency Response Division, Docket Clerk, Attention: Docket Number 102RQ, U.S. Environmental Protection Agency, 401 M Street, S.W., WH-548B, Washington, D.C. 20460.

Docket: Copies of materials relevant to this rulemaking are contained in Room S-398 at U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The docket is available for review between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Chief, Regulation Development Section, Emergency Response Division (WH-548 B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or the RCRA/Superfund Hotline (800) 424-9346, in Washington, D.C., (202) 382-3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

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Introduction

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96-510), 42 U.S.C. § 9601 *et seq.*, enacted on December 11, 1980, establishes broad federal authority to deal with releases or threats of releases of hazardous substances from vessels and facilities. The Act specifies an initial list of 696 hazardous substances (Section 101(14)). EPA may designate additional hazardous substances (Section 102).

The Act requires the person in charge of a vessel or facility to notify the National Response Center ("NRC") immediately when there is a release of a designated hazardous substance in an amount equal to or greater than the reportable quantity for that substance (Sections 103 (a) and (b) [1]). Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, unless other reportable quantities were assigned under Section 311 of the Clean Water Act. Section 102 authorizes EPA to adjust all of these reportable quantities.

A major purpose of the Sections 103 (a) and (b) notification requirements is to alert government officials to releases of hazardous substances that may require rapid response to protect public health and welfare and the environment. Under the Act, the federal government may respond whenever there is a release or a substantial threat of a release into the environment of a hazardous substance or of other pollutants or contaminants which may present an imminent and substantial danger to public health or welfare (Section 104). Response activities are to be taken, to the extent possible, in accordance with the National Contingency Plan developed under Section 105, which has been revised to reflect the responsibilities and powers created by CERCLA (47 FR 31180 (July 16, 1982)). Notification based on reportable quantities is merely a trigger for informing the government of a release so that the need for response can be evaluated and any necessary response undertaken in a timely fashion. The government will not necessarily respond to all reported releases.

Section 103(b) establishes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed reportable quantities. Any person who, as soon as he has knowledge of a reportable release, fails to report the release pursuant to Section 103 (a) or (b) shall, upon conviction, be fined no more than $10,000 or imprisoned for not more than one year, or both. Notifications received under Section 103(a) or information obtained by such notice cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement.

The notification requirements for releases of hazardous substances are addressed in this rulemaking. The rule proposed today lists the CERCLA hazardous substances, proposes adjustments to the reportable quantities for 387 of the 696 hazardous substances, and discusses procedures for reporting releases. An Advance Notice of Proposed Rulemaking (ANPRM) covering the designation of hazardous substances in addition to those specified in Section 101(14) of the Act is also being published in today's **Federal Register**.

It should be noted that other provisions of the Act may be applicable even where notification is not required. Therefore, nothing in this proposal should be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act. For example, a party responsible for a release is liable for the costs of cleaning up that release and for any natural resource damages, even if the release is not subject to the notification requirements of Sections 103 (a) and (b). Similarly, proper reporting of a release in accordance with Sections 103 (a) and (b) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is properly reported or that it is not subject to the notification requirements of Sections 103 (a) and (b) will not prevent EPA or other governmental agencies from taking response actions under Section 104, seeking reimbursement from responsible parties under Section 107, or taking an enforcement action against responsible parties.

The section of this preamble entitled "Notification" addresses the CERCLA notification provisions, including the persons required to notify the NRC of a release, the substances for which notification is required, the types of releases subject to the notification requirements, and the exemptions from these requirements. The section entitled "Reportable Quantity Adjustments" discusses the proposed RQ adjustments and the methodology used in making these adjustments.

[1] Section 103(c) provides a separate and distinct notification requirement. Section 103(c) requires notification of the existence and location of facilities at which hazardous wastes have been stored, treated, or disposed of and which are not presently permitted or accorded interim status under Section 3005 of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). EPA has published an interim interpretative notice and policy statement concerning this notification, as well as a form that persons may use to notify EPA of such sites. Persons who have complied with Section 103(c) of CERCLA are still subject to notification provisions of Sections 103 (a) and (b), unless the release qualifies for the exemption provided by Section 103(f) (see 46 FR 22144 (April 15, 1981)).

Notification

I. Mechanics of Notification

Notifications pursuant to Sections 103 (a) and (b) of CERCLA are to be made by telephone to the National Response Center. The toll-free number for notification is (800) 424-8802, except from the Washington, D.C. metropolitan area, Hawaii, and Alaska, where the telephone number for notification is (202) 426-2675. When a call is received by the National Response Center, the duty officer will ask for information including the name, address, and telephone number of the reporting individual; the identity, location, and nature of the release (e.g., the source, cause, quantity, and duration of the release); the identity of the transporter or owner of the facility or vessel; the nature of injuries or property damage; any other relevant circumstances such as weather conditions; and any corrective actions taken. The National Response Center relays release information directly to either an On-Scene Coordinator at the appropriate EPA regional office or an On-Scene Coordinator at the U.S. Coast Guard district office. The On-Scene Coordinator evaluates the situation, gives the information to appropriate state and local officials, and decides whether and how the federal government should respond to the release.

II. Persons Covered by This Notice

The Act defines broadly the key terms of the notification requirements. The word "person" includes not only individuals, but private, public, and governmental entities as well (see Section 101(21)). "Vessel" includes essentially anything "used, or capable of being used, as a means of transportation on water" (see Section 101(28)). "Facility" is also defined broadly:

> "facility" means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel (see Section 101(9); see also Sections 101(17) ("offshore facility") and 101(18) ("onshore facility")).

The definition of "facility" excludes consumer products in consumer use. Releases from consumer products by consumers, therefore, are not releases from a facility into the environment and, consequently, do not have to be reported. Although the Act does not define the term "consumer product," the Consumer Product Safety Act defines that term as, generally, any article sold to a consumer for the person's use, consumption or enjoyment in or around a household, residence, school, in recreation, or otherwise (15 U.S.C. 2052). This definition will apply for notification under CERCLA.

For notification purposes, EPA will consider the entire contiguous plant or installation and contiguous grounds under common ownership to be the reporting facility rather than each vent, pipe, or piece of equipment at such a plant. This will avoid unnecessary and burdensome multiple calls where such a plant is experiencing more than one reportable release. A single notification will suffice for multiple concurrent releases within a facility.

The "person in charge" of a particular vessel or facility will vary according to the nature of the incident. Examples of the "person in charge" of a facility, as the Act defines that term, include a truck driver, the shift supervisor of a treatment works, or a pipeline operator. The Agency does not intend to identify specific individuals within a business entity who are responsible for reporting releases. Persons in charge of private, public, and governmental entities are more familiar with their operations and, therefore, are better able to assign reporting responsibilities. When there has been a failure to notify, the government will decide on a case-by-case basis whether to seek appropriate

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remedies from either the entity or particular employees.

III. Releases Covered by This Notice

A. Hazardous Substances Subject to This Notice

Congress incorporated six lists of hazardous substances developed under environmental statutes in the Act's definition of hazardous substances (Section 101(14)). These lists are:

(1) Substances designated pursuant to Section 311 of the Clean Water Act ("CWA");

(2) Hazardous wastes [3] under Section 3001 of the Solid Waste Disposal Act (commonly known a the Resource Conservation and Recovery Act, "RCRA"), but excluding wastes the regulation of which has been suspended by Congress;[3]

(3) Toxic pollutants listed under CWA Section 307(a);

(4) Hazardous air pollutants listed under Section 112 of the Clean Air Act;

(5) Imminently hazardous chemicals or mixtures for which EPA has taken action under Section 7 of the Toxic Substances Control Act; and

(6) Substances designated pursuant to Section 102 of CERCLA.

Table 302.4 lists the hazardous substances, their regulatory synonyms, and the isomers of these substances that are subject to the notification requirements of Sections 103(a) and 103(b). The substances listed are those designated pursuant to other environmental acts only; no substances have been designated pursuant to Section 102 of CERCLA. The designation of substances pursuant to Section 102 is discussed in the ANPRM on designation also published in today's **Federal Register.**

Table 302.4 will not be static. If substances are added to or deleted from the lists of substances developed under the statutes which are incorporated in CERCLA Section 101(14), the CERCLA list of hazardous substances will change. **Federal Register** Notices reflecting changes to the lists referenced in Section 101(14) of CERCLA and to Table 302.4 will be published simultaneously.

Pursuant to Section 101(14)(C) of CERCLA, hazardous substances include any hazardous waste having the characteristics identified or listed pursuant to Section 3001 of RCRA (but not including any waste the regulation of which has been suspended by Act of Congress). These characteristics are: ignitability, corrosivity, reactivity, or extraction procedure toxicity (ICRE) (see 40 CFR 261.20 *et seq.*). A person generating a solid waste must determine, in accordance with 40 CFR 262.11(c) of the RCRA regulations, if a waste meets these characteristics. If a waste is hazardous under the RCRA regulations, it is a hazardous substance under CERCLA. These hazardous substances, hereinafter referred to as ICRE wastes, are not (and by their nature cannot be) specifically listed. Persons who release such unlisted hazardous wastes in quantities equal to or exceeding the reportable quantities delineated in Table 302.4 for those wastes will be required, unless specifically exempted, to notify the NRC.[4]

The Act excludes certain energy-related substances from the definition of hazardous substances, and these substances are thereby exempted from the notification requirements of Section 103. These substances are petroleum, including crude oil and any fraction thereof (unless otherwise listed in Table 302.4), natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such usable synthetic gas (see Section 101(14)). The notification requirements as set forth in 33 CFR Part 153 and 40 CFR Part 110 for certain discharges of oil remain in effect.

Chemical substances are often known by several different names. The names are derived from different origins, which include systematically applied nomenclatures, such as the Chemical Abstracts Collective Index System (e.g., propanenitrile, 2-hydroxy-2-methyl-); trivial names (e.g., aldrin, DDT); common chemical names (e.g., lead acetate, nitrotoluene); and trade names (e.g., Diazinon, Kepone). The substances listed in Table 302.4 are indicated by the name(s) used to identify that substance under the environmental statutes and implementing regulations incorporated in the definition of hazardous substance (Section 101(14)). Because no single nomenclature is used consistently throughout these statutes and implementing regulations, the CERCLA substances are not listed pursuant to one nomenclature. Consequently, duplicate entries appear for hazardous substances which are listed by different names under the statutes (and their implementing regulations) incorporated into Section 101(14). For example, lindane, designated under CWA Section 311, and hexachlorocyclohexane, gamma-BHC, designated under CWA Section 307(a), are different names for the same compound and both names appear in Table 302.4

It is possible, because of the numerous names for some materials, that a substance listed is not identified by a name with which all persons who handle that substance are familiar. Such a material is considered to be a hazardous substance regardless of how it is named or identified. To facilitate identification of substances in Table 302.4, the Chemical Abstracts Service (CAS) Registry Numbers are also used in listing the CERCLA hazardous substances.

EPA is considering several alternatives for developing a nomenclature system for the promulgated list of CERCLA hazardous substances. The first alternative would be to adopt the method used in Table 302.4, i.e., to use those names which appear in the environmental statutes (and their implementing regulations) incorporated in the CERCLA definition of hazardous substances. Another option would be to use only one system of nomenclature, such as the Chemical Abstracts Collective Index System name (either the 8th or 9th Collective Index). A third option would be to list all the major synonyms for each substance, including the name under the Chemical Abstracts Collective Index System. EPA requests comments on these options.

Table 302.4 contains many broad, generic classes of organic and metallic compounds designated as toxic pollutants under CWA Section 307(a), such as "chlorinated phenols," "phthalate esters," and "zinc and compounds." Many of the broad, generic classes of compounds encompass hundreds of specific compounds. Consequently, it would be virtually impossible for the Agency to develop a reportable quantity for a generic class of compounds which would take into account the characteristics of all of the specific compounds, each with different characteristics. Therefore, in publishing Table 302.4, EPA has included the specific compounds developed in implementing Section 307(a) or Section 311 of the Clean Water Act, but no adjusted RQ is proposed for these broad, generic classes. The notification requirements apply to those specific compounds for which RQs are listed in Table 302.4, rather than to the generic listings. This does not, however, preclude liability with respect to releases of specific compounds which are within one of these generic listings but which are not listed in Table 302.4 for reporting purposes.

The Agency is not requiring notification of releases of massive forms of the solid metals originally listed under CWA Section 307(a) when the diameter of the pieces of metal released equals or exceeds 100 micrometers (0.004 inches). Releases of these metals are excluded form CERCLA reporting requirements because they are large enough to be neither respirable nor to react rapidly with air or water. The substances to which this rule applies are indicated by a "†" in Table 302.4. They are antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, and zinc. EPA requests comments on the notification requirements for metals, particularly on the appropriate cutoff size for massive forms of these solid metals.

B. Definition of Releases Subject to this Notice

Congress defined the term "release" to include within its scope virtually all ways that substances may enter the environment:

> "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment * * * (Section 101(22)).

Four types of releases are specifically excluded from the definition of release in CERCLA Section 101(22). They are:

(1) Releases which result in exposures to persons solely within a workplace for which claims against the employer or other persons are available;

(2) Emissions from engine exhaust from a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station;

(3) Releases of source, byproduct, or special nuclear material from a nuclear incident subject to requirements of the Nuclear Regulatory Commission for financial responsibility under Section 170 of the Atomic Energy Act [5]; and

(4) The normal application of fertilizers.

A key element of the definition of "release" is the phrase "into the environment." Although the word "environment" is broadly defined in Section 101(8), some releases of hazardous substances may not enter the environment. For example, the spill of a hazardous substance onto the concrete floor of a manufacturing facility may not, for notification purposes, be "into the environment" if wholly contained in the facility. If part of the substance does enter the environment, e.g., seeps into the ground or volatilizes into the atmosphere, there would be a release into the environment and, if released in a quantity equal to or greater than the reportable quantity for that substance, the release would be subject to notification requirements of Sections 103 (a) and (b).

The legislative history of the Act indicates that the "workplace exposure" exclusion was apparently intended to limit the potential scope of third-party actions for personal injuries under the Act (see Sen. Rep. 96–848, 96th Cong., 2d Sess. 94 (1980)). The third-party action provision was subsequently deleted; however, the "workplace exposure" provision remained. Whether the release results in exposures to persons solely within a workplace does not appear to be relevant in determining whether notification is appropriate. For notification, the Agency believes that the distinction between "facility" (or "vessel") and "environment" is the determining factor; releases from a facility (or vessel) that enter the environment are reportable events. The Agency requests comments on this interpretation.

C. Determination of When a Reportable Quantity Has Been Released

Pursuant to Section 103(a) of the Act, notification must be given as soon as the person in charge of a vessel or facility has knowledge that a release of a hazardous substance equal to or greater than a reportable quantity has occurred. Under Section 311 of the CWA, EPA set 24 hours as the period to determine, for purposes of notification, whether a reportable quantity of hazardous substances had been released. Since the 24-hour period has been successfully used in the CWA Section 311 program and the regulated community is familiar with this time period, EPA proposes to use this 24-hour period under CERCLA to determine whether the reportable quantity of a substance has been released. When the amount of a substance released within a 24-hour period equals or exceeds its reportable quantity, the National Response Center must be notified immediately.

Under regulations implementing Section 311 of the CWA, EPA interpreted the application of RQs to mixtures and solutions containing hazardous substances: "[d] discharges of mixtures and solutions are subject to these regulations only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its RQ" (44 FR 50767 (August 29, 1979)). This interpretation will apply to releases of hazardous substances under the Act as well. Thus, a release of 10 pounds of a solution which contains 1 pound of hazardous substance A and 9 pounds of non-hazardous substance B is not reportable if the RQ of hazardous substance A is 10 pounds. Similarly, a release of a mixture containing 70% of an RQ of hazardous substance A and 60% of an RQ of hazardous substance B is not subject to the notification requirements of Sections 103 (a) and (b).

An alternative approach is to apply the RQ to the mixture or solution as a whole. Under this approach, a release of 10 pounds of a solution which contains 1 pound of hazardous substance A and 9 pounds of non-hazardous substance B would be reportable if the RQ of hazardous substance A is 10 pounds or less. Similarly, the release of a mixture containing 70% of an RQ of hazardous substance A and 60% of an RQ of hazardous substance B would be reportable. This approach was not adopted because it would result in over-reporting. The Agency instead intends to focus its attention on those releases which are potentially most environmentally significant, [6] such as those releases in which the component hazardous substance is released in an amount that equals or exceeds the assigned RQ.

Any person in charge of a vessel or facility who is unsure as to whether any of the components in a released mixture exceed their RQs is strongly encouraged to report the release.

IV. Exemptions From the CERCLA Notification Requirements

There are four types of statutory exemptions from the notification requirements for releases of hazardous substances in reportable quantities:

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[3] Substances listed under Appendix VIII to 40 CFR Part 261 that are not designated under any one of the statutes referenced in CERCLA Section 101(14) are not CERCLA hazardous substances because Appendix VIII substances are not hazardous wastes under RCRA. The Appendix VIII substances will be considered for designated pursuant to Section 102 at a later date.

[3] Even if a state properly delists, deletes, or exempts a RCRA hazardous waste pursuant to authority granted it by EPA, that waste will remain a hazardous substance for purposes of CERCLA.

[4] The ICRE characteristics apply only to hazardous substances which are RCRA wastes prior to their release. The release of a substance which exhibits one of the RCRA characteristics but is not a waste is not a reportable event, unless that substance is listed in 40 CFR Part 302 as a hazardous substance. Since the purpose of notification is to trigger consideration of a response, however, the reporting of a release of any material that may require action by the federal government is strongly encouraged.

[5] A release of source, byproduct, or special nuclear material from a processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is not a "release" for purposes of response actions under CERCLA but is subject to the notification requirements of Sections 103 (a) and (b) (Section 101(22)).

[6] As noted in the preamble to 40 CFR Part 117 of the CWA, it may not be valid to assume that the toxic properties of all different hazardous substances can be considered additive (44 FR 50767 (August 29, 1979)).

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(1) Federally permitted releases as defined in Section 101(10);

(2) Applicaton of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA");

(3) certain releases of hazardous wastes which are required to be reported under the provisions of the Resource Conservation and Recovery Act and which are reported to the NRC; and

(4) certain releases which are determined to be "continuous" under the provisions of Section 103(f)(2).

This section discusses EPA's proposed interpretation of the scope of these statutory exemptions from the notification requirements of Sections 103(a) and (b).

A. Federally Permitted Releases

Congress did not intend for the notification requirements in Sections 103(a) and (b) of CERCLA to apply to the federally permitted releases defined in Section 101(10).

> The laws authorizing the permit and regulations that control these releases provide for notification and such notification procedures should provide the same public benefits—especially regarding timely response—as would be provided in S. 1480. Notice is crucial to the removal and remedial operations which are central to the reported bill. The federally permitted release exceptions are not directed at avoiding notice, but rather to make it clear which provisions of law apply to discharging sources. (Sen. Rep. 96–848, 96th Cong., 2d Sess. 50 (1980)).

This section discusses the federally permitted releases.

1. Releases from Point Sources with National Pollutant Discharge Elimination System (NPDES) Permits. Section 101(10) identifies three types of releases from point sources with NPDES permits as federally permitted releases:

> (A) discharges in compliance with a permit uder section 402 of the Federal Water Pollution Control Act, (B) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit, (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occuring within the scope of revelant operating or treatment systems * * *.

This language is identical to that used in Section 311(a)(2) of the CWA to exclude these releases from the term "discharge" with respect to EPA's hazardous substance spill response and prevention program. Under regulations implementing Section 311 of the CWA, EPA has interpreted this language to exclude basically all discharges of hazardous substances from an NPDES point source that are associated with manufacturing or treatment processes and that were identified and considered in the issuance of the permit. This exemption also applies to discharges from NPDES point sources permitted by a state authorized to operate the NPDES permit program (40 CFR 117.12; 44 FR 58910 (October 12, 1979)). As Congress indicated, the interpretation of these provisions under Section 311 of the CWA and the implementing regulations will be continued for federally permitted releases under CERCLA (see Sen. Rep. 96–848, 96th Cong., 2d Sess. 47 (1980)).

2. Releases Subject to CWA Section 404 Permits. Discharges which comply with a legally enforceable permit for dredge or fill materials under Section 404 of the CWA are also federally permitted releases exempt from the notification requirements of CERCLA Sections 103(a) and (b). Before issuing these permits, the government reviews the substances to be discharged. The permits allowing the discharge of hazardous substances are issued only if no significant degradation of the aquatic environment will result. This exemption applies to discharges in compliance with the terms and conditions of either an individual or a general CWA Section 404 permit.

In regulations implementing Section 311 of the CWA, EPA exempted from the notification requirement not only those releases which were in compliance with Section 404 permits but also those which were not subject to permit requirements under Section 404 of the CWA (Sections 404(f) and 404(r)). These latter releases are not "federally permitted releases" for purposes of CERCLA; therefore, they must be reported. Releases in compliance with a legally enforceable permit under Section 404 of the CWA need not be reported.

3. Releases from Facilities with Final RCRA Permits. Releases from hazardous waste management facilities which have legally enforceable final permits under Section 3005 of RCRA are also exempted from notification if the permit specifically identifies the hazardous substances released and makes those substances subject to "a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases" (Section 101 (10)(E)). Releases from hazardous waste management facilities with final RCRA permits issued by a state are also considered federally permitted releases for purposes of CERCLA.

EPA is presently in the process of promulgating regulations implementing the permit provisions of RCRA. Final standards have been set for existing storage facilities and incinerators and land disposal facilities (46 FR 2802 (January 12, 1981); 46 FR 7666 (January 23, 1981); 46 FR 12414 (February 13, 1981); 47 FR 32274 (July 26, 1982)). This exemption does not apply to hazardous waste management facilities which are in "interim status" pursuant to Section 3005(e). "Sites or facilities which have interim status under Section 3005(e) do not adequately utilize acceptable levels of technology, and do not qualify for this exclusion" (see Sen. Rep. 96–848, 96th Cong., 2d Sess. 48 (1980)). However, although Section 101(10)(E) does not exempt hazardous waste management facilities with interim status from the notification requirements if they release hazardous substances, such releases may fall within one of the limited exemptions to the notification requirements (e.g., Section 103(f)(1)) discussed below.

4. Releases pursuant to Marine Protection, Research, and Sanctuaries Act Permits. Section 101(10)(F) of CERCLA includes, in the definition of a federally permitted release, releases in compliance with legally enforceable permits issued under Section 102 (EPA ocean dumping permits) and Section 103 (Corps of Engineers permits for ocean dumping of dredged materials) of the Marine Protection, Research, and Sanctuaries Act. Pursuant to EPA regulations, applicants for ocean dumping permits must identify the physical and chemical properties of the materials to be discharged, and the permit must identify the materials which may be discharged (see 40 CFR Parts 221, 223). Similar procedures and criteria apply to issuing ocean dredging permits (see 33 CFR Part 324). These ocean dumping and ocean dredging permits cover substances that can be lawfully discharged. Releases of hazardous substances not specifically permitted are subject to the notification requirements of CERCLA Sections 103 (a) and (b).

5. Underground Injections Authorized pursuant to the Safe Drinking Water Act. Also exempted from the notification requirements by the definition of federally permitted release is "any injection of fluids" authorized under federal injection control programs or state programs submitted for federal approval pursuant to Part C of the Safe Drinking Water Act (and not disapproved by EPA) (Section 101(10)(G)).

EPA has published regulations establishing technical standards and criteria (40 CFR Part 146) and regulations governing approval of state programs and permit procedures (40 CFR Parts 122–124). Under the Safe Drinking Water Act, the states are to take the primary role in implementing the underground injection control program; EPA is to administer the program only if the state fails to submit an approvable program within a specified time period. Any underground injection wells permitted under a state program approved by EPA or under an EPA-administered program are considered federally permitted for purposes of CERCLA notification.

6. Emissions Subject to Clean Air Act Controls. Section 101(10)(H) of CERCLA includes in the definition of federally permitted release:

> any emission into the air subject to a permit or control regulation under section 111, section 112, title I part C, title I part D, or State implementation plans submitted in accordance with section 110 of the Clean Air Act (and not disapproved by the Administrator of the Environmental Protection Agency), including any schedule or waiver granted, promulgated, or approved under these sections * * *.

Air emissions permits or control requirements focus on a limited number of pollutants: criteria pollutants and, in certain cases, designated hazardous pollutants. Stationary sources may emit hazardous substances that are not subject to a permit or control regulation, and therefore must be reported under CERCLA.

These substances may be hazardous substances under CERCLA because they were designated under some other environmental statute, rather than the Clean Air Act. The Agency recognizes that reporting of such releases may be required, even though the releases have been reviewed and permitted by EPA or a state, and are very unlikely to warrant federal response.

Controls on air releases of hazardous substances under the Clean Air Act may vary from state to state, so that the application of the federally permitted release exemption for air releases from the CERCLA notification provisions may also vary from state to state. For example, site-specific controls under state implementation plans may not contain requirements for controlling emissions of certain specific organic compounds that are emitted during the normal operation of stationary sources.

The Senate committee that drafted this exemption acknowledged that the Clean Air Act allows control of air pollutants to be achieved in various ways:

> In the Clean Air Act, unlike some other Federal regulatory statutes, the control of hazardous air pollutant emissions can be achieved through a variety of means: express emissions limitations (such as control on the pounds of pollutant that may be discharged from a source during a given time); technology requirements (such as floating roof tanks on hydrocarbons in a certain vapor pressure range); operational requirements (such as start up or shut down procedures to control emissions during such operations); work practices (such as the application of water to suppress certain particulates); or other control practices. Whether control of hazardous substance emissions is achieved directly or indirectly, the means must be specifically designed to limit or eliminate emissions of a designated hazardous pollutant or a criteria pollutant. (Sen. Rep. 96–848, 96th Cong., 2d Sess. 49 (1980)).

The exemption applies to releases subject to a permit or control regulation and, as noted by the Committee, control mechanisms can take a variety of forms. There is a suggestion at the end of the passage that the control must be "specifically designed to limit or eliminate emissions of a designated hazardous pollutant or a criteria pollutant." EPA solicits comments on the extent to which this exclusion should apply to pollutants limited or eliminated by these control practices, but not explicitly mentioned as part of any requirements.

More generally, EPA is uncertain of the extent to which emissions from permitted stationary souces, if they contain CERCLA-designated substances, qualify for the federally permitted release exemption. The Agency solicits comments on the appropriateness of exempting emissions from permitted stationary sources from CERCLA's notification requirements on the grounds that they are federally permitted releases.

The Agency intends to conduct a more detailed investigation of this issue prior to promulgation of final RQ adjustments, to identify the extent of problems and potential solutions. Potential areas of investigation include:

- The kinds and quantities of CERCLA-designated substances released by stationary sources, to determine the extent to which the adjusted RQs proposed today would require stationary sources to notify the NRC under CERCLA;
- Whether such releases can appropriately be considered federally permitted releases under CERCLA;
- The scope of the term "continuous release," to determine the degree to which air releases from stationary sources may qualify for reporting under the continuous release provisions of Section 103(f)(2); and
- Separate air-release RQs for stationary sources, to determine whether higher RQs for air releases from stationary sources may reduce reporting burdens, since EPA recognizes that the impact of releases from elevated sources (e.g., stacks) may be different than that from releases onto the ground or into water.

Air releases that are "continuous" and "stable in quantity and rate" may qualify for reporting under Section 103(f)(2). This section requires initial reporting "for a period sufficient to establish the continuity, quantity, and regularity of such release," and thereafter "annually, or at such time as there is any statistically significant increase in the quantity of any hazardous substance released." Among the types of releases the Agency is considering as falling within the scope of the term "continuous" are routine, anticipated, intermittent releases of hazardous substances that are incidental to the normal manufacturing or treatment processes or operations of facilities or vessels (see Section IV.D. of the Notification section of this preamble for further discussion).

The Agency has proposed only one RQ for each hazardous substance, regardless of the medium into which the substance is released. The rationale for this approach is discussed in the Reportable Quantity Adjustments section of this preamble. EPA might consider different RQs for releases into air, if an RQ adjustment procedure that specifically addressed impacts from air releases can be developed, and if such a change will significantly reduce the reporting burden associated with the current proposed RQ adjustments without undue environmental impact. The Agency solicits information concerning specific hazardous substances for which these proposed RQs may be particularly burdensome and comments on approaches to make the notification requirements for air releases of hazardous substances more appropriate.

Pending implementation of Section 103(f)(2), EPA will focus its enforcement efforts on episodic releases that may present a serious risk of harm to public health or welfare or the environment, rather than on continuous releases.

7. Injections of Materials Related to Development of Crude Oil or Natural Gas Supplies. CERCLA also considers as a federally permitted release:

> any injection of fluids or other materials authorized under applicable state law (i) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (ii) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (iii) which are brought to the surface in conjuction with the production

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of crude oil or natural gas and which are reinjected * * *. (Section 101(10) (I)).

EPA interprets this provision to include only those activities or materials which are specifically authorized by state law—rather than simply not prohibited—and to cover only those activities whose sole purpose is the production of crude oil, natural gas, or water, the recovery of crude oil or natural gas, or the reinjection of fluids brought to the surface from such production.

8. Introduction of Pollutants into Publicly Owned Treatment Works. Section 101(10) (J) of CERCLA exempts, as a federally permitted release, the introduction of pollutants into a publicly owned treatment work if two conditions are satisfied: (1) The pollutant is specified in pretreatment standards and is in compliance with the standards of Section 307 (b) and (c) of the CWA, and (2) the pollutant is specified in and is in compliance with enforceable requirements in a pretreatment program submitted by the state or local government for EPA approval. Pretreatment standards under Section 307 (b) and (c) of the CWA are of two types: pollutant-specific standards for certain industrial categories and a generic prohibition against discharges which may inhibit or upset the continued safe operation of the municipal treatment system.

There are at present few industries with established pretreatment standards. Many industrial facilities would, therefore, be unable to qualify for this exemption, despite their compliance with the generic prohibitions and local pretreatment standards.

Under Section 311 of the CWA, EPA published regulations which narrowly define the manner in which mobile sources are authorized to discharge hazardous substances into publicly owned treatment works (40 CFR 117.13(b)). This regulation remains effective under this Act.

9. Releases of Source, Byproduct, or Special Nuclear Materials. Federally permitted releases also include any releases of source, byproducts, or special nuclear material, as defined by the Atomic Energy Act of 1954, which comply with a legally enforceable license, permit, regulation, or order issued pursuant to the authority of the Atomic Energy Act (see Section 101(10) (K)).

Radionuclides are generically listed as hazardous air pollutants under Section 112 of the Clean Air Act and therefore are hazardous substances under CERCLA. Radionuclides include source, special nuclear, and byproduct material. Releases of these materials in quantities equal to or greater than the RQ are generally subject to the notification requirements, unless they are federally permitted releases.[7]

The Nuclear Regulatory Commission and states in which federal authority has been discontinued pursuant to agreement with the Nuclear Regulatory Commission issue a variety of general and specific licenses which govern the handling, use, storage, and disposal of source, byproduct, and special nuclear material [see generally 10 CFR Parts 20, 30–35, 40, 50, 60, 61, 70, 71, and 150]. These activities, if in compliance with legally enforceable state or federal licenses, are not subject to the notification requirements of Sections 103(a) and (b) of CERCLA.

The Nuclear Regulatory Commission regulations provide for reporting differences in inventories of these materials (see 10 CFR Part 70). To avoid duplicate reporting, EPA is not requiring notification of inventory differences to the National Response Center under CERCLA. The Nuclear Regulatory Commission also provides for reporting releases of radioactive material (10 CFR Part 20). As discussed below, EPA is currently reviewing these requirements to identify areas of duplicate reporting.

The regulations of the Nuclear Regulatory Commission contain several important exemptions from its provisions, based generally on the small quantities of materials involved or the low levels of radioactivity they emit. Persons handling these exempted materials are not subject to legally enforceable regulations and, therefore, releases of these materials into the environment are not "federally permitted" releases. Notification is therefore required under CERCLA; however, the Agency does not anticipate that such releases will frequently exceed the one-pound reportable quantity currently applicable to radionuclides under the statute.

B. Pesticide Products

Section 103(e) of CERCLA exempts from the notification provisions of the Act "the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (and) the handling and storage of such a pesticide product by an agricultural producer." EPA interprets the application of pesticides to refer to the normal application of registered pesticides (and pesticides used in accordance with FIFRA Section 5 experimental use permits or FIFRA Section 18 emergency exemptions) in ways which are not inconsistent with the pesticides' labeling. This interpretation is consistent with the existing regulations promulgated under the authority of Section 311 of the CWA (40 CFR 117.11(c)). Congress did not intend a broad exemption covering all possible uses, disposals, or applications of pesticides—particularly since EPA and the states have found that pesticides are often found at uncontrolled hazardous waste sites. The Senate Committee on Environment and Public Works, for example, explained:

> It should also be clear that the notice and penalty provisions do not apply to such routine field applications. Accidents or international disposals which result in the release of a pesticide in other than its intended field application would, of course, be subject to the notice provision of this bill. Only in this manner could the preventive response mechanisms of the bill operate to protect human health. (Sen. Rep. 96–848, 96th Cong., 2d Sess. 50 (1980)).

One of the environmental incidents repeatly mentioned in support of the bill involved contamination of drinking water supplies by waste pesticides (see 126 Cong. Rec. S14967 (daily ed. November 24, 1980) (remarks of Sen. Stafford)). Spills, improper application, and improper disposal of pesticides are within the scope of notification provisions if hazardous substances are released in reportable quantities.

Accidents which release pesticides into the environment are subject to the notification provisions of Sections 103 (a) and (b). In discussing federally permitted releases, Senator Randolph pointed out that "[a]ccidents—whatever their cause—which result in, or can reasonably be expected to result in releases of hazardous pollutants would not be exempt from the requirements and liabilities of this bill" (126 Cong. Rec. S14965 (daily ed., November 24, 1980)). This reasoning applies with equal force to the exemption for pesticides under Section 103(e).

C. Releases Reported Under RCRA

Section 103(f)(1) of CERCLA exempts from the notification requirements of Sections 103 (a) and (b) releases of hazardous substances which are subject to reporting requirements (or specifically exempted from such reporting) under Subtitle C of RCRA and have been reported to the NRC.

Congress recognized that regulations may be necessary to integrate fully the RCRA reporting provisions with the

[7] Releases of source, byproduct, or special nuclear material resulting from a nuclear incident subject to the financial protection requirements of Section 170 of the Atomic Energy Act are excluded from the Act's definition of release. [See Section 101 (22).]

notification requirements of CERCLA Section 103 (see 126 Cong. Rec. S14965 (daily ed., November 24, 1980) (Remarks of Sen. Randolph)). The RCRA regulations create extensive reporting and recordkeeping requirements for persons handling hazardous waste (40 CFR Parts 260–267). For example, 40 CFR 265.56 requires owners and operators of hazardous waste facilities with interim status to report all releases which could threaten human health, or the environment, outside the facility, to either the NRC or the government official designated as the On-Scene Coordinator for that geographical area (pursuant to 40 CFR Part 300). When releases are reported to the NRC pursuant to this RCRA requirement, CERCLA notification requirements have been fulfilled. The Agency is examining RCRA reporting requirements in connection with CERCLA's notification requirements to determine whether adjustments to either RCRA's or CERCLA's notification requirements are appropriate. The Agency requests comments on the impact of the RCRA regulations on the CERCLA notification requirements.

D. Continuous Releases

Section 103(f)(2) of CERCLA exempts certain releases from the general notification requirements of Sections 103(a) and 103(b). Releases may be exempted if they are "continuous," "stable in quantity and rate," and notification has been given under Sections 103 (a) and (b) "for a period sufficient to establish the continuity, quantity, and regularity" of the release or under Section 103(c) (which relates to notification of the existence of certain facilities that are or have been used for storage, treatment, or disposal of hazardous wastes). Notification of continuous releases must be given "annually, or at such a time as there is any statistically significant increase" in the quantity of the hazardous substance being released.

The main function of CERCLA's notification requirements is to alert government officials to the existence of a situation that may require a government response to protect the public health or welfare or the environment. Since episodic releases are by definition "unanticipated," they must be reported as they occur. Continuous releases, on the other hand, may be predictable and can either be literally continuous or recurring. Congress recognized in Section 103(f)(2) that CERCLA's objectives would be satisfied—in the case of continuous releases—by less frequent notification.

Thus, instead of reporting every release as it occurs, persons in charge are allowed to report certain continuous releases less often under Section 103(f)(2). The purpose of this section is to reduce unnecessary reports of releases. The rationale for this approach is that when a release is regular and of stable quantity, the Agency does not need to be notified each time such a release occurs in order to have the information necessary to decide whether a response to the release is necessary. Section 103(f)(2) provides, however, that notification must still be given (1) under Section 103(c) or "for a period sufficient to establish the continuity, quantity, and regularity of such release" and (2) "annually, or at such time as there is any statistically significant increase in the quantity of any hazardous substance or constituent thereof released, above that previously reported or occurring."

The Agency is considering development of a policy to identify:

- The types of releases that qualify for the limited exemption under Section 103(f)(2), and
- The Section 103(f)(2) notification scheme.

Pending implementation of Section 103(f), EPA will focus its enforcement efforts on episodic releases (e.g., accidental, one-time, non-routine releases) exceeding the RQs proposed today which may present a serious risk of harm to human health or welfare or the environment, rather than on continuous releases (e.g., routine, continuous, or anticipated intermittent releases which are incidental to normal manufacturing or treatment processes or operations of facilities or vessels).

1. Types of Releases. The Agency is considering defining releases that are "continuous" and "stable in quantity and rate" to include:

- Literally continuous releases that enter the environment 24 hours a day, 365 days a year. Examples include hazardous substances leaking from pipes or lagoons into surface water, leaching into the soil or groundwater, or evaporating;
- Releases continuous during operating hours, such as releases from some continuous industrial processes;
- Releases from batch operations; and
- Routine, anticipated, intermittent releases of hazardous substances that are incidental to the normal manufacturing or treatment processes or operations of facilities or vessels. Examples include releases from relief valves, the maintenance of pollution control equipment, charging of coke oven batteries, and tank cleaning operations.

In order for a continuous release which is stable in quantity and rate to be subject to Section 103(f)(2), notification must be given pursuant to Section 103(c), or under Sections 103 (a) and (b) for a "period sufficient to establish the continuity, quantity, and regularity" of the release. Reporting under Section 103(c) is addressed in 46 FR 22144 (April 15, 1981) and will not be discussed further here. The Agency is considering several approaches for defining the "period sufficient," including:

- Establishing a single period (such as a week, a month, six months, or a year) of reporting that will be required for all releases; or
- Specifying the number of reports, instead of a specific time period, to establish the "period sufficient."

EPA solicits comments on these or any other approaches for implementing the Section 103(f)(2) notification provisions.

2. Section 103(f) Notification Scheme. The Agency intends to develop a notification system for continuous releases. An approach under consideration involves an annual written notification identifying the hazardous substance being released, the quantity and rate of such release, and the environmental media affected. The Agency does not anticipate that this written notification would be necessarily costly or elaborate; it does not anticipate that sophisticated analysis to determine the constituents of a release or that special monitoring to determine the quantity or rate of a release will be needed. A new notification (either written or by telephone) would be required if there is a statistically significant increase in the amount, or statistically significant change in the type, of hazardous substance being released. EPA is also considering whether applications for federal permits containing information on the nature of these releases might suffice to show that a release qualifies for the continuous release exemption.

Three alternatives for defining "statistically significant increase" are under consideration:

- Requiring reporting whenever a release falls outside some expected range based on statistical tests, such as the "Student's t" test;
- Requiring reporting whenever the amount released exceeds the amount ordinarily released by some pre-established factor, such as 2, 5, or 10 times the daily average; or
- Letting the releaser determine what is a statistically significant increase.

EPA requests comments specifically on the most feasible approach for continuous release notification, the information to be required, what the Agency should consider a statistically significant increase in the release, and

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any other relevant issues. EPA hopes that such information will enable it to develop a system which imposes a minimal burden on both the regulated community and the government, while achieving the underlying statutory objectives.

V. Duplicate Reporting

CERCLA reporting requirements may duplicate or overlap with reporting requirements for some hazardous substance releases under other federal or state statutes. For example, a possible area of overlap exists between CERCLA and the Nuclear Regulatory Commission's requirements for reporting releases of certain radioactive substances. Another potential area of duplicative reporting is the overlap between CERCLA and the reporting requirements associated with the ground water monitoring requirements for facilities with interim status pursuant to RCRA (see 40 CFR 265.93). Overlaps may also exist with reporting systems established under state law.

Congress did not intend that the CERCLA reporting requirements duplicate existing notification procedures (see 126 Cong. Rec. S14965 (daily ed., November 24, 1980) (remarks of Sen. Randolph)). To ensure that the notification requirements established by CERCLA will be neither duplicative nor unduly burdensome, EPA is currently reviewing other relevant federal and state reporting requirements to identify areas where it may be possible, in the future, to eliminate redundancy and enhance the overall effectiveness of the notification procedures. For example, permit applications under other environmental statutes may supply sufficient information to show that a releaser qualifies for the alternative form of notification under Section 103(f)(2).

If reporting requirements under other statutes do not fully address the goals of CERCLA, the CERCLA notification provisions would be applicable. For example, a federal notification system for releases of hazardous materials as defined by the Department of Transportation (DOT) exists under the Hazardous Materials Transportation Act (see 49 CFR 171.15). Under the DOT regulations, immediate telephone notification to the NRC is triggered by severe accidents that cause death, injury, or serious property damage, or by release of etiologic and radiologic materials, poisons, and other agents (46 FR 17738 (March 19, 1981)). Written reports are required for all other releases. Because the DOT requirements do not cover all releases encompassed by CERCLA, the Sections 103 (a) and (b) reporting requirements currently apply and those releases must be reported to the National Response Center.

The Agency recognizes that shippers and carriers of hazardous substances, in order to comply with CERCLA notification requirements, will rely on the U.S. Department of Transportation's ("DOT's") regulatory mechanisms. The Agency intends to coordinate today's rulemaking with DOT regulations under the Hazardous Materials Transportation Act and DOT's regulatory responsibility under Section 306 of CERCLA. EPA will work with DOT to develop a cordinated and integrated set of regulations so that shippers and carriers of hazardous substances will be subject to only one set of regulations. The Agency requests comments on the proper manner of coordinating the various regulations governing releases of hazardous substances.

Reportable Quantity Adjustments

I. Introduction

Section 102(b) establishes a reportable quantity of one pound for all hazardous substances other than those with different RQs established under Section 311 of the Clean Water Act. Congress enacted this provision in part to ensure that reporting of releases would begin immediately upon enactment of CERCLA, because reporting is essential for response.

The statutory RQs were intended to be of temporary duration pending EPA review and adjustment of those RQs. To that effect, EPA committed to Congress in late 1980 to revise those reportable quantities (126 Cong. Rec. H11792 (December 3, 1980)). This rulemaking proposes adjustments to the statutory RQs based upon specific scientific and technical criteria which correlate with the possibility of hazard or harm upon the release of a substance in a reportable quantity. These revised RQs, therefore, enable the Agency to focus its resources on those releases which are most likely to pose potential threats to public health and welfare and the environment. Such RQ adjustments will also relieve the regulated community from the burden of making reports of releases which are unlikely to pose such threats.

Analysis is complete for 387 of the 696 hazardous substances designated under CERCLA. Of these 387 substances,today's rule proposes to raise 177 of the RQs established under CERCLA, to lower 28 of the RQs, and to leave the remaining 182 RQs unchanged. Eighty-nine of the 696 hazardous substances are hazardous waste streams under RCRA, rather than specific or generic substances. Analysis of 26 of these hazardous waste streams is complete. Today's rule proposes to raise the RQs of 15 of these waste streams and to leave the other 11 unchanged. These 26 are included in the 387 mentioned above. Adjustments to the statutory RQs for the other 309 substances will be proposed, if appropriate, when further analysis is complete.

The primary purpose of notification is to ensure that releasers notify the government so that the government can assess the need to respond to the release. The different RQ levels do not reflect a determination that a release of a substance will be hazardous at the RQ level and not hazardous below that level. EPA has not attempted to make such a determination because the actual hazard will vary with the unique circumstances of the release, and extensive scientific data and analysis would be necessary to determine the hazard presented by each substance in a number of plausible circumstances. Instead, the RQs reflect the Agency's judgment that the federal government should be notified of releases to which a response might be necessary. The reportable quantities, in themselves, do not represent any determination that releases of a particular size are actually harmful to public health or welfare or the environment.

Many other considerations besides the quantity released affect the government's decision concerning whether and how it should respond to a particular release. The location of the release, its proximity to drinking water supplies or other valuable resources, the likelihood of exposure or injury to nearby populations, and other factors must be assessed on a case-by-case basis. The reporting requirement is, however, the trigger for assessments of these considerations to be made.

Because CERCLA's RQ adjustment methodology differs from that used pursuant to Section 311 of the Clean Water Act ("CWA"), some of the RQs being proposed today are not the same as those under the CWA. A person in charge need not report a release twice: one report to the NRC suffices. As discussed later in this preamble, EPA is also proposing today to adjust the CWA Section 311 RQs to be identical with those proposed under CERCLA.

II. Summary of Methodology Underlying the Reportable Quantity Adjustments

The Agency has wide discretion in adjusting the statutory RQs for hazardous substances under CERCLA:

In determining reportable quantities under this paragraph (Section 3(a)(2) of S. 1480), the President may consider any factors deemed relevant to administering the reporting requirements or the President's other responsibilities under this Act. Administrative feasibility and practicality should be primary factors. In addition, the President may revise such regulations from time to time if under-reporting of over-reporting is occurring under existing regulations (Sen. Rep. 96-848, 96th Cong., 2d Sess. 29 (1980)).

The Agency found that it was practical to use portions of the RQ methodology established pursuant to Section 311 of the Clean Water Act in adjusting the CERCLA RQs because the regulated community and government response agencies are familiar with the CWA Section 311 reporting requirements. Section 311(b)(4) of the CWA requires reporting of discharges of certain hazardous substances into navigable waters (see 44 FR 50766 (August 29, 1979); 40 CFR Part 117). Pursuant to CWA Section 311, EPA determined reportable quantities for discharges by correlating aquatic animal toxicity ranges with five reporting categories, i.e., 1-, 10-, 100-, 1000-, and 5000-pound levels. The approach proposed today utilizes these five RQ levels but applies other criteria in addition to aquatic toxicity. The six "primary criteria" which are used to adjust RQs are:

- Aquatic Toxicity;[a]
- Mammalian Toxicity;[a]
- Ignitability;
- Reactivity;
- Other Toxic Effects;[b] and
- Carcinogenicity.

Certain of the Section 101(14) hazardous substances have been identified as potential carcinogens using the Monographs of the International Agency for Research on Cancer and the Annual Report on Carcinogens of the National Toxicology Program. Some of these are known human carcinogens. RQs are not currently being adjusted on the basis of carcinogenicity because the Agency has not completed collecting and analyzing data on carcinogenicity. When the analysis is completed, it will be published in a separate notice of proposed rulemaking. Until final promulgation of adjusted RQs for carcinogens, their RQs (like those for all other CERCLA hazardous substances) will be left at the statutory level.

In addition, the analysis of other toxic effects is not yet complete for all hazardous substances. For those substances for which this analysis is still underway, RQs are not being adjusted by today's rulemaking. Adjusted RQs will be proposed when this analysis is complete.

Each substance is evaluated according to the applicable "primary criteria" and an RQ value is determined for each applicable criterion (see Exhibits 1 through 5). The "primary criteria" RQ for each hazardous substance is the lowest value of all the applicable criteria. For example, if the Agency is able to evaluate hazardous substance A for aquatic toxicity and mammalian toxicity and sets an RQ of 100 pounds on the basis of aquatic toxicity and 1000 pounds on the basis of mammalian toxicity, the 100-pound value will be the applicable "primary criteria" RQ. This procedure is consistent with the purpose of the RQ as a trigger for notification.

The Agency then evaluates each substance according to the following "secondary criteria," which are natural dissipation processes:

- Biodegradability;
- Hydrolysis; and
- Photolysis.

The applicable "primary criteria" RQ is raised one level if an analysis of these "secondary criteria" indicates that the substance naturally dissipates when released into the environment.

The criteria selected to adjust RQs correlate with the potential harm to public health or welfare or the environment upon the release of a hazardous substance in a reportable quantity. The likelihood of harm presented by a release of these substances is a major consideration in EPA's adjustments of the RQs. No attempt has been made to correlate the RQ adjustments with actual harm or hazard. Actual harm will vary with the circumstances of the release.

Simply because two substances have the same proposed RQ does not mean that they may pose the same danger to the public health or welfare or the environment. A substance with a 100-pound RQ on the basis of mammalian toxicity may not pose the same potential hazard as a substance with a 100-pound RQ set on the basis of ignitability. The RQ only reflects the Agency's determination that the government needs to know about releases of substances which are equal to or exceed that RQ so that a decision can be made concerning the appropriate response action, if any.

Table 302.4 lists the CERCLA hazardous substances, the statutory RQs for those substances, and the proposed RQs for many of those substances. The Agency has not proposed adjusted RQs for known or suspected human carcinogens and radionuclides, as well as for some substances undergoing evaluation for other toxic effects. The Agency is currently collecting and evaluating data on carcinogenicity, radionuclides, and substances which exhibit other toxic effects. Adjusted RQs for these substances will be proposed, as appropriate, in a future rulemaking. Until final rules are promulgated, the statutory RQs apply, rather than the proposed RQs.

The method proposed to adjust RQs is discussed in greater detail below and in the Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b), available for inspection at Room S-398, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

III. Number of Reportable Quantity Levels and their Values

For purposes of RQ adjustments under CERCLA, EPA has adopted the five RQ levels of 1, 10, 100, 1000 and 5000 pounds originally established pursuant to CWA Section 311 (see 40 CFR Part 117). The Agency adopted the CWA five-level system primarily because (1) it has been successfully used pursuant to the CWA, (2) the regulated community is already familiar with these five levels, and (3) it distinguishes the broad range of potential harm posed by CERCLA hazardous substances.

The Agency considered adopting a notification system with either two or three RQ levels, because of the possibility that such a system would be easier to understand and to administer. EPA rejected these alternatives because it found that the data correlating the RQs with potential harm were so wide-ranging that a five-level ranking system was necessary. It would not be equitable to assign substances to only two or three RQ levels; a five-tier system more adequately reflects the relative differences in potential harm presented by the hazardous substances than would a two- or three-tier system.

EPA has decided to designate pounds (kilograms) as the unit of measurement for all RQs proposed today. RQs for hazardous substances were designated in pounds in CERCLA Section 102 and pursuant to CWA Section 311. Pounds provide a uniform measure not only for solids, but also for liquids and gases. EPA considered setting the RQs for hazardous substances in different units of measurement corresponding to the form of the substance released, i.e.,

[a] Toxicity is used here to refer to acute toxicity, specifically lethality.

[b] Other toxic effects considered here include toxicity due to single, repeated, or continuous exposure from a single release or multiple releases of a hazardous substance.

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gallons for liquids, pounds for solids, or cubic feet for gaseous materials. This alternative was rejected because it would be much more confusing for a releaser to determine whether a reportable quantity had been released if different units were used for different forms of the same hazardous substance. The only exceptions to this approach are radionuclides, which are discussed elsewhere in this preamble.

Section 102(a) of CERCLA authorizes, and the legislative history encourages, the Administrator to set a single reportable quantity for any hazardous substance, regardless of the medium into which that substance is released. In order to develop simple and practical notification provisions, the Agency is establishing a single RQ for each hazardous substance. As the legislative history indicates:

> The provision intentionally omits from the requirement to determine "reporting" quantities any reference to harm or hazard. A single quantity is to be determined for each hazardous substance, and this single quantity requires notification upon release into any environmental medium. It would be virtually impossible to determine a single quantity applicable to all media while at the same time linking such quantity to any subjective concept of harm.
>
> It is essential that such quantities be relatively simple for those subject to notification requirements to understand and comply with. Since releases in such quantities trigger notification requirements, but do not, in and of themselves, give rise to other liabilities under this Act, the Presidents' broad discretion to select quantities will not unfairly burden those persons subject to the Act (Sen. Rep. 96–848, 96th Cong., 2d Sess. 29 (1980)).

If multiple RQs which vary in accordance with the environmental media into which the substance in released were established, it would be more difficult for the regulated community to comply with the reporting requirements. Since releases often occur into more than one medium, the releaser, under a multi-RQ format, would be uncertain which RQ would apply. Consequently, the multiple RQ approach is not being used by the Agency in this proposal. The Agency solicits comments concerning situations where different RQs may be appropriate for different media.

IV. Use of Criteria to Adjust Reportable Quantities

This section discusses the six primary criteria and the three secondary criteria used to propose adjusted RQs.

A. Primary Criteria

The proposed strategy consists of six primary criteria:

1. Aquatic Toxicity;
2. Mammalian Toxicity (including oral, dermal, and inhalation toxicities);
3. Ignitability;
4. Reactivity;
5. Other toxic effects; and
6. Carcinogenicity.

Originally, the Agency considered using only aquatic toxicity for RQ adjustments because aquatic toxicity had been used to establish RQs pursuant to the CWA. The Agency determined, however, that additional characteristics of potential hazard to human health or welfare or the environment should be taken into account. Consequently, in addition to aquatic toxicity, five other primary criteria and three secondary criteria are being applied.

1. Aquatic Toxicity. For aquatic toxicity, the categories established pursuant to Section 311 of the CWA are used (see Exhibit 1). Each of these categories is linked to one of the five RQ levels (1, 10, 100, 1000, or 5000 pounds). The RQ value based on aquatic toxicity is identical to the RQ promulgated under CWA Section 311 except where the use of updated aquatic toxicity data has resulted in different RQs. For 22 substances, the Agency has updated the aquatic toxicity data used to set the CWA Section 311 RQs. For 11 of these 22 substances, RQs are being proposed on the basis of this updated data. Four of these would have been lowered on the basis of other criteria even in the absence of revised aquatic toxicity data. For 10 other of these substances, adjusted RQs are not proposed because analysis is still underway for other toxic effects and/or carcinogenicity. One other RQ is not lowered because of the application of the secondary criteria.

A lower RQ is proposed for PCBs on the basis of revised aquatic toxicity data. Under CWA Section 311, the RQ for PCBs was originally set at 10 pounds; in today's proposed rulemaking, a 1-pound RQ is assigned. Because of the widespread use of PCBs, the Agency is concerned about the effect of this change on the number of release notifications made by the regulated community. Increased notification may result from reports of ruptures of transformers and capacitors containing PCBs in electrical transmission systems. The Agency requests data, information, and comments on the likely number of notifications and on the effect of these notifications on protection of public health and welfare and the environment.

EXHIBIT 1.—CATEGORIES FOR REPORTABLE QUANTITY ASSIGNMENTS PURSUANT TO CWA SECTION 311

RQ pounds	Aquatic toxicity	Category
1	LC^{a}_{50} < 0.1mg/liter	X
10	0.1 mg/liter < LC_{50} < 1 mg/liter	A
100	1 mg/liter < LC_{50} < 10 mg/liter	B
1,000	10 mg/liter < LC_{50} < 100 mg/liter	C
5,000	100 mg/liter < LC_{50} < 500 mg/liter	D

[a] "LC_{50}" refers to that concentration of material which is lethal to one-half of the test population of aquatic animals upon continuous exposure for 96 hours. (See 40 CFR 116.14).

Source: 43 FR 10492 (March 13, 1978).

2. Mammalian Toxicity. Three types of mammalian toxicity were evaluated: oral, dermal, and inhalation toxicities. A five-level scale was devised for each. (see Exhibit 2). The RQ chosen for mammalian toxicity represents the lowest of the values derived from these three scales.

A substance was rated as toxic on the basis of its LC_{50} or LD_{50} value, which is the concentration or dose of a substance which causes the death of 50% of a defined experimental animal population. Upper-bound toxicity values were identified for each of the three scales. These values were correlated with a 5000-pound RQ value. The upper-bound toxicity limit of 200 mg/kg for dermal toxicity was adopted from toxicity screening criteria considered for designating hazardous substances under the Clean Water Act (40 FR 59966 (December 30, 1975)). The upper-bound toxicity limit of 2,000 ppm for inhalation toxicity was adopted from a study performed by the National Academy of Sciences for the U.S. Coast Guard (USCG–D–113–74, System for Evaluation of the Hazards of Bulk Water Transportation of Industrial Chemicals, February 1974). An upper-bound oral (ingestion) toxicity value of 500 mg/kg was adopted based on the assumption of a "standard man" (70 kg body weight, swallow volume of 21 cubic centimeters) being exposed to a situation which would allow him to take one swallow of a hazardous substance. (The one swallow assumption for a 15 kg child also yields a 500 mg/kg upper oral toxicity limit.)

Once the upper-bound toxicity levels were chosen, the toxicity ranges in Exhibit 2 for the 1-, 10-, 100-, 1000-, and 5000-pound reportable quantity categories were scaled for mammalian toxicity in the same ratios as the ranges for aquatic toxicity in Exhibit 1. High RQs (1000 or 5000 pounds) were assigned to substances with low toxicity, while low RQs (1 or 10 pounds) were assigned to substances with high toxicity.

EXHIBIT 2.—CATEGORIES FOR REPORTABLE QUANTITY ADJUSTMENTS BASED ON MAMMALIAN TOXICITY [a]

RQ (pounds)	Mammalian Toxicity (oral)	Mammal Toxicity (dermal)	Mammalian Toxicity (inhalation)
1	LD_{50} [b] < 0.1 mg/kg	LD_{50} < 0.04 mg/kg	LC_{50} [c] < 0.4 ppm.
10	0.1 mg/kg < LD_{50} < 1 mg/kg	0.04 mg/kg < LD_{50} < 0.4 mg/kg	0.4 ppm < LC_{50} < 4 ppm.
100	1 mg/kg < LD_{50} < 10 mg/kg	0.4 mg/kg < LD_{50} < 4 mg/kg	4 ppm < LC_{50} < 40 ppm.
1,000	10 mg/kg < LD_{50} < 100 mg/kg	4 mg/kg < LD_{50} < 40 mg/kg	40 ppm < LC_{50} < 400 ppm.
5,000	100 mg/kg < LD_{50} < 500 mg/kg	40 mg/kg < LD_{50} < 200 mg/kg	400 ppm < LC_{50} < 2000 ppm.

[a] For a detailed explanation of the derivation of these categories, see Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b).
[b] "LD_{50}" refers to that dose of a substance expected to cause the death of 50 percent of a defined experimental mammal population.
[c] "LC_{50}" refers to that concentration of a substance in the air that is expected to cause the death of 50 percent of a defined experimental mammal population.

Although the three mammalian toxicity scales and their respective RQ categories and poundage levels are included in Exhibit 2, this does not imply that the individual scales are equivalent to each other. Each scale is independent; the same ranking on different scales does not necessarily represent equivalent potential danger to public health or welfare or the environment.

3. Ignitability. A five-level scale was also developed for ignitability (see Exhibit 3). The Agency adopted, in large part, the ignitability scale developed by the National Academy of Sciences (NAS) for the U.S. Coast Guard (see USCG–D–113–74, System for Evaluation of the Hazards of Bulk Water Transportation of Industrial Chemicals, February 1974). The NAS ignitability scale provides the following five categories:

- Extremely Hazardous—Flash Point (FP) (cc) [10] < 100° F (37.8° C) and Boiling Point (BP) [10] < 100° F (37.8° C).
- Highly Hazardous—FP (cc) < 100° F (37.8° C) and BP > 100° F (37.8° C).
- Hazardous—100° F (37.8° C) < FP(cc) < 140° F (60° C).
- Slightly Hazardous—FP (cc) > 140° F (60° C).
- Insignificant Hazard—Noncombustible.

EXHIBIT 3.—CATEGORIES FOR REPORTABLE QUANTITY ADJUSTMENTS BASED ON IGNITABILITY [a]

RQ (pounds)	Ignitability (fire)
1	No 1-pound RQs on the basis of ignitability.
10	Pyrophoric or self-ignitable.
100	FP_{cc} [b] < 100° F, BP_{cc} < 100° F.
1000	FP_{cc} < 100° F, BP > 100° F.
5000	100° F < FP_{cc} < 140° F.

[a] For a detailed explanation of the derivation of these categories, see Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b).
[b] "FP_{cc}" refers to the flash point, the temperature at which a substance forms an ignitable mixture with the air at the surface of the substance, measured using the closed cup test.
[c] "BP" refers to the boiling point, the temperature at which a liquid boils.

This scale does not correlate these categories with RQ levels; the Agency established the correlation between ignitability categories and RQ levels as described below.

[10] These terms are defined in Exhibit 3.

The Agency adjusted the NAS scale by adding a new category, "pyrophoric" substances (those substances capable of igniting spontaneously). The "pyrophoric" category was added because the Agency believes that spontaneous ignitability is an important potential hazard that should be considered in adjusting RQs. The Agency also modified the NAS scale by deleting the "non-combustible" and "slightly hazardous" categories. The Agency did not use the "non-combustible" category because releases of non-combustible materials do not warrant government response on the basis of ignitability. The "slightly hazardous" (flash point > 140° F) category was deleted because the RCRA regulations use 140° F as the cut-off point for regulating liquid hazardous wastes on the basis of ignitability. (See 40 CFR § 261.21.) Therefore, the Agency has determined that substances with a flash point above 140° F do not pose a sufficient potential hazard to warrant a 5000-pound RQ on the basis of ignitability.

The Agency decided to use four rather than five RQ levels for ignitability. The 1-pound RQ level was abandoned because small releases (less than 10 pounds) of flammable substances, if ignited, will generally be consumed so quickly that any federal government response action would be infeasible. Since notification of these releases would generally not trigger any federal government response activities, the Agency eliminated the 1-pound RQ level for the ignitiability criterion. The Agency then assigned RQ values of 10, 100, 1000 and 5000 pounds to the revised NAS ignitability scale.

4. Reactivity. Five-level scales were developed for reactivity (see Exhibit 4) based in large part upon NAS scales developed for the U.S. Coast Guard. The NAS established two scales for reactivity: reactivity with water and self-reaction. The NAS scales provide these categories:

	Water reaction	Self-reaction
Extremely hazardous.	e.g., SO_3	Self-reaction may cause explosion or detonation.
Highly hazardous.	e.g., oleum, chlorosulfonic acid.	May polymerize, requires stabilizer.
Hazardous.	e.g., NH_4, HCl	Contamination may cause polymerization, no inhibitor required.
Slightly hazardous.	e.g., Cl_2	May polymerize with low heat evolution.
Insignificant hazard.	No appreciable reaction.	No appreciable self-reaction.

The Agency established the correlation between these categories and RQ levels as described below.

The Agency adjusted the NAS reactivity with water scale by adding a new category, "inflames" with water. The "inflames" with water category was added because the Agency believes that the potential hazard caused by inflaming with water should be considered in adjusting RQ values. The Agency further modified the reactivity with water scale by deleting the "no appreciable reaction" and "slightly hazardous" categories. The "no appreciable reaction" category was deleted because the federal government need not be informed of releases on the basis of their reactivity with water if no appreciable reaction will occur. The "slightly hazardous" category was deleted because substances falling into this category, such as chlorine, do not pose a sufficient potential hazard to warrant a 5000-pound RQ on the basis of reactivity with water.

EXHIBIT 4.—CATEGORIES FOR REPORTABLE QUANTITY ADJUSTMENTS BASED ON REACTIVITY [a]

RQ (pounds)	Reactivity [b]	
	With water	Self-reaction
1	No 1 pound RQs on the basis of reactivity.	
10	Inflames e.g., Na, CaC_2.	Extreme self-reaction; may cause explosion or detonation.
100	Extreme reaction e.g., SO_3.	High; may polymerize; requires stabilizer.
1,000	High reaction e.g., oleum.	Moderate; contamination may cause polymerization; no inhibitor required.

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EXHIBIT 4.—CATEGORIES FOR REPORTABLE QUANTITY ADJUSTMENTS BASED ON REACTIVITY [a]—Continued

RQ (pounds)	Reactivity [b]	
	With water	Self-reaction
5,000	Moderate reaction e.g., NH_3.	Slight; may polymerize with low heat release.

[a] For a detailed explanation of the derivation of these categories, see Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b).
[b] Based on heat release.

Similarly, the Agency adjusted the NAS self-reaction scale by deleting the "no appreciable reaction" category because the Agency believes that releases of substances would not warrant response on the basis of their self-reaction when no appreciable reaction will occur.

For both the reactivity with water and self-reaction scales, only four (rather than five) RQ levels were utilized by the Agency. The 1-pound RQ level was not used for adjusting RQs on the basis of reactivity because small releases (less than 10 pounds) of reactive substances will generally be consumed so quickly that any federal government response action would be infeasible and they are generally handled adequately by appropriate local or state response personnel. Therefore, the Agency has assigned RQ values of 10, 100, 1000 and 5000 pounds to both of the reactivity scales.

5. Other Toxic Effects. Data on other toxic effects have been used to adjust the statutory RQs for some of the hazardous substances, while for other hazardous substances, data on other toxic effects are still being evaluated by the Agency. RQ adjustments for the 221 hazardous substances which are still being analyzed for this criterion will be proposed, where appropriate, once the analysis is complete. Proposed RQs are not shown in Table 302.4 for these substances. The procedure for analyzing the other toxic effects of a substance is based upon the following data:

- The minimum effective dose (MED) levels for repeated exposures (mg/day for 70 kg man); and
- The type of effect (liver necrosis, birth defects, etc.) likely to be caused by repeated or continuous exposure.

Toxic effects, such as reproductive abnormalities, from single exposures will be considered in adjusting RQs when sufficient data are available.

The adjusted MED levels, the dose rating, range from 1 to 10, and are inversely proportional to the minimum effective dose (MED). Therefore, a substance which has an effect only when a very large dose is administered was assigned a rating of 1, and one which has an effect after a very small dose is administered was assigned a rating of 10. A logarithmic transformation has been employed to adjust the MED levels (which actually cover six orders of magnitude) to a scale of 1 to 10.

The type of effect likely to be caused by repeated or continuous exposure to each hazardous substance was also scored on a scale ranging from 1 to 10. A score of 1 was assigned to such minor effects as enzyme induction or other biochemical change with no pathological change or organ weight change, while scores of 9 and 10 were assigned for pronounced pathological changes, organ dysfunction, neuropathy with loss of motor control, behavior control, or sensory ability, reproductive dysfunction, teratogenic effects, pronounced life-shortening, or death.

Each substance is assigned a final composite score based on the product of the adjusted MED (dose rating) and effects score. The composite score can thus range from 1 to 100, and RQs are assigned by equating the 5000-pound level to low composite scores, the 1-pound level to high composite scores, and the other RQ levels to the intermediate ranges of composite scores as shown in Exhibit 5. In this manner, a substance that has a minor effect and requires a high dose for such an effect will be assigned a high RQ, while a substance that may present more danger because of major effects manifested at low dose levels will be assigned a low RQ.

Some commenters claimed that it was inappropriate for the Agency to use toxicity data from repeated or continuous exposures in developing RQs for hazardous substances because most one-time spill situations and/or episodic releases do not result in repeated or continuous exposures. EPA decided to use this criterion because episodic releases which are not totally cleaned up may indeed cause repeated or continuous exposures to a toxic substance. For example, a spill of a hazardous substance may contaminate an aquifer which could lead to repeated exposure through drinking water. Moreover, CERCLA covers both episodic and continuous releases. Continuous releases, by their very nature, may lead to repeated or continuous exposure to toxic substances.

The procedure for other toxic effects has not been applied to all hazardous substances. EPA limited its analysis to substances that might exhibit other toxic effects and did not evaluate substances already at the proposed 1-pound RQ level, the lowest RQ level.

EXHIBIT 5.—CATEGORIES FOR REPORTABLE QUANTITY ADJUSTMENTS BASED ON OTHER TOXIC EFFECTS [a]

RQ (pounds)	Composite score
1	81–100
10	41–80
100	21–40
1,000	6–20
5,000	1–5

[a] For a detailed explanation on the derivation of these categories, see Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b).

6. Carcinogenicity. The Agency has identified carcinogencity as one of the primary criteria to be used in setting RQs. The Agency is currently collecting and evaluating data on the carcinogenicity of the 192 CERCLA hazardous substances that have been identified as known or suspected human carcinogens using the International Agency for Research on Cancer (IARC) Monographs and the National Toxicology Program's Annual Report on Carcinogens (see the "Second Annual Report on Carcinogens," U.S. Department of Health and Human Services, December 1981). Of these 192 substances, 104 are also in the process of being analyzed for other toxic effects. EPA has developed a procedure for RQ adjustments for carcinogens. This assessment procedure utilizes a carcinogen hazard ranking based on a substance's strength as a carcinogen using potency factor estimates and the strength of evidence for carcinogenicity using the IARC criteria. It will be fine-tuned after the data collection and evaluation is completed and it will be discussed in detail in the forth coming proposal to adjust RQs for carcinogens. While a different approach will be used for carcinogenicity than for other toxic effects, it will be no less protective of public health and welfare and the environment.

7. Combining the Primary Criteria. Many substances may pose a threat to human health or welfare or the environment based upon several of the primary criteria listed above. If a substance poses a potential hazard based on more than one of the criteria, the "primary criteria" RQ selected is the lowest value identified for any of the applicable criteria. This procedure helps assure that the government will be notified of the most serious potential hazards to the public health or welfare or the environment. The use of the lowest value for the "primary criteria" RQ is appropriate because the RQ is merely the trigger for alerting the government to a release; the government will not necessarily respond to all reported releases.

The methodology used to develop an RQ for the hazardous substance crotonaldehyde (CAS Nos. 4170–30–3 and 123–73–9) demonstrates how the primary criteria are combined. Under today's proposal, crotonaldehyde's aquatic toxicity correlates with a 100-pound RQ while its mammalian toxicity would suggest an RQ of 5000 pounds. Its ignitability correlates with a 1000-pound RQ. It is not sufficiently reactive to assign it an RQ on the basis of the reactivity criterion. It does not exhibit other toxic effects nor has it been identified by the sources discussed above as a known or suspected human carcinogen. Pursuant to the strategy discussed above, the "primary criteria" RQ of crotonaldehyde is 100 pounds.

Some commenters have suggested that RQs should be selected on the basis of the criterion associated with the medium into which releases of a particular substance most frequently occur. For example, it has been suggested that ammonia [11] is usually released into the air, yet it is very toxic in water. Setting the RQ for ammonia based on aquatic toxicity, then, may result in an RQ lower than necessary for most releases of ammonia. EPA is not selecting this approach because (1) data are not generally available to identify the most prevalent release medium for most CERCLA hazardous substances; (2) even where data are available, it is difficult to determine the prevalent medium of release for substances that are released into more than one medium; and (3) setting RQs on the basis of the most prevalent release medium may prevent the government from learning of releases into other media that pose greater hazards.

B. Secondary Criteria

Certain of the primary criteria RQs have been further adjusted using factors, referred to here as secondary criteria, that reflect natural dissipation processes which may reduce the risk posed by the release of a hazardous substance.

Three processes—biodegradability, hydrolysis, and photolysis—have been used as secondary criteria for adjusting the proposed RQs:

- Biodegradability is the degree to which a substance is capable of being degraded into less complex chemicals by biological means (e.g., enzyme-catalyzed degradation of chemicals by microorganisms in aquatic and soil environments);
- Hydrolysis is a chemical reaction resulting from the addition of water that splits a bond between chemical units, and that introduces a hydroxyl group (—OH) into the chemical structure (i.e., $RX + H_2O \rightarrow ROH + HX$); and
- Photolysis is a process that occurs when a chemical absorbs light and then undergoes an energy transformation by any one of several mechanisms (e.g., dissociation, rearrangement, or oxidation).

If a hazardous substance is subject to transformation into a less hazardous form by one of these processes once it is released into the environment, the "primary criteria" RQ was raised one level (e.g., from 10 pounds to 100 pounds). A hazardous substance is considered to be subject to this transformation if either its biodegradation is demonstrated by standard biological oxygen demand tests or the substance is identified, in "Water Related Environmental Fate of 129 Priority Pollutants," EPA–440/4–79–029 a and b, as subject to hydrolysis or photolysis. If natural processes in the environment mitigate the effect of releases of certain hazardous substances, EPA believes that small releases of these substances would be less likely to merit notification to the NRC. The one-level increase in RQs reflects the Agency's judgment that the danger posed by the release of certain substances will be minimized due to these dissipation processes.

The application of the secondary criteria resulted in raising the RQs of 28 substances. The secondary criteria are not used in this proposal to raise RQs that are based on other toxic effects. The "primary criteria" RQ is the proposed RQ for these substances.

C. Results of the Proposed Methodology

Data were available to assign RQs on the basis of the primary criteria for most of the CERCLA hazardous substances. Six substances [12] on which little data were available on the primary criteria were assigned RQs based on the proposed RQs for hazardous substances similar in structure and substituents. The specific cases are detailed in the Background Document to Support the Notice of Proposed Rulemaking Pursuant to Section 102(b).

In addition, because releases of hazardous substances are often exposed to water, the RQs of a few substances were set based on the potential hazards posed by the products resulting from the substances' reaction with water. For example, ammonium bifluoride dissolves in water to form hydrofluoric acid and, therefore, the proposed RQ for ammonium bifluoride is based on the application of the primary and secondary criteria to hydrofluoric acid. See the Background Document to Support the Notice of Proposed Rulemaking Pursuant to Section 102(b).

Table 302.4 lists all of the CERCLA hazardous substances, together with their statutory RQs and their proposed RQs where applicable. The first part lists the individual hazardous substances regulated under the statutes cited in CERCLA Section 101(14). The generic groups of chemicals designated under CWA Section 307(a), such as "SILVER AND COMPOUNDS," are printed in all capital letters and have no RQ assigned to them. [13] These generic groups of chemicals could potentially encompass hundreds of specific compounds with varying toxicities. Consequently, it is not appropriate to establish one RQ for each generic group.

The second part contains the 89 hazardous waste streams designated under 40 CFR 261.31 and 261.32 (RCRA F and K lists). The Agency designated many of these waste streams as hazardous under RCRA because of the presence of specific hazardous constituents in the waste streams as set forth in Appendix VII of 40 CFR Part 261. The Agency is proposing RQs for these waste streams based on these hazardous constituents. The primary and secondary criteria, discussed above, were applied to each hazardous constituent in order to derive an RQ value. If a waste stream in 40 CFR 261.31 and 261.32 has more than one hazardous constituent, the RQ assigned the particular waste stream represents the lowest RQ associated with the hazardous constituents present in that waste stream. To illustrate this process, assume that a hypothetical waste stream has three hazardous constituents—X, Y, and Z— and that the RQs associated with these hazardous constituents are: X=10 pounds, Y=100 pounds, and Z=5000 pounds. The RQ for this hypothetical waste stream is, therefore, 10 pounds—the lowest RQ associated with any of its hazardous constituents.

EPA has proposed an RQ for each of the RCRA F001 through F005 waste streams. The Agency has also proposed individual adjusted RQs for many of the hazardous solvents listed under these

[11] An adjusted RQ for ammonia is not proposed in this rulemaking because it is being examined for other toxic effects.

[12] The substances are:
1. Methane, dibromo- (methylene bromide)
2. Nitrophenols
3. Dinitrophenol
4. Hexachlorocyclohexane (all isomers)
5. Dichloropane
6. 4-Chlorophenyl phenyl ether

[13] The one exception to this approach is the RQ for PCBs. PCBs are assigned an RQ because they were previously designated under Section 311 of the CWA.

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waste streams. Adjusted RQs are not proposed for certain solvents that are undergoing analysis for other toxic effects or carcinogenicity. The waste stream RQ is the lowest RQ assigned to any individual solvent listed under that waste stream. A releaser may use the RQ for the individual solvent, rather than the RQ for the waste stream, if he can establish the indentity of the specific solvents which have been released. When the releaser is unsure of the identity of the solvents that have been released, the RQ for the waste stream must be used. For example, assume that a hypothetical waste stream, FOOX, has three solvents listed under it in Table 302.4, Solvent A, Solvent B, and Solvent C. The RQs associated with these solvents are: A=10 pounds, B=100 pounds, and C=1000 pounds. Therefore, the RQ for the waste stream FOOX is 10 pounds, the lowest RQ associated with any of the individual solvents identified under FOOX. This RQ must be used unless the releaser knows which specific solvents are being released.

D. Special Types of Substances

Several types of substances, notably unlisted ICRE wastes and radionuclides, pose special problems for RQ adjustment and require separate discussion.

1. Unlisted RCRA Wastes (ICRE Wastes). As noted previously, the CERCLA hazardous substances include hazardous wastes which exhibit the characteristics of ignitability, corrosivity, reactivity, and extraction procedure toxicity, but which are not specifically listed as hazardous wastes. These are commonly known as unlisted ICRE wastes (see 40 CFR 261.20 through 40 CFR 261.24). These wastes were all given a statutory RQ of one pound under CERCLA.

The Agency is proposing an RQ of 100 pounds for the unlisted hazardous wastes exhibiting the characteristics of ignitability, corrosivity, and reactivity (40 CFR 261.21, 261.22, and 261.23). Because the constituents of these unlisted wastes are generally unknown, it is impossible to apply the primary and secondary criteria to these wastes. The Agency has arrived at the 100-pound RQ by assuming that these wastes will, on the average, fall within the middle level of the five RQ levels, i.e., 100 pounds.

An alternative approach to setting RQs for unlisted ignitable, corrosive, and reactive wastes is to base the RQs on the RQs assigned to similar substances, namely listed hazardous wastes. The RQ proposed most often for hazardous wastes assigned on the basis of reactivity is 10 pounds while the RQ proposed most often for hazardous wastes on the basis of ignitability is 1000 pounds. Under this alternative approach, unlisted wastes that are reactive would be assigned an adjusted RQ of 10 pounds, while ignitable unlisted wastes would have a 1000-pound RQ. Corrosivity is not a primary or secondary criterion, so this approach could not be used to set an RQ for unlisted corrosive wastes. Another problem with this approach is that EPA has not determined that listed and unlisted hazardous wastes pose similar potential hazards. The Agency, therefore, has selected the 100-pound RQ for unlisted ignitable, corrosive, and reactive wastes. Comments on the proposed RQ for unlisted ignitable, corrosive, and reactive wastes are requested.

Although the primary and secondary criteria cannot be applied to the unlisted wastes exhibiting ignitability, corrosivity, or reactivity, they can be applied to the wastes exhibiting extraction procedure (EP) toxicity. Because EP toxicity is defined in 40 CFR 261.24 as the presence of certain minimum concentrations of 14 specific materials (contaminants) in the extract from the waste after performing a defined extraction procedure, the primary and secondary criteria have been applied to each contaminant. Thus, there are separately listed RQs for each of the 14 different EP toxic wastes. For wastes containing one of the 14 contaminants, the corresponding proposed RQ is found in Table 302.4 under the entry "Unlisted Wastes, Characteristic of EP Toxicity," unless RQ adjustment is being deferred for the contaminant because an analysis of other toxic effects or carcinogenicity must still be performed (i.e., arsenic, cadmium, chromium (VI), lead, and selenium).

If more than one contaminant is found in an EP toxic hazardous waste, the EP toxicity RQ is based on the lowest RQ for any EP toxic contaminant present. If an unlisted hazardous waste exhibits the characteristics of EP toxicity, as well as one of the other characteristics, it will be assigned the lowest applicable RQ.

Comments on the proposed RQs for unlisted ICRE wastes are requested.

2. Radionuclides. Radionuclides are hazardous substances under CERCLA because they were designated as hazardous air pollutants pursuant to Section 112 of the Clean Air Act. Today's proposed rule does not adjust the RQ for radionuclides. The Agency will adjust the RQ for radionuclides in a future rulemaking; until that time, the statutory 1-pound RQ is applicable.

The Agency is considering several issues for future adjustments to radionuclide RQs. Two major related issues are:

- The units the Agency should use to measure RQs; and
- Whether one RQ should be set for all radionuclides or whether different RQs for specific radionuclides should be used.

EPA recognizes that the pound is not a suitable unit in which to measure the RQ for radionuclides, because releases much smaller than one pound can seriously threaten public health or welfare or the environment. EPA is currently considering two alternative types of measurement units for radionuclide RQs, dose-equivalents and activity levels. Dose-equivalents (usually measured in rems) are used for comparing biological effects of radiation on tissue. The activity level of a radionuclide release (measured in becqerels or curies), on the other hand, is the actual number of disintegrations of radionuclide atoms per unit time.

The category of radionuclides includes over a hundred specific substances. The Agency is considering whether to set one RQ for all radionuclides, or different RQs for specific radionuclides. A generic RQ for all radionuclides might be established in the form of a dose-equivalent. If the Agency list RQs for specific radionuclides, then the RQs will be listed in the form of activity levels. The potential effects of a radionuclide release and subsequent exposure depend not only on the number of disintegrations, but also on the kinds of radiation (alpha, beta, or gamma) and the energies of each, as well as the unique circumstances of the release. Thus, different hazards are posed by individual radionuclides depending upon the different types of radiation emitted, and different RQs in activitiy levels are appropriate if individual radionuclides are listed.

In order to select an approach, EPA is considering its prior experience as well as the experiences of other federal, state, and international agencies. For a discussion of radionuclides, see Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b), Supplementary Report: Radionuclides, available for inspection at Room S-398, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

E. Additional Criteria Considered But Not Currently Used for Adjusting Reportable Quantities

As noted earlier, EPA has wide discretion in adjusting reportable quantities. The legislative history indicates that:

> In determining reportable quantities under this paragraph (Section 3(a)(2) of S. 1480), the President may consider any factors deemed relevant to administering the reporting requirements or the President's other responsibilities under this Act. Administrative feasibility and practicality should be primary factors. In addition, the President may revise such regulations from time to time if under-reporting or over-reporting is occurring under existing regulations (Sen. Rep. 96-848, 96th Cong., 2d Sess. 29 (1980)).

EPA is considering using the criteria discussed below to adjust RQs, but has not incorporated these criteria into the RQ adjustments proposed today. This criteria include:

- Release History
- Release Potential
- Corrosivity

The Agency solicits comments on whether and how to use these or other feasibility or practicality criteria in implementing a simple notification system. In particular, the Agency solicits comment on the purely administrative criteria discussed under release history and release potential and on any additional administrative criteria which may be used to adjust RQs. More generally, EPA is interested in soliciting comments from persons who are familiar with characteristics of hazardous substances and common industry practices for handling these substances, in order to identify additional factors not currently used by EPA that might be appropriate for adjusting RQs. The Agency will consider such criteria in promulgating final RQ adjustments, if appropriate.

1. Release History. As the Agency gains experience in handling reports of releases of CERCLA hazardous substances, it may find that some substances are frequently released in situations that require an emergency response. Such release history might be used to adjust RQs. For example, if EPA has in the past responded to 100-pound releases of hazardous substances, an RQ of 100 pounds may be appropriate.

In an analysis of release history, EPA would evaluate past releases to determine how often a response was necessary, and, if so, what type of response was required. This analysis would include consideration of the medium into which the releases take place, the frequency with which releases occur, the geographic location and circumstances of releases, the kind of equipment or techniques necessary to eliminate the hazard after releases have occurred, the cost of response, the type of terrain on which the releases of the substance occur, and estimates of the success of the responses. If analysis of these factors indicates that federal response has generally not occurred or is not necessary for reported releases of a particular substance, the RQ for that substance could be raised. The legislative history, which states that regulations may be revised if under-reporting or over-reporting occurs, encourages such an approach.

Although the National Response Center and EPA and Coast Guard districts have received hazardous substance spill notifications for several years, the data on release history are limited. The CWA Section 311 substances released into navigable waters and transportation-related releases provide a substantial history of release patterns, but not all the CERCLA hazardous substances have been subject to reporting requirements pursuant to CWA Section 311. Similarly, until passage of CERCLA, not all releases of CERCLA hazardous substances have been uniformly subject to DOT reporting requirements. Even in the absence of systematic and comprehensive records concerning release history, RQ adjustments might be based on the experience and and judgment of On-Scene Coordinators familiar with the type of response appropriate for releases of hazardous substances.

2. Release Potential. Several factors may be used to predict the likelihood that hazardous substances will be released into the environment. These include: (a) distribution mode, (b) transportation mode, and (c) packaging and containerization. The Agency might raise the proposed RQs for substances that are less likely to be released and lower the RQs for substances that are more likely to be released.

(a) *Distribution mode.* Some hazardous substances are produced exclusively as intermediates for use in the same plant location which produces the intermediates. Other hazardous substances may be produced at locations that are fairly close to the plants at which they are consumed and converted into other substances. Where only a few plants produce the hazardous substance or where the consuming plants are either at the same site or nearby, the RQ suggested on the basis of the primary and secondary criteria may be relaxed because of the relatively small risk of release from the limited distribution of the hazardous substance.

(b) *Transportation mode.* The mode of transportation, e.g., rail, truck, or barge, may have an influence on the likelihood of a release. If some hazardous substances are generally shipped by a transportation mode that exposes them to a particularly high risk of large releases, the RQ may be reduced; hazardous substances which are primarily shipped by safer modes of transportation might have their RQs increased.

(c) *Packaging and containerization.* The method of packaging a hazardous substance could be used to modify its RQ. Substances that are usually packaged in a fashion that substantially reduces the likelihood of release (such as very high-priced substances) may be assigned RQs on the basis of the smallest package size. There is also likely to be some correlation between the size of a container normally used for shipping and the amount of a hazardous substance that is likely to be released because a release from only one container is more likely than a release from a number of containers simultaneously. RQs might therefore be set on the basis of container sizes for some substances.

It is not clear that adjustment of RQs on the basis of release potential would result in a significant reduction in reporting burden. If a substance is rarely released because of special handling, packaging, or distribution, then reporting costs may be insignificant regardless of whether the RQ is low or high. Therefore, raising the RQs of substances that have a low release potential may not affect the reporting burden. Moreover, regardless of how likely or unlikely a release is, notification may be necessary for releases that may pose a significant threat to the public health or welfare or the environment.

EPA solicits comments on the appropriateness of using feasibility or practicality criteria for adjusting RQs, in light of EPA's authority to consider any factors deemed relevant to administering the CERCLA reporting requirements.

3. Corrosivity. Corrosivity is one of the four criteria RCRA uses as a basis for regulating unlisted hazardous wastes (ignitability, corrosivity, reactivity, and EP toxicity) and therefore was considered for setting RQs under CERCLA. Corrosivity may be important in determining the potential hazard of a release because corrosive substances can cause injury and property damge.

Corrosivity has not been used as a criterion for assigning RQs under CERCLA because EPA has not developed or identified an appropriate

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scale for rating corrosivity. The RCRA regulations define the characteristic of corrosivity in terms of pH ranges and rate of attack on steel (40 CFR 261.22; 45 FR 33122 (May 19, 1980) and 46 FR 35247 (July 7, 1981)). The pH ranges apply only to aqueous wastes and the rate of attack on steel test applies only to liquids. If EPA used a corrosivity scale based on these tests, corrosivity could not be used to adjust RQs when the hazardous substances were neither in aqueous solutions nor were liquids, despite the fact that such substances might pose potential hazards due to corrosivity. The Agency attempted to apply other tests and exisiting data in developing a corrosivity scale, but was unable to establish a five-level scale that addressed the corrosivity of all of the CERCLA hazardous substances. Accordingly, corrosivity was not used as a criterion in adjusting RQs.

F. Additional Criteria Considered, But Rejected

EPA considered, but rejected, using the additional criteria discussed below to adjust RQs. The Agency solicits comment on whether these criteria should be used to adjust RQs.

1. Ease or Difficulty of Cleanup. When a substance is easy to clean up, the releaser may be more willing to take cleanup action. Notification might therefore be unnecessary, since the government would not need to respond. If, however, a substance is particularly difficult to clean up or presents unique cleanup requirements, the releaser may be less likely to clean up even small releases of the substance unless required to do so and given assistance. One possible criterion for setting RQs, then, is to determine the ease or difficulty of cleanup and adjust RQs for certain substances so that easily-cleaned up substances receive higher RQs and substances with unique cleanup requirements receive lower RQs.

EPA has not included ease or difficulty of cleanup as a criterion because ease of cleanup does not guarantee that the releaser will actually take cleanup action nor do unique cleanup requirements necessarily mean that proper reponse will not taken by the releaser. Thus, it has not been possible to correlate the ease or difficulty of cleanup with the government's need to know of a release in order to determine what response action to take, if any.

2. Volatilization. RQs could be adjusted based upon a substance's tendency to volatilize, the process by which a substance vaporizes into the air. Volatilization is a transport process that could be used as a criterion for RQ adjustments along with biodegradability, hydrolysis, and photolysis.

EPA is not using this criterion in the RQ adjustment process because the hazard posed by a release of a hazardous substance does not necessarily decrease when the substance moves from soil or water into the air. Only the medium changes, not the hazardous characteristics of the substance.

V. Alternative Methodologies Considered

The Agency has considered several other methodologies for adjusting RQs but is not currently using them for the reasons given below. The Agency solicits comments on these methodologies, particularly any additional data that could facilitate a more complete evaluation of any of them.

A. Hazard Index

A hazard index (HI) can be used to assign to each hazardous substance a single number that represents the potential hazard of that substance when released to all media. Low RQs could be assigned to substances with high HI numbers, and high RQs to substances with low HI numbers. The HI number could be calculated by:

(1) Identifying the criteria that would be used to rate the potential hazards associated with each substance;

(2) Rating each substance on the basis of each criterion according to the potential hazard posed by the substance for that criterion; and

(3) Combining the ratings in an equation that reflects the weight to be given to each criterion.

The rating of the various criteria would be based on existing data and can take into consideration any or all of the primary and secondary criteria, as well as other criteria. The criteria can be grouped into five general categories, as outlined in Exhibit 6. The following are examples of different ways the ratings can be combined to form two unique hazard index equations:

HI = (Health Effects)x (Aggravating Characteristics) + (Welfare Effects)x (Mitigating Transformation Charteristics)

or

HI = (Health Effects) + (Welfare Effects) + (Aggravating Characteristics) + (Environmental Mobility).

Many other equations are possible. After the ratings are combined and a single numerical value obtained for each hazardous substance, reportable quantities would be assigned to groups of chemicals with similar hazard index scores.

EXHIBIT 6—POSSIBLE CATEGORIES OF CRITERIA FOR DEVELOPING A HAZARD INDEX

Health effects
- Carcinogenicity
- Mutagenicity
- Teratogenicity
- Toxicity

Welfare Effects
- Ignitability
- Explosivity
- Corrosivity
- Reactivity
- Aquatic Toxicity

Aggravating Characteristics
- Persistence
- Bioaccumulation
- Toxic Combustion Products

Mitigating Transformation Characteristics
- Biodegradation
- Hydrolysis
- Photolysis
- Oxidation

Environmental Mobility
- Volatility
- Solubility

There are major differences between using a hazard index and using the methodology being proposed today. Under the proposed methodology, the primary criteria are evaluated independently and the proposed RQ is based on the primary criterion that yields the lowest RQ value identified for any of the applicable criteria. Under a hazard index, the same criteria could be independently evaluated, but the proposed RQ is based on all the criteria, not just the most sensitive one. The results of the two different approaches could be significantly different.

Under the proposed methodology, it is possible that the federal government may receive many reports that do not require a response, while under a hazard index, it is possible that the federal government will not receive reports concerning certain releases which might warrant a response. Notification is a trigger for determining whether a response may be necessary, and the legislative history, in discussing response authority, indicates that:

Because delay will often exacerbate an already serious situation, the bill (S. 1480) authorizes the President to respond when a substantial threat of release may exist. This standard is intended to be a flexible one and holds that it is preferrable to err on the side of protecting public health, welfare, and the environment in administering the response authority of the Fund. (Sen. Rep. 96-848, 96th Cong., 2d Sess. 56 (1980)).

Advantages of the hazard index system are that the system can relate to all media and that it can accommodate a wide variety of criteria which can provide a relative measure of a substance's potential harm or hazard.

EPA would face several problems in implementing a hazard index system. Under this strategy, each substance must be ranked for each criterion. Because the necessary data are not available for each substance with respect to each criterion, relative rankings would have to be based on default values used to replace necessary data. Conservative default values could be chosen, pending development of further data. Second, there is no general agreement as to how criteria are to be combined to form a scientifically-acceptable hazard index. Specific examples of different hazard index algorithms are included in the Background Document to Support the Notice of Proposed Rulemaking Pursuant to CERCLA Section 102(b). The report applied these algorithms to 27 sample substances and compared the results. Any number of plausible equations can be developed, yielding different hazard indices and different RQs for the substances examined. There is no single established method for determining how to weight different criteria, so an additional level of subjective judgment would be introduced into the RQ adjustment process.

B. Scenarios

Scenarios can be used to develop a model of the behavior of substances after they are released, based on specific sets of circumstances that describe the events likely to follow a release. For instance, data can be assembled to describe what would happen if a release to the soil led to contamination of underground sources of drinking water. On the basis of rough projections of potential harm under scenarios of differing probabilities, alternative RQs can be set.

This alternative was rejected because of its scientific complexity; scenarios which attempt to model the effects of hazardous substances in a comprehensive manner are by their nature highly complex, require extensive analysis, and can be subject to considerable controversy. Furthermore, developing RQs on a case-by-case basis using scenarios requires extensive data that are not generally available.

C. Fate and Effects Research

This strategy is based on the fate and effects of hazardous substances released into the environment. It involves obtaining a complete understanding of how each designated hazardous substance interacts with the environment, what products may be formed under various circumstances surrounding a release, and how the designated hazardous substance and its environmental products each result in a specific hazard to public health or welfare or the environment. This differs from scenario development in that it is more comprehensive and specific; it does not focus only on those events which are likely to follow a release, but instead attempts to describe all potential effects of a release. The available data and scientific techniques will not support the broad and uniform application of such an approach at this time, making the utility of this approach very limited.

RQ Adjustments Under Section 311 of the Clean Water Act

EPA is also proposing in this rulemaking to revise certain of the reportable quantities established under Section 311(b)(4) of the Clean Water Act (40 CFR Part 117) for discharges of hazardous substances into navigable waters, so that the CWA Section 311 RQs will be identical to those proposed under CERCLA. While CERCLA requires reporting of releases of hazardous substances into the environment, CWA Section 311 covers a smaller list of hazardous substances and applies only to discharges into navigable waters. Section 311(b)(5) of the CWA requires any person in charge of a vessel or an onshore or offshore facility to notify the appropriate agency of the United States government as soon as he knows of any discharge of a hazardous substance from that vessel or facility that equals or exceeds the applicable RQ. The hazardous substances which must be reported under the CWA are all listed as hazardous substances under CERCLA, and reporting under CERCLA is required for every type of release of a hazardous substance that is subject to reporting requirements under CWA Section 311. Thus, notification will be simplified considerably by making the requirements under both statutes the same.

Reportable quantities which have been promulgated under CWA Section 311 differ from the adjusted RQs proposed under CERCLA for several reasons. First, the CERCLA RQ adjustment methodology adjusts RQs on the basis of other primary criteria in addition to aquatic toxicity, which was the basis for establishing reportable quantities under CWA Section 311. Second, the proposed CERCLA RQs use some updated data on aquatic toxicity. Third, the CERCLA methodology provides for RQs to be raised one level on the basis of secondary criteria, which represent natural dissipation processes operating on substances released into the environment.

EPA believes that the CERCLA methodology meets the requirement of Section 311(b)(4) of the CWA, that:

The President shall by regulation determine for the purposes of this section those quantities of * * * any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

A single report to the National Response Center will satisfy the notification requirements of both statutes. If the CWA Section 311 RQs were not adjusted, certain releases would be subject to CERCLA and not CWA Section 311, and others subject to CWA Section 311 and not CERCLA. Notification requirements will be simpler for the regulated community to understand and for the federal government to administer when they are identical. Reportable quantities under both statutes are set forth in Table 302.4. 40 CFR Part 117 remains otherwise unchanged, because it contains provisions governing notification procedures, penalties, and jurisdiction. EPA solicits comments on the appropriateness of adjusting the CWA Section 311 RQs to be identical with the CERCLA RQs.

Summary of Supporting Analyses

I. Classification and Regulatory Impact Analysis

Rulemaking protocol under Executive Order 12291 requires that proposed regulations be classified as major or non-major for purposes of review by the Office of Management and Budget. According to the E.O. 12291, major rules are regulations that are likely to result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Regulatory Impact Analysis, available for inspection at Room S-398, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, shows that today's proposed regulation is non-major because it

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results in a net cost savings of approximately $19.3 million.[14]

II. Certification Why a Regulatory Flexibility Analysis Is Not Necessary

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have "significant impact on a substantial number of small entities." EPA certifies that this regulation will not have a significant impact on a substantial number of small entities. See Chapter 7, Regulatory Impact Analysis.

III. Information Impact Analysis

EPA requires an Information Impact Analysis to be carried out for all rules that impose a paperwork burden on the public. This analysis estimates the burden imposed on parties outside EPA for activities such as recordkeeping or notification. It is anticipated that RQ adjustments will change the paperwork burden imposed on the regulated community for information collection associated with reporting releases. As estimated in the Regulatory Impact Analysis, the paperwork burden of notification and recordkeeping on private parties will be reduced by 57,000 hours by the rule proposed today.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under Section 3504(h) of the Paperwork Reduction Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

List of Subjects in 40 CFR Part 302

Administrative practice and procedure, Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Liabilities, Natural resources, Nuclear materials, Penalties, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

1. It is proposed to amend 40 CFR by adding Part 302 as follows:

[14] This figure does not include the costs or benefits associated with continuous releases.

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

Sec.
302.1 Applicability.
302.2 Abbreviations.
302.3 Definitions.
302.4 Designation of hazardous substances.
302.5 Determination of reportable quantities.
302.6 Notification requirements.
302.7 Penalties.

Authority: Sections 101 and 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*); Sections 311 and 501(a) of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*).

§ 302.1 Applicability.

This regulation lists those substances designated as hazardous substances under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("the Act"), identifies reportable quantities for these substances, and sets forth the notification requirements for releases of these substances. This regulation also sets forth reportable quantities for hazardous substances designated under Section 311(b)(2)(A) of the Clean Water Act.

§ 302.2 Abbreviations.

CAS Registry No.=Chemical Abstracts Service Registry Number.
RCRA=Resource Conservation and Recovery Act of 1976, as amended.
lb=pound.
Kg=kilogram.
RQ=reportable quantity.

§ 302.3 Definitions.

As used in this part, all terms shall have the meaning set forth below:

(a) "The Act", "CERCLA", or "Superfund" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510);

(b) "Administrator" means the Administrator of the United States Environmental Protection Agency ("EPA");

(c) "Consumer product" shall have the meaning stated in 15 U.S.C. 2052;

(d) "Environment" means (1) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resoruces are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976, and (2) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States;

(e) "Facility" means (1) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (2) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel;

(f) "Federally permitted release" means (1) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act, (2) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit, (3) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems, (4) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act, (5) releases in compliance with a legally enforceable final permit issued pursuant to section 3005(a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases, (6) any release in compliance with a legally enfoceable permit issued under section 102 or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, (7) any injection of fluids authorized under Federal underground injection control programs or state programs submitted for Federal approval (and not disapproved by the Administrator of the Environmental Protection Agency) pursuant to part C of the Safe Drinking Water Act, (8) any emission into the air subject to a permit or control regulation under section 111, section 112, title I part C, title I part D, or State implementation plans submitted in accordance with section 110 of the Clean Air Act (and not disapproved by the Administrator of the Environmental Protection Agency), including any schedule or waiver granted, promulgated, or approved under these sections, (9) any injection of fluids or other materials authorized under applicable State law (i) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (ii) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (iii) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected, (10) the introduction of any pollutant into a publicly owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307(b) or (c) of the Clean Water Act and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (11) any release of source, special nuclear, or byproduct material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issued pursuant to the Atomic Energy Act of 1954;

(g) "Hazardous substance" means any substance designated pursuant to 40 CFR Part 302;

(h) "Hazardous waste" shall have the meaning provided in section 1004 of the Solid Waste Disposal Act;

(i) "Navigable waters" or "navigable waters of the United States" means waters of the United States, including the territorial seas;

(j) "Normal application of pesticides" means application pursuant to the label directions for application of a pesticide product registered under section 3 or section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 *et seq.*) (FIFRA), or pursuant to the terms and conditions of an experimental use permit issued under section 5 of FIFRA, or pursuant to an exemption granted under section 18 of FIFRA;

(k) "Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(l) "Onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land or non-navigable waters within the United States;

(m) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body;

(n) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (1) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (2) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (3) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act, or, for the purposes of section 104 of CERCLA or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978, and (4) the normal application of fertilizer;

(o) "Reportable quantity" means that quantity, as set forth in this part, the release of which requires notification pursuant to this part;

(p) "United States" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction; and

(q) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 302.4 Designation of hazardous substances.

(a) *Listed Hazardous Substances.* The elements and compounds and hazardous wastes appearing in Table 302.4 are designated as hazardous substances under Section 101(14) of the Act.

(b) *Unlisted Hazardous Substances.* A solid waste, as defined in 40 CFR 261.2, which is not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), is a hazardous substance under Section 101(14) of the Act if it exhibits any of the characteristics identified in 40 CFR 261.20 through 261.24.

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Acenaphthene	83329		1*	2			#
Acenaphthylene	208968		1*	2			#
Acetaldehyde	75070	Ethanal	1000	1,4	U001	C	1000(454)
Acetaldehyde, chloro-	107200	Chloroacetaldehyde	1*	4	P023	C	1000(454)
Acetaldehyde, trichloro-	75876	Chloral	1*	4	U034		#
Acetamide, N-(aminothioxomethyl)-	591082	1-Acetyl-2-thiourea	1*	4	P002	C	1000(454)
Acetamide, N-(4-ethoxyphenyl)-	62442	Phenacetin	1*	4	U187		#
Acetamide, N-9H-fluoren-2-yl-	53963	2-Acetylaminofluorene	1*	4	U005		#
Acetamide, 2-fluoro-	640197	Fluoroacetamide	1*	4	P057	B	100(45.4)
Acetic acid	64197		1000	1		D	5000(2270)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Acetic acid, ethyl ester	141786	Ethyl acetate	1*	4	U112	D	5000(2270)
Acetic acid, fluoro-, sodium salt	62748	Fluoroacetic acid, sodium salt	1*	4	P058	A	10(4.54)
Acetic acid, lead salt	301042	Lead acetate	5000	1,4	U144		###
Acetic acid, thallium(I) salt	563688	Thallium(I) acetate	1*	4	U214		##
Acetic anhydride	108247		1000	1		D	5000(2270)
Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester.	16752775	Methomyl	1*	4	P066	C	1000(454)
Acetone	67641	2-Propanone	1*	4	U002	D	5000(2270)
Acetone cyanohydrin	75865	2-Methyllactonitrile Propanenitrile, 2-hydroxy-2-methyl-	10	1,4	P069	A	10(4.54)
Acetonitrile	75058	Ethanenitrile	1*	4	U003	C	1000(454)
3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts	81812	Warfarin	1*	4	P001	B	100(45.4)
Acetophenone	98862	Ethanone, 1-phenyl-	1*	4	U004	D	5000(2270)
2-Acetylaminofluorene	53963	Acetamide, N-9H-fluoren-2-yl-	1*	4	U005		#
Acetyl bromide	506967		5000	1		D	5000(2270)
Acetyl chloride	75365	Ethanoyl chloride	5000	1,4	U006	D	5000(2270)
1-Acetyl-2-thiourea	591082	Acetamide, N-(aminothioxomethyl)-	1*	4	P002	C	1000(454)
Acrolein	107028	2-Propenal	1	1,2,4	P003	X	1(0.454)
Acrylamide	79061	2-Propenamide	1*	4	U007	D	5000(2270)
Acrylic acid	79107	2-Propenoic acid	1*	4	U008	D	5000(2270)
Acrylonitrile	107131	2-Propenenitrile	100	1,2,4	U009		###
Adipic acid	124049		5000	1		D	5000(2270)
Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-	148823	Melphalan	1*	4	U150		#
Aldicarb	116063	Propanal, 2-methyl-2-(methylthio)-,O-[(methylamino) carbonyl]oxime.	1*	4	P070	A	10(4.54)
Aldrin	309002	1,2,3,4,10-10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene.	1	1,2,4	P004	X	1(0.454)
Allyl alcohol	107186	2-Propen-1-ol	100	1,4	P005	B	100(45.4)
Allyl chloride	107051		1000	1		D	5000(2270)
Aluminum phosphide	20859738		1*	4	P006	B	100(45.4)
Aluminum sulfate	10043013		5000	1		D	5000(2270)
5-(Aminomethyl)-3-isoxazolol	2763964	3(2H)-Isoxazolone, 5-(aminomethyl)-	1*	4	P007	C	1000(454)
4-Aminopyridine	504245	4-Pyridinamine	1*	4	P008	C	1000(454)
Amitrole	61825	1H-1,2,4-Triazol-3-amine	1*	4	U011		#
Ammonia	7664417		100	1			##
Ammonium acetate	631618		5000	1		D	5000(2270)
Ammonium benzoate	1863634		5000	1		D	5000(2270)
Ammonium bicarbonate	1066337		5000	1		D	5000(2270)
Ammonium bichromate	7789095		1000	1			###
Ammonium bifluoride	1341497		5000	1			##
Ammonium bisulfite	10192300		5000	1		D	5000(2270)
Ammonium carbamate	1111780		5000	1		D	5000(2270)
Ammonium carbonate	506876		5000	1		D	5000(2270)
Ammonium chloride	12125029		5000	1		D	5000(2270)
Ammonium chromate	7788989		1000	1			#
Ammonium citrate, dibasic	3012655		5000	1		D	5000(2270)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Ammonium fluoborate	13826830		5000	1		D	5000(2270)
Ammonium fluoride	12125018		5000	1		B	100(45.4)
Ammonium hydroxide	1336216		1000	1		C	1000(454)
Ammonium oxalate	6009707 5972736 14258492		5000	1		D	5000(2270)
Ammonium picrate	131748	Phenol, 2,4,6-trinitro-, ammonium salt	1*	4	P009	A	10(4.54)
Ammonium silicofluoride	16919190		1000	1		C	1000(454)
Ammonium sulfamate	7773060		5000	1		D	5000(2270)
Ammonium sulfide	12135761		5000	1		B	100(45.4)
Ammonium sulfite	10196040		5000	1		D	5000(2270)
Ammonium tartrate	14307438 3164292		5000	1		D	5000(2270)
Ammonium thiocyanate	1762954		5000	1		D	5000(2270)
Ammonium thiosulfate	7783188		5000	1		D	5000(2270)
Ammonium vanadate	7803556	Vanadic acid, ammonium salt	1*	4	P119	C	1000(454)
Amyl acetate iso- sec- tert-	628637 123922 626380 625161		1000	1		D	5000(2270)
Aniline	62533	Benzenamine	1000	1,4	U012	D	5000(2270)
Anthracene	120127		1*	2			#
Antimony †	7440360		1*	2			##
ANTIMONY AND COMPOUNDS			1*	2			**
Antimony pentachloride	7647189		1000	1		C	1000(454)
Antimony potassium tartrate	28300745		1000	1		B	100(45.4)
Antimony tribromide	7789619		1000	1		C	1000(454)
Antimony trichloride	10025919		1000	1		C	1000(454)
Antimony trifluoride	7783564		1000	1		C	1000(454)
Antimony trioxide	1309644		5000	1		C	1000(454)
Aroclor 1016	12674112		1*	2		X	1(0.454)
Aroclor 1221	11104282		1*	2		X	1(0.454)
Aroclor 1232	11141165		1*	2		X	1(0.454)
Aroclor 1242	53469219		1*	2		X	1(0.454)
Aroclor 1248	12672296		1*	2		X	1(0.454)
Aroclor 1254	11097691		1*	2		X	1(0.454)
Aroclor 1260	11096825		1*	2		X	1(0.454)
Arsenic †	7440382		1*	2,3			###
Arsenic acid	1327522 7778394		1*	4	P010		###
ARSENIC AND COMPOUNDS			1*	2			**
Arsenic disulfide	1303328		5000	1			###
Arsenic(III) oxide	1327533	Arsenic trioxide	5000	1,4	P012		###
Arsenic(V) oxide	1303282	Arsenic pentoxide	5000	1,4	P011		###
Arsenic pentoxide	1303282	Arsenic(V) oxide	5000	1,4	P011		###
Arsenic trichloride	7784341		5000	1			###
Arsenic trioxide	1327533	Arsenic(III) oxide	5000	1,4	P012		###

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Arsenic disulfide	1303339		1				###
Arsine, diethyl-	692422	Diethylarsine	1*	4	P038		###
Asbestos	1332214		1*	2,3			###
Auramine	492808	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-	1*	4	U014		#
Azaserine	115026	L-Serine, diazoacetate (ester)	1*	4	U015		#
Aziridine	151564	Ethylenimine	1*	4	P054		#
Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione,6-amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	50077	Mitomycin C	1*	4	U010		#
Barium cyanide	542621		10	1,4	P013	A	10(4.54)
Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	56495	3-Methylcholanthrene	1*	4	U157		#
Benz[c]acridine	225514	3,4-Benzacridine	1*	4	U016		#
3,4-Benzacridine	225514	Benz[c]acridine	1*	4	U016		#
Benzal chloride	98873	Benzene, dichloromethyl-	1*	4	U017	D	5000(2270)
Benz[a]anthracene	56553	1,2-Benzanthracene Benzo[a]anthracene	1*	2,4	U018		###
1,2-Benzanthracene	56553	Benz[a]anthracene Benzo[a]anthracene	1*	2,4	U018		###
1,2-Benzanthracene, 7,12-dimethyl-	57976	7,12-Dimethylbenz[a]anthracene	1*	4	U094		#
Benzenamine	62533	Aniline	1000	1,4	U012	D	5000(2270)
Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-	492808	Auramine	1*	4	U014		#
Benzenamine, 4-chloro-	106478	p-Chloroaniline	1*	4	P024	C	1000(454)
Benzenamine, 4-chloro-2-methyl-, hydrochloride	3165933	4-Chloro-o-toluidine, hydrochloride	1*	4	U049		#
Benzenamine, N,N-dimethyl-4-phenylazo-	60117	Dimethylaminoazobenzene	1*	4	U093		#
Benzenamine, 4,4'-methylenebis[2-chloro-	101144	4,4'-Methylenebis(2-chloroaniline)	1*	4	U158		#
Benzenamine, 2-methyl-, hydrochloride	636215	o-Toluidine hydrochloride	1*	4	U222		#
Benzenamine, 2-methyl-5-nitro-	99558	5-Nitro-o-toluidine	1*	4	U181		#
Benzenamine, 4-nitro-	100016	p-Nitroaniline	1*	4	P077	D	5000(2270)
Benzene	71432		1000	1,2,3,4	U019		###
Benzene, 1-bromo-4-phenoxy-	101553	4-Bromophenyl phenyl ether	1*	2,4	U030	A	10(4.54)
Benzene, chloro-	108907	Chlorobenzene	100	1,2,4	U037	B	100(45.4)
Benzene, chloromethyl-	100447	Benzyl chloride	100	1,4	P028		#
Benzene, 1,2-dichloro-	95501	1,2-Dichlorobenzene o-Dichlorobenzene	1*	2,4	U070	B	100(45.4)
Benzene, 1,3-dichloro-	541731	1,3-Dichlorobenzene m-Dichlorobenzene	1*	2,4	U071	B	100(45.4)
Benzene, 1,4-dichloro-	106467	1,4-Dichlorobenzene p-Dichlorobenzene	1*	2,4	U072	B	100(45.4)
Benzene, dichloromethyl-	98873	Benzal chloride	1*	4	U017	D	5000(2270)
Benzene, 2,4-diisocyanatomethyl-	584849	Toluene diisocyanate	1*	4	U223	B	100(45.4)
Benzene, dimethyl- m- o- p-	1330207 108383 95476 106423	Xylene m- o- p-	1000	1,4	U239	C	1000(454)
Benzene, hexachloro-	118741	Hexachlorobenzene	1*	2,4	U127		###
Benzene, hexahydro-	110827	Cyclohexane	1000	1,4	U056	C	1000(454)
Benzene, hydroxy-	108952	Phenol	1000	1,2,4	U188		##
Benzene, methyl-	108883	Toluene	1000	1,2,4	U220	C	1000(454)
Benzene, 1-methyl-2,4-dinitro-	121142	2,4-Dinitrotoluene	1*	2,4	U105	B	100(45.4)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Benzene, 1-methyl-2,6-dinitro-	606202	2,6-Dinitrotoluene	1*	2,4	U106	B	100(45.4)
Benzene, 1,2-methylenedioxy-4-allyl-	94597	Safrole	1*	4	U203		#
Benzene, 1,2-methylenedioxy-4-propenyl-	120581	Isosafrole	1*	4	U141		#
Benzene, 1,2-methylenedioxy-4-propyl-	94586	Dihydrosafrole	1*	4	U090		#
Benzene, 1-methylethyl-	98828	Cumene	1*	4	U055	D	5000(2270)
Benzene, nitro-	98953	Nitrobenzene	1000	1,2,4	U169	C	1000(454)
Benzene, pentachloro-	608935	Pentachlorobenzene	1*	4	U183		##
Benzene, pentachloronitro-	82688	Pentachloronitrobenzene	1*	4	U185		###
Benzene, 1,2,4,5-tetrachloro-	95943	1,2,4,5-Tetrachlorobenzene	1*	4	U207	D	5000(2270)
Benzene, trichloromethyl-	98077	Benzotrichloride	1*	4	U023	C	1000(454)
Benzene, 1,3,5-trinitro-	99354	sym-Trinitrobenzene	1*	4	U234		##
Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester.	510156	Ethyl 4,4'-dichlorobenzilate	1*	4	U038		#
1,2-Benzenedicarboxylic acid anhydride	85449	Phthalic anhydride	1*	4	U190	D	5000(2270)
1,2-Benzenedicarboxylic acid,[bis(2-ethylhexyl)] ester	117817	Bis(2-ethylhexyl)phthalate	1*	2,4	U028	D	5000(2270)
1,2-Benzenedicarboxylic acid,dibutyl ester	84742	n-Butyl phthalate Dibutyl phthalate Di-n-butyl phthalate	100	1,2,4	U069	B	100(45.4)
1,2-Benzenedicarboxylic acid,diethyl ester	84662	Diethyl phthalate	1*	2,4	U088	B	100(45.4)
1,2-Benzenedicarboxylic acid,dimethyl ester	131113	Dimethyl phthalate	1*	2,4	U102	D	5000(2270)
1,2-Benzenedicarboxylic acid,di-n-octyl ester	117840	Di-n-octyl phthalate	1*	2,4	U107	D	5000(2270)
1,3-Benzenediol	108463	Resorcinol	1000	1,4	U201	D	5000(2270)
1,2-Benzenediol,4-[1-hydroxy-2-(methylamino)ethyl]-	51434	Epinephrine	1*	4	P042	C	1000(454)
Benzenesulfonic acid chloride	98099	Benzenesulfonyl chloride	1*	4	U020	B	100(45.4)
Benzenesulfonyl chloride	98099	Benzenesulfonic acid chloride	1*	4	U020	B	100(45.4)
Benzenethiol	108985	Thiophenol	1*	4	P014	B	100(45.4)
Benzidine	92875	(1,1'-Biphenyl)-4,4'diamine	1*	2,4	U021		###
1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts	81072	Saccharin and salts	1*	4	U202		#
Benzo[a]anthracene	56553	Benz[a]anthracene 1,2-Benzanthracene	1*	2,4	U018		###
Benzo[b]fluoranthene	205992		1*	2			###
Benzo(k)fluoranthene	207089		1*	2			#
Benzo[j,k]fluorene	206440	Fluoranthene	1*	2,4	U120		#
Benzoic acid	65850		5000	1		D	5000(2270)
Benzonitrile	100470		1000	1		D	5000(2270)
Benzo[ghi]perylene	191242		1*	2			#
Benzo[a]pyrene	50328	3,4-Benzopyrene	1*	2,4	U022		###
3,4-Benzopyrene	50328	Benzo[a]pyrene	1*	2,4	U022		###
p-Benzoquinone	106514	1,4-Cyclohexadienedione	1*	4	U197		##
Benzotrichloride	98077	Benzene, trichloromethyl-	1*	4	U023	C	1000(454)
Benzoyl chloride	98884		1000	1		C	1000(454)
1,2-Benzphenanthrene	218019	Chrysene	1*	2,4	U050		###
Benzyl chloride	100447	Benzene, chloromethyl-	100	1,4	P028		#
Beryllium †	7440417	Beryllium dust	1*	2,3,4	P015		###
BERYLLIUM AND COMPOUNDS			1*	2			**
Beryllium chloride	7787475		5000	1			###

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Beryllium dust	7440417	Beryllium	1*	2,3,4	P015		###
Beryllium fluoride	7787497		5000	1			###
Beryllium nitrate	13597994 7787556		5000	1			###
alpha - BHC	319846		1*	2		X	1(0.454)
beta - BHC	319857		1*	2		X	1(0.454)
gamma - BHC	58899	Hexachlorocyclohexane (gamma isomer) Lindane	1	1,2,4	U129	X	1(0.454)
delta - BHC	319868		1*	2		X	1(0.454)
2,2'-Bioxirane	1464535	1,2:3,4-Diepoxybutane	1*	4	U085		#
(1,1'-Biphenyl)-4,4'diamine	92875	Benzidine	1*	2,4	U021		###
(1,1'-Biphenyl)-4,4'diamine,3,3'dichloro-	91941	3,3'-Dichlorobenzidine	1*	2,4	U073		###
(1,1'-Biphenyl)-4,4'diamine,3,3'dimethoxy-	119904	3,3'-Dimethoxybenzidine	1*	4	U091		#
(1,1'Biphenyl)-4,4'-diamine,3,3'-dimethyl-	119937	3,3'-Dimethylbenzidine	1*	4	U095		#
Bis(2-chloroethoxy) methane	111911	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	1*	2,4	U024	C	1000(454)
Bis (2-chloroethyl) ether	111444	Dichloroethyl ether Ethane, 1,1 -oxybis[2-chloro-	1*	2,4	U025		#
Bis(2-chloroisopropyl) ether	108601	Propane, 2,2'-oxybis[2-chloro-	1*	2,4	U027	C	1000(454)
Bis(chloromethyl) ether	542881	Methane, oxybis(chloro-	1*	4	P016		###
Bis(dimethylthiocarbamoyl) disulfide	137268	Thiram	1*	4	U244	A	10(4.54)
Bis(2-ethylhexyl)phthalate	117817	1,2-Benzenedicarboxylic acid,[bis(2-ethylhexyl)] ester	1*	2,4	U028	D	5000(2270)
Bromine cyanide	506683	Cyanogen bromide	1*	4	U246	C	1000(454)
Bromoacetone	598312	2-Propanone, 1-bromo-	1*	4	P017	C	1000(454)
Bromoform	75252	Methane, tribromo	1*	2,4	U225	B	100(45.4)
4-Bromophenyl phenyl ether	101553	Benzene, 1-bromo-4-phenoxy-	1*	2,4	U030	A	10(4.54)
Brucine	357573	Strychnidin-10-one, 2,3-dimethoxy-	1*	4	P018	A	10(4.54)
1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87683	Hexachlorobutadiene	1*	2,4	U128		###
1-Butanamine, N-butyl-N-nitroso-	924163	N-Nitrosodi-n-butylamine	1*	4	U172		#
Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-	305033	Chlorambucil	1*	4	U035		#
1-Butanol	71363	n-Butyl alcohol	1*	4	U031	D	5000(2270)
2-Butanone	78933	Methyl ethyl ketone	1*	4	U159	C	1000(454)
2-Butanone peroxide	1338234	Methyl ethyl ketone peroxide	1*	4	U160	A	10(4.54)
2-Butenal	123739 4170303	Crotonaldehyde	100	1,4	U053	B	100(45.4)
2-Butene, 1,4-dichloro-	764410	1,4-Dichloro-2-butene	1*	4	U074	X	1(0.454)
Butyl acetate	123864		5000	1		D	5000(2270)
iso-	110190						
sec-	105464						
tert-	540885						
n-Butyl alcohol	71363	1-Butanol	1*	4	U031	D	5000(2270)
Butylamine	109739		1000	1		D	5000(2270)
iso-	78819						
sec-	513495						
sec-	13952846						
tert-	75649						
Butyl benzyl phthalate	85687		1*	2		D	5000(2270)
n-Butyl phthalate	84742	1,2-Benzenedicarboxylic acid,dibutyl ester Dibutyl phthalate Di-n-butyl phthalate	100	1,2,4	U069	B	100(45.4)
Butyric acid	107926		5000	1		D	5000(2270)
iso-	79312						

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Cacodylic acid	75605	Hydroxydimethylarsine oxide	1*	4	U136		#
Cadmium †	7440439		1*	2			###
Cadmium acetate	543908		100	1			###
CADMIUM AND COMPOUNDS			1*	2			**
Cadmium bromide	7789426		100	1			###
Cadmium chloride	10108642		100	1			###
Calcium arsenate	7778441		1000	1			###
Calcium arsenite	52740166		1000	1			###
Calcium carbide	75207		5000	1		A	10(4.54)
Calcium chromate	13765190	Chromic acid, calcium salt	1000	1,4	U032		###
Calcium cyanide	592018		10	1,4	P021	A	10(4.54)
Calcium dodecylbenzene sulfonate	26264062		1000	1		C	1000(454)
Calcium hypochlorite	7778543		100	1		A	10(4.54)
Camphene, octachloro-	8001352	Toxaphene	1	1,2,4	P123	X	1(0.454)
Captan	133062		10	1			##
Carbamic acid, ethyl ester	51796	Ethyl carbamate (Urethan)	1*	4	U238		#
Carbamic acid, methylnitroso-,ethyl ester	615532	N-Nitroso-N-methylurethane	1*	4	U178		#
Carbamide, N-ethyl-N-nitroso-	759739	N-Nitroso-N-ethylurea	1*	4	U176		#
Carbamide, N-methyl-N-nitroso	684935	N-Nitroso-N-methylurea	1*	4	U177		#
Carbamide, thio-	62566	Thiourea	1*	4	U219		#
Carbamimidoselenoic acid	630104	Selenourea	1*	4	P103		##
Carbamoyl chloride, dimethyl-	79447	Dimethylcarbamoyl chloride	1*	4	U097		#
Carbaryl	63252		100	1		B	100(45.4)
Carbofuran	1563662		10	1		A	10(4.54)
Carbon bisulfide	75150	Carbon disulfide	5000	1,4	P022		##
Carbon disulfide	75150	Carbon bisulfide	5000	1,4	P022		##
Carbonic acid, dithallium (I) salt	6533739	Thallium(I) carbonate	1*	4	U215		##
Carbonochloridic acid, methyl ester	79221	Methyl chlorocarbonate	1*	4	U156	C	1000(454)
Carbon oxyfluoride	353504	Carbonyl fluoride	1*	4	U033	C	1000(454)
Carbon tetrachloride	56235	Methane, tetrachloro-	5000	1,2,4	U211		###
Carbonyl chloride	75445	Phosgene	5000	1,4	P095	C	1000(454)
Carbonyl fluoride	353504	Carbon oxyfluoride	1*	4	U033	C	1000(454)
Chloral	75876	Acetaldehyde, trichloro-	1*	4	U034		#
Chlorambucil	305033	Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-	1*	4	U035		#
CHLORDANE (TECHNICAL MIXTURE AND METABOLITES).			1*	2			**
Chlordane	57749	Chlordane, technical 4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	1	1,2,4	U036	X	1(0.454)
Chlordane, technical	57749	Chlordane 4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	1	1,2,4	U036	X	1(0.454)
4-Chloro-m-cresol	59507	p-Chloro-m-cresol Phenol, 4-chloro-3-methyl-	1*	2,4	U039	D	5000(2270)
p-Chloro-m-cresol	59507	4-Chloro-m-cresol Phenol, 4-chloro-3-methyl-	1*	2,4	U039	D	5000(2270)
CHLORINATED BENZENES			1*	2			**

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
CHLORINATED ETHANES			1*	2			**
CHLORINATED NAPHTHALENE			1*	2			**
CHLORINATED PHENOLS			1*	2			**
Chlorine	7782505		10	1		A	10(4.54)
Chlorine cyanide	506774	Cyanogen chloride	10	1,4	P033	A	10(4.54)
Chlornaphazine	494031	2-Naphthylamine, N,N-bis(2-chloroethyl)-	1*	4	U026		#
Chloroacetaldehyde	107200	Acetaldehyde, chloro-	1*	4	P023	C	1000(454)
CHLOROALKYL ETHERS			1*	2			**
p-Chloroaniline	106478	Benzenamine, 4-chloro-	1*	4	P024	C	1000(454)
Chlorobenzene	108907	Benzene, chloro-	100	1,2,4	U037	B	100(45.4)
Chlorodibromomethane	124481		1*	2		B	100(45.4)
1-Chloro-2,3-epoxypropane	106898	Epichlorohydrin Oxirane, 2-(chloromethyl)-	1000	1,4	U041		###
Chloroethane	75003		1*	2			##
2-Chloroethyl vinyl ether	110758	Ethene, 2-chloroethoxy-	1*	2,4	U042	C	1000(454)
Chloroform	67663	Methane, trichloro-	5000	1,2,4	U044		#
Chloromethyl methyl ether	107302	Methane, chloromethoxy-	1*	4	U046		###
beta-Chloronaphthalene	91587	2-Chloronaphthalene Naphthalene, 2-chloro-	1*	2,4	U047	D	5000(2270)
2-Chloronaphthalene	91587	beta-Chloronaphthalene Naphthalene, 2-chloro-	1*	2,4	U047	D	5000(2270)
2-Chlorophenol	95578	o-Chlorophenol Phenol, 2-chloro-	1*	2,4	U048	B	100(45.4)
o-Chlorophenol	95578	2-Chlorophenol Phenol, 2-chloro-	1*	2,4	U048	B	100(45.4)
4-Chlorophenyl phenyl ether	7005723		1*	2		B	5000(2270)
1-(o-Chlorophenyl)thiourea	5344821	Thiourea, (2-chlorophenyl)-	1*	4	P026	B	100(45.4)
3-Chloropropionitrile	542767	Propanenitrile, 3-chloro-	1*	4	P027	C	1000(454)
Chlorosulfonic acid	7790945		1000	1		C	1000(454)
4-Chloro-o-toluidine, hydrochloride	3165933	Benzenamine, 4-chloro-2-methyl-,hydrochloride	1*	4	U049		#
Chlorpyrifos	2921882		1	1		X	1(0.454)
Chromic acetate	1066304		1000	1			##
Chromic acid	11115745		1000	1			###
Chromic acid, calcium salt	13765190	Calcium chromate	1000	1,4	U032		###
Chromic sulfate	10101538		1000	1			##
Chromium †	7440473		1*	2			##
CHROMIUM AND COMPOUNDS			1*	2			**
Chromous chloride	10049055		1000	1			##
Chrysene	218019	1,2-Benzphenanthrene	1*	2,4	U050		###
Cobaltous bromide	7789437		1000	1		C	1000(454)
Cobaltous formate	544183		1000	1		C	1000(454)
Cobaltous sulfamate	14017415		1000	1		C	1000(454)
Copper †	7440508		1*	2		C	1000(454)
COPPER AND COMPOUNDS			1*	2			**
Copper cyanides	544923		1*	4	P029	A	10(4.54)
Coumaphos	56724		10	1		A	10(4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Creosote	8001589		1*	4	U051		###
Cresol(s) m- o- p-	1319773 108394 95487 106445	Cresylic acid	1000	1,4	U052		##
Cresylic acid m- o- p-	1319773 108394 95487 106445	Cresol(s)	1000	1,4	U052		##
Crotonaldehyde	123739 4170303	2-Butenal	100	1,4	U053	B	100(45.4)
Cumene	98828	Benzene, 1-methylethyl-	1*	4	U055	D	5000(2270)
Cupric acetate	142712		100	1		B	100(45.4)
Cupric acetoarsenite	12002038		100	1			###
Cupric chloride	7447394		10	1			##
Cupric nitrate	3251238		100	1		B	100(45.4)
Cupric oxalate	5893663		100	1		B	100(45.4)
Cupric sulfate	7758987		10	1			##
Cupric sulfate ammoniated	10380297		100	1		B	100(45.4)
Cupric tartrate	815827		100	1			##
CYANIDES			1*	2			**
Cyanides (soluble cyanide salts), not elsewhere specified.	57125		1*	4	P030	A	10(4.54)
Cyanogen	460195		1*	4	P031	B	100(45.4)
Cyanogen bromide	506683	Bromine cyanide	1*	4	U246	C	1000(454)
Cyanogen chloride	506774	Chlorine cyanide	10	1,4	P033	A	10(4.54)
1,4-Cyclohexadienedione	106514	p-Benzoquinone	1*	4	U197		##
Cyclohexane	110827	Benzene, hexahydro-	1000	1,4	U056	C	1000(454)
Cyclohexanone	108941		1*	4	U057	D	5000(2270)
1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	77474	Hexachlorocyclopentadiene	1	1,2,4	U130	X	1(0.454)
Cyclophosphamide	50180	2H-1,3,2-Oxazaphosphorine,2-[bis(2-chloroethyl)amino]tetrahydro-2-oxide	1*	4	U058		#
2,4-D Acid	94757	2,4-D, salts and esters 2,4-Dichlorophenoxyacetic acid, salts and esters	100	1,4	U240	B	100(45.4)
2,4-D Esters	94111 94791 94804 1320189 1928387 1928616 1929733 2971382 25168267 53467111		100	1		B	100(45.4)
2,4-D, salts and esters	94757	2,4-D Acid 2,4-Dichlorophenoxyacetic acid, salts and esters	100	1,4	U240	B	100(45.4)
Daunomycin	20830813	5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-[3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	1*	4	U059		#
DDD	72548	4,4' DDD Dichlorodiphenyl dichloroethene TDE	1	1,2,4	U060	X	1(0.454)
4,4' DDD	72548	DDD Dichlorodiphenyl dichloroethene TDE	1	1,2,4	U060	X	1(0.454)
DDE	72559	4,4' DDE	1*	2		X	1(0.454)
4,4' DDE	72559	DDE	1*	2		X	1(0.454)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
DDT	50293	4,4' DDT Dichlorodiphenyl trichloroethane	1	1,2,4	U061	X	1(0.454)
4,4' DDT	50293	DDT Dichlorodiphenyl trichloroethane	1	1,2,4	U061	X	1(0.454)
DDT AND METABOLITES			1*	2			**
Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one.	143500	Kepone	1	1,4	U142	X	1(0.454)
Diallate	2303164	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	1*	4	U062		#
Diamine	302012	Hydrazine	1*	4	U133		#
Diaminotoluene	95807	Toluenediamine	1*	4	U221		#
Diazinon	333415		1	1		A	10(4.54)
Dibenz[a,h]anthracene	53703	1,2:5,6-Dibenzanthracene Dibenzo[a,h]anthracene	1*	2,4	U063		###
1,2:5,6-Dibenzanthracene	53703	Dibenz[a,h]anthracene Dibenzo[a,h]anthracene	1*	2,4	U063		###
Dibenzo[a,h]anthracene	53703	Dibenz[a,h]anthracene 1,2:5,6-Dibenzanthracene	1*	2,4	U063		###
1,2:7,8-Dibenzopyrene	189559	Dibenz[a,i]pyrene	1*	4	U064		#
Dibenz[a,i]pyrene	189559	1,2:7,8-Dibenzopyrene	1*	4	U064		#
1,2-Dibromo-3-chloropropane	96128	Propane, 1,2-dibromo-3-chloro-	1*	4	U066		#
Dibutyl phthalate	84742	1,2-Benzenedicarboxylic acid,dibutyl ester Di-n-butyl phthalate n-Butyl phthalate	100	1,2,4	U069	B	100(45.4)
Di-n-butyl phthalate	84742	1,2-Benzenedicarboxylic acid,dibutyl ester n-Butyl phthalate Dibutyl phthalate	100	1,2,4	U069	B	100(45.4)
Dicamba	1918009		1000	1		C	1000(454)
Dichlobenil	1194656		1000	1		C	1000(454)
Dichlone	117806		1	1		X	1(0.454)
S-(2,3-Dichloroallyl) diisopropylthiocarbamate	2303164	Diallate	1*	4	U062		#
3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide	23950585	Pronamide	1*	4	U192	D	5000(2270)
1,4-Dichloro-2-butene	764410	2-Butene, 1,4-dichloro-	1*	4	U074	X	1(0.454)
Dichloro diphenyl dichloroethane	72548	DDD 4,4' DDD TDE	1	1,2,4	U060	X	1(0.454)
Dichlorobenzene (mixed)	25321226		100	1		B	100(45.4)
1,2-Dichlorobenzene	95501	Benzene, 1,2-dichloro- o-Dichlorobenzene	1*	2,4	U070	B	100(45.4)
1,3-Dichlorobenzene	541731	Benzene, 1,3-dichloro- m-Dichlorobenzene	1*	2,4	U071	B	100(45.4)
1,4-Dichlorobenzene	106467	Benzene, 1,4-dichloro- p-Dichlorobenzene	1*	2,4	U072	B	100(45.4)
m-Dichlorobenzene	541731	Benzene, 1,3-dichloro- 1,3-Dichlorobenzene	1*	2,4	U071	B	100(45.4)
o-Dichlorobenzene	95501	Benzene, 1,2-dichloro- 1,2-Dichlorobenzene	1*	2,4	U070	B	100(45.4)
p-Dichlorobenzene	106467	Benzene, 1,4-dichloro- 1,4-Dichlorobenzene	1*	2,4	U072	B	100(45.4)
DICHLOROBENZIDINE			1*	2			**
3,3'-Dichlorobenzidine	91941	(1,1'-Biphenyl)-4,4'diamine,3,3'dichloro-	1*	2,4	U073		###
Dichlorobromomethane	75274		1*	2		D	5000(2270)
Dichlorodifluoromethane	75718	Methane, dichlorodifluoro-	1*	4	U075	D	5000(2270)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Dichlorodiphenyl trichloroethane	50293	DDT 4,4'DDT	1	1,2,4	U061	X	1(0.454)
1,1-Dichloroethane	75343	Ethane, 1,1-dichloro- Ethylidene dichloride	1*	2,4	U076	C	1000(454)
1,2-Dichloroethane	107062	Ethane, 1,2-dichloro- Ethylene dichloride	5000	1,2,4	U077		###
1,1-Dichloroethylene	75354	Ethene, 1,1-dichloro- Vinylidene chloride	5000	1,2,4	U078		###
1,2-trans-Dichloroethylene	156605	1,2-trans-Dichloroethylene Ethene, trans-1,2-dichloro-	1*	2,4	U079	C	1000(454)
Dichloroethyl ether	111444	Bis (2-chloroethyl) ether Ethane, 1,1'-oxybis[2-chloro-	1*	2,4	U025		#
2,4-Dichlorophenol	120832	Phenol, 2,4-dichloro-	1*	2,4	U081	B	100(45.4)
2,6-Dichlorophenol	87650	Phenol, 2,6-dichloro-	1*	4	U082	B	100(45.4)
2,4-Dichlorophenoxyacetic acid, salts and esters	94757	2,4-D Acid 2,4-D, salts and esters	100	1,4	U240	B	100(45.4)
Dichlorophenylarsine	696286	Phenyl dichloroarsine	1*	4	P036		###
Dichloropropane	26638197		5000	1		C	1000(454)
1,2-Dichloropropane	78875	Propylene dichloride	1*	2,4	U083	C	1000(454)
Dichloropropane - Dichloropropene mixture	8003198		5000	1		B	100(45.4)
1,3-Dichloropropene	542756	Propene, 1,3-dichloro-	1*	2,4	U084	B	100(45.4)
Dichloropropene	26952238		5000	1		B	100(45.4)
2,2-Dichloropropionic acid	75990		5000	1		D	5000(2270)
Dichlorvos	62737		10	1		A	10(4.54)
Dieldrin	60571	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene.	1	1,2,4	P037	X	1(0.454)
1,2:3,4-Diepoxybutane	1464535	2,2'-Bioxirane	1*	4	U085		#
Diethylamine	109897		1000	1		C	1000(454)
Diethylarsine	692422	Arsine, diethyl-	1*	4	P038		###
1,4-Diethylene dioxide	123911	1,4-Dioxane	1*	4	U108		#
N,N'-Diethylhydrazine	1615801	Hydrazine, 1,2-diethyl-	1*	4	U086		#
O,O-Diethyl S-[2-(ethylthio)ethyl]phosphorodithioate	298044	Disulfoton	1	1,4	P039	X	1(0.454)
O,O-Diethyl S-Methyl Dithiophosphate	3288582	Phosphorodithoic acid, O,O-diethyl S-methylester	1*	4	U087	D	5000(2270)
Diethyl-p-nitrophenyl phosphate	311455	Phosphoric acid,diethyl p-nitrophenyl ester	1*	4	P041	B	100(45.4)
Diethyl phthalate	84662	1,2-Benzenedicarboxylic acid,diethyl ester	1*	2,4	U088	B	100(45.4)
O,O-Diethyl O-pyrazinyl phosphorothioate	297972	Phosphorothoic acid, O,O-diethylO-pyrazinyl ester	1*	4	P040	B	100(45.4)
Diethylstilbestrol	56531	4,4'-Stilbenediol, alpha,alpha'-diethyl-	1*	4	U089		#
1,2-Dihydro-3,6-pyridazinedione	123331	Maleic hydrazide	1*	4	U148	D	5000(2270)
Dihydrosafrole	94586	Benzene, 1,2-methylenedioxy-4-propyl-	1*	4	U090		#
Diisopropyl fluorophosphate	55914	Phosphorofluoridic acid,bis(1-methylethyl) ester	1*	4	P043	B	100(45.4)
Dimethoate	60515	Phosphorodithioic acid,O,O-dimethyl S-[2(methylamino)-2-oxoethyl] ester.	1*	4	P044	A	10(4.54)
3,3'-Dimethoxybenzidine	119904	(1,1'-Biphenyl)-4,4'diamine,3,3'dimethoxy-	1*	4	U091		#
Dimethylamine	124403	Methanamine, N-methyl-	1000	1,4	U092		##
Dimethylaminoazobenzene	60117	Benzenamine, N,N-dimethyl-4-phenylazo-	1*	4	U093		#
7,12-Dimethylbenz[a]anthracene	57976	1,2-Benzanthracene, 7,12-dimethyl-	1*	4	U094		#
3,3'-Dimethylbenzidine	119937	(1,1'Biphenyl)-4,4'-diamine,3,3'-dimethyl-	1*	4	U095		#
alpha,alpha-Dimethylbenzylhydroperoxide	80159	Hydroperoxide, 1-methyl-1-phenylethyl-	1*	4	U096	A	10(4.54)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
3,3-Dimethyl-1-(methylthio)-2-butanone,O-[(methylamino)carbonyl] oxime	39196184	Thiofanox	1*	4	P045	B	100(45.4)
Dimethylcarbamoyl chloride	79447	Carbamoyl chloride, dimethyl-	1*	4	U097		#
1,1-Dimethylhydrazine	57147	Hydrazine, 1,1-dimethyl-	1*	4	U098		#
1,2-Dimethylhydrazine	540738	Hydrazine, 1,2-dimethyl-	1*	4	U099		#
O,O-Dimethyl O-p-nitrophenylphosphorothioate	298000	Methyl parathion	100	1,4	P071		##
Dimethylnitrosamine	62759	N-Nitrosodimethylamine	1*	2,4	P082		#
alpha,alpha-Dimethylphenethylamine	122098	Ethanamine, 1,1-dimethyl-2-phenyl-	1*	4	P046	D	5000(2270)
2,4-Dimethylphenol	105679	Phenol, 2,4-dimethyl-	1*	2,4	U101	B	100(45.4)
Dimethyl phthalate	131113	1,2-Benzenedicarboxylic acid,dimethyl ester	1*	2,4	U102	D	5000(2270)
Dimethyl sulfate	77781	Sulfuric acid, dimethyl ester	1*	4	U103		#
Dinitrobenzene (mixed) m- o- p-	25154545 99650 528290 100254		1000	1		B	100(45.4)
4,6-Dinitro-o-cresol and salts	534521	Phenol 2,4-dinitro-6-methyl- and salts	1*	2,4	P047	B	100(45.4)
4,6-Dinitro-o-cyclohexylphenol	131895	Phenol, 2-cyclohexyl-4,6-dinitro-	1*	4	P034	B	100(45.4)
Dinitrophenol 2,5- 2,6-	25550587 329715 573568		1000	1		B	100(45.4)
2,4-Dinitrophenol	51285	Phenol, 2,4-dinitro-	1*	2,4	P048	B	100(45.4)
Dinitrotoluene	25321146		1000	1,2		B	100(45.4)
2,4-Dinitrotoluene	121142	Benzene, 1-methyl-2,4-dinitro-	1*	2,4	U105	B	100(45.4)
2,6-Dinitrotoluene	606202	Benzene, 1-methyl-2,6-dinitro-	1*	2,4	U106	B	100(45.4)
Dinoseb	88857	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	1*	4	P020	C	1000(454)
Di-n-octyl phthalate	117840	1,2-Benzenedicarboxylic acid,di-n-octyl ester	1*	2,4	U107	D	5000(2270)
1,4-Dioxane	123911	1,4-Diethylene dioxide	1*	4	U108		#
DIPHENYLHYDRAZINE			1*	2			**
1,2-Diphenylhydrazine	122667	Hydrazine, 1,2-diphenyl-	1*	2,4	U109		###
Diphosphoramide, octamethyl-	152169	Octamethylpyrophosphoramide	1*	4	P085	B	100(45.4)
Dipropylamine	142847	1-Propanamine, N-propyl-	1*	4	U110	D	5000(2270)
Di-n-propylnitrosamine	621647	N-Nitrosodi-n-propylamine	1*	2,4	U111		#
Diquat	85007 2764729		1000	1		C	1000(451)
Disulfoton	298044	O,O-Diethyl S-[2-(ethylthio)ethyl]phosphorodithioate	1	1,4	P039	X	1(0.454)
2,4-Dithiobiuret	541537	Thioimidodicarbonic diamide	1*	4	P049	B	100(45.4)
Dithiopyrophosphonic acid,tetraethyl ester	3689245	Tetraethyldithiopyrophosphate	1*	4	P109	B	100(45.4)
Diuron	330541		100	1		B	100(45.4)
Dodecylbenzenesulfonic acid	27176870		1000	1		C	1000(454)
Endosulfan	115297	5-Norbornene-2,3-dimethanol,1,4,5,6,7,7-hexachloro,cyclic sulfite	1	1,2,4	P050	X	1(0.454)
alpha - Endosulfan	959988		1*	2		X	1(0.454)
beta - Endosulfan	33213659		1*	2		X	1(0.454)
ENDOSULFAN AND METABOLITES			1*	2			**
Endosulfan sulfate	1031078		1*	2		X	1(0.454)
Endothall	145733	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	1*	4	P088	C	1000(454)
Endrin	72208	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethenonaphthalene	1	1,2,4	P051	X	1(0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Endrin aldehyde	7421934		1*	2		X	1(0.454)
ENDRIN AND METABOLITES			1*	2			**
Epichlorohydrin	106898	1-Chloro-2,3-epoxypropane Oxirane, 2-(chloromethyl)-	1000	1,4	U041		###
Epinephrine	51434	1,2-Benzenediol,4-[1-hydroxy-2-(methylamino)ethyl]-	1*	4	P042	C	1000(454)
Ethanal	75070	Acetaldehyde	1000	1,4	U001	C	1000(454)
Ethanamine, 1,1-dimethyl-2-phenyl-	122098	alpha,alpha-Dimethylphenethylamine	1*	4	P046	D	5000(2270)
Ethanamine, N-ethyl-N-nitroso-	55185	N-Nitrosodiethylamine	1*	4	U174		#
Ethane, 1,2-dibromo-	106934	Ethylene dibromide	1000	1,4	U067		#
Ethane, 1,1-dichloro-	75343	1,1-Dichloroethane Ethylidene dichloride	1*	2,4	U076	C	1000(454)
Ethane, 1,2-dichloro-	107062	1,2-Dichloroethane Ethylene dichloride	5000	1,2,4	U077		###
Ethane, 1,1,1,2,2,2-hexachloro-	67721	Hexachloroethane	1*	2,4	U131		###
Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro	111911	Bis(2-chloroethoxy) methane	1*	2,4	U024	C	1000(454)
Ethane, 1,1'-oxybis-	60297	Ethyl ether	1*	4	U117	B	100(45.4)
Ethane, 1,1'-oxybis[2-chloro-	111444	Bis (2-chloroethyl) ether Dichloroethyl ether	1*	2,4	U025		#
Ethane, pentachloro-	76017	Pentachloroethane	1*	4	U184		##
Ethane, 1,1,1,2-tetrachloro-	630206	1,1,1,2-Tetrachloroethane	1*	4	U208		###
Ethane, 1,1,2,2-tetrachloro-	79345	1,1,2,2-Tetrachloroethane	1*	2,4	U209		###
Ethane, 1,1,2-trichloro-	79005	1,1,2-Trichloroethane	1*	2,4	U227		###
Ethane, 1,1,1-trichloro-2,2-bis(p-methoxyphenyl)	72435	Methoxychlor	1	1,4	U247	X	1(0.454)
1,2-Ethanediylbiscarbamodithioic acid	111546	Ethylenebis(dithiocarbamic acid)	1*	4	U114	D	5000(2270)
Ethanenitrile	75058	Acetonitrile	1*	4	U003	C	1000(454)
Ethanethioamide	62555	Thioacetamide	1*	4	U218		#
Ethanol, 2,2'-(nitrosoimino)bis-	1116547	N-Nitrosodiethanolamine	1*	4	U173		#
Ethanone, 1-phenyl-	98862	Acetophenone	1*	4	U004	D	5000(2270)
Ethanoyl chloride	75365	Acetyl chloride	5000	1,4	U006	D	5000(2270)
Ethenamine, N-methyl-N-nitroso-	4549400	N-Nitrosomethylvinylamine	1*	4	P084		#
Ethene, chloro-	75014	Vinyl chloride	1*	2,3,4	U043		###
Ethene, 2-chloroethoxy-	110758	2-Chloroethyl vinyl ether	1*	2,4	U042	C	1000(454)
Ethene, 1,1-dichloro-	75354	1,1-Dichloroethylene Vinylidene chloride	5000	1,2,4	U078		###
Ethene, 1,1,2,2-tetrachloro-	127184	Tetrachloroethylene	1*	2,4	U210		###
Ethene, trans-1,2-dichloro-	156605	1,2-trans-Dichloroethylene	1*	2,4	U079	C	1000(454)
Ethion	563122		10	1			##
Ethyl acetate	141786	Acetic acid, ethyl ester	1*	4	U112	D	5000(2270)
Ethyl acrylate	140885	2-Propenoic acid, ethyl ester	1*	4	U113	D	5000(2270)
Ethylbenzene	100414		1000	1,2		C	1000(454)
Ethyl carbamate (Urethan)	51796	Carbamic acid, ethyl ester	1*	4	U238		#
Ethyl cyanide	107120	Propanenitrile	1*	4	P101	A	10(4.54)
Ethyl 4,4'-dichlorobenzilate	510156	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester	1*	4	U038		#
Ethylene dibromide	106934	Ethane, 1,2-dibromo-	1000	1,4	U067		#
Ethylene dichloride	107062	1,2-Dichloroethane Ethane, 1,2-dichloro-	5000	1,2,4	U077		###

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Ethylene oxide	75218	Oxirane	1*	4	U115	B	100(45.4)
Ethylenebis(dithiocarbamic acid)	111546	1,2-Ethanediylbiscarbamodithioic acid	1*	4	U114	D	5000(2270)
Ethylenediamine	107153		1000	1		D	5000(2270)
Ethylenediamine tetraacetic acid (EDTA)	60004		5000	1		D	5000(2270)
Ethylenethiourea	96457	2-Imidazolidinethione	1*	4	U116		#
Ethylenimine	151564	Aziridine	1*	4	P054		#
Ethyl ether	60297	Ethane, 1,1'-oxybis-	1*	4	U117	B	100(45.4)
Ethylidene dichloride	75343	1,1-Dichloroethane Ethane, 1,1-dichloro-	1*	2,4	U076	C	1000(454)
Ethyl methacrylate	97632	2-Propenoic acid, 2-methyl-, ethyl ester	1*	4	U118	C	1000(454)
Ethyl methanesulfonate	62500	Methanesulfonic acid, ethyl ester	1*	4	U119		#
Famphur	52857	Phosphorothioic acid, O,O-dimethyl-O-[p-(dimethylamino)-sulfonyl)phenyl] ester.	1*	4	P097	C	1000(454)
Ferric ammonium citrate	1185575		1000	1		C	1000(454)
Ferric ammonium oxalate	2944674 55488874		1000	1		C	1000(454)
Ferric chloride	7705080		1000	1		C	1000(454)
Ferric dextran	9004664	Iron dextran	1*	4	U139		#
Ferric fluoride	7783508		100	1		B	100(45.4)
Ferric nitrate	10421484		1000	1		C	1000(454)
Ferric sulfate	10028225		1000	1		C	1000(454)
Ferrous ammonium sulfate	10045893		1000	1		C	1000(454)
Ferrous chloride	7758943		100	1		B	100(45.4)
Ferrous sulfate	7720787 7782630		1000	1		C	1000(454)
Fluoroacetic acid, sodium salt	62748	Acetic acid, fluoro-, sodium salt	1*	4	P058	A	10(4.54)
Fluoranthene	206440	Benzo[j,k]fluorene	1*	2,4	U120		#
Fluorene	86737		1*	2			#
Fluorine	7782414		1*	4	P056	A	10(4.54)
Fluoroacetamide	640197	Acetamide, 2-fluoro-	1*	4	P057	B	100(45.4)
Formaldehyde	50000	Methylene oxide	1000	1,4	U122		##
Formic acid	64186	Methanoic acid	5000	1,4	U123	D	5000(2270)
Fulminic acid, mercury(II)salt	628864	Mercury fulminate	1*	4	P065		##
Fumaric acid	110178		5000	1		D	5000(2270)
Furan	110009	Furfuran	1*	4	U124	B	100(45.4)
Furan, tetrahydro-	109999	Tetrahydrofuran	1*	4	U213	C	1000(454)
2-Furancarboxaldehyde	98011	Furfural	1000	1,4	U125	C	1000(454)
2,5-Furandione	108316	Maleic anhydride	5000	1,4	U147	D	5000(2270)
Furfural	98011	2-Furancarboxaldehyde	1000	1,4	U125	C	1000(454)
Furfuran	110009	Furan	1*	4	U124	B	100(45.4)
D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-	18883664	Streptozotocin	1*	4	U206		#
Glycidylaldehyde	765344	1-Propanal, 2,3-epoxy-	1*	4	U126		#
Guanidine, N-nitroso-N-methyl-N'-nitro-	70257	N-Methyl-N'-nitro-N-nitrosoguanidine	1*	4	U163		#
Guthion	86500		1	1		X	1(0.454)
HALOETHERS			1*	2			**
HALOMETHANES			1*	2			**

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Heptachlor	76448	4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-.	1	1,2,4	P059	X	1(0.454)
HEPTACHLOR AND METABOLITES			1*	2			**
Heptachlor epoxide	1024573		1*	2		X	1(0.454)
Hexachlorobenzene	118741	Benzene, hexachloro-	1*	2,4	U127		###
Hexachlorobutadiene	87683	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	1*	2,4	U128		###
HEXACHLOROCYCLOHEXANE (all isomers)	(N.A.)		1*	2			**
Hexachlorocyclohexane (gamma isomer)	58899	gamma - BHC Lindane	1	1,2,4	U129	X	1(0.454)
Hexachlorocyclopentadiene	77474	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	1	1,2,4	U130	X	1(0.454)
1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene.	72208	Endrin	1	1,2,4	P051	X	1(0.454)
1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene.	60571	Dieldrin	1	1,2,4	P037	X	1(0.454)
Hexachloroethane	67721	Ethane, 1,1,1,2,2,2-hexachloro-	1*	2,4	U131		###
Hexachlorohexahydro-endo,endo-dimethanonaphthalene	465736	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo,endo-dimethanonaphthalene.	1*	4	P060	X	1(0.454)
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo,endo-dimethanonaphthalene.	465736	Hexachlorohexahydro-endo,endo-dimethanonaphthalene	1*	4	P060	X	1(0.454)
1,2,3,4,10-10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene.	309002	Aldrin	1	1,2,4	P004	X	1(0.454)
Hexachlorophene	70304	2,2'-Methylenebis(3,4,6-trichlorophenol)	1*	4	U132		##
Hexachloropropene	1888717	1-Propene, 1,1,2,3,3,3-hexachloro-	1*	4	U243	C	1000(454)
Hexaethyl tetraphosphate	757584	Tetraphosphoric acid, hexaethyl ester	1*	4	P062	B	100(45.4)
Hydrazine	302012	Diamine	1*	4	U133		#
Hydrazine, 1,2-diethyl-	1615801	N,N'-Diethylhydrazine	1*	4	U086		#
Hydrazine, 1,1-dimethyl-	57147	1,1-Dimethylhydrazine	1*	4	U098		#
Hydrazine, 1,2-dimethyl-	540738	1,2-Dimethylhydrazine	1*	4	U099		#
Hydrazine, 1,2-diphenyl-	122667	1,2-Diphenylhydrazine	1*	2,4	U109		###
Hydrazine, methyl-	60344	Methyl hydrazine	1*	4	P068	A	10(4.54)
Hydrazinecarbothioamide	79196	Thiosemicarbazide	1*	4	P116	B	100(45.4)
Hydrochloric acid	7647010		5000	1		D	5000(2270)
Hydrocyanic acid	74908	Hydrogen cyanide	10	1,4	P063	A	10(4.54)
Hydrofluoric acid	7664393	Hydrogen fluoride	5000	1,4	U134	B	100(45.4)
Hydrogen cyanide	74908	Hydrocyanic acid	10	1,4	P063	A	10(4.54)
Hydrogen fluoride	7664393	Hydrofluoric acid	5000	1,4	U134	B	100(45.4)
Hydrogen phosphide	7803512	Phosphine	1*	4	P096	B	100(45.4)
Hydrogen sulfide	7783064	Sulfur hydride	100	1,4	U135		##
Hydroperoxide, 1-methyl-1-phenylethyl-	80159	alpha,alpha-Dimethylbenzylhydroperoxide	1*	4	U096	A	10(4.54)
Hydroxydimethylarsine oxide	75605	Cacodylic acid	1*	4	U136		#
2-Imidazolidinethione	96457	Ethylenethiourea	1*	4	U116		#
Indeno(1,2,3-cd)pyrene	193395	1,10-(1,2-Phenylene)pyrene	1*	2,4	U137		###
Iron dextran	9004664	Ferric dextran	1*	4	U139		#
Isobutyl alcohol	78831	1-Propanol, 2-methyl-	1*	4	U140	D	5000(2270)
Isocyanic acid, methyl ester	624839	Methyl isocyanate	1*	4	P064	B	100(45.4)
Isophorone	78591		1*	2		D	5000(2270)
Isoprene	78795		1000	1			##

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Isopropanolamine dodecylbenzenesulfonate	42504461		1000	1		C	1000(454)
Isosafrole	120581	Benzene, 1,2-methylenedioxy-4-propenyl-	1*	4	U141		#
3(2H)-Isoxazolone, 5-(aminomethyl)-	2763964	5-(Aminomethyl)-3-isoxazolol	1*	4	P007	C	1000(454)
Kelthane	115322		5000	1		D	5000(2270)
Kepone	143500	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[cd]-pentalen-2-one.	1	1,4	U142	X	1(0.454)
Lasiocarpine	303344		1*	4	U143		#
Lead †	7439921		1*	2			##
Lead acetate	301042	Acetic acid, lead salt	5000	1,4	U144		###
LEAD AND COMPOUNDS			1*	2			**
Lead arsenate	7784409 7645252 10102484		5000	1			###
Lead chloride	7758954		5000	1			##
Lead fluoborate	13814965		5000	1			##
Lead fluoride	7783462		1000	1			##
Lead iodide	10101630		5000	1			##
Lead nitrate	10099748		5000	1			##
Lead phosphate	7446277	Phosphoric acid, lead salt	1*	4	U145		###
Lead stearate	7428480 1072351 56189094		5000	1			##
Lead subacetate	1335326		1*	4	U146		###
Lead sulfate	15739807 7446142		5000	1			##
Lead sulfide	1314870		5000	1			##
Lead thiocyanate	592870		5000	1			##
Lindane	58899	gamma - BHC Hexachlorocyclohexane (gamma isomer)	1	1,2,4	U129	X	1(0.454)
Lithium chromate	14307358		1000	1			###
Malathion	121755		10	1		B	100(45.4)
Maleic acid	110167		5000	1		D	5000(2270)
Maleic anhydride	108316	2,5-Furandione	5000	1,4	U147	D	5000(2270)
Maleic hydrazide	123331	1,2-Dihydro-3,6-pyridazinedione	1*	4	U148	D	5000(2270)
Malononitrile	109773	Propanedinitrile	1*	4	U149	C	1000(454)
Melphalan	148823	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-	1*	4	U150		#
Mercaptodimethur	2032657		100	1		A	10(4.54)
Mercuric cyanide	592041		1	1		X	1(0.454)
Mercuric nitrate	10045940		10	1			##
Mercuric sulfate	7783359		10	1			##
Mercuric thiocyanate	592858		10	1			##
Mercurous nitrate	10415755 7782867		10	1			##
Mercury	7439976		1*	2,3,4	U151	X	1(0.454)
MERCURY AND COMPOUNDS			1*	2			**
Mercury, (acetato-O)phenyl-	62384	Phenylmercuric acetate	1*	4	P092		##
Mercury fulminate	628864	Fulminic acid, mercury(II) salt	1*	4	P065		##
Methacrylonitrile	126987	2-Propenenitrile, 2-methyl-	1*	4	U152	C	1000(454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Methanamine, N-methyl-	124403	Dimethylamine	1000	1,4	U092		##
Methane, bromo-	74839	Methyl bromide	1*	2,4	U029	C	1000(454)
Methane, chloro-	74873	Methyl chloride	1*	2,4	U045		##
Methane, chloromethoxy-	107302	Chloromethyl methyl ether	1*	4	U046		###
Methane, dibromo-	74953	Methylene bromide	1*	4	U068	C	1000(454)
Methane, dichloro-	75092	Methylene chloride	1*	2,4	U080	C	1000(454)
Methane, dichlorodifluoro-	75718	Dichlorodifluoromethane	1*	4	U075	D	5000(2270)
Methane, iodo-	74884	Methyl iodide	1*	4	U138		#
Methane, oxybis(chloro-	542881	Bis(chloromethyl) ether	1*	4	P016		###
Methane, tetrachloro-	56235	Carbon tetrachloride	5000	1,2,4	U211		###
Methane, tetranitro-	509148	Tetranitromethane	1*	4	P112	A	10(4.54)
Methane, tribromo-	75252	Bromoform	1*	2,4	U225	B	100(45.4)
Methane, trichloro-	67663	Chloroform	5000	1,2,4	U044		#
Methane, trichlorofluoro-	75694	Trichloromonofluoromethane	1*	4	U121	D	5000(2270)
Methanesulfonic acid, ethyl ester	62500	Ethyl methanesulfonate	1*	4	U119		#
Methanethiol	74931	Methylmercaptan Thiomethanol	100	1,4	U153	B	100(45.4)
Methanesulfenyl chloride, trichloro-	594423	Trichloromethanesulfenyl chloride	1*	4	P118	B	100(45.4)
4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-.	76448	Heptachlor	1	1,2,4	P059	X	1(0.454)
Methanoic acid	64186	Formic acid	5000	1,4	U123	D	5000(2270)
4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-.	57749	Chlordane Chlordane, technical	1	1,2,4	U036	X	1(0.454)
Methanol	67561	Methyl alcohol	1*	4	U154	D	5000(2270)
Methapyrilene	91805	Pyridine, 2-[(2-(dimethylamino)ethyl)-2-thenylamino]-	1*	4	U155	D	5000(2270)
Methomyl	16752775	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester.	1*	4	P066	C	1000(454)
Methoxychlor	72435	Ethane, 1,1,1-trichloro-2,2-bis(p-methoxyphenyl)	1	1,4	U247	X	1(0.454)
Methyl alcohol	67561	Methanol	1*	4	U154	D	5000(2270)
2-Methylaziridine	75558	1,2-Propylenimine	1*	4	P067		#
Methyl bromide	74839	Methane, bromo-	1*	2,4	U029	C	1000(454)
1-Methylbutadiene	504609	1,3-Pentadiene	1*	4	U186	B	100(45.4)
Methyl chloride	74873	Methane, chloro-	1*	2,4	U045		##
Methyl chlorocarbonate	79221	Carbonochloridic acid, methyl ester	1*	4	U156	C	1000(454)
Methyl chloroform	71556	1,1,1-Trichloroethane	1*	2,4	U226	C	1000(454)
4,4'-Methylenebis(2-chloroaniline)	101144	Benzenamine, 4,4'-methylenebis(2-chloro-	1*	4	U158		#
2,2'-Methylenebis(3,4,6-trichlorophenol)	70304	Hexachlorophene	1*	4	U132		##
3-Methylcholanthrene	56495	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	1*	4	U157		#
Methylene bromide	74953	Methane, dibromo-	1*	4	U068	C	1000(454)
Methylene chloride	75092	Methane, dichloro-	1*	2,4	U080	C	1000(454)
Methylene oxide	50000	Formaldehyde	1000	1,4	U122		##
Methyl ethyl ketone	78933	2-Butanone	1*	4	U159	C	1000(454)
Methyl ethyl ketone peroxide	1338234	2-Butanone peroxide	1*	4	U160	A	10(4.54)
Methyl hydrazine	60344	Hydrazine, methyl-	1*	4	P068	A	10(4.54)
Methyl iodide	74884	Methane, iodo-	1*	4	U138		#

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Methyl isobutyl ketone	108101	4-Methyl-2-pentanone	1*	4	U161	D	5000(2270)
Methyl isocyanate	624839	Isocyanic acid, methyl ester	1*	4	P064	B	100(45.4)
2-Methyllactonitrile	75865	Acetone cyanohydrin Propanenitrile, 2-hydroxy-2-methyl-	10	1,4	P069	A	10(4.54)
Methylmercaptan	74931	Methanethiol Thiomethenol	100	1,4	U153	B	100(45.4)
Methyl methacrylate	80626	2-Propenoic acid, 2-methyl-, methyl ester	5000	1,4	U162	C	1000(454)
N-Methyl-N'-nitro-N-nitrosoguanidine	70257	Guanidine, N-nitroso-N-methyl-N'-nitro-	1*	4	U163		#
Methyl parathion	298000	O,O-Dimethyl O-p-nitrophenylphosphorothioate	100	1,4	P071		##
4-Methyl-2-pentanone	108101	Methyl isobutyl ketone	1*	4	U161	D	5000(2270)
Methylthiouracil	56042	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	1*	4	U164		#
Mevinphos	7786347		1	1		A	10(4.54)
Mexacarbate	315184		1000	1		C	1000(454)
Mitomycin C	50077	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione,6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	1*	4	U010		#
Monoethylamine	75047		1000	1			##
Monomethylamine	74895		1000	1		B	100(45.4)
Naled	300765		10	1		A	10(4.54)
5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	20830813	Daunomycin	1*	4	U059		#
Naphthalene	91203		5000	1,2,4	U165	B	100(45.4)
Naphthalene, 2-chloro-	91587	beta-Chloronaphthalene 2-Chloronaphthalene	1*	2,4	U047	D	5000(2270)
1,4-Naphthalenedione	130154	1,4-Naphthoquinone	1*	4	U166	D	5000(2270)
2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl-[1,1'-biphenyl]-4,4'-diyl)-bis(azo)]bis(5-amino-4-hydroxy)-tetrasodium salt.	72571	Trypan blue	1*	4	U236		#
Naphthenic acid	1336245		100	1		B	100(45.4)
1,4-Naphthoquinone	130154	1,4-Naphthalenedione	1*	4	U166	D	5000(2270)
1-Naphthylamine	134327	alpha-Naphthylamine	1*	4	U167		#
2-Naphthylamine	91598	beta-Naphthylamine	1*	4	U168		#
alpha-Naphthylamine	134327	1-Naphthylamine	1*	4	U167		#
beta-Naphthylamine	91599	2-Naphthylamine	1*	4	U168		#
2-Naphthylamine, N,N-bis(2-chloroethyl)-	494031	Chlornaphazine	1*	4	U026		#
alpha-Naphthylthiourea	86884	Thiourea, 1-naphthalenyl-	1*	4	P072	B	100(45.4)
Nickel †	7440020		1*	2			###
NICKEL AND COMPOUNDS			1*	2			**
Nickel ammonium sulfate	15699180		5000	1			##
Nickel carbonyl	13463393	Nickel tetracarbonyl	1*	4	P073		###
Nickel chloride	7718549 37211055		5000	1			##
Nickel cyanide	557197	Nickel(II) cyanide	1*	4	P074	A	10(4.54)
Nickel(II) cyanide	557197	Nickel cyanide	1*	4	P074	A	10(4.54)
Nickel hydroxide	12054487		1000	1			###
Nickel nitrate	14216752		5000	1			##
Nickel sulfate	7786814		5000	1			##
Nickel tetracarbonyl	13463393	Nickel carbonyl	1*	4	P073		###

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Nicotine and salts	54115	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-,and salts	1*	4	P075	B	100(45.4)
Nitric acid	7697372		1000	1		C	1000(454)
Nitric oxide	10102439	Nitrogen(II) oxide	1*	4	P076	A	10(4.54)
p-Nitroaniline	100016	Benzenamine, 4-nitro-	1*	4	P077	D	5000(2270)
Nitrobenzene	98953	Benzene, nitro-	1000	1,2,4	U169	C	1000(454)
Nitrogen dioxide	10102440	Nitrogen(IV) oxide	1000	1,4	P078	A	10(4.54)
Nitrogen(II) oxide	10102439	Nitric oxide	1*	4	P076	A	10(4.54)
Nitrogen(IV) oxide	10102440	Nitrogen dioxide	1000	1,4	P078	A	10(4.54)
Nitroglycerine	55630	1,2,3-Propanetriol, trinitrate	1*	4	P081	A	10(4.54)
Nitrophenol (mixed) m- o- p-	25154556 554847 88755 100027		1000	1		B	100(45.4)
p-Nitrophenol	100027	4-Nitrophenol Phenol, 4-nitro-	1*	2,4	U170	B	100(45.4)
2-Nitrophenol	88755		1*	2		B	100(45.4)
4-Nitrophenol	100027	p-Nitrophenol Phenol, 4-nitro-	1*	2,4	U170	B	100(45.4)
NITROPHENOLS			1*	2			**
2-Nitropropane	79469	Propane, 2-nitro-	1*	4	U171	C	1000(454)
NITROSAMINES			1*	2			**
N-Nitrosodi-n-butylamine	924163	1-Butanamine, N-butyl-N-nitroso-	1*	4	U172		#
N-Nitrosodiethanolamine	1116547	Ethanol, 2,2'-(nitrosoimino)bis-	1*	4	U173		#
N-Nitrosodiethylamine	55185	Ethanamine, N-ethyl-N-nitroso-	1*	4	U174		#
N-Nitrosodimethylamine	62759	Dimethylnitrosamine	1*	2,4	P082		#
N-Nitrosodiphenylamine	86306		1*	2		B	100(45.4)
N-Nitrosodi-n-propylamine	621647	Di-n-propylnitrosamine	1*	2,4	U111		#
N-Nitroso-N-ethylurea	759739	Carbamide, N-ethyl-N-nitroso-	1*	4	U176		#
N-Nitroso-N-methylurea	684935	Carbamide, N-methyl-N-nitroso	1*	4	U177		#
N-Nitroso-N-methylurethane	615532	Carbamic acid, methylnitroso-,ethyl ester	1*	4	U178		#
N-Nitrosomethylvinylamine	4549400	Ethenamine, N-methyl-N-nitroso-	1*	4	P084		#
N-Nitrosopiperidine	100754	Pyridine, hexahydro-N-nitroso-	1*	4	U179		#
N-Nitrosopyrrolidine	930552	Pyrrole, tetrahydro-N-nitroso-	1*	4	U180		#
Nitrotoluene	1321126		1000	1		C	1000(454)
5-Nitro-o-toluidine	99558	Benzenamine, 2-methyl-5-nitro-	1*	4	U181		#
5-Norbornene-2,3-dimethanol,1,4,5,6,7,7-hexachloro,cyclic sulfite.	115297	Endosulfan	1	1,2,4	P050	X	1(0.454)
Octamethylpyrophosphoramide	152169	Diphosphoramide, octamethyl-	1*	4	P085	B	100(45.4)
Osmium oxide	20816120	Osmium tetroxide	1*	4	P087	C	1000(454)
Osmium tetroxide	20816120	Osmium oxide	1*	4	P087	C	1000(454)
7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	145733	Endothall	1*	4	P088	C	1000(454)
1,2-Oxathiolane, 2,2-dioxide	1120714	1,3-Propane sultone	1*	4	U193		#
2H-1,3,2-Oxazaphosphorine,2-[bis(2-chloroethyl)amino]tetrahydro-2-oxide.	50180	Cyclophosphamide	1*	4	U058		#
Oxirane	75218	Ethylene oxide	1*	4	U115	B	100(45.4)
Oxirane, 2-(chloromethyl)-	106898	1-Chloro-2,3-epoxypropane Epichlorohydrin	1000	1,4	U041		###
Paraformaldehyde	30525894		1000	1		C	1000(454)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Paraldehyde	123637	1,3,5-Trioxane, 2,4,6-trimethyl-	1*	4	U182	C	1000(454)
Parathion	56382	Phosphorothioic acid,O,O-diethyl O-(p-nitrophenyl)ester	1	1,4	P089	X	1(0.454)
Pentachlorobenzene	608935	Benzene, pentachloro-	1*	4	U183		##
Pentachloroethane	76017	Ethane, pentachloro-	1*	4	U184		##
Pentachloronitrobenzene	82688	Benzene, pentachloronitro-	1*	4	U185		###
Pentachlorophenol	87865	Phenol, pentachloro-	10	1,2,4	U242	X	1(0.454)
1,3-Pentadiene	504609	1-Methylbutadiene	1*	4	U186	B	100(45.4)
Phenacetin	62442	Acetamide, N-(4-ethoxyphenyl)-	1*	4	U187		#
Phenanthrene	85018		1*	2		D	5000(2270)
Phenol	108952	Benzene, hydroxy-	1000	1,2,4	U188		##
Phenol, 2-chloro-	95578	2-Chlorophenol o-Chlorophenol	1*	2,4	U048	B	100(45.4)
Phenol, 4-chloro-3-methyl-	59507	4-Chloro-m-cresol p-Chloro-m-cresol	1*	2,4	U039	D	5000(2270)
Phenol, 2-cyclohexyl-4,6-dinitro-	131895	4,6-Dinitro-o-cyclohexylphenol	1*	4	P034	B	100(45.4)
Phenol, 2,4-dichloro-	120832	2,4-Dichlorophenol	1*	2,4	U081	B	100(45.4)
Phenol, 2,6-dichloro-	87650	2,6-Dichlorophenol	1*	4	U082	B	100(45.4)
Phenol, 2,4-dimethyl-	105679	2,4-Dimethylphenol	1*	2,4	U101	B	100(45.4)
Phenol, 2,4-dinitro-	51285	2,4-Dinitrophenol	1*	2,4	P048	B	100(45.4)
Phenol, 2,4-dinitro-6-(1-methylpropyl)-	88857	Dinoseb	1*	4	P020	C	1000(454)
Phenol 2,4-dinitro-6-methyl-, and salts	534521	4,6-Dinitro-o-cresol and salts	1*	2,4	P047	B	100(45.4)
Phenol, 4-nitro-	100027	p-Nitrophenol 4-Nitrophenol	1*	2,4	U170	B	100(45.4)
Phenol, pentachloro-	87865	Pentachlorophenol	10	1,2,4	U242	X	1(0.454)
Phenol, 2,3,4,6-tetrachloro-	58902	2,3,4,6-Tetrachlorophenol	1*	4	U212	A	10(4.54)
Phenol, 2,4,5-trichloro-	95954	2,4,5-Trichlorophenol	1*	4	U230		##
Phenol, 2,4,6-trichloro	88062	2,4,6-Trichlorophenol	1*	2,4	U231		###
Phenol, 2,4,6-trinitro-, ammonium salt	131748	Ammonium picrate	1*	4	P009	A	10(4.54)
Phenyl dichloroarsine	696286	Dichlorophenylarsine	1*	4	P036		###
1,10-(1,2-Phenylene)pyrene	193395	Indeno(1,2,3-cd)pyrene	1*	2,4	U137		###
Phenylmercuric acetate	62384	Mercury, (acetato-O)phenyl-	1*	4	P092		##
N-Phenylthiourea	103855	Thiourea, phenyl-	1*	4	P093	B	100(45.4)
Phorate	298022	Phosphorodithioic acid, O,O-diethyl S-(ethylthio)methyl ester.	1*	4	P094		##
Phosgene	75445	Carbonyl chloride	5000	1,4	P095	C	1000(454)
Phosphine	7803512	Hydrogen phosphide	1*	4	P096	B	100(45.4)
Phosphoric acid	7664382		5000	1		D	5000(2270)
Phosphoric acid,diethyl p-nitrophenyl ester	311455	Diethyl-p-nitrophenyl phosphate	1*	4	P041	B	100(45.4)
Phosphoric acid, lead salt	7446277	Lead phosphate	1*	4	U145		###
Phosphorodithioic acid, O,O-diethyl S-methylester	3288582	O,O-Diethyl S-Methyl Dithiophosphate	1*	4	U087	D	5000(2270)
Phosphorodithioic acid, O,O-diethyl S-(ethylthio)methyl ester.	298022	Phorate	1*	4	P094		##
Phosphorodithioic acid,O,O-dimethyl S-[2(methylamino)-2-oxoethyl] ester.	60515	Dimethoate	1*	4	P044	A	10(4.54)
Phosphorofluoridic acid,bis(1-methylethyl) ester	55914	Diisopropyl fluorophosphate	1*	4	P043	B	100(45.4)
Phosphorothioic acid,O,O-diethyl O-(p-nitrophenyl)ester	56382	Parathion	1	1,4	P089	X	1(0.454)
Phosphorothioic acid, O,O-diethylO-pyrazinyl ester	297972	O,O-Diethyl O-pyrazinyl phosphorothioate	1*	4	P040	B	100(45.4)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
Phosphorothioic acid, O,O-dimethylO-[p-(dimethylamino)-sulfonyl)phenyl] ester.	52857	Famphur	1*	4	P097	C	1000(454)
Phosphorus	7723140		1	1		X	1(0.454)
Phosphorus oxychloride	10025873		5000	1		C	1000(454)
Phosphorus pentasulfide	1314803	Phosphorus sulfide Sulfur phosphide	100	1,4	U189	B	100(45.4)
Phosphorus sulfide	1314803	Phosphorus pentasulfide Sulfur phosphide	100	1,4	U189	B	100(45.4)
Phosphorus trichloride	7719122		5000	1		C	1000(454)
PHTHALATE ESTERS			1*	2			**
Phthalic anhydride	85449	1,2-Benzenedicarboxylic acid anhydride	1*	4	U190	D	5000(2270)
2-Picoline	109068	Pyridine, 2-methyl-	1*	4	U191	D	5000(2270)
Plumbane, tetraethyl-	78002	Tetraethyl lead	100	1,4	P110		##
POLYCHLORINATED BIPHENYLS (PCBs)	1336363		10	1,2		X	1(0.454)
POLYNUCLEAR AROMATIC HYDROCARBONS			1*	2			**
Potassium arsenate	7784410		1000	1			###
Potassium arsenite	10124502		1000	1			###
Potassium bichromate	7778509		1000	1			###
Potassium chromate	7789006		1000	1			###
Potassium cyanide	151508		10	1,4	P098	A	10(4.54)
Potassium hydroxide	1310583		1000	1		C	1000(454)
Potassium permanganate	7722647		100	1		B	100(45.4)
Potassium silver cyanide	506616		1*	4	P099	X	1(0.454)
Pronamide	23950585	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide	1*	4	U192	D	5000(2270)
1-Propanal, 2,3-epoxy-	765344	Glycidylaldehyde	1*	4	U126		#
Propanal, 2-methyl-2-(methylthio)-,O-[(methylamino) carbonyl]oxime.	116063	Aldicarb	1*	4	P070	A	10(4.54)
1-Propanamine	107108	n-Propylamine	1*	4	U194	D	5000(2270)
1-Propanamine, N-propyl-	142847	Dipropylamine	1*	4	U110	D	5000(2270)
Propane, 1,2-dibromo-3-chloro-	96128	1,2-Dibromo-3-chloropropane	1*	4	U066		#
Propane, 2-nitro-	79469	2-Nitropropane	1*	4	U171	C	1000(454)
Propane, 2,2'-oxybis[2-chloro-	108601	Bis(2-chloroisopropyl) ether	1*	2,4	U027	C	1000(454)
1,3-Propane sultone	1120714	1,2-Oxathiolane, 2,2-dioxide	1*	4	U193		#
Propanedinitrile	109773	Malononitrile	1*	4	U149	C	1000(454)
Propanenitrile	107120	Ethyl cyanide	1*	4	P101	A	10(4.54)
Propanenitrile, 3-chloro-	542767	3-Chloropropionitrile	1*	4	P027	C	1000(454)
Propanenitrile, 2-hydroxy-2-methyl-	75865	Acetone cyanohydrin 2-Methyllactonitrile	10	1,4	P069	A	10(4.54)
1,2,3-Propanetriol, trinitrate-	55630	Nitroglycerine	1*	4	P081	A	10(4.54)
1-Propanol, 2,3-dibromo-, phosphate (3:1)	126727	Tris(2,3-dibromopropyl) phosphate	1*	4	U235		#
1 Propanol, 2-methyl-	78831	Isobutyl alcohol	1*	4	U140	D	5000(2270)
2-Propanone	67641	Acetone	1*	4	U002	D	5000(2270)
2-Propanone, 1-bromo-	598312	Bromoacetone	1*	4	P017	C	1000(454)
Propargite	2312358		10	1		A	10(4.54)
Propargyl alcohol	107197	2-Propyn-1-ol	1*	4	P102	C	1000(454)
2-Propenal	107028	Acrolein	1	1,2,4	P003	X	1(0.454)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
2-Propenamide	79061	Acrylamide	1*	4	U007	D	5000(2270)
Propene, 1,3-dichloro-	542756	1,3-Dichloropropene	1*	2,4	U084	B	100(45.4)
1-Propene, 1,1,2,3,3,3-hexachloro-	1888717	Hexachloropropene	1*	4	U243	C	1000(454)
2-Propenenitrile	107131	Acrylonitrile	100	1,2,4	U009		###
2-Propenenitrile, 2-methyl-	126987	Methacrylonitrile	1*	4	U152	C	1000(454)
2-Propenoic acid	79107	Acrylic acid	1*	4	U008	D	5000(2270)
2-Propenoic acid, ethyl ester	140885	Ethyl acrylate	1*	4	U113	D	5000(2270)
2-Propenoic acid, 2-methyl-, ethyl ester	97632	Ethyl methacrylate	1*	4	U118	C	1000(454)
2-Propenoic acid, 2-methyl-, methyl ester	80626	Methyl methacrylate	5000	1,4	U162	C	1000(454)
2-Propen-1-ol	107186	Allyl alcohol	100	1,4	P005	B	100(45.4)
Propionic acid	79094		5000	1		D	5000(2270)
Propionic acid, 2-(2,4,5-trichlorophenoxy)-	93721	Silvex 2,4,5-TP acid	100	1,4	U233	B	100(45.4)
Propionic anhydride	123626		5000	1		D	5000(2270)
n-Propylamine	107108	1-Propenamine	1*	4	U194	D	5000(2270)
Propylene dichloride	78875	1,2-Dichloropropane	1*	2,4	U083	C	1000(454)
Propylene oxide	75569		5000	1		B	100(45.4)
1,2-Propylenimine	75558	2-Methylaziridine	1*	4	P067		#
2-Propyn-1-ol	107197	Propargyl alcohol	1*	4	P102	C	1000(454)
Pyrene	129000		1*	2		D	5000(2270)
Pyrethrins	121299 121211		1000	1		C	1000(454)
4-Pyridinamine	504245	4-Aminopyridine	1*	4	P008	C	1000(454)
Pyridine	110861		1*	4	U196		##
Pyridine, 2-[(2-(dimethylamino)ethyl)-2-thenylamino]-	91805	Methapyrilene	1*	4	U155	D	5000(2270)
Pyridine, hexahydro-N-nitroso-	100754	N-Nitrosopiperidine	1*	4	U179		#
Pyridine, 2-methyl-	109068	2-Picoline	1*	4	U191	D	5000(2270)
Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	54115	Nicotine and salts	1*	4	P075	B	100(45.4)
4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	56042	Methylthiouracil	1*	4	U164		#
Pyrophosphoric acid, tetraethyl ester	107493	Tetraethyl pyrophosphate	100	1,4	P111		##
Pyrrole, tetrahydro-N-nitroso-	930552	N-Nitrosopyrrolidine	1*	4	U180		#
Quinoline	91225		1000	1		D	5000(2270)
RADIONUCLIDES			1*	3			####
Reserpine	50555	Yohimban-16-carboxylic acid,11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester.	1*	4	U200	D	5000(2270)
Resorcinol	108463	1,3-Benzenediol	1000	1,4	U201	D	5000(2270)
Saccharin and salts	81072	1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts	1*	4	U202		#
Safrole	94597	Benzene, 1,2-methylenedioxy-4-allyl-	1*	4	U203		#
Selenious acid	7783008		1*	4	U204		##
Selenium †	7782492		1*	2			##
SELENIUM AND COMPOUNDS			1*	2			**
Selenium dioxide	7446084	Selenium oxide	1000	1,4	U204		##
Selenium disulfide	7488564	Sulfur selenide	1*	4	U205		##
Selenium oxide	7446084	Selenium dioxide	1000	1,4	U204		##
Selenoureas	630104	Carbamimidoselenoic acid	1*	4	P103		##

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code ††	RCRA Waste Number	Category	Pounds(Kg)
L-Serine, diazoacetate (ester)	115026	Azaserine	1*	4	U015		#
Silver †	7440224		1*	2		C	1000(454)
SILVER AND COMPOUNDS			1*	2			**
Silver cyanide	506649		1*	4	P104	X	1(0.454)
Silver nitrate	7761888		1	1		X	1(0.454)
Silvex	93721	Propionic acid, 2-(2,4,5-trichlorophenoxy)- 2,4,5-TP acid	100	1,4	U233	B	100(45.4)
Sodium	7440235		1000	1		A	10(4.54)
Sodium arsenate	7631892		1000	1			###
Sodium arsenite	7784465		1000	1			###
Sodium azide	26628228		1*	4	P105	C	1000(454)
Sodium bichromate	10588019		1000	1			###
Sodium bifluoride	1333831		5000	1			##
Sodium bisulfite	7631905		5000	1		D	5000(2270)
Sodium chromate	7775113		1000	1			###
Sodium cyanide	143339		10	1,4	P106	A	10(4.54)
Sodium dodecylbenzene sulfonate	25155300		1000	1		C	1000(454)
Sodium fluoride	7681494		5000	1		C	1000(454)
Sodium hydrosulfide	16721805		5000	1		D	5000(2270)
Sodium hydroxide	1310732		1000	1		C	1000(454)
Sodium hypochlorite	7681529 10022705		100	1		B	100(45.4)
Sodium methylate	124414		1000	1		C	1000(454)
Sodium nitrite	7632000		100	1			##
Sodium phosphate, dibasic	7558794 10039324 10028247 10140655		5000	1		D	5000(2270)
Sodium phosphate, tribasic	7601549 7785844 10101890 10361894 7758294 10124568		5000	1		D	5000(2270)
Sodium selenite	10102188 7782823		1000	1			##
4,4'-Stilbenediol, alpha,alpha'-diethyl-	56531	Diethylstilbestrol	1*	4	U089		#
Streptozotocin	18883664	D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-	1*	4	U206		#
Strontium chromate	7789062		1000	1			#
Strontium sulfide	1314961		1*	4	P107	B	100(45.4)
Strychnidin-10-one, and salts	57249	Strychnine and salts	10	1,4	P108	A	10(4.54)
Strychnidin-10-one, 2,3-dimethoxy-	357573	Brucine	1*	4	P018	A	10(4.54)
Strychnine and salts	57249	Strychnidin-10-one, and salts	10	1,4	P108	A	10(4.54)
Styrene	100425		1000	1		C	1000(454)
Sulfur hydride	7783064	Hydrogen sulfide	100	1,4	U135		##
Sulfur monochloride	12771083		1000	1		C	1000(454)
Sulfur phosphide	1314803	Phosphorus pentasulfide Phosphorus sulfide	100	1,4	U189	B	100(45.4)
Sulfur selenide	7488564	Selenium disulfide	1*	4	U205		##
Sulfuric acid	7664939		1000	1		C	1000(454)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Sulfuric acid, dimethyl ester	77781	Dimethyl sulfate	1*	4	U103		#
Sulfuric acid, thallium(I) salt	7446186	Thallium(I) sulfate	1000	1,4	P115		##
2,4,5-T	93765	2,4,5-T acid 2,4,5-Trichlorophenoxyacetic acid	100	1,4	U232	B	100(45.4)
2,4,5-T acid	93765	2,4,5-T 2,4,5-Trichlorophenoxyacetic acid	100	1,4	U232	B	100(45.4)
2,4,5-T amines	2008460		100	1		B	100(45.4)
2,4,5-T esters	93798 2545597 61792072 1928478 25168154		100	1		B	100(45.4)
2,4,5-T salts	13560991		100	1		B	100(45.4)
TDE	72548	DDD 4,4' DDD Dichloro diphenyl dichloroethane	1	1,2,4	U060	X	1(0.454)
1,2,4,5-Tetrachlorobenzene	95943	Benzene, 1,2,4,5-tetrachloro-	1*	4	U207	D	5000(2270)
2,3,7,8-Tetrachlorodibenzo-p-dioxin(TCDD)	1746016		1*	2		X	1(0.454)
1,1,1,2-Tetrachloroethane	630206	Ethane, 1,1,1,2-tetrachloro-	1*	4	U208		###
1,1,2,2-Tetrachloroethane	79345	Ethane, 1,1,2,2-tetrachloro-	1*	2,4	U209		###
Tetrachloroethylene	127184	Ethene, 1,1,2,2-tetrachloro-	1*	2,4	U210		###
2,3,4,6-Tetrachlorophenol	58902	Phenol, 2,3,4,6-tetrachloro-	1*	4	U212	A	10(4.54)
Tetraethyldithiopyrophosphate	3689245	Dithiopyrophosphoric acid,tetraethyl ester	1*	4	P109	B	100(45.4)
Tetraethyl lead	78002	Plumbane, tetraethyl-	100	1,4	P110		##
Tetraethyl pyrophosphate	107493	Pyrophosphoric acid, tetraethyl ester	100	1,4	P111		##
Tetrahydrofuran	109999	Furan, tetrahydro-	1*	4	U213	C	1000(454)
Tetranitromethane	509148	Methane, tetranitro-	1*	4	P112	A	10(4.54)
Tetraphosphoric acid, hexaethyl ester	757584	Hexaethyl tetraphosphate	1*	4	P062	B	100(45.4)
Thallic oxide	1314325	Thallium(III) oxide	1*	4	P113		##
Thallium †	7440280		1*	2			**
THALLIUM AND COMPOUNDS			1*	2			**
Thallium(I) acetate	563688	Acetic acid, thallium(I) salt	1*	4	U214		##
Thallium(I) carbonate	6533739	Carbonic acid, dithallium (I) salt	1*	4	U215		##
Thallium(I) chloride	7791120		1*	4	U216		##
Thallium(I) nitrate	10102451		1*	4	U217		##
Thallium(III) oxide	1314325	Thallic oxide	1*	4	P113		##
Thallium(I) selenide	12039520		1*	4	P114		##
Thallium(I) sulfate	7446186	Sulfuric acid, thallium(I) salt	1000	1,4	P115		##
Thioacetamide	62555	Ethanethioamide	1*	4	U218		#
Thiofanox	39196184	3,3-Dimethyl-1-(methylthio)-2-butanone,O-[(methylamino)carbonyl] oxime	1*	4	P045	B	100(45.4)
Thioimidodicarbonic diamide	541537	2,4-Dithiobiuret	1*	4	P049	B	100(45.4)
Thiomethanol	74931	Methanethiol Methylmercaptan	100	1,4	U153	B	100(45.4)
Thiophenol	108985	Benzenethiol	1*	4	P014	B	100(45.4)
Thiosemicarbazide	79196	Hydrazinecarbothioamide	1*	4	P116	B	100(45.4)
Thiourea	62566	Carbamide, thio-	1*	4	U219		#
Thiourea, (2-chlorophenyl)-	5344821	1-(o-Chlorophenyl)thiourea	1*	4	P026	B	100(45.4)
Thiourea, 1-naphthalenyl-	86884	alpha-Naphthylthiourea	1*	4	P072	B	100(45.4)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Thiourea, phenyl-	103855	N-Phenylthiourea	1*	4	P093	B	100(45.4)
Thiram	137268	Bis(dimethylthiocarbamoyl) disulfide	1*	4	U244	A	10(4.54)
Toluene	108883	Benzene, methyl-	1000	1,2,4	U220	C	1000(454)
Toluenediamine	95807	Diaminotoluene	1*	4	U221		#
Toluene diisocyanate	584849	Benzene, 2,4-diisocyanatomethyl-	1*	4	U223	B	100(45.4)
o-Toluidine hydrochloride	636215	Benzenamine, 2-methyl-, hydrochloride	1*	4	U222		#
Toxaphene	8001352	Camphene, octachloro-	1	1,2,4	P123	X	1(0.454)
2,4,5-TP acid	93721	Propionic acid, 2-(2,4,5-trichlorophenoxy)- Silvex	100	1,4	U233	B	100(45.4)
2,4,5-TP acid esters	32534955		100	1		B	100(45.4)
1H-1,2,4-Triazol-3-amine	61825	Amitrole	1*	4	U011		#
Trichlorfon	52686		1000	1			##
1,2,4-Trichlorobenzene	120821		1*	2		B	100(45.4)
1,1,1-Trichloroethane	71556	Methyl chloroform	1*	2,4	U226	C	1000(454)
1,1,2-Trichloroethane	79005	Ethane, 1,1,2-trichloro-	1*	2,4	U227		###
Trichloroethene	79016	Trichloroethylene	1000	1,2,4	U228		###
Trichloroethylene	79016	Trichloroethene	1000	1,2,4	U228		###
Trichloromethanesulfenyl chloride	594423	Methanesulfenyl chloride, trichloro	1*	4	P118	B	100(45.4)
Trichloromonofluoromethane	75694	Methane, trichlorofluoro-	1*	4	U121	D	5000(2270)
Trichlorophenol	25167822		10	1			#
2,4,5-Trichlorophenol	95954	Phenol, 2,4,5-trichloro-	1*	4	U230		##
2,4,6-Trichlorophenol	88062	Phenol, 2,4,6-trichloro	1*	2,4	U231		###
2,4,5-Trichlorophenoxyacetic acid	93765	2,4,5-T 2,4,5-T acid	100	1,4	U232	B	100(45.4)
Triethanolamine dodecylbenzene sulfonate	27323417		1000	1		C	1000(454)
Triethylamine	121448		5000	1		D	5000(2270)
Trimethylamine	75503		1000	1			##
sym-Trinitrobenzene	99354	Benzene, 1,3,5-trinitro-	1*	4	U234		##
1,3,5-Trioxane, 2,4,6-trimethyl-	123637	Paraldehyde	1*	4	U182	C	1000(454)
Tris(2,3-dibromopropyl) phosphate	126727	1-Propanol, 2,3-dibromo-, phosphate (3:1)	1*	4	U235		#
Trypan blue	72571	2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl-(i,1'-biphenyl)-4,4'-diyl)-bis(azo)]bis(5-amino-4-hydroxy)-tetrasodium salt.	1*	4	U236		#
Unlisted Hazardous Wastes	(N.A.)		1*	4			
Characteristic of Ignitability			1*	4		B	100(45.4)
Characteristic of Corrosivity			1*	4		B	100(45.4)
Characteristic of Reactivity			1*	4		B	100(45.4)
Characteristic of EP Toxicity			1*	4			
Arsenic.....D004			1*	4			###
Barium.....D005			1*	4		C	1000(454)
Cadmium.....D006			1*	4			###
Chromium(VI).....D007			1*	4			##
Lead.....D008			1*	4			##
Mercury.....D009			1*	4		X	1(0.454)
Selenium.....D010			1*	4			##
Silver.....D011			1*	4		X	1(0.454)

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Endrin.....D012			1	1,4	P051	X	1(0.454)
Lindane.....D013			1	1,4	U129	X	1(0.454)
Methoxychlor.....D014			1	1,4	U247	X	1(0.454)
Toxaphene.....D015			1	1,4	P123	X	1(0.454)
2,4-D.....D016			100	1,4	U240	B	100(45.4)
2,4,5-TP.....D017			100	1,4	U233	B	100(45.4)
Uracil, 5-[bis(2-chloroethyl)amino]-	66751	Uracil mustard	1*	4	U237		#
Uracil mustard	66751	Uracil, 5-[bis(2-chloroethyl)amino]-	1*	4	U237		#
Uranyl acetate	541093		5000	1			##
Uranyl nitrate	10102064 36478769		5000	1			##
Vanadic acid, ammonium salt	7803556	Ammonium vanadate	1*	4	P119	C	1000(454)
Vanadium(V) oxide	1314621	Vanadium pentoxide	1000	1,4	P120		##
Vanadium pentoxide	1314621	Vanadium(V) oxide	1000	1,4	P120		##
Vanadyl sulfate	27774136		1000	1			##
Vinyl acetate	108054		1000	1		D	5000(2270)
Vinyl chloride	75014	Ethane, chloro-	1*	2,3,4	U043		###
Vinylidene chloride	75354	1,1-Dichloroethylene Ethene, 1,1-dichloro-	5000	1,2,4	U078		###
Warfarin	81812	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts	1*	4	P001	B	100(45.4)
Xylene	1330207 108383 95476 106423	Benzene, dimethyl- m- o- p-	1000	1,4	U239	C	1000(454)
Xylenol	1300716		1000	1		C	1000(454)
Yohimban-16-carboxylic acid,11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester.	50555	Reserpine	1*	4	U200	D	5000(2270)
Zinc †	7440666		1*	2			##
ZINC AND COMPOUNDS			1*	2			**
Zinc acetate	557346		1000	1			##
Zinc ammonium chloride	52628258 14639975 14639986		5000	1			##
Zinc borate	1332076		1000	1			##
Zinc bromide	7699458		5000	1			##
Zinc carbonate	3486359		1000	1			##
Zinc chloride	7646857		5000	1			##
Zinc cyanide	557211		10	1,4	P121		##
Zinc fluoride	7783495		1000	1			##
Zinc formate	557415		1000	1			##
Zinc hydrosulfite	7779864		1000	1			##
Zinc nitrate	7779886		5000	1			##
Zinc phenolsulfonate	127822		5000	1			##
Zinc phosphide	1314847		1000	1,4	P122		##
Zinc silicofluoride	16871719		5000	1			##
Zinc sulfate	7733020		1000	1			##
Zirconium nitrate	13746899		5000	1		D	5000(2270)
Zirconium potassium fluoride	16923958		5000	1		C	1000(454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Zirconium sulfate	14644612		5000	1		D	5000(2270)
Zirconium tetrachloride	10026116		5000	1		D	5000(2270)
F001			1*	4			###
The following spent halogenated solvents used in degreasing and sludges from the recovery of these solvents in degreasing operations:							
(a) Tetrachloroethylene	127184						###
(b) Trichloroethylene	79016						###
(c) Methylene chloride	75092					C	1000(454)
(d) 1,1,1-Trichloroethane	71556					C	1000(454)
(e) Carbon tetrachloride	56235						###
(f) Chlorinated fluorocarbons	(N.A.)					D	5000(2270)
F002			1*	4			###
The following spent halogenated solvents and the still bottoms from the recovery of these solvents:							
(a) Tetrachloroethylene	127184						###
(b) Methylene Chloride	75092					C	1000(454)
(c) Trichloroethylene	79016						###
(d) 1,1,1-Trichloroethane	71556					C	1000(454)
(e) Chlorobenzene	108907					B	100(45.4)
(f) 1,1,2-Trchloro-1,2,2-trifluoroethane	76131					D	5000(2270)
(g) o-Dichlorobenzene	106467					B	100(45.4)
(h) Trichlorofluoromethane	75694					D	5000(2270)
F003			1*	4		B	100(45.4)
The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:							
(a) Xylene	1330207					C	1000(454)
(b) Acetone	67641					D	5000(2270)
(c) Ethyl acetate	141786					D	5000(2270)
(d) Ethylbenzene	100414					C	1000(454)
(e) Ethyl ether	60297					B	100(45.4)
(f) Methyl isobutyl ketone	108101					D	5000(2270)
(g) n-Butyl alcohol	71363					D	5000(2270)
(h) Cyclohexanone	108941					D	5000(2270)
(i) Methanol	67561					D	5000(2270)
F004			1*	4			##
The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:							
(a) Cresols/Cresylic acid	1319773						##
(b) Nitrobenzene	98953						##
F005			1*	4			##
The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:							
(a) Toluene	108883					C	1000(454)
(b) Methyl ethyl ketone	78933					C	1000(454)
(c) Carbon disulfide	75150						##
(d) Isobutanol	78831					D	5000(2270)
(e) Pyridine	110861						##
F006			1*	4			###
Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum							
F007			1*	4		A	10(4.54)
Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions)							
F008			1*	4		A	10(4.54)
Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges)							
F009			1*	4		A	10(4.54)
Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions)							

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
F010 Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges)			1*	4		A	10(4.54)
F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning)			1*	4		A	10(4.54)
F012 Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges)			1*	4			**
F019 Wastewater treatment sludges from the chemical conversion coating of aluminum			1*	4		X	1(0.454)
K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol			1*	4			**
K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments			1*	4			**
K003 Wastewater treatment sludge from the production of molybdate orange pigments			1*	4			**
K004 Wastewater treatment sludge from the production of zinc yellow pigments			1*	4			**
K005 Wastewater treatment sludge from the production of chrome green pigments			1*	4			**
K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)			1*	4			**
K007 Wastewater treatment sludge from the production of iron blue pigments			1*	4			**
K008 Oven residue from the production of chrome oxide green pigments			1*	4			***
K009 Distillation bottoms from the production of acetaldehyde from ethylene			1*	4			***
K010 Distillation side cuts from the production of acetaldehyde from ethylene			1*	4			***
K011 Bottom stream from the wastewater stripper in the production of acrylonitrile			1*	4			***
K013 Bottom stream from the acetonitrile column in the production of acrylonitrile			1*	4			**
K014 Bottoms from the acetonitrile purification column in the production of acrylonitrile			1*	4			*
K015 Still bottoms from the distillation of benzyl chloride			1*	4			***
K016 Heavy ends or distillation residues from the production of carbon tetrachloride			1*	4			***
K017 Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin			1*	4			***

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
K018 Heavy ends from the fractionation column in ethyl chloride production			1*	4			***
K019 Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production			1*	4			***
K020 Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production			1*	4			***
K021 Aqueous spent antimony catalyst waste from fluoromethanes production			1*	4			***
K022 Distillation bottom tars from the production of phenol/acetone from cumene			1*	4			***
K023 Distillation light ends from the production of phthalic anhydride from naphthalene			1*	4		D	5000(2270)
K024 Distillation bottoms from the production of phthalic anhydride from naphthalene			1*	4		D	5000(2270)
K025 Distillation bottoms from the production of nitrobenzene by the nitration of benzene			1*	4		B	100(45.4)
K026 Stripping still tails from the production of methyl ethyl pyridines			1*	4			**
K027 Centrifuge and distillation residues from toluene diisocyanate production			1*	4			*
K028 Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane			1*	4			***
K029 Waste from the product steam stripper in the production of 1,1,1-trichloroethane			1*	4			***
K030 Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene			1*	4			***
K031 By-product salts generated in the production of MSMA and cacodylic acid			1*	4		X	1(0.454)
K032 Wastewater treatment sludge from the production of chlordane			1*	4		X	1(0.454)
K033 Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane			1*	4		X	1(0.454)
K034 Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane			1*	4		X	1(0.454)
K035 Wastewater treatment sludges generated in the production of creosote			1*	4			***
K036 Still bottoms from toluene reclamation distillation in the production of disulfoton			1*	4		X	1(0.454)
K037 Wastewater treatment sludges from the production of disulfoton			1*	4		X	1(0.454)
K038 Wastewater from the washing and stripping of phorate production			1*	4			**
K039			1*	4			**

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TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
Filter cake from the filtration of diethylphosphorodithoic acid in the production of phorate			1*	4			##
K040 Wastewater treatment sludge from the production of phorate			1*	4		X	.1(0.454)
K041 Wastewater treatment sludge from the production of toxaphene			1*	4			###
K042 Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T			1*	4			###
K043 2,6-Dichlorophenol waste from the production of 2,4-D			1*	4		A	10(4.54)
K044 Wastewater treatment sludges from the manufacturing and processing of explosives			1*	4		A	10(4.54)
K045 Spent carbon from the treatment of wastewater containing explosives			1*	4			##
K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds			1*	4		A	10(4.54)
K047 Pink/red water from TNT operations			1*	4			##
K048 Dissolved air flotation (DAF) float from the petroleum refining industry			1*	4			##
K049 Slop oil emulsion solids from the petroleum refining industry			1*	4			##
K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry			1*	4			##
K051 API separator sludge from the petroleum refining industry			1*	4			##
K052 Tank bottoms (leaded) from the petroleum refining industry			1*	4			###
K060 Ammonia still lime sludge from coking operations			1*	4			###
K061 Emission control dust/sludge from the primary production of steel in electric furnaces			1*	4			##
K062 Spent pickle liquor from steel finishing operations			1*	4			###
K069 Emission control dust/sludge from secondary lead smelting			1*	4		X	1(0.454)
K071 Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used			1*	4			###
K073 Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production			1*	4			##
K083 Distillation bottoms from aniline extraction			1*	4			###
K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds							

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CAS No.	Regulatory Synonyms	Statutory RQ	Statutory Code ††	Statutory RCRA Waste Number	Proposed RQ Category	Proposed RQ Pounds(Kg)
K085 Distillation or fractionation column bottoms from the production of chlorobenzenes			1*	4			###
K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead			1*	4			##
K087 Decanter tank tar sludge from coking operations			1*	4			##
K093 Distillation light ends from the production of phthalic anhydride from ortho-xylene			1*	4		D	5000(2270)
K094 Distillation bottoms from the production of phthalic anhydride from ortho-xylene			1*	4		D	5000(2270)
K095 Distillation bottoms from the production of 1,1,1-trichloroethane			1*	4			###
K096 Heavy ends from the heavy ends column from the production of a,a,a-trichloroethane 1,1,1			1*	4			###
K097 Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane			1*	4		X	1(0.454)
K098 Untreated process wastewater from the production of toxaphene			1*	4		X	1(0.454)
K099 Untreated wastewater from the production of 2,4-D			1*	4			###
K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (Components of this waste are identical with those of K069)			1*	4			###
K101 Distillation tar residues form the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds			1*	4			###
K102 Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds			1*	4			###
K103 Process residues from aniline extraction from the production of aniline			1*	4			##
K104 Combined wastewater streams generated from nitrobenzene/aniline chlorobenzenes			1*	4			###
K105 Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes			1*	4			###
K106 Wastewater treatment sludge from the mercury cell process in chlorine production			1*	4		X	1(0.454)

- indicates this substance is being assessed for carcinogenicity, statutory RQ applies
- indicates this substance is being assessed for other toxic effects, statutory RQ applies
- indicates this substance is being assessed for both carcinogenicity and other toxic effects, statutory RQ applies
- the Agency will adjust the RQ for radionuclides in a future rulemaking; until that time the statutory 1 pound RQ is applicable
1* - indicates the CERCLA statutory 1 pound RQ for all hazardous substances designated under any of the statutory sources other than CWA Section 311 (including all hazardous wastes) and is not to be confused with a 1 pound RQ assigned under CWA Section 311
** - indicates no RQ is being assigned to the generic or broad class
† - no reporting of releases of massive forms of these substances is required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches)
†† - indicates the statutory source as defined by 1, 2, 3 or 4 below
1 - indicates the statutory source for designation of this substance under CERCLA is CWA Section 311(b)(4)
2 - indicates the statutory source for designation of this substance under CERCLA is CWA Section 307(a)
3 - indicates the statutory source for designation of this substance under CERCLA is CAA Section 112
4 - indicates the statutory source for designation of this substance under CERCLA is RCRA Section 3001

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§ 302.5 Determination of reportable quantities.

(a) *Listed Hazardous Substances.* The quantity in the column "Proposed RQ" for each substance in Table 302.4 is the reportable quantity for that substance.

(b) *Unlisted Hazardous Substances.* Unlisted hazardous wastes designated by 40 CFR § 302.4(b) have the reportable quantity of 100 pounds, except for those unlisted hazardous wastes exhibiting the characteristic of EP toxicity identified in 40 CFR § 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in Table 302.4 for the contaminant on which the characteristic of EP toxicity is based. If an unlisted hazardous waste exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in Table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristic of EP toxicity and one or more of the other characterstics referenced in 40 CFR § 302.4(b), the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

§ 302.6 Notification requirements.

Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a federally permitted release or normal application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity determined by this part in any 24-hour period, immediately notify the National Response Center ((800) 424–8802; in Hawaii, Alaska, and the Washington, D.C. metropolitan areas (202) 426–2675).

§ 302.7 Penalties.

(a) Any person

(1) In charge of a vessel from which a hazardous substance is released, other than a federally permitted release, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of a contiguous zone,

(2) In charge of a vessel from which a hazardous substance is released, other than a federally permitted release, which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), and who is otherwise subject to the jurisdiction of the United States at the time of the release, or

(3) In charge of a facility from which a hazardous substance is released, other than a federally permitted release, in a quantity equal to or greater than that reportable quantity determined under this part who fails to notify immediately the National Response Center as soon as he has knowledge of such release shall, upon conviction, be fined not more than $10,000 or imprisoned for not than one year, or both.

(b) Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) This section shall not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or to the handling and storage of such a pesticide product by an agricultural producer.

2. It is proposed to revise 40 CFR 117.3 as follows:

§ 117.3 Determination of reportable quantities.

The quantity listed with each substance in Table 302.4, in 40 CFR 302.4 is determined to be reportable quantity for that substance.

Dated: April 26, 1983.

Lee L. Verstandig,

Administrator.

[FR Doc. 83-13985 Filed 5-24-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 302

[SWH-FRL 2207-5a]

Designation of Additional Hazardous Substances

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Under Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "Superfund"), the Environmental Protection Agency ("EPA" or "the Agency") is considering proposal of regulations to designate hazardous substances in addition to those already designated under Section 101(14) of CERCLA. Section 102(a) requires the Administrator to promulgate regulations designating as hazardous substances those substances that, when released into the environment, may present substantial danger to public health or welfare or the environment. This Advance Notice of Proposed Rulemaking ("ANPRM") discusses and solicits comments on various approaches that the Agency may use to determine what additional substances, if any, should be proposed for designation as hazardous.

DATES: To be considered, written comments must be submitted in triplicate on or before July 25, 1983.

ADDRESS: Send written comments to: Emergency Response Division, Docket Clerk, Attn: Docket No. 102 ADD, U.S. Environmental Protection Agency, 401 M Street, S.W., WH–548B, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

For general information contact: RCRA/Superfund Hotline, (800) 424–9346 ((202) 382–3000 in Washington, D.C.).

For specific information contact: Dr. K. Jack Kooyoomjiam, Chief, Regulation Development Section, Emergency Response Division (WH–548B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or the RCRA/Superfund Hotline (800) 424–9346, in Washington, D.C. (202) 382–3000.

SUPPLEMENTARY INFORMATION:

1. Background Information

Substances are designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, CERCLA (Pub. L. 96–510), 42 U.S.C. Section 9601 *et seq.*, in two ways. Section 101(14) defines "hazardous substance" to include substances designated under certain provisions of other environmental statutes: Sections 307(a) and 311(b)(2)(A) of the Federal Water Pollution Control Act (Clean Water Act), Section 112 of the Clean Aif Act, Section 3001 of the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act, "RCRA"), and Section 7 of the Toxic Substances Control Act. In addition, Section 102(a) requires the EPA Administrator to promulgate regulations to designate as hazardous substances other elements, compounds, mixtures, solutions, and substances that may present substantial danger to public health or welfare or the environment when released into the environment.

The consequences of designation can be substantial. First, Section 103(a) of CERCLA requires that releases of designated hazardous substances that equal or exceed reportable quantities ("RQs") be reported to the National Response Center unless the release is federally permitted or otherwise exempted. (For a further discussion of reportable quantities and release notification see the Notice of Proposed Rulemaking ("NPRM") on Superfund Notification Requirements and Reportable Quantity Adjustments, published elsewere in today's **Federal Register.)** This notification allows the federal government to determine whether a response is necessary. In addition, Section 103(b) establishes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed reportable quantities. Any such person who, as soon as he has knowledge of a reportable release, fails to report the release pursuant to Section 103 (a) or (b) shall, upon conviction, be fined no more than $10,000 or imprisoned for not more than one year, or both.

Regardless of whether a reportable quantity of the hazardous substance is released and proper notification is given, any person responsible for a release of hazardous substances may be liable for:

(A) All costs of removal or remedial action incurred by the United States Government or a State not inconsistent with the national contingency plan;

(B) Any other necessary costs of response incurred by any other person consistent with the national contingency plan; and

(C) damages for injury to, destruction of, or loss of natual resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release (see Section 107 of CERCLA).

Finally, substances designated as hazardous under CERCLA must also be listed as hazardous materials under the Hazardous Materials Transportation Act (see Section 306(a) of CERCLA).

EPA intends to consider carefully these economic impacts in developing its designation strategy.

II. Major Alternatives Under Consideration and Requests for Public Comment

EPA contemplates that the designation process will involve two distinct steps. First, the Agency will identify a candidate list or lists of substances to be considered for designation. Second, the Agency will identify the criteria to be applied to determine which substances on the candidate list or lists will be designated as hazardous substances. EPA is considering several alternatives for both of these steps. The first section below discusses the potential candidate lists and the second section discusses possible criteria for designating substances from these candidate lists.

The Agency has conducted several preliminary economic and technical analyses in support of this ANPRM. These analyses are part of the rulemaking record: "Analysis of the Economic Effects of Regulatory Strategies for Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act," November 2, 1981; and "Strategies for Designation of Additional Hazardous Substances pursuant to CERCLA Section 102(a)," September 17, 1982.

Public comment is solicited on the alternatives discussed below and on other alternatives that commentors may want the Agency to consider.

A. Candidate Lists

EPA has identified a number of candidate lists that might be considered for designating hazardous substances. These lists are briefly described below. They are divided into two groups: specific lists developed under other environmental statutes or programs, and general data bases which include broader lists of potential hazardous substances. EPA is soliciting comments on which lists are appropriate for EPA to review in designating hazardous substances, particularly information on the scope of coverage of these candidate lists and the availability of data for substances on these lists. EPA may also decide to designate hazardous substances in several phases, rather than complete the designation process in one rulemaking. EPA solicits comments on which of the candidate lists should be given highest priority and solicits information concerning other candidate lists not mentioned below that should be considered.

The presence of a substance on a candidate list does not in itself determine whether the substance will be designated as a hazardous substance under CERCLA. Part II(B) of this notice discusses the types of criteria that might be applied to determine whether substances on these candidate lists are sufficiently hazardous to warrant designation. The Agency anticipates that substances on the candidate lists will be ranked on the basis of factors such as production volume, potential for release, and the availability of data in conjunction with the application of the criteria discussed in part II(B).

Specific Lists:

(1) Certain pesticide or pesticide active ingredients identified under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"). One potential candidate list is the list of about 600 pesticide active ingredients identified by EPA after a review of about 40,000 pesticide formulations ("Pesticide Active Ingredients Standards Ranking Scheme Results" produced by the EPA Office of Pesticide Programs: see 47 FR 3770–3771, January 27, 1982). These ingredients will be evaluated by EPA to determine their possible effects on man and the environment. It may not be possible for EPA to analyze all of these pesticides and pesticide active ingredients to determine whether they should be designated as hazardous substances under CERCLA. EPA solicits comments on methods for setting priorities for analysis of these substances.

(2) Chemicals listed under RCRA. 40 CFR Part 261, Appendix VIII, excluding those already listed under Section 101(14). These substances are hazardous constituents of RCRA wastes (45 FR 33132–33133, May 19, 1980).

(3) Materials listed under the Department of Transportation ("DOT") regulations issued under the Hazardous Materials Transportation Act, excluding those already listed under Section 101(14). These lists designate materials considered hazardous for the purpose of transportation (49 CFR 172.101, 172.102).

(4) Substances determined by the International Agency for Research on Cancer ("IARC") to demonstrate carcinogenic characteristics, excluding those already listed under Section 101(14). IARC has assessed the evidence for carcinogenicity of substances from experimental animal studies and classified these substances into five groups according to the extent of evidence of carcinogenicity: (1) sufficient evidence, (2) limited evidence, (3) inadequate evidence, (4) negative evidence, and (5) no data. Substances might be included on the candidate list if the IARC has determined that there is sufficient or limited evidence of carcinogenicity. Sufficient evidence indicates a causal association between exposure and human cancer, while limited evidence indicates a possible carcinogenic effect in humans, although the data are not sufficient to demonstrate a causal association (Table 1, International Agency for Research on Cancer, monograph supplement, September 1979).

(5) The 1982 list of explosive materials subject to regulation under 18 USC Chapter 40, 47 FR 40974–40976 (September 16, 1982). This list of explosive materials is designated by the Director of the Bureau of Alcohol, Tobacco and Firearms.

(6) The Toxic Substances Control Act (TSCA) Section 4(e) list. This is the list of chemical substances and mixtures recommended for priority consideration

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in regard to testing requirements under TSCA Section 4(a) (see the TSCA Chemicals in Progress Bulletin, Volume 3, Number 1, April 1982).

General Lists

(1) *Chemical Activities Status Report ("CASR").* This data base identifies substances that the Agency has already regulated, that it is proposing for regulation, or that it otherwise is considering. CASR covers other substances in addition to those already regulated or proposed for rulemaking; it also includes those substances for which the Agency has demonstrated some concern, even if no rulemaking has begun. CASR is limited to EPA activities and does not reflect the activities of other agencies or departments (e.g., DOT, Coast Guard). CASR has been issued as a two-volume Agency report, EPA 560/13–80–040a&b, but the candidate list would be the actual CASR data base, which is constantly updated and may differ slightly from this report.

(2) *The Suspect Chemicals Sourcebook.* This list already includes chemical substances derived from regulatory lists or other publications that have been issued not only by EPA but also by DOT, the Department of Health and Human Services, the Occupational Safety and Health Administration, and IARC. It does not go beyond substances that have already been regulated, considered for regulation, or listed for testing. This list was prepared by Executive Enterprise Publications Company, Inc., in cooperation with the Synthetic Organic Chemical Manufacturers Association.

(3) *Toxic Substances Control Act Chemical Substance Inventory.* This list includes approximately 55,000 chemicals. It is likely that most known potentially hazardous chemicals would be included and considered for designation if this list is used. The Agency, however, could have difficulty in establishing priorities and applying designation criteria in a timely fashion to this list, and data on these substances may be insufficient.

B. Criteria for Designation

The Agency has identified four alternative sets of criteria for designating candidate substances as hazardous for purposes of CERCLA. Comment is specifically solicited on these alternatives, and on combinations of them.

Designation Alternative 1: Critical Value Strategy. This approach resembles the primary and secondary criteria used to adjust RQs. [See today's NPRM on Superfund Notification Requirements and Reportable Quantity Adjustments, published elsewhere in todays **Federal Register**, for a more detailed explanation of this process.] To assign RQs to designated hazardous substances, the Agency would evaluate whether substances exhibit any of the following characteristics: aquatic toxicity, mammalian (oral, dermal, or inhalation) toxicity, ignitability, reactivity, other toxic effects, carcinogenicity, and a tendency to dissipate into the environment. These characteristics or criteria are used to adjust reportable quantities in the accompanying NPRM. In applying this approach to designation, the Agency would establish a critical value for each of the above criteria. Substances would be designated if the rating of the substances were above the critical value for any criterion. If there were insufficient evidence to judge, the substance could be retained as a candidate pending the collection of further data. The data gathered in the designation process would also be used to establish RQs for substances once they have been designated.

EPA specifically solicits comments on the following issues:

(1) Are the critical values developed to adjust reportable quantities also appropriate for designation of hazardous substances? (These critical values are discussed in the accompanying Notice of Proposed Rulemaking on Superfund Reportable Quantity Adjustments, Part IV.)

(2) Are other critical values more appropriate for designation of hazardous substances?

Designation Alternative 2: A Combination of Production Level and Critical Value Strategy. This alternative would identify substances on the candidate list for further analysis if their annual production level exceeded some specified amount. The critical value methodology would then be applied to these substances to determine whether they should actually be designated. This method treats production volume as an indication of release potential. It assumes that there is less chance of a release if a substance is produced in relatively small quantities. For imported substances, the amount imported would be added to the domestic production level.

Section 311 of the Clean Water Act screened substances by production level. The Clean Water Act's final promulgated list of hazardous substances includes those hazardous substances produced at a level of 10 million pounds per year or more. The Agency has found that the materials most commonly encountered (i.e., spilled most frequently) in Section 311 spill situations are those produced in high volumes. Screening by production levels results in fewer candidate substances than Alternative 1, which means that the Agency may be able to analyze for possible designation the substances most likely to be released. If this approach is taken, however, certain potentially hazardous substances that may be released will not be considered for possible designation because thay are no longer produced or they are produced in low volumes.

The Agency specifically requests comments on the following points: (1) if production level is used to screen substances for analysis, what production level should be selected as the cutoff point, and (2) what problems could occur when substances with low production volumes that might otherwise be considered hazardous are not designated.

Designation Alternative 3: Hazard Index. This approach involves a scoring system to evaluate the relative potential threat posed to public health or welfare or the environment when candidate substances are released to the air, ground water, surface water, or soil. A variety of rating factors (e.g., toxicity, reactivity, bioaccumulation, persistence, carcinogenicity) would be used to determine the kinds of hazards that would result and, insofar as possible, the degree of hazard posed. EPA solicits comments concerning the appropriate rating factors. An equation would be used to combine these several factors into a single number. A substance's hazard index value derived in this fashion could be compared to the values determined for other substances, and a ranking of substances would be possible. A cutoff point for designation could then be determined.

A hazard index approach provides a quantative ranking of hazard that facilitates setting a cutoff point, and it uses all available data. It is possible, however, that (1) data gaps may make a substance appear less hazardous than it is and may make relative ranking difficult to develop, (2) a cutoff point could not be easily determined, (3) there would be no general agreement in the scientific community on how rating factors are to be combined to form an acceptable hazard index for a broad listing of chemicals, and (4) different but equally defensible equations would result in different rankings for the same subtance.

Designation Alternative 4: Combination of Release History and Critical Value Strategy. This approach would identify all candidate substances with a history of release problems. For example, substances would be considered for designation if their release had required frequent or extraordinary response (e. g., rapid evacuation) in the past, or if they had frequently been identified at sites undergoing remedial action under CERCLA. The critical value strategy would then be applied to determine which substances pose a threat to public health or welfare or the environment.

This approach identifies for CERCLA designation those substances that pose a threat to public health or welfare or the environment and that have a proven history of release problems. Designation of substances that have not historically been a problem is avoided. It may be appropriate, however, to designate substances that are rarely, if ever, released because of the potential hazard they pose. In addition, non-regulated substances are not usually monitored when releases of hazardous substances occur, so that there may be no release record of a substance that is released in potentially significant amounts.

III. Other Issues

Several issues will arise regardless of the alternatives selected. The issues include designation under other statutes and the use of categorical designation.

A. Effects of Designation Under Other Statutes

Substances may be added to or deleted from the lists identified under Section 101(14) of CERCLA: Sections 307(a) and 311(b)(2)(A) of the Clean Water Act, Section 112 of the Clean Air Act, Section 3001 of RCRA, and Section 7 of TSCA. Substances added to these lists will be added to the CERCLA list and substances deleted from these lists will be deleted from the CERCLA list (unless they are also designated under some other provisions). In proposing any additions to these other lists, EPA will reference the fact that these substances will automatically be designated under CERCLA. EPA anticipates proposing RQs for these substances at that time. EPA solicits comments on any other arrangements that might be helpful to inform the public concerning additions to or deletions from these lists.

B. Categorical Versus Individual Designation

Hazardous substances could be designated as categories of substances (e.g., acids) or as individual substances (e.g., sulfuric acid). If designation is by category, however, the designation may be too broad. Although such an approach guarantees that all truly hazardous substances in that category are designated, it could impose an unnecessary burden on the regulated community and might prevent EPA from focusing on the most serious releases. In addition, RQ assignment might be complicated if individual substances covered by a single categorical designation required different RQs. Individual designation, on the other hand, is a time-consuming process, and designation of particular substances as hazardous under CERCLA may take longer than if the categorical designation approach had been used. A delay or a failure to designate substances as hazardous may adversely affect public health or welfare or the environment.

The Agency requests public comment on the relative merits of categorical versus individual designation.

IV. Public Comment

To summarize the previous discussion, public comment is specifically requested on the following:

(1) The alternatives presented for developing a list of candidate substances;

(2) The alternatives presented for selecting substances from the candidate list for designation as hazardous for purposes of CERCLA;

(3) The option of designating no new hazardous substances;

(4) The relative merits of designating substances categorically or individually;

(5) Data bases or techniques that could be used by the Agency to fill data gaps about substances being considered for designation.

List of Subjects in 40 CFR Part 302

Administrative practice and procedure, Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Liabilities, Natural resources, Nuclear materials, Penalties, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: April 26, 1983.

Lee L. Verstandig

Acting Administrator.

[FR Doc. 83–13606 Filed 5–24–83; 8:45 am]
BILLING CODE 6560–50–M

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federal register

Wednesday
May 25, 1983

Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Appendix B; Performance Specifications 2 and 3 for SO_2, NO_x, CO_2, and O_2 Continuous Emission Monitoring Systems; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2334-1]

Standards of Performance for New Stationary Sources; Appendix B; Performance Specifications 2 and 3 for SO_2, NO_x, CO_2, and O_2 Continuous Emission Monitoring Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: Revisions to the performance specifications for continuous monitoring of sulfur dioxide (SO_2), oxides of nitrogen (NO_x), carbon dioxide (CO_2), and oxygen (O_2), were proposed in the **Federal Register** on January 26, 1981 (46 FR 8352). This action promulgates the revisions to the performance specifications for continuous emission monitoring systems (CEMS's) for sources currently subject to Performance Specifications 2 and 3 (PS's 2 and 3). These include fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971; electric utility steam generating units for which construction is commenced after September 18, 1978; nitric acid plants; sulfuric acid plants; petroleum refineries; primary copper smelters; primary zinc smelters; primary lead smelters; kraft pulp mills; and sources subject to Appendix P of 40 CFR Part 51. The intended effect of the revisions to PS's 2 and 3 is to require all new, modified, and reconstructed affected facilities and other sources mentioned above which are required to monitor SO_2, NO_x, CO_2, or O_2 to use these updated specifications when conducting CEMS performance evaluations as required in the regulations.

EFFECTIVE DATE: May 25, 1983.

ADDRESSES: Summary of Comments and Responses. The summary of comments and responses for the proposed revisions to the PS's may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Revisions to Continuous Emission Monitoring Systems Performance Specifications 2 and 3 (Proposed January 26, 1981, 46 FR 8352)—Summary of Comments and Responses, EPA–450/3–82–022."

CEMS Guidelines: A document entitled, "Gaseous Continuous Emission Monitoring Systems Performance Specifications Guidelines—SO_2, NO_x, CO_2, and O_2, and TRS," is available from the Emission Measurement Branch (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Docket. A docket, number OAQPS–79–4, containing information considered by EPA in the development of the revisions is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

Public Participation

The revisions to the PS's where proposed and published in the **Federal Register** on January 26, 1981 (46 FR 8352). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed specifications, a public hearing was scheduled for February 19, 1981, beginning at 9:00 a.m. The hearing, however, was not held because no one requested to speak. The public comment period was from January 26, 1981, to March 27, 1981.

Twelve comment letters concerning issues relative to the proposed revisions were received. The comments have been carefully considered; and, where determined to be appropriate by the Administrator, changes have been made in the proposed revisions.

Significant Comments and Changes to the Proposed Revised Performance Specifications

Comments on the proposed revision to the PS's were received from industry, Federal agencies, State air pollution control agencies, trade associations, and equipment manufacturers. A detailed discussion of these comments and responses can be found in the document, referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses serves as the basis for the revisions that were made between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The comments have been divided in the categories cited below.

Section 60.13 of the General Provisions

One commenter stated that in over 300 relative accuracy (RA) tests, the accuracy was well within ±20 per percent although the span drift exceeded ±2.5 percent of span. The commenter suggested that adjustments be required only when the drift exceeds twice the specified amount. The EPA considered the suggestion to be reasonable and has revised the subparagraph accordingly.

Installation and Measurement Location Specifications

Two Commenters pointed out that the specifications address only the location of outlet monitor systems and must address inlets as well. Section 3.1 of PS 2 has been revised to address both inlets and outlets of control devices.

A third commenter had several comments on this section. First, the commenter felt that the statement, "If the cause of failure to meet the RA test is determined to be the measurement location, the CEMS may be required to be relocated," should be deleted and that data correction should be allowed in all cases where RA results can be applied to generate a correction factor. Second, the commenter felt that (1) when pollutant concentration changes are due solely to diluent leakage and (2) the diluent and pollutant are simultaneously measured at the same location, the "two equivalent diameter" requirement should be excluded. Third, the commenter noted that the use of the 0.4, 1.2, and 2.0 meter points for large stacks would not guarantee that the samples will be representative of the facility's emissions and recommended that the 16.7, 50.0, and 83.3 percent points be used unless another configuration can be shown to be representative.

First, EPA agrees that data correction should be allowed in those cases where RA results can be applied to generate a correction factor. The exact procedure must be established between the Administrator and the source owner on a case-by-case basis. The statement cited above was intended to take care of those cases where a practical solution for correcting the data cannot be reached. The statement has been revised to read as follows: "If the cause of failure to meet the RA test is determined to be the measurement location and a satisfactory correction technique cannot be established, the Administrator may require the CEMS to be relocated."

Second, Section 3.2 of PS has been revised to allow a "one-half equivalent diameter" to be used in lieu of the "two

diameter" criterion under the stated conditions. Third, the use of the large-diameter stack criterion is an option, not a mandatory requirement, and was intended as a practical measure for those cases where pollutant stratification is not expected. Section 3.2 has been revised to reflect this concept, and a statement has been added to prevent the option from being used after wet scrubbers or at points where two streams with different pollutant concentrations are combined.

A fourth commenter felt that in large-diameter stacks a single point or points nearer the centroid of the stack would be just as representative as three sample points. Studies conducted by EPA show that a single point could be −11 percent off from the average emission rate and a single point at the centroid could be +9 percent off. The use of three points allows measurements within ±3 percent of the average.

Instrument Zero and Span

The proposed specification in Section 4.1 of PS 2 requires the recorder span to be set at 90 to 100 percent of recorder full-scale using a span level of 90 to 100 percent of the span value.

One commenter stated that it would be more appropriate to set the span at the expected range of operation. Another suggested that a 50 to 100 percent of span value would provide more flexibility without significant loss in accuracy. A third commenter felt that a span level at about 50 percent of full-scale would be more appropriate for nonliner instruments, and a fourth suggested using a minimum of 1.5 times the emission limit. A fifth commenter suggested the use of a span level of 80 to 100 percent of the span value because gas cylinder concentrations can be provided only to within ±10 percent.

The span level was selected to allow the majority of the measurements to be accomplished without going off-scale. However, the selected span levels cause the majority of the measurements to occur at about 10 to 40 percent of full-scale, which in turn can cause the CEMS to become less accurate. If lower span levels are used, then high emissions would cause the recorder to go off-scale. The EPA has re-evaluated the objectives and determined that some compromises are needed between accuracy and the loss of some information. Section 4.1 has been revised to allow the recorder span to be set at 90 to 100 percent of full-scale using a high-level value between 1.5 times the pollutant concentration corresponding to the emission standard level and the span value specified in an applicable subpart of the regulations. As another option, a calibration gas, cell, or optical filter value between 50 and 100 percent of the high level is allowed provided that the data recorder full-scale requirements are met. These options are allowed in order to improve the accuracy of measurements well below the emission standard; however, the revisions to PS 2 note that should emissions exceed the full-scale value, the source operator must provide some means to measure these values in accordance with the requirements of the applicable regulation. The Agency recognizes that some inaccuracies may be incurred by expanding the scale in such cases, but believes that increased accuracy at levels near the emission standard is of greater benefit. In addition, there is instrumentation available from at least two manufacturers that would satisfy these options.

Affected Facility Operation

Several commenters objected to restricting the calibration drift (CD) test while the affected facility is operating at more than 50 percent capacity. One commenter felt that there should be no restriction at all. Another felt that the load should be conducted under normal operation. A third commenter said that some units are overdesigned by more than 100 percent for future considerations and suggested that the "capacity" be changed to "normal load." The purpose for the restriction was to prevent tests from being conducted under an abnormally low load condition. The EPA has concluded that 50 percent of normal load condition is reasonable and has thus revised Sections 5.2 and 5.3 accordingly.

The CEMS Relative Accuracy

A number of commenters felt that the RA specification of ±20 percent of the mean value of the reference method (RM) test data in terms of the units of the emission standard or 10 percent of the applicable standard, whichever is greater, was too stringent. One commenter stated that he has successfully used such a standard, but it was "not clear that this is economically reasonable or technologically feasible." Another commenter felt the specification was "overly demanding, considering that the RM's are far from absolute and that there is less intrinsic value associated with the accuracy of an emission level as it approaches zero and is well under basic requirements." Two of these commenters felt that CEMS's have too many operational problems to meet and that the proposed specification should reinstate the 10 percent location error "allowed" in the October 1979 proposal. A fifth commenter felt that it is unlikely that any CEMS would be able to maintain the ±20 percent error at the minimum detectability of the CEMS.

The combined accuracy requirement for the pollutant diluent monitor system is more restrictive than separate accuracy requirements, but not unattainable. The EPA has reviewed a number of RA tests in which the combined systems were checked. Of the 24 tests that were reviewed, 13 showed improved RA and 11 got worse. Only two would have failed as a result of the combined specification, and five would have passed while previously failing the pollutant monitor RA. The EPA feels that a CEMS not capable of meeting the combined RA during the initial PS test is unacceptable. Relaxing the RA requirement would tend to encourage unacceptable CEMS's to be placed on the market.

The EPA agrees that the RM's are far from being absolute. The ±20 percent criterion has allowed for the variability of the RM measurements. In addition, PS 2 proposed the ±10 percent of emission standard to account for errors at the minimum detectability of the CEMS, and the RA specification has been changed for very low SO_2 emission limits.

The ±10 percent criterion used in the definition of stratification was not an allowance for error, but merely a criterion used to define stratification. The entire context of Section 4 of the October 5, 1975, specification (40 FR 46250) is that the sampling location should be representative of the emissions. Section 4.1 states, "For sampling locations where effluent gases are * * * nonstratified, a point or path of *average* emissions may be monitored." Section 3.2 of the October 10, 1979, proposal (44 FR 58602) states, "The tester may * * * conduct the stratification check * * * to select the point, points, or path of *average* gas concentration."

Correlation of RM and CEMS Data

One commenter suggested that when NO_x concentration varies with time, the average RM values should be compared to the average CEMS values recorded at the time each grab sample. Another commenter recommended that simultaneous measurements be required unless the source operator can show that temporal variations are insignificant. A third commenter suggested that the required measurements be determined as nearly simultaneously as possible.

Section 7.2.2 was revised to allow the use of the arithmetic average of the CEMS values recorded at the time of each grab sample. This option can be

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used when the pollutant concentration is temporal in nature.

Quality Assurance

A number of commenters were concerned with the lack of quality assurance (QA) procedures in the specifications and the lack of a guarantee on continued CEMS accuracy. One commenter felt that the present PS's should be retained and made mandatory. Another commenter felt that the performance specification test (PST) period should be made several months long. A third commenter felt that a "dynamic" calibration that checks all the active components used or referenced in the normal stack gas measurement cycle using National Bureau of Standards traceable gases should be made mandatory and, if such procedures can "validly" check the accuracy of the CEMS, they should be allowed. A fourth commenter felt that he must understand the QA procedures to be able to determine whether the PS's provide a guarantee of continued CEMS accuracy. Three of these commenters mentioned that a linearity check should be part of the specifications. Two of these commenters felt that the PST should be conducted over a representative set of operating conditions.

The many concerns are understandable. However, the specifications were not and are not designed to evaluate the CEMS over a long period of time. Nor are they designed to establish the adequacy of QA procedures to insure "valid" short-term and long-term monitoring data. The specifications merely state what is expected of the instrument, e.g., in PS 2, the calibration curve used initially to characterize the CEMS should remain stable and the measurements should be accurate within ±20 percent when compared to the RM results or ±10 percent of the emission standard, whichever is larger. The PST is designed to provide the initial check to determine whether the CEMS is within the requirements at the time of the initial installation. Because EPA recognizes that neither the PST nor the PS's guarantee continued monitor accuracy, EPA is developing QA procedures to evaluate CEMS accuracy over longer periods of time.

The suggestions mentioned in the comments are not prohibited by the specifications. The user may include an evaluation of the CEMS over a longer period of time or institute other procedures in addition to the required one. He may also choose to include additional tests to evaluate its acceptability over a representative set of operating conditions. He may also wish to investigate alternative procedures that would "validly" check the CEMS in lieu of the RM tests. After the demonstration, he can apply for an alternative procedure under § 60.13(i) of 40 CFR part 60.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated PS's and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

This rulemaking does not impose any additional monitoring requirements on facilities affected by this rulemaking. Rather, this rulemaking revises monitoring requirements and specifications to which the affected facilities are already subject. If future standards impose continuous monitoring requirements, the impacts of the revised monitoring requirements and specifications promulgated today will be evaluated during development of these standards.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse efffects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because the revisions do not impose additional costs in tests.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these revisions to the CEMS PS's is available *only* by the filing of a petition for review in the U.S. Courts of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, tires.

This final rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

Dated: May 16, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 60—[AMENDED]

§§ 60.13, 60.73, 60.84, 60.105, 60.165, 60.175, and 60.185 and Appendix B of 40 CFR Part 60 are amended as follows:

1. By revising §§ 60.13(b) and 60.13(d)

§ 60.13 Monitoring Requirements

* * * * *

(b) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under § 60.8. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

* * * * *

(d)(1) Owners and operators of all continuous emission monitoring systems installed in accordance with the provisions of this part shall check the zero (or low-level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in accordance with a written procedure. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour span drift exceeds two times the limits of the applicable performance specifications in Appendix B. The system must allow the amount of excess zero and span drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero and span drift adjustments except that for systems using automatic zero adjustments. The optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity.

(2) Unless otherwise approved by the Administrator, the following procedures shall be followed for continuous monitoring systems measuring opacity of emissions. Minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

* * * * *

§§ 60.73, 60.84, 60.105, 60.165, 60.175, and 60.185 [Amended]

2. By removing the words and comma "paragraph 2.1," in the following places:

(a) 40 CFR 60.73(a).
(b) 40 CFR 60.84(a).
(c) 40 CFR 60.105(a)(3).
(d) 40 CFR 60.165(b)(2)(ii).
(e) 40 CFR 60.175(a)(2)(ii).
(f) 40 CFR 60.185(a)(2)(ii).

3. By revising Performance Specification 2 and Performance Specification 3 of Appendix B of 40 CFR Part 60 to read as follows:

APPENDIX B—PERFORMANCE SPECIFICATIONS

* * * * *

Performance Specification 2—Specifications and Test Procedures for SO_2 and NO_x Continuous Emission Monitoring Systems in Stationary Sources

1. *Applicability and Principle.*

1.1 Applicability. This specification is to be used for evaluating the acceptability of SO_2 and NO_x continuous emission monitoring systems (CEMS's) at the time of or soon after installation and whenever specified in the regulations. The CEMS may include, for certain stationary sources, a diluent (O_2 or CO_2) monitor.

This specification is not designed to evaluate the installed CEMS performance over an extended period of time nor does it identify specific calibration techniques and other auxiliary procedures to assess the CEMS performance. The source owner or operator, however, is responsible to properly calibrate, maintain, and operate the CEMS. To evaluate the CEMS performance, the Administrator may require, under Section 114 of the Act, the operator to conduct CEMS performance evaluations at other times besides the initial test. See § 60.13(c).

1.2 Principle. Installation and measurement location specifications, performance and equipment specifications, test procedures, and data reduction procedures are included in this specification. Reference method tests and calibration drift tests are conducted to determined conformance of the CEMS with the specification.

2. *Definitions.*

2.1 Continuous Emission Monitoring System. The total equipment required for the determination of a gas concentration or emission rate. The system consists of the following major subsystems:

2.1.1 Sample Interface. That portion of the CEMS used for one or more of the following: sample acquisition, sample transportation, and sample conditioning, or protection of the monitor from the effects of the stack effluent.

2.1.2 Pollutant Analyzer. That portion of the CEMS that senses the pollutant gas and generates an output proportional to the gas concentration.

2.1.3 Diluent Analyzer (if applicable). That portion of the CEMS that senses the diluent gas (e.g., CO_2 or O_2) and generates an output proportional to the gas concentration.

2.1.4 Data Recorder. That portion of the CEMS that provides a permanent record of the analyzer output. The data recorder may include automatic data reduction capabilities.

2. Point CEMS. A CEMS that measures the gas concentration either at a single point or along a path equal to or less than 10 percent of the equivalent diameter of the stack or duct cross section.

2.3 Path CEMS. A CEMS that measures the gas concentration along a path greater than 10 percent of the equivalent diameter of the stack or duct cross section.

2.4 Span Value. The upper limit of a gas concentration measurement range specified for affected source categories in the applicable subpart of the regulations.

2.5 Relative Accuracy (RA). The absolute mean difference between the gas concentration or emission rate determined by the CEMS and the value determined by the RM's plus the 2.5 percent error confidence coefficient of a series of tests divided by the mean of the RM tests or the applicable emission limit.

2.6 Calibration Drift (CD). The difference in the CEMS output readings from the established reference value after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

2.7 Centroidal Area. A concentric area that is geometrically similar to the stack or duct cross section and is no greater than 1 percent of the stack or duct cross-sectional area.

2.8 Representative Results. As defined by the RM test procedure outlined in this specification.

3. Installation and Measurement Location Specifications.

3.1 The CEMS Installation and Measurement Location. Install the CEMS at an accessible location where the pollutant concentration or emission rate measurements are directly representative or can be corrected so as to be representative of the total emissions from the affected facility or at the measurement location cross section. Then select representative measurement points or paths for monitoring in locations that the CEMS will pass the RA test (see Section 7). If the cause of failure to meet the RA test is determined to be the measurement location and a satisfactory correction technique cannot be established, the Administrator may require the CEMS to be relocated.

Suggested measurement locations and points or paths that are most likely to provide data that will meet the RA requirements are listed below.

3.1.1 Measurement Location. It is suggested that the measurement location be (1) at least two equivalent diameters downstream from the nearest control device, the point of pollutant generation, or other point at which a change in the pollutant concentration or emission rate may occur and (2) at least a half equivalent diameter upstream from the effluent exhaust or control device.

3.1.2 Point CEMS. It is suggested that the measurement point be (1) no less than 1.0 meter from the stack or duct wall or (2) within or centrally located over the centroidal area of the stack or duct cross section.

3.1.3 Path CEMS. It is suggested that the effective measurement path (1) be totally within the inner area bounded by a line 1.0 meter from the stack or duct wall, or (2) have at least 70 percent of the path within the inner 50 percent of the stack or duct cross-sectional area, or (3) be centrally located over any part of the centroidal area.

3.2 Reference Method (RM) Measurement Location and Traverse Points. Select, as appropriate, an accessible RM measurement point at least two equivalent diameters downstream from the nearest control device, the point of pollutant generation, or other point at which a change in the pollutant concentration or emission rate may occur, and at least a half equivalent diameter upstream from the effluent exhaust or control device. When pollutant concentration changes are due solely to diluent leakage (e.g., air heater leakages) and pollutants and diluents are simultaneously measured at the same location, a half diameter may be used in lieu of two equivalent diameters. The CEMS and RM locations need not be the same.

Then select traverse points that assure acquisition of representative samples over the stack or duct cross section. The minimum requirements are as follows: Establish a "measurement line" that passes through the centroidal area and in the direction of any expected stratification. If this line interferes with the CEMS measurements, displace the line up to 30 cm (or 5 percent of the equivalent diameter of the cross section, whichever is less) from the centroidal area. Locate three traverse points at 16.7, 50.0, and 83.3 percent of the measurement line. If the measurement line is longer than 2.4 meters and pollutant stratification is not expected, the tester may choose to locate the three traverse points on the line at 0.4, 1.2, and 2.0 meters from the stack or duct wall. This option must not be used after wet scrubbers or at points where two streams with different pollutant concentrations are combined. The tester may select other traverse points.

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provided that they can be shown to the satisfaction of the Administrator to provide a representative sample over the stack or duct cross section. Conduct all necessary RM tests within 3 cm (but no less than 3 cm from the stack or duct wall) of the traverse points.

4. Performance and Equipment Specifications.

4.1 Data Recorder Scale. The CEMS data recorder response range must include zero and a high-level value. The high-level value is chosen by the source owner or operator and is defined as follows:

For a CEMS intended to measure an uncontrolled emission (e.g., SO_2 measurements at the inlet of a flue gas desulfurization unit), the high-level value must be between 1.25 and 2 times the average potential emission level, unless otherwise specified in an applicable subpart of the regulations. For a CEMS installed to measure controlled emissions or emissions that are in compliance with an applicable regulation, the high-level value must be between 1.5 times the pollutant concentration corresponding to the emission standard level and the span value. If a lower high-level value is used, the source must have the capability of measuring emissions which exceed the full-scale limit of the CEMS in accordance with the requirements of applicable regulations.

The data recorder output must be established so that the high-level value is read between 90 and 100 percent of the data recorder full scale. (This scale requirement may not be applicable to digital data recorders.) The calibration gas, optical filter, or cell values used to establish the data recorder scale should produce the zero and high-level values. Alternatively, a calibration gas, optical filter, or cell value between 50 and 100 percent of the high-level value may be used in place of the high-level value provided the data recorder full-scale requirements as described above are met.

The CEMS design must also allow the determination of calibration drift at the zero and high-level values. If this is not possible or practical, the design must allow these determinations to be conducted at a low-level value (zero to 20 percent of the high-level value) and at a value between 50 and 100 percent of the high-level value. In special cases, if not already approved, the Administrator may approve a single-point calibration-drift determination.

4.2 Calibration Drift. The CEMS calibration must not drift or deviate from the reference value of the gas cylinder, gas cell, or optical filter by more than 2.5 percent of the span value. If the CEMS includes pollutant and diluent monitors, the calibration drift must be determined separately for each in terms of concentrations (see PS 3 for the diluent specifications).

4.3 The CEMS RA. The RA of the CEMS must be no greater than 20 percent of the mean value of the RM test data in terms of the units of the emission standard or 10 percent of the applicable standard, whichever is greater. For SO_2 emission standards between 130 and 86 ng/J (0.30 and 0.20 lb/million Btu), use 15 percent of the applicable standard; below 86 ng/J (0.20 lb/million Btu), use 20 percent of emission standard.

5. Performance Specification Test Procedure.

5.1 Pretest preparation. Install the CEMS, prepare the RM test site according to the specifications in Section 3, and prepare the CEMS for operation according to the manufacturer's written instructions.

5.2 Calibration drift Test Period. While the affected facility is operating at more than 50 percent of normal load, or as specified in an applicable subpart, determine the magnitude of the calibration drift (CD) once each day (at 24-hour intervals) for 7 consecutive days according to the procedure given in Section 6. To meet the requirement of Section 4.2, none of the CD's must exceed the specification.

5.3 RA Test Period. Conduct the RA test according to the procedure given in Section 7 while the affected facility is operating at more than 50 percent or normal load, or as specified in an applicable subpart. To meet the specifications, the RA must be equal to or less than 20 percent of the mean value of the RM test data in terms of the units of the emission standard or 10 percent of the applicable standard, whichever is greater. For instruments that use common components to measure more than one effluent gas constituent, all channels must simultaneously pass the RA requirement, unless it can be demonstrated that any adjustments made to one channel did not affect the others.

The RA test may be conducted during the CD test period.

6. The CEMS Calibration Drift Test Procedure.

The CD measurement is to verify the ability of the CEMS to conform to the established CEMS calibration used for determining the emission concentration or emission rate. Therefore, if periodic automatic or manual adjustments are made to the CEMS zero and calibration settings, conduct the CD test immediately before these adjustments, or conduct it in such a way that the CD can be determine.

Conduct the CD test at the two points specified in Section 4.1. Introduce to the CEMS the reference gases, gas cells, or optical filters (these need not be certified). Record the CEMS response and subtract this value from the reference value (see example data sheet in Figure 2–1).

7. Relative Accuracy Test Procedure.

7.1 Sampling Strategy for RM Tests. Conduct the RM tests in such a way that they will yield results representative of the emissions from the source and can be correlated to the CEMS data. Although it is preferable to conduct the diluent (if applicable), moisture (if needed), and pollutant measurements simultaneously, the diluent and moisture measurements that are taken within a 30- to 60-minute period, which includes the pollutant measurements, may be used to calculate dry pollutant concentration and emission rate.

In order to correlate the CEMS and RM data properly, mark the beginning and end of each RM test period of each run (including the exact time of the day) on the CEMS chart recordings or other permanent record of output. Use the following strategies for the RM tests:

7.1.1 For integrated samples, e.g., Method 6 and Method 4, make a sample traverse of at least 21 minutes, sampling for 7 minutes at each traverse point.

7.1.2 For grab samples, e.g., Method 7, take one sample at each traverse point, scheduling the grab samples so that they are taken simultaneously (within a 3-minute period) or are an equal interval of time apart over a 21-minute (or less) period. A test run for grab samples must be made up of at least three separate measurements.

Note.—At times, CEMS RA tests are conducted during new source performance standards performance tests. In these cases, RM results obtained during CEMS RA tests may be used to determine compliance as long as the source and test conditions are consistent with the applicable regulations.

7.2 Correlation of RM and CEMS Data. Correlate the CEMS and the RM test data as to the time and duration by first determining from the CEMS final output (the one used for reporting) the integrated average pollutant concentration or emission rate for each pollutant RM test period. Consider system response time, if important, and confirm that the pair of results are on a consistent moisture, temperature, and diluent concentration basis. Then, compare each intergrated CEMS value against the corresponding average RM value. Use the following guidelines to make these comparisons.

7.2.1 If the RM has an integrated sampling technique, make a direct comparison of the RM results and CEMS integrated average value.

7.2.2 If the RM has a grab sampling technique, first average the results from all grab samples taken during the test run and then compare this average value against the integrated value obtained from the CEMS chart recording or output during the run. If the pollutant concentration is varying with time over the run, the tester may choose to use the arithmetic average of the CEMS value recorded at the time of each grab sample.

7.3 Number of RM Tests. Conduct a minimum of nine sets of all necessary RM tests. Conduct each set within a period of 30 to 60 minutes.

Note.—The tester may choose to perform more than nine sets of RM tests. If this option is chosen, the tester may, at his discretion, reject a maximum of three sets of the test results so long as the total number of test results used to determine the RA is greater than or equal to nine, but he must report all data including the rejected data.

7.4 Reference Methods. Unless otherwise specified in an applicable subpart of the regulations, Methods, 3, 4, 6, and 7, or their approved alternatives, are the reference methods for diluent (O_2 and CO_2), moisture, SO_2, and NO_x, respectively.

7.5 Calculations. Summarize the results on a data sheet. An example is shown in Figure 2–2. Calculate the mean of the RM values. Calculate the arithmetic differences between the RM and the CEMS output sets. Then calculate the mean of the difference, standard deviation, confidence coefficient, and CEMS RA, using Equations 2–1, 2–2, 2–3, and 2–4.

6. *Equations.*

8.1 Arithmetic Mean. Calculate the arithmetic mean of the difference, $\bar{d}$, of a data set as follows:

$$\bar{d} = \frac{1}{n}\sum_{i=1}^{n} d_i \qquad \text{(Eq. 2–1)}$$

Where:

n = Number of data points.

$\sum_{i=1}^{n} d_i$ = Algebraic sum of the individual differences d_i.

When the mean of the differences of pairs of data is calculated, be sure to correct the data for moisture, if applicable.

8.2 Standard Deviation. Calculate the standard deviation, S_d, as follows:

$$S_d = \left[\frac{\sum_{i=1}^{n} d_i^2 - \frac{\left(\sum_{i=1}^{n} d_i\right)^2}{n}}{n-1}\right]^{1/2} \qquad \text{(Eq. 2–2)}$$

8.3 Confidence Coefficient. Calculate the 2.5 percent error confidence coefficient (one-tailed), CC, as follows:

$$CC = t_{0.975}\frac{S_d}{\sqrt{n}} \qquad \text{(Eq. 2–3)}$$

Where:

$t_{0.975}$ = t-value (see Table 2–1)

TABLE 2–1.—T-VALUES

n*	$t_{0.975}$	n*	$t_{0.975}$	n*	$t_{0.975}$
2	12.706	7	2.447	12	2.201
3	4.303	8	2.365	13	2.179
4	3.182	9	2.306	14	2.160
5	2.776	10	2.262	15	2.145
6	2.571	11	2.228	16	2.131

* The values in this table are already corrected for n-1 degrees of freedom. Use n equal to the number of individual values.

8.4 Relative Accuracy. Calculate the RA of a set of data as follows:

$$RA = \frac{|\bar{d}| + |CC|}{\overline{RM}} \times 100 \qquad \text{(Eq. 2–4)}$$

Where:

$|\bar{d}|$ = Absolute value of the mean of differences (from Equation 2–1).

$|CC|$ = Absolute value of the confidence coefficient (from Equation 2–3).

$\overline{RM}$ = Average RM value or applicable standard.

9. *Reporting.*

At a minimum (check with the appropriate regional office, or State or local agency for additional requirements, if any) summarize in tabular form the CD tests and the RA tests. Include all data sheets, calculations, and charts (record of data outputs) necessary to substantiate that the performance CEMS met the PS.

10. *Bibliography.*

10.1 Department of Commerce. Experimental Statistics. Handbook 91. Washington, D.C., p. 3–31, paragraphs 3–3.1.4.

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	Day	Date and time	Calibration value	Monitor value	Difference	Percent of span value
Low-level						
High-level						

Figure 2-1. Calibration drift determination.

Run No.	Date and time	SO_2 RM	SO_2 M	SO_2 Diff	NO_x RM	NO_x M	NO_x Diff	CO_2 or O_2 RM	CO_2 or O_2 M	SO_2 mass/GCV RM	SO_2 mass/GCV M	SO_2 mass/GCV Diff	NO_x mass/GCV RM	NO_x mass/GCV M	NO_x mass/GCV Diff
		ppm[c]			ppm[c]			% [c]	% [c]						
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
Average															
Confidence Interval															
Accuracy															

[a] For steam generators; [b] Average of three samples; [c] Make sure that RM and M data are on a consistent basis, either wet or dry.

Figure 2-2. Relative accuracy determination.

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Performance Specification 3. Specifications and Test Procedures For O_2 and CO_2 Continuous Emission Monitoring Systems in Stationary Sources

1. Applicability and Principle.

1.1 Applicability. This specification is to be used for evaluating acceptability of O_2 and CO_2 continuous emission monitoring systems (CEM's) at the time of or soon after installation and whenever specified in an applicable subpart of the regulations. The specification applies to O_2 or CO_2 monitors that are not included under Performance Specification 2 (PS 2).

This specification is not designed to evaluate the installed CEMS performance over an extended period of time, nor does it identify specific calibration techniques and other auxiliary procedures to assess the CEMS performance. The source owner or operator, however, is responsible to calibrate, maintain, and operate the CEMS properly. To evaluate the CEMS performance, the Administrator may require, under Section 114 of the Act, the operator to conduct CEMS performance evaluations in addition to the initial test. See Section 60.13(c).

The definitions, installation and measurement location specifications, test procedures, data reduction procedures, reporting requirements, and bibliography are the same as in PS 2, Sections 2, 3, 5, 6, 8, 9, and 10, and also apply to O_2 and CO_2 CEMS's under this specification. The performance and equipment specifications and the relative accuracy (RA) test procedures for O_2 and CO_2 CEMS do not differ from those for SO_2 and NO_x CEMS, except as noted below.

1.2 Principle. Reference method (RM) tests and calibration drift tests are conducted to determine conformance of the CEMS with the specification.

2. Performance and Equipment Specifications.

2.1 Instrument Zero and Span. This specification is the same as Section 4.1 or PS 2.

2.2 Calibration Drift. The CEMS calibration must not drift by more than 0.5 percent O_2 or CO_2 from the reference value of the gas, gas cell, or optical filter.

2.3 The CEMS RA. The RA of the CEMS must be no greater than 20 percent of the mean value of the RM test data or 1.0 percent O_2 or CO_2, whichever is greater.

3. Relative Accuracy Test Procedure.

3.1 Sampling Strategy for RM Tests, Correlation of RM and CEMS Data, Number of RM Tests, and Calculations. This is the same as PS 2, Sections 7.1, 7.2, 7.3, and 7.5, respectively.

3.2 Reference Method. Unless otherwise specified in an applicable subpart of the regulations, Method 3 of Appendix A or any approved alternative is the RM for O_2 or CO_2.

(Section 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

Authority: Section 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

* * * * *

[FR Doc. 83-14031 Filed 5-24-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Wednesday
May 25, 1983

Part V

Federal Emergency Management Agency

Coastal Barrier Resources Act; Implementation

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 71

Implementation of Coastal Barrier Resources Act

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) which prohibits new flood insurance coverage on or after October 1, 1983, for new construction or substantial improvements of structures located on coastal barriers within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

DATES: Comment due date: July 25, 1983.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Sts., SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant General Counsel, Federal Emergency Management Agency, 500 C Street SW., Wahington, D.C. 20472, Telephone: (202) 287–0380.

SUPPLEMENTARY INFORMATION: Section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) (CBRA) amends section 1321 of the National Flood Insurance Act of 1968 (Pub. L. 90–448) by providing in pertinent part:

> No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

It is the intention of this regulation to define the key terms of section 11 of CBRA, and to identify the documentation which will be required to demonstrate that a structure is not covered by the terms of CBRA and is eligible to receive new flood insurance coverage.

The regulation defines "new construction" as structures other than those fully completed prior to October 1, 1983, which meet 3 specified criteria. It was not the intent of CBRA to deny flood insurance to a structure which was fully completed prior to October 1, 1983, unless, subsequent to September 30, 1983, it is substantially improved. Absent subatantial improvement, there can be no question but that the structure was existing construction rather than new construction, and section 11 CBRA does not apply.

If construction had not yet started on October 1, 1983, then the structure is considered "new construction." However, if the start of construction (see 44 CFR 59.1 for complete definition) had taken place prior to October 1, 1983, but the structure was not fully completed as of that date, an allowance will be made. If the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, took place prior to October 1, 1983, the structure is eligible for the sale of flood insurance provided that: (1) A legally valid building permit or its equivalent was obtained prior to October 1, 1983, for the construction; and (2) the structure constituted an insurable building, having walls and a roof no later than April 1, 1984.

It is important that construction start prior to October 1, 1983, and progress sufficiently so that the building has walls and a roof by April 1, 1984. Without a requirement that construction proceed, those who would seek to circumvent the intent of CBRA could put down foundations with no present intention of constructing a building. It was not the intention of Congress in passing the Omnibus Reconciliation Act of 1981 (OBRA) in which the flood insurance prohibition first appeared (and the terms of which were later incorporated into CBRA), nor of CBRA, to make flood insurance available at any point in the distant future when an individual decided to proceed with construction. As it was, OBRA allowed over two years grace period before the flood insurance prohibition would take effect. Therefore, where construction has begun before October 1, 1983, in order to be eligible for flood insurance, there must be an insurable building in place by April 1, 1984.

CBRA also prohibits new flood insurance coverage for substantial improvements of structures occurring after October 1, 1983. The regulations of the National Flood Insurance Program define "substantial improvement" in pertinent part as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damaged occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure (see 44 CFR 59.1 for complete definition).

Where a structure is substantially improved either by expansion, or by restoration when it has been damaged, no new flood coverage may be provided for such structure. Since a new policy and a renewal policy constitute new coverage, the substantially improved structure would not be eligible for either. If a structure is expanded by 50 per cent or more, or is damaged and the repairs equal or exceed 50 per cent of its pre-damage value, such structure is not eligible to receive a new or renewed policy of flood insurance.

To enable FEMA to implement these provisions in a responsible manner, the Agency is requiring some basic documentation.

In order to obtain flood insurance coverage on or after October 1, 1983, for a structure the construction of which was commenced prior to October 1, 1983, and completed by April 1, 1984, the owner must submit the following documentation:

a. A legally valid building permit or its equivalent for the construction of the structure, dated prior to October 1, 1983. If the community did not have a building permit system at the time the structure was built, a sworn and notarized affidavit to this effect by the responsible community official will be accepted in lieu of the building permit. If the community had a building permit system in effect but the permit was lost or destroyed, a sworn and notarized affidavit to this effect by the responsible community official will be sufficient. This latter affidavit must also include a certification stating that the official has inspected the structure and found no evidence that the structure is not in compliance with the building code at the time the structure was built:

b. A sworn and notarized affidavit signed by the community official responsible for building permits, attesting to the fact that he/she knows of his/her own knowledge or from official community records that:

(1) The start of construction of such structure took place prior to October 1, 1983;

(2) The structure has not been substantially improved since September 30, 1983; and

(3) The structure constituted an insurable building, having walls and a roof permanently in place no later than April 1, 1984.

c. A community issued final certificate of occupancy or other use permit, or equivalent proof, certifying that the building was completed (walled and roofed) by April 1, 1984. Equivalent proof may include, for example, evidence of final inspection of the building's electrical system; a deed, together with closing or settlement documents establishing that the title was transferred as to the land and improvement by April 1, 1984, etc.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), the Federal Emergency Management Agency (FEMA) has prepared an environmental assessment of the issuance by FEMA of this proposed rule.

The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the definitions proposed in the rule or the documentation proposed to be required.

It is, therefore, found that the action will not have a significant impact on the natural or manmade environment. On this basis, an Environmental Impact Statement will not be prepared.

Copies of the environmental assessment are available for inspection at the Federal Emergency Management Agency, Room 840, 500 C St. SW., Washington, D.C. 20472, telephone (202) 287–0395.

This regulation will not have a significant impact on a substantial number of small entities, and thus no regulatory flexibility analysis will be prepared. Further, the rule is not a major rule for purposes of Executive Order 12291, and thus no regulatory impact analysis will be prepared.

However, the documentation requirement in § 71.4 are collections of information, and have been submitted to OMB for review under section 3505(L) of the Paper Work Reduction Act. Comments on this collection of information should be sent to the Office of Information and Regulatory Affairs, OMB, Room 3201, New Executive Office Building, Washington, D.C. 20503, ATTN: FEMA Desk Office. List of Subjects in 44 CFR Part 71, Flood Insurance, Coastal Zone.

List of Subjects in 44 CFR Part 71

Flood plains, Flood insurance.

Accordingly, it is proposed that Chapter 1 of Title 44, Code of Federal Regulations, be amended by adding a new part 71 as follows:

PART 71—IMPLEMENTATION OF COASTAL BARRIER RESOURCES ACT

Sec.
71.1 Purpose of part.
71.2 Definitions.
71.3 Denial of Flood Insurance.
71.4 Documentation.

Authority: Sec. 1306, 82 Stat. 575 (42 U.S.C. 4013). Reorganization Plan No. 3 of 1978 (43 FR 41943), Executive Order 12127, dated March 31, 1979 (44 FR 19367), sec. 11, Pub. L. 97–348.

§ 71.1 Purpose of part.

This part implements section 11 of the Coastal Barrier Resources Act (Pub. L. 97–348) as that act amends the National Flood Insurance Act of 1968 (Pub. L. 90–448).

§ 71.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a structure is "new construction" *unless* it was fully completed prior to October 1, 1983, or it meets the following criteria:

(1) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to October 1, 1983;

(2) The start of construction (see Part 59) took place prior to October 1, 1983; and

(3) The structure constituted an insurable building, having walls and a roof permanently in place no later than April 1, 1984.

(c) For the purpose of this part, a structure, is a "substantial improvement" if the substantial improvement (see Part 59) of such structure took place on or after October 1, 1983.

(d) For the purpose of this part, "new flood insurance coverage" means a new or renewed policy of flood insurance.

§ 71.3 Denial of flood insurance.

No new flood insurance coverage may be provided on or after October 1, 1983, for any new construction or substantial improvement of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

§ 71.4 Documentation.

(a) In order to obtain flood insurance for a structure which is not covered by a policy of flood insurance as of October 1, 1983, the owner of the structure must submit the documentation described in this section in order to show that such structure is eligible to receive flood insurance.

(b) The documentation must be submitted to the Federal Insurance Administration.

(c) The documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure dated prior to October 1, 1983;

(i) If the community did not have a building permit system at the time the structure was built, a sworn and notarized affidavit to this effect by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a sworn and notarized affidavit to this effect by the responsible community official will be accepted in lieu of the building permit. This affidavit must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built;

(2) A sworn and notarized affidavit signed by the community official responsible for building permits, attesting to the fact that he or she knows of his/her own knowledge or from official community records, that:

(i) The start of construction of such structure took place prior to October 1, 1983;

(ii) The structure has not been substantially improved since September 30, 1983; and

(iii) The structure constituted an insurable building, having walls and a roof permanently in place no later than April 1, 1984; and

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying that the building was completed (walled and roofed) by April 1, 1984.

Dated: May 11, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-14043 Filed 5-24-83; 8:45 am]
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Last Listing May 23, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 287 / Pub. L. 98–32 To establish the Harry S Truman National Historic Site in the State of Missouri, and for other purposes. (May 23, 1983; 97 Stat. 193) Price: $1.75

H.J. Res. 219 / Pub. L. 98–31 Declaring the support of the United States Government for efforts of the United States Soccer Federation to bring the World Cup to the United States in 1986, designating the Secretary of Commerce as the official representative of the United States Government to the Federation Internationale de Football Association, and for other purposes. (May 20, 1983; 97 Stat. 192) Price: $1.75

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federal register

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May 26, 1983

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Federal Register
(ISSN 0097-6326)

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SECOND CLASS NEWSPAPER

VOL
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ISS
103
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26
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UMI

5-26-83
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 5064 of May 25, 1983

Missing Children Day, 1983

By the President of the United States of America

A Proclamation

Each year hundreds of thousands of American families are confronted with a unique tragedy—a missing child. While most of these children return home safely, far too many are exposed to serious danger and exploitation. Often the child's fate is never known. During the child's disappearance, the family faces an ordeal of imagined horrors and unknown consequences. Finding and safely returning these children to their homes has become a national problem.

Our children are the Nation's most valuable and most vulnerable asset. They are our link to the future, our hope for a better life. Their protection and safety must be one of our highest priorities.

The striking mobility of our society has created special difficulties for the law enforcement agencies that must deal with crimes involving children. The solution to this problem demands the attention and cooperation of all our law enforcement agencies, city, State, and local.

The date of May 25 has particular significance in the cause of missing children. On that day in 1979, six year old Etan Patz disappeared from his home in New York City. Unfortunately, Etan has never been found. His brave parents have fought to increase our awareness of this tragedy and to improve the agencies that work to solve this unique type of crime.

As a Nation and as individuals, we all have a responsibility to direct our resources and our efforts to this worthy goal.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 25, 1983 as Missing Children Day. I urge officials at all levels of government to take decisive action to ensure the safety and protection of the children in their respective jurisdictions, and I urge all our law enforcement agencies to take particular notice of the danger that threatens any child who has lost his or her home. I urge every American family to take the proper precautions to protect their children.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-14411
Filed 5-25-83; 10:54 am]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1099

Milk in the Paducah, Ky. Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of May through August 1983 some of the diverted milk provisions of the Paducah Federal milk order. The action was requested by Associated Milk Producers, Inc., Southern Region, a cooperative association representing a substantial proportion of the producers supplying milk to the market. The suspension removes the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The cooperative stated that the suspension is needed to assure the continued association with the marketwide pool of producers who supply milk to the market.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–382–9369.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Suspension: Issued May 2, 1983; published May 6, 1983 (48 FR 20425).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include May 1983 in the suspension period. The initial request for this action was received April 27, 1983. A notice of proposed suspension was issued on May 2, 1983, inviting interested parties to comment on the proposed action by May 13, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq*), and of the order regulating the handling of milk in the Paducah, Kentucky area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 20425) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. Three comments were received. Another cooperative association that represents a substantial proportion of producers who supply milk to the market filed a comment supporting the proposal and two comments in opposition to the suspension were received from dairy farmers.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of May 1983 through August 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1099.13(c), paragraphs (2) and (3) in their entirety.

Statement of Consideration

This action makes inoperative the limits on the percentage of a handler's milk supply that may be diverted from pool plants to nonpool plants during the months of May through August 1983. The order now provides that during each of those months a cooperative or a handler may not divert a quantity of milk in excess of 33 percent of the milk received at a pool plant.

The suspension was requested by a cooperative association that supplies milk to a handler regulated by the order. The suspension is needed due to a substantial increase in milk production by all producers who supply the one fully regulated plant under the Paducah Federal milk order. The problem is compounded because the association's share of milk receipts at this plant has been declining. This requires the association to divert more reserve milk to nonpool manufacturing plants. Several suppliers of milk to the regulated plant divert little or no milk to nonpool manufacturing plants. This places a greater burden on the proponent cooperative association to dispose of reserve milk for the market.

If the provisions are not suspended for the months of May through August 1983, Associated Milk Producers, Inc., Southern Region would not be able to pool all of the milk supplies that it has associated with the Paducah fluid market. This would disrupt the orderly marketing of milk in the Paducah marketing area.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. This action will eliminate the possibility that producers of milk for the fluid market would lose their producer status because of the present pooling provisions and thus not have their milk priced under the order.

Several dairy farmers opposed the proposed suspension. Their comments were directed against the operations of the proponent cooperative rather than to an analysis of the current marketing conditions for the Paducah market. Their comments do not provide an adequate basis for denying the proposed suspension.

It is hereby found and determined that thirty day's notice of the effective date

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hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1099

Milk marketing orders, Milk, Dairy products.

PART 1099—[AMENDED]

It is therefore ordered, That the aforesaid provisions in § 1099.13(c), paragraph (2) and (3) of the order are hereby suspended for May through August 1983.

Effective Date: May 26, 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on: May 20, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–14167 Filed 5–25–83; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 2003

Functional Organization of the Farmers Home Administration

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding organization and functions to show that loans under the Agency's Business and Industry loan program are made and serviced by FmHA's State offices, rather than by its District Offices. The intended effect of this action is to keep the public informed of the Agency structure. This action is taken to correct an error in the regulation and it was previously published.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard Hardy, Acting Director, Organization Management and Training Division, 6525 Belcrest Road, Suite 531, Hyattsville, MD 20782, telephone (301) 436–6544.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management and organization. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the changes involves internal agency management and publication for comment is unnecessary.

Note.—This regulation does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review. This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 2003

Organization and functions (government agencies).

Accordingly, Exhibit A of Subpart A of Part 2003, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising the paragraph under the headings 07 01 State Offices and 07 01 District Offices to read as follows:

PART 2003—ORGANIZATION

Exhibit A—U.S. Department of Agriculture—Farmers Home Administration

* * * * *

07 01 STATE OFFICES

Assignment of Functions

Provides overall direction of FmHA program operations at the State level, ensures adherence to program plans approval for the State by the Administrator, and renders staff advisory and manpower support to frontline operating personnel in the District and County Offices. Has full responsibility for making and servicing business and industry loans.

07 01 DISTRICT OFFICES

Assignment of functions

Provides overall direction of FmHA program operations at the District level, ensures adherence to program plans approved for the district by the State Director and renders supervisory and advisory support to frontline operating personnel in the county offices. Has full responsibility for making and servicing multi-family housing and community program loans and grants.

* * * * *

Authorities: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Dated: May 10, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–14166 Filed 5–25–83; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 83–065]

Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations by quarantining the State of Texas because of the existence of brucellosis, a contagious disease of cattle, other bovine and swine. This action is necessary on an emergency basis to prevent interstate dissemination of this disease and protect the livestock of the other States.

DATES: Effective date of this interim rule is June 1, 1983.

Written comments must be received on or before July 25, 1983.

ADDRESS: Written comments concerning this interim rule should be submitted to T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Billy G. Johnson, VS, APHIS, USDA, Room 814, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8144.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 78, regulate the interstate movement of certain animals in order to eradicate brucellosis, a contagious disease of cattle, other bovine and swine. Among other things, these regulations govern the interstate movement of certain animals from quarantined areas. Section 78.22 lists those areas within the United States which are quarantined due to the existence of brucellosis.

The regulations in Part 78 form the basis of the national program to eradicate brucellosis. This program is administered by means of individual cooperative agreements between the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture (APHIS) and the individual States. The State of Texas has agreed to cooperate with APHIS in this program and to promulgate certain rules and regulations designed, among other things, to prevent the interstate spread of brucellosis from Texas.

There is a high incidence of brucellosis in Texas and the measures in effect in that State to eradicate brucellosis are not deemed adequate to prevent the interstate spread of the disease. This is because Texas Animal Health Commission regulations concerning brucellosis are not being enforced against all people in the State, since State Courts have held that these regulations are unenforcable (R. J. Nunley v. Texas Animal Health Commission, Cause No 12506, Dist. Ct., Uvalde County, TX, 1979; and Pan American Livestock Exposition, et al. v. Texas Animal Health Commission and R. J. Nunley, Cause No. 314, 470, Dist. Ct., Travis County, TX, 1982). Further, it does not appear at this time that the Texas State Legislature is willing to give the Texas Animal Health Commission the authority necessary to promulgate appropriate enforceable regulations concerning brucellosis as to all persons in the State. It has therefore been determined that the interstate movement of cattle from Texas without further restriction constitutes a threat to the livestock of the United States. Therefore, the entire State of Texas is quarantined under 78.22 of the regulations to prevent the interstate spread of brucellosis from the State.

Emergency Action

John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without opportunity for public comment. Immediate action is necessary to prevent the interstate spread of brucellosis from Texas.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedure of Executive Order 12291 with respect to this interim rule. Immediate action is necessary to establish provisions in accordance with the statutory mandate to prevent the interstate spread of brucellosis from Texas.

The emergency situation also makes compliance with Section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required by section 604 of Pub. L. 96–354, the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 78

Animals diseases, Bison, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, Part 78, Title 9, Code of Federal Regulations, is amended as follows:

§ 78.22 [Amended]

Section 78.22 is amended by replacing the word "none" which appears after the introductory paragraph, with the phrase "the entire State of Texas."

* * * * *

(Secs. 4–6, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–3, 33 Stat. 1264–1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 123–125, 134b, 134f); 7 CFR 2.17, 2.51, and 3.71.2(d))

Done at Washington, D.C. this 24th day of May, 1983.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83–14320 Filed 5–24–83; 2:54 pm]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–27–AD; Amdt. 39–4654]

Airworthiness Directives; Canadair CL–44D4 and CL–44J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Canadair CL–44D4 and CL–44J cargo airplanes which requires repetitive inspections and repair, as necessary, of the horizontal stabilizer rear spar attachment fittings and reinforcing channel. This action is required because of reports of cracks in the fittings which, if allowed to go undetected, could compromise the structural integrity of the stabilizer.

DATE: Effective June 6, 1983.

ADDRESSES: The service bullettin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C 3G9 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an airworthiness directive which requires a repetitive inspection of the horizontal stabilizer rear attachment fittings and reinforcing channel for cracks on all CL–44D4 and CL–44J airplanes. Cracks have been found in these members which compromise the structural integrity of the horizontal stabilizer. To correct this

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the DOT, which is the civil aviation authority for Canada, is requiring inspections in accordance with Canadair Service Information Circular No. 379–CL44.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the previously mentioned inspections.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to all Canadair Model CL–44D4 and CL–44J airplanes. Compliance required as indicated unless previously accomplished. To detect cracks in the horizontal stabilizer rear attachment fittings, accomplish the following:

1. Within the next 200 hours time in service and thereafter at intervals not to exceed 2000 hours time in service, inspect the horizontal stabilizer rear spar attachment fittings, Part Numbers 44–A45022A and 44–A45022B, for cracks in accordance with Paragraphs 3.5 and 3.6 of Canadair Service Information Circular No. 379–CL44, Issue 3, dated February 23, 1982. Ensure that the lugs are properly shimmed in accordance with paragraph 4.1 of the circular. If a crack is found the length of which is less than half the width of the lug, repeat the inspection every 100 hours time in service and replace the fitting within the next 500 hours time in service. When a crack is found the length of which extends to or beyond half the width of the lug, replace the fitting prior to further flight in accordance with the circular.

2. Within the next 200 hours time in service and thereafter at intervals not to exceed 2000 hours time in service, inspect the reinforcing channels, Part Numbers 28–A24559A and 22–A24559B, for cracks in accordance with paragraph 3–11 of Canadair Service Information Circular No. 379–CL44, Issue 3, dated February 23, 1982. If a crack is found in the reinforcing channel, replace the part prior to further flight in accordance with the circular. Terminating action for this inspection consists of replacement of the reinforcing channels with steel reinforcements, Parts Numbers 28–21312–2, –3, –4, and –5 in accordance with paragraphs 3.13 and 3.14 of the Service Information Circular.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

4. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective June 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Seattle, Washington on May 16, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-13999 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83–NM–01–AD; Amdt. 39–4652]

Airworthiness Directives; Fokker B.V. Model F28 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) 82–16–04 which required the accomplishment of specified flight control and landing gear service bulletins on certain F28 airplanes. During the processing of the AD, all of the required corrections which were gathered during a Notice of Proposed Rulemaking action were not incorporated into the final rule. This amendment adds the corrections which were inadvertently left out.

DATE: Effective June 6, 1983.

ADDRESSES: The service bulletins specified in this Airworthiness Directive may be obtained upon request to the Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schipol Oost, The Netherlands, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 82–16–04, Amendment 39–4426, issued July 16, 1982, (47 FR 32704) requires the accomplishment of specific flight control and landing gear service bulletins on certain F28 airplanes. An NPRM had been previously published on January 18, 1982, (47 FR 2485) requesting comments from the public concerning these items. The manufacturer provided several comments which the FAA had intended to incorporate in the final rule but some of which were inadvertently left out. The purpose of this amendment is to correct the final rule by including the corrections which had been provided by the manufacturer.

This amendment corrects an existing AD and has no economic impact and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by correcting AD 82–16–04, Amendment 39–4426, (47 FR 32704) as follows:

1. Paragraph F: Delete "F28/24–27" and add "F28/27–47" in the last sentence.

2. Paragraph G: Delete "VFW" and add "BV" in the last sentence.

3. Paragraph H: Delete "11056" and add "11064" in the first sentence. Delete "11994" and add "11993" in the first sentence. Delete "F28/27–A82" and add "F–28/27–82A" in the last sentence.

This amendment becomes effective June 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 135(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that corrects an existing AD and does not impose any additional burden on any person. Therefore: (1) it is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is corrective in nature and because it involves few, if any, small entities.

Issued in Seattle, Washington, on May 16, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-14001 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83–NM–35–AD; Amdt. 39–4653]

Airworthiness Directives; Messerschmitt-Bolkow-Blohm GMBH HFB–320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain HFB–320 airplanes which requires visual inspections of the internal horizontal stabilizer attach fittings corrosions and cracks and, if necessary, reworking or replacement of parts. Corrosion and cracks have been found on some HFB–320 stabilizers which, if allowed to progress, could weaken the attach fittings to the point of failure.

DATE: Effective June 6, 1983.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Messerschmitt-Bolkow-Blohm GMBH, Department HV 117, Kreetalag 10, D–2103, Hamburg 95, Germany, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The German Airworthiness Authority (LBA) has classified HFB–320 Hansa Service Bulletin 55–7 as mandatory. This service bulletin specifies inspection of the structural components of the horizontal stabilizer. Corrosion and cracks have been reported in the horizontal stabilizer attach fittings of some HFB–320 Hansa airplanes. Investigation indicated that the attach fitting bolted connections on certain airplanes were fitted with washers which were bearing on the edge of an adjacent spotface causing uneven stress distributions which lead to the formation of cracks.

This airplane model is manufactured in West Germany and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires inspection and reworking or replacement of the horizontal stabilizer attach fittings and associated hardware.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Messerschmitt-Bolkow-Blohm GMBH: Applies to HFB–320 airplanes serial numbers 1021–1023, 1026, 1027, 1030–1040, 1045, and 1049–1057. To prevent failure of the horizontal stabilizer attachment fittings accomplish the following, unless already accomplished:

1. Visually inspect the horizontal stabilizer attachment fittings and adjacent structure for corrosion and cracks in accordance with paragraph I of the "Accomplishment Instructions" of Messerschmitt-Bolkow-Blohm GMBH Service Bulletin 55–7 dated September 7, 1979, within 300 hours time in service or one year, whichever occurs first, for airplanes with a maximum of 1500 hours on the horizontal stabilizer on the effective date of this AD, and within 50 hours time in service or two months, whichever occurs first, for airplanes with more than 1500 hours on the horizontal stabilizer.

2. Rework the horizontal stabilizer in accordance with paragraph 7.1 or 7.2, as appropriate, of the service bulletin within the time intervals specified in the service bulletin.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

4. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspection and/or modifications required by this AD.

This amendment becomes effective June 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on May 16, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-13999 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82–CE–40–AD; Amdt. 39–4655]

Airworthiness Directives; Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD)

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which requires modification of the right-hand control wheel yoke in certain Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes. Inflight jamming of the control system has occurred. The AD will eliminate this condition by incorporating a stop in the control system.

DATE: Effective June 30, 1983.

Compliance: Within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Cessna Service Information Letters SE82–38 dated August 13, 1982, and SE82–38 Revision #1 dated October 29, 1982, applicable to this AD may be obtained from Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201, Telephone No. (316) 685–9111. A copy of this service information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone No. (316) 269–7005.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring compliance with Cessna Service Information Letters SE82–38 dated August 13, 1982 and SE82–38 Revision #1 dated October 29, 1982, on certain Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes was published in the **Federal Register** on January 13, 1983, (48 FR 1514 and 1515). The Service Information Letter as revised, recommended installation of a retaining bolt in the right-hand control wheel yoke assembly which will prevent the control wheel guide roller from becoming dislodged and restricting control travel. The AD action resulted from an occurrence when a student pilot froze at the control with full up elevator. The instructor was attempting to overpower the student when the student let go of the control wheel. The instructor then jammed the control full forward with a side force which forced the centering bearing out of the guide assembly. This caused a complete loss of control until the instructor was able to force the centering bearing back into the guide assembly. At this point control was regained and an uneventful landing was made. Failure to force the centering bearing back into the guide assembly could result in the loss of the airplane.

Interested persons have been afforded an opportunity to comment on the proposal.

One commentor responded expressing concurrence with the NPRM. No other comments or objections were received on the proposal or the FAA determination of the related cost to the public. Therefore, the amendment is being adopted as proposed in the notice.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Cessna: Applies to the following airplanes certificated in any category:

Model	Serial Nos.
172M	17266940 through 17267584.
172N	17267585 through 17274009.
172P	17274010 through 17275782, 17275784, 17275785, 17275788, 17275770, 17275786, 17275782, 17275793, 17275798, 17275796, 17275800 through 17275803, 17275806, 17275818.
R172K	R1722000 through R1723454.
F172	F17201445 through F17202194.
FR172	FR17200591 through FR17200675.

Compliance: Required as indicated unless already accomplished. To prevent possible jamming of the elevator control, accomplish the following:

(a) Within the next 100 hours time-in-service, modify the right-hand control wheel yoke guide in accordance with the instructions in Cessna Single-Engine Customer Care Service Information Letter SE82–38, dated August 13, 1982, and SE82–38 Revision #1 dated October 29, 1983.

(b) Airplanes may be flown in accordance with FAR 21.197 to a base where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Wichita, Kansas 67209, Telephone (316) 269–7000.

This amendment becomes effective on June 30, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note. The FAA has determined that this regulation only involves 10,300 airplanes at an approximate one-time cost of $55.00 for each or a total one-time fleet cost of $566,500. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri, on May 16, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-13852 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-52-AD; Amdt. 39-4656]

Pilatus Britten-Norman Ltd.; Models BN-2, BN-2A, BN-2B Islander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman Ltd. Models BN–2, BN–2A, and BN–2B Islander Series airplanes, which supersedes AD 83–07–03, Amendment 39–4602. This superseded AD required visual inspection of the elevator trim tabs for cracks, loose fasteners, excessive tab hinge wear and excessive backlash in the operating system. Subsequent to the issuance of AD 83–07–03, an alternate method of inspection compliance has been established, an ambiguity has been noted in the modification nomenclature and the manufacturer has issued additional service instructions which expand the applicability of the inspection and modification procedures. The superseding AD will incorporate the applicable inspection and modification procedures and make the necessary corrections for identification of the modifications.

EFFECTIVE DATE: June 2, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilatus Britten-Norman Ltd. Service Bulletin (SB) No. BN–2/SB.142, Issue 2, dated June 29, 1981, SB No. BN–2/SB.142, Issue 3, dated March 14, 1983, and SB No. BN–2/SB.156, dated March 14, 1983, applicable to this AD may be obtained from Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. L. Werth, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: The manufacturer issued SB Nos. BN–2/SB.16, BN–2/SB.45, BN–2/SB.46, BN–2/SB.47, BN–2/SB.49, BN–2/SB.127 which address the detection and correction of cracks, rivet failures, hinge wear and backlash in the elevator trim tab system used on Pilatus Britten-Norman Ltd., Model BN–2, BN–2A and BN–2B Islander Series airplanes. The FAA made compliance with portions of SB Nos. BN–2/SB.16 and BN–2/SB.49 mandatory by issuing AD 71–19–03, Amendment 39–1285, as revised by Amendment 39–1902. After issuing SB BN–2/SB.49, the manufacturer received three reports of excessive elevator trim tab vibration. Also during 1978/1979, the FAA received one report of excessive slack in the elevator trim jack, one report of lost elevator trim and one report of a cracked elevator trim tab spar.

After reviewing the service history of the elevator trim tabs, Pilatus Britten-Norman Ltd. issued SB No. BN–2/SB.142, Issue 2, dated June 29, 1981, which stresses the importance of repetitive inspections for structural defects to prevent rapid crack growth or other structural defects in the elevator trim tabs and introduces a new design elevator trim tab, incorporated by Mod NB/M/1117 which will allow the repetitive inspection interval to be increased from 10 hours time-in-service to 50 hours time-in-service.

The FAA found that the condition addressed by this Service Bulletin was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 83–07–03 which required periodic inspection and correction, if required, of the elevator trim tab system. Subsequently, an alternate method of inspection compliance has been established and it has become necessary to clarify the nomenclature of the repair modifications. In addition, the manufacturer has developed modification procedures which now allow the incorporation of repair scheme Mod NB/M/1117 on airplanes equipped with a Collins AP107 autopilot system. As a result Pilatus Britten-Norman Ltd. issued SB No. BN–2/SB.142, Issue 3, dated March 14, 1983, and SB No. BN–2/SB.156, dated March 14, 1983, which allow for airplanes equipped with a Collins AP107 autopilot system to incorporate Mod NB/M/1117. The United Kingdom, Civil Aviation Authority (UKCAA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, has classified these Service Bulletins and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of SB No. BN–2/SB.142, Issue 3, dated March 14, 1983, and SB No. BN–2/SB.156, dated March 14, 1983, and the mandatory classification of these Service Bulletins by the UKCAA.

Based on the foregoing, the FAA has determined that the condition addressed by SB No. BN–2/SB.142, Issue 3, dated March 14, 1983, and SB No. BN–2/SB.156, dated March 14, 1983, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD superseding AD 83–07–03 is being issued which, in addition to retaining the inspection criteria of AD 83–07–03, adds an alternate method of inspection compliance, corrects the identification of the modifications, and expands the applicability of the modification procedures on Pilatus Britten-Norman Ltd. Models BN–2, BN–2A, and BN–2B Islander Series airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Pilatus Britten-Norman Ltd: Applies to Models BN–2, BN–2A and BN–2B Islander Series (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent structural failure of the elevator trim tabs, accomplish the following:

(a) For those airplanes not incorporating Mod NB/M/1117, within the next 10 hours time-in-service after the effective date of this AD or within 10 hours time-in-service from the last inspection per AD 83–07–03 and thereafter at intervals not to exceed 10 hours time-in-service:

(1) Visually inspect using a 5X power magnifying glass the elevator trim tab skins, front channel member (spar) and drive ribs for cracks in accordance with the instructions contained in the "Inspection" section of Pilatus Britten-Norman Ltd. Service Bulletin (SB) No. BN–2/SB.142, Issue 3, dated March 14, 1983 (hereinafter referred to as the SB), or an FAA-approved equivalent.

(2) Visually inspect elevator trim tabs for loose or broken rivets.

(3) Visually inspect elevator trim tab hinges for damage or excessive wear.

(4) Visually inspect the trim tab operating system for backlash in accordance with the instructions provided in the "Inspection" section of the SB.

(5) Before further flight, repair any defects found during accomplishment of paragraphs (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, in accordance with the instructions contained in the "Rectification (Pre-Mod NB/M/1117 Long Span Tabs)" section of the SB and/or instructions provided by Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England, and approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

(6) The actions required by paragraphs (a)(1) through (a)(4) of this AD may be performed by the pilot, providing:

(i) The pilot's logbook has been endorsed by a properly rated mechanic stating that the pilot has been trained to conduct these inspections in accordance with this AD, and

(ii) These inspections are performed at least once each 50 hours time-in-service by a properly rated mechanic.

(b) For those airplanes which have incorporated Mod NB/M/1117, the intervals between repetitive inspections specified in paragraph (a) of this AD may be increased to 50-hour time-in-service (as prescribed in the Airplane Maintenance Schedules (Pub. Ref. MS/1 and MS/4) and with the instructions in the Airplane Maintenance Manual (Pub. Ref. MM/1)).

(c) Any airplane which incorporates a Collins AP107 Autopilot (Mod NB/M/911) is not eligible for incorporation of Mod NB/M/1117 unless the autopilot system has been modified to conform with Appendix 6 (Issue 11 or later) of Mod NB/M/911 in accordance with SB No. BN–2/SB156, dated March 14, 1983.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these

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inspections concurrent with other scheduled maintenance of the airplane.

(e) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This AD supersedes Ad 83–07–03, Amendment 39–4602.

This amendment becomes effective on June 2, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on May 18, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–14219 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AEA–3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Morristown, New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule

SUMMARY: This amendment deletes the reference to Somerset Hills Airport, Basking Ridge, New Jersey, as it appears in the description of Morristown, New Jersey Control Zone. This deletion will cause a small indentation approximately ½ mile in the southwest extension of the control zone to be erased and made a part of the controlled airspace. This action is necessitated by the closing of Somerset Hills Airport.

EFFECTIVE DATE: June 27, 1983.

ADDRESS: Send comments on the rule in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430, Telephone: (212) 917–1228.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:
Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building (Formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430; (212) 917–1228.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Morristown, New Jersey Control Zone by deleting any reference to Somerset Hills Airport, Basking Ridge, New Jersey.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is no burden imposed on any person due to the minimal amount of airspace being controlled.

Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than thirty (30) days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Control zon , Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. as follows:

Morristown, New Jersey, Amended: "excluding a 1-mile radius of the center lat. 40°41'28" W, long 74°32'08" N of Somerset Hills Airport, Basking Ridge, New Jersey.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York, on May 5, 1983.

Joseph M. Del Balzo,

Director, Eastern Region.

[FR Doc. 83–13094 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM83–65–000; Order 302]

Delegation of the Commission's Authority to the Director of the Office of Pipeline and Producer Regulation

May 20, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending § 375.307 of its regulations to delegate to the Director of the Office of Pipeline and Producer Regulation the authority to pass upon uncontested applications for authorization of off-system sales by interstate pipelines pursuant to the Statement of Policy issued April 25, 1983, in Docket No. PL83–2–000. This delegation will permit a more efficient discharge of the Commission's responsibilities.

DATES: Final rule effective May 20, 1983. Comments due June 27, 1983.

ADDRESS: All comments should refer to Docket No. RM83–65–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Barbara K. Christin, Office of the General Counsel, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Background

On April 25, 1983, the Federal Energy Regulatory Commission (Commission) issued a Statement of Policy in Docket No. PL83–2–000 regarding off-system sales by interstate pipelines. The purpose of the policy statement is to provide guidance as to the types of off-system sales that the Commission is prepared to authorize, for the most part, on a routine basis.[1]

This final rule delegates to the Director of the Office of Pipeline and Producer Regulation (Director) the authority to pass upon uncontested applications for authorization of off-system sales pursuant to the Commission's statement of policy.

The authority delegated by this final rule involves only limited discretion which is consistent with established Commission policy with respect to delegations. As previously noted, this delegation relates only to uncontested applications. As defined in § 375.301(c), "uncontested" means that "no motion to intervene, or notice of intervention, in opposition to the pending matter made under § 385.214 (intervention) has been received by the Commission." In addition, as provided in § 375.301(a), any staff action may be appealed to the Commission pursuant to § 385.1902.

The Commission issues this final rule in order to more efficiently use the resources at its disposal and expedite the disposition of applications for off-system sales. The Commission has developed a system whereby responsible staff personnel exercise limited authority to carry out certain routine functions for which the Commission is responsible or to take routine actions which are considered essential to an efficient discharge of the Commission's responsibility. These delegations, which are contained in Subpart C of Part 375 of the Commission's regulations (18 CFR Part 375), have allowed the Commission to devote its energies to the less routine, more complex issues of policy and law that come before it. This creates benefits for both regulated entities and affected members of the public that rely on efficient and thoughtful Commission action.

[1] Of course, in particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

Moreover, as already noted, any delegated action is appealable to the Commission itself.

II. Summary of The Rule

Section 375.307(a)(17) is added to allow the Director to pass upon uncontested applications for certificates of public convenience and necessity for off system sales, pursuant to the Statement of Policy issued in Docket No. PL83–2–000.

III. Effective Date

The Commission waives the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), because the rule is one of agency procedure and practice. Prior public procedure is, therefore, unnecessary. In addition, the Commission finds good cause to make the rule effective immediately, pursuant to 5 U.S.C. 553(d). The Commission currently faces the task of having to make a number of decisions regarding off-system sales which can fairly be classified as routine or ministerial. This delegation will permit a more efficient discharge of the Commission's responsibilities, thereby enabling the Commission to devote greater attention to the issues that require studied consideration and policy determinations while assuring the public of expeditious action on items of concern.

IV. Comments

Although this rule is effective May 20, 1983, the Commission invites interested members of the public to submit comments or suggestions regarding the rule. The Commission and its staff will evaluate any information received from interested persons and will consider appropriate revisions to the regulations as a result of comments received. An original and 14 copies should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments must be submitted no later than 30 days after publication in the **Federal Register.** All comments should refer to Docket No. RM83–65–000.

(Natural Gas Act, as amended, 15 U.S.C. 717–717w; Department of Energy Organization Act, 42 U.S.C. 7107–7352; E.O. 12009, 3 CFR 142 (1978))

List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

In consideration of the foregoing, the Commission amends Part 375 of Chapter I of Title 18, Code of Federal Regulations, as set forth below, effective May 20, 1983.

By the Commission, Commissioner Sheldon concurred.

Kenneth F. Plumb,

Secretary.

PART 375—[AMENDED]

Section 375.307 is amended by removing the word "and" after the semicolon in paragraph (a)(15), changing the period at the end of paragraph (a)(16) to a semicolon and inserting the word "and" after the semicolon at the end of paragraph (a)(16), and adding a new paragraph (a)(17), to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

The Commission authorizes the Director of the Office of Pipeline and Producer Regulation or the Director's designee to:

(a) * * *

(17) Applications for certificates of public convenience and necessity for off-system sales, pursuant to the Statement of Policy issued April 25, 1983 in Docket No. PL83–2–000.

* * * * *

[FR Doc. 83–14116 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 83–2, Notice No. 2]

Contract Procedures; Buy America Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendments to interim final rule; extension of comment period.

SUMMARY: The FHWA is amending its Buy America interim final rule, published on January 17, 1983 (48 FR 1946) to: eliminate the waiver provision which exempted projects costing less than $450,000; clarify what was intended by allowing more stringent State Buy America requirements; and clarify the use of alternate bidding procedures. The amendments are based on a review of comments submitted to the public docket to date. The comment period on the interim final rule as amended is being extended from July 1, 1983, to August 1, 1983. In order to further clarify the provision allowing more stringent State Buy America requirements, the

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existing Buy America regulation is also being amended to reference the restriction upon materials used contained in 23 CFR 635.409(a).

DATES: These amendments are effective June 10, 1983 and will expire September 30, 1983. The comment period in the interim final rule is continued. Comments on the interim final rule as amended must be received on or before August 1, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83–2, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Chief, Construction and Maintenance Division, (202) 426–0392, or Ms. Ruth R. Johnson, Office of the Chief Counsel (202) 426–0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424, 96 Stat. 2136) (STAA of 1982). Section 165 sets forth revised Buy America requirements which supersede the previous requirements contained in Section 401 of the 1978 Surface Transportation Assistance Act. Since the former Buy America provisions as implemented in 23 CFR 635.410, Subpart D, were in conflict with the provisions of the STAA of 1982, immediate revision of this regulation was required. On January 17, 1983, the FHWA published an interim final rule (48 FR 1946) revising the provisions in 23 CFR 635.410 to reflect changes mandated by the STAA of 1982. However, the FHWA determined that it was in the public interest and not inconsistent with legislative intent to temporarily waive the provisions of Section 165 as they applied to projects estimated to cost less than $450,000. It was believed that this waiver would reduce administrative burdens by exempting a large number of projects, but that it would not have a significant impact on quantities of material covered by the regulation. The FHWA specifically requested comments on this waiver provision.

Since publication of the January 17 interim final rule, a substantial number of comments have been submitted to the public docket addressing the various provisions of the interim final rule. Based on a review of the comments received, the FHWA is amending the interim final rule by eliminating the $450,000 threshold figure and by providing clarifying amendments to the provisions on more stringent State requirements and alternate bidding procedures.

Discussion of Changes

As of May 2, 1983, a total of 196 comments to the docket had been received. About two-thirds of the comments (124 comments) have recommended that the temporary waiver for projects costing less than $450,000 either be lowered or removed entirely. Most of these comments have come from companies involved in the steel industry. Another 16 comments have recommended implementation of the law without any exception which would, of course, include the total elimination of the $450,000 waiver provision. Only two commenters, including one State DOT, have specifically indicated support of the $450,000 waiver provision. We have not received any comments or evidence to date to indicate that a reduced threshold would present a significant administrative burden or create any other problems. However, the Department of Transportation is conducting a study to determine the administrative costs of processing federally-assisted projects under the Buy America provisions. The findings of that study will be incorporated into the text of the final regulation which is expected to be issued by September 30, 1983.

The FHWA considered reducing the waiver provision to $100,000 or $50,000, but these alternatives were rejected. It was concluded that the $450,000 waiver provision should be completely eliminated from the interim final rule since there is no conclusive indication as yet that such a provision is needed. Elimination may, in fact, simplify the plan development phase since States may develop a standard Buy America provision for use on all Federal-aid highway projects. It is possible that any unacceptable administrative burdens, excessive red tape, or other negative effects associated with elimination of the waiver provision will only become evident through actual experience. It should be noted that the interim rule does contain a waiver for foreign steel and cement if its value is less than one-tenth of one percent of the total contract cost or $2,500 whichever is greater. Therefore, § 635.410(b)(1) is being deleted in its entirety. The change is being made at this time so that information based on experience with the new requirement can be obtained before the final rule is implemented. The FHWA is particularly interested in receiving comments on this change before the end of the extended comment period on August 1, 1983.

Impacts of $450,000 Threshold

Steel Impacts

We have made preliminary estimates of the effects the $450,000 waiver has on the domestic steel industry. Source material for the following information may be obtained from the updated regulatory evaluation/regulatory flexibility analysis which FHWA will prepare and place in the public docket as soon as practicable.

Approximately 60 percent of all Federal-aid highway contracts are for $500,000 or less, and these contracts account for about 10 percent of the total dollar amount of Federal-aid highway construction contracts and about 6 percent of all the steel used in Federal-aid highway construction.

We estimate that about 1.7 percent of all steel shipments produced in the U.S. will be used in Federal-aid highway construction in FY 1983. The direct use of domestic steel stemming from Federal-aid highway funds on projects under $500,000 in 1983 would, therefore, be 71,000 tons or about one-tenth of a percent of domestic steel shipments. It should be noted that the amount of steel actually affected by the waiver would be considerably less than this because many of these low-cost projects would use domestic steel regardless of the waiver. Also, much of the work in the FY 1983 highway program will involve improvements to existing facilities rather than new construction.

Cement Impacts

The waiver provision is expected to have an effect on the cement industry similar to that on steel. We estimate that the cement to be used on Federal aid highway projects under $500,000 in 1983 will represent slightly over one-half of one percent of total domestic production. This estimate assumes that total cement use on highways in FY 1983 could rise to 5.5 million tons, which would represent a major increase over the usage in the previous year.

Although domestic resources of raw materials are adequate to meet the domestic requirements, a small percentage of the cement currently being used in highway construction is foreign. This is generally limited to coastal areas and/or locations remote from domestic cement market areas. Because of cement's bulk and weight, it is only imported when the foreign source is near the construction site.

Procedural Changes

There are two procedural changes that need to be made in the interim final rule. The first involves confusion with the provisions in Section 165(d) of STAA of 1982. This provision reads as follows:

> The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, the Surface Transportation Assistance Act of 1978, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

Several comments have been received which showed that this provision was being misunderstood. Specifically, State legislatures were considering "Buy-State materials and products preference" for Federal-aid highway work. Such a provision in Federal-aid contracts would be in violation of the longstanding prohibition contained in 23 CFR 635.409(a) against State restrictions on the use of articles or materials made or produced in any other State, territory, or possession of the United States. The issue addressed in Section 165 of the STAA of 1982 is that certain materials must be produced in the United States rather than in foreign countries. This is obvious from the inclusion of the words "foreign countries" in the aforementioned provision regarding more stringent State requirements. Section 635.410(a) is being revised to clarify this matter.

The second procedural change is necessary to clarify the application of the alternate bid provisions. The previous regulation required alternate bids for foreign and domestic structural steel. This requirement was retained in the interim final rule; however, since the cost differential was increased from 10 percent to 25 percent, the alternate bid requirement was revised to apply only to projects which contain an amount of structural steel equal in cost to at least 60 percent of the total project estimated cost. The intent of this revision was to minimize administrative burdens by requiring alternate bid procedures only for projects where foreign sources may truly compete in view of the 25 percent cost differential.

There has been some confusion regarding the exact meaning of the "60 percent" provision in § 635.410(b)(5), and there have been questions regarding the overall effect of the alternate bid requirements.

Since the STAA of 1982 permits States to impose more stringent Buy America requirements than are imposed by Section 165, it has been pointed out that a State could elect to prohibit the use of foreign structural steel even on projects which would require alternate bids under § 635.410(b)(5). Therefore, the interim final rule can be simplified by replacing the alternate bid requirement with a statement that alternate bids for foreign and domestic materials may be included on any Federal-aid highway project at the State's election. In doing so, the "60 percent" provision can be eliminated. Section 635.410(b)(5), renumbered as § 635.410(b)(4), has been revised accordingly. The provisions regarding the 25 percent cost differential have been retained since they still would apply to any project on which the State elects to include alternate bids. The FHWA still encourages States to consider alternate bids on projects where foreign materials are likely to be competitive even with the 25 percent cost differential.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, under the regulatory policies and procedures of the Department of Transportation, this rulemaking action is considered significant based on the public interest involved.

The January 17 interim final rule provided for a comment period through July 1, 1983. Prior to the preparation of the amendments included in this document, the comment period had been open to the public for approximately 90 days. Within this period, numerous substantive comments have been received and a review of these comments formed the basis for this rulemaking action. For this reason, it has been determined that additional notice and comment on this amendment are not necessary.

Since the interim final rule, as well as the amendments contained in this document expire on September 30, 1983, comments are continued to be requested on the interim final rule as amended so as to form a basis for future final rulemaking.

Due to the interim nature of this action, the draft regulatory evaluation, which is available for inspection in the public docket, and the regulatory impacts assessed in this document will be periodically updated as comments are received and experience gained on projects processed under these amendments.

A 15, rather than 30-day, delay in the effective date is being provided so that information based on experience from processing projects under the interim final rule as amended can be obtained before the comment period terminates. For the same reason the comment period for the interim final rule as amended is extended to August 1, 1983.

In consideration of the foregoing, and under the authority of 23 U.S.C. 315, section 165, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2136, and 49 CFR 1.48(b), the FHWA is amending Part 635, Subpart D, of title 23, Code of Federal Regulations to read as set forth below:

(Catalog of Federal Domestic Assistance Program Number 20–205, Highway Research Planning and Construction. The procedures provided in OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs apply to this program)

List of Subjects in 23 CFR Part 635

Buy America, Government contracts, Grant programs—transportation, Highways and roads.

Issued on: May 23, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 635—CONSTRUCTION AND MAINTENANCE

§ 635.410 [Amended]

1. In § 635.410, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

(a) * * * However, nothing in this section shall be construed to be contrary to the requirements of § 635.409(a) of this subpart.

* * * * * *

2. In § 635.410, paragraph (b)(1) is removed and paragraphs (b)(2) through (b)(6) are redesignated as paragraphs (b)(1) through (b)(5) respectively and redesignated paragraph (b)(4) is revised to read as follows:

§ 635.410 [Amended]

* * * * * *

(b) * * *

(4) The State elects to include alternate bid provisions for foreign and domestic steel and/or cement materials which comply with the following requirements. Where utilized, the contract provisions must require all bidders to submit a bid based on furnishing domestic steel and/or cement materials and the provisions must clearly state that the contract will be

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awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and/or cement materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and/or cement materials by more than 25 percent. Any procedure for obtaining alternate bids based on furnishing foreign steel and/or cement materials which is acceptable to the Division Administrator may be used. The alternate bid provision may apply to steel, cement or both steel and cement.

* * * * *

[FR Doc. 83-14306 Filed 5-23-83; 4:46 pm]
BILLING CODE 4310-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Approval of Modification of the Tennessee Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing final approval of a modification of the Tennessee permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which redesignates the State agency authorized to implement, administer and enforce the approved regulatory program.

By executive order effective February 15, 1983, Governor Lamar Alexander transferred the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration of the Tennessee surface coal mining regulatory program to the Department of Public Health. OSM is approving a modification of the Tennessee permanent program under SMCRA to designate the Department of Public Health as the regulatory authority authorized to implement, administer and enforce the State regulatory program which was approved by the Secretary on August 10, 1982.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902, phone (615) 523-0523.

SUPPLEMENTARY INFORMATION: The Tennessee program under SMCRA was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724-34754). Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 Federal Register (47 FR 34724-34754).

By letter dated January 25, 1983, Tennessee notified OSM that Governor Lamar Alexander was expected to issue an Executive Order to take effect February 15, 1982, which would direct a transfer of the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration and enforcement of the Tennessee Surface Coal Mining and Reclamation Program under SMCRA to the Tennessee Department of Public Health.

On February 15, 1983, Tennessee transmitted to OSM a copy of Executive Order No. 40 effecting the transfer of February 15, 1983.

On February 23, 1983, OSM announced interim final approval of an amendment to the Tennessee program to redesignate the Department of Public Health as the regulatory authority authorized to implement the approved State program (48 FR 7577). Comment on this action was solicited for 30 days. The comment period ended March 25, 1983.

Findings

Section 723.17(b)(2) of OSM's regulations stipulates that the State shall promptly notify the Director, in writing, of any changes in the authority of the regulatory authority to implement, administer or enforce the approved program. As noted above, in accordance with this provision, Tennessee notified OSM of the impending transfer of the Division of Surface Mining from the Department of Conservation to the Department of Public Health by letter dated January 25, 1983. On February 15, 1983, the State provided OSM with a copy of the Executive Order signed by the Governor on that date which officially authorized the transfer.

After reviewing these documents, OSM has determined that the transfer of the Division of Surface Mining from one agency to another requires that an amendment be made to the approved Tennessee program to designate the Department of Public Health and Environment rather than the Department of Conservation as the regulatory authority authorized to implement, administer and enforce the approved regulatory program under SMCRA.

Accordingly, 30 CFR 942 is amended as set forth herein to reflect the redesignation of the regulatory authority. The Director has found that this modification of Tennessee's program meets the criteria for approval of State program amendments set forth under 30 CFR 732.17 and 732.15(b). The Executive Order stipulates that the Department of Health shall assume *all* authorities and responsibilities for administration of the regulatory program previously held by the Department of Conservation, including all appropriate State and Federal laws, rules and regulations, investigation and enforcement activities, memorandums of agreement with other agencies and the appropriate requirements outlined in the November 5, 1982, Memorandum of Understanding between the Division of Surface Mining of the Department of Conservation and OSM.

Further, the Division of Surface Mining, which administered the program under the Department of Conservation, has been transferred, intact, to the Department of Health and Environment and will continue to administer the program under that agency. Therefore, the Director has determined that the newly designated regulatory authority has the capability to implement, administer and enforce the approved program provisions consistent with 30 CFR 732.15(b).

The approval of this modification to the Tennessee program is being made effective as of February 15, 1983. This retroactive approval will ensure that there was no lapse in the State's authority to implement and enforce its approved program.

Public Comment

In response to OSM's notice announcing interim final approval of a modification to the Tennessee regulatory program to redesignate the Department of Public Health as the regulatory authority, OSM received the following comments and questions from Save Our Cumberland Mountains (SOCM). The comments were taken into consideration by the Director in making the decision to give final approval of the program modification.

1. SOCM questioned if the transfer of functions and responsibilities from the Department of Conservation to the Department of Public Health would affect the Division of Surface Mining's (DSM) Memoranda of Agreement with other agencies.

DSM has revised the Memoranda of Agreement with other agencies to reflect the Division of Surface Mining's transfer from the Department of Conservation to the Department of Public Health. These revised Memoranda of Agreement were included in material submitted to OSM by Tennessee on May 2, 1983. The material submitted is intended to satisfy nine of the Secretary's conditions of approval of Tennessee's program, including condition "i", which pertains to the State's systems and procedures for permitting, inspection and enforcement, and condition "j", which pertains to staffing and funding for Tennessee's regulatory program. In a separate notice OSM will announce a comment period on the material submitted by the State.

2. SOCM questioned if the present structure of Public Health would require any changes in the Division of Surface Mining's systems.

The Assistant Director of the Division of Surface Mining has advised OSM that any changes in DSM's systems due to the transfer to Public Health will be minor. All modifications to DSM's regulatory systems are outlined in the material mentioned in the above paragraph which Tennessee submitted to OSM to satisfy conditions of approval. As previously noted, the public will be provided an opportunity to comment on the material submitted by the State.

3. SOCM questioned the effect on DSM's operations of leaving the Abandoned Mine Lands program under the jurisdiction of the Department of Conservation.

This action will have little or no effect on DSM's administration of the regulatory program. The State AML program is distinct from the State regulatory program and the staff who will continue to work on the AML program under the Department of Conservation have not previously and will not in the future perform any functions directly related to the State's regulatory program.

4. SOCM questioned how the responsibilities of DSM personnel will change with the transfer from the Department of Conservation to the Department of Public Health.

The Assistant Director of the Division of Surface Mining has stated that changes in personnel responsibilities as a result of the transfer will be minimal. Any changes that have been or will be made will be reflected in the program modifications recently submitted to OSM by DSM to satisfy conditions of approval.

5. SOCM questioned if the transfer to the Department of Public Health would affect the procedures that the legal staff would follow.

The Assistant Director of the Division of Surface Mining has advised OSM that the DSM legal staff now has dual reporting responsibilities to the Division of Surface Mining and to the Department of Public Health's Office of General Counsel. The DSM attorneys will continue to handle DSM legal work but will receive technical advice and assistance from the Office of General Counsel. These changes are reflected in the State's recent submission to satisfy conditions of approval.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: May 20, 1983.

J. Steven Griles,
Acting Director, Office of Surface Mining.

PART 942—[AMENDED]

1. 30 CFR 942.10 is revised to read as follows:

§ 942.10 State regulatory program approval.

The Tennessee State program, as submitted on February 28, 1980, as amended and clarified on June 11, 1980 and June 19, 1980, and revised in material submitted May 13, 1982, was conditionally approved, effective August 10, 1982. Beginning on that date, the Tennessee Department of Conservation was deemed the regulatory authority in Tennessee for all surface coal mining and reclamation operations and all exploration operations on non-federal and non-Indian lands. By executive order effective February 15, 1983, Governor Lamar Alexander transferred all authorities and responsibilities for administering the Tennessee State program from the Department of Conservation to the Department of Public Health. Effective February 15, 1983, the Director approved a modification of Tennessee's program to designate the Department of Health and Environment as the regulatory authority starting on that date. Only surface coal mining and reclamation operations on non-federal and non-Indian lands shall be subject to the provisions of the Tennessee permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Conservation agreeing to the conditions of 30 CFR 942.11, are available at:

Administrative Record Room, Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240
Administrative Record Room, Office of Surface Mining, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902
Division of Surface Mining, 701 Broadway, Nashville, Tennessee 37203
Division of Surface Mining, Dempster Building, 305 West Springdale Avenue, Knoxville, Tennessee 37919

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.))

[FR Doc. 83-14099 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 942

Extension of Deadline for Satisfaction of Condition of Approval of the Tennessee Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing its decision to extend the deadline for Tennessee to meet a condition of the Secretary's approval of the State's permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

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The condition relates to procedures for hearings and appeals under the State's surface coal mining program. In accordance with the request of the Tennessee Division of Surface Mining (DSM) the Secretary is extending the deadline for Tennessee to resolve the condition from April 30, 1983, to September 30, 1983. This extension will allow DSM sufficient time to carry out negotiations with the Office of the State Attorney General which are a requisite step in resolving the condition.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37902. Telephone 615–523–0523.

SUPPLEMENTARY INFORMATION: The Tennessee program was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724–34754). The approval was conditioned on the State's correction of 11 minor deficiencies in its program.

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 **Federal Register** (47 FR 34724–34754).

On March 2, 1983, Tennessee requested an extension of the deadline to satisfy condition (k) of the Secretary's approval of the Tennessee program as listed at 30 CFR 932.11(k) from April 30, 1983 to June 30, 1983. By letter dated March 23, 1983, Tennessee modified its request and asked for an extension until September 30, 1983.

Condition (k) of the Secretary's approval of Tennessee's program stipulates that the State must submit copies of promulgated regulations, policy statements, Attorney General's opinions or other sufficient proof that the State program is no less effective than 43 CFR 4.1103, 4.1122, 4.1154, 4.1163, 4.1166, 4.1260 and 4.1281. The first four sections generally relate to administrative hearings and functions of administrative appellate bodies. The last two sections regard the State's Small Operators Assistance Program (SOAP). Tennessee's permanent program submission of February 3, 1982, contained regulations which were counterparts to the above listed sections of 43 CFR Part 4. Tennessee's Attorney General, however, removed these regulations from the program submission because the State's system of administrative boards does not parallel the Federal Government's and the regulations proposed did not, apparently, fit the State's system. Tennessee indicated that satisfaction of condition (k) would require the Division of Surface Mining (DSM) to work with the Attorney General's Office to reach a satisfactory solution. Because the remedy will most likely require an Attorney General's opinion, DSM indicated it would be unable to meet the April 30, 1983, deadline and, thus, requested an extension to September 30, 1983, to meet condition (k).

On April 1, 1983, OSM published a notice in the **Federal Register** (48 FR 14013) to propose an extension of the deadline for Tennessee to meet condition "k" to September 30, 1983. Comment on that proposal was solicited for 30 days. No comments were received by the close of the comment period on May 2, 1983.

Secretary's Determination

The Secretary has determined that an extension of the deadline for Tennessee to satisfy condition "k" is warranted. As noted above, a resolution of the program deficiencies cited in condition "k" will require DSM to work with the Attorney General's Office. An Attorney General's opinion may be needed to clarify how the State can adopt procedures for hearings and appeals which satisfy the Federal requirements within the context of the State's established administrative and judicial systems.

DSM was recently transferred from the Department of Conservation to the Department of Public Health. The additional time allowed the State to meet the condition will provide the new management of DSM the necessary time to negotiate with the Attorney General's Office to develop a satisfactory resolution of the program deficiencies which are the subject of condition "k".

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: May 18, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 942—[AMENDED]

§ 942.11 [Amended]

1. 30 CFR 942.11 is amended by modifying paragraph (k) by substituting September 30, 1983, for April 30, 1983.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 83–14166 Filed 5–25–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD3–82–31]

Anchorage Grounds; Delaware Bay and River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing Anchorage A (Big Stone Anchorage) in the Delaware Bay off the entrance to the Mispillion River. The superseded regulation for this anchorage stated that the specific purpose of the anchorage is to allow deep draft tankers to anchor and lighter their cargoes. This rule eliminates all references to tanker lightering and designates Anchorage A as a general anchorage. This action permits shippers transporting commodities other than oil to use Anchorage A as both a holding anchorage and an anchorage for lightering.

EFFECTIVE DATE: June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Daniel B. Charter, Jr., Captain of the Port, Philadelphia, U.S. Coast Guard Base, Gloucester City, New Jersey 08030 (Tel: (609) 456–1370 or (215) 923–4320) between 7:00 a.m. and 4:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: On 20 December 1982 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 56661). Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until 18 February 1983. Fourteen comments were received during the comment period and will be addressed below. Five comments were received following the close of the comment period and were also considered; however, they will not be separately addressed as they offered no substantive material not already contained in other comments. No public hearing was held. A copy of the Environmental Assessment and Finding of No Significant Impact relating to this regulation change is available for examination at the Third Coast Guard District Planning Office, Building 125, Governors Island, NY 10004 and the Captain of the Port, Philadelphia Office, U.S. Coast Guard Base, Gloucester City, NJ 08030.

Drafting Information

The drafters of this regulation are LTJG George Arbutina, project manager, COTP Philadelphia and LCDR James J. D'Alessandro, project attorney, Legal Office, Third Coast Guard District.

Discussion of Comments

The proposed regulations were promulgated at the request of the Delaware River Port Authority and the Delaware River & Bay Authority to allow vessels carrying commodities other than oil to utilize Big Stone Anchorage. The main reason for their request is to permit the use of the anchorage to "top-off" deep draft colliers. These vessels are presently limited to 40–45 foot channel depths in Philadelphia, Baltimore, and Hampton Roads and thus cannot be fully loaded. By topping off in Big Stone Anchorage, east coast coal exporting companies will be more economically competitive with other major coal exporting countries elsewhere in the world. This anchorage is the only anchorage capable of accommodating deep draft vessels in the Delaware Bay and River system and recent statistics show underutilization of Big Stone Anchorage as a tanker lightering anchorage.

Seven commenters unconditionally endorsed the proposed regulation change for a variety of economic reasons. Included in this group of comments were several letters from coal, coal transport, barge and shipbuilding concerns who wished to see the anchorage used for topping off colliers. The Commonwealth of Pennsylvania also endorsed the proposed change because the potential for economic growth through increased coal exports would be enhanced.

Four commenters endorsed the basic proposal but expressed concern that the broad language of the proposal would allow too many vessels to use the anchorage to the detriment of deep draft vessels that require anchorage at Big Stone for lightering purposes. While this rule may indeed increase the number of vessels in the anchorage, the Captain of the Port of Philadelphia maintains supervision over the anchoring of vessels and will ensure that oil tankers and other deep draft vessels conducting cargo operations are afforded top priority in the anchorage and allotted sufficient space to conduct operations safely. If anchorage management is required, first priority would be given to deep draft oil tankers since regulations specifically prohibit oil lightering outside the anchorage. Second priority would be given to coal lightering operations followed by other deep draft vessels.

The commenters expressed concern that changing the designation of Anchorage A will create a crowding problem in the anchorage hazarding tankers involved in oil transfer operations, and noted that this problem may intensify when the economic climate improves. The Coast Guard does not agree with these comments. Anchorage A was enlarged to three times its previous size in May of 1982 to accommodate a larger number of lightering operations and reduce the possibility of collisions, rammings, and groundings. Current statistics indicate that Anchorage A is utilized by an average of only two vessels at any given time while the enlarged anchorage is capable of accommodating twelve large vessels. These statistics indicate that crowding of this deep draft anchorage will not be a problem when operations expand to include cargoes other than oil. When the business environment improves any space management problems which might arise will be alleviated through use of the above mentioned management authority by the Captain of the Port of Philadelphia.

One commenter suggested setting aside a portion of the anchorage for the exclusive use of oil tankers to ensure the existence of safe conditions for tanker lightering. The Coast Guard does not perceive the need for segregation of various operations in the anchorage at this time. However, should a need for vessel operation segregation arise in the future on either a one-time or recurring basis, the Captain of the Port of Philadelphia may require segregation by utilizing the vessel management authority afforded him by this rule.

The State of Delaware expressed concern over several environmental aspects of this rule. One specific concern involved the increased possibility of spills of coal, oil, or other cargoes given the increased possibility of ships colliding due to a higher volume of ship traffic. Delaware also noted that various coal transfer methods pose differing potentials for water pollution involving acids, coal dust, heavy metals and other pollutants. The Coast Guard has conducted an Environmental Assessment and issued a Finding of No Significant Impact to address these concerns. After considering all available technical and environmental data, the Coast Guard has determined that this rule would not significantly impact upon the environment of the Delaware Bay and coastal areas.

The State of Delaware also commented that the U.S. Coast Guard may not possess sufficient manpower and equipment to effectively handle significantly increased traffic in the Big Stone Anchorage area brought about by this action. The Coast Guard does not agree with this comment. Big Stone Anchorage is regularly patrolled by vessels and aircraft from Coast Guard units in Gloucester City, NJ and Cape May, NJ. Both of these units have the resources to increase the frequency of these patrols if such action is made necessary by the implementation of this rule. The Coast Guard is prepared to handle pollution incidents of all types in this section of the Delaware Bay utilizing the response plan set forth in the Captain of the Port, Philadelphia, Subregional Area Oil and Hazardous Substance Pollution Contingency Plan.

A number of comments were received following the close of the public comment period. These comments were considered, but the issues that they addressed had been raised by comments received during the commenting period. The late comments are included in the public docket and are available for inspection.

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Economic Assessment and Certification

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be so minimal that a regulatory evaluation is not required. Based on this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by revising 33 CFR 110.157(a)(1) to read as follows:

PART 110—ANCHORAGE REGULATIONS

§ 110.157 Delaware Bay and River

(a) *The anchorage grounds.*—(1) *Anchorage A off the entrance to the Mispillion River.* In Delaware Bay southwest of Brandywine Channel beginning at latitude 38°53'57" N., longitude 75°08'00" W., thence northwesterly to latitude 39°01'22" N., longitude 75°13'25" W., thence southwesterly to latitude 39°00'49" N., longitude 75°14'57" W., thence southeasterly to latitude 38°53'22" N., longitude 75°09'26" W., thence northeasterly to the point of beginning. Supervision over the anchoring of vessels and over all cargo transfer operations in Anchorage A is exercised by the Captain of the Port, Philadelphia. The regulations of paragraph (b)(1) and (b)(2) of this section do not apply to this anchorage.

* * * * *

(Sec. 7, 38 Stat. 1053 as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1) 49 CFR 1.46(c)(1))

Dated: May 13, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-14217 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[Third Coast Guard District Reg. CCGD3-83-14]

Safety Zone Regulations; New Jersey, New York Harbor, Newark Bay

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters of the Newark Bay Southern Reach. The zone is needed to protect vessels from a safety hazard associated with the demolition of the CNJ Newark Bay Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective on May 6, 1983. It terminates upon completion of the current demolition work being done on the CNJ Bridge.

FOR FURTHER INFORMATION CONTACT: Captain J. L. McDonald, Captain of the Port, New York (212)–668–7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafters of this regulation are Lieutenant Junior Grade G. M. Jacobson, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the potential hazards to navigation resulting from the demolition operations on the CNJ Newark Bay Bridge.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.T–03–354 to read as follows:

§ 165.T–03–354 Safety Zone: New Jersey, New York Harbor, Newark Bay.

(a) *Location.* The following area is a safety zone: The waters of Newark Bay, Southern Reach within a boundary extending from Newark Bay Lighted Channel Buoy 3A (LLNR 1828.50), thence north on a course of 054 degrees True approximately 270 yards to the southeastern corner on the center island of the CNJ Bridge; thence northwest, from the northeast corner on the center island of the CNJ Newark Bay Bridge on a course of 340 degrees True approximately 175 yards to longitude 74 degrees 08 minutes 47 seconds west, latitude 40 degrees 39 minutes 22.1 seconds north; thence south to the starting point is established as a Safety Zone from May 6, 1983 until completion of the current demolition work being done on the CNJ Bridge.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: May 6, 1983.

J. L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 83-14215 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Los Angeles-Long Beach Reg. 83-04]

Safety Zone Regulations; San Pedro Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around oil Island Esther. The zone is needed to protect vessels from a safety hazard associated with debris in and under the water from Island Esther. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective on 11 March 1983 and remains in effect until further notice.

FOR FURTHER INFORMATION CONTACT: ICDR Dean HARDER, Coast Guard Marine Safety Office, Los Angeles/Long Beach, (213) 590–2315.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication.

Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to vessels transiting the area.

Drafting Information

The drafters of this regulation are LCDR D. L. HARDER, project officer for the captain of the port, and LT C. M. McNALLY, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation resulted from the destruction of oil island Esther, and related navigational aids on the Island by recent storms.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T1128 to read as follows:

§ 165.T1128 Safety Zone: San Pedro Bay, California.

(a) *Location.* The waters bounded by the following coordinates are a safety zone: 33°43'15" N., 118°06'52" W.; 33°43'15" N., 118°06'39" W.; 33°43'03" N., 118°06'39" W.; 33°43'03" N., 118°06'52" W.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the captain of the port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: April 7, 1983.

J. H. Guest,

Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 83-14214 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6390

[ES 30968]

Minnesota; Partial Revocation of Executive Order No. 5003

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order insofar as it affects 20,471.67 acres of public land withdrawn as a watershed management area. This action will restore these lands to surface entry and mineral leasing. The lands remain closed to mining.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: Barry E. Crowell, Eastern States Office, 703–235–2846.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5003 of December 3, 1928, which withdrew the following described public lands for use in connection with the Rainy Lake Watershed is hereby revoked as to the following described lands:

Fourth Principal Meridian

T. 69 N., R. 22 W.
T. 70 N., Rs. 22, 23, 24, 25, 26, 27 W.
T. 71 N., Rs. 22, 23, 24 W.

Fifth Principal Meridian

T. 158 N., R. 25 W.
T. 159 N., Rs. 25, 26 W.
T. 160 N., Rs. 25, 26, 27, 28, 29, 30, 31 W.
T. 161 N., Rs. 31, 32 W.
T. 162 N., R. 32 W.

Less and excepting the following described land which shall remain subject to the terms of the withdrawal and under the administrative jurisdiction of the Corps of Engineers:

Fifth Principal Meridian

T. 162 N., R. 32 W.
Sec. 16, lot 3 (5.85 acres).

The lands aggregate approximately 20,471.67 acres in Koochiching and Lake of the Woods Counties.

2. At 8:00 a.m. on June 24, 1983, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 8:00 a.m. on June 24, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to applications and offers under the mineral leasing laws at 8:00 a.m. on June 24, 1983. The lands remain closed to mining.

Inquiries concerning the lands should be addressed to the Deputy State Director for Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

Dated: May 19, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-14112 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 83

[Docket No. 21349; FCC 83-196]

Amendment To Implement Changes in Frequencies, Operating Procedures, and Other Criteria Relating To Radiotelephony in the Band 4000 to 23000 kHz in the Maritime Mobile Services Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action implements a frequency allotment plan for HF maritime radiotelephone utilization. Essentially, a temporary assignment plan which has been in effect since 1978, is made permanent. This action results from changes adopted at the World Maritime Administrative Radio Conference, Geneva, 1974. These amendments will bring the rules into conformance with international frequency allotments.

EFFECTIVE DATE: June 17, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas Bagnato, Private Radio Bureau (202) 632–7175.

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telephone.

47 CFR Part 83

Ship stations, Radio, Telephone.

Report and Order (Proceeding Terminated)

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 23000 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Docket No. 21349.

Adopted: April 27, 1983.
Released: May 11, 1983.

By the Commission. Commissioner Jones absent.

1. In this Report and Order we are adopting the frequency assignment plan

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which had been proposed for high seas ship and coast radiotelephony stations. We are also treating applications for new high seas coast radiotelephony services filed during the pendency of this proceeding. Further, two petitions for reconsideration filed in Docket Nos. 20449 and 20906 are in effect mooted by the actions taken herein and, therefore, are being dismissed.

Background

Frequency Assignment Plan

2. The World Maritime Administrative Radio Conference, Geneva, 1974, (WARC) amended the high frequency (HF) spectrum plan allotting frequencies for ship-shore radiotelephony in the international Radio Regulations. Although the total number of channels was increased from 137 to 176 worldwide, the number of nations sharing the channels was also increased in the revised allotment plan which went into effect in January 1978. The United States notified the International Frequency Registration Board of the use by coast stations of all frequencies it is allotted. (The frequency allotment for the United States is divided between Government and non-Government stations.)

3. Subsequent to the WARC's revised allotment plan, the Commission issued a Notice of Inquiry [1] in this proceeding seeking comments concerning the assignment of the HF radiotelephone frequencies to non-Government ship and coast stations. After reviewing the comments, a Temporary Frequency Assignment Plan was adopted [2] which essentially provided a one-for-one replacement of the frequencies previously utilized by coast stations. In some cases where additional frequencies were available, coast stations which had been required to share frequencies with other U.S. coast stations, were assigned frequencies without such U.S. sharing arrangements. The Temporary Plan was designed to meet the WARC implementation date while providing time to investigate potential problem areas.

4. After implementation of the Temporary Plan, the Commission requested the existing licensees of HF radiotelephony coast stations to provide utilization data for all assigned frequencies.[3] Upon preliminary review of the utilization data submitted and noting the lack of complaints from the user community, the Commission proposed to finalize the Temporary Plan in the Notice of Proposed Rule Making (NPRM)[4] with minor modifications. Additionally, reorganization and clarification of several rule sections were proposed.

New Station Applications

5. Additionally, the Commission has four pending applications seeking new HF radiotelephone frequency assignments:

(a) RadioCall Corporation (RadioCall), the licensee of VHF public coast stations KGW423, Honolulu, and KLU758 Wailuku, Hawaii, seeks authority (File No. 237–M–L–31) to provide high seas radiotelephone service on four frequencies previously assigned to Honolulu station KQM which closed in 1978.

(b) Gulf Coast Communications Corporation (Gulf Coast), Palmetto, Florida, the licensee of public coast station KUZ383 providing local area service in the 156–162 MHz (VHF) band, requests (File No. 81–M–L–93) assignment of a frequency in the 4 MHz band to serve the Gulf of Mexico and the Caribbean Sea.

(c) Global Communications, Inc. (Global), St. Thomas, U.S. Virgin Islands, a licensee of public coast station WAH requests authority (File No. 8–M–ML–110) to modify its license to provide high seas radiotelephone service in the Caribbean area on twelve specified frequencies.

(d) WJG Telephone Company, Inc. (WJG), Memphis, Tennessee, the licensee of a number of public coast stations providing local (VHF) and regional (MF) service on the Mississippi River System, requests authority (File No. 276–M–ML–22) to provide high seas radiotelephony service on HF frequencies.

The NPRM noted that applications were pending from Gulf Coast, Global and General Telephone Company. The General Telephone Company's application has been withdrawn. WJG filed its application after the NPRM was issued. RadioCall's application preceded the NPRM but was inadvertently omitted from that document. Thus, the four applications described above are currently pending before the Commission.

Comments

6. Comments in this proceeding were filed by the following:

—AMCOM, Inc. (AMCOM);
—American Telephone and Telegraph Company (AT&T);
—Mobile Marine Radio, Inc. (MMR);
—WCM Radio Pittsburgh, Inc. (WCM); and
—WJG Telephone Company, Inc. (WJG).

Reply comments were received from AMCOM, AT&T, Global Communications, Inc. (Global), MMR, and WJG.

Frequency Assignment Plan

7. All the commenters generally supported the finalization of the Temporary Assignment Plan. AT&T requested a minor modification in the assignment of frequencies among its three stations. Additionally, all the commenters argued that additional frequency assignments were required to alleviate interference problems experienced from the co-channel operations of foreign stations, and/or to provide frequencies for new entries in this service.[5] In essence, they suggest that the Commission seek additional frequencies from existing Government assignments and allocate International Fixed Public Radio Service (IFPRS) frequencies to the Maritime Mobile Service on a secondary basis.

8. In view of the successful performance of the Temporary Assignment Plan and the support of the commenters, we conclude that at this time the plan should be implemented substantially as proposed. Minor modifications are being made, however, to accommodate suggestions and clarifications as well as to provide for assignments to certain stations as a result of the actions taken on pending applications specified below.

New Station Applications

RadioCall

9. RadioCall applied for four frequencies to provide high seas service in the Hawaiian Islands. This service was previously provided by public coast station KQM which has discontinued service. No opposition was received concerning RadioCall's application. Further, it appears no interference will result from the assignment of these frequencies as requested. Accordingly, we conclude that it is in the public interest to grant RadioCall's application.

Gulf Coast

10. Gulf Coast applied for assignment of a 4 MHz frequency to augment the primarily local service it provides in the Tampa, Florida area. However, the Commission found Gulf Coast unqualified to remain a licensee and denied its applications for license renewal and an additional channel in a separate proceeding.[6] Gulf Coast has filed an appeal of this decision in the U.S. Court of Appeals for the District of Columbia.[7] We will hold Gulf Coast's application for a 4 MHz frequency assignment pending action on its appeal by the Court.

Global

11. Although Global initially requested assignment of twelve specified HF frequencies, it withdrew its request for seven of these frequencies as a result of petitions to deny filed by AT&T and MMR. Essentially, these seven frequencies would cause unacceptable interference with AT&T's public coast station located at Miami, Florida, and MMR's public coast station located at Mobile, Alabama. AT&T also opposes Global operating on three of the remaining five HF frequencies for which it continues to seek authorization. AT&T argues that under certain conditions Global's use of 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz would cause harmful interference to its public coast station location at San Francisco, California. Global, however, states that given the distance between its station in the Virgin Islands and AT&T's San Francisco station, as well as the time zone difference, no insurmountable barrier to sharing these three frequencies exists. Global indicates it is confident that technical and operating protocols can prevent interference and, therefore, requests assignment of the subject frequencies on a secondary basis.

12. We find that it is in the public interest to grant Global's application for modification of its station license (WAH, St. Thomas, U.S. Virgin Islands) to add the frequencies 6515.7 kHz and 6518.6 kHz, and on a secondary basis to station KMI (San Francisco, California) to add the frequencies 17236.0 kHz, 17239.1 kHz, and 22664.2 kHz. Global's utilization of the two 6 MHz frequencies is unlikely to cause harmful interference with the stations assigned these frequencies which are located on the island waterways. Also no opposition to such an assignment was received. Further, it appears that Global can reasonably share the use of the three remaining frequencies with station KMI. The assignment of these frequencies to Global on a secondary basis minimizes any potential interference.

WJG

13. After the NPRM was issued in this proceeding, WJG filed an application to provide high seas telephony service from its Memphis, Tennessee facilities. WJG simply requested that it be assigned a full complement of HF duplex frequencies in the 4, 6, 8, 12 and 16 MHz bands. At a minimum it requested that three duplex channels (Channels 803, 1202, and 1620) be assigned. One of the pair of frequencies forming each channel was assigned to WJG for simplex use on the inland waters.[8]

14. AMCOM, AT&T, MMR, and WCM all opposed WJG's application. In regard to WJG's request for a full complement of HF frequencies, the commenters argued that such a general request could only be satisfied by the availability of additional frequencies (e.g., from current Government assignments). It is pointed out that WJG itself at paragraph 3 of its comments recognizes that frequency availability is an impediment to its application. MMR states that WJG's mere generalized request for additional frequency assignments is clearly insufficient to justify reassigning frequencies from other stations to WJG.

15. Concerning WJG's specific request for assignment of Channels 803, 1202 and 1620, WCM and AMCOM object because they share assignments with WJG on frequncies which form one-half of the subject channels. MMR argues that WJG's inland location would result in an undue degradation of service in these bands and, further, questions whether WJG has a serious intent to provide such high seas service in light of its apparent proposal to utilize the same equipment employed to provide service on the inland waterways.

16. We are dismissing pursuant to § 81.27 of the rules, WJG's application for modification of its station authorization to provide high seas telephony service. As WJG itself tacitly recognizes, and as the comments argue vociferously, at this time frequency availability precludes the assignment of a full complement of frequencies in the 4, 6, 8, 12 and 16 MHz bands to WJG. Additionally, WJG fails to identify which specific frequences it seeks assignment in each megahertz order. Further, it appears that assignment of Channels 803, 1202 and 1602 would cause harmful interference to other stations providing service on the inland waterways. In fact, considering WJG's stated heavy use of its HF simplex frequencies (which form part of these Channels) it appears that proposed duplex operations would interfere with its own service on the inland waterways.

Future Action

17. Although we are adopting the Temporary Plan, we recognize that by assigning all of the available frequencies to existing stations, new entry into this service will be extremely limited. Therefore, we are exploring or intend to explore a number of potential solutions to this problem. First, we will investigate the possibility of the sharing of some existing Government frequency allotments by non-Government users. Second, implementation of the Final Acts of the 1979 World Administrative Radio Conference may offer some spectrum relief by making available new assignments for marine HF telephony in the 4 and 8 MHz bands.[9] We are also exploring with the National Telecommunications and Information Administration (NTIA) the possibility of obtaining additional frequency assignments through applications filed in the Experimental Service.[10] If these operations prove feasible, explansion of assignments in the Maritime Service may be possible.

18. Finally, our analysis of frequency utilization data supplied by licensees during the course of this proceeding indicates that more efficient utilization of these frequencies may be possible. The data does not dissuade us from the conclusion that the temporary frequency assignment plan should be made permanent. In this respect we agree with the commenters. But it is sufficient to convince us to explore, in a future proceeding, methods of improving the utilization of HF frequency assignments. We intend to investigate the possibility of establishing loading criteria for this

[1] FCC 77–810, released August 5, 1977, 42 FR 40224.

[2] Order, Docket No. 21349, FCC 77–785, released November 10, 1977, 42 FR 60145.

[3] The requests for utilization data were made by letters dated March 27, 1980, and July 8, 1980.

[4] Docket No. 21349, FCC 81–547, released December 11, 1981, 46 FR 42113.

[5] The Commission stated in the Report and Order in PR Docket No. 80–583, FCC 81–551, released December 10, 1981, 46 FR 60457, that it recognized the shortage of frequencies in the high seas radiotelephony service. Further, in the Final Protocol to both the World Maritime Administrative Radio Conference, Geneva, 1974 (at XII) and the World Administrative Radio Conference, Geneva, 1979 (at No. 38) the United States noted the inadequacy of the HF allotment plan for coast radiotelephone stations and reserved the right to make other assignments.

[6] See *Gulf Coast Communications, Inc.*, PR Docket Nos. 78–259 (File No. 40–M–RL–28) and 78–280 (File No. 179–M–ML–54), 81 FCC 2d 499 (Rev. Bd. 1980), *recon. denied*, FCC 81R–11, released February 4, 1981, *review denied*, FCC 82–128, released April 16, 1982, *Pet. for recon. dismissed*, FCC 82I–53, released June 7, 1982.

[7] *Gulf Coast Communications Inc. v. FCC*, D.C. Cir. No. 82–1760.

[8] Although WJG did not submit utilization reports as requested (WJG states that it did not receive the two letter requests), it did state that it used its existing HF simplex assignments for over eight hours per day on average, for communications with vessels.

[9] See, *Notice of Proposed Rule Making*, General Docket No. 80–739, FCC 82–508, released December 30, 1982, 48 FR 3790.

[10] MMR, AT&T, and Global have filed applications for experimental (research) authority for such cross-band operations.

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service.[11] Frequencies that remain underutilized could become subject to reassignment or sharing. Additionally, we wish to look toward added flexibility in the types of service which can be provided on maritime frequencies (for example, data and facsimile) without increasing interference potential. Further, the traditional dichotomy between stations providing voice and record services may no longer be valid.[12] Thus, it may be advantageous to consider, in this subsequent proceeding, permitting International Record Carriers (IRC's) to provide voice services and allow AT&T to provide non-voice communications services.

Summary of Action

19. In summary, we are: (1) Amending the rules to adopt the proposed Assignment Plan with minor modifications and clarifications, (2) granting RadioCall's application to provide high seas service in the Hawaiian Islands, (3) retaining Gulf Coast's application for a 4 MHz frequency on file pending action by the U.S. Court of Appeals on its appeal, (4) granting Global's application for five HF frequencies to provide HF radiotelephony service in the U.S. Virgin Islands, and (5) dismissing WJG's application to provide HF high seas radiotelephony service at Memphis, Tennessee.

20. Additionally, we are dismissing as moot petitions for reconsideration filed by AT&T in Docket Nos. 20449 and 20906. These petitions relate to HF radiotelephony assignments to MMR which predate the Temporary Assignment Plan. The finalization of the Plan in this proceeding supersedes the issues raised by AT&T. Therefore, the petitions are moot.

21. The rule amendments proposed in this proceeding essentially implement changes adopted by the World Maritime Administrative Radio Conference, Geneva, 1974. In effect, the rules maintain the *status quo* among high seas radiotelephone coast stations, ship stations and stations on the inland waterways operating on HF frequencies. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not aply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

22. Regarding questions on matters covered in this document contact Nicholas G. Bagnato or Robert H. McNamara (202) 632–7175.

23. Accordingly, *it is ordered*, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules *are amended* as set forth in the attached Appendix, effective June 17, 1983.

24. *It is further ordered*, That the application of RadioCall Corporation, File No. 237–M–L–31, for authority to operate a high seas public coast radiotelephony station located in Honolulu, Hawaii, *is granted*.

25. *It is further ordered*, That the application of Global Communications, Inc., File No. 8–M–ML–110, as amended to modify its authority to operate public coast station WAH to include high seas radiotelephony service on the frequencies 6515.7 kHz and 6518.8 kHz, and, on a secondary non-interference basis to station KMI, 17236.0 kHz 17239.1 kHz and 22664.2, *is granted*.

26. *It is further ordered*, That the application of WJG Telephone Company, Inc. (File No. 276–M–ML–22) to modify its authorization to operate public coast station WJG, *is dismissed*.

27. *It is further ordered*, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20449 *is dismissed* as moot.

28. *It is further ordered*, That the Petition For Reconsideration filed by American Telephone and Telegraph Company in Docket No. 20906 *is dismissed* as moot.

29. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.134, paragraph (c)(1) is revised as follows:

§ 81.134 Transmitter power.

* * * * * *

(c) * * *

(1) For carrier frequencies other than 2638 kHz and those frequencies listed in § 81.361(a):

Frequency band (kHz)	Class of emission	Power (peak envelope power)
2000 to 4000	A3A, A3H,[2] A3J [1]	800 watts by day. 400 watts by night. 10 kilowatts.
4000 to 27,500	A3A, A3J	

[1] When using 2182 kHz for purposes other than distress calls and distress traffic, and urgency and safety signals and messages, the carrier power of limited coast stations shall not exceed 50 watts for A3J emission.
[2] Use of A3H on 2182 kHz is limited for communications with foreign ships.

* * * * * *

2. In § 81.186, paragraph (d) is revised as follows:

§ 81.186 Hours of service of stations on land.

* * * * * *

(d) Unless otherwise specified for particular stations, the hours of service of each public regional coast station or public local service (VHF) coast station shall, within the scope of its normal operation, be such as to meet the requirements of the particular region served by the station.

* * * * * *

§ 81.304 [Amended]

3. In § 81.304 the table in paragraph (a) is revised, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed.

(a) * * *

Carrier frequency	Conditions of use	
	Section	Limitations
Kilohertz		
1619	81.307	7, 14, 16
1622	81.307	7, 14, 16
1643	81.308	7, 14.
1646	81.308	7, 14.
1649	81.308	7, 14.
1652	81.308	7, 14.
1705	81.308	7, 14.
1708	81.308	7, 14
1709	81.308	7, 14.
1712	81.308	7, 14.
2003	81.308	7, 14.
2006	81.308	7, 14.
2086	81.307(a)	8.
2115	81.308	7, 14.
2118	81.308	7, 14.
2182	81.191, 81.305	1, 14, 15
2309	81.308	7, 14.
2312	81.308	7, 14.
2379	81.307	7, 14.
2382	81.307	7, 14, 16
2397	81.308	7, 14.
2400	81.309(b)	7, 14
2400	81.308	
2419	81.308	7, 14.
2422	81.308	7, 14.
2427	81.308	7, 14
2430	81.308	7, 14.
2443	81.306(b)	
2447	81.308	7, 14.
2450	81.308	7, 14.
2450	81.306(b)	
2466	81.306(b)	
2478	81.308	7, 14
2482	81.308	7, 14.
2482	81.306(b)	

[11] For example, loading criteria has been used in other radio services for assignment of additonal frequencies. See Docket No. 20870, 84 FCC 2d 857 (1981).

[12] cf. *Overseas Communications Services*, CC Docket No. 80–032, adopted December 8, 1982, FCC 82–547, 48 FR 797.

Carrier frequency	Conditions of use	
	Section	Limitations
Kilohertz		
2490	81.306(b)	
2506	81.308	7, 14.
2506	81.306(b)	
2509	81.308	7, 14.
2512	81.308	7, 14.
2514	81.306(b)	2.
2522	81.306(b)	
2530	81.306(b)	
2535	81.308	7, 14.
2538	81.308	
2538	81.306(b)	
2550	81.306(b)	2.
2558	81.306(b)	
2563	81.308	7, 14.
2566	81.308	7, 14.
2566	81.306(b)	
2572	81.306(b)	
2582	81.306(b)	2.
2585	81.306(b)	8.
2590	81.306(b)	
2598	81.306(b)	
2616	81.308	7, 14, 17
2638		5.
2782	81.307	
3258	81.308	7, 14, 17
3261	81.308	7, 14.
4063	81.307	
4087.8	81.307	
4115.7	81.307	
4357.4	81.306	
4363.6	81.306	
4366.7	81.306, 81.308	
4369.8	81.306, 81.308	
4382.2	81.306	
4383.8	81.309	
4385.3	81.305	
4388.4	81.305	
4391.5	81.306	
4397.7	81.306, 81.308	
4403.9	81.306	
4407	81.306	
4410.1	81.306, 81.307	13.
4413.2	81.306	
4422.5	81.306, 81.308	
4425.6	81.306, 81.308	
6209.3	81.307	
6212.4	81.307	
6515.7	81.307	
6518.8	81.307	
8201.2	81.307	
8213.6	81.307	
8722	81.306	
8725.1	81.307	
8728.2	81.306	
8731.3	81.306	
8737.5	81.307	
8740.6	81.306	
8743.7	81.306	
8746.8	81.306	
8749.9	81.306	
8759.2	81.306	
8762.3	81.306	
8784	81.306	
8790.2	81.306	
8793.3	81.306	
8796.4	81.306	
8805.7	81.306	
8808.8	81.306	
8811.9	81.306	
12331.1	81.307	
13100.8	81.306	
13103.9	81.306, 81.307	
13107	81.306	
13116.3	81.306	
13122.5	81.306	
13125.6	81.306	
13128.7	81.306	
13131.8	81.306	
13134.9	81.306	
13144.2	81.306	
13165.9	81.306	
13169	81.306	
13175.2	81.306	
13178.3	81.306	
13184.5	81.306	
13187.6	81.306	
13190.7	81.306	
16518.9	81.307	
17232.9	81.306	
17236	81.306	
17239.1	81.306	
17245.3	81.306	
17251.5	81.306	
17257.7	81.306	
17260.8	81.306	
17263.9	81.306	
17279.4	81.306	
17291.8	81.306, 81.307	
17304.2	81.306	
17310.4	81.306	
17325.9	81.306	
17329	81.306	
17356.9	81.306	
22596	81.306	
22608.4	81.306	
22623.9	81.306	
22636.3	81.306	
22639.4	81.306	
22642.5	81.306	
22661.1	81.306	
22664.2	81.306	
22676.6	81.306	
22679.7	81.306	
22689	81.306	
22704.5	81.306	
22707.6	81.306	
Megahertz		
156.750	81.304	12.
156.800	81.304	11.
156.850	81.185	4.
161.800	81.304	3, 9, 10.
161.825	81.304	3, 9, 10, 19.
161.850	81.304	3, 9, 10.
161.875	81.304	3, 9, 10, 19
161.900	81.304	3, 9.
161.925	81.304	3, 9, 19.
161.950	81.304	3, 9.
161.975	81.304	3, 9, 19.
162.000	81.304	3, 9.
162.025	81.304	9, 18.

(b) Authorization and use of carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
2	2
6	3
7	4
8	5
9	6
11	7
21	8
22	9
24	10
25	11
26	12
27	13
29	14
44	15
50	16
52	17
62	18
63	19

* * * * * *

Sections 81.304(b)(3), (4), (5), (10, (12), (13), (14), (15), (16), (17), (18), (19), (20), (23), (28), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (45), (46), (47), (48), (49), (51), (53), (54), (55), (56), (57), (58), (59), (60), and (61) are removed.

4. In § 81.305 paragraph (a) is revised to read as follows:

§ 81.305 Frequencies for calling and distress.

(a) In the band 1605–4000 kHz, the frequency 2182 kHz is the international radiotelephone distress, safety and calling frequency and shall be assigned to all public coast stations operating on frequencies in the band 1605–4000 kHz. In the band 156–162 MHz, the frequency 156.800 MHz is the international distress, safety and calling frequency and shall be assigned to all public coast stations operating in the band 156–162 MHz. 2182 kHz and 156.8 MHz may be used by public coast stations solely for the transmission of:

* * * * * *

5. Section 81.306 is revised to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) Frequencies between 4000 and 23000 kHz available for assignment to public coast stations:

Coast station location	Channel designation	Coast station carrier freqency kilohertz	
		Transmit	Receive
San Francisco, CA	401	4357.4	4063.0
	416	4403.9	4109.5
	417	4407.0	4112.6
	804	8726.2	8204.3
	809	8743.7	8219.8
	814	8759.2	8235.3
	822	8784.0	8260.1
	1201	13,100.8	12,330.0
	1202	13,103.9	12,333.1
	1203	13,107.0	12,336.2
	1229	13,187.6	12,416.8
	1230	13,190.7	12,419.9
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	1616	17,279.4	16,506.5
	1624	17,304.2	16,531.3
	2214	22,636.3	22,040.3
	2223	22,664.2	22,068.2
	2228	22,679.7	22,083.7
	2236	22,704.5	22,108.5
New York, NY	410	4385.3	4090.9
	411	4388.4	4094.0
	416	4403.9	4109.5
	422	4422.5	4128.1
	808	8740.6	8216.7
	811	8749.9	8226.0
	815	8762.3	8238.4
	826	8796.4	8272.5
	1203	13,107.0	12,336.2
	1210	13,128.7	12,357.9
	1211	13,131.8	12,361.0
	1228	13,184.5	12,413.7
	1230	13,190.7	12,419.9
	1605	17,245.3	16,472.4
	1620	17,291.8	16,518.9
	1626	17,310.4	16,537.5
	1631	17,325.9	16,553.0
	2201	22,596.0	22,000.0
	2205	22,608.4	22,012.4
	2210	22,623.6	22,027.9
	2236	22,704.5	22,108.5
Miami, FL	403	4363.6	4069.2
	412	4391.5	4097.1
	417	4407.0	4112.6
	423	4425.6	4131.2
	802	8722.0	8198.1
	805	8731.3	8207.4
	810	8746.8	8222.9
	814	8759.2	8235.2
	825	8793.3	8269.4
	831	8811.9	8288.0
	1206	13,116.3	12,345.5
	1208	13,122.5	12,351.7
	1209	13,125.6	12,354.8

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Coast station location	Channel designation	Coast station carrier frequency kilohertz	
		Transmit	Receive
	1215	13,144.2	12,373.4
	1223	13,169.0	12,398.2
	1230	13,190.7	12,419.9
	1601	17,232.9	16,460.0
	1609	17,257.7	16,484.8
	1610	17,260.8	16,487.9
	1611	17,263.9	16,491.0
	1616	17,279.4	16,506.5
	2215	22,639.4	22,043.4
	2216	22,642.5	22,046.5
	2222	22,661.1	22,065.1
Mobile, AL	405	4369.8	4075.4
	414	4397.7	4103.3
	419	4413.2	4118.8
	824	8790.2	8286.3
	829	8805.7	8281.8
	830	8808.8	8284.9
	1212	13,134.9	12,364.1
	1225	13,175.2	12,404.4
	1226	13,178.3	12,407.5
	1607	17,251.5	16,478.6
	1632	17,329.0	16,556.1
	1641	17,356.9	16,584.0
	2227	22,676.6	22,080.6
	2231	22,689.0	22,093.0
	2237	22,707.6	22,111.6
Honolulu, HI	418	4410.1	4115.7
	808	8740.6	8216.7
	1222	13,165.9	12,359.1
	1601	17,232.9	16,460.0
St. Thomas, VI [1]	604	6515.7	6209.3
	605	6518.8	6212.4
	1602	17,236.0	16,463.1
	1603	17,239.1	16,466.2
	2223	22,664.2	22,068.2
Delcambre, LA	404	4366.7	4072.3
Rogers City, MI [2]	405	4369.8	4075.4
Lorain, OH	409	4382.2	4087.8
Buffalo, NY	418	4410.1	4115.7
Buffalo, NY	826	8796.4	8272.5
Lorain, OH	826	8796.4	8272.5

[1] Provisional assignment of frequencies pending allotment to Virgin Islands in Article 16 proceeding.
[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

(b) Frequencies between 1605 and 4000 kHz available for assignment to public coast stations:

Coast station located in the vicinity of	Coast station carrier frequency (kilohertz)		Conditions of use
	Transmit	Receive	
Agana, Guam	2506	2009	
Boston, MA	2450	2366	
	2506	2406	
	2566	2390	2
New York, NY	2482	2382	
	2522	2126	
	2558	2166	
	2590	2198	
Wilmington, DL	2558	2166	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2450	2366	2
	2538	2142	
Charleston, SC-Jacksonville, FL	2566	2390	
Miami, FL	2442	2406	2
	2490	2031.5	
	2514	2118	3
Tampa, FL	2466	2009	
	2550	2158	3
Mobile, AL	2572	2430	
New Orleans, LA	2482	2382	
	2558	2166	
	2598	2206	2
Delcambre, LA	2506	2458	2.
Galveston, TX	2450	2366	2 4
	2530	2134	
Corpus Christi, TX	2538	2142	5
Ponce, PR	2585	2086	
San Juan, PR	2530	2134	
Buffalo, NY-Rogers City, MI	2514	2118	8
	2550	2158	8
	2582	2206	8
Los Angeles-San Diego, CA	2466	2362	1, 6, 7 a.m. to 7 p.m., P.s.t. only.
	2522	2126	
	2586	2009	7 a.m. to 7 p.m., P.s.t. only.
	2598	2206	
San Francisco-Eureka, CA	2450	2003	
	2506	2406	
Astoria, OR	2442	2009	2.
Astoria-Portland, OR	2598	2206	
Coos Bay, OR	2566	2031.5	7 a.m. to 7 p.m., P.s.t. only.
Seattle, WA	2522	2126	
	2482	2430	7.
Kahuku, HI	2530	2134	
St. Thomas Island, VI	2506	2009	

(1) Available on the condition that harmful interference is not caused to any ship station operating within 300 nautical miles of New Orleans, LA and is transmitting to a coast station in that port.

(2) Day only.

(3) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.

(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Massachusetts, or San Francisco-Eureka, California.

(5) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Norfolk-Quantico, Virginia.

(6) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Florida.

(7) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m. P.s.t., only.

(8) The frequencies 2514, 2550 and 2582 kHz are authorized for use in the Great Lakes area on a shared basis with stations of Canada. Except in the case of distress, the frequency 2550 kHz shall not be used for transmission to ship stations of Canada since the associated ship station transmit frequency 2158 kHz is not available to Canada ship stations for transmission and 2582 kHz shall not be used for transmission to U.S. ship stations since the associated ship transmit frequency 2206 kHz is not available to U.S. ship stations for transmission.

6. Section 81.307 is amended by revising the heading and text to read as follows:

§ 81.307 Frequencies below 27.5 MHz available for assignment on the Mississippi River System.[1]

(a) The following frequencies are available for assignment to coast stations located on the inland waterways for use on a simplex basis, as indicated below:

Coast station location	Carrier frequency (kilohertz)
Jeffersonville, IN-Louisville, KY	[1] 2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1] 2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12,333.1
	16,518.9
Cincinnati, OH	[1] 2086.0
	2782.0
	4083.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1] 2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP)

7. Section 81.308 is revised as follows:

§ 81.308 Frequencies available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by common carrier public coast stations in Alaska for communication with ship stations.

Coast station location	Carrier frequency (kilohertz) [1]	
	Transmit	Receive
Cold Bay	2312	2134
Cordova	2397	2237
Juneau	2400	2240
Ketchikan	2397	2237
Kodiak	2399	2131
Nome	2400	2240
Sitka	2312	2134

[1] Subject to the limitations in § 81.304

[1] Mississippi River System means the Mississippi River and connecting waters other than the Great Lakes.

(b) The carrier frequencies set forth in the following table are authorized for use by public coast stations, other than common carrier, in Alaska as indicated below. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

Alaska zone	Carrier frequency (kilohertz) [1]	Conditions of use	
		Section	Limitations
	Kilohertz		
All	1619	83.370	
	1622	83.370	
	1643	83.370	
	1646	83.370	
	1649	83.370	
	1652	83.370	
	1705	83.370	
	1708	83.370	
	1709	83.370	
	1712	83.370	
	2003	83.368, 83.355	
	2003	83.370	
	2003	83.358	19
	2006	83.370	38.
	2009	83.355	
	2031.5	83.355	
	2065.0	83.362	10, 11.
	2079.0	83.362	10, 11.
	2082.5	83.358, 83.362	11, 12
	2086.8	83.355, 83.356	2, 11, 12
	2093.0	83.362	11, 13
1	2096.5	83.360	11.
	2115	83.370	
	2118	83.355	
	2118	83.370	
	2125	83.355	
	2131	83.370	17
	2134	83.355	
	2134	83.370	17
	2142	83.355	
	2142	83.358	4, 19.
	2158	83.355	
	2166	83.355	
	2182	83.106, 83.352, 83.353	1, 21
	2198	83.355	
	2203	83.358	11, 14, 19
	2206	83.355	
2	2214	83.362	
	2237	83.370	17
	2240	83.370	17
	2366	83.355	
	2379	83.370	
	2382	83.355	
	2382	83.370	
	2390	83.355	
	2400	83.355	
	2406	83.355	
	2419	83.370	
	2422	83.370	
	2427	83.370	
	2430	83.355	
	2430	83.370	37.
	2447	83.370	
	2450	83.370	
3	2458	83.355	37
	2479	83.370	
	2482	83.370	
	2506	83.370	42.
	2509	83.370	
	2512	83.370	
	2535	83.370	
	2538	83.370	39
	2563	83.370	
	2566	83.370	
	2616	83.370	38.
	2638	83.358	19.
	2670	83.358, 83.363	
	2738	83.358	19.
	2738	83.362	20.
	2782	83.356	
	2830	83.358, 83.362	19.
	3023		45.
	3258	83.370	
	3261	83.370	43.
	4063.0	83.354, 83.356	
	4069.2	83.354	
	4072.3	83.354	
	4075.4	83.354	
	4087.8	83.354, 83.356	
	4090.9	83.354	
	4094.8	83.354	
	4097.1	83.354	
	4103.3	83.354	
	4109.5	83.354	
	4112.6	83.354	
	4115.7	83.354, 83.356	41.
	4118.8	83.354	
	4125.0	83.360	9.
	4128.1	83.354	
	4131.2	83.354	
	4143.6	83.360	
	4366.7	83.370	
	4369.8	83.370	
	4383.8	83.370	16
	4403.9	83.370	
	4410.1	83.356	41
	4419.4	83.360	9.
	4422.5	83.370	
	5680		45
	6209.3	83.356	
	6212.4	83.356	
	6218.6	83.360	9.
	6221.6	83.360	9
	6515.7	83.356	
	6518.8	83.356	
	6521.9	83.360	9.
	8198.1	83.354	
	8201.2	83.356	41
	8204.3	83.354	
	8207.4	83.354	
	8213.6	83.356	41
	8216.7	83.354	
	8219.8	83.354	
	8222.9	83.354	
	8226.0	83.354	
	8235.3	83.354	
	8238.4	83.354	
	8260.1	83.354	
	8266.3	83.354	
	8269.4	83.354	
	8272.5	83.354	
	8281.8	83.354	
	8284.9	83.354	
	8288.0	83.354	
	8291.1	83.360	9.
	8294.2	83.360	9.
	8725.1	83.356	41
	8737.5	83.356	41.
	12390.0	83.354	
	12333.1	83.354, 83.356	
	12336.2	83.354	
	12345.5	83.354	
	12351.7	83.354	
	12354.8	83.354	
	12357.9	83.354	
	12361.0	83.354	
	12364.1	83.354	
	12373.4	83.355	
	12395.1	83.355	
	12398.2	83.354	
	12404.4	83.354	
	12407.5	83.354	
	12413.7	83.354	
	12416.8	83.354	
	12419.9	83.354	
	12429.2	83.360	9
	12432.3	83.360	9.
	12435.4	83.360	9.
	13103.9	83.356	2, 41
	16460.0	83.354	
	16463.1	83.354	
	16466.2	83.354	
	16472.4	83.354	1
	16478.6	83.354	
	16484.8	83.354	
	16487.9	83.354	
	16491.0	83.354	
	16506.5	83.354	
	16518.9	83.354, 83.356	41
	16531.3	83.354	
	16537.5	83.354	
	16553.0	83.354	
	16556.1	83.354	
	16584.0	83.354	
	16587.1	83.360	9.
	16590.2	83.360	9
	16593.3	83.360	9
	17291.8	83.356	2, 41.
	22000.0	83.354	
	22012.4	83.354	
	22027.9	83.354	
	22040.3	83.354	
	22043.4	83.354	
	22046.5	83.354	
	22065.1	83.354	
	22068.2	83.354	
	23080.6	83.354	
	22083.7	83.354	
	22093.8	83.354	
	22108.5	83.354	
	22111.6	83.354	
	22124.0	83.360	9

[1] Subject to the limitations in Section 81.304

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.351, the table in paragraph (a) is revised, and certain subparagraphs in paragraph (b) are redesignated and the remaining subparagraphs are removed as follows:

§ 83.351 Frequencies available.

(a) * * *

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Carriers frequency	Conditions of use	
	Section	Limitations
Kilohertz		
22127.1	83.360	9.
22130.2	83.360	9.
22133.3	83.360	9.
22136.4	83.360	9.
Mega-hertz		
121.5	83.351	6.
123.1	83.352	6.
156.050	83.359	5
156.175	83.359	5
156.250	83.359	8.
156.275	83.359	19, 20, 23
156.300	83.106, 83.350	15, 19, 22, 46
156.325	83.359	19, 20, 23
156.350	83.359	19, 20, 27
156.375	83.359	19, 27, 46, 47, 48
156.400	83.359	19, 27, 46
156.425	83.359	19, 20, 28, 32, 46
156.450	83.359	19, 20, 27, 28, 46
156.475	83.359	19, 20, 28, 32
156.500	83.359	19, 20, 27
156.525	83.359, 83.361	19, 28, 30, 46
156.550	83.359, 83.361	19, 20, 27, 35
156.575	83.359	19, 20, 28, 32
156.600	83.359, 83.361	19, 20, 23, 35
156.625	83.359	19, 28, 30, 46
156.650	83.359	19, 20, 24, 31, 36
156.675	83.359	19, 20, 23
156.700	83.359, 83.361	19, 20, 23, 35
156.725	83.359	19, 20, 23
156.750	83.359	25
156.800	83.106, 83.233, 83.359	19, 20, 21, 46
156.850	83.359	19, 20, 26, 34
156.875	83.359	19, 23, 40
156.900	83.359	19, 20, 27, 46
156.925	83.359	19, 20, 28, 32
156.950	83.359	19, 20, 27
156.975	83.359	19, 20, 27
157.000	83.359	19, 20, 23
157.025	83.359	19, 20, 27
157.100	83.359	3, 19, 20
157.200	83.359	18, 20, 29
157.225	83.359	18, 20, 29
157.250	83.359	18, 20, 29
157.275	83.359	18, 20, 29
157.300	83.359	18, 20, 29
157.325	83.359	29
157.350	83.359	18, 20, 29
157.375	83.359	18, 29
157.400	83.359	18, 20, 29
157.425	83.359	19, 27, 33, 44, 46
216-220	83.1105	7

(b) The authorization and use of the carrier frequencies in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

Old section	New section
1	1
3	2
6	3
8	4
9	5
10	6
11	7
12	8
13	9
23	10
25	11
26	12
29	13
30	14
34	15
36	16
37	17
38	18
40	19
41	20
43	21
44	22
45	23
46	24
47	25
48	26
49	27
50	28
51	29
52	30
53	31
54	32
55	33
57	34
58	35
59	36
61	37
62	38
63	39
64	40
66	41
67	42
68	43
72	44
75	45
76	46
77	47
78	48

Sections 83.351(b)(2), (4), (5), (7), (14), (15), (16), (18), (19), (20), (21), (22), (24), (27), (28), (31), (32), (33), (35), (39), (42), (56), (60), (65), (69), (70), (71), (73) and (74) are removed.

2. Section 83.354, including its heading, is revised to read as follows:

§ 83.354 Frequencies available for communication with public coast stations on frequencies between 4000 and 23000 kHz.

The following frequencies are authorized for use by ship stations for communications with high seas public coast stations.

Coast station location	Channel designation	Ship carrier frequency (kilohertz)	
		Transmit	Receive
San Francisco, CA	401	4063.0	4357.4
	416	4109.5	4403.9
	417	4112.6	4407.0
	804	8204.3	8726.2
	809	8219.8	8743.7
	814	8235.3	8759.2
	822	8260.1	8784.0
	1201	12,330.0	13,100.8
	1202	12,333.1	13,103.9
	1203	12,336.2	13,107.0
	1229	12,416.8	13,187.6
	1230	12,419.9	13,190.7
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	1616	16,506.5	17,279.4
	1624	16,531.3	17,304.2
	2214	22,040.3	22,636.3
	2223	22,068.2	22,664.2
	2228	22,083.7	22,679.7
	2236	22,108.5	22,704.5
New York, NY	410	4090.0	4385.3
	411	4094.0	4388.4
	416	4109.5	4403.9
	422	4128.1	4422.5
	808	8216.7	8740.6
	811	8226.0	8749.9
	815	8238.4	8762.3
	826	8275.5	8796.4
	1203	12,336.2	13,107.0
	1210	12,357.9	13,128.7
	1211	12,361.0	13,131.8
	1228	12,413.7	13,184.5
	1230	12,419.9	13,190.7
	1605	16,472.4	17,245.3
	1620	16,518.9	17,291.8
	1626	16,537.5	17,310.4
Coast station location	Channel designation	Ship carrier frequency (kilohertz)	
		Transmit	Receive
	1631	16,553.0	17,325.9
	2201	22,000.0	22,596.0
	2205	22,012.4	22,608.4
	2210	22,027.9	22,623.9
	2236	22,108.5	22,704.5
Miami, FL	403	4069.2	4363.6
	412	4097.1	4391.5
	417	4112.6	4407.0
	423	4131.2	4425.6
	802	8198.1	8722.0
	805	8207.4	8731.3
	810	8222.9	8746.8
	814	8235.3	8759.2
	825	8269.4	8793.3
	831	8288.0	8811.9
	1206	12,345.5	13,116.3
	1208	12,351.7	13,122.5
	1209	12,354.8	13,125.6
	1215	12,373.4	13,144.2
	1223	12,398.2	13,169.0
	1230	12,419.9	13,190.7
	1601	16,460.0	17,232.9
	1609	16,484.8	17,257.7
	1610	16,487.9	17,260.8
	1611	16,491.0	17,263.9
	1616	16,506.5	17,279.4
	2215	22,043.4	22,639.4
	2216	22,046.5	22,642.5
	2222	22,065.1	22,661.1
Mobile, AL	405	4075.4	4369.8
	414	4103.3	4397.7
	419	4118.8	4413.2
	824	8266.3	8790.2
	829	8281.8	8805.7
	830	8284.9	8808.8
	1212	12,364.1	13,134.9
	1225	12,404.4	13,175.2
	1226	12,407.5	13,178.3
	1607	16,478.6	17,251.5
	1632	16,556.1	17,329.0
	1641	16,584.0	17,356.9
	2227	22,080.6	22,676.6
	2231	22,093.0	22,689.0
	2237	22,111.6	22,707.6
Honolulu, HI	418	4115.7	4410.1
	806	8216.7	8740.6
	1222	12,359.1	13,165.9
	1601	16,460.0	17,232.9
St. Thomas, VI[1]	604	6209.3	6515.7
	605	6212.4	6518.8
	1602	16,463.1	17,236.0
	1603	16,466.2	17,239.1
	2223	22,068.2	22,664.2
Declambre, LA	404	4072.3	4366.7
Rogers City, MI[2]	405	4075.4	4369.8
Lorain, OH	409	4087.8	4382.2
Buffalo, NY	418	4115.7	4410.1
	826	8272.5	8796.4
Lorain, OH	826	8272.5	8796.4

[1] Provisional assignment pending allotment of frequencies to Virgin Islands in Article 16 proceeding.
[2] Provisional assignment of frequencies pending allotment to U.S. Central in Article 16 proceeding.

3. Section 83.355, including its heading, is revised to read as follows:

§ 83.355 Frequencies available for communications with public coast stations operating in the band between 1605 and 4000 kHz.

(a) The following frequencies are authorized for use by ship stations for communication with regional public coast stations, as indicated below:

Coast station located in the vicinity of	Ship carrier frequency kilohertz		Conditions of use
	Transmit	Receive	
Agana, GU	2009	2506	
Boston, MA	2366	2450	
	2408	2506	
	2390	2566	2
New York, NY	2382	2482	1
	2126	2522	
	2166	2558	
	2198	2590	
Wilmington, DL	2166	2558	
Baltimore, MD	2400	2400	
Norfolk-Quantico, VA	2366	2450	2
	2142	2538	
Charleston, SC-Jacksonville, FL	2390	2566	
Miami, FL	2406	2442	2
	2031.5	2490	
	2118	2514	
Tampa, FL	2009	2466	
	2158	2550	3
Mobile, AL	2430	2572	
New Orleans, LA	2382	2482	
	2166	2558	2
	2206	2598	
Delcambre, LA	2458	2506	2
Galveston, TX	2366	2450	2, 4
	2134	2530	
Corpus Christi, TX	2142	2538	5
Ponce, PR	2086	2585	
San Juan, PR	2134	2530	
Buffalo, NY-Rogers City, MI	2118	2514	
	2158	2550	
	2206	2582	9
Los Angeles-San Diego, CA	2382	2466	
	2126	2522	7 a.m. to p.m., P.s.t. only.
	2009	2566	
	2206	2598	7 a.m. to 7 p.m., P.s.t. only.
San Francisco-Eureka, CA	2003	2450	7
	2405	2506	
Astoria, OR	2009	2442	Day only.
Astoria-Portland, OR	2206	2598	
Coos Bay, OR	2031.5	2566	7 a.m. to 7 p.m., P.s.t. only.
Seattle, WA	2126	2522	
	2430	2482	8
Kahuku, HI	2134	2530	
St. Thomas Island, VI	2009	2506	8 a.m. to 9 p.m., A.s.t. only.

(1) Available on the condition harmful interference is not caused to the service of any coast station located in the vicinity of New Orleans, La.

(2) Day only.

(3) Unlimited hours of use from December 15, to April 1, annually, and day only for April 1 to December 15, annually, on the condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area.

(4) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Mass., or San Francisco-Eureka, California.

(5) Available on the condition that harmful interference is not caused to the service of any station located in the vicinity of Norfolk-Quantico, Va.

(6) Available on the condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., or any ship station located in the vicinity of New Orleans.

(7) Available on the condition that harmful interference is not caused to any ship station located in the vicinity of Los Angeles or San Diego, Calif.

(8) Authorized for use south of 51 degrees north latitude and east of 142 degrees west longitude exclusively during the following daily periods on the condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t. only.

(9) Not available to U.S. ship stations for transmission, except in the case of a distress.

4. A new § 83.356 is added, to read as follows:

§ 83.356 Frequencies below 27.5 MHz available for use on inland waterways.

The following frequencies are authorized for use by ship stations in a simplex mode for communication with coast stations on inland waterways, as indicated below:

Coast station location	Carrier frequency (kilohertz)
Jeffersonville, IN; Louisville, KY	[1] 2086.0
	2782.0
	4115.7
	6518.8
	8725.1
	13,103.9
	17,291.8
Memphis, TN	[1] 2086.0
	2782.0
	4087.8
	6209.3
	8201.2
	12,333.1
	16,518.9
Cincinnati, OH	[1] 2086.0
	2782.0
	4063.0
	6515.7
	8213.6
	12,333.1
	16,518.9
St. Louis, MO	[1] 2086.0
	2782.0
	4410.1
	6212.4
	8737.5
	13,103.9
	17,291.8

[1] Limited to a maximum output power of 150 watts (PEP).

5. Section 83.370, including its heading, is revised to read as follows:

§ 83.370 Frequencies below 27.5 MHz available in Alaska.

(a) The carrier frequencies set forth in the following table are authorized for use by ship stations for communications with common carrier coast stations in Alaska.

Alaska zone	Carrier Frequency [1] (kilohertz)
All	1619
	1622
	2379
	2382
	4397.7
	4425.6
1	1646
	1709
	2006
	2419
	2512
	2566
	2616
	3261
	4403.9
2	1649
	2115
	2430
	2509
	2538
	4422.5
3	1705
	2422
	2450
	2479
	2512
	2535
	4369.8
4	1643
	1705
	2118
	2427
	2447
	2482
	2509
	2563
	3261
	4366.7
5	1652
	1712
	2003
	2430
	2506
	2566
	3258
	4422.5
6	1646
	2450
	2482
	2506
	4403.9

[1] Subject to the limitations of § 83.351.

§ 83.371 [Removed]

6. Section 83.371 is removed.

Coast station location	Carrier frequency (kilohertz)	
	Transmit	Receive
Cold Bay	2134	2312
Cordova	2237	2397
Juneau	2240	2400
Ketchikan	2237	2397
Kodiak	2131	2309
Nome	2240	2400
Sitka	2134	2312

(b) The carrier frequencies set forth in the following table are authorized for use by ship stations for communication with public coast stations, other than common carrier, in Alaska. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone.

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§ 83.372 [Removed]

7. Section 83.372 is removed.

[FR Doc. 83-14016 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 367]

Railroad Transportation Contracts; Equipment Limitation Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Amendment to final rules.

SUMMARY: The Commission is modifying its final rules promulgated in *Railroad Transportation Contracts*, 367 I.C.C. 9 (1982) published at 47 FR 50261 (November 5, 1982) as corrected at 47 FR 58274 (December 30, 1982), to comport with the provisions of Section 502 of the Rail Safety and Service Improvement Act of 1982 (Pub. L. No., 97–468). Section 502 exempts wood pulp, wood chips, pulpwood, and paper from the equipment limitation provisions of 49 U.S.C. 10713(k)(1). Therefore, that portion of the newly promulgated rules at 49 CFR 1039.6 which codify the equipment limitation provisions of 49 U.S.C. 10713(k)(1) must be modified to exclude the newly exempt commodities.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Alan Greenbaum, (202) 275–7322, or Donald J. Shaw, Jr., (202) 275–7656.

SUPPLEMENTARY INFORMATION: By decision served November 4, 1982, in *Railroad Transportation Contracts*, 367 I.C.C. 9 (1982) we promulgated final rules which prescribe procedures for filing and adjudicating rail contracts under 49 U.S.C. 10713. The rules which were published at 47 FR 50261 (November 5, 1982) as corrected at 47 FR 58274 (December 30, 1982) amend the contract and tariff regulations, respectively, at parts 1039 and 1300 of Title 49 of the Code of Federal Regulations.

On January 14, 1983, President Reagan signed into law the Rail Safety and Service Improvement Act of 1982 (Pub. L. No. 97–468). Section 502 of that legislation exempts wood pulp, wood chips, pulpwood, and paper from the equipment contract limitations of 49 U.S.C. 10713(k).[1] These contract limits may be exceeded only with Commission approval. See 49 U.S.C. 10713(k) (1) and (2). Thus, section 502 has eliminated those limitations as well as Commission jurisdiction under section 10713(k) as to the commodities named in section 502.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

This notice is being issued to amend that portion of the final rules codified at 49 CFR 1039.6 in order to comport with the new exemption provisions set forth in section 502.

[1] Section 502 reads as follows: Section 10713(k)(1) of Title 49, United States Code is amended, by striking "and paper)" and inserting in lieu thereof "but not including wood pulp, wood chips, pulpwood or paper."

PART 1039—CONTRACTS—[AMENDED]

Specifically, Part 1039 of Title 49 of the Code of Federal Regulations is amended as follows:

§ 1039.6 is amended by revising paragraph (a) to read as follows:

* * * * *

§ 1039.6 Limitation on agricultural equipment; and relief.

(a) A rail carrier may enter into contracts for the transportation of agricultural commodities (including forest products but not including wood pulp, wood chips, pulpwood or paper) that involve the use of carrier owned or leased equipment not in excess of 40 percent of the total number of the carrier's owned or leased equipment, by major car type, except as provided in paragraph (b) of this section.

* * * * *

We certify that this modification of rules will not have a significant economic impact on a substantial number of small entities. It merely codifies section 502 which has been in effect since its date of enactment, January 14, 1983.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

This modification is issued pursuant to 49 U.S.C. 10101a, 10713, and 5 U.S.C. 553.

Dated: May 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-14162 Filed 5-25-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 103
Thursday, May 26, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

Correction

In FR Doc. 83–13287 beginning on page 22318 in the issue of Wednesday, May 18, 1983 make the following corrections:

1. On page 22318, column three, **SUMMARY,** line seventeen, "June 28. 1982" should read "June 29, 1982."

2. On page 22319, column one **SUPPLEMENTARY INFORMATION,** paragraph two, line five, "use" should read "used."

3. On page 22319, column two, paragraph one, line three, "Agicultural" should read "Agricultural."

4. On page 22319, column two, paragargph one, line five, "tone" should read "ton."

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Uranium Mill Tailings Regulations; Proposed Suspension of Selected Provisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed suspension of regulations.

SUMMARY: The Nuclear Regulatory Commission is proposing to suspend selected portions of its regulations dealing with the disposal of uranium mill tailings. The provisions for which suspension is proposed are those which would be affected by recently published proposed Environmental Protection Agency (EPA) standards for protection of the environment from these wastes. The result of the suspension will be to place in abeyance certain Commission regulations that could have a significant cost impact on its licensees if the regulations are implemented before the Commission makes the anticipated rule changes necessary to conform the regulations to the EPA standard when it is finalized. This action is necessary to comply with recently enacted legislation.

DATE: The comment period expires on June 27, 1983. Because of the extremely limited period of time (90 days) allowed by the Congress for effecting the suspension under notice and comment procedure, late comments will not be considered.

ADDRESSES: Mail comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or deliver comments to Room 1121, 1717 H Street NW, Washington, DC between 8:15 am and 5:00 pm weekdays.

FOR FURTHER INFORMATION CONTACT: Robert Fonner, Office of the Executive Legal Director, telephone (301) 492–8692, or Kitty Dragonett, Low-Level Waste Licensing Branch, Division of Waste Management, NMSS, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4160.

SUPPLEMENTARY INFORMATION: Section 18(a) of Pub. L. 97–415, the Nuclear Regulatory Commission Authorization Act for fiscal years 1982 and 1983, requires the Commission to suspend implementation and enforcement of certain provisions of its regulations on uranium mill licensing promulgated as final rules on October 3, 1980 (45 FR 65521–65538). The suspension is to be accomplished by notice and comment procedures and be completed within 90 days after the Environmental Protection Agency (EPA) publishes proposed general environmental standards for uranium mill tailings pursuant to Section 275b of the Atomic Energy Act of 1954, as amended. Those portions of the Commission's regulations required to be suspended are those that would require a major commitment or major action by licensees which would be unnecessary if (1) the EPA proposed standards are promulgated in final form without modification, and (2) the Commission's regulations are modified to conform to the EPA standards. Under the legislative scheme, the suspension is a precursor to subsequent modification of the Commission's regulations. A prime objective of the suspension is to avoid a situation in which a licensee might undertake a major commitment that would not be required after a subsequent Commission rulemaking modifying its October 3, 1980 regulations. Congress also mandated that any suspension of portions of Appendix A of 10 CFR Part 40 (the October 3 regulations) be effective until April 1, 1984 or the effective date of rulemaking to change Appendix A to conform to any final EPA standards, whichever comes first.

On April 29, 1983, the EPA published its proposed environmental standards for uranium mill tailings at licensed commercial processing sites. *See* 48 FR 19584. The EPA proposes standards both for operating mill tailings disposal sites and for reclaimed and closed tailings disposal sites. The Standard for operating disposal sites (*see* proposed 40 CFR 192.32(a)) is predominantly a ground water quality protection standard based upon principles of ground water protection embodied in EPA's recently promulgated rules implementing the Resource Conservation and Recovery Act (RCRA) amendments to the Solid Waste Disposal Act (SWDA). These latter rules were published as final rules in the **Federal Register** on July 26, 1982, 47 FR 32274–32368. Persons commenting on the Commission's proposed suspension of rules are advised to examine the applicable EPA RCRA/SWDA rules as well as the EPA proposed tailings management standards, and not to rely totally on the description of the EPA rules given in this notice.

Proposed 40 CFR 192.32(a) expressly references 40 CFR 264.92–95, and 264.221 as applicable to operating uranium mill tailings disposal. 40 CFR 264.221 primarily requires that surface impoundments be lined in order to prevent migration of hazardous constituents to adjacent soil or ground water. Exemptions from the liner requirement are possible. 40 CFR 264.92–95 establish that hazardous constituents (as listed in 40 CFR Part 261, Appendix VIII) entering ground water must not be allowed to exceed the background limits for the constituent, or the listed concentration limits for 14 listed hazardous constituents in the National

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Interim Primary Drinking Water Standards. *See* 40 CFR 264.94, Table 1.2. (If background for any of the 14 listed hazardous constituents exceeds the listed limit, then the background concentration applies.) The proposed EPA rule would add uranium and molybdenum to the list of hazardous constituents in 40 CFR Part 261, Appendix VIII. Proposed 40 CFR 192.32(a) also adds limits for radioactivity in ground water: 5 picocuries of combined radium-226 and radium-228 per liter, and 15 picocuries of gross alpha activity per liter.

The referenced EPA RCRA standards are essentially nondegradation standards (except when background for the 14 listed constituents is below the listed concentrations) and are applied to the uppermost aquifer at the down-gradient edge of the surface impoundment. The EPA standard in proposed 40 CFR 192.32(a) contains a procedure and a reference to criteria for removing hazardous constituents from the list or changing concentration limits. Finally, the EPA standard requires application of Federal Radiation Protection Guidance to radon emissions from operating tailings disposal sites to achieve levels as low as reasonably achievable. (This requirement is already reflected in the Commission's rules in 10 CFR 20.1(c).)

Proposed 40 CFR 192.32(b) contains standards applicable after the tailings site is closed. First, compliance with the closure performance standards in 40 CFR 264.111 is expected for nonradiological hazards. (40 CFR 264.111 was published in 46 FR 2849, January 12, 1981). The performance standards referenced are that the closure (1) minimizes the need for further maintenance, and (2) controls, minimizes or eliminates to the extent necessary to prevent threats to human health and the environment, post-closure escape of hazardous waste, hazard waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground or surface waters or to the atmosphere.

Second, the measures for control of radiological hazards shall be design to be effective for 1,000 years, to the extent reasonably achievable, and in any case, for at least 200 years.

Third, it requires the operator to provide reasonable assurance in design of radiological control measures that releases to the atmosphere of radon-222 from the covered tailings not exceed an average rate of 20 picocuries per square meter per second. The release average is to be applied over the entire disposal area for at least 1 year. These standards need not be applied to areas where the radium-226 concentration is less than 5 picocuries per gram average in the first 15 centimeters of soil and no more than 15 picocuries per gram below 15 centimeters below the surface. Some of the factors EPA discussed in evaluating the effectiveness of covers to limit radon releases included the types and thickness of cover materials (e.g., soils, clays), the moisture content, the emission rate from the tailings, and reliability of the cover materials. The design of the cover should take into account these factors, some of which may vary (e.g., with the seasons) and some of which may not. By specifying an average over both time and area, EPA has recognized the need to consider factors such as seasonal moisture content, soild fissures, and variations in the composition of locally available cover materials.

The proposed EPA standard also includes standards for management of thorium tailings and wastes. Proposed 40 CFR 192.40–43 provide that the EPA standards for uranium wastes apply to thorium wastes with thorium substituted for uranium and radon-220 substituted for radon-222. Both the standards applicable during operation and closure and during post-closure are applied. Flexibility for substitute provisions is explicitly provided. The Commission's rules in Appendix A of 10 CFR Part 40 address requirements for disposal of thorium mill tailings wastes but do not address requirements applicable during operation of such mills. No licensed thorium mill is currently operating.

Commission Approach

The Commission has assumed that any licensee may at any time implement any part of the rule or use any part of the rule in siting or design efforts. For example, a licensee may enter into engineering design contracts based on the rule or a licensee may begin to operate a uranium mill tailings disposal site or to close one pursuant to the Commission's requirements. The Commission has also assumed that potential planning design, or engineering actions that might be taken by a licensee to implement or use the rule may be a major commitment of resources on the part of the licensee. The Commission's approach simplifies the task of deciding which of its affected regulations should be suspended since it assumes that each portion of the affected regulations has the potential for implementation by licensees. The Commission believes this approach is justified in light of the short statutory deadline for the required suspension action, the possible continuing Congressional suspension of all portions of the NRC's regulations, and the Commission's continuing authority to regulate uranium mill tailings disposal on a case-by-case basis until final EPA standards are issued and the Commission has adopted conforming changes to its regulations. The Commission has not tried to survey all of its uranium milling licensees to determine whether closed mills will reopen soon, whether expansion of existing disposal areas is planned, etc., in order to try to judge whether a specific provision could significantly impact a licensee but as a practical matter would not. The time constraints under which this suspension proceeding is undertaken preclude the gathering of this information from licensees under the Paperwork Reduction Act.

The Congressional mandate directs suspension of any provision that may result in a major action or major commitment by licensees. A major action or commitment by licensees resulting from reliance on Commission regulations can be affected by the proposed EPA standards that represent both more and less restrictive requirements. In general, the EPA standard is less restrictive on tailings covers and stability and more restrictive on ground water protection. Licensee implementation of NRC provisions that explicitly conflict with the EPA proposal (e.g., 2 versus 20 picocuries per square meter per second limits on radon releases) and that also directly impact such factors as the amount and type of cover material can obviously lead to major commitments. Not as obvious, but having the potential for comparable commitments, are provisions that require design or remedial action to NRC standards that would be unacceptable under the EPA standard because the NRC standards are less restrictive. For example, if a new impoundment is designed and built to only protect the use category of ground water, the impoundment would be unacceptable. Design resources would be wasted and the tailings might have to be removed and placed in a new impoundment. Accordingly, the Commission has considered such corrective measures or wasted engineering resources as a major commitment.

The suspension of rules in this notice is based upon the EPA standard as stated and does not take into account the fact that exemptions from EPA standards may be made on a case-by-case basis where justified with EPA concurrence. This approach leads to suspension of some provisions that EPA considered may be a preferred alternative in its discussion and supporting documents. The use of clay liners is a specific example. The same literal approach was applied to the Commission's rule. Goals are not always explicitly identified as goals in the text of Appendix A. Since the purpose of the suspension is to minimize misdirected and costly efforts, provisions have been suspended when a literal interpretation would mandate actions that would not be mandated by the EPA standard. In this manner, the Commission can provide licensees flexibility in meeting overall standards and goals while emphasizing important considerations which developed from its own rulemaking.

A second example of a literal approach concerns the differences between the EPA standard for effective lifetime for radiological hazard control measures which states that such control should be designed to "* * * be effective for one thousand years, to the extent reasonably achievable, and, in any case, for at least 200 years." The Commission's regulations in Appendix A are based on stability for "thousands of years" with "no active maintenance." The EPA standard itself is silent on maintenance for radiological hazard controls but requires minimized maintenance for nonradiological hazards. In many cases the siting and design provisions of Appendix A are very prescriptive and appear to provide limited flexibility to licensees whereas the EPA standard may be most achievable by allowing maximum design flexibility. Thus the actual wording in the two rules on the longevity, stability, and maintenance provisions is clearly different.

The practical significance of the differences is not as clear. The Commission intends to study the significance of these differences further. Thus, the Commission's proposed suspensions should be viewed as preliminary judgments subject to further review. In the interest of avoiding unnecessary and costly efforts on the part of licensees during the interim until a final EPA rule is promulgated and conforming NRC regulations are established, the Commission has conservatively assumed that the differences in language are significant for this suspension action and that the EPA standards do not require the application of all the siting and design provisions of Appendix A. Accordingly, those provisions of Appendix A which result from application of "thousands of years" and "no active maintenance" have been proposed for suspension pending further evaluation of the significance of the different control measure longevity requirements and the different approaches to maintenance in the two rules. For example, below-grade disposal as a prime option (Criterion 3) and specific requirements on the size and properties of rocks (parts of Criterion 4) are proposed for suspension.

These requirements are reasonable for very long term stability under conditions of no active maintenance but may not be essential or the only available alternative for satisfying the 1,000-year stability and minimize maintenance provisions in the proposed EPA standards. The reason for each suspended portion of the rule reflects whether timeframes and maintenance are factors in the decision to suspend. These suspension proposals represent only a very preliminary review of the differences between the proposed EPA standards and the NRC regulations. In its further consideration of conforming changes to Appendix A, the Commission may well conclude that, as a practical matter, the differences between the NRC and EPA standards do not affect those portions of the siting and design requirements in Appendix A proposed for suspension. The Commission may well conclude, for example, following further review, that some or all of the suspended portions of Appendix A represent the preferred method for satisfying the final EPA standards. Even where the suspended portions of Appendix A do not represent an essential or preferred means of satisfying the final EPA standard, the conforming changes ultimately adopted by the Commission may only need to provide licensees additional flexibility beyond that provided in Appendix A.

The Commission recognizes that some individual sentences remaining after suspension do not always make logical or grammatical sense. However, by publishing the full text of Appendix A in the proposed suspension, the meaning should be apparent. The suspension must be considered in its entirety so that the intent and meaning can be understood. The reasons behind the suspension are thus essential to understanding the suspension.

Finally, the proposed suspension of portions of Appendix A is not an expression of Commission opinion on the proposed EPA standards. The Commission's views on the EPA standards will be stated in the Commission's formal comments on the EPA proposed rule.

Suspension

In accordance with the approach outlined above, the Commission proposed to suspend the following portions of Appendix A to 10 CFR Part 40.

1. Criterion 1.

(a) In the first paragraph suspend the phrases "* * * for thousands of years * * *" and "* * * without ongoing active maintenance * * *."

Reason: The language appears to conflict with the 40 CFR 192.32(b) standard of designing the control measures to be effective for 1,000 years. Further, 40 CFR 264.111 requires for nonradiological hazards only that the need for maintenance be minimized, not totally eliminated. EPA considered and rejected alternative standards that relied on active maintenance to protect the public health and safety from the radiological hazards of tailings. The 1,000-year period in the preferred alternative exceeds the 100-year period EPA views as reasonable to rely on institutional controls to provide active maintenance. However, the EPA standard itself is silent on maintenance for radiological hazard control measures and could thus allow some limited reliance on active maintenance for limited periods of time. The Commission would discourage planned reliance on active maintenance and, based on the supporting documentation, EPA would also.

(b) In the second listed item of the first paragraph, suspend the word "usable."

Reason: Proposed 40 CFR 192.32(a) and 40 CFR 264.92 require isolation of contaminants from all qualities of water, not just usable ground water sources.

(c) Suspend the last paragraph reading, "Tailings shall be disposed of in a manner that no active maintenance is required to preserve conditions of the site."

Reason: 40 CFR 264.111 requires only that the need for maintenance be minimized, not totally eliminated for nonradiological hazards.

2. Criterion 3.

Suspend Criterion 3 in its entirety.

Reason: The thrust of Criterion 3 is to maximize below-grade disposal of all tailings. The intent was to establish that the most effective way to assure long-term stability with no maintenance is to restore the diposal area to its original contours and thus eliminate differential erosion over a long term of thousands of years. Since the EPA standard specifies a 1,000-year design objective rather than thousands of years and "minimized" rather than "eliminated" maintenance for nonradiological hazards, the entire criterion is suspended because the EPA standard can be met without below-grade disposal. The suspension does not mean that applicants or licensees should

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not seriously consider below-grade or partially below-grade disposal on a site-specific basis. The Commission continues to believe that below-grade disposal is a very good way to minimize erosion and provide reliable control measures. EPA also expressed the view that below-grade disposal is a preferred alternative but could not justify the extra costs for across the board application.

3. Criterion 4.

(a) Suspend paragraph (a) in its entirety.

Reason: Paragraph (a) states that "Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the maximum possible flood which could erode or wash out sections of the tailings disposal area." Consideration of upstream catchment is an important factor in evaluating design lifetimes and its consideration would be included in demonstrating compliance with the EPA standard. The use of the EPA 1,000-year objective and 200-year minimum does not necessarily require minimization of upstream catchment areas. In addition, consideration of the "maximum possible" flood may mandate action that would exceed standard or normal design practices to meet the EPA requirements for surface impoundments (40 CFR 264.221 cited in proposed 40 CFR 192.32(a)(1)) and controls (proposed 40 CFR 192.32(b)). The Commission considers the Probable Maximum Flood (PMF) to be the appropriate design basis flood to meet the EPA requirements. See for example, NRC Regulatory Guide 1.59, "Design Basis Floods for Nuclear Power Plants."

(b) Suspend paragraph (b) in its entirety.

Reason: It may not be necessary for topographic features to provide good wind protection in order to meet the EPA longevity standard. For example, engineering methods (e.g., rock armoring) should be able to provide sufficient wind protection to meet the EPA design standard of 1,000 years of effective control.

(c) In the first sentence of paragraph (c), suspend the phrase "* * * be relatively flat after final stabilization to minimize erosion potential and to * * *"

Reason: The 1,000-year design lifetime objective and 200-year minimum lifetime in the proposed EPA standard might be met by engineering methods other than "relatively flat" features, particularly since "relatively flat" in Appendix A meant 10 horizontal to one vertical (10h:1v) slope steepness or less.

(d) Suspend the remainder of paragraph (c) beginning with "The broad objective * * *" and ending with "* * * identified."

Reason: See discusion under Criterion 3 and (c) above.

(e) Suspend the first sentence of paragraph (d), beginning "A full self-sustaining vegetative * * *" and ending "* * * to negligible levels."

Reason: The first sentence mandates a rock or vegetative cover to reduce erosion. Further language outlines possible exceptions but the standard is established by the first sentence. While a rock cover or vegetative cover is a very effective way to meet the EPA standard, it may not be the only way to meet the 1,000-year effective design objective.

(f) Suspend the second and third sentences of paragraph (d) beginning with "Where a full * * *" and ending with "* * * pile."

Reason: See (e) above. Also, the Commission assumes that the 1,000-year time frame for the control of radiological hazards specified in the EPA standard applies to all associated surface features such as slopes, embankments, and surface drainage measures.

(g) In the fourth sentence of paragraph (d) beginning "The following factors * * *," suspend the words "the final" in the phrase "* * * in establishing the final rock cover * * *."

Reason: See (e) above. Rock is not mandated with the words suspended as in (e) above. The words "the final" are suspended to emphasize this point.

(h) In the first listed item in paragraph (d), suspend the parenthetical phrase "(excepting bedding material average particles size shall be at least cobble size or greater)."

Reason: The phrase specifies technical requirements on rock size that may not be necessary to meet the proposed EPA design obective. They were based on stability for "thousands of years."

(i) Suspend the fourth paragraph of paragraph (d) beginning with "Individual rock fragments shall * * *" and ending with "* * * shall not be used." in its entirety.

Reason: The fourth paragraph specifies technical requirements on rock properties that may not be necessary to meet the proposed EPA design objective. The specified properties were based on stability for "thousands of years."

(j) In the fifth paragraph of paragraph (d) beginning with "Rock covering * * *" and ending with "* * * of this Criterion." suspend all of the text beginning with "* * * where top covers are very thick * * * and ending with "* * * of this Criterion."

Reason: The listing of requirements needed to support a justification for not using a rock cover in the paragraph exceed those that may not be required to meet the proposed EPA design lifetime standard.

(k) Suspend the first sentence of the last paragraph of paragraph (d) beginning "Furthermore, all impoundments * * *" and ending with "* * * slope gradient."

Reason: While contouring to minimize concentrated surface runoff or sharp changes in flow will enhance long term stability, such contouring to totally avoid problem areas may not be mandated in all cases by the proposed EPA design lifetime standard of 1,000 years to the extent practicable and 200 years in any case. The Commission still believes, however, that contouring is an important consideration in tailings management.

(l) In the second sentence of the last paragraph of paragraph (d) suspend "In addition to rock cover on slopes * * *" and "* * * with substantial rock cover (rip rap)."

Reason: See (e) and (f) above.

(4) Criterion 5.

(a) In the first paragraph, suspend the first two sentences beginning "Steps shall be taken * * *" and ending "* * * potential uses." and the phrase "* * * in order to accomplish this objective " in the third sentence.

Reason: The EPA ground water protection standards referenced in proposed 40 CFR 192.32(a) do not permit any seepage to ground water.

(b) In the first listed item under the first paragraph beginning with "Installation of * * *" suspend the reference to "low permeability" as a characteristic of bottom liners. Also suspend the last two sentences beginning with "Where clay liners * * *" and ending with "exposure).)"

Reason: The EPA ground water protection standard referenced in 40 CFR 192.32(a) requires a liner that prevents migration of wastes out of the impoundment into the adjacent soil. Low permeability implies that some migration is allowed.

The two sentences addressing tests to be performed on clay liners are suspended in view of the absolute containment design standard in the referenced EPA SWDA/RCRA regulations in 40 CFR 264.221. In the **Federal Register** notice (47 FR 32314, July 26, 1982), EPA explicitly stated "Synthetic liners are the only commonly used materials of which EPA is aware that would meet this standard." Thus under the regulations adopted by reference in the proposed tailings standards, EPA would allow reliance on clay liners only in the design of storage facilities where the wastes and clay into which wastes had seeped are to be removed. The EPA would permit use of both materials together and the Commission agrees that use of synthetic and clay materials is acceptable and may in fact be preferred if clay materials are available at the site. Use of both materials would provide clay as a backup system. Clay liners would also be expected to have longer effective lifetimes than synthetic liners. If licensees plan to rely on clay lining materials, the Commission believes that the tests indicated in the suspended text should be performed. The Commission also notes that it understands that EPA staff are re-examining this issue in light of information on the reliability of liners. For example, in the Supplementary Information section of the proposed tailings standard, EPA states "For specific waste/site combinations of this type it may be that clay liners, natural soils, or combinations thereof may afford an equivalent level of protection and provide substantial advantages in terms of cost." If EPA should clarify this position in the standard itself so that use of clay liners would not rely on exemptions to the § 264.221 design requirement "to prevent any migration," suspension of these two sentences would not be required. The Commission continues to believe, however, that properly designed and tested clay liners are an effective way to manage tailings.

(c) In the second paragraph beginning "Where ground water impacts * * *" suspend the phrase "to its potential use before milling operations began to the maximum extent practicable."

Reason: The EPA proposed standard in 40 CFR 192.33, by referencing 40 CFR 264.100, requires a corrective action program to restore ground water to standards established under 40 CFR 264.92–264.95. This standard is essentially background conditions and does not consider potential use.

(d) Suspend in its entirety the third paragraph beginning "While the primary method of protecting groundwater shall be isolation * * *" and ending "* * * from current or potential uses."

Reason: The EPA proposed standards for ground water protection in 40 CFR 192.32(a) protect ground water primarily on the basis of background limits for hazardous constituents, and not in terms of current or potential uses. The suspended sentence allowed consideration of tailings in contact with ground water. The proposed EPA standard permits no seepage to ground water.

(e) In the first sentence of the fifth paragraph beginning "This information shall be gathered * * *" suspend the word "usable" where it modifies "groundwater."

Reason: The proposed EPA standard in 10 CFR 192.32(a) does not diatinguish between "usable" and nonusable aquifers in applying its standard. The nondegradation standard applies to all aquifers.

5. Criterion 6.

(a) In the first sentence suspend the phrases "* * * but not less than three meters * * *," and "* * * to less than two picocuries per square meter per second."

Reason: The EPA proposed standard in 40 CFR 192.32(b) for environmental protection after closure does not stipulate a minimum cover, but rather a longevity period for whatever control measure is applied. The disposal method must also provide reasonable assurance that releases of radon–222 do not exceed 20 picocuries per meter squared per second, rather than 2 picocuries. Under the EPA standard the thickness of cover will be a function of longevity and radon release with no set minimum thickness.

(b) Suspend the fourth sentence, "The effects of any thin synthetic layer shall not be taken into account in determining the calculated radon exhalation level."

Reason: The mandatory language of this sentence precludes options that were considered by EPA. The EPA standard of 20 picocuries/m^2/sec does not preclude the use of thin synthetic layers for this purpose. However, the Commission advises that it questions whether thin synthetic layers such as plastic sheets have been or can be shown to be durable enough under construction and maintenance conditions to be relied on to be effective for 1,000 years. EPA expressed similar reservations. On the other hand, the thin layers may be more acceptable in view of the facts that an averaged 20 picocurie instead of a 2-picocurie radon limit is more forgiving of small failures, that thin layers may be used in combination with other materials, and that synthetic thin layers may be other than plastic sheets.

(c) Suspend the fifth sentence beginning "If non soiled (sic) materials are proposed to reduce tailings cover to less than three meters,* * *"

Reason: See paragraph (a) above and (b) under Criterion 4. Further, the specific technical requirements on materials listed were specified based on stability for "thousands of years." They may not be mandated by the proposed EPA design effective lifetime standard of 1,000 years and in any case 200 years for radiological control measures.

(d) Suspend the last and second to last sentences referring to near-surface cover materials not containing elevated levels of radium, and being, as far as radioactivity is concerned, essentially the same as surrounding surface soils.

Reason: The EPA proposed standards for post-closure environmental protection do not provide for, or characterize, the cover material in terms of radioactivity, but only in terms of durability and capacity to reduce radon release from the tailings. However, the EPA standard does indicate in a footnote that the characteristics of the cover material should be considered on a site-specific basis.

6. Criterion 12. Suspend the first sentence which states that final disposition of tailings should be such that ongoing active maintenance is not necessary to preserve isolation.

Reason: The referenced standard in the EPA proposal for control of radiological hazards, 40 CFR 284.111, only requires that further maintenance be minimized; it does not exclude the possibility of some maintenance following closure of a disposal site.

7. Criteria 2, 7, 8, 9, 10, and 11 are not affected by the EPA proposal and no suspension is necessary for any portion of those criteria.

NEPA Considerations

The Commission has determined that the suspension of specific portions of 10 CFR Part 40, Appendix A, as listed above does not involve a significant environmental impact and that no Environmental Impact Statement or Negative Declaration is needed for this action. As a practical matter, the suspension does not directly affect any ongoing licensing program of the Commission, nor any action of licensees with environmental consequences. This is due primarily to the fact that Appendix A has not been implemented in any licensing action. On December 4, 1981, the Commission was embargoed from spending any appropriated funds for the implementation or enforcement of Appendix A. *See* Title IV, Pub. L. 97–88, 97th Congress, 95 Stat. 1135. Although not totally free from ambiguity, this prohibition on expenditures of appropriated funds appears to have been continued in section 101(f) of Pub. L. 97–377, H.J. Res. 631, the Joint Resolution for Continuing Appropriations for fiscal year 1983. Because of the apparent embargo until October 1, 1983, on spending funds to implement and enforce Appendix A and the fact that the final suspension will end April 1, 1984 at the latest, the suspension will be effective for a maximum of 6 months. During this time period, the Commission does not foresee any actions flowing from the suspension

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itself that will have any significant environmental impact. Further, the responsibility of each source material milling licensee to operate and dispose of waste in an environmentally sound manner is established on a case-by-case basis in the conditions of the license after the site-specific full environmental review. Any change in license conditions with significant environmental consequences, or issuance of a new license, will receive a full environmental review under 10 CFR Part 51 of the Commission's regulations.

Suspension of portions of Appendix A is not an amendment of Appendix A. Suspension is a temporary procedural measure which neither modifies nor relaxes the actual requirements in the rule but only makes them inapplicable on a temporary basis, in accord with statutory guidelines. If and when substantive rule changes are proposed or promulgated, appropriate NEPA evaluations will be performed to support these actions.

Interim Licensing Policy

In all of the recently enacted legislation, it has been made clear that the Commission is to continue to regulate mill tailings wastes to protect the public health and safety and the environment but to do so on a licensee-by-licensee basis. Thus, the Commission has continued its licensing activities and in fact has three pending applications for new or expanded disposal sites. However, neither Appendix A nor the EPA standard will be implemented in review of these applications in keeping with their embargoed and proposed status, respectively, until they become legally available for use by the Commission.

Regulatory Flexibility Analysis

Since this suspension is not a rule change, the Regulatory Flexibility Act would not directly apply. Suspension has, however, the potential benefit of minimizing unnecessary licensee expenditure of resources by alerting licensees to those provisions of Appendix A that are either more or less restrictive than proposed EPA standards. Licensees can factor this notice into corporate plans and evaluations. Further, the Commission notes that EPA took the following position in their notice of proposed rules (EPA included both NRC and Agreement State licensees): "This regulation would not have a significant impact on a substantial number of small entities, as specified under Section 605 of the Regulatory Flexibility Act (RFA). Therefore, we have not performed a Regulatory Flexibility Analysis. The basis for this finding is that of the 27 licensed uranium mills, only one qualifies as a small entity and this mill will not be impacted by the standards. Almost all the mills are owned by large corporations. Three of the mills are partly owned by companies that could qualify as small businesses, according to the Small Business Administration generic small entity definition of 500 employees. However, under the RFA, a small business is one that is independently owned and operated. Since these three mills are not independently owned by small businesses, they are not small entities."

List of Subjects in 10 CFR Part 40

Nuclear materials, Reporting and recordkeeping requirements, Uranium.

Appendix A

In order to aid the public in commenting on the proposed suspensions, the text of 10 CFR Part 40, Appendix A is reprinted with the portions proposed for suspension enclosed in brackets.

Appendix A to Part 40—Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content

Introduction. Every applicant for a license to possess and use source material in conjunction with uranium or thorium milling or byproduct material at sites formerly associated with such milling is required by the provisions of § 40.31(h) to include in a license application proposed specifications relating to milling operations and the disposition of tailings or waste resulting from such milling activities. This appendix establishes technical, financial, ownership, and long-term site surveillance criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located. As used in this appendix, the term "as low as is reasonably achievable" has the same meaning as in § 20.1(c) of 10 CFR Part 20 of this Chapter.

In many cases, flexibility is provided in the criteria to allow achieving an optimum tailing disposal program on a site specific basis. However, in such cases the objectives, technical alternatives and concerns which must be taken into account in developing a tailings program are identified. As provided by the provisions of § 40.31(h) applications for licenses must clearly demonstrate how the criteria have been addressed.

The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may abe likely (for example, where large quantities of ore now marginally uneconomical may be stock-piled), the amendability of the disposal system to accommodate increased capacities without degradation in long term stability and other performance factors shall be evaluated.

Detailed programs meeting the technical and financial criteria in this Appendix, including appropriate supporting data, analyses, and alternatives, shall be developed by existing uranium milling licensees and filed with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, in connection with license renewal applications or within nine months from the effective date of this Appendix, whichever occurs first.

I. Technical Criteria

Criterion 1—In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features, which will determine the extent to which a program meets the broad objective of isolating the tailings and associated contaminants from man and the environment during operations and [for thousands of years] thereafter [without ongoing active maintenance] shall be considered:

- Remoteness from populated areas;
- Hydrologic and other natural conditions as they contribute to continued immobilization and isolation of contaminants from [usable] groundwater sources; and
- Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process shall be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long term impacts, as opposed to consideration only of short term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site and engineering design, overriding consideration shall be given to siting features given the long term nature of the tailing hazards.

[Tailings shall be disposed of in a manner that no active maintenance is required to preserve conditions of the site.]

Criterion 2—To avoid proliferation of small waste disposal sites and thereby reduce perpetual surveillance obligations, byproduct material from in situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed of at existing large mill tailings disposal sites; unless, considering the nature of the waste, such as their volume and specific activity, and the costs and environmental impacts of transporting the wastes to a large disposal site, such offsite disposal is demonstrated to be impracticable or the advantages of onsite burial clearly outweigh the benefits of reducing the perpetual surveillance obligations.

Criterion 3—[The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might by the case if a high quality groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full below grade burial impracticable: For example, bedrock may be sufficiently near the surface that blasting would be required to excavate a disposal pit at excessive cost, and more suitable alternative sites are not available. Where full below grade burial is not practicable, the size of retention structures, and size and steepness of slopes of associated exposed embankments shall be minimized by excavation to the maximum extent reasonably achievable or appropriate given the geologic and hydrologic conditions at a site. In these cases, it must be demonstrated that an above grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.]

Criterion 4—The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade.

(a) [Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the maximum possible flood which could erode or wash out sections of the tailings disposal area.]

(b) [Topographic features should provide good wind protection.]

(c) Embankment and cover slopes shall [be relatively flat after final stabilization to miminize erosion potential and to] provide conservative factors of safety assuring long term stability. [The broad objective should be to contour final slopes to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about 10 horizontal to 1 vertical (10h:1v) or less steep. In general, slopes should not be stepper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impacticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.]

(d) [A full self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.]

[Where a full vegetative cover is not likely to be self-sustaining due to climatic or other conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.]

The following factors shall be considered in establishing [the final] rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

- Shape, size, composition, and gradation of rock particles [(excepting bedding material average particles size shall be at least cobble size or greater)]:
- Rock cover thickness and zoning of particles by size; and
- Steepness of underlying slopes.

[Individual rock fragments shall be dense, sound, and resistant to abrasion, and shall be free from cracks, seams, and other defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate shall not be used. Shale, rock laminated with shale, and cherts shall not be used.]

Rock covering of slopes may not be required [where top covers are very thick (on the order of 10m or greater); impoundment slopes are very gentle (on the order of 10h:1v or less); bulk cover materials have inherently favorable erosion resistance characteristics; and, there is negligible drainage catchment area upstream of the pile and good wind protection as described in points (a) and (b) of this Criterion].

[Furthermore, all impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient.] [In addition to rock cover on slopes,] areas toward which surface runoff might be directed shall be well protected [with substantial rock cover (rip rap).] In addition to providing for stability of the impoundment system itself, overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are not ongoing or potential processes, such as gully erosion, which would lead to impoundment instability.

(e) The impoundment shall not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in § III(g) of Appendix A of 10 CFR 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material.

(f) The impoundment, where feasible, should be designed to incorporate features which will promote deposition. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.

Criterion 5—[Steps shall be taken to reduce seepage of toxic materials into groundwater to the maximum extent reasonably achievable. Any seepage which does occur shall not result in deterioration of existing groundwater supplies from their current or potential uses.] The following shall be considered [in order to accomplish this objective]:

- Installation of [low permeability] bottom liners (Where synthetic liners are used, a leakage detection system shall be installed immediately below the liner to ensure major failures are detected if they occur. This is in additon to the groundwater monitoring program conducted as provided in Criterion 7. [Where clay liners are proposed or relatively thin in-situ clay soils are to be relied upon for seepage control, tests shall be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests shall be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases, deterioration has been observed to occur rather rapidly after about nine months of exposure).)]
- Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.
- Dewatering of tailings by process devices and/or in-situ drainage systems (At new sites, tailings shall be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head for seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom shall be graded to assure that the drains are at a low point. The drains shall be protected by suitable filter materials to assure that drains remain free running. The drainage system shall also be adequately sized to assure good drainage).
- Neutralization to promote immobilization of toxic substances.

Where groundwater impacts are occurring at an existing site due to seepage, action shall be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality [to its potential use before milling operations began to the maximum extent practicable.] The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications shall be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, shall be established to assure the specifications are met.

[While the primary method of protecting groundwater shall be isolation of tailings and tailings solutions, disposal involving contact with groundwater will be considered provided supporting tests and analyses are presented demonstrating that the proposed disposal and treatment methods will not degrade groundwater from current or potential uses.]

In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

- The chemical and radioactive characteristics of the waste solutions.
- The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and

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solutions. This shall include detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations shall be determined.

This information shall be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate to [usable] groundwater. The information gathered on boreholes shall include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability shall not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) shall be conducted to assure actual field properties are adequately understood. Testing shall be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

• Location, extent, quality, capacity and current uses of any groundwater at and near the site.

Furthermore, steps shall be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage areas.

Criterion 6—Sufficient earth cover [but not less than three meters] shall be placed over tailings or wastes at the end of milling operations to result in a calculated reduction in surface exhalation of radon emanating from the tailings or waste [to less than two picocuries per square meter per second.] In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances shall not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. [The effects of any thin synthetic layer shall not be taken into account in determining the calculated radon exhalation level.] [If non-soiled materials are proposed to reduce tailings covers to less than three meters it must be demonstrated that such materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long term time intervals.] [Near surface cover materials (i.e., within the top three meters) shall not include mine waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.]

Criterion 7—At least one full year prior to any major site construction, a preoperational monitoring program shall be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program shall be conducted to measure or evaluate compliance with applicable standards and regulations; to evaluate performance of control systems and procedures; to evaluate environmental impacts of operation; and to detect potential long term effects.

Criterion 8—Milling operations shall be conduced so that all airborne effluent releases are reduced to levels as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailing disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations.

Checks shall be made and logged hourly of all parameters (e.g., differential pressures and scrubber water flow rates) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack. Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable. Operations may not be re-started after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and re-starts shall be reported to the appropriate NRC regional office as indicated in Criterion 8A, in writing, within 10 days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dusting from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Criterion 8A—Daily inspections of tailings or waste retention systems shall be conducted by a qualified engineer or scientist and documented. The appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, shall be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

II. Financial Criteria

Criterion 9—Financial surety arrangements shall be established by each mill operator prior to the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements shall be based on Commission-approved cost estimates in a Commission-approved plan for (1) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon the decommissioning, and (2) the reclamation of tailings and/or waste disposal areas in accordance with technical criteria delineated in Section I of this Appendix. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The surety shall also cover the payment of the charge for long term surveillance and control required by Criterion 10. In establishing specific surety arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the Commission may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or state agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long term site surveillance and control, provided such arrangements are considered adequate to satisfy these requirements and that the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long term funding charge is clearly identified and committed for use in accomplishing these activities. The licensee's surety mechanism will be reviewed annually by the Commission to assure that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined.

This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety instrument which is written for a specified period of time (e.g., five years) yet which must be automatically renewed unless the surety notifies the beneficiary (the Commission or the State regulatory agency) and the principal (the licensee) some reasonable time (e.g., 90 days) prior to the renewal date of their intention not to renew. In such a situation the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least 60 days for the regulatory agency to collect.

Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Financial surety arrangements generally acceptable to the Commission are:

(a) Surety bonds;
(b) Cash deposits;
(c) Certificates of deposit;
(d) Deposits of government securities;
(e) Irrevocable letters or lines of credit; and
(f) Combinations of the above or such other types of arrangements as may be approved by the Commission. However, self insurance, or any arrangement which essentially constitutes self insurance (e.g., a contract with a state or Federal agency), will not satisfy the surety requirement since this provides no additional assurance other than that which already exists through license requirements.

Criterion 10—A minimum charge of $250,000 (1978 dollars) to cover the costs of long term surveillance shall be paid by each mill operator to the general treasury of the United States or to an appropriate State agency prior to the termination of a uranium or thorium mill license.

If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in Criterion 12 (e.g., if fencing is determined to be necessary) variance in funding requirements may be specified by the Commission. In any case, the total charge to cover the costs of long term surveillance shall be such that, with an assumed 1 percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The total charge will be adjusted annually prior to actual payment to recognize inflation. The inflation rate to be used is that indicated by the change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics.

III. Site and Byproduct Material Ownership

Criterion 11—A. These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

B. Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

C. Title to the byproduct material licensed under this Part and land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any such byproduct material, or is essential to ensure the long term stability of such disposal site, shall be transferred to the United States or the State in which such land is located, at the option of such State. In view of the fact that physical isolation must be the primary means of long term control, and Government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, however, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either an NRC general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or a State.

D. If the Commission subsequent to title transfer determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State will not endanger the public health, safety, welfare, or environment, the Commission may permit the use of the surface or subsurface estate, or both, of such land in a manner consistent with the provisions provided in these criteria. If the Commission permits such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

E. Material and land transferred to the United States or a State in accordance with this Criterion shall be transferred without cost to the United States or a State other than administrative and legal costs incurred in carrying out such transfer.

F. The provisions of this Part respecting transfer of title and custody to land and tailings and wastes shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in this Part, the licensee shall enter into arrangements with the Commission as may be appropriate to assure the long term surveillance of such lands by the United States.

IV. Long-Term Site Surveillance

Criterion 12—[The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation.] As a minimum, annual site inspections shall be conducted by the government agency retaining ultimate custody of the site where tailings, or wastes are stored to confirm the integrity of the stabilized tailings ow waste systems and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection shall be reported to the Commission within 60 days following each inspection. The Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary due to the features of a particular tailings or waste disposal system.

Dated at Washington, D.C. this 23 day of May, 1983

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-14209 Filed 5-25-83; 8:45 am]
BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revisions

Correction

In FR Doc. 83-11794, beginning on page 20560, in the issue of Friday, May 6, 1983, make the following corrections.

1. On page 20568, in § 121.2(c)(2), line 3, after "receipts" and before "for" insert "shall be computed by determining its average weekly receipts".

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2. On page 20571, under "Major Group 25—Furniture and Fixtures" line 1, middle column which reads: Wood Household Furniture, Except Upholstered500, the 500 is to be transferred to the last column under the "proposed standard" heading.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-29-AD]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to an existing Airworthiness Directive (AD) that would require a more rigorous inspection method for the flap track attachment brackets to initially determine crack lengths more accurately on British Aerospace Corporation Model BAC 1-11 200 and 400 series airplanes. Service experience has shown that the currently used procedure may not accurately detect the actual crack length. Failure to detect cracks would result in failure of the brackets and possible loss of the flap.

DATE: Comments must be received no later than July 18, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foregin Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-29-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of the existence of Issue 5 of British Aerospace Corporation BAC 1-11 Alert Service Bulletin 57-A-PM4948 which specifies a dye penetrant inspection for detecting flap track attachment bracket cracks and determining their lengths. The dye penetrant procedure will improve the detection of cracks over the currently required visual inspection method. AD 81-14-07 (46 FR 33223, June 29, 1981) specifies inspections of the flap track attachment brackets per issue 4 of British Aerospace Corporation BAC 1-11 Alert Service Bulletin 57-A-PM4948. The FAA is proposing to amend AD 81-14-07 to require inspections of the flap track attachment brackets in accordance with issue 5 of the service bulletin.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the additional requirement of a more detailed inspection and that the average labor cost will be $35 per manhour. Based on these figures, the total cost impact of the proposed amendment to the existing AD to U.S. operators is estimated to be $11,025. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending Airworthiness Directive (AD) 81-14-07, Amendment 39-4153 as follows:

A. Amend paragraph (e) by replacing "Alert Service Bulletin 57-A-PM4948, Issue 4, dated July 18, 1977" with "Alert Service Bulletin 57-A-PM4948, Issue 5, dated January 28, 1981".

B. Revise paragraphs (m) and (n) to read as follows:

"(m): Upon request of an operator and submission of substantiating data, the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region may adjust the inspection intervals.

(n): Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on May 17, 1983.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-13996 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-25-AD]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment of an existing Airworthiness Directive (AD) that would decrease the repetitive inspection interval for the emergency oxygen system on British Aerospace Corporation BAC 1-11 200 and 400 series airplanes from two years to one year. Service experience has shown that the inspection interval specified in the existing AD is inadequate to provide timely detection of cracked oxygen hoses. Damaged hoses were found close to electrical equipment, creating a potential fire hazard.

DATE: Comments must be received on or before July 15, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted induplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-25AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: This notice proposes to further amend Amendment 39-2779 (41 FR 52292, November 29, 1976), AD 76-24-06 as amended by Amendment 39-2800 (42 FR 2054, January 10, 1977), which currently requires an oxygen system leak check and a bienniel inspection of all flexible oxygen hoses on British Aerospace Aircraft Group Model BAC 1-11 200 and 400 series airplanes. Service experience has shown that in order to assure timely detection of faulty oxygen system hoses, the required inspection should be performed on an annual basis. British Aerospace Corporation released Issue 3 of BAC 1-11 Service Bulletin 35-A-PM5394 which is classified as mandatory by the CAA, requires yearly inspections. Therefore, the FAA is proposing an amendment to AD 76-24-06 which would decrease the interval for required oxygen system inspection on British Aerospace Aircraft Group Model BAC 1-11 200 and 400 series airplanes from two years to one year.

Should this AD be adopted as proposed, it is estimated that 63 U.S. registered airplanes would be affected, that it would take approximately 13 manhours per airplane to accomplish the required actions, and that the average labor cost would be $35 per manhour. Repair parts are estimated at $100 per airplane. Based on these figures, the total cost impact of this AD to U.S. users would be $34,965. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Amendment 39-2779, AD 76-24-06, as amended by Amendment 39-2800, as follows:

A. In paragraph (a), replace "2500 hours" with "1500 hours" and, "Issue 2, dated February 2, 1976" with "Issue 3, dated June 29, 1979".

B. Replace the entire paragraph (c) with: "Inspect and rework the flexible hoses of the emergency oxygen system within the next 1000 hours time in service or six months after the effective date of this AD, whichever occurs sooner, unless already accomplished within the preceding 1500 hours time in service, and thereafter at intervals not to exceed one year, in accordance with paragraph 2.4, Figures 1 through 3 and Table 1 of the service bulletin."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on May 16, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 13996 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-23-AD]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a revision of an existing Airworthiness Directive (AD) that would require a more detailed inspection of the non-return valves in the auxiliary power unit (APU) of British Aerospace Model BAC 1-11 200 and 400 series airplanes. Service experience has shown that this will improve crack detection and allow a reduction in the inspection frequency of these components. This amendment also provides terminating action if certain modifications are incorporated.

DATE: Comments must be received no later than July 15, 1983.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–23–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: The Civil Aviation Authority of the United Kingdom (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of the existence of Issues No. 3 and No. 4 of BAC 1–11 Alert Service Bulletin 49–A–PM3122. The latest issue specifies a more complete inspection of the APU air delivery duct nonreturn valves, part numbers 1398B000 and 1398B999 by using a dye penetrant inspection method for crack detection while also extending the inspection interval. The service bulletin also specifies that incorporation of British Aerospace modifications PM3148, PM3177 and either PM3254 or PM4912 terminates the need for further inspections. The FAA is proposing a revision to AD 71–06–09 (36 FR 5034, March 17, 1971) which would require more detailed inspections of the APU nonreturn valves at a longer time interval. The revised AD would also specify that incorporation of modifications PM3148, PM3177 and either PM3254 or PM4912 Terminates the requirements of the AD.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, and AD is proposed that would require the actions described above.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 2 additional manhours per airplane to accomplish the more detailed inspections, and that the average labor cost will be $35 per manhour. Based on these figures, the total cost impact of the proposed AD to the U.S. operators is estimated to be $4,410. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by revising Airworthiness Directive (AD) 71–06–09 Amendment 39–1177 to read as follows:

British Aerospace: Applies to BAC 1–11 200 and 400 series airplanes, certificated in all categories. Compliance is required as indicated. To prevent malfunction of the auxiliary power unit (APU) air delivery duct nonreturn valve, accomplish the following.

A. For airplanes having nonreturn valve P/N 525180 installed:

(1) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the previous 60 hours time in service and thereafter at intervals not to exceed 160 hours time in service, perform the actions specified by paragraph 2.2, 2.3, 2.4 and 2.5, Accomplishment Instructions, of British Aerospace Alert Service Bulletin 49–A–PM3122, Issue 4, dated March 31, 1982. Incorporation of British Aerospace modification PM3254 terminates the requirements of paragraphs 2.3 and 2.4 of the service bulletin.

(2) Prior to further flight, unless already accomplished, install a placard adjacent to the APU control panel in clear view of the pilot, or amend the Airplane Flight Manual limitation Section 2, to read as follows: "Close APU air delivery valve when starting engine from the external supply or by cross-feeding air from an operating engine. Close APU air delivery valve and shut down APU for takeoff and flight operations. Operational use of the APU in flight is prohibited." The placard may be removed, or the amendment to the Airplane Flight Manual may be deleted, upon replacement of APU air delivery duct non-return valve P/N 525180 with non-return valve PN 1398B000 or 3031B000.

B. For airplanes having non-return valve P/N 1398B000 or 3031B000 installed, within the next 750 hours time in service after the effective date of this AD, unless already accomplished within the previous 1,500 hours time in service from the last inspection, and thereafter at intervals not to exceed those specified in the service bulletin, perform the actions described by paragraphs 4.1, 4.2 and 4.3 of the service bulletin.

C. Terminating action to this AD is accomplished by incorporating modifications PM3148, PM3177 and either PM3254 or PM4912.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on May 16, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–13997 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASW–19]

Proposed Alteration of Transition Area; Granbury, TX

Correction

In FR Doc. 83–12036 appearing on page 20241 in the issue of Thursday, May 5, 1983, make the following correction:

In the third column of page 20241, under **Granbury, TX Revised**, fourth line, "32°23'33" N." should have read "32°26'33" N.".

BILLING CODE 1505–01–M

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14 CFR Part 73

[Airspace Docket No. 83–ASO–18]

Proposed Alteration of Restricted Area R–6001

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Restricted Area R–6001 located in the vicinity of Fort Jackson, S.C. The U.S. Army needs to expand the restricted area to the east and reduce the western portion to accommodate artillery and mortar firing training exercises. This action would increase safety by containing all artillery firing within Restricted Area R–6001.

DATE: Comments must be received on or before July 26, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83–ASO–18, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ben Driggs, Airspace Regulations and Obstructions Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASO–18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.60 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to realign Restricted Area R–6001 to accommodate artillery and mortar firing points. This realignment will expand present restricted airspace on the eastern portion and reduce restricted airspace on the western portion. Presently, all artillery and most mortar firing points/range safety fans extend to or are located outside of current boundaries. The South Carolina Army National Guard is presently traveling to Fort Gordon, GA, Fort Stewart, GA, and Fort Bragg, NC, to conduct their artillery firing. This action would have a significant impact on saving travel time and funds. Section 73.60 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 73

Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.60 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

R–6001A Fort Jackson, SC [Revised]

Boundaries. Beginning at lat. 33°59'30" N., long. 80°52'04" W.; to lat. 34°05'03" N., long. 80°52'12" W.; to northeast along Percival Road to lat. 34°06'15" N., long. 80°49'04" W.; to east along North Boundary Road to lat. 34°03'41" N., long. 80°42'13" W.; to lat. 34°01'40" N., long. 80°42'15" W.; to lat. 34°00'33" N., long. 80°44'24" W.; to lat. 34°01'00" N., long. 80°44'55" W.; to lat. 34°01'05" N., long. 80°47'00" W.; to lat. 34°00'54" N., long. 80°48'00" W.; to lat. 34°00'30" N., long. 80°48'57" W.; to lat. 34°00'12" N., long. 80°49'26" W.; to lat. 33°59'45" N., long. 80°50'00" W.; thence to point of beginning.

Designated altitudes. Surface to 3,200 feet MSL.

Time of designation. Intermittent, 0630 to 2400.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. Commanding General, Fort Jackson, SC.

R–6001B Fort Jackson, SC [New]

Boundaries. Beginning at lat. 33°59'30" N., long 80°52'04" W.;to lat. 34°05'03" N., long. 80°52'12" W.; to northeast along Percival Road to lat. 34°06'15" N., long. 80°49'04" W.; to east along North Boundary Road to lat. 34°03'41" N., long. 80°42'13" W.; to lat. 34°01'40" N., long. 80°42'15" W.; to lat. 34°00'33" N., long. 80°44'24" W.; to lat. 34°01'00" N., long. 80°45'55" W.; to lat. 34°01'05" N., long. 80°47'00" W.; to lat. 34°00'54" N., long. 80°48'00" W.; to lat. 34°00'30" N., long. 80°48'57" W.; to lat. 34°00'12" N., long. 80°49'26" W.; to lat. 33°59'45" N., long. 80°50'00" W.; thence to point of beginning.

Designated altitudes. 3,200 feet MSL to FL 230.

Time of designation. Intermittent, 0630 to 2400.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. Commanding General, Fort Jackson, SC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

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certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 18, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-14218 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 139

Discussions on Airport Certification Issues Affecting Part 139 of the Federal Aviation Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of public meeting.

SUMMARY: This notice announces a public meeting to be held to discuss areas of concern and development pertaining to the Airport Certification Program as set forth in Part 139 of the Federal Aviation Regulations.

DATE: Date of Meeting: July 14, 1983; 9:00 a.m. e.d.s.t.

ADDRESS: Federal Aviation Administration, Third Floor Auditorium, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Jr., Safety and Compliance Division, (AAS-300), Office of Airport Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-3087.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss with the public certain issues concerning Part 139 of the Federal Aviation Regulations which affect the airport certification program. It is becoming increasingly necessary to clarify, update, and amend specific provisions of Part 139 based on the FAA experience in the airport certification program and the results of studies and aviation industry recommendations. Approaches for such areas as airport crash, fire and rescue equipment requirements, snow removal, and extended runway safety areas will be discussed at the meeting. The FAA intends to issue a Notice of Proposed Rule Making on Part 139 this year.

Interested persons are invited to participate in the meeting by submitting data, views, or discussions as they may desire, either oral at the meeting or in writing addressed to the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C. on May 16, 1983.

Leonard E. Mudd,

Director, Office of Airport Standards.

[FR Doc. 83-13786 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Abandoned Mine Land Reclamation Plan Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On April 20, 1983, the State of Montana submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. The proposed amendment relates to liens on noncoal projects, addition of one hundred noncoal sites to the Montana Abandoned Mine Land Inventory, provisions to conduct an emergency reclamation program, and revised Department of State Lands structural organization. OSM is seeking public comment on the proposed amendment.

DATES: Written comments on the amendment must be received on or before 5:00 p.m., June 27,1983. A public hearing will be held on the amendment if sufficient requests for such a hearing are received by 5:00 p.m., June 2, 1983.

ADDRESSES: Copies of the full text of the proposed amendment are available for review at the following locations:

State of Montana, Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59620

Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record—Rm. 5315, 1100 "L" Street NW., Washington, D.C. 20240

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644. Comments received after 5:00 p.m., June 27, 1983, will not ordinarily be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Mills, Wyoming Office, on Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

FOR FURTHER INFORMATION CONTACT: William Thomas, Field Office Director, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82664. Telephone: (307) 261-5776.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Montana AMLR Plan was approved on October 24, 1980. On April 20, 1983, Montana submitted a proposed amendment to the Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

Representatives of OSM's Field Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at OSM's office in Mills, Wyoming, indicated above under "Addresses", at the request of members of the public to receive their advice and recommendations concerning the proposed Montana amendment. Persons wishing to meet with representatives of the Field Director's Office during this time period may place such request with Ronald Bertram, telephone (307) 261-5776.

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contacts

between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it would not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval would not have an effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and

2. Approval would not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* and the Office of Surface Mining has determined that the rule would not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval would not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Montana amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Montana amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental asessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Montana amendment can be approved if all the following occur:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirements of the OSM, AMLR Program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the amendment is in compliance with all applicable State and Federal laws and regulations.

Contents of the Montana amendment are:

1. Liens on noncoal projects;

2. Addition of one hundred noncoal sites to the Montana Abandoned Mine Land Inventory;

3. Provisions to conduct an emergency reclamation program; and

4. Revised Department of State Lands structural organization.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovermental regulations, Surface mining, Underground mining.

Dated: May 13, 1983.

J. R. Harris,

Director, Office of Surface Mining.

Dated: May 18, 1983.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

[FR Doc. 83-14208 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 90

[CGD 83-011]

Interpretative Rule for Inland Navigation Rules

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to create a new Part 90 to Title 33 of the Code of Federal Regulations entitled "Inland Navigation Rules: Interpretative Rules." There is confusion among mariners regarding what is meant by "rigidly connected" vessels for purposes of application of Rule 24(b) of the Inland Navigation Rules. Pushing vessels and vessels being pushed ahead are connected by various secure means. Not all of these, however, form a rigid connection which would make the vessel and its tow a "composite unit". Therefore, specific guidance is necessary to determine when a composite unit exists. These rules would provide the necessary guidance.

DATE: The public is invited to comment on this rulemaking. Comments must be received on or before July 25, 1983.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), (CGD 83-011), U.S. Coast Guard, Washington D.C. 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 4402, 2100 2nd St., S.W., Washington, D.C. between the hours of 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: LCDR Kent Kirkpatrick, (202) 245-0106.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his or her name and address, identify this notice as CGD 83-011, and give the reasons for the comment. Persons desiring acknowledgment of receipt should enclose a stamped, self-addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned; but one may be held if written requests for a hearing are received and the Coast Guard determines that the opportunity to make oral presentations will be beneficial to this rulemaking.

Drafting Information

The principal persons involved in drafting this rulemaking are LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, and Lieutenant Mark Hanlon, Office of Chief Counsel.

Discussion of Proposed Regulation

The various sets of navigation rules for our inland waters were unified into one set of rules in the Inland Navigational Rules Act 1980. On December 24, 1981, the new Inland Navigation Rules became effective upon the inland waters of the United States, except for the Great Lakes where the effective date was March 1, 1983. These rules are very similar to the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

Rule 24(b) of 72 COLREGS prescribes lighting requirements for composite units and is identical to Inland Rule 24(b). Rule 24(b) states: "When a pushing vessel and a vessel being

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pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in rule 23."

Part 82 of Title 33 contains an interpretative rule which clarifies the term "composite unit" as it is used in 72 COLREGS. This rule limits composite units to the combinations of those vessels that are connected by mechanical means so they react to sea and swell as one vessel and precludes the use of lines, wires, hawsers, or chains as the means of connection. The Rules of the Road Advisory Council has recommended that the Coast Guard publish an interpetative rule for the Inland Rules similar to the one for 72 COLREGS. The Coast Guard agrees.

Navigation and Vessel Inspection Circular No. 2–81 with Change 1, entitled "Coast Guard Inspection Guidance Regarding Integrated Tug Barge Combinations", is consistent with the interpretative rule in Part 82 and supplements it.

Regulatory Analysis

These regulations were reviewed in accordance with the "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of 22 May 1980) and were determined to be non-significant since there are no costs associated with these regulations. Since the impact is expected to be minimal, a draft evaluation was not conducted. These regulations were also found to be non-major under the criteria established in Executive Order 12291 for the reasons stated above. Since no costs are imposed by these regulations, it is hereby certified pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96–354) that this action will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 33 CFR Part 90

Navigation (water), Waterways.

For the reasons stated in the preamble, the Coast Guard proposes to add a new Part 90 of Title 33, Code of Federal Regulations, to read as follows:

PART 90—INLAND RULES: INTERPRETATIVE RULES

Sec.
90.1 Purpose.
90.3 Pushing vessel and vessel being pushed: Composite unit.

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

§ 90.1 Purpose.

This part contains the interpretative rules for the Inland Rules. These interpretative rules are intended as a guide to assist the public and promote compliance with the Inland Rules.

§ 90.3 Pushing vessel and vessel being pushed: Composite unit.

Rule 24(b) of the Inland Rules states that when a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit, they are regarded as a power-driven vessel and must exhibit the lights prescribed in Rule 23. A "composite unit" is interpreted to be the combination of a pushing vessel and a vessel being pushed ahead that are rigidly connected by mechanical means so they react to sea and swell as one vessel. Mechanical means does not include lines, wires, hawsers, or chains.

Dated: May 4, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 83–14212 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD3–83–13]

Marine Parade; Night in Venice, Great Egg Harbor Bay, Ocean City, NJ

AGENCY: Coast Guard, DOE.

ACTION: Proposed rule.

SUMMARY: Special Local Regulations are being proposed for the Night in Venice Regatta being sponsored by the City of Ocean City, New Jersey. This event will be held on 23 July 1983 between the hours of 5:30 p.m. and 10:30 p.m. The Coast Guard is considering the issuance of these regulations in order to provide for the safety of the participants and spectators on navigable waters during this event.

DATE: Comments must be received on or before June 27, 1983.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this office.

FOR FURTHER INFORMATION CONTACT: LTJG D. R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3–83–13) and the specific section of the proposal to which their comments apply, and give reason for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG D. R. Cilley, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Legal Office, Third Coast Guard District.

Discussion of Proposed Regulations

The annual "Night in Venice" Marine Parade sponsored by the City of Ocean City, New Jersey is well known to the boaters in this area. Due to the large number of participating vessels and spectators alike, it is anticipated that there will be considerable congestion in this area during the festivities. In order to provide for the safety of life and property, the Coast Guard proposes restricting vessel movement in the area prior to and during the event. The parade route has not been altered from that of previous years and there have not been any problems in the past with the Special Local Regulations issued by the Coast Guard, therefore these regulations remain virtually unchanged in content from those issued last year.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since this event will draw a large number of spectator craft into the area for the duration of the event. This should easily compensate area merchants for the slight inconvenience of having navigation restricted. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981 on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding a new § 100.35–301 to read as follows:

PART 100—[AMENDED]

§ 100.35–301 Night in Venice, Great Egg Harbor Bay, City of Ocean City, NJ.

(a) This regulation shall be in effect from 4:30 p.m. to 10:30 p.m. on 23 July 1983.

(b) The following area shall be closed to general navigation from 5:30 p.m. to 10:30 p.m. on 23 July 1983: The southwest side of Ship Channel from Buoy C, seaward to Point of Shoal Buoy (red and black nun), then south to Great Egg Waterway Daybeacon 28. No person or vessel may enter or remain in this area unless participating in the event, or authorized to be there by the sponsor of the event or U.S. Coast Guard patrol personnel.

(c) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility in a way that will not interfere with progress of the event prior to 5:30 p.m. July 23, and 1983 and must remain there until released by U.S. Coast Guard patrol, or regatta patrol personnel. The following are established as spectator areas:

(1) Northwestward of a line of buoys and daybeacons between Great Egg Waterway Point of Shoal Buoy (red and black nun) and the 9th Street Route 52 Bridge in Ocean City, New Jersey, including Great Egg Waterway Daybeacons 2 and 4, but shall not extend northwestward of the Great Egg Waterway Point Buoy.

(2) Westward of a line of daybecons between Great Egg Waterway Daybeacons 10 and 14.

(3) Within the area around the shoals and islands in Beach Thoroughfare between Great Egg Waterway Daybeacons 15 and 21. This area shall at no point be closer than 150 yards from the line of bulkheads and lagoon entrances in Ocean City, New Jersey.

(d) Swimming, waterskiing and sailing are prohibited in spectator areas and in the area closed to general navigation.

(e) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(f) For any violations of these regulations the following maximum penalties are athorized by law:

(1) $500 for any person in charge of the navigation of a vessel.

(2) $500 for the owner of a vessel actually on board.

(3) $250 for any other person.

(4) Suspension or revocation of a license for a licensed officer.

(46 U.S.C. 454, 49 U.S.C. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b))

Dated: May 6, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83–14213 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AH–FRL 2371–6]

National Emission Standards for Hazardous Air Pollutants; Standards For Radionuclides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of additional public hearing and extension of comment period.

SUMMARY: EPA has received a number of requests to extend the time for submission of public comments on proposed national emission standards for radionuclides. In addition, there have been several requests to conduct a public hearing on the proposed standards in the West, to accommodate persons who were unable to attend the public hearing in Washington, D.C., on April 28 and 29, 1983. In order to provide for maximum public participation and to allow adequate time for preparation of testimonies, EPA is extending the comment period and is announcing that an additional public hearing will be held in Denver, Colorado, on June 14, 1983.

DATES: *Written Comments.* Comments should be received on or before July 14, 1983. *Public Hearings.* An additional informal public hearing will be held on June 14, 1983, at the Denver Botanical gardens, 909 York Street, Denver, Colorado. Requests to participate in this hearing should be received on or before June 3, 1983.

ADDRESSES: *Written Comments.* Comments should be submitted to the Central Docket Section (A–130), U.S. Environmental Protection Agency, Washington, D.C. 20460, Attention: Docket No. A–79–11. This Docket is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at EPA's Central Docket Section, West Tower Lobby, Gallery One, Watersidfe Mall, 401 M Street S.W., Washington, D.C. 20460.

Separate sections of the Docket have been established for each category of radionuclide emissions to air. Comments specific to a particular category should be addressed to one of the following Docket Sections:

Section III A—Department of Energy Facilities
Section III B—Nuclear Regulatory Commission Licensed Facilities and non-DOE Federal Facilities
Section III C—Underground Uranium Mines
Section III D—Elemental Phosphorus Plants
Section III E—Coal-Fired Boilers
Section III F—Phosphate Industry
Section III G—Other Extraction Industries
Section III H—Uranium Fuel Cycle Facilities, Uranium Mill Tailings, and Management of High-Level Waste
Section III I—Low Energy Accelerators

Public Hearing. Requests to participate in the informal hearing should be made in writing to Richard J. Guimond, Director, Criteria and Standards Division (ANR–460), U.S. Environmental Protection Agency, Washington, D.C. 20460. All requests to participate should include the name(s) of the participants and an outline of the topic(s) to be addressed in the oral presentation. Presentations should be limited to 15 minutes.

Background Documents. Single copies of the **Federal Register** notice containing the proposed standards or of a Background Information Document containing pertinent technical information, may be requested in writing from the Program Management Office (ANR–458), U.S. Environmental Protection Agency, Washington, D.C. 20460, or by calling (703) 557–9351.

FOR FURTHER INFORMATION CONTACT: Terrence A. McLaughlin, Chief, Environmental Standards Branch (ANR–460), U.S. Environmental Protection

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Agency, Washington, D.C. 20460, (703) 557–8977.

SUPPLEMENTARY INFORMATION: EPA published proposed emission standards for radionuclides under Section 112 of the Clean Air Act in the Federal Register on April 6, 1983 (48 FR 15076). An informal public hearing on the proposed standards was held in Washington, D.C., on April 28 and 29. The close of the public comment period was scheduled to have been May 30, 1983.

EPA has received a number of requests to hold another public hearing and to extend the comment period. EPA would like to encourage maximum public participation in this rulemaking and to provide an additional forum for presentation of views.

Because of the complexity and potential impacts of this rulemaking, EPA has decided to conduct an additional public hearing in Denver, Colorado, on June 14, 1983, and to keep the rulemaking record open for public comment until July 14, 1983.

Dated: May 19, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83–14157 Filed 5–25–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 191

[AH–FRL 23 71–4]

Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency.

ACTION: Request for post-hearing comments.

SUMMARY: On December 29, 1982, the Environmental Protection Agency requested public comments on the Proposed Standards for the Management and Disposal of Spent Nuclear Reactor Fuel and High-Level and Transuranic Wastes (47 FR 58196–206). The responses we received provided many useful evaluations and recommendations regarding our proposed rule. In particular, the public comments identified alternative approaches to seven issues upon which we request further public comment. These issues are: (1) The definition of "high-level radioactive waste;" (2) the need for the assurance and procedural requirements—§§ 191.14 and 191.15; (3) requirements for long-term monitoring of disposal facilities; (4) the definition of "accessible environment;" (5) extending the disposal standards beyond 10,000 years; (6) providing disposal standards which include exposure limits for individuals; and (7) the need for quantitative definitions of release probabilities in the disposal standards.

Specific questions regarding these issues were presented to participants in the public hearings that we held after comments were received (48 FR 13444). Copies of these questions have also been sent to persons and organizations which submitted substantive comments in response to our December 29, 1982 request. In order to provide an opportunity for further public participation in our rulemaking, we request additional public comments on the alternative approaches to the seven issues identified above.

DATE: Comments on these issues should be received on or before June 20, 1983.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–130), Environmental Protection Agency, Attn: Docket No. R–82–3, Washington, D.C. 20460.

Docket No. R–82–3, which contains all of the comments received on the proposed rule and the transcripts of the public hearings, is located in the West Tower Lobby, Gallery 1, Central Docket Section, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The Docket may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

Copies of the detailed questions concerning the above issues, on which the Agency is requesting further comments, may be obtained by writing to: Director, Criteria and Standards Division (ANR–460), Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460; or, they may be obtained by contacting the individuals identified below.

FOR FURTHER INFORMATION CONTACT: Dan Egan or Ray Clark (703) 557–8610, Waste Management Standards Branch (ANR–460), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: May 20, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83–14156 Filed 5–25–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 192

[AH–FRL 2371–5]

Environmental Standards for Uranium and Thorium Mill Tailings at Licensed Commercial Processing Sites; Revised Hearing and Comment Schedules

AGENCY: Environmental Protection Agency.

ACTION: Notice of additional public hearing and extension of comment period.

SUMMARY: EPA has received several requests to conduct public hearings close to the uranium producing districts on this proposed rulemaking (48 FR 19584). Requests have also been received to extend the time for submittal of written comments. Accordingly, we are announcing that EPA will hold an additional public hearing in Denver, Colorado, beginning June 15, 1983. We are also extending the period for written comments to June 14, 1983. The hearing record will be kept open until June 30, 1983. Therefore, we expect to be able to fully consider any written comments received at the Docket by June 30, 1983. Public hearings will also be conducted in Washington, D.C., starting on May 31, 1983, as initially announced.

DATES:

Written Comments: Comments should be received on or before June 14, 1983. However, as noted above, we expect to be able to fully consider any written comments received at the Docket by June 30, 1983.

Public Hearings: Requests to participate in the Denver public hearing should be received on or before June 3, 1983. The Denver public hearing on this proposed rule will begin on June 15, 1983. The public hearing in Washington, D.C., will begin on May 31, 1983. All hearings will commence at 9:30 a.m.

ADDRESSES:

Written Comments: Comments should be submitted to Docket No. A–82–26 at the address specified for the Docket below. We would appreciate an additional copy sent to Mr. Jack Russell at the address listed below (see the heading "**FOR FURTHER INFORMATION**").

Public Hearings: Requests to participate in the Denver public hearing should be submitted in writing to the Director, Criteria and Standards Division (ANR–460), Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460. All requests for participation must include at least an outline of the topics to be addressed, the amount of time requested, and the names of the participants. The Denver public hearing on this proposed rule will be held at the Denver Botanical Gardens, 909 York Street, Denver, Colorado.

The Washington public hearing on this proposed rule will be held at the DuPont Plaza Hotel, Embassy Hall, 1500 New Hampshire Avenue, NW., Washington, D.C. 20036.

Background Documents: Background information is contained in the reports entitled *Draft Environmental Impact Statement for Standards for the Control of Byproduct Materials from Uranium Ore Processing (40 CFR 192)*, EPA Report 520/1–82–022; and *Regulatory Impact Analysis of Environmental Standards for Uranium Mill Tailings at Active Sites*, EPA Report 520/1–82–023. Single copies of these reports, as available, may be obtained from the Program Management Office (ANR–458), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number (703) 557–9351.

Docket. Docket Number A–82–26 contains the rulemaking record. The docket is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at EPA Headquarters. The address is: Central Docket Section (LE–130), West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION: Contact Mr. Jack Russell, Guides and Criteria Branch (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number (703) 557–8610.

Dated: May 20, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83–14158 Filed 5–25–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83–483; FCC 83–217]

Direct Remote Access to Commission Computer Data Bases

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The proposed Notice of Inquiry has been developed to address the desirability of authorizing direct electronic access by the public to the Commission's automated computer files. This action is the result of a petition submitted by the Association of Federal Communications Consulting Engineers.

DATES: Comments must be submitted on or before July 20, 1983, and replies on or before August 18, 1983.

ADDRESS: Comments may be mailed to the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. A. D. Enty, (202) 632–7581.

Notice of Inquiry

In the matter of allowing the public direct remote access to Commission computer data bases; Gen Docket No. 83–483.

Adopted: May 12, 1983.
Released: May 20, 1983.
By the Commission.

1. The Commission has before it a petition from the Association of Federal Communications Consulting Engineers (AFCCE) to amend § 0.455 of its Rules to permit the public remote access to the Commission's electronically filed data.[1] In order to gain a broader perspective of the implications of the AFCCE Proposal, we are initiating this inquiry seeking additional information from the public.

2. In addition, § 0.465 of the Rules provides the means for the public to obtain copies of materials which are available for public inspection. In general, paper products are available through the Commission's records duplication contractor. Computer data bases developed by the Commission for its own use are available through the National Technical Information Services (NTIS), Department of Commerce in the form of magnetic tape or microfiche. Extracts of these data bases are not provided by the Commission. Source programs, models, etc. developed by and for the Commission are also available through the Computer Applications Division. The Commission will not provide custom programming and updates to the public.

3. The petition notes that present methods of providing data are very time consuming and not in keeping with current state-of-the-art in data processing. Furthermore, data obtained in the above manner is often outdated when received. The AFCCE, therefore, requests direct remote access to several of the Commission's electronic data bases. Most of the requested files are currently not accessible in an on-line, interactive mode, however, two of the major files are on-line:

A. The Master File Search System (MFS) as described in the Commission's Report FCC/OCE–SA–79–02; and

B. The master frequency file retrieval system using the Data Base Management System of the Honeywell 6000 Series Computer.

Information concerning these systems can be obtained by contacting Phillip G. Tremper at (202) 653–8163 or John Giuli at (202) 254–7163. Briefly, these systems access the data contained in the non-government master frequency file. This file contains most information appearing on station likeness (except amateur, marine ship, aircraft, commercial and restricted permits, and citizens ban licenses.)

4. In the fall of 1983, the Commission expects to have implemented several new systems currently under development. These microcomputer based systems will include the following systems expected to be of interest to the public.

A. Citator;

B. Rules; and

C. Docket History.

Information related to these systems may be obtained by contacting Michael J. Gilbride at (202) 653–5720. Briefly, these systems will track the status of Commission Dockets and Rulemakings.

5. The data and systems described in paragraphs 3 and 4 above are/will be available to the public with:

A. documentation of the information contained in the systems, including record formats, data definitions, etc. via NTIS; and

B. documentation on the use of the systems, via NTIS.

6. A number of technical alternatives exist which would provide the public remote access to the Commission's electronically filed data. Dependent upon the public's particular requirements, the most appropriate alternative may be determined. Response to each of the following considerations will permit the identification of the appropriate alternative:

A. *Service Access Considerations*: At a minimum, comments should address the alternatives outlined below as well as others that you believe would satisfy your requirements. Please explain why the alternative you identify is preferred and explain whether and why any of the other alternatives would not satisfy your needs.

(1) Direct electronic access to the Commission's files.

(2) Access to the files through a public network system such as Telenet, Tymnet, etc; and

[1] Section 0.455 of the Rules states that certain records may be inspected "in the offices of the Bureau or Office which exercises responsibility over matters to which those records pertain."

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(3) Access to the files through a third party contractor.

B. *Data File Considerations:* As previously indicated, there are several computer files which are currently not accessible on-line, for example:

(1) TV Engineering Data Base
(2) FM Engineering Data Base
(3) AM Engineering Data Base
(4) FM Translator Engineering Data Base
(5) TV Translator Engineering Data Base
(6) NARBA List (Canadian and Mexican Notifications)
(7) Auxiliary Broadcast Services Data Base
(8) WARC Inventory List of Notifications

Which, if any, additional data files (include the above, as appropriate) do you wish to access directly?

C. *Timeliness and Currency Considerations:* For each alternative addressed, including those outlined above, comment on the following:

(1) What access period (EST) would be most appropriate to satisfy your requirements?

(2) The minimally acceptable level of currency of the data under each altenative?

(3) The response time required to make the service usable for both on-line and off-line processing?

D. *Expected Usage of the Service Considerations:* For each alternative addressed, including those outlined above, comment on the following:

(1) What terminal types, information interchange codes, and baud rates would best meet your needs?

(2) Estimated number of queries per day, per month;

(3) Estimated off-line pages to be printed per day, per month;

(4) The specific report types required;

(5) The specific utility programs required; and

(6) The estimated connect time per day, per month.

E. *Security, Fraud, and Abuse Considerations:* To adequately protect the Commission's files and to preclude unauthorize use of the Commission's computer resources, it will be necessary to establish safeguards. The public is invited to recommend measures by which the Commission could adequately protect sensitive information and safeguard its computer resources.

F. *Other Considerations:* The public is invited to submit for consideration any other related items of interest and special concern, including service cost considerations, which are not included herein.

7. This action is taken pursuant to Section 403 of the Communciations Act of 1934, as amended. Comments must be filed on or before *July 20, 1983* and reply comments on or before *August 18, 1983*. All relevant and timely comments will be considered.

8. In accordance with § 1.419 of the Rules, an original and six (6) copies of all comments, suggestions, briefs, or other documents will be furnished the Commission. The petition to amend § 0.455 of the Rules will be placed in the dockets file for reference by the public.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-14114 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 2, 81, 83, 87, 90 and 97

[PR Docket No. 83-464; FCC 83-212]

Implementation of Changes in the Alaska-Public Fixed Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes to change certain existing rules in order to (1) increase monitoring of the Alaska Emergency Frequency, (2) clarify which frequencies are available to common carriers in the Alaska-Public Fixed Service, (3) remove unnecessary frequency zone regulations to make more frequencies available state-wide, and (4) create greater flexibility in station identification for Alaska Fixed and Coast licensees. This action is necessary because the existing rules are overly restrictive, partially obsolete, and deviate from accepted practice. These actions are intended to benefit all Alaska users alike by reducing regulation, creating greater flexibility, and increasing efficient use of their channels.

DATES: Comments must be submitted on or before November 1, 1983. Reply comments must be submitted on or before January 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, (202) 632-7175.

List of Subjects

47 CFR Part 2

Disaster assistance.

47 CFR Part 81

Radio, Alaska, Coast stations.

47 CFR Part 83

Radio.

47 CFR Part 87

Aeronautical stations, Radio.

47 CFR Part 90

Radio, Industrial radio services, Land transportation radio services, Public safety radio services.

47 CFR Part 97

Radio.

Notice of Proposed Rule Making

In the matter of amendment of Parts 2, 81, 83, 87, 90, and 97 of the Commission's rules and regulations to implement changes in the Alaska-Public Fixed Service; PR Docket No. 83-464.

Adopted: May 2, 1983.
Released: May 5, 1983.

By the Commission: Commissioner Fogarty not participating.

Summary

1. This Notice of Proposed Rule Making ("NPRM" or "Notice") proposes to rewrite that portion of the Rules and Regulations ("rules") which governs the Alaska-Public Fixed Service (Part 81, Subpart Q). This service serves the unique needs of Alaska "bush" communities which have no form of conventional telephone available to them, and who must rely on the nearest cannery or fishing village's radio transceiver for communications facilities. The Alaska-Public Fixed Licensees operate on marine frequencies since most of them originally settled along the coasts of Alaska. The typical Alaska-Public Fixed licensee provides a communications link from the "bush" to the nearest population center with conventional telephone service. The proposed rules are less limiting than the current ones and should better accommodate the varied requirements of the Alaskan population. Because the Notice includes a proposal to change the Alaska Energency Frequency, the rules parts cited in the caption all require modification.

Background

2. The Alaska Communications System ("ACS") was a governmental communications system operated by the Air Force until 1969, when it was sold to RCA Alaska Communications, Inc., and then to Alascom, Inc., pursuant to the Alaska Communications Disposal Act. Alascom, Inc. ("Alascom") and other entities continue to provide communications to Alaska, although such of the ACS equipment has been replaced by systems using more sophisticated technology, such as satellites and microwave systems. In this proceeding, the Commission is proposing to modify or to delete certain rules which date back to the sale of the ACS. Additionally, the Commission is proposing to change the Alaska Emergency Frequency from 4383.8 kHz to 5167.5 kHz, and to make it available to licensees in a new Alaska-Private Fixed Service as a calling channel.

Discussion

3. The State of Alaska is presently divided into six zones in the rules for the purpose of frequency assignment. Many of the very desirable 4 and 5 MHz frequencies are available in only one zone, where they may or may not be used. This limitation is particularly frustrating to applicants in other zones where similar frequencies are either occupied or otherwise unavailable. The zones also restrict communication between individuals operating within proximity of each other but in separate zones. Because the zones no longer appear to serve any useful purpose, we are proposing to remove all reference to zones from the rules.

4. The Commission is also proposing to change the Alaska Emergency Frequency, in order to increase the number of radios which are able to monitor the frequency. An emergency channel can only be effective if it is closely monitored. Unfortunately, the frequency which was selected in 1974, 4383.8 kHz, is not always monitored and indeed many radios are not equipped to receive it. This lack of use is partly due to the Commission's previous prohibition against using the frequency as a calling channel. Conversely, the frequency 5167.5 kHz enjoys greater popularity in Alaska as it is used by the lodges and air taxis as a calling channel. We are therefore proposing to change the Alaska Emergency Frequency to 5167.5 kHz for all stations authorized in the amateur, fixed, and mobile services and to Government stations, within 50 nautical miles of the State of Alaska. Under the new rules, the Alaska-Private Fixed licensees will be allowed to continue calling and listening activities on 5167.5 kHz, but, as before, must switch to a working frequency as soon as communication is established. The large number of existing radios which are in use and are equipped with this channel, coupled with its availability as a calling frequency, should ensure much more efficient use (i.e., close monitoring) of the Alaska Emergency Frequency.

5. The existing Alaska-Public Fixed Service rules provide for two basic categories of licensees: common carriers and non-common carriers. However, due to confusion over eligibility requirements, certain non-carriers have been licensed to operate on common carrier frequencies and have charged their customers for interconnection service although their licenses indicate they do not charge. The Commission recognizes that these licensees are serving a vital need and does not wish to inhibit their operations in any way. However, if they charge their customers for communications service, they must comply with our rules. The rules as they exist are unclear and may cause confusion over eligibility requirements. In fact, two such licensees have been cited with rule violations by our field office in Alaska as a result of this situation.

6. This NPRM proposes to rewrite the rules governing common carriers and non-common carriers so that the situation described above will not recur. We are proposing two distant groups of frequencies: duplex frequencies for common carriers only and simplex frequencies for all others. To our knowledge, the impact of the proposed rule changes on existing carriers would be *de minimus*. For example, there are only six locations where licensees in this service continue to provide a common carrier service (Anchorage, Cordova, Fairbanks, Juneau, Ketchikan, and Kodiak). Frequencies, which were previously used by Alascom to provide communications to outlying communities which have since obtained other communications service(s), are not now utilized by the common carriers. We are therefore proposing to add these frequencies to the "pool" of simplex frequencies now available throughout Alaska to all other Alaska-Public Fixed licensees. The common carriers would be ineligible to use the simplex frequencies. Henceforth the Alaska Fixed Service would be comprised of two classes of stations: Alaska-Private Fixed licensees and Alaska-Public Fixed licensees.

7. The existing rules make provisions for radiotelegraphy operations on certain Alaska-Fixed channels. However, to the Commission's knowledge, none of these frequencies are used for manual radiotelegraphy. Indeed, the only discernible radiotelegraphy use appears to be radioteletypewriter, which is limited to five (5) frequencies. Since radioteletypewriter appears to be the only remaining radiotelegraphy requirement, the proposed rules would delete all other references to telegraphy and telephony, and all the frequencies (except the five mentioned above) would be made available for telephony.

8. Our final proposed change is a minor one involving Alaska Private and Public Fixed and Private and Public Coast station identification. Previously, licensees needed FCC approval in order to identify themselves over the air by approximate geographic location rather than by call sign. We are proposing to relax this rule to allow these licensees to use their approximate geographic location if they are the only licensee on that frequency at that location. Should there be more than one license issued for use of the same frequency in a given location, then the new relaxed rules would allow identification by licensee name followed by location. These stations are free to choose between the old method of voice station identification and the new method described above. This and all the other changes are specified in the attached Appendix.

Proposal

9. Accordingly, the Commission is issuing this Notice of Proposed Rule Making to amend certain portions of the rules governing Stations on Land in the Maritime Services and the Alaska-Fixed Service to better meet the needs of the public. These changes include (1) deleting the six zones in the State of Alaska, (2) changing the Alaska Emergency Frequency from 4383.8 kHz to 5167.5 kHz, (3) redefining the eligibility requirements for use of the simplex and duplex frequencies available to the Alaska-Public Fixed licensees, (4) moving certain frequencies, previously only available to common carriers, into the pool of frequencies only available to non-common carriers, and (5) relaxing the rules governing coast station and Alaska Fixed station identification.

10. The proposed amendments to Parts 2, 81, 83, 87, 90, and 97 of the rules, as set forth in the Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

11. Pursuant to Section 605 of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980, 94 Stat. 1164; 5 U.S.C. 601 *et seq.*) the Commission certifies that the action proposed herein will not have a significant impact on a substantial number of small entities. Most of the proposed changes simplify the existing rules by removing unnecessary regulations and clarifying remaining ones. With the exception of the common carriers of which there are but a few, the changes do not significantly impact any entities, but should promote greater efficiency among all of them. Furthermore, the three common carriers who would be directly affected by the proposed changes

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already comply with the new requirements.

12. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may submit comments on or before November 1, 1983, and reply comments on or before January 30, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

13. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considerd at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the Public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

14. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

15. For further information concerning procedures to follow with respect to this rule making proceeding, contact Maureen Cesaitis, (202) 632–7175. A summary of the Commission's procedures governing *ex parte* contacts in informal rule making is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81, 83, 87, 90, and 97 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.106 is amended by adding an entry to the table for the band 5005–5450KHz and by revising footnote US212 to read as follows:

§ 2.106 Table of frequency allocations.

FEDERAL COMMUNICATIONS COMMISSION

Band (kHz)	Service	Class of Station	Frequency
7	8	9	10
5005–5450 (US212)	Fixed		

US Footnotes

US212 In the State of Alaska, the frequency 5167.5 kHz, is designated for emergency communications. This frequency may also be used in the Alaska-Private Fixed Service for calling and listening, but only for establishing communications before switching to another frequency.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. Part 81 is amended in the heading by removing the hyphen and the word "Public".

2. Section 81.9, including its heading, is amended as follows: The "Note" at the end of paragraph (a) is removed, paragraph (b), including the map and note that follow it, is removed, paragraph (c) is redesignated (b), paragraph (d) is redesignated (c) and is revised to read as shown below, and a new paragraph (d) is added to read as shown below.

§ 81.9 Alaska-Private And Public Fixed.

* * * * *

(c) *Alaska-Public Fixed Station.* A fixed station in Alaska, which is open to public correspondence, and is licensed by the Commission for radio communication between specified fixed points within Alaska. These stations operate at geographical locations specified in § 81.711 on paired, duplex channels.

(d) *Alaska-Private Fixed Station.* A fixed station in Alaska which is licensed by the Commission for radio communication within Alaska, on simplex channels listed in § 81.709. Alaska-Private Fixed stations are also eligible to operate on secondary transmit frequencies to exchange communications with Alaska-Public Fixed stations in accordance with § 81.711.

3. Section 81.304 is amended by adding a line in numerical sequence (between 4428.6 and 6147.5) in paragraph (a) and by revising paragraph (b)(9) to read as follows:

§ 81.304 Frequencies available.

(a) * * *

CONDITIONS OF USE

Carrier frequency (kHz)	Section	Limitations
5167.5 Emergency		9

(b) * * *

(9) The frequency 5167.5 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. This frequency may also be used by stations authorized in the Alaska-Private Fixed Service for calling and listening, but only for establishing communication before switching to another frequency.

* * * * *

4. Section 81.310 is revised to read as follows:

§ 81.310 Identification of station.

All radiotelephone emissions from a public (or private) coast station shall be clearly identified:

(a) By voice transmission of the official call sign;

(b) By voice transmission of the approximately geographic location of the station if there will be no conflict with identification of any other station; or

(c) By voice transmission of the licensee's name followed by the approximate geographic location of the station.

5. The Subpart Q heading is revised to read as follows:

Subpart Q—Alaska Fixed Stations

* * * * *

6. Section 81.706 is revised to read as follows:

§ 81.706 Station identification.

All emissions from an Alaska-Public or Private Fixed station shall be clearly identified:

(a) By voice transmission of the official call sign; or

(b) By voice transmission of the approximate geographic location of the station if only one licensee is on that frequency at that location; or

(c) By voice transmission of the licensee name followed by the approximate geographic location of the station.

7. Section 81.708 is revised as follows:

§ 81.708 Frequencies available.

(a) The following table indicates the authorized carrier frequencies for use by Alaska-Private and Public Fixed stations along with their specific conditions of use. The conditions of use consist of the pertinent section reference(s) and the specific assignment limitations, which are enumerated in paragraph (b) of this section. For single sideband radiotelephone emission, the assigned frequency will be 1.4 kHz above the authorized carrier frequency.

CONDITIONS OF USE

Carrier frequency (kHz)	Section	Limitations
1643	81.709	1
1646	81.709	1
1649	81.709	1
1652	81.709	1
1657	81.709	1
1660	81.709	1,7
1705	81.709	1
1709	81.709	1
1712	81.709	1
2003	81.709	1
2006	81.709	9
2115	81.709	1,8,9
2118	81.709	1
2253	81.711	1,13
2256	81.711	1,17
2312	81.711	18
2400	81.709	18
2419	81.709	1
2422	81.709	1
2427	81.709	9
2430	81.709	1,9,12
2447	81.709	1
2450	81.709	1,9
2463	81.709	1
2466	81.709	1
2471	81.709	1
2474	81.711	6,14
2479	81.709	9,12
2482	81.709	1,9,12

CONDITIONS OF USE—Continued

Carrier frequency (kHz)	Section	Limitations
2506	81.709	1,10
2509	81.709	1
2512	81.709	1
2535	81.709	9
2538	81.709	1,9
2563	81.709	1
2566	81.709	1,9
2601	81.709	1
2604	81.711	1
2616	81.709	1,9
2629	81.709	1
2632	81.711	1,15
2691	81.709	1
2694	81.711	1,16
2773	81.709	1
2776	81.711	1,17
2781	81.711	1
2784	81.711	1
3164.5	81.709	1
3167.5	81.711	1
3180	81.711	1
3183	81.711	1
3196	81.709	3
3201	81.709	3
3238	81.709	1
3241	81.711	1
3258	81.709	11
3261	81.709	1,11
3303	81.709	1
3354	81.711	1
3357	81.711	1,16
3362	81.709	1
3365	81.711	1,13
4035	81.709	1
4791.5	81.711	9,10
5134.5	81.711	1
5137.5	81.711	1,13
5164.5	81.709	4
5167.5*		
5204.5	81.709	1,18
5207.5	81.711	1,18
5370	81.711	1
6948.5	81.709	6,10
7368.5	81.709	6,10
8067	81.709	5
8070	81.709	5
11,437	81.709	6,10
11,601.5	81.709	6,10

*EMERGENCY—CALLING—LISTENING.

(b) Authorization and use of the carrier frequencies set forth in paragraph (a) of this section shall be in accordance with the following limitations and conditions:

(1) Available for use with emission 2.8A3J.

(2) [Reserved].

(3) [Reserved].

(4) To be used exclusively for communication over distances of not less than 50 miles and only during the hours from 6 a.m. to 9 p.m. local standard time.

(5) To be used exclusively for communication over distances of not less than 200 miles and only during the hours from 6 a.m. to 6 p.m. local standard time.

(6) Available in response to an application which specifically requests authority to use these frequencies. These frequencies are available under the following limitations and conditions:

(i) The transmitter output power employed shall be the minimum necessary for satisfactory communication and in no event shall exceed a maximum of 1,000 watts peak envelope power.

(ii) Emission 2.8A3J shall be used.

(7) Use of the frequency 1680 kHz shall be coordinated to protect radiolocation operations on adjacent channels.

(8) To minimize interference to or from the operation of stations outside the Alaska area or U.S. Government stations within Alaska, this frequency is authorized for use annually only during the hours from 7 a.m. to 11 p.m. local standard time from May 15 to September 15, inclusive; and from 8 a.m. to 9 p.m. local standard time from April 1 to May 14, inclusive, and from September 16 to October 31 inclusive.

(9) This frequency may be authorized for use by Alaska-Private Fixed stations subject to the following limitations and conditions:

(i) The Alaska-Private Fixed frequencies are the same as those authorized to the licensee for use at the licensee's public coast station.

(ii) The Alaska-Private and Public Fixed frequencies are to be used in receiving and transmitting equipment which is installed at the same location as equipment used by the public coast station; and

(iii) The licensee is authorized in the Maritime Mobile Service.

(10) This frequency may be authorized for radioteletypewriter use.

(11) Insofar as is practicable, Alaska-Private Fixed stations shall limit their use of the frequencies 3258 and 3261 kHz to communication over distances which cannot be effectively covered by the use of a frequency below 2700 kHz or above 70 MHz.

(12) To minimize interference to or from the operation of stations outside the Alaska area, this frequency is authorized for use annually only during the hours from 6 a.m. to 11 p.m. local standard time, from April 1 to September 30, inclusive.

(13) For communication with common carrier stations located at Anchorage.

(14) For communication with common carrier stations located at Kodiak.

(15) For communication with common carrier stations located at Cordova.

(16) For communication with common carrier stations located at Juneau.

(17) For communication with common carrier stations located at Ketchikan.

(18) Use of this frequency for fixed services is on a secondary basis to its use under § 81.306(d).

8. Section 81.709 is revised to read as follows:

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§ 81.709 Frequencies available for simplex use by Alaska-Private Fixed licensees.

Each of the simplex carrier frequencies set forth in the following table, when authorized by station license, may be used by Alaska-Private Fixed stations, for communication with other licensed Alaska-Private Fixed stations. Alaska-Private Fixed stations many be interconnected with facilities of licensed common carriers to provide communications to the desired destination. Licensees are forbidden to levy a tariff or any other kind of a fee for use of these frequencies. The limitations and conditions of use applicable to each frequency are set forth in § 81.708.

Frequency (kHz)	
1643	2512
1646	2535
1649	2538
1652	2563
1657	2566
1660	2601
1705	2604
1709	2616
1712	3164.5
2003	3198
2006	3201
2115	3238
2118	3258
2419	3261
2422	3303
2427	3362
2430	4035
2447	5164.5
2450	5167.5
2463	5204.5
2466	6948.5
2471	7368.5
2479	8067
2482	8070
2506	11,437
2509	11,601.5

§ 81.710 [Reserved]

9. Section 81.710 is removed and reserved.

10. Section 81.711 is revised to read as follows:

§ 81.711 Frequencies for duplex use in common carrier systems.

(a) The carrier frequencies in the table below are available for assignment and use, in duplex frequency operations, to Alaska-Public Fixed stations that provide essentially common carrier service. These stations must have effective tariffs on file with the Commission, pursuant to the requirement of Section 203 of the Communications Act and Part 61 of this chapter, if they engage in any interstate or international communications. (If a licensee offers solely intrastate communications, no tariff is required by the Commission; however, intrastate common carriers must comply with State and/or local tariff requirements.)

(b) The frequencies in column two below are available for assignment to Alaska-Public Fixed stations located in the geographical areas listed in column one. The frequencies listed in column three are paired with the frequencies listed in column two and are available for assignment to Alaska-Private Fixed stations which operate and exchange communications with the primary (Public-Fixed) stations. The frequencies listed in column three may not be used for any other purpose than that described above.

FREQUENCIES AVAILABLE

Location of primary station	Primary station transmit (kHz)	Secondary station transmit (kHz)
(1)	(2)	(3)
Anchorage	3183	3365
		5137.5
		2253
		5370
		5134.5
Cordova	2312	2632
Fairbanks	3167.5	3354
	4791.5	5207.5
Juneau	2784	2694
	3241	3357
Ketchikan	2604	2256
	3180	2776
Kodiak	2781	2474

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.2 [Amended]

1. In § 83.2, paragraph (t) is amended by removing the "Note", and paragraph (u), including the diagram (Map), is removed.

2. In § 83.351, in paragraph (a) table, the line concerning the carrier frequency 4383.8 kHz is removed, and a new line is added in numerical sequence (between 4434.9 and 5680 kHz), and paragraph (b)(36) is added to read as follows:

§ 83.351 Frequencies available.

5167.5		83.370	15, 36

(b) • • •

(36) The frequency 5167.5 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part within 50 nautical miles of the State of Alaska, to communicate with any other station authorized in the State of Alaska for emergency communications.

PART 87—AVIATION SERVICES

Section 87.295(c)(4) is amended by removing "[1] 4383.8" from the third column and replacing it with "[1] 5167.5", by redesignating present footnote 1 as footnote 2 and changing the references in columns 1 and 2 to footnote "1" to footnote "2", and by adding a new footnote 1 to read as follows:

§ 87.295 Frequency available for domestic HF service.

(c) • • •

(4) • • •

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.253 including its heading is revised to read as follows:

§ 90.253 Use of frequency 5167.5 kHz.

The frequency 5167.5 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. The maximum power permitted is 150 watts peak envelope power (PEP). All stations operating on this frequency must be located in or within 50 nautical miles (92.6 km) of the State of Alaska. This frequency may also be used by stations authorized in the Alaska-Private Fixed Service for calling and listening, but only for establishing communication before switching to another frequency.

2. Section 90.555(b) is revised by removing the line for frequency 4383.8 from the kilohertz column and adding a line for frequency 5167.5 (in numerical order) to the kilohertz column to read as follows:

§ 90.555 Combined frequency listing.

(b) Combined frequency list:

5167.5	(2)	Alaska emergency frequency

PART 97—AMATEUR RADIO SERVICE RULES

1. Section 97.61 is amended by removing the line concerning the

[1] The frequency 5167.5 kHz may be used for emergency communications with any other authorized radio station in Alaska. However, no airborne operations are permitted. Maximum power is limited to 150 watts PEP. This frequency may also be used by stations authorized in the Alaska-Private Fixed Service for calling and listening, but only for establishing communication before switching to another frequency.

frequency 4383.8 and adding the following line in its place (between the bands 3775–4000 and 7000–7300) and by revising paragraph (b)(13):

§ 97.61 Authorized frequencies and emissions.

(a) • • •

Frequency band (kHz)	Emissions	Limitations [1]
5167.5	A3J,A3A	13

[1] See paragraph (b)

(b) • • •

(13) The frequency 5167.5 kHz, maximum power 150 watts, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska. The frequency 5167.5 kHz may be used by licensees in the Alaska-Private Fixed Service for calling and listening, but only for establishing communication before switching to another frequency.

2. Section 97.107 is amended by revising a footnote to paragraph (b) as follows:

§ 97.107 Operation in emergencies.

(b) • • •

The frequency 5167.5 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. All stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska. The frequency 5167.5 kHz may be used by licensees in the Alaska-Private Fixed Service for calling and listening, but only for establishing communication before switching to another frequency.

[FR Doc. 83-13122 Filed 5-25-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 81 and 83

[PR Docket No. 83-431; RM-2946; FCC 83-206]

Provisions for Implementation of the International Radio Consultative Committee (CCIR) Digital Selective Calling (DSC) System Within the Maritime Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the rules to provide the parameters under which the CCIR Digital Selective Calling (DSC) system will be implemented by ships and coast stations operating within the Maritime Mobile Service. DSC is a system used to establish contact with a station or group of stations by means of radio. The primary reason for implementing such a system is to provide a standard and improved method for establishing radio contact in the marine environment which in turn will promote more efficient use of the radio frequency spectrum. A second consideration is the fact that the CCIR DSC system will be an integral part of the Future Global Maritime Distress and Safety System (FGMDSS) developed by the International Maritime Organization (IMO) and planned for final implementation in the next decade. The intended effect is to make the CCIR DSC system available to the maritime community on an optional basis at an early date.

DATES: Comments must be received on or before November 9, 1983, and reply comments must be received on or before December 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202)632-7175.

List of Subjects in 47 CFR Parts 81 and 83

Coast stations, Communications equipment, Marine safety, Radio, Ship stations.

Proposed Rule Making And Order

In matter of digital selective calling system in the Maritime Mobile Service; PR Docket No. 83-431, RM 2946.

Adopted: April 27, 1983.
Released: May 9, 1983.

By the Commission: Commissioner Jones absent.

Summary

1. The Commission proposes to amend Parts 81 and 83 of its rules to provide for the implementation of the International Radio Consultative Committee (CCIR) digital selective calling (DSC) system within the Maritime Mobil Service. Selective calling provides the basis for direct-dial, automated communications in the maritime services, thus promoting more reliable and effective contact between ship and shore or between ships. CCIR DSC is designed to meet the operational requirements of the Maritime Service on an internationally compatible basis. Moreover, the requirements of the Future Global Maritime Distress and Safety System (FGMDSS) are based upon the use of the CCIR DSC system for distress alerting. Early optional use of CCIR DSC equipment, by ships and coast stations of the United States will promote increased efficiency of the radio frequency spectrum and facilitate the transition to possible mandatory use of the system when the FGDSS comes into force for the United States, now planned for the next decade. The DSC system should be applicable to all forms of radiotelephony and radiotelegraphy communications as well as all frequency bands.

Background

2. The development of a system to improve maritime communications calling procedures has long been recognized as essential to significant improvement of maritime mobile communications. Selective calling systems were described at the International Telecommunication Union's (ITU) Ninth Plenary Assembly of CCIR (CCIR, Los Angeles, 1959). Comparative tests were carried out by the Federal Republic of Germany and the United States. These and further tests were conducted prior to the 1963 and 1966 CCIR Plenaries by Study Group XIII of the CCIR.

3. The World Administrative Radio Conference for Maritime (WARC 1967) amended the ITU Radio Regulations to permit maritime selective calling and adopted the sequential single frequency code (SSFC) system to meet immediate operational requirements.

4. When SSFC was adopted, it was acknowledged that the system could meet a limited immediate requirement but that it could not meet the requirements for the anticipated number of future users. The SSFC was also limited to full voice bandwidth operation. In 1967, the ITU called for the development of a system with greater capability for future maritime use.

5. In 1967, and again at the CCIR Interim Meeting (Geneva, 1972), a digital system was proposed which utilizes a narrow bandwidth and is suitable for operation over all maritime communications channels. Further studies were recommended to develop supporting data on the performance of such a system.

6. In 1972, U.S. flag shipping companies requested the U.S. Maritime Administration to use its resources to coordinate and initiate the development of a selective calling system that would meet both the current and future

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industry needs. The Office of Telecommunications Policy, Office of the President and the Federal Communications Commission also supported the development of such a system. A Special Committee (SC–64) of the Radio Technical Commission for Marine Services, working in conjunction with interested agencies and the maritime community, established the requirements for the system. A digital technique was selected as being the most able to meet all future selective calling requirements. A feasibility model was developed and several units were constructed.

7. Tests were conducted in the laboratory, on ships-at-sea, and on the High Frequency (HF) Simulator at the Institute for Telecommunications Sciences, at Bolder, Colorado. Further tests were conducted by Norway and the United Kingdom. These tests provided confidence in the performance characteristics of the concept, and formed the basis for a proposal advocating international adoption.

8. The CCIR, at its meeting in 1974, recommended the adoption of the basic digital selective calling system. Technical characteristics were provisionally accepted, pending further evaluations of the message format, which was modified to accommodate the views of other member nations. The 1974 World Administrative Radio Conference established dedicated, digital selective calling frequencies and adopted the digital technique, subject to final definition of the technical characteristics by the CCIR.

9. The ITU's Fifteenth Plenary Assembly of the CCIR (CCIR, Geneva, 1982) adopted the DSC operational and technical characteristics which are contained in CCIR Recommendation 493–2. The same Plenary Assembly adopted the DSC operational procedures which are contained in CCIR Recommendation 541–1. These DSC-relevant CCIR Recommendations, in conjunction with Article 62 of the ITU Radio Regulations,[1] provide the basis and authority for the implementation of CCIR DSC within the United States maritime community.[2]

[1] We refer throughout the NPRM to Radio Regulations, edition of 1982, Geneva.

[2] On August 12, 1977, WJG Telephone Company, Inc. (WJG) filed a petition for rule making seeking authority in the rules to permit operation of direct dial operations and automatic signalling on the Mississippi River. This petition was assigned rule making number RM 2946. The lack of a signalling channel, various technical difficulties and a strong preference for a standardized system have precluded implementation of such a system. In subsequent discussion and studies, various alternatives have been explored. Most recently, in discussion with Commission staff, WJG has indicated that the promulgation of the standards we are proposing in this docket would adequately respond to its need. Accordingly, we will dismiss RM 2946 in the ordering paragraph below with the understanding that WJG will comment in this proceeding.

Present High Seas Limitations

10. Conventional communications, other than satellite, in the maritime services presently are subject to several hours of delay. This delay is due to several factors, including variations in radio propagation; limited watch duty hours; operating procedures; preoccupation of the radio operator with other duties; and other operational difficulties.

11. When a message is to be sent to a ship, it is first passed to a coast station for relay. The coast station generates a traffic list that includes the call signs of all ships for which there is traffic. The traffic list is transmitted on designated calling frequencies every two hours. The ship radio operator monitors the calling frequencies of the coast stations that normally handle traffic to and from the ship. If the call sign of the ship is heard, the operator will attempt to contact the coast station on one of the coast station working frequencies to request the message. The potential for contact under these calling conditions is very limited.

12. The variables that affect radio propagation are complex and are dependent on the time of day, frequency, location, time of year, sunspot activity, and wheather. Selection of frequency is about the only variable that is under the control of the operator. Experience plays a large part in the selection of the frequency for operation. Since the operator is usually limited to monitoring only one frequency at a time, calls are often missed.

13. The potential for contact is further reduced by the limited watch hours of the radiotelegraph operator. Most ships have only one radio operator and the radio room is unattended approximately two-thirds of the time. According to some estimates, contact is established in only about ten percent of the time when the call is first put on the traffic list. Even after the call has been on the traffic list three times, the contact success has only increased to approximately forty percent. A six hour delay in contacting a ship under these conditions is typical.

14. One of the prime faults in the present conventional system is the delay that is encountered in establishing contact with a ship at sea. The CCIR digital selective calling system promises to reduce this limitation by making it possible to contact a ship even when the radio operator is not on watch, and by maintaining a constant monitor of several calling frequencies, thus reducing the probability of missing a call.

Spectrum Efficiency

15. In recent years there has been a growing user demand from both coast and ship stations for a universal, automated, radiotelephone system and the matter has been the subject of considerable study effort. The Radio Technical Commission for Marine Services, while functioning as a Federal Advisory Committee, completed a study in 1981 on the subject of a "VHF Automated Radiotelephone System". The work of this advisory committee was the basis of United States recommendations to Interim Working Party 8/5, established by the CCIR. Currently, the newly-formed Radio Technical Commission for Maritime Services (RTCM) is studying Digital Selective Calling with a view toward coordinating operational testing of DSC and encouraging more efficient use of the frequency spectrum through the use of DSC.

Safety Considerations

16. The Inter-Governmental Maritime Consultative Organization, through its Subcommittee on Radiocommunications, commenced development of the Future Global Maritime Distress and Safety System (FGMDSS) in 1979. The FGMDSS is expected to become fully operational in the next decade. It is expected to replace the present system, which relies primarily on ship-to-ship distress alerting using Morse Code. The future system will, while retaining a ship-to-ship alerting system for distances of about 100 miles, rely mainly on ship-to-shore distress alerting, using polar-orbiting satellites, geostationary satellites and a high frequency terrestrial system employing the CCIR system of digital selective calling.

Equipment Compatibility

17. In the marine telecommunications community today there are various systems of selective calling in existence other than the CCIR DSC system. These systems range from simple to complex, depending upon the type of service and number of features provided. The most prominent existing domestic example of selective calling is the Great Lakes VHF Radiotelephone System operated by Lorain Electronics Corporation of Lorain, Ohio. This system is performing a definite public service, especially to vessels whose voyages are confined to the Great Lakes. The problem arises when vessels entering or exiting this VHF automated communications system are unable to effectively use their VHF equipment because of incompatible selective calling equipment and procedures or the absence of any selective calling system. The disadvantage of incompatible selective calling systems in the marine environment is obvious from the view point of a ship or boat operator transiting the service areas of several coast stations.

18. While we believe that there is an advantage in compatibility using a single selective calling system, especially in view of the role which this feature is expected to play in the FGMDSS, we will not at this point in the process foreclose the possibility of permitting incompatible equipment to coexist. The proposed rules are intended as a reference point for comments. We specifically invite discussion as to whether a single, uniform system is appropriate as well as whether the proposed CCIR DSC minimum features are adequate or excessive.

Proposal

19. The proposed rules which would implement the CCIR DSC system are contained in the Appendix. The proposed rules reflect the following concepts:

A. Definition:

CCIR Digital Selective Calling System—A system, used to establish contact with a station or group of stations automatically by means of radio, developed by the International Radio Consultative Committee (CCIR) based upon a synchronous ten-unit digital code consisting of seven information bits and an associated three bit binary code for error detection.

(Note.—The minimum operational characteristics, which we believe are necessary in order to transmit and receive DSC calls and provide a satisfactory degree of safety, are those contained in paragraph A.2. of the Appendix, for coast stations, and paragraph B.3. of the Appendix, for ship stations. Because of the differences in scope between the suggested minimum operational characteristics and the maximum operational characteristics available, it is recommended that the Appendix be compared with CCIR Recommendation 493–2. To facilitate this comparison, we have included numbers within brackets opposite pertinent portions of the Appendix. The numbers within the brackets refer to the applicable section of Annex I to CCIR Recommendation 493–2.)

B. Implementation:

(1) All coast and ship stations are authorized to install and use CCIR DSC compatible equipment on the effective date of the Report and Order in this proceeding. As a minimum, such equipment shall contain the minimum operational characteristics delineated in the Appendix.

(2) Coast and ship stations are authorized to install non-CCIR selective calling equipment until February 1, 1986.

(3) All coast and ship stations installing selective calling equipment subsequent to January 31, 1986, must install CCIR DSC compatible equipment.

(4) All coast and ship stations equipped with non-CCIR selective calling equipment on January 31, 1986, meeting the following conditions, may continue to use such equipment until a date to be established by FCC Order. Such date will not be within six years of the effective date of an FCC Order associated with this rulemaking proceeding and a minimum of one year's notice will be given when the date is established. The conditions are:

(a) Such selective calling equipment, which is not compatible with the CCIR DSC technical characteristics, must have been installed and operational by January 31, 1986, and such fact recorded in the radio station records along with information which will positively identify the equipment.

(b) Such equipment, incompatible with CCIR DSC techical characteristics, is used only at the same radio station where located and operational on January 31, 1986.

C. Technical Characteristics:

(1) The technical provisions of CCIR Recommendation 493–2 will be adopted by reference in the rules, except that a numeric only capability is required, and that a dot pattern will be used for distress calls in order to accommodate the use of scanning devices.

(2) The radio frequency tolerance of new transmitters designed for use with digital selective calling equipment in the MF and HF bands shall be ±10 Hertz after January 31, 1990. The recommended receiver 6 db bandwidth after January 31, 1990, will be 200 to 270 Hertz. (Note: The January 31, 1990, date is used because it is the earliest date envisioned for the full implementation of the FGMDSS. The equipment technical characteristics are consistent with CCIR Recommendation 493–2.)

D. Operational Characteristics:

(1) The operational provisions of CCIR Recommendations 493–2 and 541–1 will be adopted by reference in the rules. When the FGMDSS becomes operational, this will automatically provide for the following functions which heretofore had to be performed by other human or equipment means:

—Continuous watchkeeping on distress frequencies.

—Automatic recording of distress calls and distress messages.

—Alerting of operators on receipt of distress, urgency and other vital safety calls.

—Automatic/pushbutton transmission of distress calls and distress information.

—Continued watchkeeping on all required safety or commercial channels.

—Capability to get access to any coast station, including frequency and/or channel indications.

—Capabilities for acknowledgement of a call.

—Telecommand facilities allowing for unattended reception or unattended operations.

—Recording of received calls.

(2) The system of Nationality Identification Digits (NID's) as contained in the ITU Radio Regulations (Resolution 313 and Appendix 43) will be implemented.

E. Radio Frequency Provisions:

(1) The high frequency (HF) DSC frequencies listed in the ITU Radio Regulations, Article 62, will be made available to public coast and ship stations for DSC purposes to establish permitted radio communications.

(2) The currently authorized use of Article 62 (ITU Radio Regulations) DSC frequencies in conjunction with NB–DP operations will be rescinded.

(Note.—Section 81.203 of the rules authorized the use of Article 62 DSC frequencies for NB–DP purposes until such time as a digital selective calling system and associated procedures have been agreed upon and adopted into the ITU Radio Regulations. The current use of these frequencies for NB–DP operations is estimated to be minuscule; therefore, the impact of this proposed action on NB–DP operations should be very small. However, if comments to this proceeding indicate considerable use of these frequencies for NB–DP purposes, we will consider dual use of these frequencies until such time as DSC operations become more extensive.)

(3) Marine channel 69 will be made available or simplex DSC calling purposes in the VHF band with authorized use by both coast and ship stations.

(Note.—Channel 69 is suggested as the DSC simplex general calling frequency because this frequency is largely used by recreational boaters and the frequency is not utilized as much as some other VHF channels. There are approximately 95 limited coast stations currently authorized to use channel 69 as a working frequency. It is the Commission's intent to permit indefinite continued working frequency use of channel 69 at these limited coast stations provided they do not interfere with DSC operations. However, at some future date it may be necessary to assign these limited coast stations a replacement frequency to meet their noncommercial communication requirements.)

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(4) Coast and ship stations will be authorized to use DSC procedures on all authorized MF, HF, and VHF working frequencies except that in the case of VHF frequencies, DSC procedures are limited to those frequencies listed in the Port Operations, Commercial, Noncommercial, Public Correspondence and Digital Selective Calling categories.

Future Considerations

20. The Future Global Maritime Distress and Safety System (FGMDSS) is currently a matter of international planning. The 1983 Mobile Services World Administrative Radio Conference (WARC) will consider a number of items directly related to the FGMDSS. When the FGMDSS is adopted by amendment of the International Convention for the Safety of Life at Sea (SOLAS), 1974, and comes into force for the United States, it is envisioned that the use of CCIR DSC will be mandatory for U.S. vessels which come within the scope of the system. The FGMDSS will also serve other vessels which are equipped with compatible radio and CCIR DSC equipment even though such equipment does not have all the features of equipment which will be mandatory for vessels operating within the FGMDSS system.

21. Once the FGMDSS is fully operational, the U.S. Coast Guard plans to discontinue their manual distress watches as soon a practicable. When the U.S. Coast Guard discontinues their manual distress watches, CCIR DSC will be the primary method for vessels in distress to contact U.S. Coast Guard coast and ship stations for the purpose of requesting needed assistance.

22. Implementation of the CCIR DSC system will tend to reduce the Commission's enforcement effort. This is because all transmissions using DSC equipment must have a nine digit station identity which is contained in the format of the call sequence and is automatically transmitted. This nine digit identity can be used to identify stations that are operating in violation of the Commission's Rules.

Comments

23. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the mater is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

24. The proposed amendments to the rules, as set forth in the Appendix, are issued under authority contained in Sections 4(i) and 303 (a), (b), (c) and (r) of the Communications Act of 1934, as amended.

25. Under the applicable procedures set forth in §1.415 of the Commission's rules, interested persons may file comments on or before November 9, 1983, and reply comments on or before December 27, 1983. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching this decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

26. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

27. This item does not propose the mandatory use of selective calling equipment within the Maritime Mobile Service. This item does propose to make mandatory the use of equipment which contains delineated minimum features compatible with CCIR Recommendation 493–2 subsequent to January 31, 1986, only when selective calling equipment is to be used in conjunction with a communication system or radio station in the Maritime Mobile Service. Since marine transmitters and receivers currently utilized may continue to be utilized under the conditions of the proposed rule amendments and since relatively few vessels and coast stations are presently equipped with selective calling equipment of any type, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding. Therefore, the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

28. Regarding questions on matters covered in this document, contact Robert E. Mickley, telephone (202) 632–7175.

29. For the reasons set forth in footnote 2, it is ordered, That the petition for rule making, RM 2946, filed by WJG Telephone Company, Inc., IS DISMISSED.

30. It is further ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. Section 81.2 is amended by adding paragraph (p) to read as follows:

§ 81.2 General.

* * * * *

(p) CCIR Digital Selective Calling System—A synchronous system, used to establish contact with a station or group of stations automatically by means of radio, developed by the International Radio Consultative Committee (CCIR) based on a ten-unit digital code consisting of seven information bits and an associated three bit binary code for error detection.

2. Section 81.131 is amended by revising paragraph (b) to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b) Authorized frequency tolerances for coast stations operating on frequencies below 515 kHz or within the band 1600 to 27,500 kHz:

Frequency ranges	Tolerance [1]
(1) From 14 to 525 kHz:[2]	
For A2H Emission	20 Hz.
For other than A2H emission	200.
(2) From 1605 to 4000 kHz:[2]	
For A3A, A3H, and A3J emission.	20 Hz.
(3) From 4000 to 27,500 kHz:[2]	
(i) For A3A and A3J emission	20Hz.
(ii) For narrow-band direct-printing telegraph and data transmission systems.	15 Hz.
(iii) For other than (i) and (ii) above.	15.

[1] Parts in 10^6 unless shown as hertz (Hz).

[2] Until February 1, 1990, the radio frequency tolerance for coast station transmitters associated with DSC equipment in the MF and HF bands is ±20 Hertz and the recommended receiver bandwidth is 270 to 340 Hertz. Thereafter, the radio frequency tolerances for coast station transmitters associated with DSC equipment in the MF and HF bands will be ± 10 Hertz and the recommended receiver bandwidth will be 200 to 270 Hertz.

* * * * *

3. Part 81 is amended by adding § 81.144 to read as follows:

§ 81.144 Selective calling equipment.

(a) Where there is need to fulfill maritime mobile coast radio station requirements for selective calling subsequent to January 31, 1986, equipment shall be compatible with the operational and technical characteristics of the International Radio Consultative Committee (CCIR) digital selective calling (DSC) system contained in CCIR Recommendation 493–2 except that station identification need only be accomplished by numerical means.

(b) With respect to the operational characteristics of the CCIR DSC system, the format of a call sequence is comprised of the following:

Format specifier
Address
Category
Self-identificaion
Message 1
Message 2
•
•
End of sequence

DSC equipment shall have the following operational characteristics as a minimum:

Note.—The numbers in the brackets refer to the applicable section of Annex I to CCIR Recommendation 493–2.

(1) Minimum operational characteristics of the call sequence in order to receive a DSC call:

(i) Format specifier [2].

(A) Distress call [2.1.2]; a separate and distinct aural alarm is required.

(B) All ships call [2.1.3].

(C) Selective call [2.1.5].

(ii) Address [3].

(A) Distress call [3.1].

(B) All ships call [3.1]; the address information for "distress calls" and "all ships calls" is contained in the format specifier.

(C) Selective call [3.2]; recognize the called coast station numerical identification. [3.2.1].

(iii) Category [4].

(A) Distress call [4.1]; the category information is contained in the format specifier.

(B) Priorities [4.2.1].

(*1*) Distress [4.2.1.1].

(*2*) Urgency [4.2.1.2].

(*3*) Vital safety [4.2.1.3].

(*4*) Important safety [4.2.1.4].

(*5*) Ship business priority [4.2.1.5].

(*6*) Routine [4.2.1.6].

Notes.—The same aural or visual indicator may be used for urgency, vital safety, important safety, ship business priority and routine priorities).

(iv) Self-identification [5]; not applicable to the receiving mode.

(v) Messages [6]; display a two digit channel number when VHF use only is intended; otherwise, display a four digit channel number [6.3:2.].

(vi) End of sequence [7]; recognize the "end of sequence".

(2) Minimum operational characteristics of the call sequence in order to transmit a DSC call:

(i) Format specifier [2].

(A) All ships call [2.1.3].

(B) Selective call [2.1.5].

(ii) Address [3].

(A) All ships call [3.1]; the address information for "all calls" is contained in the format specifier [3.1].

(B) Selective call [3.2]; transmit the called ship numerical identification [3.2.1].

(iii) Category (priority).

(A) Distress [4.2.1.1].

(B) Routine [4.2.1.6].

(iv) Self-identification [5]; automatically transmit the nine digit numerical coast station identity [5.1].

(v) Messages [6]; transmit a two digit number when VHF use only is intended; otherwise, transmit a four digit channel number.

(vi) End of sequence [7]; automatically transmit "end of sequence".

(c) With respect to technical characteristics of the CCIR DSC system, the technical format of the call sequence is comprised of the following:

Dot pattern
Phasing sequence
Format specifier
Address
Category
Self-identification
Message 1
Separator (if required)
Message 2
Separator (if required)
•
•
End of sequence
Error check character

DSC equipment shall have, as a minimum, all the technical characteristics prescibed in CCIR Recommendation 493–2 which are necessary to achieve the minimum operational characteristics set forth in § 81.144(b) of the rules. In addition, dot patterns shall automatically precede distress calls in order to accommodate the use of scanning devices.

(d) Until February 1, 1990, the radio frequency tolerance for coast station transmitters associated with DSC equipment in the MF and HF band is ±20 Hertz and the recommended receiver bandwidth is 270 to 340 Hertz. Thereafter, the radio frequency tolerances for coast station transmitters associated with DSC equipment in the MF and HF bands will be ±10 Hertz and the recommended receiver bandwidth will be 200 to 270 Hertz.

(e) When all of the following conditions are met, selective calling equipment not in conformance with technical characteristics contained in CCIR Recommendation 493–2 may be operated until a date to be established by FCC Order. Such date will be within six years of (Date to be inserted is the effective date of the FCC Order associated with this rulemaking proceeding.) and a minimum of one year's notice will be provided when the date is established:

(1) Such selective calling equipment, which is not compatible with the CCIR DSC technical characteristics, must have been installed and operational by January 31, 1986, and such fact recorded in the radio station records along with information which will positively identify the equipment.

(2) Such equipment, incompatible with CCIR DSC technical characteristics, is used only at the same radio station

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where located and operational on January 31, 1986.

4. In § 81.203, paragraph (f) is removed, and paragraphs (a), (b), (d) and (e) are revised to read as follows:

§ 81.203 Digital selective calling frequencies.

(a) The carrier frequencies set forth in the table below are available for use by each public coast station authorized to employ frequencies in the band 4—27.5 MHz for calls to ship stations by means of digital selective calling. The associated reply frequencies are also shown.

Coast station transmit to ships (kHz)	Coast station receive from ships (kHz)
4357	4187.6
6506	6281.4
8718.5	8375.2
13100	12562.3
13100.5	12562.8
17232	16749.9
17232.5	16750.4
22595	22248
22595.5	22248.5

(b) The MF and HF frequencies authorized at specific stations for calling and working purposes, other than distress frequencies, may also be used for digital selective calling.

* * * * *

(d) When calling ship stations by means of digital selective calling, the coast station shall use the ship station identity and effect self-identification by use of a coast station identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission based upon a system of Nationality Identification Digits (NID's) designed to be compatible with international operations.

(e) Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in CCIR Recommendation 541–1.

5. Section 81.204 is amended by revising paragraph (b)(6) to read as follows:

§ 81.204 Assignable frequencies—Narrow-band direct-printing radiotelegraph and transmission systems.

* * * * *

(b) * * *

(6) Calls to ship stations by NB–DP shall be made by readioteleprinter on the NB–DP frequencies assigned to the coast station. The routine use of A1 Morse radiotelegraphy frequencies for the setting up of a NB–DP circuit is not authorized. Provided, however, that coast stations may when the above alternatives are unsuccessful, call ship stations by A1 Morse radiotelegraphy, shift to A1 radiotelegraphy working frequencies, and complete arrangements for setting up a NB–DP circuit.

* * * * *

6. Section 81.205 is amended by adding paragraphs (f), (g) and (h).

§ 81.205 Narrow-band direct-printing (NB–DP) operating procedure.

* * * * *

(f) In calling ship stations by narrow-band direct-printing, the coast station shall use the ship station selective calling number (5 digits) and effect self-identification by use of the coast station identification number (4 digits).

(g) Calls to ships stations shall employ the following format:

(1) Ship station selective call number, repeated twice;

(2) "DE", sent once; and

(3) Coast station identification number, repeated twice.

(h) When the ship station does not reply to a call sent three times at intervals of two minutes, the calling shall cease and shall not be renewed until after an interval of fifteen minutes.

7. In § 81.304, paragraph (a) is amended by adding the following "frequencies" and "conditions of use" in frequency numerical order to the table, and paragraphs (b)(10) and (d) are added as follows:

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (KHz)	Conditions of use	
	Section	Limitations
4357	81.305(c)	10
* *	* * *	*
6506	31.305(c)	10
* *	* * *	*
8718.5	81.305(c)	10
* *	* * *	*
13100	81.305(c)	10
13100.5	81.305(c)	10
* *	* * *	*
17232	81.305(c)	10
17232.5	81.305(c)	10
* *	* * *	*
22595	81.305(c)	10
22595.5	81.305(c)	10
* *	* * *	*
156.475 MHZ	81.304(d)	10
* *	* * *	*

(b) * * *

(10) Use of this frequency is limited to digital selective calling.

* * * * *

(d) The frequency 156.475MHz is available for use by coast stations, authorized to employ frequencies in the band 156–162 MHz, for the transmission and reception of calls to and from ship stations by means of digital selective calling.

* * * * *

8. Section 81.305 is amended by adding paragraph (c) to read as follows:

§ 81.305 Frequencies for calling and distress.

* * * * *

(c) The frequencies set forth in the following table are available for assignment to appropriate class public coast stations for calls to ship stations by means of digital selective calling. The associated reply frequencies are also shown:

Coast station transmit to ships	Coast station receive from ships
4357 kHz	4187.6 kHz
6506 kHz	6281.6 kHz
8718.5 kHz	8375.2 kHz
13100 kHz	12562.3 kHz
13100.5 kHz	12562.8 kHz
17232 kHz	16749.4 kHz
17232.5 kHz	16750.4 kHz
22595 kHz	22248 kHz
22595.5 kHz	22248.5 kHz
156.475 MHz	156.475 MHz

9. Part 81 is amended by adding § 81.315 to read as follows:

§ 81.315 Digital selective calling operating procedures.

(a) Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in International Radio Consultative Committee (CCIR) Recommendation 541–1.

(b) The frequencies available to public coast stations for digital selective calling purposes are those specifically listed in § 81.305(c) of the rules and those MF and HF frequencies authorized for calling and working, other than distress frequencies, which are listed in Section 81.304 of the rules.

(c) When calling ship stations by means of digital selective calling, the coast station shall use the ship station identity and effect self-identification by use of a coast station identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission based upon a system of Nationality Identification Digits (NID's) designed to be compatible with international operations.

10. In § 81.356, paragraph (a) is amended by removing channel designator 69 and all entries horizontal thereto in the Noncommercial category of the frequency table, and by adding a new category, "Digital Selective Calling", to the frequency table below the Noncommercial category, paragraph

(b)(12) is removed and reserved, and paragraphs (b)(4) and (c) are added to read as follows:

§ 81.356 Assignable frequencies in the band 156—162MHz.

(a)

Digital selective calling				
69	156.475	156.475	Coast to ship	4

(b) * * *

(4) Authorized only to call ships by means of digital selective calling.

* * * * *

(12) Reserved]

* * * * *

(c) Limited coast stations may use authorized classes of emissions for selective calling on each frequency authorized for working. The use of selective calling on 156.8 MHz is prohibited.

11. Part 81 is amended by adding § 81.363 to read as follows:

§ 81.363 Digital selective calling operating procedures.

(a) Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in International Radio Consultative Committee (CCIR) Recommendation 541–1.

(b) The frequencies available to limited coast stations for digital selective calling purposes are those provided for in § 81.356 plus those listed in § 81.361(a) of the rules.

(c) When calling ship stations by means of digital selective calling, the coast station shall use the ship station identity and effect self-identification by use of a coast station identity. Both the ship station identity and the coast station identity are nine digit numbers which will be assigned by the Commission based upon a system of Nationality Identification Digits (NID's) designed to be compatible with international operations.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.2 is amended by adding paragraph (aa) to read as follows:

§ 83.2 General

* * * * *

(aa) CCIR Digital Selective Calling System—A system, used to establish contact with a station or group of stations automatically by means of radio, developed by the International Radio Consultative Committee (CCIR) based upon a synchronous ten-unit digital code consisting of seven information bits and an associated three bit binary code for error detection.

2. Section 83.7 is amended by adding paragraph (m) to read as follows:

§ 83.7 Technical.

* * * * *

(m) *Selective calling.* A means of calling in which signals are transmitted in accordance with a prearranged code for the purpose of operating a particular automatic attention device in use at the selected station whose attention is sought.

3. Part 83 is amended by adding § 83.147 to read as follows:

§ 83.147 Selective calling equipment.

(a) Where there is a need to fulfill maritime mobile ship radio station requirements for selective calling subsequent to January 31, 1986, equipment shall be compatible with the operational and technical characteristics of the International Radio Consultative Committee (CCIR) digital selective calling (DSC) system as contained in CCIR Recommendation 493–2 except that station identification need only be accomplished by numerical means.

(b) With respect to the operational characteristic of the CCIR DSC system, the format of a call sequence is comprised of the following:

Foremat specifier
Address
Category
Self-identification
Message 1
Message 2
•
•
End of sequence

DSC equipment shall have the following operational characteristics as a miminum:

Note.—The numbers in the brackets refer to the applicable section of Annex I to CCIR Recommendation 493–2)

(1) Minimum operational characteristics of the call sequence in order to receive a DSC call:
(i) Format specifier [2].
(A) Distress call [2.1.2]; as separate and distinct aural alarm is required.
(B) All ships call [2.1.3].
(C) Selective call [2.1.5].
(ii) Address [3].
(A) Distress call [3.1].
(B) All ships call [3.1]; the address information for "distress calls" and "all ships calls" is contained in the format specifier.
(C) Selective call [3.2]; recognize the called ship numerical identification [3.2.1].
(iii) Category [4].
(A) Distress call [4.1]; the category information is contained in the format specifier.
(B) Priorities [4.2.1].
(1) Distress [4.2.1.1].
(2) Urgency [4.2.1.2].
(3) Vital safety [4.2.1.3].
(4) Important safety [4.2.1.4].
(5) Ship business priority [4.2.1.5].
(6) Routine [4.2.1.6].

Note.—The same aural or visual indicator may be used for urgency, vital safety, important safety, ship business priority, and routine priorities.

(iv) Self-identification [5]; not applicable to the receiving mode.
(v) Messages [6]; display a two digit channel number when VHF use only is intended; otherwise, display a four digit channel number [6.3.2].
(vi) End of sequence [7]; recognize the "end of sequence".

(2) Minimum operational characteristics of the call sequence in order to transmit a DSC call:
(1) Format specifier [2].
(A) Distress call [2.1.2].
(B) All ship call [2.1.3].
(C) Selective call [2.1.5].
(ii) Address [3].
(A) Distress call [3.1].
(B) All ships call [3.1]; the address information for "distress calls and "all ships calls" is contained in the format specifier.
(C) Selective call [3.2]; transmit the called ship/coast numerical identification [3.2.1].
(iii) Category.
(A) Distress call [4.1]; the category information is contained in the format specifier.
(B) Priorities [4.2.1].
(*1*) Distress [4.2.1.1].
(*2*) Routine [4.2.1.6].
(iv) Self-identification [5]; automatically transmit the nine digit numerical ship station identity [5.1].
(v) Messages [6]; transmit a two digit channel number when VHF use only is intended; otherwise, transmit a four digit channel number [6.3.2].

(c) With respect to the technical characteristics of the CCIR DSC system, the technical format of the call sequence is comprised of the following:

Dot pattern
Phasing sequence
Format specifier
Address
Category
Self-identification
Message 1
Separator (if required)
Message 2
Separator (if required)
End of sequence

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DSC equipment shall have, as a minimum, all the technical characteristics prescribed in CCIR Recommendation 493–2 which are necessary to achieve the minimum operational characteristics set forth in § 83.147(b) of the rules. In addition, dot patterns shall precede distress calls in order to accommodate the use of scanning devices.

(d) Until February 1, 1990, the radio frequency tolerance for ship station transmitters associated with DSC equipment in the MF and HF bands is ±20 Hertz and the recommended receiver 6 db bandwidth is 270 to 340 Hertz. Thereafter, the radio frequency tolerance for ship station transmitters associated with DSC equipment in the MF and HF bands will be ±10 Hertz and the recommended receiver 6 db bandwidth will be 200 to 270 Hertz.

(e) When all of the following conditions are met, selective calling equipment not in conformance with the technical characteristics contained in CCIR Recommendation 493–2 may be operated until a date to be established by FCC Order. Such date will not be within six years of (Date to be inserted in the effective date of the FCC Order associated with this rulemaking proceeding.) and a minimum of one year's notice will be provided when the date is established:

(1) Such selective calling equipment, which is not compatible with the CCIR DSC technical characteristics, must have been installed and operational by January 31, 1986, and such fact recorded in the radio station records along with information which will positively identify the equipment.

(2) Such equipment, incompatible with CCIR DSC technical characteristics, is used only at the same radio station where located and operational on January 31, 1986.

§ 83.318 [Amended]

4. In § 83.318, paragraph (b) is removed and reserved.

5. Section 83.329 is revised to read as follows:

§ 83.329 Digital selective calling operation procedures.

(a) Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in International Radio Consultative Committee (CCIR) Recommendation 541–1 except that the provisions of paragraph (b) of this section have precedent over conflicting procedures contained in CCIR Recommendation 541–1.

(b) Digital selective calling procedures may be used to establish radiotelegraphy communications. The frequencies available to ships for digital selective calling purposes are those specifically designated or referred to in §§ 83.317, 83.318, and 83.319, of the rules.

(c) When calling ship or coast stations by means of DSC, the ship station shall use the appropriate nine digital ship or coast station identity and effect self-identification by use of a nine digit ship station identity.

6. In § 83.330, paragraph (d) is revised to read as follows:

§ 83.330 Narrow-band direct-printing operating procedure.

* * * * *

(d) In calling the coast station by NB–DP, the ship station shall use the coast station identification number (4 digits) and effect self-identification by the use of the ship station selective calling number (5 digits). Calls to a coast station or other ship station shall employ the following format: Coast station identification number, repeated twice; "DE", sent once; and ship station selective call number, repeated twice. When the coast station does not reply to a call sent three times at intervals of two minutes, the calling shall cease and shall not be renewed until after an interval of fifteen minutes.

* * * * *

7. In § 83.351, paragraph (a) is amended by adding the following "frequencies" and "conditions of use" in frequency numerical order to the table, and paragraph (b)(16) is added as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of use	
	Section	Limitations
4187.6	83.356	16, 40, 41
6281.4	83.356	16, 40, 41
8375.2	83.356	16, 40, 41
12562.3	83.356	16, 40, 41
12562.8	83.356	16, 40, 41
16749.9	83.356	16, 40, 41
16750.4	83.356	16, 40, 41
22248.0	83.356	16, 40, 41
22248.5	83.356	16, 40, 41
156.475	83.359	16, 40, 41

(b) * * *

(16) Use of this frequency is limited to digital selective calling.

* * * * *

8. Section 83.353 is revised to read as follows:

§ 83.353 Frequencies for calling.

(a) The frequency 2182 kHz is the international general calling frequency for radiotelephony; it may be used for this purpose by ship and aircraft stations operating in the maritime mobile service in the bands between 1605 and 4000 kHz. The frequency 156.8 MHz is the international distress, safety and calling frequency for radiotelephony for stations of the maritime mobile service when using frequencies in the authorized bands between 156 and 174 MHz. In addition, these frequencies may be used for transmission of:

(1) The international urgency signal, and very urgent messages (preceded by this signal) concerning the safety of a ship, aircraft, or other vehicle, or the safety of some person on board or within sight of such ship, aircraft, or vehicle.

(2) The international safety signal, and messages (preceded by this signal) concerning the safety of navigation or giving important meteorological warnings; however, safety messages shall be transmitted, when practicable, on a working frequency after a preliminary announcement on 2182 kHz.

(3) Brief radio operating signals.

(4) Brief test signals in accordance with the provisions of Section 83.356, as may be necessary to determine whether the radio transmitting equipment of the station is in good working condition on this frequency.

(b) Digital selective calling procedures may be used to establish radiotelephony communications. The frequencies available to ships for digital selective calling purposes are those specifically designated or referred to in §§ 83.351, 83.356, 83.359 and 83.360 of the rules.

9. Section 83.356 is added to read as follows:

§ 83.356 Digital selective calling frequencies.

The frequencies set forth in the table below are available for use by ship stations for calls to coast radiotelephone stations by means of digital selective calling. The associated reply frequencies are also shown.

Ship station transmit to coast	Ship station receive from coast
4187.6 kHz	4357 kHz.
6281.4 kHz	6506 kHz.
8375.2 kHz	8718.5 kHz.
12562.3 kHz	13100 kHz.
12562.8 kHz	13100.5 kHz.
16749.9 kHz	17232 kHz.
16750.4 kHz	17232.5 kHz.
22248 kHz	22595 kHz.
22248.5 kHz	22595.5 kHz.
156.475 MHz	156.475 MHz.

10. In § 83.359, the paragraph which includes the frequency table is amended by inserting "(a)" before the first sentence, deleting channel 69 and all entries horizontal thereto in the Noncommercial category of the frequency table, and by adding a new category, "Digital Selective Calling", to the frequency table below the Public Correspondence category, and paragraph (c) is added to read as follows:

§ 83.359 Frequencies listed in the following table are available for assignment to stations as indicated.

* * * * *

DIGITAL SELECTIVE CALLING

69	156.475	156.475	Intership and ship to coast.

* * * * *

(c) Ship stations may use authorized classes of emission for selective calling purposes on coast station receive frequencies listed in the Port Operations, Commercial, Noncommercial, Public Correspondence and Digital Selective Calling categories only.

11. Section 83.360 is amended by adding paragraph (b)(3) and revising (b)(6) to read as follows:

§ 83.360 Frequencies for business and operational purposes.

* * * * *

(b) * * *

(3) Digital selective calling procedures may be used on these frequencies for the purpose of establishing radiotelephony communications.

* * * * *

(6) The class of emission shall be 2.8A3J except when digital selective calling procedures are being utilized.

12. Section 83.366 is amended by adding paragraph (k) to read as follows:

§ 83.366 General radiotelephone operating procedure.

* * * * *

(k) Digital selective calling. Operating procedures for the use of digital selective calling (DSC) equipment in the maritime mobile service are as contained in International Radio Consultative Committee (CCIR) Recommendation 541–1. When calling ship or coast stations by means of digital selective calling, the ship station shall use the appropriate nine digit ship or coast station identity and effect self-identification by use of a nine digit ship station identity.

[FR Doc. 83-13136 Filed 5-25-83; 8:45 am]
BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 48, No. 103
Thursday, May 26, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Fasteners From Japan; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On March 31, 1983, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on certain fasteners from Japan. The review covered the period January 1, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the net subsidy to be 0.21 percent *ad valorem*, a rate the Department considers to be *de minimis*.

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Philip L. Otterness or Larry Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 13473) the preliminary results of its administrative review of the countervailing duty order on certain fasteners from Japan (42 FR 23147, May 6, 1977; 44 FR 31972, June 4, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are all fasteners currently classifiable under items 646.5400 and 646.5600, and non-metric fasteners currently classifiable under items 646.1700, 646.4000, 646.4100, 646.4920, 646.4940, 646.5100, 646.5300, 646.5800, 646.6020, 646.6040, 646.6320, 646.6340, 646.6500, 646.7200, 646.7400, 646.7500, 646.7600 and 646.7800 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981, and the following programs: (1) The deferral of income taxes on export earnings under the Overseas Market Development Reserve, (2) benefits received under the "Temporary Measures Act for Small and Midsized Businesses with Regard to the High Yen Exchange Market", and (3) other loans given at preferential rates by the People's Finance Corporation, the Bank of Commerce and Industrial Cooperatives, the Small Business Finance Corporation, and the Japan Development Bank.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review. We determine that the aggregate net subsidy for the period is 0.21 percent *ad valorem*. Because the aggregate net subsidy is less than 0.5 percent and therefore *de minimis*, the Department will instruct the Customs Service not to assess countervailing duties on any shipments of certain fasteners from Japan exported on or after January 1, 1981 and on or before December 31, 1981.

Further, the Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

The Department is now beginning the next administrative review of the order. The suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 19, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–14184 Filed 5–25–83; 8:45 am]

BILLING CODE 3510–25–M

Cordage From Cuba; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cordage from Cuba. The review covers the period January 1, 1982 through December 31, 1982. This merchandise is covered by the embargo on trade with Cuba which has been in effect since February 7, 1962. As a result of the review, the Department has preliminarily determined to continue to use, for the purpose of establishing a cash deposit of estimated countervailing duties on possible future entries, the rate established by the Department of the Treasury. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 33526) the final results of its last administrative review of the countervailing duty order on cordage from Cuba (T.D.) 53534, 19 FR 4560, July 23, 1954) and announced its intent to conduct the next administrative review by the end of August 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is cordage which the Cuban government considered "binder twine and baler twine," but which does not meet the definition contained in the Tariff Schedules of the United States Annotated (TSUSA). Normally, binder twine and baler twine, as defined by the TSUSA, enter under items 315.2020 and 315.2040 of the TSUSA. The merchandise under consideration here is currently classifiable under item 315.2500 of the TSUSA.

The review covers the period January 1, 1982 through December 31, 1982.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the merchandise has not been imported into the United States since 1962. There are no known unliquidated entries. This merchandise is covered by the embargo on trade with Cuba, in effect since February 7, 1962 (27 FR 1085).

Therefore, the Department has preliminarily determined to continue using the rate of 2.488¢ per pound established by T.D. 53534 for cash deposits of estimated countervailing duties, on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later that five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 19, 1983.

Gary N. Horlick,

Deputy Assistant Secretarty for Import Administration.

[FR Doc. 83–14185 Filed 5–25–83; 8:45 am]

BILLING CODE 3510–12–M

[A–588–056]

Melamine in Crystal Form From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: Internation Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on melamine in crystal form from Japan. The review covers the five know manufacturers and/or exporters of this merchandise to the United States and the period February 1, 1982 through January 31, 1983, There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margins calculated on the last know shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S Department of Commerce, Washington, D.C 20230, telephone: (202) 377–3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 44597) the final results of its last administrative review of the antidumping finding on melamine in crystal form from Japan (42 FR 6866, February 2, 1977) and announced its intent to conduct the next administrative review by the end of February 1984. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formaldehyde resins, currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated.

The review covers the five known manufacturers and/or exporters of Japanese melamine to the United States and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties equal to the following percentages of the entered value shall be required on all shipments of Japanese melamine in crystal form from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Manufacturer/exporter	Cash deposit (percent)
C. Itoh & Co., Ltd.	[1] 60
Mitsui Toatsu Chemical, Inc.	[1] 70.22
Nichimen Co., Ltd.	[1] 60
Nissan Chemical Industries, Ltd.	[1] 60
Nozawa & Co., Ltd.	[1] 60

[1] No shipments during the period.

For any shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred after January 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 70.22 percent shall be required for future entries. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results

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of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 19,1983.

[FR Doc. 83-14162 Filed 5-25-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-050]

Racing Plates (Aluminum Horseshoes) From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada. The review covers the three known manufacturers and/or exporters of this merchandise to the United States and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margins calculated on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 51779-80) the final results of its last administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada (39 FR 54388, February 27, 1974) and announced its intent to conduct the next administrative review by the end of February 1984. As requird by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of racing plates (aluminum horseshoes) that are used on race horses, polo, jumping, hunting, and other performing horses, as differentiated from pleasure and work horses, are made of aluminum, may have cleats or caulks, and come in a variety of sizes. Racing plates are currently classifiable under item 652.4200 of the Tariff Schedules of the United States Annotated.

The review covers the three known manufacturers and/or exporters of Canadian racing plates to the United States and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties equal to the following percentages of the entered value shall be required on all shipments of Canadian racing plates (aluminum horseshoes) from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Manufacturer/exporter	Cash deposit (percent)
Canadian Racing Plate Co. Limited	[1] 31.94
Equine Forgings Limited	[1] 6.77
Niagara Forge Inc.	[1] 6.77

[1] No shipments during the period

For any shipment from a new exporter not covered in this or prior reviews, whose first shipment occurred after January 31, 1983 and who is unrelated to any reviewed firm, a cash deposit of 6.77 percent shall be required for future entries. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 19, 1983.

[FR Doc. 14163- Filed 5-25-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension (No Change)

Report on Major/Minor Overhaul Modification and Reclamation of Engines

Data elements of the report are used to provide timely and systematic production status of engines in and out of contractor facilities consistent with schedules developed prior to contract negotiations, and to portray a realistic trend of engines being processed under contract.

All contractors who perform engine overhauls for the Department of the Air Force: 144 responses, 504 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Mr. James N. Jack, HQ AFLC/MAWW, Wright-Patterson AFB, Ohio 45433, telephone (513) 257-4361.

Dated: May 20, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-14151 Filed 5-25-83; 8:45 am]

BILLING CODE 3910-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Reinstatement

Contract Progress Schedule and Contract Progress Report, AF Forms 3064, 3065

Air Force contracts for construction services permit payment to contractor on a periodic basis depending on the amount of work completed during the period. AF Form 3064 is a master construction schedule and Form 3065 is used to report periodic progress against the schedule.

All small businesses and organizations who perform construction services for the Air Force: 902 respondents; 37,072 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1C514, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Lt Col Robert E. Shafer, HQ USAF/RDCL, Pentagon, Washington, D.C. 20301, telephone (202) 694-2471.

Dated: May 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-14152 Filed 5-25-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974; Amendments of Systems to Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 2 and amend 2 system notices for systems of records subject to the Privacy Act of 1974. Following identification of changes, the amended notices are set forth in their entirety below.

DATE: Actions shall be effective June 27, 1983 unless public comments are received which result in a contrary determination.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-S, Room 1146, Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Department of the Army, at the above address; telephone: 703/325-6163.

SUPPLEMENTARY INFORMATION: The Army systems of records notices subject to the Privacy Act of 1974, as amended, Title 5, United States Code, Section 552a, have been previously published in the **Federal Register.**

These actions do not require a report of an altered system notice pursuant to 5 U.S.C. 552a(o).

May 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Deletions

AO716.04aDAAG

System name:

Military Personnel Register Files (44 FR 73895), December 17, 1979

Reason:

Records are covered by system of records A01715.06aDAPC, Field Military Personnel Information System—SIDPERS.

AO727.05bDAPE

System name:

DOD Discharge Review Program (Special) (44 FR 73908), December 17, 1979

Reason:

Records in this system no longer exist.

Amendments

AO706.02aDAPC

System name:

Official Military Personnel File

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses,* before the final paragraph, insert the following:

"Director of Selective Service System: Report of Non-Registration at Time of Separation Processing, of individuals who decline to register with Selective Service System; such report will contain name of individual, date of birth, Social Security Number, and mailing address at time of separation."

AO727.05aOSA

System name:

Army Council of Review Boards Files (44 FR 73908), December 17, 1979.

In *System ID,* delete suffix "a".

In *System location,* add the following paragraphs:

"The US Army Management Systems Support Agency maintains an automated index of Discharge Review Board cases by alphanumeric code and case summary data by personal identifier. The Discharge Review directorate of US Army Reserve Components Personnel and Administration Center, St Louis, MO performs administrative processing of these cases via its on-line terminal to the Army Discharge Review Board.

"Decisions of the Army Council of Review Boards are incorporated in the Official Military Personnel File of the petitioner at the US Army Reserve Components Personnel and Administration Center, St Louis, MO 63132."

In *Routine uses of records maintained in the system, including categories of users and the purposes of such uses:* delete entries; substitute therefor: "Records are accumulated by the following boards which comprise the Army Council of Review Boards: (1) Army Discharge Review Board, (2) Army Board for Review of Elimination, (3) Army Discharge Rating Review Board, (4) Army Physical Disability Appeal Board, (5) Army Security Review Board, and (6) Ad Hoc Board. Records

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are used by the Board to determine propriety of action taken or requested, within the purview of its charter."

In *Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

In *Storage*, change entry to read: "Cards, paper records in file folders, magnetic tapes and/or disc, microfiche."

In *Safeguards*, change entry to read: "Information is privileged, restricted to individuals who have need therefor in the performance of official duties. Records are retained in locked rooms within buildings having security guards. Automated records are identified as Privacy Act data and further protected by assignment of user ID and passwords."

In *Retention and disposal*, change entry to read: "Paper records are permanently stored in the OMPF. Active cases in automated media are retained for two years before being transferred to the historical files where they are retained permanently."

In *Notification procedure*, delete entry; substitute therefor: "Individuals desiring to know whether or not information exists on them in this system of records may inquire by writing to the Executive secretary, Management Information and Support directorate, SFRB–2, Army Military Review Board agency, Room 1E–520, The Pentagon, Washington, DC 20310. Individuals must furnish full name, SSN, home address and telephone number, and sufficient details to permit locating the records in question."

In *Record access procedures*, change entry to read: "See above." As amended, "Official, Military Personnel File" and "Army Council of Review Board" reads as follows:

SYSTEM NAME:

Official Military Personnel File.

SYSTEM LOCATION:

Primary: Personnel Information Systems directorate, US. Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Secondary: US Army Enlisted Records and Evaluation Center; US Army Reserve Components Personnel and Administration Center; and National Personnel Records center, General services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each individual on active duty in the US Army in enlisted, appointed, or commissioned status; and each individual who was an enlisted, appointed, or commissioned member of the US Army and who was completely separated by discharge, death, or other termination of his/her military status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include enlistment contract; Veterans Administration laws; physical evaluation board proceedings; military occupational specialty data; statement of service; qualification record; group life insurance election; emergency data; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks consent/declaration of parent/guardian; Army ROTC suplemental agreement; award recommendations; academic reports; casualty reports; US field medical card; retirement points; deferment; pre-induction processing and commissioning data; transcripts of military records summary sheets review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, Title 10 U.S.C. section 815 appellate actions; determinations of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgments of service requirements; retired benefits; application for review of physical evaluation board and disability board; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credit/transcripts; flight status board reviews; assignment agreements/limitations/waivers/election and travel; efficiency appeals; promotion/reduction recommendations/approvals declinations/announcements/notifications/reconsiderations/worksheets/elections/ letters of notification to deferred officers and promotion passover notifications; absence without leave and desertion records; FBI reports; SSA correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertaining to dependents, inter-service action, in-service details, determinations, reliefs, component; awards, pay entitlements, releases, transfers, and other military service data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: To maintain, use, collect, and disseminate information with respect to an individual holding a military status or former military status, including regular reserve, retired, former member separated, or deceased. Information pertains to individual's former, current, and subsequent to active duty status; birth; citizenship; parentage; home of record; education; training; dependents; travel; language proficiency; former and current associations; brotherhood, memberships and related affiliations with organizations and like collective elements which service member divulges as having meaning, substance, or significance to his/her military service status; assignment history; and other related military experiences, qualifications training, preferences, restrictions, and status actions.

Department of State: To issue passport/visa, to document persona non grata status, attaché assignments, and related administration of personnel assigned and performing duty with the Department of State.

Department of Defense: To authorize and consummate interdepartmental actions relating to inter-service requirements pertaining to the Army, Navy, Air Force, and Coast Guard (when the latter is operational under DOD).

Department of Justice: To file fingerprints; to perform intelligence function.

Department of Agriculture: To coordinate matters related to its advanced education program.

Department of Labor: To accomplish actions required under Federal Employees Compensation Act.

Department of Health and Human Services: To provide services authorized by medical, health, and related functions pursuant to 10 U.S.C., 1074–1079.

Nuclear Regulatory Commission: To accomplish requirements incident to nuclear accident/incident control officer functions.

American Red Cross: To accomplish coordination and complete service functions including blood donor programs and emergency investigative support and notifications.

Civil Aeronautics Board: To accomplish flight qualifications, certification, and licensing actions.

Federal Aviation Agency: To determine rating and certification (including medical) of in-service aviators.

General Services Administration: To records storage and archival services and for printing of directories and related material which includes personal data.

US Postal Service: To accomplish postal service authorization involving postal officers and mail clerk authorizations.

Veterans Administration: To provide information relating to service, benefits, pensions, in-service loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization: To comply with statutes relating to alien registration and annual residence/location.

Office of the President of the United States of America: To exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission: To obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several States, and US possessions: To support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions: To accomplish student registration, tuition support, tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C., Chapters 102 and 103.

Social Security Administration: To obtain or verify Social Security Account Number; to transmit Federal Insurance Compensation Act deductions from member's wages.

Department of Transportation: To coordinate and exchange necessary information pertaining to inter-service relationships between US Coast Guard and US Army when service members perform duty with the USCG.

Civil authorities: For compliance with 10 U.S.C., 814.

Federal Emergency Management Agency: To facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DOD Directive 3025.10 and Army Regulation 500–70.

Director of Selective Service System: Report of Non-Registration at Time of Separation Processing, of individuals who decline to register with Selective Service System; such report will contain name of individual, date of birth, Social Security Number, and mailing address at time of separation.

Other elements of the Federal Government pursuant to their respective authority and responsibility.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the U.S., shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C. 1175 and 42 U.S.C. 4582. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual about whom the record pertains. Blanket "routine uses" identified in 44 FR 72728 do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche stored randomly in electromechanical storage/retrieval devices. Temporary files consist of paper records in file folders; selected data automated for management purposes on tapes, discs, cards, and other computer media.

RETRIEVABILITY:

Alphabetically by surname; automated data retrieved by name, SSN or ADP parameter; records of reserve, retired, and deceased persons retrieved by SSN terminal digit sequence.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel; automated records are further protected by authorized password system for access terminals, controlled access to operations locations, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent; retained in active file until termination of service following which they are retired to the US Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Inquiries for records of commissioned or warrant officers (including members of Reserve Components serving on active duty) should be sent to the System manager.

Inquiries for records of enlisted members (including members of Reserve Components serving on active duty) should be sent to Commander, US Army Enlisted Records and Evaluation Center, Ft Benjamin Harrison, IN 46249.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after June 30, 1917, or enlisted members who were completely separated after October 31, 1912 should be sent to: Chief, National Personnel Records Center, GSA, 9700 Page Boulevard, St Louis, MO 63132.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their record must provide full name, service identification number, SSN, military status, and mailing address.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Enlistment, appointment, or commission related forms pertaining to individual's military status; academic, training, or qualifications records acquired prior to or during military service; correspondence, forms, records, documents, and other relevant papers in Department of Army, other Federal agencies, or state and local governmental entities; civilian education and training institutions; and members of the public when information is relevant to the service member.

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SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0727.050SA

SYSTEM NAME:

Army Council of Review Boards.

SYSTEM LOCATION:

Office, Secretary of the Army, The Pentagon, Washington, DC 20310.

The US Army Management Systems Support Agency maintains an automated index of Discharge Review Board cases by alphanumeric code and case summary data by personal identifier. The Discharge Review Directorate of US Army Reserve Components Personnel and Administration Center, St Louis, MO performs administrative processing of these cases via its on-line terminal to the Army Discharge Review Board.

Decisions of the Army Council of Review Boards are incorporated in the Official Military Personnel File of the petitioner at the US Army Reserve Components Personnel and Administration Center, St Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members and/or former members of the active Army; prospective enlistees/inductees separated or pending separation who have cases pending or under consideration by the Army Council of Review Boards or any of its component panels.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for review which includes name, SSN; present address; name and address of counsel if applicable; type, authority, and reason for discharge; mode of hearing if desired; issues addressed by the board, findings, conclusions, and decisional documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 1214, 1216, 1553, 1554.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records are accumulated by the following boards which comprise the Army Council of Review Boards: (1) Army Discharge Review Board, (2) Army Board for Review of Elimination, (3) Army Discharge Rating Review Board, (4) Army Physical Disability Appeal Board, (5) Army Security Review Board, and (6) Ad Hoc Board. Records are used by the Board to determine propriety of action taken or requested, within the purview of its charter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, paper records in file folders, magnetic tapes and/or disc, microfiche.

RETRIEVABILITY:

Within individual Board, by SSN or surname of petitioner.

SAFEGUARDS:

information is privileged, restricted to individuals who have need therefor in the performance of official duties. Records are retained in locked rooms within buildings having security guards. Automated records are identified as Privacy Act data and further protected by assignment of user ID and passwords.

RETENTION AND DISPOSAL:

Paper records are permanently stored in the OMPF. Active cases in automated media are retained for two years before being transferred to the historical files where they are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Army Military Review Boards Agency, ATTN: MISD, Office of the Secretary of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information exists on them in this system of records may inquire by writing to the Executive Secretary, Management Information and Support Directorate, SFRB–2, Army Military Review Boards Agency, Room 1E–520, The Pentagon, Washington, DC 20310. Individuals must furnish full name, SSN, home address and telephone number, and sufficient details to permit locating the records in question.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing intitial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; his/her Official Military Personnel File; correspondence, documents, and related information generated as a result of action by the Boards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Those portions of records of the Army Security Review Board which fall within 5 U.S.C. 552a(k)(1) are exempt from the following provisions of Title 5 U.S.C., section 552a (c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

[FR Doc. 83–14175 Filed 5–25–83; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Proposed Revision of the Manual for Courts-Martial

The Department of Defense is considering recommending a comprehensive revision of the Manual for Courts-Martial, Exec. Order No. 11476, as amended by Exec. Order Nos. 11835, 12018, 12198, 12233, 12306, 12315, 12340, and 12383. The proposed revision includes substantial modifications of court-martial procedure and punishments. It also revises the rules governing nonjudicial punishment. In addition, several modifications are made in the Military Rules of Evidence. A Table of Contents of the proposed revision is set forth below.

Copies of the proposed revision and an analysis of it may be examined at the Criminal Law Division, Room 2D434, Pentagon, Office of The Judge Advocate General, Army, Washington, D.C. Copies of the proposed revision and analysis will be available for distribution on or about June 2, 1983. A copy of the proposed revision and analysis may be obtained by mail upon request from the following address: DAJA–CL, ATTN: Major J. Cooke, Washington, D.C. 20310. Any comments on the proposed revision must be received at the same address not later than September 2, 1983, for consideration by the Joint Service Committee on Military Justice.

This notice is provided in accordance with Department of Defense policy with respect to amendments to the Manual for Courts-Martial, 47 FR 3401 (1982). It is intended only to improve the internal management of the federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

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Dated: May 23, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-14105 Filed 5-25-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Committee on Adult Illiteracy of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: June 16–17, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., N.W, Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the public. The proposed agenda includes:

Develop position paper on illiteracy
Develop committee functions and responsibilities.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C., 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on May 23, 1983.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 83-14090 Filed 5-25-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Gulf Oil Corp.; Proposed Remedial Orders and Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Five proposed remedial orders to the Gulf Oil Corporation and opportunity for objection.

I. Introduction

Gulf Oil Corporation ("Gulf") of Houston, Texas is a major refiner engaged in the production and the refining of crude oil, and the marketing of petroleum products. Gulf was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect through January 27, 1981.

The Office of Special Counsel ("OSC") of the Economic Regulatory Administration of the Department of Energy ("DOE") conducted an audit of Gulf and determined that the firm violated these regulations. OSC found that, as a result of these violations, Gulf's customers were overcharged and its banks of unrecouped costs were overstated (which in turn is likely to have resulted in additional overcharges).

Pursuant to 10 CFR 205.192, OSC hereby gives notice of five Proposed Remedial Order issued to Gulf. In accordance with that section, a copy of one or more of the following Proposed Remedial Orders, with confidential information deleted, may be obtained from the DOE.

II. The Proposed Remedial Orders

1. Proposed Remedial Order No. RGFB00108

OSC's audit included an examination of Gulf's class of purchaser structure. One such audit revealed that Gulf established and maintained improper and unreasonable classes of purchaser for its Product Supply Department during the period August 19, 1973 through December 31, 1980. As a result of Gulf's actions, OSC found that the firm violated 10 CFR 212.83.

As a remedy for this violation, OSC proposes that Gulf be ordered to refund a minimum total of $3,954,634.87, plus interest, to the customers identified in the Proposed Remedial Order, to reclassify the relevant transactions by the Product Supply Department with customers east of the Rocky Mountains which occurred from August 19, 1973 through January 27, 1981, and to make any additional refunds, plus interest, which result from the establishment of proper classes of purchaser.

2. Proposed Remedial Order No. RGFB00104

OSC also examined the prices which Gulf charged for sales of gasoline and distillate to wholesale purchaser-resellers ("jobbers") in five states in the Gulf Oil—California ("GOCAL") marketing area who were "branded" on May 15, 1973 and were subsequently converted by Gulf to "unbranded." OSC found that Gulf, following conversion of these jobbers from branded to unbranded status, assigned certain of its converted unbranded jobbers to improper classes of purchaser. OSC further found that the resulting prices produced overcharges in the test month of December 1975 for five converted jobbers located in Oregon, Nevada and Washington. OSC further found that in May 1977 Gulf reduced its may 1973 marketing costs and as a result improperly passed through additional marketing costs during the period May 1977 through December 1980. OSC concluded that Gulf's actions were in violation of 10 CFR 212.83.

As a remedy for these violations, OSC proposes that Gulf be ordered to refund overcharges to the five identified customers in the amount of $2,863,195.69, plus interest, for the period January 1, 1974 through May 31, 1980. OSC further proposes that Gulf reduce its bank of unrecouped increased non-product costs by $11,214,032.

3. Proposed Remedial Order No. RGFM02104.

OSC also examined the prices which Gulf charged in sales of gasoline to certain of its branded and unbranded wholesale-purchaser resellers ("dealers") who either owned or leased stations from third parties. In particular, OSC examined the accounts of Gulf dealers who received a discounted price that was less than the full dealer tankwagon price and whose discounts or sales allowances has been terminated or adjusted by Gulf during the period September 1, 1973 through June 30, 1980.

OSC found that Gulf had improperly eliminated these discounts and, on termination of the discounts, erroneously placed the dealers into Gulf's full schedule dealer tankwagon class of purchaser. As a result, Gulf improperly increased the dealer's May 15, 1973 weighted average prices in violation of 10 CFR 212.83 and therefore charged prices in excess of the maximum allowable price.

As a remedy for the violation, OSC proposes that Gulf be ordered to refund $353,445.93, plus interest, to the identified overcharged customes for the period September 1, 1973 through June 30, 1980. Gulf is also to conduct an audit of its operations in accordance with the PRO's findings for the period July 1, 1980 through January 27, 1981 and refund all overcharges thus identified.

4. Proposed Remedial Order No. RGFL00077

OSC also investigated Gulf's failure to include net volumes for product exchanges in the calculation of its refinery yield factor for purposes of allocating crude oil and non-product costs to gasoline in the months of January through May of 1979. OSC found that Gulf's failure to include in the calculation of its refinery yield the net balance of gasoline paid out or received pursuant to exchanges during the first five months of 1979 was in violation of 10 CFR 212.83. This violation resulted in $27,174,000 in cost overstatements in the period January through May of 1979.

As a remedy for this violation, OSC proposes that Gulf be ordered to recalculate its monthly refinery yield of gasoline, monthly increased crude costs allocable to gasoline, and monthly increased non-product costs allocable to gasoline or the period January 1, 1979 through January 27, 1981. OSC also proposes that Gulf be ordered to recompute its banks of unrecouped costs to reflect these adjustments.

5. Proposed Remedial Order No. RGFM01906

OSC also examined Gulf's allocation of increased costs to gasoline on a greater than pro-rata volumetric basis for the month of December 1978.

OSC found that provisions of DOE regulations permitted a refiner to increase, or retro-tilt, its A_i^r and N_i^r banks in May 1979 to reflect certain costs incurred in the months of January and February of 1979. A refiner was not permitted to increase these costs for December 1978. Nevertheless, Gulf implemented the tilt for the months of

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December 1978 and January 1979 (instead of January and February 1979) in violation of 10 CFR 212.83. Gulf's premature implementation of the retro-tilt resulted in $22,696,000 in improper increases in relevant crude and non-product cost banks in the month of December 1978.

As a remedy for these violations, OSC proposes that for the period December 1, 1979 through January 27, 1981 Gulf be ordered to make the appropriate adjustments and to recompute its banks of increased costs to reflect these adjustments.

III. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to any of the above described Proposed Remedial Orders with DOE's Office of Hearings and Appeals within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the Proposed Remedial Order. If a Notice of Objection is not filed in accordance with § 205.193, the respective Proposed Remedial Order may be issued as a final order.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, Department of Energy, Room 3304, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

No confidential information shall be included in a Notice of Objection.

Copies of all Notices of Objection, Statements of Objections and all other pleadings filed by an aggrieved person or other participant in a proceeding shall be served on:

David L. Anderson, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Room 3117, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461;

Robert J. McKee, Jr., Director, Philadelphia Field Office, Economic Regulatory Administration, Department of Energy, 1421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 19102.

Requests for copies of one or more of the Proposed Remedial Orders with confidential information deleted shall be directed to: Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585.

Issued in Washington, D.C. May 18, 1983.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 83-14179 Filed 5-25-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-36; FC Case No. 67047-9224-01-24]

Sunlaw Energy Corp.; Granting of Exemption

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting to Sunlaw Energy Corporation an exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On November 22, 1982, the Sunlaw Energy Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) ("final rules"). A revised final rule governing eligibility and evidentiary requirements for the cogeneration exemption was issued on June 25, 1982 (47 FR 29209 (July 6, 1982)).

The proposed powerplant for which the petition was filed is a 25.2 megawatt (MW) (approximate) combined cycle cogeneration facility capable of using natural gas or No. 2 distillate oil, and designed to produce electricity and steam power for process applications at the petitioner's plant located in Vernon, California.

It is expected that more than fifty percent of the net annual electric power generation of the petitioner's turbine generator will be sold to Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant pursuant to 10 CFR 500.2.

ERA has determined that the evidence available to it in the record of this proceeding is sufficient to support the issuance of the requested exemption. Therefore, pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby issues this Order granting a permanent cogeneration exemption for the new powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this Order and its provisions shall take effect on July 25, 1983.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-6002.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B-222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The petitioner proposes to install a 25.2 MW (approximate) combined-cycle cogeneration system at its Vernon, California plant. The proposed cogenerator will consist of a baseloaded natural gas-fired combustion turbine with distillate oil backup capacity, which will produce 21.5 MW of electric power, and an unfired waste heat recovery boiler operating on the exhaust gases from the combustion turbine. The waste heat boiler will have both high and low pressure steam production capabilities. The high pressure steam (approximately 65,000 lbs/hr) will be delivered to an extraction turbine where the amounts required for process applications will be removed, and the remainder will be used to produce approximately 3.7 MW of electric power. The low pressure steam will be primarily applied to meet the petitioner's process use requirements. The electric power generated at the facility will be sold to the Southern California Edison Company.

The cogeneration facility is classified as a powerplant under 10 CFR 500.2 of the final rules (definition of "electric generating unit") because more than 50 percent of its net annual electric power generation will be sold.

Section 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the certification procedures of 10 CFR 503.37(a)(1), the petitioner has certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility is not feasible, as required under 10 CFR 503.9.

In accordance with the evidentiary requirements of 10 CFR 503.37(c), the petitioner has, in addition to the certifications described above, included as part of its petition:

1. Exhibits containing the bases for the certifications and

2. An environmental impact analysis, as required under 10 CFR 503.13.

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitue a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of its Acceptance of Petition for Exemption and Availability of Certification relating to the powerplant in the **Federal Register** on December 29, 1982 (47 FR 57989), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. During this period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on February 14, 1983. No comments were received and no hearing was requested.

Decision and Order: Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants the petitioner a permanent cogeneration exemption for the new powerplant to be located at Vernon, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this Order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register.**

Issued in Washington, D.C. on May 20, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-14178 Filed 5-25-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-002; FC Case No. 67047-9226-01-24]

Sunlaw Energy Corp.; Granting of Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting to Sunlaw Energy Corporation an exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On January 6, 1983, the Sunlaw Energy Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) ("final rules"). A revised final rule governing eligibility and evidentiary requirements for the cogeneration exemption was issued on June 25, 1982 (47 FR 29209 (July 6, 1982)).

The proposed powerplant for which the petition was filed is a 25.2 megawatt (MW) (approximate) combined cycle cogeneration facility capable of using natural gas or No. 2 distillate oil, and designed to produce electricity and steam power for process applications at the petitioner's plant located in Vernon, California.

It is expected that more than fifty percent of the net annual electric power generation of the petitioner's turbine generator will be sold to Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant pursuant to 10 CFR 500.2.

ERA has determined that the evidence available to it in the record of this proceeding is sufficient to support the issuance of the requested exemption. Therefore, pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby issues this Order granting a permanent cogeneration exemption for the new powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this Order and its provisions shall take effect on July 25, 1983.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-6002.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B-222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: The petitioner proposes to install a 25.2 MW (approximate) combined-cycle cogeneration system at its Vernon, California plant. The proposed cogenerator will consist of a baseloaded natural gas-fired combustion turbine with distillate oil backup capacity, which will produce 21.5 MW of electric power, and an unfired waste heat recovery boiler operating on the exhaust gases from the combustion turbine. The waste heat boiler will have both high and low pressure steam production capabilities. The high pressure steam (approximately 65,000 lbs/hr) will be delivered to an extraction turbine where the amounts required for process applications will be removed, and the remainder will be used to produce approximately 3.7 MW of electric power. The low pressure steam will be primarily applied to meet the petitioner's process use requirements. The electric power generated at the facility will be sold to the Southern California Edison Company.

The cogeneration facility is classified as a powerplant under 10 CFR 500.2 of the final rules (definition of "electric generating unit") because more than 50 percent of its net annual electric power generation will be sold.

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Section 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the certification procedures of 10 CFR 503.37(a)(1), the petitioner has certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility is not feasible, as required under 10 CFR 503.9.

In accordance with the evidentiary requirements of 10 CFR 503.37(c), the petitioner has, in addition to the certifications described above, included as part of its petition:

1. Exhibits containing the bases for the certifications, and

2. An environmental impact analysis, as required under 10 CFR 503.13.

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of its Acceptance of Petition for Exemption and Availability of Certification relating to the powerplant in the **Federal Register** on February 11, 1983 (48 FR 6390), commencing a 45-day public comment period pursuant to section 701(c) of FUA, as required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. during this period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public closed on March 28, 1983. No comments were received and no hearing was requested.

Decision and order: Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants the petitioner a permanent cogeneration exemption for the new powerplant to be located at Vernon, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register**.

Issued in Washington, D.C. on May 20, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-14180 Filed 5-25-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-2-1-000]

Alabama-Tennessee Natural Gas Co.; Revised PGA Rate Adjustment

May 19, 1983.

Take notice that on May 13, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing Fortieth Revised Sheet No. 3–A as part of its FPC Gas Tariff, Third Revised Volume No. 1. This tariff sheet is proposed to become effective May 1, 1983, and Alabama-Tennessee requests that there be granted any necessary waivers of the Commission's Regulations to accomplish this proposed effective date.

Alabama-Tennessee states that the purpose of the revised tariff sheet is to reduce Alabama-Tennessee's rates pursuant to Section 20 of the General Terms and Conditions of its FPC Gas Tariff to reflect a reduction in the rates of its principal supplier, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., filed on May 4, 1983, in Docket No. TA83–2–9, to be effective May 1, 1983, and to reflect a reduction in volumes taken from its other supplier, Sun Oil Company, of which approximately 45% is high cost deep gas.

Fortieth Revised Sheet No. 3–A provides for the following rates:

Rate schedule	Rates after current adjustment
G–1:	
Demand (dollars)	6.05
Commodity (cents)	371.92
SG–1: Commodity (cents)	413.12
I–1: Commodity (cents)	391.79

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14075 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-65-001]

Alabama-Tennessee Natural Gas Co.; Revised Base Tariff Rate Adjustment

May 19, 1983.

Take notice that on May 9, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing the following tariff sheets as part of its FPC Gas Tariff, Third Revised Volume No. 1:

Substitute Thirty-Ninth Revised Sheet No. 3–A
Substitute Sixth Revised Sheet No. 5
Substitute Sixth Revised Sheet No. 6
Substitute Sixth Revised Sheet No. 11
Substitute Fifth Revised Sheet No. 13–B
Substitute Sixth Revised Sheet No. 14

These revised tariff sheets are proposed to become effective April 3, 1983, and Alabama-Tennessee requests that there be granted any necessary waivers of the Commission's Regulation to accomplish this proposed effective date.

Alabama-Tennessee states that the purpose of the revised tariff sheets, is to provide for a restatement of its Base Tariff Rates as required by the Commission's order issued on April 27, 1983, in the above referenced docket.

These revised tariff sheets provide for the following rates:

Rate schedule	Rates after current adjustment
G–1:	
Demand (dollars)	6.05
Commodity (cents)	421.04
SG–1: Commodity (cents)	462.24
I–1: Commodity (cents)	440.91

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and procedure. All such petitions or protests should be filed on or before May 31, 1983, Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14076 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-21-001 (PGA83-3a)]

Columbia Gas Transmisson Corp.; Proposed Changes in FERC Gas Tariff

May 19, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 9, 1983, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, as follows:

Substitute Eighty-seventh Revised Sheet No. 16.

Substitute Twenty-ninth Revised Sheet No. 64.

The enclosed tariff sheet, reflecting reduced rates applicable to sales rate schedules, bear an issue date of May 9, 1983 and an effective date of April 1, 1983.

Columbia states that it filed a special PGA on April 5, 1983 to reflect a reduction of $83,330,095, or 25.97¢ per Dth for the period April 1, 1983 through August 31, 1983. Columbia stated that although its calculations underlying that filing supported an increase in demand costs of approximately $6 million for this period, Columbia did not propose to effectuate such increase. Instead, Columbia requested waiver of the Commission's Regulations to permit it to recover (or return) any change in the Base Average Demand Rate of Purchased Gas Cost per Unit of Sales for the period April 1, 1983 through August 31, 1983 through its Account 191.

The Commission order issued May 2, 1983, directed Columbia to reflect the appropriate adjustment to its demand rates resulting from this change. The instant filing, recalculates the April 1, 1983 special PGA in compliance with the Commission order. The Tariff sheets submitted herein reflect an overall reduction in purchased gas costs of $77,229,102, or an increase of 23.0¢ per Dth in demand and a commodity decrease of 25.98¢ per Dth.

Columbia respectfully requests that the Commission grant any waivers as it may deem necessary for the acceptance of this filing.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14077 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-2-000]

East Tennessee Natural Gas Co.; Rate Filing

May 19, 1983.

Take notice that on May 10, 1983, East Tennessee Natural Gas Company tendered for filing Sixth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1983.

East Tennessee states that the sole purpose of the revised tariff sheet is to simultaneously change its rates to reflect the reduced rates charged to East Tennessee by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to be effective May 1, 1983, in Docket No. TA83–2–9. East Tennessee requests waiver to make the filing effective as proposed and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14078 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-23-001]

Eastern Shore Natural Gas Co.; Tariff Filing

May 19, 1983.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on May 6, 1983, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective May 1, 1983

Second Revised Substitute Twenty-Second Revised Sheet No. 5.

Second Revised Substitute Twenty-Second Revised Sheet No. 6.

Second Revised Substitute Twenty-Second Revised Sheet No. 10.

Second Revised Substitute Twenty-Second Revised Sheet No. 11.

Second Revised Substitute Twenty-Second Revised Sheet No. 12.

Eastern Shore states that the purpose of these substitute tariff sheets is to comply with the Commission's Order issued April 26, 1983, requiring Eastern Shore to track the downward revision of Transcontinental Gas Pipe Line Corporation's rates in Docket No. TA83–2–29 (PGA 83–2).

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Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14079 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83 1-4-004 (PGA 83-3)]

Granite State Gas Transmission, Inc., Proposed Changes in Rates Pursuant to Purchased Gas Cost Adjustment Provisions

May 19, 1983.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 120 Royal Street, Canton, Massachusetts 20201, on May 11, 1983, tendered for filing Substitute Fourth Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in its rates for jurisdictional wholesale sales for effectiveness on May 1, 1983.

According to Granite State, the revised rates contained on Substitute Fourth Revised Sheet No. 7 reflect the effect on its rates for jurisdictional sales of a reduction in the cost of gas purchased from its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) resulting from a rate reduction filed by Tennessee on May 4, 1983 in Docket No. TA83-2-9-000 (PGA 83-2) for effectiveness on May 1, 1983. Granite State further states that the decrease in rates is applicable to its sales to its two distribution company affiliates, Bay State Gas Company and Northern Utilities, Inc. It is further stated that the proposed reduced rates will result in a monthly reduction of approximately $850,000 in the cost of gas purchased by the two distributors.

Granite State requests permission to effect its rate reductions through its purchased gas cost provisions concurrent with the effectiveness of the proposed Tennessee reduction in order to flow through the reduction to its customers as soon as possible and to avoid accumulating substantial overcollections in rates.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14080 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-5-001]

Midwestern Gas Transmission Co.; Rate Filing

May 19, 1983.

Take notice that on May 9, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Sixth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1983.

Midwestern states that the sole purpose of the revised tariff sheet is to simultaneously change its Southern System rates to reflect the rates charged to Midwestern by its Southern System supplier, Tennesee Gas Pipeline Company, a Division of Tenneco, Inc., specifically the rate decrease to be effective May 1, 1983, in Docket No. TA83-2-9. Midwestern requests waiver to make this filing effective as proposed and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14081 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-25-005 (PGA 83-1)]

Mississippi River Transmission Corp.; Rate Change Filing

May 19, 1983.

Take notice that on May 9, 1983 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Eighty-Fifth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1, containing an effective date of March 1, 1983.

Mississippi states that such filing is being submitted pursuant to Commission order dated February 28, 1983 at Docket No. TA83-1-25-004. Such order accepted for filing Mississippi's Eighty-Fifth Revised Sheet No. 3A to be effective March 1, 1983, subject to any modification necessary to reflect revised March 1, 1983 rates for Natural Gas Pipeline Company of America ("Natural"), one of Mississippi's, pipeline suppliers, at Docket No. TA83-1-26. Mississippi states that the instant filing reflects such Natural revisions accepted by Commission order dated April 27, 1983.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14082 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-396-000]

Northern Indiana Public Service Co.; Order Accepting for Filing and Suspending Rates, Granting Summary Disposition, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: May 19, 1983.

On March 21, 1983, Northern Indiana Public Service Company (NIPSCO) tendered for filing increased rates applicable to firm power service to 21 cooperative and municipal customers.[1] The company submitted a two-phased rate increase. Phase B, for which NIPSCO proposed an effective date of May 20, 1983, would increase jurisdictional revenues by approximately $32,800,000 (73%) based on a calendar year 1983 test period. In the event that the Commission were to suspend the Phase B rates, NIPSCO requested that the Commission permit the company's Phase A rates to go into effect as of May 21, 1983, during the period for which the Phase B rates were suspended. The Phase A rates were designed to increase revenues by approximately $28,500,000 (63%). As discussed below, NIPSCO subsequently amended its filing in response to the various interventions, by reducing the Phase A rate proposal and requesting a five month suspension for the Phase B rates.

Notice of NIPSCO's filing was published in the **Federal Register**,[2] with comments due on or before April 12, 1983. Timely motions to intervene were filed by the Indiana Municipal Power Agency and Rensselaer, Indiana (IMPA);[3] the Towns of Bremen, Winamac, Walkerton, Argos, Brookston, Kingsford Heights, Etna Green, and Chalmers, Indiana (Towns); and Wabash Valley Power Association (Wabash Valley).

IMPA and Wabash Valley each requested that the Commission suspend both phases of NIPSCO's rate increase for the maximum period. The Towns also requested that the company's Phase B rates be suspended for five months. However, the Towns requested that the Commission reject the Phase A rates or, in the alternative, suspend them for five months. In support of their requests, the intervenors raised a number of issues relating to the rate base, cost of service, and rate of return.[4]

Wabash Valley further alleged that NIPSCO's rates are excessive due to inefficiency and mismanagement of the company; accordingly, Wabash Valley requested that the issue of management efficiency be set for investigation. In addition, Wabash Valley requested that the Commission summarily order NIPSCO to cease the accrual of AFUDC associated with pollution control facilities for which CWIP is included in rate base. According to Wabash Valley, NIPSCO's treatment is contrary to section 2.16(c) of the Commission's Statements of General Policy and Interpretation. Finally, IMPA, the Towns, and Wabash Valley alleged that NIPSCO's rate increase may result in a price squeeze.

In addition to the motions to intervene, protests were received from: the Pulaski Memorial Hospital; Jessup Paper Box, Inc.; Galbreath, Inc.; Frontier School Corporation; Bremen Bearing Corporation; North Star Management, Inc.; Skyline Structures, Inc.; and the Singer Company.

On April 27, 1983, NIPSCO filed an answer to the motions to intervene filed by IMPA, the Towns, and Wabash Valley. The company did not object to the interventions. However, NIPSCO opposed the requests for rejection or maximum suspension of the proposed rates, an investigation concerning management efficiency, or initiation of price squeeze procedures. The company addressed the various substantive issues raised by the intervenors and further contended that the intervenors had not set forth a *prima facie* case of price squeeze. With respect to Wabash Valley's motion for summary disposition, NIPSCO admitted that it had improperly continued to accrue AFUDC on pollution control CWIP included in rate base and that a cost of service adjustment is therefore warranted.

On May 10, 1983, NIPSCO submitted a revised rate filing in response to the interventions and in an effort to alleviate price squeeze concerns.[5] NIPSCO has tendered reduced Phase A rates which reflect a revenue increase of approximately $15,900,000, or $12,500,000 less than originally proposed. The company asks that these rates become effective on May 21, 1983, and seeks waiver of the notice requirements to accomplish this result. In addition, NIPSCO now requests that the originally proposed Phase B rates be suspended for five months. NIPSCO indicates that a State commission decision on the company's pending retail rate increase is expected within the five month period and that, following that decision, NIPSCO will file revised Phase B rates. Finally, the company notes an error in its original filing relating to post-1970 investment tax credits.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make IMPA, the Towns, and Wabash Valley parties to this proceeding.

As mentioned, the Towns requested that the Commission reject NIPSCO's originally proposed Phase A rates. The Towns alleged that the company failed to submit cost of service data required by the Commission's regulations in support of the rates and, further, that the submission of a two-step rate increase represents an attempt to circumvent the Commission's authority under section 205(e) of the Fedeal Power Act. Our review of NIPSCO's filing, however, indicates that the filing, as originally submitted and as modified, substantially complies with the Commission's regulations. Moreover, as we have noted before, nothing in the Federal Power Act or the Commission's regulations precludes an electric utility from filing a phased rate increase, such as that submitted by NIPSCO; the Commission has accepted such submittals for filing in a number of instances.[6] Accordingly,

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[1] *See* Attachment A for rate schedule designations and effected customers. The City of Rensselaer, NIPSCO's only partial requirements customer, is served under a separate rate schedule. The remaining customers receive service under a tariff rate.

[2] 48 FR 13404 (March 31, 1983).

[3] IMPA is a joint agency organized under the laws of the State of Indiana for the purpose of supplying the power and energy needs of municipal utilities. IMPA purchased power from NIPSCO and resells it to its members, which include the City of Rensselaer.

[4] These issues include: return on common equity; fuel stocks, cash working capital, prepayments, purchased power expenses, O&M expenses, and customer accounting expenses; treatment of AFUDC and pollution control CWIP; accumulated deferred income tax balances; synchronization of fuel expenses and revenues; treatment of coal stocks; the date as of which a new generating unit is reflected as plant-in-service; and projected demands for the City of Rensselaer.

[5] The company indicates, however, that in amending its filing it has not waived any argument regarding the price squeeze claims.

[6] *See, e.g., Pacific Gas & Electric Co.*, 21 FERC ¶61,296 (Dec. 14, 1982); Cincinnati Gas & Electric Co., 20 FERC ¶61,148 (Aug. 4, 1982); *Jersey Central Power & Light Co.*, 19 FERC ¶61,208 May 28, 1982).

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we shall deny the Towns' motion to reject NIPSCO's Phase A rates.

In light of NIPSCO's acknowledgement that it had inadvertently continued to accrue AFUDC on amounts included in rate base as pollution control CWIP, we shall grant Wabash Valley's motion for summary disposition. In addition, we shall order summary disposition with respect to one other aspect of NIPSCO's filing.

We note that NIPSCO has failed to synchronize test year interest expenses used in determining the income tax component of its cost of service with the interest portion of the claimed rate of return allowance. Commission precedent requires that utilities compute the long-term debt component of the interest expense tax reduction as the product of the allocated rate base and the weighted cost of long-term debt.[7] Summary disposition is therefore appropriate. However, because the adjustments associated with AFUDC accrual on pollution control CWIP and interest synchronization partially offset each other in their effect upon NIPSCO's cost of service, we shall not order the company to file revised rates at the present time. In NIPSCO's compliance cost of service and rates at the conclusion of this proceeding, NIPSCO will be required to reflect our determination with respect to AFUDC and to synchronize its interest expense in accordance with Commission precedent.

NIPSCO has included in its wholesale tariff, as Paragraph 4 under the heading "Other terms and conditions," a provision which would allow the company to decline to provide service to any utility for end-use load not then served by the company at retail or wholesale if the company's power supply resources are insufficient to supply such load or if the provision of service for such load would increase the company's unit cost of serving existing customers. We are concerned that this provision may unduly restrict competition between NIPSCO and its wholesale customers.[8] However, we are not prepared to conclude at this time that the provision is *per se* unlawful. Accordingly, we shall set the matter for investigation. In particular, NIPSCO will be expected to show why this provision is not anticompetitive or unduly discriminatory, whether it serves some countervailing public interest, and if so, why these countervailing public interest considerations cannot be achieved in some manner less restrictive in its effect upon competition. *Florida Power & Light Co.*, Opinion No. 57, 8 FERC ¶ 61,121 (Aug. 3, 1979). *See also City of Huntingburg* v. *FPC*, 498 F.2d 778 (D.C. Cir. 1974).

With respect to the allegation of mismanagement and inefficiency made by Wabash Valley, the issue of whether the Company's costs have been prudently incurred may be raised in the course of the hearing which we shall order in this proceeding along with the other issues raised by the intervenors.

Our preliminary review indicates that NIPSCO's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing an suspend them as ordered below.

The Commission explained its suspension policy in *West Texas Utilities Co.*, 18 FERC ¶61,189 (Feb. 26, 1982). As noted there, where our preliminary review suggests that increased rates may be unjust and—unreasonable and may yield substantially excessive revenues, as defined in *West Texas*, we will ordinarily impose a five month suspension. In the instant case, our preliminary review of NIPSCO's filing indicates that the Phase B rates may produce substantially excessive revenues, while the Phase A rates, as originally filed or as modified, may not be substantially excessive. Further, we note that NIPSCO has requested that its Phase B rates be suspended for the maximum five month period. Accordingly, we shall suspend NIPSCO's Phase B rates for five months from sixty days after filing to become effective on October 21, 1983, subject to refund. Given the substantial reduction in the level of NIPSCO's proposed Phase A rates, we do not believe that the affected customers will be prejudiced by permitting the lower rates contained in the company's May 10, 1983 filing to take effect following a one day suspension, in lieu of the rates originally proposed by NIPSCO. We find that good cause exists to waive the notice requirements and we shall suspend the revised Phase A rates for one day, to become effective on May 22, 1983, subject to refund. We shall deem the company's originally proposed Phase A rates to have been withdrawn.

In accordance with the Commission's policy and practice established in *Arkansas Power & Light Co.*, 8 FERC ¶ 61,131 (Aug. 6, 1979), we shall phase the price squeeze issue initially raised by the intervenors.

The Commission orders:

(A) The Towns' motion to reject NIPSCO's Phase A rates is hereby denied.

(B) Wabash Valley's motion for summary disposition regarding the accrual of AFUDC is hereby granted.

(C) Summary disposition is hereby ordered with respect to NIPSCO's failure to synchronize interest expense.

(D) NIPSCO's compliance cost of service and rates shall be developed at the conclusion of this preceeding to reflect (1) the discontinuation of AFUDC treatment for pollution contol CWIP included in rate base, and (2) a proper interest synchronization.

(E) Waiver of the notice requirements is herby granted with respect to NIPSCO's reduced Phase A rates.

(F) NIPSCO's reduced Phase A rates and originally filed Phase B rates are herby accepted for filing and suspended for one day and five months, respectively, to become effective, on May 22, 1983, and October 21, 1983, subject to refund.

(G) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NIPSCO's rates.

(H) the Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service to top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a departure from this schedule for good cause shown. The price squeeze claim shall be governed by section 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Northern Indiana Public Service Company

Docket No. ER83-396-000—Rate Schedule Designations

Designation and Description

(1) FERC Electric Tariff, 4th Substitute Revised Volume No. 1 (Supersedes 3rd Revised Volume No. 1)—Phase A rates.

(2) FERC Electric Tariff, 5th Revised Volume No. 1 (Supersedes 4th Revised Volume No. 1)—Phase B rates.

(3) Supplement No. 2 to Supplement No. 1 to Rate Schedule FERC No. 13 (Supersedes Supplement No. 1 to Supplement No. 1)—Rate Schedule VA111.

Tariff Customers

Rate Schedule VA1—Towns of Argos, Bremen, Brookton, Chalmers, Etna Green, Kingsford Heights, Walkerton and Winamac.

Rate Schedule VA11—Wabash Valley Power Association at Carrol County, Fulton County, Jasper County, Kankakee County, Koscuisko County, Lagrange County, Marshall County, Stueben County, Warren County and White County.

Rate Schedule VA111—None

Non-Tariff Customers

Rate Schedule VA111—Indiana Municipal Power Agency at City of Rensselaer.

[FR Doc. 83-14085 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[7] *See, e.g., Gulf States Utilities Co.*, Docket No. ER82-375-000, 20 FERC ¶61,039 (July 9, 1982); *Public Service Co. of New Mexico*, Opinion No. 133, 17 FERC ¶61,123 (Nov. 9, 1981); *Union Electric Co.*, Opinion No. 94, 12 FERC ¶61,239 (Sept. 2, 1980); *Alabama Power Co.*, Opinion No. 84, 8 FERC ¶61,083 (Aug. 1, 1979).

[8] *See, e.g., Louisiana Power & Light Co.*, Opinion No. 110, 14 FERC ¶61,075 (Jan. 28, 1981); *Gulf States Utilities Co.*, 5 FERC ¶61,066 (Oct. 20, 1978) (resale restrictions in a utility's wholesale tariff are *per se* unlawful under the Federal Power Act.)

[Docket No. CP83-325-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

May 19, 1983.

Take notice that on May 16, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-325-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sale of natural gas to Iowa Power and Light Company (IP&L), for resale, with changes in authorized firm and seasonal sales volumes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to decrease IP&L's level of firm contract demand service by 53,939 Mcf of gas per day and increase IP&L's seasonal service demand by 28,612 Mcf of gas per day. It is said that Natural and IP&L have executed new service agreements calling for an initial reduction in firm contract demand service equal to 8,671 Mcf per day and a further reduction of 45,268 Mcf per day, effective October 27, 1983, and thereafter. It is also stated that the increase in seasonal service demand will be effective November 27, 1983, and thereafter.

It is asserted that customer conservation and current economic downtrends in IP&L's market area have resulted in excess firm entitlements and consequently, the proposed changes in volumes will assist IP&L in achieving maximum utilization of its supply sources to meet current market requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14083 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

May 19, 1983.

Take notice that on May 6, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1: Twenty-first Revised Sheet No. 4b
Original Volume No. 2: Thirty-first Revised Sheet No. 1c

These tariff sheets are being issued in substitution of those tariff sheets filed April 21, 1983 which reflected a decrease in the Commodity Component of Northern's rates resulting from the $.54 per MMBtu decrease in the Canadian Border export price. The sole purpose of these tariff sheets is to update the April 21 filing to reflect the change in the base average cost of purchased gas applicable to the billing period May through December, 1983.

Northern requests any waiver of the Commission's regulations to the extent, if any, required to effectuate the tariff sheets on April 27, 1983.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers, interested State Commissions, and all parties to Docket Nos. RP82-71 and TA83-1-59.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

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Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14084 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-59-001]

Northern Natural Gas Co.; ANGTS Transportation Adjustment Rate Change

May 19, 1983.

Take notice that on May 6, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1: Thirty-First Revised Sheet No. 4a; Twenty-Second Revised Sheet No. 4b
Original Volume No. 2: Thirty-Second Revised Sheet No. 1c

Such revised tariff sheets are required in order that Northern may place decreased rates into effect on June 27, 1983 to reflect the change in the costs of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14087 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-011]

Northern Natural Gas Co.; Division of InterNorth, Inc.; Changes in F.E.R.C. Gas Tariff

May 19, 1983.

Take notice that Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) on May 6, 1983 tendered for filing changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. These tariff sheets reflect the settlement of Docket No. RP82-71 in accordance with the Stipulation and Agreement which was approved by Commission order issued April 28, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14086 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-41-002]

Northwest Pipeline Corp; Change in FERC Gas Tariff

May 19, 1983.

Take notice that on May 13, 1983, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance Substitute Ninth Revised Sheet No. 10 as a part of its FERC Gas Tariff First Revised Volume No. 1. The tendered tariff sheet is Northwest's Statement of Rates applicable to service under rate schedules contained in its Volume No. 1 Tariff.

Ninth Revised Sheet No. 10 was filed by Northwest on December 30, 1982 in connection with its proposal to revise its Rate Schedule SGS-1 and was approved by Commission Order dated April 29, 1983 at Docket No. RP83-41-000 to be effective May 1, 1983 subject to modification to reflect Northwest's Purchased Gas Cost Adjustment filing dated February 15, 1983.

On April 15, 1983, Northwest filed Docket No. TA83-3-37 (PGA83-3) to reduce its rates in order to track a decrease in the Canadian border price to be effective April 11, 1983. Therefore, substitute Ninth Revised Sheet No. 10 as filed herewith reflects both the April 1, 1983 and April 15, 1983 Purchase Gas Cost Adjustments.

Northwest requests waiver of Commission regulations in order to permit an effective date of May 1, 1983 with respect to Substitute Ninth Revised Sheet No. 10.

Copies of this filing have been served on all of Northwest's jurisdictional customers and respective state commissions.

Any persons desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14088 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-505-000]

Alabama Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that on May 10, 1983, Alabama Power Company (Alabama) tendered for filing Eighteenth Revised Sheet No. 38 to its FERC Electric Tariff, Original Volume No. 1. The purpose of this filing is to give notice that effective June 3, 1983, the load normally served from Clarke-Washington Electric Membership Corporation's Dry Forks and Clairborne delivery points will be served from the Camden delivery point. The delivery point will be served at the Company applicable revision to Rate Schedule REA-1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama Power Company.

Copies of the filing were served upon Clarke-Washington Electric Membership Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14189 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7114]

Alaska Power Authority; Scoping Session and Public Hearings

May 23, 1983.

The Alaska Power Authority (Applicant) filed on February 28, 1983, an application for license for the Susitna Hydroelectric Project, FERC Project No. 7114, located on the Susitna River approximately 180 miles northeast of Anchorage, Alaska. The proposed project would consist of two major developments: an 885 foot-high earthfill dam and a 645 foot high concrete arch dam forming two reservoirs with a total surface area of 45,800 acres. Two underground powerhouses have a total generating capacity of 1,620 MW.

On April 12, 1983, the Commission's designee found that the application did not conform to the Commission's regulations and requested the Applicant to submit supplemental information on the proposed project. The application, if accepted, would constitute a major federal action significantly affecting the quality of the human environment. As a result, the project would require an environmental impact statement, which would address possible alternatives to to the proposed action.

Scoping Session

Interested persons and agencies are invited to participate in the scoping meeting to discuss the environmental impacts expected from the proposed Susitna Project. The scoping session will be convened by the Commission's staff. The session will be held on June 20, 1983 (9 am–12 am) at the West High School Library, 1700 Hillcrest Drive, Anchorage, Alaska 99503. The purpose of the scoping session is to enable interested persons and agencies to discuss with the Commission staff environmental impacts and other matters that they believe should be included in the environmental impact statement.

Public Hearings

Interested officials and members of the public are invited to express their views about the proposed project in a public hearing. The public hearings will be held as follows:

June 20, 1983, 7 pm–10 pm, West High School Cove Auditorium, 1700 Hillcrest Drive, Anchorage, Alaska 99503

June 21, 1983, 7 pm–10 pm, Susitna Valley High School Library, Mile 98, Parks Highway, Box AB, Palmer, Alaska 99645

June 22, 1983, 7 pm–10 pm, Cantwell Native Council Community Hall, Cantwell, Alaska 99729

June 23, 1983, 7 pm–10 pm, Ryan Junior High, Multipurpose Room, 951 Airport Road, Fairbanks, Alaska 99701.

The public hearings will be conducted by the Commission's staff.

At the public hearings, persons may give their statements orally or in writing. The hearings will be recorded by a stenographer, and all statements (oral and written) will become part of the public files associated with this proceeding. In addition, the public record for these proceedings will remain open until July 15, 1983 and anyone may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should clearly show the project name and number (Project No. 7114) on the first page.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14190 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-509-000]

American Electric Power Service Corp.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate Columbus and Southern Ohio Electric Company (CSOE) tendered for filing on May 13, 1983 the following:

Agreement dated May 1, 1983, between City of Westernville, Ohio, and CSOE.

The Agreement sets forth terms pursuant to which CSOE proposes to supply Transmission Service to City of Westernville, Ohio.

AEP requests an effective date of August 1, 1983, and therefore requests waiver of the Commission's notice of requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14191 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-303-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Request Under Blanket Authorization

May 20, 1983.

Take notice that on April 29, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, Filed in Docket No. CP83-303-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate a

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sales tap and related appurtenant facilities in connection with the retail sale and delivery of gas for consumption in Stuart, Oklahoma, and its evirons, under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it proposes to construct and operate a tap and related jurisdictional facilities at Station 2179 plus 10 on Applicant's Line AD in Section 25, Township 5 North, Range 11 East, Hughes County, Oklahoma. Applicant states that the gas to be deliver by the proposed facilities would be distributed in the town of Stuart, Oklahoma, and its environs. Applicant estimates that the annual requirements of the proposed distribution system would be approximately 45,000 Mcf and that approximately 79 residential customers, eight small commercial customers and one school would initially be connected.

Applicant states that the gas would be delivered from its general system supply and that the proposed connection would have a *de minimis* impact on Applicant's supply. Applicant indicates that the gas sold in the Stuart area would be billed at Applicant's regular retail rates as applicable and effective from time to time to the class of customer. Applicant estimates that the jurisdictional facilities involved in this request would cost $24,050 to install.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14182 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-512-000]

Connecticut Light and Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that on May 16, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated November 1, 1982 between (1) CL&P, Western Massachusetts Electric Company (WMECO) and Holyoke Water Power Company (HWP, and together with CL&P and WMECO, the NU Companies) and (2) City of Holyoke, Massachusetts Gas and Electric Department (HG&E).

CL&P states that the Transmission Agreement provides for transmission services to HG&E for the wheeling of HG&E's purchase from the Massachusetts Municipal Wholesale Electric Company (MMWEC) of a portion of MMWEC's entitlement obtained from Point Lepreau Unit No. 1 (located in New Brunswick, Canada) during the period commencing on the date Point Lepreau Unit No. 1 achieves commercial operation to October 31, 1987.

CL&P further states that the transmission charge is a monthly rate equal to one-twelfth of the estimated annual average cost of transmission service to the electric transmission system of the NU Companies determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts HG&E is entitled to receive during such month. The monthly transmission charge is reduced by 50% to give due recognition for payments made by HG&E to other utility systems also providing related transmission service.

CL&P requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO, HWP and HG&E.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14193 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-511-000]

Connecticut Light and Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that on May 16, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule change with respect to a transmission service agreement dated March 1, 1983 (Amendment) between (1) CL&P and Western Massachusetts Electric Company (WMECO), (together, the NU Companies) and (2) Town of Wallingford, Department of Public Utilities (Wallingford).

CL&P states that the Amendment provides for changes to a transmission service agreement between the same parties dated as of October 8, 1982 (the Agreement). The requested change modifies the amounts of transmission service provided to Wallingford during the period commencing on March 1, 1983 and terminating on October 31, 1983.

CL&P further states that the transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of service on the transmission system of the NU Companies. The monthly transmission charge is determined as the product of (i) the appropriate transmission charge rate ($/kW-month), and (ii) the total kilowatts of capacity which Wallingford is entitled to receive in each month pursuant to the Amendment.

CL&P requests and effective date of March 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon WMECO and Wallingford.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14194 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-506-000]

Consumers Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on May 10, 1983, tendered for filing Consumer's Supplemental Agreement No. 4 to the Coordinated Operating Agreement with Wolverine Power Supply Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan and the City of Zeeland, Michigan (hereinafter collectively referred to as the MCP members") dated as of January 1, 1982.

Consumers states that the Supplemental Agreement No. 4 (1) adds a new provision in Service Schedule B–Short Term Capacity and Energy which allows either part to sell Short Term Capacity and Energy on a daily as well as a weekly basis, and (2) adds a new Service Schedule E—Non Displacement Energy, which allows either party to buy electric Energy available from surplus capacity on the other party's system for short intervals.

Consumers further states that the extent and use of Daily Short Term Power or Non-Displacement Energy among the parties for the next twelve months is unknown at the present time as this will be scheduled from time to time as load and capacity condititons on either system dictate. Accordingly, it is not possible to estimate the transaction for such period. Since Daily Short Term Power and Non-Displacement Energy have not been provided previously, a comparison cannot be made of the presently effective and proposed rates for the past twelve months as no transaction took place.

Consumers requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of filing have been served upon MCP members and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-14195 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-407-000 and ER82-751-000]

Delmarva Power & Light Co; Order Accepting for Filing and Suspending Rate Schedules, Consolidating Dockets, Granting Waivers, and Establishing Procedures

Issued: May 20, 1983.

On March 25, 1983, Delmarva Power & Light Company (DP&L) tendered for filing revised rate schedules for service provided to the Cities of Newark, New Castle, and Milford, Delaware, and the Towns of Smyrna, Clayton, and Middletown, Delaware.[1] Also, DP&L's submittal includes executed partial requirements and transmission service agreements for service to the Towns of Clayton and Middletown. DPL requests waiver of notice, an effective date of March 31, 1983, and a one day suspension so that the submittal may become effective, subject to refund, on April 1, 1983. The affected customers concurred in DP&L's requests by letter dated March 24, 1983.

Background

On February 2, 1983, in Docket No. ER–82–751–003, a partial settlement agreement was filed between DP&L and the Cities of Milford, New Castle, Newark, and Smyrna, together with executed partial requirements and transmission service agreements.[2] One provision of the settlement agreement would allow Milford to begin receiving transmission service immediately on the condition that the existing transmission customers reduce their monthly wheeling demands and dedicate such capacity to Milford.

The instant submittal contains the corresponding transmission rate sheets which (1) incorporate Milford as a wheeling customer, (2) reflect Milford wheeling loads, and (3) reflect correspondingly reduced wheeling demands for the existing transmission customers. In addition, the instant submittal contains executed service agreements (identical to those incorporated in the February 2, 1983 settlement agreement) for service to the two remaining DP&L wheeling customers (the Cities of Clayton and Middletown, Delaware) who were not parties to the settlement agreement. DP&L requests that its submittal be consolidated with the proceedings in Docket No. ER82–751–000, since this submittal implements an offer of settlement already subject to Commission review and since the cost support for the revised rates is that filed in Docket No. ER82–751–000.[3]

Notice of the filing was published in the **Federal Register** with responses due on or before April 20, 1983. No comments have been received other than the customers' March 24, 1983 concurrence.

Discussion

Given the fact that the Commission has not yet considered and ruled on the merits of the pending offer of settlement in Docket No. ER82–751–000, we find that DP&L's proposed transmission agreements and service schedules, which implement provisions of the settlement, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unawful. Accordingly, we shall accept the submittal for filing and suspend it as ordered below.

In explaining the Commisson's suspension policy in *West Texas Utilities Co.*, Docket No. ER–82–23–000, 18 FERC ¶ 61,189, footnote 6 (1982), we noted that the Commission would consider such factors as customer concurrence to a nominal suspension for settlement purposes. The instant filing has been submitted, pursuant to agreement among the parties, to implement certain settlement provisions

[1] *See* Attachment A for rate schedule designations.

[2] The settlement agreement was certified to the Commission by the presiding judge on April 1, 1983.

[3] On March 24, 1983, counsel representing all named parties in Docket No. ER82–751–000 and the Towns of Clayton and Middletown filed a letter supporting the DP&L submittal.

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and to enable Milford to receive a new service. All of the affected customers support not ony a one day suspension but also waiver of notice and an April 1 1983 effective date. We further note that in the underlying docket (ER82–751–000) involving the rates at issue here, we considered a one day suspension appropriate. Under these circumstances, we find that good cause exists to waive the notice requirements and to suspend DP&L's filing for one day, to become effective, subject to refund, on April 1, 1983. In addition, because common questions of law and fact may exist, we shall consolidate Docket No. ER83–407–000 with the proceedings in Docket No. ER82–751–000.

The Commission orders:

(A) DP&L's motion for waiver of the notice and filing requirements is hereby granted.

(B) DP&L's March 25, 1983 submittal is hereby accepted for filing and suspended for one day, to become effective, subject to refund, on April 1, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 208 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of DP&L's submittals. The rates, terms, and conditions at issue shall be subject to the outcome of the Commission's action on the offer of settlement in Docket No. ER82–751–003.

(D) Docket Nos. ER83–407–000 and ER82–751–000 are hereby consolidated for purposes of hearing and decision.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Delmarva Power & Light Company Rate Schedule Designations

Docket No. ER82–407–000

Filed: (1), (2), (5–7) and (10–14) March 25, 1983.

Effective: April 1, 1983, Subject to Refund.

Designation	Other party	Description
(1) Rate Schedule FERC No. 84 (Supersedes Rate Schedule FERC No. 54).	Clayton, Delaware	Partial Requirements Service Agreement, Executed: March 14, 1983.
(2) Supplement No. 1 to Rate Schedule FERC No. 84	....do	Transmission Service Agreement, Executed: March 14, 1983.
(3) Supplement No. 2 to Rate Schedule FERC No. 84 (Redesignation of Supplement No. 1 to Rate Schedule FERC No. 54).	....do	Rules and Regulation.
(4) Supplement No. 3 to Rate Schedule FERC No. 84 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 54).	....do	Firm Power Rate Schedule
(5) Supplement No. 4 to Rate Schedule FERC No. 84 (Supersedes Supplement No. 3 to Rate Schedule FERC No. 54).	....do	Transmission Service Rate Schedule.
(6) Rate Schedule FERC No. 85 (Supersedes Rate Schedule FERC No. 55).	Middletown, Delaware	Partial Requirements Service Agreement Executed: March 10, 1983.
(7) Supplement No. 1 to Rate Schedule FERC No. 85	....do	Transmission Service Agreement Executed: March 10, 1983
(8) Supplement No. 2 to Rate Schedule FERC No. 85 (Redesignation of Supplement No. 1 to Rate Schedule FERC No. 55).	....do	Rules and Regulations.
(9) Supplement No. 3 to Rate Schedule FERC No. 85 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 55).	....do	Firm Power Rate Schedule.
(10) Supplement No. 4 to Rate Schedule FERC No. 85 (Supersedes Supplement No. 3 to Rate Schedule FERC No. 55).	....do	Transmission Service Rate Schedule .
(11) Supplement No. 4 to Rate Schedule No. 56 (Supersedes Supplement No. 3 to Rate Schedule FERC No. 56).	New Castel, Delaware	Transmission Service Rate Schedule.
(12) Supplement No. 4 to Rate Schedule FERC No. 58	Milford, Delaware	Do.
(13) Supplement No. 4 to Rate Schedule FERC No. 59 (Supersedes Supplement No. 3 to Rate Schedule FERC No. 59).	Smyrna, Delaware	Do
(14) Supplement No. 4 to Rate Schedule FERC No. 60 (Supersedes Supplement No. 3 to Rate Schedule FERC No. 60).	Newark, Delaware	Do

[FR Doc. 83–14198 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–513–000]

Duke Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on May 16, 1983 a supplement to the Company's Electric Power Contract with Lockhart Power Company. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 252.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following decrease in contract demand: Delivery Point No. 3 from 40,000 KW to 33,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of April 19, 1983.

According to Duke Power, copies of this filing were mailed to Lockhart Power Company and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–14197 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–514–000]

Duke Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on May 16, 1983 a supplement to the Company's Electric Power Contract with Little River Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 145.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in contract demand: Delivery Point No. 6 from 2,600 KW to 1,300 KW and Delivery Point No. 9 is a new delivery of 1,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of April 19, 1983 for Delivery Point No. 6 and January 19, 1983 for Delivery Point No. 9.

According to Duke Power, copies of this filing were mailed to Little River Electric Cooperative, Inc., and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–14198 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–507–000]

Minnesota Power & Light Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that Minnesota Power & Light Company (Minnesota Power) on May 11, 1983, tendered for filing executed contract supplements relating to rates for electric utility service to the following municipal customers: Cities of Aitkin, Brainerd and Nashwauk, Minnesota.

Under the terms and conditions of the executed supplements, Minnesota Power will guarantee certain limitations on rate increases during the period 1983–1989.

Minnesota Power requests waiver of the Commission's Regulations to the extent necessary to permit the executed agreements to become effective as specified in the various executed supplements.

Copies of the executed supplements have been served upon the above-listed customers and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–14199 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–510–000]

Mississippi Power Co.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that on May 13, 1983, the Mississippi Power Company (Mississippi) tendered for filing Supplement Agreement with Coast Electric Power Association (CEPA) under its FERC Electric Tariff Original Volume No. 1. This agreement provides for the establishment of a new delivery point of CEPA in Hancock County, Mississippi. To establish service at this new point, Mississippi and CEPA have entered into a supplemental agreement under the Company's FERC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

Mississippi agrees to deliver up to a maximum of 10,000 kilowatts at 115,000 volts at the point where the Company's 115 KV conductors attach to the customer's conductors on the customer's high side structure in substation located in Section 33, T8S, R14W, Hancock, Mississippi.

Mississippi states that this supplement will become effective on or about June 1, 1983, when the required additional facilities will be energized, at which time the existing Bay St. Louis (Supplement No. 4) will be be discontinued. Mississippi has requested the sixty day notice requirement to be waived in order to avoid a delay in rendering service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–14200 Filed 5–25–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES83–44–000]

South Carolina Public Service Authority; Application

May 20, 1983.

Take notice that on May 17, 1983, the South Carolina Public Service Authority ("Authority") filed an application pursuant to Section 204 of the Federal Power Act seeking an order authorizing the issuance of up to $225,000,000 in Electric System Expansion Revenue Refunding Bonds. The Authority asks, in the alternative, for an order dismissing the application for lack of jurisdiction. The Refunding Bonds are to be sold at a negotiated sale with a single underwriting group. The proceeds will be used to refund outstanding Electric System Expansion Revenue Bonds.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

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Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before Monday, June 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14201 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-508-000]

Southern Company Services, Inc.; Filing

May 20, 1983.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies), tendered for filing on May 12, 1983, an interchange contract between the City of Tallahassee, Florida (City) and Southern Companies, together with Amendment No. 1 to the interchange contract.

The interchange contract, as amended, between City and Southern Companies is scheduled to become effective upon the establishment of a 230 kV transmission interconnection between their respective systems. Amendment No. 1 to the interchange contract revises the service schedules contained in the original contract, which schedules were never made effective due to delays in the construction of this interconnection. The initial interconnection is now expected to be completed about May 17, 1983, and will enable the parties to engage in the various transactions contemplated under the amended contract.

Southern Companies requests an effective date of August 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14202 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

National Petroleum Council Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Change of Meeting Dates

The dates of the sixth meeting of the Miscible Displacement Task Group of the NPC Committe on Enhanced Oil Recovery (previously noticed in 48 FR 19196, 4-28-83) have been changed to June 9 and 10, 1983.

Issued at Washington, D.C. on May 19, 1983.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc.83-14178 Filed 5-25-83; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

May 18, 1983.

Task Group B-4 of Working Group B: Institutional Accommodations of New Services and Technologies

Chairman: S. A. Levy (202) 331-2624

Date: Thursday, May 26, 1983

Time: 9:00 A.M.-12:00 Noon

Location: Hogan & Hartson, 4th Floor, 815 Connecticut Avenue NW., Washington, D.C. 20006

Agenda:

(1) Introductions
(2) Approval of Agenda
(3) Work Assignments
(4) Final Report
(5) Other Business
(6) Next Meeting
(7) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-14091 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings; Corrections

The listings of petitions for reconsideration and applications for review published in the **Federal Register** on May 10, 1983 on page (48 FR) 20988 are corrected by the addition of a filing party in the proceeding in CC Docket No. 82-122 as shown below.

Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82-122)

Filed by: Arthur H. Simms, Attorney for The Western Union Telegraph Company on 4-25-83.

John A. Ligon, Attorney for ITT World Communications Inc., on 4-26-83.

*Robert Michelson & William J. Byrnes, Attorneys for Western Union International, Inc., on 4-25-83.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-14094 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Definitions and Rules Subcommittee; Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of four meetings of the Telecommunications Industry Advisory Group's (TIAG) Definitions and Rules Subcommittee. Each meeting will begin at 9:30 a.m. and will be open to the public. The meeting dates and locations are as follows:

Tuesday, June 14, 1983

MCI Telecommunications Corporation (1st Floor Meeting Room), 1133 19th Street NW., Washington, D.C.

Tuesday, June 28, 1983

AT&T Conference Room A (10th Floor), 1120 20th Street NW., Washington, D.C.

Tuesday, July 12, 1983

Federal Communications Commission, Room 311, 1919 M Street NW., Washington, D.C.

Tuesday, July 26, 1983

AT&T Conference Room A (10th Floor), 1120 20th Street NW., Washington, D.C.

The agenda for each meeting is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Discussion of Individual Assignments
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-14092 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-371; Transmittal No. 77]

American Telephone and Telegraph Co. and the Bell System Operating Companies; Exchange Network Facilities for Interstate Access (ENFIA); Memorandum Opinion and Order

Adopted May 12, 1983.
Released May 16, 1983.
By the Chief, Common Carrier Bureau.

1. On March 28, 1983, the American Telephone and Telegraph Company (AT&T) on behalf the Bell System Operating Companies (BSOC's) filed under transmittal No. 74 proposed increases in the rates for Exchange Network Facilities for Interstate Access (ENFIA) offered to other Common Carriers (OCCs) in BSOC Tariff F.C.C. No. 8. The increase, filed on 15 days notice, became effective April 16, 1983 after the Bureau denied petitions to reject or suspend. AT&T, CC 3635, released April 15, 1983. The BSOCs now propose a further increase in ENFIA rates, in tariff material filed with the above-captioned transmittal on April 28, 1983 to become effective May 13, 1983. They contend that this increase is warranted because the methodology for calculating minutes of use per ENFIA line employed in the March 28 tariff filing was based on that adopted in the Commission's *Investigation Order*, FCC 82-431, released September 29, 1982 [1] and this methodology was modified by the Commission in its *Reconsideration Order*, FCC 83-125, released April 5, 1983 during the notice period for the March 28 filing. The minutes of use and the rates in the present transmittal are claimed to be based on the methodology in the *Reconsideration Order*. Applying this methodology results in an increase in the billed minutes of use from 5236 to 5435, and an increase in the overall rate for ENFIA Rate elements 2 and 3 from $217.64 to $225.77. The present filing also "replaces and supersedes those rates effective under Transmittal No. 74 as fully as if originally filed to be effective on April 16, 1983." In other words, the tariff revisions seek to give the present increase retroactive effect from April 16, 27 days before the tariff material would become effective on May 13.

2. Southern Pacific Communications Company (SPCC) filed a petition to reject or suspend, but its petition does not question the accuracy of AT&T's calculations or its conformity with the methodology approved by the Commission in the *Reconsideration Order*. SPCC claims only that this additional increase represents rate churning which is inconsistent with the public interest and that the higher rate will unjustly disadvantage the OCCs who use ENFIA sevice. Such agruments have already been considered and rejected by the Commission. [2] Since AT&Ts proposed increase appears to conform to the ENFIA methodology approved in the *Reconsideraton Order*, SPCC's petition raises no issue warranting rejection or suspension and investigation.

3. However, we nevertheless must conclude that the filing is unlawful because it seeks to make this increase retroactive to April 16. The rates in effect from April 16 to date have been those specified in the ENFIA tariff. Under Section 203(c) of the Communications Act, 47 USC § 203(c) "no carrier shall (1) charge, demand, collect, or receive a greater or less or different compensation . . . than the charges specified in the schedule then in effect." A carrier is not entitled to increase rates retroactively, regardless of whether the higher rate would have been found just and reasonable had it been filed. AT&T stated in its March 28 filing that those tariff revisions were filed subject to appropriate redetermination of minutes of use and rates in light of the *Reconsideration Order*, but that statement has no legal effect.[3]

4. Accordingly, it is ordered, pursuant to authority delegated to the Chief, Common Carrier Bureau under Section 0.291 of the Commission's Rules, 47 CFR 0.291, That the tariff material filed by AT&T on behalf of the BSOCs under Transmittal No. 77 is rejected.

5. It is further ordered, That the petition to reject or suspend and investigate filed by SPCC is granted to the extent indicated herein but is otherwise denied.

Federal Communications Commission

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-14093 Filed 5-25-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Review pending, MCI Telecommunications Corp. v. FCC, D.C. Cir. Nos. 82-1553, et al. (Appeals consolidated Nov. 8 and Dec. 8, 1982).

[2] Extension of ENFIA Agreement, 90 FCC 2d 6 (1982). Investigation Order, Reconsideration Order.

[3] Transcontinental and Western Air, Inc., v. C.A.B., 336 U.S.601 (1949). The commission may make rates retroactive to the date of commencement of a rate-making proceeding in some circumstances by adopting an interim billing and collection rate, subject to later adjustment after investigation. Lincoln Telephone and Telegraph Company, 72 FCC 2d 724 (1979), aff'd. 659 F.2d 1092 (D.C. Cir. 1981). The Commission imposed such an arrangement at the beginning of the ENFIA investigation last year, but no such proceeding or order was undertaken for the March 28 filing.

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the Agreement and the supporting statement at the Washington, D.C Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on the Agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending Agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the Agreement at the address shown below.

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Agreement No.: T–4121.
Title: Tampa Port Authority/Garrison Terminals, Inc. Lease.
Parties: Tampa Port Authority (TPA)/ Garrison Terminals, Inc. Trans-Florida Warehouse Corporation (Garrison).
Synopsis: Agreement No. T–4121, provides for the lease to Garrison on an exclusive basis of certain warehouse and bare land in the vicinity of Berth 202 in the Port of Tampa. The premises will be used as a marine terminal operation and activities incidental to such operations. Garrison will pay rental, as mutually agreed and dockage and wharfage in accordance with port tariff. Garrison will receive annual non-cumulative credit against bare land rental for all wharfage payments to TPA in excess of $25,000 per lease year. Garrison will also receive non-exclusive preferencial berthing rights at Berth 202. The basic term of the Agreement is on (1) year with options for extension periods of one (1) year and six (6) months, with provisions for appropriately notifying FMC of such extensions.
Filing agent: Harold E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, Tampa, Florida 33601.

By Order of the Federal Maritime Commission.
Dated: May 23, 1983.
Francis C. Hurney,
Secretary.
[FR Doc. 83–14160 Filed 5–25–83; 8:45 am]
BILLING CODE 6730–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).
Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W, Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.
Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.
Agreement No.: T–4120.
Title: Port of Seattle and International Terminal Company Public Breakbulk/ NEO Bulk Marine Terminal.
Parties: Port of Seattle (Port)/ International Terminal Company (ITC).
Synopsis: Agreement No. T–4120 provides that the Port will lease to ITC 7.757 acres of land, including 2,880 acres of common use area, office and transit shed space and 1.419 acres of apron and berth at the Port's Terminal 115. The minimum rental is $188,880 per year. The term of the lease is one year, automatically renewable from year to year but not extending beyond April 30, 1988. The lease contains a profit sharing provision at 50 percent of dockage and wharfage charges when the charges exceed the minimum rental in any lease year.
Filing Party: Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.
Agreement No.: 150–72.
Title: Trans-Pacific Freight Conference of Japan/Korea.
Parties:
American President Lines, Ltd.
Barber-Blue Sea Lines J/S
Hapag-Lloyd A/G
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co. Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
Moller-Maersk Line, A. P.
Nippon Yusen Kaisha
Showa Line Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The modification will amend the confidentiality provisions to allow member lines to reveal their individual votes and/or the status of matters docketed for Conference consideration to individual shippers or consignees on a private basis.
Filing Agent: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.
Agreement No.: 3103–72.
Title: Japan/Korea-Atlantic and Gulf Freight Conference.
Parties:
Barber-Blue Sea Lines J/S
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Shipping Corporation
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
Moller-Maersk Line, A. P.
Neptune Orient Lines Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Synopsis: The modification will amend the confidentiality provisions to allow member lines to reveal their individual votes and/or the status of matters docketed for Conference consideration to individual shippers or consignees on a private basis.
Filing Agent: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.
Dated: May 23, 1983.
Francis C. Hurney,
Secretary.
[FR Doc. 83–14071 Filed 5–25–83; 8:45 am]
BILLING CODE 6730–01–M

[Docket No. 83–25]

Burlington Industries, Inc. v. Dart Containerline Co., Ltd.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Burlington Industries, Inc. against Dart Containerline Co., Ltd. was served May 17, 1983. Complainant alleges that respondent has subjected it to payment of rates for ocean transportation in violation of sections 16 and 17 of the Shipping Act, 1916.
This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.
Francis C. Hurney,
Secretary.
[FR Doc. 83–14070 Filed 5–25–83; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; General Bancshares Corp. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).
Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.
A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:
1. *General Bancshares Corporation,* St. Louis, Missouri; to acquire 100 percent of the voting shares or assets of Security Bank & Trust Co., Mt. Vernon, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than June 20, 1983.
2. *Walter E. Heller International Corporation,* Chicago, Illinois, and American National Corporation, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of First American Bank of Bensenville, Bensenville, Illinois. The applications may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than June 20, 1983.

Board of Governors of the Federal Reserve System, May 20, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83–14140 Filed 5–25–83; 8:45 am]
BILLING CODE 6210–01–M

Bank Holding Companies; Proposed De Novo Nonbank Activities; First Railroad & Banking Co. of Georgia, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.
With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.
The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.
A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:
1. *First Railroad & Banking Company of Georgia,* Augusta, Georgia (finance and insurance activities; Tennessee): To engage *de novo* through its subsidiary, CMC Group, Inc., Charlotte, North Carolina, in the following activities: making or acquired for its own account or the account of others, loans and other extensions of credit such as would be made by a mortgage finance, or factoring company; to underwrite credit life and accident and health insurance; and to sell as agent, property insurance in connection with its loan and installment sales contracts. Such insurance activities are permissible under section 610 (A), (B) and (D) of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from an office in Greenville, Tennessee, serving Greene County. Comments on this application must be received not later than June 16, 1983.
B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:
1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Colorado): To continue to engage, through its indirect subsidiary, FinanceAmerica Corporation, a Colorado corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Corporation. These activities will be conducted from an existing office located in Englewood, Colorado, serving the entire State of Colorado. Comments on this application must be received not later than June 20, 1983.

Board of Governors of the Federal Reserve System, May 23, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83–14141 Filed 5–25–83; 8:45 am]
BILLING CODE 6210–01–M

Formation of Bank Holding Companies; Arrow Bank Corp. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).
Each application may be inspected at the offices of the Board of Governors, or the Federal Reserve Bank indicated for that application. With respect to each

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application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Arrow Bank Corp.*, Glen Falls, New York; to become a bank holding company by acquiring all of the voting shares of the successor by merger to Glen Falls National Bank and Trust Company, Glen Falls, New York. Comments on this application must be received not later than June 20, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *FWB Bancorporation*, Rockville, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of First Women's Bank of Maryland, Rockville, Maryland. Comments on this application must be received not later than June 20, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *F.N.B.I.W. Financial Corporation*, Waycross, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Waycross, Waycross, Georgia. Comments on this application must be received not later than June 20, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Holding Company*, Park Ridge, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank & Trust Company, Park Ridge, Illinois. Comments on this application must be received not later than June 20, 1983.

Board of Governors of the Federal Reserve System, May 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-14130 Filed 5-25-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-83]

Conference Location Selection Model; Availability

The Office of Federal Supply and Services issued on April 1, 1983, GSA Bulletin FPMR A-83, Conference Location Selection Model.

This bulletin announces the General Services Administration's (GSA) computerized conference location selection model that is available to Federal agencies. Agencies may obtain from GSA cost comparisons based on travel and per diem costs to determine the most cost advantageous location for conducting meetings, seminars, training sessions, or conferences. Use of the model will provide agencies with a means of reducing travel expenses associated with meetings, seminars, training sessions, or conferences that have attendees or travelers originating from multiple locations, with various per diem requirements and travel conditions.

Agencies should contact their agency headquarters publications liaison officer regarding receipt of copies.

Dated: May 16, 1983.

L. L. Mitchell,

Assistant Administrator for Federal Supply and Services.

[FR Doc. 83-14129 Filed 5-25-83; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Preliminary Application Announcement, Proposed Funding Preferences and Grant Orientation Conferences for the Health Careers Opportunity Program

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Health Careers Opportunity Program (HCOP) grants will be accepted under the authority of Section 787 of the Public Health Service Act, after publication of final funding preferences.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry and allied health and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes identification and recruitment, retention, counseling and advice on financial aid.

For this program, an "individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of these Health Careers Opportunity Program grants for Fiscal Year 1984:

Size of parents' family [1]	Income level [2]
1	6,500
2	8,400
3	10,000
4	12,800
5	15,100
6 or more	17,100

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1982, rounded to $100.

Based on the President's budget request and projected commitments for currently active projects requiring continued support, an estimated $16 million will be available for competitive HCOP awards in Fiscal Year 1984. This amount may be changed by final action on the Fiscal Year 1984 appropriation.

At least 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, no more than five percent of the funds appropriated in any fiscal year can be awarded to projects having information dissemination as their primary purpose.

To receive support, applicants must meet the requirements of the program regulations which are located at Title 42 of the Code of Federal Regulations, Part 57, Subpart S. We refer you to these regulations for a more complete list of definitions and descriptions of program purposes.

Application materials will not be available until the final funding preferences are published in the **Federal Register.**

To obtain specific information regarding the programmatic aspects of this grant program, direct inquiries to: Mr. Arthur Testoff, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-4493.

To be considered for Fiscal Year 1984 funding, applications sent by mail must be postmarked no later than November 4, 1983, and received no later than November 11, 1983. Materials postmarked after November 4 will not be included in the review process. The term "postmarked" means a printed, stamped, or otherwise placed impression exclusive of a postage meter machine impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received by November 4.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in Office of Management and Budget Circular No. A-95.

Proposed Funding Preferences

The Division of Disadvantaged Assistance proposes to establish five preferences for funding approved applications in Fiscal Year. These preferences are proposed to achieve the programmatic objectives of improving academic competitiveness; increasing the number of individuals from disadvantaged backgrounds applying to, accepted by, and graduating from a health or allied health professions school; and fostering the development of educational pathways providing continuity of support to such students as they progress along the educational continuum. The five preferences, however, do not preclude funding of other eligible approved applications as appropriations permit. Therefore, entities which do not qualify for the preferences are also invited to submit applications.

As used in these funding preferences: "Health Professions Schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, public health, or graduate programs in health administration, as defined in Section 701(4) of the Public Health Service Act.

"Training Center for Allied Health Professions" means a junior college, or college, or university, as defined in Section 795 of the Public Health Service Act, which:

a. Provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree:
Clinical Psychologist
Master's Degree:
Speech Pathologist/Audiologist
Bachelor's Degree:
Dental Hygienist
Dietitian (Coordinated undergraduate program)
Community Health Educator
Health Services Administrator
Medical Records Administrator
Medical Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Sanitarian (Environmental Health)
Associate Degree:
Clinical Dietetic Technician
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratroy Technician
Medical Assistant
Medical Laboratory Technician
Medical Records Technician
Occupational Therapy Assistant
Ophthalmic Medical Assistant
Optometric Technician
Physical Therapy Assistant
Radiologic Technologist
Respiratory Therapist
Sanitarian Technician.

b. Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal yerar of application.

c. Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

"Feeder institution" means an institution of higher education meeting the requirements of Section 435 of the Higher Education Act, as amended, Pub. L. 89-239 (20 U.S.C. 1085 (b)), which:

a. Has a student body more than twenty percent of which are individuals from disadvantaged backgrounds; and

b. Has ten or more graduates annually (as averaged over the last three years) who are disadvantaged and who are accepted into health professions schools.

"Educational Assistance Agreement (EAA)" means a formal agreement between the grantee and another school or entity to assure continuity of training through health or allied health professions schools. This agreement must provide for financial or other support (excluding direct student aid) for this purpose and support may include funds from the grant awarded under this program, also joint use of facility, staff, and faculties. An EAA must:

a. Contain the names of the participating institutions;

b. Identify the prime grantee, subcontractors, and other participating institutions;

c. State the HCOP purposes addressed by each participating institution;

d. Identify the specific activities to be performed by the grantee, including a description of program activities and administrative responsibilities;

e. Identify the specific activities to be performed by all collaborating institutions, including a description of program activities;

f. Contain a detailed description of proposed expenditures for each participating institution;

g. Contain a description of how facilities, faculty, and staff will be shared, including times, places, and dates;

h. State the duration of the EAA;

i. Contain the terms for amending the EAA; and

j. Be signed by the President, Chancellor, Dean, or equivalent official from all participating institutions and health or educational entities.

It is proposed that an applicant may request consideration in one of the following five funding preferences:

(1) Health professions school(s) which have EAAs with one or more feeder institution(s) and who are requesting HCOP suppport only for:

a. The feeder institution(s) to provide individuals from disadvantaged backgrounds with preliminary education; and

b. Either the school or the institution to facilitate the entry of individuals from disadvantaged backgrounds into health professions schools; and

c. The health professions school(s) to provide individuals from disadvantaged backgrounds who are enrolled in their

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institution(s) with counseling or other retention services.

(2) A feeder institution requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(3) A Health professions school requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into its health professions school; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

(4) A joint application from two to five institutions of higher education, which as a group: (1) has a student body more than twenty percent of which are individuals from disadvantaged backgrounds; (2) has twenty or more graduates annually (as averaged over the last three years) who are disadvantaged individuals and who are accepted into health professions schools; and (3) is requesting HCOP support only for:

a. Providing individuals from disadvantaged backgrounds with preliminary education; and

b. Facilitating the entry of individuals from disadvantaged backgrounds into health professions schools.

(5) A training center for allied health professions requesting HCOP support only for:

a. Facilitating the entry of individuals from disadvantaged backgrounds into allied health training centers; and

b. Providing its students who are individuals from disadvantaged backgrounds with counseling or other retention services.

Greatest weight will be given to applicants in funding preference Number 1, decreasing, respectively, to funding preference Number 5.

The applicant must indicate on the upper right-hand corner of page one of the application the funding preference in which the applicant wishes consideration. However, the final funding preference category determination will be based upon a staff assessment of the contents of the proposal. An applicant may apply for consideration under only one preference. An institution which is identified in an EAA may not apply as a primary grantee to support the same type of HCOP activities.

Interested persons are invited to submit written comments on these proposed funding preferences to the Director, Division of Disadvantaged Assistance, Bureau of Health Professions, at the address given below. All comments received not later than June 27, 1983 will be considered before final funding preferences for Fiscal Year 1984 are established. Normally, this comment period would be 60 days. However, due to the need to implement any changes in funding preferences for the 1984 grant award cycle, this comment period has been reduced to 30 days. After the close of the comment period, the final funding preferences will be published as a notice in the **Federal Register.**

Written comments should be addressed to: Director, Division of Disadvantaged Assistance, Bureau of Health Professions, H.R.S.A., Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Program Coordination Branch, Division of Disadvantaged Assistance, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program also will be provided through four program orientation conferences. The conferences, scheduled during September of 1983, are for the benefit of interested potential applicants.

Each of the four conferences will be held for two days as indicated at the following locations:

September 12–13, 1983—New Orleans, LA

September 15–16, 1983—Baltimore, MD

September 19–20, 1983—Kansas City, MO

September 22–23, 1983—Reno, NV.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Mr. Arthur Testoff, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, H.R.S.A., Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4493.

Dated: May 19, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–14180 Filed 5–25–83; 8:45 am]

BILLING CODE 4160–16–M

Section 1876 of Social Security Act; Delegation of Authority

Notice is hereby given that in furtherance of the April 15, 1983, delegation by the Assistant Secretary for Health of authority to the Administrator, Health Resources and Services Administration, under section 1876 of the Social Security Act (42 U.S.C. 1395mm), as amended, to determine whether an entity is an "eligible organization" within the meaning of section 1876(b) of the Social Security Act, the Administrator, Health Resources and Services Administration, has delegated to the Director, Bureau of Health Maintenance Organizations and Resources Development, with authority to redelegate, all the authority delegated to the Administrator under section 1876 of the Social Security Act (42 U.S.C. 1395mm), as amended.

All previous delegations and redelegations pertaining to the authority under the former section 1876(b)(2)(A) of the Social Security Act (42 U.S.C. 1395mm) were superseded.

Dated: May 18, 1983.

Robert Graham,

Administrator, Health Resources and Services Administration.

[FR Doc. 83–14069 Filed 5–25–83; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

Cancellation of Meeting; Clinical Applications and Prevention Advisory Committee

Notice is hereby given of the cancellation of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart Lung, and Blood Institute, National Institutes of Health, on June 13, 1983. The notice of this meeting was published in the **Federal Register** on April 7, 1983 (48 FR 15187).

Dated: May 18, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–14138 Filed 5–25–83; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meetings

Pursuant to Pub. L. 92–462, notice is hereby given of the meetings of committees of the National Institute of Allergy and Infectious Diseases for June 1983.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Nancy Brun, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the committee members.

Substantative program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of committee: Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee.

Executive secretary: Dr. Nirmal Das, Room 706, Westwood Building Telephone: (301) 496–7966.

Date of meeting: June 14, 1983.

Place of meeting: Holiday Inn, Bethesda, Maryland.

Open: June 14, 1983, 9:00 a.m.–10:00 a.m.

Closed: June 14, 1983, 10:00 a.m.–adjournment.

Name of committee: Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee.

Executive secretary: Dr. Nirmal Das, Room 706, Westwood Building Telephone: (301) 496–7966.

Date of meeting: June 15, 1983.

Place of meeting: Holiday Inn, Bethesda, Maryland.

Open: June 15, 1983, 9:00 a.m.–10:00 a.m.

Closed: June 15, 1983, 10:00 a.m.–adjournment.

Name of committee: Microbiology and Infectious Diseases Advisory Committee.

Executive secretary: Dr. Susan B. Spring, Room 706, Westwood Building Telephone: (301) 496–7465.

Dates of meeting: June 9–10, 1983.

Place of meeting: Holiday Inn, Bethesda, Maryland.

Open: June 10, 1983, 8:30 a.m.–9:15 a.m.

Closed: June 9, 1983, 8:30 a.m.–6:00 p.m. June 10, 1983, 9:15 a.m.–12:30 p.m.

(Catalog of Federal Domestic Assistance Programs Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 13, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–14137 Filed 5–25–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–0124534]

Colorado; Proposed Withdrawal and Reservation of Lands

The U.S. Army Corps of Engineers has filed application C–0124534, for the withdrawal of the following described public land from settlement, sale, location or entry under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Sixth Principal Meridian

T. 30 S., R. 59 W.,
Sec. 6, lot 4;
Sec. 31, lot 2.
T. 30 S., R. 60 W.,
Sec. 8, N½;
Sec. 10 N½;
Sec. 12, S½;
Sec. 13, N½;
Sec. 21, N½N½;
Sec. 22, NW¼;
Sec. 25, NE¼NE¼, S½NE¼, SE¼SW¼, and SE¼;
Sec. 26, N½NW¼;
Sec. 29, N½NE¼;
Sec. 33, S½NE¼, S½SW¼, and SE¼;
Sec. 35, SE¼SE¼.

The area described aggregates approximately 2,517 acres in Las Animas County.

The Department of the Army desires that this land be withdrawn as the Fort Carson Maneuver Area, Pinon Canyon Site for exclusive use by the military for maneuver training.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by administrative action and publication in the **Federal Register.** Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

This withdrawal will be authorized under the Act of February 28, 1958, (43 U.S.C. 155–158) and requires legislative action by Congress.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. Any persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, at the address shown below, within 90 days of publication date. If a hearing is scheduled, notice of public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

All communications in connection with this proposed withdrawal should be addressed to the State Director, Colorado State Office, Bureau of Land Management, 1037–20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

May 20, 1983.

[FR Doc. 83–14102 Filed 5–25–83; 8:45 am]

BILLING CODE 4310–84–M

Fairbanks District Advisory Council Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting June 23–24, 1983 to discuss the White Mountains National Recreation Area and the Steese National Conservation Area.

At 7 a.m. on June 23rd, the Council will depart from the Fairbanks District Office by plane for an aerial survey of the White Mountains National Recreation Area and the Steese

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National Conservation Area. The Council will receive public comments on agenda items from 1 p.m. to 4 p.m. on June 23rd, in the Arctic Circle Hot Springs Resort conference room. The Council will return to Fairbanks by bus on June 24th.

Topics for discussion will include:

1. Recreational opportunities.
2. Mineral development.
3. Access.
4. Wildlife habitat.
5. The Birch and Beaver Creek Wild Rivers.

All meetings and activities of the Council are open to the public.

Donald E. Runberg,

Acting, District Manager.

[FR Doc. 83-14173 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-17736]

Idaho; Conveyance of Public Lands, Bear Lake County

May 20, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Forty-Six Company, Inc., for the following-described public land:

Boise Meridian, Idaho

T. 16 S., R. 45 E.
Sec. 23, W½SE¼.
Containing 80 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-14106 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Applications ES 30490 and ES 30967]

Knott County, Ky.; Public Hearing and Availability of Environmental Assessment

The Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, hereby gives notice that a public hearing will be held on June 28, 1983, at 10 a.m., in the Eastern States Office Public Room. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment prepared and on the following items.

1. The method of mining to be employed to obtain maximum economic recovery of the coal;
2. The impact that mining the coal in the proposed leasehold may have on the area including but not limited to impacts on the environment; and
3. Methods of determining the fair market value of the coal to be offered.

Written requests to testify orally at the June 28, 1983, public hearing should be received at the Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, prior to the close of business at 4 p.m. on June 27, 1983. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearings, but speakers will be limited to a maximum of 10 minuntes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the Eastern States Office, at the above address, prior to close of business on June 27, 1983. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: The quantity and quality of the coal resources, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.12. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the Eastern States Director, Bureau of Land Management, 350 South Picket Street, Alexandria, Virginia 22304.

Application ES 30490, 196.15 Acres

The coal resource to be offered is to be mined underground from the Fire Clay seam within three Corps of Engineers tracts (#457, #458 and #5M (#461)) which is within the Amburgey Undefined Known Recoverable Coal Resource Area, Knott County, Kentucky, northeast of the confluence of Irishman Creek and Carr Fork Lake. The metes and bounds description is available at the Eastern States Office at the address set out above, and;

Application ES 30967, 179.30 Acres

The coal resource to be offered is to be mined underground from the Fire Clay seam within Corps of Engineers tracts #457 and #458 which is within the Amburgey Undefined Known Recoverable Coal Resource Area, Knott County, Kentucky, northeast of the confluence of Irishman Creek and Carr Fork Lake. The metes and bounds description is available at the Eastern States Office at the address set out above.

The draft Environmental Assessment will be available for review in the Eastern States Office, Bureau of Land Management, at the above address. Single copies are available for distribution upon request from the Alexandria office.

A copy of the Environmental Assessment, the case file and the comments submitted by the public on fair market value, except those stated in the Freedom of Information Act, will be available for public inspection at the Eastern States Office, Bureau of Land Management, at the address set out above.

We have found that the Hazard #4 (Fire Clay) coal within these three tracts have met the criteria used to establish mineability of coal in the area. These criteria are as follows:

1. A minimum seam thickness of 28 inches clean coal;
2. A parting fraction of 20 percent or less of the seam thickness;
3. A maximum depth of 1000 feet and a minimum depth of 40 feet; and
4. Minimum quality standards (as received):
   a. Moisture (%)—5.0.
   b. Fixed Carbon (%)—54.0.
   c. Ash (%)—12.5.
   d. Sulfur (%)—1.0.
   e. Btu/lb.—12,500.

The area is part of the Hazard District of the eastern Kentucky Coal Field, and is underlain with rock of Lower and Middle Pennsylvanian age. The beds are essentially flatlying (less than 1° dip west). The rock strata within the tracts are described by Danilchik (1976) as being part of the Breathitt Formation. Approximately 800 feet of section is exposed in the area. The Fire Clay seam outcrops at around 1,170 feet and has a maximum of 550 feet to cover. Clean coal thickness ranges from 28 to 42 inches, with a parting thickness of 2.5 to 9 inches. Averaged quality for the Fire Clay coal (without parting) is as follows:

1. Moisture (%)—4.01.
2. Ash (%)—12.19.
3. Sulfur (%)—0.69.
4. Btu/lb.—12,520.

Pieter J. VanZanden,

Associate Director, Eastern States Office.

[FR Doc. 83-14174 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[M 16402]

North Dakota; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, Tenneco Oil Company petitioned for reinstatment of oil and gas lease M 16402 covering the following described lands located in Billings County, North Dakota:

T 144 N., R. 101 W., 5th P.M.
Sec. 31, Lots 1, 2, 3, 4, E½W½
Sec. 33, S½N½, N½SW¼, SE¼SW¼, W½SE¼.
659.68 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and royalties has been made. Administrative cost of $500 has been paid. Future rentals shall be at the rate of $5 per acre per year, and future royalties shall be at the rate of 16⅔ percent. Reimbusement for cost of publication of this notice shall be paid by lessee.

Reinstatement of the lease will be effective as of the date of termination, October 1, 1980, extended for a two year period under 43 CFR 3107.2, and so long thereafter as oil or gas is produced in paying quantities.

Dated: May 19, 1983.

Cynthia L. Embretson,

Supvr. Land Law Examiner, Branch of Fluid Minerals.

[FR Doc. 83-14108 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[NM 56990]

New Mexico; Proposed Withdrawal and Reservation of Lands

May 20, 1983.

The Bureau of Reclamation, Department of the Interior, on May 18, 1983, filed application NM 56990 for the withdrawal of the following described lands from settlement, sale, location, or entry under all of the general land laws, including but not limited to the general mining and leasing laws and the Geothermal Steam Act of 1970, subject to valid existing rights:

New Mexico Principal Meridian

T. 21 S., R. 24 E.,
Sec. 25, E½;
T 21 S., R. 25 E.,
Sec. 30, Lots 5, 6, 7, and 8.

The area described contains approximately 488.10 acres of public lands, more or less, in Eddy County, New Mexico.

The applicant agency desires that the land be withdrawn and reserved for use of the Bureau of Reclamation for the purpose of the Brantley Project, the Little Walt Canyon site is the only location in the area that will provide satisfactory riprap material required to protect the upstream face of the Brantley Dam.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire a public hearing for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501, within 90 days from the date of publication of this notice. Upon determination by the State Director that a public hearing will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary of the application will be published in the **Federal Register**. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Deputy State Director, Operations, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501.

Fred L. Waskowiak,

Acting Deputy State Director, Operations.

May 20, 1983.

[FR Doc. 83-14105 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

Oregon; FAA Airport Grant

Notice is hereby given that pursuant to Section 516 of the Airport and Airway Improvement Act of 1982, the Federal

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Aviation Administration, for the State of Oregon Aeronautics Division, has applied for an airport grant for the following described public land:

Willamette Meridian

T. 13S., R. 31E., W.M.
Sec. 28, SW¼SE¼, W½SE¼SE¼; N½N½E½SE¼SE¼.
Containing approximately 65 acres.

The area under application involves clear zones for runways 9 and 27 at the John Day Airport located in Grant County, Oregon.

The application was filed on November 17, 1982.

Interested persons may submit comments to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oregon 97720.

Joshua L. Warburton,
District Manager.
[FR Doc. 83-14103 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

Research Natural Area Designation—Unsweep Seep

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation.

SUMMARY: Public lands within the Unaweep Seep Area are designated a Research Natural Area under authority of 43 CFR Part 8223. the designated area contains *36* acres located in Mesa County, Colorado and described as:

T .15 S., R. 103 W., 6th P.M.
Sec. 3, E½SE¼SW¼ (a portion of) E½SE¼ (a portion of) SW¼SE¼ (a portion)

The primary objective on the Unaweep Seep Area is to maintain the unique hillside spring exosystem, and the vegetative complex necessary for the well being of the Great Basin Silverspot Butterfly (*Speyeria nokomis*). The Unaweep Seep Area was originally recommended for Research Natural Area designation in the Whitewater Management Framework Plan approved in 1977. The Unaweep Seep Habitat Management Plan approved on January 1, 1983 establishes the overriding management direction for the property.

Scientific research, environmental education and day use are allowable uses so long as these uses are compatible with maintaining the natural qualities present on the area. The District under authority of CSO–150 Memorandum of Understanding intends to enter into agreement with the Colorado Natural Areas Program to designate this site as a natural area as part of the Colorado Natural Areas System.

Removal of wood products, overnight camping, surface occupancy for oil and gas exploration, and motorized vehicle use will not be authorized on the area.

The area has not been withdrawn from mineral entry and until such time as the area may be withdrawn, surface disturbance due to mineral entry will be regulated under 43 CFR Subpart 3809.

Formal closure to off-road vehicle use under 43 CFR Part 8342 is not anticipated until the next plan update is completed for the area (ca, 1985).

Compatible use on the area include hunting and fishing in accordance to state regulations and livestock grazing as authorized by the Bureau.

FOR FURTHER INFORMATION CONTACT: Mac Berta, Area Manager, Bureau of Land Management, Grand Junction District Office, 764 Horizon Drive, Grand Junction, CO 81501.

Dick Freel,
Associate District Manager.
[FR Doc. 83-14104 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[I-20088]

Public Land Sale/MFP Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Public Sale, Cassia County, Notice of Intent to Amend Cassia County Management Framework Plan (MFP).

Notice is hereby given that the BLM is proposing to amend the Cassia County MFP to allow for disposal through public sale of 39.52 acres of public land. Specifically, the following language would be incorporated into the MFP:

Multiple Use Recommendation L–9 (Disposals) is hereby modified to include that parcel of land, located in Sec. 6: SW¼SW¼, T. 13 S., R. 29 E., as suitable for transfer from Federal ownership upon satisfaction of the sale criteria of the Federal Land Policy and Management Act (FLPMA).

Additionally, this notice serves as the Notice of Realty Action as required by 43 CFR Part 2201. The following described lands have been determined to be suitable for disposal by public sale under Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Legal description	Acres	Value
T. 13 S., R. 29 E., B.M. Sec. 6: SW¼SW¼	39.52	$2,950

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The lands will be subject to the following reservations when patented:

1. Ditches and Canals constructed under the authority of the United States. Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and Gas and Geothermal rights.

3. Oil and Gas lease I–14717.

The public auction will be held on August 10, 1983 at 1:30 P.M.

ADDRESS: The public auction will be held at the Burley District Office, 200 South Oakley Highway, Burley, Idaho, 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from Nick Cozakos, District Manager at the above address, or by calling (208) 678–5514.

SUPPLEMENTARY INFORMATION: For a period of 30 days from the date of publication interested parties may submit comments to the District Manager regarding the land use plan amendment. For a period of 45 days from the date of publication, interested parties may submit comments to the District Manager regarding the Notice of Realty Action for the proposed land sale. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Nick James Cozakos,
District Manager.
[FR Doc. 83-14126 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[CA 13254 (Lot 10); CA 13442 (Lot 11)]

Realty Action, Sale of Public Lands in Calaveras County; California; Correction

In **Federal Register** Document No. 83–8934 appearing on page 15010 of the issue of April 6, 1983, the first sentence of the last paragraph is corrected to read: "Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630".

Robert D. Rheiner, Jr.,
District Manager.
[FR Doc. 83-14132 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[CA 13441]

Realty Action; Sale of Public Lands in Calaveras County, California; Correction

In **Federal Register** Document No. 83–8935 appearing on pages 15010 and 15011 of the issue of April 6, 1983, the ninth line of the first paragraph reads "T..5S.". It is corrected to read, T. 5N. The first sentence of the last paragraph is corrected to read: "Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630".

Robert D. Rheiner, Jr.,
District Manager.
[FR Doc. 83-14133 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[CA 13451]

Realty Action Sale of Public Lands in El Dorado County, California; Correction

In **Federal Register** Document No. 83–9874 appearing on page 16119 of the issue of April 14, 1983, the first sentence of the last paragraph is corrected to read: "Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630".

Robert D. Rheiner, Jr.,
District Manager.
[FR Doc. 83-14134 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[CA 13253]

Realty Action Non-Competitive Sale of Public Land in Calaveras County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($24,000):

Mount Diablo Meridian, California

T. 5 N., R. 12 E.,
Sec. 8, S½NE¼SW¼ & NW¼SE¼SW¼.
Containing 30 acres.

The above described land, comprising 30 acres, is being offered by direct, non-competitive sale to Charles Luce at current fair market value. Luce is an adjoining landowner and also owns property within the San Francisco Bay National Wildlife Refuge of the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service desires to acquire the property owned by Mr. Luce and Mr. Luce desires to buy the subject parcel of public land.

Disposal of the subject land through a non-competitive sale would facilitate and support the acquisition of valuable land within the San Francisco Bay National Wildlife Refuge which Mr. Luce has agreed to sell upon purchase of this land. Disposal will also support another federal program and best serve the public interest.

The sale is consistent with the land use plan and disposal criteria of 43 CFR 2710.0–3(a). The land will not be offered for sale for at least 60 days after the publication of this notice. Upon notification of the sale date, the purchaser will be given 30 days to pay the full appraised market value.

The land is currently under grazing lease 4202 to Mr. David Green, Mokelumne Hill, California. The grazing authorization will be terminated upon selling the land but as a condition of the sale the purchaser agrees to accept and honor the conditions of the lease for a period of two years (43 CFR 4110.4–2(b)).

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. A right-of-way for overhead utility and communication purposes to Pacific Gas and Electric Company and Pacific Telephone Company granted under CA 3664 and CA 6399 respectively, California BLM.

3. A right-of-way for existing road (Jesus Maria Road) to Calaveras County under RS 2447.

4. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Federal law requires that the purchaser be a U.S. Citizen or, in the case of a corporation, subject to the laws of any state of the U.S.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95824. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,
District Manager.
[FR Doc. 83-14135 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-84-M

[CA 10936]

Realty Action Sale of Public Land in Amador County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Mount Diablo Meridian, California

T 6 N., R. 12 E.,
Sec. 3.
Containing 8.06 acres as follows:

Parcel No.	Acres	Value
Tract 52A	7.04	$37,500
Tract 52B	.25	100
Tract 52C	.49	100
Tract 52D	.28	100

The above described land will be offered for sale by oral bid only utilizing modified competitive bidding procedures. The sale will be held at 10:00 a.m. on July 29, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. This date is not less than 60 days after the date of this notice. Particulars for this public auction sale will be made available through local newspaper released approximately 30 days before the scheduled sale date. The individuals named below who own land adjoining the sale parcels will be designated bidders; i.e., they will be offered the right to purchase the land indicated below by meeting the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

Designated bidders	Parcel No.
Elton V. Rodman, Louis E. Ludekens	Tract 52A.
Clarence and Lillian Foyil and Herbert S. Fessell.	Tract 52B.
Allen R. and Donna Lee Rueger	Tract 52C.
John J. Snooks and Thelma Ruby Pete	Tract 52D.

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The sale land is a small isolated tract completely surrounded by private land in an area being developed as homesites. The sale parcels are too small to be classified as homesites under present zoning, even collectively. Their best use is in conjunction with the adjoining land. Therefore, because of its location and physical characteristics, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale area are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Elton V. Rodman must file with the Bureau of Land Management (BLM a relinquishment of the Manzanita Quartz claim filed with BLM on January 23, 1979, under serial No. CA MC 21167, prior to the date of the sale.

Federal law required that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the sale price. No bids will be acceptable for less than the appraised price and bids for parcel must include all the lands in the parcel. The apparent high bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately at the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63, Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-14130 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13251]

Realty Action, Sale of Public Lands in Nevada County, California; Correction

In **Federal Register** Document No. 83-8936 appearing on page 15011 of the issue of April 6, 1983, the first sentence of the last paragraph is corrected to read: "Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630".

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-14131 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-07884]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

May 17, 1983.

Notice of an application, serial number I-07884, for withdrawal and reservation of lands was published as **Federal Register** Document No. 57-10253 on page 9949 of the issue for December 12, 1957. The applicant agency has cancelled its application insofar as it involves the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 10:00 a.m. on June 22, 1983, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian, Targhee National Forest, Burns Creek Dam Recreation Area

T. 3 N., R. 41 E.,
- Sec. 12, unpatented portions of lots 4, 5, N½SW¼, SW¼SW¼.

T. 3 N., R. 42 E.,
- Sec. 1, lots 1, 2, N½SE¼, SE¼SW¼, SW¼SE¼;
- Sec. 2, W½SW¼;
- Sec. 3, E½SE¼;
- Sec. 4, lots 7, 8, N½SW¼, unpatented portion of SE¼;
- Sec. 5, lots 6, 7, unpatented portion of lots 5, 11;
- Sec. 6, unpatented portion of SE¼;
- Sec. 7, lots 1, 2, 3, NE¼NW¼, unpatented portion of lot 4;
- Sec. 9, lots 4, 5, 8, 9, 10;
- Sec. 10, lots 1, 2, 3, 4, 8, NE¼SE¼, NE¼NW¼, N½NE¼, SE¼NE¼;
- Sec. 11, lots 1, 3, E½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼, NW¼NE¼, N½NW¼;
- Sec. 12, lots 1, 2, W½NW¼, NE¼SW¼, NW¼NE¼, E½NW¼, SW¼NE¼, SW¼SE¼;
- Sec. 13, lots 1, 3, 4, 7, 8, 9, W½NE¼, SE¼NE¼, N½SE¼.

T. 3 N., R. 43 E.,
- Sec. 16, lots 2, 4;
- Sec. 19, lots 1, 2, 4, 5, 8, W½NE¼, SE¼SW¼, W½SE¼, SE¼SE¼;
- Sec. 29, SW¼SW¼, SW¼NW¼, NW¼SW¼, SE¼SW¼;
- Sec. 30, lots 1, 2, 6, 7, 12, E½NE¼, NW¼NE¼;
- Sec. 31, lots 1, 9;
- Sec. 32, lots 1, 3, 4, 6, 7, NE¼NW¼, S½SE¼, NW¼SE¼;
- Sec. 33, S½SW¼.

The area described aggregates 4323 acres in Bonneville County.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-14125 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[N-053]

Las Vegas District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on June 27, 1983, at 10:00 a.m. in the basement of the Agriculture Service Center, 360 Lincoln St., Caliente, Nevada.

The agenda for the meeting will include: (1) minutes from the March 10, 1983 Advisory Board Meeting, (2) establishing range improvement project priorities for FY 84 and FY 85.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:15 p.m. on the date of the meeting or file written statements for the Board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, NV. 89126 (P.O. Box 26569) by June 27, 1983. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per person time limit.

Summary minutes of the Board meeting will be maintained at the District Office. They will be available for public inspection and reproduction (during regular business hours) within thirty days after the meeting.

Dated: May 18, 1983.

Kemp Conn,

District Manager.

[FR Doc. 83-14109 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

Rescheduling of Powder River Regional Coal Team Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Rescheduling of Powder River Regional Coal Team Meeting from May 18, 1983, to June 21, 1983.

SUMMARY: The Powder River Regional Coal Team meeting scheduled for May 18, 1983, in Billings, Montana, was cancelled due to weather. The meeting has subsequently been rescheduled for June 21, 1983, again in Billings, Montana. The purpose of the meeting is to rank potential lease tracts and to select the lease alternatives to be addressed in the regional EIS.

Public attendance at the regional coal team meeting is welcome and encouraged. The opportunity for the public to address the regional coal team will be provided during the meeting.

DATE: The regional coal team meeting will be held June 21, 1983, in Billings, Montana.

ADDRESS: The meeting will be held at the Ramada Inn, I-90 and Mullowney Lane, Billings, Montana 59102.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Project Manager, 307-772-2293, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dwayne E. Hull,

Deputy State Director, Mineral Resources.

[FR Doc. 83-14171 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 83-34]

Riley Ridge Natural Gas Project, Draft Environmental Impact Statement, Lincoln, Sublette, and Sweetwater Counties, Rock Springs District, Wyoming; Availability of Draft Environmental Impact Statement and Public Hearing Schedule

AGENCIES: Wyoming State Office, Bureau of Land Management (BLM), Department of the Interior, Region 4, Forest Service (FS), Department of Agriculture.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS). Establishment of a public review and comment period and dates for public hearings on the DEIS.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM and FS have prepared a DEIS for the proposed Riley Ridge Natural Gas Development Project. The DEIS will be available for public review on or about May 20, 1983.

DATE: Comments will be accepted until July 19, 1983.

ADDRESS: Comments and questions should be sent to: Riley Ridge Project Leader, Division of EISS, 555 Zang Street, First Floor, East, Denver, Colorado 80228, Commercial (303) 234-6737 or FTS 234-6737.

SUPPLEMENTARY INFORMATION: Exxon Company, USA; American Quasar Petroleum Company; Northwest Pipeline Corporation; Mobil Oil Corporation; and Williams Exploration company propose to develop, produce, treat, and transport natural gas from a new deep gas wellfield of approximately 160,000 acres west and southwest of Big Piney in southwestern Wyoming. Four gas treatment plants are proposed which would process a total of 2.8 billion cubic feet per day of natual gas to produce 580 million cubic feet per day of sales quality natural gas. By-products would include sulfur, carbon dioxide, and helium.

Nitrogen and sulfur dioxide would be vented to the atmosphere. Other facilites would include linear facilities to transmit sour gas to the plants, sweet gas to major gas distribution systems, an above-ground molten sulfur line, transmission lines, and gas extraction facilities including wells, gathering pipelines, roads, etc.

The required Federal actions include the issuance of rights-of-way for the linear facilities and later approval of application for permits to drill (APD) as the wellfield is developed. Processing the APD's would be made more efficient by this EIS.

This DEIS also analyzes the impacts of alternative siting configurations, transmission line routes, methods of transporting sulfur, employee housing, and no action.

A limited number of the draft statements are available upon request at the following offices:

Big Piney Ranger District, Forest Service, P.O. Box 218, Big Piney, Wyoming 83113

Bridger-Teton National Forest, Forest Service, P.O. Box 1888, Jackson, Wyoming 83001

Kemmerer Resource Area, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101

Pinedale Resource Area, Bureau of Land Management, P.O. Box 768, Pinedale, Wyoming 82941

Division of Environmental Impact Statement Services, Bureau of Land Management, 555 Zang Street, 1st Floor, East, Denver, Colorado 80228

Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901

BLM-Division of Minerals, P.O. Box 1170, 79 Winston Drive, Rock Springs, Wyoming 82901

Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001

Office of Public Affairs, Bureau of Land Management, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240

Intermountain Region, Forest Service, 324 25th Street, Ogden, Utah 84401

Public hearings to receive oral and/or written comments on the proposed project and its alternatives will be held at:

Pinedale Middle School, Carmichael Media Center, 227 East Hennick, Pinedale, Wyoming, on June 27, 1983, at 7 p.m.

Kemmerer Junior High School Auditorium, 1525 Third West Avenue, Kemmerer, Wyoming, on June 29, 1983, at 7 p.m.

Big Piney High School, 650 Piney Drive, Big Piney, Wyoming, on June 28, 1983, at 7 p.m.

Holiday Inn, 1675 Sunset Drive, Rock Springs, Wyoming, on June 30, 1983, at 7 p.m.

The hearing will be held pursuant to the objectives of the National Environmental Policy Act (Pub. L. 91-190; 83 Stat. 852, 853) to receive comments (testimony) on the scope of the EIS and the adequacy of the impact analysis. Testimony presented at these hearings will be considered in the preparation of the final environmental impact statement.

The public hearing will be conducted by a Bureau of Land Management (BLM) official who will be accompanied by other BLM, FS, and other Federal and State personnel involved in preparing this draft environmental impact statement. These personnel may ask questions of the witness to clarify points in the testimony. All hearing proceedings will be recorded.

Before giving testimony at the public hearings, participants are requested to complete a hearing registration form. A registration form is incorporated as the last page of the DEIS. Additional forms may be obtained from the Division of Environmental Impact Statement Services at the address listed in this notice. Registration froms must be returned to that address no later than

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June 20, 1983. Participants may also register at the registration desk at each hearing. Time preferences for presentation of oral statements will be honored whenever possible. A tentative listing of speakers, in the order they will be called, will be available at the registration desk at each hearing.

After the last witness has been heard, the hearings administrator will consider the requests of other persons present who wish to testify. Only one witness will be allowed to present the viewpoint of a single organization at any one hearing. However, any witness will be permitted to give relevant testimony if it is offered as the opinion of a private citizen.

Persons wishing to give oral testimony will be limited to 10 minutes. Written submissions may also be presented at the hearing.

P. D. Leonard,

Associate State Director.

[FR Doc. 83-14107 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

Special Management Areas

The Vale District, Bureau of Land Management, has designated through the planning process the following Special Management Areas. The areas and the special management required to protect the resource values and natural systems within were developed in three stages through public participation in the Southern and Northern Malheur Management Framework Plans (MFPs). The first stage occurred in January 1981 during which time the public was asked to identify issues and to nominate special management areas for consideration in the MFPs. The second stage occurred in August and September 1981 when the public was asked to help develop planning criteria and to suggest alternative land use plan goals and objectives. The third stage occurred in September and October 1982 when the public was asked to comment on the land use plan alternatives and to select a preferred alternative. The district manager has since selected the preferred alternative for special management areas which has been concurred with by the Oregon State Director and published for public information on March 14, 1983. This notice is the district managers decision to designate the areas as special management areas and to provide special management attention described in the MFPs.

A. Areas of Critical Environmental Concern (ACECs):

	Acres
1. Honeycombs	11,930
3. Leslie Gulch	9,300
3. Owyhee River	30,400
4. Jordan Craters	29,670
5. Saddle Butte Lava Tubes	7,040
6. Whitehorse Basin	1,290
Total	89,630
B. Research Natural Areas (RNAs):	
1. Honeycombs	11,930
2. Mahogany Ridge	320
3. Stockade Mountain	640
4. Jordan Craters Addition	1,275
Total	14,165

The general location of these areas are within the Southern and Northern Malheur Resource Areas of the Vale District. The specific location and description of the resource values and special management attention required to protect the values are shown in the Management Framework Plans (MFPs) for each resource area, and are available for inspection in the Vale District Office. Limited copies of the Preferred Land Use Alternative document published March 14, 1983, which also addresses Special Management Areas, are available upon request.

Dated: May 17, 1983.

Pearl M. Parker,

District Manager.

[FR Doc. 83-14101 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13279]

State of California, Realty Action; Sale of Public Lands in Riverside County

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty action—sale of public lands in Riverside County—CA 13279.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale as one unit under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($141,250):

Legal Description

San Bernardino Meridian

T. 7 S., R. 8 E.,

Sec. 18, S½ of Lots 1 and 2 of the SW¼.

The land described aggregates 76.33 acres in Riverside County.

The lands are being sold subject to a preference right consideration to allow Ladyvest, Inc., to meet the high bid. The sale parcels are contiguous to land owned by Ladyvest, Inc.

Disposal of such tract will serve important public objectives, including but not limited to, expansion of agricultural development, which outweigh other public objectives and values which would be served by maintaining such tract in Federal ownership. The proposed sale is consistent with the Bureau's planning for lands involved, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719); however, under Section 209 of the said Act of October 21, 1976, the high bidder may apply to purchase the mineral interests.

3. The patent will be subject to all valid existing rights.

4. Federal law requires that all bidders be United States citizens, or in the case of corporations be authorized to own real estate in the State of California. A State, State instrumentality or political subdivision must be authorized to hold property. Proof of these requirements shall accompany the bid.

5. Upon disqualification of an apparent high bidder, the next high bidder will be honored.

DATES: The above described land will be offered for sale by sealed and oral bids. The sealed bids will be opened at 10:00 am on July 26, 1983, at the California Desert District Office of the Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507. Bids may be made by a principal or a duly qualified agent, either mailed or delivered to the California Desert District Office, Bureau of Land Management, at the above address. Sealed bids shall be considered only if received prior to 10:00 am on July 26, 1983, and are made for at least the appraised value of the land. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed envelope must be marked in the lower left hand corner "Public Sale Bid, Serial Number CA-13279, sale held July 26, 1983". No bid will be accepted for less than the appraised value, and bids must include all of the land in the parcel. The sealed bids shall be opened and publicly declared at the beginning of the oral bidding. Only those bidders submitting qualified sealed bids will be allowed to participate in the oral auction. The purpose of the oral bid is to allow each qualified participant to revise their bid. Oral bidding will begin at 11:00 am on July 26, 1983 at the California Desert District Office. The person declared to have entered the highest qualifying oral bid shall submit payment for cash, personal check, bank draft, money order, or any combination for not less than one-fifth of the amount of the bid immediately following the close of the sale.

The successful bidder, whether such bid is a sealed or oral bid, shall submit the remainder of the full bid price prior to the expiration of 30 days from the date of the sale. Failure to submit the full bid price prior to, but not including the 30th day following the day of the sale, shall result in cancellation of the sale of the specific parcel and the deposit forfeited and disposed of as other receipts of sale. If two or more sealed bids for the same amount are received and no oral bids are received, then the apparent high bidder shall be determined by a drawing.

For a period of 30 days following the date of the sale, Ladyvest, Inc., will have opportunity to claim the preference rights indicated above. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

FOR FURTHER INFORMATION CONTACT: Concerning the sale, including the land report and environmental assessment report, is available for review at the California Desert District Office at the above address. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

Dated: May 5, 1983.

Bary Freet,

Assistant District Manager for Administration.

[FR Doc. 83-14127 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13892]

State of California, Realty Action; Noncompetitive Sale of Public Lands in Riverside County

AGENCY: Bureau of Land Management; Interior

ACTION: Realty Action—Noncompetitive Sale of Public Lands in Riverside County—CA 13892

SUMMARY: The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value.

San Bernardino Base Meridian

T. 7 S., R. 3 E., Section 6, Lot 18

The land described aggregates 5.83 acres in Riverside County.

This land is being offered at direct sale to Mrs. George Messenger at the appraised fair market value. The direct sale is necessary to protect equities arising from inadvertent unauthorized use, as a result of private surveying errors.

The proposed sale is consistent with the Bureau's planning for the lands involved and the public interest would be served by offering this land for direct sale to Mrs. Messenger.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719); however, under Section 209 of the said Act of October 21, 1976, the new landowner may apply to purchase the mineral interests.

3. Federal law requires that all bidders be United States citizens, or in the case of corporations be authorized to own real estate in the State of California. A State, State instrumentality or political subdivision must be authorized to hold property. Proof of these requirements shall accompany the bid.

FOR FURTHER INFORMATION CONTACT: Concerning the sale, including the land report and environmental assessment report is available for review at the California Desert District Office at 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

SUPPLEMENTARY INFORMATION: The land will not be offered for sale for at least 60 days after the date of this notice.

Dated: May 19, 1983.

Bary Freet,

Assistant District Manager for Administration.

[FR Doc. 83-14128 Filed 5-25-83; 8:45 am]

BILLING CODE 4310-84-M

[C-37218]

Colorado; Invitation for Coal Exploration License Application; Peabody Coal Co.

Members of the public are hereby invited to participate with Peabody Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands situated in Routt County, Colorado:

Sixth Principal Meridian, Colorado

T. 4 N., R. 88 W.
Sec. 8, Lots 1 to 4, inclusive, and S½ (all);
Sec. 9, Lots 1 to 4, inclusive, and S½ (all);
Sec. 10, Lots 1 to 4, inclusive, and S½ (all);
Sec. 11, Lots 3 and 4, and N½SW¼;
Sec. 15, NW¼;
Sec. 16, N½.
T. 5 N., R. 88 W.
Sec. 31, Lots 21 to 25, inclusive;
Sec. 32, Lots 9 to 12, inclusive;
Sec. 33, Lots 9 to 12, inclusive;
Sec. 34, Lots 11 and 12.

The area described contains 2853.38 acres, more or less.

Any party participating in this exploration license will share all costs on a pro rata basis with Peabody Coal Company and with any other participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C-37218 for public review during normal business hours at the Colorado State Office, 1037 20th Street, Denver, Colorado. Additional copies of the exploration plan are available for review at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado, and at the District Mining Supervisor's Office, The Mart, 2135 East Main Street, Grand Junction, Colorado.

Any party electing to participate in this exploration program must send written notice of such election both to the Bureau of Land Management and to Peabody Coal Company, Rocky Mountain Division, within 30 days after the publication of this Notice of Invitation in the **Federal Register**. Such written notice must be addressed to:

Chief, Mineral Leasing Section,
Colorado State Office, Bureau of Land

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Management, 1037 20th Street, Denver, Colorado 80202 and
Mr. R. J. Braig, Peabody Coal Company, Rocky Mountain Division, 10375 East Harvard Avenue, Suite 400, Denver, Colorado 80231

This Notice of Invitation is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c).

Rodney A. Roberts,
Chief, Mineral Leasing Section.

[FR Doc. 83–14124 Filed 5–25–83; 8:45 am]
BILLING CODE 4310–84–M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer at 202–395–7340.

Title: Annual Survey of U.S. Waterfowl Hunters
Bureau Form Nos. 3–1825g, 3–1826G, 3–2056
Frequency: Annually
Description of Respondents: Waterfowl hunters
Annual Responses: 76,154
Annual Burden Hours: 13,936
Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Dated: May 17, 1983.

Don W. Minnich,
Acting Associate Director—Wildlife Resources.

[FR Doc. 83–14130 Filed 5–25–83; 8:45 am]
BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0445, Block 176, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Rom 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and proedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 19, 1983.

John L. Rankin,
Acting Regional Manager Gulf of Mexico OCS Region.

[FR Doc.83–14115 Filed 5–25–83; 8:45 am]
BILLING CODE 4310–MR–M

Indications of interest and comments may be considered for all Federal acreage within the boundaries of the Call. The Call area is shown on the map at the end of this Call. The Call area is depicted in detail on the standard Call for Information Map available free from the Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180 or from the New York Office, Minerals Management Service, Atlantic OCS Region, Jacob K. Javits Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10278.

The following list identifies the Official Protraction Diagrams in this Call. The diagrams may be purchased for $2.00 each from the above listed addressees.

NI 18-4: Beaufort: All Federal Blocks.
NI 18-5: All Federal Blocks.
NI 18-6: All Federal Blocks.
NI 18-4: All Federal Blocks.
NI 17-4: Georgetown: All Federal Blocks.
NI 18-7: Cape Fear
NI 18-8: All Federal Blocks.
NI 18-9: All Federal Blocks.
NI 17-11: Savannah: All Federal Blocks.
NI 17-12: James Island: All Federal Blocks.
NI 18-10: Richardson Hills: All Federal Blocks.
NI 18-11: All Federal Blocks.
NI 18-12 All Federal Blocks.
NH 17-2: Brunswick: All Federal Blocks.
NH 17-3: Hoyt Hills: All Federal Blocks.
NH 18-1: Harrington Hill: All Federal Blocks.
NH 18-2: All Federal Blocks.
NH 17-5: Jacksonville: All Federal Blocks.
NH 17-6: Stetson Mesa: All Federal Blocks.
NH 17-8: Daytona Beach: All Federal Blocks.
NH 17-9: All Federal Blocks.
NH 17-11: Orlando: All Federal Blocks.
NH 17-12: All Federal Blocks.
NG 17-2: Ft. Pierce: All Federal Blocks.
NG 17-5: West Palm Beach: All Federal Blocks.

Instructions on Call

Indications of interest from potential bidders should be limited to the Federal acreage included in the Call area described above. Respondents should indicate interest in those portions of the Call area having sufficient potential for the discovery of oil and gas to be offered for lease. Those indicating interest are requested to do so on the standard Call for Information Map, available free from the Regional Manager, Atlantic OCS Region, or the New York Office, Atlantic OCS Region, at the addresses stated in the second paragraph under "Description of Area," telephone (703) 285-2168 or (212) 264-2401, respectively. Interest should be shown by outlining the area(s) along block lines.

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
South Atlantic
Lease Offering (January 1985)
Call for Information

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23. Potential bidders are requested to outline areas where they believe hydrocarbon potential is sufficient to warrant offering these areas in the South Atlantic. The Secretary is also requesting comments from all interested parties--Federal, State, and local governments, environmental groups, the general public, and potential bidders--on possible environmental effects and use conflicts in the Call area and on the appropriateness of initial lease terms longer than 5 years and lease areas larger than 5,760 acres (2,331 hectares).

Use of Information from Call

Indications of interest submitted in response to this Call will be considered during the area identification process in selecting the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement as the proposed Federal action. This information will also be used in identifying alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed. These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations. Comments submitted regarding length of lease term and size of lease areas may be used in the assessment of the appropriate initial lease term and appropriate lease size, pursuant to section 8 of the OCS Lands Act, as amended (43 U.S.C. 1337).

Description of Area

The general area of this Call is offshore the States of North Carolina, South Carolina, Georgia, and Florida and lies approximately between the 35th and 26th parallels within the area of Federal jurisdiction.

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Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the OCS Lands Act, as amended. A final Notice of Lease Offering, detailing areas to be offered for competitive bidding, will be published in the Federal Register stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Acting Director, Minerals Management Service
Gary Bennethum

Date: 5/17/83

Approved

Assistant Secretary of the Interior
Daniel N. Miller, Jr.

The standard Call Map shows the Call area and highlights the area identified by the Minerals Management Service (MMS) as having potential for the discovery of oil and gas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are encouraged to broadly rank areas according to priority of interest (e.g., priority 1 (high), 2, or 3). Priority information submitted by companies will be held confidential and may be used as a criterion in determining the area to be analysed in the environmental impact statement.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archeological, or socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas but may be restricted to designated blocks of particular concern.

Comments are also being sought from all interested parties on the appropriateness of initial lease terms longer than 5 years and on the need, if any, for lease areas larger than 5,760 acres (2,331 hectares). Such comments should describe why such modifications would be appropriate and identify where such modifications should be applied. Those making comments are requested to mark the area commented upon on the standard Call for Information Map discussed above.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the Federal Register in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf, South Atlantic (January 1985)" or "Comments on Leasing in the Outer Continental Shelf, South Atlantic (January 1985)" as appropriate. The map (original) and indications of interest or comments must be submitted to the Regional Supervisor for Leasing and Environment, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180. One copy of the map and indications of interest or comments are also to be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

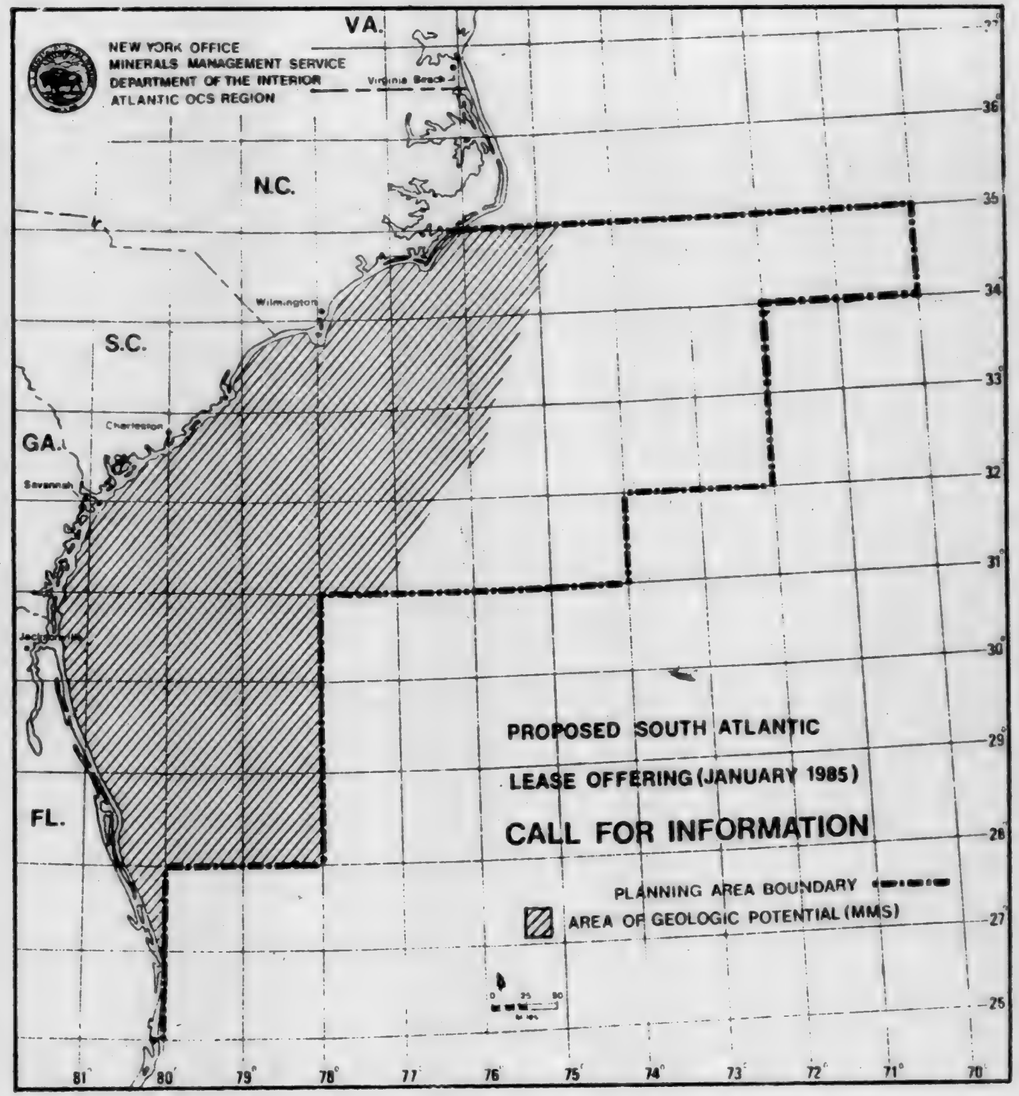

[FR Doc. 83-14204 Filed 5-25-83; 8:45 am]
BILLING CODE 4310-MR-C

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Office of the Secretary

Indian Policy Review Team; Meeting

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM 8.

Notice is hereby given that a meeting of the Indian Policy Review Team will be held on Monday, June 13, 1983, at 9:00 in the Secretary's Conference Room (Room 5160) at the Interior Department Building, 18th and C Streets, N.W., Washington, D.C.

The purpose of the Indian Policy Review Team is provide advice to the Assistant Secretary—Indian Affairs on major Indian policy issues of a national significance. It analyzes such policy alternatives and issues as may be assigned by the Assistant Secretary and formulates, proposes, and submits comments to the Assistant Secretary.

The purpose of the meeting of Team is to discuss the restructuring of the Bureau with the Assistant Secretary—Indian Affairs.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. Any member of the public may file with the Assistant Secretary—Indian Affairs a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting may contact Mr. Carl Shaw, Office of the Assistant Secretary—Indian Affairs, Room 4153, Interior Department Building, Washington, D.C., telephone number (202) 343–4576. Minutes of the meeting will be available for public inspection three weeks after the meeting and may be inspected at the Office of the Assistant Secretary—Indian Affairs, Room 4150, Interior Department Building, 18th and C Streets N.W., Washington, D.C.

Dated: May 20, 1983.

John E. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–14111 Filed 5–25–83; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effecive on June 27, 1983. Petitions for reconsideration must be filed by June 15, 1983. Petitions for stay must be filed by June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Decided: May 16, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15125]

Dutton Trucking, Inc.—Purchase Exemption—Grand Island Express, Inc.

ADDRESSES: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; (2) Petitioners' representative: Jack L. Shultz, Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501.

Pleadings should refer to No. MC–F–15125.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Dutton Trucking, Inc., of the rights held by Grand Island Express, Inc., under MC–135283 (Sub-Nos. 15 and 28).

[FR Doc. 83–14148 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4F–314]

Motor Carriers; Decision-Notice; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 20, 1983.

By the Commission, Review Boad No. 2, Members: Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4 at (202) 275–7669.

MC–F–15280. Filed April 25, 1983. NATIONAL STEEL CORPORATION (NATIONAL) (20 Stanwix St., Pittsburgh, PA 15222)—CONTINUANCE IN CONTROL—INTEGRATED DISTRIBUTION, INCORPORATED (INTEGRATED) (One Centure Dr., Parsippany, NJ 0754). Representative: Raymond L. PUCCI, One Century Dr., Parsippany, NJ 07054. National, a non-carrier, seeks authority to continue control of Integrated upon the institution by Integrated of operations in interstate or foreign commerce, as a motor contract carrier. National also controls through stock ownership the Delray Connecting Railroad Company, and it has a minority interest in Enamel Products and Plating Company which owns all of the outstanding stock of E. P. & P. Trucking Co., a motor contract carrier pursuant to Permits Nos. MC–133013 (Sub-No. 1) and MC–133013 (Sub-No. 2) authorizing the transportation of metal awnings, metal carports, and metal patio covers, and component parts thereof, coated sheet metals, and materials equipment and supplies (except in bulk), between McKeesport, PA, on the one hand, and on the other, points in AL, FL, GA, NC, SC, and VA, and metal awnings, metal carports, metal patio coves, and coated sheet metals, form Portage, IN, to points in AR, IL, IA, KY, MD, MI, MO, NJ, NY, OH, PA, TN, TX, WV, and WI, under a continuing contract(s) with Enamel Products & Plating Co., Artcraft Awning Co., and Artcraft Industries, Inc. Integrated holds no persent authority. Simultaneously herewith it has filed a contract carrier application docketed

No. MC–167626 which was published in the **Federal Register** on May 10, 1983, to transport general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with National Steel Corporation, of Pittsburgh, PA, and its subsidiaries, published in the **Federal Register** of May 10, 1983.

[FR Doc. 83–14144 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rule at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–FC–189

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. (Member Dowell not participating.)

MC–FC–81398. By decision of May 18, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to INLAND COMMERCIAL CO., INC., Seattle, WA, of Certificate No. MC–147748 (Sub-No. 1), issued December 23, 1981, to R.C. Kercheval and J. J. Riedinger, doing business as OVERLAND COMMERCIAL COMPANY, Seattle, WA, authorizing the transportation, over irregular routes, of general commodities (except classes A and B explosives), between points in WA, and those in ID, in and north of Nez Perce, Lewis, and Clearwater Counties. Transferee is a carrier holding authority under No. MC–163674. An application for temporary authority has been filed. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–239

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81357. By decision of May 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2, approved the transfer to EMRICK TRUCKING, INC., Jonesboro, IL, of authority issued to JOEY CRAWFORD TRUCKING COMPANY, Farmington, MO in Certificate MC–148743 (Sub-No. 3), issued November 28, 1982, authorizing the transportation of commodities in bulk, between those points in the U.S., in and east of ND, SD, WY, CO, and NM. Representative: Donald E. Gillihan, P.O. Box 427, Mercantile Bank Bldg., Farmington, MO, 63640.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–306

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81456, filed May 4, 1983. My decision of May 18, 1983 issued under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the

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transfer to Ebony Express, Eugene, OR, of Certificate No. MC–148877 Sub 2, issued June 24, 1981, Sub 3, issued October 27, 1981, and Sub 4, issued August 6, 1982, to Leon's Trucking Co., Eugene, OR, authorizing the transportation of clay, concrete, glass or stone products, metal products, and rubber and plastic products, between points in OR, WA, ID, CA and UT, general commodities (with exceptions), for or on behalf of the U.S. Government, and food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), limestone, fertilizer and other soil conditioners, by the owner of the motor vehicle, in such vehicle, between points in the U.S., and general commodities (except classes A and B explosives and household goods), between points in OR and WA, and those in Rio Grand County, CO, on the one hand, and, on the other, points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, NM, AL, AR, FL, GA, IL, IN, IA, KS, LA, MI, MN, MS, MO, NE, NY, OH, OK, PA, SD, ND, NJ, SC, NC, TX and WI. Representative: Frederick De Leon, 1511 Brooklyn, Ave., Eugene, OR 97403.

Volume No. OP4–FC–307

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81451, filed May 3, 1983. By decision of May 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1, approved the transfer to GREENS MOVING & STORAGE, INC., of Fall River, MA, of Certificate No. MC–69907, issued July 7, 1947, to GREEN BROS., INC., d/b/a GREENS STORAGE WAREHOUSES, of Fall River, MA, authorizing the transportation (1), over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Providence, RI and New Bedford, MA, over U.S. Hwy 6, serving all intermediate points, and the off-route points of Acushnet, Fairhaven, Assonet, and Digthon, MA, and Middletown, Newport, Cranston, East Greenwich, Pawtucket, Warwick, West Warwick, and Tiverton, RI; (2) *machinery*, between Fall River, MA, on the one hand, and, on the other, New York, NY, Danbury, Norwalk, and Bridgeport, CT, and points in MA and RI; (3) *blankets and cotton piece goods*, between Taunton, MA and Providence, RI; and (4) *such commodities* as are dealt in by retail furniture, mail order, and department stores, from Fall River, MA, to points in Bristol, Newport, and Providence Counties, RI. Representative: Daniel F. Duffy, 59 9th St., Fall River, MA 02720, (617) 675–7428, for both transferee and transferor.

MC–FC–81458. By decision of May 16, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to RYAN TRANSFER CORPORATION, of Green Bay, WI, of Certificate No. MC–111377, issued September 27, 1955, to RYAN MOVING & STORAGE, INC., of Green Bay, WI, authorizing the transportation of (1) household goods, (a) between points in WI, on the one hand, and, on the other, points in KY, MI, MA, OH, PA, NE, NJ, IL, IN, NY, MN, MO, WV, NC, CT, ME, RI, DE, MD, VA, IA, and DC, and (b) from points in NY and NJ to points in OH, MI, IN, IL, and MN, and (2) office equipment, between Milwaukee, WI, on the one hand, and, on the other points in IL, IN, IA, MI, and MN. Transferee is a carrier holding authority under No. MC–161426 and affiliated Ryan Moving & Storage Inc., Transferor herein. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848 for applicants.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–FC–236

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81413. By decision of May 18, 1983 issued under 49 U.S.C. 10926, and 10931 or 10932, and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to JOHN E. COBAI, d/b/a CRESTED BUTTE TRUCK LINE, of Crested Butte, CO of Certificate No. MC 98228 Sub 1 issued February 13, 1979, and Certificate of Registration No. MC 98228 Sub 2 issued February 13, 1979 to CLIFFORD D. ELLIS, II, CRESTED BUTTE TRUCK LINE, of Crested Butte, CO authorizing: Sub 1 the transportation of *ores and ore concentrates*, from Crested Butte, CO, to Salida, CO, serving intermediate and off-route points within 10 miles of Crested Butte; from Crested Butte over Colorado Hwy 135 to Gunnison, CO, then over U.S. Hwy 50 to Salida, and return over the same route; and Sub 2, evidencing a right to engage in transportation in interstate commerce corresponding in scope to that portion of Certificate of Public Convenience and Necessity No. 2070, as was embraced in predecessor's Certificate of Registration and transferred by Decision Nos. 79749 and 89484, dated September 29, 1971, and October 12, 1976, respectively, issued by the Public Utilities Commission of the State of Colorado, authorizing the transportation of (1) *general commodities*, between Gunnison, CO, and Crested Butte, CO, over CO Hwy 135, serving all intermediate points, and (2) to use equipment in the State of Colorado as a common interstate carrier between all points in the State of CO, and the CO State boundary lines where all highways cross same in interstate commerce only, subject to the provisions of the Federal Motor Carrier Act of 1935, as amended. Representative: John E. Cobai, Meridian Lake Park, Box 307, Crested Butte, CO 81224. Condition: Prior to or concurrent with consummation, applicant must submit a copy of the order of the State Commission approving transfer of the underlying intrastate rights.

MC–FC 81463 By decision of May 17, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to NORMAND R. EMOND, d/b/a SWIFT'S EXPRESS of Attleboro, MA, of Certificate No. MC–6749 issued August 3, 1956, to WARREN A. JOHNSON, d/b/a SWIFT'S EXPRESS authorizing the transportation of *general commodities* (except classes A and B explosives, household goods, commodities in bulk, livestock, those of unusual value, commodities requiring special equipment and those injurious or contaminating to other lading), between Attleboro, MA, and points in MA within 12 miles thereof on the one hand, and, on the other, Providence, RI, and points in RI within 5 miles thereof. Representative Robert K. Cunningham, 8 North Main St., Attleboro, MA 02703.

[FR Doc. 83–14149 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–228]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grant(s) of operating right authority is republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register**.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission

Agatha L. Mergenovich,

Secretary.

MC 161753 (Republication), filed December 13, 1982, published in the

Federal Register issue of January 4, 1983, and republished this issue. Applicant: MINORITY UNIVERSAL CARRIERS, INC., 967 40th Lane, Anoka, MN 55303. Representative: Harold Orlofske, 145 W. Wisconsin Ave., Neenah, WI 54948. A Decision of the Commission, *Review Board 3*, decided April 5, 1983 and served April 18, 1983, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (3) *such commodities* as are used by public telephone companies between points in Arkansas, Iowa, Kansas, Minnesota, Missouri, North Dakota, Nebraska, Oklahoma, South Dakota and Texas, on the one hand, and, on the other, points in the United States (except Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate that part (3) is somewhat broader than the request, originally published.

[FR Doc. 83–14146 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 GFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: Common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 5 at (202) 275–7289.

Volume No. OP5–239

Decided: May 18, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 19778 (Sub-121), filed May 6, 1983. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, 10800 Franklin Ave., Franklin Park, IL 60131. Representative: Robert F. Munsell, 516 W. Jackson Blvd., Suite 286, Chicago, IL 60606, 312–648–3314. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, AR, CA, CO , GA, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MO, MT, NE, NJ, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, WA and WI.

MC 126039 (Sub-20), filed April 22, 1983. Applicant: MORGAN TRANSPORTATION SYSTEM, INC., INT'L, U.S. 6 and 15, New Paris, IN 46553. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 164889, filed May 4, 1983. Applicant: DANIEL J. PERDUE TRUCKING, INC., One South Tekoppel Ave., Evansville, IN 47712. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, IN 46204, (317) 639–5534. Transporting *general commodities* (except classes A

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and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with ACH Supply Company, Inc., Craddock Finishing Corporation, Uniseal, Inc., and Indiana Wholesalers, Inc., all of Evansville, IN.

MC 167498, filed May 6, 1983. Applicant: WILLIAM J. RANDS, d.b.a. RANDS TRUCKING, P.O. Box 127, Ladysmith, WI 54848. Representative: Robert S. Lee, 121 South Eighth St., 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *caskets*, between points in CO, IA, IL, IN, MI, MN, MO, MT, NE, ND, OH, PA, SD, WI, and WY.

Volume No. OP5–237

Decided: May 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160819 (Sub-2), filed May 6, 1983. Applicant: R AND A ENTERPRISES, 1414 LaFayette, Waterloo, IA 50701. Representative: Thomas J. Beener, 67 Wall St., Suite 2510, New York, NY 10005, (212) 269–2540. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 165698 (Sub-1), filed May 6, 1983. Applicant: ALASKA MOTOR FREIGHT, INC., 3285 Cushman, Fairbanks, AK 99701. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, 206–624–2832. Transporting *general commodities* (except household goods, and commodities in bulk), between points in AK on the one hand, and, on the other, Seward, Valdex, Haines, and Anchorage, AK. Condition: Any certificate issued in this proceeding to the extent it authorized the transportation of classes A and B explosives shall be limited in point of time to a period of five years from the date of issuance of the certificate.

MC 166629 (Sub-1), filed May 9, 1983. Applicant: TRANSPORTATION SERVICES, INC., P.O. Box 962, North Little Rock, AR 72116. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, 501–375–3022. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in Ashley, Quachita, Clark, and Miller Counties, AR, on the one hand, and, on the other, points in TX, OK, KS, CO, MO, IL, IN, KY, TN, AL, MS, LA, OH and WY.

MC 166978, filed May 6, 1983. Applicant: T. A. C. INC., 9350 Seven Mile Rd., McBain, MI 49657. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting (1) *agricultural chemicals, equipment and supplies*, (2) *building materials*, between points in MI, OH, IL, IN, PA, and NE.

MC 167689, filed April 27, 1983. Applicant: T & R CHEMICALS, INC., 700 Celum Rd., Clint, TX 79836. Representative: Martin Lopez (same address as applicant) (915) 851–2761. Transporting *such commodities* as are dealt in by retail food stores, between points in El Paso County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167718, filed May 9, 1983. Applicant: DOUGLAS W. HOBSON, d.b.a. HOBSON TRANSFER, 722 N. 22nd St., Clarinda, IA 51632. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *fertilizers*, between points in Page and Fremont, IA, on the one hand, and, on the other, points in NE and MO.

MC 167818, filed May 5, 1983. Applicant: OIL-DRI TRANSPORTATION COMPANY, 520 North Michigan Ave., Chicago, IL 60611. Representative: Terrance D. Jones, Suite 300, 2033 K St., N.W., Washington, DC 20006, 202–429–9090. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Oil-Dri Corporation of America of Chicago, IL.

MC 167819, filed May 5, 1983. Applicant: INGERSOLL-RAND TRANSPORTATION SERVICES COMPANY, 200 Chestnut Ridge Rd., Woodcliff Lake, NJ 07675. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with CF Air Freight, Inc., of Mountain View, CA, and Abex Corporation of New York, NY.

MC 167849, filed May 6, 1983. Applicant: GRANT E. RIEGLE, d.b.a. RIEGLE STABLE, 1162 Fort Jefferson Rd., Greenville, OH 45331. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, 614–224–3161. Transporting *horses (other than ordinary), tack, personal effects of attendants, and materials, equipment and supplies used in the care, training, exhibition and racing of such animals, between points in DE, FL, IL, IN, KY, MD, MI, NJ, NY, OH and PA.*

MC 167908, filed May 9, 1983. Applicant: RAY KIMBRELL MOVING AND STORAGE CO., P.O. Box 764, Dyersburg, TN 38024. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 8103, 901–526–4114. Transporting *household goods*, between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MI, MS, MO, NC, NJ, OH, OK, PA, SC, TN, TX, VA, WV, and WI.

MC 167918, filed May 9, 1983. Applicant: BRUCE D. LOCKWOOD AND THERESA A. LOCKWOOD, 16210 S.E. Royal Lane, Sandy, OR 97055. Representative: Bruce D. Lockwood (same address as applicant), 503–663–2211. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Central Point, OR.

For the following, please direct status calls to Team 1 at 202–275 7992.

Volume No. OP1–187

Decided: May 19, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

W–1371, filed April 19, 1983. Applicant: CRO-MARINE TRANSPORT, INC., 120 South Central Ave., St. Louis, MO 63105. Representative: Edward K. Wheeler, 1729 H St., N.W., Washington, DC 20006, (202) 337–6500. To operate as a *contract carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities* between ports and points along all rivers, streams, bayous, canals, channels and other waterways constituting the Mississippi River System and the Gulf Intracoastal Waterway System, the Gulf of Mexico between Brownsville, TX and Carrabelle, FL, and Lake Michigan between Chicago, IL and Burns Harbor (Portage), IN.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy. This application is directly-related to a concurrently filed petition for exemption application docketed FD–30174.

MC 110841 (Sub-26), filed May 11, 1983. Applicant: PORT NORRIS EXPRESS CO., INC., North Avenue, Port Norris, NJ 08349. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Warner Company, of Bala Cynwyd, PA, and Whitehead Brothers Company, Inc., of East Hanover, NJ.

MC 117201 (Sub-62), filed May 12, 1983. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S., under continung contract(s) with URM Stores, Inc., of Spokane, WA.

MC 145040 (Sub-5(B)), filed May 11, 1983. Applicant: RAMSEY'S TRAILWAYS, INC., P.O. Box 667, Jonesboro, LA 71251. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. *Over regular routes*, transporting *passengers*, between Monroe, LA, and Lake Providence, LA, from Monroe over U.S. Hwy 165 to Bastrop, then over LA Hwy 2 to U.S. Hwy 65, then over U.S. Hwy 65 to Lake Providence, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. Applicant has also requested authority in interstate or foreign commerce in MC–145040 Sub 5(A) published this same **Federal Register** issue.

MC 149100 (Sub-21), filed May 12, 1983. Applicant: JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting *general commodities* (except classes A and B explosives, and household goods and commoditites in bulk), between points in the U.S. (except AK and HI).

MC 152261 (Sub-6), filed May 3, 1983. Applicant: M. W. ETTINER, INC., 2711 North Fairview Ave., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with S-R-F-T-C Brokers, of Minneapolis, MN

MC 152370 (Sub-2), filed May 9, 1983. Applicant: COLOROW TRUCKING, INC., 904 N. Oxford Lane, Glenwood Springs, CO 81601. Representative: Timothy Robert Ferguson (same address as applicant), (303) 945–9347. Transporting, *beer*, between points in Tarrant County, TX, on the one hand, and, on the other, points in CO.

MC 155510 (Sub-3), filed May 13, 1983. Applicant: ORANGE DISTRIBUTION, INC., Maine Street, P.O. Box 729. Representative: David L. Bolyard, 112 South Pitt Street, P.O. Box 453, Alexandria, VA 23313, (703)–548–3301. Transporting, *such commodities* as are dealt in or used by manufacturers or distributors of plastic film and sheet, and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Klockner-Pentaplast of America, Inc., of Gordansville, VA.

MC 156191 (Sub-5), filed May 12, 1983. Applicant: RAYMOND COSSETTE TRUCKING, 2202 5th Ave. No., Fargo, ND 58102. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting, *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163970 (Sub-1), filed May 13, 1983. Applicant: BEN-RUS CORPORATION, INC., P.O. Box 70, Lignum, VA 22726. Representative: Florence E. Boyce (same address as applicant), (703) 399–1622. Transporting, *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 165841, filed May 13, 1983. Applicant: WARREN G. WOOD, Route 3, Box 1641, Ellensburg, WA 98926. Representative: Warren G. Wood (same address as applicant), (509) 968–3322. Transporting, *fertilizer*, between points in WA and ID.

MC 166550 (Sub-1), filed May 13, 1983. Applicant: WARRIOR SERVICES, INC., P.O. Box 1210, Clifton, NJ 07012. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167501, filed May 12, 1983. Applicant: R. E. "GENE" NUNN, d.b.a. SCOTTY TRUCKING COMPANY, 1001 B No. Forest St., P.O. Box 9331, Amarillo, TX 79105. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Can Company, of Greenwich, CT.

MC 167520, filed May 13, 1983. Applicant: LEANDER E. FILZEN, d.b.a. L. E. FILZEN TRUCKING, 326 North Jefferson St., New Ulm, MN 56073. Representative: Robert S. Lee, 121 South Eighth St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *clay, concrete, glass, or stone products*, between points in the U.S. (except AK and HI), under continuing contract(s) with American Artstone Company, of New Ulm, MN.

MC 167940, filed May 9, 1983. Applicant: STOLLER TRANSPORT AND STORAGE, 13627 N.E. Arndt Road, Aurora, OR 97002. Representative: Dan Stoller (same address as applicant), (503) 678–5450. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR, and Siskyou West, Inc., of Yreka, CA.

MC 167941, filed May 9, 1983. Applicant: McKENZIE FUEL, INC., 2432 East 11th St., Tacoma, WA 98421. Representative: Robert C. Hicks (same address as applicant), (206) 627–6134. Transporting *lumber and wood products, and forest products*, between points in WA and OR.

MC 167960, filed May 9, 1983. Applicant: LARRY W. MORRIS, d.b.a. LARRY W. MORRIS TRUCKING, Route 2, Box 146, Snow Camp, NC 27349. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2618. Transporting (1) *lumber and wood products*, between points in Clearfield County, PA, on the one hand, and, on the other, points in NC, TN, and VA, and (2) *furniture and fixtures and lumber and wood products*, between points in Guilford County, NC, on the one hand, and, on the other, points in PA.

MC 167980, filed May 12, 1983. Applicant: ADEN AND DAVE L. STUTZMAN, d.b.a. STUTZMAN & SON TRUCKING, Route 1, Milford, NE 68405. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *fertilizer*, between points in Seward County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167981, filed May 10, 1983. Applicant: LOTZ TRUCKING, INC., 7 Clover Court, Grand Ridge, IL 61325. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *silica sand*, between points in LaSalle County, IL, on

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the one hand, and, on the other, points in IA, IN, KY, MI, MO, and WI.

MC 167991, filed May 12, 1983. Applicant: HARVEY HUBBELL, INCORPORATED, 584 Derby-Milford Road, Orange, CT 06477. Representative: Patrick Raher, 815 Connecticut Ave., N.W., Washington, D.C. 20006, (202) 331–4682. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MA, MD, MI, MS, MO, NM, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC.

MC 168021, filed May 13, 1983. Applicant: BUYERS REFRIGERATED TRUCK SERVICE, INC., P.O. Box 13097, Sacramento, CA 95813. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207, (209) 957–6128. Transporting *food and related products*, between AZ, CA, ID, NV, OR, UT, and WA.

For the following, please direct status calls to Team 2 at 202–275–7293.

Volume No. OP2–238

Decided: May 18, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 69322 (Sub-13), filed May 3, 1983. Applicant: DOBSON CARTAGE AND STORAGE COMPANY, 5024 South Garfield Rd., Auburn, MI 48611. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20423, 202–785–0024. Transporting *household goods*, between points in the U.S. (except AK and HI).

MC 70172 (Sub-9), filed May 3, 1983. Applicant: B. J. KIRK TRANSPORTATION CO., 672 Rossevelt Ave., Pawtucket, RI 02860. Representative: Charles R. Reilly, 391 Davisville Rd., North Kingstown, RI 02852, 401–884–0969. Transporting *such commodities* as are dealt in or used by retail department stores, between points in Norfolk County, MA, and Providence County, RI, on the one hand, and, on the other, points in Kent and Providence Counties, RI, and Bristol County, MA.

MC 107002 (Sub-598), filed May 4, 1983. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601–948–5711. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Monsanto Company, of St. Louis, MO, (b) E. I. DuPont de Nemours & Co., Inc., of Wilmington, DE, (c) International Paper Company, of Mobile, AL, (d) Dow Chemical Company Eastern Division, of Strongsville, OH, (e) Great Lakes Chemical Corporation, of El Dorado, AR, (f) Union Camp Corporation, of Wayne, NJ, (g) Buckman Laboratories, Inc., and (h) Universal Adhesives, Inc., both of Memphis, TN.

MC 107012 (Sub-817), filed May 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219–429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Gillette Company, of Boston, MA.

MC 144313 (Sub-1), filed April 22, 1983. Applicant: CHRISTIE TRANSFER, INC., 1431 Bedford St., North Abington, MA 02351. Representative: Joseph M. Klements, 89 State St., Boston, MA 02109, 617–523–0800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with the Procter & Gamble Company, of Cincinnati, OH.

MC 167802, filed May 3, 1983. Applicant: PAUL G. ABRAM, d.b.a. PAUL ABRAM TRUCKING & ABRAM READY-MIX, 915 E. 6th St., Beloit, KS 67420. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, 913–234–0565. Transporting *bulk commodities*, between points in KS, MO, and NE.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–309

Decided: May 19, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 59247 (Sub-29), filed May 9, 1983. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Rd., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934 (201) 234–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Exxon Chemical Americas, of Houston, TX.

MC 127047 (Sub-52), filed May 9, 1983. Applicant: ED RACETTE & SON, INC., 6021 N. Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202 (316) 265–2634. Transporting *paint and related products*, between points in Sedgwick and Butler Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134637 (Sub-8), filed May 9, 1983. Applicant: SILICA TRANSPORT, INC., West Market St., P.O. Box 232, Guion, AR 72540. Representative: Jack A. Knight (same address as applicant), (501) 346–5308. Transporting *commodities in bulk*, between those points in the U.S. in and east of MT, WY, CO, and NM.

MC 142186 (Sub-13), filed May 10, 1983. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW, Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421 (206) 383–3998. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Hytec, Inc., of Tumwater, WA.

MC 158537 (Sub-3), filed May 10, 1983. Applicant: ARTY G. WILLIAMSON, d.b.a. G & D TRUCKING, Route 3, Box 413, Proctorville, OH 45669. Representative: Barry Weintraub, 7700 Leesburg Pike, Suite 403, Falls Church, VA 22043, (703) 442–8330. Transporting *general commodities* (except classes A and B explosives and household goods, between points in WV, KY, TN, OH, GA and IN.

MC 165857 (Sub-2), filed May 10, 1983. Applicant: VINER'S INC., P.O. Box 290, Emerson, IA 51533. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *metal products*, between points in the U.S. (except AK and HI).

Volume No. OP 4–311

Decided: May 19, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 127647 (Sub-6), filed May 6, 1983. Applicant: RALPH H. LARSEN & SONS, INC., 1483 Beck St., Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, (801) 581–0322. Transporting *such commodities* as are dealt in by grocery and food stores, and *materials and supplies* used in the cleaning, maintenance and operation of retail food stores, (a) between points in Washoe County, NV and points in CA, on the one hand, and on the other, point in AZ, CA, OR, WA, ID, MT, WY, ND, SD, and MN, and (b) between points in Cascade County, MT, on the one hand, and, on the other, points in ID, WA, and OR.

MC 134547 (Sub-15), 1 filed May 9, 1983. Applicant: BILBO TRANSPORTS, INC., 2722 Singleton Blvd., Dallas, TX 75212. Representative: Austin L. Hatchell, P.O. Box 2033, Austin, TX 78768, (512) 472–8355. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154907 (Sub-9), filed May 10, 1983. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Stecher-Traung-Schmidt Corp., of Grand Rapids, MI, Ace Industries, Inc., of Grand Rapids, MI, Chicago Sweetners, Inc., of Hillside, IL, ConAgra, Inc., of Omaha, NE, and Weyerhauser Co., of Itasca, IL.

MC 166436 (Sub-1), filed May 9, 1983. Applicant: C. W. ENNIS, 3554 McReynolds Ave., Modesto, CA 95355. Representative: C. W. Ennis, (same address as applicant), (209) 527–1002. Transporting *general commodities* as are dealt in or used by (1) egg processors and sales outlets, and (2) manufacturers and distributors of electrical machinery and equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Castle Egg Farm, of Manteca, CA, and (2) Excalibur Products, Inc., of Sacramento, CA.

Volume No. OP4–313

Decided: May 19, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 61016 (Sub-63), filed March 15, 1983, previously noticed in the **Federal Register** issue of March 30, 1983, and republished herein. Applicant: PETER PAN BUS LINES, INC., 1779 Main St., Springfield, MA 01103. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Over regular routes, transporting *passengers*, between (1) Greenfield and Deerfield, MA, over Interstate Highway 91 and U.S. Highway 5, (2) Williamstown and Pittsfield, MA, over U.S. Highway 7, (3) North Adams and Pittsfield, MA, over Massachusetts Highway 8, (4) Boston, MA and Hampton, NH, from Boston over U.S. Highway 3 to junction U.S. Highway 1, then over U.S. Highway 1 to junction Interstate Highway 95, then over Interstate Highway 95 to Hampton, and (5) Springfield, MA and Hampton, NH, from Springfield (a) over Interstate Highway 291 to junction Interstate Highway 90, then over Interstate Highway 90 to junction Interstate Highway 290, then over Interstate Highway 290 to junction Interstate Highway 495, then over Interstate Highway 495 to Hampton, (b) over Interstate Highway 291 to junction Interstate Highway 90, then over Interstate Highway 90 to junction Massachusetts Highway 128, then over Massachusetts Highway 128 to junction Interstate Highway 95, then over Interstate Highway 95 to Hampton, and (c) over Interstate Highway 291 to junction Interstate Highway 90, then over Interstate Highway 90 to junction U.S. Highway 3, then over U.S. Highway 3 to junction U.S. Highway 1, then over U.S. Highway 1 to junction Interstate Highway 95, then over Interstate Highway 95 to Hampton, returning over all the above-specified routes, serving all intermediate points. NOTE: The purpose of this republication is to accurately reflect the operating authority sought by applicant. Applicant intends to tack the above authority to its present authorized operations and seeks to provide regular-route service in interstate or foreign commerce, and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B), over the same routes.

[FR Doc. 83–14142 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

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To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, Member Parker not participating.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–186

Decided: May 19, 1983.

MC 145040 (Sub-5(A)), filed May 11, 1983. Applicant: RAMSEY'S TRAILWAYS, INC., P.O. Box 667, Jonesboro, LA 71251. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2241. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation. Applicant has also requested intrastate authority in MC–145040 Sub 5(B) published this same **Federal Register** issue.

MC 164620, filed May 12, 1983. Applicant: ARIES TRANSPORTATION, 4 High Street, 2nd Floor, P.O. Box 532, Hampton, NH 03842. Representative: Jerome D. Freeman (same address as applicant), (603) 926–4204. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167930, filed May 9, 1983. Applicant: ALABAMA STAGECOACH LINES, INC., 202 Northwood Dr., Ozark, AL 36360. Representative: Morris Earl Bankston (same address as applicant), (205) 774–6959. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167950, filed May 9, 1983. Applicant: HARTSDALE BUS COMPANY, INC., 798 Nepperlan Ave., Yonkers, NY 10703. Representative: Benjamino F. D. Paulo (same address as applicant), (914) 423–789. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167971, filed May 12, 1983. Applicant: BONCOSKY BROKERAGE AND LEASING CO., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 135 LaSalle Street, Chicago, IL 60603, (312) 236–9375. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168000, filed May 13, 1983. Applicant: JIM KRAUT ENTERPRISES, INC., d.b.a WAYNE TRANSPORTATION & EQUIPMENT CO., 3900 Harrison Ave., Butte, MT 59701. Representative: E. James Kraut (same address as applicant), (408) 494–3301. Transporting *passengers*, in charter and special operations, beginning and ending at Butte, MT, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168031, filed May 13, 1981. Applicant: W. J. BYRNES & CO., 100 Rollins Road Millbrae, CA 94030. Representative: John A. Leitner (same address as applicant), (415) 682–1142. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–312

Decided: May 19, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 167896, filed May 9, 1983. Applicant: L. N. PHILLIPS, d.b.a. N & P MOTOR FREIGHT BROKERAGE, 328 Beaty Dr., Grand Prairie, TX 75051. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, (214) 436–8493. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–14143 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275–7992.

Volume No. OP1–188

Decided: May 19, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 150320 (Sub-1)X, filed April 25, 1983. Applicant: NORTH COAST CONTAINER SERVICE, INC., 1203 Tidehaven Road, Tacoma, WA 98424. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206)–383–3998. Applicant seeks to remove restrictions in its Certificate MC–150320 to (1) broaden the commodity description by removing exceptions of commodities of unusual value, and those requiring special equipment to allow "general commodities (except classes A and B explosives, household goods, and commodities in bulk)", (2) remove "in cargo containers and trailers", and (3) remove "restricted to traffic having an immediately prior or subsequent movement by water".

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–241

Decided: May 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 151418 (Sub-4X), filed December 6, 1982. Applicant: ROY-L-T TRUCKING, INC., P.O. Box 4098, Whittier, CA 90607. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212, (213) 277–2323. Sub 2 certificate: Broaden (1) to "plastic articles and related products" from (a) "expanded plastic articles" and (b) "plastic bathtubs and plastic shower stalls," and (2) to countrywide authority: "Orange, Los Angeles, and San Joaquin Counties, CA;" Sub 3 permit: Broaden: (1) To "paper and related products" from (a) "paper products" and (b) "paper and paper products, advertising matter, premiums and display materials," (2) to "such commodities as are dealt in by furniture stores" from "bead bags, pillows, pads, and cushions, and new chairs and tables," and (3) the territorial description to between points in the U.S. under continuing contract(s) with named shippers.

[FR Doc. 83–14147 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: May 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15272]

City-Wide Cartage Contract Carrier, Inc.—Purchase Exemption—Geetings, Inc.

Volume OP4–F–310

City-Wide Cartage Contract Carrier, Inc., (MC–151342) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the certificate held in No. MC–34027 (Sub-No. 25) by Geetings, Inc., which authorizes the transportation of food and related products (1) radially, between points in Marion and Polk Counties, IA, and 13 States, and (2) radially, between points in Marion County, IA, and Chicago, IL, Porter County, IN, Van Buren County, MI, and Polk County, FL. City-Wide also intends to tack the purchased rights with its existing interstate authority in MC–151342 (Sub-No. 1), which authorizes the transport of confectionery from Des Moines, IA, to points in Iowa. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: Larry D. Knox, 500 Hubbell Building, Des Moines, IA 50309.

[FR Doc. 83–14145 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
934	Norfolk and Western Railway Co. Exemption for Contract Tariff ICC–NW–C–7023 (Bituminous Coal)	1	05–20–83
936	Norfolk and Western Railway Co. Exemption for Contract Tariff ICC–NW–C–0064 (Motor Vehicles)	3	05–20–83
937	Seaboard System Railroad, Inc., Exemption for Contract Tariff ICC–SBD–C–0070 (Dry Phosphate Rock)	1	05–20–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–14150 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub–935)]

Rail Carriers; Seaboard System Railroad, Inc., Exemption for Contract Tariff; ICC–SBD–C–0069 (Superphosphate and Fertilizer)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice.[1] This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

[1] Tariff supplements advancing contract's effective date shall refer to this decision for authority.

[1] Tariff Supplements advancing contracts' effective date shall refer to this decision for authority.

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FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30–day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: (49 U.S.C. 10505)

Decided: May 18, 1983.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–13670 Filed 5–25–83; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, N.W. in Washington, D.C. on June 24, 1983 beginning at 9 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29, U.S. Code, section 1242(a)(1)(B) and to review the May 1983 Joint Board basic examination in order to make recommendations relative thereto, including the minimum acceptable pass score. In addition, there will be a discussion of restructuring of the examination program as described in the announcement published in the **Federal Register** on March 2, 1983, 48 FR 8877 (1983).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and the review of the May 1983 Joint Board basic examination fall within the exceptions to the open meeting requirement set forth in Title 5, U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of restructuring the Joint Board examination program will commence at 1:30 p.m. and end at approximately 3:00 p.m. This portion of the meeting will be open to the public as space is available. To the extent feasible, the discussion will be limited to (1) the possible separation for credit purposes of the proposed segments of the Joint Board basic examination program under 20 CFR 901.13, i.e., those segments dealing with (a) life contingencies and compound interest; (b) basic pension mathematics; and (c) pension law and (2) the term of credit for qualifying examinations successfully completed.

Time permitting, after discussion of the program by Committee members, interested persons may make statements germane to the subjects under consideration. Persons wishing to make oral statements are requested to notify the Committee Management Office in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Notifications and statements should be mailed no later than June 16, 1983 to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C 20220.

Dated: May 23, 1983.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 83–14221 Filed 5–25–83; 8:45 am]

BILLING CODE 4810–25–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 13–14, 1983, from 9:00 a.m.–5:30 p.m. in Room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b to Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: May 20, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–14169 Filed 5–25–83; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Printmaking/Drawing Section) to the National Council on the Arts will be held on June 13–16, 1983, from 9:00 a.m.–6:00 p.m. in Room 716–716, of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: May 20, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–14170 Filed 5–25–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–537]

Department of Energy, Tennessee Valley Authority and Project Management Corp.; Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has issued a Limited Work Authorization to the U.S. Department of Energy, Tennessee Valley Authority, and Project Management Corporation (applicants) authorizing them to conduct certain site activities in connection with the Clinch River Breeder Reactor Plant (CRBRP), prior to a decision regarding the issuance of a construction permit. A Partial Initial Decision (Limited Work Authorization) on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on February 28, 1983.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and include the following:

Site preparation; excavations for foundations; dewatering and covering the nuclear island base area; temporary plant facilities; parking; railroads spurs; construction utilities; site drainage system and run-off treatment ponds; permanent access road and temporary on-site roads; on-site quarry, crushing facility, borrow and stock pile areas; sewage treatment plant; fire protection system, barge unloading facility; contractor work and storage areas; and construction buildings.

Any activities undertaken pursuant to this authorization are entirely at the risk of the applicants and, except as to matters determined under § 50.10(e)(2), the grant of the authorization has no bearing on the issuance of a construction permit with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A copy of (1) the Partial Initial Decision (Limited Work Authorization); (2) the applicants' Preliminary Safety Analysis Report and amendments thereto; (3) the applicants' Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated February 1977; Supplement No. 1 to the Final Environmental Statement dated October 1982; and (5) the Commission's letter of authorization, dated May 19, 1983, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555; the Oak Ridge Public Library, Civic Center, Oak Ridge, Tennessee 37830; and the Lawson McGhee Public Library, 500 West Church Street, Knoxville, Tennessee 37902.

Dated at Bethesda, Maryland this 19th day of May 1983.

For the Nuclear Regulatory Commission.

J. Nelson Grace,

Director, CRBR Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 83–14225 Filed 5–25–83; 8:45 am]

BILLING CODE 7590–01–M

Issuance and Availability "For Comment" of Miscellaneous Documents

The Nuclear Regulatory Commission (NRC) staff has prepared the following documents "For Comment": NUREG–0927, "Evaluation of Water Hammer in Nuclear Power Plants—Technical Findings Relevant to Unresolved Safety Issue A–1;" Standard Review Plan (SRP) Section 5.4.6 "Reactor Core Isolation Cooling System (BWR);" SRP Section 5.4.7, "Residual Heat Removal (RHR) System;" SRP Section 6.3, "Emergency Core Cooling System;" SRP Section 9.2.1, "Station Service Water System;" SRP 9.2.2, "Reactor Auxiliary Cooling Water Systems;" SRP Section 10.3, "Main Steam Supply Systems;" SRP Section 10.4.7, "Condensate and Feedwater Systems;" and the supporting Value/Impact Analysis.

These documents, when issued in final form, will serve as the NRC staff's resolution of USI A–1, "Water Hammer." This issue was identified as an Unresolved Safety Issue in the 1978 Annual Report pursuant to Section 210 of the Energy Reorganization Act of 1974.

The central issue of Unresolved Safety Issue A–1 deals with the frequency and severity of water hammer occurrences and reported damage, and whether such water hammer occurrences have resulted in unacceptable impairment to safety system functions—thereby establishing conditions which could lead to release of radionuclides to the environment.

The staff has completed its technical evaluation of this issue and these findings are reported in NUREG–0927. Based on extensive reviews of reported water hammer occurrences, underlying causes, safety implications and corrective actions taken, the staff recommends revisions to the SRP Sections noted above. These changes reflect design measures (e.g., J-tubes in top feedring steam generators, "keep-full" systems and vacuum breakers in BWRs) which have evolved from both industry and staff attention to water hammer occurrences and methods to avoid such occurrences. In addition, it is clear that operator training and awareness regarding water hammer potential and means to avoid setting up such conditions, will also play an important part in reducing frequency of occurrence. The proposed SRP changes represent currently utilized design features and operational conditions which have been implemented by industry and are reviewed by the staff. Thus these changes are proposed to clearly identify such practices and to maintain proven design concepts and operation requirements in future plants.

These proposed SRP changes amend information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These proposed changes will be submitted to the Office of Management and Budget for review and approval of the paperwork requirements during the "For Comment" period.

Comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received and address them in the final documents.

Copies of the "For Comment" documents will be available after May 31, 1983. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492–7536.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by July 18, 1983.

Dated at Bethesa, Maryland, this 16th day of May, 1983.

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For the Nuclear Regulatory Commission.

Thomis P. Speis,

Director, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 83-14228 Filed 5-25-83; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish Propogation Panel; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Columbia River Basin Fish Propogation Panel.

DATE: May 26, 1983, 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Curt Marshall, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 83-14172 Filed 5-25-83; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13256; (812-5503)]

First Investors Tax-Exempt Money Market Fund, Inc.; Filing of Application

May 18, 1983.

Notice is hereby given that First Investors Tax-Exempt Money Market Fund, Inc. ("Applicant"), 120 Wall Street, New York, New York 10005, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 21, 1983, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant to the extent necessary to permit Applicant to value its assets through use of the amortized cost method of valuation; to consider the maturity of variable rate demand instruments in its portfolio as the longer of the notice period required before Applicant would be entitled to prepayment on the instrument or the period remaining until the instrument's next interest rate adjustment; and to value in the manner described below rights acquired from commercial banks to sell portfolio securities to such persons. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under Maryland law on March 11, 1983 as a "money market" fund and that its investment objective is to provide its investors with as high a rate of current income as is consistent with preservation of capital and maintenance of liquidity, which income is exempt from federal income tax. It is further stated that Applicant will invest in fixed rate and variable rate municipal instruments, including participation interests therein, having a maturity of one year or less at the date of purchase and being of "high grade" as determined by a major rating service or, if not rated, of comparable quality as determined by Applicant's board of directors. It is stated that specific categories of municipal instruments in which Applicant may invest are the following:

(1) Municipal bonds rated Aaa or Aa at the date of purchase by Moody's Investors Services, Inc., ("Moody's"), or AAA or AA by Standard & Poor's Corporation ("S&P"); or, if not rated, are determined to be of comparable quality by Applicant's board of directors;

(2) Municipal notes rated MIG-1 or MIG-2 at the date of purchase by Moody's or, if not rated, are determined to be of comparable quality by Applicant's board of directors;

(3) Municipal commercial paper that is rated Prime-1 or Prime-2 by Moody's or A-1+, A-1, or A-2 by S&P, or if not rated, are determined to be of comparable quality by Applicant's board of directors.

Applicant further states that although its objective is to invest 100% of its assets in tax-exempt municipal instruments, Applicant may, either from time to time or for defensive purposes, invest in short-term taxable investments consisting of marketable securities issued or guaranteed as to principal and interest by the United States Government or its agencies or instrumentalities; commercial paper rated Prime-1 by Moody's or A-1+ or A-1 by S&P; certificates or deposit of domestic branches of U.S. banks with assets of $500 million or more; and bankers' acceptances.

Applicant represents that unless its investment adviser recommends to the contrary in response to market conditions or to any other factor necessitating a defensive investment posture towards municipal instruments, Applicant will not invest more than 20 percent of its assets in taxable securities. It is also stated that Applicant may enter into repurchase agreements applicable to United States Treasury or agency obligations. Applicant represents that it will not invest in a repurchase agreement maturing in more than seven days if any such investment together with all other illiquid assets it holds exceed 10% of Applicant's total assets.

Applicant states further that the municipal instruments in which it invests may include variable rate demand instruments which provide for a periodic adjustment in the interest rate payable on the instrument and permit the holder to demand payment of the unpaid balance plus accured interest upon seven calendar days' notice. It is stated that the terms of these instruments will provide for interest rate adjustments at intervals ranging from daily to six months. Applicant may purchase participation interests in variable rate demand instruments to produce a negotiated, variable rate yield to Applicant based on the applicable interest rate adjustment index for such security, it is stated. Applicant represents that the variable rate demand instruments it purchases will satisfy the requirements of, and that the maturities thereof will be determined in accordance with, the procedures set forth in proposed Rule 2a-7, or, if proposed Rule 2a-7 is ultimately adopted, the Rule as so adopted.

Applicant states that it also may purchase securities together with the right to resell them to the seller at an agreed-upon price or yield within a specified period prior to the maturity date of such securities ("stand-by commitments"). It is further stated that Applicant intends to enter into stand-by commitments soley with banks (unless Applicant shall obtain an exemptive order from the Commission to permit it to aquire stand-by commitments from brokers or dealers) and for the purpose of maintaining liquidity to meet unanticipated redemptions. Applicant represents that its acquisition of stand-by commitments will not affect the valuation or assumed maturity of the underlying muncipal obligations, which would continue to be valued at amortized cost.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and

(ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors or a registered investment company. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filling of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and that it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any classes of persons, securities, or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of its exemptive request to permit the use of amortized cost valuation, Applicant states that: (a) The amortized cost method of valuation will permit Applicant to provide the stability of principal and steady flow of investment income demanded by investors; (b) given the nature of Applicant's policies and expected operations, there will normally be a relatively negligible discrepancy between the market value and the amortized cost value of Applicant's portfolio securities; (c) the possibility of a change in Applicant's price per share is largely eliminated by Applicant's policies and restrictions; and (d) by reason of the stable price Applicant expect to maintain, investors in Applicant will receive a yield similar to yields available in the general debt market that otherwise would not be available to them if Applicant were required to maintain a portfolio having an average maturity, or a duration, shorter than that which Applicant proposes.

In addition to the foregoing, Applicant consents to issuance of the requested order of exemption subject to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of cared owed to shareholders of Applicant to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize its net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included among the procedures to be adopted by the Board of Directors of Applicant shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be Initiated.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not: (a) Purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 2 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meeting of the Board of Directors. The documents preserved to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which its Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, is of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others: (i) Quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes or money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

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any action pursuant to condition 3(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 13, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-13882 Filed 5-25-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2086]

New York; Declaration of Disaster Loan Area

Broome and Oneida Counties in the State of New York constitute a disaster area as a result of damage caused by severe weather and tornadoes beginning on May 2, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on July 18, 1983, and for economic injury until the close of business on February 17, 1984, at the address listed below: U.S. Small Business Administration, Federal Building, Room 1071, 100 South Clinton Street, Syracuse, New York 13260 or other locally announced locations.

Interest rates for applicant filing for assistance are as follows:

	Percent
Homeowners with credit available elsewhere	11.125
Homeowners without credit available elsewhere	5.625
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organization including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 17, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-14223 Filed 5-25-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2083; Amdt. #1]

Utah; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 21699) is amended in accordance with the President's declaration of April 30, 1983, to include the adjacent county of Sanpete, Utah. All other information remains the same, i.e., the termination date for filing application for physical damage is close of business on June 29, 1983, and for economic injury until the close of business on January 29, 1984. It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 19, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-14222 Filed 5-25-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 135—Environmental Conditions and Test Procedures for Airborne Equipment; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 135 on Environmental Conditions and Test Procedures for Airborne Equipment to be held on June 15, 1983, at the Cathedral Hill Hotel, Van Ness & Geary Streets, San Francisco, California, commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fourth Meeting Held on October 20-22, 1981; (3) Review Proposed Final Draft Section on Explosion Testing for Incorporation into RTCA and European Organization for Civil Aviation Electronics (EUROCAE) Documents concerning Environmental Conditions and Test Procedures for Airborne Equipment; (4) Discuss Proposed Revision of RTCA Document DO-160A and EUROCAE Document ED-14A "Environmental Conditions and Test Procedures for Airborne Equipment"; (5) Assignment of Change Coordinators; (6) Establish Schedule for Completing Committee Work; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 16, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-13863 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-83-12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 15, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 20, 1983.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23635	Deere & Co.	14 CFR 61.57(d)	To permit petitioner's pilots in command to credit three takeoffs and landings to a full stop in a visual simulator as night recency experience and also to extend that training period for an additional 90 days until which time that pilot will undergo his next six months simulator training.
23411	John M. Houston	14 CFR 121.411(a)(1)	Reconsideration of Denial of Exemption 3723 to permit petitioner to qualify as a simulator pilot check airmen without holding at least a Class III medical certificate.
21812	Albuquerque Int'l. Balloon Fiesta, Inc.	14 CFR 61.3 and 91.27	To allow certain foreign balloon pilots and foreign balloons to participate in the 12th Annual Albuquerque Int'l. Balloon Fiesta during the period of October 1-9, 1983, without complying with the pilot certification and airworthiness requirements of these sections.
17067	Sis-Q Flying Service, Inc.	14 CFR 91.27	To extend Exemption 2430B for another two years or unless sooner superceded or rescinded, to permit petitioner to ferry its four-engine McDonnell Douglas DC-6 aircraft with one engine inoperative when operating under contract with the U.S. Forest Service for forest fire control. Exemption 2430B terminates on July 31, 1983.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
23616	Aero West Airlines, Inc.	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of 3 civil, subsonic planes powered by two engines that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 B-737. *Granted 5/11/83.*
23629	Sunworld Int'l. Airways	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of 2 civil, subsonic "Stage 1 airplanes" powered by two engines that have not shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 2 DC-9. *Granted 5/18/83.*
23546	Owensboro Aviation	14 CFR 93.113	To permit petitioner to conduct fixed wing Special VFR operations within the Lousville (Standiford) Airport Traffic Control Zone under less than basic VFR conditions. Petitioner's operations are pipeline patrol. *Granted 5/13/83.*
23159	Department of Defense	14 CFR 91.71 (c) and (d)	To permit acrobatic flight within Federal airways and control zones below 1500 feet above the surface in specific locations and under specific conditions. *Granted 5/10/83.*
23493	Riley Aircraft Mfg., Inc.	14 CFR 21.195(a)	To permit petitioner a Designated Alteration Station, to issue experimental airworthiness certificates for modified aircraft to be used for market survey, sales demonstrations, and crew training. *Partial grant 5/13/83.*

[FR Doc. 83-14187 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSGM-83-2, -5, -8, -11, -16 and -18]

Petitions for Waiver of Safety Glazing Standards; Atchison, Topeka, and Santa Fe Railway Co. et al.

Notice is hereby given that six petitioners have submitted requests for temporary or permanent waivers of compliance with Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires that all newly built and most existing railroad equipment have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars, and cabooses to be equipped with certified glazing in all windows after June 30, 1983.

The individual petitions for a waiver of compliance with this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g. FRA Waiver Petition Docket Number RSGM-83-5) and should be submitted in triplicate to the Docket Clerk, Office of

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Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communication received before July 15, 1983 will be considered by the Federal Railroad Administration before action is taken. All comments will be available for examination both before and after the closing date for comments, during regular business hours (9:00 a.m.–5:00 p.m.) in room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Atchison, Topeka and Santa Fe Railway Company

(FRA Waiver Petition Docket No. RSGM–83–2)

The Atchison, Topeka and Santa Fe Railway Company (ATSF) seeks this waiver for approximately 600 locomotives. The ATSF has retrofitted about 900 locomotives with type 1 and type 11 glazing material but will not be able to complete the remaining 600 locomotives within the expiration date of June 30, 1983. A great number of man-hours are required for modifying or equipping each locomotive with type 1 and type 11 glazing material. It is necessary to remove all existing glazing material, rubber molding, sliding window frames and slide tracks. Cab window frame channels must be cleaned and repaired and new rubber molding applied before certified glazing can be applied. Therefore, the ATSF is petitioning for an extension of time to complete the remaining locomotives.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company

(FRA Waiver Petition Docket Number RSGM–83–5)

The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) seeks a temporary waiver for 40 of its fleet of 180 cabooses. The temporary waiver sought by the MILW was for the completion of its caboose retrofit program to be extended to June 30, 1984. This extension is requested because of heavy restraints on expenditures due to the economy, and secondly because the negotiatons for removal of cabooses on their property are still unresovled.

Birmingham Southern Railroad Company

(FRA Waiver Petition Docket No. RSGM–83–8)

The Birmingham Southern Railroad Company (BS) seeks a permanent waiver of compliance with Part 223 for approximately 18 of their present fleet of 22 locomotives.

The BS states that they have not had a major problem with vandalism and no reported incidents of injury to employees that the installation of the glazing materials would eliminate. Also, the cost of retrofitting including inventoring of material would be a heavy burden for a small railroad to bear.

Lake Superior and Isbpeming Railroad Company

(FRA Waiver Petition Docket No. RSGM–83–11)

The Lake Superior and Ishpeming Railroad Company (LS&I) seeks a waiver of compliance with Part 223 for 22 of their fleet of 23 locomotives.

The LS&I states that due to a decline in business that they are operating at 50% of capacity, that they operate through very sparsely populated areas and have not encountered the "stoning" problems associated with densely populated areas.

They have one locomotive equipped with certified glazing at this time with the intent of completing the remainder when they become due for overhaul or when glass replacement is required for other reasons.

Staten Island Rapid Transit Operating Authority

(FRA Waiver Petition Docket No. RSGM–83–16)

The Staten Island Rapid Transit Operating Authority (SIRT) seeks a permanent waiver of compliance with § 223.15(c) requiring the installation of four emergency windows for 52 rapid transit cars acquired from the St. Louis Car Company as part of the total RT5C (R44) order of the New York City Transit Authority.

The SIRT said that during nine years of operating the R44 class equipment that there are no recorded incidents which would have benefited from the use of emergency exits on their equipment. The SIRT believes the eight pair of double panel doors uniformly spaced on each side of the car are more than adequate in supplying the necessary emergency evacuation exits under the supervision and control of the on-board train personnel. The SIRT believes the requirement of four emergency exits per car to be operable by the general public at all times could lead to catastrophic results due to attitude, and familiarity with its operation by the public.

Sourtheastern Michigan Transportation Authority

(FRA Waiver Petition Docket No. RSGM–83–18)

The Southeastern Michigan Transportation Authority (SEMTA) seeks a temporary waiver of compliance with Part 223 for 23 passenger cars.

The SEMTA states that due to delays from the manufacturers, of their new polycarbonate glazing, they need more time to retrofit their cars with certified glazing. According to SEMTA there has been only one incident of projectile penetration of a window on their commuter trains in the last five years. This incident resulted in no injuries or claims.

This notice is issued under the authority of Sectioin 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 43) and § 1.49(m) of the regulations of the Office of the Secretary of Transportation 49 CFR 1.49(m).

Issued in Washington, D.C. on May 18, 1983.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 83–13837 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket Nos. LI–80–29, LI–83–1, LI–83–4, LI–83–6, LI–83–7]

Waivers of Compliance, Temporary or Permanent; Chessie System et al.

Notice is hereby given that five petitioners have submitted requests for temporary or permanent waivers of compliance with the Locomotive Safety Standards (49 CFR Part 229).

The individual petitions for waiver of compliance with these standards are described below. The description of each petition indicates the nature and extent of the relief requested as well as the information that has been submitted in support of that petition.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g. FRA Waiver Petition Docket Number LI–83–1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before July 15, 1983 will be considered before final action is taken. All comments will be available both before and after the closing date for comments, during regular business hours (9:00 a.m. to 5:00 p.m.) in room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Chessie System

(FRA Waiver Petition Docket No. LI–80–29)

The Chessie System (C&O) seeks a permanent waiver of compliance for 19 of its SD–18 class locomotives with the requirement in § 229.55(c) of the Locomotive Safety Standards (49 CFR 229.55(c)) that the minimum brake cylinder pressure shall be 30 pounds per square inch. These locomotives are used primarily in yard and hump service, but occasionally are use in road freight service. They are equipped with six wheel trucks, clasp brakes, composition brake shoes, and a differential type J–1.6–16 relay valve which provides 27 PSI brake cylinder pressure.

Bay Colony Railroad Corporation

(FRA Waiver Petition Docket No. LI–83–1)

The Bay Colony Railroad Corporation (BCLR) seeks a permanent waiver of compliance with the requirement in § 229.117 of the Locomotive Safety Standards that its five locomotives be equipped with speed indicators. The BCLR has upgraded their track which permits a maximum freight train speed of 25 mph.

None of their existing locomotives, on hand or on order, are equipped with speed indicators. The cost to equip 20-year old locomotives with speed indicators which would only increase the maximum allowable speed by 5 mph is not economically justified. The track speed will not be increased further in the foreseeable future. The BCLR operates over approximately 124.4 miles of former Conrail track of which nearly half is now Class II track. The operation is divided into five groups wholly within the Commonwealth of Massachusetts.

Central Wisconsin Railroad Company

(FRA Waiver Petition Docket No. LI–83–4)

The Central Wisconsin Railroad Company (CWR) seeks a permanent waiver of compliance with the requirement in § 229.117 of the Locomotive Safety Standards that its locomotives be equipped with speed indicators. The CWR has a maximum authorized speed of 25 mph. They operate with eight locomotives equipped with friction bearings and there is no speed indicator available for installation on these locomotives.

Wisconsin Western Railroad Corporation

(FRA Waiver Petition Docket No. LI–83–6)

The Wisconsin Western Railroad Corporation (WWRC seeks a permanent waiver of compliance with the requirement in § 229.117 of the Locomotive Safety Standards that its locomotives be equipped with speed indicators. The WWRC has a maximum authorized speed of 25 mph. They operate with two locomotives equipped with friction bearings and there is no speed indicator available for installation on these locomotives.

Elkhorn and Walworth Railroad Company

(FRA Waiver Petition Docket No. LI–83–7)

The Elkhorn and Walworth Railroad Company (EWRC) seeks a permanent waiver of compliance with the requirements in § 229.117 of the Locomotive Safety Standards that its locomotives be equipped with speed indicators. The EWRC has a maximum authorized speed of 25 mph. They operate with six locomotives equipped with friction bearings and there is no speed indicators available for installation on these locomotives.

This notice is issued under the authority of Sections 1, 2, 5, 9, 36 Stat. 913, 914, 45 U.S.C. 22, 23, 28, 34; Section 6 (e) and (f), 80 Stat. 939, 940, 49 U.S.C. 1655 (e) and (f); § 1.49(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C. May 18, 1983.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 83–13836 Filed 5–25–83; 8:45 am]

BILLING CODE 4910–06–M

[Waiver Petition Docket Nos. RSGM–83–1,–3, –4, –6, –7, –9, –10, –12 through –15, –17, –19 through –25]

Petitions for Waiver of Safety Glazing Standards; Corinth and Counce Railroad Co. et al.

Notice is hereby given that nineteen railroads have submitted requests for permanent or temporary waivers of compliance with Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires that all newly built and most existing railroad equipment have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars, and cabooses to be equipped with certified glazing in all windows after June 30, 1983.

The individual railroads seeking a waiver of compliance with this regulation are listed below. In this listing FRA has identified the railroad, the specific docket designation and the number of locomotives, passenger cars or cabooses that are involved in each request. Each of the petitions are similar in most respects. Each railroad operates twelve or less locomotives and has experienced no vandal related damage to the windows of its equipment. Most of these railroads operate in rural surroundings and the others provide service in very compact industrial areas. The petitioners generally indicate that the cost of retrofitting would be very costly in terms of their limited operating budget.

The railroads seeking the waivers are as follows:

1. The Corinth and Counce Railroad company (Docket No. RSGM–83–1) which operates three locomotives and one caboose.

2. Central California Traction Company (Docket No. RSGM–83–3) which operates four locomotives and three cabooses.

3. Roscoe, Synder and Pacific Railway (Docket No. RSGM–83–6) which operates two locomotives and one caboose.

4. Tradewater Railway Company (Docket No. RSGM–83–6) which operates three locomotives.

5. Dakota Rail (Docket No. RSGM–83–7) which operates two locomotives and one caboose.

6. Bay Colony Railroad Corporation (Docket No. RSGM–83–9) which operates five locomotives.

7. Little Rock and Western Railway Corporation (Docket No. RSGM–83–10) which operates two locomotives.

8. Central Wisconsin Railroad Company (Docket No. RSGM–83–12) which operates eight locomotives.

9. Berlin Mills Railway, Inc. (Docket No. RSGM–83–13) which operates one locomotive.

10. Natchez Trace Railroad (Docket No. RSGM–83–14) which operates three locomotives.

11. The Pittsburg and Lake Erie Railroad Company (Docket No. RSGM–83–15) which operates four passenger coaches.

12. Omaha, Lincoln and Beatrice Railway Company (Docket No. RSGM–83–17) which operates two locomotives.

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13. Andalusia and Conecuh Railroad Company, Inc. (Docket No. RSGM–83–19) which operates one locomotive.

14. East Tennessee and Western North Carolina Railroad Company (Docket No. RSGM–83–20 which operates two locomotives.

15. Ann Arbor Railroad System (Michigan Interstate Railway Company) (Docket No. RSGM–83–21) which operates three locomotives and one caboose.

16. Prairie Central Railway Company (Docket No. RSGM–83–22) which operates seven locomotives.

17. Kyle Railroad Company (Docket No. RSGM–83–23) which operates twelve locomotives.

18. Wisconsin Western Railroad Corporation (Docket No. 83–24) which operates two locomotives.

19. Elkhorn and Walworth Railroad Company (Docket No. RSGM–83–25) which operates six locomotives.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA waiver petition Docket No. RSGM–83–1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before July 15, 1983 will be considered by the Federal Railroad Administration before action is taken. All comments will be available for examination both before and after the closing date for comments, during regular business hours (9 a.m.–5 p.m.) in room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of Section 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 431) and § 1.49(m) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(m).

Issued in Washington D.C. on May 18, 1983.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 83-13835 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. I), notice is hereby given of meetings of the National Highway Safety Advisory Committee to be held June 15–17, 1983.

The agenda will consist of subcommittee meetings on the 15th, 16th, and the 17th, and a full committee meeting in the afternoon of the 16th. On June 15th the Accident Investigation & Records Subcommittee will meet in room 6200 from 1:00 p.m.–2:00 p.m. The Executive Subcommittee will meet from 2:00 p.m.–5:00 p.m. in room 6202. On June 16th the Highway Environment/55 MPH Subcommittee will meet from 8:30 a.m.–12 Noon in room 6202 and the full Committee will meet from 1:00 p.m.–5:00 p.m. in room 2230. On June 17th the Alcohol Subcommittee will meet from 8:30 a.m.–12 Noon in room 6200.

All meetings will be held in the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C. Attendance is open to the interested public, but may be limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–2870.

Issued in Washington, D.C. on: May 23, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-14072 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations [49 CFR Part 107, Subpart B], notice is hereby given of the exemptions granted in April 1983. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3126–P	DOT–E 3126	Valcor Engineering Corp. Springfield, NJ	49 CFR 173.304, 175.3	To become a party to exemption 3126. (Modes 1, 2, 3 and 4.)
3549–P	DOT–E 3549	Thiokol Corp. Huntsville, Al	49 CFR 173.65(a), 173.77	To become a party to exemption 3549 (Modes 1 and 2.)
3630–X	DOT–E 3630	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 177.839(a) 177.839(b)	To authorize use of a DOT specification 33A polystyrene case to contain four 5-pint glass bottles of nitric acid. (Mode 1.)
3630–X	DOT–E 3630	Allied Chemical, Morristown, NJ	49 CFR 177.839(a), 177.839(b)	To authorize use of a DOT specification 33A polystyrene case to contain four 5-pint glass bottles of nitric acid (Mode 1.)
4453–X	DOT–E 4453	Kentucky Powder Co. Lexington, KY	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4803–X	DOT–E 4803	Dowell Inc., Tulsa, OK	49 CFR 173.245, 173.248, 173.249, 173.263, 173.272, 173.289, 178.343–5.	To authorize use of non-DOT specification cargo tank motor vehicles, for shipment of certain corroeve liquids. (Mode 1.)
5206–X	DOT–E 5206	Gulf Oil Chemicals Co. Houston, TX	49 CFR 173.114a	To authorize privately operated bulk hopper-type units, for transportation of blasting agents. (Mode 1.)
5206–X	DOT–E 5206	Austin Powder Co., Cleveland, OH	49 CFR 173.114a	To authorize privately operated bulk hopper-type units, for trasportation of blasting agents. (Mode 1.)
5206–X	DOT–E 5206	Nelson Brothers, Inc., Parnell, AL	49 CFR 173.114a	To authorize privately operated bulk hopper-type units, for transportation of blasting agents. (Mode 1.)
5248–X	DOT–E 5248	The Boeing Co., Seattle, WA	49 CFR 173.389(g), 175.3	To authorize shipment of a certain quantity of polonium-210 in any DOT specification approved outer Type A packaging. (Modes 1, 2, 4 and 5.)
5662–X	DOT–E 5662	Dow Chemical Co., Midland, MI	49 CFR 173.353(e), 173.353a	To authorize use of a DOT specification 51 portable tank, for shipment of class B poisonous liquids. (Modes 1, 2 and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6267–X	DOT–E 6267	Coastal Industries, Inc., Carlstadt, NJ	49 CFR 173.217(a)	To authorize use of DOT and non-DOT specification fiberboard boxes, for shipment of certain oxidizing materials. (Modes 1, 2 and 3.)
6530–P	DOT–E 6530	Savage Welding Supplies, Inc., Phoenix, AZ.	49 CFR 173.302	To become a party to exemption 6530. (Modes 1 and 2.)
6557–X	DOT–E 6557	General Fire Extinguisher Corp., Northbrook, IL.	49 CFR 175.3, 178.36–4(c), 178.37–4(c), 178.50–4(c).	To authorize deviation from the requirements of the inspector's report for DOT specification 3A, 3AA, and 4B cylinders, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4 and 5.)
6762–P	DOT–E 6762	Economy Service & Sales Co., Philadelphia, PA.	49 CFR 173.286(b)(2), 175.3	To become a party to exemption 6762. (Modes 1, 2, 3 and 4.)
6762–P	DOT–E 6762	Combustioneer Water, Rockville, MD	49 CFR 173.286(b)(2), 175.3	To become a party to exemption 6762. (Modes 1, 2, 3 and 4.)
7015	DOT–E 7015	Helium Sales, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to exemption 7015. (Modes 1, 2 and 3.)
7025	DOT–E 7025	Helium Sales, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to exemption 7025. (Mode 1.)
7052–X	DOT–E 7052	Bren-Tronics, Inc., Commack, NY	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3 and 4.)
7060–P	DOT–E 7060	Coast Air Freight Inc., Long Beach, CA	49 CFR 175.702(b), 175.75(a)(3)(ii).	To become a part to exemption 7060. (Mode 4.)
7060	DOT–E 7060	Sports Air Travel, Inc., Troutdale, OR	49 CFR 175.702(b), 175.75(a)(3)(ii).	To become a party to exemption 7060. (Mode 4.)
7076–P	DOT–E 7076	Oxford Chemicals, Inc., Atlanta, GA	49 CFR 173.266(b)	To become a party to Exemption 7076. (Modes 1, 2 and 3.)
7446–X	DOT–E 7446	Kaiser Aluminum & Chemical Corp., Ene, PA.	49 CFR 173.302(a)(1), 178.36	To authorize shipment of dry powder-fire extinguishant charge with compressed air or nitrogen in non-DOT specification seamless aluminum cylinders. (Modes 1, 2 and 3.)
7451–X	DOT–E 7451	Union Carbide Corp., Danbury, CT	49 CFR 173.304, 173.315	To authorize use of non-DOT specification pressure vessel, for shipment of a nonflammable gas. (Modes 1 and 3.)
7466–X	DOT–E 7466	Firmenich Inc., Princeton, NJ	49 CFR 173.119(a)(7), 175.3	To authorize shipment of certain flammable liquid mixtures, in a spun 99-percent pure aluminum can, overpacked in a corrugated fiberboard box. (Modes 1, 2, 3 and 4.)
7489–X	DOT–E 7489	Moor Co., Inc., Milwaukee, WI	49 CFR 172.312, 173.249	To authorize shipment of a corrosive liquid in specified non-DOT specification metal container having a capacity of 1 quart or less, in a DOT Specification 37A metal drum. (Modes 1, 2 and 3.)
7526–P	DOT–E 7526	Dow Chemical Co., Freeport, TX	49 CFR 173.134	To become a party to exemption 7526. (Modes 1 and 3.)
7721–X	DOT–E 7721	Applied Environments Corps., Woodland Hills, CA.	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking, and sale of non-DOT specification steel cylinders, for transportation of certain nonflammable, nonliquefied compressed gases. (Modes 1, 2 and 4.)
7725–X	DOT–E 7725	Economics Laboratory, Inc., St. Paul, MN	49 CFR 172.201(a)(3)	To authorize shipping description on shipping papers to contain coded information. (Modes 1, 2 and 3.)
7887–P	DOT–E 7887	Vulcan Systems Inc., Rantoul, IL.	49 CFR 172.101, 173.111, 175.3, Part 107 Appendix B.	To become a party to exemption 7887. (Modes 1, 2, 3, 4 and 5.)
7985–X	DOT–E 7985	Process Engineering, Inc., Plaistow, NH	49 CFR 173.315(a)	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of non-flammable gases. (Modes 1 and 3.)
8080–X	DOT–E 8080	Allied Chemical, Morristown, NJ	49 CFR 173.164	To authorize transport of dry chromic acid in a DOT specification 105A300W tank car which has been converted to DOT specification 111a100W1; or a DOT specification 103AW tank car converted to DOT specification 103W. (Mode 2.)
8129–X	DOT–E 8129	Allied Chemical, Morristown, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of various waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT specification 37A, 17H, or 6J drums. (Mode 1.)
8129–P	DOT–E 8129	Safety Specialists, Inc., San Jose, CA	49 CFR 177.834(k) Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to exemption 8129. (Mode 1.)
8129–X	DOT–E 8129	FMC Corp., Princeton, NJ	49 CFR 177.834(K), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of various waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT specification 37A, 17H, or 6J drums. (Mode 1.)
8129–P	DOT–E 8129	Stanford University, Standford, CA	49 CFR 177.834(k) Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to exemption 8129. (Mode 1.)
8152–X	DOT–E 8152	Allied Corp., Morristown, NJ	49 CFR 177.824(b) 178.343–2	To authorize shipment of hydrofluoric acid, solution in an unlined DOT specification MC–312 cargo tank. (Mode 1.)
8196–P	DOT–E 8196	Allied Chemical Co., Marristown, NJ	49 CFR 173.119, 173.315(a)	To become a party to exemption 8196. (Modes 1, 2, and 3.)
8214–P	DOT–E 8214	Mercedes-Benz of North America, Inc., Montvale, NJ.	49 CFR 173.153, 173.154, 175.3	To become a party to exemption 8214. (Modes 1, 2, 3 and 4.)
8225–X	DOT–E 8225	Hoover Universasl, Inc., Beatrice, NE	49 CFR 173.119, 173.256, 173.266, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded polyethylene portable tanks, for transportation of corroeive liquids, flammable liquids or an oxidizer. (Modes 1, 2 and 3.)
8225–X	DOT–E 8225	Hoover Universal, Inc. Beatrice, NE	49 CFR 173.119, 173.256, 173.266, Part 173, Subpart F.	To authorize cleaning compounds containing hydrofluoric acid not over 52 percent strength as an additional commodity. (Modes 1, 2 and 3.)
8269–X	DOT–E 8269	Olin Corp., East Alton, IL	49 CFR 173.93	To authorize shipment of certain identified solid propellant explosive, class B, in non-DOT specification cylindrical metal cans overpacked in fiberboard boxes. (Modes 1 and 3.)
8535–X	DOT–E 8535	Advance Aviation Services, Inc., Mesa, AZ.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of class A, B, & C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8563–X	DOT–E 8563	Ashland Oil, Inc., Columbus, OH	49 CFR 173.266(e), 177.848(a)	To authorize shipment of an oxidizer and a corroeive material in compartmented DOT specification MC–307 or MC–312 cargo tanks, with double bulkheads and completely seperate loading and unloading systems. (Mode 1.)
8577–X	DOT–E 8577	Micor Co., Inc., Milwaukee, WI	49 CFR 172.312, 173.249	To authorize shipment of certain alkaline corrosive liquids n.o.s., in a two quart polyethylene bottle, placed in a molded polyethylene liner, overpacked in a DOT specification 37C steel drum of 3.5–gallon capacity, also containing a non-regulated resin. (Modes 1, 2 and 3.)
8585–X	DOT–E 8585	Bergen Barrel and Drum Co., Demarest, NJ.	49 CFR 173.247, 173.266, 178.19, Part 173 Subpart D, Subpart F, H.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded, polyethylene container, for shipment of certain corroeive, flammable, class B poisonous liquids, and oxidizer. (Modes 1, 2 and 3.)
8723–P	DOT–E 8723	PACCO, Inc., Tenino, WA	49 CFR 173.114a(h)(3)	To become a party to exemption 8723. (Mode 1.)
8877–P	DOT–E 8877	Allied Chemical, Morristown, NJ	49 CFR 173.119(m)(3), 173.245, 175.3	To become a party to exemption 8877. (Modes 1, 2 and 3.)

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RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8911-X	DOT-E 8911	Olin Corp., East Alton, IL	49 CFR 173.101	To authorize shipment of scrap, guillotined small arms ammunition loosely packed in non-DOT specification, nonreusable, closed-top wooden crates or fiberboard boxes, in truck load lots to an incinerator for disposal. (Mode 1.)
8921-X	DOT-E 8921	Hoover Universal, Inc., Bestrice, NE	49 CFR Part 173, Subpart F	To authorize manufacture, marking and sale of nonreusable non-DOT specification steel jacketed polyethylene portable tanks, for transportation of corrosive liquids. (Modes 1, 2 and 3.)
8969-X	DOT-E 8969	McDonnell Douglas Corp., St. Louis, MO	49 CFR 173.79(b), 173.92(b)	To authorize shipment of certain rocket motors with igniter installed (Modes 1 and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6309-N	DOT-E 8995	Olin Corp., Stamford, CT	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
8802-N	DOT-E 8802	Eve Eisenbahn-Verkehrsmittel-Gesellschaft mbH, Dusseldorf, West Germany	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (Modes 1, 2 and 3.)
8814-N	DOT-E 8814	Structural Composites Industries, Inc., Pomona, CA	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3 and 4.)
8815-N	DOT-E 8815	Atlas Powder Co., Dallas, TX	49 CFR 173.114a(b)	To authorize transport of certain blasting agents in a cement mixer motor vehicle. (Mode 1.)
8904-N	DOT-E 8904	Keith Huber, Inc., Guilport, MS	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations and certain other features, for transportation of flammable, corrosive or poisonous waste liquids or semi-solids. (Mode 1.)
8912-N	DOT-E 8912	Schonung, West Germany	49 CFR 171.12(c), 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 gauge, 55-gallon capacity, DOT-17E steel drums. (Modes 1, 2 and 3.)
8945-N	DOT-E 8945	Clark Engineering of Brownwood, Inc., Brownwood, TX	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT specification MC-307/312 except for bottom outlet valve variation, for shipment of liquid and semi-solid waste material. (Mode 1.)
8946-N	DOT-E 8946	U.S. Department of Defense, Washington, DC	49 CFR 173.127	To authorize shipment of nitrocellulose wet with not less than 30% by weight of heptane, in DOT specification containers. (Mode 1.)
8949-N	DOT-E 8949	Aerotransit, Inc., Danvers, MA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8955-N	DOT-E 8955	Dresser Industries, Inc., Houston, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c)	To authorize transport of charged oil well guns with detonators attached. (Modes 1 and 3.)
8956-N	DOT-E 8956	Clif Mock Co., Conroe, TX	49 CFR 173.119, 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3, 176.3	To authorize manufacture, marking and sale of non-DOT specification stainless steel cylinders, for transportation of nonflammable flammable gases or flammable liquids. (Modes 1, 3 and 4.)
8960-N	DOT-E 8960	Sunshine Aero Industries, Inc., Crestview, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for shipment by air. (Mode 4.)
8962-N	DOT-E 8962	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT specification girth welded stainless steel cylinders, for transportation of a compressed gas. (Modes 1, 2 and 4.)
8964-N	DOT-E 8964	Larson Tool and Stamping Co., Attleboro, MA	49 CFR 173.302, 173.304, 175.3, 178.50-19	To authorize manufacture, marking and sale of DOT specification 4B cylinders that are stamped with prescribed markings in the foot ring of the cylinder containing non-corrosive fire suppressant agents only. (Modes 1, 2, 3, 4 and 5.)
8970-N	DOT-E 8970	Williams Strategic Metals, Inc., Wheat Ridge, CO	49 CFR 173.968	To authorize shipment of arsenical dust, in a non-DOT specification cylindrical steel container. (Mode 2.)
8975-N	DOT-E 8975	Baker Brothers Welding, Inc., Norman, Ok	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of 6-60 gallon non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
8981-N	DOT-E 8981	Rusk Aviation, Inc., Kankakee, IL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8982-N	DOT-E 8982	Olin Corp., Stamford, CT	49 CFR 173.217	To authorize shipment of calcium hypochlorite, hydrated, classed as an oxidizer in DOT specification 56 steel portable tanks. (Modes 1 and 2.)
8983-N	DOT-E 8983	Universal Propulsion Co., Inc., Phoenix, AZ	49 CFR 173.236	To authorize transport of aircraft rocket engines, commercial, which do not comply with the requirements of 49 CFR 173.238, note 1, as engines contain a small amount of class B explosives. (Mode 1.)
8990-N	DOT-E 8990	Pressure Pak, Inc., East Hampton, CT	49 CFR 173.302(a)(1), 175.3, 178.65-2, 178.65-5(a)(4).	To authorize manufacture, marking and sale of non-DOT specification nonrefillable steel inside cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4 and 5.)
8991-N	DOT-E 8991	LeaRonal, Inc., Freeport, NY	49 CFR 172.35(a), 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.126, 173.138, 173.237, 173.246, 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2 and 4.)
8998-N	DOT-E 8998	Oil-Air Industries, Inc., Brookshire, TX	49 CFR 173.302(a)(1), 175.3	To authorize shipment of nitrogen in hydraulic accumulators. (Modes 1, 2, 3 and 4.)
9004-N	DOT-E 9004	Metric Corp., Tulsa, OK	49 CFR 173.119, 173.304, 173.315	To authorize manufacture, marking and sale of non-DOT specification containers, for transportation of flammable liquids and flammable gases. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9006-N	DOT-E 9009	Stauffer Chemical Co., Westport, CT	49 CFR 173.356	To authorize shipment of thiophosgene in DOT specification 5C steel drums. (Modes 1, 2 and 3.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7071-P	DOT-E 7071	Clayton Chemical, Los Angeles, CA	49 CFR 172.101, 173.245, 175.3	To become a party to exemption 7071. (Modes 1, 2 and 3.)
EE 7862-X	DOT-E 7862	General Electric Co., Milwaukee, WI	49 CFR 173.302, 175.3	To authorize use of non-DOT specification steel, single trip, inside container, for transportation of a nonflammable gas. (Modes 1, 4 and 5.)

Denials

9007-N Request by U.S. Environmental Protection Agency, Washington, DC to authorize transport of non-DOT specification stainless steel cylinders filled with air which may or may not be radioactive denied April 8, 1983.

Issued in Washington, DC, on May 18, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation Materials, Transportation Bureau.

[FR Doc. 83-14041 Filed 5-25-83; 8:45 am]

BILLING CODE 4910-60-M

[Docket Nos. IRA-20 through IRA-27]

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Public Notice and Invitation To Comment

Correction

In FR Doc. 83-12756 beginning on page 21496 in the issue of Thursday, May 12, 1983, make the following corrections:

1. On page 21497, middle column, between the end of third complete paragraph and the caption **Docket No. IRA-20 (New York State)**, the following text should be inserted:

"As a result of the actions described above, NAC has been forced to halt shipments of spent fuel from Canada. Therefore, in October of 1982, NAC filed separate applications for inconsistency rulings seeking preemption of: (1) the regulations of the Michigan Fire Safety Board and Department of Public Health affecting radioactive materials transportation; (2) the radioactive materials transportation ban on the New York State Thruway; (3) the suspension order issued by letter of the Governor of Vermont; and, (4) the suspension order issued by letter of the representative of the Governor of New York.

"NAC did not seek inconsistency rulings with regard to the applicable regulations of the Ogdensburg Bridge and Port Authority, St. Lawrence County, the Thousand Islands Bridge Authority, or Jefferson County. Nevertheless, since these regulations appear to have contributed to the narrowing of NAC's route selection options, the Department has elected, in accordance with 49 CFR 107.209(b), to consider the issue of inconsistency with regard to these regulations, notwithstanding that application for a ruling has not been filed under 49 CFR 107.203.

"In order to facilitate consideration of the many issues raised, eight separate dockets have been established. Each is described below."

2. In the third column of the same page, first complete paragraph, sixteenth line, "177.825(b)" should have read "177.825(b)(2)".

3. Same column, six lines from the bottom of the page, "177.285(b)(1)" should have read "177.825(b)(1)".

4. On page 21498, first column, eleven lines from the top of the page, "177.285(b)" should have read "177.825(b)".

5. Same column, third complete paragraph, sixth line, "43 FR 16925" should have read "43 FR 16954".

6. On page 21501, middle column, the caption **Docket No. IRA-236 (Thousand Islands Bridges)"** should have read **"Docket No. IRA-26 (Thousand Islands Bridges)".**

7. On page 21506, third column, twenty lines from the bottom of the page, "a transcript" should have read "a transit".

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

Order of Succession

Pursuant to the authority vested in me by Section 5 of Reorganization Plan No. 2 of 1977, I hereby authorize and direct the following named official of the United States Information Agency to act for and perform the functions of the Director of the Agency in case of death, resignation, sickness or absence of both the Director and the Deputy Director:

Kenneth Y. Tomlinson, Associate Director for Broadcasting.

This Order shall remain in effect unless and until modified or rescinded in writing by the Director or until the above-named Associate Director has left office.

Dated: May 19, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-14089 Filed 5-25-83; 8:45 am]

BILLING CODE 8230-01-M

VOL
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Sunshine Act Meetings

Federal Register
Vol. 48, No. 103
Thursday, May 26, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1
Federal Maritime Commission	2
Federal Mine Safety and Health Review Commission	3
Foreign Claims Settlement Commission	4

1

CONSUMER PRODUCT SAFETY COMMISSION

Announcing a Change to a Previously Announced Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 22875, Thursday, May 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, May 24, 1983.

CHANGES IN THE MEETING: The Commission meeting scheduled for May 24, 1983 has been postponed until June 1, 1983.

[S–745–83 Filed 5–24–83; 2:45 pm]

BILLING CODE 6355–01–M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 1, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Docket No. 83–17: Petition of Pacific Westbound Conference and OOCL-Seapac Service for Declaratory Order—Consideration of the record.

Portion closed to the public:

1. Chumet Shipping Co., Inc.—Compliance with requirements of Commission Order in Docket No. 80–61.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–744–83 Filed 5–24–83; 2:32 pm]

BILLING CODE 6730–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 23, 1983.

TIME AND DATE: 10 a.m., Wednesday, May 25, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will also consider and act upon the following:

2. Black Diamond Coal Mining Co., Docket No. SE 82–48: Petition for Discretionary Review (Issues include whether the judge properly concluded that the operator could not challenge in a penalty proceeding the special Findings in a section 104(d)(1) withdrawal order, where the operator had not filed a notice of contest of the order, and whether the judge properly concluded that the operator violated 30 CFR 75.400, dealing with the cleaning of coal dust and float coal dust.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the item was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–746–83 Filed 5–24–83; 3:08 pm]

BILLING CODE 6735–01–M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION
[FCSC Meeting Notice No. 6–83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Tuesday, June 7, 1983 at 10:30 a.m.
Consideration of decisions involving claims against the Government of the Czechoslovak Socialist Republic and decisions involving claims for Vietnam prisoner of war compensation.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Stree NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. on May 23, 1983.

Judith H. Lock,
Administrative Officer.

[S–743–83 Filed 5–24–83; 10:39 am]

BILLING CODE 4410–01–M

federal register

Thursday
May 26, 1983

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

VOL 48 ISS 103 MAY 26 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 897]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 19, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 19, 1983

VOLUME 897

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-DUGAN PRODUCTION CORP				RECEIVED:	04/27/83	JA: NM			
8334411		3004523354		107-TF		SLY SLAV #1	BASIN DAKOTA	58.0	NORTHWEST PIPELIN
-HONDO OIL & GAS COMPANY				RECEIVED:	04/27/83	JA: NM			
8334410		3001523996		102-4		STATE BW WELL #1	UNDESIG NORTH TURKEY	446.0	CABOT PIPELINE CO
8334412		3001524228		102-4		TURKEY TOWN STATE #1	NORTH TURKEY TRACK (M	600.0	UNITED GAS PIPELI
-READ & STEVENS INC				RECEIVED:	04/27/83	JA: NM			
8334413		3001524365		103		AMOCO SUPRON MESA #2	UND BUNKER HILL PENRO	1.0	PHILLIPS PETROLEU
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ACTION PETROLEUM INC				RECEIVED:	04/27/83	JA: OH			
8334419		3415322288		103	107-TF	CLEGG #1	NEWTON	75.0	
8334415		3415322308		103	107-TF	GRABER #1	FREEDOM	50.0	
-ALTEX INC				RECEIVED:	04/27/83	JA: OH			
8334416		3608924391		103		HAZEL J MERRILL #1	MADISON TOWNSHIP	5.0	NATIONAL GAS & OI
-AMERICAN WELL MANAGEMENT COMPANY				RECEIVED:	04/27/83	JA: OH			
8334417		3412724907		107-TF		SENTRY ROYALTY #1	PIKE	18.0	COLUMBIA GAS TRAN
-BARVAL				RECEIVED:	04/27/83	JA: OH			
8334418		3610322371		103	107-TF	BURIAN #1	SHARON	80.0	JONES & LAUGHLIN
-BELDEN & BLAKE & CO #1				RECEIVED:	04/27/83	JA: OH			
8334420		3401921610		103	107-TF	BOY SCOUTS OF AMERICA #1 - 34-1273	EAST	36.5	
-BELDEN & BLAKE OIL PRODUCTION				RECEIVED:	04/27/83	JA: OH			
8334423		3415121954		108		G & J COLTAN COMM #1 - 0526		3.0	
8334424		3415122226		108		G RENNIE COMM NO 1 - 0596		3.0	
8334426		3415123290		108		M & C ROYER #6 - 0980		3.0	
8334425		3415123096		108		MAGNOLIA MINING #11 - 0923		3.0	
8334421		3415121063		108		P GEORGE #1 - 1043		3.0	
8334422		3601921490		108		W & M BURNS #1 - 1151	EAST	3.0	
8334419		3401998010		108		WHITACRE GREER #28 - 00725	EAST	3.0	
-BENTRE CO				RECEIVED:	04/27/83	JA: OH			
8334538		3416707437		103		FRANCIS NUCK #1	RAINBOW	10.5	RIVER GAS CO
-BIG INJUN OIL & GAS CO INC				RECEIVED:	04/27/83	JA: OH			
8334427B		3416726829	D	107-TF		MIENER #1	PALMER	0.0	RIVER GAS CO
8334427A		3416726829		103		MIENER #1	PALMER	0.0	RIVER GAS CO
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	04/27/83	JA: OH			
8334428		3611926450		103	107-TF	OHIO POWER 18-A	RICH HILL	41.0	TEXAS EASTERN TRA
-CLARENCE SHERMAN				RECEIVED:	04/27/83	JA: OH			
8334429B		3407521719	D	107-RT		JOE J RABER #1	CLARK	5.5	COLUMBIA GAS TRAN
8334429A		3407521719		103		JOE J RABER #1	CLARK	5.5	COLUMBIA GAS TRAN
-COASTAL PETROLEUM CORP				RECEIVED:	04/27/83	JA: OH			
8334430		3415321032		107-TF		HOMER DAYS #1	COPLEY	9.0	EAST OHIO GAS CO
8334431		3415321034		107-TF		HOMER DAYS #2	COPLEY	9.0	EAST OHIO GAS CO
-DELRAY DRILLING INC				RECEIVED:	04/27/83	JA: OH			
8334432		3412725741		103	107-TF	PAXSON #21	PIKE	0.0	COLUMBIA GAS TRAN
-DIMERO OPERATING CO				RECEIVED:	04/27/83	JA: OH			
8334438		3411122568	D	107-TF		CHRISTMAN #1	FRANKLIN 6 RANGE 7	17.5	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334433		3411122106	D	107-TF		HARPER NO 1 WELL	MALAGA S RANGE 5	39.4	
8334434A		3411125170		103		HINES #1	FRANKLIN	19.9	
8334434B		3411125170	D	107-TF		HINES #1	FRANKLIN	19.9	
8334437		3411122525	D	107-TF		HOLMES #1	CENTER	9.2	
8334435		3411122518	D	107-TF		JACKSON #1 WELL	SUTNEY	13.2	
8334436		3411122519	D	107-TF		WEST #1	WAYNE 5 RANGE 6	26.3	
-DOME ENERGY #2				RECEIVED:	04/27/83	JA: OH			
8334439		3403521157		107-TF		JUSTOVICH #1 (SCHOOL BD)	OLMSTED	3.0	COLUMBIA GAS OF O
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED:	04/27/83	JA: OH			
8334444		3411522953		103	107-TF	COOLEY SILVUS ESTATE #1	CENTER	20.0	
8334441		3411522976		103	107-TF	GERALD DEPUY UNIT #1	CENTER	25.0	
8334445		3411523120		103	107-TF	JOHN WAGNER #2	CENTER	25.0	
8334443		3411523060		103	107-TF	KENNETH REYNOLDS #1	CENTER	25.0	
8334444		3411523117		103	107-TF	KENNETH REYNOLDS #2	CENTER	25.0	
8334442		3411522977		103	107-TF	THORNTON UNIT #1	CENTER	25.0	
-EAGLE MOUNTAIN 1981-A LTD				RECEIVED:	04/27/83	JA: OH			
8334448		3416726975		108		BAKER-LAMB #1		3.5	COLUMBIA GAS TRAN
8334446		3416726973		108		EDDY #2		3.5	COLUMBIA GAS TRAN
8334447		3416726974		108		LAMB #1		3.5	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	04/27/83	JA: OH			
8334449		3400722145		103	107-TF	HRONEK WELL #2	ROME	19.0	
-FRANK A CSAPO JR				RECEIVED:	04/27/83	JA: OH			
8334456		3416923506		103	107-TF	GLADYS LANCE #2	MILTON	12.0	COLUMBIA GAS TRAN
-FRANK W HOOVER PROD				RECEIVED:	04/27/83	JA: OH			
8334458		3403101316		107-TF		JOE & ANNA SCHINDLER #2	CLARK	5.0	COLUMBIA GAS TRAN
8334452		3403103957		107-TF		JOE AND ANNA SCHINDLER #3	CLARK	5.0	COLUMBIA GAS TRAN
8334451		3403103847		107-TF		MERTON B WATER #2	CLARK	5.0	COLUMBIA GAS TRAN
8334453		3403104470		107-TF		MERTON B WATERS #4	CLARK	8.0	COLUMBIA GAS TRAN
-FREDERICK PETROLEUM CORP				RECEIVED:	04/27/83	JA: OH			
8334454		3411122928		103		A JOHNSON #2 JACKSON TWP	JACKSON	17.0	
8334457		3412122948		107-TF		ADDLESBURGER #1 JEFFERSON TWP	JEFFERSON	54.0	
8334455		3411122672		103		FREDERICK PETROLEUM #5	FRANKLIN	10.0	
-GASEARCH INC				RECEIVED:	04/27/83	JA: OH			
8334459		3415522287		103	107-TF	CANGEMI #1	MESOPOTAMIA	20.0	AMERICAN ENERGY S
8334460		3415522309		103	107-TF	D & S MILLER #2	MESOPOTAMIA	20.0	AMERICAN ENERGY S
8334458		3415321353		103	107-TF	GOLDEN LINKS #1	NORTHFIELD CENTER	20.0	
-GREEN ENERGY				RECEIVED:	04/27/83	JA: OH			
8334461		3403501169		107-TF		MILLER #1	OLMSTED	10.0	COLUMBIA GAS OF O
8334462		3403501178		107-TF		PETTO #1	OLMSTED	8.0	COLUMBIA GAS OF O
-GREENLAND PERRY/HOCKING #2-1				RECEIVED:	04/27/83	JA: OH			
8334463		3412725617		107-TF		REAM #2	MONDAY CREEK	20.0	COLUMBIA GAS TRAN
-GREENWOOD OIL RFD				RECEIVED:	04/27/83	JA: OH			
8334464		3403126948		103		ZED DILLON #1	JEFFERSON	12.0	NATIONAL GAS & OI
-HOOVER PRODUCING & OPERATING				RECEIVED:	04/27/83	JA: OH			
8334465		3412725820		103		M COOPERRIDER #1	HOPEWELL	11.0	NATIONAL GAS & OI
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	04/27/83	JA: OH			
8334468		3412725826		103		M SKINNER #1	MADISON	15.0	NATIONAL GAS & OI
8334466		3411925988		107-TF		ROBERT & MABEL GUSS #1	SPRINGFIELD	20.0	NATIONAL GAS & OI
8334467		3411926537		107-TF		RUSSELL & ROXIE HAYES #2	SPRINGFIELD	20.0	NATIONAL GAS & OI
-IRWIN PRODUCING COMPANY				RECEIVED:	04/27/83	JA: OH			
8334469		3411926478		103	107-TF	MARVIN HOUK #2	WAYNE	10.0	NATIONAL GAS & OI
-J D DRILLING CO				RECEIVED:	04/27/83	JA: OH			
8334470		3405320791		107-TF		ELMER SPAULDING #1	CHESHIRE	7.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	04/27/83	JA: OH			
8334471		3403105019		103		JOHNSON #2	MONROE	12.0	COLUMBIA GAS TRAN
-K & T OIL & GAS CO INC				RECEIVED:	04/27/83	JA: OH			
8334476		3415321085		103	107-TF	COFFMAN #1	BOSTON	8.0	YANKEE RESOURCES
8334477		3415321144		103	107-TF	DRAGASH #1	BATH	8.0	YANKEE RESOURCES
8334475		3415321100		103	107-TF	FREE INDEED #6A	TWINSBURG	8.0	YANKEE RESOURCES
8334476		3415321123		103	107-TF	NONA BOLTZ #1	BATH	8.0	YANKEE RESOURCES
8334479		3415321348		103	107-TF	SUNRISE #6A	TWINSBURG	8.0	YANKEE RESOURCES
8334478		3415321231		103	107-TF	TRIPP #1	TWINSBURG	8.0	YANKEE RESOURCES
-KENOIL				RECEIVED:	04/27/83	JA: OH			
8334472		3416921878		108		VIRGIL GASSER #1		3.0	COLUMBIA GAS TRAN
8334473		3416922545		108		VIRGIL GASSER #2		6.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	04/27/83	JA: OH			
8334499		3412725753		107-TF		GLADYS HAZELTON #4	SALTLICK	10.0	
-LANGASCO DRILLING CO				RECEIVED:	04/27/83	JA: OH			
8334480		3402920935		107-TF		LEONARD LOMMILLER #1	WEST	42.0	COLUMBIA GAS TRAN
8334481		3409921524		107-TF		M SUNDELLE GURGLE #1	SMITH	37.0	EAST OHIO GAS CO
8334482		3409921553		107-TF		PAUL J KING #2	SMITH	37.0	EAST OHIO GAS CO
-LEADER EQUITIES INC				RECEIVED:	04/27/83	JA: OH			
8334487		3411924332		108		BRILL #1		9.0	COLUMBIA GAS TRAN
8334483		3407322758		103	107-TF	CHERRY #2	STARR	14.0	
8334486		3411924158		108		KING #1		9.0	COLUMBIA GAS TRAN
8334484		3411924041		108		KREBS #2		9.0	COLUMBIA GAS TRAN
8334488		3411926525		103	107-TF	MATCHETT #2	MONROE	15.0	
8334485		3411924137		108		MOHLER #2		9.0	COLUMBIA GAS TRAN
8334489		3411926591		103	107-TF	WM WATERS #2	MONROE	13.0	
8334489		3411926591		103		WM WATERS #2	MONROE	13.0	
-LESLIE OIL AND GAS CO INC				RECEIVED:	04/27/83	JA: OH			
8334497		3415723248		108		BAUGHMAN WELL #1		20.0	YANKEE RESOURCES
8334495		3415723051		108		HERBERT SANDERS #2		20.0	EAST OHIO GAS CO
8334493		3415723031		108		L SMITH #1		20.0	YANKEE RESOURCES
8334490		3415722764		108		M ROSENBERRY #1		20.0	EAST OHIO GAS CO
8334492		3415722995		108		MILLER-GINGERICH UNIT #1		20.0	EAST OHIO GAS CO
8334494		3415723033		108		PEARL SMITH #1		20.0	YANKEE RESOURCES
8334496		3415723135		108		RICHARD & MARY MARSEY #1		20.0	EAST OHIO GAS CO
8334491		3415722799		108		WILSON-GLAZER-BOND UNIT #2			
-LEVENGOOD OIL & GAS INC				RECEIVED:	04/27/83	JA: OH			
8334498		3403123604		103	107-TF	WEEKLEY #3	CLARK	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	04/27/83	JA: OH			
8334501		3413323017		107-TF		A & J VECCHIO #1	NELSON	25.0	YANKEE RESOURCES
8334503		3413323019		107-TF		J OROS #1	NELSON	3.0	YANKEE RESOURCES
8334502		3413323018		107-TF		M PETRIE #1	NELSON	15.0	YANKEE RESOURCES
8334500		3413323018		107-TF		S PETRAS UNIT #2	NELSON	15.0	YANKEE RESOURCES
-MID-ATLANTIC OIL CO				RECEIVED:	04/27/83	JA: OH			
8334504		3411523030		103	107-TF	AUTHERSON #1	CENTER	50.0	ENGELHARD MINERAL
8334505		3411523031		103	107-TF	HOUSER NO 1	CENTER	50.0	ENGELHARD MINERAL
-NEW FRONTIER EXPLORATION INC				RECEIVED:	04/27/83	JA: OH			
8334506B		3412725789	D	107-TF		RUSHCREEK CONSERVANCY DISTRICT #1	READING	18.0	COLUMBIA GAS TRAN
8334506A		3412725789		103		RUSHCREEK CONSERVANCY DISTRICT #1	READING	18.0	COLUMBIA GAS TRAN
-NOBLE OIL CORP				RECEIVED:	04/27/83	JA: OH			
8334513		3413323014		107-TF		CANTER #3	EDINBURG	20.0	GENERAL ELECTRIC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334507		3413322733		107-TF		GRIFFITHS-COSS UNIT #1	PALMYRA	20.0	GENERAL ELECTRIC
8334512		3413323801		107-TF		MILLEGAS #1	PALMYRA	20.0	GENERAL ELECTRIC
8334510		3413322983		107-TF		INEMAN #1	PALMYRA	20.0	GENERAL ELECTRIC
8334511		3413322991		107-TF		KEMBLE #1	DEERFIELD	20.0	REPUBLIC STEEL CO
8334509		3413322837		107-TF		MCKENZIE #3	PALMYRA	20.0	GENERAL ELECTRIC
8334508		3413322767		107-TF		PARIS RESORTS #5	PARIS	20.0	GENERAL ELECTRIC
				RECEIVED:	04/27/83	JA: OH			
-NUCORP ENERGY COMPANY				103	107-TF	REZNAK NO 2	NEW LYME TWP	8.0	OHIO GAS CO
8334514		3408721715		RECEIVED:	04/27/83	JA: OH			
-OHIO PRODUCERS SERVICES INC				103		RUTH GOWER #3	NOPEWELL	5.0	NATIONAL GAS & OI
8334515		3412725811		RECEIVED:	04/27/83	JA: OH			
-ONEAL PETROLEUM INC				107-TF		BARKHURST #3	PENN	37.0	COLUMBIA GAS TRAN
8334516		3411523087		RECEIVED:	04/27/83	JA: OH			
-PREMIER ENERGY CORP				107-DV		ARTHUR BLOCK #1	MALAGA	4.5	
8334517		3411121984		RECEIVED:	04/27/83	JA: OH			
-PROFESSIONAL PETROLEUM INC				103		USA/TAYLOR #3	INDEPENDENCE	17.3	COLUMBIA GAS TRAN
8334518		3416727409		RECEIVED:	04/27/83	JA: OH			
-QUAKER STATE OIL REFINING CORP				103	107-TF	SUNDAY CREEK COAL #53	TRIMBLE	14.6	COLUMBIA GAS TRAN
8334519		3408922634		RECEIVED:	04/27/83	JA: OH			
-QUALITY OIL & GAS CORP				107-TF		CHARLES STANLEY #1	SMITH	47.0	EAST OHIO GAS CO
8334524		3409921541		107-TF		DWAIN GAUL #1	SMITH	45.0	EAST OHIO GAS CO
8334523		3409921534		107-TF		ERNEST SANOR #1	BUTLER	43.0	COLUMBIA GAS TRAN
8334520		3402920940		107-TF		ESTHER L TURK #1	SMITH	0.0	EAST OHIO GAS CO
8334522		3409921532		107-TF		KNOX		45.0	COLUMBIA GAS TRAN
8334521		3402920941		107-TF		MARLBORO MANUFACTURING #1	MARLBORO	38.0	EAST OHIO GAS CO
8334525		3415123682		RECEIVED:	04/27/83	JA: OH			
-RALCO INC				103	107-TF	COLETTA UNIT #1	RICHFIELD	20.0	
8334526		3413321242		RECEIVED:	04/27/83	JA: OH			
-RESERVE EXPLORATION CO				107-TF		FRANK TURNER #1	MACKSBURG	27.4	FREDERICK PETROLE
8334527		3412122952		107-TF		J ROBERT BLACK #1	MACKSBURG	36.5	FREDERICK PETROLE
8334528		3412122978		RECEIVED:	04/27/83	JA: OH			
-SANTA FE DRILLING CO INC				103		JAMES & MARILYN MILLS #2	SALEM	50.0	COLUMBIA GAS TRAN
8334529		3416739700		103		JOHN & LOUELLA BETTS #3	FEARING	50.0	COLUMBIA GAS TRAN
8334530		3416724016		103		KENNETH & WILMA KATHARY #1	FEARING	50.0	COLUMBIA GAS TRAN
8334532		3416725423		103		NORA THIGGS #1	SALEM	50.0	COLUMBIA GAS TRAN
8334531		3416724468		RECEIVED:	04/27/83	JA: OH			
-SHONGUM OIL & GAS INC				107-TF		C W & W R CHIMENTO NO 1	SHARON	12.0	YANKEE RESOURCES
8334534		3410323333		107-TF		FITZGERALD ET AL NO 1	SHARON	12.0	YANKEE RESOURCES
8334533		3410323200		RECEIVED:	04/27/83	JA: OH			
-STRATA CORP				108		A MILLER #1		2.0	
8334535		3400921857		108		A MILLER #3		3.0	
8334537		3400921896		108		FULKS #1		10.0	
8334536		3400921888		RECEIVED:	04/27/83	JA: OH			
-TITAN ENERGY CORP				103	107-TF	MARIANI-UNIT WELL 1	HARTFORD	20.0	COLUMBIA GAS TRAN
8334539		3415522196		RECEIVED:	04/27/83	JA: OH			
-WASK OIL & GAS INC				107-TF		FRED M SATTERLEE #2	MESOPTAMIA	100.0	VESCORP INDUSTRIE
8334540		3415522298		RECEIVED:	04/27/83	JA: OH			
-W E SHRIDER CO				108		WILLARD LATHAM #1		3.0	NATIONAL GAS & OI
8334541		3403122090		108		WILLARD LATHAM #2		3.0	NATIONAL GAS & OI
8334542		3403122092		108		WILLARD LATHAM #4		3.0	NATIONAL GAS & OI
8334543		3403122107		RECEIVED:	04/27/83	JA: OH			
-W J LYDIC INC				103	107-TF	#1 CLAYWOOD LTD	READING	10.8	
8334545		3412725839		RECEIVED:	04/27/83	JA: OH			
-WILLIAM M TIPKA				107-TF		MYERS-SAWAN UNIT #4	SHARON	3.0	BARTLO OIL & GAS
8334544		3410323250							

OKLAHOMA CORPORATION COMMISSION

				RECEIVED:	04/27/83	JA: OK			
-APACHE CORPORATION				102-2		HARMON #1-17	GRANITE WASH	930.8	EL PASO NATURAL G
8334550	20467	3500920461		102-2		MERRICK #1-25	RED FORK	164.0	MICHIGAN WISCONSI
8334551	20471	3500920510		RECEIVED:	04/27/83	JA: OK			
-BLAIK OIL COMPANY				103		PREWITT #1	SOONER TREND	5.0	
8334560	21421	3504723150		RECEIVED:	04/27/83	JA: OK			
-CLARK RESOURCES INC				103		MARVIN #27-2	SOONER TREND	200.0	CITIES SERVICE GA
8334563	21441	3507323706		103		WINTER 30-1	SOONER TREND	85.0	PIONEER GAS PRODU
8334559	21420	3509322616		RECEIVED:	04/27/83	JA: OK			
-CONOCO INC				108		NOVEY #1	HUGOTON	5.7	CITIES SERVICE GA
8334548	21084	3513900436		RECEIVED:	04/27/83	JA: OK			
-CONTINENTAL RESOURCES CORP				103		MATLI #15-1	MORROW	0.0	
8334549	21153	3501121728		RECEIVED:	04/27/83	JA: OK			
-DAN E DARLING				103		DIANE #1	EAST LAMONT	100.0	FARMLAND IND INC
8334554	21388	3505320966		RECEIVED:	04/27/83	JA: OK			
-HAMILTON BROTHERS OIL CO				102-2		KAUGER #1-16	WILDCAT	0.0	EL PASO NATURAL G
8334567	20434	3514920231		RECEIVED:	04/27/83	JA: OK			
-JIM L HANNA DBA HANNA OIL AND GAS C				102-4		PRODUCT 19 #1	HARTSHORNE	0.0	
8334566	19948	3506120512		RECEIVED:	04/27/83	JA: OK			
-JORDAN OIL & GAS COMPANY				102-4	103	MAGNESS #1-10	WILDCAT	700.0	TRANSOK PIPELINE
8334553	21384	3510721445		RECEIVED:	04/27/83	JA: OK			
-LEAR PETROLEUM EXPLORATION INC				107-DP		MCGLONE #1-35	NORTH EAKLEY	590.0	
8334564	24111	3501521502		RECEIVED:	04/27/83	JA: OK			
-LUBELL OIL CO				103		LUBELL #1-24 BAXTER	YEAGER	100.0	OKLAHOMA NATURAL
8334547	21289	3506321646		RECEIVED:	04/27/83	JA: OK			
-PETRO-LEWIS CORPORATION				103		CATES #1-9	MORROW B	0.0	PHILLIPS PETROLEU
8334552	21375	3500700088		RECEIVED:	04/27/83	JA: OK			
-READING & BATES PETROLEUM CO				102-2		FLAMING #1-5	PITTS CREEK	9.0	
8334568	20435	3503920627		RECEIVED:	04/27/83	JA: OK			
-RED EAGLE OIL CO				103		NEUFELD #1	NORTHWEST OKEENE	201.0	PHILLIPS PETROLEU
8334558	21416	3509322367		RECEIVED:	04/27/83	JA: OK			
-SANTA FE-ANDOVER OIL CO				107-DP		STEPHENS #26-1	SPRINGER	458.0	TENNESSEE GAS PIP
8334574	24131	3501521132		RECEIVED:	04/27/83	JA: OK			
-SENECA OIL CO				102-4		EVERY #2-6	MISSISSIPPI & HUNTON	65.6	PHILLIPS PETROLEU
8334565	18912	3501722225		RECEIVED:	04/27/83	JA: OK			
-SKI ENERGY				103		BESHARA #1	DUTCHER	71.5	PHILLIPS PETROLEU
8334562	21426	3511123122		RECEIVED:	04/27/83	JA: OK			
-SOUTHLAND ROYALTY CO				108		COX #1-13	PERSIMMON CREEK	15.0	TENNESSEE GAS PIP
8334546	21185	3515321178		RECEIVED:	04/27/83	JA: OK			
-STANTON ENERGY INC				103		KIRK #1	MISSISSIPPI	36.0	
8334556	21399	3511921998		103		RAY JESKE #2	MISSISSIPPI	72.0	ENTERPRISE DEVELO
8334557	21400	3511921977		RECEIVED:	04/27/83	JA: OK			
-THE OHK COMPANY				102-2		SULLAVEN 1-26	N CANUTE	538.7	EL PASO NATURAL G
8334570	20448	3503929634		RECEIVED:	04/27/83	JA: OK			
-TXO PRODUCTION CORP				102-2		BASLER B-1	E ROLL	1117.0	UNITED GAS PIPELI
8334572	20453	3512920835		102-2		DEAN F-1	E ROLL	0.0	DELHI GAS PIPELIN
8334569	20445	3512920895		RECEIVED:	04/27/83	JA: OK			
-VIERSEN & COCHRAN									

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334571	20449	3512900888		102-2		NOBLITT 1-33	NW MAMMON	150.0	
8334573	21431	3509322569		103		TOEWS #2-15	NW OKEENE	50.0	DELHI GAS PIPELIN
-WILLIAM C ROBERTSON				RECEIVED:	04/27/83	JA: OK			
8334561	21422	3508121770		103		ROBERSON #2	NORTH STROUD	50.0	KERR MCGEE CORP
-WOODS PETROLEUM CORPORATION				RECEIVED:	04/27/83	JA: OK			
8334555	21390	3513321740		103		APACHE-BACK BP-3	S BILLINGS MISSISSIPP	25.0	ARCO OIL & GAS CO

WEST VIRGINIA DEPARTMENT OF MINES

-ARABIE INC				RECEIVED:	04/27/83	JA: WV			
8334359		4708703566		107-DV		DAVIS #1	WALTON DISTRICT	25.0	ROARING FORK GAS
-BISON INC				RECEIVED:	04/27/83	JA: WV			
8334358		4708505420		107-DV		HARRY JONES #1	ELLENBORO	30.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/27/83	JA: WV			
8334401		4701703085		103		A U CAYMOR 12761	GREENBRIER	8.0	GENERAL SYSTEM PU
8334402		4702103878		103		EDNA STALNAKER 12743	CENTER	12.0	GENERAL SYSTEM PU
8334406		4701303405		103		LOUIS BENNETT MRS 12748	WASHINGTON	1.0	GENERAL SYSTEM PU
8334403		4701303397		103		LOUIS BENNETT 12746	WASHINGTON	0.5	GENERAL SYSTEM PU
8334404		4701303398		103		LOUIS BENNETT 12747	WASHINGTON	3.0	GENERAL SYSTEM PU
-DEVON ENERGY CORP				RECEIVED:	04/27/83	JA: WV			
8334360		4703501659		107-DV		EMORY HOPKINS #1020	EAST MIDWAY	44.0	DEVON PIPELINE CO
-E M AND M E SMITH				RECEIVED:	04/27/83	JA: WV			
8334377		4701302872		108		H H GIVENS #1	CENTER DISTRICT	2.6	CABOT CORP
-HANSHAW J D MRS				RECEIVED:	04/27/83	JA: WV			
8334378		4706700173		108		M T HANSHAW #1	JEFFERSON DISTRICT	5.7	CABOT CORP
-INDIAN GAS CO				RECEIVED:	04/27/83	JA: WV			
8334385		4709901618		108		A GEE DEPT STORE #1	STONEWALL DISTRICT	7.8	ROARING FORK GAS
-J C BAKER AND SON INC				RECEIVED:	04/27/83	JA: WV			
8334399		4708701767		103		GLADYS BULL	SALT LICK DISTRICT	20.0	CONSOLIDATED GAS
-JAMES M GARRETSON & JUANITA G REESE				RECEIVED:	04/27/83	JA: WV			
8334387		4708500886		108		O M CAMPBELL #2	MURPHY	4.0	CABOT CORP
-L & B OIL CO INC				RECEIVED:	04/27/83	JA: WV			
8334408		4707301388		107-DV		A STEWART #2		11.0	COLUMBIA GAS TRAN
8334407		4707301147		107-DV		WETZ #18		10.0	COLUMBIA GAS TRAN
-LEET GAS CO				RECEIVED:	04/27/83	JA: WV			
8334405		4706322553		103		COLUMBIA GAS TRANS CORP 88	HARTS CREEK DISTRICT	8.0	COLUMBIA GAS TRAN
-MILLS DRILLING CO INC				RECEIVED:	04/27/83	JA: WV			
8334386		4709901573		108		MARVIN ADKINS #1	UNION DISTRICT	3.2	ROARING FORK GAS
-MODEL GAS CO				RECEIVED:	04/27/83	JA: WV			
8334375		4706322547		107-DV		MOLA LIMVILLE #1	UNION DISTRICT	8.0	COLUMBIA GAS TRAN
-NATIONAL OPERATING INC				RECEIVED:	04/27/83	JA: WV			
8334376		4708505723		107-DV		WILLIAMS #1	MURPHY DISTRICT	17.0	
-NORMAN SLAUGHTER				RECEIVED:	04/27/83	JA: WV			
8334390		4703501623		107-DV		BOYD WAYBRIGHT #1	ELK - POCA	20.0	COLUMBIA GAS TRAN
-OSBORNE DEVELOPMENT				RECEIVED:	04/27/83	JA: WV			
8334396		4708501414		108		ROSEY B MARELLS #1	WASHINGTON DISTRICT	4.9	ROARING FORK GAS
-TERM ENERGY CORP				RECEIVED:	04/27/83	JA: WV			
8334379		4708501656		108		JULIA HEDGES #1	JULIA HEDGES	8.6	CARNEGIE GAS CO
-TIARA INC				RECEIVED:	04/27/83	JA: WV			
8334408		4708505498		103		BUTLER ONE (1) 100 ACRES	ORANT DISTRICT	8.0	CONSOLIDATED GAS
-UNION DRILLING INC				RECEIVED:	04/27/83	JA: WV			
8334362		4708101676		103		ARLIN HOFFMAN #1 1655	COVE DISTRICT	4.0	CONSOLIDATED GAS
8334393		4709701923		108		BARBARA ERVIN #1 1519	MEADE DISTRICT	27.0	COLUMBIA GAS TRAN
8334366		4708300542		103		CARL AVINGTON #1 - 1726	ROARING CREEK-DISTRIC	8.0	COLUMBIA GAS TRAN
8334374		4708300653		103		CHAPEL HILL U M CHURCH - 1718	ROARING CREEK DISTRIC	8.0	COLUMBIA GAS TRAN
8334361		4708300604		103		COASTAL LUMBER 1723	MIDDLEFORK-DISTRICT	8.0	COLUMBIA GAS TRAN
8334369		4709702426		103		EDGAR D ECKESS #1 1729	BANKS DISTRICT	8.0	COLUMBIA GAS TRAN
8334381		4709701878		108		FRENCH REEDER #1 1467	MEADE DISTRICT	3.0	COLUMBIA GAS TRAN
8334370		4709702416		103		GLADYS SAMPSON #1 - 1748	BANKS - DISTRICT	8.0	COLUMBIA GAS TRAN
8334364		4708300522		103		HARRY MCMULLAN #138 1694	ROARING CREEK DISTRIC	8.0	TENNESSEE GAS PIP
8334365		4708300527		103		HARRY MCMULLAN #198 1716	ROARING CREEK DISTRIC	8.0	TENNESSEE GAS PIP
8334373		4709702362		103		HARRY MCMULLAN #3-C 1753	WASHINGTON DISTRICT	8.0	COLUMBIA GAS TRAN
8334363		4708101769		103		HENRY MOSS #2 1807	PLEASANT DISTRICT	8.0	CONSOLIDATED GAS
8334372		4709702407		103		HUBERT HEFNER #1 1749	BANKS DISTRICT	8.0	COLUMBIA GAS TRAN
8334398		4709702313		103		ITA GODTEE #1 1730	WASHINGTON DISTRICT	8.0	COLUMBIA GAS TRAN
8334391		4709701806		108		IVA M SAYRE #1 1429	MEADE DISTRICT	45.0	COLUMBIA GAS TRAN
8334371		4709702412		103		J C ECKESS #1 - 1727	BANKS - DISTRICT	8.0	COLUMBIA GAS TRAN
8334394		4709701912		108		J L KILLINGSWORTH #2 1479	MEADE DISTRICT	43.0	COLUMBIA GAS TRAN
8334389		4708300181		108		JOHN C CAIN #3 1395	ROARING CREEK DISTRIC	36.0	COLUMBIA GAS TRAN
8334367		4709702436		103		KATHLEEN JACOBS #1 - 1580	BANKS - DISTRICT	8.0	COLUMBIA GAS TRAN
8334380		4709701852		108		MARTIN-WALLACE #1 1459	MEADE DISTRICT	29.0	COLUMBIA GAS TRAN
8334383		4709701932		108		OLEN CARPTENTER #1 1526	MEADE DISTRICT	32.0	COLUMBIA GAS TRAN
8334395		4709701889		108		RACHEL REEDER #1 1491	MEADE DISTRICT	7.0	COLUMBIA GAS TRAN
8334368		4709702431		103		RETA & JAMES LONG #1 - 1752	BANKS - DISTRICT	8.0	COLUMBIA GAS TRAN
8334382		4709701884		108		S M WINEMILLER #1 1468	MEADE DISTRICT	7.0	COLUMBIA GAS TRAN
8334392		4709701927		108		S M WINEMILLER #2 1507	MEADE DISTRICT	9.0	COLUMBIA GAS TRAN
8334397		4709702283		103		WILLIAM M GATES #1 1662	MEADE DISTRICT	8.0	COLUMBIA GAS TRAN
-W C HURTT DRILLING CO				RECEIVED:	04/27/83	JA: WV			
8334409		4704301837		107-DV		R B DAVIDSON #2	FALLS CREEK - BRANCHL	15.0	COLUMBIA GAS TRAN
-WEINER ENTERPRISES				RECEIVED:	04/27/83	JA: WV			
8334388		4710301271		108		MOSES BARTRUG 13242	MANNINGTON MUN	2.6	EQUITABLE GAS CO
-WILLIAM DYE RIDDLE				RECEIVED:	04/27/83	JA: WV			
8334384		4701302689		108		WILLIAM GODFREY #1	CENTER DISTRICT	3.4	CABOT CORP

[FR Doc. 83-14073 Filed 5-25-83; 8:45 am]
BILLING CODE 6717-01-C

VOL 48 ISS 103 MAY 26 1983 UMI

[Volume 898]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 19, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 FT rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 19, 1983

VOLUME 898

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-GETTY OIL COMPANY				RECEIVED:	05/02/83	JA: LA			
8334770	82-2824	1709720605		103		JOHN A CHACHERE #1	VELTIN	0.0	UNITED GAS PIPE L
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-REEF PETROLEUM CORP				RECEIVED:	04/29/83	JA: MI			
8334704		2102500000		102-4		GENEI-HEISLER #1-22	CLARENCE "22"	0.0	BATTLE CREEK GAS
8334703		2102500000		102-4		HEISLER-SINE #2-34	CLARENCE "34"	36.0	BATTLE CREEK GAS
-SHELL OIL CO				RECEIVED:	04/27/83	JA: MI			
8334666		2105500000		102-4		CHAVALIA 3-18A	PARADISE 18A	978.9	MICHIGAN CONSOLID
8334674		2105500000		102-4		HILL ESTATE 3-27A	MAYFIELD 27A	1108.8	MICHIGAN CONSOLID
8334671		2105500000		102-4		HILL ESTATE-HOMRICH 2-27	MAYFIELD 27	1001.0	MICHIGAN CONSOLID
8334667		2105500000		102-4		HOMRICH-HILL ESTATE 5-28A	MAYFIELD 27	1219.0	MICHIGAN CONSOLID
8334664		2105500000		102-4		MEDFORD 4-13A	MAYFIELD 13	1726.0	MICHIGAN CONSOLID
8334668		2105500000		102-4		SCHAUB 6-13	MAYFIELD 13	1320.9	MICHIGAN CONSOLID
8334663		2105500000		102-4		SEDLACEK 3-35B	PARADISE 35	1087.0	MICHIGAN CONSOLID
8334672		2105500000		102-4		STATE EAST BAY 3-25	EAST BAY 25	104.0	MICHIGAN CONSOLID
8334670		2105500000		102-4		STATE MAYFIELD 1-33A	MAYFIELD 33	1019.0	MICHIGAN CONSOLID
8334669		2105500000		102-4		STATE PARADISE 3-19	PARADISE 20A	4.0	MICHIGAN CONSOLID
8334665		2105500000		102-4		STATE WHITEWATER 1-20	WHITEWATER 20	158.7	MICHIGAN CONSOLID
8334673		2105500000		102-4		VEEDER 2-18	PARADISE 18A	1253.7	MICHIGAN CONSOLID
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BRANCH OIL & GAS				RECEIVED:	04/29/83	JA: MT			
8334702	4-82-122	2510121885		108		BLUMBERG #13-34 SECTION 34-34N-3W	SOUTHWEST KEVIN	23.1	ALOE VENTURES GAT
8334699	4-82-121	2510122058		108		POSTLEWAIT #11-15 SECTION 15-34N-3W	KEVIN SUNBURST GAS	9.7	ALOE VENTURES GAT
8334701	4-82-123	2510121775		108		STATE #13-36	SOUTHWEST KEVIN GAS	18.6	ALOE VENTURES GAT
8334698	4-82-124	2510121604		108		STATE #4-36	SOUTHWEST KEVIN GAS	10.7	ALOE VENTURES GAT
8334700	4-82-125	2510121708		108		STATE 9-16 SECTION 16-34N-3W	KEVIN SUNBURST,	2.4	ALOE VENTURES GAT
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	05/02/83	JA: MT			
8334802	8-82-225	2507121618		108		BOWMAN 1-1	SWANSON CREEK	21.0	MONTANA-DAKOTA UT
8334803	5-82-135	2510521173		108		GREEN 2-31	SWANSON CREEK	12.0	MONTANA-DAKOTA UT
8334790	5-82-145	2510521175		108		SHIPP 1-32	SWANSON CREEK	10.0	MONTANA-DAKOTA UT
8334788	5-82-144	2510521172		108		STUFF 1-2	SWANSON CREEK	4.0	MONTANA-DAKOTA UT
-FLYING J EXPLORATION & PRODUCTION				RECEIVED:	05/02/83	JA: MT			
8334796	5-82-138	2510105126		108		SCHIMMEL #1	ETHRIDGE	13.0	ALOE VENTURES GAT
8334795	5-82-137	2510108602		108		STATE #1	ETHRIDGE	15.0	ALOE VENTURES GAT
-J BURNS BROWN				RECEIVED:	05/02/83	JA: MT			
8334785	3-83-52	2504122154		102-2		LONG 31-33-15B	BADLANDS	0.0	NORTHERN NATURAL
8334804	5-82-139	2504122230		103		STATE 4-32-15	WILDCAT	73.0	NORTHERN NATURAL
-MERLAND OIL & GAS INC				RECEIVED:	05/02/83	JA: MT			
8334787	5-82-141	2508521354		103		PICARD #5-12	NORTH BAINVILLE	9.0	DOME PETROLEUM CO
8334786	5-82-842	2508521360		103		PICARD #6-19	ANVIL	9.0	PHILLIPS PETROLEU
-MIDLANDS GAS CORPORATION				RECEIVED:	05/02/83	JA: MT			
8334792	5-82-140	2507121321		108		3441-1	WILDCAT	6.0	KANSAS-NEBRASKA N

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MONTANA-DAKOTA UTILITIES CO				RECEIVED:	05/02/83	JA: MT			
8334798	4-82-127	2509521034		108		GORR 11-3	RAPELJE	13.0	MONTANA-DAKOTA UT
8334799	4-82-126	2509521033		108		GORR 11A-3	RAPELJE	13.0	MONTANA-DAKOTA UT
8334800	4-82-128	2509521100		108		MODDRELL 12-26	LAKE BASIN	8.0	WEST GAS INC
-SHELL OIL CO				RECEIVED:	05/02/83	JA: MT			
8334801	4-82-129	2502521204		103		UNIT 31-29B	PENNEL	4.7	MONTANA DAKOTA UT
8334797	4-82-130	2502521196		103		UNIT 31-7B	PENNEL	1.8	MONTANA DAKOTA UT
-TOM BROWN INC				RECEIVED:	05/02/83	JA: MT			
8334789	5-82-146	2508321492		102-Z		BN #5-23	STAMPEDE FIELD	0.4	PHILLIPS PETROLEU
-WEST GAS INC				RECEIVED:	05/02/83	JA: MT			
8334791	5-82-134	2509521142		108		DANNENBERG 3-27	NORTH LAKE BASIN	3.5	MONTANA DAKOTA UT
8334793	5-82-133	2509521155		108		LEUTHOLD 10-25	LAKE BASIN	18.0	MONTANA DAKOTA UT
8334794	5-82-136	2503721034		103		RALPH SCHAFF #1	BIG COULEE	12.1	MONTANA DAKOTA UT
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ARLINGTON EXPLORATION CO				RECEIVED:	04/29/83	JA: NY			
8334757	4758	3101517318		107-TF		HULSEBOSCH #1	ELMIRA	18.0	
-CLOVER OIL CO				RECEIVED:	04/29/83	JA: NY			
8334760	4293	3103715848		107-TF		ANSBROW #1	ALDEN-DARIEN	0.0	NATIONAL FUEL GAS
-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	04/29/83	JA: NY			
8334743	4157	3112116837		107-TF		BARNES #1	WILDCAT	9.3	U S GYPSUM CO
8334746	4151	3103716178		107-TF		BARTHOLF #1	HURON CREEK	32.5	U S GYPSUM CO
8334742	4097	3103715266		107-TF		DANSER #2	HURON CREEK	1.6	U S GYPSUM CO
8334747	4149	3103716179		107-TF		DICKENS #1	INDIAN FALLS	2.0	U S GYPSUM CO
8334741	4095	3103715164		107-TF		GASSARINI #1	HURON CREEK	8.2	U S GYPSUM COMPAN
8334748	4147	3103716159		107-TF		GEORGE #1	HURON CREEK	0.4	U S GYPSUM CO
8334740	4093	3103715166		107-TF		HAAS #2	HURON CREEK	2.8	U S GYPSUM CO
8334749	4146	3103716158		107-TF		HINZE #1	HURON CREEK	1.0	U S GYPSUM CO
8334750	4143	3103716181		107-TF		JAVA #2	HURON CREEK	1.0	U S GYPSUM CO
8334755	4745	3103717340		107-TF		KOLARIK #1	HURON CREEK	10.0	U S GYPSUM CO
8334739	4141	3103716189		107-TF		LAMB #3	HURON CREEK	24.0	U S GYPSUM CO
8334753	4747	3103717333		107-TF		LITTLEJOHN #1	INDIAN FALLS	9.2	U S GYPSUM CO
8334754	4749	3103717341		107-TF		MEEK #1	HURON CREEK	8.2	U S GYPSUM CO
8334738	4140	3103716177		107-TF		MEISER #1	INDIAN FALLS	0.8	U S GYPSUM CO
8334737	4137	3103716166		107-TF		MINGLE #1	HURON CREEK	0.5	U S GYPSUM CO
8334756	4743	3103717336		107-TF		P KERN #2	HURON CREEK	3.5	U S GYPSUM CO
8334752	4751	3103717361		107-TF		RILEY #1	INDIAN FALLS	10.2	U S GYPSUM
8334744	4155	3112116016		107-TF		SCZEPANSKI #1	WILDCAT	14.5	U S GYPSUM CO
8334751	4735	3103717335		107-TF		SIERK #1	HURON CREEK	3.9	U S GYPSUM CO
8334745	4153	3112116017		107-TF		TOZIER #1	TOZIER CORNERS	1.0	U S GYPSUM CO
-LENAPE RESOURCES CORP				RECEIVED:	04/29/83	JA: NY			
8334769	4504	3112117237		107-TF		LRC NO 127 - A S ELIGH UNIT NO 1	LEICESTER	20.0	ELIZABETHTOWN GAS
8334768	4505	3112117612		107-TF		LRC NO 134 - D H SHEARING NO 1	WILDCAT	20.0	ELIZABETHTOWN GAS
8334766	4506	3112117617		107-TF		LRC NO 135 - A J DRIES UNIT NO 1	WILDCAT	20.0	ELIZABETHTOWN GAS
8334767	4507	3112117613		107-TF		LRC NO 136 - A J DRIES NO 1	LEICESTER	20.0	ELIZABETHTOWN GAS
-MAYNARD OIL COMPANY				RECEIVED:	04/29/83	JA: NY			
8334762	4328	3102917735		107-TF		HARRISON #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8334761	4330	3102917768		107-TF		MILLEP GARY #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8334763	4326	3102917674		107-TF		MONTGOMERY ARTHUR #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8334759	4320	3102917767		107-TF		PAC WILLIAM #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8334765	4322	3102917762		107-TF		SHELDON RICHARD H #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8334764	4324	3102917707		107-TF		SMITH NANCY #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
-SUBSEA OIL & GAS INC				RECEIVED:	04/29/83	JA: NY			
8334758	4532	3103717339		107-TF		ZINTER #1	ALDEN LANCASTER	25.0	NATIONAL FUEL GAS
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	04/28/83	JA: OK			
8334677	21334	3504535251		108		MCFARLAND UNIT "C" #1	MOCANE-LAVERNE GAS AR	12.0	NORTHERN NATURAL
-APOLLO PRODUCTION LTD				RECEIVED:	04/29/83	JA: OK			
8334735	20068	3507323683		102-4 103		CROSS #13-7	N E OKARCHE	0.0	SID RICHARDSON CA
-BONRAY ENERGY CORP				RECEIVED:	04/28/83	JA: OK			
8334678	21446	3508322178		103		GALLAWAY 14-3	S MULHALL	90.0	EASOM OIL CO
-BRACKEN EXPLORATION CO				RECEIVED:	04/28/83	JA: OK			
8334695	20186	3504321538		102-Z		VAN WINKLE #1-5	WEST HUCMAC	67.0	PHILLIPS PETROLEU
-C L & S OIL CO INC				RECEIVED:	04/29/83	JA: OK			
8334730	21108	3510321785		103		KARCHER #2	W PERRY	25.0	ARCO OIL & GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	04/28/83	JA: OK			
8334690	21002	3514920214		102-2		LINN A #1	S W BURNS FLAT	165.0	
-CONOCO INC				RECEIVED:	04/29/83	JA: OK			
8334725	21226	3501700000		108		HUFNAGEL F-6 #1	CONCHO	8.0	PHILLIPS PETROLEU
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/29/83	JA: OK			
8334719	24040	3501521491		107-DP		STONE #1	LAVERTY	0.0	UNITED GAS PIPELI
-CZAR RESOURCES INC				RECEIVED:	04/28/83	JA: OK			
8334689	20071	3510920637		102-4 103		BODE #1		110.0	CONOCO INC
-DAMSON OIL CORPORATION				RECEIVED:	04/28/83	JA: OK			
8334686	19486	3505520015		108		GRIFFIS #3	MANGUM	29.2	ARKANSAS - LOUISI
8334687	19589	3505520252		108		JORDAN 1-20	MANGUM	1.0	ARKANSAS LOUISIAN
8334683	18941	3505520352		108		KING #3	MANGUM N W	54.7	EL PASO NATURAL G
8334688	19709	3505520438		108		NIX #1	MANGUM	5.4	ARKANSAS LOUISIAN
8334684	18949	3505520368		108		PAXTON 1-24	MANGUM N W	1.0	EL PASO NATURAL G
-EARL-LE OIL CO				RECEIVED:	04/29/83	JA: OK			
8334734	20170	3503700000		108		ESTATE LAND #4	CUSHING FIELD	9.5	ARCO OIL & GAS CO
-F M BUXTON				RECEIVED:	04/29/83	JA: OK			
8334729	21109	3508322159		103		HOUCK NO 1	SOONER TREND	0.0	CONOCO INC
-N G & O INC				RECEIVED:	04/28/83	JA: OK			
8334681	18392	3507323168		102-4 103		LOOSEN #1	N OKARCHE	0.0	PHILLIPS PETROLEU
-HARPER OIL COMPANY				RECEIVED:	04/29/83	JA: OK			
8334721	21230	3512920747		102-2		HARPER-STATE #1	NORTH EAST ROLL	360.0	NATURAL GAS PIPE
-HAWKINS OIL & GAS INC				RECEIVED:	04/29/83	JA: OK			
8334722	21229	3513921673		103		PHILLIPS #1-35	E ADAMS	360.0	PANHANDLE EASTERN
-HELMERICH & PAYNE INC				RECEIVED:	04/29/83	JA: OK			
8334713	21176	3514920259		102-2		BACCUS #1-8	WEST LAKE VALLEY	730.0	NATURAL GAS PIPE
-HOPKINS PAUL				RECEIVED:	04/29/83	JA: OK			
8334711	21170	3503320465		102-2 103		HOOKER #2	HULEN	36.0	ARKANSAS-LOUISIAN
-HPC INC				RECEIVED:	04/29/83	JA: OK			
8334726	21220	3514920097		103		BOOTHE #1	EAST DILL CITY	145.0	ONG SAYRE STORAGE
8334717	21218	3503920396		102-2		HORTON #1	SOUTH THOMAS	580.0	TRANSOK PIPELINE
-INEXCO OIL COMPANY				RECEIVED:	04/28/83	JA: OK			
8334693	20138	3512920862		102-2		PORTERFIELD #1-8	N STRONG CITY	365.0	
-JIM L HANNA DBA HANNA OIL AND GAS C				RECEIVED:	04/29/83	JA: OK			
8334714	21183	3506120567		102-2		BASDEN #1	BOOCH & MARTSHORNS	0.0	UNITED GAS PIPE L
-KARDIA OIL & GAS CO				RECEIVED:	04/29/83	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334733	20460	3509328494	103			ALLSTATT #1	TIGER MOUNTAIN	144.2	CARR GAS CO
-KUB OIL PROPERTY MANAGEMENT INC				RECEIVED:	04/28/83	JA: OK			
8334694	20151	3512120888	102-4	103		DAVENPORT #1	NORTHWEST REAMS	0.0	ARKLA GAS CO
-LRF CORP				RECEIVED:	04/29/83	JA: OK			
8334710	21164	3507920481	103			LIZZABELL #1	KINTA	165.0	ARKANSAS LOUISIAN
-LUBELL OIL CO				RECEIVED:	04/28/83	JA: OK			
8334675	21292	3506321682	103			LUBELL #1-25 CHAPMAN ESTATE	YEAGER	150.0	OKLAHOMA NATURAL
8334676	21403	3510721505	103			LUBELL #1-35 STANFORD	WILDCAT	100.0	TRANSOK PIPELINE
-MACKELLAR INC				RECEIVED:	04/28/83	JA: OK			
8334679	21455	3510321711	103			PFEIFFER B-#1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
-MCVE ENERGY INC				RECEIVED:	04/29/83	JA: OK			
8334731	21103	3511922093	103			MCVE #1	E ORLANDO	0.0	AMINOIL
-MULTISTATE OIL PROPERTIES MV				RECEIVED:	04/29/83	JA: OK			
8334709	20949	3515120755	108			LONDON "A" 1-6	AVARD NORTHWEST	16.0	PANHANDLE EASTERN
-MUSTANG PRODUCTION CO.				RECEIVED:	04/29/83	JA: OK			
8334720	21245	3512130817	108			GERMAN #1-33	WILDCAT	18.0	OKLAHOMA GAS AND
-PETRO-LEWIS CORPORATION				RECEIVED:	04/28/83	JA: OK			
8334685		3507216908	108			BAUSTERT #1-31	SOUTH OKARCHE	0.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/28/83	JA: OK			
8334680	18111	3513921632	103			HORNET B #2	GUYMON HUGOTON	0.0	
-PIONEER PRODUCTION CORPORATION				RECEIVED:	04/29/83	JA: OK			
8334712	21175	3500900000	102-2			SCHILLER #1-2	NORTH SAYRE	0.0	EL PASO NATURAL G
-REYNOLDS EXPLORATION CO				RECEIVED:	04/28/83	JA: OK			
8334697	21259	3507300000	103			KOTTWITZ #1	SOONER TREND	0.0	CITIES SERVICE CO
8334696	21260	3507323528	103			SCHABERG #1	SOONER TREND	0.0	CITIES SERVICE CO
-SAMEDAN OIL CORPORATION				RECEIVED:	04/28/83	JA: OK			
8334691	21010	3501521368	102-2			YEARWOOD MO 1-30	NO NAME	182.0	
-SAMEDAN OIL CORPORATION				RECEIVED:	04/29/83	JA: OK			
8334723	21228	3501722065	102-2			PETERSON #1	MISSISSIPPI	511.0	DELMI GAS PIPELIN
-SENECA OIL COMPANY				RECEIVED:	04/28/83	JA: OK			
8334692	20115	3509322521	103			FRAZER #2-23		2738.0	PANHANDLE EASTERN
8334682	18803	3501722095	102-4			NINA #1-17		3220.0	PHILLIPS PETROLEU
-SPRINGFIELD OIL & GAS CO				RECEIVED:	04/29/83	JA: OK			
8334705	20063	3503320594	102-2			SUTHERLAND #4	HULIN	75.0	LONE STAR GAS CO
8334706	20064	3503320663	102-2	103		SUTHERLAND #6	HULIN	0.0	ARKANSAS-LOUISIAN
8334707	20065	3503320664	102-2	103		SUTHERLAND #7	HULIN	50.0	ARKANSAS-LOUISIAN
8334708	20066	3503320701	102-2	103		SUTHERLAND #8	HULIN	250.0	ARKANSAS-LOUISIAN
-STANTON ENERGY INC				RECEIVED:	04/29/83	JA: OK			
8334728	21189	3511922100	103			SHELTON #1	MISSISSIPPI	60.0	
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	04/29/83	JA: OK			
8334718	21232	3503920834	102-2			IRENE S JONES #1	WILDCAT	158.0	
8334724	21227	3503920598	102-2			LLOYD W SEARCEY #1	WILDCAT	274.0	
-TENNECO OIL COMPANY				RECEIVED:	04/29/83	JA: OK			
8334732	20889	3513900000	108			M MCHEE 1-11		16.0	NORTHERN NATURAL
-TXO PRODUCTION CORP				RECEIVED:	04/29/83	JA: OK			
8334736	19708	3503920696	102-2			FOSS #1	WILDCAT	0.0	DELMI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	04/29/83	JA: OK			
8334716	21213	3508300000	108			DODD A #1	CRESCENT WEST	14.3	EASON OIL
8334715	21288	3507300000	108			WILL K #1	DOVER - HENNESSEY	16.8	EXXON CO
-WARREN DRILLING CO INC				RECEIVED:	04/29/83	JA: OK			
8334727	21216	3509322945	103			HUBBLE #2	DANE	75.0	PHILLIPS PETROLEU

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/28/83	JA: PA			
8334622	19722	3706327392	103			WALTER KRYTUSA #1	CLYMER	24.0	
-ANGERMAN ASSOCIATES INC				RECEIVED:	04/28/83	JA: PA			
8334575	15262	3706325932	108			J W & C B KIMMEL #1	UPPER DEVONIAN SAND S	25.0	COLUMBIA GAS TRAN
-ASHTOLA PRODUCTION CO				RECEIVED:	04/28/83	JA: PA			
8334592	19634	3712922112	103			THOMAS AND MARY LAPOTOVSKY #2	MAYFIELD POOL	46.1	TEXAS EASTERN TRA
-C & C TROYER BROTHERS				RECEIVED:	04/28/83	JA: PA			
8334656	19762	3704920894	103			DUCKLEY - ROSS #1 (SUNSET FARMS)	WAYNE TWP	2.0	NATIONAL FUEL GAS
8334654	19759	3704920791	102-2			SUNSET FARMS #1	UNION TWP	6.0	NATIONAL FUEL GAS
8334655	19760	3704920791	103			SUNSET FARMS #1 - BARNES	UNION TWP	6.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED:	04/28/83	JA: PA			
8334660	19772	3703921889	102-2			IVAN VINCENT #1	COCHRANTON BOROUGH	50.0	TENNESSEE GAS PIP
8334659	19771	3703921889	107-TF			IVAN VINCENT #1	COCHRANTON BOROUGH	50.0	TENNESSEE GAS PIP
8334658	19766	3712133883	102-2			RUSSELL CHERRY #1	CANAL	50.0	TENNESSEE GAS PIP
8334657	19765	3712133883	107-TF			RUSSELL CHERRY #1	CANAL	50.0	TENNESSEE GAS PIP
-CASTLE GAS CO INC				RECEIVED:	04/28/83	JA: PA			
8334619	19703	3706326912	103			B F SHANK #2 (C-671) IND-26912	GREEN TWP	50.0	COLUMBIA GAS TRAN
8334661	19777	3706327273	103			E B CAMPBELL #1 (26-A) (C-761)	WHITE TOWNSHIP	55.0	PEOPLES NATURAL G
8334620	19704	3706327191	103			E L MUMAU #1 (C-760) IND-27191	RAYNE TOWNSHIP	55.0	COLUMBIA GAS TRAN
8334621	19706	3706327275	103			INDIANA CO DEVELOP CORP #2 (C-763)	CENTER TOWNSHIP	60.0	PEOPLES NATURAL G
8334662	19778	3706327342	103			V J ENDERLEIN #1 (C-767) IND-27342	WHITE TOWNSHIP	50.0	PEOPLES NATURAL G
-DELTA 80 S T JOINT VENTURE				RECEIVED:	04/28/83	JA: PA			
8334576	15326	3703321003	108			BONSALL #2	BRADY	25.0	NATIONAL FUEL GAS
-DOC-NCC SERVICE CO				RECEIVED:	04/28/83	JA: PA			
8334577	15738	3712921792	108			J L MILLER 1452-1	SCOTTDALE	12.9	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	04/28/83	JA: PA			
8334578	15768	3706521822	108			J L RACZKA #2 KL-203	UPPER DEVONIAN SANDS	21.9	CONSOLIDATED GAS
8334590	19581	3712922128	103			PAUL GRAFF #3 KZ-26	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
-ENERGY PRODUCTION CO				RECEIVED:	04/28/83	JA: PA			
8334623	19725	3706327164	103			R ALTEMUS #1	MOLO MOUNTAIN	3.5	T W PHILLIPS GAS
-ENVIROGAS INC				RECEIVED:	04/28/83	JA: PA			
8334652	19757	3704922113	107-TF			F WALLACE #1	CLYMER	18.0	TENNESSEE GAS PIP
8334653	19758	3704922138	107-TF			R OHMER #1	CLYMER	18.0	TENNESSEE GAS PIP
-FAIRMAN DRILLING CO				RECEIVED:	04/28/83	JA: PA			
8334591	19616	3706522671	103			HARRY J MYERS #4 F-3626	BIG RUN	68.0	CONSOLIDATED GAS
-GLENN V TROYER				RECEIVED:	04/29/83	JA: PA			
8334581	15912	3704921880	107-TF			2B ISLAND	LE BOEUF	26.0	COLUMBIA GAS
8334580	15911	3704921880	102-2			2B ISLAND	LE BOEUF	26.0	COLUMBIA GAS
-GULF OIL CORPORATION				RECEIVED:	04/28/83	JA: PA			
8334579	15796	3706520398	108			KUNTZ B #1	REED-DEEMER	14.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	04/28/83	JA: PA			
8334602	19653	3706522604	103			R & P COAL CO #47 (595A)	WINSLOW	0.0	COLUMBIA GAS TRAN
8334624	19726	3706522594	103			R & P COAL CO #49 (595A)	WINSLOW	0.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	05/02/83	JA: PA			
8334625		3706522608	103			R & P COAL CO #53 (222A)	WINSLOW	0.0	COLUMBIA GAS TRAN
-J C ENTERPRISES				RECEIVED:	04/28/83	JA: PA			
8334584	19209	3706522179	108			JEF-22179 BEYERS HEIRS #158-1	ROSSITER	20.0	CONSOLIDATED GAS
-J & M GAS & OIL INC				RECEIVED:	04/28/83	JA: PA			
8334586	19224	3712126758	108			SCHULTZ #1	SCRUBGRASS	10.8	NATIONAL FUEL GAS
8334587	19225	3712126759	108			SCHULTZ #2	SCRUBGRASS	10.8	NATIONAL FUEL GAS
8334585	19223	3712127057	108			STEWART #1	LOIS P STEWART	10.8	NATIONAL FUEL GAS
-KRIEBEL WELLS #2				RECEIVED:	04/28/83	JA: PA			
8334593	19635	3706522724	103			DAVIS #1	BELLS MILLS	18.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MAC-MAR INC				RECEIVED:	04/28/83	JA: PA			
8334588	19429	3712922867	103			DICKSON #1	MAMONT	12.0	T W PHILLIPS GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	04/28/83	JA: PA			
8334603	19666	3703921590	102-2			C SHEARER #616-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334604	19665	3703921590	107-TF			C SHEARER #616-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334596	19640	3703921642	107-TF			FERRIS #620-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334595	19639	3703921642	102-2			FERRIS #620-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334598	19642	3703921732	102-2			SUTTER (BUNTING) #633-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334597	19641	3703921732	107-TF			SUTTER (BUNTING) #633-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334607	19668	3703921676	107-TF			WALLACH #621-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334606	19667	3703921676	102-2			WALLACH #621-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334600	19644	3703921851	102-2			WILLIS #638-4	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334599	19643	3703921851	107-TF			WILLIS #638-4	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334609	19670	3703921839	102-2			WILLIS #641-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8334608	19669	3703921839	107-TF			WILLIS #641-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
-NRM PETROLEUM CORPORATION				RECEIVED:	04/28/83	JA: PA			
8334613	19693	3704922316	102-2			DALEY #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8334616	19696	3704922595	102-2			DALEY #2	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8334615	19695	3704922395	107-TF			DALEY #2	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8334614	19694	3704922316	107-TF			DALEY 1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8334618	19702	3704922317	102-2			SALMON A #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8334617	19701	3704922317	107-TF			SALMON A #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
-PEOPLES NATURAL GAS CO				RECEIVED:	04/28/83	JA: PA			
8334603	19664	3706323968	103			MARTHA J RISINGER #4-IND-23968	M PA - UPPER DEVONIAN	45.0	PEOPLES NATURAL G
-PETROBANK OPERATING CO				RECEIVED:	04/28/83	JA: PA			
8334589	19637	3706326634	103			CLARK ESTATES #10	J D CLARK ET AL	34.6	COLUMBIA GAS TRAN
-R & M WELL SERVICE INC				RECEIVED:	04/28/83	JA: PA			
8334583	18956	3705921667	103			SOLOMON & TESLOVICH #1	GREENSBORO	8.0	CARNEGIE NATURAL
-S T JOINT VENTURE 82-C				RECEIVED:	04/28/83	JA: PA			
8334612	19673	3706327330	103			TROUGH #1	CHERRYHILL	25.0	COLUMBIA GAS TRAN
8334610	19671	3706327337	103			TROUGH #3	CHERRYHILL	25.0	COLUMBIA GAS TRAN
8334611	19672	3706327349	103			TROUGH #5	CHERRYHILL	25.0	COLUMBIA GAS TRAN
-SCOTT AND HUSSING				RECEIVED:	04/28/83	JA: PA			
8334594	19637	3712921692	108			CONCORD-LIBERTY #4 WELL #148	SALTSBURG	7.0	BETHLEHEM STEEL C
-T W PHILLIPS GAS & OIL CO				RECEIVED:	04/28/83	JA: PA			
8334640	19743	3700500000	108			A L HETRICK #1	MADISON	1.5	T W PHILLIPS GAS
8334641	19744	3700500000	108			A L HETRICK #3	MADISON	1.1	T W PHILLIPS GAS
8334630	19733	3700520451	108			A T CRAIG #2	MADISON	1.6	T W PHILLIPS GAS
8334627	19730	3700500000	108			ALLEGHENY RIVER REALTY CO #5	MADISON	1.4	T W PHILLIPS GAS
8334628	19731	3700500000	108			ALLEGHENY RIVER REALTY CO #6	MADISON	1.3	T W PHILLIPS GAS
8334626	19729	3700500000	108			ALLEGHENY VALLEY REALTY CO #3	MADISON	1.5	T W PHILLIPS GAS
8334633	19736	3700521137	108			D A GOULD #1	MADISON	1.1	T W PHILLIPS GAS
8334636	19739	3700522395	108			D C MAIK JR #1	MADISON	2.0	T W PHILLIPS GAS
8334643	19746	3700500000	108			D M JOHNS #1	MADISON	1.2	T W PHILLIPS GAS
8334645	19748	3700500000	108			E M KRAMER SR HEIRS #1	MADISON	5.0	T W PHILLIPS GAS
8334634	19737	3700500000	108			ELIZABETH S GRAY #1	MADISON	2.3	T W PHILLIPS GAS
8334648	19751	3700520875	108			FRANK NAST #1	MADISON	1.2	T W PHILLIPS GAS
8334649	19752	3700500000	108			FRANK MOHNEY #1	MADISON	1.0	T W PHILLIPS GAS
8334642	19745	3700520707	108			G C HINES #1	MADISON	1.8	T W PHILLIPS GAS
8334635	19738	3700500000	108			GRAY HEIRS #1	MADISON	1.8	T W PHILLIPS GAS
8334638	19741	3700500000	108			HARVEY HELM #1	MADISON	2.2	T W PHILLIPS GAS
8334644	19747	3700500000	108			I S JORDAN #1	MADISON	2.2	T W PHILLIPS GAS
8334650	19753	3700500000	108			J C MOHNEY #1	MADISON	1.5	T W PHILLIPS GAS
8334631	19734	3700500000	108			J M CRAIG #1	MADISON	2.9	T W PHILLIPS GAS
8334632	19735	3700500000	108			J M CRISSMAN #3	MADISON	1.2	T W PHILLIPS GAS
8334629	19732	3700500000	108			J L BALSINGER #2	MADISON	1.9	T W PHILLIPS GAS
8334647	19750	3700500000	108			JAMES MCCLAFFERTY #1	MADISON	2.6	T W PHILLIPS GAS
8334646	19749	3700521100	108			MRS DAVE A MCELRAVY #1	MADISON	1.0	T W PHILLIPS GAS
8334651	19754	3700520670	108			MRS E J MORRISON #1	MADISON	0.0	T W PHILLIPS GAS
8334639	19742	3700500000	108			MRS ELIZABETH J HERRON #1	MADISON	1.7	T W PHILLIPS GAS
8334637	19740	3700520839	108			SAMUEL HEATH #1	MADISON	1.7	T W PHILLIPS GAS
-TURM OIL INC				RECEIVED:	04/28/83	JA: PA			
8334601	19647	3706327105	103			MILLARD & EDWARD F KUNKLE #1	WILLET	48.0	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	04/28/83	JA: PA			
8334582	15984	3706326184	108			MABEL WISSINGER #3 #739	RAYNE TOWNSHIP	2.0	COLUMBIA GAS TRAN

WEST VIRGINIA DEPARTMENT OF MINES

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/02/83	JA: WV			
8334783		4708505145	107-DV			BLANCHE STEWART 12682	CLAY DISTRICT	10.0	
8334782		4701701896	107-DV			D C STOUT 12477	SOUTHWEST DISTRICT	23.0	
8334784		4701701867	107-DV			M T WILLIAMS 12307	GREENBRIER DISTRICT	5.0	
8334778		4701701887	107-DV			MARGARET J MCMILLAN #12301	GRANT DISTRICT	12.0	
-HAUGHT INC				RECEIVED:	05/02/83	JA: WV			
8334777		4707300947	107-DV			DON WILSON H-1088	MCKIM DISTRICT	23.0	COLUMBIA GAS TRAN
8334776		4708505026	107-DV			H L WILSON H-1170	GRANT DISTRICT	15.0	CONSOLIDATED GAS
8334775		4710701118	107-DV			NESHA-JOY H-1189	UNION DISTRICT	15.0	COMSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	05/02/83	JA: WV			
8334780		4709702296	107-DV			J-523	UNION	0.0	COLUMBIA GAS TRAN
8334781		4709702289	107-DV			J-524	UNION	0.0	COLUMBIA GAS TRAN
8334779		4709702328	107-DV			J-574	UNION	0.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	05/02/83	JA: WV			
8334771		4701703114	107-DV			JENNINGS STARKEY S-368	MCCLELLAN	20.0	COLUMBIA GAS TRAN
-SPARTAN GAS COMPANY				RECEIVED:	05/02/83	JA: WV			
8334773		4709901776	107-DV			CARLOS FERGUSON S-S-288	LINCOLN	16.0	COLUMBIA GAS TRAN
8334772		4709901773	107-DV			CECIL WOOTEN HEIRS 4-S-287	LINCOLN	13.0	COLUMBIA GAS TRAN
8334774		4709901770	107-DV			MARY L S PERKINS ET AL 7-S-290	LINCOLN	36.0	COLUMBIA GAS TRAN

[FR Doc. 83-14074 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-C

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[Volume 896]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 18, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 18, 1983

VOLUME 896

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-BENSON MINERAL GROUP				RECEIVED:	04/25/83	JA: KS			
8334285	K-74-8998	1506921317		108-ER		BIRD B-1	OTIS-ALBERT	4.0	NORTHERN GAS PROD
8334289	K-82-0467	1506921063		108-ER		BIRD A 01	OTIS ALBERT	18.3	NORTHERN GAS PROD
-BEREN CORPORATION				RECEIVED:	04/27/83	JA: KS			
8334297	K-83-0151	1515121240		102-4		FISH & GAME 03-6	EMMA	106.0	PANHANDLE EASTERN
-GULF OIL CORPORATION				RECEIVED:	04/25/83	JA: KS			
8334206	K-80-0354A	1500700000		108-PB		INSLEE /A/ NO 1	RHODES/MISSISSIPPI	7.0	CITIES SERVICE GA
8334208	K-82-0945	1517520377		108-PB		RICE DAVIES 02-1	ARKALON	9.0	ANADARKO PRODUCTI
8334207	K-80-0554	1500700000		108-PB		VERNON G COLEMAN NO 1	RHODES NE	17.0	CITIES SERVICE GA
-MCKELVY OPERATING CORP				RECEIVED:	04/25/83	JA: KS			
8334201	K-79-1986	1505500000		108-ER		ENS 01	MUGOTON	10.0	NORTHERN NATURAL
8334199	KB1-0208	1505500000		108-ER		GAMO 035	MUGOTON	16.0	NORTHERN NATURAL
8334200	K-79-1487	1505500000		108-ER		HETT 01	MUGOTON	15.0	NORTHERN NATURAL
8334203	K-79-1983	1505500000		108-ER		RUSSELL 01	MUGOTON	10.0	NORTHERN NATURAL
8334204	K-79-1981	1505500000		108-ER		SONDEREGGER 01	MUGOTON	18.0	NORTHERN NATURAL
8334202	K-79-1984	1505500000		108-ER		WINTERS 01	MUGOTON	10.0	NORTHERN NATURAL
-SUERTE OIL COMPANY				RECEIVED:	04/27/83	JA: KS			
8334295	K-83-0141	1507500000		108		MAMLEY KERR NO 1	BRADSHAW	12.0	KN ENERGY INC
-VALENTINE ENERGY				RECEIVED:	04/27/83	JA: KS			
8334296	K-82-1020	1509921738		102-2		BOYSE NO 2	LAKE CREEK	24.0	TRI-CITY GAS CO
LOUISIANA OFFICE OF CONSERVATION									
-AMINOIL USA INC				RECEIVED:	04/26/83	JA: LA			
8334151	82-2721	1707522053		103		SL 2028 #19	LAKE MASMINGTON	550.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	04/26/83	JA: LA			
8334148	82-2083	1709920944		103		CECELIA MS SU BROUSSARD WELL 06	CECELIA	18.0	
-BALCO ENERGY CORP				RECEIVED:	04/26/83	JA: LA			
8334188	82-1353	1711321173		103		A B BOUDOIN #1 177408	ABBEVILLE	900.0	LOUISIANA GAS SYS
-C & K PETROLEUM INC				RECEIVED:	04/26/83	JA: LA			
8334160	82-0382	1710922376		103		MENICAN ET AL 01	DEER ISLAND	384.0	
8334137	82-0179	1710922376		102-4		MENICAN ET AL 01	DEER ISLAND	304.0	
-C F BRAUM & CO				RECEIVED:	04/26/83	JA: LA			
8334193	82-2780	1704720738		102-4		C & SCHWING #7 WELL	FROG LAKE FIELD	31.0	DOW CHEMICAL USA
-CENTENNIAL EXPLORATION INC				RECEIVED:	04/26/83	JA: LA			
8334175	82-1361	1708120454		103		PRINCE 01	RED OAK LAKE	90.0	LOUISIANA INTRAST
-CITIES SERVICE COMPANY				RECEIVED:	04/26/83	JA: LA			
8334164	82-2198	1701724612		102-4		CLEMENTS B	NORTH MISSIONARY LAKE	160.0	CRYSTAL OIL CO
8334140	82-1253	1704720648		103		LMT RA SUL WILBERT "C" 02 (819812)	BAYOU MENRY	156.0	GAS GATHERING COR
-CUSTER K PRIMOS				RECEIVED:	04/26/83	JA: LA			
8334168	82-1391	1707321878		103		LIEBER ESTATE 02	MONROE	8.0	MID LOUISIANA GAS
-ERGON INC				RELEIVED:	04/26/83	JA: LA			
8334136	82-2867	1711123287		103		JOHN M MALDROP JR 01	MONROE (6824)	7.0	TEXAS EASTERN GAS
-EXXON CORPORATION				RECEIVED:	04/26/83	JA: LA			
8334139	82-1209	1709920842		103		DL OPERC 7 RA SU GOODRICH C 015	DUCK LAKE	5.0	UNITED GAS PIPE L
-FRANKS & BASS ETAL				RECEIVED:	04/26/83	JA: LA			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8334186	82-1348	1706120217		103		CV DAVIS 36 SUM H Y FULLER EST #1	UNIONVILLE	68.0	UNITED GAS PIPELI
-FRANKS & PETROFUNDS INC				RECEIVED:	04/26/83	JA: LA			
8334182	82-1356	1701320529		103		HOSS B SUR SUTTON BROS B #1 ALT	SAILES	280.0	LOUISIANA GAS PUR
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	04/26/83	JA: LA			
8334144	82-2263	1702321452		103		CAMERON PARISH SCHOOL BOARD #25	JOHNSON BAYOU (I-2 SA	47.5	TRANSCONTINENTAL
-GEORGE R SCHURMAN				RECEIVED:	04/26/83	JA: LA			
8334192	82-1389	1703121531		103		SEBASTIAN #4	BENSON	100.0	LOUISIANA INTRAST
-GETTY OIL COMPANY				RECEIVED:	04/26/83	JA: LA			
8334155	82-2008	1711320840		103		CMPGNE RA SUA CEVA RICHARD #2	ERATH	691.0	COLUMBIA GAS TRAN
-GLENDA PETROLEUM CORP				RECEIVED:	04/26/83	JA: LA			
8334190	82-1375	1707321854		103		WALTER CALDWELL #1 S/N 178549	MONROE	16.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	04/26/83	JA: LA			
8334174	82-1489	1707522363		103		GB 4 RC SU GPLD A #167-D	GRAND BAY FIELD	6.1	UNITED GAS PIPELI
8334166	82-2174	1707522924		103		SPA 24 4(RB) SU M J HARVEY "C" 5	SOUTH PASS BLOCK 24	118.6	TEXAS EASTERN TRA
8334185	82-1345	1705721815		103		TB D-17C RA SU SL 1772 #126	TIMBALIER BAY	593.0	TENNESSEE GAS PIP
8334184	82-1344	1705721901		103		TB D-4 RD SU SL PP 192 #289	TIMBALIER BAY	70.0	TENNESSEE GAS PIP
-HARVEY BROYLES & MUNOCO CO				RECEIVED:	04/26/83	JA: LA			
8334135	82-1454	1707321865		103		MOSS A RA SUD MANVIL FOREST PROD #2	CHENIERE CREEK	365.0	MANVILLE FOREST P
-HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED:	04/26/83	JA: LA			
8334158	82-1377	1702720911		103		QV RA SUL KILPATRICK #A-1	SUGAR CREEK FIELD	365.0	UNITED GAS PIPE L
-JOHN D CARUTHERS JR				RECEIVED:	04/26/83	JA: LA			
8334156	82-2049	1701724413		103		CV RA SU J BAYLISS #1	LONGWOOD	550.0	ARKANSAS LOUISIAN
-LYONS PETROLEUM INC				RECEIVED:	04/26/83	JA: LA			
8334161	82-2218	1701921086		103		CHPO L 8800 RA SU C O NOBLE #2	CHOUPIQUE	189.0	LOUISIANA GAS SYS
-MARATHON OIL COMPANY				RECEIVED:	04/26/83	JA: LA			
8334177	82-1368	1711920332		103		CVSU HOC R H MILLER ET AL #1	COTTON VALLEY	657.0	UNITED GAS PIPELI
-MARSHALL EXPLORATION INC				RECEIVED:	04/26/83	JA: LA			
8334178	82-1372	1703121257		103		MORM 85-B	LOGANSPORT	170.0	TENNESSEE GAS PIP
8334153	82-2044	1703121746		103		L GR RA SUS6 HOOPER #2	LOGANSPORT	125.0	SOUTHERN NATURAL
8334147	82 1379	1703121713		103		LANGFORD #1	BELLE BOWER	180.0	TENNESSEE GAS PIP
8334191	82-1260	1703121485		103		PETERS #1	LOGANSPORT	110.0	SOUTHERN NATURAL
-MID LOUISIANA GAS COMPANY				RECEIVED:	04/26/83	JA: LA			
8334150	82-2488	1712382988		103		MCGC FEE GAS #1146	MONROE GAS FIELD	26.6	MID LOUISIANA GAS
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	04/26/83	JA: LA			
8334162	82-1256	1711321135		103		IRVING IRRIGATION #7	KAPLAN	0.0	TRANSCONTINENTAL
8334142	82-1255	1711320756		103		IRVING IRRIGATION CO #6	KAPLAN	200.0	TRANSCONTINENTAL
8334141	82-1256	1711320881		103		IRVING IRRIGATION CO #5	KAPLAN	200.0	TRANSCONTINENTAL
-PALMER PETROLEUM INC				RECEIVED:	04/26/83	JA: LA			
8334167	82-2175	1708120482		103		UGR RA SUE HANNA #1	REDOAK LAKE FIELD	0.0	LOUISIANA INTRAST
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/26/83	JA: LA			
8334163	82-2199	1703121638		103		MOSS SUM1 HUB B #1	LOGANSPORT	314.0	SOUTHERN NATURAL
-PRIMOS PRODUCTION CO				RECEIVED:	04/26/83	JA: LA			
8334187	82-1350	1711234280		103		PEIRO LEWIS FROST LUMBER #78	MONROE	6.2	PETRO LEWIS FUNDS
-RELIANCE IR-JV				RECEIVED:	04/26/83	JA: LA			
8334179	82-0459	1711123465		103		MANVILLE #1	MONROE	13.0	TEXAS GAS TRANSMI
-RUTLEDGE M DEAS				RECEIVED:	04/26/83	JA: LA			
8334197	82-1718	1710922491		102-4		GILBERT BOURG #1	LAFEYROUSE	20.2	UNITED GAS PIPE L
-SHELL OIL CO				RECEIVED:	04/26/83	JA: LA			
8334194	82-1248	1709928888		103		WLV KK2 RA SU JLES UNIT A 38	WEST LAKE VERRET	120.0	UNITED GAS PIPELI
-SUGAR CREEK PRODUCING COMPANY				RECEIVED:	04/26/83	JA: LA			
8334189	82-2564	1702721832		102-4		BROUNFIELD #3	SUGAR CREEK	365.0	UNITED GAS PIPELI
-SUPERIOR OIL CO				RECEIVED:	04/26/83	JA: LA			
8334130	82-3463	1704720662		103		SCHWING L & S CO #82	BAYOU BLEU	1.0	
8334125	82-3464	1704720663		103		SCHWING L & S CO #83	BAYOU BLEU	1.0	
8334126	82-3465	1704720665		103		SCHWING L & S CO #85	BAYOU BLEU	1.0	
8334165	82-3467	1704720659		103		SCHWING L & S CO #87	BAYOU BLEU	1.0	
8334127	82-3466	1704720687		103		SCHWING L & S CO #88	BAYOU BLEU	1.0	
8334157	82-2052	1704720688		103		SCHWING L & S CO #90	BAYOU BLEU	34.0	
-TEXACO INC				RECEIVED:	04/26/83	JA: LA			
8334124	82-3471	1710922050		103		A R300 VUA BSE U11 #12	BAY ST ELAIME	1.0	KAISER ALUMINUM &
8334181	82-1598	1710121180		103		BAL SU J J HEBERT ET AL 05	BATEMAN LAKE	1168.0	CITY OF MORGAN CI
8334132	82-3485	1710121269		103		BAL SU MAX BAYOU CO INC 062	BATEMAN LAKE	960.0	CITY OF MORGAN CI
8334131	82-3472	1710121069		103		BAL SU WKL 049	BATEMAN LAKE	4151.0	CITY OF MORGAN CI
8334133	82-1364	1710121183		103		BAL SU WKL 053	BATEMAN LAKE	2071.0	CITY OF MORGAN CI
8334134	82-3387	1711321125		102-4	103	J WESLEY STEEN 01	GROSSE ISLE	1889.0	
8334180	82-2236	1702321537		103		MIAMI CORPORATION FEE #4	SECOND BAYOU	866.0	KAISER ALUMINUM &
8334153	82-3493	1770720111		103		S L 340 MOUND POINT #87	MOUND POINT	2190.0	KAISER ALUMINUM &
8334152	82-2724	1707720289		103		SHE 9300 RA SU MERAUX #3	SHERBURNE	295.0	CAJUN ELECTRIC PO
8334128	82-2981	1709920898		103		SL 293 LAKE FAUSSE POINT A 0146	FAUSSE POINTE	806.0	FLORIDA GAS TRANS
8334195	82-3168	1709920898		102-4		SL 293 LAKE FAUSSE POINTE A 0146	FAUSSE POINTE	806.0	FLORIDA GAS TRANS
8334196	82-1859	1770720107		103		SL 340 MOUND POINT WELL 079	MOUND POINT	522.0	KAISER ALUMINUM &
8334183	82-1356	1704520496		103		SL 340 WEST COTE BLANCHE BAY 0702	WEST COTE BLANCHE BAY	13.0	MICHIGAN WISCONSI
8334145	82-3169	1709920839		102-4		SL 6216 01	FAUSSE POINTE	1405.0	FLORIDA GAS TRANS
8334146	82-3287	1710922457		103		VU 23 LD U23 #13	LAKE BARRE	1095.0	KAISER ALUMINUM &
8334129	82-3170	1709920763		102-4		VUA CITIES SVC ET AL #1	FAUSSE POINTE	853.0	FLORIDA GAS TRANS
8334143	82-2248	1702321138		103		5350 RA SUA DEWEY LEDOUX #2	BIG LAKE	511.0	CONSOLIDATED ALUM
-TXO PRODUCTION CORP				RECEIVED:	04/26/83	JA: LA			
8334169	82-1394	1703121726		103		MOSS SUK ROBINSON "I" #1	LOGANSPORT	91.3	DELMI GAS PIPELIN
8334154	82-2007	1706120326		103		MCCRARY SUB HEARNE #1	RUSTON	1095.0	ARKANSAS-LOUISIAN
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/26/83	JA: LA			
8334149	82-2145	1701921060		103		C RA SU MM UNION WYNNE U-X #4	VINTON	175.0	TRANSCONTINENTAL
-WEAVER EXPLORATION CO				RECEIVED:	04/26/83	JA: LA			
8334198	82-3743	1772720164		102-4		STATE OF LOUISIANA JOA LLLL #2	CHANDELEUR SOUND BLK	59.0	SUGAR BOWL GAS CO
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	04/26/83	JA: LA			
8334170	82-1395	1707321879		103		OUACHITA FERTILIZER #1	MONROE GAS ROCK	25.0	I M C PIPELINE CO
8334171	82-1396	1707321880		103		OUACHITA FERTILIZER #2	MONROE GAS ROCK	25.0	I M C PIPELINE CO
8334172	82-1397	1707321881		103		OUACHITA FERTILIZER #3	MONROE GAS	25.0	I M C PIPELINE CO
8334159	82-1398	1707321882		103		OUACHITA FERTILIZER #4	MONROE GAS ROCK	25.0	I M C PIPELINE CO
8334173	82-1399	1732188380		103		OUACHITA FERTILIZER #5	MONROE GAS ROCK	25.0	I M C PIPELINE CO
-WHEELESS INDUSTRIES INC				RECEIVED:	04/26/83	JA: LA			
8334138	82-0530	1702720266		102-4		W-PELTO SMK C RA SUG WMS ETAL #1	EAST DYKESVILLE	365.0	UNITED GAS PIPE L
MISSISSIPPI OIL & GAS BOARD									
-CALLON PETROLEUM COMPANY				RECEIVED:	04/27/83	JA: MS			
8334289	80-82-565	2303120073		102-4	103	BOOTH A-1	GUM BRANCH FIELD	730.0	SYSTEM FUELS INC
-GETTY OIL COMPANY				RECEIVED:	04/27/83	JA: MS			
8334294	106-82-119	2314720142		102-4		MORRIS 2-9 #1	DEXTER	0.0	SOUTHERN NATURAL
8334291	2-83-418	2309120147		107-DP		SIPP 28-9 82-U	GREENS CREEK	0.0	TRANSCONTINENTAL
-RADZEWICZ OPERATING CORP				RECEIVED:	04/27/83	JA: MS			
8334287	136-82-521	2308122361		102-4		LINWOOD PLANTATION D-3	SOUTH ST CATHERINE CR	109.5	MID-LOUISIANA GAS
-SHELL OIL CO				RECEIVED:	04/27/83	JA: MS			
8334290	137-82-533	2311320142		102-4		CORBAN ET UX UNIT #1	OLIVE	48.0	TRANSCONTINENTAL
8334288	136-82-533	2311320138		102-4		G S CARRUTH ET AL UNIT #2	OLIVE	48.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
-THOMPSON-MONTEITH				RECEIVED:	04/27/83	JA: MS	
8334292	3-83-351	2308720089		103		COLUMBUS AIR FORCE BASE PARCEL 1	01
8334293	4-83-351	2308720088		103		COLUMBUS AIR FORCE BASE PARCEL 3	01
**********							
OKLAHOMA CORPORATION COMMISSION							
**********							
-AMOCO PRODUCTION CO				RECEIVED:	04/25/83	JA: OK	
8334225	21337	3515321369		103		ROBERTS UNIT "B"	02
8334226	21335	3501120903		103		SMITH UNIT "F"	02
				RECEIVED:	04/25/83	JA: OK	
-AMSTAR OIL INC				102-E		KUSEK	01
8334259	20072	3510920656		102-E		KUSEK	02
8334258	20073	3510920584		RECEIVED:	04/26/83	JA: OK	
-ANADARKO PRODUCTION COMPANY				103-4		SMITH "S"	01
8334314	20038	3500722356		RECEIVED:	04/26/83	JA: OK	
-APACHE CORPORATION				107-DP		BRAUCHI	01-22
8334312	20094	3500920506		RECEIVED:	04/26/83	JA: OK	
-ARCO OIL AND GAS COMPANY				102-4		VANSANT NO	B-2
8334339	20099	3508520564		RECEIVED:	04/25/83	JA: OK	
-AUTUMN ENERGY CORP				103		COUSINS	02
8334246	21261	3514322327		RECEIVED:	04/26/83	JA: OK	
-BISHOP ROYALTY INC				103		ASHLEY	03
8334332	21320	3511123934		RECEIVED:	04/25/83	JA: OK	
-BOGERT OIL CO				103		GEORGE	02-25
8334247	21244	3508321009		RECEIVED:	04/26/83	JA: OK	
-BOGERT OIL CO				103		MONAHAN	01-B
8334349	21360	3508322591		RECEIVED:	04/25/83	JA: OK	
-BONRAY ENERGY CORP				103		WORTHAM	15-2
8334238	20242	3508322001		RECEIVED:	04/25/83	JA: OK	
-BUCK EXPLORATION				108		HORWOOD	01-14
8334228	21314	3507320191		RECEIVED:	04/26/83	JA: OK	
-C J CASSELMAN				108		BEL ISLE	02-B
8334304	21332	3511123683		108		BELISLE (S)	1-B
8334305	21331	3511123682		RECEIVED:	04/26/83	JA: OK	
-CHAMPLIN PETROLEUM COMPANY				103		HAYES "B"	NO 4
8334357	20496	3504700808		RECEIVED:	04/25/83	JA: OK	
-CHEROKEE RESOURCE MANAGEMENT				103		ETHRIDGE	01-27
8334255	21129	3508121817		RECEIVED:	04/26/83	JA: OK	
-CIMARRON MANAGEMENT CORP				103		BORGHARDT	05
8334344	21265	3511721639		103		BORGHARDT	06
8334298	21266	3511721639		RECEIVED:	04/26/83	JA: OK	
-CIMARRON PETROLEUM CORPORATION				103		CPC 095-S	NOCH
8334333	21343	3505921154		RECEIVED:	04/25/83	JA: OK	
-CITATION ENERGY CORP				103		ANNA	01
8334264	18493	3504722784		RECEIVED:	04/26/83	JA: OK	
-CITATION ENERGY CORP				108		HANN	01 02 03 AND 04
8334328	17422	3507100000		RECEIVED:	04/26/83	JA: OK	
-COMPADRE DRLG & EXPLORATION CORP				103		GETTY-STATE	01
8334326		3513723005		RECEIVED:	04/25/83	JA: OK	
-D & G GAS & OIL CO				103		T J	01
8334244	21270	3504723129		RECEIVED:	04/26/83	JA: OK	
-DAN E DARLING				103		ALDRICH	01
8334310	21389	3509320987		103		LIZ	01
8334309	21387	3505320996		103		RUTH	01
8334308	21384	3505320932		RECEIVED:	04/26/83	JA: OK	
-DOME PETROLEUM CORP				103		FERGUSON	10-6
8334299	21283	3504921940		RECEIVED:	04/25/83	JA: OK	
-DONALD C SLAWSON				103		01-11	BRODDEM
8334227	21327	3501722277		RECEIVED:	04/26/83	JA: OK	
-DONALD C SLAWSON				102-4		01-5	MISER
8334342	20160	3509121290		RECEIVED:	04/25/83	JA: OK	
-DONALD C SLAWSON				103		CANYON CAMP	02-19
8334348	21349	3501722345		RECEIVED:	04/25/83	JA: OK	
-DOWNEY OIL CO				102-2		BALL	01
8334260	20049	3508321642		RECEIVED:	04/26/83	JA: OK	
-DOWNEY OIL CO				102-2		KNOTT	01
8334355	19808	3508321329		102-2		PICKETT	01
8334356	19809	3508321537		RECEIVED:	04/25/83	JA: OK	
-EDWIN L & BERRY R COX				108		&OLLING "B"	01
8334346	21340	3509120103		108		WEFF "B"	01
8334229	21272	3509120080		RECEIVED:	04/26/83	JA: OK	
-EDWIN L COX				103		BEALL HO	3
8334336	21363	3508322977		RECEIVED:	04/25/83	JA: OK	
-EL DORADO DRILLING INC				103		RATLIFF	01
8334241	21288	3510322172		RECEIVED:	04/25/83	JA: OK	
-EMSERCH EXPLORATION INC				103		IRENE CAMBREL	02-9
8334239	18776	3504321528		RECEIVED:	04/26/83	JA: OK	
-F C D OIL CORP				103		WALKER	1-A
8334307	21372	3508121492		RECEIVED:	04/26/83	JA: OK	
-FARMERS ENERGY CORP				103		TAYLOR	03-17
8334324	21329	3509322351		103		TAYLOR	04-17
8334325	21330	3509322441		RECEIVED:	04/25/83	JA: OK	
-FOSTER OIL & GAS CO INC				108		NORTH HALL	01
8334263	18981	3511988000		RECEIVED:	04/25/83	JA: OK	
-GEODYNE RESOURCES INC				103		NEIN	01-19
8334231	21242	3504521093		RECEIVED:	04/25/83	JA: OK	
-GRAHAM EXPLORATION LTD DRILLING PAR				103		LUTHI	01
8334253	21190	3504521695		RECEIVED:	04/25/83	JA: OK	
-GRAND RESOURCES INC				108		MILACEK	14-1
8334240	18639	3504722441		RECEIVED:	04/25/83	JA: OK	
-HARPER OIL COMPANY				102-2		HOC-STATE	01
8334258	21231	3512320874		RECEIVED:	04/26/83	JA: OK	
-HINKLE ENGINEERING INC				103		FORMAN	02-29
8334322	21281	3507323498		RECEIVED:	04/25/83	JA: OK	
-HOLMAN PETROLEUM INC				103		11123925	BARB 01
8334238	21243	3511123925		RECEIVED:	04/26/83	JA: OK	
-HPC INC				103		STUART	016-1
8334345	20911	3504920951		RECEIVED:	04/26/83	JA: OK	
-J L THOMAS ENGINEERING INC				103		MIXON	01
8334321	21276	3504722864		RECEIVED:	04/26/83	JA: OK	
-JAN OIL CO				103		TAPPE	01
8334340	21298	3510321736		RECEIVED:	04/26/83	JA: OK	
-JORDAN OIL & GAS COMPANY				102-4	103	WILSON	01-35
8334317	21187	3510721453		RECEIVED:	04/25/83	JA: OK	
-KAISER-FRANCIS OIL COMPANY				108		FINNEGAN	01
8334237	21184	3515320843					

FIELD NAME	PROD	PURCHASER
COLUMBUS AIR FORCE BASE PARCEL 1	01	396.0 FLORIDA GAS TRANS
COLUMBUS AIR FORCE BASE PARCEL 3	01	360.0 FLORIDA GAS TRANS
N W QUIMLAN (CHESTER)		275.0 MICHIGAN WISCONSI
SOONER TREND - (MERAM		23.7 ARKANSAS LOUISIAN
KUSEK		50.0 WESTWIND GAS CO
KUSEK		50.0 WESTWIND GAS CO
FLORIS		75.0 PANHANDLE EASTERN
NEW LIBERTY		383.0
NORTH PIKE		18.3
MOUNDS DISTRICT		383.0 PHILLIPS PETROLEU
ASHLEY SW NE NW SEC 3		43.0 PHILLIPS PETROLEU
SOONER TREND		39.0 PIONEER GAS PRODU
SOONER TREND		510.0 PHILLIPS PETROLEU
S MULHALL		21.2 EASON OIL CO
		2.0 CONOCO INC
MORRIS		18.3 PHILLIPS PETROLEU
MORRIS		18.3 PHILLIPS PETROLEU
GARBER		157.0 ARCO OIL & GAS CO
SOUTH STROUD PRUE		7.5 SWAB CORP
HALLETT		27.0 EMPIRE PIPELINE C
HALLETT		27.0 EMPIRE PIPELINE C
OSWEGO		144.0
SOONER TREND		347.0 UNION TEXAS PETRO
DILWORTH		2.7 CORONADO TRANSMIS
HELLIE		182.5 LONE STAR GAS CO
ELDORON (NE NW SE SEC		75.0 EASON OIL COMPANY
EAST LAMONT		150.0 CRA INC
EAST LAMONT		100.0 CRA INC
EAST LAMONT		100.0 CRA INC
FOSTER		0.0 SONIO PETROLEUM C
E HINTON		100.0 EL PASO NATURAL G
MIDDLEBERO		300.0 ARKANSAS LOUISIAN
WATONGA TREND		488.0 TRANSOK PIPE LINE
VIOLA		0.0 BUCKEYE NATURAL G
VIOLA		0.0 BUCKEYE NATURAL G
VIOLA		0.0 BUCKEYE NATURAL G
PIERCE		10.3 PHILLIPS PETROLEU
PIERCE		17.5 PHILLIPS PETROLEU
CHEYENNE VALLEY		90.0 DELHI GAS PIPELIN
RED FORK		219.0 ARCO OIL & GAS CO
RED FORK SANDSTONE		150.0 MOBIL OIL CORP
HW CHANDLER		36.9 TRIOK INC
MERAMEC		0.0 UNION TEXAS PETRO
MERAMEC		43.4 UNION TEXAS PETRO
CUSHING		10.0 SUN GAS TRANSMISS
NORTHWEST SHATTUCK		119.0 PHILLIPS PETROLEU
MORROW B		14.6 NORTHERN NATURAL
SOONER TREND 037482		27.0 WELLHEAD ENTERPRI
S W LEEDEY		255.0 NATURAL GAS PIPE
SOONER TREND		11.0 CONOCO INC
S BEGGS		51.5 PHILLIPS PETROLEU
UPPER MORROW		1.4 PHILLIPS PETROLEU
SOONER TREND		130.0 EXXON COMPANY USA
PERCY (BIG LIME)		36.5 AMINOIL USA INC
WILDCAT		0.0 PUBLIC SERVICE CO
W W CEDARDALE		14.0 NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
8334236	21185	3515320843		108		SUSIE DODGE	01
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	04/26/83	JA: OK	
8334329	21192	3505921142		103		CRAWFORD	B-1
-LATCO ENERGY INC				RECEIVED:	04/25/83	JA: OK	
8334248	21236	3507323668		103		SAUNDERS	01
-LRF CORP				RECEIVED:	04/25/83	JA: OK	
8334256	20915	3506321663		103		BURLESON	01
-M M RESOURCES INC				RECEIVED:	04/25/83	JA: OK	
8334232	21241	3511721629		103		JUDY	01
-MANAN-ROWSEY INC.				RECEIVED:	04/25/83	JA: OK	
8334243	21271	3504921925		103		GINGER	01
-MAY PETROLEUM INC				RECEIVED:	04/25/83	JA: OK	
8334262	18998	3515320913		108		CHENOWETH	01 (153-56089)
-MCFARLAND ENERGY INC				RECEIVED:	04/26/83	JA: OK	
8334347	21341	3506321608		103		BROOKS	1-30
-MOLZ OIL CO				RECEIVED:	04/26/83	JA: OK	
8334308	21284	3515121304		103		BOHD	01
-MATOMAS NORTH AMERICA INC				RECEIVED:	04/26/83	JA: OK	
8334351	23417	3506100000		107-PE		ROSE	01
-NICHOLS PETROLEUM CO				RECEIVED:	04/26/83	JA: OK	
8334327	16793	3507323292		102-4	103	BENOS	10-2
-PERMEATOR CORP				RECEIVED:	04/25/83	JA: OK	
8334277	11731	3510523312		108		GROVER	01
8334278	11732	3510523313	D	108		GROVER	02
8334279	11733	3510523314	D	108		GROVER	03
8334280	11734	3510523315	D	108		GROVER	04
8334275	11729	3510523097	D	108		LUNDY	#8
8334283	11737	3510522951	D	108		NEVILLE	#16
8334284	11738	3510522952	D	108		NEVILLE	#17
8334285	11739	3510522953	D	108		NEVILLE	#18
8334286	11740	3510522954	D	108		NEVILLE	#19
8334281	11735	3510522950	D	108		NEVILLE	#3
8334282	11736	3510522939	D	108		NEVILLE	#4
8334270	10988	3510522475	D	108		ROSE	#16
8334269	10967	3510522448	D	108		ROSE	#23
8334268	10966	3510523345	D	108		ROSE	#28
8334274	11936	3510523282	D	108		ROSE	#32
8334267	10965	3510523350	D	108		ROSE	#38
8334271	10989	3510523375	D	108		ROSE	#42
8334273	11935	3510523581	D	108		ROSE	#44
8334272	10990	3510523398	B	108		ROSE	#54
8334276	11730	3510522986		108		RUTHERFORD	01
-PETROLEUM INC				RECEIVED:	04/25/83	JA: OK	
8334269	21234	3508720816		103		MELTON "C"	01
-PHILLIPS OIL OPERATING CO				RECEIVED:	04/25/83	JA: OK	
8334251	21219	3500321002		103		WELCH	01
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/25/83	JA: OK	
8334254	21332	3501521685		103		EAST BINGER	UNIT 013-2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/26/83	JA: OK	
8334313	14864	3501722119		103		LARKIN A	01
8334316	20813	3504721532		103		TROJAN B	01
-REO RESOURCES				RECEIVED:	04/25/83	JA: OK	
8334265	18169	3504700800		103		ORVAL	01
-REYNOLDS EXPLORATION CO				RECEIVED:	04/25/83	JA: OK	
8334257	20666	3507323191		103		GILMOUR	01
-REYNOLDS EXPLORATION CO				RECEIVED:	04/26/83	JA: OK	
8334335	21358	3507323538		103		LESLY	01
-RICK BUCK				RECEIVED:	04/26/83	JA: OK	
8334350	21361	3507321906		103		ALTA	01-26
8334323	21328	3522323000		103		J G	BENNETT 01-21
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	04/25/83	JA: OK	
8334261	20016	3500920473		102-2		WEST	01-20A
-SHELL OIL CO				RECEIVED:	04/26/83	JA: OK	
8334338	21345	3505900000		108-ER		BLANCHARD	1-25
-SILAS RICHARDSON				RECEIVED:	04/26/83	JA: OK	
8334331	21275	3511124026		103		RICHARDSON	#4
-SKI ENERGY				RECEIVED:	04/26/83	JA: OK	
8334343	21263	3514521154		103		SKI	1-15
8334303	21297	3511124044		103		SKI	1-34
-SPECTRA ENERGY CORP				RECEIVED:	04/25/83	JA: OK	
8334264	16898	3500722280		103		BOWMAN	01
-SUNRISE EXPLORATION INC				RECEIVED:	04/26/83	JA: OK	
8334352	21655	3503920798		102-2		WAGNER	01A
-TENNECO OIL COMPANY				RECEIVED:	04/25/83	JA: OK	
8334252	21196	3510321810		103		SOUTH LONE ELM	CLEVELAND S U 079
8334245	21268	3510321771		103		SOUTH LONE ELM	CLEVELAND S U 093
-TENNECO OIL COMPANY				RECEIVED:	04/26/83	JA: OK	
8334341	20128	3512920725		102-2	103	MERRICK	01-34
-TEXACO INC				RECEIVED:	04/26/83	JA: OK	
8334337	21369	3508520680		103		TIPPIT TRUST	03
-THE GHK COMPANY				RECEIVED:	04/26/83	JA: OK	
8334315	20598	3500920389		102-2		RED ROCK RANCH	1-23
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	04/25/83	JA: OK	
8334235	21238	3512300000		103		DAVIS	01
8334234	21239	3512300000		103		DAVIS	02A
-THE WIL-MC OIL CORP				RECEIVED:	04/26/83	JA: OK	
8334301	21295	3505320980		103		MELCHER	01
8334302	21296	3505320984		103		MELCHER	02
8334320	21274	3505320955		103		SWANSON "A"	04
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	04/26/83	JA: OK	
8334354	19614	3500722255		102-4	103	BLAKEMORE	01-11
8334353	19612	3500722247		102-4	103	LYNCH NO	1-1
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/26/83	JA: OK	
8334311	23937	3509300000		108		SCHLARB UNIT	01
-UNION TEXAS PETROLEUM				RECEIVED:	04/26/83	JA: OK	
8334318	21223	3507300000		108		COLLINS	01
8334319	21224	3509300000		108		NEUMAN L C	#1
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	04/25/83	JA: OK	
8334242	21273	3504521114		103		BERRYMAN	02-27
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	04/26/83	JA: OK	
8334334	21356	3509321299		103		PAUL MARTIN	1-29
-V L WOLSEY				RECEIVED:	04/26/83	JA: OK	
8334340	20106	3514500000		102-2		DEAN-CHEZ	#1
-WHITMAR EXPLORATION CO				RECEIVED:	04/25/83	JA: OK	

FIELD NAME	PROD	PURCHASER
W W CEDARDALE	7.0	NORTHERN NATURAL
MOCANE LAVERNE	3285.0	NORTHERN NATURAL
S E LOVAL	46.0	PHILLIPS PETROLEU
E LAMAR	98.0	TRANSOK PIPELINE
SOUTH EAST JENNINGS	36.5	EMPIRE PIPELINE C
VIOLA	100.0	WARREN PETROLEUM
SHARON WEST	0.0	PRODUCERS GAS CO
NORTH FUHRMAN	36.0	PUBLIC SERVICE CO
WOLGAMOTT	27.0	PANHANDLE EASTERN
KINTA	64.0	MUSTANG FUEL CORP
SOONER TREND	116.0	CITIES SERVICE GA
GROVER	0.0	CITIES SERVICE GA
GROVER	0.0	CITIES SERVICE GA
GROVER	0.0	CITIES SERVICE GA
GROVER	0.0	CITIES SERVICE GA
LUNDY	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
NEVILLE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE
ROSE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE
ROSE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE GA
ROSE	14.0	CITIES SERVICE GA
RUTHERFORD	14.0	CITIES SERVICE GA
DIBBLES	98.0	SUN EXPLORATION &
DELCH	73.0	UNION TEXAS PETRO
EAST BINGER	0.0	OKLAHOMA NATURAL
EAST LEHMAN	0.0	UNDEDICATED
SOONER TREND	0.0	PANHANDLE EASTERN
SOONER TREND	237.0	EXXON CO U S A
SOONER TREND	0.0	CITIES SERVICE CO
SOONER TREND	0.0	CITIES SERVICE CO
SOONER TREND	28.0	CITY SERVICE GAS
SOONER TREND	73.0	PHILLIPS PETROLEU
W ELK CITY	100.0	
MOCANE LAVERNE	18.0	NORTHERN NATURAL
RICHARDSON LEASE	138.0	PHILLIPS PETROLEU
DUTCHER	36.5	PHILLIPS PETROLEU
	36.5	PHILLIPS PETROLEU
E ELMWOOD	0.0	
E CLINTON	1825.0	PRODUCER'S GAS CO
SOUTH LONE ELM CLEVEL	2.0	AMINOIL U S A INC
SOUTH LONE ELM CLEVEL	40.0	AMINOIL U S A INC
RED FORK	540.0	DELHI GAS PIPELIN
ENVILLE S W	0.0	CIMARRON TRANSMIS
NORTHEAST BERLIN	1727.9	EL PASO NATURAL G
ALLEN DISTRICT	0.0	ARKANSAS LOUISIAN
ALLEN DISTRICT	0.0	ARKANSAS LOUISIAN
WEST WEBB	36.0	EL GRANDE PIPELIN
WEST WEBB	36.0	EL GRANDE PIPELIN
WEST MEDFORD	21.6	CITIES SERVICE GA
CHESTER	125.0	PHILLIPS PETROLEU
CHESTER	220.0	PHILLIPS PETROLEU
SOUTH CAMPBELL	21.0	MICHIGAN WISCONSI
DOYER-HINNESSEY	14.4	EXXON COMPANY
HODGE I	23.3	PANHANDLE EASTERN
COTTAGE GROVE	70.0	PANHANDLE EASTERN
PAUL MARTIN	0.0	
REDBIRD	127.8	NATURAL GAS ENTER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8334233	19873	3510920617		102-4		O B D C 01-17
-WISHBONE OIL & GAS				RECEIVED:	04/26/83	JA: OK
8334330	21197	3501900008		103		MITCHELL 01
##########						
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY						
##########						
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/26/83	JA: VA
8334224		4502700537		107-DV		PITTSTON RESOURCES INC 820998
##########						
## DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA						
##########						
-AMINOIL USA INC				RECEIVED:	04/26/83	JA: LA 3
8334210	G2-2973	1770840396		102-5		OCS-G-1208 WELL #B-11
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	04/26/83	JA: LA 3
8334221	G2-2967	1770840471		102-5		OCS-G-0301 WELL #14
-GETTY OIL COMPANY				RECEIVED:	04/26/83	JA: LA 3
8334220	G2-2976	1770140025		102-5		WEST CAMERON 437 A-1A
-GULF OIL CORPORATION				RECEIVED:	04/26/83	JA: LA 3
8334212	G2-2958	1772040892		102-5		OCS-G 1101 WELL G-14 WD BLK 117
8334211	G2-2959	1772040892		102-5		OCS-G 1101 WELL G-14-D WD BLK 117
8334223	G2-2960	1772040894		102-5		OCS-G 1101 WELL G-16 WD BLK 117
8334222	G2-2961	1772040896		102-5		OCS-G 1101 WELL G-16-D WD BLK 117
-MARATHON OIL COMPANY				RECEIVED:	04/26/83	JA: LA 3
8334218	G2-2976	1772240857		102-5		SOUTH PASS BLOCK 89 WELL B-2
8334216	G2-2977	1772240864		102-5		SOUTH PASS BLOCK 89 WELL NO B-3
-MCMORAN OFFSHORE EXPLORATION CO				RECEIVED:	04/26/83	JA: LA 3
8334214	G2-2956	1770940789		102-5		OCS-G 2360 #B-13
8334213	G2-2957	1770940698		102-5		OCS-G 2360 #B-14 (ST-1)
-PENNZOIL COMPANY				RECEIVED:	04/26/83	JA: LA 3
8334219	G2-2971	1772120525		102-5		SOUTH PASS NO A-9
-TENNECO OIL COMPANY				RECEIVED:	04/26/83	JA: LA 3
8334215	G2-2985	1771540010		102-1		SABINE PASS 18 #A-3
-TEXACO INC				RECEIVED:	04/26/83	JA: LA 3
8334217	G2-2974	1771940237		102-5		OCS-G-2937 W D 109 #A-7

FIELD NAME	PROD	PURCHASER
E MUSTANG	0.0	MOBIL OIL CORP
TATUMS	80.0	MOBIL OIL CORP
VIRGINIA FIELD AREA N	44.7	
SOUTH MARSH ISLAND	730.0	TRANSCONTINENTAL
WEST CAMERON	188.0	TRANSCONTINENTAL
WEST CAMERON	1280.0	TRANSCONTINENTAL
WEST DELTA	327.0	TEXAS EASTERN TRA
WEST DELTA	131.0	TEXAS EASTERN TRA
WEST DELTA	241.0	TEXAS EASTERN TRA
WEST DELTA	128.0	TEXAS EASTERN TRA
SOUTH PASS SOUTHEAST	438.0	TEXAS EASTERN TRA
SOUTH PASS SOUTHEAST	1250.0	TEXAS EASTERN TRA
HIGH ISLAND	2080.0	TRANSCONTINENTAL
HIGH ISLAND	1825.0	TRANSCONTINENTAL
SOUTH PASS	808.8	UNITED GAS PIPE L
SABINE PASS	5580.8	TENNESSEE GAS PIP
WEST DELTA	848.8	NATURAL GAS PIPEL

[FR Doc. 83-14206 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 899]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued May 20, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd. Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 20, 1983

VOLUME 899

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
##########									
TEXAS RAILROAD COMMISSION									
##########									
-ABCO ENERGY CORP				RECEIVED:	05/02/83	JA: TX			
8334913	F-7C-064964	4210533782		103		107-TF PIE PIERCE-WINCHESTER "A" #4-81	MUDSPETH (CANYON)	19.4	TEXAS INTRA-MARK
8334890	F-7C-063838	4210533783		103		107-TF PIE PIERCE-WINCHESTER "A" #5-81	MUDSPETH (CANYON)	77.4	TEXAS INTRA-MARK
-ADA OIL EXPLORATION CORP				RECEIVED:	05/02/83	JA: TX			
8334868	F-03-062146	4205100000		102-2		HAZARD #1	GIDDINGS	182.5	PHILLIPS PETROLEU
-AEC OIL & GAS				RECEIVED:	05/02/83	JA: TX			
8334958	F-7B-065937	4242900000		102-4		O TOMLIN 70 #5 ID NOT ASSIGNED	CHALKER (CONGLOMERATE	500.0	WARREN PETROLEUM
-AEGEAN OIL CORP				RECEIVED:	05/02/83	JA: TX			
8335009	F-01-66591	4217731378		102-2	103	CHARLES R SIKES UNIT #1	PEACH CREEK (AUSTIN C	29.0	SUNBURST ENERGIES
-ALPAR RESOURCES INC				RECEIVED:	05/02/83	JA: TX			
8334923	F-10-065261	4235731337		102-4		MILDRED #12-141	LONE BUTTE (CLEVELAND	20.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	05/02/83	JA: TX			
8334942	F-06-065708	4220330981		103		BREWSTER GAS UNIT #2	BETHANY (TRAVIS PEAK)	278.0	UNITED GAS PIPELI
-ANDERSON PETROLEUM INC				RECEIVED:	05/02/83	JA: TX			
8334897	F-7C-063964	4210534078		103	107-TF	LAURA HOOVER ESTATE "B" 3-7	OZONA (CANYON SAND)	200.0	ANDERSON PIPELINE
8334902	F-7C-064498	4210534267		103	107-TF	LAURA HOOVER ESTATE "B" 4-7	OZONA (CANYON SAND)	200.0	ANDERSON PIPELINE
8334896	F-7C-063963	4210534017		103	107-TF	TOM MITCHELL STATE 3-20	OZONA (CANYON SAND)	308.0	ANDERSON PIPELINE
-APACHE CORPORATION				RECEIVED:	05/02/83	JA: TX			
8335096	F-10-66859	4248331024		102-2		STILES RANCH #3-68	STILES RANCH (MORROW)	914.0	ARKANSAS-LOUISIAN
-APEX PETROLEUM INC				RECEIVED:	05/02/83	JA: TX			
8335030	F-7B-66652	4208300000		102-4		JOHN E WOLF #8 (19329)	WOLF (SERRATT LOWER)	0.0	EL PASO HYDROCARB
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/02/83	JA: TX			
8335090	F-10-66817	4248300000		108		LEE "C" #1	GAGEBY CREEK (HUNTOM)	11.0	MICHIGAN WISCONSI
8335091	F-04-66819	4235530323		108		STATE TRACT 395 WELL #1	REDFISH BAY (SAND 29)	18.0	UNITED GAS PIPELI
8335057	F-10-66737	4235700000		108		W B BARNES #1	S E FARNSWORTH (MORRO	14.6	PHILLIPS PETROLEU
8334957	F-08-065935	4200333291		103		W M BONER #3	FUHRMAN-MASCHO	1.4	PHILLIPS PETROLEU
-ARKLA EXPLORATION COMPANY				RECEIVED:	05/02/83	JA: TX			
8334865	F-10-059693	4248330939		107-DP		MILLER #1	KEY UPPER MORROW	1095.0	ARKANSAS LOUISIAN
-AVIPS PETROLEUM INC				RECEIVED:	05/02/83	JA: TX			
8334996	F-7B-66487	4225332432		102-4		BROWN-SNYDER "A" #1	ANNE (CISCO SAND)	64.0	CONOCO INC
-BEN J TAYLOR				RECEIVED:	05/02/83	JA: TX			
8334975	F-7B-66192	4236732386		102-4		ISBELL-LAMBERT #3	STONE BRIDGE (CONGLOM	280.0	LONE STAR GAS CO
-BRIGHT & COMPANY				RECEIVED:	05/02/83	JA: TX			
8334915	F-04-064990	4221531285		102-4	107-TF	HANNAH "B"-2	MONTE CHRISTO (VICKSB	1000.0	TECO PIPELINE CO
-BTA OIL PRODUCERS				RECEIVED:	05/02/83	JA: TX			
8334940	F-7C-065649	4238332412		103		COATES #10	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
8334939	F-7C-065648	4238332423		103		JACKSON "B" #20	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
-BURNETT OIL CO INC				RECEIVED:	05/02/83	JA: TX			
8334999	F-01-066537	4231131767		102-4	103	W C RUTHERFORD "A" #1	A M P (OLMOS)	17.0	MPI TRANSMISSION
-C & K PETROLEUM INC				RECEIVED:	05/02/83	JA: TX			
8334891	F-08-063848	4243131225		103		FOSTER 33 NO 5	CONGER (PENN) FIELD	284.0	VALERO TRANSMISSI
-CAMBRIDGE & NAIL				RECEIVED:	05/02/83	JA: TX			
8335081	F-10-66804	4221131505		102-4		RAMSEY #1 WELL ID NO 102178	GEM-DANDY (DOUGLAS)	0.0	WESTAR TRANSMISSI
-CANYON PLATEAU PARTNERSHIP				RECEIVED:	05/02/83	JA: TX			
8334928	F-7C-065401	4241300000		103	107-TF	MIXON #1	SAWYER (CANYON)	188.0	INTRATEX GAS CO
-CARTER ENERGY CORP				RECEIVED:	05/02/83	JA: TX			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8334929	F-09-065439	4249732487		103		L L BURRESS #3
				RECEIVED:		05/02/83 JA: TX
-CHALMERS OPERATING CO INC				102-4		WHARTON-HOLLAND #095268
8335026	F-7B-66635	4236332425		RECEIVED:		05/02/83 JA: TX
-CHANPLIN PETROLEUM COMPANY				102-4		W T CAGE #4
8334812	F-04-065962	4235500000		RECEIVED:		05/02/83 JA: TX
-CHEVRON U S A INC				103		W E BAIRD 18-66 C
8335010	F-08-66592	4249531311		RECEIVED:		05/02/83 JA: TX
-CIRCLE SEVEN PRODUCTION CO				103		WALLER/WILL #1
8334895	F-09-063913	4249732463		RECEIVED:		05/02/83 JA: TX
-CITIES SERVICE COMPANY				103		HALMAN-SMITH "A" #1
8334930	F-09-065494	4249732584		RECEIVED:		05/02/83 JA: TX
-CLOVER ENERGY CORP				102-4		HEMMETER EST #2-C
8335027	F-02-66643	4205731226		RECEIVED:		05/02/83 JA: TX
-CONOCO INC				101		BELL "44" 811 ID #27643
8334878	F-08-062876	4238931317		108		BURNETT 818A
8335062	F-10-66752	4206500000		108		BURNETT 837A
8335061	F-10-66751	4206500000		108		BURNETT 847
8335059	F-10-66749	4206500000		108		BURNETT 853A
8335060	F-10-66750	4206500000		108		BURNETT 864A
8335058	F-10-66748	4206500000		RECEIVED:		05/02/83 JA: TX
-CORDOVA RESOURCES INC				103		NORTH PIONEER UNIT 01718
8334962	F-7B-066006	4213332894		RECEIVED:		05/02/83 JA: TX
-DALLAS SUNBELT OIL & GAS INC				103		FERGUSON #1
8334851	F-7B-060540	4213333881		RECEIVED:		05/02/83 JA: TX
-DORCHESTER EXPLORATION INC				103		F CONGER 6-66
8334867	F-08-062751	4245131084		RECEIVED:		05/02/83 JA: TX
-DYNEX ENERGY INC				102-4	103	JONES BROTHERS ET AL #1
8334970	F-06-066095	4236500000		102-4	103	R F SHALL #1 RRC PERMIT 0179848
8334969	F-06-066091	4236500000		RECEIVED:		05/02/83 JA: TX
-EL PASO NATURAL GAS COMPANY				108-PB		CALLAHAM #1
8334858	F-10-062087	4217923696		108-PB		COUSINS #1
8334810	F-10-061022	4217923699		108-PB		DARSEY #2
8334813	F-10-047501	4217923702		108-PB		HANNER X #1
8334829	F-10-054499	4217923711		108-PB		HERRINGTON #1
8334828	F-10-056313	4217923712		108-PB		HESS #1
8334822	F-10-052025	4217923713		108-PB		JOHNSTON #1
8334837	F-10-052236	4217923728		108-PB		KNOLL A #1
8334816	F-10-050846	4208726113		108-PB		LUTES #6
8334824	F-10-052828	4208726153		108-PB		MAGEE #1
8334823	F-10-052827	4217923735		108-PB		MCDONELL #5
8334808	F-10-029850	4208726179		108-PB		MCDONELL #6
8334849	F-10-060460	4208726180		108-PB		MEEK #1
8334821	F-10-052824	4221131217		108-PB		NELSON #1
8334836	F-10-057622	4243326201		108-PB		REEVES #1
8334817	F-10-049519	4217923744		108-PB		WISCHKAEMPER B 1
8334805	F-10-002414	4208726317		108-PB		WISCHKAEMPER H #1
8334815	F-10-049575	4208730169		RECEIVED:		05/02/83 JA: TX
-ENERGY-AGRI PRODUCTS INC				103		GORES #2 (ID# 05201)
8335041	F-10-66701	4206531271		RECEIVED:		05/02/83 JA: TX
-ENRE CORP				102-4		BRYAN CLINTON #3
8334949	F-7B-065829	4205933342		102-4		MITCHAM ESTATE "M" #2 (18195)
8334947	F-7B-065821	4213334129		102-4		MITCHAM ESTATE "M" #4 (19271)
8334948	F-7B-065823	4213334420		RECEIVED:		05/02/83 JA: TX
-ENSERCH EXPLORATION INC				107-PE		B A SKIPPER "A" #2
8334831	F-06-055969	4218300000		107-PE		E D ROBERTSON #4
8334832	F-06-055970	4218300000		RECEIVED:		05/02/83 JA: TX
-EXXON CORPORATION				102-2		COOKS POINT UNIT 05 #2
8334992	F-08-66406	4205131373		103		EDGAR J MARSTON JR TRUST "B" #2
8334936	F-08-065612	4247532737		108		J B TUBB A/C 1 #94
8334945	F-08-065773	4210305633		103		KING RANCH BORREGOS 568
8335015	F-04-66603	4227331618		108		MARATHON #1
8334906	F-08-064668	4237110733		102-4		MRS S K EAST 136-B (ID PENDING)
8334961	F-04-065856	4226130783		102-4		MRS S K EAST 136-F (ID PENDING)
8334971	F-04-066098	4226130783		103		PITA ISLAND GAS UNIT #1-4
8334978	F-04-66244	4235531580		102-4		R J KLEBERG JR TR PATRICIO PAST #21
8335016	F-04-66604	4226130763		102-4		RJ KLEBERG JR TR VIBORAS PAST 78F
8335017	F-04-66605	4204730654		103		SARITA FIELD OIL & GAS UNIT 151-F
8334997	F-04-065586	4226130535		103		SARITA FIELD OIL & GAS UNIT 155-D
8334941	F-04-065692	4226130558		103		VIBORAS FIELD GAS UNIT #1 V-75-F
8334998	F-04-66528	4204730653		103		W C TYRRELL TRUST 840
8335079	F-03-66791	4207131498		RECEIVED:		05/02/83 JA: TX
-F WILLIAM CARR				102-4		GEORGE WEST ESTATE #6 - L
8334921	F-02-065108	4229700000		102-4		GEORGE WEST ESTATE NO 6-U
8334920	F-02-065099	4229700000		RECEIVED:		05/02/83 JA: TX
-FIRST TRIAD CORP				102-4		WOODRUFF #3
8334982	F-7B-66287	4236732381		RECEIVED:		05/02/83 JA: TX
-FOREST OIL CORPORATION				107-TF		VAQUILLAS RANCH CO LTD WELL NO 3
8334909	F-04-064845	4247932593		RECEIVED:		05/02/83 JA: TX
-FRANKS PETROLEUM INC ETAL				102-4		W E MEAD HEIRS #1
8334959	F-06-065939	4220330999		RECEIVED:		05/02/83 JA: TX
-GAS DEVELOPMENT CORP				108		MILDRED CAUTHORN "20" WELL #1
8334876	F-7C-063614	4243531455		RECEIVED:		05/02/83 JA: TX
-GENERAL AMERICAN OIL COMPANY OF TEX				102-4		CAMPBELL #1
8334950	F-06-065873	4242330459		RECEIVED:		05/02/83 JA: TX
-GENESIS PETROLEUM CORP				102-4		MINOJOSA "A" #1-U (UNASSIGNED)
8334901	F-04-064438	4213136074		RECEIVED:		05/02/83 JA: TX
-GETTY OIL COMPANY				108		E F COUDEN 'A & B' WELL #25
8334964	F-08-066029	4213500000		103		S M HALLEY WELL #265
8334990	F-08-66381	4249531549		102-4	107-TF	VAQUILLAS RANCH #5
8334830	F-04-055557	4247900000		RECEIVED:		05/02/83 JA: TX
-GHR ENERGY CORP				102-4		ALFONSO #4
8334873	F-04-063239	4250531571		RECEIVED:		05/02/83 JA: TX
-GOLDKING PRODUCTION COMPANY				102-4		DRLIK LEO ET AL #2
8334871	F-03-062995	4208900000		RECEIVED:		05/02/83 JA: TX
-GRAHAM OIL & GAS LTD				102-4		FRANCAIS CRAIG FREEMAN ET AL #1
8334838	F-03-058531	4203931645		RECEIVED:		05/02/83 JA: TX
-GREAT WEST OPERATING CO INC				102-4		SIMMONS #1
8334835	F-09-057632	4233731418		RECEIVED:		05/02/83 JA: TX
-GULF OIL CORPORATION				103		BEARD UNIT II WELL #1
8335038	F-03-66638	4204130529		103		PERKINS D E ET AL #3
8335022	F-08-66619	4238931281		108		RUTH PRICE ETAL "D" WELL #1
8335047	F-08-66709	4237130328		103		STATE "VE" WELL #4
8335048	F-7C-66710	4223532015		RECEIVED:		05/02/83 JA: TX
-H B ZACHRY CO						

FIELD NAME	PROD	PURCHASER
BOONSVILLE (BEND CONG	110.0	LONE STAR GAS CO
WHARTON-HOLLAND (STRA	7.5	LONE STAR GAS CO
WILDCAT	0.0	TENNESSEE GAS PIP
KEYSTONE (CLEAR FORK)	35.0	TRANSWESTERN PIPE
BOONESVILLE SOUTH (AT	0.0	LONE STAR GAS CO
BOONSVILLE (BEND CONG	36.0	
SHERIFF EAST (8340)	280.0	UNITED TEXAS TRAN
JESS BURNER (DELAWARE	23.4	EL PASO NATURAL G
PANHANDLE WEST	21.0	NORTHWEST CENTRAL
PANHANDLE WEST	21.0	NORTHWEST CENTRAL
PANHANDLE WEST	21.0	NORTHWEST CENTRAL
PANHANDLE WEST	21.0	NORTHWEST CENTRAL
PANHANDLE WEST	21.0	NORTHWEST CENTRAL
EASTLAND COUNTY REGUL	6.6	EL PASO HYDROCARB
PEAKER (STRAWN)	73.0	LONE STAR GAS CO
CONGER (PENN)	766.0	TEXAS UTILITIES F
ITEX	0.0	EASTEX GAS TRANSM
ITEX	0.0	EASTEX GAS TRANSM
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	
PANHANDLE WEST	30.5	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST	19.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST-BROWN	17.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
BUFFALO WALLOW GRANIT	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	16.0	EL PASO NATURAL G
PANHANDLE EAST	17.7	EL PASO NATURAL G
PANHANDLE EAST	24.3	EL PASO NATURAL G
PANHANDLE CARSON	100.0	GETTY OIL CO
SCRANTON N W (DUFFER)	2.0	BENGAL GAS TRANSM
D R S (CONGL)	3.0	BENGAL GAS TRANSM
D R S SE (CONGL)	127.0	BENGAL GAS TRANSM
WILLOW SPRINGS	143.0	WESTERN GAS CORP
WILLOW SPRINGS	135.0	WESTERN GAS CORP
GIDDINGS (AUSTIN CHAL	160.0	FERGUSON CROSSING
RHODA WALKER (CANYON	7.0	UNITED TEXAS TRAN
SAND HILLS	10.0	EL PASO NATURAL G
BORREGOS (L-9X11)	161.0	SUN PETROLEUM PRO
OATES ME (DEVONIAN)	10.0	NORTHERN NATURAL
RITA (7-J II-B)	176.0	NATURAL GAS PIPEL
RITA (7-E II-B)	255.0	NATURAL GAS PIPEL
PITA ISLAND (J-55)	395.0	SUN PETROLEUM PRO
PITA 5 (I-35)	949.0	SUN PETROLEUM PRO
VIBORAS (0-46 UPPER)	730.0	SUN PETROLEUM PRO
SARITA (5-E W)	300.0	NATURAL GAS PIPEL
SARITA (5-D W)	448.0	NATURAL GAS PIPEL
VIBORAS (MASSIVE FIRS	255.0	SUN PETROLEUM PRO
ANAHUAC	128.0	HOUSTON PIPELINE
GEORGE WEST WEST	1800.0	TEXAS EASTERN TRA
GEORGE WEST WEST	1000.0	TEXAS EASTERN TRA
DENNIS WEST (STRAWN)	72.0	INTRASTATE GATHER
GATO CREEK (LOBO 1)	321.0	UNITED TEXAS TRAN
HARLETON NORTH EAST (	144.0	TEJAS GAS CORP
JO NELL (CANYON D)	14.6	NORTHERN NATURAL
CHAPEL HILL N E	128.0	ETEXAS PRODUCERS
STARR BRITE W (5850')	46.0	HOUSTON PIPE LINE
HARPER	0.4	PHILLIPS PETROLEU
WEIMER (COLBY SAND)	27.0	CABOT CORP
EL GATO (LOBO 6)	0.0	TRANSCONTINENTAL
CHARCO (9200)	750.0	NATURAL GAS PIPEL
FRNKA	173.0	HOUSTON PIPE LINE
WILDCAT	157.3	FLORIDA GAS TRANS
WILDCAT	108.6	J L DAVIS
KURTEN (WOODBINE)	7.0	PRODUCER'S GAS CO
SCOTT (DELAWARE)	31.0	TRANSWESTERN PIPE
EL CINCO (WICHITA ALB	7.1	DELHI GAS PIPELIN
IRION 163 (ELLENBURGE	1.0	J L DAVIS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8334852	F-04-060765	4250500000		103		H B ZACHRY CO A-C-U
-H P PINNELL TRUSTEE				RECEIVED:		05/02/83 JA: TX
8334900	F-04-064300	4248930705		103		EL SAUZ RANCH NOPAL #8
-HANSON MINERALS CO				RECEIVED:		05/02/83 JA: TX
8334910	F-04-064847	4213136119		102-4		MARCHBANKS #1
-HARRIS R FENDER				RECEIVED:		05/02/83 JA: TX
8334993	F-06-66413	4242330661		102-4		TIMBER LAKE #1
-HAHN BROTHERS				RECEIVED:		05/02/83 JA: TX
8334896	F-04-063904	4221531276		102-4		#1 LOS TORRITOS GAS UNIT
-HCW EXPLORATION INC				RECEIVED:		05/02/83 JA: TX
8335076	F-08-66780	4231732629		103		ALICO #1
8335028	F-10-66644	4206500000		108		E E COBB #1
-HENRY & DOUGHERTY				RECEIVED:		05/02/83 JA: TX
8334846	F-02-060125	4239100000		103		M F LAMBERT 109
-HEXAGON OIL & GAS INC				RECEIVED:		05/02/83 JA: TX
8334936	F-7B-065601	4236332840		103		GILBERT "A" #1
-HOLLY ENERGY INC				RECEIVED:		05/02/83 JA: TX
8334967	F-7C-066037	4246131156		103		AMACKER 'A' #1
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:		05/02/83 JA: TX
8334847	F-03-060202	4207131311		102-4		STATE TRACT 294 #3
8334848	F-03-060203	4207131312		102-4		STATE TRACT 294 #4
-HUMBLE EXPLORATION CO INC				RECEIVED:		05/02/83 JA: TX
8334953	F-01-065895	4217731230		102-4	103	DIANE STEUDTE #1
8334955	F-01-065899	4217731008		102-4	103	JANET SHELTON #1
8334956	F-01-065900	4217731154		102-4	103	RUTH NELSON #2
8334954	F-01-065898	4217731101		102-4	103	ZANIE KUHEN #1
-HUNTER PETROLEUM INC				RECEIVED:		05/02/83 JA: TX
8334868	F-03-062802	4232131167		102-4		LE TULLE #1 - UNASSIGNED
-IKE LOVELADY INC				RECEIVED:		05/02/83 JA: TX
8334840	F-04-058960	4224700000		102-4		MCCAMPBELL R M & ELLA #1
8335080	F-8A-66796	4216931993		103		STORIE #3
-JAY ENERGY CORP				RECEIVED:		05/02/83 JA: TX
8334944	F-7B-065764	4236732363		102-4		SHAW #5 I D NUMBER APPLIED FOR
-JOHN L COX				RECEIVED:		05/02/83 JA: TX
8334885	F-7C-063637	4238332347		103		ALDWELL #3 RRC# 09857
8334878	F-7C-063620	4238332364		103		ALDWELL #4
8334877	F-7C-063619	4238332353		103		ALDWELL B #1
8334888	F-7C-063642	4238332379		103		ALDWELL B #2
8334882	F-08-063630	4231732124		103		ANGELA MARIE #2 RRC #21927
8334826	F-7C-053925	4246131910		103		ATKINS #1
8334880	F-8A-063626	4211500000		103		ETHEREDGE #2
8334883	F-7C-063629	4246300000		103		GETTY UNIVERSITY #1
8334884	F-08-063634	4231732640		103		GLENDENNING #3 RRC #22058
8334883	F-7C-063632	4223532007		103		MISS ELA E #5 RRC #06977
8334887	F-7C-063640	4238332390		103		ROCKER B "P" #21 RRC #05173
8334886	F-7C-063639	4238332392		103		ROCKER B R #13 (RRC #05377)
8334879	F-08-063626	4232931118		103		STEWART "32" #1
-JUNIPER OPERATING CO				RECEIVED:		05/02/83 JA: TX
8334981	F-7B-66265	4236700000		102-4		SHIPLEY #1
-KAARI OIL CO				RECEIVED:		05/02/83 JA: TX
8334932	F-10-065542	4206531139		103		HAIDUK "A" #4 05023
8334931	F-10-065541	4206531132		103		HAIDUK "A" NO 3 05023
-KILROY CO OF TEXAS				RECEIVED:		05/02/83 JA: TX
8334853	F-03-060980	4260630128		102-4		STATE TRACT 87-S #1-L
-KREIS & PENA INC				RECEIVED:		05/02/83 JA: TX
8334972	F-10-066148	4217931156		103		THUT #1
-LOBO OIL CORP				RECEIVED:		05/02/83 JA: TX
8334995	F-8A-66481	4226330577		103		SPIRES 11A-1
-LYRIC ENERGY INC				RECEIVED:		05/02/83 JA: TX
8335095	F-10-66858	4234130793		103		BURGESS #1
-M-T PETROLEUM INC				RECEIVED:		05/02/83 JA: TX
8335077	F-08-66783	4213546223		103		EDWARDS RANCH "3" #1
-MARSHALL EXPLORATION INC				RECEIVED:		05/02/83 JA: TX
8334965	F-03-066017	4231330690		102-4	103	HARDY #1
8334972	F-06-063085	4240131561		102-4	103	JONES #2
8334907	F-06-064744	4240131587		102-4	103	KONZEN #1
-MCCOMMONS OIL COMPANY				RECEIVED:		05/02/83 JA: TX
8334817	F-09-051832	4249700000		103-ER		OLLIE CULWELL #1
-MCCORD EXPLORATION				RECEIVED:		05/02/83 JA: TX
8334875	F-04-063570	4235500000		102-4		MCCORD C W COOKE #2C
-MCZ INC				RECEIVED:		05/02/83 JA: TX
8334979	F-03-66248	4204100000		102-2		MOORE UNIT #1
-MERCURY EXPLORATION CO				RECEIVED:		05/02/83 JA: TX
8334862	F-7B-062187	4213334246		102-4		V P SIMPSON #6
-MICKIE STEPHENS				RECEIVED:		05/02/83 JA: TX
8334926	F-08-065301	4237100000		103		HEAGY 1A
-MID-AMERICA PETROLEUM INC				RECEIVED:		05/02/83 JA: TX
8335050	F-7C-66716	4238332262		103		TURNER "C" #1
-MIN-TEX EXPLORATION CORP				RECEIVED:		05/02/83 JA: TX
8334865	F-7B-062316	4209330883		102-4		GLOVER #2
-MITCHELL ENERGY CORPORATION				RECEIVED:		05/02/83 JA: TX
8335005	F-7B-66556	4236300000		108		C C MCCLURE #4 #064877
8335003	F-09-66550	4249700000		108		D P EVERETT #2
8334924	F-09-065268	4249732454		103		DAISY TAYLOR "A" #3 #20039
8334916	F-7B-064997	4242900000		108		FRANCIS HAYMORE -A- #1 #056652
8335004	F-09-66555	4249700000		108		L C HABORN #1 028757
8334968	F-04-066057	4235557000		107-PE		M P CROOK #6 #47234
8334863	F-7C-062276	4243500000		103	107-TF	MCMILLAN 10 #6
8335023	F-09-66620	4249700000		108		T L DICKENSON #2 028627
8335002	F-09-66549	4249700000		108		W E MCDONALD #2 #023736
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		05/02/83 JA: TX
8335011	F-08-66593	4222732990		103		G O CHALK #34
-MONTERREY PETROLEUM CORP				RECEIVED:		05/02/83 JA: TX
8334854	F-04-061219	4247933300		102-2		APACHE #5
-MORROW RESOURCES INC				RECEIVED:		05/02/83 JA: TX
8334917	F-7C-065006	4245131129		102-2	103	BROWN "C" #6
-MR OIL CO				RECEIVED:		05/02/83 JA: TX
8334974	F-08-066175	4247532652		103		GRIMES B #7
8334918	F-08-065058	4249531536		103		UNIVERSITY SEC 25 #2
-NATURAL GAS ANADARKO INC				RECEIVED:		05/02/83 JA: TX
8334892	F-10-063892	4235731316		103		KILE 2-300
8334963	F-10-066007	4235731278		103		WALLACE 1-142
-NEEDMORE OIL & GAS INC				RECEIVED:		05/02/83 JA: TX
8334946	F-7B-065817	4204900000		103		BILL & VEDA KINCHELOE #3

FIELD NAME	PROD	PURCHASER
RANDADO RANCH	39.4	VALERO INTERSTATE
ARROYO COLORADO (E-1)	72.0	NATURAL GAS PIPEL
TESORO (HOCKLEY 0-1)	100.0	UNITED GAS PIPE L
DRISKELL LAKE (RODESS	38.0	LONE STAR GAS CO
LOS TORRITOS NE (6800	270.0	
SPRAYBERRY (TREND ARE	93.0	PHILLIPS PETROLEU
PANHANDLE WEST	15.4	KERR-MCGEE CORP
GRETA DEEP (5800')	7.3	UNITED TEXAS TRAN
BRAZOS EAST (CADDO)	45.0	INTRASTATE GATHER
AMACKER-TIPPETT S	28.0	PHILLIPS PETROLEU
PROPOSED W SEABROOK (	0.0	UNITED TEXAS TRAN
PROPOSED W SEABROOK (	0.0	UNITED TEXAS TRAN
PEACH CREEK (AUSTIN C	0.0	
PEACH CREEK (AUSTIN C	0.0	
PEACH CREEK (AUSTIN C	0.0	
PEACH CREEK (AUSTIN C	0.0	
RUSTY (1900') PROPOSE	182.0	DOW CHEMICAL U S
LAS VIVORITAS (BRUNI	27.4	EL PASO NATURAL G
STORIE WEST (MISS)	3.6	MID-PLAINS PIPELI
WEATHERFORD SE (1900)	57.0	SOUTHWESTERN GAS
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	NORTHERN GAS PROD
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
ACKERLY (DEAN SD)	0.0	
BENJESUM (FUSSELMAN)	10.0	
SPRABERRY (TA)	10.0	NORTHERN GAS PROD
SPRABERRY (TA)	10.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
PARKS (PENNSYLVANIA)	10.0	MOBIL PRODUCING T
GARNER N W (4475) FIE	2044.0	LIQUID ENERGY COR
PANHANDLE	72.0	GETTY OIL CO
PANHANDLE CARSON COUN	72.0	GETTY OIL CO
BLOCK 87-S (SIPH DAVI	445.0	UNITED TEXAS TRAN
PANHANDLE - GRAY	8.0	TRANSWESTERN PIPE
SPIRES (STRAWN B-3)	7.2	SUN OIL CO
PANHANDLE MOORE	9.0	PHILLIPS PETROLEU
DOUBLE -H- (GRAYBURG)	21.6	PHILLIPS PETROLEU
MADISONVILLE WEST (GE	180.0	MAR/CON ENERGY IN
NINDEN (TRAVIS PEAK-H	240.0	TEXAS UTILITIES F
NINDEN (TRAVIS PEAK -	280.0	TEXAS UTILITIES F
BOONSVILLE BEND (CONG	18.0	NATURAL GAS PIPEL
DOUGHTY (7450 SD) FIE	1095.0	HOUSTON PIPELINE
KURTEN (BUDA)	90.0	FERGUSON CROSSING
HAWKEYE (ADAMS BRANCH	20.0	SOUTHWESTERN GAS
ABELL PERMIAN UPPER	18.0	INTRATEX GAS CO
SPRABERRY (TREND AREA	15.0	NORTHERN NATURAL
WILDCAT	1.0	LONE STAR GAS CO
LONE CAMP W (CONGL)	0.0	SOUTHWESTERN GAS
ALVORD (ATOKA CONGL)	0.0	NATURAL GAS PIPEL
PARK SPRINGS (CONGL)	41.9	NATURAL GAS PIPEL
MAYMORE (BIG SALINE)	0.0	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
LONDON S E (MIOCENE 3	0.0	HOUSTON PIPELINE
SALMER (CANYON)	825.0	VALERO TRANSMISSI
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
HOWARD GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
K M B (STRAWN)	0.0	LONE STAR GAS CO
WARD SOUTH	9.0	CABOT PIPELINE CO
MAR-WINK N (DELAWARE)	161.0	
PARSELL (MORROW UPPER	180.0	TRANSWESTERN PIPE
PARSELL (MORROW LOWER	40.0	TRANSWESTERN PIPE
BROWN COUNTY REGULAR	108.0	EL PASO HYDROCARB

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-NORTHRIDGE EXPLORATION INC						
8334911	F-09-064902	4223734765				RECEIVED: 05/02/83 JA: TX
-OUTLINE OIL CORP		4228580000		103		PRICE #11-A
8334991	F-02-66386					RECEIVED: 05/02/83 JA: TX
-PACER PETROLEUM INC				103		TRULL #1
8335037	F-7B-66680	4215131088				RECEIVED: 05/02/83 JA: TX
8335036	F-7B-66678	4215131625		103		REX A SMITH TR 15 #1 (19142)
-PALO PETROLEUM INC				103		REX A SMITH TR 15 #2 (19142)
8334844	F-7C-059587	4238332314				RECEIVED: 05/02/83 JA: TX
8334843	F-7C-059586	4238332095		102-3	103	UNIVERSITY 11 BLOCK 12 "A" #2
8334842	F-7C-059505	4238332185		102-3	103	UNIVERSITY 13 BLOCK 12 #1
-PARKER & PARSLEY INC				102-3	103	UNIVERSITY 2 BLOCK 12 #1
8334976	F-08-66236	4232931132				RECEIVED: 05/02/83 JA: TX
8334977	F-08-66237	4232931120		103		MILES "A" WELL #1
8334938	F-08-065644	4231700000		103		MILES WELL #1
8334937	F-08-065642	4231700000		103		NAIL "D" WELL #1
-PENNZOIL PRODUCING COMPANY				103		NAIL "D" WELL #2
8335094	F-04-66855	4250500000				RECEIVED: 05/02/83 JA: TX
8334825	F-04-053829	4250500000		108		JENNINGS #17
8334839	F-04-058878	4221500000		108-ER		JENNINGS #44
-PEPPER OIL & GAS INC				108-ER		MONTGOMERY UNIT 03-L
8334855	F-7B-061288	4208333186				RECEIVED: 05/02/83 JA: TX
-PETROTEX RESOURCES INC				102-2		SEALY SMITH 85 #1
8334960	F-8A-065947	4210100000				RECEIVED: 05/02/83 JA: TX
-PETRUS OPERATING CO INC				102-4	103	SEXTON #1-A
8335903	F-05-064499	4234932989				RECEIVED: 05/02/83 JA: TX
-PHILLIPS PETROLEUM COMPANY				102-4	103	CARPENTER #3
8334943	F-08-065752	4213506379				RECEIVED: 05/02/83 JA: TX
8334827	F-09-054815	4249700000		108		(02135) SCHAR 010-T
8334850	F-10-060532	4248330982		108-PB		BLANTON A #1
8335075	F-08-66779	4213502682		107-DP		CARMILE A #3
8335074	F-08-66778	4213502727		108		GS ANDECTOR P-11 (21193)
8335000	F-10-66540	4242100000		108		GS ANDECTOR U-16 (045560)
8335007	F-10-66559	4223300000		108		PORTSMOUTH #1
8335006	F-10-66558	4248300000		108		RUBIN MCDOWELL #2
8335073	F-08-66777	4249510859		108		SANDIFER A #1
-PICKENS CO INC				108		UNIVERSITY LANDS-R #1 (42188)
8334869	F-04-062825	4221531290				RECEIVED: 05/02/83 JA: TX
-PIONEER PRODUCTION CORPORATION				103		JOHN L BOX ET AL #4 WELL
8334818	F-10-052246	4229500000				RECEIVED: 05/02/83 JA: TX
8334811	F-10-041791	4229500000		108-PB		NUGGS ESTATE #1
8334806	F-10-007079	4229500000		108-PB		REDELSPERGER #1
-PNS CO				108-PB		SCHULTZ #1 29924
8334889	F-02-063670	4217531601				RECEIVED: 05/02/83 JA: TX
-PRECISION DRILLING CO INC				102-4	103	B R MATHIS 1-A
8334989	F-7B-66365	4208333091				RECEIVED: 05/02/83 JA: TX
8334988	F-7B-66364	4208333090		103		MRS EULA P WEAVER #10
8334987	F-7B-66363	4208333215		103		MRS EULA P WEAVER #11
8334986	F-7B-66361	4208333182		103		MRS EULA P WEAVER #11-S
8334985	F-7B-66360	4208333088		103		MRS EULA P WEAVER #12-S
8334984	F-7B-66359	4208333087		103		MRS EULA P WEAVER #13
8334983	F-7B-66358	4208333214		103		MRS EULA P WEAVER #14
-PYRAMID PRODUCTION CO				103		MRS EULA P WEAVER #16
8334994	F-7B-66473	4208331637				RECEIVED: 05/02/83 JA: TX
-PYRO ENERGY CORP				103		J M DARNETT EST 14824
8334919	F-04-065067	4224731496				RECEIVED: 05/02/83 JA: TX
-PYRON EXPLORATION & DRILLING CORP				102-4		ESCONDIDO #1
8334908	F-09-66256	4250300000				RECEIVED: 05/02/83 JA: TX
-QUANAH PETROLEUM INC				102-2		BLOUNT #1
8334952	F-05-065896	4200333009				RECEIVED: 05/02/83 JA: TX
8334951	F-08-065893	4200332986		103		WARD #3
-R L ADKINS CORP				103		WARD 4-R
8335031	F-7B-66653	4235331348				RECEIVED: 05/02/83 JA: TX
-RAM PETROLEUM CORP				102-4		WILSON #2 (18377)
8334908	F-08-064822	4237100000				RECEIVED: 05/02/83 JA: TX
-RAYMOND W HEDGE				103		KRAMER #3
8334807	F-05-063090	4221300000				RECEIVED: 05/02/83 JA: TX
-REINUDA OPERATING CO				108-ER		R H LEE RRC ID 548777
8335078	F-08-66787	4200333282				RECEIVED: 05/02/83 JA: TX
-ROBERT M WYNNE				103		UNIVERSITY #12" #2
8334912	F-7C-064922	4210533232				RECEIVED: 05/02/83 JA: TX
-RYDER SCOTT OIL CO				103		UNIVERSITY "24-A" 06 - RRC 08356
8335064	F-09-66757	4223734759				RECEIVED: 05/02/83 JA: TX
8335063	F-09-66756	4223734612		102-4		CAMPSEY #3
-SANTA FE ENERGY PRODUCTS CO				102-4		YOUNGER #1
8334866	F-03-062563	4205132327				RECEIVED: 05/02/83 JA: TX
-SANTA FE-ANDOVER OIL CO				102-2		JAMES LASTLY "A" #1
8335025	F-03-66633	4219931688				RECEIVED: 05/02/83 JA: TX
-SANTA FE-WINDSOR PRODUCING CO				103		PETTY BARBER #2
8334859	F-03-062081	4225700000				RECEIVED: 05/02/83 JA: TX
8334874	F-03-063523	4228700000		102-2	103	CECIL DUNK UNIT #1
-SEAGO OIL INC				103		HARRY SAENGER #1
8334861	F-7B-062165	4244131492				RECEIVED: 05/02/83 JA: TX
-SHELL OIL CO				103		HARRIER #1
8335024	F-8A-66631	4250132292				RECEIVED: 05/02/83 JA: TX
-SOUTHEASTERN RESOURCES CORP				103		DENVER UNIT WELL #2737
8335029	F-7B-66650	4213334490				RECEIVED: 05/02/83 JA: TX
-STEVE STAMPER				102-4		M K COURTNEY "B" #1 (19397)
8335085	F-09-066810	4223700000				RECEIVED: 05/02/83 JA: TX
8335088	F-09-66813	4223700000		103		BOAZ #11
8335089	F-09-66815	4223700000		103		BOAZ #13
8335087	F-09-66812	4223734706		103		BOAZ #14
8335086	F-09-6681	4223734707		103		BOAZ #6
8335084	F-09-66809	4223734707		103		BOAZ #7
8335083	F-09-66808	4223734707		103		BOAZ #8
8335082	F-09-66806	4223700000		103		BOAZ #9
-STRINGER OIL & GAS						RECEIVED: 05/02/83 JA: TX
8335070	F-8A-66773	4211531762		103		ALMA PYLANT #2
8335071	F-8A-66774	4211531761		103		BODINE L C #2
8335072	F-7C-66775	4210534100		103		SHANNON ESTATE "1"
-SUBURBAN PROPANE EXPLORATION CO INC				RECEIVED:		05/02/83 JA: TX
8335001	F-01-66542	4216300000		108		DR WEBSTER O'QUINN GAS UNIT #2
8335008	F-01-66583	4216300000		108		LORENA M DAVIS #1
-SUENAUR CORP						RECEIVED: 05/02/83 JA: TX

FIELD NAME	PROD	PURCHASER
CLAY-RAY (CONGL)	204.0	CORONADO TRANSMIS
SPEAKS SW (1250)	54.0	HOUSTON PIPE LINE
NOODLE NW (NOODLE CRE	15.0	PALO DURO PIPELIN
NOODLE NW (NOODLE CRE	7.0	PALO DURO PIPELIN
SPRABERRY (TREND AREA	0.0	EL PASO HYDROCARB
SPRABERRY (TREND AREA	5.5	EL PASO HYDROCARB
SPRABERRY (TREND AREA	0.0	EL PASO HYDROCARB
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
JENNINGS WEST (4,400'	16.0	NATURAL GAS PIPEL
JENNINGS W	0.0	NATURAL GAS PIPEL
SAN CARLOS	0.0	TRUNKLINE GAS CO
LAKE COLEMAN (CROSS P	182.5	CALLACOLE PIPELIN
TIPPEN S (CONGL)	13.0	LONE STAR GAS CO
INGRAM-TRINITY (RODES	0.0	DELHI GAS PIPELIN
GOLDSMITH (CLEARFORK)	11.0	EL PASO NATURAL G
HORRIS	0.0	C R UPHAM OIL & G
GAGEBY CREEK-ELLENBUR	0.0	MICHIGAN WISCONSI
GOLDSMITH (CLEAR FORK	14.0	EL PASO NATURAL G
GOLDSMITH (CLEAR FORK	15.0	EL PASO NATURAL G
TEXAS HUGOTON - DOLOM	0.0	PANHANDLE EASTERN
PANHANDLE HUTCHINSON	0.0	PANHANDLE EASTERN
WHEELER PAN - GRANITE	0.0	WESTAR TRANSMISSI
WAR-WINK (5085 DELAWA	18.0	EL PASO NATURAL G
PENITAS (5500 MISSION	548.0	VALERO INTERSTATE
MARMOTH CREEK NORTH (	0.0	
MARMOTH CREEK NORTH (	0.0	NORTHERN NATURAL
NORTH MARMOTH CREEK	16.1	NORTHERN NATURAL
MARSHALL S (FRIO 2640	110.0	TRANSCONTINENTAL
COLEMAN COUNTY REGULA	9.0	LONE STAR GAS CO
COLEMAN COUNTY REGULA	8.5	LONE STAR GAS CO
COLEMAN COUNTY REGULA	12.5	LONE STAR GAS CO
COLEMAN COUNTY REGULA	18.0	LONE STAR GAS CO
COLEMAN COUNTY REGULA	9.0	LONE STAR GAS CO
COLEMAN COUNTY REGULA	9.5	LONE STAR GAS CO
COLEMAN COUNTY REGULA	10.0	LONE STAR GAS CO
TRUAX (GRAY SAND)	42.5	UNION TEXAS PETRO
ESCONDIDO	275.0	
GRAHAM N E (BIG SALIN	68.0	MID-STATE GAS COR
LITTMAN SAN ANDRES	30.6	GETTY OIL CO
LITTMAN SAN ANDRES	6287.0	GETTY OIL CO
J & J (CADDO)	117.0	PALO DURO PIPELIN
TCI (WADDELL)	0.0	INTRATEX GAS CO
LARUE (TRAVIS PEAK)	7.4	LONE STAR GAS CO
SHAFTER LAKE (YATES)	89.3	EL PASO NATURAL G
FARMER (SAN ANDRES)	5.5	BIG LAKE GASOLINE
COOPER (CONGLOMERATE)	78.0	TEXAS UTILITIES F
POST OAK S (CONGL)	369.0	TEXAS UTILITIES F
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
BEECH CREEK SW (Y-9)	17.0	ARCO OIL & GAS CO
GIDDINGS(AUSTIN CHALK	109.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	109.0	PERRY PIPELINE CO
CAL-HAM (STRAWN)	18.0	
WASSON	0.4	COLTEXO CORP
J M J (MARBLE FALLS)	179.0	EL PASO HYDROCARB
BRYSON EAST	7.7	LONE STAR GAS CO
BRYSON EAST	4.0	LONE STAR GAS CO
BRYSON EAST	8.4	LONE STAR GAS CO
BRYSON EAST	55.1	LONE STAR GAS CO
BRYSON EAST	19.0	LONE STAR GAS CO
BRYSON EAST	15.9	LONE STAR GAS CO
BRYSON EAST	22.3	LONE STAR GAS CO
BRYSON EAST	19.7	LONE STAR GAS CO
ACKERLY (DEAN SAND)	35.0	GETTY OIL CO
ACKERLY (DEAN SAND)	36.6	GETTY OIL CO
ESCONDIDO (FUSSELMAN)	36.0	PHILLIPS PETROLEU
WEST BIG FOOT/GAS	16.8	TRANSCONTINENTAL
WEST BIG FOOT/GAS	21.2	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8334935	F-04-065609	4213136109		102-4		GANZA - STATE #1
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:		05/02/83 JA: TX
8334836	F-08-058228	4213533069		103		O B HOLT A/C 2 #21
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		05/02/83 JA: TX
8335065	F-8A-66761	4250132215		103		BENNETT RANCH UNIT #339
8335060	F-04-66693	4227300000		108		E G CANALES #18
8334973	F-08-066165	4210332985		103		H E ADAMS "C" #11
8334864	F-04-062282	4242731650		103		J F HALL STATE -A- #6
8334922	F-7C-065211	4244330258		102-4		MCKAY CREEK "C" #1-A
8335066	F-08-6676	4213533954		103		O B HOLT A/C-1 #22
8335059	F-08-66691	4213532423		103		W T MCCABE #45
8334914	F-03-064983	4207130033		103		UNITE ESTATE "A" #3
-SUOCO OIL CORP				RECEIVED:		05/02/83 JA: TX
8334961	F-10-065994	4235700000		108		HANCOCK "B" #1
8334964	F-10-066009	4235700000		108		HANCOCK "D" #2
-SUPERIOR OIL CO				RECEIVED:		05/02/83 JA: TX
8334841	F-03-059161	4228731274		102-0		EDMISTON-CAMERON #7
-TEXACO INC				RECEIVED:		05/02/83 JA: TX
8335034	F-08-66658	4213500000		108		ECTOR "F" FEE
8335032	F-08-66656	4213500000		108		ECTOR "F" FEE #1
8335033	F-08-66657	4213500000		108		ECTOR "F" FEE #3
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:		05/02/83 JA: TX
8335093	F-8A-66854	4221933705		103		J J STALLINGS #5
8335092	F-8A-66853	4221933706		103		J J STALLINGS #7
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:		05/02/83 JA: TX
8334820	F-7C-052752	4210533969		102-4		UNIVERSITY 33-15 #1
8334819	F-7C-052751	4210533965		102-4		UNIVERSITY 33-G #1
-TOM BROWN INC				RECEIVED:		05/02/83 JA: TX
8334905	F-08-064669	4231732614		103		AMOCO-FLYNT #3
8334906	F-7C-064670	4235332302		103		O N LANE #2
-TROJAN OIL PRODUCTION & SERVICES IN				RECEIVED:		05/02/83 JA: TX
8334993	F-7C-063293	4239900000		102-4		NORTHINGTON -A- #3 (09901)
-TXO PRODUCTION CORP				RECEIVED:		05/02/83 JA: TX
8334833	F-7C-057023	4246131879		103		NEAL "D" #1
-UNION TEXAS PETROLEUM				RECEIVED:		05/02/83 JA: TX
8334599	F-02-064257	4220531623		102-4		O A LAMPLEY #2
8334868	F-7C-064141	4223531975		103		SUGG '15' #1
-WOFFT EXPLORATION CO INC				RECEIVED:		05/02/83 JA: TX
8334965	F-7B-047799	4236332167		108-ER		J GLIDEWELL #1 (84184)
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		05/02/83 JA: TX
8335046	F-08-66708	4210333046		103		M B MCKNIGHT #129
8335045	F-08-66707	4210333075		103		M B MCKNIGHT #132
8335021	F-08-66618	4210300232		108		P J LEA ET AL #33
8335020	F-08-66617	4210310027		108		P J LEA ET AL #33
8335019	F-08-66616	4210332971		103		P J LEA ET AL #35
8335018	F-08-66615	4210331950		108		P J LEA ET AL #35
8335044	F-08-66706	4210333015		103		TEXAS CONSOLIDATED #1 NO I-5-I
8335043	F-08-66705	4210332932		103		U N MADDELL #1151
8335042	F-08-66704	4210333021		103		U N MADDELL ET AL #1226
-WESLEY SENKEL INC				RECEIVED:		05/02/83 JA: TX
8335035	F-09-66677	4250336483		102-4		LOFTIN #4
-WESSELY ENERGY CORPORATION				RECEIVED		05/02/83 JA: TX
8334927	F-05-065398	4216130761		103	107-TF	TEAGUE INDEPENDENT SCHOOL DIST #2
-WILLIAMS EXPLORATION COMPANY				RECEIVED:		05/02/83 JA: TX
8334925	F-02-065281	4205731077		102-4		P W HELDER "D" #5
-WINN EXPLORATION/DULCE CO				RECEIVED:		05/02/83 JA: TX
8334957	F-01-061919	4250731780		102-4		PRYOR RANCH
8335051	F-01-66720	4250731776		102-4		PRYOR RANCH #112
8335052	F-01-66721	4250700653		102-4		PRYOR RANCH #114
8335053	F-01-66722	4250731806		102-4		PRYOR RANCH #122
8335067	F-01-66764	4250731823		102-4		PRYOR RANCH #126
8335054	F-01-66723	4250731333		102-4		PRYOR RANCH #133
8335055	F-01-66724	4250731834		102-4		PRYOR RANCH #153
8335069	F-01-66766	4250731341		102-4		PRYOR RANCH #146
8335056	F-01-66725	4250731851		102-4		PRYOR RANCH #156
8335012	F-01-66595	4250731874		102-4		PRYOR RANCH #161
8335068	F-01-6676	4250731359		102-4		PRYOR RANCH #174
8335014	F-01-66597	4250731908		102-4		PRYOR RANCH #182
8335013	F-01-66596	4250731698		102-4		PRYOR RANCH #75
-WOODS PETROLEUM CORPORATION				RECEIVED:		05/02/83 JA: TX
8334856	F-10-061424	4235731276		102-4		WALTON #1
-WORLD PRODUCERS INC				RECEIVED:		05/02/83 JA: TX
8335049	F-7B-66712	4236731881		108		TIMMONS #2

FIELD NAME	PROD	PURCHASER
DEJAY NORTH (FIRST QU	90.0	SEAGULL PIPELINE
COWDEN NORTH	14.0	AMOCO PRODUCTION
WASSON	27.0	SHELL OIL CO
TIJERINA - CANALES -	12.0	
DUNE	37.0	WARREN PETROLEUM
LYDA	269.0	
MCKAY CREEK	0.0	EL PASO NATURAL G
COWDEN NORTH	24.0	AMOCO PRODUCTION
JAMESON N (ODOM)	45.0	LONE STAR GAS CO
WILLOW SLOUGH (FB-A F	19.0	UNITED TEXAS TRAN
SHARE S E (UPPER MORR	1.0	PHILLIPS PETROLEU
SHARE S E (UPPER MORR	1.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	
HARPER	0.2	PHILLIPS PETROLEU
HARPER	0.7	PHILLIPS PETROLEU
HARPER	0.6	PHILLIPS PETROLEU
LEVELLAND	15.0	AMOCO PRODUCTION
LEVELLAND	15.0	AMOCO PRODUCTION
UNIVERSITY 31 (STRAWN	500.0	
UNIVERSITY 31 (STRAWN	300.0	
CROSSLOVE SOUTH (SPRA	9.9	NORTHERN GAS PROD
CALVIN (DEAN)	12.0	UNION TEXAS PETRO
BIG ED N (GARDNER LIM	7.0	LONE STAR GAS CO
BENEBUM (FUSSELMAN)	130.0	DELHI GAS PIPELIN
BOY HOLLOW (YEGUA 4)	402.0	HOUSTON PIPELINE
ANDREJI A (CANYON)	277.0	FARMLAND INDUSTRI
MINERAL WELLS S (CONG	0.0	SOUTHWESTERN GAS
SAND HILLS (MCKNIGHT)	16.7	EL PASO NATURAL G
FLOWING U N (HOLT)	36.9	EL PASO NATURAL G
LEA (SAN ANDRES)	2.4	EL PASO NATURAL G
LEA (SAN ANDRES)	2.8	EL PASO NATURAL G
LEA (SAN ANDRES)	2.1	EL PASO NATURAL G
LEA (SAN ANDRES)	3.2	EL PASO NATURAL G
UNIVERSITY MADDELL (D	40.3	EL PASO NATURAL G
DUNE	3.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	128.0	EL PASO NATURAL G
SENKEL (CADDO 4600) F	0.0	SOUTHWESTERN GAS
TEAGUE TOWNSITE (COTT	720.0	LONE STAR GAS CO
KATIE HELDER (FB)	63.0	SEAGULL PIPELINE
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	NORTHERN NATURAL
WINN-DULCE	0.0	VALERO TRANSMISSI
WINN-DULCE	0.0	NORTHERN NATURAL
LOCKHART (MORROW BASA	1095.0	DELHI GAS PIPELIN
TIMMONS (CADDO)	21.2	SOUTHWESTERN GAS

[FR Doc. 83-14188 Filed 5-25-83; 8:45 am]

BILLING CODE 6717-01-C

VOL
48
ISS
103
MAY
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federal register

Thursday
May 26, 1983

Part III

Department of Health and Human Services

Office of Human Development Services

Program Solicitation for Small Business Innovation Research (SBIR) Program on Social Services Research

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13647-831]

Program Solicitation for Small Business Innovation Research (SBIR) Program on Social Services Research

AGENCY: Office of Human Development Service (HHS).

SUBJECT: Program solicitation for the Small Business Innovation Research (SBIR) program on social services research.

ACTION: Announcement of availability of financial assistance to small businesses interested in the development of programs and products in the field of social services research.

SUMMARY: The Office of Human Development Services (HDS) announces the availability of Fiscal Year 1983 financial assistance for cooperative arrangement under the authority of Section 1110 of the Social Security Act (SSA) for several projects. The competing applications will be accepted for *new* research and development (R&D) under the cooperative arrangement authorized by 15 U.S.C. 638 (Pub. L. 97-219, "Small Business Innovation Development Act of 1982").

This program announcement consists of four parts. Part I covers background information, discusses the purpose of the Small Business Innovation Research and Development Program and briefly describes the FY 1983 process. Part II describes the application process, who is eligible to apply, what funds are expected to be available, and the selection criteria. Part III describes the topic areas in which the cooperative agreements will be awarded. Part IV is the appendix and gives detailed guidance on how to prepare and submit an application. It also includes a copy of the 424 form.

DATE: The closing date for receipt of the application is July 1, 1983.

Part I—General Consideration

A. Scope of This Announcement

This Program Announcement includes research topics of interest to several agencies of the Department of Health and Human Sevices (HHS) including: the Office of Human Development Services (HDS), the Health Care Financing Administration (HCFA), the Office of the Assistant Secretary for Planning and Evaluation (ASPE), and the Social Security Administration (SSA).

HDS has the responsibility for issuing the Program Announcement and receiving applications. The review, evaluation and award of applications, will be the responsibility of each Operating Division (OPDIV) as appropriate for each application. Awards will be made by September 30, 1983. Awards resulting from this announcement are expected to total $162,400. Each OPDIV's share will calculate at .002 percent of its FY 83 Extramural Research and Development (R&D) budget as follows:

OPDIV	Fiscal year 1983 extramural R&D budget (millions)	SBIR set-aside
HDS	30.5	61,000
HCFA	26.2	52,400
ASPE	13.0	26,000
SSA	11.3	23,000
Totals	81.0	162,400

B. Program Purpose

The purpose of the Small Business Innovative Development Act is to stimulate technological innovation within the American small business community and thereby foster jobs, augment industrial productivity, increase competition, and spur economic growth. Small businesses have been both an important source of technological innovation and cost-effective performance of R&D, and will permit the small business sector an increased role in the Federal R&D efforts. The new legislation will give the small business sector an increased role in the Federal R&D effort as well as attract private capital to commercialize the results of federally funded research.

C. Program Goals, Objectives, and Topic Areas

The objective of this solicitation is to invite Phase I applicants from small businesses that have the technological expertise to undertake research in general support of the service programs financed by HHS agencies and offices participating in this announcement. A specific list of research topics and examples of prospective projects follow in part III.

The program goals are intended to involve the small business sector in developing creative and innovative ways of improving and administering service programs. The program is intended to expand the boundaries of service delivery knowledge by drawing on new ideas from small businesses. These new ideas and perspectives should stimulate and challenge both service professionals and the public to respond more effectively to state and local needs.

The goals are limited to projects which can demonstrate substantial prospect of product marketability following completion of the R&D. Applications merely seeking supplemental funds for the provision of services will not be considered responsive. Applications will not be considered responsive if the project proposes to develop a product identical to one already available elsewhere.

D. Definitions

A "small business" is an organization including its affiliates, which is independently owned and operated for profit, is not dominant in its field of operation and can further qualify under the following size standard: Not more than 500 employees (full-time, part-time, temporary or other) during the previous 12 month period in which all affiliated firms are owned or controlled by a single parent firm.

"Research" or "research and development" is defined as: (1) A systematic study directed toward greater knowledge for understanding of the subject studied; (2) a systematic study directed specifically towards applying a new knowledge to meet a recognized need; or (3) a systematic application of knowledge toward the production of useful material(s), device(s) and system(s) or method(s), including design, development and improvement of prototypes and new processes to meet specific requirements.

A "cooperative agreement" is a financial assistance mechanism whereby money and/or direct assistance is provided to carry out approved non-federal activities, and where significant Federal programmatic involvement with the recipient during performance is anticipated by the funding agency.

E. Eligible Applicants

Each organization submitting a grant application under the HDS SBIR Program must qualify as a small business in accordance with the definition given in the announcement. Two-thirds of each SBIR project must be carried out in the same business firm, and the primary employment of the principal investigator must be with the firm at the time of award and during the conduct of proposed project.

F. Available Funds

The Department of Health and Human Services expects to award $162,400 and approximately 6 to 8 grants in the fourth quarter of FY 1983 for the new cooperative arrangements. Subject to Congressional Action on the FY 1984 budget, a limited number of Phase II grants under this announcement may be made during FY 1984.

Under the Phase I goal for FY 83, which is $162,400, the awards will not normally extend beyond six (6) months. The size of the award will vary depending on the specific goals to be achieved. In no case will the award exceed $500,000. The average total is expected to be around $15,000.00 for a total of about eight (8) awards.

At this time, no money is available in FY 1983 for Phase II awards. In FY 1984, both Phase I and II awards will be made, although due to constrained budgets it is likely that only a few of the most successful Phase I projects will be followed with a Phase II award. Phase II awards are expected to have an average annual cost of approximately $100 thousand and may be made for a period which will normally not exceed two (2) years. Detailed instructions for Phase II awards will be made available in a subsequent announcement.

G. Cost-Sharing

The Appropriation Act for the Department requires that recipient institutions share in the cost of activities supported by research grants and cooperative agreements. For-profit organizations must cost-share by an individual agreement which specifies the level of cost-sharing for each research project. Applications should not submit individual cost-sharing proposals until they are notified by the awarding agency/office that an application has been approved and that a cost-sharing agreement is required.

H. Profit or Fee

In accordance with federal regulations, 45 CFR Part 74, no profit or fee will be provided to for-profit organizations through cooperative agreements. A profit is considered to be any amount in exess of actual direct and indirect costs incurred in the conduct of a project.

I. Joint Ventures and Limited Partnership

Joint ventures are permitted provided the entity created qualifies as a small business in accordance with the definition included in this solicitation.

J. Limit on Contracting

Contracting under a cooperative agreement, as defined in this solicitation, may not exceed thirty-three percent of the total proposed direct and indirect costs unless otherwise approved in writing by the contracting officer.

K. Terms and Conditions of Award

Upon acceptance of a cooperative agreement, the recipient must comply with the terms and conditions contained or referenced in the notice of award document. These terms and conditions constitute legal requirements imposed on a recipient by statute, regulations, administrative policy, or the award document itself.

Awards must be administered in accordance with the following regulations:

45 CFR Part 46 Protection of Human Subjects.
74[1] Administration of Grants.
80 Nondiscrimination Under Programs Receiving Federal Assistance through DHHS Effectuation of Title VI of the Civil Rights Act of 1964.
84 Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
91 Nondiscrimination on the Basis of Age in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

L. Additional Information

- This solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.
- Prior to the award of an SBIR funding agreement, the Government may request the applicant to submit certain additional organizational, management, personnel, and financial information in order to assure responsibility of the applicant.
- The Government is not responsible for any expenditures by the proposer prior to award of the funding agreement.
- This solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Awards under this Program are contingent upon the merit of an application and the availability of funds for research and development.
- The Government is under no obligation to fund any application or make any specific number of awards in a given research area. The government may also elect to fund several or none of the proposed projects within a given topic area, depending on the quality of the applications and the availability of funds.
- The SBIR Program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals will not be accepted under the SBIR program in either Phase I or Phase II.
- A successful applicant under this program will be required to certify that he or she has not previously been, nor is currently being, paid by any federal agency for essentially equivalent work.
- Significant federal involvement is required for all cooperative agreements. The type and level of involvement is expected to vary with each funded project, and will be determined during pre-award negotiations.

[1] **Federal Register**, Vol. 47, No 227, November 24, 1982, pp 53007-53014 amends 45 CFR 74 to allow the regulations to apply to "for-profit" organizations and provides guidance on special conditions under which to assist in making awards.

Part II—The Application Process

1. Availability of Forms

Application for Cooperative Agreement under the HHS SBIR Program must be submitted on Standard Form 424. For your convenience a copy of the form and instructions for its completion are included in the appendix to this announcement.

2. Application Submission

In order to be considered, an application must be submitted on this (424) Form and in the manner required. The application must be executed by an individual authorized to act for the applicant business and to assume responsibility for the obligation imposed by the terms and conditions of the cooperative agreement grant awards. Applications must be prepared in accordance with the guidance provided in the announcement and the instructions given on the back of the Form 424.

3. Application Consideration

Businesses wishing to compete for Cooperative Agreements under this announcement must submit an application by July 1, 1983.

Applications that conform to the requirements of this program announcement will be reviewed competitively and evaluated by HHS staff and qualified persons outside the Federal Government.

The results of review assist the approving officials in considering competing applications. This consideration may also take into account comments from Federal and Regional office.

The approving officials will make the decision to fund or not to fund a competing grant application

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4. Special Assistance

Applications for Cooperative Agreement under the HHS SBIR Program must be submitted on Standard Form 424. For your convenience, a copy of that form, as well as detailed guidance in completing it are included with the Standard Form 424. If additional assistance is needed the applicant may write to or call: HDS/Division of Research and Demonstration, 200 Independence Avenue, S.W., Room 732 E., Washington, D.C. 20201, Telephone: (201) 245–6235.

5. Time Qualification

Applications will be considered to be on time if sent by first class, registered, or certified mail no later than the closing date as evidenced by a dated U.S. Postal Services post mark. Hand delivered applications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Monday through Friday except Federal Holidays. Applications not submitted on time will be returned to the sender and will not be reviewed and evaluated.

6. Criteria for Evaluation

The following factors and relative weights will be used in assessing the technical merit of each application:

Factor	Weight (percent)
· The soundness of the proposed project, the anticipated products that may be derived from the effort, and the adequacy of the proposed effort; given in the products in mind	25
· Qualifications of the proposed principal key investigator(s), supporting staff, and consultants; given the proposed products	10
· The potential of the proposed products for technological innovation	20
· The potential of the proposed products for commercial application	20
· The appropriateness of the budget requested, given the proposed products	15
· Adequacy and suitability of the facilities and organizational environment	10

7. Notification

Unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Award, and the total recipient participation.

Part III—Topic Areas

The following topics have been identified by the Department as research topics for this solicitation. Applicants are encouraged to propose projects that respond to these identified needs or to other needs of the service programs financed by the agencies and offices participating in their solicitation.

TECHNIQUES AND PRODUCTS TO REDUCE THE COSTS AND IMPROVE THE EFFECTIVENESS OF HEALTH AND HUMAN SERVICES DELIVERY.

1.1 *Develop innovative methods to reduce the time needed for health examination and diagnosis and improve accuracy of examination.*

1.2 *Improve the cost-effectiveness of services to rural and isolated individuals in both examination, diagnosis, and treatment through mobile treatment clinics.*

1.3 *Develop systems to facilitate the increased use of alternative health care providers such as ancillary or specialized staff.*

1.4 *Promote the need for and availability of donated kidneys and dialysis machines.*

Topic Area 2

TECHNIQUES AND PRODUCTS TO IMPROVE THE MANAGEMENT AND REDUCE THE ADMINISTRATIVE COST OF HEALTH AND HUMAN SERVICES PROGRAMS.

2.1 *Innovative, locally adaptable and pragmatic day care centers, welfare offices, and community provider agencies.*

2.2 *Utilizing micro-computer software and providing techniques of monitoring and analyzing data that can be used by small providers such as day care centers, doctors, and local welfare offices.*

2.3 *Development of systems and techniques of identifying inappropriate systems and services.*

Topic Area 3

TECHNIQUES AND PRODUCTS TO IMPROVE CLIENT INFORMATION AND AWARENESS.

3.1 *Innovative techniques and devices to inform individuals not to drink and drive.*

3.2 *Innovative techniques and devices to avoid unnecessary hospitalization and institutionalization.*

3.3 *Innovative techniques and devices to encourage sound health practices.*

Topic Area 4

TECHNIQUES AND PRODUCTS TO IMPROVE THE ABILITY OF ELDERLY OR DISABLED PERSONS TO REMAIN AT HOME AND AVOID INSTITUTIONAL PLACEMENT.

4.1 *Devices and techniques to extend the period(s) of job, community and social functioning are considered essential.*

4.2 *Devices and techniques to assist the disabled and infirm individuals.*

Closing Date for Receipt of Application

The closing date for receipt of all applications under this Program Announcement is *July 1, 1983.*

Mailed Application

Applications mailed through the U.S. Postage Service shall be considered as meeting the deadline date if they are received at the following address: HDS/Division of Grants and Contracts Management, 330 Independence Ave., S.W., Room 1740, Washington, D.C. 20201, Attention HDS–SBIR.

1. On/or before the deadline date; or,

2. Sent by first class mail postmarked on or before *July 1, 1983* and received in time for Field review. *(Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service.* Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications submitted by other means

Applications submitted by any means except mailing first class through U.S. Postal Service shall be considered at meeting the deadline *only if they are physically received before close of business on or before the deadline date of July 1, 1983.*

Late applications

Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

Dated: May 20, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

BILLING CODE 4130-01-M

OMB Approval No. 29–R0218

FEDERAL ASSISTANCE

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE (Year month day) 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED (Year month day) 19

1. TYPE OF ACTION (Mark appropriate box) — [ ] PREAPPLICATION [ ] APPLICATION [ ] NOTIFICATION OF INTENT (Opt.) [ ] REPORT OF FEDERAL ACTION

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name
b. Organization Unit
c. Street/P.O. Box
d. City — e. County
f. State — g. ZIP Code
h. Contact Person (Name & telephone No.)

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A-State; B-Interstate; C-Subdivision/District; D-County; E-City; F-School District; G-Special Purpose District; H-Community Action Agency; I-Higher Education Institution; J-Indian Tribe; K-Other (Specify):
Enter appropriate letter(s)

9. TYPE OF ASSISTANCE
A-Basic Grant; B-Supplemental Grant; C-Loan; D-Insurance; E-Other
Enter appropriate letter(s)

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A-New; B-Renewal; C-Revision; D-Continuation; E-Augmentation
Enter appropriate letter(s)

13. PROPOSED FUNDING
a. FEDERAL $ .00
b. APPLICANT .00
c. STATE .00
d. LOCAL .00
e. OTHER .00
f. TOTAL $ .00

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT — b. PROJECT

15. TYPE OF CHANGE (For revisions)
A-Increase Dollars; B-Decrease Dollars; C-Increase Duration; D-Decrease Duration; E-Cancellation; F-Other (specify)
Enter appropriate letter(s)

16. PROJECT START DATE (Year month day) 19

17. PROJECT DURATION — Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY (Year month day) 19

19. EXISTING FEDERAL IDENTIFICATION (If known)

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED
[ ] Yes [ ] No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
b. If required by OMB Circular A-95 this application was submitted pursuant to instructions therein, to appropriate clearinghouses and all responses are attached
(1) [ ] [ ] Response attached
(2) [ ] [ ]
(3) [ ] [ ]

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED (Year month day) 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED (Year month day) 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
[ ] a. AWARDED
[ ] b. REJECTED
[ ] c. RETURNED FOR AMENDMENT
[ ] d. DEFERRED
[ ] e. WITHDRAWN

32. FUNDING
a. FEDERAL $ .00
b. APPLICANT .00
c. STATE .00
d. LOCAL .00
e. OTHER .00
f. TOTAL $ .00

33. ACTION DATE ▶ (Year month day) 19

34. STARTING DATE (Year month day) 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE (Year month day) 19

37. REMARKS ADDED
[ ] Yes [ ] No

38. FEDERAL AGENCY A-95 ACTION — a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A-95, it has been or is being made.

c. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

424–101

STANDARD FORM 424 PAGE 1 (10–75)
Prescribed by GSA, Federal Management Circular 75–7

[FR Doc. 83–14224 Filed 5–25–83; 8:45 am]

BILLING CODE 4130–01–C

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federal register

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May 26, 1983

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Fisheries Loan Fund Procedures; Final Rule

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 250

[Docket No. 30401-50]

Fisheries Loan Fund Procedures

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: These regulations implement an extension of the Fisheries Loan Fund. The Fund which expires on September 30, 1983, now has available $10 million for countercyclical assistance loans to commercial fishing vessel owners or operators. The intended effect of this action is to establish Agency priorities for the countercyclical loans.

EFFECTIVE DATE: May 26, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Grable, Chief, Division of Financial Services, Office of Industry Service, (202) 634–4688.

SUPPLEMENTARY INFORMATION: Ten million dollars has been appropriated and is available for loans under the latest extension of the amended Fisheries Loan Fund.

The Fund has three lending purposes:

(a) Avoiding default of debt obligations guaranteed under the Fisheries Obligation Guarantee Program (vessel must be over 5 net tons).

(2) Avoiding default on debt obligations which financed the construction, reconstruction, reconditioning, or purchase of commercial fishing vessels (vessels must be over 5 net tons).

(3) Assisting commercial fishing vessel owners or operators who face net operating losses (vessel may be any size).

Fund monies are available for the second or third loan purposes only to the extent they are not required for the first loan purpose.

The interest rate for loans for the first two loan purposes will be 3 percent. The interest rate for loans for the third loan purpose, should they become available, will be equal to that for loans under the Emergency Agricultural Credit Act of 1978. Maximum loan maturities will be 10 years in all cases.

Applications for loans for the first loan purpose may be submitted at any time (although the Fund ceases to exist on September 30, 1983). Applications for loans for the second loan purpose may only be submitted during an open season to be announced later and will be considered in order of submission. Because Fund monies are limited, they will later be allocated on a Regional basis and maximum loan amounts will be established. Restrictive application criteria will be established by further notice for applicants for loans to protect the interest of the U.S. Government.

Successful loan applicants must have proven ability in the management and financing of fishing vessels. The amounts of the loan available must be likely to result in the financial viability of the applicants' fishing operations.

This final rulemaking has been reviewed under Executive Order 12291 ("Federal Regulation") and its Commerce Department guidelines. The review determined that this final rulemaking is not "major" because it does not significantly affect the economy, costs, prices, employment, investment, or productivity. No regulatory impact analysis is required.

Classification

This rulemaking involves procedures for countercyclical assistance loans to commercial fishermen. As a "matter relating to Agency * * * contracts," this rulemaking is exempt from the notice and comment provisions of the Administrative Procedure Act.

Exemption from the notice and comment provisions of the Administrative Procedure Act means analysis under the Regulatory Flexibility Act is not required.

Collection of additional information from applicants will be required. Collection of this additional information is necessary for determining eligibility. This final rulemaking has been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980.

This final rulemaking will affect only those who choose to apply for loans. This final rulemaking will not have a significant economic impact on a substantial number of small entities. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, determined that this final rulemaking does not require an environmental impact analysis under the National Environmental Policy Act.

List of Subjects in 50 CFR Part 250

Fisheries, Fishing vessels, Financing business.

Dated: May 23, 1983.

Roland F. Smith,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

Accordingly, 50 CFR Part 250 is revised to read as follows:

SUBCHAPTER F—AID TO FISHERIES

PART 250—FISHERIES LOAN FUND PROCEDURES

Subpart A—Introduction

Sec.
250.1 Purpose.
250.2 Definitions.
250.3 Loan authorization and priority.

Subpart B—Application

250.4 Eligibility.
250.5 Other requirements.
250.6 Application processing and procedures.

Subpart C—Loans

250.7 Approval.
250.8 Amount of loan and other restrictions.
250.9 Interest.
250.10 Maturity.
250.11 Security.
250.12 Insurance.
250.13 Inspection of property.
250.14 Books, records, and reports.

Subpart D—Default and Remedies

250.15 Default.
250.16 Remedies after default.

Authority: 70 Stat. 1121, as amended; 16 U.S.C. 742(c), as amended; and Reorganization Plan No. 4 of 1970.

Subpart A—Introduction

§ 250.1 Purpose.

These regulations implement the latest extension of section 4 the Fish and Wildlife Act of 1956 as amended by the American Fisheries Promotion Act. The amended section 4 creates a revolving Fisheries Loan Fund to be used for assisting the owners or operators of commercial fishing vessels to avoid default on primary vessel financings and to cover vessel operating losses.

§ 250.2 Definitions.

For the purpose of this part, the following terms mean:

(a) *Secretary.* The Secretary of Commerce or his designee.

(b) *Act.* The Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(c)).

(c) *State.* Any State, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(d) *Citizen of the United States.* Any individual who is a United States citizen by law, birth, or naturalization; any association, partnership, or corporation which meets the requirements of section 2 of the Shipping Act, 1916, for documenting vessels in the coastwise trade; or any State, agency of a State, or group of States.

(e) *National of the United States.* Any individual who is a United States national by law or birth or any

association, partnership, or corporation which meets the requirements of section 2 of the Shipping Act, 1916, for documenting vessels in the coastwise trade (except that organization under the laws of American Samoa is permissible and individuals who are either nationals or citizens of the United States meet the Shipping Act requirements for the purpose of this Program).

(f) *Commercial fishing vessel.* Any waterborne craft documented under U.S. law or registered under State laws whose purpose is commercial fishing or assisting commercial fishing.

(g) *Fund.* The Fisheries Loan Fund authorized by 16 U.S.C. 742(c), as amended.

(h) *Obligation.* Any evidence of indebtedness.

(i) *Obligor.* Any owner or operator of a commercial fishing vessel who is primarily liable for payment of any obligation.

§ 250.3 Loan authorization and priority.

(a) Loans shall be made only for one of the following purposes:

(1) Assisting obligors to avoid default obligations financing the construction, reconstruction, reconditioning, or purchase of commercial fishing vessels of at least 5 net tons when those obligations are guaranteed by the Federal Government under the Fisheries Obligation Guarantee Program authorized by Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280).

(2) Assisting obligors to avoid default on obligations financing the construction, reconstruction, reconditioning, or purchase of commercial fishing vessels of at least 5 net tons (i) when those obligations are not guaranteed under the Fisheries Obligation Guarantee Program, but; (ii) the vessels involved meet the use and documentation requirements, and the obligors meet the citizenship requirements, which would apply if the obligations had been guaranteed under the Fisheries Obligation Guarantee Program.

(3) Assisting the owners or operators of commercial fishing vessels of any size where there has been, or may be, a net operating loss.

(4) The first priority for loans is paragraph (a)(1) of this section. Any monies not needed for paragraph (a)(1) of this section will be used for paragraph (a)(2) of this section. Any monies not required for paragraph (a)(2) of this section will be used for paragraph (a)(3) of this section.

Subpart B—Application

§ 250.4 Eligibility.

An eligible applicant must be a citizen or national of the United States and must:

(a) Reside or conduct business in any State;

(b) Own or operate a commercial fishing vessel used for commercial fishing operations; and

(c) Demonstrate that he has substantial experience and proven ability in the management and financing of fishing operations and that the loan is likely to result in the continued viability of the commercial fishing operation. In making this determination, the Secretary shall consider, among other factors, economic conditions within any fishery, the negative financial effect these conditions may have had, and the uncertainty these conditions may cause over the longer term.

§ 250.5 Other requirements.

(a) The applicant must demonstrate at the time of application that the loan applied for is not otherwise available at reasonable rates which permit continued operation. The loan applied for shall be deemed to be otherwise available at reasonable rates which permit continued operation unless an applicant can show:

(1) Proof of at least two refusals of the desired credit from the applicant's bank. This proof of refusal must be dated and state the amount of loan and terms requested.

(2) That the desired credit is otherwise unavailable on reasonable terms from sources other than banks, as from: (i) The disposal at a fair price of assets not required by the applicants in the conduct of his business or not reasonably necessary to its potential growth, (ii) use of personal credit and/or resources of the owner, partners, management, affiliates, or principal stockholders of the applicant, or (iii) from other known sources of credit.

(b) Bank refusals to advance credit will not be considered the full test of credit unavailability where there is reason to believe that credit is otherwise available on reasonable terms from sources other than banks. Nevertheless, in the case of an application by an obligor whose obligation is guaranteed under the Fisheries Obligation Guarantee Program, proof of the refusal of the obligor's bank and at least one other source to extend further credit on behalf of the obligor may constitute proof that the credit applied for is not otherwise available on reasonable terms.

§ 250.6 Application processing and procedures.

(a) Applicants for loans under § 250.3(a)(1) may apply at any time (the Fund will, however, expire on September 30, 1983). Applicants for loans under § 250.3(a)(2) may apply only during such open seasons as the Secretary provides by further notice. In the event monies become available under § 250.3(a)(3), open seasons will be established by further notice. Available monies for all purposes may be regionally apportioned and maximum loan amounts will be established by further notice. Restrictive application criteria will be established by further notice for loan applications under § 250.3(a)(2).

(b) *Forms.* Applicants must file an application, furnished by the National Marine Fisheries Service, with the Regional Branch of the National Marine Fisheries Service's Financial Services Division in the Region in which the applicant conducts his business. The Regional Offices' addresses follow:

(1) *Northeast Region.* (Maine, Massachusetts, Rhode Island, Connecticut, New Hampshire, New York, New Jersey, Delaware, Maryland, Virginia, and the Great Lakes States): Financial Services Branch, National Marine Fisheries Service, Post Office Building, Box 1109, Gloucester, Massachusetts 01930, (617) 281–3600.

(2) *Southeast Region.* (North Carolina, South Carolina, Georgia, Flordia, Alabama, Mississippi, Louisiana, Texas, Puerto Rico, Virgin Islands): Financial Services Branch, National Marine Fisheries Service, 9450 Koger Boulevard, Duval Building, St. Petersburg, Flordia 33702, (813) 893–3148.

(3) *Southwest Region.* (California, Hawaii, American Samoa, Guam, Trust Territory of Pacific Islands): Financial Services Branch, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548–2478.

(4) *Northwest Region.* (Washington, Oregon, Alaska): Financial Services Branch, National Marine Fisheries Service, 7600 Sandpoint Way, NE (BIN C15700) Seattle, Washington 98115, (206) 446–6118.

(c) *Processing of applications.* If the application is materially complete and the applicant is eligible, the Regional Financial Services Branch will accept the application and assign it a case number. Applications under § 250.3(a)(2) will be considered in the order of their submission. Applications received after available monies are exhausted will not be considered. The Regional Financial Services Branch will evaluate

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applications being considered for funding. After a decision is made, the Regional Financial Services Branch will inform the applicant.

Subpart C—Loans

§ 250.7 Approval.

(a) The Secretary will approve the loan by a loan authorization letter covering the terms and conditions of the loan.

(b) Loan documents will be furnished by the Secretary. Applicants whose applications are not approved will be notified by a letter from the Financial Services Branch.

§ 250.8 Amount of loan and other restrictions.

Loan amounts may be limited from time to time in order to prevent exhaustion of available loan monies and to assure that monies will be used effectively. The amount any one borrower, or related borrowers, may borrow will be restricted. Only principals may apply. Restrictions regarding length of fisheries experience and other factors will be established by further notice. Loan amount limitations and other requirements will be effected by instructions from the Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C.

§ 250.9 Interest.

The rate of interest on all loans made under § 250.3 (a)(1) and (a)(2) will be 3 percent. Interest rates on loans made under § 250.3(a)(3) will be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).

§ 250.10 Maturity.

The maturity of any loan will be determined by the Secretary, but may not exceed 10 years.

§ 250.11 Security.

Loans will be approved only upon the furnishing of such security or other reasonable assurance of repayments as the Secretary may require.

§ 250.12 Insurance.

If insurance is required on property under the terms of a loan, it must be in a form, and from an underwriter, satisfactory to the Secretary.

§ 250.13 Inspection of property.

The Secretary shall have access at all reasonable times to all vessel or other property in connection with a loan or loan application.

§ 250.14 Books, records, and reports.

The Secretary shall have the right to inspect the applicant's books and records, including tax returns. The Secretary may also require periodic reports to be submitted by a loan recipient.

Subpart D—Default and Remedies

§ 250.15 Default.

The borrower's failure to conform to the Act, these regulations, or the loan documents will be a default. The Secretary's remedy for defaults is acceleration of the total loan amount due, foreclosure on security, and pursuit of all other collection avenues. Default may result in discontinuance of any further disbursement of loan funds to the borrower.

§ 250.16 Remedies after default.

Specific provisions governing remedies after default will be included in the loan documents. Upon default, the Secretary may:

(a) Take possession of all collateral given as security for the loan;

(b) Initiate legal proceeding of any type against the borrower or the security, including foreclosure; and

(c) Pursue all other available remedies.

[FR Doc. 83-14211 Filed 5-25-83; 8:45 am]
BILLING CODE 3510-22-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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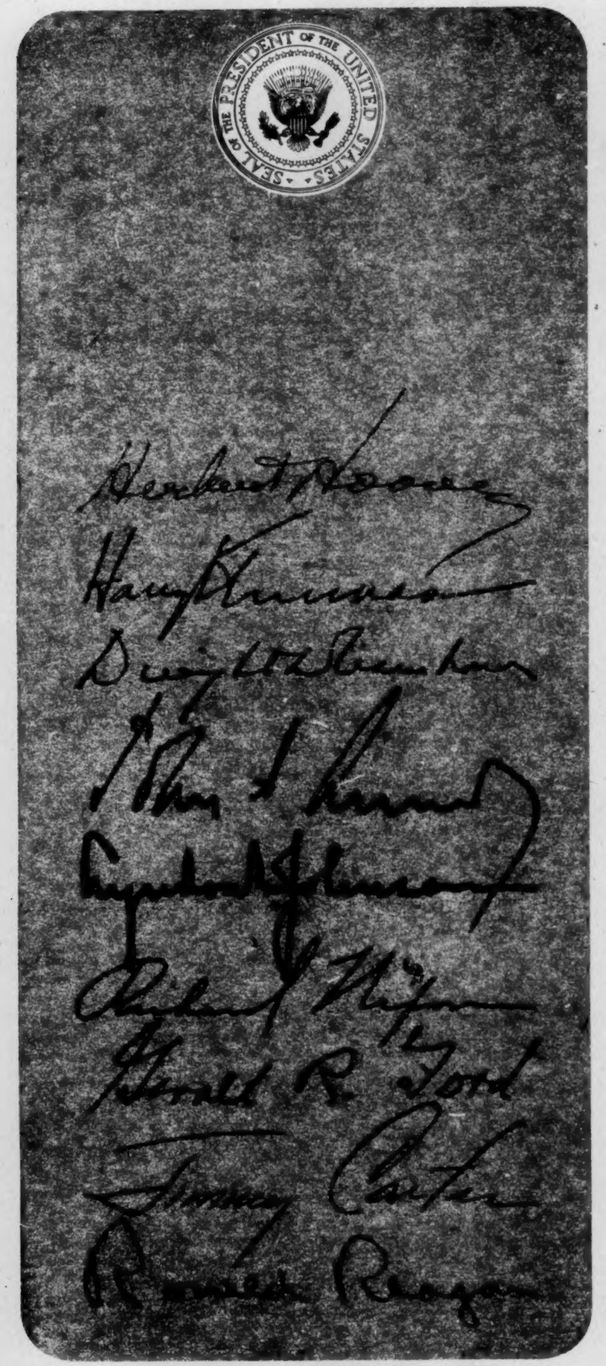

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